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Public Law 99-241
99th Congress

An Act

To delay the referendum with respect to the 1986 through 1988 crops of Flue-cured tobacco and to delay the proclamation of national marketing quotas for the 1986 through 1988 crops of Burley tobacco.

Jan. 30, 1986
[S. 2013]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 317(d) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c(d)) is amended by inserting after the third sentence the following new sentence: "Notwithstanding the foregoing sentence or section 312(c) of this Act, the referendum with respect to national marketing quotas for Flue-cured tobacco for the 1986 through 1988 marketing years may be conducted not later than the earlier of (1) thirty days after any proclamation of the national marketing quota for Flue-cured tobacco for the 1986 marketing year made after the date of enactment of this sentence, or (2) March 15, 1986.".

SEC. 2. Section 319(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(a)) is amended by inserting after the second sentence of the third paragraph the following new sentence: "Notwithstanding the foregoing sentence, the proclamation of national marketing quotas for Burley tobacco for the 1986 through 1988 marketing years may be made not later than March 1, 1986.".

Approved January 30, 1986.

LEGISLATIVE HISTORY—S. 2013:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Jan. 22, considered and passed Senate.
Jan. 23, considered and passed House.

O

71-139 O - 86 (241)

Public Law 99-242
99th Congress

An Act

Feb. 7, 1986
[H.R. 4027]

Extending the waiver authority of the District of Columbia Revenue Bond Act of 1985 to certain revenue bond acts of the District of Columbia, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GRANTING OF WAIVER.

99 Stat. 1727

Section 2(c) of the District of Columbia Revenue Bond Act of 1985 (Public Law 99-216) is amended by adding at the end thereof the following new paragraphs:

"(3) The American University Revenue Bond Act of 1985 (Series A), District of Columbia Act 6-111, transmitted to the Speaker of the House and the President of the Senate December 4, 1985.

"(4) The George Washington University Revenue Bond Act of 1985 (Series A), District of Columbia Act 6-114, transmitted to the Speaker of the House and the President of the Senate December 18, 1985.".

SEC. 2. EFFECTIVE DATE OF ACTS; TREATMENT OF OBLIGATIONS.

(a) EFFECTIVE DATE.—The District of Columbia Acts referred to in the amendment made by section 1 shall take effect as if included in section 2(c) of the District of Columbia Revenue Bond Act of 1985 on the date of the enactment of such Act.

(b) TREATMENT OF OBLIGATIONS.—(1) Subject to paragraph (2), for purposes of any Act of Congress (and any amendments made by any Act of Congress) enacted after December 31, 1985, any obligation issued under the authority of the District of Columbia Acts made effective under subsection (a) shall be deemed to have been issued on December 31, 1985.

(2) Paragraph (1) shall apply only to obligations issued not more than sixty days after the date of the enactment of this Act.

Approved February 7, 1986.

LEGISLATIVE HISTORY—H.R. 4027:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Jan. 27, considered and passed House.
Jan. 30, considered and passed Senate.

71-139 O - 86 (242)

Public Law 99-243
99th Congress

Joint Resolution

Making an urgent supplemental appropriation for the fiscal year ending September 30, 1986, for the Department of Agriculture.

Feb. 10, 1986
[H.J. Res. 520]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1986; namely:

DEPARTMENT OF AGRICULTURE

COMMODITY CREDIT CORPORATION

REIMBURSEMENT FOR NET REALIZED LOSSES

For the operations of the Commodity Credit Corporation, not to exceed $1,492,857,000 for capital restoration, to enable the Corporation to use the authority authorized by the Charter of the Corporation and other laws to carry out programs handled by the Corporation.

Approved February 10, 1986.

LEGISLATIVE HISTORY—H.J. Res. 520:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Feb. 6, considered and passed Senate and House.

71-139 O - 86 (243)

Public Law 99-244
99th Congress

Joint Resolution

Feb. 11, 1986
[S.J. Res. 74]

To provide for the designation of the month of February, 1986, as "National Black (Afro-American) History Month".

Whereas in 1926 Dr. Carter Godwin Woodson launched the celebration of Negro History Week;

Whereas this observance evolved into a month-long celebration in 1976;

Whereas February 1, 1986, will mark the beginning of the sixtieth annual public and private salute to Black History;

Whereas the observance of Black (Afro-American) History Month provides opportunities for our Nation's public schools, institutions of higher learning, and the public to gain a deeper understanding and knowledge of the many contributions of Black Americans to our country and the world. Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of February, 1986, is designated as "National Black (Afro-American) History Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate ceremonies and activities to salute all that Black Americans have done to help build our country.

Approved February 11, 1986.

LEGISLATIVE HISTORY—S.J. Res. 74:

CONGRESSIONAL RECORD:
Vol. 131 (1985): Nov. 18, considered and passed Senate.
Vol. 132 (1986): Feb. 6, considered and passed House.

O

71-139 O - 86 (244)

Public Law 99-245
99th Congress

Joint Resolution

To designate the week of February 9, 1986, through February 15, 1986, as "National Humanities Week, 1986".

Feb. 11, 1986
[S.J. Res. 219]

Whereas the United States celebrates the twentieth anniversary of the establishment of the National Endowment for the Humanities;

Whereas the overriding goal of this small but important Federal agency is the promotion of humanities scholarship and programming;

Whereas the study of the humanities increases the understanding of the great traditions of civilization and of the intellectual heritage of mankind;

Whereas in partnerships with State and local governments, private foundations, and corporations, the National Endowment for the Humanities has, over the past two decades, provided critical leadership and direction for the individuals and institutions seeking to improve our understanding of the humanities; and

Whereas as a Nation we have benefited from the fruits of this humanities programming in a variety of ways, through improvements in humanities education at all levels, through scholarly achievements at the cutting edge of humanities research, and through programming in museums, libraries, television, and radio which fosters a heightened understanding of the humanities across the Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to note the importance of the humanities in the lives of all Americans and acknowledge the significant role the National Endowment for the Humanities has played in sustaining and enriching our cultural heritage, the week of February 9, 1986, through February 15, 1986, is designated as "National Humanities Week, 1986", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week, with appropriate conferences, programs, ceremonies, and activities.

Approved February 11, 1986.

LEGISLATIVE HISTORY—S.J. Res. 219:

CONGRESSIONAL RECORD:
Vol. 131 (1985): Nov. 4, considered and passed Senate.
Vol. 132 (1986): Feb. 6, considered and passed House.

71-139 O - 86 (245)

Public Law 99-246
99th Congress

Joint Resolution

Feb. 11, 1986
[S.J. Res. 234]

To designate the week of February 9, 1986 through February 15, 1986 as "National Burn Awareness Week".

Whereas the burn problem in the United States is the worst of any industrialized nation in the world;

Whereas burn injuries are one of the leading causes of accidental death in the United States;

Whereas every year approximately two million people are victims of burn injury in the United States;

Whereas of these injuries, seventy thousand are hospitalized and account for nine million disability days annually;

Whereas approximately twelve thousand people die from burn injuries;

Whereas the rehabilitative and psychological impact of burns are devastating;

Whereas children, the elderly, and the disabled are most likely to suffer serious burns;

Whereas it is estimated that approximately 75 percent of all burns could be prevented by proper education of children and adults; and

Whereas there is a need for an effective national program that deals with all aspects of burn prevention: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of February 9, 1986 through February 15, 1986 is designated as "National Burn Awareness Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States and all Federal, State, and local government officials to observe such week with appropriate programs and activities.

Approved February 11, 1986.

LEGISLATIVE HISTORY—S.J. Res. 234:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Feb. 4, considered and passed Senate.
Feb. 6, considered and passed House.

O

71-139 O - 86 (246)

Public Law 99-247
99th Congress

An Act

To amend the Arms Export Control Act to require that congressional vetoes of certain arms export proposals be enacted into law.

Feb. 12, 1986
[S. 1831]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3(d)(2) of the Arms Export Control Act is amended— 22 USC 2753.

(1) in subparagraph (A), by striking out "adopt, within such 30-day period, a concurrent resolution disapproving" and inserting in lieu thereof "enact, within such 30-day period, a law prohibiting"; and

(2) in subparagraph (B), by striking out "adopt, within such fifteen-day period, a concurrent resolution disapproving" and inserting in lieu thereof "enact, within such fifteen-day period, a law prohibiting".

(b) Section 36(b) of the Arms Export Control Act is amended— 22 USC 2776.

(1) in the fifth sentence of paragraph (1), by striking out "adopts a concurrent resolution stating that it objects to" and inserting in lieu thereof "enacts a joint resolution prohibiting";

(2) in paragraph (2), by inserting "joint" before "resolution" each of the four places it appears; and

(3) in paragraph (3)—

(A) by striking out "adoption of concurrent resolutions" and inserting in lieu thereof "enactment of joint resolutions"; and

(B) by striking out "such resolution" and inserting in lieu thereof "such joint resolution".

(c) Section 36(c) of the Arms Export Control Act is amended— 22 USC 2776.

(1) in paragraph (2)(B), by striking out "adopts a concurrent resolution stating that it objects to" and inserting in lieu thereof "enacts a joint resolution prohibiting";

(2) in paragraph (3)(A), by inserting "joint" before "resolution"; and

(3) in paragraph (3)(B)—

(A) by striking out "adoption of concurrent resolutions" and inserting in lieu thereof "enactment of joint resolutions"; and

(B) by striking out "such resolution" and inserting in lieu thereof "such joint resolution".

(d) Section 63 of the Arms Export Control Act is amended— 22 USC 2796b.

(1) in subsection (a)(1), by striking out "adopts a concurrent resolution stating that it objects to" and inserting in lieu thereof "enacts a joint resolution prohibiting";

(2) in subsection (b), by inserting "joint" before "resolution"; and

(3) in subsection (c)—

71-139 O - 86 (247)

(A) by striking out "adoption of concurrent resolutions" and inserting in lieu thereof "enactment of joint resolutions"; and

(B) by striking out "such resolution" and inserting in lieu thereof "such joint resolution".

Approved February 12, 1986.

LEGISLATIVE HISTORY—S. 1831:

CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 19, considered and passed Senate.
Vol. 132 (1986): Feb. 3, considered and passed House.

○

Public Law 99-248
99th Congress

Joint Resolution

To designate the month of March 1986 as "National Hemophilia Month".

Feb. 18, 1986
[S.J. Res. 150]

Whereas hemophilia is an incurable hereditary disorder that prevents proper coagulation of the blood;

Whereas hemophilia, which strikes males almost exclusively, occurs in one of every four thousand live male births regardless of race, nationality, or family economic status;

Whereas hemophilia can lead to disabilities or death for some hemophiliacs;

Whereas, despite recent medical advances in the diagnosis and treatment of hemophilia, many hemophiliacs continue to face unpredictable medical complications due to the disorder;

Whereas, with proper medical treatment and adequate financial assistance, hemophiliacs can live healthy, normal, and independent lives; and

Whereas increased public awareness of the causes and effects of hemophilia will help dispel many common misconceptions concerning the disorder: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of March 1986 is hereby designated as "National Hemophilia Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Approved February 18, 1986.

LEGISLATIVE HISTORY—S.J. Res. 150:

CONGRESSIONAL RECORD:
Vol. 131 (1985): Oct. 4, considered and passed Senate
Vol. 132 (1986): Feb. 6, considered and passed House.

○

71-139 O - 86 (248)

Public Law 99-249
99th Congress

Joint Resolution

Feb. 18, 1986
[S.J. Res. 231]

To designate the period commencing January 1, 1986, and ending December 31, 1986, as the "Centennial Year of the Gasoline Powered Automobile".

Whereas the first motor vehicle powered by an internal combustion engine was invented in 1886;

Whereas such vehicle was the forerunner of the present automobile and there are more than one hundred twenty-four million automobiles registered in the United States;

Whereas one in five jobs in the Nation are dependent directly or indirectly on the automobile industry;

Whereas the automobile has been associated with tremendous changes in society in the one hundred years since its invention; and

Whereas the automobile has enhanced communication, travel and has brought mobility to all people in the Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing January 1, 1986, and ending December 31, 1986, is designated as the "Centennial Year of the Gasoline Powered Automobile" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such year with appropriate ceremonies and activities.

Approved February 18, 1986.

LEGISLATIVE HISTORY—S.J. Res. 231:

CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 18, considered and passed Senate.
Vol. 132 (1986): Feb. 6, considered and passed House.

71-139 O - 86 (249)

Public Law 99-250
99th Congress

An Act

To amend the Act establishing the Petrified Forest National Park.

Feb. 27, 1986
[H.R. 1185]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act of March 28, 1958 (72 Stat. 69), to establish the Petrified Forest National Park, is amended by inserting the following at the end thereof: "Township 19 north, range 24 east: the southwest quarter of the southwest quarter of section 27.".

National parks, monuments, etc.
16 USC 119a.

SEC. 2. The provisions of this Act shall not take effect until the Secretary of the Interior determines that fee simple title to the property described in section 1 has vested in the United States. Such determination of the Secretary shall be published in the Federal Register.

16 USC 119a note.

Federal Register, publication.

Approved February 27, 1986.

LEGISLATIVE HISTORY—H.R. 1185:

HOUSE REPORT No. 99-30 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 99-184 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Apr. 2, considered and passed House.
Dec. 3, considered and passed Senate, amended.
Vol. 132 (1986): Feb. 6, House agreed to Senate amendments.

71-139 O - 86 - (250)

PUBLIC LAW 99-251—FEB. 27, 1986

FEDERAL EMPLOYEES BENEFITS IMPROVEMENT ACT OF 1986

Public Law 99-251
99th Congress

An Act

Feb. 27, 1986
[H.R. 4061]

To amend title 5, United States Code, to expand the class of individuals eligible for refunds or other returns of contributions from contingency reserves in the Employees Health Benefits Fund; to make miscellaneous amendments relating to the Civil Service Retirement System and the Federal Employees Health Benefits Program; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Employees Benefits Improvement Act of 1986.
5 USC 8901 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees Benefits Improvement Act of 1986".

TITLE I—FEDERAL EMPLOYEE HEALTH BENEFITS

SEC. 101. AUTHORITY TO REFUND CERTAIN CONTRIBUTIONS TO ENROLLEES.

The last sentence of section 8909(b) of title 5, United States Code, is amended by striking out "employees" and inserting in lieu thereof "enrollees".

SEC. 102. ELIMINATION OF REQUIREMENT OF THREE MEDICAL SPECIALTIES FOR GROUP-PRACTICE PREPAYMENT PLANS.

The second sentence of section 8903(4)(A) of title 5, United States Code, is amended to read as follows: "The group shall include at least 3 physicians who receive all or a substantial part of their professional income from the prepaid funds and who represent 1 or more medical specialties appropriate and necessary for the population proposed to be served by the plan.".

SEC. 103. AUTHORITY TO WAIVE CERTAIN ELIGIBILITY REQUIREMENTS.

Section 8905(b) of title 5, United States Code, is amended by adding at the end thereof the following new sentence: "The Office may, in its sole discretion, waive the requirements of this subsection in the case of an individual who fails to satisfy such requirements if the Office determines that, due to exceptional circumstances, it would be against equity and good conscience not to allow such individual to be enrolled as an annuitant in a health benefits plan under this subchapter.".

SEC. 104. ANNUAL OPEN SEASON.

Ante, p. 94.

(a) IN GENERAL.—Section 8905(f) of title 5, United States Code, is amended to read as follows:

"(f)(1) Under regulations prescribed by the Office, the Office shall, before the start of any contract term in which—

"(A) an adjustment is made in any of the rates charged or benefits provided under a health benefits plan described by section 8903 or 8903a of this title,

"(B) a newly approved health benefits plan is offered, or

"(C) an existing plan is terminated,

provide a period of not less than 3 weeks during which any employee, annuitant, or former spouse enrolled in a health benefits plan described by such section shall be permitted to transfer that individual's enrollment to another such plan or to cancel such enrollment.

"(2) In addition to any opportunity afforded under paragraph (1) of this subsection, an employee, annuitant, or former spouse enrolled in a health benefits plan under this chapter shall be permitted to transfer that individual's enrollment to another such plan, or to cancel such enrollment, at such other times and subject to such conditions as the Office may prescribe in regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to contracts entered into or renewed for calendar years beginning after December 31, 1986. 5 USC 8905 note.

SEC. 105. AUTHORITY TO PAY CERTAIN HEALTH CARE PROFESSIONALS.

(a) DEFINITIONS.—Section 8901 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (9);

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(11) 'qualified clinical social worker' means an individual—

"(A) who is licensed or certified as a clinical social worker by the State in which such individual practices; or

"(B) who, if such State does not provide for the licensing or certification of clinical social workers—

"(i) is certified by a national professional organization offering certification of clinical social workers; or

"(ii) meets equivalent requirements (as prescribed by the Office).".

(b) CLINICAL SOCIAL WORKERS.—Section 8902(k) of title 5, United States Code, is amended—

(1) by striking out "(k)" and inserting in lieu thereof "(k)(1)";

(2) by striking out the last sentence; and

(3) by inserting at the end thereof the following:

"(2) When a contract under this chapter requires payment or reimbursement for services which may be performed by a qualified clinical social worker, an employee, annuitant, family member, or former spouse covered by the contract shall be entitled under the contract to have payment or reimbursement made to him or on his behalf for the services performed. As a condition for the payment or reimbursement, the contract— Contract.

"(A) may require that the services be performed pursuant to a referral by a psychiatrist; but

"(B) may not require that the services be performed under the supervision of a psychiatrist or other health practitioner.

"(3) The provisions of this subsection shall not apply to group practice prepayment plans.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall be effective with respect to contracts entered into or renewed for calendar years beginning after December 31, 1986. Contracts. 5 USC 8901 note.

SEC. 106. HEALTH SERVICES FOR MEDICALLY UNDERSERVED POPULATIONS.

(a) IN GENERAL.—(1) Section 3 of the Act entitled "An Act to amend chapter 89 of title 5, United States Code, to establish uniformity in Federal employee health benefits and coverage by preempting certain State or local laws which are inconsistent with such contracts, and for other purposes", approved September 17, 1978 (Public Law 95-368; 92 Stat. 606; 5 U.S.C. 8902 note), is amended by striking out "; except that such provisions shall not apply to services provided after December 31, 1984".

(2) Section 5(b) of the Act entitled "An Act to amend the provisions of chapters 83 and 89 of title 5, United States Code, which relate to survivor benefits for certain dependent children, and for other purposes", approved January 2, 1980 (Public Law 96-179; 93 Stat. 1300; 5 U.S.C 8902 note), is amended by striking out "and before January 1, 1985,".

(3) Section 8902(m)(2)(A) of title 5, United States Code, is amended by adding at the end thereof the following: "This paragraph shall apply with respect to a qualified clinical social worker covered by subsection (k)(2) of this section without regard to whether such contract contains the requirement authorized by clause (i) of the second sentence of subparagraph (A) of such subsection (k)(2).".

Ante, p. 15.

5 USC 8902 note

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to services provided after December 31, 1984.

5 USC 8904 note.

SEC. 107. MENTAL HEALTH, ALCOHOLISM, AND DRUG ADDICTION BENEFITS.

(a) FINDINGS.—The Congress finds that—

(1) the treatment of mental illness, alcoholism, and drug addiction are basic health care services which are needed by approximately 40,000,000 Americans each year;

(2) treatment of mental illness, alcoholism, and drug addiction is increasingly successful;

(3) timely and appropriate treatment of mental illness, alcoholism, and drug addiction is cost effective in terms of restored productivity, reduced utilization of other health services, and reduced social dependence; and

(4) mental illness is a problem of grave concern to the people of the United States and is widely but unnecessarily feared and misunderstood.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress—

(1) that participants in the Federal employees health benefits program should receive adequate benefits coverage for treatment of mental illness, alcoholism, and drug addiction; and

(2) that the Office of Personnel Management should encourage participating health benefits plans to provide adequate benefits relating to treatment of mental illness, alcoholism, and drug addiction (including benefits relating to coverage for inpatient and outpatient treatment and catastrophic protection benefits).

SEC. 108. STUDY RELATING TO EXPANDING THE CLASS OF PRACTITIONERS COVERED BY SECTION 8902(k)(1).

Report.

The Office of Personnel Management shall study and, before April 1, 1986, submit a written report to the Committee on Post Office and Civil Service of the House of Representatives and the

Committee on Governmental Affairs of the Senate with respect to extending section 8902(k)(1) of title 5, United States Code, as amended by this Act, to cover health practitioners not currently covered thereunder (such as nurse-midwives, nurse practitioners, chiropractors, and clinical social workers).

Ante, p. 15.

SEC. 109. STUDY OF THE ADEQUACY OF HEALTH BENEFITS PROGRAM INFORMATION.

(a) IN GENERAL.—Not later than June 1, 1986, the Office of Personnel Management shall (1) study the adequacy of any sources or methods currently provided under chapter 89 of title 5, United States Code, to assist individuals in making informed decisions concerning the choice of a health benefits plan under such chapter and the use of benefits available under any such plan, and (2) submit to the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Governmental Affairs of the Senate a report on the findings and determinations of the Office resulting from such study.

Report.

5 USC 8901 *et seq.*

(b) REPORT REQUIREMENTS.—The report required by subsection (a) shall include—

(1) an assessment of the adequacy of the sources and methods referred to in such subsection in advising individuals with respect to the coordination of benefits under chapter 89 of title 5, United States Code, with benefits available under other health insurance programs established by or under Federal law, including title XVIII of the Social Security Act; and

42 USC 1395.

(2) the administrative actions and any recommendations for legislation which the Office considers necessary in order to improve the effectiveness of any such source or method.

SEC. 110. DEMONSTRATION PROJECT.

5 USC 7901 note.

(a) DEFINITIONS.—For the purposes of this section—

(1) "health protection" means activities to minimize environmental and other workplace conditions which cause or aggravate stress, illness, disability, or other health impairments, including such activities as—

(A) accommodation of the handicapped;

(B) review of plans for new or altered facilities;

(C) routine inspections, surveys, studies of worksites;

(D) inspections of worksites by a physician, nurse, or other licensed health professional with training in occupational safety and health;

(E) evaluation and monitoring of worksite hazards; and

(F) investigations of causes of occupational disease or injury;

(2) "health promotion" means activities to encourage the development of health enhancing habits and practices, including activities encouraging—

(A) cessation of tobacco smoking;

(B) reduction in the misuse of alcohol, drugs, and other chemical substances;

(C) improvements in nutrition;

(D) improvements in physical fitness, including weight reduction; and

(E) control of stress;

(3) "disease prevention" means activities to prevent unnecessary illnesses, morbidity, disability, and medical treatment, including—

(A) occupationally related examinations;

(B) general health assessments;

(C) biological monitoring;

(D) immunizations, chemoprophylaxis, fitting respirators and hearing protectors, use of barrier creams, control of high blood pressure, control of sexually transmittable diseases, care to improve pregnancy outcome, control of toxic agents, control or elimination of hazards leading to accidental injuries, control of infectious agents, and other health intervention activities; and

(E) referral to private physicians, dentists, and other licensed health professionals;

(4) "secondary prevention" means—

(A) activities to provide on-the-job emergency health and dental care and assistance, and

(B) rehabilitation or follow-up care after emergency care, to reduce morbidity, disability, lost productivity, and medical treatment.

Education.

(b) IN GENERAL.—The Director of the Office of Personnel Management, in consultation with the Secretary of Health and Human Services, shall establish and carry out at least one demonstration project to determine—

(1) the most effective (including cost-effective) means of—

(A) furnishing health protection, health promotion, disease prevention, and secondary prevention services to Federal Government employees;

(B) encouraging such employees to adopt good health habits;

(C) reducing health risks to such employees, particularly the risks of heart disease, cancer, stroke, diabetes, anxiety, depression, and lifestyle-related accidents;

(D) reducing medical expenses of such employees through health protection, health promotion, disease prevention, and secondary prevention activities;

(E) enhancing employee productivity and reducing health related liability of the Federal Government through a comprehensive occupational health program; and

(F) carrying out a program—

(i) to train employees under the jurisdiction of a Federal Government agency to furnish health protection, health promotion, disease prevention, and secondary prevention services to employees of such agency; and

(ii) to promote interagency agreements under which trained employees of an agency are available to furnish such services to employees of other Federal Government agencies, subject to reimbursement of the costs of the agency in making the trained employees available; and

(2) the cost effectiveness of organizational structures and of social and educational programs which may be useful in achieving the objectives described in clause (1).

(c)(1) CONDUCT OF THE DEMONSTRATION PROJECT.—The demonstration project described in subsection (b) shall be conducted in cooperation with at least one— Schools and colleges.

(A) health profession school;

(B) allied health profession or nurse training institution; or

(C) public or private entity which provides health care.

(2)(A) The Director of the Office of Personnel Management, in consultation with the Secretary of Health and Human Services, may enter into contracts with, or make grants to, any school of medicine, school of osteopathy, school of public health, school of nursing, health maintenance organization, or other qualified health care provider for the purpose of carrying out the demonstration project described in subsection (b). Contracts. Grants.

(B) The authority of the Director of the Office of Personnel Management to enter into contracts or to make grants under subparagraph (A) is effective for fiscal year 1986 and subsequent fiscal years only to such extent or in such amounts as are provided in appropriation Acts. Contracts. Grants.

(C) For the purposes of this paragraph, the terms "school of medicine" and "school of osteopathy" have the same meanings as provided for such terms in section 701(4) of the Public Health Service Act (42 U.S.C. 292a(4)).

(d) REPORT.—Not later than 60 days after the date the demonstration project required by subsection (b) terminates, the Director of the Office of Personnel Management, in consultation with the Secretary of Health and Human Services, shall submit to Congress a report on the project.

(e) ESTABLISHMENT AND TERMINATION REQUIREMENTS.—The demonstration project required by subsection (b) shall be established not later than 6 months after the date of enactment of this Act and shall terminate on the date 2 years after such date of enactment.

SEC. 111. ADDITIONAL TYPE OF HEALTH BENEFITS PLAN.

Paragraph (4) of section 8903 of title 5, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(C) MIXED MODEL PREPAYMENT PLANS.—Mixed model prepayment plans which are a combination of the type of plans described in subparagraph (A) and the type of plans described in subparagraph (B).".

SEC. 112. RESTRICTIONS RELATING TO AMOUNTS REFUNDED TO THE EMPLOYEES HEALTH BENEFITS FUND FROM CARRIERS' SPECIAL RESERVES.

(a) PROHIBITED TRANSFERS.—(1) No amount in the Employees Health Benefits Fund may be transferred to the general fund of the Treasury of the United States or the United States Postal Service as a result of a refund described in paragraph (2). 5 USC 8909 note.

(2) This subsection applies with respect to any refund made by a carrier during fiscal year 1986 or 1987 to the Employees Health Benefits Fund to the extent that such refund represents amounts in excess of the minimum level of financial reserves necessary to be held by such carrier to ensure the stable and efficient operation of its health benefits plan.

(b) RESTRICTION RELATING TO USE OF CERTAIN AMOUNTS IN THE FUND.—(1) Any amount which is in the Employees Health Benefits Fund, and which is described in paragraph (2), may be used solely

5 USC 8901 *et seq.*

for the purpose of paying the Government contribution under chapter 89 of title 5, United States Code, for health benefits for annuitants enrolled in health benefits plans (without regard to the health benefits plan or plans from which the refunds were received).

(2) This subsection applies with respect to any amounts—

(A) which are referred to in subsection (a)(2); and

(B) which are attributable to Government contributions (other than contributions by the government of the District of Columbia, which shall be returned to such government) that were made under section 8906(b) of title 5, United States Code, as determined under regulations which the Office of Personnel Management shall prescribe.

(c) DEFINITIONS.—For the purpose of this section—

(1) the term "Employees Health Benefits Fund" refers to the fund described in section 8909(a) of title 5, United States Code;

(2) the term "carrier" has the meaning given such term by section 8901(7) of such title; and

(3) the term "health benefits plan" has the meaning given such term by section 8901(6) of such title.

TITLE II—CIVIL SERVICE SPOUSE AND FORMER SPOUSE EQUITY IMPROVEMENTS

SEC. 201. REVISION OF THE APPLICATION AND SPECIAL ELECTIONS PROVISIONS OF THE CIVIL SERVICE RETIREMENT SPOUSE EQUITY ACT OF 1984.

5 USC 8341 note.

(a) APPLICATION.—Section 4(a) of the Civil Service Retirement Spouse Equity Act of 1984 (Public Law 98-615; 98 Stat. 3204) is amended to read as follows:

Effective date. 5 USC 8331.

"(a)(1) Except as provided in paragraphs (3), (4), (5), and (6) and subsections (b) and (c), the amendments made by section 2 of this Act shall take effect May 7, 1985, and shall apply—

"(A) to any individual who, on or after such date, is married to an employee or Member who, on or after such date, retires, dies, or applies for a refund of contributions under subchapter III of chapter 83 of title 5, United States Code, and

5 USC 8331 *et seq.*

"(B) to any individual who, as of such date, is married to a retired employee or Member,

unless (i) such employee or Member has waived, under the first sentence of section 8339(j)(1) of such title (or a similar prior provision of law), the right of that individual's spouse to receive a survivor annuity, or (ii) in the case of a post-retirement marriage or remarriage, an election has not been made before such date by such employee or Member with respect to such individual under the applicable provisions of section 8339(j)(1) or 8339(k)(2) of such title, as the case may be (or a similar prior provision of law).

Effective date.

"(2) Except as provided in subsection (f), the amendments made by section 3 of this Act shall take effect May 7, 1985, and shall apply to any individual who, on or after such date, is married to an employee or annuitant.

"(3) The amendments made by subparagraphs (B)(iii) and (C)(ii) of section 2(4) of this Act (relating to the termination of survivor benefits for a widow or widower who remarries before age 55) and the amendments made by subparagraph (F) of such section 2(4) (relating to the restoration of a survivor annuity upon the dissolution of such a remarriage) shall apply—

"(A) in the case of a remarriage occurring on or after the date of the enactment of this Act; and

"(B) with respect to periods beginning on or after such date.

"(4)(A) Except as provided in subparagraph (B), the amendment made by section 2(3)(A) of this Act (but only to the extent that it amends title 5, United States Code, by adding a new section 8339(j)(5)(C)) and the amendment made by section 2(3)(C) of this Act (which relate to the election of a survivor annuity for a spouse in the case of a post-retirement marriage or remarriage) shall apply—

"(i) to an employee or Member who retires before, on, or after May 7, 1985; and

"(ii) in the case of a marriage occurring on or after May 7, 1985.

"(B) The amendments referred to in subparagraph (A) shall not apply in the case of a marriage of an employee or Member retiring before May 7, 1985, if the marriage occurred after May 6, 1985, and before the date of the enactment of the Federal Employees Benefits Improvement Act of 1985.

"(C) Any election by an employee or Member described in subparagraph (B) to provide a survivor annuity for that individual's spouse by a marriage described in such subparagraph shall be effective if made in accordance with the applicable provisions of section 8339(j)(1) or 8339(k)(2) of title 5, United States Code, as the case may be, as in effect on May 6, 1985.

"(5)(A) Paragraphs (2), (3), (4), and (5)(B) of section 8339(j) of title 5, United States Code (as added by section 2(3)(A) of this Act), shall apply in the case of a former spouse of an employee or Member whose marriage to such employee or Member terminated before May 7, 1985, if such employee or Member retires on or after such date.

"(B)(i) The requirement described in clause (ii) shall not apply to an election made by an employee or Member under section 8339(j)(3) of title 5, United States Code (as amended by section 2(3)(A) of this Act), in order to provide a survivor annuity under section 8341(h) of such title (as amended by section 2(4)(G) of this Act) in the case of a former spouse referred to in subparagraph (A) if the election meets the requirements of clause (iii).

"(ii) The requirement referred to in clause (i) is the requirement prescribed in section 8339(j)(3) of title 5, United States Code, for an employee or Member to make an election in the case of a former spouse under such section 8339(j)(3) at the time of retirement or, if later, within 2 years after the date on which the marriage of the former spouse to the employee or Member is dissolved.

"(iii) Clause (i) applies to an election which is made by an employee or Member who retires on or after May 7, 1985, and before the date of the enactment of the Federal Employees Benefits Improvement Act of 1985, and is received by the Office of Personnel Management within the 2-year period beginning on the date of the enactment of such Act.

"(C) A survivor annuity shall be paid a former spouse as provided in section 8341(h) of title 5, United States Code (as amended by section 2(4)(G) of this Act), pursuant to an election made in the case of such former spouse under this paragraph.

"(D) The amendments made by paragraphs (6) and (7) of section 2 of this Act shall apply in the case of survivor annuities and elections authorized by this paragraph.

"(6) The amendment made by section 2(4)(A) of this Act (relating to the definition of a widow or widower) and the amendment made by section 2(4)(G) of this Act (but only to the extent that it amends title 5, United States Code, by adding a new section 8341(i)) shall apply with respect to any marriage occurring on or after the date of the enactment of this Act.".

5 USC 8341 note.

(b) ENTITLEMENT OF A FORMER SPOUSE IN CASE OF RETIREMENT OR DEATH OF AN EMPLOYEE OR MEMBER BEFORE THE EFFECTIVE DATE.—Section 4(b) of the Civil Service Retirement Spouse Equity Act of 1984 (Public Law 98-615; 98 Stat. 3205) is amended—

(1) in paragraph (1)—

(A) by striking out "the one hundred and eightieth day after the date of enactment of this Act" in the matter before subparagraph (A) and inserting in lieu thereof "May 7, 1985, or who died after becoming eligible to retire and before such date,";

(B) by striking out "retired" in the matter before clause (i) in subparagraph (B); and

(C) by striking out clause (iii) in subparagraph (B) and by redesignating clauses (iv), (v), and (vi) of such subparagraph as clauses (iii), (iv), and (v), respectively; and

(2) by redesignating paragraph (4) as paragraph (5);

(3) by inserting after paragraph (3) the following new paragraph (4):

"(4)(A) A former spouse of an employee or Member referred to in the matter before subparagraph (A) in paragraph (1) of this section shall be entitled to a survivor annuity under subparagraph (B) of such paragraph if—

"(i) the former spouse satisfies the requirements of clauses (ii) through (v) of such subparagraph (B); and

"(ii) there is no surviving spouse of the employee or Member and no other former spouse of such employee or Member who is entitled to receive a survivor annuity under subchapter III of chapter 83 of title 5, United States Code, based on the service of such employee or Member which is creditable under such subchapter and there is no other person who has been designated to receive a survivor annuity under such subchapter by reason of an insurable interest in such employee or Member.

5 USC 8331 *et seq.*

"(B) For the purposes of this paragraph, the term 'surviving spouse' means a widow or a widower as defined in paragraphs (1) and (2), respectively, of section 8341(a) of title 5, United States Code."; and

(4) in paragraph (5), as redesignated by clause (2) of this subsection—

(A) by striking out "Member," in the matter before subparagraph (A) and inserting in lieu thereof "Member (or of that portion of the annuity which such employee or Member may have designated for this purpose under paragraph (1)(A) of this subsection),"; and

(B) by striking out "section 8341(b)(4)" in the matter following subparagraph (B) and inserting in lieu thereof "section 8341(h)(2)".

5 USC 8341 note.

(c) ELIGIBILITY OF CERTAIN FORMER SPOUSES TO ENROLL IN A FEDERAL EMPLOYEES HEALTH BENEFITS PLAN.—(1) The first sentence of section 4(f) of the Civil Service Retirement Spouse Equity Act of 1984 is amended to read as follows: "Any individual—

"(1) who is entitled to a survivor annuity under subsection (b) of this section or pursuant to an election authorized by reason of the application of subsection (a)(5) of this section,

"(2) as to whom a court order or decree referred to in section 8345(j) of title 5, United States Code (or similar provision of law under a retirement system for Government employees other than the Civil Service Retirement System) has been issued before May 7, 1985, or

"(3) who is entitled (other than as described in paragraph (2)) to an annuity or any portion of an annuity as a former spouse under a retirement system for Government employees as of May 7, 1985,

shall be considered to have satisfied section 8901(10)(C) of title 5, United States Code, as amended by this Act.".

(2) The second sentence of such section 4(f) is amended— 5 USC 8341 note.

(A) by inserting ", within 12 months after the date of the enactment of the Federal Employees Benefits Improvement Act of 1985," before "enroll"; and

(B) by inserting before the period at the end the following: "(other than the conditions prescribed in subparagraphs (A) and (B) of paragraph (1) of such section 8905(c))".

(d) ADDITIONAL ELECTION.—(1) Notwithstanding the time limitation prescribed in subparagraph (A) of section 4(b)(1) of the Civil Service Retirement Spouse Equity Act of 1984, an election may be made under such subparagraph before the expiration of the 12-month period beginning on the date on which the regulations under paragraph (3) of this subsection first take effect. 5 USC 8341 note.

(2) Any retired employee or Member who has made an election under section 4(b)(1)(A) of the Civil Service Retirement Spouse Equity Act of 1984 (as in effect at the time of such election) before the regulations under paragraph (3) of this subsection become effective may modify such election by designating, in writing, that only a portion of such employee or Member's annuity is to be used as the base for the survivor annuity for the former spouse for whom the election was made. A modification under this subparagraph shall be subject to the deadline under paragraph (1) of this subsection.

(3) The Office of Personnel Management shall prescribe regulations to carry out this subsection, including regulations under which an appropriate refund shall be made in the case of a modification under paragraph (2) of this subsection.

SEC. 202. CREDIT FOR MILITARY SERVICE.

Section 8332(j)(1) of title 5, United States Code, is amended by striking out "widow" each place it appears and inserting in lieu thereof "spouse, former spouse".

SEC. 203. ANNUITY REDUCTIONS.

(a) IRREVOCABILITY OF A JOINT SPOUSAL WAIVER.—Section 8339(j)(3) of title 5, United States Code, is amended by inserting ", unless all rights to survivor benefits for such former spouse under this subchapter based on marriage to such employee or Member were waived under paragraph (1) of this subsection" before the period at the end of the first sentence.

(b) REPLACEMENT OF TERMINATED REDUCTION.—Section 8339(j)(5)(B) of title 5, United States Code, is amended to read as follows:

"(B) Any reduction in an annuity for the purpose of providing a survivor annuity for a former spouse of a retired employee or Member shall be terminated for each full month after the former spouse remarries before reaching age 55 or dies. This reduction shall be replaced by an appropriate reduction or reductions under paragraph (4) of this subsection if the retired employee or Member has (i) another former spouse who is entitled to a survivor annuity under section 8341(h) of this title, (ii) a current spouse to whom the employee or Member was married at the time of retirement and with respect to whom a survivor annuity was not jointly waived under paragraph (1) of this subsection, or (iii) a current spouse whom the employee or Member married after retirement and with respect to whom an election has been made under subparagraph (C) of this paragraph or subsection (k)(2) of this section.".

5 USC 8341.

(c) ELECTIONS RELATING TO A SURVIVOR ANNUITY FOR A PERSON WHO HAS AN INSURABLE INTEREST IN AN ANNUITANT.—(1) Section 8339(j)(5)(C) of title 5, United States Code, is amended by adding at the end thereof the following:

"(v) An election to provide a survivor annuity to a person under this subparagraph—

"(I) shall prospectively void any election made by the employee or Member under subsection (k)(1) of this section with respect to such person; or

"(II) shall, if an election was made by the employee or Member under such subsection (k)(1) with respect to a different person, prospectively void such election if appropriate written application is made by such employee or Member at the time of making the election under this subparagraph.

"(vi) The deposit provisions of clauses (ii) and (iii) of this subparagraph shall not apply if—

"(I) the employee or Member makes an election under this subparagraph after having made an election under subsection (k)(1) of this section; and

"(II) the election under such subsection (k)(1) becomes void under clause (v) of this subparagraph.".

5 USC 8339.

(2) Section 8339(k)(1) of such title is amended by adding at the end thereof the following: "In the case of a married employee or Member, an election under this paragraph on behalf of the spouse may be made only if any right of such spouse to a survivor annuity based on the service of such employee or Member is waived in accordance with subsection (j)(1) of this section.".

(3) Paragraph (2) of section 8339(k) of such title is amended—

(A) by striking out subparagraph (B)(i) and inserting in lieu thereof the following:

"(B)(i) The election and reduction shall take effect on the first day of the first month beginning after the expiration of the 9-month period beginning on the date of marriage. Any such election to provide a survivor annuity for a person—

"(I) shall prospectively void any election made by the employee or Member under paragraph (1) of this subsection with respect to such person; or

"(II) shall, if an election was made by the employee or Member under such paragraph with respect to a different person, prospectively void such election if appropriate written application is made by such employee or Member at the time of making the election under this paragraph.";

(B) by striking out "(other than an employee or Member who made a previous election under paragraph (1) of this subsection)" in subparagraph (B)(ii); and

(C) by adding at the end thereof the following new subparagraph (D):

"(D) Subparagraphs (B)(ii) and (C) of this paragraph shall not apply if—

"(i) the employee or Member makes an election under this paragraph after having made an election under paragraph (1) of this subsection; and

"(ii) the election under such paragraph (1) becomes void under subparagraph (B)(i) of this paragraph.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect May 7, 1985. 5 USC 8339 note.

SEC. 204. PRORATED COST-OF-LIVING ADJUSTMENTS FOR THE FIRST YEAR.

Section 8340(c)(1) of title 5, United States Code, is amended—

(1) by striking out "or widower" the first time it appears and inserting in lieu thereof ", widower, or former spouse,"; and

(2) by striking out "or widower" the second and third time it appears and inserting in lieu thereof ", widower, former spouse, or insurable interest designee".

SEC. 205. SURVIVOR BENEFITS FOR CHILDREN.

(a) EQUITABLE SURVIVOR ANNUITIES FOR SURVIVING CHILDREN.—Section 8341(e) of title 5, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(2) by inserting before paragraph (2), as redesignated by clause (1), the following new paragraph:

"(1) For the purposes of this subsection, 'former spouse' includes a former spouse who was married to an employee or Member for less than 9 months and a former spouse of an employee or Member who completed less than 18 months of service covered by this subchapter.".

(b) INDIVIDUAL DETERMINATION OF SURVIVOR ANNUITY AMOUNT.—Section 8341(e)(2) of title 5, United States Code, as redesignated by subsection (a)(1) of this section, is amended by striking out "each surviving child" both times it appears and inserting in lieu thereof "that surviving child".

SEC. 206. DEFERRED ANNUITIES FOR FORMER SPOUSES OF FORMER MEMBERS OF CONGRESS.

Section 8341(h)(1) of title 5, United States Code, is amended by striking out "or annuitant" and inserting in lieu thereof "annuitant, or former Member who was separated from the service with title to a deferred annuity under section 8338(b) of this title". 5 USC 8338.

SEC. 207. CHANGES IN COURT ORDERS AFTER DEATH.

Section 8341(h)(4)(A) of title 5, United States Code, is amended by inserting "or death" after "retirement".

SEC. 208. EFFECT OF A SEPARATION AGREEMENT ON REFUND OF A LUMP-SUM CREDIT.

Section 8342(j)(1)(B) of title 5, United States Code, is amended to read as follows:

"(B) shall be subject to the terms of a court decree of divorce, annulment, or legal separation or any court order or court approved property settlement agreement incident to such decree if—

"(i) the decree, order, or agreement expressly relates to any portion of the lump-sum credit involved; and

"(ii) payment of the lump-sum credit would extinguish entitlement of the employee's or Member's spouse or former spouse to a survivor annuity under section 8341(h) of this title or to any portion of an annuity under section 8345(j) of this title.".

5 USC 8345.

TITLE III—MISCELLANEOUS CIVIL SERVICE AMENDMENTS

SEC. 301. RECEPTION AND REPRESENTATION EXPENSES OF THE OFFICE OF PERSONNEL MANAGEMENT.

Section 1103(a) of title 5, United States Code, is amended—

(1) by striking out "and" after paragraph (7);

(2) by striking out the period after paragraph (8) and by inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (8) the following:

"(9) incurring official reception and representation expenses of the Office subject to any limitation prescribed in any law.".

SEC. 302. EXCEPTION TO NOTICE REQUIREMENTS FOR ROUTINE PAY MATTERS.

Section 1103(b) of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) Paragraphs (1) and (2) of this subsection and section 1105 of this title shall not apply to the establishment of any schedules or rates of basic pay or allowances under subpart D of part III of this title. The preceding sentence does not apply to the establishment of the procedures, methodology, or criteria used to establish such schedules, rates, or allowances.".

5 USC 1105.

SEC. 303. PREDEPARTURE ALLOWANCE.

Puerto Rico. Panama.

Section 5924(2)(A) of title 5, United States Code, is amended by inserting after "United States" the following: ", its territories or possessions, the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements".

TIAS 10030.

SEC. 304. DENTAL CARE IN GOVERNMENT MEDICAL FACILITIES OVERSEAS.

The second sentence of section 5 of the Act of May 10, 1943 (24 U.S.C. 35; 57 Stat. 81) is amended to read as follows: "Routine dental care, other than dental prosthesis and orthodontia, may be furnished to such persons who are outside the naval service under the same conditions as are prescribed in section 4 of this Act for hospital and dispensary care for such persons.".

24 USC 34.

SEC. 305. MINIMUM ANNUITY UNDER THE CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM.

(a) REPEAL.—Section 8345(f) of title 5, United States Code, is repealed.

(b) SAVINGS PROVISION.—An annuity payable from the Civil Service Retirement and Disability Fund as of the day before the date of enactment of this Act shall not be reduced— 5 USC 8345 note.

(1) by reason of the repeal of section 8345(f) of title 5, United States Code; or *Ante*, p. 26.

(2) if or to the extent that the reduction is to be made for the purpose of eliminating an overpayment resulting from the manner in which such section 8345(f) has been administered by the Office of Personnel Management.

(c) RATIFICATION OF ERRONEOUS PAYMENTS.—Any individual to whom an overpayment of an annuity has been made from the Civil Service Retirement and Disability Fund before the date of enactment of this Act shall be deemed to have been entitled to that overpayment if and to the extent that such overpayment resulted from the manner in which the Office of Personnel Management has administered section 8345(f) of title 5, United States Code. 5 USC 8345 note.

(d) ADJUSTMENTS OF CERTAIN REDUCTIONS.—(1) Effective for any month after the date of enactment of this Act, the amount of any annuity which— 5 USC 8345 note.

(A) is payable from the Civil Service Retirement and Disability Fund; and

(B) was reduced after June 30, 1985, and before the date of enactment of this Act, to eliminate any overpayment resulting from the manner in which the Office of Personnel Management administered section 8345(f) of title 5, United States Code,

shall not be less than the amount which would have been payable as of such date of enactment if the reduction described in clause (B) had not been made.

(2)(A) The Office shall make a lump-sum payment to each individual receiving an annuity to which paragraph (1) applies.

(B) The lump-sum payment made to any individual under this paragraph shall be equal to the excess of—

(i) the total amount of the annuity payments which would have been made to the individual for the period beginning with the first month in which the reduction described in paragraph (1)(B) was made and ending on the last day of the month in which this Act is enacted if the reduction had not been made, over

(ii) the total amount of the annuity payments which have been paid to such individual for that period.

SEC. 306. CIVIL SERVICE BENEFITS FOR FORMER EMPLOYEES OF COUNTY COMMITTEES.

(a) RETENTION.—Section 3502(a)(C) of title 5, United States Code, is amended by striking out "who is an employee in or under the Department of Agriculture".

(b) RATE OF PAY ON CHANGE OF POSITION.—Section 5334(e) of title 5, United States Code, is amended—

(1) by inserting a comma after "may"; and

(2) by striking out "under the Department of Agriculture,".

(c) ACCRUAL AND ACCUMULATION OF LEAVE.—The first sentence of section 6312 of title 5, United States Code, is amended by striking out "in the case of any officer or employee in or under the Department of Agriculture".

SEC. 307. 18-MONTH PERIOD TO ELECT A SURVIVOR ANNUITY UNDER THE CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM.

(a) IN GENERAL.—Section 8339 of title 5, United States Code, is amended by adding at the end thereof the following:

"(o)(1)(A) An employee or Member—

"(i) who, at the time of retirement, is married, and

"(ii) who notifies the Office at such time (in accordance with subsection (j)) that a survivor annuity under section 8341(b) of this title is not desired,

may, during the 18-month period beginning on the date of the retirement of such employee or Member, elect to have a reduction under subsection (j) made in the annuity of the employee or Member (or in such portion thereof as the employee or Member may designate) in order to provide a survivor annuity for the spouse of such employee or Member.

"(B) An employee or Member—

"(i) who, at the time of retirement, is married, and

"(ii) who at such time designates (in accordance with subsection (j)) that a limited portion of the annuity of such employee or Member is to be used as the base for a survivor annuity under section 8341(b) of this title,

may, during the 18-month period beginning on the date of the retirement of such employee or Member, elect to have a greater portion of the annuity of such employee or Member so used.

"(2)(A) An election under subparagraph (A) or (B) of paragraph (1) of this subsection shall not be considered effective unless the amount specified in subparagraph (B) of this paragraph is deposited into the Fund before the expiration of the applicable 18-month period under paragraph (1).

"(B) The amount to be deposited with respect to an election under this subsection is an amount equal to the sum of—

"(i) the additional cost to the System which is associated with providing a survivor annuity under subsection (b)(2) of this section and results from such election taking into account (I) the difference (for the period between the date on which the annuity of the participant or former participant commences and the date of the election) between the amount paid to such participant or former participant under this subchapter and the amount which would have been paid if such election had been made at the time the participant or former participant applied for the annuity, and (II) the costs associated with providing for the later election; and

"(ii) interest on the additional cost determined under clause (i) of this subparagraph computed using the interest rate specified or determined under section 8334(e) of this title for the calendar year in which the amount to be deposited is determined.

5 USC 8334.

"(3) An election by an employee or Member under this subsection voids prospectively any election previously made in the case of such employee or Member under subsection (j).

"(4) An annuity which is reduced in connection with an election under this subsection shall be reduced by the same percentage reductions as were in effect at the time of the retirement of the employee or Member whose annuity is so reduced.

"(5) Rights and obligations resulting from the election of a reduced annuity under this subsection shall be the same as the rights and

obligations which would have resulted had the employee or Member involved elected such annuity at the time of retiring.

"(6) The Office shall, on an annual basis, inform each employee or Member who is eligible to make an election under this subsection of the right to make such election and the procedures and deadlines applicable to such election.".

(b) EFFECTIVE DATE AND APPLICATION.—(1) The amendment made by subsection (a) shall take effect 3 months after the date of the enactment of this Act. 5 USC 8339 note.

(2)(A) Subject to subparagraph (B), the amendment made by subsection (a) shall apply with respect to employees and Members who retire before, on, or after such amendment first takes effect.

(B) For the purpose of applying the provisions of paragraph (1) of section 8339(o) of title 5, United States Code (as added by subsection (a) of this section) to employees and Members who retire before the date on which the amendment made by subsection (a) first takes effect—

(i) the period referred to in subparagraph (A) or (B) of such paragraph (as the case may be) shall be considered to begin on the date on which such amendment first becomes effective; and

(ii) the amount referred to in paragraph (2) of such section 8339(o) shall be computed without regard to the provisions of subparagraph (B)(ii) of such paragraph (relating to interest).

(3) For purposes of this subsection, the terms "employee" and "Member" each has the meaning given that term in sections 8331(1) and 8331(2) of title 5, United States Code, respectively.

Approved February 27, 1986.

LEGISLATIVE HISTORY—H.R. 4061:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Feb. 3, considered and passed House.
Feb. 5, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22, No. 9 (1986):
Feb. 27, Presidential statement.

○

COMPREHENSIVE SMOKELESS TOBACCO HEALTH EDUCATION ACT OF 1986

71-139 O - 86 (252)

Public Law 99-252
99th Congress

An Act

Feb. 27, 1986
[S. 1574]

To provide for public education concerning the health consequences of using smokeless tobacco products.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Comprehensive Smokeless Tobacco Health Education Act of 1986.
15 USC 4401 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Smokeless Tobacco Health Education Act of 1986".

15 USC 4401.

SEC. 2. PUBLIC EDUCATION.

(a) DEVELOPMENT.—(1) The Secretary of Health and Human Services shall establish and carry out a program to inform the public of any dangers to human health resulting from the use of smokeless tobacco products. In carrying out such program the Secretary shall—

(A) develop educational programs and materials and public service announcements respecting the dangers to human health from the use of smokeless tobacco;

(B) make such programs, materials, and announcements available to States, local governments, school systems, the media, and such other entities as the Secretary determines appropriate to further the purposes of this Act;

Research and development.

(C) conduct and support research on the effect of smokeless tobacco on human health; and

Public information.

(D) collect, analyze, and disseminate information and studies on smokeless tobacco and health.

(2) In developing programs, materials, and announcements under paragraph (1) the Secretary shall consult with the Secretary of Education, medical and public health entities, consumer groups, representatives of manufacturers of smokeless tobacco products, and other appropriate entities.

Grants.
State and local governments.

(b) ASSISTANCE.—The Secretary of Health and Human Services may provide technical assistance and may make grants to States—

(1) to assist in the development of educational programs and materials and public service announcements respecting the dangers to human health from the use of smokeless tobacco,

(2) to assist in the distribution of such programs, materials, and announcements throughout the States, and

(3) to establish 18 as the minimum age for the purchase of smokeless tobacco.

SEC. 3. SMOKELESS TOBACCO WARNING.

Labeling.
15 USC 4402.

(a) GENERAL RULE.—

(1) It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any smokeless tobacco product unless the product package bears, in accordance with the requirements of this Act, one of the following labels:

"WARNING: THIS PRODUCT MAY CAUSE MOUTH CANCER

"WARNING: THIS PRODUCT MAY CAUSE GUM DISEASE AND TOOTH LOSS

"WARNING: THIS PRODUCT IS NOT A SAFE ALTERNATIVE TO CIGARETTES".

(2) It shall be unlawful for any manufacturer, packager, or importer of smokeless tobacco products to advertise or cause to be advertised (other than through the use of outdoor billboard advertising) within the United States any smokeless tobacco product unless the advertising bears, in accordance with the requirements of this Act, one of the labels required by paragraph (1).

(b) LABEL FORMAT.—The Federal Trade Commission shall issue regulations requiring the label statement required by subsection (a) to appear— Regulations.

(1) in the case of the smokeless tobacco product package—

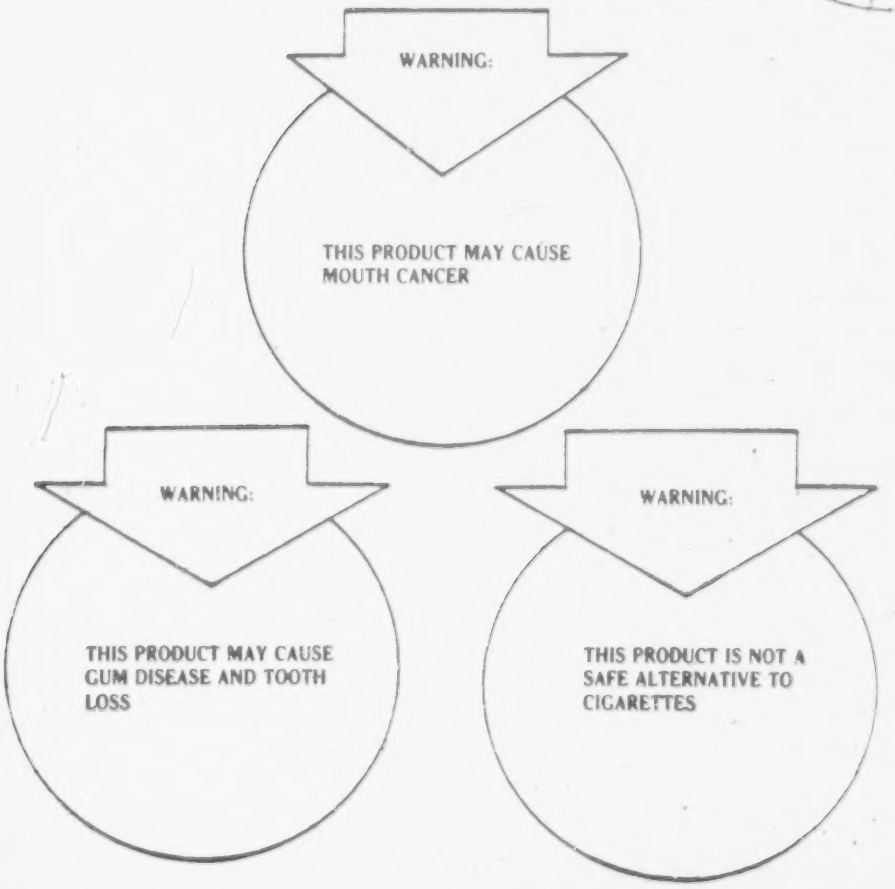
(A) in a conspicuous and prominent place on the package, and

(B) in a conspicuous format and in conspicuous and legible type in contrast with all other printed material on the package, and

(2) in the case of advertising subject to subsection (a)(2)—

(A) in a conspicuous and prominent location in the advertisement and in conspicuous and legible type in contrast with all other printed material in the advertisement,

(B) in the following format:



(C) the label statement shall appear in capital letters and the area of the circle and arrow shall be determined by the Federal Trade Commission.

Regulations.

(c) LABEL DISPLAY.—The Federal Trade Commission shall issue regulations requiring each label statement required by subsection (a) to—

(1) in the case of a smokeless tobacco product package, be randomly displayed by each manufacturer, packager, or importer of a smokeless tobacco product in each 12-month period in as equal a number of times as is possible on each brand of the product and be randomly distributed in all parts of the United States in which such product is marketed, and

(2) in the case of any advertisement of a smokeless tobacco product, be rotated every 4 months by each manufacturer, packager, or importer of a smokeless tobacco product in an alternating sequence in the advertisement for each brand of the product.

(d) PLAN.—(1) Each manufacturer, packager, or importer of a smokeless tobacco product shall submit a plan to the Federal Trade Commission which specifies the method such manufacturer, packager, or importer will use to rotate, display, and distribute the statements required by subsection (a) in accordance with the requirements of subsections (b) and (c).

(2) The Federal Trade Commission shall approve a plan submitted by a manufacturer, packager, or importer of a smokeless tobacco product under paragraph (1) if such plan provides for the rotation, display, and distribution on smokeless tobacco product packages and advertisements of the statements required by subsection (a) in a manner which complies with this section and the regulations promulgated pursuant to this section.

(e) APPLICATION.—This section does not apply to a distributor or a retailer of any smokeless tobacco product which does not manufacture, package, or import smokeless tobacco products for sale or distribution within the United States.

Effective date.

(f) TELEVISION AND RADIO ADVERTISING.—Effective 6 months after the date of the enactment of this Act, it shall be unlawful to advertise smokeless tobacco on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission.

15 USC 4403.

SEC. 4. INGREDIENT REPORTING.

(a) IN GENERAL.—(1) Each person who manufactures, packages, or imports smokeless tobacco products shall annually provide the Secretary with—

(A) a list of the ingredients added to tobacco in the manufacture of smokeless tobacco products which does not identify the company which uses the ingredients or the brand of smokeless tobacco which contains the ingredients; and

(B) a specification of the quantity of nicotine contained in each such product.

(2) A person or group of persons required to provide information by this subsection may designate an individual or entity to provide the information required by this subsection.

(b) REPORT.—(1) At such times as the Secretary considers appropriate, the Secretary shall transmit to the Congress a report, based on the information provided under subsection (a), respecting—

Research and development.

(A) a summary of research activities and proposed research activities on the health effects of ingredients added to tobacco in the manufacture of smokeless tobacco products and the findings of such research;

(B) information pertaining to any such ingredient which in the judgment of the Secretary poses a health risk to users of smokeless tobacco; and

(C) any other information which the Secretary determines to be in the public interest.

(2)(A) Any information provided to the Secretary under subsection (a) shall be treated as a trade secret or confidential information subject to section 552(b)(4) of title 5, United States Code, and shall not be revealed, except as provided in paragraph (1), to any person other than those authorized by the Secretary in carrying out their official duties under this section. Confidentiality.

(B) Subparagraph (A) does not authorize the withholding of information provided under subsection (a) of this section from any duly authorized subcommittee or committee of the Congress. If a subcommittee or committee of the Congress requests the Secretary to provide it such information, the Secretary shall make the information available to the subcommittee or committee and shall, at the same time, notify in writing the person who provided the information of such request.

(C) The Secretary shall establish written procedures to assure the confidentiality of information provided under subsection (a) of this section. Such procedures shall include the designation of a duly authorized agent to serve as custodian of such information. The agent—

(i) shall take physical possession of the information and, when not in use by any person authorized to have access to such information, shall store it in a locked cabinet or file; and

(ii) shall maintain a complete record of any person who inspects or uses the information. Record.

Such procedures shall require that any person permitted access to the information shall be instructed in writing not to disclose the information to anyone who is not entitled to have access to the information.

SEC. 5. ENFORCEMENT, REGULATIONS, AND CONSTRUCTION. 15 USC 4404.

(a) ENFORCEMENT.—(1) A violation of section 3 or the regulations promulgated pursuant to this Act shall be considered a violation of section 5 of the Federal Trade Commission Act. 15 USC 45.

(2) Any person who is found to violate any provision of section 3 or 4(a) shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not more than $10,000.

(b) REGULATIONS UNDER SECTION 3.—(1) Regulations issued by the Federal Trade Commission under section 3 shall be issued in accordance with section 553 of title 5, United States Code.

(2) Not later than 180 days after the date of the enactment of this Act, the Federal Trade Commission shall promulgate such regulations as it may require to implement section 3.

(c) CONSTRUCTION.—Nothing in this Act (other than the requirements of sections 3 and 4) shall be construed to limit, restrict, or expand the authority of the Federal Trade Commission with respect to unfair or deceptive acts or practices in the advertising of smokeless tobacco products.

SEC. 6. INJUNCTIONS. 15 USC 4405.

The several district courts of the United States are vested with jurisdiction, for cause shown, to prevent and restrain violations of sections 3 and 4 upon application of the Federal Trade Commission

in the case of a violation of section 3 or upon application of the Attorney General of the United States acting through the several United States attorneys in their several districts in the case of a violation of section 3 or 4.

15 USC 4406.

SEC. 7. PREEMPTION.

(a) FEDERAL ACTION.—No statement relating to the use of smokeless tobacco products and health, other than the statements required by section 3, shall be required by any Federal agency to appear on any package or in any advertisement (unless the advertisement is an outdoor billboard advertisement) of a smokeless tobacco product.

(b) STATE AND LOCAL ACTION.—No statement relating to the use of smokeless tobacco products and health, other than the statements required by section 3, shall be required by any State or local statute or regulation to be included on any package or in any advertisement (unless the advertisement is an outdoor billboard advertisement) of a smokeless tobacco product.

(c) EFFECT ON LIABILITY LAW.—Nothing in this Act shall relieve any person from liability at common law or under State statutory law to any other person.

15 USC 4407.

SEC. 8. REPORTS.

(a) SECRETARY'S REPORT.—The Secretary of Health and Human Services shall transmit a report to the Congress not later than January 11, 1987, and biennially thereafter, containing—

(1) a description of the effects of health education efforts on the use of smokeless tobacco products,

(2) a description of the use by the public of smokeless tobacco products,

(3) an evaluation of the health effects of smokeless tobacco products and the identification of areas appropriate for further research, and

(4) such recommendations for legislation and administrative action as the Secretary considers appropriate.

(b) FTC REPORT.—The Federal Trade Commission shall transmit a report to the Congress not later than January 11, 1987, and biennially thereafter, containing (1) a description of the current sales, advertising, and marketing practices associated with smokeless tobacco products, and (2) such recommendations for legislation and administrative action as it deems appropriate.

15 USC 4408.

SEC. 9. DEFINITIONS.

For purposes of this Act:

(1) The term "smokeless tobacco" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity.

(2) The term "commerce" means (A) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island and any place outside thereof; (B) commerce between points in any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island, but through any place outside thereof; or (C) commerce wholly within the District of Columbia, Guam, the Virgin Islands,

American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island.

(3) The term "United States", when used in a geographical sense, includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, and installations of the Armed Forces.

(4) The term "package" means a pack, box, carton, pouch, or container of any kind in which smokeless tobacco products are offered for sale, sold, or otherwise distributed to consumers.

(5) The term "sale or distribution" includes sampling or any other distribution not for sale.

(6) The term "Secretary" means the Secretary of Health and Human Services.

SEC. 10. TECHNICAL AMENDMENT.

Section 402(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342(d)(2)) is amended by inserting before the semicolon a comma and the following: "except that this clause shall not apply to confectionery which is introduced or delivered for introduction into, or received or held for sale in, interstate commerce if the sale of such confectionery is permitted under the laws of the State in which such confectionery is intended to be offered for sale".

SEC. 11. EFFECTIVE DATE.

15 USC 4401 note.

(a) IN GENERAL.—Except as provided in sections 3(f) and 5(b) and subsection (b), this Act shall take effect one year after the date of enactment of this Act.

(b) EXCEPTION.—Sections 2, 3(b), 3(c), 3(d), 3(e), 4(b), 7, 8, 9, and 10 shall take effect on the date of the enactment of this Act.

Approved February 27, 1986.

LEGISLATIVE HISTORY—S. 1574:

SENATE REPORT No. 99-209 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 16, considered and passed Senate.
Vol. 132 (1986): Feb. 3, considered and passed House, amended.
Feb. 6, Senate concurred in House amendments.

○

FOOD SECURITY ACT OF 1985, AMENDMENTS, ETC.

71-139 O - 86 (253)

Public Law 99-253
99th Congress

An Act

Feb. 28, 1986
[S. 2036]

To make certain technical corrections to amendments made by the Food Security Act of 1985, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CROSS COMPLIANCE FOR 1986 THROUGH 1990 CROPS OF WHEAT.

7 USC 1445b-3.

Ante, p. 1383.
Loans.

Paragraph (2) of section 107D(n) of the Agricultural Act of 1949 (as added by section 308 of the Food Security Act of 1985 (Public Law 99-198)) is amended to read as follows:

"(2) The Secretary may require that, as a condition of eligibility of producers on a farm for loans, purchases, or payments under this section, the acreage planted for harvest on the farm to any other commodity for which an acreage limitation program is in effect not exceed the crop acreage base for that commodity.".

SEC. 2. CROSS COMPLIANCE FOR 1986 THROUGH 1990 CROPS OF FEED GRAINS.

7 USC 1444e.

Ante, p. 1395.
Loans.

Paragraph (2) of section 105C(n) of the Agricultural Act of 1949 (as added by section 401 of the Food Security Act of 1985 (Public Law 99-198)) is amended to read as follows:

"(2) The Secretary may require that, as a condition of eligibility of producers on a farm for loans, purchases, or payments under this section, the acreage planted for harvest on the farm to any other commodity for which an acreage limitation program is in effect not exceed the crop acreage base for that commodity.".

SEC. 3. AGRICULTURAL STABILIZATION AND CONSERVATION COMMITTEES.

Ante, p. 1635.

The fifth paragraph of section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) (as amended by section 1711(a) of the Food Security Act of 1985 (Public Law 99-198)) is amended by—

(1) in the third sentence, striking out "community committee" and inserting in lieu thereof "local committee"; and

(2) striking out the fourth and fifth sentences and inserting in lieu thereof the following new sentences: "Each local administrative area shall have one local committee consisting of at least three members elected to three-year terms in a local election to be held every third year, except that there may be more than one local committee per administrative area in counties that, as of the date of enactment of the Food Security Act of 1985, have more than three local committees. Only one local administrative area shall hold an election in any given year in each county. Only farmers within a local administrative area who are producers who participate or cooperate in programs administered within their area shall be eligible for nomination and election to the local committee for that area: *Provided*, That

the foregoing requirement of this sentence shall not apply to any county that, on the date of enactment of the Food Security Act of 1985, had less than three local administrative areas. Only farmers who are participating or cooperating producers within an area shall be eligible to vote in the election in that area.". *Ante*, p. 1354.

SEC. 4. DETERMINATION OF CROP ACREAGE BASES.

Subsection (b)(1)(B)(ii) of section 504 of the Agricultural Act of 1949 (as added by section 1031 of the Food Security Act of 1985 (Public Law 99-198)) is amended by striking out "paragraph (1)(A) and paragraph (1)(B)(i)" and inserting in lieu thereof "clause (i)". 7 USC 1464. *Ante*, p. 1460.

Approved February 28, 1986.

LEGISLATIVE HISTORY—S. 2036:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Jan. 30, considered and passed Senate.
Feb. 4, considered and passed House, amended.
Feb. 7, Senate concurred in House amendment.

○

Public Law 99-254
99th Congress

Joint Resolution

March 4, 1986
[H.J. Res. 499]

Designating the week beginning March 2, 1986, as "Women's History Week".

Whereas American women of every race, class, and ethnic background have made historical contributions to the growth and strength of the Nation in countless recorded and unrecorded ways;

Whereas American women have played and continue to play a critical economic, cultural, and social role in every sphere of our Nation's life by constituting a significant portion of the labor force working in and outside of the home;

Whereas American women have played a unique role throughout our history by providing the majority of the Nation's volunteer labor force and have been particularly important in the establishment of early charitable, philanthropic, and cultural institutions in this country;

Whereas American women of every race, class, and ethnic background served as early leaders in the forefront of every major progressive social change movement, not only to secure their own right of suffrage and equal opportunity, but also in the abolitionist movement, the emancipation movement, the industrial labor movement, the civil rights movement, and other movements to create a more fair and just society for all; and

Whereas, despite these contributions, the role of American women in history has been consistently overlooked and undervalued in the body of American history: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning March 2, 1986, is designated as "Women's History Week", and the President is requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved March 4, 1986.

LEGISLATIVE HISTORY—H.J. Res. 499:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Feb. 6, considered and passed House.
Feb. 27, considered and passed Senate.

71-139 O - 86 (254)

Public Law 99-255
99th Congress

An Act

To establish, for the purpose of implementing any order issued by the President for fiscal year 1986 under any law providing for sequestration of new loan guarantee commitments, a guaranteed loan limitation amount applicable to chapter 37 of title 38, United States Code, for fiscal year 1986.

Mar. 7, 1986
[H.R. 4130]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of implementing any order issued by the President for fiscal year 1986 under any law providing for sequestration of new loan guarantee commitments, the guaranteed loan limitation amount applicable for that fiscal year to loan guarantee commitments under chapter 37 of title 38, United States Code, is an amount equal to $18,200,000,000 reduced by 4.3 percent.

2 USC 902 note.

38 USC 1801 *et seq.*

Approved March 7, 1986.

LEGISLATIVE HISTORY—H.R. 4130 (S 2052):

HOUSE REPORT No. 99-472 (Comm. on Veterans' Affairs).
SENATE REPORT No. 99-238 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Feb. 25, considered and passed House and Senate.

O

71-139 O - 86 (255)

Public Law 99-256
99th Congress

Joint Resolution

Mar. 10, 1986
[H.J. Res. 409]

To direct the President to issue a proclamation designating February 16, 1986, as "Lithuanian Independence Day".

Whereas February 16, 1986, marks the 68th anniversary of the declaration of independence of Lithuania;

Whereas on February 16, 1918, the Council of Lithuania, the sole representative of the Lithuanian people, in conformity with the recognized right to national self-determination, proclaimed the restitution of the independent and democratic state of Lithuania and declared rupture of all ties which formally subordinated Lithuania to other nations;

Whereas a free Lithuania existed until the Soviet takeover in 1940;

Whereas the United States opposes tyranny and injustice in all forms and supports the cause of a free Lithuania;

Whereas the oppressed people currently living in Lithuania should keep the flame of freedom forever burning in their hearts: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President shall issue a proclamation designating February 16, 1986, as "Lithuanian Independence Day" and calling on the people of the United States to celebrate such day with appropriate ceremonies and activities.

Approved March 10, 1986.

LEGISLATIVE HISTORY—H.J. Res. 409:

CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 12, considered and passed House.
Vol. 132 (1986): Feb. 27, considered and passed Senate.

71-139 O - 86 (257)

Public Law 99-257
99th Congress

Joint Resolution

To designate March 16, 1986, as "Freedom of Information Day".

Mar. 14, 1986
[H.J. Res. 371]

Whereas a fundamental principle of our Government is that a well-informed citizenry can reach the important decisions that determine the present and future of the Nation;

Whereas the freedoms we cherish as Americans are fostered by free access to information;

Whereas many Americans, because they have never known any other way of life, take for granted the guarantee of free access to information that derives from the First Amendment to the Constitution of the United States;

Whereas the guarantee of free access to information should be emphasized and celebrated annually; and

Whereas March 16 is the anniversary of the birth of James Madison, one of the Founding Fathers, who recognized and supported the need to guarantee individual rights through the Bill of Rights: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 16, 1986, is designated as "Freedom of Information Day", and the President is authorized and requested to issue a proclamation calling upon Federal, State, and local government agencies and the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

Approved March 14, 1986.

LEGISLATIVE HISTORY—H.J. Res. 371 (S.J. Res. 278):

CONGRESSIONAL RECORD, Vol. 132 (1986):
Feb. 27, considered and passed House.
Mar. 4, considered and passed Senate.

Public Law 99-258
99th Congress

An Act

Mar. 19, 1986
[H.R. 3851]

To amend section 901 of the Alaska National Interest Lands Conservation Act.

43 USC 1631.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 901 of the Alaska National Interest Lands Conservation Act (Public Law 96-487) is hereby amended by striking the words "five years after the date of execution" each time such words occur in such subsection, and by inserting in lieu thereof in each instance the words "six years after the date of execution".

Approved March 19, 1986.

LEGISLATIVE HISTORY—H.R. 3851:

HOUSE REPORT No. 99-437 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 99-234 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 12, considered and passed House.
Vol. 132 (1986): Mar. 4, considered and passed Senate.

71-139 O - 86 (258)

Public Law 99-259
99th Congress

Joint Resolution

To designate March 1986, as "Music in Our Schools Month".

Mar. 19, 1986
[H.J. Res. 345]

Whereas the music programs in our Nation's schools fundamentally influence the lives of millions of Americans who participate in these programs;

Whereas music is a powerful aesthetic force that exalts the human spirit, transforms human experience, and enhances the quality of life;

Whereas music is one of the most glorious manifestations of our cultural heritage that should be transmitted to succeeding generations;

Whereas music embodies one of the major symbolic systems that make mankind uniquely human;

Whereas music provides a source of enjoyment and an outlet for creativity and self-expression for all Americans;

Whereas music directly affects the innermost feelings and responses of every child and plays an essential role in the education of this Nation's children;

Whereas the study of music uniquely contributes to the intellectual, emotional, and physical development of young people;

Whereas music provides a useful means for learning about other cultures, both within the United States and abroad;

Whereas the study of music and the other arts enhances student morale and improves the quality of the school environment;

Whereas national recognition and support will assist music educators in enriching the lives of all Americans, regardless of background, age, or musical talent; and

Whereas the observation of "Music in Our Schools Month" will provide a special opportunity for Americans to learn about and support the music programs in our Nation's schools: Now, therefore, be it

71-139 O - 86 (259)

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 1986, is designated as "Music in Our Schools Month", and all Federal, State, and local government agencies and programs, and all citizens, are called upon to show their support for music in the schools of America.

Approved March 19, 1986.

LEGISLATIVE HISTORY—H.J. Res. 345:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Feb. 27, considered and passed House.
Mar. 11, considered and passed Senate.

○

Public Law 99-260
99th Congress

An Act

Entitled the "Food Security Improvements Act of 1986".

Mar. 20, 1986
[H.R. 1614]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Food Security Improvements Act of 1986.
Agriculture and agricultural commodities.
7 USC 1281 note.
Conservation.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Food Security Improvements Act of 1986".

SEC. 2. NONPROGRAM CROPS.

(a) WHEAT.—Section 107D(c)(1) of the Agricultural Act of 1949 (as added by section 308 of the Food Security Act of 1985) is amended—

99 Stat. 1383.
7 USC 1445b-3.

(1) in subparagraph (C), by striking out "or nonprogram crops" each place it appears in clauses (i) and (iv) and inserting in lieu thereof "(except as provided in subparagraph (K))";

(2) in subparagraph (C)(iii), by striking out the last sentence and inserting in lieu thereof the following new sentence: "To be eligible for payments under this clause, such producers must devote such acreage to conservation uses (except as provided in subparagraph (K)).."; and

(3) by striking out subparagraph (K) and inserting in lieu thereof the following new subparagraph:

"(K)(i) The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (C) to be devoted to sweet sorghum or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, commodities for which no substantial domestic production or market exists but that could yield industrial raw material being imported, or likely to be imported, into the United States, or commodities grown for experimental purposes (including kenaf), subject to the following sentence. The Secretary may permit such acreage to be devoted to such production only if the Secretary determines that—

Sorghum.
Guar.
Sesame.
Safflower.
Sunflower.
Castor beans.
Mustard seed.
Crambe.
Plantago ovato.
Flaxseed.
Triticale.
Rye.

"(I) the production is not likely to increase the cost of the price support program and will not affect farm income adversely; and

"(II) the production is needed to provide an adequate supply of the commodity, or, in the case of commodities for which no substantial domestic production or market exists but that could yield industrial raw materials, the production is needed to encourage domestic manufacture of such raw material and could lead to increased industrial use of such raw material to the long-term benefit of United States industry.

"(ii)(I) Except as provided in subclause (II), the Secretary shall permit, at the request of the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State and subject to such terms and conditions

State and local governments.

99 Stat. 1635, 1636.

71-139 O - 86 (260)

as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (C) in such State to be devoted to haying and grazing.

Prohibition.

"(II) Haying and grazing shall not be permitted for any crop under subclause (I) if the Secretary determines that haying and grazing would have an adverse economic effect."

99 Stat. 1395.
7 USC 1444e.

(b) FEED GRAINS.—Section 105C(c)(1) of the Agricultural Act of 1949 (as added by section 401 of the Food Security Act of 1985) is amended—

(1) in subparagraph (B), by striking out "or nonprogram crops" each place it appears in clauses (i) and (iv) and inserting in lieu thereof "(except as provided in subparagraph (I))";

(2) in subparagraph (B)(iii), by striking out the last sentence and inserting in lieu thereof the following new sentence: "To be eligible for payments under this clause, such producers must devote such acreage to conservation uses (except as provided in subparagraph (I))."; and

(3) by striking out subparagraph (I) and inserting in lieu thereof the following new subparagraph:

Sorghum.
Guar.
Sesame.
Safflower.
Sunflower.
Castor beans.
Mustard seed.
Crambe.
Plantago ovato.
Flaxseed.
Triticale.
Rye.

"(I)(i) The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (B) to be devoted to sweet sorghum or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, commodities for which no substantial domestic production or market exists but that could yield industrial raw material being imported, or likely to be imported, into the United States, or commodities grown for experimental purposes (including kenaf), subject to the following sentence. The Secretary may permit such acreage to be devoted to such production only if the Secretary determines that—

"(I) the production is not likely to increase the cost of the price support program and will not affect farm income adversely; and

"(II) the production is needed to provide an adequate supply of the commodity, or, in the case of commodities for which no substantial domestic production or market exists but that could yield industrial raw materials, the production is needed to encourage domestic manufacture of such raw material and could lead to increased industrial use of such raw material to the long-term benefit of United States industry.

State and local governments.

99 Stat. 1635, 1636.

"(ii)(I) Except as provided in subclause (II), the Secretary shall permit, at the request of the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State and subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (B) in such State to be devoted to haying and grazing.

Prohibition.

"(II) Haying and grazing shall not be permitted for any crop under subclause (I) if the Secretary determines that haying and grazing would have an adverse economic effect.".

99 Stat. 1407.
7 USC 1444-1.

(c) COTTON.—Section 103A(c)(1) of the Agricultural Act of 1949 (as added by section 501 of the Food Security Act of 1985) is amended—

(1) in subparagraph (B), by striking out "or nonprogram crops" each place it appears in clauses (i) and (iv) and inserting in lieu thereof "(except as provided in subparagraph (G))";

(2) in subparagraph (B)(iii), by striking out the last sentence and inserting in lieu thereof the following new sentence: "To be eligible for payments under this clause, such producers must devote such acreage to conservation uses (except as provided in subparagraph (G)).''; and

(3) by striking out subparagraph (G) and inserting in lieu thereof the following new subparagraph:

"(G)(i) The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (B) to be devoted to sweet sorghum or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, commodities for which no substantial domestic production or market exists but that could yield industrial raw material being imported, or likely to be imported, into the United States, or commodities grown for experimental purposes (including kenaf), subject to the following sentence. The Secretary may permit such acreage to be devoted to such production only if the Secretary determines that—

Sorghum.
Guar.
Sesame.
Safflower.
Sunflower.
Castor beans.
Mustard seed.
Crambe.
Plantago ovato.
Flaxseed.
Triticale.
Rye.

"(I) the production is not likely to increase the cost of the price support program and will not affect farm income adversely; and

"(II) the production is needed to provide an adequate supply of the commodity, or, in the case of commodities for which no substantial domestic production or market exists but that could yield industrial raw materials, the production is needed to encourage domestic manufacture of such raw material and could lead to increased industrial use of such raw material to the long-term benefit of United States industry.

"(ii)(I) Except as provided in subclause (II), the Secretary shall permit, at the request of the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State and subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (B) in such State to be devoted to haying and grazing.

State and local governments.

99 Stat. 1635, 1636.

"(II) Haying and grazing shall not be permitted for any crop under subclause (I) if the Secretary determines that haying and grazing would have an adverse economic effect.".

Prohibition.

(d) RICE.—Section 101A(c)(1) of the Agricultural Act of 1949 (as added by section 601 of the Food Security Act of 1985) is amended—

99 Stat. 1419.
7 USC 1444-1.

(1) in subparagraph (B), by striking out "or nonprogram crops" each place it appears in clauses (i) and (iv) and inserting in lieu thereof "(except as provided in subparagraph (G))";

(2) in subparagraph (B)(iii), by striking out the last sentence and inserting in lieu thereof the following new sentence: "To be eligible for payments under this clause, such producers must devote such acreage to conservation uses (except as provided in subparagraph (G)).''; and

(3) by striking out subparagraph (G) and inserting in lieu thereof the following new subparagraph:

Sorghum.
Guar.
Sesame.
Safflower.
Sunflower.
Castor beans.
Mustard seed.
Crambe.
Plantago ovato.
Flaxseed.
Triticale.
Rye.

"(G)(i) The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (B) to be devoted to sweet sorghum or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale; rye, commodities for which no substantial domestic production or market exists but that could yield industrial raw material being imported, or likely to be imported, into the United States, or commodities grown for experimental purposes (including kenaf), subject to the following sentence. The Secretary may permit such acreage to be devoted to such production only if the Secretary determines that—

"(I) the production is not likely to increase the cost of the price support program and will not affect farm income adversely; and

"(II) the production is needed to provide an adequate supply of the commodity, or, in the case of commodities for which no substantial domestic production or market exists but that could yield industrial raw materials, the production is needed to encourage domestic manufacture of such raw material and could lead to increased industrial use of such raw material to the long-term benefit of United States industry.

State and local governments.

99 Stat. 1635, 1636.

"(ii)(I) Except as provided in subclause (II), the Secretary shall permit, at the request of the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State and subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (B) in such State to be devoted to haying and grazing.

Prohibition.

"(II) Haying and grazing shall not be permitted for any crop under subclause (I) if the Secretary determines that haying and grazing would have an adverse economic effect.".

Wheat.
Feedgrains.
Cotton.
Rice.
Soybeans.
Prohibition.
7 USC 1441-1 note.

(e) APPLICATION.—In the case of the 1986 crops of wheat, feed grains, upland cotton, and rice, the amendments made by this section shall not apply to any producer who demonstrates to the satisfaction of the Secretary of Agriculture that the producer, before February 26, 1986, planted or contracted to plant for the 1986 crop year a portion of the permitted acreage of the producer to any agricultural commodity other than wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans.

SEC. 3. FARM PROGRAM PAYMENT YIELDS.

(a) ESTABLISHED PRICE PAYMENTS FOR 1986 AND 1987 CROP YEARS.—Section 506(b) of the Agricultural Act of 1949 (as added by section 1031 of the Food Security Act of 1985) is amended—

99 Stat. 1463.
7 USC 1466.

(1) in paragraph (1), by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)";

(2) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively; and

(3) by inserting after paragraph (1) the following new paragraph:

"(2)(A) In the case of the 1986 crop year for a commodity, if the farm program payment yield for a farm is reduced more than 3 percent below the farm program payment yield for the 1985 crop year, the Secretary shall make available to producers established

price payments for the commodity (in the form of commodities owned by the Commodity Credit Corporation) in such amount as the Secretary determines is necessary to provide the same total return to producers as if the farm program payment yield had not been reduced more than 3 percent below the farm program payment yield for the 1985 crop year.

"(B) In the case of the 1987 crop year for a commodity, if the farm program payment yield for a farm is reduced more than 5 percent below the farm program payment yield for the 1985 crop year, the Secretary shall make available to producers established price payments for the commodity (in the form of commodities owned by the Commodity Credit Corporation) in such amount as the Secretary determines is necessary to provide the same total return to producers as if the farm program payment yield had not been reduced more than 5 percent below the farm program payment yield for the 1985 crop year.".

(b) FARM PROGRAM PAYMENT YIELDS FOR 1988 AND SUBSEQUENT CROP YEARS.—Section 506(c)(1) of the Agricultural Act of 1949 is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of this paragraph, for purposes of establishing a farm program payment yield for any program crop for any farm for the 1988 and subsequent crop years, the farm program payment yield for the 1986 crop year may not be reduced more than 10 percent below the farm program payment yield for the farm for the 1985 crop year.". Prohibition. 99 Stat. 1463. 7 USC 1466.

SEC. 4. SPECIAL ASSISTANT FOR AGRICULTURAL TRADE AND FOOD ASSISTANCE.

(a) CHANGE OF TITLE.—(1) Section 1113 of the Food Security Act of 1985 is amended— 99 Stat. 1479. 7 USC 1736-1.

(A) in the caption, by striking out "FOOD AID" and inserting in lieu thereof "FOOD ASSISTANCE"; and

(B) in subsection (a), by striking out "Food Aid" and inserting in lieu thereof "Food Assistance".

(2) The table of contents in section 2 of such Act is amended by striking out "Food Aid" in the item relating to section 1113 and inserting in lieu thereof "Food Assistance".

(b) APPOINTMENT OF INITIAL SPECIAL ASSISTANT.—Section 1113(a) of such Act is amended by adding at the end thereof the following new sentence: "The President shall appoint the initial Special Assistant not later than May 1, 1986.". President of U.S.

(c) REMOVAL OF LEVEL I CLASSIFICATION.—Section 5312 of title 5, United States Code, as amended by section 1113(d) of the Food Security Act of 1985, is amended by striking out the item relating to:

"Special Assistant for Agricultural Trade and Food Aid.".

(d) COMPENSATION FOR THE SPECIAL ASSISTANT.—Section 1113(d) of the Food Security Act of 1985 is amended to read as follows: 7 USC 1736-1.

"(d) Compensation for the Special Assistant shall be fixed by the President at an annual rate of basic pay of not less than the rate applicable to positions in level III of the Executive Schedule.". President of U.S.

SEC. 5. TARGETED EXPORT ASSISTANCE.

Section 1124 of the Food Security Act of 1985 is amended by striking out subsection (a) and inserting in lieu thereof the following new subsection: 99 Stat. 1481. 7 USC 1736s.

"(a) For export activities authorized to be carried out by the Secretary of Agriculture or the Commodity Credit Corporation, in

addition to any funds or commodities otherwise required under this Act to be used for such activities—

"(1) for each of the fiscal years ending September 30, 1986, through September 30, 1988, the Secretary shall use under this section not less than $110,000,000 of funds of, or commodities owned by, the Corporation; and

"(2) for each of the fiscal years ending September 30, 1989, and September 30, 1990, the Secretary shall use under this section not less than $325,000,000 of funds of, or commodities owned by, the Corporation.".

SEC. 6. DEVELOPMENT AND EXPANSION OF MARKETS FOR UNITED STATES AGRICULTURAL COMMODITIES.

99 Stat. 1483.
7 USC 1736v.

Subsection (i) of section 1127 of the Food Security Act of 1985 is amended to read as follows:

"(i) During the period beginning October 1, 1985, and ending September 30, 1988, the Secretary shall use agricultural commodities and the products thereof referred to in subsection (a) to carry out this section, except that the value of the commodities and products may not be less than $1,000,000,000, nor more than $1,500,000,000. To the maximum extent practicable, such commodities shall be used in equal amounts during each of the years in such period.".

SEC. 7. HAY AND GRAZING ON DIVERTED WHEAT AND FEED GRAIN ACREAGE.

(a) WHEAT.—Subparagraph (C) of section 107D(f)(4) of the Agricultural Act of 1949 (as added by section 308 of the Food Security Act of 1985) is amended to read as follows:

99 Stat. 1383.
7 USC 1445b-3.
State and local governments.

"(C)(i) Except as provided in clause (ii), the Secretary shall permit, at the request of the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State and subject to such terms and conditions as the Secretary may prescribe, all or any part of such acreage diverted from production by participating producers in such State to be devoted to—

99 Stat. 1635, 1636.

"(I) hay and grazing during not less than 5 of the principal growing months (as established for a State by the State committee), in the case of the 1986 crop of wheat; and

"(II) grazing, in the case of each of the 1987 through 1990 crops of wheat.

"(ii) In the case of each of the 1987 through 1990 crops of wheat, grazing shall not be permitted for any crop of wheat under clause (i)(II) during any 5-consecutive-month period that is established for such crop for a State by the State committee established under section 8(b) of such Act.".

(b) FEED GRAINS.—Subparagraph (C) of section 105C(f)(4) of the Agricultural Act of 1949 (as added by section 401 of the Food Security Act of 1985) is amended to read as follows:

99 Stat. 1395.
7 USC 1444e.

"(C)(i) Except as provided in clause (ii), the Secretary shall permit, at the request of the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State and subject to such terms and conditions as the Secretary may prescribe, all or any part of such acreage diverted from production by participating producers in such State to be devoted to—

"(I) hay and grazing during not less than 5 of the principal growing months (as established for a State by the State committee), in the case of the 1986 crop of feed grains; and

"(II) grazing, in the case of each of the 1987 through 1990 crops of feed grains.

"(ii) In the case of each of the 1987 through 1990 crops of feed grains, grazing shall not be permitted for any crop of feed grains under clause (i)(II) during any 5-consecutive-month period that is established for such crop for a State by the State committee established under section 8(b) of such Act.". Prohibition.

SEC. 8. PROTECTION OF BASE ON NONPROGRAM CROP ACREAGE.

Section 504(b)(2) of the Agricultural Act of 1949 (as added by section 1031 of the Food Security Act of 1985) is amended— 99 Stat. 1461. 7 USC 1464.

(1) by redesignating clause (D) as clause (E); and

(2) by striking out clause (C) and inserting in lieu thereof the following new clauses:

"(C) acreage in an amount equal to the difference between the permitted acreage for a program crop and the acreage planted to the crop, if the acreage considered to be planted is devoted to conservation uses or the production of commodities permitted under section 107D(c)(1)(K), 105C(c)(1)(I), 103A(c)(1)(G), or 101A(c)(1)(G), as the case may be; Conservation. 99 Stat. 1383, 1395, 1407, 1419. 7 USC 1445b-3, 1444e, 1444-1, 1441-1.

"(D) in the case of each of the 1986 through 1989 crop years, acreage in an amount equal to not to exceed 50 percent of the permitted acreage for a program crop for each of the 1986 and 1987 crop years, 35 percent of the permitted acreage for the 1988 crop year, and 20 percent of the permitted acreage for the 1989 crop year, if—

"(i) the acreage considered to be planted is planted to a crop, other than a program crop, peanuts, soybeans, extra long staple cotton, or commodities specified in clause (C); Peanuts. Soybeans. Cotton.

"(ii) the producers on the farm plant for harvest to the program crop at least 50 percent of the permitted acreage for such crop; and

"(iii) payments are not received by producers under 107D(c)(1)(C), 105C(c)(1)(B), 103A(c)(1)(B), or 101A(c)(1)(B), as the case may be; and".

SEC. 9. MARKETWIDE SERVICE PAYMENTS.

(a) HEARING.—Not later than 90 days after receipt of a proposal to amend a milk marketing order in accordance with section 8c(5)(J) of the Agricultural Adjustment Act, reenacted with amendments by the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 608c(5)(J)) (as added by section 133 of the Food Security Act of 1985), the Secretary of Agriculture shall conduct a hearing on the proposal. 7 USC 608c note. 99 Stat. 1373.

(b) IMPLEMENTATION.—Not later than 120 days after a hearing is conducted under subsection (a), the Secretary shall implement, in accordance with the Agricultural Adjustment Act, a marketwide service payment program under section 8c(5)(J) of such Act that meets the requirements of such Act. 7 USC 601 note.

SEC. 10. INCREASED MILK ASSESSMENTS TO MEET DEFICIT REDUCTION REQUIREMENTS.

Effective March 1, 1986, section 201(d)(2) of the Agricultural Act of 1949 (as amended by section 101(a) of the Food Security Act of 1985 (Public Law 99-198)) is amended—

99 Stat. 1362.
7 USC 1446.

(1) in subparagraph (B), by striking out "The" and inserting in lieu thereof "Except as provided in subparagraph (E), the"; and

(2) by adding at the end thereof the following new subparagraph:

"(E)(i) In lieu of any reductions in payments made by the Secretary for the purchase of milk and the products of milk under this subsection during the period beginning March 1, 1986, and ending September 30, 1986, required under the order issued by the President on February 1, 1986, under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), the Secretary shall increase the amount of the reduction required under subparagraph (A) during the period beginning April 1, 1986, and ending September 30, 1986, as the sole means of meeting any reductions required under the order in payments made by the Secretary for the purchase of milk and the products of milk under this subsection.

99 Stat. 1072.
2 USC 902.

Prohibition.

"(ii) The aggregate amount of any increased reduction under clause (i) shall be equal, to the extent practicable, to the aggregate amount of the reduction that would otherwise be required under the order referred to in clause (i) in payments made by the Secretary for the purchase of milk and the products of milk under this subsection during the period beginning March 1, 1986, and ending September 30, 1986, except that the amount of any increased reduction under clause (i) may not exceed 12 cents per hundredweight of milk marketed.".

SEC. 11. RESEARCH ON EXTERNAL COMBUSTION ENGINES.

Exports.
Prohibition.
15 USC 714b.

Section 4(m) of the Commodity Credit Corporation Charter Act is amended by adding at the end thereof a new sentence as follows: "Notwithstanding any other provision of this Act, the Corporation may, in the exercise of its power to remove and dispose of surplus agricultural commodities, export, or cause to be exported, not to exceed such amounts of commodities owned by the Corporation as will enable the Corporation to finance research and development of external combustion engines using fuel other than that derived from petroleum and petroleum products. The total value of commodities exported annually for the purposes of the research authorized by the preceding sentence may not exceed $30,000,000.".

SEC. 12. QUALITY CONTROL STUDIES UNDER THE FOOD STAMP PROGRAM.

99 Stat. 1587.
7 USC 2025 note.

Section 1538 of the Food Security Act of 1985 is amended—

(1) in subsection (a)(3), by striking out "of enactment of this Act" and inserting in lieu thereof "the Secretary and the National Academy of Sciences enter into the contract required under paragraph (2)";

(2) in subsection (c)(1), by striking out "18 months after the date of enactment of this Act" and inserting in lieu thereof "6 months after the date on which the results of both studies required under subsection (a)(3) have been reported"; and

(3) in subsection (c)(2), by striking out "2 years after the date of enactment of this Act" and inserting in lieu thereof "6

months after the date on which the results of both studies required under subsection (a)(3) have been reported,".

SEC. 13. ADVANCE RECOURSE LOANS. 7 USC 1433c-1.

(a) It is the sense of Congress that the Secretary of Agriculture carry out a program authorized by section 424 of the Agricultural Act of 1949. Such program, if implemented, shall provide for the following: 99 Stat. 1447. 7 USC 1433c.

(1) Advance recourse loans shall be made available only to those producers of a commodity who are unable to obtain sufficient credit elsewhere to finance the production of the 1986 crop of that commodity, taking into consideration prevailing private and cooperative rates and terms for loans for similar purposes (as determined by the Secretary) in the community in or near which the applicant resides. A producer who has received a commitment or been furnished sufficient credit or a loan for production of the 1986 crop of a commodity shall not be eligible for an advance recourse loan to finance the production of that commodity for such crop year. Prohibition.

(2) Advance recourse loans shall be made available to producers of a commodity at the applicable nonrecourse loan rate for the commodity (as determined by the Secretary). Within the limits set out in paragraphs (5) and (7), advance recourse loans shall be available—

(A) to producers of wheat, feed grains, cotton, and rice who agree to participate in the program announced for the commodity on an amount of the commodity equal to one-half of the farm program yield for the commodity multiplied by the farm program acreage intended to be planted to the commodity for harvest in 1986, as determined by the Secretary; Wheat. Feed grains. Cotton. Rice.

(B) to producers of tobacco and peanuts who are on a farm for which a marketing quota or poundage quota has been established on an amount of the commodity equal to one-half of the farm marketing quota or poundage quota for the commodity, as determined by the Secretary; and Tobacco. Peanuts.

(C) to producers of other commodities on an amount of the commodity equal to one-half of the farm yield for the commodity multiplied by the farm acreage intended to be planted to the commodity for harvest in 1986, as determined by the Secretary.

(3) An advance recourse loan under section 424 shall come due at such time immediately following harvest as the Secretary determines appropriate. Each loan contract entered into under section 424 shall specify the date on which the loan is to come due. Contracts.

(4)(A) The Secretary shall establish procedures, when practicable, under which a producer, simultaneously with repayment of his recourse loan, may obtain a nonrecourse loan on his crop (as otherwise provided for in the Agricultural Act of 1949) in an amount sufficient to repay his recourse loan. 7 USC 1421 note.

(B) In cases in which nonrecourse loans under such Act are not normally made available directly to producers, the Secretary shall establish procedures under which a producer may repay a recourse loan at the same time the producer receives advances or other payment from the producer's disposition of his crop.

(5) Advance recourse loans shall be made available as needed solely to cover costs involved in the production of the 1986 crop that are incurred or are outstanding on or after the date of enactment of this section.

(6) To obtain an advance recourse loan, the producer on a farm must—

(A) provide as security for the loan a first lien on the crop covered by the loan or provide such other security as may be available to the producer and determined by the Secretary to be adequate to protect the Government's interests; and

Insurance.

(B) obtain multiperil crop insurance, if available, to protect the crop that serves as security for the loan.

Insurance.

If a producer does not have multiperil crop insurance and is located in a county in which the signup period for multiperil crop insurance has expired, the producer shall be required to obtain other crop insurance, if available.

Prohibition.
99 Stat. 1447.
7 USC 1433c.

(7) The total amount in advance recourse loans that may be made to a producer under section 424 may not exceed $50,000.

(8) An advance recourse loan may be made available only to a producer who agrees to comply with such other terms and conditions determined appropriate by the Secretary and consistent with the provisions of section 424.

(b) The Secretary shall carry out the program provided for under section 424 through the Commodity Credit Corporation, using the services of the Agricultural Stabilization and Conservation Service and the county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to make determinations of eligibility with respect to the credit test under subsection (a)(1), and determinations as to the sufficiency of security under subsection (a)(6). The Secretary may use such committees for such other purposes as the Secretary determines appropriate in carrying out section 424.

99 Stat. 1635, 1636.

Regulations.

(c) It is further the sense of Congress that the Secretary of Agriculture issue or, as appropriate, amend regulations to implement any program established under section 424 as soon as practicable, but not later than 15 days after the date of enactment of this Act. Loans and other assistance provided under such program shall be made available beginning on the date such regulations are issued or amended.

SEC. 14. TRANSFER OF AGRICULTURAL PRODUCTS STORED IN WAREHOUSES.

Section 17 of the United States Warehouse Act (7 U.S.C. 259) is amended—

(1) by striking out "That" and inserting in lieu thereof "(a) Except as provided in subsection (b),"; and

(2) by adding at the end thereof the following new subsection:

Regulations.

"(b)(1) Notwithstanding any other provision of this Act, if a warehouseman because of a temporary shortage lacks sufficient space to store the agricultural products of all depositors in a licensed warehouse, the warehouseman may, in accordance with regulations issued by the Secretary of Agriculture and subject to such terms and conditions as the Secretary may prescribe, transfer stored agricultural products for which receipts have been issued out of such warehouse to another licensed warehouse for continued storage.

"(2) The warehouseman of a licensed warehouse from which agricultural products have been transferred under paragraph (1) shall deliver to the rightful owner of such products, on request, at the licensed warehouse where first deposited, such products in the amount, and of the kind, quality, and grade, called for by the receipts or other evidence of storage of such owner.".

SEC. 15. PLAN FOR THE USE OF AFRICA FAMINE RELIEF.

Title II of the Act of April 4, 1985, entitled "An Act Making urgent supplemental appropriations for the fiscal year ending September 30, 1985, for emergency famine relief and recovery in Africa, and for other purposes", Public Law 99-10, is amended by striking out "the Administrator" and all that follows through "Africa." and inserting in lieu thereof the following: "the President certifies that the use of such funds is essential to famine relief in Africa. The Administrator of the Agency for International Development shall prepare and submit to Congress before April 15, 1986, a plan specifying how such additional funds for African famine relief would be used. The plan shall ensure, among other things, that the funds for the reserve, if utilized, shall be available to cover all costs for inland transportation of food only as are necessary for its timely delivery.". 99 Stat. 28.

SEC. 16. ESTIMATION OF COMMODITY CREDIT CORPORATION UNCOMMITTED STOCK.

Section 416(b)(10)(B) of the Agricultural Act of 1949 is amended— 99 Stat. 1467. 7 USC 1431.

(1) by inserting before the period at the end of the second sentence the following: "or, in the case of fiscal year 1986, prior to March 31, 1986"; and

(2) by inserting before the period at the end of the third sentence the following: "or, in the case of fiscal year 1986, March 31, 1986".

Approved March 20, 1986.

LEGISLATIVE HISTORY—H.R. 1614 (S. 822) (S. 2143):

HOUSE REPORT No. 99-146 (Comm. on Agriculture).
CONGRESSIONAL RECORD:
Vol. 131 (1985): June 5, considered and passed House.
Vol. 132 (1986): Mar. 6, considered and passed Senate, amended, in lieu of S. 2143; House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22, No. 12 (1986): Mar. 20, Presidential statement.

○

Public Law 99-261
99th Congress

Joint Resolution

Mar. 21, 1986
[S.J. Res. 205]

To designate March 21, 1986, as "National Energy Education Day".

Whereas a reliable and economical supply of energy is essential to the future well-being of the United States;

Whereas the development and implementation of an enlightened energy policy requires that the public be adequately informed of the issues and alternatives;

Whereas ongoing quality energy education programs in America's schools and communities will continue to play an important role in educating the public regarding energy issues;

Whereas the annual celebration of "National Energy Education Day" (NEED) brings together students, teachers, school officials, and community leaders to focus attention on the need for energy education in our Nation's schools and communities; and

Whereas such a celebration should be conducted in a manner which encourages a deeper understanding of the role education will play in shaping America's energy future: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to promote and enhance energy education programs at all grade levels of public and private schools throughout the United States, March 21, 1986, is designated "National Energy Education Day". The President is requested to issue a proclamation calling upon the people of the United States, and all educational institutions, to observe such a day with appropriate ceremonies and activities, and encourage appropriate Federal agencies to participate in the observance of such a day and to cooperate with persons and institutions conducting such ceremonies and activities.

Approved March 21, 1986.

LEGISLATIVE HISTORY—S.J. Res. 205:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Mar. 11, considered and passed Senate.
Mar. 13, considered and passed House.

O

71-139 O - 86 (261)

Public Law 99-262
99th Congress

Joint Resolution

To authorize and request the President to issue a proclamation designating March 21, 1986, as "Afghanistan Day", a day to commemorate the struggle of the people of Afghanistan against the occupation of their country by Soviet forces.

Mar. 21, 1986
[S.J. Res. 272]

Whereas Afghanistan, more than six years after the Soviet invasion, remains a nation occupied and terrorized by over one hundred eighteen thousand Soviet troops;

Whereas the continued Soviet occupation of Afghanistan is causing enormous suffering among the people of Afghanistan, as well as the deprivation of their basic right of national sovereignty;

Whereas between one-quarter and one-third of Afghanistan's prewar population has been driven into exile, killed, wounded, or internally displaced;

Whereas the Soviet invasion of Afghanistan undermines the spirit and intention of the Declaration of Principles of the Final Act of the Conference on Security and Cooperation in Europe, which the Union of Soviet Socialist Republics signed at Helsinki in 1975;

Whereas the puppet regime of Babrak Karmal, installed and maintained by the Union of Soviet Socialist Republics, has denied the people of Afghanistan their rights to self-determination, in violation of the United Charter;

Whereas the United Nations General Assembly has passed seven resolutions calling for "the immediate withdrawal of the foreign troops from Afghanistan";

Whereas on December 13, 1985, the United Nations General Assembly passed an unprecedented resolution on human rights in Afghanistan endorsing the United Nations Special Rapporteur's report demonstrating "gross, massive, and increasing human rights violations in Afghanistan";

Whereas the undaunted resistance of the Afghan freedom fighters against the Soviet occupational forces is an inspiration to the free world; and

Whereas the people of Afghanistan observe March 21 as the start of each new year and as a symbol of the nation's rebirth: Now, therefore, be it

71-139 O - 86 (262)

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating March 21, 1986, as "Afghanistan Day", and calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved March 21, 1986.

LEGISLATIVE HISTORY—S.J. Res. 272:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Mar. 19, considered and passed Senate.
Mar. 20, considered and passed House.

○

Public Law 99-263
99th Congress

Joint Resolution

Making an urgent supplemental appropriation for the Department of Agriculture for the fiscal year ending September 30, 1986, and for other purposes.

Mar. 24, 1986
[H.J. Res. 534]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Agriculture for the fiscal year ending September 30, 1986, and for other purposes; namely:

DEPARTMENT OF AGRICULTURE

COMMODITY CREDIT CORPORATION

For the operations of the Commodity Credit Corporation, not to exceed $5,000,000,000 for capital restoration, to enable the Corporation to use the authority authorized by the Charter of the Corporation and other laws to carry out programs handled by the Corporation: *Provided,* That Corporation programs shall retain the goal of sufficient production to meet domestic needs, maintain the supply line, and provide for our share of exports at competitive prices: *Provided further,* That after fiscal year 1987, funds available to the Corporation may be used to carry out section 1241(a)(1) of the Food Security Act of 1985, only to such extent or in such amounts as provided in advance in appropriations Acts. The signup agreement should not reduce total production below levels needed to meet domestic needs, maintain the supply line, and provide for an adequate supply for export by either the Commodity Credit Corporation or private corporations or individuals at competitive prices; since by law the proceeds from sales become available for use by the Commodity Credit Corporation, such sales should reduce future appropriations: *Provided further,* That the conservation reserve program shall not replace or reduce any existing conservation program.

16 USC 3841 note.

16 USC 3841.

16 USC 3831 note.

71-139 O - 86 (263)

It is agreed that at least $1,700,000,000 is available for the insured operating loan program of the Farmers Home Administration. Therefore, the Secretary shall proceed immediately to make loans to farmers and farm owners. If these funds should prove to be insufficient, other funds should be made available to meet emergency credit needs of American farmers and ranchers.

Approved March 24, 1986.

LEGISLATIVE HISTORY—H.J. Res. 534:

HOUSE REPORTS: No. 99-493 (Comm. of Conference) and No. 99-499 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 132 (1986):

Feb. 26, considered and passed House.

Mar. 5, considered and passed Senate, amended.

Mar. 13, House concurred in Senate amendment with amendment; Senate disagreed in House amendment, agreed to conference.

Mar. 18, House disagreed to Senate amendment, asked for further conference; Senate insisted on its amendment and agreed to further conference.

Mar. 19, Senate agreed to conference report.

Mar. 20, House agreed to conference report.

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Public Law 99-264
99th Congress

An Act

To settle unresolved claims relating to certain allotted Indian lands on the White Earth Indian Reservation, to remove clouds from the titles to certain lands, and for other purposes.

Mar. 24, 1986
[S. 1396]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "White Earth Reservation Land Settlement Act of 1985".

White Earth Reservation Land Settlement Act of 1985. Minnesota. 25 USC 331 note.

SEC. 2. The Congress finds that—

25 USC 331 note.

(1) claims on behalf of Indian allottees or heirs and the White Earth Band involving substantial amounts of land within the White Earth Indian Reservation in Minnesota are the subject of existing and potential lawsuits involving many and diverse interests in Minnesota, and are creating great hardship and uncertainty for government, Indian communities, and non-Indian communities;

(2) the lawsuits and uncertainty will result in great expense and expenditure of time, and could have a profound negative impact on the social and well-being of everyone on the reservation;

(3) the White Earth Band of Chippewa Indians, State of Minnesota, along with its political subdivisions, and other interested parties have made diligent efforts to fashion a settlement to these claims, and the Federal Government, by providing the assistance specified in this Act, will make possible the implementation of a permanent settlement with regard to these claims;

(4) past United States laws and policies have contributed to the uncertainty surrounding the claims;

(5) it is in the long-term interest of the United States, State of Minnesota, White Earth Band, Indians, and non-Indians for the United States to assist in the implementation of a fair and equitable settlement of these claims; and

(6) this Act will settle unresolved legal uncertainties relating to these claims.

SEC. 3. For purposes of this Act:

25 USC 331 note.

(a) "Allotment" shall mean an allocation of land on the White Earth Reservation, Minnesota, granted, pursuant to the Act of January 14, 1889 (25 Stat. 642), and the Act of February 8, 1887 (24 Stat. 388), to a Chippewa Indian.

(b) "Allottee" shall mean the recipient of an allotment.

(c) "Full blood" shall mean a Chippewa Indian of the White Earth Reservation, Minnesota, who was designated as a full blood Indian on the roll approved by the United States District Court for the District of Minnesota on October 1, 1920, or who was so designated by a decree of a Federal court of competent jurisdiction; it shall also refer to an individual who is not designated on said roll but who is the biological child of two full blood parents so designated on the roll

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or of one full blood parent so designated on the roll and one parent who was an Indian enrolled in any other federally recognized Indian tribe, band, or community.

(d) "Inherited" shall mean received as a result of testate or intestate succession or any combination of testate or intestate succession, which succession shall be determined by the Secretary of the Interior or his authorized representative.

(e) "Mixed blood" shall mean a Chippewa Indian of the White Earth Reservation, Minnesota, who was designated as a mixed blood Indian on the roll approved by the United States District Court of Minnesota on October 1, 1920, unless designated a full blood by decree of a Federal court of competent jurisdiction; it shall also refer to any descendants of an individual who was listed on said roll providing the descendant was not a full blood under the definition in subsection (c) of this section. The term "mixed blood" shall not include an Indian enrolled in any federally recognized Indian tribe, band, or community other than the White Earth Band.

(f) "Tax forfeited" shall mean an allotment which, pursuant to State law, was declared forfeited for nonpayment of real property taxes and purportedly transferred directly to the State of Minnesota or to private parties or governmental entities.

(g) "Majority" shall mean the age of twenty-one years or older.

(h) "Secretary" shall mean the Secretary of the Interior or his/or her authorized representative.

(i) "Trust period" shall mean the period during which the United States held an allotment in trust for the allottee or the allottee's heirs. For the purpose of this Act, the Executive Order Numbered 4642 of May 5, 1927, Executive Order Numbered 5768 of December 10, 1931, and Executive Order Numbered 5953 of November 23, 1932, shall be deemed to have extended trust periods on all allotments or interests therein the trust periods for which would otherwise have expired in 1927, 1932, or 1933, notwithstanding the issuance of any fee patents for which there were no applications, and if such allotments were not specifically exempted from the Executive orders; and the Indian Reorganization Act of June 18, 1934, shall be deemed to have extended indefinitely trust periods on all allotments or interests therein the trust periods for which would otherwise have expired on June 18, 1934, or at any time thereafter. Said Executive orders and Act shall be deemed not to have extended the trust period for allotments or interests which were sold or mortgaged by adult mixed bloods, by non-Indians, or with the approval of the Secretary, or for allotments or interests which were sold or mortgaged by anyone where such sale or mortgage was the subject of litigation in Federal court which proceeded to a judgment on the merits and where the outcome of such litigation did not vacate or void said sale or mortgage.

25 USC 461 *et seq.*

(j) "Interest", except where such item is used in conjunction with "compound", shall mean a fractional holding, less than the whole, held in an allotment.

(k) "Adult" shall mean having attained the age of majority.

(l) "Heir" shall mean one who received or was entitled to receive an allotment or interest as a result of testate or intestate succession under applicable Federal or Minnesota law.

(m) "Transfer" includes but is not limited to any voluntary or involuntary sale, mortgage, tax forfeiture or conveyance pursuant to State law; any transaction the purpose of which was to effect a sale, mortgage, tax forfeiture or conveyance pursuant to State law; any

Act, event, or circumstance that resulted in a change of title to, possession of, dominion over, or control of an allotment or interest therein.

Taxes.
State and local governments.
25 USC 331 note.

SEC. 4. (a) The provisions of this Act shall apply to the following allotments:

(1) allotments which were never sold or mortgaged by the allottees or by their heirs and which were tax forfeited during the trust period;

(2) allotments which were sold or mortgaged during the trust period, without the approval of the Secretary, by the allottees prior to having attained majority, and were never again sold or mortgaged either by the allottees upon their having attained majority or by heirs of the allottees;

(3) allotments which were sold or mortgaged during the trust period by full blood allottees without the approval of the Secretary, and were never again the subject of a sale or mortgage by heirs of the allottees; and

(4) allotments which were never sold or mortgaged by the allottees, but which subsequent to the deaths of the allottees, purportedly were sold or mortgaged, during the trust period, by administrators, executors, or representatives, operating under authority from State courts, and were never again the subject of a sale or mortgage by heirs of the allottees.

(b) The provisions of this Act shall also apply to the following allotments or interests in allotments:

(1) allotments or interests which were inherited by full or mixed bloods who never sold or mortgaged their allotments or interests or by Indians enrolled in other federally recognized Indian tribes, bands, or communities who never sold or mortgaged their allotments or interests, where the allotments or interests were tax forfeited during the trust period;

(2) allotments or interests which were inherited by mixed bloods under the age of majority and which were sold or mortgaged during the trust period without the approval of the Secretary prior to such mixed bloods having attained majority, but which were never again sold or mortgaged by them upon having attained majority or by their heirs;

(3) allotments or interests which were inherited by full bloods or by Indians enrolled in other federally recognized Indian tribes, bands, or communities, who sold or mortgaged such allotments or interests during the trust period without the approval of the Secretary;

(4) allotments or interests which were inherited by full or mixed bloods who never sold or mortgaged their allotments or interests, but which, subsequent to the deaths of such heirs, were sold or mortgaged during the trust period by administrators, operating under authority from State courts;

(5) allotments or interests which were owned by allottees or which were inherited by full or mixed bloods for whom guardians were appointed by State courts, which guardians sold or mortgaged the allotments or interests during the trust period without the approval of the Secretary;

(6) interests which were inherited by full or mixed bloods who never sold or mortgaged their interests during the trust period, even though other interests in the same allotment were sold by other heirs where the land comprising the allotment has been

claimed in full by other parties adversely to the full or mixed bloods who never sold or mortgaged their interests; and

(7) allotments or interests which were inherited by full or mixed bloods or by Indians enrolled in other federally recognized Indian tribes, bands, or communities which were never sold or mortgaged during the trust period but which were purportedly distributed by State court probate proceedings to other individuals.

Prohibitions.

(c) This Act shall not apply to—

(1) any allotment or interest the sale or mortgage of which was the subject of litigation which proceeded to a judgment on the merits in Federal courts and where the outcome of such litigation was other than vacating and voiding such sale or mortgage;

(2) any allotment or interest which was tax forfeited subsequent to the date on which the tax exemption was declared by a Federal court to have expired;

(3) any allotment or interest which was sold, mortgaged, or tax forfeited after the expiration of the trust period; or

(4) any allotment or interest which was sold or mortgaged at any time by an adult mixed blood Indian.

Nothing in this Act is intended to question the validity of the transactions relating to allotments or interests as described in section 4(c), and such allotments and interests are declared to be outside the scope of this Act.

25 USC 331 note.

SEC. 5. (a) Any determination of the heirs of any person holding an allotment or interest, made by the courts of the State of Minnesota, which is filed with the proper county recording officer prior to May 9, 1979, shall be deemed to have effectively transferred the title of the decedent in the allotment or interest to the heirs so determined unless a separate determination of heirs has been made by the Secretary before the effective date of this Act and such determination has been filed with the proper county recording officer within six months after the effective date of this Act. Nothing in this subsection shall be construed to remove any allotment described in section 4 from the compensation provided for in the Act.

(b) The proper county recording officer is the county recorder of the county in which the allotment or interest is located if the title has not been registered pursuant to Minnesota law. If the title has been so registered, the proper county recording officer shall be the registrar of titles in the county in which the allotment or interest is located.

(c) As to any allotment which was granted to an allottee who had died prior to the selection date of the allotment, the granting of such allotment is hereby ratified and confirmed, and shall be of the same effect as if the allotment had been selected by the allottee before the allottee's death: *Provided*, That the White Earth Band of Chippewa Indians shall be compensated for such allotments in the manner provided in sections 6, 7, and 8.

(d) As to any allotment that was made under the provisions of the Treaty of March 19, 1867 (16 Stat. 719), and which was reallotted under the provisions of the Act of January 14, 1889 (25 Stat. 642), such reallotment is hereby ratified and confirmed.

Federal Register, publication.
Taxes.
25 USC 331 note.

SEC. 6. (a) As soon as the conditions set forth in section 10 of this Act have been met, the Secretary shall publish a certification in the Federal Register that such conditions have been met. After such publication, any allotment or interest which the Secretary, in

accordance with this Act, determines falls within the provisions of section 4(a), 4(b), or 5(c), the tax forfeiture, sale, mortgage, or other transfer, as described therein, shall be deemed to have been made in accordance with the Constitution and all laws of the United States specifically applicable to transfers of allotments or interests held by the United States in trust for Indians, and Congress hereby does approve and ratify any such transfer effective as of the date of said transfer, subject to the provisions of section 6(c). Compensation for loss of allotments or interests resulting from this approval and ratification shall be determined and processed according to the provisions of section 8.

(b) By virtue of the approval and ratification of transfers of allotments or interests therein effected by this section, all claims against the United States, the State of Minnesota or any subdivisions thereof, or any other person or entity, by the White Earth Band, its members, or by any other Indian tribe or Indian, or any successors in interest thereof, arising out of, and at the time of or subsequent to, the transfers described in section 4(a), 4(b), or 5(c) and based on any interest in or nontreaty rights involving such allotments or interests therein, shall be deemed never to have existed as of the date of the transfer, subject to the provisions of this Act.

Prohibitions.
Courts, U.S.

(c) Notwithstanding any provision of law other than the provisions of this section, any action in any court to recover title or damages relating to transactions described in section 4(a), 4(b), 5(a) or 5(c), shall be forever barred unless the complaint is filed not later than one hundred and eighty days following enactment of this Act, or prior to the publication required by section 6(a) whichever occurs later in time: *Provided,* That immediately upon the date of enactment of this Act any such action on behalf of the White Earth Band of Chippewa Indians shall be forever barred, unless the publication required by section 6(a) does not take place within two years of the date of enactment of this Act in which case the bar of any such action on behalf of the White Earth Band of Chippewa Indians shall be deemed lifted and nullified: *Provided further,* That the Secretary shall not issue to the White Earth Band any report rejecting litigation nor submit to Congress any legislation report pursuant to section 2415 of title 28, United States Code, relating to transactions described in section 4(a), 4(b), 5(a) or 5(c) of this Act, until and unless the bar against actions on behalf of the White Earth Band is lifted and nullified. Any such action filed within the time period allowed by this subsection shall not be barred; however, the filing of any such action by an allottee, heir, or others entitled to compensation under this Act shall bar such allottee, heir, or others from receiving compensation pursuant to the provisions of section 8. The United States District Court for the District of Minnesota shall have exclusive jurisdiction over any such action otherwise properly filed within the time allowed by this subsection.

Report.

Courts, U.S.

(d) This section shall not bar an heir, allottee, or any other person entitled to compensation under this Act from maintaining an action, based on the transactions described in section 4(a), 4(b), 5(a), or 5(c), against the United States in the Claims Court pursuant to the Tucker Act, section 1491 of title 28, United States Code, challenging the constitutional adequacy of the compensation provisions of section 8(a) as they apply to a particular allotment or interest: *Provided,* That such action shall be filed with the Claims Court not later than one hundred and eighty days after the issuance of the notice of the Secretary's compensation determination as provided in

section 8(c). If such an action is not filed within the one-hundred-and-eighty-day period, it shall be forever barred. The United States hereby waives any sovereign immunity defense it may have to such an action but does not waive any other defenses it may have to such action. The filing of an action by any heir, allottee, or any other person under the provisions of this section shall bar such person forever from receiving compensation pursuant to the provisions of section 8.

Federal Register, publication. Public availability. 25 USC 331 note.

SEC. 7. (a) The Secretary is hereby authorized to and shall diligently investigate to the maximum extent practicable all White Earth allotments and shall determine which allotments or interest fall within any of the provisions of section 4(a), 4(b), or 5(c). As to all such allotments or interests determined to be within the provisions of section 4(a), 4(b), or 5(c), the Secretary shall prepare lists of such allotments or interests, which shall include allotment number, land description, and allottee's name, in English and Ojibway where available. A first list shall be published within one hundred and eighty days after the date of enactment of this Act in the Federal Register; in a newspaper of general circulation in Mahnomen County, Minnesota; in a newspaper of general circulation in Becker County, Minnesota; in a newspaper of general circulation in Clearwater County, Minnesota; in one newspaper of general circulation in metropolitan Minneapolis-Saint Paul; and, in the Secretary's discretion, in any appropriate band or tribal newspaper. Publication in the required newspapers shall take place no later than thirty days after publication in the Federal Register.

(b) Any tribe, band, or group of Indians, or any individual shall have one year after the date of publication in the Federal Register to submit to the Secretary any additional allotments or interests which the tribe, band, group, or individual believes should fall within any of the provisions of section 4(a), 4(b), or 5(c). The Secretary, without such submissions, may also independently determine that additional allotments or interests fall within such provisions. Any additional allotments or interests submitted to the Secretary shall be accompanied by a statement identifying the allotment or interest and its land description and summarizing the reasons why it should be added to the list required by this section.

Federal Register, publication.

(c) The Secretary shall determine which additional allotments or interests fall within the provisions of section 4(a), 4(b), or 5(c), and not later than five hundred and forty days of the date of publication of the Secretary's first list in the Federal Register, the Secretary shall publish a second list in the Federal Register and previously required newspapers of the allotments or interests the Secretary has determined should be added to the first published list.

Federal Register, publication.

5 USC prec. 551 note.

(d) Any determination made by the Secretary under this section to include an allotment or interest on the first list required by the section to be published in the Federal Register may be judicially reviewed pursuant to the Administrative Procedure Act not later than ninety days of the publication date of the first list of the Federal Register. Any such action not filed within such ninety-day period shall be forever barred. Any determination made by the Secretary to include an allotment or interest on the second list required by this section to be published in the Federal Register, or any determination made by the Secretary not to include an allotment or interest on such list, may be judicially reviewed pursuant to the Administrative Procedure Act within ninety days of the publication date of the second list in the Federal Register. Any such action

not filed within such ninety-day period shall be forever barred. Exclusive jurisdiction over actions under this subdivision is hereby vested in the United States District Court for the District of Minnesota.

Taxes.
25 USC 331 note.

SEC. 8. (a) Compensation for a loss of an allotment or interest shall be the fair market value of the land interest therein as of the date of tax forfeiture, sale, allotment, mortgage, or other transfer described in section 4(a), 4(b), or 5(c), less any compensation actually received, plus interest compounded annually at 5 per centum from the date of said loss of an allotment or interest until the date of enactment of this Act, and at the general rate of interest earned by United States Department of the Interior funds thereafter. A determination of compensation actually received shall be supported by Federal, State, or local public documents filed contemporaneously with the transaction or by clear and convincing evidence. Compensation actually received shall not be subtracted from the fair market value in any instance where an allotment or interest was sold or mortgaged by a full or mixed blood, under the age of eighteen years, or in any instance where there is prima facie evidence that fraud occurred in a sale or mortgage. No compensation for loss of an allotment or interest relating to transfers described in section 4(b) shall be granted to any person or the heirs of such person where such allotment or interest was received pursuant to State court probate proceedings and where also it has been or is determined by the Secretary that such person or heirs were not entitled to inherit the allotment or interest.

State and local governments.

Prima facie evidence.

(b) For the purpose of this section, the date of transfer applicable to interests described in section 4(b)(6) shall be the last date on which any interest in the subject allotment was transferred by document of record by any other heir of the allottee; and the date of transfer applicable to allotments described in section 5(c) shall be the selection date. For purposes of this section, the Secretary shall establish the fair market value of various types of land for various years, which shall govern the compensation payable under this section unless a claimant demonstrates that a particular allotment or interest had a value materially different from the value established by the Secretary.

(c) The Secretary shall provide written notice of the Secretary's compensation determination to the allottees or heirs entitled thereto. Such notice shall describe the basis for the Secretary's determination, the applicable time limits for judicial review of the determination, and the process whereby such compensation will be distributed. The Secretary shall proceed to make such heirship determinations as may be necessary to provide the notice required by this section: *Provided,* That the Secretary shall accept as conclusive evidence of heirship any determination of the courts of the State of Minnesota as provided in section 5(a) of this Act: *Provided further,* That the Secretary shall give written notice only to those allottees or heirs whose addresses can be ascertained by reasonable and diligent efforts; otherwise such notice shall be given by publication in the Federal Register.

Federal Register, publication.

(d) The Secretary's administrative determination of the appropriate amount of compensation computed pursuant to the provisions of this Act may be judicially reviewed pursuant to the Administrative Procedure Act not later than one hundred and eighty days after the issuance of notice as aforesaid, after such time the Secretary's determination shall be conclusive and all judicial review shall be

Courts, U.S.

5 USC prec. 551 note.

barred. Exclusive jurisdiction over any such action is hereby vested in the United States District Court for the District of Minnesota.

(e) Once a compensation determination has become conclusive according to the provisions of subsection (d), the Secretary shall certify such determination to the Secretary of the Treasury and such conclusive determination shall be treated as a final judgment, award or, compromise settlement under the provisions of title 31, United States Code, section 1304. The Secretary of the Treasury is authorized and directed to pay out of the funds in the Treasury into a separate interest bearing White Earth Settlement Fund account the amount certified by the Secretary of the Interior in each case. The Secretary of the Interior shall then make a diligent effort to locate each allottee or heir; however, if, after two years from the date on which a determination becomes conclusive an allottee or heir cannot be located, the Secretary of the Interior shall declare the amount owing to such allottee or heir forfeited.

(f) Any and all amounts forfeited pursuant to subsection (e) together with the interest accumulated thereon, pursuant to section 8 shall be transferred annually to the fund established under section 12 for the White Earth Band.

25 USC 331 note.

SEC. 9. The Secretary shall determine the heirs, if heretofore undetermined, or modify the inventory of an existing heirship determination of any full or mixed blood or Indian enrolled in any other federally recognized Indian tribe, band, or community, where appropriate for the purposes of this Act: *Provided*, That the Secretary shall accept any determination of heirship by the courts of the State of Minnesota as provided in section 5(a) of this Act.

Federal Register, publication.
25 USC 331 note.

SEC. 10. (a) The provisions of section 6 of this Act shall take effect upon the publication in the Federal Register by the Secretary of certification that the following conditions have been satisfied:

(1) The State of Minnesota, in accordance with Laws of Minnesota 1984, chapter 539, has entered into an agreement with the Secretary providing for the transfer of ten thousand acres of land within the exterior boundaries of the White Earth Reservation to the United States to hold in trust for the White Earth Band of Chippewa Indians as the State's contribution to the settlement provided for by this Act. The Secretary shall not enter into such an agreement until the Secretary determines, or the authorized governing body of the band certifies to the Secretary in writing, that the agreement will result in the transfer of ten thousand acres which possess reasonable value for the White Earth Band, including but not limited to value for agricultural, recreational, forestry, commercial, residential, industrial, or general land consolidation purposes. The land transferred pursuant to this subsection shall be accepted by the United States subject to all existing accesses, roads, easements, rights of way, or similar uses unless the Governor and Attorney General of the State of Minnesota certify in writing to the Secretary the State's intent to abandon such uses on a particular parcel.

(2) The State, in accordance with the Laws of Minnesota 1984, chapter 539, has appropriated $500,000 for the purpose of providing the United States with technical and computer assistance for implementing the settlement provided for in this Act.

(3) The United States has appropriated $6,600,000 for economic development for the benefit of the White Earth Band of Chippewa Indians.

(b) Upon final acceptance by the Secretary, the land referred to in subsection (a)(1) shall be deemed to have been reserved as of the date of the establishment of the White Earth Reservation and to be part of the trust land of the White Earth Reservation for all purposes.

SEC. 11. Nothing in this Act is intended to alter the jurisdiction currently possessed by the White Earth Band of Chippewa Indians, the State of Minnesota, or the United States over Indians or non-Indians within the exterior boundaries of the White Earth Reservation. 25 USC 331 note.

SEC. 12. (a) There is established in the Treasury of the United States a fund to be known as the White Earth Economic Development and Tribal Government Fund. Money in this Fund shall be held in trust by the United States for the White Earth Band of Chippewa Indians, and shall be invested and managed by the Secretary in the same manner as tribal trust funds pursuant to the Act of June 24, 1938 (25 U.S.C. 162a). Funds. 25 USC 331 note.

(b) The White Earth Economic Development and Tribal Government Fund shall consist of—

(1) money received by the White Earth Band as compensation pursuant to section 8; and

(2) money received by the White Earth Band as a result of amounts forfeited pursuant to section 8(f); and

(3) money received as an appropriation pursuant to section 15; and

(4) income accruing on such sums.

Income accruing to the White Earth Economic Development and Tribal Government Fund shall, without further appropriation, be available for expenditure as provided in subsection (c).

(c) Income from the fund may be used by the authorized governing body of the band for band administration. Principal and income may be used by the authorized governing body of the band for economic development, land acquisition, and investments: *Provided, however,* That under no circumstances shall any portion of the moneys described in subsection (b) be used for per capita payments to any members of the band: *Provided further,* That none of the funds described in subsection (b) shall be expended by the governing body of the band until— Prohibitions.

(1) such body has adopted a band financial ordinance and investment plan for the use of such funds; and

(2) such body has submitted to the Secretary a waiver of liability on the part of the United States for any loss resulting from the use of such funds; and

(3) the Secretary has approved the band financial ordinance and investment plan. The Secretary shall approve or reject in writing such ordinance and plan within sixty days of the date it is mailed or otherwise submitted to him: *Provided,* That such ordinance and plan shall be deemed approved if, sixty days after submission, the Secretary has not so approved or rejected it. The Secretary shall approve the ordinance and plan if it adequately contains the element specified in this subsection.

SEC. 13. Notwithstanding any other law to the contrary, the United States grants its permission to the State of Minnesota to transfer land to the White Earth Band as described in section 10(a)(1) which prior to the date of enactment of this Act may have been obtained by the State pursuant to other Federal law or with Federal assistance. Any restrictions or conditions imposed by any 25 USC 331 note.

other Federal law or regulation on the transfer of such land are hereby waived and removed.

Report.
25 USC 331 note.

SEC. 14. Not later than five years, or as soon as possible, after the date of enactment of this Act, the Secretary shall make all determinations, provide all notices, and complete the administrative work necessary to accomplish the objectives of this Act. The Secretary shall give priority in making compensation determinations and payments under this Act to original allottees and elderly heirs. The Secretary shall submit a report by January 1 of each year to the chairman of the House of Representatives Committee on Interior and Insular Affairs and the chairman of the Senate Committee on Indian Affairs, which report shall summarize the administrative progress to date and shall estimate the amount and nature of work left to be done.

25 USC 331 note.

SEC. 15. There are hereby authorized to be appropriated to the White Earth Band $6,600,000 as a grant to be expended as provided in section 12.

Prohibitions.
25 USC 331 note.

SEC. 16. None of the moneys which are distributed under this Act shall be subject to Federal or State income taxes or be considered as income or resources in determining eligibility for or the amount of assistance under the Social Security Act or any other federally assisted program.

42 USC 1305 *et seq.*

25 USC 331 note.

SEC. 17. The Secretary is authorized, if so requested by the authorized governing body of the White Earth Band, to exchange any of the land which is transferred to the United States as described in section 10(a)(1) for any other land within the exterior boundaries of the White Earth Reservation which is owned by the United States, the State of Minnesota, or any of the State's political subdivisions. Nothing in this section shall be deemed to require an exchange not agreed to by all parties to the exchange.

25 USC 331 note.

SEC. 18. Any lands acquired by the White Earth Band within the exterior boundaries of the White Earth Reservation with funds referred to in section 12, or by the Secretary pursuant to section 17, shall be held in trust by the United States. Such lands shall be deemed to have been reserved from the date of the establishment of said reservation and to be part of the trust land of the White Earth Band for all purposes.

Approved March 24, 1986.

LEGISLATIVE HISTORY—S. 1396:

HOUSE REPORT No. 99-489 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 99-192 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 12, 13, considered and passed Senate.
Vol. 132 (1986): Mar. 11, considered and passed House.

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Public Law 99-265
99th Congress

Joint Resolution

To designate the year of 1987 as the "National Year of Thanksgiving".

Mar. 25, 1986
[S.J. Res. 254]

Whereas the celebration of a Thanksgiving season has been a national tradition observed by the people of the United States from the days of the early settlers to the present time;

Whereas many of the great leaders of the Nation, including Presidents George Washington and Abraham Lincoln, recognized the importance of setting aside a time of Thanksgiving, and Presidential proclamations have established the last Thursday of November as a day of Thanksgiving;

Whereas in 1941, Thanksgiving was established as a permanent national holiday;

Whereas in 1987, the United States will celebrate the bicentennial of the United States Constitution and the opening of the one-hundredth Congress;

Whereas the United States Constitution has adapted to changing times and remains a living document;

Whereas it is appropriate to give thanks for the everyday freedom that the people of the United States so often take for granted;

Whereas the people of the United States should take time to appreciate a land of plenty, a Nation of vast human and natural resources; and

Whereas the people of the United States should better understand the history of the rich American heritage: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the year 1987 is designated as the "National Year of Thanksgiving", and the President is authorized and requested to issue a proclamation calling upon the governors of the several States, the chief officials of local governments, and the people of the United States to observe such year with appropriate ceremonies and activities.

Approved March 25, 1986.

LEGISLATIVE HISTORY—S.J. Res. 254:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Feb. 4, considered and passed Senate.
Mar. 13, considered and passed House.

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71-139 O - 86 (265)

Public Law 99-266
99th Congress

An Act

Mar. 27, 1986
[H.R. 4399]

To designate the Federal building located in Jamaica, Queens, New York, as the "Joseph P. Addabbo Federal Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The Federal building located at Jamaica Avenue and Parsons Boulevard in Jamaica, Queens, in the State of New York, shall hereafter be known and designated as the "Joseph P. Addabbo Federal Building".

SEC. 2. LEGAL REFERENCES TO BUILDING.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "Joseph P. Addabbo Federal Building".

Approved March 27, 1986.

LEGISLATIVE HISTORY—H.R. 4399:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Mar. 19, considered and passed House and Senate.

71-139 O - 86 -- (266)

Public Law 99-267
99th Congress

Joint Resolution

To provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

Mar. 27, 1986
[H.J. Res. 563]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS.

(a) TITLE I INSURANCE.—Section 2(a) of the National Housing Act is amended by striking out "March 17, 1986" in the first sentence and inserting in lieu thereof "April 30, 1986".

99 Stat. 1730.
12 USC 1703.

(b) GENERAL INSURANCE.—Section 217 of the National Housing Act is amended by striking out "March 17, 1986" and inserting in lieu thereof "April 30, 1986".

99 Stat. 1730.
12 USC 1715h.

(c) LOW AND MODERATE INCOME HOUSING INSURANCE.—Section 221(f) of the National Housing Act is amended by striking out "March 17, 1986" in the fifth sentence and inserting in lieu thereof "April 30, 1986".

99 Stat. 1730.
12 USC 1715l.

(d) SECTION 235 HOMEOWNERSHIP.—

(1) ASSISTANCE PAYMENTS AUTHORITY.—Section 235(h)(1) of the National Housing Act is amended by striking out "March 17, 1986" in the last sentence and inserting in lieu thereof "April 30, 1986".

99 Stat. 1730.
12 USC 1715z.

(2) INSURANCE AUTHORITY.—Section 235(m) of the National Housing Act is amended by striking out "March 17, 1986" and inserting in lieu thereof "April 30, 1986".

(3) HOUSING STIMULUS AUTHORITY.—Section 235(q)(1) of the National Housing Act is amended by striking out "March 17, 1986" in the last sentence and inserting in lieu thereof "April 30, 1986".

(e) CO-INSURANCE.—

(1) GENERAL AUTHORITY.—Section 244(d) of the National Housing Act is amended by striking out "March 17, 1986" and inserting in lieu thereof "April 30, 1986".

99 Stat. 1730.
12 USC 1715z-9.

(2) RENTAL REHABILITATION AND DEVELOPMENT PROJECTS.—Section 244(h) of the National Housing Act is amended by striking out "March 17, 1986" in the last sentence and inserting in lieu thereof "April 30, 1986".

(f) GRADUATED PAYMENT AND INDEXED MORTGAGE INSURANCE.—Section 245(a) of the National Housing Act is amended by striking out "March 17, 1986" in the last sentence and inserting in lieu thereof "April 30, 1986".

99 Stat. 1730.
12 USC 1715z-10.

(g) REINSURANCE CONTRACTS.—Section 249(a) of the National Housing Act is amended by striking out "March 17, 1986" in the second sentence and inserting in lieu thereof "April 30, 1986".

99 Stat. 1730.
12 USC 1715z-14.

(h) LIMITATION ON INSURANCE COMMITMENTS.—Section 531 of the National Housing Act is amended to read as follows:

12 USC 1735f-9.

71-139 O - 86 (267)

"LIMITATION ON COMMITMENTS TO INSURE LOANS AND MORTGAGES

Effective date.

"SEC. 531. The authority of the Secretary to enter into commitments to insure loans and mortgages under this Act shall be effective for fiscal year 1986 only to such extent or in such amounts as are or have been provided in appropriation Acts for such fiscal year.".

(i) ARMED SERVICES HOUSING INSURANCE.—

99 Stat. 1730.
12 USC 1748h-1.

(1) CIVILIAN EMPLOYEES OF ARMED FORCES.—Section 809(f) of the National Housing Act is amended by striking out "March 17, 1986" in the last sentence and inserting in lieu thereof "April 30, 1986".

99 Stat. 1731.
12 USC 1748h-2.

(2) DEFENSE HOUSING FOR IMPACTED AREAS.—Section 810(k) of the National Housing Act is amended by striking out "March 17, 1986" in the last sentence and inserting in lieu thereof "April 30, 1986".

99 Stat. 1731.
12 USC 1749bb.

(j) LAND DEVELOPMENT INSURANCE.—Section 1002(a) of the National Housing Act is amended by striking out "March 17, 1986" in the last sentence and inserting in lieu thereof "April 30, 1986".

99 Stat. 1731.
12 USC 1749aaa.

(k) GROUP PRACTICE FACILITIES INSURANCE.—Section 1101(a) of the National Housing Act is amended by striking out "March 17, 1986" in the last sentence and inserting in lieu thereof "April 30, 1986".

SEC. 2. EXTENSION OF REHABILITATION LOAN AUTHORITY.

99 Stat. 1731.
42 USC 1452b.

Section 312(h) of the Housing Act of 1964 is amended by striking out "March 17, 1986" and inserting in lieu thereof "April 30, 1986".

SEC. 3. EXTENSION OF RURAL HOUSING AUTHORITIES.

99 Stat. 1731.
42 USC 1485.

(a) RENTAL HOUSING LOAN AUTHORITY.—Section 515(b)(4) of the Housing Act of 1949 is amended by striking out "March 17, 1986" and inserting in lieu thereof "April 30, 1986".

99 Stat. 1731.
42 USC 1490.

(b) RURAL AREA CLASSIFICATION.—Section 520 of the Housing Act of 1949 is amended by striking out "March 17, 1986" in the last sentence and inserting in lieu thereof "April 30, 1986".

99 Stat. 1731.
42 USC 1490[illegible].

(c) MUTUAL AND SELF-HELP HOUSING GRANT AND LOAN AUTHORITY.—Section 523(f) of the Housing Act of 1949 is amended by striking out "March 17, 1986" and inserting in lieu thereof "April 30, 1986".

SEC. 4. EXTENSION OF FLOOD AND CRIME INSURANCE PROGRAMS.

(a) FLOOD INSURANCE.—

99 Stat. 1731.
12 USC 4026.

(1) GENERAL AUTHORITY.—Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "March 17, 1986" and inserting in lieu thereof "April 30, 1986".

99 Stat. 1731.
12 USC 4056.

(2) EMERGENCY IMPLEMENTATION.—Section 1336(a) of the National Flood Insurance Act of 1968 is amended by striking out "March 17, 1986" and inserting in lieu thereof "April 30, 1986".

99 Stat. 1731.
12 USC 4101.

(3) ESTABLISHMENT OF FLOOD-RISK ZONES.—Section 1360(a)(2) of the National Flood Insurance Act of 1968 is amended by striking out "March 17, 1986" and inserting in lieu thereof "April 30, 1986".

99 Stat. 1731.
12 USC 17[illegible]bbb.

(b) CRIME INSURANCE.—Section 1201(b)(1) of the National Housing Act is amended by striking out "March 17, 1986" in the matter preceding subparagraph (A) and inserting in lieu thereof "April 30, 1986".

SEC. 5. MISCELLANEOUS EXTENSIONS.

(a) COMMUNITY DEVELOPMENT BLOCK GRANT CLASSIFICATIONS.—

(1) METROPOLITAN CITY.—Section 102(a)(4) of the Housing and Community Development Act of 1974 is amended by striking out "March 17, 1986" in the second sentence and inserting in lieu thereof "April 30, 1986". 99 Stat. 1731. 42 USC 5302.

(2) URBAN COUNTY.—Section 102(a)(6) of the Housing and Community Development Act of 1974 is amended by striking out "March 17, 1986" in the second sentence and inserting in lieu thereof "April 30, 1986". 99 Stat. 1732. 42 USC 5302.

(b) SECTION 202 INTEREST RATE LIMITATION.—Section 223(a)(2) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking out "March 17, 1986" and inserting in lieu thereof "April 30, 1986". 99 Stat. 1732. 12 USC 1701g note.

(c) HOME MORTGAGE DISCLOSURE ACT OF 1975.—Section 312 of the Home Mortgage Disclosure Act of 1975 is amended by striking out "March 17, 1986" and inserting in lieu thereof "April 30, 1986". 99 Stat. 1732. 12 USC 2811.

Approved March 27, 1986.

LEGISLATIVE HISTORY—H.J. Res. 563:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Mar. 12, considered and passed House.
Mar. 19, considered and passed Senate.

○

WORLD HEALTH WEEK AND WORLD HEALTH DAY

Public Law 99-268
99th Congress

Joint Resolution

Mar. 27, 1986
[S.J. Res. 226]

To designate the week of April 6, 1986, through April 12, 1986, as "World Health Week", and to designate April 7, 1986, as "World Health Day".

Whereas the health of a nation depends upon the health of its people;

Whereas improvement of the health of the people of our Nation contributes to world health, and world health contributes to the health of our Nation—a principle enunciated in the Constitution of the World Health Organization and accepted by the United States;

Whereas the United States is an active member of the World Health Organization and has both benefited from and contributed to the achievements of the Organization;

Whereas the countries of the world, acting through the World Health Organization, are committed to the goal of "Health for All by the Year 2000";

Whereas primary health care is recognized as a key to the attainment of "Health for All by the Year 2000";

Whereas health education and health awareness, prevention, and treatment of common diseases and illnesses, basic sanitation, and adequate nutrition are essential elements of primary health care;

Whereas the World Health Organization has established April 7 of each year as World Health Day to call attention to what individuals and governments can do to further the health of human beings everywhere, and the American Association of World Health has sponsored and assisted in this endeavor; and

Whereas it has been the custom for the President to call attention to World Health Day each year in the form of a public message: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of April 6, 1986, through April 12, 1986, is designated as "World Health Week" and April 7, 1986, is designated as "World Health Day" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved March 27, 1986.

LEGISLATIVE HISTORY—S.J. Res. 226:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Feb. 4, considered and passed Senate.
Mar. 20, considered and passed House.

71-139 O - 86 -- (268)

PUBLIC LAW 99-269—APR. 1, 1986

OLDER AMERICANS ACT AMENDMENTS OF 1986

71-139 O - 86 (269)

Public Law 99-269
99th Congress

An Act

Apr. 1, 1986
[H.R. 2453]

To amend the Older Americans Act of 1965 to increase the amounts authorized to be appropriated for fiscal years 1985, 1986, and 1987 for commodity distribution, and for other purposes.

Older Americans Act Amendments of 1986.
42 USC 3001 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Older Americans Act Amendments of 1986".

COMMODITY DISTRIBUTION LEVEL OF ASSISTANCE PER MEAL

SEC. 2. Section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030a(a)(4)) is amended—

(1) by striking out "15 cents" and all that follows through "30 cents per meal for", and inserting in lieu thereof "56.76 cents per meal during fiscal year 1986 and during", and

(2) by striking out "June 30, 1975" and inserting in lieu thereof "September 30, 1986".

AUTHORIZATION OF APPROPRIATIONS

42 USC 3030a note.

SEC. 3. (a) There is authorized to be appropriated $127,800,000 for fiscal year 1985, in order to provide reimbursement at the level of 56.76 cents per meal during fiscal year 1985, determined under section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030a(a)(4)), for meals served under section 311 of such Act in such fiscal year. For purposes of subsections (a) and (b) of section 311 of such Act, the sum authorized to be appropriated by this subsection shall be deemed to have been authorized to be appropriated for fiscal year 1985 by section 311(c)(1) of such Act. For purposes of section 311(c)(1)(B) of such Act, the date of the enactment of this Act shall be deemed to be the last day of each quarter of fiscal year 1985 for which reimbursement is claimed.

(b) Subparagraph (A) of section 311(c)(1) of the Older Americans Act of 1965 (42 U.S.C. 3030a(c)(1)(A)) is amended to read as follows:

"(A)(i) There are authorized to be appropriated $144,000,000 for fiscal year 1986 and $144,000,000 for fiscal year 1987 to carry out this section (other than subsection (a)(1)).

Prohibition.

"(ii) The provisions of the second and third sentences of subsection (a)(4) shall not apply for fiscal years 1986 and 1987.".

INFORMATION REGARDING FEDERAL FOOD PROCESSING PROGRAMS

SEC. 4. Section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a) is amended by adding at the end thereof the following new subsection:

State and local governments.

"(d) In each fiscal year, the Secretary of Agriculture and the Secretary of Health and Human Services shall jointly disseminate to State agencies, area agencies on aging, and providers of nutrition services assisted under this title, information concerning—

"(1) the existence of any Federal commodity processing program in which such State agencies, area agencies, and providers may be eligible to participate; and

"(2) the procedures to be followed to participate in the program."

EFFECTIVE DATE

SEC. 5. This Act and the amendments made by this Act shall take effect on October 1, 1985. 42 USC 3030a note

Approved April 1, 1986.

LEGISLATIVE HISTORY—H.R. 2453 (S. 1858):

HOUSE REPORT: No. 99-286 (Comm. on Education and Labor) and No. 99-487 (Comm. of Conference).

SENATE REPORT: No. 99-232 accompanying S. 1958 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD:

Vol. 131 (1985): Sept. 24, considered and passed House.

Vol. 132 (1986): Feb. 5, considered and passed Senate, amended, in lieu of S. 1958.

Mar. 13, Senate agreed to conference report.

Mar. 18, House agreed to conference report.

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Public Law 99-270
99th Congress

Joint Resolution

Apr. 1, 1986
[H.J. Res. 573]

Making a repayable advance to the Hazardous Substance Response Trust Fund.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That language under the heading "Environmental Protection Agency, Hazardous Substance Response Trust Fund" in Public Law 99-160, is amended by deleting "as amended, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), $900,000,000, to be derived from the Hazardous Substance Response Trust Fund", and inserting in lieu thereof "including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), $900,000,000, of which $750,000,000 shall be derived from the Hazardous Substance Response Trust Fund and $150,000,000 shall be derived from an advance from the general fund of the Treasury to the Hazardous Substance Response Trust Fund to be repaid in accordance with section 223(c)(3) of Public Law 96-510 and notwithstanding section 223(c)(2)(D) of Public Law 96-510: *Provided,* That none of the $150,000,000 shall be available for obligation after May 31, 1986,".

99 Stat. 916.

42 USC 9633.

Approved April 1, 1986.

LEGISLATIVE HISTORY—H.J. Res. 573:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Mar. 20, considered and passed House.
Mar. 21, considered and passed Senate.

71-139 O - 86 (270)

Public Law 99-271
99th Congress

Joint Resolution

To authorize and request the President to issue a proclamation designating June 2 through June 8, 1986, as "National Fishing Week".

Apr. 1, 1986
[S.J. Res. 262]

Whereas the United States Bureau of the Census reported that fifty-four million residents of our country participated in sport fishing in 1980;

Whereas sport fishing is a family oriented, outdoor recreational activity that provides therapeutic rewards and enjoyment;

Whereas sport and commercial fishing provide an excellent source of healthful protein-rich food;

Whereas the demands for goods and services by sport fishing participants is estimated to generate $25,000,000,000 in economic activity and employment for an estimated six hundred thousand individuals in 1985;

Whereas the commercial fishing industry annually employs an estimated three hundred thousand individuals and lands over six billion pounds of seafood worth over $2,400,000,000 in direct sales;

Whereas fishing promotes respect for our Nation's marine, estuarine, and fresh waters, and their associated plant and animal communities; and

Whereas our country's league of fishing enthusiasts represent a constituency that seeks to prevent the degradation of our Nation's diverse aquatic habitats: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is requested and authorized to issue a proclamation designating June 2 through June 8, 1986, as "National Fishing Week" and calling upon Federal, State, and local government agencies, and the people of the United States to observe the week with appropriate programs and activities.

Approved April 1, 1986.

LEGISLATIVE HISTORY—S.J. Res. 262:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Mar. 4, considered and passed Senate.
Mar. 20, considered and passed House.

O

71-139 O - 86 (271)

CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT OF 1985

Public Law 99-272
99th Congress

An Act

Apr. 7, 1986
[H.R. 3128]

To provide for reconciliation pursuant to section 2 of the first concurrent resolution on the budget for fiscal year 1986 (S. Con. Res. 32, Ninety-ninth Congress).

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Consolidated Omnibus Budget Reconciliation Act of 1985.

SHORT TITLE

SECTION 1. This Act may be cited as the "Consolidated Omnibus Budget Reconciliation Act of 1985".

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TITLE I—AGRICULTURE PROGRAMS

Subtitle A—Agricultural Program Savings

SEC. 1001. AGRICULTURAL PROGRAM SAVINGS.

The expenditures and outlays resulting from the provisions of title XI (relating to the export sales of dairy products) and title XIII (relating to emergency disaster loans and loan authorizations under the Agricultural Credit Insurance Fund) of the Food Security Act of 1985 (H.R. 2100, 99th Congress) shall be counted for purposes of determining savings under the Consolidated Omnibus Budget Reconciliation Act of 1985 as having been enacted under this Act.

99 Stat. 1465, 1518.

Subtitle B—Tobacco Program Improvements

SEC. 1101. FINDINGS AND PURPOSES.

7 USC 1445 note.

(a) FINDINGS.—Congress finds that—

State and local governments.

(1) the maintenance of a viable tobacco price support and production adjustment program is in the interests of tobacco producers, purchasers of tobacco, persons employed directly or indirectly by the tobacco industry, and the localities and States whose economies and tax bases are dependent on the tobacco industry;

(2) the present tobacco price support program is in jeopardy and in need of reform;

(3) under present law, the levels of price support for tobacco have resulted in market prices for tobacco that are not competitive on the world market;

(4) as a consequence, extremely large quantities of domestic tobacco have been put under loan and placed in the inventories of the producer-owned cooperative marketing associations that administer the tobacco price support program;

(5) the increased inventories have led to a significant increase in the assessments producers are required to pay to maintain the tobacco price support program on a "no net cost" basis;

(6) such increasingly large assessments are creating a severe hardship on producers;

(7) the existence of such large inventories poses a threat to the orderly marketing of future crops of tobacco;

(8) inventories of producer associations must be significantly reduced or the tobacco price support program will collapse;

(9) the Commodity Credit Corporation is threatened with substantial losses on disposition of these inventories should the tobacco price support program collapse;

(10) it is imperative that such excess inventories of tobacco be disposed of, under the supervision of the Secretary of Agriculture, in a manner that—

(A) will not disrupt the orderly marketing of new tobacco crops;

(B) will minimize any losses to the Federal Government; and

(C) will be fair and equitable to all tobacco producers and purchasers;

(11) the mutual cooperation of tobacco producers, tobacco purchasers, producer associations, and the Secretary of Agriculture is necessary—

(A) to restore the tobacco price support program to a stable condition; and

(B) to prevent substantial losses to taxpayers that would result from the collapse of the program;

Commerce and trade.

(12) restoration of stability to the tobacco price support program through a sharing of the cost of that program by purchasers of tobacco along with producers of tobacco is necessary to prevent undue burdens on, or obstruction of, interstate and foreign commerce in tobacco; and

(13) the system of grading tobacco should be thoroughly reviewed to ensure that grades are assigned to tobacco that properly state the quality of such tobacco.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to encourage cooperation among tobacco producers, tobacco purchasers, and the Secretary of Agriculture in reducing tobacco price support levels, assessment costs, the size of inventories of producer associations, and the exposure of taxpayers to large budget outlays;

(2) to adjust the method by which price support levels and production quotas are calculated to reflect actual market conditions;

(3) to facilitate the purchase and sale of Flue-cured and Burley tobacco presently in the inventories of producer associations through which producers of Flue-cured and Burley tobacco are provided price support;

(4) to provide that purchasers and producers of domestic tobacco share equally in the cost of maintaining the tobacco price support program at no net cost to the taxpayers; and

(5) to expedite reform of the system of grading tobacco so that grades assigned to tobacco more accurately reflect the quality of such tobacco.

SEC. 1102. PRICE SUPPORT ADJUSTMENTS.

(a) IN GENERAL.—Effective for the 1985 and subsequent crops of tobacco, section 106(f) of the Agricultural Act of 1949 (7 U.S.C. 1445(f)) is amended by striking out paragraphs (4) and (5) and inserting in lieu thereof the following new paragraphs:

99 Stat. 818.

"(4) For the 1985 and 1986 crops of Burley tobacco, the support level shall be $1.488 per pound.

"(5) For the 1986 crop of Flue-cured tobacco, the support level shall be $1.438 per pound.

"(6)(A) Except as provided in subparagraph (B), for the 1986 and each subsequent crop of any kind of tobacco (other than Flue-cured and Burley tobacco) for which marketing quotas are in effect or are not disapproved by producers, the support level shall be the level in cents per pound at which the immediately preceding crop was supported, plus or minus, respectively, the amount by which—

"(i) the support level for the crop for which the determination is being made, as determined under subsection (b); is greater or less than

"(ii) the support level for the immediately preceding crop, as determined under subsection (b),

as that difference may be adjusted by the Secretary under subsection (d) if the support level under clause (i) is greater than the support level under clause (ii).

"(B) Notwithstanding subparagraph (A) and subsection (d), if requested by the board of directors of an association through which price support for the respective kind of tobacco specified in subparagraph (A) is made available to producers, the Secretary may reduce the support level for such kind of tobacco to the extent requested by the association to more accurately reflect the market value and improve the marketability of such tobacco.

"(7)(A) For the 1987 and each subsequent crop of Flue-cured and Burley tobacco for which marketing quotas are in effect or are not disapproved by producers, the support level shall be the level in cents per pound at which the immediately preceding crop was supported, plus or minus, respectively, an adjustment of not less than 65 percent nor more than 100 percent of the

total, as determined by the Secretary after taking into consideration the supply of the kind of tobacco involved in relation to demand, of—

"(i) 66.7 percent of the amount by which—

"(I) the average price received by producers for Flue-cured and Burley tobacco, respectively, on the United States auction markets, as determined by the Secretary, during the 5 marketing years immediately preceding the marketing year for which the determination is being made, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period, is greater or less than

"(II) the average price received by producers for Flue-cured and Burley tobacco, respectively, on the United States auction markets, as determined by the Secretary, during the 5 marketing years immediately preceding the marketing year prior to the marketing year for which the determination is being made, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period; and

"(ii) 33.3 percent of the change, expressed as a cost per pound of tobacco, in the index of prices paid by tobacco producers from January 1 to December 31 of the calendar year immediately preceding the year in which the determination is made.

"(B) For purposes of subparagraph (A)—

"(i) the average market price for Burley tobacco for the 1985 marketing year shall be reduced by $0.039 per pound;

"(ii) the average market price for Burley tobacco for the 1984 and each prior applicable marketing year shall be reduced by $0.30 per pound;

"(iii) the average market price for Flue-cured tobacco for the 1985 marketing year shall be reduced by $0.25 per pound;

"(iv) the average market price for Flue-cured tobacco for the 1984 and each prior applicable marketing year shall be reduced by $0.30 per pound; and

"(v) the index of prices paid by tobacco producers shall include items representing general, variable costs of producing tobacco, as determined by the Secretary, but shall not include the cost of land, risk, overhead, management, purchase or leasing of quotas, marketing contributions or assessments, and other costs not directly related to the production of tobacco.".

(b) CERTAIN GRADES OF FLUE-CURED TOBACCO.—Effective for the 1986 and subsequent crops of tobacco, section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is further amended by striking out subsection (g).

SEC. 1103. DETERMINATION OF MARKETING QUOTAS FOR FLUE-CURED AND BURLEY TOBACCO.

(a) DEFINITIONS.—Section 301(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)) is amended—

(1) by adding at the end of paragraph (14) the following new subparagraphs:

"(C) 'Reserve stock level', in the case of Flue-cured tobacco, shall be the greater of—

"(i) 100,000,000 pounds (farm sales weight); or

"(ii) 15 percent of the national marketing quota for Flue-cured tobacco for the marketing year immediately preceding the marketing year for which the level is being determined.

"(D) 'Reserve stock level', in the case of Burley tobacco, shall be the greater of—

"(i) 50,000,000 pounds (farm sales weight); or

"(ii) 15 percent of the national marketing quota for Burley tobacco for the marketing year immediately preceding the marketing year for which the level is being determined."; and

(2) by adding at the end thereof the following new paragraph:

"(17) 'Domestic manufacturer of cigarettes' means a person that produces and sells more than 1 percent of the cigarettes produced and sold in the United States.".

(b) FLUE-CURED TOBACCO.—Section 317(a)(1) of such Act (7 U.S.C. 1314c(a)(1)) is amended—

(1) by striking out " 'National marketing quota' " in the first sentence and inserting in lieu thereof "(A) Except as provided in subparagraph (B), 'national marketing quota' "; and

(2) by adding at the end thereof the following new subparagraphs:

"(B) For the 1986 and each subsequent crop of Flue-cured tobacco, 'national marketing quota' for a marketing year means the quantity of Flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(i) the aggregate of the quantities of Flue-cured tobacco that domestic manufacturers of cigarettes estimate the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

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Exports.

"(ii) the average annual quantity of Flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

Loans.

"(iii) the quantity, if any, of Flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Flue-cured tobacco to establish or maintain such inventory at the reserve stock level for Flue-cured tobacco.

"(C) Notwithstanding any other provision of law—

"(i) the national marketing quota for Flue-cured tobacco for each of the 1986 through 1989 marketing years for such tobacco shall not be less than 94 percent of the national marketing quota for such tobacco for the preceding marketing year; and

"(ii) the national marketing quota for Flue-cured tobacco for each of the 1990 through 1993 marketing years for such tobacco shall not be less than 90 percent of the national marketing quota for such tobacco for the preceding marketing year.".

(c) BURLEY TOBACCO.—Section 319 of such Act (7 U.S.C. 1314e) is amended—

(1) in subsection (c)—

(A) by striking out "The national marketing quota" in the first sentence and inserting in lieu thereof "(1) Except as provided in paragraph (3), the national marketing quota";

(B) by striking out the second sentence;

(C) by designating the third sentence as paragraph (2); and

(D) by adding at the end thereof the following new paragraphs:

"(3)(A) For the 1986 and each subsequent crop of Burley tobacco, the national marketing quota for any marketing year shall be the quantity of Burley tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(i) the aggregate of the quantities of Burley tobacco that domestic manufacturers of cigarettes estimate the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

"(ii) the average annual quantity of Burley tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and Exports.

"(iii) the quantity, if any, of Burley tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventories of the producer-owned cooperative marketing associations that have entered into loan agreements with the Commodity Credit Corporation to make price support available to producers of Burley tobacco to establish or maintain such inventories, in the aggregate, at the reserve stock level for Burley tobacco. Loans.

"(B) In determining the quantity of Burley tobacco necessary to establish or maintain the inventories of the producer associations at the reserve stock level under subparagraph (A)(iii)—

"(i) the Secretary shall provide for initially attaining the reserve stock level over a period of 5 years; and

"(ii) any downward adjustment in such inventories of Burley tobacco may not exceed the greater of—

"(I) 35,000,000 pounds; or

"(II) 50 percent of the quantity by which—

"(aa) the total inventories of Burley tobacco of the producer-owned cooperative marketing associations that have entered into loan agreements with the Commodity Credit Corporation to make price support available to producers of Burley tobacco; exceed

"(bb) the reserve stock level for Burley tobacco.

"(C) Notwithstanding any other provision of law— Prohibition.

"(i) the national marketing quota for Burley tobacco for each of the 1986 through 1989 marketing years for such tobacco shall not be less than 94 percent of the national marketing quota for such tobacco for the preceding marketing year; and

"(ii) the national marketing quota for Burley tobacco for each of the 1990 through 1993 marketing years for such tobacco shall not be less than 90 percent of the national marketing quota for such tobacco for the preceding marketing year."; and

(2) by inserting ", except in the case of Burley tobacco," after "*Provided*, That" in the fourth sentence of subsection (e).

(d) PURCHASE INTENTIONS.—Effective for the 1986 and each subsequent crop of tobacco, such Act is amended by inserting after section 320 (7 U.S.C. 1314f) the following new section:

"SUBMISSION OF PURCHASE INTENTIONS BY CIGARETTE MANUFACTURERS

7 USC 1314g.

"SEC. 320A. (a)(1) Not later than December 1 of any marketing year with respect to Flue-cured tobacco (or, in the case of the 1986 crop, 14 days after the date of enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985) and January 15 of any marketing year with respect to Burley tobacco (or, in the case of the 1986 crop, 14 days after the date of enactment of such Act or January 15, 1986, whichever is later), each domestic manufacturer of cigarettes shall submit to the Secretary a statement, by kind, of the quantity of Flue-cured tobacco and Burley tobacco (for which a national marketing quota is in effect or for which the Secretary has proclaimed a national marketing quota for the next succeeding marketing year) that the manufacturer intends to purchase, directly or indirectly, on the United States auction markets or from producers during the next succeeding marketing year (hereafter in this section referred to as the 'quantity of intended purchases').

"(2) The Secretary shall aggregate the quantities of intended purchases in a manner that will not allow the identification of the quantity of intended purchases of any manufacturer.

"(b) If any domestic manufacturer of cigarettes fails to submit to the Secretary a statement of the quantity of intended purchases of the manufacturer, as required by this section, the Secretary shall establish the quantity of intended purchases to be attributed to such manufacturer for purposes of this Act, based on—

"(1) the quantity of intended purchases submitted by such manufacturer under this section for the marketing year immediately preceding the marketing year for which the determination is being made; or

"(2) if such manufacturer did not submit a statement of the quantity of intended purchases of the manufacturer for the marketing year immediately preceding the marketing year for which the determination is being made, the most recent information available to the Secretary.

Confidentiality.

"(c)(1) All information relating to the quantity of intended purchases that is submitted by domestic manufacturers of cigarettes under this section shall be kept confidential by all officers and employees of the Department of Agriculture.

"(2) Such information may only be disclosed by such officers or employees in a suit or administrative hearing—

"(A)(i) brought at the direction, or on the request, of the Secretary; or

"(ii) to which the Secretary or any officer of the United States is a party; and

"(B) involving enforcement of this Act.

"(3) Nothing in this section shall be considered to prohibit the publication, by direction of the Secretary, of the name of any person violating this Act, together with a statement of the particular provisions of the Act violated by such person.

Penalties.

"(4) Any officer or employee of the Department of Agriculture who violates this subsection, on conviction, shall be—

"(A) subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or to both; and

"(B) removed from office.

"(d) Notwithstanding any other provision of law, a statement of the quantity of intended purchases that is submitted under this section shall be exempt from disclosure under section 552 of title 5, United States Code.".

SEC. 1104. MARKETING QUOTA ANNOUNCEMENT DATE; PROCLAMATION OF QUOTAS FOR FLUE-CURED AND BURLEY TOBACCO.

(a) IN GENERAL.—Section 312 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312) is amended—

(1) by striking out "and February 1 of any marketing year with respect to other kinds of tobacco" in the matter preceding clause (1) of subsection (a) and inserting in lieu thereof "February 1 of any marketing year with respect to Burley tobacco, and March 1 of any marketing year with respect to other kinds of tobacco"; and

(2) by striking out "and not later than the first day of February with respect to other kinds of tobacco" in the first sentence of subsection (b) and inserting in lieu thereof ", not later than the first day of February with respect to Burley tobacco, and not later than the first day of March with respect to other kinds of tobacco".

(b) DARK AIR-CURED AND FIRE-CURED TOBACCO.—Section 319(b) of such Act (7 U.S.C. 1313e(b)) is amended by striking out "February 1" each place it appears in the fourth paragraph and inserting in lieu thereof "March 1". 7 USC 1314e.

(c) PROCLAMATION OF QUOTA FOR FLUE-CURED TOBACCO.—Section 317(d) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c(d)) is amended by adding at the end thereof the following new sentences: "Notwithstanding any other provision of law, for the 1986 marketing year, the Secretary shall proclaim the national marketing quota for Flue-cured tobacco not later than 21 days after the date of enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985. Any proclamation with respect to the national marketing quota for the 1986 marketing year for Flue-cured tobacco made by the Secretary prior to such date of enactment shall become void on enactment of such Act.".

(d) PROCLAMATION OF QUOTA FOR BURLEY TOBACCO.—Section 319(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(a)) is amended by adding at the end thereof the following new sentences: "Notwithstanding any other provision of law, for the 1986 marketing year, the Secretary shall proclaim the national marketing quota for Burley tobacco not later than 21 days after the date of enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985 or February 1, 1986, whichever is later. Any proclamation with respect to the national marketing quota for the 1986 marketing year for Burley tobacco made by the Secretary prior to such date of enactment shall become void on enactment of such Act.".

SEC. 1105. REDUCTION IN EXCESS TOBACCO NOT SUBJECT TO MARKETING PENALTY.

(a) PENALTY ON EXCESS TOBACCO.—Effective for the 1986 and subsequent crops of tobacco, the Agricultural Adjustment Act of 1938 is amended—

(1) by striking out "110" in section 317(g)(1) (7 U.S.C. 1314c(g)(1)) and inserting in lieu thereof "103"; and

(2) by striking out "110" in section 319(i)(1) (7 U.S.C. 1314e(i)(1)) and inserting in lieu thereof "103".

(b) PRICE SUPPORT ON EXCESS TOBACCO.—Effective for the 1986 and subsequent crops of tobacco, section 106(c)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445(c)(1)) is amended by striking out "110" and inserting in lieu thereof "103".

SEC. 1106. PURCHASE REQUIREMENTS; PENALTY.

(a) IN GENERAL.—Effective for the 1986 and subsequent crops of tobacco, the Agricultural Adjustment Act of 1938 (as amended by section 1103(d)) is further amended by inserting after section 320A the following new section:

Ante, p. 88.

"PURCHASE REQUIREMENTS; PENALTY

7 USC 1314h.

"SEC. 320B. (a)(1) At the conclusion of each marketing year, on or before a date prescribed by the Secretary, each domestic manufacturer of cigarettes shall submit to the Secretary a statement, by kind, of the quantity of Flue-cured and Burley quota tobacco purchased, directly or indirectly, by such manufacturer during such marketing year.

Loans.

"(2) The statement shall include, but not be limited to, the quantity of each such kind of tobacco purchased by the manufacturer on the United States auction markets, from producers, and from the inventories of tobacco from the 1985 and subsequent crops of the producer-owned cooperative marketing associations that have entered into loan agreements with the Commodity Credit Corporation to make price support available to producers of Flue-cured or Burley tobacco.

"(b)(1) Except as otherwise provided in this subsection, any domestic manufacturer of cigarettes that fails, as determined by the Secretary after notice and opportunity for a hearing, to purchase during a marketing year on the United States auction markets, from producers, or from the inventories of tobacco from the 1985 and subsequent crops of the producer associations described in subsection (a)(2) a quantity of Flue-cured quota tobacco and a quantity of Burley quota tobacco equal to at least 90 percent of the quantity of the intended purchases of Flue-cured tobacco and Burley tobacco, respectively, submitted by such manufacturer or established by the Secretary for such manufacturer for that marketing year under section 320A (as that quantity may be reduced under paragraph (2)) shall be subject to a penalty as prescribed in subsection (c).

Ante, p. 88.

"(2)(A) If the total quantity of Flue-cured or Burley quota tobacco, respectively, marketed by producers at auction in the United States during the marketing year in question is less than the national marketing quota (including any adjustments for overmarketings or undermarketings) for that kind of tobacco for that marketing year, the quantity of intended purchases of each domestic manufacturer of cigarettes, for purposes of paragraph (1), shall be reduced by a percentage equal to the percentage by which the total quantity marketed at auction in the United States during the marketing year is less than the national marketing quota (including any adjustments for overmarketings or undermarketings) for that kind of tobacco for the marketing year.

"(B) For purposes of this section, the term 'marketed' shall include disposition of tobacco by consigning the tobacco to a producer association described in subsection (a)(2) for a price support advance.

"(c) The amount of any penalty to be imposed on a manufacturer under this section shall be determined by multiplying—

"(1) twice the per pound assessment (as determined under section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1 or 1445-2)) for the kind of tobacco involved; by

Post, pp. 92, 94.

"(2) the quantity by which—

"(A) the purchases by such manufacturer on the United States auction markets, from producers, or from the inventories of tobacco from the 1985 and subsequent crops of the producer associations described in subsection (a)(2) of Flue-cured and Burley quota tobacco, respectively, for the marketing year; are less than

"(B) 90 percent of the quantity of intended purchases of such kinds of tobacco, respectively, submitted by the manufacturer or established by the Secretary for such manufacturer for that marketing year under section 320A (as that quantity may be reduced under subsection (b)(2)).

Ante, p. 88.

"(d)(1) An amount equivalent to the penalty collected by the Secretary under this section shall be transmitted by the Secretary to the appropriate producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Flue-cured or Burley tobacco, as the case may be.

"(2) Each association to which amounts are transmitted by the Secretary under this section shall deposit such amounts in the No Net Cost Fund or Account of such association in accordance with section 106A or 106B of the Agricultural Act of 1949.

"(e) The limitations on disclosure set forth in subsections (c) and (d) of section 320A shall apply to information submitted by domestic manufacturers of cigarettes under this section with respect to the quantity of purchases of Flue-cured and Burley quota tobacco during a marketing year. Any officer or employee of the Department of Agriculture who violates such limitations on disclosure shall be subject to the penalties set forth in section 320A(c)(4).

"(f) As used in this section, the term 'quota tobacco' means any kind of tobacco for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers.".

(b) CONFORMING AMENDMENT.—Effective for the 1986 and subsequent crops of tobacco, the last sentence of section 372(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1372(b)) is amended by striking out "The" and inserting in lieu thereof "Except as provided in section 320B, the".

Ante, p. 90.

SEC. 1107. LEASE AND TRANSFER OF BURLEY TOBACCO QUOTAS.

Effective with respect to the 1985 and subsequent crops of Burley tobacco, the fourth proviso of section 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(g)) is amended by inserting after "July 1 of that crop year" the following: "or, if such record of the transfer is filed with the county committee after July 1, the county committee determines with the concurrence of the State committee that all interested parties agreed to such lease and transfer before July 1 and that the failure to file such record of the transfer did not result from gross negligence on the part of any party to such lease and transfer".

SEC. 1108. ASSESSMENTS TO NO NET COST FUNDS OR ACCOUNTS.

(a) NO NET COST FUND.—Effective for the 1986 and subsequent crops of tobacco, section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445-1) is amended—

(1) in subsection (a)—

(A) by striking out "and" at the end of paragraph (5);

(B) by redesignating paragraph (6) as paragraph (7); and

(C) by inserting after paragraph (5) the following new paragraph:

"(6) the term 'purchaser' means any person who purchases in the United States, either directly or indirectly for the account of such person or another person, Flue-cured or Burley quota tobacco; and";

(2) by inserting "or paid by or on behalf of purchasers" after "producer-members" in the second sentence of subsection (c);

(3) in subsection (d)—

(A) by striking out "and" at the end of clause (i) of paragraph (1)(A);

(B) by inserting after clause (ii) of paragraph (1)(A) the following new clause:

"(iii) each purchaser of Flue-cured and Burley quota tobacco shall pay to the appropriate association, for deposit in the Fund of the association, an assessment, in an amount determined from time to time by the association with the approval of the Secretary, with respect to purchases of all such kind of tobacco marketed by a producer from a farm (including purchases of such tobacco from the 1986 and subsequent crops from the association); and";

(C) by striking out "The" in the last sentence of paragraph (1) and inserting in lieu thereof the following: "The amount of producer contributions and purchaser assessments shall be determined in such a manner that producers and purchasers share equally, to the maximum extent practicable, in maintaining the Fund of an association. In making such determination with respect to the assessment of a purchaser, only 1985 and subsequent crops of Flue-cured and Burley quota tobacco shall be taken into account. The";

(D) by inserting "and assessments" after "contributions" in the last sentence of paragraph (1);

(E) by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) require that any producer contribution or purchaser assessment due under paragraph (1) shall be collected—

"(A) from the person who acquired the tobacco involved from the producer, except that if the tobacco is marketed by sale, an amount equal to the producer contribution may be deducted by the purchaser from the price paid to such producer;

"(B) if the tobacco involved is marketed by a producer through a warehouseman or agent, from such warehouseman or agent, who may—

"(i) deduct an amount equal to the producer contribution from the price paid to the producer; and

"(ii) add an amount equal to the purchaser assessment to the price paid by the purchaser; and

"(C) if the tobacco involved is marketed by a producer directly to any person outside the United States, from the producer, who may add an amount equal to the purchaser assessment to the price paid by the purchaser;";

(F) by striking out "producers who contribute" in the proviso of paragraph (3) and inserting in lieu thereof "producers and purchasers who contribute or pay";

(G) by striking out "and" at the end of paragraph (5);

(H) by inserting "effective for the 1982 through 1985 crops of quota tobacco," after the paragraph designation in paragraph (6);

(I) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(J) by inserting after paragraph (6) the following new paragraph:

"(7) effective for the 1986 and subsequent crops of quota tobacco, provide, in loan agreements between the Corporation and an association, that if the Secretary determines that the amount in the Fund or the net gains referred to in paragraph (5) exceeds the amounts necessary for the purposes specified in this section, the association, with the approval of the Secretary, may suspend the payment and collection of contributions and assessments under this section on terms and conditions established by the association, with the approval of the Secretary."; and Loans.

(4) by adding at the end thereof the following new subsection:

"(h)(1)(A) Each person who fails to collect any contribution or assessment as required by subsection (d)(2) and remit such contribution or assessment to the association, at such time and in such manner as may be prescribed by the Secretary, shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the kind of tobacco involved for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

"(B) The Secretary may reduce any such marketing penalty in such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned.

"(C) Any penalty provided for under this paragraph shall be assessed by the Secretary after notice and opportunity for a hearing.

"(2)(A) Any person against whom a penalty is assessed under this subsection may obtain review of such penalty in an appropriate district court of the United States by filing a civil action in such court not later than 30 days after such penalty is imposed. Courts, U.S.

"(B) The Secretary shall promptly file in such court a certified copy of the record on which the penalty is based. Courts, U.S.

"(3) The district courts of the United States shall have jurisdiction to review and enforce any penalty imposed under this subsection. Courts, U.S.

"(4) An amount equivalent to any penalty collected by the Secretary under this subsection shall be transmitted by the Secretary to the appropriate association, for deposit in the Fund of such association.

"(5) The remedies provided in this subsection shall be in addition to, and not exclusive of, other remedies that may be available.".

(b) NO NET COST ACCOUNT.—Effective for the 1986 and subsequent crops of tobacco, section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-2) is amended—

(1) in subsection (a)—

(A) by striking out "and" at the end of paragraph (6);

(B) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(8) the term 'purchaser' means any person who purchases in the United States, either directly or indirectly for the account of such person or another person, Flue-cured or Burley quota tobacco.";

(2) by inserting "and purchasers" after "producers" in subsection (c)(1);

(3) in subsection (d)—

(A) by inserting at the end of paragraph (1) the following new sentence: "The Secretary shall also require (in lieu of any requirement under section 106A(d)(1)) that each purchaser of Flue-cured and Burley quota tobacco shall pay to the Corporation, for deposit in the Account of such association, an assessment, as determined under paragraph (2) and collected under paragraph (3), with respect to purchases of all such kind of tobacco marketed by a producer from a farm (including purchases of such tobacco from the 1986 and subsequent crops from the association).";

Ante, p. 92.

(B) by striking out "area. Such amount" in paragraph (2)(A) and inserting in lieu thereof "area and the amount of the assessment to be paid by purchasers of tobacco. The amount of the assessment to be paid by producers and purchasers shall be determined in such a manner that producers and purchasers share equally, to the maximum extent practicable, in maintaining the Account of an association. In making such determination with respect to the assessment of a purchaser, only 1985 and subsequent crops of Flue-cured and Burley quota tobacco shall be taken into account. The amount of the assessment";

(C) by inserting at the end of paragraph (2)(A) the following: "Notwithstanding the foregoing provisions of this paragraph, the amount of any assessment that is determined by the Secretary for the 1986 and subsequent crops of Burley quota tobacco shall be determined without regard to any net losses that the Corporation may sustain under the loan agreements of the Corporation with such association with respect to the 1983 crop of such tobacco."; and

Loans.

(D) by amending paragraph (3) to read as follows:

Marketing.

"(3)(A) Except as provided in subparagraphs (B) and (C), any assessment to be paid by a producer or a purchaser under paragraph (1) shall be collected from the person who acquired the tobacco involved from such producer, except that if the tobacco is marketed by sale, an amount equal to the producer assessment may be deducted by the purchaser from the price paid to such producer.

Marketing.

"(B) If tobacco of the kind for which an Account is established is marketed by a producer through a warehouseman or agent, both the producer and the purchaser assessment shall be collected from such warehouseman or agent, who may—

"(i) deduct an amount equal to the producer assessment from the price paid to the producer; and

"(ii) add an amount equal to the purchaser assessment to the price paid by the purchaser.

"(C) If tobacco of the kind for which an Account is established is marketed by a producer directly to any person outside the United States, both the producer and the purchaser assessment shall be collected from the producer, who may add an amount equal to the purchaser assessment to the price paid by the purchaser."; and Marketing.

(4) by adding at the end thereof the following new subsection:

"(j)(1)(A) Each person who fails to collect any assessment as required by subsection (d)(3) and remit such assessment to the Corporation, at such time and in such manner as may be prescribed by the Secretary, shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the kind of tobacco involved for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

"(B) The Secretary may reduce any such marketing penalty in such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned.

"(C) Any penalty provided for under this paragraph shall be assessed by the Secretary after notice and opportunity for a hearing.

"(2)(A) Any person against whom a penalty is assessed under this subsection may obtain review of such penalty in an appropriate district court of the United States by filing a civil action in such court not later than 30 days after such penalty is imposed. Courts, U.S.

"(B) The Secretary shall promptly file in such court a certified copy of the record on which the penalty is based. Courts, U.S.

"(3) The district courts of the United States shall have jurisdiction to review and enforce any penalty imposed under this subsection. Courts, U.S.

"(4) An amount equivalent to any penalty collected by the Secretary under this subsection shall be transmitted by the Secretary to the Corporation, for deposit in the Account of the appropriate association.

"(5) The remedies provided in this subsection shall be in addition to, and not exclusive of, other remedies that may be available.".

(c) IMPLEMENTATION.—The Secretary of Agriculture shall implement sections 1102 through 1109, and the amendments made by such sections, without regard to the provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of title 5, United States Code, or in any directive of the Secretary. 7 USC 1301 note

(d) CONFORMING AMENDMENT.—The section heading of section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445-1) is amended to read as follows:

"PRODUCER CONTRIBUTIONS AND PURCHASER ASSESSMENTS FOR NO NET COST TOBACCO FUND".

SEC. 1109. PURCHASE OF INVENTORY STOCK. 7 USC 1445-3.

Notwithstanding any other provision of law, in order to reduce or eliminate the excessive inventories of Flue-cured and Burley tobacco held by associations from the 1976 through 1984 crops, and in order to provide for the orderly disposition of such excessive inventories of tobacco in a manner that will not disrupt the orderly marketing of

new tobacco crops and will minimize any losses to the Federal Government:

Corporations. Loans.

(a) SALE OF INVENTORY STOCK.—(1) The producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Flue-cured tobacco shall offer to sell the stocks of Flue-cured tobacco of the association from the 1976 through 1984 crops as provided in this section.

(2) Each producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Burley tobacco shall offer to sell its stocks of Burley tobacco from the 1982 and 1984 crops as provided in this section.

Loans.

(3)(A)(i) Not later than 30 days after the date of enactment of this subtitle, the Commodity Credit Corporation shall acquire title to the Burley tobacco from the 1983 crop that is pledged as security for loans on such tobacco by calling the loans on such tobacco.

(ii) The Corporation shall, then, offer such tobacco for sale at such times, in such quantities, and subject to such conditions as the Corporation considers appropriate.

(B) If the Commodity Credit Corporation has not sold all of the stocks of the 1983 crop of Burley tobacco within 2 years from the date the Corporation calls the loans on such tobacco, the Corporation may offer to sell to domestic manufacturers of cigarettes the remaining stocks of such tobacco as provided in this section.

(b) SALE PRICES.—(1)(A) The stocks of Flue-cured tobacco from the 1976 through 1984 crops shall be offered for sale at the base prices, including carrying charges, in effect as of the date of the offer, reduced by—

(i) 90 percent for Flue-cured tobacco from the 1976 through 1981 crops; and

(ii) 10 percent for Flue-cured tobacco from the 1982 through 1984 crops.

(B) The purchasers of the stocks of Flue-cured tobacco from the 1976 through 1984 crops shall pay the full carrying charges that have accrued to such tobacco from the date of the offer made under this section to the date that such tobacco is removed from the inventory of the association.

(2)(A) The stocks of Burley tobacco from the 1982 crop shall be offered for sale at the listed base price in effect as of July 1, 1985.

(B) The stocks of Burley tobacco from the 1984 crop shall be offered for sale at the costs of the association for such tobacco as of the date of enactment of this subtitle.

(C) The purchasers of the stocks of Burley tobacco from the 1982 crop shall pay the full carrying charges that have accrued to such tobacco.

(D) The purchasers of the stocks of Burley tobacco from the 1984 crop shall pay the full carrying charges that have accrued to such tobacco from the date of enactment of this subtitle to the date such tobacco is removed from the inventories of the associations.

(3)(A) After the 2-year period specified in subsection (a)(3)(B) has expired, if the Commodity Credit Corporation offers to sell the stocks of the Corporation of Burley tobacco from the 1983 crop to domestic manufacturers of cigarettes, such stocks shall be offered for sale at the costs of the association, including carrying charges, as of the date on which the Corporation calls the loans on such tobacco, reduced by 90 percent.

(B) Neither tobacco producers nor tobacco purchasers shall be responsible for carrying charges that accrue to the 1983 crop of Burley tobacco after the date on which the Commodity Credit Corporation calls the loans on such tobacco.

(c) TERMS OF AGREEMENTS.—(1)(A) Each domestic manufacturer of cigarettes may enter into agreements to purchase inventory stocks of Flue-cured and Burley tobacco, in accordance with this section.

(B) To be eligible for the reductions in price specified in this section, such manufacturer shall enter into such agreements as soon as practicable, but not later than 90 days after the date of enactment of this subtitle, except that, with respect to the 1983 crop of Burley tobacco, if the Corporation offers to sell the stocks of such tobacco pursuant to subsection (b)(3)(A), such agreements shall be entered into as soon as practicable, but not later than 90 days after the end of the 2-year period referred to in subsection (a)(3)(B).

(C)(i) Such agreements shall provide that, over a period of time, each participating domestic manufacturer of cigarettes shall purchase a percentage of the stocks of Flue-cured and Burley tobacco held—

(I) by the producer-owned cooperative marketing associations at the close of the 1984 marketing year; or

(II) in the case of the 1983 crop of Burley tobacco, by the Commodity Credit Corporation at the time the Corporation offers such tobacco for sale to domestic manufacturers of cigarettes under this section.

(ii) The period of time referred to in clause (i) may not exceed—

(I) in the case of Flue-cured tobacco, 8 years from the date of enactment of this subtitle;

(II) in the case of Burley tobacco from the 1982 and 1984 crops, 5 years from the date of enactment of this subtitle; and

(III) in the case of the 1983 crop of Burley tobacco, 5 years from the end of the 2-year period referred to in subsection (a)(3)(B).

(2)(A)(i) The percentage to be purchased by each participating manufacturer shall be at least equal to the respective percentage of the participating manufacturer of the total quantity of net cigarettes manufactured for use as determined by the Secretary of Agriculture under this paragraph on the basis of the monthly reports ("Manufacturer of Tobacco Products—Monthly Reports") submitted (on ATF Form 3068) by manufacturers of tobacco products to the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury.

(ii) The Secretary of Agriculture shall request from the Secretary of the Treasury copies of such monthly reports necessary to make the determinations required under this section.

(iii) Notwithstanding any other provision of law, the Secretary of the Treasury may release and disclose such information to the Secretary of Agriculture.

(B) "Net cigarettes manufactured for use" shall be computed by subtracting—

(i) the cumulative figures entered for large and small cigarettes in item 16f of ATF Form 3068 ("Reduction to tobacco"); from

(ii) the cumulative figures entered for large and small cigarettes in item 7 of such form ("Manufactured").

(C)(i) The percentage to be purchased by each participating manufacturer shall be determined—

(I) on the date of enactment of this subtitle; and

(II) annually thereafter over the course of the respective buy-out periods specified in this subsection.

(ii) Such percentage shall be determined by dividing—

(I) the average net cigarettes manufactured by a manufacturer for use for the 12-month period immediately preceding the appropriate determination date (the date of enactment of this subtitle and annually thereafter over the course of the respective buy-out periods specified in this subsection); by

(II) the aggregate average net cigarettes manufactured by all domestic cigarette manufacturers for use for such 12-month period.

(D)(i) The quantity of tobacco to be purchased by each participating manufacturer shall be determined annually.

(ii) Such quantity shall be based on—

(I) the percentage of net cigarettes of a manufacturer manufactured for use, as determined under subparagraph (C); multiplied by

(II) the appropriate annual quantity to be withdrawn from the inventories of the associations or the Commodity Credit Corporation.

(iii) The appropriate annual quantity to be withdrawn from inventories shall be—

(I) 12½ percent of the inventories of Flue-cured tobacco from the 1976 through 1984 crops on hand on the date of enactment of this subtitle;

(II) 20 percent of the inventories of Burley tobacco from the 1982 and 1984 crops on hand on the date of enactment of this subtitle; and

(III) 20 percent of the inventories of Burley tobacco from the 1983 crop held by the Commodity Credit Corporation on the date that is 2 years after the call of the loans on such tobacco by the Corporation.

(E) Any purchases by a manufacturer from the inventories of the associations or from the Commodity Credit Corporation for a crop covered by this section in any year of the buy-out period that exceed the quantity of the purchases of the manufacturer required under the agreement, as determined under this section, shall be applied against future purchases required of such manufacturer.

(3) In carrying out this section, manufacturers may confer with one another and, separately or collectively, with associations, the Secretary of Agriculture, and the Commodity Credit Corporation, as may be necessary or appropriate to carry out this section and the purposes of this subtitle.

(d) APPROVAL OF AGREEMENTS.—(1)(A) Each agreement entered into under this section shall be submitted to the Secretary of Agriculture for review and approval.

(B) In the case of an agreement to purchase tobacco from the inventory of a producer association, the agreement shall be submitted by the association.

(C) No agreement may become effective until approved by the Secretary.

(2) The Secretary of Agriculture shall not approve any agreement submitted under this section unless the Secretary has determined that—

(A) the agreement—

(i) will not unduly impair or disrupt the orderly marketing of current and future tobacco crops during the term of the agreement; and

(ii) is otherwise consistent with the purposes of this subtitle; and

(B) the price and other terms of sale are uniform and nondiscriminatory among various purchasers.

(e) DISCLOSURE.—The limitations on disclosure set forth in subsections (c) and (d) of section 320A of the Agricultural Adjustment Act of 1938 (as added by section 1103(d)) shall apply to information submitted by domestic manufacturers of cigarettes under this section with respect to net cigarettes manufactured for use, including information provided on ATF Form 3068. Any officer or employee of the Department of Agriculture who violates such limitations on disclosure shall be subject to the penalties set forth in section 320A(c)(4) of such Act.

SEC. 1110. REVIEW OF TOBACCO GRADING SYSTEM AND DISASTER CROP DESIGNATION.

(a) STUDY.—(1)(A) The Secretary of Agriculture shall conduct a comprehensive study of the methods and procedures for grading tobacco marketed in the United States.

(B) In carrying out such study, the Secretary shall evaluate, among other things—

(i) the extent to which grades assigned to tobacco accurately reflect the quality of such tobacco;

(ii) the extent to which the number of grades of tobacco affects the operation of the grading system; and

(iii) the competence and independence of tobacco graders.

(2) The Secretary shall also study the feasibility and desirability of—

(A) providing for a grade that would be used to designate tobacco that is of such poor quality as a result of a natural disaster as to affect substantially the marketability of such tobacco; and

(B) establishing a price support level, if any, for such tobacco that may be adjusted by the Secretary as necessary to facilitate the sale of such tobacco and protect the no net cost funds or accounts.

(b) REPORT.—(1) Not later than 120 days after the date of enactment of this subtitle, the Secretary of Agriculture shall report the results of the studies required under subsection (a), together with any recommendations for necessary legislation, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. Congress.

(2) As soon as practicable after submission of the report required under paragraph (1), but not later than the opening of the marketing season for the 1986 crop of Flue-cured tobacco, the Secretary shall implement any recommendations made in such report that may be implemented by the Secretary under existing authority.

SEC. 1111. INVESTMENT OF TOBACCO INSPECTION FEES.

Section 5 of the Tobacco Inspection Act (7 U.S.C. 511d) is amended—

(1) by inserting "late payment penalties, and interest earned from the investment of such funds," after "The fees and charges," in the ninth sentence;

7 USC 511e.

(2) by inserting after the ninth sentence the following new sentences: "Any funds realized from the collection of fees or charges authorized under this section and section 6 and credited to the current appropriation account incurring the cost of services provided under this section and section 6, late payment penalties, and interest earned from the investment of such funds may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. Any income realized from this activity may be used to pay the expenses of the Secretary of Agriculture incident to providing services under this Act or reinvested in the manner authorized in the preceding sentence."; and

(3) by striking out "Such fees and charges" in the tenth sentence (as it existed before the amendment made by clause (2)) and inserting in lieu thereof "The fees and charges authorized in this section".

7 USC 1445 note.

SEC. 1112. EFFECTIVE DATE.

Except as otherwise provided in this subtitle, this subtitle and the amendments made by this subtitle shall become effective on the date of enactment of this subtitle.

TITLE II—ARMED SERVICES AND DEFENSE-RELATED PROGRAMS

SEC. 2001. COLLECTION BY THE UNITED STATES OF INPATIENT HOSPITAL COSTS INCURRED ON BEHALF OF CERTAIN PERSONS.

(a) IN GENERAL.—(1) Chapter 55 of title 10, United States Code, is amended by adding at the end thereof the following new section:

10 USC 1095.

"§ 1095. Collection from third-party payers of reasonable inpatient hospital care costs incurred on behalf of retirees and dependents

Insurance. Health and medical care. 99 Stat. 656. 10 USC 1076.

"(a)(1) In the case of a person who is covered by section 1074(b), 1076(a), or 1076(b) of this title, the United States shall have the right to collect from a third-party payer the reasonable costs of inpatient hospital care incurred by the United States on behalf of such person through a facility of the uniformed services to the extent that the person would be eligible to receive reimbursement or indemnification from the third-party payer if the person were to incur such costs on the person's own behalf. If the insurance, medical service, or health plan of that payer includes a requirement for a deductible or copayment by the beneficiary of the plan, then the amount that the United States may collect from the third-party payer is the reasonable cost of the care provided less the appropriate deductible or copayment amount.

"(2) A person covered by section 1074(b), 1076(a), or 1076(b) of this title may not be required to pay an additional amount to the United States for inpatient hospital care by reason of this section.

Prohibition.

"(b) No provision of any insurance, medical service, or health plan contract or agreement having the effect of excluding from coverage or limiting payment of charges for certain care if that care is

provided through a facility of the uniformed services shall operate to prevent collection by the United States under subsection (a).

"(c) Under regulations prescribed under subsection (f), records of the facility of the uniformed services that provided inpatient hospital care to a beneficiary of an insurance, medical service, or health plan of a third-party payer shall be made available for inspection and review by representatives of the payer from which collection by the United States is sought.

"(d) Notwithstanding subsections (a) and (b), collection may not be made under this section in the case of a plan administered under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.). 42 USC 1396.

"(e)(1) The United States may institute and prosecute legal proceedings against a third-party payer to enforce a right of the United States under this section.

"(2) The administering Secretary may compromise, settle, or waive a claim of the United States under this section.

"(f) The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations for the administration of this section. Such regulations shall provide for computation of the reasonable cost of inpatient hospital care. Computation of such reasonable cost may be based on— Regulations.

"(1) per diem rates; or

"(2) such other method as may be appropriate.

"(g) In this section, 'third-party payer' means an entity that provides an insurance, medical service, or health plan by contract or agreement.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1095. Collection from third-party payers of reasonable inpatient hospital care costs incurred on behalf of retirees and dependents.".

(b) EFFECTIVE DATE.—Section 1095 of title 10, United States Code, as added by subsection (a), shall apply with respect to inpatient hospital care provided after September 30, 1986, but only with respect to an insurance, medical service, or health plan agreement entered into, amended, or renewed on or after the date of the enactment of this Act. 10 USC 1095 note.

SEC. 2002. EXTENSION OF DEADLINE FOR REPORT ON USE BY CHAMPUS SYSTEM OF MEDICARE PROSPECTIVE PAYMENT PROGRAM.

Section 634(c) of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2544), is amended by striking out "February 28, 1985" and inserting in lieu thereof "June 30, 1986".

TITLE III—HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS

Housing and Community Development Reconciliation Amendments of 1985.

SEC. 3001. SHORT TITLE AND TABLE OF SECTIONS.

42 USC 5301 note.

(a) SHORT TITLE.—This title may be cited as the "Housing and Community Development Reconciliation Amendments of 1985".

(b) TABLE OF SECTIONS.—

Sec. 3001. Short title and table of sections.
Sec. 3002. Purchase of CDBG guaranteed obligations by the Federal Financing Bank.
Sec. 3003. Public housing operating subsidies.

Sec. 3004. Public and Indian housing financing reforms.
Sec. 3005. Rural housing authorizations.
Sec. 3006. Management of insured and guaranteed rural housing loans.
Sec. 3007. Extension of Federal Housing Administration mortgage insurance programs.
Sec. 3008. Extension of rehabilitation loan authority.
Sec. 3009. Extension of rural housing authorities.
Sec. 3010. Extension of flood and crime insurance programs.
Sec. 3011. Miscellaneous extensions.

SEC. 3002. PURCHASE OF CDBG GUARANTEED OBLIGATIONS BY THE FEDERAL FINANCING BANK.

42 USC 5308.

(a) PROHIBITION.—Section 108 of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following:

"(1) Notes or other obligations guaranteed under this section may not be purchased by the Federal Financing Bank.".

42 USC 5308 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on July 1, 1986.

42 USC 5308 note.

(c) ADMINISTRATIVE ACTIONS.—The Secretary of Housing and Urban Development shall take such administrative actions as are necessary to provide by the effective date of subsection (a) private sector financing of loans guaranteed under section 108 of the Housing and Community Development Act of 1974.

SEC. 3003. PUBLIC HOUSING OPERATING SUBSIDIES.

42 USC 1437g.

Section 9(c) of such Act is amended by striking out "and by" after "1983," and by inserting after "1984" the following: ", and not to exceed $1,279,000,000 on or after October 1, 1985".

SEC. 3004. PUBLIC AND INDIAN HOUSING FINANCING REFORMS.

42 USC 1437b.

Section 4 of the United States Housing Act of 1937 is amended by adding at the end thereof the following new subsection:

Loans.
Contracts.

"(c)(1) At such times as the Secretary may determine, and in accordance with such accounting and other procedures as the Secretary may prescribe, each loan made by the Secretary under subsection (a) that has any principal amount outstanding or any interest amount outstanding or accrued shall be forgiven; and the terms and conditions of any contract, or any amendment to a contract, for such loan with respect to any promise to repay such principal and interest shall be canceled. Such cancellation shall not affect any other terms and conditions of such contract, which shall remain in effect as if the cancellation had not occurred. This paragraph shall not apply to any loan the repayment of which was not to be made using annual contributions, or to any loan all or part of the proceeds of which are due a public housing agency from contractors or others.

"(2)(A) On the date of the enactment of the Housing and Community Development Reconciliation Amendments of 1985, each note or other obligation issued by the Secretary to the Secretary of the Treasury pursuant to subsection (b), together with any promise to repay the principal and unpaid interest that has accrued on each note or obligation, shall be forgiven; and any other term or condition specified by each such obligation shall be canceled.

"(B) On September 30, 1986, and on any subsequent September 30, each such note or other obligation issued by the Secretary to the Secretary of the Treasury pursuant to subsection (b) during the fiscal year ending on such date, together with any promise to repay the principal and unpaid interest that has accrued on each note or

obligation, shall be forgiven; and any other term or condition specified by each such obligation shall be canceled.

"(3) Any amount of budget authority (and contract authority) that becomes available during any fiscal year as a result of the forgiveness of any loan, note, or obligation under this subsection shall be rescinded.".

SEC. 3005. RURAL HOUSING AUTHORIZATIONS.

Subsection (a)(1) of section 513 of the Housing Act of 1949 is amended to read as follows: 42 USC 1483.

"(a)(1) The Secretary may insure and guarantee loans under this title during fiscal year 1986 in an aggregate amount not to exceed $2,146,600,000, of which—

"(A) $1,209,600,000 shall be for loans under section 502; 42 USC 1472.

"(B) $17,000,000 shall be for loans under section 504; 42 USC 1474.

"(C) $19,000,000 shall be for loans under section 514; 42 USC 1484.

"(D) $900,000,000 shall be for loans under section 515; and 42 USC 1485.

"(E) $1,000,000 shall be for loans under section 524.". 42 USC 1490a.

SEC. 3006. MANAGEMENT OF INSURED AND GUARANTEED RURAL HOUSING LOANS.

(a) SALE OF INSURED AND GUARANTEED LOANS TO PUBLIC.—Section 517(c) of the Housing Act of 1949 is amended by adding at the end thereof the following new sentence: "Any loan made and sold by the Secretary under this section after the date of the enactment of the Housing and Community Development Reconciliation Amendments of 1985 (and any loan made by other lenders under this title that is insured or guaranteed in accordance with this section, is purchased by the Secretary, and is sold by the Secretary under this section after such date) shall be sold to the public and may not be sold to the Federal Financing Bank, unless such sale to the Federal Financing Bank is required to service transactions under this title between the Secretary and the Federal Financing Bank occurring on or before such date.". 42 USC 1487.

(b) INTEREST SUBSIDY ON INSURED AND GUARANTEED LOANS OFFERED FOR SALE TO PUBLIC.—Section 517(d) of the Housing Act of 1949 is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) Each loan made by the Secretary or other lenders under this title that is insured or guaranteed in accordance with this subsection shall, when offered for sale to the public, be accompanied by an agreement by the Secretary to pay to the holder of such loan (through an agreement to purchase such loan or through such other means as the Secretary determines to be appropriate) the difference between the rate of interest paid by the borrower of such loan and the market rate of interest (as determined by the Secretary) on obligations having comparable periods to maturity on the date of such sale.".

(c) PROTECTION OF BORROWERS UNDER LOANS SOLD TO PUBLIC.—Section 517(d) of the Housing Act of 1949, as amended by subsection (b) of this section, is amended by adding at the end thereof the following new paragraph:

"(3) Each loan made by the Secretary or other lenders under this title that is insured or guaranteed in accordance with this subsection shall, when offered for sale to the public, be accompanied by

agreements for the benefit of the borrower under the loan that provide that—

"(A) the purchaser or any assignee of the loan shall not diminish any substantive or procedural right of the borrower arising under this title;

"(B) upon any substantial default of the borrower, but prior to foreclosure, the loan shall be assigned to the Secretary for the purpose of avoiding foreclosure; and

"(C) following any assignment under subparagraph (B) and before commencing any action to foreclose or otherwise dispossess the borrower, the Secretary shall afford the borrower all substantive and procedural rights arising under this title, including consideration for interest subsidy, moratorium, reamortization, refinancing, and appeal of any adverse decision to an impartial officer.

"(4) From the proceeds of loan sales under paragraph (2), the Secretary shall set aside as a reserve against future losses not less than 5 percent of the outstanding face amount of the loans held by the public at any time.".

42 USC 1487.

(d) USE OF RURAL HOUSING INSURANCE FUND.—Section 517(j) of the Housing Act of 1949 is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(6) to make payments and take other actions in accordance with agreements entered into under paragraphs (2) and (3) of subsection (d).".

(e) ELIGIBILITY FOR GUARANTEED LOANS.—Section 517 of the Housing Act of 1949 is amended by striking out subsection (n).

(f) REGULATIONS.—Section 517(o) of the Housing Act of 1949 is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

Regulations. Marketing.

"(2) Not later than the expiration of the 90-day period following the date of the enactment of the Housing and Community Development Reconciliation Amendments of 1985, the Secretary shall issue regulations to facilitate the marketability in the secondary mortgage market of loans insured or guaranteed under this section. Such regulations shall ensure that such loans are competitive with other loans and mortgages insured or guaranteed by the Federal Government.".

SEC. 3007. EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS.

12 USC 1703.

(a) TITLE I INSURANCE.—Section 2(a) of the National Housing Act is amended by striking out "prior to December 16, 1985" in the first sentence and inserting in lieu thereof "not later than March 17, 1986".

12 USC 1715h.

(b) GENERAL INSURANCE.—Section 217 of the National Housing Act is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

12 USC 1715l.

(c) LOW AND MODERATE INCOME HOUSING INSURANCE.—Section 221(f) of the National Housing Act is amended by striking out "December 15, 1985" in the fifth sentence and inserting in lieu thereof "March 17, 1986".

(d) SECTION 235 HOMEOWNERSHIP.—

(1) ASSISTANCE PAYMENTS AUTHORITY.—Section 235(h)(1) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986". 12 USC 1715z.

(2) INSURANCE AUTHORITY.—Section 235(m) of the National Housing Act is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

(3) HOUSING STIMULUS AUTHORITY.—Section 235(q)(1) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

(e) CO-INSURANCE.—

(1) GENERAL AUTHORITY.—Section 244(d) of the National Housing Act is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986". 12 USC 1715z-9.

(2) RENTAL REHABILITATION AND DEVELOPMENT PROJECTS.—Section 244(h) of the National Housing Act is amended by striking out "on or after December 16, 1985" in the last sentence and inserting in lieu thereof "after March 17, 1986".

(f) GRADUATED PAYMENT AND INDEXED MORTGAGE INSURANCE.—Section 245(a) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986". 12 USC 1715z-10.

(g) REINSURANCE CONTRACTS.—Section 249(a) of the National Housing Act is amended by striking out "December 15, 1985" in the second sentence and inserting in lieu thereof "March 17, 1986". 12 USC 1715z-14.

(h) ARMED SERVICES HOUSING INSURANCE.—

(1) CIVILIAN EMPLOYEES OF ARMED FORCES.—Section 809(f) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986". 12 USC 1748h-1.

(2) DEFENSE HOUSING FOR IMPACTED AREAS.—Section 810(k) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986". 12 USC 1748h-2.

(i) LAND DEVELOPMENT INSURANCE.—Section 1002(a) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986". 12 USC 1749bb.

(j) GROUP PRACTICE FACILITIES INSURANCE.—Section 1101(a) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986". 12 USC 1749aaa.

SEC. 3008. EXTENSION OF REHABILITATION LOAN AUTHORITY.

Section 312(h) of the Housing Act of 1964 is amended— 42 USC 1452b.

(1) by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986"; and

(2) by striking out "prior to December 16, 1985" and inserting in lieu thereof "on or before such date".

SEC. 3009. EXTENSION OF RURAL HOUSING AUTHORITIES.

(a) RENTAL HOUSING LOAN AUTHORITY.—Section 515(b)(4) of the Housing Act of 1949 is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986". 42 USC 1485.

(b) RURAL AREA CLASSIFICATION.—Section 520 of the Housing Act of 1949 is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986". 42 USC 1490.

42 USC 1490c.

(c) MUTUAL AND SELF-HELP HOUSING GRANT AND LOAN AUTHORITY.—Section 523(f) of the Housing Act of 1949 is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

SEC. 3010. EXTENSION OF FLOOD AND CRIME INSURANCE PROGRAMS.

(a) FLOOD INSURANCE.—

42 USC 4026.

(1) GENERAL AUTHORITY.—Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

42 USC 4056.

(2) EMERGENCY IMPLEMENTATION.—Section 1336(a) of the National Flood Insurance Act of 1968 is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

42 USC 4101.

(3) ESTABLISHMENT OF FLOOD-RISK ZONES.—Section 1360(a)(2) of the National Flood Insurance Act of 1968 is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

12 USC 1749bbb.

(b) CRIME INSURANCE.—Section 1201(b)(1) of the National Housing Act is amended by striking out "December 15, 1985" in the matter preceding subparagraph (A) and inserting in lieu thereof "March 17, 1986".

SEC. 3011. MISCELLANEOUS EXTENSIONS.

(a) COMMUNITY DEVELOPMENT BLOCK GRANT CLASSIFICATIONS.—

42 USC 5302.

(1) METROPOLITAN CITY.—Section 102(a)(4) of the Housing and Community Development Act of 1974 is amended by striking out "December 15, 1985" in the second sentence and inserting in lieu thereof "March 17, 1986".

(2) URBAN COUNTY.—Section 102(a)(6) of the Housing and Community Development Act of 1974 is amended by striking out "December 15, 1985" in the second sentence and inserting in lieu thereof "March 17, 1986".

42 USC 1701q note.

(b) SECTION 202 INTEREST RATE LIMITATION.—Section 223(a)(2) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking out "prior to December 16, 1985" and inserting in lieu thereof "not later than March 17, 1986".

12 USC 2811.

(c) HOME MORTGAGE DISCLOSURE ACT OF 1975.—Section 312 of the Home Mortgage Disclosure Act of 1975 is amended by striking out "December 16, 1985" and inserting in lieu thereof "March 17, 1986".

TITLE IV—TRANSPORTATION AND RELATED PROGRAMS

Subtitle A—Railroads

Amtrak Reauthorization Act of 1985.
45 USC 501 note.

SEC. 4001. SHORT TITLE.

This subtitle may be cited as the "Amtrak Reauthorization Act of 1985".

SEC. 4002. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Section 601(b)(2) of the Rail Passenger Service Act (45 U.S.C. 601(b)(2)) is amended—

(1) in subparagraph (A) by striking out "and" after "403(b) of this Act;";

(2) in subparagraph (B) by striking out the period and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(C) not to exceed $600,000,000 for the fiscal year ending September 30, 1986;

"(D) not to exceed $606,100,000 for the fiscal year ending September 30, 1987; and

"(E) not to exceed $630,300,000 for the fiscal year ending September 30, 1988.".

(b) LIMITATION.—Such section 601(b) is further amended by adding at the end a new paragraph as follows: 45 USC 601.

"(5) Unless sufficient funds are otherwise available to operate the Corporation's rail system at substantially the same level of service, maintenance, and equipment overhauls in effect on the date of the enactment of this paragraph, funds appropriated to or for the benefit of the Corporation under this section before the date of the enactment of this paragraph which the Corporation has designated for nonoperational capital projects shall be used as necessary to maintain the operations of the system at such level.".

SEC. 4003. CAPITAL ASSETS.

Section 304(c) of the Rail Passenger Service Act (45 U.S.C. 544(c)) is amended by adding at the end thereof the following new paragraph:

"(3) The preferred stock issued pursuant to paragraphs (1) and (2) of this subsection shall be deemed to have been issued as of the date of receipt by the Corporation of the funds for which such stock is issued.".

SEC. 4004. GOVERNMENT TRAVEL.

Section 306(f) of the Rail Passenger Service Act (45 U.S.C. 546(f)) is amended by inserting ", which shall include allowing the Corporation to participate in the contract air program administered by the General Services Administration in markets where service provided by the Corporation is competitive as to rates and total trip times" before the period.

SEC. 4005. REPORT CONSOLIDATION.

Section 308(a) of the Rail Passenger Service Act (45 U.S.C. 548(a)) is amended to read as follows:

"(a) The Corporation shall submit to the Congress a report not later than February 15 of each year. The report shall include, for each route on which the Corporation operated intercity rail passenger service during the preceding fiscal year, data on ridership, passenger miles, short-term avoidable profit or loss per passenger mile, revenue-to-cost ratio, revenues, the Federal subsidy, the non-Federal subsidy, and on-time performance. Such report shall also specify significant operational problems which have been identified by the Corporation, together with proposals by the Corporation to resolve such problems."

SEC. 4006. CHARTER TRAINS.

Section 402 of the Rail Passenger Service Act (45 U.S.C. 562) is amended—

(1) by repealing subsection (g); and

(2) by redesignating subsection (h) as subsection (g).

SEC. 4007. MISCELLANEOUS AMENDMENTS.

(a) AUDITS.—Section 805 of the Rail Passenger Service Act (45 U.S.C. 644) is amended—

(1) in subsection (2)(A) by striking out "shall conduct annually a" in the first sentence and inserting in lieu thereof "may conduct"; and

(2) in subsections (2)(A) and (2)(B) by striking "audit" wherever it appears and inserting in lieu thereof "audits".

(b) REPEAL OF STUDIES AND REPORTS.—Sections 306(k), 806, 810, and 811 of the Rail Passenger Service Act (45 U.S.C. 546(k), 645, 649, and 650) are repealed.

(c) EMERGENCY ASSISTANCE.—Title VII of the Rail Passenger Service Act (45 U.S.C. 621 and 622) is repealed.

(d) NORTHEAST CORRIDOR REPORTS.—Section 703(1)(D) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853(1)(D)) is repealed.

(e) PERFORMANCE EVALUATION CENTER.—(1) Section 305(1) of the Rail Passenger Service Act (45 U.S.C. 545(1)) is repealed.

(2) Section 305(m) of the Rail Passenger Service Act (45 U.S.C. 545(m)) is amended by striking out "Center" each place it appears and inserting in lieu thereof "Corporation".

SEC. 4008. REVENUE-COST RATIO.

Section 404(c)(4)(A) of the Rail Passenger Service Act (45 U.S.C. 564(c)(4)(a)) is amended by adding at the end the following new sentence: "Commencing in fiscal year 1986, the Corporation shall set a goal of recovering an amount sufficient that the ratio of its revenues, including contributions from States, agencies, and other persons, to costs, excluding capital costs, shall be at least 61 percent.".

45 USC 564 note.

SEC. 4009. LABOR-RELATED COST SAVINGS.

Amtrak and the representatives of employees of Amtrak shall negotiate changes in existing agreements between such parties that will result in substantial cost savings to Amtrak, and shall report the results of such negotiations to the Congress within six months after the date of enactment of this Act.

SEC. 4010. ROUTE DISCONTINUANCE.

Amtrak shall not, by reason of any provision of this subtitle, including section 4002, reduce the frequency of service on any line on which, as of May 1, 1985, three or fewer trains operated per week.

SEC. 4011. EMPLOYMENT VACANCY FILING.

(a) LIABILITY.—Section 704(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797c(c)) is amended—

(1) by inserting "(1)" after "VACANCY NOTICES.—"; and

(2) by adding at the end a new paragraph as follows:

"(2)(A) As soon as the Board becomes aware of any failure on the part of a railroad to comply with paragraph (1), the Board shall issue a warning to such railroad of its potential liability under subparagraph (B).

"(B) Any railroad failing to comply with paragraph (1) of this subsection after being warned by the Board under subparagraph (A) shall be liable for a civil penalty in the amount of $500 for each subsequent vacancy with respect to which such railroad has so failed to comply.".

(b) EXTENSION.—Section 704(f) of such Act (45 U.S.C. 797c(f)) is amended by striking out "4-year" and inserting in lieu thereof "6-year".

(c) EXEMPTION.—The provisions of section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b), section 8 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 907), and section 105 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1004) shall not apply to the National Railroad Passenger Corporation in the hiring of qualified train and engine employees who hold seniority rights to work in intercity rail passenger service in connection with the assumption by such Corporation of functions previously performed under contract by other carriers. 45 USC 797b note.

(d) EFFECTIVE DATES.—The amendments made by subsections (a) and (c) shall take effect on the date of enactment of this Act, and the amendment made by subsection (b) shall be effective as of August 1, 1985. 45 USC 797c note.

SEC. 4012. TRANSPORTATION OF USED UNOCCUPIED VEHICLES.

Section 103(3) of the Rail Passenger Service Act (45 U.S.C. 502(3)) is amended by inserting ", and, when space is available, of used unoccupied vehicles" after "and their occupants".

SEC. 4013. AMTRAK CORPORATE CITIZENSHIP.

Section 306(m) of the Rail Passenger Service Act (45 U.S.C. 546(m)) is amended by inserting "only" immediately after "citizen".

SEC. 4014. ROUTE AND SERVICE CRITERIA.

(a) ROUTE AND SERVICE CRITERIA AMENDMENTS.—The Rail Passenger Service Act is amended—

(1) in section 403(d) (45 U.S.C. 563(d))—

(A) by striking out "criteria set forth in section 404(d)(2)(B)" and inserting in lieu thereof "criterion set forth in section 404(d)(2)"; and *Post*, p. 110.

(B) by inserting after the first sentence thereof the following: "Beginning October 1, 1986, if such service is not projected to meet such criterion, the Corporation may discontinue, modify, or adjust such service so that the applicable criterion will be met.";

(2) in section 404(c)(3)(B) (45 U.S.C. 564(c)(3)(B))—

(A) by striking out "60" and inserting in lieu thereof "120";

(B) by striking out "either the Senate" and all that follows through "that it does" and inserting in lieu thereof "the Senate and the House of Representatives adopt a joint resolution during such period stating that they do"; and Congress.

(C) by adding at the end thereof the following: "For purposes of this subparagraph, continuity of session of the Congress is broken only by an adjournment sine die and the days on which either House is not in session because of adjournment of more than 3 days to a day certain are excluded in the computation of such 120-day period.";

(3) by amending section 404(c)(4)(B) (45 U.S.C. 564(c)(4)(B)) to read as follows:

"(B) The Corporation shall conduct an annual review of each route in the basic system to determine if such route is projected to meet the criterion appropriate to such route set forth in subsection (d), as adjusted to reflect constant 1979 dollars. If the Corporation deter-

mines on the basis of such review that such route will not meet such criterion, the Corporation shall discontinue, modify, or adjust the operation of rail passenger service over such route so that the criterion will be met.";

(4) in the first sentence of section 404(d)(1) (45 U.S.C. 564(d)(1))—

(A) by striking out "if—" and inserting in lieu thereof "if";

(B) by striking out "(A)"; and

(C) by striking out all after "mile" the second time it appears therein and inserting in lieu thereof a period;

(5) in the second sentence of section 404(d)(1) (45 U.S.C. 564(d)(1)) by striking out "and passenger mile per train mile";

(6) by striking out the last sentence of section 404(d)(1) (45 U.S.C. 564(d)(1)); and

(7) in section 404(d)(2) (45 U.S.C. 564(d)(2))—

(A) by striking out "if—" and inserting in lieu thereof "if";

(B) by striking out "(A)"; and

(C) by striking out all after "mile" the second time it appears therein and inserting in lieu thereof a period.

45 USC 563 note.

(b) EFFECTIVE DATE.—The provisions of this section shall take effect on October 1, 1986.

SEC. 4015. ICC REGULATION.

Section 306(a)(3) of the Rail Passenger Service Act (45 U.S.C. 546(a)(3)) is amended by striking out ", except as otherwise provided in this Act,".

SEC. 4016. MEANING OF "DISCONTINUANCE" FOR LABOR PROTECTION PURPOSES.

Section 405(a) of the Rail Passenger Service Act (45 U.S.C. 565(a)) is amended by adding at the end thereof the following: "For purposes of subsection (c) of this section and any agreement designed to implement the provisions of such subsection, a 'discontinuance of intercity rail passenger service' shall not include any adjustment in frequency or seasonal suspension of intercity rail passenger trains the effect of which is a temporary suspension of service unless such adjustment or suspension causes a reduction of passenger train operations on a particular route to a frequency of less than three round trips per week at any time during any calendar year.".

SEC. 4017. NORTHEAST CORRIDOR COST DISPUTE DECISIONS.

(a) ICC DECISIONS.—(1) Section 1163(a)(2) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1111(a)(2)) is amended to read as follows:

"(2) The Commission, in making such a determination, shall consider all relevant factors, and shall not permit cross subsidization between intercity rail passenger service and commuter rail passenger service.".

45 USC 1111 note.

(2) Any decisions of the Interstate Commerce Commission before the date of enactment of this Act under section 1163(a)(2) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1111(a)(2)) shall have no force and effect after the date of enactment of this Act.

(b) ASSIGNMENT OF COSTS.—Section 402(a) of the Rail Passenger Service Act (45 U.S.C. 562(a)) is amended—

(1) by inserting "(1)" immediately after "(a)";

(2) by inserting "(2)" immediately before "Notwithstanding";

(3) in the second sentence of paragraph (2), as so designated by paragraph (2) of this subsection, by striking out "180" and inserting in lieu thereof "120";

(4) in the last sentence of paragraph (2), as so designated by paragraph (2) of this subsection, by striking out "shall consider all relevant factors, and shall not permit cross subsidization among intercity, commuter," and inserting in lieu thereof "shall not permit cross subsidization between intercity rail passenger service"; and

(5) by adding at the end of paragraph (2), as so designated by paragraph (2) of this subsection, the following: "The Commission, in making such a determination, shall assign to a freight railroad obtaining services pursuant to this paragraph the costs incurred by the Corporation solely for the benefit of that railroad, plus a proportionate share of all other costs of providing services covered by this paragraph that are incurred for the common benefit of the Corporation and such freight railroad. The proportionate share of such other costs assigned to a freight railroad shall be based on relative measures of volume of car operations, tonnage, or other factors that reasonably reflect the relative use of the rail properties covered by this paragraph. Nothing in this paragraph shall be construed to preclude parties from entering into an agreement under this paragraph either before or after a determination of the Commission under this paragraph.".

(c) EFFECTIVENESS OF STANDARD.—The compensation standard established by the amendment made by subsection (b) of this section shall be effective in any proceeding instituted under section 402(a)(2) of the Rail Passenger Service Act (45 U.S.C. 562(a)(2)) after the date of enactment of this Act. 45 USC 562 note.

(d) CONGRESSIONAL POLICY.—Nothing in this section, or any amendment made by this section, shall be construed to alter the Congressional policy against cross subsidization among intercity, commuter, and rail freight services expressed in the last sentence of section 402(a) of the Rail Passenger Service Act, as in effect before the date of enactment of this Act. 45 USC 562 note.

SEC. 4018. LOCAL RAIL SERVICE ASSISTANCE.

Section 5(q) of the Department of Transportation Act (49 U.S.C. App. 1654(q)) is amended—

(1) by inserting after "September 30, 1984." the following: "Of the funds authorized to be appropriated under this subsection, there are authorized to be appropriated not to exceed $12,000,000 for the fiscal year ending September 30, 1986, not to exceed $10,000,000 for the fiscal year ending September 30, 1987, and not to exceed $8,000,000 for the fiscal year ending September 30, 1988."; and

(2) by adding at the end thereof the following: "No funds are authorized to be appropriated under this subsection for any period after September 30, 1988.". Prohibitions.

Subtitle B—Highway Programs

SEC. 4101. REDUCTIONS IN HIGHWAY APPORTIONMENTS.

(a) PRIMARY SYSTEM.—The first sentence of section 105(a)(1) of the Highway Improvement Act of 1982 is amended by striking out "$2,450,000,000" and inserting in lieu thereof "$2,375,000,000".

96 Stat. 2099.

(b) BRIDGE REPLACEMENT AND REHABILITATION.—Section 202(1) of the Highway Safety Act of 1982 is amended by striking out "$2,050,000,000" and inserting in lieu thereof "$1,900,000,000".

96 Stat. 2137.

(c) INTERSTATE 4R.—The first sentence of section 105 of the Federal-Aid Highway Act of 1978 is amended by striking out "$3,150,000,000" and inserting in lieu thereof "$2,975,000,000".

92 Stat. 2692.

(d) APPORTIONMENT ADJUSTMENTS.—

State and local governments.

(1) DETERMINATION OF ADJUSTMENT AMOUNT.—On the first day following the effective date of this section, the Secretary of Transportation shall determine—

(A) the amount of funds that would have been apportioned to each State on October 1, 1985—

(i) for the Federal-aid primary system program if the amendment made by subsection (a) had been in effect on such date;

(ii) for the highway bridge replacement and rehabilitation program if the amendment made by subsection (b) had been in effect on such date; and

(iii) for the program to resurface, restore, rehabilitate, and reconstruct routes on the National System of Interstate and Defense Highways if the amendment made by subsection (c) had been in effect on such date; and

(B) the amount by which the amount which was apportioned to such State on October 1, 1985, for such program exceeds the amount determined under subparagraph (A) for such program.

State and local governments.

(2) ADJUSTMENTS TO CURRENT APPORTIONMENT.—To the extent that any funds—

(A) which were apportioned to a State on October 1, 1985, for any program referred to in paragraph (1)(A); and

(B) which are unobligated on the first day following the effective date of this section;

do not exceed the amount determined under paragraph (1)(B) for such program, such apportioned and unobligated funds shall lapse on such first day.

State and local governments.

(3) ADJUSTMENT TO FUTURE APPORTIONMENT.—If the amount determined under paragraph (1)(B) with respect to the apportionment made on October 1, 1985, to any State for any program referred to in paragraph (1)(A) is greater than the amount of funds which lapse from the apportionment to such State for such program under paragraph (2), the Secretary of Transportation shall reduce the amount which, but for this paragraph, would otherwise be apportioned to such State for such program on October 1, 1986, by the amount of such excess.

SEC. 4102. OBLIGATION CEILING.

Safety.
23 USC 104 note.

(a) GENERAL LIMITATION.—Notwithstanding any other provision of law, the total of all obligations for Federal-aid highways and highway safety construction programs shall not exceed—

(1) $13,125,000,000 for fiscal year 1986;
(2) $13,525,000,000 for fiscal year 1987; and
(3) $14,100,000,000 for fiscal year 1988.

(b) EXCEPTIONS.—The limitations under subsection (a) shall not apply to obligations— 23 USC 104 note.

(1) under section 125 of title 23, United States Code;
(2) under section 157 of such title;
(3) under section 320 of such title;
(4) under section 147 of the Surface Transportation Assistance Act of 1978; *Post*, p. 116.
(5) under section 9 of the Federal-Aid Highway Act of 1981; 95 Stat. 1701.
(6) under sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982; and 96 Stat. 2119.
(7) under section 118 of the National Visitor Center Facilities Act of 1968. 40 USC 818.

(c) DISTRIBUTION OF OBLIGATIONAL AUTHORITY.—For each of the fiscal years 1986, 1987, and 1988, the Secretary of Transportation shall distribute the limitation imposed by subsection (a) by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to each State for such fiscal year bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year. State and local governments. 23 USC 104 note.

(d) LIMITATION ON OBLIGATIONAL AUTHORITY.—During the period October 1 through December 31 of each of the fiscal years 1986, 1987, and 1988, no State shall obligate more than 35 percent of the amount distributed to such State under subsection (c) for such fiscal year, and the total of all State obligations during such period shall not exceed 25 percent of the total amount distributed to all States under such subsection for such fiscal year. State and local governments. 23 USC 104 note.

(e) REDISTRIBUTION OF UNUSED OBLIGATIONAL AUTHORITY.—Notwithstanding subsections (c) and (d), the Secretary of Transportation shall— State and local governments. 23 USC 104 note.

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;
(2) after August 1 of each of the fiscal years 1986, 1987, and 1988, revise a distribution of the funds made available under subsection (c) for such fiscal year if a State will not obligate the amount distributed during such fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during such fiscal year giving priority to those States having large unobligated balances of funds apportioned under section 104 of title 23, United States Code, and giving priority to those States which, because of statutory changes made by the Surface Transportation Assistance Act of 1982 and the Federal-Aid Highway Act of 1981, have experienced substantial proportional reductions in their apportionments and allocations; and 23 USC 101 note. 23 USC 101 note.
(3) not distribute amounts authorized for administrative expenses and Federal lands highways programs.

(f) CONFORMING AMENDMENT.—Section 157(b) of title 23, United States Code, is amended by striking out the period at the end of the

last sentence and inserting in lieu thereof "and section 4102(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985.".

SEC. 4103. INCREASE IN THE STATE EMERGENCY REPAIR FUND LIMITATION.

The first sentence of section 125(b) of title 23, United States Code, is amended by inserting after "$30,000,000" the following: "(and $55,000,000 for projects in connection with disasters or failures occurring in calendar year 1985)".

SEC. 4104. NATIONAL MINIMUM DRINKING AGE AMENDMENTS.

(a) EXTENSION OF PENALTY FOR NON-COMPLIANCE.—Section 158(a)(2) of title 23, United States Code, is amended by striking out "the fiscal year succeeding" and inserting in lieu thereof "each fiscal year after".

(b) COMPLYING STATE LAWS.—Subsection (a) of section 158 of such title is amended by adding at the end thereof the following new paragraph:

"(3) STATE GRANDFATHER LAW AS COMPLYING.—If, before the later of (A) October 1, 1986, or (B) the tenth day following the last day of the first session the legislature of a State convenes after the date of the enactment of this paragraph, such State has in effect a law which makes unlawful the purchase and public possession in such State of any alcoholic beverage by a person who is less than 21 years of age (other than any person who is 18 years of age or older on the day preceding the effective date of such law and at such time could lawfully purchase or publicly possess any alcoholic beverage in such State), such State shall be deemed to be in compliance with paragraphs (1) and (2) of this subsection in each fiscal year in which such law is in effect.".

23 USC 158.

(c) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NON-COMPLIANCE.—Subsection (b) of section 158 of such title is amended to read as follows:

"(b) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NON-COMPLIANCE.—

"(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—

State and local governments.

"(A) FUNDS WITHHELD ON OR BEFORE SEPTEMBER 30, 1988.—Any funds withheld under this section from apportionment to any State on or before September 30, 1988, shall remain available for apportionment to such State as follows:

"(i) If such funds would have been apportioned under section 104(b)(5)(A) of this title but for this section, such funds shall remain available until the end of the fiscal year for which such funds are authorized to be appropriated.

"(ii) If such funds would have been apportioned under section 104(b)(5)(B) of this title but for this section, such funds shall remain available until the end of the second fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(iii) If such funds would have been apportioned under section 104(b)(1), 104(b)(2), or 104(b)(6) of this title but for this section, such funds shall remain available until the end of the third fiscal year following the fiscal

year for which such funds are authorized to be appropriated.

"(B) FUNDS WITHHELD AFTER SEPTEMBER 30, 1988.—No funds withheld under this section from apportionment to any State after September 30, 1988, shall be available for apportionment to such State.

"(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under this section from apportionment are to remain available for apportionment to a State under paragraph (1)(A), the State makes effective a law which is in compliance with subsection (a), the Secretary shall on the day following the effective date of such law apportion to such State the withheld funds remaining available for apportionment to such State.

State and local governments.

"(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure as follows:

"(A) Funds apportioned under section 104(b)(5)(A) of this title shall remain available until the end of the fiscal year succeeding the fiscal year in which such funds are so apportioned.

"(B) Funds apportioned under section 104(b)(1), 104(b)(2), 104(b)(5)(B), or 104(b)(6) of this title shall remain available until the end of the third fiscal year succeeding the fiscal year in which such funds are so apportioned.

Sums not obligated at the end of such period shall lapse or, in the case of funds apportioned under section 104(b)(5) of this title, shall lapse and be made available by the Secretary for projects in accordance with section 118(b) of this title.

"(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under this section from apportionment are available for apportionment to a State under paragraph (1), the State has not made effective a law which is in compliance with subsection (a), such funds shall lapse or, in the case of funds withheld from apportionment under section 104(b)(5) of this title, such funds shall lapse and be made available by the Secretary for projects in accordance with section 118(b) of this title.".

State and local governments.

(d) CONFORMING AMENDMENTS.—Such section 158 is further amended—

23 USC 158.

(1) in subsection (a) by inserting "WITHHOLDING OF FUNDS FOR NONCOMPLIANCE.—" before "(1) The";

(2) in subsection (a)(1) by inserting "FIRST YEAR.—" before "The Secretary";

(3) by indenting paragraphs (1) and (2) of subsection (a) and aligning them with paragraph (3) of such subsection as inserted by subsection (b) of this section;

(4) in subsection (a)(1) by inserting "first" before "fiscal year" the second place it appears;

(5) in subsection (a)(2) by inserting "AFTER THE FIRST YEAR.—" before "The Secretary"; and

(6) in subsection (c) by inserting "ALCOHOLIC BEVERAGE DEFINED.—" before "As".

SEC. 4105. OHIO RIVER BRIDGE FUND REPROGRAMMING.

23 USC 144 note.

Section 147 of the Federal-Aid Highway Act of 1978 is amended by inserting "(a)" after "SEC. 147." and by adding at the end thereof the following new subsection:

"(b)(1) Of the funds which have been set aside previously pursuant to the fourth and fifth sentences of subsection (a) of this section and which are in excess of the amounts needed to complete the projects authorized by such subsection—

"(A) $65,000,000 shall be available to the Secretary of Transportation to carry out the state-of-the-art technology projects described in paragraph (2) of this subsection; and

"(B) the remainder shall be apportioned under subsection (e) of section 144 of title 23, United States Code, for carrying out projects under such section.

"(2) The state-of-the-art technology projects referred to in paragraph (1) of this subsection are the following:

Highways.
Kentucky.
Ohio.

"(A) Construction of a bridge (including approaches thereto) across the Ohio River between Newport, Kentucky, and Cincinnati, Ohio, to replace a bridge on a highway designated as a United States route.

"(B) Construction of a bridge (including approaches thereto) across the Ohio River between Covington, Kentucky, and Cincinnati, Ohio, to replace a bridge on a Kentucky State highway.

"(C) Construction of a bridge (including approaches thereto) across the Ohio River near Maysville, Kentucky, and Aberdeen, Ohio, to replace a bridge on a highway designated as a United States route.

Safety.
Science and technology.

"(3) In order to demonstrate the latest high-type geometric design features (including safety hardware) and new advances in highway bridge construction, the projects authorized by this subsection shall utilize state-of-the-art technology, and all design elements, including the decking, shall be designed to provide the best life-cycle costs, thereby minimizing future maintenance and rehabilitation costs.

"(4) The Secretary of Transportation may provide necessary technical assistance in the design and construction of projects under this subsection.

Report.

"(5) Not later than one year after the completion of the state-of-the-art technology projects under this subsection, the Secretary of Transportation shall submit a report to Congress, including but not limited to the results of such projects, the effects of using the best available technology on safety and other considerations, recommendations for applying the results to other bridge projects, and any changes that may be necessary by law to permit further use of such features.

"(6) In allocating funds made available to carry out the projects described in paragraph (2) of this subsection, the Secretary shall give priority to completing the projects described in subparagraphs (A) and (B) of such paragraph. At such time as the Secretary determines and certifies in writing that sufficient funds have been set aside, from the amount made available under paragraph (1)(A), to complete the projects described in subparagraphs (A) and (B) of paragraph (2), any remaining funds shall be used to carry out the project described in subparagraph (C) of paragraph (2).

"(7) Funds made available to carry out the projects described in paragraph (2) of this subsection shall be available for obligation in the same manner and to the same extent as if such funds were

apportioned under chapter 1 of title 23, United States Code, except that such funds shall be available until expended and shall not be subject to any obligation limitation. The Federal share of the projects described in paragraph (2) of this subsection shall be that provided in subsection (a).". 23 USC 101 *et seq.*

TITLE V—CORPORATION FOR PUBLIC BROADCASTING AND FEDERAL COMMUNICATIONS COMMISSION

SEC. 5001. CORPORATION FOR PUBLIC BROADCASTING.

(a) PUBLIC TELECOMMUNICATIONS FACILITIES.—Section 391 of the Communications Act of 1934 (47 U.S.C. 391) is amended—

(1) by striking out "and" after "1983,"; and

(2) by inserting ", $24,000,000 for fiscal year 1986, $28,000,000 for fiscal year 1987, and $32,000,000 for fiscal year 1988," immediately after "1984,".

(b) ALLOCATION OF APPROPRIATIONS.—Section 393 of the Communications Act of 1934 (47 U.S.C. 393) is amended—

(1) by striking out subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(c) FINANCING OF CORPORATION FOR PUBLIC BROADCASTING.—(1) Section 396(k)(1)(C) of the Communications Act of 1934 (47 U.S.C. 396(k)(1)(C)) is amended—

(A) by striking out "and 1986" and inserting in lieu thereof "1986, 1987, 1988, 1989, and 1990";

(B) by striking out "and" after "fiscal year 1985,"; and

(C) by inserting ", $200,000,000 for fiscal year 1987, $214,000,000 for fiscal year 1988, $238,000,000 for fiscal year 1989, and $254,000,000 for fiscal year 1990" immediately before the period at the end thereof.

(2) Section 396(k)(3)(A)(i)(II) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)(i)(II)) is amended by striking out "research, training, technical assistance, engineering, instructional support, payment of interest on indebtedness,".

(3) Section 396(k) of the Communications Act of 1934 (47 U.S.C. 396(k)) is amended—

(A) by striking out paragraph (8); and

(B) by redesignating paragraphs (9) and (10) as paragraphs (8) and (9), respectively.

SEC. 5002. FEDERAL COMMUNICATIONS COMMISSION.

(a) AUTHORIZATION OF APPROPRIATIONS.—(1) Section 6 of the Communications Act of 1934 (47 U.S.C. 156) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 6. There are authorized to be appropriated for the administration of this Act by the Commission $98,100,000 for fiscal year 1986 and $97,600,000 for fiscal year 1987, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1986 and 1987."

47 USC 156 note.

(2) The amendment made by paragraph (1) of this subsection shall apply with respect to fiscal years beginning after September 30, 1985.

(b) REIMBURSED EXPENSES.—Section 4(g)(2) of the Communications Act of 1934 (47 U.S.C. 154(g)(2)) is amended—

(1) in subparagraph (D), by striking out "1985" and inserting in lieu thereof "1987"; and

(2) by adding at the end thereof the following new subparagraph:

"(E) Funds which are received by the Commission as reimbursements under the provisions of this paragraph after the close of a fiscal year shall remain available for obligation.".

(c) ANNUAL REPORT.—Section 5(g) of the Communications Act of 1934 (47 U.S.C. 155(g)) is amended by striking out "January 31" and inserting in lieu thereof "March 31".

(d) ADDITIONAL SAVINGS.—For provisions of law which, through relocation of the Fort Lauderdale, Florida, Monitoring Station of the Federal Communications Commission, reduce spending for fiscal year 1986 in satisfaction of the reconciliation requirements imposed by section 2(e) of S. Con. Res. 32 (99th Congress), see the material under the heading "FEDERAL COMMUNICATIONS COMMISSION" in the Supplemental Appropriations Act, 1985 (Public Law 99-88).

99 Stat. 293.

(e) CHARGES FOR OPERATIONS.—The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by inserting immediately after section 7 the following new section:

"CHARGES

47 USC 158.

"SEC. 8. (a) The Commission shall assess and collect charges at such rates as the Commission shall establish or at such modified rates as it shall establish pursuant to the provisions of subsection (b) of this section. The Schedule of Charges established under this subsection shall be implemented not later than 360 days after the date of enactment of this section.

"(b)(1) The Schedule of Charges established under this section shall be reviewed by the Commission every two years after the date of enactment of this section and adjusted by the Commission to reflect changes in the Consumer Price Index. Increases or decreases in charges shall apply to all categories of charges, except that individual fees shall not be adjusted until the increase or decrease, as determined by the net change in the Consumer Price Index since the date of enactment of this section, amounts to at least $5.00 in the case of fees under $100.00, or 5 percent in the case of fees of $100.00 or more. All fees which require adjustment will be rounded upward to the next $5.00 increment. The Commission shall transmit to the Congress notification of any such adjustment not later than 90 days before the effective date of such adjustment.

Notice.

"(2) Increases or decreases in charges made pursuant to this subsection shall not be subject to judicial review.

Regulations.

"(c)(1) The Commission shall prescribe by regulation an additional charge which shall be assessed as a penalty for late payment of charges required by subsection (a) of this section. Such penalty shall be 25 percent of the amount of the charge which was not paid in a timely manner.

"(2) The Commission may dismiss any application or other filing for failure to pay in a timely manner any charge or penalty under this section.

"(d)(1) The charges established under this section shall not be applicable to the following radio services: Local Government, Police, Fire, Highway Maintenance, Forestry-Conservation, Public Safety, and Special Emergency Radio, or to governmental entities licensed in other services. Prohibitions.

"(2) The Commission may waive or defer payment of a charge in any specific instance for good cause shown, where such action would promote the public interest.

"(e) Moneys received from charges established under this section shall be deposited in the general fund of the Treasury to reimburse the United States for amounts appropriated for use by the Commission in carrying out its functions under this Act.

"(f) The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section.". Regulations.

(f) Until modified pursuant to section 8(b) of the Communications Act of 1934 (as added by subsection (e) of this section), the Schedule of Charges which the Federal Communications Commission shall prescribe pursuant to section 8(a) of such Act shall be as follows: 47 USC 158 note.

Schedule of Charges

	Service	Fee amount
	PRIVATE RADIO BUREAU	
1.	Marine Coast Stations (New, Modifications, Renewals)	$60.00
2.	Operational Fixed Microwave Stations (New, Modifications, Renewals)	135.00
3.	Aviation (Ground Stations) (New, Modifications, Renewals)	60.00
4.	Land Mobile Radio Licenses (New, Modifications, Renewals)	30.00
	EQUIPMENT APPROVAL SERVICE	
1.	Certification	
	a. Receivers (Except TV & FM Receivers)	250.00
	b. All Other Devices	650.00
2.	Type Acceptance	
	a. Approval of Subscription TV Systems	2,000.00
	b. All Others	325.00
3.	Type Approval	
	a. Ship (Radio Telegraph) Automatic Alarm Systems	6,500.00
	b. Ship and Lifeboat (Radio Telegraph) Transmitters	3,250.00
	c. All Others (With Testing)	1,300.00
	d. All Others (Without Testing)	150.00
4.	Notifications	100.00
	MASS MEDIA BUREAU	
1.	Commercial TV Stations	
	a. New and Major Change Construction Permits Application Fees	2,250.00
	b. Minor Changes Application Fee	500.00
	c. Hearing Charge	6,000.00
	d. License Fee	150.00
2.	Commercial Radio Stations	
	a. New and Major Change Construction Permits	
	(1) Application Fee AM Station	2,000.00
	(2) Application Fee FM Station	1,800.00
	b. Minor Changes Appl. Fee-AM & FM	500.00
	c. Hearing Charge	6,000.00
	d. License Fee	
	(1) AM	325.00
	(2) FM	100.00
	e. Directional Antenna License Fee (AM only)	375.00
3.	FM/TV Translators and LPTV Stations (New & Major Change Construction Permits)	
	a. Application Fee	375.00
	b. License Fee	75.00
4.	Station Assignment and Transfer Fees	
	a. AM, FM and TV Commercial Stations	
	(1) Application Fee (Forms 314/315)	500.00

Schedule of Charges—Continued

Service	Fee amount
(2) Application Fee (Form 316)	70.00
b. FM/TV Translators & LPTV Stations	75.00
5. Auxiliary Services Major Actions—Application Fee	75.00
6. Renewals—All Services	30.00
7. Cable Television Service	
a. Cable Television Relay Service—Construction Permits, Assignments & Transfers, Renewals & Modifications	135.00
b. Cable Special Relief Petitions—Filing Fee	700.00
8. Direct Broadcast Satellite New & Major Change CPs	
a. Application for Authorization to Construct a Direct Broadcast Satellite	1,800.00
b. Issuance of CP & Launch Authority	17,500.00
c. License to Operate Satellite	500.00
d. Hearing Charge	6,000.00
COMMON CARRIER BUREAU	
1. Domestic Public Land Mobile Stations (Base, Dispatch, Control & Repeater Stations)	
a. New or Additional Facility Authorizations, Assignments & Transfers (Per transmitter/per station)	200.00
b. Renewals and Minor Modifications (Per station)	20.00
c. Air-Ground Individual License Renewals & Modifications	20.00
2. Cellular Systems	
a. Initial Construction Permits & Major Modification Applications (Per cellular systems)	200.00
b. Assignments & Transfers (Per station)	200.00
c. Initial covering license (Per cellular system)	
(1) Wireline carrier	525.00
(2) Nonwireline carrier	50.00
d. Renewals	20.00
e. Minor modifications and additional licenses	50.00
3. Rural Radio (Central Office, Interoffice or Relay Facilities)	
a. Initial Construction Permit, Assignments & Transfers (Per transmitter)	90.00
b. Renewals & Modifications (Per station)	20.00
4. Offshore Radio Service	
a. Initial Construction Permit, Assignments & Transfers (Per transmitter)	90.00
b. Renewals & Modifications (Per station)	20.00
5. Local Television or Point To Point Microwave Radio Service	
a. Construction Permits, Modifications of Construction Permits, and Renewals of Licenses	135.00
b. Assignments & Transfers of Control (Per Station)	45.00
c. Initial License for New Frequency	135.00
6. International Fixed Public Radio (Public & Control Stations)	
a. Initial Construction Permits, Assignments & Transfers	450.00
b. Renewals & Modifications	325.00
7. Satellite Services	
a. Transmit Earth Stations	
(1) Initial Station Authorization	1,350.00
(2) Assignments & Transfers of Station Authorizations	450.00
(3) All Other Applications	90.00
b. Small Transmit/Receive Earth Stations (2 meters or less)	
(1) Lead Authorization	3,000.00
(2) Routine Authorization	30.00
(3) All Other Applications	90.00
c. Receive Only Earth Stations	
(1) Initial Station Authorization	200.00
(2) All Other Applications	90.00
d. Applications For Authority To Construct a Space Station	1,800.00
e. Applications For Authority To Launch & Operate a Space Station	18,000.00
f. Satellite System Application	
(1) Initial Station Authorization	5,000.00
(2) Assignments & Transfers of Systems	1,333.00
(3) All Other Applications	90.00
8. Multipoint Distribution Service	
a. Construction Permits, Renewals & Modifications of Construction Permits	135.00
b. Assignments & Transfers of Control (Per station)	45.00
c. Initial License (Per channel)	400.00

Schedule of Charges—Continued

Service	Fee amount
9. Section 214 Applications	
a. Applications for Overseas Cable Construction	8,100.00
b. Applications for Domestic Cable Construction	540.00
c. All Other 214 Applications	540.00
10. Tariff Filings	
a. Filing Fee	250.00
b. Special Permission Filings	200.00
11. Telephone Equipment Registration	135.00
12. Digital Electronic Message Service	
a. Construction Permits, Renewals & Modifications of Construction Permits	135.00
b. Assignments & Transfers of Control (Per station)	45.00
c. Initial License (First License or License Adding a New Frequency)	135.00

TITLE VI—MARITIME, COASTAL ZONE, AND RELATED PROGRAMS

Subtitle A—Boating Safety Fund

SEC. 6001. BOATING SAFETY FUND.

46 USC 13106 note.

An amount equal to one-third of the amount transferred for fiscal year 1985 to the Boat Safety Account under section 9503(c)(4) of the Internal Revenue Code of 1954 (26 U.S.C. 9503(c)(4)) shall be deposited in the general fund of the Treasury as proprietary receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities. Section 13106(a) of title 46, United States Code, shall be applied with respect to fiscal year 1985 by substituting "one-third" for "two-thirds" in the first sentence.

Subtitle B—NOAA Nautical and Aeronautical Products

SEC. 6011. SALE AND DISTRIBUTION OF NOAA NAUTICAL AND AERONAUTICAL PRODUCTS.

(a) Section 1307 of title 44, United States Code, is amended to read as follows:

"§ 1307. National Oceanic and Atmospheric Administration: nautical and aeronautical products, sale and distribution

"(a)(1) All nautical and aeronautical products created or published by the National Oceanic and Atmospheric Administration shall be sold at such prices as the Secretary of Commerce shall establish annually, in accordance with the provisions of this subsection. The Secretary shall publish annually the prices at which nautical and aeronautical products are sold to the public.

"(2)(A) Subject to subparagraph (B) of this paragraph, the prices of nautical and aeronautical products may be increased over a period of not less than three years after the date of enactment of this section so as to recover all costs attributable to data base management, compilation, printing, and distribution of such products. The prices of such products may be maintained to recover all such costs thereafter. At the end of such period and every three years there-

after, the Secretary, after consultation with the Secretary of Transportation, shall report to the Congress on the effect of imposing or maintaining such increased prices, including any impact on aviation and marine safety.

"(B) The Secretary, after consultation with the Secretary of Transportation, shall adjust the prices of nautical or aeronautical products in such manner as is necessary to avoid any adverse impact on aviation and marine safety attributable to the prices specified in subparagraph (A) of this paragraph.

"(3) This section shall not be construed to require the establishment of any price for a nautical or aeronautical product where, in the judgment of the Secretary, furnishing of that product to a recipient is a reasonable exchange for voluntary contribution of information by the recipient to a program of the National Oceanic and Atmospheric Administration.

"(4) Prices established under this section may not include costs attributable to the acquisition or processing of nautical or aeronautical data.

"(b) Fees collected from the sale of nautical or aeronautical products under this section and from any licensing of such products which is permitted under any other provision of law shall be deposited in the miscellaneous receipts fund of the United States Treasury.

International organizations.

"(c) The Secretary may distribute nautical and aeronautical products—

"(1) without charge to each foreign government or international organization with which the Secretary or a Federal department or agency has an agreement for exchange of these products without cost; and

"(2) at prices which the Secretary establishes, to the departments and officers of the United States requiring them for official use.

"(d) The fees provided for in this section are for the purpose of reimbursing the United States Government for the costs of creating, publishing or distributing aeronautical and nautical products of the National Oceanic and Atmospheric Administration. The collection of fees authorized by this section shall not alter or expand any duty or liability of the United States under existing law for the performance of functions for which fees are collected, nor shall the collection of fees constitute an express or implied undertaking by the United States to perform any activity in a certain manner.

"(e) For purposes of this section, the term 'nautical and aeronautical products' includes all nautical and aeronautical charts, tide and tidal current tables, tidal current charts, coast pilots, water level products, and associated data bases which are created or published by the National Oceanic and Atmospheric Administration.".

44 USC 1301 *et seq.*

(b) The item relating to section 1307 in the analysis of chapter 13 of title 44, United States Code, is amended to read as follows:

"1307. National Oceanic and Atmospheric Administration: nautical and aeronautical products, sale and distribution.".

Subtitle C—Foreign Fishing Permit Fees

SEC. 6021. FOREIGN FISHING PERMIT FEES.

Paragraph (10) of section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)(10)) is amended to read as follows:

"(10) FEES.—(A) Fees shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit is issued pursuant to this subsection. The Secretary, in consultation with the Secretary of State, shall establish a schedule of such fees which shall apply nondiscriminatorily to each foreign nation. Vessels.

"(B) Unless subparagraph (C) applies, the fees imposed under subparagraph (A) shall be at least in an amount sufficient to return to the United States an amount which bears to the total cost of carrying out the provisions of this Act during each fiscal year the same ratio as the aggregate quantity of fish harvested by foreign fishing vessels within the fishery conservation zone during the preceding year bears to the aggregate quantity of fish harvested by both foreign and domestic fishing vessels within such zone and the territorial waters of the United States during such preceding year.

"(C) If the Secretary, in consultation with the Secretary of State, finds that any foreign nation receiving an allocation under section 201(e)— Conservation.

"(i) is harvesting anadromous species of United States origin at a level that is unacceptable to the Secretary; or

"(ii) is failing to take sufficient action to benefit the conservation and development of United States fisheries;

the fees imposed under subparagraph (A) for the next fiscal year shall be at least in an amount sufficient to return to the United States an amount which bears to the total cost of carrying out the provisions of this Act during that fiscal year the same ratio as the aggregate quantity of fish harvested by foreign fishing vessels within the fishery conservation zone during the preceding year bears to the aggregate quantity of fish harvested by both foreign and domestic fishing vessels within such zone during such preceding year. If the Secretary, in consultation with the Secretary of State, finds, at any time during a fiscal year in which fees calculated under this subparagraph are in effect with respect to a foreign nation, that the conditions requiring that calculation no longer exist, the fees imposed under this paragraph with respect to that nation for the remainder of the fiscal year shall be calculated under subparagraph (B).

"(D) Before the end of each fiscal year, the Secretary, in consultation with the Secretary of State, shall review, based on the criteria established in subparagraph (C) (i) and (ii), the performance of every nation receiving an allocation under section 201(e) and provide written notice to the Congress of his findings and reasons therefor before the end of the fiscal year. Notice.

"(E) For purposes of this paragraph, the total cost of carrying out the provisions of this Act includes, but is not limited to, fishery conservation and management, fisheries research, administration, and enforcement, but excludes costs for observers covered by surcharges under section 201(i)(4). Conservation.

"(F)(i) The amounts collected by the Secretary under this paragraph (except the amounts referred to in clause (ii)) shall be transferred to the fisheries loan fund established under section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742(c)) for so long as such fund exists and used for the purpose of making loans therefrom, but only to the extent and in amounts provided for in advance in appropriation Acts.

"(ii) The Secretary shall deposit into the general fund of the United States Treasury the difference between the amounts collected under subparagraph (C) and the amounts that would have been collected had that subparagraph not been enacted.".

Coastal Zone Management Reauthorization Act of 1985.

16 USC 1451 note.

Subtitle D—Amendments to the Coastal Zone Management Act

SEC. 6041. SHORT TITLE.

This subtitle may be cited as the "Coastal Zone Management Reauthorization Act of 1985".

SEC. 6042. REFERENCE.

Whenever in this subtitle an amendment or repeal is expressed in terms of an amendment, or repeal, of a section, subsection, paragraph, or other provision, the reference is to be considered to be made to a section, subsection, paragraph, or other provision of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) unless otherwise specified.

SEC. 6043. REDUCTION OF ADMINISTRATIVE GRANTS.

(a) Section 312(c) (16 U.S.C. 1458(c)) is amended by striking "if the Secretary determines" and all that follows thereafter and inserting in lieu thereof the following: "if the Secretary determines that the coastal state—

"(1) is failing to make significant improvement in achieving the coastal management objectives specified in section 303(2) (A) through (I); or

16 USC 1452.

"(2) is failing to make satisfactory progress in providing in its management program for the matters referred to in section 306(i) (A) and (B).".

(b)(1) Subsection (a) of section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) is amended by striking out "The Secretary may" and all that follows through "if the Secretary—" and substituting in lieu thereof the following: "The Secretary may make grants to any coastal state for the purpose of administering that state's management program, if the state matches any such grant according to the following ratios of Federal to state contributions for the applicable fiscal year: 4 to 1 for fiscal year 1986; 2.3 to 1 for fiscal year 1987; 1.5 to 1 for fiscal year 1988; 1 to 1 for any fiscal year after fiscal year 1988. The Secretary may make the grant only if the Secretary—".

State and local government.

16 USC 1455a.

(2) Section 306A is amended by striking section (d)(1) and substituting in lieu thereof the following:

State and local government.

"(d)(1) The Secretary may make grants to any coastal state for the purpose of carrying out the project or purpose for which such grants are awarded, if the state matches any such grant according to the following ratios of Federal to state contributions for the applicable

fiscal year: 4 to 1 for fiscal year 1986; 2.3 to 1 for fiscal year 1987; 1.5 to 1 for fiscal year 1988; and 1 to 1 for each fiscal year after fiscal year 1988.".

(c) Section 306(g) (16 U.S.C. 1455) is amended by striking out the period at the end of the first sentence and all that follows thereafter and inserting in lieu thereof the following: ", and subject to the following conditions:

"(1) The state shall promptly notify the Secretary of any proposed amendment, modification or other program change and submit it for Secretarial approval. The Secretary may suspend all or part of any grant made under this section pending state submission of the proposed amendment, modification or other program change. State and local government.

"(2) Within 30 days from the date on which the Secretary receives any proposed amendment, the Secretary shall notify the state whether the Secretary approves or disapproves the amendment, or whether the Secretary finds it is necessary to extend the review of the proposed amendment for a period not to exceed 120 days from the date the Secretary received the proposed amendment. The Secretary may extend this 120-day period only as necessary to meet the requirements of the National Environmental Policy Act (42 U.S.C. 4321 et seq.). Notice.

"(3) The state may not implement any proposed amendment as part of its approved program pursuant to section 306, until after the proposed amendment has been approved by the Secretary.". Prohibition.

SEC. 6044. NATIONAL ESTUARINE RESERVE RESEARCH SYSTEM.

Section 315 (16 U.S.C. 1461) is amended to read as follows:

"NATIONAL ESTUARINE RESERVE RESEARCH SYSTEM

"SEC. 315. (a) ESTABLISHMENT OF THE SYSTEM.—There is established the National Estuarine Reserve Research System (hereinafter referred to in this section as the 'System') that consists of—

"(1) each estuarine sanctuary designated under this section as in effect before the date of the enactment of the Coastal Zone Management Reauthorization Act of 1985; and *Ante*, p. 124.

"(2) each estuarine area designated as a national estuarine reserve under subsection (b).

Each estuarine sanctuary referred to in paragraph (1) is hereby designated as a national estuarine reserve.

"(b) DESIGNATION OF NATIONAL ESTUARINE RESERVES.—After the date of the enactment of the Coastal Zone Management Reauthorization Act of 1985, the Secretary may designate an estuarine area as a national estuarine reserve if— State and local government. Research and development.

"(1) the Governor of the coastal State in which the area is located nominates the area for that designation; and

"(2) the Secretary finds that—

"(A) the area is a representative estuarine ecosystem that is suitable for long-term research and contributes to the biogeographical and typological balance of the System;

"(B) the law of the coastal State provides long-term protection for reserve resources to ensure a stable environment for research;

"(C) designation of the area as a reserve will serve to enhance public awareness and understanding of estuarine

areas, and provide suitable opportunities for public education and interpretation; and

"(D) the coastal State in which the area is located has complied with the requirements of any regulations issued by the Secretary to implement this section.

"(c) ESTUARINE RESEARCH GUIDELINES.—The Secretary shall develop guidelines for the conduct of research within the System that shall include—

"(1) a mechanism for identifying, and establishing priorities among, the coastal management issues that should be addressed through coordinated research within the System;

"(2) the establishment of common research principles and objectives to guide the development of research programs within the System;

"(3) the identification of uniform research methodologies which will ensure comparability of data, the broadest application of research results, and the maximum use of the System for research purposes;

"(4) the establishment of performance standards upon which the effectiveness of the research efforts and the value of reserves within the System in addressing the coastal management issues identified in subsection (1) may be measured; and

"(5) the consideration of additional sources of funds for estuarine research than the funds authorized under this Act, and strategies for encouraging the use of such funds within the System, with particular emphasis on mechanisms established under subsection (d).

In developing the guidelines under this section, the Secretary shall consult with prominent members of the estuarine research community.

"(d) PROMOTION AND COORDINATION OF ESTUARINE RESEARCH.—The Secretary shall take such action as is necessary to promote and coordinate the use of the System for research purposes including—

"(1) requiring that the National Oceanic and Atmospheric Administration, in conducting or supporting estuarine research, give priority consideration to research that uses the System; and

State and local government.

"(2) consulting with other Federal and State agencies to promote use of one or more reserves within the System by such agencies when conducting estuarine research.

Grants. Education. State and local governments.

"(e) FINANCIAL ASSISTANCE.—(1) The Secretary may, in accordance with such rules and regulations as the Secretary shall promulgate, make grants—

"(A) to a coastal State—

"(i) for purposes of acquiring such lands and waters, and any property interests therein, as are necessary to ensure the appropriate long-term management of an area as a national estuarine reserve,

"(ii) for purposes of operating or managing a national estuarine reserve and constructing appropriate reserve facilities, or

"(iii) for purposes of conducting educational or interpretive activities; and

"(B) to any coastal State or public or private person for purposes of supporting research and monitoring within a national estuarine reserve that are consistent with the research guidelines developed under subsection (c).

"(2) Financial assistance provided under paragraph (1) shall be subject to such terms and conditions as the Secretary considers necessary or appropriate to protect the interests of the United States, including requiring coastal States to execute suitable title documents setting forth the property interest or interests of the United States in any lands and waters acquired in whole or part with such financial assistance.

State and local governments.

"(3)(A) The amount of the financial assistance provided under paragraph (1)(A)(i) of subsection (e) with respect to the acquisition of lands and waters, or interests therein, for any one national estuarine reserve may not exceed an amount equal to 50 per centum of the costs of the lands, waters, and interests therein or $4,000,000, whichever amount is less.

"(B) The amount of the financial assistance provided under paragraph (1)(A) (ii) and (iii) and paragraph (1)(B) of subsection (e) may not exceed 50 per centum of the costs incurred to achieve the purposes described in those paragraphs with respect to a reserve.

"(f) EVALUATION OF SYSTEM PERFORMANCE.—(1) The Secretary shall periodically evaluate the operation and management of each national estuarine reserve, including education and interpretive activities, and the research being conducted within the reserve.

Education.
Research and development.

"(2) If evaluation under paragraph (1) reveals that the operation and management of the reserve is deficient, or that the research being conducted within the reserve is not consistent with the research guidelines developed under subsection (c), the Secretary may suspend the eligibility of that reserve for financial assistance under subsection (e) until the deficiency or inconsistency is remedied.

"(3) The Secretary may withdraw the designation of an estuarine area as a national estuarine reserve if evaluation under paragraph (1) reveals that—

Research and development.

"(A) the basis for any one or more of the findings made under subsection (b)(2) regarding that area no longer exists; or

"(B) a substantial portion of the research conducted within the area, over a period of years, has not been consistent with the research guidelines developed under subsection (c).

"(g) REPORT.—The Secretary shall include in the report required under section 316 information regarding—

16 USC 1462.

"(1) new designations of national estuarine reserves;

"(2) any expansion of existing national estuarine reserves;

"(3) the status of the research program being conducted within the System; and

"(4) a summary of the evaluations made under subsection (f).".

SEC. 6045. REPEALS.

The following are repealed:

(1) Section 310 (16 U.S.C. 1456c; relating to research and technical assistance programs and grants).

(2) Section 314 (16 U.S.C. 1460; establishing the Coastal Zone Management Advisory Committee).

(3) Subsection (c) of section 15 of the Coastal Zone Management Act Amendments of 1976, Public Law 94-370 (16 U.S.C. 1451 note; relating to certain additional personnel positions).

SEC. 6046. AUTHORIZATIONS OF APPROPRIATIONS.

Section 318 (16 U.S.C. 1464) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) such sums, not to exceed $35,000,000 for the fiscal year ending September 30, 1986, not to exceed $36,600,000 for the fiscal year ending September 30, 1987, $37,900,000 for the fiscal year ending September 30, 1988, $38,800,000 for the fiscal year ending September 30, 1989, and $40,600,000 for the fiscal year ending September 30, 1990, as may be necessary for grants under sections 306 and 306A, to remain available until expended;";

Ante, pp. 124, 125.

(2) by striking paragraph (2) and renumbering the succeeding paragraphs; and

(3) by amending paragraphs (3), (4), and (5) (as renumbered by paragraph (2) of this section) to read as follows:

"(3) such sums, not to exceed $1,000,000 for the fiscal year ending September 30, 1986, and not to exceed $1,500,000 for each of the fiscal years occurring during the period beginning October 1, 1986, and ending September 30, 1990, as may be necessary for grants under section 309, to remain available until expended;

16 USC 1456b.

"(4) such sums, not to exceed $2,500,000 for the fiscal year ending September 30, 1986, not to exceed $3,800,000 for the fiscal year ending September 30, 1987, $4,500,000 for the fiscal year ending September 30, 1988, $5,000,000 for the fiscal year ending September 30, 1989, and $5,500,000 for the fiscal year ending September 30, 1990, as may be necessary for grants under section 315, to remain available until expended; and

Ante, p. 125.

"(5) such sums, not to exceed $3,300,000 for the fiscal year ending September 30, 1986, not to exceed $3,300,000 for the fiscal year ending September 30, 1987, $3,300,000 for the fiscal year ending September 30, 1988, $4,000,000 for the fiscal year ending September 30, 1989, and $4,000,000 for the fiscal year ending September 30, 1990, as may be necessary for administrative expenses incident to the administration of this title.".

SEC. 6047. TECHNICAL AMENDMENT.

Section 308(h) (16 U.S.C. 1456a(h)) is amended by deleting "subsections (c)(1)" each place it appears and inserting instead "subsections (c)".

Subpart E—National Oceanic and Atmospheric Administration

SEC. 6051. AUTHORIZATION OF APPROPRIATIONS.

(a) For purposes of this section—

(1) The term "Administration" means the National Oceanic and Atmospheric Administration.

(2) The term "Department" means the Department of Commerce.

(b) There are authorized to be appropriated to the Department to enable the Administration to carry out its executive direction and administration functions and duties under law, $47,667,000 for fiscal year 1986 and $49,812,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to executive direction and administration authorized by the Act entitled "An Act to clarify the status and benefits of commissioned officers of the National Oceanic and At-

mospheric Administration, and for other purposes", approved December 31, 1970 (33 U.S.C. 857-1 et seq.), and any other law involving such functions and duties. Such functions and duties include management, administrative support, retired pay of National Oceanic and Atmospheric Administration commissioned officers, and policy development.

(c) There are authorized to be appropriated to the Department to enable the Administration to carry out its marine services functions and duties under law, $61,791,000 for fiscal year 1986 and $64,572,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to marine services authorized by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving such functions and duties. Such functions and duties include ship operations, maintenance, and support.

(d) There are authorized to be appropriated to the Department to enable the Administration to carry out its aircraft services functions and duties under law, $14,779,000 for fiscal year 1986 and $15,440,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to aircraft services authorized by the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Service to the Department of Agriculture", approved October 1, 1890 (15 U.S.C. 311 et seq.), and any other law involving such functions and duties. Such functions and duties include aircraft operations, maintenance, and support.

(e) For the purpose of enabling the Administration to carry out its functions and duties under the National Advisory Committee on Oceans and Atmosphere Act of 1977 (33 U.S.C. 857-13 et seq.), there are authorized to be appropriated to the Department $500,000 for fiscal year 1986.

(f)(1) There are authorized to be appropriated to the Department to enable the Administration to carry out its nonliving marine resource functions and duties under law, $1,800,000 for fiscal year 1986 and $1,881,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to nonliving marine resources authorized by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving such functions and duties. Such functions and duties include research, development, and licensing responsibilities pertaining to ocean thermal energy conversion and the deep seabed mining of manganese nodules, and polymetallic sulfide analyses and research.

(2) The authorization provided for under paragraph (1) of this subsection shall be in addition to moneys authorized under the Deep Seabed Hard Mineral Resources Act (30 U.S.C. 1401 et seq.), and the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 9101 et seq.), for the purpose of carrying out such functions and duties relating to nonliving marine resources.

(g)(1) There are authorized to be appropriated to the Department to enable the Administration to carry out its ocean research functions and duties under law, $33,884,000 for fiscal year 1986 and $35,409,000 for fiscal year 1987. Moneys appropriated pursuant to

this authorization shall be used to fund those functions and duties relating to ocean research authorized by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving such functions and duties. Such functions and duties include undersea marine resources, air-sea interaction, and ocean and Great Lakes environmental research.

(2) The authorization provided for under paragraph (1) of this subsection shall be in addition to ocean research moneys authorized under the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701 et seq.) for the purpose of carrying out such functions and duties relating to ocean research.

(h)(1) There are authorized to be appropriated to the Department to enable the Administration to carry out its ocean service functions and duties under law, $17,181,000 for fiscal year 1986 and $17,954,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to ocean services authorized by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving such functions and duties. Such functions and duties include coordination of interagency research in ocean dumping and marine pollution, and provision of tide and current data for the safe and efficient use of the oceans and Great Lakes by government, commerce, and the private sector.

(2) The authorization provided for under paragraph (1) of this subsection shall be in addition to moneys authorized under the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441 et seq.), the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), and the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701 et seq.), for the purpose of carrying out such functions and duties relating to ocean services.

(i) There are authorized to be appropriated to the Department to enable the Administration to carry out its mapping, charting, and geodesy functions and duties under law, $47,943,000 for fiscal year 1986 and $50,100,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to mapping, charting, and geodesy authorized by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving such functions and duties. Such functions and duties include aeronautical and nautical mapping and charting activities, and geodetic data collection and analysis.

(j) There are authorized to be appropriated to the Department to enable the Administration to carry out its programs at current levels such sums as may be necessary to accommodate salary, pay, and other employee benefits authorized by law for fiscal years 1986 and 1987.

Subtitle F—Marine Protection, Research, and Sanctuaries Act Amendments

SEC. 6061. CONSOLIDATION OF REPORT.

Section 201 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441) is amended by striking out all that follows "connecting waters" and inserting in lieu thereof a period.

SEC. 6062. MARINE RESEARCH REQUIREMENTS.

Section 202 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1442) is amended—

(1) by inserting "(1)" before "The Secretary" in subsection (a);

(2) by striking out "in consultation" in the first sentence of subsection (a) and inserting in lieu thereof "in close consultation";

(3) by adding at the end of subsection (a) the following new paragraph:

"(2) The Secretary of Commerce shall ensure that the program under this section complements, when appropriate, the activities undertaken by other Federal agencies pursuant to title I and section 203. That program shall include but not be limited to— Pollution. 33 USC 1411. *Infra.*

"(A) the development and assessment of scientific techniques to define and quantify the degradation of the marine environment;

"(B) the assessment of the capacity of the marine environment to receive materials without degradation;

"(C) continuing monitoring programs to assess the health of the marine environment, including but not limited to the monitoring of bottom oxygen concentrations, contaminant levels in biota, sediments, and the water column, diseases in fish and shellfish, and changes in types and abundance of indicator species;

"(D) the development of methodologies, techniques, and equipment for disposal of waste materials to minimize degradation of the marine environment."; and

(4) by striking out subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 6063. REGIONAL MANAGEMENT PLANS.

Section 203 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1443) is amended by adding at the end thereof the following new subsections:

"(c) The Administrator, in cooperation with the Secretary, the Secretary of Commerce, and other officials of appropriate Federal, State, and local agencies, shall assess the feasibility in coastal areas of regional management plans for the disposal of waste materials. Such plans should integrate where appropriate Federal, State, regional, and local waste disposal activities into a comprehensive regional disposal strategy. These plans should address, among other things— State and local governments. Waste disposal.

"(1) the sources, quantities, and types of materials that require and will require disposal;

"(2) the environmental, economic, social, and human health factors (and the methods used to assess these factors) associated with disposal alternatives;

"(3) the improvements in production processes, methods of disposal, and recycling to reduce the adverse effects associated with such disposal alternatives;

"(4) the applicable laws and regulations governing waste disposal; and

"(5) improvements in permitting processes to reduce administrative burdens.

Report.
New York.

"(d) The Administrator, in cooperation with the Secretary of Commerce, shall submit to the Congress and the President, not later than one year after the date of enactment of this provision, a report on sewage sludge disposal in the New York City metropolitan region. The report shall—

"(1) consider the factors listed in subsection (c) as they relate to landfilling, incineration, ocean dumping, or any other feasible disposal or reuse/recycling option;

"(2) include an assessment of the cost of these alternatives; and

"(3) recommend such regulatory or legislative changes as may be necessary to reduce the adverse impacts associated with sewage sludge disposal.".

SEC. 6064. AUTHORIZATION OF APPROPRIATIONS.

33 USC 1445.

Section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1444) is redesignated as section 205; and such section as so redesignated is amended by striking out "and" immediately following "fiscal year 1981" and by striking out "1982." and inserting in lieu thereof the following: "1982, not to exceed $10,635,000 for fiscal year 1986, and not to exceed $11,114,000 for fiscal year 1987.".

SEC. 6065. CONSOLIDATION OF REPORTS.

Section 205 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1445) is transferred to a point immediately following section 203 of such Act and redesignated as section 204; and such section as so transferred and redesignated is amended to read as follows:

"ANNUAL REPORT

33 USC 1444.

"SEC. 204. (a) In March of each year, the Secretary of Commerce shall report to the Congress on his activities under this title during the previous fiscal year. The report shall include—

Ante, p. 131.

"(1) the Secretary's findings made under section 201, including an evaluation of the short-term ecological effects and the social and economic factors involved with the dumping;

"(2) the results of activities undertaken pursuant to section 202;

"(3) with the concurrence of the Administrator and after consulting with officials of other appropriate Federal agencies, an identification of the short- and long-term research requirements associated with activities under title I, and a description of how Federal research under titles I and II will meet those requirements; and

33 USC 1411.
33 USC 1441.

"(4) activities of the Department of Commerce under section 5 of the Act of March 10, 1934 (48 Stat. 401; 16 U.S.C. 665).

"(b) In March of each year, the Administrator shall report to the Congress on his activities during the previous fiscal year under section 203.".

Ante, p. 131.

Subtitle G—National Ocean Pollution Planning Act Amendments

SEC. 6071. FINDINGS AND PURPOSES.

Research and development. Conservation.

(a) Section 2(a) of the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701) is amended by adding at the end thereof the following new paragraphs:

"(6) Numerous Federal agencies have initiated and supported research projects to study, enhance, manage, preserve, protect, or restore the resources of the Great Lakes, the Chesapeake Bay, Puget Sound, and other estuaries of national significance.

"(7) Various research projects relating to the Great Lakes, the Chesapeake Bay, Puget Sound, and other estuaries of national significance, including those conducted at the college and university level and those conducted at the State and local governmental level, can be more effectively coordinated in order to obtain maximum benefits.".

(b) Section 2(b) of the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701) is amended by striking out "and" at the end of paragraph (2), by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

"(3) to provide for the effective coordination of research conducted to support the preservation and protection of the environmental quality of the Great Lakes, the Chesapeake Bay, Puget Sound, and other estuaries of national significance, and to encourage the use of such research in determinations that affect the environmental quality of the Great Lakes, the Chesapeake Bay, Puget Sound, and other estuaries of national significance; and".

SEC. 6072. NATIONAL OCEAN POLLUTION PROGRAM OFFICE AND NATIONAL OCEAN POLLUTION POLICY BOARD.

The National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701 et seq.) is further amended as follows:

(1) Section 3 is amended— 33 USC 1702.

(A) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively;

(B) by inserting after paragraph (2) the following new paragraph:

"(3) The term 'Board' means the National Ocean Pollution Policy Board established under section 3A(b)."; and *Infra.*

(C) by adding at the end thereof the following new paragraph:

"(8) The term 'Office' means the National Ocean Pollution Program Office established under section 3A(a).".

(2) The following new section is inserted immediately after section 3:

"SEC. 3A. NATIONAL OCEAN POLLUTION PROGRAM OFFICE AND NATIONAL OCEAN POLLUTION POLICY BOARD. 33 USC 1702a.

"(a) PROGRAM OFFICE.—(1) The Administrator shall establish within the Administration the National Ocean Pollution Program Office.

"(2) The Office shall—

33 USC 1703.

"(A) serve as the lead entity responsible for administering the program established under section 4;

"(B) be headed by a director who shall—

"(i) be appointed by the Administrator,

"(ii) serve as the Chair of the Board, and

"(iii) be the spokesperson for the program;

"(C) serve as the staff for the Board and its supporting committees and working groups; and

"(D) review each department and agency budget request transmitted under section 4(d) and submit an analysis of the requests to the Board for its review.

The analysis described in subparagraph (D) shall include an analysis of how each departmental or agency budget request relates to the priorities and goals of the Plan established under section 4.

33 USC 1706.

"(b) POLICY BOARD.—(1) The Administrator, with the cooperation of the Federal departments and agencies referred to in section 7, shall establish a National Ocean Pollution Policy Board consisting of representatives of those departments and agencies.

Report.

"(2) The Board shall—

"(A) be responsible for coordinated planning and progress review for the program established under section 4;

"(B) review all department and agency budget requests transmitted to it under section 4(d) and submit a report to the Office of Management and Budget and to the Congress concerning those budget requests;

"(C) establish and maintain such interagency groups as the Board determines to be necessary to carry out its activities; and

"(D) consult with and seek the advice of users and producers of ocean pollution data, information, and services to guide the Board's efforts, keeping the Director and the Congress advised of such consultations.".

SEC. 6073. FEDERAL PLANNING TO INCLUDE GREAT LAKES.

Section 4 of the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1703) is amended—

(1) by inserting after "general research on marine ecosystems" in subsection (b)(2)(A) the following: ", including the Great Lakes, the Chesapeake Bay, Puget Sound, and other estuaries of national significance,";

(2) in subsection (b)(4)—

(A) by striking out "BUDGET REVIEW.—" and inserting in lieu thereof "PLAN REVIEW.—"; and

(B) by striking out "to coordinate the budget review process"; and

(3) by adding at the end thereof the following new subsection:

"(d) BUDGETING.—Each Federal agency and department included under the Plan shall prepare and submit to the Office of Management and Budget, the Office, and the Board on or before the date of submission of departmental requests for appropriations to the Office of Management and Budget, an annual request for appropriations to carry out the activities of that agency or department under the Plan during the subsequent fiscal year. The Office of Management and Budget shall review the request for appropriations as an integrated, coherent, and multiagency request, taking into account the review by the Board of those requests under section 3A(b).".

Ante, p. 133

SEC. 6074. DISSEMINATION OF INFORMATION ON GREAT LAKES.

Section 8 of the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1707) is amended by adding "(a)" after "SEC. 8." and by adding at the end thereof the following new subsection:

"(b) The Administrator shall ensure that the findings and information regarding ocean pollution research activities associated with the Great Lakes identified pursuant to section 4(b) be disseminated in a timely manner and in useful forms to relevant departments of the Federal Government, State governments, and other persons with an interest in such information.". 33 USC 1703.

SEC. 6075. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the National Ocean Pollution Planning Act of 1978, as amended (33 U.S.C. 1709), is amended by striking out "and" after "1981," and by striking out "1982." and inserting in lieu thereof "1982, and not to exceed $3,571,000 for fiscal year 1986, and not to exceed $3,732,000 for fiscal year 1987.".

Subtitle H—Weather Modification

SEC. 6081. AUTHORIZATION OF APPROPRIATIONS.

Section 6 of the Act entitled "An Act to provide for the reporting of weather modification activities to the Federal Government", approved December 18, 1971 (85 Stat. 736; 15 U.S.C. 330e), is amended—

(1) by striking "and"; and

(2) by inserting immediately after "1981," the following: "$100,000 for the fiscal year ending September 30, 1986, $100,000 for the fiscal year ending September 30, 1987, $100,000 for the fiscal year ending September 30, 1988,".

SEC. 6082. OCEAN SATELLITE DATA. 33 USC 883j.

The Administrator of the National Oceanic and Atmospheric Administration (hereinafter referred to in this subtitle as the "Administration") shall take such actions, including the sponsorship of applied research, as may be necessary to assure the future availability and usefulness of ocean satellite data to the maritime community.

SEC. 6083. AWARDING OF CONTRACTS. 15 USC 1530.

The Administration may not award any contract for the performance of any "commercial activity", as defined by paragraph 6.a. of the Office of Management and Budget Circular Memorandum A-76, which is performed by Administration employees until at least 30 calendar days after the Administrator of the Administration has presented, in writing, to the President of the Senate, the Speaker of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Merchant Marine and Fisheries and the Committee on Science and Technology of the House of Representatives, a full and complete description of such proposed contract, together with supporting documentation. Such documentation shall include— Prohibition. Congress.

(1) a comparison of the cost of such activity as performed by employees of the Administration and the cost of such activity as performed under the proposed contract;

(2) a comparison of the services performed by employees of the Administration and the services to be performed under the proposed contract; and

(3) an assessment of the benefits to the Federal Government of proceeding with the proposed contract.

SEC. 6084. NATIONAL CLIMATE PROGRAM.

(a) Section 4 of the National Climate Program Act (15 U.S.C. 2903) is amended—

(1) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively; and

(2) by inserting before paragraph (2), as so redesignated, the following new paragraph:

"(1) The term 'Board' means the Climate Program Policy Board.".

(b) Section 5(c) of the National Climate Program Act (15 U.S.C. 2904(c)) is amended—

(1) by inserting "(1)" immediately before "The Secretary";

(2) by designating the third sentence as paragraph (4); and

(3) by striking the second sentence and inserting in lieu thereof the following new paragraphs:

"(2) The Office shall—

"(A) serve as the lead entity responsible for administering the program;

"(B) be headed by a Director who shall represent the Climate Program Policy Board and shall be spokesperson for the program;

"(C) serve as the staff for the Board and its supporting committees and working groups;

"(D) review each agency budget request transmitted under subsection (g)(1) and submit an analysis of the requests to the Board for its review;

"(E) be responsible for coordinating interagency participation in international climate-related activities; and

"(F) work with the National Academy of Sciences and other private, academic, State, and local groups in preparing and implementing the 5-year plan (described in subsection (d)(9)) and the program.

The analysis described in subparagraph (D) shall include an analysis of how each agency's budget request relates to the priorities and goals of the program established pursuant to this Act.

Contracts. Grants.

"(3) The Secretary may provide, through the Office, financial assistance, in the form of contracts or grants or cooperative agreements, for climate-related activities which are needed to meet the goals and priorities of the program set forth in the 5-year plan pursuant to subsection (d)(9), if such goals and priorities are not being adequately addressed by any Federal department, agency, or instrumentality.".

(c) Section 5(d) of the National Climate Program Act (15 U.S.C. 2904(d)) is amended—

State and local governments.

(1) by striking the semicolon at the end of paragraph (7) and inserting in lieu thereof the following: ". Such mechanisms may provide, among others, for the following State and regional services and functions: (A) studies relating to and analyses of climatic effects on agricultural production, water resources, energy needs, and other critical sectors of the economy; (B) atmospheric data collection and monitoring on a statewide and

regional basis; (C) advice to regional, State, and local government agencies regarding climate-related issues; (D) information to users within the State regarding climate and climatic effects; and (E) information to the Secretary regarding the needs of persons within the States for climate-related services, information, and data. The Secretary may make annual grants to any State or group of States, which grants shall be made available to public or private educational institutions, to State agencies, and to other persons or institutions qualified to conduct climate-related studies or provide climate-related services;";

Grants.
State and local governments.

(2) by striking "biennially" in paragraph (9) and inserting in lieu thereof "at least once every four years"; and

(3) by striking "under section 6" in paragraph (9) and inserting in lieu thereof "described in paragraph (7)".

(d) Section 5(e) of the National Climate Program Act (15 U.S.C. 2904(e)) is amended to read as follows:

"(e) CLIMATE PROGRAM POLICY BOARD.—(1) The Secretary shall establish and maintain an interagency Climate Program Policy Board, consisting of representatives of the Federal agencies specified in subsection (b)(2) and any other agency which the Secretary determines should participate in the Program.

"(2) The Board shall—

Report.

"(A) be responsible for coordinated planning and progress review for the Program;

"(B) review all agency and department budget requests related to climate transmitted under subsection (g)(1) and submit a report to the Office of Management and Budget concerning such budget requests;

"(C) establish and maintain such interagency groups as the Board determines to be necessary to carry out its activities; and

"(D) consult with and seek the advice of users and producers of climate data, information, and services to guide the Board's efforts, keeping the Director and the Congress advised of such contacts.

"(3) The Board biennially shall select a Chair from among its members. A Board member who is a representative of an agency may not serve as Chair of the Board for a term if an individual who represented that same agency on the Board served as the Board's Chair for the previous term.".

(e) Section 5(f)(2) of the National Climate Program Act (15 U.S.C. 2904(f)(2)) is amended by inserting "with the Office" immediately after "cooperate".

(f) The first sentence of section 5(g)(1) of the National Climate Program Act (15 U.S.C. 2904(g)(1)) is amended by inserting immediately before the period the following: "and shall transmit a copy of such request to the National Climate Program Office".

(g) Section 6 of the National Climate Program Act (15 U.S.C. 2905) is repealed.

Repeal.

(h) There are authorized to be appropriated to the Administration, for purposes of carrying out the provisions of the amendments made by this section, $1,897,000 for fiscal year 1986 and $1,982,000 for fiscal year 1987. Of such funds, at least 25 percent shall be made available for intergovernmental climate-related activities described in section 5(d)(7) of the National Climate Program Act (15 U.S.C. 2904(d)(7)), and at least 20 percent shall be made available during each fiscal year for experimental climate forecast centers described

in section 5(d)(8) of the National Climate Program Act (15 U.S.C. 2904(d)(8)).

SEC. 6085. COOPERATIVE AGREEMENTS FOR MAPPING AND CHARTING SURVEYS.

Section 5 of the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (61 Stat. 788, 33 U.S.C. 883e) is amended—

(1) by inserting "(1)" after "SEC. 5.";

(2) by inserting "any Federal agency," after "or subdivision thereof,"; and

(3) by adding at the end thereof the following:

"(2) The Secretary of Commerce is authorized to establish the terms of any cooperative agreement entered into under this section, including the amount of funds to be received, and may contribute that portion of the costs incurred by the National Oceanic and Atmospheric Administration, including shiptime and personnel expenses, which the Secretary determines represents the amount of benefits derived by the Administration from the cooperative agreement.".

Subtitle I—Maritime Authorizations

SEC. 6091. MARITIME PROGRAMS.

(a) Funds are authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Transportation for fiscal year 1986 as follows:

(1) for payment of obligations incurred for operating-differential subsidy, not to exceed $335,084,000;

(2) for expenses necessary for research and development activities, not to exceed $9,900,000; and

(3) for expenses necessary for operations and training activities, not to exceed $71,967,000, including not to exceed—

(A) $34,847,000 for maritime education and training expenses, including not to exceed $19,633,000 for maritime training at the Merchant Marine Academy at Kings Point, New York, $10,915,000 for financial assistance to State maritime academies, $3,000,000 for fuel oil assistance to State maritime academy training vessels, and $1,299,000 for expenses necessary for additional training;

(B) $9,277,000 for national security support capabilities, including not to exceed $7,932,000 for reserve fleet expenses, and $1,345,000 for emergency planning/operations; and

(C) $27,843,000 for other operations and training expenses.

(b) Funds are authorized to be appropriated for the use of the Federal Maritime Commission, in the amount of $11,940,000 for fiscal year 1986.

TITLE VII—ENERGY AND RELATED PROGRAMS

Subtitle A—Pipeline Programs

SEC. 7001. NATURAL GAS PIPELINE SAFETY AUTHORIZATIONS.

Section 17(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(a)) is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph: "(4) $3,450,000 for the fiscal year ending September 30, 1986.".

SEC. 7002. AUTHORIZATIONS FOR FEDERAL GRANTS-IN-AID.

(a) COMBINED PROGRAM.—Section 17 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684) is amended by adding at the end thereof the following new subsections:

"(c) For the purpose of carrying out the Federal grants-in-aid provisions of section 5(d) of this Act and section 205(d) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)) there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1986. *Infra.*

"(d) Not less than 5 percent of any amounts appropriated for carrying out the Federal grants-in-aid provisions for any fiscal year beginning after September 30, 1985, shall be available only for carrying out the Federal grants-in-aid provisions of section 205(d) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)).".

(b) CONFORMING AMENDMENTS.—

(1) Section 5(d)(2) of such Act (49 U.S.C. App. 1674(d)(2)) is amended—

(A) by striking out "authorized to be appropriated by section 17(b) of this Act" and inserting in lieu thereof "appropriated for carrying out the Federal grants-in-aid provisions of this subsection"; and

(B) by striking out "(1) of this section" and inserting in lieu thereof "(1) of this subsection".

(2) Section 205(d)(2) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)(2)) is amended by striking out "authorized to be appropriated by section 214 of this title" and inserting in lieu thereof "appropriated for carrying out the Federal grants-in-aid provisions of this subsection".

(3) Section 214(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2013(a)) is amended by inserting after "subsection (b)" the following: "or section 17(c) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(c))".

(4) Section 17(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(a)) is amended by inserting after "subsection (b)" the following: "or (c)".

SEC. 7003. REPORTS.

(a) GRANTS MERGER REPORT.—

(1) MERGER RECOMMENDATIONS.—The Secretary of Transportation shall prepare a report which shall contain details of the

Secretary's recommendations with respect to the potential merger and joint administration of the Federal grants-in-aid provisions of section 5(d) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1674(d)) and section 205(d) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)).

Ante, p. 139.
Ante, p. 139.

State and local governments.

(2) CONSULTATION.—In preparing the report required by paragraph (1), the Secretary shall consult with appropriate State authorities. The Secretary shall include in such report a summary of the views and recommendations of such State authorities.

(b) GRANTS ALLOCATION REPORT.—

State and local governments.

(1) CONTENTS.—The Secretary of Transportation shall prepare a report which shall contain an explanation of the method by which the Secretary allocates funds to the States under section 5(d) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C App. 1674(d)) and section 205(d) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)).

Federal Register, publication.

(2) PUBLICATION.—The Secretary shall publish in the Federal Register, as a matter of public information, the explanation contained in the report required by paragraph (1).

(c) REPORT DEADLINE.—The reports required by subsections (a)(1) and (b)(1) shall be submitted to Congress no later than July 1, 1986.

SEC. 7004. HAZARDOUS LIQUID PIPELINE SAFETY AUTHORIZATIONS.

Section 214(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2013(a)) is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph: "(4) $875,000 for the fiscal year ending September 30, 1986.".

49 USC app. 1682a.

SEC. 7005. PIPELINE SAFETY USER FEES.

(a) ESTABLISHMENT.—

(1) SCHEDULE.—The Secretary of Transportation (hereafter in this section referred to as the "Secretary") shall establish a schedule of fees based on the usage, in reasonable relationship to volume-miles, miles, revenues, or an appropriate combination thereof, of natural gas and hazardous liquid pipelines. In establishing such schedule, the Secretary shall take into consideration the allocation of departmental resources.

State and local governments.

(2) COLLECTION.—The Secretary shall establish procedures for the collection of such fees. The Secretary may use the services of any Federal, State, or local agency or instrumentality to collect such fees, and may reimburse such agency or instrumentality a reasonable amount for such services.

(3) LIABILITY.—Fees established under this section shall be assessed to the persons operating—

(A) all pipeline facilities subject to the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001 et seq.); and

(B) all pipeline transmission facilities and all liquefied natural gas facilities subject to the jurisdiction of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671 et seq.).

(b) TIME OF ASSESSMENT.—The Secretary shall assess and collect fees described in subsection (a) with respect to each fiscal year before the end of such fiscal year.

(c) USE OF FUNDS.—Funds received under subsection (a) shall be used, to the extent provided for in advance in appropriation Acts, only—

(1) in the case of natural gas pipeline safety fees, for activities authorized under the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671 et seq.); and

(2) in the case of hazardous liquid pipeline safety fees, for activities authorized under the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001 et seq.).

(d) FEE SCHEDULE.—Fees established by the Secretary under subsection (a) shall be assessed against all natural gas and hazardous liquids transported by pipelines subject to the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 after September 30, 1985, and shall be sufficient to meet the costs of activities described in subsection (c), beginning on October 1, 1985, but at no time shall the aggregate of fees received for any fiscal year under this section exceed 105 percent of the aggregate of appropriations made for such fiscal year for activities to be funded by such fees.

Subtitle B—Strategic Petroleum Reserve

SEC. 7101. AUTHORIZATIONS OF APPROPRIATIONS FOR FISCAL YEARS 1986, 1987, AND 1988.

Funds are hereby authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the Strategic Petroleum Reserve— 42 USC 7270.

(1) to carry out part B of title I of the Energy Policy and Conservation Act (including any drawdown and distribution of the Reserve), except acquisition, transportation, and injection of petroleum products, as defined for purposes of such part B, for the Reserve— 42 USC 6231.

(A) for fiscal year 1986, $135,912,000;

(B) for fiscal year 1987, $358,996,000; and

(C) for fiscal year 1988, $156,692,000; and

(2) to carry out part B of title I of the Energy Policy and Conservation Act for the acquisition, transportation, and injection of petroleum products, as defined for purposes of such part B, for the Reserve and for any drawdown and distribution of the Reserve—

(A) for fiscal year 1986, $357,548,000;

(B) for fiscal year 1987, $333,695,000; and

(C) for fiscal year 1988, $357,000,000.

SEC. 7102. FILL-RATE OF THE RESERVE; LIMITATION ON UNITED STATES SHARE OF THE NAVAL PETROLEUM RESERVE.

(a) FILL-RATE OF THE RESERVE.—Section 160(c) of the Energy Policy and Conservation Act (42 U.S.C. 6240(c)) is amended by adding the following new paragraph at the end:

"(3) Notwithstanding paragraph (2), beginning in fiscal year 1986 and continuing through fiscal years 1987 and 1988 until the quantity of crude oil in storage within the Reserve is at least 527,000,000 barrels, the President shall carry out petroleum acquisition, transportation, and injection activities at a level sufficient to assure a minimum average annual fill-rate of at least 35,000 barrels per day in addition to any petroleum products acquired for the Reserve President of U.S.

to replace petroleum products withdrawn from the Reserve as a result of a test drawdown and distribution.".

(b) LIMITATION ON UNITED STATES SHARE OF THE NAVAL PETROLEUM RESERVE.—Section 160(d)(1) of such Act (42 U.S.C. 6240(d)(1)) is amended—

(1) by striking out "500,000,000 barrels" in subparagraph (A) and inserting in lieu thereof "527,000,000 barrels"; and

(2) by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) acquisition, transportation, and injection activities for the Reserve are being undertaken, beginning in fiscal year 1986 and continuing through fiscal years 1987 and 1988 until the quantity of crude oil in storage within the Reserve is at least 527,000,000 barrels, at a level sufficient to assure that petroleum products in storage in the Reserve will be increased at a minimum annual average rate of at least 35,000 barrels per day in addition to any petroleum products acquired for the Reserve to replace petroleum products withdrawn from the Reserve as a result of a test drawdown and distribution.".

Subtitle C—Federal Energy Conservation Shared Savings

SEC. 7201. SHARED ENERGY SAVINGS.

(a) IN GENERAL.—The National Energy Conservation Policy Act (42 U.S.C. 8201 and following) is amended by adding at the end the following new title:

"TITLE VIII—SHARED ENERGY SAVINGS

42 USC 8287.

"SEC. 801. AUTHORITY TO ENTER INTO CONTRACTS.

"The head of a Federal agency may enter into contracts under this title solely for the purpose of achieving energy savings and benefits ancillary to that purpose. Each such contract may, notwithstanding any other provision of law, be for a period not to exceed 25 years. Such contract shall provide that the contractor shall incur costs of implementing energy savings measures, including at least the costs (if any) incurred in making energy audits, acquiring and installing equipment, and training personnel, in exchange for a share of any energy savings directly resulting from implementation of such measures during the term of the contract.

42 USC 8287a.

"SEC. 802. PAYMENT OF COSTS.

"Any amount paid by a Federal agency pursuant to any contract entered into under this title may be paid only from funds appropriated or otherwise made available to the agency for fiscal year 1986 or any fiscal year thereafter for the payment of energy expenses (and related operation and maintenance expenses).

42 USC 8287b.

"SEC. 803. REPORTS.

"Each Federal agency shall periodically furnish the Secretary of Energy with full and complete information on its activities under this title, and the Secretary shall include in the report submitted to

Congress under section 550 a description of the progress made by each Federal agency in— 42 USC 8260.

"(1) including the authority provided by this title in its contracting practices; and

"(2) achieving energy savings under contracts entered into under this title.

"SEC. 804. DEFINITIONS. 42 USC 8287c.

"For purposes of this title—

"(1) the term 'Federal agency' means an agency defined in section 551(1) of title 5, United States Code, and

"(2) the term 'energy savings' means a reduction in the cost of energy, from a base cost established through a methodology set forth in the contract, utilized in an existing federally owned building or buildings or other federally owned facilities as a result of—

"(A) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services; or

"(B) the increased efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities.".

(b) TABLE OF CONTENTS.—The table of contents of such Act is amended by adding the following at the end:

"TITLE VIII—SHARED ENERGY SAVINGS

"Sec. 801. Authority to enter into contracts.
"Sec. 802. Payment of costs.
"Sec. 803. Reports.
"Sec. 804. Definitions.".

Subtitle D—Biomass Energy and Alcohol Fuels Loan Guarantees

SEC. 7301. BIOMASS ENERGY AND ALCOHOL FUELS LOAN GUARANTEES.

Section 221 of the Biomass Energy and Alcohol Fuels Act of 1980 (Public Law 96-294; 42 U.S.C. 8821) is amended by—

(1) striking out "September 30, 1985" and inserting in lieu thereof "June 30, 1986"; and

(2) adding at the end thereof the following: "Notwithstanding any other provision of this subtitle, the Secretary of Energy may modify the terms and conditions of any conditional commitment for a loan guarantee under this subtitle made before October 1, 1984, including the amount of the loan guarantee. Nothing in this section shall be interpreted as indicating Congressional approval with respect to any pending conditional commitments under this Act.".

Subtitle E—Synthetic Fuels

SEC. 7401. SHORT TITLE. Synthetic Fuels Corporation Act of 1985. 42 USC note prec. 8791.

This subtitle may be cited as the "Synthetic Fuels Corporation Act of 1985".

42 USC note prec. 8791. Prohibitions.

SEC. 7402. CESSATION OF FINANCIAL ASSISTANCE AUTHORITY.

Effective on the date of enactment of this Act, the United States Synthetic Fuels Corporation (hereafter in this subtitle referred to as the "Corporation") may not make any legally binding awards or commitments for financial assistance (including any changes in an existing award or commitment) pursuant to the Energy Security Act for synthetic fuel project proposals, except that nothing in this Act shall impair or alter the powers, duties, rights, obligations, privileges, or liabilities of the Corporation, its Board or Chairman, or project sponsors in the performance and completion of the terms and undertakings of a legally binding award or commitment entered into prior to the date of enactment of this Act.

42 USC 8701 note.

42 USC note prec. 8791.

SEC. 7403. TERMINATION OF THE CORPORATION.

(a) Within 60 days of the date of enactment of this Act, the Directors of the Corporation shall terminate their duties under the Energy Security Act and be discharged.

(b) Within 120 days of the date of enactment of this Act, the Corporation shall terminate, except as otherwise provided in this subtitle, in accordance with subtitle J of part B of title I of the Energy Security Act.

42 USC 8791.

42 USC note prec. 8791.

SEC. 7404. DUTIES OF SECRETARY OF THE TREASURY.

(a) Within 60 days of the date of enactment of this Act (or earlier, in the event of absence of a Chairman of the Board of Directors of the Corporation), the Secretary of the Treasury shall assume the duties of the Chairman of the Board of Directors of the Corporation.

Prohibitions.

(b) Notwithstanding any other provision of law, the duties and responsibilities of the Secretary of the Treasury under subtitle J of part B of title I of the Energy Security Act or this Act may not be transferred to any other Federal department or agency.

(c) Notwithstanding such termination of the Corporation, the Advisory Committee established under section 123 of the Energy Security Act (42 U.S.C 8719) shall remain in effect to advise the Secretary of the Treasury regarding the administration of any contract or obligation of the Corporation pursuant to subtitle D of part B of title I of such Act.

42 USC 8731.

(d) To the extent that the Secretary of the Treasury may be required to take an action under section 131(q) of the Energy Security Act in connection with an award or commitment of financial assistance under such Act, the Secretary shall complete such action within 30 days of the date of enactment of this Act.

42 USC 8731.

42 USC note prec. 8791. Contract.

SEC. 7405. SALARIES AND COMPENSATION RIGHTS.

(a) The Director of the Office of Personnel Management shall, before February 1, 1986, determine the amount of compensation or benefits which each Director, officer, or employee of the Corporation shall be legally entitled to under any contract as of the date of enactment of this Act.

Prohibition.

(b) Effective on the date of enactment of this Act, no change in any Director, officer, or employee compensation or benefits shall be allowed or permitted, unless the Director of the Office of Personnel Management agrees that such change is reasonable.

(c) Effective on the date of enactment of this Act—

(1) no officer or employee of the Corporation shall receive a salary in excess of the rate of basic pay payable for level IV of

the Executive Schedule under title 5 of the United States Code; and

(2) the Corporation shall not waive any requirements in its By-Laws which are necessary for a Director, officer, or employee to qualify for pension or termination benefits under the By-Laws and written personnel policies and procedures in effect on the date of enactment of this Act.

Prohibition.

SEC. 7406. REPORT TO THE CONGRESS.

42 USC note prec. 8791.

The Corporation shall, within 60 days of the date of enactment of this Act, transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Energy and Commerce and Committee on Banking, Housing and Urban Affairs of the House of Representatives a report—

(1) containing a review of implementation of its Phase I Business Plan dated February 19, 1985; and

(2) fulfilling the requirements of section 126(b)(3) of the Energy Security Act (42 U.S.C. 8722(b)(3)).

Subtitle F—Uranium Enrichment

SEC. 7501. AUTHORIZATION OF APPROPRIATIONS.

In accordance with section 660 of the Department of Energy Organization Act (42 U.S.C. 7270), there is authorized to be appropriated to the Department of Energy for each of the fiscal years 1986, 1987, and 1988 to carry out uranium enrichment service activities an amount equal to the difference between—

(1) the revenues to be received during each such fiscal year by the Department of Energy in providing uranium enrichment service activities, as estimated in the budget submitted by the President to the Congress for each such fiscal year; and

(2) the amount determined by the Secretary of Energy under section 7502(c)(1) for each such fiscal year.

SEC. 7502. REPAYMENTS TO UNITED STATES TREASURY.

(a) PARTIAL REPAYMENT OF UNRECOVERED COSTS.—

(1) IN GENERAL.—The Secretary of Energy shall deposit in the general fund of the Treasury of the United States, in partial repayment of unrecovered Federal Government costs for uranium enrichment service activities, an amount determined by the Secretary under subsection (c) for each of the fiscal years 1986, 1987, and 1988.

(2) REVENUES IN EXCESS OF EXPENDITURES.—In addition to the payments required under paragraph (1), the Secretary of Energy shall deposit in the general fund of the Treasury of the United States, in partial repayment of amounts identified by the Secretary under subsection (c)(4)(B), any revenues in excess of expenditures received for the provision of such activities during the 3-year period referred to in paragraph (1).

(b) REPAYMENT SCHEDULE.—The Secretary of Energy may make the repayments required in subsection (a) for any fiscal year on a quarterly basis.

(c) DETERMINATION OF SECRETARY.—

(1) IN GENERAL.—The Secretary of Energy shall determine, in his or her discretion, the amount of partial repayment to be made under subsection (a)(1) for each of the fiscal years 1986,

1987, and 1988, consistent with the financial integrity of the uranium enrichment service activities program during a period of not less than 10 years. The amount of such repayment shall not adversely affect the reliability of the supply of uranium enrichment services at competitive prices for existing and potential customers. The determinations under this paragraph shall be made after notice and opportunity for public comment.

(2) REPAYMENT GOALS.—The Secretary of Energy shall seek to achieve the following repayment amounts under subsection (a)(1):

(A) $110,000,000 for fiscal year 1986;

(B) $150,000,000 for fiscal year 1987; and

(C) $150,000,000 for fiscal year 1988.

(3) SCHEDULE FOR DETERMINATION.—The Secretary of Energy shall make the determination required in paragraph (1) for any fiscal year before the President submits to the Congress the budget for such fiscal year, except that the Secretary may make subsequent revisions in such determination.

(4) SUBMISSION TO CONGRESS.—

(A) IN GENERAL.—The Secretary of Energy shall submit to the Congress any determination made under paragraph (1), together with the reasons underlying such determination.

(B) INITIAL SUBMISSION.—The Secretary shall include in the initial submission under this paragraph an estimate of the amount of prior investment in the uranium enrichment service activities program that remains unrecovered.

SEC. 7503. URANIUM ENRICHMENT REPORT.

Congress.

Not later than 60 days after the date of the enactment of this Act, the Secretary of Energy shall submit to the Committee on Energy and Natural Resources of the Senate and the Committees on Energy and Commerce and on Interior and Insular Affairs of the House of Representatives a report regarding the effects of the September 19, 1985, decision of the United States District Court for the District of Colorado holding that the utility services uranium enrichment contracts of the Department of Energy are null and void (Western Nuclear Inc v. F. Clark Huffman, Civil No. 84-C-2315). To the extent that it will not compromise the appeals process or the competitive position of the Department of Energy with regard to uranium enrichment, the report shall identify—

(1) the effects of the decision on—

(A) the operation of the uranium enrichment facilities of the Department of Energy; and

(B) the revenues of the uranium enrichment program; and

(2) how the response of the Department of Energy may mitigate such effects.

Subtitle G—Nuclear Regulatory Commission Annual Charges

42 USC 2213.
Congress.

SEC. 7601. NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

(a) SUBMISSION OF REPORT.—Within 90 days after the date of the enactment of this Act, the Nuclear Regulatory Commission shall submit to the Committee on Energy and Commerce and the Commit-

tee on Interior and Insular Affairs of the House of Representatives and the Committee on Environment and Public Works of the Senate a report evaluating the feasibility and necessity of establishing a system for the assessment and collection of annual charges from persons licensed by the Commission pursuant to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) to fund all or part of the activities conducted by the Commission pursuant to such Act. Such report shall include an analysis of—

(1) the extent to which the Commission's existing statutory or regulatory authority to assess and collect annual charges, including the authority of the Commission to assess and collect fees pursuant to title V of the Independent Offices Appropriation Act of 1952, is adequate to enable the Commission to assess and collect fees commensurate with the value of the benefit rendered to the licensee and the cost to the Commission of rendering such benefit; 31 USC 9701.

(2) the amounts currently assessed and collected by the Commission pursuant to existing statutory or regulatory authority, and the purposes for which such fees are assessed and collected; and

(3) any recommendations of the Commission for expanding the existing statutory authority to assess and collect fees, including the Commission's justification for such expansion.

(b) ASSESSMENT AND COLLECTION.—

(1) IN GENERAL.—Upon the expiration of a period of 45 calendar days (excluding any day in which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain or an adjournment sine die) following receipt by the Congress of the report required pursuant to subsection (a), the Nuclear Regulatory Commission shall assess and collect annual charges from its licensees on a fiscal year basis, except that—

(A) the maximum amount of the aggregate charges assessed pursuant to this paragraph in any fiscal year may not exceed an amount that, when added to other amounts collected by the Commission for such fiscal year under other provisions of law, is estimated to be equal to 33 percent of the costs incurred by the Commission with respect to such fiscal year; and

(B) any such charge assessed pursuant to this paragraph shall be reasonably related to the regulatory service provided by the Commission and shall fairly reflect the cost to the Commission of providing such service.

(2) ESTABLISHMENT OF AMOUNT BY RULE.—The amount of the charges assessed pursuant to this paragraph shall be established by rule.

TITLE VIII—OUTER CONTINENTAL SHELF AND RELATED PROGRAMS

Outer Continental Shelf Lands Act Amendments of 1985. 43 USC 1301 note.

SEC. 8001. SHORT TITLE.

This title may be referred to as the "Outer Continental Shelf Lands Act Amendments of 1985".

SEC. 8002. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.

43 USC 1332.

The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended in paragraph (4) of section 3 by deleting the word "and" at the end of subparagraph (A); deleting the semicolon at the end of subparagraph (B) and inserting in lieu thereof a period; designating subparagraph (B) as subparagraph (C); and inserting after subparagraph (A) the following new subparagraph (B):

Mines and mining.
State and local governments.
Infra.

"(B) the distribution of a portion of the receipts from the leasing of mineral resources of the outer Continental Shelf adjacent to State lands, as provided under section 8(g), will provide affected coastal States and localities with funds which may be used for the mitigation of adverse economic and environmental effects related to the development of such resources; and".

SEC. 8003. REVISION OF SECTION 8(g).

Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)) is amended to read as follows:

Contracts.
State and local governments.
Energy.

"(g)(1) At the time of soliciting nominations for the leasing of lands containing tracts wholly or partially within three nautical miles of the seaward boundary of any coastal State, and subsequently as new information is obtained or developed by the Secretary, the Secretary shall, in addition to the information required by section 26 of this Act, provide the Governor of such State—

43 USC 1352.

"(A) an identification and schedule of the areas and regions proposed to be offered for leasing;

"(B) at the request of the Governor of such State, all information from all sources concerning the geographical, geological, and ecological characteristics of such tracts;

"(C) an estimate of the oil and gas reserves in the areas proposed for leasing; and

"(D) at the request of the Governor of such State, an identification of any field, geological structure, or trap located wholly or partially within three nautical miles of the seaward boundary of such coastal State, including all information relating to the entire field, geological structure, or trap.

The provisions of the first sentence of subsection (c) and the provisions of subsections (e)-(h) of section 26 of this Act shall be applicable to the release by the Secretary of any information to any coastal State under this paragraph. In addition, the provisions of subsections (c) and (e)-(h) of section 26 of this Act shall apply in their entirety to the release by the Secretary to any coastal State of any information relating to Federal lands beyond three nautical miles of the seaward boundary of such coastal State.

Alaska.

"(2) Notwithstanding any other provision of this Act, the Secretary shall deposit into a separate account in the Treasury of the United States all bonuses, rents, and royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1)), excluding Federal income and windfall profits taxes, and derived from any lease issued after September 18, 1978 of any Federal tract which lies wholly (or, in the case of Alaska, partially until seven years from the date of settlement of any boundary dispute that is the subject of an agreement under section 7 of this Act entered into prior to January 1, 1986 or until April 15, 1993 with respect to any other tract) within three nautical miles of the seaward boundary of any coastal State, or, (except as provided above for Alaska) in the case where a Federal tract lies partially within three

43 USC 1336.

nautical miles of the seaward boundary, a percentage of bonuses, rents, royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1)), excluding Federal income and windfall profits taxes, and derived from any lease issued after September 18, 1978 of such tract equal to the percentage of surface acreage of the tract that lies within such three nautical miles. Except as provided in paragraph (5) of this subsection, not later than the last business day of the month following the month in which those revenues are deposited in the Treasury, the Secretary shall transmit to such coastal State 27 percent of those revenues, together with all accrued interest thereon. The remaining balance of such revenues shall be transmitted simultaneously to the miscellaneous receipts account of the Treasury of the United States.

"(3) Whenever the Secretary or the Governor of a coastal State determines that a common potentially hydrocarbon-bearing area may underlie the Federal and State boundary, the Secretary or the Governor shall notify the other party in writing of his determination and the Secretary shall provide to the Governor notice of the current and projected status of the tract or tracts containing the common potentially hydrocarbon-bearing area. If the Secretary has leased or intends to lease such tract or tracts, the Secretary and the Governor of the coastal State may enter into an agreement to divide the revenues from production of any common potentially hydrocarbon-bearing area, by unitization or other royalty sharing agreement, pursuant to existing law. If the Secretary and the Governor do not enter into an agreement, the Secretary may nevertheless proceed with the leasing of the tract or tracts. Any revenues received by the United States under such an agreement shall be subject to the requirements of paragraph (2).

"(4) The deposits in the Treasury account described in this section shall be invested by the Secretary of the Treasury in securities backed by the full faith and credit of the United States having maturities suitable to the needs of the account and yielding the highest reasonably available interest rates as determined by the Secretary of the Treasury.

"(5)(A) When there is a boundary dispute between the United States and a State which is subject to an agreement under section 7 of this Act, the Secretary shall credit to the account established pursuant to such agreement all bonuses, rents, and royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1)), excluding Federal income and windfall profits taxes, and derived from any lease issued after September 18, 1978 of any Federal tract which lies wholly or partially within three nautical miles of the seaward boundary asserted by the State, if that money has not otherwise been deposited in such account. Proceeds of such account shall be distributed as follows: 43 USC 1336.

"Upon the settlement of any boundary dispute which is subject to a section 7 agreement between the United States and a State, the Secretary shall pay to such State all moneys due such State from amounts deposited in the escrow account. If there is insufficient money deposited in the escrow account, the Secretary shall transmit, from any revenues derived from any lease of Federal lands under this Act, the remaining balance due such State in accordance with the formula set forth in section 8004(b)(1)(B) of the Outer Continental Shelf Lands Act Amendments of 1985.

Post, p. 150.

"(B) This paragraph applies to all Federal oil and gas lease sales, under this Act, including joint lease sales, occurring after September 18, 1978.

"(6) This section shall be deemed to take effect on October 1, 1985, for purposes of determining the amounts to be deposited in the separate account and the States' shares described in paragraph (2).

"(7) When the Secretary leases any tract which lies wholly or partially within three miles of the seaward boundary of two or more States, the revenues from such tract shall be distributed as otherwise provided by this section, except that the State's share of such revenues that would otherwise result under this section shall be divided equally among such States.".

43 USC 1337 note.
State and local governments.

SEC. 8004. DISTRIBUTION OF SECTION 8(g) ACCOUNT.

(a) Prior to April 15, 1986, the Secretary shall distribute to the designated coastal States the sum of—

(1) the amounts due and payable to each such State under paragraph (2) of section 8(g) of the Outer Continental Shelf Lands Act, as amended by this title, for the period between October 1, 1985, and the date of such distribution, and

Ante, p. 148.

(2) the amounts due each such State under subsection (b)(1)(A) of this section for the period prior to October 1, 1985.

(b)(1) As a fair and equitable disposition of all revenues (including interest thereon) derived from any lease of Federal lands wholly or partially within 3 miles of the seaward boundary of a coastal State prior to October 1, 1985, the Secretary shall distribute:

(A) from the funds which were deposited in the separate account in the Treasury of the United States under section 8(g)(4) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(4)) which was in effect prior to the date of enactment of section 8003 of this title the following sums:

	($ million)
Louisiana	572
Texas	382
California	338
Alabama	66
Alaska	51
Mississippi	14
Florida	0.03

as well as 27 percent of the royalties, derived from any lease of Federal lands, which have been deposited through September 30, 1985, in the separate account described in this paragraph and interest thereon accrued through September 30, 1985, and shall transmit any remaining amounts to the miscellaneous receipts account of the Treasury of the United States; and

43 USC 1301 note.

(B) from revenues derived from any lease of Federal lands under the Outer Continental Shelf Lands Act, as amended, prior to April 15 of each of the fifteen fiscal years following the fiscal year in which this title is enacted, 3 percent of the following sums in each of the five fiscal years following the date of enactment of this Act, 7 percent of such sums in each of the next five fiscal years, and 10 percent of such sums in each of the following five fiscal years:

	($ million)
Louisiana	84
Texas	134
California	289
Alabama	7
Alaska	134
Mississippi	2.

(2) The acceptance of any payment by a State under this section shall satisfy and release any and all claims of such State against the United States arising under, or related to, section 8(g) of the Outer Continental Shelf Lands Act, as it was in effect prior to the date of enactment of this Act and shall vest in such State the right to receive payments as set forth in this section.

Claims.

Ante, p. 148.

(c) Notwithstanding any other provision of this Act, the amounts due and payable to the State of Louisiana prior to October 1, 1986, under subtitle A of title VIII (Outer Continental Shelf and Related Programs) of this Act shall remain in their separate accounts in the Treasury of the United States and continue to accrue interest until October 1, 1986, except that the $572,000,000 set forth in subsection 8004(b)(1)(A) of this section shall only accrue interest from April 15, 1986 to October 1, 1986, at which time the Secretary shall immediately distribute such sums with accrued interest to the State of Louisiana.

Louisiana.

SEC. 8005. IMMOBILIZATION OF BOUNDARIES.

Section 2(b) of the Submerged Lands Act (43 U.S.C. 1301(b)) is amended by inserting before the semicolon at the end a comma and the following: "except that any boundary between a State and the United States under this Act which has been or is hereafter fixed by coordinates under a final decree of the United States Supreme Court shall remain immobilized at the coordinates provided under such decree and shall not be ambulatory".

State and local governments.

TITLE IX—MEDICARE, MEDICAID, AND MATERNAL AND CHILD HEALTH PROGRAMS

Medicare and Medicaid Budget Reconciliation Amendments of 1985.
42 USC 1305 note.

SEC. 9000. SHORT TITLE; TABLE OF CONTENTS OF TITLE.

This title may be cited as the "Medicare and Medicaid Budget Reconciliation Amendments of 1985".

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SEC. 9101. RATE OF INCREASE IN PAYMENTS FOR INPATIENT HOSPITAL SERVICES.

(a) EXTENSION OF CURRENT FREEZE ON PAYMENT RATES THROUGH APRIL 30, 1986.—Section 5(c) of the Emergency Extension Act of 1985 (Public Law 99-107) is amended to read as follows:

42 USC 1395ww note.

"(c) EXTENSION PERIOD DEFINED.—

"(1) HOSPITAL PAYMENTS.—For purposes of subsection (a), the term 'extension period' means the period beginning on October 1, 1985, and ending on April 30, 1986.".

(b) APPLICABLE PERCENTAGE INCREASE.—Section 1886(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)) is amended to read as follows:

"(B)(i) For purposes of subparagraph (A) for 12-month cost reporting periods beginning during a fiscal year and for purposes of subsection (d) for discharges occurring during a fiscal year, the 'applicable percentage increase' shall be—

"(I) for fiscal year 1986, ½ percent,

"(II) for fiscal years 1987 and 1988, a percentage determined by the Secretary pursuant to subsection (e)(4), but not to exceed the market basket percentage increase (as defined in clause (ii)), and

"(III) for fiscal year 1989 and subsequent fiscal years, the percentage determined by the Secretary pursuant to subsection (e)(4).

"(ii) For purposes of clause (i), the term 'market basket percentage increase' means, with respect to cost reporting periods and discharges occurring in a fiscal year, the percentage, estimated by the Secretary before the beginning of the period or fiscal year, by which the cost of the mix of goods and services (including personnel costs but excluding nonoperating costs) comprising routine, ancillary, and special care unit inpatient hospital services, based on an index of appropriately weighted indicators of changes in wages and prices which are representative of the mix of goods and services included in such inpatient hospital services, for the period or fiscal year will exceed the cost of such mix of goods and services for the preceding 12-month cost reporting period or fiscal year.".

(c) CONFORMING AMENDMENTS.—(1) Section 1886(d)(3)(A) of such Act (42 U.S.C. 1395ww(d)(3)(A)) is amended by striking out "for fiscal year 1985" and inserting in lieu thereof "for each of fiscal years 1985 and 1986".

(2) Section 1886(e)(3) of such Act is amended by striking out "(instead of the applicable percentage increase described in subsection (b)(3)(B))".

(3) Section 1886(e)(4) of such Act is amended by striking out "1986" and inserting in lieu thereof "1987".

42 USC 1395ww note.

(d) EFFECTIVE DATE OF FREEZE EXTENSION.—The amendment made by subsection (a) shall take effect on March 15, 1986, and the amendments made by subsection (c) shall take effect on the date of the enactment of this Act.

42 USC 1395ww note.

(e) EFFECTIVE DATE FOR INCREASE.—

(1) PPS HOSPITALS, DRG PORTION OF PAYMENT.—In the case of a subsection (d) hospital (as defined in paragraph (4))—

(A) the amendment made by subsection (b) shall apply to payments made under section 1886(d)(1)(A) of such Act made on the basis of discharges occurring on or after May 1, 1986; and

(B) for discharges occurring on or after October 1, 1986, the applicable percentage increase (described in section 1886(b)(3)(B)) for discharges occurring during fiscal year 1986 shall be deemed to have been ½ percent.

(2) PPS HOSPITALS, HOSPITAL SPECIFIC PORTION OF PAYMENT.—In the case of a subsection (d) hospital—

(A) the amendment made by subsection (b) shall apply to payments under section 1886(d)(1)(A) of the Social Security Act made on the basis of discharges occurring during a cost reporting period of a hospital, for the hospital's cost reporting periods beginning on or after October 1, 1985;

(B) notwithstanding subparagraph (A), for the cost reporting period beginning during fiscal year 1986, the applicable percentage increase (as defined in section 1886(b)(3)(B) of such Act) for the—

(i) first 7 months of the cost reporting period shall be 0 percent, and

(ii) for the remaining 5 months of the cost reporting period shall be ½ percent; and

(C) for cost reporting periods beginning on or after October 1, 1986, the applicable percentage increase (as so

defined) with respect to the previous cost reporting period shall be deemed to have been ½ percent.

(3) PPS-EXEMPT HOSPITALS.—In the case of a hospital that is not a subsection (d) hospital—

(A) the amendment made by subsection (b) shall apply to cost reporting periods beginning on or after October 1, 1985;

(B) notwithstanding subparagraph (A), for the hospital's cost reporting period beginning during fiscal year 1986, payment under title XVIII of the Social Security Act shall be made as though the applicable percentage increase described in section 1886(b)(3)(B) were equal to 5/24 of 1 percent; and

42 USC 1395c.

42 USC 1395ww.

(C) for cost reporting periods beginning on or after October 1, 1986, the applicable percentage increase (as so defined) with respect to the cost reporting period beginning during fiscal year 1986 shall be deemed to have been ½ percent.

(4) DEFINITION.—In this subsection, the term "subsection (d) hospital" has the meaning given such term in section 1886(d)(1)(B) of the Social Security Act.

SEC. 9102. ONE-YEAR EXTENSION OF PPS TRANSITION.

(a) ONE-YEAR DELAY OF FULL IMPLEMENTATION OF PROSPECTIVE PAYMENT SYSTEM.—Section 1886(d)(1)(A) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(A)) is amended by striking out "1986" in clauses (ii) and (iii) and inserting in lieu thereof "1987".

(b) NEW TARGET AND DRG PERCENTAGES FOR REMAINDER OF FISCAL YEAR 1986.—Section 1886(d)(1)(C) of such Act is amended—

(1) by striking out ", or discharges occurring",

(2) by striking out "and" at the end of clause (ii),

(3) by striking out "(iii) on or after October 1, 1985, and before October 1, 1986" in clause (iii) and inserting in lieu thereof "(iv) on or after October 1, 1986, and before October 1, 1987", and

(4) by inserting after clause (ii) the following new clause:

"(iii) on or after October 1, 1985, and before October 1, 1986, the 'target percentage' is 45 percent and the 'DRG percentage' is 55 percent; and".

(c) NEW BLENDED NATIONAL-REGIONAL DRG RATE FOR REMAINDER OF FISCAL YEAR 1986.—Section 1886(d)(1)(D) of such Act is amended—

(1) by striking out "cost reporting periods beginning, or", and

(2) by striking out "1985" and "1986" and inserting in lieu thereof "1986" and "1987", respectively, each place it appears.

(d) EFFECTIVE DATES.—

42 USC 1395ww note.

(1) DELAY IN FINAL TRANSITION.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) CHANGE IN HOSPITAL SPECIFIC PERCENTAGE.—The amendments made by subsection (b) shall apply—

(A) to cost reporting periods beginning on or after October 1, 1985, but

(B) notwithstanding subparagraph (A), for a hospital's cost reporting period beginning during fiscal year 1986, for purposes of section 1886(d)(1)(A) of the Social Security Act—

(i) during the first 7 months of the period the "target percentage" is 50 percent and the "DRG percentage" is 50 percent, and

(ii) during the remaining 5 months of the period the "target percentage" is 45 percent and the "DRG percentage" is 55 percent.

(3) CHANGE IN BLENDED RATE.—The amendments made by subsection (c) shall apply to discharges occurring on or after May 1, 1986.

(4) EXCEPTION.—

Prohibition.

(A) Notwithstanding any other provision of this subsection, the amendments made by this section shall not apply to payments with respect to the operating costs of inpatient hospital services (as defined in section 1886(a)(4) of the Social Security Act) of a subsection (d) hospital (as defined in section 1886(d)(1)(B) of such Act) located in the State of Oregon.

42 USC 1395ww.

(B) Notwithstanding any other provision of law, for a cost reporting period beginning during fiscal year 1986 of a subsection (d) hospital to which the amendments made by this section do not apply, for purposes of section 1886(d)(1)(A) of of Social Security Act—

(i) during the first 7 months of the period the "target percentage" is 50 percent and the "DRG percentage" is 50 percent, and

(ii) during the remaining 5 months of the period the "target percentage" is 25 percent and the "DRG percentage" is 75 percent.

(C) Notwithstanding any other provision of law, for purposes of section 1886(d)(1)(D) of such Act, the applicable combined adjusted DRG prospective payment rate for a subsection (d) hospital to which the amendments made by this section do not apply is, for discharges occurring on or after October 1, 1985, and before May 1, 1986, a combined rate consisting of 25 percent of the national adjusted DRG prospective payment rate and 75 percent of the regional adjusted DRG prospective payment rate for such discharges.

SEC. 9103. APPLICATION OF REVISED HOSPITAL WAGE INDEX.

(a) APPLICATION OF REVISED INDEX PROSPECTIVELY.—(1) Section 2316(b) of the Deficit Reduction Act of 1984 (98 Stat. 1081) is amended to read as follows:

42 USC 1395ww note.

"(b) The Secretary shall adjust the payment amounts for hospitals for discharges occurring on or after May 1, 1986, to reflect the changes the Secretary has promulgated in final regulations (on September 3, 1985) relating to the hospital wage index under section 1886(d)(3)(E) of the Social Security Act. For discharges occurring after September 30, 1986, the Secretary shall provide for such periodic adjustments in the appropriate wage index used under that section as may be necessary, taking into account changes in the wage levels and relative proportions of full-time and part-time workers.".

42 USC 1395ww.

(2) The amendment made by paragraph (1) shall be effective as if it had been included in the Deficit Reduction Act of 1984.

42 USC 1395ww note.

(b) STUDY OF METHODOLOGY FOR AREA WAGE ADJUSTMENT FOR CENTRAL CITIES.—(1) The Secretary of Health and Human Services, in consultation with the Prospective Payment Assessment Commission, shall collect information and shall develop one or more methodologies to permit the adjustment of the wage indices used for

26 USC 1 note.
42 USC 1395ww note.

purposes of sections 1886(d)(2)(C)(ii), 1886(d)(2)(H), and 1886(d)(3)(E) of the Social Security Act, in order to more accurately reflect hospital labor markets, by taking into account variations in wages and wage-related costs between the central city portion of urban areas and other parts of urban areas. 42 USC 1395ww.

(2) The Secretary shall report to Congress on the information collected and the methodologies developed under paragraph (1) not later than May 1, 1987. The report shall include a recommendation as to the feasibility and desirability of implementing such methodologies. Report.

SEC. 9104. PAYMENTS TO HOSPITALS FOR INDIRECT COSTS OF MEDICAL EDUCATION.

(a) PAYMENT FOR INDIRECT COSTS OF MEDICAL EDUCATION.—Section 1886(d)(5)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)) is amended to read as follows:

"(B) The Secretary shall provide for an additional payment amount for subsection (d) hospitals with indirect costs of medical education, in an amount computed in the same manner as the adjustment for such costs under regulations (in effect as of January 1, 1983) under subsection (a)(2), except as follows:

"(i) The amount of such additional payment shall be determined by multiplying (I) the sum of the amount determined under paragraph (1)(A)(ii)(II) (or, if applicable, the amount determined under paragraph (1)(A)(iii)) and the amount paid to the hospital under subparagraph (A), by (II) the indirect teaching adjustment factor described in clause (ii).

"(ii) For purposes of clause (i)(II), the indirect teaching adjustment factor for discharges occurring—

"(I) on or after May 1, 1986, and before October 1, 1988, is equal to $2\times((1+r)^{.405}-1)$, or

"(II) on or after October 1, 1988, is equal to $1.5\times((1+r)^{.5795}-1)$,

where 'r' is the ratio of the hospital's full-time equivalent interns and residents to beds.

"(iii) In determining such adjustment the Secretary shall not distinguish between those interns and residents who are employees of a hospital and those interns and residents who furnish services to a hospital but are not employees of such hospital.

"(iv) In determining such adjustment, the Secretary shall continue to count interns and residents assigned to outpatient services of the hospital as part of the calculation of the full-time-equivalent number of interns and residents.".

(b) ADJUSTMENT OF PAYMENT AMOUNTS.—

(1) RESTANDARDIZING DRG PAYMENT AMOUNTS TO REFLECT CHANGE IN FORMULA.—Section 1886(d)(2)(C)(i) of such Act is amended by inserting "(taking into account, for discharges occurring after September 30, 1986, the amendments made by section 9104(a) of the Medicare and Medicaid Budget Reconciliation Amendments of 1985)" after "medical education costs".

(2) PROVIDING FOR SYSTEM SAVINGS FROM CHANGE IN FORMULA.—Subparagraph (C) of section 1886(d)(3) of such Act is amended—

(A) by inserting "(i)" after "(C)",

(B) by inserting "FOR FISCAL YEAR 1985" after "NEUTRALITY",

(C) by striking out "The Secretary" and inserting in lieu thereof "For discharges occurring in fiscal year 1985, the Secretary", and

(D) by adding at the end the following new clause:

"(ii) REDUCING FOR SAVINGS FROM AMENDMENT TO INDIRECT TEACHING ADJUSTMENT FOR DISCHARGES AFTER SEPTEMBER 30, 1986.—For discharges occurring after September 30, 1986, the Secretary shall further reduce each of the average standardized amounts (in a proportion which takes into account the differing effects of the standardization effected under paragraph (2)(C)(i)) so as to provide for a reduction in the total of the payments (attributable to this paragraph) made for discharges occurring—

"(I) on or after October 1, 1986, and before October 1, 1988, of an amount equal to the estimated reduction in the payment amounts under paragraph (5)(B) that would have resulted from the enactment of the amendments made by section 9104 of the Medicare and Medicaid Budget Reconciliation Amendments of 1985 if the factor described in clause (ii)(II) of paragraph (5)(B) were applied for discharges occurring during such period instead of the factor described in clause (ii)(I) of that paragraph, and

"(II) on or after October 1, 1988, of an amount equal to the estimated reduction in the payment amounts under paragraph (5)(B) for those discharges that has resulted from the enactment of the amendments made by section 9104 of the Medicare and Medicaid Budget Reconciliation Amendments of 1985.".

42 USC 1395ww.

(3) CONFORMING AMENDMENT.—Clauses (i)(I) and (ii)(I) of section 1886(d)(3)(D) of such Act are each amended by inserting "or reduced" after "(B), and adjusted".

42 USC 1395ww note.

(c) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to discharges occurring on or after May 1, 1986.

(2) The amendments made by this section shall not first be applied to discharges occurring as of a date unless, for discharges occurring on that date, the amendments made by section 9105 are also being applied.

SEC. 9105. PAYMENTS FOR HOSPITALS WHICH SERVE A DISPROPORTIONATE SHARE OF LOW-INCOME PATIENTS.

(a) PAYMENT FOR HOSPITALS WHICH SERVE A DISPROPORTIONATE SHARE OF LOW-INCOME PATIENTS.—Section 1886(d)(5) of the Social Security Act (42 U.S.C. 1395ww(d)(5)) is amended by adding at the end the following new subparagraph:

Urban areas. State and local governments.

"(F)(i) For discharges occurring on or after May 1, 1986, and before October 1, 1988, the Secretary shall provide, in accordance with this subparagraph, for an additional payment amount for each subsection (d) hospital which—

"(I) serves a significantly disproportionate number of low-income patients (as defined in clause (v)), or

"(II) is located in an urban area, has 100 or more beds, and can demonstrate that its net inpatient care revenues (excluding any of such revenues attributable to this title or State plans approved under title XIX), during the cost reporting period in which the discharges occur, for indigent care from State and local government sources exceed 30 percent of its total of such revenues during the period.

"(ii) The amount of such payment for each discharge shall be determined by multiplying (I) the sum of the amount determined under paragraph (1)(A)(ii)(II) (or, if applicable, the amount determined under paragraph (1)(A)(iii)) and the amount paid to the hospital under subparagraph (A) for that discharge, by (II) the disproportionate share adjustment percentage established under clause (iii) or (iv) for the cost reporting period in which the discharge occurs.

"(iii) The disproportionate share adjustment percentage for a cost reporting period for a hospital described in clause (i)(II) is equal to 15 percent. Rural areas.

"(iv) The disproportionate share adjustment percentage for a cost reporting period for a hospital that is not described in clause (i)(II) and that—

"(I) is located in an urban area and has 100 or more beds, is equal to the lesser of 15 percent, or the percent determined in accordance with the following formula: $(P-15)(.5) + 2.5$, where 'P' is the hospital's disproportionate patient percentage (as defined in clause (vi));

"(II) is located in an urban area and has less than 100 beds, is equal to 5 percent; or

"(III) is located in a rural area, is equal to 4 percent.

"(v) In this subparagraph, a hospital 'serves a significantly disproportionate number of low income patients' for a cost reporting period if the hospital has a disproportionate patient percentage (as defined in clause (vi)) for that period which equals, or exceeds— Rural areas.

"(I) 15 percent, if the hospital is located in an urban area and has 100 or more beds,

"(II) 40 percent, if the hospital is located in an urban area and has less than 100 beds, or

"(III) 45 percent, if the hospital is located in a rural area.

"(vi) In this subparagraph, the term 'disproportionate patient percentage' means, with respect to a cost reporting period of a hospital, the sum of—

"(I) the fraction (expressed as a percentage), the numerator of which is the number of such hospital's patient days for such period which were made up of patients who (for such days) were entitled to benefits under part A of this title and were entitled to supplementary security income benefits (excluding any State supplementation) under title XVI of this Act, and the denominator of which is the number of such hospital's patient days for such fiscal year which were made up of patients who (for such days) were entitled to benefits under part A of this title, and

"(II) the fraction (expressed as a percentage), the numerator of which is the number of the hospital's patient days for such period which consist of patients who (for such days) were eligible for medical assistance under a State plan approved under title XIX, but who were not entitled to benefits under part A of this title, and the denominator of which is the total number of the hospital's patient days for such period.".

(b) RESTANDARDIZING DRG PAYMENT AMOUNTS TO REFLECT DISPROPORTIONATE SHARE PAYMENTS.—Section 1886(d)(2)(C) of such Act is amended— 42 USC 1395ww.

(1) by striking out "and" at the end of clause (ii),

(2) by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and

(3) by adding at the end the following new clause:

"(iv) for discharges occurring on or after October 1, 1986, and before October 1, 1988, excluding an estimate of the additional payments to certain hospitals to be made under paragraph (5)(F).".

42 USC 1395ww.

(c) CONFORMING AMENDMENT.—Section 1886(d)(5)(C)(i) of such Act is amended by striking out ", and of public or other hospitals that serve a significantly disproportionate number of patients who have low income or are entitled to benefits under part A of this title".

(d) CBO REPORT.—The Congressional Budget Office shall study, and report to Congress not later than January 1, 1987, on the impact of the implementation of this section on hospitals, including the appropriateness of the factors used in determining which hospitals are eligible for additional payments under section 1886(d)(5)(F) of the Social Security Act and the amount of the additional payments made to those hospitals.

42 USC 1395ww.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges occurring on or after May 1, 1986.

SEC. 9106. TREATMENT OF CERTAIN RURAL OSTEOPATHIC HOSPITALS AS RURAL REFERRAL CENTERS.

(a) IN GENERAL.—Section 1886(d)(5)(C)(i) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(C)(i)) is amended by inserting before the period at the end of the second sentence the following: "and which shall not require a rural osteopathic hospital to have more than 3,000 discharges in a year in order to be classified as a rural referral center".

42 USC 1395ww note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to cost reporting periods beginning on or after January 1, 1986.

SEC. 9107. RETURN ON EQUITY CAPITAL FOR INPATIENT HOSPITAL SERVICES AND OTHER SERVICES.

(a) INPATIENT HOSPITAL SERVICES.—

(1) PHASE-DOWN IN PAYMENT FOR RETURN ON EQUITY CAPITAL.—Section 1886(g)(2) of the Social Security Act (42 U.S.C. 1395ww(g)(2)) is amended—

(A) by inserting "the applicable percentage (described in subparagraph (B)) of" before "the average of the rates of interest",

(B) by inserting "(A)" after "(2)", and

(C) by adding at the end the following new subparagraph:

"(B) In this paragraph, the 'applicable percentage' is—

"(i) 75 percent, for cost reporting periods beginning during fiscal year 1987,

"(ii) 50 percent, for cost reporting periods beginning during fiscal year 1988,

"(iii) 25 percent, for cost reporting periods beginning during fiscal year 1989, and

"(iv) 0 percent, for cost reporting periods beginning on or after October 1, 1989.".

(2) EXCLUSION FROM PROSPECTIVE PAYMENT.—The second sentence of section 1886(a)(4) of such Act is amended—

(A) by inserting "a return on equity capital," after "anesthetist,", and

(B) by inserting "other" before "capital-related costs".

(b) OTHER SERVICES.—

(1) LIMITATION ON RATE.—Section 1861(v)(1) of such Act (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(P) If such regulations provide for the payment for a return on equity capital (other than with respect to costs of inpatient hospital services), the rate of return to be recognized, for determining the reasonable cost of services furnished in a cost reporting period, shall be equal to the average of the rates of interest, for each of the months any part of which is included in the period, on obligations issued for purchase by the Federal Hospital Insurance Trust Fund.".

(2) CONFORMING AMENDMENTS.—Section 1861(v)(1)(B) of such Act is amended—

(A) by striking out "any fiscal period" and "such fiscal period" and inserting in lieu thereof "any cost reporting period" and "the period", respectively, and

(B) by striking out "not exceed one and one-half times" in the second sentence and inserting in lieu thereof "be equal to".

(c) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall apply to hospital cost reporting periods beginning on or after October 1, 1986. 42 USC 1395ww note.

(2) The amendments made by subsection (b) shall apply to cost reporting periods beginning on or after October 1, 1985. 42 USC 1395x note.

SEC. 9108. CONTINUATION OF MEDICARE REIMBURSEMENT WAIVERS FOR CERTAIN HOSPITALS PARTICIPATING IN REGIONAL HOSPITAL REIMBURSEMENT DEMONSTRATIONS.

(a) CONTINUATION OF WAIVERS.—A hospital reimbursement control system which, on January 1, 1985, was carrying out a demonstration under a contract which had been approved by the Secretary of Health and Human Services pursuant to section 222(a) of the Social Security Amendments of 1972, or under section 402 of the Social Security Amendments of 1967 (as amended by section 222(b) of the Social Security Amendments of 1972), shall be deemed to meet the requirements of section 1886(c)(1)(A) of the Social Security Act if such system applies— 42 USC 1395ww note. 42 USC 1395b-1 note. *Infra.*

(1) to substantially all non-Federal acute care hospitals (as defined by the Secretary) in the geographic area served by such system on January 1, 1985, and

(2) to the review of at least 75 percent of—

(A) all revenues or expenses in such geographic area for inpatient hospital services, and

(B) revenues or expenses in such geographic area for inpatient hospital services provided under the State's plan approved under title XIX.

(b) APPROVAL.—In the case of a hospital cost control system described in subsection (a), the requirements of section 1886(c) of the Social Security Act which apply to States shall instead apply to such system and, for such purposes, any reference to a State is deemed a reference to such system.

(c) EFFECTIVE DATE.—This section shall become effective on the date of the enactment of this Act.

SEC. 9109. FOUR-YEAR TEST FOR STATE WAIVERS FOR CERTAIN STATES.

(a) IN GENERAL.—Section 1886(c) of the Social Security Act (42 U.S.C 1395ww(c)) is amended by adding at the end the following new paragraph:

Prohibition.

"(7) In the case of a State which made a request under paragraph (5) before December 31, 1984, for the approval of a State hospital reimbursement control system and which request was approved—

"(A) in applying paragraphs (1)(C) and (6), a reference to a '36-month period' is deemed a reference to a '48-month period', and

"(B) in order to allow the State the opportunity to provide the assurances described in paragraph (1)(C) for a 48-month period, the Secretary may not discontinue payments under the system, under the authority of paragraph (3)(A) because the Secretary has reason to believe that such assurances are not being (or will not be) met, before July 1, 1986.".

42 USC 1395ww note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 9110. ASSET VALUATION FOR DONATIONS OF STATE PROPERTY TO NONPROFIT CORPORATIONS.

(a) GENERAL RULE.—Section 1861(v)(1)(O) of the Social Security Act (42 U.S.C. 1395x(v)(1)(O)) is amended—

(1) by inserting ", except as provided in clause (iv)," in clause (i) after "such regulations shall provide", and

(2) by adding at the end the following new clause:

"(iv) In the case of the transfer of a hospital from ownership by a State to ownership by a nonprofit corporation without monetary consideration, the basis for capital allowances to the new owner shall be the book value of the hospital to the State at the time of the transfer.".

42 USC 1395x note.
26 USC 1 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be applied as though they were originally included in the Deficit Reduction Act of 1984.

SEC. 9111. PAYMENTS TO SOLE COMMUNITY HOSPITALS.

(a) ADJUSTMENT TO PAYMENT AMOUNT.—Section 1886(d)(5)(C)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(C)(ii)) is amended by inserting after the second sentence thereof the following: "In the case of a sole community hospital which experiences, in any cost reporting period after the cost reporting period which was used as the base for determining the target amount for payments to such hospital under paragraph (1)(A)(i)(I), a significant increase in operating costs attributable to the addition of new inpatient facilities or services at such hospital (including the opening of a special care unit), the Secretary shall provide for such adjustment to the payment amounts under this subsection for such cost reporting period and subsequent cost reporting periods as may be necessary to reasonably compensate such hospital for such increased costs.".

42 USC 1395ww note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments for cost reporting periods beginning on or after October 1, 1983, and before October 1, 1989.

(c) STUDY.—The Secretary of Health and Human Services shall conduct a study of the effects of the amendment made by subsection (a). The Secretary shall report the results of such study, including recommendations for a permanent mechanism to take into account needed expansions of services by sole community hospitals and the hospital-specific medicare payment rates thereof, to the Congress prior to January 1, 1987.

SEC. 9112. INDIRECT TEACHING ADJUSTMENT FOR CERTAIN CLINICS.

(a) IN GENERAL.—Section 602(k) of the Social Security Amendments of 1983 (97 Stat. 165) is amended by inserting "(1)" after "(k)" and by adding at the end the following new paragraphs: 42 USC 1395y note.

"(2) In the case of a hospital which is receiving payments pursuant to a waiver under paragraph (1), payment of the adjustment for indirect costs of approved educational activities shall be made as if the hospital were receiving under part A of title XVIII of the Social Security Act all the payments which are made under part B of such title solely by reason of such waiver. 42 USC 1395c, 1395j.

"(3) Any waiver granted under paragraph (1) shall provide that, with respect to those items and services billed under part B of title XVIII of the Social Security Act solely by reason of such waiver—

"(A) payment under such part shall be equal to 100 percent of the reasonable charge or other applicable payment base for the items and services; and

"(B) the entity furnishing the items and services must agree to accept the amount paid pursuant to subparagraph (A) as the full charge for the items and services.".

(b) EFFECTIVE DATES.—(1) Section 602(k)(2) of the Social Security Amendments of 1983 (as added by subsection (a)) shall apply to cost reporting periods beginning on or after January 1, 1986. 42 USC 1395y note.

(2) Section 602(k)(3) of the Social Security Amendments of 1983 (as added by subsection (a)) shall apply to items and services furnished after the end of the 10-day period beginning on the date of the enactment of this Act.

SEC. 9113. REPORT ON IMPACT OF OUTLIER AND TRANSFER POLICY ON RURAL HOSPITALS.

(a) REVIEW.—The Secretary of Health and Human Services shall review the impact of policies respecting outliers and patient transfers on payments under section 1886(d) of the Social Security Act to rural hospitals (particularly on rural hospitals with less than 100 beds). 42 USC 1395ww.

(b) REPORT.—The Secretary shall report to Congress on the findings of the review not later than January 1, 1987, and shall include in the report recommendations on changes in policies respecting outliers and patient transfers to the extent they adversely affect rural hospitals.

SEC. 9114. INFORMATION ON IMPACT OF PPS PAYMENTS ON HOSPITALS.

(a) DISCLOSURE OF INFORMATION.—The Secretary of Health and Human Services shall make available to the Prospective Payment Assessment Commission, the Congressional Budget Office, the Comptroller General, and the Congressional Research Service the most current information on the payments being made under section 1886 of the Social Security Act to individual hospitals. Such information shall be made available in a manner that permits examination of the impact of such section on hospitals. 42 USC 1395ww note.

(b) CONFIDENTIALITY.—Information disclosed under subsection (a) shall be treated as confidential and shall not be subject to further disclosure in a manner that permits the identification of individual hospitals.

SEC. 9115. SPECIAL RULES FOR IMPLEMENTATION OF SUBPART.

(a) WAIVER OF PAPERWORK REDUCTION.—Chapter 35 of title 44, United States Code, shall not apply to information required for 42 USC 1395ww note. 44 USC 3501 *et seq.*

purposes of carrying out this subpart and implementing the amendments made by this subpart.

(b) USE OF INTERIM FINAL REGULATIONS.—The Secretary of Health and Human Services shall issue such regulations (on an interim or other basis) as may be necessary to implement this subpart and the amendments made by this subpart.

Subpart B—Miscellaneous Provisions

SEC. 9121. RESPONSIBILITIES OF MEDICARE HOSPITALS IN EMERGENCY CASES.

(a) REQUIREMENT OF MEDICARE HOSPITAL PROVIDER AGREEMENTS.—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (G),

(2) by striking out the period at the end of subparagraph (H) and inserting in lieu thereof ", and", and

(3) by inserting after subparagraph (H) the following new subparagraph:

"(I) in the case of a hospital, to comply with the requirements of section 1867 to the extent applicable.".

Infra.

(b) REQUIREMENTS.—Title XVIII of such Act is amended by inserting after section 1866 the following new section:

"EXAMINATION AND TREATMENT FOR EMERGENCY MEDICAL CONDITIONS AND WOMEN IN ACTIVE LABOR

42 USC 1395dd.

"SEC. 1867. (a) MEDICAL SCREENING REQUIREMENT.—In the case of a hospital that has a hospital emergency department, if any individual (whether or not eligible for benefits under this title) comes to the emergency department and a request is made on the individual's behalf for examination or treatment for a medical condition, the hospital must provide for an appropriate medical screening examination within the capability of the hospital's emergency department to determine whether or not an emergency medical condition (within the meaning of subsection (e)(1)) exists or to determine if the individual is in active labor (within the meaning of subsection (e)(2)).

"(b) NECESSARY STABILIZING TREATMENT FOR EMERGENCY MEDICAL CONDITIONS AND ACTIVE LABOR.—

"(1) IN GENERAL.—If any individual (whether or not eligible for benefits under this title) comes to a hospital and the hospital determines that the individual has an emergency medical condition or is in active labor, the hospital must provide either—

"(A) within the staff and facilities available at the hospital, for such further medical examination and such treatment as may be required to stabilize the medical condition or to provide for treatment of the labor, or

"(B) for transfer of the individual to another medical facility in accordance with subsection (c).

"(2) REFUSAL TO CONSENT TO TREATMENT.—A hospital is deemed to meet the requirement of paragraph (1)(A) with respect to an individual if the hospital offers the individual the further medical examination and treatment described in that paragraph but the individual (or a legally responsible person acting on the individual's behalf) refuses to consent to the examination or treatment.

"(3) REFUSAL TO CONSENT TO TRANSFER.—A hospital is deemed to meet the requirement of paragraph (1) with respect to an individual if the hospital offers to transfer the individual to another medical facility in accordance with subsection (c) but the individual (or a legally responsible person acting on the individual's behalf) refuses to consent to the transfer.

"(c) RESTRICTING TRANSFERS UNTIL PATIENT STABILIZED.—

"(1) RULE.—If a patient at a hospital has an emergency medical condition which has not been stabilized (within the meaning of subsection (e)(4)(B)) or is in active labor, the hospital may not transfer the patient unless—

"(A)(i) the patient (or a legally responsible person acting on the patient's behalf) requests that the transfer be effected, or

"(ii) a physician (within the meaning of section 1861(r)(1)), or other qualified medical personnel when a physician is not readily available in the emergency department, has signed a certification that, based upon the reasonable risks and benefits to the patient, and based upon the information available at the time, the medical benefits reasonably expected from the provision of appropriate medical treatment at another medical facility outweigh the increased risks to the individual's medical condition from effecting the transfer; and 42 USC 1395x.

"(B) the transfer is an appropriate transfer (within the meaning of paragraph (2)) to that facility.

"(2) APPROPRIATE TRANSFER.—An appropriate transfer to a medical facility is a transfer—

"(A) in which the receiving facility—

"(i) has available space and qualified personnel for the treatment of the patient, and

"(ii) has agreed to accept transfer of the patient and to provide appropriate medical treatment;

"(B) in which the transferring hospital provides the receiving facility with appropriate medical records (or copies thereof) of the examination and treatment effected at the transferring hospital;

"(C) in which the transfer is effected through qualified personnel and transportation equipment, as required including the use of necessary and medically appropriate life support measures during the transfer; and

"(D) which meets such other requirements as the Secretary may find necessary in the interest of the health and safety of patients transferred.

"(d) ENFORCEMENT.—

"(1) AS REQUIREMENT OF MEDICARE PROVIDER AGREEMENT.—If a hospital knowingly and willfully, or negligently, fails to meet the requirements of this section, such hospital is subject to—

"(A) termination of its provider agreement under this title in accordance with section 1866(b), or 42 USC 1395cc.

"(B) at the option of the Secretary, suspension of such agreement for such period of time as the Secretary determines to be appropriate, upon reasonable notice to the hospital and to the public.

"(2) CIVIL MONETARY PENALTIES.—In addition to the other grounds for imposition of a civil money penalty under section 1128A(a), a participating hospital that knowingly violates a 42 USC 1320a-7a.

requirement of this section and the responsible physician in the hospital with respect to such a violation are each subject, under that section, to a civil money penalty of not more than $25,000 for each such violation. As used in the previous sentence, the term 'responsible physician' means, with respect to a hospital's violation of a requirement of this section, a physician who—

"(A) is employed by, or under contract with, the participating hospital, and

"(B) acting as such an employee or under such a contract, has professional responsibility for the provision of examinations or treatments for the individual, or transfers of the individual, with respect to which the violation occurred.

"(3) CIVIL ENFORCEMENT.—

"(A) PERSONAL HARM.—Any individual who suffers personal harm as a direct result of a participating hospital's violation of a requirement of this section may, in a civil action against the participating hospital, obtain those damages available for personal injury under the law of the State in which the hospital is located, and such equitable relief as is appropriate.

State and local governments.

"(B) FINANCIAL LOSS TO OTHER MEDICAL FACILITY.—Any medical facility that suffers a financial loss as a direct result of a participating hospital's violation of a requirement of this section may, in a civil action against the participating hospital, obtain those damages available for financial loss, under the law of the State in which the hospital is located, and such equitable relief as is appropriate.

"(C) LIMITATIONS ON ACTIONS.—No action may be brought under this paragraph more than two years after the date of the violation with respect to which the action is brought.

"(e) DEFINITIONS.—In this section:

"(1) The term 'emergency medical condition' means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

"(A) placing the patient's health in serious jeopardy,

"(B) serious impairment to bodily functions, or

"(C) serious dysfunction of any bodily organ or part.

"(2) The term 'active labor' means labor at a time at which—

"(A) delivery is imminent,

"(B) there is inadequate time to effect safe transfer to another hospital prior to delivery, or

"(C) a transfer may pose a threat of the health and safety of the patient or the unborn child.

"(3) The term 'participating hospital' means hospital that has entered into a provider agreement under section 1866 and has, under the agreement, obligated itself to comply with the requirements of this section.

42 USC 1395cc.

"(4)(A) The term 'to stabilize' means, with respect to an emergency medical condition, to provide such medical treatment of the condition as may be necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from the transfer of the individual from a facility.

"(B) The term 'stabilized' means, with respect to an emergency medical condition, that no material deterioration of the condition is likely, within reasonable medical probability, to result from the transfer of the individual from a facility.

"(5) The term 'transfer' means the movement (including the discharge) of a patient outside a hospital's facilities at the direction of any person employed by (or affiliated or associated, directly or indirectly, with) the hospital, but does not include such a movement of a patient who (A) has been declared dead, or (B) leaves the facility without the permission of any such person.

"(f) PREEMPTION.—The provisions of this section do not preempt any State or local law requirement, except to the extent that the requirement directly conflicts with a requirement of this section.". State and local governments.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins at least 90 days after the date of the enactment of this Act. 42 USC 1395dd note.

(d) REPORT.—The Secretary of Health and Human Services shall, not later than 6 months after the effective date described in subsection (c), report to Congress on the methods to be used for monitoring and enforcing compliance with section 1867 of the Social Security Act. *Ante*, p. 164.

SEC. 9122. REQUIREMENT FOR MEDICARE HOSPITALS TO PARTICIPATE IN CHAMPUS AND CHAMPVA PROGRAMS.

(a) IN GENERAL.—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended— *Ante*, p. 164.

(1) by striking out "and" at the end of subparagraph (H),

(2) by striking out the period at the end of subparagraph (I) and inserting in lieu thereof ", and", and

(3) by inserting after subparagraph (I) the following new subparagraph:

"(J) in the case of hospitals which provide inpatient hospital services for which payment may be made under this title, to be a participating provider of medical care under any health plan contracted for under section 1079 or 1086 of title 10, or under section 613 of title 38, United States Code, in accordance with admission practices, payment methodology, and amounts as prescribed under joint regulations issued by the Secretary and by the Secretaries of Defense and Transportation, in implementation of sections 1079 and 1086 of title 10, United States Code.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to agreements entered into or renewed on or after the date of the enactment of this Act, but shall apply only to inpatient hospital services provided pursuant to admissions to hospitals occurring on or after January 1, 1987. 42 USC 1395cc note.

(c) REFERENCE TO STUDY REQUIRED.—For a study of the use by CHAMPUS of the medicare prospective payment system, see section 634 of the Department of Defense Authorization Act, 1985 (Public Law 98-525), the deadline for which is extended under section 2002 of this Act. 98 Stat. 2544.

(d) REPORT.—The Secretary of Health and Human Services shall report to Congress periodically on the number of hospitals that have terminated or failed to renew an agreement under section 1866 of the Social Security Act as a result of the additional conditions imposed under the amendments made by subsection (a). 42 USC 1395cc note.

SEC. 9123. EXTENSION AND PAYMENT FOR HOSPICE CARE.

42 USC 1395c note.

(a) ELIMINATION OF SUNSET.—Section 122(h)(1) of the Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97-248, 96 Stat. 362), relating to the end of the effective date for hospice care, is amended—

(1) in subparagraph (A)—

(A) by striking out "(h)(1)(A) Subject to subparagraph (B), the" and inserting in lieu thereof "(h)(1) The", and

(B) by striking out ", and before October 1, 1986", and

(2) by striking out subparagraph (B).

(b) INCREASE IN PAYMENT OF DAILY RATES FOR HOSPICE CARE.—(1) Subparagraph (B) of section 1814(i)(1) of the Social Security Act (42 U.S.C. 1395f(i)(1)) is amended to read as follows:

"(B) Notwithstanding subparagraph (A), for hospice care furnished on or after April 1, 1986, the daily rate of payment per day for routine home care shall be $63.17 and the daily rate of payment for other services included in hospice care shall be the daily rate of payment recognized under subparagraph (A) as of July 1, 1985, increased by $10.".

(2) Subparagraph (C) of such section is amended by striking out "1985" and inserting in lieu thereof "1986".

SEC. 9124. LIMITING THE PENALTY FOR LATE ENROLLMENT IN PART A.

(a) LIMITING PENALTY TO 10 PERCENT AND TWICE THE PERIOD DURING WHICH NOT ENROLLED.—Section 1818(c) of the Social Security Act (42 U.S.C. 1395i-2(c)) is amended—

(1) by striking out "and" at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and

(3) by adding at the end the following new paragraph:

42 USC 1395.

"(7) any percent increase effected under section 1839(b) in an individual's monthly premium may not exceed 10 percent and shall only apply to premiums paid during a period equal to twice the number of months in the full 12-month periods described in that section.".

42 USC 1395i-2 note.

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a)(3) shall apply to premiums paid for months beginning with July 1986.

(2) In applying that amendment, months (before, during, or after April 1986) in which an individual was required to pay a premium increased under the section that was so amended shall be taken into account in determining the month in which the premium will no longer be subject to an increase under that section as so amended.

SEC. 9125. PROMULGATION OF INPATIENT HOSPITAL DEDUCTIBLE.

(a) CHANGE IN DEADLINE.—Section 1813(b)(2) of the Social Security Act (42 U.S.C. 1395e(b)(2)) is amended by striking out "October 1" and inserting in lieu thereof "September 15".

42 USC 1395e note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to calendar years after 1985.

SEC. 9126. ACCESS TO SKILLED NURSING FACILITIES.

(a) OPTIONAL PROSPECTIVE RATES FOR CERTAIN SKILLED NURSING FACILITIES.—Section 1888 of the Social Security Act (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

"(d)(1) Any skilled nursing facility may choose to be paid under this subsection on the basis of a prospective payment for all routine service costs (and capital-related costs) of extended care services provided in a fiscal year if such facility had, in the preceding fiscal year, fewer than 1,500 patient days with respect to which payments were made under this title. Such prospective payment shall be in lieu of payments which would otherwise be made for routine service costs pursuant to section 1861(v) and subsections (a) through (c) of this section and capital-related costs pursuant to section 1861(v). This subsection shall not apply to a facility for any fiscal year immediately following a fiscal year in which such facility had 1,500 or more patient days with respect to which payments were made under this title, without regard to whether payments were made under this subsection during such preceding fiscal year.

42 USC 1395x.

Prohibition.

"(2)(A) The amount of the payment under this section shall be determined on a per diem basis.

"(B) Subject to the limitations of subparagraph (C), for skilled nursing facilities located—

Urban areas.
Rural areas.

"(i) in an urban area, the amount shall be equal to 105 percent of the mean of the per diem reasonable routine service and capital-related costs of extended care services for skilled nursing facilities in urban areas within the same region, determined without regard to the limitations of subsection (a) and adjusted for different area wage levels, and

"(ii) in a rural area the amount shall be equal to 105 percent of the mean of the per diem reasonable routine service and capital-related costs of extended care services for skilled nursing facilities in rural areas within the same region, determined without regard to the limitations of subsection (a) and adjusted for different area wage levels.

"(C) The per diem amounts determined under subparagraph (B) shall not exceed the limit on routine service costs determined under subsection (a) with respect to the facility, adjusted to take into account average capital-related costs with respect to the type and location of the facility.

"(3) For purposes of this subsection, urban and rural areas shall be determined in the same manner as for purposes of subsection (a), and the term 'region' shall have the same meaning as under section 1886(d)(2)(D).

"(4) The Secretary shall establish the prospective payment amounts for each fiscal year at least 90 days prior to the beginning of such fiscal year, on the basis of the most recent data available for a 12-month period. A skilled nursing facility must notify the Secretary of its intention to be paid pursuant to this subsection for a fiscal year within 60 days after the Secretary establishes the final prospective payment amounts for such fiscal year.

Notice.

"(5) The Secretary shall provide for a simplified cost report to be filed by facilities being paid pursuant to this subsection, which shall require only the cost information necessary for determining prospective payment amounts pursuant to paragraph (2) and reasonable costs of ancillary services.

Report.

"(6) In lieu of payment on a cost basis for ancillary services provided by a facility which is being paid pursuant to this subsection, the Secretary may pay for such ancillary services on a reasonable charge basis if the Secretary determines that such payment basis will provide an equitable level of reimbursement and will ease the reporting burden of the facility.".

42 USC 1395yy.

(b) PUBLICATION OF DATA RELATING TO ADJUSTMENTS TO SNF LIMITS.—Section 1888(c) of such Act is amended by adding at the end thereof the following: "The Secretary shall publish the data and criteria to be used for purposes of this subsection on an annual basis.".

42 USC 1395y note.

(c) REINSTATEMENT OF WAIVER OF LIABILITY PRESUMPTION.—The Secretary of Health and Human Services shall, for purposes of determining whether payments to a skilled nursing facility should be denied pursuant to section 1862(a)(1)(A) of the Social Security Act, apply the same presumption of compliance (5 percent) as in effect under regulations as of July 1, 1985. Such presumption shall apply for the 30-month period beginning with the first month beginning after the date of the enactment of this Act.

42 USC 1395y.

42 USC 1395yy note.

(d) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall apply to fiscal years beginning on or after October 1, 1986.

(2) The amendment made by subsection (b) shall become effective on the date of the enactment of this Act.

SEC. 9127. ADDITIONAL MEMBERS OF PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.

(a) EXPANSION OF MEMBERSHIP.—Section 1886(e)(6)(A) of the Social Security Act (42 U.S.C. 1395ww(e)(6)(A)) is amended by striking out "15 individuals" and inserting in lieu thereof "17 individuals".

42 USC 1395ww note.

(b) APPOINTMENTS.—The Director of the Congressional Office of Technology Assessment shall appoint the two additional members of the Prospective Payment Assessment Commission, as required by the amendment made by subsection (a), no later than 60 days after the date of the enactment of this Act, for terms of three years.

SEC. 9128. SENSE OF THE SENATE WITH RESPECT TO INPATIENT HOSPITAL DEDUCTIBLE.

In view of the $92 Medicare hospital deductible increase that went into effect January 1, 1986, it is the sense of the Senate that the Committee on Finance should report legislation which will reform calculation of the annual increase in such deductible so that it is more consistent with annual increases in Medicare payments to hospitals.

SEC. 9129. MEDICARE COVERAGE OF STATE AND LOCAL EMPLOYEES.

For provision providing for medicare coverage of certain State and local employees, see section 13205 of this Act.

PART 2—PROVISIONS RELATING TO PARTS A AND B OF MEDICARE

Subpart A—Payment-Related Provisions

SEC. 9201. EXTENSION OF WORKING AGED PROVISION.

(a) EXTENSION OF SECONDARY PAYOR STATUS BEYOND AGE 69.—Section 1862(b)(3)(A) of the Social Security Act (42 U.S.C. 1395y(b)(3)(A)) is amended—

(1) in clause (i), by striking out "who is under 70 years of age during any part of such month" and ", if the spouse is under 70 years of age during any part of such month", and

(2) in clause (iii), by striking out "and ending with the month before the month in which such individual attains the age of 70".

(b) EXTENSION OF AGE DISCRIMINATION PROVISIONS.—

(1) Section 4(g)(1) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(g)(1)) is amended by striking out "through 69" and inserting in lieu thereof "or older" each place it appears.

(2) Section 12(a) of such Act (29 U.S.C. 631(a)) is amended by inserting "(except the provisions of section 4(g))" after "Act".

(3) Section 4 of such Act (29 U.S.C. 623) is amended by redesignating the second subsection (g), added by section 802 of the Older Americans Act Amendments of 1984, as subsection (h). 98 Stat. 1792.

(c) CONFORMING AMENDMENTS.—

(1) SPECIAL ENROLLMENT PERIOD.—Paragraph (3) of section 1837(i) of the Social Security Act (42 U.S.C. 1395p(i)(3)) is amended to read as follows:

"(3) The special enrollment period referred to in paragraphs (1) and (2) is the period beginning with the first day of the first month in which the individual is no longer enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of current employment and ending seven months later.". 42 USC 1395y.

(2) EFFECTIVE DATE OF ENROLLMENT.—Subsection (e) of section 1838 of the Social Security Act (42 U.S.C. 1395q) is amended to read as follows:

"(e) Notwithstanding subsection (a), in the case of an individual who enrolls during a special enrollment period pursuant to section 1837(i)(3)— 42 USC 1395p.

"(1) in the first month of the special enrollment period, the coverage period shall begin on the first day of that month, or

"(2) in a month after the first month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls."

(d) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall apply with respect to items and services furnished on or after May 1, 1986. 42 USC 1395y note.

(2) The amendments made by subsections (b) and (c) shall become effective on May 1, 1986. 42 USC 1395p note.

SEC. 9202. PAYMENTS TO HOSPITALS FOR DIRECT COSTS OF MEDICAL EDUCATION.

(a) MEDICARE PAYMENT METHODOLOGY.—Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

"(h) PAYMENTS FOR DIRECT GRADUATE MEDICAL EDUCATION COSTS.—

"(1) SUBSTITUTION OF SPECIAL PAYMENT RULES.—Notwithstanding section 1861(v), instead of any amounts that are otherwise payable under this title with respect to the reasonable costs of hospitals for direct graduate medical education costs, the Secretary shall provide for payments for such costs in accordance with paragraph (3) of this subsection. In providing for such payments, the Secretary shall provide for an allocation of such payments between part A and part B (and the trust funds established under the respective parts) as reasonably reflects the proportion of direct graduate medical education costs of 42 USC 1395x.

hospitals associated with the provision of services under each respective part.

"(2) DETERMINATION OF HOSPITAL-SPECIFIC APPROVED FTE RESIDENT AMOUNTS.—The Secretary shall determine, for each hospital with an approved medical residency training program, an approved FTE resident amount for each cost reporting period beginning on or after July 1, 1985, as follows:

"(A) DETERMINING ALLOWABLE AVERAGE COST PER FTE RESIDENT IN A HOSPITAL'S BASE PERIOD.—The Secretary shall determine, for the hospital's cost reporting period that began during fiscal year 1984, the average amount recognized as reasonable under this title for direct graduate medical education costs of the hospital for each full-time-equivalent resident.

"(B) UPDATING TO THE FIRST COST REPORTING PERIOD.—

"(i) IN GENERAL.—The Secretary shall update each average amount determined under subparagraph (A) by the percentage increase in the consumer price index during the 12-month cost reporting period described in such subparagraph.

"(ii) EXCEPTION.—The Secretary shall not perform an update under clause (i) in the case of a hospital if the hospital's reporting period, described in subparagraph (A), began on or after July 1, 1984, and before October 1, 1984.

"(C) AMOUNT FOR FIRST COST REPORTING PERIOD.—For the first cost reporting period of the hospital beginning on or after July 1, 1985, the approved FTE resident amount for the hospital is equal to the amount determined under paragraph (B) increased by 1 percent.

"(D) AMOUNT FOR SUBSEQUENT COST REPORTING PERIODS.—For each subsequent cost reporting period, the approved FTE resident amount for the hospital is equal to the amount determined under this paragraph for the previous cost reporting period updated, through the midpoint of the period, by projecting the estimated percentage change in the consumer price index during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous under- or over-estimations under this subparagraph in the projected percentage change in the consumer price index.

"(E) TREATMENT OF CERTAIN HOSPITALS.—In the case of a hospital that did not have an approved medical residency training program or was not participating in the program under this title for a cost reporting period beginning during fiscal year 1984, the Secretary shall, for the first such period for which it has such a residency training program and is participating under this title, provide for such approved FTE resident amount as the Secretary determines to be appropriate, based on approved FTE resident amounts for comparable programs.

"(3) HOSPITAL PAYMENT AMOUNT PER RESIDENT.—

"(A) IN GENERAL.—The payment amount, for a hospital cost reporting period beginning on or after July 1, 1985, is equal to the product of—

"(i) the aggregate approved amount (as defined in subparagraph (B)) for that period, and

"(ii) the hospital's medicare patient load (as defined in subparagraph (C)) for that period.

"(B) AGGREGATE APPROVED AMOUNT.—As used in subparagraph (A), the term 'aggregate approved amount' means, for a hospital cost reporting period, the product of—

"(i) the hospital's approved FTE resident amount (determined under paragraph (2)) for that period, and

"(ii) the weighted average number of full-time-equivalent residents (as determined under paragraph (4)) in the hospital's approved medical residency training programs in that period.

"(C) MEDICARE PATIENT LOAD.—As used in subparagraph (A), the term 'medicare patient load' means, with respect to a hospital's cost reporting period, the fraction of the total number of inpatient-bed-days (as established by the Secretary) during the period which are attributable to patients with respect to whom payment may be made under part A.

"(4) DETERMINATION OF FULL-TIME-EQUIVALENT RESIDENTS.—

"(A) RULES.—The Secretary shall establish rules consistent with this paragraph for the computation of the number of full-time-equivalent residents in an approved medical residency training program.

"(B) ADJUSTMENT FOR PART-YEAR OR PART-TIME RESIDENTS.—Such rules shall take into account individuals who serve as residents for only a portion of a period with a hospital or simultaneously with more than one hospital.

"(C) WEIGHTING FACTORS FOR CERTAIN RESIDENTS.—Subject to subparagraph (E), such rules shall provide, in calculating the number of full-time-equivalent residents in an approved residency program—

"(i) before July 1, 1986, for each resident the weighting factor is 1.00,

"(ii) on or after July 1, 1986, for a resident who is in the resident's initial residency period (as defined in paragraph (5)(F)), the weighting factor is 1.00,

"(iii) on or after July 1, 1986, and before July 1, 1987, for a resident who is not in the resident's initial residency period (as defined in paragraph (5)(F)), the weighting factor is .75, and

"(iv) on or after July 1, 1987, for a resident who is not in the resident's initial residency period (as defined in paragraph (5)(F)), the weighting factor is .50.

"(E) FOREIGN MEDICAL GRADUATES REQUIRED TO PASS FMGEMS EXAMINATION.—

"(i) IN GENERAL.—Except as provided in clause (ii), such rules shall provide that, in the case of an individual who is a foreign medical graduate (as defined in paragraph (5)(D)), the individual shall not be counted as a resident on or after July 1, 1986, unless—

"(I) the individual has passed the FMGEMS examination (as defined in paragraph (5)(E)), or

"(II) the individual has previously received certification from, or has previously passed the examination of, the Educational Commission for Foreign Medical Graduates.

"(ii) TRANSITION FOR CURRENT FMGS.—On or after July 1, 1986, in the case of a foreign medical graduate who—

"(I) has served as a resident before July 1, 1986, and is serving as a resident after that date, but

"(II) has not passed the FMGEMS examination or a previous examination of the Educational Commission for Foreign Medical Graduates before July 1, 1986,

the individual shall be counted as a resident at a rate equal to one-half of the rate at which the individual would otherwise be counted.

"(5) DEFINITIONS AND SPECIAL RULES.—As used in this subsection:

"(A) APPROVED MEDICAL RESIDENCY TRAINING PROGRAM.—The term 'approved medical residency training program' means a residency or other postgraduate medical training program participation in which may be counted toward certification in a specialty or subspecialty and includes formal postgraduate training programs in geriatric medicine approved by the Secretary.

"(B) CONSUMER PRICE INDEX.—As used in this paragraph, the term 'consumer price index' refers to the Consumer Price Index for All Urban Consumers (United States city average), as published by the Secretary of Commerce.

"(C) DIRECT GRADUATE MEDICAL EDUCATION COSTS.—The term 'direct graduate medical education costs' means direct costs of approved educational activities for approved medical residency training programs.

"(D) FOREIGN MEDICAL GRADUATE.—The term 'foreign medical graduate' means a resident who is not a graduate of—

"(i) a school of medicine accredited by the Liaison Committee on Medical Education of the American Medical Association and the Association of American Medical Colleges (or approved by such Committee as meeting the standards necessary for such accreditation),

"(ii) a school of osteopathy accredited by the American Osteopathic Association, or approved by such Association as meeting the standards necessary for such accreditation, or

"(iii) a school of dentistry or podiatry which is accredited (or meets the standards for accreditation) by an organization recognized by the Secretary for such purpose.

"(E) FMGEMS EXAMINATION.—The term 'FMGEMS examination' means parts I and II of the Foreign Medical Graduate Examination in the Medical Sciences recognized by the Secretary for this purpose.

"(F) INITIAL RESIDENCY PERIOD.—The term 'initial residency period' means the period of board eligibility plus one year, except that—

"(i) except as provided in clause (ii), in no case shall the initial period of residency exceed an aggregate period of formal training of more than five years for any individual, and

"(ii) a period, of not more than two years, during which an individual is in a geriatric residency or fellowship program which meets such criteria as the Secretary may establish, shall be treated as part of the initial residency period, but shall not be counted against any limitation on the initial residency period.

The initial residency period shall be determined, with respect to a resident, as of the time the resident enters the residency training program.

"(G) PERIOD OF BOARD ELIGIBILITY.—

"(i) GENERAL RULE.—Subject to clauses (ii) and (iii), the term 'period of board eligibility' means, for a resident, the minimum number of years of formal training necessary to satisfy the requirements for initial board eligibility in the particular specialty for which the resident is training.

"(ii) APPLICATION OF 1985-1986 DIRECTORY.—Except as provided in clause (iii), the period of board eligibility shall be such period specified in the 1985-1986 Directory of Residency Training Programs published by the Accreditation Council on Graduate Medical Education.

"(iii) CHANGES IN PERIOD OF BOARD ELIGIBILITY.—On or after July 1, 1989, if the Accreditation Council on Graduate Medical Education, in its Directory of Residency Training Programs—

"(I) increases the minimum number of years of formal training necessary to satisfy the requirements for a specialty, above the period specified in its 1985-1986 Directory, the Secretary may increase the period of board eligibility for that specialty, but not to exceed the period of board eligibility specified in that later Directory, or

"(II) decreases the minimum number of years of formal training necessary to satisfy the requirements for a specialty, below the period specified in its 1985-1986 Directory, the Secretary may decrease the period of board eligibility for that specialty, but not below the period of board eligibility specified in that later Directory.

"(H) RESIDENT.—The term 'resident' includes an intern or other participant in an approved medical residency training program.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to hospital cost reporting periods beginning on or after July 1, 1985. 42 USC 1395ww note.

(c) STUDIES BY SECRETARY.—(1) The Secretary of Health and Human Services shall conduct a study with respect to approved educational activities relating to nursing and other health professions for which reimbursement is made to hospitals under title XVIII of the Social Security Act. The study shall address— 42 USC 1395ww note. 42 USC 1395c.

(A) the types and numbers of such programs, and number of students supported or trained under each program;

(B) the fiscal and administrative relationships between the hospitals involved and the schools with which the programs and students are affiliated; and

(C) the types and amounts of expenses of such programs for which reimbursement is made, and the financial and other

contributions which accrue to the hospital as a consequence of having such programs.

The Secretary shall report the results of such study to the Committee on Finance of the Senate and the Committees on Ways and Means and Energy and Commerce of the House of Representatives prior to December 31, 1987.

(2) The Secretary shall conduct a separate study of the advisability of continuing or terminating the exception under section 1886(h)(5)(F)(ii) of the Social Security Act for geriatric residencies and fellowships, and of expanding such exception to cover other educational activities, particularly those which are necessary to meet the projected health care needs of Medicare beneficiaries. Such study shall also examine the adequacy of the supply of faculty in the field of geriatrics. The Secretary shall report the results of such study to the committees described in paragraph (1) prior to July 1, 1990.

Ante, p. 171.

42 USC 1395ww note.
42 USC 1395c.

(d) GAO STUDY.—(1) The Comptroller General shall conduct a study of the variation in the amounts of payments made under title XVIII of the Social Security Act with respect to patients in different teaching hospital settings and in the amounts of such payments which are made with respect to patients who are treated in teaching and nonteaching hospital settings. Such study shall identify the components of such payments (including payments with respect to inpatient hospital services, physicians' services, and capital costs, and, in the case of teaching hospital patients, payments with respect to direct and indirect teaching costs) and shall account, to the extent feasible, for any variations in the amounts of the payment components between teaching and nonteaching settings and among different teaching settings.

(2) In carrying out such study, the Comptroller General may utilize a sample of hospital patients and any other data sources which he deems appropriate, and shall, to the extent feasible, control for differences in severity of illness levels, area wage levels, levels of physician reasonable charges for like services and procedures, and for other factors which could affect the comparability of patients and of payments between teaching and nonteaching settings and among teaching settings. The information obtained in the study shall be coordinated with the information obtained in conducting the study of teaching physicians' services under section 2307(c) of the Deficit Reduction Act of 1984.

98 Stat. 1073.

(3) The Comptroller General shall report the results of the study to the committees described in subsection (c)(1) prior to December 31, 1987.

42 USC 1395ww note.

(e) REPORT ON UNIFORMITY OF APPROVED FTE RESIDENT AMOUNTS.—The Secretary of Health and Human Services shall report to the committees described in subsection (c)(1), not later than December 31, 1987, on whether section 1886(h) of the Social Security Act should be revised to provide for greater uniformity in the approved FTE resident amounts established under paragraph (2) of that section, and, if so, how such revisions should be implemented.

42 USC 1395ww note.

(f) STUDY ON FOREIGN MEDICAL GRADUATES.—The Secretary of Health and Human Services shall study, and report to the committees described in subsection (c)(1), not later than December 31, 1987, respecting the use of physicians who are foreign medical graduates (within the meaning of section 1886(h)(5)(D) of the Social Security Act) in the provision of health care services (particularly inpatient

and outpatient hospital services) to medicare beneficiaries. Such study shall evaluate—

(1) the types of services provided;

(2) the cost of providing such services, relative to the cost of other physicians providing the services or other approaches to providing the services;

(3) any deficiencies in the quality of the services provided, and methods of assuring the quality of such services; and

(4) the impact on costs of and access to services if medicare payment for hospitals' costs of graduate medical education of foreign medical graduates were phased out.

(g) ESTABLISHING PHYSICIAN IDENTIFIER SYSTEM.—The Secretary of Health and Human Services shall establish a system, for implementation not later than July 1, 1987, which provides for a unique identifier for each physician who furnishes services for which payment may be made under title XVIII of the Social Security Act. 42 USC 1395ww note. 42 USC 1395c.

(h) PAPERWORK REDUCTION.—Chapter 35 of title 44, United States Code, shall not apply to information required for purposes of carrying out this section and the amendments made by this section. 42 USC 1395ww note. 44 USC 3501 *et seq.*

(i) PROHIBITING A LIMIT ON INCREASES ON DIRECT MEDICAL EDUCATION COSTS.—(1) Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)), as amended by section 9107(b) of this title, is further amended by adding at the end the following new subparagraph:

"(Q) Except as otherwise explicitly authorized, the Secretary is not authorized to limit the rate of increase on allowable costs of approved medical educational activities.".

(2) The amendment made by paragraph (1) shall apply to cost reporting periods beginning on or after July 1, 1985. 42 USC 1395x note.

(j) SPECIAL TREATMENT OF STATES FORMERLY UNDER WAIVER.—In the case of a hospital in a State that has had a waiver approved under section 1886(c) of the Social Security Act, for cost reporting periods beginning on or after January 1, 1986, if the waiver is terminated— 42 USC 1395ww note. *Ante*, p. 161.

(1) the Secretary of Health and Human Services shall permit the hospital to change the method by which it allocates administrative and general costs to the direct medical education cost centers to the method specified in the medicare cost report;

(2) the Secretary may make appropriate adjustments in the regional adjusted DRG prospective payment rate (for the region in which the State is located), based on the assumption that all teaching hospitals in the State use the medicare cost report; and

(3) the Secretary shall adjust the hospital-specific portion of payment under section 1886(d) of such Act for any such hospital that actually chooses to use the medicare cost report.

The Secretary shall implement this subsection based on the best available data.

SEC. 9204. MORATORIUM ON LABORATORY PAYMENT DEMONSTRATION.

(a) MORATORIUM.—Prior to January 1, 1987, the Secretary of Health and Human Services shall not conduct any demonstration projects relating to competitive bidding as a method of purchasing laboratory services under title XVIII of the Social Security Act. The Secretary may contract for the design of, and site selection for, such demonstration projects. 42 USC 1395ww note. Contracts. 42 USC 1395c.

(b) COOPERATION IN STUDY.—The Secretary of Health and Human Services and the Comptroller General shall assist representatives of clinical laboratories in the industry's conduct of a study to determine whether methods exist which are better than competitive bidding for purposes of utilizing competitive market forces in setting payment levels for laboratory services under title XVIII of the Social Security Act. If such a study is conducted by the clinical laboratory industry, the Secretary and the Comptroller General shall comment on such study and submit such comments and the study to the Senate Committee on Finance and the House Committees on Ways and Means and Energy and Commerce.

42 USC 1395c.

42 USC 1395y note.

SEC. 9205. HOME HEALTH WAIVER OF LIABILITY.

The Secretary of Health and Human Services shall, for purposes of determining whether payments to a home health agency should be denied pursuant to section 1862(a)(1)(A) of the Social Security Act, apply a presumption of compliance (2.5 percent) in the same manner as under the regulations in effect as of July 1, 1985. Such presumption shall apply until 12 months after the date on which ten regional intermediaries have commenced operations to service home health agencies, as required under section 1816(e)(4) of the Social Security Act.

42 USC 1395y.

42 USC 1395h.

Subpart B—Other Provisions

SEC. 9211. PROVISIONS RELATING TO HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS.

(a) FINANCIAL RESPONSIBILITY FOR PATIENTS HOSPITALIZED ON THE EFFECTIVE DATE OF AN ENROLLMENT OR DISENROLLMENT.—(1) Subsection (c) of section 1876 of the Social Security Act (42 U.S.C. 1395mm) is amended by adding at the end the following new paragraph:

Contract.

"(7) A risk-sharing contract under this section shall provide that in the case of an individual who is receiving inpatient hospital services from a subsection (d) hospital (as defined in section 1886(d)(1)(B)) as of the effective date of the individual's—

42 USC 1395ww.

"(A) enrollment with an eligible organization under this section—

"(i) payment for such services until the date of the individual's discharge shall be made under this title as if the individual were not enrolled with the organization,

"(ii) the organization shall not be financially responsible for payment for such services until the date after the date of the individual's discharge, and

"(iii) the organization shall nonetheless be paid the full amount otherwise payable to the organization under this section; or

"(B) termination of enrollment with an eligible organization under this section—

"(i) the organization shall be financially responsible for payment for such services after such date and until the date of the individual's discharge,

"(ii) payment for such services during the stay shall not be made under section 1886(d), and

"(iii) the organization shall not receive any payment with respect to the individual under this section during the period the individual is not enrolled.".

(2) Subsection (a)(3) of such section is amended by striking out "Payments" and inserting in lieu thereof "Subject to subsection (c)(7), payments".

(3) Subsection (a)(6) of such section is amended by striking out "If" and inserting in lieu thereof "Subject to subsection (c)(7), if".

(b) DISENROLLMENTS.—

(1) EFFECTIVE DATE.—Subsection (c)(3)(B) of such section is amended by striking out "a full calendar month after" and inserting in lieu thereof "the date on which".

(2) INFORMATION.—Such subsection is further amended by adding at the end the following: "In the case of an individual's termination of enrollment, the organization shall provide the individual with a copy of the written request for termination of enrollment and a written explanation of the period (ending on the effective date of the termination) during which the individual continues to be enrolled with the organization and may not receive benefits under this title other than through the organization.".

(c) REVIEW OF MARKETING MATERIAL.—Subsection (c)(3)(C) of such section is amended by adding at the end the following: "No brochures, application forms, or other promotional or informational material may be distributed by an organization to (or for the use of) individuals eligible to enroll with the organization under this section unless (i) at least 45 days before its distribution, the organization has submitted the material to the Secretary for review and (ii) the Secretary has not disapproved the distribution of the material. The Secretary shall review all such material submitted and shall disapprove such material if the Secretary determines, in the Secretary's discretion, that the material is materially inaccurate or misleading or otherwise makes a material misrepresentation.". Prohibitions.

(d) PROMPT PUBLICATION OF AAPCC.—Subsection (a)(1)(A) of such section is amended by inserting after "The Secretary shall annually determine" the following: ", and shall publish not later than September 7 before the calendar year concerned".

(e) EFFECTIVE DATES.— 42 USC 1395mm note.

(1) FINANCIAL RESPONSIBILITY.—The amendments made by subsection (a) shall apply to enrollments and disenrollments that become effective on or after the date of the enactment of this Act.

(2) DISENROLLMENTS.—The amendments made by subsection (b) shall apply to requests for termination of enrollment submitted on or after May 1, 1986.

(3) MATERIAL REVIEW.—(A) The amendment made by subsection (c) shall not apply to material which has been distributed before July 1, 1986.

(B) Such amendment also shall not apply so as to require the submission of material which is distributed before July 1, 1986.

(C) Such amendment shall also not apply to material which the Secretary determines has been prepared before the date of the enactment of this Act and for which a commitment for distribution has been made, if the application of such amendment would constitute a hardship for the organization involved.

(4) PUBLICATION.—The amendment made by subsection (d) shall apply to determinations of per capita rates of payment for 1987 and subsequent years.

(5) NECESSARY MODIFICATION OF CONTRACTS.—The Secretary of Health and Human Services shall provide for such changes in

42 USC 1395 mm.

the risk-sharing contracts which have been entered into under section 1876 of the Social Security Act as may be necessary to conform to the requirements imposed by the amendments made by this section on a timely basis.

SEC. 9213. REMOVAL OF PROHIBITION ON COMMENTS BY MEDICARE AND SOCIAL SECURITY ACTUARIES RELATING TO ECONOMIC ASSUMPTIONS.

(a) FEDERAL OLD-AGE AND DISABILITY INSURANCE TRUST FUND.—Section 201(c) of the Social Security Act (42 U.S.C. 401(c)) is amended by striking out ": *Provided*, That the certification shall not refer to economic assumptions underlying the Trustee's report, and shall" and inserting in lieu thereof ". Such report shall".

(b) MEDICARE TRUST FUNDS.—Sections 1817(b) and 1841(b) of such Act (42 U.S.C. 1395i(b), 1395t(b)) are each amended by striking out ": *Provided*, That the certification shall not refer to economic assumptions underlying the Trustee's report".

42 USC 401 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on the date of the enactment of this Act.

SEC. 9214. LIMITATION ON MERGER OF END STAGE RENAL DISEASE NETWORKS.

42 USC 1395rr note.
42 USC 1395rr.

The Secretary of Health and Human Services shall maintain renal disease network organizations as authorized under section 1881(c) of the Social Security Act, and may not merge the network organizations into other organizations or entities. The Secretary may consolidate such network organizations, but only if such consolidation does not result in fewer than 14 such organizations being permitted to exist.

SEC. 9215. EXTENSION OF CERTAIN MEDICARE MUNICIPAL HEALTH SERVICES DEMONSTRATION PROJECTS.

Maryland.
Ohio.
Wisconsin.
California.
42 USC 1395b-1 note.
42 USC 1395b-1.

The Secretary of Health and Human Services shall extend, for a period of three additional years, approval of four municipal health services demonstration projects (located in Baltimore, Cincinnati, Milwaukee, and San Jose) authorized under section 402(a) of the Social Security Amendments of 1967.

SEC. 9216. AUDIT AND MEDICAL CLAIMS REVIEW.

42 USC 1395h note.

(a) INCREASE IN ACTIVITIES FOR FISCAL YEARS 1986, 1987, AND 1988.—Section 118 of the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 355) is amended—

(1) by striking out "for fiscal years 1983, 1984, and 1985",

(2) by striking out "such fiscal years" and inserting in lieu thereof "fiscal years 1983, 1984, and 1985, and $105,000,000 for each of fiscal years 1986, 1987, and 1988", and

(3) by striking out "the purpose of carrying out provider cost audits and reviews of medical necessity" and inserting in lieu thereof "purposes of carrying out provider cost audits, of reviewing medical necessity, and of recovering third-party liability payments".

42 USC 1395h note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to fiscal years beginning with fiscal year 1986.

SEC. 9217. LIVER TRANSPLANTS.

(a) The Senate finds that:

(1) There have been more than 600 liver transplants since 1963 and the one year survival rate at qualified institutions is now greater than 70 percent.

(2) There are 4,000 to 4,700 potential candidates in the United States each year who require a liver transplant, but only a small percentage would be eligible for Medicare coverage.

(3) There are currently individuals on waiting lists for liver transplants who will die without Medicare coverage.

(4) After extensive review and consideration of all the available data, an National Institutes of Health expert panel concluded liver transplantation is "a therapeutic modality for end-stage liver disease that deserves broader application" in a limited number of centers where they can be carried out under optimal conditions.

(5) National Institutes of Health further recommended that liver transplants be done in individuals under 18 years of age.

(6) The CHAMPUS program, after considering all relevant data, determined that there was no scientific basis for limiting liver transplants to children under 18 years of age.

(7) The Department of Health and Human Services has determined that liver transplantation is no longer an experimental procedure only for children under 18.

(b) Based upon the above findings, it is the sense of the Senate that:

(1) For the purposes of title XVIII of the Social Security Act, the Secretary immediately reconsider the Medicare liver transplant coverage decision and implement a policy under which a liver transplant shall not be considered to be an experimental procedure for Medicare beneficiaries solely because an individual is over 18 years of age. 42 USC 1395c.

(2) A liver transplant shall be covered under such title when reasonable and medically necessary.

(3) The Secretary shall place appropriate limiting criteria on coverage, including those relating to the patient's condition, the disease state, and the institution providing the care, so as to ensure the highest quality of medical care demonstrated to be consistent with successful outcomes.

SEC. 9218. STUDIES RELATING TO PHYSICAL THERAPISTS AND OTHER PROFESSIONALS.

(a) SUPERVISION OF HOME HEALTH SERVICES.—The Secretary of Health and Human Services shall conduct a study of the advisability of changing the requirements of title XVIII of the Social Security Act to allow home health services to be provided under the supervision of a physical therapist or other health care professional, rather than requiring the supervision of a physician or registered nurse.

(b) OFFICE REQUIREMENT.—The Secretary of Health and Human Services shall conduct a study on the advisability of deleting the requirement under such title that a physical therapist must have an office equipped with specified equipment, even if such therapist provides all such services in patients' homes.

(c) REPORTS.—The Secretary shall report the results of the studies to the Congress prior to October 1, 1986.

SEC. 9219. TECHNICAL CORRECTIONS.

(a) WORKING AGED TECHNICAL CORRECTIONS.—

(1) PREMIUM PENALTY.—The second sentence of section 1839(b) of the Social Security Act (42 U.S.C. 1395r(b)), as amended by section 2338(a) of the Deficit Reduction Act of 1984, is amended by striking out "months in which" and all that follows through "clause (iv) of such section" and inserting in lieu thereof "months during which the individual has attained the age of 65 and for which the individual can demonstrate that the individual was enrolled in a group health plan described in section 1862(b)(3)(A)(iv)".

42 USC 1395y.

(2) SPECIAL ENROLLMENT PERIODS.—Section 1837(i) of the Social Security Act (42 U.S.C. 1395p), as added by section 2338(b) of the Deficit Reduction Act of 1984, is amended—

(A) in paragraph (1), by amending subparagraph (A) to read as follows:

"(A) has attained the age of 65,"; and

(B) in paragraph (2), by redesignating subparagraph (C) as subparagraph (D) and by amending subparagraphs (A) and (B) to read as follows:

"(A) has attained the age of 65;

"(B)(i) has enrolled (or has been deemed to have enrolled) in the medical insurance program established under this part during the individual's initial enrollment period, or (ii) is an individual described in paragraph (1)(B);

"(C) has enrolled in such program during any subsequent special enrollment period under this subsection during which the individual was not enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of the individual's (or individual's spouse's) current employment; and".

(3) EFFECTIVE DATES.—

42 USC 1395r note.

(A) The amendment made by paragraph (1) shall apply to months beginning with January 1983 for premiums for months beginning with the first month that begins more than 30 days after the date of the enactment of this Act.

42 USC 1395p note.

(B)(i) The amendments made by paragraph (2) shall apply to enrollments in months beginning with the first effective month (as defined in clause (ii)), except that in the case of any individual who would have a special enrollment period under section 1837(i) of the Social Security Act that would have begun after November 1984 and before the first effective month, the period shall be deemed to begin with the first day of the first effective month.

(ii) For purposes of clause (i), the term "first effective month" means the first month that begins more than 90 days after the date of the enactment of this Act.

(b) MISCELLANEOUS TECHNICAL CORRECTIONS.—

(1)(A) Subclause (III) of section 1842(b)(7)(B)(ii) of the Social Security Act (42 U.S.C. 1395u(b)(7)(B)(ii)), as added by section 2307(a)(2)(G) of the Deficit Reduction Act of 1984, is amended by indenting it two additional ems to the right so as to align its left margin with the left margins of subclauses (I) and (II) of that section.

(B) Section 1861(n) of the Social Security Act (42 U.S.C. 1395x(n)), as inserted by section 2321(e)(3) of the Deficit Reduction Act of 1984, is amended by striking out "at his home" and inserting in lieu thereof "as his home".

(C) Section 1888(b) of the Social Security Act (42 U.S.C. 1395yy(b)), as added by section 2319(b) of the Deficit Reduction

Act of 1984, is amended by striking out "nothwithstanding" and inserting in lieu thereof "notwithstanding".

(D) The amendments made by this paragraph shall be effective as if they had been originally included in the Deficit Reduction Act of 1984. 42 USC 1395u note.

(2)(A) Clause (iii) of section 1842(b)(7)(B) of the Social Security Act (42 U.S.C. 1395u(b)(7)(B)), as added by section 3(b)(6) of Public Law 98-617, is amended by moving its alignment two additional ems to the left so as to align its left margin with the left margins of clauses (i) and (ii) of that section.

(B) The amendment made by subparagraph (A) shall be effective as if it had been originally included in Public Law 98-617. 42 USC 1395u note.

(3)(A) Section 1861(v)(1)(G)(i) of the Social Security Act (42 U.S.C. 1395x(b)(1)(G)(i)), as amended by section 602(d)(1) of the Social Security Amendments of 1983, is amended by inserting, in the matter after subclause (III), "on the basis of" after "(during such period)".

(B) The amendment made by subparagraph (A) shall be effective as if it had been originally included in the Social Security Amendments of 1983. 42 USC 1395x note.

SEC. 9220. EXTENSION OF ON LOK WAIVER.

(a) CONTINUED APPROVAL.—

(1) MEDICARE WAIVERS.—Notwithstanding any limitations contained in section 222 of the Social Security Amendments of 1972 and section 402(a) of the Social Security Amendments of 1967, the Secretary of Health and Human Services shall continue approval of the risk-sharing application (described in section 603(c)(1) of Public Law 98-21) for waivers of certain requirements of title XVIII of the Social Security Act after the end of the period described in that section. 42 USC 1395b-1 and note, 1395*ll*. 42 USC 1395b-1. 42 USC 1395b-1 note. 42 USC 1395c. 42 USC 1315.

(2) MEDICAID WAIVERS.—Notwithstanding any limitations contained in section 1115 of the Social Security Act, the Secretary shall approve any application of the Department of Health Services, State of California, for a waiver of requirements of title XIX of such Act in order to continue carrying out the demonstration project referred to in section 603(c)(2) of Public Law 98-21 after the end of the period described in that section. 42 USC 1396.

(b) TERMS, CONDITIONS, AND PERIOD OF APPROVAL.—The Secretary's approval of an application (or renewal of an application) under this section—

(1) shall be on the same terms and conditions as applied with respect to the corresponding application under section 603(c) of Public Law 98-21 as of July 1, 1985, except that requirements relating to collection and evaluation of information for demonstration purposes (and not for operational purposes) shall not apply; and

(2) shall remain in effect until such time as the Secretary finds that the applicant no longer complies with the terms and conditions described in paragraph (1).

SEC. 9221. CONTINUATION OF "ACCESS: MEDICARE" DEMONSTRATION PROJECT.

(a) APPROVAL OF APPLICATION.—The Secretary of Health and Human Services shall approve any application for a waiver of any requirement of titles XVIII and XIX of the Social Security Act necessary to provide for the continuation, through September 30, 42 USC 1395c, 1396.

42 USC 1395b-1 and note, 1395ll. 42 USC 1395b-1.

1986, of the "Access: Medicare" demonstration project carried out pursuant to section 222 of the Social Security Amendments of 1972 and section 402(a) of the Social Security Amendments of 1967 by Monroe County Long Term Care Program, Inc.

(b) TERMS AND CONDITIONS.—The Secretary's approval of an application (or renewal of an application) under subsection (a) shall be on the same terms and conditions as applied to the demonstration project as in effect on August 31, 1985.

PART 3—PROVISIONS RELATING TO PART B OF MEDICARE

Subpart A—Payment-Related Provisions

SEC. 9301. MEDICARE PHYSICIAN PAYMENT PROVISIONS.

42 USC 1395ww note.

(a) EXTENSION OF CURRENT FREEZE ON PAYMENT RATES THROUGH APRIL 30, 1986.—Section 5(c) of the Emergency Extension Act of 1985 (Public Law 99-107), as amended by section 9101(a) of this title, is further amended by adding at the end the following new paragraph:

"(2) PHYSICIAN PAYMENTS.—For purposes of subsection (b), the term 'extension period' means the period beginning on October 1, 1985, and ending on April 30, 1986."

(b) EXTENSION OF CERTAIN PROVISIONS THROUGH DECEMBER 31, 1986.—

(1) EXTENSION.—Section 1842(b)(4) of the Social Security Act (42 U.S.C. 1395u(b)(4)) is amended—

(A) in subparagraph (A)—

(i) by inserting "(i)" after "(4)(A)", and

(ii) by adding at the end the following new clauses:

"(ii)(I) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during the 8-month period beginning May 1, 1986, by a physician who is not a participating physician (as defined in subsection (h)(1)) at the time of furnishing the services, the Secretary shall not set any level higher than the same level as was set for the 12-month period beginning July 1, 1983.

"(II) In determining the prevailing charge levels under the fourth sentence of paragraph (3) for physicians' services furnished during the 8-month period beginning May 1, 1986, by a physician who is a participating physician (as defined in subsection (h)(1)) at the time of furnishing the services, the Secretary shall permit an additional one percentage point increase in the increase otherwise permitted under that sentence.

"(iii) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during a 12-month period beginning on or after January 1, 1987, by a physician who is not a participating physician (as defined in subsection (h)(1)) at the time of furnishing the services, the Secretary shall not set any level higher than the same level as was set for services furnished during the previous calendar year (without regard to clause (ii)(II)) for physicians who were participating physicians during that year.";

(B) in subparagraph (B)—

(i) by inserting "(i)" after "(B)", and

(ii) by adding at the end the following new clause:

"(ii) In determining the reasonable charge under paragraph (3) for physicians' services furnished during the 8-month period beginning May 1, 1986, by a physician who is not a participating physician (as defined in subsection (h)(1)) at the time of furnishing the services—

"(I) if the physician was not a participating physician at any time during the 12-month period beginning on October 1, 1984, the customary charges shall be the same customary charges as were recognized under this section for the 12-month period beginning July 1, 1983, and

"(II) if the physician was a participating physician at any time during the 12-month period beginning on October 1, 1984, the physician's customary charges shall be determined based upon the physician's actual charges billed during the 12-month period ending on March 31, 1985.";

(C) in subparagraph (C)—

(i) by inserting "(i)" after "(C)",

(ii) by striking out "(A)" and inserting in lieu thereof "(A)(i)" each place it appears, and

(iii) by adding at the end the following new clause:

"(ii) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during the periods beginning after December 31, 1986, by a physician who was not a participating physician on that date, the Secretary shall treat the level as set under subparagraph (A)(ii) as having fully provided for the economic changes which would have been taken into account but for the limitations contained in subparagraph (A)(ii)."; and

(D) in subparagraph (D)—

(i) by striking out "In determining" and all that follows through "subsection (h)(1))" and insert in lieu thereof "(i) In determining the customary charges for physicians' services furnished during the 8-month period beginning May 1, 1986, or the 12-month period beginning January 1, 1987, by a physician who was not a participating physician (as defined in subsection (h)(1)) on September 30, 1985", and

(ii) by adding at the end the following new clauses:

"(ii) In determining the customary charges for physicians' services furnished during the 12-month period beginning January 1, 1987, by a physician who is not a participating physician (as defined in subsection (h)(1)) on April 30, 1986, the Secretary shall not recognize increases in actual charges for services furnished during the 7-month period beginning on October 1, 1985, above the level of the physician's actual charges billed during the 3-month period ending on June 30, 1984.

"(iii) In determining the customary charges for physicians' services furnished during the 12-month period beginning January 1, 1987, or January 1, 1988, by a physician who is not a participating physician (as defined in subsection (h)(1)) on December 31, 1986, the Secretary shall not recognize increases in actual charges for services furnished during the 8-month period beginning on May 1, 1986, above the level of the physician's actual charges billed during the 3-month period ending on June 30, 1984.".

(2) CONTINUED ENFORCEMENT.—The first sentence of section 1842(j)(1) of such Act (42 U.S.C. 1395u(j)(1)) is amended to read as follows: "In the case of a physician who is not a participating physician for items and services furnished during a portion of the 30-month period beginning July 1, 1984, the Secretary shall

monitor the physician's actual charges to individuals enrolled under this part for physicians' services during that portion of that period.".

42 USC 1395u note.

(3) PERIOD FOR ENTERING PARTICIPATION AGREEMENTS.—The Secretary of Health and Human Services shall provide, during the month of April 1986, that physicians and suppliers may enter into an agreement under section 1842(h)(1) of the Social Security Act for the 8-month period beginning May 1, 1986, or terminate such an agreement previously entered into for fiscal year 1986. In the case of a physician or supplier who entered into such an agreement for fiscal year 1986, the physician or supplier shall be deemed to have entered into such agreement for such 8-month period and for each succeeding year unless the physician or supplier terminates such agreement before the beginning of the respective period. At the beginning of such 8-month period, the Secretary shall publish a new directory (described in section 1842(h)(4) of that Act, as redesignated by subsection (c)(3)(D) of this section) of participating physicians and suppliers.

42 USC 1395u.

42 USC 1395u note.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services furnished on or after May 1, 1986.

(c) INCENTIVES FOR PARTICIPATING PHYSICIAN PROGRAM.—

(1) 15-MONTH EXTENSION OF TRANSFER OF FUNDS FOR CARRIERS.—Section 2306(e) of the Deficit Reduction Act of 1984 (Public Law 98-369; 98 Stat. 1073) is amended—

42 USC 1395u.

(A) by striking out "and 1985" and inserting in lieu thereof ", 1985, and 1986",

(B) by striking out "the amendments made by this section" and inserting in lieu thereof "subsections (b)(4), (h), and (j) of section 1842 of the Social Security Act",

(C) by striking out "and" before "not less",

(D) by inserting before the period at the end the following: ", and not less than $18,000,000 for fiscal year 1986", and

(E) by adding at the end the following new sentences: "A significant proportion of such funds shall be used for the expansion of the participating physician and supplier program and for the development of professional relations staffs dedicated to addressing the billing and other problems of physicians and suppliers participating in that program. Such funds for fiscal year 1986 are available for obligation until December 31, 1986.".

(2) IMPROVEMENT OF PARTICIPATING PHYSICIAN DIRECTORIES.—Section 1842(i) of the Social Security Act (42 U.S.C. 1395u(i)) is amended—

(A) in the first sentence of paragraph (2)—

(i) by striking out "a directory" and inserting in lieu thereof "directories (for appropriate local geographic areas)", and

(ii) by inserting "for that area" before "for that fiscal year";

(B) in the second sentence of paragraph (2), by striking out "The directory" and inserting in lieu thereof "Each directory";

(C) in paragraph (3)—

(i) by striking out "directory" the first place it appears and inserting in lieu thereof "the directories", and

(ii) by striking out "directory" the second place it appears and inserting in lieu thereof "the appropriate area directory or directories"; and

(D) in paragraph (4)—

(i) by striking out "directory" and inserting in lieu thereof "the directories", and

(ii) by adding at the end the following: "The Secretary shall provide that each appropriate area directory is sent to each participating physician located in that area.".

(3) ELIMINATION OF PHYSICIAN ASSIGNMENT RATE LIST.—Section 1842(i) of such Act is further amended— 42 USC 1395u.

(A) by striking out "(i)(1)" and all that follows through the end of paragraph (1),

(B) by striking out "subsection (h)(1)" in paragraph (2) and inserting in lieu thereof "paragraph (1)",

(C) by striking out "list and" each place it appears in paragraphs (3) and (4), and

(D) by redesignating paragraphs (2) through (4) as paragraphs (4) through (6) of subsection (h), respectively.

(4) INFORMATION ON THE PARTICIPATING PHYSICIAN AND SUPPLIER PROGRAM IN EXPLANATIONS OF MEDICARE BENEFITS FOR UNASSIGNED CLAIMS.—Section 1842(h) of such Act, as previously amended by this subsection, is further amended by adding at the end the following new paragraphs:

"(7) The Secretary shall provide that each explanation of benefits provided under this part for services furnished in the United States, in conjunction with the payment of claims under section 1833(a)(1) (made other than on an assignment-related basis, described in paragraph (8)), shall include— 42 USC 1395l.

"(A) a reminder of the participating physician and supplier program established under this subsection (including the limitation on charges that may be imposed by such physicians and suppliers), and

"(B) the toll-free telephone number or numbers, maintained under paragraph (2), at which an individual enrolled under this part may obtain information on participating physicians and suppliers.

"(8) For purposes of this title, a claim is considered to be paid on an 'assignment-related basis' if the claim is paid on the basis of an assignment described in subsection (b)(3)(B)(ii), in accordance with subsection (b)(6)(B), or under the procedure described in section 1870(f)(1).". 42 USC 1395gg.

(5) EFFECTIVE DATE.—Section 1842(b)(7) of the Social Security Act, as added by paragraph (4) of this subsection, shall apply to explanations of benefits provided on or after such date (not later than October 1, 1986) as the Secretary of Health and Human Services shall specify. 42 USC 1395u note.

(d) CHANGING CUSTOMARY AND PREVAILING CHARGE UPDATES FOR PHYSICIAN SERVICES AND OTHER PART B SERVICES FROM OCTOBER TO JANUARY.—

(1) PAYMENT UPDATES.—Section 1842(b)(3) of the Social Security Act (42 U.S.C. 1395u(b)(3)) is amended—

(A) in subparagraph (F), by striking out "(ending on September 30)";

(B) in the third sentence, by striking out "March 31" and all that follows through "of each year)" and inserting in lieu thereof "June 30 last preceding the start of the calendar year"; and

(C) in the eighth sentence, by striking out "the twelve-month period beginning on October 1 in".

(2) PARTICIPATION AGREEMENTS.—Section 1842(h)(1) of such Act is amended—

42 USC 1395u.

(A) in the second sentence—

(i) by striking out "before October 1" and inserting in lieu thereof "before the beginning",

(ii) by striking out "on the basis of an assignment" and all that follows through "1870(f)(1)" and inserting in lieu thereof "on an assignment-related basis", and

(iii) by striking out "the 12-month period beginning on October 1 of"; and

(B) in the third sentence—

(i) by striking out "after October 1" and inserting in lieu thereof "after the beginning", and

(ii) by striking out "12-month period beginning on such October 1" and inserting in lieu thereof "year".

(3) DIRECTORIES.—The first sentence of section 1842(i)(2) of such Act (which is redesignated as section 1842(h)(4) by subsection (c)(3)(D)), is further amended by striking out "fiscal" each place it appears.

42 USC 1395u note.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to items and services furnished on or after October 1, 1986.

42 USC 1395u note.

42 USC 1395j.

(5) TRANSITION.—Notwithstanding any other provision of law, for purposes of making payment under part B of title XVIII of the Social Security Act, customary and prevailing charges (and the lowest charges determined under the sixth sentence of section 1842(b)(3) of such Act) for items and services furnished during the period beginning on October 1, 1986, and ending on December 31, 1986, shall be determined on the same basis as for items and services furnished on September 30, 1986.

SEC. 9303. PAYMENT FOR CLINICAL LABORATORY SERVICES.

(a) CHANGING MONTH OF ANNUAL UPDATE FROM JULY TO JANUARY.—

(1) IN GENERAL.—Section 1833(h) of the Social Security Act (42 U.S.C. 1395l(h)) is amended—

42 USC 1395l.

(A) by striking out "June 30, 1987" and "July 1, 1987" and inserting in lieu thereof "December 31, 1987" and "January 1, 1988", respectively, each place either appears, and

(B) in paragraph (2), by inserting "(to become effective on January 1 of each year)" after "adjusted annually".

42 USC 1395l note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to clinical laboratory diagnostic tests performed on or after July 1, 1986.

42 USC 1395l note.

(3) TRANSITION.—The Secretary of Health and Human Services shall provide that the annual adjustment under section 1833(h) of the Social Security Act for 1986—

(A) shall take effect on January 1, 1987,

(B) shall apply for the 12-month period beginning on that date, and

(C) shall take into account the percentage increase or decrease in the Consumer Price Index for all urban consumers (United States city average) occurring over an 18-month period, rather than over a 12-month period.

(b) PROVIDING CEILING ON RATES.—

(1) CEILING ON PAYMENTS.—Paragraphs (1)(D)(i) and (2)(D)(i) of section 1833(a) of the Social Security Act (42 U.S.C. 1395l(a)) are each amended by inserting after "lesser of the amount determined under such fee schedule" the following: ", the limitation amount for that test determined under subsection (h)(4)(B),".

(2) ESTABLISHMENT OF LIMITATION AMOUNT.—Section 1833(h)(4) of such Act is amended by inserting "(A)" after "(4)" and by adding at the end the following new subparagraph:

"(B) For purposes of subsections (a)(1)(D)(i) and (a)(2)(D)(i), the limitation amount for a clinical diagnostic laboratory test performed—

"(i) on or after July 1, 1986, and before January 1, 1988, is equal to 115 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1), or

"(ii) after December 31, 1987, and so long as a fee schedule for the test has not been established on a nationwide basis, is equal to 110 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).".

(3) METHOD OF PAYMENT FOR NON-INDEPENDENT LABORATORIES.—Section 1833(h)(5)(C) of such Act is amended by striking out "which is independent of a physician's office or" and inserting in lieu thereof "other than".

(4) EXTENDING MEDICARE PROFICIENCY EXAMINATION AUTHORITY.—Section 1123(a) of such Act (42 U.S.C. 1320a-2(a)) is amended by striking out "September 30, 1983" and inserting in lieu thereof "September 30, 1987".

(5) EFFECTIVE DATES.—(A) The amendments made by paragraphs (1) and (2) shall apply to clinical diagnostic laboratory tests performed on or after July 1, 1986. 42 USC 1395*l* note.

(B) The amendment made by paragraph (3) shall apply to clinical diagnostic laboratory tests performed on or after January 1, 1987. 42 USC 1395*l* note.

(C) The amendment made by paragraph (4) shall take effect on the date of the enactment of this Act. 42 USC 1320a-2 note.

(c) REPORT ON MINIMUM STANDARDS FOR CLINICAL LABORATORIES THAT ARE PART OF, OR ASSOCIATED WITH, PHYSICIANS' OFFICES.—The Secretary of Health and Human Services shall report to Congress, not later than 12 months after the date of the enactment of this Act, on the standards that might be established under the medicare program for clinical laboratories which are part of or associated with a physician's office to assure the health and safety of individuals with respect to whom the laboratories perform clinical diagnostic laboratory tests for which payment may be made under the program. In recommending standards, the Secretary shall consider the differences in the scope, type, and complexity of tests performed by such laboratories and such other factors as may indicate a need for different standards for laboratories with different characteristics.

SEC. 9304. DETERMINATIONS OF INHERENT REASONABLENESS OF CHARGES AND CUSTOMARY CHARGES FOR CERTAIN FORMER HOSPITAL-COMPENSATED PHYSICIANS.

(a) REGULATIONS RELATING TO INHERENT REASONABLENESS OF CHARGES.—Section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

"(8) The Secretary by regulation shall—

"(A) describe the factors to be used in determining the cases (of particular items or services) in which the application of this subsection results in the determination of a reasonable charge that, by reason of its grossly excessive or grossly deficient amount, is not inherently reasonable, and

"(B) provide in those cases for the factors that will be considered in establishing a reasonable charge that is realistic and equitable.".

42 USC 1395u note

(b) COMPUTATION OF CUSTOMARY CHARGES FOR CERTAIN FORMER HOSPITAL-COMPENSATED PHYSICIANS.—(1) In applying section 1842(b) of the Social Security Act to payment for physicians' services performed during the 8-month period beginning May 1, 1986, in the case of a physician who at anytime during the period beginning on October 31, 1982, and ending on January 31, 1985, was a hospital-compensated physician (as defined in paragraph (3)) but who, as of February 1, 1985, was no longer a hospital-compensated physician, the physician's customary charges shall—

(A) be based upon the physician's actual charges billed during the 12-month period ending on March 31, 1985, and

(B) in the case of a physician who was not a participating physician (as defined in section 1842(h)(1) of the Social Security Act) on September 30, 1985, and who is not such a physician on May 1, 1986, be deflated (to take into account the legislative freeze on actual charges for nonparticipating physicians' services) by multiplying the physician's customary charges by .85.

(2) In applying section 1842(b) of the Social Security Act to payment for physicians' services performed during the 8-month period beginning May 1, 1986, in the case of a physician who during the period beginning on February 1, 1985, and ending on December 31, 1986, changes from being a hospital-compensated physician to not being a hospital-compensated physician, the physician's customary charges shall be determined in the same manner as if the physician were considered to be a new physician.

(3) In this subsection, the term "hospital-compensated physician" means, with respect to services furnished to patients of a hospital, a physician who is compensated by the hospital for the furnishing of physicians' services for which payment may be made under this part.

SEC. 9305. PHYSICIAN PAYMENT REVIEW COMMISSION AND DEVELOPMENT OF RELATIVE VALUE SCALE.

(a) ESTABLISHMENT OF COMMISSION.—Part B of title XVIII of the Social Security Act is amended by adding at the end the following new section:

"PHYSICIAN PAYMENT REVIEW COMMISSION

42 USC 1395w-1.

"SEC. 1845. (a)(1) The Director of the Congressional Office of Technology Assessment (hereinafter in this section referred to as

the 'Director' and the 'Office', respectively) shall provide for the appointment of a Physician Payment Review Commission (hereinafter in this section referred to as the 'Commission'), to be composed of individuals with expertise in the provision and financing of physicians' services appointed by the Director (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service).

"(2) The Commission shall consist of 11 individuals. Members of the Commission shall first be appointed no later than May 1, 1986, for a term of three years, except that the Director may provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than four members expire in any one year.

"(3) The membership of the Commission shall include physicians, other health professionals, individuals skilled in the conduct and interpretation of biomedical, health services, and health economics research, and representatives of consumers and the elderly. The Director shall seek nominations from a wide range of groups, including—

"(A) national organizations representing physicians, including medical specialty organizations,

"(B) organizations representing the elderly and consumers,

"(C) national organizations representing medical schools,

"(D) national organizations representing hospitals, including teaching hospitals, and

"(E) national organizations representing health benefits programs.

"(b)(1) The Commission shall make recommendations to the Congress, not later than March 1 of each year (beginning with 1987), regarding adjustments to the reasonable charge levels for physicians' services recognized under section 1842(b) and changes in the methodology for determining the rates of payment, and for making payment, for physicians' services under this title and other items and services under this part.

"(2) In making its recommendations, the Commission shall—

"(A) consider, and make recommendations on the feasibility and desirability of reducing, the differences in payment amounts for physicians' services under this part which are based on differences in geographic location or specialty;

"(B) review the input costs (including time, professional skills, and risks) associated with the provision of different physicians' services;

"(C) identify those charges recognized as reasonable under section 1842(b) which are significantly out-of-line, based on the considerations of subparagraphs (A) and (B); 42 USC 1395u.

"(D) assess the likely impact of different adjustments in payment rates, particularly their impact on physician participation in the participation program established under section 1842(h) and on beneficiary access to necessary physicians' services;

"(E) make recommendations on ways to increase physician participation in that participation program and the acceptance of payment under this part on an assignment-related basis;

"(F) make recommendations respecting the advisability and feasibility of making changes in the payment system for physicians' services under this part based on (i) the Secretary's study under section 603(b)(2) of the Social Security Amendments of 1983 (relating to payments for physicians' services furnished to 42 USC 1395b-1 note.

hospital inpatients on the basis of diagnosis-related groups) and (ii) the Office's report under section 2309 of the Deficit Reduction Act of 1984 (relating to physician reimbursement under this part);

42 USC 1395l note.

"(G) identify those procedures, involving the use of assistants at surgery, for which payment for those assistants should not be made under this title without prior approval; and

"(H) identify those procedures for which an opinion of a second physician should be required before payment is made under this title.

"(3) The Commission also shall advise and make recommendations to the Secretary respecting the development of the relative value scale under subsection (e).

42 USC 1395ww.

"(c)(1) The following provisions of section 1886(e)(6) shall apply to the Commission in the same manner as they apply to the Prospective Payment Assessment Commission:

"(A) Subparagraph (C) (relating to staffing and administration generally).

"(B) Subparagraph (D) (relating to compensation of members).

"(C) Subparagraph (F) (relating to access to information).

"(D) Subparagraph (G) (relating to reports and use of funds).

"(E) Subparagraph (H) (relating to periodic GAO audits).

"(F) Subparagraph (J) (relating to requests for appropriations).

"(2) In order to carry out its functions, the Commission shall collect and assess information on medical and surgical procedures and services, including information on regional variations of medical practice. In collecting and assessing information, the Commission shall—

"(A) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section,

"(B) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate for the development of useful and valid guidelines by the Commission, and

"(C) adopt procedures allowing any interested party to submit information with respect to physicians' services (including new practices, such as the use of new technologies and treatment modalities), which information the Commission shall consider in making reports and recommendations to the Secretary and Congress.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Such sums shall be payable from the Federal Supplementary Medical Insurance Trust Fund.".

(b) DEVELOPMENT OF RELATIVE VALUE SCALE FOR PHYSICIANS' SERVICES.—Section 1845 of the Social Security Act, as added by subsection (a), is further amended by adding at the end the following new subsection:

"(e)(1) The Secretary shall develop a relative value scale that establishes a numerical relationship among the various physicians' services for which payment may be made under this part or under State plans approved under title XIX.

42 USC 1396.

"(2) In developing the scale, the Secretary shall consider among other items—

"(A) the report of the Office of Technology Assessment under section 2309 of the Deficit Reduction Act of 1984,

"(B) the recommendations of the Physician Payment Review Commission under subsection (b)(3), and

42 USC 1395l note.

"(C) factors with respect to the input costs for furnishing particular physicians' services, such as—

"(i) the differences in costs of furnishing services in different settings,

"(ii) the differences in skill levels and training required to perform the services, and

"(iii) the time required, and risk involved, in furnishing different services.

"(3) The Secretary shall complete the development of the relative value scale under this section, and report to Congress on the development, not later than July 1, 1987. The report shall include recommendations for the application of the scale to payment for physicians' services furnished under this part on or after January 1, 1988.".

Report.

SEC. 9306. LIMITATION ON MEDICARE PAYMENT FOR POST-CATARACT SURGERY PATIENTS.

(a) DETERMINATION OF SEPARATE PAYMENT AMOUNTS FOR PROSTHETIC LENSES AND PROFESSIONAL SERVICES.—Section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)) is amended by adding after paragraph (8), added by section 9304(a) of this title, the following new paragraph:

"(9) In providing payment for cataract eyeglasses and cataract contact lenses, and professional services relating to them, under this part, each carrier shall—

"(A) provide for separate determinations of the payment amount for the eyeglasses and lenses and of the payment amount for the professional services of a physician (as defined in section 1861(r)), and

"(B) not recognize as reasonable for such eyeglasses and lenses more than such amount as the Secretary establishes in guidelines relating to the inherent reasonableness of charges for such eyeglasses and lenses.".

42 USC 1395x.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after April 1, 1986.

42 USC 1395u note.

SEC. 9307. PAYMENT FOR ASSISTANTS AT SURGERY FOR CERTAIN CATARACT OPERATIONS AND OTHER OPERATIONS.

(a) LIMITATION ON PAYMENT.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended—

(1) by striking out "or" at the end of paragraph (13),

(2) by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; or", and

(3) by adding at the end the following new paragraph:

"(15) which are for services of an assistant at surgery in a cataract operation unless, before the surgery is performed, the appropriate utilization and quality control peer review organization (under part B of title XI) or a carrier under section 1842 has approved of the use of such an assistant in the surgical procedure based on the existence of a complicating medical condition.".

42 USC 1320c.
42 USC 1395u.

(b) ADDITIONAL PRO FUNCTIONS.—Section 1154(a)(8) of such Act (42 U.S.C. 1320c-3(a)(8)) is amended by inserting before the period at

the end the following: "or as may be required to carry out section 1862(a)(15)".

Ante, p. 193.

(c) PROHIBITION FOR SUBMITTING BILL FOR WHICH PAYMENT MAY NOT BE MADE.—Section 1842 of such Act (42 U.S.C. 1395u) is amended—

(1) in subsection (j)(2), by inserting "or subsection (k)" after "paragraph (1)", and

(2) by adding at the end the following new subsection:

"(k)(1) If a physician knowingly and willfully bills an individual enrolled under this part for charges for services as an assistant at surgery for which payment may not be made by reason of section 1862(a)(15), the Secretary may apply sanctions against such physician in accordance with subsection (j)(2).

"(2) If a physician knowingly and willfully bills an individual enrolled under this part for charges that includes a charge for an assistant at surgery for which payment may not be made by reason of section 1862(a)(15), the Secretary may apply sanctions against such physician in accordance with subsection (j)(2).".

42 USC 1395y note.

(d) EXTENSION OF PROHIBITION TO OTHER PROCEDURES.—The Secretary of Health and Human Services, after consultation with the Physician Payment Review Commission, shall develop recommendations and guidelines respecting other surgical procedures for which an assistant at surgery is generally not medically necessary and the circumstances under which the use of an assistant at surgery is generally appropriate but should be subject to prior approval of an appropriate entity. The Secretary shall report to Congress, not later than January 1, 1987, on these recommendations and guidelines.

42 USC 1320c-3 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to services performed on or after April 1, 1986.

Subpart B—Benefits and Other Provisions

SEC. 9313. PART B PREMIUM.

Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended—

(1) in subsection (e), by striking out "1988" and inserting in lieu thereof "1989" each place it appears;

(2) in subsection (f)(1), by striking out "or 1986" and inserting in lieu thereof ", 1986, or 1987"; and

(3) in subsection (f)(2), by striking out "or 1987" and inserting in lieu thereof ", 1987, or 1988".

SEC. 9314. DEMONSTRATION OF PREVENTIVE HEALTH SERVICES UNDER MEDICARE.

42 USC 1395b-1 note.

(a) DEMONSTRATION PROGRAM.—The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") shall establish a 4-year demonstration program designed to reduce disability and dependency through the provision of preventive health services to individuals entitled to benefits under title XVIII of the Social Security Act (hereinafter in this section referred to as "medicare beneficiaries").

42 USC 1395c.

(b) PREVENTIVE HEALTH SERVICES UNDER DEMONSTRATION PROGRAM.—The preventive health services to be made available under the demonstration program shall include—

(1) health screenings,

(2) health risk appraisals,

(3) immunizations, and

(4) counseling on and instruction in—
(A) diet and nutrition,
(B) reduction of stress,
(C) exercise and exercise programs,
(D) sleep regulation,
(E) injury prevention,
(F) prevention of alcohol and drug abuse,
(G) prevention of mental health disorders,
(H) self-care, including use of medication, and
(I) reduction or cessation of smoking.

(c) CONDUCT OF PROGRAM.—The demonstration program shall— Schools and colleges.

(1) be conducted under the direction of accredited public or private nonprofit schools of public health or preventive medicine departments accredited by the Council on Education for Public Health;

(2) be conducted in no fewer than five sites, which sites shall be chosen so as to be geographically diverse and shall be readily accessible to a significant number of medicare beneficiaries;

(3) involve community outreach efforts at each site to enroll the maximum number of medicare beneficiaries in the program; and

(4) be designed—

(A) to test alternative methods of payment for preventive health services, including payment on a prepayment basis as well as payment on a fee-for-service basis,

(B) to permit a variety of appropriate health care providers to furnish preventive health services, including physicians, health educators, nurses, allied health personnel, dieticians, and clinical psychologists, and

(C) to facilitate evaluation under subsection (d).

(d) EVALUATION.—The Secretary shall evaluate the demonstration project in order to determine—

(1) the short-term and long-term costs and benefits of providing preventive health services for medicare beneficiaries, including any reduction in inpatient services resulting from providing the services, and

(2) what practical mechanisms exist to finance preventive health services under title XVIII of the Social Security Act. 42 USC 1395c

(e) REPORTS TO CONGRESS.—(1) Not later than three years after the date of the enactment of this Act, the Secretary shall submit a preliminary report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and to the Committee on Finance of the Senate on the progress made in the demonstration program, including a description of the sites at which the program is being conducted and the preventive health services being provided at the different sites.

(2) Not later than five years after the date of the enactment of this Act, the Secretary shall submit a final report to those Committees on the demonstration program and shall include in the report—

(A) the evaluation described in subsection (d), and

(B) recommendations for appropriate legislative changes to incorporate payment for cost-effective preventive health services into the medicare program.

(f) FUNDING.—Expenditures made for the demonstration program shall be made from the Federal Supplementary Medical Insurance Trust Fund (established by section 1841 of the Social Security Act). 42 USC 1395t.
Grants and payments under contracts may be made either in ad-

vance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section. Funding for the demonstration program shall not exceed $4,000,000 over the duration of the program.

(g) WAIVER OF MEDICARE REQUIREMENTS.—The Secretary shall waive compliance with such requirements of title XVIII of the Social Security Act to the extent and for the period the Secretary finds necessary for the conduct of the demonstration program.

42 USC 1395c

SEC. 9315. EXTENSION OF GAO REPORTING DATE.

(a) EXTENSION.—Section 2326(e)(2) of the Deficit Reduction Act of 1984 (98 Stat. 1088) is amended by striking out "12 months after the date of the enactment of this Act" and inserting in lieu thereof "May 1, 1986".

42 USC 1395h note

(b) EFFECTIVE DATE.—The amendment made by this section shall apply as though it were included in the Deficit Reduction Act of 1984 as originally enacted.

PART 4—PEER REVIEW ORGANIZATIONS

SEC. 9401. 100 PERCENT PEER REVIEW OF CERTAIN SURGICAL PROCEDURES.

(a) REQUIREMENT.—Section 1154(a) of the Social Security Act (42 U.S.C. 1395c-3(a)) is amended by adding at the end thereof the following new paragraph:

42 USC 1320c-3

"(12) The organization shall perform the review, referral, and other functions required under section 1164.".

Infra

(b) ADDITIONAL PEER REVIEW FUNCTIONS.—Part B of title XI of the Social Security Act is amended by adding at the end the following new section:

"100 PERCENT PEER REVIEW FOR CERTAIN SURGICAL PROCEDURES

42 USC 1320c-13

"SEC. 1164. (a) 100 PERCENT REVIEW FUNCTION.—

"(1) IN GENERAL.—Each utilization and quality control peer review organization shall perform the review described in section 1154(a)(1) for 100 percent of the surgical procedures specified pursuant to subsection (b).

42 USC 1320c-3

"(2) TIMING OF REVIEW.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the review required under paragraph (1) shall be performed—

"(i) before the performance of the procedure, in the case of an outpatient procedure, or

"(ii) before admission to the hospital for the provision of services in connection with the procedure, in the case of a procedure performed on an inpatient basis.

"(B) EXCEPTION.—The review with respect to a procedure need not be performed by the time specified in subparagraph (A) in cases of a medical emergency and under such other circumstances as the Secretary may specify.

"(b) SPECIFICATION OF SURGICAL PROCEDURES AND QUALIFIED REVIEWERS.—

"(1) IN CONTRACT.—The contract with each organization under this part shall specify at least 10 surgical procedures to be covered under this section.

"(2) SELECTION GUIDELINES.—

"(A) IN GENERAL.—The specification of procedures shall be consistent with selection guidelines established by the Secretary under paragraph (3). The procedures specified shall be included among the surgical procedures which the Secretary has identified as reasonably being able to meet such guidelines.

"(B) EXCEPTION.—The Secretary may permit an organization to include among the procedures specified under paragraph (1) procedures not identified by the Secretary under paragraph (2)(A) if to do so would be cost effective and consistent with the criteria described in paragraph (3).

"(3) CRITERIA.—The Secretary shall establish such guidelines and identify such surgical procedures consistent with the following criteria:

"(A) The procedure is one which generally can be postponed without undue risk to the patient.

"(B) The procedure is a high volume procedure among patients who are covered under the programs established under title XVIII or is a high cost procedure.

42 USC 1395c

"(C) The procedure has a comparatively high rate of nonconfirmation upon examination by another qualified physician, there is substantial geographic variation in the rates of performance of the procedure, or there are other reasons why pre-procedure review for 100 percent of the procedures would be cost effective.

"(4) QUALIFICATIONS FOR PHYSICIANS PROVIDING SECOND OPINIONS.—

"(A) IN GENERAL.—The Secretary shall specify, for each procedure identified under paragraphs (2) and (3), the type or types of board certified or board eligible specialists who may conduct a second opinion, required under subsection (c), based upon the nature of the procedure.

"(B) FREEDOM OF CHOICE OF PATIENT TO CHOOSE PHYSICIAN.—Subject to paragraphs (C) and (D), the patient may choose any physician of the proper specialty under subparagraph (A) to provide the second opinion.

"(C) PHYSICIANS PROHIBITED FROM PROVIDING SECOND OPINIONS.—For purposes of this section, a second opinion may not be provided by a physician who is affiliated with, or has a common financial interest with, the physician who rendered the first opinion that the procedure was necessary.

"(D) RESTRICTED LIST.—In accordance with guidelines of the Secretary, an organization may disqualify a physician from providing a second opinion under this section because of the gross unreliability of the second opinions provided.

"(c) REQUIRING A SECOND OPINION IN CERTAIN CASES.—

"(1) DETERMINATIONS BY ORGANIZATION.—In the case of a review performed pursuant to subsection (a), the organization shall determine, based on such review, that the surgical procedure—

"(A) is reasonable and medically necessary,

"(B) is not reasonable and medically necessary, or

"(C) may be considered reasonable and necessary, but, because of questions as to the medical appropriateness of performing the procedure, it is appropriate to require the patient to seek a second opinion as to the necessity and

appropriateness of performing the procedure before the performance of the procedure.

The Secretary shall develop appropriate measures to ensure that second opinions are only required in situations where a second opinion is needed to resolve outstanding uncertainties as to the medical necessity of the procedure. The organization shall notify, in accordance with section 1154(a)(3), the physician, patient, and hospital or other entity furnishing the service, in the event of a determination under subparagraph (B) or (C) of this paragraph.

42 USC 1320c-3.

"(2) PROHIBITION OF PAYMENT IF REQUIRED SECOND OPINION NOT PROVIDED.—No payment may be made under part A or part B of title XVIII with respect to items or services furnished in connection with a surgical procedure for which there is a determination described in paragraph (1)(C), unless the individual undergoing the procedure obtains the second opinion required under that paragraph. The second opinion need not necessarily agree with the first opinion in order for payment to be made.

42 USC 1395c, 1395j.

"(3) EXCEPTIONS FOR ELECTIVE SECOND OPINIONS.—Paragraphs (1)(C) and (2) shall not apply to a surgical procedure if—

"(A) a delay in providing the procedure would result in a risk to the patient;

"(B) no physician is available (within such reasonable limits as the Secretary shall specify) who is (i) qualified to provide the second opinion, and (ii) a participating physician or a physician who has agreed to accept assignment for the second opinion; or

"(C) the procedure is to be performed on a patient who is a member of a health maintenance organization or competitive medical plan having a risk-sharing contract with the Secretary under section 1876.

42 USC 1395mm.

"(d) REFERRAL MECHANISM FOR SECOND OPINIONS.—

"(1) ACTING AS REFERRAL CENTER.—Each organization shall serve as a referral center for second opinions required under this section.

"(2) REFERRAL OF PATIENT.—The organization shall maintain a list of physicians qualified to provide a second opinion and shall advise the patient as to which physicians are participating physicians (within the meaning of section 1842(h)) and which physicians have agreed to accept assignment to perform second opinions. The organization shall assist patients in referral to a qualified physician of the appropriate specialty for purposes of providing the opinion.

42 USC 1395u.

"(3) FORWARDING OF RELEVANT MEDICAL RECORDS.—Each peer review organization shall, if the patient seeking the second opinion so requests, obtain the relevant medical records from the physician who rendered the first opinion that the procedure was necessary, and provide the relevant information to the physician selected by the patient to render the second opinion.

"(e) NOTICE TO PHYSICIANS, HOSPITALS, AND BENEFICIARIES.—The Secretary shall assure that notice is provided to physicians, hospitals, ambulatory surgical centers, and beneficiaries respecting the activities under this section, including the applicable list of surgical procedures specified under this section.".

(b) WAIVER OF DEDUCTIBLE AND COPAYMENTS.—

(1) DEDUCTIBLE.—Section 1833(b) of the Social Security Act (42 U.S.C. 1395l(b)) is amended by striking out "and" before "(4)",

42 USC 1395l.

and by inserting before the period at the end of the first sentence the following: ", and (5) such deductible shall not apply with respect to items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)". *Ante, p. 196.*

(2) COPAYMENTS.—(A) Section 1833(a)(1) of such Act (42 U.S.C. 1395l(a)(1)) is amended by striking out "and" before "(F)", and by adding at the end thereof the following: "and (G) with respect to items and services (other than clinical diagnostic laboratory tests) furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion), the amounts paid shall be 100 percent of the reasonable charges for such items and services;". 42 USC 1395*l*.

(B) Section 1833(a)(1)(D) of such Act is amended by striking out "or under the procedure described in section 1870(f)(1)" and inserting in lieu thereof ", under the procedure described in section 1870(f)(1), or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)". 42 USC 1395gg.

(C) Section 1833(a)(2)(A) of such Act is amended by inserting ", to items and services (other than clinical diagnostic laboratory tests) furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)," after "(other than durable medical equipment)".

(D) Section 1833(a)(2)(D) of such Act is amended by striking out "or to a provider having an agreement under section 1866" and inserting in lieu thereof "to a provider having an agreement under section 1866, or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)".

(E) Section 1833(a)(3) of such Act is amended by inserting after "1861(s)(10)(A)" the following: "and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion".

(F) The last sentence of section 1866(a)(2)(A) of such Act (42 U.S.C. 1395cc(a)(2)(A)) is amended by inserting after "1861(s)(10)(A)" the following: ", with respect to items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),".

(c) CONFORMING AMENDMENTS.—

(1) EXCLUSIONS FROM COVERAGE.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395g(a)), as amended by section 9307(a) of this title, is amended— 42 USC 1395y.

(A) by striking out "or" at the end of paragraph (14);

(B) by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following new paragraph:

"(16) furnished in connection with a surgical procedure for which a second opinion is required under section 1164(c)(2) and has not been obtained.".

42 USC 1320c-3 note.

Contracts.

42 USC 1320c.

42 USC 1320c-13 note.

(d) EFFECTIVE DATES.—The amendments made by subsection (a) shall apply to items and services furnished on or after January 1, 1987. The Secretary of Health and Human Services shall provide for such modification of contracts under part B of title XI of the Social Security Act that are in effect on that date as may be necessary to effect these amendments on a timely basis.

(e) STUDY.—The Secretary of Health and Human Services shall conduct a study of the results of the amendments made by this section, and shall report the results of the study to the Congress within 36 months after the date of the enactment of this Act.

SEC. 9402. PEER REVIEW ORGANIZATION REIMBURSEMENT.

(a) REIMBURSEMENT AMOUNTS.—Section 1866(a)(1)(F) of the Social Security Act (42 U.S.C. 1395cc(a)(1)(F)) is amended—

(1) by striking out clause (iii),

(2) by inserting "and" at the end of clause (ii),

(3) by redesignating clause (iv) as clause (iii), and

(4) by striking out "1982" in clause (iii) as so redesignated and inserting in lieu thereof "1986".

(b) MONTHLY PAYMENTS.—Section 1153(c)(8) of such Act (42 U.S.C. 1320c-2(c)(8)) is amended to read as follows:

"(8) reimbursement shall be made to the organization on a monthly basis, with payments for any month being made not later than 15 days after the close of such month.".

42 USC 1395cc note.

42 USC 1320c-2 note.

(c) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall become effective on the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to contracts entered into or renewed on or after the date of the enactment of this Act.

SEC. 9403. DENIAL OF PAYMENT FOR SUBSTANDARD CARE.

(a) DENIAL AUTHORITY FOR PRO.—Section 1154(a)(2) of the Social Security Act (42 U.S.C. 1320c-3(a)(2)) is amended—

(1) by striking out "subparagraphs (A) and (C)" and inserting in lieu thereof "subparagraphs (A), (B), and (C)"; and

(2) by adding at the end thereof (after and below subparagraph (D)) the following:

"Determinations that payment should not be made by reason of subparagraph (B) of paragraph (1) shall be made only on the basis of criteria which are consistent with guidelines established by the Secretary.".

(b) WAIVER OF LIABILITY.—Section 1866(a)(1) of such Act (42 U.S.C. 1395cc(a)(1)) is amended by striking out "and" at the end of subparagraph (G), by striking out the period at the end of subparagraph (H) and inserting in lieu thereof ", and", and by inserting after subparagraph (H) the following new subparagraph:

"(I) not to charge any individual or any other person for items or services for which payment under this title is denied under section 1154(a)(2) by reason of a determination under section 1154(a)(1)(B).".

42 USC 1320c-3 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on the date of the enactment of this Act.

SEC. 9404. HEALTH MAINTENANCE ORGANIZATION MEMBERSHIP ON PEER REVIEW ORGANIZATION BOARDS.

(a) REMOVAL OF ONE-MEMBER LIMITATION.—Section 1153(b)(2)(A) of the Social Security Act (42 U.S.C. 1320c-2(b)(2)(A)) is amended by

striking out "consists only of one individual member of the governing board" and inserting in lieu thereof "consists only of members of the governing board".

(b) EFFECTIVE DATE.—The amendment made by this section shall become effective on the date of the enactment of this Act. 42 USC 1320c-2 note.

SEC. 9405. PEER REVIEW ORGANIZATION REVIEW OF HEALTH MAINTENANCE ORGANIZATIONS.

(a) COMPARABLE REVIEW FOR HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS.—Section 1154(a)(1) of the Social Security Act (42 U.S.C. 1320c-3(a)(1)) is amended by inserting "(including where payment is made for such services to eligible organizations pursuant to contracts under section 1876)" after "title XVIII". 42 USC 1395mm.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to items and services furnished on or after January 1, 1987. 42 USC 1320c-3 note.

SEC. 9406. SUBSTITUTE REVIEW PENDING TERMINATION OF A PEER REVIEW ORGANIZATION CONTRACT.

(a) SUBSTITUTE REVIEW.—Section 1153(d) of the Social Security Act (42 U.S.C. 1320c-2(d)) is amended by adding at the end thereof the following new paragraph:

"(4) During the period after the Secretary has given notice of intent to terminate a contract, and prior to the time that the Secretary enters into a contract with another utilization and quality control peer review organization, the Secretary may transfer review responsibilities of the organization under the contract being terminated to another utilization and quality control peer review organization, or to an intermediary or carrier having an agreement under section 1816 or a contract under section 1842.". 42 USC 1395h, 1395u.

(b) EFFECTIVE DATE.—The amendment made by this section shall become effective on the date of the enactment of this Act. 42 USC 1320c-2 note.

Subtitle B—Medicaid and Maternal and Child Health

SEC. 9501. SERVICES FOR PREGNANT WOMEN.

(a) EXPANDED COVERAGE.—Section 1905(n)(1) of the Social Security Act (42 U.S.C. 1396d(n)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (A);

(2) by striking out "and" at the end of subparagraph (B) and inserting in lieu thereof "or"; and

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) otherwise meets the income and resources requirements of a State plan under part A of title IV; and". State and local governments. 42 USC 601.

(b) OPTIONAL EXPANSION OF PREGNANCY-RELATED SERVICES.—Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)) is amended, in the matter after subparagraph (D) thereof—

(1) by striking out "and" before "(IV)" and inserting in lieu thereof a comma; and

(2) by inserting before the semicolon at the end thereof the following: ", and (V) the making available to pregnant women covered under the plan of services relating to pregnancy (including prenatal, delivery, and postpartum services) or to any other

condition which may complicate pregnancy shall not , by reason of this paragraph (10), require the making available of such services, or the making available of such services of the same amount, duration, and scope, to any other individuals, provided such services are made available (in the same amount, duration, and scope) to all pregnant women covered under the State plan".

42 USC 1396a

(c) POSTPARTUM ELIGIBILITY FOR PREGNANT WOMEN.—Section 1902(e) of such Act (42 U.S.C. 1396b(e)) is amended by adding at the end the following new paragraph:

State and local government.

"(5) A woman who, while pregnant, is eligible for, has applied for, and has received medical assistance under the State plan, shall continue to be eligible under the plan, as though she were pregnant, for all pregnancy-related and postpartum medical assistance under the plan, until the end of the 60-day period beginning on the last day of her pregnancy.".

(d) EFFECTIVE DATES.—

42 USC 1396d note.

42 USC 1396.

(1) EXPANDED COVERAGE.—(A) The amendments made by subsection (a) apply (except as provided under subparagraph (B)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after the July 1, 1986, without regard to whether or not final regulations to carry out the amendments have been promulgated by that date.

State and local government.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by the amendments made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

42 USC 1396a note.

(2) OPTIONAL SERVICES.—The amendments made by subsection (b) shall become effective on the date of the enactment of this Act.

42 USC 1396a note.

(3) CONTINUED COVERAGE.—The amendment made by subsection (c) shall apply to medical assistance furnished to a woman on or after the date of the enactment of this Act.

SEC. 9502. MODIFICATIONS OF WAIVER PROVISIONS FOR HOME AND COMMUNITY-BASED SERVICES.

(a) EXPLICIT INCLUSION OF CERTAIN PREVOCATIONAL AND EDUCATIONAL SERVICES.—Section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)) is amended by adding at the end thereof the following new paragraph:

"(5) For purposes of paragraph (4)(B), the term 'habilitation services', with respect to individuals who receive such services after discharge from a skilled nursing facility or intermediate care facility—

"(A) means services designed to assist individuals in acquiring, retaining, and improving the self-help, socialization, and adaptive skills necessary to reside successfully in home and community based settings; and

"(B) includes (except as provided in subparagraph (C)) prevocational, educational, and supported employment services; but

"(C) does not include—

"(i) special education and related services (as defined in section 602(16) and (17) of the Education of the Handicapped Act (20 U.S.C. 1401(16), (17)) which otherwise are available to the individual through a local educational agency; and

"(ii) vocational rehabilitation services which otherwise are available to the individual through a program funded under section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).".

(b) PERMITTING HOSPITAL LEVEL OF CARE FOR CERTAIN PARTICIPANTS.—(1) Section 1915(c)(1) of such Act (42 U.S.C. 1396n(c)(1)) is amended by inserting "or but for the provision of such services the individuals would continue to receive inpatient hospital services, skilled nursing facility services, or intermediate care facility services because they are dependent on ventilator support the cost of which is reimbursed under the State plan" before the period at the end thereof.

State and local governments.

(2) Section 1915(c)(2)(C) of such Act (42 U.S.C. 1396n(c)(2)(C)) is amended—

(A) by inserting "hospital or" after "provided in a"; and

(B) by inserting "inpatient hospital services or" after "the provision of".

(c) PROHIBITING IMPOSITION OF CERTAIN REGULATORY LIMITS.—Section 1915(c) of such Act (42 U.S.C. 1396n(c)) as amended by subsection (a), is further amended—

(1) in paragraph (2)(D), by inserting "100 percent of" after "does not exceed"; and

(2) by adding at the end thereof the following new paragraph:

"(6) The Secretary may not require, as a condition of approval of a waiver under this section under paragraph (2)(D), that the actual total expenditures for home and community-based services under the waiver (and a claim for Federal financial participation in expenditures for the services) cannot exceed the approved estimates for these services. The Secretary may not deny Federal financial payment with respect to services under such a waiver on the ground that, in order to comply with paragraph (2)(D), a State has failed to comply with such a requirement.".

State and local governments.

(d) COMPUTATION OF EXPENDITURES FOR CERTAIN DISABLED PATIENTS.—Section 1915(c) of such Act (42 U.S.C. 1396n(c)), as amended by subsection (c), is further amended by adding at the end thereof the following new paragraph:

"(7) In making estimates under paragraph (2)(D) in the case of a waiver which applies only to physically disabled individuals who are inpatients in skilled nursing or intermediate care facilities, the State may determine the average per capita expenditure which would have been made in a fiscal year for those individuals under the State plan separately from the expenditure for other individuals who are inpatients of those facilities.".

State and local governments.

(e) PERMITTING FLEXIBILITY IN ESTABLISHING MAINTENANCE INCOME STANDARDS.—Section 1915(c)(3) of such Act (42 U.S.C. 1396n(c)(3)) is amended by adding at the end the following new sentence: "A waiver may provide, with respect to post-eligibility treatment of income of all individuals receiving services under that waiver, that the maximum amount of the individual's income which

may be disregarded for any month for the maintenance needs of the individual may be an amount greater than the maximum allowed for that purpose under regulations in effect on July 1, 1985.".

State and local governments. 42 USC 1396n note.

(f) WAIVER EXTENSIONS.—The Secretary of Health and Human Services shall extend, upon request of the State, any waiver under section 1915(c) of the Social Security Act which expires on or after September 30, 1985, and before September 30, 1986. Such extension shall be for a period of not less than one year nor more than five years, subject to section 1915(e)(1) of such Act.

(g) WAIVER RENEWALS.—Section 1915(c)(3) of the Social Security Act (42 U.S.C. 1396n(c)(3)) is amended—

(1) by striking out "additional three-year periods" and inserting in lieu thereof "additional five-year periods"; and

(2) by striking out "previous three-year period" and inserting in lieu thereof "previous waiver period".

(h) COORDINATED SERVICES BETWEEN MCH PROGRAM AND HOME AND COMMUNITY-BASED SERVICE PROGRAMS.—Section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)), as amended by subsection (d) of this section, is further amended by adding at the end thereof the following new paragraph:

State and local governments. 42 USC 701.

"(8) The State agency administering the plan under this title may, whenever appropriate, enter into cooperative arrangements with the State agency responsible for administering the program for children with special health care needs under title V in order to assure improved access to coordinated services to meet the needs of such children.".

(i) SUBSTITUTION OF PARTICIPANTS.—(1) Section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)), as amended by subsection (h) of this section, is further amended by adding at the end thereof the following new paragraph:

State and local governments.

"(9) In the case of any waiver under this subsection which contains a limit on the number of individuals who shall receive home or community-based services, the State may substitute additional individuals to receive such services to replace any individuals who die or become ineligible for services under the State plan.".

42 USC 1396n note.

(j) EFFECTIVE DATES.—

(1) HABILITATION SERVICES.— The amendment made by subsection (a) shall be effective for services furnished on or after the date of the enactment of this Act.

(2) HOSPITALIZED PATIENTS.—The amendments made by subsection (b) shall be effective for services furnished on or after October 1, 1985.

(3) PROHIBITION OF REGULATORY LIMITS AND TREATMENT OF CERTAIN PHYSICALLY DISABLED INDIVIDUALS.—The amendments made by subsections (c) and (d) shall apply to applications for waivers (or renewals thereof) filed before, on, or after, the date of the enactment of this Act and for services furnished on or after August 13, 1981.

(4) INCOME STANDARDS.—The amendment made by subsection (e) shall apply to waivers (or renewals thereof) approved on or after the date of the enactment of this Act.

(5) WAIVER EXTENSIONS.—Subsection (f) shall apply to waivers expiring on or after September 30, 1985, and before September 30, 1986.

(6) WAIVER RENEWALS.—The amendments made by subsection (g) shall become effective on September 30, 1986.

(7) COORDINATED SERVICES AND SUBSTITUTION OF PARTICIPANTS.—The amendments made by subsections (h) and (i) shall become effective on the date of the enactment of this Act.

SEC. 9503. THIRD-PARTY LIABILITY.

(a) AMENDMENTS TO STATE PLAN REQUIREMENTS.—(1) Section 1902(a)(25) of the Social Security Act (42 U.S.C. 1396a(a)(25)) is amended to read as follows:

"(25) provide—

"(A) that the State or local agency administering such plan will take all reasonable measures to ascertain the legal liability of third parties (including health insurers) to pay for care and services available under the plan, including—

"(i) the collection of sufficient information (as specified by the Secretary in regulations) to enable the State to pursue claims against such third parties, with such information being collected at the time of any determination or redetermination of eligibility for medical assistance, and

Claims.

"(ii) the submission to the Secretary of a plan (subject to approval by the Secretary) for pursuing claims against such third parties, which plan shall—

"(I) be integrated with, and be monitored as a part of the Secretary's review of, the State's mechanized claims processing and information retrieval system under section 1903(r), and

42 USC 1396b

"(II) be subject to the provisions of section 1903(r)(4) relating to reductions in Federal payments for failure to meet conditions of approval, but shall not be subject to any other financial penalty as a result of any other monitoring, quality control, or auditing requirements;

"(B) that in any case where such a legal liability is found to exist after medical assistance has been made available on behalf of the individual and where the amount of reimbursement the State can reasonably expect to recover exceeds the costs of such recovery, the State or local agency will seek reimbursement for such assistance to the extent of such legal liability;

"(C) that in the case of an individual who is entitled to medical assistance under the State plan with respect to a service for which a third party is liable for payment, the person furnishing the service may not seek to collect from the individual (or any financially responsible relative or representative of that individual) payment of an amount for that service (i) if the total of the amount of the liabilities of third parties for that service is at least equal to the amount payable for that service under the plan (disregarding section 1916), or (ii) in an amount which exceeds the lesser of (I) the amount which may be collected under section 1916, or (II) the amount by which the amount payable for that service under the plan (disregarding section 1916) exceeds the total of the amount of the liabilities of third parties for that service;

Prohibition.

42 USC 1396o.

"(D) that a person who furnishes services and is participating under the plan may not refuse to furnish services to

Prohibition.

an individual (who is entitled to have payment made under the plan for the services the person furnishes) because of a third party's potential liability for payment for the service;

"(E) that in the case of prenatal or preventive pediatric care (including early and periodic screening and diagnosis services under section 1905(a)(4)(B)) covered under the State plan, the State shall—

42 USC 1396d.

"(i) make payment for such service in accordance with the usual payment schedule under such plan for such services without regard to the liability of a third party for payment for such services; and

"(ii) seek reimbursement from such third party in accordance with subparagraph (B); and

"(F) that in the case of any services covered under such plan which are provided to an individual on whose behalf child support enforcement is being carried out by the State agency under part D of title IV of this Act, the State shall—

42 USC 651.

"(i) make payment for such service in accordance with the usual payment schedule under such plan for such services without regard to any third-party liability for payment for such services, if such third-party liability is derived (through insurance or otherwise) from the parent whose obligation to pay support is being enforced by such agency, if payment has not been made by such third party within 30 days after such services are furnished; and

"(ii) seek reimbursement from such third party in accordance with subparagraph (B);".

(2) Section 1902 of such Act (42 U.S.C. 1396a) is amended by inserting after subsection (f) the following new subsection:

"(g) In addition to any other sanction available to a State, a State may provide for a reduction of any payment amount otherwise due with respect to a person who furnishes services under the plan in an amount equal to up to three times the amount of any payment sought to be collected by that person in violation of subsection (a)(25)(C).".

(b) PERFORMANCE STANDARDS AND REVIEW FOR MECHANIZED CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS.—(1) Section 1903(r)(6)(J) of such Act (42 U.S.C. 1396b(r)(6)(J)) is amended to read as follows:

"(J) develop and disseminate performance standards for assessing the State's third party collection efforts in accordance with section 1902(a)(25)(A)(ii).".

(2) Section 1903(r)(4)(A) of such Act (42 U.S.C. 1396b(r)(4)(A)) is amended—

(A) by striking out "once each fiscal year" and inserting in lieu thereof "once every three years"; and

(B) by adding at the end thereof the following: "Reviews may, at the Secretary's discretion, constitute reviews of the entire system or of only those standards, systems requirements, and other conditions which have demonstrated weakness in previous reviews.".

42 USC 1396a note.

(c) REGULATIONS.—The Secretary of Health and Human Services shall promulgate final regulations necessary to carry out sections 1902(a)(25) and 1903(r)(6)(J) of the Social Security Act within 6 months after the date of the enactment of this Act.

(d) ERISA AMENDMENT.—(1) Section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended by adding at the end thereof the following new paragraph:

"(8) Subsection (a) of this section shall not apply to any State law mandating that an employee benefit plan not include any provision which has the effect of limiting or excluding coverage or payment for any health care for an individual who would otherwise be covered or entitled to benefits or services under the terms of the employee benefit plan, because that individual is provided, or is eligible for, benefits or services pursuant to a plan under title XIX of the Social Security Act, to the extent such law is necessary for the State to be eligible to receive reimbursement under title XIX of that Act.". Prohibition. 42 USC 1396.

(2)(A) Except as provided in subparagraph (B), the amendment made by paragraph (1) shall become effective on October 1, 1986. 29 USC 1144 note. Effective dates.

(B) In the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified on or before the date of the enactment of this Act, the amendment made by paragraph (1) shall become effective on the later of—

(i) October 1, 1986; or

(ii) the earlier of—

(I) the date on which the last of the collective bargaining agreements under which the plan is maintained, which were in effect on the date of the enactment of this Act, terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act); or

(II) three years after the date of the enactment of this Act.

(e) CONDITION OF ELIGIBILITY.—Section 1912(a)(1) of the Social Security Act (42 U.S.C. 1396k(a)(1)) is amended by striking out "and" at the end of subparagraph (A), and by adding at the end thereof the following new subparagraph:

"(C) to cooperate with the State in identifying, and providing information to assist the State in pursuing, any third party who may be liable to pay for care and services available under the plan, unless such individual has good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the individuals involved; and".

(f) DISREGARD FROM ERRONEOUS PAYMENTS.—Section 1903(u)(1)(D) of such Act (42 U.S.C. 1396b(u)(1)(D)) is amended by adding at the end thereof the following new clause:

"(iv) In determining the amount of erroneous excess payments, there shall not be included any error resulting from a failure of an individual to cooperate or give correct information with respect to third-party liability as required under section 1912(a)(1)(C) or 402(a)(26)(C).". 42 USC 602. 42 USC 1396a note.

(g) EFFECTIVE DATES.—(1) Except as otherwise provided, the amendments made by this section shall apply to calendar quarters beginning on or after the date of the enactment of this Act.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the

additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

Prohibition.
42 USC 1396a.

(3) No penalty may be applied against any State for a violation of section 1902(a)(25) of the Social Security Act occurring prior to the effective date of the amendments made by this section.

(4) The amendment made by subsection (c) shall become effective on the date of the enactment of this Act.

SEC. 9505. OPTIONAL HOSPICE BENEFITS.

(a) COVERAGE OF HOSPICE CARE AS AN OPTIONAL MEDICAID BENEFIT.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(1) in subsection (a)—

(A) by striking out "and" at the end of paragraph (17);

(B) by redesignating paragraph (18) as paragraph (19); and

(C) by inserting after paragraph (17) the following new paragraph:

"(18) hospice care (as defined in subsection (o)); and"; and

(2) by adding at the end thereof the following new subsection:

42 USC 1395x.

"(o)(1) The term 'hospice care' means the care described in section 1861(dd)(1) furnished by a hospice program (as defined in section 1861(dd)(2)) to a terminally ill individual who has voluntarily elected (in accordance with paragraph (2)) to have payment made for hospice care instead of having payment made for certain benefits described in section 1812(d)(2)(A) and intermediate care facility services under the plan. For purposes of such election, hospice care may be provided to an individual while such individual is a resident of a skilled nursing facility or intermediate care facility, but the only payment made under the State plan shall be for the hospice care.

42 USC 1395d.

"(2) An individual's voluntary election under this subsection—

"(A) shall be made in accordance with procedures that are established by the State and that are consistent with the procedures established under section 1812(d)(2);

"(B) shall be for such a period or periods (which need not be the same periods described in section 1812(d)(1)) as the State may establish; and

"(C) may be revoked at any time without a showing of cause and may be modified so as to change the hospice program with respect to which a previous election was made.".

(b) ELIGIBILITY.—

(1) LIMITATION TO TERMINALLY ILL INDIVIDUALS.—Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)), as amended by section 9501 of this Act, is further amended, in the matter following subparagraph (D), by striking out "and" before "(V)" and by inserting before the semicolon at the end thereof the following: ", and (VI) with respect to the making available of medical assistance for hospice care to terminally ill individuals who have made a voluntary election described in section 1905(o) to receive hospice care instead of medical assistance for certain other services, such assistance may not be made available in an amount, duration, or scope less than that provided under title

XVIII, and the making available of such assistance shall not, by reason of this paragraph (10), require the making available of medical assistance for hospice care to other individuals or the making available of medical assistance for services waived by such terminally ill individuals". 42 USC 1395c.

(2) HIGHER INCOME STANDARD PERMITTED.—Section 1902(a)(10)(A)(ii) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(A) by striking out "or" at the end of subclause (V);

(B) by striking out the semicolon at the end of subclause (VI) and inserting in lieu thereof ", or"; and

(C) by adding at the end the following new subclause:

"(VII) who would be eligible under the State plan under this title if they were in a medical institution, who are terminally ill, and who will receive hospice care pursuant to a voluntary election described in section 1905(o);". 42 USC 1396d.

(c) PAYMENT FOR HOSPICE CARE.—

(1) USE OF MEDICARE RATES.—Section 1902(a)(13) of such Act (42 U.S.C. 1396a(a)(13)) is amended—

(A) by striking out "and" at the end of subparagraph (B);

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) for payment for hospice care in the same amounts, and using the same methodology, as used under part A of title XVIII; except that a separate rate may be paid for hospice care which is furnished to an individual who is a resident of a skilled nursing facility or intermediate care facility, and who would be eligible under the plan for skilled nursing facility services or intermediate care facility services if he had not elected to receive hospice care, to take into account the room and board furnished by such facility; and". 42 USC 1395c.

(2) LIMITATION ON COPAYMENTS.—Subsections (a)(2) and (b)(2) of section 1916 of the Social Security Act (42 U.S.C. 1396o) are each amended—

(A) by striking out "or" at the end of subparagraph (C);

(B) by striking out "; and" at the end of subparagraph (D) and inserting in lieu thereof ", or"; and

(C) by adding at the end the following new subparagraph:

"(E) services furnished to an individual who is receiving hospice care (as defined in section 1905(o)); and".

(d) CONFORMING AMENDMENTS.—

(1) Section 1902(j) of such Act (42 U.S.C. 1396a(j)) is amended by striking out "(18)" and inserting in lieu thereof "(19)".

(2) Section 1902(a)(10)(C)(iv) of such Act (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by striking out "through (17)" and inserting in lieu thereof "through (18)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance provided for hospice care furnished on or after the date of the enactment of this Act. 42 USC 1396a note.

SEC. 9506. TREATMENT OF POTENTIAL PAYMENTS FROM MEDICAID QUALIFYING TRUSTS.

(a) AMOUNTS TREATED AS BEING AVAILABLE FROM GRANTOR TRUSTS.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end thereof the following new subsection:

"(k)(1) In the case of a medicaid qualifying trust (described in paragraph (2)), the amounts from the trust deemed available to a grantor, for purposes of subsection (a)(17), is the maximum amount of payments that may be permitted under the terms of the trust to be distributed to the grantor, assuming the full exercise of discretion by the trustee or trustees for the distribution of the maximum amount to the grantor. For purposes of the previous sentence, the term 'grantor' means the individual referred to in paragraph (2).

"(2) For purposes of this subsection, a 'medicaid qualifying trust' is a trust, or similar legal device, established (other than by will) by an individual (or an individual's spouse) under which the individual may be the beneficiary of all or part of the payments from the trust and the distribution of such payments is determined by one or more trustees who are permitted to exercise any discretion with respect to the distribution to the individual.

"(3) This subsection shall apply without regard to—

"(A) whether or not the medicaid qualifying trust is irrevocable or is established for purposes other than to enable a grantor to qualify for medical assistance under this title; or

"(B) whether or not the discretion described in paragraph (2) is actually exercised.

State and local governments.

"(4) The State may waive the application of this subsection with respect to an individual where the State determines that such application would work an undue hardship.".

42 USC 1396a note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to medical assistance furnished on or after the first day of the second month beginning after the date of the enactment of this Act.

SEC. 9507. WRITTEN STANDARDS FOR PROVISION OF ORGAN TRANSPLANTS.

(a) DENIAL OF FEDERAL PAYMENTS FOR ORGAN TRANSPLANTS UNLESS PROVIDED UNDER WRITTEN STANDARDS.—Section 1903(i) of the Social Security Act (42 U.S.C. 1396b(i)) is amended by inserting before paragraph (2) the following new paragraph:

"(1) for organ transplant procedures unless the State plan provides for written standards respecting the coverage of such procedures and unless such standards provide that—

"(A) similarly situated individuals are treated alike; and

"(B) any restriction, on the facilities or practitioners which may provide such procedures, is consistent with the accessibility of high quality care to individuals eligible for the procedures under the State plan;".

42 USC 1396b note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to medical assistance furnished on or after January 1, 1987.

SEC. 9508. OPTIONAL TARGETED CASE MANAGEMENT SERVICES.

(a) EXEMPTION FROM CERTAIN REQUIREMENTS.—(1) Section 1915 of the Social Security Act (42 U.S.C. 1396n) is amended by adding at the end thereof the following new subsection:

"(g)(1) A State may provide, as medical assistance, case management services under the plan without regard to the requirements of section 1902(a)(1) and section 1902(a)(10)(B). The provision of case management services under this subsection shall not restrict the choice of the individual to receive medical assistance in violation of section 1902(a)(23).

State and local governments.

42 USC 1396a.

"(2) For purposes of this subsection, the term 'case management services' means services which will assist individuals eligible under the plan in gaining access to needed medical, social, educational, and other services.".

(2) Section 1915(b) of such Act (42 U.S.C. 1396n(b)) is amended by adding at the end thereof (after and below paragraph (4)) the following: "No waiver under this subsection may restrict the choice of the individual in receiving services under section 1905(a)(4)(C).".

42 USC 1396d.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after the date of the enactment of this Act.

42 USC 1396n note.

SEC. 9509. REVALUATION OF ASSETS.

(a) REVALUATION OF ASSETS.—Section 1902(a)(13) of the Social Security Act (42 U.S.C. 1396a(a)(13)), as amended by section 9505 of this Act, is further amended—

(1) in subparagraph (B), by striking out "hospitals, skilled nursing facilities, and intermediate care facilities" and inserting in lieu thereof "hospitals";

(2) by striking out "and" at the end of subparagraph (C);

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E); and

(4) by inserting after subparagraph (B) the following new subparagraph:

"(C) that the State shall provide assurances satisfactory to the Secretary that the valuation of capital assets, for purposes of determining payment rates for skilled nursing facilities and intermediate care facilities, will not be increased (as measured from the date of acquisition by the seller to the date of the change of ownership), solely as a result of a change of ownership, by more than the lesser of—

State and local governments.

"(i) one-half of the percentage increase (as measured over the same period of time, or, if necessary, as extrapolated retrospectively by the Secretary) in the Dodge Construction Systems Costs for Nursing Homes, applied in the aggregate with respect to those facilities which have undergone a change of ownership during the fiscal year, or

"(ii) one-half of the percentage increase (as measured over the same period of time) in the Consumer Price Index for All Urban Consumers (United States city average);".

(b) EFFECTIVE DATES.—(1) Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to medical assistance furnished on or after October 1, 1985, but only with respect to changes of ownership occurring on or after such date.

42 USC 1396a note.

(2) The amendments made by this section shall not apply with respect to a change of ownership pursuant to an enforceable agreement entered into prior to October 1, 1985.

Prohibition.

State and local governments.
42 USC 1396.

(3) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet the requirements imposed by the amendments made by this section before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

42 USC 1396a note.

(c) GAO STUDY.—The Comptroller General shall conduct a study of the effects of the amendments made by this section, and shall report the results of such study to the Congress two years after the date of the enactment of this Act.

SEC. 9510. BEGINNING DATE OF OPTIONAL COVERAGE FOR INDIVIDUALS IN MEDICAL INSTITUTIONS.

(a) COVERAGE.—Section 1902(a)(10)(A)(ii)(V) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)(V)) is amended by inserting "for a period of not less than 30 consecutive days (with eligibility by reason of this subclause beginning on the first day of such period)" after "are in a medical institution".

42 USC 1396a note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to payment for services furnished on or after October 1, 1985.

SEC. 9511. OPTIONAL COVERAGE OF CHILDREN.

(a) STATE OPTION.—Section 1905(n)(2) of the Social Security Act (42 U.S.C. 1396d(h)(2)) is amended by inserting "(or such earlier date as the State may designate)" after "September 30, 1983".

42 USC 1396d note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to services furnished on or after April 1, 1986.

SEC. 9512. OVERPAYMENT RECOVERY RULES.

(a) OVERPAYMENT RECOVERY.—Section 1903(d)(2) of the Social Security Act (42 U.S.C. 1396b(d)(2)) is amended—

(1) by inserting "(A)" after "(2)";

(2) by designating the second sentence as subparagraph (B), properly indented and aligned below subparagraph (A); and

(3) by adding at the end thereof the following new subparagraphs:

State and local governments.

"(C) For purposes of this subsection, when an overpayment is discovered, which was made by a State to a person or other entity, the State shall have a period of 60 days in which to recover or attempt to recover such overpayment before adjustment is made in the Federal payment to such State on account of such overpayment. Except as otherwise provided in subparagraph (D), the adjustment in the Federal payment shall be made at the end of the 60 days, whether or not recovery was made.

"(D) In any case where the State is unable to recover a debt which represents an overpayment (or any portion thereof) made to a person or other entity on account of such debt having been discharged in bankruptcy or otherwise being uncollectable, no adjustment shall be made in the Federal payment to such State on account of such overpayment (or portion thereof).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to overpayments identified for quarters beginning on or after October 1, 1985.

42 USC 1396b note.

SEC. 9514. REGULATIONS FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED.

The Secretary of Health and Human Services shall promulgate proposed regulations revising standards for intermediate care facilities for the mentally retarded under title XIX of the Social Security Act within 60 days after the date of the enactment of this Act.

42 USC 1396d note.

42 USC 1396.

SEC. 9515. LIFE SAFETY CODE RECOGNITION.

For purposes of section 1905(c) of the Social Security Act, an intermediate care facility for the mentally retarded (as defined in section 1905(d) of such Act) which meets the requirements of the relevant sections of the 1985 edition of the Life Safety Code of the National Fire Protection Association shall be deemed to meet the fire safety requirements for intermediate care facilities for the mentally retarded until such time as the Secretary specifies a later edition of the Life Safety Code for purposes of such section, or the Secretary determines that more stringent standards are necessary to protect the safety of residents of such facilities.

42 USC 1396d and notes.

SEC. 9516. CORRECTION AND REDUCTION PLANS FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED.

(a) CORRECTION AND REDUCTION PLANS.—Title XIX of the Social Security Act is amended by adding at the end thereof the following new subsection:

"CORRECTION AND REDUCTION PLANS FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED

"SEC. 1919. (a) If the Secretary finds that an intermediate care facility for the mentally retarded has substantial deficiencies which do not pose an immediate threat to the health and safety of residents, the State may elect, subject to the limitations in this section, to—

State and local governments.
42 USC 1396r.

"(1) submit, within the number of days specified by the Secretary in regulations which apply to submission of compliance plans with respect to deficiencies of such type, a written plan of correction which details the extent of the facility's current compliance with the standards promulgated by the Secretary, including all deficiencies identified during a validation survey, and which provides for a timetable for completion of necessary steps to correct all staffing deficiencies within 6 months, and a timetable for rectifying all physical plant deficiencies within 6 months; or

"(2) submit, within a time period consisting of the number of days specified for submissions under paragraph (1) plus 35 days, a written plan for permanently reducing the number of certified beds, within a maximum of 36 months, in order to permit any noncomplying buildings (or distinct parts thereof) to be vacated and any staffing deficiencies to be corrected (hereinafter in this section referred to as a 'reduction plan').

"(b) As conditions of approval of any reduction plan submitted pursuant to subsection (a)(2), the State must—

"(1) provide for a hearing to be held at the affected facility at least 35 days prior to submission of the reduction plan, with

reasonable notice thereof to the staff and residents of the facility, responsible members of the residents' families, and the general public;

"(2) demonstrate that the State has successfully provided home and community services similar to the services proposed to be provided under the reduction plan for similar individuals eligible for medical assistance; and

"(3) provide assurances that the requirements of subsection (c) shall be met with respect to the reduction plan.

"(c) The reduction plan must—

"(1) identify the number and service needs of existing facility residents to be provided home or community services and the timetable for providing such services, in 6 month intervals, within the 36-month period;

"(2) describe the methods to be used to select such residents for home and community services and to develop the alternative home and community services to meet their needs effectively;

"(3) describe the necessary safeguards that will be applied to protect the health and welfare of the former residents of the facility who are to receive home or community services, including adequate standards for consumer and provider participation and assurances that applicable State licensure and applicable State and Federal certification requirements will be met in providing such home or community services;

"(4) provide that residents of the affected facility who are eligible for medical assistance while in the facility shall, at their option, be placed in another setting (or another part of the affected facility) so as to retain their eligibility for medical assistance;

"(5) specify the actions which will be taken to protect the health and safety of the residents who remain in the affected facility while the reduction plan is in effect;

"(6) provide that the ratio of qualified staff to residents at the affected facility (or the part thereof) which is subject to the reduction plan will be the higher of—

"(A) the ratio which the Secretary determines is necessary in order to assure the health and safety of the residents of such facility (or part thereof); or

"(B) the ratio which was in effect at the time that the finding of substantial deficiencies (referred to in subsection (a)) was made; and

"(7) provide for the protection of the interests of employees affected by actions under the reduction plan, including—

"(A) arrangements to preserve employee rights and benefits;

"(B) training and retraining of such employees where necessary;

"(C) redeployment of such employees to community settings under the reduction plan; and

"(D) making maximum efforts to guarantee the employment of such employees (but this requirement shall not be construed to guarantee the employment of any employee).

"(d)(1) The Secretary must provide for a period of not less than 30 days after the submission of a reduction plan by a State, during which comments on such reduction plan may be submitted to the Secretary, before the Secretary approves or disapproves such reduction plan.

"(2) If the Secretary approves more than 15 reduction plans under this section in any fiscal year, any reduction plans approved in addition to the first 15 such plans approved, must be for a facility (or part thereof) for which the costs of correcting the substantial deficiencies (referred to in subsection (a)) are $2,000,000 or greater (as demonstrated by the State to the satisfaction of the Secretary).

"(e)(1) If the Secretary, at the conclusion of the 6-month plan of correction described in subsection (a)(1), determines that the State has substantially failed to correct the deficiencies described in subsection (a), the Secretary may terminate the facility's provider agreement in accordance with the provisions of section 1910(c).

42 USC 1396i. Penalties.

"(2) In the case of a reduction plan described in subsection (a)(2), if the Secretary determines, at the conclusion of the initial 6-month period or any 6-month interval thereafter, that the State has substantially failed to meet the requirements of subsection (c), the Secretary shall—

"(A) terminate the facility's provider agreement in accordance with the provisions of section 1910(c); or

"(B) if the State has failed to meet such requirements despite good faith efforts, disallow, for purposes of Federal financial participation, an amount equal to 5 percent of the cost of care for all eligible individuals in the facility for each month for which the State fails to meet such requirements.

"(f) The provisions of this section shall apply only to plans of correction and reduction plans approved by the Secretary within 3 years after the effective date of final regulations implementing this section.".

(b) EFFECTIVE DATE.—(1) The amendment made by this section shall become effective on the date of the enactment of this Act.

42 USC 1396r note.

(2) The Secretary of Health and Human Services shall issue a notice of proposed rulemaking with respect to section 1919 of the Social Security Act within 60 days after the date of the enactment of this Act, and shall allow a period of 30 days for comment thereon prior to promulgating final regulations implementing such section.

Notice.

(c) REPORT.—The Secretary of Health and Human Services shall submit a report to the Congress on the implementation and results of section 1919 of the Social Security Act. Such report shall be submitted not later than 30 months after the effective date of final regulations promulgated to implement such section.

42 USC 1396r note.

SEC. 9517. MODIFYING APPLICATION OF MEDICAID HMO PROVISIONS FOR CERTAIN HEALTH CENTERS.

(a) WAIVING APPLICATION OF 75 PERCENT RULE AND CERTAIN ORGANIZATIONAL REQUIREMENTS.—Section 1903(m)(2) of the Social Security Act (42 U.S.C. 1396b(m)(2)) is amended—

(1) in subparagraph (A), by striking out "(B) and (C)" and inserting in lieu thereof "(B), (C), and (G)";

(2) in subparagraph (F)—

(A) by striking out "(F)(i) In the case of a contract with a health maintenance organization described in clause (ii)" and inserting in lieu thereof "(F) in the case of a contract with an entity described in subparagraph (G) or with a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) which meets the requirement of subparagraph (A)(ii)";

Contract.

42 USC 300e-9.

(B) by striking out "such organization" and inserting in lieu thereof "such entity or organization"; and

(C) by striking out clause (ii); and

(3) by adding at the end thereof the following new subparagraph:

"(G) In the case of an entity which is receiving (and has received during the previous two years) a grant of at least $100,000 under section 329(d)(1)(A) or 330(d)(1) of the Public Health Service Act or is receiving (and has received during the previous two years) at least $100,000 (by grant, subgrant, or subcontract) under the Appalachian Regional Development Act of 1965, clauses (i) and (ii) of subparagraph (A) shall not apply.".

42 USC 254b, 254c.

40 USC app. 1.

(b) PERMITTING 6-MONTH CONTINUATION OF BENEFITS.—Section 1902(e)(2) of such Act (42 U.S.C. 1396a(e)(2)) is amended—

(1) in subparagraph (A)—

(A) by inserting "or with an entity described in section 1903(m)(2)(G)" after "Public Health Service Act)"; and

(B) by inserting "or entity" before the period; and

Ante, p. 215.

(2) in subparagraph (B)—

(A) by striking out "a health maintenance organization" and inserting in lieu thereof "an organization or entity"; and

(B) by inserting "or entity" after "the organization".

(c) HEALTH INSURING ORGANIZATIONS.—(1) Section 1903(m)(2)(A) of the Social Security Act (42 U.S.C. 1396b(m)(2)(A)) is amended, in the matter before clause (i)—

(1) by inserting "(including a health insuring organization)" after "any entity"; and

(2) by inserting "(directly or through arrangements with providers of services)" after "responsible for the provision".

(2)(A) Except as provided in subparagraph (B), the amendments made by paragraph (1) shall apply to expenditures incurred for health insuring organizations which first become operational on or after January 1, 1986.

42 USC 1396b note.

(B) In the case of a health insuring organization—

(i) which first becomes operational on or after January 1, 1986, but

(ii) for which the Secretary of Health and Human Services has waived, under section 1915(b) of the Social Security Act and before such date, certain requirements of section 1902 of such Act,

clauses (ii) and (iv) of section 1903(m)(2)(A) of such Act shall not apply during the period for which such waiver is effective.

42 USC 1396n.

SEC. 9518. EXTENSION OF MMIS DEADLINE.

(a) NEW DEADLINE.—Section 1903(r)(1)(B) of the Social Security Act (42 U.S.C. 1396b(r)(1)(B)) is amended by striking out "the earlier of" and all that follows through the end of subparagraph (B) and inserting in lieu thereof "September 30, 1985.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payment under section 1903(a) of the Social Security Act for calendar quarters beginning on or after October 1, 1982.

42 USC 1396b note.

SEC. 9519. REPORT ON ADJUSTMENT IN MEDICAID PAYMENTS FOR HOSPITALS SERVING DISPROPORTIONATE NUMBERS OF LOW INCOME PATIENTS.

The Secretary of Health and Human Services shall transmit to Congress, not later than October 1, 1986, a report that—

(1) describes the methodology used by States under section 1902(a)(13)(A) of the Social Security Act, in their making payments to hospitals, in taking into account the situation of hospitals that serve a disproportionate number of low income patients with special needs; 42 USC 1396a.

(2) identifies each of those hospitals that have had the amount of their payments under that title adjusted under that section; and

(3) for each of those hospitals, describes the proportion of total inpatient-days attributable to low income patients and the proportion of total inpatient-days attributable to patients entitled to medical assistance under that title.

SEC. 9520. TASK FORCE ON TECHNOLOGY-DEPENDENT CHILDREN.

(a) APPOINTMENT OF TASK FORCE.—The Secretary of Health and Human Services, within six months after the date of the enactment of this Act, shall establish a task force concerning alternatives to institutional care for technology-dependent children (as defined in subsection (e)). 42 USC 1396a note.

(b) MEMBERSHIP.—The task force shall include representatives of Federal and State agencies with responsibilities relating to child health, health insurers, large employers (including those that self-insure for health care costs), providers of health care to technology-dependent children, and parents of technology-dependent children.

(c) FUNCTIONS OF TASK FORCE.—The task force shall—

(1) identify barriers that prevent the provision of appropriate care in a home or community setting to meet the special needs of technology-dependent children; and

(2) recommend changes in the provision and financing of health care in private and public health care programs (including appropriate joint public-private initiatives) so as to provide home and community-based alternatives to the institutionalization of technology-dependent children.

(d) REPORT.—The task force shall make a final report to the Secretary and to the Congress on its activities not later than two years after the date of the enactment of this Act.

(e) DEFINITION.—In this section, the term "technology-dependent child" means a child who has a chronic illness which makes the child dependent upon the continuing use of medical care technology (such as a ventilator).

SEC. 9522. EXPANSION OF SERVICES UNDER DEMONSTRATION WAIVERS.

In the case of waivers granted to (or submitted during 1986 by) the State of Oregon under section 1915(b) of the Social Security Act, the Secretary of Health and Human Services may waive the requirements of section 1903(m)(2)(A) of such Act with respect to any entity providing services under any such waiver if such entity does not provide more than 5 of the services listed in section 1903(m)(2)(A) of such Act, and does not provide inpatient hospital services. 42 USC 1396n. 42 USC 1396b.

SEC. 9523. EXTENSION OF TEXAS WAIVER PROJECT.

(a) RENEWED APPROVAL.—Notwithstanding any limitations contained in section 1115 of the Social Security Act but subject to subsection (b) of this section, the Secretary of Health and Human Services, upon application, shall renew approval of demonstration project number 11-P-97473/6-06 ("Modifications under the Texas System of Care for the Elderly: Alternatives to the Institutionalized 42 USC 1315.

Aged"), previously approved under that section, until January 1, 1989.

(b) TERMS AND CONDITIONS.—The Secretary's renewed approval of the project under subsection (a)—

(1) shall be on the same terms and conditions as applied to the project as of December 31, 1985; and

(2) shall remain in effect until such time as the Secretary finds that the applicant no longer complies with such terms and conditions.

SEC. 9524. WISCONSIN HEALTH MAINTENANCE ORGANIZATION WAIVER.

42 USC 1396n.
42 USC 1396b.
42 USC 1396a.

The waiver granted to the State of Wisconsin pursuant to section 1915(b) of the Social Security Act relating to the requirements of section 1903(m) of such Act in conjunction with a waiver of the requirements of section 1902(a)(23) of such Act shall, upon request by the State, be reinstated, and shall be renewable for terms of 2 years, subject to the showings required generally under section 1915(b) of such Act.

SEC. 9525. NEW JERSEY DEMONSTRATION PROJECT RELATING TO TRAINING OF AFDC RECIPIENTS AS HOME HEALTH AIDES.

42 USC 632a.

The Secretary of Health and Human Services shall continue for one additional year the demonstration project conducted by the State of New Jersey pursuant to section 966 of the Omnibus Reconciliation Act of 1980. Federal matching for such demonstration project shall be 50 percent.

SEC. 9526. REFERENCE TO PROVISIONS OF LAW PROVIDING COVERAGE UNDER, OR DIRECTLY AFFECTING, THE MEDICAID PROGRAM.

Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"REFERENCES TO LAWS DIRECTLY AFFECTING MEDICAID PROGRAM

42 USC 1396s.

"SEC. 1920. (a) AUTHORITY OR REQUIREMENTS TO COVER ADDITIONAL INDIVIDUALS.—For provisions of law which make additional individuals eligible for medical assistance under this title, see the following:

42 USC 602.

"(1) AFDC.—(A) Section 402(a)(37) of this Act (relating to individuals who lose AFDC eligibility due to increased earnings).

42 USC 605.

"(B) Section 406(h) of this Act (relating to individuals who lose AFDC eligibility due to increased collection of child or spousal support).

42 USC 614.

"(C) Section 414(g) of this Act (relating to certain individuals participating in work supplementation programs).

42 USC 1382h.

"(2) SSI.—Section 1619 of this Act (relating to benefits for individuals who perform substantial gainful activity despite severe medical impairment).

42 USC 673.

"(3) FOSTER CARE AND ADOPTION ASSISTANCE.—Section 473(b) of this Act (relating to medical assistance for children in foster care and for adopted children).

8 USC 1522.

"(4) REFUGEE ASSISTANCE.—Section 412(e)(5) of the Immigration and Nationality Act (relating to medical assistance for certain refugees).

42 USC 1396a note.

"(5) MISCELLANEOUS.—(A) Section 230 of Public Law 93-66 (relating to deeming eligible for medical assistance certain essential persons).

"(B) Section 231 of Public Law 93-66 (relating to deeming eligible for medical assistance certain persons in medical institutions). 42 USC 1396a note.

"(C) Section 232 of Public Law 93-66 (relating to deeming eligible for medical assistance certain blind and disabled medically indigent persons). 42 USC 1396a note.

"(D) Section 13(c) of Public Law 93-233 (relating to deeming eligible for medical assistance certain individuals receiving mandatory State supplementary payments). 42 USC 1396a note.

"(E) Section 503 of Public Law 94-566 (relating to deeming eligible for medical assistance certain individuals who would be eligible for supplemental security income benefits but for cost-of-living increases in social security benefits). 42 USC 1396a note.

"(F) Section 310(b)(1) of Public Law 96-272 (relating to continuing medicaid eligibility for certain recipients of Veterans' Administration pensions). 42 USC 1396a note.

"(b) ADDITIONAL STATE PLAN REQUIREMENTS.—For other provisions of law that establish additional requirements for State plans to be approved under this title, see the following:

"(1) Section 1618 of this Act (relating to requirement for operation of certain State supplementation programs). 42 USC 1382g.

"(2) Section 212(a) of Public Law 93-66 (relating to requiring mandatory minimum State supplementation of SSI benefits program).". 42 USC 1382 note.

SEC. 9527. CHILDREN WITH SPECIAL HEALTH CARE NEEDS.

(a) Section 501(a)(4) of the Social Security Act (42 U.S.C. 701(a)(4)) is amended by striking out "children who are crippled or who are suffering from conditions leading to crippling" and inserting in lieu thereof "children who are 'children with special health care needs' or who are suffering from conditions leading to such status".

(b) Section 501(a) of such Act is amended by striking out "crippled children" in the matter following paragraph (4) and inserting in lieu thereof "children with special health care needs".

(c) Section 501(b)(1)(A) of such Act is amended by striking out "crippled children's services" and inserting in lieu thereof "services for children with special health care needs".

(d) Section 502(a)(2)(B) of such Act is amended— 42 USC 702.

(1) by striking out "crippled children's programs" and inserting in lieu thereof "programs for children with special health care needs"; and

(2) by striking out "crippled children's services" and inserting in lieu thereof "services for children with special health care needs".

(e) Sections 504(b)(1) and 509(b) of such Act are each amended by striking out "crippled children" and inserting in lieu thereof "children with special health care needs". 42 USC 704, 709.

SEC. 9528. ANNUAL CALCULATION OF FEDERAL MEDICAL ASSISTANCE PERCENTAGE.

(a) ANNUAL CALCULATION.—Section 1101(a)(8)(P) of the Social Security Act is amended— 42 USC 1301.

(1) by striking out "even-numbered"; and

(2) by striking out "eight quarters" and inserting in lieu thereof "four quarters".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to the Federal percentage (and Federal medical assistance 42 USC 1301 note.

percentage) for fiscal years 1987 and thereafter. Such amendments shall apply without regard to the requirement of section 1101(a)(8)(B) of the Social Security Act relating to the promulgation of the Federal percentage prior to November 30 of the year preceding the year in which the new Federal percentage becomes applicable. The Secretary of Health and Human Services shall promulgate such new percentage for fiscal year 1987 as soon as practicable after the date of the enactment of this Act.

SEC. 9529. MEDICAID COVERAGE RELATING TO ADOPTION ASSISTANCE AND FOSTER CARE.

(a) STATE OF RESIDENCE.—(1) Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended by adding at the end thereof the following:

42 USC 673. 42 USC 606. 42 USC 601.

"For purposes of this title, any child who meets the requirements of paragraph (1) or (2) of section 473(b) shall be deemed to be a dependent child as defined in section 406 and shall be deemed to be a recipient of aid to families with dependent children under part A of title IV in the State where such child resides.".

42 USC 1396a note

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to medical assistance furnished on or after the first calendar quarter that begins more than 90 days after the date of the enactment of this Act.

(b) ELIGIBILITY OF CERTAIN ADOPTED CHILDREN.—(1) Section 1902(a)(10)(A)(ii) of the Social Security Act, as amended by section 9505 of this Act, is amended—

(A) by striking out "or" at the end of subclause (VI);

(B) by striking out the semicolon at the end of subclause (VII) and inserting in lieu thereof ", or"; and

(C) by adding after subclause (VII) the following new subclause:

42 USC 1396d.

"(VIII) who is a child described in section 1905(a)(i)—

42 USC 670.

"(aa) for whom there is in effect an adoption assistance agreement (other than an agreement under part E of title IV) between the State and an adoptive parent or parents,

"(bb) who the State agency responsible for adoption assistance has determined cannot be placed with adoptive parents without medical assistance because such child has special needs for medical or rehabilitative care, and

"(cc) who was eligible for medical assistance under the State plan prior to the adoption assistance agreement being entered into, or who would have been eligible for medical assistance at such time if the eligibility standards and methodologies of the State's foster care program under part E of title IV were applied rather than the eligibility standards and methodologies of the State's aid to families with dependent children program under part A of title IV;".

42 USC 1396a note.

(2) In the case of an adoption assistance agreement (other than an agreement under part E of title IV of the Social Security Act) entered into before the date of the enactment of this Act—

(A) the requirements of subdivisions (aa) and (bb) of section 1902(a)(10)(A)(ii)(VIII) of the Social Security Act shall be deemed to be met if the State agency responsible for adoption assistance agreements determines that—

(i) at the time of adoptive placement the child had special needs for medical or rehabilitative care that made the child difficult to place; and

(ii) there is in effect with respect to such child an adoption assistance agreement between the State and an adoptive parent or parents; and

(B) the requirement of subdivision (cc) of such section shall be deemed to be met if the child was found by the State to be eligible for medical assistance prior to such agreement being entered into.

(3) This subsection, and the amendments made by this subsection, shall apply to adoption assistance agreements entered into before, on, or after the date of the enactment of this Act. 42 USC 1396a note

Subtitle C—Task Force on Long-Term Health Care Policies

SEC. 9601. RECOMMENDATIONS FOR LONG-TERM HEALTH CARE POLICIES.

(a) ESTABLISHMENT OF TASK FORCE.—(1) The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") shall establish a Task Force on Long-Term Health Care Policies (hereinafter in this section referred to as the "Task Force"). The Task Force shall be established not later than 60 days after the date of the enactment of this Act and in consultation with the National Association of Insurance Commissioners. 42 USC 1395b note

(b) COMPOSITION OF TASK FORCE.—The Task Force shall be composed of 18 members, which shall include—

(1) two members representing the National Association of Insurance Commissioners,

(2) three members representing Federal and State agencies with responsibilities relating to health or the elderly,

(3) three members representing private insurers,

(4) three members from organizations representing consumers or the elderly, and

(5) three members from organizations representing providers of long-term health care services.

The Secretary shall designate a member of the Task Force as chair.

(c) DEVELOPMENT OF RECOMMENDATIONS.—The Task Force shall develop recommendations for long-term health care policies, including recommendations designed—

(1) to limit marketing and agent abuse for those policies,

(2) to assure the dissemination of such information to consumers as is necessary to permit informed choice in purchasing the policies and to reduce the purchase of unnecessary or duplicative coverage,

(3) to assure that benefits provided under the policies are reasonable in relationship to premiums charged, and

(4) to promote the development and availability of long-term health care policies which meet these recommendations.

(d) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Task Force shall report to the Secretary, to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Labor and Human Resources of the Senate respecting—

(1) the recommendations developed under subsection (c), including an explanation of the reasons for their selection, and

(2) such recommendations for additional activities respecting long-term health care policies as the Task Force finds appropriate.

The Secretary, in cooperation with the National Association of Insurance Commissioners, shall provide for the dissemination of the report to each of the States.

(e) TERMINATION OF TASK FORCE.—The Task Force shall terminate 90 days after the date of submission of the report required under subsection (d).

(f) REPORTS OF SECRETARY.—The Secretary shall transmit to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Labor and Human Resources of the Senate two reports on—

(1) actions taken by the States to implement the recommendations developed under this section and to recommend additional action; and

(2) recommendations for legislative and administrative action, if any, needed to respond to issues raised by the Task Force or to improve consumer protection with respect to long-term health care policies.

The first report shall be transmitted 18 months after the date the report is made under subsection (d), and the second report shall be transmitted 18 months later.

(g) LONG-TERM HEALTH CARE POLICY DEFINED.—In this section, the term "long-term health care policy" means an insurance policy, or similar health benefits plan, which is designed for or marketed as providing (or making payments for) health care services (such as nursing home care and home health care) or related services (which may include home and community-based services), or both, over an extended period of time.

(h) ASSURANCE OF STATES' JURISDICTION.—Nothing in this section shall be construed as recommending Federal preemption of the States in overseeing the operation and regulation of insurance carriers in their respective jurisdictions.

TITLE X—PRIVATE HEALTH INSURANCE COVERAGE

SEC. 10001. EMPLOYERS REQUIRED TO PROVIDE CERTAIN EMPLOYEES AND FAMILY MEMBERS WITH CONTINUED HEALTH INSURANCE COVERAGE AT GROUP RATES (INTERNAL REVENUE CODE AMENDMENTS).

26 USC 162.

(a) DENIAL OF DEDUCTION FOR EMPLOYER CONTRIBUTION TO PLAN.—Subsection (i) of section 162 of the Internal Revenue Code of 1954 (relating to deduction for trade or business expenses with respect to group health plans) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) PLANS MUST PROVIDE CONTINUATION COVERAGE TO CERTAIN INDIVIDUALS.—

"(A) IN GENERAL.—No deduction shall be allowed under this section for expenses paid or incurred by an employer for any group health plan maintained by such employer

unless all such plans maintained by such employer meet the continuing coverage requirements of subsection (k).

"(B) EXCEPTION FOR CERTAIN SMALL EMPLOYERS, ETC.—Subparagraph (A) shall not apply to any plan described in section 106(b)(2).".

(b) DENIAL OF EXCLUSION FOR HIGHLY COMPENSATED INDIVIDUALS.—Section 106 of the Internal Revenue Code of 1954 (relating to contributions by employer to accident and health plans) is amended by inserting "(a) IN GENERAL.—" before "Gross" and by inserting at the end thereof the following new subsection: 26 USC 106.

"(b) EXCEPTION FOR HIGHLY COMPENSATED INDIVIDUALS WHERE PLAN FAILS TO PROVIDE CERTAIN CONTINUATION COVERAGE.—

"(1) IN GENERAL.—Subsection (a) shall not apply to any amount contributed by an employer on behalf of a highly compensated individual (within the meaning of section 105(h)(5)) to a group health plan maintained by such employer unless all such plans maintained by such employer meet the continuing coverage requirements of section 162(k).

"(2) EXCEPTION FOR CERTAIN PLANS.—Paragraph (1) shall not apply to any—

"(A) group health plan for any calendar year if all employers maintaining such plan normally employed fewer than 20 employees on a typical business day during the preceding calendar year,

"(B) governmental plan (within the meaning of section 414(d)), or

"(C) church plan (within the meaning of section 414(e)).

Under regulations, rules similar to the rules of subsections (a) and (b) of section 52 (relating to employers under common control) shall apply for purposes of subparagraph (A).

"(3) GROUP HEALTH PLAN.—For purposes of this subsection, the term 'group health plan' has the meaning given such term by section 162(i)(3).".

(c) CONTINUATION COVERAGE REQUIREMENTS.—Section 162 of the Internal Revenue Code of 1954 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection: 26 USC 162.

"(k) CONTINUATION COVERAGE REQUIREMENTS OF GROUP HEALTH PLANS.—

"(1) IN GENERAL.—For purposes of subsection (i)(2) and section 106(b)(1), a group health plan meets the requirements of this subsection only if each qualified beneficiary who would lose coverage under the plan as a result of a qualifying event is entitled to elect, within the election period, continuation coverage under the plan.

"(2) CONTINUATION COVERAGE.—For purposes of paragraph (1), the term 'continuation coverage' means coverage under the plan which meets the following requirements:

"(A) TYPE OF BENEFIT COVERAGE.—The coverage must consist of coverage which, as of the time the coverage is being provided, is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred.

"(B) PERIOD OF COVERAGE.—The coverage must extend for at least the period beginning on the date of the qualifying event and ending not earlier than the earliest of the following:

"(i) MAXIMUM PERIOD.—In the case of—

"(I) a qualifying event described in paragraph (3)(B) (relating to terminations and reduced hours), the date which is 18 months after the date of the qualifying event, and

"(II) any qualifying event not described in subclause (I), the date which is 36 months after the date of the qualifying event.

"(ii) END OF PLAN.—The date on which the employer ceases to provide any group health plan to any employee.

"(iii) FAILURE TO PAY PREMIUM.—The date on which coverage ceases under the plan by reason of a failure to make timely payment of any premium required under the plan with respect to the qualified beneficiary.

"(iv) REEMPLOYMENT OR MEDICARE ELIGIBILITY.—The date on which the qualified beneficiary first becomes, after the date of the election—

"(I) a covered employee under any other group health plan, or

"(II) entitled to benefits under title XVIII of the Social Security Act.

42 USC 1395c.

"(v) REMARRIAGE OF SPOUSE.—In the case of an individual who is a qualified beneficiary by reason of being the spouse of a covered employee, the date on which the beneficiary remarries and becomes covered under a group health plan.

"(C) PREMIUM REQUIREMENTS.—The plan may require payment of a premium for any period of continuation coverage, except that such premium—

"(i) shall not exceed 102 percent of the applicable premium for such period, and

"(ii) may, at the election of the payor, be made in monthly installments.

If an election is made after the qualifying event, the plan shall permit payment for continuation coverage during the period preceding the election to be made within 45 days of the date of the election.

"(D) NO REQUIREMENT OF INSURABILITY.—The coverage may not be conditioned upon, or discriminate on the basis of lack of, evidence of insurability.

"(E) CONVERSION OPTION.—In the case of a qualified beneficiary whose period of continuation coverage expires under subparagraph (B)(i), the plan must, during the 180-day period ending on such expiration date, provide to the qualified beneficiary the option of enrollment under a conversion health plan otherwise generally available under the plan.

"(3) QUALIFYING EVENT.—For purposes of this subsection, the term 'qualifying event' means, with respect to any covered employee, any of the following events which, but for the continuation coverage required under this subsection, would result in the loss of coverage of a qualified beneficiary:

"(A) The death of the covered employee.

"(B) The termination (other than by reason of such employee's gross misconduct), or reduction of hours, of the covered employee's employment.

"(C) The divorce or legal separation of the covered employee from the employee's spouse.

"(D) The covered employee becoming entitled to benefits under title XVIII of the Social Security Act.

42 USC 1395c.

"(E) A dependent child ceasing to be a dependent child under the generally applicable requirements of the plan.

"(4) APPLICABLE PREMIUM.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable premium' means, with respect to any period of continuation coverage of qualified beneficiaries, the cost to the plan for such period of the coverage for similarly situated beneficiaries with respect to whom a qualifying event has not occurred (without regard to whether such cost is paid by the employer or employee).

"(B) SPECIAL RULE FOR SELF-INSURED PLANS.—To the extent that a plan is a self-insured plan—

"(i) IN GENERAL.—Except as provided in clause (ii), the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to a reasonable estimate of the cost of providing coverage for such period for similarly situated beneficiaries which—

"(I) is determined on an actuarial basis, and

"(II) takes into account such factors as the Secretary may prescribe in regulations.

"(ii) DETERMINATION ON BASIS OF PAST COST.—If a plan administrator elects to have this clause apply, the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to—

"(I) the cost to the plan for similarly situated beneficiaries for the same period occurring during the preceding determination period under subparagraph (C), adjusted by

"(II) the percentage increase or decrease in the implicit price deflator of the gross national product (calculated by the Department of Commerce and published in the Survey of Current Business) for the 12-month period ending on the last day of the sixth month of such preceding determination period.

"(iii) CLAUSE (ii) NOT TO APPLY WHERE SIGNIFICANT CHANGE.—A plan administrator may not elect to have clause (ii) apply in any case in which there is any significant difference, between the determination period and the preceding determination period, in coverage under, or in employees covered by, the plan. The determination under the preceding sentence for any determination period shall be made at the same time as the determination under subparagraph (C).

"(C) DETERMINATION PERIOD.—The determination of any applicable premium shall be made for a period of 12 months and shall be made before the beginning of such period.

"(5) ELECTION.—For purposes of this subsection—

"(A) ELECTION PERIOD.—The term 'election period' means the period which—

"(i) begins not later than the date on which coverage terminates under the plan by reason of a qualifying event,

"(ii) is of at least 60 days' duration, and

"(iii) ends not earlier than 60 days after the later of—

"(I) the date described in clause (i), or

"(II) in the case of any qualified beneficiary who receives notice under paragraph (6)(D), the date of such notice.

"(B) EFFECT OF ELECTION ON OTHER BENEFICIARIES.—Except as otherwise specified in an election, any election by a qualified beneficiary described in clause (i)(I) or (ii) of paragraph (7)(B) shall be deemed to include an election of continuation coverage on behalf of any other qualified beneficiary who would lose coverage under the plan by reason of the qualifying event.

"(6) NOTICE REQUIREMENTS.—In accordance with regulations prescribed by the Secretary—

"(A) the group health plan shall provide, at the time of commencement of coverage under the plan, written notice to each covered employee and spouse of the employee (if any) of the rights provided under this subsection,

"(B) the employer of an employee under a plan must notify the plan administrator of a qualifying event described in subparagraph (A), (B), or (D) of paragraph (3) with respect to such employee within 30 days of the date of the qualifying event,

"(C) each covered employee or qualified beneficiary is responsible for notifying the plan administrator of the occurrence of any qualifying event described in subparagraph (C) or (E) of paragraph (3), and

"(D) the plan administrator shall notify—

"(i) in the case of a qualifying event described in subparagraph (A), (B), or (D) of paragraph (3), any qualified beneficiary with respect to such event, and

"(ii) in the case of a qualifying event described in subparagraph (C) or (E) of paragraph (3) where the covered employee notifies the plan administrator under subparagraph (C), any qualified beneficiary with respect to such event,

of such beneficiary's rights under this subsection.

For purposes of subparagraph (D), any notification shall be made within 14 days of the date on which the plan administrator is notified under subparagraph (B) or (C), whichever is applicable, and any such notification to an individual who is a qualified beneficiary as the spouse of the covered employee shall be treated as notification to all other qualified beneficiaries residing with such spouse at the time such notification is made.

"(7) DEFINITIONS.—For purposes of this subsection—

"(A) COVERED EMPLOYEE.—The term 'covered employee' means an individual who is (or was) provided coverage under a group health plan by virtue of the individual's employment or previous employment with an employer

"(B) QUALIFIED BENEFICIARY.—

"(i) IN GENERAL.—The term 'qualified beneficiary' means, with respect to a covered employee under a group health plan, any other individual who, on the

day before the qualifying event for that employee, is a beneficiary under the plan—

"(I) as the spouse of the covered employee, or

"(II) as the dependent child of the employee.

"(ii) SPECIAL RULE FOR TERMINATIONS AND REDUCED EMPLOYMENT.—In the case of a qualifying event described in paragraph (3)(B), the term 'qualified beneficiary' includes the covered employee.

"(C) PLAN ADMINISTRATOR.—The term 'plan administrator' has the meaning given the term 'administrator' by section 3(16)(A) of the Employee Retirement Income Security Act of 1974.". 29 USC 1002

(d) CONFORMING AMENDMENT.—Paragraph (1) of section 162(i) is amended by striking out "GENERAL RULE" in the heading thereof and inserting in lieu thereof "COVERAGE RELATING TO END STAGE RENAL DISEASE". 26 USC 162

(e) EFFECTIVE DATES.— 26 USC 106 note

(1) GENERAL RULE.—The amendments made by this section shall apply to plan years beginning on or after July 1, 1986.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) January 1, 1987.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 10002. TEMPORARY EXTENSION OF COVERAGE AT GROUP RATES FOR CERTAIN EMPLOYEES AND FAMILY MEMBERS (ERISA AMENDMENTS).

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following new part:

"PART 6—CONTINUATION COVERAGE UNDER GROUP HEALTH PLANS

"SEC. 601. PLANS MUST PROVIDE CONTINUATION COVERAGE TO CERTAIN INDIVIDUALS. 29 USC 1161

"(a) IN GENERAL.—The plan sponsor of each group health plan shall provide, in accordance with this part, that each qualified beneficiary who would lose coverage under the plan as a result of a qualifying event is entitled, under the plan, to elect, within the election period, continuation coverage under the plan.

"(b) EXCEPTION FOR CERTAIN PLANS.—Subsection (a) shall not apply to any group health plan for any calendar year if all employers maintaining such plan normally employed fewer than 20 employees on a typical business day during the preceding calendar

year. Under regulations, rules similar to the rules of subsections (a) and (b) of section 52 of the Internal Revenue Code of 1954 (relating to employers under common control) shall apply for purposes of this subsection.

26 USC 52.

29 USC 1162.

"SEC. 602. CONTINUATION COVERAGE.

"For purposes of section 601, the term 'continuation coverage' means coverage under the plan which meets the following requirements:

"(1) TYPE OF BENEFIT COVERAGE.—The coverage must consist of coverage which, as of the time the coverage is being provided, is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred.

"(2) PERIOD OF COVERAGE.—The coverage must extend for at least the period beginning on the date of the qualifying event and ending not earlier than the earliest of the following:

"(A) MAXIMUM PERIOD.—In the case of—

"(i) a qualifying event described in section 603(2) (relating to terminations and reduced hours), the date which is 18 months after the date of the qualifying event, and

"(ii) any qualifying event not described in clause (i), the date which is 36 months after the date of the qualifying event.

"(B) END OF PLAN.—The date on which the employer ceases to provide any group health plan to any employee.

"(C) FAILURE TO PAY PREMIUM.—The date on which coverage ceases under the plan by reason of a failure to make timely payment of any premium required under the plan with respect to the qualified beneficiary.

"(D) REEMPLOYMENT OR MEDICARE ELIGIBILITY.—The date on which the qualified beneficiary first becomes, after the date of the election—

"(i) a covered employee under any other group health plan, or

"(ii) entitled to benefits under title XVIII of the Social Security Act.

42 USC 1395c.

"(E) REMARRIAGE OF SPOUSE.—In the case of an individual who is a qualified beneficiary by reason of being the spouse of a covered employee, the date on which the beneficiary remarries and becomes covered under a group health plan.

"(3) PREMIUM REQUIREMENTS.—The plan may require payment of a premium for any period of continuation coverage, except that such premium—

"(A) shall not exceed 102 percent of the applicable premium for such period, and

"(B) may, at the election of the payor, be made in monthly installments.

If an election is made after the qualifying event, the plan shall permit payment for continuation coverage during the period preceding the election to be made within 45 days of the date of the election.

"(4) NO REQUIREMENT OF INSURABILITY.—The coverage may not be conditioned upon, or discriminate on the basis of lack of, evidence of insurability.

"(5) CONVERSION OPTION.—In the case of a qualified beneficiary whose period of continuation coverage expires under paragraph (2)(A), the plan must, during the 180-day period ending on such expiration date, provide to the qualified beneficiary the option of enrollment under a conversion health plan otherwise generally available under the plan.

"SEC. 603. QUALIFYING EVENT. 29 USC 1163.

"For purposes of this part, the term 'qualifying event' means, with respect to any covered employee, any of the following events which, but for the continuation coverage required under this part, would result in the loss of coverage of a qualified beneficiary:

"(1) The death of the covered employee.

"(2) The termination (other than by reason of such employee's gross misconduct), or reduction of hours, of the covered employee's employment.

"(3) The divorce or legal separation of the covered employee from the employee's spouse.

"(4) The covered employee becoming entitled to benefits under title XVIII of the Social Security Act. 42 USC 1395c.

"(5) A dependent child ceasing to be a dependent child under the generally applicable requirements of the plan.

"SEC. 604. APPLICABLE PREMIUM. 29 USC 1164.

"For purposes of this part—

"(1) IN GENERAL.—The term 'applicable premium' means, with respect to any period of continuation coverage of qualified beneficiaries, the cost to the plan for such period of the coverage for similarly situated beneficiaries with respect to whom a qualifying event has not occurred (without regard to whether such cost is paid by the employer or employee).

"(2) SPECIAL RULE FOR SELF-INSURED PLANS.—To the extent that a plan is a self-insured plan—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to a reasonable estimate of the cost of providing coverage for such period for similarly situated beneficiaries which—

"(i) is determined on an actuarial basis, and

"(ii) takes into account such factors as the Secretary may prescribe in regulations.

"(B) DETERMINATION ON BASIS OF PAST COST.—If an administrator elects to have this subparagraph apply, the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to—

"(i) the cost to the plan for similarly situated beneficiaries for the same period occurring during the preceding determination period under paragraph (3), adjusted by

"(ii) the percentage increase or decrease in the implicit price deflator of the gross national product (calculated by the Department of Commerce and published in the Survey of Current Business) for the 12-month period ending on the last day of the sixth month of such preceding determination period.

"(C) SUBPARAGRAPH (B) NOT TO APPLY WHERE SIGNIFICANT CHANGE.—An administrator may not elect to have subpara-

graph (B) apply in any case in which there is any significant difference, between the determination period and the preceding determination period, in coverage under, or in employees covered by, the plan. The determination under the preceding sentence for any determination period shall be made at the same time as the determination under paragraph (3).

"(3) DETERMINATION PERIOD.—The determination of any applicable premium shall be made for a period of 12 months and shall be made before the beginning of such period.

29 USC 1165.

"SEC. 605. ELECTION.

"For purposes of this part—

"(1) ELECTION PERIOD.—The term 'election period' means the period which—

"(A) begins not later than the date on which coverage terminates under the plan by reason of a qualifying event,

"(B) is of at least 60 days' duration, and

"(C) ends not earlier than 60 days after the later of—

"(i) the date described in subparagraph (A), or

"(ii) in the case of any qualified beneficiary who receives notice under section 606(4), the date of such notice.

"(2) EFFECT OF ELECTION ON OTHER BENEFICIARIES.—Except as otherwise specified in an election, any election by a qualified beneficiary described in subparagraph (A)(i) or (B) of section 607(3) shall be deemed to include an election of continuation coverage on behalf of any other qualified beneficiary who would lose coverage under the plan by reason of the qualifying event.

29 USC 1166.

"SEC. 606. NOTICE REQUIREMENTS.

"In accordance with regulations prescribed by the Secretary—

"(1) the group health plan shall provide, at the time of commencement of coverage under the plan, written notice to each covered employee and spouse of the employee (if any) of the rights provided under this subsection,

"(2) the employer of an employee under a plan must notify the administrator of a qualifying event described in paragraph (1), (2), or (4) of section 603 within 30 days of the date of the qualifying event,

"(3) each covered employee or qualified beneficiary is responsible for notifying the administrator of the occurrence of any qualifying event described in paragraph (3) or (5) of section 603, and

"(4) the administrator shall notify—

"(A) in the case of a qualifying event described in paragraph (1), (2), or (4) of section 603, any qualified beneficiary with respect to such event, and

"(B) in the case of a qualifying event described in paragraph (3) or (5) of section 603 where the covered employee notifies the administrator under paragraph (3), any qualified beneficiary with respect to such event,

of such beneficiary's rights under this subsection.

For purposes of paragraph (4), any notification shall be made within 14 days of the date on which the administrator is notified under paragraph (2) or (3), whichever is applicable, and any such notification to an individual who is a qualified beneficiary as the spouse of

the covered employee shall be treated as notification to all other qualified beneficiaries residing with such spouse at the time such notification is made.

"SEC. 607. DEFINITIONS.

29 USC 1167.

"For purposes of this part—

"(1) GROUP HEALTH PLAN.—The term 'group health plan' means an employee welfare benefit plan that is a group health plan (within the meaning of section 162(i)(3) of the Internal Revenue Code of 1954).

26 USC 162.

"(2) COVERED EMPLOYEE.—The term 'covered employee' means an individual who is (or was) provided coverage under a group health plan by virtue of the individual's employment or previous employment with an employer.

"(3) QUALIFIED BENEFICIARY.—

"(A) IN GENERAL.—The term 'qualified beneficiary' means, with respect to a covered employee under a group health plan, any other individual who, on the day before the qualifying event for that employee, is a beneficiary under the plan—

"(i) as the spouse of the covered employee, or

"(ii) as the dependent child of the employee.

"(B) SPECIAL RULE FOR TERMINATIONS AND REDUCED EMPLOYMENT.—In the case of a qualifying event described in section 603(2), the term 'qualified beneficiary' includes the covered employee.

"SEC. 608. REGULATIONS.

29 USC 1168.

"The Secretary may prescribe regulations to carry out the provisions of this part.".

(b) PENALTY FOR FAILURE TO PROVIDE NOTICE.—Section 502(c) of such Act (29 U.S.C. 1132(c)) is amended by inserting after "Any administrator" the following: "(1) who fails to meet the requirements of paragraph (1) or (4) of section 606 with respect to a participant or beneficiary, or (2)".

(c) CLERICAL AMENDMENTS.—The table of contents in section 1 of such Act is amended by inserting after the item relating to section 514 the following new items:

"PART 6—CONTINUATION COVERAGE UNDER GROUP HEALTH PLANS

"Sec. 601. Plans must provide continuation coverage to certain individuals.
"Sec. 602. Continuation coverage.
"Sec. 603. Qualifying event.
"Sec. 604. Applicable premium.
"Sec. 605. Election.
"Sec. 606. Notice requirements.
"Sec. 607. Definitions.
"Sec. 608. Regulations.".

(d) EFFECTIVE DATES.—

29 USC 1161 note.

(1) GENERAL RULE.—The amendments made by this section shall apply to plan years beginning on or after July 1, 1986.

Prohibition.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) January 1, 1987.

Prohibition.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

29 USC 1166 note.

(e) NOTIFICATION TO COVERED EMPLOYEES.—At the time that the amendments made by this section apply to a group health plan (within the meaning of section 607(1) of the Employee Retirement Income Security Act of 1974), the plan shall notify each covered employee, and spouse of the employee (if any), who is covered under the plan at that time of the continuation coverage required under part 6 of subtitle B of title I of such Act. The notice furnished under this subsection is in lieu of notice that may otherwise be required under section 606(1) of such Act with respect to such individuals.

Ante, p. 231.

Ante, p. 227.

Ante, p. 230.

SEC. 10003. CONTINUATION OF HEALTH INSURANCE FOR STATE AND LOCAL EMPLOYEES WHO LOST EMPLOYMENT-RELATED COVERAGE (PUBLIC HEALTH SERVICE ACT AMENDMENTS).

(a) IN GENERAL.—The Public Health Service Act is amended by adding at the end the following new title:

"TITLE XXII—REQUIREMENTS FOR CERTAIN GROUP HEALTH PLANS FOR CERTAIN STATE AND LOCAL EMPLOYEES

42 USC 300bb-1.

"SEC. 2201. STATE AND LOCAL GOVERNMENTAL GROUP HEALTH PLANS MUST PROVIDE CONTINUATION COVERAGE TO CERTAIN INDIVIDUALS.

"(a) IN GENERAL.—In accordance with regulations which the Secretary shall prescribe, each group health plan that is maintained by any State that receives funds under this Act, by any political subdivision of such a State, or by any agency or instrumentality of such a State or political subdivision, shall provide, in accordance with this title, that each qualified beneficiary who would lose coverage under the plan as a result of a qualifying event is entitled, under the plan, to elect, within the election period, continuation coverage under the plan.

"(b) EXCEPTION FOR CERTAIN PLANS.—Subsection (a) shall not apply to—

"(1) any group health plan for any calendar year if all employers maintaining such plan normally employed fewer than 20 employees on a typical business day during the preceding calendar year, or

District of Columbia.

"(2) any group health plan maintained for employees by the government of the District of Columbia or any territory or possession of the United States or any agency or instrumentality.

Under regulations, rules similar to the rules of subsections (a) and (b) of section 52 of the Internal Revenue Code of 1954 (relating to employers under common control) shall apply for purposes of paragraph (1).

26 USC 52.

"SEC. 2202. CONTINUATION COVERAGE. 42 USC 300bb-2.

"For purposes of section 2201, the term 'continuation coverage' means coverage under the plan which meets the following requirements:

"(1) TYPE OF BENEFIT COVERAGE.—The coverage must consist of coverage which, as of the time the coverage is being provided, is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred.

"(2) PERIOD OF COVERAGE.—The coverage must extend for at least the period beginning on the date of the qualifying event and ending not earlier than the earliest of the following:

"(A) MAXIMUM PERIOD.—In the case of—

"(i) a qualifying event described in section 2203(2) (relating to terminations and reduced hours), the date which is 18 months after the date of the qualifying event, and

"(ii) any qualifying event not described in clause (i), the date which is 36 months after the date of the qualifying event.

"(B) END OF PLAN.—The date on which the employer ceases to provide any group health plan to any employee.

"(C) FAILURE TO PAY PREMIUM.—The date on which coverage ceases under the plan by reason of a failure to make timely payment of any premium required under the plan with respect to the qualified beneficiary.

"(D) REEMPLOYMENT OR MEDICARE ELIGIBILITY.—The date on which the qualified beneficiary first becomes, after the date of the election—

"(i) a covered employee under any other group health plan, or

"(ii) entitled to benefits under title XVIII of the Social Security Act. 42 USC 1395c.

"(E) REMARRIAGE OF SPOUSE.—In the case of an individual who is a qualified beneficiary by reason of being the spouse of a covered employee, the date on which the beneficiary remarries and becomes covered under a group health plan.

"(3) PREMIUM REQUIREMENTS.—The plan may require payment of a premium for any period of continuation coverage, except that such premium—

"(A) shall not exceed 102 percent of the applicable premium for such period, and

"(B) may, at the election of the payor, be made in monthly installments.

If an election is made after the qualifying event, the plan shall permit payment for continuation coverage during the period preceding the election to be made within 45 days of the date of the election.

"(4) NO REQUIREMENT OF INSURABILITY.—The coverage may not be conditioned upon, or discriminate on the basis of lack of, evidence of insurability.

"(5) CONVERSION OPTION.—In the case of a qualified beneficiary whose period of continuation coverage expires under paragraph (2)(A), the plan must, during the 180-day period ending on such expiration date, provide to the qualified bene-

ficiary the option of enrollment under a conversion health plan otherwise generally available under the plan.

42 USC 300bb-3.

"SEC. 2203. QUALIFYING EVENT.

"For purposes of this title, the term 'qualifying event' means, with respect to any covered employee, any of the following events which, but for the continuation coverage required under this title, would result in the loss of coverage of a qualified beneficiary:

"(1) The death of the covered employee.

"(2) The termination (other than by reason of such employee's gross misconduct), or reduction of hours, of the covered employee's employment.

"(3) The divorce or legal separation of the covered employee from the employee's spouse.

"(4) The covered employee becoming entitled to benefits under title XVIII of the Social Security Act.

42 USC 1395c.
Children and youth.

"(5) A dependent child ceasing to be a dependent child under the generally applicable requirements of the plan.

42 USC 300bb-4.

"SEC. 2204. APPLICABLE PREMIUM.

"For purposes of this title—

"(1) IN GENERAL.—The term 'applicable premium' means, with respect to any period of continuation coverage of qualified beneficiaries, the cost to the plan for such period of the coverage for similarly situated beneficiaries with respect to whom a qualifying event has not occurred (without regard to whether such cost is paid by the employer or employee).

"(2) SPECIAL RULE FOR SELF-INSURED PLANS.—To the extent that a plan is a self-insured plan—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to a reasonable estimate of the cost of providing coverage for such period for similarly situated beneficiaries which—

"(i) is determined on an actuarial basis, and

"(ii) takes into account such factors as the Secretary may prescribe in regulations.

"(B) DETERMINATION ON BASIS OF PAST COST.—If a plan administrator elects to have this subparagraph apply, the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to—

"(i) the cost to the plan for similarly situated beneficiaries for the same period occurring during the preceding determination period under paragraph (3), adjusted by

"(ii) the percentage increase or decrease in the implicit price deflator of the gross national product (calculated by the Department of Commerce and published in the Survey of Current Business) for the 12-month period ending on the last day of the sixth month of such preceding determination period.

"(C) SUBPARAGRAPH (B) NOT TO APPLY WHERE SIGNIFICANT CHANGE.—A plan administrator may not elect to have subparagraph (B) apply in any case in which there is any significant difference, between the determination period and the preceding determination period, in coverage under, or in employees covered by, the plan. The determination

under the preceding sentence for any determination period shall be made at the same time as the determination under paragraph (3).

"(3) DETERMINATION PERIOD.—The determination of any applicable premium shall be made for a period of 12 months and shall be made before the beginning of such period.

"SEC. 2205. ELECTION. 42 USC 300bb-5.

"For purposes of this title—

"(1) ELECTION PERIOD.—The term 'election period' means the period which—

"(A) begins not later than the date on which coverage terminates under the plan by reason of a qualifying event,

"(B) is of at least 60 days' duration, and

"(C) ends not earlier than 60 days after the later of—

"(i) the date described in subparagraph (A), or

"(ii) in the case of any qualified beneficiary who receives notice under section 2206(4), the date of such notice.

"(2) EFFECT OF ELECTION ON OTHER BENEFICIARIES.—Except as otherwise specified in an election, any election by a qualified beneficiary described in subparagraph (A)(i) or (B) of section 2208(3) shall be deemed to include an election of continuation coverage on behalf of any other qualified beneficiary who would lose coverage under the plan by reason of the qualifying event.

"SEC. 2206. NOTICE REQUIREMENTS. 42 USC 300bb-6.

"In accordance with regulations prescribed by the Secretary—

"(1) the group health plan shall provide, at the time of commencement of coverage under the plan, written notice to each covered employee and spouse of the employee (if any) of the rights provided under this subsection,

"(2) the employer of an employee under a plan must notify the plan administrator of a qualifying event described in paragraph (1), (2), or (4) of section 2203 within 30 days of the date of the qualifying event,

"(3) each covered employee or qualified beneficiary is responsible for notifying the plan administrator of the occurrence of any qualifying event described in paragraph (3) or (5) of section 2203, and

"(4) the plan administrator shall notify—

"(A) in the case of a qualifying event described in paragraph (1), (2), or (4) of section 2203, any qualified beneficiary with respect to such event, and

"(B) in the case of a qualifying event described in paragraph (3) or (5) of section 2203 where the covered employee notifies the plan administrator under paragraph (3), any qualified beneficiary with respect to such event,

of such beneficiary's rights under this subsection.

For purposes of paragraph (4), any notification shall be made within 14 days of the date on which the plan administrator is notified under paragraph (2) or (3), whichever is applicable, and any such notification to an individual who is a qualified beneficiary as the spouse of the covered employee shall be treated as notification to all other qualified beneficiaries residing with such spouse at the time such notification is made.

42 USC 300bb-7.

"SEC. 2207. ENFORCEMENT.

"Any individual who is aggrieved by the failure of a State, political subdivision, or agency or instrumentality thereof, to comply with the requirements of this title may bring an action for appropriate equitable relief.

42 USC 300bb-8.

"SEC. 2208. DEFINITIONS.

"For purposes of this title—

Health and medical care.

"(1) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term in section 162(i)(3) of the Internal Revenue Code of 1954.

26 USC 162.

"(2) COVERED EMPLOYEE.—The term 'covered employee' means an individual who is (or was) provided coverage under a group health plan by virtue of the individual's employment or previous employment with an employer.

"(3) QUALIFIED BENEFICIARY.—

"(A) IN GENERAL.—The term 'qualified beneficiary' means, with respect to a covered employee under a group health plan, any other individual who, on the day before the qualifying event for that employee, is a beneficiary under the plan—

"(i) as the spouse of the covered employee, or

"(ii) as the dependent child of the employee.

"(B) SPECIAL RULE FOR TERMINATIONS AND REDUCED EMPLOYMENT.—In the case of a qualifying event described in section 2203(2), the term 'qualified beneficiary' includes the covered employee.

"(4) PLAN ADMINISTRATOR.—The term 'plan administrator' has the meaning given the term 'administrator' by section 3(16)(A) of the Employee Retirement Income Security Act of 1974."

29 USC 1002.

42 USC 300bb-1 note.

(b) EFFECTIVE DATES.—

(1) GENERAL RULE.—The amendments made by this section shall apply to plan years beginning on or after July 1, 1986.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) January 1, 1987.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

42 USC 300bb-6 note.

(c) NOTIFICATION TO COVERED EMPLOYEES.—At the time that the amendments made by this section apply to a group health plan (covered under section 2201 of the Public Health Service Act), the plan shall notify each covered employee, and spouse of the employee (if any), who is covered under the plan at that time of the continuation coverage required under title XXII of such Act. The notice furnished under this subsection is in lieu of notice that may other-

Ante, p. 232.

wise be required under section 2206(1) of such Act with respect to such individuals.

TITLE XI—SINGLE-EMPLOYER PLAN TERMINATION INSURANCE SYSTEM AMENDMENTS

Single-Employer Pension Plan Amendments Act of 1986.

SEC. 11001. SHORT TITLE AND TABLE OF CONTENTS.

29 USC 1001 note.

This title may be cited as "Single-Employer Pension Plan Amendments Act of 1986".

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SEC. 11002. FINDINGS AND DECLARATION OF POLICY.

29 USC 1001b.

(a) FINDINGS.—The Congress finds that—

(1) single-employer defined benefit pension plans have a substantial impact on interstate commerce and are affected with a national interest;

(2) the continued well-being and retirement income security of millions of workers, retirees, and their dependents are directly affected by such plans;

(3) the existence of a sound termination insurance system is fundamental to the retirement income security of participants and beneficiaries of such plans; and

(4) the current termination insurance system in some instances encourages employers to terminate pension plans, evade their obligations to pay benefits, and shift unfunded pension liabilities onto the termination insurance system and the other premium-payers.

(b) ADDITIONAL FINDINGS.—The Congress further finds that modification of the current termination insurance system and an increase in the insurance premium for single-employer defined benefit pension plans—

(1) is desirable to increase the likelihood that full benefits will be paid to participants and beneficiaries of such plans;

(2) is desirable to provide for the transfer of liabilities to the termination insurance system only in cases of severe hardship;

(3) is necessary to maintain the premium costs of such system at a reasonable level; and

(4) is necessary to finance properly current funding deficiencies and future obligations of the single-employer pension plan termination insurance system.

Commerce and trade.

(c) DECLARATION OF POLICY.—It is hereby declared to be the policy of this title—

(1) to foster and facilitate interstate commerce;

(2) to encourage the maintenance and growth of single-employer defined benefit pension plans;

(3) to increase the likelihood that participants and beneficiaries under single-employer defined benefit pension plans will receive their full benefits;

(4) to provide for the transfer of unfunded pension liabilities onto the single-employer pension plan termination insurance system only in cases of severe hardship;

(5) to maintain the premium costs of such system at a reasonable level; and

(6) to assure the prudent financing of current funding deficiencies and future obligations of the single-employer pension plan termination insurance system by increasing termination insurance premiums.

SEC. 11003. AMENDMENT OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference is to a section or other provision of the Employee Retirement Income Security Act of 1974, unless otherwise specified.

SEC. 11004. DEFINITIONS.

(a) IN GENERAL.—Section 4001(a) (29 U.S.C. 1301(a)) is amended—

(1) by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) 'substantial employer', for any plan year of a single-employer plan, means one or more persons—

"(A) who are contributing sponsors of the plan in such plan year,

"(B) who, at any time during such plan year, are members of the same controlled group, and

"(C) whose required contributions to the plan for each plan year constituting one of—

"(i) the two immediately preceding plan years, or

"(ii) the first two of the three immediately preceding plan years,

total an amount greater than or equal to 10 percent of all contributions required to be paid to or under the plan for such plan year;";

(2) in paragraph (11), by striking out "and";

(3) in paragraph (12), by striking out "corporation." and inserting in lieu thereof "corporation;"; and

(4) by adding after paragraph (12) the following new paragraphs:

"(13) 'contributing sponsor', of a single-employer plan, means a person—

"(A) who is responsible, in connection with such plan, for meeting the funding requirements under section 302 of this Act or section 412 of the Internal Revenue Code of 1954, or 29 USC 1112. 26 USC 412.

"(B) who is a member of the controlled group of a person described in subparagraph (A), has been responsible for meeting such funding requirements, and has employed a significant number (as may be defined in regulations of the corporation) of participants under such plan while such person was so responsible;

"(14) in the case of a single-employer plan—

"(A) 'controlled group' means, in connection with any person, a group consisting of such person and all other persons under common control with such person; and

"(B) the determination of whether two or more persons are under 'common control' shall be made under regulations of the corporation which are consistent and coextensive with regulations prescribed for similar purposes by the Secretary of the Treasury under subsections (b) and (c) of section 414 of the Internal Revenue Code of 1954; 26 USC 414.

"(15) 'single-employer plan' means any defined benefit plan (as defined in section 3(35)) which is not a multiemployer plan; 29 USC 1002.

"(16) 'benefit commitments', to a participant or beneficiary as of any date under a single-employer plan, means all benefits provided by the plan with respect to the participant or beneficiary which—

"(A) are guaranteed under section 4022, 29 USC 1322.

"(B) would be guaranteed under section 4022, but for the operation of subsection 4022(b), or

"(C) constitute—

"(i) early retirement supplements or subsidies, or

"(ii) plant closing benefits,

irrespective of whether any such supplements, subsidies, or benefits are benefits guaranteed under section 4022, if the participant or beneficiary has satisfied, as of such date, all of the conditions required of him or her under the provisions of the plan to establish entitlement to the benefits, except for the submission of a formal application, retirement, completion of a required waiting period subsequent to application for benefits, or designation of a beneficiary;

"(17) 'amount of unfunded guaranteed benefits', of a participant or beneficiary as of any date under a single-employer plan, means an amount equal to the excess of—

"(A) the actuarial present value (determined as of such date on the basis of assumptions prescribed by the corporation for purposes of section 4044) of the benefits of the participant or beneficiary under the plan which are guaranteed under section 4022, over 29 USC 1344.

"(B) the current value (as of such date) of the assets of the plan which are required to be allocated to those benefits under section 4044; 29 USC 1344.

"(18) 'amount of unfunded benefit commitments', of a participant or beneficiary as of any date under a single-employer plan, means an amount equal to the excess of—

"(A) the actuarial present value (determined as of such date on the basis of assumptions prescribed by the corporation for purposes of section 4044) of the benefit commitments to the participant or beneficiary under the plan, over

"(B) the current value (as of such date) of the assets of the plan which are required to be allocated to those benefit commitments under section 4044;

29 USC 1344.

"(19) 'outstanding amount of benefit commitments', of a participant or beneficiary under a terminated single-employer plan, means the excess of—

"(A) the actuarial present value (determined as of the termination date on the basis of assumptions prescribed by the corporation for purposes of section 4044) of the benefit commitments to such participant or beneficiary under the plan, over

"(B) the actuarial present value (determined as of such date on the basis of assumptions prescribed by the corporation for purposes of section 4044) of the benefits of such participant or beneficiary which are guaranteed under section 4022 or to which assets of the plan are required to be allocated under section 4044;

29 USC 1322.

29 USC 1002.

"(20) 'person' has the meaning set forth in section 3(9);

"(21) 'affected party' means, with respect to a plan—

"(A) each participant in the plan,

"(B) each beneficiary under the plan who is a beneficiary of a deceased participant or who is an alternate payee (within the meaning of section 206(d)(3)(K)) under an applicable qualified domestic relations order (within the meaning of section 206(d)(3)(B)(i)),

29 USC 1056.

"(C) each employee organization representing participants in the plan, and

"(D) the corporation,

except that, in connection with any notice required to be provided to the affected party, if an affected party has designated, in writing, a person to receive such notice on behalf of the affected party, any reference to the affected party shall be construed to refer to such person.".

(b) TECHNICAL CORRECTION OF ERROR IN MULTIEMPLOYER PENSION PLAN AMENDMENTS ACT OF 1980.—Section 4001 is further amended by striking out the amendments made by section 402(a)(1)(F) of the Multiemployer Pension Plan Amendments Act of 1980 (94 Stat. 1297) (adding new paragraphs after a subsection (c)(1)), and, in lieu thereof, in subsection (b), by inserting "(1)" after "(b)" and by adding at the end of such subsection the following new paragraph:

29 USC 1301.

29 USC 1301.

"(2) For purposes of subtitle E—

"(A) except as otherwise provided in subtitle E, contributions or other payments shall be considered made under a plan for a plan year if they are made within the period prescribed under section 412(c)(10) of the Internal Revenue Code of 1954 (determined, in the case of a terminated plan, as if the plan had continued beyond the termination date), and

26 USC 412.

"(B) the term 'Secretary of the Treasury' means the Secretary of the Treasury or such Secretary's delegate.".

SEC. 11005. SINGLE-EMPLOYER PLAN TERMINATION INSURANCE PREMIUMS.

(a) PREMIUM INCREASE.—

(1) GENERAL RULE.—Section 4006(a)(3)(A)(i) (29 U.S.C. 1306(a)(3)(A)(i)) is amended by striking out "for plan years beginning after December 31, 1977, an amount equal to $2.60" and

inserting in lieu thereof "for plan years beginning after December 31, 1985, an amount equal to $8.50".

(2) CONFORMING AMENDMENT WITH RESPECT TO PLAN YEARS AFTER 1977.—Section 4006(c)(1) (29 U.S.C. 1306(c)(1)) is amended by striking out subparagraph (A) and inserting in lieu thereof the following new subparagraph:

"(A) in the case of each plan which was not a multiemployer plan in a plan year—

"(i) with respect to each plan year beginning before January 1, 1978, an amount equal to $1 for each individual who was a participant in such plan during the plan year, and

"(ii) with respect to each plan year beginning after December 31, 1977, an amount equal to $2.60 for each individual who was a participant in such plan during the plan year, and".

(b) INCORPORATION OF CERTAIN FORMER PROVISIONS IN LIEU OF CROSS REFERENCE THERETO.—Section 4006(a) (29 U.S.C. 1306(a)) is amended—

(1) in paragraph (1), by striking out the last sentence; and

(2) by adding at the end thereof the following new paragraph:

"(6)(A) In carrying out its authority under paragraph (1) to establish premium rates and bases for basic benefits guaranteed under section 4022 with respect to single-employer plans, the corporation shall establish such rates and bases in coverage schedules in accordance with the provisions of this paragraph. 29 USC 1322.

"(B) The corporation may establish annual premiums for single-employer plans composed of the sum of—

"(i) a charge based on a rate applicable to the excess, if any, of the present value of the basic benefits of the plan which are guaranteed over the value of the assets of the plan, not in excess of 0.1 percent, and

"(ii) an additional charge based on a rate applicable to the present value of the basic benefits of the plan which are guaranteed.

The rate for the additional charge referred to in clause (ii) shall be set by the corporation for every year at a level which the corporation estimates will yield total revenue approximately equal to the total revenue to be derived by the corporation from the charges referred to in clause (i) of this subparagraph.

"(C) The corporation may establish annual premiums for single-employer plans based on—

"(i) the number of participants in a plan, but such premium rates shall not exceed the rates described in paragraph (3),

"(ii) unfunded basic benefits guaranteed under this title, but such premium rates shall not exceed the limitations applicable to charges referred to in subparagraph (B)(i), or

"(iii) total guaranteed basic benefits, but such premium rates shall not exceed the rates for additional charges referred to in subparagraph (B)(ii).

If the corporation uses two or more of the rate bases described in this subparagraph, the premium rates shall be designed to produce approximately equal amounts of aggregate premium revenue from each of the rate bases used.

"(D) For purposes of this paragraph, the corporation shall by regulation define the terms 'value of assets' and 'present value of the benefits of the plan which are guaranteed' in a manner consist-

ent with the purposes of this title and the provisions of this section.".

(c) APPROVAL BY JOINT RESOLUTION OF RECOMMENDATIONS OF THE PENSION BENEFIT GUARANTY CORPORATION.—Title IV is amended as follows:

(1) The last sentence of subsection (a)(2) of section 4006 (29 U.S.C. 1306(a)(2)) is amended by striking out "the Congress approves such revised schedule by a concurrent resolution" and inserting in lieu thereof "a joint resolution approving such revised schedule is enacted".

(2) Subsection (a)(4) of section 4006 (29 U.S.C. 1306(a)(4)) is amended by striking out "approval by the Congress" and inserting in lieu thereof "the enactment of a joint resolution".

(3) Subsection (b)(3) of section 4006 (29 U.S.C. 1306(b)(3)) is amended by striking out "concurrent" and inserting in lieu thereof "joint", by striking out "That the Congress favors the" and inserting in lieu thereof "The", and by inserting "is hereby approved" before the period preceding the quotation marks.

(4) Subsection (f)(2)(B) of section 4022A (29 U.S.C. 1322a(f)(2)(B)) is amended by striking out "Congress by concurrent resolution" and inserting in lieu thereof "the enactment of a joint resolution".

(5) Subsection (f)(2)(C) of section 4022A (29 U.S.C. 1322a(f)(2)(C)) is amended by striking out "approved" and inserting in lieu thereof "so enacted".

(6) Subsection (f)(3)(B) of section 4022A (29 U.S.C. 1322a(f)(3)(A)) is amended by striking out "Congress by a concurrent resolution" and inserting in lieu thereof "enactment of a joint resolution".

(7) Subsection (f)(4)(A) of section 4022A (29 U.S.C. 1322a(f)(4)(A)) is amended by striking out "concurrent" and inserting in lieu thereof "joint".

(8) Subsection (f)(4)(B) of section 4022A (29 U.S.C. 1322a(f)(4)(B)) is amended by striking out "concurrent" each place it appears and inserting in lieu thereof "joint", by striking out "That the Congress favors the" and inserting in lieu thereof "The", and by inserting "is hereby approved" immediately before the period preceding the quotation marks.

(9) Subsection (f)(4)(C) of section 4022A (29 U.S.C. 1322a(f)(4)(C)) is amended by striking out "concurrent" and inserting in lieu thereof "joint".

(10) Subsection (g)(4)(A)(ii) of section 4022A (29 U.S.C. 1322a(g)(4)(A)(ii)) is amended by striking out "concurrent" and inserting in lieu thereof "joint", and by striking out "adopted" and inserting in lieu thereof "enacted".

(11) Subsection (g)(4)(B) of section 4022A (29 U.S.C. 1322a(g)(4)(B)) is amended by striking out "concurrent" each place it appears and inserting in lieu thereof "joint", by striking out "That the Congress disapproves the" and inserting in lieu thereof "The", and by inserting "is hereby disapproved" immediately before the period preceding the quotation marks.

(12) Subsection (g)(4)(D) of section 4022A (29 U.S.C. 1322a(g)(4)(D)) is amended by striking out "concurrent" and inserting in lieu thereof "joint".

42 USC 1306 note.

(d) EFFECTIVE DATES.—

(1) GENERAL RULE.—Except as provided in paragraph (2), the amendments made by this section shall be effective for plan years commencing after December 31, 1985.

(2) SPECIAL RULE.—The amendments made by subsection (b) shall be effective as of the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980.

29 USC 1001 note.

(e) TRANSITIONAL RULE.—

42 USC 1306 note.

(1) NOTICE OF PREMIUM INCREASE.—Not later than 30 days after the date of the enactment of this Act, the Pension Benefit Guaranty Corporation shall send a notice to the plan administrator of each single-employer plan affected by the premium increase established by the amendment made by subsection (a)(1). Such notice shall describe such increase and the requirements of this subsection.

(2) DUE DATE FOR UNPAID PREMIUMS.—With respect to any plan year beginning during the period beginning on January 1, 1986, and ending 30 days after the date of the enactment of this Act, any unpaid amount of such premium increase shall be due and payable no later than the earlier of 60 days after the date of the enactment of this Act or 30 days after the date on which the notice required by paragraph (1) is sent, except that in no event shall the amount of the premium increase established under the amendment made by subsection (a)(1) be due and payable for a plan year earlier than the date on which premiums for the plan would have been due for such plan year had this Act not been enacted.

(3) ENFORCEMENT.—For purposes of enforcement, the requirements of paragraphs (1) and (2) shall be considered to be requirements of sections 4006 and 4007 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306 and 1307).

SEC. 11006. NOTICE OF SIGNIFICANT REDUCTION IN BENEFIT ACCRUALS.

(a) IN GENERAL.—Section 204 (29 U.S.C. 1054) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"(h) A single-employer plan may not be amended so as to provide for a significant reduction in the rate of future benefit accrual, unless, after adoption of the plan amendment and not less than 15 days before the effective date of the plan amendment, the plan administrator provides a written notice, setting forth the plan amendment and its effective date, to—

"(1) each participant in the plan,

"(2) each beneficiary who is an alternate payee (within the meaning of section 206(d)(3)(K)) under an applicable qualified domestic relations order (within the meaning of section 206(d)(3)(B)(i)), and

29 USC 1056.

"(3) each employee organization representing participants in the plan,

except that such notice shall instead be provided to a person designated, in writing, to receive such notice on behalf of any person referred to in paragraph (1), (2), or (3).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to plan amendments adopted on or after January 1, 1986, except that, in the case of plan amendments adopted on or after January 1, 1986, and on or before the date of the enactment of this Act, the requirements of section 204(h) of the

29 USC 1054 note.

Employee Retirement Income Security Act of 1974 (as added by this section) shall be treated as met if the written notice required under such section 204(h) is provided before 60 days after the date of the enactment of this Act.

SEC. 11007. GENERAL REQUIREMENTS RELATING TO TERMINATION OF SINGLE-EMPLOYER PLANS BY PLAN ADMINISTRATORS.

(a) IN GENERAL.—Section 4041 (29 U.S.C. 1341) is amended by striking out subsections (a) through (c) and inserting in lieu thereof the following:

"SEC. 4041. (a) GENERAL RULES GOVERNING SINGLE-EMPLOYER PLAN TERMINATIONS.—

"(1) EXCLUSIVE MEANS OF PLAN TERMINATION.—Except in the case of a termination for which proceedings are otherwise instituted by the corporation as provided in section 4042, a single-employer plan may be terminated only in a standard termination under subsection (b) or a distress termination under subsection (c).

Post, p. 253.

"(2) 60-DAY NOTICE OF INTENT TO TERMINATE.—Not less than 60 days before the proposed termination date of a standard termination under subsection (b) or a distress termination under subsection (c), the plan administrator shall provide to each affected party (other than the corporation in the case of a standard termination) a written notice of intent to terminate stating that such termination is intended and the proposed termination date. The written notice shall include any related additional information required in regulations of the corporation.

Corporation.

"(3) ADHERENCE TO COLLECTIVE BARGAINING AGREEMENTS.—The corporation shall not proceed with a termination of a plan under this section if the termination would violate the terms and conditions of an existing collective bargaining agreement. Nothing in the preceding sentence shall be construed as limiting the authority of the corporation to institute proceedings to involuntarily terminate a plan under section 4042.".

(b) DEFINITIONS RELATING TO SUFFICIENCY.—Section 4041(d) (29 U.S.C. 1341(d)) is amended to read as follows:

"(d) SUFFICIENCY.—For purposes of this section—

"(1) SUFFICIENCY FOR BENEFIT COMMITMENTS.—A single-employer plan is sufficient for benefit commitments if there is no amount of unfunded benefit commitments under the plan.

"(2) SUFFICIENCY FOR GUARANTEED BENEFITS.—A single-employer plan is sufficient for guaranteed benefits if there is no amount of unfunded guaranteed benefits under the plan.".

SEC. 11008. STANDARD TERMINATION OF SINGLE-EMPLOYER PLANS.

(a) IN GENERAL.—Section 4041 (as amended by section 11007 of this Act) is further amended by inserting after subsection (a) the following new subsection:

"(b) STANDARD TERMINATION OF SINGLE-EMPLOYER PLANS.—

"(1) GENERAL REQUIREMENTS.—A single-employer plan may terminate under a standard termination only if—

"(A) the plan administrator provides the 60-day advance notice of intent to terminate to affected parties required under subsection (a)(2),

"(B) the requirements of subparagraphs (A) and (B) of paragraph (2) are met,

"(C) the corporation does not issue a notice of noncompliance under subparagraph (C) of paragraph (2), and

"(D) when the final distribution of assets occurs, the plan is sufficient for benefit commitments (determined as of the termination date).

"(2) TERMINATION PROCEDURE.—

"(A) NOTICE TO THE CORPORATION.—As soon as practicable after the date on which the notice of intent to terminate is provided pursuant to subsection (a)(2), the plan administrator shall send a notice to the corporation setting forth—

"(i) certification by an enrolled actuary—

"(I) of the projected amount of the assets of the plan (as of a proposed date of final distribution of assets),

"(II) of the actuarial present value (as of such date) of the benefit commitments (determined as of the proposed termination date) under the plan, and

"(III) that the plan is projected to be sufficient (as of such proposed date of final distribution) for such benefit commitments,

"(ii) such information as the corporation may prescribe in regulations as necessary to enable the corporation to make determinations under subparagraph (C), and

Regulations.

"(iii) certification by the plan administrator that the information on which the enrolled actuary based the certification under clause (i) and the information provided to the corporation under clause (ii) are accurate and complete.

"(B) NOTICE TO PARTICIPANTS AND BENEFICIARIES OF BENEFIT COMMITMENTS.—No later than the date on which a notice is sent by the plan administrator under subparagraph (A), the plan administrator shall send a notice to each person who is a participant or beneficiary under the plan—

"(i) specifying the amount of such person's benefit commitments (if any) as of the proposed termination date and the benefit form on the basis of which such amount is determined, and

"(ii) including the following information used in determining such benefit commitments:

"(I) the length of service,

"(II) the age of the participant or beneficiary,

"(III) wages,

"(IV) the assumptions, including the interest rate, and

"(V) such other information as the corporation may require

Such notice shall be written in such manner as is likely to be understood by the participant or beneficiary and as may be prescribed in regulations of the corporation.

"(C) NOTICE FROM THE CORPORATION OF NONCOMPLIANCE.—

"(i) IN GENERAL.—Within 60 days after receipt of the notice under subparagraph (A), the corporation shall issue a notice of noncompliance to the plan administrator if—

"(I) it has reason to believe that any requirement of subsection (a)(2) or subparagraph (A) or (B) has not been met, or

"(II) it otherwise determines, on the basis of information provided by affected parties or otherwise obtained by the corporation, that there is reason to believe that the plan is not sufficient for benefit commitments.

"(ii) EXTENSION.—The corporation and the plan administrator may agree to extend the 60-day period referred to in clause (i) by a written agreement signed by the corporation and the plan administrator before the expiration of the 60-day period. The 60-day period shall be extended as provided in the agreement and may be further extended by subsequent written agreements signed by the corporation and the plan administrator made before the expiration of a previously agreed upon extension of the 60-day period. Any extension may be made upon such terms and conditions (including the payment of benefits) as are agreed upon by the corporation and the plan administrator.

"(D) FINAL DISTRIBUTION OF ASSETS IN ABSENCE OF NOTICE OF NONCOMPLIANCE.—The plan administrator shall commence the final distribution of assets pursuant to the standard termination of the plan as soon as practicable after the expiration of the 60-day (or extended) period referred to in subparagraph (C), but such final distribution may occur only if—

"(i) the plan administrator has not received during such period a notice of noncompliance from the corporation under subparagraph (C), and

"(ii) when such final distribution occurs, the plan is sufficient for benefit commitments (determined as of the termination date).

"(3) METHODS OF FINAL DISTRIBUTION OF ASSETS.—

"(A) IN GENERAL.—In connection with any final distribution of assets pursuant to the standard termination of the plan under this subsection, the plan administrator shall distribute the assets in accordance with section 4044. In distributing such assets, the plan administrator shall—

29 USC 1344.

"(i) purchase irrevocable commitments from an insurer to provide the benefit commitments under the plan and all other benefits (if any) under the plan to which assets are required to be allocated under section 4044, or

"(ii) in accordance with the provisions of the plan and any applicable regulations of the corporation, otherwise fully provide the benefit commitments under the plan and all other benefits (if any) under the plan to which assets are required to be allocated under section 4044.

"(B) CERTIFICATION TO THE CORPORATION OF FINAL DISTRIBUTION OF ASSETS.—Within 30 days after the final distribution of assets is completed pursuant to the standard termination of the plan under this subsection, the plan administrator shall send a notice to the corporation certifying that the assets of the plan have been distributed in

accordance with the provisions of subparagraph (A) so as to pay the benefit commitments under the plan and all other benefits under the plan to which assets are required to be allocated under section 4044. 29 USC 1344.

"(4) CONTINUING AUTHORITY.—Nothing in this section shall be construed to preclude the continued exercise by the corporation, after the termination date of a plan terminated in a standard termination under this subsection, of its authority under section 4003 with respect to matters relating to the termination. A certification under paragraph (3)(B) shall not affect the corporation's obligations under section 4022.". 29 USC 1303. 29 USC 1322.

(b) CONFORMING AMENDMENT.—Section 4041(f) (29 U.S.C. 1341(f)) is amended to read as follows:

"(f) LIMITATION ON THE CONVERSION OF A DEFINED BENEFIT PLAN TO A DEFINED CONTRIBUTION PLAN.—The adoption of an amendment to a plan which causes the plan to become a plan described in section 4021(b)(1) constitutes a termination of the plan. Such an amendment may take effect only after the plan satisfies the requirements for standard termination under subsection (b) or distress termination under subsection (c).". 29 USC 1321.

(c) AUTHORITY FOR 60-DAY EXTENSION.—In the case of a standard termination of a plan under section 4041(b) of the Employee Retirement Income Security Act of 1974 (as amended by this section) with respect to which a notice of intent to terminate is filed before 120 days after the date of the enactment of this Act, the Pension Benefit Guaranty Corporation may, without the consent of the plan administrator, extend the 60-day period under section 4041(b)(2)(C)(i) of such Act (as so amended) for a period not to exceed 60 days. 29 USC 1341 note. *Ante*, p. 244.

(d) SPECIAL TEMPORARY RULE.— 29 USC 1341 note.

(1) REQUIREMENTS TO BE MET BEFORE FINAL DISTRIBUTION OF ASSETS.—In the case of the termination of a single-employer plan described in paragraph (2) with respect to which the amount payable to the employer pursuant to section 4044(d) exceeds $1,000,000 (determined as of the proposed date of final distribution of assets), the final distribution of assets pursuant to such termination may not occur unless the Pension Benefit Guaranty Corporation— 29 USC 1344.

(A) determines that the assets of the plan are sufficient for benefit commitments (within the meaning of section 4041(d)(1) of the Employee Retirement Income Security Act of 1974 (as amended by section 11007)) under the plan, and

(B) issues to the plan administrator a written notice setting forth the determination described in subparagraph (A).

(2) PLANS TO WHICH SUBSECTION APPLIES.—A single-employer plan is described in this paragraph if—

(A) the plan administrator has filed a notice of intent to terminate with the Pension Benefit Guaranty Corporation, and—

(i) the filing was made before January 1, 1986, and the Corporation has not issued a notice of sufficiency for such plan before the date of the enactment of this Act, or

(ii) the filing is made on or after January 1, 1986, and before 60 days after the date of the enactment of this Act and the Corporation has not issued a notice of

sufficiency for such plan before the date of the enactment of this Act, and

(B) of the persons who are (as of the termination date) participants in the plan, the lesser of 10 percent or 200 have filed complaints with the Corporation regarding such termination—

(i) in the case of plans described in subparagraph (A)(i), before 15 days after the date of the enactment of this Act, or

(ii) in any other case, before the later of 15 days after the date of the enactment of this Act or 45 days after the date of the filing of such notice.

(3) CONSIDERATION OF COMPLAINTS.—The Corporation shall consider and respond to such complaints not later than 90 days after the date on which the Corporation makes the determination described in paragraph (1)(A). The Corporation may hold informal hearings to expedite consideration of such complaints. Any such hearing shall be exempt from the requirements of chapter 5 of title 5, United States Code.

5 USC 500 *et seq.*

(4) DELAY ON ISSUANCE OF NOTICE.—

(A) GENERAL RULE.—Except as provided in subparagraph (B), the Corporation shall not issue any notice described in paragraph (1)(B) until 90 days after the date on which the Corporation makes the determination described in paragraph (1)(A).

(B) EXCEPTION IN CASES OF SUBSTANTIAL BUSINESS HARDSHIP.—Except in the case of an acquisition, takeover, or leveraged buyout, the preceding provisions of this subsection shall not apply if the contributing sponsor demonstrates to the satisfaction of the Corporation that the contributing sponsor is experiencing substantial business hardship. For purposes of this subparagraph, a contributing sponsor shall be considered as experiencing substantial business hardship if the contributing sponsor has been operating, and can demonstrate that the contributing sponsor will continue to operate, at an economic loss.

SEC. 11009. DISTRESS TERMINATION OF SINGLE-EMPLOYER PLANS.

29 USC 1341.

(a) IN GENERAL.—Section 4041 (as amended by sections 11007 and 11008 of this Act) is further amended by inserting after subsection (b) the following new subsection:

"(c) DISTRESS TERMINATION OF SINGLE-EMPLOYER PLANS.—

"(1) IN GENERAL.—A single-employer plan may terminate under a distress termination only if—

"(A) the plan administrator provides the 60-day advance notice of intent to terminate to affected parties required under subsection (a)(2),

"(B) the requirements of subparagraph (A) of paragraph (2) are met, and

"(C) the corporation determines that the requirements of subparagraph (B) of paragraph (2) are met.

"(2) TERMINATION REQUIREMENTS.—

Regulations.

"(A) INFORMATION SUBMITTED TO THE CORPORATION.—As soon as practicable after the date on which the notice of intent to terminate is provided pursuant to subsection (a)(2), the plan administrator shall provide the corporation, in

such form as may be prescribed by the corporation in regulations, the following information:

"(i) such information as the corporation may prescribe by regulation as necessary to make determinations under subparagraph (B) and paragraph (3);

"(ii) certification by an enrolled actuary of—

"(I) the amount (as of the proposed termination date) of the current value of the assets of the plan,

"(II) the actuarial present value (as of such date) of the benefit commitments under the plan,

"(III) whether the plan is sufficient for benefit commitments as of such date,

"(IV) the actuarial present value (as of such date) of benefits under the plan guaranteed under section 4022, and

29 USC 1322.

"(V) whether the plan is sufficient for guaranteed benefits as of such date;

"(iii) in any case in which the plan is not sufficient for benefit commitments as of such date—

"(I) the name and address of each participant and beneficiary under the plan as of such date, and

"(II) such other information as shall be prescribed by the corporation by regulation as necessary to enable the corporation (or its designee under section 4049(b)) to be able to make payments to participants and beneficiaries as required under section 4049; and

Post, p. 258.

"(iv) certification by the plan administrator that the information on which the enrolled actuary based the certifications under clause (ii) and the information provided to the corporation under clauses (i) and (iii) are accurate and complete.

"(B) DETERMINATION BY THE CORPORATION OF NECESSARY DISTRESS CRITERIA.—Upon receipt of the notice of intent to terminate required under subsection (a)(2) and the information required under subparagraph (A), the corporation shall determine whether the requirements of this subparagraph are met as provided in clause (i), (ii), or (iii). The requirements of this subparagraph are met if each person who is (as of the termination date) a contributing sponsor of such plan or a substantial member of such sponsor's controlled group meets the requirements of any of the following clauses:

"(i) LIQUIDATION IN BANKRUPTCY OR INSOLVENCY PROCEEDINGS.—The requirements of this clause are met by a person if—

"(I) such person has filed or has had filed against such person, as of the termination date, a petition seeking liquidation in a case under title 11, United States Code, or under any similar law of a State or political subdivision of a State, and

"(II) such case has not, as of the termination date, been dismissed.

"(ii) REORGANIZATION IN BANKRUPTCY OR INSOLVENCY PROCEEDINGS.—The requirements of this clause are met by a person if—

"(I) such person has filed, or has had filed against such person, as of the termination date, a petition seeking reorganization in a case under title 11, United States Code, or under any similar law of a State or political subdivision of a State (or a case described in clause (i) filed by or against such person has been converted, as of such date, to such a case in which reorganization is sought),

"(II) such case has not, as of the termination date, been dismissed, and

"(III) the bankruptcy court (or other appropriate court in a case under such similar law of a State or political subdivision) approves the termination.

"(iii) TERMINATION REQUIRED TO ENABLE PAYMENT OF DEBTS WHILE STAYING IN BUSINESS OR TO AVOID UNREASONABLY BURDENSOME PENSION COSTS CAUSED BY DECLINING WORKFORCE.—The requirements of this clause are met by a person if such person demonstrates to the satisfaction of the corporation that—

"(I) unless a distress termination occurs, such person will be unable to pay such person's debts when due and will be unable to continue in business, or

"(II) the costs of providing pension coverage have become unreasonably burdensome to such person, solely as a result of a decline of such person's workforce covered as participants under all single-employer plans of which such person is a contributing sponsor.

"(C) SUBSTANTIAL MEMBER.—For purposes of subparagraph (B), the term 'substantial member' of a controlled group means a person whose assets comprise 5 percent or more of the total assets of the controlled group as a whole.

"(D) NOTIFICATION OF DETERMINATIONS BY THE CORPORATION.—The corporation shall notify the plan administrator as soon as practicable of its determinations made pursuant to subparagraph (B).

"(3) TERMINATION PROCEDURE.—

"(A) DETERMINATIONS BY THE CORPORATION RELATING TO PLAN SUFFICIENCY FOR GUARANTEED BENEFITS AND FOR BENEFIT COMMITMENTS.—If the corporation determines that the requirements for a distress termination set forth in paragraphs (1) and (2) are met, the corporation shall—

"(i) determine that the plan is sufficient for guaranteed benefits (as of the termination date) or that the corporation is unable to make such determination on the basis of information made available to the corporation,

"(ii) determine that the plan is sufficient for benefit commitments (as of the termination date) or that the corporation is unable to make such determination on the basis of information made available to the corporation, and

"(iii) notify the plan administrator of the determinations made pursuant to this subparagraph as soon as practicable.

"(B) IMPLEMENTATION OF TERMINATION.—After the corporation notifies the plan administrator of its determinations under subparagraph (A), the termination of the plan shall be carried out as soon as practicable, as provided in clause (i), (ii), or (iii).

"(i) CASES OF SUFFICIENCY FOR BENEFIT COMMITMENTS.—In any case in which the corporation determines that the plan is sufficient for benefit commitments, the plan administrator shall proceed to distribute the plan's assets, and make certification to the corporation with respect to such distribution, in the manner described in subsection (b)(3), and shall take such other actions as may be appropriate to carry out the termination of the plan.

"(ii) CASES OF SUFFICIENCY FOR GUARANTEED BENEFITS WITHOUT A FINDING OF SUFFICIENCY FOR BENEFIT COMMITMENTS.—In any case in which the corporation determines that the plan is sufficient for guaranteed benefits, but further determines that it is unable to determine that the plan is sufficient for benefit commitments on the basis of the information made available to it—

"(I) the plan administrator shall proceed to distribute the plan's assets in the manner described in subsection (b)(3), make certification to the corporation that the distribution has occurred, and take such actions as may be appropriate to carry out the termination of the plan, and

"(II) the corporation shall establish a separate trust in connection with the plan for purposes of section 4049.

Post, p. 258.

"(iii) CASES WITHOUT ANY FINDING OF SUFFICIENCY.—In any case in which the corporation determines that it is unable to determine that the plan is sufficient for guaranteed benefits on the basis of the information made available to it—

"(I) the corporation shall commence proceedings in accordance with section 4042, and

Post, p. 253.

"(II) the corporation shall establish a separate trust in connection with the plan for purposes of section 4049 unless the corporation determines that all benefit commitments under the plan are benefits guaranteed by the corporation under section 4022.

29 USC 1322.

"(C) FINDING AFTER AUTHORIZED COMMENCEMENT OF TERMINATION THAT PLAN IS UNABLE TO PAY BENEFITS.—

"(i) FINDING WITH RESPECT TO BENEFIT COMMITMENTS WHICH ARE NOT GUARANTEED BENEFITS.—If, after the plan administrator has begun to terminate the plan as authorized under subparagraph (B)(i), the plan administrator finds that the plan is unable, or will be unable, to pay benefit commitments which are not benefits guaranteed by the corporation under section 4022, the plan administrator shall notify the corporation of such finding as soon as practicable thereafter. If the corporation concurs in the finding of the plan administrator (or the corporation itself makes such a

finding) the corporation shall take the actions set forth in subparagraph (B)(ii)(II) relating to the trust established for purposes of section 4049.

Post, p. 258.

"(ii) FINDING WITH RESPECT TO GUARANTEED BENEFITS.—If, after the plan administrator has begun to terminate the plan as authorized by subparagraph (B)(i) or (ii), the plan administrator finds that the plan is unable, or will be unable, to pay all benefits under the plan which are guaranteed by the corporation under section 4022, the plan administrator shall notify the corporation of such finding as soon as practicable thereafter. If the corporation concurs in the finding of the plan administrator (or the corporation itself makes such a finding), the corporation shall institute appropriate proceedings under section 4042.

29 USC 1322.

29 USC 1342.

"(D) ADMINISTRATION OF THE PLAN DURING INTERIM PERIOD.—

"(i) IN GENERAL.—The plan administrator shall—

"(I) meet the requirements of clause (ii) for the period commencing on the date on which the plan administrator provides a notice of distress termination to the corporation under subsection (a)(2) and ending on the date on which the plan administrator receives notification from the corporation of its determinations under subparagraph (A), and

"(II) meet the requirements of clause (ii) commencing on the date on which the plan administrator or the corporation makes a finding under subparagraph (C)(ii).

"(ii) REQUIREMENTS.—The requirements of this clause are met by the plan administrator if the plan administrator—

"(I) refrains from distributing assets or taking any other actions to carry out the proposed termination of this subsection,

"(II) pays benefits attributable to employer contributions, other than death benefits, only in the form of an annuity,

"(III) does not use plan assets to purchase irrevocable commitments to provide benefits from an insurer, and

"(IV) continues to pay all benefit commitments under the plan, but, commencing on the proposed termination date, limits the payment of benefits under the plan to those benefits which are guaranteed by the corporation under section 4022 or to which assets are required to be allocated under section 4044.

In the event the plan administrator is later determined not to have met the requirements for distress termination, any benefits which are not paid solely by reason of compliance with subclause (IV) shall be due and payable immediately (together with interest, at a reasonable rate, in accordance with regulations of the corporation).".

29 USC 1341.

(b) CONFORMING AMENDMENTS.—Section 4041 (as amended by the preceding provisions of this title) is further amended—

(1) by striking out subsection (e); and

(2) by redesignating subsection (f) as subsection (e).

SEC. 11010. TERMINATION PROCEEDINGS; DUTIES OF THE CORPORATION.

(a) MANDATORY COMMENCEMENT OF PROCEEDINGS UPON INABILITY OF SINGLE-EMPLOYER PLAN TO PAY BENEFITS THAT ARE CURRENTLY DUE.—

(1) IN GENERAL.—Section 4042(a) (29 U.S.C. 1342(a)) is amended—

(A) in paragraph (2), by striking out "is" and inserting in lieu thereof "will be"; and

(B) by inserting at the beginning of the matter following paragraph (4) the following new sentence: "The corporation shall as soon as practicable institute proceedings under this section to terminate a single-employer plan whenever the corporation determines that the plan does not have assets available to pay benefits which are currently due under the terms of the plan".

(2) CONFORMING AMENDMENTS.—

(A) Section 4042(b)(1) (29 U.S.C. 1342(b)(1)) is amended, in the first sentence, by inserting "or is required under subsection (a) to institute proceedings under this section," after "to a plan".

(B) Section 4042(c) (29 U.S.C. 1342(c)) is amended in the first sentence by striking out "If the corporation" and all that follows down through "has determined" and inserting in lieu thereof the following: "If the corporation is required under subsection (a) of this section to commence proceedings under this section with respect to a plan or, after issuing a notice under this section to a plan administrator, has determined".

(b) ESTABLISHMENT OF SECTION 4049 TRUST.—Section 4042 is further amended by adding at the end thereof the following new subsection:

"(i) In any case in which a plan is terminated under this section in a termination proceeding initiated by the corporation pursuant to subsection (a), the corporation shall establish a separate trust in connection with the plan for purposes of section 4049, unless the corporation determines that all benefit commitments under the plan are benefits guaranteed by the corporation under section 4022 or that there is no amount of unfunded benefit commitments under the plan.".

Post, p. 258.

29 USC 1322.

(c) CONFORMING AMENDMENT.—The heading for section 4042 is amended to read as follows:

"INSTITUTION OF TERMINATION PROCEEDINGS BY THE CORPORATION".

SEC. 11011. AMENDMENTS TO LIABILITY PROVISIONS; LIABILITIES RELATING TO BENEFIT COMMITMENTS IN EXCESS OF BENEFITS GUARANTEED BY THE CORPORATION.

(a) LIABILITY FOR DISTRESS TERMINATIONS AND TERMINATIONS BY THE CORPORATION.—Section 4062 (29 U.S.C. 1362) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by striking out so much as precedes subsection (f) (as redesignated) and inserting in lieu thereof the following:

"LIABILITY FOR TERMINATION OF SINGLE-EMPLOYER PLANS UNDER A DISTRESS TERMINATION OR A TERMINATION BY THE CORPORATION

"SEC. 4062. (a) IN GENERAL.—In any case in which a single-employer plan is terminated in a distress termination under section 4041(c) or a termination otherwise instituted by the corporation under section 4042, any person who is, on the termination date, a contributing sponsor of the plan or a member of such a contributing sponsor's controlled group shall incur liability under this section. The liability under this section of all such persons shall be joint and several. The liability under this section consists of—

Ante, p. 248.
Ante, p. 253.

"(1) liability to the corporation, to the extent provided in subsection (b),

"(2) liability to the trust established pursuant to section 4041(c)(3)(B) (ii) or (iii) or section 4042(i), to the extent provided in subsection (c), and

Ante, pp. 248, 253.

"(3) liability to the trustee appointed under subsection (b) or (c) of section 4042, to the extent provided in subsection (d).

"(b) LIABILITY TO THE CORPORATION.—

"(1) AMOUNT OF LIABILITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the liability to the corporation of a person described in subsection (a) shall consist of the sum of—

"(i) the lesser of—

"(I) the total amount of unfunded guaranteed benefits (as of the termination date) of all participants and beneficiaries under the plan, or

"(II) 30 percent of the collective net worth of all persons described in subsection (a),

and

"(ii) the excess (if any) of—

"(I) 75 percent of the amount described in clause (i)(I), over

"(II) the amount described in clause (i)(II),

together with interest (at a reasonable rate) calculated from the termination date in accordance with regulations prescribed by the corporation.

"(B) SPECIAL RULE IN CASE OF SUBSEQUENT INSUFFICIENCY.—For purposes of subparagraph (A), in any case described in section 4041(c)(3)(C)(ii), actuarial present values shall be determined as of the date of the notice to the corporation (or the finding by the corporation) described in such section.

"(2) PAYMENT OF LIABILITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the liability to the corporation under this subsection shall be due and payable to the corporation as of the termination date, in cash or securities acceptable to the corporation.

"(B) SPECIAL RULE.—Payment of the liability under paragraph (1)(A)(ii) shall be made under commercially reasonable terms prescribed by the corporation. The parties involved shall make a reasonable effort to reach agreement on such commercially reasonable terms. Any such terms prescribed by the corporation shall provide for deferral of 50 percent of any amount of liability otherwise payable for any year under this subparagraph if a person subject to

such liability demonstrates to the satisfaction of the corporation that no person subject to such liability has any individual pre-tax profits for such person's fiscal year ending during such year.

"(3) ALTERNATIVE ARRANGEMENTS.—The corporation and any person liable under this section may agree to alternative arrangements for the satisfaction of liability to the corporation under this subsection.

"(c) LIABILITY TO SECTION 4049 TRUST.—

"(1) AMOUNT OF LIABILITY.—

"(A) IN GENERAL.—In any case in which there is an outstanding amount of benefit commitments under a plan terminated under section 4041(c) or 4042, a person described in subsection (a) shall be subject to liability under this subsection to the trust established under section 4041(c)(3)(B) (ii) or (iii) or section 4042(i) in connection with the terminated plan. Except as provided in subparagraph (B), the liability of such person under this subsection shall consist of the lesser of—

Ante, pp. 248, 253.

"(i) 75 percent of the total outstanding amount of benefit commitments under the plan, or

"(ii) 15 percent of the actuarial present value (determined as of the termination date on the basis of assumptions prescribed by the corporation for purposes of section 4044) of all benefit commitments under the plan.

29 USC 1344.

"(B) SPECIAL RULE IN CASE OF SUBSEQUENT INSUFFICIENCY.—For purposes of subparagraph (A)—

"(i) PLANS INSUFFICIENT FOR GUARANTEED BENEFITS.—In any case described in section 4041(c)(3)(C)(ii), actuarial present values shall be determined as of the date of the notice to the corporation (or the finding by the corporation) described in such section.

"(ii) PLANS SUFFICIENT FOR GUARANTEED BENEFITS BUT INSUFFICIENT FOR BENEFIT ENTITLEMENTS.—In any case described in section 4041(c)(3)(C)(i) but not described in section 4041(c)(3)(C)(ii), actuarial present values shall be determined as of the date on which the final distribution of assets is completed.

"(2) PAYMENT OF LIABILITY.—

"(A) GENERAL RULE.—Except as otherwise provided in this paragraph, payment of a person's liability under this subsection shall be made for liability payment years under commercially reasonable terms prescribed by the fiduciary designated by the corporation pursuant to section 4049(b)(1)(A). Such fiduciary and the liable persons assessed liability under this subsection shall make a reasonable effort to reach agreement on such commercially reasonable terms.

Post, p. 258.

"(B) SPECIAL RULE FOR PLANS WITH LOW AMOUNTS OF LIABILITY.—In any case in which the amount described in paragraph (1)(A) is less than $100,000, the requirements of subparagraph (A) may be satisfied by payment of such liability over 10 liability payment years in equal annual installments (with interest at the rate determined under section 6621(b) of the Internal Revenue Code of 1954). The corporation may, by regulation, increase the dollar amount

26 USC 6621.

referred to in this subparagraph as it determines appropriate, taking into account reasonable administrative costs of trusts established under section 4041(c)(3)(B) (ii) or (iii) or section 4042(i).

Ante, p. 248.
Ante, p. 253.

"(C) DEFERRAL OF PAYMENTS.—The terms for payment provided for under subparagraph (A) or (B) shall also provide for deferral of 75 percent of any amount of liability otherwise payable for any liability payment year if a person subject to such liability demonstrates to the satisfaction of the corporation that no person subject to such liability has any individual pre-tax profits for such person's fiscal year ending during such year. The amount of liability so deferred is payable only after payment in full of any amount of liability under subsection (b) in connection with the termination of the same plan which has been deferred pursuant to terms provided for under subsection (b)(2)(B).

"(d) LIABILITY TO SECTION 4042 TRUSTEE.—A person described in subsection (a) shall be subject to liability under this subsection to the trustee appointed under subsection (b) or (c) of section 4042. The liability of such person under this subsection shall consist of—

"(1) the outstanding balance of the accumulated funding deficiencies (within the meaning of section 302(a)(2) of this Act and section 412(a) of the Internal Revenue Code of 1954) of the plan (if any) (which, for purposes of this subparagraph, shall include the amount of any increase in such accumulated funding deficiencies of the plan which would result if all pending applications for waivers of the minimum funding standard under section 303 of this Act or section 412(d) of such Code and for extensions of the amortization period under section 304 of this Act or section 412(e) of such Code with respect to such plan were denied and if no additional contributions (other than those already made by the termination date) were made for the plan year in which the termination date occurs or for any previous plan year),

29 USC 1082.
26 USC 412.
29 USC 1083.
29 USC 1084.

"(2) the outstanding balance of the amount of waived funding deficiencies of the plan waived before such date under section 303 of this Act or section 412(d) of such Code (if any), and

"(3) the outstanding balance of the amount of decreases in the minimum funding standard allowed before such date under section 304 of this Act or section 412(e) of such Code (if any),

together with interest (at a reasonable rate) calculated from the termination date in accordance with regulations prescribed by the corporation. The liability under this subsection shall be due and payable to such trustee as of the termination date, in cash or securities acceptable to such trustee.

"(e) DEFINITIONS.—

"(1) COLLECTIVE NET WORTH OF PERSONS SUBJECT TO LIABILITY.—

"(A) IN GENERAL.—The collective net worth of persons subject to liability in connection with a plan termination consists of the sum of the individual net worths of all persons who—

"(i) have individual net worths which are greater than zero, and

"(ii) are (as of the termination date) contributing sponsors of the terminated plan or members of their controlled groups.

"(B) DETERMINATION OF NET WORTH.—For purposes of this paragraph, the net worth of a person is—

"(i) determined on whatever basis best reflects, in the determination of the corporation, the current status of the person's operations and prospects at the time chosen for determining the net worth of the person, and

"(ii) increased by the amount of any transfers of assets made by the person which are determined by the corporation to be improper under the circumstances, including any such transfers which would be inappropriate under title 11, United States Code, if the person were a debtor in a case under chapter 7 of such title. 11 USC 701 *et seq.*

"(C) TIMING OF DETERMINATION.—For purposes of this paragraph, determinations of net worth shall be made as of a day chosen by the corporation (during the 120-day period ending with the termination date) and shall be computed without regard to any liability under this section.

"(2) PRE-TAX PROFITS.—The term 'pre-tax profits' means—

"(A) except as provided in subparagraph (B), for any fiscal year of any person, such person's consolidated net income (excluding any extraordinary charges to income and including any extraordinary credits to income) for such fiscal year, as shown on audited financial statements prepared in accordance with generally accepted accounting principles, or

"(B) for any fiscal year of an organization described in section 501(c) of the Internal Revenue Code of 1954, the excess of income over expenses (as such terms are defined for such organizations under generally accepted accounting principles), 26 USC 501.

before provision for or deduction of Federal or other income tax, any contribution to any single-employer plan of which such person is a contributing sponsor at any time during the period beginning on the termination date and ending with the end of such fiscal year, and any amounts required to be paid for such fiscal year under this section. The corporation may by regulation require such information to be filed on such forms as may be necessary to determine the existence and amount of such pre-tax profits.

"(3) LIABILITY PAYMENT YEARS.—The liability payment years in connection with a terminated plan consist of the consecutive one-year periods following the last plan year preceding the termination date, excluding the first such year in any case in which the first such year ends less than 180 days after the termination date.".

(b) CLERICAL AMENDMENT.—Subsection (f) of section 4062 (as redesignated by subsection (a)(1)) is amended by inserting "TREATMENT OF SUBSTANTIAL CESSATION OF OPERATIONS.—" after "(f)". 42 USC 1362.

(c) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954.—

(1) TIME FOR DEDUCTION OF CERTAIN EMPLOYER LIABILITY PAYMENTS.—Paragraph (3) of section 404(g) of the Internal Revenue Code of 1954 (relating to certain employer liability payments considered as contributions) is amended to read as follows: 26 USC 404.

"(3) TIMING OF DEDUCTION OF CONTRIBUTIONS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, any payment described in paragraph (1) shall

(subject to the last sentence of subsection (a)(1)(A)) be deductible under this section when paid.

"(B) CONTRIBUTIONS UNDER STANDARD TERMINATIONS.—Subparagraph (A) shall not apply (and subsection (a)(1)(A) shall apply) to any payments described in paragraph (1) which are paid to terminate a plan under section 4041(b) of the Employee Retirement Income Security Act of 1974 to the extent such payments result in the assets of the plan being in excess of the total amount of benefits under such plan which are guaranteed by the Pension Benefit Guaranty Corporation under section 4022 of such Act.

Ante, p. 244.

29 USC 1322.

"(C) CONTRIBUTIONS TO CERTAIN TRUSTS.—Subparagraph (A) shall not apply to any payment described in paragraph (1) which is made under section 4062(c) of such Act and such payment shall be deductible at such time as may be prescribed in regulations which are based on principles similar to the principles of subsection (a)(1)(A).".

29 USC 1362.

(2) REFERENCES TO ERISA.—Subsection (g) of section 404 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new paragraph:

26 USC 404.

"(4) REFERENCES TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—For purposes of this subsection, any reference to a section of the Employee Retirement Income Security Act of 1974 shall be treated as a reference to such section as in effect on the date of the enactment of the Single-Employer Pension Plan Amendments Act of 1986.".

Ante, p. 237.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments made after January 1, 1986, in taxable years ending after such date.

26 USC 404 note.

SEC. 11012. DISTRIBUTION TO PARTICIPANTS AND BENEFICIARIES OF LIABILITY PAYMENTS TO SECTION 4049 TRUST.

(a) IN GENERAL.—Subtitle C of title IV is amended by adding at the end thereof the following new section:

"DISTRIBUTION TO PARTICIPANTS AND BENEFICIARIES OF LIABILITY PAYMENTS TO SECTION 4049 TRUST

29 USC 1349.

"SEC. 4049. (a) TRUST REQUIREMENTS.—The requirements of this section apply to a trust established by the corporation in connection with a terminated plan pursuant to section 4041(c)(3)(B) (ii) or (iii). The trust shall be used exclusively for—

Ante, p. 248.

29 USC 1362.

"(1) receiving liability payments under section 4062(c) from the persons who were (as of the termination date) contributing sponsors of the terminated plan and members of their controlled groups,

"(2) making distributions as provided in this section to the persons who were (as of the termination date) participants and beneficiaries under the terminated plan, and

"(3) defraying the reasonable administrative expenses incurred in carrying out responsibilities under this section.

The trust shall be maintained for such period of time as is necessary to receive all liability payments required to be made to the trust under section 4062(c) with respect to the terminated plan and to make all distributions required to be made to participants and beneficiaries under this section with respect to the terminated plan.

"(b) DESIGNATION OF FIDUCIARY BY THE CORPORATION.—

"(1) PURPOSES FOR DESIGNATION OF FIDUCIARY.—

"(A) COLLECTION OF LIABILITY.—The corporation shall designate a fiduciary (within the meaning of section 3(21)) to serve as trustee of the trust for purposes of conducting negotiations and assessing and collecting liability pursuant to section 4062(c). 29 USC 1002. 29 USC 1362.

"(B) ADMINISTRATION OF TRUST.—

"(i) CORPORATION'S FUNCTIONS.—Except as provided in clause (ii), the corporation shall serve as trustee of the trust for purposes of administering the trust, including making distributions from the trust to participants and beneficiaries.

"(ii) DESIGNATION OF FIDUCIARY IF COST-EFFECTIVE.—If the corporation determines that it would be cost-effective to do so, it may designate a fiduciary (within the meaning of section 3(21)), including the fiduciary designated under subparagraph (A), to perform the functions described in clause (i).

"(2) FIDUCIARY REQUIREMENTS.—A fiduciary designated under paragraph (1) shall be—

"(A) independent of each contributing sponsor of the plan and the members of such sponsor's controlled group, and

"(B) subject to the requirements of part 4 of subtitle B of title I (other than section 406(a)) as if such trust were a plan subject to such part. 29 USC 1101, 1106.

"(c) DISTRIBUTIONS FROM TRUST.—

"(1) IN GENERAL.—Not later than 30 days after the end of each liability payment year (described in section 4062(e)(3)) with respect to a terminated single-employer plan, the corporation, or its designee under subsection (b), shall distribute from the trust maintained pursuant to subsection (a) to each person who was (as of the termination date) a participant or beneficiary under the plan— 29 USC 1362.

"(A) in any case not described in subparagraph (B), an amount equal to the outstanding amount of benefit commitments to such person under the plan (including interest calculated from the termination date), to the extent not previously paid under this paragraph, or

"(B) in any case in which the balance in the trust at the end of such year which is in cash or may be prudently converted to cash (after taking into account liability payments received under subsection (a)(1) and administrative expenses paid under subsection (a)(3)) is less than the total of all amounts described in subparagraph (A) in connection with all persons who were (as of the termination date) participants and beneficiaries under the terminated plan, the product derived by multiplying—

"(i) the amount described in subparagraph (A) in connection with each such person, by

"(ii) a fraction—

"(I) the numerator of which is such balance in the trust, and

"(II) the denominator of which is equal to the total of all amounts described in subparagraph (A) in connection with all persons who were (as of the

termination date) participants and beneficiaries under the terminated plan.

"(2) CARRY-OVER OF MINIMAL PAYMENT AMOUNTS.—The corporation, or its designee under subsection (b), may withhold a payment to any person under this subsection in connection with any liability payment year (other than the last liability payment year with respect to which payments under paragraph (1) are payable) if such payment does not exceed $100. In any case in which such a payment is so withheld, the payment to such person in connection with the next following liability payment year shall be increased by the amount of such withheld payment.

"(d) REGULATIONS.—The corporation may issue such regulations as it considers necessary to carry out the purposes of this section.".

(b) TAX-EXEMPT STATUS FOR TRUSTS DESCRIBED IN SECTION 4049 OF ERISA.—Subsection (c) of section 501 of the Internal Revenue Code of 1954 (relating to list of tax-exempt organizations) is amended by adding at the end thereof the following new paragraph:

26 USC 501.

"(24) A trust described in section 4049 of the Employee Retirement Income Security Act of 1974 (as in effect on the date of the enactment of the Single-Employer Pension Plan Amendments Act of 1986).".

Ante, p. 258.

Ante, p. 237.

(c) ROLLOVERS OF PAYMENTS FROM TRUST ALLOWED.—Paragraph (6) of section 402(a) of such Code (relating to special rollover rules) is amended by adding at the end thereof the following new subparagraph:

26 USC 402.

"(G) PAYMENTS FROM CERTAIN PENSION PLAN TERMINATION TRUSTS.—If—

"(i) any amount is paid or distributed to a recipient from a trust described in section 501(c)(24),

"(ii) the recipient transfers any portion of the property received in such distribution to an eligible retirement plan described in subclause (I) or (II) of paragraph (5)(E)(iv), and

"(iii) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then the portion of the distribution so transferred shall be treated as a distribution described in paragraph (5)(A).".

(d) SPECIAL DELAYED PAYMENT RULE.—In the case of a distress termination under section 4041(c) of the Employee Retirement Income Security Act of 1974 (as amended by section 11009) pursuant to a notice of intent to terminate filed before January 1, 1987, no payment of liability otherwise payable as provided in section 4062(c)(2)(B) of such Act (as amended by this section) shall be required to be made before January 1, 1989.

29 USC 1362 note.

29 USC 1362.

SEC. 11013. TREATMENT OF TRANSACTIONS TO EVADE LIABILITY; EFFECT OF CORPORATE REORGANIZATION.

(a) IN GENERAL.—Subtitle D of title IV is amended by adding at the end thereof the following new section:

"TREATMENT OF TRANSACTIONS TO EVADE LIABILITY; EFFECT OF CORPORATE REORGANIZATION

29 USC 1369.

"SEC. 4069. (a) TREATMENT OF TRANSACTIONS TO EVADE LIABILITY.—If a principal purpose of any person in entering into any transaction is to evade liability to which such person would be

subject under this subtitle and the transaction becomes effective within five years before the termination date of the termination on which such liability would be based, then such person and the members of such person's controlled group (determined as of the termination date) shall be subject to liability under this subtitle in connection with such termination as if such person were a contributing sponsor of the terminated plan as of the termination date. This subsection shall not cause any person to be liable under this subtitle in connection with such plan termination for any increases or improvements in the benefits provided under the plan which are adopted after the date on which the transaction referred to in the preceding sentence becomes effective.

"(b) EFFECT OF CORPORATE REORGANIZATION.—For purposes of this subtitle, the following rules apply in the case of certain corporate reorganizations:

"(1) CHANGE OF IDENTITY, FORM, ETC.—If a person ceases to exist by reason of a reorganization which involves a mere change in identity, form, or place of organization, however effected, a successor corporation resulting from such reorganization shall be treated as the person to whom this subtitle applies.

"(2) LIQUIDATION INTO PARENT CORPORATION.—If a person ceases to exist by reason of liquidation into a parent corporation, the parent corporation shall be treated as the person to whom this subtitle applies.

"(3) MERGER, CONSOLIDATION, OR DIVISION.—If a person ceases to exist by reason of a merger, consolidation, or division, the successor corporation or corporations shall be treated as the person to whom this subtitle applies.".

(b) EFFECTIVE DATE.—Section 4069(a) of the Employee Retirement Income Security Act of 1974 (as added by subsection (a)) shall apply with respect to transactions becoming effective on or after January 1, 1986. 29 USC 1369 note.

SEC. 11014. ENFORCEMENT AUTHORITY RELATING TO TERMINATIONS OF SINGLE-EMPLOYER PLANS.

(a) PRIVATE RIGHTS OF ACTION.—Subtitle D of title IV (as amended by section 11013) is further amended by adding at the end thereof the following new section:

"ENFORCEMENT AUTHORITY RELATING TO TERMINATIONS OF SINGLE-EMPLOYER PLANS

"SEC. 4070. (a) IN GENERAL.—Any person who is with respect to a single-employer plan a fiduciary, contributing sponsor, member of a contributing sponsor's controlled group, participant, or beneficiary, and is adversely affected by an act or practice of any party (other than the corporation) in violation of any provision of section 4041, 4042, 4049, 4062, 4063, 4064, or 4069, or who is an employee organization representing such a participant or beneficiary so adversely affected for purposes of collective bargaining with respect to such plan, may bring an action— 29 USC 1370. *Ante*, pp. 244, 253, 258. 29 USC 1362-1364. *Ante*, p. 260.

"(1) to enjoin such act or practice, or

"(2) to obtain other appropriate equitable relief (A) to redress such violation or (B) to enforce such provision.

"(b) STATUS OF PLAN AS PARTY TO ACTION AND WITH RESPECT TO LEGAL PROCESS.—A single-employer plan may be sued under this section as an entity. Service of summons, subpoena, or other legal

process of a court upon a trustee or an administrator of a single-employer plan in such trustee's or administrator's capacity as such shall constitute service upon the plan. If a plan has not designated in the summary plan description of the plan an individual as agent for the service of legal process, service upon any contributing sponsor of the plan shall constitute such service. Any money judgment under this section against a single-employer plan shall be enforceable only against the plan as an entity and shall not be enforceable against any other person unless liability against such person is established in such person's individual capacity.

Courts, U.S.

"(c) JURISDICTION AND VENUE.—The district courts of the United States shall have exclusive jurisdiction of civil actions under this section. Such actions may be brought in the district where the plan is administered, where the violation took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found. The district courts of the United States shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to grant the relief provided for in subsection (a) in any action.

"(d) RIGHT OF CORPORATION TO INTERVENE.—A copy of the complaint or notice of appeal in any action under this section shall be served upon the corporation by certified mail. The corporation shall have the right in its discretion to intervene in any action.

"(e) AWARDS OF COSTS AND EXPENSES.—

"(1) GENERAL RULE.—In any action brought under this section, the court in its discretion may award all or a portion of the costs and expenses incurred in connection with such action, including reasonable attorney's fees, to any party who prevails or substantially prevails in such action.

"(2) EXEMPTION FOR PLANS.—Notwithstanding the preceding provisions of this subsection, no plan shall be required in any action to pay any costs and expenses (including attorney's fees).

"(f) LIMITATION ON ACTIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (3), an action under this section may not be brought after the later of—

"(A) 6 years after the date on which the cause of action arose, or

"(B) 3 years after the applicable date specified in paragraph (2).

"(2) APPLICABLE DATE.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B), the applicable date specified in this paragraph is the earliest date on which the plaintiff acquired or should have acquired actual knowledge of the existence of such cause of action.

"(B) SPECIAL RULE FOR PLAINTIFFS WHO ARE FIDUCIARIES.—In the case of a plaintiff who is a fiduciary bringing the action in the exercise of fiduciary duties, the applicable date specified in this paragraph is the date on which the plaintiff became a fiduciary with respect to the plan if such date is later than the date described in subparagraph (A).

"(3) CASES OF FRAUD OR CONCEALMENT.—In the case of fraud or concealment, the period described in paragraph (1)(B) shall be extended to 6 years after the applicable date specified in paragraph (2).".

(b) CIVIL ACTIONS INVOLVING THE PENSION BENEFIT GUARANTY CORPORATION.—

(1) ACTIONS AGAINST THE CORPORATION.—Section 4003(f) (29 U.S.C. 1303(f)) is amended to read as follows:

"(f)(1) Except with respect to withdrawal liability disputes under part 1 of subtitle E, any person who is a fiduciary, employer, contributing sponsor, member of a contributing sponsor's controlled group, participant, or beneficiary, and is adversely affected by any action of the corporation with respect to a plan in which such person has an interest, or who is an employee organization representing such a participant or beneficiary so adversely affected for purposes of collective bargaining with respect to such plan, may bring an action against the corporation for appropriate equitable relief in the appropriate court.

"(2) For purposes of this subsection, the term 'appropriate court' means—

"(A) the United States district court before which proceedings under section 4041 or 4042 are being conducted,

Ante, pp. 244, 253.

"(B) if no such proceedings are being conducted, the United States district court for the judicial district in which the plan has its principal office, or

"(C) the United States District Court for the District of Columbia.

"(3) In any action brought under this subsection, the court may award all or a portion of the costs and expenses incurred in connection with such action to any party who prevails or substantially prevails in such action.

"(4) This subsection shall be the exclusive means for bringing actions against the corporation under this title, including actions against the corporation in its capacity as a trustee under section 4042 or 4049.

Ante, p. 258.

"(5)(A) Except as provided in subparagraph (C), an action under this subsection may not be brought after the later of—

"(i) 6 years after the date on which the cause of action arose, or

"(ii) 3 years after the applicable date specified in subparagraph (B).

"(B)(i) Except as provided in clause (ii), the applicable date specified in this subparagraph is the earliest date on which the plaintiff acquired or should have acquired actual knowledge of the existence of such cause of action.

"(ii) In the case of a plaintiff who is a fiduciary bringing the action in the exercise of fiduciary duties, the applicable date specified in this subparagraph is the date on which the plaintiff became a fiduciary with respect to the plan if such date is later than the date specified in clause (i).

"(C) In the case of fraud or concealment, the period described in subparagraph (A)(ii) shall be extended to 6 years after the applicable date specified in subparagraph (B).

"(6) The district courts of the United States have jurisdiction of actions brought under this subsection without regard to the amount in controversy.

"(7) In any suit, action, or proceeding in which the corporation is a party, or intervenes under section 4301, in any State court, the corporation may, without bond or security, remove such suit, action, or proceeding from the State court to the United States district court for the district or division in which such suit, action, or proceeding is pending by following any procedure for removal now or hereafter in effect.".

29 USC 1451.

(2) LIMITATION ON ACTIONS BY THE CORPORATION.—Section 4003(e) (29 U.S.C. 1303(e)) is amended by adding at the end thereof the following new paragraph:

"(6)(A) Except as provided in subparagraph (C), an action under this subsection may not be brought after the later of—

"(i) 6 years after the date on which the cause of action arose, or

"(ii) 3 years after the applicable date specified in subparagraph (B).

"(B)(i) Except as provided in clause (ii), the applicable date specified in this subparagraph is the earliest date on which the corporation acquired or should have acquired actual knowledge of the existence of such cause of action.

"(ii) If the corporation brings the action as a trustee, the applicable date specified in this subparagraph is the date on which the corporation became a trustee with respect to the plan if such date is later than the date described in clause (i).

"(C) In the case of fraud or concealment, the period described in subparagraph (A)(ii) shall be extended to 6 years after the applicable date specified in subparagraph (B).".

29 USC 1303 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to actions filed after the date of the enactment of this Act.

SEC. 11015. PROVISIONS RELATING TO WAIVERS OF MINIMUM FUNDING STANDARD AND EXTENSIONS OF AMORTIZATION PERIOD.

(a) SECURITY FOR WAIVERS.—

(1) ERISA AMENDMENT.—

(A) IN GENERAL.—Part 3 of subtitle B of title I is amended—

(i) by redesignating section 306 (29 U.S.C. 1086) as section 307; and

(ii) by inserting after section 305 (29 U.S.C. 1085) the following new section:

"SECURITY FOR WAIVERS OF MINIMUM FUNDING STANDARD AND EXTENSIONS OF AMORTIZATION PERIOD

29 USC 1085a.

"SEC. 306. (a) SECURITY MAY BE REQUIRED.—

"(1) IN GENERAL.—Except as provided in subsection (c), the Secretary of the Treasury may require an employer maintaining a defined benefit plan which is a single-employer plan (within the meaning of section 4001(a)(15)) to provide security to such plan as a condition for granting or modifying a waiver under section 303 or an extension under section 304.

29 USC 1301.

29 USC 1083, 1084.

"(2) SPECIAL RULES.—Any security provided under paragraph (1) may be perfected and enforced only by the Pension Benefit Guaranty Corporation or, at the direction of the Corporation, by a contributing sponsor (within the meaning of section 4001(a)(13)) or a member of such sponsor's controlled group (within the meaning of section 4001(a)(14)).

"(b) CONSULTATION WITH THE PENSION BENEFIT GUARANTY CORPORATION.—Except as provided in subsection (c), the Secretary of the Treasury shall, before granting or modifying a waiver under section 303 or an extension under section 304 with respect to a plan described in subsection (a)(1)—

"(1) provide the Pension Benefit Guaranty Corporation with—

"(A) notice of the completed application for any waiver, extension, or modification, and

"(B) an opportunity to comment on such application within 30 days after receipt of such notice, and

"(2) consider—

"(A) any comments of the Corporation under paragraph (1)(B), and

"(B) any views of any employee organization representing participants in the plan which are submitted in writing to the Secretary of the Treasury in connection with such application.

Information provided to the corporation under this subsection shall be considered tax return information and subject to the safeguarding and reporting requirements of section 6103(p) of the Internal Revenue Code of 1954. 26 USC 6103.

"(c) EXCEPTION FOR CERTAIN WAIVERS AND EXTENSIONS.—

"(1) IN GENERAL.—The preceding provisions of this section shall not apply to any plan with respect to which the sum of—

"(A) the outstanding balance of the accumulated funding deficiencies (within the meaning of section 302(a)(2) of this Act and section 412(a) of the Internal Revenue Code of 1954) of the plan, 29 USC 1082. 26 USC 412.

"(B) the outstanding balance of the amount of waived funding deficiencies of the plan waived under section 303 of this Act or section 412(d) of such Code, and

"(C) the outstanding balance of the amount of decreases in the minimum funding standard allowed under section 304 of this Act or section 412(e) of such Code, 29 USC 1084.

is less than $2,000,000.

"(2) ACCUMULATED FUNDING DEFICIENCIES.—For purposes of paragraph (1)(A), accumulated funding deficiencies shall include any increase in such amount which would result if all applications for waivers of the minimum funding standard under section 303 of this Act or section 412(d) of the Internal Revenue Code of 1954 and for extensions of the amortization period under section 304 of this Act or section 412(e) of such Code which are pending with respect to such plan were denied.". 29 USC 1083.

(B) CONFORMING AMENDMENT.—Section 211(c)(1) is amended by striking out "306(c)" and inserting in lieu thereof "307(c)". 29 USC 1061.

(C) CLERICAL AMENDMENT.—The table of sections in section 1 is amended by striking out the item relating to section 306 and inserting in lieu thereof the following new items:

"Sec. 306. Security for waivers of minimum funding standard and extensions of amortization period.

"Sec. 307. Effective dates."

(2) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954.—

(A) IN GENERAL.—Subsection (f) of section 412 of the Internal Revenue Code of 1954 (relating to requirement that benefits may not be increased during waiver or extension period) is amended by adding at the end thereof the following new paragraph: 26 USC 412.

"(3) SECURITY FOR WAIVERS AND EXTENSIONS; CONSULTATIONS.—

"(A) SECURITY MAY BE REQUIRED.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), the Secretary may require an employer maintaining a defined benefit plan which is a single-employer plan (within the meaning of section 4001(a)(15) of the Employee Retirement Income Security Act of 1974) to provide security to such plan as a condition for granting or modifying a waiver under subsection (d) or an extension under subsection (e).

29 USC 1301.

"(ii) SPECIAL RULES.—Any security provided under clause (i) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or at the direction of the Corporation, by a contributing sponsor (within the meaning of section 4001(a)(13) of such Act), or a member of such sponsor's controlled group (within the meaning of section 4001(a)(14) of such Act).

Ante, p. 238.
Ante, p. 238.

"(B) CONSULTATION WITH THE PENSION BENEFIT GUARANTY CORPORATION.—Except as provided in subparagraph (C), the Secretary shall, before granting or modifying a waiver under subsection (d) or an extension under subsection (e) with respect to a plan described in subparagraph (A)(i)—

"(i) provide the Pension Benefit Guaranty Corporation with—

"(I) notice of the completed application for any waiver, extension, or modification, and

"(II) an opportunity to comment on such application within 30 days after receipt of such notice, and

"(ii) consider—

"(I) any comments of the Corporation under clause (i)(II), and

"(II) any views of any employee organization (within the meaning of section 3(4) of the Employee Retirement Income Security Act of 1974) representing participants in the plan which are submitted in writing to the Secretary in connection with such application.

29 USC 1002.

Information provided to the corporation under this subparagraph shall be considered tax return information and subject to the safeguarding and reporting requirements of section 6103(p).

26 USC 6103.

"(C) EXCEPTION FOR CERTAIN WAIVERS AND EXTENSIONS.—

"(i) IN GENERAL.—The preceding provisions of this paragraph shall not apply to any plan with respect to which the sum of—

"(I) the outstanding balance of the accumulated funding deficiencies (within the meaning of subsection (a) and section 302(a) of such Act) of the plan,

29 USC 1082.

"(II) the outstanding balance of the amount of waived funding deficiencies of the plan waived under subsection (d) or section 303 of such Act, and

29 USC 1083.

"(III) the outstanding balance of the amount of decreases in the minimum funding standard allowed under subsection (e) or section 304 of such Act,

29 USC 1084.

is less than $2,000,000.

"(ii) ACCUMULATED FUNDING DEFICIENCIES.—For purposes of clause (i)(I), accumulated funding deficiencies shall include any increase in such amount which would

result if all applications for waivers of the minimum funding standard under subsection (d) or section 303 of such Act and for extensions of the amortization period under subsection (e) or section 304 of such Act which are pending with respect to such plan were denied.". 29 USC 1083. 29 USC 1084.

(B) CONFORMING AMENDMENTS.—Section 412(f) of the Internal Revenue Code of 1954 is amended— 26 USC 412.

(i) by striking out the heading thereof and inserting in lieu thereof:

"(f) REQUIREMENTS RELATING TO WAIVERS AND EXTENSIONS.—", and

(ii) by striking out the heading of paragraph (1) thereof and inserting in lieu thereof:

"(1) BENEFITS MAY NOT BE INCREASED DURING WAIVER OR EXTENSION PERIOD.—".

(3) EFFECTIVE DATES.—The amendments made by this subsection shall apply with respect to applications for waivers, extensions, and modifications filed on or after the date of the enactment of this Act. 29 USC 1085a note.

(b) APPLICABLE INTEREST RATE UNDER ARRANGEMENTS PROVIDING FOR WAIVERS AND EXTENSIONS.—

(1) AMENDMENTS TO ERISA.—

(A) VARIANCES FROM THE MINIMUM FUNDING STANDARD.—Section 303(a) (29 U.S.C. 1083(a)) is amended by adding at the end thereof the following new sentence: "The interest rate used for purposes of computing the amortization charge described in section 302(b)(2)(C) for a variance granted under this subsection shall be the rate determined under section 6621(b) of the Internal Revenue Code of 1954.". 29 USC 1082. 26 USC 6621.

(B) EXTENSIONS OF THE AMORTIZATION PERIOD.—Section 304(a) (29 U.S.C. 1084(a)) is amended by adding after and below paragraph (2) the following new sentence:

"The interest rate applicable under any arrangement entered into by the Secretary in connection with an extension granted under this subsection shall be the rate determined under section 6621(b) of the Internal Revenue Code of 1954.".

(2) AMENDMENTS TO INTERNAL REVENUE CODE.—

(A) VARIANCES FROM THE MINIMUM FUNDING STANDARD.—Paragraph (1) of section 412(d) of the Internal Revenue Code of 1954 (relating to waivers in case of substantial business hardship) is amended by adding at the end thereof the following new sentence: "The interest rate used for purposes of computing the amortization charge described in section 412(b)(2)(C) for a variance granted under this subsection shall be the rate determined under section 6621(b).". 26 USC 412.

(B) EXTENSIONS OF THE AMORTIZATION PERIOD.—Subsection (e) of section 412 of such Code (relating to extension of amortization period) is amended by adding after and below paragraph (2) the following new sentence:

"The interest rate applicable under any arrangement entered into by the Secretary in connection with an extension granted under this subsection shall be the rate determined under section 6621(b).".

SEC. 11016. CONFORMING, CLARIFYING, TECHNICAL, AND MISCELLANEOUS AMENDMENTS.

(a) CONFORMING AMENDMENTS RELATING TO PLAN TERMINATIONS.—

(1) ESTIMATED BENEFITS FOR CERTAIN SINGLE-EMPLOYER PLANS.—Section 4005(b)(2) (29 U.S.C. 1305(b)(2)) is amended—

(A) by striking out "and" at the end of subparagraph (C);

(B) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and"; and

(C) by adding at the end thereof the following:

"(E) to pay to participants and beneficiaries the estimated amount of benefits which are guaranteed by the corporation under this title and the estimated amount of other benefits to which plan assets are allocated under section 4044, under single-employer plans which are unable to pay benefits when due or which are abandoned.".

29 USC 1344.

(2) CREDITS TO REVOLVING FUND.—Section 4005(b)(1) (29 U.S.C. 1305(b)(1)) is amended—

(A) by striking out "and" at the end of subparagraph (E);

(B) by redesignating subparagraph (F) as subparagraph (G); and

(C) by inserting after subparagraph (E) the following new subparagraph:

"(F) attorney's fees awarded to the corporation, and".

(3) RESTORATION OF PLANS.—Section 4047 (29 U.S.C. 1347) is amended—

(A) in the first sentence, by inserting "under section 4041 or 4042" after "terminated" each place it appears; and

(B) in the second sentence, by striking out "section 4042" and inserting in lieu thereof "section 4041 or 4042".

(4) TERMINATION DATE.—Section 4048(a) (29 U.S.C. 1348(a)) is amended—

(A) by striking out "date of termination" and inserting in lieu thereof "termination date";

(B) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively;

(C) in paragraph (2) (as redesignated), by inserting "in a distress termination" after "terminated" and by striking out "section 4041" and inserting in lieu thereof "section 4041(c)";

(D) by inserting before paragraph (2) (as redesignated) the following new paragraph:

"(1) in the case of a plan terminated in a standard termination in accordance with the provisions of section 4041(b), the termination date proposed in the notice provided under section 4041(a)(2),";

and

(E) in paragraph (4) (as redesignated), by striking out "in accordance with the provisions of either section" and inserting in lieu thereof "under section 4041(c) or 4042".

(5) CONFORMING AMENDMENTS TO SPECIAL LIABILITY RULES RELATING TO CERTAIN SINGLE-EMPLOYER PLANS UNDER MULTIPLE CONTROLLED GROUPS.—

(A) LIABILITY OF SUBSTANTIAL EMPLOYER FOR WITHDRAWAL.—

(i) Section 4063(a) (29 U.S.C. 1363(a)) is amended—

(I) by striking out "plan under which more than one employer makes contributions (other than a multiemployer plan)" and inserting in lieu thereof "single-employer plan which has two or more contributing sponsors at least two of whom are not under common control";

(II) in paragraph (1), by striking out "withdrawal of a substantial employer" and inserting in lieu thereof "withdrawal during a plan year of a substantial employer for such plan year";

(III) in paragraph (2), by striking out "of such employer" and all that follows and inserting in lieu thereof "of all persons with respect to the withdrawal of the substantial employer.";

(IV) by striking out "whether such employer is liable for any amount under this subtitle with respect to the withdrawal" and inserting in lieu thereof "whether there is liability resulting from the withdrawal of the substantial employer"; and

(V) by striking out "notify such employer" and inserting in lieu thereof "notify the liable persons".

(ii) Section 4063(b) (29 U.S.C. 1363(b)) is amended—

(I) by striking out "an employer" and all that follows down through "shall be liable" and inserting in lieu thereof "any one or more contributing sponsors who withdraw, during a plan year for which they constitute a substantial employer, from a single-employer plan which has two or more contributing sponsors at least two of whom are not under common control, shall, upon notification of such contributing sponsors by the corporation as provided by subsection (a), be liable, together with the members of their controlled groups,";

(II) by striking out "such employer's";

(III) by striking out "the employer's withdrawal" and inserting in lieu thereof "the withdrawal referred to in subsection (a)(1)";

(IV) in paragraph (1), by striking out "such employer" and inserting in lieu thereof "such contributing sponsors";

(V) in paragraph (2), by striking out "all employers" and inserting in lieu thereof "all contributing sponsors"; and

(VI) by striking out "the liability of each such employer" and inserting in lieu thereof "such liability".

(iii) Section 4063(c) (29 U.S.C. 1363(c)) is amended—

(I) in paragraph (1), by striking out "In lieu of payment of his liability under this section the employer" and inserting in lieu thereof "In lieu of payment of a contributing sponsor's liability under this section, the contributing sponsor";

(II) in paragraph (2), by inserting "under section 4041(c) or 4042" after "terminated", by striking out "of such employer", and by striking out "to the

employer (or his bond cancelled)" and inserting in lieu thereof "(or the bond cancelled)"; and

(III) in paragraph (3), by inserting "under section 4041(c) or 4042" after "terminates" and by striking out "employer" in subparagraph (C) and inserting in lieu thereof "contributing sponsor".

(iv) Section 4063(d) (29 U.S.C. 1363(d)) is amended—

(I) by striking out "Upon a showing by the plan administrator of a plan (other than a multiemployer plan) that the withdrawal from the plan by any employer or employers has resulted" and inserting in lieu thereof "Upon a showing by the plan administrator of the plan that the withdrawal from the plan by one or more contributing sponsors has resulted";

(II) by striking out "by employers";

(III) in paragraph (1), by striking out "their employer's" and inserting in lieu thereof "the"; and

(IV) in paragraph (2), by striking out "termination" and inserting in lieu thereof "plan terminated under section 4042".

(v) Section 4063(e) (29 U.S.C. 1363(e)) is amended—

(I) by striking out "to any employer or plan administrator"; and

(II) by striking out "all other employers" and inserting in lieu thereof "contributing sponsors".

(vi) The heading for section 4063 is amended by adding at the end thereof the following "FROM SINGLE-EMPLOYER PLANS UNDER MULTIPLE CONTROLLED GROUPS.".

(B) ALLOCATION OF LIABILITY UPON TERMINATION OF CERTAIN SINGLE-EMPLOYER PLANS.—

(i) Section 4064(a) (29 U.S.C. 1364(a)) is amended—

(I) by striking out "all employers who maintain a plan under which more than one employer makes contributions (other than a multiemployer plan)" and inserting in lieu thereof "all contributing sponsors of a single-employer plan which has two or more contributing sponsors at least two of whom are not under common control"; and

(II) by inserting "under section 4041(c) or 4042" after "terminated".

(ii) Section 4064(b) (29 U.S.C. 1364(b)) is amended to read as follows:

"(b) The corporation shall determine the liability with respect to each contributing sponsor and each member of its controlled group in a manner consistent with section 4062, except that—

29 USC 1362.

"(1) the amount of the liability determined under section 4062(b)(1) with respect to the entire plan—

"(A) shall be determined without regard to clauses (i)(II) and (ii) of section 4062(b)(1)(A), and

"(B) shall be allocated to each controlled group by multiplying such amount by a fraction—

"(i) the numerator of which is the amount required to be contributed to the plan for the last 5 plan years

ending prior to the termination date by persons in such controlled group as contributing sponsors, and

"(ii) the denominator of which is the total amount required to be contributed to the plan for such last 5 plan years by all persons as contributing sponsors,

and clauses (i)(II) and (ii) of section 4062(b)(1)(A) shall be applied separately with respect to each such controlled group, and 29 USC 1362.

"(2) the amount of the liability determined under section 4062(c)(1) with respect to the entire plan shall be allocated to each controlled group by multiplying such amount by the fraction described in paragraph (1)(B) in connection with such controlled group.

The corporation may also determine the liability of each such contributing sponsor and member of its controlled group on any other equitable basis prescribed by the corporation in regulations.".

(iii) The heading for section 4064 is amended to read as follows:

"LIABILITY ON TERMINATION OF SINGLE-EMPLOYER PLANS UNDER MULTIPLE CONTROLLED GROUPS".

(C) ANNUAL NOTIFICATION TO SUBSTANTIAL EMPLOYERS.—Section 4066 (29 U.S.C. 1366) is amended—

(i) by striking out "each plan under which contributions are made by more than one employer (other than a multiemployer plan)" and inserting in lieu thereof "each single-employer plan which has at least two contributing sponsors at least two of whom are not under common control";

(ii) by striking out "any employer making contributions under that plan" and inserting in lieu thereof "contributing sponsor of the plan"; and

(iii) by striking out "that he is a substantial employer" and inserting in lieu thereof "that such contributing sponsor (alone or together with members of such contributing sponsor's controlled group) constitutes a substantial employer".

(6) ADDITIONAL AMENDMENTS RELATING TO RECOVERY OF AMOUNTS OF LIABILITY.—

(A) Section 4067 (29 U.S.C. 1367) is amended—

(i) in the heading, by striking out "EMPLOYER";

(ii) by striking out "employer or employers" and inserting in lieu thereof "contributing sponsors and members of their controlled groups"; and

(iii) by inserting "of amounts of liability to the corporation accruing as of the termination date" after "deferred payment".

(B) Section 4068 (29 U.S.C. 1368) is amended—

(i) in the heading, by striking out "OF EMPLOYER";

(ii) in subsection (a), by striking out "employer or employers" the first place it appears and inserting in lieu thereof "person", by striking out "neglect or refuse" and inserting in lieu thereof "neglects or refuses", by inserting "to the extent of an amount equal to the unpaid amount described in section 4062(b)(1)(A)(i)" after "liability" and after "corporation" the second place it appears, and by striking out

"employer or employers" and inserting in lieu thereof "person";

(iii) in subsection (d)(1), by striking out "employer" and inserting in lieu thereof "liable person";

(iv) in subsection (d)(2), by striking out "employer" each place it appears and inserting in lieu thereof "liable person";

(v) in subsection (e), by striking out "employer or employers" and inserting in lieu thereof "liable person"; and

(vi) by striking out subsection (c)(1) (29 U.S.C. 1368(c)(1)) and inserting in lieu thereof the following:

"(c)(1) Except as otherwise provided under this section, the priority of a lien imposed under subsection (a) shall be determined in the same manner as under section 6323 of the Internal Revenue Code of 1954 (as in effect on the date of the enactment of the Single-Employer Pension Plan Amendments Act of 1986). Such section 6323 shall be applied for purposes of this section by disregarding subsection (g)(4) and by substituting—

26 USC 6323.
Ante, p. 237.

"(A) 'lien imposed by section 4068 of the Employee Retirement Income Security Act of 1974' for 'lien imposed by section 6321' each place it appears in subsections (a), (b), (c)(1), (c)(4)(B), (d), (e), and (h)(5);

29 USC 1368.

"(B) 'the corporation' for 'the Secretary' in subsections (a) and (b)(9)(C);

"(C) 'the payment of the amount on which the section 4068(a) lien is based' for 'the collection of any tax under this title' in subsection (b)(3);

"(D) 'a person whose property is subject to the lien' for 'the taxpayer' in subsections (b)(8), (c)(2)(A)(i) (the first place it appears), (c)(2)(A)(ii), (c)(2)(B), (c)(4)(B), and (c)(4)(C) (in the matter preceding clause (i));

"(E) 'such person' for 'the taxpayer' in subsections (c)(2)(A)(i) (the second place it appears) and (c)(4)(C)(ii);

"(F) 'payment of the loan value of the amount on which the lien is based is made to the corporation' for 'satisfaction of a levy pursuant to section 6332(b)' in subsection (b)(9)(C);

"(G) 'section 4068(a) lien' for 'tax lien' each place it appears in subsections (c)(1), (c)(2)(A), (c)(2)(B), (c)(3)(B)(iii), (c)(4)(B), (d), and (h)(5); and

"(H) 'the date on which the lien is first filed' for 'the date of the assessment of the tax' in subsection (g)(3)(A).".

(b) CLARIFICATION OF DESCRIPTION OF CERTAIN INFORMATION REQUIRED TO BE FILED IN ANNUAL REPORT.—

(1) IN GENERAL.—Section 103(d)(6) (29 U.S.C. 1023(d)(6)) is amended to read as follows:

"(6) Information required in regulations of the Pension Benefit Guaranty Corporation with respect to:

"(A) the current value of the assets of the plan,

"(B) the present value of all nonforfeitable benefits for participants and beneficiaries receiving payments under the plan,

"(C) the present value of all nonforfeitable benefits for all other participants and beneficiaries,

"(D) the present value of all accrued benefits which are not nonforfeitable (including a separate accounting of such

benefits which are benefit commitments, as defined in section 4001(a)(16)), and

29 USC 1301.

"(E) the actuarial assumptions and techniques used in determining the values described in subparagraphs (A) through (D).".

(2) CONFORMING AMENDMENT.—Section 104(a)(2)(A) (29 U.S.C. 1024(a)(2)(A)) is amended by striking out the second sentence.

(3) TRANSITION RULES.—Any regulations, modifications, or waivers which have been issued by the Secretary of Labor with respect to section 103(d)(6) of the Employee Retirement Income Security Act of 1974 (as in effect immediately before the date of the enactment of this Act) shall remain in full force and effect until modified by any regulations with respect to such section 103(d)(6) prescribed by the Pension Benefit Guaranty Corporation.

29 USC 1023 note.

29 USC 1023.

(c) ADDITIONAL AMENDMENTS.—

(1) DEFINITION FOR TITLE I.—Section 3(37)(A) (29 U.S.C. 1002(37)(A)) is amended by inserting "pension" before "plan".

(2) NOTICE OF REQUEST FOR WAIVERS OF MINIMUM FUNDING STANDARDS AND RIGHT TO SUBMIT RELEVANT INFORMATION.—Section 303 (29 U.S.C. 1083) is amended by inserting after subsection (d) the following new subsection:

"(e)(1) The Secretary of the Treasury shall, before granting a waiver under this section, require each applicant to provide evidence satisfactory to such Secretary that the applicant has provided notice of the filing of the application for such waiver to each employee organization representing employees covered by the affected plan.

"(2) The Secretary of the Treasury shall consider any relevant information provided by a person to whom notice was given under paragraph (1).".

(3) NOTICE OF REQUEST FOR EXTENSIONS OF AMORTIZATION PERIOD AND RIGHT TO SUBMIT RELEVANT INFORMATION.—Section 304 (29 U.S.C. 1084) is amended by adding at the end thereof the following new subsection:

"(c)(1) The Secretary of the Treasury shall, before granting an extension under this section, require each applicant to provide evidence satisfactory to such Secretary that the applicant has provided notice of the filing of the application for such extension to each employee organization representing employees covered by the affected plan.

"(2) The Secretary of the Treasury shall consider any relevant information provided by a person to whom notice was given under paragraph (1).".

(4) AMENDMENT TO THE INTERNAL REVENUE CODE OF 1954.—Subsection (f) of section 412 of the Internal Revenue Code of 1954 (relating to benefits may not be increased during waiver or extension period), as amended by the preceding provisions of this title, is further amended by adding at the end thereof the following new paragraph:

26 USC 412.

"(4) ADDITIONAL REQUIREMENTS.—

"(A) ADVANCE NOTICE.—The Secretary shall, before granting a waiver under subsection (d) or an extension under subsection (e), require each applicant to provide evidence satisfactory to the Secretary that the applicant has provided notice of the filing of the application for such waiver

or extension to each employee organization representing employees covered by the affected plan.

"(B) CONSIDERATION OF RELEVANT INFORMATION.—The Secretary shall consider any relevant information provided by a person to whom notice was given under subparagraph (A).".

(5) AUDIT OF PLANS TERMINATED IN STANDARD TERMINATION.—Section 4003(a) (29 U.S.C. 1303(a)) is amended by adding at the end thereof the following new sentence: "The corporation shall annually audit a statistically significant number of plans terminating under section 4041(b) to determine whether participants and beneficiaries have received their benefit commitments. Each audit shall include a statistically significant number of participants and beneficiaries.".

Ante, p. 244.

(6) REPEAL OF EXPIRED AUTHORITY.—Section 4004 (29 U.S.C. 1304) is repealed.

(7) VOTING BY CORPORATION OF STOCK PAID AS LIABILITY.—Section 4005 (29 U.S.C. 1305) is amended by adding at the end thereof the following new subsection:

"(g) Any stock in a person liable to the corporation under this title which is paid to the corporation by such person or a member of such person's controlled group in satisfaction of such person's liability under this title may be voted only by the custodial trustees or outside money managers of the corporation or fiduciaries with respect to trusts to which the requirements of section 4049 apply.".

Ante, p. 258.

(8) EFFECTIVE YEARS.—Section 4022(b)(7) (29 U.S.C. 1322(b)(7)) is amended by striking out "following" and inserting in lieu thereof "beginning with".

(9) TREATMENT OF QUALIFIED PRERETIREMENT SURVIVOR ANNUITIES.—Section 4022 (29 U.S.C. 1322) is amended by adding at the end thereof the following new subsection:

"(d) For purposes of subsection (a), a qualified preretirement survivor annuity (as defined in section 205(e)(1)) with respect to a participant under a terminated single-employer plan shall not be treated as forfeitable solely because the participant has not died as of the termination date.".

29 USC 1055.

(10) CLARIFICATION OF POWER TO COLLECT AMOUNTS DUE THE CORPORATION.—Section 4042(d)(1)(B)(ii) (29 U.S.C. 1342(d)(1)(B)(ii)) is amended by inserting after "amounts due the plan" the following: ", including but not limited to the power to collect from the persons obligated to meet the requirements of section 302 or the terms of the plan".

29 USC 1082.

(11) CONFORMING AMENDMENT.—Section 4042(d)(3) (29 U.S.C. 1342(d)(3)) is amended by striking out "same duties as a trustee appointed under section 47 of the Bankruptcy Act" and inserting in lieu thereof "same duties as those of a trustee under section 704 of title 11, United States Code".

(12) CONFORMING AMENDMENT.—Section 4044(a) (29 U.S.C. 1344(a)) is amended by striking out "defined benefit".

(13) CLERICAL CORRECTIONS.—Section 4044(a)(4) (29 U.S.C. 1344(a)(4)(A)) is amended—

(A) in subparagraph (A), by striking out "section 4022(b)(5)" and inserting in lieu thereof "section 4022B(a)"; and

(B) in subparagraph (B), by striking out "section 4022(b)(6)" and inserting in lieu thereof "section 4022(b)(5)".

(14) RELEASE OF LIEN.—Section 4068(e) (29 U.S.C. 1368(e)) is amended by striking out ", with the consent of the board of directors,".

(d) STUDIES BY COMPTROLLER GENERAL.— 29 USC 1143a Congress.

(1) IN GENERAL.—The Comptroller General of the United States may, pursuant to the request of any Member of Congress, study employee benefit plans, including the effects of such plans on employees, participants, and their beneficiaries.

(2) ACCESS TO BOOKS, DOCUMENTS, ETC.—For the purpose of conducting studies under this subsection, the Comptroller General, or any of his duly authorized representatives, shall have access to and the right to examine and copy any books, documents, papers, records, or other recorded information—

(A) within the possession or control of the administrator, sponsor, or employer of and persons providing services to any employee benefit plan, and

(B) which the Comptroller General or his representative finds, in his own judgment, pertinent to such study.

The Comptroller General shall not disclose the identity of any individual or employer in making any information obtained under this subsection available to the public.

(3) DEFINITIONS.—For purposes of this subsection, the terms "employee benefit plan", "participant", "administrator", "beneficiary", "plan sponsor", "employee", and "employer" are defined in section 3 of the Employee Retirement Income Security Act of 1974. 29 USC 1002.

(4) EFFECTIVE DATE.—The preceding provisions of this subsection shall be effective on the date of the enactment of this Act. 29 USC 1143a note.

(e) AMENDMENTS TO THE TABLE OF CONTENTS OF ERISA.—The table of contents in section 1 is amended—

(1) by striking out the item relating to section 4004;

(2) by striking out the item relating to section 4042 and inserting in lieu thereof the following new item:

"Sec. 4042. Institutio.. of termination proceedings by the corporation.";

(3) by inserting after the item relating to section 4048 the following new item:

"Sec. 4049. Distribution to participants and beneficiaries of liability payments to section 4049 trust.";

and

(4) by striking out the items relating to subtitle D of title IV and inserting in lieu thereof the following new items:

"Subtitle D—Liability

"Sec. 4061. Amounts payable by the corporation.
"Sec. 4062. Liability for termination of single-employer plans under a distress termination or a termination by the corporation.
"Sec. 4063. Liability of substantial employer for withdrawal from single-employer plans under multiple controlled groups.
"Sec. 4064. Liability on termination of single-employer plans under multiple controlled groups.
"Sec. 4065. Annual report of plan administrator.
"Sec. 4066. Annual notification of substantial employers.
"Sec. 4067. Recovery of liability for plan termination.
"Sec. 4068. Lien for liability.
"Sec. 4069. Treatment of transactions to evade liability; effect of corporate reorganization.
"Sec. 4070. Enforcement authority relating to terminations of single-employer plans.".

29 USC 1306 note.

SEC. 11017. STUDIES.

(a) SINGLE-EMPLOYER PENSION PLAN TERMINATION INSURANCE PREMIUM STUDY.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Pension Benefit Guaranty Corporation shall conduct a study of the premiums established under the single-employer pension plan termination insurance program under title IV of the Employee Retirement Income Security Act of 1974.

29 USC 1301.

(2) MATTERS TO BE STUDIED.—The Corporation shall specifically consider in its study the following matters:

(A) the effect of the amendments made by this title on the long-term stability of the single-employer pension plan termination insurance program under title IV of the Employee Retirement Income Security Act of 1974,

(B) alternatives to the current statutory mechanism with respect to proposals for changes in the premium levels under such program,

(C) the methods currently used by the Corporation in projecting future program costs of the single-employer pension plan termination insurance program,

(D) alternative methods of projecting such future program costs and an evaluation of each such alternative method,

(E) the methods currently used by the Corporation in determining premiums needed to allocate and adequately fund such future program costs,

(F) alternative methods of making such premium determinations and an evaluation of each such alternative method, and

(G) alternative premium bases upon which some or all of such projected future program costs would be allocated on an exposure-related or risk-related computation, which may take into account the different exposures or risks imposed on the Corporation by plan sponsors with different histories and under different circumstances.

(3) SUBMISSION OF CORPORATION'S REPORT.—Not later than one year after the date of the enactment of this Act, the Corporation shall report the results of its study, together with any recommendations for statutory changes, to an advisory council, to be appointed by the chairmen of the Committee on Education and Labor and the Committee on Ways and Means of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Finance of the Senate. The advisory council shall be composed of representatives of single-employer plan sponsors, employee organizations representing single-employer plan participants, and members of the general public who are experts in the matters to be considered in the study. The members of the advisory council shall serve without compensation.

(4) SUBMISSION OF COUNCIL'S REPORT TO CONGRESS.—Not later than 180 days after the date of the submission of the Corporation's report to the advisory council under paragraph (3), the advisory council shall submit the results of the Corporation's study and the Corporation's recommendations, together with the recommendations of the council, to the Speaker of the

House of Representatives and the President pro tempore of the Senate.

(5) COOPERATION BY THE PENSION BENEFIT GUARANTY CORPORATION AND OTHER FEDERAL AGENCIES.—The Corporation shall cooperate with the advisory council in reviewing the results of the Corporation's study and recommendations. In order to avoid unnecessary expense and duplication, to the extent not otherwise prohibited by law, the Corporation and any other Federal agency shall provide to the advisory council any data, analyses, or other relevant information related to the matters under review.

(b) OVERFUNDED PENSION PLAN STUDY.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of Labor shall conduct a study of terminations resulting in residual assets under section 4044(d) of the Employee Retirement Income Security Act of 1974.

29 USC 1344.

(2) REPORT.—No later than May 1, 1986, the Secretary of Labor shall submit a report on the study conducted under paragraph (1), together with any recommendations for statutory changes, to the chairmen of the Committee on Education and Labor and the Committee on Ways and Means of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Finance of the Senate.

SEC. 11018. LIMITATION ON REGULATIONS.

29 USC 1135 note.

(a) REGULATORY TREATMENT OF ASSETS OF REAL ESTATE ENTITIES.—

Prohibition.

(1) IN GENERAL.—Except as a defense, no rule or regulation adopted pursuant to the Secretary's proposed regulation defining "plan assets" for purposes of the Employee Retirement Income Security Act of 1974 (50 Fed. Reg. 961, January 8, 1985, as modified by 50 Fed. Reg. 6361, February 15, 1985), or any reproposal thereof prior to the adoption of the regulations required to be issued in accordance with subsection (d), shall apply to any asset of a real estate entity in which a plan, account, or arrangement subject to such Act invests if—

(A) any interest in the entity is first offered to a plan, account, or arrangement subject to such Act investing in the entity (hereinafter in this section referred to as a "plan investor") on or before the date which is 120 days after the date of publication of such rule or regulation as a final rule or regulation;

(B) no plan investor acquires an interest in the entity from an issuer or underwriter at any time on or after the date which is 270 days after the date of publication of such rule or regulation as a final rule or regulation (except pursuant to a contract or subscription binding on the plan investor and entered into, or tendered, before the expiration of such 270-day period, or pursuant to the exercise, on or before December 31, 1990, of a warrant which was the subject of an effective registration under the Securities Act of 1933 (15 U.S.C. 77q et seq.) prior to the date of the enactment of this section); and

15 USC 77a *et seq.*

(C) every interest in the entity acquired by a plan investor (or contracted for or subscribed to by a plan investor) before the expiration of such 270-day period is a security—

(i) which is part of an issue or class of securities which upon such acquisition or at any time during the offering period is held by 100 or more persons;

(ii) the economic rights of ownership in respect of which are freely transferable;

(iii) which is registered under the Securities Act of 1933; and

15 USC 77a *et seq.*

(iv) which is part of an issue or class of securities which is registered under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) (or is so registered within three years of the effective date of the registration statement of such securities for purposes of the Securities Act of 1933: *Provided*, That the issuer provides plan investors with such reports with respect to the offering period as are required with respect to such period by the Securities and Exchange Commission under such Acts and the rules and regulations promulgated thereunder).

In the case of partnerships organized prior to enactment of this section, the requirements of subparagraphs (iii) and (iv) shall not apply to initial limited partnership interests in an entity otherwise described above: *Provided*, That such entity was the subject of an effective registration under the Securities Act of 1933 prior to the date of the enactment of this section, such interests were issued solely for partnership organizational purposes in compliance with State limited partnership laws, and such interest has a value as of the date of issue of less than $20,000 and represents less than one percent of the total interests outstanding as of the completion of the offering period.

Prohibition.

(2) MAINTENANCE OF CURRENT REGULATORY TREATMENT.—No asset of any real estate entity described in paragraph (1) shall be treated as an asset of any plan investor for any purpose of the Employee Retirement Income Security Act of 1974 if the assets of such entity would not have been assets of such plan investor under the provisions of—

29 USC 1001 note.

(A) Interpretive Bulletin 75-2 (29 CFR 2509.750-2); or

(B) the regulations proposed by the Secretary of Labor and published—

(i) on August 28, 1979, at 44 Fed. Reg. 50363;

(ii) on June 6, 1980, at 45 Fed. Reg. 38084;

(iii) on January 8, 1985, at 50 Fed. Reg. 961; or

(iv) on February 15, 1985, at 50 Fed. Reg. 6361,

without regard to any limitation of any effective date proposed therein.

(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) The term "real estate entity" means an entity which, at any time within two years after the closing of its offering period has invested or has contracted to invest at least 75 percent of the value of its net assets available for investment in direct or indirect ownership of "real estate assets" or "interests in real property".

(2) The term "real estate asset" means real property (including an interest in real property) and any share of stock or beneficial interest, partnership interest, depository receipt, or any other interest in any other real estate entity.

(3) The term "interest in real property" includes, directly or indirectly, the following:

(A) the ownership or co-ownership of land or improvements thereon;

(B) any mortgage (including an interest in or co-ownership of any mortgage, leasehold mortgage, pool of mortgages, deed of trust, or similar instrument) on land or improvements thereon,

(C) any leasehold of land or improvements thereon; and

(D) any option to acquire any of the foregoing, but does not include any mineral, oil, or gas royalty interest.

(4) Whether the economic rights of ownership with respect to a security are "freely transferable" shall be determined based upon all the facts and circumstances, but ordinarily none of the following, alone or in any combination, shall cause the economic rights of ownership to be considered not freely transferable— Prohibitions.

(A) any requirement that not less than a minimum number of shares or units of such security be transferred or assigned by any investor: *Provided,* That such requirement does not prevent transfer of all of the then remaining shares or units held by an investor;

(B) any prohibition against transfer or assignment of such security or rights in respect thereof to an ineligible or unsuitable investor;

(C) any restriction on or prohibition against any transfer or assignment which would either result in a termination or reclassification of the entity for Federal or State tax purposes or which would violate any State or Federal statute, regulation, court order, judicial decree, or rule of law;

(D) any requirement that reasonable transfer or administrative fees be paid in connection with a transfer or assignment;

(E) any requirement that advance notice of a transfer or assignment be given to the entity and any requirement regarding execution of documentation evidencing such transfer or assignment (including documentation setting forth representations from either or both of the transferor or transferee as to compliance with any restriction or requirement described in this section or requiring compliance with the entity's governing instruments);

(F) any restriction on substitution of an assignee as a limited partner of a partnership, including a general partner consent requirement: *Provided,* That the economic benefits of ownership of the assignor may be transferred or assigned without regard to such restriction or consent (other than compliance with any other restriction described in this section);

(G) any administrative procedure which establishes an effective date, or an event such as the completion of the offering, prior to which a transfer or assignment will not be effective; and

(H) any limitation or restriction on transfer or assignment which is not created or imposed by the issuer or any person acting for or on behalf of such issuer.

(c) NO EFFECT ON SECRETARY'S AUTHORITY OTHER THAN AS PROVIDED.—Except as provided in subsection (a), nothing in this section shall limit the authority of the Secretary of Labor to issue regula- Regulations.

tions or otherwise interpret section 3(21) of the Employee Retirement Income Security Act of 1974.

29 USC 1002.

(d) TIME LIMIT FOR FINAL REGULATIONS.—The Secretary of Labor shall adopt final regulations defining "plan assets" by December 31, 1986.

(e) EFFECTIVE DATE.—The preceding provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 11019. EFFECTIVE DATE OF TITLE; TEMPORARY PROCEDURES.

29 USC 1341 note.

(a) IN GENERAL.—Except as otherwise provided in this title, the amendments made by this title shall be effective as of January 1, 1986, except that such amendments shall not apply with respect to terminations for which—

(1) notices of intent to terminate were filed with the Pension Benefit Guaranty Corporation under section 4041 of the Employee Retirement Income Security Act of 1974 before such date, or

Ante, p. 244.

(2) proceedings were commenced under section 4042 of such Act before such date.

Ante, p. 253.

(b) TRANSITIONAL RULES.—

(1) IN GENERAL.—In the case of a single-employer plan termination for which a notice of intent to terminate was filed with the Pension Benefit Guaranty Corporation under section 4041 of the Employee Retirement Income Security Act of 1974 (as in effect before the amendments made by this title) on or after January 1, 1986, but before the date of the enactment of this Act, the amendments made by this title shall apply with respect to such termination, as modified by paragraphs (2) and (3).

(2) DEEMED COMPLIANCE WITH NOTICE REQUIREMENTS.—The requirements of subsections (a)(2), (b)(1)(A), and (c)(1)(A) of section 4041 of the Employee Retirement Income Security Act of 1974 (as amended by this title) shall be considered to have been met with respect to a termination described in paragraph (1) if—

(A) the plan administrator provided notice to the participants in the plan regarding the termination in compliance with applicable regulations of the Pension Benefit Guaranty Corporation as in effect on the date of the notice, and

(B) the notice of intent to terminate provided to the Pension Benefit Guaranty Corporation in connection with the termination was filed with the Corporation not less than 10 days before the proposed date of termination specified in the notice.

For purposes of section 4041 of such Act (as amended by this title), the proposed date of termination specified in the notice of intent to terminate referred to in subparagraph (B) shall be considered the proposed termination date.

(3) SPECIAL TERMINATION PROCEDURES.—

(A) IN GENERAL.—This paragraph shall apply with respect to any termination described in paragraph (1) if, within 90 days after the date of enactment of this Act, the plan administrator notifies the Corporation in writing—

(i) that the plan administrator wishes the termination to proceed as a standard termination under section 4041(b) of the Employee Retirement Income Security Act of 1974 (as amended by this title) in accordance with subparagraph (B),

(ii) that the plan administrator wishes the termination to proceed as a distress termination under section 4041(c) of such Act (as amended by this title) in accordance with subparagraph (C), or

Ante, p. 248.

(iii) that the plan administrator wishes to stop the termination proceedings in accordance with subparagraph (D).

(B) TERMINATIONS PROCEEDING AS STANDARD TERMINATION.—

(i) TERMINATIONS FOR WHICH SUFFICIENCY NOTICES HAVE NOT BEEN ISSUED.—

(I) IN GENERAL.—In the case of a plan termination described in paragraph (1) with respect to which the Corporation has been provided the notification described in subparagraph (A)(i) and with respect to which a notice of sufficiency has not been issued by the Corporation before the date of the enactment of this Act; if, during the 90-day period commencing on the date of the notice required in subclause (II), all benefit commitments under the plan have been satisfied, the termination shall be treated as a standard termination under section 4041(b) of such Act (as amended by this title).

(II) SPECIAL NOTICE REGARDING SUFFICIENCY FOR TERMINATIONS FOR WHICH NOTICES OF SUFFICIENCY HAVE NOT BEEN ISSUED AS OF DATE OF ENACTMENT.—In the case of a plan termination described in paragraph (1) with respect to which the Corporation has been provided the notification described in subparagraph (A)(i) and with respect to which a notice of sufficiency has not been issued by the Corporation before the date of the enactment of this Act, the Corporation shall make the determinations described in section 4041(c)(3)(A) (i) and (ii) (as amended by this title) and notify the plan administrator of such determinations as provided in section 4041(c)(3)(A)(iii) (as amended by this title).

(ii) TERMINATIONS FOR WHICH NOTICES OF SUFFICIENCY HAVE BEEN ISSUED.—In the case of a plan termination described in paragraph (1) with respect to which the Corporation has been provided the notification described in subparagraph (A)(i) and with respect to which a notice of sufficiency has been issued by the Corporation before the date of the enactment of this Act, clause (i)(I) shall apply, except that the 90-day period referred to in clause (i)(I) shall begin on the date of the enactment of this Act.

(C) TERMINATIONS PROCEEDING AS DISTRESS TERMINATION.—In the case of a plan termination described in paragraph (1) with respect to which the Corporation has been provided the notification described in subparagraph (A)(ii), if the requirements of section 4041(c)(2)(B) of such Act (as amended by this title) are met, the termination shall be treated as a distress termination under section 4041(c) of such Act (as amended by this title).

Ante, p. 248.

(D) TERMINATION OF PROCEEDINGS BY PLAN ADMINISTRATOR.—

(i) IN GENERAL.—Except as provided in clause (ii), in the case of a plan termination described in paragraph (1) with respect to which the Corporation has been provided the notification described in subparagraph (A)(iii), the termination shall not take effect.

(ii) TERMINATIONS WITH RESPECT TO WHICH FINAL DISTRIBUTION OF ASSETS HAS COMMENCED.—Clause (i) shall not apply with respect to a termination with respect to which the final distribution of assets has commenced before the date of the enactment of this Act unless, within 90 days after the date of the enactment of this Act, the plan has been restored in accordance with procedures issued by the Corporation pursuant to subsection (c).

(E) AUTHORITY OF CORPORATION TO EXTEND 90-DAY PERIODS TO PERMIT STANDARD TERMINATION.—The Corporation may, on a case-by-case basis in accordance with subsection (c), provide for extensions of the applicable 90-day period referred to in clause (i) or (ii) of subparagraph (B) if it is demonstrated to the satisfaction of the Corporation that—

(i) the plan could not otherwise, pursuant to the preceding provisions of this paragraph, terminate in a termination treated as a standard termination under section 4041(b) of the Employee Retirement Income Security Act of 1974 (as amended by this title), and

Ante, p. 244.

(ii) the extension would result in a greater likelihood that benefit commitments under the plan would be paid in full,

except that any such period may not be so extended beyond one year after the date of the enactment of this Act.

(c) AUTHORITY TO PRESCRIBE TEMPORARY PROCEDURES.—The Pension Benefit Guaranty Corporation may prescribe temporary procedures for purposes of carrying out the amendments made by this title during the 180-day period beginning on the date described in subsection (a).

TITLE XII—INCOME SECURITY AND RELATED PROGRAMS

Subtitle A—Old-Age, Survivors, and Disability Insurance Program

SEC. 12101. DEMONSTRATION PROJECTS INVOLVING THE DISABILITY INSURANCE PROGRAM.

42 USC 1310 note.

(a) EXTENSION OF WAIVER AUTHORITY.—Section 505(a)(3) of the Social Security Disability Amendments of 1980 is amended by inserting "which is initiated before June 10, 1990" after "demonstration project under paragraph (1)".

42 USC 1310 note.

(b) INTERIM REPORTS.—Section 505(a)(4) of such Amendments is amended to read as follows:

"(4) On or before June 9 in each of the years 1986, 1987, 1988, and 1989, the Secretary shall submit to the Congress an interim report

on the progress of the experiments and demonstration projects carried out under this subsection together with any related data and materials which the Secretary may consider appropriate.".

(c) FINAL REPORT.—Section 505(c) of such Amendments is amended by striking out "under this section no later than five years after the date of the enactment of this Act" and inserting in lieu thereof "under subsection (a) no later than June 9, 1990". 42 USC 1310 note.

(d) INCORPORATION OF CERTAIN REPORTS INTO SECRETARY'S ANNUAL REPORT TO CONGRESS.—Section 1110(b) of the Social Security Act is amended by adding at the end thereof the following new paragraph: 42 USC 1310.

"(3) All reports of the Secretary with respect to projects carried out under this subsection shall be incorporated into the Secretary's annual report to the Congress required by section 704.". 42 USC 904.

SEC. 12102. DISABILITY ADVISORY COUNCIL. 42 USC 907

(a) APPOINTMENT OF COUNCIL.—Within ninety days after the date of the enactment of this Act, the Secretary of Health and Human Services shall appoint a special Disability Advisory Council.

(b) MEMBERSHIP OF COUNCIL.—The Disability Advisory Council shall consist of a Chairman and not more than twelve other persons, appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The appointed members shall, to the extent possible, represent organizations of employers and employees in equal numbers, medical and vocational experts from the public or private sector (or from both such sectors), organizations representing disabled people, and the public. The Council shall meet as often as may be necessary for the performance of its duties under this section, but not less often than quarterly.

(c) DUTIES OF COUNCIL.—(1) The Advisory Council shall conduct studies and make recommendations with respect to the medical and vocational aspects of disability under both title II and title XVI of the Social Security Act, including studies and recommendations relating to— 42 USC 401, 1381.

(A) the effectiveness of vocational rehabilitation programs for recipients of disability insurance benefits or supplemental security income benefits;

(B) the question of using specialists for completing medical and vocational evaluations at the State agency level in the disability determination process, including the question of requiring, in cases involving impairments other than mental impairments, that the medical portion of each case review (as well as any applicable assessment of residual functional capacity) be completed by an appropriate medical specialist employed by the appropriate State agency before any determination can be made with respect to the impairment involved;

(C) alternative approaches to work evaluation in the case of applicants for benefits based on disability and recipients of such benefits undergoing reviews of their cases, including immediate referral of any such applicant or recipient to a vocational rehabilitation agency for services at the same time he or she is referred to the appropriate State agency for a disability determination;

(D) the feasibility and appropriateness of providing work evaluation stipends for applicants for and recipients of benefits based on disability in cases where extended work evaluation is

needed prior to the final determination of their eligibility for such benefits or for further rehabilitation and related services;

(E) the standards, policies, and procedures which are applied or used by the Secretary of Health and Human Services with respect to work evaluations in order to determine whether such standards, policies, and procedures will provide appropriate screening criteria for work evaluation referrals in the case of applicants for and recipients of benefits based on disability; and

(F) possible criteria for assessing the probability that an applicant for or recipient of benefits based on disability will benefit from rehabilitation services, taking into consideration not only whether the individual involved will be able after rehabilitation to engage in substantial gainful activity but also whether rehabilitation services can reasonably be expected to improve the individual's functioning so that he or she will be able to live independently or work in a sheltered environment.

(2) For purposes of this subsection, "work evaluation" includes (with respect to any individual) a determination of—

(A) such individual's skills,

(B) the work activities or types of work activity for which such individual's skills are insufficient or inadequate,

(C) the work activities or types of work activity for which such individual might potentially be trained or rehabilitated,

(D) the length of time for which such individual is capable of sustaining work (including, in the case of the mentally impaired, the ability to cope with the stress of competitive work), and

(E) any modifications which may be necessary, in work activities for which such individual might be trained or rehabilitated, in order to enable him or her to perform such activities.

(d) PROVISION OF ASSISTANCE TO COUNCIL; COMPENSATION OF MEMBERS.—(1) The Disability Advisory Council is authorized to engage such technical assistance, including actuarial services, as may be required to carry out its functions, and the Secretary of Health and Human Services shall, in addition, make available to the Council such secretarial, clerical, and other assistance and such actuarial and other pertinent data prepared by the Department of Health and Human Services as the Council may require to carry out such functions.

(2) Appointed members of the Council, while serving on business of the Council (inclusive of traveltime), shall receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, and, while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.

(e) REPORTS.—The Disability Advisory Council shall submit a report (including any interim reports the Council may have issued) of its findings and recommendations to the Secretary of Health and Human Services not later than December 31, 1986; and such report and recommendations shall thereupon be transmitted to the Congress and to the Board of Trustees of the Federal Disability Insurance Trust Fund.

(f) TERMINATION.—After the date of the transmittal to the Congress of the report required by subsection (e), the Disability Advisory Council shall cease to exist.

(g) CONFORMING AMENDMENTS.—(1) Section 706 of the Social Security Act is amended— 42 USC 907.

(A) by inserting "except as provided in subsection (e)," immediately before "the Secretary shall appoint" in subsection (a); and

(B) by adding at the end thereof the following new subsection:

"(e) No Advisory Council on Social Security shall be appointed under subsection (a) in 1985 (or in any subsequent year prior to 1989).".

(2) Section 12 of the Social Security Disability Benefits Reform Act of 1984 is repealed. Repeal. 42 USC 907 note.

SEC. 12103. TAXATION OF SOCIAL SECURITY BENEFITS RECEIVED BY CERTAIN CITIZENS OF POSSESSIONS OF THE UNITED STATES.

(a) GENERAL RULE.—Section 932 of the Internal Revenue Code of 1954 (relating to citizens of possessions of the United States) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection: 26 USC 932.

"(c) TAXATION OF SOCIAL SECURITY BENEFITS.—If, for purposes of an income tax imposed in the possession, any social security benefit (as defined in section 86(d)) received by an individual described in subsection (a) is treated in a manner equivalent to that provided by section 86, then— 26 USC 86.

"(1) such benefit shall be exempt from the tax imposed by section 871, and *Infra.*

"(2) no amount shall be deducted and withheld from such benefit under section 1441. 26 USC 1441.

Any income tax imposed in a possession which treats social security benefits (as defined in section 86(d)) in a manner equivalent to section 86, and which first becomes effective within 15 months after the date of the enactment of this subsection, shall, for purposes of this section, be deemed to have been in effect as of January 1, 1984.".

(b) CROSS REFERENCE.—Paragraph (3) of section 871(a) of such Code is amended by adding at the end thereof (after and below subparagraph (B)) the following new sentence:

"For treatment of certain citizens of possessions of the United States, see section 932(c)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits received after December 31, 1983, in taxable years ending after such date. 26 USC 932 note.

SEC. 12104. APPLICATION OF DEPENDENCY TEST TO ADOPTED GREAT-GRANDCHILDREN FOR PURPOSES OF CHILD'S INSURANCE BENEFITS.

(a) TREATMENT OF GRANDCHILDREN AND GREAT-GRANDCHILDREN ALIKE.—Section 202(d)(8)(D)(ii)(III) of the Social Security Act is amended by inserting "or great-grandchild" after "grandchild" 42 USC 402.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to benefits for which application is filed after the date of the enactment of this Act. 42 USC 402 note.

SEC. 12105. ELIMINATION OF REQUIREMENT FOR PUBLICATION OF REVISIONS IN PRE-1979 BENEFIT TABLE.

42 USC 415.

Section 215(i)(4) of the Social Security Act is amended by striking out "the Secretary shall publish" and all that follows in the last sentence and inserting in lieu thereof the following: "the Secretary shall revise the table of benefits contained in subsection (a), as in effect in December 1978, in accordance with the requirements of paragraph (2)(D) of this subsection as then in effect, except that the requirement in such paragraph (2)(D) that the Secretary publish such revision of the table of benefits in the Federal Register shall not apply.".

SEC. 12106. FORMULA CLARIFICATION.

42 USC 910.

Section 709(b)(1) of the Social Security Act is amended to read as follows:

"(1) the balance in such Trust Fund as of the beginning of such year, including the taxes transferred under section 201(a) on the first day of such year and reduced by the outstanding amount of any loan (including interest thereon) theretofore made to such Trust Fund under section 201(l) or 1817(j), to".

42 USC 401.

42 USC 1395i.

SEC. 12107. EXTENSION OF 15-MONTH REENTITLEMENT PERIOD TO CHILDHOOD DISABILITY BENEFICIARIES SUBSEQUENTLY ENTITLED.

42 USC 402.

(a) IN GENERAL.—Section 202(d)(6)(E) of the Social Security Act is amended by striking out "the third month following the month in which he ceases to be under such disability" and inserting in lieu thereof "the termination month (as defined in paragraph (1)(G)(i)), subject to section 223(e),".

42 USC 423.

(b) CONFORMING AMENDMENT.—Section 223(e) of such Act is amended by inserting "(d)(6)(A)(ii), (d)(6)(B)," after "(d)(1)(B)(ii),".

42 USC 402 note.

(c) EFFECTIVE DATE.—The amendments made by this section are effective December 1, 1980, and shall apply with respect to any individual who is under a disability (as defined in section 223(d) of the Social Security Act) on or after that date.

SEC. 12108. CHARGING OF WORK DEDUCTIONS AGAINST AUXILIARY BENEFITS IN DISABILITY CASES.

42 USC 403.

(a) IN GENERAL.—(1) Section 203(a)(4) of the Social Security Act is amended by striking out "preceding" in the first sentence.

(2) Section 203(a)(6) of such Act is amended—

(A) by striking out "and (5)" and inserting in lieu thereof "(4), and (5)"; and

(B) by striking out ", whether or not" and all that follows down through "further reduced" and inserting in lieu thereof "shall be reduced".

42 USC 403 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to benefits payable for months after December 1985.

SEC. 12109. PERFECTING AMENDMENTS TO DISABILITY OFFSET PROVISION.

42 USC 424a.

(a) IN GENERAL.—(1) Section 224(a)(2) of the Social Security Act is amended to read as follows:

"(2) such individual is entitled for such month to—

"(A) periodic benefits on account of his or her total or partial disability (whether or not permanent) under a work-

men's compensation law or plan of the United States or a State, or

"(B) periodic benefits on account of his or her total or partial disability (whether or not permanent) under any other law or plan of the United States, a State, a political subdivision (as that term is used in section 218(b)(2)), or an instrumentality of two or more States (as that term is used in section 218(k)), other than (i) benefits payable under title 38, United States Code, (ii) benefits payable under a program of assistance which is based on need, (iii) benefits based on service all or substantially all of which was included under an agreement entered into by a State and the Secretary under section 218, and (iv) benefits under a law or plan of the United States based on service all or part of which is employment as defined in section 210,". 42 USC 418. 42 USC 410.

(2) Section 224(a)(2)(B) of such Act (as amended by paragraph (1) of this subsection) is further amended by striking out "all or part of which" in clause (iv) and inserting in lieu thereof "all or substantially all of which". 42 USC 424a.

(b) EFFECTIVE DATES.—(1) The amendment made by subsection (a)(1) shall be effective as though it had been included or reflected in the amendment made by section 2208(a)(3) of the Omnibus Budget Reconciliation Act of 1981. 42 USC 424a note. 42 USC 424a.

(2) The amendment made by subsection (a)(2) shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of individuals who become disabled (within the meaning of section 223(d) of the Social Security Act) after the month in which this Act is enacted. 42 USC 423.

SEC. 12110. STATE COVERAGE AGREEMENTS.

(a) MAXIMUM PERIOD OF RETROACTIVE COVERAGE.—Section 218(f)(1) of the Social Security Act is amended by striking out "is agreed to by the Secretary and the State" and inserting in lieu thereof "is mailed or delivered by other means to the Secretary". 42 USC 418.

(b) POSITIONS COMPENSATED SOLELY ON FEE BASIS.—Section 218(u)(3) of such Act is amended by striking out "is agreed to by the Secretary and the State" and inserting in lieu thereof "is mailed or delivered by other means to the Secretary".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to agreements and modifications of agreements which are mailed or delivered to the Secretary of Health and Human Services (under section 218 of the Social Security Act) on or after the date of the enactment of this Act. 42 USC 418 note.

SEC. 12111. EFFECT OF EARLY DELIVERY OF BENEFIT CHECKS.

(a) FOR OASDI PURPOSES.—Section 708 of the Social Security Act is amended by adding at the end thereof the following new subsection: 42 USC 909.

"(c) For purposes of computing the 'OASDI trust fund ratio' under section 201(l), the 'OASDI fund ratio' under section 215(i), and the 'balance ratio' under section 709(b), benefit checks delivered before the end of the month for which they are issued by reason of subsection (a) of this section shall be deemed to have been delivered on the regularly designated delivery date.". 42 USC 401. 42 USC 415. 42 USC 910.

(b) FOR INCOME TAX PURPOSES.—Section 86(d) of the Internal Revenue Code of 1954 (relating to taxation of social security and tier 26 USC 86.

1 railroad retirement benefits) is amended by adding at the end thereof the following new paragraph:

"(5) EFFECT OF EARLY DELIVERY OF BENEFIT CHECKS.—For purposes of subsection (a), in any case where section 708 of the Social Security Act causes social security benefit checks to be delivered before the end of the calendar month for which they are issued, the benefits involved shall be deemed to have been received in the succeeding calendar month.".

42 USC 909.

42 USC 909 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefit checks issued for months ending after the date of the enactment of this Act.

SEC. 12112. EXEMPTION FROM SOCIAL SECURITY COVERAGE FOR RETIRED FEDERAL JUDGES ON ACTIVE DUTY.

42 USC 409.

(a) AMENDMENT TO SOCIAL SECURITY ACT.—Section 209 of the Social Security Act is amended in the third to the last paragraph thereof (added by section 101(c)(1) of the Social Security Amendments of 1983) by striking out "shall, subject to the provisions of subsection (a) of this section, include" and inserting in lieu thereof "shall not include".

26 USC 3121.

(b) AMENDMENT TO INTERNAL REVENUE CODE.—Section 3121(i)(5) of the Internal Revenue Code of 1954 is amended by striking out "shall, subject to the provisions of subsection (a)(1) of this section, include" and inserting in lieu thereof "shall not include".

42 USC 409 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to service performed after December 31, 1983.

SEC. 12113. RECOVERY OF OVERPAYMENTS.

42 USC 404.

(a) OASDI PAYMENTS.—Section 204(a) of the Social Security Act is amended—

(1) by inserting "(1)" after "204(a)";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(3) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of this section, when any payment of more than the correct amount is made to or on behalf of an individual who has died, and such payment—

"(A) is made by direct deposit to a financial institution;

"(B) is credited by the financial institution to a joint account of the deceased individual and another person; and

"(C) such other person was entitled to a monthly benefit on the basis of the same wages and self-employment income as the deceased individual for the month preceding the month in which the deceased individual died,

the amount of such payment in excess of the correct amount shall be treated as a payment of more than the correct amount to such other person.".

42 USC 1383.

(b) SSI PAYMENTS.—Section 1631(b) of the Social Security Act is amended by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), and by inserting after paragraph (1) the following new paragraph:

"(2) Notwithstanding any other provision of this section, when any payment of more than the correct amount is made to or on behalf of an individual who has died, and such payment—

"(A) is made by direct deposit to a financial institution;

"(B) is credited by the financial institution to a joint account of the deceased individual and another person; and

"(C) such other person is the surviving spouse of the deceased individual, and was eligible for a payment under this title (including any State supplementation payment paid by the Secretary) as an eligible spouse (or as either member of an eligible couple) for the month in which the deceased individual died,

the amount of such payment in excess of the correct amount shall be treated as a payment of more than the correct amount to such other person.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply only in the case of deaths of which the Secretary is first notified on or after the date of the enactment of this Act. 42 USC 404 note.

SEC. 12114. COVERAGE OF CONNECTICUT STATE POLICE.

Notwithstanding any provision of section 218 of the Social Security Act, the Secretary of Health and Human Services shall, upon the request of the Governor of Connecticut, modify the agreement under such section between the Secretary and the State of Connecticut to provide that service performed after the date of the enactment of this Act by members of the Division of the State Police within the Connecticut Department of Public Safety, who are hired on or after May 8, 1984, and who are members of the tier II plan of the Connecticut State Employees Retirement System, shall be covered under such agreement. 42 USC 418 note.

SEC. 12115. GENERAL EFFECTIVE DATE OF SUBTITLE.

Except as otherwise specifically provided, the preceding provisions of this subtitle, including the amendments made thereby, shall take effect on the first day of the month following the month in which this Act is enacted. 42 USC 415 note.

Subtitle B—Supplemental Security Income Program

SEC. 12201. AMENDMENTS RELATING TO STATE SUPPLEMENTATION UNDER SSI.

(a) PASSTHROUGH RELATING TO OPTIONAL STATE SUPPLEMENTATION.—Section 1618 of the Social Security Act is amended by adding at the end thereof the following new subsection: 42 USC 1382g.

"(f) The Secretary shall not find that a State has failed to meet the requirements imposed by subsection (a) with respect to the levels of its supplementary payments for the period January 1, 1984, through December 31, 1985, if in the period January 1, 1986, through December 31, 1986, its supplementary payment levels (other than to recipients of benefits determined under section 1611(e)(1)(B)) are not less than those in effect in December 1976, increased by a percentage equal to the percentage by which payments under section 1611(b) of this Act and section 211(a)(1)(A) of Public Law 93-66 have been increased as a result of all adjustments under section 1617 (a) and (c) which have occurred after December 1976 and before February 1986.". 42 USC 1382. 42 USC 1382 note. 42 USC 1382f.

42 USC 1382e.

(b) FEDERAL ADMINISTRATION OF STATE SUPPLEMENTATION.—Section 1616(b) of such Act is amended by adding at the end thereof (after and below paragraph (2)) the following new sentence:

"At the option of the State (but subject to paragraph (2) of this subsection), the agreement between the Secretary and such State entered into under subsection (a) shall be modified to provide that the Secretary will make supplementary payments, on and after an effective date to be specified in the agreement as so modified, to individuals receiving benefits determined under section 1611(e)(1)(B).".

42 USC 1382.

SEC. 12202. PRESERVATION OF BENEFIT STATUS FOR DISABLED WIDOWS AND WIDOWERS WHO LOST SSI BENEFITS BECAUSE OF 1983 CHANGES IN ACTUARIAL REDUCTION FORMULA.

42 USC 1383c.

(a) IN GENERAL.—Section 1634 of the Social Security Act is amended—

(1) by inserting "(a)" after "SEC. 1634.", and

(2) by adding at the end the following new subsection:

Insurance.

"(b)(1) An eligible disabled widow or widower (described in paragraph (2)) who is entitled to a widow's or widower's insurance benefit based on a disability for any month under section 202 (e) or (f) but is not eligible for benefits under this title in that month, and who applies for the protection of this subsection under paragraph (3), shall be deemed for purposes of title XIX to be an individual with respect to whom benefits under this title are paid in that month if he or she—

42 USC 402.

42 USC 1396.

"(A) has been continuously entitled to such widow's or widower's insurance benefits from the first month for which the increase described in paragraph (2)(C) was reflected in such benefits through the month involved, and

"(B) would be eligible for benefits under this title in the month involved if the amount of the increase described in paragraph (2)(C) in his or her widow's or widower's insurance benefits, and any subsequent cost-of-living adjustments in such benefits under section 215(i), were disregarded.

42 USC 415.

"(2) For purposes of paragraph (1), the term 'eligible disabled widow or widower' means an individual who—

42 USC 401.

"(A) was entitled to a monthly insurance benefit under title II for December 1983,

"(B) was entitled to a widow's or widower's insurance benefit based on a disability under section 202 (e) or (f) for January 1984 and with respect to whom a benefit under this title was paid in that month, and

"(C) because of the increase in the amount of his or her widow's or widower's insurance benefits which resulted from the amendments made by section 134 of the Social Security Amendments of 1983 (Public Law 98-21) (eliminating the additional reduction factor for disabled widows and widowers under age 60), was ineligible for benefits under this title in the first month in which such increase was paid to him or her (and in which a retroactive payment of such increase for prior months was not made).

42 USC 402 and note.

"(3) This subsection shall only apply to an individual who files a written application for protection under this subsection, in such manner and form as the Secretary may prescribe, during the 15-month period beginning with the month in which this subsection is enacted.

"(4) For purposes of this subsection, the term 'benefits under this title' includes payments of the type described in section 1616(a) or of the type described in section 212(a) of Public Law 93-66.". 42 USC 1382e. 42 USC 1382 note.

(b) IDENTIFICATION OF BENEFICIARIES.—(1) As soon as possible after the date of the enactment of this Act, the Secretary of Health and Human Services shall provide each State with the names of all individuals receiving widow's or widower's insurance benefits under subsection (e) or (f) of section 202 of the Social Security Act based on a disability who might qualify for medical assistance under the plan of that State approved under title XIX of such Act by reason of the application of section 1634(b) of the Social Security Act. 42 USC 1383c note. 42 USC 402. 42 USC 1396. 42 USC 1383c.

(2) Each State shall—

(A) using the information so provided and any other information it may have, promptly notify all individuals who may qualify for medical assistance under its plan by reason of such section 1634(b) of their right to make application for such assistance,

(B) solicit their applications for such assistance, and

(C) make the necessary determination of such individuals' eligibility for such assistance under such section and under such title XIX.

(c) EFFECTIVE DATE.—The amendment made by subsection (a)(2) shall not have the effect of deeming an individual eligible for medical assistance for any month which begins less than two months after the date of the enactment of this Act. 42 USC 1383c note.

Subtitle C—AFDC, Adoption Assistance, and Foster Care Programs

SEC. 12301. AFDC QUALITY CONTROL STUDIES AND PENALTY MORATORIUM

(a) STUDIES.—(1) The Secretary of Health and Human Services (hereafter referred to in this section as the "Secretary") shall conduct a study of quality control systems for the Aid to Families with Dependent Children Program under title IV-A of the Social Security Act and for the Medicaid Program under title XIX of such Act. The study shall examine how best to operate such systems in order to obtain information which will allow program managers to improve the quality of administration, and provide reasonable data on the basis of which Federal funding may be withheld for States with excessive levels of erroneous payments. 42 USC 603 note. 42 USC 601. 42 USC 1396.

(2) The Secretary shall also contract with the National Academy of Sciences to conduct a concurrent independent study for the purpose described in paragraph (1). For purposes of such study, the Secretary shall provide to the National Academy of Sciences any relevant data available to the Secretary at the onset of the study and on an ongoing basis. Contract.

(3) The Secretary and the National Academy of Sciences shall report the results of their respective studies to the Congress within one year after the date of the enactment of this Act. Report.

(b) MORATORIUM ON PENALTIES.—(1) During the 24-month period beginning with the first calendar quarter which begins after the date of the enactment of this Act (hereafter in this section referred to as the "moratorium period"), the Secretary shall not impose any reductions in payments to States pursuant to section 403(i) of the

42 USC 603.
42 USC 601.
Puerto Rico.
Guam.
Virgin Islands.
American Samoa.
Northern Mariana Islands.
Regulations.
42 USC 1396.

Social Security Act (or prior regulations), or pursuant to any comparable provision of law relating to the programs under title IV-A of such Act in Puerto Rico, Guam, the Virgin Islands, American Samoa, or the Northern Mariana Islands.

(2) During the moratorium period, the Secretary and the States shall continue to operate the quality control systems in effect under title IV-A of the Social Security Act, and to calculate the error rates under the provisions referred to in paragraph (1).

(c) RESTRUCTURED QUALITY CONTROL SYSTEMS.—(1) Not later than 18 months after the date of the enactment of this Act, the Secretary shall publish regulations which shall—

(A) restructure the quality control systems under titles IV-A and XIX of the Social Security Act to the extent the Secretary determines to be appropriate, taking into account the studies conducted under subsection (a); and

(B) establish, taking into account the studies conducted under subsection (a), criteria for adjusting the reductions which shall be made for quarters prior to the implementation of the restructured quality control systems so as to eliminate reductions for those quarters which would not be required if the restructured quality control systems had been in effect during those quarters.

State and local governments.

(2) Beginning with the first calendar quarter after the moratorium period, the Secretary shall implement the revised quality control systems, and shall reduce payments to States—

(A) for quarters after the moratorium period in accordance with the restructured quality control systems; and

(B) for quarters in and before the moratorium period, as provided under the regulations described in paragraph (1)(B).

(d) EFFECTIVE DATE.—This section shall become effective on the date of the enactment of this Act.

SEC. 12303. AFDC AUTOMATION REQUIREMENTS.

42 USC 602.

(a) IN GENERAL.—Section 402(e)(2) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

State and local governments.

"(C) If the Secretary determines that such a system has not been implemented by the State by the date specified for implementation in the State's advance automatic data processing planning document, then the Secretary shall reduce payments to such State, in accordance with section 403(b), in an amount equal to 40 percent of the expenditures referred to in section 403(a)(3)(B) with respect to which payments were made to the State under section 403(a)(3)(B). The Secretary may extend the deadline for implementation if the State demonstrates to the satisfaction of the Secretary that the State cannot implement such system by the date specified in such planning document due to circumstances beyond the State's control.".

42 USC 603.

State and local governments.
42 USC 602 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date of the enactment of this Act, but shall apply only with respect to sums expended by the States for the purposes described in section 403(a)(3)(B) of the Social Security Act on or after the date of the enactment of this Act.

SEC. 12304. THIRD-PARTY LIABILITY.

42 USC 602.

(a) IN GENERAL.—Section 402(a)(26) of the Social Security Act is amended—

(1) by striking out the comma at the end of subparagraph (A) and inserting in lieu thereof a semicolon;

(2) by adding "and" after the semicolon at the end of subparagraph (B); and

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) to cooperate with the State in identifying, and providing information to assist the State in pursuing, any third party who may be liable to pay for care and services available under the State's plan for medical assistance under title XIX, unless such individual has good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the individuals involved; but the State shall not be subject to any financial penalty in the administration or enforcement of this subparagraph as a result of any monitoring, quality control, or auditing requirements;". State and local governments. 42 USC 1396.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to calendar quarters beginning on or after the date of the enactment of this Act. 42 USC 602 note.

SEC. 12305. PROVISIONS RELATING TO MEDICAID COVERAGE UNDER THE ADOPTION ASSISTANCE AND FOSTER CARE PROGRAMS.

(a) IN GENERAL.—Section 473(b) of the Social Security Act is amended to read as follows: 42 USC 673.

"(b) For purposes of titles XIX and XX, any child— 42 USC 1396, 1397.

"(1)(A) who is a child described in subsection (a)(1), and

"(B) with respect to whom an adoption assistance agreement is in effect under this section (whether or not adoption assistance payments are provided under the agreement or are being made under this section), including any such child who has been placed for adoption in accordance with applicable State and local law (whether or not an interlocutory or other judicial decree of adoption has been issued), or

"(2) with respect to whom foster care maintenance payments are being made under section 472, 42 USC 672.

shall be deemed to be a dependent child as defined in section 406 and shall be deemed to be a recipient of aid to families with dependent children under part A of this title in the State where such child resides.". 42 USC 606.

(b) CONFORMING AMENDMENTS.—(1) Section 473(c)(2) of such Act is amended—

(A) by striking out "without providing adoption assistance" in clause (A) and inserting in lieu thereof "without providing adoption assistance under this section or medical assistance under title XIX"; and

(B) by inserting "or medical assistance under title XIX" before the period at the end thereof.

(2) Section 475(3) of such Act is amended by striking out "the adoption assistance payments and any additional services and assistance" in clause (A) of the first sentence and inserting in lieu thereof "any adoption assistance payments and any other services and assistance". 42 USC 675.

(3) Section 1902(a)(10)(A)(i)(I) of such Act is amended by striking out "or 406(h)" and inserting in lieu thereof ", 406(h), or 473(b)". 42 USC 1396a.

42 USC 673 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance furnished in or after the first calendar quarter beginning more than 90 days after the date of the enactment of this Act.

SEC. 12306. EXTENSION OF VOLUNTARY PLACEMENT, AND CEILING AND TRIGGER PROVISIONS, RELATING TO FOSTER CARE.

42 USC 674.

(a) Section 474(b) of the Social Security Act is amended—

(1) in paragraphs (1), (2)(B), and (4)(B), by striking out "1985" and inserting in lieu thereof "1987";

(2) in paragraph (2)(A)—

(A) by inserting "and" at the end of clause (ii), and

(B) by striking out clauses (iii), (iv), and (v) and inserting in lieu thereof the following:

"(iii) with respect to each of the fiscal years 1983 through 1987, only if the amount appropriated under section 420 for such fiscal year is equal to $266,000,000."; and

42 USC 620.

(3) in paragraph (5)(A)—

(A) by striking out "October 1, 1985" and inserting in lieu thereof "October 1, 1987", and

(B) in clause (ii), by striking out "1984 and 1985" and inserting in lieu thereof "1984 through 1987".

(b) Paragraphs (1) and (2) of section 474(c) of such Act are each amended by striking out "1985" and inserting in lieu thereof "1987".

42 USC 672 note.

(c)(1) Section 102(a)(1) of the Adoption Assistance and Child Welfare Act of 1980 (Public Law 96-272) is amended by striking out "1985" and inserting in lieu thereof "1987".

42 USC 672 note.

(2) Section 102(c) of such Act is amended by striking out "1985" each place it appears and inserting in lieu thereof "1987".

SEC. 12307. INDEPENDENT LIVING INITIATIVES.

(a) INDEPENDENT LIVING INITIATIVES.—Part E of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"INDEPENDENT LIVING INITIATIVES

State and local governments. 42 USC 677.

"SEC. 477. (a) Payments shall be made in accordance with this section for the purpose of assisting States and localities in establishing and carrying out programs designed to assist children, with respect to whom foster care maintenance payments are being made by the State under this part and who have attained age 16, in making the transition from foster care to independent living. Any State which provides for the establishment and carrying out of one or more such programs in accordance with this section for a fiscal year shall be entitled to receive payments under this section for such fiscal year, in an amount determined under subsection (e). Such payments shall be made only for the fiscal years 1987 and 1988.

State and local governments. Contracts.

"(b) The State agency administering or supervising the administration of the State's programs under this part shall be responsible for administering or supervising the administration of the State's programs described in subsection (a). Payment under this section shall be made to the State, and shall be used for the purpose of conducting and providing in accordance with this section (directly or under contracts with local governmental entities or private non-

profit organizations) the activities and services required to carry out the program or programs involved.

"(c) In order for a State to receive payments under this section for any fiscal year, the State agency must submit to the Secretary, in such manner and form as the Secretary may prescribe, a description of the program together with satisfactory assurances that the program will be operated in an effective and efficient manner and will otherwise meet the requirements of this section. In the case of payments for fiscal year 1987, such description and assurances must be submitted within 90 days after the Secretary promulgates regulations as required under subsection (i), and in the case of payments for fiscal year 1988, such description and assurances must be submitted prior to January 1, 1988.

State and local governments.

"(d) In carrying out the purpose described in subsection (a), it shall be the objective of each program established under this section to help the individuals participating in such program to prepare to live independently upon leaving foster care. Such programs may include (subject to the availability of funds) programs to—

"(1) enable participants to seek a high school diploma or its equivalent or to take part in appropriate vocational training;

Education.

"(2) provide training in daily living skills, budgeting, locating and maintaining housing, and career planning;

"(3) provide for individual and group counseling;

"(4) integrate and coordinate services otherwise available to participants;

"(5) provide for the establishment of outreach programs designed to attract individuals who are eligible to participate in the program;

"(6) provide each participant a written transitional independent living plan which shall be based on an assessment of his needs, and which shall be incorporated into his case plan, as described in section 475(1); and

42 USC 675.

"(7) provide participants with other services and assistance designed to improve their transition to independent living.

"(e)(1) The amount to which a State shall be entitled under section 474(a)(4) for each of the fiscal years 1987 and 1988 shall be an amount which bears the same ratio to $45,000,000 as such State's average number of children receiving foster care maintenance payments under this part in fiscal year 1984 bears to the total of the average number of children receiving such payments under this part for all States for fiscal year 1984.

State and local governments.
42 USC 674.

"(2) If any State does not apply for funds under this section for any fiscal year within the time provided in subsection (c), the funds to which such State would have been entitled for such fiscal year shall be reallocated to one or more other States on the basis of their relative need for additional payments under this section (as determined by the Secretary).

"(3) Any amounts payable to States under this section shall be in addition to amounts payable to States under subsections (a)(1), (a)(2), and (a)(3) of section 474, and shall supplement and not replace any other funds which may be available for the same general purposes in the localities involved.

"(f) Payments made to a State under this section for any fiscal year—

"(1) shall be used only for the specific purposes described in this section;

"(2) may be made on an estimated basis in advance of the determination of the exact amount, with appropriate subsequent adjustments to take account of any error in the estimates; and

"(3) shall be expended by such State in such fiscal year or in the succeeding fiscal year.

Report.

"(g)(1) Not later than March 1, 1988, each State shall submit to the Secretary a report on the programs carried out with the amounts received under this section. Such report—

"(A) shall be in such form and contain such information as may be necessary to provide an accurate description of such activities, to provide a complete record of the purposes for which the funds were spent, and to indicate the extent to which the expenditure of such funds succeeded in accomplishing the purpose described in subsection (a); and

"(B) shall specifically contain such information as the Secretary may require in order to carry out the evaluation under paragraph (2).

"(2) Not later than July 1, 1988, the Secretary, on the basis of the reports submitted by States under paragraph (1) for the fiscal year 1987, and on the basis of such additional information as the Secretary may obtain or develop, shall evaluate the use by States of the payments made available under this section for such fiscal year with respect to the purpose of this section, with the objective of appraising the achievements of the programs for which such payments were made available, and developing comprehensive information and data on the basis of which decisions can be made with respect to the improvement of such programs and the necessity for providing further payments in subsequent years. The Secretary shall report such evaluation to the Congress. As a part of such evaluation, the Secretary shall include, at a minimum, a detailed overall description of the number and characteristics of the individuals served by the programs, the various kinds of activities conducted and services provided and the results achieved, and shall set forth in detail findings and comments with respect to the various State programs and a statement of plans and recommendations for the future.

"(h) Notwithstanding any other provision of this title, payments made and services provided to participants in a program under this section, as a direct consequence of their participation in such program, shall not be considered as income or resources for purposes of determining eligibility (or the eligibility of any other persons) for aid under the State's plan approved under section 402 or 471, or for purposes of determining the level of such aid.

42 USC 602, 671.

Regulations.

"(i) The Secretary shall promulgate final regulations for implementing this section within 60 days after the date of the enactment of this section.".

42 USC 675.

(b) CASE PLANS.—Section 475(1) of such Act is amended by adding at the end thereof the following: "Where appropriate, for a child age 16 or over, the case plan must also include a written description of the programs and services which will help such child prepare for the transition from foster care to independent living.".

42 USC 674.

(c) PAYMENTS TO STATES.—Section 474(a) of such Act is amended—

(1) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; plus"; and

(2) by adding at the end thereof the following new paragraph:

"(4) an amount for transitional independent living programs as provided in section 477.".

Ante, p. 294.

(d) CONFORMING AMENDMENT.—Section 470 of such Act is amended by striking out "foster care and adoption assistance" and inserting in lieu thereof "foster care, adoption assistance, and transitional independent living programs". 42 USC 670.

Subtitle D—Provisions Relating to Unemployment Compensation

SEC. 12401. RECOVERY OF UNEMPLOYMENT BENEFIT OVERPAYMENTS.

(a) IN GENERAL.—(1) Section 303(a)(5) of the Social Security Act is amended by inserting before "; and" at the end thereof the following: ": *Provided further,* That amounts may be deducted from unemployment benefits and used to repay overpayments as provided in subsection (g)". 42 USC 503.

(2) Section 303 of such Act is amended by adding at the end thereof the following new subsection:

"(g)(1) A State may deduct from unemployment benefits otherwise payable to an individual an amount equal to any overpayment made to such individual under an unemployment benefit program of the United States or of any other State, and not previously recovered. The amount so deducted shall be paid to the jurisdiction under whose program such overpayment was made. Any such deduction shall be made only in accordance with the same procedures relating to notice and opportunity for a hearing as apply to the recovery of overpayments of regular unemployment compensation paid by such State. State and local governments.

"(2) Any State may enter into an agreement with the Secretary of Labor under which—

"(A) the State agrees to recover from unemployment benefits otherwise payable to an individual by such State any overpayments made under an unemployment benefit program of the United States to such individual and not previously recovered, in accordance with paragraph (1), and to pay such amounts recovered to the United States for credit to the appropriate account, and

"(B) the United States agrees to allow the State to recover from unemployment benefits otherwise payable to an individual under an unemployment benefit program of the United States any overpayments made by such State to such individual under a State unemployment benefit program and not previously recovered, in accordance with the same procedures as apply under paragraph (1).

"(3) For purposes of this subsection, 'unemployment benefits' means unemployment compensation, trade adjustment allowances, and other unemployment assistance.".

(b) CONFORMING AMENDMENTS.—(1) Section 3304(a)(4) of the Internal Revenue Code of 1954 is amended— 26 USC 3304.

(A) by striking out "and" at the end of subparagraph (B);

(B) by adding "and" at the end of subparagraph (C); and

(C) by adding at the end thereof the following new subparagraph:

"(D) amounts may be deducted from unemployment benefits and used to repay overpayments as provided in section 303(g) of the Social Security Act;".

(2) Section 3306(f) of such Code is amended— 26 USC 3306.

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and"; and

(C) by adding at the end thereof the following new paragraph:

"(3) amounts may be deducted from unemployment benefits and used to repay overpayments as provided in section 303(g) of the Social Security Act.".

42 USC 503.
42 USC 503 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to recoveries made on or after the date of the enactment of this Act and shall apply with respect to overpayments made before, on, or after such date.

SEC. 12402. SUPPLEMENTAL UNEMPLOYMENT COMPENSATION FOR CERTAIN INDIVIDUALS.

26 USC 3304 note.

(a) IN GENERAL.—If—

(1) an individual was receiving Federal supplemental compensation for the week which includes March 31, 1985, or a series of consecutive weeks which began with such week, and

(2) such individual did not meet the consecutive-week eligibility requirements of the Federal Supplemental Compensation Act of 1982 during any period of 1 or more subsequent weeks by reason of performing temporary disaster services described in subsection (e),

26 USC 3304 note.

weeks in such period shall be disregarded for purposes of the consecutive-week requirement of section 602(f)(2)(B) of such Act, and, notwithstanding the requirements of State law relating to the availability for work, the active search for work, or the refusal to accept work, such individual shall be entitled to payment of Federal supplemental compensation for each week of unemployment which is described in subsection (b) and for which a certification of unemployment is made by such individual in accordance with subsection (c).

26 USC 3304 note.

(b) WEEKS FOR WHICH PAYMENT SHALL BE MADE.—A week of unemployment for which payment shall be made under subsection (a) is a week which occurred during the period which commences with the first week beginning after the close of the period described in subsection (a)(2) and ends with the beginning of the first week in which the individual was employed after the close of such period.

State and local governments.

(c) CERTIFICATION.—The certification of unemployment referred to in subsection (a) shall be a certification—

(1) that is made on a form provided by the State agency concerned and signed by the individual; and

(2) that identifies the weeks of unemployment for which the individual is making the certification.

(d) LIMITATION ON AMOUNT OF PAYMENT.—In no case may the total amount paid to an individual under subsection (a) exceed the amount remaining in the account established for such individual under section 602(e) of the Federal Supplemental Compensation Act of 1982 after payments were made from such account for weeks of unemployment beginning before the period described in subsection (a)(2).

Armed Forces.

(e) DEFINITION.—For purposes of subsection (a), the term "temporary disaster services" means services performed as a member of the National Guard after being called up by the Governor of a State to perform services related to a major disaster that was declared on June 3, 1985, by the President of the United States under the Disaster Relief Act of 1974.

42 USC 5121 note.

(f) MODIFICATION OF AGREEMENT.—(1) The Secretary of Labor shall, at the earliest possible date after the date of the enactment of this Act, propose to any State concerned a modification of the agreement that the Secretary has with such State under section 602 of the Federal Supplemental Compensation Act of 1982 in order to carry out this section.

State and local governments.

26 USC 3304 note.

(2) Pending modification of the agreement, the State may make payment in accordance with the provisions of this section and shall be reimbursed in accordance with the provisions of section 604(a) of the Federal Supplemental Compensation Act of 1982. For purposes of carrying out this paragraph, the term "this subtitle" in such section 604(a) shall include this section.

26 USC 3304 note.

(g) EFFECTIVE DATE.—The provisions of this section shall apply to weeks beginning after March 31, 1985.

Subtitle E—Restoration of Civil Service Retirement and Disability Fund

SEC. 12501. APPROPRIATION TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND OF INTEREST LOST FROM NONINVESTMENT IN SEPTEMBER 1984.

On December 31, 1985, the Secretary of the Treasury shall pay to the Civil Service Retirement and Disability Fund, from amounts in the general fund of the Treasury not otherwise appropriated, an amount determined by the Secretary to be equal to the sum of—

(1) the excess of (A) the amount of interest which would have been earned by such fund, during the period beginning with September 28, 1984, and ending with December 31, 1984, on all monies transferred to such fund on September 28, 1984, if all such monies had been invested on September 28, 1984, over (B) the amount of interest actually earned by such fund on such monies during such period;

(2) interest that would have been earned on the amount described in paragraph (1) during the period beginning with January 1, 1985, and ending with June 30, 1985;

(3) the excess of (A) the amount of interest which would have been earned by such fund, during the period beginning on January 1, 1985, and ending on June 30, 1985, on all monies transferred to such fund on September 28, 1984, if all such monies had been invested on September 28, 1984, over (B) the amount of interest actually earned by such fund on such monies during such period; and

(4) the interest that would have been earned on the amounts described in paragraphs (1), (2), and (3) during the period beginning with July 1, 1985, and ending with December 31, 1985.

TITLE XIII—REVENUES, TRADE, AND RELATED PROGRAMS

Subtitle A—Trade and Customs Provisions

PART 1—TRADE ADJUSTMENT ASSISTANCE

Trade Adjustment Assistance Reform and Extension Act of 1986. 19 USC 2101 note.

SEC. 13001. SHORT TITLE.

This part may be cited as the "Trade Adjustment Assistance Reform and Extension Act of 1986".

SEC. 13002. ELIGIBILITY OF WORKERS AND FIRMS FOR TRADE ADJUSTMENT ASSISTANCE.

Agriculture and agricultural commodities.

(a) WORKERS.—Sections 221(a) and 222 of the Trade Act of 1974 (19 U.S.C. 2271(a); 2272) are each amended by inserting "(including workers in any agricultural firm or subdivision of an agricultural firm)" after "group of workers".

(b) FIRMS.—

(1) Subsections (a) and (c) of section 251 of the Trade Act of 1974 (19 U.S.C. 2341) are each amended by inserting "(including any agricultural firm)" after "a firm".

(2) Paragraph (2) of section 251(c) of the Trade Act of 1974 (19 U.S.C. 2341(c)(2)) is amended to read as follows:

"(2) that—

"(A) sales or production, or both, of the firm have decreased absolutely, or

"(B) sales or production, or both, of an article that accounted for not less than 25 percent of the total production or sales of the firm during the 12-month period preceding the most recent 12-month period for which data are available have decreased absolutely, and".

SEC. 13003. CASH ASSISTANCE FOR WORKERS.

(a) PARTICIPATION IN JOB SEARCH PROGRAM REQUIRED.—

(1) Subsection (a) of section 231 of the Trade Act of 1974 (19 U.S.C. 2291(a)) is amended by adding at the end thereof the following new paragraph:

"(5) Such worker, unless the Secretary has determined that no acceptable job search program is reasonably available—

"(A) is enrolled in a job search program approved by the Secretary under section 237(c), or

19 USC 2297.

"(B) has, after the date on which the worker became totally separated, or partially separated, from the adversely affected employment, completed a job search program approved by the Secretary under section 237(c).".

(2) Section 231 of the Trade Act of 1974 (19 U.S.C. 2291) is amended by adding at the end thereof the following new subsection:

"(c) If the Secretary determines that—

"(1) the adversely affected worker—

"(A) has failed to begin participation in the job search program the enrollment in which meets the requirement of subsection (a)(5), or

"(B) has ceased to participate in such job search program before completing such job search program, and

"(2) there is no justifiable cause for such failure or cessation, no trade readjustment allowance may be paid to the adversely affected worker under this part on or after the date of such determination until the adversely affected worker begins or resumes participation in a job search program approved under section 237(c).".

(3) Subsection (a) of section 239 of the Trade Act of 1974 (19 U.S.C. 2311(a)) is amended—

(A) by striking out "training," in clause (2) and inserting in lieu thereof "training and job search programs,"; and

(B) by striking out "and (3)" and inserting in lieu thereof "(3) will make determinations and approvals regarding job search programs under sections 231(c) and 237(c), and (4)".

19 USC 2291, 2297.

(b) QUALIFYING WEEKS OF EMPLOYMENT.—The last sentence of section 231(a)(2) of the Trade Act of 1974 (19 U.S.C. 2291(a)(2)) is amended by striking out all that follows after subparagraph (C) and inserting in lieu thereof "shall be treated as a week of employment at wages of $30 or more, but not more than 7 weeks, in case of weeks described in paragraph (A) or (C), or both, may be treated as weeks of employment under this sentence.".

(c) WEEKLY AMOUNTS OF READJUSTMENT ALLOWANCES.—Section 232 of the Trade Act of 1974 (19 U.S.C. 2292) is amended—

(1) by striking out "under any Federal law," in subsection (c) and inserting in lieu thereof "under any Federal law other than this Act",

(2) by striking out "under section 236(c)" in subsection (c) and inserting in lieu thereof "under section 231(c) or 236(c)", and

(3) by striking out "If the training allowance" in subsection (c) and inserting in lieu thereof "If such training allowance".

(d) LIMITATIONS.—

(1) Paragraph (2) of section 233(a) of the Trade Act of 1974 (19 U.S.C. 2293(a)(2)) is amended by striking out "52-week period" and inserting in lieu thereof "104-week period".

(2) Section 233 of the Trade Act of 1974 (19 U.S.C. 2293) is amended by adding at the end thereof the following new subsection:

"(e) No trade readjustment allowance shall be paid to a worker under this part for any week during which the worker is receiving on-the-job training.".

SEC. 13004. JOB TRAINING FOR WORKERS.

(a) IN GENERAL.—Section 236 of the Trade Act of 1974 (19 U.S.C. 2296) is amended—

(1) by striking out "for a worker" in subsection (a)(1)(A) and inserting in lieu thereof "for an adversely affected worker",

(2) by striking out "may approve" in the first sentence of subsection (a)(1) and inserting in lieu thereof "shall (to the extent appropriated funds are available) approve",

(3) by striking out "under paragraph (1)" in subsection (a)(2) and inserting in lieu thereof "under subsection (a)",

(4) by striking out "this subsection" in subsection (a)(3) and inserting in lieu thereof "this section",

(5) by redesignating paragraphs (2) and (3) of subsection (a) as subsections (e) and (f), respectively,

(6) by inserting at the end of subsection (a) the following new paragraphs:

Employment and unemployment.

"(2) For purposes of applying paragraph (1)(C), a reasonable expectation of employment does not require that employment opportunities for a worker be available, or offered, immediately upon the completion of training approved under this paragraph (1).

Prohibition.

"(3)(A) If the costs of training an adversely affected worker are paid by the Secretary under paragraph (1), no other payment for such costs may be made under any other provision of Federal law.

Prohibition.

"(B) No payment may be made under paragraph (1) of the costs of training an adversely affected worker if such costs—

"(i) have already been paid under any other provision of Federal law, or

"(ii) are reimbursable under any other provision of Federal law and a portion of such costs have already been paid under such other provision of Federal law.

Prohibition.

"(C) The provisions of this paragraph shall not apply to, or take into account, any funds provided under any other provision of Federal law which are used for any purpose other than the direct payment of the costs incurred in training a particular adversely affected worker, even if such use has the effect of indirectly paying or reducing any portion of the costs involved in training the adversely affected worker.

"(4) The training programs that may be approved under paragraph (1) include, but are not limited to—

"(A) on-the-job training,

"(B) any training program provided by a State pursuant to section 303 of the Job Training Partnership Act,

29 USC 1653.

"(C) any training program approved by a private industry council established under section 102 of such Act, and

29 USC 1512.

"(D) any other training program approved by the Secretary.", and

(7) by inserting after subsection (c) the following new subsection:

Contracts.

(d) Notwithstanding any provision of subsection (a)(1), the Secretary may pay the costs of on-the-job training of an adversely affected worker under subsection (a)(1) only if—

"(1) no currently employed worker is displaced by such adversely affected worker (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits),

"(2) such training does not impair existing contracts for services or collective bargaining agreements,

"(3) in the case of training which would be inconsistent with the terms of a collective bargaining agreement, the written concurrence of the labor organization concerned has been obtained,

"(4) no other individual is on layoff from the same, or any substantially equivalent, job for which such adversely affected worker is being trained,

"(5) the employer has not terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created by hiring such adversely affected worker,

"(6) the job for which such adversely affected worker is being trained is not being created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals,

"(7) such training is not for the same occupation from which the worker was separated and with respect to which such worker's group was certified pursuant to section 222, 19 USC 2272.

"(8) the employer certifies to the Secretary that the employer will continue to employ such worker for at least 26 weeks after completion of such training if the worker desires to continue such employment and the employer does not have due cause to terminate such employment,

"(9) the employer has not received payment under subsection (a)(1) with respect to any other on-the-job training provided by such employer which failed to meet the requirements of paragraphs (1), (2), (3), (4), (5), and (6), and

"(10) the employer has not taken, at any time, any action which violated the terms of any certification described in paragraph (8) made by such employer with respect to any other on-the-job training provided by such employer for which the Secretary has made a payment under subsection (a)(1).".

(b) ON-THE-JOB TRAINING DEFINED.—Section 247 of the Trade Act of 1974 (19 U.S.C. 2319) is amended by adding at the end thereof the following new paragraph:

"(16) The term "on-the-job training" means training provided by an employer to an individual who is employed by the employer.".

(c) AGREEMENTS WITH THE STATES.—Section 239 of the Trade Act of 1974 (19 U.S.C. 2311) is amended—

(1) by amending subsection (a)(2) by inserting "but in accordance with subsection (f)," after "where appropriate,"; and

(2) by adding at the end thereof the following new subsections:

"(e) Agreements entered into under this section may be made with one or more State or local agencies including—

"(1) the employment service agency of such State,

"(2) any State agency carrying out title III of the Job Training Partnership Act, or 29 USC 1651.

"(3) any other State or local agency administering job training or related programs.

"(f) Each cooperating State agency shall, in carrying out subsection (a)(2)—

"(1) advise each adversely affected worker to apply for training under section 236(a) at the time the worker makes application for trade readjustment allowances (but failure of the worker to do so may not be treated as cause for denial of those allowances), and 19 USC 2296.

"(2) within 60 days after application for training is made by the worker, interview the adversely affected worker regarding suitable training opportunities available to the worker under section 236 and review such opportunities with the worker.".

SEC. 13005. JOB SEARCH ALLOWANCES.

(a) IN GENERAL.—Section 237 of the Trade Act of 1974 (19 U.S.C. 2297) is amended by adding at the end thereof the following new subsection:

"(c) The Secretary shall reimburse any adversely affected worker for necessary expenses incurred by such worker in participating in a job search program approved by the Secretary.".

(b) DEFINITIONS.—Section 247 of the Trade Act of 1974 (19 U.S.C. 2319), as amended by section 13004(b) of this Act, is further amended by adding at the end thereof the following new paragraph:

"(17)(A) The term 'job search program' means a job search workshop or job finding club.

"(B) The term 'job search workshop' means a short (1 to 3 days) seminar designed to provide participants with knowledge that will enable the participants to find jobs. Subjects are not limited to, but should include, labor market information, resume writing, interviewing techniques, and techniques for finding job openings.

"(C) The term 'job finding club' means a job search workshop which includes a period (1 to 2 weeks) of structured, supervised activity in which participants attempt to obtain jobs.".

SEC. 13006. ADJUSTMENT ASSISTANCE FOR FIRMS.

(a) TECHNICAL ASSISTANCE.—

(1) Paragraph (1) of section 252(b) of the Trade Act of 1974 (19 U.S.C. 2342(b)(1)) is amended to read as follows:

"(1) Adjustment assistance under this chapter consists of technical assistance. The Secretary shall approve a firm's application for adjustment assistance only if the Secretary determines that the firm's adjustment proposal—

"(A) is reasonably calculated to materially contribute to the economic adjustment of the firm,

"(B) gives adequate consideration to the interests of the workers of such firm, and

"(C) demonstrates that the firm will make all reasonable efforts to use its own resources for economic development.".

(2) Section 252 of the Trade Act of 1974 (19 U.S.C. 2342) is amended by striking out subsection (c) and redesignating subsection (d) as subsection (c).

(3) Paragraph (2) of section 253(b) of the Trade Act of 1974 (19 U.S.C. 2343(b)(2)) is amended by striking out "such cost" and inserting in lieu thereof "such cost for assistance described in paragraph (2) or (3) of subsection (a)".

(b) NO NEW LOANS OR GUARANTEES.—Section 254 of the Trade Act of 1974 (19 U.S.C. 2344) is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of this chapter, no direct loans or guarantees of loans may be made under this chapter after the date of enactment of the Trade Adjustment Assistance Reform and Extension Act of 1986.".

Ante, p. 300.

SEC. 13007. EXTENSION AND TERMINATION OF TRADE ADJUSTMENT ASSISTANCE.

(a) IN GENERAL.—Section 285 of the Trade Act of 1974 (19 U.S.C. 2271, preceding note) is amended—

(1) by striking out the first sentence thereof and inserting in lieu thereof "(a)",

(2) by striking out the section heading and inserting in lieu thereof "SEC. 285. TERMINATION.", and

(3) by adding at the end thereof the following new subsection:

"(b) No assistance, allowances, or other payments may be provided under chapter 2, and no technical assistance may be provided under chapter 3, after September 30, 1991.".

(b) CONFORMING AMENDMENT.—The table of contents of the Trade Act of 1974 is amended by striking out the item relating to section 285 and inserting in lieu thereof the following:

"Sec. 285. Termination.".

SEC. 13008. AUTHORIZATION OF APPROPRIATIONS.

(a) WORKERS.—Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended by striking out "1982 through 1985" and inserting in lieu thereof "1986, 1987, 1988, 1989, 1990, and 1991".

(b) FIRMS.—Subsection (b) of section 256 of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended—

(1) by inserting "for fiscal years 1986, 1987, 1988, 1989, 1990, and 1991" after "to the Secretary",

(2) by striking out "from time to time", and

(3) by striking out the last sentence thereof.

SEC. 13009. EFFECTIVE DATES; APPLICATION OF GRAMM-RUDMAN.

19 USC 2291 note.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the amendments made by this part shall take effect on the date of the enactment of this Act.

(b) JOB SEARCH PROGRAM REQUIREMENTS.—The amendments made by section 13003(a) apply with respect to workers covered by petitions filed under section 221 of the Trade Act of 1974 on or after the date of the enactment of this Act.

19 USC 2271.

(c) EXTENSION AND AUTHORIZATION.—Chapters 2 and 3 of title II of the Trade Act of 1974 (19 U.S.C. 2271, et seq.) shall be applied as if the amendments made by sections 13007 and 13008 had taken effect on December 18, 1985.

(d) APPLICATION OF GRAMM-RUDMAN.—Trade readjustment allowances payable under part I of chapter 2 of title II of the Trade Act of 1974 for the period from March 1, 1986, and until October 1, 1986, shall be reduced by a percentage equal to the non-defense sequester percentage applied in the Sequestration Report (submitted under the Balanced Budget and Emergency Deficit Control Act of 1985 and dated January 21, 1986) of the Comptroller General of the United States for fiscal year 1986.

Sequestration. Report.

2 USC 901 note.

PART 2—AUTHORIZATION OF APPROPRIATIONS FOR TRADE AND CUSTOMS AGENCIES

SEC. 13021. UNITED STATES INTERNATIONAL TRADE COMMISSION.

The first sentence of paragraph (2) of section 330(e) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended to read as follows: "There are authorized to be appropriated to the Commission for necessary expenses (including the rental of conference rooms in the District of Columbia and elsewhere) for fiscal year 1986 not to exceed $28,901,000; of which not to exceed $2,500 may be used, subject to approval by the Chairman of the Commission, for reception and entertainment expenses.".

SEC. 13022. UNITED STATES CUSTOMS SERVICE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075) is amended as follows:

(1) Subsection (b) is amended to read as follows:

"(b)(1) There are authorized to be appropriated to the Department of the Treasury not to exceed $772,141,000 for the salaries and expenses of the United States Customs Service for fiscal year 1986; of which—

"(A) $27,900,000 is for the addition of 500 inspectors, 150 import specialists, 100 customs patrol officers, and 50 special agents;

"(B) $53,500,000 is for the operation and maintenance of the air interdiction program of the Service; and

"(C) not to exceed $14,000,000 is for the implementation of the 'Operation EXODUS' program and any related program designed to enforce or monitor export controls under the Export Administration Act of 1979.

50 USC app. 2401 note.

"(2) No part of any sum that is appropriated under the authority of paragraph (1) may be used to close any port of entry at which, during fiscal year 1985—

"(A) not less than 2,500 merchandise entries (including informal entries) were made; and

"(B) not less than $1,500,000 in customs revenues were assessed.

Prohibition. Aircraft and air carriers. Drugs and drug abuse.

"(3)(A) No part of any sum that is appropriated under the authority of paragraph (1) may be used for further research and development or acquisition of F-15 avionics for the P-3 aircraft and related equipment until 60 days after the Committee on Ways and Means and the Committee on Finance have received from the Secretary of the Treasury a written comparative assessment of the suitability of the P-3, E-2, or other appropriate aircraft for use by the Customs Service in its air drug interdiction program. Such assessment, which the Secretary may not submit to the Committees until the General Accounting Office study required under paragraph (7) is completed, shall include life cycle costs.

"(B) Acquisition of additional aircraft for use by the Customs Service for its air drug interdiction program after completion of the assessment required under subparagraph (A) shall be subject to competitive bidding through the use of the normal 'request for proposal' process.

"(4) No part of any sum that is appropriated under the authority of paragraph (1) may be used to consolidate the drawback liquidation centers within the Customs Service to less than 4 such centers. If a consolidation is undertaken, the Commissioner of Customs shall select the location of the centers after taking into account the drawback volume at, and the geographic dispersion of, the respective centers being considered for consolidation.

"(5) In addition to any sum authorized to be appropriated under paragraph (1), there are authorized to be appropriated to the Department of the Treasury for fiscal year 1986 not to exceed $8,000,000 from the Customs Forfeiture Fund for the making of payments under section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b), of which not to exceed $5,000,000 may be used for the modification of aircraft (whether or not aircraft described in subsection (a)(5) of that section) for drug interdiction.

"(6) In addition to any other amounts authorized to be appropriated for the Customs Service for fiscal years 1987 and 1988, there are authorized to be appropriated $27,900,000 for each of such fiscal years to fund the additional personnel referred to in paragraph (1)(A).

Study.

"(7) As soon as possible after the date of the enactment of this paragraph, but not later than 12 months after that date, the General Accounting Office shall complete, and submit to the Committee on Ways and Means and the Committee on Finance, a study that evaluates the air detection and interdiction capability of the Cus-

toms Service, including assets, geographic dispersal, costs of operation, procurement practices, and the services and equipment provided by other Federal agencies. Within 6 months after commencing the study, the General Accounting Office shall consult with the Committees on the progress of the study."; and

(2) by adding at the end thereof the following new subsections:

"(f) USE OF SAVINGS RESULTING FROM ADMINISTRATIVE CONSOLIDATIONS.—If savings in salaries and expenses result from the consolidation of administrative functions within the Customs Service, the Commissioner of Customs shall apply those savings, to the extent they are not needed to meet emergency requirements of the Service, to strengthening the commercial operations of the Service by increasing the number of inspector, import specialist, patrol officer, and other line operational positions.

"(g) ALLOCATION OF RESOURCES.—The Commissioner of Customs shall ensure that existing levels of commercial services, including inspection and control, classification, and value, shall continue to be provided by Customs personnel assigned to the headquarters office of any Customs district designated by statute before the date of enactment of this subsection. The number of such personnel assigned to any such district headquarters shall not be reduced through attrition or otherwise, and such personnel shall be afforded the opportunity to maintain their proficiency through training and workshops to the same extent provided to Customs personnel in any other district. Automation and other modernization equipment shall be made available, as needed on a timely basis, to such headquarters to the same extent as such equipment is made available to any other district headquarters.".

(b) ELIMINATION OF SURETIES ON CUSTOMS BONDS.—(1) The Commissioner of Customs may not publish, nor take any other action to give force and effect to, any final rule that would revise any provision in 19 CFR part 113 or section 142.4 (as in effect on March 1, 1984) relating to the requirement for sureties on customs bonds— Prohibition.

(A) unless the Commissioner submits to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, on the same day, a report containing— Report.

(i) the text of the draft final rule;

(ii) an analysis of the revenue impact of the rule;

(iii) a regulatory impact analysis;

(iv) the estimated cost benefit of the rule to the Customs Service and to the importing community, and an explanation in support of those estimates; and

(v) a justification for each revision to be effected by the rule; and

(B) until the close of the first period of 90 calendar days of continuous session of Congress occurring after the date on which the report is submitted under subparagraph (A).

SEC. 13023. UNITED STATES TRADE REPRESENTATIVE.

Section 141 of the Trade Act of 1974 (19 U.S.C. 2171) is amended—

(1) by inserting before the semicolon at the end of subsection (d)(1) the following: ", except that not more than 20 individuals may be employed without regard to any provision of law regulating the employment or compensation at rates not to exceed

the rate of pay for level IV of the Executive Schedule in section 5314 of title 5, United States Code"; and

(2) by amending subsection (f)(1) by striking out "$14,179,000 for fiscal year 1985" and inserting in lieu thereof "$13,582,000 for fiscal year 1986".

SEC. 13024. NOTIFICATION OF CERTAIN ACTIONS.

Section 237 of the Trade and Tariff Act of 1984 (98 Stat. 2993) is amended—

(1) by striking out "1985" in subsection (b) and inserting in lieu thereof "1986";

(2) by striking out subsection (c);

(3) by redesignating subsection (b) as subsection (c); and

(4) by inserting after subsection (a) the following new subsection:

"(b) The notice required under subsection (a) shall include—

"(1) a statement which sets forth in detail the factors taken into account in making the decision to take the action described in subsection (a) and the reasons for such action; and

"(2) an analysis of the impact such action will have on the commerce and community served by each office affected by such action.".

PART 3—CUSTOMS FEES

SEC. 13031. FEES FOR CERTAIN CUSTOMS SERVICES.

Vessels. Railroads. Aircraft and air carriers. 19 USC 58c.

(a) SCHEDULE OF FEES.—In addition to any other fee authorized by law, the Secretary of the Treasury shall charge and collect the following fees for the provision of customs services in connection with the following:

(1) For the arrival of a commercial vessel of 100 net tons or more, $397.

(2) Subject to the limitation in subsection (b)(2), for the arrival of a commercial truck, $5.

(3) Subject to the limitations in subsection (b)(1)(B) and (3), for the arrival of each railroad car, whether passenger or freight, $5.

(4) For all arrivals made during a calendar year by a private vessel or private aircraft, $25.

(5) For the arrival of each passenger aboard a commercial vessel or commercial aircraft from a place outside the United States (other than a place referred to in subsection (b)(1)(A)), $5.

(6) For each item of dutiable mail for which a document is prepared by a customs officer, $5.

(7) For each customs broker permit held by an individual, partnership, association, or corporate customs broker, $125 per year.

Prohibition. 19 USC 58c.

(b) LIMITATIONS ON FEES.—(1) No fee may be charged under subsection (a) for customs services provided in connection with—

(A) the arrival of any passenger whose journey originated in—

(i) Canada,

(ii) Mexico,

(iii) a territory or possession of the United States, or

(iv) any adjacent island (within the meaning of section 101(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(5)); or

(B) the arrival of any railroad car that is part of a train which originates and terminates in the same country, but only if—

(i) such car is part of such train when such train departs from the United States, and

(ii) no passengers board or disembark from such train, and no cargo is loaded or unloaded from such train, while such train is within any country other than the country in which such train originates and terminates.

(2) No fee may be charged under subsection (a)(2) for the arrival of a commercial truck during any calendar year after a total of $100 in fees has been paid to the Secretary of the Treasury for the provision of customs services for all arrivals of such commercial truck during such calendar year.

(3) No fee may be charged under subsection (a)(3) for the arrival of a railroad car whether passenger or freight during any calendar year after a total of $100 in fees has been paid to the Secretary of the Treasury for the provision of customs services for all arrivals of such passenger or freight rail car during such calendar year.

(c) DEFINITIONS.—For purposes of this section— 19 USC 58c.

(1) The term "vessel" does not include any ferry.

(2) The term "arrival" means arrival at a port of entry in the customs territory of the United States.

(3) The term "customs territory of the United States" has the meaning given to such term by headnote 2 of the General Headnotes and Rules of Interpretation of the Tariff Schedules of the United States. 19 USC 1202.

(4) The term "customs broker permit" means a permit issued under section 641(c) of the Tariff Act of 1930 (19 U.S.C. 1641(c)).

(d) COLLECTION.—(1) Each person that issues a document or ticket to an individual for transportation by a commercial vessel or commercial aircraft into the customs territory of the United States shall— Transportation. Aircraft and air carriers. Vessels. 19 USC 58c.

(A) collect from that individual the fee charged under subsection (a)(5) at the time the document or ticket is issued; and

(B) separately identify on that document or ticket the fee charged under subsection (a)(5) as a Federal inspection fee.

(2) If—

(A) a document or ticket for transportation of a passenger into the customs territory of the United States is issued in a foreign country; and

(B) the fee charged under subsection (a)(5) is not collected at the time such document or ticket is issued;

the person providing transportation to such passenger shall collect such fee at the time such passenger departs from the customs territory of the United States and shall provide such passenger a receipt for the payment of such fee.

(3) The person who collects fees under paragraph (1) or (2) shall remit those fees to the Secretary of the Treasury at any time before the date that is 31 days after the close of the calendar quarter in which the fees are collected.

(e) PROVISION OF CUSTOMS SERVICES.—(1) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law (other than paragraph (2)), the customs services required to be provided to passengers upon arrival in the United States on scheduled airline flights at customs serviced airports shall be adequately provided when needed and at no cost (other than the fees imposed under subsection (a)) to airlines and airline passengers. Aircraft and air carriers. 19 USC 58c.

(2) This subsection shall not apply with respect to any airport to which section 236 of the Trade and Tariff Act of 1984 (19 U.S.C. 58b) applies.

19 USC 58c.

(f) DISPOSITION OF FEES.—(1) Notwithstanding section 524 of the Tariff Act of 1930 (19 U.S.C. 1524), all of the fees collected under subsection (a) shall be deposited in a separate account within the general fund of the Treasury of the United States. Such account shall be known as the "Customs User Fee Account".

(2)(A) The Secretary of the Treasury shall refund out of the Customs User Fee Account to any appropriation the amount paid out of such appropriation for expenses incurred by the Secretary of the Treasury in providing overtime customs inspectional services for which the recipient of such services is not required to reimburse the Secretary of the Treasury.

(B) The amounts which are required to be refunded under subparagraph (A) shall be refunded at least quarterly on the basis of estimates made by the Secretary of the Treasury of the expenses referred to in subparagraph (A). Proper adjustments shall be made in the amounts subsequently refunded under subparagraph (A) to the extent prior estimates were in excess of, or less than, the amounts required to be refunded under subparagraph (A).

19 USC 58c.

(g) REGULATIONS.—The Secretary of the Treasury may prescribe such rules and regulations as may be necessary to carry out the provisions of this section.

(h) CONFORMING AMENDMENTS.—(1) Subsection (i) of section 305 of the Rail Passenger Service Act (45 U.S.C. 545(i)) is amended by striking out the last sentence thereof.

(2) Subsection (e) of section 53 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1741(e)) is repealed.

49 USC app. 1741.

19 USC 58c.

(i) EFFECT ON OTHER AUTHORITY.—Except with respect to customs services for which fees are imposed under subsection (a), nothing in this section shall be construed as affecting the authority of the Secretary of the Treasury to charge fees under section 214(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 58a).

19 USC 58c.

(j) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the provisions of this section, and the amendments and repeals made by this section, shall apply with respect to customs services rendered after the date that is 90 days after the date of enactment of this Act.

(2) Fees may be charged under subsection (a)(5) only with respect to customs services rendered in regard to arriving passengers using transportation for which documents or tickets were issued after the date that is 90 days after such date of enactment.

SEC. 13032. USER FEES FOR CUSTOMS SERVICES AT CERTAIN SMALL AIRPORTS.

Section 236 of the Trade and Tariff Act of 1984 (19 U.S.C. 58b) is amended—

(1) by striking out "4 airports" in subsection (c) and inserting in lieu thereof "20 airports"; and

(2) by striking out the last sentence in subsection (e) and inserting in lieu thereof the following new sentences: "The Secretary of the Treasury is authorized and directed to pay out of any funds available in such account any expenses incurred by the Federal Government in providing customs services at such airport (including expenses incurred for the salaries and expenses of individuals employed to provide such services). None

Prohibition.

of the funds deposited into such account shall be available for any purpose other than making payments authorized under the preceding sentence.".

SEC. 13033. ADVISORY COMMITTEE.

19 USC 2071 note.

In accordance with the provisions of the Federal Advisory Committee Act, the Secretary of the Treasury shall establish an advisory committee, whose membership shall consist of representatives from the airline, shipping, and other transportation industries, the general public, and others who may be subject to any fee or charge (1) authorized by law, or (2) proposed by the United States Customs Service for the purpose of covering expenses incurred by the Customs Service. The advisory committee shall meet on a periodic basis and shall advise the Secretary on issues related to the performance of the customs services. This advice shall include, but not be limited to, such issues as the time periods during which such services should be performed, the proper number and deployment of inspection officers, the level of fees, and the appropriateness of any proposed fee. The Secretary shall give substantial consideration to the views of the advisory committee in the exercise of his duties.

5 USC app.

Subtitle B—General Revenue Provisions

SEC. 13200. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

26 USC 1 *et seq.*

SEC. 13201. INCREASE IN TAX ON CIGARETTES MADE PERMANENT.

(a) Subsection (c) of section 283 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to increase in tax on cigarettes) is amended by striking out all that follows "December 31, 1982" and inserting in lieu thereof a period.

26 USC 5701 note.

(b) For purposes of all Federal and State laws, the amendment made by subsection (a) shall be treated as having taken effect on March 14, 1986.

State and local governments. 26 USC 5701 note.

SEC. 13202. TAX ON SMOKELESS TOBACCO.

(a) In GENERAL.—Section 5701 (relating to rate of tax) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

26 USC 5701.

"(e) SMOKELESS TOBACCO.—On smokeless tobacco, manufacturered in or imported into the United States, there shall be imposed the following taxes:

"(1) SNUFF.—On snuff, 24 cents per pound and a proportionate tax at the like rate on all fractional parts of a pound.

"(2) CHEWING TOBACCO.—On chewing tobacco, 8 cents per pound and a proportionate tax at the like rate on all fractional parts of a pound.".

(b) CONFORMING AMENDMENTS.—

(1) The heading of chapter 52 is amended by inserting "SMOKELESS TOBACCO," after "CIGARETTES,".

26 USC 5702.

(2) Section 5702(c) (defining tobacco products) is amended by striking out "and cigarettes" and inserting in lieu thereof ", cigarettes, and smokeless tobacco".

(3) Section 5702(d) (defining manufacturers of tobacco products) is amended by striking out "cigars or cigarettes" each place it appears and inserting in lieu thereof "cigars, cigarettes, or smokeless tobacco".

(4) Section 5702 is amended by adding at the end thereof the following new subsection:

"(n) DEFINITIONS RELATING TO SMOKELESS TOBACCO.—

"(1) SMOKELESS TOBACCO.—The term 'smokeless tobacco' means any snuff or chewing tobacco.

"(2) SNUFF.—The term 'snuff' means any finely cut, ground, or powdered tobacco that is not intended to be smoked.

"(3) CHEWING TOBACCO.—The term 'chewing tobacco' means any leaf tobacco that is not intended to be smoked.".

26 USC 5701 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to smokeless tobacco removed after June 30, 1986.

(2) TRANSITIONAL RULE.—Any person who—

(A) on the date of the enactment of this Act, is engaged in business as a manufacturer of smokeless tobacco, and

(B) before July 1, 1986, submits an application under subchapter B of chapter 52 of the Internal Revenue Code of 1954 to engage in such business,

26 USC 5711.

may, notwithstanding such subchapter B, continue to engage in such business pending final action on such application. Pending such final action, all provisions of chapter 52 of such Code shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit to manufacture smokless tobacco under such chapter 52.

26 USC 5701 *et seq.*

SEC. 13203. INCREASE IN EXCISE TAX ON COAL.

26 USC 4121.

(a) INCREASE IN TAX.—Subsections (a) and (b) of section 4121 (relating to imposition of tax on coal) are amended to read as follows:

"(a) TAX IMPOSED.—

"(1) IN GENERAL.—There is hereby imposed on coal from mines located in the United States sold by the producer, a tax equal to the rate per ton determined under subsection (b).

"(2) LIMITATION ON TAX.—The amount of the tax imposed by paragraph (1) with respect to a ton of coal shall not exceed the applicable percentage (determined under subsection (b)) of the price at which such ton of coal is sold by the producer.

"(b) DETERMINATION OF RATES AND LIMITATION ON TAX.—For purposes of subsection (a), in the case of sales during any calendar year beginning after December 31, 1985—

"(1) the rate of tax on coal from underground mines shall be $1.10,

"(2) the rate of tax on coal from surface mines shall be $.55, and

"(3) the applicable percentage shall [illegible] 4.4 percent.".

26 USC 9501 note.

(b) 5-YEAR MORATORIUM ON INTEREST ACCRUALS WITH RESPECT TO THE INDEBTEDNESS OF THE BLACK LUNG DISABILITY TRUST FUND.—No interest shall accrue for the period beginning on October 1, 1985, and ending on September 30, 1990, with respect to any repayable advance to the Black Lung Disability Trust Fund.

(c) EXISTING REDUCTION IN RATES FOR PERIOD AFTER TEMPORARY INCREASE RETAINED.—So much of subsection (e) of section 4121 (relating to temporary increase in amount of tax) as precedes paragraph (2) is amended to read as follows: 26 USC 4121.

"(e) REDUCTION IN AMOUNT OF TAX.—

"(1) IN GENERAL.—Effective with respect to sales after the temporary increase termination date, subsection (b) shall be applied—

"(A) by substituting '$.50' for '$1.10',

"(B) by substituting '$.25' for '$.55', and

"(C) by substituting '2 percent' for '4.4 percent'.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after March 31, 1986. 26 USC 4121 note.

SEC. 13204. ONLY RAILROAD RETIREMENT BENEFITS EQUIVALENT TO SOCIAL SECURITY BENEFITS TREATED AS TIER 1 BENEFITS.

(a) IN GENERAL.—Paragraph (4) of section 86(d) (defining Social Security benefits) is amended to read as follows: 26 USC 86.

"(4) TIER 1 RAILROAD RETIREMENT BENEFIT.—For purposes of paragraph (1), the term 'tier 1 railroad retirement benefit' means—

"(A) the amount of the annuity under the Railroad Retirement Act of 1974 equal to the amount of the benefit to which the taxpayer would have been entitled under the Social Security Act if all of the service after December 31, 1936, of the employee (on whose employment record the annuity is being paid) had been included in the term 'employment' as defined in the Social Security Act, and 45 USC 231. 42 USC 1305 *et seq.*

"(B) a monthly annuity amount under section 3(f)(3) of the Railroad Retirement Act of 1974.". 45 USC 231b.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any monthly benefit for which the generally applicable payment date is after December 31, 1985. 26 USC 86 note.

SEC. 13205. MEDICARE COVERAGE OF, AND APPLICATION OF HOSPITAL INSURANCE TAX TO, NEWLY HIRED STATE AND LOCAL GOVERNMENT EMPLOYEES.

(a) APPLICATION OF HOSPITAL INSURANCE TAX TO NEWLY HIRED EMPLOYEES OF STATE AND LOCAL GOVERNMENTS.—

(1) IN GENERAL.—Subsection (u) of section 3121 (relating to application of hospital insurance tax to Federal employment) is amended to read as follows: 26 USC 3121.

"(u) APPLICATION OF HOSPITAL INSURANCE TAX TO FEDERAL, STATE, AND LOCAL EMPLOYMENT.—

"(1) FEDERAL EMPLOYMENT.—For purposes of the taxes imposed by sections 3101(b) and 3111(b), subsection (b) shall be applied without regard to paragraph (5) thereof. 26 USC 3101, 3111.

"(2) STATE AND LOCAL EMPLOYMENT.—For purposes of the taxes imposed by sections 3101(b) and 3111(b)—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), subsection (b) shall be applied without regard to paragraph (7) thereof.

"(B) EXCEPTION FOR CERTAIN SERVICES.—Service shall not be treated as employment by reason of subparagraph (A) if—

"(i) the service is included under an agreement under section 218 of the Social Security Act, or 42 USC 418.

"(ii) the service is performed—

"(I) by an individual who is employed by a State or political subdivision thereof to relieve him from unemployment,

District of Columbia.

"(II) in a hospital, home, or other institution by a patient or inmate thereof as an employee of a State or political subdivision thereof or of the District of Columbia,

"(III) by an individual, as an employee of a State or political subdivision thereof or of the District of Columbia, serving on a temporary basis in case of fire, storm, snow, earthquake, flood or other similar emergency, or

"(IV) by any individual as an employee included under section 5351(2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the District of Columbia Government), other than as a medical or dental intern or a medical or dental resident in training.

As used in this subparagraph, the terms 'State' and 'political subdivision' have the meanings given those terms in section 218(b) of the Social Security Act.

42 USC 418.

"(C) EXCEPTION FOR CURRENT EMPLOYMENT WHICH CONTINUES.—Service performed for an employer shall not be treated as employment by reason of subparagraph (A) if—

"(i) such service would be excluded from the term 'employment' for purposes of this chapter if subparagraph (A) did not apply;

"(ii) such service is performed by an individual—

"(I) who was performing substantial and regular service for remuneration for that employer before April 1, 1986,

"(II) who is a bona fide employee of that employer on March 31, 1986, and

"(III) whose employment relationship with that employer was not entered into for purposes of meeting the requirements of this subparagraph; and

"(iii) the employment relationship with that employer has not been terminated after March 31, 1986.

District of Columbia.

42 USC 418.

"(D) TREATMENT OF AGENCIES AND INSTRUMENTALITIES.—For purposes of subparagraph (C), under regulations—

"(i) All agencies and instrumentalities of a State (as defined in section 218(b) of the Social Security Act) or of the District of Columbia shall be treated as a single employer.

"(ii) All agencies and instrumentalities of a political subdivision of a State (as so defined) shall be treated as a single employer and shall not be treated as described in clause (i).

"(3) MEDICARE QUALIFIED GOVERNMENT EMPLOYMENT.—For purposes of this chapter, the term 'medicare qualified government employment' means service which—

"(A) is employment (as defined in subsection (b)) with the application of paragraphs (1) and (2), but

"(B) would not be employment (as so defined) without the application of such paragraphs."

(2) CONFORMING AMENDMENTS.—

(A)(i) Section 3125 (relating to returns in the case of governmental employees in Guam, American Samoa, and the District of Columbia) is amended by redesignated subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively, and by inserting before subsection (b) (as so redesignated) the following new subsection: 26 USC 3125. Guam. American Samoa. District of Columbia.

"(a) STATES.—Except as otherwise provided in this section, in the case of the taxes imposed by sections 3101(b) and 3111(b) with respect to service performed in the employ of a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby), the return and payment of such taxes may be made by the head of the agency or instrumentality having the control of such service, or by such agents as such head may designate. The person making such return may, for convenience of administration, make payments of the tax imposed under section 3111 with respect to the service of such individuals without regard to the contribution and benefit base limitation in section 3121(a)(1)." 26 USC 3101, 3111.

(ii) The section heading for such section 3125 is amended by inserting "STATES," before "GUAM".

(iii) The item relating to section 3125 in the table of sections for subchapter C of chaper 21 is amended by inserting "States," before "Guam".

(B) Subsection (b) of section 1402 is amended by striking out "medicare qualified Federal employment (as defined in section 3121(u)(2))" and inserting in lieu thereof "medicare qualified government employment (as defined in section 3121(u)(3))". 26 USC 1402. 26 USC 3121.

(C) Section 3122 (relating to Federal service) is amended by striking out "including service which is medicare qualified Federal employment (as defined in section 3121(u)(2))" and inserting in lieu thereof "including such service which is medicare qualified government employment (as defined in section 3121(u)(3))". 26 USC 3122.

(D) Subsection (a) of section 6205 (relating to special rules applicable to certain employment taxes) is amended by adding at the end thereof the following new paragraph: 26 USC 6205.

"(5) STATES AND POLITICAL SUBDIVISIONS AS EMPLOYER.—For purposes of this subsection, in the case of remuneration received from a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby) during any calendar year, each head of an agency or instrumentality, and each agent designated by either, who makes a return pursuant to section 3125 shall be deemed a separate employer." 26 USC 3125.

(E)(i) Section 6413(a) (relating to adjustment of certain employment taxes) is amended by adding at the end thereof the following new paragraph: 26 USC 6413.

"(5) STATES AND POLITICAL SUBDIVISIONS AS EMPLOYER.—For purposes of this subsection, in the case of remuneration received from a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby) during any calendar year, each head of an agency or instrumentality, and each agent designated by

26 USC 3125.

either, who makes a return pursuant to section 3125 shall be deemed a separate employer."

26 USC 6413.

(ii) Section 6413(c)(2) (relating to special refunds of certain employment taxes) is amended—

(I) by striking out "3125(a)", "3125(b)", and "3125(c)" in subparagraphs (D), (E), and (F), respectively, and inserting in lieu thereof "3125(b)", "3125(c)", and "3125(d)", respectively, and

(II) by adding at the end thereof the following new subparagraph:

"(G) EMPLOYEES OF STATES AND POLITICAL SUBDIVISIONS.—In the case of remuneration received from a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby) during any calendar year, each head of an agency or instrumentality, and each agent designated by either, who makes a return pursuant to section 3125(a) shall, for purposes of this subsection, be deemed a separate employer."

(b) ENTITLEMENT TO HOSPITAL INSURANCE BENEFITS.—

(1) REVISION OF DEFINITION OF MEDICARE QUALIFIED GOVERNMENT EMPLOYMENT.—Section 210(p)) of the Social Security Act (42 U.S.C. 410(p)) is amended to read as follows:

"MEDICARE QUALIFIED GOVERNMENT EMPLOYMENT

State and local government.
42 USC 426, 426-1.

"(p)(1) For purposes of sections 226 and 226A, the term 'medicare qualified government employment' means any service which would constitute 'employment' as defined in subsection (a) of this section but for the application of the provisions of—

"(A) subsection (a)(5), or

"(B) subsection (a)(7), except as provided in paragraphs (2) and (3).

"(2) Service shall not be treated as employment by reason of paragraph (1)(B) if the service is performed—

"(A) by an individual who is employed by a State or political subdivision thereof to relieve him from unemployment,

"(B) in a hospital, home, or other institution by a patient or inmate thereof as an employee of a State or political subdivision thereof or of the District of Columbia,

"(C) by an individual, as an employee of a State or political subdivision thereof or of the District of Columbia, serving on a temporary basis in case of fire, storm, snow, earthquake, flood or other similar emergency, or

"(D) by any individual as an employee included under section 5351(2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the District of Columbia Government), other than as a medical or dental intern or a medical or dental resident in training.

As used in this paragraph, the terms 'State' and 'political subdivision' have the meanings given those terms in section 218(b).

42 USC 418.

"(3) Service performed for an employer shall not be treated as employment by reason of paragraph (1)(B) if—

"(A) such service would be excluded from the term 'employment' for purposes of this section if paragraph (1)(B) did not apply;

"(B) such service is performed by an individual—

"(i) who was performing substantial and regular service for remuneration for that employer before April 1, 1986,

"(ii) who is a bona fide employee of that employer on March 31, 1986, and

"(iii) whose employment relationship with that employer was not entered into for purposes of meeting the requirements of this subparagraph; and

"(C) the employment relationship with that employer has not been terminated after March 31, 1986.

"(4) For purposes of paragraph (3), under regulations (consistent with regulations established under section 3121(u)(2)(D) of the Internal Revenue Code of 1954)— 26 USC 3121.

"(A) all agencies and instrumentalities of a State (as defined in section 218(b)) or of the District of Columbia shall be treated as a single employer, and 42 USC 418.

"(B) all agencies and instrumentalities of a political subdivision of a State (as so defined) shall be treated as a single employer and shall not be treated as described in subparagraph "(A)."

(2) ENTITLEMENT TO HOSPITAL INSURANCE BENEFITS.—

(A) FOR INDIVIDUALS AGE 65 OR OLDER AND FOR DISABLED INDIVIDUALS.—Section 226 of such Act (42 U.S.C. 426) is amended by striking out "medicare qualified Federal employment" in subsections (a)(2)(C)(i) and (b)(2)(C)(ii)(I) and inserting in lieu thereof "medicare qualified government employment".

(B) FOR INDIVIDUALS WITH END-STAGE RENAL DISEASE.—Section 226A(a) of such Act (42 U.S.C. 426-1(a)) is amended by striking out "medicare qualified Federal employment" in paragraphs (1)(A)(ii) and (1)(B)(iii) and inserting in lieu thereof "medicare qualified government employment".

(C) CONFORMING AMENDMENTS.—

(i) Section 1811 of such Act (42 U.S.C. 1395c) is amended by striking out "Federal employment" in clauses (1) and (2) and inserting in lieu thereof "government employment".

(ii) Section 226(g) of such Act (42 U.S.C. 426(g)) is amended by striking out "medicare qualified Federal employment" and inserting in lieu thereof "medicare qualified government employment by virtue of service described in section 210(a)(5)". 42 USC 410.

(c) OPTIONAL MEDICARE COVERAGE OF CURRENT EMPLOYEES.—Section 218 of the Social Security Act (42 U.S.C. 418) is amended by adding at the end the following new subsection:

"(v)(1) The Secretary shall, at the request of any State, enter into or modify an agreement with such State under this section for the purpose of extending the provisions of title XVIII, and sections 226 and 226A, to services performed by employees of such State or any political subdivision thereof who are described in paragraph (2). State and local government. 42 USC 1395c, 426. 42 USC 426-1.

"(2) This subsection shall apply only with respect to employees—

"(A) whose services are not treated as employment as that term applies under section 210(p) by reason of paragraph (3) of such section; and *Ante*, p. 316.

"(B) who are not otherwise covered under the State's agreement under this section.

"(3) Payments by the State required under subsection (e) with respect to employees covered under this subsection shall be limited

to amounts equivalent to the sum of the taxes which would be imposed by sections 3101(b) and 3111(b) of the Internal Revenue Code of 1954 if such services for which wages were paid to such employees constituted 'employment' as defined in section 3121 of such Code.

26 USC 3101, 3111.
26 USC 3121.

"(4) For purposes of sections 226 and 226A of this Act, services covered under an agreement pursuant to this subsection shall be treated as 'medicare qualified government employment'.

42 USC 426, 426-1.

"(5) Except as otherwise provided in this subsection, the provisions of this section shall apply with respect to services covered under the agreement pursuant to this subsection.

"(w) Notwithstanding sections 3125(a), 6205(a)(5), 6413(a)(5), and 6413(c)(2)(G) of the Internal Revenue Code of 1954, any State shall make payments of the taxes imposed with respect to services of employees of such State and of a political subdivision thereof under sections 3101(b) and 3111(b) of such Code, and reports of such services, under the same procedures as apply to payments and reports under subsection (e) of this section, but only if any employees of such State or of such political subdivision thereof respectively are covered under an agreement pursuant to this section.".

26 USC 3125, 6205, 6413.

(d) EFFECTIVE DATES.—

26 USC 3121 note.

(1) HOSPITAL INSURANCE TAXES.—The amendments made by subsection (a) shall apply to services performed after March 31, 1986.

(2) MEDICARE COVERAGE.—

42 USC 410 note.

(A) IN GENERAL.—The amendments made by subsection (b) shall be effective after March 31, 1986, and the amendments made by paragraph (3) of that subsection shall apply to services performed (for medicare qualified government employment) after that date.

(B) TREATMENT OF CERTAIN DISABILITIES.—For purposes of establishing entitlement to hospital insurance benefits under part A of title XVIII of the Social Security Act pursuant to the amendments made by subsection (b), no individual may be considered to be under a disability for any period beginning before April 1, 1986.

42 USC 1395c.

(3) OPTIONAL COVERAGE OF CURRENT EMPLOYEES.—The amendment made by subsection (c) shall apply to services performed after March 31, 1986.

42 USC 418 note.

SEC. 13206. FULL-TIME STUDENTS NOT ELIGIBLE FOR INCOME AVERAGING.

(a) IN GENERAL.—Subsection (d) of section 1303 (defining eligible individuals for income averaging) is amended to read as follows:

26 USC 1303.

"(d) ELIGIBLE INDIVIDUALS NOT TO INCLUDE FULL-TIME STUDENTS.—

"(1) IN GENERAL.—For purposes of this part, an individual shall not be an eligible individual for the computation year if, at any time during any base period year, such individual was a student.

"(2) EXCEPTION FOR MARRIED STUDENTS PROVIDING 25 PERCENT OR LESS OF JOINT INCOME.—Paragraph (1) shall not apply to any individual for any computation year if—

"(A) the individual makes a joint return for the computation year, and

"(B) not more than 25 percent of the aggregate adjusted gross income of such individual and the spouse of such

individual for such computation year is attributable to such individual. In applying subparagraph (B), amounts which constitute earned income (within the meaning of section 911(d)(2)) and are community income under commuity property laws applicable to such income shall be taken into account as if such amounts did not constitute community income. 26 USC 911.

"(3) STUDENT DEFINED.—For purposes of this subsection, the term 'student' means, with respect to a taxable year, an individual who during each of 5 calendar months during such taxable year—

"(A) was a full-time student at an educational organization described in section 170(b)(1)(A)(ii); or 26 USC 170.

"(B) was pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 170(b)(1)(A)(ii) or of a State or political subdivision of a State.".

(b) REPEAL OF NON-FULL-TIME STUDENT SUPPORT EXCEPTION.—Paragraph (2) of section 1303(c) (relating to individuals receiving support from others) is amended— 26 USC 1303.

(1) by striking out subparagraph (A),

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), and

(3) by striking out "subparagraph (C)" in the second sentence and inserting in lieu thereof "subparagraph (B)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1985. 26 USC 1303 note.

SEC. 13207. APPLICATION OF FRINGE BENEFIT RULES TO AIRLINES AND THEIR AFFILIATES.

(a) PARENTS OF AIRLINE EMPLOYEES TREATED AS EMPLOYEES IN APPLYING FRINGE BENEFIT RULES.—

(1) IN GENERAL.—Section 132(f) (relating to certain individuals treated as employees with respect to certain fringe benefits) is amended by adding at the end thereof the following new paragraph: 26 USC 132.

"(3) SPECIAL RULE FOR PARENTS IN THE CASE OF AIR TRANSPORTATION.—Any use of air transportation by a parent of an employee (determined without regard to paragraph (1)(B)) shall be treated as use by the employee.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on January 1, 1985. 26 USC 132 note.

(b) LINE OF BUSINESS TEST FOR AFFILIATES PROVIDING AIRLINE-RELATED SERVICES.—

(1) IN GENERAL.—Section 132(h) (relating to special rules) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR AFFILIATES OF AIRLINES.—

"(A) IN GENERAL.—If—

"(i) a qualified affiliate is a member of an affiliated group another member of which operates an airline, and

"(ii) employees of the qualified affiliate who are directly engaged in providing airline-related services are

entitled to no-additional-cost service with respect to air transportation provided by such other member,

then, for purposes of applying paragraph (1) of subsection (a) to such no-additional-cost service provided to such employees, such qualified affiliate shall be treated as engaged in the same line of business as such other member.

"(B) QUALIFIED AFFILIATE.—For purposes of this paragraph, the term 'qualified affiliate' means any corporation which is predominantly engaged in airline-related services.

"(C) AIRLINE-RELATED SERVICES.—For purposes of this paragraph, the term 'airline-related services' means any of the following services provided in connection with air transportation:

"(i) Catering.

"(ii) Baggage handling.

"(iii) Ticketing and reservations.

"(iv) Flight planning and weather analysis.

"(v) Restaurants and gift shops located at an airport.

"(vi) Such other similar services provided to the airline as the Secretary may prescribe.

"(D) AFFILIATED GROUP.—For purposes of this paragraph, the term 'affiliated group' has the meaning given such term by section 1504(a).".

26 USC 1504.

26 USC 132 note.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on January 1, 1985.

26 USC 132 note.

(c) TRANSITIONAL RULE FOR DETERMINATION OF LINE OF BUSINESS IN CASE OF AFFILIATED GROUP OPERATING AIRLINE.—If, as of September 12, 1984—

(1) an individual—

(A) was an employee (within the meaning of section 132 of the Internal Revenue Code of 1954, including subsection (f) thereof) of one member of an affiliated group (as defined in section 1504 of such Code), hereinafter referred to as the "first corporation", and

26 USC 132.

26 USC 1504.

(B) was eligible for no-additional-cost service in the form of air transportation provided by another member of such affiliated group, hereinafter referred to as the "second corporation",

(2) at least 50 percent of the individuals performing service for the first corporation were or had been employees of, or had previously performed services for, the second corporation, and

(3) the primary business of the affiliated group was air transportation of passengers,

then, for purposes of applying paragraphs (1) and (2) of section 132(a) of the Internal Revenue Code of 1954, with respect to no-additional-cost services and qualified employee discounts provided after December 31, 1984, for such individual by the second corporation, the first corporation shall be treated as engaged in the same air transportation line of business as the second corporation. For purposes of the preceding sentence, an employee of the second corporation who is performing services for the first corporation shall also be treated as an employee of the first corporation.

26 USC 132.

26 USC 132 note.

(d) SPECIAL RULE FOR SERVICES RELATED TO PROVIDING AIR TRANSPORTATION.—Section 531 of the Tax Reform Act of 1984 is amended by redesignating subsections (g) and (h) as subsections (h) and (i), respectively, and by inserting after subsection (f) the following new subsection:

"(g) SPECIAL RULE FOR CERTAIN SERVICES RELATED TO AIR TRANSPORTATION.— 26 USC 132 note.

"(1) IN GENERAL.—If—

"(A) an individual performs services for a qualified air transportation organization, and

"(B) such services are performed primarily for persons engaged in providing air transportation and are of the kind which (if performed on September 12, 1984) would qualify such individual for no-additional-cost services in the form of air transportation,

then, with respect to such individual, such qualified air transportation organization shall be treated as engaged in the line of business of providing air transportation.

"(2) QUALIFIED AIR TRANSPORTATION ORGANIZATION.—For purposes of paragraph (1), the term 'qualified air transportation organization' means any organization—

"(A) if such organization (or a predecessor) was in existence on September 12, 1984,

"(B) if—

"(i) such organization is described in section 501(c)(6) of the Internal Revenue Code of 1954 and the membership of such organization is limited to entities engaged in the transportation by air of individuals or property for compensation or hire, or 26 USC 501.

"(ii) such organization is a corporation all the stock of which is owned entirely by entities referred to in clause (i), and

"(C) if such organization is operated in furtherance of the activities of its members or owners.".

SEC. 13208. CERTAIN INSOLVENT TAXPAYERS ALLOWED TO REDUCE CAPITAL GAINS PREFERENCE ITEM FOR PURPOSES OF THE INDIVIDUAL MINIMUM TAX.

(a) IN GENERAL.—Paragraph (9) of section 57(a) (relating to capital gains as items of tax preference) is amended by adding at the end thereof the following new subparagraph: 26 USC 57.

"(E) SPECIAL RULE FOR CERTAIN INSOLVENT TAXPAYERS.—

"(i) IN GENERAL.—The amount of the tax preference under subparagraph (A) shall be reduced (but not below zero) by the excess (if any) of—

"(I) the applicable percentage of gain from any farm insolvency transaction, over

"(II) the applicable percentage of any loss from any farm insolvency transaction which offsets such gain.

"(ii) REDUCTION LIMITED TO AMOUNT OF INSOLVENCY.—The amount of the reduction determined under clause (i) shall not exceed the amount by which the taxpayer is insolvent immediately before the transaction (reduced by any portion of such amount previously taken into account under this clause).

"(iii) FARM INSOLVENCY TRANSACTION.—For purposes of this subparagraph, the term 'farm insolvency transaction' means—

"(I) the transfer by a farmer of farmland to a creditor in cancellation of indebtedness or

"(II) the sale or exchange by the farmer of property described in subclause (I) under the threat of foreclosure,

but only if the farmer is insolvent immediately before such transaction.

"(iv) INSOLVENT.—For purposes of this subparagraph, the term 'insolvent' means the excess of liabilities over the fair market value of assets.

"(v) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the term 'applicable percentage' means that percentage of net capital gain with respect to which a deduction is allowed under section 1202(a).

26 USC 1202.

"(vi) FARMLAND.—For purposes of this subparagraph, the term 'farmland' means any land used or held for use in the trade or business of farming (within the meaning of section 2032A(e)(5)).

26 USC 2032A.

"(vii) FARMER.—For purposes of this subparagraph, the term 'farmer' means any taxpayer if 50 percent or more of the average annual gross income of the taxpayer for the 3 preceding taxable years is attributable to the trade or business of farming (within the meaning of section 2032A(e)(5))."

26 USC 57 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transfers or sales or exchanges made after December 31, 1981, in taxable years ending after such date.

SEC. 13209. TREATMENT OF CERTAIN POLLUTION CONTROL BONDS.

26 USC 103.

(a) GENERAL RULE.—For purposes of subparagraph (F) of section 103(b)(4) of the Internal Revenue Code of 1954 (relating to pollution control facilities), any obligation issued after December 31, 1985, shall be treated as described in such subparagraph if it is part of an issue substantially all of the proceeds of which are used by a qualified regional pollution control authority to acquire existing air or water pollution control facilities which the authority itself will operate in order to maintain or improve control of pollutants. The provisions of section 103(b)(17) of such Code (relating to prohibition on acquisition of existing property not permitted) shall not apply to any obligation described in the preceding sentence.

(b) $200,000,000 LIMITATION.—The aggregate amount of obligations to which subsection (a) applies shall not exceed $200,000,000, except that the amount of such obligations issued during calendar year 1986 to which subsection (a) applies, shall not exceed $100,000,000.

(c) RESTRICTIONS.—Subsection (a) shall apply only if—

(1) the amount paid (directly or indirectly) for the facilities does not exceed their fair market value,

(2) the fees or charges imposed (directly or indirectly) on any seller for the use of any facilities after the sale are not less than the amounts charged for the use of such facilities to persons other than the seller,

(3) the original use of the facilities acquired with the proceeds of such obligations commenced before September 3, 1982, and

(4) no person other than the qualified regional pollution control authority is considered after the sale as the owner of the facilities for purposes of Federal income taxes.

(d) QUALIFIED REGIONAL POLLUTION CONTROL AUTHORITY DEFINED.—For purposes of this section, the term "qualified regional pollution control authority" means an authority which—

(1) is a political subdivision created by State law to control air or water pollution,

(2) has within its jurisdictional boundaries all or part of at least 2 counties (or equivalent political subdivision),

(3) operates air or water pollution control facilities, and

(4) was created on September 1, 1969.

(e) REPEAL OF SECTION 103(b)(11).—Paragraph (11) of section 103(b) is hereby repealed. 26 USC 103.

SEC. 13210. TREATMENT OF THE NETTING OF GAINS AND LOSSES BY COOPERATIVES.

(a) IN GENERAL.—Section 1388 (relating to definitions and special rules applicable to cooperatives) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection: 26 USC 1388.

"(j) SPECIAL RULES FOR THE NETTING OF GAINS AND LOSSES BY COOPERATIVES.—For purposes of this subchapter, in the case of any organization to which part I of this subchapter applies— 26 USC 1381.

"(1) OPTIONAL NETTING OF PATRONAGE GAINS AND LOSSES PERMITTED.—The net earnings of such organization may, at its option, be determined by offsetting patronage losses (including any patronage loss carried to such year) which are attributable to 1 or more allocation units (whether such units are functional, divisional, departmental, geographic, or otherwise) against patronage earnings of 1 or more other such allocation units.

"(2) CERTAIN NETTING PERMITTED AFTER SECTION 381 TRANSACTIONS.—If such an organization acquires the assets of another such organization in a transaction described in section 381(a), the acquiring organization may, in computing its net earnings for taxable years ending after the date of acquisition, offset losses of 1 or more allocation units of the acquiring or acquired organization against earnings of the acquired or acquiring organization, respectively, but only to the extent— 26 USC 381.

"(A) such earnings are properly allocable to periods after the date of acquisition, and

"(B) such earnings could have been offset by such losses if such earnings and losses had been derived from allocation units of the same organization.

"(3) NOTICE REQUIREMENTS.—

"(A) IN GENERAL.—In the case of any organization which exercises its option under paragraph (1) for any taxable year, such organization shall, on or before the 15th day of the 9th month following the close of such taxable year, provide to its patrons a written notice which—

"(i) states that the organization has offset earnings and losses from 1 or more of its allocation units and that such offset may have affected the amount which is being distributed to its patrons,

"(ii) states generally the identity of the offsetting allocation units, and

"(iii) states briefly what rights, if any, its patrons may have to additional financial information of such organization under terms of its charter, articles of incorporation, or bylaws, or under any provision of law.

"(B) CERTAIN INFORMATION NEED NOT BE PROVIDED.—An organization may exclude from the information required to be provided under clause (ii) of subparagraph (A) any detailed or specific data regarding earnings or losses of such units which such organization determines would disclose commercially sensitive information which—

"(i) could result in a competitive disadvantage to such organization, or

"(ii) could create a competitive advantage to the benefit of a competitor of such organization.

"(C) FAILURE TO PROVIDE SUFFICIENT NOTICE.—If the Secretary determines that an organization failed to provide sufficient notice under this paragraph—

"(i) the Secretary shall notify such organization, and

"(ii) such organization shall, upon receipt of such notification, provide to its patrons a revised notice meeting the requirements of this paragraph.

Any such failure shall not affect the treatment of the organization under any provision of this subchapter or section 521.

26 USC 521.

"(4) PATRONAGE EARNINGS OR LOSSES DEFINED.—For purposes of this subsection, the terms 'patronage earnings' and 'patronage losses' means earnings and losses, respectively, which are derived from business done with or for patrons of the organization."

26 USC 521.

(b) TAX-EXEMPT STATUS NOT AFFECTED BY NETTING.—Section 521(b) (relating to applicable rules) is amended by adding at the end thereof the following new paragraph:

"(6) NETTING OF LOSSES.—Exemption shall not be denied any such association because such association computes its net earnings for purposes of determining any amount available for distribution to patrons in the manner described in paragraph (1) of section 1388(j)."

Ante, p. 323.
26 USC 1388 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1962.

(2) NOTIFICATION REQUIREMENT.—The provisions of section 1388(j)(3) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall apply to taxable years beginning on or after the date of the enactment of this Act.

(3) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to infer that a change in law is intended as to whether any patronage earnings may or not be offset by nonpatronage losses, and any determination of such issue shall be made as if such amendments had not been enacted.

SEC. 13211. ALLOCATION UNDER SECTION 861 OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

26 USC 861 note.

Subsection (c) of section 126 of the Deficit Reduction Act of 1984 is amended—

(1) by striking out "1985" and inserting in lieu thereof "1986"; and

(2) by striking out "3rd" each place it appears and inserting in lieu thereof "4th".

SEC. 13212. LIMITATION ON ISSUANCE OF UNITED STATES BONDS.

Subsection (a) of section 3102 of title 31, United States Code, is amended by striking out "$200,000,000,000" and inserting in lieu thereof "$250,000,000,000".

SEC. 13213. AUTHORIZATION OF ADDITIONAL FUNDS TO INTERNAL REVENUE SERVICE FOR REVENUE ENFORCEMENT AND RELATED PURPOSES, ETC.

(a) AUTHORIZATION.—There is authorized to be appropriated $46,500,000 for each of the fiscal years 1986, 1987, and 1988 for the use of the Internal Revenue Service to employ 1,550 additional agents and examination employees.

(b) RESTORATION OF PROPOSED CUTS.—It is the sense of the Congress that—

(1) the restoration of the cuts in the budget for the Internal Revenue Service for fiscal year 1986, and

(2) the further increase in such budget total,

recommended by the Committee on Appropriations of the House of Representatives are necessary for the efficient operation of the Government and to carry out the purposes of this Act.

Subtitle C—Provisions Relating to Unemployment Taxes

SEC. 13301. RAILROAD UNEMPLOYMENT REPAYMENT TAX.

(a) RATE OF TAX.—Subsection (c) of section 3321 of the Internal Revenue Code of 1954 (relating to rate of railroad unemployment repayment tax) is amended to read as follows: 26 USC 3321.

"(c) RATE OF TAX.—For purposes of this section—

"(1) IN GENERAL.—The applicable percentage for any taxable period shall be the sum of—

"(A) the basic rate for such period and

"(B) the surtax rate (if any) for such period.

"(2) BASIC RATE.—For purposes of paragraph (1)—

"(A) FOR PERIODS BEFORE 1989.—The basic rate shall be—

"(i) 4.3 percent for the taxable period beginning on July 1, 1986, and ending on December 31, 1986,

"(ii) 4.7 percent for the 1987 taxable period, and

"(iii) 6 percent for the 1988 taxable period.

"(B) FOR PERIODS AFTER 1988.—For any taxable period beginning after December 31, 1988, the basic rate shall be the sum of—

"(i) 2.9 percent, plus

"(ii) 0.3 percent for each preceding taxable period after 1988.

In no event shall the basic rate under this subparagraph exceed 5 percent.

"(3) SURTAX RATE.—For purposes of paragraph (1), the surtax rate shall be—

"(A) 3.5 percent for any taxable period if, as of September 30 of the preceding calendar year, there was a balance of transfers (or unpaid interest thereon) made after September 30, 1985, to the railroad unemployment insurance account under section 10(d) of the Railroad Unemployment Insurance Act, and 45 USC 360.

"(B) zero for any other taxable period.

"(4) BASIC RATE NOT TO APPLY TO RAIL WAGES PAID AFTER SEPTEMBER 30, 1990.—The basic rate under paragraph (1)(A) shall not apply to rail wages paid after September 30, 1990."

(b) BASE OF TAX TO BE COMPENSATION USED FOR RAILROAD RETIREMENT TAX PURPOSES.—Subsection (b) of section 3323 of such Code (defining rail wages) is amended to read as follows:

26 USC 3323.

"(b) RAIL WAGES.—

"(1) IN GENERAL.—For purposes of this chapter, the term 'rail wages' means compensation (as defined in section 3231(e) for purposes of the tax imposed by section 3201(a)) with the modifications specified in paragraph (2).

26 USC 3231.
26 USC 3201.

"(2) MODIFICATIONS.—In applying subsection (e) of section 3231 for purposes of paragraph (1)—

"(A) ONLY EMPLOYMENT COVERED BY RAILROAD UNEMPLOYMENT INSURANCE ACT TAKEN INTO ACCOUNT.—Such subsection (e) shall be applied—

"(i) by substituting 'rail employment' for 'services' each place it appears,

"(ii) by substituting 'rail employer' for 'employer' each place it appears, and

"(iii) by substituting 'rail employee' for 'employee' each place it appears.

"(B) $7,000 WAGE BASE.—Such subsection (e) shall be applied by substituting for 'the applicable base' in paragraph (2)(A)(i) thereof—

"(i) except as provided in clauses (ii) and (iii), '$7,000',

"(ii) '$3,500' for the taxable period beginning on July 1, 1986, and ending on December 31, 1986, and

"(iii) for purposes of applying the basic rate under section 3321(c)(1)(A), '$5,250' for the taxable period beginning on January 1, 1990.

26 USC 3321.

"(C) SUCCESSOR EMPLOYERS.—For purposes of this subsection, rules similar to the rules applicable under section 3231(e)(2)(C) shall apply."

(c) USE OF TAXES.—

(1) IN GENERAL.—Paragraph (2) of section 232(a) of the Railroad Retirement Revenue Act of 1983 (relating to tax used to repay loans made to railroad unemployment insurance account) is amended to read as follows:

45 USC 231n note.

"(2) TAXES CREDITED AGAINST LOANS TO RAILROAD UNEMPLOYMENT INSURANCE ACCOUNT.—

"(A) TAXES ATTRIBUTABLE TO BASIC RATE TO REDUCE RAILROAD UNEMPLOYMENT LOANS MADE BEFORE OCTOBER 1, 1985.—So much of the amount transferred under paragraph (1) as is attributable to the basic rate under section 3321(c)(1)(A) of the Internal Revenue Code of 1954 shall be credited against, and operate to reduce, the outstanding balance of railroad unemployment loans made before October 1, 1985.

"(B) TAXES ATTRIBUTABLE TO SURTAX RATE TO REDUCE RAILROAD UNEMPLOYMENT LOANS MADE AFTER SEPTEMBER 30, 1985.—So much of the amount transferred under paragraph (1) as is attributable to the surtax rate under section 3321(c)(1)(B) of such Code shall be credited against, and operate to reduce, the outstanding balance of railroad unemployment loans made after September 30, 1985."

(2) TRANSFERS TO RAILROAD UNEMPLOYMENT FUND AFTER LOAN REPAID.—Subsection (c) of section 232 of such Act is amended— 45 USC 231n note.

(A) by striking out "the amount" in paragraph (1) and inserting in lieu thereof "the amount described in subparagraph (A) or (B) of subsection (a)(2)", and

(B) by inserting before the comma at the end of paragraph (2) "against which the amount described in such subparagraph may be credited under such subparagraph".

(d) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 3322 of such Code (relating to taxable period) is amended— 26 USC 3322.

(A) by adding "and" at the end of paragraph (1), and

(B) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) each calendar year after 1986."

(2) Subsection (b) of section 3322 of such Code (relating to earlier termination if loans to rail unemployment fund repaid) is amended—

(A) by striking out "The tax imposed by this chapter shall not apply" and inserting in lieu thereof "The basic rate under section 3321(c)(1)(A) of the tax imposed by section 3321 shall not apply", and

(B) by inserting "made before October 1, 1985," after "no balance of transfers" in paragraph (1) thereof.

SEC. 13302. EXTENSION OF BORROWING AUTHORITY UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

Section 10(d) of the Railroad Unemployment Insurance Act is amended by striking out the last sentence thereof. 45 USC 360.

SEC. 13303. CERTAIN EXEMPTIONS FROM THE FEDERAL UNEMPLOYMENT TAX ACT.

(a) CERTAIN AGRICULTURAL LABOR.—Paragraph (1)(B) of section 3306(c) of the Internal Revenue Code of 1954 (defining employment) is amended by striking out "January 1, 1986," and inserting in lieu thereof "January 1, 1988". 26 USC 3306.

(b) FULL-TIME STUDENTS EMPLOYED BY SUMMER CAMPS.—Notwithstanding paragraph (3) of section 276(b) of the Tax Equity and Fiscal Responsibility Act of 1982, the amendments made by paragraphs (1) and (2) of such section 276(b) shall also apply to remuneration paid after September 19, 1985. 26 USC 3306 note.

(c) SERVICES PERFORMED ON CERTAIN FISHING BOATS.— 26 USC 3306 note.

(1) IN GENERAL.—Section 822(b) of the Economic Recovery Tax Act of 1981 is amended to read as follows:

"(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to remuneration paid after December 31, 1980.".

(2) TECHNICAL AMENDMENT.—Paragraph (20) of section 312(b) of such Code (defining employment for purposes of Federal Insurance Contributions Act) is amended by inserting "(other than service described in paragraph (3)(A))" after "service". 26 USC 3121.

TITLE XIV—REVENUE SHARING

SEC. 14001. TERMINATION OF GENERAL REVENUE SHARING.

(a) IN GENERAL.—(1) Except as otherwise provided in this section, chapter 67 of title 31, United States Code, is hereby repealed. Repeal. 31 USC 6701 *et seq.*

31 USC 6701 note.

(2) The Secretary of the Treasury shall continue to be the trustee of the Trust Fund, which shall remain in existence until all entitlement payments which are required to be made under the Revenue Sharing Act are made in accordance with the terms of such Act. Any funds remaining in the Trust Fund after all of such entitlement payments are completely made shall revert to the General Fund of the Treasury of the United States.

Post, p. 329.
Ante, p. 327.

31 USC 6701 note.

(3) The Secretary is authorized to take such necessary or appropriate actions, to carry out the requirements of this Act with respect to funds appropriated to the Trust Fund, as were authorized under the terms of the Revenue Sharing Act, including but not limited to enforcement of the regulatory provisions concerning nondiscrimination, audits, accounting procedures, public hearings, expenditures in accordance with State and local law, and cooperation with reasonable requests for information.

State and local government. 31 USC 6701 note.

(4) The Secretary may increase or decrease a payment to a unit of general local government under the Revenue Sharing Act for the entitlement period ending September 30, 1986, to account for a prior underpayment or overpayment only if the increase or decrease is demanded by the Secretary or such unit of general local government before June 2, 1986.

State and local government. 31 USC 6701 note.

(5) Amounts paid to units of general local government from the Trust Fund shall be used, obligated, or appropriated by the units of general local government before October 1, 1987, and shall continue to be subject to the terms of the Revenue Sharing Act.

31 USC 6701 note.

(6) Subsection (a)(1) of this section shall not have the effect of releasing or extinguishing any fiscal sanction, finding, determination, compliance agreement, or other duly authorized action for the purpose of sustaining any proper action or prosecution for enforcement authorized under the terms of the Revenue Sharing Act.

State and local government. Courts, U.S. 31 USC 6701 note.

(7) The Attorney General, and persons adversely affected by a practice of a local government, may bring a civil action in an appropriate district court of the United States against the applicable unit of general local government as authorized under the Revenue Sharing Act. The court is authorized to grant such relief as was authorized under the terms of the Revenue Sharing Act.

31 USC 6701 note. Report.

(8) The Secretary shall report to Congress on the operation and status of the Trust Fund and the implementation of this section not later than December 1 of each year the Trust Fund remains on the books of the Department of the Treasury.

(b) CONFORMING AMENDMENTS.—(1) The table of chapters for subtitle V of title 31, United States Code, is amended by striking out the item relating to chapter 67.

(2) Paragraph (2) of section 1115(b) of the Social Security Act (42 U.S.C. 1315(b)(2)) is amended—

(A) by adding "and" at the end of subparagraph (A),

(B) by striking out "; and" at the end of subparagraph (B) and inserting in lieu thereof a period, and

(C) by striking out subparagraph (C).

(3) Section 501(b)(6) of the Housing Act of 1949 (42 U.S.C. 1471(b)(6)) and section 102(a)(17) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(17)) are each amended by striking out "or under chapter 67 of title 31, United States Code" and inserting in lieu thereof "or was considered an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter".

31 USC 6701 *et seq.*

(4) Section 302 of the Age Discrimination Act of 1975 (42 U.S.C. 6101) is amended by striking out ", including programs or activities receiving funds under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221 et seq.)".

(5) Paragraph (3) of section 3 of the Coastal Barrier Resources Act (16 U.S.C. 3502(3)) is amended by striking out subparagraph (A) and redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (A), (B), (C), and (D), respectively.

(6) Subparagraph (B) of section 119(n)(2) of the Housing and Community Development Act of 1974 (42 U.S.C. 5318(n)(2)(B)) is amended by striking out "is an eligible recipient under chapter 67 of title 31, United States Code" and inserting in lieu thereof "was an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter". 31 USC 6701 *et seq.*

(7) Paragraph (1) of section 248(h) of the National Housing Act (12 U.S.C. 1715z-13(h)(1)) is amended by striking out "is an eligible recipient under chapter 67 of title 31, United States Code" and inserting in lieu thereof "was an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter".

(c) DEFINITIONS.—For purposes of this section— 31 USC 6701 note.

(1) The term "Trust Fund" means the State and Local Government Fiscal Assistance Trust Fund established under the Revenue Sharing Act. *Infra.*

(2) The term "Revenue Sharing Act" means the provisions of chapter 67 of title 31, United States Code, as in effect on the day before the date of enactment of this Act and subject to the terms of any appropriation Act of fiscal year 1986. *Ante*, p. 327.

(3) The term "Secretary" means the Secretary of the Treasury.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated for fiscal year 1987 such sums as may be necessary to administer the provisions of this section. 31 USC 6701 note.

(e) EFFECTIVE DATES.—(1) Except as otherwise provided in this subsection, the repeal and amendments made by this section, and the provisions of this section, shall take effect on the earlier of— 31 USC 6701 note.

(A) the date of the adjournment sine die of the 99th Congress, or

(B) December 31, 1986,

unless the provisions of chapter 67 of title 31, United States Code, are amended before the earlier of such dates to apply to any entitlement period beginning after September 30, 1986.

(2) The provisions of subsections (a)(4), (c), and (d) shall take effect on the date of enactment of this Act.

(3) Nothing in this section shall be construed to prevent the payment of any allocation for the entitlement period ending September 30, 1986.

TITLE XV—CIVIL SERVICE, POSTAL SERVICE, AND GOVERNMENTAL AFFAIRS GENERALLY

Subtitle A—Postal Service Programs

SEC. 15101. REVENUE FORGONE.

39 USC 2401 note.

Notwithstanding subsection (c) of section 2401 of title 39, United States Code, the amount authorized to be appropriated pursuant to such subsection for fiscal year 1986 shall be $749,000,000.

SEC. 15102. DELAY OF STEP 16 RATES; ELIMINATION OF PHASING SCHEDULE; TERMINATION OF REDUCTION IN RATES OF POSTAGE FOR CERTAIN MAILERS.

(a) DELAY OF STEP 16 RATES.—The increase in rates of postage for non-profit and certain other mailers announced by the Board of Governors of the United States Postal Service in Resolution No. 85-7 (adopted September 6, 1985) shall not take effect before January 1, 1986.

(b) ELIMINATION OF PHASING SCHEDULE.—(1) Section 3626(a) of title 39, United States Code, is amended to read as follows:

39 USC 4358, 4452, 4554.

"(a)(1) Except as provided in paragraph (2) of this subsection, rates of postage for a class of mail or kind of mailer under former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c) of this title shall be established in accordance with applicable provisions of this chapter.

"(2) Rates of postage for a class of mail or kind of mailer referred to in paragraph (1) of this subsection shall be established in accordance with the requirement that the direct and indirect postal costs attributable to such class of mail or kind of mailer (excluding any other costs of the Postal Service) shall be borne by such class of mail or kind of mailer, as the case may be.".

Effective date.

(2) The amendment made by this subsection shall apply with respect to rates of postage taking effect after December 31, 1985.

39 USC 3626 note.

(c) TERMINATION OF REDUCTION IN RATES OF POSTAGE FOR CERTAIN MAILERS.—Section 3626 of title 39, United States Code, is amended by adding at the end thereof the following:

"(f) In the administration of this chapter, the rates for mail under former section 4358(g) of this title shall be established without regard to either the provisions of such former section 4358(g) or the provisions of this section.".

SEC. 15103. STUDY AND REPORT.

(a) PERIOD OF STUDY.—The Postal Rate Commission shall study and, within 6 months after the date of the enactment of this Act, transmit to the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Governmental Affairs of the Senate a written report on the matters described in subsection (b).

(b) PURPOSE OF STUDY.—The purpose of the study under this section is—

(1) to develop recommendations for legislation which would reduce the amount of revenue forgone with respect to former sections 4355(a), 4355(b), 4358(d), 4452(b), 4452(c), 4554(b) and 4554(c) of title 39, United States Code, by changing the eligi-

bility requirements under which the reduced rates of postage under those sections would apply to mail which advertises or promotes the sale of, recommends the purchase of, or announces the availability of any article, product, service, insurance, or travel arrangements;

(2)(A) to identify the kinds of mailers which are the most frequent users of, or which otherwise significantly benefit from, rates for mail under subsections (a), (b), and (c) of former section 4358 of title 39, United States Code; and

(B) to examine the arguments for and against making the eligibility requirements for the rates referred to in subparagraph (A) more stringent, taking into consideration—

(i) the findings under subparagraph (A);

(ii) costs and benefits to the public; and

(iii) any other factor which may be appropriate; and

(3) to develop one or more alternatives for the method currently used by the United States Postal Service in computing revenue forgone (as determined with respect to the provisions of law referred to in section 2401(c) of title 39, United States Code) and to determine the advantages and disadvantages of each such alternative.

(c) In preparing its report under this section, the Postal Rate Commission shall invite and consider the views of interested parties.

(d) The United States Postal Service shall, upon request of the Postal Rate Commission, cooperate in the conduct of the study and the preparation of the report under this section.

SEC. 15104. RESTRICTION RELATING TO ELIGIBILITY FOR IN-COUNTY SECOND-CLASS RATES OF POSTAGE.

Section 3626 of title 39, United States Code, as amended by section 15102(c) of this Act, is further amended by adding at the end thereof the following:

"(g)(1) In the administration of this section, the rates for mail under subsections (a), (b), and (c) of former section 4358 of this title shall not apply to an issue of a publication if the number of copies of such issue distributed within the county of publication is less than the number equal to the sum of 50 percent of the total paid circulation of such issue plus one. 39 USC 4358.

"(2) Paragraph (1) of this subsection shall not apply to an issue of a publication if the total paid circulation of such issue is less than 10,000 copies.".

SEC. 15105. CURBING OF SUBSIDIES FOR ADVERTISING-ORIENTED "PLUS ISSUES" MAILED TO SUBSCRIBERS AT IN-COUNTY RATES.

Section 3626 of title 39, United States Code, as amended by sections 15102(c) and 15104 of this Act, is further amended by adding at the end thereof the following:

"(h) In the administration of this section, the number of copies of a subscription publication mailed to nonsubscribers during a calendar year at rates under subsections (a), (b), and (c) of former section 4358 of this title may not exceed 10 percent of the number of copies of such publication mailed at such rates to subscribers.".

Subtitle B—Civil Service Programs

5 USC 5305 note.

SEC. 15201. PAY ADJUSTMENTS.

(a) LIMITATION ON PAY ADJUSTMENTS FOR STATUTORY PAY SYSTEMS.—(1) The rates of pay under the General Schedule and the rates of pay under the other statutory pay systems referred to in section 5301(c) of title 5, United States Code, shall not be adjusted under section 5305 of such title during fiscal year 1986.

President of U.S.

(2)(A)(i) For fiscal years 1987 and 1988, the President shall provide for the adjustment of rates of pay under section 5305 of title 5, United States Code, as appropriate to reduce outlays, relating to pay of officers and employees of the Federal Government, by at least $746,000,000 in fiscal year 1987 and $1,264,000,000 in fiscal year 1988 (without regard to reductions in outlays which result by reason of subparagraph (B)(ii) of this paragraph, paragraph (1) of this subsection, subsection (b) of this section, and the application of section 1009 of title 37, United States Code), computed using the baseline used for the First Concurrent Resolution on the Budget for Fiscal Year 1986 (S. Con. Res. 32, 99th Congress), agreed to on August 1, 1985.

(ii) Clause (i) of this subparagraph shall not be construed to suspend the requirements of section 5305 of title 5, United States Code, with respect to fiscal years 1987 and 1988.

(B) Each adjustment in a pay rate or schedule which takes effect pursuant to subparagraph (A) of this paragraph—

(i) shall, to the maximum extent practicable, be of the same percentage; and

(ii) shall be effective with respect to pay periods beginning on or after January 1 of the fiscal year involved.

5 USC 5343 note.

(b) LIMITATION ON PAY ADJUSTMENTS FOR PREVAILING RATE EMPLOYEES.—(1) Notwithstanding any other provision of law, and except as otherwise provided in this subsection, in the case of a prevailing rate employee described in section 5342(a)(2) of title 5, United States Code, or an employee covered by section 5348 of such title, the total adjustment to any wage schedule or rate applicable to such employee which is to become effective (determined without regard to paragraph (2)) during—

(A) fiscal year 1986, shall (except to the extent permitted by section 616(a)(2) of H.R. 5798, incorporated by reference in section 101(j) of Public Law 98-473 (98 Stat. 1963)) be equal to zero;

(B) fiscal year 1987, shall not exceed an increase equal to the overall percentage of the adjustment (under section 5305 of title 5, United States Code) in the rates of pay under the General Schedule for such fiscal year; and

5 USC 5332.

(C) fiscal year 1988, shall not exceed an increase equal to the overall percentage of the adjustment (under section 5305 of title 5, United States Code) in the rates of pay under the General Schedule for such fiscal year.

Effective date.

(2) Notwithstanding any other provision of law, any increase permitted by paragraph (1) which is scheduled to take effect during fiscal year 1987 or 1988 (determined without regard to this paragraph) shall take effect as of the beginning of the first applicable pay period beginning at least 90 days after the date on which such increase is so scheduled to take effect.

5 USC 5343 note.

(3) Notwithstanding the provisions of section 9(b) of Public Law 92-392 or section 704(b) of Public Law 95-454, the provisions of

paragraphs (1) and (2) shall apply (in such manner as the Office of Personnel Management shall prescribe) to prevailing rate employees to whom such section 9(b) applies, except that the provisions of paragraph (1) shall not apply to any increase in a wage schedule or rate which is required by the terms of a contract entered into before October 1, 1985. 5 USC 5343 note.

(4) Nothing in this subsection or any provision of law governing the use of appropriated funds for the payment of employees covered by this subsection during the period covered by paragraph (1) (or any part of such period) shall be construed to permit or require the payment to any such employee at a rate in excess of the rate that would be payable were this subsection, or such provision of law governing the use of appropriated funds, not in effect.

(5) The Office may make exceptions from the limitations imposed by paragraph (1) if the Office determines that such exceptions are necessary to ensure the recruitment or retention of well-qualified employees.

SEC. 15202. PROVISIONS RELATING TO FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.

(a) AMOUNTS TO BE REFUNDED FROM CARRIERS' SPECIAL RESERVES.—(1) The Office of Personnel Management— 5 USC 8909 note.

(A) shall determine the minimum level of financial reserves necessary to be held by a carrier for each health benefits plan under chapter 89 of such title for the purpose of ensuring the stable and efficient operation of such plan; and

(B) shall require the carrier to refund to the Employees Health Benefits Fund (described in section 8909(a) of title 5, United States Code) any such reserves in excess of such minimum level in such amounts and at such times during fiscal years 1986 and 1987 as the Office determines appropriate.

(2) In carrying out its responsibilities under this subsection, the Office shall ensure that the aggregate amount to be refunded to the Employees Health Benefits Fund under this subsection—

(A) during fiscal year 1986 shall be not less than $800,000,000; and

(B) during fiscal year 1987 shall be not less than $300,000,000.

(3) No amount in the Employees Health Benefits Fund may be transferred to the general fund of the Treasury of the United States as a result of a refund made under this subsection.

(4)(A) Subject to subparagraphs (B) and (C), any amounts refunded to the Employees Health Benefits Fund under this subsection may be used solely for the purpose of paying the Government contribution under chapter 89 of title 5, United States Code, for health benefits for annuitants, as defined by section 8901(3) of title 5, United States Code, (including the Government contribution for former employees of the United States Postal Service) enrolled in health benefits plans under such chapter. 5 USC 8901 *et seq.*

(B) This paragraph applies to a refund to the extent that such refund represents amounts attributable to Government contributions which were made under section 8906(b) of title 5, United States Code, (including contributions made by the United States Postal Service) as determined under regulations which the Office of Personnel Management shall prescribe.

(C) Any part of the amount in the Employees Health Benefits Fund as a result of a refund made under this subsection may be transferred— District of Columbia.

(i) to the government of the District of Columbia, except that the amount of any such part so transferred shall not exceed the amount attributable to the contributions made by the government of the District of Columbia to subscription charges under this chapter (as determined by the Office of Personnel Management); and

(ii) to the United States Postal Service, except that the amount of any such part so transferred shall not exceed the amount attributable to the contributions made by the United States Postal Service to subscription charges under this chapter (as determined by the Office).

(5) The provisions of this subsection shall apply notwithstanding any provision of the Federal Employees Benefits Improvement Act of 1985.

(b) GOVERNMENT CONTRIBUTIONS FOR RETIRED FORMER EMPLOYEES OF THE UNITED STATES POSTAL SERVICE.—Section 8906(g) of title 5, United States Code, is amended—

(1) by striking out "(g) The" and inserting in lieu thereof "(g)(1) Except as provided in paragraph (2), the"; and

(2) by adding at the end thereof the following:

"(2) The Government contributions authorized by this section for health benefits for an individual who first becomes an annuitant by reason of retirement from employment with the United States Postal Service on or after October 1, 1986, shall be paid by the United States Postal Service.".

SEC. 15203. COMPUTATION OF HOURLY RATES OF PAY.

(a) METHOD OF COMPUTATION.—Section 5504(b) of title 5, United States Code, is amended—

(1) by striking out the first sentence;

(2) in the second sentence, by striking out "When" and inserting in lieu thereof "When, in the case of an employee,";

(3) in paragraph (1), by striking out "2,080" and inserting in lieu thereof "2,087"; and

(4) in the last sentence, by striking out "title." and inserting in lieu thereof "title other than an employee or individual excluded by section 5541(2)(xvi) of this title.".

5 USC 5541.

5 USC 5504 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to pay periods commencing on or after March 1, 1986.

SEC. 15204. COMPUTATION OF RETIREMENT ANNUITY FOR PART-TIME EMPLOYMENT.

(a) IN GENERAL.—(1) Section 8339 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(o)(1) In computing an annuity under this subchapter for an employee whose service includes service that was performed on a part-time basis—

"(A) the average pay of the employee, to the extent that it includes pay for service performed in any position on a part-time basis, shall be determined by using the annual rate of basic pay that would be payable for full-time service in the position; and

"(B) the benefit so computed shall then be multiplied by a fraction equal to the ratio which the employee's actual service, as determined by prorating an employee's total service to reflect the service that was performed on a part-time basis, bears to the

total service that would be creditable for the employee if all of the service had been performed on a full-time basis.

"(2) For the purpose of this subsection, employment on a part-time basis shall not be considered to include employment on a temporary or intermittent basis.".

(2) Section 8341 of such title is amended— 5 USC 8341.

(A) by striking out "and (n)" in subsection (b)(1) and inserting in lieu thereof ", (n), and (o)"; and

(B) by striking out "and (n)" in subsection (d) and inserting in lieu thereof "(n), and (o)".

(b) Section 4109(b) of title 38, United States Code, is repealed.

(c) The amendments made by this section shall be effective with respect to service performed on or after the date of the enactment of this Act. 5 USC 8339 note.

SEC. 15205. EFFECT OF WAGE AREA SURVEY REGARDING CERTAIN FEDERAL EMPLOYEES IN TUCSON, ARIZONA.

(a) IN GENERAL.—Notwithstanding any other provision of law limiting the amounts payable to prevailing wage rate employees during the fiscal year 1986, wage schedules or rates applicable to the Tucson, Arizona, wage area shall not be reduced as a result of a wage survey conducted during fiscal year 1985.

(b) EFFECTIVE DATE.—This section shall be effective as of October 1, 1985.

Subtitle C—Federal Motor Vehicle Expenditure Control

SEC. 15301. MONITORING SYSTEM. 40 USC 901.

The head of each executive agency, including the Department of Defense, shall designate one office, officer, or employee of the agency to establish and operate a central monitoring system for, and provide oversight of, the motor vehicle operations of the agency, related activities, and related reporting requirements.

SEC. 15302. DATA COLLECTION. 40 USC 902.

(a) COST IDENTIFICATION AND ANALYSIS.—The head of each executive agency, including the Department of Defense, shall develop a system to identify, collect, and analyze data with respect to all costs, including obligations and outlays, incurred by the agency in the operation, maintenance, acquisition, and disposition of motor vehicles, including Government-owned vehicles, leased vehicles, and privately owned vehicles used for official purposes.

(b) REQUIREMENTS FOR DATA SYSTEMS.—The Administrator, in cooperation with the Comptroller General and the Director, shall promulgate requirements governing the establishment and operation by executive agencies of the systems required by subsection (a), including requirements with respect to data concerning the costs and uses of motor vehicles and with respect to the uniform collection and submission of such data. Requirements promulgated under this section shall be in conformance with accounting principles and standards issued by the Comptroller General. Each executive agency, including the Department of Defense, shall comply with such requirements.

40 USC 903.

SEC. 15303. AGENCY STATEMENTS WITH RESPECT TO MOTOR VEHICLE USE.

(a) CONTENTS OF STATEMENT.—The head of each executive agency, including the Department of Defense, shall include with the appropriation request of such agency submitted under section 1108 of title 31, United States Code, for fiscal year 1988 and each succeeding fiscal year, a statement—

(1) specifying—

(A) the total motor vehicle acquisition, maintenance, leasing, operation, and disposal costs, including obligations and outlays, incurred by such agency in the most recently completed fiscal year; and

(B) an estimate of such costs for the fiscal year in which such request is submitted and for the succeeding fiscal year; and

(2) justifying why the existing and any new motor vehicle acquisition, maintenance, leasing, operation, and disposal requirements of the agency cannot be met through the Interagency Fleet Management System operated by the Administrator, a qualified private fleet management firm, or any other method which is less costly to the Government.

(b) COMPLIANCE WITH REQUIREMENTS.—The head of each executive agency shall comply with the requirements promulgated under section 15302(b) in preparing each statement required under subsection (a).

SEC. 15304. PRESIDENTIAL REPORT.

President of U.S.
40 USC 904.

(a) SUMMARY AND ANALYSIS OF AGENCY STATEMENTS.—The President shall include with the budget transmitted pursuant to section 1105 of title 31, United States Code, for fiscal year 1988 and each succeeding fiscal year, or in a separate written report to the Congress for each such fiscal year, a summary and analysis of the statements most recently submitted by the heads of executive agencies pursuant to section 15303(a). Each such summary and analysis shall include a review, for the fiscal year preceding the fiscal year in which the budget is submitted, the current fiscal year, and the fiscal year for which the budget is submitted, of the cost savings that have been achieved, that are estimated will be achieved, and that could be achieved, in the acquisition, maintenance, leasing, operation, and disposal of motor vehicles by executive agencies through—

(1) the use of a qualified private fleet management firm or another private contractor;

(2) increased reliance by executive agencies on the Interagency Fleet Management System operated by the Administrator; or

(3) other existing motor vehicle management systems.

(b) APPLICABILITY TO FISCAL YEAR 1986.—The summary and analysis submitted under subsection (a) during fiscal year 1987 is not required to include a review, under the second sentence of such subsection, of the cost savings achieved for fiscal year 1986.

40 USC 905.

SEC. 15305. STUDY REQUIRED.

(a) STUDY OF COSTS, BENEFITS, AND FEASIBILITY.—(1) The head of each executive agency, including the Department of Defense, shall conduct a comprehensive and detailed study of the costs, benefits, and feasibility of—

(A) relying on the Interagency Management Fleet System operated by the Administrator;

(B) entering into a contract with a qualified fleet management firm or another private contractor; or

(C) using any other means less costly to the Government, to meet its motor vehicle operation, maintenance, leasing, acquisition, and disposal requirements.

(2) Each study conducted under paragraph (1) shall compare the costs, benefits, and feasibility of the alternatives described in subparagraphs (A), (B), and (C) of such paragraph to the costs and benefits of the agency's current motor vehicle operations and, in the case of the alternatives described in subparagraphs (B) and (C) of such paragraph, to the costs, benefits, and feasibility of the use of the Interagency Fleet Management System operated by the Administrator.

(b) SUBMISSION TO DIRECTOR AND COMPTROLLER GENERAL.—Within 6 months after the date of enactment of this Act, the head of each executive agency shall submit a report concerning the study required under subsection (a) to the Administrator. Report.

SEC. 15306. INTERAGENCY CONSOLIDATION. 40 USC 906.

(a) IDENTIFICATION OF OPPORTUNITIES FOR CONSOLIDATION.—The Administrator shall review and identify interagency opportunities for the consolidation of motor vehicles, related equipment, and facilities, and of functions relating to the administration and management of such vehicles, equipment, and facilities, in order to reduce the size and cost of the Federal Government's motor vehicle fleet. Motor vehicles.

(b) REPORT AND ACTION ON FINDINGS.—Within one year after the date of enactment of this Act, the Administrator shall—

(1) submit a report to the Congress specifying the findings and recommendations of the Administrator from the review conducted under subsection (a); and

(2) take such action as the Administrator considers appropriate based on such findings and recommendations and in accordance with section 211 of the Federal Property and Administrative Services Act. 40 USC 491.

SEC. 15307. REDUCTION OF STORAGE AND DISPOSAL COSTS. 40 USC 907.

The Administrator shall take such actions as may be necessary to reduce motor vehicle storage and disposal costs and to improve the rate of return on motor vehicle sales through a program of vehicle reconditioning prior to sale.

SEC. 15308. SAVINGS. 40 USC 908.

(a) ACTIONS BY PRESIDENT REQUIRED.—The President shall establish, for each executive agency, including the Department of Defense, goals to reduce outlays for the operation, maintenance, leasing, acquisition, and disposal of motor vehicles in order to reduce, by fiscal year 1988, the total amount of outlays by all executive agencies for such operation, maintenance, leasing, acquisition, and disposal to an amount which is $150,000,000 less than the amount for such operation, maintenance, leasing, acquisition, and disposal requested by the President in the budget submitted under section 1105 of title 31, United States Code, for fiscal year 1986.

(b) MONITORING OF COMPLIANCE AND COMPLIANCE REPORT.—The Director shall monitor compliance by executive agencies with the

goals established by the President under subsection (a) and shall include, in each summary and analysis required under section 15304, a statement specifying the reductions in expenditures by executive agencies, including the Department of Defense, achieved under such goals.

40 USC 909.

SEC. 15309. COMPLIANCE.

Motor vehicles.

(a) ADMINISTRATOR OF GENERAL SERVICES.—The Administrator shall comply with and be subject to the provisions of this part with regard to all motor vehicles that are used within the General Services Administration for official purposes.

(b) MANAGERS OF OTHER MOTOR POOLS.—The provisions of this part with respect to motor vehicles from the Interagency Fleet Management System shall be complied with by the executive agencies to which such motor vehicles are assigned.

40 USC 910.

SEC. 15310. APPLICABILITY.

(a) PRIORITY IN REDUCING HEADQUARTERS USE.—The heads of executive agencies shall give first priority to meeting the goals established by the President under section 15308(a) by reducing the costs of administrative motor vehicles used at the headquarters and regional headquarters of executive agencies, rather than by reducing the costs of motor vehicles used by line agency personnel working in agency field operations or activities.

President of U.S.

(b) REGULATIONS, STANDARDS, AND DEFINITIONS.—The President shall require the Administrator, in cooperation with the Director, to promulgate appropriate regulations, standards, and definitions to assure that executive agencies meet the goals established under section 15308(a) in the manner prescribed by subsection (a).

40 USC 911.

SEC. 15311. COOPERATION.

The Director and the Administrator shall closely cooperate in the implementation of the provisions of this part.

40 USC 912.

SEC. 15312. REPORTS.

The Comptroller General shall evaluate the extent to which the Director, the Administrator, and executive agencies have complied with this part. By January 31, 1988, the Comptroller General shall submit a report to the Congress describing the results of such evaluation.

40 USC 913.

SEC. 15313. DEFINITIONS.

For purposes of this title—

(1) the term "executive agency" means an Executive agency (as such term is defined in section 105 of title 5, United States Code), which operates at least three hundred motor vehicles, except that such term does not include the Tennessee Valley Authority;

(2) the term "Director" means the Director of the Office of Management and Budget;

(3) the term "Administrator" means the Administrator of General Services;

(4) the term "Comptroller General" means the Comptroller General of the United States; and

(5) the term "motor vehicle" means any vehicle self-propelled or drawn by mechanical power, except that such term does not include any vehicle designed or used for military field training, combat, or tactical purposes, or any other special purpose ve-

hicle exempted from the requirements of this part by the Administrator.

TITLE XVI—HIGHER EDUCATION PROGRAMS

Student Financial Assistance Amendments of 1985.
20 USC 1001 note.

SEC. 16001. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This title may be cited as the "Student Financial Assistance Amendments of 1985".

(b) REFERENCE.—References in this title to "the Act" are to the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

Subtitle A—Savings in Student Loan Program Operations

SEC. 16011. RECOVERY OF OUTSTANDING ADVANCES TO GUARANTY AGENCIES.

Section 422 of the Act is amended by adding at the end thereof the following new subsection: 20 USC 1072.

"(d)(1) Notwithstanding any other provision of this section, advances made by the Secretary under this section shall be repaid in accordance with this paragraph and shall be deposited in the fund established by section 431. The Secretary shall, in accordance with the requirements of paragraph (2), recover (and so deposit) an amount equal to $75,000,000 during fiscal year 1988. State and local governments. 20 USC 1081.

"(2) In determining the amount of advances which shall be repaid by a State or nonprofit private institution or organization under paragraph (1), the Secretary—

"(A) shall consider the solvency and maturity, as determined by the Comptroller General, of the reserve and insurance funds of the State or nonprofit private institution or organization assisted by such advances;

"(B) shall not seek repayment of such advances from any State described in subsection (c)(5)(B) during any year of its eligibility under such subsection; and

"(C) shall not seek repayment of such advances from any State if such repayment encumbers the reserve fund requirement mandated by the statutes of such State.".

SEC. 16012. DISBURSEMENT OF STUDENT LOANS TO INSTITUTIONS REQUIRED.

(a) FISL LOANS REQUIREMENT.—Section 427(a)(2) of the Act is amended— 20 USC 1077.

(1) by striking out clause (ii) of subparagraph (B) and by redesignating clauses (iii) and (iv) of subparagraph (B) as clauses (ii) and (iii), respectively;

(2) by striking out "or the fifteen-year period" in the matter following clause (viii) of subparagraph (C); and

(3) by amending subparagraph (I) to read as follows:

"(I) the funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except nothing in this subparagraph shall be interpreted to allow the Secretary to require checks to be made

co-payable to the institution and the borrower or to prohibit the disbursement of loan proceeds by means other than by check; and".

20 USC 1078. (b) GSL LOANS REQUIREMENT.—Section 428(b)(1)(O) of the Act is amended to read as follows:

"(O) provides that funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except nothing in this subparagraph shall be interpreted to allow the Secretary to require checks to be made co-payable to the institution and the borrower or to prohibit the disbursement of loan proceeds by means other than by check;".

20 USC 1083a. (c) CONFORMING AMENDMENT.—Section 433A(a) of the Act is amended by striking out "to a borrower" in the first sentence.

SEC. 16013. MULTIPLE DISBURSEMENTS OF STUDENT LOANS REQUIRED.

(a) REPEAL OF INCENTIVES TO LENDERS TO MAKE MULTIPLE DISBURSEMENTS.—Section 428(a) of the Act is amended by striking out paragraph (8). 20 USC 1078.

(b) MULTIPLE DISBURSEMENT REQUIRED IN FISL PROGRAM.—Section 427(a) of the Act is amended— 20 USC 1077.

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(3) in the case of a loan made for any period of enrollment of more than six months, one semester, two quarters, or 600 clock hours and for an amount of $1,000 or more, the proceeds of the loan will be disbursed directly by the lender in two or more installments, none of which exceeds one-half of the loan, with the interval between the first and second installment being not less than one-third of such period.

For purposes of paragraph (3), all loans issued for the same period of enrollment shall be considered as a single loan.".

(c) MULTIPLE DISBURSEMENTS REQUIRED IN GSL PROGRAM.—Section 428(b)(1) of such Act is amended—

(1) by redesignating subparagraph (P) as subparagraph (Q); and

(2) by inserting after subparagraph (O) the following new subparagraph:

"(P) provides that the proceeds of any loan made for any period of enrollment of more than six months, one semester, two quarters, or 600 clock hours and for an amount of $1,000 or more—

"(i) will be disbursed directly by the lender in two or more installments, none of which exceeds one-half of the loan, with the interval between the first and second installment being not less than one-third of such period, or

"(ii) will be disbursed in such installments pursuant to the escrow provisions of subsection (i) of this section,

but all loans issued for the same period of enrollment shall be considered as a single loan for purposes of this subparagraph; and".

(d) ORIGINATION FEE TO BE DEDUCTED PROPORTIONATELY FROM EACH INSTALLMENT.—Section 438(c)(2) of the Act is amended by striking out "which may be deducted from the proceeds of the loan 20 USC 1087-1.

prior to payment to the borrower" and inserting in lieu thereof "which shall be deducted proportionately from each installment payment of the proceeds of the loan to the borrower".

(e) CONFORMING AMENDMENTS.—(1) Section 425(a)(1) of the Act is amended— 20 USC 1075.

(A) by inserting "and" at the end of subparagraph (A), by striking out subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B); and

(B) by striking out the last sentence.

(2) Section 428(a)(3)(A) of the Act is amended— 20 USC 1078.

(A) by striking out "Except as provided in paragraph (8) and subject" and inserting in lieu thereof "Subject"; and

(B) by striking out "but, except as provided in paragraph (8) of this subsection, such portion" and inserting in lieu thereof "but such portion".

(3) Section 428(b)(1)(A) of such Act is amended—

(A) by inserting "and" at the end of division (i);

(B) by striking out division (ii) and by redesignating division (iii) as division (ii); and

(C) in the matter following such division, by striking out "annual limit," and all that follows and inserting in lieu thereof "annual limit;".

SEC. 16014. PRECLAIM COLLECTION ACTIVITIES.

(a) DELAY REQUIRED BEFORE SUBMISSION OF CLAIMS BY GUARANTY AGENCIES.—(1) Section 428(c)(1)(A) of the Act is amended by adding at the end thereof the following new sentence: "In no case shall a State or nonprofit private institution or organization with which the Secretary has an agreement pursuant to subsection (b) file a claim for such reimbursement with respect to such losses prior to 270 days after the loan becomes delinquent with respect to any loan installment.". 20 USC 1078.

(2) Section 430(e)(2) of the Act is amended— 20 USC 1080.

(A) by striking out "one hundred and twenty days" and inserting in lieu thereof "180 days"; and

(B) by striking out "one hundred and eighty days" and inserting in lieu thereof "240 days".

(b) SUPPLEMENTAL PRECLAIMS ASSISTANCE.—(1) Section 428(c)(6)(A) of the Act is amended—

(A) by inserting after "assistance for default prevention," the following: "the administrative costs of supplemental preclaim assistance for default prevention,"; and

(B) by striking out "as such terms are defined in subparagraph (B)" and inserting in lieu thereof "as such terms are defined in subparagraph (B) or (C)".

(2) Section 428(c)(6) of the Act is amended by adding at the end thereof the following new subparagraph:

"(C)(i) For purposes of this paragraph, 'administrative costs of supplemental preclaim assistance for default prevention' means (subject to divisions (ii) through (iv)) any administrative costs—

"(I) incurred by a guaranty agency in connection with a loan on which the guarantor has exercised preclaims assistance required or permitted under sections 428(c)(2)(A) and 428(f)(2), and which has been in delinquent status for at least 120 days; and

"(II) which are directly related to providing collection assistance to the lender on a delinquent loan, prior to a claim being filed by the guaranty agency,

including the attributable compensation of appropriate personnel (and in the case of personnel who perform several functions, only the portion of compensation attributable to the collection assistance), fees paid to locate a missing borrower, postage, equipment, supplies, telephone, and similar charges, but does not include overhead costs.

"(ii) The administrative costs for which reimbursement is authorized under this subparagraph must be clearly supplemental to the preclaim assistance for default prevention which the guaranty agency is required to provide pursuant to section 428(c)(2)(A) and section 428(f)(2) of this Act.

20 USC 1078.

"(iii) The services associated with carrying out this subparagraph may be provided by the guaranty agency directly or under contract, except that such services may not be carried out by an organization or entity (other than the guaranty agency)—

"(I) that is the holder or servicer of the loan or an organization or entity that owns or controls the holder or servicer of the loan; or

"(II) that is owned or controlled by the same corporation, partnership, association, or individual that owns or controls the holder or servicer of the loan.

"(iv) The costs associated with carrying out this subparagraph may not exceed 2 percent of the outstanding principal balance of each delinquent loan subject to the supplemental preclaim assistance authorized by this subparagraph or $100, whichever is less.".

20 USC 1078 note.

(3) The amendments made by this subsection shall be effective in accordance with section 16041(a) of this title without regard to whether such amendments are reflected in the regulations prescribed by the Secretary of Education.

SEC. 16015. PROMPT PAYMENT OF SUPPLEMENTAL GUARANTY ADMINISTRATIVE COST AGREEMENT.

Loans.
20 USC 1078 note.

(a) PURPOSE.—It is the purpose of the amendments made by this section to assure the prompt payment of the amount due under the supplemental guaranty administrative cost agreement made under section 428(f)(2) in order to encourage improved collection of student loans and preclaims assistance to prevent default on student loans.

20 USC 1078.

(b) PROMPT PAYMENT REQUIRED.—(1) Section 428(f)(1) of the Act is amended—

(A) by striking out "is authorized to" and inserting in lieu thereof "shall";

(B) by striking out "shall not exceed" and inserting in lieu thereof "shall be equal to"; and

(C) by striking out the third and fourth sentences of such section.

(2) Section 428(f)(2) of the Act is amended—

(A) by striking out "is authorized to" and inserting in lieu thereof "shall";

(B) by striking out "shall not exceed" and inserting in lieu thereof "shall be equal to"; and

(C) by striking out the third and fourth sentences of such section.

SEC. 16016. GUARANTY AGENCY; LENDER OF LAST RESORT.

Section 428 of the Act is amended by adding at the end thereof the following new subsection: 20 USC 1078.

"(j) In each State, the guaranty agency or an eligible lender in the State described in section 435(d)(1)(D) of this Act shall make loans directly, or through an agreement with an eligible lender or lenders, to students who are eligible to have interest benefits paid on their behalf (under subsection (a) of this section) but who are otherwise unable to obtain loans under this part. Loans made under this subsection shall neither exceed the amount of the need of the borrower, as determined under subsection (a)(2)(B), nor be less than $200.". State and local governments. 20 USC 1085.

SEC. 16017. STUDENT LOAN CONSOLIDATION.

(a) LOAN CONSOLIDATION AUTHORIZED.—Part B of title IV of the Act is amended by inserting after section 428B the following new section:

"CONSOLIDATION LOANS

"SEC. 428C. (a)(1) For the purpose of providing loans to eligible borrowers for consolidation of their obligations with respect to student loans made, insured, or guaranteed under this part or made under part E of this title, the Secretary or a guaranty agency shall enter into agreements in accordance with subsection (b) with the following eligible lenders: 20 USC 1078-3. 20 USC 1088.

"(A) the Student Loan Marketing Association;

"(B) agencies described in subparagraphs (D) and (F) of section 435(g)(1); and 20 USC 1085.

"(C) eligible lenders described in subparagraphs (A), (B), (C), and (E) of such section.

"(2) Except as provided in section 429(e), no contract of insurance under this part shall apply to a consolidation loan unless such loan is made under an agreement pursuant to this section and is covered by a certificate issued in accordance with subsection (b)(2). Loans covered by such a certificate that is issued by a guaranty agency shall be considered to be insured loans for the purposes of reimbursements under section 428(c), but no payment shall be made with respect to such loans under section 428(f) to any such guaranty agency. 20 USC 1079. 20 USC 1078.

"(3) For the purpose of this section, the term 'eligible borrower' means a borrower who—

"(A) has an outstanding indebtedness, at the time of application for a consolidation loan, to one or more lenders or programs under this title of not less than $5,000;

"(B) has not during the previous 4 months carried at an eligible institution at least one-half the normal full-time academic workload;

"(C) if in repayment status, is not delinquent with respect to any required payment on such indebtedness by more than 90 days; and

"(D) is not a parent borrower under section 428B(a)(1). 20 USC 1078-2.

"(4) An individual's status as an eligible borrower under this section terminates upon receipt of a consolidation loan under this section except with respect to loans received under this title after the date of receipt of the consolidation loan. For the purpose of computing the outstanding indebtedness of such an individual, only loans received after such date shall be taken into account.

"(b)(1) Any lender described in clause (A), (B), or (C) of subsection (a)(1) who wishes to make consolidation loans under this section shall enter into an agreement with the Secretary or a guaranty agency which provides—

"(A)(i) that, in the case of lenders described in subsection (a)(1)(C), the lender will make a consolidation loan to any eligible borrower on request of that borrower, if the lender holds an outstanding loan of that borrower which is selected by the borrower for consolidation under this section, and will make such loans to other eligible borrowers only to the extent permitted by the Secretary in an agreement under subsection (d);

"(ii) that, in the case of lenders described in subsection (a)(1)(B), the lender will make, subject to the availability of funds allocated for such purpose, a consolidation loan to any eligible borrower—

"(I) who is, or was at the time of receiving a loan which is selected for consolidation, a resident of the State of such lender; or

"(II) who received loans under this title while attending an institution of higher education in the State of such lender,

except that the lender may elect to limit further the availability of its loans under this section to those borrowers for whom the lender is the holder of a loan selected for consolidation; or

"(iii) that, in the case of the Student Loan Marketing Association, the lender will make a consolidation loan to any eligible borrower on request of that borrower;

"(B) that each consolidation loan made by the lender will bear interest, and be subject to repayment, in accordance with subsection (c);

"(C) that each consolidation loan will be made, notwithstanding any other provision of this part limiting the maximum principal amount for all insured loans made to a borrower, in an amount (i) which is not less than the minimum amount required for eligibility of the borrower under subsection (a)(3)(A)(i), and (ii) which is equal to the sum of the unpaid principal, accrued unpaid interest and late charges of all loans received by the eligible borrower under this title which are selected by the borrower for consolidation;

"(D) that the proceeds of each consolidation loan will be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans;

"(E) that, in the case of any lender, such lender will not make consolidation loans under this part from the proceeds of bonds or other obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954, issued subsequent to the enactment date of the Student Financial Assistance Amendments of 1985; and

26 USC 1 *et seq.*

Ante, p. 339.

"(F) such other terms and conditions as the Secretary or guaranty agency (whichever is party to the agreement) may specifically require of the lender to carry out this section.

"(2) The Secretary shall issue a certificate of comprehensive insurance coverage under section 429(b) to a lender which has entered into an agreement with the Secretary under paragraph (1) of this subsection. A guaranty agency may issue a certificate of comprehensive insurance coverage to a lender if the lender has entered into an agreement under paragraph (1) of this subsection. The Secretary

20 USC 1079.

shall not issue such a certificate under this paragraph to a lender described in clause (B) or (C) of subsection (a)(1) if the Secretary determines that such lender has reasonable access in its State, for the purpose of obtaining such a certificate, to a guaranty agency. In either case, such certificate shall, at a minimum, provide—

"(A) that all consolidation loans made by such lender in conformity with the requirements of this section will be insured against loss of principal and interest by the issuer of such certificate;

"(B) that a consolidation loan will not be insured unless the lender has determined to its satisfaction, in accordance with reasonable and prudent business practices, for each loan being consolidated (i) that the loan is a legal, valid, and binding obligation of the borrower; (ii) that each such loan was made and serviced in compliance with applicable laws and regulations; and (iii) in the case of loans under this part, that the insurance on such loan is in full force and effect;

"(C) the effective date and expiration date of the certificate;

"(D) the aggregate amount to which the certificate applies;

"(E) that, if the lender prior to the expiration of the certificate no longer proposes to make consolidation loans, the lender will so notify the issuer of such certificate in order that the certificate may be terminated (without affecting the insurance on any consolidation loan made prior to such termination); and

"(F) the terms upon which the issuer of the certificate may limit, suspend, or terminate the lender's authority to make consolidation loans under the certificate (without affecting the insurance on any consolidation loan made prior to such limitation, suspension, or termination).

"(3) A consolidation loan made pursuant to this section shall be insurable under a certificate issued pursuant to paragraph (2) only if the loan is made to an eligible borrower who has agreed to notify the holder of the loan promptly concerning any change of address and the loan is evidenced by a note or other written agreement which—

"(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him would not, under applicable law, create a binding obligation, endorsement may be required;

"(B) provides for the payment of interest and the repayment of principal in accordance with subsection (c) of this section and contains notice of the possibility of a revised repayment schedule under paragraph (2) of such subsection;

"(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

Fellowships. Disabled persons.

"(i) during which the borrower is pursuing a full-time course of study at an eligible institution, is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary;

"(ii) not in excess of 2 years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition;

"(iii) not in excess of 3 years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is

unable to secure employment by reason of the care required by a spouse who is so disabled; or

"(iv) which is a single period, not in excess of 12 months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment; and

that any such period shall not be included in determining the repayment period provided pursuant to subsection (c)(2) of this section;

"(D) entitles the borrower to accelerate without penalty repayment of the whole or any part of the loan; and

"(E)(i) contains a notice of the system of disclosure concerning such loan to credit bureau organizations under section 430(b)(2), and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations.

20 USC 1080.

"(c)(1) Consolidation loans made under this section shall bear interest at the rate of 10 per centum per annum on the unpaid principal balance of the loan, except that, if the consolidation loan is used for the purpose of discharging liability on a loan made pursuant to section 428B, the consolidation loan shall bear interest at a rate per annum on such unpaid balance which is equal to the highest applicable interest rate under section 427A on any loan which is selected for consolidation by the borrower. For the purposes of payment of special allowances under section 438(b)(2), the interest rate required by this subsection is the applicable interest rate with respect to a consolidation loan.

20 USC 1078-2.
20 USC 1077a.
20 USC 1087-1.

"(2) Notwithstanding any other provision of this part, to the extent authorized by its certificate of insurance under subsection (b)(2)(F) and approved by the issuer of such certificate, the lender of a consolidation loan, with the agreement of the borrower, may establish such repayment terms as will promote the objectives of this section, including the establishment of graduated and income sensitive repayment schedules. In each case a consolidation loan shall be repaid as follows:

"(A) in the case of a consolidation loan the original amount of which is less than $7,500, such loan shall be repaid in not more than 10 years;

"(B) in the case of a consolidation loan the original amount of which equals or exceeds $7,500 but is less than $11,000, such loan shall be repaid in not more than 13 years; or

"(C) in the case of a consolidation loan the original amount of which equals or exceeds $11,000, such loan shall be repaid in not more than 15 years.

"(3) Repayment of a consolidation loan shall commence within 60 days after all holders have, pursuant to subsection (b)(1)(D), discharged the liability of the borrower on the loans selected for consolidation.

Prohibition.

"(4) No origination fee or insurance premium shall be charged to the borrower on any consolidation loan, and no insurance premium shall be payable by the lender to the issuer of the certificate of insurance with respect to any such loan.

State and local government.

"(d)(1) If, within 18 months after the effective date of this section, an eligible lender described in subsection (a)(1)(B) for a State has not entered into an agreement with the Secretary or a guaranty agency for purposes of making consolidation loans under this section, the Secretary may, after a hearing and upon a determination of need therefor, enter into an agreement for the purposes of making

consolidation loans to eligible borrowers in such State with an eligible lender described in clause (B) or (C) of subsection (a)(1) from another State.

"(2) Notice of the hearing required by paragraph (1) of this subsection shall be sent to the Governor of the affected State and the eligible lenders described in subsection (a)(1)(B) for that State. At any such hearing representatives of such Governor and lenders may present evidence and testimony and examine witnesses, and full consideration shall be given to the views of such Governor and lenders with respect to the interests of the eligible borrowers in that State and with respect to the impact on programs of such lenders of allowing a lender described in clause (B) or (C) of subsection (a)(1) from another State to make consolidation loans pursuant to an agreement under this subsection in such State. State and local government.

"(3) An agreement under this subsection may contain such terms and conditions as the Secretary may specifically require of the lender to carry out this section.

"(4) The requirements of paragraphs (1) and (2) of this subsection shall not apply if, in any State, an eligible lender described in subsection (a)(1)(B) from another State is functioning as a secondary market described in subparagraph (D) or (F) of section 435(g)(1) prior to the date of enactment of the Student Financial Assistance Amendments of 1985 and such lender agrees to make consolidation loans to eligible borrowers in such State. State and local government. 20 USC 1085. *Ante*, p. 339.

"(e) The authority to make loans under this section expires at the close of September 30, 1991. Nothing in this section shall be construed to authorize the Secretary to promulgate rules or regulations governing the terms or conditions of the agreements and certificates under subsection (b). Loans made under this section shall not be considered to be new loans made to students for purposes of section 424(a).". Termination. 20 USC 1074.

(b) CONFORMING AMENDMENTS.—(1) Section 427(a) of the Act is amended by striking out "A loan" and inserting in lieu thereof "Except as provided in section 428C, a loan". 20 USC 1077. *Ante*, p. 343.

(2) Section 435(g)(1) of the Act is amended—

(A) by striking out "section 439 (o) and (q)" in subparagraph (G) and inserting in lieu thereof "sections 428C and 439(q)"; and

(B) by striking out "section 428(j)" in subparagraph (H) and inserting in lieu thereof "sections 428(h) and 428C".

(3) Section 438 of the Act is amended— 20 USC 1087-1.

(A) in subsection (b)(5)(A)(ii), by inserting ", 428C," after "428B"; and

(B) in subsection (c)(2), by striking out "section 428B and section 439(o)" and inserting in lieu thereof "sections 428B and 428C". 20 USC 1078-2.

(4) Section 439(d)(1)(C) of the Act is amended by striking out "428(A), and except with respect to loans under section 439(o)," and inserting in lieu thereof "428A, and except with respect to loans under section 428C,". 20 USC 1087-2.

(c) SPECIAL ALLOWANCE.—(1) Section 438(b)(2)(A) of the Act is amended by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B) and (C)".

(2) The first sentence of section 438(b)(2)(B)(i) of the Act is amended—

(A) by inserting "appropriate" before "quarterly rate" the second time it appears; and

(B) by inserting "or subparagraph (C)" before the period.

20 USC 1087-1.

(3) Section 438(b)(2) of the Act is amended by adding at the end thereof the following new subparagraph:

Ante, p. 343.

"(C) In the case of loans made in accordance with section 428C, the applicable per centum to be added under clause (iii) of subparagraph (A) shall be 3 per centum.".

20 USC 1078-3 note.

(d) COST EVALUATION REPORT.—The Secretary of Education shall evaluate the cost, efficiency, and impact of the consolidation loan program established by the amendments made by this section and shall report to the Congress not later than June 30, 1988, on the findings and recommendations required by this subsection.

SEC. 16018. EXTENSION OF PROGRAM.

(a) EXTENSION OF AUTHORITY.—Part B of title IV of the Act is amended—

20 USC 1074.

(1) in section 424(a)—

(A) by striking out "1986" and inserting in lieu thereof "1988";

(B) by striking out "1990" and inserting in lieu thereof "1992";

20 USC 1078.

(2) in section 428(a)(5)—

(A) by striking out "1986" and inserting in lieu thereof "1988";

(B) by striking out "1990" and inserting in lieu thereof "1992"; and

20 USC 1087-2.

(3) in section 439(l), by striking out "1988" and inserting in lieu thereof "1990".

(b) EXTENSION OF FAMILY CONTRIBUTION SCHEDULES.—Section 9 of the Student Financial Assistance Technical Amendments Act of 1982 is amended—

20 USC 1078 note.

(1) in subsection (a), by striking out "and from July 1, 1986, through June 30, 1987," and inserting in lieu thereof "from July 1, 1986, through June 30, 1987, from July 1, 1987, through June 30, 1988, from July 1, 1988, through June 30, 1989, and from July 1, 1989, through June 30, 1990,"; and

(2) in subsection (c)—

(A) by striking out "and" at the end of paragraph (3);

(B) by striking out the comma at the end of paragraph (4) and inserting in lieu thereof a semicolon; and

(C) by inserting after such paragraph the following new paragraphs:

"(5) April 1, 1987, for the period of instruction from July 1, 1987, through June 30, 1988;

"(6) April 1, 1988, for the period of instruction from July 1, 1988, through June 30, 1989; and

"(7) April 1, 1989, for the period of instruction from July 1, 1989, through June 30, 1990,".

SEC. 16019. SAVINGS FROM OPERATIONS OF THE STUDENT LOAN MARKETING ASSOCIATION.

Banks and banking.

(a) GENERAL RULE.—In order to contribute to carrying out the directions in the first concurrent resolution on the budget for the fiscal year 1986 (S. Con. Res. 32, 99th Congress, agreed to August 1, 1985) designed to reduce the Federal budget deficit, the Student Loan Marketing Association shall, during the fiscal year 1986, reduce the level of obligations owed to the Federal Financing Bank by $30,000,000 which, but for this section, will be paid to the Federal Financing Bank after October 1, 1986.

(b) SPECIAL RULE.—The amount described in subsection (a) may not be credited by the Student Loan Marketing Association to reduce the obligation to repay the Federal Financing Bank amounts which the Student Loan Marketing Association owes to the Federal Financing Bank in each of the fiscal years 1987 and 1988.

(c) SAVINGS PROVISION.—Nothing in this section shall be construed to authorize or require the Student Loan Marketing Association or the Federal Financing Bank to renegotiate the contract or other agreement under which the Student Loan Marketing Association agreed to pay amounts made available by the Federal Financing Bank to carry out section 439 of the Higher Education Act of 1965. Contract. 20 USC 1087-2.

SEC. 16020. DEFINITION.

Section 435 of the Act is amended by adding at the end thereof the following new subsection: 20 USC 1085.

"(k) The term 'guaranty agency' means a State or nonprofit private institution or organization with which the Secretary has an agreement pursuant to section 428(b).". 20 USC 1078.

Subtitle B—Savings From Improved Student Loan Collection

SEC. 16021. AGREEMENT FOR AUDITS.

Section 428(b)(2) of the Act is amended— 20 USC 1078.

(1) by striking out "and" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(3) by inserting after such subparagraph the following:

"(D) provide for—

"(i) conducting, except as provided in clause (ii), financial and compliance audits of the guaranty agency at least once every two years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

"(ii) with regard to a guaranty program of a State which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of clause (i) for the period of time covered by such audit.". 31 USC 7501 *et seq.*

SEC. 16022. RECOVERY COSTS.

Section 430(b) of the Act is amended— 20 USC 1080.

(1) by striking out in paragraph (1) "(including reasonable administrative costs)" and inserting in lieu thereof the following: "(including reasonable administrative and collection costs, to the extent set forth in regulations issued by the Secretary)";

(2) by striking out paragraph (2); and

(3) by striking out "(1)".

SEC. 16023. CREDIT BUREAU REPORTS.

Part B of title IV of the Act is amended by adding immediately after section 430 the following new section: 20 USC 1080a.

"REPORTS TO CREDIT BUREAUS AND INSTITUTIONS OF HIGHER EDUCATION

"SEC. 430A. (a) For the purpose of promoting responsible repayment of loans covered by Federal loan insurance pursuant to this part or covered by a guaranty agreement pursuant to section 428, the Secretary, and each guaranty agency, eligible lender, and subsequent holder shall enter into agreements with credit bureau organizations to exchange information concerning student borrowers, in accordance with the requirements of this section. For the purpose of assisting such organizations in complying with the Fair Credit Reporting Act, such agreements may provide for timely response to the Secretary (concerning loans covered by Federal loan insurance) or by a guaranty agency, eligible lender, or subsequent holder (concerning loans covered by a guaranty agreement) to requests from such organizations for responses to objections raised by such borrowers. Subject to the requirements of subsection (c), such agreements shall require that the Secretary or guaranty agency, eligible lender, or subsequent holder to disclose to such organizations with respect to any loan dispersed to a student—

20 USC 1078.

15 USC 1681 note.

"(1) the date of disbursement and the amount of the loan;

"(2) the date of default and information concerning collection of the loan, including information concerning the repayment status of any defaulted loan on which the Secretary has made a payment pursuant to section 430(a) or the guaranty agency has made a payment to the previous holder of the loan; and

20 USC 1080.

"(3) the date of cancellation of the note upon completion of repayment by the borrower of the loan or payment by the Secretary pursuant to section 437.

20 USC 1087.

"(b) Such agreements may also provide for the disclosure by such organizations to the Secretary, a guaranty agency, eligible lender, or subsequent holder upon receipt of a notice under subsection (a)(2) that such a loan is in default, or information which may assist the Secretary, guaranty agency, eligible lender, or subsequent holder in collecting the loan.

"(c) Agreements entered into pursuant to this section shall contain such provisions as may be necessary to ensure that—

"(1) no information is disclosed by the Secretary, guaranty agency, eligible lender, or subsequent holder unless its accuracy and completeness have been verified and the Secretary, guaranty agency, eligible lender, or subsequent holder has determined that disclosure would carry out the purpose of this section;

"(2) as to any information so disclosed, such organizations will be promptly notified of, and will promptly record, any change submitted by the Secretary, guaranty agency, eligible lender, or subsequent holder with respect to such information, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 168i);

15 USC 1681i.

Prohibition.

"(3) no use will be made of any such information which would result in the use of collection practices with respect to such a borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning such information; and

"(4) with regard to notices of default under subsection (a)(2) of this section, except for disclosures made to obtain the borrower's location, the Secretary, guaranty agency, eligible lender, or

subsequent holder (A) shall not disclose any such information until the Secretary, guaranty agency, eligible lender, or subsequent holder has notified the borrower that such information will be disclosed to credit bureau organizations unless the borrower enters into repayment of the loan, but (B) shall, if the borrower has not entered into repayment within a reasonable period of time, but not less than thirty days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

"(d) A guaranty agency, eligible lender, subsequent holder, or credit bureau organization which discloses or receives information under this section shall not be considered a Government contractor within the meaning of section 552a of title 5 of the United States Code (the Privacy Act of 1974).

"(e) The Secretary and each guaranty agency, eligible lender, and subsequent holder is authorized to disclose information described in subsections (a) and (b) concerning student borrowers to the eligible institutions such borrowers attend or previously attended.

"(f) Notwithstanding paragraphs (4) and (6) of subsection (a) of section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)(4), (a)(6)), a consumer reporting agency may make a report containing information received from the Secretary, or a guaranty agency, eligible lender, or subsequent holder regarding the status of a borrower's account on a loan insured or guaranteed under this part until the later of— Report.

"(1) seven years from the date on which the agency paid a claim to the holder on insurance or the guaranty, or

"(2) seven years from the date the Secretary, guaranty agency, eligible lender, or subsequent holder first reported the account to a consumer reporting agency.".

SEC. 16024. CIVIL PENALTIES.

Section 432 of the Act is further amended by adding at the end thereof the following new subsection: 20 USC 1082.

"(f)(1) Upon determination, after reasonable notice and opportunity for a hearing on the record, that a lender or a guaranty agency—

"(A) has violated or failed to carry out any provision of this part or any regulation prescribed under this part, or

"(B) has engaged in substantial misrepresentation of the nature of its financial charges,

the Secretary may impose a civil penalty upon such lender or agency of not to exceed $15,000 for each violation, failure, or misrepresentation.

"(2) No civil penalty may be imposed under paragraph (1) of this subsection unless it is determined that—

"(A) the violation, failure or substantial misrepresentation referred to in that paragraph resulted from—

"(i) a clear and consistent pattern or practice of violations, failures, or substantial misrepresentations in which the lender or guaranty agency did not maintain procedures reasonably adapted to avoid the violation, failure, or substantial representation;

"(ii) gross negligence; or

"(iii) willful actions on the part of the lender or guaranty agency; and

"(B) the violation, failure, or substantial misrepresentation is material.

"(3) A lender or guaranty agency has no liability under paragraph (1) of this subsection if, prior to the institution of an action under that paragraph, the lender or guaranty agency cures or corrects the violation or failure or notifies the person who received the substantial misrepresentation of the actual nature of the financial charges involved.

"(4) For the purposes of paragraph (1) of this subsection, violations, failures, or substantial misrepresentations arising from a specific practice of a lender or guaranty agency shall be deemed to be a single violation, failure, or substantial misrepresentation even if the violation, failure, or substantial misrepresentation affects more than one loan or more than one borrower, or both, and the Secretary may only impose a single civil penalty for each such violation, failure, or substantial misrepresentation.

"(5) If a loan affected by a violation, failure, or substantial misrepresentation is assigned to another holder, the lender or guaranty agency responsible for the violation, failure, or substantial misrepresentation shall remain liable for any civil money penalty provided for under paragraph (1) of this subsection, but the assignee shall not be liable for any such civil money penalty.

"(6) Until a matter is referred to the Attorney General, any civil penalty under paragraph (1) of this subsection may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the Secretary shall consider the appropriateness of the penalty to the resources of the lender or guaranty agency subject to the determination; the gravity of the violation, failure, or substantial misrepresentation; the frequency and persistence of the violation, failure, or substantial misrepresentation; and the amount of any losses resulting from the violation, failure, or substantial misrepresentation. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the lender or agency charged (unless the lender or agency has in the case of a final agency determination commenced proceedings for judicial review within 90 days of the determination, in which case the deduction may not be made during the pendency of the proceeding).".

SEC. 16025. ASSIGNMENT AND REFERRAL OF NDSL LOANS FOR COLLECTION.

20 USC 1087cc.

Section 463(a)(5) of the Act is amended to read as follows:

"(5) provide that where a note or written agreement evidencing a loan has been in default despite due diligence on the part of the institution in attempting collection thereon—

"(A) if the institution has knowingly failed to maintain an acceptable collection record with respect to such loan, as determined by the Secretary in accordance with criteria established by regulation, the Secretary may—

"(i) require the institution to assign such note or agreement to the Secretary, without recompense; and

"(ii) apportion any sums collected on such a loan (less an amount not to exceed 30 per centum of any sums collected to cover the Secretary's collection costs) among other institutions in accordance with section 462; or

20 USC 1087bb.

"(B) if the institution is not one described in clause (A), the Secretary may—

"(i) allow such institution to transfer its interest in such loan to the Secretary, for collection, and the Secretary may use any collections thereon (less an amount not to exceed 30 per centum of any sums collected to cover the Secretary's collection costs) to make allocations to institutions of additional capital contributions in accordance with section 462; or

20 USC 1087bb.

"(ii) allow such institution to refer such note or agreement to the Secretary, without recompense, except that any sums collected on such a loan (less an amount not to exceed 30 per centum of any sums collected to cover the Secretary's collection costs) shall be repaid to such institution no later than 180 days after collection by the Secretary and treated as an additional capital contribution;".

SEC. 16026. REPORTING BY CONSUMER REPORTING AGENCY ON NDSL LOANS.

Section 463(c) of the Act is amended by adding at the end the following new paragraph:

20 USC 1087cc.

"(3) Notwithstanding paragraphs (4) and (6) of subsection (a) of section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)(4), (a)(6)), a consumer reporting agency may make a report containing information received from the Secretary regarding the status of a borrower's account on a loan made under this part until the later of—

"(A) seven years from the date on which the Secretary accepted an assignment or referral of a loan, or

"(B) seven years from the date the Secretary first reported the account to a consumer reporting agency, if that account had not been previously reported by any other holder of the note.".

SEC. 16027. DEFAULT PENALTY ON NDSL LOANS.

Section 463A(a)(7) of the Act is amended by inserting immediately before the semicolon at the end thereof the following: "and a description of any penalty imposed as a consequence of default, such as liability for expenses reasonably incurred in attempts by the Secretary or institutions to collect on a loan".

20 USC 1087cc-1.

SEC. 16028. NDSL LOAN AGREEMENTS.

(a) CHARGES FOR LATE PAYMENTS.—Section 464(c)(1)(H) of the Act is amended to read as follows:

20 USC 1087dd.

"(H) pursuant to regulations of the Secretary, shall provide for an assessment of a charge with respect to the loan for failure of the borrower to pay all or part of an installment when due, which shall include the expenses reasonably incurred in attempting collection of the loan, to the extent permitted by the Secretary, except that no charge imposed under this clause shall exceed 20 per centum of the amount of the monthly payment of the borrower; and".

(b) CONFORMING AMENDMENT.—Section 464(c)(4) of the Act is amended to read as follows:

"(4) The institution may elect—

"(A) to add the amount of any charge imposed under paragraph (1)(H) to the principal amount of the loan as of the first

day after the day on which the installment was due and to notify the borrower of the assessment of the charge; or

"(B) to make the amount of the charge payable to the institution not later than the due date of the next installment.".

SEC. 16029. REFERRAL OF NDSL LOANS FOR COLLECTION.

Section 467 of the Act is amended to read as follows:

"COLLECTION OF DEFAULTED LOANS

20 USC 1087gg.

"SEC. 467. (a) With respect to any loan—

"(1) which was made under this part, and

20 USC 1087cc.

"(2) which is referred, transferred, or assigned to the Secretary by an institution with an agreement under section 463(a), the Secretary is authorized to attempt to collect such loan by any means authorized by law for collecting claims of the United States (including referral to the Attorney General for litigation) and under such terms and conditions as the Secretary may prescribe, including reimbursement for expenses reasonably incurred in attempting such collection.

"(b) The Secretary shall continue to attempt to collect any loan referred, transferred, or assigned under paragraph (5)(A), (5)(B)(i), or (6) of section 463(a) until all appropriate collection efforts, as determined by the Secretary, have been expended.".

Subtitle C—Savings Related to General Provisions

SEC. 16031. EXCLUSION OF LIQUIDATION PROCEEDS FROM FAMILY CONTRIBUTION COMPUTATIONS.

20 USC 1089.

Section 482 of the Act is amended by adding at the end thereof the following new subsection:

"(f) The Secretary shall, within 30 days after the date of enactment of this subsection, promulgate special regulations to permit, in the computation of family contributions for the programs under subpart 1 of part A and part B of this title for any academic year beginning on or after July 1, 1985, the exclusion from family income of any proceeds of a sale of farm or business assets of that family if such sale results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy.".

SEC. 16032. ADDITIONAL ELIGIBILITY REQUIREMENTS FOR STUDENT LOANS.

20 USC 1091.

(a) STUDENT IDENTIFICATION.—Section 484(a) of the Act is amended—

(1) by striking out the word "such" each place it appears in paragraph (4) and inserting in lieu thereof "any"; and

(2) by striking out "(which need not be notarized)" in paragraph (5) and inserting in lieu thereof "(which need not be notarized but which shall include such student's social security number or, if the student does not have a social security number, such student's student identification number)".

(b) ELIGIBILITY DETERMINATIONS.—Section 484 of the Act is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) In order to be eligible to receive any loan under this title (other than a loan under section 428B or 428C) for any period of enrollment, a student who is not a graduate or professional student (as defined in regulations of the Secretary), and who is enrolled in a program at an institution which has a participation agreement with the Secretary to make awards under subpart 1 of part A of this title, shall— 20 USC 1078-2. *Ante*, p. 343.

"(1) have received a determination of eligibility or ineligibility for a grant under such subpart 1 for such period of enrollment; or

"(2) have (A) filed an application with the Pell Grant processor for such institution for such enrollment period; and (B) received from the financial aid administrator of the institution a preliminary determination of the student's eligibility or ineligibility for a grant under such subpart 1.".

(c) CONFORMING AMENDMENT.—Section 428(a)(2)(C)(i) of the Act is amended by striking out "subparts 1 and 2 of part A," and inserting in lieu thereof "subpart 1 of part A (as determined in accordance with section 484(b)), subpart 2 of part A,". 20 USC 1078.

SEC. 16033. STATUTE OF LIMITATIONS.

Part F of title IV of the Act is amended by adding immediately after section 484 the following new section:

"STATUTE OF LIMITATIONS

"SEC. 484A. (a) Notwithstanding any provision of State law that would set an earlier deadline for filing suit— 20 USC 1091a. Grants. Claims.

"(1) an institution which receives funds under this title may file suit for collection of a refund due from a student on a grant made or work assistance awarded under this title during a period of time extending at least until a date six years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date the refund first became due;

"(2) a guaranty agency which has an agreement with the Secretary under section 428(c) may file suit for collection of the amount due from a borrower on a loan made under part B of this title during a period of time extending at least until a date six years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date such guaranty agency reimburses the previous holder of the loan for its loss on account of the default of the borrower; and 20 USC 1078. 20 USC 1071.

"(3) an institution which has an agreement with the Secretary pursuant to section 463(a) may file suit for collection of the amount due from a borrower on a loan made under part E of this title during a period of time extending at least until a date six years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date of the default of the borrower with respect to that amount; and 20 USC 1087cc. 20 USC 1088.

"(4) subject to the provisions of section 2416 of title 28 of the United States Code, the Attorney General may file suit—

"(A) for payment of a refund due from a student on a grant made under this title until six years following the date on which the refund first became due;

"(B) for collection of the amount due the Secretary from a borrower pursuant to section 428(c)(2)(D) of this title until six years following the date on which the loan is assigned to the Secretary under part B of this title; and

20 USC 1078.

"(C) for collection of the amount due from a borrower on a loan made under this part until six years following the date on which the loan is assigned, transferred, or referred to the Secretary under part E of this title.

"(b) Notwithstanding any provision of State law to the contrary—

"(1) a borrower who has defaulted on a loan made under this title shall be required to pay, in addition to other charges specified in this title, reasonable collection costs; and

"(2) in collecting any obligation arising from a loan made under part B of this title, a guaranty agency or the Secretary shall not be subject to a defense raised by any borrower based on a claim of infancy.".

SEC. 16034. PROGRAM PARTICIPATION AGREEMENTS.

20 USC 1094.

(a) USE OF INTEREST ON FUNDS RECEIVED.—Section 487(a)(1) of the Act is amended to read as follows:

"(1) The institution will use funds received by it for any program under this title and any interest or other earnings thereon solely for the purposes specified in, and in accordance with the provision of, that program.".

(b) AUDIT AND RECOVERY OF FUNDS.—Section 487(b)(1) of the Act is amended by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A)(i) except as provided in clause (ii), a financial and compliance audit of an eligible institution, with regard to any funds obtained by it under this title or obtained from a student or a parent who has a loan insured or guaranteed by the Secretary under this title, at least once every two years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organization, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

31 USC 7501 *et seq.*

"(ii) with regard to an eligible institution which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of clause (i) for the period covered by such audit;".

Subtitle D—Effective Dates

20 USC 1072 note.

SEC. 16041. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this subtitle shall take effect on the date of enactment of this Act.

(b) PROSPECTIVE PROVISIONS; LOANS.—(1) The amendments made by sections 16012, 16027, and 16028 shall apply to loans to cover the cost of attendance for any period of enrollment beginning on or after January 1, 1986.

(2) The amendments made by section 16013 shall apply to loans made on or after July 1, 1986.

(c) RETROACTIVE PROVISIONS; LOANS.—(1) The amendment made by section 16015 shall apply to any fiscal year beginning after September 30, 1984.

(2) The amendments made by sections 16021 through 16026, 16029, and 16032(b) shall apply to all loans, including loans made before the enactment of this Act, and shall take effect 90 days after the enactment of this Act.

(d) PROSPECTIVE PROVISION; ALL ASSISTANCE.—The amendment made by section 16032(a) shall apply to grants, loans, or work assistance to cover the cost of attendance for any period of enrollment beginning on or after January 1, 1986.

(e) RETROACTIVE PROVISION; GRANTS.—The amendment made by section 16033 shall apply to all grants, including grants awarded before the enactment of this Act, and shall take effect 90 days after the enactment of this Act.

(f) RETROACTIVE PROVISIONS; ALL ASSISTANCE.—The amendment made by section 16034 shall apply to all grants, loans, or work assistance, including such assistance awarded before the enactment of this Act, and shall take effect 90 days after the enactment of this Act.

TITLE XVII—GRADUATE MEDICAL EDUCATION COUNCIL AND TECHNICAL AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

SEC. 17001. COUNCIL ON GRADUATE MEDICAL EDUCATION.

Title VII of the Public Health Service Act is amended by adding at the end thereof the following new part:

"PART H—GRADUATE MEDICAL EDUCATION

"COUNCIL ON GRADUATE MEDICAL EDUCATION

"SEC. 799. (a) There is established the Council on Graduate Medical Education (hereafter in this section referred to as the 'Council'). The Council shall— 42 USC 295i.

"(1) prior to July 1, 1988, and every three years thereafter, provide advice and make recommendations to the Secretary and to the Committees on Labor and Human Resources, and Finance of the Senate and the Committees on Energy and Commerce and Ways and Means of the House of Representatives, with respect to—

"(A) the supply and distribution of physicians in the United States;

"(B) current and future shortages or excesses of physicians in medical and surgical specialties and subspecialties;

"(C) issues relating to foreign medical school graduates;

"(D) appropriate Federal policies with respect to the matters specified in subparagraphs (A), (B), and (C), including policies concerning changes in the financing of undergraduate and graduate medical education programs and changes in the types of medical education training in graduate medical education programs;

"(E) appropriate efforts to be carried out by hospitals, schools of medicine, schools of osteopathy, and accrediting bodies with respect to the matters specified in subparagraphs (A), (B), and (C), including efforts for changes in undergraduate and graduate medical education programs; and

"(F) deficiencies in, and needs for improvements in, existing data bases concerning the supply and distribution of, and post-graduate training programs for, physicians in the United States and steps that should be taken to eliminate those deficiencies; and

"(2) encourage entities providing graduate medical education to conduct activities to voluntarily achieve the recommendations of the Council under paragraph (1)(E).

"(b) The Council shall be composed of—

"(1) the Assistant Secretary for Health or the designee of the Assistant Secretary;

"(2) the Administrator of the Health Care Financing Administration;

"(3) the Chief Medical Director of the Veterans' Administration;

"(4) 6 members appointed by the Secretary to include representatives of practicing primary care physicians, national and specialty physician organizations, foreign medical graduates, and medical student and house staff associations;

"(5) 4 members appointed by the Secretary to include representatives of schools of medicine and osteopathy and public and private teaching hospitals; and

"(6) 4 members appointed by the Secretary to include representatives of health insurers, business, and labor.

"(c)(1) Members of the Council appointed under paragraphs (4), (5), and (6) of subsection (b) shall be appointed for a term of 4 years, except that the term of office of the members first appointed shall expire, as designated by the Secretary at the time of appointment, 4 at the end of one year, 4 at the end of 2 years, 3 at the end of 3 years, and 3 at the end of 4 years.

"(2) The Secretary shall appoint the first members to the Council under paragraphs (4), (5), and (6) of subsection (b) within 60 days after the date of enactment of this section.

"(d) The Council shall elect one of its members as Chairman of the Council.

"(e) Nine members of the Council shall constitute a quorum, but a lesser number may hold hearings.

"(f) Any vacancy in the Council shall not affect its power to function.

"(g) Each member of the Council who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 under the General Schedule under section 5332 of title 5, United States Code, for each day, including traveltime, such member is engaged in the actual performance of duties as a member of the Council. A member of the Council who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

"(h)(1) In order to carry out the provisions of this section, the Council is authorized to—

"(A) collect such information, hold such hearings, and sit and act at such times and places, either as a whole or by subcommittee, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Council or such subcommittee may consider available; and

"(B) request the cooperation and assistance of Federal departments, agencies, and instrumentalities, and such departments, agencies, and instrumentalities are authorized to provide such cooperation and assistance.

"(2) The Council shall coordinate activities carried out under this section with the activities of the National Advisory Council on Health Professions Education under section 702 and with the activities of the Secretary under section 708. The Secretary shall, in cooperation with the Council and pursuant to the recommendations of the Council, take such steps as are practicable to eliminate deficiencies in the data base established under section 708 and shall make available in its reports such comprehensive data sets as are developed pursuant to this section.

42 USC 292b.
42 USC 292h.

"(i) In the reports required under subsection (a), the Council shall specify its activities during the period for which the report is made.

Reports.

"(j) The Council shall terminate on September 30, 1996."

Termination.

SEC. 17002. SPECIAL PAY PROVISIONS.

(a) SERVICE IN THE INDIAN HEALTH SERVICE.—(1) Section 208(a)(2)(B) of the Public Health Service Act (42 U.S.C. 210(a)(2)(B)) is amended by inserting "(other than an officer serving in the Indian Health Service)" after "Corps".

(2) The amendment made by paragraph (1) shall take effect as of October 7, 1985.

42 USC 210 note.

(b) EMPLOYEES AT THE GILLIS W. LONG HANSEN'S DISEASE CENTER.—Section 208(e) of the Public Health Service Act (42 U.S.C. 210(e)) is amended to read as follows:

"(e) Any civilian employee of the Service who is employed at the Gillis W. Long Hansen's Disease Center on the date of the enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985 shall be entitled to receive, in addition to any compensation to which the employee may otherwise be entitled and for so long as the employee remains employed at the Center, an amount equal to one-fourth of such compensation.".

Ante, p. 82.

SEC. 17003. USE OF FISCAL AGENTS BY PUBLIC HEALTH SERVICE.

Title XXI of the Public Health Service Act is amended by adding at the end the following new section:

"USE OF FISCAL AGENTS

"SEC. 2116. (a) The Secretary may enter into contracts with fiscal agents—

Contracts.
42 USC 300aa-15.

"(1)(A) to determine the amounts payable to persons who, on behalf of the Indian Health Service, furnish health services to eligible Indians,

"(B) to determine the amounts payable to persons who, on behalf of the Public Health Service, furnish health services to individuals pursuant to section 319 or 322,

42 USC 247d, 249.

"(2) to receive, disburse, and account for funds in making payments described in paragraph (1),

"(3) to make such audits of records as may be necessary to assure that these payments are proper, and

"(4) to perform such additional functions as may be necessary to carry out the functions described in paragraphs (1) through (3).

"(b)(1) Contracts under subsection (a) may be entered into without regard to section 3709 of the Revised Statutes (41 U.S.C. 5) or any other provision of law requiring competition.

Prohibition.

"(2) No such contract shall be entered into with an entity unless the Secretary finds that the entity will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, and other matters as he finds pertinent.

"(c) A contract under subsection (a) may provide for advances of funds to enable entities to make payments under the contract.

42 USC 1395u.

"(d) Subsections (d) and (e) of section 1842 of the Social Security Act shall apply to contracts with entities under subsection (a) in the same manner as they apply to contracts with carriers under that section.

"(e) In this section, the term 'fiscal agent' means a carrier described in section 1842(f)(1) of the Social Security Act and includes, with respect to contracts under subsection (a)(1)(A), an Indian tribe or tribal organization acting under contract with the Secretary under the Indian Self-Determination Act (Public Law 93-638).".

25 USC 450 note.

SEC. 17004. TECHNICAL REVISIONS RELATING TO EMERGENCY MEDICAL SERVICES FOR CHILDREN.

Section 1910 of the Public Health Service Act (42 U.S.C. 300w-9) is amended—

Grants.
State and local government.

(1) by striking out "grant to not more than four States in any fiscal year" in the first sentence of subsection (a) and inserting in lieu thereof "not more than four grants in any fiscal year to States or accredited schools of medicine in States";

(2) by adding at the end of subsection (a) the following new sentence: "Only one grant under this subsection may be made in a State (to a State or to a school of medicine in such State) in any fiscal year.";

(3) by striking out "other States" in subsection (b) and inserting in lieu thereof "States in which grants under such subsection have not been made";

(4) by redesignating subsection (c) as subsection (d); and

(5) by inserting after subsection (b) the following new subsection:

"(c) For purposes of this section—

"(1) the term 'school of medicine' has the same meaning as in section 701(4); and

42 USC 292a.

"(2) the term 'accredited' has the same meaning as in section 701(5).".

TITLE XVIII—SMALL BUSINESS PROGRAMS

SEC. 18001. SMALL BUSINESS ADMINISTRATION PROGRAM AND AUTHORIZATION LEVELS.

Section 20 of the Small Business Act is amended by adding the following new subsections: 15 USC 631 note.

"(u) The following program levels are authorized for fiscal year 1986—

"(1) for the programs authorized by section 7(a) of this Act, the Administration is authorized to make $60,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make $15,000,000 in loans as provided in paragraph (10), $25,000,000 in loans as provided in paragraph (11), and $20,000,000 in loans to disabled veterans and Vietnam era veterans as defined in section 1841, title 38, United States Code, under the general terms and conditions of title III of Public Law 97-72; 15 USC 636. Loans. Veterans. 38 USC 101 note.

"(2) for the programs authorized by section 7(a) of this Act and section 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $2,971,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make $5,000,000 in loans as provided in paragraph (10), $60,000,000 in loans as provided in paragraph (11), $15,000,000 in loans as provided in paragraph (12), $400,000,000 in loans as provided in paragraph (13) and guarantees of debentures as provided in section 503; 15 USC 697.

"(3) for the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $41,000,000 in direct purchases of debentures and preferred securities and to make $250,000,000 in guarantees of debentures; 15 USC 681.

"(4) for the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,050,000,000; and 15 USC 694a.

"(5) for the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $75,000,000. 15 USC 694-1, 694-2.

"(v) There are authorized to be appropriated to the Administration for fiscal year 1986, $515,000,000. Of such sum, $295,000,000 shall be available for the purpose of carrying out the programs referred to in paragraphs (1) through (3) of subsection (u); $12,000,000 shall be available for the purposes of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; and $208,000,000 shall be available for salaries and expenses of the Administration. There also are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving funds such sums as may be necessary and appropriate for such administrative expenses. Loans. 15 USC 694c. 15 USC 636.

"(w) The following program levels are authorized for fiscal year 1987—

Loans.
Veterans.

"(1) for the programs authorized by section 7(a) of this Act, the Administration is authorized to make $70,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make $15,000,000 in loans as provided in paragraph (10), $35,000,000 in loans as provided in paragraph (11), and $20,000,000 in loans to disabled veterans and Vietnam era veterans as defined in section 1841, title 38, United States Code, under the general terms and conditions of title III of Public Law 97-72;

38 USC 101 note.

"(2) for the programs authorized by section 7(a) of this Act and section 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $3,134,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make $5,000,000 in loans as provided in paragraph (10), $63,000,000 in loans as provided in paragraph (11), $16,000,000 in loans as provided in paragraph (12), $450,000,000 in loans as provided in paragraph (13) and guarantees of debentures as provided in section 503;

15 USC 697.

"(3) for the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $41,000,000 in direct purchases of debentures and preferred securities and to make $261,000,000 in guarantees of debentures;

15 USC 681.

"(4) for the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,096,000,000; and

15 USC 694a.

"(5) for the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $75,000,000.

15 USC 694-1, 694-2.

"(x) There are authorized to be appropriated to the Administration for fiscal year 1987, $605,000,000. Of such sum, $381,000,000 shall be available to carry out the programs referred to in paragraphs (1) through (3) of subsection (w); $14,000,000 shall be available to carry out the provisions of section 412 of the Small Business Investment Act of 1958; and $210,000,000 shall be available for salaries and expenses of the Administration. There also are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving funds such sums as may be necessary and appropriate for such administrative expenses.

15 USC 694c.

15 USC 636.

Loans.
Veterans.

"(y) The following program levels are authorized for fiscal year 1988—

"(1) for the programs authorized by section 7(a) of this Act, the Administration is authorized to make $75,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make $15,000,000 in loans as provided in paragraph (10), $40,000,000 in loans as provided in paragraph (11), and $20,000,000 in loans to disabled veterans and Vietnam era veterans as defined in section 1841, title 38, United States Code, under the general terms and conditions of title III of Public Law 97-72;

"(2) for the programs authorized by section 7(a) of this Act and section 503 of the Small Business Investment Act of 1958,

15 USC 697.

the Administration is authorized to make $3,245,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make $5,000,000 in loans as provided in paragraph (10), $65,000,000 in loans as provided in paragraph (11), $16,000,000 in loans as provided in paragraph (12), $450,000,000 in loans as provided in paragraph (13) and guarantees of debentures as provided in section 503; 15 USC 697.

"(3) for the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $41,000,000 in direct purchases of debentures and preferred securities and to make $272,000,000 in guarantees of debentures; 15 USC 681.

"(4) for the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,142,000,000; and 15 USC 694a.

"(5) for the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $75,000,000. 15 USC 694-1, 694-2.

"(z) There are authorized to be appropriated to the Administration for fiscal year 1988, $634,000,000. Of such sum, $409,000,000 shall be available to carry out the programs referred to in paragraphs (1) through (3) of subsection (y); $13,000,000 shall be available to carry out the provisions of section 412 of the Small Business Investment Act of 1958; and $212,000,000 shall be available for salaries and expenses of the Administration. There also are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving funds such sums as may be necessary and appropriate for such administrative expenses.". 15 USC 694c. 15 USC 636.

SEC. 18002. TECHNICAL AND CLERICAL AMENDMENTS.

Section 20 of the Small Business Act is amended— 15 USC 631 note.

(1) in subsection (t), as added by section 302 of Public Law 98-270—

(A) by inserting "(1)" after "(t)";

(B) by striking out "each of fiscal years 1985 and 1986," and inserting in lieu thereof "fiscal year 1985"; and

(C) by striking out "for each of such years"; and

(2) in subsection (t), as added by section 3 of Public Law 98-395—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(B) by redesignating such subsection (t) as paragraph (2).

SEC. 18003. DETERMINATION OF LABOR SURPLUS AREAS.

(a) IN GENERAL.—Section 15 of the Small Business Act is amended by adding at the end thereof the following new subsection: 15 USC 644.

"(n) For purposes of this section, the determination of labor surplus areas shall be made on the basis of the criteria in effect at the time of the determination, except that any minimum population criteria shall not exceed twenty-five thousand. Such determination, as modified by the preceding sentence, shall be made by the Secretary of Labor.".

15 USC 644 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the ninetieth day after the date of the enactment of this Act.

SEC. 18004. FEDERAL FINANCING BANK PURCHASE OF GUARANTEED OBLIGATIONS.

(a) IN GENERAL.—Title III of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new section:

"GUARANTEED OBLIGATIONS NOT ELIGIBLE FOR PURCHASE BY FEDERAL FINANCING BANK

15 USC 687k.

"SEC. 320. Nothing in any provision of law shall be construed to authorize the Federal Financing Bank to acquire after September 30, 1985—

"(1) any obligation the payment of principal or interest on which has at any time been guaranteed in whole or in part under this title,

"(2) any obligation which is an interest in any obligation described in paragraph (1), or

"(3) any obligation which is secured by, or substantially all of the value of which is attributable to, any obligation described in paragraph (1) or (2).".

(b) CLERICAL AMENDMENT.—The table of sections for title III is amended by adding at the end thereof the following new item:

"Sec. 320. Guaranteed obligations not eligible for purchase by Federal Financing Bank.".

SEC. 18005. ISSUANCE AND GUARANTEE OF TRUST CERTIFICATES.

(a) IN GENERAL.—Title III of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new section:

"ISSUANCE AND GUARANTEE OF TRUST CERTIFICATES

15 USC 687l.

"SEC. 321. (a) The Administration is authorized to issue trust certificates representing ownership of all or a fractional part of debentures issued by small business investment companies and guaranteed by the Administration under this Act: *Provided*, That such trust certificates shall be based on and backed by a trust or pool approved by the Administration and composed solely of guaranteed debentures.

"(b) The Administration is authorized, upon such terms and conditions as are deemed appropriate, to guarantee the timely payment of the principal of and interest on trust certificates issued by the Administration or its agent for purposes of this section. Such guarantee shall be limited to the extent of principal and interest on the guaranteed debentures which compose the trust or pool. In the event that a debenture in such trust or pool is prepaid, either voluntarily or in the event of default, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the amount of principal and interest such prepaid debenture represents in the trust or pool. Interest on prepaid or defaulted debentures shall accrue and be guaranteed by the Administration only through the date of payment on the guarantee. During the term of the trust certificate, it may be called for redemp-

tion due to prepayment or default of all debentures constituting the pool.

"(c) The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee of such trust certificates issued by the Administration or its agent pursuant to this section.

"(d) The Administration shall not collect any fee for any guarantee under this section: *Provided*, That nothing herein shall preclude any agent of the Administration from collecting a fee approved by the Administration for the functions described in subsection (f)(2) of this section. Prohibition.

"(e)(1) In the event the Administration pays a claim under a guarantee issued under this section, it shall be subrogated fully to the rights satisfied by such payment.

"(2) No State or local law, and no Federal law, shall preclude or limit the exercise by the Administration of its ownership rights in the debentures constituting the trust or pool against which the trust certificates are issued. Prohibition.

"(f) The Administration shall—

"(1) provide for a central registration of all trust certificates sold pursuant to this section; such central registration shall include with respect to each sale, identification of each development company; the interest rate paid by the development company; commissions, fees, or discounts paid to brokers and dealers in trust certificates; identification of each purchaser of the trust certificate; the price paid by the purchaser for the trust certificate; the interest rate paid on the trust certificate; the fees of any agent for carrying out the functions described in paragraph (2); and such other information as the Administration deems appropriate;

"(2) contract with an agent to carry out on behalf of the Administration the central registration functions of this section and the issuance of trust certificates to facilitate poolings; such agent shall provide a fidelity bond or insurance in such amounts as the Administration determines to be necessary to fully protect the interests of the Government; Contract.

"(3) prior to any sale, require the seller to disclose to a purchaser of a trust certificate issued pursuant to this section, information on the terms, conditions, and yield of such instrument; and

"(4) have the authority to regulate brokers and dealers in trust certificates sold pursuant to this section.".

(b) RULES AND REGULATIONS; CONSULTATION.—(1) Notwithstanding any law, rule, or regulation, within 60 days after the date of the enactment of this Act, the Small Business Administration shall develop and promulgate final rules and regulations to implement the central registration provisions provided for in section 321(f)(1) of the Small Business Investment Act, and shall contract with an agent for an initial period of not to exceed two years to carry out the functions provided for in sections 321(f)(2) and 321(f)(3) of such Act. 15 USC 687*l* note. *Ante*, p. 364.

(2) Notwithstanding any law, rule, or regulation, within 60 days after the date of the enactment of this Act, the Small Business Administration also shall consult with representatives of appropriate Federal and State agencies and officials, the securities industry, financial institutions and lenders, and small business persons, and shall develop and promulgate final rules and regulations to 15 USC 697b note.

Infra; post, p. 367.

implement sections 504 and 505 of the Small Business Investment Act.

(c) CLERICAL AMENDMENT.—The table of sections for title III of such Act is amended by adding at the end thereof the following new item:

"Sec. 321. Issuance and guarantee of trust certificates.".

SEC. 18006. TERMINATION OF AUTHORITY TO MAKE CERTAIN DISASTER ASSISTANCE LOANS.

15 USC 636.

(a) IN GENERAL.—The Small Business Act is amended—

(1) in section (7)(b)—

Agriculture and agricultural commodities.

(A) by striking out "The" after "(b)" and inserting in lieu thereof "Except as to agricultural enterprises as defined in section 18(b)(1) of this Act, the,";

(B) by striking out the semicolon at the end of paragraph (2) and inserting in lieu thereof a period; and

(C) by striking out paragraphs (3) and (4);

(2) in section 7(c)(4) by striking out the last, undesignated paragraph; and

15 USC 647.

(3) in section 18(a) by striking out all that follows "Federal Government," through "Consolidated Farm and Rural Development Act".

15 USC 636 note.

(b) PIPELINE LOANS OR PREVIOUS DISASTERS.—Notwithstanding the amendments made by this section, sections 18002 and 18016, or any other provision of law, the Small Business Administration shall continue to accept, process, and approve loan applications under paragraphs (1) through (4) of subsection 7(b) of the Small Business Act and shall obligate and disburse loan funds on account of disasters declared before October 1, 1985, even if any such application is filed after the date of the enactment of this Act.

SEC. 18007. GUARANTEE FEE.

15 USC 636.

Section 7(a) of the Small Business Act is amended by adding at the end thereof the following new sentence:

"(16) The Administration shall collect a guarantee fee equal to two percent of the amount of the deferred participation share of any loan under this subsection other than a loan repayable in one year or less or a loan under paragraph (13). The fee shall be payable by the participating lending institution and may be charged to the borrower.".

SEC. 18008. PILOT PROGRAM INVOLVING SALE OF DEVELOPMENT COMPANY DEBENTURES.

(a) PILOT PROGRAM.—Title V of the Small Business Investment Act of 1958 is amended by adding the following new section:

15 USC 697a.

"SEC. 504. (a) Notwithstanding any other law, rule, or regulation, the Administration shall conduct a pilot program involving the sale to investors, either publicly or by private placement, of debentures guaranteed pursuant to section 503 of the Small Business Investment Act of 1958 as follows—

15 USC 697.

"(1) of the program levels otherwise authorized by law for fiscal year 1986, an amount not to exceed $200,000,000; and

"(2) of the program levels otherwise authorized by law for fiscal year 1987, an amount not to exceed $295,000,000.

Prohibition.

"(b) Nothing in any provision of law shall be construed to authorize the Federal Financing Bank to acquire—

"(1) any obligation the payment of principal or interest on which at any time has been guaranteed in whole or in part under section 503 of the Small Business Investment Act of 1958 and which is being sold pursuant to the provisions of the pilot program authorized in this section,

15 USC 697.

"(2) any obligation which is an interest in any obligation described in paragraph (1), or

"(3) any obligation which is secured by, or substantially all of the value of which is attributable to, any obligation described in paragraph (1) or (2).".

(b) REPORT ON PILOT PROGRAMS.—The Administration shall report to the President and the Congress on the conduct of the pilot program established under subsection (a) not later than 90 days after the date on which the last sale is made pursuant to such subsection in each fiscal year, and unless a report has been made not later than October 1 of 1986 and 1987, the Administration shall make an interim report by such dates.

15 USC 697a note.

(c) AUTHORITY FOR ISSUANCE OF TRUST CERTIFICATES.—Such title is further amended by adding at the end thereof the following new section:

"SEC. 505. (a) The Administration is authorized to issue trust certificates representing ownership of all of a fractional part of debentures issued by State or local development companies and guaranteed by the Administration under this Act: *Provided*, That such trust certificates shall be based on and backed by a trust or pool approved by the Administration and composed solely of guaranteed debentures.

15 USC 697b.

"(b) The Administration is authorized, upon such terms and conditions as are deemed appropriate, to guarantee the timely payment of the principal of and interest on trust certificates issued by the Administration or its agent for purposes of this section. Such guarantee shall be limited to the extent of principal and interest on the guaranteed debentures which compose the trust or pool. In the event that a debenture in such trust or pool is prepaid, either voluntarily or in the event of default, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the amount of principal and interest such prepaid debenture represents in the trust or pool. Interest on prepaid or defaulted debentures shall accrue and be guaranteed by the Administration only through the date of payment on the guarantee. During the term of the trust certificate, it may be called for redemption due to prepayment or default of all debentures constituting the pool.

"(c) The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee of such trust certificates issued by the Administration or its agent pursuant to this section.

"(d) The Administration shall not collect any fee for any guarantee under this section: *Provided*, That nothing herein shall preclude any agent of the Administration from collecting a fee approved by the Administration for the functions described in subsection (f)(2) of this section.

"(e)(1) In the event the Administration pays a claim under a guarantee issued under this section, it shall be subrogated fully to the rights satisfied by such payment.

"(2) No State or local law, and no Federal law, shall preclude or limit the exercise by the Administration of its ownership rights in

Prohibition. State and local government.

the debentures constituting the trust or pool against which the trust certificates are issued.

"(f) The Administration shall—

"(1) provide for a central registration of all trust certificates sold pursuant to this section; such central registration shall include with respect to each sale, identification of each development company; the interest rate paid by the development company; commissions, fees, or discounts paid to brokers and dealers in trust certificates; identification of each purchaser of the trust certificate; the price paid by the purchaser for the trust certificate; the interest rate paid on the trust certificate; the fees of any agent for carrying out the functions described in paragraph (2); and such other information as the Administration deems appropriate;

Contract. Insurance.

"(2) contract with an agent to carry out on behalf of the Administration the central registration functions of this section and the issuance of trust certificates to facilitate poolings; such agent shall provide a fidelity bond or insurance in such amounts as the Administration determines to be necessary to fully protect the interests of the Government;

"(3) prior to any sale, require the seller to disclose to a purchaser of a trust certificate issued pursuant to this section, information on the terms, conditions, and yield of such instrument; and

"(4) have the authority to regulate brokers and dealers in trust certificates sold pursuant to this section.".

15 USC 697b note.

(d) RULES AND REGULATIONS.—(1) Notwithstanding any law, rule, or regulation, within 60 days after the date of enactment of this Act, the Small Business Administration shall develop and promulgate final rules and regulations to implement the central registration provisions provided for in section 505(f)(1) of the Small Business Investment Act, and shall contract with an agent for an initial period of not to exceed two years to carry out the functions provided for in section 505(f)(2) of such Act.

Ante, p. 367.

(2) Notwithstanding any law, rule or regulation, within 60 days after the date of enactment of this Act, the Small Business Administration also shall consult with representatives of appropriate Federal and State agencies and officials, the securities industry, financial institutions and lenders, and small business persons, and shall develop and promulgate final rules and regulations to implement sections 504 and 505 of the Small Business Investment Act.

Ante, p. 366.

SEC. 18009. MISREPRESENTATION AS A SMALL BUSINESS OR MINORITY CONCERN.

15 USC 645.

Section 16 of the Small Business Act is amended by adding to the end thereof the following new subsections:

Contract. Penalties.

"(d) Whoever misrepresents the status of any concern or person as a 'small business concern' or 'small business concern owned and controlled by socially and economically disadvantaged individuals', in order to obtain for oneself or another any—

15 USC 638, 644.

"(1) prime contract to be awarded pursuant to section 9 or 15;

15 USC 637.

"(2) subcontract to be awarded pursuant to section 8(a);

"(3) subcontract that is to be included as part or all of a goal contained in a subcontracting plan required pursuant to section 8(d); or

"(4) prime or subcontract to be awarded as a result, or in furtherance, of any other provision of Federal law that specifi-

cally references section 8(d) for a definition of program eligibility, 15 USC 637.

shall be punished by a fine of not more than $50,000 or by imprisonment for not more than five years, or both.

"(e) Any representation of the status of any concern or person as a 'small business concern' or 'small business concern owned and controlled by socially and economically disadvantaged individuals' in order to obtain any prime contract or subcontract enumerated in subsection (d) of this section shall be in writing.".

SEC. 18010. REPORT CONCERNING ALTERNATIVE SOURCES FOR LOAN GUARANTEES.

Not later than June 30, 1986, the Administrator of the Small Business Administration shall submit to the Committees on Small Business of the Senate and the House of Representatives an internal report concerning—

(1) the options available to provide a guarantee on loans under section 7(a) of the Small Business Act from sources outside the Federal Government, together with such recommendations as the Administrator may have with respect to such options, including an evaluation of the feasibility of establishing a corporation owned by the Federal Government to make such guarantees; and 15 USC 636.

(2) the imposition, on each participating lender in the guaranteed loan program under section 7(a) of the Small Business Act, of an annual fee of between one-quarter of one percent and one percent of the value of the unpaid balance of any loan made under such program, particularly on the revenues that could be expected and whether such revenues could be used for a loss reserve fund or to defray the cost of administration of the program.

SEC. 18011. USER FEES.

(a) REPORT ON USER FEES.—Not later than September 30, 1986, the Small Business Administration shall submit to the Committees on Small Business of the Senate and the House of Representatives a report on user fees. The report shall specify for each fee which is currently being imposed or which is under consideration—

(1) the type of service provided by the Administration for which the fee is or may be charged;

(2) the amount of fee imposed or being considered;

(3) the formula for setting the fee; and

(4) the statutory or regulatory authority for the fee.

(b) REVIEW OF APPROPRIATENESS OF FEES.—The Administration shall review all other services provided by the Administration for which no fee is currently being imposed and include in the report its findings and recommendations as to—

(1) whether or not a fee should be imposed for each service; and

(2) whether statutory authority is needed to impose the fee.

SEC. 18012. UTILIZATION OF PROGRAM AUTHORITY.

Section 20(a) of the Small Business Act is amended— 15 USC 631 note.

(1) by inserting "(1)" after "SEC. 20. (a)"; and

(2) by adding at the end thereof the following:

"(2) Notwithstanding any other provision of law, the Administration shall enter into commitments for direct loans and to Loans.

guarantee loans, debentures, payment of rentals, or other amounts due under qualified contracts and other types of financial assistance and enter into commitments to purchase debentures and preferred securities and to guarantee sureties against loss pursuant to programs under this Act and the Small Business Investment Act of 1958, in the full amounts provided by law subject only to (A) the availability of qualified applications, and (B) limitations contained in appropriations Acts. Nothing in this paragraph authorizes the Administration to reduce or limit its authority to enter into such commitments.".

15 USC 661 note.

SEC. 18013. BUSINESS LENDING REFORMS.

15 USC 636.

Section 7(a)(2) of the Small Business Act is amended—

(1) by striking out "$100,000" both places it appears and inserting in lieu thereof "$155,000";

(2) by striking out "90" in subparagraph (B) and inserting in lieu thereof "85";

(3) by striking out "90" in the proviso and inserting in lieu thereof "85"; and

(4) by inserting before the period the following: ": *Provided, further,* That the Administration may reduce its participation below the per centums stated in this paragraph if the lender requests the reduction under the preferred lenders program or any successor thereto. As used in this sentence the term 'preferred lenders program' means a program under which, pursuant to a written agreement between the lender and the Administration, the lender has been delegated (1) complete authority to make and close loans with a guarantee from the Administration without obtaining the prior specific approval of the Administration, and (2) authority to service and liquidate such loans".

SEC. 18014. SURETY GUARANTEES.

15 USC 694b.

Section 411 of the Small Business Investment Act of 1958 is amended—

(1) in subsection (a) by striking out "$1,000,000" and inserting in lieu thereof "$1,250,000"; and

(2) in subsection (e)(2) by striking out "$1,000,000" and inserting in lieu thereof "$1,250,000".

SEC. 18015. ELIGIBILITY OF SMALL BUSINESS OWNED BY INDIAN TRIBES.

(a) CONSIDERATION OF INDIAN TRIBES.—Section 2(e)(1)(C) of the Small Business Act (15 U.S.C. 631(e)(2)(C)) is amended by inserting "Indian tribes," after "Native Americans,".

(b) CLARIFICATION OF DEFINITION OF "SOCIALLY AND ECONOMICALLY DISADVANTAGED SMALL BUSINESS CONCERN".—Paragraph (4) of section 8(a) of such Act (15 U.S.C. 637(a)(4)) is amended to read as follows:

"(4)(A) For purposes of this section, the term 'socially and economically disadvantaged small business concern' means any small business concern which meets the requirements of subparagraph (B) and—

"(i) which is at least 51 per centum owned by—

"(I) one or more socially and economically disadvantaged individuals, or

"(II) an economically disadvantaged Indian tribe, or

"(ii) in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by—

"(I) one or more socially and economically disadvantaged individuals, or

"(II) an economically disadvantaged Indian tribe.

"(B) A small business concern meets the requirements of this subparagraph if the management and daily business operations of such small business concern are controlled by one or more—

"(i) socially and economically disadvantaged individuals described in subparagraph (A)(i)(I) or subparagraph (A)(ii)(I), or

"(ii) members of an economically disadvantaged Indian tribe described in subparagraph (A)(i)(II) or subparagraph (A)(ii)(II).".

(c) DETERMINATION OF ECONOMIC DISADVANTAGE OF AN INDIAN TRIBE.—Paragraph (6) of such Act (15 U.S.C. 637(a)(6)) is amended by adding at the end thereof the following new sentence: "In determining the economic disadvantage of an Indian tribe, the Administration shall consider, where available, information such as the following: the per capita income of members of the tribe excluding judgment awards, the percentage of the local Indian population below the poverty level, and the tribe's access to capital markets.".

(d) DEFINITION OF "INDIAN TRIBE".—Section 8(a) of such Act (15 U.S.C. 637(a)) is amended by adding at the end thereof the following new paragraph:

"(13) For purposes of this subsection, the term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation (within the meaning of the Alaska Native Claims Settlement Act) which— 43 USC 1601 note.

"(A) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or

"(B) is recognized as such by the State in which such tribe, band, nation, group, or community resides.".

SEC. 18016. SIZE STANDARD FOR AGRICULTURAL ENTERPRISES.

Section 3(a) of the Small Business Act is amended by inserting the following before the period at the end of the first sentence: ": *Provided*, That notwithstanding any other provision of law, an agricultural enterprise shall be deemed to be a small business concern if it (including its affiliates) has annual receipts not in excess of $500,000". 15 USC 632.

SEC. 18017. ENCOURAGEMENT OF VETERANS BUSINESS RESOURCE COUNCILS.

(a) FINDINGS.—The Congress finds that—

(1) Veterans Business Resource Councils have been established in the following ten States: California, Ohio, Texas, New York, Massachusetts, Indiana, Louisiana, Maryland, Minnesota, and Missouri; California. Ohio. Texas. New York. Massachusetts. Indiana. Louisiana. Maryland. Minnesota. Missouri.

(2) the concept of Veterans Business Resource Councils to establish networks of veterans with business experience assisting fellow veterans seeking to establish small businesses merits serious consideration; and

(3) the majority of our Nation's Vietnam era veterans fall within the thirty-five to forty-five-year old age range, in which most people decide to enter into small business ownership.

(b) RECOMMENDATIONS.—The Congress urges the Small Business Administration—

(1) to evaluate the effectiveness of the Veterans Business Resource Councils which are currently operating and to recommend improvements in their operations;

(2) to develop guidelines to assist in the establishment of Veterans Business Resource Councils; and

(3) to work with the remaining States and any interested organizations to encourage the establishment of Veterans Business Resource Councils in those States.

TITLE XIX—VETERANS' PROGRAMS

Veterans' Health-Care Amendments of 1986.
38 USC 101 note.

SEC. 19001. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This title may be cited as the "Veterans' Health-Care Amendments of 1986".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

Subtitle A—Health Care

SEC. 19011. ELIGIBILITY FOR HEALTH CARE OF VETERANS WITH NON-SERVICE-CONNECTED DISABILITIES.

38 USC 610.

(a) HOSPITAL CARE AND NURSING HOME CARE.—(1) Subsection (a) of section 610 is amended to read as follows:

"(a)(1) The Administrator shall furnish hospital care, and may furnish nursing home care, which the Administrator determines is needed—

"(A) to any veteran for a service-connected disability;

"(B) to a veteran whose discharge or release from the active military, naval, or air service was for a disability incurred or aggravated in line of duty, for any disability;

"(C) to a veteran who, but for a suspension pursuant to section 351 of this title (or both such a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such veteran's continuing eligibility for such care is provided for in the judgment or settlement described in such section, for any disability;

"(D) to a veteran who has a service-connected disability rated at 50 percent or more, for any disability;

"(E) to any other veteran who has a service-connected disability, for any disability;

"(F) to a veteran who is a former prisoner of war, for any disability;

"(G) to a veteran exposed to a toxic substance or radiation, as provided in subsection (e) of this section;

"(H) to a veteran of the Spanish-American War, the Mexican border period, or World War I, for any disability; and

"(I) to a veteran for a non-service-connected disability, if the veteran is unable to defray the expenses of necessary care as determined under section 622(a)(1) of this title.

"(2)(A) To the extent that resources and facilities are available, the Administrator may furnish hospital care and nursing home care which the Administrator determines is needed to a veteran for a non-service-connected disability if the veteran has an income level described in section 622(a)(2) of this title. 38 USC 622.

"(B) In the case of a veteran who is not described in paragraph (1) of this subsection or in subparagraph (A) of this paragraph, the Administrator may furnish hospital care and nursing home care which the Administrator determines is needed to the veteran for a non-service-connected disability—

"(i) to the extent that resources and facilities are otherwise available; and

"(ii) subject to the provisions of subsection (f) of this section.

"(3) In addition to furnishing hospital care and nursing home care described in paragraphs (1) and (2) of this subsection through Veterans' Administration facilities, the Administrator may furnish such hospital care in accordance with section 603 of this title and may furnish such nursing home care as authorized under section 620 of this title.".

(2) Such section is further amended by adding at the end the following new subsections:

"(f)(1) The Administrator may not furnish hospital care or nursing home care under this section to a veteran who is eligible for such care by reason of subsection (a)(2)(B) of this section unless the veteran agrees to pay to the United States the applicable amount determined under paragraph (2) of this subsection. Prohibition.

"(2) A veteran who is furnished hospital care or nursing home care under this section and who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such care shall be liable to the United States for an amount equal to the lesser of—

"(A) the cost of furnishing such care, as determined by the Administrator; and

"(B) the amount determined under paragraph (3) of this subsection.

"(3)(A) In the case of hospital care furnished during any 365-day period, the amount referred to in paragraph (2)(B) of this subsection is— Medicare.

"(i) the amount of the inpatient Medicare deductible, plus

"(ii) one-half of such amount for each 90 days of care (or fraction thereof) after the first 90 days of such care during such 365-day period.

"(B) In the case of nursing home care furnished during any 365-day period, the amount referred to in paragraph (2)(B) of this subsection is the amount of the inpatient Medicare deductible for each 90 days of such care (or fraction thereof) during such 365-day period.

"(C)(i) Except as provided in clause (ii) of this subparagraph, in the case of a veteran who is admitted for nursing home care under this section after being furnished, during the preceding 365-day period, hospital care for which the veteran has paid the amount of the inpatient Medicare deductible under this subsection and who has not been furnished 90 days of hospital care in connection with such payment, the veteran shall not incur any liability under paragraph (2) of this subsection with respect to such nursing home care until—

"(I) the veteran has been furnished, beginning with the first day of such hospital care furnished in connection with such

payment, a total of 90 days of hospital care and nursing home care; or

"(II) the end of the 365-day period applicable to the hospital care for which payment was made,

whichever occurs first.

"(ii) In the case of a veteran who is admitted for nursing home care under this section after being furnished, during any 365-day period, hospital care for which the veteran has paid an amount under subparagraph (A)(ii) of this paragraph and who has not been furnished 90 days of hospital care in connection with such payment, the amount of the liability of the veteran under paragraph (2) of this subsection with respect to the number of days of such nursing home care which, when added to the number of days of such hospital care, is 90 or less, is the difference between the inpatient Medicare deductible and the amount paid under such subparagraph until—

"(I) the veteran has been furnished, beginning with the first day of such hospital care furnished in connection with such payment, a total of 90 days of hospital care and nursing home care; or

"(II) the end of the 365-day period applicable to the hospital care for which payment was made,

whichever occurs first.

Prohibition.

"(D) In the case of a veteran who is admitted for hospital care under this section after having been furnished, during the preceding 365-day period, nursing home care for which the veteran has paid the amount of the inpatient Medicare deductible under this subsection and who has not been furnished 90 days of nursing home care in connection with such payment, the veteran shall not incur any liability under paragraph (2) of this subsection with respect to such hospital care until—

"(i) the veteran has been furnished, beginning with the first day of such nursing home care furnished in connection with such payment, a total of 90 days of nursing home care and hospital care; or

"(ii) the end of the 365-day period applicable to the nursing home care for which payment was made,

whichever occurs first.

Prohibition.

38 USC 612.

"(E) A veteran may not be required to make a payment under this subsection for hospital care or nursing home care furnished under this section during any 90-day period in which the veteran is furnished medical services under section 612(f) of this title to the extent that such payment would cause the total amount paid by the veteran under this subsection for hospital care and nursing home care furnished during that period and under section 612(f)(4) of this title for medical services furnished during that period to exceed the amount of the inpatient Medicare deductible in effect on the first day of such period.

"(4) Amounts collected or received on behalf of the United States under this subsection shall be deposited in the Treasury as miscellaneous receipts.

"(5) For the purposes of this subsection, the term 'inpatient Medicare deductible' means the amount of the inpatient hospital deductible in effect under section 1813(b) of the Social Security Act (42 U.S.C. 1395e(b)) on the first day of the 365-day period applicable under paragraph (3) of this subsection.

State and local governments.

"(g) Nothing in this section requires the Administrator to furnish care to a veteran to whom another agency of Federal, State, or local

government has a duty under law to provide care in an institution of such government.".

(b) MEDICAL SERVICES FURNISHED ON AN OUTPATIENT OR AMBULATORY BASIS.—(1) Subsection (a) of section 612 is amended— 38 USC 612.

(A) by striking out the first sentence and inserting in lieu thereof the following:

"(1) Except as provided in subsection (b) of this section, the Administrator may furnish such medical services as the Administrator determines are needed—

"(A) to any veteran for a service-connected disability (including a disability that was incurred or aggravated in line of duty and for which the veteran was discharged or released from the active military, naval, or air service); and

"(B) for any disability of a veteran who has a service-connected disability rated at 50 percent or more.";

(B) by designating the sentence beginning "The Administrator may also" as paragraph (2) and in such sentence striking out "The Administrator may also furnish to any such veteran" and inserting in lieu thereof "As part of medical services furnished to a veteran under paragraph (1) of this subsection, the Administrator may furnish to the veteran";

(C) by striking out the sentence beginning "In the case of"; and

(D) by adding at the end of such subsection the following:

"(3) In addition to furnishing medical services under this subsection through Veterans' Administration facilities, the Administrator may furnish such services in accordance with section 603 of this title.".

(2) Subsection (f) of such section is amended—

(A) by striking out "The Administrator, within the limits of Veterans' Administration facilities, may" and inserting in lieu thereof "(1) Except as provided in paragraph (4) of this subsection, the Administrator may";

(B) by redesignating clause (1) as clause (A), redesignating subclauses (A) and (B) of such clause as subclauses (i) and (ii), respectively, and inserting "and" at the end of such clause;

(C) by striking out clause (2);

(D) by redesignating clause (3) as clause (B);

(E) by designating the second sentence as paragraph (2) and in such sentence striking out "The Administrator may also furnish to any such veteran" and inserting in lieu thereof "As part of medical services furnished to a veteran under paragraph (1) of this subsection, the Administrator may furnish to the veteran";

(F) by striking out the third sentence; and

(G) by adding at the end the following:

"(3) In addition to furnishing medical services under this subsection through Veterans' Administration facilities, the Administrator may furnish such services in accordance with section 603 of this title.

"(4)(A) The Administrator may not furnish medical services under this subsection (including home health services under paragraph (2) of this subsection) to a veteran who is eligible for hospital care under this chapter by reason of section 610(a)(2)(B) of this title unless the veteran agrees to pay to the United States the amount determined under subparagraph (B) of this paragraph. Prohibition.

"(B) A veteran who is furnished medical services under this subsection and who is required under subparagraph (A) of this

paragraph to agree to pay an amount to the United States in order to be furnished such services shall be liable to the United States, in the case of each visit in which such services are furnished to the veteran, for an amount equal to 20 percent of the estimated average cost (during the calendar year in which the services are furnished) of an outpatient visit in a Veterans' Administration facility. Such estimated average cost shall be determined by the Administrator.

Prohibition. Medicare.

"(C) A veteran may not be required to make a payment under this paragraph for services furnished under this subsection during any 90-day period to the extent that such payment would cause the total amount paid by the veteran under this paragraph for medical services furnished during that period and under section 610(f) of this title for hospital and nursing home care furnished during that period to exceed the amount of the inpatient Medicare deductible in effect on the first day of such 90-day period.

38 USC 610.

"(D) This subsection does not apply with respect to home health services under this subsection to the extent that such services are for improvements and structural alterations.

"(E) For the purposes of this paragraph, the term 'inpatient Medicare deductible' means the amount of the inpatient hospital deductible in effect under section 1813(b) of the Social Security Act (42 U.S.C. 1395e(b)).

"(F) Amounts collected or received by the Veterans' Administration under this paragraph shall be deposited in the Treasury as miscellaneous receipts.".

(3) Subsection (g) of such section is amended to read as follows:

"(g)(1) The Administrator may furnish medical services which the Administrator determines are needed to a veteran—

"(A) who is a veteran of the Mexican border period or of World War I; or

"(B) who is in receipt of increased pension or additional compensation or allowances based on the need of regular aid and attendance or by reason of being permanently housebound (or who, but for the receipt of retired pay, would be in receipt of such pension, compensation, or allowance).

"(2) As part of medical services furnished to a veteran under paragraph (1) of this subsection, the Administrator may furnish to the veteran home health services under the terms and conditions set forth in subsection (f) of this section.

"(3) In addition to furnishing medical services under this subsection through Veterans' Administration facilities, the Administrator may furnish such services in accordance with section 603 of this title.".

(4) Subsection (i) of such section is amended by adding at the end the following:

"(6) To any veteran who is in receipt of pension under section 521 of this title.".

(c) INCOME THRESHOLDS FOR CERTAIN NON-SERVICE-CONNECTED CARE.—(1) Section 622 is amended to read as follows:

38 USC 622.

"§ 622. Determination of inability to defray necessary expenses; income thresholds

"(a)(1) For the purposes of section 610(a)(1)(I) of this title, a veteran shall be considered to be unable to defray the expenses of necessary care if—

"(A) the veteran is eligible to receive medical assistance under a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(B) the veteran is in receipt of pension under section 521 of this title; or

38 USC 521.

"(C) the veteran's attributable income is not greater than the Category A threshold.

"(2) For the purposes of section 610(a)(2)(A) of this title, a veteran's income level is described in this paragraph if the veteran's attributable income is not greater than the Category B threshold.

"(b) For the purposes of this section:

"(1) The Category A threshold—

"(A) for the calendar year beginning on January 1, 1986, is—

"(i) $15,000 in the case of a veteran with no dependents; and

"(ii) $18,000 in the case of a veteran with one dependent, plus $1,000 for each additional dependent; and

"(B) for a calendar year beginning after December 31, 1986, is the amount in effect for purposes of this paragraph for the preceding calendar year as adjusted under subsection (c) of this subsection.

"(2) The Category B threshold—

"(A) for the calendar year beginning on January 1, 1986, is—

"(i) $20,000 in the case of a veteran with no dependents; and

"(ii) $25,000 in the case of a veteran with one dependent, plus $1,000 for each additional dependent; and

"(B) for a calendar year beginning after December 31, 1986, is the amount in effect for purposes of this paragraph for the preceding calendar year as adjusted under subsection (c) of this subsection.

"(c) Effective on January 1 of each year, the amounts in effect under paragraphs (1) and (2) of subsection (b) of this section shall be increased by the percentage by which the maximum rates of pension were increased under section 3112(a) of this title during the preceding calendar year.

Effective date.

"(d)(1) Notwithstanding the attributable income of a veteran, the Administrator may refuse to make a determination described in paragraph (2) of this subsection if the corpus of the estate of the veteran is such that under all the circumstances it is reasonable that some part of the corpus of the estate of the veteran be consumed for the veteran's maintenance.

"(2) A determination described in this paragraph is a determination—

"(A) that for the purposes of subsection (a)(1)(C) of this section a veteran's attributable income is not greater than the Category A threshold; or

"(B) that for the purposes of subsection (a)(2) of this section a veteran's attributable income is not greater than the Category B threshold.

"(3) For the purposes of paragraph (1) of this subsection, the corpus of the estate of a veteran shall be determined in the same manner as the manner in which determinations are made of the corpus of the estates of persons under section 522 of this title.

"(e)(1) In order to avoid a hardship to a veteran described in paragraph (2) of this subsection, the Administrator may deem the veteran to have an attributable income during the previous year not greater than the Category A threshold or the Category B threshold, as appropriate.

"(2)(A) A veteran is described in this paragraph for the purposes of subsection (a)(1) of this section if—

"(i) the veteran has an attributable income greater than the Category A threshold; and

"(ii) the current projections of such veteran's income for the current year are that the veteran's income for such year will be substantially below such threshold.

"(B) A veteran is described in this paragraph for the purposes of subsection (a)(2) of this section if—

"(i) the veteran has an attributable income greater than the Category B threshold; and

"(ii) the current projections of such veteran's income for the current year are that the veteran's income for such year will be substantially below such threshold.

"(f) For purposes of this section:

"(1) The term 'attributable income' means the income of a veteran for the previous year determined in the same manner as the manner in which a determination is made of the total amount of income by which the rate of pension for such veteran under section 521 of this title would be reduced if such veteran were eligible for pension under that section.

38 USC 521.

"(2) The term 'corpus of the estate of the veteran' includes the corpus of the estates of the veteran's spouse and dependent children, if any.

"(3) The term 'previous year' means the calendar year preceding the year in which the veteran applies for care or services under section 610(a) or 612(f) of this title.

"(g) For the purposes of sections 610(b)(2) and 624(c) of this title, the fact that a veteran is—

"(1) eligible to receive medical assistance under a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(2) a veteran with a service-connected disability; or

"(3) in receipt of pension under any law administered by the Veterans' Administration,

shall be accepted as sufficient evidence of such veteran's inability to defray necessary expenses.".

(2) The item relating to such section in the table of sections at the beginning of chapter 17 is amended to read as follows:

"622. Determination of inability to defray necessary expenses; income thresholds.".

Effective date.
38 USC 622 note.

(3) The first increase under subsection (c) of section 622 of title 38, United States Code, as added by paragraph (1), shall take effect on January 1, 1987.

38 USC 525.

(d) CONFORMING AMENDMENTS.—(1) Section 525(a) is amended by striking out "section 612(i)(5) of this title" and inserting in lieu thereof "clauses (5) and (6) of section 612(i)".

38 USC 601.

(2) Section 601(6) is amended—

(A) in clause (A)(i), by striking out "section 612(f)(1)(A)" and inserting in lieu thereof "section 612(f)(1)(A)(i)", and

(B) in clause (B)(ii), by striking out "section 612(f)(1)(B)" and inserting in lieu thereof "section 612(f)(1)(A)(ii)".

(3) Section 610(e) is amended— 38 USC 610.

(A) by striking out "may be furnished hospital care or nursing home care under subsection (a)(5)" in subparagraphs (A) and (B) of paragraph (1) and inserting in lieu thereof "is eligible for hospital care and nursing home care under subsection (a)(1)(G)"; and

(B) by striking out "subsection (a)(5)" in paragraphs (2) and (3) and inserting in lieu thereof "subsection (a)(1)(G)".

(4) Section 612A is amended— 38 USC 612A.

(A) by striking out "clause (1)(B)" in subsection (b)(1) and inserting in lieu thereof "paragraph (1)(A)(ii)"; and

(B) by striking out "612(f)(2)" in subsection (e)(1) and inserting in lieu thereof "612(a)(1)(B)".

(5) Section 620(f)(1)(A)(ii) is amended by striking out "612(f)(2)" and inserting in lieu thereof "612(a)(1)(B)". 38 USC 620.

(6) Section 663(a)(1) is amended by striking out "612(f)(2)" both places it appears and inserting in lieu thereof "612(a)(1)(B)". 38 USC 663.

(e) REPORTS ON FURNISHING OF HEALTH CARE AND IMPLEMENTATION OF CHANGES IN ELIGIBILITY.—(1) The Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report for each of fiscal years 1986, 1987, and 1988 concerning the implementation of the amendments made by this section. 38 USC 610 note.

(2) Each report under paragraph (1) shall provide detailed information with respect to the fiscal year for which it is submitted regarding—

(A) the number of veterans who received health care from the Veterans' Administration during the fiscal year concerned (shown in total and separately for hospital care, nursing home care, outpatient care, and domiciliary care);

(B) with respect to veterans who applied for health care from the Veterans' Administration during such fiscal year but did not receive such care—

(i) the number of such veterans (shown in total and separately for hospital care, nursing home care, outpatient care, and domiciliary care); and

(ii) the primary reasons why such care was not furnished;

(C) the guidelines and processes for—

(i) implementation of the income-threshold criteria for Veterans' Administration health-care eligibility established by paragraph (1)(I) and subparagraphs (A) and (B) of paragraph (2) of section 610(a) of title 38, United States Code (as added by subsection (a)), paragraph (4) of section 612(f) of such title (as added by subsection (b)), and section 622 of such title (as amended by subsection (c)); and

(ii) the collection of payments required by section 610(f) of such title (as added by subsection (a)(2)) and by section 612(f)(4) of such title (as added by subsection (b)(2));

(D) the numbers and characteristics of, and the type and extent of health care furnished by the Veterans' Administration to, veterans eligible for such care by reason of any such authorities, including—

(i) with respect to those eligible by reason of each such authority, the numbers who applied for and were furnished such care, the type and extent of such care that they were furnished, and their incomes and family sizes; and

38 USC 610.

(ii) with respect to veterans eligible by reason of section 610(a)(2)(B) of such title, the average and total payments made by such veterans for such care (shown in total and separately for hospital care, nursing home care, and outpatient care); and

(E) the numbers of, and the type and extent of health care furnished by the Veterans' Administration to, veterans eligible for such care by reason of each clause of section 610(a)(1) of such title (shown in total and separately for veterans with service-connected disabilities for each percentile disability rating).

Effective date.

The report for fiscal year 1986 shall include information relating only to care furnished on or after July 1, 1986.

Effective date.

(3) Each report under this subsection shall be submitted not later than the February 1 following the end of the fiscal year for which it is required.

38 USC 610 note.

(f) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to hospital care, nursing home care, and medical services furnished on or after July 1, 1986.

Regulations.

(2)(A) The provisions of sections 610 and 622 of title 38, United States Code, as in effect on the day before the date of the enactment of this Act, shall apply with respect to hospital and nursing home care furnished on or after July 1, 1986, to veterans furnished such care or services on June 30, 1986, but only to the extent that such care is furnished with respect to the same episode of care for which it was furnished on June 30, 1986, as determined by the Administrator pursuant to regulations which the Administrator shall prescribe.

(B) During the months of July and August 1986, the Administrator may, in order to continue a course of treatment begun before July 1, 1986, furnish medical services to a veteran on an ambulatory or outpatient basis without regard to the amendments made by this section.

(C) For the purposes of this paragraph, the term "episode of care" means a period of consecutive days—

(i) beginning with the first day on which a veteran is furnished hospital or nursing home care; and

(ii) ending on the day of the veteran's discharge from the hospital or nursing home facility, as the case may be.

SEC. 19012. TECHNICAL REVISION OF AUTHORITY TO CONTRACT FOR HOSPITAL CARE AND MEDICAL SERVICES.

38 USC 601.

(a) REPEAL OF CONTRACT AUTHORITY FROM DEFINITION OF VETERANS' ADMINISTRATION FACILITIES.—Section 601 is amended—

(1) in paragraph (4)—

(A) by inserting "and" at the end of clause (A); and

(B) by striking out the semicolon at the end of clause (B) and all that follows through the end of such paragraph and inserting in lieu thereof a period; and

(2) by adding at the end the following new paragraph:

"(9) The term 'non-Veterans' Administration facilities' means facilities other than Veterans' Administration facilities.".

(b) REENACTMENT OF CONTRACT AUTHORITY.—(1) Chapter 17 is amended by inserting after section 602 the following new section:

"§ 603. Contracts for hospital care and medical services in non-Veterans' Administration facilities 38 USC 603.

"(a) When Veterans' Administration facilities are not capable of furnishing economical hospital care or medical services because of geographical inaccessibility or are not capable of furnishing the care or services required, the Administrator, as authorized in section 610 or 612 of this title, may contract with non-Veterans' Administration facilities in order to furnish— 38 USC 610, 612.

"(1) hospital care or medical services to a veteran for the treatment of—

"(A) a service-connected disability; or

"(B) a disability for which a veteran was discharged or released from the active military, naval, or air service;

"(2) medical services for the treatment of any disability of—

"(A) a veteran described in section 612(a)(1)(B) of this title;

"(B) a veteran described in section 612(f)(1)(A)(ii) of this title; or

"(C) a veteran described in section 612(g) of this title if the Administrator has determined, based on an examination by a physician employed by the Veterans' Administration (or, in areas where no such physician is available, by a physician carrying out such function under a contract or fee arrangement), that the medical condition of such veteran precludes appropriate treatment in Veterans' Administration facilities;

"(3) hospital care or medical services for the treatment of medical emergencies which pose a serious threat to the life or health of a veteran receiving medical services in a Veterans' Administration facility until such time following the furnishing of care in the non-Veterans' Administration facility as the veteran can be safely transferred to a Veterans' Administration facility;

"(4) hospital care for women veterans;

"(5) hospital care, or medical services that will obviate the need for hospital admission, for veterans in a State not contiguous to the contiguous States, except that the annually determined hospital patient load and incidence of the furnishing of medical services to veterans hospitalized or treated at the expense of the Veterans' Administration in Government and non-Veterans' Administration facilities in each such noncontiguous State shall be consistent with the patient load or incidence of the furnishing of medical services for veterans hospitalized or treated by the Veterans' Administration within the 48 contiguous States, but the authority of the Administrator under this paragraph with respect to the Commonwealth of Puerto Rico shall expire on September 30, 1988, and until such date the Administrator may, if necessary to prevent hardship, waive the applicability to the Commonwealth of Puerto Rico of the restrictions in this paragraph with respect to hospital patient loads and the incidence of the furnishing of medical services; State and local governments. Expiration date.

"(6) diagnostic services necessary for determination of eligibility for, or of the appropriate course of treatment in connection with, furnishing medical services at independent Veterans' Administration out-patient clinics to obviate the need for hospital admission; or

"(7) outpatient dental services and treatment, and related dental appliances, for a veteran described in section 612(b)(1)(G) of this title.

38 USC 612.

"(b) In the case of any veteran for whom the Administrator contracts to furnish care or services in a non-Veterans' Administration facility pursuant to a provision of subsection (a) of this section, the Administrator shall periodically review the necessity for continuing such contractual arrangement pursuant to such provision.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 602 the following new item:

"603. Contracts for hospital care and medical services in non-Veterans' Administration facilities.".

38 USC 612.

(c) CONFORMING AMENDMENTS.—(1) Section 612(b)(3) is amended by striking out "clause (i), (ii), or (v) of section 601(4)(C)" and inserting in lieu thereof "clause (1), (2), or (5) of section 603(a)".

(2) Section 612(b)(4) is amended by striking out "section 601(4)(C)" both places it appears and inserting in lieu thereof "section 603".

38 USC 612A.

(3) Section 612A(e)(1) is amended by striking out "601(4)(C)(ii)" and inserting in lieu thereof "603(a)(2)".

38 USC 903.

(4) Section 903(a) is amended by inserting "hospital care in accordance with section 603 of this title or" after "was receiving".

(5) Section 102(b) of the Veterans' Administration Health-Care Amendments of 1985 (Public Law 99-166) is amended—

38 USC 601, 603.

(A) by striking out "such section" in paragraph (1) and inserting in lieu thereof "section 603(a)(5)"; and

38 USC 601 note, 603 note.

(B) by striking out "clause (v) of section 601(4)(C)" in paragraph (5) and inserting in lieu thereof "section 603(a)(5)".

SEC. 19013. RECOVERY OF THE COST OF CERTAIN HEALTH CARE AND SERVICES FURNISHED BY THE VETERANS' ADMINISTRATION.

(a) IN GENERAL.—Section 629 is amended to read as follows:

38 USC 629.

"§ 629. Recovery by the United States of the cost of certain care and services

"(a)(1) Subject to the provisions of this section, in any case in which a veteran is furnished care or services under this chapter for a non-service-connected disability described in paragraph (2) of this subsection, the United States has the right to recover or collect the reasonable cost of such care or services (as determined by the Administrator) from a third party to the extent that the veteran (or the provider of the care or services) would be eligible to receive payment for such care or services from such third party if the care or services had not been furnished by a department or agency of the United States.

State and local governments.

"(2) Paragraph (1) of this subsection applies to a non-service-connected disability—

"(A) that is incurred incident to the veteran's employment and that is covered under a workers' compensation law or plan that provides for payment for the cost of health care and services provided to the veteran by reason of the disability;

"(B) that is incurred as the result of a motor vehicle accident to which applies a State law that requires the owners or operators of motor vehicles registered in that State to have in force automobile accident reparations insurance;

"(C) that is incurred as the result of a crime of personal violence that occurred in a State, or a political subdivision of a State, in which a person injured as the result of such a crime is entitled to receive health care and services at such State's or subdivision's expense for personal injuries suffered as the result of such crime; or

"(D) that is incurred by a veteran—

"(i) who does not have a service-connected disability; and

"(ii) who is entitled to care (or payment of the expenses of care) under a health-plan contract.

"(3) In the case of a health-plan contract that contains a requirement for payment of a deductible or copayment by the veteran— Contracts.

"(A) the veteran's not having paid such deductible or copayment with respect to care or services furnished under this chapter shall not preclude recovery or collection under this section; and

"(B) the amount that the United States may collect or recover under this section shall be reduced by the appropriate deductible or copayment amount, or both.

"(b)(1) As to the right provided in subsection (a) of this section, the United States shall be subrogated to any right or claim that the veteran (or the veteran's personal representative, successor, dependents, or survivors) may have against a third party. Claims.

"(2)(A) In order to enforce any right or claim to which the United States is subrogated under paragraph (1) of this subsection, the United States may intervene or join in any action or proceeding brought by the veteran (or the veteran's personal representative, successor, dependents, or survivors) against a third party.

"(B) The United States may institute and prosecute legal proceedings against the third party if—

"(i) an action or proceeding described in subparagraph (A) of this paragraph is not begun within 180 days after the first day on which care or services for which recovery is sought are furnished to the veteran by the Administrator under this chapter;

"(ii) the United States has sent written notice by certified mail to the veteran at the veteran's last-known address (or to the veteran's personal representative or successor) of the intention of the United States to institute such legal proceedings; and

"(iii) a period of 60 days has passed following the mailing of such notice.

"(c)(1) The Administrator may compromise, settle, or waive any claim which the United States has under this section. Claims.

"(2)(A) The Administrator, after consultation with the Comptroller General of the United States, shall prescribe regulations for the purpose of determining the reasonable cost of care or services under subsection (a)(1) of this section. Any determination of such cost shall be made in accordance with such regulations. Regulations.

"(B) Such regulations shall provide that the reasonable cost of care or services sought to be recovered or collected from a third-party liable under a health-plan contract may not exceed the amount that such third party demonstrates to the satisfaction of the Administrator it would pay for the care or services in accordance with the prevailing rates at which the third party makes payments under comparable health-plan contracts with facilities (other than

facilities of departments or agencies of the United States) in the same geographic area.

Reports.

"(C) Not later than 45 days after the date on which the Administrator prescribes such regulations (or any amendment to such regulations), the Comptroller General shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives the Comptroller General's comments on and recommendations regarding such regulations (or amendment).

Contracts.

"(d) Any contract or agreement into which the Administrator enters with a person under section 3718 of title 31 for collection services to recover indebtedness owed the United States under this section shall provide, with respect to such services, that such person is subject to sections 3301 and 4132 of this title.

38 USC 3301, 4132.

Prohibitions.

"(e) A veteran eligible for care or services under this chapter—

"(1) may not be denied such care or services by reason of this section; and

"(2) may not be required by reason of this section to make any copayment or deductible payment in order to receive such care.

Prohibition.

"(f) No law of any State or of any political subdivision of a State, and no provision of any contract or other agreement, shall operate to prevent recovery or collection by the United States under this section or with respect to care or services furnished under section 611(b) of this title.

"(g) Amounts collected or recovered on behalf of the United States under this section shall be deposited into the Treasury as miscellaneous receipts.

Records.

Public availability.

"(h)(1) Subject to paragraph (3) of this subsection, the Administrator shall make available medical records of a veteran described in paragraph (2) of this subsection for inspection and review by representatives of the third party concerned for the sole purposes of permitting the third party to verify—

"(A) that the care or services for which recovery or collection is sought were furnished to the veteran; and

"(B) that the provision of such care or services to the veteran meets criteria generally applicable under the health-plan contract involved.

Contracts.

"(2) A veteran described in this paragraph is a veteran who is a beneficiary of a health-plan contract under which recovery or collection is sought under this section from the third party concerned for the cost of the care or services furnished to the veteran.

Confidentiality.

Regulations.

"(3) Records shall be made available under this subsection under such conditions to protect the confidentiality of such records as the Administrator shall prescribe in regulations.

"(i) For purposes of this section—

"(1)(A) The term 'health-plan contract' means an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar arrangement, under which health services for individuals are provided or the expenses of such services are paid.

"(B) Such term does not include—

"(i) an insurance program described in section 1811 of the Social Security Act (42 U.S.C. 1395c) or established by section 1831 of such Act (42 U.S.C. 1395j);

"(ii) a State plan for medical assistance approved under title XIX of such Act (42 U.S.C. 1396 et seq.);

"(iii) a workers' compensation law or plan described in subparagraph (A) of subsection (a)(2) of this section; or

"(iv) a program, plan, or policy under a law described in subparagraph (B) or (C) of such subsection.

"(2) The term 'payment' includes reimbursement and indemnification.

"(3) The term 'third party' means—

"(A) a State or political subdivision of a State;

"(B) an employer or an employer's insurance carrier;

"(C) an automobile accident reparations insurance carrier; or

"(D) a person obligated to provide, or to pay the expenses of, health services under a health-plan contract.".

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), section 629 of title 38, United States Code, as amended by subsection (a), shall apply to care and services provided on or after the date of the enactment of this Act. 38 USC 629 note.

(2)(A) Such section shall not apply so as to nullify any provision of a health-plan contract (as defined in subsection (i) of such section) that— Contracts.

(i) was entered into before the date of the enactment of this Act; and

(ii) is not modified or renewed on or after such date.

(B) In the case of a health-plan contract (as so defined) that was entered into before such date and which is modified or renewed on or after such date, the amendment made by subsection (a) shall apply—

(i) with respect to such plan as of the day after the date that it is so modified or renewed; and

(ii) with respect to care and services provided after such date of modification or renewal.

(3) For purposes of paragraph (2), the term "modified" includes any change in premium or coverage.

(c) REPORTS.—(1) Not later than six months after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the process for and results of the implementation of section 629 of title 38, United States Code, as amended by subsection (a). Such report shall show the costs of administration (and a detailed breakdown of such costs) and the amount of receipts and collections under such section. 38 USC 629 note.

(2) Not later than February 1, 1988, the Administrator shall submit to such Committees a report—

(A) updating the information in the report submitted under paragraph (1); and

(B) providing information on the process and results of such implementation through at least the end of fiscal year 1987.

Subtitle B—Miscellaneous Provisions

SEC. 19031. STUDY OF EFFECT OF VIETNAM EXPERIENCE ON HEALTH STATUS OF WOMEN VIETNAM VETERANS.

(a) REQUIREMENT FOR EPIDEMIOLOGICAL STUDY.—(1)(A) Except as provided in paragraph (2), the Administrator of Veterans' Affairs shall provide for the conduct of an epidemiological study of any long-term adverse health effects (particularly gender-specific health effects) which have been experienced by women who served in the Armed Forces of the United States in the Republic of Vietnam 38 USC 219 note.

during the Vietnam era and which may have resulted from traumatic experiences during such service, from exposure during such service to phenoxy herbicides (including the herbicide known as Agent Orange), to other herbicides, chemicals, or medications that may have deleterious health effects, or to environmental hazards, or from any other experience or exposure during such service.

(B) The Administrator may include in the study conducted under this paragraph an evaluation of the means of detecting and treating long-term adverse health effects (particularly gender-specific health effects) found through the study.

(2)(A) If the Administrator, in consultation with the Director of the Office of Technology Assessment, determines that it is not feasible to conduct a scientifically valid study of an aspect of the matters described in paragraph (1)—

(i) the Administrator shall promptly submit to the appropriate committees of the Congress a notice of that determination and the reasons for the determination; and

Report.

(ii) the Director, not later than 60 days after the date on which such notice is submitted to the committees, shall submit to such committees a report evaluating and commenting on such determination.

(B) The Administrator is not required to study any aspect of the matters described in paragraph (1) with respect to which a determination is made and a notice is submitted pursuant to subparagraph (A)(i).

Termination.

(C) If the Administrator submits to the Congress notice of a determination made pursuant to subparagraph (A) that it is not scientifically feasible to conduct the study described in paragraph (1)(A), this section (effective as of the date of such notice) shall cease to have effect as if repealed by law.

Contracts.

(3) The Administrator shall provide for the study to be conducted through contracts or other agreements with private or public agencies or persons.

(b) APPROVAL OF PROTOCOL.—(1) The study required by subsection (a) shall be conducted in accordance with a protocol approved by the Director of the Office of Technology Assessment.

(2) Not later than July 1, 1986, the Administrator shall publish a request for proposals for the design of the protocol to be used in conducting the study under this section.

(3) In considering any proposed protocol for use or approval under this subsection, the Administrator and the Director shall take into consideration—

(A) the protocol approved under section 307(a)(2)(A)(i) of the Veterans Health Programs Extension and Improvement Act of 1979 (Public Law 96-151; 38 U.S.C. 219 note); and

(B) the experience under the study being conducted pursuant to that protocol.

(c) OTA REPORTS.—(1) Concurrent with the approval or disapproval of any protocol under subsection (b)(1), the Director shall submit to the appropriate committees of the Congress a report—

(A) explaining the reasons for the Director's approval or disapproval of the protocol, as the case may be; and

(B) containing the Director's conclusions regarding the scientific validity and objectivity of the protocol.

(2) If the Director has not approved a protocol under subsection (b)(1) by the last day of the 180-day period beginning on the date of the enactment of this Act, the Director—

(A) shall, on such day, submit to the appropriate committees of the Congress a report describing the reasons why the Director has not approved such a protocol; and

(B) shall, each 60 days thereafter until such a protocol is approved, submit to such committees an updated report on the report required by clause (A).

(d) OTA MONITORING OF COMPLIANCE.—(1) In order to ensure compliance with the protocol approved under subsection (b)(1), the Director shall monitor the conduct of the study under subsection (a).

(2)(A) The Director shall submit to the appropriate committees of the Congress, at each of the times specified in subparagraph (B), a report on the Director's monitoring of the conduct of the study pursuant to paragraph (1). Report.

(B) A report shall be submitted under subparagraph (A)—

(i) before the end of the 6-month period beginning on the date on which the Director approves the protocol referred to in paragraph (1);

(ii) before the end of the 12-month period beginning on such date; and

(iii) annually thereafter until the study is completed or terminated.

(e) DURATION OF STUDY.—The study conducted pursuant to subsection (a) shall be continued for as long after the date on which the first report is submitted under subsection (f)(1) as the Administrator determines that there is a reasonable possibility of developing, through such study, significant new information on the health effects described in subsection (a)(1).

(f) REPORTS.—(1) Not later than 24 months after the date of the approval of the protocol pursuant to subsection (b)(1) and annually thereafter, the Administrator shall submit to the appropriate committees of the Congress a report containing—

(A) a description of the results obtained, before the date of such report, under the study conducted pursuant to subsection (a); and

(B) any administrative actions or recommended legislation, or both, and any additional comments which the Administrator considers appropriate in light of such results.

(2) Not later than 90 days after the date on which each report required by paragraph (1) is submitted, the Administrator shall publish in the Federal Register, for public review and comment, a description of any action that the Administrator plans or proposes to take with respect to programs administered by the Veterans' Administration based on— Federal Register, publication.

(A) the results described in such report;

(B) the comments and recommendations received on that report; and

(C) any other available pertinent information.

Each such description shall include a justification or rationale for the planned or proposed action.

(g) DEFINITIONS.—For the purposes of this section:

(1) The term "gender-specific health effects" includes—

(A) effects on female reproductive capacity and reproductive organs;

(B) effects on reproductive outcomes;

(C) effects on female-specific organs and tissues; and

(D) other effects unique to the physiology of females.

(2) The term "Vietnam era" has the meaning given such term in section 101(29) of title 38, United States Code.

38 USC 219 note.

SEC. 19032. ADVISORY COMMITTEE ON NATIVE-AMERICAN VETERANS.

(a) ESTABLISHMENT OF COMMITTEE.—Not later than May 1, 1986, the Administrator of Veterans' Affairs shall establish an advisory committee to be known as the Advisory Committee on Native-American Veterans (hereinafter in this section referred to as the "Committee").

(b) DUTIES.—The Committee shall examine and evaluate programs and other activities of the Veterans' Administration with respect to the needs of veterans who are Native Americans, including American Indians and Alaska Natives. Such examination and evaluation shall include—

(1) an assessment of the needs of such veterans with respect to health care, rehabilitation, readjustment counseling, outreach services, and other benefits and services under programs administered by the Veterans' Administration; and

(2) a review of the manner in which and the extent to which the programs and other activities of the Veterans' Administration meet such needs.

(c) MEMBERS.—The Committee shall consist of—

(1) the Secretary of Labor (or a representative of the Secretary of Labor designated by the Secretary after consultation with the Assistant Secretary of Labor for Veterans' Employment);

(2) the Chief Medical Director and Chief Benefits Director of the Veterans' Administration or their representatives; and

(3) members appointed by the Administrator from the general public, including—

(A) representatives of veterans who are Native Americans, including American Indians and Alaska Natives and such veterans with service-connected disabilities; and

(B) individuals who are recognized authorities in fields pertinent to the needs of such veterans, including the specific health-care needs of such veterans and the furnishing of health-care services by the Veterans' Administration to such veterans.

(d) PARTICIPATION BY OTHER AGENCIES.—The Administrator may invite representatives of other departments and agencies of the Federal Government to participate in the meetings and other activities of the Committee.

(e) NUMBER AND PAY OF MEMBERS.—The Administrator shall determine the number and pay and allowances of the members of the Committee appointed by the Administrator.

(f) REPORTS.—(1) Not later than February 1, 1987, and February 1, 1988, the Committee shall submit to the Administrator a report containing the findings and any recommendations of the Committee regarding the matters described in subsection (b) that were examined and evaluated by the Committee during the preceding fiscal year.

(2) Not later than 60 days after receiving each such report, the Administrator shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comments and recommendations concerning the report that the Administrator considers appropriate.

(g) ALASKA NATIVE DEFINED.—For the purposes of this section, the term "Alaska Native" has the meaning given the term "Native" in

section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

(h) TERMINATION.—The Committee shall terminate 90 days after the date on which the second report is transmitted by the Committee pursuant to subsection (f)(2).

SEC. 19033. WAIVER OF CONGRESSIONAL NOTICE-AND-WAIT PERIOD FOR ADMINISTRATIVE REORGANIZATION OF CERTAIN VETERANS' ADMINISTRATION AUTOMATED DATA PROCESSING ACTIVITIES.

(a) WAIVER.—The Administrator of Veterans' Affairs may undertake the administrative reorganization described in subsection (b) without regard to the requirements of section 210(b)(2) of title 38, United States Code.

(b) COVERED ADMINISTRATIVE REORGANIZATION.—The administrative reorganization referred to in subsection (a) is a reorganization that—

(1) involves the transfer of certain functions from the Office of Data Management and Telecommunications of the Veterans' Administration to the Department of Veterans' Benefits of the Veterans' Administration; and

(2) is described in letters dated November 1, 1985, that were submitted by the Administrator to the chairmen and ranking minority members of the Committees on Veterans' Affairs of the Senate and House of Representatives.

SEC. 19034. RATIFICATION OF CERTAIN TEMPORARILY EXPIRED AUTHORITIES.

(a) VETERANS' ADMINISTRATION REGIONAL OFFICE IN THE REPUBLIC OF THE PHILIPPINES.—Any action by the Administrator of Veterans' Affairs in providing, during the ratification period, for a Veterans' Administration Regional Office in the Republic of the Philippines under section 230 of title 38, United States Code, is hereby ratified with respect to that period.

(b) CONTRACT CARE AUTHORITY IN PUERTO RICO AND THE VIRGIN ISLANDS.—Any action by the Administrator in entering into a contract applicable to the ratification period for furnishing care described in subclause (v) of section 601(4)(C) of title 38, United States Code, any action by the Administrator under such contract, and any waiver described in that subclause made by the Administrator that is applicable to that period, is hereby ratified with respect to that period.

(c) ALCOHOL AND DRUG TREATMENT AND REHABILITATION CONTRACT PROGRAM.—Any action by the Administrator in entering into a contract described in section 620A(a) of title 38, United States Code, that is applicable to the ratification period, and any action by the Administrator under such contract, is hereby ratified with respect to that period.

(d) RATIFICATION PERIOD DEFINED.—For the purposes of this section, the term "ratification period" means the period beginning on November 1, 1985, and ending on December 3, 1985.

TITLE XX—MISCELLANEOUS PROVISIONS

Congress.
Budget, Federal.

SEC. 20001. MISCELLANEOUS PROVISIONS.

2 USC 641.

(a) When the Senate is considering a reconciliation bill or a reconciliation resolution pursuant to section 310 of the Congressional Budget Act of 1974, upon a point of order being made by any Senator against material extraneous to the instructions to a committee which is contained in any title or provision of the bill or resolution or offered as an amendment to the bill or resolution, and the point of order is sustained by the Chair, any part of said title or provision that contains material extraneous to the instructions to said Committee as defined in subsection (d) shall be deemed stricken from the bill and may not be offered as an amendment from the floor. An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section, as well as to waive or suspend the provisions of this subsection.

2 USC 636.

(b) No motion to waive or suspend the requirement of section 305(b)(2) of the Congressional Budget Act of 1974, as it relates to germaneness with respect to a reconciliation bill or resolution, shall be agreed to unless supported by an affirmative vote of three-fifths of the Members, duly chosen and sworn, which super-majority shall be required to successfully appeal the ruling of the Chair on a point of order raised under that section, as well as to waive or suspend the provisions of this subsection.

Effective date.

(c) This section shall become effective on the date of enactment of this title and shall remain in effect until January 2, 1987.

(d)(1)(A) Except as provided in paragraph (2), a provision of a reconciliation bill or reconciliation resolution considered pursuant to section 310 of the Congressional Budget Act of 1974 shall be considered extraneous if such provision does not produce a change in outlays or revenues, including changes in outlays and revenues brought about by changes in the terms and conditions under which outlays are made or revenues are required to be collected; (B) any provision producing an increase in outlays or decrease in revenues shall be considered extraneous if the net effect of provisions reported by the Committee reporting the title containing the provision is that the Committee fails to achieve its reconciliation instructions; (C) a provision that is not in the jurisdiction of the Committee with jurisdiction over said title or provision shall be considered extraneous; (D) a provision shall be considered extraneous if it produces changes in outlays or revenues which are merely incidental to the non-budgetary components of the provision.

(2) A provision shall not be considered extraneous under (1)(A) above if: (A) it is designed to mitigate the direct effects clearly attributable to a provision changing outlays or revenues and both provisions together produce a net reduction in the deficit; (B) it will result in a substantial reduction in outlays or a substantial increase in revenues during fiscal years after the fiscal years covered by the reconciliation bill or reconciliation resolution; (C) a reduction of outlays or an increase in revenues is likely to occur as a result of the provision, in the event of new regulations authorized by the provision or likely to be proposed, court rulings on pending litigation, or relationships between economic indices and stipulated statutory triggers pertaining to the provision, other than the regulations, court rulings or relationships currently projected by the Congres-

sional Budget Office for scorekeeping purposes; (D) such provision will be likely to produce a significant reduction in outlays or increase in revenues but, due to insufficient data, such reduction or increase cannot be reliably estimated.

Approved April 7, 1986.

LEGISLATIVE HISTORY—H.R. 3128 (H.R. 3500) (S. 1730):

HOUSE REPORTS: No. 99-241, Pt. 1 (Comm. on Ways and Means), Pt. 2 (Comm. on Education and Labor), Pt. 3 (Comm. on the Judiciary), No. 99-300 accompanying H.R. 3500 (Comm. on the Budget), and No. 99-453 (Comm. of Conference).

SENATE REPORT No. 99-146 accompanying S. 1730 (Comm. on the Budget).

CONGRESSIONAL RECORD:

Vol. 131 (1985): Oct. 15, 16, 22-24; Nov. 12-14, S. 1730 considered in Senate.
Oct. 31, H.R. 3128 considered and passed House.
Nov. 14, considered and passed Senate, amended, in lieu of S. 1730.
Dec. 5, House agreed to Senate amendment with amendment.
Dec. 19, Senate agreed to conference report; House receded from its amendment and concurred in Senate amendment with amendment; Senate concurred in House amendment with amendment.

Vol. 132 (1986): Mar. 6, House concurred in Senate amendment with amendment.
Mar. 14, Senate concurred in House amendment with amendment.
Mar. 18, House disagreed to Senate amendment. Senate insisted on its amendment.
Mar. 20, House concurred in Senate amendment.

O

Public Law 99-273
99th Congress

Joint Resolution

Apr. 9, 1986
[S.J. Res. 52]

To designate the month of April 1986 as "National School Library Month".

Whereas school libraries serve a critical function in American education and provide an information center for students at all levels of study;

Whereas elementary and secondary school libraries provide young people with their first exposure to books, and can instill a lifelong love of reading;

Whereas university and college libraries are the cornerstone of scholarly research, and house information and resources to be used for the improvement of all society;

Whereas school libraries at all educational levels provide a full range of media resources, including audio-visual aids, computers, works of art, and materials for the blind and handicapped;

Whereas school libraries, with their extensive collections, serve as an important link in interdisciplinary education;

Whereas school libraries rely on the dedication and talents of well-trained, well-read librarians and other support staff;

Whereas school libraries should be encouraged and assisted in efforts to expand and diversify collections to meet the changing needs of patrons; and

Whereas the special role school libraries play relative to American libraries in general and in American society warrants special recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of April 1986 is designated "National School Library Month" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

Approved April 9, 1986.

LEGISLATIVE HISTORY—S.J. Res. 52:

CONGRESSIONAL RECORD:
Vol. 131 (1985): Apr. 15, considered and passed Senate.
Vol. 132 (1986): Feb. 6, considered and passed House, amended.
Mar. 27, Senate concurred in House amendments.

O

71-139 O - 86 (273)

Public Law 99-274
99th Congress

Joint Resolution

To designate the week of April 14, 1986 through April 20, 1986 as "National Mathematics Awareness Week".

Apr. 17, 1986
[S.J. Res. 261]

Whereas mathematics is vital to the economic security and defense of the United States;

Whereas enrollment in mathematics programs at all levels is declining;

Whereas in 1984, only 55 percent of doctoral graduates in mathematics from institutions in the United States were United States citizens;

Whereas medical science, space science, computer science, business, defense, and government have increasing need of the technological innovations brought about in recent years by the application of mathematics to such areas; and

Whereas the National Research Council in a report on the current state of mathematics expresses the need for citizens to be aware of the vital role that mathematics plays in daily lives: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of April 14, 1986 through April 20, 1986 is designated as "National Mathematics Awareness Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States and all Federal, State, and local government agencies to observe such week with appropriate programs and activities.

Approved April 17, 1986.

LEGISLATIVE HISTORY—S.J. Res. 261:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Mar. 4, considered and passed Senate.
Apr. 10, considered and passed House.

O

71-139 O - 86 (274)

Public Law 99-275
99th Congress

Joint Resolution

Apr. 18, 1986
[S.J. Res. 136]

To authorize and request the President to issue a proclamation designating the calendar week beginning with Sunday, April 13, 1986, as "National Garden Week".

Whereas the gardeners of this country produce an abundance of food for our people and enable us to export food to other countries which are in desperate need; and

Whereas the gardeners help to preserve and foster our traditional spirit of independence and individual initiative; and

Whereas gardening instills in our people, both young and old, a greater appreciation for nature, in general, and for our beautiful land, in particular; and

Whereas such appreciation naturally leads to a greater respect and care for our environment; and

Whereas gardening, in addition to being most beneficial for our country, furnishes a pleasant, healthful, and productive full- or part-time activity for a large number of our citizens; and

Whereas our gardens also yield flowers of great variety and breathtaking beauty; and

Whereas these flowers bring beauty into our lives and satisfy our aesthetic needs: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation—

(1) designating the calendar week beginning with Sunday, April 13, 1986, as "National Garden Week"; and

(2) urging Federal, State, and local government agencies, as well as citizens and private organizations, to observe that week with educational efforts, ceremonies, and other appropriate activities which shall include the wearing of garden flowers as a symbol of our appreciation for the efforts and contributions of our gardeners.

Approved April 18, 1986.

LEGISLATIVE HISTORY—S.J. Res. 136:

CONGRESSIONAL RECORD:
Vol. 131 (1985): June 18, considered and passed Senate.
Vol. 132 (1986): Apr. 14, considered and passed House.

71-139 O - 86 (275)

Public Law 99-276
99th Congress

Joint Resolution

To designate April 20, 1986, as "Education Day U.S.A.".

Apr. 22, 1986
[H.J. Res. 582]

Whereas Congress recognizes the historical tradition of ethical values and principles which are the basis of civilized society and upon which our great Nation was founded;

Whereas these ethical values and principles have been the bedrock of society from the dawn of civilization, when they were known as the Seven Noahide Laws;

Whereas without these ethical values and principles the edifice of civilization stands in serious peril of returning to chaos;

Whereas society is profoundly concerned with the recent weakening of these principles that has resulted in crises that beleaguer and threaten the fabric of civilized society;

Whereas the justified preoccupation with these crises must not let the citizens of this Nation lose sight of their responsibility to transmit these historical ethical values from our distinguished past to the generations of the future;

Whereas the Lubavitch movement has fostered and promoted these ethical values and principles throughout the World; and

Whereas Rabbi Menachem Mendel Schneerson, leader of the Lubavitch movement, is universally respected and revered and his eighty-fourth birthday falls on April 20, 1986: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 20, 1986, the birthday of Rabbi Menachem Mendel Schneerson, leader and head of the worldwide Lubavitch movement, is designated as "Education Day, U.S.A.". The President is requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved April 22, 1986.

LEGISLATIVE HISTORY—H.J. Res. 582:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 14, considered and passed House.
Apr. 17, considered and passed Senate.

O

71-139 O - 86 (276)

Public Law 99-277
99th Congress

Joint Resolution

Apr. 23, 1986
[S.J. Res. 315]

Designating May 1986 as "Older Americans Month"

Whereas older Americans have contributed many years of service to their families, their communities, and the Nation;

Whereas the population of the United States is comprised of a large percentage of older Americans representing a wealth of knowledge and experience;

Whereas older Americans should be acknowledged for the contributions they continue to make to their communities and the Nation; and

Whereas many States and communities acknowledge older Americans during the month of May: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in recognition of the traditional designation of the month of May as "Older Americans Month" and the repeated expression by the Congress of its appreciation and respect for the achievements of older Americans and its desire that these Americans continue to play an active role in the life of the Nation, the President is directed to issue a proclamation designating the month of May 1986 as "Older Americans Month" and calling on the people of the United States to observe this month with appropriate programs, ceremonies, and activities.

Approved April 23, 1986.

LEGISLATIVE HISTORY—S.J. Res. 315:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 11, considered and passed Senate.
Apr. 14, considered and passed House.

○

71-139 O - 86 (277)

Public Law 99-278
99th Congress

An Act

To extend for 3 months the emergency acquisition and net worth guarantee provisions of the Garn-St Germain Depository Institutions Act of 1982.

Apr. 24, 1986
[H.R. 4551]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 141(a) of the Garn-St Germain Depository Institutions Act of 1982 (relating to emergency acquisitions) is amended by striking out "April 15, 1986" and inserting in lieu thereof "July 15, 1986".

12 USC 1464 note.

(b) Section 206(a) of the Garn-St Germain Depository Institutions Act of 1982 (relating to net worth certificates) is amended by striking out "April 15, 1986" and inserting in lieu thereof "July 15, 1986".

12 USC 1729 note, 1823.

Approved April 24, 1986.

LEGISLATIVE HISTORY—H.R. 4551:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 14, considered and passed House.
Apr. 16, considered and passed Senate.

71-139 O - 86 (278)

Public Law 99-279
99th Congress

Joint Resolution

Apr. 24, 1986
[H.J. Res. 599]

Commemorating the twenty-fifth anniversary of the Bay of Pigs invasion to liberate Cuba from Communist tyranny.

Whereas April 17, 1986, marks the twenty-fifth anniversary of the first day of the Bay of Pigs attempted liberation of Cuba by the heroic 2506 Brigade, a battle which entailed three days of fighting at a narrow strand of mangrove, bunch grass, coral head, and sand lying thirty miles from the towns of Giron and Playa Larga and bounded by the Bay of Pigs and the Cienaga de Zapata swamp;

Whereas on April 17, 1961, the fourteen hundred gallant and intrepid men who made up the brave 2506 Brigade were ill-equipped but possessing immeasurable spirit, courage, and determination, sought in the tradition of the great liberators Jose Marti and Simon Bolivar to liberate from Communist tyranny the beautiful isle of Cuba and reestablish freedom and democracy for the people of Cuba, that great island lying so close to the United States;

Whereas the patriotic, noble, and sacrificial effort of the 2506 Brigade to liberate Cuba as in the same patriotic spirit that prompted other courageous and intrepid men to liberate the American colonies from a foreign monarch and establish freedom and democracy in America; and

Whereas the people of the United States proudly commend those courageous warriors who fight for the cause of freedom and justice anywhere in the world and the Congress wishes to express the commendation of the American people to the gallant warriors of the 2506 Brigade who made such an historic effort to establish freedom and democracy in Cuba: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 17, 1986, be commemorated as the twenty-fifth anniversary of the Bay of Pigs invasion to liberate Cuba from Communist tyranny.

Approved April 24, 1986.

LEGISLATIVE HISTORY—H.J. Res. 599:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 17, considered and passed House and Senate.

○

71-139 O - 86 (279)

Public Law 99-280
99th Congress

An Act

To amend the Public Health Service Act to revise and extend the programs of assistance for primary health care.

Apr. 24, 1986
[S. 1282]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Health Services Amendments Act of 1986.

SECTION 1. SHORT TITLE: REFERENCE TO ACT.

42 USC 201 note.

(a) SHORT TITLE.—This Act may be cited as the "Health Services Amendments Act of 1986".

(b) REFERENCE TO ACT.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

42 USC 201 note.

SEC. 2. MEDICALLY UNDERSERVED POPULATIONS.

Section 330(b) (42 U.S.C. 254c(b)) is amended—

(1) by striking out the second, third, fourth, and fifth sentences of paragraph (3); and

(2) by adding at the end thereof the following:

"(4) In carrying out paragraph (3), the Secretary shall by regulation prescribe criteria for determining the specific shortages of personal health services of an area or population group. Such criteria shall—

Regulations.

"(A) take into account comments received by the Secretary from the chief executive officer of a State and local officials in a State; and

State and local governments.

"(B) include infant mortality in an area or population group, other factors indicative of the health status of a population group or residents of an area, the ability of the residents of an area or of a population group to pay for health services and their accessibility to them, and the availability of health professionals to residents of an area or to a population group.

Children and youth.

"(5) The Secretary may not designate a medically underserved population in a State or terminate the designation of such a population unless, prior to such designation or termination, the Secretary provides reasonable notice and opportunity for comment and consults with—

Prohibition.
State and local governments.

"(A) the chief executive officer of such State;

"(B) local officials in such State; and

"(C) the State organization, if any, which represents a majority of community health centers in such State.

"(6) The Secretary may designate a medically underserved population that does not meet the criteria established under paragraph (4) if the chief executive officer of the State in which such population is located and local officials of such State recommend the designation of such population based on unusual local conditions which are a barrier to access to or the availability of personal health services.".

State and local governments.

71-139 O - 86 (280)

SEC. 3. MEMORANDUM OF AGREEMENT.

Section 330 (42 U.S.C. 254c) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

Contracts. State and local governments.

"(h) In carrying out this section, the Secretary may enter into a memorandum of agreement with a State. Such memorandum may include, where appropriate, provisions permitting such State to—

"(1) analyze the need for primary health services for medically underserved populations within such State;

"(2) assist in the planning and development of new community health centers;

"(3) review and comment upon annual program plans and budgets of community health centers, including comments upon allocations of health care resources in the State;

"(4) assist community health centers in the development of clinical practices and fiscal and administrative systems through a technical assistance plan which is responsive to the requests of community health centers; and

"(5) share information and data relevant to the operation of new and existing community health centers.".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Grants.

Paragraphs (1) and (2) of section 330(g) are amended to read as follows:

"(1) There are authorized to be appropriated for payments pursuant to grants under this section $400,000,000 for fiscal year 1987 and $400,000,000 for fiscal year 1988.

Prohibition.

"(2) The Secretary may not in any fiscal year—

"(A) expend for grants to serve medically underserved populations designated under subsection (b)(6) an amount which exceeds 5 percent of the funds appropriated under this section for that fiscal year; and

"(B) expend for grants under subsection (d)(1)(C) an amount which exceeds 5 percent of the funds appropriated under this section for that fiscal year.".

SEC. 5. PRIMARY CARE BLOCK GRANTS.

Repeal.

Part C of title XIX (42 U.S.C. 300y—300y-11) is repealed.

SEC. 6. MIGRANT HEALTH CENTERS.

The first sentence of section 329(h)(1) (42 U.S.C. 254b(h)(1)) is amended by striking out "and" after "1983," and by inserting before the period a comma and "$45,400,000 for fiscal year 1987 and $45,400,000 for fiscal year 1988".

SEC. 7. TECHNICAL AMENDMENT.

Section 329(d)(2) (42 U.S.C. 254b(d)(2)) is amended by inserting before the semicolon "and the costs of repaying loans made by the Farmers Home Administration for buildings". Loans.

Approved April 24, 1986.

LEGISLATIVE HISTORY—S. 1282 (H.R. 2418):

HOUSE REPORT No. 99-157 accompanying H.R. 2418 (Comm. on Energy and Commerce).
SENATE REPORT No. 99-104 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD:
Vol. 131 (1985): July 19, considered and passed Senate.
Vol. 132 (1986): Mar. 5, H.R. 2418 considered and passed House; S. 1282, amended, passed in lieu.
Apr. 11, Senate concurred in House amendment.

○

Public Law 99-281
99th Congress

Joint Resolution

Apr. 24, 1986
[S.J. Res. 286]

To designate the week of April 20, 1986, through April 26, 1986, as "National Reading Is Fun Week".

Whereas reading for pleasure contributes to the development of lifelong reading and learning skills;

Whereas the lack of those skills is a pervasive and destructive force in America, and millions of adults cannot read well enough to function in our society;

Whereas it is essential that the sixty-six million youngsters in America under the age of 18 grow up reading in order to become literate, informed adults; and

Whereas "National Reading Is Fun Week" will be a nationwide literacy effort encouraging millions of young people to read: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of April 20, 1986, through April 26, 1986, is designated as "National Reading Is Fun Week" and the President is authorized and requested to issue a proclamation calling upon Federal, State, and local government agencies and the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Approved April 24, 1986.

LEGISLATIVE HISTORY—S.J. Res. 286:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Mar. 21, considered and passed Senate.
Apr. 22, considered and passed House.

71-139 O - 86 (281)

Public Law 99-282
99th Congress

Joint Resolution

To designate April 1986, as "Fair Housing Month".

Apr. 24, 1986
[S.J. Res. 303]

Whereas the year 1986 marks the eighteenth anniversary of the passage of title VIII of the Civil Rights Act of 1968, commonly referred to as the "Federal Fair Housing Act", declaring a national policy to provide fair housing throughout the United States; 42 USC 3601.

Whereas the Federal Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex, or national origin;

Whereas fairness is the foundation of our way of life and reflects the best of our traditional American values;

Whereas invidious discriminatory housing practices undermine the strength and vitality of America and the American people; and

Whereas in this eighteenth year since the passage of the Fair Housing Act, all Americans must work to continue to improve the Fair Housing Act by strengthening enforcement provisions, by extending the protections of the Act to all our citizens, by assuring there are no victims of discriminatory housing practices, and by making the ideal of fair housing a reality: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating April as "Fair Housing Month" and to invite the Governors of the several States, the chief officials of local governments, and the people of the United States to observe the month with appropriate ceremonies and activities.

Approved April 24, 1986.

LEGISLATIVE HISTORY—S.J. Res. 303:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 11, considered and passed Senate.
Apr. 17, considered and passed House.

71-139 O - 86 (282)

CHILOCCO INDIAN SCHOOL LANDS IN TRUST FOR THE KAW, OTOE-MISSOURIA, PAWNEE, PONCA, AND TONKAWA TRIBES OF OKLAHOMA

Public Law 99-283
99th Congress

An Act

May 1, 1986
[S. 1684]

To declare that the United States holds certain Chilocco Indian School lands in trust for the Kaw, Otoe-Missouria, Pawnee, Ponca, and Tonkawa Indian Tribes of Oklahoma.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Contracts.

SECTION 1. (a) Except as provided in section 2 of this Act, the Secretary of the Interior shall partition the interests of the United States in the approximately 5,824 acres of land in Oklahoma known as the Chilocco Indian School Reserve among the Cherokee Nation of Oklahoma, and the Pawnee, Ponca, Otoe-Missouria, Kaw, and Tonkawa Tribes of Oklahoma in line with the agreement of August 30, 1985 among those six tribes. The interests which are partitioned to the last five named tribes jointly shall be further partitioned by the Secretary in line with an agreement among those tribes.

(b) The interests partitioned to a tribe under this section are declared to be held in trust by the United States for that tribe.

Federal Register, publication.

(c) The Secretary shall publish in the Federal Register a description of the interests in land partitioned and held in trust under this section.

Minerals.

SEC. 2. The interest of the United States in the minerals in the approximately 5,824 acres of land identified in section 1 of this Act are declared to be held in trust jointly for the Cherokee Nation of Oklahoma, and the Pawnee, Ponca, Otoe-Missouria, Kaw, and Tonkawa Tribes of Oklahoma. The Cherokee Nation of Oklahoma shall act for all six tribes in decisions involving those mineral interests. The Secretary shall hold 50 percent of the income from those mineral interests in trust for the Cherokee Nation of Oklahoma and 10 percent of that income in trust for each of the other five tribes.

SEC. 3. Nothing in this Act shall deprive any person of any right or interest in the land identified in section 1.

Minerals.

SEC. 4. The unobligated balance of the income (after provision for payment of maintenance and other costs incurred before the enactment of this Act) derived by the Secretary from the interests in the land identified in section 1 of this Act shall be used in accordance with the provision from the Act of September 10, 1982 (96 Stat. at 839) codified in section 155b of title 25, United States Code (1982 Edition) and divided as follows:

(1) of the part of the balance that the Secretary decides is attributed to income from other than mineral interests—

(A) 75 percent shall be used as jointly requested by the governing bodies of the Pawnee, Ponca, Otoe-Missouria, Kaw, and Tonkawa Tribes of Oklahoma; and

(B) 25 percent shall be used as requested by the governing body of the Cherokee Nation of Oklahoma.

(2) of the part of the balance that the Secretary decides is attributed to income from mineral interests—

(A) 50 percent shall be used as jointly requested by the governing bodies of the Pawnee, Ponca, Otoe-Missouria, Kaw, and Tonkawa Tribes of Oklahoma; and

(B) 50 percent shall be used as requested by the governing body of the Cherokee Nation of Oklahoma.

Approved May 1, 1986.

LEGISLATIVE HISTORY—S. 1684:

HOUSE REPORT No. 99-500 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 99-188 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 3, considered and passed Senate.
Vol. 132 (1986): Apr. 21, considered and passed House.

71-139 O - 86 (283)

Public Law 99-284
99th Congress

An Act

May 1, 1986
[S. 2319]

To provide for the continuation of the Martin Luther King, Jr. Federal Holiday Commission until 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONTINUATION OF COMMISSION.

(a) PURPOSE.—Section 3(1) of the Act of August 27, 1984 (98 Stat. 1473), is amended—

(1) by striking out "first"; and

(2) by inserting "first" before "occurs".

(b) ANNUAL REPORT.—Section 8 of the Act of August 27, 1984 (98 Stat. 1475), is amended by striking out ", 1986" and inserting in lieu thereof "of each year".

(c) TERMINATION.—Section 9 of the Act of August 27, 1984 (98 Stat. 1475), is amended by striking out "submitting its report under section 8" and inserting in lieu thereof "April 20, 1989".

SEC. 2. COMPOSITION OF COMMISSION.

Section 4(a)(6) of the Act of August 27, 1984 (98 Stat. 1473), is amended by striking out "fourteen" and inserting in lieu thereof "twenty-three".

Approved May 1, 1986.

LEGISLATIVE HISTORY—S. 2319:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 17, considered and passed Senate.
Apr. 22, considered and passed House.

71-139 O - 86 (284)

Public Law 99-285
99th Congress

Joint Resolution

Providing for reappointment of Carlisle H. Hummelsine as a citizen regent of the Board of Regents of the Smithsonian Institution.

May 1, 1986
[S.J. Res. 214]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of Carlisle H. Hummelsine of Virginia, is filled by reappointment of the incumbent for a term of six years, effective March 13, 1986.

Approved May 1, 1986.

LEGISLATIVE HISTORY—S.J. Res. 214:

SENATE REPORT No. 99-217 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 12, considered and passed Senate.
Vol. 132 (1986): Apr. 17, considered and passed House, amended.
Apr. 22, Senate concurred in House amendments.

71-139 O - 86 (285)

Public Law 99-286
99th Congress

Joint Resolution

May 1, 1986
[S.J. Res. 215]

Providing for reappointment of William G. Bowen as a citizen regent of the Board of Regents of the Smithsonian Institution.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of William G. Bowen of New Jersey, is filled by reappointment of the incumbent for a term of six years, effective March 13, 1986.

Approved May 1, 1986.

LEGISLATIVE HISTORY—S.J. Res. 215:

SENATE REPORT No. 99-218 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 12, considered and passed Senate.
Vol. 132 (1986): Apr. 17, considered and passed House, amended.
Apr. 22, Senate concurred in House amendment.

71-139 O - 86 (286)

Public Law 99-287
99th Congress

Joint Resolution

Designating May 11 through May 17, 1986, as "Jewish Heritage Week".

May 1, 1986
[S.J. Res. 275]

Whereas the Congress recognizes that an understanding of the heritage of all American ethnic groups contributes to the unity of our country;

Whereas intergroup understanding can be further fostered through an appreciation of the culture, history, and traditions of the Jewish community and the contributions of Jews to our country and society; and

Whereas the months of March, April, and May contain events of major significance in the Jewish calendar—Passover, the anniversary of the Warsaw Ghetto Uprising, Israeli Independence Day, Solidarity Sunday for Soviet Jewry, and Jerusalem Day: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating May 11 through May 17, 1986, as "Jewish Heritage Week" and calling upon the people of the United States, State and local government agencies, and interested organizations to observe "Jewish Heritage Week" with appropriate ceremonies, programs, and activities.

Approved May 1, 1986.

LEGISLATIVE HISTORY—S.J. Res. 275:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Mar. 11, considered and passed Senate.
Apr. 22, considered and passed House.

71-139 O - 86 (287)

WORLD FOOD DAY

Public Law 99-288
99th Congress

Joint Resolution

May 1, 1986
[S.J. Res. 296]

To designate October 16, 1986, as "World Food Day".

Whereas hunger and malnutrition remain daily facts of life, for hundreds of millions of people throughout the world;

Whereas the children of the world suffer the most serious effects of hunger and malnutrition, with millions of children dying each year from hunger-related illness and disease, and many others suffering permanent physical or mental impairment because of vitamin or protein deficiencies;

Whereas the United States and the American people have a long tradition of demonstrating humanitarian concern for the hungry and malnourished, recently manifested in their response to African famine;

Whereas the United States, as the world's largest producer and trader of food, has a key role to play in assisting countries and people to improve their ability to feed themselves;

Whereas efforts to resolve the world hunger problem are critical to the maintenance of world peace and, therefore, to the security of the United States;

Whereas although progress has been made in reducing the incidence of hunger and malnutrition in the United States, certain groups, notably Native Americans, migrant workers, the elderly, and children, remain vulnerable to malnutrition and related diseases;

Whereas there is growing recognition that improved agricultural policies, including farmer incentives, are necessary in many developing countries to increase food production and economic growth;

Whereas the United States has always supported the principle that the health of the nation depends on a strong agriculture based on private enterprise and the primacy of the independent family farmer;

Whereas national policies concerning food, farmland, and nutrition require continuing evaluation and should consider and strive for the well-being and protection of all residents of the United States and particularly those most at health risk;

Whereas there is widespread concern that the use and conservation of natural resources required for food production throughout the United States ensure care for the national patrimony we bequeath to future generations;

Whereas Congress is acutely aware of the paradox of immense farm surpluses and rising farm foreclosures in the United States despite the desperate need for food by hundreds of millions of people throughout the world;

Whereas participation by the private voluntary and business sectors, working with national governments and the international community, is essential to the search for solutions to food and hunger problems;

Whereas the member nations of the Food and Agricultural Organization of the United Nations unanimously designated October 16 of each year as World Food Day because of the need to increase public awareness of world hunger problems;

Whereas past observances of World Food Day have been supported by proclamations by the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States, by resolution of Congress, by Presidential proclamations, by programs of the United States Department of Agriculture and other Government departments and agencies, and by the governments and peoples of many other nations; and

Whereas more than three hundred and fifty private and voluntary organizations and many thousands of community leaders are participating in the planning of World Food Day observances for 1986: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 16, 1986, is hereby designated as "World Food Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate programs and activities.

Approved May 1, 1986.

LEGISLATIVE HISTORY—S.J. Res. 296:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Mar. 21, considered and passed Senate.
Apr. 22, considered and passed House.

71-139 O - 86 (288)

Public Law 99-289
99th Congress

An Act

May 2, 1986
[H.R. 4602]

To authorize the Federal Housing Administration and the Government National Mortgage Association to enter into additional commitments to insure loans and guarantee mortgage-backed securities during fiscal year 1986, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

12 USC 1721 note.

SECTION 1. FEDERAL HOUSING ADMINISTRATION FUND.

(a) The applicable limitation on additional commitments to insure mortgages and loans to carry out the purposes of the National Housing Act during fiscal year 1986 is increased by an additional $17,000,000,000 of mortgage and loan principal.

12 USC 1701.

Ante, p. 73.

(b) Each provision of law amended by Public Law 99-267 is amended by striking out "April 30, 1986" wherever it appears and inserting in lieu thereof "June 6, 1986".

12 USC 1721 note.

SEC. 2. GOVERNMENT NATIONAL MORTGAGE ASSOCIATION GUARANTEES OF MORTGAGE-BACKED SECURITIES.

The applicable limitation on new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act during fiscal year 1986 is increased by an additional $60,684,750,000 of principal.

12 USC 1721.

12 USC 1721 note.

SEC. 3. ADMINISTRATIVE PROVISION.

(a) The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") shall estimate the rates at which the authority to make commitments to insure mortgages and loans under the National Housing Act, and the authority to make commitments to issue guarantees under section 306(g) of that Act, are likely to be used for the remainder of any fiscal year. The Secretary shall make these estimates at such times as the Secretary deems appropriate, but not less frequently than monthly.

(b) If an estimate under subsection (a) indicates that either limitation on authority to make commitments for a fiscal year referred to in subsection (a) will be reached before the end of that fiscal year, or in any event whenever 75 per centum of either authority to make commitments has been utilized, the Secretary shall promptly so notify the Committee on Appropriations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Appropriations and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

Approved May 2, 1986.

LEGISLATIVE HISTORY—H.R. 4602:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 21, considered and passed House.
Apr. 29, considered and passed Senate, amended.
Apr. 30, House concurred in Senate amendment.

○

71-139 O - 86 (289)

Public Law 99-290
99th Congress

Joint Resolution

To reaffirm Congress' recognition of the vital role played by members of the National Guard and Reserve in the national defense, and for other purposes.

May 2, 1986
[H.J. Res. 220]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Uniformed services.

SECTION 1. RECOGNITION OF NATIONAL GUARD AND RESERVE.

(a) FINDINGS.—The Congress reaffirms its findings set out in section 1130(a) of Public Law 97-252 that—

38 USC 2021 note.

(1) the National Guard and Reserve forces of the United States are an integral part of the total force policy of the United States for national defense and need to be ready to respond, on short notice, to augment the active military forces in time of national emergency;

(2) attracting and retaining sufficient numbers of qualified persons to serve in the Guard and Reserve is a difficult challenge during a period in which there is a decreasing number of young people from which to recruit; and

(3) the support of employers and supervisors in granting employees a leave of absence from their jobs to participate in military training without detriment to earned vacation time, promotions, and job benefits is essential to the maintenance of a strong Guard and Reserve force.

(b) RECOGNITION OF MEMBERS OF GUARD AND RESERVE.—It continues to be the sense of Congress that the citizen-military volunteers who serve the Nation as members of the National Guard and Reserve require and deserve public recognition of the essential role they play in the national defense, and particularly require and deserve the support and cooperation of their civilian employers, in order to be fully ready to respond to national emergencies.

(c) EMPLOYER SUPPORT FOR GUARD AND RESERVE.—The Congress reaffirms its statements expressed in section 1130(c) of Public Law 97-252 that it—

(1) recognizes, and requests all citizens to recognize, the vital need for a trained, ready National Guard and Reserve in the national defense posture of the United States; and

(2) urges and requests employers and supervisors of employees who are members of the National Guard or Reserve to abide by the provisions of chapter 43 of title 38, United States Code, by—

38 USC 2021 *et seq.*

(A) granting a leave of absence for military training, exclusive of earned vacation, to employees who are members of the Guard and Reserve; and

(B) providing such employees equal consideration for job benefits and promotions as all other employees.

SEC. 2. EXTENSION OF DEADLINE RELATING TO OBLIGATION OF FUNDS FROM MILITARY PERSONNEL ACCOUNTS OF THE DEPARTMENT OF DEFENSE.

Notwithstanding any other provision of law, until, but not after, June 1, 1986, obligations from the Department of Defense military personnel accounts may exceed a rate in excess of the rate required to limit total obligations to the obligation ceilings established by law for such accounts for fiscal year 1986.

Approved May 2, 1986.

LEGISLATIVE HISTORY—H.J. Res. 220:

HOUSE REPORT No. 99-504 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 14, considered and passed House.
Apr. 23, considered and passed Senate, amended.
Apr. 29, House concurred in Senate amendments.

O

71-139 O - 86 (290)

Public Law 99-291
99th Congress

Joint Resolution

To designate May 7, 1986, as National Barrier Awareness Day.

May 7, 1986
[H.J. Res. 544]

Whereas 80 percent of Americans will experience some form of disability during their lives and there are currently 36,000,000 disabled Americans;

Whereas many of these disabilities are permanent;

Whereas most persons who are not disabled do not understand the full effect of living with a disability;

Whereas this lack of understanding creates stereotypes and cultural attitudes which can bar the disabled from mainstream life just as much as physical barriers;

Whereas every American should work toward eliminating all of the cultural, financial, and physical barriers that confront the disabled: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 7, 1986, is designated National Barrier Awareness Day. The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this day with appropriate programs and activities.

Approved May 7, 1986.

LEGISLATIVE HISTORY—H.J. Res. 544:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 22, considered and passed House.
May 1, considered and passed Senate.

71-139 O - 86 (291)

Public Law 99-292
99th Congress

Joint Resolution

May 8, 1986
[H.J. Res. 569]

To designate May 8, 1986, as "Naval Aviation Day".

Whereas the official date of the founding of United States naval aviation is May 8, 1911, a date on which Captain Washington Irving Chambers, a naval officer in charge of naval aviation, prepared the requisition for the Navy's first aircraft;

Whereas naval aviation has played a vital role in the development of aviation technology and space exploration;

Whereas naval aviation has contributed much to military history through its participation in World Wars I and II, and the Korean and Vietnam conflicts;

Whereas naval aviation remains a vital force in our national security with aircraft carrier presence in most oceans and approximately five thousand seven hundred and twenty active, inventoried aircraft at sea and at shore stations;

Whereas the naval aviation flight training program has trained more than one hundred and thirty-six thousand pilots since 1920; and

Whereas it is appropriate, on the day marking the seventy-fifth anniversary of the founding of naval aviation, that the people of the United States and our friends and allies throughout the world become better acquainted with the history and accomplishments of naval aviation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 8, 1986, is hereby designated as "Naval Aviation Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved May 8, 1986.

LEGISLATIVE HISTORY—H.J. Res. 569:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 30, considered and passed House.
May 1, considered and passed Senate.

[71-139 O - 86 (292)

Public Law 99-293
99th Congress

Joint Resolution

Designating April 28, 1986, as "National Nursing Home Residents Day".

May 8, 1986
[S.J. Res. 264]

Whereas over one million older Americans reside in nursing homes and one in five older Americans likely will reside in a nursing home at some time;

Whereas nursing home residents have contributed to the growth, development, and progress of this Nation and, as elders, offer a wealth of knowledge and experience;

Whereas Congress recognizes the importance of the continued participation of these institutionalized senior citizens in the life of our Nation;

Whereas in an effort to foster reintegration of these citizens into their communities Congress encourages community recognition of and involvement in the lives of nursing home residents;

Whereas the Congress recognizes the importance of safeguarding the rights of nursing home residents; and

Whereas it is appropriate for the American people to join in support of nursing home residents to demonstrate their concern and respect for these citizens: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 28, 1986, is designated as "National Nursing Home Residents Day", a time of renewed recognition, concern, and respect for the Nation's nursing home residents. The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this day with appropriate ceremonies and activities.

Approved May 8, 1986.

LEGISLATIVE HISTORY—S.J. Res. 264:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Mar. 21, considered and passed Senate.
Apr. 28, considered and passed House.

71-139 O - 86 (293)

PUBLIC LAW 99-294—MAY 12, 1986

GARRISON DIVERSION UNIT REFORMULATION ACT OF 1986

Public Law 99-294
99th Congress

An Act

May 12, 1986
[H.R. 1116]

To implement certain recommendations made pursuant to Public Law 98-360.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Garrison Diversion Unit Reformulation Act of 1986.
Water.
North Dakota.
Research and development.

SECTION 1. PURPOSE AND AUTHORIZATION.

The first section of the Act of August 5, 1965 (Public Law 89-108, 79 Stat. 433) is amended by striking out "That" and all that follows down through the period at the end of such section and substituting:

"SECTION 1. (a) The Congress declares that the purposes of this Act are to:

"(1) implement the recommendations of the Garrison Diversion Unit Commission Final Report (dated December 20, 1984) in the manner specified by this Act;

"(2) meet the water needs of the State of North Dakota, including municipal, rural and industrial water needs, as identified in the Garrison Diversion Unit Commission Final Report;

"(3) minimize the environmental impacts associated with the construction and operation of the Garrison Diversion Unit;

"(4) assist the United States in meeting its responsibilities under the Boundary Waters Treaty of 1909;

36 Stat. 2448.

"(5) assure more timely repayment of Federal funds expended for the Garrison Diversion Unit;

"(6) preserve any existing rights of the State of North Dakota to use water from the Missouri River; and

Agriculture and agricultural commodities.

"(7) offset the loss of farmland within the State of North Dakota resulting from the construction of major features of the Pick-Sloan Missouri Basin Program, by means of a federally-assisted water resource development project providing irrigation for 130,940 acres of land.

"(b) The Secretary of the Interior (hereafter referred to as "the Secretary") is authorized to plan and construct a multi-purpose water resource development project within the State of North Dakota providing for the irrigation of 130,940 acres, municipal, rural, and industrial water, fish and wildlife conservation and development, recreation, flood control, and other project purposes in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof and supplementary thereto) and substantially in accordance with the plans set out in the Garrison Diversion Unit Commission Final Report dated December 20, 1984.

43 USC 371 notes.

"(c) Nothing in this Act is intended, nor shall be construed, to preclude the State of North Dakota from seeking Congressional authorization to plan, design, and construct additional Federally-assisted water resource development projects in the future.

"(d) Nothing in this Act shall be deemed to diminish the quantity of water from the Missouri River which the State of North Dakota may beneficially use, pursuant to any right or rights it may have

under Federal law existing immediately before the date of enactment of this Act and consistent with the treaty obligations of the United States.

"(e) The authorization for all features of the Missouri-Souris Unit of the Pick-Sloan Missouri Basin Program located in the State of North Dakota, heretofore authorized in section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 891), for which no funds have been appropriated for construction, and which are not authorized for construction by this Act, is hereby terminated, and sections 1 and 6 of the Act of August 5, 1965 (Public Law 89-108, 79 Stat. 433) are hereby repealed.

"(f) In implementing the provisions of this Act, the Secretary is directed to construct all supply works to the capacity identified in the Garrison Diversion Unit Commission Final Report, except that the Secretary is directed to construct the James River Feeder Canal to a capacity of no more than 450 cubic feet per second, and the Sykeston Canal to the capacity specified in section 8(a)(1) of this Act. *Post*, p. 423.

"(g) Where features constructed by the Secretary are no longer used to full capacity pursuant to the recommendations of the Garrison Diversion Unit Commission Final Report, that portion of the Secretary's investment attributable to the construction of such unused capacity shall be nonreimbursable.".

SEC. 2. FISH AND WILDLIFE.

Section 2 of the Act of August 5, 1965 (Public Law 89-108, 79 Stat. 433) is amended by adding the following new subsections at the end thereof:

"(i) Notwithstanding any other provisions of this section, the mitigation for fish and wildlife losses incurred as a result of construction of the project shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction.

"(j) The Secretary is directed to implement the provisions of the Garrison Diversion Unit Commission Final Report with respect to fish and wildlife conservation, including habitat impacts, mitigation procedures, and enhancement, except for the following: Conservation.

"(1) The Secretary shall take no action to alter the status of Sheyenne Lake National Wildlife Refuge prior to the completion of construction of Lonetree Dam and Reservoir.

"(2) Development and implementation of the mitigation and enhancement plan for fish and wildlife resources impacted by construction and operation of the Garrison Diversion Unit shall not be limited by the cost constraints based on estimates contained in the Garrison Diversion Unit Commission Final Report.

"(3) Credit toward mitigation recommended by the Garrison Diversion Unit Commission Final Report for reservoir sites is not authorized.".

SEC. 3. IRRIGATION FACILITIES.

Section 5 of the Act of August 5, 1965 (Public Law 89-108, 79 Stat. 433) is amended to read as follows:

"SEC. 5. (a)(1) Subject to the provisions of subsection (a)(2) of this section, the Secretary is authorized to develop irrigation in the following project service areas: Turtle Lake (13,700 acres), McClusky Canal (4,000 acres), Lincoln Valley (6,515 acres), Harvey Pumping (2,000 acres), New Rockford (20,935 acres), New Rockford Canal

(1,200 acres), LaMoure (13,350 acres), West Oakes Extension (4,000 acres), and West Oakes (19,660 acres). The Secretary is prohibited from developing irrigation in these areas in excess of the acreage specified herein, except that the Secretary is authorized and directed to develop up to 28,000 acres of irrigation in other areas in North Dakota, not located in the Hudson Bay, Devils Lake, or James River drainage basins.

"(2) The Secretary is prohibited from obligating any funds for construction of irrigation service facilities in the areas listed in subsection (a)(1) of this section prior to September 30, 1990. After that date, the Secretary may obligate funds only after completing and submitting to the Congress, the report required by section 5(c) of this Act.

"(b)(1) The Secretary may not commence construction of the Sykeston Canal, the James River Feeder Canal, and James River channel improvements until 60 days after the report required by section 5(c) of this Act has been completed and submitted to the Congress.

"(2) The Secretary is directed to proceed immediately with the construction of—

"(A) the New Rockford Canal;

"(B) the Oakes Test Area; and

"(C) project features authorized in section 7 of this Act.

Post, p. 422.
Report.
South Dakota.

"(c)(1) The Secretary is directed to submit a comprehensive report to the Congress as soon as practicable, but not later than the end of fiscal year 1988 on the effects on the James River in North Dakota and South Dakota of water resource development proposals recommended by the Garrison Diversion Unit Commission and authorized in this Act. The report shall include the findings of the Secretary with regard to:

"(A) the feasibility of using the Oakes Aquifer as a water storage and recharge facility, and an evaluation of the need for offstream regulatory storage in the lower James River basin;

"(B) the capability of the river to handle irrigation return flows, project water supplies, and natural runoff without causing flooding, property damage, or damage to wildlife areas, and mechanisms or procedures for compensation or reimbursement of affected landowners for damages from project operation;

National Wildlife Refuge System.

"(C) the impacts of Garrison Diversion Unit irrigation return flows on the river and on adjacent riverine wetland areas and components of the National Wildlife Refuge System, with regard to water quantity, water quality, and fish and wildlife values;

"(D) the need for channelization of the James River under the irrigation and municipal, rural, and industrial water development programs authorized by this Act;

"(E) the cost and efficiency of measures required to guarantee that irrigation return flows from the New Rockford (Robinson Coulee) irrigation service areas will not enter the Hudson Bay drainage and the impact these return flows will have on the James River;

"(F) the feasibility of conveying project flows into the lower James River via Pipestem Creek; and

"(G) alternative management plans for operation of Jamestown and Pipestem Reservoirs to minimize impacts on the lower James River.

"(2) The costs of the study authorized by this subsection shall be nonreimbursable.

"(3) The study authorized by this subsection shall be carried out in accordance with the requirements of the National Environmental Policy Act.

Study.

42 USC 4321 note.

"(d) The Secretary is prohibited from obligating funds to construct irrigation facilities in the service areas listed in subsection (a)(1) until a contract or contracts, in a form approved by the Secretary, providing for the appropriate payment of the costs allocated to irrigation have been properly executed by a district or districts organized under State law. Such contract or contracts shall be consistent with the requirements of the Reclamation Reform Act of 1982 (title II, Public Law 97-293, 96 Stat. 1263).

Contracts.

43 USC 390aa.

"(e) The Secretary is authorized to develop irrigation in the following project service areas within the boundaries of the Fort Berthold and Standing Rock Indian Reservations: Lucky Mound (7,700 acres), Upper Six Mile Creek (7,500 acres), and Fort Yates (2,380 acres), except that, no funds are authorized to be appropriated for construction of these projects until the Secretary has made a finding of irrigability of the lands to receive water as required by the Act of July 31, 1953 (67 Stat. 266; 43 U.S.C. 390a). Repayment for the units authorized under this subsection shall be made pursuant to the Leavitt Act (25 U.S.C. 386a).

"(f) The Secretary shall not permit the use of project facilities for non-project drainage not included in project design or required for project operations.".

SEC. 4. POWER.

Section 6 of the Act of August 5, 1965 (Public Law 89-108, 79 Stat. 433) is amended to read as follows:

"SEC. 6. (a) Municipal, rural, and industrial water systems constructed with funds authorized by section 7 of this Act shall utilize power from the Pick-Sloan Missouri Basin Program, as established by section 9 of the Flood Control Act of 1944 (Act of December 22, 1944), for the operation of such systems.

58 Stat. 891.

"(b) Notwithstanding the provisions of section 302(a)(3) of the Department of Energy Organization Act (42 U.S.C 7152(a)(3)), any portion of the costs properly chargeable to irrigation for the Garrison Diversion Unit which are beyond the ability of water users to repay as authorized by Reclamation law may be repaid from power revenues, except repayment of investment in irrigation for the Garrison Diversion Unit made after the date of enactment of this Act may not exceed forty years from the year in which irrigation water is first delivered for use by the contracting party and shall be made in equal annual installments.

"(c) Pursuant to the provisions of the last sentence of section 302(a)(3) of the Department of Energy Organization Act of 1978 (42 U.S.C. 7152(a)(3)), any reallocation of costs to project purposes other than irrigation as a result of section 1(e) of this Act shall not result in increased rates to Pick-Sloan Missouri Basin Program customers unless: (1) full use has been made of the current development method of ratesetting in analyzing the repayment status and cost allocations for the Garrison Diversion Unit and (2) the resulting rate increase, if any, is made in equal amounts over the ten year period beginning on the date of any such reallocation pursuant to this Act. Costs reallocated to project purposes other than irrigation as a result of section 1(e) of this Act shall be repaid, if reimbursable, with

interest at the rate specified in section 4(b) of this Act beginning on the date of any such reallocation without retroactive interest. Nothing in this Act shall alter or affect in any way the current repayment methodology for other features of the Pick-Sloan Missouri Basin Program.".

SEC. 5. MUNICIPAL, RURAL, AND INDUSTRIAL WATER SERVICE.

Contracts.

The Act of August 5, 1965 (Public Law 89-108, 79 Stat. 433) is amended by adding the following new section at the end thereof:

"SEC. 7. (a)(1) The Secretary of the Interior is authorized to construct municipal, rural, and industrial water systems to serve areas throughout the State of North Dakota.

"(2) All planning, design, construction and operation of the municipal, rural, and industrial water systems authorized by this section shall be undertaken in accordance with a cooperative agreement between the Secretary and the State of North Dakota. Such cooperative agreement shall set forth in a manner acceptable to the Secretary the responsibilities of the State for:

"(A) needs assessments;

"(B) feasibility studies;

"(C) engineering and design;

"(D) construction;

"(E) operation and maintenance; and

"(F) the administration of contracts pertaining to any of the foregoing.

"(3) Upon execution of the cooperative agreement required under this subsection, the Secretary is authorized to convey to the State of North Dakota, on a nonreimbursable basis, the funds authorized in section 10(b)(1) of this Act. The non-Federal share of the total cost of construction of each water system for which the State of North Dakota receives funding pursuant to this section shall be 25 percent, committed prior to the initiation of construction. The non-Federal share of the cost of operation, maintenance, and replacement of each municipal, rural, and industrial water system funded by this section shall be 100 percent. The Southwest Pipeline Project shall be deemed to be eligible for funding under the terms of this section.

"(b) The Secretary is authorized and directed to construct, operate, and maintain a Sheyenne River water supply and release feature (including a water treatment plant) capable of delivering 100 cubic feet per second of water for the cities of Fargo and Grand Forks and surrounding communities. The costs of the construction, operation, maintenance, and replacement of this feature, exclusive of conveyance, shall be nonreimbursable and deemed attributable to meeting requirements of the Boundary Waters Treaty of 1909.

36 Stat. 2448.

"(c) The Secretary is authorized and directed to construct, operate, and maintain such municipal, rural, and industrial water systems as he deems necessary to meet the economic, public health and environmental needs of the Fort Berthold, Standing Rock, and Fort Totten Indian Reservations.

"(d) Municipal, rural, and industrial water systems constructed with funds authorized under this Act may deliver Missouri River water into the Hudson Bay drainage only after the Secretary of the Interior, in consultation with the Secretary of State and the Administrator of the Environmental Protection Agency, has determined that adequate treatment has been provided to meet the requirements of the Boundary Waters Treaty of 1909.".

SEC. 6. SPECIFIC FEATURES.

The Act of August 5, 1965 (Public Law 89-108, 79 Stat. 443) is amended by adding the following new section at the end thereof: 79 Stat. 433.

"SEC. 8. (a)(1) In accordance with the recommendations of the Garrison Diversion Unit Commission Final Report and section 1 of this Act, the Sykeston Canal shall be constructed as a functional replacement for the Lonetree Dam and Reservoir. The Sykeston Canal shall be designed and constructed to meet only the water delivery requirements of the irrigation areas and municipal, rural, and industrial water supply needs authorized in this Act. The Sykeston Canal shall be located, constructed, and operated so that, in the opinion of the Secretaries of the Interior and State, no violation of the Boundary Waters Treaty of 1909 would result. The Secretary may not commence construction on the Sykeston Canal until a master repayment contract consistent with the provisions of this Act between the Secretary and the appropriate non-Federal entity has been executed. 36 Stat. 2448.

"(2) The Lonetree Dam and Reservoir shall remain an authorized feature of the Garrison Diversion Unit; however, construction funds may be requested by the Secretary for Lonetree Dam and Reservoir only after:

"(A) the Secretary has determined that there is a need for the dam and reservoir based on a contemporary appraisal using procedures such as those employed in the preparation of feasibility studies for water resources development projects submitted to Congress;

"(B) consultations with the Government of Canada have reached a conclusion satisfactory to the Secretary of State, after consultation with the Administrator of the Environmental Protection Agency, that no violation of the Boundary Waters Treaty of 1909 would result from the construction and operation of the dam and reservoir; and Canada.

"(C) the Secretaries of the Interior and State have submitted the determinations required by subparagraphs (A) and (B) above to the Congress and 90 calendar days have elapsed.

"(b) Taayer Reservoir is deauthorized as a project feature. The Secretary is directed to acquire up to 5,000 acres in the Kraft and Pickell Slough areas and to manage the area as a component of the National Wildlife Refuge System giving consideration to the unique wildlife values of the area. In acquiring the lands which comprise the Kraft and Pickell Slough complex, the Secretary is authorized to acquire wetlands in the immediate vicinity which may be hydrologically related and nearby uplands as may be necessary to provide for proper management of the complex. The Secretary is also authorized to provide for appropriate visitor access and control at the refuge.". National Wildlife Refuge System.

SEC. 7. EXCESS CROPS.

The Act of August 5, 1965 (Public Law 89-108, 79 Stat. 433), is amended by adding the following new section at the end thereof: Marketing.

"SEC. 9. Until the construction costs of the facilities authorized in section 5 are repaid, the Secretary is directed to charge a "surplus crop production charge" equal to 10 percent of full cost, as defined in section 202(3) (A)-(C) of the Reclamation Reform Act of 1982 (Public Law 97-293, 96 Stat. 1263), for the delivery of project water used in the production of any basic agricultural commodity if the total supply of such commodity for the marketing years in which the bulk 43 USC 390bb.

of the crop would normally be marketed is in excess of the normal supply as determined by the Secretary of Agriculture. The Secretary of the Interior shall announce the amount of the surplus crop production charge for the succeeding year on or before July 1 of each year. The surplus crop production charge shall not apply to crops produced in the 5,000 acre Oakes Test Area for research purposes under the direction of the Secretaries of the Interior or Agriculture.".

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

The Act of August 5, 1965 (Public Law 89-108, 79 Stat. 433) is amended by adding the following new section at the end thereof:

"SEC. 10. (a)(1) There are authorized to be appropriated $270,395,000 for carrying out the provisions of section 5(a) through section 5(c) and section 8(a)(1) of this Act. Such sums shall remain available until expended.

"(2) There is authorized to be appropriated $67,910,000 for carrying out the provisions of section 5(e) of this Act. Such sums shall remain available until expended.

"(b)(1) There is authorized to be appropriated $200,000,000 to carry out the provisions of section 7(a) of this Act. Such sums shall remain available until expended.

"(2) There are authorized to be appropriated $61,000,000 to carry out the provisions of section 7(b) through section 7(d) of this Act. Such sums shall remain available until expended.

"(c) There is authorized to be appropriated for carrying out the remaining provisions of this Act $80,535,000. No funds are authorized for the construction of the Lonetree Dam and Reservoir. There are also authorized to be appropriated such additional funds as may be necessary for operation and maintenance of the unit.

"(d) Any funds previously appropriated for the Garrison Diversion Unit may be expended to carry out any of the provisions of this Act.".

SEC. 9. WETLANDS TRUST.

The Act of August 5, 1965 (Public Law 89-108, 79 Stat. 433) is amended by adding the following new section at the end thereof:

"SEC. 11. (a) FEDERAL CONTRIBUTIONS.—From the sums appropriated under section 10 of this Act for the Garrison Diversion Unit, the Secretary of the Interior shall make an annual Federal contribution to a Wetlands Trust established by non-Federal interests in accordance with subsection (b), and operated in accordance with subsection (c), of this section. The amount of each such annual contribution shall be as follows:

"(1) For fiscal year 1986: $2,000,000.

"(2) For each of the fiscal years 1987 through 1990: 3 percent of the total amount appropriated under section 10 of this Act, but not to exceed $500,000 for each such fiscal year.

"(3) For each fiscal year after 1990: 5 percent of the total amount appropriated under section 10 of this Act, but only if a contribution to the Trust equal to 10 percent of all Federal contributions is provided or contracted for by the State of North Dakota from non-Federal funds. The contributions of the State of North Dakota may be paid to the Trust in such amounts and in such manner as may be agreed upon by the Governor and the Secretary.

"(4) The total Federal contribution pursuant to this Act shall not exceed $12,000,000.

"(b) STRUCTURE OF THE TRUST.—A Wetlands Trust shall be eligible to receive Federal contributions pursuant to subsection (a) if it complies with each of the following requirements:

"(1) The Trust is established by non-Federal interests as a non-profit corporation under the laws of North Dakota with its principal office in North Dakota.

"(2) The Trust is under the direction of a Board of Directors which has the power to manage all affairs of the corporation, including administration, data collection, and implementation of the purposes of the Trust.

"(3) The Board of Directors of the Trust is comprised of 6 persons appointed as follows, each for a term of 2 years:

"(A) 3 persons appointed by the Governor of North Dakota.

"(B) 1 person appointed by the National Audubon Society.

"(C) 1 person appointed by the National Wildlife Federation.

"(D) 1 person appointed by the North Dakota Chapter of the Wildlife Society.

Vacancies on the board are filled in the manner in which the original appointments were made. Any member of the Board of Directors is eligible for reappointment for successive terms. Any member appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed is appointed only for the remainder of such term. A member may serve after the expiration of his or her term until his or her successor has taken office.

"(4) Members of the Board of Directors serve without compensation.

"(5) The corporate purposes of the Trust are to preserve, enhance, restore, and manage wetland and associated wildlife habitat in the State of North Dakota.

"(c) OPERATIONS OF THE TRUST.—A Wetland Trust established by non-Federal interests as provided in subsection (b) shall be deemed to be operating in accordance with this subsection if, in the opinion of the Secretary, each of the following requirements are met:

"(1) The Trust is operated to preserve, enhance, restore, and manage wetlands and associated wildlife habitat in the State of North Dakota in accordance with its corporate purpose as provided in subsection (b)(5).

"(2) Pursuant to its corporate charter, the Trust has the authority to exercise each of the following powers:

"(A) The power to acquire lands and interests in land and power to acquire water rights. Lands or interests in lands may be acquired by the Trust only with the consent of the owner thereof and with the approval of the Governor of North Dakota.

"(B) The power to finance wetland preservation, enhancement, restoration, and management or wetland habitat programs.

"(3) All funds received by the Trust under subsection (a) are invested in accordance with the requirements of subsection (d). No part of the principal amount of such funds may be expended for any purpose. The income received by the Trust from the investment of such funds shall be used by the Trust exclusively

for its purposes and operations in accordance with this subsection or, to the extent not required for current operations, reinvested in accordance with subsection (d).

Reports.

"(4) The Trust agrees to provide such reports as may be required by the Secretary or the Governor of North Dakota and makes its records available for audit by Federal and State agencies.

"(d) INVESTMENT OF TRUST FUNDS.—The Secretary of the Interior, in consultation with the Secretary of the Treasury and the Governor of North Dakota, shall establish requirements for the investment of all amounts received by the Trust under subsection (a) or reinvested under subsection (c)(3). Such requirements shall ensure that such amounts are invested in accordance with sound investment principles and shall ensure that persons managing such investments will exercise their fiduciary responsibilities in an appropriate manner.".

SEC. 10. SOIL SURVEYS.

Hazardous materials.

Section 1 of the Act of July 31, 1953 (67 Stat. 266; 43 U.S.C. 390a) is amended by inserting at the end thereof the following: "Such surveys shall include an investigation of soil characteristics which might result in toxic or hazardous irrigation return flows.".

SEC. 11. SHORT TITLE.

This Act may be referred to as the "Garrison Diversion Unit Reformulation Act of 1986".

SEC. 12. COMPLIANCE WITH APPROPRIATIONS ACT.

This Act to reformulate the Garrison Diversion Unit shall be deemed to meet all the time and substance requirements specified in the Fiscal Year 1986 Energy and Water Development Appropriations Act (Public Law 99-141).

99 Stat. 564.

Approved May 12, 1986.

LEGISLATIVE HISTORY—H.R. 1116:

HOUSE REPORTS: No. 99-525 and Pt. 2 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 21, 23, considered and passed House.
Apr. 28, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22, No. 20 (1986):
May 12, Presidential statement.

O

Public Law 99-295
99th Congress

An Act

To provide for the striking of medals to commemorate the Young Astronaut Program.

May 12, 1986
[S. 1952]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Young Astronaut Program Medal Act.

SHORT TITLE

SECTION 1. This Act may be cited as the "Young Astronaut Program Medal Act".

31 USC 5111 note.

MEDALS

SEC. 2. (a) In commemoration of the Young Astronaut Program and its educational objectives, the Secretary of the Treasury shall strike and deliver to the Young Astronaut Council not more than 750,000 medals with suitable emblems, devices, and inscriptions to be determined by the Secretary after consultation with the Council and the Commission of Fine Arts.

31 USC 5111 note.

(b) The medals, which may be disposed of by the Council at a premium, may be delivered at such times as may be required by the Council in quantities of not less than 2,000, except that no medals shall be struck by the Secretary after December 31, 1987.

COSTS

SEC. 3. (a) The Secretary shall cause such medals to be struck and delivered at not less than the cost of manufacturing such medals (including labor, materials, dies, use of machinery, and overhead expenses) plus a surcharge equal to 10 percent of such cost of manufacturing.

31 USC 5111 note.

(b) Security satisfactory to the Director of the Mint shall be furnished to indemnify the United States for full payment of such costs.

METAL CONTENT

SEC. 4. The medals authorized to be struck and delivered under this Act shall be struck in gold, silver, and bronze and in such size or sizes as shall be determined by the Secretary in consultation with the Council.

31 USC 5111 note.

NATIONAL MEDALS

SEC. 5. The medals provided for in this Act are national medals for purposes of chapter 51 of title 31, United States Code.

31 USC 5111 note.
31 USC 5101 *et seq.*

EXAMINATION OF RECORDS

SEC. 6. The Comptroller General of the United States shall have the right to examine all books, documents, and other records of the Council which are related to the medals authorized under this Act,

Marketing.
31 USC 5111 note.

71-139 O - 86 (295)

including all books, documents, and records regarding the marketing of such medals.

DEFINITIONS

31 USC 5111 note.

SEC. 7. For purposes of this Act—

(1) the term "Council" means the Young Astronaut Council; and

(2) the term "Secretary" means the Secretary of the Treasury.

Approved May 12, 1986.

LEGISLATIVE HISTORY—S. 1952 (H.R. 2578):

CONGRESSIONAL RECORD, Vol. 132 (1986):

Mar. 27, considered and passed Senate.

Apr. 28, H.R. 2578 considered and passed House; proceedings vacated and S. 1952 passed in lieu.

71-139 O - 86 (295)

Public Law 99-296
99th Congress

Joint Resolution

Designating Patrick Henry's last home and burial place, known as Red Hill, in the Commonwealth of Virginia, as a National Memorial to Patrick Henry.

May 12, 1986
[S.J. Res. 187]

Whereas Patrick Henry was a great orator and leader of the Revolutionary cause in the struggle for independence and in the establishment of a new Government of the United States of America; and

Whereas, fifty years ago on August 15, 1935, the Congress authorized establishment of Red Hill, Patrick Henry's last home and burial place, as a national monument in tribute and recognition of his service to his country, and the authorization was repealed in 1944 due to insufficient appropriations during distressful times; and

Whereas the Patrick Henry Memorial Foundation in 1944 acquired Red Hill, located in Charlotte County, Virginia, and has both reconstructed his home and restored his original cottage law office and grounds as a shrine and museum, in commemoration of the entire life of Patrick Henry; and

Whereas Red Hill is listed on the National Register of Historic Places; and

Whereas the Virginia General Assembly, in its 1985 legislative session, has enacted Senate Joint Resolution 82, calling for national recognition and stewardship of Red Hill by the Federal Government; and

Whereas Scotchtown, Saint John's Church, and Hanover County Courthouse are designated National Historic Landmarks, due to their historical significance, integrity and representation of key moments of Patrick Henry's revolutionary contributions; and

Whereas May 29, 1736, was the birthdate of Patrick Henry, and Scotchtown, Saint John's Church, and Hanover County Courthouse and Red Hill are together planning commemorative activities for the two hundred and fiftieth anniversary of Patrick Henry's birth during 1986; and

Whereas it would be appropriate for Congress, as part of the 1986 commemorative activities, to honor for the benefit of present and future generations the entire life of Patrick Henry by a national memorialization of this American Patriot's burial place at Red Hill, where are also preserved his original cottage law office, his reconstructed home, and museum articles depicting his life and work: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the last home and burial place of Patrick Henry in Charlotte County, Commonwealth of Virginia, known as Red Hill, is hereby designated as a National Memorial to Patrick Henry, and shall be known as: the Red Hill Patrick Henry National Memorial. The Secretary of the Interior is authorized and directed to take appropriate action to assure that this Memorial is announced in the Federal Register, and that

16 USC 431 note.

Federal Register, publication. Records.

official records and lists are amended, in due course, to reflect this addition as being included along with other national memorials established by Act of Congress.

Medals and decorations.

SEC. 2. The Secretary of the Interior, with the concurrence of the owner of the property, is authorized and directed to place at the gravesite on or by June 6, 1986, the anniversary of Patrick Henry's death, an appropriate plaque or marker bearing an inscription commensurate with the contributions of Patrick Henry to the American Revolution and with the patriotism his words and deeds continue to inspire in all Americans: *Provided*, That the ownership of Red Hill remains non-Federal, and that the costs of such plaque or marker, and of its inscription and maintenance, as well as the costs of operations and maintenance for the estate shall be borne from non-Federal funds, services, or materials.

Approved May 12, 1986.

LEGISLATIVE HISTORY—S.J. Res. 187:

HOUSE REPORT No. 99-557 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 99-183 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 3, considered and passed Senate.
Vol. 132 (1986): Apr. 28, considered and passed House.

71-139 O - 86 (296)

Public Law 99-297
99th Congress

Joint Resolution

To designate the week of May 11, 1986, through May 17, 1986, as "National Osteoporosis Awareness Week of 1986".

May 12, 1986
[S.J. Res. 285]

Whereas 15,000,000 to 20,000,000 individuals in the United States are afflicted with osteoporosis, a degenerative bone condition;
Whereas approximately 25 percent of postmenopausal women in the United States develop osteoporosis;
Whereas 32 percent of women and 17 percent of men who live to the age of 90 will likely suffer a hip fracture due primarily to osteoporosis;
Whereas more than 50,000 older women and many older men die each year in the United States as a result of hip fracture complications;
Whereas hip fracture complications often result in loss of independence for older persons;
Whereas approximately $6,000,000,000 is expended annually in the United States for health care costs relating to osteoporosis;
Whereas osteoporosis is associated with the loss of bone tissue due to lack of estrogen and low calcium intake;
Whereas the majority of persons are unaware of the condition of osteoporosis; and
Whereas the best treatment for osteoporosis is prevention through education: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of May 11, 1986, through May 17, 1986, is designated as "National Osteoporosis Awareness Week of 1986". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate programs and activities.

Approved May 12, 1986.

LEGISLATIVE HISTORY—S.J. Res. 285:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Mar. 11, considered and passed Senate.
Apr. 30, considered and passed House.

71-139 O - 86 (297)

PUBLIC LAW 99-298—MAY 13, 1986

CONGRESSIONAL GOLD MEDALS TO NATAN (ANATOLY) AND AVITAL SHCHARANSKY

71-139 O - 86 - (298)

Public Law 99-298
99th Congress

An Act

May 13, 1986
[S. 2308]

To authorize the President of the United States to award congressional gold medals to Natan (Anatoly) and Avital Shcharansky in recognition of their dedication to human rights, and to authorize the Secretary of the Treasury to sell bronze duplicates of those medals.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

31 USC 5111 note.

SECTION 1. FINDINGS.

The Congress finds that—

(1) Avital Shcharansky and Natan (Anatoly) Shcharansky have displayed immense courage and commitment to the preservation of individual human rights, regarded as among the highest of ideals by the American people;

(2) Natan (Anatoly) Shcharansky, a prominent founding member of the Moscow Helsinki Monitoring Group and active spokesman for the human rights denied to Soviet Jews, was unjustly arrested by the Soviet Union in 1977 and imprisoned for almost nine years on the false charges of espionage and treason;

(3) Natan (Anatoly) Shcharansky, during his lengthy incarceration and isolation, was subjected to ongoing emotional and physical deprivation of the highest magnitude, yet continued to display raw courage and the noblest commitment to his rights as an individual, thereby setting an example for others whose individual freedoms are being denied;

(4) freedom is the ideal held most dear by the American people, and Natan (Anatoly) Shcharansky has become a symbol of that love of freedom;

(5) Avital Shcharansky, while her husband was kept silent by Soviet prisons and labor camps, waged an indefatigable campaign around the world on behalf of her husband and others similarly treated;

(6) Avital Shcharansky's earnest persistence and dedication to the precepts of freedom of thought, word, and deed raised the consciousness of the world while she valiantly worked for her husband's release, thus elevating human rights to a global concern; and

(7) their reunion is evidence of the triumph of the human spirit against all adversities.

31 USC 5111 note.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) AWARD.—The President of the United States is authorized and requested to present, on behalf of the Congress, gold medals to Natan (Anatoly) and Avital Shcharansky in recognition of their supreme dedication and total commitment to the cause of individual human rights and freedoms.

(b) DESIGN AND CONSTRUCTION.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury (hereafter

in this Act referred to as the "Secretary") shall cause to be struck two gold medals with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated not to exceed $30,000 to carry out the provisions of this section.

SEC. 3. DUPLICATE MEDALS.

31 USC 5111 note.

(a) CONSTRUCTION AND SALE.—The Secretary may cause duplicates in bronze of the gold medals provided for in section 2 to be coined and sold under regulations prescribed by the Secretary, at a price sufficient to cover the cost of such duplicates and such gold medals, including labor, material, dies, use of machinery, and overhead expenses.

(b) REIMBURSEMENT OF APPROPRIATIONS.—Any appropriation made under section 2 shall be reimbursed out of the proceeds of the sales referred to in subsection (a).

SEC. 4. NATIONAL MEDALS.

31 USC 5111 note.

The medals provided for in this Act shall be considered to be national medals for purposes of section 5111 of title 31, United States Code.

Approved May 13, 1986.

LEGISLATIVE HISTORY—S. 2308 (H.R. 4186):

CONGRESSIONAL RECORD, Vol. 132 (1986):
May 8, considered and passed Senate.
May 12, H.R. 4186 considered and passed House; proceedings vacated and S. 2308 passed in lieu.

O

Public Law 99-299
99th Congress

Joint Resolution

May 13, 1986
[S.J. Res. 293]

To designate the month of May 1986 as "National Child Safety Month".

Whereas every year untold numbers of children throughout the United States disappear from home;

Whereas children who are missing from home are frequently victims of sexual and physical exploitation;

Whereas many local volunteer groups are working enthusiastically to promote child safety, but much remains to be done in the effort to fully protect children;

Whereas the safety of children should be one of the highest national priorities; and

Whereas the designation of a month to commemorate child safety will draw needed attention to the dangers threatening children and will help educate communities throughout the country about the problem and what can be done to help solve it: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of May 1986 is designated as "National Child Safety Month" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Approved May 13, 1986.

LEGISLATIVE HISTORY—S.J. Res. 293:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 22, considered and passed Senate.
Apr. 30, considered and passed House.

O

71-139 O - 86 (299)

Public Law 99-300
99th Congress

An Act

To release restrictions on certain property located in Calcasieu Parish, Louisiana, and for other purposes.

May 14, 1986
[H.R. 4022]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Real property.

(a) The United States hereby releases, without monetary consideration, all restrictions, cónditions, and limitations on the use, encumbrance, or conveyance of certain lands located in Calcasieu Parish, Louisiana, as identified as Item Numbers 2, 4, 5, 6, 7-B, 8, 9, X, Y, Z, and Tract 7 on the map entitled "Plat of Restricted Properties/Former Chenault Airbase, Lake Charles, Louisiana", dated December 6, 1985, to the extent such restrictions, conditions and limitations are enforceable by the United States: *Provided,* That the United States shall have the right of access to, or use of, those lands identified on said map for national defense purposes in time of war or national emergency.

Natural gas. Petroleum and petroleum products.

(b) Nothing in this Act shall affect the disposition or ownership of oil, gas, or other mineral resources associated with lands identified on the map referenced in subsection (a).

Approved May 14, 1986.

LEGISLATIVE HISTORY—H.R. 4022 (S. 2031):

HOUSE REPORT No. 99-540 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 21, considered and passed House.
May 1, considered and passed Senate.

71-139 O - 86 - (300)

Public Law 99-301
99th Congress

Joint Resolution

May 14, 1986
[S.J. Res. 281]

To designate the week of May 11 through May 17, 1986, as "Senior Center Week".

Whereas senior centers act as a catalyst for mobilizing the creativity, energy, vitality, and commitment of older Americans to help themselves and others in their communities;

Whereas, through their wide array of services, programs, and activities, senior centers empower older Americans to contribute to their own health and well-being and to the health and well-being of their fellow citizens of all ages;

Whereas senior centers foster a philosophy of independence, self-reliance, and community spirit, thereby representing another expression of American ingenuity, determination, self-help, and neighborliness;

Whereas the month of May has historically been proclaimed as Older Americans Month, as a time to recognize our rich treasury of older Americans; and

Whereas the national theme for Senior Center Week shall be "Senior Centers are Wellness Centers": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second week of May, May 11 through May 17, 1986, be designated as "Senior Center Week" calling upon the people of the United States to recognize the special contributions of senior centers and their participants, and the special efforts of senior center staff and volunteers who work every day to enhance the well-being of older persons in communities throughout the country.

Approved May 14, 1986.

LEGISLATIVE HISTORY—S.J. Res. 281:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 11, considered and passed Senate.
May 7, considered and passed House.

O

71-139 O - 86 (301)

Public Law 99-302
99th Congress

Joint Resolution

To designate the month of May 1986 as "Better Hearing and Speech Month".

May 14, 1986
[S.J. Res. 284]

Whereas more than fifteen million Americans of all ages experience some form of hearing impairment, ranging from mild hearing loss to profound deafness;

Whereas more than ten million Americans of all ages experience some form of speech or language impairment;

Whereas the deaf, hard of hearing, and speech or language impaired have made significant contributions to society in virtually every occupational category and profession;

Whereas those with communication disorders continue to encounter impediments and obstacles which limit their education and employment opportunities; and

Whereas the remaining barriers which prevent the communicatively handicapped from fulfilling their potential must be recognized and eliminated.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of May 1986 is designated "Better Hearing and Speech Month" and the President is requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Approved May 14, 1986.

LEGISLATIVE HISTORY—S.J. Res. 284:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 11, considered and passed Senate.
Apr. 30, considered and passed House.

71-139 O - 86 (302)

Public Law 99-303
99th Congress

An Act

May 15, 1986
[S. 1818]

To amend section 1153 of title 18, United States Code, to make felonious sexual molestation of a minor an offense within Indian country.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CRIMINAL PENALTY FOR FELONIOUS SEXUAL MOLESTATION OF A MINOR IN INDIAN COUNTRY.

Section 1153 of title 18, United States Code, is amended by inserting "felonious sexual molestation of a minor," after "involuntary sodomy," in the first undesignated paragraph.

SEC. 2. TECHNICAL AMENDMENTS.

Section 1153 of title 18, United States Code, as amended by section 1, is further amended by—

(1) inserting at the beginning of the section the following heading:

"§ 1153. Offenses committed within Indian country";

(2) designating the first undesignated paragraph as subsection (a); and

(3) striking out the second and third undesignated paragraphs and inserting in lieu thereof the following new subsection:

"(b) Any offense referred to in subsection (a) of this section that is not defined and punished by Federal law in force within the exclusive jurisdiction of the United States shall be defined and punished in accordance with the laws of the State in which such offense was committed as are in force at the time of such offense.".

Approved May 15, 1986.

LEGISLATIVE HISTORY—S. 1818 (H.R. 3826):

HOUSE REPORT No. 99-528 accompanying H.R. 3826 (Comm. on the Judiciary).
SENATE REPORT No. 99-202 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 5, considered and passed Senate.
Vol. 132 (1986): Apr. 28, H.R. 3826 considered and passed House; proceedings vacated and S. 1818, amended, passed in lieu.
May 6, Senate concurred in House amendment.

O

71-139 O - 86 - (304)

Public Law 99-304
99th Congress

Joint Resolution

To designate 1988 as the "Year of New Sweden" and to recognize the New Sweden 1988 American Committee.

May 15, 1986
[S.J. Res. 289]

Whereas on or about March 29, 1638, the Kalmar Nyckel and Fogel Grip, ships sent by Sweden to establish a colony in the Delaware River Valley, anchored off the "Rocks" on the Christina River in what is now the State of Delaware;

Whereas the colony which they established—New Sweden—was the first permanent settlement of Swedes in North America;

Whereas Swedish settlers were instrumental in the founding of our Nation; John Morton of Pennsylvania, a signer of the Declaration of Independence, was of Swedish descent, as was John Hanson of Maryland, who presided over the Continental Congress from 1781 through 1782;

Whereas Swedish immigration to the United States consisted of one million two hundred thousand people between the late 1840's and the late 1920's, who came here to seek a better life; these settlers dispersed to all regions of the United States;

Whereas the contributions of Swedish-Americans to our way of life and our culture have been varied and many; their pioneering nature made them leaders in many fields including politics, business, education and the arts;

Whereas it is estimated that today there are four million two hundred thousand United States citizens of Swedish descent living in every State and involved in every walk of life;

Whereas 1988 marks the three hundred and fiftieth anniversary of the arrival of the Kalmar Nyckel and Fogel Grip in North America;

Whereas a United States committee—New Sweden 1988—is planning a series of events and celebrations throughout our Nation to commemorate this anniversary; and

Whereas at the present time, the following American cities and States have New Sweden 1988 committees and chairs planning local activities: Washington, District of Columbia, Wilmington, Philadelphia, New York City, Detroit, Chicago, Minneapolis, Houston, Dallas, Los Angeles, San Francisco, Seattle, St. Louis, New Jersey, Nebraska, North Dakota, South Dakota, and western Illinois: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1988 is hereby designated as the "Year of New Sweden" in the United States. The President is authorized and requested to issue a proclamation designating 1988 as the "Year of New Sweden" and to invite and encourage the Governors of the several States, the chief officials of local governments and the people of the United States to participate in the events and activities that the New Sweden 1988 American Committee has planned for 1987 and 1988.

Approved May 15, 1986.

LEGISLATIVE HISTORY—S.J. Res. 289:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 22, considered and passed Senate.
Apr. 30, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22, No. 20 (1986):
May 15, Presidential statement.

71-139 O - 86 (305)

Public Law 99-305
99th Congress

Joint Resolution

To designate the month of May 1986, as "National Birds of Prey Month".

May 19, 1986
[S.J. Res. 288]

Whereas hawks, owls, and other birds of prey are important ecological components of the ecosystem and contribute to the quality of the wildlife communities in which they live;

Whereas birds of prey represent the highest ideals of humanity, inspiring Americans and all people who value freedom;

Whereas a substantial number of species of birds of prey that occur regularly in the United States have been listed by one or more State or Federal conservation agencies as endangered, extirpated, threatened, or of concern;

Whereas millions of Americans from coast to coast and border to border regularly gain pleasure by observing birds of prey throughout our country; and

Whereas a World Center for Birds of Prey has been established at Boise, Idaho, adjacent to the Snake River Birds of Prey Area, an international treasure, and where public activities are being scheduled for the month of May 1986, to better acquaint the public with birds of prey: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of May 1986, is designated as "National Birds of Prey Month", and the President of the United States is authorized and requested to issue a proclamation calling upon individuals to observe such a month by recognizing the importance of birds of prey in our environment.

Approved May 19, 1986.

LEGISLATIVE HISTORY—S.J. Res. 288:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 22, considered and passed Senate.
May 7, considered and passed House.

71-139 O - 86 - (306)

PUBLIC LAW 99-306—MAY 19, 1986

NATIONAL DIGESTIVE DISEASES AWARENESS WEEK

71-139 O - 86 - (307)

Public Law 99-306
99th Congress

Joint Resolution

May 19, 1986
[S.J. Res. 324]

To designate the week beginning May 18, 1986, as "National Digestive Diseases Awareness Week".

Whereas digestive diseases rank third among illnesses in total economic cost in the United States;

Whereas digestive diseases represent one of the Nation's most serious health problems in terms of discomfort and pain, mortality, personal expenditures for treatment, and working hours lost;

Whereas twenty million Americans suffer from chronic digestive disease;

Whereas more than fourteen million cases of acute digestive diseases are treated in this country each year, including one-third of all malignancies and some of the most common acute infections;

Whereas more Americans are hospitalized by digestive diseases than by any other diseases, necessitating 25 percent of all surgical operations;

Whereas digestive diseases are one of the most prevalent causes of disability in the work force;

Whereas digestive diseases cause yearly expenditure of over $17,000,000,000 in direct health care costs, and a total annual economic burden of nearly $50,000,000,000;

Whereas at least one hundred different digestive diseases, in addition to other disorders of the gastrointestinal tract, cause more than two hundred thousand deaths every year;

Whereas research into the causes, cures, prevention, and clinical treatment of digestive disease and related nutrition problems has become a national concern, and the people of the United States should recognize digestive diseases as a major health priority;

Whereas national organizations such as the Digestive Disease National Coalition are committed to increasing awareness and understanding of digestive diseases among members of the general public and the health care community;

Whereas the National Institutes of Health, through its National Digestive Diseases Education and Information Clearinghouse, and the National Digestive Diseases Advisory Board are committed to encouraging and coordinating such educational efforts; and

Whereas the week beginning May 18, 1986, marks the third anniversary of the National Digestive Disease Education Program, a coordinated effort to educate the public and the health care community regarding the seriousness of digestive diseases, and to provide information relative to their treatment, prevention, and control: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning May 18, 1986, is designated as "National Digestive Diseases Awareness Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs and activities.

Approved May 19, 1986.

LEGISLATIVE HISTORY—S.J. Res. 324:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 22, considered and passed Senate.
May 7, considered and passed House.

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PUBLIC LAW 99-307—MAY 19, 1986

MISCELLANEOUS LAWS AFFECTING THE U.S. COAST GUARD

Public Law 99-307
99th Congress

An Act

May 19, 1986
[H.R. 739]

To make miscellaneous changes in laws affecting the United States Coast Guard, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subtitle II of title 46, United States Code, is amended as follows:

Uniformed services. Vessels. 46 USC 2101.

(1) In section 2101(14)(C), strike "Material" and substitute "Materials".

(2) Section 2101(21) is amended as follows:

(A) In subclause (A)(ii), strike "crewmember." and substitute "crewmember or other individual engaged in the business of the vessel who has not contributed consideration for carriage on board the vessel.".

(B) Strike subclause (B)(v)-(vii) and substitute the following:

"(v) a guest on board a vessel being operated only for pleasure who has not contributed consideration for carriage on board; or

"(vi) an individual on board a towing vessel of at least 50 gross tons who has not contributed consideration for carriage on board.".

(C) At the end, add the following new subclause:

"(F) on a sailing school vessel, means an individual carried on the vessel except—

"(i) the owner or representatives of the owner;

"(ii) the master or a crewmember engaged in the business of the vessel who has not contributed consideration for carriage and who is paid for services;

"(iii) an employee of the owner of the vessel engaged in the business of the owner, except when the vessel is operating under a demise charter;

"(iv) an employee of the demise charterer of the vessel engaged in the business of the demise charterer;

"(v) a guest on board the vessel who has not contributed consideration for carriage on board; or

"(vi) a sailing school instructor or sailing school student.".

(D) Strike "or a sailing school vessel," in clause (B).

46 USC 3302.

(3) In section 3302(i)(5), strike "charter" and substitute "charterer".

(4) At the end of section 3302, add the following new subsection:

"(k) Only the boiler, engine, and other operating machinery of a steam vessel that is a recreational vessel of not more than 65 feet overall in length are subject to inspection under section 3301(9) of this title.".

46 USC 3304.

(5)(A) Section 3304 is amended as follows:

(i) In the section catchline, strike "Carrying" and substitute "Transporting".

(ii) In subsection (a), strike "carrying cargo that carries" and "vessel." and substitute "transporting cargo that transports" and "vessel if the vessel is otherwise subject to inspection under this chapter.", respectively.

(iii) In subsection (b), strike "Before an individual in addition to the crew is carried" and substitute "Except when subsection (e) of this section applies, before an individual in addition to the crew is transported".

(iv) In subsection (c), strike "The privilege" and substitute "A privilege".

(v) Add at the end the following new subsection:

"(e) The Secretary may by regulation allow individuals in addition to the crew to be transported in an emergency or under section 2304 of this title.". Regulations. 46 USC 2304.

(B) In item 3304 in the analysis of chapter 33, strike "Carrying" and substitute "Transporting".

(6) In section 3318(f), before clause (1), strike "then" wherever it appears and substitute "than". 46 USC 3318.

(7)(A) Section 3503 is amended as follows: 46 USC 3503.

(i) Insert "(a)" at the beginning of the section.

(ii) Strike the last sentence and substitute "Before November 1, 1993, this section does not apply to a vessel in operation before January 1, 1968, and operating only on the inland rivers.".

(iii) Add at the end the following:

"(b)(1) When a vessel is exempted from the fire-retardant standards of this section— Safety.

"(A) the owner or managing operator of the vessel shall notify prospective passengers that the vessel does not comply with applicable fire safety standards due primarily to the wooden construction of passenger berthing areas;

"(B) the owner or managing operator of the vessel may not disclaim liability to a passenger for death, injury, or any other loss caused by fire due to the negligence of the owner or managing operator; and

"(C) the penalties provided in section 3504(c) of this title apply to a violation of this subsection. Penalties.

"(2) The Secretary shall prescribe regulations under this subsection on the manner in which prospective passengers are to be notified.". Regulations.

(B) Until the regulations required by subclause (A) of this clause become effective, the owner or managing operator shall notify prospective passengers in all promotional literature and on each ticket that the vessel does not comply with those standards due primarily to the wooden construction of passenger berthing areas.

(8) In section 3714(a)(4), strike "charter" and substitute "charterer". 46 USC 3714.

(9) Section 4308 is amended by striking "operator" wherever it appears and substituting "individual in charge". 46 USC 4308.

(10) In section 7111, strike "Part" and substitute "part". 46 USC 7111.

(11) In section 7312(e), strike "able seaman-limited" and substitute "able seamen-limited". 46 USC 7312.

(12) Section 8104(k) is amended by striking "watchers" and substituting "watches". 46 USC 8104.

46 USC 8502.

(13) In section 8502(a)(4)(A), strike "Part" and substitute "part".

46 USC 8901 *et seq.*

(14) Chapter 89 is amended as follows:

(A) In item 8903 in the chapter analysis, strike "Uninspected" and substitute "Self-propelled, uninspected".

(B) In the catchline of section 8903, strike "Uninspected" and substitute "Self-propelled, uninspected".

(C) In the text of section 8903, strike "An" and substitute "A self-propelled,".

46 USC 10709.

(15) In section 10709(a)(1), before clause (A)—

(A) strike "then $1,500 in value, and" and substitute "than $1,500 in value, the court,"; and

(B) strike "wages, the court" and substitute "wages,".

46 USC 12122.

(16) Section 12122(a) is amended by adding at the end the following sentence: "Each day of continuing violation is a separate violation.".

46 USC 13102.

(17) In section 13102(a)(4), strike "coordinate carrying the State" and substitute "coordinate carrying out the State".

46 USC 13104.

(18) Section 13104(b) is amended by inserting after "Secretary" the words "for State recreational boating safety programs".

46 USC 11101 *et seq.*

(19) Chapter 111 is amended as follows:

(A) At the end of the chapter analysis, add the following new item:

"11112. Master's lien for wages.".

(B) At the end of the chapter, add the following new section:

46 USC 11112.

"§ 11112. Master's lien for wages

"The master of a documented vessel has the same lien against the vessel for the master's wages and the same priority as any other seaman serving on the vessel.".

Contracts. Massachusetts.

SEC. 2. (a) The Coast Guard may enter into a lease in excess of 1 fiscal year to acquire a site on the State pier in New Bedford, Massachusetts, for construction of maintenance assistance team and vessel support facilities on that pier.

(b) Any lease under this section is effective only to the extent that amounts are provided for in appropriations laws.

(c) Notwithstanding section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), and beginning in fiscal year 1986, the Coast Guard may spend appropriated amounts for the construction of fixed facilities and improvements on that portion of the State pier leased from Massachusetts for the use of a maintenance assistance team and Coast Guard vessels.

New Jersey. 33 USC 59u.

SEC. 3. The body of water known as Lawyer's Ditch located at block 5,000 in the city of Newark, county of Essex, New Jersey, is declared to be a nonnavigable waterway of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

Contracts. Utilities.

SEC. 4. The Coast Guard may enter into any agreement or letter of intent with a municipal utility within the Seventeenth Coast Guard District to provide electricity to a Coast Guard facility without complying with the provisions of section 4 of Public Law 98-557.

98 Stat. 2861.

SEC. 5. Bayou Lafourche, in the State of Louisiana, between Canal Boulevard, city of Thibodaux, parish of Lafourche and the Southern Pacific Railroad bridge crossing the bayou, city of Thibodaux, parish of Lafourche, is hereby declared to be a nonnavigable waterway of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.). Louisiana. 33 USC 59e-1.

SEC. 6. Notwithstanding sections 12105, 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), as applicable on the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for the following vessels: Marilyn, Maryland registration number MD 3533 AA; Royal Star, Michigan registration number MC 9707 J; Alaskan Shores, United States official number 603879; Shearwater, United States official number 260827; Gypsy Rose, California registration number CF 4291 HF; Eliminator, United States official number 507572; Puka Kai, United States official number 677462; Lobster House, Panama registration number 494-PEXT; Jane E., Bahamian registration number 315924; and Diane M., Bahamian official number 315925, except that such vessels Jane E. and Diane M. may be operated under such documentation only in the waters of the Atlantic Ocean and the Gulf of Mexico.

SEC. 7. Section 2(a) of the Act entitled "An Act to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes", approved September 15, 1980 (21 U.S.C. 955b(a)), is amended by inserting immediately before the period the following: ", except that an event otherwise qualifying as an arrangement under such section does not lose that qualification by the fact that consent to, or the terms of, such arrangement are communicated by radio, telephone, or other similar means, or by how specific such arrangement is as to the vessel to which such arrangement applies". Imports. Drugs and drug abuse.

SEC. 8. The Coast Guard may enter into a cost-sharing arrangement with the city of Cape May, New Jersey, under which the city of Cape May will provide necessary roadway improvement on and along Pennsylvania Avenue between Pittsburg and Buffalo Avenues, as abutted by housing owned by the Coast Guard. For purposes of entering into such an arrangement, the Coast Guard may expend from previously-appropriated funds an amount not to exceed $200,000 on a nonrecurring basis. New Jersey.

SEC. 9. Section 2103 of title 46, United States Code, is amended by striking all after "subtitle" the third time it appears and substituting ". The Secretary may prescribe regulations to carry out the provisions of this subtitle.". Regulations.

SEC. 10. Section 4370(a) of the Revised Statutes of the United States (46 U.S.C. App. 316(a)) is amended—

(1) by striking all from "a certificate of registry," through "the Act of June 7, 1918, as amended (U.S.C., 1934 edition, Supp. IV, title 46, sec. 288)," and substituting "a certificate of documentation issued under section 12106 or 12107 of title 46, United States Code,"; and

(2) by striking "a vessel of foreign registry, or a vessel in distress", and substituting "a vessel in distress".

SEC. 11. Section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702) is amended—

(1) in paragraph 6, (A) by striking the period at the end of subparagraph (B) and substituting a comma, and (B) by adding Transportation.

at the end thereof the following: "except that the term does not include a common carrier engaged in ocean transportation by ferry boat, ocean tramp, or chemical parcel-tanker. As used in this paragraph, 'chemical parcel-tanker' means a vessel whose cargo-carrying capability consists of individual cargo tanks for bulk chemicals that are a permanent part of the vessel, that have segregation capability with piping systems to permit simultaneous carriage of several bulk chemical cargoes with minimum risk of cross-contamination, and that has a valid certificate of fitness under the International Maritime Organization Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk."; and

(2) in paragraph (18), by striking all from the semicolon and substituting a period.

Commerce and trade.

SEC. 12. Notwithstanding the provisions of the Act entitled "An Act to authorize the Secretary of Commerce to sell two obsolete vessels to Coast Line Company and for other purposes", approved June 3, 1980 (Public Law 96-260; 94 Stat. 435), the Secretary of Transportation shall permit the vessels Pictor, United States official number 243529, Procyon, United States official number 244022, and Zelima, United States official number 248207, to be scrapped in the foreign market if—

(1) the purchaser of such vessels and the country in which such vessels are to be scrapped are acceptable to the Secretary of Transportation; and

(2) the seller of any such vessel agrees in writing to reimburse the United States a reasonable amount, acceptable to the Secretary of Transportation, of not less than one-half of the profits realized from such sale.

Commerce and trade.

SEC. 13. Notwithstanding any other provision of law or any agreement with the United States Government, the vessels Paul Bunyan, United States official number 602272, and John Henry, United States official number 599294, may be sold to a foreign purchaser or purchasers if—

(1) the person desiring to sell the vessel submits to the Secretary of Transportation and the Secretary of the Navy a written offer under which the Secretary of Transportation may elect to acquire either or both vessels for the National Defense Reserve Fleet or the Secretary of the Navy may elect to acquire either or both vessels for the Ready Reserve Fleet, under the same terms and conditions as those offered by the foreign purchaser or purchasers; and

(2) neither Secretary elects to acquire the vessel within 60 days after the date on which a written offer is submitted to the Secretaries under paragraph (1) of this subsection.

Approved May 19, 1986.

LEGISLATIVE HISTORY—H.R. 739:

HOUSE REPORT No. 99-389 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 99-284 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 3, considered and passed House.
Vol. 132 (1986): Apr. 24, considered and passed Senate, amended.
May 1, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22, No. 21 (1986): May 19, Presidential statement.

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Public Law 99-308
99th Congress

An Act

To amend chapter 44 (relating to firearms) of title 18, United States Code, and for other purposes.

May 19, 1986
[S. 49]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Firearms Owners' Protection Act.
18 USC 921 note.

SECTION 1. SHORT TITLE AND CONGRESSIONAL FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Firearms Owners' Protection Act".

(b) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the rights of citizens—

(A) to keep and bear arms under the second amendment to the United States Constitution;

(B) to security against illegal and unreasonable searches and seizures under the fourth amendment;

(C) against uncompensated taking of property, double jeopardy, and assurance of due process of law under the fifth amendment; and

(D) against unconstitutional exercise of authority under the ninth and tenth amendments;

require additional legislation to correct existing firearms statutes and enforcement policies; and

(2) additional legislation is required to reaffirm the intent of the Congress, as expressed in section 101 of the Gun Control Act of 1968, that "it is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trap-shooting, target shooting, personal protection, or any other lawful activity, and that this title is not intended to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes.". 18 USC 921 note.

SEC. 101. AMENDMENTS TO SECTION 921.

Section 921 of title 18, United States Code, is amended—

(1) in subsection (a)(10), by striking out "manufacture of" and inserting in lieu thereof "business of manufacturing";

(2) in subsection (a)(11)(A), by striking out "or ammunition";

(3) in subsection (a)(12), by striking out "or ammunition";

(4) in subsection (a)(13), by striking out "or ammunition";

(5) by amending paragraph (20) of subsection (a) to read as follows:

"(20) The term 'crime punishable by imprisonment for a term exceeding one year' does not include— Crimes and misdemeanors.

"(A) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or

"(B) any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

What constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any conviction which has been expunged, or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this chapter, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms."; and

Commerce and trade.

(6) in subsection (a), by inserting after paragraph (20) the following new paragraphs:

"(21) The term 'engaged in the business' means—

"(A) as applied to a manufacturer of firearms, a person who devotes time, attention, and labor to manufacturing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured;

"(B) as applied to a manufacturer of ammunition, a person who devotes time, attention, and labor to manufacturing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition manufactured;

18 USC 921.

"(C) as applied to a dealer in firearms, as defined in section 921(a)(11)(A), a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms, but such term shall not include a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms;

"(D) as applied to a dealer in firearms, as defined in section 921(a)(11)(B), a person who devotes time, attention, and labor to engaging in such activity as a regular course of trade or business with the principal objective of livelihood and profit, but such term shall not include a person who makes occasional repairs of firearms, or who occasionally fits special barrels, stocks, or trigger mechanisms to firearms;

Imports.

"(E) as applied to an importer of firearms, a person who devotes time, attention, and labor to importing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms imported; and

Imports.

"(F) as applied to an importer of ammunition, a person who devotes time, attention, and labor to importing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition imported.

"(22) The term 'with the principal objective of livelihood and profit' means that the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection.

"(23) The term 'machinegun' has the meaning given such term in section 5845(b) of the National Firearms Act (26 U.S.C. 5845(b)).

"(24) The terms 'firearm silencer' and 'firearm muffler' mean any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.".

SEC. 102. AMENDMENTS TO SECTION 922.

Crimes and misdemeanors. Commerce and trade.

Section 922 of title 18, United States Code, is amended—

(1) so that paragraph (1) of subsection (a) reads as follows: "(1) for any person—

"(A) except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms, or in the course of such business to ship, transport, or receive any firearm in interstate or foreign commerce; or

"(B) except a licensed importer or licensed manufacturer, to engage in the business of importing or manufacturing ammunition, or in the course of such business, to ship, transport, or receive any ammunition in interstate or foreign commerce;";

(2) in subsection (a)(2)—

(A) by striking out "or ammunition"; and

(B) by striking out "or licensed dealer for the sole purpose of repair or customizing;" and inserting in lieu thereof "licensed dealer, or licensed collector;";

(3) in subsection (a)(3), by striking out "(B)" and all that follows through "(b)(3) of this section," and inserting in lieu thereof the following: "(B) shall not apply to the transportation or receipt of a firearm obtained in conformity with subsection (b)(3) of this section,";

(4) in subsection (b)—

(A) in paragraph (2), by striking out "or ammunition" each place it appears;

(B) in paragraph (3), by striking out "(A)" and all that follows through "intrastate transactions other than at the licensee's business premises," and inserting in lieu thereof "(A) shall not apply to the sale or delivery of any rifle or shotgun to a resident of a State other than a State in which the licensee's place of business is located if the transferee meets in person with the transferor to accomplish the transfer, and the sale, delivery, and receipt fully comply with the legal conditions of sale in both such States (and any licensed manufacturer, importer or dealer shall be presumed, for purposes of this subparagraph, in the absence of evidence to the contrary, to have had actual knowledge of the State laws and published ordinances of both States),";

(C) in paragraph (3), by inserting "and" before "(B)";

(D) in paragraph (3), by striking out ", and (C)" and all that follows through the end of such paragraph and inserting in lieu thereof a semicolon; and

(E) in paragraph (5), by striking out "or ammunition except .22 caliber rimfire ammunition" and inserting "or armor-piercing ammunition" in lieu thereof;

(5) in subsection (d)—

(A) by striking out "licensed importer, licensed manufacturer, licensed dealer, or licensed collector" the first place it appears and inserting in lieu thereof "person";

(B) by amending paragraph (3) to read as follows:

Drugs and drug abuse.

"(3) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));";

(C) in paragraph (4), by striking out the period and inserting in lieu thereof a semicolon; and

(D) by inserting after paragraph (4) the following:

Aliens.

"(5) who, being an alien, is illegally or unlawfully in the United States;

"(6) who has been discharged from the Armed Forces under dishonorable conditions; or

"(7) who, having been a citizen of the United States, has renounced his citizenship.";

(6) in subsection (g)—

(A) in paragraph (1), by striking out "is under indictment for, or who";

(B) by amending paragraph (3) to read as follows:

Drugs and drug abuse.

"(3) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));";

(C) by inserting after paragraph (4) the following new paragraphs:

Aliens.

"(5) who, being an alien, is illegally or unlawfully in the United States;

"(6) who has been discharged from the Armed Forces under dishonorable conditions; or

"(7) who, having been a citizen of the United States, has renounced his citizenship;"; and

(D) by striking out "to ship or transport any firearm or ammunition in interstate or foreign commerce." and inserting in lieu thereof "to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.";

(7) so that subsection (h) reads as follows:

"(h) It shall be unlawful for any individual, who to that individual's knowledge and while being employed for any person described in any paragraph of subsection (g) of this section, in the course of such employment—

"(1) to receive, possess, or transport any firearm or ammunition in or affecting interstate or foreign commerce; or

"(2) to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.";

(8) by inserting after subsection (m) the following:

"(n) It shall be unlawful for any person who is under indictment for a crime punishable by imprisonment for a term exceeding one year to ship or transport in interstate or foreign commerce any firearm or ammunition or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce."; and

(9) by inserting after the subsection added by paragraph (8) of this section the following:

"(o)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer or possess a machinegun.

"(2) This subsection does not apply with respect to—

"(A) a transfer to or by, or possession by or under the authority of, the United States or any department or agency thereof or a State, or a department, agency, or political subdivision thereof; or

"(B) any lawful transfer or lawful possession of a machinegun that was lawfully possessed before the date this subsection takes effect.".

SEC. 103. AMENDMENTS TO SECTION 923.

Section 923 of title 18, United States Code, is amended—

(1) in subsection (a)— Imports.

(A) by striking out the first sentence and inserting in lieu thereof "No person shall engage in the business of importing, manufacturing, or dealing in firearms, or importing or manufacturing ammunition, until he has filed an application with and received a license to do so from the Secretary."; and

(B) by striking out "and contain such information", and inserting in lieu thereof "and contain only that information necessary to determine eligibility for licensing.";

(2) in subsection (a)(3)(B), by striking out "or ammunition for firearms other than destructive devices,";

(3) in subsection (b), by striking out "and contain such information" and inserting in lieu thereof "and contain only that information necessary to determine eligibility";

(4) in subsection (c), by adding at the end "Nothing in this chapter shall be construed to prohibit a licensed manufacturer, importer, or dealer from maintaining and disposing of a personal collection of firearms, subject only to such restrictions as apply in this chapter to dispositions by a person other than a licensed manufacturer, importer, or dealer. If any firearm is so disposed of by a licensee within one year after its transfer from his business inventory into such licensee's personal collection or if such disposition or any other acquisition is made for the purpose of willfully evading the restrictions placed upon licensees by this chapter, then such firearm shall be deemed part of such licensee's business inventory.";

(5) in subsection (e), by inserting "willfully" before "violated";

(6) in subsection (f)—

(A) in paragraph (3)—

(i) by inserting "de novo" before "judicial"; and

(ii) by inserting "whether or not such evidence was considered at the hearing held under paragraph (2)." after "to the proceeding"; and

(B) by adding at the end the following new paragraph:

"(4) If criminal proceedings are instituted against a licensee alleging any violation of this chapter or of rules or regulations prescribed under this chapter, and the licensee is acquitted of such charges, or such proceedings are terminated, other than upon motion of the Government before trial upon such charges, the Secretary shall be absolutely barred from denying or revoking any license granted under this chapter where such denial or revocation is based in whole or in part on the facts which form the basis of such criminal charges. No proceedings for the revocation of a license shall be Law enforcement.

instituted by the Secretary more than one year after the filing of the indictment or information.";

(7) so that subsection (g) reads as follows:

Records.

"(g)(1)(A) Each licensed importer, licensed manufacturer, and licensed dealer shall maintain such records of importation, production, shipment, receipt, sale, or other disposition of firearms at his place of business for such period, and in such form, as the Secretary may by regulations prescribe. Such importers, manufacturers, and dealers shall not be required to submit to the Secretary reports and information with respect to such records and the contents thereof, except as expressly required by this section. The Secretary, when he has reasonable cause to believe a violation of this chapter has occurred and that evidence thereof may be found on such premises, may, upon demonstrating such cause before a Federal magistrate and securing from such magistrate a warrant authorizing entry, enter during business hours the premises (including places of storage) of any licensed firearms importer, licensed manufacturer, licensed dealer, licensed collector, or any licensed importer or manufacturer of ammunition, for the purpose of inspecting or examining—

"(i) any records or documents required to be kept by such licensed importer, licensed manufacturer, licensed dealer, or licensed collector under this chapter or rules or regulations under this chapter, and

"(ii) any firearms or ammunition kept or stored by such licensed importer, licensed manufacturer, licensed dealer, or licensed collector, at such premises.

"(B) The Secretary may inspect or examine the inventory and records of a licensed importer, licensed manufacturer, or licensed dealer without such reasonable cause or warrant—

"(i) in the course of a reasonable inquiry during the course of a criminal investigation of a person or persons other than the licensee;

"(ii) for ensuring compliance with the record keeping requirements of this chapter not more than once during any twelve-month period; or

"(iii) when such inspection or examination may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation.

"(C) The Secretary may inspect the inventory and records of a licensed collector without such reasonable cause or warrant—

"(i) for ensuring compliance with the record keeping requirements of this chapter not more than once during any twelve-month period; or

"(ii) when such inspection or examination may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation.

"(D) At the election of a licensed collector, the annual inspection of records and inventory permitted under this paragraph shall be performed at the office of the Secretary designated for such inspections which is located in closest proximity to the premises where the inventory and records of such licensed collector are maintained. The inspection and examination authorized by this paragraph shall not be construed as authorizing the Secretary to seize any records or other documents other than those records or documents constituting material evidence of a violation of law. If the Secretary seizes such records or documents, copies shall be provided the licensee within a

reasonable time. The Secretary may make available to any Federal, State, or local law enforcement agency any information which he may obtain by reason of this chapter with respect to the identification of persons prohibited from purchasing or receiving firearms or ammunition who have purchased or received firearms or ammunition, together with a description of such firearms or ammunition, and he may provide information to the extent such information may be contained in the records required to be maintained by this chapter, when so requested by any Federal, State, or local law enforcement agency.

State and local governments.

"(2) Each licensed collector shall maintain in a bound volume the nature of which the Secretary may by regulations prescribe, records of the receipt, sale, or other disposition of firearms. Such records shall include the name and address of any person to whom the collector sells or otherwise disposes of a firearm. Such collector shall not be required to submit to the Secretary reports and information with respect to such records and the contents thereof, except as expressly required by this section.

"(3) Each licensee shall prepare a report of multiple sales or other dispositions whenever the licensee sells or otherwise disposes of, at one time or during any five consecutive business days, two or more pistols, or revolvers, or any combination of pistols and revolvers totalling two or more, to an unlicensed person. The report shall be prepared on a form specified by the Secretary and forwarded to the office specified thereon not later than the close of business on the day that the multiple sale or other disposition occurs.

Report.

"(4) Where a firearms or ammunition business is discontinued and succeeded by a new licensee, the records required to be kept by this chapter shall appropriately reflect such facts and shall be delivered to the successor. Where discontinuance of the business is absolute, such records shall be delivered within thirty days after the business discontinuance to the Secretary. However, where State law or local ordinance requires the delivery of records to other responsible authority, the Secretary may arrange for the delivery of such records to such other responsible authority.

"(5)(A) Each licensee shall, when required by letter issued by the Secretary, and until notified to the contrary in writing by the Secretary, submit on a form specified by the Secretary, for periods and at the times specified in such letter, all record information required to be kept by this chapter or such lesser record information as the Secretary in such letter may specify.

"(B) The Secretary may authorize such record information to be submitted in a manner other than that prescribed in subparagraph (A) of this paragraph when it is shown by a licensee that an alternate method of reporting is reasonably necessary and will not unduly hinder the effective administration of this chapter. A licensee may use an alternate method of reporting if the licensee describes the proposed alternate method of reporting and the need therefor in a letter application submitted to the Secretary, and the Secretary approves such alternate method of reporting."; and

(8) so that subsection (j) reads as follows:

"(j) A licensed importer, licensed manufacturer, or licensed dealer may, under rules or regulations prescribed by the Secretary, conduct business temporarily at a location other than the location specified on the license if such temporary location is the location for a gun show or event sponsored by any national, State, or local organization, or any affiliate of any such organization devoted to the collec-

Commerce and trade.

tion, competitive use, or other sporting use of firearms in the community, and such location is in the State which is specified on the license. Records of receipt and disposition of firearms transactions conducted at such temporary location shall include the location of the sale or other disposition and shall be entered in the permanent records of the licensee and retained on the location specified on the license. Nothing in this subsection shall authorize any licensee to conduct business in or from any motorized or towed vehicle. Notwithstanding the provisions of subsection (a) of this section, a separate fee shall not be required of a licensee with respect to business conducted under this subsection. Any inspection or examination of inventory or records under this chapter by the Secretary at such temporary location shall be limited to inventory consisting of, or records relating to, firearms held or disposed at such temporary location. Nothing in this subsection shall be construed to authorize the Secretary to inspect or examine the inventory or records of a licensed importer, licensed manufacturer, or licensed dealer at any location other than the location specified on the license. Nothing in this subsection shall be construed to diminish in any manner any right to display, sell, or otherwise dispose of firearms or ammunition, which is in effect before the date of the enactment of the Firearms Owners' Protection Act.".

Records.

Crimes and misdemeanors. Law enforcement.

SEC. 104. AMENDMENTS TO SECTION 924.

(a) IN GENERAL.—Section 924 of title 18, United States Code, is amended—

(1) so that subsection (a) reads as follows:

"(a)(1) Except as otherwise provided in paragraph (2) of this subsection, subsection (b) or (c) of this section, or in section 929, whoever—

18 USC 929.

"(A) knowingly makes any false statement or representation with respect to the information required by this chapter to be kept in the records of a person licensed under this chapter or in applying for any license or exemption or relief from disability under the provisions of this chapter;

"(B) knowingly violates subsection (a)(4), (a)(6), (f), (g), (i), (j), or (k) of section 922;

18 USC 922.

"(C) knowingly imports or brings into the United States or any possession thereof any firearm or ammunition in violation of section 922(l); or

"(D) willfully violates any other provision of this chapter, shall be fined not more than $5,000, imprisoned not more than five years, or both, and shall become eligible for parole as the Parole Commission shall determine.

"(2) Any licensed dealer, licensed importer, licensed manufacturer, or licensed collector who knowingly—

"(A) makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter, or

"(B) violates subsection (m) of section 922,

shall be fined not more than $1,000, imprisoned not more than one year, or both, and shall become eligible for parole as the Parole Commission shall determine.";

(2) in subsection (c)—

(A) by inserting "(1)" before "Whoever,";

(B) by striking out "violence" each place it appears and inserting in lieu thereof "violence or drug trafficking crime,";

(C) by inserting "or drug trafficking crime" before "in which the firearm was used or carried.";

(D) in the first sentence, by striking out the period at the end and inserting in lieu thereof ", and if the firearm is a machinegun, or is equipped with a firearm silencer or firearm muffler, to imprisonment for ten years.";

(E) in the second sentence, by striking out the period at the end and inserting in lieu thereof ", and if the firearm is a machinegun, or is equipped with a firearm silencer or firearm muffler, to imprisonment for twenty years."; and

(F) by adding at the end the following:

"(2) For purposes of this subsection, the term 'drug trafficking crime' means any felony violation of Federal law involving the distribution, manufacture, or importation of any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(3) For purposes of this subsection the term 'crime of violence' means an offense that is a felony and—

"(A) has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or

"(B) that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.";

(3) by amending subsection (d) to read as follows:

"(d)(1) Any firearm or ammunition involved in or used in any knowing violation of subsection (a)(4), (a)(6), (f), (g), (h), (i), (j), or (k) of section 922, or knowing importation or bringing into the United States or any possession thereof any firearm or ammunition in violation of section 922(l), or knowing violation of section 924, or willful violation of any other provision of this chapter or any rule or regulation promulgated thereunder, or any violation of any other criminal law of the United States, or any firearm or ammunition intended to be used in any offense referred to in paragraph (3) of this subsection, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter: *Provided*, That upon acquittal of the owner or possessor, or dismissal of the charges against him other than upon motion of the Government prior to trial, the seized firearms or ammunition shall be returned forthwith to the owner or possessor or to a person delegated by the owner or possessor unless the return of the firearms or ammunition would place the owner or possessor or his delegate in violation of law. Any action or proceeding for the forfeiture of firearms or ammunition shall be commenced within one hundred and twenty days of such seizure.

Imports.

18 USC 922.

26 USC 1 *et seq.*

26 USC 5845.

"(2)(A) In any action or proceeding for the return of firearms or ammunition seized under the provisions of this chapter, the court shall allow the prevailing party, other than the United States, a reasonable attorney's fee, and the United States shall be liable therefor.

"(B) In any other action or proceeding under the provisions of this chapter, the court, when it finds that such action was without foundation, or was initiated vexatiously, frivolously, or in bad faith, shall allow the prevailing party, other than the United States, a reasonable attorney's fee, and the United States shall be liable therefor.

"(C) Only those firearms or quantities of ammunition particularly named and individually identified as involved in or used in any violation of the provisions of this chapter or any rule or regulation issued thereunder, or any other criminal law of the United States or as intended to be used in any offense referred to in paragraph (3) of this subsection, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure, forfeiture, and disposition.

"(D) The United States shall be liable for attorneys' fees under this paragraph only to the extent provided in advance by appropriation Acts.

"(3) The offenses referred to in paragraphs (1) and (2)(C) of this subsection are—

18 USC 924.

"(A) any crime of violence, as that term is defined in section 924(c)(3) of this title;

"(B) any offense punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.);

18 USC 922.

"(C) any offense described in section 922(a)(1), 922(a)(3), 922(a)(5), or 922(b)(3) of this title, where the firearm or ammunition intended to be used in any such offense is involved in a pattern of activities which includes a violation of any offense described in section 922(a)(1), 922(a)(3), 922(a)(5), or 922(b)(3) of this title;

"(D) any offense described in section 922(d) of this title where the firearm or ammunition is intended to be used in such offense by the transferor of such firearm or ammunition;

"(E) any offense described in section 922(i), 922(j), 922(l), 922(n), or 924(b) of this title; and

"(F) any offense which may be prosecuted in a court of the United States which involves the exportation of firearms or ammunition."; and

(4) by adding at the end the following new subsection:

"(e)(1) In the case of a person who violates section 922(g) of this title and has three previous convictions by any court referred to in section 922(g)(1) of this title for robbery or burglary, or both, such person shall be fined not more than $25,000 and imprisoned not less than fifteen years, and, notwithstanding any other provision of law, the court shall not suspend the sentence of, or grant a probationary sentence to, such person with respect to the conviction under section 922(g), and such person shall not be eligible for parole with respect to the sentence imposed under this subsection.

"(2) As used in this subsection—

"(A) the term 'robbery' means any crime punishable by a term of imprisonment exceeding one year and consisting of the taking of the property of another from the person or presence of another by force or violence, or by threatening or placing another person in fear that any person will imminently be subjected to bodily harm; and

"(B) the term 'burglary' means any crime punishable by a term of imprisonment exceeding one year and consisting of

entering or remaining surreptitiously within a building that is the property of another with intent to engage in conduct constituting a Federal or State offense.".

(b) CONFORMING REPEAL.—Title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. App. 1201 et seq.) is repealed.

SEC. 105. AMENDMENTS TO SECTION 925.

Section 925 of title 18, United States Code, is amended—

(1) in subsection (c)—

(A) by striking out "has been convicted of a crime punishable by imprisonment for a term exceeding one year (other than a crime involving the use of a firearm or other weapon or a violation of this chapter or of the National Firearms Act)" and inserting in lieu thereof "is prohibited from possessing, shipping, transporting, or receiving firearms or ammunition"; 26 USC 5801.

(B) by inserting "transportation," after "shipment,";

(C) by striking out "and incurred by reason of such conviction"; and

(D) by inserting "Any person whose application for relief from disabilities is denied by the Secretary may file a petition with the United States district court for the district in which he resides for a judicial review of such denial. The court may in its discretion admit additional evidence where failure to do so would result in a miscarriage of justice." after "the public interest."; and

(2) in subsection (d)—

(A) by striking out "may authorize" and inserting in lieu thereof "shall authorize";

(B) by striking out "the person importing or bringing in the firearm or ammunition establishes to the satisfaction of the Secretary that";

(C) in paragraph (3), by inserting before the semicolon ", except in any case where the Secretary has not authorized the importation of the firearm pursuant to this paragraph, it shall be unlawful to import any frame, receiver, or barrel of such firearm which would be prohibited if assembled"; and

(D) by striking out "may permit" and inserting in lieu thereof "shall permit".

SEC. 106. AMENDMENTS TO SECTION 926.

Section 926 of title 18 of the United States Code is amended—

(1) by inserting "(a)" before "The Secretary" the first place it occurs;

(2) by inserting "only" after "prescribe";

(3) by striking out "as he deems reasonably" and inserting in lieu thereof "as are";

(4) by striking out the last sentence and inserting in lieu thereof "No such rule or regulation prescribed after the date of the enactment of the Firearms Owners' Protection Act may require that records required to be maintained under this chapter or any portion of the contents of such records, be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or any political subdivision thereof, nor that any system of registration of firearms, firearms owners, or firearms transactions or dispositions be established.

Nothing in this section expands or restricts the Secretary's authority to inquire into the disposition of any firearm in the course of a criminal investigation."; and

(5) by adding at the end the following:

"(b) The Secretary shall give not less than ninety days public notice, and shall afford interested parties opportunity for hearing, before prescribing such rules and regulations.

"(c) The Secretary shall not prescribe rules or regulations that require purchasers of black powder under the exemption provided in section 845(a)(5) of this title to complete affidavits or forms attesting to that exemption.".

18 USC 845.

SEC. 107. TRANSPORTATION OF FIREARMS.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by inserting between section 926 and section 927 the following new section:

18 USC 926A.

"§ 926A. Interstate transportation of firearms

"Any person not prohibited by this chapter from transporting, shipping, or receiving a firearm shall be entitled to transport an unloaded, not readily accessible firearm in interstate commerce notwithstanding any provision of any legislation enacted, or any rule or regulation prescribed by any State or political subdivision thereof.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 44 of title 18, United States Code, is amended by inserting between the item relating to section 926 and the item relating to section 927 the following new item:

"926A. Interstate transportation of firearms.".

SEC. 108. AMENDMENTS TO SECTION 929.

Section 929(a) of title 18, United States Code, is amended—

(1) by inserting "(1)" before "Whoever,";

(2) by striking out "violence" each place it appears and inserting in lieu thereof "violence or drug trafficking crime,"; and

(3) by adding at the end the following:

"(2) For purposes of this subsection, the term 'drug trafficking crime' means any felony violation of Federal law involving the distribution, manufacture, or importation of any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).".

SEC. 109. AMENDMENT OF NATIONAL FIREARMS ACT.

(a) Section 5845(b) of the National Firearms Act (26 U.S.C. 5845(b)) is amended by striking out "any combination of parts designed and intended for use in converting a weapon into a machinegun," and inserting in lieu thereof "any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun,".

(b) CONFORMING AMENDMENT.—Section 5845(a)(7) of the National Firearms Act (26 U.S.C. 5845(a)(7)) is amended to read "(7) any silencer (as defined in section 921 of title 18, United States Code);".

18 USC 921 note.

SEC. 110. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this Act shall become effective one hundred and eighty days after the date of the enactment of this Act. Upon their becoming effective, the Secretary shall

publish and provide to all licensees a compilation of the State laws and published ordinances of which licensees are presumed to have knowledge pursuant to chapter 44 of title 18, United States Code, as amended by this Act. All amendments to such State laws and published ordinances as contained in the aforementioned compilation shall be published in the Federal Register, revised annually, and furnished to each person licensed under chapter 44 of title 18, United States Code, as amended by this Act.

18 USC 921 *et seq.*

Federal Register, publication.

(b) PENDING ACTIONS, PETITIONS, AND APPELLATE PROCEEDINGS.—The amendments made by sections 103(6)(B), 105, and 107 of this Act shall be applicable to any action, petition, or appellate proceeding pending on the date of the enactment of this Act.

(c) MACHINEGUN PROHIBITION.—Section 102(9) shall take effect on the date of the enactment of this Act.

Approved May 19, 1986.

LEGISLATIVE HISTORY—S. 49 (H.R. 4332):

HOUSE REPORT No. 99-495 accompanying H.R. 4332 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 131 (1985): June 24, July 9, considered and passed Senate.
Vol. 132 (1986): Apr. 9, 10, H.R. 4332 considered and passed House; S. 49, amended, passed in lieu.
May 6, Senate concurred in House amendments.

O

Public Law 99-309
99th Congress

Joint Resolution

May 20, 1986
[S.J. Res. 337]

Designating May 18-24, 1986 as "Just Say No to Drugs Week".

Whereas America's youth are our Nation's most precious resource;
Whereas young people are contributing to drug abuse prevention by starting "Just Say No" clubs and saying "no" to drugs;
Whereas children across America will participate in a Walk Against Drugs on May 22; and
Whereas America's youth should be recognized and encouraged for their efforts in the fight against drug abuse: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in recognition of this Nation's young people to publicly fight drug abuse by just saying "no" to drugs and thereby contributing to the end of drug abuse in America, the President is directed to issue a proclamation designating the week of May 18, 1986, through May 24, 1986, as "Just Say No to Drugs Week", and calling on the people of the United States to observe this week with appropriate programs, ceremonies, and activities.

Approved May 20, 1986.

LEGISLATIVE HISTORY—S.J. Res. 337:

CONGRESSIONAL RECORD, Vol. 132 (1986):
May 5, considered and passed Senate.
May 15, considered and passed House.

71-139 O - 86 - (310)

Public Law 99-310
99th Congress

Joint Resolution

Designating the week beginning on May 11, 1986, as "National Asthma and Allergy Awareness Week".

May 20, 1986
[H.J. Res. 427]

Whereas asthma and allergic diseases result in physical, emotional, and economic hardship for more than thirty-five million Americans and their families;

Whereas thousands of Americans, many of them young, die each year from asthma even though sufficient medical knowledge and resources exist to prevent many asthma-related deaths;

Whereas student absenteeism is due in significant part to asthma and allergic diseases;

Whereas environmental conditions in the workplace often cause or exacerbate asthma and allergic diseases among employees;

Whereas many hospital patients suffer allergic reactions to prescribed medications;

Whereas it is estimated that the American public pays $4,000,000,000 per year in medical bills directly attributable to the treatment and diagnosis of asthma and allergic diseases and pays another $2,000,000,000 per year as a result of the indirect social cost of such illnesses;

Whereas, because of recent developments in the study of immunology, health care providers are better equipped to diagnose and treat asthma and allergic diseases; and

Whereas increased public awareness of recent scientific advancements in the study of immunology will help dispel many of the common misconceptions concerning asthma, allergic diseases, and the victims of those illnesses: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on May 11, 1986, is hereby designated as "National Asthma and Allergy Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved May 20, 1986.

LEGISLATIVE HISTORY—H.J. Res. 427 (S.J. Res. 241):

CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 30, considered and passed House.
May 5, S.J. Res. 241 considered and passed Senate.
May 15, H.J. Res. 427 considered and passed Senate.

71-139 O - 86 (311)

Public Law 99-311
99th Congress

An Act

May 20, 1986
[H.R. 1207]

To award a special gold medal to the family of Harry Chapin.

31 USC 5111 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President is authorized to present, on behalf of the Congress, to the family of Harry Chapin, a gold medal of appropriate design, in recognition of Harry Chapin's efforts to address issues of hunger around the world.

(b) For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury shall cause to be struck a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

Appropriation authorization.

(c) Effective October 1, 1985, there are authorized to be appropriated not to exceed $20,000 to carry out this section.

31 USC 5111 note.

SEC. 2. (a) The Secretary of the Treasury may cause duplicates in bronze of the medal provided for in the first section to be coined and sold under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

(b) The appropriation used to carry out the first section shall be reimbursed out of the proceeds of such sales.

31 USC 5111 note.

SEC. 3. The medals provided for in this Act are national medals for the purpose of section 5111 of title 31, United States Code.

Approved May 20, 1986.

LEGISLATIVE HISTORY—H.R. 1207:

CONGRESSIONAL RECORD, Vol. 132 (1986):
May 5, considered and passed House.
May 8, considered and passed Senate.

O

71-139 O - 86 (312)

Public Law 99-312
99th Congress

Joint Resolution

To designate the week of June 1 through June 7, 1986, as "National Theatre Week".

May 20, 1986
[S.J. Res. 247]

Whereas many Americans have devoted much time and energy in advancing the cause of theatre;

Whereas the theatres of America have pioneered the way for many performers and have given them their start in vaudeville and stage;

Whereas theatre is brought to Americans through high schools, colleges and community theatre groups as well as through professional acting companies;

Whereas citizens of America have been called upon to support the theatre arts in the Nation's interest; and

Whereas many individuals and organizations are hailing the strength and vitality of the theatres of America: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of June 1 through June 7, 1986, shall be proclaimed as "National Theatre Week" throughout the country and that the President of the United States is authorized to issue a proclamation calling upon the citizens to support this effort with assistance to theatres throughout the country.

Approved May 20, 1986.

LEGISLATIVE HISTORY—S.J. Res. 247:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Feb. 4, considered and passed Senate.
May 7, considered and passed House.

71-139 O - 86 (313)

NATIONAL SCIENCE WEEK, 1986

71-139 O - 86 - (314)

Public Law 99-313
99th Congress

Joint Resolution

May 20, 1986
[S.J. Res. 251]

To designate the week of May 11, 1986, through May 17, 1986, as "National Science Week, 1986".

Whereas science and technology are considered to be critical in the long-term economic development and international competitiveness of the Nation;

Whereas the rate of scientific discovery and the application of high technologies have an immediate and profound impact on the quality of life;

Whereas the scientific and technological leadership of the Nation continues to be challenged on an increasing basis from members of the international community;

Whereas it is vital to build and maintain a highly dedicated and motivated workforce with scientific and technological skills;

Whereas it is important that scientific research be made more interesting and accessible to youth as a potential career option;

Whereas in order to take advantage of the opportunities and meet the challenges, the Nation must provide all citizens, particularly young people, with a quality educational experience in science and technology;

Whereas it is in the national interest to stimulate and encourage the most talented and promising students to pursue careers in science and technology; and

Whereas schools, universities, museums, the media, and professional, educational, and voluntary organizations, together with industry, labor, government, and private citizens, should be encouraged to work cooperatively to develop programs, events, and materials that will contribute to an increased public awareness of the importance of science and technology to the well-being and long-term prosperity of the Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of May 11, 1986, through May 17, 1986, is designated as "National Science Week, 1986" and the President is authorized and requested to issue

a proclamation calling upon the people of the United States to observe the week, with appropriate conferences, programs, ceremonies, and activities, including programs designed to further the awareness of all citizens, particularly the youth of the Nation, of the importance of science and technology.

Approved May 20, 1986.

LEGISLATIVE HISTORY—S.J. Res. 251:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Mar. 21, considered and passed Senate.
May 13, considered and passed House.

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NATIONAL ANDREI SAKHAROV DAY

71-139 O - 86 (315)

Public Law 99-314
99th Congress

Joint Resolution

May 20, 1986
[S.J. Res. 323]

To designate May 21, 1986, as "National Andrei Sakharov Day".

Whereas Andrei Sakharov has earned world-wide admiration and respect for his courageous and energetic efforts to secure fundamental human freedoms for the peoples of the Soviet Union, including those rights guaranteed in the Final Act of the Conference on Security and Cooperation in Europe signed at Helsinki, Finland on August 1, 1975;

Whereas Andrei Sakharov has been awarded the 1975 Nobel Peace Prize for "his love of truth and strong belief in the inviolability of human beings . . . his courageous defense of the human spirit . . ." and for his life which has made him "the conscience of mankind";

Whereas Andrei Sakharov, due to his selfless work for human rights and world peace, has been illegally banished by the Government of the Union of Soviet Socialist Republics to the closed city of Gorky, where on May 21, 1986, he will spend his sixty-fifth birthday in almost total isolation;

Whereas Andrei Sakharov has been subjected to cruel and unusual medical procedures by the Soviet authorities when he conducted hunger strikes to protest repeated denials of his wife's, Elena Bonner's, request to be permitted to go to the West for medical treatment;

Whereas the Government of the Union of Soviet Socialist Republics has undertaken extraordinary measures, including confiscation of personal and professional correspondence and intensive physical and electronic surveillance, to isolate Andrei Sakharov and Elena Bonner in Gorky;

Whereas the Soviet Union as signatory to the Universal Declaration of Human Rights has committed itself to respect the rights to freedom of movement and of residence within the borders of each state as well as the right to leave one's own country and return to it;

Whereas the Soviet Union and other signatories of the Helsinki Final Act stated their desire "to contribute to the strengthening of peace and understanding among peoples and to the spiritual enrichment of the human personality" and were "conscious that . . . contacts between people, and the solution of humanitarian problems will contribute to the attainment of these aims," further made it their objective "to facilitate freer movement and contacts, individually and collectively, whether privately or officially, among persons, institutions and organizations of the participating states, and to contribute to the solution of the humanitarian problems that arise in that connexion";

Whereas the participating states of the Helsinki Final Act are convened in Bern, Switzerland, at the Human Contacts Experts Meeting inter alia to discuss implementation of those Helsinki Final Act provisions concerning the resolution in a positive and

humanitarian spirit questions related to family visits, the reunification of families, binational marriage and promotion of other personal and professional contacts between people and between organizations; and

Whereas Andrei Sakharov continues to advocate full compliance by all signatory states with the provisions of the Helsinki Final Act and the Universal Declaration of Human Rights: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 21, 1986, is designated "National Andrei Sakharov Day" and that the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

SEC. 2. The President of the United States is authorized and requested to urge the Government of the Union of Soviet Socialist Republics to permit Andrei Sakharov and Elena Bonner freely to choose their place of residence.

Approved May 20, 1986.

LEGISLATIVE HISTORY—S.J. Res. 323:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 29, considered and passed Senate.
May 12, considered and passed House.

○

Public Law 99-315
99th Congress

An Act

May 21, 1986
[H.R. 4767]

To deauthorize the project for improvements at Racine Harbor, Wisconsin.

Rivers and harbors.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the project for improvements at Racine Harbor, Wisconsin, authorized by section 2 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1907 (34 Stat. 1075, 1100), is not authorized after the date of the enactment of this Act.

(b) The Secretary of the Army, acting through the Chief of Engineers, shall transfer without consideration to Racine County, Wisconsin, title to any facilities constructed by the United States as part of the project described in subsection (a).

Approved May 21, 1986.

LEGISLATIVE HISTORY—H.R. 4767:

CONGRESSIONAL RECORD, Vol. 132 (1986):
May 8, considered and passed House.
May 12, considered and passed Senate.

71-139 O - 86 (317)

Public Law 99-316
99th Congress

Joint Resolution

Designating the week of May 26, 1986, through June 1, 1986, as "Older Americans Melanoma/Skin Cancer Detection and Prevention Week".

May 21, 1986
[S.J. Res. 267]

Whereas skin cancer, including melanoma and nonmelanoma types, is the most common cancer in the United States, accounts for between 30 and 40 per centum of all cancers, and is increasing at a significant rate;

Whereas the incidence of skin cancer increases throughout adult life, the highest age-specific incidence rates for melanoma and other skin cancers occur in the United States population over the age of fifty years;

Whereas specific causes for the prevalence of the disease in this population are not entirely known, and more research is required on the causes, it is nevertheless clear that early detection and early treatment of melanoma and nonmelanoma skin cancers result in high cure rates;

Whereas older Americans should become aware that melanoma and nonmelanoma skin cancers are major health problems, and education about detection and prevention of such cancers should become a national concern;

Whereas the American Academy of Dermatology and State and local dermatologic organizations are committed to heightening the awareness and understanding of melanoma and nonmelanoma skin cancers among older Americans; and

Whereas the Second Annual National Melanoma and Skin Cancer Detection and Prevention Program, a coordinated national voluntary effort of professional dermatologic organizations to reduce the increasing incidence of melanoma and nonmelanoma skin cancers and to better control such cancers, will occur during the week of May 26, 1986, through June 1, 1986: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of May 26, 1986, through June 1, 1986, is designated as "Older Americans Melanoma/Skin Cancer Detection and Prevention Week", and the President is authorized and requested to issue a proclamation calling upon all Government agencies and the people of the United States to observe the week with appropriate programs and activities.

Approved May 21, 1986.

LEGISLATIVE HISTORY—S.J. Res. 267:

CONGRESSIONAL RECORD, Vol. 132 (1986):
M. r. 21, considered and passed Senate.
May 7, considered and passed House.

71-139 0 - 86 (318)

NATIONAL FOOD BANK WEEK

Public Law 99-317
99th Congress

Joint Resolution

May 23, 1986
[H.J. Res. 234]

Designating the week of May 18, 1986, through May 24, 1986, as "National Food Bank Week".

Whereas substantial evidence indicates that poverty in the United States has risen in recent years, with the Census Bureau reporting that 35,500,000 people currently live below the poverty line, the greatest such number in over 15 years;

Whereas the correlation between poverty and hunger has been demonstrated in national, State, and local studies;

Whereas an estimated 20,000,000 people in the United States periodically go hungry;

Whereas non-profit food banks all over the United States are witnessing an increasing demand for food from families, children, the elderly, unemployed workers, and the homeless;

Whereas, despite such increasing demand, food banks are meeting the challenge of collecting surplus food which would otherwise be wasted and distributing it to food kitchens, day care centers, homes for the elderly, halfway houses, church-operated meal programs, and needy families;

Whereas Second Harvest has become the nationally recognized leader and pioneer of food banking, has forged a successful working relationship with the Nation's food and transportation industries, and has obtained voluntary private sector response to the needs of the Nation's hungry;

Whereas Second Harvest succeeded in working with over 250 national companies to distribute over 100,000,000 pounds of food products through its member food banks during 1985;

Whereas from May 18, 1986, through May 22, 1986, Second Harvest is holding its national conference to bring together its member food banks, affiliated food banks, and food industry representatives to focus attention on the growing food needs of people in the United States; and

Whereas Second Harvest, its members, and other food banks all over the United States deserve commendation for their work with private sector and non-profit organizations to help feed the Nation's hungry: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of May 18, 1986, through May 24, 1986, is designated as "National Food Bank Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved May 23, 1986.

LEGISLATIVE HISTORY—H.J. Res. 234:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 14, considered and passed House.
May 15, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22, No. 21 (1986):
May 23, Presidential statement.

71-139 O - 86 - (319)

PUBLIC LAW 99-318—MAY 23, 1986

VIETNAM VETERANS OF AMERICA, INC.

Public Law 99-318
99th Congress

An Act

May 23, 1986
[S. 8]

To grant a Federal charter to the Vietnam Veterans of America, Inc.

Corporation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

RECOGNITION AS CORPORATION AND GRANT OF FEDERAL CHARTER

36 USC 3801.

SECTION 1. The Vietnam Veterans of America, Inc., a nonprofit corporation organized under the laws of the State of New York, is hereby recognized as such and is granted a charter.

CORPORATE POWERS

36 USC 3802.

SEC. 2. The Vietnam Veterans of America, Inc. (hereinafter in this Act referred to as the "corporation"), shall have only those powers granted to it through its articles of incorporation filed in the State in which it is incorporated and its constitution and bylaws, and subject to the laws of such State.

OBJECTS AND PURPOSES OF CORPORATION

36 USC 3803.

SEC. 3. The objects and purposes of the corporation are those stated in its articles of incorporation, constitution, and bylaws and include a commitment to—

(1) uphold and defend the Constitution of the United States;

(2) foster the improvement of the condition of Vietnam-era veterans;

(3) promote the social welfare (including educational, economic, social, physical, and cultural improvement) in the United States by encouraging the growth and development, readjustment, self-respect, self-confidence and usefulness of Vietnam-era veterans and other veterans;

(4) improve conditions for Vietnam-era veterans and develop channels of communication to assist Vietnam-era veterans;

(5) conduct and publish research, on a nonpartisan basis, pertaining to the relationship between Vietnam-era veterans and the American society, to the Vietnam war experience, to the role of the United States in securing peaceful coexistence for the world community, and to other matters which affect the educational, economic, social, physical, or cultural welfare of Vietnam-era veterans and other veterans and the families of such veterans;

(6) assist disabled Vietnam-era veterans and other veterans in need of assistance and the dependents and survivors of such veterans; and

(7) consecrate the efforts of the members of the corporation and Vietnam-era veterans generally to mutual helpfulness and service to their country.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the State in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes. 36 USC 3804.

MEMBERSHIP

SEC. 5. Except as provided in section 8, eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the constitution and bylaws of the corporation. 36 USC 3805.

BOARD OF DIRECTORS

SEC. 6. Except as provided in section 8, the board of directors of the corporation, and the responsibilities of the board, shall be as provided in the constitution and bylaws of the corporation and in conformity with the laws of the State in which it is incorporated. 36 USC 3806.

OFFICERS

SEC. 7. Except as provided in section 8, the officers of the corporation, and the election of such officers, shall be as provided in the constitution and bylaws of the corporation and in conformity with the laws of the State in which it is incorporated. 36 USC 3807.

NONDISCRIMINATION

SEC. 8. In establishing the conditions of membership in the corporation and in determining the requirements for serving on the board of directors or as an officer of the corporation, the corporation may not discriminate on the basis of race, color, religion, sex, national origin, handicap, or age. 36 USC 3808.

RESTRICTIONS ON CORPORATE POWERS

SEC. 9. (a) No part of the income or assets of the corporation shall inure to any person who is a member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors. 36 USC 3809.

(b) The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(d) The corporation shall not claim congressional approval or Federal Government authority by virtue of this Act for any of its activities.

LIABILITY FOR ACTS OF OFFICERS AND AGENTS

SEC. 10. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority. 36 USC 3810.

BOOKS AND RECORDS; INSPECTION

SEC. 11. The corporation shall keep correct and complete books and records of accounts and shall keep minutes of any proceeding of 36 USC 3811.

the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote. All books and records of the corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 12. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by inserting after paragraph (71) the following new paragraph:

"(72) The Vietnam Veterans of America, Inc.".

ANNUAL REPORT

36 USC 3812.

SEC. 13. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit of the corporation required by section 2 of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1102). The report shall not be printed as a public document.

RESERVATION OF RIGHT TO ALTER, AMEND, OR REPEAL CHARTER

36 USC 3813.

SEC. 14. The right to alter, amend, or repeal this charter is expressly reserved to the Congress.

DEFINITION OF "STATE"

36 USC 3814.

SEC. 15. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and each of the territories and possessions of the United States.

TAX-EXEMPT STATUS

36 USC 3815.

SEC. 16. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1954.

26 USC 1 *et seq.*

EXCLUSIVE RIGHT TO NAMES

36 USC 3816.

SEC. 17. The corporation shall have the sole and exclusive right to use the name "The Vietnam Veterans of America, Inc.", "Vietnam Veterans of America, Inc.", and "Vietnam Veterans of America",

and such seals, emblems, and badges as the corporation may lawfully adopt. Nothing in this section shall be construed to interfere or conflict with established or vested rights.

FAILURE TO COMPLY WITH RESTRICTIONS OR PROVISIONS

SEC. 18. If the corporation shall fail to comply with any of the restrictions or provisions of this Act, the charter granted by this Act shall expire. 36 USC 3817.

Approved May 23, 1986.

LEGISLATIVE HISTORY—S. 8 (H.R. 512):

HOUSE REPORT No. 99-591 accompanying H.R. 512 (Comm. on the Judiciary).
SENATE REPORT No. 99-268 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 8, 9, considered and passed Senate.
May 12, H.R. 512 considered and passed House; proceedings vacated and S. 8 passed in lieu.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22, No. 21 (1986):
May 23, Presidential statement.

O

PUBLIC LAW 99-319—MAY 23, 1986

PROTECTION AND ADVOCACY FOR MENTALLY ILL INDIVIDUALS ACT OF 1986

71-139 O - 86 (321)

Public Law 99-319
99th Congress

An Act

May 23, 1986
[S. 974]

To provide for protection and advocacy for mentally ill individuals, and for other purposes.

Protection and Advocacy for Mentally Ill Individuals Act of 1986.
42 USC 10801 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Protection and Advocacy for Mentally Ill Individuals Act of 1986".

TITLE I—PROTECTION AND ADVOCACY SYSTEMS

PART A—ESTABLISHMENT OF SYSTEMS

FINDINGS AND PURPOSE

42 USC 10801.

SEC. 101. (a) The Congress finds that—

(1) mentally ill individuals are vulnerable to abuse and serious injury;

(2) mentally ill individuals are subject to neglect, including lack of treatment, adequate nutrition, clothing, health care, and adequate discharge planning; and

(3) State systems for monitoring compliance with respect to the rights of mentally ill individuals vary widely and are frequently inadequate.

(b) The purposes of this Act are—

(1) to ensure that the rights of mentally ill individuals are protected; and

State and local governments.

(2) to assist States to establish and operate a protection and advocacy system for mentally ill individuals which will—

(A) protect and advocate the rights of such individuals through activities to ensure the enforcement of the Constitution and Federal and State statutes; and

(B) investigate incidents of abuse and neglect of mentally ill individuals if the incidents are reported to the system or if there is probable cause to believe that the incidents occurred.

DEFINITIONS

42 USC 10802.

SEC. 102. For purposes of this title:

(1) The term "abuse" means any act or failure to act by an employee of a facility rendering care or treatment which was performed, or which was failed to be performed, knowingly, recklessly, or intentionally, and which caused, or may have caused, injury to a mentally ill individual, and includes acts such as—

(A) the rape or sexual assault of a mentally ill individual;

(B) the striking of a mentally ill individual;

(C) the use of excessive force when placing a mentally ill individual in bodily restraints; and

(D) the use of bodily or chemical restraints on a mentally ill individual which is not in compliance with Federal and State laws and regulations.

(2) The term "eligible system" means the system established in a State to protect and advocate the rights of persons with developmental disabilities under part C of the Developmental Disabilities Assistance and Bill of Rights Act. 42 USC 6061.

(3) The term "mentally ill individual" means an individual—

(A) who has a significant mental illness or emotional impairment, as determined by a mental health professional qualified under the laws and regulations of the State; and

(B) who is an inpatient or resident in a facility rendering care or treatment.

(4) The term "neglect" means a negligent act or omission by any individual responsible for providing services in a facility rendering care or treatment which caused or may have caused injury to a mentally ill individual or which placed a mentally ill individual at risk of injury, and includes an act or omission such as the failure to establish or carry out an appropriate individual program plan or treatment plan for a mentally ill individual, the failure to provide adequate nutrition, clothing, or health care to a mentally ill individual, or the failure to provide a safe environment for a mentally ill individual.

(5) The term "Secretary" means the Secretary of Health and Human Services.

(6) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

ALLOTMENTS

SEC. 103. The Secretary shall make allotments under this title to eligible systems to establish and administer systems— 42 USC 10803.

(1) which meet the requirements of section 105; and

(2) which are designed to—

(A) protect and advocate the rights of mentally ill individuals; and

(B) investigate incidents of abuse and neglect of mentally ill individuals if the incidents are reported to the system or if there is probable cause to believe that the incidents occurred.

USE OF ALLOTMENTS

SEC. 104. (a)(1) An eligible system may use its allotment under this title to enter into contracts with State agencies and nonprofit organizations which operate throughout the State. In order to be eligible for a contract under this paragraph— Contracts. State and local governments. 42 USC 10804.

(A) such an agency shall be independent of any agency which provides treatment or services (other than advocacy services) to mentally ill individuals; and

(B) such an agency or organization shall have the capacity to protect and advocate the rights of mentally ill individuals.

(2) In carrying out paragraph (1), an eligible system should consider entering into contracts with organizations which, on the date of enactment of this Act, provide protection or advocacy services to mentally ill individuals.

(b)(1) If an eligible system is a public entity, the government of the State in which the system is located may not require the system to obligate more than 5 percent of its allotment under this title in any fiscal year for administrative expenses.

(2) An eligible system may not use more than 5 percent of any allotment under this title for any fiscal year for the costs of providing technical assistance and training to carry out this title.

SYSTEM REQUIREMENTS

State and local governments.
42 USC 10805.

SEC. 105. (a) A system established in a State under section 103 to protect and advocate the rights of mentally ill individuals shall—

(1) have the authority to—

(A) investigate incidents of abuse and neglect of mentally ill individuals if the incidents are reported to the system or if there is probable cause to believe that the incidents occurred;

(B) pursue administrative, legal, and other appropriate remedies to ensure the protection of mentally ill individuals who are receiving care or treatment in the State; and

(C) pursue administrative, legal, and other remedies on behalf of an individual who—

(i) was a mentally ill individual; and

(ii) is a resident of the State,

but only with respect to matters which occur within 90 days after the date of the discharge of such individual from a facility providing care or treatment;

(2) be independent of any agency in the State which provides treatment or services (other than advocacy services) to mentally ill individuals;

(3) have access to facilities in the State providing care or treatment;

(4) in accordance with section 106, have access to all records of—

(A) any individual who is a client of the system if such individual, or the legal guardian, conservator, or other legal representative of such individual, has authorized the system to have such access; and

(B) any individual—

(i) who by reason of the mental or physical condition of such individual is unable to authorize the system to have such access;

(ii) who does not have a legal guardian, conservator, or other legal representative, or for whom the legal guardian is the State; and

(iii) with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe that such individual has been subject to abuse or neglect;

(5) have an arrangement with the Secretary and the agency of the State which administers the State plan under title XIX of the Social Security Act for the furnishing of the information required by subsection (b);

42 USC 1396.

(6) establish a board—

(A) which will advise the system on policies and priorities to be carried out in protecting and advocating the rights of mentally ill individuals; and

(B) which shall include attorneys, mental health professionals, individuals from the public who are knowledgeable about mental illness, a provider of mental health services, individuals who have received or are receiving mental health services, and family members of such individuals, and at least one-half the membership of which shall be comprised of individuals who have received or are receiving mental health services or who are family members of such individuals; and

(7) on January 1, 1987, and January 1 of each succeeding year, prepare and transmit to the Secretary and the head of the State mental health agency of the State in which the system is located a report describing the activities, accomplishments, and expenditures of the system during the most recently completed fiscal year. Reports.

(b) The Secretary and the agency of a State which administers its State plan under title XIX of the Social Security Act shall provide the eligible system of the State with a copy of each annual survey report and plan of corrections for cited deficiencies made pursuant to titles XVIII and XIX of the Social Security Act with respect to any facility rendering care or treatment to mentally ill individuals in the State in which such system is located. A report or plan shall be made available within 30 days after the completion of the report or plan. 42 USC 1396. 42 USC 1395. Reports.

ACCESS TO RECORDS

SEC. 106. (a) An eligible system which, pursuant to section 105(a)(4), has access to records which, under Federal or State law, are required to be maintained in a confidential manner by a provider of mental health services, shall, except as provided in subsection (b), maintain the confidentiality of such records to the same extent as is required of the provider of such services. State and local governments. Classified information. 42 USC 10806.

(b)(1) Except as provided in paragraph (2), an eligible system which has access to records pursuant to section 105(a)(4) may not disclose information from such records to the individual who is the subject of the information if the mental health professional responsible for supervising the provision of mental health services to such individual has provided the system with a written determination that disclosure of such information to such individual would be detrimental to such individual's health.

(2)(A) If disclosure of information has been denied under paragraph (1) to an individual—

(i) such individual;

(ii) the legal guardian, conservator, or other legal representative of such individual; or

(iii) an eligible system, acting on behalf of an individual described in subparagraph (B),

may select another mental health professional to review such information and to determine if disclosure of such information would be detrimental to such individual's health. If such mental health professional determines, based on professional judgment, that disclosure of such information would not be detrimental to the health of such individual, the system may disclose such information to such individual.

(B) An eligible system may select a mental health professional under subparagraph (A)(iii) on behalf of—

(i) an individual whose legal guardian is the State; or

(ii) an individual who has a legal guardian, conservator, or other legal representative other than the State if such guardian, conservator, or representative does not, within a reasonable time after such individual is denied access to information under paragraph (1), select a mental health professional under subparagraph (A) to review such information.

(C) If the laws of a State prohibit an eligible system from obtaining access to the records of mentally ill individuals in accordance with section 105(a)(4) and this section, section 105(a)(4) and this section shall not apply to such system before—

(i) the date such system is no longer subject to such a prohibition; or

(ii) the expiration of the 2-year period beginning on the date of the enactment of this Act,

whichever occurs first.

LEGAL ACTIONS

State and local governments. Contracts. 42 USC 10807.

SEC. 107. (a) Prior to instituting any legal action in a Federal or State court on behalf of a mentally ill individual, an eligible system, or a State agency or nonprofit organization which entered into a contract with an eligible system under section 104(a), shall exhaust in a timely manner all administrative remedies where appropriate. If, in pursuing administrative remedies, the system, agency, or organization determines that any matter with respect to such individual will not be resolved within a reasonable time, the system, agency, or organization may pursue alternative remedies, including the initiation of a legal action.

(b) Subsection (a) does not apply to any legal action instituted to prevent or eliminate imminent serious harm to a mentally ill individual.

PART B—ADMINISTRATIVE PROVISIONS

APPLICATIONS

42 USC 10821.

SEC. 111. No allotment may be made under this title to an eligible system unless an application therefor is submitted to the Secretary. Each such application shall contain—

State and local governments.

(1) assurances that amounts paid to such system from an allotment under this title will be used to supplement and not to supplant the level of non-Federal funds available in the State in which such system is established to protect and advocate the rights of mentally ill individuals;

(2) assurances that such system will have a staff which is trained or being trained to provide advocacy services to mentally ill individuals;

State and local governments. Contracts.

(3) assurances that such system, and any State agency or nonprofit organization with which such system may enter into a contract under section 104(a), will not, in the case of any individual who has a legal guardian, conservator, or representative other than the State, take actions which are duplicative of actions taken on behalf of such individual by such guardian, conservator, or representative unless such guardian, conservator, or representative requests the assistance of such system; and

(4) such other information as the Secretary may by regulation prescribe.

ALLOTMENT FORMULA AND REALLOTMENTS

SEC. 112. (a)(1)(A) Except as provided in paragraph (2) and subject to the availability of appropriations under section 117, the Secretary shall make allotments under section 103 from amounts appropriated under section 117 for a fiscal year to eligible systems on the basis of a formula prescribed by the Secretary which is based equally— 42 USC 10822.

(i) on the population of each State in which there is an eligible system; and

(ii) on the population of each such State weighted by its relative per capita income.

(B) For purposes of subparagraph (A)(ii), the term "relative per capita income" means the quotient of the per capita income of the United States and the per capita income of the State, except that if the State is Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or the Virgin Islands, the quotient shall be considered to be one.

(2) Notwithstanding paragraph (1) and subject to the availability of appropriations under section 117—

(A) the amount of the allotment of the eligible system of each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico shall not be less than $125,000; and District of Columbia. Puerto Rico.

(B) the amount of the allotment of the eligible system of Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands shall not be less than $67,000. Guam. American Samoa. Northern Mariana Islands. Trust Territory of the Pacific Islands. Virgin Islands.

(b)(1) To the extent that all the amounts appropriated under section 117 for a fiscal year are not allotted to eligible systems because—

(A) one or more eligible systems have not submitted an application for an allotment for such fiscal year; or

(B) one or more eligible systems have notified the Secretary that they do not intend to use the full amount of their allotment,

the amount which is not so allotted shall be reallotted among the remaining eligible systems.

(2) The amount of an allotment to an eligible system for a fiscal year which the Secretary determines will not be required by the system during the period for which it is available shall be available for reallotment by the Secretary to other eligible systems with respect to which such a determination has not been made.

(3) The Secretary shall make reallotments under paragraphs (1) and (2) on such date or dates as the Secretary may fix (but not earlier than 30 days after the Secretary has published notice of the intention of the Secretary to make such reallotment in the Federal Register). A reallotment to an eligible system shall be made in proportion to the original allotment of such system for such fiscal year, but with such proportionate amount for such system being reduced to the extent it exceeds the sum the Secretary estimates such system needs and will be able to use during such period. The total of such reductions shall be similarly reallotted among eligible systems whose proportionate amounts were not so reduced. Any amount so reallotted to an eligible system for a fiscal year shall be deemed to be a part of its allotment under subsection (a) for such fiscal year. Federal Register, publication.

PAYMENTS UNDER ALLOTMENTS

42 USC 10823.

SEC. 113. For each fiscal year, the Secretary shall make payments to each eligible system from its allotment under this title. Any amount paid to an eligible system for a fiscal year and remaining unobligated at the end of such year shall remain available to such system for the next fiscal year for the purposes for which it was made.

REPORTS BY THE SECRETARY

42 USC 10824.

42 USC 6006.

SEC. 114. (a) The Secretary shall include in each report required under section 107(c) of the Developmental Disabilities Assistance and Bill of Rights Act a separate statement which contains—

(1) a description of the activities, accomplishments, and expenditures of systems to protect and advocate the rights of mentally ill individuals supported with payments from allotments under this title, including—

(A) a specification of the total number of mentally ill individuals served by such systems;

(B) a description of the types of activities undertaken by such systems;

(C) a description of the types of facilities providing care or treatment with respect to which such activities are undertaken;

(D) a description of the manner in which such activities are initiated; and

(E) a description of the accomplishments resulting from such activities;

(2) a description of—

(A) systems to protect and advocate the rights of mentally ill individuals supported with payments from allotments under this title;

(B) activities conducted by States to protect and advocate such rights;

(C) mechanisms established by residential facilities for mentally ill individuals to protect and advocate such rights; and

(D) the coordination among such systems, activities, and mechanisms;

(3) a specification of the number of systems established with allotments under this title and of whether each such system was established by a public or nonprofit private entity; and

(4) recommendations for activities and services to improve the protection and advocacy of the rights of mentally ill individuals and a description of needs for such activities and services which have not been met by systems established under this title.

(b) In preparing each statement required by subsection (a), the Secretary shall use and include information submitted to the Secretary in the reports required under section 105(a)(7).

TECHNICAL ASSISTANCE

42 USC 10825.

SEC. 115. The Secretary shall provide technical assistance to eligible systems with respect to activities carried out under this title.

ADMINISTRATION

SEC. 116. The Secretary shall carry out this title through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration. 42 USC 10826.

AUTHORIZATION OF APPROPRIATIONS

SEC. 117. For allotments under this title, there are authorized to be appropriated $10,000,000 for fiscal year 1986, $10,500,000 for fiscal year 1987, and $11,025,000 for fiscal year 1988. 42 USC 10827.

TITLE II—RESTATEMENT OF BILL OF RIGHTS FOR MENTAL HEALTH PATIENTS

RESTATEMENT OF BILL OF RIGHTS

SEC. 201. It is the sense of the Congress that, as previously stated in title V of the Mental Health Systems Act, each State should review and revise, if necessary, its laws to ensure that mental health patients receive the protection and services they require, and that in making such review and revision, States should take into account the recommendations of the President's Commission on Mental Health and the following: State and local governments. 42 USC 10841. 42 USC 9501.

(1) A person admitted to a program or facility for the purpose of receiving mental health services should be accorded the following:

(A) The right to appropriate treatment and related services in a setting and under conditions that—

(i) are the most supportive of such person's personal liberty; and

(ii) restrict such liberty only to the extent necessary consistent with such person's treatment needs, applicable requirements of law, and applicable judicial orders.

(B) The right to an individualized, written, treatment or service plan (such plan to be developed promptly after admission of such person), the right to treatment based on such plan, the right to periodic review and reassessment of treatment and related service needs, and the right to appropriate revision of such plan, including any revision necessary to provide a description of mental health services that may be needed after such person is discharged from such program or facility.

(C) The right to ongoing participation, in a manner appropriate to such person's capabilities, in the planning of mental health services to be provided such person (including the right to participate in the development and periodic revision of the plan described in subparagraph (B)), and, in connection with such participation, the right to be provided with a reasonable explanation, in terms and language appropriate to such person's condition and ability to understand, of—

(i) such person's general mental condition and, if such program or facility has provided a physical examination, such person's general physical condition;

(ii) the objectives of treatment;

(iii) the nature and significant possible adverse effects of recommended treatments;

(iv) the reasons why a particular treatment is considered appropriate;

(v) the reasons why access to certain visitors may not be appropriate; and

(vi) any appropriate and available alternative treatments, services, and types of providers of mental health services.

(D) The right not to receive a mode or course of treatment, established pursuant to the treatment plan, in the absence of such person's informed, voluntary, written consent to such mode or course of treatment, except treatment—

(i) during an emergency situation if such treatment is pursuant to or documented contemporaneously by the written order of a responsible mental health professional; or

(ii) as permitted under applicable law in the case of a person committed by a court to a treatment program or facility.

(E) The right not to participate in experimentation in the absence of such person's informed, voluntary, written consent, the right to appropriate protections in connection with such participation, including the right to a reasonable explanation of the procedure to be followed, the benefits to be expected, the relative advantages of alternative treatments, and the potential discomforts and risks, and the right and opportunity to revoke such consent.

(F) The right to freedom from restraint or seclusion, other than as a mode or course of treatment or restraint or seclusion during an emergency situation if such restraint or seclusion is pursuant to or documented contemporaneously by the written order of a responsible mental health professional.

(G) The right to a humane treatment environment that affords reasonable protection from harm and appropriate privacy to such person with regard to personal needs.

Classified information.

(H) The right to confidentiality of such person's records.

Classified information.

(I) The right to access, upon request, to such person's mental health care records, except such person may be refused access to—

(i) information in such records provided by a third party under assurance that such information shall remain confidential; and

(ii) specific material in such records if the health professional responsible for the mental health services concerned has made a determination in writing that such access would be detrimental to such person's health, except that such material may be made available to a similarly licensed health professional selected by such person and such health professional may, in the exercise of professional judgment, provide such person with access to any or all parts of such material or otherwise disclose the information contained in such material to such person.

(J) The right, in the case of a person admitted on a residential or inpatient care basis, to converse with others privately, to have convenient and reasonable access to the telephone and mails, and to see visitors during regularly scheduled hours, except that, if a mental health professional treating such person determines that denial of access to a particular visitor is necessary for treatment purposes, such mental health professional may, for a specific, limited, and reasonable period of time, deny such access if such mental health professional has ordered such denial in writing and such order has been incorporated in the treatment plan for such person. An order denying such access should include the reasons for such denial.

(K) The right to be informed promptly at the time of admission and periodically thereafter, in language and terms appropriate to such person's condition and ability to understand, of the rights described in this section.

(L) The right to assert grievances with respect to infringement of the rights described in this section, including the right to have such grievances considered in a fair, timely, and impartial grievance procedure provided for or by the program or facility.

(M) Notwithstanding subparagraph (J), the right of access to (including the opportunities and facilities for private communication with) any available—

(i) rights protection service within the program or facility;

(ii) rights protection service within the State mental health system designed to be available to such person;

(iii) system established under title I to protect and advocate the rights of mentally ill individuals; and

Ante, p. 478.

(iv) qualified advocate;

for the purpose of receiving assistance to understand, exercise, and protect the rights described in this section and in other provisions of law.

(N) The right to exercise the rights described in this section without reprisal, including reprisal in the form of denial of any appropriate, available treatment.

(O) The right to referral as appropriate to other providers of mental health services upon discharge.

(2)(A) The rights described in this section should be in addition to and not in derogation of any other statutory or constitutional rights.

(B) The rights to confidentiality of and access to records as provided in subparagraphs (H) and (I) of paragraph (1) should remain applicable to records pertaining to a person after such person's discharge from a program or facility.

Classified information.

(3)(A) No otherwise eligible person should be denied admission to a program or facility for mental health services as a reprisal for the exercise of the rights described in this section.

(B) Nothing in this section should—

(i) obligate an individual mental health or health professional to administer treatment contrary to such professional's clinical judgment;

(ii) prevent any program or facility from discharging any person for whom the provision of appropriate treatment, consistent with the clinical judgment of the mental health

professional primarily responsible for such person's treatment, is or has become impossible as a result of such person's refusal to consent to such treatment;

(iii) require a program or facility to admit any person who, while admitted on prior occasions to such program or facility, has repeatedly frustrated the purposes of such admissions by withholding consent to proposed treatment; or

(iv) obligate a program or facility to provide treatment services to any person who is admitted to such program or facility solely for diagnostic or evaluative purposes.

(C) In order to assist a person admitted to a program or facility in the exercise or protection of such person's rights, such person's attorney or legal representatives should have reasonable access to—

(i) such person;

(ii) the areas of the program or facility where such person has received treatment, resided, or had access; and

(iii) pursuant to the written authorization of such person, the records and information pertaining to such person's diagnosis, treatment, and related services described in paragraph (1)(I).

(D) Each program and facility should post a notice listing and describing, in language and terms appropriate to the ability of the persons to whom such notice is addressed to understand, the rights described in this section of all persons admitted to such program or facility. Each such notice should conform to the format and content for such notices, and should be posted in all appropriate locations.

Classified information.

(4)(A) In the case of a person adjudicated by a court of competent jurisdiction as being incompetent to exercise the right to consent to treatment or experimentation described in subparagraph (D) or (E) of paragraph (1), or the right to confidentiality of or access to records described in subparagraph (H) or (I) of such paragraph, or to provide authorization as described in paragraph (3)(C)(iii), such right may be exercised or such authorization may be provided by the individual appointed by such court as such person's guardian or representative for the purpose of exercising such right or such authorization.

(B) In the case of a person who lacks capacity to exercise the right to consent to treatment or experimentation under subparagraph (D) or (E) of paragraph (1), or the right to confidentiality of or access to records described in subparagraph (H) or (I) of such paragraph, or to provide authorization as described in paragraph (3)(C)(iii), because such person has not attained an age considered sufficiently advanced under State law to permit the exercise of such right or such authorization to be legally binding, such right may be exercised or such authorization may be provided on behalf of such person by a parent or legal guardian of such person.

(C) Notwithstanding subparagraphs (A) and (B), in the case of a person admitted to a program or facility for the purpose of receiving mental health services, no individual employed by or receiving any remuneration from such program or facility should act as such person's guardian or representative.

TITLE III—CONSTRUCTION

CONSTRUCTION

SEC. 301. (a) Titles I and II shall not be construed as establishing any new rights for mentally ill individuals. 42 USC 10851.

(b) For purposes of this section, the term "mentally ill individual" has the same meaning as in section 102(3).

TITLE IV—OTHER PROGRAMS

ALZHEIMER'S DISEASE

SEC. 401. Part B of title III of the Public Health Service Act is amended by inserting before section 317 the following: 42 USC 243.

"FAMILY SUPPORT GROUPS FOR ALZHEIMER'S DISEASE PATIENTS

"SEC. 316. (a) Subject to available appropriations, the Secretary, acting through the National Institute of Mental Health, the National Institutes of Health, and the Administration on Aging, shall promote the establishment of family support groups to provide, without charge, educational, emotional, and practical support to assist individuals with Alzheimer's disease or a related memory disorder and members of the families of such individuals. In promoting the establishment of such groups, the Secretary shall give priority to— 42 USC 247a.

"(1) university medical centers and other appropriate health care facilities which receive Federal funds from the Secretary and which conduct research on Alzheimer's disease or provide services to individuals with such disease; and

"(2) community-based programs which receive funds from the Secretary, acting through the Administration on Aging.

"(b) The Secretary shall promote the establishment of a national network to coordinate the family support groups described in subsection (a).

"(c) The Secretary shall report to Congress, not later than one year after the date of the enactment of this section, on family support groups and the network of such groups established pursuant to this section.". Report.

BALANCED BUDGET PROVISION

42 USC 10801 note.

2 USC 622.

SEC. 402. This Act shall not be construed as superseding any of the balanced budget provisions set forth in section 3(7) of the Congressional Budget and Impoundment Control Act of 1974.

Approved May 23, 1986.

LEGISLATIVE HISTORY—S. 974 (H.R. 3492) (H.R. 4055):

HOUSE REPORTS: No. 99-401 accompanying H.R. 3492 (Comm. on Energy and Commerce) and No. 99-576 (Comm. of Conference).
SENATE REPORT No. 99-109 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD:
Vol. 131 (1985): July 31, considered and passed Senate.
Vol. 132 (1986): Jan. 30, H.R. 4055 considered and passed House; S. 974, amended, passed in lieu.
Feb. 5, Senate disagreed to House amendment and requested a conference.
May 13, House agreed to conference report.
May 14, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22, No. 21 (1986): May 23, Presidential statement.

O

Public Law 99-320
99th Congress

An Act

To make technical corrections in the higher education title of the Consolidated Omnibus Budget Reconciliation Act of 1985.

May 23, 1986
[S. 2329]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Student Financial Assistance Technical Corrections Act of 1986".

Student Financial Assistance Technical Corrections Act of 1986.
20 USC 1001 note.

SEC. 2. (a) Section 16014(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (hereafter in this Act referred to as "the Act") is amended—

Ante, p. 341.

(1) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively; and

(2) by inserting before paragraph (2), as redesignated by clause (1), the following new paragraph:

"(1) Section 428(c)(1)(A) of the Act is amended by inserting before the period at the end of the first sentence of such section a comma and the following: 'including the administrative costs of supplemental preclaim assistance for default prevention as defined in paragraph (6)(C)'.".

20 USC 1078.

(b) Section 16016 of the Act is amended by striking out "section 435(d)(1)(D)" and inserting in lieu thereof "section 435(g)(1)(D)".

Ante, p. 343.
20 USC 1085.

(c) The second sentence of section 16023 of the Act is amended by striking out "to the Secretary" and inserting in lieu thereof "by the Secretary".

Ante, p. 349.

(d)(1) Section 16041(b)(1) of the Act is amended by striking out "January 1, 1986" and inserting in lieu thereof "July 1, 1986".

Ante, p. 356.
20 USC 1072 note.

(2) Section 16041(d) of the Act is amended by striking out "January 1, 1986" and inserting in lieu thereof "July 1, 1986".

Approved May 23, 1986.

LEGISLATIVE HISTORY—S. 2329:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 24, considered and passed Senate.
May 13, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS: Vol. 22, No. 21 (1986):
May 23, Presidential statement.

71-139 O - 86 - (322)

PUBLIC LAW 99-321—MAY 23, 1986

HANDS ACROSS AMERICA FOR COMBATING DOMESTIC HUNGER

71-139 O - 86 - (323)

Public Law 99-321
99th Congress

Joint Resolution

May 23, 1986
[S.J. Res. 246]

To designate May 25, 1986 as "Hands Across America Day", for the purpose of helping people to help themselves, and commending United Support of Artists for Africa and all participants for their efforts toward combating domestic hunger with a four thousand mile human chain from coast to coast.

Whereas thousands of recruits were rejected during World War II because of physical and mental problems associated with malnutrition;

Whereas our Government committed itself to ending this national problem by successfully devising programs to eliminate malnutrition in America;

Whereas our people became the best-fed, healthiest people in the world;

Whereas a Physicians Task Force on Hunger recently estimated that at least twenty million American citizens now suffer from hunger, and that hunger is increasing rather than declining;

Whereas physicians around the Nation are reporting an increase in nutrition-related health problems among the elderly and children, including diseases which are usually limited to third world countries;

Whereas homelessness is an ever-increasing national problem and more than half the homeless population in the United States is comprised of children and women;

Whereas it has been estimated that there are only enough shelters to house one hundred and eleven thousand men, women, and children on a given night, and there are as many as three million people in need of shelter;

Whereas the General Accounting Office reports that the principal causes of homelessness in America are: unemployment, a lack of resources for deinstitutionalized mental patients, increases in personal crises, cuts in public assistance programs, reduced availability of low-income housing, and alcohol and drug abuse;

Whereas participation by all citizens who are interested in helping to address this enormous problem should be encouraged;

Whereas a private fund-raising effort by United Support of Artists for Africa entitled "Hands Across America" is planned for May 25, 1986;

Whereas millions of participants in this effort who will join hands across this country on that day should be commended for asking all Americans to rededicate themselves to fulfilling the most basic needs of our people in this land of compassion and abundance, by expending every effort to eradicate hunger and homelessness in our Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 25, 1986, is designated as "Hands Across America Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved May 23, 1986.

LEGISLATIVE HISTORY—S.J. Res. 246 (H.J. Res. 462):

CONGRESSIONAL RECORD, Vol. 132 (1986):
Feb. 6, H.J. Res. 462 considered and passed House.
Mar. 4, S.J. Res. 246 considered and passed Senate.
May 15, considered and passed House.

O

Public Law 99-322
99th Congress

An Act

May 23, 1986
[S. 2416]

To revise further the limitation applicable to chapter 37 of title 38, United States Code, for fiscal year 1986, for the purpose of implementing any order issued by the President for such fiscal year under any law providing for the sequestration of new loan guarantee commitments, and for other purposes.

2 USC 902 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Act entitled "An Act to establish, for the purpose of implementing any order issued by the President for fiscal year 1986 under any law providing for sequestration of new loan guarantee commitments, a guaranteed loan limitation amount applicable to chapter 37 of title 38, United States Code, for fiscal year 1986", approved March 7, 1986 (Public Law 99-255; 100 Stat. 39), is amended—

38 USC 1801 *et seq.*

(1) by striking out "guaranteed loan limitation amount" and inserting in lieu thereof "limitation"; and

(2) by striking out "$18,200,000,000" and inserting in lieu thereof "$40,000,000,000".

(b) The title of such Act is amended by striking out "guaranteed loan limitation amount" and inserting in lieu thereof "limitation".

SEC. 2. TREATMENT OF CERTAIN ADMINISTRATIVE EXPENSES.

Housing. Veterans. Education.

(a) IN GENERAL.—Section 1824(b) of title 38, United States Code, is amended by adding at the end the following new sentence: "For purposes of this subsection, the term 'administrative expenses' shall not include expenses incurred by the Administrator for appraisals performed after February 1, 1986, on a contractual basis in connection with the liquidation of housing loans guaranteed, insured, or made under this chapter.".

38 USC 1824 note.

(b) USE OF SAVING.—Any saving in the General Operating Expenses Account of the Veterans' Administration that results from the implementation of the amendment made by subsection (a) shall be used by the Administrator of Veterans' Affairs for the purpose of administering the housing, compensation, pension, and education programs in title 38, United States Code, in a more timely manner.

Approved May 23, 1986.

LEGISLATIVE HISTORY—S. 2416:

CONGRESSIONAL RECORD, Vol. 132 (1986):
May 6, considered and passed Senate.
May 20, 21, considered and passed House, amended.
May 21, Senate concurred in House amendments.

O

71-139 O - 86 - (324)

Public Law 99-323
99th Congress

An Act

To reduce the costs of operating Presidential libraries, and for other purposes.

May 27, 1986
[H.R. 1349]

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Presidential Libraries Act of 1986".

Presidential Libraries Act of 1986.
Historic preservation.
44 USC 101 note.

RESEARCH AND MUSEUM FACILITIES

SEC. 2. Section 2101(1) of title 44, United States Code, is amended by inserting before the semicolon a comma and "and may include research facilities and museum facilities in accordance with this chapter".

PRESIDENTIAL ARCHIVAL DEPOSITORIES

SEC. 3. (a) Section 2112(a) of title 44, United States Code, is amended to read as follows:

Gifts and property.
Real property.

"(a)(1) When the Archivist considers it to be in the public interest, the Archivist may—

"(A)(i) accept, for and in the name of the United States, land, a facility, and equipment offered as a gift to the United States for the purpose of creating a Presidential archival depository;

"(ii) take title to the land, facility, and equipment on behalf of the United States; and

"(iii) maintain, operate, and protect the land, facility, and equipment as a Presidential archival depository and as part of the national archives system;

"(B)(i) make agreements, upon terms and conditions the Archivist considers proper, with a State, political subdivision, university, institution of higher learning, institute, or foundation to use as a Presidential archival depository land, a facility, and equipment of the State, subdivision, university, or other organization, to be made available by it without transfer of title to the United States; and

"(ii) maintain, operate, and protect the depository as a part of the national archives system; and

"(C) accept, for and in the name of the United States, gifts offered for the purpose of making any physical or material change or addition to a Presidential archival depository.

"(2) The Archivist shall promulgate architectural and design standards applicable to Presidential archival depositories in order to ensure that such depositories (A) preserve Presidential records subject to chapter 22 of this title and papers and other historical materials accepted for deposit under section 2111 of this title and (B) contain adequate research facilities.

44 USC 2201 *et seq.*

"(3) Prior to accepting and taking title to any land, facility, or equipment under subparagraph (A) of paragraph (1), or prior to entering into any agreement under subparagraph (B) of such paragraph or any other agreement to accept or establish a Presidential archival depository, the Archivist shall submit a written report on

Report.

the proposed Presidential archival depository to the President of the Senate and the Speaker of the House of Representatives. The report shall include—

"(A) a description of the land, facility, and equipment offered as a gift or to be made available without transfer of title;

"(B) a statement specifying the estimated total cost of the proposed depository and the amount of the endowment for the depository required pursuant to subsection (g) of this section;

"(C) a statement of the terms of the proposed agreement, if any;

"(D) a general description of the types of papers, documents, or other historical materials proposed to be deposited in the depository to be created, and of the terms of the proposed deposit;

"(E) a statement of any additional improvements and equipment associated with the development and operation of the depository, an estimate of the costs of such improvements and equipment, and a statement as to the extent to which such costs will be incurred by any Federal or State government agency;

"(F) an estimate of the total annual cost to the United States of maintaining, operating, and protecting the depository; and

"(G) a certification that such facility and equipment (whether offered as a gift or made available without transfer of title) comply with standards promulgated by the Archivist pursuant to paragraph (2) of this subsection.

Report.

"(4) Prior to accepting any gift under subparagraph (C) of paragraph (1) for the purpose of making any physical or material change or addition to a Presidential archival depository, or prior to implementing any provision of law requiring the making of such a change or addition, the Archivist shall submit a report in writing on the proposed change or addition to the President of the Senate and the Speaker of the House of Representatives. The report shall include—

"(A) a description of such gift;

"(B) a statement specifying the estimated total cost of the proposed physical or material change or addition and the amount of the deposit in an endowment for the depository required pursuant to subsection (g) of this section in order to meet the cost of such change or addition;

Post, p. 497.

"(C) a statement of the purpose of the proposed change or addition and a general description of any papers, documents, or historical materials proposed to be deposited in the depository as a result of such change or addition;

"(D) a statement of any additional improvements or equipment for the depository associated with such change or addition;

"(E) an estimate of the increase in the total annual cost to the United States of maintaining, operating, and protecting the depository that will result from such change or addition; and

"(F) a certification that the depository, and the equipment therein will, after such change or addition, comply with the standards promulgated by the Archivist pursuant to paragraph (2) of this subsection.

"(5) The Archivist may not—

"(A) accept or take title to land, a facility, or equipment under subparagraph (A) of paragraph (1) for the purpose of creating a Presidential archival depository;

"(B) enter into any agreement under subparagraph (B) of such paragraph or any other agreement to accept or establish a Presidential archival depository; or

"(C) accept any gift under subparagraph (C) of such paragraph for the purpose of making any physical or material change to a Presidential archival depository,

until the expiration of a period of 60 days of continuous session of Congress beginning on the date on which the Archivist transmits the report required under paragraph (3) of this subsection with respect to such Presidential archival depository or the report required under paragraph (4) of this subsection with respect to such change or addition, as the case may be.".

(b) Section 2112(g) of title 44, United States Code, is amended to read as follows:

"(g)(1) When the Archivist considers it to be in the public interest, the Archivist may solicit and accept gifts or bequests of money or other property for the purpose of maintaining, operating, protecting, or improving a Presidential archival depository. The proceeds of gifts or bequests, together with the proceeds from fees or from sales of historical materials, copies or reproductions, catalogs, or other items, having to do with a Presidential archival depository, shall be paid into an account in the National Archives Trust Fund and shall be held, administered, and expended for the benefit and in the interest of the Presidential archival depository in connection with which they were received, and for the same purposes and objects, including custodial and administrative services for which appropriations for the maintenance, operation, protection, or improvement of Presidential archival depositories might be expended.

"(2) The Archivist shall provide for the establishment in such Trust Fund of separate endowments for the maintenance of the land, facility, and equipment of each Presidential archival depository, to which shall be credited any gifts or bequests received under paragraph (1) that are offered for that purpose. Income to each such endowment shall be available to cover the cost of facility operations, but shall not be available for the performance of archival functions under this title.

"(3) The Archivist shall not accept or take title to any land, facility, or equipment under subparagraph (A) of subsection (a)(1), or enter into any agreement to use any land, facility, or equipment under subparagraph (B) of such subsection for the purpose of creating a Presidential archival depository, unless the Archivist determines that there is available, by gift or bequest for deposit under paragraph (2) of this subsection in an endowment with respect to such depository, an amount for the purpose of maintaining such land, facility, and equipment equal to— *Ante*, p. 495.

"(A) the product of—

"(i) the total cost of acquiring or constructing such facility and of acquiring and installing such equipment, multiplied by

"(ii) 20 percent; plus

"(B)(i) if title to the land is to be vested in the United States, the product of—

"(I) the total cost of acquiring the land upon which such facility is located, or such other measure of the value of such land as is mutually agreed upon by the Archivist and the donor, multiplied by

"(II) 20 percent; or

"(ii) if title to the land is not to be vested in the United States, the product of—

"(I) the total cost to the donor of any improvements to the land upon which such facility is located (other than such facility and equipment), multiplied by

"(II) 20 percent; plus

"(C) if the Presidential archival depository will exceed 70,000 square feet in area, an amount equal to the product of—

"(i) the sum of—

"(I) the total cost described in clause (i) of subparagraph (A); plus

"(II) the total cost described in subclause (I) or (II) of subparagraph (B)(i), as the case may be, multiplied by

"(ii) the percentage obtained by dividing the number of square feet by which such depository will exceed 70,000 square feet by 70,000.

"(4) If a proposed physical or material change or addition to a Presidential archival depository would result in an increase in the costs of facility operations, the Archivist may not accept any gift under subparagraph (C) of paragraph (1) for the purpose of making such a change or addition, or may not implement any provision of law requiring the making of such a change or addition, unless the Archivist determines that there is available, by gift or bequest for deposit under paragraph (2) of this subsection in an endowment with respect to such depository, an amount for the purpose of maintaining the land, facility, and equipment of such depository equal to the difference between—

"(A) the amount which, pursuant to paragraph (3) of this subsection, would have been required to have been available for deposit in such endowment with respect to such depository if such change or addition had been included in such depository on—

"(i) the date on which the Archivist took title to the land, facility, and equipment for such depository under subparagraph (A) of subsection (a)(1); or

Ante, p. 495.

"(ii) the date on which the Archivist entered into an agreement for the creation of such depository under subparagraph (B) of such paragraph,

as the case may be; minus

"(B) the amount which, pursuant to paragraph (3) of this subsection, was required to be available for deposit in such endowment with respect to such depository on the date the Archivist took such title or entered into such agreement, as the case may be.".

APPLICABILITY

44 USC 2112 note.

SEC. 4. Paragraphs (3) and (4) of section 2112(g) of title 44, United States Code (as added by the amendment made by section 3(b) of this Act) shall apply with respect to any Presidential archival depository created as a depository for the papers, documents, and other historical materials and Federal records pertaining to any President who takes the oath of office as President for the first time on or after January 20, 1985.

STUDY OF MUSEUM OF THE PRESIDENTS

SEC. 5. (a) The Archivist of the United States, in consultation with the Secretary of the Smithsonian Institution and the National Capital Planning Commission, shall study the demand for, and the cost, and space and program requirements of, establishing a museum of the Presidents. With respect to such costs, the study shall examine the feasibility of establishing and operating such museum exclusively with non-Federal funds.

(b) Each Federal agency shall cooperate with the Archivist in conducting the study required by subsection (a).

(c) In the annual report for fiscal year 1986 required by section 2106 of title 44, United States Code, the Archivist shall include a statement of the results of the study required by subsection (a) and any recommendations of the Archivist with respect to establishing such a museum.

Approved May 27, 1986.

LEGISLATIVE HISTORY—H.R. 1349:

HOUSE REPORT No. 99-125 (Comm. on Government Operations).
SENATE REPORT No. 99-257 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 131 (1985): June 4, considered and passed House.
Vol. 132 (1986): Mar. 21, considered and passed Senate, amended
May 13, House concurred in Senate amendment.

O

Public Law 99-324
99th Congress

Joint Resolution

May 27, 1986
[S.J. Res. 266]

To authorize and request the President to designate the month of June 1986 as "Youth Suicide Prevention Month".

Whereas the youth of society represent the hope for the future;
Whereas the rate of youth suicide has increased more than threefold in the last two decades;
Whereas over five thousand young Americans took their lives last year, many more attempted suicide, and countless families were affected;
Whereas youth suicide is a phenomenon which must be addressed by a concerned society; and
Whereas youth suicide is a national problem which can only be solved through the combined efforts of individuals, families, communities, organizations, and government to educate society: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of June 1986 is designated as "Youth Suicide Prevention Month" and the President is authorized and requested to issue a proclamation calling upon the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such month with appropriate programs and activities.

Approved May 27, 1986.

LEGISLATIVE HISTORY—S.J. Res. 266:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Feb. 27, considered and passed Senate.
May 15, considered and passed House.

71-139 O - 86 - (326)

Public Law 99-325
99th Congress

An Act

To require the Architect of the Capitol to place a plaque at the original site of Providence Hospital.

May 28, 1986
[H.R. 4382]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Providence Hospital Commemorative Plaque Act. Washington, DC.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Providence Hospital Commemorative Plaque Act".

SEC. 2. PURPOSE.

The purpose of this Act is to commemorate Providence Hospital for providing 125 years of service to the District of Columbia by authorizing the placement of a plaque at the original site of the Hospital.

SEC. 3. SPECIFICATIONS FOR AND INSTALLATION OF PLAQUE.

(a) SPECIFICATIONS.—The Architect of the Capitol is authorized to acquire by purchase or donation a plaque that—

(1) is 36 inches in width and 24 inches in height;

(2) displays on the left one-third of the plaque a bas-relief of Providence Hospital as it existed in 1866; and

(3) displays on the right two-thirds of the plaque the following language in caslon typeface:

"ORIGINAL SITE OF PROVIDENCE HOSPITAL

"Providence Hospital was located on this site during the years 1861 through 1956. Founded in 1861 by the Daughters of Charity of Saint Vincent de Paul from Emmitsburg, Maryland, the hospital was chartered by an Act of Congress in 1864.

13 Stat. 43.

"During the Civil War, while other hospitals in Washington, D.C., were filled with war casualties, Providence Hospital had the special mission of providing care primarily to the civilian population. Originally located in a private home, the hospital moved in 1866 to the more permanent quarters illustrated on this plaque.

"On this site, Providence Hospital opened the area's first surgical amphitheater in 1882, inaugurated the first social service department in 1894, and opened the first contagious ward in 1898.

"Providence Hospital moved to its present location at 12th and Varnum Streets, NE, in 1956.".

(b) MOUNTING OF PLAQUE.—The plaque described in subsection (a) shall be mounted on a pedestal to be constructed according to such specifications as the Architect of the Capitol determines are appropriate for carrying out the purposes of this Act.

(c) INSTALLATION.—Such plaque and pedestal shall be installed by the Architect of the Capitol at a location on the original site of Providence Hospital that is as near as practicable to the location of

71-139 O - 86 - (327)

the main entrance of such hospital as it existed in 1866. If such location is required for other purposes by the Congress, the Architect of the Capitol may place such plaque on or near any new building erected on such site.

(d) MAINTENANCE.—The Architect of the Capitol shall maintain the plaque and pedestal installed under this section as a part of the United States Capitol Grounds.

SEC. 4. PAYMENT OF EXPENSES.

(a) AUTHORITY TO ACCEPT GIFTS.—Notwithstanding any other provision of law, the Architect of the Capitol is authorized to accept and administer on behalf of the Congress gifts and bequests of money for the purpose of acquisition, preparation, and installation of the plaque and pedestal described in section 3.

(b) TREATMENT OF GIFTS FOR TAX PURPOSES.—For the purpose of Federal income, estate, and gift taxes, any gift or bequest accepted by the Architect of the Capitol under this Act shall be deemed to be a gift or bequest to or for the benefit of the United States.

(c) OBLIGATIONS AND EXPENDITURES.—The Architect of the Capitol is authorized to incur all obligations and to make all expenditures as may be necessary to carry out the purposes of this Act without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

(d) ESTABLISHMENT OF ACCOUNT.—All gifts and bequests of money received for the purposes of this Act shall be deposited by the Architect of the Capitol in a special account established by the Secretary of the Treasury and shall be subject to immediate disbursement as needed by the Architect in order to carry out this Act.

(e) REPORT.—The Architect of the Capitol shall submit to the Congress a final report of the money received and expended by him in carrying out this Act.

SEC. 5. LIMITATIONS.

(a) IN GENERAL.—The United States may not pay any expense of the acquisition, preparation, and mounting of the plaque or the construction of the pedestal under this Act.

(b) DONATION OF FUNDS.—The Architect of the Capitol shall carry out this Act only if sufficient funds are donated for such purpose.

Approved May 28, 1986.

LEGISLATIVE HISTORY—H.R. 4382:

CONGRESSIONAL RECORD, Vol. 132 (1986):
May 13, considered and passed House.
May 14, considered and passed Senate.

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Public Law 99-326
99th Congress

Joint Resolution

To designate the week beginning on June 1, 1986, as "National Neighborhood Housing Services Week".

May 28, 1986
[H.J. Res. 492]

Whereas America's neighborhoods contain the ethnic, social, and economic relationships which are fundamental to a strong and diverse nation;

Whereas, when the physical, economic, and social structures of a neighborhood deteriorate, great harm is caused to the homes, businesses, and residents of the neighborhood, particularly for the elderly and for the poor;

Whereas the reversal of such deterioration is essential to the strength of America's families, neighborhoods, and businesses;

Whereas, throughout the United States, Neighborhood Housing Services programs, which are partnerships of local residents, business leaders, and government officials, are working to revitalize more than 200 neighborhoods;

Whereas Neighborhood Housing Services programs have generated more than three billion dollars in reinvestment funds to revitalize America's neighborhoods; and

Whereas, to accomplish their aims, such programs utilize primarily local and private resources and the assistance of hundreds of volunteers who contribute countless hours of volunteer work: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on June 1, 1986, is hereby designated as "National Neighborhood Housing Services Week", and the President is authorized and requested to issue a proclamation calling upon local and State jurisdictions, appropriate Federal agencies, and the people of the United States to observe such week with appropriate ceremonies and activities.

Approved May 28, 1986.

LEGISLATIVE HISTORY—H.J. Res. 492:

CONGRESSIONAL RECORD, Vol. 132 (1986):
May 7, considered and passed House.
May 15, considered and passed Senate.

71-139 O - 86 (328)

Public Law 99-327
99th Congress

Joint Resolution

May 28, 1986
[H.J. Res. 526]

To designate the week of May 25, 1986, through May 31, 1986, as "Critical Care Week".

Whereas the public is not sufficiently aware of the special medical needs of the critically ill;

Whereas patients such as trauma and burn victims, AIDS victims, and postoperative patients with complications vitally need critical care units within hospitals;

Whereas critical care units, where they are available, often serve as many as 15 per centum of the inpatients of a hospital;

Whereas four thousand three hundred critical care units have already been established in the United States;

Whereas the Society of Critical Care Medicine and its members throughout the United States are dedicated to improving the care of critically ill patients through research and education: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of May 25, 1986, through May 31, 1986, is designated "Critical Care Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this week with appropriate programs and activities.

Approved May 28, 1986.

LEGISLATIVE HISTORY—H.J. Res. 526:

CONGRESSIONAL RECORD, Vol. 132 (1986):
May 7, considered and passed House.
May 21, considered and passed Senate.

71-139 O - 86 (329)

Public Law 99-328
99th Congress

Joint Resolution

Allowing qualified persons representing all the States to be naturalized on Ellis Island on July 3 or 4, 1986.

May 28, 1986
[H.J. Res. 613]

Whereas citizenship ceremonies are planned on July 3 and 4, 1986, as part of the centennial celebration of the Statue of Liberty;
Whereas, as this is a national celebration, these ceremonies should include a naturalization ceremony that truly reflects that the United States is a Nation of Immigrants;
Whereas, the immigrants who entered the United States through Ellis Island settled throughout the United States;
Whereas, it would be most appropriate to have residents from all the States participating in the naturalization ceremony; and
Whereas, the Immigration and Nationality Act limits participation in the naturalization ceremony to individuals who reside only within the jurisdiction of a single district of a United States District Court: Now, therefore, be it

8 USC 1101 note.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF 2 RESIDENTS REPRESENTATIVE OF EACH STATE.

The Governor of each State is requested to and may designate (to the Attorney General, or his designee, by not later than June 1, 1986) 2 qualified persons (as defined in section 4(1)) for naturalization as citizens of the United States in an appropriate ceremony on Ellis Island on July 3 or 4, 1986.

SEC. 2. WAIVER OF CERTAIN PROVISIONS OF THE IMMIGRATION AND NATIONALITY ACT.

Notwithstanding any provision of title III of the Immigration and Nationality Act and notwithstanding any provision of chapter 87 of title 28, United States Code, to the contrary, each qualified person who is designated under section 1 may be naturalized on Ellis Island on July 3 or 4, 1986, before any judge or justice of the United States.

8 USC 1401.
28 USC 1391 *et seq.*

SEC. 3. NO AUTHORIZATION OF ADDITIONAL FUNDS.

This Act does not authorize the appropriation of any amounts for the transportation, lodging, or other expenses associated with the naturalization of designated, qualified persons under section 2.

SEC. 4. DEFINITIONS.

In this Act:

(1) QUALIFIED PERSON.—The term "qualified person" means, with respect to a State, a person—

(A) who is a resident of the State, but not a citizen of the United States,

(B) who, except as provided in section 2, has completed all statutory and regulatory requirements for naturalization, and

71-139 O - 86 - (330)

(C) whose application to file a naturalization petition (Form N-400) on the person's own behalf has been approved before June 1, 1986.

(2) STATE AND GOVERNOR.—The term "State" means each of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam, and the term "Governor" means, with respect to a State, the chief executive officer of the State.

Approved May 28, 1986.

LEGISLATIVE HISTORY—H.J. Res. 613 (S.J. Res. 334):

HOUSE REPORT No. 99-587 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 132 (1986):
May 12, considered and passed House.
May 15, considered and passed Senate.

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Public Law 99-329
99th Congress

Joint Resolution

Designating "Baltic Freedom Day".

May 28, 1986
[S.J. Res. 271]

Whereas the people of the Baltic Republics of Lithuania, Latvia, and Estonia have cherished the principles of religious and political freedom and independence;

Whereas the Baltic Republics have existed as independent, sovereign nations belonging to and fully recognized by the League of Nations;

Whereas the Union of Soviet Socialist Republics (U.S.S.R.) in collusion with Nazi-Germany signed the Molotov-Ribbentrop Pact which allowed the U.S.S.R. in 1940 to illegally seize and occupy the Baltic States and by force incorporated them against their national will and contrary to their desire for independence and sovereignty into the U.S.S.R.;

Whereas due to Soviet and Nazi tyranny, by the end of World War II, the Baltic nations had lost 20 per centum of their total population;

Whereas the people of the Baltic Republics have individual and separate cultures, national traditions, and languages distinctively foreign to those of Russia;

Whereas the U.S.S.R. since 1940 has systematically implemented its Baltic genocide by deporting native Baltic peoples from their homelands to forced labor and concentration camps in Siberia and elsewhere, and by relocating masses of Russians to the Baltic Republics, thus threatening the Baltic cultures with extinction through russification;

Whereas the U.S.S.R. has imposed upon the captive people of the Baltic Republics an oppressive political system which has destroyed every vestige of democracy, civil liberties, and religious freedom;

Whereas the people of Lithuania, Latvia, and Estonia find themselves today subjugated by the U.S.S.R., locked into a union they deplore, denied basic human rights, and persecuted for daring to protest;

Whereas the U.S.S.R. refuses to abide by the Helsinki accords which the U.S.S.R. voluntarily signed;

Whereas the United States as a member of the United Nations has repeatedly voted with a majority of that international body to uphold the right of other countries of the world to determine their fates and be free of foreign domination;

Whereas the U.S.S.R. has steadfastly refused to return to the people of the Baltic States of Lithuania, Latvia, and Estonia the right to exist as independent republics separate and apart from the U.S.S.R. or permit a return of personal, political, and religious freedoms; and

71-139 O - 86 - (331)

Whereas 1986 marks the forty-sixth anniversary of the United States continued policy of nonrecognition of the illegal forcible occupation of Lithuania, Latvia, and Estonia by the U.S.S.R.: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the Congress recognizes the continuing desire and the right of the people of Lithuania, Latvia, and Estonia for freedom and independence from the domination of the U.S.S.R.;

(2) the Congress deplores the refusal of the U.S.S.R. to recognize the sovereignty of the Baltic Republics and to yield to their rightful demands for independence from foreign domination and oppression;

(3) the Congress reaffirms the indictment against the U.S.S.R. of the Copenhagen Manifesto signed by the Baltic Tribunal on July 26, 1985, by Doctor Theodor Veiter, Reverend Michael Bourdeaux, Sir James Fawcett, Per Ahlmark, and Jean Marie Daillet;

(4) the fourteenth day of June 1986, the anniversary of the mass deportation of Baltic peoples from their homelands in 1941, be designated "Baltic Freedom Day" as a symbol of the solidarity of the American people with the aspirations of the enslaved Baltic people; and

(5) the President of the United States be authorized and requested to issue a proclamation for the observance of Baltic Freedom Day with appropriate ceremonies and activities and to submit the issue of the Baltic Republics to the United Nations so that the issue of Baltic self-determination will be brought to the attention of the United Nations General Assembly.

Approved May 28, 1986.

LEGISLATIVE HISTORY—S.J. Res. 271:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Feb. 27, considered and passed Senate.
May 15, considered and passed House.

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Public Law 99-330
99th Congress

An Act

To settle and adjust the claim of the Tehran American School for $13,333.94.

May 29, 1986
[S. 173]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Tehran American School Claim Act of 1985".

Tehran American School Claim Act of 1985.

SEC. 2. The Comptroller General of the United States be, and he hereby is, authorized and directed to settle and adjust the claim of the Tehran American School for $13,333.94, which amount constitutes proceeds from the sale of three motor vehicles arranged by the United States Embassy in Tehran, Iran, in 1979. There is hereby appropriated from any money in the Treasury not otherwise appropriated such amount as may be necessary for the payment of the claim.

Approved May 29, 1986.

LEGISLATIVE HISTORY—S. 173:

HOUSE REPORT No. 99-582 (Comm. on the Judiciary).
SENATE REPORT No. 99-177 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Nov. 21, considered and passed Senate.
Vol. 132 (1986): May 20, considered and passed House.

71-139 O - 86 - (332)

Public Law 99-331
99th Congress

An Act

May 31, 1986
[S. 2460]

To extend until June 30, 1986, the date on which certain limitations become effective with respect to obligations that may be made from the Military Personnel accounts of the Department of Defense for fiscal year 1986.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the third proviso of section 8103 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190; 99 Stat. 1221), relating to obligations from Military Personnel accounts for fiscal year 1986, is amended by striking out "May 1, 1986" and inserting in lieu thereof "June 30, 1986".

Approved May 31, 1986.

LEGISLATIVE HISTORY—S. 2460:

CONGRESSIONAL RECORD, Vol. 132 (1986):
May 15, considered and passed Senate.
May 22, considered and passed House.

O

71-139 O - 86 - (333)

Public Law 99-332
99th Congress

Joint Resolution

Designating June 26, 1986, as "National Interstate Highway Day".

June 5, 1986
[H.J. Res. 636]

Whereas the 42,500-mile National System of Interstate and Defense Highways is the world's largest transportation and public works project and connects the various regions of the Nation;

Whereas June 1986 is the thirtieth anniversary of the enactment of the Federal-Aid Highway Act of 1956 under which construction of the the Interstate System commenced and which established the Highway Trust Fund; and

70 Stat. 374.

Whereas the design and construction of the Interstate System has provided substantial employment and economic growth for all segments of our society: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 26, 1986, is designated as "National Interstate Highway Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities to recognize the thirtieth anniversary of the establishment of the National System of Interstate and Defense Highways and the Highway Trust Fund.

Approved June 5, 1986.

LEGISLATIVE HISTORY—H.J. Res. 636:

CONGRESSIONAL RECORD, Vol. 132 (1986):
May 15, considered and passed House.
May 21, considered and passed Senate.

O

71-139 O - 86 (334)

Public Law 99-333
99th Congress

Joint Resolution

June 5, 1986
[S.J. Res. 344]

To designate the week beginning June 8, 1986, as "National Children's Accident Prevention Week".

Whereas the children of the United States are the most precious resource of the United States;

Whereas approximately 25 per centum of all children in the United States under the age of fourteen suffer accidental injuries each year;

Whereas accidental injury is the leading cause of death among children in the United States, resulting in more than ten thousand such deaths each year;

Whereas the incidence of such deaths can be greatly reduced by taking precautions to prevent such accidental injuries and seeking expert pediatric emergency care when such accidental injuries do occur;

Whereas the incidence of accidental injuries among children is greatest during the summer months of each year, when children are usually not in school and are outdoors much of the time; and

Whereas the adults of the United States should become aware of the significant incidence of accidental injuries to children, the increased incidence of such accidental injuries during the summer months, and the need to take precautions to prevent such accidental injuries: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning June 8, 1986, is designated "National Children's Accident Prevention Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved June 5, 1986.

LEGISLATIVE HISTORY—S.J. Res. 344:

CONGRESSIONAL RECORD, Vol. 132 (1986):
May 15, considered and passed Senate.
May 22, considered and passed House.

71-139 O - 86 (335)

Public Law 99-334
99th Congress

An Act

To amend the Communications Act of 1934 to provide for reduction in the term of office of members of the Federal Communications Commission, and for other purposes.

June 6, 1986
[S. 2179]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4(c) of the Communications Act of 1934 (47 U.S.C. 154(c)) is amended by striking "seven" and inserting in lieu thereof "five".

(b) The amendment made by subsection (a) of this section shall take effect on the date of enactment of this Act, except that—

Effective date.
7 USC 154 note.

(1) upon the expiration of the term of office prescribed by law to occur on June 30, 1986, any person appointed as a member of the Federal Communications Commission to fill such office for the term following such date shall be eligible to serve until June 30, 1990, and any person appointed as a member of the Federal Communications Commission to the term of office prescribed by law to expire on June 30, 1987, shall be eligible to serve until June 30, 1989; and

(2) notwithstanding the provisions of subsection (a) of this section, persons appointed as members of the Federal Communications Commission to terms of office prescribed by law to expire on June 30, 1988, June 30, 1991, and June 30, 1992, shall be eligible to serve until the expiration of the term of office on June 30, 1988, June 30, 1991, and June 30, 1992, whichever is applicable.

Approved June 6, 1986.

LEGISLATIVE HISTORY—S. 2179:

SENATE REPORT No. 99-263 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Mar. 27, considered and passed Senate.
May 22, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22, No. 23 (1986):
June 6, Presidential statement.

71-139 O - 86 - (336)

FEDERAL EMPLOYEES' RETIREMENT SYSTEM ACT OF 1986

Public Law 99-335
99th Congress

An Act

June 6, 1986
[H.R. 2672]

To amend title 5, United States Code, to establish a new retirement and disability plan for Federal employees, postal employees, and Members of Congress, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Employees' Retirement System Act of 1986.
New Jersey International and Bulk Mail Center.

SECTION 1. REDESIGNATION OF BUILDING.

(a) REDESIGNATION.—The New York Bulk and Foreign Mail Center in Jersey City, New Jersey, shall hereafter be known and designated as the "New Jersey International and Bulk Mail Center". Any reference to such building in any law, map, regulation, document, record, or other paper of the United States shall be considered to be a reference to the New Jersey International and Bulk Mail Center.

(b) EFFECTIVE DATE.—This section shall take effect 6 months after the date of the enactment of this Act.

SEC. 2. DEDICATION OF MICHAEL McDERMOTT PLACE.

(a) ERECTION OF SIGN.—The United States Postal Service shall erect a suitable sign bearing the inscription "Michael McDermott Place", anywhere on its property adjacent to the street and parking area located immediately to the east of the New York Bulk and Foreign Mail Center building in Jersey City, New Jersey, so as to dedicate such portion of such street in memory of former postal employee Michael McDermott.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

TITLE I—FEDERAL EMPLOYEES' RETIREMENT SYSTEM

SEC. 100. SHORT TITLE; TABLE OF CONTENTS.

5 USC 8401 note.

(a) SHORT TITLE.—This Act may be cited as the "Federal Employees' Retirement System Act of 1986".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

TABLE OF CONTENTS

TITLE I—FEDERAL EMPLOYEES' RETIREMENT SYSTEM

Sec. 100. Short title; table of contents.
Sec. 100A. Purposes.
Sec. 101. Establishment.

TITLE II—OTHER AMENDMENTS TO TITLE 5 OF THE UNITED STATES CODE

Sec. 201. Treatment under Civil Service Retirement System of certain individuals excluded from Federal Employees' Retirement System.
Sec. 202. Non-applicability of Civil Service Retirement System to individuals under Federal Employees' Retirement System.

Sec. 203. Pay for the Executive Director of the Federal Retirement Thrift Investment Board.
Sec. 204. Alternative forms of annuities.
Sec. 205. Retirement counseling.
Sec. 206. Participation by certain employees and Members only in the Thrift Savings Plan.
Sec. 207. Miscellaneous amendments.

TITLE III—OTHER PROVISIONS RELATING TO THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM AND THE CIVIL SERVICE RETIREMENT SYSTEM

Sec. 301. Elections.
Sec. 302. Effect of an election under section 301 to become subject to the Federal Employees' Retirement System.
Sec. 303. Provisions relating to an election to become subject to chapter 83 subject to certain offsets relating to Social Security.
Sec. 304. Amendments relating to Social Security.
Sec. 305. Extension of Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983; refund of excess contributions.
Sec. 306. Applicability to the United States Postal Service.
Sec. 307. Use of "normal-cost percentage".
Sec. 308. Retirement study.
Sec. 309. Repeal of automatic transfer provision.
Sec. 310. Disclosure of return information.
Sec. 311. Initial appointments to the Federal Retirement Thrift Investment Board.
Sec. 312. Plan for delayed contributions to the Thrift Savings Fund.

TITLE IV—FOREIGN SERVICE RETIREMENT

Sec. 401. Short title; references to Foreign Service Act of 1980.
Sec. 402. Redesignation of certain provisions of the Foreign Service Act of 1980.
Sec. 403. Definition of court.
Sec. 404. Creditable service for purposes of subchapters I and II.
Sec. 405. Contributions to the Foreign Service Retirement and Disability System.
Sec. 406. Offset of annuity by the amount of Social Security benefits.
Sec. 407. 18-month period to elect survivor annuity.
Sec. 408. Alternate forms of annuities.
Sec. 409. Treatment of certain recall service.
Sec. 410. Reemployment.
Sec. 411. Comparability between the Federal Employees' Retirement System and the Foreign Service Pension System.
Sec. 412. Moderation of remarriage penalty.
Sec. 413. Lump-sum payments.
Sec. 414. Exclusion of participants in Foreign Service Pension System from Foreign Service Retirement and Disability System.
Sec. 415. Foreign Service Pension System.
Sec. 416. Table of contents.
Sec. 417. Effective date.

TITLE V—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND RELATED MATTERS

Sec. 501. References.
Sec 502. Contributions to the Central Intelligence Agency Retirement and Disability System.
Sec. 503. Offset of annuity by the amount of Social Security benefits.
Sec. 504. Thrift savings fund participation by participants in the Central Intelligence Agency Retirement and Disability System.
Sec. 505. Alternative forms of annuities.
Sec. 506. Participation in the Federal Employees' Retirement System.
Sec. 507. Special retirement accrual for other intelligence personnel.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Annuities for survivors of District of Columbia judges.

TITLE VII—AUTHORIZATION OF APPROPRIATIONS; EFFECTIVE DATES

Sec. 701. Authorization of appropriations for certain expenses of the Federal Retirement Thrift Investment Management System.
Sec. 702. Effective dates.

SEC. 100A. PURPOSES.

The purposes of this Act are—

42 USC 401.

(1) to establish a Federal employees' retirement plan which is coordinated with title II of the Social Security Act;

(2) to ensure a fully funded and financially sound retirement benefits plan for Federal employees;

(3) to enhance portability of retirement assets earned as an employee of the Federal Government;

(4) to provide options for Federal employees with respect to retirement planning;

(5) to assist in building a quality career work force in the Federal Government;

(6) to encourage Federal employees to increase personal savings for retirement; and

(7) to extend financial protection from disability to additional Federal employees and to increase such protection for eligible Federal employees.

SEC. 101. ESTABLISHMENT.

(a) IN GENERAL.—Title 5, United States Code, is amended by inserting after chapter 83 the following new chapter:

"CHAPTER 84—FEDERAL EMPLOYEES' RETIREMENT SYSTEM

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec.
"8401. Definitions.
"8402. Federal Employees' Retirement System; exclusions.
"8403. Relationship to the Social Security Act.

"SUBCHAPTER II—BASIC ANNUITY

"8410. Eligibility for annuity.
"8411. Creditable service.
"8412. Immediate retirement.
"8413. Deferred retirement.
"8414. Early retirement.
"8415. Computation of basic annuity.
"8416. Survivor reduction for a current spouse.
"8417. Survivor reduction for a former spouse.
"8418. Survivor elections; deposit; offsets.
"8419. Survivor reductions; computation.
"8420. Insurable interest reductions.
"8420a. Alternative forms of annuities.
"8421. Annuity supplement.
"8421a. Reductions on account of earnings from work performed while entitled to an annuity supplement.
"8422. Deductions from pay; contributions for military service.
"8423. Government contributions.
"8424. Lump-sum benefits; designation of beneficiary; order of precedence.
"8425. Mandatory separation.

"SUBCHAPTER III—THRIFT SAVINGS PLAN

"8431. Definition.
"8432. Contributions.
"8433. Benefits and election of benefits.
"8434. Annuities: methods of payment; election; purchase.
"8435. Protections for spouses and former spouses.
"8436. Administrative provisions.
"8437. Thrift Savings Fund.
"8438. Investment of Thrift Savings Fund.
"8439. Accounting and information.
"8440. Tax treatment of the Thrift Savings Fund.

"SUBCHAPTER IV—SURVIVOR ANNUITIES

"8441. Definitions.
"8442. Rights of a widow or widower.
"8443. Rights of a child.
"8444. Rights of a named individual with an insurable interest.
"8445. Rights of a former spouse.

"SUBCHAPTER V—DISABILITY BENEFITS

"8451. Disability retirement.
"8452. Computation of disability annuity.
"8453. Application.
"8454. Medical examination.
"8455. Recovery; restoration of earning capacity.
"8456. Relationship to workers' compensation.
"8457. Military reserve technicians.

"SUBCHAPTER VI—GENERAL AND ADMINISTRATIVE PROVISIONS

"8461. Authority of the Office of Personnel Management.
"8462. Cost-of-living adjustments.
"8463. Rate of benefits.
"8464. Commencement and termination of annuities of employees and Members.
"8465. Waiver, allotment, and assignment of benefits.
"8466. Application for benefits.
"8467. Court orders.
"8468. Annuities and pay on reemployment.
"8469. Withholding of State income taxes.
"8470. Exemption from legal process; recovery of payments.

"SUBCHAPTER VII—FEDERAL RETIREMENT THRIFT INVESTMENT MANAGEMENT SYSTEM

"8471. Definitions.
"8472. Federal Retirement Thrift Investment Board.
"8473. Employee Thrift Advisory Council.
"8474. Executive Director.
"8475. Investment policies.
"8476. Administrative provisions.
"8477. Fiduciary responsibilities; liability and penalties.
"8478. Bonding.
"8479. Exculpatory provisions; insurance.

"SUBCHAPTER I—GENERAL PROVISIONS

"§ 8401. Definitions

5 USC 8401.

"For the purpose of this chapter—

"(1) the term 'account' means an account established and maintained under section 8439(a) of this title;

"(2) the term 'annuitant' means a former employee or Member who, on the basis of that individual's service, meets all requirements for title to an annuity under subchapter II or V of this chapter and files claim therefor;

"(3) the term 'average pay' means the largest annual rate resulting from averaging an employee's or Member's rates of basic pay in effect over any 3 consecutive years of service or, in the case of an annuity under this chapter based on service of less than 3 years, over the total service, with each rate weighted by the period it was in effect;

"(4) except as provided in subchapter III of this chapter, the term 'basic pay' has the meaning given such term by section 8331(3);

"(5) the term 'Board' means the Federal Retirement Thrift Investment Board established by section 8472(a) of this title;

"(6) the term 'Civil Service Retirement and Disability Fund' or 'Fund' means the Civil Service Retirement and Disability Fund under section 8348;

"(7) the term 'court' means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian court;

"(8) the term 'Director' means the Director of the Office of Personnel Management;

"(9) the term 'dynamic assumptions' means economic assumptions that are used in determining actuarial costs and liabilities of a retirement system and in anticipating the effects of long-term future—

"(A) investment yields;

"(B) increases in rates of basic pay; and

"(C) rates of price inflation;

"(10) the term 'earnings', when used with respect to the Thrift Savings Fund, means the amount of the gain realized or yield received from the investment of sums in such Fund;

"(11) the term 'employee' means—

"(A) an individual referred to in subparagraph (A), (E), (F), (H), (I), or (J) of section 8331(1) of this title; and

"(B) a Congressional employee as defined in section 2107 of this title, including a temporary Congressional employee and an employee of the Congressional Budget Office;

any of whose civilian service after December 31, 1983, is employment for the purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954, except that such term does not include—

42 USC 401.
26 USC 3101 *et seq.*

"(i) any individual referred to in—

"(I) clause (i), (v), (vi), or (ix) of paragraph (1) of section 8331;

"(II) clause (ii) of such paragraph (other than an employee of the United States Park Police, or the United States Secret Service, any of whose civilian service after December 31, 1983, is such employment); or

"(III) the undesignated material after the last clause of such paragraph; or

"(ii) any individual excluded under section 8402(c) of this title;

"(12) the term 'former spouse' means a former spouse of an individual—

"(A) if such individual performed at least 18 months of civilian service creditable under section 8411 as an employee or Member; and

"(B) if the former spouse was married to such individual for at least 9 months;

"(13) the term 'Executive Director' means the Executive Director appointed under section 8474(a);

"(14) the term 'firefighter' means—

"(A) an employee, the duties of whose position—

"(i) are primarily to perform work directly connected with the control and extinguishment of fires; and

"(ii) are sufficiently rigorous that employment opportunities are required to be limited to young and physically vigorous individuals, as determined by the

Director considering the recommendations of the employing agency; and

"(B) an employee who is transferred directly to a supervisory or administrative position after performing duties described in subparagraph (A) for at least 10 years;

"(15) the term 'Government' means the Federal Government and Gallaudet College;

"(16) the term 'Indian court' has the meaning given such term by section 8331(24);

"(17) the term 'law enforcement officer' means—

"(A) an employee, the duties of whose position—

"(i) are primarily—

"(I) the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States, or

"(II) the protection of officials of the United States against threats to personal safety; and

"(ii) are sufficiently rigorous that employment opportunities are required to be limited to young and physically vigorous individuals, as determined by the Director considering the recommendations of the employing agency;

"(B) an employee who is transferred directly to a supervisory or administrative position after performing duties described in subparagraph (A) for at least 10 years; and

"(C) an employee—

"(i) of the Bureau of Prisons or Federal Prison Industries, Incorporated;

"(ii) of the Public Health Service assigned to the field service of the Bureau of Prisons or of the Federal Prison Industries, Incorporated; or

"(iii) in the field service at Army or Navy disciplinary barracks or at any other confinement and rehabilitation facility operated by any of the armed forces;

whose duties in connection with individuals in detention suspected or convicted of offenses against the criminal laws of the United States or of the District of Columbia or offenses against the punitive articles of the Uniform Code of Military Justice (chapter 47 of title 10) require frequent direct contact with these individuals in their detention and are sufficiently rigorous that employment opportunities are required to be limited to young and physically vigorous individuals, as determined by the head of the employing agency;

10 USC 801 *et seq.*

"(18) the term 'loss', when used with respect to the Thrift Savings Fund, means the amount of the loss resulting from the investment of sums in such Fund;

"(19) the term 'lump-sum credit' means the unrefunded amount consisting of—

"(A) retirement deductions made from the basic pay of an employee or Member under section 8422(a) of this title (or under section 204 of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983);

5 USC 8331 note.

"(B) amounts deposited by an employee or Member under section 8422(e); and

"(C) interest on the deductions and deposits which, for any calendar year, shall be equal to the overall average yield to the Fund during the preceding fiscal year from all obligations purchased by the Secretary of the Treasury during such fiscal year under section 8348 (c), (d), and (e), as determined by the Secretary (compounded annually);

but does not include interest—

"(i) if the service covered thereby aggregates 1 year or less; or

"(ii) for a fractional part of a month in the total service;

"(20) the term 'Member' has the same meaning as provided in section 2106, except that such term does not include an individual who irrevocably elects, by written notice to the official by whom such individual is paid, not to participate in the Federal Employees' Retirement System;

"(21) the term 'net earnings' means the excess of earnings over losses;

"(22) the term 'net losses' means the excess of losses over earnings;

"(23) the term 'normal-cost percentage' means the entry-age normal cost of the provisions of the System which relate to the Fund, computed by the Office in accordance with generally accepted actuarial practice and standards (using dynamic assumptions) and expressed as a level percentage of aggregate basic pay;

"(24) the term 'Office' means the Office of Personnel Management;

"(25) the term 'price index' has the same meaning as provided in section 8331(15);

"(26) the term 'service' means service which is creditable under section 8411;

"(27) the term 'supplemental liability' means the estimated excess of—

"(A) the actuarial present value of all future benefits payable from the Fund under this chapter based on the service of current or former employees or Members, over

"(B) the sum of—

"(i) the actuarial present value of deductions to be withheld from the future basic pay of employees and Members currently subject to this chapter pursuant to section 8422;

"(ii) the actuarial present value of the future contributions to be made pursuant to section 8423(a) with respect to employees and Members currently subject to this chapter;

"(iii) the Fund balance as of the date the supplemental liability is determined, to the extent that such balance is attributable—

"(I) to the System, or

"(II) to contributions made under the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 by or on behalf of an individual who became subject to the System; and

5 USC 8331 note.

"(iv) any other appropriate amount, as determined by the Office in accordance with generally accepted actuarial practices and principles;

"(28) the term 'survivor' means an individual entitled to an annuity under subchapter IV of this chapter;

"(29) the term 'System' means the Federal Employees' Retirement System described in section 8402(a);

"(30) the term 'military reserve technician' means a member of one of the reserve components of the armed forces specified in section 261(a) of title 10 who—

"(A) is assigned to a civilian position as a technician in the administration and training of such reserve components or in the maintenance and repair of supplies issued to such reserve components; and

"(B) as a condition of employment in such position, is required to be a member of one of such reserve components serving in a specified military grade; and

"(31) the term 'military service' means honorable active service—

"(A) in the armed forces;

"(B) in the commissioned corps of the Public Health Service after June 30, 1960; or

"(C) in the commissioned corps of the National Oceanic and Atmospheric Administration, or a predecessor entity in function, after June 30, 1961;

but does not include service in the National Guard except when ordered to active duty in the service of the United States.

"§ 8402. Federal Employees' Retirement System; exclusions 5 USC 8402.

"(a) The provisions of this chapter comprise the Federal Employees' Retirement System.

"(b) The provisions of this chapter shall not apply with respect to—

"(1) any individual who has performed service of a type described in subparagraph (C), (D), (E), or (F) of section 210(a)(5) of the Social Security Act continuously since December 31, 1983 (determined in accordance with the provisions of section 210(a)(5)(B) of the Social Security Act, relating to continuity of employment); or 42 USC 410.

"(2)(A) any employee or Member who has separated from the service after—

"(i) having been subject to subchapter III of chapter 83 of this title, or subchapter I of chapter 8 of the Foreign Service Act of 1980; and *Post*, pp. 589, 591-593. 22 USC 4041.

"(ii) having completed at least 5 years of civilian service creditable under subchapter III of chapter 83 of this title, or at least 5 years of civilian service creditable under subchapter I of the Foreign Service Act of 1980 (determined without regard to any deposit or redeposit requirement under either such subchapter, or any requirement that the individual become subject to either such subchapter after performing the service involved); or

"(B) any employee having at least 5 years of civilian service performed before January 1, 1987, creditable under subchapter III of chapter 83 of this title (determined without regard to any deposit or redeposit requirement under such subchapter, any requirement that the individual become subject to such subchapter after performing the service involved, or any requirement that the individual give notice in writing to the official by

whom such individual is paid of such individual's desire to become subject to such subchapter);

except to the extent provided for under title III of the Federal Employees' Retirement System Act of 1986 pursuant to an election under such title to become subject to this chapter.

"(c)(1) The Office may exclude from the operation of this chapter an employee or group of employees in or under an Executive agency, the United States Postal Service, or the Postal Rate Commission, whose employment is temporary or intermittent, except an employee whose employment is part-time career employment (as defined in section 3401(2)).

"(2) The Architect of the Capitol may exclude from the operation of this chapter an employee under the Office of the Architect of the Capitol whose employment is temporary or of uncertain duration.

"(3) The Librarian of Congress may exclude from the operation of this chapter an employee under the Library of Congress whose employment is temporary or of uncertain duration.

"(4) The Director or Acting Director of the Botanic Garden may exclude from the operation of this chapter an employee under the Botanic Garden whose employment is temporary or of uncertain duration.

5 USC 8403.

"§ 8403. Relationship to the Social Security Act

"Except as otherwise provided in this chapter, the benefits payable under the System are in addition to the benefits payable under the Social Security Act.

42 USC 1305.

"SUBCHAPTER II—BASIC ANNUITY

5 USC 8410.

"§ 8410. Eligibility for annuity

"Notwithstanding any other provision of this chapter, an employee or Member must complete at least 5 years of civilian service creditable under section 8411 in order to be eligible for an annuity under this subchapter.

5 USC 8411.

"§ 8411. Creditable service

"(a)(1) The total service of an employee or Member is the full years and twelfth parts thereof, excluding from the aggregate the fractional part of a month, if any.

"(2) Credit may not be allowed for a period of separation from the service in excess of 3 calendar days.

"(b) For the purpose of this chapter, creditable service of an employee or Member includes—

"(1) employment as an employee, and any service as a Member (including the period from the date of the beginning of the term for which elected or appointed to the date of taking office as a Member), after December 31, 1986;

"(2) service with respect to which deductions and withholdings under section 204(a)(1) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 have been made;

5 USC 8331 note.

"(3) except as provided in subsection (f), any civilian service (performed before January 1, 1989, other than any service under paragraph (1) or (2)) which, but for the amendments made by subsections (a)(4) and (b) of section 202 of the Federal Employees' Retirement System Act of 1986, would be creditable

under subchapter III of chapter 83 of this title (determined without regard to any deposit or redeposit requirement under such subchapter, any requirement that the individual become subject to such subchapter after performing the service involved, or any requirement that the individual give notice in writing to the official by whom such individual is paid of such individual's desire to become subject to such subchapter); and

Post, pp. 589, 591-593.

"(4) a period of service (other than any service under any of the preceding provisions of this subsection and other than any military service) that was creditable under the Foreign Service Pension System described in subchapter II of chapter 8 of the Foreign Service Act of 1980, if the employee or Member waives credit for such service under the Foreign Service Pension System and makes a payment to the Fund equal to the amount that would have been deducted from pay under section 8422(a) had the employee been subject to this chapter during such period of service (together with interest on such amount computed under paragraphs (2) and (3) of section 8334(e)).

22 USC 3901.

"(c)(1) Except as provided in paragraph (2) or (3), an employee or Member shall be allowed credit for—

"(A) each period of military service performed before January 1, 1957; and

"(B) each period of military service performed after December 31, 1956, and before the separation on which title to annuity is based, if a deposit (including interest, if any) is made with respect to such period in accordance with section 8422(e).

"(2) If an employee or Member is awarded retired pay based on any period of military service, the service of the employee or Member may not include credit for such period of military service unless the retired pay is awarded—

"(A) based on a service-connected disability—

"(i) incurred in combat with an enemy of the United States; or

"(ii) caused by an instrumentality of war and incurred in line of duty during a period of war as defined by section 301 of title 38; or

"(B) under chapter 67 of title 10.

10 USC 1331 *et seq.*

"(3) An employee or Member who has made a deposit under section 8334(j) (or a similar prior provision of law) with respect to a period of military service, and who has not taken a refund of such deposit—

"(A) shall be allowed credit for such service without regard to the deposit requirement under paragraph (1)(B); and

"(B) shall be entitled, upon filing appropriate application therefor with the Office, to a refund equal to the difference between—

"(i) the amount deposited with respect to such period under such section 8334(j) (or prior provision), excluding interest; and

"(ii) the amount which would otherwise have been required with respect to such period under paragraph (1)(B).

"(d) Credit under this chapter shall be allowed for leaves of absence without pay granted an employee while performing military service, or while receiving benefits under subchapter I of chapter 81. An employee or former employee who returns to duty after a period of separation is deemed, for the purpose of this subsection, to have been on leave of absence without pay for that

5 USC 8101.

5 USC 8101.

part of the period in which that individual was receiving benefits under subchapter I of chapter 81. Credit may not be allowed for so much of other leaves of absence without pay as exceeds 6 months in the aggregate in a calendar year.

"(e) Credit shall be allowed for periods of approved leave without pay granted an employee to serve as a full-time officer or employee of an organization composed primarily of employees (as defined by section 8331(1) or 8401(11)), subject to the employee arranging to pay, through the employee's employing agency, within 60 days after commencement of such leave without pay, amounts equal to the retirement deductions and agency contributions which would be applicable under sections 8422(a) and 8423(a), respectively, if the employee were in pay status. If the election and all payments provided by this subsection are not made, the employee may not receive credit for the periods of leave without pay, notwithstanding the third sentence of subsection (d).

"(f)(1) An employee or Member who has received a refund of retirement deductions under subchapter III of chapter 83 with respect to any service described in subsection (b)(3) may not be allowed credit for such service under this chapter unless such employee or Member deposits an amount equal to 1.3 percent of basic pay for such service, with interest.

"(2) An employee or Member may not be allowed credit under this chapter for any service described in subsection (b)(3) for which retirement deductions under subchapter III of chapter 83 have not been made, unless such employee or Member deposits an amount equal to 1.3 percent of basic pay for such service, with interest.

Post, pp. 589, 591-593.

"(3) Interest under paragraph (1) or (2) shall be computed in accordance with paragraphs (2) and (3) of section 8334(e) and regulations prescribed by the Office.

"(4) For the purpose of survivor annuities, deposits authorized by the preceding provisions of this subsection may also be made by a survivor of an employee or Member.

5 USC 8412.

"§ 8412. Immediate retirement

"(a) An employee or Member who is separated from the service after attaining the applicable minimum retirement age under subsection (h) and completing 30 years of service is entitled to an annuity.

"(b) An employee or Member who is separated from the service after becoming 60 years of age and completing 20 years of service is entitled to an annuity.

"(c) An employee or Member who is separated from the service after becoming 62 years of age and completing 5 years of service is entitled to an annuity.

"(d) An employee who is separated from the service, except by removal for cause on charges of misconduct or delinquency—

"(1) after completing 25 years of service as a law enforcement officer or firefighter, or any combination of such service totaling at least 25 years, or

"(2) after becoming 50 years of age and completing 20 years of service as a law enforcement officer or firefighter, or any combination of such service totaling at least 20 years,

is entitled to an annuity.

"(e) An employee who is separated from the service, except by removal for cause on charges of misconduct or delinquency—

"(1) after completing 25 years of service as an air traffic controller, or

"(2) after becoming 50 years of age and completing 20 years of service as an air traffic controller,

is entitled to an annuity.

"(f) A Member who is separated from the service, except by resignation or expulsion—

"(1) after completing 25 years of service, or

"(2) after becoming 50 years of age and completing 20 years of service,

is entitled to an annuity.

"(g) An employee or Member who is separated from the service after attaining the applicable minimum retirement age under subsection (h) and completing 10 years of service is entitled to an annuity. This subsection shall not apply to an employee or Member who is entitled to an annuity under any other provision of this section.

"(h)(1) The applicable minimum retirement age under this subsection is—

"(A) for an individual whose date of birth is before January 1, 1948, 55 years of age;

"(B) for an individual whose date of birth is after December 31, 1947, and before January 1, 1953, 55 years of age plus the number of months in the age increase factor determined under paragraph (2)(A);

"(C) for an individual whose date of birth is after December 31, 1952, and before January 1, 1965, 56 years of age;

"(D) for an individual whose date of birth is after December 31, 1964, and before January 1, 1970, 56 years of age plus the number of months in the age increase factor determined under paragraph (2)(B); and

"(E) for an individual whose date of birth is after December 31, 1969, 57 years of age.

"(2)(A) For an individual whose date of birth occurs during the 5-year period consisting of calendar years 1948 through 1952, the age increase factor shall be equal to two-twelfths times the number of months in the period beginning with January 1948 and ending with December of the year in which the date of birth occurs.

"(B) For an individual whose date of birth occurs during the 5-year period consisting of calendar years 1965 through 1969, the age increase factor shall be equal to two-twelfths times the number of months in the period beginning with January 1965 and ending with December of the year in which the date of birth occurs.

"§ 8413. Deferred retirement 5 USC 8413.

"(a) An employee or Member who is separated from the service, or transferred to a position in which the employee or Member does not continue subject to this chapter, after completing 5 years of service is entitled to an annuity beginning at the age of 62 years.

"(b)(1) An employee or Member who is separated from the service, or transferred to a position in which the employee or Member does not continue subject to this chapter, after completing 10 years of service is entitled to an annuity beginning on the date designated by the employee or Member in a written election under this subsection. The date designated under this subsection may not precede the date on which the employee or Member attains the applicable minimum

retirement age under section 8412(h) and must precede the date on which the employee or Member becomes 62 years of age.

"(2) The election of an annuity under this subsection shall not be effective unless—

"(A) it is made at such time and in such manner as the Office shall by regulation prescribe; and

"(B) the employee or Member will not otherwise be eligible to receive an annuity within 31 days after filing the election.

"(3) The election of an annuity under this subsection extinguishes the right of the employee or Member to receive any other annuity based on the service on which the annuity under this subsection is based.

5 USC 8414.

"§ 8414. Early retirement

"(a)(1) A member of the Senior Executive Service who is removed from the Senior Executive Service for less than fully successful executive performance (as determined under subchapter II of chapter 43 of this title) after completing 25 years of service, or after becoming 50 years of age and completing 20 years of service, is entitled to an annuity.

5 USC 4311.

"(2) A member of the Defense Intelligence Senior Executive Service or the Senior Cryptologic Executive Service who is removed from such service for less than fully successful executive performance after completing 25 years of service, or after becoming 50 years of age and completing 20 years of service, is entitled to an annuity.

"(b)(1) Except as provided in paragraphs (2) and (3), an employee who—

"(A) is separated from the service involuntarily, except by removal for cause on charges of misconduct or delinquency; or

"(B) while serving in a geographic area designated by the Director, is separated from the service voluntarily during a period in which (as determined by the Director)—

"(i) the agency in which the employee is serving is undergoing a major reorganization, a major reduction in force, or a major transfer of function; and

"(ii) a significant percentage of the total number of employees serving in such agency will be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53 of this title or comparable provisions);

5 USC 5361.

after completing 25 years of service, or after becoming 50 years of age and completing 20 years of service, is entitled to an annuity.

"(2) An employee under paragraph (1) who is separated as described in subparagraph (A) of such paragraph is not entitled to an annuity under this subsection if the employee has declined a reasonable offer of another position in the employee's agency for which the employee is qualified, and the offered position is not lower than 2 grades (or pay levels) below the employee's grade (or pay level) and is within the employee's commuting area.

"(3) Paragraph (1) shall not apply to an employee entitled to an annuity under subsection (d) or (e) of section 8412.

"(c) A military reserve technician who is separated from technician service, after becoming 50 years of age and completing 25 years of service, by reason of ceasing to satisfy the condition described in section 8401(30)(B) is entitled to an annuity.

"§ 8415. Computation of basic annuity 5 USC 8415.

"(a) Except as otherwise provided in this section, the annuity of an employee retiring under this subchapter is 1 percent of that individual's average pay multiplied by such individual's total service.

"(b) The annuity of a Member, or former Member with title to a Member annuity, retiring under this subchapter is computed under subsection (a), except that if the individual has had at least 5 years of service as a Member or Congressional employee, or any combination thereof, so much of the annuity as is computed with respect to either such type of service (or a combination thereof), not exceeding a total of 20 years, shall be computed by multiplying 1 7/10 percent of the individual's average pay by the years of such service.

"(c) The annuity of a Congressional employee, or former Congressional employee, retiring under this subchapter is computed under subsection (a), except that if the individual has had at least 5 years of service as a Congressional employee or Member, or any combination thereof, so much of the annuity as is computed with respect to either such type of service (or a combination thereof), not exceeding a total of 20 years, shall be computed by multiplying 1 7/10 percent of the individual's average pay by the years of such service.

"(d) The annuity of an employee retiring under subsection (d) or (e) of section 8412 or under subsection (a) or (b) of section 8425 is—

"(1) 1 7/10 percent of that individual's average pay multiplied by so much of such individual's total service as does not exceed 20 years; plus

"(2) 1 percent of that individual's average pay multiplied by so much of such individual's total service as exceeds 20 years.

"(e)(1) In computing an annuity under this subchapter for an employee whose service includes service performed on a part-time basis—

"(A) the average pay of the employee, to the extent that it includes pay for service performed in any position on a part-time basis, shall be determined by using the annual rate of basic pay that would be payable for full-time service in the position; and

"(B) the benefit so computed shall then be multiplied by a fraction equal to the ratio which the employee's actual service, as determined by prorating the employee's total service to reflect the service that was performed on a part-time basis, bears to the total service that would be creditable for the employee if all of the service had been performed on a full-time basis.

"(2) For the purpose of this subsection, employment on a part-time basis shall not be considered to include employment on a temporary or intermittent basis.

"(f)(1) The annuity of an employee or Member retiring under section 8412(g) or 8413(b) is computed in accordance with applicable provisions of this section, except that the annuity shall be reduced by five-twelfths of 1 percent for each full month by which the commencement date of the annuity precedes the sixty-second anniversary of the birth of the employee or Member.

"(2)(A) Paragraph (1) does not apply in the case of an employee or Member retiring under section 8413(b) if the employee or Member would satisfy the age and service requirements for title to an annuity under section 8412 (a), (b), (d)(2), (e)(2), or (f)(2), determined

as if the employee or Member had, as of the date of separation, attained the age specified in subparagraph (B).

"(B) A determination under subparagraph (A) shall be based on how old the employee or Member will be as of the date on which the annuity under section 8413(b) is to commence.

"(g)(1) In applying subsection (a) with respect to an employee under paragraph (2), the percentage applied under such subsection shall be 1.1 percent, rather than 1 percent.

"(2) This subsection applies in the case of an employee who—

"(A) retires entitled to an annuity under section 8412; and

"(B) at the time of the separation on which entitlement to the annuity is based, is at least 62 years of age and has completed at least 20 years of service;

but does not apply in the case of a Congressional employee, military reserve technician, law enforcement officer, firefighter, or air traffic controller.

5 USC 8416.

"§ 8416. Survivor reduction for a current spouse

"(a)(1) If an employee or Member is married at the time of retiring under this chapter, the reduction described in section 8419(a) shall be made unless the employee or Member and the spouse jointly waive, by written election, any right which the spouse may have to a survivor annuity under section 8442 based on the service of such employee or Member. A waiver under this paragraph shall be filed with the Office under procedures prescribed by the Office.

"(2) Notwithstanding paragraph (1), an employee or Member who is married at the time of retiring under this chapter may waive the annuity for a surviving spouse without the spouse's consent if the employee or Member establishes to the satisfaction of the Office (in accordance with regulations prescribed by the Office)—

"(A) that the spouse's whereabouts cannot be determined; or

"(B) that, due to exceptional circumstances, requiring the employee or Member to seek the spouse's consent would otherwise be inappropriate.

"(3) Except as provided in subsection (d), a waiver made under this subsection shall be irrevocable.

"(b)(1) Upon remarriage, a retired employee or Member who was married at the time of retirement (including an employee or Member whose annuity was not reduced to provide a survivor annuity for the employee's or Member's spouse or former spouse as of the time of retirement) may irrevocably elect during such marriage, in a signed writing received by the Office within 2 years after such remarriage or, if later, within 2 years after the death or remarriage of any former spouse of such employee or Member who was entitled to a survivor annuity under section 8445 (or of the last such surviving former spouse, if there was more than one), a reduction in the employee's or Member's annuity under section 8419(a) for the purpose of providing an annuity for such employee's or Member's spouse in the event such spouse survives the employee or Member.

"(2) The election and reduction shall be effective the first day of the second month after the election is received by the Office, but not less than 9 months after the date of the remarriage.

"(3) An election to provide a survivor annuity to an individual under this subsection—

"(A) shall prospectively void any election made by the employee or Member under section 8420 with respect to such individual; or

"(B) shall, if an election was made by the employee or Member under section 8420 with respect to a different individual, prospectively void such election if appropriate written application is made by such employee or Member at the time of making the election under this subsection.

"(4) Any election under this subsection made by an employee or Member on behalf of an individual after the retirement of such employee or Member shall not be effective if—

"(A) the employee or Member was married to such individual at the time of retirement; and

"(B) the annuity rights of such individual based on the service of such employee or Member were then waived under subsection (a).

"(c)(1) An employee or Member who is unmarried at the time of retiring under this chapter and who later marries may irrevocably elect, in a signed writing received by the Office within 2 years after such employee or Member marries or, if later, within 2 years after the death or remarriage of any former spouse of such employee or Member who was entitled to a survivor annuity under section 8445 (or of the last such surviving former spouse, if there was more than one), a reduction in the current annuity of the retired employee or Member, in accordance with section 8419(a).

"(2) The election and reduction shall take effect the first day of the first month beginning 9 months after the date of marriage. Any such election to provide a survivor annuity for an individual—

"(A) shall prospectively void any election made by the employee or Member under section 8420 with respect to such individual; or

"(B) shall, if an election was made by the employee or Member under section 8420 with respect to a different individual, prospectively void such election if appropriate written application is made by such employee or Member at the time of making the election under this subsection.

"(d)(1) An employee or Member—

"(A) who is married on the date of retiring under this chapter, and

"(B) with respect to whose spouse a waiver under subsection (a) has been made,

may, during the 18-month period beginning on such date, elect to have a reduction made under section 8419 in order to provide a survivor annuity under section 8442 for such spouse.

"(2)(A) An election under this subsection shall not be effective unless the amount described in subparagraph (B) is deposited into the Fund before the expiration of the 18-month period referred to in paragraph (1).

"(B) The amount to be deposited under this subparagraph is equal to the sum of—

"(i) the difference (for the period between the date on which the annuity of the former employee or Member commences and the date on which reductions pursuant to the election under this subsection commence) between the amount paid to the former employee or Member from the Fund under this chapter and the amount which would have been paid if such election had been made at the time of retirement; and

"(ii) the costs associated with providing for the election under this subsection.

The amount to be deposited under clause (i) shall include interest, computed at the rate of 6 percent a year.

"(3) An annuity which is reduced pursuant to an election by a former employee or Member under this subsection shall be reduced by the same percentage as was in effect under section 8419 as of the date of the employee's or Member's retirement.

"(4) Rights and obligations under this chapter resulting from an election under this subsection shall be the same as the rights and obligations which would have resulted had the election been made at the time of retirement.

"(5) The Office shall inform each employee and Member who is eligible to make an election under this subsection of the right to make such election and the procedures and deadlines applicable in making any such election.

5 USC 8417.

"§ 8417. Survivor reduction for a former spouse

"(a) If an employee or Member has a former spouse who is entitled to a survivor annuity as provided in section 8445, the reduction described in section 8419(a) shall be made.

"(b)(1) An employee or Member who has a former spouse may elect, under procedures prescribed by the Office, a reduction in the annuity of the employee or Member under section 8419(a) in order to provide a survivor annuity for such former spouse under section 8445.

"(2) An election under this subsection shall be made at the time of retirement or, if the marriage is dissolved after the date of retirement, within 2 years after the date on which the marriage of the former spouse to the employee or Member is so dissolved.

"(3) An election under this subsection—

"(A) shall not be effective to the extent that it—

"(i) conflicts with—

"(I) any court order or decree referred to in section 8445(a) which was issued before the date of such election; or

"(II) any agreement referred to in such section 8445(a) which was entered into before such date; or

"(ii) would cause the total of survivor annuities payable under sections 8442 and 8445, respectively, based on the service of the employee or Member to exceed the amount which would be payable to a widow or widower of such employee or Member under such section 8442 (determined without regard to any reduction to provide for an annuity under such section 8445); and

"(B) shall not be effective, in the case of an employee or Member who is then married, unless it is made with the spouse's written consent.

Regulations.

The Office shall by regulation provide that subparagraph (B) may be waived for either of the reasons set forth in section 8416(a)(2).

5 USC 8418.

"§ 8418. Survivor elections; deposit; offsets

"(a)(1) An individual who makes an election under subsection (b) or (c) of section 8416 or section 8417(b) which is required to be made within 2 years after the date of a prescribed event shall deposit into the Fund, before the expiration of the 2-year period involved, an amount determined by the Office (as nearly as may be administra-

tively feasible) to reflect the amount by which the annuity of such individual would have been reduced if the election had been in effect since the date of retirement (or, if later, and in the case of an election under such section 8416(b), since the date the previous reduction in the annuity of such individual was terminated under paragraph (1) or (2) of section 8419(b)), plus interest.

"(2) Interest under paragraph (1) shall be computed at the rate of 6 percent a year.

"(b) If the electing individual does not make the deposit required under subsection (a), the Office shall collect such amount by offset against such individual's annuity, up to a maximum of 25 percent of the net annuity otherwise payable, and the individual is deemed to consent to such offset.

"(c) Subsections (a) and (b) shall not apply if—

"(1) the employee or Member makes an election under section 8416 (b) or (c) after having made an election under section 8420; and

"(2) the election under such section 8420 becomes void under subsection (b)(3) or (c)(2) of such section 8416.

"(d) The Office shall prescribe regulations under which the survivor of an employee or Member may make a deposit under this section. Regulations.

"§ 8419. Survivor reductions; computation 5 USC 8419.

"(a)(1) Except as provided in paragraph (2), the annuity of an annuitant computed under section 8415, or under section 8452 (including subsection (a)(2) of such section, if applicable), shall be reduced by 10 percent if a survivor annuity, or a combination of survivor annuities, under section 8442 or 8445 (or both) are to be provided for.

"(2)(A) If no survivor annuity under section 8442 is to be provided for, but one or more survivor annuities under section 8445 involving a total of less than the entirety of the amount referred to in subsection (b)(2) of such section are to be provided for, the annuity of the annuitant involved (as computed under section 8415, or under section 8452 (including subsection (a)(2) of such section, if applicable)), shall be reduced by an appropriate percentage determined under subparagraph (B).

"(B) The Office shall prescribe regulations under which an appropriate reduction under this paragraph, not to exceed a total of 10 percent, shall be made. Regulations.

"(b)(1) Any reduction in an annuity for the purpose of providing a survivor annuity for the current spouse of a retired employee or Member shall be terminated for each full month—

"(A) after the death of the spouse; or

"(B) after the dissolution of the spouse's marriage to the employee or Member, except that an appropriate reduction shall be made thereafter if the spouse is entitled, as a former spouse, to a survivor annuity under section 8445.

"(2) Any reduction in an annuity for the purpose of providing a survivor annuity for a former spouse of a retired employee or Member shall be terminated for each full month after the former spouse remarries before reaching age 55 or dies. This reduction shall be replaced by appropriate reductions under subsection (a) if the retired employee or Member has one or more of the following:

"(A) another former spouse who is entitled to a survivor annuity under section 8445;

"(B) a current spouse to whom the employee or Member was married at the time of retirement and with respect to whom a survivor annuity was not waived under section 8416(a) (or, if waived, with respect to whom an election under section 8416(d) has been made); or

"(C) a current spouse whom the employee or Member married after retirement and with respect to whom an election has been made under subsection (b) or (c) of section 8416.

5 USC 8420.

"§ 8420. Insurable interest reductions

"(a)(1) At the time of retiring under section 8412, 8413, or 8414, an employee or Member who is found to be in good health by the Office may elect to have such employee's or Member's annuity (as computed under section 8415) reduced under paragraph (2) in order to provide an annuity under section 8444 for an individual having an insurable interest in the employee or Member. Such individual shall be designated by the employee or Member in writing.

"(2) The annuity of the employee or Member making the election is reduced by 10 percent, and by 5 percent for each full 5 years the individual named is younger than the retiring employee or Member, except that the total reduction may not exceed 40 percent.

"(3) An annuity which is reduced under this subsection shall, effective the first day of the month following the death of the individual named under this subsection, be recomputed and paid as if the annuity had not been so reduced.

"(b)(1) In the case of a married employee or Member, an election under this section on behalf of the spouse may be made only if any right of such spouse to a survivor annuity based on the service of such employee or Member is waived in accordance with section 8416(a).

"(2) Paragraph (1) does not apply in the case of an employee or Member if such employee or Member has a former spouse who would become entitled to an annuity under section 8445 as a survivor of such employee or Member.

5 USC 8420a.

"§ 8420a. Alternative forms of annuities

Regulations.

"(a) The Office shall prescribe regulations under which an employee or Member may, at the time of retiring under this subchapter, elect annuity benefits under this section instead of any other benefits under this subchapter, and any benefits under subchapter IV of this chapter, based on the service of the employee or Member.

"(b) Subject to subsection (c), the Office shall by regulation provide for such alternative forms of annuities as the Office considers appropriate, except that among the alternatives offered shall be—

"(1) an alternative which provides for—

"(A) payment of the lump-sum credit (excluding interest) to the employee or Member; and

"(B) payment of an annuity to the employee or Member for life; and

"(2) in the case of an employee or Member who is married at the time of retirement, an alternative which provides for—

"(A) payment of the lump-sum credit (excluding interest) to the employee or Member; and

"(B) payment of an annuity to the employee or Member for life, with a survivor annuity payable for the life of a surviving spouse.

"(c) Each alternative provided for under subsection (b) shall, to the extent practicable, be designed such that the present value of the benefits provided under such alternative (including any lump-sum credit) is actuarially equivalent to the sum of—

"(1) the present value of the annuity which would otherwise be provided under this subchapter, as computed under section 8415; and

"(2) the present value of the annuity supplement which would otherwise be provided (if any) under section 8421.

"(d) An employee or Member who, at the time of retiring under this subchapter—

"(1) is married, shall be ineligible to make an election under this section unless a waiver is made under section 8416(a); or

"(2) has a former spouse, shall be ineligible to make an election under this section if the former spouse is entitled to benefits under section 8445 or 8467 (based on the service of the employee or Member) under the terms of a decree of divorce or annulment, or a court order or court-approved property settlement incident to any such decree, with respect to which the Office has been duly notified.

"(e) An employee or Member who is married at the time of retiring under this subchapter and who makes an election under this section may, during the 18-month period beginning on the date of retirement, make the election provided for under section 8416(d), subject to the deposit requirement thereunder.

"§ 8421. Annuity supplement 5 USC 8421.

"(a)(1) Subject to paragraph (3), an individual shall, if and while entitled to an annuity under subsection (a), (b), (d), or (e) of section 8412, or under section 8414(c), also be entitled to an annuity supplement under this section.

"(2) Subject to paragraph (3), an individual shall, if and while entitled to an annuity under section 8412(f), or under subsection (a) or (b) of section 8414, also be entitled to an annuity supplement under this section if such individual is at least the applicable minimum retirement age under section 8412(h).

"(3)(A) An individual whose entitlement to an annuity under section 8412 or 8414 does not commence before age 62 is not entitled to an annuity supplement under this section.

"(B) An individual entitled to an annuity supplement under this section ceases to be so entitled after the last day of the month preceding the first month for which such individual would, on proper application, be entitled to old-age insurance benefits under title II of the Social Security Act, but not later than the last day of the month in which such individual attains age 62. 42 USC 401.

"(b)(1) The amount of the annuity supplement of an annuitant under this section for any month shall be equal to the product of—

"(A) an amount determined under paragraph (2), multiplied by

"(B) a fraction, as described in paragraph (3).

"(2) The amount under this paragraph for an annuitant is an amount equal to the old-age insurance benefit which would be payable to such annuitant under title II of the Social Security Act (without regard to sections 203, 215(a)(7), and 215(d)(5) of such Act) upon attaining age 62 and filing application therefor, determined as if the annuitant had attained such age and filed application therefor, and were a fully insured individual (as defined in section 214(a) 42 USC 403, 415.

42 USC 414. of such Act), on January 1 of the year in which such annuitant's entitlement to any payment under this section commences, except that the reduction of such old-age insurance benefit under section 42 USC 402. 202(q) of such Act shall be the maximum applicable for an individual born in the same year as the annuitant. In computing the 42 USC 415. primary insurance amount under section 215 of such Act for purposes of this paragraph, the number of elapsed years (referred to in section 215(b)(2)(B)(iii) of such Act and used to compute the number of benefit computation years) shall not include years beginning with the year in which such annuitant's entitlement to any payment under this section commences, and—

"(A) only basic pay for service performed (if any) shall be taken into account in computing the total wages and self-employment income of the annuitant for a benefit computation year;

"(B) for a benefit computation year which commences after the date of the separation with respect to which entitlement to the annuitant's annuity under this subchapter is based and before the date as of which such annuitant is treated, under the preceding sentence, to have attained age 62, the total wages and self-employment income of such annuitant for such year shall be deemed to be zero; and

"(C) for a benefit computation year after age 21 which precedes the separation referred to in subparagraph (B), and during which the individual did not perform a full year of service, the total wages and self-employment income of such annuitant for such year shall be deemed to have been an amount equal to the product of—

"(i) the average total wages of all workers for that year, multiplied by

"(ii) a fraction—

"(I) the numerator of which is the total basic pay of the individual for service performed in the first year thereafter in which such individual performed a full year of service; and

"(II) the denominator of which is the average total wages of all workers for the year referred to in subclause (I).

"(3) The fraction under this paragraph for any annuitant is a fraction—

"(A) the numerator of which is the annuitant's total years of service (rounding a fraction to the nearest whole number, with ½ being rounded to the next higher number), not to exceed the number under subparagraph (B); and

"(B) the denominator of which is 40.

"(4) For the purpose of this subsection—

"(A) the term 'benefit computation year' has the meaning 42 USC 415. provided in section 215(b)(2)(B)(i) of the Social Security Act;

"(B) the term 'average total wages of all workers', for a year, means the average of the total wages, as defined and computed under section 215(b)(3)(A)(ii)(I) of the Social Security Act for such year; and

"(C) the term 'service' does not include military service.

"(c) An amount under this section shall, for purposes of section 8467, be treated in the same way as an amount computed under section 8415.

"§ 8421a. Reductions on account of earnings from work performed while entitled to an annuity supplement 5 USC 8421a.

"(a) The amount of the annuity supplement to which an individual is entitled under section 8421 for any month (determined without regard to subsection (c) of such section) shall be reduced by the amount of any excess earnings of such individual which are required to be charged to such supplement for such month, as determined under subsection (b).

"(b) The amount of an individual's excess earnings shall be charged to months as follows:

"(1)(A) There shall be charged to each month of a year under subsection (a) an amount equal to the individual's excess earnings (as determined under paragraph (2) with respect to such year), divided by the number of the individual's supplement entitlement months for such year (as determined under paragraph (3)).

"(B) Notwithstanding subparagraph (A), the amount charged to a month under subsection (a) may not exceed the amount of the annuity supplement to which the individual is entitled under section 8421 for such month (determined without regard to subsection (c) of such section).

"(2) The excess earnings based on which reductions under subsection (a) shall be made with respect to an individual in a year—

"(A) shall be equal to 50 percent of so much of such individual's earnings for the immediately preceding year as exceeds the applicable exempt amount for such preceding year; but

"(B) may not exceed the total amount of the annuity supplement payments to which such individual was entitled for such preceding year under section 8421 (determined without regard to subsection (c) of such section, and without regard to this section).

"(3)(A) Subject to subparagraph (B), the number of an individual's supplement entitlement months for a year shall be 12.

"(B) The number determined under subparagraph (A) shall be reduced so as not to include any month after which such individual ceases to be entitled to an annuity supplement by reason of section 8421(a)(3)(B), relating to cessation of entitlement upon attaining age 62.

"(4)(A) For purposes of this section, and except as provided in subparagraph (B), the 'earnings' and the 'applicable exempt amount' of an individual shall be determined in a manner consistent with applicable provisions of section 203 of the Social Security Act. 42 USC 403.

"(B) For purposes of this section—

"(i) in determining the excess earnings of any individual, only earnings attributable to periods during which such individual was entitled to an annuity supplement under section 8421 shall be considered; and

"(ii) any earnings attributable to a period before attaining the applicable retirement age under section 8412(h) shall not be considered in determining the excess earnings of an individual who retires under section 8412 (d) or (e), or section 8414(c).

"(c) If, after an individual ceases to be entitled to an annuity supplement under section 8421 by reason of subsection (a)(3)(B) of such section, any portion of the individual's excess earnings remains outstanding, an amount not to exceed 25 percent of the amount otherwise payable to such individual under this chapter for each month shall be deducted from such monthly payment until the full amount of that outstanding portion has been accounted for. To the extent practicable, reductions under this subsection shall be made by a level percentage.

Regulations.

"(d) The Office shall prescribe regulations under which this section shall be applied in the case of a reemployed annuitant.

5 USC 8422.

"§ 8422. Deductions from pay; contributions for military service

"(a)(1) The employing agency shall deduct and withhold from basic pay of each employee and Member a percentage of basic pay determined in accordance with paragraph (2).

"(2) The applicable percentage under this subsection for any pay period shall be—

"(A) in the case of an employee (other than a law enforcement officer, firefighter, air traffic controller, or Congressional employee) a percentage equal to—

"(i) 7 percent, minus

"(ii) the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1954 (relating to rate of tax for old-age, survivors, and disability insurance); and

26 USC 3101.

"(B) in the case of a Member, law enforcement officer, firefighter, air traffic controller, or Congressional employee, a percentage equal to—

"(i) 7½ percent, minus

"(ii) the same percentage as would apply in the case of an employee under subparagraph (A)(ii).

"(b) Each employee or Member is deemed to consent and agree to the deductions under subsection (a). Notwithstanding any law or regulation affecting the pay of an employee or Member, payment less such deductions is a full and complete discharge and acquittance of all claims and demands for regular services during the period covered by the payment, except the right to any benefits under this subchapter, or under subchapter IV or V of this chapter, based on the service of the employee or Member.

"(c) The amounts deducted and withheld under this section shall be deposited in the Treasury of the United States to the credit of the Fund under such procedures as the Comptroller General of the United States may prescribe.

"(d) Under such regulations as the Office may prescribe, amounts deducted under subsection (a) shall be entered on individual retirement records.

"(e)(1) Each employee or Member who has performed military service before the date of the separation on which the entitlement to any annuity under this subchapter, or subchapter V of this chapter, is based may pay, in accordance with such regulations as the Office shall issue, to the agency by which the employee is employed, or, in the case of a Member or a Congressional employee, to the Secretary of the Senate or the Clerk of the House of Representatives, as appropriate, an amount equal to 3 percent of the amount of the basic pay paid under section 204 of title 37 to the employee or Member for each period of military service after December 1956. The amount of such payments shall be based on such evidence of

basic pay for military service as the employee or Member may provide, or if the Office determines sufficient evidence has not been so provided to adequately determine basic pay for military service, such payment shall be based on estimates of such basic pay provided to the Office under paragraph (4).

"(2) Any deposit made under paragraph (1) more than two years after the later of—

"(A) January 1, 1987; or

"(B) the date on which the employee or Member making the deposit first becomes an employee or Member,

shall include interest on such amount computed and compounded annually beginning on the date of the expiration of the two-year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under section 8334(e).

"(3) Any payment received by an agency, the Secretary of the Senate, or the Clerk of the House of Representatives under this subsection shall be immediately remitted to the Office for deposit in the Treasury of the United States to the credit of the Fund.

"(4) The Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, as appropriate, shall furnish such information to the Office as the Office may determine to be necessary for the administration of this subsection.

"§ 8423. Government contributions

5 USC 8423.

"(a)(1) Each employing agency having any employees or Members subject to section 8422(a) shall contribute to the Fund an amount equal to the sum of—

"(A) the product of—

"(i) the normal-cost percentage, as determined for employees (other than employees covered by subparagraph (B)), multiplied by

"(ii) the aggregate amount of basic pay payable by the agency, for the period involved, to employees (under clause (i)) who are within such agency; and

"(B) the product of—

"(i) the normal-cost percentage, as determined for Members, Congressional employees, law enforcement officers, firefighters, air traffic controllers, military reserve technicians, and employees under sections 302 and 303 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, multipled by

Post, pp. 625, 626.

"(ii) the aggregate amount of basic pay payable by the agency, for the period involved, to employees and Members (under clause (i)) who are within such agency.

"(2) In determining any normal-cost percentage to be applied under this subsection, amounts provided for under section 8422 shall be taken into account.

"(3) Contributions under this subsection shall be paid—

"(A) in the case of law enforcement officers, firefighters, air traffic controllers, military reserve technicians, and other employees, from the appropriation or fund used to pay such law enforcement officers, firefighters, air traffic controllers, military reserve technicians, or other employees, respectively;

"(B) in the case of elected officials, from an appropriation or fund available for payment of other salaries of the same office or establishment; and

"(C) in the case of employees of the legislative branch paid by the Clerk of the House of Representatives, from the contingent fund of the House.

"(4) A contribution to the Fund under this subsection shall be deposited under such procedures as the Comptroller General of the United States may prescribe.

"(b)(1) The Office shall compute—

"(A) the amount of the supplemental liability of the Fund with respect to individuals other than those to whom subparagraph (B) relates, and

"(B) the amount of the supplemental liability of the Fund with respect to current or former employees of the United States Postal Service (and the Postal Rate Commission) and their survivors;

as of the close of each fiscal year beginning after September 30, 1987.

"(2) The amount of any supplemental liability computed under paragraph (1)(A) or (1)(B) shall be amortized in 30 equal annual installments, with interest computed at the rate used in the most recent valuation of the System.

"(3) At the end of each fiscal year, the Office shall notify—

"(A) the Secretary of the Treasury of the amount of the installment computed under this subsection for such year with respect to individuals under paragraph (1)(A); and

"(B) the Postmaster General of the United States of the amount of the installment computed under this subsection for such year with respect to individuals under paragraph (1)(B).

"(4)(A) Before closing the accounts for a fiscal year, the Secretary of the Treasury shall credit to the Fund, as a Government contribution, out of any money in the Treasury of the United States not otherwise appropriated, the amount under paragraph (3)(A) for such year.

"(B) Upon receiving notification under paragraph (3)(B), the United States Postal Service shall pay the amount specified in such notification to the Fund.

"(5) For the purpose of carrying out paragraph (1) with respect to any fiscal year, the Office may—

"(A) require the Board of Actuaries of the Civil Service Retirement System to make actuarial determinations and valuations, make recommendations, and maintain records in the same manner as provided in section 8347(f); and

"(B) use the latest actuarial determinations and valuations made by such Board of Actuaries.

"(c) Under regulations prescribed by the Office, the head of an agency may request reconsideration of any amount determined to be payable with respect to such agency under subsection (a) or (b). Any such request shall be referred to the Board of Actuaries of the Civil Service Retirement System. The Board of Actuaries shall review the computations of the Office and may make any adjustment with respect to any such amount which the Board determines appropriate. A determination by the Board of Actuaries under this subsection shall be final.

"§ 8424. Lump-sum benefits; designation of beneficiary; order of precedence 5 USC 8424.

"(a) Subject to subsection (b), an employee or Member who—

"(1)(A) is separated from the service for at least 31 consecutive days; or

"(B) is transferred to a position in which the individual is not subject to this chapter and remains in such a position for at least 31 consecutive days;

"(2) files an application with the Office for payment of the lump-sum credit;

"(3) is not reemployed in a position in which the individual is subject to this chapter at the time of filing the application; and

"(4) will not become eligible to receive an annuity within 31 days after filing the application;

is entitled to be paid the lump-sum credit. Except as provided in section 8420a, payment of the lump-sum credit to an employee or Member voids all annuity rights under this subchapter, and subchapters IV and V of this chapter, based on the service on which the lump-sum credit is based.

"(b)(1) Payment of the lump-sum credit under subsection (a)—

"(A) may be made only if any current spouse and any former spouse of the employee or Member are notified of the application by the employee or Member; and

"(B) in any case in which there is a former spouse, shall be subject to the terms of a court decree of divorce, annulment, or legal separation issued with respect to such former spouse if—

"(i) the decree expressly relates to any portion of the lump-sum credit involved; and

"(ii) payment of the lump-sum credit would affect any right or interest of the former spouse with respect to a survivor annuity under section 8445, or to any portion of an annuity under section 8467.

"(2)(A) Notification of a spouse or former spouse under this subsection shall be made in accordance with such requirements as the Office shall by regulation prescribe. Regulations.

"(B) Under the regulations, the Office may provide that paragraph (1)(A) may be waived with respect to a spouse or former spouse if the employee or Member establishes to the satisfaction of the Office that the whereabouts of such spouse or former spouse cannot be determined.

"(3) The Office shall prescribe regulations under which this subsection shall be applied in any case in which the Office receives two or more orders or decrees referred to in paragraph (1)(B)(i). Regulations.

"(c) Under regulations prescribed by the Office, an employee or Member, or a former employee or Member, may designate one or more beneficiaries under this section.

"(d) Lump-sum benefits authorized by subsections (e) through (g) shall be paid to the individual or individuals surviving the employee or Member and alive at the date title to the payment arises in the following order of precedence, and the payment bars recovery by any other individual:

"First, to the beneficiary or beneficiaries designated by the employee or Member in a signed and witnessed writing received in the Office before the death of such employee or Member. For this purpose, a designation, change, or cancellation of bene-

ficiary in a will or other document not so executed and filed has no force or effect.

"Second, if there is no designated beneficiary, to the widow or widower of the employee or Member.

"Third, if none of the above, to the child or children of the employee or Member and descendants of deceased children by representation.

"Fourth, if none of the above, to the parents of the employee or Member or the survivor of them.

"Fifth, if none of the above, to the duly appointed executor or administrator of the estate of the employee or Member.

"Sixth, if none of the above, to such other next of kin of the employee or Member as the Office determines to be entitled under the laws of the domicile of the employee or Member at the date of death of the employee or Member.

For the purpose of this subsection, 'child' includes a natural child and an adopted child, but does not include a stepchild.

"(e) If an employee or Member, or former employee or Member, dies—

"(1) without a survivor, or

"(2) with a survivor or survivors and the right of all survivors under subchapter IV terminates before a claim for survivor annuity under such subchapter is filed,

the lump-sum credit shall be paid.

"(f) If all annuity rights under this chapter (other than under subchapter III of this chapter) based on the service of a deceased employee or Member terminate before the total annuity paid equals the lump-sum credit, the difference shall be paid.

"(g) If an annuitant dies, annuity accrued and unpaid shall be paid.

"(h) Annuity accrued and unpaid on the termination, except by death, of the annuity of an annuitant or survivor shall be paid to that individual. Annuity accrued and unpaid on the death of a survivor shall be paid in the following order of precedence, and the payment bars recovery by any other person:

"First, to the duly appointed executor or administrator of the estate of the survivor.

"Second, if there is no executor or administrator, payment may be made, after 30 days from the date of death of the survivor, to such next of kin of the survivor as the Office determines to be entitled under the laws of the domicile of the survivor at the date of death.

5 USC 8425.

"§ 8425. Mandatory separation

"(a) An air traffic controller who is otherwise eligible for immediate retirement under section 8412(e) shall be separated from the service on the last day of the month in which that air traffic controller becomes 56 years of age or completes 20 years of service if then over that age. The Secretary, under such regulations as the Secretary may prescribe, may exempt a controller having exceptional skills and experience as a controller from the automatic separation provisions of this subsection until that controller becomes 61 years of age. The Secretary shall notify the controller in writing of the date of separation at least 60 days before that date. Action to separate the controller is not effective, without the consent of the controller, until the last day of the month in which the 60-day notice expires.

"(b) A law enforcement officer or firefighter who is otherwise eligible for immediate retirement under section 8412(d) shall be separated from the service on the last day of the month in which that law enforcement officer or firefighter becomes 55 years of age or completes 20 years of service if then over that age. If the head of the agency judges that the public interest so requires, that agency head may exempt such an employee from automatic separation under this subsection until that employee becomes 60 years of age. The employing office shall notify the employee in writing of the date of separation at least 60 days before that date. Action to separate the employee is not effective, without the consent of the employee, until the last day of the month in which the 60-day notice expires.

"(c) The President, by Executive order, may exempt an employee from automatic separation under this section if the President determines the public interest so requires. President of U.S.

"SUBCHAPTER III—THRIFT SAVINGS PLAN

"§ 8431. Definition

5 USC 8431.

"Notwithstanding section 8401 of this title, for the purpose of this subchapter, the term 'basic pay', when used with respect to an employee or Member, means the basic pay of the employee or Member established pursuant to law, without regard to any provision of law (except sections 5308 and 5382(b) of this title) limiting the rate of pay actually payable in any pay period (including any provision of law restricting the use of appropriated funds).

"§ 8432. Contributions

5 USC 8432.

"(a) An employee or Member may contribute to the Thrift Savings Fund in any pay period, pursuant to an election under subsection (b)(1), an amount not to exceed 10 percent of such individual's basic pay for such period. Contributions made under this subsection during any 6-month period for which an election period is provided under subsection (b)(1) shall be made each pay period during such 6-month period pursuant to a program of regular contributions provided in regulations prescribed by the Executive Director.

"(b)(1)(A) The Executive Director shall prescribe regulations under which employees and Members shall be afforded a reasonable period every 6 months to elect to make contributions under subsection (a), to modify the amount to be contributed under such subsection, or to terminate such contributions. An election to make such contributions shall remain in effect until modified or terminated. Regulations.

"(B) The amount to be contributed pursuant to an election under subparagraph (A) shall be the percentage of basic pay or amount designated by the employee or Member.

"(2) Under the regulations—

"(A) an employee or Member who has not previously been eligible to make an election under this subsection shall not become so eligible until the second period (described in paragraph (1)) beginning after the date of commencing service as an employee or Member;

"(B) an employee or Member whose appointment or election to a position or office in the Federal Government follows a previous period of service during which that individual met the requirements of subparagraph (A) shall be eligible to make an

election under this subsection notwithstanding any period of separation;

"(C) an employee or Member who elects under subparagraph (D) to terminate contributions shall not again become eligible to make an election under this subsection until the second period (described in paragraph (1)) commencing after the election to terminate; and

"(D) an election to terminate may be made under this subparagraph at any time other than during a period afforded under paragraph (1).

"(3) Notwithstanding paragraph (2)(A), an employee or Member who elects to become subject to this chapter under section 301 of the Federal Employees' Retirement System Act of 1986 may make the first election for the purpose of subsection (a) during the period prescribed for such purpose by the Executive Director. The period prescribed by the Executive Director shall commence on the date on which the employee or Member makes the election to become subject to this chapter.

"(4) Notwithstanding paragraph (2)(A), an employee or Member who is an employee or Member on January 1, 1987, and has creditable service described in section 8411(b)(2) of this title may make the first election for the purpose of subsection (a) during the election period prescribed for such purpose by the Executive Director. The Executive Director shall prescribe an election period for such purpose which shall commence on January 1, 1987. An election by such an employee or Member during that election period shall be effective on the first day of the employee's or Member's first pay period which begins after the last day of that election period.

"(c)(1) At the end of the pay period that includes the first date on which an employee or Member may make contributions under subsection (a) (without regard to whether the employee or Member has elected to make such contributions during such pay period), and at the end of each succeeding pay period, the employing agency shall contribute to the Thrift Savings Fund for the benefit of such employee or Member the amount equal to 1 percent of the basic pay of such employee or Member for such pay period.

"(2)(A) In addition to contributions made under paragraph (1), the employing agency of an employee or Member who contributes to the Thrift Savings Fund under subsection (a) for any pay period shall make a contribution to the Thrift Savings Fund for the benefit of such employee or Member. The employing agency's contribution shall be made at the end of such pay period.

"(B) The amount contributed under subparagraph (A) by an employing agency with respect to a contribution of an employee or Member during any pay period shall be the amount equal to the sum of—

"(i) such portion of the total amount of the employee's or Member's contribution as does not exceed 3 percent of such employee's or Member's basic pay for such period; and

"(ii) one-half of such portion of the amount of the employee's or Member's contribution as exceeds 3 percent, but does not exceed 5 percent, of such employee's or Member's basic pay for such pay period.

"(3)(A) There shall be contributed to the Thrift Savings Fund on behalf of each employee or Member described in subparagraph (B) the amount determined under subparagraph (C).

"(B) An employee or Member referred to in subparagraph (A) is an employee or Member who—

"(i) is an employee or Member on January 1, 1987;

"(ii) has creditable service described in section 8411(b)(2) of this title; and

"(iii) has not received a refund of the amount of the retirement deductions made with respect to such service under section 204 of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983.

5 USC 8331 note.

"(C) The amount referred to in subparagraph (A) in the case of an employee or Member is equal to the sum of—

"(i) 1 percent of the total basic pay paid to such employee or Member for service described in section 8411(b)(2) of this title; and

"(ii) interest on such amount computed with respect to such service in the manner provided in paragraphs (2) and (3) of section 8334(e) of this title.

"(D) The Secretary of the Treasury shall credit to the Thrift Savings Fund, out of any sums in the Treasury not otherwise appropriated, the amounts determined by the Director to be necessary to carry out this paragraph.

"(d) Notwithstanding any other provision of this section, no contribution may be made under this section for any year to the extent that such contribution, when added to prior contributions for such year, exceeds any limitation under section 415 of the Internal Revenue Code of 1954.

26 USC 415.

"(e) The sums required to be contributed to the Thrift Savings Fund by an employing agency under subsection (c) for the benefit of an employee or Member shall be paid from the appropriation or fund available to such agency for payment of salaries of the employee's or Member's office or establishment. When an employee or Member in the legislative branch is paid by the Clerk of the House of Representatives, the Clerk may pay from the contingent fund of the House of Representatives the contribution that otherwise would be contributed from the appropriation or fund used to pay the employee or Member.

"(f) Amounts contributed by an employee or Member under subsection (a) and amounts contributed with respect to such employee or Member under subsection (c) shall be deposited in the Thrift Savings Fund to the credit of that employee's or Member's account in accordance with such procedures as the Comptroller General of the United States may, in consultation with the Executive Director, prescribe in regulations.

"(g)(1) Except as provided in paragraphs (2) and (3), all contributions made under this section shall be fully nonforfeitable when made.

"(2) Contributions made for the benefit of an employee under subsection (c)(1) and all earnings attributable to such contributions shall be forfeited if the employee separates from Government employment before completing—

"(A) 2 years of civilian service in the case of an employee who, at the time of separation, is serving in—

"(i) a position in the Senior Executive Service as a noncareer appointee (as defined in section 3132(a)(7) of this title);

"(ii) a position listed in section 5312, 5313, 5314, 5315, or 5316 of this title or a position placed in level IV or V of the Executive Schedule under section 5317 of this title; or

"(iii) a position in the Executive branch which is excepted from the competitive service by the Office by reason of the confidential and policy-determining character of the position; or

"(B) 3 years of civilian service in the case of an employee who is not serving in a position described in subparagraph (A) at the time of separation.

"(3) Contributions made for the benefit of a Member or Congressional employee under subsection (c)(1) and all earnings attributable to such contributions shall be forfeited if the Member or Congressional employee separates from Government employment before completing 2 years of civilian service.

"(h) No transfers or contributions may be made to the Thrift Savings Fund except as provided in this chapter or section 8351 of this title.

5 USC 8433.

"§ 8433. Benefits and election of benefits

"(a) An employee or Member who separates from Government employment is entitled to the amount of the balance in the employee's or Member's account (except for the portion of such amount forfeited under section 8432(g) of this title, if any) as provided in this section.

"(b) Subject to section 8435 of this title, any employee or Member who separates from Government employment entitled to an immediate annuity under subchapter II of this chapter, any employee or Member who separates from Government employment entitled to benefits under subchapter I of chapter 81 of this title, and any employee or Member who is entitled to receive disability benefits under subchapter V of this chapter is entitled and may elect—

5 USC 8101.

"(1) to receive an immediate annuity from the Thrift Savings Fund;

"(2) to defer the commencement of the payment of an annuity from the Thrift Savings Fund until such date as the employee or Member specifies, but not later than April 1 of the year following the year in which the employee or Member becomes 70½ years of age;

"(3) to withdraw the amount of the balance in the employee's or Member's account in the Thrift Savings Fund in one or more substantially equal payments to be made not less frequently than annually and to commence before April 1 of the year following the year in which the employee or Member becomes 70½ years of age; or

"(4) to transfer the amount of the balance in the employee's or Member's account to an eligible retirement plan as provided in subsection (e).

"(c) Subject to section 8435 of this title, any employee or Member who separates from Government employment entitled to a deferred annuity under subchapter II of this chapter is entitled and may elect—

"(1) to receive an immediate annuity from the Thrift Savings Fund;

"(2) to defer the commencement of the payment of an annuity from the Thrift Savings Fund until such date as the employee or Member specifies, but not later than April 1 of the year

following the year in which the employee or Member becomes 70½ years of age;

"(3) to withdraw the amount of the balance in the employee's or Member's account in the Thrift Savings Fund in one or more substantially equal payments to be made not less frequently than annually and to commence during any period which (A) commences on or after the date on which payment of the employee's or Member's annuity under subchapter II of this chapter commences, and (B) ends not later than April 1 of the year following the year in which the employee or Member becomes 70½ years of age; or

"(4) to transfer the amount of the balance in the employee's or Member's account to an eligible retirement plan as provided in subsection (e).

"(d) Subject to section 8435 of this title, any employee or Member who separates from Government employment before becoming entitled to a deferred annuity under subchapter II of this chapter shall transfer the amount of the balance in the employee's or Member's account to an eligible retirement plan as provided in subsection (e).

"(e)(1) The Executive Director shall make each transfer elected under subsection (b)(4) or (c)(4) or required under subsection (d) directly to an eligible retirement plan or plans (as defined in section 402(a)(5)(E) of the Internal Revenue Code of 1954) identified by the employee, Member, former employee, or former Member for whom the transfer is made. 26 USC 402.

"(2) A transfer may not be made for an employee, Member, former employee, or former Member under paragraph (1) until the Executive Director receives from that individual the information required by the Executive Director specifically to identify the eligible retirement plan or plans to which the transfer is to be made.

"(f)(1) Subject to paragraph (3)(A) and subsections (a) and (d) of section 8435 of this title, an employee or Member may change an election previously made under this subchapter.

"(2) Subject to paragraph (3)(B) and section 8435(d) of this title, a former employee or Member who has made an election pursuant to subsection (b)(2) or (c)(2) may modify the date specified in such election or in a previous modification under this paragraph.

"(3)(A) A former employee or Member may not change an election under this section on or after the date on which a payment is made in accordance with such election or, in the case of an election to receive an annuity, the date on which an annuity elected by the former employee or Member commences.

"(B) A modification of a date may not be made under paragraph (2) on or after such date and may not specify a date for the commencement of an annuity earlier than 1 month after the date on which the modification is submitted to the Executive Director.

"(g) If an employee or Member (or former employee or Member) dies without having made an election under this section or after having elected an annuity under this section but before making an election under section 8434 of this title, an amount equal to the value of that individual's account (as of death) shall, subject to any decree, order, or agreement referred to in section 8435(d)(2) of this title be paid in a manner consistent with section 8424(d) of this title.

"(h) Unless otherwise elected under this section, benefits under this subchapter shall be paid as an annuity commencing for an employee, Member, former employee, or former Member on February 1 of the year following the latest of the year in which—

"(1) the employee, Member, former employee, or former Member becomes 65 years of age;

"(2) occurs the tenth anniversary of the year in which the employee, Member, former employee, or former Member became subject to this subchapter; or

"(3) the employee, Member, former employee, or former Member separates from Government employment.

"(i)(1) At any time after December 31, 1987, and before separation, an employee or Member may apply to the Board for permission to borrow from the employee's or Member's account an amount not exceeding the value of that portion of such account which is attributable to contributions made by the employee or Member under section 8432(a) of this title.

"(2) An application under this subsection may be approved only for—

"(A) the purchase of a primary residence;

"(B) educational expenses;

"(C) medical expenses; or

"(D) financial hardship.

"(3) Loans under this subsection shall be subject to such conditions as the Board may prescribe consistent with section 408(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)(1)). The conditions shall be included in regulations issued by the Executive Director.

"(4) A loan may not be made under this subsection to the extent that the loan would be treated as a taxable distribution under section 72(p) of the Internal Revenue Code of 1954.

26 USC 72.

"(5) A loan may not be made under this subsection unless the requirements of section 8435(f) of this title are satisfied.

5 USC 8434.

"§ 8434. Annuities: methods of payment; election; purchase

"(a)(1) The Board shall prescribe methods of payment of annuities under this subchapter.

"(2) The methods of payment prescribed under paragraph (1) shall include, but not be limited to—

"(A) a method which provides for the payment of a monthly annuity only to an annuitant during the life of the annuitant;

"(B) a method which provides for the payment of a monthly annuity to an annuitant for the joint lives of the annuitant and the spouse of the annuitant and an appropriate monthly annuity to the one of them who survives the other of them for the life of the survivor;

"(C) a method described in subparagraph (A) which provides annual increases in the amount of the annuity payable;

"(D) a method described in subparagraph (B) which provides annual increases in the amount of the annuity payable; and

"(E) a method which provides for the payment of a monthly annuity—

"(i) to the annuitant for the joint lives of the annuitant and an individual who is designated by the annuitant under regulations prescribed by the Executive Director and (I) is a former spouse of the annuitant, or (II) has an insurable interest in the annuitant; and

"(ii) to the one of them who survives the other of them for the life of the survivor.

Regulations.

"(b) Subject to section 8435(c) of this title, under such regulations as the Executive Director shall prescribe, an employee, Member,

former employee, or former Member who elects under section 8433 of this title to receive an annuity under this subchapter shall elect, on or before the date on which the annuity commences, one of the methods of payment prescribed under subsection (a).

"(c) Notwithstanding an elimination of a method of payment by the Board—

"(1) an employee, Member, former employee, or former Member who is entitled under section 8412 of this title to an immediate annuity not reduced under section 8415(f) of this title may elect the eliminated method if the elimination of such method became effective less than 5 years before the date on which the annuity commences; and

"(2) any other employee, Member, former employee, or former Member may elect such method of payment for amounts contributed by or on behalf of the employee, Member, former employee, or former Member under section 8432 of this title before such effective date and for earnings attributable to such amounts.

"(d)(1) At the time an annuity is to commence under this subchapter, the Executive Director shall expend the balance in the annuitant's account to purchase an annuity contract from any entity which, in the normal course of its business, sells and provides annuities.

"(2) The Executive Director shall assure, by contract entered into with each entity from which an annuity contract is purchased under paragraph (1), that the annuity shall be provided in accordance with the provisions of this subchapter and subchapter VII of this chapter. Contracts.

"(3) An annuity contract purchased under paragraph (1) shall include such terms and conditions as the Executive Director requires for the protection of the annuitant.

"(4) The Executive Director shall require, from each entity from which an annuity contract is purchased under paragraph (1), a bond or proof of financial responsibility sufficient to protect the annuitant.

"§ 8435. Protections for spouses and former spouses 5 USC 8435.

"(a)(1)(A) A married employee or Member (or former employee or Member) may make an election under subsection (b)(3), (b)(4), (c)(3), or (c)(4) of section 8433 of this title or change an election previously made under subsection (b)(1), (b)(2), (c)(1), or (c)(2) of such section only if the employee or Member (or former employee or Member) satisfies the requirements of subparagraph (B).

"(B) An employee or Member (or former employee or Member) may make an election or change referred to in subparagraph (A) if the employee or Member and the employee's or Member's spouse (or the former employee or Member and the former employee's or Member's spouse) jointly waive, by written election, any right which the spouse may have to a survivor annuity with respect to such employee or Member (or former employee or Member) under section 8434 of this title or subsection (c).

"(2) Paragraph (1) shall not apply to an election or change of election by an employee or Member (or former employee or Member) who establishes to the satisfaction of the Executive Director (at the time of the election or change and in accordance with regulations prescribed by the Executive Director)—

"(A) that the spouse's whereabouts cannot be determined; or

"(B) that, due to exceptional circumstances, requiring the spouse's waiver would otherwise be inappropriate.

"(b)(1) Except as provided in paragraph (2), a transfer may be made by an employee or Member (or former employee or Member) under section 8433(d) of this title only after the Executive Director notifies any current spouse and each former spouse of the employee or Member (or former employee or Member), if any, that the transfer is to be made.

"(2) Paragraph (1) may be waived with respect to a spouse or former spouse if the employee or Member (or former employee or Member) establishes to the satisfaction of the Executive Director that the whereabouts of such spouse or former spouse cannot be determined.

"(c)(1) Notwithstanding any election under subsection (b) of section 8434 of this title, the method described in subsection (a)(2)(B) of such section (or, if more than one form of such method is available, the form which the Board determines to be the one which provides for a surviving spouse a survivor annuity most closely approximating the annuity of a surviving spouse under section 8442 of this title) shall be deemed the applicable method under such subsection (b) in the case of an employee, Member, former employee, or former Member who is married on the date on which the employee's, Member's, former employee's, or former Member's annuity commences under this subchapter.

"(2) Paragraph (1) shall not apply—

"(A) in the case of an employee or Member retiring under section 8412, 8413, 8414, or 8451 of this title if—

"(i) a joint waiver of such method is made, in writing, by the employee or Member and the spouse; or

"(ii) the employee or Member waives such method, in writing, after establishing to the satisfaction of the Executive Director that circumstances described in subsection (a)(2)(A) or (a)(2)(B) make the requirement of a joint waiver inappropriate; or

"(B) in the case of an employee or Member not covered by subparagraph (A), if the employee or Member waives such method after—

"(i) having provided notification to the spouse of intent to waive; or

"(ii) establishing to the satisfaction of the Executive Director that the whereabouts of such spouse cannot be determined.

"(d)(1) An election, change of election, or modification of the commencement date of a deferred annuity shall not be effective under this subchapter and a transfer may not be made under section 8433(d) of this title to the extent that the election, change, modification, or transfer conflicts with any court decree, order, or agreement described in paragraph (2).

"(2) A court decree, order, or agreement referred to in paragraph (1) is, with respect to an employee or Member (or former employee or Member), a court decree of divorce, annulment, or legal separation issued in the case of such employee or Member (or former employee or Member) and any former spouse of the employee or Member (or former employee or Member) or any court order or court-approved property settlement agreement incident to such decree if—

"(A) the decree, order, or agreement expressly relates to any portion of the balance in the employee's or Member's (or former employee's or Member's) account; and

"(B) notice of the decree, order, or agreement was received by the Executive Director before—

"(i) the date on which payment is made, or

"(ii) in the case of an annuity, the date on which the annuity commences,

in accordance with the election, change, modification, or contribution referred to in paragraph (1).

"(3) The Executive Director shall prescribe regulations under which this subsection shall be applied in any case in which the Executive Director receives two or more decrees, orders, or agreements referred to in paragraph (1). Regulations.

"(e)(1) Subject to paragraphs (2) through (7), a former spouse of a deceased employee or Member (or a deceased former employee or Member) who died after performing 18 or more months of service and a former spouse of a deceased former employee or Member who died entitled to an immediate or deferred annuity under subchapter II of this chapter is entitled to a survivor annuity under this subsection if and to the extent that—

"(A) an election under section 8434(a)(2)(E) of this title, or

"(B) any court decree, order, or agreement (described in subsection (d)(2), without regard to subparagraph (B) of such subsection) which relates to such deceased individual and such former spouse,

expressly provides for such survivor annuity.

"(2) Paragraph (1) shall apply only to payments made by the Executive Director after the date on which the Executive Director receives written notice of the election, decree, order, or agreement, and such additional information and documentation as the Executive Director may require.

"(3) The amount of the survivor annuity payable from the Thrift Savings Fund to a former spouse of a deceased employee, Member, former employee, or former Member under this section may not exceed the excess, if any, of—

"(A) the amount of the survivor annuity determined for a surviving spouse of the deceased employee, Member, former employee, or former Member under the method described in subsection (c)(1), over

"(B) the total amount of all other survivor annuities payable under this subchapter to other former spouses of such deceased employee, Member, former employee, or former Member based on the order of precedence provided in paragraph (4).

"(4) If more than one former spouse of a deceased employee, Member, former employee, or former Member is entitled to a survivor annuity pursuant to this subsection, the amount of each such survivor annuity shall be limited appropriately to carry out paragraph (3) in the order of precedence established for the entitlements by the chronological order of the dates on which elections are properly made pursuant to section 8434(a)(2)(E) of this title and the dates on which the court decrees, orders, or agreements applicable to the entitlement were issued, as the case may be.

"(5) Subsections (c) and (d) of section 8445 of this title shall apply to an entitlement of a former spouse to a survivor annuity under this subsection.

"(6) For the purposes of this section, a court decree, order, or agreement or an election referred to in subsection (a) of this section shall not be effective, in the case of a former spouse, to the extent that the election is inconsistent with any joint waiver previously executed with respect to such former spouse under subsection (a)(2) or (c)(2).

"(7) Any payment under this subsection to any individual bars recovery by any other individual.

Loans.

"(f)(1)(A) A loan may be made to a married employee or Member under section 8433(i) of this title only if the employee's or Member's spouse consents to such loan in writing.

"(B) A consent under subparagraph (A) shall be irrevocable with respect to the loan to which the consent relates.

"(C) Subparagraph (A) shall not apply to a loan to an employee or Member who establishes to the satisfaction of the Executive Director (at the time the employee or Member applies for such loan and in accordance with regulations prescribed by the Executive Director)—

"(i) that the spouse's whereabouts cannot be determined; or

"(ii) that, due to exceptional circumstances, requiring the employee or Member to seek the spouse's consent would otherwise be inappropriate.

"(2) An application for a loan under section 8433(i) of this title shall not be approved if approval would have the result described in subsection (d)(1).

"(g) Waivers and notifications required by this section and waivers of the requirements for such waivers and notifications (as authorized by this section) may be made only in accordance with procedures prescribed by the Executive Director.

"(h) The protections provided by this section are in addition to the protections provided by section 8467 of this title.

5 USC 8436.

"§ 8436. Administrative provisions

"(a) The Executive Director shall make or provide for payments and transfers in accordance with an election of an employee or Member under section 8433 or 8434(b) of this title or, if applicable, in accordance with section 8435 of this title.

"(b) Any election, change of election, or modification of a deferred annuity commencement date made under this subchapter shall be in writing and shall be filed with the Executive Director in accordance with regulations prescribed by the Executive Director.

5 USC 8437.

"§ 8437. Thrift Savings Fund

"(a) There is established in the Treasury of the United States a Thrift Savings Fund.

"(b) The Thrift Savings Fund consists of the sum of all amounts contributed under section 8432 of this title and all amounts deposited under section 8479(b) of this title, increased by the total net earnings from investments of sums in the Thrift Savings Fund or reduced by the total net losses from investments of the Thrift Savings Fund, and reduced by the total amount of payments made from the Thrift Savings Fund (including payments for administrative expenses).

"(c) The sums in the Thrift Savings Fund are appropriated and shall remain available without fiscal year limitation—

"(1) to invest under section 8438 of this title;

"(2) to pay benefits or purchase annuity contracts under this subchapter;

"(3) to pay the administrative expenses of the Federal Retirement Thrift Investment Management System prescribed in subchapter VII of this chapter;

"(4) to make distributions for the purposes of section 8440(b) of this title;

"(5) to make loans to employees and Members as authorized under section 8433(i) of this title; and

"(6) to purchase insurance as provided in section 8479(b)(2) of this title.

"(d) Administrative expenses incurred to carry out this subchapter and subchapter VII of this chapter shall be paid first out of any sums in the Thrift Savings Fund forfeited under section 8432(g) of this title and then out of net earnings in such Fund attributable to sums contributed to such Fund under section 8432(c) of this title.

"(e)(1) Subject to paragraphs (2) and (3), sums in the Thrift Savings Fund credited to the account of an employee, Member, former employee, or former Member may not be used for, or diverted to, purposes other than for the exclusive benefit of the employee, Member, former employee, or former Member or his beneficiaries under this subchapter.

"(2) Except as provided in paragraph (3), sums in the Thrift Savings Fund may not be assigned or alienated and are not subject to execution, levy, attachment, garnishment, or other legal process. For the purposes of this paragraph, a loan made from such Fund to an employee or Member shall not be considered to be an assignment or alienation.

Child support. Alimony. Law enforcement and crime.

"(3) Moneys due or payable from the Thrift Savings Fund to any individual and, in the case of an individual who is an employee or Member (or former employee or Member), the balance in the account of the employee or Member (or former employee or Member) shall be subject to legal process for the enforcement of the individual's legal obligations to provide child support or make alimony payments as provided in section 459 of the Social Security Act (42 U.S.C. 659).

"(f) The sums in the Thrift Savings Fund shall not be appropriated for any purpose other than the purposes specified in this section and may not be used for any other purpose.

"(g) All sums contributed to the Thrift Savings Fund by an employee or Member or by an employing agency for the benefit of such employee or Member and all net earnings in such Fund attributable to investment of such sums are held in such Fund in trust for such employee or Member.

"§ 8438. Investment of Thrift Savings Fund

5 USC 8438.

"(a) For the purposes of this section—

"(1) the term 'Common Stock Index Investment Fund' means the Common Stock Index Investment Fund established under subsection (b)(1)(C);

"(2) the term 'equity capital' means common and preferred stock, surplus, undivided profits, contingency reserves, and other capital reserves;

"(3) the term 'Fixed Income Investment Fund' means the Fixed Income Investment Fund established under subsection (b)(1)(B);

"(4) the term 'Government Securities Investment Fund' means the Government Securities Investment Fund established under subsection (b)(1)(A);

"(5) the term 'net worth' means capital, paid-in and contributed surplus, unassigned surplus, contingency reserves, group contingency reserves, and special reserves;

"(6) the term 'plan' means an employee benefit plan, as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3));

"(7) the term 'qualified professional asset manager' means—

"(A) a bank, as defined in section 202(a)(2) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(2)) which—

"(i) has the power to manage, acquire, or dispose of assets of a plan; and

"(ii) has, as of the last day of its latest fiscal year ending before the date of a determination for the purpose of this clause, equity capital in excess of $1,000,000;

"(B) a savings and loan association, the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, which—

"(i) has applied for and been granted trust powers to manage, acquire, or dispose of assets of a plan by a State or Government authority having supervision over savings and loan associations; and

"(ii) has, as of the last day of its latest fiscal year ending before the date of a determination for the purpose of this clause, equity capital or net worth in excess of $1,000,000;

"(C) an insurance company which—

"(i) is qualified under the laws of more than one State to manage, acquire, or dispose of any assets of a plan;

"(ii) has, as of the last day of its latest fiscal year ending before the date of a determination for the purpose of this clause, net worth in excess of $1,000,000; and

"(iii) is subject to supervision and examination by a State authority having supervision over insurance companies; or

"(D) an investment adviser registered under section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3) if the investment adviser has, on the last day of its latest fiscal year ending before the date of a determination for the purpose of this subparagraph, total client assets under its management and control in excess of $50,000,000, and—

"(i) the investment adviser has, on such day, shareholder's or partner's equity in excess of $750,000; or

"(ii) payment of all of the investment adviser's liabilities, including any liabilities which may arise by reason of a breach or violation of a duty described in section 8477 of this title, is unconditionally guaranteed by—

"(I) a person (as defined in section 8471(4) of this title) who directly or indirectly, through one or more intermediaries, controls, is controlled by, or

is under common control with the investment adviser and who has, on the last day of the person's latest fiscal year ending before the date of a determination for the purpose of this clause, shareholder's or partner's equity in an amount which, when added to the amount of the shareholder's or partner's equity of the investment adviser on such day, exceeds $750,000;

"(II) a qualified professional asset manager described in subparagraph (A), (B), or (C); or

"(III) a broker or dealer registered under section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) that has, on the last day of the broker's or dealer's latest fiscal year ending before the date of a determination for the purpose of this clause, net worth in excess of $750,000; and

15 USC 78o.

"(8) the term 'shareholder's or partner's equity', as used in paragraph (7)(D) with respect to an investment adviser or a person (as defined in section 8471(4) of this title) who is affiliated with the investment adviser in a manner described in clause (ii)(I) of such paragraph (7)(D), means the equity shown in the most recent balance sheet prepared for such investment adviser or affiliated person, in accordance with generally accepted accounting principles, within 2 years before the date on which the investment adviser's status as a qualified professional asset manager is determined for the purposes of this section.

"(b)(1) The Board shall establish—

"(A) a Government Securities Investment Fund under which sums in the Thrift Savings Fund are invested in securities of the United States Government issued as provided in subsection (f);

"(B) a Fixed Income Investment Fund under which sums in the Thrift Savings Fund are invested in—

"(i) insurance contracts;

"(ii) certificates of deposits; or

"(iii) other instruments or obligations selected by qualified professional asset managers,

which return the amount invested and pay interest, at a specified rate or rates, on that amount during a specified period of time; and

"(C) a Common Stock Index Investment Fund as provided in paragraph (2).

"(2)(A) The Board shall select an index which is a commonly recognized index comprised of common stock the aggregate market value of which is a reasonably complete representation of the United States equity markets.

"(B) The Common Stock Index Investment Fund shall be invested in a portfolio designed to replicate the performance of the index selected under subparagraph (A). The portfolio shall be designed such that, to the extent practicable, the percentage of the Common Stock Index Investment Fund that is invested in each stock is the same as the percentage determined by dividing the aggregate market value of all shares of that stock by the aggregate market value of all shares of all stocks included in such index.

"(c)(1) Subject to subsection (e), the Executive Director shall invest the sums available in the Thrift Savings Fund for investment as provided in elections made under subsection (d).

"(2) If an election has not been made with respect to any sums in the Thrift Savings Fund available for investment, the Executive Director shall invest such sums in the Government Securities Investment Fund.

"(d)(1) At least twice each year, an employee or Member (or former employee or Member) may elect the investment funds referred to in subsection (b) into which the sums in the Thrift Savings Fund credited to such individual's account and not subject to subsection (e) are to be invested or reinvested.

"(2) An election may be made under paragraph (1) only in accordance with regulations prescribed by the Executive Director and within such period as the Executive Director shall provide in such regulations.

"(e)(1)(A) During each year specified under column 1 of table I set out in subparagraph (D), the Executive Director shall invest, with respect to each employee, Member, former employee, and former Member not less than the percentage determined under subparagraph (B) of the amount described in subparagraph (C) in the Government Securities Investment Fund.

"(B) For the purposes of subparagraph (A), the minimum percentage applicable to investments during a year specified under column 1 of table I is the percentage which corresponds to such year under column 2 of table I.

"(C) The amount to be invested as provided in subparagraph (A) in any year specified under column 1 of table I is the total amount contributed to the Thrift Savings Fund by an employee, Member, former employee, or former Member under section 8432(a) of this title and available for investment during such year.

"(D) Table I is as follows:

"TABLE I

"Column 1 Year:	Column 2 Minimum percentage:
1987	100
1988	80
1989	60
1990	40
1991	20.

"(2)(A) During each year specified under column 1 of table II set out in subparagraph (D), the Executive Director shall invest, with respect to each employee, Member, former employee, and former Member not less than the percentage determined under subparagraph (B) of the amount described in subparagraph (C) in the Government Securities Investment Fund.

"(B) For the purposes of subparagraph (A), the minimum percentage applicable to investments during a year specified under column 1 of table II is the percentage which corresponds to such year under column 2 of table II.

"(C) The amount to be invested as provided in subparagraph (A) in any year specified under column 1 of table II is the total amount contributed to the Thrift Savings Fund for the benefit of an employee, Member, former employee, or former Member under section 8432(c) of this title and available for investment during such year.

"(D) Table II is as follows:

"TABLE II

"Column 1 Year:	Column 2 Minimum percentage:
1987-1992	100
1993	80
1994	60
1995	40
1996	20.

"(3)(A) Before 1992, the sums invested in the Government Securities Investment Fund as required by paragraph (1) and the earnings attributable to the investment of such sums may not be reinvested in any investment fund other than the Government Securities Investment Fund.

"(B) Before 1997, the sums invested in the Government Securities Investment Fund as required by paragraph (2) and the earnings attributable to the investment of such sums may not be reinvested in any investment fund other than the Government Securities Investment Fund.

"(f)(1) The Secretary of the Treasury is authorized to issue special interest-bearing obligations of the United States for purchase by the Thrift Savings Fund for the Government Securities Investment Fund.

"(2)(A) Obligations issued for the purpose of this subsection shall have maturities fixed with due regard to the needs of such Fund as determined by the Executive Director, and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue of such obligations) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable earlier than 4 years after the end of such calendar month.

"(B) Any average market yield computed under subparagraph (A) which is not a multiple of one-eighth of 1 percent, shall be rounded to the nearest multiple of one-eighth of 1 percent.

"(g) The Board, other Government agencies, the Executive Director, an employee, a Member, a former employee, and a former Member may not exercise voting rights associated with the ownership of securities by the Thrift Savings Fund.

"§ 8439. Accounting and information 5 USC 8439.

"(a)(1) The Executive Director shall establish and maintain an account for each individual for whom contributions are made under section 8432(c)(1) of this title or who makes contributions to the Thrift Savings Fund under section 8351 of this title.

"(2) The balance in an individual's account at any time is the excess of—

"(A) the sum of—

"(i) all contributions made to the Thrift Savings Fund by the individual under section 8432(a) or 8351 of this title;

"(ii) all contributions made to such Fund for the benefit of the individual under section 8432(c) of this title; and

"(iii) the total amount of the allocations made to and reductions made in the account pursuant to paragraph (3), over

"(B) the amounts paid out of the Thrift Savings Fund with respect to such individual under this subchapter.

"(3) Pursuant to regulations prescribed by the Executive Director, the Executive Director shall allocate to each account an amount equal to a pro rata share of the net earnings and net losses from each investment of sums in the Thrift Savings Fund attributable to sums credited to such account, reduced by an appropriate share of

the administrative expenses paid out of the net earnings under section 8437(d) of this title, as determined by the Executive Director.

"(b)(1) For the purposes of this subsection, the term 'qualified public accountant' shall have the same meaning as provided in section 103(a)(3)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023(a)(3)(D)).

Audit.

"(2) The Executive Director shall annually engage, on behalf of all individuals for whom an account is maintained, an independent qualified public accountant, who shall conduct an examination of all accounts and other books and records maintained in the administration of this subchapter and subchapter VII as the public accountant considers necessary to enable the public accountant to make the determination required by paragraph (3). The examination shall be conducted in accordance with generally accepted auditing standards and shall involve such tests of the accounts, books, and records as the public accountant considers necessary.

"(3) The public accountant conducting an examination under paragraph (2) shall determine whether the accounts, books, and records referred to in such paragraph have been maintained in conformity with generally accepted accounting principles applied on a basis consistent with the manner in which such principles were applied during the examination conducted under such paragraph during the preceding year. The public accountant shall transmit to the Board and the Comptroller General of the United States a report on his examination, including his determination under this paragraph.

Report.

"(4) In making a determination under paragraph (3), a public accountant may rely on the correctness of any actuarial matter certified by an enrolled actuary if the public accountant states his reliance in the report transmitted to the Board under such paragraph.

Regulations.

"(c)(1) The Board shall prescribe regulations under which each individual for whom an account is maintained shall be furnished with—

"(A) a periodic statement relating to the individual's account; and

"(B) a summary description of the investment options under section 8438 of this title covering, and an evaluation of, each such option the 5-year period preceding the date as of which such evaluation is made.

"(2) Information under this subsection shall be provided at least 30 calendar days before the beginning of each election period under section 8432(b)(1)(A) of this title, and in a manner designed to facilitate informed decisionmaking with respect to elections under sections 8432 and 8438 of this title.

"(d) Each employee, Member, former employee, or former Member who elects to invest in the Common Stock Index Investment Fund or the Fixed Income Investment Fund described in paragraphs (1) and (3), respectively, of section 8438(a) of this title shall sign an acknowledgement prescribed by the Executive Director which states that the employee, Member, former employee, or former Member understands that an investment in either such Fund is made at the employee's, Member's, former employee's, or former Member's risk, that the employee, Member, former employee, or former Member is not protected by the Government against any loss on such investment, and that a return on such investment is not guaranteed by the Government.

"§ 8440. Tax treatment of the Thrift Savings Fund 5 USC 8440.

"(a) For purposes of the Internal Revenue Code of 1954— 26 USC 1 *et seq.*

"(1) the Thrift Savings Fund shall be treated as a trust described in section 401(a) of such Code which is exempt from taxation under section 501(a) of such Code; 26 USC 401. 26 USC 501.

"(2) any contribution to, or distribution from, the Thrift Savings Fund shall be treated in the same manner as contributions to or distributions from such a trust; and

"(3) subject to the provisions of subsection (b) and any dollar limitation on the application of section 402(a)(8) of such Code, contributions to the Thrift Savings Fund shall not be treated as distributed or made available to an employee or Member nor as a contribution made to the Fund by an employee or Member merely because the employee or Member has, under the provisions of this subchapter and section 8351 of this title, an election whether the contribution will be made to the Thrift Savings Fund or received by the employee or Member in cash. 26 USC 402.

"(b)(1) Subsection (a)(3) shall not apply to the Thrift Savings Fund unless the Fund meets the antidiscrimination requirements (other than any requirement relating to coverage) applicable to arrangements described in section 401(k) of the Internal Revenue Code of 1954 and to matching contributions. 26 USC 401.

"(2)(A) This subchapter shall not be treated as failing to meet the requirements of paragraph (1) for any year if the amount of the excess matching contributions and excess employee contributions for such year (and any income attributable to such contributions) is distributed before the close of the following year. Such contributions (and income) may be distributed without regard to any other provision of law.

"(B) For purposes of subparagraph (A), the term 'excess matching contributions' means, with respect to any year, the excess of—

"(i) the aggregate amount of contributions under section 8432(c) of this title actually made on behalf of highly compensated employees (as defined for purposes of section 401(k) of the Internal Revenue Code of 1954) for such year, over

"(ii) the maximum amount of such contributions permitted under the limitations of paragraph (1) (determined by reducing contributions made on behalf of highly compensated employees in order of the matching contribution percentages beginning with the highest of such percentages).

"(C) For purposes of subparagraph (A), the amount of excess employee contributions shall be determined under the principles of subparagraph (B).

"(D) Any distribution of the excess matching contributions or excess employee contributions for any year shall be made to highly compensated employees on the basis of the respective portions of such amounts attributable to each of such employees.

"(E) No early distribution tax, if any, under the Internal Revenue Code of 1954 shall be imposed on any amount required to be distributed under subparagraph (A). 26 USC 1 *et seq.*

"(c) Subsection (a) shall not be construed to provide that any amount of the employee's or Member's basic pay which is contributed to the Thrift Savings Fund shall not be included in the term 'wages' for the purposes of section 209 of the Social Security Act or section 3121(a) of the Internal Revenue Code of 1954. *Ante*, p. 288. 26 USC 3121.

"SUBCHAPTER IV—SURVIVOR ANNUITIES

5 USC 8441. **"§ 8441. Definitions**

"For the purpose of this subchapter—

"(1) the term 'widow' means the surviving wife of an employee, Member, or annuitant, or of a former employee or Member, who—

"(A) was married to him for at least 9 months immediately before his death; or

"(B) is the mother of issue by that marriage;

"(2) the term 'widower' means the surviving husband of an employee, Member, or annuitant, or of a former employee or Member, who—

"(A) was married to her for at least 9 months immediately before her death; or

"(B) is the father of issue by that marriage;

"(3) the term 'dependent', in the case of any child, means that the employee, Member, or annuitant involved was, at the time of death of the employee, Member, or annuitant either living with or contributing to the support of such child, as determined in accordance with such regulations as the Office shall prescribe; and

"(4) the term 'child' means—

"(A) an unmarried dependent child under 18 years of age, including (i) an adopted child, (ii) a stepchild but only if the stepchild lived with the employee, Member, or annuitant in a regular parent-child relationship, (iii) a recognized natural child, and (iv) a child who lived with and for whom a petition of adoption was filed by an employee, Member, or annuitant and who is adopted by the widow or widower of the employee, Member, or annuitant after the death of such employee, Member, or annuitant;

"(B) such unmarried dependent child regardless of age who is incapable of self-support because of mental or physical disability incurred before age 18; or

"(C) such unmarried dependent child between 18 and 22 years of age who is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution.

For the purpose of this paragraph and section 8443, a child whose 22nd birthday occurs before July 1 or after August 31 of a calendar year, and while regularly pursuing such a course of study or training, is deemed to have become 22 years of age on the first day of July after that birthday. A child who is a student is deemed not to have ceased to be a student during an interim between school years if the interim is not more than 5 months and if such child shows to the satisfaction of the Office that such child has a bona fide intention of continuing to pursue a course of study or training in the same or different school during the school semester (or other period into which the school year is divided) immediately after the interim.

"§ 8442. Rights of a widow or widower 5 USC 8442.

"(a)(1) Except as provided in subsection (g), if an annuitant dies and is survived by a widow or widower, the widow or widower is entitled to an annuity equal to 50 percent of an annuity computed under section 8415 with respect to the annuitant, unless—

"(A) the right to an annuity was waived under section 8416(a) (and no election was subsequently made under section 8416(d) nullifying the waiver); or

"(B) in the case of a marriage after retirement, the annuitant did not file an election under section 8416 (b) or (c), as the case may be.

"(2) A spouse acquired after retirement is entitled to an annuity under this subsection (as provided in paragraph (1)) only upon electing this annuity instead of any other survivor benefit to which such spouse may be entitled under this subchapter or section 8424 or under another retirement system for Government employees.

"(b)(1) If an employee or Member dies after completing at least 18 months of civilian service creditable under section 8411 and is survived by a widow or widower, the widow or widower is entitled to—

"(A) an amount equal to the sum of—

"(i) 50 percent of the final annual rate of basic pay (or of the average pay, if higher) of the employee or Member; and

"(ii) $15,000 as adjusted under section 8462(e); and

"(B) if the employee or Member completed at least 10 years of service, an annuity equal to 50 percent of an annuity computed under section 8415 with respect to the employee or Member, but without regard to subsection (f) of such section.

"(2) The Office shall prescribe regulations under which the total amount payable to a widow or widower under paragraph (1)(A) may, at the election of the widow or widower, be paid— Regulations.

"(A) in a lump sum; or

"(B) on a monthly basis—

"(i) over a period of 3 years beginning on the day after the employee's or Member's death; or

"(ii) over any other period established under the regulations.

Any method of payment provided for under subparagraph (B) shall be designed such that the present value of the benefits provided under such method is actuarially equivalent to the present value of a lump-sum payment under subparagraph (A).

"(3) An amount payable under paragraph (1)(A) shall not be considered to be part of an annuity for purposes of this chapter.

"(c)(1) If a former employee or Member dies after having separated from the service with title to a deferred annuity under section 8413 but before having established a valid claim for an annuity, and is survived by a widow or widower to whom married on the date of separation, the widow or widower may elect to receive—

"(A) an annuity under paragraph (2); or

"(B) the lump-sum credit, if the widow or widower is the individual who would be entitled to the lump-sum credit and if such widow or widower files application therefor with the Office.

"(2)(A)(i) Subject to clause (ii) and subparagraph (B)(ii), the annuity of the widow or widower is equal to 50 percent of an annuity computed under section 8415 for the former employee or Member.

"(ii)(I) In computing an amount under section 8415 for a former employee or Member (described in subclause (II)) in order to compute the annuity for a widow or widower under this subsection, the computation under section 8415 shall be made as if the former employee or Member had attained the applicable minimum retirement age under section 8412(h).

"(II) This clause applies with respect to a former employee or Member who dies before having attained the applicable minimum retirement age under section 8412(h).

"(B)(i) Notwithstanding the first sentence of subsection (d)(1), the annuity of the widow or widower of a former employee or Member under subparagraph (A)(ii) commences—

"(I) on the day after the date on which the former employee or Member would have attained age 62; or

"(II) if the widow or widower so designates in the election, as of the day after the death of the former employee or Member.

"(ii) The present value of the annuity of a widow or widower who chooses the earlier commencement date under clause (i)(II) shall be actuarially equivalent to the present value of an annuity computed for the widow or widower, determined as if the commencement date under clause (i)(I) were applicable.

"(3)(A) Paragraphs (1) and (2) shall apply only in the case of an employee or Member who completes at least 10 years of service.

"(B) Nothing in this subsection shall be considered to affect the provisions of this chapter relating to a lump-sum credit in the case of the widow or widower of a former employee or Member who dies after completing less than 10 years of service.

"(d)(1) The annuity of a widow or widower under this section commences on the day after the death of the individual on whose service such annuity is based. This annuity and the right thereto terminate on the last day of the month before the widow or widower—

"(A) dies; or

"(B) remarries before becoming 55 years of age.

"(2) In the case of a widow or widower whose annuity under this section is terminated because of remarriage before becoming 55 years of age, the annuity shall be restored at the same rate commencing on the day the remarriage is dissolved by death, divorce, or annulment, if—

"(A) the widow or widower elects to receive this annuity instead of any other survivor benefit to which such widow or widower may be entitled (under this subchapter or section 8424 or under another retirement system for Government employees) by reason of the remarriage; and

"(B) any lump sum paid on termination of the annuity is returned to the Fund.

"(e) The requirement in paragraphs (1)(A) and (2)(A) of section 8441 that the widow or widower of an annuitant, employee, or Member, or of a former employee or Member, have been married to such individual for at least 9 months immediately before the death of the individual in order to qualify as the widow or widower of such individual shall be deemed satisfied in any case in which the individual dies within the applicable 9-month period, if—

"(1) the death of the individual was accidental; or

"(2) the surviving spouse of the individual had been previously married to such individual and subsequently divorced, and the aggregate time married is at least 9 months.

"(f)(1) Subject to paragraph (4), a survivor who is entitled to an annuity under subsection (a) shall also be entitled to a supplementary annuity under this subsection.

"(2) A supplementary annuity under this subsection shall be equal to the lesser of—

"(A) the amount by which the survivor's assumed CSRS annuity exceeds the annuity payable to such survivor under subsection (a); or

"(B) the amount determined under paragraph (3).

"(3)(A) Except as provided in subparagraph (B), the amount under this paragraph for a survivor is the amount of widow's or widower's insurance benefits which would be payable to such survivor under title II of the Social Security Act (without regard to sections 202(e)(7), 202(f)(2), and 203 of such Act) based on the wages and self-employment income of the deceased annuitant, and determined— 42 USC 401. 42 USC 402, 403.

"(i) as of the date on which the annuitant died; and

"(ii) as if the survivor had attained age 60 and made application for those benefits under subsection (e) or (f) of section 202 of such Act, as the case may be.

"(B) Any computation or determination under this paragraph shall be made in accordance with the applicable provisions of the Social Security Act, except that in computing any primary insurance amount under section 215 of such Act for purposes of determining an amount under this subsection, subparagraphs (A) and (C) of section 8421(b)(2) shall apply. 42 USC 1305. 42 USC 415.

"(4) A supplementary annuity under this subsection—

"(A) shall be payable to a survivor only for calendar months ending before the calendar month in which such survivor first satisfies the minimum age requirement under section 202(e)(1)(B)(i) or 202(f)(1)(B)(i) of the Social Security Act, as the case may be; 42 USC 402.

"(B) shall not be payable to a survivor who would not be entitled to benefits under subsection (e) or (f) of section 202 of the Social Security Act based on the wages and self-employment income of the deceased annuitant (determined, as of the date of the annuitant's death, as if the survivor had attained age 60 and made appropriate application for benefits, but without regard to any restriction under either such subsection relating to remarriage); and

"(C) shall not be payable to a survivor for any calendar month in which such survivor is entitled (or would, on proper application, be entitled) to benefits under section 202(g) of the Social Security Act (relating to mother's and father's insurance benefits), or under section 202 (e) or (f) of such Act by reason of having become disabled, based on the wages and self-employment income of the deceased annuitant.

"(5) For the purpose of this subsection, the term 'assumed CSRS annuity', as used in the case of a survivor, means the amount of the annuity to which such survivor would be entitled under subchapter III of chapter 83 of this title based on the service of the deceased annuitant, determined— *Post*, pp. 589, 591-593.

"(A) as of the day after the date of the annuitant's death;

"(B) as if the survivor had made appropriate application therefor; and

"(C) as if the service of the deceased annuitant were creditable under such subchapter.

"(6) An amount payable under this subsection shall be adjusted under section 8462 and shall otherwise be treated under this chapter in the same way as an amount payable under subsection (a).

"(g)(1) If the widow or widower of an annuitant under section 8452 (hereinafter in this subsection referred to as a 'disability annuitant') is determined under subsection (a) to be entitled to an annuity based on the service of such disability annuitant, the annuity of the widow or widower shall be equal to 50 percent of the amount determined under paragraph (2), rather than of the amount referred to in subsection (a).

"(2)(A) Except as provided in subparagraph (B), the amount on which the annuity of the widow or widower of a disability annuitant is based shall be the amount of the annuity to which such disability annuitant was entitled, as computed under section 8452 (including appropriate reduction under subsection (a)(2) of such section and any adjustments under section 8462 allowed under section 8452), as of the day before the date of the disability annuitant's death.

"(B)(i) In the case of a widow or widower entitled to an annuity based on the service of a disability annuitant who dies before age 62, the amount under clause (ii) shall apply instead of the amount which would otherwise apply under subparagraph (A).

"(ii)(I) Subject to subclause (II), the amount of the annuity to which the disability annuitant was entitled as of the day before the date of death shall be considered to be the amount which would be computed with respect to such disability annuitant under section 8452(b) if the disability annuitant had attained age 62 on the day before date of death.

"(II) For purposes of any such computation under section 8452(b)(2) pursuant to this clause, creditable service shall (in addition to the service which would otherwise be used under subparagraph (B)(i) of such section) include the period of time between date of death and the date of the sixty-second anniversary of the birth of the annuitant, and average pay shall be adjusted in accordance with subparagraph (B)(ii) of such section only through date of death.

"(h) The following rules shall apply notwithstanding any other provision of this section:

"(1) The annuity payable under this section to a widow or widower may not exceed the difference between—

"(A) the amount of the annuity which would otherwise be payable to such widow or widower under this section; and

"(B) the amount of the annuity payable to any former spouse of the deceased employee, Member, or annuitant, or former employee or Member, based on an election made under section 8417(b) or a court order previously issued or agreement previously entered into as described in section 8445(a).

"(2) The amount payable under subsection (b)(1)(A) to a widow or widower may not exceed the difference between—

"(A) the amount which would otherwise be payable to such widow or widower under such subsection; and

"(B) the portion of such amount payable to any former spouse of the deceased employee, Member, or annuitant, or former employee or Member, based on a court order previously issued or agreement previously entered into.

"(3) A lump-sum credit under subsection (c)(2) shall be subject to the same terms and conditions as apply with respect to a lump-sum credit under section 8424(b).

"§ 8443. Rights of a child 5 USC 8443.

"(a)(1) If an employee or Member dies after completing at least 18 months of civilian service which is creditable under section 8411, or an annuitant dies, each surviving child is, for any month, entitled to an annuity equal to—

"(A) the amount by which the applicable amount under paragraph (2) for such month exceeds the applicable amount under paragraph (3) for such month, divided by

"(B) the number of children entitled to a payment under this section for such month.

"(2) The applicable amount under this paragraph for any month is the total amount to which the surviving child or children (as the case may be) of the annuitant, employee, or Member would be entitled for such month under subchapter III of chapter 83 based on the service of such annuitant, employee, or Member, if the service of such annuitant, employee, or Member were creditable under such subchapter. *Post*, pp. 589, 591-593.

"(3) The applicable amount under this paragraph for any month is the total amount of child's insurance benefits which are payable (or would, on proper application, be payable) under title II of the Social Security Act for such month based on the wages and self-employment income of such annuitant, employee, or Member. 42 USC 401.

"(b) The annuity of a child under this subchapter—

"(1) commences on the day after the annuitant, employee, or Member dies;

"(2) commences or resumes on the first day of the month in which the child later becomes or again becomes a student as described by section 8441(4), if any lump sum paid is returned to the Fund; or

"(3) commences or resumes on the first day of the month in which the child later becomes or again becomes incapable of self-support because of a mental or physical disability incurred before age 18 (or a later recurrence of such disability), if any lump sum paid is returned to the Fund.

This annuity and the right thereto terminate on the last day of the month before the child—

"(A) becomes 18 years of age unless then a student as described or incapable of self-support;

"(B) becomes capable of self-support after becoming 18 years of age unless then such a student;

"(C) becomes 22 years of age if then such a student and capable of self-support;

"(D) ceases to be such a student after becoming 18 years of age unless then incapable of self-support; or

"(E) dies or marries;

whichever occurs first. On the death of the surviving wife or husband, or former wife or husband, or termination of the annuity of a child, the annuity of any other child or children shall be recomputed and paid as though the wife or husband, former wife or husband, or child had not survived the annuitant, employee, or Member.

"§ 8444. Rights of a named individual with an insurable interest 5 USC 8444.

"The annuity of a survivor named under section 8420(a) is 55 percent of the reduced annuity of the retired employee or Member determined under paragraph (2) of such section 8420(a). The annuity of the survivor commences on the day after the retired employee or

Member dies. This annuity and the right thereto terminate on the last day of the month before the survivor dies.

5 USC 8445.

"§ 8445. Rights of a former spouse

"(a) Subject to subsections (b) through (e), a former spouse of a deceased employee, Member, or annuitant (or of a former employee or Member who dies after having separated from the service with title to a deferred annuity under section 8413 but before having established a valid claim for annuity) is entitled to an annuity under this section, if and to the extent expressly provided for in an election under section 8417(b), or in the terms of any decree of divorce or annulment or any court order or court-approved property settlement agreement incident to such decree.

"(b)(1) The annuity payable to a former spouse under this section may not exceed the difference between—

"(A) the amount applicable in the case of such former spouse, as determined under paragraph (2); and

"(B) the amount of any annuity payable under this section to any other former spouse of the employee, Member, or annuitant, or former employee or Member, based on an election previously made under section 8417(b), or a court order previously issued or agreement previously entered into as described in subsection (a).

"(2) The applicable amount, for purposes of paragraph (1)(A) in the case of a former spouse, is the amount of the annuity which would be payable under the provisions of section 8442 (including subsection (f) of such section, but without regard to subsection (h) of such section) if such former spouse were a widow or widower entitled to an annuity under such provisions based on the service of the deceased employee, Member, or annuitant, or former employee or Member.

Contracts.

"(c) The commencement and termination of an annuity payable under this section shall be governed by the terms of the applicable order, decree, agreement, or election, as the case may be, except that any such annuity—

"(1) shall not commence before—

"(A) the day after the employee, Member, or annuitant, or former employee or Member, dies; or

"(B) the first day of the second month beginning after the date on which the Office receives written notice of the order, decree, agreement, or election, as the case may be, together with such additional information or documentation as the Office may prescribe;

whichever is later; and

"(2) shall terminate no later than the last day of the month before the former spouse remarries before becoming 55 years of age or dies.

"(d) For purposes of this chapter, a modification in a decree, order, agreement, or election referred to in subsection (a) shall not be effective—

"(1) if such modification is made after the retirement or death of the employee, Member, or annuitant, or former employee or Member, concerned; and

"(2) to the extent that such modification involves an annuity under this section.

"(e) For purposes of this chapter, a decree, order, agreement, or election referred to in subsection (a) shall not be effective, in the

case of a former spouse, to the extent that it is inconsistent with any joint waiver previously executed with respect to such former spouse under section 8416(a).

"(f)(1) Any amount under section 8442(b)(1)(A) which would otherwise be payable to a widow or widower based on the service of another individual shall be paid (in whole or in part) by the Office to a former spouse of such individual if and to the extent expressly provided for in the terms of a court decree of divorce, annulment, or legal separation, or the terms of a court order or court-approved property settlement incident to any decree of divorce, annulment, or legal separation.

"(2) Paragraph (1) shall apply only to payments made by the Office after the date of receipt in the Office of written notice of such decree, order, or agreement, and such additional information and documentation as the Office may prescribe.

"(g) Any payment under this section to a person bars recovery by any other person.

"SUBCHAPTER V—DISABILITY BENEFITS

"§ 8451. Disability retirement

5 USC 8451.

"(a)(1)(A) An employee who completes at least 18 months of civilian service creditable under section 8411 and has become disabled shall be retired on the employee's own application or on application by the employee's agency.

"(B) For purposes of this subsection, an employee shall be considered disabled only if the employee is found by the Office to be unable, because of disease or injury, to render useful and efficient service in the employee's position.

"(2)(A) Notwithstanding paragraph (1), an employee shall not be eligible for disability retirement under this section if the employee has declined a reasonable offer of reassignment to a vacant position in the employee's agency for which the employee is qualified if the position—

"(i) is at the same grade (or pay level) as the employee's most recent grade (or pay level) or higher;

"(ii) is within the employee's commuting area; and

"(iii) is one in which the employee would be able to render useful and efficient service.

"(B) An employee who is applying for disability retirement under this subchapter shall be considered for reassignment by the employee's agency to a vacant position described in subparagraph (A) in accordance with such procedures as the Office shall by regulation prescribe.

Regulations.

"(C) An employee is entitled to appeal to the Merit Systems Protection Board under section 7701 any determination that the employee is not unable, because of disease or injury, to render useful and efficient service in a position to which the employee has declined reassignment under this section.

"(D) For purposes of subparagraph (A), an employee of the United States Postal Service shall not be considered qualified for a position if such position is in a different craft or if reassignment to such position would be inconsistent with the terms of a collective-bargaining agreement covering the employee.

"(b) A Member who completes at least 18 months of service as a Member and is found by the Office to be disabled for useful and

efficient service as a Member because of disease or injury shall be retired on the Member's own application.

"(c) An employee or Member retiring under this section is entitled to an annuity computed under section 8452.

5 USC 8452.

"§ 8452. Computation of disability annuity

"(a)(1)(A) Except as provided in paragraph (2), or subsection (b), (c), or (d), the annuity of an annuitant under this subchapter—

"(i) for the period beginning on the date on which such annuity commences, or is restored (as described in section 8455(b) (2) or (3)), and ending at the end of the twelfth month beginning on or after such date, shall be equal to 60 percent of the annuitant's average pay; and

"(ii) after the end of the period referred to in clause (i), shall be equal to 40 percent of the annuitant's average pay.

"(B) An annuity computed under this paragraph shall not, for purposes of any adjustment under section 8462 (including any adjustment under subsection (c)(1) of such section), be considered to have commenced until after such annuity ceases to be determined under subparagraph (A)(i).

"(2)(A) For any month in which an annuitant is entitled both to an annuity under this subchapter as computed under paragraph (1) and to a disability insurance benefit under section 223 of the Social Security Act, the annuitant's annuity for such month (as so computed) shall—

42 USC 423.

"(i) if such month occurs during a period referred to in paragraph (1)(A)(i), be reduced by 100 percent of the annuitant's assumed disability insurance benefit for such month; or

"(ii) if such month occurs other than during a period referred to in paragraph (1)(A)(i), be reduced by 60 percent of the annuitant's assumed disability insurance benefit for such month;

except that an annuity may not be reduced below zero by reason of this paragraph.

"(B)(i) For purposes of this paragraph, the assumed disability insurance benefit of an annuitant for any month shall be equal to—

"(I) the amount of the disability insurance benefit to which the annuitant would have been entitled under section 223 of the Social Security Act for the month in which the annuity under this subchapter commenced, or was restored, determined as if such annuitant had then satisfied all requirements for entitlement to a benefit under such section, adjusted by

"(II) all adjustments made under section 8462(b) between the date on which the annuity commenced, or was restored, and the start of the month involved (without regard to whether the annuitant's annuity was affected by any of those adjustments).

For purposes of computing the assumed disability insurance benefit, the month in which the annuitant's disability began (as determined under section 216(i)(2)(C) of the Social Security Act) shall be the month in which the annuity commenced or, if earlier (and if a determination was actually made) the month determined under such section.

42 USC 416.

"(ii) For purposes of applying section 224 of the Social Security Act to the assumed disability insurance benefit used to compute the reduction under this paragraph, the amount of the annuity under this subchapter which is considered shall be the amount of the annuity as determined before the application of this paragraph.

42 USC 424a.

"(b)(1) Except as provided in subsection (d), if an annuitant is entitled to an annuity under this subchapter as of the day before the date of the sixty-second anniversary of the annuitant's birth (hereinafter in this section referred to as the annuitant's 'redetermination date'), such annuity shall be redetermined under paragraph (3) or (4), as applicable. Effective as of the annuitant's redetermination date, the annuity (as so redetermined) shall be in lieu of any annuity to which such annuitant would otherwise be entitled under this subchapter.

"(2)(A) In order to carry out paragraphs (3) and (4), the Office shall compute an annuity for the annuitant under section 8415.

"(B) In performing a computation under this paragraph—

"(i) creditable service of the annuitant shall be increased by including the period (or periods), if any, before the annuitant's redetermination date during which the annuitant was entitled to an annuity under this subchapter; and

"(ii) the average pay which would otherwise be used shall be adjusted to reflect all adjustments made under section 8462(b) with respect to any period (or periods) referred to in clause (i) (without regard to whether the annuitant's annuity was affected by any of those adjustments).

"(3) If, as of the day before the annuitant's redetermination date, the annuitant's annuity is subject to reduction under subsection (a)(2), the annuitant's redetermined annuity shall be the lesser of—

"(A) the amount determined with respect to such annuitant under paragraph (2); or

"(B) subject to the following sentence, the amount (converted so as to be expressed as an annual amount) which would otherwise be payable under this subchapter for the month in which occurs the day before the annuitant's redetermination date, as computed under subsection (a) (based on the assumption that the annuitant was entitled to an annuity under this subchapter, and to a disability insurance benefit under section 223 of the Social Security Act, for the entirety of such month). 42 USC 423.

If the annuitant's redetermination date occurs during the period described in subsection (a)(1)(A), the amount used under subparagraph (B) may not exceed the amount (converted so as to be expressed as an annual amount) which would otherwise be payable under this subchapter for the first month after such period, as computed under subsection (a) based on the assumption that the annuitant was entitled to an annuity under this subchapter, and to a disability insurance benefit under section 223 of the Social Security Act, for the entirety of such month.

"(4) If, as of the day before the annuitant's redetermination date, the annuitant's annuity is not subject to reduction under subsection (a)(2), the annuitant's redetermined annuity shall be the lesser of—

"(A) the amount determined with respect to such annuitant under paragraph (2); or

"(B) the amount which would be used for such annuitant under subparagraph (B) of paragraph (3) (as determined subject to the second sentence of such paragraph), if such paragraph applied to such annuitant.

"(c) Except as provided in subsection (d), the annuity of an annuitant under this subchapter shall be computed under section 8415 if—

"(1) such annuity commences, or is restored, beginning on or after the redetermination date of the annuitant; or

"(2) as of the day on which such annuity commences, or is restored, the annuitant satisfies the age and service requirements for entitlement to an annuity under section 8412 (other than subsection (g) of such section).

"(d) The annuity to which an annuitant is entitled under this section shall not be less than the amount of an annuity computed under section 8415 (excluding subsection (f) of such section).

Claims.
5 USC 8453.

"§ 8453. Application

"A claim may be allowed under this subchapter only if application is filed with the Office before the employee or Member is separated from the service or within 1 year thereafter. This time limitation may be waived by the Office for an employee or Member who, at the date of separation from service or within 1 year thereafter, is mentally incompetent if the application is filed with the Office within 1 year from the date of restoration of the employee or Member to competency or the appointment of a fiduciary, whichever is earlier.

5 USC 8454.

"§ 8454. Medical examination

"An annuitant receiving a disability retirement annuity from the Fund shall be examined under the direction of the Office—

"(1) at the end of 1 year from the date of the disability retirement; and

"(2) annually thereafter until becoming 60 years of age;

unless the disability is permanent in character. If the annuitant fails to submit to examination as required by this section, payment of the annuity shall be suspended until continuance of the disability is satisfactorily established.

5 USC 8455.

"§ 8455. Recovery; restoration of earning capacity

"(a)(1) If an annuitant receiving a disability retirement annuity from the Fund recovers from the disability before becoming 60 years of age, payment of the annuity terminates on reemployment by the Government or 1 year after the date on which the Office determines that the annuitant has recovered, whichever is earlier.

"(2) If an annuitant receiving a disability annuity from the Fund, before becoming 60 years of age, is restored to an earning capacity fairly comparable to the current rate of pay of the position occupied at the time of retirement, payment of the annuity terminates 180 days after the end of the calendar year in which earning capacity is so restored. Earning capacity is deemed restored if in any calendar year the income of the annuitant from wages or self-employment or both equals at least 80 percent of the current rate of pay of the position occupied immediately before retirement.

"(b)(1) If an annuitant whose annuity is terminated under subsection (a) is not reemployed in a position in which that individual is subject to this chapter, such individual is deemed, except for service credit, to have been involuntarily separated from the service for the purpose of subchapter II of this chapter as of the date of termination of the disability annuity, and after that termination is entitled to annuity under the applicable provisions of such subchapter.

"(2) If an annuitant whose annuity is terminated under subsection (a)(2)—

"(A) is not reemployed in a position subject to this chapter; and

"(B) has not recovered from the disability for which that individual was retired;

the annuity of such individual shall be restored at the applicable rate under section 8452 effective the first of the year following any calendar year in which such individual's income from wages or self-employment or both is less than 80 percent of the current rate of pay of the position occupied immediately before retirement.

"(3) If an annuitant whose annuity is terminated because of a medical finding that the individual has recovered from disability is not reemployed in a position in which such individual is subject to this chapter, the annuity of such individual shall be restored at the applicable rate under section 8452 effective from the date on which the Office determines that there has been a recurrence of the disability.

"(4) Paragraphs (2) and (3) shall not apply in the case of an annuitant receiving an annuity from the Fund under subchapter II of this chapter.

"§ 8456. Relationship to workers' compensation 5 USC 8456

"(a)(1) An individual is not entitled to receive an annuity under this subchapter and compensation for injury to or disability of the individual under subchapter I of chapter 81 covering the same period of time. 5 USC 8101

"(2) Paragraph (1) does not bar the right of a claimant to the greater benefit conferred by either subchapter referred to in such paragraph for any part of the period referred to in such paragraph.

"(3) Paragraph (1) and the provisions of subchapter I of chapter 81 do not deny an individual an annuity which the individual is entitled to receive under this chapter on account of service performed by the individual and do not deny any concurrent benefit to the individual under subchapter I of chapter 81 on account of the death of another individual.

"(b)(1) Subject to paragraph (2), an individual's receipt of a lump-sum payment for compensation under section 8135 shall not affect the individual's entitlement to an annuity under this subchapter.

"(2) If an annuity is payable under this subchapter by reason of the same disability for which a lump-sum payment of compensation referred to in paragraph (1) has been made, so much of the compensation as has been paid for a period extended beyond the date payment of the annuity commences, as determined by the Department of Labor, shall be refunded to that Department for credit to the Employees' Compensation Fund. Before the individual may receive the disability annuity, the individual shall—

"(A) refund to the Department of Labor the amount representing the commuted compensation payments for the extended period; or

"(B) authorize the deduction of the amount from the annuity.

Deductions from the annuity may be made from accrued or accruing payments. The amounts deducted and withheld from the annuity shall be transmitted to the Department of Labor for reimbursement to the Employees' Compensation Fund. When the Department of Labor finds that the financial circumstances of an individual entitled to an annuity under this subchapter warrant deferred refunding under this paragraph, deductions from the annuity may be prorated against and paid from accruing payments in such manner as the Department determines appropriate.

5 USC 8457.

"§ 8457. Military reserve technicians

"(a)(1) Except as provided in paragraph (2) or (3), an individual shall be retired under this subchapter if the individual—

"(A) is separated from employment as a military reserve technician by reason of a disability that disqualifies the individual from membership in a reserve component of the Armed Forces specified in section 261(a) of title 10 or from holding the military grade required for such employment;

"(B) is not considered to be disabled under section 8451(a)(1)(B);

"(C) is not appointed to a position in the Government (whether under subsection (c) or otherwise); and

"(D) has not declined an offer of an appointment to a position in the Government under subsection (c).

"(2) Payment of any annuity for an individual pursuant to this section terminates—

"(A) on the date the individual is appointed to a position in the Government (whether pursuant to subsection (c) or otherwise);

"(B) on the date the individual declines an offer of appointment to a position in the Government under subsection (c); or

"(C) as provided under section 8455(a).

"(3) An individual eligible to retire under section 8414(c) shall not be eligible to retire under this section.

"(b) Any individual applying for or receiving any annuity pursuant to this section shall, in accordance with regulations prescribed by the Office, be considered by any agency of the Government before any vacant position in the agency is filled if—

"(1) the position is located within the commuting area of the individual's former position;

"(2) the individual is qualified to serve in such position, as determined by the head of the agency; and

"(3) the position is at the same grade or equivalent level as the position from which the individual was separated.

"SUBCHAPTER VI—GENERAL AND ADMINISTRATIVE PROVISIONS

5 USC 8461.

"§ 8461. Authority of the Office of Personnel Management

"(a) The Office shall pay all benefits that are payable under subchapter II, IV, V, or VI of this chapter from the Fund.

"(b) The Office shall administer all provisions of this chapter not specifically required to be administered by the Board, the Executive Director, the Secretary of Labor, or any other officer or agency.

"(c) The Office shall adjudicate all claims under the provisions of this chapter administered by the Office.

"(d) The Office shall determine questions of disability and dependency arising under the provisions of this chapter administered by the Office. Except to the extent provided under subsection (e), the decisions of the Office concerning these matters are final and conclusive and are not subject to review. The Office may direct at any time such medical or other examinations as it considers necessary to determine the facts concerning disability or dependency of an individual receiving or applying for annuity under the provisions of this chapter administered by the Office. The Office may suspend or deny annuity for failure to submit to examination.

"(e)(1) Subject to paragraph (2), an administrative action or order affecting the rights or interests of an individual or of the United States under the provisions of this chapter administered by the Office may be appealed to the Merit Systems Protection Board under procedures prescribed by the Board.

"(2) In the case of any individual found by the Office to be disabled in whole or in part on the basis of the individual's mental condition, and that finding was made pursuant to an application by an agency for purposes of disability retirement under section 8451, the procedures under section 7701 shall apply and the decision of the Board shall be subject to judicial review under section 7703.

"(f) The Office shall fix the fees for examinations made under subchapter V of this chapter by physicians or surgeons who are not medical officers of the United States. The fees and reasonable traveling and other expenses incurred in connection with the examinations are paid from appropriations for the cost of administering the provisions of this chapter administered by the Office.

"(g) The Office may prescribe regulations to carry out the provisions of this chapter administered by the Office.

"(h)(1) Each Government agency shall furnish the Director with such information as the Director determines necessary in order to administer this chapter.

"(2) The Director, in consultation with the officials from whom such information is requested, shall establish (by regulation or otherwise) such safeguards as are necessary to ensure that information made available under this subsection is used only for the purpose authorized. Regulations.

"(i) In making a determination of 'actuarial equivalence' under this chapter, the economic assumptions used shall be the same as the economic assumptions most recently used by the Office (before the determination of actuarial equivalence involved) in determining the normal-cost percentage of the System.

"(j)(1) Notwithstanding any other provision of this chapter, the Director of Central Intelligence shall, in a manner consistent with the administration of this chapter by the Office, and to the extent considered appropriate by the Director of Central Intelligence—

"(A) determine entitlement to benefits under this chapter based on the service of employees of the Central Intelligence Agency;

"(B) maintain records relating to the service of such employees; Records.

"(C) compute benefits under this chapter based on the service of such employees;

"(D) collect deposits to the Fund made by such employees, their spouses, their former spouses, and their survivors;

"(E) authorize and direct disbursements from the Fund to the extent based on service of such employees; and

"(F) perform such other functions under this chapter (other than under subchapters III and VII of this chapter) with respect to employees of the Central Intelligence Agency as the Director of Central Intelligence, in consultation with the Director of the Office of Personnel Management, determines to be appropriate.

"(2) The Director of the Office of Personnel Management shall furnish such information and, on a reimbursable basis, such services to the Director of Central Intelligence as the Director of Central Intelligence requests to carry out paragraph (1).

"(k)(1) The Director of Central Intelligence, in consultation with the Executive Director of the Federal Retirement Thrift Investment Board, may—

"(A) maintain exclusive records relating to elections, contributions, and accounts under the Thrift Savings Plan provided in subchapter III of this chapter in the case of employees of the Central Intelligence Agency;

"(B) provide that contributions by, or on behalf of, such employees to the Thrift Savings Plan be accounted for by such Executive Director in aggregate amounts;

"(C) make the necessary disbursements from, and the necessary allocations of earnings, losses, and charges to, individual accounts of such employees under the Thrift Savings Plan; and

"(D) perform such other functions under subchapters III and VII of this chapter (but not including investing sums in the Thrift Savings Fund) with respect to employees of the Central Intelligence Agency as the Director of Central Intelligence, in consultation with the Executive Director of the Federal Retirement Thrift Investment Board, determines to be appropriate.

"(2) The Executive Director of the Federal Retirement Thrift Investment Board may not exercise authority under this chapter in the case of employees of the Central Intelligence Agency to the extent that the Director of Central Intelligence exercises authority provided in paragraph (1).

"(3) The Executive Director of the Federal Retirement Thrift Investment Board shall furnish such information and, on a reimbursable basis, such services to the Director of Central Intelligence as the Director of Central Intelligence determines necessary to carry out this subsection.

"(l) Subsection (h)(1), and sections 8439(b) and 8474(c)(4), shall be applied with respect to information relating to employees of the Central Intelligence Agency in a manner that protects intelligence sources, methods, and activities.

Regulations.

"(m)(1) The Director of Central Intelligence, in consultation with the Director of the Office of Personnel Management and the Executive Director of the Federal Retirement Thrift Investment Board, shall by regulation prescribe appropriate procedures to carry out subsections (j), (k), and (l).

"(2) The regulations shall provide procedures for the Director of the Office of Personnel Management to inspect and audit disbursements from the Fund, and from the Thrift Savings Fund, under this chapter.

"(3) The Director of Central Intelligence shall submit the regulations prescribed under paragraph (1) to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives before the regulations take effect.

5 USC 8462.

"§ 8462. Cost-of-living adjustments

"(a) For the purpose of this section—

"(1) the term 'base quarter', as used with respect to a year, means the calendar quarter ending on September 30 of such year;

"(2) the price index for a base quarter is the arithmetical mean of such index for the 3 months comprising such quarter; and

"(3) the term 'percent change in the price index', as used with respect to a year, means the percentage derived by—

"(A) reducing—

"(i) the price index for the base quarter of such year, by

"(ii) the price index for the base quarter of the preceding year in which an adjustment under this subsection was made;

"(B) dividing the difference under subparagraph (A) by the price index referred to in subparagraph (A)(ii); and

"(C) multiplying the quotient under subparagraph (B) by 100.

"(b)(1) Except as provided in subsection (c), effective December 1 of any year in which an adjustment under this subsection is to be made, as determined under paragraph (2), each annuity payable from the Fund under this chapter (other than an annuity under section 8443) having a commencing date not later than such December 1 shall be adjusted as follows:

"(A) If the percent change in the price index for the year does not exceed 3 percent, each annuity subject to adjustment under this subsection shall be increased by the lesser of—

"(i) the percent change in the price index (rounded to the nearest one-tenth of 1 percent); or

"(ii) 2 percent.

"(B) If the percent change in the price index for the year exceeds 3 percent, each annuity subject to adjustment under this subsection shall be increased by the excess of—

"(i) the percent change in the price index (rounded to the nearest one-tenth of 1 percent), over

"(ii) 1 percent.

"(2) An adjustment under this subsection shall be made in a year only if the price index for the base quarter of such year exceeds the price index for the base quarter of the preceding year in which an adjustment under this subsection was made.

"(3) An annuity under this chapter shall not be subject to adjustment under section 8340.

"(c) Eligibility for an annuity increase under this section is governed by the commencing date of each annuity payable from the Fund as of the effective date of an increase, except as follows:

"(1) The first increase (if any) made under subsection (b) to an annuity which is payable from the Fund to an annuitant or survivor (other than a child under section 8443) whose annuity has not been increased under this subsection or subsection (b) shall be equal to the product (adjusted to the nearest one-tenth of 1 percent) of—

"(A) one-twelfth of the applicable percent change computed under subsection (b), multiplied by

"(B) the number of months (not to exceed 12 months, counting any portion of a month as a month)—

"(i) for which the annuity was payable from the Fund before the effective date of the increase; or

"(ii) in the case of a survivor of a deceased annuitant whose annuity has not been so increased, since the annuity was first payable to the deceased annuitant.

"(2) Effective from its commencing date, an annuity payable from the Fund to an annuitant's survivor (other than a widow or widower whose annuity is computed under section 8442(g) or

a child under section 8443) shall be increased by the total percentage by which the deceased annuitant's annuity had been increased under this section during the period beginning on the date the deceased annuitant's annuity commenced and ending on the date of the deceased annuitant's death.

"(3)(A) An adjustment under subsection (b) for any year shall not be effective with respect to the annuity of an annuitant who is under 62 years of age as of the date on which such adjustment would otherwise first take effect.

"(B)(i) Except as provided in clause (ii), this paragraph applies only with respect to an annuitant under section 8412, 8413, or 8414.

"(ii) This paragraph does not apply with respect to an annuitant under subsection (d) or (e) of section 8412 or (in the case of an annuitant separated from service as a military reserve technician as a result of disability) under section 8414(c).

"(4) The first increase (if any) made under subsection (b) to an annuity which is payable from the Fund to a widow or widower whose annuity is computed under section 8442(g) shall be equal to the product (adjusted to the nearest one-tenth of 1 percent) of—

"(A) one-twelfth of the applicable percent change computed under subsection (b), multiplied by

"(B) the number of months (not to exceed 12 months, counting any portion of a month as a month) since—

"(i) the effective date of the adjustment last made under this section in the annuity of the annuitant on whose service on the widow's or widower's annuity is based; or

"(ii) if the annuity of the annuitant (referred to in clause (i)) has not been increased under this section, the commencement date of such annuitant's annuity (determined subject to section 8452(a)(1)(B)).

"(d) The monthly installment of an annuity after adjustment under this section shall be rounded to the next lowest dollar. However, the monthly installment shall, after adjustment, reflect an increase of at least $1.

"(e) The $15,000 amount referred to in section 8442(b)(1)(A)(ii) shall be increased at the same time that, and by the same percent as the percentage by which, annuities under subchapter III of chapter 83 are increased.

Post, pp. 589, 591-593.

5 USC 8463.

"§ 8463. Rate of benefits

"Each annuity payable from the Fund is stated as an annual amount, one-twelfth of which, rounded to the next lower dollar, constitutes the monthly rate payable on the first business day of the first month beginning after the month for which it has accrued.

5 USC 8464.

"§ 8464. Commencement and termination of annuities of employees and Members

"(a)(1) Except as otherwise provided in this chapter—

"(A) an annuity payable from the Fund commences on the first day of the month after—

"(i) separation from the service, in the case of an employee or Member retiring under section 8412, or subsection (a) or (b)(1)(B) of section 8414; or

"(ii) pay ceases, and the applicable age and service requirements are met, in the case of an employee or Member retiring under section 8413;

"(B) an annuity payable from the Fund commences on the day after separation from the service in the case of an employee retiring under subsection (b)(1)(A) or (c) of section 8414; and

"(C) an annuity payable from the Fund commences on the day after separation from the service or the day after pay ceases and the requirements for title to an annuity are met in the case of an employee or Member retiring under section 8451.

"(2) Notwithstanding paragraph (1)(A)(i), an annuity payable from the Fund commences on the day after separation from the service in the case of an employee or Member—

"(A) who retires under section 8412; and

"(B) whose separation occurs upon the expiration of a term (or other period) for which the individual was appointed or elected.

"(b) Except as otherwise provided in this chapter, the annuity of an annuitant under subchapter II or V of this chapter terminates on the date death or other terminating event occurs.

"§ 8465. Waiver, allotment, and assignment of benefits 5 USC 8465.

"(a) An individual entitled to an annuity payable from the Fund may decline to accept all or any part of the amount of the annuity by a waiver signed and filed with the Office. The waiver may be revoked in writing at any time. Payment of the annuity waived may not be made for the period during which the waiver is in effect.

"(b) An individual entitled to an annuity payable from the Fund may make allotments or assignments of amounts from the annuity for such purposes as the Office considers appropriate.

"§ 8466. Application for benefits 5 USC 8466.

"(a) No payment of benefits based on the service of an employee or Member shall be made from the Fund unless an application for payment of the benefits is received by the Office before the one hundred and fifteenth anniversary of the birth of the employee or Member.

"(b) Notwithstanding subsection (a), after the death of an employee, Member, or annuitant, or former employee or Member, a benefit based on the service of such employee, Member, or annuitant, or former employee or Member, shall not be paid under subchapter II or IV of this chapter unless an application therefor is received by the Office within 30 years after the death or other event which establishes the entitlement to the benefit.

"(c) Payment due a minor, or an individual mentally incompetent or under other legal disability, may be made to the person who is constituted guardian or other fiduciary by the law of the State of residence of the claimant or is otherwise legally vested with the care of the claimant or his estate. If a guardian or other fiduciary of the individual under legal disability has not been appointed under the law of the State of residence of the claimant, payment may be made to any person who, in the judgment of the Office, is responsible for the care of the claimant, and the payment bars recovery by any other person. Children and youth. Disabled persons.

"§ 8467. Court orders 5 USC 8467.

"(a) Payments under this chapter which would otherwise be made to an employee, Member, or annuitant (including an employee,

Member, or annuitant as defined under section 8331) based on the service of that individual shall be paid (in whole or in part) by the Office or the Executive Director (as the case may be), to another person if and to the extent that the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation expressly provide. Any payment under this subsection to a person bars recovery by any other person.

"(b) Subsection (a) shall apply only to payments made by the Office or the Executive Director under this chapter after the date on which the Office or the Executive Director (as the case may be) receives written notice of such decree, order, or agreement, and such additional information and documentation as the Office or the Executive Director may require.

5 USC 8468.

"§ 8468. Annuities and pay on reemployment

"(a) If an annuitant becomes employed in an appointive or elective position in the Government, payment of any annuity under subchapter II or V of this chapter to the annuitant terminates effective on the date of the employment. The annuitant's service on and after the date the annuitant becomes so employed is covered by this chapter unless such service is performed as a justice or judge of the United States (as defined by section 451 of title 28) or as an employee subject to another retirement system for Government employees. Upon termination of the employment, the rights of the annuitant under subchapter II or V of this chapter (as the case may be) shall be redetermined. If the annuitant dies while still so employed, a survivor annuity payable with respect to the deceased annuitant shall be redetermined as if the employment had otherwise terminated on the date of death.

"(b) The amount of an annuity resulting from a redetermination of rights under this chapter pursuant to subsection (a) shall not be less than the amount of the terminated annuity plus any increases which (but for the reemployment) would have been payable under section 8462 after the termination of the annuity and before the commencement of the redetermined annuity.

"(c) The redetermined annuity commences on the first day of the month after termination of employment.

5 USC 8469.

Contracts.

"§ 8469. Withholding of State income taxes

"(a) The Office shall, in accordance with this section, enter into an agreement with any State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the Office shall withhold State income tax in the case of the monthly annuity of any annuitant who voluntarily requests, in writing, such withholding. The amounts withheld during any calendar quarter shall be held in the Fund and disbursed to the States during the month following that calendar quarter.

"(b) An annuitant may have in effect at any time only one request for withholding under this section, and an annuitant may not have more than two such requests in effect during any one calendar year.

"(c) Subject to subsection (b), an annuitant may change the State designated by that annuitant for purposes of having withholdings made, and may request that the withholdings be remitted in accordance with such change. An annuitant also may revoke any request of that annuitant for withholding. Any change in the State des-

ignated or revocation is effective on the first day of the month after the month in which the request or the revocation is processed by the Office, but in no event later than on the first day of the second month beginning after the day on which such request or revocation is received by the Office.

"(d) This section does not give the consent of the United States to the application of a statute which imposes more burdensome requirements on the United States than on employers generally, or which subjects the United States or any annuitant to a penalty or liability because of this section. The Office may not accept pay from a State for services performed in withholding State income taxes from annuities. Any amount erroneously withheld from an annuity and paid to a State by the Office shall be repaid by the State in accordance with regulations issued by the Office.

"(e) For the purpose of this section—

"(1) the term 'State' means a State, the District of Columbia, or any territory or possession of the United States; and

"(2) the term 'annuitant' includes a survivor who is receiving an annuity from the Fund.

"§ 8470. Exemption from legal process; recovery of payments 5 USC 8470.

"(a) An amount payable under subchapter II, IV, or V of this chapter is not assignable, either in law or equity, except under the provisions of section 8465 or 8467, or subject to execution, levy, attachment, garnishment or other legal process, except as otherwise may be provided by Federal laws.

"(b) Recovery of payments under subchapter II, IV, or V of this chapter may not be made from an individual when, in the judgment of the Office, the individual is without fault and recovery would be against equity and good conscience. Withholding or recovery of money paid under subchapter II, IV, or V of this chapter on account of a certification or payment made by a former employee of the United States in the discharge of his official duties may be made only if the head of the agency on behalf of which the certification or payment was made certifies to the Office that the certification or payment involved fraud on the part of the former employee.

"SUBCHAPTER VII—FEDERAL RETIREMENT THRIFT INVESTMENT MANAGEMENT SYSTEM

"§ 8471. Definitions 5 USC 8471.

"For the purposes of this subchapter—

"(1) the term 'beneficiary' means an individual (other than a participant) entitled to payment from the Thrift Savings Fund under subchapter III of this chapter;

"(2) the term 'Council' means the Employee Thrift Advisory Council established under section 8473 of this title;

"(3) the term 'participant' means an individual for whom an account has been established under section 8439 of this title;

"(4) the term 'person' means an individual, partnership, joint venture, corporation, mutual company, joint-stock company, trust, estate, unincorporated organization, association, or labor organization; and

"(5) the term 'Thrift Savings Fund' means the Thrift Savings Fund established under section 8437 of this title.

5 USC 8472

"§ 8472. Federal Retirement Thrift Investment Board

"(a) There is established in the Executive branch of the Government a Federal Retirement Thrift Investment Board.

"(b) The Board shall be composed of—

"(1) 3 members appointed by the President, of whom 1 shall be designated by the President as Chairman; and

"(2) 2 members appointed by the President, of whom—

"(A) 1 shall be appointed by the President after taking into consideration the recommendation made by the Speaker of the House of Representatives in consultation with the minority leader of the House of Representatives; and

"(B) 1 shall be appointed by the President after taking into consideration the recommendation made by the majority leader of the Senate in consultation with the minority leader of the Senate.

"(c) Except as provided in section 311 of the Federal Employees' Retirement System Act of 1986, appointments under subsection (a) shall be made by and with the advice and consent of the Senate.

"(d) Members of the Board shall have substantial experience, training, and expertise in the management of financial investments and pension benefit plans.

"(e)(1) Except as provided in section 311 of the Federal Employees' Retirement System Act of 1986, a member of the Board shall be appointed for a term of 4 years, except that of the members first appointed (other than the members appointed under such section)—

"(A) the Chairman shall be appointed for a term of 4 years;

"(B) the members appointed under subsection (b)(2) shall be appointed for terms of 3 years; and

"(C) the remaining members shall be appointed for terms of 2 years.

"(2)(A) A vacancy on the Board shall be filled in the manner in which the original appointment was made and shall be subject to any conditions which applied with respect to the original appointment.

"(B) An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

"(3) The term of any member shall not expire before the date on which the member's successor takes office.

"(f) The Board shall—

"(1) establish policies for—

"(A) the investment and management of the Thrift Savings Fund; and

"(B) the administration of subchapter III of this chapter;

"(2) review the performance of investments made for the Thrift Savings Fund; and

"(3) review and approve the budget of the Board.

"(g)(1) The Board may—

"(A) adopt, alter, and use a seal;

"(B) except as provided in paragraph (2), direct the Executive Director to take such action as the Board considers appropriate to carry out the provisions of this subchapter and subchapter III of this chapter and the policies of the Board;

"(C) upon the concurring votes of four members, remove the Executive Director from office for good cause shown; and

"(D) take such other actions as may be necessary to carry out the functions of the Board.

"(2) Except in the case of investments required by section 8438 of this title to be invested in securities of the Government, the Board may not direct the Executive Director to invest or to cause to be invested any sums in the Thrift Savings Fund in a specific asset or to dispose of or cause to be disposed of any specific asset of such Fund.

"(h) The members of the Board shall discharge their responsibilities solely in the interest of participants and beneficiaries under this subchapter and subchapter III of this chapter.

"§ 8473. Employee Thrift Advisory Council

5 USC 8473.

"(a) The Board shall establish an Employee Thrift Advisory Council. The Council shall be composed of 14 members appointed by the Chairman of the Board in accordance with subsection (b).

"(b) The Chairman shall appoint 14 members of the Council, of whom—

"(1) 4 shall be appointed to represent the respective labor organizations representing (as exclusive representatives) the first, second, third, and fourth largest numbers of individuals subject to chapter 71 of this title;

5 USC 7101 *et seq.*

"(2) 2 shall be appointed to represent the respective labor organizations which have been accorded exclusive recognition under section 1203(a) of title 39 representing the largest and second largest numbers of individuals employed by the United States Postal Service;

"(3) 1 shall be appointed to represent the labor organization which has been accorded exclusive recognition under section 1203(a) of title 39 representing the largest number of individuals employed by the United States Postal Service as rural letter carriers;

"(4) 2 shall be appointed to represent the respective managerial organizations (other than an organization described in paragraph (5)) which consult with the United States Postal Service under section 1004(b) of title 39 and which represent the largest and second largest numbers of individuals employed by the United States Postal Service as managerial personnel;

"(5) 1 shall be appointed to represent the supervisors' organization as defined in section 1004(h) of title 39;

"(6) 1 shall be appointed to represent employee organizations having as a purpose promoting the interests of women in Government service;

"(7) 1 shall be appointed to represent the organization representing the largest number of individuals receiving annuities under this chapter or chapter 83 of this title;

5 USC 8301 *et seq.*

"(8) 1 shall be appointed to represent the organization representing the largest number of individuals subject to the Performance Management and Recognition System under chapter 54 of this title; and

5 USC 5401 *et seq.*

"(9) 1 shall be appointed to represent the organization representing the largest number of members of the Senior Executive Service.

"(c)(1) The Chairman of the Board shall designate 1 member of the Council to serve as head of the Council.

"(2) A member of the Council shall be appointed for a term of 4 years.

"(3)(A) A vacancy in the Council shall be filled in the manner in which the original appointment was made and shall be subject to any conditions which applied with respect to the original appointment.

"(B) An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

"(C) The term of any member shall not expire before the date on which the member's successor takes office.

"(d) The Council shall act by resolution of a majority of the members.

"(e) The Council shall—

"(1) advise the Board and the Executive Director on matters relating to—

"(A) investment policies for the Thrift Savings Fund; and

"(B) the administration of this subchapter and subchapter III of this chapter; and

"(2) perform such other duties as the Board may direct with respect to investment funds established in accordance with subchapter III of this chapter.

5 USC app. "(f) Section 14(a)(2) of the Federal Advisory Committee Act shall not apply to the Council.

5 USC 8474. **"§ 8474. Executive Director**

"(a)(1) The Board shall appoint, without regard to the provisions of law governing appointments in the competitive service, an Executive Director by action agreed to by a majority of the members of the Board.

"(2) The Executive Director shall have substantial experience, training, and expertise in the management of financial investments and pension benefit plans.

"(b) The Executive Director shall—

"(1) carry out the policies established by the Board;

"(2) invest and manage the Thrift Savings Fund in accordance with the investment policies and other policies established by the Board;

Contracts. "(3) purchase annuity contracts and provide for the payment of other benefits under subchapter III of this chapter;

"(4) administer the provisions of this subchapter and subchapter III of this chapter;

Regulations. "(5) prescribe such regulations (other than regulations relating to fiduciary responsibilities) as may be necessary for the administration of this subchapter and subchapter III of this chapter; and

"(6) meet from time to time with the Council upon request of the Council.

"(c) The Executive Director may—

"(1) prescribe such regulations as may be necessary to carry out the responsibilities of the Executive Director under this section, other than regulations relating to fiduciary responsibilities;

"(2) appoint such personnel as may be necessary to carry out the provisions of this subchapter and subchapter III of this chapter;

5 USC 3109. "(3) subject to approval by the Board, procure the services of experts and consultants under section 3109 of this title;

"(4) secure directly from an Executive agency, the United States Postal Service, or the Postal Rate Commission any

information necessary to carry out the provisions of this subchapter or subchapter III of this chapter and policies of the Board;

"(5) make such payments out of sums in the Thrift Savings Fund as the Executive Director determines are necessary to carry out the provisions of this subchapter and subchapter III of this chapter and the policies of the Board;

"(6) pay the compensation, per diem, and travel expenses of individuals appointed under paragraphs (2), (3), and (7) of this subsection from the Thrift Savings Fund;

"(7) accept and use the services of individuals employed intermittently in the Government service and reimburse such individuals for travel expenses, as authorized by section 5703 of this title, including per diem as authorized by section 5702 of this title; 5 USC 5703. 5 USC 5702.

"(8) except as otherwise expressly prohibited by law or the policies of the Board, delegate any of the Executive Director's functions to such employees under the Board as the Executive Director may designate and authorize such successive redelegations of such functions to such employees under the Board as the Executive Director may consider to be necessary or appropriate; and

"(9) take such other actions as are appropriate to carry out the functions of the Executive Director.

"§ 8475. Investment policies 5 USC 8475.

"The Board shall develop investment policies under section 8472(f)(1) of this title which provide for—

"(1) prudent investments suitable for accumulating funds for payment of retirement income; and

"(2) low administrative costs.

"§ 8476. Administrative provisions 5 USC 8476.

"(a) The Board shall meet—

"(1) not less than once during each month; and

"(2) at additional times at the call of the Chairman.

"(b)(1) Except as provided in sections 8472(g)(1)(C) and 8474(a)(1) of this title, the Board shall perform the functions and exercise the powers of the Board on a majority vote of a quorum of the Board.

"(2) A vacancy on the Board shall not impair the authority of a quorum of the Board to perform the functions and exercise the powers of the Board.

"(c) Three members of the Board shall constitute a quorum for the transaction of business.

"(d)(1) Each member of the Board who is not an officer or employee of the Federal Government shall be compensated at the daily rate of basic pay for grade GS-18 of the General Schedule for each day during which such member is engaged in performing a function of the Board. 5 USC 5332.

"(2) A member of the Board shall be paid travel, per diem, and other necessary expenses under subchapter I of chapter 57 of this title while traveling away from such member's home or regular place of business in the performance of the duties of the Board. 5 USC 5701.

"(3) Payments authorized under this subsection shall be paid from the Thrift Savings Fund.

"(e) The accrued annual leave of any employee who is a member of the Board or the Council shall not be charged for any time used in performing services for the Board or the Council.

5 USC 8477.

"§ 8477. Fiduciary responsibilities; liability and penalties

"(a) For the purposes of this section—

"(1) the term 'account' is not limited by the definition provided in section 8401(1);

"(2) the term 'adequate consideration' means—

"(A) in the case of a security for which there is a generally recognized market—

"(i) the price of the security prevailing on a national securities exchange which is registered under section 6 of the Securities Exchange Act of 1934; or

15 USC 78f.

"(ii) if the security is not traded on such a national securities exchange, a price not less favorable to the Thrift Savings Fund than the offering price for the security as established by the current bid and asked prices quoted by persons independent of the issuer and of any party in interest; and

"(B) in the case of an asset other than a security for which there is a generally recognized market, the fair market value of the asset as determined in good faith by a fiduciary or fiduciaries in accordance with regulations prescribed by the Secretary of Labor;

"(3) the term 'fiduciary' means—

"(A) a member of the Board;

"(B) the Executive Director;

"(C) any person who has or exercises discretionary authority or discretionary control over the management or disposition of the assets of the Thrift Savings Fund; and

"(D) any person who, with respect to the Thrift Savings Fund, is described in section 3(21)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(21)(A)); and

"(4) the term 'party in interest' includes—

"(A) any fiduciary;

"(B) any counsel to a person who is a fiduciary, with respect to the actions of such person as a fiduciary;

"(C) any participant;

"(D) any person providing services to the Board and, with respect to the actions of the Executive Director as a fiduciary any person providing services to the Executive Director;

"(E) a labor organization, the members of which are participants;

"(F) a spouse, sibling, ancestor, lineal descendant, or spouse of a lineal descendant of a person described in subparagraph (A), (B), or (D);

"(G) a corporation, partnership, or trust or estate of which, or in which, at least 50 percent of—

"(i) the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation;

"(ii) the capital interest or profits interest of such partnership; or

"(iii) the beneficial interest of such trust or estate,

is owned directly or indirectly, or held by a person described in subparagraph (A), (B), (D), or (E);

"(H) an official (including a director) of, or an individual employed by, a person described in subparagraph (A), (B), (D), (E), or (G), or an individual having powers or responsibilities similar to those of such an official;

"(I) a holder (directly or indirectly) of at least 10 percent of the shares in a person described in any subparagraph referred to in subparagraph (H); and

"(J) a person who, directly or indirectly, is at least a 10 percent partner or joint venturer (measured in capital or profits) in a person described in any subparagraph referred to in subparagraph (H).

"(b)(1) To the extent not inconsistent with the provisions of this chapter and the policies prescribed by the Board, a fiduciary shall discharge his responsibilities with respect to the Thrift Savings Fund or applicable portion thereof solely in the interest of the participants and beneficiaries and—

"(A) for the exclusive purpose of—

"(i) providing benefits to participants and their beneficiaries; and

"(ii) defraying reasonable expenses of administering the Thrift Savings Fund or applicable portions thereof;

"(B) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent individual acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like objectives; and

"(C) to the extent permitted by section 8438 of this title, by diversifying the investments of the Thrift Savings Fund or applicable portions thereof so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

"(2) No fiduciary may maintain the indicia of ownership of any assets of the Thrift Savings Fund outside the jurisdiction of the district courts of the United States.

"(c)(1) A fiduciary shall not permit the Thrift Savings Fund to engage in any of the following transactions, except in exchange for adequate consideration:

"(A) A transfer of any assets of the Thrift Savings Fund to any person the fiduciary knows or should know to be a party in interest or the use of such assets by any such person.

"(B) An acquisition of any property from or sale of any property to the Thrift Savings Fund by any person the fiduciary knows or should know to be a party in interest.

"(C) A transfer or exchange of services between the Thrift Savings Fund and any person the fiduciary knows or should know to be a party in interest.

"(2) Notwithstanding paragraph (1), a fiduciary with respect to the Thrift Savings Fund shall not—

"(A) deal with any assets of the Thrift Savings Fund in his own interest or for his own account;

"(B) act, in an individual capacity or any other capacity, in any transaction involving the Thrift Savings Fund on behalf of a party, or representing a party, whose interests are adverse to the interests of the Thrift Savings Fund or the interests of its participants or beneficiaries; or

"(C) receive any consideration for his own personal account from any party dealing with sums credited to the Thrift Savings Fund in connection with a transaction involving assets of the Thrift Savings Fund.

"(3)(A) The Secretary of Labor may, in accordance with procedures which the Secretary shall by regulation prescribe, grant a conditional or unconditional exemption of any fiduciary or transaction, or class of fiduciaries or transactions, from all or part of the restrictions imposed by paragraph (2).

"(B) An exemption granted under this paragraph shall not relieve a fiduciary from any other applicable provision of this chapter.

"(C) The Secretary of Labor may not grant an exemption under this paragraph unless he finds that such exemption is—

"(i) administratively feasible;

"(ii) in the interests of the Thrift Savings Fund and of its participants and beneficiaries; and

"(iii) protective of the rights of participants and beneficiaries of such Fund.

"(D) An exemption under this paragraph may not be granted unless—

"(i) notice of the proposed exemption is published in the Federal Register;

"(ii) interested persons are given an opportunity to present views; and

"(iii) the Secretary of Labor affords an opportunity for a hearing and makes a determination on the record with respect to the respective requirements of clauses (i), (ii), and (iii) of subparagraph (C).

"(d) This section does not prohibit any fiduciary from—

"(1) receiving any benefit which the fiduciary is entitled to receive under this subchapter or subchapter III of this chapter as a participant or beneficiary;

"(2) receiving any reasonable compensation authorized by this subchapter for services rendered, or for reimbursement of expenses properly and actually incurred, in the performance of the fiduciary's duties under this chapter; or

"(3) serving as a fiduciary in addition to being an officer, employee, agent, or other representative of a party in interest.

"(e)(1)(A) Any fiduciary that breaches the responsibilities, duties, and obligations set out in subsection (b) or violates subsection (c) shall be personally liable to the Thrift Savings Fund for any losses to such Fund resulting from each such breach or violation and to restore to such Fund any profits made by the fiduciary through use of assets of such Fund by the fiduciary, and shall be subject to such other equitable or remedial relief as a court considers appropriate. A fiduciary may be removed for a breach referred to in the preceding sentence.

Law enforcement and crime.

"(B) The Secretary of Labor may assess a civil penalty against a party in interest with respect to each transaction which is engaged in by the party in interest and is prohibited by subsection (c). The amount of such penalty shall be equal to 5 percent of the amount involved in each such transaction (as defined in section 4975(f)(4) of the Internal Revenue Code of 1954) for each year or part thereof during which the prohibited transaction continues, except that, if the transaction is not corrected (in such manner as the Secretary of Labor shall prescribe by regulation consistent with section 4975(f)(5) of such Code) within 90 days after the date the Secretary of Labor

26 USC 4975.

transmits notice to the party in interest (or such longer period as the Secretary of Labor may permit), such penalty may be in an amount not more than 100 percent of the amount involved.

"(C) A fiduciary shall not be liable under subparagraph (A) with respect to a breach of fiduciary duty under subsection (b) committed before becoming a fiduciary or after ceasing to be a fiduciary.

"(D) A fiduciary shall be jointly and severally liable under subparagraph (A) for a breach of fiduciary duty under subsection (b) by another fiduciary if—

"(i) the fiduciary participates knowingly in, or knowingly undertakes to conceal, an act or omission of such other fiduciary, knowing such act or omission is such a breach;

"(ii) by the fiduciary's failure to comply with subsection (b) in the administration of the fiduciary's specific responsibilities which give rise to the fiduciary status, the fiduciary has enabled such other fiduciary to commit such a breach; or

"(iii) the fiduciary has knowledge of a breach by such other fiduciary, unless the fiduciary makes reasonable efforts under the circumstances to remedy the breach.

"(E) The Secretary of Labor shall prescribe, in regulations, procedures for allocating fiduciary responsibilities among fiduciaries, including investment managers. Any fiduciary who, pursuant to such procedures, allocates to a person or persons any fiduciary responsibility shall not be liable for an act or omission of such person or persons unless— Regulations.

"(i) such fiduciary violated subsection (b) with respect to the allocation, with respect to the implementation of the procedures prescribed by the Board, or in continuing such allocation; or

"(ii) such fiduciary would otherwise be liable in accordance with subparagraph (D).

"(2) A civil action may be brought in the district courts of the United States— Courts, U.S.

"(A) by the Secretary of Labor—

"(i) to determine and enforce a liability under paragraph (1)(A);

"(ii) to collect any civil penalty under paragraph (1)(B); or

"(iii) to enjoin any act or practice which violates subsection (g)(2) or (h) of section 8472 of this title;

"(B) by the Secretary of Labor, any participant, beneficiary, or fiduciary—

"(i) to enjoin any act or practice which violates any provision of subsection (b) or (c); or

"(ii) to obtain any other appropriate equitable relief to redress a violation of any such provision; or

"(C) by any participant or beneficiary to recover benefits due to him or her under the provisions of subchapter III of this chapter, to enforce his or her rights under such provisions, or to clarify his or her rights to future benefits under such provisions.

"(3) An action may not be commenced under paragraph (2) with respect to a fiduciary's breach of any responsibility, duty, or obligation under subsection (b) or a violation of subsection (c) after the earlier of—

"(A) 6 years after (i) the date of the last action which constituted a part of the breach or violation, or (ii) in the case of an omission, the latest date on which the fiduciary could have cured the breach or violation; or

"(B) 3 years after the earliest date on which the plaintiff had actual knowledge of the breach or violation, except that, in the case of fraud or concealment, such action may be commenced not later than 6 years after the date of discovery of such breach or violation.

Courts, U.S.

"(4)(A) The district courts of the United States shall have exclusive jurisdiction of civil actions under this subsection.

"(B) An action under this subsection may be brought in the District Court of the United States for the District of Columbia or a district court of the United States in the district where the breach alleged in the complaint or petition filed in the action took place or in the district where a defendant resides or may be found. Process may be served in any other district where a defendant resides or may be found.

"(5)(A) A copy of the complaint or petition filed in any action brought under this subsection (other than by the Secretary of Labor) shall be served on the Executive Director, the Secretary of Labor, and the Secretary of the Treasury by certified mail.

"(B) Any officer referred to in subparagraph (A) of this paragraph shall have the right in his discretion to intervene in any action. If the Secretary of Labor brings an action under paragraph (2) of this subsection on behalf of a participant or beneficiary, he shall notify the Executive Director and the Secretary of the Treasury.

"(f) The Secretary of Labor may prescribe regulations to carry out this section.

"(g)(1) The Secretary of Labor shall establish a program to carry out audits to determine the level of compliance with the requirements of this section relating to fiduciary responsibilities and prohibited activities of fiduciaries.

"(2) An audit under this subsection may be conducted by the Secretary of Labor, by contract with a qualified non-governmental organization, or in cooperation with the Comptroller General of the United States, as the Secretary considers appropriate.

5 USC 8478.

"§ 8478. Bonding

"(a)(1) Except as provided in paragraph (2), each fiduciary (other than a member of the Employee Thrift Advisory Council with respect to his duties as a member) and each person who handles funds or property of the Thrift Savings Fund shall be bonded as provided in this section.

"(2)(A) Bond shall not be required of a fiduciary (or of any officer or employee of such fiduciary) if such fiduciary—

"(i) is a corporation organized and doing business under the laws of the United States or of any State;

"(ii) is authorized under such laws to exercise trust powers or to conduct an insurance business;

"(iii) is subject to supervision or examination by Federal or State authority; and

"(iv) has at all times a combined capital and surplus in excess of such minimum amount (not less than $1,000,000) as the Secretary of Labor prescribes in regulations.

"(B) If—

"(i) a bank or other financial institution would, but for this subparagraph, not be required to be bonded under this section by reason of the application of the exception provided in subparagraph (A),

"(ii) the bank or financial institution is authorized to exercise trust powers, and

"(iii) the deposits of the bank or financial institution are not insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation,

such exception shall apply to such bank or financial institution only if the bank or institution meets bonding requirements under State law which the Secretary of Labor determines are at least equivalent to those imposed on banks by Federal law.

"(b)(1) The Secretary of Labor shall prescribe the amount of a bond under this section at the beginning of each fiscal year. Except as otherwise provided in this paragraph, such amount shall not be less than 10 percent of the amount of funds handled. In no case shall such bond be less than $1,000 nor more than $500,000, except that the Secretary of Labor, after due notice and opportunity for hearing to all interested parties, and other consideration of the record, may prescribe an amount in excess of $500,000.

"(2) For the purpose of prescribing the amount of a bond under paragraph (1), the amount of funds handled shall be determined by reference to the amount of the funds handled by the person, group, or class to be covered by such bond or by their predecessor or predecessors, if any, during the preceding fiscal year, or to the amount of funds to be handled during the current fiscal year by such person, group, or class, estimated as provided in regulations prescribed by the Secretary of Labor.

"(c) A bond required by subsection (a)—

"(1) shall include such terms and conditions as the Secretary of Labor considers necessary to protect the Thrift Savings Fund against loss by reason of acts of fraud or dishonesty on the part of the bonded person directly or through connivance with others;

"(2) shall have as surety thereon a corporate surety company which is an acceptable surety on Federal bonds under authority granted by the Secretary of the Treasury pursuant to sections 6 through 13 of title 6; and

"(3) shall be in a form or of a type approved by the Secretary of Labor, including individual bonds or schedule or blanket forms of bonds which cover a group or class.

"(d)(1) It shall be unlawful for any person to whom subsection (a) applies, to receive, handle, disburse, or otherwise exercise custody or control of any of the funds or other property of the Thrift Savings Fund without being bonded as required by this section. Law enforcement and crime.

"(2) It shall be unlawful for any fiduciary, or any other person having authority to direct the performance of functions described in paragraph (1), to permit any such function to be performed by any person to whom subsection (a) applies unless such person has met the requirements of such subsection.

"(e) Notwithstanding any other provision of law, any person who is required to be bonded as provided in subsection (a) shall be exempt from any other provision of law which would, but for this subsection, require such person to be bonded for the handling of the funds or other property of the Thrift Savings Fund.

"(f) The Secretary of Labor shall prescribe such regulations as may be necessary to carry out the provisions of this section, including exempting a person or class of persons from the requirements of this section. Regulations.

"§ 8479. Exculpatory provisions; insurance

"(a) Any provision in an agreement or instrument which purports to relieve a fiduciary from responsibility or liability for any responsibility, obligation, or duty under this subchapter shall be void.

"(b)(1) The Executive Director may require employing agencies to contribute an amount not to exceed 1 percent of the amount such agencies are required to contribute in accordance with section 8432(c) of this title to the Thrift Savings Fund.

"(2) The sums credited to the Thrift Savings Fund under paragraph (1) shall be available and may be used at the discretion of the Executive Director to purchase insurance to cover potential liability of persons who serve in a fiduciary capacity with respect to the Thrift Savings Fund, without regard to whether a policy of insurance permits recourse by the insurer against the fiduciary in the case of a breach of a fiduciary obligation.".

(b) CONFORMING AMENDMENT.—The table of chapters at the beginning of part III of title 5, United States Code, is amended by inserting after the item relating to chapter 83 the following new item:

"84. Federal Employees' Retirement System ..... 8401.".

TITLE II—OTHER AMENDMENTS TO TITLE 5 OF THE UNITED STATES CODE

SEC. 201. TREATMENT UNDER CIVIL SERVICE RETIREMENT SYSTEM OF CERTAIN INDIVIDUALS EXCLUDED FROM FEDERAL EMPLOYEES' RETIREMENT SYSTEM.

(a) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—(1) Section 8334 of title 5, United States Code, is amended by adding at the end thereof the following:

"(k)(1) Effective with respect to pay periods beginning after December 31, 1986, in administering this section in the case of an individual described in section 8402(b)(2) of this title—

"(A) the amount to be deducted and withheld by the employing agency shall be determined in accordance with paragraph (2) of this subsection instead of the first sentence of subsection (a)(1) of this section; and

"(B) the amount of the contribution under the second sentence of subsection (a)(1) of this section shall be the amount which would have been contributed under such sentence if this subsection had not been enacted.

"(2)(A) With respect to Federal wages of an employee or Member (or that portion thereof) not exceeding the contribution and benefit base during the calendar year involved, the appropriate amount to be deducted and withheld under this subsection is the amount by which—

"(i) the total deduction for those wages (or for that portion) exceeds;

"(ii) the OASDI contribution with respect to those wages (or that portion).

"(B) With respect to any portion of Federal wages of an employee or Member which exceed the contribution and benefit base during the calendar year involved, the appropriate amount to be deducted

and withheld under this subsection is an amount equal to the total deduction for that portion.

"(C) For purposes of this paragraph—

"(i) the term 'Federal wages' means basic pay for service as an employee or Member, as the case may be;

"(ii) the term 'contribution and benefit base' means the contribution and benefit base in effect with respect to the period involved, as determined under section 230 of the Social Security Act;

42 USC 430.

"(iii) the term 'total deduction', as used with respect to any Federal wages (or portion thereof), means an amount equal to the amount of those wages (or of that portion), multiplied by the percentage which (but for this subsection) would apply under the first sentence of subsection (a)(1) with respect to the individual involved; and

"(iv) the term 'OASDI contribution', with respect to any income, means the amount of tax which may be imposed under section 3101(a) of the Internal Revenue Code of 1954 with respect to such income (determined without regard to any income which is not a part of Federal wages).

26 USC 3101.

"(3) The amount of a deposit under subsection (c) of this section for any service with respect to which paragraph (1) of this subsection applies shall be equal to an amount determined based on the preceding provisions of this subsection, and shall include interest.".

(2) Such section 8334 is further amended—

(A) in paragraphs (1) and (2) of subsection (e), by striking out "or (j)" and inserting in lieu thereof "(j), or (k)";

(B) in subsection (f), by inserting "or (k)" after "subsection (a)"; and

(C) in subsection (h), by striking out "and (j)" and inserting in lieu thereof "(j), and (k)".

(b) OFFSET IN BENEFITS.—(1) Subchapter III of chapter 83 of title 5, United States Code, is amended by adding at the end thereof the following:

5 USC 8331.
Post, pp. 591-593.

"§ 8349. Offset relating to certain benefits under the Social Security Act

5 USC 8349.
42 USC 1305.

"(a)(1) Notwithstanding any other provision of this subchapter, if an individual under section 8402(b)(2) is entitled, or would on proper application be entitled, to old-age insurance benefits under title II of the Social Security Act, the annuity otherwise payable to such individual shall be reduced under this subsection.

42 USC 401.

"(2) A reduction under this subsection commences beginning with the first month for which the individual both—

"(A) is entitled to an annuity under this subchapter; and

"(B) is entitled, or would on proper application be entitled, to old-age insurance benefits under title II of the Social Security Act.

"(3)(A)(i) Subject to clause (ii) and subparagraphs (B) and (C), the amount of a reduction under this subsection shall be equal to the difference between—

"(I) the old-age insurance benefit which would be payable to the individual for the month referred to in paragraph (2); and

"(II) the old-age insurance benefit which would be so payable, excluding all wages derived from Federal service of the individual, and assuming the individual were fully insured (as defined by section 214(a) of the Social Security Act).

42 USC 414.

"(ii) For purposes of this subsection, the amount of a benefit referred to in subclause (I) or (II) of clause (i) shall be determined without regard to subsections (b) through (l) of section 203 of the Social Security Act, and without regard to the requirement that an application for such benefit be filed.

42 USC 403.

"(B) A reduction under this subsection—

"(i) may not exceed an amount equal to the product of—

"(I) the old-age insurance benefit to which the individual is entitled (or would on proper application be entitled) for the month referred to in paragraph (2), determined without regard to subsections (b) through (l) of section 203 of the Social Security Act; and

"(II) a fraction, as determined under section 8421(b)(3) with respect to the individual, except that the reference to 'service' in subparagraph (A) of such section shall be considered to mean Federal service; and

"(ii) may not cause the annuity payment for an individual to be reduced below zero.

"(C) An amount computed under subclause (I) or (II) of subparagraph (A)(i), or under subparagraph (B)(i)(I), for purposes of determining the amount of a reduction under this subsection shall be adjusted under section 8340 of this title.

"(4) A reduction under this subsection applies with respect to the annuity otherwise payable to such individual under this subchapter (other than under section 8337) for the month involved—

"(A) based on service of such individual; and

"(B) without regard to section 8345(j), if otherwise applicable.

"(5) The operation of the preceding paragraphs of this subsection shall not be considered for purposes of applying the provisions of the second sentence of section 215(a)(7)(B)(i) or the provisions of section 215(d)(5)(ii) of the Social Security Act in determining any amount under subclause (I) or (II) of paragraph (3)(A)(i) or paragraph (3)(B)(i)(I) for purposes of this subsection.

"(b)(1) Notwithstanding any other provision of this subchapter—

"(A) a disability annuity to which an individual described in section 8402(b)(2) is entitled under this subchapter, and

"(B) a survivor annuity to which a person is entitled under this subchapter based on the service of an individual described in section 8402(b)(2),

shall be subject to reduction under this subsection if that individual or person is also entitled (or would on proper application also be entitled) to any similar benefits under title II of the Social Security Act based on the wages and self-employment income of such individual described in section 8402(b)(2).

42 USC 401.

"(2)(A) Subject to subparagraph (B), reductions under this subsection shall be made in a manner consistent with the manner in which reductions under subsection (a) are computed and otherwise made.

"(B) Reductions under this subsection shall be discontinued if, or for so long as, entitlement to the similar benefits under title II of the Social Security Act (as referred to in paragraph (1)) is terminated (or, in the case of an individual who has not made proper application therefor, would be terminated).

"(3) For the purpose of applying section 224 of the Social Security Act to the disability insurance benefit used to compute the reduction under this subsection, the amount of the CSRS annuity considered shall be the amount of the CSRS annuity before application of this section.

Ante, pp. 286, 287.

"(4) The Office shall prescribe regulations to carry out this subsection. Regulations.

"(c) For the purpose of this section, the term 'Federal service' means service which is employment for the purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954 by reason of the amendments made by section 101 of the Social Security Amendments of 1983.". 42 USC 401. 26 USC 3101 *et seq.*

(2) The analysis for chapter 83 of title 5, United States Code, is amended by adding at the end thereof the following new item: 26 USC 3121 and 3121 note. 42 USC 409-410 note.

"8349. Offset relating to certain benefits under the Social Security Act.".

(c) CREDITABILITY OF INTERIM SERVICE.—Section 8334(c) of title 5, United States Code, is amended by adding at the end thereof the following: "Notwithstanding the preceding provisions of this subsection and any provision of section 206(b)(3) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983, the percentage of basic pay required under this subsection in the case of an individual described in section 8402(b)(2) shall, with respect to any covered service (as defined by section 203(a)(3) of such Act) performed by such individual after December 31, 1983, and before January 1, 1987, be equal to 1.3 percent.". 5 USC 8331 note. 5 USC 8331 note.

SEC. 202. NON-APPLICABILITY OF CIVIL SERVICE RETIREMENT SYSTEM TO INDIVIDUALS UNDER FEDERAL EMPLOYEES' RETIREMENT SYSTEM.

(a) EMPLOYEES.—Section 8331(1) of title 5, United States Code, is amended—

(1) by amending clause (ii) to read as follows:

"(ii) an employee subject to another retirement system for Government employees (other than an employee described in clause (x);";

(2) by striking "or" at the end of clause (viii);

(3) by striking the period at the end of clause (ix) and inserting in lieu thereof "; or"; and

(4) by adding after clause (ix) the following:

"(x) an employee subject to the Federal Employees' Retirement System.".

(b) MEMBERS OF CONGRESS.—Section 8331(2) of title 5, United States Code, is amended by striking the semicolon and inserting in lieu thereof ", but does not include any such Member of Congress who is subject to the Federal Employees' Retirement System or who makes an election under section 8401(20) of this title not to be subject to such System;".

SEC. 203. PAY FOR THE EXECUTIVE DIRECTOR OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD.

Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"Executive Director, Federal Retirement Thrift Investment Board.".

SEC. 204. ALTERNATIVE FORMS OF ANNUITIES.

(a) IN GENERAL.—Title 5, United States Code, is amended by inserting after section 8343 the following:

"§ 8343a. Alternative forms of annuities Regulations. 5 USC 8343a.

"(a) The Office of Personnel Management shall prescribe regulations under which an employee or Member may, at the time of

retiring under this subchapter (other than under section 8337 of this title), elect annuity benefits under this section instead of any other benefits under this subchapter (including any benefits under section 8341 of this title) based on the service of the employee or Member.

Regulations.

"(b) Subject to subsection (c), the Office shall by regulation provide for such alternative forms of annuities as the Office considers appropriate, except that among the alternatives offered shall be—

"(1) an alternative which provides for—

"(A) payment of the lump-sum credit to the employee or Member; and

"(B) payment of an annuity to the employee or Member for life; and

"(2) in the case of an employee or Member who is married at the time of retirement, an alternative which provides for—

"(A) payment of the lump-sum credit to the employee or Member; and

"(B) payment of an annuity to the employee or Member for life, with a survivor annuity payable for the life of a surviving spouse.

"(c) Each alternative provided for under subsection (b) shall, to the extent practicable, be designed such that the present value of the benefits provided under such alternative (including any lump-sum credit) is actuarially equivalent to the present value of the annuity which would otherwise be provided the employee or Member under this subchapter, as computed under subsections (a)–(i) and (n) of section 8339 of this title.

"(d) An employee or Member who, at the time of retiring under this subchapter—

"(1) is married, shall be ineligible to make an election under this section unless a waiver is made under section 8339(j)(1) of this title; or

"(2) has a former spouse, shall be ineligible to make an election under this section if the former spouse is entitled to benefits under section 8341(h) or 8345(j) of this title (based on the service of the employee or Member) under the terms of a decree of divorce or annulment, or a court order or court-approved property settlement incident to any such decree, with respect to which the Office has been duly notified.

"(e) An employee or Member who is married at the time of retiring under this subchapter and who makes an election under this section may, during the 18-month period beginning on the date of retirement, make the election provided for under section 8339(o) of this title, subject to the deposit requirement thereunder.".

(b) CONFORMING AMENDMENTS.—(1) The analysis for chapter 83 of title 5, United States Code, is amended by inserting after the item relating to section 8343 the following:

"8343a. Alternative forms of annuities.".

(2) The second sentence of section 8342(a) of title 5, United States Code, is amended by striking "The" and inserting in lieu thereof "Except as provided in section 8343a of this title, the".

SEC. 205. RETIREMENT COUNSELING.

(a) IN GENERAL.—Subchapter III of chapter 83 of title 5, United States Code, as amended by section 201(b), is further amended by adding at the end thereof the following:

"§ 8350. Retirement counseling

5 USC 8350.

"(a) For the purposes of this section, the term 'retirement counselor', when used with respect to an agency, means an employee of the agency who is designated by the head of the agency to furnish information on benefits under this subchapter and chapter 84 of this title and counseling services relating to such benefits to other employees of the agency.

Ante, p. 517.

"(b) The Director of the Office of Personnel Management shall establish a training program for all retirement counselors of agencies of the Federal Government.

"(c)(1) The training program established under subsection (b)(1) of this section shall provide for comprehensive training in the provisions and administration of this subchapter and chapter 84 of this title, shall be designed to promote fully informed retirement decisions by employees and Members under this subchapter and individuals subject to chapter 84 of this title, and shall be revised as necessary to assure that the information furnished to retirement counselors of agencies under the program is current.

"(2) The Director shall conduct a training session under the training program at least once every 3 months.

"(3) Once each year, each retirement counselor of an agency shall successfully complete a training session conducted under the training program.".

(b) CHAPTER ANALYSIS.—The chapter analysis at the beginning of such chapter is amended by inserting after the item relating to section 8349 the following:

"8350. Retirement counseling.".

SEC. 206. PARTICIPATION BY CERTAIN EMPLOYEES AND MEMBERS ONLY IN THE THRIFT SAVINGS PLAN.

(a)(1) Subchapter III of chapter 83 of title 5, United States Code (as amended by sections 201(b) and 205(a) of this Act), is amended by adding at the end thereof the following new section:

"§ 8351. Participation in the Thrift Savings Plan

5 USC 8351.

"(a)(1) An employee or Member may elect to contribute to the Thrift Savings Fund established by section 8437 of this title.

"(2) An election may be made under paragraph (1) only during a period provided under section 8432(b) for individuals who are subject to chapter 84 of this title.

"(b)(1) Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of this title shall apply with respect to employees and Members making contributions to the Thrift Savings Fund under subsection (a) of this section.

"(2) An employee or Member may contribute to the Thrift Savings Fund in any pay period any amount not exceeding 5 percent of the amount of the employee's or Member's basic pay for such period.

"(3) No contributions may be made by an employing agency for the benefit of an employee or Member under section 8432(c) of this title.

"(4) Section 8433(b) of this title applies to any employee or Member who elects to make contributions to the Thrift Savings Fund under subsection (a) of this section and separates from Government employment entitled to an immediate annuity under this subchapter (including a disability retirement annuity under section

5 USC 8101.

8337 of this title) or separates from Government employment entitled to benefits under subchapter I of chapter 81 of this title.

"(5) Section 8433(c) of this title applies to any employee or Member who elects to make contributions to the Thrift Savings Fund under subsection (a) of this section and separates entitled to a deferred annuity under this subchapter.

"(6) Section 8433(d) of this title applies to any employee or Member who elects to make contributions to the Thrift Savings Fund under subsection (a) of this section and separates from the service before becoming entitled to an immediate or deferred annuity under this subchapter.

"(7)(A) The provisions of section 8435 of this title that require a waiver or consent by the spouse of an employee or Member (or former employee or Member) shall not apply with respect to sums in the Thrift Savings Fund contributed by the employee or Member (or former employee or Member) and earnings in the fund attributable to such sums.

Loans.

"(B) An election, change of election, or modification (relating to the commencement date of a deferred annuity) authorized by subchapter III of chapter 84 of this title shall be effective in the case of a married employee or Member, and a loan may be approved under section 8433(i) of this title in such case, only after the Executive Director notifies the employee's or Member's spouse that the election, change of election, or modification has been made or that the Executive Director has received an application for such loan, as the case may be.

"(C) Subparagraph (B) may be waived with respect to a spouse or former spouse if the employee or Member establishes to the satisfaction of the Executive Director of the Federal Retirement Thrift Investment Board that the whereabouts of such spouse or former spouse cannot be determined.

Securities.

"(8) Sums contributed under this section and earnings attributable to such sums may be invested and reinvested only in the Government Securities Investment Fund established under section 8438(b)(1)(A) of this title.

Regulations.

"(c) The Executive Director of the Federal Retirement Thrift Investment Board may prescribe regulations to carry out this section.".

(2) The analysis for chapter 83 of such title is amended by adding at the end thereof the following:

5 USC 8351 note.

"8351. Participation in the Thrift Savings Plan.".

(b) An election may first be made by an employee of the Federal Government or a Member of Congress under section 8351 of title 5, United States Code (as added by subsection (a)(1)), during the first period referred to in subsection (a)(2) of such section which commences on or after July 1, 1987.

SEC. 207. MISCELLANEOUS AMENDMENTS.

(a) AMENDMENT TO SECTION 2105.—Section 2105(c)(2) of title 5, United States Code, is amended by striking out "chapter 81" and inserting in lieu thereof "chapter 81, chapter 84,".

(b) AMENDMENT TO SECTION 2109.—Section 2109(1) of title 5, United States Code, is amended to read as follows:

"(1) 'air traffic controller' or 'controller' means a civilian employee of the Department of Transportation or the Depart-

ment of Defense who, in an air traffic control facility or flight service station facility—

"(A) is actively engaged—

"(i) in the separation and control of air traffic; or

"(ii) in providing preflight, inflight, or airport advisory service to aircraft operators; or

"(B) is the immediate supervisor of any employee described in subparagraph (A); and".

(c) AMENDMENT TO SECTION 6301.—Section 6301(2)(B) of title 5, United States Code, is amended to read as follows:

District of Columbia.

"(B) an individual first employed by the government of the District of Columbia before October 1, 1987;".

(d) AMENDMENT TO SECTION 6303.—The second sentence of section 6303(a) of title 5, United States Code, is amended by striking out "title." and inserting in lieu thereof "title and all service creditable under section 8411 of this title for the purpose of chapter 84 of this title.".

Ante, p. 517.

(e) AMENDMENT TO SECTION 8116.—Section 8116 of title 5, United States Code, is amended by adding at the end thereof the following:

"(d) Notwithstanding the other provisions of this section, an individual receiving benefits for disability or death under this subchapter who is also receiving benefits under subchapter III of chapter 84 of this title or benefits under title II of the Social Security Act shall be entitled to all such benefits, except that—

42 USC 401.

"(1) benefits received under section 223 of the Social Security Act (on account of disability) shall be subject to reduction on account of benefits paid under this subchapter pursuant to the provisions of section 224 of the Social Security Act; and

42 USC 423.

42 USC 424a.

"(2) in the case of benefits received on account of age or death under title II of the Social Security Act, compensation payable under this subchapter based on the Federal service of an employee shall be reduced by the amount of any such social security benefits payable that are attributable to Federal service of that employee covered by chapter 84 of this title. However, eligibility for or receipt of benefits under chapter 84 of this title, or benefits under title II of the Social Security Act by virtue of service covered by chapter 84 of this title, does not affect the right of the employee to compensation for scheduled disabilities specified by section 8107(c) of this title.".

(f) AMENDMENTS TO SECTION 8331.—Section 8331(1) of title 5, United States Code, as amended by section 202(a), is further amended—

(1) by amending subparagraph (G) to read as follows:

District of Columbia.

"(G) an individual first employed by the government of the District of Columbia before October 1, 1987;"; and

(2) by striking out "or" at the end of clause (ix), by striking out the period at the end of clause (x) and inserting in lieu thereof "; or", and by adding after clause (x) the following:

"(xi) an employee under the Botanic Garden excluded by the Director or Acting Director of the Botanic Garden under section 8347(l) of this title.".

(g) AMENDMENTS TO SECTION 8332.—(1) Section 8332(b) of title 5, United States Code, is amended—

(A) by striking "and" at the end of paragraph (12), striking the period at the end of the first paragraph (13) and inserting a semicolon, redesignating the second paragraph (13) as para-

graph (14), and striking the period at the end of such paragraph (14) (as so redesignated) and inserting "; and";

(B) by inserting after paragraph (14) (as so redesignated by subparagraph (A)) the following:

District of Columbia. Guam. Virgin Islands.

"(15) subject to sections 8334(c) and 8339(i) of this title, service performed on or after January 3, 1969, and before January 4, 1973, as the Washington Representative for Guam or the Washington Representative for the Virgin Islands, only if the individual serves as a Member for a period of at least five years after January 2, 1973.";

(C) in the second sentence after paragraph (15) (as added by subparagraph (B)), by striking "(13)" and inserting "(14)"; and

(D) by adding at the end thereof the following: "For the purpose of this subchapter, service of the type described in paragraph (15) of this subsection shall be considered Member service.".

(2) The last sentence of section 8332(f) of title 5, United States Code, is amended by striking "(13)" and inserting "(14)".

(3) The last sentence of section 8332(k)(1) of title 5, United States Code, is amended by striking "second" and inserting "third".

(h) AMENDMENTS TO SECTION 8342.—Section 8342(a) of title 5, United States Code, is amended—

Ante, p. 517.

(1) in paragraphs (1)(B) and (3), by inserting ", or chapter 84 of this title," after "subchapter"; and

(2) by adding at the end the following: "In applying this subsection with respect to an employee or Member who becomes subject to chapter 84 of this title, entitlement to payment of the lump-sum credit shall be determined without regard to paragraph (1) or (3) if, and to the extent that, such lump-sum credit relates to service of a type described in clauses (i) through (iii) of section 302(a)(1)(C) of the Federal Employees' Retirement System Act of 1986.".

(i) AMENDMENT TO SECTION 8347.—Section 8347 of title 5, United States Code, is amended by adding at the end thereof the following:

"(n)(1) Notwithstanding any other provision of this subchapter, the Director of Central Intelligence shall, in a manner consistent with the administration of this subchapter by the Office, and to the extent considered appropriate by the Director of Central Intelligence—

"(A) determine entitlement to benefits under this subchapter based on the service of employees of the Central Intelligence Agency;

Records.

"(B) maintain records relating to the service of such employees;

"(C) compute benefits under this subchapter based on the service of such employees;

"(D) collect deposits to the Fund made by such employees, their spouses, and their former spouses;

"(E) authorize and direct disbursements from the Fund to the extent based on service of such employees; and

"(F) perform such other functions under this subchapter as the Director of Central Intelligence, in consultation with the Director of the Office of Personnel Management, determines to be appropriate.

"(2) The Director of the Office of Personnel Management shall furnish such information and, on a reimbursable basis, such services

to the Director of Central Intelligence as the Director of Central Intelligence requests to carry out paragraph (1) of this subsection.

"(3)(A) The Director of Central Intelligence, in consultation with the Director of the Office of Personnel Management, shall by regulation prescribe appropriate procedures to carry out this subsection. Regulations.

"(B) The regulations shall provide procedures for the Director of the Office of Personnel Management to inspect and audit disbursements from the Civil Service Retirement and Disability Fund under this subchapter.

"(C) The Director of Central Intelligence shall submit the regulations prescribed under subparagraph (A) to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives before the regulations take effect.

"(4)(A) Section 201(c) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees shall apply in the administration of this subchapter to the extent that the provisions of this subchapter are administered under this subsection. 50 USC 403 note.

"(B) Notwithstanding subparagraph (A) of this paragraph, section 8347(d) of this title shall apply with respect to employees of the Central Intelligence Agency who are subject to the Civil Service Retirement System.".

(j) AMENDMENTS TO SECTION 8348.—Section 8348(a) of title 5, United States Code, is amended—

(1) in paragraph (1)(A), by striking out "subchapter;" and inserting in lieu thereof "subchapter or by the provisions of chapter 84 of this title which relate to benefits payable out of the Fund;"; *Ante*, p. 517.

(2) in paragraph (1)(B)—

(A) by inserting "or 8462" after "8340"; and

(B) by striking out "title, and" and inserting in lieu thereof "title or subchapters II and IV of chapter 84 of this title, and"; and

(3) in paragraph (2), by striking out "chapter" and inserting in lieu thereof "chapter, chapter 84 of this title,".

(k) AMENDMENTS TO CHAPTER 87.—Chapter 87 of title 5, United States Code, is amended— 5 USC 8701 *et seq.*

(1) by amending section 8701(a)(6) to read as follows:

"(6) an individual first employed by the government of the District of Columbia before October 1, 1987;";

(2) in section 8706, by striking out subsection (c) and redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively;

(3) by striking out subsection (c)(1) of section 8714a and inserting in lieu thereof the following:

"(c)(1) Except as otherwise provided in this subsection, the optional insurance on an employee stops on his separation from service or 12 months after discontinuance of his pay, whichever is earlier, subject to a provision for temporary extension of life insurance coverage and for conversion to an individual policy of life insurance under conditions approved by the Office."; Insurance.

(4) by striking out the first sentence of section 8714b(c)(1) and inserting in lieu thereof the following: "Except as otherwise provided in this subsection, the additional optional insurance elected by an employee pursuant to this section shall stop on separation from service or 12 months after discontinuance of his pay, whichever is earlier, subject to a provision for temporary

extension of life insurance coverage and for conversion to an individual policy of life insurance under conditions approved by the Office."; and

(5) by striking out subsection (c)(1) of section 8714c and inserting in lieu thereof the following:

"(c)(1) Except as otherwise provided in this subsection, the optional life insurance on family members shall stop at the earlier of the employee's death, the employee's separation from the service, or 12 months after discontinuance of pay, subject to a provision for temporary extension of life insurance coverage and for conversion to individual policies of life insurance under conditions approved by the Office.".

(l) AMENDMENTS TO SECTION 8901.—Section 8901 of title 5, United States Code, is amended—

District of Columbia.

(1) by amending paragraph (1)(E) to read as follows:

"(E) an individual first employed by the government of the District of Columbia before October 1, 1987;";

(2) by amending paragraph (3)(A) to read as follows:

"(A) an employee who retires—

Ante, pp. 589, 591-593.

"(i) on an immediate annuity under subchapter III of chapter 83 of this title, or another retirement system for employees of the Government, after 5 or more years of service;

"(ii) under section 8412 or 8414 of this title; or

Ante, p. 517.

"(iii) for disability under subchapter III of chapter 83 of this title, chapter 84 of this title, or another retirement system for employees of the Government;";

(3) in paragraph (4), by inserting "or chapter 84" after "83";

(4) in paragraph (10)(C)(i), by inserting "or 8467" after "8345(j)", by inserting "or 8445" after "8341(h)", and by striking out "System)," and inserting in lieu thereof "System or the Federal Employees' Retirement System),"; and

(5) in paragraph (10)(C)(ii)—

(A) by striking out "or 8345(j)" and inserting in lieu thereof "8345(j), 8445, or 8467" and by striking out "System)" and inserting in lieu thereof "System or the Federal Employees' Retirement System)"; and

(B) by inserting "or 8417(b)" after "8339(j)(3)".

(m) AMENDMENTS TO SECTION 8905.—Section 8905(c)(1) of title 5, United States Code, is amended—

(1) in subparagraph (B), by inserting "or 8417(b)" after "8339(j)(3)"; and

(2) in the second sentence, by striking out "or 8345(j)" and inserting in lieu thereof "8345(j), 8445, or 8467".

(n) AMENDMENT TO SECTION 5102.—Section 5102(c)(14) of title 5, United States Code, is amended by inserting "(other than employees of the Federal Retirement Thrift Investment Management System appointed under section 8474(c)(2) of this title)" after "United States".

TITLE III—OTHER PROVISIONS RELATING TO THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM AND THE CIVIL SERVICE RETIREMENT SYSTEM

SEC. 301. ELECTIONS.

5 USC 8331 note.

(a) ELECTIONS FOR INDIVIDUALS SUBJECT TO THE CIVIL SERVICE RETIREMENT SYSTEM.—(1)(A) Any individual (other than an individual under subsection (b)) who, as of June 30, 1987, is employed by the Federal Government, and who is then subject to subchapter III of chapter 83 of title 5, United States Code, may elect to become subject to chapter 84 of such title.

Ante, pp. 589, 591-593.

(B) An election under this paragraph may not be made before July 1, 1987, or after December 31, 1987.

Ante, p. 517.

(2)(A) Any individual who, after June 30, 1987, becomes reemployed by the Federal Government, and who is then subject to subchapter III of chapter 83 of title 5, United States Code, may elect to become subject to chapter 84 of such title.

(B) An election under this paragraph shall not be effective unless it is made during the six-month period beginning on the date on which reemployment commences.

(b) ELECTIONS FOR CERTAIN INDIVIDUALS SERVING CONTINUOUSLY SINCE DECEMBER 31, 1983.—The following rules shall apply in the case of any individual described in section 8402(b)(1) of title 5, United States Code:

(1) If, as of December 31, 1986, the individual is subject to subchapter III of chapter 83 of title 5, United States Code, but is not subject to section 204 of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983, the individual shall remain so subject to such subchapter unless the individual elects, after June 30, 1987, and before January 1, 1988—

5 USC 8331 note.

(A) to become subject to such subchapter under the same terms and conditions as apply in the case of an individual described in section 8402(b)(2) of such title who is subject to such subchapter; or

(B) to become subject to chapter 84 of such title.

An individual eligible to make an election under this paragraph may make the election described in subparagraph (A) or (B), but not both.

(2) If, as of December 31, 1986, the individual is subject to subchapter III of chapter 83 of title 5, United States Code, and is also subject to section 204 of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983, the individual—

(A) shall, as of January 1, 1987, become subject to such subchapter under the same terms and conditions as apply in the case of an individual described in section 8402(b)(2) of such title who is subject to such subchapter; and

(B) may (during the six-month period described in subsection (a)(1)(B)) elect to become subject to chapter 84 of such title.

(3)(A)(i) If, as of December 31, 1986, the individual is not subject to subchapter III of chapter 83 of title 5, United States Code, the individual may, during the six-month period described

in subsection (a)(1)(B), and if such individual has not since become subject to such subchapter pursuant to notification under section 8331(2) of such title, elect to become subject to chapter 84 of such title.

Ante, p. 591.

(ii) An individual who makes an election under this subparagraph ceases to be eligible to become subject to subchapter III of chapter 83 of title 5, United States Code, pursuant to notification under section 8331(2) of such title.

Ante, pp. 589, 591-593.

(B) Except as provided in subparagraph (A)(ii), nothing in this paragraph shall preclude an individual from becoming subject to subchapter III of chapter 83 of title 5, United States Code, pursuant to notification under section 8331(2) of such title. However, an individual who becomes subject to such subchapter pursuant to notification under such section 8331(2) after December 31, 1986, shall become subject to such subchapter under the same terms and conditions as apply in the case of an individual described in section 8402(b)(2) of such title who is subject to such subchapter.

(c) EFFECTIVE DATE; IRREVOCABILITY.—An election made under this section—

(1) shall take effect beginning with the first pay period beginning after the date of the election; and

(2) shall be irrevocable.

(d) CONDITION FOR MAKING AN ELECTION; EXTENSION TO SATISFY CONDITION.—(1) An election under this section to become subject to chapter 84 of title 5, United States Code, shall not be considered effective in the case of an individual having one or more former spouses, unless the election is made with the written consent of such former spouse (or each such former spouse, if there is more than one).

Ante, p. 517.

(2)(A) This subsection applies with respect to a former spouse who (based on the service of the individual involved) is entitled to benefits under section 8341(h) or 8345(j) of title 5, United States Code, under the terms of a decree of divorce or annulment, or a court order or court-approved property settlement incident to any such decree, with respect to which the Office of Personnel Management has been duly notified.

(B) This subsection does not apply with respect to a former spouse who has ceased to be so entitled as a result of remarrying before age 55.

(3) The requirement under paragraph (1) shall be considered satisfied with respect to a former spouse if the individual seeking to make the election establishes to the satisfaction of the Office (in accordance with regulations prescribed by the Office)—

(A) that the former spouse's whereabouts cannot be determined; or

(B) that, due to exceptional circumstances, requiring the individual to seek the former spouse's consent would otherwise be inappropriate.

(4)(A) The Office shall, upon application of an individual, grant an extension for such individual to make an election referred to in paragraph (1) if such individual—

(i) files application for extension before the end of the period during which such individual would otherwise be eligible to make such election; and

(ii) demonstrates to the satisfaction of the Office that the extension is needed to secure the modification of a decree of

divorce or annulment (or a court order or court-approved property settlement incident to any such decree) in order to satisfy the consent requirement under paragraph (1).

(B) An extension under this paragraph shall be for 6 months or for such longer period as the Office considers appropriate.

(e) EXCLUSIONS.—This section does not apply to an individual under section 8331(1)(G) of title 5, United States Code.

Ante, p. 595.

SEC. 302. EFFECT OF AN ELECTION UNDER SECTION 301 TO BECOME SUBJECT TO THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM.

5 USC 8331 note.

(a) GENERAL AND SPECIAL RULES.—All provisions of chapter 84 of title 5, United States Code (including those relating to disability benefits, survivor benefits, and any reductions to provide for survivor benefits) shall apply with respect to any individual who becomes subject to such chapter pursuant to an election under section 301, except if, or to the extent that, such provisions are inconsistent with the following:

Ante, p. 517.

(1)(A) Any civilian service which is performed before the effective date of the election under section 301 shall not be creditable under chapter 84 of title 5, United States Code, except as otherwise provided in this subsection.

(B) Any service described in subparagraph (A) which is covered service within the meaning of section 203(a)(3) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (97 Stat. 1107; 5 U.S.C. 8331 note) (hereinafter in this section referred to as "covered service") shall be creditable under chapter 84 of title 5, United States Code, if—

(i) with respect to any such service performed before January 1, 1987, 1.3 percent of basic pay for such service was withheld in accordance with such Act or, if either such withholding was not made or was made, but the amount so withheld was subsequently refunded, 1.3 percent of basic pay for such period is deposited to the credit of the Civil Service Retirement and Disability Fund (hereinafter in this section referred to as the "Fund"), with interest (computed under section 8334(e) of such title); and

(ii) with respect to any such service performed after December 31, 1986, and before the effective date of the election, an amount equal to the percentage of basic pay for such service which would be required to be withheld under section 8422(a) of title 5, United States Code, has been contributed to the Fund by the individual involved, whether by withholdings from pay or, if either no withholding was made or was made, but the amount withheld was subsequently refunded, the aforementioned percentage of basic pay for such period is deposited to the credit of the Fund, with interest (computed under section 8334(e) of such title).

(C) Any service described in subparagraph (A)—

(i) which is not covered service;

(ii) which constitutes service of a type described in section 8411(b)(3) of title 5, United States Code (determined without regard to whether such service was performed before, on, or after January 1, 1989, and without regard to the provisions of section 8411(f) of such title); and

(iii) which, in the aggregate, is equal to less than 5 years;

Ante, p. 517.

shall be creditable under chapter 84 of such title, subject to section 8411(f) of such title.

(D) Any service described in subparagraph (A)—

(i) which is not covered service;

(ii) which constitutes service of a type described in section 8411(b)(3) of title 5, United States Code (determined without regard to whether such service was performed before, on, or after January 1, 1989, and without regard to the provisions of section 8411(f) of such title); and

(iii) which, in the aggregate, is equal to 5 years or more;

shall be creditable for purposes of—

(I) section 8410 of such title, relating to the minimum period of civilian service required to be eligible for an annuity;

(II) any provision of section 8412 (other than subsection (d) or (e) thereof), 8413, 8414, 8442(b)(1)(B), or 8451 of such title which relates to a minimum period of service for entitlement to an annuity;

(III) the provisions of paragraphs (4) and (6);

(IV) any provision of section 8412(d) of such title which relates to a minimum period of service for entitlement to an annuity, but only if and to the extent that the service described in subparagraph (A) was as a law enforcement officer or firefighter; and

(V) any provision of section 8412(e) of such title which relates to a minimum period of service for entitlement to an annuity, but only if and to the extent that the service described in subparagraph (A) was as an air traffic controller.

(2)(A) Except as provided in subparagraph (B), the creditability under chapter 84 of title 5, United States Code, of any military service which is performed before the effective date of the election under section 301 shall be determined in accordance with applicable provisions of such chapter.

(B) If the electing individual has performed service described in clauses (i) through (iii) of paragraph (1)(D), service described in subparagraph (A) which, but for the provisions of subsection (b), would be creditable under subchapter III of chapter 83 of title 5, United States Code, as in effect on December 31, 1986, shall be creditable for purposes of—

Ante, pp. 589, 591-593.

(i) any provision of section 8412 (other than subsection (d) or (e) thereof), 8413, or 8414 of such title which relates to a minimum period of service for entitlement to an annuity; and

(ii) the provisions of paragraph (4).

(3)(A)(i) If the electing individual becomes entitled to an annuity under subchapter II of chapter 84 of title 5, United States Code, or dies leaving a survivor or survivors entitled to benefits under subchapter IV of such chapter, the annuity for such individual shall be equal to the sum of the individual's accrued benefits under the Civil Service Retirement System (as determined under paragraph (4)) and the individual's accrued benefits under the Federal Employees' Retirement System (as determined under paragraph (5)).

(ii) An annuity computed under this subparagraph shall be deemed to be the individual's annuity computed under section 8415 of title 5, United States Code.

(B) If the electing individual becomes entitled to an annuity under subchapter V of chapter 84 of title 5, United States Code, and if it becomes necessary to compute an annuity under section 8415 of such title with respect to such individual as a result of such individual's having become so entitled, the methodology set forth in subparagraph (A) shall be used in computing any such annuity under section 8415.

(4) Except as provided in paragraph (12)(B), accrued benefits under this paragraph shall be computed in accordance with applicable provisions of subchapter III of chapter 83 of title 5, United States Code (but without regard to subsection (j) or (k), or the second sentence of subsection (e), of section 8339 of such title) using only any civilian service under paragraph (1)(D), and any military service under paragraph (2)(B), which would be creditable for purposes of computing an annuity under such subchapter.

Ante, pp. 589, 591-593.

(5) Accrued benefits under this paragraph shall be computed under section 8415 of title 5, United States Code, using—

(A) total service creditable under chapter 84 of such title which is performed on or after the effective date of the election under section 301; and

Ante, p. 517.

(B) with respect to service performed before such effective date—

(i) creditable civilian service (as determined under applicable provisions of this subsection) other than any service described in paragraph (1)(D); and

(ii) creditable military service (as determined under applicable provisions of this subsection) other than any service described in paragraph (2)(B).

(6)(A) For purposes of any computation under paragraph (4) or (5), the average pay to be used shall be the largest annual rate resulting from averaging the individual's rates of basic pay in effect over any 3 consecutive years of creditable service or, in the case of an annuity based on service of less than 3 years, over the total period of service so creditable, with each rate weighted by the period it was in effect.

(B) For purposes of subparagraph (A), service shall be considered creditable if it would be considered creditable for purposes of determining average pay under chapter 83 or 84 of title 5, United States Code.

5 USC 8301 *et seq.*

(7) The cost-of-living adjustments for the annuity of the electing individual shall be made as follows:

(A) The portion of the annuity attributable to paragraph (4) shall be adjusted at the time and in the amount provided for under section 8340 of title 5, United States Code.

(B) The portion of the annuity attributable to paragraph (5) shall be adjusted at the time and in the amount provided for under section 8462 of title 5, United States Code.

(8) For purposes of any computation under paragraph (4) in the case of an individual who retires under section 8412 or 8414 of title 5, United States Code, or who dies leaving a survivor or survivors entitled to benefits under subchapter IV of such chapter, sick leave creditable under section 8339(m) of such title shall be equal to the number of days of unused sick leave to the individual's credit as of the date of retirement or as of the effective date of the individual's election under section 301, whichever is less.

(9) In computing the annuity under paragraph (3) for an individual retiring under section 8412(g) or 8413(b) of title 5, United States Code, the reduction under section 8415(f) of such title shall apply with respect to the sum computed under such paragraph.

(10) An annuity supplement under section 8421 of title 5, United States Code, shall be computed using the same service as is used for the computation under paragraph (5).

(11) Effective from its commencing date, an annuity payable to an annuitant's survivor (other than a child under section 8443 of title 5, United States Code) shall be increased by the total percent by which the deceased annuitant's annuity was increased under paragraph (7).

(12)(A) If the electing individual is subject to section 8344 of title 5, United States Code, at the time of making the election, payment of annuity benefits otherwise payable to such individual under subchapter III of chapter 83 of such title (and any related deductions from pay) shall terminate as of the effective date of the election.

Ante, pp. 589, 591-593.

(B) Accrued benefits under paragraph (4) for an individual described in subparagraph (A) shall be computed—

(i) in accordance with applicable provisions of subchapter III of chapter 83 of title 5, United States Code (but without regard to subsection (j) or (k), or the second sentence of subsection (e), of section 8339 of such title) using only any civilian service under paragraph (1)(D), and any military service under paragraph (2)(B), which would be creditable for purposes of computing an annuity under such subchapter; and

(ii) as if the individual's reemployment terminated on the effective date of the election.

(b) CHAPTER 83 GENERALLY INAPPLICABLE.—(1) Except as provided in subsection (a) or paragraph (2), subchapter III of chapter 83 of title 5, United States Code, shall not apply with respect to any individual who becomes subject to chapter 84 of title 5, United States Code, pursuant to an election under section 301.

Ante, p. 517.

(2)(A) Nothing in paragraph (1), or in subchapter III of chapter 83 of title 5, United States Code, shall preclude the making of a deposit under such subchapter with respect to any civilian service under subsection (a)(1)(D) or military service under subsection (a)(2)(B) either by the electing individual or, for purposes of survivor annuities, by a survivor of such individual.

(B) Nothing in paragraph (1) shall preclude the payment of any lump-sum credit in accordance with section 8342 of title 5, United States Code.

(c) REFUNDS RELATING TO CERTAIN CIVILIAN SERVICE.—(1) Any individual who makes an election under section 301 to become subject to chapter 84 and who, with respect to any period before the effective date of the election, has made a contribution to the Civil Service Retirement System (whether by deductions from pay or by a deposit or redeposit) and has not taken a refund of the contribution (as so made), shall be entitled to a refund equal to—

(A) for a period of service under clause (i) of subsection (a)(1)(B), the amount by which—

(i) the amount contributed with respect to such period, exceeds

(ii) the amount required under such clause (i) with respect to such period;

(B) for a period of service under clause (ii) of subsection (a)(1)(B), the amount by which—

(i) the amount so contributed with respect to such period, exceeds

(ii) the amount required under such clause (ii) with respect to such period; and

(C) for a period of service under subparagraph (C) of subsection (a)(1), the amount by which—

(i) the amount so contributed with respect to such period, exceeds

(ii) the amount required under such subparagraph with respect to such period.

(2) A refund under this subsection—

(A) shall be payable with interest, computed at the rate applicable for the period involved under section 8331(8)(C) of title 5, United States Code, but only if such interest would be payable pursuant to an application for a lump-sum credit appropriately filed under subchapter III of chapter 83 of such title; and

Ante, pp. 589, 591-593.

(B) shall be payable upon written application therefor filed with the Office of Personnel Management.

SEC. 303. PROVISIONS RELATING TO AN ELECTION TO BECOME SUBJECT TO CHAPTER 83 SUBJECT TO CERTAIN OFFSETS RELATING TO SOCIAL SECURITY.

5 USC 8331 note.

(a) REFUND.—Any individual who makes an election under section 301(b)(1)(A) shall, upon written application to the Office of Personnel Management, be entitled to a refund equal to—

(1) for the period beginning on January 1, 1984, and ending on December 31, 1986, the amount by which—

(A) the total amount deducted from such individual's basic pay under section 8334(a)(1) of title 5, United States Code, for such period, exceeds

(B) 1.3 percent of such individual's total basic pay for such period; and

(2) for the period beginning on January 1, 1987, and ending on the day before the effective date of the election, the amount by which—

(A) the total amount deducted from such individual's basic pay under such section 8334(a)(1) for such period, exceeds

(B) the total amount which would have been deducted if such individual's basic pay had instead been subject to section 8334(k) of such title during such period.

(b) DEPOSIT REQUIREMENTS.—(1) In the case of an individual who becomes subject to subchapter III of chapter 83 of title 5, United States Code, pursuant to notification as described in the second sentence of section 301(b)(3)(B), service performed by such individual before the effective date of the notification shall not be considered creditable under such subchapter unless—

(A) for any service during the period beginning on January 1, 1987, and ending on the day before such effective date, there is deposited to the credit of the Fund a percentage of basic pay for such period equal to the percentage which would have applied

under section 8334(k) of such title if such individual's pay had been subject to such section during such period;

(B) for any period of service beginning on January 1, 1984, and ending on December 31, 1986, there is deposited to the credit of the Fund an amount equal to 1.3 percent of basic pay for such period; and

(C) for any period of service before January 1, 1984, there is deposited to the credit of the Fund any amount required with respect to such period under such subchapter.

(2) A deposit under this subsection may be made by the individual or, for purposes of survivor annuities, a survivor of such individual.

SEC. 304. AMENDMENTS RELATING TO SOCIAL SECURITY.

42 USC 410.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Section 210(a)(5) of the Social Security Act is amended—

(1) by striking out "or" at the end of subparagraph (F);

(2) by striking out the semicolon at the end of subparagraph (G) and inserting in lieu thereof ", or"; and

(3) by adding at the end thereof the following:

"(H) service performed by an individual on or after the effective date of an election by such individual under section 301(a) of the Federal Employees' Retirement System Act of 1986, or under regulations issued under section 860 of the Foreign Service Act of 1980 or section 307 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, to become subject to chapter 84 of title 5, United States Code;".

Post, p. 619.

Post, p. 628.
Ante, p. 517.

26 USC 3121.

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954.—Section 3121(b)(5) of the Internal Revenue Code of 1954 is amended—

(1) by striking out "or" at the end of subparagraph (F);

(2) by striking out the semicolon at the end of subparagraph (G) and inserting in lieu thereof ", or"; and

(3) by adding at the end thereof the following:

"(H) service performed by an individual on or after the effective date of an election by such individual under section 301(a) of the Federal Employees' Retirement System Act of 1986, or under regulations issued under section 860 of the Foreign Service Act of 1980 or section 307 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, to become subject to chapter 84 of title 5, United States Code;".

SEC. 305. EXTENSION OF FEDERAL EMPLOYEES' RETIREMENT CONTRIBUTION TEMPORARY ADJUSTMENT ACT OF 1983; REFUND OF EXCESS CONTRIBUTIONS.

(a) EXTENSION.—The Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (97 Stat. 1106; 5 U.S.C. 8331 note) is amended—

(1) in sections 202(6), 203(a)(4)(A), 203(a)(4)(B), 204(a), and 206(b)(2)(A)(i) by striking "May 1, 1986" each place it appears and inserting "January 1, 1987", and in sections 202(1) and 206(c)(3) by striking "January 1, 1986" and inserting "January 1, 1987"; and

(2) in subsections (b) and (c) of section 205, by striking out "and 1986" and inserting in lieu thereof "1986, and 1987".

Effective date.
5 USC 8331 note.

(b) REFUNDS.—(1) The amendments made by subsection (a) shall be effective as of May 1, 1986.

(2) Any refund payable to an individual as a result of paragraph (1) shall be paid out of funds of the appropriate retirement system.

(3) For purposes of this subsection, the term "retirement system" means a covered retirement system as defined by section 203(a)(2) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (97 Stat. 1107; 5 U.S.C. 8331 note).

SEC. 306. APPLICABILITY TO THE UNITED STATES POSTAL SERVICE.

Section 1005(d) of title 39, United States Code, is amended to read as follows:

"(d) Officers and employees of the Postal Service (other than the Governors) shall be covered by chapters 83 and 84 of title 5. The Postal Service shall withhold from pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in or determined under such chapter 83 and subchapter II of such chapter 84, respectively. The Postal Service shall pay into the Federal Retirement Thrift Savings Fund the amounts specified in or determined under subchapters III and VII of such chapter 84.". 5 USC 8301 *et seq.; ante,* p. 517.

SEC. 307. USE OF "NORMAL-COST PERCENTAGE". 5 USC 8401 note.

Notwithstanding any other provision of law, the normal-cost percentage (as defined by section 8401(23) of title 5, United States Code, as added by this Act) of the Federal Employees' Retirement System shall be used to value the cost of the System for all purposes in which the cost of the System is required to be determined by the Federal Government, including any comparisons between the cost of performing commercial activities under contract with commercial sources and the cost of performing those activities using Government facilities and personnel.

SEC. 308. RETIREMENT STUDY.

(a) STUDY AND PLAN.—The Secretary of Defense and Secretary of Transportation shall conduct a study of the retirement systems provided for employees of nonappropriated fund instrumentalities of the United States under their respective jurisdictions and shall develop a feasible plan or plans to provide portability of vested retirement benefits among such retirement systems and other Federal Government retirement systems.

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary of Defense and Secretary of Transportation shall transmit a report to the Congress describing the plan or plans developed pursuant to subsection (a) and the anticipated schedule for the implementation of such plan or plans.

SEC. 309. REPEAL OF AUTOMATIC TRANSFER PROVISION.

Section 207 of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (97 Stat. 1111; 5 U.S.C. 8331 note) is repealed.

SEC. 310. DISCLOSURE OF RETURN INFORMATION.

(a) IN GENERAL.—Subsection (l) of section 6103 of the Internal Revenue Code of 1954 (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end thereof the following new paragraph: 26 USC 6103.

"(12) DISCLOSURE OF RETURN INFORMATION TO CARRY OUT FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—

"(A) IN GENERAL.—The Commissioner of Social Security shall, on written request, disclose to the Office of Personnel

Management return information from returns with respect to net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a) or 3401(a)), and payments of retirement income, which have been disclosed to the Social Security Administration as provided by paragraph (1) or (5).

26 USC 1402, 3121, 3401

"(B) RESTRICTION ON DISCLOSURE.—The Commissioner of Social Security shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, the administration of chapters 83 and 84 of title 5, United States Code."

5 USC 8301 *et seq.; ante.* p. 517.

(b) CONFORMING AMENDMENTS.—

26 USC 6103.

(1) Subparagraph (A) of section 6103(p)(3) of such Code is amended by striking out "(10), or (11)" and inserting in lieu thereof "(10), (11), or (12)".

(2) Paragraph (4) of section 6103(p) of such Code is amended—

(A) by striking out "(10), or (11)" in the material preceding subparagraph (A) and inserting in lieu thereof "(10), (11), or (12)", and

(B) by striking out "(10), or (11)" in subparagraph (F)(ii) and inserting in lieu thereof "(10), (11), or (12)".

26 USC 6103 note.

(c) REIMBURSEMENT.—The Office of Personnel Management shall reimburse the costs (as determined by the Secretary of Health and Human Services) of supplying—

(1) information under section 6103(l)(12) of the Internal Revenue Code of 1954; and

(2) such other information agreed upon by the Director of the Office of Personnel Management and the Secretary of Health and Human Services, which is required in the administration of chapters 83 and 84 of title 5, United States Code.

42 USC 1306.

Section 1106 (b) and (c) of the Social Security Act shall apply to any reimbursement under this subsection.

5 USC 8472 note.

SEC. 311. INITIAL APPOINTMENTS TO THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD.

(a) INITIAL APPOINTMENT OF MEMBERS.—Section 8472(c) of title 5, United States Code (as added by section 101(a) of this Act) shall not apply to the members of the Federal Retirement Thrift Investment Board first appointed to such Board.

(b) TERMS OF SERVICE.—Notwithstanding subsection (e)(1) of section 8472 of title 5, United States Code (as added by section 101(a) of this Act), the term of service of each member of the Federal Retirement Thrift Investment Board appointed pursuant to subsection (a) shall be 1 year, except that such member shall continue to serve until his successor is appointed under subsection (b) of such section 8472 and confirmed under subsection (c) of such section.

5 USC 8432 note.

SEC. 312. PLAN FOR DELAYED CONTRIBUTIONS TO THE THRIFT SAVINGS FUND.

Not later than January 1, 1988, the Executive Director of the Federal Retirement Thrift Investment Board shall transmit to Congress a plan to afford employees of the Federal Government and Members of Congress who make less than the maximum amount of authorized contributions to the Thrift Savings Fund in any period an opportunity to contribute to such Fund, in a later period, the excess of such amount over the amount contributed during such

period. The plan shall include such recommendations for legislation as the Executive Director considers appropriate.

TITLE IV—FOREIGN SERVICE RETIREMENT

Foreign Service Pension System Act of 1986. 22 USC 3901 note.

SEC. 401. SHORT TITLE; REFERENCES TO FOREIGN SERVICE ACT OF 1980.

(a) SHORT TITLE.—This title may be cited as the "Foreign Service Pension System Act of 1986".

(b) AMENDMENTS TO FOREIGN SERVICE ACT OF 1980.—Whenever in this title a section or other provision is amended, such amendment shall be considered to be made to that section or other provision of the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.).

SEC. 402. REDESIGNATION OF CERTAIN PROVISIONS OF THE FOREIGN SERVICE ACT OF 1980.

(a) CONFORMING CHAPTER AMENDMENTS.—Chapter 8 of title I (22 U.S.C. 4041 et seq.) is amended—

(1) by striking out the caption of such chapter and inserting in lieu thereof the following:

"CHAPTER 8—FOREIGN SERVICE RETIREMENT AND DISABILITY

"SUBCHAPTER I—FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM"

(2) by striking out "this chapter" each place it appears and inserting in lieu thereof "this subchapter"; and

(3) by inserting "under this subchapter" after "payable from the Fund" each place it appears.

(b) CONFORMING AMENDMENTS RELATING TO RETIREMENT FOR DISABILITY OR INCAPACITY.—(1) Section 808(d) (22 U.S.C. 4048(d)) is amended—

(A) by striking out "such subchapter" each place it appears in the second and third sentences and inserting in lieu thereof "subchapter I of such chapter 8"; and

(B) by striking out "Act" each place it appears and inserting in lieu thereof "subchapter".

(2) Section 808(e) (22 U.S.C. 4048(e)) is amended by striking out "Act" each place it appears and inserting in lieu thereof "subchapter".

(c) CONFORMING AMENDMENTS RELATING TO DEATH IN SERVICE.—Section 809(a) (22 U.S.C. 4049(a)) is amended by striking out "Act" and inserting in lieu thereof "subchapter".

SEC. 403. DEFINITION OF COURT.

District of Columbia, Commonwealth of Puerto Rico, Guam, Northern Mariana Islands, Virgin Islands.

Section 804(3) (22 U.S.C. 4044(3)) is amended by striking out "or of the District of Columbia" and inserting in lieu thereof the following: ", the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian court as defined by section 201(3) of the Act entitled 'An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes', approved April 11, 1968 (25 U.S.C. 1301(3); 82 Stat. 77)".

SEC. 404. CREDITABLE SERVICE FOR PURPOSES OF SUBCHAPTERS I AND II.

Ante, p. 609; *post*, p. 615.

(a) PRO RATA SHARE.—Section 804(10) (22 U.S.C. 4044(10)) is amended by inserting "(creditable under subchapter I or II)" after "creditable service" each place it appears.

(b) FORMER SPOUSES.—(1) Section 814(a)(1) (22 U.S.C. 4054(a)(1)) is amended by adding at the end thereof the following: "For the purposes of this paragraph, the term 'creditable service' means service which is creditable under subchapter I or II.".

(2) Section 814(b)(1) (22 U.S.C. 4054(b)(1)) is amended by adding at the end thereof the following: "For the purposes of this paragraph, the term 'creditable service' means service which is creditable under subchapter I or II.".

(c) LUMP-SUM PAYMENTS.—Section 815(i) (22 U.S.C. 4055(i)) is amended by adding at the end thereof the following: "For the purposes of this subsection, the term 'creditable service' means service which is creditable under subchapter I or II.".

SEC. 405. CONTRIBUTIONS TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM.

(a) CONTRIBUTIONS AFTER DECEMBER 31, 1986.—Section 805 (22 U.S.C. 4045) is amended—

(1) by inserting "Except as provided in subsection (h)," before "7 percent" in the first sentence of subsection (a); and

(2) by adding at the end thereof the following new subsection (h):

Post, p. 616.
42 USC 401.
26 USC 3101 *et seq.*

"(h) Effective with respect to pay periods beginning after December 31, 1986, in administering this section with respect to a participant described in section 853(c) whose service is employment for the purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954, contributions to the Fund and interest thereon shall be computed as if section 8334(k) of title 5, United States Code, were applicable.".

(b) CREDITABILITY OF INTERIM SERVICE.—Subsection (d) of section 805 (22 U.S.C. 4045(d)) is amended by adding at the end thereof the following:

5 USC 8331 note.
5 USC 8331 note.

"(4) Notwithstanding the preceding provisions of this subsection and any provision of section 206(b)(3) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983, the percentage of basic pay required under this subsection in the case of a participant described in section 853(c) shall, with respect to any covered service (as defined by section 203(a)(3) of such Act) performed by such individual after December 31, 1983, and before January 1, 1987, be equal to 1.3 percent.".

SEC. 406. OFFSET OF ANNUITY BY THE AMOUNT OF SOCIAL SECURITY BENEFITS.

Section 806 (22 U.S.C. 4046) is amended by adding at the end thereof the following new subsection:

Supra.

"(m) The annuity or survivor annuity payable to any individual subject to section 805(h) beginning with the first month for which such individual both—

42 USC 401.

"(1) attains the minimum age for old-age benefits under title II of the Social Security Act, and

"(2) first becomes entitled, or would upon proper application become entitled, for disability or survivor benefits under title II

of the Social Security Act based on the service of any individual under this subchapter,

42 USC 401.

shall be computed as if section 8349 of title 5, United States Code, were applicable.".

Ante, p. 589.

SEC. 407. 18-MONTH PERIOD TO ELECT SURVIVOR ANNUITY.

Section 806 (22 U.S.C. 4046) is further amended by adding at the end thereof the following:

"(n)(1)(A) A participant—

"(i) who, at the time of retirement, is married; and

"(ii) who elects at such time (in accordance with subsection (b)) to waive a survivor annuity,

may, during the 18-month period beginning on the date of the retirement of such participant, elect to have a reduction under subsection (b) made in the annuity of the participant (or in such portion thereof as the participant may designate) in order to provide a survivor annuity for the spouse of such participant.

"(B) A participant—

"(i) who, at the time of retirement, is married, and

"(ii) who at such time designates (in accordance with subsection (b)) that a limited portion of the annuity of such participant is to be used as the base for a survivor annuity,

may, during the 18-month period beginning on the date of the retirement of such participant, elect to have a greater portion of the annuity of such participant so used.

"(2)(A) An election under subparagraph (A) or (B) of paragraph (1) of this subsection shall not be considered effective unless the amount specified in subparagraph (B) of this paragraph is deposited into the Fund before the expiration of the applicable 18-month period under paragraph (1).

"(B) The amount to be deposited with respect to an election under this subsection is an amount equal to the sum of—

"(i) the additional cost to the System which is associated with providing a survivor annuity under subsection (b) of this section and results from such election taking into account (I) the difference (for the period between the date on which the annuity of the former participant commences and the date of the election) between the amount paid to such former participant under this subchapter and the amount which would have been paid if such election had been made at the time the participant or former participant applied for the annuity, and (II) the costs associated with providing the later election; and

"(ii) interest on the additional cost determined under clause (i)(I) of this subparagraph computed using the interest rate specified or determined under section 805(d)(3) for the calendar year in which the amount to be deposited is determined.

"(3) An election by a participant under this subsection voids prospectively any election previously made in the case of such participant under subsection (b).

"(4) An annuity which is reduced in connection with an election under this subsection shall be reduced by the same percentage reductions as were in effect at the time of the retirement of the participant whose annuity is so reduced.

"(5) Rights and obligations resulting from the election of a reduced annuity under this subsection shall be the same as the rights and obligations which would have resulted had the participant involved elected such annuity at the time of retiring.".

SEC. 408. ALTERNATE FORMS OF ANNUITIES.

Section 807 (22 U.S.C. 4047) is amended by adding at the end thereof the following:

Regulations.

"(e)(1) The Secretary of State shall prescribe regulations under which a participant may, at the time of retiring under this subchapter (other than under section 808), elect annuity benefits under this section instead of any other benefits under this subchapter (including survivor benefits) based on the service of the participant.

22 USC 4048.

"(2) Subject to paragraph (3), the Secretary of State shall by regulation provide for such alternative forms of annuities as the Secretary considers appropriate, except that among the alternatives offered shall be—

"(A) an alternative which provides for—

"(i) payment of the lump-sum credit (excluding interest) to the participant; and

"(ii) payment of an annuity to the participant for life; and

"(B) in the case of a participant who is married at the time of retirement, an alternative which provides for—

"(i) payment of the lump-sum credit (excluding interest) to the participant; and

"(ii) payment of an annuity to the participant for life, with a survivor annuity payable for the life of a surviving spouse.

"(3) Each alternative provided for under paragraph (2) shall, to the extent practicable, be designed such that the total value of the benefits provided under such alternative (including any lump-sum credit) is actuarially equivalent to the value of the annuity which would otherwise be provided the participant under this subchapter, as computed under section 806(a).

22 USC 4046.

"(4) A participant who, at the time of retiring under this subchapter—

"(A) is married, shall be ineligible to make an election under this section unless a waiver is made under section 806(b)(1)(B); or

"(B) has a former spouse, shall be ineligible to make an election under this section if the former spouse is entitled to benefits under this subchapter (based on the service of the participant) unless a waiver has been made under section 806(b)(1)(C).

"(5) A participant who is married at the time of retiring under this subchapter and who makes an election under this section may, during the 18-month period beginning on the date of retirement, make the election provided for under section 806(n), subject to the deposit requirement thereunder.

"(6) Notwithstanding any other provision of law, any lump-sum credit provided pursuant to an election under this subsection shall not preclude an individual from receiving any other benefits under this subsection.".

SEC. 409. TREATMENT OF CERTAIN RECALL SERVICE.

Section 823 (22 U.S.C. 4063) is amended by adding at the end thereof the following:

"(c) If an annuitant becomes subject to subchapter II of this chapter by reason of recall service—

Post, p. 615.

"(1) subsections (a) and (b) shall not apply to such annuitant; and

"(2) section 824 shall apply to the recall service as if such service were reemployment.".

SEC. 410. REEMPLOYMENT.

Section 824 (22 U.S.C. 4064) is amended to read as follows:

"SEC. 824. REEMPLOYMENT.—(a)(1)(A) Except in the case of an annuitant who makes an election under subsection (b), if any former participant, who has retired and is receiving an annuity under this subchapter or subchapter II of this chapter, becomes employed in an appointive or elective position in the Government, payment of any annuity under either subchapter to the annuitant shall terminate effective on the date of the employment and the reemployment service shall be covered service under the rules of the system under which the appointment is made.

Post, p. 615.

"(B) If the annuity of an individual is terminated under subparagraph (A) and that individual becomes covered under the same retirement system from which that annuity is terminated, that individual shall be entitled to a redetermination of rights under that system upon termination of the employment.

"(C) If the annuity is terminated and the individual becomes covered under another contributory retirement system for Government employees pursuant to paragraph (A), the individual shall be entitled to benefits under the rules of that system. In addition, the individual shall be entitled to a resumption of any annuity terminated by reason of the employment.

"(b)(1) A participant who is entitled to an annuity under this subchapter or subchapter II of this chapter and becomes employed in an appointive or elective position in the Government on a part-time, intermittent, or temporary basis may elect to continue to receive either or both annuities as provided in this subsection.

"(2) The total annuity payable under this chapter to an annuitant making an election under paragraph (1) shall be reduced during the part-time, intermittent, or temporary employment referred to in paragraph (1) as necessary to meet the requirements of paragraph (3).

"(3) The sum of—

"(A) the total annuity payable under this chapter to an annuitant making an election under paragraph (1), and

"(B) the annual rate of pay payable to the annuitant during the part-time, intermittent, or temporary employment referred to in paragraph (1),

may not exceed, in any calendar year, the highest annual rate of pay which is payable during such year for full-time employment in the position in which the annuitant is employed.

"(4) Upon termination of the part-time, intermittent, or temporary employment referred to in paragraph (1), payment of the full annuity of an annuitant who has made an election under paragraph (1) of this subsection shall resume.

"(c) The amount of annuity which has been terminated or reduced under this section by reason of the reemployment of the annuitant and is resumed under this section shall be the amount of the annuity which would have been payable if the annuitant had not accepted the reemployment. The amount of an annuity resulting from a redetermination of rights pursuant to subsection (a) shall not be less than the amount of an annuity resumed under the previous sentence.

"(d) The annuity rights of any participant who is reemployed in the Government shall be determined under this section instead of section 8468 of title 5, United States Code.

"(e) When any such retired participant is reemployed, the employer shall send a notice of such reemployment to the Secretary of State, together with all pertinent information relating to such employment, and shall pay directly to such participant the salary of the position in which he or she is serving.

"(f) In the event of any overpayment under this section, such overpayment shall be recovered by withholding the amount involved from the salary payable to such reemployed participant or from any other moneys, including annuity payments, payable under this chapter.".

SEC. 411. COMPARABILITY BETWEEN THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM AND THE FOREIGN SERVICE PENSION SYSTEM.

Section 827 (22 U.S.C. 4067) is amended by adding at the end thereof the following:

President of U.S.

"(c) The President shall maintain, under the same conditions and in the same manner as provided in subsections (a) and (b) existing conformity between the Federal Employees' Retirement System provided in chapter 84 of title 5, United States Code, and the Foreign Service Pension System provided in subchapter II of this chapter.".

Ante, p. 517.

SEC. 412. MODERATION OF REMARRIAGE PENALTY.

Chapter 8 of title I (22 U.S.C. 4041 et seq.) is further amended by adding after section 827 the following:

22 USC 4068.

"SEC. 828. REMARRIAGE.—Notwithstanding any other provision of this subchapter, any benefit payable under this subchapter to a surviving spouse, former spouse, or surviving former spouse that would otherwise terminate or be lost if the individual remarried before 60 years of age, shall not terminate or be lost if the remarriage occurred on or after November 8, 1984, and the individual was 55 years of age or over on the date of the remarriage.".

SEC. 413. LUMP-SUM PAYMENTS.

22 USC 4055.

Subsection (a) of section 815 is amended by adding at the end thereof the following: "A participant who becomes subject to subchapter II shall be entitled to payment of the lump-sum credit if, and to the extent that, such lump-sum credit relates to service of a type described in clauses (i) through (iii) of section 302(a)(1)(C) of the Federal Employees' Retirement System Act of 1986.".

Post, p. 615.

SEC. 414. EXCLUSION OF PARTICIPANTS IN FOREIGN SERVICE PENSION SYSTEM FROM FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM.

22 USC 4043.

Section 803 is amended—

(1) in subsection (a), by striking out "The" and inserting in lieu thereof "Except as provided in subsection (d), the"; and

(2) by adding at the end thereof the following:

"(d) An individual subject to the Foreign Service Pension System (described in subchapter II) is not a participant in this System.".

SEC. 415. FOREIGN SERVICE PENSION SYSTEM.

Chapter 8 of title I (22 U.S.C. 4041 et seq.) is further amended by adding at the end thereof the following:

"SUBCHAPTER II—FOREIGN SERVICE PENSION SYSTEM

"SEC. 851. ESTABLISHMENT.—(a) There is hereby established a Foreign Service Pension System. 22 USC 4071.

"(b) Except as otherwise specifically provided in this subchapter or any other provision of law, the provisions of chapter 84 of title 5, United States Code, shall apply to all participants in the Foreign Service Pension System and such participants shall be treated in all respects similar to persons whose participation in the Federal Employees' Retirement System provided in that chapter is required. *Ante*, p. 517.

"SEC. 852. DEFINITIONS.—As used in this subchapter, unless otherwise specified— 22 USC 4071a.

"(1) the term 'court order' has the same meaning given in section 804(4); 22 USC 4044.

"(2) the term 'Fund' means the Foreign Service Retirement and Disability Fund maintained by the Secretary of the Treasury pursuant to section 802;

"(3) the term 'normal cost' means the entry-age normal cost of the provisions of the System which relate to the Fund, computed by the Secretary of State in accordance with generally accepted actuarial practice and standards (using dynamic assumptions) and expressed as a level percentage of aggregate basic pay;

"(4) the term 'participant' means a person who participates in the Foreign Service Pension System;

"(5) the term 'pro rata share' in the case of any former spouse of any participant or former participant means the percentage which is equal to the percentage that (A) the number of years during which the former spouse was married to the participant during the service of the participant which is creditable under this chapter is of (B) the total number of years of such service, disregarding extra credit under section 817;

"(6) the term 'supplemental liability' means the estimated excess of—

"(A) the actuarial present value of all future benefits payable from the Fund under this subchapter based on the service of participants or former participants, over

"(B) the sum of—

"(i) the actuarial present value of (I) deductions to be withheld from the future basic pay of participants pursuant to section 856 and (II) contributions for past civilian and military service;

"(ii) the actuarial present value of future contributions to be made pursuant to section 857;

"(iii) the Fund balance as of the date the supplemental liability is determined, to the extent that such balance is attributable—

"(I) to the System, or

"(II) to the contributions made under the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (5 U.S.C. 8331 note); and

"(iv) any other appropriate amount, as determined by the Secretary of State in accordance with generally accepted actuarial practices and principles; and

"(7) the term 'System' means the Foreign Service Pension System.

22 USC 4071b.

"SEC. 853. PARTICIPANTS.—(a) Except for persons excluded by subsection (b), (c), or (d), all members of the Foreign Service, any of whose service after December 31, 1983, is employment for the purpose of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954, who would, but for this section, be participants in the Foreign Service Retirement and Disability System pursuant to section 803 shall instead be participants in the Foreign Service Pension System.

42 USC 401.
26 USC 3101 *et seq.*
Ante, p. 614.

"(b) Members of the Service who were participants in the Foreign Service Retirement and Disability System on or before December 31, 1983, and who have not had a break in service in excess of one year since that date, are not made participants in the System by this section, without regard to whether they are subject to title II of the Social Security Act.

"(c) Individuals who become members of the Service after having completed at least 5 years of civilian service creditable under subchapter I, subchapter III of chapter 83 of title 5, United States Code (the Civil Service Retirement System), or title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (determined without regard to any deposit or redeposit requirement under any such subchapter or title, any requirement that the individual become subject to such subchapter or title after performing the service involved, or any requirement that the individual give notice in writing to the official by whom such individual is paid of such individual's desire to become subject to such subchapter or title) are not participants in the System, except to the extent provided for under title III of the Federal Employees' Retirement System Act of 1986 pursuant to an election under such title to become subject to this subchapter (under regulations issued by the Secretary of State pursuant to section 860).

Ante, pp. 589, 591-593.
5 USC 403 note.

"(d) The Secretary may exclude from the operation of this subchapter any member of the Foreign Service, or group of members, whose employment is temporary or intermittent, except a member whose employment is part-time career appointment or career candidate appointment under section 306.

22 USC 3946.

22 USC 4071c.

"SEC. 854. CREDITABLE SERVICE.—(a) For purposes of this subchapter, creditable service of a participant includes—

"(1) service as a participant after December 31, 1986;

"(2) service with respect to which deductions and withholdings under section 204(a)(2) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 have been made; and

5 USC 8331 note.

"(3) except as provided in subsection (b), any civilian service performed before January 1, 1989 (other than service under paragraph (1) or (2)), which, but for the amendment made by section 414 of the Federal Employees' Retirement System Act of 1986, would be creditable under subchapter I (determined without regard to any deposit or redeposit requirement under such subchapter, subchapter III of chapter 83 of title 5, United States Code (the Civil Service Retirement System), or title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, any requirement that the individual become subject to such subchapter or title after performing the service involved, or any requirement that the individual give notice in writing to the official by whom such individual is paid of such individual's desire to become subject to such subchapter or title).

5 USC 403 note.

"(b)(1) A participant who has received a refund of retirement deductions under subchapter I with respect to any service described in subsection (a)(3) may not be allowed credit for such service under this subchapter unless such participant deposits into the Fund an amount equal to 1.3 percent of basic pay for such service, with interest.

"(2) A participant may not be allowed credit under this subchapter for any service described in subsection (a)(3) for which retirement deductions under subchapter I have not been made, unless such participant deposits into the Fund an amount equal to 1.3 percent of basic pay for such service, with interest.

"(3) Interest under paragraph (1) or (2) shall be computed in accordance with section 805(d) and regulations issued by the Secretary of State.

"(c) Credit shall be given under this System to a participant for a period of prior satisfactory service as— Voluntarism.

"(1) a volunteer or volunteer leader under the Peace Corps Act (22 U.S.C. 2501 et seq.),

"(2) a volunteer under part A of title VIII of the Economic Opportunity Act of 1964, or 42 USC 2991 and note.

"(3) a full-time volunteer for a period of service of at least one year's duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.),

if the participant makes a payment to the Fund equal to 3 percent of pay received for the volunteer service (as determined in accordance with regulations of the Secretary of State consistent with regulations for making corresponding determinations under chapter 83, title 5, United States Code) together with interest determined under regulations issued by the Secretary of State.

"(d) Credit shall be given under this System to a participant for a period of prior service under the Federal Employees' Retirement System (described in chapter 84 of title 5, United States Code) or under title III of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees if the participant waives credit under the other retirement system and makes a payment to the Fund equal to the amount which would have been deducted from pay under section 856(a) had the individual been a participant during the prior creditable service under the other retirement system together with interest on such amount computed in accordance with regulations issued by the Secretary of State. *Post*, p. 624.

"SEC. 855. ENTITLEMENT TO ANNUITY.—(a)(1) Any participant may be retired under the conditions specified in section 811 and shall be retired under the conditions specified in sections 812 and 813 and receive benefits under this subchapter. 22 USC 4071d. 22 USC 4051. 22 USC 4052, 4053.

"(2) For the purposes of this subsection—

"(A) the term 'participant', as used in the sections referred to in paragraph (1), means a participant in the Foreign Service Pension System; and

"(B) the term 'System', as used in those sections, means the Foreign Service Pension System.

"(b)(1) Any participant who retires voluntarily or mandatorily under section 607, 608, 811, 812, or 813 under conditions authorizing an immediate annuity for participants in the Foreign Service Retirement and Disability System and who has completed at least 5 years of service subject to this chapter shall be entitled to an immediate annuity computed under paragraph (2). 22 USC 4007, 4008.

"(2) An annuity under paragraph (1) shall be computed—

"(A) for all service earned while a participant in this System, at the rate stated in section 8415(d) of title 5, United States Code; and

Ante, p. 527.

"(B) for all service earned while a participant in another retirement system creditable under section 854(d), at the rate which would have been applicable to the individual had that individual remained a participant in the other system; and

"(C) for all volunteer service creditable under section 854(c), at the rate stated in section 8415(a) of title 5, United States Code.

"(c) A participant who is entitled to an immediate annuity under subsection (b) shall be entitled to receive an annuity supplement while the annuitant is under 62 years of age. The annuity supplement shall be based on the total creditable service of the annuitant and shall be computed in accordance with sections 8421(b) and 8421a of title 5, United States Code, as if the participant were a law enforcement officer retired under section 8412(d) of such title.

Treason.
22 USC 4010.

"(d) Any participant who is separated for cause under section 610 shall not be entitled to an annuity under this System when the Secretary determines that the separation was based in whole or in part on disloyalty to the United States.

22 USC 4071e.

"SEC. 856. DEDUCTIONS AND WITHHOLDINGS FROM PAY.—(a) The employing agency shall deduct and withhold from basic pay of each participant a percentage of basic pay equal to 7½ percent minus the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1954 (relating to the rate of tax for old age, survivors and disability insurance).

26 USC 3101.

"(b) Each participant is deemed to consent and agree to the deductions under subsection (a). Notwithstanding any law or regulation affecting the pay of a participant, payment less such deductions is a full and complete discharge and acquittance of all claims and demands for regular services during the period covered by the payment, except the right to any benefits under this subchapter based on the service of the participant.

"(c) Amounts deducted and withheld under this section shall be deposited in the Treasury of the United States to the credit of the Fund under such procedures as the Comptroller General of the United States may prescribe.

"(d) Under such regulations as the Secretary of State may issue, amounts deducted under subsection (a) shall be entered on individual retirement records.

22 USC 4071f.

"SEC. 857. GOVERNMENT CONTRIBUTIONS.—(a) Each agency employing any participant shall contribute to the Fund the amount computed in a manner similar to that used under section 8423(a) of title 5, United States Code, pursuant to determinations of the normal cost percentage for the Foreign Service Pension System by the Secretary of State.

"(b)(1) The Secretary of State shall compute the amount of the supplemental liability of the Fund as of the close of each fiscal year beginning after September 30, 1987. The amount of any such supplemental liability shall be amortized in 30 equal annual installments with interest computed at the rate used in the most recent valuation of the System.

"(2) At the end of each fiscal year, the Secretary of State shall notify the Secretary of the Treasury of the amount of the installment computed under this subsection for such year.

"(3) Before closing the accounts for a fiscal year, the Secretary of the Treasury shall credit to the Fund, as a Government contribution, out of any money in the Treasury of the United States not otherwise appropriated, the amount under paragraph (2) of this subsection for such year.

"SEC. 858. COST-OF-LIVING ADJUSTMENTS.—Cost-of-living adjustments for annuitants under this System shall be granted under procedures in section 8462 of title 5, United States Code, in the same manner as such adjustments are made for annuitants referred to in subsection (c)(3)(B)(ii) of such section. 22 USC 4071g.

"SEC. 859. GENERAL AND ADMINISTRATIVE PROVISIONS.—(a) The Secretary of State shall administer the Foreign Service Pension System except for matters relating to the Thrift Savings Plan provided in subchapters III and VII of chapter 84 of title 5, United States Code. The Secretary of State shall, with respect to the Foreign Service Pension System, perform the functions and exercise the authority vested in the Office of Personnel Management or the Director of such Office by such chapter 84 and may issue regulations for such purposes. 22 USC 4071h.

"(b) Determinations of the Secretary of State under the Foreign Service Pension System which, if made by the Office of Personnel Management under chapter 84 of title 5, United States Code, or the Director of such Office, would be appealable to the Merit Systems Protection Board shall, instead, be appealable to the Foreign Service Grievance Board, except that determinations of disability for participants shall be based upon the standards in section 808 (other than the exclusion for vicious habits, intemperance, or willful misconduct) and subject to review in the same manner as under that section.

"(c) At least every 5 years, the Secretary of the Treasury shall prepare periodic valuations of the Foreign Service Pension System and shall advise the Secretary of State of (1) the normal cost of the System, (2) the supplemental liability of the System, and (3) the amounts necessary to finance the costs of the System.

"SEC. 860. TRANSITION PROVISIONS.—The Secretary of State shall issue regulations providing for the transition from the Foreign Service Retirement and Disability System to the Foreign Service Pension System in a manner comparable to the transition of employees subject to subchapter III of chapter 83 of title 5, United States Code (the Civil Service Retirement System), to the Federal Employees' Retirement System. For this and related purposes, references made to participation in subchapter III of chapter 83 of title 5, United States Code (the Civil Service Retirement System), the Social Security Act, and the Internal Revenue Code of 1954 shall be deemed to refer to participation in the Foreign Service Pension System or the Foreign Service Retirement and Disability System, as appropriate. Regulations. 22 USC 4071i. *Ante*, pp. 589, 591-593. 42 USC 1305. 26 USC 1 *et seq.*

"SEC. 861. FORMER SPOUSES.—(a)(1)(A) Unless otherwise expressly provided by any spousal agreement or court order governing disposition of benefits under this subchapter, a former spouse of a participant or former participant is entitled, during the period described in subparagraph (B), to a share (determined under paragraph (2)) of all benefits otherwise payable to such participant under this subchapter if such former spouse was married to the participant for at least 10 years during service of the participant which is creditable under this chapter with at least 5 of such years occurring while the participant was a member of the Foreign Service. 22 USC 4071j.

"(B) The period referred to in subparagraph (A) is the period which begins on the first day of the month following the month in which the divorce or annulment becomes final and ends on the last day of the month before the former spouse dies or remarries before 55 years of age.

"(2) The share referred to in paragraph (1) equals—

"(A) 50 percent, if such former spouse was married to the participant throughout the actual years of service of the participant which are creditable under this chapter; or

"(B) a pro rata share of 50 percent, if such former spouse was not married to the participant throughout such creditable service.

"(3) A former spouse shall not be qualified for any benefit under this subsection if, before the commencement of any benefit, the former spouse remarries before becoming 55 years of age.

26 USC 1 *et seq.*

"(4)(A) For purposes of the Internal Revenue Code of 1954, payments to a former spouse under this section shall be treated as income to the former spouse and not to the participant.

"(B) Any reduction in payments to a participant or former participant as a result of payments to a former spouse under this subsection shall be disregarded in calculating—

"(i) the survivor annuity for any spouse, former spouse, or other survivor under this subchapter, and

"(ii) any reduction in the annuity of the participant to provide survivor benefits under this subchapter.

"(5) Notwithstanding subsection (a)(1), in the case of any former spouse of a disability annuitant—

"(A) the annuity of the former spouse shall commence on the date the participant would qualify, on the basis of his or her creditable service, for an annuity under this chapter (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

"(B) the amount of the annuity of the former spouse shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

"(6)(A) Except as provided in subparagraph (B), any former spouse who becomes entitled to receive any benefit under this subchapter which would otherwise be payable to a participant or former participant shall be entitled to make any election regarding method of payment to such former spouse that such participant would have otherwise been entitled to elect, and the participant may elect an alternate method for the remaining share of such benefits. Such elections shall not increase the actuarial present value of benefits expected to be paid under this subchapter.

Ante, p. 522.

"(B) A former spouse may not elect a method of payment under subchapter II, chapter 84 of title 5, United States Code, providing for payment of a survivor annuity to any survivor of the former spouse.

"(7) The maximum amount payable to any former spouse pursuant to this subsection shall be the difference, if any, between 50 percent of the total benefits authorized to be paid to a former participant by this subchapter, disregarding any apportionment of these benefits to others, and the aggregate amount payable to all others at any one time.

"(b)(1) Unless otherwise expressly provided for by any spousal agreement or court order governing survivorship benefits under this subchapter to a former spouse married to a participant or former participant for the periods specified in subsection (a)(1)(A), such

former spouse is entitled to a share, determined under subsection (b)(2), of all survivor benefits that would otherwise be payable under this subchapter to an eligible surviving spouse of the participant.

"(2) The share referred to in subsection (b)(1) equals—

"(A) 100 percent if such former spouse was married to the participant throughout the entire period of service of the participant which is creditable under this chapter; or

"(B) a pro rata share of 100 percent if such former spouse was not married to the participant throughout such creditable service.

"(c) A participant or former participant may not make any election or modification of election under section 8417, 8418, or 8433 of title 5, United States Code, or other section relating to the participant's account in the Thrift Savings Plan or annuity under the basic plan that would diminish the entitlement of a former spouse to any benefit granted to the former spouse by this section or in a current spousal agreement.

"(d) If a member becomes a participant under this subchapter after qualifying for benefits under subchapter I and, at the time of transfer, has a former spouse entitled to benefits under subchapter I which are determined under section 814 or 815 (as determined by the Secretary of State) and are similar in amount to a pro rata share division under section 814 or 815 and the service of the member as a participant under this subchapter is not recognized in determining that pro rata share, then subsections (a) and (b) of this section shall not apply to such former spouse. Otherwise, subsections (a) and (b) of this section shall apply. 22 USC 4054, 4055.

"(e) If a participant dies after completing at least 18 months of service or a former participant dies entitled to a deferred annuity, but before becoming eligible to receive the annuity, and such participant or former participant has left with the Secretary of State a spousal agreement promising a share of a survivor annuity under subchapter IV, chapter 84, title 5, United States Code, to a former spouse, such survivor annuity shall be paid under the terms of this subchapter as if the survivor annuity had been ordered by a court.

"SEC. 862. SPOUSAL AGREEMENTS.—A spousal agreement is any written agreement (properly authenticated as determined by the Secretary of State) between a participant or former participant and his or her spouse or former spouse on file with the Secretary of State. A spousal agreement shall be consistent with the terms of this Act and applicable regulations and, if executed at the time a participant or former participant is currently married, shall be approved by such current spouse. It may be used to fix the level of benefits payable under this subchapter to a spouse or former spouse.". 22 USC 4071k.

SEC. 416. TABLE OF CONTENTS.

The table of contents in section 2 of such Act is amended—

(1) by striking out the item relating to chapter 8 and inserting in lieu thereof the following:

"CHAPTER 8—FOREIGN SERVICE RETIREMENT AND DISABILITY

"SUBCHAPTER I—FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM";

and

(2) by inserting after the item relating to section 827 the following:

"Sec. 828. Remarriage.

"SUBCHAPTER II—FOREIGN SERVICE PENSION SYSTEM

"Sec. 851. Establishment.
"Sec. 852. Definitions.
"Sec. 853. Participants.
"Sec. 854. Creditable service.
"Sec. 855. Entitlement to annuity.
"Sec. 856. Reduction and withholdings from pay.
"Sec. 857. Government contributions.
"Sec. 858. Cost-of-living adjustments.
"Sec. 859. General and administrative provisions.
"Sec. 860. Transition provisions.
"Sec. 861. Former spouses.
"Sec. 862. Spousal agreements.".

22 USC 4046 note.

SEC. 417. EFFECTIVE DATE.

22 USC 4022.

(a) REGULATIONS.—Notwithstanding section 702 of this Act, the authority of the Secretary of State to issue regulations under subchapter II of title 8 of the Foreign Service Act of 1980 shall take effect on the date of enactment of this Act.

Ante, p. 615.

(b) 18-MONTH PERIOD TO ELECT SURVIVOR ANNUITY.—(1) Notwithstanding section 702 of this Act, the amendment made by section 407 shall take effect 3 months after the date of enactment of this Act.

22 USC 4022; *ante*, p. 611.

(2)(A) Subject to subparagraph (B), the amendment made by section 407 shall apply with respect to participants and former participants who retire before, on, or after such amendment first takes effect.

(B) For the purpose of applying the provisions of paragraph (1) of section 806(n) of the Foreign Service Act of 1980 (as added by section 407) to former participants who retire before the date on which the amendment first takes effect—

(i) the period referred to in subparagraph (A) or (B) of such paragraph (as the case may be) shall be considered to begin on the date on which such amendment first becomes effective; and

(ii) the amount referred to in paragraph (2) of such section 806(n) shall be computed without regard to the provisions of subparagraph (B)(ii) of such paragraph (relating to interest).

(3) For purposes of this subsection, the term "participant" has the meaning given that term in section 803 of the Foreign Service Act of 1980 (22 U.S.C. 4043).

TITLE V—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND RELATED MATTERS

SEC. 501. REFERENCES.

The Central Intelligence Agency Retirement Act of 1964 for Certain Employees (78 Stat. 1043; 50 U.S.C. 403 note) is amended—

50 USC 403 note.

(1) in section 201(c), by inserting "(except section 305(d) of this Act)" after "or any other provisions of law";

(2) by striking out "this Act" each place it appears in title II except in sections 201 and 264, and inserting in lieu thereof "this title"; and

(3) by inserting "under this title" after "payable from the fund" each place it appears in title II.

SEC. 502. CONTRIBUTIONS TO THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM.

Section 211 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended— 50 USC 403 note.

(1) by striking out "Seven" in the first sentence of subsection (a) and inserting in lieu thereof "Except as provided in subsection (d), seven"; and

(2) by adding at the end thereof the following new subsection (d):

"(d)(1) In the case of a participant who was a participant subject to this title before January 1, 1984, and whose service—

"(A) is employment for the purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954, and 42 USC 401. 26 USC 3101 *et seq.*

"(B) is not creditable service for any purpose under title III of this Act or chapter 84 of title 5, United States Code, *Ante*, p. 517.

there shall be deducted and withheld from the basic pay of the participant under this subsection during any pay period only the amount computed pursuant to paragraph (2).

"(2) The amount deducted and withheld from the basic pay of a participant during any pay period pursuant to paragraph (1) shall be the excess of—

"(A) the amount determined by multiplying the percent applicable to the participant under subsection (a) by the basic pay payable to the participant for such pay period, over

"(B) the amount of the taxes deducted and withheld from such basic pay under section 3101(a) of the Internal Revenue Code of 1954 (relating to old-age, survivors, and disability insurance) for such pay period.". 26 USC 3101.

SEC. 503. OFFSET OF ANNUITY BY THE AMOUNT OF SOCIAL SECURITY BENEFITS.

Section 221 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended by adding at the end thereof the following new subsection: 50 USC 403 note.

"(p)(1) Notwithstanding any other provision of this title, except as provided in paragraph (2), an annuity (including a disability annuity) payable under this title to an individual described in section 301(c)(1) and any survivor annuity payable under this title on the basis of the service of such individual shall be reduced in a manner consistent with section 8349 of title 5, United States Code, under conditions consistent with the conditions prescribed in such section. *Ante*, p. 589.

"(2) This section shall not apply with respect to any annuity, or survivor annuity, which is based on the service of an individual described in section 301(c)(2).". *Post*, p. 624.

SEC. 504. THRIFT SAVINGS FUND PARTICIPATION BY PARTICIPANTS IN THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM.

Part K of title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended by adding at the end thereof the following new section: 50 USC 403 note.

"THRIFT SAVINGS FUND PARTICIPATION BY PARTICIPANTS IN THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

50 USC 403 note.

"SEC. 293. (a) Participants in the Central Intelligence Agency Retirement and Disability System shall be deemed to be employees for the purposes of section 8351 of title 5, United States Code.

Ante, p. 593.

"(b) Subsections (k) and (m) of section 8461 of title 5, United States Code, shall apply with respect to contributions made by officers and employees of the Agency to the Thrift Savings Fund under section 8351 of such title, and to earnings attributable to the investment of such contributions.".

SEC. 505. ALTERNATIVE FORMS OF ANNUITIES.

Part K of title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (as amended by section 504 of this Act) is further amended by adding at the end thereof the following new section:

"ALTERNATIVE FORMS OF ANNUITIES

Regulations.
50 USC 403 note.

"SEC. 294. (a) The Director shall prescribe regulations under which an officer or employee of the Agency may, at the time of retiring under this title (other than under section 231), elect annuity benefits under this section instead of any other benefits under this title (including any survivor benefits under this title) based on the service of the officer or employee creditable under this title. The regulations and alternatives shall, to the maximum extent practicable, meet the requirements prescribed in section 8343a of title 5, United States Code.

Ante, p. 591.

"(b) Notwithstanding any other provision of law, any lump-sum credit provided pursuant to an election under subsection (a) shall not preclude an individual from receiving other benefits provided under such subsection.

"(c) The Director shall submit the regulations prescribed under subsection (a) to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives before the regulations take effect.".

SEC. 506. PARTICIPATION IN THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM.

Ante, p. 622.

The Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended by adding at the end thereof the following:

"TITLE III—PARTICIPATION IN THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM

"APPLICATION OF FEDERAL EMPLOYEES' RETIREMENT SYSTEM TO AGENCY EMPLOYEES

50 USC 403 note.

"SEC. 301. (a) Except as provided in subsections (b) and (c), all officers and employees of the Agency, any of whose service after December 31, 1983, is employment for the purpose of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954, shall be subject to chapter 84 of title 5, United States Code.

42 USC 401.
26 USC 3101 *et seq.*; *ante*, p. 517.

"(b) Participants in the Central Intelligence Agency Retirement and Disability System who were participants in such system on or before December 31, 1983, and who have not had a break in service

in excess of 1 year since that date, are not subject to chapter 84 of title 5, United States Code, without regard to whether they are subject to title II of the Social Security Act.

Ante, p. 517.
42 USC 401.

"(c)(1) The provisions of chapter 84 of title 5, United States Code, shall not apply with respect to—

"(A) any individual who separates, or who has separated, from Federal Government service after having been an officer or employee of the Agency subject to title II of this Act; and

"(B) any officer or employee of the Agency having at least 5 years of civilian service which was performed before January 1, 1987, and is creditable under title II of this Act (determined without regard to any deposit or redeposit requirement under subchapter III of chapter 83 of title 5, United States Code, or under title II of this Act, or any requirement that the individual become subject to such subchapter or to title II of this Act after performing the service involved).

Ante, pp. 589, 591-593.

"(2) Paragraph (1) shall not apply with respect to an individual who has elected under regulations prescribed under section 307 of this Act to become subject to chapter 84 of title 5, United States Code, to the extent provided in such regulations.

Post, p. 628.

"(3) An individual described in paragraph (1) shall be deemed to be an individual excluded under section 8402(b)(2) of title 5, United States Code.

"(d) The application of the provisions of chapter 84 of title 5, United States Code, to officers and employees referred to in subsection (a) shall be subject to the exceptions and special rules provided in this title. Any provision of such chapter which is inconsistent with a special rule provided in this title shall not apply to such officers and employees.

"SPECIAL RULES RELATING TO SECTION 203 CRITERIA EMPLOYEES

"SEC. 302. (a) Except as otherwise provided in this section, in the application of chapter 84 of title 5, United States Code, to an officer or employee of the Agency who is subject to such chapter and is designated by the Director under the criteria prescribed in section 203, such officer or employee shall be treated for purposes of determining such officer's or employee's retirement benefits and obligations under such chapter as if the officer or employee were a law enforcement officer (as defined in section 8401(17) of title 5, United States Code).

50 USC 403 note.

"(b) The provisions of sections 233 and 235 of this Act shall apply to officers and employees referred to in subsection (a), except that the retirement benefits shall be determined under the provisions of chapter 84 of title 5, United States Code.

50 USC 403 note.

"(c)(1) Except as provided in paragraph (2), section 271 of this Act shall apply to an officer or employee referred to in subsection (a).

"(2) Contributions during recall service shall be made as provided in section 8422 of title 5, United States Code.

"(3) When an officer or employee recalled under this subsection reverts to a retired status, the annuity of such officer or employee shall be redetermined under the provisions of chapter 84 of title 5, United States Code.

"SPECIAL RULES FOR OTHER EMPLOYEES FOR SERVICE ABROAD

50 USC 403 note.
Ante, p. 517.

"SEC. 303. (a) Notwithstanding any provision of chapter 84 of title 5, United States Code, the annuity under subchapter II of such chapter of a retired officer or employee of the Agency who is not designated under section 302(a) of this Act and has served abroad as an officer or employee of the Agency shall be computed as provided in subsection (b).

"(b)(1) The portion of the annuity relating to service abroad performed on or after the effective date of the Federal Employees' Retirement System Act of 1986 shall be computed as provided in section 8415(d) of title 5, United States Code.

"(2) The portions of the annuity relating to other service in the Agency shall be computed as provided in the provision of section 8415 of such title that is applicable to such service under the conditions prescribed in chapter 84 of such title.

"SPECIAL RULES FOR FORMER SPOUSES

50 USC 403 note.

"SEC. 304. (a) Section 8445 of title 5, United States Code, and subsections (d) and (e) of section 8435 of such title shall not apply in the case of an officer or employee of the Agency who is subject to chapter 84 of title 5, United States Code, and who has a former spouse (as defined in section 204(b)(4) of this Act). Any reference in such chapter to a survivor annuity for a former spouse, as applied to such officer or employee, shall be deemed to refer to a survivor annuity for a former spouse of such officer or employee provided under subsection (c) of this section.

50 USC 403 note.

"(b) Section 221(b)(1)(C) of this Act shall apply to a survivor annuity under subsection (c)(2) of this section.

"(c) Except as otherwise provided in this section, the following provisions of title II of this Act shall apply in the case of an officer or employee of the Agency who is entitled to receive an annuity under subchapter II, III, or V of chapter 84 of title 5, United States Code, in the same manner as such provisions apply in the case of an officer or employee of the Agency under title II:

"(1) Section 222, except that subsections (b) and (c) of such section shall be subject to a waiver under subsection (b) of this section.

"(2) Subsections (a), (b)(1), and (b)(3) of section 223 and the first sentence of subsection (c) of such section.

"(3) Subsections (c) and (d) of section 234 (in the case of any lump-sum payment under section 8424(a) of title 5, United States Code, and any payment under subsection (b)(3), (b)(4), (c)(3), (c)(4), or (d) of section 8433 of such title).

"(4) Section 263(b).

"(d) In the application of section 222(a) under subsection (c)(1)—

"(1) the reference in paragraph (4)(B) of such section to section 271, 272, or 273 of this Act shall be deemed to refer to any similar provision of law applicable to such officer or employee for purposes of chapter 84 of title 5, United States Code;

"(2) the amount of the reduction in the salary of a recalled or reinstated officer or employee under such paragraph (4)(B) shall be only the amount by which the annuity under subchapter II or V of chapter 84 of title 5, United States Code, would have been reduced; and

"(3) amounts to be deposited in the Treasury of the United States pursuant to such paragraph (4)(B) shall be credited to the Civil Service Retirement and Disability Fund.

"(e) In the application of subsections (b) and (c) of section 222 under subsection (c)(2)— 50 USC 403 note.

"(1) the percentage prescribed in subsections (b)(1)(A), (b)(1)(B), (b)(4)(A), and (c)(2) of such section shall be deemed to be 50 percent;

"(2) for the purpose of computing the amount of the former spouse's annuity under subsection (b)(1) of such section and the maximum amount of survivor annuities under subsection (b)(4) or (c)(2) of such section, the full amount of the deceased officer's or employee's annuity—

"(A) in the case of an annuity under subchapter II or V of chapter 84 of title 5, United States Code, is the amount of such annuity computed without regard to the reduction for survivor annuities; and *Ante*, pp. 517, 565.

"(B) in the case of an annuity under subchapter III of such chapter, is the amount of such annuity computed on an actuarial basis as provided in such subchapter taking into account the application of section 222(b)(1) in the case of such annuity;

"(3) an election under subsection (b)(5)(B) of such section shall apply with respect to a survivor annuity for a spouse under section 8442 of title 5, United States Code;

"(4) the reference in subsection (c)(2) of such section to a survivor annuity for a spouse shall be deemed to refer—

"(A) in the case of an annuity under subchapter II or V of chapter 84 of title 5, United States Code, to the survivor annuity provided in section 8442 of title 5, United States Code; and

"(B) in the case of an annuity under subchapter III of such chapter, to the survivor annuity described in section 8435(c) of such title; and

"(5) the fund referred to in subsections (c)(3)(A) and (c)(3)(B) of such section shall be deemed to refer—

"(A) in the case of an annuity under subchapter II or V of chapter 84 of title 5, United States Code, to the Civil Service Retirement and Disability Fund; and

"(B) in the case of an annuity under subchapter III of such chapter, the Thrift Savings Fund established by section 8437 of such title.

"(f) A reduction in the annuity of an officer or employee of the Agency to provide a survivor annuity or survivor annuities under this section shall be computed as provided in section 8419(a) of title 5, United States Code.

"(g) The entitlement of a former spouse to a portion of an annuity of a retired officer or employee of the Agency under this section shall extend to any supplementary annuity payment that such officer or employee is entitled to receive under section 8421 of title 5, United States Code.

"ADMINISTRATIVE PROVISIONS

"SEC. 305. (a) Section 201(c) of this Act shall apply in the administration of chapter 84 of title 5, United States Code, with respect to officers and employees of the Agency. 50 USC 403 note.

"(b) Notwithstanding subsection (a), section 8461(e) of title 5, United States Code, shall apply with respect to officers and employees of the Agency who are not participants in the Central Intelligence Agency Retirement and Disability System and are not designated under section 302(a) of this Act.

Ante, p. 625.

"REGULATIONS

50 USC 403 note.

"SEC. 306. (a) The Director, in consultation with the Director of the Office of Personnel Management and the Executive Director of the Federal Retirement Thrift Investment Board, shall prescribe in regulations appropriate procedures to carry out this title.

"(b) The Director shall submit the regulations prescribed under subsection (a) to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives before the regulations take effect.

"TRANSITION PROVISIONS

Regulations.
50 USC 403 note.

"SEC. 307. (a) The Director shall issue regulations providing for the transition from the Central Intelligence Agency Retirement and Disability System to the Federal Employees' Retirement System provided in chapter 84 of title 5, United States Code, in a manner consistent with sections 301 through 304 of the Federal Employees' Retirement System Act of 1986.

Ante, p. 517.

"(b) The Director shall submit the regulations prescribed under subsection (a) to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives before the regulations take effect.".

SEC. 507. SPECIAL RETIREMENT ACCRUAL FOR OTHER INTELLIGENCE PERSONNEL.

(a) CERTAIN NATIONAL SECURITY AGENCY PERSONNEL.—Section 9(b)(1)(B) of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by inserting before the semicolon the following: "(including special retirement accrual in the same manner provided in section 303 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note))".

Ante, p. 626.

(b) CERTAIN DEFENSE INTELLIGENCE AGENCY PERSONNEL.—Section 1605(a) of title 10, United States Code, is amended by adding at the end thereof the following: "The Secretary may also provide to any such civilian personnel who are subject to chapter 84 of title 5, special retirement accrual benefits in the same manner provided for certain officers and employees of the Central Intelligence Agency in section 303 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note).".

Ante, p. 626.

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. ANNUITIES FOR SURVIVORS OF DISTRICT OF COLUMBIA JUDGES.

(a) AMENDMENTS TO DISTRICT OF COLUMBIA CODE.—(1) Subsections (a) and (b) of section 11-1567 of title 11 of the District of Columbia Code are each amended by striking out "3 per centum" each place it appears and inserting in lieu thereof "3.5 percent".

(2)(A) Subsection (a) of section 11-1568 of title 11 of the District of Columbia Code is amended by striking out "computing a survivor

annuity" and inserting in lieu thereof "any provision of this subchapter which refers to this subsection".

(B) Subsection (c) of section 11-1568 of title 11 of the District of Columbia Code is amended—

(i) in paragraph (2)(B), by striking out "the lesser of (i) $2,700 per year divided by the number of such children or (ii) $900" and inserting in lieu thereof "the lesser of (i) $8,424 per year divided by the number of such children or (ii) $2,808";

(ii) in paragraph (3), by striking out "the lesser of (A) $3,240 per year divided by the number of children or (B) $1,080" and inserting in lieu thereof "the lesser of (A) $10,110 per year divided by the number of such children or (B) $3,370";

(iii) by inserting before the first sentence of the matter following paragraph (3) the following:

"For the purpose of computing, under this subsection, the annuity of a child that commences on or after January 1, 1987, the figures $8,424, $2,808, $10,110, and $3,370 (provided in paragraphs (2) and (3)) shall be increased by the total percentage of the increases allowed and in force with respect to retirement salaries of judges under section 11-1571(a) of this title on or after such date."; and

(iv) in the first sentence of the matter following paragraph (3) by striking out "remarriage" and inserting in lieu thereof "upon remarriage prior to the attainment of fifty-five years of age".

(C) Subsection (e) of section 11-1568 of title 11 of the District of Columbia Code is amended to read as follows:

"(e) The annuity of a widow or widower of a judge or retired judge who elected a survivor annuity shall be equal to—

"(1) in the case of a judge who dies while in active regular service as a judge, the greater of—

"(A) 55 percent of the retirement salary the judge would have been entitled to receive (as computed under section 11-1564) if the judge had retired on the day before the date of death (without regard to the age requirements prescribed in section 11-1562(b)), or

"(B) 55 percent of the retirement salary the judge would have been entitled to receive (as computed under section 11-1564) if the judge had retired on the day before the date of death with 15 years of service for the purposes of this subchapter (without regard to the age requirements prescribed in section 11-1562(b)); and

"(2) in the case of a retired judge, 55 percent of the retirement salary payable to such judge on the day before the date of the judge's death.".

(b) APPLICATION OF AMENDMENTS.—The benefits conferred by section 11-1568 of title 11 of the District of Columbia Code, by reason of the amendments made by subsection (a) shall apply to individuals eligible for annuities under such sections on or after the date of the enactment of this Act, except that—

(1) such annuities shall be computed in accordance with the provisions of such section, as amended by subsection (a), notwithstanding contributions or deposits made in accordance with applicable law at lower rates; and

(2) no additional liability shall be created with respect to deposits made in accordance with applicable law before the date of the enactment of this Act, or after such date pursuant to an

installment payment election made under section 11-1567(b) of title 11 of the District of Columbia Code, before such date.

(c) OPPORTUNITY TO REVOKE A PREVIOUS SURVIVOR ANNUITY ELECTION.—(1)(A) Any individual who, before the date of the enactment of this Act, made an election under section 11-1566 of title 11 of the District of Columbia Code, to come within the purview of the survivor annuity provisions of subchapter III of chapter 15 of such title may revoke that election. Such a revocation shall constitute a complete withdrawal from the survivor annuity program provided for in such subchapter.

(B) A revocation under subparagraph (A) shall be submitted in writing to the Mayor of the District of Columbia.

(2) A revocation under paragraph (1) shall be effective on the day it is received by the official referred to in subparagraph (B) of such paragraph.

(3)(A) On the effective date of a revocation under paragraph (1), any right to survivor benefits (to which the revocation relates) for the survivors of the individual who makes the revocation shall terminate, and all amounts credited to the account of such individual under section 11-1570(c) of title 11 of the District of Columbia Code, together with interest computed as provided in subparagraph (B), shall be returned to that individual in a lump-sum payment.

(B) For the purpose of subparagraph (A), interest shall be computed in accordance with section 11-1561(10)(C) of title 11 of the District of Columbia Code.

(4)(A) Any individual who makes a revocation under paragraph (1) and who thereafter becomes eligible to make an election under section 11-1556 of title 11 of the District of Columbia Code, may make such election only if such individual redeposits, to the credit of the District of Columbia Judge's Retirement Fund referred to in section 11-1561(4) of such title, the full amount of the lump-sum payment made to such individual under paragraph (4), together with interest.

(B) For the purpose of subparagraph (A), interest shall be computed at 3 percent per annum, compounded on December 31 of each year from the date of the lump-sum payment referred to in such subparagraph until the date on which the amount referred to in such subparagraph is redeposited under such subparagraph.

(d) ADDITIONAL OPPORTUNITY TO MAKE A SURVIVOR ANNUITY ELECTION.—(1) Any individual who, on or before the date of the enactment of this Act, has not made an election under section 11-1566(a) of title 11 of the District of Columbia Code, to come within the purview of the survivor annuity provisions of subchapter III of chapter 15 of such title and is no longer entitled to make such an election may make such an election. Any such election shall be submitted in writing to the Mayor of the District of Columbia.

(2) An election under paragraph (1) shall be effective on the day it is received by the official referred to in such paragraph.

(e) PERIOD FOR EXERCISE OF RIGHT TO REVOKE OR ELECT.—The right to revoke an election under subsection (d) or to make an election under subsection (e) is irrevocably waived if not exercised within 180 days after the date of the enactment of this Act.

TITLE VII—AUTHORIZATION OF APPROPRIATIONS; EFFECTIVE DATES

SEC. 701. AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN EXPENSES OF THE FEDERAL RETIREMENT THRIFT INVESTMENT MANAGEMENT SYSTEM.

5 USC 8472 note.

(a) TEMPORARY ALTERNATIVE FUNDING.—Notwithstanding section 8434(c)(3) of title 5, United States Code (as added by section 101 of this Act), the expenses incurred in the administration of the Federal Retirement Thrift Investment Management System under subchapter VII of chapter 84 of such title (as so added) during fiscal years 1986 and 1987 shall be paid from sums appropriated pursuant to subsection (b).

Ante, p. 577.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Retirement Thrift Investment Board, for fiscal years 1986 and 1987, such sums as may be necessary to pay the expenses incurred in the administration of the Federal Retirement Thrift Investment Management System during such fiscal years.

SEC. 702. EFFECTIVE DATES.

5 USC 8401 note.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on January 1, 1987.

(b) EXCEPTIONS.—(1) Subchapter VII of chapter 84 of title 5, United States Code, as added by section 101 of this Act, shall take effect on the date of the enactment of this Act.

(2) Except as provided in section 305 of this Act, title III of this Act, and the amendments made by such title, shall take effect on the date of the enactment of this Act.

(3) The amendments made by sections 204 and 205 of this Act shall take effect on the date of the enactment of this Act.

(4) Section 701 of this Act shall take effect on the date of the enactment of this Act.

(5) Sections 505 and 601 of this Act and the amendments made by such section 601 shall take effect on the date of the enactment of this Act.

(c) FIRST COST-OF-LIVING ADJUSTMENT.—(1) For purposes of the first adjustment under subsection (b) of section 8462 of title 5, United States Code (as added by section 101 of this Act), the base quarter ending on September 30, 1986, shall be considered to have been the base quarter for a year in which an adjustment under such subsection was made.

(2) As used in paragraph (1), the term "base quarter" has the meaning provided by section 8462(a)(1) of title 5, United States Code (as added by section 101 of this Act).

Approved June 6, 1986.

LEGISLATIVE HISTORY—H.R. 2672 (S. 1527):

HOUSE REPORT No. 99-606 (Comm. of Conference).
SENATE REPORTS: No. 99-166 accompanying S. 1527 (Comm. on Governmental Affairs) and No. 99-302 (Comm. of Conference).
CONGRESSIONAL RECORD:
Vol. 131 (1985): July 8, considered and passed House.
Nov. 7, considered and passed Senate, amended, in lieu of S. 1527.
Vol. 132 (1986): May 20, Senate agreed to conference report.
May 22, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS: Vol. 22, No. 23 (1986): June 6, Presidential statement.

○

Public Law 99-336
99th Congress

An Act

To amend title 28, United States Code, to reform and improve the Federal justices and judges survivors' annuities program, and for other purposes.

June 19, 1986
[H.R. 3570]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Judicial Improvements Act of 1985.
Courts.
Retirement.
28 USC 1 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Judicial Improvements Act of 1985".

SEC. 2. JUDICIAL SURVIVORS' ANNUITIES AMENDMENTS.

(a) BENEFIT REFORMS.—Section 376 of title 28, United States Code, is amended as follows:

(1) Subsection (a)(1) is amended by striking out "or (iii) the date upon which the Judicial Survivors' Annuities Reform Act becomes effective;" and inserting in lieu thereof "(iii) January 1, 1977; or (iv) October 1, 1986;".

28 USC 1 note.

(2) Subsections (b) and (d) are each amended by striking out "4.5 percent" each place it appears and inserting in lieu thereof "5 percent".

(3) Subsection (c) is amended to read as follows:

"(c)(1) There shall also be deposited to the credit of the Judicial Survivors' Annuities Fund, in accordance with such procedures as the Comptroller General of the United States may prescribe, amounts required to reduce to zero the unfunded liability of the Judicial Survivors' Annuities Fund: *Provided,* That such amounts shall not exceed the equivalent of 9 percent of salary or retirement salary. Such deposits shall, subject to appropriations Acts, be taken from the fund used to pay the compensation of the judicial official, and shall immediately become an integrated part of the Judicial Survivors' Annuities Fund for any use required under this section.

"(2) For purposes of paragraph (1), the term 'unfunded liability' means the estimated excess, determined on an annual basis in accordance with the provisions of section 9503 of title 31, United States Code, of the present value of all benefits payable from the Judicial Survivors' Annuities Fund, over the sum of—

"(A) the present value of deductions to be withheld from the future basic pay of judicial officials; plus

"(B) the balance in the Fund as of the date the unfunded liability is determined.

In making any determination under this paragraph, the Comptroller General shall use the applicable information contained in the reports filed pursuant to section 9503 of title 31, United States Code, with respect to the judicial survivors' annuities plan established by this section.

"(3) There are authorized to be appropriated such sums as may be necessary to carry out this subsection.".

Appropriation authorization.

(4) Subsection (h) is amended—

(A) in paragraph (1)(B), by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) 10 percent of the average annual salary determined under subsection (l)(1) of this section; or

"(ii) 20 percent of such average annual salary, divided by the number of children;";

(B) in paragraph (1)(C) by striking out clauses (ii) and (iii) and inserting in lieu thereof the following:

"(ii) 20 percent of the average annual salary determined under subsection (l)(1) of this section; or

"(iii) 40 percent of such average annual salary amount, divided by the number of children;"; and

(C) in paragraph (2) by inserting immediately after "remarriage" the following: "before attaining age 55".

(5) Subsection (l) is amended—

(A) by striking out "1¼ percent" and inserting in lieu thereof "1.5 percent";

(B) in paragraph (2) by striking out the colon after "subsection" and inserting in lieu thereof a semicolon; and

(C) by striking out the proviso and inserting in lieu thereof the following: "except that such annuity shall not exceed an amount equal to 50 percent of such average annual salary, nor be less than an amount equal to 25 percent of such average annual salary. Any annuity determined in accordance with the provisions of this subsection shall be reduced to the extent required by subsection (d) of this section.".

28 USC 376 note.

(b) BENEFICIARIES.—The benefits conferred by section 376 of title 28, United States Code, by reason of the amendments made by this section shall apply only to individuals who become eligible for annuities under such section on or after the effective date of this section, except that—

(1) such annuities shall be computed in accordance with the provisions of section 376 of title 28, United States Code, as amended by this section, notwithstanding contributions or deposits made in accordance with applicable law at lower rates; and

(2) no additional liability shall be created with respect to deposits made in accordance with applicable law before the effective date of this section, or after such effective date pursuant to an agreement entered into before such effective date.

28 USC 376 note.

(c) REVOCATION.—(1) Within 180 days after the effective date of this section, any judicial official who, before such effective date, made an election under section 376 of title 28, United States Code, to come within the purview of that section, shall be entitled to revoke that election. Such revocation shall constitute a complete withdrawal from the judicial survivors' annuities program provided for in such section 376. No such revocation shall be effective unless it is submitted in writing to the Director of the Administrative Office of the United States Courts, and until such writing is received by the Director. Upon receipt by the Director of such writing, any rights to survivorship benefits for the survivors of such judicial official shall terminate, and all amounts credited to the individual account of such judicial official under section 376(e), together with interest at 3 percent per annum, compounded on December 31 of each year to such date of revocation, shall be returned to that judicial official in a lump-sum payment.

(2) Any judicial official who makes a revocation under paragraph (1) of this subsection and who thereafter becomes eligible to make an

election under section 376(b) of title 28, United States Code, may make such election only if such judicial official redeposits, to the credit of the Judicial Survivors' Annuities Fund, the full amount of the lump-sum payment made to such judicial official under paragraph (1) of this subsection, together with interest at 3 percent per annum, compounded on December 31 of each year from the date of such revocation until the date upon which that amount is so redeposited.

(3) Any judicial official who fails to revoke an election in accordance with paragraph (1) of this subsection shall be deemed to have irrevocably waived the right to make that revocation.

(d) ANNUITIES FOR FORMER SPOUSES.—

(1) Section 376 of title 28, United States Code, is amended in subsection (a)—

(A) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(B) by adding at the end the following new paragraph:

"(6) 'former spouse' means a former spouse of a judicial official if the former spouse was married to such judicial official for at least 9 months.".

(2) Section 376 of title 28, United States Code, is amended by adding at the end the following new subsections:

"(s) A judicial official who has a former spouse may elect, under procedures prescribed by the Director of the Administrative Office of the United States Courts, to provide a survivor annuity for such former spouse under subsection (t). An election under this subsection shall be made at the time of retirement, or, if later, within 2 years after the date on which the marriage of the former spouse to the judicial official is dissolved. An election under this subsection—

"(1) shall not be effective to the extent that it—

"(A) conflicts with—

"(i) any court order or decree referred to in subsection (t)(1), which was issued before the date of such election, or

"(ii) any agreement referred to in such subsection which was entered into before such date; or

Contracts.

"(B) would cause the total of survivor annuities payable under subsections (h) and (t) based on the service of the judicial official to exceed 55 percent of the average annual salary (as such term is used in subsection (l)) of such official; and

"(2) shall not be effective, in the case of a judicial official who is then married, unless it is made with the spouse's written consent.

The Director of the Administrative Office of the United States Courts shall provide by regulation that paragraph (2) of this subsection may be waived if the judicial official establishes to the satisfaction of the Director that the spouse's whereabouts cannot be determined, or that, due to exceptional circumstances, requiring the judicial official to seek the spouse's consent would otherwise be inappropriate.

Regulations.

"(t)(1) Subject to paragraphs (2) through (4) of this subsection, a former spouse of a deceased judicial official is entitled to a survivor annuity under this section if and to the extent expressly provided for in an election under subsection (s), or in the terms of any decree of divorce or annulment or any court order or court-approved property settlement agreement incident to such decree.

"(2) The annuity payable to a former spouse under this subsection may not exceed the difference between—

"(A) the maximum amount that would be payable as an annuity to a widow or widower under subsection (l), determined without taking into account any reduction of such annuity caused by payment of an annuity to a former spouse; and

"(B) the amount of any annuity payable under this subsection to any other former spouse of the judicial official, based on an election previously made under subsection (s), or a court order previously issued.

"(3) The commencement and termination of an annuity payable under this subsection shall be governed by the terms of the applicable order, decree, agreement, or election, as the case may be, except that any such annuity—

"(A) shall not commence before—

"(i) the day after the judicial official dies, or

"(ii) the first day of the second month beginning after the date on which the Director of the Administrative Office of the United States Courts receives written notice of the order, decree, agreement, or election, as the case may be, together with such additional information or documentation as the Director may prescribe,

whichever is later, and

"(B) shall terminate no later than the last day of the month before the former spouse remarries before becoming 55 years of age or dies.

"(4) For purposes of this section, a modification in a decree, order, agreement, or election referred to in paragraph (1) of this subsection shall not be effective—

"(A) if such modification is made after the retirement of the judicial official concerned, and

"(B) to the extent that such modification involves an annuity under this subsection.".

(3)(A) Subsection (l) of section 376 of title 28, United States Code (as amended by subsection (a)(4)(C) of this section), is amended by striking out the period at the end of the last sentence and by adding at the end the following: ", and by the amount of any annuity payable to a former spouse under subsection (t).".

(B) Subsection (n) of section 376 of such title is amended in the last sentence by inserting after "equity," the following: "except as provided in subsections (s) and (t),".

(C) Subsection (o) of section 376 of such title is amended in paragraphs (2) and (3) by inserting "or (t)" after "subsection (h)" each place it appears.

28 USC 376 note.

(4) Payments of retirement salary as defined in section 376(a)(2) of title 28, United States Code, which would otherwise be made to the judicial official upon whose service the retirement salary is based, shall be paid (in whole or in part) to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person. This paragraph shall apply only to payments made after the date of receipt by the Director of the Administrative Office of

United States Courts of written notice of such decree, order, or agreement, and such additional information and documentation as the Director may prescribe. As used in this paragraph, "court" means any court of any State or the District of Columbia.

(e) CREDITABLE SERVICE.—Section 376(k)(1) of title 28, United States Code, is amended by deleting the phrase "subsection (b) of".

(f) EFFECTIVE DATE.—This section shall take effect on October 1, 1986. 28 USC 376 note.

SEC. 3. REMOVAL JURISDICTION.

(a) SECTION 1441 AMENDMENT.—Section 1441 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(e) The court to which such civil action is removed is not precluded from hearing and determining any claim in such civil action because the State court from which such civil action is removed did not have jurisdiction over that claim.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to claims in civil actions commenced in State courts on or after the date of the enactment of this section. 28 USC 1441 note.

SEC. 4. COLLECTION OF FEES FOR THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA.

(a) SECTION 1914 AMENDMENT.—Section 1914 of title 28, United States Code, relating to district court fees, is amended by striking out subsection (d).

(b) AMENDMENTS TO DISTRICT OF COLUMBIA CODE.—

(1) Section 15-701(a) of the District of Columbia Code, relating to compensation taxed as costs, is amended by striking out "clerk of the United States District Court for the District of Columbia,".

(2) Section 15-702 of such code, relating to docket fees, is amended—

(A) by striking out "(a)" and all that follows through "(b)"; and

(B) by striking out the section heading and inserting in lieu thereof the following:

"§ 15-702. Attorney fees taxed as costs".

(3) Section 15-703 of such code, relating to deposit and security for costs, is amended—

(A) by striking out "(a)" and all that follows through "(b)" and inserting in lieu thereof "(a)";

(B) in the undesignated paragraph by inserting "(b)" immediately before "A nonresident"; and

(C) in the section heading by striking out "Deposit for costs; security" and inserting in lieu thereof "Security".

(4) Section 15-704 of such code, relating to advance payment of costs and fees, is amended—

(A) in subsection (a) by striking out "(a)" and by striking out "the clerk of the United States District Court for the District of Columbia and"; and

(B) by striking out subsection (b).

(5) Section 15-706 of such code, relating to clerk's fees in the United States District Court for the District of Columbia, is hereby repealed.

(6) Section 15-709(a) of such code, relating to fees and costs in Superior Court, is amended by striking out the second sentence.

(7) The table of contents for chapter 7 of title 15 of such code, relating to fees and costs, is amended—

(A) by striking out the item relating to section 15-702 and inserting in lieu thereof

"15-702. Attorney fees taxed as costs.";

and

(B) by striking out "Deposit for costs; security" in the item relating to section 15-703 and inserting in lieu thereof "Security".

28 USC 1914 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any civil action, suit, or proceeding instituted on or after the date of the enactment of this Act.

SEC. 5. JUDICIAL REVIEW OF FEDERAL MARITIME COMMISSION AND MARITIME ADMINISTRATION ORDERS.

(a) SECTION 2342 AMENDMENT.—Section 2342(3) of title 28, United States Code, is amended to read as follows:

"(3) all rules, regulations, or final orders of—

"(A) the Secretary of Transportation issued pursuant to section 2, 9, 37, 41, or 43 of the Shipping Act, 1916 (46 U.S.C. App. 802, 803, 808, 835, 839, and 841a); and

"(B) the Federal Maritime Commission issued pursuant to—

"(i) section 23, 25, or 43 of the Shipping Act, 1916 (46 U.S.C. App. 822, 824, or 841a);

"(ii) section 19 of the Merchant Marine Act, 1920 (46 U.S.C. App. 876);

"(iii) section 2, 3, 4, or 5 of the Intercoastal Shipping Act, 1933 (46 U.S.C. App. 844, 845, 845a, or 845b);

"(iv) section 14 or 17 of the Shipping Act of 1984 (46 U.S.C. App. 1713 or 1716); or

"(v) section 2(d) or 3(d) of the Act of November 6, 1966 (46 U.S.C. App. 817d(d) or 817e(d);".

28 USC 2342 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to any rule, regulation, or final order described in such amendment which is issued on or after the date of the enactment of this Act.

SEC. 6. TECHNICAL AMENDMENTS.

(a) REDESIGNATION OF DUPLICATE SECTIONS.—

28 USC 1330 *et seq.*

(1) TITLE 28 AMENDMENTS.—Chapter 85 of title 28, United States Code, is amended—

(A) in the table of sections by striking out

"1364. Senate actions.

"1364. Construction of references to laws of the United States or Acts of Congress."

and inserting in lieu thereof the following:

"1365. Senate actions.

"1366. Construction of references to laws of the United States or Acts of Congress.";

(B) by striking out the section heading

"§ 1364. Senate actions"

and inserting in lieu thereof the following:

"§ 1365. Senate actions"; and

(C) by striking out the section heading

"§ 1364. Construction of references to laws of the United States or Acts of Congress"

and inserting in lieu thereof the following:

"§ 1366. Construction of references to laws of the United States or Acts of Congress".

(2) CONFORMING AMENDMENT.—Section 705(a) of the Ethics in Government Act of 1978 (Public Law 95-521; 2 U.S.C. 288d(a)) is amended by striking out "1364" and substituting "1365".

(b) DELETION OF INCORRECT REFERENCES.—Paragraph (3) of section 620(b) of title 28, United States Code, is amended—

(1) by striking out "referees,"; and

(2) by substituting "magistrates" for "commissioners".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act. 28 USC 620 note.

SEC. 7. FULL LIFE INSURANCE COVERAGE FOR RETIRED FEDERAL JUDGES.

The Bankruptcy Amendments and Federal Judgeship Act of 1984 (98 Stat. 333) is amended as follows:

(1) section 206 is revised to read as follows: 28 USC 151 note. 5 USC 8714a.

"SEC. 206. Sections 8706(a), 8714a(c)(1), 8714b(c)(1), and 8714c(c)(1) of title 5, United States Code, are amended to insert immediately after the first sentence in each of those sections a new sentence which reads as follows: 'Justices and judges of the United States described in section 8701(a)(5) (ii) and (iii) of this chapter are deemed to continue in active employment for purposes of this chapter.'."; and

(2) section 207 is revised to read as follows: 5 USC 8706 note. 5 USC 8714b. 5 USC 8701 *et seq.*

"SEC. 207. The amendments to chapter 87 of title 5, United States Code, made by section 206 of this Act shall apply in the case of any justice or judge who is retired under section 371(a) or 371(b) or 372(a) of title 28, United States Code. The amendments apply to those who retire on or after January 1, 1982.".

Approved June 19, 1986.

LEGISLATIVE HISTORY—H.R. 3570:

HOUSE REPORT: No. 99-423, Pt. 1 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 16, considered and passed House.
Vol. 132 (1986): Apr. 11, considered and passed Senate, amended.
May 22, House agreed to Senate amendments.

○

Public Law 99-337
99th Congress

Joint Resolution

June 19, 1986
[H.J. Res. 131]

To designate the week beginning June 15, 1986, as "National Safety in the Workplace Week".

Whereas the National Safety Council statistics indicate that workplace accidents accounted for eleven thousand three hundred employee deaths and one million nine hundred thousand employee injuries during 1983;

Whereas said accidents caused immeasurable pain and suffering to victims and their families;

Whereas the cost of occupational accidents amounted to over $33,400,000,000 in losses to American industry during 1983;

Whereas the American Society of Safety Engineers and other safety and health organizations continue to promote occupational safety in all industries;

Whereas occupational safety and health organizations will be calling attention to the seriousness and magnitude of this problem through appropriate activities; and

Whereas this endeavor is worthy of our support and cooperation so that we may reduce the toll of workplace injuries and deaths: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the week beginning June 15, 1986, as "National Safety in the Workplace Week" commemorating the efforts of those organizations to promote safety and health for the American workers, and calling upon all Government agencies and the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Approved June 19, 1986.

LEGISLATIVE HISTORY—H.J. Res. 131:

CONGRESSIONAL RECORD, Vol. 132 (1986):
June 11, considered and passed House.
June 13, considered and passed Senate.

71-139 O - 86 (339)

Public Law 99-338
99th Congress

Joint Resolution

To authorize the continued use of certain lands within the Sequoia National Park by portions of an existing hydroelectric project.

June 19, 1986
[H.J. Res. 382]

California.
16 USC 45a-1 note.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to issue a permit for ten years, and may issue not more than one renewal of equivalent duration, for portions of an existing hydroelectric project, known as the Kaweah Project of Southern California Edison Company, to continue to occupy and use lands of the United States within Sequoia National Park as necessary for continued operation and maintenance.

SEC. 2. The Secretary shall not execute any permit renewal prior to one hundred and twenty calendar days from the date the same is submitted to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives.

SEC. 3. The permit shall contain a provision prohibiting expansion of the Kaweah Project in Sequoia National Park and shall also contain such other terms and conditions as the Secretary of the Interior shall deem necessary and proper for the management and care of Sequoia National Park and the purposes for which it was established.

Approved June 19, 1986.

LEGISLATIVE HISTORY—H.J. Res. 382:

HOUSE REPORT No. 99-370 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 99-237 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Nov. 14, considered and passed House.
Vol. 132 (1986): May 21, considered and passed Senate, amended.
June 9, House concurred in Senate amendments.

71-139 O - 86 (340)

PUBLIC LAW 99-339—JUNE 19, 1986

SAFE DRINKING WATER ACT AMENDMENTS OF 1986

71-139 O - 86 - 1 (341)

Public Law 99-339
99th Congress

An Act

June 19, 1986
[S. 124]

To amend the Safe Drinking Water Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Safe Drinking Water Act Amendments of 1986.
Pollution.
42 USC 201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Safe Drinking Water Act Amendments of 1986".

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TITLE I—PUBLIC WATER SYSTEMS

SEC. 101. NATIONAL PRIMARY DRINKING WATER REGULATIONS.

42 USC 300g-1.

(a) SIMPLIFICATION OF STATUTORY SYSTEM.—Section 1412(a) of the Safe Drinking Water Act (title XIV of the Public Health Service Act; 42 U.S.C. 300f and following) is amended to read as follows:

"(a)(1) Effective on the enactment of the Safe Drinking Water Act Amendments of 1986, each national interim or revised primary drinking water regulation promulgated under this section before such enactment shall be deemed to be a national primary drinking water regulation under subsection (b). No such regulation shall be required to comply with the standards set forth in subsection (b)(4) unless such regulation is amended to establish a different maximum contaminant level after the enactment of such amendments.

"(2) After the enactment of the Safe Drinking Water Act Amendments of 1986 each recommended maximum contaminant level published before the enactment of such amendments shall be treated as a maximum contaminant level goal.

"(3) Whenever a national primary drinking water regulation is proposed under paragraph (1), (2), or (3) of subsection (b) for any contaminant, the maximum contaminant level goal for such contaminant shall be proposed simultaneously. Whenever a national primary drinking water regulation is promulgated under paragraph (1), (2), or (3) of subsection (b) for any contaminant, the maximum contaminant level goal for such contaminant shall be published simultaneously.

"(4) Paragraph (3) shall not apply to any recommended maximum contaminant level published before the enactment of the Safe Drinking Water Act Amendments of 1986.".

(b) STANDARD SETTING SCHEDULES AND DEADLINES.—Section 1412(b) of the Safe Drinking Water Act is amended by striking paragraphs (1), (2), and (3), and inserting in lieu thereof the following: 42 USC 300g-1.

"(1) In the case of those contaminants listed in the Advance Notice of Proposed Rulemaking published in volume 47, Federal Register, page 9352, and in volume 48, Federal Register, page 45502, the Administrator shall publish maximum contaminant level goals and promulgate national primary drinking water regulations—

"(A) not later than 12 months after the enactment of the Safe Drinking Water Act Amendments of 1986 for not less than 9 of those listed contaminants;

"(B) not later than 24 months after such enactment for not less than 40 of those listed contaminants; and

"(C) not later than 36 months after such enactment for the remainder of such listed contaminants.

"(2)(A) If the Administrator identifies a drinking water contaminant the regulation of which, in the judgment of the Administrator, is more likely to be protective of public health (taking into account the schedule for regulation under paragraph (1)) than a contaminant referred to in paragraph (1), the Administrator may publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for such identified contaminant in lieu of regulating the contaminant referred to in such paragraph. There may be no more than 7 contaminants in paragraph (1) for which substitutions may be made. Regulation of a contaminant identified under this paragraph shall be in accordance with the schedule applicable to the contaminant for which the substitution is made.

"(B) If the Administrator identifies one or more contaminants for substitution under this paragraph, the Administrator shall publish in the Federal Register not later than one year after the enactment of the Safe Drinking Water Act Amendments of 1986 a list of contaminants proposed for substitution, the contaminants referred to in paragraph (1) for which substitutions are to be made, and the basis for the judgment that regulation of such proposed substitute contaminants is more likely to be protective of public health (taking into account the schedule for regulation under such paragraph). Following a period of 60 days for public comment, the Administrator shall publish in the Federal Register a final list of contaminants to be substituted and contaminants referred to in paragraph (1) for Federal Register, publication.

which substitutions are to be made, together with responses to significant comments.

"(C) Any contaminant referred to in paragraph (1) for which a substitution is made, pursuant to subparagraph (A) of this paragraph, shall be included on the priority list to be published by the Administrator not later than January 1, 1988, pursuant to paragraph (3)(A).

Health and medical care.

"(D) The Administrator's decision to regulate a contaminant identified pursuant to this paragraph in lieu of a contaminant referred to in paragraph (1) shall not be subject to judicial review.

"(3)(A) The Administrator shall publish maximum contaminant level goals and promulgate national primary drinking water regulations for each contaminant (other than a contaminant referred to in paragraph (1) or (2) for which a national primary drinking water regulation was promulgated) which, in the judgment of the Administrator, may have any adverse effect on the health of persons and which is known or anticipated to occur in public water systems. Not later than January 1, 1988, and at 3 year intervals thereafter, the Administrator shall publish a list of contaminants which are known or anticipated to occur in public water systems and which may require regulation under this Act.

"(B) For the purpose of establishing the list under subparagraph (A), the Administrator shall form an advisory working group including members from the National Toxicology Program and the Environmental Protection Agency's Offices of Drinking Water, Pesticides, Toxic Substances, Ground Water, Solid Waste and Emergency Response and any others the Administrator deems appropriate. The Administrator's consideration of priorities shall include, but not be limited to, substances referred to in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and substances registered as pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act.

42 USC 9601.
7 USC 136 note.

"(C) Not later than 24 months after the listing of contaminants under subparagraph (A), the Administrator shall publish proposed maximum contaminant level goals and national primary drinking water regulations for not less than 25 contaminants from the list established under subparagraph (A).

"(D) Not later than 36 months after the listing of contaminants under subparagraph (A), the Administrator shall publish a maximum contaminant goal and promulgate a national primary drinking water regulation for those contaminants for which proposed maximum contaminant level goals and proposed national primary drinking water regulations were published under subparagraph (C).

Health and medical care.

"(4) Each maximum contaminant level goal established under this subsection shall be set at the level at which no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety. Each national primary drinking water regulation for a contaminant for which a maximum contaminant level goal is established under this subsection shall specify a maximum level for such contaminant which is as close to the maximum contaminant level goal as is feasible.

"(5) For the purposes of this subsection, the term 'feasible' means feasible with the use of the best technology, treatment techniques and other means which the Administrator finds, after examination for efficacy under field conditions and not solely under laboratory conditions, are available (taking cost into consideration). For the purpose of paragraph (4), granular activated carbon is feasible for

the control of synthetic organic chemicals, and any technology, treatment technique, or other means found to be the best available for the control of synthetic organic chemicals must be at least as effective in controlling synthetic organic chemicals as granular activated carbon.

"(6) Each national primary drinking water regulation which establishes a maximum contaminant level shall list the technology, treatment techniques, and other means which the Administrator finds to be feasible for purposes of meeting such maximum contaminant level, but a regulation under this paragraph shall not require that any specified technology, treatment technique, or other means be used for purposes of meeting such maximum contaminant level.

Science and technology.

"(7)(A) The Administrator is authorized to promulgate a national primary drinking water regulation that requires the use of a treatment technique in lieu of establishing a maximum contaminant level, if the Administrator makes a finding that it is not economically or technologically feasible to ascertain the level of the contaminant. In such case, the Administrator shall identify those treatment techniques which, in the Administrator's judgment, would prevent known or anticipated adverse effects on the health of persons to the extent feasible. Such regulations shall specify each treatment technique known to the Administrator which meets the requirements of this paragraph, but the Administrator may grant a variance from any specified treatment technique in accordance with section 1415(a)(3).

42 USC 300g-4.

"(B) Any schedule referred to in this subsection for the promulgation of a national primary drinking water regulation for any contaminant shall apply in the same manner if the regulation requires a treatment technique in lieu of establishing a maximum contaminant level.

"(C)(i) Not later than 18 months after the enactment of the Safe Drinking Water Act Amendments of 1986, the Administrator shall propose and promulgate national primary drinking water regulations specifying criteria under which filtration (including coagulation and sedimentation, as appropriate) is required as a treatment technique for public water systems supplied by surface water sources. In promulgating such rules, the Administrator shall consider the quality of source waters, protection afforded by watershed management, treatment practices (such as disinfection and length of water storage) and other factors relevant to protection of health.

"(ii) In lieu of the provisions of section 1415 the Administrator shall specify procedures by which the State determines which public water systems within its jurisdiction shall adopt filtration under the criteria of clause (i). The State may require the public water system to provide studies or other information to assist in this determination. The procedures shall provide notice and opportunity for public hearing on this determination. If the State determines that filtration is required, the State shall prescribe a schedule for compliance by the public water system with the filtration requirement. A schedule shall require compliance within 18 months of a determination made under clause (iii).

State and local governments.

"(iii) Within 18 months from the time that the Administrator establishes the criteria and procedures under this subparagraph, a State with primary enforcement responsibility shall adopt any necessary regulations to implement this subparagraph. Within 12 months of adoption of such regulations the State shall make deter-

State and local governments.

minations regarding filtration for all the public water systems within its jurisdiction supplied by surface waters.

State and local governments.

"(iv) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to make the determination in clause (ii) in such State as the State would have under that clause. Any filtration requirement or schedule under this subparagraph shall be treated as if it were a requirement of a national primary drinking water regulation.

"(8) Not later than 36 months after the enactment of the Safe Drinking Water Act Amendments of 1986, the Administrator shall propose and promulgate national primary drinking water regulations requiring disinfection as a treatment technique for all public water systems. The Administrator shall simultaneously promulgate a rule specifying criteria that will be used by the Administrator (or delegated State authorities) to grant variances from this requirement according to the provisions of sections 1415(a)(1)(B) and 1415(a)(3). In implementing section 1442(g) the Administrator or the delegated State authority shall, where appropriate, give special consideration to providing technical assistance to small public water systems in complying with the regulations promulgated under this paragraph.".

42 USC 300g-4.
Post, p. 651.
State and local governments.

(c) CONFORMING CHANGES.—(1) Paragraphs (4), (5), and (6) of section 1412(b) of the Safe Drinking Water Act are redesignated as paragraphs (9), (10), and (11), respectively. Paragraphs (9) and (10) of such section 1412(b), as redesignated by this paragraph, are each amended by striking "Revised national" in each place where it appears and substituting "National".

42 USC 300g-1.

(2) Paragraph (1) of section 1413(a) of such Act is amended by striking out subparagraphs (A) and (B) and substituting "are no less stringent than the national primary drinking water regulations in effect under sections 1412(a) and 1412(b);".

42 USC 300g-2.

(3) Section 1444(d) of such Act is amended by striking out "(including interim regulations)".

42 USC 300j-3.

(4) Section 1416(e) of the Safe Drinking Water Act is amended by striking out "1412(b)(3)" and substituting "1412(b)".

42 USC 300g-5.

(d) REVIEW OF STANDARDS.—Paragraph (9) of section 1412(b) of the Safe Drinking Water Act, as redesignated by subsection (c) of this section, is amended by adding at the end thereof the following: "Such review shall include an analysis of innovations or changes in technology, treatment techniques or other activities that have occurred over the previous 3-year period and that may provide for greater protection of the health of persons. The findings of such review shall be published in the Federal Register. If, after opportunity for public comment, the Administrator concludes that the technology, treatment techniques, or other means resulting from such innovations or changes are not feasible within the meaning of paragraph (5), an explanation of such conclusion shall be published in the Federal Register.".

Federal Register, publication.

(e) SCIENCE ADVISORY BOARD.—Section 1412(e) of the Safe Drinking Water Act is amended to read as follows:

"(e) The Administrator shall request comments from the Science Advisory Board (established under the Environmental Research, Development, and Demonstration Act of 1978) prior to proposal of a maximum contaminant level goal and national primary drinking water regulation. The Board shall respond, as it deems appropriate, within the time period applicable for promulgation of the national primary drinking water standard concerned. This subsection shall,

42 USC 4361a.

under no circumstances, be used to delay final promulgation of any national primary drinking water standard.".

SEC. 102. ENFORCEMENT OF REGULATIONS.

(a) NOTICE TO SYSTEMS.—Section 1414(a)(1)(A) of the Safe Drinking Water Act is amended by inserting "and such public water system" after the words "notify the State". 42 USC 300g-3.

(b) PROMPT FEDERAL ENFORCEMENT.—(1) Section 1414(a)(1)(B) of the Safe Drinking Water Act is amended to read as follows:

"(B) If, beyond the thirtieth day after the Administrator's notification under subparagraph (A), the State has not commenced appropriate enforcement action, the Administrator shall issue an order under subsection (g) requiring the public water system to comply with such regulation or requirement or the Administrator shall commence a civil action under subsection (b).". State and local governments.

(2) Section 1414(a)(2) of the Safe Drinking Water Act is amended by striking the words "he may commence a civil action under subsection (b)" and substituting the following: "the Administrator shall issue an order under subsection (g) requiring the public water system to comply with such regulation or requirement or the Administrator shall commence a civil action under subsection (b)".

(c) PENALTIES.—Section 1414(b) of the Safe Drinking Water Act is amended as follows:

(1) Add ", with an order issued under subsection (g)," after "drinking water regulation" in the first sentence.

(2) Delete "willful" immediately after "there has been a" in the second sentence.

(3) Strike out "$5,000" and substitute "$25,000".

(d) ADMINISTRATIVE ORDERS.—(1) Section 1414 of the Safe Drinking Water Act is amended by adding at the end thereof the following new subsection:

"(g)(1) In any case in which the Administrator is authorized to bring a civil action under this section or under section 1445 with respect to any regulation, schedule, or other requirement, the Administrator also may issue an order to require compliance with such regulation, schedule, or other requirement. 42 USC 300j-4.

"(2) An order issued under this subsection shall not take effect until after notice and opportunity for public hearing and, in the case of a State having primary enforcement responsibility for public water systems in that State, until after the Administrator has provided the State with an opportunity to confer with the Administrator regarding the proposed order. A copy of any order proposed to be issued under this subsection shall be sent to the appropriate State agency of the State involved if the State has primary enforcement responsibility for public water systems in that State. Any order issued under this subsection shall state with reasonable specificity the nature of the violation. In any case in which an order under this subsection is issued to a corporation, a copy of such order shall be issued to appropriate corporate officers. State and local governments.

"(3)(A) Any person who violates, or fails or refuses to comply with, an order under this subsection shall be liable to the United States for a civil penalty of not more than $25,000 per day of violation.

"(B) Whenever any civil penalty sought by the Administrator under this paragraph does not exceed a total of $5,000, the penalty shall be assessed by the Administrator after notice and opportunity for a hearing on the record in accordance with section 554 of title 5 of the United States Code.

"(C) Whenever any civil penalty sought by the Administrator under this paragraph exceeds $5,000, the penalty shall be assessed by a civil action brought by the Administrator in the appropriate United States district court (as determined under the provisions of title 28 of the United States Code).

"(D) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Administrator, the Attorney General shall recover the amount for which such person is liable in any appropriate district court of the United States. In any such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.".

Ante, p. 647.

(2) Section 1414 of the Safe Drinking Water Act is amended by striking the words "FAILURE BY STATE TO ASSURE" from the section heading.

SEC. 103. PUBLIC NOTIFICATION.

Regulations. Health and medical care. 42 USC 300g-3.

Section 1414(c) of the Safe Drinking Water Act is amended by striking everything after the sentence "The Administrator shall by regulation prescribe the form, manner, and frequency for giving notice under this subsection." and inserting the following: "Within 15 months after the enactment of the Safe Drinking Water Act Amendments of 1986, the Administrator shall amend such regulations to provide for different types and frequencies of notice based on the differences between violations which are intermittent or infrequent and violations which are continuous or frequent. Such regulations shall also take into account the seriousness of any potential adverse health effects which may be involved. Notice of any violation of a maximum contaminant level or any other violation designated by the Administrator as posing a serious potential adverse health effect shall be given as soon as possible, but in no case later than 14 days after the violation. Notice of a continuous violation of a regulation other than a maximum contaminant level shall be given no less frequently than every 3 months. Notice of violations judged to be less serious shall be given no less frequently than annually. The Administrator shall specify the types of notice to be used to provide information as promptly and effectively as possible taking into account both the seriousness of any potential adverse health effects and the likelihood of reaching all affected persons. Notification of violations shall include notice by general circulation newspaper serving the area and, whenever appropriate, shall also include a press release to electronic media and individual mailings. Notice under this subsection shall provide a clear and readily understandable explanation of the violation, any potential adverse health effects, the steps that the system is taking to correct such violation, and the necessity for seeking alternative water supplies, if any, until the violation is corrected. Until such amended regulations are promulgated, the regulations in effect on the date of the enactment of the Safe Drinking Water Act Amendments of 1986 shall remain in effect. The Administrator may also require the owner or operator of a public water system to give notice to the persons served by it of contaminant levels of any unregulated contaminant required to be monitored under section 1445(a). Any person who violates this subsection or regulations issued under this subsection shall be subject to a civil penalty of not to exceed $25,000.".

42 USC 300j-4. Law enforcement and crime.

SEC. 104. VARIANCES.

Section 1415(a)(1)(A) of the Safe Drinking Water Act is amended as follows: 42 USC 300g-4.

(1) Strike the word "despite" and substitute a period and the following: "A variance may only be issued to a system after the system's".

(2) Strike the word "generally" before the word "available" and after "(taking costs into consideration)." insert the following: "The Administrator shall propose and promulgate his finding of the best available technology, treatment techniques or other means available for each contaminant for purposes of this subsection at the time he proposes and promulgates a maximum contaminant level for each such contaminant. The Administrator's finding of best available technology, treatment techniques or other means for purposes of this subsection may vary depending on the number of persons served by the system or for other physical conditions related to engineering feasibility and costs of compliance with maximum contaminant levels as considered appropriate by the Administrator.". Science and technology.

(3) Strike the words "within one year of the date" and adding "at the time".

(4) Add in clause (ii) after the words "water system of such" the word "additional".

SEC. 105. EXEMPTIONS.

(a) SCHEDULES.—Section 1416 of the Safe Drinking Water Act is amended as follows: 42 USC 300g-5.

(1) In subsection (b)(1) strike out the words "within one year of the date" and substitute "at the time".

(2) In subsection (b)(2)(A)(i) strike the word "interim" and strike the words "not later than January 1, 1984" and substitute "not later than 12 months after enactment of the Safe Drinking Water Act Amendments of 1986".

(3) In subsection (b)(2)(A)(ii) strike "revised" and strike "not later than 7 years after the date such requirement takes effect" and substitute "other than a regulation referred to in section 1412(a), 12 months after the date of the issuance of the exemption". 42 USC 300g-1.

(4) Subsection (b)(2)(B) is amended to read as follows:

"(B) The final date for compliance provided in any schedule in the case of any exemption may be extended by the State (in the case of a State which has primary enforcement responsibility) or by the Administrator (in any other case) for a period not to exceed 3 years after the date of the issuance of the exemption if the public water system establishes that— State and local governments.

"(i) the system cannot meet the standard without capital improvements which cannot be completed within the period of such exemption;

"(ii) in the case of a system which needs financial assistance for the necessary improvements, the system has entered into an agreement to obtain such financial assistance; or Contracts.

"(iii) the system has entered into an enforceable agreement to become a part of a regional public water system; and Contracts.

the system is taking all practicable steps to meet the standard.

"(C) In the case of a system which does not serve more than 500 service connections and which needs financial assistance for the necessary improvements, an exemption granted under clause (i) or

(ii) of subparagraph (B) may be renewed for one or more additional 2-year periods if the system establishes that it is taking all practicable steps to meet the requirements of subparagraph (B).".

SEC. 106. MONITORING FOR UNREGULATED CONTAMINANTS.

42 USC 300j-4.

(a) SIZE OF SYSTEM.—Section 1445(a) of the Safe Drinking Water Act is amended by adding at the end thereof the following: "In requiring a public water system to monitor under this subsection, the Administrator may take into consideration the system size and the contaminants likely to be found in the system's drinking water.".

(b) MONITORING REQUIREMENTS.—Section 1445(a) of the Safe Drinking Water Act is amended by adding "(1)" after "(a)" and by adding the following at the end thereof:

Regulations.

"(2) Not later than 18 months after enactment of the Safe Drinking Water Act Amendments of 1986, the Administrator shall promulgate regulations requiring every public water system to conduct a monitoring program for unregulated contaminants. The regulations shall require monitoring of drinking water supplied by the system and shall vary the frequency and schedule of monitoring requirements for systems based on the number of persons served by the system, the source of supply, and the contaminants likely to be found. Each system shall be required to monitor at least once every 5 years after the effective date of the Administrator's regulations unless the Administrator requires more frequent monitoring.

State and local governments.

"(3) Regulations under paragraph (2) shall list unregulated contaminants for which systems may be required to monitor, and shall include criteria by which the primary enforcement authority in each State could show cause for addition or deletion of contaminants from the designated list. The primary State enforcement authority may delete contaminants for an individual system, in accordance with these criteria, after obtaining approval of assessment of the contaminants potentially to be found in the system. The Administrator shall approve or disapprove such an assessment submitted by a State within 60 days. A State may add contaminants, in accordance with these criteria, without making an assessment, but in no event shall such additions increase Federal expenditures authorized by this section.

"(4) Public water systems conducting monitoring of unregulated contaminants pursuant to this section shall provide the results of such monitoring to the primary enforcement authority.

"(5) Notification of the availability of the results of the monitoring programs required under paragraph (2), and notification of the availability of the results of the monitoring program referred to in paragraph (6), shall be given to the persons served by the system and the Administrator.

"(6) The Administrator may waive the monitoring requirement under paragraph (2) for a system which has conducted a monitoring program after January 1, 1983, if the Administrator determines the program to have been consistent with the regulations promulgated under this section.

"(7) Any system supplying less than 150 service connections shall be treated as complying with this subsection if such system provides water samples or the opportunity for sampling according to rules established by the Administrator.".

(c) CIVIL PENALTY.—Section 1445(c) of the Safe Drinking Water Act is amended by striking "may be fined not more than $5,000" and

inserting "shall be subject to a civil penalty of not to exceed $25,000".

SEC. 107. TECHNICAL ASSISTANCE FOR SMALL SYSTEMS.

Section 1442 of the Safe Drinking Water Act is amended by adding the following new subsection at the end thereof: 42 USC 300j-1.

"(g) The Administrator is authorized to provide technical assistance to small public water systems to enable such systems to achieve and maintain compliance with national drinking water regulations. Such assistance may include 'circuit-rider' programs, training, and preliminary engineering studies.".

SEC. 108. TAMPERING WITH PUBLIC WATER SYSTEMS.

Part D of the Safe Drinking Water Act is amended by adding the following new section after section 1431: 42 USC 300i *et seq.*

"SEC. 1432. TAMPERING WITH PUBLIC WATER SYSTEMS. Law enforcement and crime.

"(a) TAMPERING.—Any person who tampers with a public water system shall be imprisoned for not more than 5 years, or fined in accordance with title 18 of the United States Code, or both.

"(b) ATTEMPT OR THREAT.—Any person who attempts to tamper, or makes a threat to tamper, with a public drinking water system be imprisoned for not more than 3 years, or fined in accordance with title 18 of the United States Code, or both.

"(c) CIVIL PENALTY.—The Administrator may bring a civil action in the appropriate United States district court (as determined under the provisions of title 28 of the United States Code) against any person who tampers, attempts to tamper, or makes a threat to tamper with a public water system. The court may impose on such person a civil penalty of not more than $50,000 for such tampering or not more than $20,000 for such attempt or threat.

"(d) DEFINITION OF 'TAMPER'.—For purposes of this section, the term 'tamper' means—

"(1) to introduce a contaminant into a public water system with the intention of harming persons; or

"(2) to otherwise interfere with the operation of a public water system with the intention of harming persons.".

SEC. 109. LEAD FREE DRINKING WATER.

(a) SAFE DRINKING WATER ACT AMENDMENTS.—

(1) IN GENERAL.—Part B of the Safe Drinking Water Act is amended by adding the following new section at the end thereof: 42 USC 300g *et seq.*

"SEC. 1417. PROHIBITION ON USE OF LEAD PIPES, SOLDER, AND FLUX.

"(a) IN GENERAL.—

"(1) PROHIBITION.—Any pipe, solder, or flux, which is used after the enactment of the Safe Drinking Water Act Amendments of 1986, in the installation or repair of—

"(A) any public water system, or

"(B) any plumbing in a residential or nonresidential facility providing water for human consumption which is connected to a public water system,

shall be lead free (within the meaning of subsection (d)). This paragraph shall not apply to leaded joints necessary for the repair of cast iron pipes.

"(2) PUBLIC NOTICE REQUIREMENTS.—

"(A) IN GENERAL.—Each public water system shall identify and provide notice to persons that may be affected by lead contamination of their drinking water where such contamination results from either or both of the following:

"(i) The lead content in the construction materials of the public water distribution system.

"(ii) Corrosivity of the water supply sufficient to cause leaching of lead.

The notice shall be provided in such manner and form as may be reasonably required by the Administrator. Notice under this paragraph shall be provided notwithstanding the absence of a violation of any national drinking water standard.

"(B) CONTENTS OF NOTICE.—Notice under this paragraph shall provide a clear and readily understandable explanation of—

"(i) the potential sources of lead in the drinking water,

"(ii) potential adverse health effects,

"(iii) reasonably available methods of mitigating known or potential lead content in drinking water,

"(iv) any steps the system is taking to mitigate lead content in drinking water, and

"(v) the necessity for seeking alternative water supplies, if any.

Effective dates.

"(b) STATE ENFORCEMENT.—

"(1) ENFORCEMENT OF PROHIBITION.—The requirements of subsection (a)(1) shall be enforced in all States effective 24 months after the enactment of this section. States shall enforce such requirements through State or local plumbing codes, or such other means of enforcement as the State may determine to be appropriate.

"(2) ENFORCEMENT OF PUBLIC NOTICE REQUIREMENTS.—The requirements of subsection (a)(2) shall apply in all States effective 24 months after the enactment of this section.

State and local governments.

"(c) PENALTIES.—If the Administrator determines that a State is not enforcing the requirements of subsection (a) as required pursuant to subsection (b), the Administrator may withhold up to 5 percent of Federal funds available to that State for State program grants under section 1443(a).

42 USC 300j-2.

"(d) DEFINITION OF LEAD FREE.—For purposes of this section, the term 'lead free'—

"(1) when used with respect to solders and flux refers to solders and flux containing not more than 0.2 percent lead, and

"(2) when used with respect to pipes and pipe fittings refers to pipes and pipe fittings containing not more than 8.0 percent lead.".

42 USC 300g-6 note.

(b) NOTIFICATION TO STATES.—The Administrator of the Environmental Protection Agency shall notify all States with respect to the requirements of section 1417 of the Public Health Service Act within 90 days after the enactment of this Act.

Ante, p. 651.

42 USC 300g-6 note.

(c) BAN ON LEAD WATER PIPES, SOLDER, AND FLUX IN VA AND HUD INSURED OR ASSISTED PROPERTY.—

(1) PROHIBITION.—The Secretary of Housing and Urban Development and the Administrator of the Veterans' Administration may not insure or guarantee a mortgage or furnish assistance with respect to newly constructed residential property which

contains a potable water system unless such system uses only lead free pipe, solder, and flux.

(2) DEFINITION OF LEAD FREE.—For purposes of paragraph (1) the term "lead free"—

(A) when used with respect to solders and flux refers to solders and flux containing not more than 0.2 percent lead, and

(B) when used with respect to pipes and pipe fittings refers to pipes and pipe fittings containing not more than 8.0 percent lead.

(3) EFFECTIVE DATE.—Paragraph (1) shall become effective 24 months after the enactment of this Act.

(d) LEAD SOLDER AS A HAZARDOUS SUBSTANCE.—

(1) IN GENERAL.—Section 2(f)(1) of the Federal Hazardous Substances Act is amended by adding the following at the end thereof: 15 USC 1261.

"(E) Any solder which has a lead content in excess of 0.2 percent.".

(2) LABELING.—Section 4 of the Federal Hazardous Substances Act is amended by adding the following at the end thereof: 15 USC 1263. Commerce and trade.

"(k) The introduction or delivery for introduction into interstate commerce of any lead solder which has a lead content in excess of 0.2 percent which does not prominently display a warning label stating the lead content of the solder and warning that the use of such solder in the making of joints or fittings in any private or public potable water supply system is prohibited.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall become effective 24 months after the enactment of this Act. 15 USC 1263 note.

TITLE II—PROTECTION OF UNDERGROUND SOURCES OF DRINKING WATER

SEC. 201. RESTRICTIONS ON UNDERGROUND INJECTION OF HAZARDOUS WASTE AND REGULATION OF STATE PROGRAMS.

(a) NATURAL GAS STORAGE.—Section 1421(b)(2)(A), section 1422(c)(1), and section 1425(a)(1) of the Safe Drinking Water Act are each amended by inserting "or natural gas storage operations" after "production". 42 USC 300h, 300h-1, 300h-4.

(b) MONITORING OF INJECTION WELLS.—Part C of the Safe Drinking Water Act is amended by adding the following new section at the end thereof: 42 USC 300h *et seq.*

"SEC. 1426. REGULATION OF STATE PROGRAMS. 42 USC 300h-5.

"(a) MONITORING METHODS.—Not later than 18 months after enactment of the Safe Drinking Water Act Amendments of 1986, the Administrator shall modify regulations issued under this Act for Class I injection wells to identify monitoring methods, in addition to those in effect on November 1, 1985, including groundwater monitoring. In accordance with such regulations, the Administrator, or delegated State authority, shall determine the applicability of such monitoring methods, wherever appropriate, at locations and in such a manner as to provide the earliest possible detection of fluid migration into, or in the direction of, underground sources of drinking water from such wells, based on its assessment of the potential for fluid migration from the injection zone that may be harmful to human health or the environment. For purposes of this subsection, a Health and medical care. Environmental protection.

class I injection well is defined in accordance with 40 CFR 146.05 as in effect on November 1, 1985.

State and local governments.

"(b) REPORT.—The Administrator shall submit a report to Congress, no later than September 1987, summarizing the results of State surveys required by the Administrator under this section. The report shall include each of the following items of information:

"(1) The numbers and categories of class V wells which discharge nonhazardous waste into or above an underground source of drinking water.

"(2) The primary contamination problems associated with different categories of these disposal wells.

"(3) Recommendations for minimum design, construction, installation, and siting requirements that should be applied to protect underground sources of drinking water from such contamination wherever necessary.".

42 USC 6979a, 6972, 6973.

(c) SECTION 7010.—(1) Section 7010(c) of the Solid Waste Disposal Act is amended by striking "sections 7002 and 7003 of this Act" and inserting in lieu thereof "the provisions of this Act".

42 USC 6979b. 42 USC 6939a. 42 USC 6979a.

(2) Section 7010 of the Solid Waste Disposal Act is renumbered as section 3020 and inserted after section 3019 of such Act. Section 7012 of such Act is renumbered as section 7010. The item relating to section 7010 in the table of contents for such Act is renumbered as section 3020 and inserted after the item relating to section 3019. The item relating to section 7012 in the table of contents for such Act is renumbered as section 7010. Such table of contents is further amended by inserting after section 3015 the following new item:

"Sec. 3016. Inventory of Federal Agency hazardous waste facilities.".

SEC. 202. ENFORCEMENT.

State and local governments. 42 USC 300h-2.

(a) MANDATORY ENFORCEMENT.—(1) Section 1423(a)(1) of the Safe Drinking Water Act is amended by striking out all after the first sentence and substituting the following: "If beyond the thirtieth day after the Administrator's notification the State has not commenced appropriate enforcement action, the Administrator shall issue an order under subsection (c) requiring the person to comply with such requirement or the Administrator shall commence a civil action under subsection (b).".

(2) Section 1423(a)(2) of the Safe Drinking Water Act is amended by striking the words "he may commence a civil action under subsection (b)(1)" and substituting the following: "the Administrator shall issue an order under subsection (c) requiring the person to comply with such requirement or the Administrator shall commence a civil action under subsection (b).".

(b) CIVIL AND CRIMINAL ACTIONS.—Section 1423(b) of the Safe Drinking Water Act is amended to read as follows:

"(b) CIVIL AND CRIMINAL ACTIONS.—Civil actions referred to in paragraphs (1) and (2) of subsection (a) shall be brought in the appropriate United States district court. Such court shall have jurisdiction to require compliance with any requirement of an applicable underground injection program or with an order issued under subsection (c). The court may enter such judgment as protection of public health may require. Any person who violates any requirement of an applicable underground injection control program or an order requiring compliance under subsection (c)—

"(1) shall be subject to a civil penalty of not more than $25,000 for each day of such violation, and

"(2) if such violation is willful, such person may, in addition to or in lieu of the civil penalty authorized by paragraph (1), be imprisoned for not more than 3 years, or fined in accordance with title 18 of the United States Code, or both.".

(c) ADMINISTRATIVE ORDERS.—Section 1423 of the Safe Drinking Water Act is amended by inserting the following new subsection immediately after subsection (b) and by redesignating the succeeding subsection as subsection (d):

42 USC 300h-2.

"(c) ADMINISTRATIVE ORDERS.—(1) In any case in which the Administrator is authorized to bring a civil action under this section with respect to any regulation or other requirement of this part other than those relating to—

Petroleum and petroleum products. Natural gas.

"(A) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

"(B) any underground injection for the secondary or tertiary recovery of oil or natural gas,

the Administrator may also issue an order under this subsection either assessing a civil penalty of not more than $10,000 for each day of violation for any past or current violation, up to a maximum administrative penalty of $125,000, or requiring compliance with such regulation or other requirement, or both.

"(2) In any case in which the Administrator is authorized to bring a civil action under this section with respect to any regulation, or other requirement of this part relating to—

"(A) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

"(B) any underground injection for the secondary or tertiary recovery of oil or natural gas,

the Administrator may also issue an order under this subsection either assessing a civil penalty of not more than $5,000 for each day of violation for any past or current violation, up to a maximum administrative penalty of $125,000, or requiring compliance with such regulation or other requirement, or both.

"(3)(A) An order under this subsection shall be issued by the Administrator after opportunity (provided in accordance with this subparagraph) for a hearing. Before issuing the order, the Administrator shall give to the person to whom it is directed written notice of the Administrator's proposal to issue such order and the opportunity to request, within 30 days of the date the notice is received by such person, a hearing on the order. Such hearing shall not be subject to section 554 or 556 of title 5, United States Code, but shall provide a reasonable opportunity to be heard and to present evidence.

"(B) The Administrator shall provide public notice of, and reasonable opportunity to comment on, any proposed order.

"(C) Any citizen who comments on any proposed order under subparagraph (B) shall be given notice of any hearing under this subsection and of any order. In any hearing held under subparagraph (A), such citizen shall have a reasonable opportunity to be heard and to present evidence.

"(D) Any order issued under this subsection shall become effective 30 days following its issuance unless an appeal is taken pursuant to paragraph (6).

Effective date.

"(4)(A) Any order issued under this subsection shall state with reasonable specificity the nature of the violation and may specify a reasonable time for compliance.

"(B) In assessing any civil penalty under this subsection, the Administrator shall take into account appropriate factors, including (i) the seriousness of the violation; (ii) the economic benefit (if any) resulting from the violation; (iii) any history of such violations; (iv) any good-faith efforts to comply with the applicable requirements; (v) the economic impact of the penalty on the violator; and (vi) such other matters as justice may require.

"(5) Any violation with respect to which the Administrator has commenced and is diligently prosecuting an action, or has issued an order under this subsection assessing a penalty, shall not be subject to an action under subsection (b) of this section or section 1424(c) or 1449, except that the foregoing limitation on civil actions under section 1449 of this Act shall not apply with respect to any violation for which—

42 USC 300h-3.
42 USC 300j-8.

"(A) a civil action under section 1449(a)(1) has been filed prior to commencement of an action under this subsection, or

"(B) a notice of violation under section 1449(b)(1) has been given before commencement of an action under this subsection and an action under section 1449(a)(1) of this Act is filed before 120 days after such notice is given.

"(6) Any person against whom an order is issued or who commented on a proposed order pursuant to paragraph (3) may file an appeal of such order with the United States District Court for the District of Columbia or the district in which the violation is alleged to have occurred. Such an appeal may only be filed within the 30-day period beginning on the date the order is issued. Appellant shall simultaneously send a copy of the appeal by certified mail to the Administrator and to the Attorney General. The Administrator shall promptly file in such court a certified copy of the record on which such order was imposed. The district court shall not set aside or remand such order unless there is not substantial evidence on the record, taken as a whole, to support the finding of a violation or, unless the Administrator's assessment of penalty or requirement for compliance constitutes an abuse of discretion. The district court shall not impose additional civil penalties for the same violation unless the Administrator's assessment of a penalty constitutes an abuse of discretion. Notwithstanding section 1448(a)(2), any order issued under paragraph (3) shall be subject to judicial review exclusively under this paragraph.

Records.

42 USC 300j-7.

"(7) If any person fails to pay an assessment of a civil penalty—

"(A) after the order becomes effective under paragraph (3), or

"(B) after a court, in an action brought under paragraph (6), has entered a final judgment in favor of the Administrator,

the Administrator may request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed (plus costs, attorneys' fees, and interest at currently prevailing rates from the date the order is effective or the date of such final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

"(8) The Administrator may, in connection with administrative proceedings under this subsection, issue subpoenas compelling the attendance and testimony of witnesses and subpoenas duces tecum, and may request the Attorney General to bring an action to enforce

any subpoena under this section. The district courts shall have jurisdiction to enforce such subpoenas and impose sanction.".

(d) CONFORMING AMENDMENT.—Section 1423 of the Safe Drinking Water Act is amended by striking the words "FAILURE OF STATE TO ASSURE" from the section heading.

Ante, p. 655.

SEC. 203. SOLE SOURCE AQUIFER DEMONSTRATION PROGRAM.

Part C of the Safe Drinking Water Act is amended by adding the following new section after section 1426:

42 USC 300h *et seq.*

"SEC. 1427. SOLE SOURCE AQUIFER DEMONSTRATION PROGRAM.

42 USC 300h-6.

"(a) PURPOSE.—The purpose of this section is to establish procedures for development, implementation, and assessment of demonstration programs designed to protect critical aquifer protection areas located within areas designated as sole or principal source aquifers under section 1424(e) of this Act.

42 USC 300h-3.

"(b) DEFINITION.—For purposes of this section, the term 'critical aquifer protection area' means either of the following:

"(1) All or part of an area located within an area for which an application or designation as a sole or principal source aquifer pursuant to section 1424(e), has been submitted and approved by the Administrator not later than 24 months after the enactment of the Safe Drinking Water Act Amendments of 1986 and which satisfies the criteria established by the Administrator under subsection (d).

"(2) All or part of an area which is within an aquifer designated as a sole source aquifer as of the enactment of the Safe Drinking Water Act Amendments of 1986 and for which an areawide ground water quality protection plan has been approved under section 208 of the Clean Water Act prior to such enactment.

33 USC 1288.

"(c) APPLICATION.—Any State, municipal or local government or political subdivision thereof or any planning entity (including any interstate regional planning entity) that identifies a critical aquifer protection area over which it has authority or jurisdiction may apply to the Administrator for the selection of such area for a demonstration program under this section. Any applicant shall consult with other government or planning entities with authority or jurisdiction in such area prior to application. Applicants, other than the Governor, shall submit the application for a demonstration program jointly with the Governor.

State and local governments.

"(d) CRITERIA.—Not later than 1 year after the enactment of the Safe Drinking Water Act Amendments of 1986, the Administrator shall, by rule, establish criteria for identifying critical aquifer protection areas under this section. In establishing such criteria, the Administrator shall consider each of the following:

"(1) The vulnerability of the aquifer to contamination due to hydrogeologic characteristics.

"(2) The number of persons or the proportion of population using the ground water as a drinking water source.

"(3) The economic, social and environmental benefits that would result to the area from maintenance of ground water of high quality.

"(4) The economic, social and environmental costs that would result from degradation of the quality of the ground water.

"(e) CONTENTS OF APPLICATION.—An application submitted to the Administrator by any applicant for a demonstration program under this section shall meet each of the following requirements:

"(1) The application shall propose boundaries for the critical aquifer protection area within its jurisdiction.

State and local governments.

"(2) The application shall designate or, if necessary, establish a planning entity (which shall be a public agency and which shall include representation of elected local and State governmental officials) to develop a comprehensive management plan (hereinafter in this section referred to as the 'plan') for the critical protection area. Where a local government planning agency exists with adequate authority to carry out this section with respect to any proposed critical protection area, such agency shall be designated as the planning entity.

State and local governments.

"(3) The application shall establish procedures for public participation in the development of the plan, for review, approval, and adoption of the plan, and for assistance to municipalities and other public agencies with authority under State law to implement the plan.

"(4) The application shall include a hydrogeologic assessment of surface and ground water resources within the critical protection area.

"(5) The application shall include a comprehensive management plan for the proposed protection area.

"(6) The application shall include the measures and schedule proposed for implementation of such plan.

"(f) COMPREHENSIVE PLAN.—

"(1) The objective of a comprehensive management plan submitted by an applicant under this section shall be to maintain the quality of the ground water in the critical protection area in a manner reasonably expected to protect human health, the environment and ground water resources. In order to achieve such objective, the plan may be designed to maintain, to the maximum extent possible, the natural vegetative and hydrogeological conditions. Each of the following elements shall be included in such a protection plan:

"(A) A map showing the detailed boundary of the critical protection area.

"(B) An identification of existing and potential point and nonpoint sources of ground water degradation.

"(C) An assessment of the relationship between activities on the land surface and ground water quality.

"(D) Specific actions and management practices to be implemented in the critical protection area to prevent adverse impacts on ground water quality.

"(E) Identification of authority adequate to implement the plan, estimates of program costs, and sources of State matching funds.

"(2) Such plan may also include the following:

"(A) A determination of the quality of the existing ground water recharged through the special protection area and the natural recharge capabilities of the special protection area watershed.

"(B) Requirements designed to maintain existing underground drinking water quality or improve underground drinking water quality if prevailing conditions fail to meet

drinking water standards, pursuant to this Act and State law.

"(C) Limits on Federal, State, and local government, financially assisted activities and projects which may contribute to degradation of such ground water or any loss of natural surface and subsurface infiltration of purification capability of the special protection watershed. State and local governments.

"(D) A comprehensive statement of land use management including emergency contingency planning as it pertains to the maintenance of the quality of underground sources of drinking water or to the improvement of such sources if necessary to meet drinking water standards pursuant to this Act and State law.

"(E) Actions in the special protection area which would avoid adverse impacts on water quality, recharge capabilities, or both.

"(F) Consideration of specific techniques, which may include clustering, transfer of development rights, and other innovative measures sufficient to achieve the objectives of this section.

"(G) Consideration of the establishment of a State institution to facilitate and assist funding a development transfer credit system. State and local governments.

"(H) A program for State and local implementation of the plan described in this subsection in a manner that will insure the continued, uniform, consistent protection of the critical protection area in accord with the purposes of this section. State and local governments.

"(I) Pollution abatement measures, if appropriate.

"(g) PLANS UNDER SECTION 208 OF THE CLEAN WATER ACT.—A plan approved before the enactment of the Safe Drinking Water Act Amendments of 1986 under section 208 of the Clean Water Act to protect a sole source aquifer designated under section 1424(e) of this Act shall be considered a comprehensive management plan for the purposes of this section. 33 USC 1288. 42 USC 300h-3.

"(h) CONSULTATION AND HEARINGS.—During the development of a comprehensive management plan under this section, the planning entity shall consult with, and consider the comments of, appropriate officials of any municipality and State or Federal agency which has jurisdiction over lands and waters within the special protection area, other concerned organizations and technical and citizen advisory committees. The planning entity shall conduct public hearings at places within the special protection area for the purpose of providing the opportunity to comment on any aspect of the plan. State and local governments.

"(i) APPROVAL OR DISAPPROVAL.—Within 120 days after receipt of an application under this section, the Administrator shall approve or disapprove the application. The approval or disapproval shall be based on a determination that the critical protection area satisfies the criteria established under subsection (d) and that a demonstration program for the area would provide protection for ground water quality consistent with the objectives stated in subsection (f). The Administrator shall provide to the Governor a written explanation of the reasons for the disapproval of any such application. Any petitioner may modify and resubmit any application which is not approved. Upon approval of an application, the Administrator may enter into a cooperative agreement with the applicant to establish a demonstration program under this section. Contracts.

Contracts.

"(j) GRANTS AND REIMBURSEMENT.—Upon entering a cooperative agreement under subsection (i), the Administrator may provide to the applicant, on a matching basis, a grant of 50 per centum of the costs of implementing the plan established under this section. The Administrator may also reimburse the applicant of an approved plan up to 50 per centum of the costs of developing such plan, except for plans approved under section 208 of the Clean Water Act. The total amount of grants under this section for any one aquifer, designated under section 1424(e), shall not exceed $4,000,000 in any one fiscal year.

33 USC 1288.

42 USC 300h-3.

"(k) ACTIVITIES FUNDED UNDER OTHER LAW.—No funds authorized under this subsection may be used to fund activities funded under other sections of this Act or the Clean Water Act, the Solid Waste Disposal Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or other environmental laws.

33 USC 1251 note.
42 USC 6901 note.
42 USC 9601 note.

"(l) REPORT.—Not later than December 31, 1989, each State shall submit to the Administrator a report assessing the impact of the program on ground water quality and identifying those measures found to be effective in protecting ground water resources. No later than September 30, 1990, the Administrator shall submit to Congress a report summarizing the State reports, and assessing the accomplishments of the sole source aquifer demonstration program including an identification of protection methods found to be most effective and recommendations for their application to protect ground water resources from contamination whenever necessary.

State and local governments.

Compacts between States. State and local governments.

"(m) SAVINGS PROVISION.—Nothing under this section shall be construed to amend, supersede or abrogate rights to quantities of water which have been established by interstate water compacts, Supreme Court decrees, or State water laws; or any requirement imposed or right provided under any Federal or State environmental or public health statute.".

SEC. 204. EMERGENCY POWERS.

42 USC 300i.

Section 1431 of the Safe Drinking Water Act is amended as follows:

(1) In the first sentence of subsection (a) add the words "or an underground source of drinking water" after the words "to enter a public water system".

(2) In the last sentence of subsection (a) add "including orders requiring the provision of alternative water supplies by persons who caused or contributed to the endangerment," after the words "including travelers),".

(3) In subsection (b):

(A) Strike "willfully".

(B) Strike "fined not more than" and insert in lieu thereof "subject to a civil penalty of not to exceed".

SEC. 205. STATE PROGRAMS TO ESTABLISH WELLHEAD PROTECTION AREAS.

42 USC 300f note.

The Safe Drinking Water Act is amended by adding the following new section after section 1427, as added by section 203 of this Act:

42 USC 300h-7.

"SEC. 1428. STATE PROGRAMS TO ESTABLISH WELLHEAD PROTECTION AREAS.

"(a) STATE PROGRAMS.—The Governor or Governor's designee of each State shall, within 3 years of the date of enactment of the Safe Drinking Water Act Amendments of 1986, adopt and submit to the

Administrator a State program to protect wellhead areas within their jurisdiction from contaminants which may have any adverse effect on the health of persons. Each State program under this section shall, at a minimum—

"(1) specify the duties of State agencies, local governmental entities, and public water supply systems with respect to the development and implementation of programs required by this section;

"(2) for each wellhead, determine the wellhead protection area as defined in subsection (e) based on all reasonably available hydrogeologic information on ground water flow, recharge and discharge and other information the State deems necessary to adequately determine the wellhead protection area;

"(3) identify within each wellhead protection area all potential anthropogenic sources of contaminants which may have any adverse effect on the health of persons;

"(4) describe a program that contains, as appropriate, technical assistance, financial assistance, implementation of control measures, education, training, and demonstration projects to protect the water supply within wellhead protection areas from such contaminants;

"(5) include contingency plans for the location and provision of alternate drinking water supplies for each public water system in the event of well or wellfield contamination by such contaminants; and

"(6) include a requirement that consideration be given to all potential sources of such contaminants within the expected wellhead area of a new water well which serves a public water supply system.

"(b) PUBLIC PARTICIPATION.—To the maximum extent possible, each State shall establish procedures, including but not limited to the establishment of technical and citizens' advisory committees, to encourage the public to participate in developing the protection program for wellhead areas. Such procedures shall include notice and opportunity for public hearing on the State program before it is submitted to the Administrator.

"(c) DISAPPROVAL.—

"(1) IN GENERAL.—If, in the judgment of the Administrator, a State program (or portion thereof, including the definition of a wellhead protection area), is not adequate to protect public water systems as required by this section, the Administrator shall disapprove such program (or portion thereof). A State program developed pursuant to subsection (a) shall be deemed to be adequate unless the Administrator determines, within 9 months of the receipt of a State program, that such program (or portion thereof) is inadequate for the purpose of protecting public water systems as required by this section from contaminants that may have any adverse effect on the health of persons. If the Administrator determines that a proposed State program (or any portion thereof) is inadequate, the Administrator shall submit a written statement of the reasons for such determination to the Governor of the State.

"(2) MODIFICATION AND RESUBMISSION.—Within 6 months after receipt of the Administrator's written notice under paragraph (1) that any proposed State program (or portion thereof) is inadequate, the Governor or Governor's designee, shall modify

the program based upon the recommendations of the Administrator and resubmit the modified program to the Administrator.

"(d) FEDERAL ASSISTANCE.—After the date 3 years after the enactment of this section, no State shall receive funds authorized to be appropriated under this section except for the purpose of implementing the program and requirements of paragraphs (4) and (6) of subsection (a).

"(e) DEFINITION OF WELLHEAD PROTECTION AREA.—As used in this section, the term 'wellhead protection area' means the surface and subsurface area surrounding a water well or wellfield, supplying a public water system, through which contaminants are reasonably likely to move toward and reach such water well or wellfield. The extent of a wellhead protection area, within a State, necessary to provide protection from contaminants which may have any adverse effect on the health of persons is to be determined by the State in the program submitted under subsection (a). Not later than one year after the enactment of the Safe Drinking Water Act Amendments of 1986, the Administrator shall issue technical guidance which States may use in making such determinations. Such guidance may reflect such factors as the radius of influence around a well or wellfield, the depth of drawdown of the water table by such well or wellfield at any given point, the time or rate of travel of various contaminants in various hydrologic conditions, distance from the well or wellfield, or other factors affecting the likelihood of contaminants reaching the well or wellfield, taking into account available engineering pump tests or comparable data, field reconnaissance, topographic information, and the geology of the formation in which the well or wellfield is located.

"(f) PROHIBITIONS.—

"(1) ACTIVITIES UNDER OTHER LAWS.—No funds authorized to be appropriated under this section may be used to support activities authorized by the Federal Water Pollution Control Act, the Solid Waste Disposal Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, or other sections of this Act.

33 USC 1251 note.
42 USC 6901 note.
42 USC 9601 note.

"(2) INDIVIDUAL SOURCES.—No funds authorized to be appropriated under this section may be used to bring individual sources of contamination into compliance.

Report.

"(g) IMPLEMENTATION.—Each State shall make every reasonable effort to implement the State wellhead area protection program under this section within 2 years of submitting the program to the Administrator. Each State shall submit to the Administrator a biennial status report describing the State's progress in implementing the program. Such report shall include amendments to the State program for water wells sited during the biennial period.

"(h) FEDERAL AGENCIES.—Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government having jurisdiction over any potential source of contaminants identified by a State program pursuant to the provisions of subsection (a)(3) shall be subject to and comply with all requirements of the State program developed according to subsection (a)(4) applicable to such potential source of contaminants, both substantive and procedural, in the same manner, and to the same extent, as any other person is subject to such requirements, including payment of reasonable charges and fees. The President may exempt any potential source under the jurisdiction of any department, agency, or instrumentality in the executive branch if

President of U.S.

the President determines it to be in the paramount interest of the United States to do so. No such exemption shall be granted due to the lack of an appropriation unless the President shall have specifically requested such appropriation as part of the budgetary process and the Congress shall have failed to make available such requested appropriations.

"(i) ADDITIONAL REQUIREMENT.—

"(1) IN GENERAL.—In addition to the provisions of subsection (a) of this section, States in which there are more than 2,500 active wells at which annular injection is used as of January 1, 1986, shall include in their State program a certification that a State program exists and is being adequately enforced that provides protection from contaminants which may have any adverse effect on the health of persons and which are associated with the annular injection or surface disposal of brines associated with oil and gas production.

Health and medical care. Petroleum and petroleum products. Natural gas.

"(2) DEFINITION.—For purposes of this subsection, the term 'annular injection' means the reinjection of brines associated with the production of oil or gas between the production and surface casings of a conventional oil or gas producing well.

"(3) REVIEW.—The Administrator shall conduct a review of each program certified under this subsection.

"(4) DISAPPROVAL.—If a State fails to include the certification required by this subsection or if in the judgment of the Administrator the State program certified under this subsection is not being adequately enforced, the Administrator shall disapprove the State program submitted under subsection (a) of this section.

"(j) COORDINATION WITH OTHER LAWS.—Nothing in this section shall authorize or require any department, agency, or other instrumentality of the Federal Government or State or local government to apportion, allocate or otherwise regulate the withdrawal or beneficial use of ground or surface waters, so as to abrogate or modify any existing rights to water established pursuant to State or Federal law, including interstate compacts.".

TITLE III—GENERAL PROVISIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

(a) TECHNICAL ASSISTANCE AND EMERGENCY GRANTS.—Section 1442(f) of the Safe Drinking Water Act is amended by inserting the following at the end thereof: "There are authorized to be appropriated to carry out subsection (a)(2)(B) not more than the following amounts:

42 USC 300j-1.

"Fiscal year:	Amount
1987	$7,650,000
1988	7,650,000
1989	8,050,000
1990	8,050,000
1991	8,050,000

There are authorized to be appropriated to carry out the provisions of this section (other than subsection (g), subsection (a)(2)(B), and provisions relating to research), not more than the following amounts:

"Fiscal year:	Amount
1987	$35,600,000
1988	35,600,000

1989	38,020,000
1990	38,020,000
1991	38,020,000".

42 USC 300j-2.

(b) STATE SUPERVISION PROGRAMS.—Section 1443(a)(7) of the Safe Drinking Water Act is amended by adding at the end thereof: "For the purposes of making grants under paragraph (1) there are authorized to be appropriated not more than the following amounts:

"Fiscal year:	Amount
1987	$37,200,000
1988	37,200,000
1989	40,150,000
1990	40,150,000
1991	40,150,000".

(c) UNDERGROUND WATER SOURCE PROTECTION PROGRAM.—Section 1443(b)(5) of the Safe Drinking Water Act is amended by adding the following at the end thereof: "For the purpose of making grants under paragraph (1) there are authorized to be appropriated not more than the following amounts:

"Fiscal year:	Amount
1987	$19,700,000
1988	19,700,000
1989	20,850,000
1990	20,850,000
1991	20,850,000".

42 USC 300j.

(d) EXTENSION OF AUTHORITY.—Section 1441(f) of the Safe Drinking Water Act is amended by striking out "in effect" and all that follows and substituting "in effect for more than one year".

(e) PROTECTION OF WELLHEAD AREAS.—Section 1428 of the Safe Drinking Water Act, as added by section 205 of this Act, is amended by adding the following new subsection at the end thereof:

Grants.
State and local governments.

"(k) AUTHORIZATION OF APPROPRIATIONS.—Unless the State program is disapproved under this section, the Administrator shall make grants to the State for not less than 50 or more than 90 percent of the costs incurred by a State (as determined by the Administrator) in developing and implementing each State program under this section. For purposes of making such grants there is authorized to be appropriated not more than the following amounts:

"Fiscal year:	Amount
1987	$20,000,000
1988	20,000,000
1989	35,000,000
1990	35,000,000
1991	35,000,000"

Ante, p. 657.

(f) PROTECTION OF SOLE OR PRINCIPAL SOURCE GROUND WATER RECHARGE AREAS.—Section 1427 of the Safe Drinking Water Act, as added by this Act, is amended by adding the following new subsection at the end thereof:

"(n) AUTHORIZATION.—There are authorized to be appropriated to carry out this section not more than the following amounts:

"Fiscal year:	Amount
1987	$10,000,000
1988	15,000,000
1989	17,500,000
1990	17,500,000
1991	17,500,000

Grants.

Matching grants under this section may also be used to implement or update any water quality management plan for a sole or principal source aquifer approved (before the date of the enactment of this

section) by the Administrator under section 208 of the Federal Water Pollution Control Act.". 33 USC 1288.

(g) TECHNICAL ASSISTANCE FOR SMALL SYSTEMS.—Section 1442(g) of the Safe Drinking Water Act, as added by section 107 of this Act, is amended by adding the following at the end thereof: "There are authorized to be appropriated to carry out this subsection $10,000,000 for each of the fiscal years 1987 through 1991. Not less than the greater of—

"(1) 3 percent of the amounts appropriated under this subsection, or

"(2) $280,000 Indians.

shall be utilized for technical assistance to public water systems owned or operated by Indian tribes.".

(h) MONITORING FOR UNREGULATED CONTAMINANTS.—Section 1445(a) of the Safe Drinking Water Act, as amended by section 106 of this Act, is further amended by adding the following new paragraph at the end thereof:

"(8) There are authorized to be appropriated $30,000,000 in the fiscal year ending September 30, 1987 to remain available until expended to carry out the provisions of this subsection.".

SEC. 302. INDIAN TRIBES.

(a) IN GENERAL.—Part E of the Safe Drinking Water Act is amended by adding the following new section after section 1450: 42 USC 300j *et seq.*

"SEC. 1451. INDIAN TRIBES. 42 USC 300j-11.

"(a) IN GENERAL.—Subject to the provisions of subsection (b), the Administrator—

"(1) is authorized to treat Indian Tribes as States under this title,

"(2) may delegate to such Tribes primary enforcement responsibility for public water systems and for underground injection control, and

"(3) may provide such Tribes grant and contract assistance to carry out functions provided by this title. Grants. Contracts.

"(b) EPA REGULATIONS.—

"(1) SPECIFIC PROVISIONS.—The Administrator shall, within 18 months after the enactment of the Safe Drinking Water Act Amendments of 1986, promulgate final regulations specifying those provisions of this title for which it is appropriate to treat Indian Tribes as States. Such treatment shall be authorized only if:

"(A) the Indian Tribe is recognized by the Secretary of the Interior and has a governing body carrying out substantial governmental duties and powers;

"(B) the functions to be exercised by the Indian Tribe are within the area of the Tribal Government's jurisdiction; and

"(C) the Indian Tribe is reasonably expected to be capable, in the Administrator's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of this title and of all applicable regulations.

"(2) PROVISIONS WHERE TREATMENT AS STATE INAPPROPRIATE.—For any provision of this title where treatment of Indian Tribes as identical to States is inappropriate, administratively infeasible or otherwise inconsistent with the purposes of this title, the

Administrator may include in the regulations promulgated under this section, other means for administering such provision in a manner that will achieve the purpose of the provision. Nothing in this section shall be construed to allow Indian Tribes to assume or maintain primary enforcement responsibility for public water systems or for underground injection control in a manner less protective of the health of persons than such responsibility may be assumed or maintained by a State. An Indian tribe shall not be required to exercise criminal enforcement jurisdiction for purposes of complying with the preceding sentence.".

Health and medical care.

(b) DEFINITIONS.—

42 USC 300f.

(1) INDIAN TRIBE.—Section 1401 of such Act is amended by inserting the following at the end thereof:

"(14) The term 'Indian Tribe' means any Indian tribe having a Federally recognized governing body carrying out substantial governmental duties and powers over any area.".

(2) MUNICIPALITY.—Section 1401 of such Act is amended by striking out from paragraph (10) the words "Indian tribal organization authorized by law" and substituting "Indian Tribe".

42 USC 300h-1.

(c) PRIMARY ENFORCEMENT RESPONSIBILITY.—Section 1422 of such Act is amended by adding the following new subsection at the end thereof:

"(e) An Indian Tribe may assume primary enforcement responsibility for underground injection control under this section consistent with such regulations as the Administrator has prescribed pursuant to Part C and section 1451 of this Act. The area over which such Indian Tribe exercises governmental jurisdiction need not have been listed under subsection (a) of this section, and such Tribe need not submit an application to assume primary enforcement responsibility within the 270-day deadline noted in subsection (b)(1)(A) of this section. Until an Indian Tribe assumes primary enforcement responsibility, the currently applicable underground injection control program shall continue to apply. If an applicable underground injection control program does not exist for an Indian Tribe, the Administrator shall prescribe such a program pursuant to subsection (c) of this section, and consistent with section 1421(b), within 270 days after the enactment of the Safe Drinking Water Act Amendments of 1986, unless an Indian Tribe first obtains approval to assume primary enforcement responsibility for underground injection control.".

42 USC 300h *et seq.; ante*, p. 665.

42 USC 300h.

42 USC 300j-2.

(d) GRANTS.—(1) Section 1443(a)(2) of the Safe Drinking Water Act is amended by adding the following at the end thereof: "The prohibitions contained in the preceding two sentences shall not apply to such grants when made to Indian Tribes.".

(2) Section 1443(b)(2) of such Act is amended by adding the following new sentence at the end thereof: "The prohibition contained in the preceding sentence shall not apply to such grants when made to Indian Tribes.".

(e) STUDY.—The Administrator of the Environmental Protection Agency, in cooperation with the Director of the Indian Health Service, shall, within 12 months after the enactment of this Act, conduct a survey of drinking water on Indian reservations, identifying drinking water problems and the need, if any, for alternative drinking water supplies.

SEC. 303. JUDICIAL REVIEW.

Section 1448(a) of the Safe Drinking Water Act is amended as follows: 42 USC 300j-7.

(1) Amend paragraph (1) to read as follows:

"(1) actions pertaining to the establishment of national primary drinking water regulations (including maximum contaminant level goals) may be filed only in the United States Court of Appeals for the District of Columbia circuit; and".

(2) Amend paragraph (2) to read as follows:

"(2) any other action of the Administrator under this Act may be filed in the circuit in which the petitioner resides or transacts business which is directly affected by the action.".

SEC. 304. MISCELLANEOUS PROVISIONS.

(a) REPEAL.—Section 1442(e) of the Safe Drinking Water Act is repealed. 42 USC 300j-1.

(b) COMPARATIVE HEALTH EFFECTS ASSESSMENT.—The Administrator of the Environmental Protection Agency shall conduct a comparative health effects assessment, using available data, to compare the public health effects (both positive and negative) associated with water treatment chemicals and their byproducts to the public health effects associated with contaminants found in public water supplies. Not later than 18 months after the date of the enactment of this Act, the Administrator shall submit a report to the Congress setting forth the results of such assessment. 42 USC 300j-1 note. Report.

Approved June 19, 1986.

LEGISLATIVE HISTORY—S. 124 (H.R. 1650):

HOUSE REPORTS No. 99-168 accompanying H.R. 1650 (Comm. on Energy and Commerce) and No. 99-575 (Comm. of Conference).
SENATE REPORT No. 99-56 (Comm. on Environmental and Public Works).
CONGRESSIONAL RECORD:
Vol. 131 (1985): May 16, considered and passed Senate.
June 17, H.R. 1650 considered and passed House; proceedings vacated and S. 124, amended, passed in lieu.
Vol. 132 (1986): May 13, House agreed to conference report.
May 21, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22, No. 25 (1986): June 19, Presidential statement.

○

Public Law 99-340
99th Congress

Joint Resolution

June 19, 1986
[S.J. Res. 220]

To provide for the designation of September 19, 1986, as "National P.O.W./M.I.A. Recognition Day".

Whereas the United States has fought in many wars;

Whereas thousands of Americans who served in such wars were captured by the enemy or are missing in action;

Whereas many American prisoners of war were subjected to brutal and inhuman treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war and many such prisoners of war died from such treatment;

Whereas many Americans are still listed as missing and unaccounted for and the uncertainty surrounding their fate has caused their families to suffer acute hardship; and

Whereas the sacrifices of American prisoners of war and Americans missing in action and their families are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 19, 1986, shall be designated as "National P.O.W./M.I.A. Recognition Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to commemorate such day with appropriate activities.

Approved June 19, 1986.

LEGISLATIVE HISTORY—S.J. Res. 220:

CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 6, considered and passed Senate.
Vol. 132 (1986): June 11, considered and passed House.

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71-139 O - 86 (343)

Public Law 99-341
99th Congress

Joint Resolution

To proclaim June 15, 1986, through June 21, 1986, as "National Agricultural Export Week".

June 19, 1986
[S.J. Res. 310]

Whereas agriculture comprises the Nation's largest single industry;
Whereas the economic well-being of the Nation's agricultural industry is directly related to its ability to export and to compete in world markets;
Whereas earnings from agricultural exports have contributed $333,000,000,000 to our Nation's balance of payments in the past decade;
Whereas these earnings have stimulated nearly $1,000,000,000,000 in total national economic activity and provided millions of man years of total national employment; and
Whereas it is the policy of the United States to expand international trade in United States agricultural commodities and products and to develop, maintain, and expand markets for United States agricultural exports: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of June 15, 1986, through June 21, 1986, is hereby proclaimed "National Agricultural Export Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe this week with appropriate ceremonies and activities.

Approved June 19, 1986.

LEGISLATIVE HISTORY—S.J. Res. 310:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 22, considered and passed Senate.
June 11, considered and passed House.

71-139 O - 86 (344)

Public Law 99-342
99th Congress

Joint Resolution

June 19, 1986
[S.J. Res. 347]

To designate the week beginning June 22, 1986, as "National Homelessness Awareness Week".

Whereas an estimated 3,000,000 individuals in the United States are homeless;

Whereas an increasing number of homeless individuals are women, children, families, minorities, mental patients, and elderly individuals;

Whereas the demand for emergency shelter increased by more than 20 percent in 22 cities in 1985;

Whereas many emergency shelters do not have sufficient space to provide shelter for everyone who seeks shelter;

Whereas many emergency shelters are in violation of numerous health and safety standards;

Whereas factors contributing to the problem of homelessness include shortages in housing for low-income individuals, deinstitutionalization of mentally ill individuals, drug and alcohol abuse, and unemployment;

Whereas homelessness is a complex problem that cannot be solved by providing only food and shelter;

Whereas many organizations are committed to helping homeless individuals in the United States by providing food, clothes, shelter, and medical treatment;

Whereas public awareness with respect to the problem of homelessness should be increased; and

Whereas efforts by the Federal Government and the governments of States to solve the problem of homelessness should be increased: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning June 22, 1986, is designated as "National Homelessness Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved June 19, 1986.

LEGISLATIVE HISTORY—S.J. Res. 347:

CONGRESSIONAL RECORD, Vol. 132 (1986):
May 21, considered and passed Senate.
May 22, considered and passed House, amended.
June 10, Senate concurred in House amendments.

○

71-139 O - 86 (345)

Public Law 99-343
99th Congress

Joint Resolution

To designate October 8, 1986, as "National Fire Fighters Day".

June 23, 1986
[H.J. Res. 479]

Whereas there are over 2,000,000 professional and volunteer fire fighters in the United States;

Whereas fire fighters responded to over 2,300,000 fires and over 8,700,000 non-fire emergencies in 1984;

Whereas fire fighters have given their lives and risked injury to preserve the lives of others and protect our Nation's property;

Whereas the contributions and sacrifices of our valiant fire fighters often go unreported and are inadequately recognized by the public; and

Whereas fire fighters' work deserves the attention and gratitude of all Americans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 8, 1986, is designated as "National Fire Fighters Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved June 23, 1986.

LEGISLATIVE HISTORY—H.J. Res. 479:

CONGRESSIONAL RECORD, Vol. 132 (1986):
May 22, considered and passed House.
June 10, considered and passed Senate.

71-139 O - 86 (346)

Public Law 99-344
99th Congress

Joint Resolution

June 23, 1986
[S.J. Res. 321]

To designate October 1986 as "National Down Syndrome Month".

Whereas the past decade has brought a greater and more enlightened attitude in the care and training of the developmentally disabled;

Whereas one such condition which has undergone considerable reevaluation is that of Down syndrome—a problem which, just a short time ago, was often stigmatized as a mentally retarded condition which relegated its victims to lives of passivity in institutions and back rooms;

Whereas, through the efforts of concerned physicians, teachers and parent groups such as the National Down Syndrome Congress, programs are being put in place to educate new parents of babies with Down syndrome; to develop special education classes within mainstreamed programs in schools; the provisions for vocational training in preparation for competitive employment in the work force and to prepare young adults with Down syndrome for independent living in the community;

Whereas the cost of such services designed to help individuals with Down syndrome move into their rightful place in our society is but a tiny fraction of the cost of institutionalization;

Whereas along with this improvement in educational opportunities for those with Down syndrome is the advancement in medical science which is adding to a more brightened outlook for individuals born with this chromosomal configuration; and

Whereas public awareness and acceptance of the capabilities of children with Down syndrome can greatly facilitate their being mainstreamed in our society: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1986 is designated as "National Down Syndrome Month" and that the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the designated month with appropriate programs, ceremonies, and activities.

Approved June 23, 1986.

LEGISLATIVE HISTORY—S.J. Res. 321:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 22, considered and passed Senate.
June 11, considered and passed House.

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71-139 O - 86 (347)

Public Law 99-345
99th Congress

Joint Resolution

To provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

June 24, 1986
[H.J. Res. 652]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Each provision of law amended by Public Law 99-289, is amended by striking out "June 6, 1986" wherever it appears and inserting in lieu thereof "September 30, 1986".

Ante, p. 412.

SEC. 2. The applicable limitation on additional commitments to insure mortgages and loans to carry out the purposes of the National Housing Act during fiscal year 1986 is increased by an additional $9,500,000,000 of mortgage and loan principal.

Loans.

12 USC 1701.

Approved June 24, 1986.

LEGISLATIVE HISTORY—H.J. Res. 652:

CONGRESSIONAL RECORD, Vol. 132 (1986):
June 12, considered and passed House.
June 18, considered and passed Senate, amended.
June 19, House concurred in Senate amendment with an amendment.
June 23, Senate concurred in House amendment with an amendment.
June 24, House concurred in Senate amendment.

71-139 O - 86 (248)

SAGINAW CHIPPEWA INDIAN TRIBE OF MICHIGAN DISTRIBUTION OF JUDGMENT FUNDS ACT

71-139 O - 86 (349)

Public Law 99-346
99th Congress

An Act

June 30, 1986
[S. 1106]

To provide for the use and distribution of funds appropriated in satisfaction of judgments awarded to the Saginaw Chippewa Tribe of Michigan in dockets numbered 57, 59, and 13E of the Indian Claims Commission and docket numbered 13F of the United States Claims Court, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Saginaw Chippewa Indian Tribe of Michigan Distribution of Judgment Funds Act. Claims. Securities.

SHORT TITLE; DEFINITIONS

SECTION 1. (a) This Act may be cited as the "Saginaw Chippewa Indian Tribe of Michigan Distribution of Judgment Funds Act".

(b) For purposes of this Act—

(1) The term "tribe" means the Saginaw Chippewa Indian Tribe of Michigan.

(2) The term "Tribal Council" means the Saginaw Chippewa Tribal Council.

(3) The term "Secretary" means the Secretary of the Interior.

ABROGATION OF PRIOR PLAN

SEC. 2. Notwithstanding Public Law 93-134 (25 U.S.C. 1401 et seq.) or any plan prepared or regulation promulgated by the Secretary pursuant to such law—

(1) the funds appropriated in satisfaction of judgments awarded the tribe in dockets numbered 59 and 13E of the Indian Claims Commission, and

(2) the balance of any undistributed funds appropriated in satisfaction of the judgments awarded the tribe in docket numbered 57 of the Indian Claims Commission and docket numbered 13F of the United States Claims Court,

and any interest or investment income accrued on the amount of such funds on or before the date of any transfer made pursuant to section 5 or 8 (less any attorneys' fees and court costs), shall be distributed and used in accordance with the provisions of this Act.

INVESTMENT FUND

SEC. 3. (a)(1) The tribe, through the Tribal Council, shall establish a trust fund for the benefit of the tribe which shall be known as the "Investment Fund". The principal of the Investment Fund shall consist of—

(A) the funds transferred by the Secretary to the Tribal Council pursuant to section 5(a),

(B) the amounts required to be included in principal under subsection (c) or section 8(c),

(C) such portion of the funds paid to the Tribal Council under section 8(a) as the Tribal Council may elect to add to the principal, and

(D) such other amounts of the income of the Investment Fund which the Tribal Council may elect to retain and add to the principal.

(2) The Tribal Council shall be the trustee of the Investment Fund and shall administer the Investment Fund in accordance with the provisions of this Act.

(b)(1) The principal of the Investment Fund shall be used exclusively for investments or expenditures which the Tribal Council determines—

(A) are reasonably related to—

(i) economic development beneficial to the tribe, (or)

(ii) the development of tribal resources, or

(B) are otherwise financially beneficial to the tribe.

(2) Under no circumstances shall any part of the principal of the Investment Fund be distributed in the form of per capita payments to the members of the tribe or used or expended for purposes other than investment or economic development projects and programs.

(3) None of the income of the Investment Fund may be distributed or expended before the date that is 18 months after the date on which the amendments to the constitution of the tribe referred to in section 4(a) are adopted and ratified by the qualified voting members of the tribe (within the meaning of such constitution).

(c) At least 10 percent of the income earned on the Investment Fund during each of the first 10 fiscal years of the Investment Fund beginning after such Investment Fund is established shall be retained in the Investment Fund and become part of the principal of the Investment Fund.

(d)(1) The Investment Fund shall be maintained as a separate book account.

(2) The books and records of the Investment Fund shall be audited at least once during each fiscal year of the Investment Fund (or before the end of the 3-month period beginning on the last day of such fiscal year) by an independent certified public accounting firm which shall prepare a report on the results of such audit. Such report shall be treated as a public document of the tribe and a copy of the report shall be available for inspection by an enrolled member of the tribe.

Records. Reports.

Public information.

(e)(1) From the funds described in section 2 and transferred to the Tribal Council pursuant to section 5(a), the sum of $1,000,000 shall be set aside within 90 days of receipt of such funds by the Tribal Council for the express purposes of establishing a separate Elderly Assistance Investment Fund.

Aged persons.

(2) Income generated by the Elderly Assistance Investment Fund shall be distributed on a per capita basis to each enrolled Tribal member who is 50 years of age or older on the date that is 18 months after the date on which the amendments to the constitution of the tribe referred to in section 4(a) are adopted and ratified by the qualified voting members of the tribe.

(3) Tribal members entitled to participate in the distribution of such income shall submit verifiable documentation as to their age to the Tribal Council no later than the date that is 3 months after the date established pursuant to paragraph (2) of this subsection. The Tribal Council shall prepare and certify a list of all Tribal members entitled to participate in the distribution of income from the Elderly Assistance Investment Fund within 30 days following the above date.

(4) Distribution of the income from the Elderly Assistance Investment Fund shall be made pursuant to the following terms and conditions:

(A) No Tribal member certified to participate shall receive more than the aggregate sum of $3,000 from the income generated by the Elderly Assistance Investment Fund.

(B) Payments shall be made to each Tribal member certified to participate on an equal pro-rata basis from the available income generated by the Elderly Assistance Investment Fund.

(C) The initial per capita distribution shall be made no sooner than the date that is 30 days after the date that the Tribal Council certifies the list of eligible Tribal members pursuant to paragraph (3) nor no later than 120 days following such date.

(E) If succeeding per capita distributions are necessary to bring the aggregate payment to each Tribal member certified to participate to the sum of $3,000, such distribution shall be made on or before the anniversary date of the initial per capita distribution.

(F) If any Tribal member certified to participate should die before receiving the initial or any succeeding per capita distribution, the payment which would have been paid to that individual shall be returned to the Elderly Assistance Investment Fund for distribution in accordance with this subsection.

(5) When all Tribal members certified to participate in the per capita distribution have been paid the aggregate sum of $3,000, the principal sum of $1,000,000 together with any remaining interest of the Elderly Assistance Investment Fund shall revert back and become part of the Investment Fund established pursuant to subsection (a)(1): *Provided*, That, nothing in this subsection shall be construed to prevent the Tribal Council from establishing an Elderly Assistance Investment Fund or Program providing for per capita distributions or other programs for elderly Tribal members from the income of the Investment Fund and subject to such terms, conditions and eligibility criteria as the Tribal Council may provide.

(6)(A) The Elderly Assistance Investment Fund shall be governed and subject to the same conditions as provided for in subsections (b) and (d) but not the provisions of subsection (c) of this section.

(B) Any Elderly Assistance Investment Fund or Program which may be subsequently established by the Tribal Council shall be subject to the terms of this Act except that subsection (e) of this section shall not be applicable to such Fund or Program.

TRIBAL CONSTITUTION

SEC. 4. (a) Notwithstanding any other provision of law, the Tribal Council may call a tribal election and, pursuant to such election, the tribe may adopt (without the approval of the Secretary) any amendments to the constitution of the tribe which were approved by the Tribal Council on April 15, 1985, in resolution L and O-03-85.

(b) Any amendments to the constitution of the tribe other than the amendments referred to in subsection (a) may only be adopted in accordance with the provisions of such constitution and applicable Federal law and may not be adopted before the date that is 18 months after the date on which the amendments referred to in subsection (a) are adopted and ratified by the qualified voting members of the tribe.

(c) The adoption of any amendment referred to in subsection (a) to the constitution of the tribe shall take effect when such amendment is ratified by the qualified voting members of the tribe (within the meaning of such constitution).

(d) The tribe shall submit to the Secretary a copy of any amendment to the constitution of the tribe referred to in subsection (a) within 10 days after the date on which such amendment is ratified by the qualified voting members of the tribe (within the meaning of such constitution).

TRANSFER OF FUNDS BY THE SECRETARY

SEC. 5. (a) The Secretary shall transfer the funds described in section 2 (which have not previously been transferred to the Tribal Council under section 8(a) to the Tribal Council by no later than the date that is 60 days after the date on which the Secretary receives written notice of the adoption by the Tribal Council (in accordance with the constitution and bylaws of the tribe) of a resolution requesting the Secretary to make the transfer under this subsection if the amendments to the constitution of the tribe referred to in section 4(a) are adopted and ratified by the qualified voting members of the tribe (within the meaning of such constitution).

(b)(1) Notwithstanding any other provision of law, the approval of the Secretary for any payment or distribution from the principal or income of the Investment Fund, after the transfer of funds pursuant to subsection (a), shall not be required and the Secretary shall have no trust responsibility for the investment, supervision, administration, or expenditure of the principal or income of the Investment Fund.

(2) The Secretary may take such action as the Secretary may determine to be necessary and appropriate to enforce the requirements of this Act. After notice and hearing, the Secretary may take such action as the Secretary may determine to be necessary and appropriate to assume administration of the Investment Fund if it is determined that the Tribal Council has materially failed to administer the Investment Fund in accordance with the requirements of this Act. The Secretary shall provide whatever assistance may be necessary to the Tribal Council to correct any such deficiencies prior to any proposed Secretarial assumption of the administration of the Investment Fund and immediately thereafter, if necessary. The Secretary's assumption of the administration of the Investment Fund shall not exceed a period of 6 months.

TREATMENT OF AMOUNTS PAID OR DISTRIBUTED FROM THE INVESTMENT FUND

SEC. 6. (a) No amount of any payment or distribution— Taxes.

(1) from the principal or income of the Investment Fund, or

(2) of any funds transferred to the Tribal Council under section 8(a)

to any payee or distributee who is an enrolled member of the tribe shall be included in the gross income of the payee or distributee for purposes of any Federal, State, or local income tax.

(b) Any payments or distributions described in subsection (a), and the availability of any amount for such payments or distributions, shall not be considered as income or resources or otherwise used as the basis for denying or reducing—

42 USC 1305

(1) any financial assistance or other benefit under the Social Security Act—

(A) to which any enrolled member of the tribe, or the household of any such member, is otherwise entitled, or

(B) for which such member or household is otherwise eligible, or

(2) any other—

(A) Federal financial assistance,

(B) Federal benefit, or

(C) benefit under any program funded in whole or in part by the Federal Government,

to which such member or household is otherwise entitled or for which such member or household is otherwise eligible.

WAIVERS OF SOVEREIGN IMMUNITY

SEC. 7. Notwithstanding any other provision of law, the tribe may execute limited waivers of the sovereign immunity of the tribe and consent to the civil jurisdiction of the courts of the State of Michigan with regard to the use as security for indebtedness of—

(1) any amount of income of the Investment Fund which is not retained and added to the principal of the Investment Fund pursuant to subsection (a)(1)(D) or (c) of section 3,

(2) a portion of the principal of the Investment Fund equal to the total amount, if any, of the funds transferred to the Tribal Council under section 8(a) that are added to the principal of the Investment Fund,

(3) any funds transferred to the Tribal Council under section 8(a) that are not added to the principal of the Investment Fund and any interest or investment income accrued on such funds, or

(4) any asset acquired by use of the income described in paragraph (1), or of the funds described in paragraph (3), which is not held in trust by the Secretary for the benefit of the tribe,

if such waivers of sovereign immunity do not exceed individually or collectively the total amount or value of such security and such waivers specifically identify and limit the parties who have been granted the authority to bring an action against the tribe pursuant to such waiver.

OPTIONAL USE OF DOCKET 57 FUNDS

SEC. 8. (a) The Secretary shall transfer to the Tribal Council all or any portion of the undistributed funds appropriated in satisfaction of the judgment awarded the tribe in docket 57 of the Indian Claims Commission (including all interest and investment income accrued on such funds) which the tribe requests the Secretary to transfer under this subsection. Such transfer shall be made by no later than the date that is 60 days after the date on which the Secretary receives written notice of the adoption of a resolution by the Tribal Council (in accordance with the Constitution and bylaws of the tribe) requesting a transfer of funds under this subsection.

(b) Any funds transferred to the Tribal Council under subsection (a) shall be subject to the same accounting and auditing requirements applicable to the Investment Fund under section 3(d).

(c) At least 10 percent of the interest or investment income, if any, that accrues during each year of the 10-year period beginning on the

date any transfer is made under subsection (a) on any funds held by, or on behalf of, the tribe which were transferred to the Tribal Council under subsection (a) shall be transferred to the Investment Fund and become part of the principal of the Investment Fund.

NONDISCRIMINATION

SEC. 9. (a) Any distribution or expenditure or the income of the Investment Fund, and any program or activity funded, in whole or in part, by the principal or income of the Investment Fund, shall not discriminate against—

(1) individuals who become members of the tribe after the date on which the amendments to the constitution of the tribe referred to in section 4(a) are adopted and ratified by the qualified voting members of the tribe (within the meaning of such constitution), or

(2) members of the tribe who do not reside on the reservation of the tribe.

(b) Any—

(1) expenditure for any improvement on the reservation of the tribe that can be enjoyed by all members of the tribe, or

(2) program or activity conducted only on the reservation of the tribe in which any member of the tribe can participate,

shall not be construed to be discriminatory for purposes of subsection (a) merely because the benefits of such improvement, program, or activity are more readily available to members of the tribe who reside on the reservation of the tribe.

Approved June 30, 1986.

LEGISLATIVE HISTORY—S. 1106:

HOUSE REPORT No. 99-502 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 99-119 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 131 (1985): July 31, considered and passed Senate.
Vol. 132 (1986): June 10, considered and passed House, amended.
June 16, Senate concurred in House amendment.

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NATIONAL SAVE AMERICAN INDUSTRY AND JOBS DAY

71-139 O - 86 (350)

Public Law 99-347
99th Congress

Joint Resolution

June 30, 1986
[S.J. Res. 346]

To designate June 21, 1986, as "National Save American Industry and Jobs Day".

Whereas the United States has been a model of economic strength throughout history;

Whereas the manufacturing industries of the United States have grown continuously, have created a high standard of living for Americans, and now generate more than $1,500,000,000,000 of the annual gross national product of the United States;

Whereas the manufacturing industries of the United States have excelled in meeting the needs of consumers in the Nation and have responded to the needs of the United States and its allies during periods of armed conflict;

Whereas the United States maintains a policy of allowing the products of foreign industry to be sold in the United States with few restrictions;

Whereas such policy has helped to improve the economies of many foreign nations, particularly the economies of underdeveloped foreign nations;

Whereas, in many cases, the retail price of imported goods is artificially low due to subsidies by foreign governments;

Whereas the purchase of imported goods by consumers in the United States is having a detrimental effect on the manufacturing industries of the United States;

Whereas the officers of many manufacturing companies in the United States are restructuring their companies at a rapid rate because of reduced demand for many of the products manufactured in the United States;

Whereas such restructuring has included the closing of many plants and the resulting loss of many jobs;

Whereas more than 8,500,000 workers in the United States are unemployed, sales of products manufactured in the United States are generally not increasing, and the rate of pay for workers who continue to be employed has become depressed;

Whereas consumers in the United States should become aware of the origin of the goods such consumers purchase and the effect of buying imported goods on the manufacturing industries of the United States; and

Whereas the accomplishments and needs of the manufacturing industries of the United States and all employees of such industries should be recognized: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 21, 1986, is designated "National Save American Industry and Jobs Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved June 30, 1986.

LEGISLATIVE HISTORY—S.J. Res. 346:

CONGRESSIONAL RECORD, Vol. 132 (1986):
June 10, considered and passed Senate.
June 19, considered and passed House.

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PUBLIC LAW 99-348—JULY 1, 1986

MILITARY RETIREMENT REFORM ACT OF 1986

Public Law 99-348
99th Congress

An Act

July 1, 1986
[H.R. 4420]

To amend title 10, United States Code, to revise the retirement system for new members of the uniformed services, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Military Retirement Reform Act of 1986.
Armed Forces.
10 USC 1401 note.

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 10, UNITED STATES CODE; TABLE OF CONTENTS

(a) SHORT TITLE.—This Act may be cited as the "Military Retirement Reform Act of 1986".

(b) REFERENCES TO TITLE 10.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 10, United States Code.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; references to title 10, United States Code; table of contents.

TITLE I—RETIREMENT PROGRAM AMENDMENTS

Sec. 101. Retired pay multiplier.
Sec. 102. Adjustments of retired and retainer pay to reflect changes in the Consumer Price Index.
Sec. 103. Restoral at age 62 of retired pay multiplier and cost-of-living adjustments.
Sec. 104. Consolidation of retired pay base provisions.
Sec. 105. Rules of construction for purposes of computing retired pay.
Sec. 106. Years of service for computing retired pay.

TITLE II—CONFORMING AMENDMENTS TO COMPUTATION OF RETIRED PAY

Sec. 201. Retired pay computed under subtitle A.
Sec. 202. Members of the Army.
Sec. 203. Members of the Navy and Marine Corps.
Sec. 204. Members of the Air Force.
Sec. 205. Members of the Coast Guard.
Sec. 206. Commissioned officers of the National Oceanic and Atmospheric Administration.
Sec. 207. Commissioned officers of the Public Health Service.

TITLE III—MISCELLANEOUS RETIREMENT PROVISIONS

Sec. 301. Survivor Benefit Plan annuities.
Sec. 302. Report on reserve retirement system.
Sec. 303. Definition.
Sec. 304. Technical and conforming amendments.
Sec. 305. Codification of permanent limitations on retired and retainer pay provided in appropriation Acts.
Sec. 306. Repeal of limitation on payments to accrual fund for fiscal year 1986.

TITLE IV—FISCAL YEAR 1986 UNAUTHORIZED APPROPRIATIONS

Sec. 401. Authority for obligation of certain unauthorized fiscal year 1986 defense appropriations.
Sec. 402. Limitation on obligation of certain unauthorized appropriations.
Sec. 403. Authorized military construction project.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Under Secretary of Defense for Acquisition.
Sec. 502. Limitation on expenditure of funds to procure T-46 trainer aircraft.
Sec. 503. Postponement of a certain Department of Defense contract.

TITLE I—RETIREMENT PROGRAM AMENDMENTS

SEC. 101. RETIRED PAY MULTIPLIER

Chapter 71 (relating to computation of retired pay) is amended by adding at the end the following new section:

"§ 1409. Retired pay multiplier 10 USC 1409.

"(a) RETIRED PAY MULTIPLIER FOR REGULAR-SERVICE NON-DISABILITY RETIREMENT.—In computing—

"(1) the retired pay of a member of a uniformed service who is retired under any provision of law other than—

"(A) chapter 61 of this title (relating to retirement or separation for physical disability); or 10 USC 1201 *et seq.*

"(B) chapter 67 of this title (relating to retirement for non-regular service); or 10 USC 1331 *et seq.*

"(2) the retainer pay of a member who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under section 6330 of this title, *Post*, p. 696.

the retired pay multiplier (or retainer pay multiplier) is the percentage determined under subsection (b).

"(b) PERCENTAGE.—

"(1) GENERAL RULE.—Subject to paragraphs (2) and (3), the percentage to be used under subsection (a) is the product (stated as a percentage) of—

"(A) 2½, and

"(B) the member's years of creditable service (as defined in subsection (c)).

"(2) REDUCTION APPLICABLE TO NEW-RETIREMENT MEMBERS WITH LESS THAN 30 YEARS OF SERVICE.—In the case of a member who first became a member of a uniformed service after July 31, 1986, has less than 30 years of creditable service, and is under the age of 62 at the time of retirement, the percentage determined under paragraph (1) shall be reduced by—

"(A) 1 percentage point for each full year that the member's years of creditable service are less than 30; and

"(B) 1/12 of 1 percentage point for each month by which the member's years of creditable service (after counting all full years of such service) are less than a full year.

"(3) 75 PERCENT LIMIT.—In the case of a member with more than 30 years of creditable service, the percentage to be used under subsection (a) is 75 percent.

"(c) YEARS OF CREDITABLE SERVICE DEFINED.—In this section, the term 'years of creditable service' means the number of years of service creditable to a member in computing the member's retired or retainer pay (including 1/12 of a year for each full month of service that is in addition to the number of full years of service of the member).".

SEC. 102. ADJUSTMENTS OF RETIRED AND RETAINER PAY TO REFLECT CHANGES IN THE CONSUMER PRICE INDEX

(a) IN GENERAL.—Section 1401a (relating to adjustments in retired pay to reflect changes in the Consumer Price Index) is amended by

striking out subsections (b), (c), and (d) and inserting in lieu thereof the following:

"(b) COST-OF-LIVING ADJUSTMENTS BASED ON CPI INCREASES.—

"(1) IN GENERAL.—Effective on December 1 of each year, the Secretary of Defense shall increase the retired pay of members and former members entitled to that pay in accordance with paragraphs (2) and (3).

"(2) PRE-AUGUST 1, 1986 MEMBERS.—The Secretary shall increase the retired pay of each member and former member who first became a member of a uniformed service before August 1, 1986, by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

"(A) the price index for the base quarter of that year, exceeds

"(B) the base index.

"(3) POST-AUGUST 1, 1986 MEMBERS.—If the percent determined under paragraph (2) is greater than 1 percent, the Secretary shall increase the retired pay of each member who first became a member on or after August 1, 1986, by the difference between—

"(A) the percent determined under paragraph (2); and

"(B) 1 percent.

"(4) REGULATIONS.—Any increase in retired pay under this subsection shall be made in accordance with regulations prescribed by the Secretary of Defense.

"(c) RULE FOR FIRST ADJUSTMENT AFTER RETIREMENT WITH INTERVENING INCREASE IN BASIC PAY.—Notwithstanding subsection (b), if a member or former member of an armed force who first became a member of a uniformed service before August 1, 1986, becomes entitled to retired pay based on rates of monthly basic pay that became effective after the last day of the calendar quarter of the base index, the retired pay of the member or former member shall be increased on the effective date of the next adjustment of retired pay under subsection (b) only by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

"(1) the price index for the base quarter of that year, exceeds

"(2) the price index for the calendar quarter immediately before the calendar quarter in which the rates of monthly basic pay on which the retired pay is based became effective.

"(d) RULE FOR FIRST ADJUSTMENT AFTER RETIREMENT WITH NO INTERVENING INCREASE IN BASIC PAY.—If a member or former member of an armed force who first became a member of a uniformed service before August 1, 1986, becomes entitled to retired pay on or after the effective date of an adjustment in retired pay under subsection (b) but before the effective date of the next increase in the rates of monthly basic pay, the retired pay of the member or former member shall be increased, effective on the date the member becomes entitled to that pay, by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

"(1) the base index, exceeds

"(2) the price index for the calendar quarter immediately before the calendar quarter in which the rates of monthly basic pay on which the retired pay is based became effective.

"(e) PRO RATING OF INITIAL ADJUSTMENT.—Notwithstanding subsection (b), the retired pay of a member of an armed force who first became a member of a uniformed service on or after August 1, 1986, shall be increased on the effective date of the first adjustment

of retired pay under subsection (b) after the member becomes entitled to retired pay only by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

"(1) the price index for the base quarter of that year, exceeds

"(2) the price index for the calendar quarter immediately before the calendar quarter in which the member became entitled to retired pay.".

(b) DEFINITIONS.—Such section is further amended—

(1) by striking out the second sentence of subsection (a); and

(2) by striking out subsection (g) and inserting in lieu thereof the following:

"(g) DEFINITIONS.—In this section:

"(1) The term 'price index' means the Consumer Price Index (all items, United States city average) published by the Bureau of Labor Statistics.

"(2) The term 'base quarter' means the calendar quarter ending on September 30 of each year.

"(3) The term 'base index' means the price index for the base quarter for the most recent adjustment under subsection (b).

"(4) The term 'retired pay' includes retainer pay.

"(h) PRICE INDEX FOR A QUARTER.—For purposes of this section, the price index for a calendar quarter is the arithmetical mean of the price index for the three months comprising that quarter.".

(c) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of such section is amended—

(A) by inserting "PROHIBITION ON RECOMPUTATION TO REFLECT INCREASES IN BASIC PAY.—" after "(a)"; and

(B) by striking out "or retainer".

(2) Subsection (f) of such section is amended—

(A) by inserting "PREVENTION OF PAY INVERSIONS.—" after "(f)"; and

(B) by striking out "or retainer" each place it appears.

SEC. 103. RESTORAL AT AGE 62 OF RETIRED PAY MULTIPLIER AND COST-OF-LIVING ADJUSTMENTS

Chapter 71 (relating to computation of retired pay) is amended by adding after section 1409 (as added by section 101) the following new section:

"§ 1410. Restoral of full retirement amount at age 62 for members entering on or after August 1, 1986 10 USC 1410.

"(a) GENERAL RULE.—In the case of a member who first became a member of a uniformed service on or after August 1, 1986, and who becomes entitled to retired pay before the age of 62, the retired pay of such member shall be recomputed, effective on the first day of the first month beginning after the member attains 62 years of age, so as to be the amount equal to—

"(1) the amount of the member's initial unreduced retired pay, increased by

"(2) the percent (adjusted to the nearest one-tenth of 1 percent) by which—

"(A) the price index for the most recent base quarter ending more than 31 days before the date the member attains 62 years of age, exceeds

"(B) the price index for the calendar quarter immediately before the date the member first became entitled to retired pay.

"(b) DEFINITIONS.—

"(1) In this section, the term 'initial unreduced retired pay' means the amount of retired pay—

"(A) to which the member was entitled when the member first became entitled to retired pay; or

"(B) in the case of a member whose retired pay was subject to section 1409(b)(2) of this title, to which the member would have been entitled on the date of the member's retirement without regard to that section.

Ante, p. 683.

"(2) The definitions in subsection (g), and the provisions of subsection (h), of section 1401a of this title apply to this section.".

Ante, p. 683.

SEC. 104. CONSOLIDATION OF RETIRED PAY BASE PROVISIONS

(a) TRANSFER OF SECTION 1406.—Section 1406 is transferred to the end of chapter 67, redesignated as section 1338, and amended—

10 USC 1338.

(1) by designating the first sentence as subsection (a) and striking out "chapter 67 of this title" both places it appears therein and inserting in lieu thereof "this chapter"; and

(2) by designating the second sentence as subsection (b).

(b) CONSOLIDATION OF STATUTES.—Chapter 71 (relating to the computation of retired pay) is amended by striking out section 1407 and inserting in lieu thereof the following:

10 USC 1406.

"§ 1406. Retired pay base for members who first became members before September 8, 1980: final basic pay

"(a) USE OF RETIRED PAY BASE IN COMPUTING RETIRED PAY.—

"(1) GENERAL RULE.—The retired pay or retainer pay of any person entitled to that pay who first became a member of a uniformed service before September 8, 1980, is computed using the retired pay base or retainer pay base determined under this section.

"(2) EXCEPTION FOR RECOMPUTATION.—Recomputation of retired or retainer pay to reflect later active duty is provided for under section 1402 of this title without reference to a retired pay base or retainer pay base.

Post, p. 694.

"(b) RETIREMENT UNDER SUBTITLE A.—In the case of a person whose retired pay is computed under this subtitle, the retired pay base is determined in accordance with the following table.

"For a member entitled to retired pay under section:	The retired pay base is:
1201 1202 1204 1205	Monthly basic pay[1] of grade to which member is entitled under section 1372 or to which he was entitled on day before retirement or placement on temporary disability retired list, whichever is higher.
1331	Monthly basic pay[2] of highest grade held satisfactory by person at any time in the armed forces.

"For a member entitled to retired pay under section:	The retired pay base is:
564 1263 1293 1305	Monthly basic pay to which member would have been entitled if he had served on active duty in his retired grade on day before retirement, or if the pay of that grade is less than the pay of any warrant grade satisfactorily held by him on active duty, the monthly basic pay of that warrant officer grade.
633 634 635 636 1251	Monthly basic pay[3] of member's retired grade.[4]

[1] Compute at rates applicable on date of retirement or date when member's name was placed on temporary disability retired list, as the case may be.
[2] Compute at rates applicable on date when retired pay is granted.
[3] Compute at rates applicable on date of retirement.
[4] For the purposes of this subsection, determine member's retired grade as if sections 3962(b) and 8962(b) did not apply.

"(c) VOLUNTARY RETIREMENT FOR MEMBERS OF THE ARMY.—

"(1) IN GENERAL.—In the case of a member whose retired pay is computed under section 3991 of this title or who is entitled to retired pay computed under section 3992 of this title, the retired pay base is determined in accordance with the following table.

Post, p. 694.
Post, p. 695.

"For a member entitled to retired pay under section:	The retired pay base is:
3911 3918 3920 3924	Monthly basic pay of member's retired grade.[1]
3914 3917	Monthly basic pay to which member was entitled on day before he retired.
3992	Monthly basic pay of grade to which member is advanced on retired list.

[1] For the purposes of this subsection, determine member's retired grade as if section 3962(b) did not apply.

"(2) RATE OF BASIC PAY TO BE USED.—The rate of basic pay to be used under paragraph (1) is the rate applicable on the date of the member's retirement.

"(d) RETIREMENT FOR MEMBERS OF THE NAVY AND MARINE CORPS.—In the case of a member whose retired pay is computed under section 6333 of this title, who is advanced on the retired list under section 6151 of this title, or who is entitled to retainer pay under section 6330 of this title, the retired pay base or retainer pay base is determined in accordance with the following table.

Post, p. 695.
Post, p. 696.

"For a member entitled to retired or retainer pay under section:	The retired pay base or retainer pay base is:
6323 6325(a) 6383	Basic pay of the grade in which the member retired.[1]
6325(b)	Basic pay of the grade the officer would hold if he had not received an appointment described in section 6325(b).
6326	Basic pay of the pay grade in which the member was serving on the day before retirement.
6330	Basic pay that the member received at the time of transfer to the Fleet Reserve or Fleet Marine Corps Reserve.
6151	Basic pay of the grade to which the member is advanced under section 6151.

[1] If the rate specified is less than the pay of any warrant officer grade satisfactorily held by the member on active duty, use the monthly basic pay of that warrant officer grade.

"(e) VOLUNTARY RETIREMENT FOR MEMBERS OF THE AIR FORCE.—

"(1) IN GENERAL.—In the case of a member whose retired pay is computed under section 8991 of this title or who is entitled to retired pay computed under section 8992 of this title, the retired pay base is determined in accordance with the following table.

Post, p. 697.
Post, p. 698.

"For a member entitled to retired pay under section:	The retired pay base is:
8911 8918 8920 8924	Monthly basic pay of member's retired grade.[1]
8914 8917	Monthly basic pay to which member was entitled on day before he retired.
8992	Monthly basic pay of grade to which member is advanced on retired list.

[1] For the purposes of this subsection, determine member's retired grade as if section 8962(b) did not apply.

"(2) RATE OF BASIC PAY TO BE USED.—The rate of basic pay to be used under paragraph (1) is the rate applicable on the date of the member's retirement.

"(f) COAST GUARD.—In the case of a member who is retired under any section of title 14, the member's retired pay is computed under section 423(a) of title 14 in the manner provided in that section.

Post, p. 699.

"(g) COMMISSIONED CORPS OF NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—In the case of an officer whose retired pay is

computed under section 16 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853o), the retired pay base is the basic pay of the rank with which the officer retired. 33 USC 853o.

"(h) COMMISSIONED CORPS OF PUBLIC HEALTH SERVICE.—In the case of an officer who is retired under section 210(g) or 211(a) of the Public Health Service Act (42 U.S.C. 211(g), 212(a)), the retired pay base is determined as follows: *Post*, pp. 701, 702.

"(1) MANDATORY RETIREMENT.—If the officer is retired under section 210(g) of such Act, the retired pay base is the basic pay of the permanent grade held by the officer at the time of retirement.

"(2) VOLUNTARY RETIREMENT.—If the officer is retired under section 211(a) of such Act, the retired pay base is the basic pay of the highest grade held by the officer and in which, in the case of a temporary promotion to such grade, the officer has performed active duty for not less than six months.

"(i) SPECIAL RULE FOR FORMER CHAIRMEN OF THE JCS, CHIEFS OF SERVICE, AND SENIOR ENLISTED MEMBERS.—

"(1) IN GENERAL.—For the purposes of subsections (b) through (e), in determining the rate of basic pay to apply in the determination of the retired pay base of a member who has served as Chairman of the Joint Chiefs of Staff, as a Chief of Service, or as the senior enlisted member of an armed force, the highest rate of basic pay applicable to the member while serving in that position shall be used, if that rate is higher than the rate otherwise authorized by this section.

"(2) DEFINITIONS.—In this subsection:

"(A) The term 'Chief of Service' means any of the following:

"(i) Chief of Staff of the Army.

"(ii) Chief of Naval Operations.

"(iii) Chief of Staff of the Air Force.

"(iv) Commandant of the Marine Corps.

"(v) Commandant of the Coast Guard.

"(B) The term 'senior enlisted member' means any of the following:

"(i) Sergeant Major of the Army.

"(ii) Master Chief Petty Officer of the Navy.

"(iii) Chief Master Sergeant of the Air Force.

"(iv) Sergeant Major of the Marine Corps.

"(v) Master Chief Petty Officer of the Coast Guard.

"§ 1407. Retired pay base for members who first became members after September 7, 1980: high-36 month average 10 USC 1407.

"(a) USE OF RETIRED PAY BASE IN COMPUTING RETIRED PAY.—The retired pay or retainer pay of any person entitled to that pay who first became a member of a uniformed service after September 7, 1980, is computed using the retired pay base or retainer pay base determined under this section.

"(b) HIGH-THREE AVERAGE.—The retired pay base or retainer pay base of a member under this section is the member's high-three average determined under subsection (c).

"(c) COMPUTATION OF HIGH-THREE AVERAGE.—

"(1) FORMULA.—For the purposes of this section, a member's high-three average is the amount equal to—

"(A) the total amount of monthly basic pay to which the member was entitled for the member's high-36 months, divided by

"(B) 36.

"(2) HIGH-36 MONTHS DEFINED.—

"(A) GENERAL RULE.—A member's high-36 months are the 36 months out of all the months of active duty served by the member as a member of a uniformed service for which the monthly basic pay to which the member was entitled was the highest.

"(B) RULE FOR NON-REGULAR SERVICE RETIREES.—In the case of a member who is entitled to retired pay under section 1204 or 1205 of this title or under chapter 67 of this title, a member's high-36 months are the 36 months out of all the months the member was a member of a uniformed service before becoming entitled to retired pay for which the monthly basic pay to which the member would have been entitled had he served on active duty during those months was the highest.

10 USC 1331 *et seq.*

"(d) LIMITATION FOR ENLISTED MEMBERS RETIRING WITH LESS THAN 30 YEARS' SERVICE.—In the case of a member who is retired under section 3914 or 8914 of this title or who is transferred to the Fleet Reserve or Fleet Marine Corps Reserve under section 6330 of this title, the member's high-36 average shall be computed using only rates of basic pay applicable to months of active duty of the member as an enlisted member.

Post, p. 696.

"(e) SPECIAL RULES FOR SHORT-TERM DISABILITY RETIREES.—

"(1) MEMBERS ENTITLED TO RETIRED PAY UNDER SECTION 1201 OR 1202.—In the case of a member who—

"(A) is entitled to retired pay under section 1201 or 1202 of this title; and

"(B) served on active duty for less than 36 months,

the months (including any fraction thereof) that the member served on active duty shall be deemed to be the member's high-36 months.

"(2) MEMBERS ENTITLED TO RETIRED PAY UNDER SECTION 1204 OR 1205.—In the case of a member who—

"(A) is entitled to retired pay under section 1204 or 1205 of this title; and

"(B) was a member of a uniformed service for less than 36 months,

the months (including any fraction thereof) that the member was such a member shall be deemed to be the member's high-36 months.

"(f) SPECIAL RULE FOR MEMBERS RETIRING WITH NON-REGULAR SERVICE.—

"(1) DISABILITY RETIREMENT.—In the case of a member of a uniformed service who is entitled to retired pay under section 1204 or 1205 of this title (relating to members on active duty for 30 days or less), the high-36 average is determined as if the member served on active duty and was entitled to basic pay for the member's high-36 months.

"(2) CHAPTER 67 RETIREMENT.—In the case of a person who is entitled to retired pay under section 1331 of this title (relating to retired pay for non-regular service), the person's high-36

average is determined as if the person served on active duty and was entitled to basic pay for the person's high-36 months.

"(g) DEFINITION.—In this section, the term 'years of creditable service' means the number of years of service creditable to a member in computing the member's retired or retainer pay (including 1/12 of a year for each full month of service that is in addition to the number of full years of service of the member).".

(c) CONFORMING AMENDMENTS.—

(1) Sections 5083 and 5201(c) are each amended by striking out the last sentence.

(2) Section 6325(c) is amended by striking out the last sentence.

SEC. 105. RULES OF CONSTRUCTION FOR PURPOSES OF COMPUTING RETIRED PAY

Chapter 71 (relating to computation of retired pay) is amended by adding after section 1410 (as added by section 103) the following new sections:

"§ 1411. Rules of construction 10 USC 1411.

"(a) CONSTRUCTION OF 'FIRST BECAME A MEMBER'.—For purposes of this chapter and other provisions of law providing for computation of retired or retainer pay of members of the uniformed services, a person shall be considered to first become a member of a uniformed service on the date the person is first enlisted, inducted, or appointed in a uniformed service.

"(b) REFERENCES IN TABLES.—Section references in tables in this chapter are to sections of this title.

"§ 1412. Rounding to next lower dollar 10 USC 1412.

"Amounts computed under this chapter, if not a multiple of $1, shall be rounded to the next lower multiple of $1.".

SEC. 106. YEARS OF SERVICE FOR COMPUTING RETIRED PAY

Section 1405 (relating to determination of years of service for computation of retired pay) is amended—

(1) by striking out the matter preceding clause (1) and inserting in lieu thereof "(a) IN GENERAL.—For the purposes of the computation of the years of service of a member of the armed forces under a provision of this title providing for such computation to be made under this section, the years of service of the member are computed by adding—"; and

(2) by adding at the end the following:

"(b) FRACTIONAL YEARS OF SERVICE.—In determining a member's years of service under subsection (a)—

"(1) each full month of service that is in addition to the number of full years of service creditable to the member shall be credited as 1/12 of a year; and

"(2) any remaining fractional part of a month shall be disregarded.".

TITLE II—CONFORMING AMENDMENTS TO COMPUTATION OF RETIRED PAY

SEC. 201. RETIRED PAY COMPUTED UNDER SUBTITLE A

(a) DOPMA OFFICERS AND WARRANT OFFICERS.—Section 1401 (relating to computation of retired pay) is amended—

(1) by inserting "(a) DISABILITY, NON-REGULAR SERVICE, WARRANT OFFICER, AND DOPMA RETIREMENT.—" before "The monthly";

(2) by striking out the third, fourth, and fifth sentences;

(3) by striking out column 1 of the table and inserting in lieu thereof the following:

"Column 1 Take
Retired pay base as computed under section 1406(b) or 1407.
Retired pay base as computed under section 1406(b) or 1407.
Retired pay base as computed under section 1406(b) or 1407.
Retired pay base as computed under section 1406(b) or 1407.
Retired pay base as computed under section 1406(b) or 1407.";

(4) by striking out the matter relating to formulas 4 and 5 under columns 2, 3, and 4 of the table and inserting in lieu thereof the following:

"The retired pay multiplier prescribed in section 1409(a) for the years of service credited to him under section 1405		
The retired pay multiplier prescribed in section 1409(a) for the years of service credited to him under section 1405.";		

(5) by striking out "pay" each place it appears in columns 3 and 4 of the table and inserting in lieu thereof "retired pay base";

(6) by striking out footnotes 1, 2, 4, and 5 of the table and redesignating footnote 3 as footnote 1;

(7) by redesignating the references to footnote 3 in column 2 of the table to conform to the redesignation made by paragraph (6); and

(8) by adding at the end the following new subsection:

"(b) USE OF MOST FAVORABLE FORMULA.—If a person would otherwise be entitled to retired pay computed under more than one formula of the table in subsection (a) or of any other provision of law, the person is entitled to be paid under the applicable formula that is most favorable to him.".

(b) RECOMPUTATION FOR LATER ACTIVE DUTY.—

(1) FORMULA FOR RECOMPUTATION OF NEW RETIREMENT MEMBERS.—Subsection (a) of section 1402a (relating to recomputation of retired or retainer pay to reflect later active duty of members who first became members after September 7, 1980) is amended to read as follows:

"(a) IN GENERAL.—A member of an armed force—

"(1) who first became a member of a uniformed service after September 7, 1980;

"(2) who has become entitled to retired pay or retainer pay; and

"(3) who thereafter serves on active duty (other than for training),

is entitled to recompute his retired pay or retainer pay upon release from that duty according to the following table.

"Column 1 Take	Column 2 Multiply by
Retired pay base or retainer pay base under section 1407 which he would be entitled to use if— (1) he were retiring upon release from that active duty; or (2) he were transferring to the Fleet Reserve or Fleet Marine Corps Reserve upon that release from active duty.	The retired pay multiplier or retainer pay multiplier prescribed in section 1409 for the sum of— (1) the years of service that may be credited to him in computing retired pay or retainer pay; and (2) his years of active service after becoming entitled to retired pay or retainer pay.".

(2) TECHNICAL AMENDMENTS.—Such section is further amended—

(A) by inserting "NEW DISABILITY INCURRED DURING LATER ACTIVE DUTY.—" in subsection (b) after "(b)";

(B) by inserting "ADDITIONAL OR AGGRAVATED DISABILITY INCURRED DURING LATER ACTIVE DUTY.—" in subsection (c) after "(c)";

(C) in subsection (d)—

(i) by inserting "COMPUTATION FOR LATER DISABILITY.—" after "(d)";

(ii) by striking out the second sentence; and

(iii) by striking out "monthly" both places it appears in the table; and

(D) by inserting "ALTERNATIVE RECOMPUTATION TO SUBSECTION (a) FORMULA.—" in subsection (e) after "(e)".

Post, p. 703.

(3) CONFORMING AMENDMENTS.—Section 1402 is amended by striking out the second sentence of subsections (a) and (d).

SEC. 202. MEMBERS OF THE ARMY

(a) INITIAL COMPUTATION OF RETIRED PAY.—The text of section 3991 (relating to computation of retired pay) is amended to read as follows:

"(a) COMPUTATION.—

"(1) IN GENERAL.—The monthly retired pay of a member entitled to such pay under this subtitle is computed according to the following table. For each case covered by a section of this title named in the column headed 'For sections', retired pay is computed by taking the steps prescribed opposite it in columns 1 and 2.

"Formula	For Sections	Column 1 Take	Column 2 Multiply by
A	3911 3918 3920 3924	Retired pay base as computed under section 1406(c) or 1407.	The retired pay multiplier prescribed in section 1409 for the years of service credited to him under section 1405.
B	3914 3917	Retired pay base as computed under section 1406(c) or 1407.	The retired pay multiplier prescribed in section 1409 for the years of service credited to him under section 3925.

"(2) ADDITIONAL 10 PERCENT FOR CERTAIN ENLISTED MEMBERS CREDITED WITH EXTRAORDINARY HEROISM.—If a member who is retired under section 3914 of this title has been credited by the Secretary of the Army with extraordinary heroism in the line of duty, the member's retired pay shall be increased by 10 percent of the amount determined under paragraph (1) (but to not more than 75 percent of the retired pay base upon which the computation of such retired pay is based). The Secretary's determination as to extraordinary heroism is conclusive for all purposes.

"(b) GENERAL RULES.—

"(1) USE OF MOST FAVORABLE FORMULA.—If a person would otherwise be entitled to retired pay computed under more than one formula of the table in subsection (a) or the table in section 1401 of this title, he is entitled to be paid under the applicable formula that is most favorable to him.

Ante, p. 691.

"(2) ROUNDING TO NEXT LOWER DOLLAR.—The amount computed under subsection (a), if not a multiple of $1, shall be rounded to the next lower multiple of $1.

"(3) REFERENCES.—Section references in the table in subsection (a) are to sections of this title.".

(b) RECOMPUTATION FOR ENLISTED MEMBERS AND WARRANT OFFICERS ADVANCED ON THE RETIRED LIST.—The table in section 3992 (relating to recomputation of retired pay to reflect advancement on retired list) is amended to read as follows:

"Formula	Column 1 Take	Column 2 Multiply by
A	Retired pay base as computed under section 1406(c) or 1407 of this title.	The retired pay multiplier prescribed in section 1409 of this title for the number of years credited to him under section 3925 of this title.[1]
B	Retired pay base as computed under section 1406(c) or 1407 of this title.	The retired pay multiplier prescribed in section 1409 of this title for the number of years credited to him under section 1405 of this title.

[1] In determining retired pay multiplier, credit each full month of service that is in addition to the number of full years of service creditable to the member as 1/12 of a year and disregard any remaining fractional part of a month.".

(c) CONFORMING AMENDMENT.—Section 3925 is amended by adding at the end the following new subsection:

"(c) In determining a member's years of service under subsection (a) for the purpose of computing the member's retired pay under section 3991 of this title— *Ante*, p. 694.

"(1) each full month of service that is in addition to the number of full years of service creditable to the member shall be credited as 1/12 of a year; and

"(2) any remaining fractional part of a year shall be disregarded."

SEC. 203. MEMBERS OF THE NAVY AND MARINE CORPS

(a) RETIRED AND RETAINER PAY FORMULA.—Section 6333 is amended to read as follows:

"§ 6333. Computation of retired and retainer pay 10 USC 6333.

"(a) The monthly retired pay or retainer pay of a member entitled to such pay under this chapter or under section 6383 of this title is computed in accordance with the following table. *Post*, p. 696.

"Formula	For sections	Column 1 Take	Column 2 Multiply by
A	6325(a) 6326	**Retired pay base computed under section 1406(d) or 1407.**	75 percent.

"Formula	For sections	Column 1 Take	Column 2 Multiply by
B	6323 6325(b) 6383	Retired pay base computed under section 1406(d) or 1407.	Retired pay multiplier prescribed under section 1409 for the years of service that may be credited to him under section 1405.
C	6330	Retainer pay base computed under section 1406(d) or 1407.	Retainer pay multiplier prescribed under section 1409 for his years of active service in the armed forces.

"(b)(1) Retired pay or retainer pay computed under this section, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

"(2) References in the table in subsection (a) are to sections of this title.".

(b) CONFORMING AMENDMENTS.—

10 USC 6322.

(1) Section 6322 is amended by striking out subsection (c).

(2) Section 6323(e) is amended by striking out "retired pay—" and all that follows and inserting in lieu thereof "retired pay computed under section 6333 of this title.".

Ante, p. 695.

(3) Section 6325 is amended by striking out "retired pay—" in subsections (a)(2) and (b)(2) and all that follows in those subsections and inserting in lieu thereof "retired pay computed under section 6333 of this title.".

(4) Section 6326(c)(2) is amended by striking out "retired pay—" and all that follows and inserting in lieu thereof "retired pay computed under section 6333 of this title.".

(5) Section 6328 is repealed.

(6) Section 6330(c) is amended—

(A) by striking out "retainer pay—" in paragraph (1) and all that follows in that paragraph and inserting in lieu thereof "retainer pay computed under section 6333 of this title."; and

(B) by striking out paragraph (4).

(7) Section 6383 is amended—

(A) by striking out "retired pay—" in subsection (c)(2) and all that follows in that subsection and inserting in lieu thereof "retired pay computed under section 6333 of this title."; and

(B) by striking out subsection (k).

(c) MEMBERS ADVANCED ON RETIRED LIST.—Section 6151 (relating to higher retired grade and pay for members who serve satisfactorily under temporary appointments) is amended by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b) Each member (other than a former member of the Fleet Reserve or the Fleet Marine Corps Reserve) who is advanced on the retired list under this section is (unless otherwise entitled to higher retired pay) entitled to retired pay determined in accordance with the following table. References in the table are to sections of this title.

"Column 1 Take	Column 2 Multiply by
Retired pay base computed under section 1406(d) or 1407.	Retired pay multiplier prescribed under section 1409 for the years of service that may be credited to him under section 1405.

"(c) Each former member of the Fleet Reserve or the Fleet Marine Corps Reserve who is advanced on the retired list under this section is entitled to retired pay determined in accordance with the following table. References in the table are to sections of this title.

"Column 1 Take	Column 2 Multiply by
Retired pay base computed under section 1406(d) or 1407.	Retired pay multiplier prescribed under section 1409 for the number of years of service creditable for his retainer pay at the time of retirement.".

SEC. 204. MEMBERS OF THE AIR FORCE

(a) INITIAL COMPUTATION OF RETIRED PAY.—The text of section 8991 (relating to computation of retired pay) is amended to read as follows: 10 USC 8991.

"(a) COMPUTATION.—

"(1) IN GENERAL.—The monthly retired pay of a member entitled to such pay under this subtitle is computed according to the following table. For each case covered by a section of this title named in the column headed 'For sections', retired pay is computed by taking the steps prescribed opposite it in columns 1 and 2.

"Formula	For sections	Column 1 Take	Column 2 Multiply by
A	8911 8918 8920 8924	Retired pay base as computed under section 1406(e) or 1407.	The retired pay multiplier prescribed in section 1409 for the years of service credited to him under section 1405.
B	8914 8917	Retired pay base as computed under section 1406(e) or 1407.	The retired pay multiplier prescribed in section 1409 for the years of service credited to him under section 8925.

"(2) ADDITIONAL 10 PERCENT FOR CERTAIN ENLISTED MEMBERS CREDITED WITH EXTRAORDINARY HEROISM.—If a member who is retired under section 8914 of this title has been credited by the Secretary of the Air Force with extraordinary heroism in the line of duty, the member's retired pay shall be increased by 10 percent of the amount determined under paragraph (1) (but to not more than 75 percent of the retired pay base upon which the computation of such retired pay is based). The Secretary's determination as to extraordinary heroism is conclusive for all purposes.

"(b) GENERAL RULES.—

"(1) USE OF MOST FAVORABLE FORMULA.—If a person would otherwise be entitled to retired pay computed under more than one formula of the table in subsection (a) or the table in section 1401 of this title, he is entitled to be paid under the applicable formula that is most favorable to him.

Ante, p. 691.

"(2) ROUNDING TO NEXT LOWER DOLLAR.—The amount computed under subsection (a), if not a multiple of $1, shall be rounded to the next lower multiple of $1.

"(3) REFERENCES.—Section references in the table in subsection (a) are to sections of this title.".

(b) RECOMPUTATION FOR ENLISTED MEMBERS AND WARRANT OFFICERS ADVANCED ON THE RETIRED LIST.—The table in section 8992 (relating to recomputation of retired pay to reflect advancement on retired list) is amended to read as follows:

"Formula	Column 1 Take	Column 2 Multiply by
A	Retired pay base as computed under section 1406(e) or 1407 of this title.	The retired pay multiplier prescribed in section 1409 of this title for the number of years credited to him under section 8925 of this title.[1]
B	Retired pay base as computed under section 1406(e) or 1407 of this title.	The retired pay multiplier prescribed in section 1409 of this title for the number of years credited to him under section 1405 of this title.

[1] In determining retired pay multiplier, credit each full month of service that is in addition to the number of full years of service creditable to the member as 1/12 of a year and disregard any remaining fractional part of a month.".

(c) CONFORMING AMENDMENT.—Section 8925 is amended by adding at the end the following new subsection:

"(c) In determining a member's years of service under subsection (a) for the purpose of computing the member's retired pay under section 8991 of this title—

Ante, p. 697.

"(1) each full month of service that is in addition to the number of full years of service creditable to the member shall be credited as 1/12 of a year; and

"(2) any remaining fractional part of a year shall be disregarded.".

SEC. 205. MEMBERS OF THE COAST GUARD

(a) IN GENERAL.—Section 423 of title 14, United States Code (relating to the computation of retired pay), is amended to read as follows:

"§ 423. Computation of retired pay 14 USC 423.

"(a)(1) The retired pay of a member who first became a member of a uniformed service (as defined in section 101 of title 10) before September 8, 1980, is determined by multiplying—

"(A) the sum of—

"(i) the basic pay of the member's retired grade or rate, and

"(ii) all permanent additions thereto including longevity credit to which the member was entitled at the time of retirement; by

"(B) the retired pay multiplier determined under section 1409 of title 10 for the number of years of service that may be credited to the member under section 1405 of such title. *Ante*, p. 683. *Ante*, p. 691.

"(2) In the case of an officer who served as Commandant of the Coast Guard, retired pay under paragraph (1) shall be computed at the highest rate of basic pay applicable to the officer while so serving.

"(3) In the case of an enlisted member who served as the master chief petty officer of the Coast Guard, retired pay under paragraph (1) shall be computed at the highest rate of basic pay to which the member was entitled while so serving, if that basic pay is greater than the basic pay of the grade or rate to which the member is otherwise entitled at the time of retirement.

"(4) In the case of an officer whose retired pay is computed on the pay of a grade for which basic pay is not based upon years of service, retired pay under paragraph (1) shall be computed on the basis of the number of years of service for which the officer would be entitled to credit in the computation of pay on the active list had the officer been serving in the grade of captain at the time of retirement.

"(b) The retired pay of a member who first became a member of a uniformed service (as defined in section 101 of title 10) on or after September 8, 1980, is determined by multiplying—

"(1) the retired pay base determined under section 1407 of title 10; by *Ante*, p. 689.

"(2) the retired pay multiplier determined under section 1409 of title 10 for the number of years of service that may be credited to the member under section 1405 of such title.

"(c)(1) In computing for the purpose of subsection (a) or (b) the number of years of service that may be credited to a member under section 1405 of title 10—

"(A) each full month of service that is in addition to the number of full years of service creditable to the member shall be counted as 1/12 of a year; and

"(B) any remaining fractional part of a month shall be disregarded.

"(2) Retired pay computed under this section, if not a multiple of $1, shall be rounded to the next lower multiple of $1.".

(b) CONFORMING AMENDMENTS.—

(1) Section 46 of such title is amended by striking out "and retired pay computed at the highest rates of basic pay ap- 14 USC 46.

plicable to him while he served as Commandant" in subsections (a), (b), and (c).

14 USC 47.

(2) Section 47 of such title is amended—

(A) by striking out "and retired pay" in subsections (b) and (c); and

(B) by striking out "and with the retired pay of that grade" in subsection (d).

14 USC 51.

(3) Section 51 of such title is amended—

(A) by striking out "and retired pay" in subsections (a) and (b); and

(B) by striking out "and with the retired pay of that grade" in subsection (c).

Ante, p. 699.

(4) Section 288(b) of such title is amended by striking out "Except as provided in section 423(b) of this title, the retired pay" and inserting in lieu thereof "Retired pay computed under section 423(a) of this title".

(5) Sections 291, 292, and 293 of such title are amended by striking out ", with retired pay of the grade with which retired".

(6) Section 327(b)(1) of such title is amended by striking out ", and with the pay".

(7) Section 334 of such title is amended—

(A) by striking out ", with retired pay of the grade with which retired" in subsections (a) and (b); and

(B) by striking out the second sentence of subsection (b).

(8) Sections 353, 354, 355, and 362 of such title are amended by striking out ", with retired pay of the grade or rating with which retired".

(9) Section 357 is amended—

(A) by striking out "the retired pay of the grade or rating with which retired" in subsection (b) and inserting in lieu thereof "retired pay"; and

(B) by striking out "by an amount" and all that follows in subsection (c) and inserting in lieu thereof "by an amount equal to 10 percent of—

"(1) the active-duty pay and permanent additions thereto of the grade or rating with which retired, in the case of a member whose retired pay is computed under section 423(a) of this title; or

Ante, p. 689.
Ante, p. 699.

"(2) the member's retired pay base under section 1407 of title 10, in the case of a member whose retired pay is computed under section 423(b) of this title.".

(10) Sections 421 and 422 of such title are amended by striking out "rating" each place it appears and inserting in lieu thereof "rate".

(11) Section 424 of such title is amended to read as follows:

14 USC 424.

"§ 424. Limitations on retirement and retired pay

"(a) The provisions of any section of this title shall not be construed so as to prevent any member from being placed on the retired list with the highest grade or rate and the highest retired pay to which the member may be entitled under the provisions of any other section of this title or under any other law.

"(b) In no case may the retired pay of a member exceed 75 percent of (1) the sum of the active-duty pay and all permanent additions thereto (including longevity credit to which the member is entitled) of the grade or rate on which the member's pay is computed, or (2)

the retired pay base determined under section 1407 of title 10, as appropriate.". *Ante*, p. 689.

SEC. 206. COMMISSIONED OFFICERS OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Section 16 of the Coast and Geodetic Survey Commissioned Officers Act of 1948 (33 U.S.C. 853o) is amended to read as follows: 33 USC 853o.

"SEC. 16. (a) Each commissioned officer on the retired list who first became a member of a uniformed service (as defined in section 101 of title 10, United States Code) before September 8, 1980, shall receive retired pay at the rate determined by multiplying—

"(1) the retired pay base determined under section 1406(g) of title 10, United States Code; by *Ante*, p. 686.

"(2) 2½ percent of the number of years of service that may be credited to the officer under section 1405 of such title as if the officer's service were service as a member of the Armed Forces. *Ante*, p. 691.

The retired pay so computed may not exceed 75 percent of the retired pay base.

"(b) Each commissioned officer on the retired list who first became a member of a uniformed service (as defined in section 101 of title 10, United States Code) on or after September 8, 1980, shall receive retired pay at the rate determined by multiplying—

"(1) the retired pay base determined under section 1407 of title 10, United States Code; by

"(2) the retired pay multiplier determined under section 1409 of such title for the number of years of service that may be credited to the officer under section 1405 of such title as if the officer's service were service as a member of the Armed Forces. *Ante*, p. 683.

"(c)(1) In computing the number of years of service of an officer for the purposes of subsection (a)—

"(A) each full month of service that is in addition to the number of full years of service creditable to the officer shall be credited as 1/12 of a year; and

"(B) any remaining fractional part of a month shall be disregarded.

"(2) Retired pay computed under this section, if not a multiple of $1, shall be rounded to the next lower multiple of $1.".

SEC. 207. COMMISSIONED OFFICERS OF THE PUBLIC HEALTH SERVICE

(a) MANDATORY RETIREMENT.—Section 210(g)(3) of the Public Health Service Act (42 U.S.C. 211(g)(3)) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) in the case of an officer who first became a member of a uniformed service before September 8, 1980, at the rate of 2½ percent of the retired pay base determined under section 1406(h) of title 10, United States Code, for each year, not in excess of 30, of his active commissioned service in the Service; or

"(B) in the case of an officer who first became a member of a uniformed service on or after September 8, 1980, at the rate determined by multiplying—

"(i) the retired pay base determined under section 1407 of title 10, United States Code; by

"(ii) the retired pay multiplier determined under section 1409 of such title for the number of years of his active commissioned service in the Service.".

(b) VOLUNTARY RETIREMENT.—Paragraph (6) of section 211(a) of such Act (42 U.S.C. 212(a)) is amended to read as follows:

"(6) The retired pay of a commissioned officer retired under this subsection who first became a member of a uniformed service after September 7, 1980, is determined by multiplying—

"(A) the retired pay base determined under section 1407 of title 10, United States Code; by

Ante, p. 689.

"(B) the retired pay multiplier determined under section 1409 of such title for the number of years of service credited to the officer under paragraph (4).".

Ante, p. 683.

TITLE III—MISCELLANEOUS RETIREMENT PROVISIONS

SEC. 301. SURVIVOR BENEFIT PLAN ANNUITIES

(a) UNREDUCED RETIRED PAY AS BASIS FOR ANNUITY.—

10 USC 1447.

(1) Section 1447(2)(A) (relating to the definition of "base amount" for purposes of the Survivor Benefit Plan) is amended by inserting "(determined without regard to any reduction under section 1409(b)(2) of this title)" after "retired or retainer pay" the second place it appears.

(2) Section 1451 is amended by adding at the end the following new subsection:

"(h) Computation of a member's retired pay for purposes of this section shall be made without regard to any reduction under section 1409(b)(2) of this title.".

(3) Section 1452(c) is amended by adding at the end the following new sentence: "Computation of a member's retired pay for purposes of this subsection shall be made without regard to any reduction under section 1409(b)(2) of this title.".

(b) COST-OF-LIVING ADJUSTMENTS.—Section 1451(g)(1) is amended—

(1) by striking out "by the same total percent" in the first sentence; and

(2) by inserting after the first sentence the following new sentence: "The increase shall, in the case of any annuity, be by the same percent as the percent by which the retired pay of the person providing the annuity would have been increased at such time if the person were alive (and otherwise entitled to such pay).".

(c) RESTORAL OF COLA.—Section 1451 is amended by adding after subsection (h) (as added by subsection (a)(2)) the following new subsection:

"(i) In the case of an annuity under the Plan which is computed on the basis of the retired pay of a member or former member who would have been entitled to have that retired pay recomputed under section 1410 of this title upon attaining 62 years of age, but who died before attaining such age, such annuity shall be recomputed, effective on the first day of the first month beginning after the date on which the member or former member would have attained 62 years of age, on the basis of the amount of retired pay to which the member or former member would have been entitled upon recomputation of such pay effective on such date under section 1410 of this title, had the member or former member attained such age."

Ante, p. 685.

SEC. 302. REPORT ON RESERVE RETIREMENT SYSTEM

10 USC 1331 note.

10 USC 1331 *et seq.*

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to Congress a report on the retirement system provided under chapter 67 of title 10, United States Code, for members of the Armed

Forces performing non-regular-service. The Secretary shall include in the report any proposals of the Secretary for modifications to such system.

(b) DEADLINE FOR REPORT.—The report under subsection (a) shall be submitted not later than February 1, 1988.

SEC. 303. DEFINITION

Section 101 (relating to definitions for purposes of title 10) is amended by adding at the end the following new paragraph: 10 USC 101.

"(43) 'Uniformed services' means—

"(A) the armed forces;

"(B) the commissioned corps of the National Oceanic and Atmospheric Administration; and

"(C) the commissioned corps of the Public Health Service.".

SEC. 304. TECHNICAL AND CONFORMING AMENDMENTS

(a) UNIFORMED SERVICES DEFINITION.—

(1) Section 716 is amended by striking out subsection (c). 10 USC 716.

(2) Section 1040(c) is amended by striking out " 'Dependent' and 'uniformed services' in this section have the meanings of those terms as defined in" and inserting in lieu thereof "In this section, the term 'dependent' has the meaning given that term in".

(3) Section 1402 is amended by striking out "(as defined in section 1407(a)(2) of this title)" each place it appears. *Ante*, p. 694.

(4) Section 2830 is amended by striking out subsection (c).

(b) CLERICAL AMENDMENTS.—

(1) The table of sections at the beginning of chapter 67 is amended by adding at the end the following new item: 10 USC 1331.

"1338. Limitations on revocation of retired pay.".

(2) The table of sections at the beginning of chapter 71 is amended— 10 USC 1401.

(A) by striking out the item relating to section 1402 and inserting in lieu thereof the following:

"1402. Recomputation of retired or retainer pay to reflect later active duty of members who first became members before September 8, 1980.";

(B) by striking out the items relating to sections 1406 and 1407 and inserting in lieu thereof the following:

"1406. Retired pay base for members who first became members before September 8, 1980: final basic pay.

"1407. Retired pay base for members who first became members after September 7, 1980: high-36 month average.";

and

(C) by adding at the end the following new items:

"1409. Retired pay multiplier.

"1410. Restoral of full retirement amount at age 62 for members entering on or after August 1, 1986.

"1411. Rules of construction.

"1412. Rounding to next lower dollar.".

(3) The heading of section 1402 is amended to read as follows:

"§ 1402. Recomputation of retired or retainer pay to reflect later active duty of members who first became members before September 8, 1980".

10 USC 6321.

(3) The table of sections at the beginning of chapter 571 is amended—

(A) by striking out the item relating to section 6328; and

(B) by striking out the item relating to section 6333 and inserting in lieu thereof the following:

"6333. Computation of retired and retainer pay."

SEC. 305. CODIFICATION OF PERMANENT LIMITATIONS ON RETIRED AND RETAINER PAY PROVIDED IN APPROPRIATION ACTS

(a) LIMITATION ON CREDITING CERTAIN UNSERVED SERVICE IN ENTITLEMENT TO AND COMPUTATION OF RETAINER PAY.—

10 USC 6330.

(1) CODIFICATION.—Section 6330(d) is amended—

(A) by inserting "(1)" after "(d)";

(B) by striking out the second sentence; and

(C) by adding at the end the following:

"(2) In determining a member's eligibility for transfer to the Fleet Reserve or the Fleet Marine Corps Reserve under subsection (b)—

"(A) a completed minority enlistment of the member is counted as four years of active service, if creditable to the member for such purpose before December 31, 1977; and

"(B) an enlistment of the member terminated within three months before the end of the term of enlistment is counted as active service for the full term, if creditable to the member for such purpose before December 31, 1977.

"(3)(A) Subject to subparagraph (B), in determining a member's years of active service for the computation of retainer pay under subsection (c)—

"(i) a completed minority enlistment of the member is counted as four years of active service; and

"(ii) an enlistment of the member terminated within three months before the end of the term of enlistment is counted as active service for the full term.

"(B) In the case of a member who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under this section after December 30, 1977, service attributable under subparagraph (A) to time which, after December 31, 1977, is not actually served by the member may not be counted."

(2) REPEAL OF SOURCE LAW.—Section 8039 of the Department of Defense Appropriations Act, 1985 (as contained in section 101(h) of Public Law 98-473 (98 Stat. 1930)), is repealed.

10 USC 6330 note.

10 USC 1401 note.

(b) SIX-MONTH ROUNDING RULE.—

(1) GENERAL RULE.—Retired pay or retainer pay may not be paid to a covered member of the Armed Forces (as defined in paragraph (3)) for any month in an amount that is greater than the amount otherwise determined to be payable after such reductions as may be necessary to reflect adjusting the computation of retired pay or retainer pay that includes credit for a part of a year of service to permit credit for a part of a year of service only for such month or months actually served.

(2) EXCEPTIONS.—The limitation in paragraph (1) does not apply to a member who before January 1, 1982—

(A) applied for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve;

(B) was being processed for retirement under the provisions of chapter 61 of title 10, United States Code, or who was on the temporary disability retired list and thereafter retired under the provisions of section 1210(c) or 1210(d) of such title; or

10 USC 1201 *et seq.*

(C) was retired or in an inactive status and would have been eligible for retired pay under the provisions of chapter 67 of such title, but for the fact that the person was under 60 years of age.

10 USC 1331 *et seq.*

(3) DEFINITION OF COVERED MEMBER.—For the purposes of this subsection, the term "covered member of the Armed Forces" means a member of the Armed Forces who became entitled to retired or retainer pay during the period beginning on January 1, 1982, and ending on September 30, 1983.

(4) REPEAL OF SOURCE LAW.—Section 8054 of the Department of Defense Appropriations Act, 1985 (as contained in section 101(h) of Public Law 98-473), is repealed.

10 USC 1401 note.

(5) CROSS REFERENCE.—For the effective date of October 1, 1983, for provisions making permanent programmatic changes in law to accomplish the policy provided in such section 8054 (and prior provisions of law), see section 923(h) of the Department of Defense Authorization Act, 1984 (Public Law 98-94).

97 Stat. 642.

SEC. 306. REPEAL OF LIMITATION ON PAYMENTS TO ACCRUAL FUND FOR FISCAL YEAR 1986

Section 666 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 659), is repealed.

TITLE IV—FISCAL YEAR 1986 UNAUTHORIZED APPROPRIATIONS

SEC. 401. AUTHORITY FOR OBLIGATION OF CERTAIN UNAUTHORIZED FISCAL YEAR 1986 DEFENSE APPROPRIATIONS

(a) AUTHORITY.—The amounts described in subsection (b), totaling $5,446,930,000, may be obligated and expended for programs, projects, and activities of the Department of Defense in accordance with fiscal year 1986 defense appropriations except as otherwise provided in section 402 (and except as such amounts may have been reduced by the order of the President issued for fiscal year 1986 under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985).

Post, p. 706.

2 USC 902.

(b) COVERED AMOUNTS.—The amounts referred to in subsection (a) are the amounts provided for programs, projects, and activities of the Department of Defense in fiscal year 1986 defense appropriations that are in excess of the amounts provided for such programs, projects, and activities in fiscal year 1986 defense authorizations.

(c) DEFINITIONS.—For the purposes of this title:

(1) FISCAL YEAR 1986 DEFENSE APPROPRIATIONS.—The term "fiscal year 1986 defense appropriations" means amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1986 in the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190).

99 Stat. 1185.

(2) FISCAL YEAR 1986 DEFENSE AUTHORIZATIONS.—The term "fiscal year 1986 defense authorizations" means amounts authorized to be appropriated for the Department of Defense for

fiscal year 1986 in the Department of Defense Authorization Act, 1986 (Public Law 99-145).

99 Stat. 583.

(d) INTERPRETATION OF SECTION.—The authority provided by subsection (a) shall be considered to be the authorization required by section 8109 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190; 99 Stat. 1222).

SEC. 402. LIMITATION ON OBLIGATION FOR CERTAIN UNAUTHORIZED APPROPRIATIONS

(a) PROGRAMS NOT AVAILABLE FOR OBLIGATION.—Amounts described in section 401(b) may not be obligated or expended for the following programs, projects, and activities of the Department of Defense (for which amounts were provided in fiscal year 1986 defense appropriations):

Ante, p. 705.

(1) Refueling tanker modification under Procurement for the Navy in the amount of $110,000,000.

(2) Research, development, test, and evaluation for the Air Force—

(A) for the Space Defense System in the amount of $15,066,000; and

(B) for the MEECN communications upgrade program in the amount of $15,000,000.

(3) Operation and maintenance for audit/inventory report reductions not taken in fiscal year 1986 defense appropriations in the total amount of $29,000,000.

(b) LIMITATION ON CERTAIN PROGRAMS.—

(1) 120-MILLIMETER MORTAR.—Of the funds appropriated in the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190), for procurement of the 120-millimeter mortar, obligations and expenditures may be incurred only in accordance with the requirements set forth in section 8095 of such Act and in the joint explanatory statement of the committee of conference on the bill S. 1160 (99th Congress), printed in House Report 99-235.

99 Stat. 1185.

99 Stat. 1219.

99 Stat. 583.

(2) M72E4 LIGHT ANTIARMOR WEAPON.—Using funds appropriated in such Act, the Secretary of the Army shall—

(A) complete development and operational testing of the M72E4 light antiarmor weapon;

(B) type classify the weapon; and

(C) acquire a technical data package.

(3) PRIOR REPORTS TO CONGRESS.—Amounts authorized in section 401(a) for procurement of follow-on air defense equipment for the Army and amounts authorized for research, development, test, and evaluation for the Army for DIVAD alternatives may not be obligated or expended until the Secretary of Defense submits to the appropriate committees of Congress a report setting forth in detail the manner in which funds are proposed to be obligated or expended for such purpose.

(d) PROGRAM LIMITATIONS.—All limitations and requirements set forth in the Department of Defense Authorization Act, 1986, shall apply to the obligation of funds authorized by section 401(a) in the same manner as if the funds made available for obligation by such section had been authorized in such Act.

(e) TRANSFER AUTHORITY.—For the purposes of section 1401 the Department of Defense Authorization Act, 1986 (99 Stat. 742), authorizations in section 401(a) shall be deemed to have been made available to the Department of Defense in such Act.

SEC. 403. AUTHORIZED MILITARY CONSTRUCTION PROJECT

(a) AUTHORIZED PROJECT.—

(1) AUTHORIZATION.—The Secretary of the Navy may carry out the military construction project described in paragraph (2), funds for such project having been appropriated in the Military Construction Appropriations Act, 1986 (Public Law 99-173; 99 Stat. 1024).

(2) PROJECT DESCRIPTION.—The project referred to in paragraph (1) is a project for the construction of a berthing pier and bulkhead at the Naval Station, Staten Island, New York. The amount authorized for the project is $39,700,000. New York.

(b) CONSTRUCTION WITH PUBLIC LAW 99-167.— 99 Stat. 961.

(1) PROJECT AUTHORIZATIONS.—The project authorization in subsection (a) shall be deemed to have been included in section 201(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167; 99 Stat. 966).

(2) APPROPRIATION AUTHORIZATION TOTALS.—The total amount authorized to be appropriated for the Department of the Navy set forth in section 602(a) of such Act (99 Stat. 980), and the amount authorized for military construction projects inside the United States set forth in paragraph (1) of that section, shall be deemed to be increased by the amount specified in subsection (a)(2).

(3) LIMITATION RELATING TO FUNDS FOR NAVAL STRATEGIC HOMEPORTING.—For the purposes of section 205 of such Act (99 Stat. 971), amounts available for the project authorized in subsection (a) shall be deemed to be funds appropriated pursuant to an authorization in section 602 of such Act for Naval Strategic Homeporting.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. UNDER SECRETARY OF DEFENSE FOR ACQUISITION

(a) CREATION OF POSITION.—Chapter 4 of title 10, United States Code, is amended by inserting after section 134 the following new section:

"§ 134a. Under Secretary of Defense for Acquisition: appointment 10 USC 134a.

"(a) There is an Under Secretary for Acquisition, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Under Secretary shall perform such duties and exercise such powers as the Secretary of Defense may prescribe, except as otherwise provided by law."

(b) REDESIGNATION OF DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING.—(1) Subsection (a) of section 135 of such title is amended by striking out the first two sentences and inserting in lieu thereof the following: "There is an Under Secretary of Defense for Policy and a Director of Defense Research and Engineering. They shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.".

(2) The second sentences of subsections (b) and (c) of such section are amended by striking out "Under Secretary of Defense for Research and Engineering" and inserting in lieu thereof "Director of Defense Research and Engineering".

10 USC 135 note.

(3) The redesignation by paragraph (1) of the position of Under Secretary of Defense for Research and Engineering as Director of Defense Research and Engineering does not affect the appointment to such position of the individual holding such position on the date of the enactment of this Act.

(c) CONFORMING AMENDMENT.—Section 136a(d) of such title is amended by striking out "Under Secretary of Defense for Research and Engineering" and inserting in lieu thereof "Director of Defense Research and Engineering".

(d) EXECUTIVE SCHEDULE POSITIONS.—(1) Section 5313 of title 5, United States Code, is amended by adding at the end the following:

"Under Secretary of Defense for Acquisition.".

(2) Section 5314 of such title is amended—

(A) by striking out "Under Secretaries of Defense (2)" and inserting in lieu thereof "Under Secretary of Defense for Policy"; and

(B) by adding at the end the following:

"Director of Defense Research and Engineering.".

(e) CLERICAL AMENDMENTS.—(1) The heading of section 135 of title 10, United States Code, is amended to read as follows:

10 USC 135.

"§ 135. Under Secretary of Defense for Policy; Director of Defense Research and Engineering: appointments; powers and duties; precedence".

10 USC 131.

(2) The table of sections at the beginning of chapter 4 of such title is amended by striking out the item relating to section 135 and inserting in lieu thereof the following:

"134a. Under Secretary of Defense for Acquistion: appointment.
"135. Under Secretary of Defense for Policy; Director of Defense Research and Engineering: appointments; powers and duties; precedence.".

SEC. 502. LIMITATION ON EXPENDITURE OF FUNDS TO PROCURE T-46 TRAINER AIRCRAFT

None of the funds appropriated to the Department of Defense for fiscal year 1986 may be obligated or expended for procurement of T-46 trainer aircraft until—

(1) a fiscal year 1987 Defense Authorization Act is enacted which authorizes appropriations for procurement of the T-46 aircraft; or

(2) October 1, 1986, if a fiscal year 1987 Defense Authorization Act is not enacted by such date.

SEC. 503. POSTPONEMENT OF A CERTAIN DEPARTMENT OF DEFENSE CONTRACT

Weapons.
Foreign interest.

(a) POSTPONEMENT UNTIL POLICY ESTABLISHED BY LAW.—The Secretary of Defense may not award a contract with respect to Defense Construction Supply Center Solicitation numbered DLA700-85-B-4-4607 (for the purchase of 178 crawler tractors) until Congress by law establishes a policy concerning the award of defense contracts to firms in which a foreign government (or a wholly owned instrumentality of a foreign government) has a significant interest.

(b) EXCEPTIONS AT END OF 99TH CONGRESS.—Notwithstanding subsection (a), if Congress as of the date of the sine die adjournment of the 99th Congress—

(1) has not completed action on legislation establishing a policy described in subsection (a), such a contract may be awarded after the date of such sine die adjournment; or

(2) has completed action on legislation establishing such a policy and the President has not yet approved or disapproved such legislation, such a contract may be awarded after the date the President approves or declines to approve such legislation.

Approved July 1, 1986.

LEGISLATIVE HISTORY—H.R. 4420 (S. 2395):

HOUSE REPORTS: No. 99-513 (Comm. on Armed Services) and No. 99-659 (Comm. of Conference).
SENATE REPORTS: No. 99-292 accompanying S. 2395 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 22, considered and passed House.
May 14, 15, considered and passed Senate, amended, in lieu of S. 2395.
June 25, Senate agreed to conference report.
June 26, House agreed to conference report.

○

URGENT SUPPLEMENTAL APPROPRIATIONS ACT, 1986

Public Law 99-349
99th Congress

An Act

July 2, 1986
[H.R. 4515]

Making urgent supplemental appropriations for the fiscal year ending September 30, 1986, and for other purposes.

Urgent Supplemental Appropriations Act, 1986.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1986, and for other purposes, namely:

TITLE I

GENERAL SUPPLEMENTALS

CHAPTER I

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount, for emergency measures under title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201-2205), $36,700,000, to remain available until expended.

Agricultural Stabilization and Conservation Service

EMERGENCY CONSERVATION PROGRAM

For an additional amount, for necessary expenses to carry out the program authorized under title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201-2205), $5,000,000, to remain available until expended.

Food Safety and Inspection Service

For an additional amount, for "Food Safety and Inspection Service", to protect public health and safety in meat and poultry inspection operations and to meet workload increases resulting from the opening of new or expansion of existing processing plants, $3,700,000.

Packers and Stockyards Administration

7 USC 181.

For necessary expenses for the administration of the Packers and Stockyards Act, and for certifying procedures used to protect purchasers of farm products, as authorized by law, $80,000.

DAIRY INDEMNITY PROGRAM

7 USC 450j-450*l*.

For an additional amount, for "Dairy Indemnity Program", authorized by the Act of August 13, 1968 (82 Stat. 750), the Act of

August 10, 1973 (87 Stat. 223), and the Act of December 23, 1985 (99 Stat. 1377), $9,000,000, to remain available until expended: *Provided,* That not to exceed a total of $1,000,000 of this amount may be transferred to the Animal and Plant Health Inspection Service and the Food Safety and Inspection Service for contamination testing: *Provided further,* That the remaining $8,000,000 shall be transferred to the Commodity Credit Corporation: *Provided further,* That the Secretary is authorized to utilize the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of making dairy indemnity disbursements. 7 USC 450j, 450*l*.

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND

During fiscal year 1986, and within the resources and authority available, obligations for direct loans and related advances pursuant to section 504 of the Housing Act of 1949, as amended, shall not exceed $11,335,000. 42 USC 1474.

SELF-HELP HOUSING LAND DEVELOPMENT FUND

For loans for acquisition and development of building sites for mutual and self-help housing, $1,000,000.

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves the proposed deferral D86-60, relating to the Department of Agriculture, Farmers Home Administration, Rural Housing Insurance Fund, as set forth in the message of March 12, 1986, which was transmitted to the Congress by the President. The disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation. Congress. President of U.S.

VERY LOW-INCOME HOUSING REPAIR GRANTS

For an additional amount for grants to the very low-income elderly for essential repairs to dwellings pursuant to section 504 of the Housing Act of 1949, as amended, $2,000,000. 42 USC 1474.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $71,598,000, to be derived by transfer from the Commodity Credit Corporation.

FOOD AND NUTRITION SERVICE

FEEDING PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC)

For an additional amount, for the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $20,000,000, to be distributed to the States under the existing fiscal year 1986 growth formula.

COMMODITY SUPPLEMENTAL FOOD PROGRAM

(TRANSFER OF FUNDS)

The Secretary shall return to the Commodity Supplemental Food Program from the Commodity Credit Corporation, $3,950,000, which had been transferred to the Corporation from the Program.

TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM

State and local governments.

For an additional amount for State and local payments for costs associated with the distribution of commodities by emergency feeding organizations under the temporary emergency food assistance program in accordance with section 204(c) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note), $2,437,000.

COMMODITY CREDIT CORPORATION

REIMBURSEMENT FOR NET REALIZED LOSSES

For the operations of the Commodity Credit Corporation, not to exceed $5,300,000,000 for capital restoration, to enable the Corporation to use the authority authorized by the Charter of the Corporation and other laws to carry out programs handled by the Corporation.

CITRUS CANKER

(TRANSFERS OF FUNDS)

Commerce and trade.

SEC. 1. In order to prevent extensive damage to the Nation's citrus industry and prevent a disruption of national and international commerce in citrus fruits, the Secretary of Agriculture shall use his authority under existing law to transfer not to exceed $11,100,000 from the Commodity Credit Corporation to the Animal and Plant Health Inspection Service to honor a commitment through a cost-sharing program between the Department of Agriculture and the State of Florida, to (1) compensate for infected nursery stock destroyed in fighting the outbreak of citrus canker—a bacterial disease which causes extensive damage to citrus fruits—found in Florida, in 1984, and (2) to cover current and continuing operating expenses of a citrus canker eradication and control program.

Any funds previously transferred to the citrus canker program, from accounts other than the Commodity Credit Corporation, shall be immediately returned to the account from which transferred.

COOPERATIVE STATE RESEARCH SERVICE

(TRANSFER OF FUNDS)

The Secretary of Agriculture shall transfer $5,000,000 from the Commodity Credit Corporation to the Cooperative State Research Service to meet the matching funds requirement for development of an international trade center at Oklahoma State University.

AVIAN INFLUENZA

(TRANSFER OF FUNDS)

SEC. 2. In order to prevent widespread damage to the Nation's poultry industry, the Secretary shall use not to exceed $5,000,000 from the Commodity Credit Corporation to control and eradicate avian influenza.

DEFICIENCY PAYMENTS

(a) Effective only for the 1986 crop of wheat, feed grains, upland cotton, and rice, notwithstanding any other provision of law, the Secretary of Agriculture shall make deficiency payments to producers on a farm under section 107D(c)(1), 105C(c)(1), 103A(c)(1), or 101A(c)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1), 1444e(c)(1), 1444-1(c)(1), or 1441-1(c)(1)), as the case may be, if the Secretary determines that— 7 USC 1441-1 note. *Ante*, pp. 46-48.

(1) the producers on a farm are prevented from planting any portion of the acreage intended for a commodity to the commodity or other nonconserving crops because of flood, heavy rains, excessive moisture, or drought; and

(2) the farm is located in an area that the Secretary determines has been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Disaster Relief Act of 1974 (42 U.S.C. 5121 et seq.).

(b) The amount of deficiency payments under subsection (a) shall be computed by multiplying—

(1) 40 percent of the projected payment rate; by

(2) the number of acres so affected but not to exceed the acreage planted to the commodity for harvest (including any acreage that the producers were prevented from planting to the commodity or other nonconserving crops in lieu of the commodity because of flood, heavy rains, excessive moisture, or drought) in the immediately preceding year; by

(3) the farm program payment yield established for the crop for the farm.

(c) Such sums shall be deducted from crop insurance indemnity payments due as a result of such disaster.

PREPAYMENT OF LOANS BY RURAL ELECTRIFICATION AND TELEPHONE SYSTEMS

In the case of a borrower of a loan made by the Federal Financing Bank, and guaranteed by the Administrator of the Rural Electrification Administration, under section 306 of the Rural Electrification Act of 1936 (7 U.S.C. 936) that is outstanding on the date of enactment of this Act, the borrower may prepay the loan by payment of the outstanding principal balance due on the loan using private capital with the existing loan guarantee. No sums in addition to payment of such balance shall be charged as the result of such prepayment against the borrower, the Rural Electrification and Telephone Revolving Fund established under section 301 of such Act (7 U.S.C. 931), or the Rural Electrification Administration. To qualify for prepayment, a borrower shall certify that such prepayment will result in substantial savings to its customers or lessen the threat of bankruptcy of the borrower unless in such individual case, 7 USC 936 note.

Regulations.

in the opinion of the Secretary of the Treasury, to prepay would adversely affect the operation of the Federal Financing Bank: *Provided*, That any regulations under this provision shall be issued and become effective within 30 days of enactment of this Act.

EXCLUSION OF PERMAFROST SOILS FROM DEFINITION OF "WETLAND"

Alaska.
16 USC 3801.

Section 1201(a)(16) of Public Law 99-198 (99 Stat. 1505) is amended by inserting at the end thereof the following: "For purposes of this Act, and any other Act, this term shall not include lands in Alaska identified as having high potential for agricultural development which have a predominance of permafrost soils.".

ELDERLY FEEDING PROGRAM

For an additional amount for reimbursement at a level of 56.76 cents per meal during fiscal years 1985 and 1986, determined under section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030a(a)(4)), for meals served under section 311 of such Act in such fiscal years, $8,500,000, to remain available until expended.

Ante, p. 78.

CHAPTER II

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

(INCLUDING DISAPPROVAL OF DEFERRAL)

Congress.
President of U.S.

The Congress disapproves the proposed deferral D86-36 in the amount of $40,000,000 for Economic Development Assistance Programs, as set forth in the message of February 5, 1986, which was transmitted to the Congress by the President. This disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation.

99 Stat. 1136.
99 Stat. 1316.

Of the total amount appropriated and available under this head in Public Law 99-180, $790,000 shall be obligated to supplement funds allocated pursuant to section 108(a)(2) of Public Law 99-190.

Of the total amount appropriated and available under this head in Public Law 99-180, $791,000 shall be obligated to supplement funds allocated pursuant to section 108(a)(5) of Public Law 99-190.

42 USC 3121 note.

Upon the request of the Pike Place Market Preservation and Development Authority, Seattle, Washington, the Secretary of Commerce shall authorize the sale or lease to any person of the Fairley Group Building (project numbers 07-01-01890, as modified by 07-01-01890.01, and 07-11-02606) located in the Pike Place Market, King County, Washington, without affecting the Federal assistance provided under the Public Works and Economic Development Act of 1965, if the transfer documents provide for the continued use of the Fairley Group Building as a public market during the expected useful life of the building: *Provided*, That the provisions of 13 CFR 314.4 and OMB Circular A-102 Attachment N are hereby waived so long as the Fairley Group Building remains in the control of the public authority and is used as a public market during the expected useful life of the building.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities" to maintain public warning and forecast services and aircraft services, $10,822,000, to remain available until expended.

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For an additional amount for "Salaries and expenses, United States Marshals Service", $2,600,000.

SUPPORT OF UNITED STATES PRISONERS

For an additional amount for support of United States prisoners in non-Federal institutions, $3,000,000.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

(INCLUDING RESCISSION)

For an additional amount for "Salaries and expenses" for the relocation within the District of Columbia of the Washington field office, $10,000,000, to remain available until expended.

Of available funds provided under this head in Public Law 98-166 and Public Law 99-88 for the relocation within the District of Columbia of the Washington field office, $10,000,000 are rescinded. 38 USC 101 note. 99 Stat. 293.

The limitation in Public Law 99-180 on the receipts credited to this appropriation from fees collected to process fingerprint identification records for noncriminal employment and licensing purposes is increased by $1,000,000. 99 Stat. 1136.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $3,000,000.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $18,000,000.

ADMINISTRATIVE PROVISIONS

Of the funds appropriated to the Department of Justice in Public Law 99-180, not to exceed $150,000 from "Fees and Expenses of Witnesses", not to exceed $150,000 from "Salaries and Expenses, Antitrust Division", not to exceed $100,000 from Emergency Assistance in "Office of Justice Programs, Justice Assistance", and not to exceed $100,000 from the Public Safety Officers' Benefits Program

in "Office of Justice Programs, Justice Assistance", may be transferred to "Salaries and Expenses, General Legal Activities" to pay expenses related to the activities of any Independent Counsel appointed pursuant to 28 U.S.C. 591, et seq.

NATIONAL ASSISTANCE PLAN TO HALT ROCK AND CRACK COCAINE TRAFFICKING

The Attorney General as Chairman of the National Drug Enforcement Policy Board is directed to convene the Board to address on an emergency basis the crisis phenomenon that cocaine freebase, "rock" and "crack" cocaine, have caused in communities throughout the Nation.

Reports.

Within 60 days of enactment, the Board is directed to report to the Congress and to develop and implement a national plan of assistance to State and local governments to halt trafficking in rock and crack cocaine; to promote effective law enforcement efforts to identify, investigate, prosecute and incarcerate perpetrators engaged in enterprises involving rock and crack cocaine; and, to foster public understanding of the dangerous effects of this substance on public health and safety.

This plan of assistance shall concentrate on methods of using existing laws in such areas as conspiracy, aiding and abetting, forfeiture, possession and trafficking to address this drug with its special potency and distribution characteristics, including the use of rock or freebase houses where the cocaine freebase is processed, distributed, and smoked. The Board's plan should also address those areas where existing law should be amended to strengthen enforcement and prosecution against rock and crack cocaine.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

22 USC 2680.

Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, for an additional amount for "Salaries and expenses", $283,104,000, to remain available until expended: *Provided*, That $222,104,000 of this amount shall become available for obligation on September 30, 1986.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, for an additional amount for "Acquisition and Maintenance of Buildings Abroad", to be available subject to the approval of the House and Senate Committees on Appropriations under said Committees' policies concerning the reprogramming of funds contained in Public Law 99-180, $409,000,000, to remain available until expended: *Provided*, That such funds shall become available for obligation on September 30, 1986.

99 Stat. 1136.

COUNTERTERRORISM RESEARCH AND DEVELOPMENT

22 USC 2680.

Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, for necessary expenses for "Counter-

terrorism Research and Development", $10,000,000 to remain available until September 30, 1987.

OTHER

THE ASIA FOUNDATION

Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, for an additional amount for "The Asia Foundation", $2,000,000, to remain available until expended. 22 USC 2680.

GENERAL PROVISION—DIPLOMATIC SECURITY PROGRAM

The funds made available by this chapter to the Department of State under the headings "Salaries and Expenses", "Acquisition and Maintenance of Buildings Abroad", and "Counterterrorism Research and Development" shall not be used for any purpose inconsistent with or contrary to authorizing legislation for the Diplomatic Security Program as enacted into law.

THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

CARE OF THE BUILDING AND GROUNDS

For an additional amount for "Care of the Building and Grounds", $46,000.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES OF SUPPORTING PERSONNEL

For an additional amount for "Salaries of Supporting Personnel", $1,200,000.

FEES OF JURORS AND COMMISSIONERS

For an additional amount for "Fees of Jurors and Commissioners", $3,800,000, to remain available until expended.

STUDY OF CONSTRUCTION OF OFFICE BUILDING

For an amount to enable the Architect of the Capitol and the Secretary of Transportation, in consultation with the Chief Justice of the United States, to study alternatives for the construction of a building or buildings to meet the current and future needs of the Judicial Branch and such other commercial, governmental, cultural, educational, and recreational activities which may appropriately be located in such building or buildings, $1,300,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Of the funds made available in title IV of Public Law 99-180, not to exceed $8,000,000 from "Expenses of Operation and Maintenance of the Courts" may be transferred to "Salaries of Supporting Personnel" and not to exceed $500,000 from "Expenses of Operation and Maintenance of the Courts" and not to exceed $2,500,000 from "Salaries of Judges" may be transferred to "Space and Facilities". 99 Stat. 1153.

28 USC 152 note.

Notwithstanding the provisions of section 106(b)(1) of the Bankruptcy Amendments and Federal Judgeship Act of 1984, a bankruptcy judge serving on a part-time basis on the date of enactment of this Act may continue to serve as a part-time judge for such district until December 31, 1986, or until such time as a full-time bankruptcy judge for such district is appointed, whichever is earlier: *Provided,* That these provisions shall apply only to part-time bankruptcy judges serving in the district of Oregon, the western district of Michigan, and the eastern district of Oklahoma.

Oregon.
Michigan.
Oklahoma.

RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATIONS AND TRAINING

(DISAPPROVAL OF DEFERRAL)

Congress.
President of U.S.

The Congress disapproves the proposed deferral D86-53 for Operations and Training, as set forth in the message of February 5, 1986, as revised by D86-53A as set forth in the message of March 20, 1986, which was transmitted to the Congress by the President. This disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation.

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For an additional amount for "Grants and Expenses", $18,800,000, to remain available until expended: *Provided,* That notwithstanding the proviso under this head in Public Law 99-88, and notwithstanding section 8(b) of the Board for International Broadcasting Act of 1973, as amended, the amounts placed in reserve, or which would have been placed in reserve, in fiscal year 1985 pursuant to that section shall be available to the Board for grants to Radio Free Europe/Radio Liberty.

99 Stat. 293.

22 USC 2877.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and Expenses" for disaster loan making activities, including loan servicing, $2,000,000 to be derived by transfer from unobligated balances in the Small Business Administration, "Disaster Loan Fund".

ADMINISTRATIVE PROVISION

Disaster assistance.
Ante, p. 366.

Section 18006(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking out "declared before October 1, 1985" and inserting in lieu thereof "which occurred prior to October 1, 1985, and with respect to which a disaster declaration application was submitted prior to October 1, 1985".

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and Expenses", $3,900,000, to be derived by transfer from "Acquisition and Construction of Radio Facilities", to remain available until expended.

The limitation in Public Law 99-180 on the receipts credited to this appropriation from fees or other payments received from or in connection with English-teaching programs is increased by $175,000. 99 Stat. 1136.

CHAPTER III

DEPARTMENT OF DEFENSE—MILITARY

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, MARINE CORPS

The limitation for real property maintenance contained under the head "Operation and Maintenance, Marine Corps" in the Department of Defense Appropriations Act, 1986, Public Law 99-190, 99 Stat. 1189, is amended by striking "$238,000,000" and inserting in lieu thereof "$223,200,000". Real property.

TENTH INTERNATIONAL PAN AMERICAN GAMES

(INCLUDING RESCISSION)

For an additional amount for "Tenth International Pan American Games", $8,000,000, to remain available for obligation until September 30, 1987.

Of available funds provided under this head in the Department of Defense Appropriations Act, 1986, Public Law 99-190, 99 Stat. 1192, $8,000,000 are rescinded.

PROCUREMENT

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

(RESCISSION)

Of the funds made available under this head in Public Law 98-212, $34,400,000 are rescinded. 97 Stat. 1421.

SHIPBUILDING AND CONVERSION, NAVY

(RESCISSION)

Of the funds made available under this head in Public Law 98-212, $40,100,000 are rescinded.

COASTAL DEFENSE AUGMENTATION

(TRANSFER OF FUNDS)

Of the amounts available to the Department of Defense for "Coastal Defense Augmentation", $21,250,000 shall be transferred to Coast Guard "Acquisition, construction and improvements".

AIRCRAFT PROCUREMENT, AIR FORCE

The last proviso under the head "Aircraft Procurement, Air Force", in the fiscal year 1986 Department of Defense Appropriations Act, Public Law 99-190, is amended by striking "July 1, 1986" and inserting in lieu thereof "November 1, 1986".

MISSILE PROCUREMENT, AIR FORCE

(TRANSFER OF FUNDS)

For an additional amount for "Missile Procurement, Air Force", $16,000,000, to be derived by transfer from "Aircraft Procurement, Navy, 1986/1988", to remain available for obligation until September 30, 1988, and in addition $329,400,000 shall be derived by transfer as provided for by section 8103 of Public Law 99-190 as amended in this Act.

Post, p. 721.

OTHER PROCUREMENT, AIR FORCE

(RESCISSION)

Of the funds made available under this head in Public Law 98-473, $40,000,000 are rescinded.

98 Stat. 1837.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

(TRANSFER OF FUNDS)

For an additional amount for "Research, Development, Test and Evaluation, Air Force", $84,386,000, to be derived by transfer from "Aircraft Procurement, Navy, 1986/1988", to remain available for obligation until September 30, 1987, and in addition $232,500,000 shall be derived by transfer as provided for by section 8103 of Public Law 99-190 as amended in this Act.

REVOLVING AND MANAGEMENT FUNDS

ADP EQUIPMENT MANAGEMENT FUND

(INCLUDING RESCISSION)

For an additional amount for "ADP Equipment Management Fund", $100,000,000, to remain available for obligation until expended.

Of available funds provided under this head in the Department of Defense Appropriations Act, 1986, Public Law 99-190, 99 Stat. 1202, $100,000,000 are rescinded.

ADMINISTRATIVE PROVISIONS

SEC. 1. Section 8051 of the Department of Defense Appropriations Act, 1986, Public Law 99-190, 99 Stat. 1211, is amended by striking out "Army, Navy, and Air Force" and by striking out the proviso and inserting in lieu thereof: "*Provided,* That such transfers shall not exceed $678,700,000 for Operation and Maintenance, Army; $1,301,600,000 for Operation and Maintenance, Navy; $30,100,000 for Operation and Maintenance, Marine Corps; $608,700,000 for Operation and Maintenance, Air Force; $24,300,000 for Operation and Maintenance, Defense Agencies; $19,300,000 for Operation and Maintenance, Army Reserve; $47,600,000 for Operation and Maintenance, Navy Reserve; $4,200,000 for Operation and Maintenance, Marine Corps Reserve; $14,400,000 for Operation and Maintenance, Air Force Reserve; $42,100,000 for Operation and Maintenance, Army National Guard; and $35,400,000 for Operation and Maintenance, Air National Guard".

SEC. 2. Section 8037 of the Department of Defense Appropriations Act, 1986, Public Law 99-190, is amended by adding "Titan 34D7 Complementary Expendable Launch Vehicles" at the end thereof. 99 Stat. 1209.

SEC. 3. Section 8103 of the fiscal year 1986 Department of Defense Appropriations Act, Public Law 99-190, is amended as follows: in subsection (b) insert "the Department of Defense Space Recovery Program, the Civilian Health and Medical Program of the Uniformed Services," directly following "and the Coastal Defense Augmentation account,"; and insert a new provision at the end of subsection (b) before the period, as follows: ": *Provided further,* That $260,000,000 for the Civilian Health and Medical Program of the Uniformed Services shall be available without notification procedures otherwise required by this subsection". 99 Stat. 1220.

SEC. 4. Of the amounts available to the Department of Defense, not to exceed $5,000,000 shall be available for such claims arising from property losses caused by the explosion of Army munitions near Checotah, Oklahoma, on August 4, 1985, and claims determined by the Department to be bona fide shall be paid from the funds made available by this section. Claims. Oklahoma.

SEC. 5. Of the appropriations available to the Department of the Army during the current fiscal year, $3,000,000, in addition to the appropriation "National Board for the Promotion of Rifle Practice, Army", may be used to conduct the 1986 National Matches at Camp Perry, Ohio, and such ammunition as may be necessary shall be made available for the matches. Ohio.

CHAPTER III A

AUTHORIZATION OF CERTAIN UNAUTHORIZED APPROPRIATIONS

SEC. 1. AUTHORIZATION OF CERTAIN UNAUTHORIZED FISCAL YEAR 1986 APPROPRIATIONS.

Notwithstanding section 8109 of the Department of Defense Appropriations Act, 1986 (Public Law 99-190) and except as otherwise provided in this chapter, funds appropriated or otherwise made available to or for the use of the Department of Defense by the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190), and which were not otherwise authorized by law, are authorized to be obligated and expended as provided in such Act. 99 Stat. 1222. 99 Stat. 1185.

SEC. 2. UNAUTHORIZED APPROPRIATIONS.

99 Stat. 1185.

The following programs and amounts provided in the Department of Defense Appropriations Act, 1986 (Public Law 99-190) are not authorized to be obligated or expended:

RESEARCH AND DEVELOPMENT

Air Force Space Defense System, $15,066,000.
Air Force MEECN communications upgrade, $15,000,000.

OPERATION AND MAINTENANCE

Audit/inventory report reductions not taken in the appropriations Act, $29,000,000.

SEC. 3. PROHIBITION AND LIMITATION ON OBLIGATION OF FUNDS FOR CERTAIN PURPOSES.

Vessels.
99 Stat. 1185.

MARINER FUND.—Of the funds appropriated or made available by the Department of Defense Appropriations Act, 1986, none shall be available for construction of commercial type vessels, with or without military specifications, for lease to private shipping concerns under the Mariner Fund or any other program.

SEC. 4. AUTHORIZATION FOR OBLIGATION OF CERTAIN UNOBLIGATED FUNDS.

99 Stat. 1185.

Of the funds appropriated by the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190), but which may not be obligated or expended for the purposes for which appropriated by virture of section 3 of this chapter, and of the funds made available for obligation and expenditure from prior year unobligated balances by section 8103 of the Department of Defense Appropriations Act, 1986, the following amounts are authorized to be obligated and expended for the stated purposes and are subject to the same notification procedures set forth in section 8103 of the Department of Defense Appropriations Act, 1986, except for the Civilian Health and Medical Program of the Uniformed Services:

Ante, p. 721.

(1) for military pay, $1,599,400,000;
(2) for military retirement accrual payments, $2,156,000,000;
(3) for Coastal Defense Augmentation, $140,000,000;
(4) for the Department of Defense Space Recovery Program, $1,498,686,000;
(5) for the Civilian Health and Medical Program of the Uniformed Services, $260,000,000; and
(6) any amounts remaining available from such funds are authorized to be obligated and expended and are available for readiness and for other purposes, including funds authorized for obligation and expenditure for purposes listed in clauses (1), (2), (3), (4), and (5) not otherwise required for such purposes.

SEC. 5. REVISION OF CERTAIN PROVISIONS OF PUBLIC LAW 99-190.

99 Stat. 1197.

(a) AIR DEFENSE AIRCRAFT COMPETITION.—The paragraph under the heading "Aircraft Procurement, Air Force" in title III of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190), is amended by striking out ", of which $200,000,000 shall be available only to initiate the air defense aircraft competition authorized by law" in the matter preceding the first proviso.

(b) REVISION OF DRUG INTERDICTION FUNDS.—Of funds made available in the Department of Defense Appropriations Act, 1986, Public Law 99-190, $35,000,000 made available for purchase of one AC-130H aircraft and $3,000,000 made available for P-3 aircraft modifications shall be available only for the following purposes: 99 Stat. 1185.

(1) for HC-130 tanker, $18,500,000;

(2) for Aerostat radar, $12,000,000; and

(3) for APS-138 radar system, $7,500,000.

(c) 120MM MORTAR.—Of the funds appropriated in the Department of Defense Appropriations Act, 1986, for procurement of the 120mm mortar, obligations and expenditures may be incurred only in accordance with the requirements set forth in House Report 99-235 and section 8095 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190). 99 Stat. 1219.

(d) M72E4 LIGHTWEIGHT MULTIPURPOSE WEAPON.—From the funds appropriated in the Department of Defense Appropriations Act, 1986, the Army shall complete development and operational testing of the M72E4, type classify the weapon, and acquire a technical data package.

SEC. 6. TEMPORARY WAIVER ON POLYGRAPH EXAMINATION LIMITATIONS.

In computing the number of counterintelligence polygraph examinations that may be conducted during fiscal year 1986 under section 1221 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 726), there may be excluded from such computation any polygraph examination conducted during the period beginning on the date of the enactment of this Act and ending on September 30, 1986, if such examination—

(1) is conducted by the Air Force under an authorization granted by the Secretary of Defense on November 24, 1981; or

(2) is conducted under an authorization granted by the Secretary of Defense on August 31, 1982, and is conducted on a person who is participating in a national program—

(A) which has as its purpose the collection of specialized intelligence through reconnaissance;

(B) which is under the purview of the Director of Central Intelligence; and

(C) for which a polygraph examination was established on or before October 1, 1985, as a condition for participation in such program.

CHAPTER IV

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

CONSTRUCTION, GENERAL

Using available funds, the Secretary of the Army shall take such actions as may be necessary to remedy slope failure and erosion problems along the Tombigbee River in Alabama in order to protect the Highway No. 39 Bridge at Gainesville, Alabama, at an estimated cost of $1,500,000. Such actions shall be coordinated with the State Alabama.

Washington.

South Carolina.

of Alabama: *Provided,* That using available funds, $1,400,000 shall be available to initiate construction at Mount St. Helens, Washington: *Provided further,* That using available funds, the Secretary of the Army is directed to use $8,200,000 to initiate construction of the Cooper River seismic modification project in South Carolina.

FLOOD CONTROL AND COASTAL EMERGENCIES

33 USC 701n.

For an additional amount, for "Flood Control and Coastal Emergencies", as authorized by section 5 of the Flood Control Act approved August 18, 1941, as amended, $25,000,000, to remain available until expended.

Reports.

Using available funds authorized by section 5 of the Flood Control Act approved August 18, 1941, as amended, the Secretary of the Army shall, in consultation with State officials of the Great Lakes region, develop emergency contingency plans to prevent or control near term flooding along the Great Lakes. The Secretary shall report to Congress within sixty days after the date of enactment of this Act on the contingency plans. The Secretary is authorized to spend up to $1,000,000 for the purposes of this provision.

GENERAL EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "General Expenses" $3,000,000 to remain available until expended, and to be derived from "Operation and Maintenance, General".

ADMINISTRATIVE PROVISION

Real property. Washington.

The authority to acquire new buildings and facilities, including necessary real estate, for the United States Army Engineer District, Walla Walla, Washington, as provided for in Public Law 99-88, 99 Stat. 293, 316, may be implemented by lease purchase contract or by any other appropriate means.

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

(DISAPPROVAL OF DEFERRAL)

Congress.

Of the funds which remain deferred as of May 1, 1986, pursuant to deferral D86-38 relating to the Department of Energy, "Energy Supply, Research and Development Activities", the Congress disapproves the deferral of $23,156,000. The disapproval shall be effective upon enactment into law of this Act and the amount of the deferral disapproved herein shall be made available for obligation.

ATOMIC ENERGY DEFENSE ACTIVITIES

(TRANSFER OF FUNDS)

For an additional amount, for "Atomic Energy Defense Activities", $62,000,000, to be derived by transfer from the Department of Defense appropriation "Research, Development, Test and Evaluation, Defense Agencies", to be merged with this Account and remain available until expended: *Provided,* That the transfer of funds pro-

vided in this paragraph shall not become available for such transfer until 30 days after the Committees on Appropriations of the House of Representatives and the Senate receive from the Department of Defense a list of the specific sources of funds to be used for such transfer.

DEPARTMENT OF DEFENSE

ADMINISTRATIVE PROVISION

Research and development. Grants. 99 Stat. 1185.

Of the funds previously appropriated or made available for research, development, test and evaluation for the Department of Defense for fiscal year 1986 pursuant to Public Law 99-190, $55,600,000 shall be available only for grants or contributions to educational institutions for research activities, construction of research related facilities and for other related purposes as provided in House Report 99-450 accompanying House Joint Resolution 465, Public Law 99-190, and the Secretary of Defense shall provide these grants or contributions expeditiously: *Provided*, That such grants or contributions are a one time obligation and expenditure and shall not interfere with or change the existing system of other competitive research grants or contracts.

CHAPTER V

FOREIGN ASSISTANCE AND RELATED PROGRAMS

BILATERAL ECONOMIC ASSISTANCE

INTERNATIONAL FUND FOR NORTHERN IRELAND AND IRELAND

(TRANSFERS OF FUNDS)

United Kingdom. International agreements.

For an additional amount for the "Economic Support Fund", not less than $50,000,000, which shall be available only for the United States contribution to the International Fund established pursuant to the November 15, 1985 agreement between the United Kingdom and Ireland, to be derived from funds appropriated or otherwise made available by the Foreign Assistance and Related Programs Appropriations Act, 1986 (as enacted in Public Law 99-190), as follows: $4,900,000 by transfer from title I of such Act, $12,350,000 of funds made available by such Act for the "Economic Support Fund", $9,100,000 by transfer from title II of such Act, excluding funds made available for the "Economic Support Fund", $20,000,000 by transfer from title III of such Act, and $3,650,000 by transfer from title IV of such Act.

99 Stat. 1291.
99 Stat. 1295.
99 Stat. 1301.
99 Stat. 1302.

DEPARTMENT OF STATE

ANTI-TERRORISM ASSISTANCE

(TRANSFERS OF FUNDS)

22 USC 2349aa.

For an additional amount to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961, $2,739,000, to be derived by transfer from any of the funds appropriated or otherwise made available in titles I, II, III, and IV of the Foreign Assistance and Related Programs Appropriations Act, 1986 (as enacted in Public Law 99-190).

ASSISTANCE FOR HAITI

Of the funds made available in title II of the Foreign Assistance and Related Programs Appropriations Act, 1986 (as enacted in Public Law 99-190), subject to the notification process of the Committees on Appropriations, up to $21,700,000 shall be made available for assistance to Haiti. Of this amount, $1,700,000, or the equivalent amount in local currencies, may be transferred to the Inter-American Foundation for use by the Foundation for programs for Haiti. The assistance made available pursuant to this paragraph shall be used to promote the transition to democracy by means such as generating local currency for use for literacy projects, rural development, and job creation. The assistance provided for Haiti pursuant to this paragraph shall be in addition to the assistance previously allocated for Haiti.

99 Stat. 1295.

It is the sense of the Congress that the United States Government should cooperate with the Government of Haiti in recovering for the Haitian people the wealth that was illegally obtained by former president Jean-Claude Duvalier and his former government ministers and associates through diversions of funds and property, regardless of whether that wealth is located in the United States or abroad.

Notwithstanding any limitations on assistance to Haiti contained in Public Law 98-473 or Public Law 99-83, funds in the amount of $750,000 previously appropriated for the purposes of chapter 2 of part II of the Foreign Assistance Act of 1961, as amended, may be made available for Haiti to carry out such purposes: *Provided,* That none of the funds made available pursuant to this paragraph may be made available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: *Provided further,* That the funds provided under this paragraph shall be made available only to provide nonlethal military assistance for Haiti.

98 Stat. 1837; 22 USC 2151 note.

22 USC 2311.

SPECIAL ASSISTANCE TO THE PHILIPPINES

ECONOMIC SUPPORT FUND

For an additional amount for the "Economic Support Fund", $100,000,000, to remain available until March 31, 1987: *Provided,* That this amount shall be available only for the Philippines: *Provided further,* That none of these funds may be available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance.

MILITARY ASSISTANCE

For an additional amount for "Military Assistance", $50,000,000, to remain available until March 31, 1987: *Provided,* That this amount shall be available only for the Philippines: *Provided further,* That none of these funds may be available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance.

EXPORT-IMPORT BANK OF THE UNITED STATES

Direct loan authority made available in title IV of the Foreign Assistance and Related Programs Appropriations Act, 1986 (as en-

99 Stat. 1302.

acted in Public Law 99-190), for the Export-Import Bank of the United States is available through September 30, 1987.

CHAPTER VI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(RESCISSIONS)

Of the amounts of budget authority that become available during fiscal year 1986 as a result of the forgiving, pursuant to section 4(c)(1) of the United States Housing Act of 1937, as amended, of any loan made pursuant to section 4(a) of such Act, not less than $5,250,000,000 of budget authority (and such amounts of contract authority as correspond to the amounts of budget authority) are rescinded.

Ante, p. 102.

Of the amounts of budget authority that become available during fiscal year 1987 as a result of the forgiving, pursuant to section 4(c)(1) of the United States Housing Act of 1937, as amended, of any loan made pursuant to section 4(a) of such Act, $6,042,000,000 of budget authority (and such amounts of contract authority as correspond to the amounts of budget authority) are rescinded on or after October 1, 1986 and before September 30, 1987.

RENT SUPPLEMENT PROGRAM

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), is reduced in fiscal year 1986 by not more than $41,390,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1), is further reduced in fiscal year 1986 by not more than $10,128,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

HOUSING PROGRAMS AND COMMUNITY PLANNING AND DEVELOPMENT

(DISAPPROVAL OF DEFERRALS)

The Congress disapproves the following proposed deferrals relating to the Department of Housing and Urban Development as set forth in the message of February 5, 1986, which was transmitted to the Congress by the President: (1) D86-41 relating to Housing Programs, "Annual contributions for assisted housing", (2) D86-45

Congress.
President of U.S.

relating to Housing Programs, "Housing for the elderly or handicapped fund", (3) D86-46 relating to Housing Programs, "Nonprofit sponsor assistance", (4) D86-48 relating to Community Planning and Development, "Community development grants", and (5) D86-50 relating to Community Planning and Development, "Rehabilitation loan fund". The five disapprovals shall be effective upon enactment into law of this Act and the amounts of the proposed deferrals disapproved herein shall be made available for obligation.

FEDERAL HOUSING ADMINISTRATION FUND

12 USC 1721 note.
12 USC 1701.

The applicable limitation on additional commitments to insure mortgages and loans to carry out the purposes of the National Housing Act during fiscal year 1986 is increased by an additional $57,580,000,000 of mortgage and loan principal.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES

12 USC 1721 note.
12 USC 1721.

The applicable limitation on new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act during fiscal year 1986 is increased by an additional $49,000,000,000 of principal.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(TRANSFERS OF FUNDS)

For an additional amount for "Salaries and expenses", $30,000,000, of which $21,365,000 shall be derived by transfer from the various funds of the Federal Housing Administration and $8,635,000 shall be derived from the assets of the Revolving Fund established pursuant to section 312 of the Housing Act of 1964, as amended (42 U.S.C. 1452b).

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,553,000.

ENVIRONMENTAL PROTECTION AGENCY

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $3,000,000, to be derived by transfer from "Research and development".

CONSTRUCTION GRANTS

99 Stat. 1319.

Of the funds appropriated in section 119 of Public Law 99-190 for necessary expenses to carry out title II of the Federal Water Pollu-

tion Control Act, an additional $1,200,000,000 is hereby made available: *Provided,* That the allocation of the $1,200,000,000 made available by this paragraph shall be in accordance with the formula in effect on October 1, 1984. 33 USC 1281.

FEDERAL EMERGENCY MANAGEMENT AGENCY

FUNDS APPROPRIATED TO THE PRESIDENT

DISASTER RELIEF

For an additional amount for "Disaster relief", $250,000,000, to remain available until expended.

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $2,920,000, to be derived by transfer from "Emergency management planning and assistance".

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Space flight, control and data communications", $431,000,000, to remain available until September 30, 1987: *Provided,* That, upon enactment into law of this Act, $5,000,000 shall be transferred to "Research and development": *Provided further,* That $100,000,000, to remain available until September 30, 1988, is appropriated for fiscal year 1987 for "Space flight, control and data communications", and shall not become available for obligation until October 1, 1986: *Provided further,* That funds appropriated for fiscal year 1987 in the previous proviso may not be obligated until the Administrator of NASA has certified that the recommendations of the Rogers Commission have been implemented or are being implemented, or that an alternative approach satisfies the direction of the recommendation.

RESEARCH AND PROGRAM MANAGEMENT

(TRANSFERS OF FUNDS)

For an additional amount for "Research and program management", $38,100,000, of which $24,000,000 shall be derived by transfer from "Research and development" and $14,100,000 shall be derived by transfer from "Space flight, control and data communications".

VETERANS ADMINISTRATION

COMPENSATION AND PENSIONS

For an additional amount for "Compensation and pensions", $272,000,000, to remain available until expended.

READJUSTMENT BENEFITS

For an additional amount for "Readjustment benefits", $91,000,000, to remain available until expended.

MEDICAL CARE

(TRANSFER OF FUNDS)

For an additional amount for "Medical care", not less than $25,000,000 nor more than $30,000,000, to be derived by transfer from "Construction, major projects".

GENERAL OPERATING EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "General operating expenses", up to $6,000,000, to be derived by transfer from "Construction, minor projects".

VETERANS JOB TRAINING

(TRANSFER OF FUNDS)

For payments to defray the costs of training and provision of incentives to employers to hire and train certain veterans as authorized by the Veterans' Job Training Act, as amended (29 U.S.C. 1721), $35,000,000, to remain available until September 30, 1988, and to be derived by transfer from "Construction, minor projects".

ADMINISTRATIVE PROVISIONS

Housing. Loans.

Retroactive to October 1, 1985, all payments for appraisals performed on a contractual basis in connection with the liquidation of housing loans guaranteed, insured, or made in conjunction with loan guarantee operations shall be charged to the VA loan guaranty revolving fund.

99 Stat. 931.

Notwithstanding section 409 of Public Law 99-160, of the funds provided by that Act for the Neighborhood Reinvestment Corporation, an additional $250,000 may be used for object classification expenses other than personnel compensation and benefits.

FEDERAL HOME LOAN BANK BOARD

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL HOME LOAN BANK BOARD

The limitation on administrative expenses for fiscal year 1986 is increased by $3,429,000.

CHAPTER VII

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

LAND ACQUISITION

(DEFERRAL)

Of the funds previously appropriated under this head, $3,000,000 shall not become available for obligation until October 1, 1986.

UNITED STATES FISH AND WILDLIFE SERVICE

LAND ACQUISITION

For an additional amount for "Land acquisition", $2,373,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For an additional amount for "Operation of the National Park System", $13,470,000.

CONSTRUCTION

For an additional amount for "Construction", $3,850,000, to remain available until expended.

LAND AND WATER CONSERVATION FUND

(RESCISSION)

The contract authority provided for fiscal year 1986 by 16 U.S.C. 460l-10a is rescinded.

16 USC 460*l*-10a note.

ADMINISTRATIVE PROVISIONS

None of the funds made available by this or any other Act may be used to plan or implement the closure of the Pacific Northwest Regional Office in Seattle, Washington: *Provided*, That the Cape Cod National Seashore Advisory Commission established under section 8(a) of the Act of August 7, 1961 (Public Law 87-126; 75 Stat. 292) is reestablished and extended through February 28, 1996: *Provided*, That none of the funds made available by this or any other Act may be used to drain lakes in Delaware Water Gap National Recreation Area prior to approval by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 97-942.

Washington.

16 USC 459b-7 note.

Delaware.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for "Surveys, investigations, and research", $1,400,000.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

For an additional amount for "Leasing and royalty management", $200,000.

43 USC 1352 note.

Notwithstanding any other provision of law, for data and information acquired in fiscal year 1986 or thereafter, by the Secretary, pursuant to section 1352(a)(1)(C)(iii) of title 43, United States Code, payment shall be made for processing costs to permittees with permits issued on or before September 30, 1985.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

(RESCISSION)

Of available funds under this head, $210,000 are rescinded.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

Fish and fishing. Securities.

For an additional amount for "Operation of Indian programs", $29,204,000, of which $1,500,000 shall be transferred to the Chippewa-Ottawa Treaty Fishery Management Authority (COTFMA) to provide the Federal contribution related to the compromise agreement resulting from the U.S. v. Michigan fishery litigation: *Provided,* That these funds shall be made available to COTFMA after receipt and approval by the Secretary of the Interior or his designated representative of an investment plan for establishing a fund, which shall be invested at interest: *Provided further,* That only the interest income from such fund is to be available for fisheries management activities by the Chippewa-Ottawa Treaty Fishery Management Authority: *Provided further,* That funds appropriated hereunder shall be repaid to the Federal Government after a fifteen (15) year period: *Provided further,* That should the Chippewa-Ottawa Treaty Fishery Management Authority dissolve at any time during the fifteen (15) year period, funds appropriated hereunder shall immediately be repaid to the Federal Government: *Provided further,* That the levels established for general assistance by Public Law 99-88 (99 Stat. 388), are the maximum allowable payments.

25 USC 13d-1 note.
99 Stat. 338.

CONSTRUCTION

For an additional amount for "Construction", $2,500,000, to remain available until expended.

(DEFERRAL)

Of the funds previously appropriated under the heading "Bureau of Indian Affairs' construction" in Public Law 98-8 (90 Stat. 20), $2,500,000 shall not become available for obligation until October 1, 1986.

97 Stat. 20.

REVOLVING FUND FOR LOANS

Public Law 99-190 (99 Stat. 1237) is amended under this heading by deleting the word "may" in the proviso and inserting in lieu thereof the word "shall" and by adding the following new proviso before the period: ": *Provided further,* That the United States secure a lien in the amount of the principal and interest of the loan upon trust or other funds of the tribe including any net recovery the tribe may receive from any final award of judgment against the United States which may be rendered in favor of the Zuni Indian Tribe in Docket Numbers 161-79L and 327-81L presently pending before the United States Claims Court".

TERRITORIAL AND INTERNATIONAL AFFAIRS

COMPACT OF FREE ASSOCIATION

For grants and necessary expenses for the Federated States of Micronesia and the Marshall Islands, as provided for in sections 177, 122, 221, 223, 103(k), 105(c)(2), and 105(m) of the Compact of Free Association, $201,500,000, as authorized by Public Law 99-239, including $8,000,000 for initial capitalization of a trust fund to fund the Prior Service Benefits portion of the Trust Territory Social Security System in accordance with section 105(m) of Public Law 99-239, and $2,750,000 for the Enjebi Community Trust Fund, as authorized in section 103(k) of Public Law 99-239, and $9,340,000, to remain available until expended, for grants and necessary expenses to the Republic of Palau, to become available for obligation upon the enactment of S.J. Res. 325 or similar legislation: *Provided,* That for purposes of economic assistance as provided pursuant to the Compact, the effective date of the Compact shall be October 1, 1985.

Grants. Federated States of Micronesia. Marshall Islands. Republic of Palau. 48 USC 1681 note. 48 USC 1681 note.

Effective date.

For grants and necessary expenses for the Federated States of Micronesia and the Marshall Islands, as provided for in sections 211, 212, 213, 214, 215, 216, 217, and 231 of the Compact of Free Association, and section 111(b) of title I of the Compact of Free Association Act of 1985 (Public Law 99-239), all sums that are or may be required in this and subsequent years are appropriated, and shall be drawn from the Treasury, as authorized by Public Law 99-239, and as may be authorized upon the enactment of S.J. Res. 325 or similar legislation: *Provided,* That $60,719,000 of the amount made available to the "Trust Territory of the Pacific Islands" appropriation pursuant to Public Law 99-190 shall be considered to have been made available for the purposes of this appropriation for fiscal year 1986 and expended as provided for by the Compact of Free Association: *Provided further,* That for purposes of economic assistance as provided pursuant to the Compact, the effective date of the Compact shall be October 1, 1985.

48 USC 1681 note.

Trust Territory of the Pacific Islands. 99 Stat. 1185.

Effective date.

Funds appropriated in this Act, under the terms of Public Law 99-239, the Compact of Free Association, for Kwajalein impact payments to the Republic of the Marshall Islands may be used to reimburse the Department of the Army for interim use payments made by the Department of the Army since October 1, 1985.

48 USC 1681 note.

RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

STATE AND PRIVATE FORESTRY

For an additional amount for "State and private forestry", $161,000.

NATIONAL FOREST SYSTEM

For an additional amount for "National forest system", $165,700,000.

CONSTRUCTION

For an additional amount for "Construction", $1[illegible],000, to remain available until expended.

LAND ACQUISITION

For an additional amount for "Land acquisition", $4,436,000, to remain available until expended.

TIMBER SALVAGE SALES

(DISAPPROVAL OF DEFERRAL)

Congress. President of U.S.

The Congress disapproves $3,153,000 of the proposed deferral D86-3 relating to the Department of Agriculture, U.S. Forest Service, "Timber Salvage Sales", as set forth in the message of October 1, 1985, which was transmitted to the Congress by the President. The disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

SEC. 1. Provisions of 7 U.S.C. 147b shall apply to appropriations available to the Forest Service only to the extent that the proposed transfer is approved by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 97-942.

Georgia. Contracts. Public lands.

SEC. 2. (a) Notwithstanding any other provision of law, the Secretary of Agriculture shall, within funds made available by this Act or any other appropriations Act, release on behalf of the United States the condition described in subsection (b) of this section with respect to the tract of land described in subsection (c) of this section: *Provided*, That—

(1) the State of Georgia, acting by and through the Georgia State Properties Commission, enters into an agreement with the Secretary of Agriculture stating that the State of Georgia will convey the described tract of land to Brantley County, Georgia, for consideration determined adequate by the Commission, and which consideration shall, if withdrawn from the account, be used exclusively for public purposes;

(2) the State of Georgia shall pay into the Treasury of the United States as miscellaneous receipts a sum of money which

the Secretary of Agriculture deems is sufficient to reimburse the administrative costs of releasing the condition pursuant to this subsection; and

(3) the State of Georgia shall provide to the United States the fair market value of the described tract of land, as determined by the Secretary, either in cash or by exchange of lands, waters, or interest therein.

(b) The condition to be released pursuant to subsection (a) of this section is the condition found in that certain deed dated March 30, 1955, which conveys from the United States to the State of Georgia, Georgia Forestry Commission, certain real property in Ware and Brantley Counties, Georgia, and which deed was recorded on May 17, 1955, in the Office of the Secretary of State, State of Georgia, providing that the land conveyed be used for public purposes and that title to said land revert to the United States if it is not used for public purposes.

(c) The parcel of land to which the release provided for in subsection (a) of this section is described as follows:

All that tract or parcel of land, situated, located and being in Land Lot No. 128 in the 9th Land District of Brantley County, Georgia, being 55.04 acres, more or less, and being more particularly described as follows: Beginning at the point where the centerline of the SCL Railroad tracks from Waycross to Brunswick intersects the centerline of that certain Brantley County paved road known as County Road No. 15, and thence N 08 degrees 54′00″ W a distance of 97.72 feet to a point; thence, N 79 degrees 40′50″ E a distance of 40.02 feet to a point; thence, N 79 degrees 40′50″ E a distance of 260.03 feet to a point; thence, N 68 degrees 30′00″ E a distance of 390.0 feet to a point, this point being the point or place of beginning of the tract to be released from the described condition; thence, N 13 degrees 15′00″ W a distance of 701.15 feet to a point; thence, S 73 degrees 10′00″ W a distance of 647.09 feet to a point; thence, N 17 degrees 13′50″ W a distance of 304.91 feet to a point; thence, N 61 degrees 23′03″ E a distance of 2452.76 feet to a point; thence, S 06 degrees 09′26″ E a distance of 275.29 feet to a point; thence, S 07 degrees 17′36″ E a distance of 442.26 feet to a point; thence, S 00 degree 30′41″ E a distance of 183.67 feet to a point; thence, S 12 degrees 11′06″ E a distance of 160.31 feet to a point; thence, S 05 degrees 13′46″ E a distance of 390.62 feet to a point; thence, S 34 degrees 53′42″ W a distance of 201.01 feet to a point; thence, S 75 degrees 01′09″ W a distance of 1371.18 feet to a point; this point being the point or place of beginning of the tract.

For a more complete description of the tract, reference is hereby made to that certain plat prepared on August 4, 1985, by Harry Strickland, Brantley County Surveyor, entitled "Survey for Brantley County" which plat is on file with the Georgia State Properties Commission.

(d) Section 32(c) of the Bankhead-Jones Farm Tenant Act of 1937, as amended (7 U.S.C. 1011), shall not apply to the release provided for in subsection (a) of this section.

(e) The conveyance made pursuant to subsection (a) of this section shall reserve to the United States all gas, oil, coal and other mineral deposits as may be found in the lands conveyed by this section.

Natural gas. Petroleum and petroleum products.

Congress.
President of U.S.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(DISAPPROVAL OF DEFERRAL)

Of the funds which remain deferred as of the date of enactment of this Act pursuant to deferral D86-6A relating to the Department of Energy, "Fossil energy research and development", the Congress disapproves the deferral of all but $2,607,000. The disapproval shall be effective upon enactment into law of this Act and the amount of the deferral disapproved herein shall be made available for obligation.

ENERGY CONSERVATION

(DISAPPROVAL OF DEFERRAL)

Of the funds which remain deferred as of the date of enactment of this Act pursuant to deferral D86-9A relating to the Department of Energy, "Energy conservation", the Congress disapproves the deferral of all but $6,556,000. The disapproval shall be effective upon enactment into law of this Act and the amount of the deferral disapproved herein shall be made available for obligation.

STRATEGIC PETROLEUM RESERVE

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves deferral D86-37 relating to the Department of Energy, "Strategic petroleum reserve", as set forth in the message of February 5, 1986, which was transmitted to the Congress by the President. The disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation.

SPR PETROLEUM ACCOUNT

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves deferral D86-10A relating to the Department of Energy, "SPR petroleum account", as set forth in the message of February 5, 1986, which was transmitted to the Congress by the President. The disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation.

ALTERNATIVE FUELS PRODUCTION

For the repayment of principal and interest on notes issued to the Secretary of the Treasury by the Secretary of Energy pursuant to the provisions of section 19(n)(4) of the Federal Non-Nuclear Energy Research and Development Act, Public Law 93-577, as amended by Public Law 95-238, $1,020,360,322, together with such additional sums as may be necessary, for the payment of interest which shall have accrued to the date final principal payment is made.

42 USC 5919.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

INDIAN HEALTH SERVICES

For an additional amount for "Indian health services", $13,500,000: *Provided*, That $1,530,000 shall not become available for obligation until September 30, 1986: *Provided further*, That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Educational Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall remain available until September 30, 1987.

INDIAN HEALTH FACILITIES

(DEFERRAL)

Of the funds previously appropriated under this head, $11,665,000 shall not become available for obligation until October 1, 1986.

SMITHSONIAN INSTITUTION

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $36,000, to be derived by transfer from "Repair, restoration and renovation of buildings, National Gallery of Art".

CHAPTER VIII

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For an additional amount for the Health Resources and Services Administration to carry out the provisions of section 1910 of the Public Health Service Act (pertaining to Emergency Medical Services for Children), $2,000,000 to remain available until September 30, 1987.

Ante, p. 360.

Notwithstanding any other provision of this Act, the Secretary of Health and Human Services shall immediately renew all designated agreements and contracts in accordance with title 15 of the Public Health Service Act for such periods after September 30, 1986 as each Agency's budget, including unobligated Federal funds available for carryover, permits.

Contracts.

42 USC 300k-1.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For an additional amount for "National Cancer Institute", for grants for National Cancer Research and Demonstration Centers as authorized by section 414 of Public Law 99-158, $6,000,000.

42 USC 285a-3.

ADMINISTRATIVE PROVISION

Nurses.
42 USC 284c note.

Funds made available for fiscal year 1986 and hereafter to the Warren G. Magnuson Clinical Center of the National Institutes of Health shall be available for payment of nurses at the rates of pay and with schedule options and benefits authorized for the Veterans Administration pursuant to 38 U.S.C. 4107.

OFFICE OF COMMUNITY SERVICES

COMMUNITY SERVICES BLOCK GRANT

District of Columbia.
Homeless persons.

SEC. 1. (a) The Administrator of General Services shall assign the property described in subsection (e) to the Secretary of Health and Human Services for transfer of such property in accordance with this section to the District of Columbia for use as a shelter for homeless individuals in the District of Columbia.

(b) Immediately after the assignment of such property pursuant to subsection (a), the Secretary of Health and Human Services shall transfer the title to such property without cost to the District of Columbia for use as a shelter for homeless individuals.

(c) The deed of conveyance for the property described in subsection (e) shall provide that, if the District of Columbia sells, leases, or otherwise transfers such property to any other person or agency, a fraction of the proceeds of such sale, lease, or transfer (as determined under subsection (d)) may be retained by the District of Columbia for use in programs providing shelter and related services for homeless individuals in the District of Columbia and the remainder of such proceeds shall be paid to the Secretary of the Treasury and deposited as miscellaneous receipts of the United States.

Any sale, lease, or other transfer pursuant to this subsection shall be made after public advertising for bids or by other means designed to secure full and open competition.

(d) The fraction of such proceeds which may be retained by the District of Columbia for use in programs providing shelter and related services for homeless individuals in the District of Columbia shall be determined by dividing—

(1) the number of months that such property is used as a shelter for homeless individuals in the District of Columbia pursuant to this section prior to such sale, lease, or transfer; by

(2) 120,

except that such fraction shall not be greater than one.

(e) The property to which this section applies is the property located at 425 Second Street, Northwest, in the District of Columbia, more fully described as follows:

All that parcel situated in the Northwest quadrant of the City of Washington, District of Columbia, and being a portion of District of Columbia Square Number 571, containing in their entirety former lots numbered 9 through 18, inclusive, and 22 through 26, inclusive, as recorded in Liber B, Folio 160 of the Records of the Office of the

Surveyor for the District of Columbia, and lots 45 through 51 inclusive, as recorded in Liber 19, Folio 118 of the Records of the Office of the Surveryor for the District of Columbia; such land now known for purposes of assessment as Lot 820, and containing 1.16 acres of land, more or less; and more particularly described in a deed between the Reconstruction Finance Corporation and the United States of America, dated July 30, 1947, and recorded in Liber 8761, Folio 79 of the Land Records of the District of Columbia.

District of Columbia. Grants. Homeless persons.

SEC. 2. For making a grant to the District of Columbia upon the completion of the conveyance to the District of Columbia of the property located at 425 Second Street, Northwest, in the District of Columbia, in accordance with section 1 and upon the submission of a request to the Office of Community Services, Department of Health and Human Services, by the District of Columbia, $1,500,000 for the repair and renovation of such property for use as a shelter for the homeless.

DEPARTMENT OF EDUCATION

IMPACT AID

State and local governments. Real property. Taxes. 20 USC 241-1. 20 USC 237.

For an additional amount, for "Impact Aid", $20,000,000, which shall remain available until expended, for making payments under section 7 of title I of the Act of September 30, 1950, as amended: *Provided,* That payments made under section 2 of said Act for the fiscal years 1978 through 1983, which were based on entitlements that included State-levied real property taxes, shall stand: *Provided further,* That in a State where a portion of an existing local real property tax levy had been assumed and levied by the State as a real property tax, that these State taxes shall be allowed in the computation of entitlements under section 2 of said Act for the fiscal years 1984 and 1985: *Provided further,* That recovery of any overpayments to any school district of less than $5,000 arising out of payments made under said Act for fiscal year 1978 shall be obtained only from any future year payments to such school district under said Act.

None of the funds appropriated in this Act, or in any other appropriations Act for fiscal year 1986, may be used to implement any regulations promulgated by the Secretary of Education after March 31, 1986, to carry out the provisions of the Act of September 30, 1950, relating to impact aid, if such regulations are to take effect during the fiscal year 1986.

20 USC 238.

The first sentence of section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by striking out "increase the amount" and inserting in lieu thereof the following: "increase the actual payment to be made pursuant to the amount".

Children and youth.

Section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by adding at the end thereof the following new sentences: "In carrying out the provisions of this subparagraph, the Secretary shall count the actual number of children with respect to such agency for each fiscal year under subsection (b) without regard to the provisions of subparagraph (E) of this paragraph.".

Children and youth. 20 USC 238 note.

The Secretary shall, in making any audit of payments made under the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) accept the manner of counting children attending kindergarten for the purpose of that Act if the manner of counting such children is in accordance with State law.

20 USC 238.

Effective on October 1, 1980, section 3(d)(3) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by redesignating subparagraph (C) as subparagraph (D), and by adding after subparagraph (B) the following new subparagraph:

"(C) The local contribution rate for a local educational agency shall include current expenditures from that portion of a real property tax required to be levied, collected, and distributed to local educational agencies by county governments pursuant to State law where the remainder of such real property tax is transferred to the State.".

West Virginia.

20 USC 646.

Notwithstanding the notice relating to applications for pinpoint disaster assistance (43 Federal Register 57194 (1978)) or any other provision of Federal law or regulation, the Secretary of Education shall accept an application from Preston County Board of Education, West Virginia, under section 16 of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress) filed after the date of enactment of this Act.

Montana.

20 USC 631.

Notwithstanding any other provision of law, the Hays-Lodge Pole School District Number 50 of Hays, Montana, is relieved of all liability to repay to the United States the sum of $181,557.13, together with any interest on such sum, representing interest earned on investments which were made from payments made under the Act of September 23, 1950 (Public Law 815, Eighty-first Congress) for a construction project initiated in 1975, and which were made after consulting with Federal officials. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given for the amount for which liability is relieved by this section.

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

29 USC 701 note.
29 USC 777a.

From the amounts appropriated to carry out the Rehabilitation Act of 1973, $27,945,000 shall be made available for special demonstration projects for the severely disabled under section 311: *Provided,* That $8,613,000 shall be used for supported employment demonstrations.

STUDENT FINANCIAL ASSISTANCE

20 USC 1070a.

For an additional amount for subpart 1 of part A of title IV of the Higher Education Act, as amended, $146,000,000, to remain available until September 30, 1987.

RELATED AGENCIES

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

(TRANSFER OF FUNDS)

Provided prior approval is obtained from the Committees on Appropriations, an additional amount not to exceed $1,241,000 for "Operation and Maintenance", may be transferred from the Soldiers' and Airmen's "Capital Outlay" fund.

DEPARTMENT OF LABOR

ADMINISTRATIVE PROVISION

No Job Corps Center operating under part B of title IV of the Job Training Partnership Act shall be closed prior to July 1, 1987. 29 USC 1697 note. 29 USC 1691.

CHAPTER IX

LEGISLATIVE BRANCH

SENATE

SALARIES, OFFICERS AND EMPLOYEES

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For an additional amount for "Office of the Sergeant at Arms and Doorkeeper", $500,000.

ADMINISTRATIVE PROVISIONS

SECTION 1. (a) Effective October 1, 1985, the allowance for administrative and clerical assistance of each Senator from the State of Alabama is increased to that allowed Senators from States having a population of four million but less than five million, the population of said State having exceeded four million inhabitants. Alabama. 2 USC 61-1 note.

(b) Effective October 1, 1985, the allowance for administrative and clerical assistance of each Senator from the State of Florida is increased to that allowed Senators from States having a population of eleven million but less than twelve million, the population of said State having exceeded eleven million inhabitants. Florida.

SEC. 2. (a) Subsection (a) of section 110 of Public Law 97-12 (2 U.S.C. 58b(a)) is amended by—

(1) inserting "(1)" after "(a)"; and

(2) striking out the last three sentences of such subsection and inserting in lieu thereof the following:

"(2)(A) Each Senator, at his election, may, during any fiscal year (but not earlier than July 1 thereof) transfer from such Senator's clerk hire allowance to his Official Office Expense Account such amounts as the Senator shall determine, but not in excess of the balance as of the end of the month which precedes the month in which the transfer is made. Any amount so transferred to a Senator's Official Office Expense Account shall be available for expenses incurred during the calendar year in which occurred the close of the fiscal year in which the transfer is made. Each Senator electing to make such a transfer shall advise the Senate Disbursing Office in writing, not later than January 15 of the calendar year immediately following the calendar year in which occurs the close of the fiscal year in which the transfer is to be made, and such transfer shall be made on such date (but not earlier than July 1, nor later than December 31, of the calendar year in which the close of such fiscal year occurs) as may be specified by the Senator.

"(B) Each Senator, at his election, may, during any calendar year (but not earlier than July 1 thereof) transfer from such Senator's Official Office Expense Account to his clerk hire allowance such amounts as the Senator shall determine, but not in excess of the balance as of the end of the month which precedes the month in

which the transfer is made. Any amount so transferred to a Senator's clerk hire allowance during any calendar year shall be available for expenses incurred during the fiscal year which ends during the calendar year in which the transfer is made. Each Senator electing to make such a transfer shall advise the Senate Disbursing Office in writing, not later than September 30 of the calendar year in which the transfer is to be made, and such transfer shall be made on such date (but not earlier than July 1 of such calendar year) as may be specified by the Senator.".

2 USC 58b.

(b) Subsection (b) of section 110 of Public Law 97-12 is amended to read as follows:

"(b) Transfer of funds by a Senator under subsection (a) of this section shall be made between (1) the allowance of such Senator in the account (which is within the appropriation account under the headings 'SENATE' and 'Salaries, Officers and Employees') for 'Administrative, Clerical, and Legislative Assistance to Senators', and (2) such Senator's Senatorial Official Office Expense Account within the appropriation account for 'Miscellaneous Items' under the heading 'SENATE'.".

Effective date.
2 USC 58b note.

(c) The amendments made by subsection (a) shall be effective in the case of elections made with respect to transfers of funds to be available for expenses incurred after December 31, 1984.

SEC. 3. The Chairman of the Majority or Minority Conference Committee of the Senate may, during the fiscal year ending September 30, 1986, at his election, transfer not more than $30,000 from the appropriation account for salaries for the Conference of the Majority and the Conference of the Minority of the Senate, to the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6). Any transfer of funds under authority of the preceding sentence shall be made at such time or times as such chairman shall specify in writing to the Senate Disbursing Office. Any funds so transferred by the chairman of the Majority or Minority Conference Committee shall be available for expenditure by such committee in like manner and for the same purposes as are other moneys which are available for expenditure by such committee from the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6).

HOUSE OF REPRESENTATIVES

SALARIES, OFFICERS AND EMPLOYEES

For an additional amount for "Office of the Sergeant at Arms", $500,000.

CONTINGENT EXPENSES OF THE HOUSE

STANDING COMMITTEES, SPECIAL AND SELECT

For an additional amount for "Standing committees, special and select", $350,000.

JOINT ITEMS

CONTINGENT EXPENSES OF THE HOUSE

JOINT COMMITTEE ON TAXATION

For an additional amount for "Joint Committee on Taxation", $912,000.

CAPITOL POLICE

CAPITOL POLICE BOARD

For an additional amount for the "Capitol Police Board", $13,000,000, to remain available until expended, to implement an improved security plan for the United States Capitol, after such plan shall have been approved by the Senate Committee on Rules and Administration, the Senate Committee on Appropriations, the House Committee on Appropriations, the House Committee on Public Works and Transportation, and the Committee on House Administration: *Provided,* That upon approval of the House and Senate Committees on Appropriations, such Board is authorized to transfer to the Architect of the Capitol so much of such funds as may be necessary to enable the Architect of the Capitol to carry out appropriate projects to implement such plan, and the Architect of the Capitol is authorized to obligate and expend the funds so transferred to him to carry out contracts entered into without regard to section 3709 of the Revised Statutes, as amended: *Provided further,* That before any such transfer of funds to the Architect of the Capitol takes place, the House and Senate Committees on Appropriations shall review and approve detailed documentation describing the scope, cost and construction schedule of the work to be accomplished by the transfer of funds.

41 USC 5.

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

For an additional amount for "Office of the Architect of the Capitol, Salaries", $250,000, to remain available until expended: *Provided,* That these funds shall be transferred to the appropriation "Capitol Grounds", and the Architect of the Capitol is authorized to obligate and expend funds so transferred only for the detailed design and cost estimates associated with the construction aspects of the congressional joint leadership proposal to improve security of the Capitol and the House and Senate office buildings.

CAPITOL BUILDINGS

For an additional amount for "Capitol Buildings", $8,000,000, to remain available until expended: *Provided,* That this additional amount shall be available for obligation without regard to section 3709 of the Revised Statutes, as amended.

41 USC 5.

CAPITOL POWER PLANT

For an additional amount for "Capitol Power Plant", $1,583,000: *Provided,* That not to exceed $2,150,000 of the funds credited or to be reimbursed to this appropriation pursuant to Public Law 99-151 shall be available for obligation during fiscal year 1986.

99 Stat. 792.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For an additional amount for salaries and expenses under the headings "OTHER AGENCIES" and "LIBRARY OF CONGRESS", $867,000: *Provided,* That of such amount, $500,000 shall remain available until expended for the acquisition of books, periodicals, newspapers, and all other materials (including subscriptions for bibliographic services for the Library).

CHAPTER X

DEPARTMENT OF TRANSPORTATION

COAST GUARD

OPERATING EXPENSES

For an additional amount for "Coast Guard, Operating expenses", $35,500,000. In addition, $10,400,000 shall be transferred from "Coast Guard, Acquisition, construction and improvements" pursuant to section 5(a) of Public Law 98-557.

98 Stat. 2861.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

Out of available funds, the Coast Guard shall make available not more than $750,000 for maintenance, sealing and preservation of lighthouses in the Commonwealth of Massachusetts.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

(INCLUDING TRANSFERS OF FUNDS)

Florida.

For an additional amount for "Operations", $84,250,000, of which $2,000,000 shall be derived by transfer from "Coast Guard, Retired pay", and $2,250,000 shall be derived by transfer from "Coast Guard, Research, development, test, and evaluation": *Provided,* That, if by July 15, 1986, the Secretary of Transportation and the appropriate governmental authorities of Dade County, Florida, have not reached agreement on the execution of a full funding contract for the project identified in section 320 of the Department of Transportation and Related Agencies Appropriations Act, 1986, the memorandum of understanding submitted by the Metro-Dade Transportation Administration to the Urban Mass Transportation Administration on June 6, 1986, shall be deemed approved by the Secretary and shall be binding on the Department of Transportation and Metropolitan Dade County upon acceptance by the appropriate Dade County governmental authorities: *Provided further,* That such

99 Stat. 1287.

memorandum of understanding shall be deemed approved by the Secretary notwithstanding 42 U.S.C., sections 4321 through 4335, inclusive, and applicable regulations: *Provided further*, That, at a minimum, the air traffic control on-board employment level shall be 14,480 by September 30, 1986.

RESEARCH, ENGINEERING AND DEVELOPMENT (AIRPORT AND AIRWAY TRUST FUND)

(TRANSFER OF FUNDS)

For an additional amount for "Research, engineering and development (Airport and Airway Trust Fund)", $72,220,000, of which $17,000,000 shall be derived by transfer from the unobligated balance of "Facilities and equipment (Airport and Airway Trust Fund)" and to remain available until September 30, 1989, and of which $55,220,000 shall be derived by transfer from "Facilities and equipment (Airport and Airway Trust Fund)" and to remain available until September 30, 1990.

FEDERAL HIGHWAY ADMINISTRATION

FEDERAL-AID HIGHWAYS

(HIGHWAY TRUST FUND)

The Department of Transportation is authorized to expend $5,000,000 from the emergency relief fund established by section 125 of title 23, United States Code, for the purposes of preventing the continuing flooding of Interstate 80 by the rising waters of the Great Salt Lake.

Ante, p. 114.

FEDERAL RAILROAD ADMINISTRATION

REDEEMABLE PREFERENCE SHARES

Notwithstanding any other provision of law, the Secretary of Transportation shall, until September 30, 1988, issue and sell, and the Secretary of the Treasury until such date shall purchase, Fund anticipation notes, and the Secretary of Transportation is hereby authorized to expend for uses authorized for the Railroad Rehabilitation and Improvement Fund proceeds from the sale of such Fund anticipation notes and any other moneys deposited in the Fund after September 30, 1985, pursuant to sections 502, 505-507, and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, and section 803 of Public Law 95-620, in amounts not to exceed $33,500,000.

45 USC 827 note.

45 USC 822, 825-827, 829.
45 USC 821, 822, 822 note, 825.

URBAN MASS TRANSPORTATION ADMINISTRATION

FORMULA GRANTS

Notwithstanding any other provision of law, urbanized areas which became urbanized areas for the first time under the 1980 census shall be entitled to utilize, from funds apportioned to them under section 9 of the Urban Mass Transportation Assistance Act, as amended, the same amount of funds for operating assistance in fiscal year 1986 as was available to them in fiscal year 1985.

49 USC app. 1602 note.

RELATED AGENCY

PANAMA CANAL COMMISSION

OPERATING EXPENSES

Vessels. Claims.

22 USC 3601 note.

TIAS 10030.

For an additional amount for "Panama Canal Commission, Operating expenses", $18,300,000, of which $17,181,000 may be available either for operating expenses or for vessel accident claims as authorized by Public Law 99-209, and $1,119,000 shall be available for payment to the Republic of Panama, pursuant to article XIII, paragraph 4(c) of the Panama Canal Treaty of 1977.

CHAPTER XI

DEPARTMENT OF THE TREASURY

FEDERAL LAW ENFORCEMENT TRAINING CENTER

99 Stat. 1185.

Of the total amount previously appropriated and made available under this head in Public Law 99-190, $6,000,000 shall be obligated and remain available until expended for dormitory construction.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For an additional amount for salaries and expenses, $500,000, for the enforcement and administration of 26 U.S.C. 5121.

INTERNAL REVENUE SERVICE

PROCESSING TAX RETURNS

For an additional amount for "Processing tax returns", $194,564,000.

EXAMINATIONS AND APPEALS

For an additional amount for "Examinations and appeals", $68,706,000.

INVESTIGATION, COLLECTION AND TAXPAYER SERVICE

For an additional amount for "Investigation, collection and taxpayer service", $76,730,000.

ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

SECTION 1. Notwithstanding any other provision of this title, any appropriations made available to the Internal Revenue Service for the current fiscal year may be transferred to any other Internal Revenue Service appropriation to the extent necessary for increased pay costs authorized by law.

SEC. 2. Not to exceed 5 per centum of any appropriation made available to the Internal Revenue Service for the current fiscal year may be transferred to any other Internal Revenue Service appropriation.

SEC. 3. The Internal Revenue Service shall provide on a nonreimbursable basis, all necessary data processing support to the

Bureau of Alcohol, Tobacco and Firearms to assist in the implementation of a new Special Occupational Tax Compliance system at the Bureau.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $30,831,000: *Provided*, That no funds appropriated by this or any other Act may be used to implement single eight hour shifts at airports and that all current services as provided by the Customs Service shall continue through September 30, 1986: *Provided further*, That none of the funds made available by this or any other Act shall be available for administrative expenses to reduce the personnel level of the Customs Service during fiscal year 1986 below an average of 14,041 full time equivalent positions.

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

For an additional amount for "Operation and Maintenance, Air Interdiction Program", $3,225,000.

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

(LIMITATION ON AVAILABILITY OF REVENUE)

In addition to the aggregate amount heretofore made available for real property management and related activities in fiscal year 1986, $3,500,000 shall be made available until expended for the construction and acquisition of facilities as follows: South Carolina.

New Construction:

South Carolina:

Charleston, Post Office and Courthouse Annex, $3,500,000:

Provided, That for additional expenses necessary to carry out the purposes of the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), $3,500,000 to be deposited into said fund: *Provided further*, That any revenues, collections, and any other sums accruing to this fund in excess of $2,415,501,000, excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

GENERAL MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

The annual limitation of $5,200,000 through September 30, 1989 under this heading in the Supplemental Appropriations Act, 1985, Public Law 99-88, for expenses of transportation audit contracts and contract administration is increased to $7,600,000 for fiscal year 1986. 99 Stat. 293.

ADMINISTRATIVE PROVISION

New Mexico. Real property.

The Administrator of General Services is authorized and directed to convey, for the sum of one dollar, to the City of Santa Fe, New Mexico, all right, title, and interest of the United States in the parcel of surplus property known as the Bruns Hospital Site more specifically being the property designated with GSA Control Number for Disposal Purposes 7-G-NM-403, parcels F and H, consisting of approximately 4.37 acres, such property being a portion of the same property which the City of Santa Fe conveyed to the Department of the Army in 1944 for the amount of one dollar.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

SALARIES AND EXPENSES

For necessary expenses of the Federal Retirement Thrift Investment Board, $250,000.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

Ante, p. 26.

Pursuant to section 301 of title III of Public Law 99-251, the Federal Employees Benefits Improvement Act of 1986, not to exceed $1,000 shall be for reception and representation expenses.

TRANSFER OF FUNDS

Ante, pp. 514, 597.

For necessary expenses of the Office of Personnel Management in implementing the provisions of the Federal Employees' Retirement Systems Act of 1986, as authorized by section 207(j) of such Act, not to exceed $2,000,000, to be derived by transfer from the Civil Service Retirement and Disability Fund, to be in addition to funds previously made available to the Office of Personnel Management from such Fund.

TITLE II

GENERAL PROVISIONS

86 Stat. 334.

SEC. 201. None of the funds appropriated by this or any other Act to carry out part A of title IV of Public Law 92-318 (Indian Education Act) may be expended in violation of the provisions of H. Con. Res. 276 of the Ninety-ninth Congress.

2 USC 902 note. 99 Stat. 1037.

SEC. 202. For purposes of implementing the President's February 1, 1986 order under Public Law 99-177, the percentage reduction required for payments made pursuant to 7 U.S.C. 1012; 43 U.S.C. 1181f-1; 42 U.S.C. 6508; and Public Law 96-586, 94 Stat. 3381, 2(d) (2) and (3) shall be the same percentage reduction as required for all nondefense accounts.

SEC. 203. None of the funds in this Act, or any other appropriations Act for fiscal year 1986, may be used to implement changes to OMB Circular A-21 made subsequent to February 11, 1986: *Provided*, That this provision shall expire 60 days after the date of enactment of this Act.

Regulations. Combined Federal Campaign.

SEC. 204. None of the funds appropriated by this Act or any other Act shall be used for preparing, promulgating or implementing new regulations dealing with organization participation in the 1986 Com-

bined Federal Campaign other than repromulgating and implementing the 1984 and 1985 Combined Federal Campaign regulations, unless such regulations provide that any charitable organization which participated in any prior campaign shall be allowed to participate in the 1986 campaign.

SEC. 205. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 206. Subsections (a)(4) and (g)(1) of section 1886 of the Social Security Act (42 U.S.C. 1395ww) are amended by striking "1986" each place it appears and inserting "1987".

Ante, p. 160.

SEC. 207. Notwithstanding section 514 of Public Law 99-178, amounts appropriated by that Act for Federal financial assistance to the Trust Territory of the Pacific Islands shall be available, as would have been available had the Compact of Free Association Act (Public Law 99-239) not been enacted, until alternative funding is available under the terms of the Compact of Free Association Act of 1985 (Public Law 99-239). Thereafter, except insofar as the Compact of Free Association Act otherwise provides, such amounts shall be available only for the Republic of Palau, but only in amounts that such Republic would have received had the Compact of Free Association Act of 1985 not been enacted.

99 Stat. 1134.
Trust Territory of the Pacific Islands.
48 USC 1681 note.
Republic of Palau.

SEC. 208. No funds appropriated or made available under this or any other Act shall be used by the executive branch for soliciting proposals, preparing or reviewing studies or drafting proposals designed to transfer out of Federal ownership, management or control in whole or in part the facilities and functions of the Federal power marketing administrations located within the contiguous 48 States, and the Tennessee Valley Authority, until such activities have been specifically authorized and in accordance with terms and conditions established by an Act of Congress hereafter enacted: *Provided*, That this provision shall not apply to the authority granted under section 2(e) of the Bonneville Project Act of 1937; or to the authority of the Tennessee Valley Authority pursuant to any law under which it may transfer facilities or functions in the normal course of business in carrying out the purposes of the Tennessee Valley Authority Act of 1933, as amended; or to the authority of the Administrator of the General Services Administration pursuant to the Federal Property and Administrative Service Act of 1949, as amended, and the Surplus Property Act of 1944 to sell or otherwise dispose of surplus property.

Energy.
Tennessee Valley Authority.
16 USC 832a.
—
16 USC 831.
40 USC 471 note.
50 USC app. 1622, 1641.
18 USC 3287.

SEC. 209. None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided*, That this section shall not prohibit (1) activities designed to increase food security in developing countries where such activities will not have a significant impact on the export of agricultural commodities of the United States; or (2) research activities intended primarily to benefit American producers.

Agriculture and agricultural commodities.
Exports.
22 USC 2151.

SEC. 210. Notwithstanding any other provision of law—

New York.

(1) no reduction in the amount of funds for which the City of New York, New York, is eligible under any Federal law, or to

which the City of New York, New York, is entitled under any Federal law, may be made, and

(2) no other penalty may be imposed by the Federal Government

by reason of the application of New York City Local Law 19 of 1985 to any contract entered into by the City of New York before October 1, 1986, which is funded in whole, or in part, with funds provided by the Federal Government.

This Act may be cited as the "Urgent Supplemental Appropriations Act, 1986".

Approved July 2, 1986.

LEGISLATIVE HISTORY—H.R. 4515:

HOUSE REPORTS: No. 99-510 (Comm. on Appropriations) and No. 99-649 (Comm. of Conference).

SENATE REPORTS: No. 99-301 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 132 (1986):

May 8, considered and passed House.

June 5, 6, considered and passed Senate, amended.

June 24, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments, and insisted on disagreement to certain amendments.

June 26, Senate agreed to conference report, receded and concurred in certain House amendments, in another with an amendment; House disagreed to Senate amendment, Senate receded from amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):

July 2, Presidential statement.

O

Public Law 99-350
99th Congress

Joint Resolution

To designate the week beginning July 27, 1986, as "National Nuclear Medicine Week".

July 2, 1986
[H.J. Res. 297]

Whereas professionals in the field of nuclear medicine contribute significantly to the diagnosis and treatment of patients in the United States;

Whereas nuclear medicine is a safe and cost-effective type of medical care;

Whereas the techniques of nuclear medicine are used to diagnose and treat many different diseases;

Whereas the techniques of nuclear medicine are used in a variety of scientific research activities; and

Whereas it is appropriate to recognize the value of nuclear medicine and the contributions of professionals in the field of nuclear medicine: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning July 27, 1986, hereby is designated "National Nuclear Medicine Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved July 2, 1986.

LEGISLATIVE HISTORY—H.J. Res. 297:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 30, considered and passed House.
June 20, considered and passed Senate.

○

71-139 O - 86 (353)

NATIONAL LITERACY DAY

71-139 O - 86 (354)

Public Law 99-351
99th Congress

Joint Resolution

July 2, 1986
[H.J. Res. 429]

To designate July 2, 1986, as "National Literacy Day".

Whereas literacy is a necessary tool for survival in our society;
Whereas 35 million Americans today read at a level which is less than necessary for full survival needs;
Whereas there are 25 million adults in the United States who cannot read, whose resources are left untapped, and who are unable to offer their full contribution to society;
Whereas the annual cost of illiteracy to society has been estimated at $6,000,000,000;
Whereas there is a direct correlation between the number of illiterate adults unable to perform at the standard necessary for available employment and the money allocated to child welfare cost and unemployment compensation;
Whereas, although the largest number of adult illiterates is comprised of whites, in proportion to population size in percentages the number is higher for blacks and Hispanics, resulting in more economic and social discrimination problems;
Whereas the prison population represents the single highest concentration of adult illiteracy;
Whereas 1,000,000 children between the ages of 12 and 17 cannot read above a 3rd grade level and 15 percent of recent graduates of urban high schools read at less than a 6th grade level;
Whereas 85 percent of the juveniles who appear in criminal court are functionally illiterate;
Whereas the 47 percent illiteracy rate among black youths is expected to increase to 50 percent by 1990;
Whereas one-half of the heads of households cannot read past the 8th grade level and one-third of mothers on welfare are functionally illiterate;
Whereas the Federal, State, municipal, and private literacy programs have only been able to reach 4 percent of the total illiterate population;
Whereas it is vital to call attention to the problem of illiteracy, to help others understand the severity of this problem and its detrimental effects on our society, and to reach those who are unaware of the free service and help available for illiteracy: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 2, 1986, is designated as "National Literacy Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved July 2, 1986.

LEGISLATIVE HISTORY—H.J. Res. 429:

CONGRESSIONAL RECORD, Vol. 132 (1986):
June 19, considered and passed House.
June 26, considered and passed Senate.

○

Public Law 99-352
99th Congress

Joint Resolution

July 2, 1986
[H.J. Res. 664]

To designate July 3, 1986, as "Let Freedom Ring Day", and to request the President to issue a proclamation encouraging the people of the United States to ring bells on such day immediately following the relighting of the torch of the Statue of Liberty.

Whereas the United States has, for over two hundred years, stood for liberty, justice, freedom, and opportunity;

Whereas the Statue of Liberty has, for one hundred years, symbolized the freedoms and liberties that we as a Nation so deeply cherish;

Whereas Liberty Weekend, a division of the Statue of Liberty-Ellis Island Foundation, has requested that individuals and groups across the United States ring bells on July 3, 1986, immediately following the relighting of the torch of the Statue of Liberty in New York City; and

Whereas such ringing of bells across the United States in conjunction with the celebration of the 100th anniversary of the Statue of Liberty should inspire all Americans to honor our Nation's heritage: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 3, 1986, is designated as "Let Freedom Ring Day". The President is requested to issue a proclamation encouraging the people of the United States to ring bells immediately following the relighting of the torch of the Statue of Liberty which is scheduled to occur at approximately 10:53 p.m. on such day.

Approved July 2, 1986.

LEGISLATIVE HISTORY—H.J. Res. 664:

CONGRESSIONAL RECORD, Vol. 132 (1986):
June 26, considered and passed House and Senate.

71-139 O - 86 (355)

Public Law 99-353
99th Congress

Joint Resolution

To designate July 4, 1986, as "National Immigrants Day".

July 2, 1986
[S.J. Res. 290]

Whereas on July 4, 1986, the restored Statue of Liberty will be unveiled at the centennial celebration of the erection and dedication of the Statue;

Whereas the Statue of Liberty has been the symbol of freedom, hope, and opportunity for millions of immigrants over the past 100 years;

Whereas the Statue of Liberty serves as a reminder to all that the United States is a Nation of immigrants, a Nation of nations;

Whereas the Statue of Liberty is a lasting memorial to the immigrants who have made America great;

Whereas millions of immigrants settled throughout the vast territory of the United States, and supported the ideals of independence and liberty;

Whereas the torch held by the Statue of Liberty serves as a beacon of freedom that lives in the soul of every American; and

Whereas it is only fitting that when the torch is relit also be a time to honor the immigrants welcomed by the burning torch of the Lady of Liberty to a land of freedom where any dream was and is achievable: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 4, 1986, the centennial celebration of the Statue of Liberty, is designated as "National Immigrants Day", and the President is authorized and requested to issue a proclamation encouraging the people of the United States to join the President and the Congress in observance of National Immigrants Day with appropriate programs, ceremonies, and activities.

Approved July 2, 1986.

LEGISLATIVE HISTORY—S.J. Res. 290:

CONGRESSIONAL RECORD, Vol. 132 (1986):
June 16, considered and passed Senate.
June 19, considered and passed House.

71-139 O - 86 (356)

WELCOMING THE AFGHAN ALLIANCE

71-139 O - 86 (357)

Public Law 99-354
99th Congress

Joint Resolution

July 2, 1986
[S.J. Res. 365]

Welcoming the Afghan Alliance.

Whereas more than one hundred and twenty thousand Soviet troops currently remain in Afghanistan as a result of their illegal invasion in December of 1979;

Whereas these forces have decimated the nation of Afghanistan directly causing: the largest refugee population in the world, with three million Afghans living in exile in Pakistan; over one million war-related casualties; the internal displacement of hundreds of thousands of Afghans; and deprivation and suffering for the majority of Afghanistan's population;

Whereas the most recent United Nations Human Rights Commission report concludes that the continuation of a military solution in Afghanistan will "lead inevitably to a situation approaching genocide";

Whereas the international community has repeatedly condemned the continued Soviet occupation of Afghanistan and has in seven resolutions approved by the United Nations General Assembly called for "the immediate withdrawal of foreign troops from Afghanistan";

Whereas the Afghan Mujahideen have valiantly resisted the Soviet forces for more than six years, and have inspired freedom loving people throughout the world with their courage and determination;

Whereas on May 16, 1985, the Afghan resistance took an historic step by forming the Islamic Unity of Afghan Mujahideen, representing a unified coalition of the major Afghan organizations dedicated to ending the Soviet occupation;

Whereas during the week of June 15, 1986, the current spokesman of this alliance will travel to the United States on behalf of the Afghan people to meet with the President and senior American officials: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States—

(1) reaffirms its support for the valiant struggle of the Afghan people; and

(2) welcomes the delegation of the Islamic Unity of Afghan Mujahideen led by Spokesman Burhanuddin Rabbani on the occasion of his first official visit to the United States of America.

Approved July 2, 1986.

LEGISLATIVE HISTORY—S.J. Res. 365:

CONGRESSIONAL RECORD, Vol. 132 (1986):
June 18, considered and passed Senate.
June 24, considered and passed House.

○

NATIONAL AIR TRAFFIC CONTROL DAY

71-139 O - 86 (358)

Public Law 99-355
99th Congress

Joint Resolution

July 3, 1986
[S.J. Res. 188]

To designate July 6, 1986, "National Air Traffic Control Day".

Whereas July 6, 1986, marks the fiftieth anniversary of the establishment, by the United States Bureau of Air Commerce, of an airways traffic control system to assure adequate spacing between airplanes flying along established air routes and to prevent congestion at airports;

Whereas the volume of traffic using the United States Airspace System has increased one hundred eighty-fold from two hundred ninety-four thousand five hundred twenty-eight en route flight movements in 1938, to fifty-three million three hundred twenty thousand nine hundred thirty-one total air route traffic movements in 1983;

Whereas the safety, efficiency, and technical sophistication of the United States National Airspace System is now unparalleled in the world, and the preeminence of the United States in pioneering the technology of air traffic control is universally recognized, and emulated, by other nations throughout the world;

Whereas this Nation's civil and military air traffic control personnel daily guide unprecedented volumes of traffic safely and efficiently through the National Airspace System; and

Whereas in order to increase public awareness of the excellence and preeminence of the United States National Airspace System, and because the people of the United States desire to express their gratitude and respect to the pioneers of the technology of air traffic control, and the air traffic control personnel—past and present—who have dedicated their lives and careers to development, safety, and efficiency of the National Airspace System: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 6, 1986, is designated as "National Air Traffic Control Day". The President is requested to issue a proclamation calling upon the people of the United States and upon interested associations and organizations to observe such a day with appropriate ceremonies and activities.

Approved July 3, 1986.

LEGISLATIVE HISTORY—S.J. Res. 188:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 11, considered and passed Senate.
June 19, considered and passed House.

○

Public Law 99-356
99th Congress

Joint Resolution

July 3, 1986
[S.J. Res. 350]

To designate 1987 as the "National Year of the Americas".

Whereas the tenth Pan American games will be held in Indianapolis, Indiana, in 1987;

Whereas the games will bring together more than six thousand athletes from thirty-seven national teams from the Americas to compete in twenty-seven different sports;

Whereas the games will be the largest such gathering which brings together people from Latin America, the West Indies, Canada, and the United States;

Whereas the games will symbolize both the unity and the diversity of the Americas, as well as celebrate the lasting friendship of the peoples of the Americas;

Whereas the occasion of the games provides a unique opportunity to welcome to this country the leaders and peoples of the Americas throughout the United States; and

Whereas the year 1987 can be and should be the time for a year long celebration of the peoples and cultures of the Americas: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the year 1987 is designated as "The National Year of the Americas" and the President is authorized and requested to issue a proclamation calling upon Federal, State, and local government agencies, private organizations, and the people of the United States to observe the year with appropriate programs, ceremonies, and activities.

Approved July 3, 1986.

LEGISLATIVE HISTORY—S.J. Res. 350:

CONGRESSIONAL RECORD, Vol. 132 (1986):
June 10, considered and passed Senate.
June 19, considered and passed House.

71-139 O - 86 (359)

Public Law 99-357
99th Congress

An Act

To amend the Carl D. Perkins Vocational Education Act with respect to State allotments under the Act.

July 8, 1986
[H.R. 4841]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ALLOTMENTS UNDER THE CARL D. PERKINS VOCATIONAL EDUCATION ACT.

Section 101(a)(3) of the Carl D. Perkins Vocational Education Act is amended to read as follows: 20 USC 2311.

"(3)(A)(i) Notwithstanding any other provision of law and subject to clause (ii), for any fiscal year for programs authorized by title II or part B of title III of this Act, no State shall receive less than the payments made to the State for each such program for fiscal year 1985 under Public Laws 98-619 and 99-88. Amounts necessary for increasing such payments to States to comply with the preceding sentence shall be obtained by ratably reducing the amounts to be paid to other States, but no such amount shall be reduced to an amount which is less than the amount a State received under the Act for each such program for fiscal year 1985. 20 USC 2331, 2361. 98 Stat. 3305; 99 Stat. 293.

"(ii) If for any fiscal year the amount appropriated for programs authorized by title II or part B of title III and available for allotment under this section is insufficient to satisfy the provisions of clause (i), the payments to all States for each such program shall be ratably reduced as necessary.

"(B)(i) Notwithstanding any other provision of law and subject to subparagraph (A) and clause (ii), for any fiscal year for which the amounts appropriated for programs authorized by title II or part A, B, C, D, or E of title III (and available for allotment under this section) exceed the amounts so available for fiscal year 1985, no State shall receive less than one-half of one percent of the amount available for each such program for that fiscal year under this subsection. Amounts necessary for increasing such payments to States to comply with the preceding sentence shall be obtained by ratably reducing the amounts to be paid to other States. 20 USC 2351-2393.

71-139 O - 86 (360)

"(ii) Due to the application of the provisions of clause (i), for any fiscal year, no State shall receive more than 150 percent of the payments made to the State for each program authorized by title II, or part A, B, C, D, or E of title III for the preceding fiscal year.

Ante, p. 761.

Ante, p. 761.

Virgin Islands, Guam, American Samoa, Northern Mariana Islands, Trust Territory of the Pacific Islands.

"(C) In the case of the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the minimum allotment for all programs under the Act shall be $200,000.".

Approved July 8, 1986.

LEGISLATIVE HISTORY—H.R. 4841:

HOUSE REPORT No. 99-641 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 132 (1986):
June 17, considered and passed House.
June 25, considered and passed Senate.

○

Public Law 99-358
99th Congress

An Act

To permit the use and leasing of certain public lands in Nevada by the University of Nevada

July 8, 1986
[S. 1625]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding the provisions of the Recreation and Public Purposes Act (43 U.S.C. 869 et seq.), the Secretary of the Interior shall permit the University of Nevada to use (either directly or by lease) the lands described in subsection (b) of this Act as a site for a research and development center.

(b) The lands referred to in subsection (a) are described as follows:

(1) T. 20 N., R. 19E, Sec. 25: Lots 1, 2, 3, 4, 5, 11, SE 1/4 NW 1/4, NE 1/4 SW 1/4, Mount Diablo Meridian, Nevada, containing 309.11 acres; and

(2) T. 20 N., R. 19E, Sec. 25: Lots 6, 7, SW 1/4 NE 1/4, NW 1/4 SE 1/4, Mount Diablo Meridian, Nevada, containing 158.22 acres.

Approved July 8, 1986.

LEGISLATIVE HISTORY—S. 1625:

HOUSE REPORT No. 99-658 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 99-277 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
May 1, considered and passed Senate.
June 26, considered and passed House.

71-139 O - 86 (361)

Public Law 99-359
99th Congress

An Act

July 8, 1986
[S. 2180]

To authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 17(f) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216(f)) is amended—

(1) by striking "is" and inserting in lieu thereof "are"; and

(2) by inserting immediately before the period the following: "and $18,300,000 for the fiscal year ending September 30, 1987".

Daylight saving time.
Energy.
15 USC 260a note.

SEC. 2. (a) The Congress finds—

(1) that various studies of governmental and nongovernmental agencies indicate that daylight saving time over an expanded period would produce a significant energy savings in electrical power consumption;

(2) that daylight saving time may yield energy savings in other areas besides electrical power consumption;

(3) that daylight saving time over an expanded period could serve as an incentive for further energy conservation by individuals, companies, and the various governmental entities at all levels of government, and that such energy conservation efforts could lead to greatly expanded energy savings; and

(4) that the use of daylight saving time over an expanded period could have other beneficial effects on the public interest, including the reduction of crime, improved traffic safety, more daylight outdoor playtime for the children and youth of our Nation, greater utilization of parks and recreation areas, expanded economic opportunity through extension of daylight hours to peak shopping hours and through extension of domestic office hours to periods of greater overlap with the European Economic Community.

15 USC 260a.

(b) Section 3(a) of the Uniform Time Act of 1966 (15 U.S.C. 260a(a)) is amended by striking "last Sunday of April" and inserting in lieu thereof "first Sunday of April".

State and local governments.
15 USC 260a note.

(c) Any law in effect on the date of the enactment of this Act—

(1) adopted pursuant to section 3(a)(2) of the Uniform Time Act of 1966 by a State with parts thereof in more than one time zone, or

(2) adopted pursuant to section 3(a)(1) of such Act by a State that lies entirely within one time zone,

shall be held and considered to remain in effect as the exercise by that State of the exemption permitted by such Act unless that State, by law, provides that such exemption shall not apply.

Communications and telecommunications.
15 USC 260a note.

(d)(1) Notwithstanding any other law or any regulation issued under any such law, the Federal Communications Commission shall, consistent with any existing treaty or other agreement, make such adjustment by general rules, or by interim action pending such general rules, with respect to hours of operation of daytime standard

amplitude modulation broadcast stations, as may be consistent with the public interest, including the public's interest in receiving interference-free service.

(2) Such general rules, or interim action, may include variances with respect to operating power and other technical operating characteristics.

(3) Subsequent to the adoption of such general rules, they may be varied with respect to particular stations and areas because of the exigencies in each case.

(e) This section shall take effect 60 days after the date of enactment of this Act, except that if such effective date occurs in any calendar year after March 1, this section shall take effect on the first day of the following calendar year.

Effective date. 15 USC 260a note.

Approved July 8, 1986.

LEGISLATIVE HISTORY—S. 2180 (H.R. 4252):

HOUSE REPORT No. 99-623 accompanying H.R. 4252 (Comm. on Science and Technology).
SENATE REPORT No. 99-267 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 132 (1986):
May 15, 19, 20, considered and passed Senate.
June 23, 24, H.R. 4252 considered and passed House; proceedings vacated and S. 2180 passed in lieu.

○

TO AMEND TITLE 18, UNITED STATES CODE

71-139 O - 86 (363)

Public Law 99-360
99th Congress

An Act

July 8, 1986
[S. 2414]

To amend title 18, United States Code.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) Strike out section 926A of title 18, United States Code, and insert in lieu thereof the following new section:

18 USC 926A.

"§ 926A. Interstate transportation of firearms

State and local governments.

"Notwithstanding any other provision of any law or any rule or regulation of a State or any political subdivision thereof, any person who is not otherwise prohibited by this chapter from transporting, shipping, or receiving a firearm shall be entitled to transport a firearm for any lawful purpose from any place where he may lawfully possess and carry such firearm to any other place where he may lawfully possess and carry such firearm if, during such transportation the firearm is unloaded, and neither the firearm nor any ammunition being transported is readily accessible or is directly accessible from the passenger compartment of such transporting vehicle: *Provided,* That in the case of a vehicle without a compartment separate from the driver's compartment the firearm or ammunition shall be contained in a locked container other than the glove compartment or console.".

Law enforcement and crime.
Terrorism.
Ante, p. 449.

(b) Section 921(a)(22) of title 18, United States Code, is amended by inserting before the period at the end thereof the following: ": *Provided,* That proof of profit shall not be required as to a person who engages in the regular and repetitive purchase and disposition of firearms for criminal purposes or terrorism. For purposes of this paragraph, the term 'terrorism' means activity, directed against United States persons, which—

"(A) is committed by an individual who is not a national or permanent resident alien of the United States;

"(B) involves violent acts or acts dangerous to human life which would be a criminal violation if committed within the jurisdiction of the United States; and

"(C) is intended—

"(i) to intimidate or coerce a civilian population;

"(ii) to influence the policy of a government by intimidation or coercion; or

"(iii) to affect the conduct of a government by assassination or kidnaping".

Records.
Business and industry.
Ante, p. 453.

(c) Section 923(c) of title 18, United States Code, is amended by adding before the period at the end thereof the following: ", except that any licensed manufacturer, importer, or dealer who has maintained a firearm as part of a personal collection for one year and who sells or otherwise disposes of such firearm shall record the description of the firearm in a bound volume, containing the name and place of residence and date of birth of the transferee if the transferee is an individual, or the identity and principal and local

places of business of the transferee if the transferee is a corporation or other business entity: *Provided,* That no other recordkeeping shall be required".

SEC. 2. This Act and the amendments made by this Act, intended to amend the Firearms Owners' Protection Act, shall become effective on the date on which the section they are intended to amend in such Firearms Owners' Protection Act becomes effective and shall apply to the amendments to title 18, United States Code, made by such Act.

Effective date.
18 USC 921 note.
Ante, p. 449.

Approved July 8, 1986.

LEGISLATIVE HISTORY—S. 2414:

CONGRESSIONAL RECORD, Vol. 132 (1986):
May 6, considered and passed Senate.
June 24, considered and passed House.

○

Public Law 99-361
99th Congress

An Act

July 9, 1986
[H.R. 237]

To amend the Fair Debt Collection Practices Act to provide that any attorney who collects debts on behalf of a client shall be subject to the provisions of such Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the last sentence of section 803(6) of the Fair Debt Collection Practices Act (15 U.S.C. 1692a(6)) is amended—

(1) by striking out clause (F) and redesignating clause (G) as clause (F); and

(2) in clause (E), by inserting "and" at the end thereof.

(b) The second sentence of section 803(6) of the Fair Debt Collection Practices Act (15 U.S.C. 1692a(6)) is amended by striking out "clause (G)" and inserting in lieu thereof "clause (F)".

Approved July 9, 1986.

LEGISLATIVE HISTORY—H.R. 237:

HOUSE REPORT No. 99-405 (Comm. on Banking, Finance and Urban Affairs).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 2, considered and passed House.
Vol. 132 (1986): June 26, considered and passed Senate.

71-139 O - 86 (364)

Public Law 99-362
99th Congress

An Act

To make technical corrections to the National Foundation on the Arts and the Humanities Act of 1965.

July 9, 1986
[H.R. 5036]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 11(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(2)) is amended—

(1) in subparagraph (A)(ii) by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (8)", and

(2) in subparagraph (B)(ii) by striking out "paragraph (7)" and inserting "paragraph (9)".

ALLOCATION LIMITATIONS FOR EDUCATION OF THE HANDICAPPED ACT

SEC. 2. Section 611(a)(5)(A)(i) of the Education of the Handicapped Act is amended by inserting after "children" the first time it appears the following: "aged five to seventeen, inclusive,".

Children and youth.
20 USC 1411.

Approved July 9, 1986.

LEGISLATIVE HISTORY—H.R. 5036:

CONGRESSIONAL RECORD, Vol. 132 (1986):
June 17, considered and passed House.
June 25, considered and passed Senate, amended.
June 26, House agreed to Senate amendment.

○

71-139 O - 86 (365)

Public Law 99-363
99th Congress

An Act

July 11, 1986
[H.R. 4801]

To amend section 994 of title 28, United States Code, to clarify certain duties of the United States Sentencing Commission.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Sentencing Guidelines Act of 1986.
Prisoners.
28 USC 1 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sentencing Guidelines Act of 1986".

SEC. 2. GUIDELINES AND POLICY STATEMENTS.

Section 994 of title 28, United States Code, is amended—

(1) in subsection (a)(2)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(B) so that subparagraph (C) reads as follows:

"(C) the sentence modification provisions set forth in sections 3563(c), 3564, 3573, and 3582(c) of title 18;"; and

(C) by adding after subparagraph (C) the following:

"(D) the fine imposition provisions set forth in section 3572 of title 18;";

(2) so that paragraph (3) of subsection (a) reads as follows:

"(3) guidelines or general policy statements regarding the appropriate use of the provisions for revocation of probation set forth in section 3565 of title 18, and the provisions for modification of the term or conditions of supervised release set forth in section 3583(e) of title 18."; and

(3) in subsection (b)—

(A) by inserting "(1)" after "(b)";

(B) by designating the second sentence as paragraph (2); and

(C) in that second sentence as so redesignated, by striking out "25 per centum" and inserting in lieu thereof "the greater of 25 percent or 6 months, except that, if the maximum term of the range is 30 years or more, the maximum may be life imprisonment".

Approved July 11, 1986.

LEGISLATIVE HISTORY—H.R. 4801:

HOUSE REPORT No. 99-614 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 132 (1986):
June 3, considered and passed House.
June 26, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22, No. 28 (1986):
July 11, Presidential statement.

O

71-139 O - 86 (366)

Public Law 99-364
99th Congress

Joint Resolution

To designate the weekend of August 1, 1986, through August 3, 1986, as "National Family Reunion Weekend".

July 29, 1986
[S.J. Res. 274]

Whereas the family is the foundation of a strong America;
Whereas the family nurtures the character and identity of individuals;
Whereas it is important to strengthen and preserve family spirit and unity;
Whereas tracing ancestral roots and creating a family tree can be an important discovery process;
Whereas family reunions of any size provide a strong sense of heritage and pride; and
Whereas family reunions bridge the gap between generations, bringing together the young and old alike to celebrate a family's rich past: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the weekend of August 1, 1986, through August 3, 1986, is designated as "National Family Reunion Weekend" and the President is authorized and requested to issue a proclamation calling upon the families of America to observe such weekend with appropriate activities.

Approved July 29, 1986.

LEGISLATIVE HISTORY—S.J. Res. 274:

CONGRESSIONAL RECORD, Vol. 132 (1986):
June 20, considered and passed Senate.
July 16, considered and passed House.

71-139 O - 86 (367)

Public Law 99-365
99th Congress

Joint Resolution

July 29, 1986
[S.J. Res. 279]

To designate the month of October 1986, as "Lupus Awareness Month".

Whereas Lupus Erythematosus is a disease of unknown cause that affects over five-hundred thousand people in the United States, 90 percent of whom are women in their childbearing years;

Whereas Lupus Erythematosus, though not a rare disease, is unfamiliar even to some physicians which may result in the disease being misdiagnosed or diagnosed too late;

Whereas Lupus Erythematosus in the most severe form can be fatal;

Whereas The Lupus Foundation of America, Inc., its constituent chapters, and other voluntary health organizations are established throughout the United States to serve and support victims of lupus and their families, encourage funding for research, and increase public awareness; and

Whereas the public and the Federal Government are not sufficiently aware of the incidence of Lupus Erythematosus: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of October 1986, is designated as "Lupus Awareness Month" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

Approved July 29, 1986.

LEGISLATIVE HISTORY—S.J. Res. 279:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Mar. 21, considered and passed Senate.
July 16, considered and passed House.

○

71-139 O - 86 (368)

Public Law 99-366
99th Congress

Joint Resolution

To ratify the February 1, 1986, sequestration order of the President for Fiscal Year 1986 issued under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

July 31, 1986
[H.J. Res. 672]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, effective on and after March 1, 1986, the Congress hereby ratifies and affirms as law the February 1, 1986, sequestration order of the President as issued under section 252(a)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 and as affected by laws enacted after February 1, 1986, and before the date of adoption of this joint resolution.

Effective date.
2 USC 902 note.

2 USC 902.

Approved July 31, 1986.

LEGISLATIVE HISTORY—H.J. Res. 672 (H.J. Res. 676) (S.J. Res. 374):

HOUSE REPORTS: No. 99-694 accompanying H.J. Res. 676 (Temporary Joint Comm. on Deficit Reduction).
CONGRESSIONAL RECORD, Vol. 132 (1986):
July 17, considered and passed House and Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
July 31, Presidential statement.

71-139 O - 86 (369)

Public Law 99-367
99th Congress

An Act

July 31, 1986
[S. 1068]

To eliminate unnecessary paperwork and reporting requirements contained in section 15(1) of the Outer Continental Shelf Lands Act, and sections 601 and 606 of the Outer Continental Shelf Lands Act Amendments of 1978.

OCS Paperwork and Reporting Act.
43 USC 1301 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "OCS Paperwork and Reporting Act".

SEC. 2. (a) Section 15(1) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1343(1)), is amended by—

(1) adding the word "and" after "activities;" in paragraph (C);

(2) deleting paragraph (D); and

(3) redesignating paragraph (E) as paragraph (D).

(b) Title VI of the Outer Continental Shelf Lands Act Amendments of 1978 is amended by deleting section 601 (43 U.S.C. 1861).

(c) Title VI of the Outer Continental Shelf Lands Act Amendments of 1978 is amended by deleting section 606 (43 U.S.C. 1865) and inserting in lieu thereof the following:

"INVESTIGATION OF RESERVES OF OIL AND GAS IN OUTER CONTINENTAL SHELF

"SEC. 606. The Secretary of the Interior shall conduct a continuing investigation to determine an estimate of the total discovered crude oil and natural gas reserves by fields (including proved and indicated reserves) and undiscovered crude oil and natural gas resources (including hypothetical and speculative resources) of the Outer Continental Shelf.

Reports.

"The Secretary of the Interior shall provide a biennial report to Congress on June 30 of every odd numbered year on the results of such investigation.".

Approved July 31, 1986.

LEGISLATIVE HISTORY—S. 1068:

HOUSE REPORTS: No. 99-558, Pt. 1 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 99-84 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 131 (1985): July 9, considered and passed Senate.
Vol. 132 (1986): July 21, considered and passed House.

O

71-139 O - 86 (370)

Public Law 99-368
99th Congress

An Act

To authorize appropriations for fiscal year 1987 for the operation and maintenance of the Panama Canal, and for other purposes.

Aug. 1, 1986
[H.R. 4409]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Panama Canal Commission Authorization Act, Fiscal Year 1987.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Panama Canal Commission Authorization Act, Fiscal Year 1987".

SEC. 2. OPERATING EXPENSES.

There is authorized to be appropriated from the Panama Canal Commission Fund to the Panama Canal Commission (hereafter in this Act referred to as the "Commission") for the fiscal year beginning October 1, 1986, not more than $437,250,000, for necessary expenses of the Commission incurred under the Panama Canal Act of 1979 (Public Law 96-70; 22 U.S.C. 3601 et seq.), including expenses for—

(1) the hire of passenger motor vehicles and aircraft;

Motor vehicles. Aircraft and aircraft carriers.

(2) the purchase of passenger motor vehicles as may be necessary for fiscal year 1987, the number and price of which may not exceed the amount provided in appropriation Acts; except that large heavy duty passenger sedans used to transport employees of the Commission across the Isthmus of Panama may be purchased for the fiscal year 1987 without regard to price limitations set forth in applicable regulations of any department or agency of the United States;

(3) official receptions and representation expenses, except that not more than $43,000 may be made available for such expenses, of which (A) not more than $10,000 may be made available for such expenses of the Supervisory Board of the Commission, (B) not more than $5,000 may be made available for such expenses of the Secretary of the Commission, and (C) not more than $28,000 may be made available for such expenses of the Administrator of the Commission;

(4) the procurement of expert and consultant services as provided in section 3109 of title 5, United States Code;

(5) a residence for the Administrator of the Commission;

Housing.

(6) uniforms, or allowances therefor, as authorized by section 5901 and 5902 of title 5, United States Code;

(7) disbursements by the Administrator of the Commission for employee recreation and community projects; and

(8) the operation of guide services.

SEC. 3. CAPITAL OUTLAY.

Of any funds appropriated pursuant to section 2 of this Act, not more than $27,480,000 (which is authorized to remain available until expended) may be made available for the acquisition, construction,

replacement, and improvement of facilities, structures, and equipment required by the Commission.

SEC. 4. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.

In addition to the amount authorized to be appropriated by section 2 of this Act, there are authorized to be appropriated to the Commission for the fiscal year 1987 such amounts as may be necessary for—

Wages.

(1) increases in salary, pay, retirement, and other employee benefits provided by law;

TIAS 10030.

(2) covering payments to Panama under paragraph 4(a) of article XIII of the Panama Canal Treaty of 1977, as provided by section 1341(a) of the Panama Canal Act of 1979 (22 U.S.C. 3751(a)); and

Petroleum and petroleum products.

(3) increased costs for fuel.

SEC. 5. AUTHORIZATION OF SIX ADDITIONAL CITIZENS OF THE REPUBLIC OF PANAMA TO RECEIVE INSTRUCTION AT THE UNITED STATES MERCHANT MARINE ACADEMY.

46 USC app. 1295b.

Strike section 1303(b)(7) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295(b)(7)) and substitute the following:

"(7)(A) The Secretary may annually permit, until September 30, 1995, upon approval of the Secretary of State, up to six additional individuals from the Republic of Panama to receive instruction at the Academy, in addition to those individuals appointed under paragraphs (3), (4), (5), and (6) of this subsection.

"(B) The Secretary shall insure that the Republic of Panama reimburse the Secretary for the cost of that instruction (including the same allowances as received by cadets at the Academy appointed from the United States) as determined by the Secretary.

"(C) An individual receiving instructions at the Academy under this paragraph shall be subject to the same rules and regulations governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation as cadets at the Academy appointed from the United States.

"(8) An individual appointed as a cadet under paragraph (3), or receiving instruction under paragraph (4), (5), (6), or (7) of this subsection is not entitled to hold a license authorizing service on a merchant marine vessel of the United States solely by reason of graduation from the Academy.".

SEC. 6. EXEMPTION OF PANAMA CANAL COMMISSION APPROPRIATIONS FROM THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985 (PUBLIC LAW 99-177).

Section 1341 of the Panama Canal Act of 1979 (22 U.S.C. 3751) is amended by adding at the end thereof the following new subsection:

"(g) Notwithstanding any other provision of law, no reduction under any order issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 shall apply to the Commission if the implementation of such an order would result in a payment to the Republic of Panama under paragraph 4(c) of article XIII of the Panama Canal Treaty of 1977 and this section.".

2 USC 901 note.

TIAS 10030.

SEC. 7. EFFECTIVE DATE OF EXEMPTION FROM AUTOMATIC BUDGET CUTS.

22 USC 3751 note.

The amendment made by section 6 shall take effect with respect to fiscal year 1986 and subsequent fiscal years.

Approved August 1, 1986.

LEGISLATIVE HISTORY—H.R. 4409:

HOUSE REPORTS: No. 99-536 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 132 (1986):
May 1, considered and passed House.
July 17, considered and passed Senate.

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Public Law 99-369
99th Congress

An Act

Aug. 1, 1986
[H.R. 4985]

To authorize the distribution within the United States of the USIA film entitled "The March".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Historic preservation.

SECTION 1. DISTRIBUTION WITHIN THE UNITED STATES OF THE USIA FILM ENTITLED "THE MARCH".

22 USC 1461-1a.

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 and the second sentence of section 501 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the film entitled "The March"; and

Public information.

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Archivist shall reimburse the Director for any expenses of the Agency in making that master copy available, shall deposit that film in the National Archives of the United States, and shall make copies of that film available for purchase and public viewing in the United States.

Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

Approved August 1, 1986.

LEGISLATIVE HISTORY—H.R. 4985 (S. 2538):

CONGRESSIONAL RECORD, Vol. 132 (1986):
July 15, considered and passed House.
July 17, considered and passed Senate.

71-139 O - 86 (372)

Public Law 99-370
99th Congress

An Act

To amend title 18, United States Code, with respect to certain bribery and related offenses.

Aug. 4, 1986
[H.R. 3511]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Bank Bribery Amendments Act of 1985.
18 USC 201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bank Bribery Amendments Act of 1985".

SEC. 2. CHAPTER 11 AMENDMENT.

Section 215 of title 18, United States Code, is amended to read as follows:

"§ 215. Receipt of commissions or gifts for procuring loans

Law enforcement and crime.

"(a) Whoever—

"(1) corruptly gives, offers, or promises anything of value to any person, with intent to influence or reward an officer, director, employee, agent, or attorney of a financial institution in connection with any business or transaction of such institution; or

"(2) as an officer, director, employee, agent, or attorney of a financial institution, corruptly solicits or demands for the benefit of any person, or corruptly accepts or agrees to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business or transaction of such institution;

shall be fined not more than $5,000 or three times the value of the thing given, offered, promised, solicited, demanded, accepted, or agreed to be accepted, whichever is greater, or imprisoned not more than five years, or both, but if the value of the thing given, offered, promised, solicited, demanded, accepted, or agreed to be accepted does not exceed $100, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(b) As used in this section, the term 'financial institution' means—

"(1) a bank with deposits insured by the Federal Deposit Insurance Corporation;

"(2) an institution with accounts insured by the Federal Savings and Loan Insurance Corporation;

"(3) a credit union with accounts insured by the National Credit Union Share Insurance Fund;

"(4) a Federal home loan bank or a member, as defined in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422), of the Federal home loan bank system;

"(5) a Federal land bank, Federal intermediate credit bank, bank for cooperatives, production credit association, and Federal land bank association;

"(6) a small business investment company, as defined in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662);

"(7) a bank holding company as defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841); or

"(8) a savings and loan holding company as defined in section 408 of the National Housing Act (12 U.S.C. 1730a).

"(c) This section shall not apply to bona fide salary, wages, fees, or other compensation paid, or expenses paid or reimbursed, in the usual course of business.

"(d) Federal agencies with responsibility for regulating a financial institution shall jointly establish such guidelines as are appropriate to assist an officer, director, employee, agent, or attorney of a financial institution to comply with this section. Such agencies shall make such guidelines available to the public.".

Public information.

18 USC 215 note.

SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 30 days after the date of the enactment of this Act.

Approved August 4, 1986.

LEGISLATIVE HISTORY—H.R. 3511:

HOUSE REPORTS: No. 99-335 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Oct. 29, considered and passed House.
Vol. 132 (1986): Feb. 4, considered and passed Senate, amended.
Apr. 22, House concurred in Senate amendments, in another with an amendment.
June 24, Senate concurred in House amendment with an amendment.
June 26, House concurred in Senate amendment.

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Public Law 99-371
99th Congress

An Act

To authorize quality educational programs for deaf individuals, to foster improved educational programs for deaf individuals throughout the United States, to reenact and codify certain provisions of law relating to the education of the deaf, and for other purposes.

Aug. 4, 1986
[S. 1874]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education of the Deaf Act of 1986".

Education of the Deaf Act of 1986.
20 USC 4301 note.

TITLE I—GALLAUDET UNIVERSITY

PART A—GALLAUDET UNIVERSITY GENERAL AUTHORITY

SEC. 101. CONTINUATION OF GALLAUDET COLLEGE AS GALLAUDET UNIVERSITY.

20 USC 4301.

(a) GALLAUDET UNIVERSITY.—The Gallaudet College created by an Act entitled "An Act to amend the charter of the Columbia Institution for the Deaf, change its name, define its corporate powers, and provide for its organization and administration, and for other purposes", approved June 18, 1954, is continued as a body corporate under the name of Gallaudet University. Hereafter Gallaudet College shall be known as Gallaudet University and have perpetual succession and shall have the powers and be subject to the limitations contained in this Act.

20 USC 691.

(b) PURPOSE.—The purpose of Gallaudet University shall be to provide education and training to deaf individuals and otherwise to further the education of the deaf.

SEC. 102. PROPERTY RIGHTS.

20 USC 4302.

(a) PROPERTY RIGHTS DESCRIBED.—Gallaudet University is vested with all the property and the rights of property, and shall have and be entitled to use all authority, privileges, and possessions and all legal rights which it has, or which it had or exercised under any former name, including the right to sue and be sued and to own, acquire, sell, mortgage, or otherwise dispose of property it may own now or hereafter acquire. Gallaudet University shall also be subject to all liabilities and obligations now outstanding against the corporation under any former name.

(b) DISPOSAL OF REAL PROPERTY.—(1) With the approval of the Secretary of Education, the Board of Trustees of Gallaudet University may convey fee simple title by deed, convey by quitclaim deed, mortgage, or otherwise dispose of any or all real property title to which is vested in Gallaudet University, Gallaudet College, the Columbia Institution for the Deaf, or any predecessor corporation.

(2) The proceeds of any such disposition shall be considered a part of the capital structure of the corporation, and may be used solely for the acquisition of real estate for the use of the corporation, for the construction, equipment, or improvement of buildings for such

Securities.

use, or for investment purposes, but if invested only the income from the investment may be used for current expenses of the corporation.

20 USC 4303.

SEC. 103. BOARD OF TRUSTEES.

(a) COMPOSITION OF THE BOARD.—(1) Gallaudet University shall be under the direction and control of a Board of Trustees, composed of twenty-one members selected as follows:

(A) three public members of whom (i) one shall be a United States Senator appointed by the President of the Senate, and (ii) two shall be Representatives appointed by the Speaker of the House of Representatives; and

(B) eighteen other members, all of whom shall be elected by the Board of Trustees, who on the effective date of this Act shall include those individuals serving as nonpublic members of the Board of Trustees of Gallaudet College immediately prior to such date, and of whom one shall be elected pursuant to regulations of the Board of Trustees, on nomination by the Gallaudet University Alumni Association for a term of three years.

The members appointed from the Senate and House of Representatives shall be appointed for a term of two years at the beginning of each Congress, shall be eligible for reappointment, and shall serve until their successors are appointed.

(2) The Board of Trustees shall have the power to fill any vacancy in the membership of the Board except for public members. Nine trustees shall constitute a quorum to transact business. The Board of Trustees, by vote of a majority of its membership, is authorized to remove any member of their body (except the public members) who may refuse or neglect to discharge the duties of a trustee, or whose removal would, in the judgment of said majority, be to the interest and welfare of said corporation.

(b) POWERS OF THE BOARD.—The Board of Trustees is authorized to—

(1) make such rules, policies, regulations, and bylaws, not inconsistent with the Constitution and laws of the United States, as may be necessary for the good government of Gallaudet University, for the management of the property and funds of such corporation and for the admission, instruction, care, and discharge of students;

(2) provide for the adoption of a corporate seal and for its use;

(3) fix the date of holding their annual and other meetings;

(4) appoint a president, professors, instructors, and other necessary employees for Gallaudet University, delegate to them such duties as it may deem advisable, fix their compensation, and remove them when, in their judgment, the interest of Gallaudet University shall require it;

(5) elect a chairperson and other officers and prescribe their duties and terms of office, and appoint an executive committee to consist of five members, and vest the committee with such of its powers during periods between meetings of the Board as the Board deems necessary;

(6) establish such departments and other units, including a department of higher learning for the deaf, a department of elementary education for the instruction of deaf children, a graduate department, and a research department, as the Board deems necessary to carry out the purpose of Gallaudet University;

(7) confer such degrees and marks of honor as are conferred by colleges and universities generally, and issue such diplomas and certificates of graduation as, in its opinion, may be deemed advisable, and consistent with academic standards;

(8) subject to the provisions of section 403, control expenditures of all moneys appropriated by Congress for the benefit of Gallaudet University; and

(9) control the expenditure and investment of any moneys or funds or property which Gallaudet University may have or may receive from sources other than appropriations by Congress.

PART B—KENDALL DEMONSTRATION ELEMENTARY SCHOOL

Children and youth.

SEC. 111. AUTHORITY OF GALLAUDET UNIVERSITY.

20 USC 4311.

(a) GENERAL AUTHORITY.—

(1) For the purpose of providing day and residential facilities for elementary education for individuals who are deaf in order to prepare them for high school and other secondary study and to provide an exemplary educational program to stimulate the development of similar excellent programs throughout the Nation, the Board of Trustees of Gallaudet University is authorized to maintain and operate Kendall Demonstration Elementary School as a demonstration elementary school for the deaf, to serve primarily residents of the National Capital region.

(2) The Kendall Demonstration Elementary School shall also—

(A) provide technical assistance and outreach throughout the Nation to train parents of deaf infants and children in specialized learning skills; and

(B) develop curricula, instructional techniques, materials, and programs for teaching hearing impaired and deaf students in classroom situations with nonhearing impaired students.

(b) RESPONSIBILITY FOR COMPLIANCE WITH EDUCATION OF THE HANDICAPPED ACT.—Where a local educational agency, State educational agency, or intermediate educational unit refers a child to or places a child at the Kendall Demonstration Elementary School, such agency or unit shall be responsible for ensuring that the special education and related services provided to such child is consistent with part B of the Education of the Handicapped Act.

State and local governments.

20 USC 1411.

PART C—MODEL SECONDARY SCHOOL FOR THE DEAF

Children and youth.

SEC. 121. AUTHORITY OF GALLAUDET UNIVERSITY.

District of Columbia.

20 USC 4321.

(a) GENERAL AUTHORITY.—For the purpose of providing day and residential facilities for secondary education for individuals who are deaf in order to prepare them for college and other advanced study, and to provide an exemplary secondary school program to stimulate the development of similarly excellent programs throughout the Nation, the Board of Trustees of Gallaudet University is authorized, in accordance with the agreement under section 122, to maintain and operate a model secondary school for the deaf to serve primarily residents of the District of Columbia and of nearby States.

(b) RESPONSIBILITY FOR COMPLIANCE WITH EDUCATION OF THE HANDICAPPED ACT.—Where a local educational agency, State educational agency, or intermediate educational unit refers a child to or

State and local governments.

places a child at the model secondary school, such agency or unit shall be responsible for ensuring that the special education and related services provided to such child is consistent with part B of the Education of the Handicapped Act.

20 USC 1400.

20 USC 4322.

SEC. 122. AGREEMENT WITH GALLAUDET UNIVERSITY FOR THE MODEL SECONDARY SCHOOL.

District of Columbia.

(a) GENERAL AUTHORITY.—The Secretary is authorized to continue an agreement with Gallaudet University for the establishment and operation, including construction and equipment of a model secondary school for the deaf to serve primarily residents of the District of Columbia and of nearby States.

(b) PROVISIONS OF AGREEMENT.—The agreement shall—

(1) provide that Federal funds appropriated for the benefit of the model secondary school will be used only for the purposes for which appropriated and in accordance with the applicable provisions of this Act and the agreement made pursuant thereto;

Reports.

(2) provide that the University will make an annual report to the Secretary;

(3) provide that in the design and construction of any facilities, maximum attention will be given to excellence of architecture and design, works of art, and innovative auditory and visual devices and installations appropriate for the educational functions of such facilities;

(4) provide that the model secondary school will develop curricula, instructional techniques, materials, and programs for teaching hearing impaired and deaf students in classroom situations with nonhearing impaired students;

(5) include such other conditions as the Secretary considers necessary to carry out the purposes of this part; and

Wages.

(6) provide that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by Federal funds appropriated for the benefit of the model secondary school will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a-276a-5) commonly referred to as the Davis-Bacon Act; and the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

(c) SUBMISSION OF REPORT.—The Secretary shall submit the annual report of the University (required under subsection (b)(3)) to the Congress with such comments and recommendations as the Secretary may deem appropriate.

TITLE II—NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

20 USC 4331.

SEC. 201. AUTHORITY.

For the purpose of providing a residential facility for postsecondary technical training and education for individuals who are deaf in order to prepare them for successful employment, the institution of higher education with which the Secretary has an agreement under

this title is authorized to operate and maintain a National Technical Institute for the Deaf.

SEC. 202. AGREEMENT FOR THE INSTITUTE. 20 USC 4332.

(a) GENERAL AUTHORITY.—The Secretary is authorized to establish or continue an agreement with an institution of higher education for the establishment and operation, including construction and equipment, of a National Technical Institute for the Deaf. The Secretary, in considering proposals from institutions of higher education to enter into an agreement under this Act, shall give preference to institutions which are located in metropolitan industrial areas.

(b) PROVISIONS OF AGREEMENT.—The agreement shall—

(1) provide that Federal funds appropriated for the benefit of the Institute will be used only for the purposes for which appropriated and in accordance with the applicable provisions of this Act and the agreement made pursuant thereto;

(2) provide that the Board of Trustees or other governing body of the institution, subject to the approval of the Secretary, will appoint an advisory group to advise the Director of the Institute in formulating and carrying out the basic policies governing its establishment and operation, which group shall include individuals who are professionally concerned with education and technical training at the postsecondary school level, persons who are professionally concerned with activities relating to education and training of the deaf, and members of the public familiar with the need for services provided by the Institute;

(3) provide that the Board of Trustees or other governing body of the institution will make an annual report together with an accounting of all indirect costs paid to the institution of higher education under the agreement to the Secretary, which the Secretary shall transmit to the Congress with such comments and recommendations as the Secretary may deem appropriate; Reports.

(4) include such other conditions as the Secretary deems necessary to carry out the purposes of this part; and

(5) provide that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by Federal funds appropriated for the benefit of the Institute will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a-276a-5) commonly referred to as the Davis-Bacon Act; and the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

(c) LIMITATION.—If within twenty years after the completion of any construction (except minor remodeling or alteration) for which such funds have been paid—

(1) the facility ceases to be used for the purposes for which it was constructed or the agreement is terminated, unless the Secretary determines that there is good cause for releasing the institution from its obligation, or

(2) the institution ceases to be the owner of the facility, the United States shall be entitled to recover from the applicant or other owner of the facility an amount which has the same ratio with respect to the current market value of the facility as the amount of

Federal funds expended for construction of such facility bears to the total cost of construction of the facility. The current market value of the facility shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

TITLE III—COMMISSION ON EDUCATION OF THE DEAF

20 USC 4341.

Children and youth.

SEC. 301. COMMISSION ESTABLISHED.

(a) ESTABLISHMENT.—There is established a Commission on Education of the Deaf to make a study of the quality of infant and early childhood education programs and of elementary, secondary, post-secondary, adult, and continuing education furnished to deaf individuals.

(b) COMPOSITION.—(1) The Commission shall be composed of 12 members as follows:

(A) Three members shall be appointed by the President.

(B) One member shall be appointed by the Comptroller General of the United States.

(C) Four of the members shall be appointed by the Speaker of the House of Representatives, with the approval of the Majority Leader and the Minority Leader of the House of Representatives.

(D) Four of the members shall be appointed by the President pro tempore of the Senate, with the approval of the Majority Leader and the Minority Leader of the Senate.

(2)(A) Members of the Commission shall be appointed from among individuals who have broad experience and expertise in deafness, program evaluation, education, or rehabilitation, which experience and expertise are directly relevant to the issues to be studied by the Commission.

(B) The Chairperson shall be appointed jointly by the Speaker of the House of Representatives, with the approval of the Majority Leader and the Minority Leader of the House of Representatives, and the President pro tempore of the Senate, with the approval of the Majority Leader and the Minority Leader of the Senate.

(3) Members of the Commission may not be employed by or be a consultant to the National Technical Institute for the Deaf or Gallaudet University during their appointment as members of the Commission and may not have been so employed for a period of one year prior to appointment.

(4) Of the members appointed by the President under paragraph (1)(A), not less than 1 shall be deaf. Of the members appointed by the Speaker of the House of Representatives under paragraph (1)(C), not less than 2 shall be deaf and not more than 2 may be from the same political party. Of the members appointed by the President pro tempore of the Senate under paragraph (1)(D), not less than 2 shall be deaf and not more than 2 may be from the same political party.

(5) Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(6) Members of the Commission shall be appointed not later than 30 days after the date of enactment of this Act.

20 USC 4342.

SEC. 302. DUTIES OF THE COMMISSION.

(a) STUDY DESCRIBED.—(1) The Commission shall make a study of—

(A) the degree to which appropriate postsecondary, adult, and continuing educational opportunities are available to deaf individuals;

(B) the advisability of expanding the number of federally supported postsecondary regional educational programs which serve the deaf;

(C) the training and technical assistance needs of infant and early childhood education programs and elementary, secondary, postsecondary, adult, and continuing education programs which serve the deaf; Children and youth.

(D) the degree to which appropriate elementary and secondary educational opportunities are available to deaf students including (i) the effects of part B of the Education of the Handicapped Act on infant and early childhood education programs and elementary and secondary educational programs for the deaf and (ii) the role played by the model secondary school for the deaf and the Kendall Demonstration Elementary School; Children and youth. 20 USC 1411.

(E) the role and impact of research, development, dissemination, and outreach activities conducted by Gallaudet University and the National Technical Institute for the Deaf in education of the deaf;

(F) the degree to which the purposes of part F of the Education of the Handicapped Act (relating to instructional media for the handicapped) are being carried out; 20 USC 1451.

(G) the problems associated with illiteracy among deaf individuals;

(H) any other issues which the Commission determines will improve the quality of infant and early education programs and elementary, secondary, postsecondary, adult, and continuing education provided to the deaf; and Children and youth.

(I) any other recommendations to improve quality or increase cost effectiveness of providing the education of the deaf.

(2) The study of each issue described in paragraph (1) shall include a description of the findings concerning each such issue together with recommendations for actions designed to address identified needs.

(b) REPORTS.—The Commission shall submit to the President and to the Congress such interim reports as it deems advisable, and not later than 18 months after the date of enactment of this Act, a final report of its study and investigation together with such recommendations, including specific proposals for legislation, as the Commission deems advisable.

(c) TERMINATION.—The Commission shall cease to exist 90 days following the submission of its final report.

SEC. 303. ADMINISTRATIVE PROVISIONS. 20 USC 4343.

(a) PERSONNEL.—(1) The Commission may appoint such personnel, including a Staff Director, as the Commission deems necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and such personnel may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS-18 of the General Schedule. 5 USC 5101. 5 USC 5331. 5 USC 5332.

(2) The Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(b) HEARINGS; QUORUM.—(1) The Commission or, with the authorization of the Commission, any committee thereof, may, for the purpose of carrying out the provisions of this Act, hold such hearings and sit and act at such times and such places within the United States as the Commission or such committee may deem advisable.

(2) Six members of the Commission shall constitute a quorum, but a lesser number of two or more may conduct hearings.

State and local governments.

(c) CONSULTATION.—In carrying out its duties under this Act, the Commission shall consult with Gallaudet University, the National Technical Institute for the Deaf, regional postsecondary education programs for the deaf, other programs and agencies serving or representing the interests of deaf people, Federal agencies, representatives of State and local governments, State and local educational agencies, and private organizations to the extent feasible.

(d) INFORMATION; STATISTICS.—(1) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality (including the General Accounting Office), information, suggestions, estimates, and statistics to carry out the provisions of this title. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairperson.

Contracts.

(2) For the purpose of securing necessary data and information the Commission may enter into contracts with universities, research institutions, foundations, and other competent public or private agencies.

(e) AGENCY COOPERATION.—(1) The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the Commission in carrying out this title.

State and local governments.

(2) The Commission is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local and private agencies with or without reimbursement.

20 USC 4344.

SEC. 304. COMPENSATION OF MEMBERS.

(a) UNITED STATES OFFICER AND EMPLOYEE MEMBERS.—Members of the Commission who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

(b) PUBLIC MEMBERS.—Members of the Commission who are not officers or full-time employees of the United States shall receive compensation at a rate not to exceed the daily equivalent of the pay rate specified for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) during which such members are engaged in the actual performance of duties vested in the Commission. In addition, such members may be allowed travel expenses, including per diem in lieu of subsistence,

as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

TITLE IV—GENERAL PROVISIONS

SEC. 401. DEFINITIONS. 20 USC 4351.

As used in this Act—

(1) The term "Board of Trustees" means (unless the context requires otherwise) the Board of Trustees of Gallaudet University established under section 103. *Ante*, p. 782.

(2) The term "construction" includes construction and initial equipment of new buildings, and expansion, remodeling, and alteration of existing buildings and equipment thereof, including architect's services, but excluding off-site improvements.

(3) The term "elementary school" means a school which provides education for deaf children from the age of onset of deafness to age fifteen, inclusive, but not beyond the eighth grade or its equivalent.

(4) The term "Institute" means the National Technical Institute for the Deaf.

(5) The term "institution of higher education" means an educational institution in any State which (A) admits as regular students only individuals having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (B) is legally authorized within such State to provide a program of education beyond secondary education, (C) provides an educational program for which it awards a bachelor's degree, (D) includes one or more professional or graduate schools, (E) is a public or nonprofit private institution, and (F) is accredited by a nationally recognized accrediting agency or association. For the purpose of clause (F), the Secretary shall publish a list of nationally recognized accrediting agencies or associations which the Secretary determines to be reliable authority as to the quality of training offered.

(6) The term "secondary school" means a school which provides education in grades nine through twelve, inclusive.

(7) The term "Secretary" means the Secretary of Education.

(8) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

SEC. 402. GIFTS. Real property. 20 USC 4352.

(a) GALLAUDET UNIVERSITY.—Gallaudet University is authorized to receive by gift, devise, bequest, purchase, or otherwise, property, both real and personal, for the use of Gallaudet University, or for the use of any of its departments or other units as may be designated in the conveyance or will, and to hold, invest, use, or dispose of such property for the purpose stated in the conveyance or will.

(b) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—The National Technical Institute for the Deaf is authorized to receive by gift, devise, bequest, purchase, or otherwise, property, both real and personal, for the use of the Institute, or for the use of any of its programs as may be designated in the conveyance or will, and to hold, invest, use, or dispose of such property for the purpose stated in the conveyance or will.

20 USC 4353.

SEC. 403. AUDIT.

(a) GENERAL ACCOUNTING OFFICE AUTHORITY.—All financial transactions and accounts of the corporation or institution of higher education, as the case may be, in connection with the expenditure of any moneys appropriated by any law of the United States—

(1) for the benefit of Gallaudet University or for the construction of facilities for its use; or

(2) for the benefit of the National Technical Institute for the Deaf or for the construction of facilities for its use,

shall be settled and adjusted in the General Accounting Office.

(b) INDEPENDENT AUDIT.—Gallaudet University and the institution of higher education operating the National Technical Institute for the Deaf shall have an annual independent audit made of the programs and activities of the University and of the Institute, respectively.

20 USC 4354.

SEC. 404. REPORTS.

(a) GALLAUDET UNIVERSITY.—Not later than October 15 of each year, the Board of Trustees of Gallaudet University shall prepare and submit an annual report to the Secretary on the condition of the University, including—

(1) the number of students of each description received and discharged during the preceding school year and the number remaining;

(2) the branches and type of training and education taught and progress made therein;

(3) a statement showing the receipts of said corporation and from what sources; and

(4) its expenditures and for what objects.

(b) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—The Board of Trustees or other governing body of the institution of higher education with which the Secretary has an agreement under section 202 shall prepare and transmit to the Secretary a report on the activities of the Institute, pursuant to the agreement under section 202(b)(3).

(c) MONITORING AND EVALUATION REPORT.—The Secretary, as part of the annual report required under section 426 of the Department of Education Organization Act, shall include a description of the monitoring and evaluation activities pursuant to section 405, together with such recommendations, including recommendations for legislation, as the Secretary deems necessary.

20 USC 3486.
Infra.

20 USC 4355.

SEC. 405. MONITORING AND EVALUATION ACTIVITIES.

The Secretary shall conduct monitoring and evaluation activities of the education programs and activities and the administrative operations of Gallaudet University and of the National Technical Institute for the Deaf. In carrying out the responsibilities described in this section, the Secretary is authorized to employ such consultants as may be necessary pursuant to the provisions of section 3109 of title 5, United States Code.

20 USC 4356.

SEC. 406. LIAISON FOR EDUCATIONAL PROGRAMS FOR THE DEAF.

(a) DESIGNATION OF LIAISON.—Not later than 30 days after the date of enactment of this Act, the Secretary shall designate an individual in the Office of Special Education and Rehabilitative Services of the Department of Education from among individuals who have experience in the education of the deaf to serve as liaison

between the Department and Gallaudet University, the National Technical Institute for the Deaf, and other postsecondary educational programs for the deaf under the Education of the Handicapped Act and the Rehabilitation Act of 1973.

20 USC 1400; 29 USC 701 note.

(b) DUTIES OF LIAISON.—The individual serving as liaison for educational programs for the deaf shall:

(1) provide information to institutions regarding the Department's efforts directly affecting the operation of such programs by such institutions; and

(2) provide such support and assistance as such institutions may request and the Secretary considers appropriate.

(c) AUTHORITY OF SECRETARY.—Nothing in this section may be construed to affect the authority of the Secretary under this Act or any other Act with respect to Gallaudet University or the National Technical Institute for the Deaf.

SEC. 407. GALLAUDET UNIVERSITY FEDERAL ENDOWMENT PROGRAM.

20 USC 4357.

(a) ESTABLISHMENT OF FEDERAL ENDOWMENT PROGRAM.—The Secretary and the Board of Directors of Gallaudet University are authorized to establish the Gallaudet University Federal Endowment Fund (in this section referred to as the "endowment fund") in accordance with the provisions of this section, to promote the financial independence of Gallaudet University. The Secretary and the Board may enter into such agreements as may be necessary to carry out the purposes of this section.

(b) FEDERAL PAYMENTS.—

(1) The Secretary shall make payments to the endowment fund from amounts appropriated pursuant to subsection (g) consistent with the provisions of this section.

(2) Subject to the availability of appropriations, the Secretary shall make payments to the endowment fund in amounts equal to sums contributed to the fund from non-Federal sources (excluding transfers from other endowment funds of the University).

(c) INVESTMENTS.—

(1) The University, in investing the endowment fund corpus and income, shall exercise the judgment and care, under the prevailing circumstances, which a person of prudence, discretion, and intelligence would exercise in the management of that person's own business affairs.

(2) The endowment fund corpus and income shall be invested in federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, or other low-risk instruments and securities in which a regulated insurance company may invest under the laws of the District of Columbia. The endowment fund corpus and income may not be invested in real estate.

Banks and banking. District of Columbia.

(d) WITHDRAWALS AND EXPENDITURES.—

(1) For a twenty-year period from the date of the enactment of this Act, the University may not make a withdrawal or expenditure from the endowment fund corpus.

(2)(A) Gallaudet University may withdraw or expend endowment fund income for any expenses necessary to the operation of the University, including expenses of operations and maintenance, administration, academic and support personnel,

construction and renovation, community and student services programs, technical assistance, and research.

(B) The University may not withdraw or expend endowment fund income for any commercial purpose.

(3)(A) Except as provided in subparagraph (B), the University may not withdraw or expend more than 50 percent of the total accumulated endowment fund income.

(B) The Secretary may waive the limitation under subparagraph (A), if the Secretary determines that an expenditure or withdrawal is a necessary response to exceptional or uncontrollable circumstance affecting the University.

(e) RECOVERY OF PAYMENTS.—After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments under this section if Gallaudet University—

(1) makes a withdrawal or expenditure of endowment fund corpus or income which is not consistent with the provisions of this section;

(2) fails to comply with the investment standards and limitations under this section; or

(3) fails to account properly to the Secretary concerning the investment of or expenditures from the endowment fund corpus or income.

(f) DEFINITIONS.—For the purposes of this section the following terms have the following meanings:

(1) The term "endowment fund" means a fund, or a tax-exempt foundation, established and maintained by Gallaudet University for the purpose of generating income for the support of the University.

(2) The term "endowment fund corpus" means an amount equal to the Federal payments to the endowment fund and amounts contributed to the fund from non-Federal sources.

(3) The term "endowment fund income" means an amount equal to the total market value of the endowment fund minus the endowment fund corpus.

(4) The term "Secretary" means the Secretary of Education.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the purposes of this section such sums as may be necessary for each of the fiscal years 1987, 1988, 1989, 1990, and 1991. Such sums shall remain available until expended.

20 USC 4358.

SEC. 408. NATIONAL TECHNICAL INSTITUTE FOR THE DEAF ENDOWMENT PROGRAM.

(a) ESTABLISHMENT OF FEDERAL ENDOWMENT PROGRAM.—The Secretary and the Board of Directors of the National Technical Institute for the Deaf are authorized to establish the National Technical Institute for the Deaf Federal Endowment Fund (in this section referred to as the "endowment fund") in accordance with the provisions of this section, to promote the financial independence of the National Technical Institute for the Deaf. The Secretary and the Board may enter into such agreements as may be necessary to carry out the purposes of this section.

(b) FEDERAL PAYMENTS.—

(1) The Secretary shall make payments to the endowment fund from amounts appropriated pursuant to subsection (g) consistent with the provisions of this section.

(2) Subject to the availability of appropriations, the Secretary shall make payments to the endowment fund in amounts equal

to sums contributed to the fund from non-Federal sources (excluding transfers from other endowment funds of the Institute).

(c) INVESTMENTS.—

(1) The Institute, in investing the endowment fund corpus and income, shall exercise the judgment and care, under the prevailing circumstances, which a person of prudence, discretion, and intelligence would exercise in the management of that person's own business affairs.

(2) The endowment fund corpus and income shall be invested in federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, or other low-risk instruments and securities in which a regulated insurance company may invest under the laws of the District of Columbia. The endowment fund corpus and income may not be invested in real estate.

Banks and banking. District of Columba.

(d) WITHDRAWALS AND EXPENDITURES.—

(1) For a twenty-year period from the date of the enactment of this Act, the Institute may not make a withdrawal or expenditure from the endowment fund corpus.

(2)(A) The National Technical Institute for the Deaf may withdraw or expend endowment fund income for any expenses necessary to the operation of the Institute, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research.

(B) The Institute may not withdraw or expend endowment fund income for any commercial purpose.

(3)(A) Except as provided in subparagraph (B), the Institute may not withdraw or expend more than 50 percent of the total accumulated endowment fund income.

(B) The Secretary may waive the limitation under subparagraph (A), if the Secretary determines that an expenditure or withdrawal is a necessary response to exceptional or uncontrollable circumstances affecting the Institute.

(e) RECOVERY OF PAYMENTS.—After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments under this section if the National Technical Institute for the Deaf—

(1) makes a withdrawal or expenditure of endowment fund corpus or income which is not consistent with the provisions of this section;

(2) fails to comply with the investment standards and limitations under this section; or

(3) fails to account properly to the Secretary concerning the investment of or expenditures from the endowment fund corpus or income.

(f) DEFINITIONS.—For the purposes of this section the following terms have the following meanings:

(1) The term "endowment fund" means a fund, or a tax-exempt foundation, established and maintained by the National Technical Institute for the Deaf for the purpose of generating income for the support of the Institute.

(2) The term "endowment fund corpus" means an amount equal to the Federal payments to the endowment fund and amounts contributed to the fund from non-Federal sources.

(3) The term "endowment fund income" means an amount equal to the total market value of the endowment fund minus the endowment fund corpus.

(4) The term "Secretary" means the Secretary of Education.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the purposes of this section such sums as may be necessary for each of the fiscal years 1987, 1988, 1989, 1990, and 1991. Such sums shall remain available until expended.

20 USC 4359.

SEC. 409. OVERSIGHT AND EFFECT OF AGREEMENTS.

(a) OVERSIGHT ACTIVITIES.—Nothing in this Act shall be construed to diminish the oversight activities of the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives with respect to any agreement entered into between the Secretary of Education and Gallaudet University, and the institution of higher education with which the Secretary has an agreement under title II.

(b) CONSTRUCTION OF AGREEMENTS.—The agreements described in subsection (a) of this section shall continue in effect, to the extent that such agreements are not inconsistent with the provisions of this Act.

SEC. 410. REPEALS.

(a) GALLAUDET COLLEGE.—The Act entitled "An Act to amend the charter of the Columbia Institution for the Deaf, change its name, define its corporate powers, and provide for its organization and administration, and for other purposes", approved June 18, 1954, is repealed.

20 USC 691-691g.

(b) KENDALL DEMONSTRATION ELEMENTARY SCHOOL.—The Act entitled "An Act to modify and enlarge the authority of Gallaudet College to maintain and operate the Kendall School as a demonstration elementary school for the deaf to serve primarily the National Capital region, and for other purposes", approved December 24, 1970, is repealed.

20 USC 695-695c.

(c) MODEL SECONDARY SCHOOL FOR THE DEAF.—The Model Secondary School for the Deaf Act is repealed.

20 USC 693 note.

(d) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—The National Technical Institute for the Deaf Act is repealed.

20 USC 681 note.

20 USC 4360.

SEC. 411. AUTHORIZATION OF APPROPRIATIONS.

(a) GALLAUDET UNIVERSITY.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1987, 1988, 1989, 1990, and 1991 to carry out the provisions of this Act, relating to—

(A) Gallaudet University,

(B) part B of title I, relating to Kendall Demonstration Elementary School, and

(C) part C of title I, relating to the model secondary school for the deaf.

(b) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1987, 1988, 1989, 1990, and 1991 to carry out the provisions of title II, relating to the National Technical Institute for the Deaf.

(c) COMMISSION ON EDUCATION FOR THE DEAF.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of title III, relating to the Commission on Education of the Deaf. Sums appropriated pursuant to this subsection shall remain available until expended or until the termination of the Commission, whichever first occurs.

Approved August 4, 1986.

LEGISLATIVE HISTORY—S. 1874:

SENATE REPORTS: No. 99-290 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
May 6, considered and passed Senate.
June 26, considered and passed House, amended.
July 17, Senate concurred in House amendment.

O

HANDICAPPED CHILDREN'S PROTECTION ACT OF 1986

71-139 O - 86 (375)

Public Law 99-372
99th Congress

An Act

Aug. 5, 1986
[S. 415]

To amend the Education of the Handicapped Act to authorize the award of reasonable attorneys' fees to certain prevailing parties, to clarify the effect of the Education of the Handicapped Act on rights, procedures, and remedies under other laws relating to the prohibition of discrimination, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Handicapped Children's Protection Act of 1986.
Courts, U.S.
20 USC 1400 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Handicapped Children's Protection Act of 1986".

AWARD OF ATTORNEYS' FEES

20 USC 1415.

SEC. 2. Section 615(e)(4) of the Education of the Handicapped Act is amended by inserting "(A)" after the paragraph designation and by adding at the end thereof the following new subparagraphs:

"(B) In any action or proceeding brought under this subsection, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to the parents or guardian of a handicapped child or youth who is the prevailing party.

"(C) For the purpose of this subsection, fees awarded under this subsection shall be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this subsection.

"(D) No award of attorneys' fees and related costs may be made in any action or proceeding under this subsection for services performed subsequent to the time of a written offer of settlement to a parent or guardian, if—

28 USC app.

"(i) the offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more than ten days before the proceeding begins;

"(ii) the offer is not accepted within ten days; and

"(iii) the court or administrative officer finds that the relief finally obtained by the parents or guardian is not more favorable to the parents or guardian than the offer of settlement.

"(E) Notwithstanding the provisions of subparagraph (D), an award of attorneys' fees and related costs may be made to a parent or guardian who is the prevailing party and who was substantially justified in rejecting the settlement offer.

"(F) Whenever the court finds that—

"(i) the parent or guardian, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;

"(ii) the amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in

the community for similar services by attorneys of reasonably comparable skill, experience, and reputation; or

"(iii) the time spent and legal services furnished were excessive considering the nature of the action or proceeding,

the court shall reduce, accordingly, the amount of the attorneys' fees awarded under this subsection.

"(G) The provisions of subparagraph (F) shall not apply in any action or proceeding if the court finds that the State or local educational agency unreasonably protracted the final resolution of the action or proceeding or there was a violation of section 615 of this Act.". State and local government. 20 USC 1415.

EFFECT OF EDUCATION OF THE HANDICAPPED ACT ON OTHER LAWS

SEC. 3. Section 615 of the Education of the Handicapped Act is amended by adding at the end thereof the following new subsection: 20 USC 1415.

"(f) Nothing in this title shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, title V of the Rehabilitation Act of 1973, or other Federal statutes protecting the rights of handicapped children and youth, except that before the filing of a civil action under such laws seeking relief that is also available under this part, the procedures under subsections (b)(2) and (c) shall be exhausted to the same extent as would be required had the action been brought under this part.". 29 USC 790.

GAO STUDY OF ATTORNEYS' FEES PROVISION

SEC. 4. (a) The Comptroller General of the United States, through the General Accounting Office, shall conduct a study of the impact of the amendments to the Education of the Handicapped Act made by section 2 of this Act. Not later than June 30, 1989, the Comptroller General shall submit a report containing the findings of such study to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate. The Comptroller General shall conduct a formal briefing for such Committees on the status of the study not later than March 1, 1988. Such report shall include the information described in subsection (b). Reports. 20 USC 1415 note. 29 USC 701 note.

(b) The report authorized under subsection (a) shall include the following information:

(1) The number, in the aggregate and by State, of written decisions under sections 615 (b)(2) and (c) transmitted to State advisory panels under section 615(d)(4) for fiscal years 1984 through 1988, the prevailing party in each such decision, and the type of complaint. For fiscal year 1986, the report shall designate which decisions concern complaints filed after the date of the enactment of this Act. 20 USC 1415.

(2) The number, in the aggregate and by State, of civil actions brought under section 615(e)(2), the prevailing party in each action, and the type of complaint for fiscal years 1984 through 1988. For fiscal year 1986 the report shall designate which decisions concern complaints filed after the date of enactment.

(3) Data, for a geographically representative selective sample of States, indicating (A) the specific amount of attorneys' fees, costs, and expenses awarded to the prevailing party, in each action and proceeding under section 615(e)(4)(B) from the date of the enactment of this Act through fiscal year 1988, and the

range of such fees, costs, and expenses awarded in the actions and proceedings under such section, categorized by type of complaint and (B) for the same sample as in (A) the number of hours spent by personnel, including attorneys and consultants, involved in the action or proceeding, and expenses incurred by the parents and the State educational agency and local educational agency.

(4) Data, for a geographically representative sample of States, on the experience of educational agencies in resolving complaints informally under section 615(b)(2), from the date of the enactment of this Act through fiscal year 1988.

20 USC 1415.

EFFECTIVE DATE

20 USC 1415.

SEC. 5. The amendment made by section 2 shall apply with respect to actions or proceedings brought under section 615(e) of the Education of the Handicapped Act after July 3, 1984, and actions or proceedings brought prior to July 4, 1984, under such section which were pending on July 4, 1984.

Approved August 5, 1986.

LEGISLATIVE HISTORY—S. 415 (H.R. 1523):

HOUSE REPORTS: No. 99-296 accompanying H.R. 1523 (Comm. on Education and Labor) and No. 99-687 (Comm. of Conference).
SENATE REPORTS: No. 99-112 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD:
Vol. 131 (1985): July 30, considered and passed Senate.
Nov. 12, H.R. 1523 considered and passed House; S. 415, amended, passed in lieu.
Vol. 132 (1986): July 17, Senate agreed to conference report.
July 24, House agreed to conference report.

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Public Law 99-373
99th Congress

Joint Resolution

To authorize the designation of a calendar week in 1986 and 1987 as National Infection Control Week.

Aug. 6, 1986
[H.J. Res. 623]

Whereas nosocomial infections directly cause more than twenty-thousand deaths each year and indirectly contribute to sixty-thousand additional deaths;

Whereas one-third of all such infections are preventable;

Whereas the spread of infection in day care centers is a new source of concern; and

Whereas increased public awareness, dissemination of information, and assistance are essential to combat and prevent the problem of infection: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to designate a calendar week in 1986 and 1987 as National Infection Control Week and to call upon Federal, State, and local government agencies and the people of the United States to observe such week with appropriate programs, activities, and ceremonies.

Approved August 6, 1986.

LEGISLATIVE HISTORY: H.J. Res. 623:

CONGRESSIONAL RECORD, Vol. 132 (1986):
July 16, considered and passed House.
July 23, considered and passed Senate.

○

71-139 O - 86 (376)

HELSINKI HUMAN RIGHTS DAY

71-139 O - 86 (3/7)

Public Law 99-374
99th Congress

Joint Resolution

Aug. 6, 1986
[S.J. Res. 371]

To designate August 1, 1986, as "Helsinki Human Rights Day".

Whereas August 1, 1986, will be the eleventh anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (hereafter in this preamble referred to as the "Helsinki Accords");

Whereas on August 1, 1975, the Helsinki Accords were agreed to by the Governments of Austria, Belgium, Bulgaria, Canada, Cyprus, Czechoslovakia, Denmark, Finland, France, the German Democratic Republic, the Federal Republic of Germany, Greece, the Holy See, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, San Marino, Spain, Sweden, Switzerland, Turkey, the Union of Soviet Socialist Republics, the United Kingdom, the United States of America, and Yugoslavia;

Whereas the Helsinki Accords express the commitment of the participating States to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion";

Whereas the Helsinki Accords also express the commitment of the participating States to "promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms all of which derive from the inherent dignity of the human person and are essential for his free and full development";

Whereas the Helsinki Accords also express the commitment of the participating States to "recognize and respect the freedom of the individual to profess and practise, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience";

Whereas the Helsinki Accords also express the commitment of the participating States in whose territory national minorities exist to "respect the right of persons belonging to such minorities to equality before the law" and that such States "will afford them the full opportunity for the actual enjoyment of human rights and fundamental freedoms and will, in this manner, protect their legitimate interests in this sphere";

Whereas the Helsinki Accords also express the commitment of the participating States to "recognize the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and cooperation among themselves as among all States";

Whereas the Helsinki Accords also express the commitment of the participating States to "constantly respect these rights and freedoms in their mutual relations" and that such States "will endeavor jointly and separately, including in cooperation with the

United Nations, to promote universal and effective respect for them";

Whereas the Helsinki Accords also express the commitment of the participating States to "confirm the right of the individual to know and act upon his rights and duties in this field";

Whereas the Helsinki Accords also express the commitment of the participating States in the field of human rights and fundamental freedoms to "act in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights" and to "fulfill their obligations as set forth in the international declarations and agreements in this field, including inter alia the International Covenants on Human Rights, by which they may be bound"; 59 Stat. 1031.

Whereas the Helsinki Accords also express the commitment of the participating States to "facilitate freer movement and contacts, individually and collectively, whether privately or officially, among persons, institutions and organizations of the participating States, and to contribute to the solution of the humanitarian problems that arise in that connection";

Whereas the Helsinki Accords also express the commitment of the participating States to "favorably consider applications for travel with the purpose of allowing persons to enter or leave their territory temporarily, and on a regular basis if desired, in order to visit members of their families";

Whereas the Helsinki Accords also express the commitment of the participating States to "deal in a positive and humanitarian spirit with the applications of persons who wish to be reunited with members of their family" and "to deal with applications in this field as expeditiously as possible";

Whereas the Helsinki Accords also express the commitment of the participating States to "examine favorably and on the basis of humanitarian considerations requests for exit or entry permits from persons who have decided to marry a citizen from another participating State";

Whereas the Helsinki Accords also express the commitment of the participating States to "facilitate wider travel by their citizens for personal or professional reasons";

Whereas the Governments of the Union of Soviet Socialist Republics, Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, and Romania, in agreeing to the Helsinki Accords, have acknowledged an adherence to the principles of human rights and fundamental freedoms as embodied in the Helsinki Accords;

Whereas the aforementioned Governments have violated their commitments to the Helsinki Accords by denying individuals their inherent rights to freedom of religion, thought, conscience, and belief;

Whereas the aforementioned Governments have violated their commitments to the Helsinki Accords by restricting the freer movement of people, ideas, and information;

Whereas the concluding document of the Madrid Review Conference of September 9, 1983, called for the Ottawa Human Rights Experts Meeting, the Budapest Cultural Forum, and the Bern Human Contacts Experts Meeting to discuss questions concerning respect for human rights and cooperation in humanitarian fields as embodied in the Helsinki Accords;

Whereas these meetings, which were attended by representatives from all the signatory States, presented important opportunities to address issues of compliance with the human rights and humanitarian provisions of the Helsinki Accords; and

Whereas in November 1986 representatives from the signatory States will be meeting in Vienna to review implementation of the Helsinki Accords, including the human rights and humanitarian provisions: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) August 1, 1986, the eleventh anniversary of the signing of the Helsinki Accords is designated as "Helsinki Human Rights Day";

(2) the President is authorized and requested to issue a proclamation reasserting the American commitment to full implementation of the human rights and humanitarian provisions of the Helsinki Accords, urging all signatory nations to abide by their obligations under the Helsinki Accords, and encouraging the people of the United States to join the President and Congress in observance of Helsinki Human Rights Day with appropriate programs, ceremonies, and activities;

(3) the President is further requested to continue his efforts to achieve full implementation of the human rights provisions of the Helsinki Accords by raising the issue of noncompliance with the Governments of the Soviet Union, Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, and Romania at every available opportunity;

(4) the President is further requested to convey to all signatories of the Helsinki Accords that respect for human rights and fundamental freedoms is a vital element of further progress in the ongoing Helsinki process; and

(5) the President is authorized to convey to allies and friends of the United States that unity on the question of respect for human rights and fundamental freedoms is the most effective means to promote the full implementation of the human rights and humanitarian provisions of the Helsinki Accords.

SEC. 2. The Secretary of the Senate is directed to transmit copies of this joint resolution to the President, the Secretary of State, and the Ambassadors of the thirty-four Helsinki signatory nations.

Approved August 6, 1986.

LEGISLATIVE HISTORY—S.J. Res. 371:

CONGRESSIONAL RECORD, Vol. 132 (1986):
July 23, considered and passed Senate.
July 31, considered and passed House.

O

Public Law 99-375
99th Congress

An Act

To authorize appropriations for nongame fish and wildlife conservation during fiscal years 1986, 1987, and 1988.

Aug. 7, 1986
[H.R. 1406]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 11 of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2910) is amended by striking out "and 1985." and inserting in lieu thereof "1985, 1986, 1987, and 1988.".

Approved August 7, 1986.

LEGISLATIVE HISTORY—H.R. 1406 (S. 1353):

HOUSE REPORTS: No. 99-75 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD:
Vol. 131 (1985): July 29, considered and passed House.
Vol. 132 (1986): July 25, considered and passed Senate.

71-139 O - 86 (378)

Public Law 99-376
99th Congress

An Act

Aug. 7, 1986
[H.R. 4434]

To amend the Act entitled "An Act granting a charter to the General Federation of Women's Clubs".

36 USC 3501.
31 Stat. 1438.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act entitled "An Act granting a charter to the General Federation of Women's Clubs", approved March 3, 1901, is amended by (1) inserting "(a)" after "That", (2) striking the comma after "succession" and all that follows through "pleasure", (3) and adding the following new subsections at the end thereof:

Taxes.
Voluntarism.

"(b) The General Federation of Women's Clubs shall be organized and operated exclusively for charitable and educational purposes within the meaning of section 501(c)(3) of the Internal Revenue Code of 1954 and shall otherwise comply with any requirements for classification as an exempt organization under such section. Said charitable purposes shall be achieved through volunteer efforts on the part of the membership of the General Federation of Women's Clubs, specifically including arts programs, conservation programs, educational programs, homelife programs, international affairs, public affairs programs advancing information regarding public affairs, and community improvement programs.

26 USC 501.

"(c) In the event of the dissolution of the General Federation of Women's Clubs, its board of directors shall liquidate and distribute its assets to organizations qualified as exempt organizations under section 501(c)(3) of the Internal Revenue Code of 1954 with purposes similar to those of the General Federation of Women's Clubs.".

Approved August 7, 1986.

LEGISLATIVE HISTORY—H.R. 4434 (S. 1827):

HOUSE REPORTS: No. 99-595 (Comm. on the Judiciary).
SENATE REPORTS: No. 99-319 accompanying S. 1827 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 132 (1986):
May 19, considered and passed House.
July 25, considered and passed Senate.

O

71-139 O - 86 (380)

Public Law 99-377
99th Congress

An Act

To provide for the use and distribution of funds appropriated in satisfaction of judgments awarded to the Chippewas of the Mississippi in Docket Numbered 18-S before the Indian Claims Commission, and for other purposes.

Aug. 8, 1986
[H.R. 1904]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Indians.
Securities.

SECTION 1. Notwithstanding any other provision of law, the funds appropriated for the Indian Claims Commission judgment awards in Docket 18-S for the Chippewas of the Mississippi (less attorney fees and litigation expense and plus all investment income and interest accrued) shall be used and distributed under this Act.

Minnesota.

SEC. 2. The Secretary of the Interior shall divide the amount for Docket 18-S with two-thirds of the funds for the Chippewas of Lake Superior and one-third for the Chippewas of the Mississippi. The respective shares of the Mississippi Band in Docket 18-S shall be divided by reservation affiliation as follows:

(1) Mille Lac Reservation, Minnesota 569/7624;

(2) White Earth Reservation, Minnesota 6431/7624; and

(3) Leech Lake Reservation, Minnesota 624/7624.

SEC. 3. The apportioned shares of funds under section 2 of this Act of each reservation or community shall be used as follows:

(1) Eighty percent of each reservation's share shall be held and administered by the Secretary for per capita distribution and the sums (including the investment income accrued) shall be distributed in a sum as nearly equal as possible for each individual born on or prior to and living on the date of enactment of this Act who is enrolled on the respective tribal membership roll brought current to such date of enactment under tribal enrollment procedures.

(2) Twenty percent of each reservation's share shall be held in trust in separate accounts for the tribal organization of the reservation and invested by the Secretary under the Act of June 24, 1938 (52 Stat. 1037; 25 U.S.C. 162a) until needed for use or distribution under the tribe's plan approved by the Secretary.

(3) The per capita distributions under this section from funds apportioned to reservations or communities of the Minnesota Chippewa Tribe shall only be made to those individuals enrolled with the historical band designation for which the award was made. Plans submitted by two or more of the reservation business committees of the Minnesota Chippewa Tribe may include joint investment and use programs.

SEC. 4. (a) MISCELLANEOUS.—The per capita shares under this Act of competent adults shall be paid directly to them. The per capita shares under this Act of deceased individual beneficiaries, legal incompetents, and minors shall be determined and distributed under regulations prescribed by the Secretary which are generally applicable to funds distributed under the Act of October 19, 1973 (87 Stat. 466), as amended (25 U.S.C. 1401 et seq.).

71-139 O - 86 (381)

Taxes.

42 USC 1305.

(b) None of the funds distributed per capita or held in trust shall be subject to Federal or State income taxes or be considered as income or resources in determining the extent of eligibility for assistance under the Social Security Act or other Federal assistance programs.

(c) Amounts remaining after per capita payments under this Act shall revert to the governing body of the respective tribal group for program purposes approved by the Secretary.

(d) No person shall be entitled to receive under this Act more than one per capita share from the same Docket award.

Approved August 8, 1986.

LEGISLATIVE HISTORY—H.R. 1904:

HOUSE REPORTS: No. 99-269 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 99-309 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Oct. 7, considered and passed House.
Vol. 132 (1986): July 25, considered and passed Senate.

O

Public Law 99-378
99th Congress

Joint Resolution

To recognize and support the efforts of the United States Committee for the Battle of Normandy Museum to encourage American awareness and participation in development of a memorial to the Battle of Normandy.

Aug. 8, 1986
[S.J. Res. 356]

Whereas the battle fought in Normandy, France, in the summer months of 1944 was the largest land battle in history and considered by many to be the turning point of World War II in Europe;

Whereas the Battle of Normandy is one of the first examples of successful Allied military efforts to defend liberty and perpetuate freedom;

Whereas the people of France are creating a memorial museum and study center in Normandy to commemorate the Allied effort and provide future generations of students and others an opportunity to study and understand the causes of the European conflict and the role played by the Allied Governments and military forces in the successful resolution of that conflict; and

Whereas a United States Committee for the Battle of Normandy Museum has been created to inform Americans and encourage support of the museum and study center: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Congress recognizes and supports the historic and educational purposes to be served by the museum and study center in Normandy, France, and of the United States Committee for the Battle of Normandy Museum to encourage understanding of and support among Americans for such an important memorial.

Approved August 8, 1986.

LEGISLATIVE HISTORY—S.J. Res. 356:

CONGRESSIONAL RECORD: Vol. 132 (1986):
July 23, considered and passed Senate.
July 28, considered and passed House.

71-139 O - 86 (382)

Public Law 99-379
99th Congress

Joint Resolution

Aug. 13, 1986
[S.J. Res. 256]

Designating August 12, 1986, as "National Neighborhood Crime Watch Day".

Whereas neighborhood crime is of continuing concern to the American people;

Whereas the fight against neighborhood crime requires people to work together in cooperation with law enforcement officials;

Whereas neighborhood crime watch organizations are effective at promoting awareness about, and the participation of volunteers in, crime prevention activities at the local level; and

Whereas citizens across America will soon take part in a "National Night Out", a unique crime prevention event which will demonstrate the importance and effectiveness of community participation in crime prevention efforts by having people spend the period from 8 to 9 o'clock postmeridian on August 12, 1986, with their neighbors in front of their homes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 12, 1986, is designated as "National Neighborhood Crime Watch Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

Approved August 13,1986.

LEGISLATIVE HISTORY—S.J. Res. 256:

CONGRESSIONAL RECORD, Vol. 132 (1986):
June 20, considered and passed Senate.
Aug. 8, considered and passed House.

71-139 O - 86 (383)

Public Law 99-380
99th Congress

An Act

To direct the Secretary of the Interior to release a reversionary interest in certain lands in Orange County, Florida which were previously conveyed to Orange County, Florida.

Aug. 14, 1986
[H.R. 1740]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELEASE OF REVERSIONARY INTEREST.

(a) RELEASE.—

(1) TO ORANGE COUNTY, FLORIDA.—The Secretary of the Interior, on behalf of the United States, shall release to Orange County in the State of Florida the reversionary interest of the United States contained in the deed described in paragraph (3).

(2) REVERSIONARY INTEREST.—The reversionary interest referred to in paragraph (1) is the condition which provides that title to the lands described in the deed shall revert to, and revest in, the United States if the lands cease to be used for recreational purposes or if such lands are deemed to be necessary for national defense.

(3) DEED.—The deed referred to in paragraph (1) is the quitclaim deed dated February 11, 1972, by which the United States conveyed to Orange County, Florida, a site of approximately 12,000 square feet on the Apopka-Vineland Road, formerly used by the United States as a radar site.

(b) CONDITION OF RELEASE.—The Secretary shall release the reversionary interest described in subsection (a)(2) only if Orange County, Florida, agrees to use any proceeds from the sale of the land referred to in subsection (a)(3) for park and recreation purposes (including the construction of buildings and facilities for the storage of equipment and materials used for park and recreation purposes).

Public buildings and grounds.

Approved August 14, 1986.

LEGISLATIVE HISTORY—H.R. 1740:

HOUSE REPORTS: No. 99-347 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 99-343 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Nov. 4, considered and passed House.
Vol. 132 (1986): Aug. 1, considered and passed Senate.

71-139 O - 86 (384)

Public Law 99-381
99th Congress

An Act

Aug. 14, 1986
[H.R. 1795]

To exempt certain lands in the State of Mississippi from a restriction set forth in the Act of April 21, 1806.

Public lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the restriction set forth in the proviso in section 5 of the Act of April 21, 1806 (2 Stat. 401) shall not apply to—

(1) the land conveyed by the Yazoo Mississippi Valley Railroad Company to the City of Natchez by a deed dated June 20, 1945, and recorded on page 177 of deed book 5-J in the records of Adams County in the State of Mississippi; and

(2) the land conveyed by the City of Natchez to Sim C. Callon by a deed dated June 12, 1984, and recorded on page 402 of deed book 16-J in the records of Adams County in the State of Mississippi.

Approved August 14, 1986.

LEGISLATIVE HISTORY—H.R. 1795:

HOUSE REPORTS: No. 99-346 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 99-344 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Nov. 4, considered and passed House.
Vol. 132 (1986): Aug. 1, considered and passed Senate.

71-139 O - 86 (385)

Public Law 99-382
99th Congress

An Act

To amend the Stevenson-Wydler Technology Innovation Act of 1980 for the purpose of improving the availability of Japanese science and engineering literature in the United States, and for other purposes.

Aug. 14, 1986
[S. 1073]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Japanese Technical Literature Act of 1986".

Japanese Technical Literature Act of 1986.
Science and technology.
15 USC 3701 note.

SEC. 2. Section 5 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting immediately after subsection (c) the following new subsection:

"(d) JAPANESE TECHNICAL LITERATURE.—(1) In addition to the duties specified in subsection (c), the Secretary shall establish and, through the National Technical Information Service and such other offices within the Department of Commerce as the Secretary considers appropriate, maintain a program (including an office in Japan) which shall, on a continuing basis—

"(A) monitor Japanese technical activities and developments;

"(B) consult with businesses, professional societies, and libraries in the United States regarding their needs for information on Japanese developments in technology and engineering;

"(C) acquire and translate selected Japanese technical reports and documents that may be of value to agencies and departments of the Federal Government, and to businesses and researchers in the United States; and

"(D) coordinate with other agencies and departments of the Federal Government to identify significant gaps and avoid duplication in efforts by the Federal Government to acquire, translate, index, and disseminate Japanese technical information.

Activities undertaken pursuant to subparagraph (C) of this paragraph shall only be performed on a cost-reimbursable basis. Translations referred to in such subparagraph shall be performed only to the extent that they are not otherwise available from sources within the private sector in the United States.

"(2) Beginning in 1986, the Secretary shall prepare annual reports regarding important Japanese scientific discoveries and technical innovations in such areas as computers, semiconductors, biotechnology, and robotics and manufacturing. In preparing such reports, the Secretary shall consult with professional societies and businesses in the United States. The Secretary may, to the extent provided in advance by appropriation Acts, contract with private organizations to acquire and translate Japanese scientific and technical information relevant to the preparation of such reports.

Reports.
Contracts.

"(3) The Secretary also shall encourage professional societies and private businesses in the United States to increase their efforts to

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acquire, screen, translate, and disseminate Japanese technical literature.

Public information.

"(4) In addition, the Secretary shall compile, publish, and disseminate an annual directory which lists—

"(A) all programs and services in the United States that collect, abstract, translate, and distribute Japanese scientific and technical information; and

"(B) all translations of Japanese technical documents performed by agencies and departments of the Federal Government in the preceding 12 months that are available to the public.

Reports.

"(5) The Secretary shall transmit to the Congress, within 1 year after the date of enactment of the Japanese Technical Literature Act of 1986, a report on the activities of the Federal Government to collect, abstract, translate, and distribute declassified Japanese scientific and technical information.".

Appropriations authorization.

SEC. 3. There is authorized to be appropriated for fiscal year 1987 the sum of $1,000,000 to carry out the purpose of this Act.

Approved August 14, 1986.

LEGISLATIVE HISTORY—S. 1073:

HOUSE REPORTS: No. 99-618 (Comm. on Science and Technology).
SENATE REPORTS: No. 99-175 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Nov. 23, considered and passed Senate.
Vol. 132 (1986): June 23, considered and passed House, amended.
Aug. 1, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Aug. 14, Presidential statement.

O

Public Law 99-383
99th Congress

An Act

To authorize appropriations to the National Science Foundation for the fiscal year 1987, and for other purposes.

Aug. 21, 1986
[H.R. 4184]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Science Foundation Authorization Act for Fiscal Year 1987".

National Science Foundation Authorization Act for Fiscal Year 1987.
42 USC 1861 note.

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. (a) There are authorized to be appropriated to the National Science Foundation, for fiscal year 1987, the sums set forth in the following categories:

(1) Mathematical and Physical Sciences, $489,870,000.

(2) Engineering, $172,470,000.

(3) Biological, Behavioral, and Social Sciences, $270,500,000.

(4) Geosciences, $298,150,000.

(5) Scientific, Technological, and International Affairs, $47,030,000.

(6) Computer and Information Science and Engineering, $122,980,000.

(7) Program Development and Management, $78,000,000.

(8) United States Antarctic Program, $117,000,000.

(9) Science and Engineering Education, $89,000,000.

(b) Notwithstanding any other provision of this Act, from the amount authorized under subsection (a)—

(1) not less than $33,430,000 is authorized only for purposes of the Social and Economic Sciences Division;

(2) not less than $49,870,000 is authorized only for purposes of the Behavioral and Neural Sciences Division;

(3) not less than $89,060,000 is authorized only for the purposes of the Astronomical Sciences Division; and

(4) not less than $11,500,000 is authorized only for the purposes of the College Science Instrumentation Program.

AVAILABILITY

SEC. 3. (a) Appropriations made under authority provided in sections 2 and 5 shall remain available for obligation for periods specified in the Acts making the appropriations.

(b) To the extent that the total amount appropriated to carry out program activities specified in this Act is less than the total amount authorized to be appropriated for such activities under this Act, all such authorized amounts for such activities or their subactivities shall be reduced proportionally.

OFFICIAL EXPENSES

SEC. 4. From appropriations made under authorizations provided in this Act, not more than $5,000 for fiscal year 1987 may be used for

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official consultation, representation, or other extraordinary expenses at the discretion of the Director of the National Science Foundation. The determination of the Director will be final and conclusive upon the accounting officers of the Government.

FOREIGN CURRENCY AUTHORIZATION

SEC. 5. In addition to the sums authorized by section 2, not more than $700,000 for fiscal year 1987 are authorized to be appropriated for expenses of the National Science Foundation incurred outside the United States, to be drawn from foreign currencies that the Department of the Treasury determines to be excess to the normal requirements of the United States.

TRANSFERS AUTHORIZED

SEC. 6. (a) Funds may be transferred among the categories listed in section 2(a), so long as the net funds transferred to or from any category do not exceed 10 percent of the amount authorized for that category in section 2.

(b) The Director of the National Science Foundation may propose transfers to or from any category exceeding 10 percent of the amount authorized for that category in section 2. An explanation of any such proposed transfer must be transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, the Committees on Labor and Human Resources and Commerce, Science, and Transportation of the Senate, and the Committee on Science and Technology of the House of Representatives. The proposed transfer may be made only when 30 calendar days have passed after submission of the written explanation.

MISCELLANEOUS AMENDMENTS

SEC. 7. (a) Section 3(a)(6) of the National Science Foundation Act of 1950 (42 U.S.C. 1862(a)(6)) is amended to read as follows:

"(6) to provide a central clearinghouse for the collection, interpretation, and analysis of data on scientific and engineering resources and to provide a source of information for policy formulation by other agencies of the Federal Government; and".

(b)(1) Section 6 of the National Science Foundation Act of 1950 (42 U.S.C. 1864a) is amended—

(A) by striking out "(a)" after the section designation; and

(B) by striking out subsection (b).

(2) Section 5316 of title 5, United States Code, is amended by striking out "Assistant Directors, National Science Foundation (4).".

(c) Section 10 of the National Science Foundation Act of 1950 (42 U.S.C. 1869) is amended by striking out ", within the limits of funds made available specifically for such purpose pursuant to section 16,".

(d) Section 11 of the National Science Foundation Act of 1950 (42 U.S.C. 1870) is amended—

(1) by striking out "and" at the end of paragraph (i);

(2) by striking out the period at the end of paragraph (j) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(k) during the 5-year period beginning on the date of the enactment of the National Science Foundation Authorization Act for Fiscal Year 1987, to indemnify grantees, contractors,

and subcontractors associated with the Ocean Drilling Program under the provisions of section 2354 of title 10, United States Code, with all approvals and certifications required by such indemnification made by the Director.".

TASK FORCE ON WOMEN, MINORITIES, AND THE HANDICAPPED IN SCIENCE AND TECHNOLOGY

Government organization and employees. State and local governments. 42 USC 1885a note.

SEC. 8. (a) It is the purpose of this section to establish a task force on women, minorities, and the handicapped in science and technology to—

(1) examine the current status of women, minorities, and the handicapped in science and engineering positions in the Federal Government and in federally assisted research programs;

(2) coordinate existing Federal programs designed to promote the employment of women, minorities, and the handicapped in such positions;

(3) suggest cooperative interagency programs for promoting such employment;

(4) identify exemplary State, local, or private sector programs designed to promote such employment; and

(5) develop a long-range plan to advance opportunities for women, minorities, and the handicapped in Federal scientific and technical positions in federally assisted research, and to coordinate the activities of participating agencies with the Committee on Equal Opportunities in Science and Engineering established by section 36 of the National Science Foundation Authorization and Science and Technology Equal Opportunities Act (42 U.S.C. 1885c), after the termination of the task force established by this section.

(b) For purposes of this section, the term "participating agency" means—

(1) the National Science Foundation;

(2) the Department of Health and Human Services;

(3) the National Aeronautics and Space Administration;

(4) the Environmental Protection Agency;

(5) the Department of Agriculture;

(6) the Department of Defense;

(7) the Department of Education;

(8) the Department of Energy;

(9) the Department of Commerce; and

(10) the Department of the Interior.

(c)(1) The task force on women, minorities, and the handicapped in science and technology shall be composed of individuals appointed by participating agencies pursuant to this subsection.

(2) The head of each participating agency shall appoint two individuals to serve as members of the task force. If an appointed member is unable to serve for the duration of the task force, the head of the participating agency who appointed that member shall appoint another individual to fill the vacancy.

(3) Task force members may be appointed from private business, academia, professional associations, or nonprofit foundations.

Reports.

(d) The task force shall prepare and submit a report on its findings and recommendations to the President, the Congress, and the head of each participating agency not later than December 31, 1989.

(e) The Office of Science and Technology Policy shall call the first meeting of the task force not later than 90 days after the date of

enactment of this Act, shall ensure that each participating agency has appointed two members, and shall assist the task force to meet its objectives.

(f)(1) Members of the task force not otherwise employed by the Federal Government shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the task force.

(2) The Director of the National Science Foundation shall make provision for administrative support of the task force, and may enter into agreements with the heads of other participating agencies to facilitate the work of the task force.

(g) The task force shall terminate on January 31, 1990.

GREENHOUSE EFFECT REPORT

President of U.S.

SEC. 9. The President shall, at the earliest practical date (but not later than August 1, 1987), submit to the Congress a report on any action taken or proposed to be taken by the Federal Government with respect to the establishment of an International Year of the Greenhouse Effect to occur in calendar year 1991. Such report shall include descriptions of possible international missions and related research and educational activities, and other such activities as the President may consider appropriate.

COMPUTER NETWORK STUDY

Research and development. 42 USC 6614 note.

SEC. 10. (a) The Office of Science and Technology Policy (hereinafter referred to as the "Office") shall undertake a study of critical problems and current and future options regarding communications networks for research computers, including supercomputers, at universities and Federal research facilities in the United States. The study shall include an analysis of—

(1) the networking needs of the Nation's academic and Federal research computer programs, including supercomputer programs, over the period which is fifteen years after the date of enactment of this Act, including requirements in terms of volume of data, reliability of transmission, software compatibility, graphics capability, and transmission security;

(2) the benefits and opportunities that an improved computer network would offer for electronic mail, file transfer, and remote access and communications for universities and Federal research facilities in the United States; and

(3) the networking options available for linking academic and other federally supported research computers, including supercomputers, with a particular emphasis on the advantages and disadvantages, if any, of fiber optic systems.

Reports.

(b) The Office shall submit to the Congress—

(1) within one year after the date of enactment of this Act, a report on findings from the study undertaken pursuant to subsection (a) with respect to needs and options regarding communications networks for university and Federal research supercomputers within the United States; and

(2) within two years after the date of enactment of this Act, a report on findings from the study undertaken pursuant to subsection (a) with respect to needs and options regarding communications networks for all research computers at universities and Federal research facilities in the United States.

REPEAL

SEC. 11. Title IX of the National Defense Education Act of 1959 (42 U.S.C. 1876 et seq.) is repealed.

Approved August 21, 1986.

LEGISLATIVE HISTORY—H.R. 4184 (S. 2184):

HOUSE REPORTS: No. 99-619 (Comm. on Science and Technology).
SENATE REPORTS: No. 99-325 (Comm. on Labor and Human Resources) and No. 99-338 (Comm on Commerce, Science, and Transportation), both accompanying S. 2184.
CONGRESSIONAL RECORD, Vol. 132 (1986):
June 26, considered and passed House.
Aug. 1, considered and passed Senate, amended, in lieu of S. 2184.
Aug. 6, House concurred in Senate amendment.

O

Public Law 99-384
99th Congress

An Act

Aug. 21, 1986
[H.R. 5395]

To increase the statutory limit on the public debt.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof "$2,111,000,000,000,".

Approved August 21, 1986.

LEGISLATIVE HISTORY—H.R. 5395:

HOUSE REPORTS: No. 99-789 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 14, considered and passed House.
Aug. 15, considered and passed Senate, amended; House concurred in certain Senate amendment, disagreed to another; Senate receded from its amendment.

71-139 O - 86 (388)

Public Law 99-385
99th Congress

Joint Resolution

To provide for a temporary prohibition of strikes or lockouts with respect to the Maine Central Railroad Company and Portland Terminal Company labor-management dispute.

Aug. 21, 1986
[H.J. Res. 683]

Whereas the labor dispute between the common rail carriers, Maine Central Railroad Company and Portland Terminal Company, and certain of the employees of such carriers represented by the Brotherhood of Maintenance of Way Employees threatens essential transportation services of the Nation;

Whereas it is essential to the national interest, including the national health and defense, that essential transportation services be maintained;

Whereas the Congress finds that emergency measures are essential to security and continuity of transportation services by such carriers;

Whereas it is desirable to resolve such dispute in a manner which encourages solutions reached through collective bargaining;

Whereas the President, pursuant to section 10 of the Railway Labor Act (45 U.S.C. 160), by Executive Order No. 12557 of May 16, 1986, created a Presidential Emergency Board to investigate the dispute and report findings; 51 FR 18429.

Whereas the recommendations of Presidential Emergency Board No. 209 for settlement of such dispute have not yet resulted in a settlement; and

Whereas all the procedures for resolving such dispute provided for in the Railway Labor Act have been exhausted and have not resulted in settlement of the dispute: Now, therefore, be it 45 USC 151.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the final paragraph of section 10 of the Railway Labor Act (45 U.S.C. 160) shall apply and be extended for an additional period of 60 days beginning on July 21, 1986, with respect to the dispute referred to in Executive Order No. 12557 of May 16, 1986, so that no change, except by agreement, shall be made by the common rail carriers, Maine Central Railroad Company and Portland Terminal Company, or by the employees of such carriers in the conditions out of which such dispute arose as such conditions existed before 12:01 ante meridiem of March 3, 1986.

SEC. 2. (a) Not later than 10 days prior to the expiration date of the 60-day period referred to in the first section of this joint resolution the board established under subsection (b) shall submit to the Congress a full and comprehensive report containing— Reports.

(1) the progress, if any, of negotiations between the common rail carriers, Maine Central Railroad Company and Portland Terminal Company, and the employees of such carriers represented by the Brotherhood of Maintenance of Way Employees;

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(2) findings of fact regarding financial and other circumstances related to the dispute described in this resolution, including, but not limited to, developments since March 3, 1986; and

(3) recommendations for a proposed solution of the dispute described in this resolution, including, but not limited to, the issues covered by Presidential Emergency Board Number 209.

(b) The National Mediation Board shall appoint a three-member board for the purpose of preparing and submitting the report described in subsection (a). No member appointed to such board shall be pecuniarily or otherwise interested in any organization of employees or any carrier. The compensation of such members shall be fixed by the National Mediation Board. The second paragraph of section 10 of the Railway Labor Act shall apply to the expenses of the board established under this subsection as if such board were a board created under such section 10.

Ante, p. 819.

(c) The board appointed under subsection (b) shall terminate upon the submission to the Congress of the report required under subsection (a).

Approved August 21, 1986.

LEGISLATIVE HISTORY—H.J. Res. 683:

HOUSE REPORTS: No. 99-784 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 12, considered and passed House and Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Aug. 21, Presidential statement.

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Public Law 99-386
99th Congress

An Act

To discontinue or amend certain requirements for agency reports to Congress.

Aug. 22, 1986
[S. 992]

Congressional Reports Elimination Act of 1986.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Congressional Reports Elimination Act of 1986".

TITLE I—ELIMINATIONS

REPORTS BY MORE THAN ONE AGENCY

SEC. 101. (a) Section 218(a) of the Biomass Energy and Alcohol Fuels Act of 1980 (42 U.S.C. 8818(a)) is repealed.

(b) Section 3104 of title 5, United States Code, is amended by—

(1) striking out subsection (b);

(2) redesignating paragraphs (1), (2), and (3) of subsection (a) as subsections (a), (b), and (c), respectively; and

(3) striking out "paragraph (1) of this subsection" each place it appears in subsections (b) and (c) (as redesignated by paragraph (2) of this subsection) and inserting in lieu thereof "subsection (a) of this section".

REPORTS BY THE DEPARTMENT OF COMMERCE

SEC. 102. Section 5 of the Central, Western and South Pacific Fisheries Development Act (16 U.S.C. 758e-2) is repealed.

REPORTS BY THE DEPARTMENT OF EDUCATION

SEC. 103. (a) Section 117(d) of the Higher Education Act of 1965 (20 U.S.C. 1017(d)) is repealed.

(b) Section 553(c) of the Higher Education Act of 1965 (20 U.S.C. 1119c-2(c)) is repealed.

(c) Section 605(b) of the Higher Education Act of 1965 (20 U.S.C. 1125(b)) is repealed.

REPORTS BY THE DEPARTMENT OF ENERGY

SEC. 104. (a) Section 7(b)(7) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906(b)(7)) is amended by—

(1) striking out subparagraph (A); and

(2) striking out the subparagraph designator "(B)".

(b) Section 11 of the Wind Energy Systems Act of 1980 (42 U.S.C. 9210) is amended by—

(1) striking out paragraph (5);

(2) inserting "and" at the end of paragraph (4); and

(3) redesignating paragraph (6) as paragraph (5).

71-139 O - 86 (390)

REPORTS BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 105. (a) Section 505(f) of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-4(f)) is repealed.

(b) Section 506(c) of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-5(c)) is repealed.

REPORTS BY THE DEPARTMENT OF JUSTICE

SEC. 106. Section 2101(d) of title 18, United States Code, is amended by striking out the semicolon and all that follows and inserting in lieu thereof a period.

REPORTS BY THE DEPARTMENT OF TRANSPORTATION

SEC. 107. Section 13 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1746) is repealed.

REPORTS BY THE NATIONAL SCIENCE FOUNDATION

SEC. 108. Section 8 of the National Science Foundation Authorization Act, 1977 (42 U.S.C. 1883) is amended by—

(1) inserting "and" after the semicolon at the end of paragraph (3);

(2) striking out "; and" at the end of paragraph (4) and inserting in lieu thereof a period; and

(3) striking out paragraph (5).

REPORTS BY THE NUCLEAR REGULATORY COMMISSION

SEC. 109. Section 201(h) of the Energy Reorganization Act of 1974 (42 U.S.C. 5841(h)) is repealed.

REPORTS BY THE OFFICE OF PERSONNEL MANAGEMENT

SEC. 110. (a) Section 5114 of title 5, United States Code, is repealed.

(b) The table of sections for chapter 51 of such title is amended by striking out the item relating to section 5114.

TITLE II—MODIFICATIONS

REPORTS BY MORE THAN ONE AGENCY

Real property. Gifts and property.

SEC. 201. Section 203(o) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(o)) is amended—

(1) striking out "The Administrator" and all that follows through "shall submit" and inserting in lieu thereof the following: "The Administrator with respect to property disposed of under subsection (j) or (p) of this section, and the head of each executive agency disposing of property under subsection (k) of this section, or under section 13(d) or 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622 (d) or (g)), shall submit"; and

(2) by striking out "personal property so donated and of all real"; and

(3) by striking out "donations and transfers" and inserting in lieu thereof "disposals".

REPORTS BY THE DEPARTMENT OF AGRICULTURE

SEC. 202. The last sentence of the paragraph under the heading "GENERAL SALES MANAGER—(ALLOTMENT FROM THE COMMODITY CREDIT CORPORATION) in title IV of Public Law 97-370 (15 U.S.C. 713a-10; 96 Stat. 1808) is amended by striking out "quarterly" and inserting in lieu thereof "annual".

REPORTS BY THE DEPARTMENT OF COMMERCE

SEC. 203. (a) Section 7(a) of the Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1106(a)) is amended by striking out "in January of each year" and inserting in lieu thereof "biennially in January".

(b) Section 16 of the Act of June 18, 1934 (48 Stat. 1002, chapter 590; 19 U.S.C. 81p) is amended by—

(1) striking out "containing a full statement of all the operations, receipts, and expenditures, and such other information as the Board may require" in subsection (b) and inserting in lieu thereof "on zone operations"; and

(2) striking out subsection (c) and inserting in lieu thereof the following:

"(c) The Board shall make a report to Congress annually containing a summary of zone operations.".

REPORTS BY THE DEPARTMENT OF EDUCATION

SEC. 204. Section 653(c) of the Education of the Handicapped Act (20 U.S.C. 1453(c)) is amended by striking out "The Secretary shall make an annual" and inserting in lieu thereof "Every three years, the Secretary shall make a".

REPORTS BY THE DEPARTMENT OF TRANSPORTATION

SEC. 205. Section 107 of the Federal Aviation Act of 1958 (49 U.S.C. 1307) is amended by— 49 USC app. 1307.

(1) striking out "each January 31 thereafter" in subsection (b) and inserting in lieu thereof "each April 1 thereafter"; and

(2) striking out "each January 31 thereafter" in subsection (c) and inserting in lieu thereof "each April 1 thereafter".

REPORTS BY THE DEPARTMENT OF THE TREASURY

SEC. 206. (a) Section 201(f) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1821(f)) is amended by—

(1) striking out "Secretary of the Treasury, in cooperation with the"; and

(2) striking out the comma after "the Secretary of State".

(b) Section 6103(p)(5) of the Internal Revenue Code of 1954 (26 U.S.C. 6103(p)(5)) is amended by striking out "quarter" and inserting in lieu thereof "year".

GENERAL SERVICES ADMINISTRATION

SEC. 207. Section 203(j)(4)(E) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(j)(4)(E)) is amended by striking out "$3,000" and inserting in lieu thereof "$5,000".

REPORTS BY THE UNITED STATES MERIT SYSTEMS PROTECTION BOARD

SEC. 208. Section 7701(i)(2) of title 5, United States Code, is amended by striking out "calendar" and inserting in lieu thereof "fiscal".

Approved August 22, 1986.

LEGISLATIVE HISTORY—S. 992 (H.R. 2518):

HOUSE REPORTS: No. 99-698 accompanying H.R. 2518 (Comm. on Government Operations).
SENATE REPORTS: No. 99-211 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Mar. 14, considered and passed Senate.
July 28, H.R. 2518 considered and passed House; S. 992, amended, passed in lieu.
Aug. 9, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Aug. 23, Presidential statement.

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Public Law 99-387
99th Congress

An Act

To modify the boundary of the Humboldt National Forest in the State of Nevada, and for other purposes.

Aug. 23, 1986
[H.R. 850]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Forest System.

SECTION 1. The purpose of this Act is to provide for the efficient administration of Federal lands located in Elko and White Pine Counties, Nevada (comprising approximately 14,743 acres and administered by the Bureau of Land Management).

SEC. 2. (a) The exterior boundary of the Humboldt National Forest is hereby modified as generally depicted on a map entitled "Boundary Modification, Humboldt National Forest", dated March 1984. Such map, and a legal description of the boundary modification, shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture and the Director of the Bureau of Land Management, Department of the Interior, and appropriate field offices of these agencies.

Public information.

(b) Subject to valid existing rights, all Federal lands brought within the boundary of the Humboldt National Forest under subsection (a) are hereby added to the Humboldt National Forest and shall be administered as part of such National Forest.

SEC. 3. Nothing in this Act shall affect the validity of or the terms and conditions of any existing right-of-way, easement, lease, license, or permit on lands transferred by this Act except that they shall be administered by the Forest Service. Reissuance of any authorization shall be in accordance with the regulations of the Forest Service, and the change of jurisdiction over such lands resulting from the enactment of this Act shall not constitute a ground for the denial of renewal or reissuance of any such authorization.

SEC. 4. For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundary of the Humboldt National Forest, as modified by section 2, shall be treated as if it were the boundary of such National Forest as of January 1, 1965.

Approved August 23, 1986.

LEGISLATIVE HISTORY—H.R. 850:

HOUSE REPORTS: No. 99-384 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 99-359 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 1, considered and passed House.
Vol. 132 (1986): Aug. 11, considered and passed Senate.

Public Law 99-388
99th Congress

An Act

Aug. 23, 1986
[H.R. 1963]

To increase the development ceiling at Allegheny Portage Railroad National Historic Site and Johnstown Flood National Memorial in Pennsylvania, and for other purposes, and to provide for the preservation and interpretation of the Johnstown Flood Museum in the Cambria County Library Building, Pennsylvania.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS FOR HISTORIC SITE AND NATIONAL MEMORIAL.

Public buildings and grounds.

Section 5 of the Act of August 31, 1964 (78 Stat. 752), is amended by inserting "(a)" after "SEC. 5." and adding the following new subsection at the end thereof:

"(b) In addition to such sums as may have been authorized for development prior to the enactment of this subsection, effective October 1, 1986, there is authorized to be appropriated not to exceed $9,800,000 for the purposes of development at both Allegheny Portage Railroad National Historic Site and Johnstown Flood National Memorial.".

SEC. 2. JOHNSTOWN FLOOD MUSEUM AGREEMENT.

Section 4 of the Act of August 31, 1964 (78 Stat. 752), is amended by inserting "(a)" after SEC. 4." and by adding the following new subsection at the end thereof:

"(b) In furtherance of the purposes of this Act, the Secretary of the Interior is authorized to enter into an argreement with the Johnstown Flood Museum Association, pursuant to which the Secretary may—

"(1) provide technical assistance to mark, restore, interpret, operate, and maintain the Johnstown Flood Museum, and

"(2) with funds appropriated specifically for the purpose, provide financial assistance to mark, restore, interpret, operate, and maintain the museum.

No Federal funds may be used to provide financial assistance to the Johnstown Flood Museum Association until the agreement referred to in this subsection has been executed. Financial assistance under

71-139 O - 86 (395)

paragraph (2) shall not cover more than 50 percent of the costs described in paragraph (2). The remaining share of such costs shall be provided from non-Federal funds, services, or materials, or any combination thereof. The Secretary may also accept the donation of the building and collection owned by the Johnstown Flood Museum Association and the parcel of land on which such building is situated. Following acceptance by the Secretary, such parcel shall be included within the boundary of the Johnstown Flood National Memorial without regard to any acreage limitations set forth in any other provision of law.".

Approved August 23, 1986.

LEGISLATIVE HISTORY—H.R. 1963:

HOUSE REPORTS: No. 99-291 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 99-363 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Sept. 30, considered and passed House.
Vol. 132 (1986): Aug. 11, considered and passed Senate.

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RENO SPARKS INDIAN COLONY, LANDS IN TRUST

71-139 O - 86 (398)

Public Law 99-389
99th Congress

An Act

Aug. 23, 1986
[H.R. 3212]

To declare that the United States holds certain lands in trust for the Reno Sparks Indian Colony.

Indians.
Nevada.
Public lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) except as otherwise provided in section 2, all right, title, and interest of the United States in the lands described in subsection (b) of this section are hereby declared to be held by the United States in trust for the benefit and use of the Reno Sparks Indian Colony and are hereby declared to be part of the Reno Sparks Indian Colony.

(b) The lands referred to in subsection (a) comprise approximately 1,949.39 acres of public land within Hungry Valley, Washoe County, Nevada, and are described as follows:

Township 21 north, range 20 east, Mount Diablo baseline and meridian, section 4, 640 acres more or less, reservations, restrictions, and conditions, if any, rights-of-way and assessors either of record or actually existing on said premises.

Township 21 north, range 20 east, Mount Diablo baseline and meridian, section 9, 640 acres more or less, reservations, restrictions, and conditions, if any, rights-of-way and assessors either of record or actually existing on said premises.

Township 21 north, range 20 east, Mount Diablo baseline and meridian, section 16, 640 acres more or less, reservations, restrictions, and conditions, if any, rights-of-way and assessors either of record or actually existing on said premises.

Township 19 north, range 20 east, Mount Diablo baseline and meridian, beginning at a point on the north county road right-of-way fenceline described as being 1,268 feet east and 30 feet north of the west quarter corner of section 7 said point being at the intersection of the boundary fence between L. M. Christianson and A. L. Jensen, with said north county road right-of-way line;

thence north 0 degrees 18 minutes west 490.30 feet;

thence west 787.74 feet;

thence south 0 degrees 12 minutes west 490.30 feet to north county road right-of-way fence;

thence along said fenceline 373.16 feet;

thence north 104.35 feet to the north county road right-of-way fenceline 208.71 feet to the place of beginning, containing 8.38 acres more or less, beginning reservations, restrictions, and conditions, if any, rights-of-way and assessors either of record or actually existing on said premises.

Township 19 north, range 20 east, Mount Diablo baseline and meridian, beginning at the intersection of the east boundaryline of the west half of the southwest quarter of section 7 with the southline of Scott Street Road, said point being 30 feet south of the northeast corner of said west half of the southwest quarter;

thence south 89 degrees 35 minutes west and along the southline of said Scott Street Road 361.2 feet;

thence south and a parallel with the east boundaryline of said west half of southwest quarter of section 7, 2,326.18 feet south to northline of Glendale Road;

thence south 64 degrees 30 minutes east along the northline of said Glendale Road 400 feet to the eastline of Glendale Road west half of southwest quarter of section 7;

thence north along east boundary line 2,501 feet to the place of beginning containing 20 acres more or less, reservations, restrictions, and conditions, if any, rights-of-way and assessors either of record or actually existing on said premises.

Township 19 north, range 20 east, Mount Diablo baseline and meridian, section 7, lots 13 through 18, lock D, Granata, Cafferata subdivision, 1.002 acres, more or less, reservations, restrictions, and conditions, if any, rights-of-way and assessors either of record or existing on said premises.

SEC. 2. (a)(1) Except as otherwise provided in this section, nothing in this Act shall deprive any person of any right-of-way, mining claim, water right, or other right or interest which such person may have in the land described in the first section on the date preceding the date of enactment of this Act.

(2) Notwithstanding the last sentence of section 402(g) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2774, 43 U.S.C. 1752(g)), within thirty days after the date of enactment of this Act, the Secretary of the Interior shall cancel all grazing permits and leases on the following described land:

Township 21 north, range 20 east, Mount Diablo meridian, sections 4, 9, and 16 comprising 1,920 acres more or less in Washoe County, Nevada.

(b) Within one hundred and twenty days after the date of enactment of this Act, the Secretary of the Interior, in accordance with section 402(g) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2774, 43 U.S.C. 1752(g)), shall pay to the holder of any lease or permit canceled under subsection (a) of this section reasonable compensation, to be determined by the Secretary, for the adjusted value of any improvements which said holder constructed or placed on the land described in subsection (a)(2) of this section and cannot be removed. Such payment shall not exceed the fair market value of the terminated portion of the holder's interest therein.

(c) The Secretary of the Treasury is authorized and directed to pay to the Secretary of the Interior, out of funds in the Treasury of the United States not otherwise appropriated, such sums as the Secretary of the Interior may require to make the payments required under subsection (b) of this section.

SEC. 3. (a) Section 1 of the Act of August 9, 1955 (69 Stat. 539, as amended; 25 U.S.C. 415), is amended by inserting ", and lands held in trust for the Reno Sparks Indian Colony," immediately after "Twenty-nine Palms Band of Luiseno Mission Indians".

(b) Section 164 of the Act of July 14, 1955 (42 U.S.C. 7474), shall be applied without regard to the provisions of the first section of this Act.

Approved August 23, 1986.

LEGISLATIVE HISTORY—H.R. 3212:

HOUSE REPORTS: No. 99-501 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 99-364 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 21, considered and passed House.
Aug. 11, considered and passed Senate.

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Public Law 99-390
99th Congress

An Act

To provide for the exchange of land for the Cape Henry Memorial site in Fort Story, Virginia.

Aug. 23, 1986
[H.R. 3556]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior may transfer administrative jurisdiction over approximately 0.23 acres of land within Colonial National Historical Park, Virginia, to the Secretary of the Army, and in exchange therefor, he may accept administrative jurisdiction over a like amount of land from the Secretary of the Army, transfer of which is hereby authorized, for the purpose of relocating the Cape Henry Memorial Cross. Land over which jurisdiction is transferred to the Secretary of the Interior shall become part of Colonial National Historical Park, and land over which jurisdiction is transferred to the Secretary of the Army shall become part of Fort Story Military Reservation.

National parks, monuments, etc. Colonial National Historical Park, VA.
16 USC 81o.

Approved August 23, 1986.

LEGISLATIVE HISTORY:—H.R. 3556:

HOUSE REPORTS: No. 99-442, Pt. 1 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 99-365 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Mar. 11, considered and passed House.
Aug. 11, considered and passed Senate.

71-139 O - 86 (401)

Public Law 99-391
99th Congress

Joint Resolution

Aug. 23, 1986
[H.J. Res. 377]

To designate December 5, 1986, as "Walt Disney Recognition Day".

Whereas in 1986 there occurs the 31st anniversary of the founding of Disneyland and the 15th anniversary of the founding of Disney World;

Whereas December 5, 1986, is the 85th anniversary of the birth of the founder of Disneyland and Disney World, Walter Elias Disney;

Whereas the delightful characters created by Walt Disney, including Mickey Mouse and Donald Duck, have brought joy to several generations;

Whereas Walt Disney used the characters he created to promote family values and to teach civic and moral lessons;

Whereas the unceasing commitment of Walt Disney to excellence led him to perfect animation as an art form;

Whereas Walt Disney produced nature documentaries that yielded fascinating insights into the animal kingdom and emphasized the importance of conserving the natural heritage of the Nation;

Whereas Walt Disney devoted an enormous amount of time and resources to improving the quality of urban life in the United States through the construction of Walt Disney World and Epcot Center;

Whereas classic films produced by Walt Disney included Fantasia, Bambi, and the first full-length animated cartoon, Snow White and the Seven Dwarfs; and

Whereas Walt Disney was an American folk hero who became famous worldwide; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 5, 1986, hereby is designated "Walt Disney Recognition Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved August 23, 1986.

LEGISLATIVE HISTORY—H.J. Res. 377:

CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 3, considered and passed House.
Dec. 6, considered and passed Senate, amended.
Vol. 132 (1986): Aug. 8, House concurred in Senate amendments.

71-139 O - 86 - (403)

Public Law 99-392
99th Congress

Joint Resolution

Designating the week of September 21, 1986, through September 27, 1986, as "Emergency Medical Services Week".

Aug. 23, 1986
[H.J. Res. 529]

Whereas the members of emergency medical services teams devote their lives to saving the lives of others;

Whereas emergency medical services teams consist of emergency physicians, nurses, emergency medical technicians, paramedics, educators, and administrators;

Whereas the people of the United States benefit daily from the knowledge and skill of these trained individuals;

Whereas advances in emergency medical care increase the number of lives saved every year;

Whereas the professional organizations of providers of emergency medical services promote research to improve emergency medical care;

Whereas the members of emergency medical services teams work together to improve and adapt their skills as new methods of emergency treatment are developed;

Whereas the members of emergency medical services teams encourage national standardization of training and testing of emergency medical personnel, and reciprocal recognition of training and credentials by the States;

Whereas the designation of "Emergency Medical Services Week" will serve to educate the people of the United States about accident prevention and what to do when confronted with a medical emergency; and

Whereas it is appropriate to recognize the value and the accomplishments of emergency medical services teams by designating "Emergency Medical Services Week": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 21, 1986, through September 27, 1986, is designated as "Emergency Medical Services Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved August 23, 1986.

LEGISLATIVE HISTORY—H.J. Res. 529:

CONGRESSIONAL RECORD, Vol. 132 (1986):
July 16, considered and passed House.
Aug. 9, considered and passed Senate.

71-139 O - 86 (404)

Public Law 99-393
99th Congress

Joint Resolution

Aug. 23, 1986
[H.J. Res. 630]

Designating the College of William and Mary as the official United States representative to the Tercentenary Celebration of the Glorious Revolution to be celebrated jointly in the United States, the Netherlands, and the United Kingdom.

Whereas the years 1988-1989 signify the three hundredth anniversary of the accession of King William III and Queen Mary II to the throne of England;

Whereas the Governments of the Netherlands and the United Kingdom have established a William and Mary Tercentenary Committee for the purposes of celebrating this event in all appropriate ways, including historical, educational, horticultural, maritime, artistic, scientific, and performing arts activities;

Whereas the Tercentenary Committee has invited the College of William and Mary in Virginia, founded by their Joint Majesties under a royal charter granted in 1693, to be the New World representatives of the William and Mary Tercentenary celebration;

Whereas the historical and cultural ties of the 1688-1689 period to the constitutional history of the United States of America are profound, including the beginnings of the limited and constitutional government and the establishment of the English Bill of Rights; and

Whereas the College of William and Mary desires to organize and participate in celebrations relating to the Tercentenary in this country and in the Netherlands and United Kingdom as appropriate: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the College of William and Mary in Virginia is hereby designated as the coordinating body for the 1988-1989 celebrations relating to the world of William and Mary and its relationship to the former British colonies in America now known as the United States of America.

Approved August 23, 1986.

LEGISLATIVE HISTORY—H.J. Res. 630:

CONGRESSIONAL RECORD, Vol. 132 (1986):
July 28, considered and passed House.
Aug. 9, considered and passed Senate.

71-139 O - 86 (405)

Public Law 99-394
99th Congress

Joint Resolution

To designate the week beginning May 17, 1987, as "National Tourism Week".

Aug. 23, 1986
[H.J. Res. 642]

Whereas tourism is vital to the United States, contributing to economic prosperity, employment, and the international balance of payments;

Whereas travelers from the United States and other countries spent $259,500,000,000 in the United States during 1985, directly producing five million nine hundred thousand jobs, $59,600,000,000 in wages and salaries, and over $33,200,000,000 in Federal, State, and local tax revenues;

Whereas if viewed as a single retail industry the travel and tourism sector of the economy constituted the third largest retail industry in the United States in 1985 as measured by business receipts;

Whereas tourism contributes substantially to personal growth, education, and appreciation of intercultural differences among all people;

Whereas tourism enhances international understanding and good will; and

Whereas as people throughout the world become aware of the outstanding cultural and recreational resources available across the United States, travel and tourism will become an increasingly important aspect of the daily lives of the people of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning May 17, 1987, is designated as "National Tourism Week". The President is requested to issue a proclamation calling on the people of the United States to observe such week with appropriate ceremonies and activities.

Approved August 23, 1986.

LEGISLATIVE HISTORY—H.J. Res. 642:

CONGRESSIONAL RECORD, Vol. 132 (1986):
July 16, considered and passed House.
Aug. 9, considered and passed Senate.

71-139 O - 86 (406)

Public Law 99-395
99th Congress

An Act

Aug. 27, 1986
[H.R. 1343]

To authorize the use of funds from rental of floating drydock and other marine equipment to support the National Maritime Museum in San Francisco, California, and for other purposes.

National parks, monuments, etc.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4(f) of the Act entitled "An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes", approved October 27, 1972 (Public Law 92-589; 16 U.S.C. 460bb-3(f)) is amended by—

Vessels.

(1) inserting in the second proviso after the words "the administration of said parcels" the following "and of the AFDL-38 Drydock or other vessels or heavy marine equipment,";

(2) striking out "for the management of said parcels of property" in such proviso and substituting "for the management (including rental or lease) of said properties"; and

Marin County, CA.

(3) inserting in the first paragraph after the words "National Maritime Museum," the word "and" and deleting ", and for a coordinated public and private access system to and within the recreation area and other units of the national park system in Marin and San Francisco Counties".

Vessels.

SEC. 2. (a) Section 4(e) of the Act of October 27, 1972 (16 U.S.C. 460bb-3; 92 Stat. 3486), is amended by deleting the phrase ", for a period not exceeding five years from the date of the enactment of this legislation," and by inserting after "sailing vessel Balclutha" the following new phrase "and other historic vessels of the National Maritime Museum".

16 USC 460bb-3 note.

(b) Notwithstanding any other provisions of law, moneys collected pursuant to section 4(e) of the Act of October 27, 1972 (16 U.S.C. 460bb-3; 92 Stat. 3486), since November 10, 1983, shall be deemed to have been collected in accordance with such section as amended by this Act.

Approved August 27, 1986.

LEGISLATIVE HISTORY—H.R. 1343:

HOUSE REPORTS: No. 99-183 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 99-361 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 131 (1985): July 15, considered and passed House.
Vol. 132 (1986): Aug. 11, considered and passed Senate, amended.
Aug. 14, House concurred in Senate amendments.

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71-139 O - 86 (407)

Public Law 99-396
99th Congress

An Act

To amend the Revised Organic Act of the Virgin Islands, to amend the Covenant to Establish a Commonwealth of the Northern Mariana Islands, to amend the Organic Act of Guam, to provide for the governance of the insular areas of the United States, and for other purposes.

Aug. 27, 1986
[H.R. 2478]

Virgin Islands.
Northern Mariana Islands.
Guam.
American Samoa.
Trust Territory of the Pacific Islands.
Elections.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 12 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1593), is amended to read as follows:

"SEC. 12. (a) The people of the Virgin Islands shall have the rights of initiative and recall to be exercised as provided in subsection (b) and subsection (c), respectively.

"(b)(1) An initiative may enact, amend, or repeal any law, except that an initiative shall not be used to repeal a law declared by the legislature at the time of passage to be an emergency law necessary for the preservation of the public health, safety, or peace.

"(2) An initiative that proposes a reduction of taxes shall also provide for an equivalent reduction of expenditures or an equivalent increase in revenues from other sources.

"(3) An initiative shall address one subject only and matters reasonably related to that subject.

"(4) The ballot question shall be in such form that a 'yes' vote is a vote in favor of the proposal and a 'no' vote is a vote against the proposal.

"(5) A copy of the proposed initiative petition, including a complete text of the proposed law and containing signatures equal to at least 1 percent of the voters of each legislative district or 4 percent of all voters of the Virgin Islands must be submitted to the Supervisor of Elections prior to circulation for ballot qualification. The Supervisor of Elections must determine within 10 days after the submission whether the preliminary signatures are sufficient. If so determined, the Supervisor of Elections shall refer the preliminary petition to an initiative titling board consisting of the Attorney General, the Supervisor of Elections, and the legislative counsel of the legislature. The board shall, in an open hearing, prepare the official ballot title, the submission question, and a summary of the initiative proposal, and this preparation shall be completed within 30 days after the referral.

"(6) After the ballot title has been written, proponents of the initiative proposal shall have a maximum of 180 days to circulate the petition. Petitions containing signatures equal to at least 10 percent of the voters of each legislative district or 41 percent of all voters of the Virgin Islands must be submitted to the Supervisor of Elections. The Supervisor shall have 15 days to determine that the minimum number of valid signatures are contained in the petition and he shall forward the certified proposal to the legislature which must accept or reject the measure within 30 days. If approved, the initiative shall take effect in accordance with its terms. If the legislature does not approve, the initiative shall be submitted to

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the voters at the next general election, unless the legislature approves a special election for this purpose. The legislature may submit its own version of the initiative to the voters. Should both measures be approved by the voters, the measure receiving the higher number of votes shall prevail. The voters shall have a clear alternative of rejecting either version or the entire proposition.

"(7) An initiative submitted to the voters shall take effect if the initiative is approved by a majority of persons voting and if a majority of the voters of the Virgin Islands vote on the initiative. An initiative may not be vetoed by the Governor, and when approved by the voters, may not be amended or repealed by the legislature during the 3-year period after its approval unless the legislature acts by a two-thirds majority.

"(8) The legislature may provide the manner in which petitions shall be circulated, filed, certified, and the ballot question shall be submitted to the voters.

"(c)(1) An elected public official of the Virgin Islands may be removed from office by a recall election carried out under this subsection. The grounds for recall are any of the following: lack of fitness, incompetence, neglect of duty, or corruption.

"(2) A recall election may be initiated by a two-thirds vote of the members of the legislature or by a petition under this subsection.

"(3) Prior to circulation a recall petition which identifies by name and office the official being recalled and which states the grounds for recall shall be submitted to the Supervisor of Elections. The sponsors of the recall petition shall be allowed a period of 60 days after such submission for filing with the Supervisor of Elections a list of signatures equal in number to at least 50 percent of the whole number of votes cast for that office in the last general election at which that office was filled. The Supervisor of Elections shall have 15 days in which to determine whether the minimum number of valid signatures are contained in the recall petition.

"(4) A special recall election shall be held with respect to an elected public official not earlier than 30 days after a vote of the legislature under paragraph (2) or a determination of the board of elections under paragraph (3), as the case may be, and not later than 60 days after such vote or determination.

"(5) An official shall be removed from office upon approval of the recall in an election in which at least two-thirds of the number of persons voting for such official in the last preceding general election at which such official was elected vote in favor of recall and in which those so voting constitute a majority of all those participating in such recall election.

"(6) No recall election shall be held with respect to an elected public official—

"(A) during the first year of the first term of office of the official; or

"(B) less than 3 months before a general election for the office.

"(d) As used in this section, the term—

"(1) 'law' means a law of the Virgin Islands; and

"(2) 'voter' means a registered voter who is eligible to vote on the issue or for the office involved.".

Loans.
48 USC 1681 note.

SEC. 2. A total of up to $4,000,000 of funds currently reserved for use by the economic development loan fund, as established under subsection (c) of section 702 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the

United States of America, approved by Public Law 94-241, may be expended for capital improvement projects: *Provided,* That such funds become available for use by the economic development loan fund and such funds are not obligated for economic development loans. 48 USC 1681 note.

SEC. 3. The first sentence of section 4(a) of the Act of November 20, 1963 (77 Stat. 339) is amended to read as follows: "(a) Except as otherwise provided by law, the governments of the Virgin Islands, Guam, and American Samoa, shall have concurrent civil and criminal jurisdiction with the United States with regard to property owned, reserved, or controlled by the United States in the Virgin Islands, Guam, and American Samoa respectively.". 48 USC 1704. Real property.

SEC. 4. Effective October 1, 1986, there are authorized to be appropriated $1,200,000 for grants to the College of the Virgin Islands for projects related to the Eastern Caribbean Center, to remain available until expended. Effective date. Appropriation authorization. Grants.

SEC. 5. Section 29(b) of the Organic Act of Guam (64 Stat. 392) is amended by striking out "Governor" and inserting in lieu thereof "Government of Guam". 48 USC 1421g.

SEC. 6. The Secretary of the Interior is authorized and directed to develop, in consultation with the Governor of the Virgin Islands, options for the future use or disposition of Water Island which would contribute to economic growth in and make the island an integral part of the Virgin Islands community. The Secretary shall submit such options to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate within 10 days after the convening of the 100th Congress. Water Island.

SEC. 7. Section 901(a) of part I of title I of the Act of June 19, 1968 (82 Stat. 225, as amended, 42 U.S.C. 3791(a)) is further amended—

(1) in paragraph (2)—

(A) by striking out "and"; and

(B) by inserting before the semicolon the following: ", American Samoa, Guam, and the Northern Mariana Islands: *Provided,* That for the purposes of section 407(a) American Samoa, Guam, and the Northern Mariana Islands shall be considered as one State and that, for these purposes, 33 per centum of the amounts allocated shall be allocated to American Samoa, 50 per centum to Guam, and 17 per centum to the Northern Mariana Islands"; and 42 USC 3747.

(2) in paragraph (3)—

(A) by striking out ", Guam, American Samoa" and inserting "and" in lieu thereof; and

(B) by striking out all that appears after "Pacific Islands" and inserting a semicolon in lieu thereof.

SEC. 8. (a) Section 8A of the Act of September 2, 1937 (50 Stat. 918, as amended and supplemented, 16 U.S.C. 669g-1) is amended by deleting the word "Act," the first place it appears and inserting in lieu thereof: "Act, and hunter safety programs as provided by section 8(b) of this Act,". Wildlife. 16 USC 669g.

(b) Section 4(b) of the Act of September 2, 1937 (50 Stat. 918, as amended and supplemented, 16 U.S.C. 669c(b)) is further amended by striking the period at the end of the first sentence and adding: "and Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands shall each be apportioned one-sixth of 1 per centum of such revenues.".

SEC. 9. (a) Section 506 of the Education Amendments of 1972, Public Law 92-318 (86 Stat. 235) is further amended by inserting, "the Northern Marianas College", after "the College of Micronesia" in subsection (a).

7 USC 301 note.

(b) Section 5 of the Act of August 30, 1980, c. 841, 26 Stat. 417 (the Second Morill Act), as added by section 506(c) of Public Law 92-318 (86 Stat. 235) is amended by striking out "and Micronesia, and Guam" and inserting in lieu thereof "Guam, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands (other than the Northern Mariana Islands)".

7 USC 326a.

(c) Subsection (c) of section 1361 of Public Law 96-374 (94 Stat. 1367) is amended by striking out "American Samoa and in Micronesia" and inserting in lieu thereof "American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands (other than the Northern Mariana Islands)".

7 USC 301 note.

(d) Section 22 of the Act of June 29, 1935, c. 388, 49 Stat. 439, as amended (7 U.S.C. 329), is further amended—

(1) by striking out "and Guam" wherever it appears and inserting in lieu thereof "Guam, and the Northern Mariana Islands";

(2) by striking out "$8,100,000" and inserting in lieu thereof "$8,250,000"; and

(3) by striking out "$4,360,000" and inserting in lieu thereof "$4,380,000".

(e) The first sentence of section 3(b)(2) of the Act of May 8, 1914, c. 79, 38 Stat. 372, as amended (7 U.S.C. 343), is further amended by striking out "and Guam" and inserting in lieu thereof "Guam, and the Northern Mariana Islands".

(f) Section 10 of the Act of May 8, 1914, c. 79, 38 Stat. 372, as added by section 1(i) of Public Law 87-749 (76 Stat. 745) and as amended (7 U.S.C. 349), is further amended to read as follows: "The term 'State' means the States of the Union, Puerto Rico, the Virgin Islands, Guam and the Northern Mariana Islands.".

Grants.
48 USC 1681 note.

SEC. 10. The Act of March 24, 1976 (Public Law 94-241; 90 Stat. 263), is amended by adding the following new sections at the end thereof:

"SEC. 3. Pursuant to section 701 of the foregoing Covenant, enactment of this section shall constitute a commitment and pledge of the full faith and credit of the United States for the payment of $228 million at guaranteed annual amounts of direct grant assistance for the Government of the Northern Mariana Islands for an additional period of seven fiscal years after the expiration of the initial seven-year period specified in section 702 of said Covenant, which assistance shall be provided according to the schedule of payments contained in the Agreement of the Special Representatives on Future United States Financial Assistance for the Government of the Northern Mariana Islands, executed July 10, 1985, between the special representative of the President of the United States and the special representatives of the Governor of the Northern Mariana Islands. The islands of Rota and Tinian shall each receive no less than a ⅛ share and the island of Saipan shall receive no less than a ¼ share of annualized capital improvement project funds, which shall be no less than 80 per centum of the capital development funds identified in the schedule of payments in paragraph 2 of part II of the Agreement of the Special Representatives. Funds shall be granted according to such regulations as are applicable to such grants.

Rota.
Tinian.
Saipan.

"SEC. 4. (a) Section 704(c) of the foregoing Covenant shall not apply to the Federal financial assistance which is provided to the Government of the Northern Mariana Islands pursuant to section 3 of this Act.

48 USC 1681 note.

"(b) Upon the expiration of the period of Federal financial assistance which is provided to the Government of the Northern Mariana Islands pursuant to section 3 of this Act, payments of direct grant assistance shall continue at the annual level provided for the last fiscal year of the additional period of seven fiscal years until Congress otherwise provides by law.

Ante, p. 840.
Grants.

"SEC. 5. Should the Secretary of the Interior believe that the performance standards of the agreement identified in section 3 of this Act are not being met, he shall notify the Government of the Northern Mariana Islands in writing with the intent to resolve such issue in a mutually agreeable and expeditious manner and notify the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Should the issue not be resolved within thirty days after the notification is received by the Government of the Northern Mariana Islands, the Secretary of the Interior may request authority from Congress to withhold payment of an appropriate amount of the operations funds identified in the schedule of payments in paragraph 2 of part II of the Agreement of the Special Representatives for a period of less than one year but no funds shall be withheld except by Act of Congress.".

48 USC 1681 note.

SEC 11. The final rule of June 18, 1986, amending part 697 of title 29 of the Code of Federal Regulations shall have no effect. The minimum rates of wages paid to the employees in American Samoa shall be those in effect July 1, 1986, until new rates are established by another industry committee acting pursuant to the Fair Labor Standards Act of 1938.

Wages.
51 FR 22517, 25525.
29 USC 201 *et seq.*

SEC. 12. (a) In awarding assistance grants, consolidated under the provisions of title V of the Act entitled "An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts related thereto, and for other purposes" (91 Stat. 1159, as amended), to the Trust Territory of the Pacific Islands, American Samoa, Guam, the Northern Mariana Islands or the Virgin Islands, the Administrator of the Environmental Protection Agency may, in his discretion, adjust or otherwise modify maintenance or level of effort requirements.

Grants.
48 USC 1469a note.
48 USC 1469a.

(b) In awarding grants to the Trust Territory of the Pacific Islands, American Samoa, Guam, the Northern Mariana Islands and the Virgin Islands under section 201(g)(1) of the Clean Water Act (33 U.S.C. 1251 et seq.), the Administrator of the Environmental Protection Agency may waive limitations regarding grant eligibility for sewerage facilities and related appurtenances, insofar as such limitations relate to collector sewers, based upon a determination that applying such limitations could hinder the alleviation of threats to public health and water quality. In making such a determination, the Administrator shall take into consideration the public health and water quality benefits to be derived and the availability of alternate funding sources. The Administrator shall not award grants under this section for the operation and maintenance of sewerage facilities, for construction of facilities which are not an essential component of the sewerage facilities, or any other activities or facilities which are not concerned with the manage-

Grants.
Waste disposal.
Water.
Health and medical care.
33 USC 1281 note.
33 USC 1281.

ment of wastewater to alleviate threats to public health and water quality.

48 USC 1421g.

SEC. 13. (a) Section 29 of the Organic Act of Guam (64 Stat. 392) as amended, is further amended—

(1) by striking "at such places" and all thereafter in subsection (b) and inserting in lieu thereof "according to the laws of Guam."; and

(2) by adding the following new subsection at the end thereof:

"(c) The Government of Guam may by law establish an Office of Public Prosecutor and an Office of Public Auditor. The Public Prosecutor and Public Auditor may be removed as provided by the laws of Guam.".

Aliens.

SEC. 14. (a) Subsection (l) of section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended to read as follows:

"(l)(1) The requirement of paragraph (26)(B) of subsection (a) of this section may be waived by the Attorney General, the Secretary of State, and the Secretary of the Interior, acting jointly, in the case of an alien applying for admission as a nonimmigrant visitor for business or pleasure and solely for entry into and stay on Guam for a period not to exceed fifteen days, if the Attorney General, the Secretary of State, and the Secretary of the Interior, after consultation with the Governor of Guam, jointly determine that—

"(A) an adequate arrival and departure control system has been developed on Guam, and

Defense and national security.

"(B) such a waiver does not represent a threat to the welfare, safety, or security of the United States or its territories and commonwealths.

"(2) An alien may not be provided a waiver under this subsection unless the alien has waived any right—

"(A) to review or appeal under this Act of an immigration officer's determination as to the admissibility of the alien at the port of entry into Guam, or

"(B) to contest, other than on the basis of an application for asylum, any action for deportation against the alien.

"(3) If adequate appropriated funds to carry out this subsection are not otherwise available, the Attorney General is authorized to accept from the Government of Guam such funds as may be tendered to cover all or any part of the cost of administration and enforcement of this subsection.

Regulations.
8 USC 1182 note.

"(b) After consultation with the Secretary of State, the Secretary of the Interior, and the Governor of Guam and within ninety days after the date of the enactment of this Act, the Attorney General shall issue regulations governing the admission, detention, and travel of nonimmigrant aliens pursuant to the visa waiver authorized by the amendment made by subsection (a).

Reports.
8 USC 1182 note.
Supra.

"(c) Each year the Attorney General shall submit a report on the implementation of section 212(l) of the Immigration and Nationality Act to the Committees on the Judiciary and Interior and Insular Affairs of the House of Representatives and the Committees on the Judiciary and Energy and Natural Resources of the Senate.".

Nationals.

SEC. 15. (a) Section 308 of the Immigration and Nationality Act (8 U.S.C. 1408) is amended by adding at the end the following new paragraph:

"(4) A person born outside the United States and its outlying possessions of parents one of whom is an alien, and the other a national, but not a citizen, of the United States who, prior to the birth of such person, was physically present in the United States or

its outlying possessions for a period or periods totaling not less than seven years in any continuous period of ten years—

"(A) during which the national parent was not outside the United States or its outlying possessions for a continuous period of more than one year, and

"(B) at least five years of which were after attaining the age of fourteen years.

The proviso of section 301(g) shall apply to the national parent under this paragraph in the same manner as it applies to the citizen parent under that section.". 8 USC 1401.

(b) The amendment made by subsection (a) shall apply to persons born before, on, or after the date of the enactment of this Act. In the case of a person born before the date of the enactment of this Act— 8 USC 1408 note.

(1) the status of a national of the United States shall not be considered to be conferred upon the person until the date the person establishes to the satisfaction of the Secretary of State that the person meets the requirements of section 308(4) of the Immigration and Nationality Act, and *Ante*, p. 842.

(2) the person shall not be eligible to vote in any general election in American Samoa earlier than January 1, 1987. Elections.

SEC. 16. (a) Section 341 of the Immigration and Nationality Act (8 U.S.C. 1452) is amended—

(1) in the heading, by inserting "OR U.S. NON-CITIZEN NATIONAL STATUS" after "CITIZENSHIP",

(2) by inserting "(a)" after "SEC. 341.", and

(3) by adding at the end the following new subsection:

"(b) A person who claims to be a national, but not a citizen, of the United States may apply to the Secretary of State for a certificate of non-citizen national status. Upon—

"(1) proof to the satisfaction of the Secretary of State that the applicant is a national, but not a citizen, of the United States, and

"(2) in the case of such a person born outside of the United States or its outlying possessions, taking and subscribing, before an immigration officer within the United States or its outlying possessions, to the oath of allegiance required by this Act of a petitioner for naturalization,

the individual shall be furnished by the Secretary of State with a certificate of non-citizen national status, but only if the individual is at the time within the United States or its outlying possessions.".

(b) The item in the table of contents of such Act relating to section 341 is amended to read as follows:

"Sec. 341. Certificates of citizenship or U.S. non-citizen national status; procedure.".

(c) The Secretary of State may not impose a fee exceeding $35 for the processing of an application for a certificate of non-citizen national status under section 341(b) of the Immigration and Nationality Act filed before the end of fiscal year 1987. 8 USC 1452 note.

SEC. 17. The Act of June 12, 1906 (34 Stat. 259, 43 U.S.C. 391), is amended by inserting a comma after "State of Texas" and adding "American Samoa, Guam, the Northern Mariana Islands and the Virgin Islands.". Texas.

SEC. 18. (a) Section 9(a) of the Organic Act of Guam (64 Stat. 387) is amended by adding the following new sentence at the end thereof: "The Government of Guam may by law establish a Civil Service 48 USC 1422c.

Commission to administer the merit system. Members of the commission may be removed as provided by the laws of Guam.".

Appropriation authorization.

SEC. 19. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Puerto Rico.
48 USC 1421 note.
48 USC 1469a-1.
Ante, p. 840.
48 USC 731 note.
48 USC 1541 note.

(b) Pursuant to the terms of the Organic Act of Guam (64 Stat. 384), as amended; the Joint resolution to Approve the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America (90 Stat. 263), as amended; the Puerto Rican Federal Relations Act (64 Stat. 319), as amended and supplemented; and the Revised Organic Act of the Virgin Islands (86 Stat. 497), as amended and supplemented and an Act to authorize appropriations for certain insular areas of the United States, and for other purposes (92 Stat. 487), as amended; there shall be paid into the treasuries of Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands respectively the full amounts which are to be covered into the treasuries of said islands or paid pursuant to said laws as amended and supplemented and such amounts shall not be reduced, notwithstanding Public Law 99-177, Public Law 99-366, or any other provision of law.

99 Stat. 1037; *ante*, p. 773.
48 USC 1681 note.
Micronesia
Marshall Islands.

SEC. 20. (a) Section 105(b)(2) of Public Law 99-239 is amended to read as follows:

"(2) Except for programs or services provided by or through other federal agencies or officials to the Federated States of Micronesia or the Republic of the Marshall Islands, or for which residents thereof are eligible pursuant to the Compact or any other provision of this joint resolution, appropriations made pursuant to the Compact or any other provision of this joint resolution may be made only to the Secretary of the Interior. The Secretary of the Interior shall coordinate and monitor any programs or activities, including such activities for which funding is made directly to such other agencies, provided to the Federated States of Micronesia or the Republic of the Marshall Islands by agencies of the Government of the United States and related economic development planning pursuant to the Compact or pursuant to any other authorization except for the provisions of sections 161(e), 313, and 351 of the Compact and the authorization of the President to agree to an effective date pursuant to this resolution. Funds appropriated to the Secretary of the Interior pursuant to this paragraph shall not be allocated to other Departments or agencies, except that the Secretary of the Interior shall be able to reimburse Departments or agencies for purposes authorized by this joint resolution.".

99 Stat. 1807, 1822, 1825.

48 USC 1681 note.
99 Stat. 1791, 1799.
16 USC 470.
99 Stat. 1791.

(b) The programs and services specified in section 105(h)(1), sections 105(i) (1) and (2), section 111(a), the services of the National Health Service Corps pursuant to section 105(k), and the Technical Assistance and National Historic Preservation Act grants pursuant to section 105(l), of Public Law 99-239 shall be provided on a nonreimbursable basis.

SEC. 21. (a) Section 373 of title 28, United States Code, is amended to read as follows:

Retirement.

"§ 373. Judges in territories and possessions

"(a) Any judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands who retires from office after attaining the age and meeting the service requirements whether continuous or otherwise, of subsection (b) shall, during the remainder of his lifetime, receive an annuity equal to the salary he is receiving at the time he retires.

"(b) The age and service requirements for retirement under subsection (a) of this section are as follows:

"Attained age:	Years of service:
65	15
66	14
67	13
68	12
69	11
70	10

"(c)(1) Any judge or former judge who is receiving an annuity pursuant to this section may elect to become a senior judge of the court upon which he served before retiring.

"(2) The chief judge of a judicial circuit may recall any such senior judge, with the judge's consent, to perform, for the court from which he retired, such judicial duties for such periods of time as the chief judge may specify.

"(3) Any act or failure to act by a senior judge performing judicial duties pursuant to recall under paragraph (2) of this subsection shall have the same force and effect as if it were an act or failure to act of a judge on active duty; but such senior judge shall not be counted as a judge of the court on which he is serving as a recalled annuitant for purposes of the number of judgeships authorized for that court.

"(4) Any senior judge performing judicial duties pursuant to recall under paragraph (2) of this subsection shall be paid, while performing such duties, the same compensation (in lieu of the annuity payable under subsection (a) of this section) and the same allowances for travel and other expenses as a judge on active duty with the court being served.

"(5) Any senior judge performing judicial duties pursuant to recall under paragraph (2) of this subsection shall at all times be governed by the code of judicial conduct for United States judges approved by the Judicial Conference of the United States.

"(d) Any judge who elects to become a senior judge under subsection (c) of this section and who thereafter—

"(1) accepts civil office or employment under the Government of the United States (other than the performance of judicial duties pursuant to recall under subsection (c) of this section);

"(2) engages in the practice of law; or

"(3) materially violates the code of judicial conduct for United States judges,

shall cease to be a senior judge and to be eligible for recall pursuant to subsection (c) of this section.

Handicapped persons.

"(e) Any judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands who is removed by the President of the United States upon the sole ground of mental or physical disability, or who is not reappointed (as judge of such court), shall be entitled, upon attaining the age of sixty-five years or upon relinquishing office if he is then beyond the age of sixty-five years, (1) if his judicial service, continuous or otherwise, aggregates fifteen years or more, to receive during the remainder of his life an annuity equal to the salary he received when he left office, or (2) if his judicial service, continuous or otherwise, aggregated less than fifteen years but not less than ten years, to receive during the remainder of his life an annuity equal to that proportion of such salary which the aggregate number of his years of his judicial service bears to fifteen.

"(f) Service at any time as a judge of the courts referred to in subsection (a) or of any other court of the United States, as defined by section 451 of this title, shall be included in the computation of aggregate years of judicial service for purposes of this section.

28 USC 451.

"(g) Any retired judge who is entitled to receive an annuity under subsection (a) shall be entitled to a cost of living adjustment in the amount payable to him computed as specified in section 8340(b) of title 5, except that in no case may the annuity payable to such retired judge, as increased under this subsection, exceed 95 per centum of the salary of a United States district judge in regular active service.".

(b)(1) Subsection (a)(1)(B) of section 376 of title 28, United States Code, is amended to read as follows:

"(B) a judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands;".

(2) Subsection (a)(2)(B) of section 376 of title 28, United States Code, is amended to read as follows:

"(B) in the case of a judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands, (i) an annuity paid under subsection (a) of section 373 of this title or (ii) compensation paid under paragraph (4) of subsection (c) of section 373 of this title;".

Ante, p. 844.

28 USC 373 note.

(c) The amendments made by this section shall not affect the amount payable to a judge who retired in accordance with the provisions of section 373 of title 28, United States Code, in effect on the day before the date of enactment of this Act.

Indians. Securities. Corporations. 43 USC 1613 note.

SEC. 22. (a) The first proviso of section 2(a)(2) of Public Law 94-204 (89 Stat. 1146) as amended by section 1411(a) of Public Law 96-487 (94 Stat. 2498) is amended to read as follows: "*Provided*, That the interest on proceeds received prior to January 2, 1976, shall be calculated and paid at the rate of the earnings on Individual Indian Moneys in the custody of the Secretary of the Interior pursuant to sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9) and invested by him pursuant to the Act of June 24, 1938 (25 U.S.C. 162a), from the date of receipt to January 2, 1976. Effective January 2, 1976, the interest so calculated shall be added to the principal amount of such proceeds. The interest on this total amount and on proceeds received on or after January 2, 1976, shall be calculated and paid as though such proceeds and previously calculated interest had been deposited in the escrow account from January 2, 1976, or the date of receipt, whichever occurs later, to the date of payment to the affected Corporation.".

43 USC 1613 note.

(b) Section 2(e) of Public Law 94-204 (89 Stat. 1146) as added by section 1411(b) of Public Law 96-487 (94 Stat. 2498) is amended to read as follows:

"(e) The Secretary shall calculate the amounts payable pursuant to this section and notify the affected Corporation of the results of his calculations. The affected Corporation shall have thirty days in which to appeal the Secretary's calculations after which the Secretary shall promptly make a final determination of the amounts payable. The Secretary shall certify such final determinations to the Secretary of the Treasury and each determination shall constitute a final judgment, award, or compromise settlement under section 1304 of title 31 of the United States Code. The Secretary of the Treasury is authorized and directed to pay such amounts to the appropriate Corporation out of funds in the Treasury: *Provided*, That if the lands

Real property.

from which the proceeds and interest entitlement are derived have not been conveyed to the selecting Native Corporation at the time the Secretary makes his final determination, the Secretary of the Treasury is authorized and directed to pay such amount into the escrow account where it will earn interest and be disbursed in the same manner as other proceeds and interest.".

Approved August 27, 1986.

LEGISLATIVE HISTORY—H.R. 2478:

HOUSE REPORTS: No. 99-116 and Pt. 2 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 99-236 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 3, considered and passed House.
Vol. 132 (1986): Apr. 24, considered and passed Senate, amended.
Aug. 1, House concurred in the Senate amendment No. 1, disagreed to Senate amendment No. 3, and concurred in other Senate amendments with amendments.
Aug. 9, Senate receded from its amendment No. 3 and agreed to House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Aug. 27, Presidential statement.

O

Public Law 99-397
99th Congress

An Act

Aug. 27, 1986
[H.R. 3108]

To amend title 17, United States Code, to clarify the definition of the local service area of a primary transmitter in the case of a low power television station.

Communications and telecommunications.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the fourth paragraph of section 111(f) of title 17, United States Code, relating to the definition of local service area of a primary transmitter, is amended by adding after the first sentence the following new sentence: "In the case of a low power television station, as defined by the rules and regulations of the Federal Communications Commission, the 'local service area of a primary transmitter' comprises the area within 35 miles of the transmitter site, except that in the case of such a station located in a standard metropolitan statistical area which has one of the 50 largest populations of all standard metropolitan statistical areas (based on the 1980 decennial census of population taken by the Secretary of Commerce), the number of miles shall be 20 miles.".

SEC. 2. (a) Section 111(d) of title 17, United States Code, is amended—

(1) in paragraph (3) by striking out "clause (2)" and inserting in lieu thereof "paragraph (1)";

(2) in paragraph (2) by striking out "clause (5)" and inserting in lieu thereof "paragraph (4)";

(3) in paragraph (2)(B) by striking out "clause (5)" and inserting in lieu thereof "paragraph (4)";

(4) by striking out paragraph (1); and

(5) by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(b) Section 111(f) of title 17, United States Code, is amended by striking out "subsection (d)(2)" in the third undesignated paragraph defining a cable system and inserting in lieu thereof "subsection (d)(1)".

(c) Section 801(b)(2) of title 17, United States Code, is amended by striking out "111(d)(2)(B)" each place it appears and inserting in lieu thereof "111(d)(1)(B)".

(d) Section 801(d)(2)(D) of title 17, United States Code, is amended by striking out "111(d)(2) (C) and (D)" and inserting in lieu thereof "111(d)(1) (C) and (D)".

Approved August 27, 1986.

LEGISLATIVE HISTORY—H.R. 3108:

HOUSE REPORTS: No. 99-615 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 132 (1986):
July 28, considered and passed House.
Aug. 9, considered and passed Senate, amended.
Aug. 15, House concurred in Senate amendments.

O

71-139 O - 86 (409)

Public Law 99-398
99th Congress

An Act

To provide for the restoration of the Federal trust relationship with, and Federal services and assistance to, the Klamath Tribe of Indians and the individual members thereof consisting of the Klamath and Modoc Tribes and the Yahooskin Band of Snake Indians, and for other purposes.

Aug. 27, 1986
[H.R. 3554]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Klamath Indian Tribe Restoration Act, Oregon.
25 USC 566 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Klamath Indian Tribe Restoration Act".

SEC. 2. RESTORATION OF FEDERAL RECOGNITION, RIGHTS, AND PRIVILEGES.

25 USC 566.

(a) FEDERAL RECOGNITION.—Notwithstanding any provision of law, Federal recognition is hereby extended to the tribe and to members of the tribe. Except as otherwise provided in this Act, all laws and regulations of the United States of general application to Indians or nations, tribes, or bands of Indians which are not inconsistent with any specific provision of this Act shall be applicable to the tribe and its members.

(b) RESTORATION OF RIGHTS AND PRIVILEGES.—All rights and privileges of the tribe and the members of the tribe under any Federal treaty, Executive order, agreement, or statute, or any other Federal authority, which may have been diminished or lost under the Act entitled "An Act to provide for the termination of Federal supervision over the property of the Klamath Tribe of Indians located in the State of Oregon and the individual members thereof, and for other purposes", approved August 13, 1954 (25 U.S.C. 564 et seq.), are restored, and the provisions of such Act, to the extent that they are inconsistent with this Act, shall be inapplicable to the tribe and to members of the tribe after the date of the enactment of this Act.

(c) FEDERAL SERVICES AND BENEFITS.—Notwithstanding any other provision of law, the tribe and its members shall be eligible, on and after the date of the enactment of this Act, for all Federal services and benefits furnished to federally recognized Indian tribes or their members without regard to the existence of a reservation for the tribe. In the case of Federal services available to members of federally recognized Indian tribes residing on or near a reservation, members of the tribe residing in Klamath County shall be deemed to be residing in or near a reservation. Any member residing in Klamath County shall continue to be eligible to receive any such Federal service notwithstanding the establishment of a reservation for the tribe in the future. Notwithstanding any other provision of law, the tribe shall be considered an Indian tribe for the purpose of the "Indian Tribal Government Tax Status Act" (Sec. 7871, I.R.C. 1954).

26 USC 7871.

71-139 O - 86 (410)

(d) CERTAIN RIGHTS NOT ALTERED.—Nothing in this Act shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes already levied.

Oklahoma.
25 USC 861a.

(e) This Act does not apply to the members of the Modoc Indian Tribe of Oklahoma as recognized under section 2(a) of the Act of May 15, 1978 (92 Stat. 246) and the Klamath Tribe of Indians does not (except for the purposes set out in section 2(a)(1) of that Act) include the members of the Modoc Indian Tribe of Oklahoma.

25 USC 566a.

SEC. 3. TRIBE CONSTITUTION AND BYLAWS.

The tribe's Constitution and Bylaws shall remain in full force and effect and nothing in this Act shall affect the power of the General Council to take any action under the Constitution and Bylaws.

25 USC 566b.

SEC. 4. CONSERVATION AND DEVELOPMENT OF LANDS.

(a) IN GENERAL.—Notwithstanding the tribe's previous rejection of the Act of June 18, 1934 (25 U.S.C. 461 et seq.), upon written request of the General Council, the Secretary of the Interior shall conduct a special election pursuant to section 18 of such Act to determine if such Act should be applicable to the tribe.

25 USC 478.

(b) ADOPTION OF CONSTITUTION.—Upon written request of the General Council, the Secretary shall conduct an election pursuant to section 16 of the Act approved on June 18, 1934 (43 Stat. 987; 25 U.S.C. 476), for the purpose of adopting a new constitution for the tribe.

25 USC 566c.

SEC. 5. HUNTING, FISHING, TRAPPING, AND WATER RIGHTS.

Nothing in this Act shall affect in any manner any hunting, fishing, trapping, gathering, or water right of the tribe and its members.

Taxes.
25 USC 566d.

SEC. 6. TRANSFER OF LAND TO BE HELD IN TRUST.

The Secretary shall accept real property for the benefit of the tribe if conveyed or otherwise transferred to the Secretary. Such property shall be subject to all valid existing rights including liens, outstanding taxes (local and State), and mortgages. Subject to the conditions imposed by this section, the land transferred shall be taken in the name of the United States in trust for the tribe and shall be part of their reservation. The transfer of real property authorized by this section shall be exempt from all local, State, and Federal taxation as of the date of transfer.

25 USC 566e.

SEC. 7. CRIMINAL AND CIVIL JURISDICTION.

The State shall exercise criminal and civil jurisdiction within the boundaries of the reservation, in accordance with section 1162 of title 18, United States Code, and section 1360 of title 28, United States Code, respectively.

25 USC 566f.

SEC. 8. ECONOMIC DEVELOPMENT.

(a) PLAN FOR ECONOMIC SELF-SUFFICIENCY.—The Secretary shall—

(1)(A) enter into negotiations with the Executive Committee of the General Council with respect to establishing a plan for economic development for the tribe; and

(B) in accordance with this section and not later than two years after the date of the enactment of this Act, develop such a plan.

State and local governments.

(2) Upon the approval of such plan by the General Council (and after consultation with the State and local officials pursu-

ant to subsection (b)), the Secretary shall submit such plan to the Congress.

(b) CONSULTATION WITH STATE AND LOCAL OFFICIALS REQUIRED.—To assure that legitimate State and local interests are not prejudiced by the proposed economic self-sufficiency plan, the Secretary shall notify and consult with the appropriate officials of the State and all appropriate local governmental officials in the State. The Secretary shall provide complete information on the proposed plan to such officials, including the restrictions on such proposed plan imposed by subsection (c). During any consultation by the Secretary under this subsection, the Secretary shall provide such information as the Secretary may possess, and shall request comments and additional information on the extent of any State or local service to the tribe.

(c) RESTRICTIONS TO BE CONTAINED IN PLAN.—Any plan developed by the Secretary under subsection (a) shall provide that— Real property.

(1) any real property transferred by the tribe or any member to the Secretary shall be taken and held in the name of the United States for the benefit of the tribe;

(2) any real property taken in trust by the Secretary pursuant to such plan shall be subject to—

(A) all legal rights and interests in such land existing at the time of the acquisition of such land by the Secretary, including any lien, mortgage, or previously levied and outstanding State or local tax; and Taxes.

(B) foreclosure or sale in accordance with the laws of the State pursuant to the terms of any valid obligation in existence at the time of the acquisition of such land by the Secretary; and

(3) any real property transferred pursuant to such plan shall be exempt from Federal, State, and local taxation of any kind. Taxes.

(d) APPENDIX TO PLAN SUBMITTED TO THE CONGRESS.—The Secretary shall append to the plan submitted to the Congress under subsection (a) a detailed statement—

(1) naming each individual and official consulted in accordance with subsection (b);

(2) summarizing the testimony received by the Secretary pursuant to any such consultation; and

(3) including any written comments or reports submitted to the Secretary by any party named in paragraph (1).

SEC. 9. DEFINITIONS. 25 USC 566g.

For the purposes of this Act the following definitions apply:

(1) The term "tribe" means the Klamath Tribe consisting of the Klamath and Modoc Tribes of Oregon and the Yahooskin Band of Snake Indians.

(2) The term "member" means those persons eligible for enrollment under the Constitution and Bylaws of the Klamath Tribe.

(3) The term "Secretary" means the Secretary of the Interior or his designated representative.

(4) The term "State" means the State of Oregon.

(5) The term "Constitution and Bylaws" means the Constitution and Bylaws of the Klamath Tribe of Indians in effect on the date of the enactment of this Act.

(6) The term "General Council" means the governing body of the tribe under the Constitution and Bylaws.

25 USC 566h.

SEC. 10. REGULATIONS.

The Secretary may make such rules and regulations as are necessary to carry out the purposes of this Act.

Approved August 27, 1986.

LEGISLATIVE HISTORY—H.R. 3554:

HOUSE REPORTS: No. 99-630 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 132 (1986):
June 16, considered and passed House.
Aug. 15, considered and passed Senate.

O

Public Law 99-399
99th Congress

An Act

To provide enhanced diplomatic security and combat international terrorism, and for other purposes.

Aug. 27, 1986
[H.R. 4151]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Omnibus Diplomatic Security and Antiterrorism Act of 1986.
22 USC 4801 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Diplomatic Security and Antiterrorism Act of 1986".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—DIPLOMATIC SECURITY

Sec. 101. Short title.
Sec. 102. Findings and purposes.
Sec. 103. Responsibility of the Secretary of State.
Sec. 104. Bureau of Diplomatic Security.
Sec. 105. Responsibilities of the Assistant Secretary for Diplomatic Security.
Sec. 106. Cooperation of other Federal agencies.
Sec. 107. Protection of foreign consulates.

TITLE II—DIPLOMATIC SECURITY SERVICE

Sec. 201. Establishment of Diplomatic Security Service.
Sec. 202. Director of Diplomatic Security Service.
Sec. 203. Positions in the Diplomatic Security Service.

TITLE III—PERFORMANCE AND ACCOUNTABILITY

Sec. 301. Accountability review.
Sec. 302. Accountability Review Board.
Sec. 303. Procedures.
Sec. 304. Findings and recommendations by a Board.
Sec. 305. Relation to other proceedings.

TITLE IV—DIPLOMATIC SECURITY PROGRAM

Sec. 401. Authorization.
Sec. 402. Diplomatic construction program.
Sec. 403. Security requirements for contractors.
Sec. 404. Qualifications of persons hired for the diplomatic construction program.
Sec. 405. Cost overruns.
Sec. 406. Efficiency in contracting.
Sec. 407. Advisory Panel on Overseas Security.
Sec. 408. Training to improve perimeter security at United States diplomatic missions abroad.
Sec. 409. Protection of public entrances of United States diplomatic missions abroad.
Sec. 410. Certain protective functions.
Sec. 411. Reimbursement of the Department of the Treasury.
Sec. 412. Inspector General for the United States Information Agency.
Sec. 413. Inspector General for the Department of State.
Sec. 414. Prohibition on the use of funds for facilities in Israel, Jerusalem, or the West Bank.

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TITLE V—STATE DEPARTMENT AUTHORITIES TO COMBAT INTERNATIONAL TERRORISM

Sec. 501. Rewards for international terrorists.
Sec. 502. Rewards for information relating to international narcoterrorism and drug trafficking.
Sec. 503. Coordination of terrorism-related assistance.
Sec. 504. Counterterrorism Protection Fund.
Sec. 505. Terrorism-related travel advisories.
Sec. 506. Authority to control certain terrorism-related services.
Sec. 507. Management of antiterrorism assistance programs.
Sec. 508. Nonlethal airport security equipment and commodities for Egypt.
Sec. 509. Exports to countries supporting acts of international terrorism.

TITLE VI—INTERNATIONAL NUCLEAR TERRORISM

Sec. 601. Actions to combat international nuclear terrorism.
Sec. 602. Authority to suspend nuclear cooperation with nations which have not ratified the Convention on the Physical Protection of Nuclear Material.
Sec. 603. Consultation with the Department of Defense concerning certain nuclear exports and subsequent arrangements.
Sec. 604. Review of physical security standards.
Sec. 605. International review of the nuclear terrorism problem.
Sec. 606. Criminal history record checks.

TITLE VII—MULTILATERAL COOPERATION TO COMBAT INTERNATIONAL TERRORISM

Sec. 701. International Antiterrorism Committee.
Sec. 702. International arrangements relating to passports and visas.
Sec. 703. Protection of Americans endangered by the appearance of their place of birth on their passports.
Sec. 704. Use of diplomatic privileges and immunities for terrorism purposes.
Sec. 705. Reports on progress in increasing multilateral cooperation.

TITLE VIII—VICTIMS OF TERRORISM COMPENSATION

Sec. 801. Short title.
Sec. 802. Payment to individuals held in captive status between November 4, 1979, and January 21, 1981.
Sec. 803. Benefits for captives and other victims of hostile action.
Sec. 804. Retention of leave by alien employees following injury from hostile action abroad.
Sec. 805. Transition provisions.
Sec. 806. Benefits for members of uniformed services who are victims of hostile action.
Sec. 807. Regulations.
Sec. 808. Effective date of entitlements.

TITLE IX—MARITIME SECURITY

Sec. 901. Short title.
Sec. 902. International measures for seaport and shipboard security.
Sec. 903. Measures to prevent unlawful acts against passengers and crews on board ships.
Sec. 904. Panama Canal security.
Sec. 905. Threat of terrorism to United States ports and vessels.
Sec. 906. Port, harbor, and coastal facility security.
Sec. 907. Security standards at foreign ports.
Sec. 908. Travel advisories concerning security at foreign ports.
Sec. 909. Suspension of passenger services.
Sec. 910. Sanctions for the seizure of vessels by terrorists.
Sec. 911. Definitions.
Sec. 912. Authorization of appropriations.
Sec. 913. Reports.

TITLE X—FASCELL FELLOWSHIP PROGRAM

Sec. 1001. Short title.
Sec. 1002. Fellowship program for temporary service at United States missions in the Soviet Union and Eastern Europe.
Sec. 1003. Fellowship Board.
Sec. 1004. Fellowships.
Sec. 1005. Secretary of State.

TITLE XI—SECURITY AT MILITARY BASES ABROAD

Sec. 1101. Findings.
Sec. 1102. Recommended actions by the Secretary of Defense.
Sec. 1103. Report to the Congress.

TITLE XII—CRIMINAL PUNISHMENT OF INTERNATIONAL TERRORISM

Sec. 1201. Encouragement for negotiation of a convention.
Sec. 1202. Extraterritorial criminal jurisdiction over terrorist conduct.

TITLE XIII—MISCELLANEOUS PROVISIONS

Sec. 1301. Peace Corps authorization of appropriations.
Sec. 1302. Demonstrations at embassies in the District of Columbia.
Sec. 1303. Kurt Waldheim's retirement allowance.
Sec. 1304. Eradication of Amblyomma Variegatum.
Sec. 1305. Strengthen foreign language skills.
Sec. 1306. Forfeiture of proceeds derived from espionage activities.
Sec. 1307. Expression of support of activities of the United States Telecommunications Training Institute.
Sec. 1308. Policy toward Afghanistan.

TITLE I—DIPLOMATIC SECURITY

Diplomatic Security Act.

SEC. 101. SHORT TITLE.

22 USC 4801 note.

Titles I through IV of this Act may be cited as the "Diplomatic Security Act".

SEC. 102. FINDINGS AND PURPOSES.

22 USC 4801.

(a) FINDINGS.—The Congress finds and declares that—

(1) the United States has a crucial stake in the presence of United States Government personnel representing United States interests abroad;

(2) conditions confronting United States Government personnel and missions abroad are fraught with security concerns which will continue for the foreseeable future; and

(3) the resources now available to counter acts of terrorism and protect and secure United States Government personnel and missions abroad, as well as foreign officials and missions in the United States, are inadequate to meet the mounting threat to such personnel and facilities.

(b) PURPOSES.—The purposes of titles I through IV are—

(1) to set forth the responsibility of the Secretary of State with respect to the security of diplomatic operations in the United States and abroad;

(2) to provide for an Assistant Secretary of State to head the Bureau of Diplomatic Security of the Department of State, and to set forth certain provisions relating to the Diplomatic Security Service of the Department of State;

(3) to maximize coordination by the Department of State with Federal, State, and local agencies and agencies of foreign governments in order to enhance security programs;

(4) to promote strengthened security measures and to provide for the accountability of United States Government personnel with security-related responsibilities; and

(5) to provide authorization of appropriations for the Department of State to carry out its responsibilities in the area of security and counterterrorism, and in particular to finance the acquisition and improvements of United States Government missions abroad, including real property, buildings, facilities, and communications, information, and security systems.

22 USC 4802.

SEC. 103. RESPONSIBILITY OF THE SECRETARY OF STATE.

(a) SECURITY FUNCTIONS.—The Secretary of State shall develop and implement (in consultation with the heads of other Federal agencies having personnel or missions abroad where appropriate and within the scope of the resources made available) policies and programs, including funding levels and standards, to provide for the security of United States Government operations of a diplomatic nature and foreign government operations of a diplomatic nature in the United States. Such policies and programs shall include—

(1) protection of all United States Government personnel on official duty abroad (other than those personnel under the command of a United States area military commander) and their accompanying dependents;

(2) establishment and operation of security functions at all United States Government missions abroad (other than facilities or installations subject to the control of a United States area military commander);

(3) establishment and operation of security functions at all Department of State facilities in the United States; and

(4) protection of foreign missions, international organizations, and foreign officials and other foreign persons in the United States, as authorized by law.

(b) OVERSIGHT OF POSTS ABROAD.—The Secretary of State shall—

(1) have full responsibility for the coordination of all United States Government personnel assigned to diplomatic or consular posts or other United States missions abroad pursuant to United States Government authorization (except for facilities, installations, or personnel under the command of a United States area military commander); and

(2) establish appropriate overseas staffing levels for all such posts or missions for all Federal agencies with activities abroad (except for personnel and activities under the command of a United States area military commander).

(c) FEDERAL AGENCY.—As used in this title and title III, the term "Federal agency" includes any department or agency of the United States Government.

22 USC 4803.

SEC. 104. BUREAU OF DIPLOMATIC SECURITY.

(a) THE BUREAU.—There shall be a Bureau of Diplomatic Security in the Department of State, to be headed by the Assistant Secretary for Diplomatic Security. The Assistant Secretary shall be responsible for such functions as may be directed by the Secretary of State.

(b) NUMBER OF ASSISTANT SECRETARIES.—The first section of the Act entitled "An Act to strengthen and improve the organization and administration of the Department of State, and for other purposes", approved May 26, 1949 (22 U.S.C. 2652), is amended by striking out "fourteen" and inserting in lieu thereof "fifteen"

(c) POSITIONS AT LEVEL IV OF THE EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by striking out "(14)" following "Assistant Secretaries of State" and inserting in lieu thereof "(15)".

22 USC 4804.

SEC. 105. RESPONSIBILITIES OF THE ASSISTANT SECRETARY FOR DIPLOMATIC SECURITY.

Within the authority of the Secretary of State, the Assistant Secretary for Diplomatic Security should be responsible for the following:

(1) FORMER OFFICE OF SECURITY FUNCTIONS.—Functions and responsibilities exercised by the Office of Security, Department of State, before November 11, 1985.

(2) SECURITY AND PROTECTIVE OPERATIONS ABROAD.—

(A) Establishment and operation of post security and protective functions abroad.

(B) Development and implementation of communications, computer, and information security.

(C) Emergency planning.

(D) Establishment and operation of local guard services.

(E) Supervision of the United States Marine Corps security guard program.

(F) Liaison with American overseas private sector security interests.

(3) SECURITY AND PROTECTIVE OPERATIONS IN THE UNITED STATES.—

(A) Protection of foreign missions and international organizations, foreign officials, and diplomatic personnel, as authorized by law.

(B) Protection of the Secretary of State and other persons designated by the Secretary of State, as authorized by law.

(C) Physical protection of Department of State facilities, communications, and computer and information systems.

(D) Conduct of investigations relating to protection of foreign officials and diplomatic personnel and foreign missions, suitability for employment, employee security, illegal passport and visa issuance or use, and other investigations, as authorized by law.

(E) Carrying out the rewards program for information concerning international terrorism authorized by section 36(a) of the State Department Basic Authorities Act of 1956. 22 USC 2708.

(F) Performance of other security, investigative, and protective matters as authorized by law.

(4) COUNTERTERRORISM PLANNING AND COORDINATION.—Development and coordination of counterterrorism planning, emergency action planning, threat analysis programs, and liaison with other Federal agencies to carry out this paragraph.

(5) SECURITY TECHNOLOGY.—Development and implementation of technical and physical security programs, including security-related construction, radio and personnel security communications, armored vehicles, computer and communications security, and research programs necessary to develop such measures.

(6) DIPLOMATIC COURIER SERVICE.—Management of the diplomatic courier service.

(7) PERSONNEL TRAINING.—Development of facilities, methods, and materials to develop and upgrade necessary skills in order to carry out this section.

(8) FOREIGN GOVERNMENT TRAINING.—Management and development of antiterrorism assistance programs to assist foreign government security training which are administered by the Department of State under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.).

SEC. 106. COOPERATION OF OTHER FEDERAL AGENCIES. 22 USC 4805.

(a) ASSISTANCE.—In order to facilitate fulfillment of the responsibilities described in section 103(a), other Federal agencies shall cooperate (through agreements) to the maximum extent possible

with the Secretary of State. Such agencies may, with or without reimbursement, provide assistance to the Secretary, perform security inspections, provide logistical support relating to the differing missions and facilities of other Federal agencies, and perform other overseas security functions as may be authorized by the Secretary. Specifically, the Secretary may agree to delegate operational control of overseas security functions of other Federal agencies to the heads of such agencies, subject to the Secretary's authority as set forth in section 103(a). The agency head receiving such delegated authority shall be responsible to the Secretary in the exercise of the delegated operational control.

(b) OTHER AGENCIES.—Nothing contained in titles I through IV shall be construed to limit or impair the authority or responsibility of any other Federal, State, or local agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.

3 CFR, 1981 Comp., p. 200.

(c) CERTAIN LEASE ARRANGEMENTS.—The Administrator of General Services is authorized to lease (to such extent or in such amounts as are provided in appropriation Acts) such amount of space in the United States as may be necessary for the Department of State to accommodate the personnel required to carry out this title. The Department of State shall pay for such space at the rate established by the Administrator of General Services for space and related services.

22 USC 4806.

SEC. 107. PROTECTION OF FOREIGN CONSULATES.

The Chief of Protocol of the Department of State shall consult with the Assistant Secretary of Diplomatic Security in making determinations with respect to accreditation of all foreign consular personnel in the United States.

TITLE II—DIPLOMATIC SECURITY SERVICE

22 USC 4821.

SEC. 201. ESTABLISHMENT OF DIPLOMATIC SECURITY SERVICE.

There shall be, within the Bureau of Diplomatic Security, the Diplomatic Security Service. The Diplomatic Security Service shall perform such functions as may be assigned to it by the Secretary of State.

22 USC 4822.

SEC. 202. DIRECTOR OF DIPLOMATIC SECURITY SERVICE.

The Diplomatic Security Service shall be headed by a Director designated by the Secretary of State. The Director should be a career member of the Senior Foreign Service or the Senior Executive Service and shall be qualified for the position by virtue of demonstrated ability in the areas of security, law enforcement, management, and public administration. Experience in management or operations abroad shall be considered an affirmative factor in the selection of the Director. The Director shall act under the supervision and direction of the Assistant Secretary for Diplomatic Security.

Women. Minorities. 22 USC 4823.

SEC. 203. POSITIONS IN THE DIPLOMATIC SECURITY SERVICE.

Positions in the Diplomatic Security Service shall be filled in accordance with the provisions of the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.) and title 5, United States Code. In filling such positions, the Secretary of State shall actively recruit women and members of minority groups. The Secretary of State shall prescribe

Ante, p. 609.

the qualifications required for assignment or appointment to such positions. In the case of positions designated for special agents, the qualifications may include minimum and maximum entry age restrictions and other physical standards and shall incorporate such standards as may be required by law in order to perform security functions, to bear arms, and to exercise investigatory, warrant, arrest, and such other authorities as are available by law to special agents of the Department of State and the Foreign Service.

TITLE III—PERFORMANCE AND ACCOUNTABILITY

SEC. 301. ACCOUNTABILITY REVIEW.

Health and medical care. Real property. Gifts and property. 22 USC 4831.

In any case of serious injury, loss of life, or significant destruction of property at or related to a United States Government mission abroad which is covered by the provisions of titles I through IV (other than a facility or installation subject to the control of a United States area military commander), the Secretary of State shall convene an Accountability Review Board (hereafter in this title referred to as the "Board"). The Secretary shall not convene a Board where the Secretary determines that a case clearly involves only causes unrelated to security.

SEC. 302. ACCOUNTABILITY REVIEW BOARD.

22 USC 4832.

(a) MEMBERSHIP.—A Board shall consist of five members, 4 appointed by the Secretary of State, and 1 appointed by the Director of Central Intelligence. The Secretary of State shall designate the Chairperson of the Board. Members of the Board who are not Federal officers or employees shall each be paid at a rate not to exceed the maximum rate of basic pay payable for level GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Board. Members of the Board who are Federal officers or employees shall receive no additional pay by reason of such membership.

5 USC 5332.

(b) FACILITIES, SERVICES, SUPPLIES, AND STAFF.—

(1) SUPPLIED BY DEPARTMENT OF STATE.—A Board shall obtain facilities, services, and supplies through the Department of State. All expenses of the Board, including necessary costs of travel, shall be paid by the Department of State. Travel expenses authorized under this paragraph shall be paid in accordance with subchapter I of chapter 57 of title 5, United States Code, or other applicable law.

5 USC 5701.

(2) DETAIL.—At the request of a Board, employees of the Department of State or other Federal agencies, members of the Foreign Service, or members of the uniformed services may be temporarily assigned, with or without reimbursement, to assist the Board.

(3) EXPERTS AND CONSULTANTS.—A Board may employ and compensate (in accordance with section 3109 of title 5, United States Code) such experts and consultants as the Board considers necessary to carry out its functions. Experts and consultants so employed shall be responsible solely to the Board.

SEC. 303. PROCEDURES.

22 USC 4833.

(a) EVIDENCE.—

(1) UNITED STATES GOVERNMENT PERSONNEL AND CONTRACTORS.—

(A) With respect to any individual described in subparagraph (B), a Board may—

(i) administer oaths and affirmations;

(ii) require that depositions be given and interrogatories answered; and

(iii) require the attendance and presentation of testimony and evidence by such individual.

Law enforcement and crime.

Failure of any such individual to comply with a request of the Board shall be grounds for disciplinary action by the head of the Federal agency in which such individual is employed or serves, or in the case of a contractor, debarment.

(B) The individuals referred to in subparagraph (A) are—

(i) employees as defined by section 2105 of title 5, United States Code (including members of the Foreign Service);

(ii) members of the uniformed services as defined by section 101(3) of title 37, United States Code;

(iii) employees of instrumentalities of the United States; and

(iv) individuals employed by any person or entity under contract with agencies or instrumentalities of the United States Government to provide services, equipment, or personnel.

(2) OTHER PERSONS.—With respect to a person who is not described in paragraph (1)(B), a Board may administer oaths and affirmations and require that depositions be given and interrogatories answered.

(3) SUBPOENAS.—(A) The Board may issue a subpoena for the attendance and testimony of any person (other than a person described in clause (i), (ii), or (iii) of paragraph (1)(B)) and the production of documentary or other evidence from any such person if the Board finds that such a subpoena is necessary in the interests of justice for the development of relevant evidence.

Courts, U.S.

(B) In the case of contumacy or refusal to obey a subpoena issued under this paragraph, a court of the United States within the jurisdiction of which a person is directed to appear or produce information, or within the jurisdiction of which the person is found, resides, or transacts business, may upon application of the Attorney General, issue to such person an order requiring such person to appear before the Board to give testimony or produce information as required by the subpoena.

(C) Subpoenaed witnesses shall be paid the same fee and mileage allowances which are paid subpoenaed witnesses in the courts of the United States.

(b) CONFIDENTIALITY.—A Board shall adopt for administrative proceedings under this title such procedures with respect to confidentiality as may be deemed necessary, including procedures relating to the conduct of closed proceedings or the submission and use of evidence in camera, to ensure in particular the protection of classified information relating to national defense, foreign policy, or intelligence matters. The Director of Central Intelligence shall establish the level of protection required for intelligence information and for information relating to intelligence personnel, including standards for secure storage.

(c) RECORDS.—Records pertaining to administrative proceedings under this title shall be separated from all other records of the

Department of State and shall be maintained under appropriate safeguards to preserve confidentiality and classification of information. Such records shall be prohibited from disclosure to the public until such time as a Board completes its work and is dismissed. The Department of State shall turn over to the Director of Central Intelligence intelligence information and information relating to intelligence personnel which shall then become records of the Central Intelligence Agency. After that time, only such exemptions from disclosure under section 552(b) of title 5, United States Code (relating to freedom of information), as apply to other records of the Department of State, and to any information transmitted under section 304(c) to the head of a Federal agency or instrumentality, shall be available for the remaining records of the Board.

(d) STATUS OF BOARDS.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.) and section 552b of title 5 of the United States Code (relating to open meetings) shall not apply to any Board.

SEC. 304. FINDINGS AND RECOMMENDATIONS BY A BOARD.

Health and medical care. Real property. Gifts and property. 22 USC 4834.

(a) FINDINGS.—A Board convened in any case shall examine the facts and circumstances surrounding the serious injury, loss of life, or significant destruction of property at or related to a United States Government mission abroad and shall make written findings determining—

(1) the extent to which the incident or incidents with respect to which the Board was convened was security related;

(2) whether the security systems and security procedures at that mission were adequate;

(3) whether the security systems and security procedures were properly implemented;

(4) the impact of intelligence and information availability; and

(5) such other facts and circumstances which may be relevant to the appropriate security management of United States missions abroad.

(b) PROGRAM RECOMMENDATIONS.—A Board shall submit its findings (which may be classified to the extent deemed necessary by the Board) to the Secretary of State, together with recommendations as appropriate to improve the security and efficiency of any program or operation which the Board has reviewed.

Law enforcement and crime.

(c) PERSONNEL RECOMMENDATIONS.—Whenever a Board finds reasonable cause to believe that an individual described in section 303(a)(1)(B) has breached the duty of that individual, the Board shall—

(1) notify the individual concerned,

(2) transmit the finding of reasonable cause, together with all information relevant to such finding, to the head of the appropriate Federal agency or instrumentality, and

(3) recommend that such agency or instrumentality initiate an appropriate investigatory or disciplinary action.

In determining whether an individual has breached a duty of that individual, the Board shall take into account any standard of conduct, law, rule, regulation, contract, or order which is pertinent to the performance of the duties of that individual.

(d) REPORTS.—

(1) PROGRAM RECOMMENDATIONS.—In any case in which a Board transmits recommendations to the Secretary of State

under subsection (b), the Secretary shall, not later than 90 days after the receipt of such recommendations, submit a report to the Congress on each such recommendation and the action taken with respect to that recommendation.

(2) PERSONNEL RECOMMENDATIONS.—In any case in which a Board transmits a finding of reasonable cause under subsection (c), the head of the Federal agency or instrumentality receiving the information shall review the evidence and recommendations and shall, not later than 30 days after the receipt of that finding, transmit to the Congress a report specifying—

(A) the nature of the case and a summary of the evidence transmitted by the Board; and

(B) the decision by the Federal agency or instrumentality to take disciplinary or other appropriate action against that individual or the reasons for deciding not to take disciplinary or other action with respect to that individual.

22 USC 4835.

SEC. 305. RELATION TO OTHER PROCEEDINGS.

Nothing in this title shall be construed to create administrative or judicial review remedies or rights of action not otherwise available by law, nor shall any provision of this title be construed to deprive any person of any right or legal defense which would otherwise be available to that person under any law, rule, or regulation.

TITLE IV—DIPLOMATIC SECURITY PROGRAM

22 USC 4851.

SEC. 401. AUTHORIZATION.

(a) DIPLOMATIC SECURITY PROGRAM.—

(1) IN GENERAL.—In addition to amounts otherwise available for such purposes, the following amounts are authorized to be appropriated for fiscal years 1986 and 1987, for the Department of State to carry out diplomatic security construction, acquisition, and operations pursuant to the Department of State's Supplemental Diplomatic Security Program, as justified to the Congress for the respective fiscal year for "Administration of Foreign Affairs", as follows:

(A) For "Salaries and Expenses", $308,104,000.

(B) For "Acquisition and Maintenance of Buildings Abroad", $857,806,000.

(C) For "Counterterrorism Research and Development", $15,000,000.

(2) ANTITERRORISM ASSISTANCE.—Section 575 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa-4) is amended by striking out "$9,840,000 for the fiscal year 1987" and inserting in lieu thereof "$14,680,000 for the fiscal year 1987".

(3) CAPITAL CONSTRUCTION, FISCAL YEARS 1988 THROUGH 1990.—There is authorized to be appropriated for the Department of State for "Acquisition and Maintenance of Buildings Abroad" for each of the fiscal years 1988 through 1990, $417,962,000 to carry out diplomatic security construction, acquisition, and operations pursuant to the Department of State's Supplemental Diplomatic Security Program.

(4) ALLOCATION OF AMOUNTS AUTHORIZED TO BE APPROPRIATED.—Amounts authorized to be appropriated by this subsection, and by the amendment made by paragraph (2), shall be allocated as provided in the table entitled "Diplomatic Security Program" relating to this section which appears in the

Joint Explanatory Statement of the Committee of Conference to accompany H.R. 4151 of the 99th Congress (the Omnibus Diplomatic Security and Antiterrorism Act of 1986).

(b) NOTIFICATION TO AUTHORIZING COMMITTEES OF REQUESTS FOR APPROPRIATIONS.—In any fiscal year, whenever the Secretary of State submits to the Congress a request for appropriations to carry out the program described in subsection (a), the Secretary shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate of such request, together with a justification of each item listed in such request.

(c) REPROGRAMMING TREATMENT.—Amounts made available for capital projects pursuant to subsection (a) shall be treated as a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706) and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogramming.

(d) PROHIBITION ON REALLOCATIONS OF AUTHORIZATIONS.—Section 24(d) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2692(d)) shall not apply with respect to any amounts authorized to be appropriated under this section.

(e) SECURITY REQUIREMENTS OF OTHER FOREIGN AFFAIRS AGENCIES.—Based solely on security requirements and within the total amount of funds available for security, the Secretary of State shall ensure that an equitable level of funding is provided for the security requirements of other foreign affairs agencies.

(f) INSUFFICIENCY OF FUNDS.—In the event that sufficient funds are not available in any fiscal year for all of the diplomatic security construction, acquisition, and operations pursuant to the Department of State's Supplemental Diplomatic Security Program, as justified to the Congress for such fiscal year, the Secretary of State shall report to the Congress the effect that the insufficiency of funds will have with respect to the Department of State and each of the other foreign affairs agencies. Reports.

(g) ALLOCATION OF FUNDS FOR CERTAIN SECURITY PROGRAMS.—Of the amount of funds authorized to be appropriated by subsection (a)(1)(A), $34,537,000 shall be available to the Secretary of State only for the protection of classified office equipment, the expansion of information systems security, and the hiring of American systems managers and operators for computers at high threat locations.

(h) FURNITURE, FURNISHINGS, AND EQUIPMENT.

(1) USE OF EXISTING FURNITURE, FURNISHINGS, AND EQUIPMENT.—If physically possible, facilities constructed or acquired pursuant to subsection (a) shall be furnished and equipped with the furniture, furnishings, and equipment that were being used in the facilities being replaced, rather than with newly acquired furniture, furnishings, and equipment.

(2) PROCEEDS FROM THE SALE OF FURNITURE, FURNISHINGS, AND EQUIPMENT.—Section 9 of the Foreign Service Buildings Act, 1926 (22 U.S.C. 300) is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding subsection (b), proceeds from the disposition of furniture, furnishings, and equipment from diplomatic and consular establishments in foreign countries shall be deposited into the Foreign Service Building Fund to be available for obligation or expenditure as directed by the Secretary.".

(3) REPROGRAMMING TREATMENT.—Amounts made available for furniture, furnishings, and equipment pursuant to subsection (a) shall be treated as a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706) and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogramming.

22 USC 4852.

SEC. 402. DIPLOMATIC CONSTRUCTION PROGRAM.

(a) PREFERENCE FOR UNITED STATES CONTRACTORS.—Notwithstanding section 11 of the Foreign Service Buildings Act, 1926, and where adequate competition exists, only United States persons and qualified United States joint venture persons may—

22 USC 302.

(1) bid on a diplomatic construction or design project which has an estimated total project value exceeding $5,000,000; and

(2) bid on a diplomatic construction or design project which involves physical or technical security.

(b) EXCEPTION.—Subsection (a) shall not apply with respect to any diplomatic construction or design project in a foreign country whose statutes prohibit the use of United States contractors on such projects. The exception contained in this subsection shall only become effective with respect to a foreign country 30 days after the Secretary of State certifies to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate what specific actions he has taken to urge such foreign country to permit the use of United States contractors on such projects, and what actions he shall take with respect to that country as authorized by title II of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4301 et seq.; commonly referred to as the "Foreign Missions Act").

(c) DEFINITIONS.—For the purposes of this section—

(1) the term "adequate competition" means with respect to a construction or design project, the presence of two or more qualified bidders submitting responsive bids for that project;

(2) the term "United States person" means a person which—

(A) is incorporated or legally organized under the laws of the United States, including State, the District of Columbia, and local laws;

(B) has its principal place of business in the United States;

(C) has been incorporated or legally organized in the United States—

(i) for more than 5 years before the issuance date of the invitation for bids or request for proposals with respect to a construction project under subsection (a)(1); and

(ii) for more than 2 years before the issuance date of the invitation for bids or request for proposals with respect to a construction or design project which involves physical or technical security under subsection (a)(2);

(D) has performed within the United States administrative and technical, professional, or construction services similar in complexity, type of construction, and value to the project being bid;

(E) with respect to a construction project under subsection (a)(1), has achieved total business volume equal to or greater than the value of the project being bid in 3 years of the 5-year period before the date specified in subparagraph (C)(i);

(F)(i) employs United States citizens in at least 80 percent of its principal management positions in the United States,

(ii) employs United States citizens in more than half of its permanent, full-time positions in the United States, and

(iii) will employ United States citizens in at least 80 percent of the supervisory positions on the foreign buildings office project site; and

(G) has the existing technical and financial resources in the United States to perform the contract; and

(3) the term "qualified United States joint venture person" means a joint venture in which a United States person or persons owns at least 51 percent of the assets of the joint venture.

(d) AMERICAN MINORITY CONTRACTORS.—Not less than 10 percent of the amount appropriated pursuant to section 401(a) for diplomatic construction or design projects each fiscal year shall be allocated to the extent practicable for contracts with American minority contractors.

(e) AMERICAN SMALL BUSINESS CONTRACTORS.—Not less than 10 percent of the amount appropriated pursuant to section 401(a) for diplomatic construction or design projects each fiscal year shall be allocated to the extent practicable for contracts with American small business contractors.

(f) LIMITATION ON SUBCONTRACTING.—With respect to a diplomatic construction project, a prime contractor may not subcontract more than 50 percent of the total value of its contract for that project.

SEC. 403. SECURITY REQUIREMENTS FOR CONTRACTORS.

Regulations.
22 USC 4853.

Not later than 90 days after the date of enactment of this Act, the Secretary of State shall issue regulations to—

(1) strengthen the security procedures applicable to contractors and subcontractors involved in any way with any diplomatic construction or design project; and

(2) permit a contractor or subcontractor to have access to any design or blueprint relating to such a project only in accordance with those procedures.

SEC. 404. QUALIFICATIONS OF PERSONS HIRED FOR THE DIPLOMATIC CONSTRUCTION PROGRAM.

Women.
Minorities.
22 USC 4854.

In carrying out the diplomatic construction program referred to in section 401(a), the Secretary of State shall employ as professional staff (by appointment, contract, or otherwise) only those persons with a demonstrated specialized background in the fields of construction, construction law, or contract management. In filling such positions, the Secretary shall actively recruit women and members of minority groups.

SEC. 405. COST OVERRUNS.

22 USC 4855.

Any amount required to complete any capital project described in the Department of State's Supplemental Diplomatic Security Program, as justified to the Congress for the respective fiscal year, which is in excess of the amount made available for that project

pursuant to section 401(a) (1) or (3) shall be treated as a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706) and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogrammings.

22 USC 4856.

SEC. 406. EFFICIENCY IN CONTRACTING.

(a) BONUSES AND PENALTIES.—The Director of the Office of Foreign Buildings shall provide for a contract system of bonuses and penalties for the diplomatic construction program funded pursuant to the authorizations of appropriations provided in this title. Not later than 3 months after the date of enactment of this Act, the Director shall submit a report to the Congress on the implementation of this section.

Reports.

(b) SURETY BONDS AND GUARANTEES.—The Director of the Office of Foreign Buildings shall require each person awarded a contract for work under the diplomatic construction program to post a surety bond or guarantee, in such amount as the Director may determine, to assure performance under such contract.

Libya.

(c) DISQUALIFICATION OF CONTRACTORS.—No person doing business with Libya may be eligible for any contract awarded pursuant to this Act.

Reports.
22 USC 4857.

SEC. 407. ADVISORY PANEL ON OVERSEAS SECURITY.

Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Congress on the implementation of the 91 recommendations contained in the final report of the Advisory Panel on Overseas Security. If any such recommendation has been rejected, the Secretary shall provide the reasons why that recommendation was rejected.

22 USC 4858.

SEC. 408. TRAINING TO IMPROVE PERIMETER SECURITY AT UNITED STATES DIPLOMATIC MISSIONS ABROAD.

(a) TRAINING.—It is the sense of Congress that the President should use the authority under chapter 8 of title II of the Foreign Assistance Act of 1961 (relating to antiterrorism assistance) to improve perimeter security of United States diplomatic missions abroad.

22 USC 2349aa.

President of U.S.

(b) REPORTS.—Not later than October 1 of each year, the President shall submit a report to the Congress on the progress and problems of improving perimeter security of United States diplomatic missions abroad.

22 USC 4859.

SEC. 409. PROTECTION OF PUBLIC ENTRANCES OF UNITED STATES DIPLOMATIC MISSIONS ABROAD.

The Secretary of State shall install and maintain a walk-through metal detector or other advanced screening system at public entrances of each United States diplomatic mission abroad.

SEC. 410. CERTAIN PROTECTIVE FUNCTIONS.

Section 208(a) of title 3, United States Code, is amended by adding at the end thereof the following: "In carrying out any duty under section 202(7), the Secretary of State is authorized to utilize any authority available to the Secretary under title II of the State Department Basic Authorities Act of 1956.".

22 USC 4301.

SEC. 411. REIMBURSEMENT OF THE DEPARTMENT OF THE TREASURY. 22 USC 4860.

The Secretary of State shall reimburse the appropriate appropriations account of the Department of the Treasury out of funds appropriated pursuant to section 401(a)(1) for the actual costs incurred by the United States Secret Service, as agreed to by the Secretary of the Treasury, for providing protection for the spouses of foreign heads of state during fiscal years 1986 and 1987.

SEC. 412. INSPECTOR GENERAL FOR THE UNITED STATES INFORMATION AGENCY.

(a) ESTABLISHMENT.—

(1) APPOINTMENT AND REMOVAL.—Section 2(1) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting "the United States Information Agency," immediately before "the Veterans' Administration".

(2) DEFINITIONS.—Section 11 of such Act (5 U.S.C. App.) is amended—

(A) in paragraph (1) by inserting "or the Director of the United States Information Agency" immediately before "as the case may be"; and

(B) in paragraph (2) by inserting "the United States Information Agency" immediately before "or the Veterans' Administration".

(b) EARMARK.—Of the funds authorized to be appropriated to the United States Information Agency for the fiscal year 1987, not less than $3,000,000 shall be available only for the operation of the office of the Inspector General established by the amendment made by subsection (a).

(c) POSITION AT LEVEL IV OF THE EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"Inspector General, United States Information Agency.".

SEC. 413. INSPECTOR GENERAL FOR THE DEPARTMENT OF STATE.

(a) INSPECTOR GENERAL OF THE DEPARTMENT OF STATE.— 22 USC 4861.

(1) DIRECTION TO ESTABLISH.—The Congress directs the Secretary of State to proceed immediately to establish an Office of Inspector General of the Department of State not later than October 1, 1986. Not later than January 31, 1987, the Secretary of State shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on the progress in establishing that office. Such report shall include an accounting of the obligation of funds for fiscal year 1987 for that office. Reports.

(2) DUTIES AND RESPONSIBILITIES.—The Inspector General of the Department of State (as established by the amendment made by section 150(a) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987) is authorized to perform all duties and responsibilities, and to exercise the authorities, stated in section 209 of the Foreign Service Act of 1980 (22 U.S.C. 3929) and in the Inspector General Act of 1978. 99 Stat. 427. 5 USC app.

(3) EARMARK.—Of the amounts made available for fiscal year 1987 for salaries and expenses under the heading "Administration of Foreign Affairs", not less than $6,500,000 shall be used for the sole purpose of establishing and maintaining the Office of Inspector General of the Department of State.

(4) LIMITATION ON APPOINTMENT.—No career member of the Foreign Service, as defined by section 103 of the Foreign Service Act of 1980 (22 U.S.C. 3903), may be appointed Inspector General of the Department of State.

Ante, p. 867.

(5) POSITION AT LEVEL IV OF THE EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code (as amended by section 412), is amended by adding at the end thereof the following:

"Inspector General, Department of State.".

(6) CONFORMING AMENDMENT.—The last sentence of section 209(a)(1) of the Foreign Service Act of 1980 (22 U.S.C. 3929(a)(1)) is hereby repealed.

22 USC 4861.

(b) OFFICE OF POLICY AND PROGRAM REVIEW.—

(1) ESTABLISHMENT.—The Secretary of State shall establish an office to be known as the Office of Policy and Program Review (hereafter in this section referred to as the "Office").

(2) DIRECTOR.—

(A) The Office shall be headed by a director, appointed by the Secretary of State, who shall report to and be under the general supervision of the Secretary of State. The director shall be appointed without regard to political affiliation from among individuals exceptionally qualified for the position by virtue of their integrity and their knowledge and experience in the conduct of foreign affairs.

(B) The director shall review activities and operations performed under the direction, coordination, and supervision of chiefs of mission (provided in section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927)) for the purpose of ascertaining their consonance with the foreign policy of the United States and their consistency with the responsibilities of the Secretary of State and the chief of mission. This authority shall not preclude the Inspector General of the Department of State from carrying out any function of section 209(g) of the Foreign Service Act of 1980 (22 U.S.C. 3929(g)).

(3) FUNDING FOR THE OFFICE.—Of the amounts authorized to be appropriated for "Administration of Foreign Affairs" for fiscal year 1987, not more than $4,000,000 shall be available for the purpose of establishing and maintaining the Office.

(4) INSPECTION BY OFFICE OF INSPECTOR GENERAL.—The Office shall be subject to inspection by the Inspector General of the Department of State.

(c) ABOLISHMENT OF THE INSPECTOR GENERAL OF THE DEPARTMENT OF STATE AND THE FOREIGN SERVICE.—Section 150(b) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 3929a), is amended to read as follows:

"(b) ABOLISHMENT OF THE INSPECTOR GENERAL OF THE DEPARTMENT OF STATE AND THE FOREIGN SERVICE.—Notwithstanding section 209 of the Foreign Service Act of 1980 (22 U.S.C. 3929), the Inspector General of the Department of State and the Foreign Service is hereby abolished.".

22 USC 4862.

SEC. 414. PROHIBITION ON THE USE OF FUNDS FOR FACILITIES IN ISRAEL, JERUSALEM, OR THE WEST BANK.

None of the funds authorized to be appropriated by this Act may be obligated or expended for site acquisition, development, or construction of any facility in Israel, Jerusalem, or the West Bank.

TITLE V—STATE DEPARTMENT AUTHORITIES TO COMBAT INTERNATIONAL TERRORISM

SEC. 501. REWARDS FOR INTERNATIONAL TERRORISTS.

22 USC 2708 note.

It is the sense of the Congress that the Secretary of State should more vigorously utilize the moneys available under section 36(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(a); relating to rewards for information on international terrorism) to more effectively apprehend and prosecute international terrorists. It is further the sense of the Congress that the Secretary of State should consider widely publicizing the sizable rewards available under present law so that major international terrorist figures may be brought to justice.

SEC. 502. REWARDS FOR INFORMATION RELATING TO INTERNATIONAL NARCOTERRORISM AND DRUG TRAFFICKING.

(a) AUTHORITY TO PAY AND PURPOSE.—Section 36 of State Department Basic Authorities Act of 1956 (22 U.S.C. 2708) is amended—

(1) by redesignating subsections (b) through (f) as subsections (c) through (g), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b)(1) The Secretary of State, upon the request of a chief of mission and with the concurrence of the Attorney General, may pay a reward to any individual who furnishes information leading to—

"(A) the arrest or conviction in any country of any individual for committing, primarily outside the territorial jurisdiction of the United States, any narcotics-related offense if that offense involves or is a significant part of conduct that involves—

"(i) a violation of United States drug laws which occurs primarily outside the territorial jurisdiction of the United States and which is such that the individual would be a major violator of such laws; or

"(ii) the killing or kidnapping outside the territorial jurisdiction of the United States of—

"(I) any officer, employee, or contract employee of the United States Government while such individual is engaged in official duties, or on account of that individual's official duties, in connection with the enforcement of United States drug laws or the implementing of United States drug control objectives; or

"(II) a member of the immediate family of any such individual on account of that individual's official duties in connection with the enforcement of United States drug laws or the implementation of United States drug control objectives; or

"(iii) an attempt or conspiracy to do any of the acts described in clause (i) or (ii); or

"(B) the prevention or frustration of an act described in subparagraph (A).

"(2) The purpose of the rewards under this subsection is to assist narcotics law enforcement in the effective arrest and prosecution of major narcotics traffickers and, wherever appropriate, to offer rewards in connection with the killing of, or the attempt to kill, any United States officer or employee, in connection with the performance of narcotics control duties by such officer or employee, or any member of the family of such officer or employee. To ensure that the

rewards program authorized by this subsection, especially paragraph (1)(A)(i), does not duplicate or interfere with the payment of informants or the purchase of evidence or information, as authorized to the Department of Justice, the offering, administration, and payment of rewards under this subsection, including procedures for—

"(A) identifying individuals, organizations, and offenses with respect to which rewards will be offered,

"(B) the publication of rewards,

"(C) offering of joint rewards with foreign governments,

"(D) the receipt and analysis of data,

"(E) the payment and the approval of payment, and

"(F) the recommendations of rewards by chiefs of mission to the Secretary of State and the Attorney General,

shall be governed by procedures approved by the Secretary of State and the Attorney General.".

Ante, p. 869.

(b) FUNDING FOR REWARDS.—Section 36(g) of such Act, as so redesignated by subsection (a)(1), is amended by striking out the period at the end of the first sentence and inserting in lieu thereof the following: ", up to $2,000,000 of which may be used for rewards for information described in subsection (b)(1). In addition to the amount authorized by the preceding sentence, there are authorized to be appropriated $10,000,000 for fiscal year 1987 for 'Administration of Foreign Affairs' for use in paying rewards under this section, up to $5,000,000 of which may be used for rewards for information described in subsection (b)(1).".

Appropriation authorization.

(c) CONFORMING AMENDMENTS.—Section 36 of such Act is amended—

(1) in subsection (d), as so redesignated by subsection (a)(1), by striking out "this section" and inserting in lieu thereof "subsection (a)"; and

(2) in subsection (f), as so redesignated by subsection (a)(1), by inserting "or (b)" after "subsection (a)".

(d) REPORTS ON REWARDS; DEFINITIONS.—Section 36 of such Act is further amended by adding at the end thereof the following new subsections:

"(h) Not later than 30 days after paying any reward under this section, the Secretary of State shall submit a report to the Congress with respect to that reward. The report, which may be submitted on a classified basis if necessary, shall specify the amount of the reward paid, to whom the reward was paid, and the acts with respect to which the reward was paid, and shall discuss the significance of the information for which the reward was paid in dealing with those acts.

"(i) As used in this section—

"(1) the term 'United States drug laws' means the laws of the United States for the prevention and control of illicit traffic in controlled substances (as such term is defined for purposes of the Controlled Substances Act); and

"(2) the term 'member of the immediate family' includes—

"(A) a spouse, parent, brother, sister, or child of the individual;

"(B) a person to whom the individual stands in loco parentis; and

"(C) any other person living in the individual's household and related to the individual by blood or marriage.".

SEC. 503. COORDINATION OF TERRORISM-RELATED ASSISTANCE.

Section 502 of the International Security and Development Cooperation Act of 1985 (22 U.S.C. 2349aa-7) is amended—

(1) in the section heading by striking out "**ANTI-TERRORISM**" and inserting in lieu thereof "**TERRORISM-RELATED**";

(2) in subsection (a) by striking out "anti-terrorism assistance to foreign countries provided by the United States Government" and inserting in lieu thereof "assistance related to international terrorism which is provided by the United States Government to foreign countries";

(3) in subsection (b) by striking out "anti-terrorism assistance" and inserting in lieu thereof "assistance related to international terrorism which was"; and

(4) by adding at the end thereof the following new subsection:

"(c) RULE OF CONSTRUCTION.—Nothing contained in this section shall be construed to limit or impair the authority or responsibility of any other Federal agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.".

3 CFR, 1981 Comp., p. 200.

SEC. 504. COUNTERTERRORISM PROTECTION FUND.

The State Department Basic Authorities Act of 1956 is amended—

(1) by redesignating section 39 as section 40; and

(2) by inserting after section 38 (22 U.S.C. 2710) the following new section:

22 USC 2651 note.

"SEC. 39. COUNTERTERRORISM PROTECTION FUND.

Informants. 22 USC 2711.

"(a) AUTHORITY.—The Secretary of State may reimburse domestic and foreign persons, agencies, or governments for the protection of judges or other persons who provide assistance or information relating to terrorist incidents primarily outside the territorial jurisdiction of the United States. Before making a payment under this section in a matter over which there is Federal criminal jurisdiction, the Secretary shall advise and consult with the Attorney General.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of State for 'Administration of Foreign Affairs' $1,000,000 for fiscal year 1986 and $1,000,000 for fiscal year 1987 for use in reimbursing persons, agencies, or governments under this section.

"(c) DESIGNATION OF FUND.—Amounts made available under this section may be referred to as the 'Counterterrorism Protection Fund'.".

SEC. 505. TERRORISM-RELATED TRAVEL ADVISORIES.

Public information. 22 USC 2656e.

The Secretary of State shall promptly advise the Congress whenever the Department of State issues a travel advisory, or other public warning notice for United States citizens traveling abroad, because of a terrorist threat or other security concern.

SEC. 506. AUTHORITY TO CONTROL CERTAIN TERRORISM-RELATED SERVICES.

The State Department Basic Authorities Act of 1956 is amended—

(1) by redesignating section 40 (as so redesignated by section 504 of this Act) as section 41; and

Supra. 22 USC 2651 note.

(2) by inserting after section 39 (as added by section 504 of this Act) the following new section:

22 USC 2712.

"SEC. 40. AUTHORITY TO CONTROL CERTAIN TERRORISM-RELATED SERVICES.

"(a) AUTHORITY.—The Secretary of State may, by regulation, impose controls on the provision of the services described in subsection (b) if the Secretary determines that provision of such services would aid and abet international terrorism.

"(b) SERVICES SUBJECT TO CONTROL.—The services subject to control under subsection (a) are the following:

"(1) Serving in or with the security forces of a designated foreign government.

"(2) Providing training or other technical services having a direct military, law enforcement, or intelligence application, to or for the security forces of a designated foreign government.

Any regulations issued to impose controls on services described in paragraph (2) shall list the specific types of training and other services subject to the controls.

"(c) PERSONS SUBJECT OF CONTROLS.—These services may be controlled under subsection (a) when they are provided within the United States by any individual or entity and when they are provided anywhere in the world by a United States person.

"(d) LICENSES.—In carrying out subsection (a), the Secretary of State may require licenses, which may be revoked, suspended, or amended, without prior notice, whenever such action is deemed to be advisable.

"(e) DEFINITIONS.—

"(1) DESIGNATED FOREIGN GOVERNMENT.—As used in this section, the term 'designated foreign government' means a foreign government that the Secretary of State has determined, for purposes of section 6(j)(1) of the Export Administration Act of 1979, has repeatedly provided support for acts of international terrorism.

50 USC app. 2405.

"(2) SECURITY FORCES.—As used in this section, the term 'security forces' means any military or paramilitary forces, any police or other law enforcement agency (including any police or other law enforcement agency at the regional or local level), and any intelligence agency of a foreign government.

"(3) UNITED STATES.—As used in this section, the term 'United States' includes any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States.

"(4) UNITED STATES PERSON.—As used in this section, the term 'United States person' means any United States national, any permanent resident alien, and any sole proprietorship, partnership, company, association, or corporation organized under the laws of or having its principal place of business within the United States.

"(f) VIOLATIONS.—

"(1) PENALTIES.—Whoever willfully violates any regulation issued under this section shall be fined not more than $100,000 or five times the total compensation received for the conduct which constitutes the violation, whichever is greater, or imprisoned for not more than ten years, or both, for each such offense.

"(2) INVESTIGATIONS.—The Attorney General and the Secretary of the Treasury shall have authority to investigate violations of regulations issued under this section.

"(g) CONGRESSIONAL OVERSIGHT.—

"(1) REVIEW OF REGULATIONS.—Not less than 30 days before issuing any regulations under this section (including any amendments thereto), the Secretary of State shall transmit the proposed regulations to the Congress.

"(2) REPORTS.—Not less than once every six months, the Secretary of State shall report to the Congress concerning the number and character of licenses granted and denied during the previous reporting period, and such other information as the Secretary may find to be relevant to the accomplishment of the objectives of this section.

"(h) RELATIONSHIP TO OTHER LAWS.—The authority granted by this section is in addition to the authorities granted by any other provision of law.".

SEC. 507. MANAGEMENT OF ANTITERRORISM ASSISTANCE PROGRAMS.

Weapons.

Section 573(d)(4) of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa-2(d)(4)) is amended to read as follows:

"(4)(A) Articles on the United States Munitions List may be made available under this chapter only if—

"(i) they are small arms in category I (relating to firearms), ammunition in category III (relating to ammunition) for small arms in category I, articles in category IV(c) or VI(c) (relating to detection and handling of explosive devices), articles in category X (relating to protective personnel equipment), or articles in paragraph (b), (c), or (d) of category XIII (relating to speech privacy devices, underwater breathing apparatus and armor plating), and they are directly related to antiterrorism training under this chapter;

"(ii) the recipient country is not prohibited by law from receiving assistance under one or more of the following provisions: chapter 2 of this part (relating to grant military assistance), chapter 5 of this part (relating to international military education and training), or the Arms Export Control Act (relating to foreign military sales financing); and

22 USC 2311.
22 USC 2347.
22 USC 2751 note.

"(iii) at least 15 days before the articles are made available to the foreign country, the President notifies the Committee on Foreign Affairs of the House of Representatives and Committee on Foreign Relations of the Senate of the proposed transfer, in accordance with the procedures applicable to reprogramming notifications pursuant to section 634A of this Act.

President of U.S.

22 USC 2394-1.

"(B) The value (in terms of original acquisition cost) of all equipment and commodities provided under subsection (a) in any fiscal year may not exceed 25 percent of the funds made available to carry out this chapter for that fiscal year.

"(C) No shock batons or similar devices may be provided under this chapter.".

SEC. 508. NONLETHAL AIRPORT SECURITY EQUIPMENT AND COMMODITIES FOR EGYPT.

In addition to funds otherwise available for such purposes under chapter 8 of part II of the Foreign Assistance Act of 1961, assistance authorized to carry out the purposes of chapter 4 of part II of such Act for the fiscal years 1986 and 1987 (as well as undisbursed balances of previously obligated funds under such chapter) which are allocated for Egypt may be furnished, notwithstanding section 660 of such Act, for the provision of nonlethal airport security

22 USC 2349aa.
22 USC 2346.
22 USC 2420.

equipment and commodities, and training in the use of such equipment and commodities. The authority contained in this section shall be exercised by the Department of State's office responsible for administering chapter 8 of part II of the Foreign Assistance Act of 1961, in coordination with the Agency for International Development.

22 USC 2349aa.

SEC. 509. EXPORTS TO COUNTRIES SUPPORTING ACTS OF INTERNATIONAL TERRORISM.

(a) ITEMS ON THE MUNITIONS LIST.—Chapter 3 of the Arms Export Control Act (22 U.S.C. 2771-2779) is amended by adding at the end thereof the following new section:

22 USC 2780.

"SEC. 40. EXPORTS TO COUNTRIES SUPPORTING ACTS OF INTERNATIONAL TERRORISM.

"(a) PROHIBITION.—Except as provided in subsection (b), items on the United States Munitions List may not be exported to any country which the Secretary of State has determined, for purposes of section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)), has repeatedly provided support for acts of international terrorism.

President of U.S. Reports.

"(b) WAIVER.—The President may waive the prohibition contained in subsection (a) in the case of a particular export if the President determines that the export is important to the national interests of the United States and submits to the Congress a report justifying that determination and describing the proposed export. Any such waiver shall expire at the end of 90 days after it is granted unless the Congress enacts a law extending the waiver.".

(b) OTHER GOODS AND TECHNOLOGY.—Section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)) is amended by striking out "$7,000,000" and inserting in lieu thereof "$1,000,000".

TITLE VI—INTERNATIONAL NUCLEAR TERRORISM

22 USC 3244.

SEC. 601. ACTIONS TO COMBAT INTERNATIONAL NUCLEAR TERRORISM.

(a) ACTIONS TO BE TAKEN BY THE PRESIDENT.—The Congress hereby directs the President—

(1) to seek universal adherence to the Convention on the Physical Protection of Nuclear Material;

(2) to—

(A) conduct a review, enlisting the participation of all relevant departments and agencies of the Government, to determine whether the recommendations on Physical Protection of Nuclear Material published by the International Atomic Energy Agency are adequate to deter theft, sabotage, and the use of nuclear facilities and materials in acts of international terrorism, and

(B) transmit the results of this review to the Director-General of the International Atomic Energy Agency;

(3) to take, in concert with United States allies and other countries, such steps as may be necessary—

(A) to keep to a minimum the amount of weapons-grade nuclear material in international transit, and

(B) to ensure that when any such material is transported internationally, it is under the most effective means for adequately protecting it from acts or attempted acts of sabotage or theft by terrorist groups or nations; and

(4) to seek agreement in the United Nations Security Council to establish—

(A) an effective regime of international sanctions against any nation or subnational group which conducts or sponsors acts of international nuclear terrorism, and Sanctions.

(B) measures for coordinating responses to all acts of international nuclear terrorism, including measures for the recovery of stolen nuclear material and the clean-up of nuclear releases.

(b) REPORTS TO THE CONGRESS.—The President shall report to the Congress annually, in the reports required by section 601 of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3281), on the progress made during the preceding year in achieving the objectives described in this section.

SEC. 602. AUTHORITY TO SUSPEND NUCLEAR COOPERATION WITH NATIONS WHICH HAVE NOT RATIFIED THE CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL.

Chapter 11 of the Atomic Energy Act of 1954 is amended by adding at the end thereof the following new section:

"SEC. 132. AUTHORITY TO SUSPEND NUCLEAR COOPERATION WITH NATIONS WHICH HAVE NOT RATIFIED THE CONVENTION ON THE PHYSICAL SECURITY OF NUCLEAR MATERIAL.— 42 USC 2160b.

"The President may suspend nuclear cooperation under this Act with any nation or group of nations which has not ratified the Convention on the Physical Security of Nuclear Material.". President of U.S.

SEC. 603. CONSULTATION WITH THE DEPARTMENT OF DEFENSE CONCERNING CERTAIN NUCLEAR EXPORTS AND SUBSEQUENT ARRANGEMENTS.

Chapter 11 of the Atomic Energy Act of 1954, as amended by section 602 of this Act, is further amended by adding at the end thereof the following new section:

"SEC. 133. CONSULTATION WITH THE DEPARTMENT OF DEFENSE CONCERNING CERTAIN EXPORTS AND SUBSEQUENT ARRANGEMENTS.— 42 USC 2160c.

"a. In addition to other applicable requirements—

"(1) a license may be issued by the Nuclear Regulatory Commission under this Act for the export of special nuclear material described in subsection b.; and

"(2) approval may be granted by the Secretary of Energy under section 131 of this Act for the transfer of special nuclear material described in subsection b.; 42 USC 2160.

only after the Secretary of Defense has been consulted on whether the physical protection of that material during the export or transfer will be adequate to deter theft, sabotage, and other acts of international terrorism which would result in the diversion of that material. If, in the view of the Secretary of Defense based on all available intelligence information, the export or transfer might be subject to a genuine terrorist threat, the Secretary shall provide to the Nuclear Regulatory Commission or the Secretary of Energy, as appropriate, his written assessment of the risk and a description of the actions the Secretary of Defense considers necessary to upgrade physical protection measures.

"b. Subsection a. applies to the export or transfer of more than 2 kilograms of plutonium or more than 20 kilograms of uranium enriched to more than 20 percent in the isotope 233 or the isotope 235.".

SEC. 604. REVIEW OF PHYSICAL SECURITY STANDARDS.

(a) REVIEWS.—The Secretary of Energy, the Secretary of Defense, the Secretary of State, the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission shall each review the adequacy of the physical security standards currently applicable with respect to the shipment and storage (outside the United States) of plutonium, and uranium enriched to more than 20 percent in the isotope 233 or the isotope 235, which is subject to United States prior consent rights, with special attention to protection against risks of seizure or other terrorist acts.

(b) REPORTS.—Not later than 6 months after the date of enactment of this Act, the Secretary of Energy, the Secretary of Defense, the Secretary of State, the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission shall each submit a written report to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate setting forth the results of the review conducted pursuant to this section, together with appropriate recommendations.

SEC. 605. INTERNATIONAL REVIEW OF THE NUCLEAR TERRORISM PROBLEM.

The Congress strongly urges the President to seek a comprehensive review of the problem of nuclear terrorism by an international conference.

SEC. 606. CRIMINAL HISTORY RECORD CHECKS.

(a) IN GENERAL.—The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended by adding after section 148 the following new section:

42 USC 2169.

"SEC. 149. FINGERPRINTING FOR CRIMINAL HISTORY RECORD CHECKS.—

"a. The Nuclear Regulatory Commission (in this section referred to as the 'Commission') shall require each licensee or applicant for a license to operate a utilization facility under section 103 or 104 b. to fingerprint each individual who is permitted unescorted access to the facility or is permitted access to safeguards information under section 147. All fingerprints obtained by a licensee or applicant as required in the preceding sentence shall be submitted to the Attorney General of the United States through the Commission for identification and a criminal history records check. The costs of any identification and records check conducted pursuant to the preceding sentence shall be paid by the licensee or applicant. Notwithstanding any other provision of law, the Attorney General may provide all the results of the search to the Commission, and, in accordance with regulations prescribed under this section, the Commission may provide such results to the licensee or applicant submitting such fingerprints.

42 USC 2133, 2134.

42 USC 2168.

Health and medical care. Safety.

"b. The Commission, by rule, may relieve persons from the obligations imposed by this section, upon specified terms, conditions, and periods, if the Commission finds that such action is consistent with its obligations to promote the common defense and security and to protect the health and safety of the public.

Regulations.

"c. For purposes of administering this section, the Commission shall prescribe, subject to public notice and comment, regulations—

"(1) to implement procedures for the taking of fingerprints;

"(2) to establish the conditions for use of information received from the Attorney General, in order—

"(A) to limit the redissemination of such information;

"(B) to ensure that such information is used solely for the purpose of determining whether an individual shall be permitted unescorted access to the facility of a licensee or applicant or shall be permitted access to safeguards information under section 147;

42 USC 2168.

"(C) to ensure that no final determination may be made solely on the basis of information provided under this section involving—

"(i) an arrest more than 1 year old for which there is no information of the disposition of the case; or

"(ii) an arrest that resulted in dismissal of the charge or an acquittal; and

"(D) to protect individuals subject to fingerprinting under this section from misuse of the criminal history records; and

"(3) to provide each individual subject to fingerprinting under this section with the right to complete, correct, and explain information contained in the criminal history records prior to any final adverse determination.

"d. (1) The Commission may establish and collect fees to process fingerprints and criminal history records under this section.

"(2) Notwithstanding section 3302(b) of title 31, United States Code, and to the extent approved in appropriation Acts—

"(A) a portion of the amounts collected under this subsection in any fiscal year may be retained and used by the Commission to carry out this section; and

"(B) the remaining portion of the amounts collected under this subsection in such fiscal year may be transferred periodically to the Attorney General and used by the Attorney General to carry out this section.

"(3) Any amount made available for use under paragraph (2) shall remain available until expended.".

(b) EFFECTIVE DATE.—The provisions of subsection a. of section 149 of the Atomic Energy Act of 1954, as added by this Act, shall take effect upon the promulgation of regulations by the Nuclear Regulatory Commission as set forth in subsection c. of such section. Such regulations shall be promulgated not later than 6 months after the date of the enactment of this Act.

42 USC 2169 note.

Ante, p. 876.

(c) CONFORMING AMENDMENT.—The table of contents at the beginning of the Atomic Energy Act of 1954 is amended by inserting after the item relating to section 148 the following new item:

"Sec. 149. Fingerprinting for criminal history record checks.".

TITLE VII—MULTILATERAL COOPERATION TO COMBAT INTERNATIONAL TERRORISM

SEC. 701. INTERNATIONAL ANTITERRORISM COMMITTEE.

(a) FINDINGS.—The Congress finds that—

(1) international terrorism is and remains a serious threat to the peace and security of free, democratic nations;

(2) the challenge of terrorism can only be met effectively by concerted action on the part of all responsible nations;

Bonn, Germany.

(3) the major developed democracies evidenced their commitment to cooperation in the fight against terrorism by the 1978 Bonn Economic Summit Declaration on Terrorism; and

Tokyo, Japan.

(4) that commitment was renewed and strengthened at the 1986 Tokyo Economic Summit and expressed in a joint statement on terrorism.

President of U.S.

(b) INTERNATIONAL ANTITERRORISM COMMITTEE.—The Congress hereby directs the President to continue to seek the establishment of an international committee, to be known as the International Antiterrorism Committee. As a first step in establishing such committee, the President should propose to the North Atlantic Treaty Organization the establishment of a standing political committee to examine all aspects of international terrorism, review opportunities for cooperation, and make recommendations to member nations. After the establishment of this committee, the President should invite such other countries who may choose to participate. The purpose of the International Antiterrorism Committee should be to focus the attention and secure the cooperation of the governments and the public of the participating countries and of other countries on the problems and responses to international terrorism (including nuclear terrorism), by serving as a forum at both the political and law enforcement levels.

SEC. 702. INTERNATIONAL ARRANGEMENTS RELATING TO PASSPORTS AND VISAS.

The Congress strongly urges the President to seek the negotiation of international agreements (or other appropriate arrangements) to provide for the sharing of information relating to passports and visas in order to enhance cooperation among countries in combatting international terrorism.

SEC. 703. PROTECTION OF AMERICANS ENDANGERED BY THE APPEARANCE OF THEIR PLACE OF BIRTH ON THEIR PASSPORTS.

(a) FINDINGS.—The Congress finds that some citizens of the United States may be specially endangered during a hijacking or other terrorist incident by the fact that their place of birth appears on their United States passport.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress on the implications of deleting the place of birth as a required item of information on passports.

SEC. 704. USE OF DIPLOMATIC PRIVILEGES AND IMMUNITIES FOR TERRORISM PURPOSES.

The Congress strongly urges the President to instruct the Permanent Representative of the United States to the United Nations to seek the adoption of a resolution in the United Nations condemning the use for terrorist purposes of diplomatic privileges and immunities under the Vienna Convention on Diplomatic Relations, especially the misuse of diplomatic pouches and diplomatic missions.

SEC. 705. REPORTS ON PROGRESS IN INCREASING MULTILATERAL COOPERATION.

President of U.S.

Not later than February 1, 1987, the President shall submit a report to the Congress on the steps taken to carry out each of the preceding sections of this title (except for section 703) and the

progress being made in achieving the objectives described in those sections.

TITLE VIII—VICTIMS OF TERRORISM COMPENSATION

Victims of Terrorism Compensation Act.

SEC. 801. SHORT TITLE.

5 USC 5569 note.

This title may be cited as the "Victims of Terrorism Compensation Act".

SEC. 802. PAYMENT TO INDIVIDUALS HELD IN CAPTIVE STATUS BETWEEN NOVEMBER 4, 1979, AND JANUARY 21, 1981.

5 USC 5569 note.

The amount of the payment for individuals in the Civil Service referred to in section 5569(d) of title 5, United States Code (as added by section 803 of this title), or for individuals in the uniformed services referred to in section 559(c) of title 37, United States Code (as added by section 806 of this title), as the case may be, shall be $50 for each day any such individual was held in captive status during a period commencing on or after November 4, 1979, and ending on or before January 21, 1981.

SEC. 803. BENEFITS FOR CAPTIVES AND OTHER VICTIMS OF HOSTILE ACTION.

(a) IN GENERAL.—Subchapter VII of chapter 55 of title 5, United States Code, is amended by adding at the end thereof the following:

"§ 5569. Benefits for captives

5 USC 5569.

"(a) For the purpose of this section—

"(1) 'captive' means any individual in a captive status commencing while such individual is—

"(A) in the Civil Service, or

"(B) a citizen, national, or resident alien of the United States rendering personal service to the United States similar to the service of an individual in the Civil Service (other than as a member of the uniformed services);

"(2) 'captive status' means a missing status which, as determined by the President, arises because of a hostile action and is a result of the individual's relationship with the Government;

"(3) 'missing status'—

"(A) in the case of an employee, has the meaning provided under section 5561(5) of this title; and

"(B) in the case of an individual other than an employee, has a similar meaning; and

"(4) 'family member', as used with respect to a person, means—

"(A) any dependent of such person; and

"(B) any individual (other than a dependent under subparagraph (A)) who is a member of such person's family or household.

"(b)(1) The Secretary of the Treasury shall establish a savings fund to which the head of an agency may allot all or any portion of the pay and allowances of any captive to the extent that such pay and allowances are not subject to an allotment under section 5563 of this title or any other provision of law.

5 USC 5563.

"(2) Amounts so allotted to the savings fund shall bear interest at a rate which, for any calendar quarter, shall be equal to the average rate paid on United States Treasury bills with 3-month maturities

issued during the preceding calendar quarter. Such interest shall be compounded quarterly.

"(3) Amounts in the savings fund credited to a captive shall be considered as pay and allowances for purposes of section 5563 of this title and shall otherwise be subject to withdrawal under procedures which the Secretary of the Treasury shall establish.

5 USC 5563.

"(4) Any interest accruing under this subsection on—

"(A) any amount for which an individual is indebted to the United States under section 5562(c) of this title shall be deemed to be part of the amount due under such section 5562(c); and

"(B) any amount referred to in section 5566(f) of this title shall be deemed to be part of such amount for purposes of such section 5566(f).

"(5) An allotment under this subsection may be made without regard to section 5563(c) of this title.

"(c) The head of an agency shall pay (by advancement or reimbursement) any individual who is a captive, and any family member of such individual, for medical and health care, and other expenses related to such care, to the extent that such care—

"(1) is incident to such individual being a captive; and

"(2) is not covered—

"(A) by any Government medical or health program; or

"(B) by insurance.

President of U.S.

"(d)(1) Except as provided in paragraph (3), the President shall make a cash payment, computed under paragraph (2), to any individual who became or becomes a captive commencing on or after November 4, 1979. Such payment shall be made before the end of the one-year period beginning on the date on which the captive status of such individual terminates or, in the case of any individual whose status as a captive terminated before the date of the enactment of the Victims of Terrorism Compensation Act, before the end of the one-year period beginning on such date.

Ante, p. 879.

"(2) Except as provided in section 802 of the Victims of Terrorism Compensation Act, the amount of the payment under this subsection with respect to an individual held as a captive shall be not less than one-half of the amount of the world-wide average per diem rate under section 5702 of this title which was in effect for each day that individual was so held.

5 USC 5702.

President of U.S.

"(3) The President—

"(A) may defer a payment under this subsection in the case of any individual who, during the one-year period described in paragraph (1), is charged with an offense described in subparagraph (B), until final disposition of such charge; and

"(B) may deny such payment in the case of any individual who is convicted of an offense described in subsection (b) or (c) of section 8312 of this title committed—

"(i) during the period of captivity of such individual; and

"(ii) related to the captive status of such individual.

"(4) A payment under this subsection shall be in addition to any other amount provided by law.

5 USC 5581.

"(5) The provisions of subchapter VIII of this chapter (or, in the case of any person not covered by such subchapter, similar provisions prescribed by the President) shall apply with respect to any amount due an individual under paragraph (1) after such individual's death.

"(6) Any payment made under paragraph (1) which is later denied under paragraph (3)(B) is a claim of the United States Government for purposes of section 3711 of title 31. Claims.

"(e)(1) Under regulations prescribed by the President, the benefits provided by the Soldiers' and Sailors' Civil Relief Act of 1940, including the benefits provided by section 701 of such Act but excluding the benefits provided by sections 104, 105, 106, 400 through 408, 501 through 512, and 514 of such Act, shall be provided in the case of any individual who is a captive. 50 USC app. 501. 50 USC app. 591. 50 USC app. 514-516, 540-548, 561-572, 574.

"(2) In applying such Act under this subsection—

"(A) the term 'person in the military service' is deemed to include any such captive;

"(B) the term 'period of military service' is deemed to include the period during which the individual is in a captive status; and

"(C) references to the Secretary of the Army, the Secretary of the Navy, the Adjutant General of the Army, the Chief of Naval Personnel, and the Commandant, United States Marine Corps, are deemed, in the case of any captive, to be references to an individual designated for that purpose by the President.

"(f)(1)(A) Under regulations prescribed by the President, the head of an agency shall pay (by advancement or reimbursement) a spouse or child of a captive for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution. Children and youth. Education.

"(B) Except as provided in subparagraph (C), payments shall be available under this paragraph for a spouse or child of an individual who is a captive for education or training which occurs—

"(i) after that individual has been in captive status for 90 days or more, and

"(ii) on or before—

"(I) the end of any semester or quarter (as appropriate) which begins before the date on which the captive status of that individual terminates, or

"(II) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the 16-week period following that date.

In order to respond to special circumstances, the appropriate agency head may specify a date for purposes of cessation of assistance under clause (ii) which is later than the date which would otherwise apply under such clause.

"(C) In the event a captive dies and the death is incident to that individual being a captive, payments shall be available under this paragraph for a spouse or child of such individual for education or training which occurs after the date of such individual's death.

"(D) The preceding provisions of this paragraph shall not apply with respect to any spouse or child who is eligible for assistance under chapter 35 of title 38 or similar assistance under any other provision of law. 38 USC 1700 *et seq.*

"(E) For the purpose of this paragraph, 'child' means a dependent under section 5561(3)(B) of this title. 5 USC 5561.

"(2)(A) In order to respond to special circumstances, the head of an agency may pay (by advancement or reimbursement) a captive for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

"(B) Payments shall be available under this paragraph for a captive for education or training which occurs—

"(i) after the termination of that individual's captive status, and

"(ii) on or before—

"(I) the end of any semester or quarter (as appropriate) which begins before the date which is 10 years after the day on which the captive status of that individual terminates, or

"(II) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the 16-week period following that date, and

shall be available only to the extent that such payments are not otherwise authorized by law.

"(3) Assistance under this subsection—

"(A) shall be discontinued for any individual whose conduct or progress is unsatisfactory under standards consistent with those established pursuant to section 1724 of title 38; and

"(B) may not be provided for any individual for a period in excess of 45 months (or the equivalent thereof in other than full-time education or training).

Regulations.

"(4) Regulations prescribed to carry out this subsection shall provide that the program under this subsection shall be consistent with the assistance program under chapters 35 and 36 of title 38.

38 USC 1700 *et seq.*, 1770 *et seq.*

"(g) Any benefit provided under subsection (c) or (d) may, under regulations prescribed by the President, be provided to a family member of an individual if—

"(1) such family member is held in captive status; and

"(2) such individual is performing service for the United States as described in subsection (a)(1)(A) when the captive status of such family member commences.

"(h) Except as provided in subsection (d), this section applies with respect to any individual in a captive status commencing after January 21, 1981.

"(i) Notwithstanding any other provision of this subchapter, any determination by the President under subsection (a)(2) or (d) shall be conclusive and shall not be subject to judicial review.

President of U.S. Regulations.

"(j) The President may prescribe regulations necessary to administer this section.

"(k) Any benefit or payment pursuant to this section shall be paid out of funds available for salaries and expenses of the relevant agency of the United States.

5 USC 5570.

"§ 5570. Compensation for disability or death

"(a) For the purpose of this section—

"(1) 'employee' means—

"(A) any individual in the Civil Service; and

"(B) any individual rendering personal service to the United States similar to the service of an individual in the Civil Service (other than as a member of the uniformed services); and

"(2) 'family member', as used with respect to an employee, means—

"(A) any dependent of such employee; and

"(B) any individual (other than a dependent under subparagraph (A)) who is a member of the employee's family or household.

"(b) The President shall prescribe regulations under which an agency head may pay compensation for the disability or death of an employee or a family member of an employee if, as determined by the President, the disability or death was caused by hostile action and was a result of the individual's relationship with the Government.

President of U.S. Regulations.

"(c) Any compensation otherwise payable to an individual under this section in connection with any disability or death shall be reduced by any amounts payable to such individual under any other program funded in whole or in part by the United States (excluding any amount payable under section 5569(d) of this title) in connection with such disability or death, except that nothing in this subsection shall result in the reduction of any amount below zero.

Ante, p. 879.

"(d) A determination by the President under subsection (b) shall be conclusive and shall not be subject to judicial review.

"(e) Compensation under this section may include payment (whether by advancement or reimbursement) for any medical or health expenses relating to the death or disability involved to the extent that such expenses are not covered under subsection (c) of section 5569 of this title (other than because of paragraph (2) of such subsection).

"(f) This section applies with respect to any disability or death resulting from an injury which occurs after January 21, 1981.

"(g) Any benefit or payment pursuant to this section shall be paid out of funds available for salaries and expenses of the relevant agency of the United States.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5568 the following:

"5569. Benefits for captives.
"5570. Compensation for disability or death.".

SEC. 804. RETENTION OF LEAVE BY ALIEN EMPLOYEES FOLLOWING INJURY FROM HOSTILE ACTION ABROAD.

Section 6325 of title 5, United States Code, is amended by adding at the end thereof the following: "The preceding provisions of this section shall apply in the case of an alien employee referred to in section 6301(2)(viii) of this title with respect to any leave granted to such alien employee under section 6310 of this title or section 408 of the Foreign Service Act of 1980.".

22 USC 3968.

SEC. 805. TRANSITION PROVISIONS.

5 USC 5569 note.

(a) SAVINGS FUND.—(1) Amounts may be allotted to the savings fund under subsection (b) of section 5569 of title 5, United States Code (as added by section 803(a) of this Act) from pay and allowances for any pay period ending after January 21, 1981, and before the establishment of such fund.

(2) Interest on amounts so allotted with respect to any such pay period shall be calculated as if the allotment had occurred at the end of such pay period.

(b) MEDICAL AND HEALTH CARE; EDUCATIONAL EXPENSES.—Subsections (c) and (f) of such section 5569 (as so added) shall be carried out with respect to the period after January 21, 1981, and before the

effective date of those subsections, under regulations prescribed by the President.

(c) DEFINITION.—For the purpose of this subsection, "pay and allowances" has the meaning provided under section 5561 of title 5, United States Code

37 USC 559.

SEC. 806. BENEFITS FOR MEMBERS OF UNIFORMED SERVICES WHO ARE VICTIMS OF HOSTILE ACTION.

(a) PAYMENTS.—(1) Chapter 10 of title 37, United States Code, is amended by adding at the end thereof the following new section:

"§ 559. Benefits for members held as captives

"(a) In this section—

"(1) 'captive status' means a missing status of a member of the uniformed services which, as determined by the President, arises because of a hostile action and is a result of membership in the uniformed services, but does not include a period of captivity of a member as a prisoner of war if Congress provides to such member, in an Act enacted after the date of the enactment of the Victims of Terrorism Compensation Act, monetary payment in respect of such period of captivity; and

Ante, p. 879.

"(2) 'former captive' means a person who, as a member of the uniformed services, was held in a captive status.

"(b)(1) The Secretary of the Treasury shall establish a savings fund to which the Secretary concerned may allot all or any portion of the pay and allowances of any member of the uniformed services who is in a captive status to the extent that such pay and allowances are not subject to an allotment under section 553 of this title or any other provision of law.

10 USC 553.

"(2) Amounts so allotted shall bear interest at a rate which, for any calendar quarter, shall be equal to the average rate paid on United States Treasury bills with three-month maturities issued during the preceding calendar quarter. Such interest shall be computed quarterly.

"(3) Amounts in the savings fund credited to a member shall be considered as pay and allowances for purposes of section 553(c) of this title and shall otherwise be subject to withdrawal under procedures which the Secretary of the Treasury shall establish.

"(4) Any interest accruing under this subsection on—

"(A) any amount for which a member is indebted to the United States under section 552(c) of this title shall be deemed to be part of the amount due under such section; and

"(B) any amount referred to in section 556(f) of this title shall be deemed to be part of such amount for purposes of such section.

"(5) An allotment under this subsection may be made without regard to section 553(c) of this title.

President of U.S.

"(c)(1) Except as provided in paragraph (3) of this subsection, the President shall make a cash payment to any person who is a former captive. Such payment shall be made before the end of the one-year period beginning on the date on which the captive status of such person terminates.

"(2) Except as provided in section 802 of the Victims of Terrorism Compensation Act, the amount of such payment shall be determined by the President under the provisions of section 5569(d)(2) of title 5.

Ante, p. 879.

Ante, p. 879.

"(3)(A) The President—

"(i) may defer such payment in the case of any former captive who during such one-year period is charged with an offense described in clause (ii) of this subparagraph, until final disposition of such charge; and

"(ii) may deny such payment in the case of any former captive who is convicted of a captivity-related offense—

"(I) referred to in subsection (b) or (c) of section 8312 of title 5; or

"(II) under chapter 47 of title 10 (the Uniform Code of Military Justice) that is punishable by dishonorable discharge, dismissal, or confinement for one year or more. 10 USC 801 *et seq.*

"(B) For the purposes of subparagraph (A) of this paragraph, a captivity-related offense is an offense that is—

"(i) committed by a person while the person is in a captive status; and

"(ii) related to the captive status of the person.

"(4) A payment under this subsection is in addition to any other amount provided by law.

"(5) Any amount due a person under this subsection shall, after the death of such person, be deemed to be pay and allowances for the purposes of this chapter.

"(6) Any payment made under paragraph (1) of this subsection that is later denied under paragraph (3)(A)(ii) of this subsection is a claim of the United States Government for purposes of section 3711 of title 31. Claims.

"(d) A determination by the President under subsection (a)(1) or (c) of this section is final and is not subject to judicial review.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"559. Benefits for members held as captives.".

(3)(A)(i) Except as provided in clause (ii), section 559 of title 37, United States Code, as added by paragraph (1), shall apply to any person whose captive status begins after January 21, 1981. 37 USC 559 note.

(ii)(I) Subsection (c) of such section shall apply to any person whose captive status begins on or after November 4, 1979.

(II) In the case of any person whose status as a captive terminated before the date of the enactment of this Act, the President shall make a payment under paragraph (1) of such subsection before the end of the one-year period beginning on such date. President of U.S.

(B) Amounts may be allotted to a savings fund established under such section from pay and allowances for any pay period ending after January 21, 1981, and before the establishment of such fund.

(C) Interest on amounts so allotted with respect to any such pay period shall be calculated as if the allotment had occurred at the end of such pay period.

(b) DISABILITY AND DEATH BENEFITS.—(1) Chapter 53 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1051. Disability and death compensation: dependents of members held as captives 10 USC 1051.

"(a) The President shall prescribe regulations under which the Secretary concerned may pay compensation for the disability or death of a dependent of a member of the uniformed services if the President determines that the disability or death— President of U.S. Regulations.

"(1) was caused by hostile action; and

"(2) was a result of the relationship of the dependent to the member of the uniformed services.

"(b) Any compensation otherwise payable to a person under this section in connection with any disability or death shall be reduced by any amount payable to such person under any other program funded in whole or in part by the United States in connection with such disability or death, except that nothing in this subsection shall result in the reduction of any amount below zero.

"(c) A determination by the President under subsection (a) is conclusive and is not subject to judicial review.

"(d) In this section:

"(1) 'Dependent' has the meaning given that term in section 551 of that title.

"(2) 'Secretary concerned' and 'uniformed services' have the meanings given those terms in section 101 of that title.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1051. Disability and death compensation: dependents of members held as captives.".

10 USC 1051 note.

(3) Section 1051 of title 10, United States Code, as added by paragraph (1), shall apply with respect to any disability or death resulting from an injury that occurs after January 21, 1981.

(c) MEDICAL BENEFITS.—(1) Chapter 55 of title 10, United States Code, is amended by adding at the end thereof the following new section:

10 USC 1095.

"§ 1095. Medical care: members held as captives and their dependents

"(a) Under regulations prescribed by the President, the Secretary concerned shall pay (by advancement or reimbursement) any person who is a former captive, and any dependent of that person or of a person who is in a captive status, for health care and other expenses related to such care, to the extent that such care—

"(1) is incident to the captive status; and

"(2) is not covered—

"(A) by any other Government medical or health program; or

"(B) by insurance.

"(b) In the case of any person who is eligible for medical care under section 1074 or 1076 of this title, such regulations shall require that, whenever practicable, such care be provided in a facility of the uniformed services.

10 USC 1074, 1076.

"(c) In this section:

"(1) 'Captive status' and 'former captive' have the meanings given those terms in section 559 of title 37.

"(2) 'Dependent' has the meaning given that term in section 551 of that title.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1095. Medical care: members held as captives and their dependents.".

10 USC 1095 note.

(3)(A) Section 1095 of title 10, United States Code, as added by paragraph (1), shall apply with respect to any person whose captive status begins after January 21, 1981.

President of U.S. Regulations.

(B) The President shall prescribe specific regulations regarding the carrying out of such section with respect to persons whose

captive status begins during the period beginning on January 21, 1981, and ending on the effective date of that section.

(d) EDUCATIONAL ASSISTANCE.—(1) Part III of title 10, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 110—EDUCATIONAL ASSISTANCE FOR MEMBERS HELD AS CAPTIVES AND THEIR DEPENDENTS

"Sec.
"2181. Definitions.
"2182. Educational assistance: dependents of captives.
"2183. Educational assistance: former captives.
"2184. Termination of assistance.
"2185. Programs to be consistent with programs administered by the Veterans' Administration.

"§ 2181. Definitions

10 USC 2181.

"In this chapter:

"(1) 'Captive status' and 'former captive' have the meanings given those terms in section 559 of title 37.

"(2) 'Dependent' has the meaning given that term in section 551 of that title.

"§ 2182. Educational assistance: dependents of captives

10 USC 2182.

"(a) Under regulations prescribed by the President, the Secretary concerned shall pay (by advancement or reimbursement) a dependent of a person who is in a captive status for expenses incurred, while attending an educational or training institution, for—

"(1) subsistence;

"(2) tuition;

"(3) fees;

"(4) supplies;

"(5) books;

"(6) equipment; and

"(7) other educational expenses.

"(b) Except as provided in section 2184 of this title, payments shall be available under this section for a dependent of a person who is in a captive status for education or training that occurs— *Post*, p. 888.

"(1) after that person is in a captive status for not less than 90 days; and

"(2) on or before—

"(A) the end of any semester or quarter (as appropriate) that begins before the date on which the captive status of that person terminates;

"(B) the earlier of the end of any course that began before such date or the end of the 16-week period following that date if the educational or training institution is not operated on a semester or quarter system; or

"(C) a date specified by the Secretary concerned in order to respond to special circumstances.

"(c) If a person in a captive status or a former captive dies and the death is incident to the captivity, payments shall be available under this section for a dependent of that person for education or training that occurs after the date of the death of that person.

"(d) The provisions of this section shall not apply to any dependent who is eligible for assistance under chapter 35 of title 38 or similar assistance under any other provision of law. 38 USC 1700 *et seq.*

10 USC 2183.

"§ 2183. Educational assistance: former captives

"(a) In order to respond to special circumstances, the Secretary concerned may pay (by advancement or reimbursement) a person who is a former captive for expenses incurred, while attending an educational or training institution, for—

"(1) subsistence;
"(2) tuition;
"(3) fees;
"(4) supplies;
"(5) books;
"(6) equipment; and
"(7) other educational expenses.

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"(b) Except as provided in section 2184 of this title, payments shall be available under this section for a person who is a former captive for education or training that occurs—

"(1) after the termination of the status of that person as a captive; and
"(2) on or before—
"(A) the end of any semester or quarter (as appropriate) that begins before the end of the 10-year period beginning on the date on which the status of that person as a captive terminates; or
"(B) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course that began before such date or the end of the 16-week period following that date.

"(c) Payments shall be available under this section only to the extent that such payments are not otherwise authorized by law.

10 USC 2184.

"§ 2184. Termination of assistance

"Assistance under this chapter—

"(1) shall be discontinued for any person whose conduct or progress is unsatisfactory under standards consistent with those established under section 1724 of title 38; and
"(2) may not be provided for any person for more than 45 months (or the equivalent in other than full-time education or training).

10 USC 2185.

"§ 2185. Programs to be consistent with programs administered by the Veterans' Administration

"Regulations prescribed to carry out this chapter shall provide that the programs under this chapter shall be consistent with the educational assistance programs under chapters 35 and 36 of title 38.".

38 USC 1700 *et seq.*, 1770 *et seq.*

(2) The table of chapters at the beginning of subtitle A of such title, and the table of chapters at the beginning of part III of such subtitle, are amended by inserting after the item relating to chapter 109 the following new item:

"110. Educational Assistance for Members Held as Captives and Their Dependents ..... 2181".

10 USC 2181 note.

(3) Chapter 110 of title 10, United States Code, as added by paragraph (1), shall apply with respect to persons whose captive status begins after January 21, 1981.

(e) ACCOUNT USED FOR PAYMENT OF COMPENSATION FOR VICTIMS OF TERRORISM —(1) Chapter 19 of title 37, United States Code, is amended by adding at the end thereof the following new section:

"§ 1013. Payment of compensation for victims of terrorism

37 USC 1013.

"Any benefit or payment pursuant to section 559 of this title, or section 1051 or 1095 or chapter 110 of title 10, shall be paid out of funds available to the Secretary concerned for military personnel.".

Ante, p. 884.

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1013. Payment of compensation for victims of terrorism.".

SEC. 807. REGULATIONS.

Effective date. 5 USC 5569 note.

Any regulation required by this title or by any amendment made by this title shall take effect not later than 6 months after the date of enactment of this Act.

SEC. 808. EFFECTIVE DATE OF ENTITLEMENTS.

5 USC 5569 note.

Provisions enacted by this title which provide new spending authority described in section 401(c)(2)(C) of the Congressional Budget Act of 1974 shall not be effective until October 1, 1986.

2 USC 651.

TITLE IX—MARITIME SECURITY

International Maritime and Port Security Act.

SEC. 901. SHORT TITLE.

46 USC app. 1801 note.

This title may be cited as the "International Maritime and Port Security Act".

SEC. 902. INTERNATIONAL MEASURES FOR SEAPORT AND SHIPBOARD SECURITY.

Vessels. 46 USC app. 1801.

The Congress encourages the President to continue to seek agreement through the International Maritime Organization on matters of international seaport and shipboard security, and commends him on his efforts to date. In developing such agreement, each member country of the International Maritime Organization should consult with appropriate private sector interests in that country. Such agreement would establish seaport and vessel security measures and could include—

(1) seaport screening of cargo and baggage similar to that done at airports;

(2) security measures to restrict access to cargo, vessels, and dockside property to authorized personnel only;

(3) additional security on board vessels;

(4) licensing or certification of compliance with appropriate security standards; and

(5) other appropriate measures to prevent unlawful acts against passengers and crews on board vessels.

SEC. 903. MEASURES TO PREVENT UNLAWFUL ACTS AGAINST PASSENGERS AND CREWS ON BOARD SHIPS.

46 USC app. 1801 note.

(a) REPORT ON PROGRESS OF IMO.—The Secretary of Transportation and the Secretary of State, jointly, shall report to the Congress by February 28, 1987, on the progress of the International Maritime Organization in developing recommendations on Measures to Prevent Unlawful Acts Against Passengers and Crews On Board Ships.

(b) CONTENT OF REPORT.—The report required by subsection (a) shall include the following information—

(1) the specific areas of agreement and disagreement on the recommendations among the member nations of the International Maritime Organization;

(2) the activities of the Maritime Safety Committee, the Facilitation Committee, and the Legal Committee of the International Maritime Organization in regard to the proposed recommendations; and

(3) the security measures specified in the recommendations.

(c) SECURITY MEASURES AT UNITED STATES PORTS.—If the member nations of the International Maritime Organization have not finalized and accepted the proposed recommendations by February 28, 1987, the Secretary of Transportation shall include in the report required by this section a proposed plan of action (including proposed legislation if necessary) for the implementation of security measures at United States ports and on vessels operating from those ports based on the assessment of threat from acts of terrorism reported by the Secretary of Transportation under section 905.

President of U.S. Reports. 46 USC app. 1801 note.

SEC. 904. PANAMA CANAL SECURITY.

Not later than 6 months after the date of enactment of this Act, the President shall report to the Congress on the status of physical security at the Panama Canal with respect to the threat of terrorism.

Reports. 46 USC app. 1802.

SEC. 905. THREAT OF TERRORISM TO UNITED STATES PORTS AND VESSELS.

Not later than February 28, 1987, and annually thereafter, the Secretary of Transportation shall report to the Congress on the threat from acts of terrorism to United States ports and vessels operating from those ports.

SEC. 906. PORT, HARBOR, AND COASTAL FACILITY SECURITY.

The Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221 et seq.) is amended by inserting after section 6 the following new section:

Vessels. 36 USC 1226.

"SEC. 7. PORT, HARBOR, AND COASTAL FACILITY SECURITY.

"(a) GENERAL AUTHORITY.—The Secretary may take actions described in subsection (b) to prevent or respond to an act of terrorism against—

"(1) an individual, vessel, or public or commercial structure, that is—

"(A) subject to the jurisdiction of the United States; and

"(B) located within or adjacent to the marine environment; or

"(2) a vessel of the United States or an individual on board that vessel.

"(b) SPECIFIC AUTHORITY.—Under subsection (a), the Secretary may—

"(1) carry out or require measures, including inspections, port and harbor patrols, the establishment of security and safety zones, and the development of contingency plans and procedures, to prevent or respond to acts of terrorism; and

Uniformed services.

"(2) recruit members of the Regular Coast Guard and the Coast Guard Reserve and train members of the Regular Coast Guard and the Coast Guard Reserve in the techniques of preventing and responding to acts of terrorism.".

SEC. 907. SECURITY STANDARDS AT FOREIGN PORTS.

Vessels.
46 USC app. 1803.

(a) ASSESSMENT OF SECURITY MEASURES.—The Secretary of Transportation shall develop and implement a plan to assess the effectiveness of the security measures maintained at those foreign ports which the Secretary, in consultation with the Secretary of State, determines pose a high risk of acts of terrorism directed against passenger vessels.

(b) CONSULTATION WITH THE SECRETARY OF STATE.—In carrying out subsection (a), the Secretary of Transportation shall consult the Secretary of State with respect to the terrorist threat which exists in each country and poses a high risk of acts of terrorism directed against passenger vessels.

(c) REPORT OF ASSESSMENTS.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall report to the Congress on the plan developed pursuant to subsection (a) and how the Secretary will implement the plan.

(d) DETERMINATION AND NOTIFICATION TO FOREIGN COUNTRY.—If, after implementing the plan in accordance with subsection (a), the Secretary of Transportation determines that a port does not maintain and administer effective security measures, the Secretary of State (after being informed by the Secretary of Transportation) shall notify the appropriate government authorities of the country in which the port is located of such determination, and shall recommend the steps necessary to bring the security measures in use at that port up to the standard used by the Secretary of Transportation in making such assessment.

President of U.S.

(e) ANTITERRORISM ASSISTANCE RELATED TO MARITIME SECURITY.—The President is encouraged to provide antiterrorism assistance related to maritime security under chapter 8 of part II of the Foreign Assistance Act of 1961 to foreign countries, especially with respect to a port which the Secretary of Transportation determines under subsection (d) does not maintain and administer effective security measures.

22 USC 2349aa.

SEC. 908. TRAVEL ADVISORIES CONCERNING SECURITY AT FOREIGN PORTS.

46 USC app. 1804.

Vessels.

(a) TRAVEL ADVISORY.—Upon being notified by the Secretary of Transportation that the Secretary has determined that a condition exists that threatens the safety or security of passengers, passenger vessels, or crew traveling to or from a foreign port which the Secretary of Transportation has determined pursuant to section 907(d) to be a port which does not maintain and administer effective security measures, the Secretary of State shall immediately issue a travel advisory with respect to that port. Any travel advisory issued pursuant to this subsection shall be published in the Federal Register. The Secretary of State shall take the necessary steps to widely publicize that travel advisory.

Federal Register, publication.

(b) LIFTING OF TRAVEL ADVISORY.—The travel advisory required to be issued under subsection (a) may be lifted only if the Secretary of Transportation, in consultation with the Secretary of State, has determined that effective security measures are maintained and administered at the port with respect to which the Secretary of Transportation had made the determination described in section 907(d).

(c) NOTIFICATION TO CONGRESS.—The Secretary of State shall immediately notify the Congress of any change in the status of a travel advisory imposed pursuant to this section.

Vessels.
46 USC app. 1805.
President of U.S.

SEC. 909. SUSPENSION OF PASSENGER SERVICES.

(a) PRESIDENT'S DETERMINATION.—Whenever the President determines that a foreign nation permits the use of territory under its jurisdiction as a base of operations or training for, or as a sanctuary for, or in any way arms, aids, or abets, any terrorist or terrorist group which knowingly uses the illegal seizure of passenger vessels or the threat thereof as an instrument of policy, the President may, without notice or hearing and for as long as the President determines necessary to assure the security of passenger vessels against unlawful seizure, suspend the right of any passenger vessel common carrier to operate to and from, and the right of any passenger vessel of the United States to utilize, any port in that foreign nation for passenger service.

(b) PROHIBITION.—It shall be unlawful for any passenger vessel common carrier, or any passenger vessel of the United States, to operate in violation of the suspension of rights by the President under this section.

(c) PENALTY.—(1) If a person operates a vessel in violation of this section, the Secretary of the department in which the Coast Guard is operating may deny the vessels of that person entry to United States ports.

(2) A person violating this section is liable to the United States Government for a civil penalty of not more than $50,000. Each day a vessel utilizes a prohibited port shall be a separate violation of this section.

46 USC app. 1806.

SEC. 910. SANCTIONS FOR THE SEIZURE OF VESSELS BY TERRORISTS.

The Congress encourages the President—

(1) to review the adequacy of domestic and international sanctions against terrorists who seize or attempt to seize vessels; and

(2) to strengthen where necessary, through bilateral and multilateral efforts, the effectiveness of such sanctions.

President of U.S. Reports.

Not later than one year after the date of enactment of this Act, the President shall submit a report to the Congress which includes the review of such sanctions and the efforts to improve such sanctions.

46 USC app. 1807.

SEC. 911. DEFINITIONS.

For purposes of this title—

(1) the term "common carrier" has the same meaning given such term in section 3(6) of the Shipping Act of 1984 (46 U.S.C. App. 1702(6)); and

(2) the terms "passenger vessel" and "vessel of the United States" have the same meaning given such terms in section 2101 of title 46, United States Code.

46 USC app. 1808.

SEC. 912. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $12,500,000 for each of the fiscal years 1987 through 1991, to be available to the Secretary of Transportation to carry out this title.

46 USC app. 1809.

SEC. 913. REPORTS.

Classified information.

(a) CONSOLIDATION.—To the extent practicable, the reports required under sections 903, 905, and 907 shall be consolidated into a single document before being submitted to the Congress. Any classified material in those reports shall be submitted separately as an addendum to the consolidated report.

(b) SUBMISSION TO COMMITTEES.—The reports required to be submitted to the Congress under this title shall be submitted to the Committee on Foreign Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Foreign Relations and the Committee on Commerce, Science and Transportation of the Senate.

TITLE X—FASCELL FELLOWSHIP PROGRAM

Fascell Fellowship Act.

SEC. 1001. SHORT TITLE.

22 USC 4901 note.

This title may be cited as the "Fascell Fellowship Act".

SEC. 1002. FELLOWSHIP PROGRAM FOR TEMPORARY SERVICE AT UNITED STATES MISSIONS IN THE SOVIET UNION AND EASTERN EUROPE.

22 USC 4901.

(a) ESTABLISHMENT.—There is hereby established a fellowship program pursuant to which the Secretary of State will provide fellowships to United States citizens while they serve, for a period of between one and two years, in positions formerly held by foreign national employees at United States diplomatic or consular missions in the Soviet Union or Eastern European countries.

(b) DESIGNATION OF FELLOWSHIPS.—Fellowships under this title shall be known as "Fascell Fellowships".

(c) PURPOSE OF THE FELLOWSHIPS.—Fellowships under this title shall be provided in order to allow the recipient (hereafter in this title referred to as a "Fellow") to serve on a short-term basis at a United States diplomatic or consular mission in the Soviet Union or an Eastern European country in order to obtain first hand exposure to that country, including (as appropriate) independent study in Soviet or Eastern European area studies or languages.

(d) INDIVIDUALS WHO MAY RECEIVE A FELLOWSHIP.—To receive a fellowship under this title, an individual must be a United States citizen who is an undergraduate or graduate student, a teacher, scholar, or other academic, or an other individual, who has expertise in Soviet or Eastern European area studies or languages and who has a working knowledge of the principal language of the country in which he or she would serve.

(e) WOMEN AND MEMBERS OF MINORITY GROUPS.—In carrying out this section, the Secretary of State shall actively recruit women and members of minority groups.

SEC. 1003. FELLOWSHIP BOARD.

22 USC 4902.

(a) ESTABLISHMENT AND FUNCTION.—There is hereby established a Fellowship Board (hereafter in this title referred to as the "Board"), which shall select the individuals who will be eligible to serve as Fellows.

(b) MEMBERSHIP.—The Board shall consist of 9 members as follows:

(1) A senior official of the Department of State (who shall be the chair of the Board), designated by the Secretary of State.

(2) An officer or employee of the Department of Commerce, designated by the Secretary of Commerce.

(3) An officer or employee of the United States Information Agency, designated by the Director of that Agency.

(4) Six academic specialists in Soviet or Eastern European area studies or languages, appointed by the Secretary of State (in consultation with the chairman and ranking minority member of the Committee on Foreign Affairs of the House of

Representatives and the chairman and ranking minority of the Committee on Foreign Relations of the Senate).

(c) MEETINGS.—The Board shall meet at least once each year to select the individuals who will be eligible to serve as Fellows.

(d) COMPENSATION AND PER DIEM.—Members of the Board shall receive no compensation on account of their service on the Board, but while away from their homes or regular places of business in the performance of their duties under this title, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

22 USC 4903.

SEC. 1004. FELLOWSHIPS.

(a) NUMBER.—Up to 100 fellowships may be provided under this title each year.

(b) REMUNERATION AND PERIOD.—The Board shall determine, taking into consideration the position in which each Fellow will serve and his or her experience and expertise—

(1) the amount of remuneration the Fellow will receive for his or her service under this title, and

(2) the period of the fellowship, which shall be between one and two years.

(c) TRAINING.—Each Fellow may be given appropriate training at the Foreign Service Institute or other appropriate institution.

(d) HOUSING AND TRANSPORTATION.—The Secretary of State shall, pursuant to regulations—

(1) provide housing for each Fellow while the Fellow is serving abroad, including (where appropriate) housing for family members; and

(2) pay the costs and expenses incurred by each Fellow in traveling between the United States and the country in which the Fellow serves, including (where appropriate) travel for family members.

(e) EFFECTIVE DATE.—Subsection (d) of this section shall not take effect until October 1, 1986.

22 USC 4904.

SEC. 1005. SECRETARY OF STATE.

(a) DETERMINATIONS.—The Secretary of State shall determine which of the individuals selected by the Board will serve at each United States diplomatic or consular mission in the Soviet Union or Eastern Europe and the position in which each will serve.

(b) AUTHORITIES.—Such service shall be in accordance with the relevant authorities of the Foreign Service Act of 1980, the State Department Basic Authorities Act of 1956, and title 5 of the United States Code.

22 USC 3901 note.
22 USC 2651 note.

(c) FUNDING.—Funds appropriated to the Department of State for "Salaries and Expenses" shall be used for the expenses incurred in carrying out this title.

TITLE XI—SECURITY AT MILITARY BASES ABROAD

10 USC 133 note.

SEC. 1101. FINDINGS.

The Congress finds that—

(1) there is evidence that terrorists consider bases and installations of United States Armed Forces outside the United States to be targets for attack;

(2) more attention should be given to the protection of members of the Armed Forces, and members of their families, stationed outside the United States; and

(3) current programs to educate members of the Armed Forces, and members of their families, stationed outside of the United States to the threats of terrorist activity and how to protect themselves should be substantially expanded.

SEC. 1102. RECOMMENDED ACTIONS BY THE SECRETARY OF DEFENSE. 10 USC 133 note.

It is the sense of the Congress that—

(1) the Secretary of Defense should review the security of each base and installation of the Department of Defense outside the United States, including the family housing and support activities of each such base or installation, and take the steps the Secretary considers necessary to improve the security of such bases and installations; and

(2) the Secretary of Defense should institute a program of training for members of the Armed Forces, and for members of their families, stationed outside the United States concerning security and antiterrorism.

SEC. 1103. REPORT TO THE CONGRESS. 10 USC 133 note.

No later than June 30, 1987, the Secretary of Defense shall report to the Congress on any actions taken by the Secretary described in section 1102.

TITLE XII—CRIMINAL PUNISHMENT OF INTERNATIONAL TERRORISM

SEC. 1201. ENCOURAGEMENT FOR NEGOTIATION OF A CONVENTION.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the President should establish a process to encourage the negotiation of an international convention to prevent and control all aspects of international terrorism. President of U.S.

(b) RELATION TO EXISTING INTERNATIONAL CONVENTIONS.—Such convention should address the prevention and control of international terrorism in a comprehensive fashion, taking into consideration matters not covered by—

(1) the Convention for the Suppression of Unlawful Seizure of Aircraft (the Hague, December 16, 1970; 22 U.S.T. 1641, TIAS 7192);

(2) the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Montreal, September 23, 1971; 24 U.S.T. 564, TIAS 7570);

(3) the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons (New York, December 14, 1973; 28 U.S.T. 1975, TIAS 8532);

(4) the Convention Against the Taking of Hostages (New York, December 17, 1979; XVIII International Legal Materials 1457);

(5) the Convention on the Physical Protection of Nuclear Materials (October 26, 1979; XVIII International Legal Materials 1419); and

(6) the Convention on Offenses and Certain Other Acts Committed on Board Aircraft (Tokyo, September 14, 1963; 20 U.S.T. 2941, TIAS 6768).

(c) WHAT THE CONVENTION SHOULD PROVIDE.—Such convention should provide—

(1) an explicit definition of conduct constituting terrorism;

(2) effective close intelligence-sharing, joint counterterrorist training, and uniform rules for asylum and extradition for perpetrators of terrorism; and

(3) effective criminal penalties for the swift punishment of perpetrators of terrorism.

(d) CONSIDERATION OF AN INTERNATIONAL TRIBUNAL.—The President should also consider including on the agenda for these negotiations the possibility of eventually establishing an international tribunal for prosecuting terrorists.

SEC. 1202. EXTRATERRITORIAL CRIMINAL JURISDICTION OVER TERRORIST CONDUCT.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 113 the following:

"CHAPTER 113A—EXTRATERRITORIAL JURISDICTION OVER TERRORIST ACTS ABROAD AGAINST UNITED STATES NATIONALS

18 USC 2331.

"§ 2331. Terrorist acts abroad against United States nationals

"(a) HOMICIDE.—Whoever kills a national of the United States, while such national is outside the United States, shall—

"(1) if the killing is a murder as defined in section 1111(a) of this title, be fined under this title or imprisoned for any term of years or for life, or both so fined and so imprisoned;

"(2) if the killing is a voluntary manslaughter as defined in section 1112(a) of this title, be fined under this title or imprisoned not more than ten years, or both; and

"(3) if the killing is an involuntary manslaughter as defined in section 1112(a) of this title, be fined under this title or imprisoned not more than three years, or both.

"(b) ATTEMPT OR CONSPIRACY WITH RESPECT TO HOMICIDE.—Whoever outside the United States attempts to kill, or engages in a conspiracy to kill, a national of the United States shall—

"(1) in the case of an attempt to commit a killing that is a murder as defined in this chapter, be fined under this title or imprisoned not more than 20 years, or both; and

"(2) in the case of a conspiracy by two or more persons to commit a killing that is a murder as defined in section 1111(a) of this title, if one or more of such persons do any overt act to effect the object of the conspiracy, be fined under this title or imprisoned for any term of years or for life, or both so fined and so imprisoned.

"(c) OTHER CONDUCT.—Whoever outside the United States engages in physical violence—

"(1) with intent to cause serious bodily injury to a national of the United States; or

"(2) with the result that serious bodily injury is caused to a national of the United States;

shall be fined under this title or imprisoned not more than five years, or both.

"(d) DEFINITION.—As used in this section the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"(e) LIMITATION ON PROSECUTION.—No prosecution for any offense described in this section shall be undertaken by the United States except on written certification of the Attorney General or the highest ranking subordinate of the Attorney General with responsibility for criminal prosecutions that, in the judgment of the certifying official, such offense was intended to coerce, intimidate, or retaliate against a government or a civilian population.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item for chapter 113, the following new item:

"113A. Extraterritorial jurisdiction over terrorist acts abroad against United States nationals.".

TITLE XIII—MISCELLANEOUS PROVISIONS

SEC. 1301. PEACE CORPS AUTHORIZATION OF APPROPRIATIONS.

Section 3 of the Peace Corps Act is amended by amending subsection (b) to read as follows: 22 USC 2502.

"(b) There are authorized to be appropriated to carry out the purposes of this Act $130,000,000 for the fiscal year 1986 and $137,200,000 for the fiscal year 1987.".

SEC. 1302. DEMONSTRATIONS AT EMBASSIES IN THE DISTRICT OF COLUMBIA.

It is the sense of the Congress that—

(1) the District of Columbia law concerning demonstrations near foreign missions in the District of Columbia (D.C. Code, sec. 22-1115) may be inconsistent with the reasonable exercise of the rights of free speech and assembly, that law may have been selectively enforced, and peaceful demonstrators may have been unfairly arrested under that law;

(2) the obligation of the United States to provide adequate security for the missions and personnel of foreign governments must be balanced with the reasonable exercise of the rights of free speech and assembly; and

(3) therefore, the Council of the District of Columbia should review and, if appropriate, make revisions in the laws of the District of Columbia concerning demonstrations near foreign missions, in consultation with the Secretary of State and the Secretary of the Treasury.

SEC. 1303. KURT WALDHEIM'S RETIREMENT ALLOWANCE.

(a) FINDINGS.—The Congress finds that—

(1) Kurt Waldheim's misrepresentations about his past enabled him to rise to the position of Secretary General of the United Nations;

(2) Kurt Waldheim currently receives $81,650 a year as a retirement allowance for his service in that position; and

(3) Kurt Waldheim's misrepresentations went to matters that lie at the very heart of the purposes of the United Nations.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that the President should instruct the Permanent Representative of the United States to the United Nations to act to amend the 1986-1987 Regular Program Budget to eliminate funding of Kurt Waldheim's retirement allowance and to act to deny Kurt Waldheim a retirement allowance in all future budgets.

SEC. 1304. ERADICATION OF AMBLYOMMA VARIEGATUM.

Animals.

Section 103(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151a(a)) is amended by adding after paragraph (2) the following new paragraph:

"(3) Of the amounts authorized to be appropriated in paragraph (2) for the fiscal year 1987, not less than $2,000,000 shall be available only for the purpose of controlling and eradicating amblyomma variegatum (heartwater) in bovine animals in the Caribbean.".

SEC. 1305. STRENGTHEN FOREIGN LANGUAGE SKILLS.

It is the sense of the Congress that the Secretary of State should substantially strengthen the foreign language training of Foreign Service officers and other United States diplomatic personnel who may serve in embassies overseas, and to work toward early implementation of a program focusing on acquisition and retention of effective linguistic skills the careers of United States diplomatic personnel.

SEC. 1306. FORFEITURE OF PROCEEDS DERIVED FROM ESPIONAGE ACTIVITIES.

(a) GATHERING, TRANSMITTING, OR LOSING DEFENSE INFORMATION.—Section 793 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h)(1) Any person convicted of a violation of this section shall forfeit to the United States, irrespective of any provision of State law, any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, from any foreign government, or any faction or party or military or naval force within a foreign country, whether recognized or unrecognized by the United States, as the result of such violation.

"(2) The court, in imposing sentence on a defendant for a conviction of a violation of this section, shall order that the defendant forfeit to the United States all property described in paragraph (1) of this subsection.

"(3) The provisions of subsections (b), (c), and (e) through (o) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853(b), (c), and (e)-(o)) shall apply to—

"(A) property subject to forfeiture under this subsection;

"(B) any seizure or disposition of such property; and

"(C) any administrative or judicial proceeding in relation to such property,

if not inconsistent with this subsection.

"(4) Notwithstanding section 524(c) of title 28, there shall be deposited in the Crime Victims Fund in the Treasury all amounts from the forfeiture of property under this subsection remaining after the payment of expenses for forfeiture and sale authorized by law.".

(b) GATHERING OR DELIVERING DEFENSE INFORMATION TO AID FOREIGN GOVERNMENT.—Section 794 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(d)(1) Any person convicted of a violation of this section shall forfeit to the United States irrespective of any provision of State law—

"(A) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation, and

"(B) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation.

"(2) The court, in imposing sentence on a defendant for a conviction of a violation of this section, shall order that the defendant forfeit to the United States all property described in paragraph (1) of this subsection.

"(3) The provisions of subsections (b), (c) and (e) through (o) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853(b), (c), and (e)-(o)) shall apply to—

"(A) property subject to forfeiture under this subsection;

"(B) any seizure or disposition of such property; and

"(C) any administrative or judicial proceeding in relation to such property,

if not inconsistent with this subsection.

"(4) Notwithstanding section 524(c) of title 28, there shall be deposited in the Crime Victims Fund in the Treasury all amount from the forfeiture of property under this subsection remaining after the payment of expenses for forfeiture and sale authorized by law.".

(c) ORDER OF SPECIAL FORFEITURE.—Subsection (a) of section 3671 of title 18, United States Code, is amended by inserting after "conviction of a defendant for" the following: "an offense under section 794 of this title or for".

Ante, p. 898.

SEC. 1307. EXPRESSION OF SUPPORT OF ACTIVITIES OF THE UNITED STATES TELECOMMUNICATIONS TRAINING INSTITUTE.

Nothing in this Act, the Communications Act of 1934, or any other Act, shall be construed to preclude the Department of State, the United States Agency for International Development, or the United States Information Agency from participation in support of any activities of the United States Telecommunications Training Institute (including use of staff, other appropriate resources and service on the board of the Institute).

47 USC 609.

SEC. 1308. POLICY TOWARD AFGHANISTAN.

Union of Soviet Socialist Republics.
Human rights.

(a) FINDINGS.—The Congress finds that—

(1) the Soviet Union invaded the sovereign territory of Afghanistan on December 27, 1979, and continues to occupy and attempt to subjugate that nation through the use of force, relying upon a puppet regime and an occupying army of an estimated 120,000 Soviet troops;

(2) the outrageous and barbaric treatment of the people of Afghanistan by the Soviet Union is repugnant to all freedom-loving peoples as reflected in seven United Nations resolutions of condemnation, violates all standards of conduct befitting a responsible nation, and contravenes all recognized principles of international law;

(3) the Special Rapporteur of the United Nations Commission on Human Rights, in his November 5, 1985, report to the General Assembly, concludes that "whole groups of persons and tribes are endangered in their existence and in their lives because their living conditions are fundamentally affected by the kind of warfare being waged" and that the "Government of Afghanistan, with heavy support from foreign [Soviet] troops, acts with great severity against opponents or suspected opponents of the regime without any respect for human rights

obligations" including "use of antipersonnel mines and of so-called toy bombs" and "the indiscriminate mass killings of civilians, particularly women and children";

Kabul.

(4) the Special Rapporteur also concludes that the war in Afghanistan has been characterized by "the most cruel methods of warfare and by the destruction of large parts of the country which has affected the conditions of life of the population, destabilizing the ethnic and tribal structure and disrupting family units" and that the "demographic structure of the country has changed, since over 4 million refugees from all provinces and all classes have settled outside the country and thousands of internal refugees have crowded into the cities like Kabul";

(5) the United Nations General Assembly, in a recorded vote of 80-22 on December 13, 1985, accepted the findings of the Special Rapporteur and deplored the refusal of Soviet-led Afghan officials to cooperate with the United Nations, and expressed "profound distress and alarm" at "the widespread violations of the right to life, liberty, and security of person, including the commonplace practice of torture and summary executions of the regime's opponents, as well as increasing evidence of a policy of religious intolerance";

(6) in a subsequent report of the Special Rapporteur of February 14, 1986, the Special Rapporteur found that "The only solution to the human rights situation in Afghanistan is the withdrawal of the foreign troops" and that "Continuation of the military solution will, in the opinion of the Special Rapporteur, lead inevitably to a situation approaching Genocide, which the traditions and culture of this noble people cannot permit";

(7) the Soviet invasion of Afghanistan caused the United States to postpone indefinitely action on the SALT II Treaty in 1979, and the presence of Soviet troops in that country today continues to adversely affect the prospects for long-term improvement of the United States-Soviet bilateral relationship in many fields of great importance to the global community;

(8) the Soviet leadership appears to be engaged in a calculated policy of raising hopes for a withdrawal of Soviet troops from Afghanistan in the apparent belief that words will substitute for genuine action in shaping world opinion; and

President of U.S. State of the Union Address.

(9) President Reagan, in his February 4, 1986, State of the Union Address promised the Afghan people that "America will support with moral and material assistance your right not just to fight and die for freedom, but to fight and win freedom".

(b) POLICY.—(1) It is the sense of the Congress that the United States, so long as Soviet military forces occupy Afghanistan, should support the efforts of the people of Afghanistan to regain the sovereignty and territorial integrity of their nation through—

(A) the appropriate provisions of material support;

(B) renewed multilateral initiatives aimed at encouraging Soviet military withdrawal, the return of an independent and nonaligned status to Afghanistan, and a peaceful political settlement acceptable to the people of Afghanistan, which includes provision for the return of Afghan refugees in safety and dignity;

Public information.

(C) a continuous and vigorous public information campaign to bring the facts of the situation in Afghanistan to the attention of the world;

(D) frequent efforts to encourage the Soviet leadership and the Soviet-backed Afghan regime to remove the barriers erected against the entry into and reporting of events in Afghanistan by international journalists; and

(E) vigorous efforts to impress upon the Soviet leadership the penalty that continued military action in Afghanistan imposes upon the building of a long-term constructive relationship with the United States, because of the negative effect that Soviet policies in Afghanistan have on attitudes toward the Soviet Union among the American people and the Congress.

(2) It is further the sense of the Congress that the Secretary of State should— Reports.

(A) determine whether the actions of Soviet forces against the people of Afghanistan constitute the international crime of Genocide as defined in Article II of the International Convention on the Prevention and Punishment of the Crime of Genocide, signed on behalf of the United States on December 11, 1948, and, if the Secretary determines that Soviet actions may constitute the crime of genocide, he shall report his findings to the President and the Congress, along with recommended actions; and

(B) review United States policy with respect to the continued recognition of the Soviet puppet government in Kabul to determine whether such recognition is in the interest of the United States. Kabul.

Approved August 27, 1986.

LEGISLATIVE HISTORY—H.R. 4151:

HOUSE REPORTS: No. 99-494 (Comm. on Foreign Affairs) and No. 99-783 (Comm. of Conference).
SENATE REPORTS: No. 99-304 (Comm. on Foreign Relations).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Mar. 18, considered and passed House.
June 25, considered and passed Senate, amended.
Aug. 12, House and Senate agreed to conference report.

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Public Law 99-400
99th Congress

An Act

Aug. 27, 1986
[H.R. 5371]

To extend until September 15, 1986, the emergency acquisition and net worth guarantee provisions of the Garn-St Germain Depository Institutions Act of 1982.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 141(a) of the Garn-St Germain Depository Institutions Act of 1982 is amended by striking out "July 15, 1986" and inserting in lieu thereof "September 15, 1986".

Ante, p. 397.

(b) Section 206(a) of such Act is amended by striking out "July 15, 1986" and inserting in lieu thereof "September 15, 1986".

Ante, p. 397.

Effective date.
12 USC 1464 note.

(c) Sections 141(a) and 206(a) of the Garn-St Germain Depository Institutions Act of 1982, as such sections are in effect on the day after the date of enactment of this Act, shall apply as if such sections had been included in the Garn-St Germain Depository Institutions Act of 1982 on the date of the enactment of such Act, no amendment made by any such section to any other provision of law shall be deemed to have taken effect before the date of the enactment of this Act, and any such provision of law shall be in effect as if no such amendment had taken effect before the date of the enactment of this Act.

12 USC 226 note.

Approved August 27, 1986.

LEGISLATIVE HISTORY—H.R. 5371:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 13, considered and passed House.
Aug. 15, considered and passed Senate.

O

71-139 O - 86 (412)

Public Law 99-401
99th Congress

An Act

To amend the Child Abuse Prevention and Treatment Act to establish a program to encourage States to enact child protection reforms which are designed to improve legal and administrative proceedings regarding the investigation and prosecution of child abuse cases, particularly child sexual abuse cases, and to establish demonstration programs of temporary child care for handicapped children and crisis nurseries.

Aug. 27, 1986
[S. 140]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Children's Justice and Assistance Act of 1986.

This Act may be cited as the "Children's Justice and Assistance Act of 1986".

TITLE I—CHILDREN'S JUSTICE

State and local governments.
42 USC 5101 note.

SEC. 101. SHORT TITLE.

Children's Justice Act.

This title may be cited as the "Children's Justice Act".

SEC. 102. CHILDREN'S JUSTICE GRANT.

42 USC 5101 note.

(a) GRANT AUTHORIZATION.—Section 4 of the Child Abuse Prevention and Treatment Act (hereinafter in this title referred to as "the Act") is amended—

Health and medical care.
42 USC 5103.

(1) by redesignating subsections (d), (e), (f), and (f) (the second time such designation appears), as subsections (e), (f), (g), and (h), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) The Secretary (acting through the Center and in consultation with the Attorney General) is authorized to make grants to the States for the purpose of assisting States in developing, establishing, and operating programs designed to improve (A) the handling of child abuse cases, particularly cases of child sexual abuse, in a manner which limits additional trauma to the child victim, and (B) the investigation and prosecution of cases of child abuse, particularly child sexual abuse.

"(2) In order for a State to qualify for assistance under this subsection, such State shall—

"(A) fulfill the requirements of subsections (b)(2) and (4) or receive a waiver of such requirements under subsection (b)(3);

"(B) establish a task force as provided in paragraph (3);

"(C) fulfill the requirements of paragraph (4); and

"(D) submit an application to the Secretary at such time and containing such information and assurances as the Secretary considers necessary, including an assurance that the State will make such reports to the Secretary as may reasonably be required and will maintain and provide access to records relating to activities under this subsection.

Reports.
Records.

"(3)(A) Except as provided in subparagraph (B), a State requesting assistance under this subsection shall establish or designate a multidisciplinary task force on children's justice (hereinafter referred to as "the task force") composed of professionals with knowledge and experience related to the criminal justice system and issues of child abuse. The task force shall include individuals representing the law enforcement community, judicial and legal officers (including individuals involved with the defense as well as the prosecution of such cases), child advocates, health and mental health professionals, individuals representing child protective service agencies, individuals experienced in working with handicapped children, parents, and parents' groups.

"(B) As determined by the Secretary, a commission or task force established after January 1, 1983, with substantially comparable membership and functions, may be considered the task force for the purposes of this subsection.

"(C) Before a State receives assistance under this subsection, the task force shall (i) review and evaluate State investigative, administrative, and judicial handling of cases of child abuse, particularly child sexual abuse, and (ii) make recommendations in each of the categories described in paragraph (4). The task force may make such other comments and recommendations as are considered relevant and useful.

"(4)(A) Subject to the provisions of subparagraph (B), the State shall adopt recommendations of the task force in each of the following categories:

"(i) investigative, administrative, and judicial handling of cases of child abuse, particularly child sexual abuse cases, in a manner which reduces the additional trauma to the child victim and which also ensures procedural fairness to the accused;

"(ii) experimental, model, and demonstration programs for testing innovative approaches and techniques which may improve the rate of successful prosecution or enhance the effectiveness of judicial and administrative action in child abuse cases, particularly child sexual abuse cases, and which also ensure procedural fairness to the accused; and

"(iii) reform of State laws, ordinances, regulations, and procedures to provide comprehensive protection for children from abuse, particularly sexual abuse, while ensuring fairness to all affected persons.

"(B) As determined by the Secretary, a State shall be considered to be in fulfillment of the requirements of this paragraph if—

"(i) the State adopts an alternative to the recommendations of the task force, which carries out the purposes of this subsection, in each of the categories under subparagraph (A) for which the task force's recommendations are not adopted; or

"(ii) the State is making substantial progress toward adopting the recommendations of the task force or a comparable alternative to such recommendations.

"(5) For grants under paragraph (1), the Secretary shall use the amount authorized by section 1404A of the Victims of Crime Act of 1984.".

Post, p. 905.

(b) CRIME VICTIMS FUND.—(1) Section 1402(c)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(c)(1)) is amended by striking out "$100 million" and inserting in lieu thereof "$110 million".

(2) Section 1402(d)(2) of such Act is amended to read as follows:

"(2) The Fund shall be available as follows:

"(A) Of the first $100,000,000 deposited in the Fund in a particular fiscal year—

"(i) 49.5 percent shall be available for grants under section 1403; 42 USC 10602.

"(ii) 45 percent shall be available for grants under section 1404(a);

"(iii) 1 percent shall be available for grants under section 1404(c); and *Infra.*

"(iv) 4.5 percent shall be available for grants as provided in section 1404A.

"(B) The next $5,500,000 deposited in the Fund in a particular fiscal year shall be available for grants as provided in section 1404A.

"(C) Any deposits in the Fund in a particular fiscal year in excess of $105,500,000 shall be available for grants under section 1404(a).". 42 USC 10603.

(3) The Victims of Crime Act of 1984 is amended by inserting after section 1404 the following new section: 42 USC 10601 note.

"CHILD ABUSE PREVENTION AND TREATMENT GRANTS

"SEC. 1404A. Amounts made available by section 1402(d)(2) for the purposes of this section shall be obligated and expended by the Secretary of Health and Human Services for grants under section 4(d) of the Child Abuse Prevention and Treatment Act. Any portion of an amount which is not obligated by the Secretary by the end of the fiscal year in which funds are made available for allocation, shall be reallocated for award under section 1404(a), except that with respect to funds deposited during fiscal year 1986 and made available for obligation during fiscal year 1987, any unobligated portion of such amount shall remain available for obligation until September 30, 1988.". 42 USC 10603a. *Ante*, p. 903.

(4) Section 1404(c) of the Victims of Crime Act of 1984 is amended by striking out "(c)" and all that follows through "The Federal Administrator shall—" in paragraph (3) and inserting in lieu thereof the following: "(c)(1) The Attorney General, acting through the Assistant Attorney General for the Office of Justice Programs, shall make grants— 42 USC 10603.

"(A) for training and technical assistance services to eligible crime victim assistance programs; and

"(B) for the financial support of services to victims of Federal crime by eligible crime victim assistance programs.

"(2) Of the amount available for grants under this subsection—

"(A) not less than 50 percent shall be used for grants under paragraph (1)(A); and

"(B) not more than 50 percent shall be used for grants under paragraph (1)(B).

"(3) The Assistant Attorney General for the Office of Justice Programs shall—".

(5) Section 1404(a)(1) of the Victims of Crime Act of 1984 is amended by striking out "not used for grants under section 1403" and all that follows through "subsection (c)" and inserting in lieu thereof "made available by section 1402(d)(2) for the purpose of grants under this subsection, or for the purpose of grants under section 1403 but not used for that purpose". 42 USC 10602.

Health and medical care. 42 USC 5101.

SEC. 103. THE NATIONAL CENTER ON CHILD ABUSE AND NEGLECT.

(a) STUDIES AND REPORTS.—Section 2(b) of the Act is amended—

(1) by redesignating paragraphs (2), (3), (4), (5), (6), and (7) as paragraphs (3), (4), (6), (7), (8), and (9), respectively;

(2) by inserting after paragraph (1) the following new paragraph:

"(2) compile, evaluate, publish, and disseminate to each State such materials and information as may assist the States in achieving the objectives of section 4(d), including an evaluation of various methods and procedures for the investigation and prosecution of child physical and sexual abuse cases and resultant psychological trauma of the child victim;";

Ante, p. 903.

(3) by inserting after paragraph (4) (as so redesignated) the following new paragraph:

"(5) develop and disseminate, to appropriate State and local officials, model training materials to assist in training law enforcement, legal, judicial, medical, mental health, and child welfare personnel in appropriate methods of interacting during investigative, administrative, and judicial proceedings with children subjected to child abuse;";

(4) by amending paragraph (7) (as so redesignated) to read as follows:

Research and development.

"(7) conduct research on the causes, prevention, identification, and treatment of child abuse and neglect, and on appropriate and effective investigative, administrative, and judicial procedures in cases of child abuse;"; and

(5) by inserting after paragraph (9) (as so redesignated) the following new paragraph:

"(10) not later than two years after the first fiscal year for which funds are obligated under section 1404A of the Victims of Crime Act of 1984, the Secretary shall—

Ante, p. 905.

"(A) evaluate the effectiveness of assisted programs in achieving the objectives of section 4(d); and

Reports.

"(B) submit a report to the appropriate committees of the Congress of such evaluation and of technical assistance in achieving the objectives of such section provided to the States through the National Center on Child Abuse and Neglect.".

42 USC 5101 note.

(b) DISSEMINATION REQUIREMENT.—Information and materials under sections 2(b)(2) and 2(b)(5) of the Act shall be made available to appropriate State officials not later than 180 days after the date of enactment of this Act.

SEC. 104. COORDINATION OF FEDERAL PROGRAMS CONCERNING CHILD ABUSE.

42 USC 5105.

Section 6(a) of the Child Abuse Prevention and Treatment Act is amended—

(1) by inserting after the first sentence "The Advisory Board shall meet at least every six months."; and

(2) in the second sentence by inserting "in order to prevent unnecessary duplication of such programs, to ensure efficient allocation of resources, and to assure that programs effectively address all aspects of the child abuse problem" after "Board".

42 USC 5101 note.

SEC. 105. ACQUISITION OF STATISTICAL DATA.

(a) DATA ACQUISITION FOR 1987 AND 1988.—The Attorney General shall acquire from criminal justice agencies statistical data, for the

calendar years 1987 and 1988, about the incidence of child abuse, including child sexual abuse, and shall publish annually a summary of such data.

(b) MODIFICATION OF UNIFORM CRIME REPORTING PROGRAM.—(1) As soon as practicable, but in no case later than January 1, 1989, the Attorney General shall modify the uniform crime reporting program in the Federal Bureau of Investigation to include data on the age of the victim of the offense and the relationship, if any, of the victim to the offender, for types of offenses that may involve child abuse, including child sexual abuse.

(2) The modification, once made, shall remain in effect until the later of—

(A) 10 years after the date it is made; or

(B) such ending date as may be set by the Attorney General.

SEC. 106. AMENDMENT TO PUBLIC HEALTH SERVICE ACT.

(a) SECTION 523.—Section 523(e) of the Public Health Service Act (42 U.S.C. 290dd-3(e)) is amended by adding after and below paragraph (2) the following: "The prohibitions of this section do not apply to the reporting under State law of incidents of suspected child abuse and neglect to the appropriate State or local authorities.".

(b) SECTION 527.—Section 527(e) of such Act (42 U.S.C. 290ee-(3)) is amended by adding after and below paragraph (2) the following: "The prohibitions of this section do not apply to the reporting under State law of incidents of suspected child abuse and neglect to the appropriate State or local authorities.".

TITLE II—TEMPORARY CHILD CARE FOR HANDICAPPED CHILDREN AND CRISIS NURSERIES

Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986.
42 USC 5117 note.

SEC. 201 SHORT TITLE.

This title may be cited as the "Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986".

Health and medical care
42 USC 5117.

SEC. 202. FINDINGS.

The Congress finds that it is necessary to establish demonstration programs of grants to the States to assist private and public agencies and organizations to provide: (A) temporary non-medical child care for children with special needs to alleviate social, emotional, and financial stress among children and families of such children, and (B) crisis nurseries for children who are abused and neglected, at risk of abuse or neglect, or who are in families receiving child protective services.

Health and medical care
42 USC 5117a.

SEC. 203. TEMPORARY CHILD CARE FOR HANDICAPPED AND CHRONICALLY ILL CHILDREN.

The Secretary of Health and Human Services shall establish a demonstration program of grants to States to assist private and public agencies and organizations to provide in-home or out-of-home temporary non-medical child care for handicapped children, and children with chronic or terminal illnesses. Such care shall be provided on a sliding fee scale with hourly and daily rates.

42 USC 5117b.

SEC. 204. CRISIS NURSERIES.

The Secretary of Health and Human Services shall establish a demonstration program of grants to States to assist private and

public agencies and organizations to provide crisis nurseries for children who are abused and neglected, are at high risk of abuse and neglect, or who are in families receiving child protective services. Such service shall be provided without fee for a maximum of 30 days in any year. Crisis nurseries shall also provide referral to support services.

Grants.
42 USC 5117c.

SEC. 205. ADMINISTRATIVE PROVISIONS.

(a) APPLICATIONS.—

(1) Any State which desires to receive a grant under section 203 or 204 shall submit an application to the Secretary in such form and at such times as the Secretary may require. Such application shall—

(A) describe the proposed State program, including the services to be provided, the agencies and organizations that will provide the services, and the criteria for selection of children and families for participation in projects under the program;

(B) contain an estimate of the cost of developing, implementing, and evaluating the State program;

(C) set forth the plan for dissemination of the results of the projects; and

(D) specify the State agency designated to administer programs and activities assisted under this title and the plans for coordinating interagency support of the program.

(2) Such application shall contain assurances that—

(A) not more than 5 percent of funds made available under this title will be used for State administrative costs;

(B) projects will be of sufficient size, scope, and quality to achieve the objectives of the program;

(C) in the distribution of funds made available under section 203, a State will give priority consideration to agencies and organizations with experience in working with handicapped and chronically ill children and their families and which serve communities with the greatest need for such services;

(D) in the distribution of funds made available under section 204, the State will give priority consideration to agencies and organizations with experience in working with abused or neglected children and their families, and with children at high risk of abuse and neglect and their families, and which serve communities which demonstrate the greatest need for such services; and

(E) Federal funds made available under this title will be so used as to supplement and, to the extent practicable, increase the amount of State and local funds that would in the absence of such Federal funds be made available for the uses specified in this title, and in no case supplant such State or local funds.

(b) AWARD OF GRANTS.—

(1) In reviewing applications for grants under this title, the Secretary shall consider, among other factors, the equitable geographical distribution of grants.

(2) In the award of temporary non-medical child care demonstration grants under section 203, the Secretary shall give a preference to States in which such care is unavailable.

(3) Of the funds appropriated under section 206, one-half shall be available for grants under section 203 and one-half shall be available for grants under section 204.

(c) EVALUATIONS.—States receiving grants under this title, shall annually submit a report to the Secretary evaluating funded programs. Such report shall include information concerning costs, the number of participants, impact on family stability, the incidence of abuse and neglect, and such other information as the Secretary may require. Reports.

(d) DEFINITIONS.—For the purposes of this title—

(1) the term "Secretary" means the Secretary of Health and Human Services;

(2) the term "handicapped children" has the meaning given such term in section 602(a)(1) of the Education of the Handicapped Act; 20 USC 1401.

(3) the term "crisis nursery" means a center providing temporary emergency services and care for children; and

(4) the term "non-medical child care" means the provision of care to provide temporary relief for the primary caregiver.

SEC. 206. AUTHORIZATION OF APPROPRIATIONS. 42 USC 5117d.

There are authorized to be appropriated for the purposes of this title such sums as may be necessary for each of the fiscal years 1987 and 1988. Such sums shall remain available until expended.

SEC. 207. EFFECTIVE DATE. 42 USC 5117 note.

This title shall take effect October 1, 1986.

Approved August 27, 1986.

LEGISLATIVE HISTORY—S. 140:

SENATE REPORTS: No. 99-123 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Aug. 4, considered and passed Senate.
Vol. 132 (1986): Aug. 4, considered and passed House, amended.
Aug. 12, Senate concurred in House amendments.

O

FEDERAL LANDS CLEANUP ACT OF 1985

71-139 O - 86 (414)

Public Law 99-402
99th Congress

An Act

Aug. 27, 1986
[S. 1888]

To provide for a program of cleanup and maintenance on Federal lands.

Federal Lands Cleanup Act of 1985.
Environmental protection.
36 USC 169i note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Lands Cleanup Act of 1985".

FINDINGS

36 USC 169i note.

SEC. 2. Congress finds that—

(1) Federal lands, parks, recreation areas, and waterways provide recreational opportunities for millions of Americans each year;

(2) the Federal lands administered by the several Federal land management agencies contain valuable wildlife, scenery, natural and historic features, and other resources which may be damaged by litter and misuse;

(3) it is in the best interest of our country and its citizens to maintain and preserve the beauty, safety, and availability of these Federal lands;

(4) these land management agencies have been designated as the caretakers of these Federal lands and have been given the responsibility for maintaining and preserving these areas and facilities;

(5) there is great value in volunteer involvement in maintaining and preserving Federal lands for recreational use;

(6) the Federal land management agencies should be concerned with promoting a sense of pride and ownership among citizens toward these lands;

(7) the use of citizen volunteers in a national cleanup effort promotes these goals and encourages the thoughtful use of these Federal lands and facilities;

(8) the positive impact of annual cleanup events held at various recreation sites has already been proven by steadily declining levels of litter at these sites; and

(9) a national program for cleaning and maintaining Federal lands using volunteers will save millions of tax dollars.

DESIGNATION OF PUBLIC LANDS CLEANUP DAY

President of U.S.

SEC. 3. The first Saturday after Labor Day of each year is designated as "Federal Lands Cleanup Day". The President shall issue a proclamation calling upon the people of the United States to observe Federal Lands Cleanup Day with appropriate ceremonies, programs, and activities: *Provided, however,* That the activities associated with Federal Lands Cleanup Day may be undertaken in individual States on a day other than the first Saturday after Labor

Day if the affected Federal land managers determine that because of climatological or other factors, an alternative date is more appropriate.

FEDERAL PARTICIPATION IN FEDERAL LANDS CLEANUP DAY

SEC. 4. (a)(1) In order to observe Federal Lands Cleanup Day at the Federal level, each Federal land management agency shall organize, coordinate, and participate with citizen volunteers and State and local agencies in cleaning and providing for the maintenance of Federal public lands, recreation areas, and waterways within the jurisdiction of such agency.

Voluntarism. State and local governments. 36 USC 169i-1.

(2) For purposes of this Act, the term "Federal land management agency" shall include—

(A) the Forest Service of the Department of Agriculture;

(B) the Bureau of Land Management of the Department of the Interior;

(C) the National Park Service of the Department of the Interior;

(D) the Fish and Wildlife Service of the Department of the Interior;

(E) the Bureau of Reclamation of the Department of the Interior; and

(F) the Army Corps of Engineers.

(b) Each Federal land management agency shall plan for and carry out activities on Federal Lands National Cleanup Day which—

(1) encourage continuing public and private sector cooperation in preserving the beauty and safety of areas within the jurisdiction of such agency;

(2) increase citizens' sense of ownership and community pride in such areas;

(3) reduce litter on Federal lands, along trails and waterways, and within such areas; and

(4) maintain and improve trails, recreation areas, waterways and facilities.

Such activities shall be held in cooperation with appropriate State, county, and local government agencies.

State and local governments.

(c)(1) Within ninety days following the first Federal Lands Cleanup Day occurring after the date of enactment of this Act, each Federal land management agency shall provide a summary report to Congress briefly outlining the types of activities undertaken; the

Reports. Voluntarism.

sites involved; the nature and extent of the volunteer involvement; the cost savings realized from the program and the overall success of such agency in observing Federal Lands Cleanup Day.

(2) Such reporting requirements shall remain in effect for two years after the submission of the first report.

Approved August 27, 1986.

LEGISLATIVE HISTORY—S. 1888:

SENATE REPORTS: No. 99-355 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 11, considered and passed Senate.
Aug. 15, considered and passed House.

O

Public Law 99-403
99th Congress

Joint Resolution

To proclaim October 23, 1986, as "A Time of Remembrance" for all victims of terrorism throughout the world.

Aug. 27, 1986
[S.J. Res. 249]

Whereas the problem of terrorism has become an international concern that knows no boundaries—religious, racial, political, or national;

Whereas thousands of men, women, and children have died at the hands of terrorists in nations around the world, and today terrorism continues to claim the lives of many peace-loving individuals;

Whereas October 23, 1983, is the date on which the largest number of Americans were killed in a single act of terrorism—the bombing of the United States compound in Beirut, Lebanon, in which two hundred and forty-one United States servicemen lost their lives;

Whereas many of these victims died defending ideals of peace and freedom; and

Whereas it is appropriate to honor all victims of terrorism; and in America to console the families of victims, and to cherish the freedom that their sacrifices make possible for all Americans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 23, 1986, be proclaimed as "A Time of Remembrance", to urge all Americans to take time to reflect on the sacrifices that have been made in the pursuit of peace and freedom, and to promote active participation by the American people through the wearing of a purple ribbon, a symbol of patriotism, dignity, loyalty, and martyrdom. The President is authorized and requested to issue a proclamation calling upon the departments and agencies of the United States and interested organizations, groups, and individuals to fly United States flags at half staff throughout the world in the hope that the desire for peace and freedom take firm root in every person and every nation.

Approved August 27, 1986.

LEGISLATIVE HISTORY—S.J. Res. 249:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Feb. 4, considered and passed Senate.
Aug. 13, considered and passed House.

71-139 O - 86 (415)

Public Law 99-404
99th Congress

Joint Resolution

Aug. 27, 1986
[S.J. Res. 298]

To designate the week of October 5, 1986, through October 11, 1986, as "Mental Illness Awareness Week".

Whereas mental illness is a problem of grave concern and consequence in American society, though one widely but unnecessarily feared and misunderstood;

Whereas thirty-one to forty-one million Americans annually suffer from clearly diagnosable mental disorders involving significant disability with respect to employment, attendance at school, or independent living;

Whereas more than ten million Americans are disabled for long periods of time by schizophrenia, manic depressive disorder, and major depression;

Whereas between 30 and 50 per centum of the homeless suffer serious, chronic forms of mental illness;

Whereas alcohol, drug, and mental disorders affect almost 19 per centum of American adults in any six-month period;

Whereas mental illness in at least twelve million children interferes with vital development and maturational processes;

Whereas mental disorder-related deaths are estimated to be thirty-three thousand, with suicide accounting for at least twenty-nine thousand, although the real number is thought to be at least three times higher;

Whereas our growing population of the elderly is particularly vulnerable to mental illness;

Whereas mental disorders result in staggering costs to society, totalling an estimated $106,200,000,000 in direct treatment and support and indirect costs to society, including lost productivity;

Whereas mental illness is increasingly a treatable disability with excellent prospects for amelioration and recovery when properly recognized;

Whereas families of mentally ill citizens and those persons themselves have begun to join self-help groups seeking to combat the unfair stigma of the diseases, to support greater national investment in research, and to advocate for an adequate continuum of care from hospital to community;

Whereas in recent years there have been unprecedented major research developments bringing new methods and technology to the sophisticated and objective study of the functioning of the brain and its linkages to both normal and abnormal behavior;

Whereas research in recent decades has led to a wide array of new and more effective modalities of treatment (both somatic and psychosocial) for some of the most incapacitating forms of mental illness (including schizophrenia, major affective disorders, phobias, and phobic disorders);

Whereas appropriate treatment of mental illness has been demonstrated to be cost effective in terms of restored productivity,

71-139 O - 86 (416)

reduced utilization of other health services, and lessened social dependence; and

Whereas recent and unparalleled growth in scientific knowledge about mental illness has generated the current emergence of a new threshold of opportunity for future research advances and fruitful application to specific clinical problems: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on October 5, 1986, is designated as "Mental Illness Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved August 27, 1986.

LEGISLATIVE HISTORY—S.J. Res. 298:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 22, considered and passed Senate.
Aug. 13, considered and passed House.

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Public Law 99-405
99th Congress

Joint Resolution

Aug. 27, 1986
[S.J. Res. 338]

To designate November 18, 1986, as "National Community Education Day"

Whereas public education is a community enterprise, and everyone in the community has a stake in the mission of educating adults as well as the community's children;

Whereas local citizens have a right and a responsibility to be involved in deciding how the educational resources of the community should be used;

Whereas education reform should, in the words of A Nation at Risk, "focus on the goal of creating a Learning Society";

Whereas education is a lifelong process;

Whereas each community should promote the use of community resources in schools and colleges, citizen involvement in educational decisionmaking, the use of community resources to provide educational opportunities for learners of all ages and educational backgrounds, and interagency cooperation to assure effective use of limited resources; and

Whereas the goal of community education is a sharing, learning society: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 18, 1986, is designated as "National Community Education Day", and the President is requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved August 27, 1986.

LEGISLATIVE HISTORY—S.J. Res. 338:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 9, considered and passed Senate.
Aug. 13, considered and passed House.

71-139 O - 86 (417)

Public Law 99-406
99th Congress

Joint Resolution

To designate the month of September 1986 as "Adult Literacy Awareness Month".

Aug. 27, 1986
[S.J. Res. 358]

Whereas the incidence of illiteracy and functional illiteracy among the Nation's adult population has critical effects on our economy, our social institutions, and our security; and unquantifiable personal implications and limitations for millions of Americans;

Whereas estimates of illiterate or functionally illiterate Americans range from twenty-three million to over fifty million individuals lacking effective communication skills;

Whereas adult illiteracy has not been the focus of general awareness and understanding;

Whereas illiteracy is not limited to any region of the Nation, nor to any social, economic, or ethnic group, but is widespread and present in every community;

Whereas adult illiterates are family members, providers, and citizens of a community, and are motivated to improve their skills and lives by seeking remediation when it is provided;

Whereas Americans traditionally have responded to the call to aid their fellow citizens when they are aware of and understand a problem, and can help resolve the problem of adult illiteracy by volunteering to serve as tutors, providing in-kind services, and supporting in numerous ways efforts to combat illiteracy;

Whereas the problem of adult illiteracy is amendable to solution if there is maximum private initiative, public-private cooperation, and community action to provide assistance to those in need;

Whereas the Federal Government is beginning to recognize the critical need to address adult illiteracy and the private sector is beginning to address the problem through a number of initiatives;

Whereas one thousand four hundred newspapers will focus on the problem of adult literacy beginning the month of September 1986; and a major broadcast network and public broadcasting have joined together in an awareness and information campaign called Project Literacy US (PLUS) which will begin on-air programming in September 1986;

Whereas more than seventy major national organizations including those involved in education, religion, business, labor, employee associations, agriculture, veterans, service clubs, trade and professional associations have pledged to support PLUS at the local level and among their membership; and

Whereas others in communications—television, magazine publishers, book publishers, broadcasters, and advertising agencies—will support and encourage efforts to raise awareness of the problem of adult illiteracy in September of 1986 and beyond: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of September 1986 is designated as "Adult Literacy Awareness Month" and the President of the United States is authorized and requested to

71-139 O - 86 (418)

issue a proclamation to that effect, calling on the American people and organizations of every kind to observe the month with activities to increase awareness of the problem of adult illiteracy and engage in programs to address the need to remediate illiteracy and functional illiteracy among adults in our Nation.

Approved August 27, 1986.

LEGISLATIVE HISTORY—S.J. Res. 358:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 9, considered and passed Senate.
Aug. 13, considered and passed House.

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Public Law 99-407
99th Congress

Joint Resolution

To designate October 6, 1986, as "National Drug Abuse Education Day".

Aug. 27, 1986
[S.J. Res. 386]

Whereas drug abuse in the United States is a major health problem that damages our social institutions and threatens our most valuable human resource—our young people;

Whereas the 1984 National Strategy for Prevention of Drug Abuse and Drug Trafficking stated that "prevention has come to the forefront as the essential element in the long-range goal of eliminating drug abuse"; and

Whereas President Reagan has called drug abuse one of the gravest problems facing the Nation and has further warned that if we, as a Nation, fail to act we run the risk of losing a great part of a whole generation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) October 6, 1986, the first school day of Drug Abuse Awareness Week as established in Senate Joint Resolution 354, is designated as National Drug Abuse Education Day. The purpose of National Drug Abuse Education Day is to focus national attention on the rapidly escalating threat that drug abuse poses to the Nation's health, by calling on the President of the United States to proclaim a national day.

(b) As a part of National Drug Abuse Education Day, the President shall—

(1) call upon every elementary and secondary school, and all institutions of higher education to devote the day's curriculum to instruction on the physiological, psychological, social, and legal consequences of drug use and abuse; and

(2) call upon students, parents, community groups, and local law enforcement agencies to actively participate in programs sponsored in conjunction with National Drug Abuse Education Day.

SEC. 2. For purposes of this Act, the term "drug" shall include—

(1) any substance listed in section 102(17) of the Controlled Substances Act (21 U.S.C. 802(17)); and

(2) alcohol.

Approved August 27, 1986.

LEGISLATIVE HISTORY-S.J. Res. 386:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 9, considered and passed Senate.
Aug. 13, considered and passed House.

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71-139 O - 86 (419)

TO AMEND CHAPTER 44, OF TITLE 18, UNITED STATES CODE

71-139 O - 86 (421)

Public Law 99-408
99th Congress

An Act

Aug. 28, 1986
[H.R. 3132]

To amend chapter 44, of title 18, United States Code, to regulate the manufacture, importation, and sale of armor piercing ammunition, and for other purposes.

Firearms.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 921(a)(17) of title 18 of the United States Code is redesignated as section 921(a)(17)(A), and a new subparagraph (B) is added to section 921(a)(17) to read as follows:

"(B) The term 'armor piercing ammunition' means a projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium. Such term does not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the Secretary finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the Secretary finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device.".

SEC. 2. Section 922(a) of title 18 of the United States Code is amended—

(a) by striking out "and" at the end of paragraph (5);

(b) by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon; and

(c) by adding after paragraph (6) the following:

"(7) for any person to manufacture or import armor piercing ammunition, except that this paragraph shall not apply to—

"(A) the manufacture or importation of such ammunition for the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof;

Exports.

"(B) the manufacture of such ammunition for the purpose of exportation; and

Research and development.

"(C) any manufacture or importation for the purposes of testing or experimentation authorized by the Secretary; and

"(8) for any manufacturer or importer to sell or deliver armor piercing ammunition, except that this paragraph shall not apply to—

"(A) the sale or delivery by a manufacturer or importer of such ammunition for use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof;

Exports.

"(B) the sale or delivery by a manufacturer or importer of such ammunition for the purpose of exportation;

"(C) the sale or delivery by a manufacturer or importer of such ammunition for the purposes of testing or experimenting authorized by the Secretary.". Research and development.

SEC. 3. Subparagraph (A) of section 923(a)(1) of title 18 of the United States Code is amended to read as follows:

"(A) of destructive devices, ammunition for destructive devices or armor piercing ammunition, a fee of $1,000 per year;".

SEC. 4. Subparagraph (C) of section 923(a)(1) of title 18 of the United States Code is amended to read as follows:

"(C) of ammunition for firearms, other than ammunition for destructive devices or armor piercing ammunition, a fee of $10 per year.".

SEC. 5. Subparagraphs (A) and (B) of section 923(a)(2) of title 18 of the United States Code are amended to read as follows:

"(A) of destructive devices, ammunition for destructive devices or armor piercing ammunition, a fee of $1,000 per year; or

"(B) of firearms other than destructive devices or ammunition for firearms other than destructive devices, or ammunition other than armor piercing ammunition, a fee of $50 per year.".

SEC. 6. Section 923(e) of title 18, United States Code, is amended by inserting after the first sentence the following: "The Secretary may, after notice and opportunity for hearing, revoke the license of a dealer who willfully transfers armor piercing ammunition.". *Ante*, p. 453.

SEC. 7. Section 923 of title 18, United States Code, is amended by adding at the end thereof the following:

"(k) Licensed importers and licensed manufacturers shall mark all armor piercing projectiles and packages containing such projectiles for distribution in the manner prescribed by the Secretary by regulation. The Secretary shall furnish information to each dealer licensed under this chapter defining which projectiles are considered armor piercing ammunition as defined in section 921(a)(17)(B).".

SEC. 8. Section 929 of title 18 of the United States Code is amended— *Ante*, p. 460.

(1) in subsection (a)—

(A) by striking out "violence including" and inserting "violence (including" in lieu thereof;

(B) by striking out "device for" and inserting "device) for" in lieu thereof;

(C) by striking out "uses or carries any handgun" and all that follows through "subsection (b)" and inserting in lieu thereof "uses or carries a firearm and is in possession of armor piercing ammunition capable of being fired in that firearm";

(D) by striking out "nor more than ten"; and

(E) by striking out the last two sentences; and

(2) so that subsection (b) reads as follows:

"(b) Notwithstanding any other provision of law, the court shall not suspend the sentence of any person convicted of a violation of this section, nor place the person on probation, nor shall the terms of imprisonment run concurrently with any other terms of imprisonment, including that imposed for the crime in which the armor piercing ammunition was used or possessed. No person sentenced under this section shall be eligible for parole during the term of imprisonment imposed herein.". Law enforcement and crime.

SEC. 9. The amendments made by this Act shall take effect on the date of enactment of this Act, except that sections 3, 4, and 5 shall Effective date. 18 USC 921 note.

take effect on the first day of the first calendar month which begins more than ninety days after the date of the enactment of this Act.

Ante, p. 920.
18 USC 921 note.

SEC. 10. For purposes of section 921(a)(17)(B) of title 18, United States Code, as added by the first section of this Act, "handgun" means any firearm including a pistol or revolver designed to be fired by the use of a single hand. The term also includes any combination of parts from which a handgun can be assembled.

Approved August 28, 1986.

LEGISLATIVE HISTORY—H.R. 3132 (S. 104):

HOUSE REPORTS: No. 99-360 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 17, considered and passed House.
Vol. 132 (1986): Mar. 6, considered and passed Senate, amended, in lieu of S. 104.
Aug. 11, House concurred in Senate amendment with an amendment.
Aug. 13, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986): Aug. 28, Presidental statement.

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Public Law 99-409
99th Congress

An Act

To authorize the Secretary of Agriculture to make grants for the purpose of establishing institutes of rural technology development.

Aug. 28, 1986
[H.R. 4331]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Rural Industrial Assistance Act of 1986.
7 USC 1921 note.

SECTION 1. That this Act may be cited as the "Rural Industrial Assistance Act of 1986".

SEC. 2. Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by—

Loans.

(1) adding at the end of subsection (a) the following: "No loan may be made, insured, or guaranteed under this subsection that exceeds $25,000,000 in principal amount."; and

Effective date.

(2) effective on October 1, 1986, adding at the end thereof the following:

"(f)(1) The Secretary may make grants under this subsection to public and nonprofit private institutions for the purpose of enabling them to establish and operate centers of rural technology development that have, as a primary objective, the improvement of the economic condition of rural areas by promoting the development (through technological innovation and adaptation of existing technology) and commercialization of (A) new products that can be produced in rural areas, and (B) new processes that can be used in such production.

"(2) Grants under this subsection may be made on a competitive basis. In making grants, the Secretary shall give preference to applicants that will establish centers for rural technology in areas that have (A) few industries and agribusinesses, (B) high levels of unemployment, (C) high rates of out-migration of people, business, and industries, and (D) low levels of per capita income.

Regulations.

"(3) If grants are to be made under this subsection, the Secretary shall issue regulations implementing this subsection that shall include provisions for the monitoring and evaluation of the rural technology development activities carried out by institutions that receive grants under this subsection.".

Approved August 28, 1986.

LEGISLATIVE HISTORY—H.R. 4331:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Mar. 6, considered and passed House.
Aug. 15, considered and passed Senate.

71-139 O - 86 (422)

UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT

71-139 O - 86 (423)

Public Law 99-410
99th Congress

An Act

Aug. 28, 1986
[H.R. 4393]

To consolidate and improve provisions of law relating to absentee registration and voting in elections for Federal office by members of uniformed services and persons who reside overseas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Uniformed and Overseas Citizens Absentee Voting Act.
42 USC 1973ff note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Uniformed and Overseas Citizens Absentee Voting Act".

TITLE I—REGISTRATION AND VOTING BY ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS IN ELECTIONS FOR FEDERAL OFFICE

42 USC 1973ff.

SEC. 101. FEDERAL RESPONSIBILITIES.

President of U.S.

(a) PRESIDENTIAL DESIGNEE.—The President shall designate the head of an executive department to have primary responsibility for Federal functions under this title.

(b) DUTIES OF PRESIDENTIAL DESIGNEE.—The Presidential designee shall—

State and local governments.

(1) consult State and local election officials in carrying out this title;

(2) prescribe an official post card form, containing both an absentee voter registration application and an absentee ballot application, for use by the States as recommended in section 104;

(3) carry out section 103 with respect to the Federal write-in absentee ballot for overseas voters in general elections for Federal office;

(4) prescribe a suggested design for absentee ballot mailing envelopes for use by the States as recommended in section 104;

(5) compile and distribute (A) descriptive material on State absentee registration and voting procedures, and (B) to the extent practicable, facts relating to specific elections, including dates, offices involved, and the text of ballot questions; and

Reports.

(6) not later than the end of each year after a Presidential election year, transmit to the President and the Congress a report on the effectiveness of assistance under this title, including a statistical analysis of voter participation and a description of State-Federal cooperation.

(c) DUTIES OF OTHER FEDERAL OFFICIALS.—

(1) IN GENERAL.—The head of each Government department, agency, or other entity shall, upon request of the Presidential

designee, distribute balloting materials and otherwise cooperate in carrying out this title.

(2) ADMINISTRATOR OF GENERAL SERVICES.—As directed by the Presidential designee, the Administrator of General Services shall furnish official post card forms (prescribed under subsection (b)) and Federal write-in absentee ballots (prescribed under section 103).

SEC. 102. STATE RESPONSIBILITIES. 42 USC 1973ff-1.

Each State shall—

(1) permit absent uniformed services voters and overseas voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for Federal office;

(2) accept and process, with respect to any general, special, primary, or runoff election for Federal office, any otherwise valid voter registration application from an absent uniformed services voter or overseas voter, if the application is received by the appropriate State election official not less than 30 days before the election; and

(3) permit overseas voters to use Federal write-in absentee ballots (in accordance with section 103) in general elections for Federal office.

SEC. 103. FEDERAL WRITE-IN ABSENTEE BALLOT FOR OVERSEAS VOTERS IN GENERAL ELECTIONS FOR FEDERAL OFFICE. 42 USC 1973ff-2.

(a) IN GENERAL.—The Presidential designee shall prescribe a Federal write-in absentee ballot (including a secrecy envelope and mailing envelope for such ballot) for use in general elections for Federal office by overseas voters who make timely application for, and do not receive, States, absentee ballots.

(b) SUBMISSION AND PROCESSING.—Except as otherwise provided in this title, a Federal write-in absentee ballot shall be submitted and processed in the manner provided by law for absentee ballots in the State involved. A Federal write-in absentee ballot of an overseas voter shall not be counted— State and local governments.

(1) if the ballot is submitted from any location in the United States;

(2) if the application of the overseas voter for a State absentee ballot is received by the appropriate State election official less than 30 days before the general election; or

(3) if a State absentee ballot of the overseas voter is received by the appropriate State election official not later than the deadline for receipt of the State absentee ballot under State law.

(c) SPECIAL RULES.—The following rules shall apply with respect to Federal write-in absentee ballots:

(1) In completing the ballot, the overseas voter may designate a candidate by writing in the name of the candidate or by writing in the name of a political party (in which case the ballot shall be counted for the candidate of that political party).

(2) In the case of the offices of President and Vice President, a vote for a named candidate or a vote by writing in the name of a political party shall be counted as a vote for the electors supporting the candidate involved.

(3) Any abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party shall be

disregarded in determining the validity of the ballot, if the intention of the voter can be ascertained.

(d) SECOND BALLOT SUBMISSION; INSTRUCTION TO OVERSEAS VOTER.—An overseas voter who submits a Federal write-in absentee ballot and later receives a State absentee ballot, may submit the State absentee ballot. The Presidential designee shall assure that the instructions for each Federal write-in absentee ballot clearly state that an overseas voter who submits a Federal write-in absentee ballot and later receives and submits a State absentee ballot should make every reasonable effort to inform the appropriate State election official that the voter has submitted more than one ballot.

(e) USE OF APPROVED STATE ABSENTEE BALLOT IN PLACE OF FEDERAL WRITE-IN ABSENTEE BALLOT.—The Federal write-in absentee ballot shall not be valid for use in a general election if the State involved provides a State absentee ballot that—

(1) at the request of the State, is approved by the Presidential designee for use in place of the Federal write-in absentee ballot; and

(2) is made available to overseas voters at least 60 days before the deadline for receipt of the State ballot under State law.

(f) CERTAIN STATES EXEMPTED.—A State is not required to permit use of the Federal write-in absentee ballot, if, on and after the date of the enactment of this title, the State has in effect a law providing that—

(1) a State absentee ballot is required to be available to any voter described in section 107(5)(A) at least 90 days before the general election involved; and

(2) a State absentee ballot is required to be available to any voter described in section 107(5) (B) or (C), as soon as the official list of candidates in the general election is complete.

42 USC 1973ff-3.

SEC. 104. RECOMMENDATIONS TO THE STATES TO MAXIMIZE ACCESS TO THE POLLS BY ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS.

To afford maximum access to the polls by absent uniformed services voters and overseas voters, it is recommended that the States—

(1) use the official post card form (prescribed under section 101) for simultaneous voter registration application and absentee ballot application;

(2) adopt the suggested design for absentee ballot mailing envelopes prescribed under section 101;

(3) waive registration requirements for absent uniformed services voters and overseas voters who, by reason of service or residence, do not have an opportunity to register;

(4) if an application other than an official post card form (prescribed under section 101) is required for absentee registration, provide that registration forms be sent with the absentee ballot and may be returned with it;

(5) expedite processing of balloting materials with respect to absent uniformed services voters and overseas voters;

Armed Forces.

(6) permit any oath required for a document under this title to be administered by a commissioned officer of the Armed Forces or any official authorized to administer oaths under Federal law or the law of the State or other place where the oath is administered;

(7) assure that absentee ballots are mailed to absent uniformed services voters and overseas voters at the earliest opportunity; Uniformed services.

(8) assist the Presidential designee in compiling statistical and other information relating to this title; and

(9) provide late registration procedures for persons recently separated from the Armed Forces. Armed Forces.

SEC. 105. ENFORCEMENT. 42 USC 1973ff-4.

The Attorney General may bring a civil action in an appropriate district court for such declaratory or injunctive relief as may be necessary to carry out this title.

SEC. 106. EFFECT ON CERTAIN OTHER LAWS. Taxes. 42 USC 1973ff-5.

The exercise of any right under this title shall not affect, for purposes of any Federal, State, or local tax, the residence or domicile of a person exercising such right.

SEC. 107. DEFINITIONS. 42 USC 1973ff-6.

As used in this title, the term—

(1) "absent uniformed services voter" means—

(A) a member of a uniformed service on active duty who, by reason of such active duty, is absent from the place of residence where the member is otherwise qualified to vote;

(B) a member of the merchant marine who, by reason of service in the merchant marine, is absent from the place of residence where the member is otherwise qualified to vote; and

(C) a spouse or dependent of a member referred to in subparagraph (A) or (B) who, by reason of the active duty or service of the member, is absent from the place of residence where the spouse or dependent is otherwise qualified to vote;

(2) "balloting materials" means official post card forms (prescribed under section 101), Federal write-in absentee ballots (prescribed under section 103), and any State balloting materials that, as determined by the Presidential designee, are essential to the carrying out of this title;

(3) "Federal office" means the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

(4) "member of the merchant marine" means an individual (other than a member of a uniformed service or an individual employed, enrolled, or maintained on the Great Lakes or the inland waterways)—

(A) employed as an officer or crew member of a vessel documented under the laws of the United States, or a vessel owned by the United States, or a vessel of foreign-flag registry under charter to or control of the United States; or

(B) enrolled with the United States for employment or training for employment, or maintained by the United States for emergency relief service, as an officer or crew member of any such vessel;

(5) "overseas voter" means—

(A) an absent uniformed services voter who, by reason of active duty or service is absent from the United States on the date of the election involved;

(B) a person who resides outside the United States and is qualified to vote in the last place in which the person was domiciled before leaving the United States; or

(C) a person who resides outside the United States and (but for such residence) would be qualified to vote in the last place in which the person was domiciled before leaving the United States.

(6) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa;

(7) "uniformed services" means the Army, Navy, Air Force, Marine Corps, and Coast Guard, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration; and

(8) "United States", where used in the territorial sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa.

TITLE II—POSTAL, CRIMINAL, AND GENERAL PROVISIONS

SEC. 201. AMENDMENTS TO TITLE 39, UNITED STATES CODE.

(a) IN GENERAL.—Chapter 34 of title 39, United States Code, is amended by adding at the end the following new section:

39 USC 3406.

"§ 3406. Balloting materials under the Uniformed and Overseas Citizens Absentee Voting Act

"(a) Balloting materials under the Uniformed and Overseas Citizens Absentee Voting Act (individually or in bulk)—

"(1) shall be carried expeditiously and free of postage; and

"(2) may be mailed at a post office established outside the United States under section 406 of this title, unless such mailing is prohibited by treaty or other international agreement of the United States.

39 USC 406.

"(b) As used in this section, the term 'balloting materials' has the meaning given that term in section 107 of the Uniformed and Overseas Citizens Absentee Voting Act.".

(b) TECHNICAL AMENDMENTS.—

(1) The table of sections for chapter 34 of title 39, United States Code, is amended by adding at the end the following new item:

"3406. Balloting materials under the Uniformed and Overseas Citizens Absentee Voting Act.".

(2) The first sentence of section 2401(c) of title 39, United States Code, is amended—

(A) by striking out "3405" and inserting in lieu thereof "3406"; and

Post, p. 930.

(B) by striking out "the Overseas Citizens Voting Rights Act of 1975, and the Federal Voting Assistance Act of 1955".

Post, p. 930.

(3) Section 3627 of title 39, United States Code, is amended—

(A) by striking out "3405" and inserting in lieu thereof "3406"; and

(B) by striking out "under the Federal Voting Assistance Act of 1955, or under the Overseas Citizens Voting Rights Act of 1975".

Post, p. 930.

Post, p. 930.

(4) Section 3684 of title 39, United States Code, is amended by striking out ", or of the Federal Voting Assistance Act of 1955".

SEC. 202. AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) IN GENERAL.—Chapter 29 of title 18, United States Code, is amended by adding at the end the following new sections:

Law enforcement and crime.

"§ 608. Absent uniformed services voters and overseas voters

18 USC 608.

"(a) Whoever knowingly deprives or attempts to deprive any person of a right under the Uniformed and Overseas Citizens Absentee Voting Act shall be fined in accordance with this title or imprisoned not more than five years, or both.

"(b) Whoever knowingly gives false information for the purpose of establishing the eligibility of any person to register or vote under the Uniformed and Overseas Citizens Absentee Voting Act, or pays or offers to pay, or accepts payment for registering or voting under such Act shall be fined in accordance with this title or imprisoned not more than five years, or both.

"§ 609. Use of military authority to influence vote of member of Armed Forces

18 USC 609.

"Whoever, being a commissioned, noncommissioned, warrant, or petty officer of an Armed Force, uses military authority to influence the vote of a member of the Armed Forces or to require a member of the Armed Forces to march to a polling place, or attempts to do so, shall be fined in accordance with this title or imprisoned not more than five years, or both. Nothing in this section shall prohibit free discussion of political issues or candidates for public office.".

Freedom of speech.

(b) TECHNICAL AMENDMENT.—The table of sections for chapter 29 of title 18, United States Code, is amended by adding at the end the following:

"608. Absent uniformed services voters and overseas voters.
"609. Use of military authority to influence vote of member of Armed Forces."

SEC. 203. REPEALS.

The Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc et seq.) and the Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd et seq.) are repealed.

42 USC 1973ff note.

SEC. 204. EFFECTIVE DATE

The amendments and repeals made by this Act shall apply with respect to elections taking place after December 31, 1987.

Approved August 28, 1986.

LEGISLATIVE HISTORY--H.R. 4393:

HOUSE REPORTS: No. 99-765 (Comm. on House Administration).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 12, considered and passed House.
Aug. 15, considered and passed Senate.

Public Law 99-411
99th Congress

Joint Resolution

Making a repayable advance to the Hazardous Substance Response Trust Fund

Aug. 28, 1986
[H.J. Res. 713]

Contracts.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That language under the heading "Environmental Protection Agency, Hazardous Substance Response Trust Fund" in Public Law 99-160, as amended by Public Law 99-270, is further amended by deleting "$750,000,000 shall be derived from the Hazardous Substance Response Trust Fund and $150,000,000 shall be derived from an advance from the general fund of the Treasury to the Hazardous Substance Response Trust Fund to be repaid in accordance with section 223(c)(3) of Public Law 96-510 and notwithstanding section 223(c)(2)(D) of Public Law 96-510: *Provided,* That none of the $150,000,000 shall be available for obligation after May 31, 1986, to remain available until expended: *Provided,*" and inserting in lieu thereof "$702,000,000 shall be derived from the Hazardous Substance Response Trust Fund and $198,000,000 shall be derived from advances from the general fund of the Treasury to the Hazardous Substance Response Trust Fund to be repaid in accordance with section 223(c)(3) of Public Law 96-510 and notwithstanding section 223(c)(2)(D) of Public Law 96-510: *Provided,* That none of the $150,000,000 made available by Public Law 99-270 shall be available for obligation after May 31, 1986: *Provided further,* That of the additional $48,000,000 made immediately available, $15,000,000 shall be obligated by September 30, 1986, for continuation of ongoing remedial and removal site work and $19,000,000 shall be used only to continue ongoing contracts and to replace contracts for essential services: *Provided further,* That all funds appropriated shall remain available until expended, except as specified above: *Provided further,*".

Ante, p. 80.

42 USC 9633.

Approved August 28, 1986.

LEGISLATIVE HISTORY—H.J. Res. 713:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 15, considered and passed House and Senate.

71-139 O - 86 (424)

PUBLIC LAW 99-412—AUG. 28, 1986

CONSERVATION SERVICE REFORM ACT OF 1986

71-139 O - 86 (425)

Public Law 99-412
99th Congress

An Act

Aug. 28, 1986
[S. 410]

To reform the Residential Conservation Service and to repeal the Commercial and Apartment Conservation Service.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Conservation Service Reform Act of 1986.
Energy.
42 USC 8201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Conservation Service Reform Act of 1986".

TITLE 1—RESIDENTIAL CONSERVATION SERVICE

SEC. 101. RESTATEMENT OF FINDINGS.

Section 102(a) of the National Energy Conservation Policy Act (42 U.S.C. 8201(a)) (relating to findings) is amended to read as follows:

"(a) FINDINGS.—The Congress finds that—

"(1) the United States has survived a period of energy shortage and has made significant progress toward improving energy efficiency in all sectors of the economy;

"(2) effective measures must continue to be taken by the Federal Government and other users and suppliers of energy to control the rate of growth of demand for energy and the efficiency of its use;

"(3) the continuation of this effort will permit the United States to become increasingly independent of the world oil market, less vulnerable to interruption of foreign oil supplies, and more able to provide energy to meet future needs; and

"(4) all sectors of the economy of the United States should continue to reduce significantly the demand for nonrenewable energy resources such as oil and natural gas by implementing and maintaining effective conservation measures for the efficient use of these and other energy sources.".

SEC. 102. CHANGES IN CERTAIN PLAN REQUIREMENTS.

Utilities.

(a) INFORMATION REQUIREMENTS MADE APPLICABLE UNTIL JUNE 30, 1989.—(1) Section 215(a) and section 217(a)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8216(a) and 42 U.S.C. 8218(a)(1)) relating to utility programs and home heating supplier programs) are amended by striking out "January 1, 1985" each place it appears and inserting in lieu thereof "June 30, 1989 (but not more often than once during the period beginning on the date of the enactment of the Conservation Service Reform Act of 1986 and ending on June 30, 1989)".

Post, p. 934.

(2)(A) Section 215(d) of such Act (42 U.S.C. 8216(d)) is amended by striking out "January 1, 1985" and inserting in lieu thereof "June 30, 1989".

42 USC 8216 note.

(B) The amendment made by subparagraph (A) shall apply only with respect to persons who become customers of a utility after the date of the enactment of this Act.

(b) ELIMINATION OF REQUIREMENTS THAT PUBLIC UTILITIES ARRANGE FOR INSTALLATION OF SUGGESTED MEASURES AND FOR RELATED LOANS; ELIMINATION OF LISTING REQUIREMENTS.—

(1) Section 215(b) of such Act (42 U.S.C. 8216(b)) (relating to project manager requirements) is amended—

(A) by striking out "Each utility program shall include" through "procedures" and inserting in lieu thereof "Each utility program shall include procedures";

(B) by striking out "to" through "inspect" and inserting in lieu thereof "to inspect"; and

(C) by striking out "inspection;" and all that follows and inserting in lieu thereof "inspection.".

(2) Section 217(a)(2) of such Act (42 U.S.C. 8218(a)(2)) (relating to home heating supplier programs) is amended—

(A) by striking out "will—" through "inspect" and inserting in lieu thereof "will inspect"; and

(B) by striking out "installing, suggested measures;" and all that follows and inserting in lieu thereof "installing, suggested measures.".

(3) Section 213(a) of such Act (42 U.S.C. 8214(a)) (relating to general plan requirements) is amended—

(A) by striking out paragraphs (2) and (3); and

(B) by redesignating paragraphs (4) through (9) as paragraphs (2) through (7), respectively.

(c) RULES.—Section 212(b)(2) of such Act (42 U.S.C. 8213(b)(2)) (relating to rules of the Secretary) is amended—

(1) by striking out subparagraphs (E) and (F), and

(2) by inserting "and" at the end of subparagraph (C).

(d) DEFINITIONS.—(1) Section 210(9) of such Act (42 U.S.C. 8211(9)) (relating to definitions) is amended to read as follows:

"(9) The term 'residential building' means any building used for residential occupancy which is not a new building to which final standards under section 304(a) of the Energy Conservation and Production Act apply and which has a system for heating or cooling, or both.". 42 USC 6833.

(2) Section 212(c)(4) of such Act (42 U.S.C. 8213(c)(4)) (relating to TVA) is amended to read as follows: Tennessee Valley Authority. State and local governments.

"(4) In the case of the Tennessee Valley Authority or any public utility with respect to which the Tennessee Valley Authority has ratemaking authority, the authority otherwise vested in a Governor, a State regulatory authority, a State agency, or an agency or instrumentality of a State under this part shall be vested in the Tennessee Valley Authority.".

(e) EXEMPTION.—Section 215 of such Act (42 U.S.C. 8216) (relating to utility programs), as amended by subsection (h)(7) of this section, is amended by adding at the end the following new subsection: *Post*, p. 934.

"(g) EXEMPTION OF CERTAIN MULTIFAMILY BUILDINGS.—The provisions of this section shall not apply to any building which has five or more dwelling units and which does not contain individual meters for the dwelling units therein.".

(f) EFFECT OF 1986 AMENDMENTS ON APPROVED PLANS FOR PURPOSES OF FEDERAL STANDBY AUTHORITY.—Section 219 of such Act (42 U.S.C. 8220) (relating to Federal standby authority) is amended by adding at the end thereof the following new subsection:

"(e) PLANS APPROVED BEFORE 1986 AMENDMENTS.—For purposes of this section, any residential energy conservation plan which was approved by the Secretary before the effective date of the Conserva-

tion Service Reform Act of 1986 shall be treated as an approved plan which is adequately implemented if such plan is adequately implemented in accordance with the requirements of this Act as amended by the Conservation Service Reform Act of 1986.".

(g) TEMPORARY EXEMPTIONS.—Section 218(a) of such Act (42 U.S.C. 8219(a)) (relating to temporary exemptions) is amended by striking out the last sentence and inserting in lieu thereof the following: "Such temporary exemption may be granted or renewed until such date as determined by the Secretary.".

(h) CONFORMING AMENDMENTS.—

(1) Section 210(16) of such Act (42 U.S.C. 8211(16)) is amended by striking out "215(b)(1)(A)" and inserting in lieu thereof "215(b)".

(2) Section 212(b)(2)(C) of such Act (42 U.S.C. 8213(b)(2)(C)) is amended by striking out "213(a)(4)" and inserting in lieu thereof "213(a)(2)".

(3) Section 213(b)(2)(A) of such Act (42 U.S.C. 8214(b)(2)(A)) is amended by striking out "215(b)(1)" and inserting in lieu thereof "215(b)".

(4) Section 214(b) of such Act (42 U.S.C. 8215(b)) is amended by striking out "(8)" and inserting in lieu thereof "(6)".

(5) Section 215(a)(3) of such Act (42 U.S.C. 8216(a)(3)) is amended by striking out "and the lists referred to in section 213(a) (2) and (3)".

Ante, p. 932.

(6) Section 215(d) of such Act (42 U.S.C. 8216(d)) is amended by striking out ", the offer required under subsection (b)(1)(A)" and all that follows and by inserting in lieu thereof "and the offer required under subsection (b).".

Ante, p. 933.

(7) Section 215 of such Act (42 U.S.C. 8216) is amended by striking out subsection (f) and by redesignating subsection (g) as subsection (f).

(8) Section 216(c)(1) of such Act (42 U.S.C. 8217(c)(1)) is amended by striking out subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(9) Section 216(c)(2)(C) of such Act (42 U.S.C. 8217(c)(2)(C)) is amended by striking out "on the lists referred to in section 213(a)(2)".

42 USC 8211 note.

(i) STATUTORY CONSTRUCTION.—Nothing in the amendments made by subsections (b), (c), (g), and (h) shall prevent implementation of a plan or program pursuant to the National Energy Conservation Policy Act as in effect before the date of the enactment of this Act.

42 USC 8201 note.

(j) EFFECTIVE DATE AND OTHER REQUIREMENTS.—

42 USC 8211 note.

(1) IN GENERAL.—The amendments made by this section shall take effect one hundred and eighty days after the date of the enactment of this Act.

(2) RULES.—The Secretary of Energy shall, within the one hundred and eighty-day period referred to in paragraph (1), amend the rules promulgated under section 212 of the National Energy Conservation Policy Act to carry out the amendments made by this Act.

42 USC 8213.

State and local governments.

(3) SPECIAL REQUIREMENT FOR PLANS APPROVED BEFORE 1986 AMENDMENTS.—The Secretary of Energy shall, with respect to any residential energy conservation plan approved by the Secretary of Energy before the effective date (as described in paragraph (1)) of the amendments made by this section, require the appropriate official in charge of such plan to notify the

Secretary of Energy, within one hundred and twenty days of the date of enactment of this Act, that the amendments made by subsections (a), (d), and (e) of this section shall be implemented for the duration of such plan. The Secretary may not impose any other notice or approval requirement on a Governor or agency or instrumentality of a State with respect to such amendments.

SEC. 103. ALTERNATIVE PLANS FOR RESIDENTIAL BUILDINGS.

(a) IN GENERAL.—The National Energy Conservation Policy Act (42 U.S.C. 8201 et seq.) is amended by inserting the following new sections after section 225:

"SEC. 226. ALTERNATIVE STATE PLANS. 42 USC 8227.

"(a) IN GENERAL.—A Governor of any State, any State regulatory authority, or any agency or instrumentality of a State may elect, to the extent authorized under State law, to formulate and certify an alternative State plan for residential buildings under this section.

"(b) CONSEQUENCES OF CERTIFICATION.—(1) Beginning with the date on which the certification of a plan is made with respect to a State under subsection (d) and ending with the date on which a plan is no longer in effect under this section with respect to such State— Utilities.

"(A) subsections (a) through (c)(3) of section 212, sections 213 through 215 and sections 217 and 218 shall not apply with respect to— 42 USC 8213, 8214-8216, 8218, 8219.

"(i) regulated utilities in such State, and

"(ii) nonregulated utilities which are included in the plan;

"(B) section 219 shall apply to utilities described in subparagraph (A) only to the extent provided for in subsection (f); and *Ante*, p. 933.

"(C) sections 212 through 219 shall apply to nonregulated utilities which are not included in the plan or which have not received an exemption under section 227. *Post*, p. 937.

"(2) Except as provided in subsection (f), any State for which a plan is certified under subsection (d) shall continue to have such plan in effect until June 30, 1989. Termination date.

"(c) CONTENT OF PLAN.—A plan certified pursuant to this section shall—

"(1) be designed to result in annual residential energy conservation savings of 2 percent or more;

"(2) contain the goals established for the plan and an analysis of the data and rationale used by the entity in charge of formulating the plan to determine that the plan is likely to achieve such goals;

"(3) contain adequate procedures to assure that, if a public utility supplies or installs residential energy conservation measures, such actions shall be consistent with section 216 and prices and rates of interest charged shall be fair and reasonable; and Utilities. 42 USC 8217.

"(4) contain adequate procedures for preventing unfair, deceptive, or anticompetitive acts or practices affecting commerce which relate to the implementation of such plan. Fraud. Business and industry.

"(d) CERTIFICATION.—(1) The entity which elects to certify a plan under this section shall certify, pursuant to a form to be prescribed by the Secretary (except as provided by paragraph (2)), to the Secretary that—

"(A) the plan meets the requirements of subsection (c);

"(B) the plan is likely to achieve the goals established for the plan if it is adequately implemented; and

"(C) the plan will be adequately implemented.

"(2) If a form is not made available by the Secretary within 90 days after the date of the enactment of this section, the entity in charge of certifying the plan may make such certification on a form prescribed by such entity.

"(3) Any certification under this subsection shall include a detailed explanation of the manner in which the contents of the plan will be implemented.

"(e) ANNUAL REPORT.—(1) The entity which certifies a plan under subsection (d) shall submit an annual report to the Secretary, within 60 days after the end of the 1-year period to which the report relates, describing the implementation of the plan and the results thereof.

"(2) Such report shall include—

"(A) a statement of the number of residential buildings receiving benefits under the plan,

"(B) an estimate of the actual energy savings resulting from the plan and a description of the sources of such savings,

"(C) a statement of the percentage of individuals with low and moderate incomes who receive benefits under the plan,

"(D) a detailed description of the benefits provided under the plan and of how the plan is implemented, and

"(E) the names of the entities carrying out the plan.

"(3) The first such report shall be made by an entity within the 14-month period that begins with the date that such entity certified a plan under this section.

Utilities.

"(f) ADMINISTRATION AND JUDICIAL ENFORCEMENT PROCEEDINGS.—(1)(A) At any time more than 1 year after an alternative State plan has been certified under subsection (d) with respect to a State, any customer of a utility subject to such alternative State plan may petition the Secretary of Energy to conduct a public hearing to determine if the alternative State plan has been adequately implemented. A copy of such petition shall be transmitted to the entity in charge of the plan on the same date it is transmitted to the Secretary.

"(B) Within 60 days after the date on which a petition is received under subparagraph (A), the Secretary shall—

"(i) conduct the hearing requested in such petition; or

"(ii) notify in writing the customer submitting such petition of the Secretary's reasons for determining that such a hearing is not justified in the public interest.

Federal Register, publication.

"(C) The Secretary shall provide advance notice to the public of any hearing carried out as a result of a petition submitted under subparagraph (A). Any determination by the Secretary concerning the adequacy of the implementation of any alternative State plan shall be on the record and shall be published in the Federal Register within 60 days after such determination is made.

5 USC note prec. 551.

"(D) Any person alleging that he is likely to be injured as a result of a determination by the Secretary under this paragraph may, within 60 days after publication or notification of such determination, institute an action appealing the determination in the United States Court of Appeals for the appropriate judicial circuit. The Court shall review the determination of the Secretary in accordance with the Administrative Procedures Act, and shall have jurisdiction to affirm, modify, set aside, in whole or in part, or to remand such determination to the Secretary for such other action as the Court may direct.

"(2) Except as provided in paragraph (3), if any determination by the Secretary that the alternative State plan has not been adequately implemented becomes final and may not be appealed, the Secretary shall, within 30 days of the date on which the determination may no longer be appealed, initiate standby authority under section 219 with respect to such State.

Ante, p. 933.

"(3) If a State which had an approved plan in effect under section 212 on the day before the date on which certification was made under this section informs the Secretary in writing, within 30 days after receiving a copy of the petition described in paragraph (1), that it will no longer implement a plan certified under this section and that it will implement the approved plan which was in effect in the State on the day before certification of the alternative plan under this section, then—

42 USC 8213.

"(A) the determinations and actions described in paragraph (1) may not be carried out; and

"(B) sections 212 through 219 shall apply in such State except to the extent that waivers are provided for utilities under section 227 in such State.

Utilities.

Infra.

"(g) COVERAGE.—A plan certified under this section shall not apply to utilities other than utilities covered under section 211(a).

Utilities.
42 USC 8212.

"(h) INCLUSION OF NONREGULATED UTILITIES.—A nonregulated utility may not be included in a plan under this section unless such inclusion is authorized under State law or the nonregulated utility agrees to such inclusion.

"(i) INCENTIVES.—The entity in charge of a plan under this section, or a State regulatory authority, may, to the extent permitted under State law, provide incentives for utilities to meet the goals contained in the State's alternative plan, including providing such utilities that meet or exceed such goals with a rate of return on expenditures made for the purpose of accomplishing such goals.

Utilities.

"(j) UTILITIES WITH RETAIL SERVICE TERRITORIES IN MORE THAN 1 STATE.—For purposes of this section, any utility with a retail service territory in more than one State shall be considered to be a separate utility with respect to each State in which its retail service territory is located.

"(k) AMENDMENT OF A PLAN.—(1) Except as provided by paragraph (2), a plan certified under this section may be amended by any amendment—

"(A) consistent with the requirements of subsection (c); and

"(B) certified to the Secretary of Energy in a manner consistent with the requirements applicable to the certification of a plan under subsection (d).

"(2) A plan certified under this section may not be amended—

"(A) during the first year after it is certified; or

"(B) more than once a year thereafter.

"SEC. 227. WAIVER FOR REGULATED AND NONREGULATED UTILITIES.

42 USC 8228.

"(a) WAIVER.—Any utility subject to this part may, upon request, receive a waiver from the Secretary from any provision of this part or from any provision of a State residential energy conservation plan under this part if the utility shows in appropriate State proceedings and the appropriate State officials find that—

State and local governments.

"(1) the existing and planned residential energy conservation programs that will be implemented by the utility if a waiver from such provision is approved will result in savings in petroleum, natural gas or electric energy consumed in residential

Petroleum and petroleum products.
Natural gas.

buildings served by the utility that are equal to or greater than the savings that would be achieved in connection with a properly implemented State residential conservation service plan under this part; and

Fraud. Business and industry.

"(2) adequate procedures are in effect that prevent unfair, deceptive or anticompetitive acts or practices affecting commerce that relate to the implementation of such residential energy conservation programs, including provisions to assure that any person who alleges any injury resulting from unfair, deceptive or anticompetitive acts or practices in connection with such programs shall be entitled to redress under such procedures as may be established by the Governor in the State in which the utility provides utility service.

"(b) DEFINITION.—For purposes of this section the term 'residential energy conservation program' means any program carried out by a utility that has as its purpose—

"(1) increasing the efficiency with which petroleum, natural gas or electric energy is consumed in residential buildings served by such utility; or

"(2) utilizing solar or other forms of renewable energy in residential buildings served by such utility.

State and local governments.

"(c) APPROVAL.—The Secretary shall approve a request of a utility for a waiver under subsection (a) if the Secretary determines that—

"(1) opportunity for a hearing on the request for a waiver has been provided in the State in which the utility provides utility service; and

"(2) in the case of a regulated utility, the Governor of the State in which the utility provides utility service and the State regulatory authority that has ratemaking authority with respect to such utility both—

"(A) find that the showings under subsections (a) (1) and (2) are sufficient; and

"(B) support the request by the utility for the waiver; or

42 USC 8213.

"(3) in the case of a nonregulated utility subject to a State residential energy conservation plan under section 212(c)(2), the Governor of the State in which the utility provides utility service—

"(A) finds that the showings under subsections (a) (1) and (2) are sufficient; and

"(B) supports the request by the utility for the waiver.

State and local governments.

"(d) ANNUAL REVIEW AND REVOCATION OF WAIVER.—(1) The provisions of this subsection do not apply to a nonregulated utility unless such utility is subject to a State residential energy conservation plan under section 212(c)(2).

Reports.

"(2) Any utility that receives a waiver under this section shall provide the Governor of the State in which that utility provides utility service with an annual report describing the performance of its residential energy conservation programs in relation to the showings of such utility under subsections (a) (1) and (2).

State and local governments.

"(3) The Secretary shall revoke any waiver received by a utility under this section upon a request under this subsection by the Governor of the State in which the utility provides utility service. Such a request shall be made upon a finding—

"(A) in the case of a regulated utility, by such Governor with the concurrence of the State regulatory authority that has ratemaking authority with respect to such utility; or

"(B) in the case of a nonregulated utility subject to a State residential energy conservation plan under section 212(c)(2), by such Governor, 42 USC 8213.

that the savings described in subsection (a)(1) on an annual basis are less than the savings in the year prior to the approval of the waiver or that the procedures referred to in subsection (a)(2) are no longer adequate.

"(4) A request under paragraph (3) with respect to any utility may be submitted to the Secretary by a Governor only after review and opportunity for a hearing on the performance of the residential energy conservation programs of such utility. In order to facilitate such review and hearing, the utility shall provide to the Governor such information as the Governor requests about such residential energy conservation programs.".

(b) The table of contents for the National Energy Conservation Policy Act is amended by adding at the end of the table of contents for part 1 of title II the following:

"Sec. 226. Alternative State plans.".
"Sec. 227. Waiver for regulated and nonregulated utilities.".

SEC. 104. REPORTS AND DISSEMINATION OF INFORMATION.

(a) IN GENERAL.—Section 225 of the National Energy Conservation Policy Act (42 U.S.C. 8226) (relating to a Federal Trade Commission study and report submitted before January 1, 1982) is amended to read as follows:

"SEC. 225. REPORTS AND DISSEMINATION OF INFORMATION.

"(a) GENERAL REPORT.—(1) No later than December 31, 1987, and December 31, 1989, the Secretary shall submit a report to the Chairman of the Committee on Energy and Commerce of the House of Representatives and the Chairman of the Committee on Energy and Natural Resources of the Senate relating to the operation of this part.

"(2) Each such report shall include—

"(A) a comparison of estimated actual and predicted energy savings resulting from plans under this part,

"(B) identification of the most effective plans (or portions thereof),

"(C) an analysis, based on completed audits and other relevant data, of the energy saving potential of the installation of additional residential conservation measures, and

"(D) an analysis of economic, technical, behavioral, and other factors considered relevant to energy consumption by the Secretary.

Nothing in this paragraph shall require a survey of each residential building in which a residential energy conservation measure has been installed under this part.

"(b) SUMMARY OF ALTERNATIVE PLAN AND UTILITY WAIVER REPORTS.—No later than December 31, 1987, and December 31, 1989, the Secretary shall submit a report to the Chairman of the Committee on Energy and Commerce of the House of Representatives and the Chairman of the Committee on Energy and Natural Resources of the Senate summarizing the annual reports the Secretary received under section 226(e).

"(c) DISSEMINATION OF INFORMATION.—(1)(A) The Secretary shall at least annually, in fiscal years beginning after September 30, 1986, disseminate to the States and public utilities information providing

Ante, p. 935.
State and local governments.
Utilities.

technical assistance and relating to the most cost-effective energy conservation procedures and devices (including residential energy conservation measures) and the most successful plans (or portions thereof) under this part.

Public information.

"(B) The Secretary shall make the information described in subparagraph (A) available to the public.

"(2) The Secretary shall conduct seminars in various regions of the United States to disseminate information described in paragraph (1).".

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by striking out the item relating to section 225 and inserting in lieu thereof the following:

"Sec. 225. Reports and dissemination of information.".

Utilities.

(c) REPORT BY COMPTROLLER GENERAL.—(1) The Comptroller General shall prepare and transmit to Congress before December 31, 1986, a report evaluating the utility and home heating supplier plans implemented under part 1 of title II of the National Energy Conservation Policy Act.

42 USC 8211.

(2) The Secretary of Energy shall conduct a survey in consultation with the Comptroller General to collect the information the Comptroller General determines is necessary for the preparation of such report.

Utilities.

(3) The report referred to in paragraph (1) shall examine and assess—

(A) the potential for achievable energy savings through installation of residential energy conservation measures in residential dwellings in the United States and the importance of the programs carried out by the Residential Conservation Service of the Department of Energy in achieving these savings;

(B) the costs of Residential Conservation Service programs in a representative sample of States, taking into consideration the costs to the taxpayer and ratepayers of affected utilities;

(C) the benefits of Residential Conservation Service programs in a representative sample of States, taking into consideration the value of energy conservation and the value of deferral of investment in new capacity to provide energy;

(D) efforts of utilities to encourage the implementation of residential energy conservation measures by their customers and the relationship between these efforts and Residential Conservation Service programs;

(E) measured energy savings achieved in residential dwellings in which residential energy conservation measures have been installed under such programs;

(F) the extent to which utilities have adopted programs voluntarily or under State law that offer more potential for encouraging energy efficiency than do the programs carried out by the Residential Conservation Service;

(G) the extent to which modifications in the regulations implementing the programs carried out by the Residential Conservation Service could improve the cost effectiveness of the programs;

(H) legislative changes that are necessary to improve the cost effectiveness of residential energy conservation programs;

Fraud.
Business and industry.

(I) the extent of unfair, deceptive, or anticompetitive acts or practices affecting commerce that relate to the implementation of such residential energy conservation programs, and the ade-

quacy of procedures which are in effect to prevent such unfair, deceptive, or anticompetitive acts or practices; and

(J) such other matters as the Comptroller General considers appropriate in order to assist the Congress in deciding the future of the programs carried out by the Residential Conservation Service.

SEC. 105. TERMINATION.

(a) IN GENERAL.—Part I of title II of the National Energy Conservation Policy Act (42 U.S.C. 8211 and following), as amended by section 103, is amended by adding at the end the following new section:

Ante, p. 935.

"SEC. 228. TERMINATION.

42 USC 8229.

"Effective June 30, 1989, all authority, including the authority to enforce any prohibitions, under this part shall terminate, except that such expiration shall not affect any action or proceeding based upon an act committed prior to midnight June 30, 1989, and not finally determined by such date.".

(b) CLERICAL AMENDMENT.—The table of contents of such Act, as amended by section 103(c) of this Act, is amended by inserting after the item relating to section 227 the following new item:

"Sec. 228. Termination.".

SEC. 106. SUPPLY AND INSTALLATION BY PUBLIC UTILITIES.

(a) GENERAL EXEMPTION.—Section 216(d) of the National Energy Conservation Policy Act (42 U.S.C. 8217(d)) (relating to general exemptions from prohibitions on supply and installation) is amended—

(1) by striking out "The" and inserting in lieu thereof:

"(1) Except as provided in paragraph (2), the";

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(3) by adding at the end thereof the following new paragraph:

"(2) Effective July 1, 1987, subparagraphs (A) and (B) of paragraph (1) shall not apply to the supply or installation of residential energy conservation measures other than measures which the Secretary determines were being installed or supplied by a public utility during the 12-month period ending June 1, 1985.".

Effective date.

(b) PROHIBITION; ENFORCEMENT.—(1) Section 216 of such Act (42 U.S.C. 8217) (relating to prohibitions on supply and installations) is amended by striking out subsection (g)(2) and subsection (h) and inserting in lieu thereof the following:

Federal Trade Commission. State and local governments. *Post*, p. 943. Fraud.

"(2) No public utility that has an exemption or waiver under this section may carry out under this Part and pursuant to an exemption or waiver any activity if the Federal Trade Commission, pursuant to subsection (h), or a State regulatory authority, pursuant to State law, has determined that such activity involves—

"(A) charging unfair or unreasonable prices or rates of interest with respect to the supply and installation of residential energy conservation measures; or

"(B) engaging in unfair methods of competition or unfair or deceptive acts or practices with respect to such supply and installation.

"(h) ENFORCEMENT.—(1) For the purpose of determining whether a public utility which has an exemption or waiver under this section is

engaging in any activity described in subsection (g)(2), a person alleging injury from any such activity may request—

"(A) to the extent authorized under State law, a State regulatory authority; or

"(B) in any case described in paragraph (2), the Federal Trade Commission,

to review an activity being carried out by such a public utility in whole or in part in such State. Such request shall contain a description of the actions of the utility alleged to constitute an activity described in subsection (g)(2); an allegation that an injury has been incurred by the person requesting the review; and an allegation that such injury resulted from an activity described in subsection (g)(2).

"(2) The Federal Trade Commission may review an activity of a public utility as a result of a request made under paragraph (1) only if—

"(A) a State regulatory authority has—

"(i) informed the resident making the request that it will not review such activity for the purpose described in paragraph (1); or

"(ii) within the 90-day period beginning on the date on which the request to review such activity was made to the State regulatory authority by the resident, failed to inform the resident that it will review such activity for such purpose; or

"(B) a State regulatory authority has informed the resident that it will review such activity for such purpose but has failed to initiate a proceeding for such purpose during the 6-month period beginning on the date on which the request to review such activity was made to the State regulatory authority by the resident.

"(3) If a request for review is made to the Commission in any case described in paragraph (2), and the Commission determines, on the basis of the information provided, that there is reason to believe that the public utility is carrying out an activity described in subsection (g)(2), the Commission shall issue and serve upon such utility a complaint and a notice of hearing and conduct a proceeding in accordance with section 5(b) of the Federal Trade Commission Act to determine if such an activity is being carried out by the utility.

15 USC 45.

"(4) If the Commission makes a determination pursuant to a proceeding described in paragraph (3) that a public utility is carrying out an activity described in subsection (g)(2) of this section, the Commission shall, utilizing the authority of the Commission to enforce prohibitions made by section 5 of the Federal Trade Commission Act, take appropriate action to enforce the prohibition in subsection (g)(2) of this section.

Ante, p. 941.

"(5) Any violation of a prohibition contained in this section other than a violation of subsection (g)(2) shall be treated, for purposes of section 219(d), as a violation of a plan promulgated under section 219(a).".

42 USC 8220.

(c) CONFORMING AMENDMENTS.—(1) Section 216(c)(2)(A) of such Act (42 U.S.C. 8217(c)(2)(A)) (relating to an exemption from the prohibition on supply and installation by a public utility) is amended by inserting the following before the semicolon at the end: "or other activities described in subsection (g)(2)".

(2) Section 216(f) of such Act (42 U.S.C. 8217(f)) (relating to the applicability of section 215) is amended by striking out "(d)(2)",

"(d)(1)", and "(d)(3)" and inserting in lieu thereof "(d)(1)(B)", "(d)(1)(A)", and "(d)(1)(C)", respectively.

Ante, p. 941.

(3) The heading of subsection (g) of section 216 is amended to read as follows: "Authority to Monitor and Terminate Certain Activities by Utilities.—".

42 USC 8217 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective 180 days after the date of the enactment of this Act.

TITLE II—COMMERCIAL BUILDINGS AND MULTIFAMILY DWELLINGS

SEC. 201. REPEAL OF TITLE VII OF THE NATIONAL ENERGY CONSERVATION POLICY ACT.

(a) IN GENERAL.—Title VII of the National Energy Conservation Policy Act (42 U.S.C. 8281 and following) (relating to energy conservation for commercial buildings and multifamily dwellings) is hereby repealed.

(b) CLERICAL AMENDMENT.—The table of contents for such Act is amended by striking out the items relating to such title VII.

Termination date.
42 USC 8282 note.

(c) AUTHORITY TO CONTINUE CERTAIN STATE ENERGY CONSERVATION PLANS.—Notwithstanding subsection (a), any State energy conservation plan for commercial buildings and multifamily dwellings approved under section 721 of the National Energy Conservation Policy Act before August 1, 1984, may, with respect to regulated utilities, continue in effect until January 1, 1990.

42 USC 8282.

Science and technology.
42 USC 8281 note.

SEC. 202. DEMONSTRATION PROJECTS FOR ENERGY EFFICIENCY IN COMMERCIAL BUILDINGS.

The Secretary of Energy shall, using funds appropriated for energy conservation activities of the Department of Energy, carry out demonstration projects by sharing the cost of the construction and development by nongovernmental entities of facilities which demonstrate innovative technologies for utility applications that increase energy efficiency in commercial buildings.

Approved August 28, 1986.

LEGISLATIVE HISTORY—S. 410 (H.R. 969):

HOUSE REPORTS: No. 99-484 accompanying H.R. 969 (Comm. on Energy and Commerce) and No. 99-787 (Comm. on Conference).
SENATE REPORTS: No. 99-94 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 131 (1985): July 29, considered and passed Senate.
Vol. 132 (1986): Mar. 11, H.R. 969 considered and passed House; S. 410, amended, passed in lieu.
Aug. 15, House and Senate agreed to conference report; Senate receded from disagreement to House amendment.

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Public Law 99-413
99th Congress

An Act

Aug. 29, 1986
[H.R. 4843]

To provide for a minimum price and an alternative production rate for petroleum produced from the naval petroleum reserves, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PRODUCTION RATE AND MINIMUM PRICE FOR NAVAL PETROLEUM RESERVES.

(a) RATE OF PRODUCTION.—(1) Section 7422(c)(1) of title 10, United States Code, is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) to produce, during any extension of a period under paragraph (2), such reserves—

"(i) at the maximum efficient rate consistent with sound engineering practices; or

"(ii) at a lesser rate consistent with sound engineering practices and the protection, conservation, maintenance, and testing of such reserves if the Secretary determines that the minimum price described in section 7430(b)(2) of this title cannot be attained for the United States share of petroleum produced from such Reserves;".

(2) Section 7422(c) of such title is amended by striking out paragraph (3).

(b) MINIMUM PRICE.—Section 7430(b) of such title is amended—

(1) by striking out "(b) Notwithstanding" and inserting in lieu thereof "(b)(1) Subject to paragraph (2) and notwithstanding"; and

(2) by adding at the end the following paragraph:

"(2) The Secretary may not sell any part of the United States share of petroleum produced from Naval Petroleum Reserves Numbered 1, 2, and 3 at a price less than the higher of—

"(A) 90 percent of the current sales price, as estimated by the Secretary, of comparable petroleum in the same area; or

"(B) the price of petroleum being purchased for the Strategic Petroleum Reserve, minus the cost of transporting petroleum from the naval petroleum reserve concerned to the nearest storage area of the Strategic Petroleum Reserve, with adjustments for the difference in the quality of the petroleum being

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purchased for the Strategic Petroleum Reserve and petroleum being produced from the naval petroleum reserve concerned.".

(c) NOTICE PERIOD.—Section 7430(g)(2) of such title is amended by striking out "30 days" and "30-day" and inserting in lieu thereof "15 days" and "15-day", respectively. 10 USC 7430.

Approved August 29, 1986.

LEGISLATIVE HISTORY—H.R. 4843:

HOUSE REPORTS: No. 99-775, Pt. 1 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 13, considered and passed House.
Aug. 15, considered and passed Senate.

O

Public Law 99-414
99th Congress

Joint Resolution

Sept. 16, 1986
[H.J. Res. 580]

To designate the week beginning September 7, 1986, as "National Freedom of Information Act Awareness Week".

Whereas a fundamental principle of the American system of government is that the people of the United States should participate in the governing process;

Whereas the people of the United States, in order to participate effectively in the governing process, require free access to information about the activities and decisions of Federal agencies;

Whereas section 552 of title 5, United States Code, commonly known as the Freedom of Information Act, helps provide the people of the United States with free access to such information;

Whereas the Freedom of Information Act became law in 1966, and 1986 is the 20th anniversary of the Act;

Whereas the commemoration of the Freedom of Information Act should include efforts to educate the people of the United States with respect to the substance and principles of the Act;

Whereas such efforts should be made by schools in the United States; and

Whereas the week beginning September 7 is the week in which many students begin the academic year: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning September 7, 1986, is designated "National Freedom of Information Act Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon Federal, State, and local government officials and the people of the United States to observe such week with appropriate ceremonies and activities.

Approved September 16, 1986.

LEGISLATIVE HISTORY—H.J. Res. 580:

CONGRESSIONAL RECORD, Vol. 132 (1986):
June 11, considered and passed House.
Sept. 10, considered and passed Senate.

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71-139 O - 86 (427)

Public Law 99-415
99th Congress

An Act

To authorize United States contributions to the International Fund established pursuant to the November 15, 1985, agreement between the United Kingdom and Ireland, as well as other assistance.

Sept. 19, 1986
[H.R. 4329]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Anglo-Irish Agreement Support Act of 1986.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anglo-Irish Agreement Support Act of 1986".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that the Anglo-Irish Agreement is a clear demonstration of the determination of the Government of the United Kingdom and the Government of Ireland to make progress concerning the complex situation in Northern Ireland. The Congress strongly supports the Anglo-Irish Agreement and is particularly encouraged that these two neighboring countries, long-standing friends of the United States, have joined together to rebuild a land that has too often been the scene of economic hardship and where many have suffered severely from the consequences of violence in recent years. In recognition of our ties of kinship, history, and commitment to democratic values, the Congress believes the United States should participate in this renewed commitment to social and economic progress in Northern Ireland and affected areas of Ireland.

(b) PURPOSES.—It is, therefore, the purpose of this Act to provide for United States contributions in support of the Anglo-Irish Agreement, such contributions to consist of economic support fund assistance for payment to the International Fund established pursuant to the Anglo-Irish Agreement, as well as other assistance to serve as an incentive for economic development and reconciliation in Ireland and Northern Ireland. The purpose of these United States contributions shall be to support the Anglo-Irish Agreement in promoting reconciliation in Northern Ireland and the establishment of a society in Northern Ireland in which all may live in peace, free from discrimination, terrorism, and intolerance, and with the opportunity for both communities to participate fully in the structures and processes of government.

SEC. 3. UNITED STATES CONTRIBUTIONS TO THE INTERNATIONAL FUND.

(a) FISCAL YEAR 1986.—Of the amounts made available for the fiscal year 1986 to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), $50,000,000 shall be used for United States contributions to the International Fund. Pending the formal establishment of the International Fund and submission of the certification required by section 5(c) of this Act, these funds may, pursuant to an agreement

22 USC 2346.

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with the Government of the United Kingdom and the Government of Ireland, be disbursed into and maintained in a separate account.

(b) FISCAL YEARS 1987 AND 1988.—Of the amounts made available for each of the fiscal years 1987 and 1988 to carry out that chapter, $35,000,000 shall be used for United States contributions to the International Fund; and that amount is hereby authorized to be appropriated for each of those fiscal years to carry out that chapter (in addition to amounts otherwise authorized to be appropriated). Amounts appropriated pursuant to this subsection are authorized to remain available until expended.

SEC. 4. OTHER ASSISTANCE.

(a) AVAILABLE AUTHORITIES.—In addition to other available authorities, the following authorities may be used to provide assistance or other support to carry out the purposes of section 2 of this Act:

22 USC 2151f.

(1) Section 108 of the Foreign Assistance Act of 1961 (relating to the Private Sector Revolving Fund).

22 USC 2181-2183.

(2) Sections 221 through 223 of that Act (relating to the Housing Guaranty Program).

22 USC 2191.

(3) Title IV of chapter 2 of part I of that Act (relating to the Overseas Private Investment Corporation), without regard to the limitation contained in paragraph (2) of the second undesignated paragraph of section 231 of that Act.

22 USC 2421.

(4) Section 661 of that Act (relating to the Trade and Development Program).

(b) OTHER LAWS.—Assistance under this Act may be provided without regard to any other provision of law.

SEC. 5. CONDITIONS AND UNDERSTANDINGS RELATING TO THE UNITED STATES CONTRIBUTIONS.

Northern Ireland.

(a) PROMOTING ECONOMIC AND SOCIAL RECONSTRUCTION AND DEVELOPMENT.—The United States contributions provided for in this Act may be used only to support and promote economic and social reconstruction and development in Ireland and Northern Ireland. The restrictions contained in sections 531(e) and 660(a) of the Foreign Assistance Act of 1961 apply with respect to any such contributions.

22 USC 2346-2420.

President of U.S.

(b) UNITED STATES REPRESENTATION ON THE BOARD OF THE FUND.—The President shall make every effort, in consultation with the Government of the United Kingdom and the Government of Ireland, to ensure that there is United States representation on the Board of the International Fund.

(c) PRIOR CERTIFICATIONS.—Each fiscal year, the United States may make contributions to the International Fund only if the President certifies to the Congress that he is satisfied that—

(1) the Board of the International Fund, as a whole, is broadly representative of the interests of the communities in Ireland and Northern Ireland; and

(2) disbursements from the International Fund—

(A) will be distributed in accordance with the principle of equality of opportunity and nondiscrimination in employment, without regard to religious affiliation; and

(B) will address the needs of both communities in Northern Ireland.

Each such certification shall include a detailed explanation of the basis for the President's decision.

SEC. 6. ANNUAL REPORTS.

President of U.S.

At the end of each fiscal year in which the United States Government makes any contribution to the International Fund, the President shall report to the Congress on the degree to which—

(1) the International Fund has contributed to reconciliation between the communities in Northern Ireland;

(2) the United States contribution to the International Fund is meeting its objectives of encouraging new investment, job creation, and economic reconstruction on the basis of strict equality of opportunity; and

(3) the International Fund has increased respect for the human rights and fundamental freedoms of all people in Northern Ireland.

Human rights. Northern Ireland.

SEC. 7. REQUIREMENTS RELATING TO FUNDS FOR "INTERNATIONAL ORGANIZATIONS AND CONFERENCES".

(a) DISBURSEMENTS, AUDITS, AND REPORTS.—The provisions relating to disbursements on vouchers, audits, and submission of reports with respect to expenditures pursuant to the Joint Resolution of July 11, 1956 (Public Law 689), shall also apply with respect to expenditures pursuant to section 109(c) of the Act of November 22, 1983 (Public Law 98-164).

22 USC 1928a.

97 Stat. 1019.

(b) FUNDS SUBJECT TO REQUIREMENTS.—That section is amended—

(1) by striking out "In addition to" and inserting in lieu thereof "Of";

(2) by striking out "by section 102(2)" and all that follows through "1985" and inserting in lieu thereof "for each fiscal year";

(3) by inserting "may be used" before "for expenses"; and

(4) by striking out all that follows "participation in" through "such as".

SEC. 8. DEFINITIONS.

As used in this Act—

(1) the term "Anglo-Irish Agreement" means the Agreement Between the Government of Ireland and the Government of the United Kingdom dated November 15, 1985; and

(2) the term "International Fund" means the international fund for economic development projects in Northern Ireland and Ireland, established pursuant to Article 10 of the Anglo-Irish Agreement.

Approved September 19, 1986.

LEGISLATIVE HISTORY—H.R. 4329:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Mar. 11, considered and passed House.
Aug. 13, considered and passed Senate, amended.
Aug. 14, House concurred in Senate amendments.

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Public Law 99-416
99th Congress

An Act

Sept. 23, 1986
[H.R. 3443]

To designate the Closed Basin Conveyance Channel of the Closed Basin Division, San Luis Valley Project, Colorado, as the "Franklin Eddy Canal".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF CLOSED BASIN CONVEYANCE CHANNEL AS THE "FRANKLIN EDDY CANAL."

The Closed Basin Conveyance Channel of the Closed Basin Division, San Luis Valley Project, Colorado, constructed, operated, and maintained under Public Law 92-514, as amended, hereafter shall be known and designated as the "Franklin Eddy Canal.".

86 Stat. 964.

SEC. 2. REFERENCES TO CHANNEL.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the channel referred to in section 1 is hereby deemed to be a reference to the "Franklin Eddy Canal.".

Approved September 23, 1986.

LEGISLATIVE HISTORY—H.R. 3443:

HOUSE REPORTS: No. 99-297 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 99-233 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Oct. 9, considered and passed House.
Vol. 132 (1986): Sept. 10, considered and passed Senate.

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71-139 O - 86 (430)

Public Law 99-417
99th Congress

Joint Resolution

To designate the week beginning September 15, 1986, as "National School-Age Child Care Awareness Week".

Sept. 23, 1986
[H.J. Res. 60]

Whereas more than half of the children in the United States are in families in which both parents are in the work force;

Whereas more than one in five children in the United States are in a one-parent family;

Whereas changes in the composition of American families and the American work force have resulted in an increased demand for child care for children of all ages;

Whereas the demand for child care for school-age children has increased at a greater rate than the availability of school-age child care;

Whereas estimates show that millions of school-age children between the ages of six and thirteen, often referred to as latchkey children, may return alone after school to an empty house or in the supervision of a slightly older brother or sister;

Whereas research studies have indicated that children in self and sibling care run greater physical and psychological risks, including accidents and feelings of fear and loneliness, than children who are cared for by an adult;

Whereas the Congress has begun to examine the issue of child care and the role of Federal and State government, the private sector, and parents in providing child care;

Whereas the parents, communities, employers, and agencies serving youth that have recognized the shortage of adequate and affordable school-age child care have developed after school programs for children in their communities; and

Whereas many more parents, communities, employers, and agencies serving youth need to address the problems facing these children and to maximize the use of State and Federal resources in collaboration with these efforts: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning September 15, 1986, is hereby designated as "National School-Age Child Care Awareness Week" and the President is hereby authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs and activities.

Approved September 23, 1986.

LEGISLATIVE HISTORY—H.J. Res. 60:

CONGRESSIONAL RECORD:
Vol. 131 (1985): Aug. 1, considered and passed House.
Vol. 132 (1986): Sept. 12, considered and passed Senate, amended.
Sept. 18, House concurred in Senate amendments.

O

71-139 O - 86 (431)

Public Law 99-418
99th Congress

An Act

Sept. 23, 1986
[S. 2462]

To provide for the awarding of a special gold medal to Aaron Copland.

Music.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

31 USC 5111 note.

SECTION 1. FINDINGS AND STATEMENT OF POLICY.

(a) FINDINGS.—The Congress finds that—

(1) Aaron Copland has contributed to American music as a composer, a pianist, a lecturer, an author, and an organizer of various musical societies;

(2) Aaron Copland has composed patriotic musical works, such as "Lincoln Portrait", which was composed during World War II as a patriotic tribute to the United States and distributed worldwide;

(3) Aaron Copland has enjoyed great popularity and critical acclaim as evidenced by his receiving many awards, including a Guggenheim Fellowship, a Pulitzer Prize, an Academy Award, and the Presidential Medal of Freedom; and

(4) Aaron Copland is referred to as the "dean" of American musical composition as the result of his contributions to American music.

(b) STATEMENT OF POLICY.—The incomparable contributions of Aaron Copland to American musical composition should be recognized by awarding him a special congressional gold medal.

President of U.S.
31 USC 5111 note.

SEC. 2. AUTHORIZATION TO PRESENT GOLD MEDAL.

The President is authorized to present on behalf of the Congress 1 gold medal of appropriate design to Aaron Copland.

31 USC 5111 note.

SEC. 3. PRODUCTION OF GOLD MEDALS AND PRODUCTION AND SALE OF BRONZE MEDALS.

(a) PRODUCTION OF GOLD MEDAL.—The Secretary of the Treasury shall coin 1 gold medal and shall deliver the medal to the President for presentation under section 2. The gold medal shall contain suitable emblems, devices, and inscriptions to be determined by the Secretary.

(b) PRODUCTION AND SALE OF BRONZE DUPLICATE MEDALS.—The Secretary of the Treasury may coin and sell bronze medals which are duplicates of the gold medal coined pursuant to subsection (a) under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost of the gold medal and such duplicates, including the cost of labor, materials, dies, use of machinery, and overhead.

71-139 O - 86 (432)

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

31 USC 5111 note.

There are authorized to be appropriated for any fiscal year beginning on or after October 1, 1986, not to exceed $20,000 to carry out the purposes of this Act.

SEC. 5. EFFECT ON OTHER LAW.

31 USC 5111 note.

The medals provided for in this Act are national medals for the purpose of section 5111 of title 31, United States Code.

Approved September 23, 1986.

LEGISLATIVE HISTORY—S. 2462 (H.R. 3041):

CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 15, considered and passed Senate.
Sept. 9, H.R. 3041 considered and passed House; proceedings vacated and S. 2462 passed in lieu.

○

Public Law 99-419
99th Congress

Joint Resolution

Sept. 25, 1986
[H.J. Res. 692]

To designate the week of October 19, 1986, through October 26, 1986, "National Housing Week".

Whereas the Federal Government and the housing industry have worked together to enable a substantial majority of Americans to live in adequate housing;

Whereas living in adequate housing strengthens the family and the community;

Whereas, following every economic recession since World War II, the housing industry has helped the United States to achieve economic recovery by creating millions of jobs for the unemployed, creating demand for goods and services, and generating billions of dollars in tax revenues;

Whereas adequate housing is one of the basic needs of all individuals, and providing for the availability of affordable housing is an important policy of the Federal Government and the governments of the States; and

Whereas it is appropriate to reaffirm the historic national commitment to providing for the availability of adequate housing and the opportunity to own a home, and to recognize the economic benefits resulting from the activities of the housing industry: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 19, 1986, through October 26, 1986, is designated "National Housing Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved September 25, 1986.

LEGISLATIVE HISTORY—H.J. Res. 692:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 13, considered and passed House.
Sept. 12, considered and passed Senate.

○

71-139 O - 86 (434)

Public Law 99-420
99th Congress

An Act

To establish a permanent boundary for the Acadia National Park in the State of Maine, and for other purposes.

Sept. 25, 1986
[S. 720]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SEC. 101. BOUNDARIES OF ACADIA NATIONAL PARK.

Conservation.
Public information.
16 USC 341 note.

In order to protect and conserve the land and water resources of Acadia National Park in the State of Maine (hereinafter in this title referred to as "the Park"), and to facilitate the administration of the Park, the boundary depicted on the map entitled "Acadia National Park Boundary Map", numbered 123-80011, and dated May 1986 (hereinafter in this title referred to as "the map") is hereby established as the permanent boundary for the Park. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, and it shall be made available to the Registry of Deeds for Hancock and Knox Counties, Maine.

SEC. 102. LANDS WITHIN BOUNDARIES.

Gifts and property.
16 USC 341 note.

(a) The Secretary of the Interior (hereinafter in this title referred to as "the Secretary") is authorized to acquire lands and interests therein within the boundaries of the Park by donation, exchange (in accordance with this section), or purchase with donated or appropriated funds, except that—

(1) any lands or interests therein owned by the State of Maine or any political subdivision thereof may be acquired only by donation or exchange; and

(2) privately owned lands or interests therein may be acquired only with the consent of the owner thereof unless the Secretary determines that the property is being developed or proposed to be developed in a manner which is detrimental to the scenic, historical, cultural, and other values for which the Park was established.

(b)(1) Not later than 6 months after the enactment of this Act, the Secretary shall publish specific guidelines under which determinations shall be made under subsection (a)(2). The Secretary shall provide adequate opportunity for public comment on such guidelines. The guidelines shall provide for notice to the Secretary prior to commencement of any proposed development within the boundaries of the Park. The Secretary shall provide written notice to the owner of the property of any determination proposed to be made under subsection (a)(2) and shall provide the owner a reasonable opportunity to comment on such proposal.

(2) For purposes of this section, except as provided in paragraph (3), development or proposed development of private property within

the boundaries of the Park that is significantly different from, or a significant expansion of, development existing as of November 1, 1985, shall be considered by the Secretary as detrimental to the values for which the Park was established.

(3) Reconstruction or expansion of a private or commercial building shall not be treated as detrimental to the Park or as an incompatible development within the meaning of this section if such reconstruction or expansion is limited to one or more of the following:

(A) Reconstruction of an existing building.

(B) Construction of attached or accessory structural additions, which do not exceed 25 per centum of the square footage of the principal structure.

(C) Construction of reasonable support development such as roads, parking facilities, water and sewage systems, and dock facilities.

Real property.

(c)(1) The owners of any private property within the Park may, on the date of its acquisition by the Secretary and as a condition of such acquisition, retain for himself and his successors or assigns a right to use and occupancy for a definite term of not more than 25 years, or ending at the death of the owner, or his spouse, whichever is later. The owners shall elect the term to be reserved. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value, of the right retained by the owner.

(2) Any such right retained pursuant to this subsection shall be subject to such terms and conditions as the Secretary may prescribe and may be terminated by the Secretary upon his determination and after reasonable notice to the owner thereof that such property is being used for any purpose which is incompatible with the administration of the Park or with the preservation of the resources therein. Such right shall terminate by operation of law upon notification to the owner by the Secretary and tendering to the owner the amount equal to the fair market value of that portion which remains unexpired.

(d)(1) In exercising his authority to acquire lands by exchange pursuant to this title, the Secretary may accept title to non-Federal property located within the the boundary of the Park and may convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary which lies outside said boundary and depicted on the map. Properties so exchanged shall be approximately equal in value, as determined by the Secretary, except that the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the value of the properties exchanged.

(2) Federally owned property under jurisdiction of the Secretary referred to in paragraph (1) of this subsection which is not exchanged within 10 years after enactment of this Act, shall be conveyed to the towns in which the property is located without emcumbrance and without monetary consideration, except that no town shall be eligible to receive such lands unless, within 10 years after enactment of this Act, lands within the Park boundary and owned by the town have been acquired by the Secretary.

(e) Notwithstanding any other provision of this section, lands depicted on the map referenced in section 101 and identified as 10DBH and 11DBH known as the "Bar Harbor Sewage Treatment Plant"; 14DBH known as the "New Park Street Ballfield"; and

15DBH known as the "Former Park Headquarters"; shall be conveyed by the Secretary, without monetary consideration, to the town of Bar Harbor, Maine, within 180 days following the enactment of this Act. The real property conveyed pursuant to this subsection shall be used and retained by the town for municipal and public purposes. Title to the properties conveyed pursuant to this subsection shall revert to the United States if such property or any portion thereof is conveyed by the town to another party or used for purposes other than those specified in this subsection.

(f) Notwithstanding any other provision of this section, land depicted on the map identified as 4DBH, located in the village of Town Hill, Maine, shall be conveyed by the Secretary without monetary consideration, to the town of Bar Harbor, Maine, as soon as practicable following the enactment of this Act, subject to such terms and conditions, including appropriate reversionary provisions, as will in the judgment of the Secretary provide for the development and use of such property by any town which so desires as a solid waste transfer station in accordance with a plan that is satisfactory to the town and the Secretary. The Secretary shall (subject to the availability of prior appropriations) contribute toward the cost of constructing such transfer station the lesser of—

(1) $350,000, or

(2) 50 per centum of the cost of such construction.

(g) Notwithstanding any other provision of this section, the Secretary is authorized to acquire by donation or exchange lands or interests therein in the area identified on the map as "Schooner Head", which is outside the boundary of the park. The Secretary is further authorized to acquire conservation easements on such lands by purchase with donated or appropriated funds if he determines after written notice to the owner and after providing a reasonable opportunity to comment on such notice, that the property is being developed or proposed to be developed in a manner which is significantly different from or a significant expansion of development existing as of November 1, 1985, as defined in subsection (b) of this section.

(h)(1) The Secretary is authorized to acquire conservation easements by purchase from a willing seller or by donation on parcels of land adjacent to the Park on Schoodic Peninsula, the islands of Hancock County, and the islands of Knox County east and south of the Penobscot Ship Channel, except such islands as lie within the town of Isle au Haut, Knox County. Parcels subject to conservation easements acquired or accepted by the Secretary under this subsection must possess one or more of the following characteristics: Conservation.

(A) important scenic, ecological, historic, archeological, or cultural resources;

(B) shorefront property; or

(C) largely undeveloped entire islands.

(2) Conservation easements acquired pursuant to this subsection shall—

(A) protect the respective scenic, ecological, historic, archeological, or cultural resources existing on the parcels;

(B) preserve, through setback requirements or other appropriate restrictions, the open, natural, or traditional appearance of the shorefront when viewed from the water or from other public viewpoints; or

(C) limit year-round and seasonal residential and commercial development to activities consistent with the preservation of the

islands' natural qualities and to traditional resource-based land use including, but not limited to, fishing, farming, silviculture, and grazing.

(3) In determining whether to accept or acquire conservation easements pursuant to this subsection, the Secretary shall consider the following factors:

(A) the resource protection benefits that would be provided by the conservation easement;

(B) the public benefit that would be provided by the conservation easement;

(C) the significance of the easement in relation to the land planning objectives of local government and regional and State agencies;

(D) the economic impact of the conservation easement on local livelihoods, activities, and government revenues; and

(E) the proximity of the parcel to the boundary of the Park and to other parcels on which the Secretary maintains conservation easements.

(4) For purposes of this subsection, the term "conservation easement" means a less-than-fee interest in land or a conservation restriction as defined in section 476 through 479-B inclusive, as amended, of title 33 of the Maine Revised Statutes of 1964, as in effect on the date of the enactment of this Act.

(5) No easement may be acquired by the Secretary under this subsection without first consulting with, and providing written notification to, the town in which the land is located and the Acadia National Park Advisory Commission established by section 103 of this title. In providing such notification, the Secretary shall indicate the manner and degree to which the easement meets the criteria provided in this subsection.

(i) Nothing in this section shall be construed to prohibit the use of condemnation as a means of acquiring a clear and marketable title, free of any and all encumbrances.

(j)(1) Notwithstanding any other provision of this section, the Secretary shall accept an offer of the following from the Jackson Laboratory (a not-for-profit corporation organized under the laws of Maine):

(A) Lands depicted on the map as 55 A ABH which are held in fee by the Jackson Laboratory.

(B) A conservation easement on lands depicted on the map identified as 55 ABH (the developed property known as "Highseas"). The easement shall prohibit subdivision of such land or any further significant development on such lands, except as permitted by the guidelines published under section 102(b)(1).

(2) Upon receipt of the lands and easement described in paragraph (1), the Secretary shall transfer to the Jackson Laboratory the lands depicted on the map as 8 DBH and 9 DBH. Any disparity in the fair market value of the lands and easement referred to in paragraph (1) and the lands described in the preceding sentence shall be equalized as provided in section 102(d)(1).

(k) For purposes of subsection (a)(2), the construction of one single family residence on Burnt Porcupine Island by the owner of the Island shall not be treated as detrimental to the scenic, historic, cultural, or other values for which the park was established if, before such construction commences, the Secretary has reviewed

and approved plans for the size, location and architectural design of the structure.

SEC. 103. ADVISORY COMMISSION. 16 USC 341 note.

(a) There is hereby established an Acadia National Park Advisory Commission (hereinafter referred to as "the Commission"). The Commission shall be composed of 16 members appointed by the Secretary as follows:

(1) 3 members at large.

(2) 3 members appointed from among individuals recommended by the Governor of Maine.

(3) 4 members, appointed from among individuals recommended by each of the four towns on the island of Mount Desert.

(4) 3 members appointed from among individuals recommended by each of the three Hancock County mainland communities of Gouldsboro, Winter Harbor, and Trenton.

(5) 3 members, appointed from among individuals recommended by each of the three island towns of Cranberry Isles, Swans Island, and Frenchboro.

(b) The terms of the Commission members shall be 3 years except that, for initial appointments under each paragraph, one member shall serve for a term of one year, and one member shall serve for a term of 2 years.

(c) The Commission shall elect its own chairman and adopt its own bylaws. Any vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(d) Members of the Commission shall serve without compensation as such, except that the Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under this title.

(e) The Secretary shall consult with the Commission on matters relating to the management and development of the Park, including but not limited to each of the following:

(1) The acquisition of lands and interests in lands (including conservation easements on islands).

(2) Termination of rights of use and occupancy.

(f) The Commission established under this section shall terminate 20 years after the enactment of this Act.

SEC. 104. BEAR ISLAND. 16 USC 341 note.

(a) Notwithstanding any other provision of law, Federal property located on Bear Island in the town of Cranberry Isle shall, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the provisions of the title. Such Federal property shall not be developed by the Secretary in a manner which would provide for or encourage intensive visitor use.

(b) The Secretary is authorized to make improvements to the Federal property on Bear Island as he deems appropriate for the protection of adjacent private property.

SEC. 105. TOWN OF ISLE AU HAUT. 16 USC 341 note.

The provisions of this title shall not apply to those portions of the Park lying within the Town of Isle au Haut, Maine, which lands shall continue to be governed by the provisions of Public Law 97-335. 16 USC 341 note.

16 USC 341 note. Effective date.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

(a) Effective October 1, 1986, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title, but not to exceed $9,100,000 for acquisition of lands and interests therein.

(b) For the purposes of paragraph 7(a)(3) of the Land and Water Conservation Fund Act of 1965 as amended (16 U.S.C. 4601-9), the statutory ceiling provided in subsection (a) shall be deemed to have been enacted prior to the convening of the Ninety-fifth Congress.

16 USC 341 note.

SEC. 107. PAYMENTS TO LOCAL GOVERNMENTS.

31 USC 6904.

(a) Notwithstanding the limitation in subsection 3(d) of the Act of October 20, 1976 (90 Stat. 2662) payments in the manner provided in section 3 of that Act shall be made to the appropriate units of local government having jurisdiction over lands with the boundary of the Park. Such payments shall be made only for a period of 12 years.

(b) Payments received by the units of local government pursuant to this section shall be used only for fire protection, police protection, solid waste management, and road maintenance and improvement.

(c) Payments pursuant to this section may be made only from funds appropriated therefor. Such payments shall be in addition to and not in place of any other funds or form of Federal assistance to which the units of local government are entitled.

TITLE II

SEC. 201. CAPE COD NATIONAL SEASHORE ADVISORY COMMISSION.

16 USC 459b-7.

Section 8(a) of the Act of August 7, 1961 (Public Law 87-126; 75 Stat. 292) is amended by striking out "ten years" and substituting "30 years".

Approved September 25, 1986.

LEGISLATIVE HISTORY—S. 720:

HOUSE REPORTS: No. 99-572 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 99-198 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 3, considered and passed Senate.
Vol. 132 (1986): May 5, considered and passed House, amended.
June 6, Senate concurred in House amendment with amendments.
July 24, House concurred in certain Senate amendments, in another with an amendment.
Sept. 11, Senate receded from its amendment.

O

Public Law 99-421
99th Congress

Joint Resolution

Designating September 22, 1986, as "American Business Women's Day".

Sept. 25, 1986
[S.J. Res. 196]

Whereas the American Business Women's Association is a national educational association that promotes professional and educational advancement for women;

Whereas the American Business Women's Association awarded $2,900,000 in scholarships to over six thousand women in 1984, and has awarded more than $18,000,000 in scholarships since 1949;

Whereas the American Business Women's Association has more than one hundred and ten thousand members and two thousand one hundred chapters throughout the United States and its territories;

Whereas the American Business Women's Association encourages women to expand horizons, diversify skills, and set higher personal and career goals; and

Whereas Congress recognizes the important contributions of American businesswomen to our Nation's continuing vitality: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 22, 1986, is designated "American Business Women's Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

Approved September 25, 1986.

LEGISLATIVE HISTORY—S.J. Res. 196:

CONGRESSIONAL RECORD, Vol. 132 (1986):
June 10, considered and passed Senate.
Sept. 18, considered and passed House.

71-139 O - 86 (437)

Public Law 99-422
99th Congress

Joint Resolution

Sept. 25, 1986
[S.J. Res. 357]

To designate the week of September 15, 1986, through September 21, 1986, as "National Historically Black Colleges Week"

Whereas there are one hundred and one Historically Black Colleges and Universities in the United States;

Whereas such colleges and universities provide the quality education so essential to full participation in a complex, highly technological society;

Whereas black colleges and universities have a rich heritage and have played a prominent role in American history;

Whereas such institutions have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of the Historically Black Colleges are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 15, 1986, through September 21, 1986, is designated as "National Historically Black Colleges Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States and interested groups to observe such week with appropriate ceremonies, activities, and programs, thereby demonstrating support for Historically Black Colleges and Universities in the United States.

Approved September 25, 1986.

LEGISLATIVE HISTORY—S.J. Res. 357:

CONGRESSIONAL RECORD, Vol. 132 (1986):
June 13, considered and passed Senate.
Sept. 18, considered and passed House.

○

71-139 O - 86 (438)

Public Law 99-423
99th Congress

An Act

To authorize the Smithsonian Institution to plan and construct facilities for certain science activities of the Institution, and for other purposes.

Sept. 30, 1986
[H. R. 1483]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Board of Regents of the Smithsonian Institution is authorized to plan and construct facilities for the Smithsonian Astrophysical Observatory and the Smithsonian Tropical Research Institute.

Research and development.
20 USC 50 note.

SEC. 2. Effective October 1, 1986, there is authorized to be appropriated to the Board of Regents of the Smithsonian Institution:

Effective date.
Appropriation authorization.

(a) $4,500,000 for the Smithsonian Astrophysical Observatory; and

(b) $11,100,000 for the Smithsonian Tropical Research Institute.

SEC. 3. Any portion of the sums appropriated to carry out the purposes of this Act may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes.

Contracts.

Approved September 30, 1986.

LEGISLATIVE HISTORY—H.R. 1483:

SENATE REPORTS: No. 99-189 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Oct. 7, considered and passed House.
Vol. 132 (1986): June 24, considered and passed Senate, amended.
Sept. 18, House concurred in Senate amendments.

O

91-139 O - 86 (439)

Public Law 99-424
99th Congress

An Act

Sept. 30, 1986
[H.R. 3002]

To provide for the establishment of an experimental program relating to the acceptance of voluntary services from participants in an executive exchange program of the Government.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Executive Exchange Program Voluntary Services Act of 1986.
5 USC 4103 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Executive Exchange Program Voluntary Services Act of 1986".

5 USC 4103 note.

SEC. 2. DEFINITIONS.

For the purposes of this Act—

(1) the term "Government" means the Government of the United States;

(2) the term "participant in an executive exchange program" means an executive, manager, or other individual from the private sector participating in an executive exchange program administered by the President's Commission on Executive Exchange (described in Executive Order 12493, dated December 5, 1984) or by a successor entity in function;

(3) the term "agency" means an Executive agency (as defined by section 105 of title 5, United States Code), the United States Postal Service, and the Postal Rate Commission; and

(4) the term "employee of the Government" means an individual employed in or under an agency.

5 USC 4103 note.

SEC. 3. EXPERIMENTAL PROGRAM.

President of U.S.

(a) The President may establish an experimental program, to be conducted during fiscal years 1987 through 1989, under which voluntary services may be accepted by the Government, without regard to section 1342 of title 31, United States Code.

(b) Under the program, the voluntary services of an individual may be accepted if—

(1) such individual is a participant in an executive exchange program;

(2) the acceptance of such services will not result in the displacement of any employee of the Government; and

(3) the voluntary services will be performed in or under an agency.

(c)(1) An individual performing voluntary services under the experimental program shall, for purposes of any laws, rules, and regulations of the United States (including those relating to conflicts of interest, financial disclosure, and standards of conduct) be considered an individual employed in or under the agency to which assigned, except that such individual shall not be covered by chapter 51, 53, 63, 83, 87, or 89 of title 5, United States Code, or any comparable provision relating to pay, leave, retirement, life insurance, or health benefits for employees of the Government.

5 USC 5101 *et seq.*, 5301 *et seq.*, 6301 *et seq.*, 8301 *et seq.*, 8701 *et seq.*, 8901 *et seq.*

91-139 O - 86 (440)

(d) Not more than ten individuals may commence participation in the experimental program during any fiscal year.

(e)(1) Nothing in this Act shall prevent—

(A) the continuation of pay and other benefits from the private-sector employer, or

(B) continued participation in a bona fide pension, retirement, group life, health or accident insurance, profit-sharing, stock bonus, or other employee welfare or benefit plan maintained by the private-sector employer,

for an individual performing voluntary services in the experimental program.

(2) For the purpose of this section, the term "private-sector employer", as used with respect to an individual, means the corporation or other person by which such individual was employed immediately before beginning to perform voluntary services in the experimental program.

SEC. 4. REPORTS. 5 USC 4103 note.

Not later than March 31, 1989, the General Accounting Office shall transmit to the Congress a report on the experimental program under this Act. The report shall include a description of the administration of the program, the findings of the General Accounting Office relating to the advantages and disadvantages of accepting voluntary services from participants in an executive exchange program, and recommendations for legislation (if any) relating to the continuation of the program.

Approved September 30, 1986.

LEGISLATIVE HISTORY—H.R. 3002:

HOUSE REPORTS: No. 99-505 (Comm. on Post Office and Civil Service).
SENATE REPORTS: No. 99-409 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 8, considered and passed House.
Sept. 11, considered and passed Senate, amended.
Sept. 16, House concurred in Senate amendment.

○

HUMAN SERVICES REAUTHORIZATION ACT OF 1986

91-139 O - 86 (441)

Public Law 99-425
99th Congress

An Act

Sept. 30, 1986
[H.R. 4421]

To authorize appropriations for fiscal years 1987, 1988, 1989, and 1990 to carry out the Head Start, Follow Through, dependent care, community services block grant, and community food and nutrition programs, and for other purposes.

Human Services Reauthorization Act of 1986.
42 USC 9801 note.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Human Services Reauthorization Act of 1986".

TITLE I—THE HEAD START PROGRAM

SEC. 101. REAUTHORIZATION.

Section 639 of the Head Start Act (42 U.S.C. 9834) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 639. There are authorized to be appropriated for carrying out the provisions of this subchapter $1,198,000,000 for fiscal year 1987, $1,263,000,000 for fiscal year 1988, $1,332,000,000 for fiscal year 1989, and $1,405,000,000 for fiscal year 1990.".

SEC. 102. ALLOTMENT OF FUNDS FOR INDIAN AND MIGRANT HEAD START PROGRAMS.

Subparagraph (A) of section 640(a)(2) of the Head Start Act (42 U.S.C. 9835(a)(2)(A)) is amended to read as follows:

"(A) Indian and migrant Head Start programs and services for handicapped children, except that there shall be made available for use by Indian and migrant Head Start programs, on a nationwide basis, no less funds for fiscal year 1987 and each subsequent fiscal year than were obligated for use by Indian and migrant Head Start programs for fiscal year 1985;".

SEC. 103. COORDINATION.

Section 642(c) of the Head Start Act (42 U.S.C. 9837(c)) is amended by inserting before "programs" the following: "State and local".

SEC. 104. PRESERVATION OF INCOME CALCULATION METHOD.

Section 645(a)(2) of the Head Start Act (42 U.S.C. 9840(a)(2)) is amended by striking out "1986" and inserting in lieu thereof "1990".

TITLE II—FOLLOW THROUGH PROGRAM

SEC. 201. FOLLOW THROUGH.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subsection (a) of section 663 of the Follow Through Act (42 U.S.C. 9862(a)) is amended to read as follows:

"(a) There are authorized to be appropriated for carrying out the purposes of this subchapter $7,500,000 for fiscal year 1987,

$7,800,000 for fiscal year 1988, $8,112,000 for fiscal year 1989, and $8,436,000 for fiscal year 1990.".

(b) REPEALER.—Section 668 of the Follow Through Act (42 U.S.C. 9867) is amended—

(1) by striking out subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

(c) TECHNICAL AMENDMENT.—Section 670 of the Follow Through Act (42 U.S.C. 9861 note) is amended by striking out "1986" and inserting in lieu thereof "1990".

TITLE III—DEPENDENT CARE STATE GRANT PROGRAM

SEC. 301. REAUTHORIZATION.

Section 670A of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9871) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 670A. For the purpose of making allotments to States to carry out the activities described in section 670D, there is authorized to be appropriated $20,000,000 for each of the fiscal years 1987, 1988, 1989, and 1990.".

SEC. 302. AMENDMENTS ON DEPENDENT CARE SERVICES INFORMATION; LICENSING.

(a) DEPENDENT CARE SERVICES.—Subsection (a) of section 670D of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9874) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by striking out "shall" in the second sentence and inserting in lieu therof "may";

(3) by redesignating clauses (1), (2), (3), (4), (5), (6), and (7) in the second sentence as clauses (A), (B), (C), (D), (E), (F), and (G), respectively; and

(4) by striking out the third sentence and inserting in lieu thereof the following:

"(2) The State, with respect to the uses of funds described in paragraph (1) of this subsection shall—

"(A) provide assurances that no information will be included with respect to any dependent care services which are not provided in compliance with the laws of the State and localities in which such services are provided; and

"(B) provide assurances that the information provided will be the latest information available and will be kept up to date.".

(b) SCHOOL-AGE CHILD CARE SERVICES.—(1) Section 670D(b)(1) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9874(b)(1)) is amended by striking out "where school facilities are not available".

(2) Section 670D(b)(2)(E) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9874(b)(2)(E)) is amended by inserting before "licensing laws" the following: "child care".

SEC. 303. SCHOOL-AGE CHILD DEFINITION.

Education.

Section 670G(7) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9877(7)) is amended by inserting before the semicolon a comma and the following: "except that in any State which by State

law children at an earlier age are provided free public education, the age provided in State law shall be substituted for age five".

42 USC 9801 note.

SEC. 304. SHORT TITLE.

Subchapter D of chapter 8 of title VI of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9871-9877) is amended by adding at the end thereof the following new section:

State Dependent Care Development Grants Act.

"SHORT TITLE

"SEC. 670H. This subchapter may be cited as the 'State Dependent Care Development Grants Act'.".

TITLE IV—COMMUNITY SERVICES BLOCK GRANT PROGRAM

SEC. 401. GENERAL AUTHORIZATION OF APPROPRIATIONS.

Subsection (b) of section 672 of the Community Services Block Grant Act (42 U.S.C. 9901) is amended to read as follows:

"(b) There is authorized to be appropriated $390,000,000 for fiscal year 1987, $409,500,000 for fiscal year 1988, $430,000,000 for fiscal year 1989, and $451,500,000 for fiscal year 1990, to carry out the provisions of this subtitle.".

SEC. 402. DEFINITION OF ELIGIBLE ENTITY.

The first sentence of section 673(1) of the Community Services Block Grant Act (42 U.S.C. 9902(1)) is amended by inserting after "1981" a comma and the following: "or which came into existence during fiscal year 1982 as a direct successor in interest to such a community action agency or community action program and meets all the requirements under section 675(c)(3) of this Act with respect to the composition of the board".

42 USC 9904.

SEC. 403. REQUIREMENTS.

(a) TERMINATION PROCEDURES.—(1) Section 675(c)(11) of the Community Services Block Grant Act (42 U.S.C. 9904(c)(11)) is amended by inserting "the procedures and" after "subject to".

(2) Section 676A of the Community Services Block Grant Act (42 U.S.C. 9905a) is amended—

(A) by redesignating the section as subsection (b); and

(B) by inserting before the redesignated subsection (b) the following:

Agriculture and agricultural products. State and local governments. 42 USC 9908.

"SEC. 676A. (a) Whenever a State violates the assurances contained in section 675(c)(11) and terminates the funding of a community action agency or migrant and seasonal farmworker organization prior to the completion of the State's hearing and the Secretary's review as required in section 679 of this Act, the Secretary shall assume responsibility for providing financial assistance to the community action agency or migrant and seasonal farmworker organization affected. The allotment for the State shall be reduced by an amount equal to the funds provided under this section by the Secretary to such agency or organization.".

(3) Section 676A of the Community Services Block Grant Act (42 U.S.C. 9905a), as amended by this subsection, is amended by adding at the end thereof the following:

"(c) The Secretary shall conduct the review under subsection (b) through the Office of Community Services, which shall promptly

conduct such review and issue a written determination together with the reasons of the Secretary therefor.".

(4) The heading of section 676A of the Community Services Block Grant Act (42 U.S.C. 9905a) is amended to read as follows:

"PROCEDURES FOR A REVIEW OF TERMINATION OF FUNDING".

(b) REPEAL OF EXECUTED PROVISION.—The last sentence of section 675(c) of the Community Services Block Grant Act (42 U.S.C. 9904(c)) is repealed.

SEC. 404. FISCAL EVALUATIONS.

(a) GENERAL RULE.—Section 679(b)(1) of the Community Services Block Grant Act (42 U.S.C. 9908(b)(1)) is amended—

Children and youth. Aged persons. Homeless persons. Reports.

(1) by inserting "evaluations and" after "fiscal year";

(2) by adding before the period at the end thereof a comma and the following: "and especially with respect to compliance with subsections (a) and (b) of section 675, and clauses (1) through (11) of subsection (c) of such section"; and

(3) by adding at the end thereof the following:

State and local governments.

"Each such evaluation shall include identifying the impact that assistance furnished under this subtitle has on children, pregnant adolescents, homeless families, and the elderly poor. A report of the evaluation, together with recommendations of improvements designed to enhance the benefit and impact to people in need, will be sent to each State evaluated. Upon receiving the report the State will then submit a plan of action in response to the recommendation contained in the report. The results of the evaluation shall be submitted annually to the Chairman of the Committee on Education and Labor of the House of Representatives and the Chairman of the Committee on Labor and Human Resources of the Senate.".

(b) CONFORMING AMENDMENT.—Subsection (i) of section 675 of the Community Services Block Grant Act (42 U.S.C. 9904(i)) is repealed.

SEC. 405. DISCRETIONARY AUTHORITY.

(a) GENERAL RULE.—(1) The matter preceding clause (1) of section 681(a) of the Community Services Block Grant Act (42 U.S.C. 9910(a)) is amended—

(A) by striking out "is authorized, either directly or through" and inserting in lieu thereof "is authorized to make"; and

(B) by inserting "to enter into" before "contracts".

(2) Section 681(a)(1) of the Community Services Block Grant Act (42 U.S.C. 9910(a)(1)) is amended by inserting before the semicolon a comma and the following: "including national conferences, newsletters, and collection and dissemination of data about programs and projects assisted under this subtitle".

(3) Subclause (A) of section 681(a)(2) of the Community Services Block Grant Act (42 U.S.C. 9910(a)(2)(A)) is amended to read as follows:

Corporations. Business and industry. Employment and unemployment. Disadvantaged persons.

"(A) special programs of assistance, awarded on a competitive basis, to private, locally initiated, nonprofit community development corporations, (or affiliates of such corporations) governed by a board consisting of residents of the community and business and civic leaders, which sponsor enterprises providing employment and business development opportunities for low-income residents of the

community designed to increase business and employment opportunities in the community;".

(4) Section 681(a)(2)(D) of the Community Services Block Grant Act (42 U.S.C. 9910(a)(2)(D)) is amended by inserting before the semicolon the following: "(in selecting entities to carry out such programs, the Secretary shall give priority to private nonprofit organizations that before the date of the enactment of the Human Services Reauthorization Act of 1986 carried out such programs under this subparagraph)".

(b) REPORTS ON PROJECTS.—Section 681 of the Community Services Block Grant Act (42 U.S.C. 9910) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

"(b)(1) The final reports submitted by recipients of assistance under this section on projects completed with such assistance shall be summarized and reported by the Secretary annually to the Chairman of the Committee on Education and Labor of the House of Representatives and the Chairman of the Committee on Labor and Human Resources of the Senate. The report shall contain a list of recipients who have received assistance under this section outside of the competitive process.

"(2) The Secretary shall, at the end of each fiscal year, prepare and distribute a catalog listing all the projects assisted under clause (A) of subsection (a)(2) in such fiscal year. The catalog shall include—

"(A) a description of each project;

"(B) an identification of the agency receiving the award, including the name and address of the principal investigator;

"(C) a description of the project objectives; and

"(D) a statement of the accomplishments of the project.".

(c) CONFORMING AMENDMENTS.—(1) Section 674(a)(1)(B) of the Community Services Block Grant Act (42 U.S.C. 9903(a)(1)(B)) is amended by striking out "section 681(b)" and inserting in lieu thereof "section 681(c)".

(2) Section 680(a) of the Community Services Block Grant Act (42 U.S.C. 9909(a)) is amended by striking out "section 681(b)" and inserting in lieu thereof "section 681(c)".

(3) Section 614 of the Community Economic Development Act of 1981 (42 U.S.C. 9803) is amended by striking out "section 681(b)" and inserting in lieu thereof "section 681(c)".

State and local governments. Disadvantaged persons. Employment and unemployment.

SEC. 406. AUTHORIZATION OF APPROPRIATIONS FOR COMMUNITY FOOD AND NUTRITION.

Section 681A of the Community Services Block Grant Act (42 U.S.C. 9910a) is amended by striking out subsection (b) and inserting in lieu thereof the following new subsections:

"(b)(1) From 60 percent of the amount appropriated for a fiscal year to carry out this section, the Secretary shall allot for grants under subsection (a) to eligible agencies for statewide programs in each State an amount which bears the same ratio to 60 percent of such appropriation as the low-income and unemployed populations of such State bear to the low-income and unemployed populations of all the States.

"(2) Forty percent of the amount appropriated in a fiscal year to carry out this section shall be available for grants under subsection (a) to be awarded on a competitive basis to eligible agencies for local and statewide programs. In any fiscal year no agency may receive

funds awarded in accordance with this paragraph in excess of $50,000.

"(c) There is authorized to be appropriated $3,000,000 for each of the fiscal years 1987, 1988, 1989, and 1990 to carry out this section.".

SEC. 407. INTEREST RATES PAYABLE ON CERTAIN RURAL DEVELOPMENT LOANS; ASSIGNMENT OF LOAN CONTRACTS.

(a) MODIFICATION OF INTEREST RATES.—Notwithstanding any other provision of law— 42 USC 9812a.

(1) any outstanding loan made after December 31, 1982, by the Secretary of Health and Human Services; or

(2) any loan made after the date of the enactment of this Act; with moneys from the Rural Development Loan Fund established by section 623(c)(1) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9812(c)(1)) or with funds available under section 681(a) of the Community Services Block Grant Act (42 U.S.C. 9910(a)) to an intermediary borrower shall bear interest at a fixed rate equal to the rate of interest that was in effect on the date of issuance for loans made in 1980 with such moneys or such funds if the weighted average rate of interest for all loans made after December 31, 1982, by such intermediary borrower with such moneys or such funds does not exceed the sum of 6 percent and the rate of interest payable under this subsection by such intermediary borrower.

Ante, pp. 969, 970.

(b) ASSIGNMENT OF CERTAIN LOAN CONTRACTS.—Any contract for a loan made during the period beginning on December 31, 1982, and ending on the date of the enactment of this Act with— State and local governments. 42 USC 9812a.

(1) moneys from the Rural Development Loan Fund established by section 623(c)(1) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9812(c)(1)); or

(2) funds available under section 681(a) of the Community Services Block Grant Act (42 U.S.C. 9910(a));

to an intermediary borrower that is a county government may be assigned by such borrower to an entity to which such loan could have been made for the purpose for which such contract was made. Any entity to which such contract is so assigned shall be substituted as a party to such contract and shall be obligated to carry out such contract and the purpose for which such contract was made.

(c) TECHNICAL AMENDMENT.—Section 1323(b)(2) of the Food Security Act of 1985 (7 U.S.C. 1631(b)(2)) is amended— 7 USC 1932 note.

(1) by striking out "authorized under" and inserting in lieu thereof "in, appropriated to, or repaid to";

(2) in subparagraph (A) by striking out "and" at the end thereof;

(3) in subparagraph (B) by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new subparagraph:

"(C) notwithstanding paragraph (1), all funds other than funds to which subparagraph (A) applies shall be used by the Secretary to make loans—

"(i) to the entities;

"(ii) for the purposes; and

"(iii) subject to the terms and conditions;

specified in the first, second, and last sentences of section 623(a) of the Community Economic Development Act of 1981 (42 U.S.C. 9812(a)). For purposes of this subparagraph, any reference in

such sentences to the Secretary shall be deemed to be a reference to the Secretary of Agriculture.".

42 USC 9910b.

SEC. 408. DEMONSTRATION PARTNERSHIP AGREEMENTS ADDRESSING THE NEEDS OF THE POOR.

State and local governments. Research and development.

(a) GENERAL AUTHORITY.—(1) In order to provide for the self-sufficiency of the Nation's poor, the Secretary may make grants from funds appropriated under subsection (e) to eligible entities for the development and implementation of new and innovative approaches to deal with particularly critical needs or problems of the poor which are common to a number of communities. Grants may be made only with respect to applications which—

(A) involve activities which can be incorporated into or be closely coordinated with eligible entities' ongoing programs;

(B) involve significant new combinations of resources or new and innovative approaches involving partnership agreements; or

(C) are structured in a way that will, within the limits of the type of assistance or activities contemplated, most fully and effectively promote the purposes of the Community Services Block Grant Act.

42 USC 9901 note.

(2) No grant may be made under this section unless an application is submitted to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may require.

(b) FEDERAL SHARE; LIMITATIONS.—(1) Grants awarded pursuant to this section shall be used for new programs and shall not exceed 50 per centum of the cost of such new programs.

(2) Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, or services.

(3) Not more than one grant may be made to any eligible entity, and no grant may exceed $250,000.

(4) No application may be approved for assistance under this section unless the Secretary is satisfied that—

(A) the activities to be carried out under the application will be in addition to, and not in substitution for, activities previously carried on without Federal assistance; and

(B) funds or other resources devoted to programs designed to meet the needs of the poor within the community, area, or State will not be diminished in order to provide the matching contributions required under this section.

(c) DISSEMINATION OF RESULTS.—As soon as practicable, but no later than 90 days after the expiration of the fiscal year for which any grant is awarded under this section, the Secretary shall prepare and make available upon request to each State and eligible entity descriptions of the demonstration programs assisted under this section, and any relevant information developed and results achieved, so as to provide models for innovative programs to other eligible entities.

(d) DEFINITIONS.—As used in this section—

(1) the term "eligible entity" has the same meaning given such term by section 673(1) of the Community Services Block Grant Act (42 U.S.C. 9902(1)); and

Ante, p. 968.

(2) the term "Secretary" means the Secretary of Health and Human Services.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $5,000,000 for each of the fiscal years 1987, 1988, and 1989, to carry out this section.

TITLE V—LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM

SEC. 501. REAUTHORIZATION.

Subsection (b) of section 2602 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended to read as follows:

"(b) There are authorized to be appropriated to carry out the provisions of this title $2,050,000,000 for fiscal year 1987, $2,132,000,000 for fiscal year 1988, $2,218,000,000 for fiscal year 1989, and $2,307,000,000 for fiscal year 1990.".

SEC. 502. ADMINISTRATION OF ENERGY CRISIS INTERVENTION PROGRAM.

(a) ENERGY CRISIS INTERVENTION.—Section 2604(c) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(c)) is amended—

(1) in the last sentence—

(A) by striking out "and the capacity" and inserting in lieu thereof "the capacity"; and

(B) by inserting ", and the ability to carry out the program in local communities" before the period at the end thereof; and

(2) by adding at the end thereof the following:

"The program for which funds are reserved under this subsection shall—

"(1) not later than 48 hours after a household applies for energy crisis benefits, provide some form of assistance that will resolve the energy crisis if such household is eligible to receive such benefits;

"(2) not later than 18 hours after a household applies for crisis benefits, provide some form of assistance that will resolve the energy crisis if such household is eligible to receive such benefits and is in a life-threatening situation; and

"(3) require each entity that administers such program—

"(A) to accept applications for energy crisis benefits at sites that are geographically accessible to all households in the area to be served by such entity; and

"(B) to provide to low-income individuals who are physically infirm the means—

"(i) to submit applications for energy crisis benefits without leaving their residences; or

"(ii) to travel to the sites at which such application are accepted by such entity.

The preceding sentence shall not apply to a program in a geographical area affected by a natural disaster in the United States designated by the Secretary, or by a major disaster or emergency designated by the President under the Disaster Relief Act of 1974, for so long as such designation remains in effect, if the Secretary determines that such disaster or such emergency makes compliance with such sentence impracticable.".

Disaster assistance.

42 USC 5121 note.

(b) ISSUANCE OF RULES.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Health and Human

42 USC 8623 note.

Services shall issue rules to carry out the amendments made by subsection (a).

SEC. 503. CALCULATION OF GRANTS TO INDIAN TRIBES.

Section 2604(d)(2) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(d)(2)) is amended—

(1) by striking out "in such State with respect to which a determination under this subsection is made" and inserting in lieu thereof "and residing within the State on the reservation of the tribes or on trust lands adjacent to such reservation";

(2) by inserting before the period at the end of such section a comma and the following: "or such greater amount as the Indian tribe and the State may agree upon"; and

(3) by adding at the end thereof the following:

"In cases where a tribe has no reservation, the Secretary, in consultation with the tribe and the State, shall define the number of Indian households for the determination under this paragraph."

SEC. 504. APPLICATIONS AND REQUIREMENTS.

(a) STATE PROCEDURES.—Section 2605(b)(5) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(b)(5)) is amended by striking out "in a manner consistent with the efficient and timely payment of benefits" and inserting in lieu thereof "in a timely manner".

(b) CONFORMING AMENDMENTS.—Section 2605(b) of the Low-Income Home Energy Act of 1981 (42 U.S.C. 8624(b)) is amended—

(1) by striking out clauses (14), (15), and (16);

(2) by inserting "and" at the end of clause (13); and

(3) by redesignating clause (17) as clause (14).

(c) CONTENTS OF STATE PLAN.—Section 2605(c)(1) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(c)(1)) is amended by striking out clauses (A) through (E) and inserting in lieu thereof the following:

"(A) describes the eligibility requirements to be used by the State for each type of assistance to be provided under this title, including criteria for designating an emergency under section 2604(c);

"(B) describes the benefit levels to be used by the States for each type of assistance including assistance to be provided for emergency crisis intervention and for weatherization and other energy-related home repair;

"(C) contains estimates of the amount of funds the State will use for each of the programs under such plan and describes the alternative use of funds reserved under section 2604(c) in the event any portion of the amount so reserved is not expended for emergencies;

Ante, p. 973.

"(D) describes weatherization and other energy-related home repair the State will provide under subsection (k);

"(E) describes how the State will carry out assurances in clauses (3), (4), (5), (6), (7), (8), (10), (12), and (13) of subsection (b); and

"(F) contains any other information determined by the Secretary to be appropriate for purposes of this title.".

(d) MODEL STATE PLAN FORMAT.—Section 2605(c) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(c)) is amended by adding at the end thereof the following new paragraph:

"(3) Not later than April 1 of each fiscal year the Secretary shall make available to the States a model State plan format that may be used, at the option of each State, to prepare the plan required under paragraph (1) for the next fiscal year.".

(e) CONSISTENT TREATMENT OF ENERGY ASSISTANCE PAYMENTS.—Section 2605(f) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(f)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by striking out "provided to" and inserting in lieu thereof "provided directly to, or indirectly for the benefit of,"; and

(3) by adding at the end thereof the following:

"(2) For purposes of paragraph (1) of this subsection and for purposes of determining any excess shelter expense deduction under section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e))—

"(A) the full amount of such payments or allowances shall be deemed to be expended by such household for heating or cooling expenses, without regard to whether such payments or allowances are provided directly to, or indirectly for the benefit of, such household; and

"(B) no distinction may be made among households on the basis of whether such payments or allowances are provided directly to, or indirectly for the benefit of, any of such households.".

SEC. 505. GRANTS AND CONTRACTS FOR TECHNICAL ASSISTANCE AND TRAINING.

(a) AUTHORITY TO MAKE GRANTS AND CONTRACTS.—The Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) is amended by inserting after section 2609 the following new section:

"TECHNICAL ASSISTANCE AND TRAINING

"SEC. 2609A. (a) Of the amounts appropriated under section 2602(b) for any fiscal year, not more than $500,000 of such amounts may be reserved by the Secretary— 42 USC 8628a. *Ante*, p. 973.

"(1) to make grants to State and public agencies and private nonprofit organizations; or

"(2) to enter into contracts or jointly financed cooperative arrangements with States and public agencies and private nonprofit organizations;

to provide for training and technical assistance related to the purposes of this subtitle, including collection and dissemination of information about programs and projects assisted under this subtitle, and ongoing matters of regional or national significance that the Secretary finds would assist in the more effective provision of services under this title.

"(b) No provision of this section shall be construed to prevent the Secretary from making a grant pursuant to subsection (a) to one or more private nonprofit organizations that apply jointly with a business concern to receive such grant.".

(b) TECHNICAL AMENDMENTS.—Section 2604(a)(1) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(a)(1)) is amended—

(1) in subparagraph (A) by inserting "after reserving any amount permitted to be reserved under section 2609A and" after "remaining"; and

(2) in subparagraph (B) by inserting "after reserving any amount permitted to be reserved under section 2609A" after "therefor".

SEC. 506. CONTENT OF REPORTS.

Section 2610(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8629(b)) is amended by inserting before the period at the end thereof the following:

", and a report that describes for the prior fiscal year—

"(1) the manner in which States carry out the requirements of clauses (2), (5), (8), and (15) of section 2605(b); and

"(2) the impact of each State's program on recipient and eligible households".

Ante, p. 974.

TITLE VI—CHILD DEVELOPMENT ASSOCIATE SCHOLARSHIP ASSISTANCE PROGRAM

Child Development Associate Scholarship Assistance Act of 1985.
42 USC 10901 note.
42 USC 10901.
42 USC 1397.

SEC. 601. SHORT TITLE.

This title may be cited as the "Child Development Associate Scholarship Assistance Act of 1985".

SEC. 602. GRANTS AUTHORIZED.

The Secretary is authorized to make a grant for any fiscal year to any State receiving a grant under title XX of the Social Security Act for such fiscal year to enable such State to award scholarships to eligible individuals within the State who are candidates for the Child Development Associate credential.

SEC. 603. APPLICATIONS.

State and local governments.
42 USC 10902.

(a) APPLICATION REQUIRED.—A State desiring to participate in the grant program established by this title shall submit an application to the Secretary in such form as the Secretary may require.

(b) CONTENTS OF APPLICATIONS.—A State's application shall contain appropriate assurances that—

(1) scholarship assistance made available with funds provided under this title will be awarded—

(A) only to eligible individuals;

(B) on the basis of the financial need of such individuals; and

(C) in amounts sufficient to cover the cost of application, assessment, and credentialing for the Child Development Associate credential for such individuals; and

(2) not more than 10 percent of the funds received by the State under this title will be used for the costs of administering the program established in such State to award such assistance.

(c) EQUITABLE DISTRIBUTION.—In making grants under this title, the Secretary shall—

(1) distribute such grants equitably among States; and

(2) ensure that the needs of rural and urban areas are appropriately addressed.

Rural areas.
Urban areas.
42 USC 10903.

SEC. 604. DEFINITIONS.

For purposes of this title—

(1) the term "eligible individual" means a candidate for the Child Development Associate credential whose income does not exceed the poverty line, as defined in section 673(2) of the

Community Services Block Grant Act (42 U.S.C. 9902(2)), by more than 50 percent;

(2) the term "Secretary" means the Secretary of Health and Human Services; and

(3) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, and Palau.

SEC. 605. ADMINISTRATIVE PROVISIONS.

State and local governments. 42 USC 10904.

(a) REPORTING.—Each State receiving grants under this title shall annually submit to the Secretary information on the number of eligible individuals assisted under the grant program, and their positions and salaries before and after receiving the Child Development Associate credential.

(b) PAYMENTS.—Payments pursuant to grants made under this title may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

SEC. 606. AUTHORIZATION OF APPROPRIATIONS.

42 USC 10905.

There is authorized to be appropriated $1,500,000 for each of the fiscal years 1987, 1988, 1989, and 1990 for carrying out this title.

TITLE VII—EXCELLENCE IN EDUCATION

SEC. 701. TECHNICAL AMENDMENTS.

Section 604(b) of the Excellence in Education Act (20 U.S.C. 4033(b)) is amended—

(1) in paragraph (2) by inserting after "fiscal year" the second place it appears the following: "in which the appropriations for that year exceed $15,000,000"; and

(2) in paragraph (3) by inserting after "fiscal year" the second place it appears the following: "in which the appropriations for that year exceed $15,000,000".

TITLE VIII—REPORT REGARDING HOURS OF EMPLOYMENT OF BATBOYS AND BATGIRLS

SEC. 801. REPORT TO CONGRESS.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Labor shall—

(1) determine whether a change in the permissible hours of employment for batboys and batgirls would be detrimental to their well-being and whether any such change should be proposed to the Congress; and

(2) submit a report to the President pro tempore of the Senate and the Speaker of the House of Representatives describing the results of such determination.

TITLE IX—BEGINNING READING INSTRUCTION STUDY AND LISTING REQUIRED

SEC. 901. STUDY AND LISTING REQUIRED.

(a) STUDY.—The Secretary of Education (hereinafter in this title referred to as the "Secretary") shall conduct a study in order to compile a complete list, by name, of beginning reading instruction programs and methods, including phonics, indicating—

(1) the average cost per pupil of such programs and methods; and

(2) whether such programs and methods do or do not present well-designed instruction as recommended in the report of the Commission on Reading entitled "Becoming a Nation of Readers".

The listing required by this section shall be written in such a way as to be understandable to the general public.

(b) PUBLIC COMMENT.—In carrying out the study required by this section, the Secretary shall solicit public comments on beginning reading programs and methods.

Public information.

(c) REPORTS.—The Secretary shall prepare and submit to the Congress such interim reports of the study and listing as the Secretary deems advisable. The Secretary shall prepare and submit a final report containing the listing required by this subsection to the Congress not later than 12 months after the date of the enactment of this Act. The Secretary shall publicize and disseminate nationally the listing required by this section to the education community, parents, and other interested persons.

TITLE X—EFFECTIVE DATES AND RELATED MATTERS

42 USC 8621 note.

SEC. 1001. EFFECTIVE DATES; APPLICATION OF AMENDMENTS.

(a) GENERAL EFFECTIVE DATE.—Except as provided in subsections (b) and (c), this Act and the amendments made by this Act shall take effect on October 1, 1986, or the date of the enactment of this Act, whichever occurs later.

(b) EFFECTIVE DATE FOR ENERGY CRISIS INTERVENTION AMENDMENTS.—The amendments made by section 502(a) shall take effect on December 1, 1986, or 60 days after the date of the enactment of this Act, whichever occurs later.

(c) APPLICATION OF CERTAIN OTHER AMENDMENTS RELATING TO ENERGY ASSISTANCE.—The amendments made by subsections (a), (b), (c), and (d) of section 504 shall not apply with respect to any fiscal year beginning in or before the 60-day period ending on the effective date of this Act.

Approved September 30, 1986.

LEGISLATIVE HISTORY—H.R. 4421 (S. 2444):

HOUSE REPORTS: No. 99-545 (Comm. on Education and Labor) and No. 99-815 (Comm. of Conference).

SENATE REPORTS: No. 99-327 accompanying S. 2444 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD, Vol. 132 (1986):

Apr. 29, considered and passed House.

July 14, considered and passed Senate, amended, in lieu of S. 2444.

Sept. 16, House agreed to conference report.

Sept. 17, Senate agreed to conference report.

○

Public Law 99-426
99th Congress

An Act

To amend the Department of Defense Authorization Act, 1985, to provide that members of the Commission on Merchant Marine and Defense shall not be considered to be Federal employees for certain purposes, to extend the deadline for reports of the Commission, and to extend the availability of funds appropriated to the Commission.

Sept. 30, 1986
[H.R. 4530]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STATUS OF MEMBERS OF COMMISSION ON MERCHANT MARINE AND DEFENSE; EXTENSIONS OF REPORT DEADLINES AND AVAILABILITY OF APPROPRIATIONS.

(a) STATUS OF COMMISSION MEMBERS.—Subsection (d) of section 1536 of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2633), is amended—

46 USC app. 1120 note.

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end the following new paragraph:

"(2) A member of the Commission appointed under subsection (c)(1)(C) (who is not otherwise employed by the Federal Government) shall not be considered to be a Federal employee, except for the purposes of—

"(A) chapter 81 of title 5, United States Code, relating to compensation for work-related injuries; and

5 USC 8101 *et seq.*

"(B) chapter 171 of title 28, United States Code, relating to tort claims.".

28 USC 2671 *et seq.*

(b) EXTENSIONS.—Such section is further amended as follows:

(1) The last sentence of subsection (b) and the first sentence of subsection (g) are each amended by striking out "the date of the enactment of the law first providing funds for the Commission" and inserting in lieu thereof "the date on which sufficient members of the Commission to constitute a quorum have been appointed".

(2) The second sentence of subsection (g) is amended by striking out "of enactment" each place it appears.

(3) The last sentence of subsection (i) is amended by striking out "September 30, 1988" and inserting in lieu thereof "36 months after the date on which sufficient members of the Commission to constitute a quorum have been appointed".

Approved September 30, 1986.

LEGISLATIVE HISTORY—H.R. 4530:

HOUSE REPORTS: No. 99-601 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 132 (1986):
May 19, considered and passed House.
Sept. 12, considered and passed Senate.

○

91-139 O - 86 (442)

Public Law 99-427
99th Congress

An Act

Sept. 30, 1986
[S. 1963]

To direct the Secretary of the Interior to convey certain interests in lands in Socorro County, New Mexico, to the New Mexico Institute of Mining and Technology.

Public lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER OF LANDS.

Research and development. Education.

(a) CONVEYANCE.—Subject to valid existing rights and except as provided in section 3, the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") is authorized and directed to convey to the New Mexico Institute of Mining and Technology (hereafter in this Act referred to as the "Institute"), Socorro, New Mexico, at fair market value, as determined by the Secretary, all right, title, and interest of the United States in and to the public lands aggregating approximately 8,501.55 acres in Socorro County, New Mexico, as generally depicted on a map entitled "New Mexico Institute of Mining and Technology Land Transfer, Socorro, New Mexico" dated 1985, to be used for research and education.

(b) SURVEY.—The conveyance required by subsection (a) shall occur only after the Institute performs and provides to the Secretary a survey of the archeological resources of the area which identifies the mitigation measures, if any, that the Institute, in coordination with the State of New Mexico Historic Preservation Office, will implement following the conveyance and shall be conditioned on the implementation of such mitigation measures.

SEC. 2. MAPS AND DESCRIPTION OF LANDS.

Public information.

As soon as practicable after enactment of this Act, the Secretary shall submit a map and legal description of the public lands designated in the first section of this Act to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives. Such map and legal description shall have the same force and effect as if included in this Act, except that any clerical or typographical errors in such map or legal description may be corrected. The Secretary shall place such map and legal description on file, and make them available for public inspection, in the Office of the Director, New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico.

91-139 O - 86 (444)

SEC. 3. RESERVATION OF RIGHTS.

Mines and mining. Patents and trademarks.

There are reserved to the United States all minerals that may be found in the lands described in the first section: *Provided, however,* That such lands, except for valid existing rights, shall not be available for location and patent under the United States Mining Law, Act of May 10, 1872, 17 Stat. 91, 30 U.S.C. 22, 28, 28b.

Approved September 30, 1986.

LEGISLATIVE HISTORY—S. 1963 (H.R. 4971):

HOUSE REPORTS: No. 99-76 accompanying H.R. 4971 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 99-341 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 1, considered and passed Senate.
Aug. 11, considered and passed House, amended, in lieu of H.R. 4971.
Sept. 17, Senate concurred in House amendment.

○

TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE AMENDMENTS OF 1986

91-139 O - 86 (445)

Public Law 99-428
99th Congress

An Act

Sept. 30, 1986
[S. 2095]

To reauthorize the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community College Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Tribally Controlled Community College Assistance Amendments of 1986.
Education.
Indians.
25 USC 1801 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tribally Controlled Community College Assistance Amendments of 1986".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) GRANT PROGRAMS.—Subsection (a) of section 110 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1810(a)) is amended—

(1) by striking out "1985, 1986, and 1987" in paragraph (1) and inserting in lieu thereof "1987, 1988, 1989, and 1990", and

(2) by striking out "such fiscal years" in paragraphs (2) and (3) and inserting in lieu thereof "the fiscal years 1987, 1988, 1989, and 1990".

(b) ENDOWMENT PROGRAM.—Section 306 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1836) is amended by striking out "1985, 1986, and 1987" and inserting in lieu thereof "1987, 1988, 1989, and 1990".

SEC. 3. DEFINITIONS.

(a) SATISFACTORY PROGRESS.—Subsection (a) of section 2 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)) is amended—

(1) by striking out "and" at the end of paragraph (6),

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(8) 'satisfactory progress toward a degree or certificate' has the meaning given to such term by the institution at which the student is enrolled.".

(b) INDIAN STUDENT COUNT.—Subsection (b) of section 2 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(b)) is amended—

(1) by striking out ", in accordance with the standards and practices of the appropriate accrediting agency or the institution at which the student is in attendance," in paragraph (5),

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively, and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) Credits earned by any student who has not obtained a high school degree or its equivalent shall be counted toward the computation of the Indian student count if the institution at which the student is in attendance has established criteria for the admission of

such student on the basis of the student's ability to benefit from the education or training offered. The institution shall be presumed to have established such criteria if the admission procedures for such studies include counseling or testing that measures the student's aptitude to successfully complete the course in which the student has enrolled. No credits earned by such student for purposes of obtaining a high school degree or its equivalent shall be counted toward the computation of the Indian student count.".

SEC. 4. OPERATION AND IMPROVEMENT GRANTS.

Paragraph (2) of section 108(a) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1808(a)(2)) is amended to read as follows:

"(2) $5,820,".

SEC. 5. CONTRACTS UNDER INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.

Subsection (b) of section 109 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1809(b)) is amended by adding at the end thereof the following new paragraph:

"(3) No tribally controlled community college for which a tribe has designated a portion of the funds appropriated for the tribe from funds appropriated under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13) may be denied a contract for such portion under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) (except as provided in that Act), or denied appropriate contract support to administer such portion of the appropriated funds.".

SEC. 6. REPORT ON FACILITIES.

(a) IN GENERAL.—Section 112 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1812) is amended—

(1) by striking out "Administrator of General Services" each place it appears and inserting in lieu thereof "Secretary", and

(2) by striking out "enactment of this subsection" in subsection (a) and inserting in lieu thereof "enactment of the Tribally Controlled Community College Assistance Amendments of 1986".

(b) CONFORMING AMENDMENT.—Section 113(a) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1813(a)) is amended by striking out "Administrator of General Services" and inserting in lieu thereof "Secretary".

SEC. 7. NAVAJO COMMUNITY COLLEGE.

Section 5 of the Navajo Community College Act (25 U.S.C. 640c-1) is amended—

(1) by striking out "the fiscal year beginning October 1, 1984, and for the three succeeding fiscal years" in subsection (a)(1) and inserting in lieu thereof "each of the fiscal years 1987, 1988, 1989, and 1990", and

(2) by striking out "for any fiscal year" in subsection (b)(1) and inserting in lieu thereof "for each fiscal year".

Approved September 30, 1986.

LEGISLATIVE HISTORY—S. 2095:

SENATE REPORTS: No. 99-324 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 132 (1986):
June 25, considered and passed Senate.
Sept. 16, considered and passed House.

○

Public Law 99-429
99th Congress

An Act

To temporarily delay the repeal of the United States Trustee System.

Sept. 30, 1986
[S. 2888]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That effective immediately before September 30, 1986, section 408(c) of the Act of November 6, 1978 (Public Law 95-598; 92 Statute 2687), is amended by striking out "September 30, 1986" and inserting in lieu thereof "November 10, 1986".

28 USC note prec. 581.

Approved September 30, 1986.

LEGISLATIVE HISTORY—S. 2888:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 27, considered and passed Senate.
Sept. 29, considered and passed House.

91-139 O - 86 (446)

Public Law 99-430
99th Congress

An Act

Sept. 30, 1986
[S.J. Res. 353]

To provide for the extension of certain programs relating to housing and community development, and for other purposes.

12 USC 1721 note.
Ante, p. 673.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That each provision of law amended by Public Law 99-345 is amended by striking out "September 30, 1986" wherever it appears and inserting in lieu thereof "September 30, 1987".

Approved September 30, 1986.

LEGISLATIVE HISTORY—S.J. Res. 353 (H.R. 1[illegible]):

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 26, considered and passed Senate.
Sept. 30, considered and passed House.

91-139 O - 86 (447)

Public Law 99-431
99th Congress

Joint Resolution

To provide for a settlement to the Maine Central Railroad Company and Portland Terminal Company labor-management dispute.

Sept. 30, 1986
[S.J. Res. 415]

Whereas the labor dispute between the common rail carriers, Maine Central Railroad Company and Portland Terminal Company, and certain of the employees of such carriers represented by the Brotherhood of Maintenance of Way Employees threatens essential transportation services of the Nation;

Whereas it is essential to the national interest, including the national health and defense, that essential transportation services be maintained;

Whereas the Congress finds that emergency measures are essential to security and continuity of transportation services by such carriers;

Whereas the President by Executive Order Numbered 12557 of May 16, 1986, pursuant to the provisions of section 10 of the Railway Labor Act (45 U.S.C. 160), created a Presidential Emergency Board to investigate the dispute and report findings; 51 FR 18429.

Whereas the recommendations of Presidential Emergency Board Numbered 209 for settlement of such dispute have not yet resulted in a settlement;

Whereas the extension of the provisions of section 10 of the Railway Labor Act (45 U.S.C. 160) for an additional 60-day period to such dispute provided by the joint resolution entitled: "Joint resolution to provide for a temporary prohibition of strikes or lockouts with respect to the Maine Central Railroad Company and the Portland Terminal Company labor-management dispute", approved August 21, 1986 (Public Law 99-385), has not yet resulted in a settlement of such dispute; *Ante*, p. 819.

Whereas the advisory board established pursuant to section 2 of such joint resolution recommended that in the event that the parties to the dispute were unable to reach agreement on the dispute before September 13, 1986, the Congress should enact legislation directing the parties to accept and apply the recommendations of Emergency Board Numbered 209, and if such parties are unable to agree as to all necessary details in applying the recommendations of such Emergency Board, all such unsettled issues should be submitted to final and binding arbitration;

Whereas all the procedures for resolving such dispute provided for in the Railway Labor Act have been exhausted and have not yet resulted in settlement of the dispute; 45 USC 151 note.

Whereas the Congress, under the Commerce Clause of the Constitution, has the authority and responsibility to ensure the uninterrupted operation of essential transportation services; and

Whereas the Congress in the past has enacted legislation for such purposes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following

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conditions shall apply to the dispute referred to in Executive Order Numbered 12557 of May 16, 1986, between the common rail carriers, Maine Central Railroad Company and Portland Terminal Company (hereafter in this resolution referred to as the "carriers") and the employees of such carriers represented by the Brotherhood of Maintenance of Way Employees.

51 FR 18429.

(1) The parties to such dispute shall take all necessary steps to restore or preserve the conditions out of which such dispute arose as such conditions existed before 12:01 ante meridiem of March 3, 1986, except as provided in paragraphs (2) through (4).

(2) The report and recommendations of Presidential Emergency Board Numbered 209 shall be binding on the parties and shall have the same effect as though arrived at by agreement of the parties under the Railway Labor Act (45 U.S.C. 151 et seq.), except that nothing in this joint resolution shall prevent a mutual written agreement by the parties to any terms and conditions different from those established by this joint resolution.

(3)(A) If there are unresolved implementing issues remaining with respect to the report and recommendations or agreement under paragraph (2) after ten days after the date of the enactment of this joint resolution, the parties to the dispute shall enter into binding arbitration to provide for a resolution of such issues.

(B) The National Mediation Board established by section 4 of the Railway Labor Act (45 U.S.C. 154) shall appoint an arbitrator to resolve the issues described in subparagraph (A). Except as provided in this joint resolution, such arbitration shall be conducted as if it were under section 7 of such Act, and any award of such arbitration shall be enforceable as if under section 9 of such Act.

45 USC 157.
45 USC 159.

(4) Within thirty days after the date of the enactment of this joint resolution, the binding arbitration entered into pursuant to paragraph (3) shall be completed.

Approved September 30, 1986.

LEGISLATIVE HISTORY—S.J. Res. 415 (H.J. Res. 728):

HOUSE REPORTS: No. 99-864 accompanying H.J. Res. 728 (Comm. on Energy and Commerce).

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 17, considered and passed Senate.
Sept. 23, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Sept. 30, Presidential statement.

○

Public Law 99-432
99th Congress

An Act

To reauthorize the Atlantic Striped Bass Conservation Act, and for other purposes.

Oct. 1, 1986
[H.R. 3358]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

Paragraphs (2), (3), and (4) of section 3 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) are amended to read as follows:

"(2) The term 'Atlantic striped bass' means members of stocks or populations of the species Morone saxatilis, which ordinarily migrate seaward of the waters described in paragraph (3)(A)(i).

"(3) The term 'coastal waters' means—

"(A) for each coastal State referred to in paragraph (4)(A)—

"(i) all waters, whether salt or fresh, of the coastal State shoreward of the baseline from which the territorial sea of the United States is measured; and

"(ii) the waters of the coastal State seaward from the baseline referred to in clause (i) to the inner boundary of the exclusive economic zone;

"(B) for the District of Columbia, those waters within its jurisdiction; and

District of Columbia.
Potomac River.

"(C) for the Potomac River Fisheries Commission, those waters of the Potomac River within the boundaries established by the Potomac River Compact of 1958.

"(4) The term 'coastal State' means—

"(A) Pennsylvania and each State of the United States bordering on the Atlantic Ocean north of the State of South Carolina;

"(B) the District of Columbia; and

"(C) the Potomac River Fisheries Commission established by the Potomac River Compact of 1958.".

SEC. 2. COMMISSION FUNCTIONS.

Section 4 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended by—

(a) striking subsections (a) and (c) and redesignating subsections (b) and (d) as (a) and (b) respectively;

(b) amending subsection (a), as so redesignated, to read as follows:

"(a) MONITORING OF IMPLEMENTATION AND ENFORCEMENT.—

"(1) During December of fiscal year 1987, and of each fiscal year thereafter, the Commission shall determine:

"(A) whether each coastal State has adopted all regulatory measures necessary to fully implement the Plan in its coastal waters; and

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"(B) whether the enforcement of the Plan by each coastal State is satisfactory. Enforcement by a coastal State shall not be considered satisfactory by the Commission if, in its view, the enforcement is being carried out in such a manner that the implementation of the Plan within its coastal waters is being, or will likely be, substantially and adversely affected.

"(2) The Commission shall immediately notify the Secretaries of each negative determination made by it under this subsection.";

(c) amending subsection (b), as so redesignated, to read as follows:

"(b) SECRETARIAL ACTION AFTER NOTIFICATION.—Upon receiving notice from the Commission under subsection (a) that a coastal State has not taken the actions described in that subsection, the Secretaries shall determine jointly, within thirty days, whether that coastal State is in compliance with the Plan and, if the State is not in compliance, the Secretaries shall declare jointly a moratorium on fishing for Atlantic striped bass within the coastal waters of that coastal State. In making such a determination, the Secretaries shall carefully consider and review the comments of the Commission and that coastal State in question.".

SEC. 3. MORATORIUM.

Section 5 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended by—

(a) striking "(4)(d)" and inserting in lieu thereof "(4)(b)"; and

(b) striking "Secretary" and inserting in lieu thereof "Secretaries".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Section 7 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended to read as follows:

"SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

"For each of fiscal years 1986, 1987, and 1988, there are authorized to be appropriated such sums as may be necessary or appropriate to carry out this Act.".

16 USC 1851 note.

SEC. 5. EFFECTIVE PERIOD.

Section 9 of the Atlantic Striped Bass Conservation Act is amended by striking "18 months after the date of the enactment of this Act." and inserting in lieu thereof "at the close of September 30, 1988.".

16 USC 757g.

SEC. 6. FUNDING OF STRIPED BASS STUDIES.

Section 7(d) of the Anadromous Fish Conservation Act (16 U.S.C. 767g(d)) is amended by striking "and September 30, 1986" and inserting in lieu thereof "September 30, 1986, September 30, 1987, and September 30, 1988".

SEC. 7. TRANSFER OF MILES CITY NATIONAL FISH HATCHERY.

Missouri.
16 USC 760-2 note.

Notwithstanding any other law, the Secretary of the Interior shall convey to the State of Montana, without reimbursement to the United States and no later than thirty days following enactment of this legislation, all of the rights (including all water rights), title, and interest of the United States in and to the fish hatchery property located south of Miles City, Montana, and known as the

Miles City National Fish Hatchery, consisting of 168.22 acres, more or less, of land, together with any improvements and related personal property thereon. The property conveyed shall be used by the Montana Department of Fish, Wildlife and Parks as part of the Montana fishery resources management program. If the property conveyed is ever used for other than these purposes, title to such property shall revert to the United States.

Approved October 1, 1986.

LEGISLATIVE HISTORY—H.R. 3358 (S. 1813):

HOUSE REPORTS: No. 99-532 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 99-287 accompanying S. 1813 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 29, considered and passed House.
June 26, considered and passed Senate, amended in lieu of S. 1813.
Sept. 16, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Oct. 1, Presidential statement.

○

PUBLIC LAW 99-433—OCT. 1, 1986

GOLDWATER-NICHOLS DEPARTMENT OF DEFENSE REORGANIZATION ACT OF 1986

Public Law 99-433
99th Congress

An Act

Oct. 1, 1986
[H.R. 3622]

To reorganize the Department of Defense and strengthen civilian authority in the Department of Defense, to improve the military advice provided to the President, the National Security Council, and the Secretary of Defense, to place clear responsibility on the commanders of the unified and specified combatant commands for the accomplishment of missions assigned to those commands and ensure that the authority of those commanders is fully commensurate with that responsibility, to increase attention to the formulation of strategy and to contingency planning, to provide for more efficient use of defense resources, to improve joint officer management policies, otherwise to enhance the effectiveness of military operations and improve the management and administration of the Department of Defense, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Goldwater-Nicholas Department of Defense Reorganization Act of 1986.
Armed Forces.
Defense and national security.
10 USC 111 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS

(a) SHORT TITLE.—This Act may be cited as the "Goldwater-Nichols Department of Defense Reorganization Act of 1986".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 10, United States Code.
Sec. 3. Policy.

TITLE I—DEPARTMENT OF DEFENSE GENERALLY

Sec. 101. Organization of the Department of Defense.
Sec. 102. Powers and duties of the Secretary of Defense.
Sec. 103. Modification of authority of Secretary of Defense to reorganize the Department of Defense.
Sec. 104. Office of the Secretary of Defense.
Sec. 105. Under Secretary for Policy and Director of Defense Research and Engineering.
Sec. 106. Assistant Secretaries of Defense.
Sec. 107. Comptroller of the Department of Defense.
Sec. 108. Inspector General of the Department of Defense.
Sec. 109. Management studies of Office of the Secretary of Defense.
Sec. 110. Technical and conforming amendments.

TITLE II—MILITARY ADVICE AND COMMAND FUNCTIONS

PART A—JOINT CHIEFS OF STAFF

Sec. 201. Revised functions of Chairman; establishment of Vice Chairman.
Sec. 202. Provisions relating to Vice Chairman.
Sec. 203. Participation in National Security Council meetings.
Sec. 204. Transition.

PART B—COMBATANT COMMANDS

Sec. 211. Establishment of combatant commands and authority of commanders.
Sec. 212. Initial review of combatant commands.
Sec. 213. Repeal of certain limitations on command structure.
Sec. 214. Transition.

TITLE III—DEFENSE AGENCIES AND DEPARTMENT OF DEFENSE FIELD ACTIVITIES

Sec. 301. Establishment and management of Defense Agencies and Department of Defense Field Activities.
Sec. 302. Definitions of Defense Agency and Department of Defense Field Activity.
Sec. 303. Reassessment of Defense Agencies and DOD Field Activities.
Sec. 304. Transition.

TITLE IV—JOINT OFFICER PERSONNEL POLICY

Sec. 401. Joint officer management.
Sec. 402. Promotion procedures for joint officers.
Sec. 403. Consideration of joint duty in senior general and flag officer appointments and advice on qualifications.
Sec. 404. Joint duty assignment as prerequisite for promotion to general or flag officer grade.
Sec. 405. Annual report on implementation.
Sec. 406. Transition.

TITLE V—MILITARY DEPARTMENTS

PART A—DEPARTMENT OF THE ARMY

Sec. 501. The Army Secretariat.
Sec. 502. The Army Staff.
Sec. 503. Authority to organize Army into commands, forces, and organizations

PART B—DEPARTMENT OF THE NAVY

Sec. 511. The Navy Secretariat.
Sec. 512. Office of the Chief of Naval Operations.
Sec. 513. Headquarters, Marine Corps.
Sec. 514. Technical and clerical amendments.

PART C—DEPARTMENT OF THE AIR FORCE

Sec. 521. The Air Force Secretariat.
Sec. 522. The Air Staff.
Sec. 523. Authority to organize Air Force into separate organizations.

PART D—GENERAL CONFORMING AMENDMENTS AND TRANSITION PROVISIONS

Sec. 531. Conforming amendments.
Sec. 532. Transition.

TITLE VI—MISCELLANEOUS

Sec. 601. Reduction in personnel assigned to management headquarters activities and certain other activities.
Sec. 602. Reduction of reporting requirements.
Sec. 603. Annual report on national security strategy.
Sec. 604. Legislation to make required conforming changes in law.
Sec. 605. General technical amendments.

SEC. 2. REFERENCES TO TITLE 10, UNITED STATES CODE

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 10, United States Code.

SEC. 3. POLICY 10 USC 111 note.

In enacting this Act, it is the intent of Congress, consistent with the congressional declaration of policy in section 2 of the National Security Act of 1947 (50 U.S.C. 401)—

(1) to reorganize the Department of Defense and strengthen civilian authority in the Department;

(2) to improve the military advice provided to the President, the National Security Council, and the Secretary of Defense;

(3) to place clear responsibility on the commanders of the unified and specified combatant commands for the accomplishment of missions assigned to those commands;

(4) to ensure that the authority of the commanders of the unified and specified combatant commands is fully commensurate with the responsibility of those commanders for the accomplishment of missions assigned to their commands;

(5) to increase attention to the formulation of strategy and to contingency planning;

(6) to provide for more efficient use of defense resources;

(7) to improve joint officer management policies; and

(8) otherwise to enhance the effectiveness of military operations and improve the management and administration of the Department of Defense.

TITLE I—DEPARTMENT OF DEFENSE GENERALLY

SEC. 101. ORGANIZATION OF THE DEPARTMENT OF DEFENSE

10 USC 101 *et seq.*

(a) REORGANIZATION OF CODE.—(1) Part I of subtitle A is amended by inserting after chapter 1 the following new chapter:

"CHAPTER 2—DEPARTMENT OF DEFENSE

"Sec.
"111. Executive department.
"112. Department of Defense: seal.
"113. Secretary of Defense.
"114. Annual authorization of appropriations.
"115. Annual authorization of personnel strengths; annual manpower requirements report.
"116. Annual operations and maintenance report.
"117. Annual report on North Atlantic Treaty Organization readiness.
"118. Sale or transfer of defense articles: reports to Congress."

10 USC 131 *et seq.*

(2) The sections of chapter 4 listed in the left-hand column of the following table are transferred (in the order they appear in that column) to the end of chapter 2 of such title, as added by paragraph (1), and are redesignated in accordance with the corresponding section numbers in the right-hand column of the table, as follows:

Existing sections of chapter 4:	New sections of chapter 2
131	111
132	112
133	113
138	114
133a	117
133b	118

10 USC 121 *et seq.*

(3) The sections of chapter 4 listed in the left-hand column of the following table are transferred (in the order they appear in that column) to the end of chapter 3 of such title and are redesignated in accordance with the corresponding section numbers in the right-hand column of the table, as follows:

Existing sections of chapter 4:	New sections of chapter 3
140	127
140a	128
140b	129
140c	130

10 USC 2201 *et seq.*

(4) Part IV of subtitle A is amended by inserting after chapter 143 the following new chapter:

"CHAPTER 144—OVERSIGHT OF COST GROWTH IN MAJOR PROGRAMS

"Sec.
"2431. Weapons development and procurement schedules.
"2432. Selected Acquisition Reports.
"2433. Unit cost reports.
"2434. Independent cost estimates.".

(5) The sections of chapter 4 listed in the left-hand column of the following table are transferred (in the order they appear in that column) to chapter 144, as added by paragraph (4), and are redesignated in accordance with the corresponding section numbers in the right-hand column of the table, as follows:

Existing sections of chapter 4:	New sections of chapter 3
139	2431
139a	2432
139b	2433
139c	2434

(6) The heading of chapter 4 is amended to read as follows:

"CHAPTER 4—OFFICE OF THE SECRETARY OF DEFENSE".

(7) Chapter 4 is amended by redesignating sections of such chapter listed in the left-hand column of the following table in accordance with the corresponding section numbers in the right-hand column of the table, as follows:

Existing sections:	New sections
134	132
134a	133
136a	138
137	139

(b) ELEMENTS OF THE DEPARTMENT.—Section 111 (as transferred and redesignated by subsection (a)(2)) is amended—

(1) by inserting "(a)" before "The Department of Defense"; and

(2) by adding at the end the following:

"(b) The Department is composed of the following:

"(1) The Office of the Secretary of Defense.

"(2) The Joint Chiefs of Staff.

"(3) The Joint Staff.

"(4) The Defense Agencies.

"(5) Department of Defense Field Activities.

"(6) The Department of the Army.

"(7) The Department of the Navy.

"(8) The Department of the Air Force.

"(9) The unified and specified combatant commands.

"(10) Such other offices, agencies, activities, and commands as may be established or designated by law or by the President.

"(11) All offices, agencies, activities, and commands under the control or supervision of any element named in paragraphs (1) through (10).

"(c) If the President establishes or designates an office, agency, activity, or command in the Department of Defense of a kind other than those described in paragraphs (1) through (9) of subsection (b), President of U.S.

the President shall notify Congress not later than 60 days thereafter.".

SEC. 102. POWERS AND DUTIES OF THE SECRETARY OF DEFENSE

Post, pp. 1022, 1075.

Section 113 (as transferred and redesignated by section 101(a)(2)) is amended by adding at the end the following new subsections:

"(f) When a vacancy occurs in an office within the Department of Defense and the office is to be filled by a person appointed from civilian life by the President, by and with the advice and consent of the Senate, the Secretary of Defense shall inform the President of the qualifications needed by a person serving in that office to carry out effectively the duties and responsibilities of that office.

"(g)(1) The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide annually to the heads of Department of Defense components written policy guidance for the preparation and review of the program recommendations and budget proposals of their respective components. Such guidance shall include guidance on—

"(A) national security objectives and policies;

"(B) the priorities of military missions; and

"(C) the resource levels projected to be available for the period of time for which such recommendations and proposals are to be effective.

"(2) The Secretary of Defense, with the approval of the President and after consultation with the Chairman of the Joint Chiefs of Staff, shall provide annually to the Chairman written policy guidance for the preparation and review of contingency plans. Such guidance shall include guidance on the specific force levels and specific supporting resource levels projected to be available for the period of time for which such plans are to be effective.

"(h) The Secretary of Defense shall keep the Secretaries of the military departments informed with respect to military operations and activities of the Department of Defense that directly affect their respective responsibilities.".

SEC. 103. MODIFICATION OF AUTHORITY OF SECRETARY OF DEFENSE TO REORGANIZE THE DEPARTMENT OF DEFENSE

Post, pp. 1022, 1055.

Section 125 is amended—

(1) by striking out "unless the Secretary" in the second sentence of subsection (a) and all that follows in that subsection and inserting in lieu thereof a period; and

(2) by inserting "vested by law in the Department of Defense, or an officer, official, or agency thereof" in subsection (b) after "function, power, or duty".

SEC. 104. OFFICE OF THE SECRETARY OF DEFENSE

Chapter 4 (as amended by section 101(a)) is further amended by inserting after the table of sections the following new section:

"§ 131. Office of the Secretary of Defense

"(a) There is in the Department of Defense an Office of the Secretary of Defense. The function of the Office is to assist the Secretary of Defense in carrying out his duties and responsibilities and to carry out such other duties as may be prescribed by law.

"(b) The Office of the Secretary of Defense is composed of the following:

"(1) The Deputy Secretary of Defense.

"(2) The Under Secretary of Defense for Acquisition.
"(3) The Under Secretary of Defense for Policy.
"(4) The Director of Defense Research and Engineering.
"(5) The Assistant Secretaries of Defense.
"(6) The Comptroller of the Department of Defense.
"(7) The Director of Operational Test and Evaluation.
"(8) The General Counsel of the Department of Defense.
"(9) The Inspector General of the Department of Defense.
"(10) Such other offices and officials as may be established by law or the Secretary of Defense may establish or designate in the Office.

"(c) Officers of the armed forces may be assigned or detailed to permanent duty in the Office of the Secretary of Defense. However, the Secretary may not establish a military staff in the Office of the Secretary of Defense.

"(d) The Secretary of each military department, and the civilian employees and members of the armed forces under the jurisdiction of the Secretary, shall cooperate fully with personnel of the Office of the Secretary of Defense to achieve efficient administration of the Department of Defense and to carry out effectively the authority, direction, and control of the Secretary of Defense.".

SEC. 105. UNDER SECRETARY FOR POLICY AND DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING

Chapter 4 is further amended—

(1) by striking out the heading and subsection (a) of section 135 and inserting in lieu thereof the following:

"§ 134. Under Secretary of Defense for Policy 10 USC 134.

"(a) There is an Under Secretary of Defense for Policy, appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as Under Secretary within 10 years after relief from active duty as a commissioned officer of a regular component of an armed force.

"(b)(1) The Under Secretary shall perform such duties and exercise such powers as the Secretary of Defense may prescribe.

"(2) The Under Secretary shall assist the Secretary of Defense—

"(A) in preparing written policy guidance for the preparation and review of contingency plans; and

"(B) in reviewing such plans.

"(c) The Under Secretary takes precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, and the Secretaries of the military departments.

"§ 135. Director of Defense Research and Engineering

"(a) There is a Director of Defense Research and Engineering, appointed from civilian life by the President, by and with the advice and consent of the Senate."; and

(2) by striking out the first sentence of subsections (b) and (c) of section 135 (as designated by paragraph (1)).

SEC. 106. ASSISTANT SECRETARIES OF DEFENSE

(a) REPEAL OF SPECIFICATION OF CERTAIN ASSISTANT SECRETARIES.—Subsection (b) of section 136 is amended—

(1) by striking out paragraphs (2) and (3);

(2) by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively; and

(3) by striking out paragraph (6).

(b) PRECEDENCE.—Subsection (e) of such section is amended—

(1) by striking out "and the Under Secretaries of Defense" and inserting in lieu thereof "the Under Secretaries of Defense, and the Director of Defense Research and Engineering"; and

(2) by adding at the end the following new sentence: "The Assistant Secretaries take precedence among themselves in the order prescribed by the Secretary of Defense.".

(c) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (c)—

(A) by striking out "him" in paragraph (1) and inserting in lieu thereof "the Assistant Secretary"; and

(B) by striking out ", or his designee" in paragraph (2);

(2) by striking out subsection (d); and

(3) by redesignating subsection (e) (as amended by subsection (b) of this section) as subsection (d).

SEC. 107. COMPTROLLER OF THE DEPARTMENT OF DEFENSE

Chapter 4 is further amended by inserting after section 136 the following new section:

10 USC 137.

"§ 137. Comptroller

"(a) There is a Comptroller of the Department of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Comptroller shall perform such duties and exercise such powers as the Secretary of Defense may prescribe.

"(c) The Comptroller shall advise and assist the Secretary of Defense—

"(1) in performing such budgetary and fiscal functions and duties, and in exercising such budgetary and fiscal powers, as are needed to carry out the powers of the Secretary;

"(2) in supervising and directing the preparation of budget estimates of the Department of Defense;

"(3) in establishing and supervising the execution of principles, policies, and procedures to be followed in connection with organizational and administrative matters relating to—

"(A) the preparation and execution of budgets;

"(B) fiscal, cost, operating, and capital property accounting; and

"(C) progress and statistical reporting;

"(4) in establishing and supervising the execution of policies and procedures relating to the expenditure and collection of funds administered by the Department of Defense; and

"(5) in establishing uniform terminologies, classifications, and procedures concerning matters covered by clauses (1) through (4).".

SEC. 108. INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

Chapter 4 is further amended by inserting after section 139 (as redesignated by section 101(a)) the following new section:

"§ 140. Inspector General

"(a) There is an Inspector General of the Department of Defense, who is appointed as provided in section 3 of the Inspector General Act of 1978 (Public Law 95-452; 5 U.S.C. App. 3).

"(b) The Inspector General performs the duties, has the responsibilities, and exercises the powers specified in the Inspector General Act of 1978.". 5 USC app.

SEC. 109. MANAGEMENT STUDIES OF OFFICE OF THE SECRETARY OF DEFENSE 10 USC 131 note.

(a) SECRETARY OF DEFENSE STUDY.—The Secretary of Defense shall conduct a study of the functions and organization of the Office of the Secretary of Defense. The study shall consider whether the present allocation of functions to, and the organizational structure of, the Office constitute the most effective, efficient, and economical allocation and structure of the Office to assist the Secretary in carrying out his duties and responsibilities. The study shall include consideration of each of the matters specified in subsection (d).

(b) SERVICE SECRETARIES JOINT STUDY.—(1) The Secretaries of the military departments shall conduct a joint study of the functions and organization of the Office of the Secretary of Defense. The study shall be conducted independently of the study conducted by the Secretary of Defense under subsection (a). The Secretaries shall submit a joint report to the Secretary of Defense on such study at a time specified by the Secretary. Except as provided in paragraph (2), the report shall include a discussion of and recommendations concerning each of the matters specified in subsection (d). Reports.

(2) The Secretary of Defense shall determine the extent to which, and prescribe the procedures under which, the Secretaries of the military departments shall study the matters specified in subsection (d)(1)(A) relating to contingency planning and military operations.

(c) CHAIRMAN OF JCS STUDY.—The Chairman of the Joint Chiefs of Staff shall conduct a study of the functions and organization of the Office of the Secretary of Defense. The study shall be conducted independently of the study conducted by the Secretary of Defense under subsection (a). The Chairman shall submit a report to the Secretary of Defense on such study at a time specified by the Secretary. The report shall include a discussion of and recommendations concerning the matters specified in paragraphs (1)(C), (1)(D), (2), (3), (5), and (6) of subsection (d). Reports.

(d) MATTERS TO BE INCLUDED.—The study required by subsection (a) shall include consideration of the following:

(1) Whether the present organization of the Office—

(A) is optimally structured to assist the Secretary of Defense in the effective exercise of civilian control of the Department of Defense, including civilian control of—

(i) defense policy development and strategic planning;

(ii) program and budget development;

(iii) policy, program, and budget execution;

(iv) contingency planning; and

(v) military operations;

(B) is the most effective and efficient organization for the initiation, development, and articulation of defense policy;

(C) ensures that strategic planning and contingency planning are linked to, and derived from, national security strategy, policies, and objectives; and

(D) inhibits integration of the capabilities of the Armed Forces along mission lines.

(2) Whether the planning, programming, and budgeting system of the Department of Defense (including the role of the Office in such system) needs to be revised—

(A) to strengthen strategic planning and policy direction;

(B) to ensure that strategic planning is consistent with national security strategy, policies, and objectives;

(C) to ensure that there is a sufficient relationship between strategic planning and the resource levels projected to be available for the period for which the planning is to be effective;

(D) to ensure that strategic planning and program development give sufficient attention to alliances with other nations;

(E) to provide for more effective oversight, control, and evaluation of policy, program, and budget execution; and

(F) to ensure that past program and budget decisions are effectively evaluated, that such evaluations are supported by consistent, complete, and timely financial and performance data, and that such evaluations are fully considered in the next planning, programming, and budgeting cycle.

(3) Whether the major force program categories of the Five-Year Defense Plan could be restructured to better assist decisionmaking and management control.

(4) Means to improve and strengthen the oversight function within each element of the Office in policy areas not addressed by the planning, programming, and budgeting system.

(5) Factors inhibiting efficient and effective execution of the functions of the Office, including factors relating to—

(A) duplication of functions (both within the Office and between the Office and other elements of the Department);

(B) insufficient information; and

(C) insufficient resources (including personnel).

(6) Alternative allocations of authorities and functions of the Office and other reorganization proposals for the Office, including the desirability of—

(A) establishing Under Secretaries of Defense for mission-oriented areas of responsibility;

(B) decentralizing functions of the Office;

(C) reducing the number of officials reporting directly to the Secretary of Defense; and

(D) changing the ratio of members of the Armed Forces to civilian employees in the Office.

(7) Whether political appointees in the Office of the Secretary of Defense have sufficient experience and expertise, upon appointment, to be capable of contributing immediately to effective policy formulation and management.

(e) ANALYSIS OF CIVILIAN CONTROL.—(1) The Secretary of Defense, in considering under subsection (d)(1)(A) whether effective civilian control of the Department of Defense is best assisted by the current structure of the Office, shall examine the functions performed in the Office by—

(A) members of the Armed Forces on the active-duty list; and

(B) members of the Armed Forces in a retired status and members of the reserve components who are employed in a civilian capacity.

Wages.

(2) Such examination shall include a determination of the total number of positions in the Office of the Secretary of Defense above

grade GS-8 and the military equivalent (as determined by the Secretary of Defense), and of such number—

(A) the number of positions held by members of the Armed Forces on the active-duty list, shown for the military equivalent of each civilian pay grade by number and as a percentage of the total number of positions in the Office in the civilian pay grade concerned and in the military equivalent of such civilian pay grade;

(B) the number of such positions held by members of the Armed Forces in a retired status who are serving in a civilian capacity, shown for each civilian pay grade in the same manner as provided under clause (A); and

(C) the number of such positions held by members of the reserve components who are serving in a civilian capacity, shown for each civilian pay grade in the same manner as provided under clause (A).

(3) In determining the total number of positions in the Office of the Secretary of Defense in grades above GS-8, the Secretary shall exclude positions which are primarily clerical or secretarial.

(f) INDEPENDENT CONTRACTOR STUDY.—The Secretary shall provide for an independent study to be carried out by a contractor to consider the same matters required to be considered by the Secretary under subsection (d). The Secretary shall ensure that the contractor has full access to such information as the contractor requires and that the contractor otherwise receives full cooperation from all officials and entities of the Department of Defense.

(g) REPORT TO CONGRESS.—(1) The Secretary of Defense shall submit to Congress a report on the Secretary's study under subsection (a). The report shall include—

(A) the findings and conclusions of the Secretary with respect to each of the matters set forth in subsection (d);

(B) the findings and statistical determinations required under subsection (e); and

(C) any recommendations of the Secretary for organizational changes in the Office of the Secretary of Defense and a description of the means for implementing each recommendation.

(2) The Secretary shall include with the report a copy of the reports to the Secretary under subsections (b) and (c) and a copy of the report of the independent contractor under subsection (f), together with such comments on each such report as the Secretary considers appropriate.

(3) The report under this subsection shall be submitted not later than one year after the date of the enactment of this Act.

SEC. 110. TECHNICAL AND CONFORMING AMENDMENTS

(a) CONFORMING AMENDMENT FOR OFFICE OF SECRETARY OF DEFENSE.—Chapter 41 is amended— 10 USC 711 *et seq.*

(1) by striking out section 718; and

(2) by striking out the item relating to that section in the table of sections at the beginning of such chapter.

(b) REVISION OF OLD SECTION 138.—Section 114 (as transferred and redesignated by section 101(a)) is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

10 USC 114.

"§ 114. Annual authorization of appropriations";

(2) by transferring subsection (h) to the end of section 113 (as transferred and redesignated by section 101(a) and amended by section 102) and redesignating such subsection as subsection (i);

(3) by striking out "(as defined in subsection (f))" in subsection (a)(6);

(4) by inserting after subsection (a) the following:

"§ 115. Annual authorization of personnel strengths; annual manpower requirements report";

(5) by redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively;

(6) by inserting after such subsection (c) (as so redesignated) the following:

"§ 116. Annual operations and maintenance report";

(7) by redesignating subsection (e) as subsection (a);

(8) by transferring subsection (f)(1) to the end of section 114 (as determined by the amendments made by this subsection) and striking out "(f)(1)" therein and inserting in lieu thereof "(b)";

(9) by striking out "(2) In subsection (e)" and inserting in lieu thereof "(b) In this section";

(10) by striking out "(A) 'Combat" and "(B) 'Major" and inserting in lieu thereof "(1) The term 'combat" and "(2) The term 'major", respectively; and

(11) by transferring subsections (g) and (i) to the end of section 114 (as determined by the amendments made by this subsection) and redesignating such subsections as subsections (c) and (d), respectively.

(c) TECHNICAL AMENDMENTS.—(1) Section 133 (as redesignated by section 101(a)) is amended by inserting "of Defense" in subsection (a) after "Under Secretary".

(2) The heading of chapter 3 is amended to read as follows:

"CHAPTER 3—GENERAL POWERS AND FUNCTIONS".

(d) REVISED SECTION HEADINGS.—(1) The heading of section 112 (as redesignated by section 101(a)) is amended to read as follows:

"§ 112. Department of Defense: seal".

(2) The heading of section 113 (as redesignated by section 101(a)) is amended to read as follows:

"§ 113. Secretary of Defense".

(3) The heading of section 117 (as redesignated by section 101(a)) is amended to read as follows:

"§ 117. Annual report on North Atlantic Treaty Organization readiness".

(4) The heading of section 127 (as redesignated by section 101(a)) is amended to read as follows:

"§ 127. Emergency and extraordinary expenses".

(5) The heading of section 128 (as redesignated by section 101(a)) is amended to read as follows:

"§ 128. Funds transfers for foreign cryptologic support".

(6) The heading of section 130 (as redesignated by section 101(a)) is amended to read as follows:

"§ 130. Authority to withhold from public disclosure certain technical data".

(7) The heading of section 132 (as redesignated by section 101(a)) is amended to read as follows:

"§ 132. Deputy Secretary of Defense".

(8) The heading of section 133 (as redesignated by section 101(a)) is amended to read as follows:

"§ 133. Under Secretary of Defense for Acquisition".

(9) The heading of section 136 is amended to read as follows:

"§ 136. Assistant Secretaries of Defense".

(10) The heading of section 138 (as redesignated by section 101(a)) is amended to read as follows:

"§ 138. Director of Operational Test and Evaluation".

(11) The heading of section 139 (as redesignated by section 101(a)) is amended to read as follows:

"§ 139. General Counsel".

(12) The heading of section 2431 (as redesignated by section 101(a)) is amended to read as follows:

"§ 2431. Weapons development and procurement schedules".

(13) The heading of section 2432 (as redesignated by section 101(a)) is amended to read as follows:

"§ 2432. Selected Acquisition Reports".

(14) The heading of section 2433 (as redesignated by section 101(a)) is amended to read as follows:

"§ 2433. Unit cost reports".

(15) The heading of section 2434 (as redesignated by section 101(a)) is amended to read as follows:

"§ 2434. Independent cost estimates".

(e) CLERICAL AMENDMENTS FOR REORGANIZATION OF CHAPTER 4.—(1) The table of sections at the beginning of chapter 3 is amended by adding at the end the following new items:

"127. Emergency and extraordinary expenses.
"128. Funds transfers for foreign cryptologic support.
"129. Prohibition of certain civilian personnel management constraints.
"130. Authority to withhold from public disclosure certain technical data.".

(2) The table of sections at the beginning of chapter 4 is amended to read as follows:

"Sec.
"131. Office of the Secretary of Defense.
"132. Deputy Secretary of Defense.
"133. Under Secretary of Defense for Acquisition.
"134. Under Secretary of Defense for Policy.
"135. Director of Defense Research and Engineering.

"136. Assistant Secretaries of Defense.
"137. Comptroller.
"138. Director of Operational Test and Evaluation.
"139. General Counsel.
"140. Inspector General.".

(g) CROSS REFERENCE AMENDMENTS TO TITLE 10.—(1) Section 138(a)(2)(B) (as redesignated by section 101(a)) is amended by striking out "section 139a(a)(1)" and inserting in lieu thereof "section 2432(a)(1)".

(2) Section 1621(3) is amended by striking out "section 139a(a)(1)" and inserting in lieu thereof "section 2432(a)(1)".

(3) Section 2305a(d) is amended—

(A) by striking out "section 139a(a)" in paragraph (1) and inserting in lieu thereof "section 2432(a)"; and

(B) by striking out "section 139a(a)(1)(B)" both places it appears in paragraph (2) and inserting in lieu thereof "section 2432(a)(1)(B)".

(4) Section 2362(e)(2) is amended by striking out "section 139a" and inserting in lieu thereof "section 2432".

(5) Section 2403(e) is amended by striking out "section 139a" in paragraphs (1) and (2) and inserting in lieu thereof "section 2432".

(6) Section 2431 (as redesignated by section 101(a)) is amended by striking out "section 138(a)" in subsection (a) and inserting in lieu thereof "section 114(a)".

(7) Section 2432(c) (as redesignated by section 101(a)) is amended by striking out "section 139" in subsection (c)(1) and inserting in lieu thereof "section 2431".

(8) Section 2433 (as redesignated by section 101(a)) is amended—

(A) by striking out "section 139a(a)" in subsection (a)(1) and inserting in lieu thereof "section 2432(a)"; and

(B) by striking out "section 139a(b)(3)" in subsection (b) and inserting in lieu thereof "section 2432(b)(3)".

(9) Section 2434(b)(1) (as redesignated by section 101(a)) is amended by striking out "section 139a(a)(1)" and inserting in lieu thereof "section 2432(a)(1)".

(10) Section 8062(e) is amended by striking out "section 138" and inserting in lieu thereof "section 114".

(h) CROSS REFERENCE AMENDMENTS TO OTHER ACTS.—(1) Section 51(c)(1) of the Arms Export Control Act (22 U.S.C. 2795(c)(1)) is amended by striking out "section 138(g)" and inserting in lieu thereof "section 114(c)".

(2) Section 53(b) of the Arms Export Control Act (22 U.S.C. 2795b(b)) is amended by striking out "section 139(a)" and inserting in lieu thereof "section 2431(a)".

(3) Section 303(c) of the Internal Security Act of 1950 (50 U.S.C. 833(c)) is amended by striking out "section 133(d)" and inserting in lieu thereof "section 113(d)".

TITLE II—MILITARY ADVICE AND COMMAND FUNCTIONS

PART A—JOINT CHIEFS OF STAFF

SEC. 201. REVISED FUNCTIONS OF CHAIRMAN; ESTABLISHMENT OF VICE CHAIRMAN

Chapter 5 is amended to read as follows:

"CHAPTER 5—JOINT CHIEFS OF STAFF

"Sec.
"151. Joint Chiefs of Staff: composition; functions.
"152. Chairman: appointment; rank.
"153. Chairman: functions.
"154. Vice Chairman.
"155. Joint Staff.

"§ 151. Joint Chiefs of Staff: composition; functions

10 USC 151.

"(a) COMPOSITION.—There are in the Department of Defense the Joint Chiefs of Staff, headed by the Chairman of the Joint Chiefs of Staff. The Joint Chiefs of Staff consist of the following:

"(1) The Chairman.

"(2) The Chief of Staff of the Army.

"(3) The Chief of Naval Operations.

"(4) The Chief of Staff of the Air Force.

"(5) The Commandant of the Marine Corps.

"(b) FUNCTION AS MILITARY ADVISERS.—(1) The Chairman of the Joint Chiefs of Staff is the principal military adviser to the President, the National Security Council, and the Secretary of Defense.

"(2) The other members of the Joint Chiefs of Staff are military advisers to the President, the National Security Council, and the Secretary of Defense as specified in subsections (d) and (e).

"(c) CONSULTATION BY CHAIRMAN.—(1) In carrying out his functions, duties, and responsibilities, the Chairman shall, as he considers appropriate, consult with and seek the advice of—

"(A) the other members of the Joint Chiefs of Staff; and

"(B) the commanders of the unified and specified combatant commands.

"(2) Subject to subsection (d), in presenting advice with respect to any matter to the President, the National Security Council, or the Secretary of Defense, the Chairman shall, as he considers appropriate, inform the President, the National Security Council, or the Secretary of Defense, as the case may be, of the range of military advice and opinion with respect to that matter.

"(d) ADVICE AND OPINIONS OF MEMBERS OTHER THAN CHAIRMAN.—(1) A member of the Joint Chiefs of Staff (other than the Chairman) may submit to the Chairman advice or an opinion in disagreement with, or advice or an opinion in addition to, the advice presented by the Chairman to the President, the National Security Council, or the Secretary of Defense. If a member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time he presents his own advice to the President, the National Security Council, or the Secretary of Defense, as the case may be.

"(2) The Chairman shall establish procedures to ensure that the presentation of his own advice to the President, the National Security Council, or the Secretary of Defense is not unduly delayed by reason of the submission of the individual advice or opinion of another member of the Joint Chiefs of Staff.

"(e) ADVICE ON REQUEST.—The members of the Joint Chiefs of Staff, individually or collectively, in their capacity as military advisers, shall provide advice to the President, the National Security Council, or the Secretary of Defense on a particular matter when the President, the National Security Council, or the Secretary requests such advice.

"(f) RECOMMENDATIONS TO CONGRESS.—After first informing the Secretary of Defense, a member of the Joint Chiefs of Staff may make such recommendations to Congress relating to the Department of Defense as he considers appropriate.

"(g) MEETINGS OF JCS.—(1) The Chairman shall convene regular meetings of the Joint Chiefs of Staff.

"(2) Subject to the authority, direction, and control of the President and the Secretary of Defense, the Chairman shall—

"(A) preside over the Joint Chiefs of Staff;

"(B) provide agenda for the meetings of the Joint Chiefs of Staff (including, as the Chairman considers appropriate, any subject for the agenda recommended by any other member of the Joint Chiefs of Staff);

"(C) assist the Joint Chiefs of Staff in carrying on their business as promptly as practicable; and

"(D) determine when issues under consideration by the Joint Chiefs of Staff shall be decided.

10 USC 152.

"§ 152. Chairman: appointment; rank

"(a) APPOINTMENT; TERM OF OFFICE.—(1) There is a Chairman of the Joint Chiefs of Staff, appointed by the President, by and with the advice and consent of the Senate, from the officers of the regular components of the armed forces. The Chairman serves at the pleasure of the President for a term of two years, beginning on October 1 of odd-numbered years. Subject to paragraph (3), an officer serving as Chairman may be reappointed in the same manner for two additional terms. However, in time of war there is no limit on the number of reappointments.

"(2) In the event of the death, retirement, resignation, or reassignment of the officer serving as Chairman before the end of the term for which the officer was appointed, an officer appointed to fill the vacancy shall serve as Chairman only for the remainder of the original term, but may be reappointed as provided in paragraph (1).

"(3) An officer may not serve as Chairman or Vice Chairman of the Joint Chiefs of Staff if the combined period of service of such officer in such positions exceeds six years. However, the President may extend to eight years the combined period of service an officer may serve in such positions if he determines such action is in the national interest. The limitations of this paragraph do not apply in time of war.

"(b) REQUIREMENT FOR APPOINTMENT.—(1) The President may appoint an officer as Chairman of the Joint Chiefs of Staff only if the officer has served as—

"(A) the Vice Chairman of the Joint Chiefs of Staff;

"(B) the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, or the Commandant of the Marine Corps; or

"(C) the commander of a unified or specified combatant command.

"(2) The President may waive paragraph (1) in the case of an officer if the President determines such action is necessary in the national interest.

"(c) GRADE AND RANK.—The Chairman, while so serving, holds the grade of general or, in the case of an officer of the Navy, admiral and outranks all other officers of the armed forces. However, he may not exercise military command over the Joint Chiefs of Staff or any of the armed forces.

"§ 153. Chairman: functions 10 USC 153.

"(a) PLANNING; ADVICE; POLICY FORMULATION.—Subject to the authority, direction, and control of the President and the Secretary of Defense, the Chairman of the Joint Chiefs of Staff shall be responsible for the following:

"(1) STRATEGIC DIRECTION.—Assisting the President and the Secretary of Defense in providing for the strategic direction of the armed forces.

"(2) STRATEGIC PLANNING.—(A) Preparing strategic plans, including plans which conform with resource levels projected by the Secretary of Defense to be available for the period of time for which the plans are to be effective.

"(B) Preparing joint logistic and mobility plans to support those strategic plans and recommending the assignment of logistic and mobility responsibilities to the armed forces in accordance with those logistic and mobility plans.

"(C) Performing net assessments to determine the capabilities of the armed forces of the United States and its allies as compared with those of their potential adversaries.

"(3) CONTINGENCY PLANNING; PREPAREDNESS.—(A) Providing for the preparation and review of contingency plans which conform to policy guidance from the President and the Secretary of Defense.

"(B) Preparing joint logistic and mobility plans to support those contingency plans and recommending the assignment of logistic and mobility responsibilities to the armed forces in accordance with those logistic and mobility plans.

"(C) Advising the Secretary on critical deficiencies and strengths in force capabilities (including manpower, logistic, and mobility support) identified during the preparation and review of contingency plans and assessing the effect of such deficiencies and strengths on meeting national security objectives and policy and on strategic plans.

"(D) Establishing and maintaining, after consultation with the commanders of the unified and specified combatant commands, a uniform system of evaluating the preparedness of each such command to carry out missions assigned to the command.

"(4) ADVICE ON REQUIREMENTS, PROGRAMS, AND BUDGET.—(A) Advising the Secretary, under section 163(b)(2) of this title, on the priorities of the requirements identified by the commanders of the unified and specified combatant commands.

"(B) Advising the Secretary on the extent to which the program recommendations and budget proposals of the military departments and other components of the Department of Defense for a fiscal year conform with the priorities established in strategic plans and with the priorities established for the requirements of the unified and specified combatant commands.

"(C) Submitting to the Secretary alternative program recommendations and budget proposals, within projected resource levels and guidance provided by the Secretary, in order to achieve greater conformance with the priorities referred to in clause (B).

"(D) Recommending to the Secretary, in accordance with section 166 of this title, a budget proposal for activities of each unified and specified combatant command.

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"(E) Advising the Secretary on the extent to which the major programs and policies of the armed forces in the area of manpower conform with strategic plans.

"(F) Assessing military requirements for defense acquisition programs.

"(5) DOCTRINE, TRAINING, AND EDUCATION.—(A) Developing doctrine for the joint employment of the armed forces.

"(B) Formulating policies for the joint training of the armed forces.

"(C) Formulating policies for coordinating the military education and training of members of the armed forces.

"(6) OTHER MATTERS.—(A) Providing for representation of the United States on the Military Staff Committee of the United Nations in accordance with the Charter of the United Nations.

"(B) Performing such other duties as may be prescribed by law or by the President or the Secretary of Defense.

"(b) REPORT ON ASSIGNMENT OF ROLES AND MISSIONS.—(1) Not less than once every three years, or upon the request of the President or the Secretary of Defense, the Chairman shall submit to the Secretary of Defense a report containing such recommendations for changes in the assignment of functions (or roles and missions) to the armed forces as the Chairman considers necessary to achieve maximum effectiveness of the armed forces. In preparing each such report, the Chairman shall consider (among other matters) the following:

"(A) Changes in the nature of the threats faced by the United States.

"(B) Unnecessary duplication of effort among the armed forces.

"(C) Changes in technology that can be applied effectively to warfare.

"(2) The Chairman shall include in each such report recommendations for such changes in policies, directives, regulations, and legislation as may be necessary to achieve the changes in the assignment of functions recommended by the Chairman.

10 USC 154.

"§ 154. Vice Chairman

"(a) APPOINTMENT.—(1) There is a Vice Chairman of the Joint Chiefs of Staff, appointed by the President, by and with the advice and consent of the Senate, from the officers of the regular components of the armed forces.

"(2) The Chairman and Vice Chairman may not be members of the same armed force. However, the President may waive the restriction in the preceding sentence for a limited period of time in order to provide for the orderly transition of officers appointed to serve in the positions of Chairman and Vice Chairman.

"(3) The Vice Chairman serves at the pleasure of the President for a term of two years and may be reappointed in the same manner for two additional terms. However, in time of war there is no limit on the number of reappointments.

"(b) REQUIREMENT FOR APPOINTMENT.—(1) The President may appoint an officer as Vice Chairman of the Joint Chiefs of Staff only if the officer—

"(A) has the joint specialty under section 661 of this title; and

"(B) has served in at least one joint duty assignment (as defined under section 668(b) of this title) as a general or flag officer.

"(2) The President may waive paragraph (1) in the case of an officer if the President determines such action is necessary in the national interest.

"(c) DUTIES.—The Vice Chairman performs such duties as may be prescribed by the Chairman with the approval of the Secretary of Defense.

"(d) FUNCTION AS ACTING CHAIRMAN.—When there is a vacancy in the office of Chairman or in the absence or disability of the Chairman, the Vice Chairman acts as Chairman and performs the duties of the Chairman until a successor is appointed or the absence or disability ceases.

"(e) SUCCESSION AFTER CHAIRMAN AND VICE CHAIRMAN.—When there is a vacancy in the offices of both Chairman and Vice Chairman or in the absence or disability of both the Chairman and the Vice Chairman, or when there is a vacancy in one such office and in the absence or disability of the officer holding the other, the President shall designate a member of the Joint Chiefs of Staff to act as and perform the duties of the Chairman until a successor to the Chairman or Vice Chairman is appointed or the absence or disability of the Chairman or Vice Chairman ceases.

"(f) PARTICIPATION IN JCS MEETINGS.—The Vice Chairman may participate in all meetings of the Joint Chiefs of Staff, but may not vote on a matter before the Joint Chiefs of Staff except when acting as Chairman.

"(g) GRADE AND RANK.—The Vice Chairman, while so serving, holds the grade of general or, in the case of an officer of the Navy, admiral and outranks all other officers of the armed forces except the Chairman. The Vice Chairman may not exercise military command over the Joint Chiefs of Staff or any of the armed forces.

"§ 155. Joint Staff 10 USC 155.

"(a) APPOINTMENT OF OFFICERS TO JOINT STAFF.—(1) There is a Joint Staff under the Chairman of the Joint Chiefs of Staff. The Joint Staff assists the Chairman and, subject to the authority, direction, and control of the Chairman, the other members of the Joint Chiefs of Staff and the Vice Chairman in carrying out their responsibilities.

"(2) Officers of the armed forces (other than the Coast Guard) assigned to serve on the Joint Staff shall be selected by the Chairman in approximately equal numbers from—

"(A) the Army;

"(B) the Navy and the Marine Corps; and

"(C) the Air Force.

"(3) Selection of officers of an armed force to serve on the Joint Staff shall be made by the Chairman from a list of officers submitted by the Secretary of the military department having jurisdiction over that armed force. Each officer whose name is submitted shall be among those officers considered to be the most outstanding officers of that armed force. The Chairman may specify the number of officers to be included on any such list.

"(b) DIRECTOR.—The Chairman of the Joint Chiefs of Staff, after consultation with the other members of the Joint Chiefs of Staff and with the approval of the Secretary of Defense, may select an officer to serve as Director of the Joint Staff.

"(c) MANAGEMENT OF JOINT STAFF.—The Chairman of the Joint Chiefs of Staff manages the Joint Staff and the Director of the Joint Staff. The Joint Staff shall perform such duties as the Chairman

prescribes and shall perform such duties under such procedures as the Chairman prescribes.

"(d) OPERATION OF JOINT STAFF.—The Secretary of Defense shall ensure that the Joint Staff is independently organized and operated so that the Joint Staff supports the Chairman of the Joint Chiefs of Staff in meeting the congressional purpose set forth in the last clause of section 2 of the National Security Act of 1947 (50 U.S.C. 401) to provide—

"(1) for the unified strategic direction of the combatant forces;

"(2) for their operation under unified command; and

"(3) for their integration into an efficient team of land, naval, and air forces.

"(e) PROHIBITION OF FUNCTION AS ARMED FORCES GENERAL STAFF.—The Joint Staff shall not operate or be organized as an overall Armed Forces General Staff and shall have no executive authority. The Joint Staff may be organized and may operate along conventional staff lines.

"(f) TOUR OF DUTY OF JOINT STAFF OFFICERS.—(1) An officer who is assigned or detailed to permanent duty on the Joint Staff may not serve for a tour of duty of more than four years. However, such a tour of duty may be extended with the approval of the Secretary of Defense.

"(2) In accordance with procedures established by the Secretary of Defense, the Chairman of the Joint Chiefs of Staff may suspend from duty and recommend the reassignment of any officer assigned to the Joint Staff. Upon receipt of such a recommendation, the Secretary concerned shall promptly reassign the officer.

"(3) An officer completing a tour of duty with the Joint Staff may not be assigned or detailed to permanent duty on the Joint Staff within two years after relief from that duty except with the approval of the Secretary.

"(4) Paragraphs (1) and (3) do not apply—

"(A) in time of war; or

"(B) during a national emergency declared by the President.

"(g) LIMITATION ON SIZE OF JOINT STAFF.—(1) Effective on October 1, 1988, the total number of members of the armed forces and civilian personnel assigned or detailed to permanent duty on the Joint Staff may not exceed 1,627.

"(2) Paragraph (1) does not apply—

"(A) in time of war; or

"(B) during a national emergency declared by Congress.

"(h) COMPOSITION OF JOINT STAFF.—(1) The Joint Staff is composed of all members of the armed forces and civilian employees assigned or detailed to permanent duty in the executive part of the Department of Defense to perform the functions and duties prescribed under subsections (a) and (c).

"(2) The Joint Staff does not include members of the armed forces or civilian employees assigned or detailed to permanent duty in a military department.".

SEC. 202. PROVISIONS RELATING TO VICE CHAIRMAN

10 USC 525.

(a) EXEMPTION OF VICE CHAIRMAN FROM 4-STAR GRADE LIMITATION.—Section 525(b)(3) is amended by inserting "or Vice Chairman" after "Chairman".

(b) RANK OF VICE CHAIRMAN.—Section 743 is amended—

(1) by striking out "and" after "Chief of Naval Operations,";

(2) by inserting ", and the Commandant of the Marine Corps" after "Air Force"; and

(3) by inserting "and the Vice Chairman" after "Chairman".

SEC. 203. PARTICIPATION IN NATIONAL SECURITY COUNCIL MEETINGS

Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended by adding at the end the following new subsection:

"(e) The Chairman (or in his absence the Vice Chairman) of the Joint Chiefs of Staff may, in his role as principal military adviser to the National Security Council and subject to the direction of the President, attend and participate in meetings of the National Security Council.".

SEC. 204. TRANSITION

(a) PREPAREDNESS EVALUATION SYSTEM.—The uniform system of evaluating the preparedness of each unified and specified combatant command required to be established by paragraph (3)(D) of section 153(a) of title 10, United States Code, as added by section 201 of this Act, shall be established not later than one year after the date of the enactment of this Act. 10 USC 153 note.

(b) DATE FOR FIRST REPORT.—The first report under section 153(b) of title 10, United States Code, as added by section 201 of this Act, shall be submitted by the Chairman of the Joint Chiefs of Staff not later than two years after the date of the enactment of this Act. 10 USC 153 note.

(c) WAIVER OF QUALIFICATIONS FOR APPOINTMENT AS VICE CHAIRMAN OF JCS.—(1) The President may waive, as provided in paragraph (2), the requirements provided for in section 154(b) of title 10, United States Code (as added by section 201 of this Act), relating to requirements for appointment of an officer as Vice Chairman of the Joint Chiefs of Staff. 10 USC 154 note.

(2) In exercising such waiver authority, the President may—

(A) waive the requirement that the officer have the joint specialty;

(B) waive the requirement under section 664 of such title (as added by section 401 of this Act) for the length of a joint duty assignment if the officer has served in such an assignment for not less than two years; and

(C) consider as a joint duty assignment any tour of duty served by the officer as a general or flag officer before the date of the enactment of this Act (or being served on the date of the enactment of this Act) that was considered to be a joint duty assignment or a joint equivalent assignment under regulations in effect at the time the assignment began.

(3)(A) A waiver under paragraph (2)(A) may not be made more than two years after the date of the enactment of this Act.

(B) A waiver under paragraph (2)(B) or (2)(C) may not be made more than four years after the date of the enactment of this Act.

PART B—COMBATANT COMMANDS

SEC. 211. ESTABLISHMENT OF COMBATANT COMMANDS AND AUTHORITY OF COMMANDERS

(a) IN GENERAL.—Part I of subtitle A is amended by inserting after chapter 5 the following new chapter: 10 USC 101 *et seq.*

"CHAPTER 6—COMBATANT COMMANDS

"Sec.
"161. Combatant commands: establishment.
"162. Combatant commands: assigned forces; chain of command.
"163. Role of Chairman of Joint Chiefs of Staff.
"164. Commanders of combatant commands: assignment; powers and duties.
"165. Combatant commands: administration and support.
"166. Combatant commands: budget proposals.

10 USC 161.

"§ 161. Combatant commands: establishment

President of U.S.

"(a) UNIFIED AND SPECIFIED COMBATANT COMMANDS.—With the advice and assistance of the Chairman of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall—

"(1) establish unified combatant commands and specified combatant commands to perform military missions; and

"(2) prescribe the force structure of those commands.

"(b) PERIODIC REVIEW.—(1) The Chairman periodically (and not less often than every two years) shall—

"(A) review the missions, responsibilities (including geographic boundaries), and force structure of each combatant command; and

"(B) recommend to the President, through the Secretary of Defense, any changes to such missions, responsibilities, and force structures as may be necessary.

President of U.S.

"(2) Except during time of hostilities or imminent threat of hostilities, the President shall notify Congress not more than 60 days after—

"(A) establishing a new combatant command; or

"(B) significantly revising the missions, responsibilities, or force structure of an existing combatant command.

"(c) DEFINITIONS.—In this chapter:

"(1) The term 'unified combatant command' means a military command which has broad, continuing missions and which is composed of forces from two or more military departments.

"(2) The term 'specified combatant command' means a military command which has broad, continuing missions and which is normally composed of forces from a single military department.

"(3) The term 'combatant command' means a unified combatant command or a specified combatant command.

"§ 162. Combatant commands: assigned forces; chain of command

"(a) ASSIGNMENT OF FORCES.—(1) Except as provided in paragraph (2), the Secretaries of the military departments shall assign all forces under their jurisdiction to unified and specified combatant commands to perform missions assigned to those commands. Such assignments shall be made as directed by the Secretary of Defense, including direction as to the command to which forces are to be assigned. The Secretary of Defense shall ensure that such assignments are consistent with the force structure prescribed by the President for each combatant command.

"(2) Except as otherwise directed by the Secretary of Defense, forces to be assigned by the Secretaries of the military departments to the combatant commands under paragraph (1) do not include forces assigned to carry out functions of the Secretary of a military department listed in sections 3013(b), 5013(b), and 8013(b) of this title.

"(3) A force assigned to a combatant command under this section may be transferred from the command to which it is assigned only—

"(A) by authority of the Secretary of Defense; and

"(B) under procedures prescribed by the Secretary and approved by the President.

"(4) Except as otherwise directed by the Secretary of Defense, all forces operating within the geographic area assigned to a unified combatant command shall be assigned to, and under the command of, the commander of that command. The preceding sentence applies to forces assigned to a specified combatant command only as prescribed by the Secretary of Defense.

"(b) CHAIN OF COMMAND.—Unless otherwise directed by the President, the chain of command to a unified or specified combatant command runs—

"(1) from the President to the Secretary of Defense; and

"(2) from the Secretary of Defense to the commander of the combatant command.

"§ 163. Role of Chairman of Joint Chiefs of Staff 10 USC 163.

"(a) COMMUNICATIONS THROUGH CHAIRMAN OF JCS; ASSIGNMENT OF DUTIES.—Subject to the limitations in section 152(c) of this title, the President may—

"(1) direct that communications between the President or the Secretary of Defense and the commanders of the unified and specified combatant commands be transmitted through the Chairman of the Joint Chiefs of Staff; and

"(2) assign duties to the Chairman to assist the President and the Secretary of Defense in performing their command function.

"(b) OVERSIGHT BY CHAIRMAN OF JOINT CHIEFS OF STAFF.—(1) The Secretary of Defense may assign to the Chairman of the Joint Chiefs of Staff responsibility for overseeing the activities of the combatant commands. Such assignment by the Secretary to the Chairman does not confer any command authority on the Chairman and does not alter the responsibility of the commanders of the combatant commands prescribed in section 164(b)(2) of this title.

"(2) Subject to the authority, direction, and control of the Secretary of Defense, the Chairman of the Joint Chiefs of Staff serves as the spokesman for the commanders of the combatant commands, especially on the operational requirements of their commands. In performing such function, the Chairman shall—

"(A) confer with and obtain information from the commanders of the combatant commands with respect to the requirements of their commands;

"(B) evaluate and integrate such information;

"(C) advise and make recommendations to the Secretary of Defense with respect to the requirements of the combatant commands, individually and collectively; and

"(D) communicate, as appropriate, the requirements of the combatant commands to other elements of the Department of Defense.

"§ 164. Commanders of combatant commands: assignment; powers and duties

"(a) ASSIGNMENT AS COMBATANT COMMANDER.—(1) The President may assign an officer to serve as the commander of a unified or specified combatant command only if the officer—

"(A) has the joint specialty under section 661 of this title; and

"(B) has served in at least one joint duty assignment (as defined under section 668(b) of this title) as a general or flag officer.

"(2) The President may waive paragraph (1) in the case of an officer if the President determines that such action is necessary in the national interest.

"(b) RESPONSIBILITIES OF COMBATANT COMMANDERS.—(1) The commander of a combatant command is responsible to the President and to the Secretary of Defense for the performance of missions assigned to that command by the President or by the Secretary with the approval of the President.

"(2) Subject to the direction of the President, the commander of a combatant command—

"(A) performs his duties under the authority, direction, and control of the Secretary of Defense; and

"(B) is directly responsible to the Secretary for the preparedness of the command to carry out missions assigned to the command.

"(c) COMMAND AUTHORITY OF COMBATANT COMMANDERS.—(1) Unless otherwise directed by the President or the Secretary of Defense, the authority, direction, and control of the commander of a combatant command with respect to the commands and forces assigned to that command include the command functions of—

"(A) giving authoritative direction to subordinate commands and forces necessary to carry out missions assigned to the command, including authoritative direction over all aspects of military operations, joint training, and logistics;

"(B) prescribing the chain of command to the commands and forces within the command;

"(C) organizing commands and forces within that command as he considers necessary to carry out missions assigned to the command;

"(D) employing forces within that command as he considers necessary to carry out missions assigned to the command;

"(E) assigning command functions to subordinate commanders;

"(F) coordinating and approving those aspects of administration and support (including control of resources and equipment, internal organization, and training) and discipline necessary to carry out missions assigned to the command; and

"(G) exercising the authority with respect to selecting subordinate commanders, selecting combatant command staff, suspending subordinates, and convening courts-martial, as provided in subsections (e), (f), and (g) of this section and section 822(a) of this title, respectively.

"(2)(A) The Secretary of Defense shall ensure that a commander of a combatant command has sufficient authority, direction, and control over the commands and forces assigned to the command to exercise effective command over those commands and forces. In carrying out this subparagraph, the Secretary shall consult with the Chairman of the Joint Chiefs of Staff.

"(B) The Secretary shall periodically review and, after consultation with the Secretaries of the military departments, the Chairman of the Joint Chiefs of Staff, and the commander of the combatant command, assign authority to the commander of the combatant command for those aspects of administration and support that the

Secretary considers necessary to carry out missions assigned to the command.

"(3) If a commander of a combatant command at any time considers his authority, direction, or control with respect to any of the commands or forces assigned to the command to be insufficient to command effectively, the commander shall promptly inform the Secretary of Defense.

"(d) AUTHORITY OVER SUBORDINATE COMMANDERS.—Unless otherwise directed by the President or the Secretary of Defense—

"(1) commanders of commands and forces assigned to a combatant command are under the authority, direction, and control of, and are responsible to, the commander of the combatant command on all matters for which the commander of the combatant command has been assigned authority under subsection (c);

"(2) the commander of a command or force referred to in clause (1) shall communicate with other elements of the Department of Defense on any matter for which the commander of the combatant command has been assigned authority under subsection (c) in accordance with procedures, if any, established by the commander of the combatant command;

"(3) other elements of the Department of Defense shall communicate with the commander of a command or force referred to in clause (1) on any matter for which the commander of the combatant command has been assigned authority under subsection (c) in accordance with procedures, if any, established by the commander of the combatant command; and

"(4) if directed by the commander of the combatant command, the commander of a command or force referred to in clause (1) shall advise the commander of the combatant command of all communications to and from other elements of the Department of Defense on any matter for which the commander of the combatant command has not been assigned authority under subsection (c).

"(e) SELECTION OF SUBORDINATE COMMANDERS.—(1) An officer may be assigned to a position as the commander of a command directly subordinate to the commander of a combatant command or, in the case of such a position that is designated under section 601 of this title as a position of importance and responsibility, may be recommended to the President for assignment to that position, only— 10 USC 601.

"(A) with the concurrence of the commander of the combatant command; and

"(B) in accordance with procedures established by the Secretary of Defense.

"(2) The Secretary of Defense may waive the requirement under paragraph (1) for the concurrence of the commander of a combatant command with regard to the assignment (or recommendation for assignment) of a particular officer if the Secretary of Defense determines that such action is in the national interest.

"(3) The commander of a combatant command shall—

"(A) evaluate the duty performance of each commander of a command directly subordinate to the commander of such combatant command; and

"(B) submit the evaluation to the Secretary of the military department concerned and the Chairman of the Joint Chiefs of Staff.

"(f) COMBATANT COMMAND STAFF.—(1) Each unified and specified combatant command shall have a staff to assist the commander of the command in carrying out his responsibilities. Positions of responsibility on the combatant command staff shall be filled by officers from each of the armed forces having significant forces assigned to the command.

"(2) An officer may be assigned to a position on the staff of a combatant command or, in the case of such a position that is designated under section 601 of this title as a position of importance and responsibility, may be recommended to the President for assignment to that position, only—

10 USC 601.

"(A) with the concurrence of the commander of such command; and

"(B) in accordance with procedures established by the Secretary of Defense.

"(3) The Secretary of Defense may waive the requirement under paragraph (2) for the concurrence of the commander of a combatant command with regard to the assignment (or recommendation for assignment) of a particular officer to serve on the staff of the combatant command if the Secretary of Defense determines that such action is in the national interest.

"(g) AUTHORITY TO SUSPEND SUBORDINATES.—In accordance with procedures established by the Secretary of Defense, the commander of a combatant command may suspend from duty and recommend the reassignment of any officer assigned to such combatant command.

"§ 165. Combatant commands: administration and support

"(a) IN GENERAL.—The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide for the administration and support of forces assigned to each combatant command.

"(b) RESPONSIBILITY OF SECRETARIES OF MILITARY DEPARTMENTS.—Subject to the authority, direction, and control of the Secretary of Defense and subject to the authority of commanders of the combatant commands under section 164(c) of this title, the Secretary of a military department is responsible for the administration and support of forces assigned by him to a combatant command.

"(c) ASSIGNMENT OF RESPONSIBILITY TO OTHER COMPONENTS OF DOD.—After consultation with the Secretaries of the military departments, the Secretary of Defense may assign the responsibility (or any part of the responsibility) for the administration and support of forces assigned to the combatant commands to other components of the Department of Defense (including Defense Agencies and combatant commands). A component assigned such a responsibility shall discharge that responsibility subject to the authority, direction, and control of the Secretary of Defense and subject to the authority of commanders of the combatant commands under section 164(c) of this title.

"§ 166. Combatant commands: budget proposals

"(a) COMBATANT COMMAND BUDGETS.—The Secretary of Defense shall include in the annual budget of the Department of Defense submitted to Congress a separate budget proposal for such activities of each of the unified and specified combatant commands as may be determined under subsection (b).

"(b) CONTENT OF PROPOSALS.—A budget proposal under subsection (a) for funding of activities of a combatant command shall include funding proposals for such activities of the combatant command as the Secretary (after consultation with the Chairman of the Joint Chiefs of Staff) determines to be appropriate for inclusion. Activities of a combatant command for which funding may be requested in such a proposal include the following:

"(1) Joint exercises.

"(2) Force training.

"(3) Contingencies.

"(4) Selected operations.".

(b) COURT-MARTIAL JURISDICTION.—Section 822(a) (article 22(a) of the Uniform Code of Military Justice) is amended— 10 USC 822.

(1) by redesignating paragraphs (2) through (7) as paragraphs (4) through (9), respectively; and

(2) by inserting after paragraph (1) the following new paragraphs (2) and (3):

"(2) the Secretary of Defense;

"(3) the commanding officer of a unified or specified combatant command;".

(c) REPEAL OF SECTION 124.—(1) Section 124 is repealed.

(2) The table of sections at the beginning of chapter 3 is amended by striking out the item relating to that section.

SEC. 212. INITIAL REVIEW OF COMBATANT COMMANDS 10 USC 161 note.

(a) MATTERS TO BE CONSIDERED.—The first review of the missions, responsibilities (including geographic boundaries), and force structure of the unified and specified combatant commands under section 161(b) of title 10, United States Code, as added by section 211 of this Act, shall include consideration of the following:

(1) Creation of a unified combatant command for strategic missions which would combine—

(A) the missions, responsibilities, and forces of the Strategic Air Command;

(B) the strategic missions, responsibilities, and forces of the Army and Navy; and

(C) other appropriate strategic missions, responsibilities, and forces of the armed forces.

(2) Creation of a unified combatant command for special operations missions which would combine the special operations missions, responsibilities, and forces of the armed forces.

(3) Creation of a unified combatant command for transportation missions which would combine the transportation missions, responsibilities, and forces of the Military Traffic Management Command, the Military Sealift Command, and the Military Airlift Command.

(4) Creation of a unified combatant command for missions relating to defense of Northeast Asia. Asia.

(5) Revision of the geographic area for which the United States Central Command has responsibility so as to include—

(A) the ocean areas adjacent to Southwest Asia; and

(B) the region of the Middle East that is assigned to the United States European Command. Middle East.

(6) Revision of the geographic area for which the United States Southern Command has responsibility so as to include the ocean areas adjacent to Central America. Central America.

Alaska.

(7) Revision of the geographic area for which the United States Pacific Command has responsibility so as to include all of the State of Alaska.

(8) Revision of the missions and responsibilities of the United States Readiness Command so as to include—

(A) an enhanced role in securing the borders of the United States; and

(B) assignment of regions of the world not assigned as part of the geographic area of responsibility of any other unified combatant command.

(9) Revision of the division of missions and responsibilities between the United States Central Command and the United States Readiness Command.

(10) Elimination of the command designated as United States Forces, Caribbean.

Reports.

(b) DEADLINE.—The first report to the President under such section shall be made not later than one year after the date of the enactment of this Act.

SEC. 213. REPEAL OF CERTAIN LIMITATIONS ON COMMAND STRUCTURE

10 USC 133 note.

(a) PROHIBITION AGAINST CONSOLIDATING FUNCTIONS OF THE MILITARY TRANSPORTATION COMMANDS.—Section 1110 of the Department of Defense Authorization Act, 1983 (Public Law 97-252; 96 Stat. 747), is repealed.

(b) PROHIBITION AGAINST ALTERING COMMAND STRUCTURE FOR MILITARY FORCES IN ALASKA.—Section 8106 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190 (99 Stat. 1221)), is repealed.

SEC. 214. TRANSITION

10 USC 162 note.

(a) ASSIGNMENT OF FORCES TO COMBATANT COMMANDS.—Section 162(a) of title 10, United States Code (as added by section 211 of this Act), shall be implemented not later than 90 days after the date of the enactment of this Act.

10 USC 164 note.

(b) WAIVER OF QUALIFICATIONS FOR ASSIGNMENT AS COMBATANT COMMANDER.—(1) The President may waive, as provided in paragraph (2), the requirements provided for in section 164(a) of title 10, United States Code (as added by section 201 of this Act), relating to the assignment of commanders of the combatant commands.

(2) In exercising such waiver authority, the President may, in the case of any officer—

(A) waive the requirement that the officer have the joint specialty;

(B) waive the requirement under section 664 of such title (as added by section 401 of this Act) for the length of a joint duty assignment if the officer has served in such an assignment for not less than two years; and

(C) consider as a joint duty assignment any tour of duty served by the officer as a general or flag officer before the date of the enactment of this Act (or being served on the date of the enactment of this Act) that was considered to be a joint duty assignment or a joint equivalent assignment under regulations in effect at the time the assignment began.

(3)(A) A waiver under paragraph (2)(A) may not be made more than two years after the date of the enactment of this Act.

(B) A waiver under paragraph (2)(B) or (2)(C) may not be made more than four years after the date of the enactment of this Act.

(4) A waiver under this subsection may be made only on a case-by-case basis.

(c) SELECTION AND SUSPENSION FROM DUTY OF SUBORDINATE OFFICERS.—Subsections (e), (f), and (g) of section 164 of title 10, United States Code (as added by section 211 of this Act), shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act, or on such earlier date as may be prescribed by the Secretary of Defense.

Effective date.
10 USC 164 note.

(d) BUDGET PROPOSALS.—Section 166 of title 10, United States Code (as added by section 211 of this Act), shall take effect with budget proposals for fiscal year 1989.

Effective date.
10 USC 166 note.

TITLE III—DEFENSE AGENCIES AND DEPARTMENT OF DEFENSE FIELD ACTIVITIES

SEC. 301. ESTABLISHMENT AND MANAGEMENT OF DEFENSE AGENCIES AND DEPARTMENT OF DEFENSE FIELD ACTIVITIES

(a) IN GENERAL.—Chapter 8 is amended—

(1) by redesignating section 191 as section 201; and

(2) by striking out the chapter heading and the table of sections at the beginning of such chapter and inserting in lieu thereof the following:

"CHAPTER 8—DEFENSE AGENCIES AND DEPARTMENT OF DEFENSE FIELD ACTIVITIES

"Subchapter	Sec.
" I. Common Supply and Service Activities	191
"II. Miscellaneous Defense Agency Matters	201

"SUBCHAPTER I—COMMON SUPPLY AND SERVICE ACTIVITIES

"Sec.

"191. Secretary of Defense: authority to provide for common performance of supply or service activities.

"192. Defense Agencies and Department of Defense Field Activities: oversight by the Secretary of Defense.

"193. Combat support agencies: oversight.

"194. Limitations on personnel.

"§ 191. Secretary of Defense: authority to provide for common performance of supply or service activities

10 USC 191.

"(a) AUTHORITY.—Whenever the Secretary of Defense determines such action would be more effective, economical, or efficient, the Secretary may provide for the performance of a supply or service activity that is common to more than one military department by a single agency of the Department of Defense.

"(b) DESIGNATION OF COMMON SUPPLY OR SERVICE AGENCY.—Any agency of the Department of Defense established under subsection (a) (or under the second sentence of section 125(d) of this title (as in effect before the date of the enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986)) for the performance of a supply or service activity referred to in such subsection shall be designated as a Defense Agency or a Department of Defense Field Activity.

10 USC 192.

"§ 192. Defense Agencies and Department of Defense Field Activities: oversight by the Secretary of Defense

"(a) OVERALL SUPERVISION.—(1) The Secretary of Defense shall assign responsibility for the overall supervision of each Defense Agency and Department of Defense Field Activity designated under section 191(b) of this title—

"(A) to a civilian officer within the Office of the Secretary of Defense listed in section 131(b) of this title; or

"(B) to the Chairman of the Joint Chiefs of Staff.

"(2) An official assigned such a responsibility with respect to a Defense Agency or Department of Defense Field Activity shall advise the Secretary of Defense on the extent to which the program recommendations and budget proposals of such agency or activity conform with the requirements of the military departments and of the unified and specified combatant commands.

"(3) This subsection does not apply to the Defense Intelligence Agency or the National Security Agency.

"(b) PROGRAM AND BUDGET REVIEW.—The Secretary of Defense shall establish procedures to ensure that there is full and effective review of the program recommendations and budget proposals of each Defense Agency and Department of Defense Field Activity.

"(c) PERIODIC REVIEW.—(1) Periodically (and not less often than every two years), the Secretary of Defense shall review the services and supplies provided by each Defense Agency and Department of Defense Field Activity to ensure that—

"(A) there is a continuing need for each such agency and activity; and

"(B) the provision of those services and supplies by each such agency and activity, rather than by the military departments, is a more effective, economical, or efficient manner of providing those services and supplies or of meeting the requirements for combat readiness of the armed forces.

"(2) Paragraph (1) shall apply to the National Security Agency as determined appropriate by the Secretary, in consultation with the Director of Central Intelligence. The Secretary shall establish procedures under which information required for review of the National Security Agency shall be obtained.

"§ 193. Combat support agencies: oversight

Reports.

"(a) COMBAT READINESS.—(1) Periodically (and not less often than every two years), the Chairman of the Joint Chiefs of Staff shall submit to the Secretary of Defense a report on the combat support agencies. Each such report shall include—

"(A) a determination with respect to the responsiveness and readiness of each such agency to support operating forces in the event of a war or threat to national security; and

"(B) any recommendations that the Chairman considers appropriate.

"(2) In preparing each such report, the Chairman shall review the plans of each such agency with respect to its support of operating forces in the event of a war or threat to national security. After consultation with the Secretaries of the military departments and the commanders of the unified and specified combatant commands, as appropriate, the Chairman may, with the approval of the Secretary of Defense, take steps to provide for any revision of those plans that the Chairman considers appropriate.

"(b) PARTICIPATION IN JOINT TRAINING EXERCISES.—The Chairman shall—

"(1) provide for the participation of the combat support agencies in joint training exercises to the extent necessary to ensure that those agencies are capable of performing their support missions with respect to a war or threat to national security; and

"(2) assess the performance in joint training exercises of each such agency and, in accordance with guidelines established by the Secretary of Defense, take steps to provide for any change that the Chairman considers appropriate to improve that performance.

"(c) READINESS REPORTING SYSTEM.—The Chairman shall develop, in consultation with the director of each combat support agency, a uniform system for reporting to the Secretary of Defense, the commanders of the unified and specified combatant commands, and the Secretaries of the military departments concerning the readiness of each such agency to perform with respect to a war or threat to national security. Reports.

"(d) REVIEW OF NATIONAL SECURITY AGENCY.—(1) Subsections (a), (b), and (c) shall apply to the National Security Agency, but only with respect to combat support functions the Agency performs for the Department of Defense.

"(2) The Secretary, after consulting with the Director of Central Intelligence, shall establish policies and procedures with respect to the application of subsections (a), (b), and (c) to the National Security Agency.

"(e) COMBAT SUPPORT CAPABILITIES OF DIA AND NSA.—The Secretary of Defense, in consultation with the Director of Central Intelligence, shall develop and implement, as they may determine to be necessary, policies and programs to correct such deficiencies as the Chairman of the Joint Chiefs of Staff and other officials of the Department of Defense may identify in the capabilities of the Defense Intelligence Agency and the National Security Agency to accomplish assigned missions in support of military combat operations.

"(f) DEFINITION OF COMBAT SUPPORT AGENCY.—In this section, the term 'combat support agency' means any of the following Defense Agencies:

"(1) The Defense Communications Agency.

"(2) The Defense Intelligence Agency.

"(3) The Defense Logistics Agency.

"(4) The Defense Mapping Agency.

"(5) Any other Defense Agency designated as a combat support agency by the Secretary of Defense.

"§ 194. Limitations on personnel 10 USC 194.

"(a) CAP ON HEADQUARTERS MANAGEMENT PERSONNEL.—After September 30, 1989, the total number of members of the armed forces and civilian employees assigned or detailed to permanent duty in the management headquarters activities or management headquarters support activities in the Defense Agencies and Department of Defense Field Activities may not exceed the number that is the number of such members and employees assigned or detailed to such duty on September 30, 1989.

"(b) CAP ON OTHER PERSONNEL.—After September 30, 1989, the total number of members of the armed forces and civilian employees

assigned or detailed to permanent duty in the Defense Agencies and Department of Defense Field Activities, other than members and employees assigned to management headquarters activities or management headquarters support activities, may not exceed the number that is the number of such members and employees assigned or detailed to such duty on September 30, 1989.

"(c) PROHIBITION AGAINST CERTAIN ACTIONS TO EXCEED LIMITATIONS.—The limitations in subsections (a) and (b) may not be exceeded by recategorizing or redefining duties, functions, offices, or organizations.

"(d) EXCLUSION OF NSA.—The National Security Agency shall be excluded in computing and maintaining the limitations required by this section.

"(e) WAIVER.—The limitations in this section do not apply—

"(1) in time of war; or

"(2) during a national emergency declared by Congress.

"(f) DEFINITIONS.—In this section, the terms 'management headquarters activities' and 'management headquarters support activities' have the meanings given those terms in Department of Defense Directive 5100.73, entitled 'Department of Defense Management Headquarters and Headquarters Support Activities' and dated January 7, 1985.

"SUBCHAPTER II—MISCELLANEOUS DEFENSE AGENCY MATTERS

"Sec.

"201. Unauthorized use of Defense Intelligence Agency name, initials, or seal.".

Ante, p. 996.

(b) CONFORMING AMENDMENTS.—(1) Section 125 is amended by striking out subsection (d).

Ante, p. 996; *post*, p. 1075.

(2) Subsection (c)(2) of section 113 (as redesignated by section 101(a)) is amended by striking out "section 125" and inserting in lieu thereof "sections 125 and 191".

SEC. 302. DEFINITIONS OF DEFENSE AGENCY AND DEPARTMENT OF DEFENSE FIELD ACTIVITY

Ante, p. 703.

Section 101 is amended by adding at the end the following new paragraphs:

"(44) 'Defense Agency' means an organizational entity of the Department of Defense—

"(A) that is established by the Secretary of Defense under section 191 of this title (or under the second sentence of section 125(d) of this title (as in effect before the date of the enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986)) to perform a supply or service activity common to more than one military department (other than such an entity that is designated by the Secretary as a Department of Defense Field Activity); or

"(B) that is designated by the Secretary of Defense as a Defense Agency.

"(45) 'Department of Defense Field Activity' means an organizational entity of the Department of Defense—

"(A) that is established by the Secretary of Defense under section 191 of this title (or under the second sentence of section 125(d) of this title (as in effect before the date of the enactment of the Goldwater-Nichols Department of Defense

Reorganization Act of 1986)) to perform a supply or service activity common to more than one military department; and

"(B) that is designated by the Secretary of Defense as a Department of Defense Field Activity.".

SEC. 303. REASSESSMENT OF DEFENSE AGENCIES AND DOD FIELD ACTIVITIES 10 USC 191 note.

(a) SECRETARY OF DEFENSE.—(1) The Secretary of Defense shall conduct a study of the functions and organizational structure of the Defense Agencies and Department of Defense Field Activities. The study shall determine the most effective, economical, or efficient means of providing supply or service activities common to more than one military department, after considering the matters set forth in subsection (d) and the reports submitted under subsection (b).

(2) To the extent that the most effective, economical, or efficient means of providing those activities is determined under paragraph (1) to be the existing Defense Agency and Department of Defense Field Activity structure, the study shall analyze methods to improve the performance and responsiveness of Defense Agencies and Department of Defense Field Activities with respect to the entities to which they provide supplies and services, particularly with regard to the unified and specified combatant commands.

(b) SERVICE SECRETARIES AND CHAIRMAN OF THE JCS.—The Secretaries of the military departments and the Chairman of the Joint Chiefs of Staff shall each conduct a study of the functions and organizational structure of the Defense Agencies and Department of Defense Field Activities. The Secretaries and Chairman shall each submit a report to the Secretary of Defense on such study at a time specified by the Secretary. Each such report shall include a discussion of and recommendations concerning each matter set forth in subsection (d). Reports.

(c) NATIONAL SECURITY AGENCY.—This section shall apply to the National Security Agency as determined appropriate by the Secretary of Defense, in consultation with the Director of Central Intelligence. The Secretary shall establish procedures under which information required for review of the National Security Agency shall be obtained.

(d) MATTERS CONSIDERED.—The studies required by subsections (a) and (b) shall consider the following matters:

(1) Whether the existing allocation of functions to, and organizational structure of, the Defense Agencies and Department of Defense Field Activities meet the statutory requirement of providing a supply or service activity common to more than one military department in a more effective, economical, or efficient manner.

(2) Alternative allocations of authority and functions assigned to the Defense Agencies and Department of Defense Field Activities, including—

(A) various possible redistributions of responsibilities among those agencies and activities;

(B) transfer of the responsibility for those functions to—

(i) the Secretaries of the military departments;

(ii) the appropriate officers in the Office of the Secretary of Defense;

(iii) the Chairman of the Joint Chiefs of Staff; or

(iv) the commanders of unified or specified combatant commands;

(C) creation of new Defense Agencies or Department of Defense Field Activities;

(D) consolidation of two or more such agencies and activities;

(E) elimination of any such agency or activity; and

(F) other organizational changes in the Department of Defense designed to make the performance of those functions more effective, economical, or efficient.

(3) Whether the requirements of the amendments made by section 301 will have the effect of ensuring the readiness and responsiveness of the Defense Agencies in the event of a war or threat to national security and whether any additional legislation is necessary to ensure such readiness and responsiveness.

(4) Additional legislative or administrative actions that the Secretary considers necessary to ensure effective oversight of Defense Agency and Department of Defense Field Activity resource management, personnel policies, and budget procedures and to clarify supervisory responsibilities.

(5) Whether the findings and recommendations of the report of March 1979 entitled "Report to the Secretary of Defense of the Defense Agency Review" and directed by Major General Theodore Antonelli, United States Army (Retired), should be the basis for additional legislative or administrative actions.

(e) REPORT.—The Secretary of Defense shall submit to Congress a report that includes the following:

(1) A report on the study required by subsection (a) that includes—

(A) a discussion of and recommendations concerning each matter set forth in subsection (d); and

(B) a discussion of the reports required by subsection (b).

(2) A copy of each report required by subsection (b).

(3) A study of the improved application of computer systems to functions of Defense Agencies and Department of Defense Field Activities, including a plan for the rapid replacement, where necessary, of existing automated data processing equipment with new equipment.

(4) Plans to achieve reductions in the total number of members of the Armed Forces and civilian employees assigned or detailed to permanent duty in the Defense Agencies and Department of Defense Field Activities (other than the National Security Agency) by 5 percent, 10 percent, and 15 percent of the total number of such members and employees projected to be assigned or detailed to such duty on September 30, 1988, together with a discussion of the implications of each such reduction and a draft of any legislation that would be required to implement each such plan.

(f) DEADLINE FOR SUBMISSION.—The report required by subsection (e) shall be submitted not later than one year after the date of the enactment of this Act.

SEC. 304. TRANSITION

10 USC 192 note.

(a) SECRETARY OF DEFENSE REVIEW OF DEFENSE AGENCIES.—The first review under section 192(c) of title 10, United States Code (as added by section 301(a)), shall be completed not later than two years

after the date that the report under section 303(e) is required to be submitted to Congress.

(b) REPORT AND OTHER ACTIONS BY CHAIRMAN OF JCS.—The first report under subsection (a) of section 193 of such title (as added by section 301(a)) shall be submitted, and subsections (b) and (c) of such section shall be implemented, not later than one year after the date of the enactment of this Act. The Secretary of Defense shall provide a report on the implementation of such subsections (b) and (c) in the report of the Secretary submitted to Congress for 1988 under section 113(c) of title 10, United States Code (as redesignated by section 101(a)). 10 USC 193 note.

TITLE IV—JOINT OFFICER PERSONNEL POLICY

SEC. 401. JOINT OFFICER MANAGEMENT

(a) ESTABLISHMENT OF JOINT OFFICER MANAGEMENT POLICIES.—Part II of subtitle A is amended by inserting after chapter 37 the following new chapter: 10 USC 501 *et seq.*

"CHAPTER 38—JOINT OFFICER MANAGEMENT

"Sec.
"661. Management policies for joint specialty officers.
"662. Promotion policy objectives for joint officers.
"663. Education.
"664. Length of joint duty assignments.
"665. Procedures for monitoring careers of joint officers.
"666. Reserve officers not on the active-duty list.
"667. Annual report to Congress.
"668. Definitions.

"§ 661. Management policies for joint specialty officers 10 USC 661.

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish policies, procedures, and practices for the effective management of officers of the Army, Navy, Air Force, and Marine Corps on the active-duty list who are particularly trained in, and oriented toward, joint matters (as defined in section 668 of this title). Such officers shall be identified or designated (in addition to their principal military occupational specialty) in such manner as the Secretary of Defense directs. For purposes of this chapter, officers to be managed by such policies, procedures, and practices are referred to as having, or having been nominated for, the 'joint specialty'.

"(b) NUMBERS AND SELECTION.—(1) The number of officers with the joint specialty shall be determined by the Secretary. Such number shall be large enough to meet the requirements of subsection (d).

"(2) Officers shall be selected for the joint specialty by the Secretary of Defense with the advice of the Chairman of the Joint Chiefs of Staff. The Secretaries of the military departments shall nominate officers for selection for the joint specialty. Nominations shall be made from among officers—

"(A) who meet qualifications prescribed by the Secretary of Defense; and

"(B) who—

"(i) are senior captains or, in the case of the Navy, senior lieutenants; or

"(ii) are serving in the grade of major or lieutenant commander or a higher grade.

"(c) EDUCATION AND EXPERIENCE REQUIREMENTS.—(1) An officer who is nominated for the joint specialty may not be selected for the joint specialty until the officer—

"(A) successfully completes an appropriate program at a joint professional military education school; and

"(B) after completing such program of education, successfully completes a full tour of duty in a joint duty assignment.

"(2) An officer who has a critical occupational specialty involving combat operations (as designated by the Secretary of Defense) and who is nominated for the joint specialty may be selected for the joint specialty after successful completion of a joint duty assignment of not less than two years and successful completion of a program under paragraph (1)(A). An officer selected for the joint specialty under this paragraph shall be required to complete the generally applicable requirements for selection under paragraph (1)(B) as soon as practicable after such officer's selection.

"(d) NUMBER OF JOINT DUTY ASSIGNMENTS.—(1) The Secretary of Defense shall ensure that approximately one-half of the joint duty assignment positions in grades above captain or, in the case of the Navy, lieutenant are filled at any time by officers who have (or have been nominated for) the joint specialty.

"(2) The Secretary of Defense shall designate not fewer than 1,000 joint duty assignment positions as critical joint duty assignment positions. Each such position shall be held only by an officer with the joint specialty.

"(e) CAREER GUIDELINES.—The Secretary, with the advice of the Chairman of the Joint Chiefs of Staff, shall establish career guidelines for officers with the joint specialty. Such guidelines shall include guidelines for—

"(1) selection;

"(2) military education;

"(3) training;

"(4) types of duty assignments; and

"(5) such other matters as the Secretary considers appropriate.

10 USC 662.

"§ 662. Promotion policy objectives for joint officers

"(a) QUALIFICATIONS.—The Secretary of Defense shall ensure that the qualifications of officers assigned to joint duty assignments are such that—

"(1) officers who are serving on, or have served on, the Joint Staff are expected, as a group, to be promoted at a rate not less than the rate for officers of the same armed force in the same grade and competitive category who are serving on, or have served on, the headquarters staff of their armed force;

"(2) officers who have the joint specialty are expected, as a group, to be promoted at a rate not less than the rate for officers of the same armed force in the same grade and competitive category who are serving on, or have served on, the headquarters staff of their armed force; and

"(3) officers who are serving in, or have served in, joint duty assignments (other than officers covered in paragraphs (1) and (2)) are expected, as a group, to be promoted at a rate not less than the rate for all officers of the same armed force in the same grade and competitive category.

"(b) REPORT.—The Secretary of Defense shall periodically (and not less often than every six months) report to Congress on the pro-

motion rates of officers who are serving in, or have served in, joint duty assignments, especially with respect to the record of officer selection boards in meeting the objectives of clauses (1), (2), and (3) of subsection (a). If such promotion rates fail to meet such objectives, the Secretary shall immediately notify Congress of such failure and of what action the Secretary has taken or plans to take to prevent further failures.

"§ 663. Education 10 USC 663.

"(a) CAPSTONE COURSE FOR NEW GENERAL AND FLAG OFFICERS.—(1) Each officer selected for promotion to the grade of brigadier general or, in the case of the Navy, rear admiral (lower half) shall be required, after such selection, to attend a military education course designed specifically to prepare new general and flag officers to work with the other armed forces.

"(2) Subject to paragraph (3), the Secretary of Defense may waive paragraph (1)—

"(A) in the case of an officer whose immediately previous assignment was in a joint duty assignment and who is thoroughly familiar with joint matters;

"(B) when necessary for the good of the service;

"(C) in the case of an officer whose proposed selection for promotion is based primarily upon scientific and technical qualifications for which joint requirements do not exist (as determined under regulations prescribed under section 619(e)(4) of this title); and

"(D) in the case of a medical officer, dental officer, veterinary officer, medical service officer, nurse, biomedical science officer, or chaplain.

"(3) The authority of the Secretary of Defense to grant a waiver under paragraph (2) may only be delegated to the Deputy Secretary of Defense, an Under Secretary of Defense, or an Assistant Secretary of Defense. Such a waiver may be granted only on a case-by-case basis in the case of an individual officer.

"(b) JOINT MILITARY EDUCATION SCHOOLS.—The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall periodically review and revise the curriculum of each school of the National Defense University (and of any other joint professional military education school) to enhance the education and training of officers in joint matters. The Secretary shall require such schools to maintain rigorous standards for the military education of officers with the joint specialty.

"(c) OTHER PROFESSIONAL MILITARY EDUCATION SCHOOLS.—The Secretary of Defense shall require that each Department of Defense school concerned with professional military education periodically review and revise its curriculum for senior and intermediate grade officers in order to strengthen the focus on—

"(1) joint matters; and

"(2) preparing officers for joint duty assignments.

"(d) POST-EDUCATION DUTY ASSIGNMENTS.—The Secretary of Defense shall ensure that—

"(1) unless waived by the Secretary in an individual case, each officer with the joint specialty who graduates from a joint professional military education school shall be assigned to a joint duty assignment for that officer's next duty assignment; and

"(2) a high proportion (which shall be greater than 50 percent) of the other officers graduating from a joint professional military education school also receive assignments to a joint duty assignment as their next duty assignment.

10 USC 664.

"§ 664. Length of joint duty assignments

"(a) GENERAL RULE.—The length of a joint duty assignment—

"(1) for general and flag officers shall be not less than three years; and

"(2) for other officers shall be not less than three and one-half years.

"(b) WAIVER AUTHORITY.—The Secretary of Defense may waive subsection (a) in the case of any officer, but the Secretary shall ensure that the average length of joint duty assignments meets the standards prescribed in that subsection.

"(c) CERTAIN OFFICERS WITH CRITICAL COMBAT OPERATIONS SKILLS.—Joint duty assignments of less than the period prescribed by subsection (a), but not less than two years, may be authorized for the purposes of section 661(c)(2) of this title. Such an assignment may not be counted for the purposes of determining the average length of joint duty assignments under subsection (b).

"(d) EXCEPTION.—(1) Subsection (a) does not apply in the case of an officer who fails to complete a joint duty assignment as the result of—

"(A) retirement;

"(B) separation from active duty; or

"(C) suspension from duty under section 155(f)(2) or 164(g) of this title.

"(2) In computing the average length of joint duty assignments for purposes of this section, the Secretary of Defense shall exclude joint duty assignments not completed because of a reason specified in paragraph (1).

"§ 665. Procedures for monitoring careers of joint officers

"(a) PROCEDURES.—(1) The Secretary of Defense, with the advice of the Chairman of the Joint Chiefs of Staff, shall establish procedures for overseeing the careers of—

"(A) officers with the joint specialty; and

"(B) other officers who serve in joint duty assignments.

"(2) Such oversight shall include monitoring of the implementation of the career guidelines established under section 661(e) of this title.

"(b) FUNCTION OF JOINT STAFF.—The Secretary shall take such action as necessary to enhance the capabilities of the Joint Staff so that it can—

"(1) monitor the promotions and career assignments of officers with the joint specialty and of other officers who have served in joint duty assignments; and

"(2) otherwise advise the Chairman on joint personnel matters.

"§ 666. Reserve officers not on the active-duty list

"The Secretary of Defense shall establish personnel policies emphasizing education and experience in joint matters for reserve officers not on the active-duty list. Such policies shall, to the extent practicable for the reserve components, be similar to the policies provided by this chapter.

"§ 667. Annual report to Congress

10 USC 667.

"The Secretary of Defense shall include in the annual report of the Secretary to Congress under section 113(c) of this title, for the period covered by the report, the following information (which shall be shown for the Department of Defense as a whole and separately for the Army, Navy, Air Force, and Marine Corps):

Ante, p. 1022.

"(1) The number of officers selected for the joint specialty and their education and experience.

"(2) The promotion rate for officers considered for promotion from within the promotion zone who are serving on the Joint Staff compared with the promotion rate for other officers considered for promotion from within the promotion zone in the same pay grade and the same competitive category, shown for all officers of the armed force and for officers serving on the headquarters staff of the armed force concerned.

"(3) The promotion rate for officers with the joint specialty, compared in the same manner as specified in paragraph (2).

"(4) The promotion rate for other officers who are serving in joint duty assignments, compared in the same manner as specified in paragraph (2).

"(5) The promotion rate for officers considered for promotion from below the promotion zone, shown for officers serving on the Joint Staff, officers with the joint specialty, and other officers serving in joint duty assignments, compared in the same manner as specified in paragraph (2).

"(6) An analysis of assignments of officers after selection for the joint specialty.

"(7) The average length of tours of duty in joint duty assignments—

"(A) for general and flag officers, shown separately for assignments to the Joint Staff and other joint duty assignments; and

"(B) for other officers, shown separately for assignments to the Joint Staff and other joint duty assignments.

"(8) In any case in which the information under paragraphs (2) through (5) shows a significant imbalance between officers serving in joint duty assignments or having the joint specialty and other officers, a description of what action has been taken (or is planned to be taken) by the Secretary to correct the imbalance.

"(9) An analysis of the extent to which the Secretary of each military department is providing officers to fill that department's share (as determined by law or by the Secretary of Defense) of Joint Staff and other joint duty assignments, including the reason for any significant failure by a military department to fill its share of such positions and a discussion of the actions being taken to correct the shortfall.

"(10) Such other information and comparative data as the Secretary of Defense considers appropriate to demonstrate the performance of the Department of Defense and the performance of each military department in carrying out this chapter.

"§ 668. Definitions

"(a) JOINT MATTERS.—In this chapter, the term 'joint matters' means matters relating to the integrated employment of land, sea, and air forces, including matters relating to—

"(1) national military strategy;

"(2) strategic planning and contingency planning; and

"(3) command and control of combat operations under unified command.

Regulations.

"(b) JOINT DUTY ASSIGNMENT.—(1) The Secretary of Defense shall by regulation define the term 'joint duty assignment' for the purposes of this chapter. That definition shall be limited to assignments in which the officer gains significant experience in joint matters and shall exclude—

"(A) assignments for joint training or joint education; and

"(B) assignments within an officer's own military department.

"(2) The Secretary shall publish a list showing—

"(A) the positions that are joint duty assignment positions under such regulation and the number of such positions; and

"(B) of the positions listed under subparagraph (A), those that are critical joint duty assignment positions and the number of such positions.".

(b) CLERICAL AMENDMENTS.—The tables of chapters at the beginning of subtitle A, and at the beginning of part II of subtitle A, are amended by inserting after the item relating to chapter 37 the following new item:

"38. Joint Officer Management ..... 661".

SEC. 402. PROMOTION PROCEDURES FOR JOINT OFFICERS

10 USC 612.

(a) COMPOSITION OF SELECTION BOARDS.—Section 612 is amended by adding at the end the following new subsection:

"(c) Each selection board convened under section 611(a) of this title that will consider officers who are serving in, or have served in, joint duty assignments shall include at least one officer designated by the Chairman of the Joint Chiefs of Staff who is currently serving in a joint duty assignment. The Secretary of Defense may waive the preceding sentence in the case of any selection board of the Marine Corps.".

(b) GUIDANCE TO SELECTION BOARDS.—Section 615 is amended—

(1) by inserting "(a)" before "The Secretary of the";

(2) by striking out "and" at the end of clause (4);

(3) by redesignating clause (5) as clause (6);

(4) by inserting after clause (4) the following new clause (5):

"(5) guidelines, based upon guidelines received by the Secretary from the Secretary of Defense under subsection (b), for the purpose of ensuring that the board gives appropriate consideration to the performance in joint duty assignments of officers who are serving, or have served, in such assignments; and"; and

(5) by adding at the end the following new subsection:

"(b) The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall furnish to the Secretaries of the military departments guidelines for the purpose of ensuring that each selection board convened under section 611(a) of this title gives appropriate consideration to the performance in joint duty assignments of officers who are serving, or have served, in such assignments.".

(c) REVIEW OF PROMOTION LISTS BY CHAIRMAN OF JCS.—Section 618 is amended—

(1) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively; and

Reports.

(2) by inserting after subsection (a) the following new subsection (b):

"(b)(1) After completing the requirements of subsection (a), the Secretary concerned, in the case of the report of a selection board that considered officers who are serving, or have served, in joint duty assignments, shall submit the report to the Chairman of the Joint Chiefs of Staff.

"(2) The Chairman, in accordance with guidelines furnished to the Chairman by the Secretary of Defense, shall review the report for the purpose of determining if—

"(A) the selection board acted consistent with the guidelines of the Secretary of Defense under section 615(b) of this title to ensure that selection boards give appropriate consideration to the performance in joint duty assignments of officers who are serving, or have served, in such assignments; and

Ante, p. 1030.

"(B) the selection board otherwise gave appropriate consideration to the performance in joint duty assignments of officers who are serving, or have served, in such assignments.

"(3) After reviewing the report, the Chairman shall return the report, with his determinations and comments, to the Secretary concerned.

"(4) If the Chairman determines that the board acted contrary to the guidelines of the Secretary of Defense under section 615(b) of this title or otherwise failed to give appropriate consideration to the performance of officers in joint duty assignments, the Secretary concerned may—

"(A) return the report, together with the Chairman's determinations and comments, to the selection board (or a subsequent selection board convened under section 611(a) of this title for the same grade and competitive category) for further proceedings in accordance with subsection (a);

10 USC 611.

"(B) convene a special selection board in the manner provided for under section 628 of this title; or

"(C) take other appropriate action to satisfy the concerns of the Chairman.

"(5) If, after completion of all actions taken under paragraph (4), the Secretary concerned and the Chairman remain in disagreement with respect to the report of a selection board, the Secretary concerned shall indicate such disagreement, and the reasons for such disagreement, as part of his transmittal of the report of the selection board to the Secretary of Defense under subsection (c). Such transmittal shall include any comments submitted by the Chairman."; and

(3) by adding at the end of paragraph (1) of subsection (c) (as redesignated by paragraph (1)) the following new sentence: "The Secretary of Defense shall, before transmitting the report of a selection board to the President, take appropriate action to resolve any disagreement between the Secretary concerned and the Chairman transmitted to him under subsection (b)(5).".

SEC. 403. CONSIDERATION OF JOINT DUTY IN SENIOR GENERAL AND FLAG OFFICER APPOINTMENTS AND ADVICE ON QUALIFICATIONS

Section 601 is amended by adding at the end the following new subsection:

"(d)(1) When an officer is recommended to the President for an initial appointment to the grade of lieutenant general or vice admiral, or for an initial appointment to the grade of general or admiral, the Chairman of the Joint Chiefs of Staff shall submit to the Secretary of Defense the Chairman's evaluation of the perform-

ance of that officer as a member of the Joint Staff and in other joint duty assignments. The Secretary of Defense shall submit the Chairman's evaluation to the President at the same time the recommendation for the appointment is submitted to the President.

"(2) Whenever a vacancy occurs in a position within the Department of Defense that the President has designated as a position of importance and responsibility to carry the grade of general or admiral or lieutenant general or vice admiral or in an office that is designated by law to carry such a grade, the Secretary of Defense shall inform the President of the qualifications needed by an officer serving in that position or office to carry out effectively the duties and responsibilities of that position or office.".

SEC. 404. JOINT DUTY ASSIGNMENT AS PREREQUISITE FOR PROMOTION TO GENERAL OR FLAG OFFICER GRADE

10 USC 619.

Section 619 is amended by adding at the end the following new subsection:

"(e)(1) An officer may not be selected for promotion to the grade of brigadier general or rear admiral (lower half) unless the officer has served in a joint duty assignment.

"(2) Subject to paragraph (3), the Secretary of Defense may waive paragraph (1)—

"(A) when necessary for the good of the service;

"(B) in the case of an officer whose proposed selection for promotion is based primarily upon scientific and technical qualifications for which joint requirements do not exist;

"(C) in the case of a medical officer, dental officer, veterinary officer, medical service officer, nurse, biomedical science officer, chaplain, or judge advocate; and

"(D) until January 1, 1992, in the case of an officer who served before the date of the enactment of this subsection in an assignment (other than a joint duty assignment) that involved significant experience in joint matters (as determined by the Secretary).

"(3)(A) A waiver may be granted under paragraph (2) only on a case-by-case basis in the case of an individual officer.

"(B) In the case of a waiver under paragraph (2)(A), the Secretary shall provide that the first duty assignment as a general or flag officer of an officer for whom the waiver is granted shall be in a joint duty assignment.

"(C) The authority of the Secretary of Defense to grant a waiver under paragraph (2)(B), (2)(C), or (2)(D) may only be delegated to the Deputy Secretary of Defense, an Under Secretary of Defense, or an Assistant Secretary of Defense.

Regulations.

"(4) The Secretary of Defense shall prescribe regulations to carry out this subsection. Such regulations shall specifically identify those categories of officers for which selection for promotion to brigadier general or, in the case of the Navy, rear admiral (lower half) is based primarily upon scientific and technical qualifications for which joint requirements do not exist.".

10 USC 113 note.

SEC. 405. ANNUAL REPORT ON IMPLEMENTATION

The Secretary of Defense shall include in the annual report of the Secretary to Congress under section 113(c) of title 10, United States Code (as redesignated by section 101(a)), for each year from 1987 through 1991 a detailed report on the implementation of this title and the amendments made by this title.

SEC. 406. TRANSITION

(a) JOINT DUTY ASSIGNMENTS.—(1) Section 661(d) of title 10, United States Code (as added by section 401), shall be implemented as rapidly as possible and not later than two years after the date of the enactment of this Act.

Effective date.
10 USC 661 note.

(2) The list of positions that are joint duty assignment positions, including identification of those positions that are critical joint duty assignment positions, required to be published by section 668(b)(2) of such title shall be published not later than six months after the date of the enactment of this Act.

(b) JOINT SPECIALTY.—

10 USC 661 note.

(1) INITIAL SELECTIONS.—(A) In making the initial selections of officers for the joint specialty under section 661 of title 10, United States Code (as added by section 401 of this Act), the Secretary of Defense may waive the requirement of either subparagraph (A) or (B) (but not both) of subsection (c)(1) of such section in the case of any officer in a grade above captain or, in the case of the Navy, lieutenant.

(B) In applying such subparagraph (B) to the initial selections of officers for the joint specialty, the Secretary may in the case of any officer—

(i) waive the requirement that a joint duty assignment be served after the officer has completed an appropriate program at a joint professional military education school;

(ii) waive the requirement for the length of a joint duty assignment if the officer has served in such an assignment for not less than two years; and

(iii) consider as a joint duty assignment any tour of duty served by the officer before the date of the enactment of this Act (or being served on the date of the enactment of this Act) that was considered to be a joint duty assignment or a joint equivalent assignment under the regulations in effect at the time the assignment began.

(C) A waiver under subparagraph (A) of this paragraph or under any provision of subparagraph (B) of this paragraph may only be made on a case-by-case basis.

(D) The authority of the Secretary of Defense to grant a waiver under subparagraph (A) or (B) of this paragraph may be delegated only to the Deputy Secretary of Defense.

(2) REQUIREMENT FOR HIGH STANDARDS.—In exercising the authority provided by paragraph (1), the Secretary of Defense shall ensure that the highest standards of performance, education, and experience are established and maintained for officers selected for the joint specialty.

Education.

(3) SUNSET.—The authority provided by paragraph (1) shall expire two years after the date of the enactment of this Act.

Termination date.

(c) CAREER GUIDELINES.—The career guidelines required to be established by section 661(e) of such title, the procedures required to be established by section 665(a) of such title, and the personnel policies required to be established by section 666 of such title (as added by section 401) shall be established not later than the end of the eight-month period beginning on the date of the enactment of this Act. The provisions of section 665(b) of such title shall be implemented not later than the end of such period.

10 USC 661 note.

(d) EDUCATION.—

10 USC 663 note.

(1) CAPSTONE COURSE.—Subsection (a) of section 663 of such title (as added by section 401) shall apply with respect to officers selected in reports of officer selection boards submitted to the Secretary concerned after the end of the 120-day period beginning on the date of the enactment of this Act.

(2) REVIEW OF MILITARY EDUCATION SCHOOLS.—(A) The first review under subsections (b) and (c) of such section shall be completed not later than 120 days after the date of the enactment of this Act. The Secretary of Defense shall submit to Congress a report on the results of the review at each Department of Defense school not later than 60 days thereafter.

Reports.

(B) Such subsections shall be implemented so that the revised curricula take effect with respect to courses beginning after July 1987.

Effective date.

(3) POST-EDUCATION DUTY ASSIGNMENTS.—Subsection (d) of such section shall take effect with respect to classes graduating from joint professional military education schools after January 1987.

Effective date.

10 USC 664 note.

(e) LENGTH OF JOINT DUTY ASSIGNMENTS.—Subsection (a) of section 664 of title 10, United States Code (as added by section 401), shall apply to officers assigned to joint duty assignments after the end of the 90-day period beginning on the date of the enactment of this Act. In computing an average under subsection (b) of such section, only joint duty assignments to which such subsection applies shall be considered.

Effective date.
10 USC 612 note.

(f) PROMOTION POLICY.—The amendments made by section 402 shall take effect with respect to selection boards convened under section 611(a) of title 10, United States Code, after the end of the 120-day period beginning on the date of the enactment of this Act.

10 USC 113 note.

(g) INITIAL REPORT.—The first report submitted by the Secretary of Defense after the date of the enactment of this Act under section 113(c) of title 10, United States Code (as redesignated by section 101), shall contain as much of the information required by section 667 of such title (as added by section 401) as is available to the Secretary at the time of the preparation of the report.

TITLE V—MILITARY DEPARTMENTS

PART A—DEPARTMENT OF THE ARMY

SEC. 501. THE ARMY SECRETARIAT

10 USC 3010 *et seq.*
10 USC 3031 *et seq.*

(a) AMENDMENTS TO CHAPTER 303.—(1) Section 3015 is transferred to the end of chapter 305 and redesignated as section 3040.

(2) Sections 3010, 3011, 3012, 3013, and 3014 are redesignated as sections 3011, 3012, 3013, 3014, and 3015, respectively.

(3) Section 3016 is transferred within chapter 303 to appear after section 3017 and is redesignated as section 3018.

(4) Section 3019 is transferred to chapter 305, inserted after section 3037, and redesignated as section 3038.

(5) Chapter 303 is amended by striking out sections 3013, 3014, and 3015 (as redesignated by paragraph (2)) and inserting in lieu thereof the following:

"§ 3013. Secretary of the Army

10 USC 3013.

"(a)(1) There is a Secretary of the Army, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Secretary is the head of the Department of the Army.

"(2) A person may not be appointed as Secretary of the Army within 10 years after relief from active duty as a commissioned officer of a regular component of an armed force.

"(b) Subject to the authority, direction, and control of the Secretary of Defense and subject to the provisions of chapter 6 of this title, the Secretary of the Army is responsible for, and has the authority necessary to conduct, all affairs of the Department of the Army, including the following functions:

Ante, p. 1012.

"(1) Recruiting.

"(2) Organizing.

"(3) Supplying.

"(4) Equipping (including research and development).

"(5) Training.

"(6) Servicing.

"(7) Mobilizing.

"(8) Demobilizing.

"(9) Administering (including the morale and welfare of personnel).

"(10) Maintaining.

"(11) The construction, outfitting, and repair of military equipment.

"(12) The construction, maintenance, and repair of buildings, structures, and utilities and the acquisition of real property and interests in real property necessary to carry out the responsibilities specified in this section.

"(c) Subject to the authority, direction, and control of the Secretary of Defense, the Secretary of the Army is also responsible to the Secretary of Defense for—

"(1) the functioning and efficiency of the Department of the Army;

"(2) the formulation of policies and programs by the Department of the Army that are fully consistent with national security objectives and policies established by the President or the Secretary of Defense;

"(3) the effective and timely implementation of policy, program, and budget decisions and instructions of the President or the Secretary of Defense relating to the functions of the Department of the Army;

"(4) carrying out the functions of the Department of the Army so as to fulfill (to the maximum extent practicable) the current and future operational requirements of the unified and specified combatant commands;

"(5) effective cooperation and coordination between the Department of the Army and the other military departments and agencies of the Department of Defense to provide for more effective, efficient, and economical administration and to eliminate duplication;

"(6) the presentation and justification of the positions of the Department of the Army on the plans, programs, and policies of the Department of Defense; and

"(7) the effective supervision and control of the intelligence activities of the Department of the Army.

"(d) The Secretary of the Army is also responsible for such other activities as may be prescribed by law or by the President or Secretary of Defense.

"(e) After first informing the Secretary of Defense, the Secretary of the Army may make such recommendations to Congress relating to the Department of Defense as he considers appropriate.

"(f) The Secretary of the Army may assign such of his functions, powers, and duties as he considers appropriate to the Under Secretary of the Army and to the Assistant Secretaries of the Army. Officers of the Army shall, as directed by the Secretary, report on any matter to the Secretary, the Under Secretary, or any Assistant Secretary.

Reports.

"(g) The Secretary of the Army may—

"(1) assign, detail, and prescribe the duties of members of the Army and civilian personnel of the Department of the Army;

"(2) change the title of any officer or activity of the Department of the Army not prescribed by law; and

"(3) prescribe regulations to carry out his functions, powers, and duties under this title.

10 USC 3014.

"§ 3014. Office of the Secretary of the Army

"(a) There is in the Department of the Army an Office of the Secretary of the Army. The function of the Office is to assist the Secretary of the Army in carrying out his responsibilities.

"(b) The Office of the Secretary of the Army is composed of the following:

"(1) The Under Secretary of the Army.

"(2) The Assistant Secretaries of the Army.

"(3) The Administrative Assistant to the Secretary of the Army.

"(4) The General Counsel of the Department of the Army.

"(5) The Inspector General of the Army.

"(6) The Army Reserve Forces Policy Committee.

"(7) Such other offices and officials as may be established by law or as the Secretary of the Army may establish or designate.

"(c)(1) The Office of the Secretary of the Army shall have sole responsibility within the Office of the Secretary and the Army Staff for the following functions:

"(A) Acquisition.

"(B) Auditing.

"(C) Comptroller (including financial management).

"(D) Information management.

"(E) Inspector General.

"(F) Legislative affairs.

"(G) Public affairs.

"(2) The Secretary of the Army shall establish or designate a single office or other entity within the Office of the Secretary of the Army to conduct each function specified in paragraph (1). No office or other entity may be established or designated within the Army Staff to conduct any of the functions specified in paragraph (1).

"(3) The Secretary shall prescribe the relationship of each office or other entity established or designated under paragraph (2) to the Chief of Staff and to the Army Staff and shall ensure that each such office or entity provides the Chief of Staff such staff support as the Chief of Staff considers necessary to perform his duties and responsibilities.

"(4) The vesting in the Office of the Secretary of the Army of the responsibility for the conduct of a function specified in paragraph (1) does not preclude other elements of the executive part of the Department of the Army (including the Army Staff) from providing advice or assistance to the Chief of Staff or otherwise participating in that function within the executive part of the Department under the direction of the office assigned responsibility for that function in the Office of the Secretary of the Army.

"(d)(1) Subject to paragraph (2), the Office of the Secretary of the Army shall have sole responsibility within the Office of the Secretary and the Army Staff for the function of research and development.

"(2) The Secretary of the Army may assign to the Army Staff responsibility for those aspects of the function of research and development that relate to military requirements and test and evaluation.

"(3) The Secretary shall establish or designate a single office or other entity within the Office of the Secretary of the Army to conduct the function specified in paragraph (1).

"(4) The Secretary shall prescribe the relationship of the office or other entity established or designated under paragraph (3) to the Chief of Staff of the Army and to the Army Staff and shall ensure that each such office or entity provides the Chief of Staff such staff support as the Chief of Staff considers necessary to perform his duties and responsibilities.

"(e) The Secretary of the Army shall ensure that the Office of the Secretary of the Army and the Army Staff do not duplicate specific functions for which the Secretary has assigned responsibility to the other.

"(f)(1) The total number of members of the armed forces and civilian employees of the Department of the Army assigned or detailed to permanent duty in the Office of the Secretary of the Army and on the Army Staff may not exceed 3,105.

"(2) Not more than 1,865 officers of the Army on the active-duty list may be assigned or detailed to permanent duty in the Office of the Secretary of the Army and on the Army Staff.

"(3) The total number of general officers assigned or detailed to permanent duty in the Office of the Secretary of the Army and on the Army Staff may not exceed the number equal to 85 percent of the number of general officers assigned or detailed to such duty on the date of the enactment of this subsection.

"(4) The limitations in paragraphs (1), (2), and (3) do not apply in time of war or during a national emergency declared by Congress. The limitation in paragraph (2) does not apply whenever the President determines that it is in the national interest to increase the number of officers assigned or detailed to permanent duty in the Office of the Secretary of the Army or on the Army Staff.

"(5) The limitations in paragraphs (1), (2), and (3) do not apply before October 1, 1988. Effective date.

"§ 3015. Under Secretary of the Army 10 USC 3015.

"(a) There is an Under Secretary of the Army, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Under Secretary shall perform such duties and exercise such powers as the Secretary of the Army may prescribe.

10 USC 3016.

"§ 3016. Assistant Secretaries of the Army

"(a) There are five Assistant Secretaries of the Army. They shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b)(1) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of the Army may prescribe.

"(2) One of the Assistant Secretaries shall be the Assistant Secretary of the Army for Manpower and Reserve Affairs. He shall have as his principal duty the overall supervision of manpower and reserve component affairs of the Department of the Army.

"(3) One of the Assistant Secretaries shall be the Assistant Secretary of the Army for Civil Works. He shall have as his principal duty the overall supervision of the functions of the Department of the Army relating to programs for conservation and development of the national water resources, including flood control, navigation, shore protection, and related purposes.".

(6) Section 3017 is amended—

(A) by striking out "(a)" at the beginning of the text of such section;

(B) by striking out clause (2) and inserting in lieu thereof the following:

"(2) The Assistant Secretaries of the Army, in the order prescribed by the Secretary of the Army and approved by the Secretary of Defense."; and

(C) by striking out subsection (b).

Ante, p. 1034.

(7) Chapter 303 is further amended by adding at the end the following new sections:

"§ 3019. General Counsel

"(a) There is a General Counsel of the Department of the Army, appointed from civilian life by the President.

"(b) The General Counsel shall perform such functions as the Secretary of the Army may prescribe.

"§ 3020. Inspector General

"(a) There is an Inspector General of the Army who shall be detailed to such position by the Secretary of the Army from the general officers of the Army. An officer may not be detailed to such position for a tour of duty of more than four years, except that the Secretary may extend such a tour of duty if he makes a special finding that the extension is necessary in the public interest.

"(b) When directed by the Secretary or the Chief of Staff, the Inspector General shall—

"(1) inquire into and report upon the discipline, efficiency, and economy of the Army; and

"(2) perform any other duties prescribed by the Secretary or the Chief of Staff.

"(c) The Inspector General shall periodically propose programs of inspections to the Secretary of the Army and shall recommend additional inspections and investigations as may appear appropriate.

"(d) The Inspector General shall cooperate fully with the Inspector General of the Department of Defense in connection with the performance of any duty or function by the Inspector General of the Department of Defense under the Inspector General Act of 1978 (5 U.S.C. App. 3) regarding the Department of the Army.

"(e) The Inspector General shall have such deputies and assistants as the Secretary of the Army may prescribe. Each such deputy and assistant shall be an officer detailed by the Secretary to that position from the officers of the Army for a tour of duty of not more than four years, under a procedure prescribed by the Secretary.".

(8) Section 3033 is transferred to the end of chapter 303 (as amended by paragraph (7)), redesignated as section 3021, and amended—

(A) in subsection (a)—

(i) by striking out "office" and inserting in lieu thereof "Office";

(ii) by striking out "Committee which" and inserting in lieu thereof "Committee. The Committee";

(iii) by inserting "and the mobilization preparedness" after "reserve components";

(iv) by striking out "Army, and the" and inserting in lieu thereof "Army. The"; and

(v) by striking out "Chief of Staff and the Assistant Secretary responsible for reserve affairs" and inserting in lieu thereof "Secretary of the Army and the Chief of Staff";

(B) in subsection (h), by striking out "General" each place it appears; and

(C) by striking out the section heading and inserting in lieu thereof the following:

"§ 3021. Army Reserve Forces Policy Committee".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 303 is amended to read as follows:

"Sec.
"3011. Organization.
"3012. Department of the Army: seal.
"3013. Secretary of the Army.
"3014. Office of the Secretary of the Army.
"3015. Under Secretary of the Army.
"3016. Assistant Secretaries of the Army.
"3017. Secretary of the Army: successors to duties.
"3018. Administrative Assistant.
"3019. General Counsel.
"3020. Inspector General.
"3021. Army Reserve Forces Policy Committee.".

SEC. 502. THE ARMY STAFF

(a) COMPOSITION OF THE ARMY STAFF.—Section 3031 is amended to read as follows:

"§ 3031. The Army Staff: function; composition

"(a) There is in the executive part of the Department of the Army an Army Staff. The function of the Army Staff is to assist the Secretary of the Army in carrying out his responsibilities.

"(b) The Army Staff is composed of the following:

"(1) The Chief of Staff.
"(2) The Vice Chief of Staff.
"(3) The Deputy Chiefs of Staff.
"(4) The Assistant Chiefs of Staff.
"(5) The Chief of Engineers.
"(6) The Surgeon General of the Army.
"(7) The Judge Advocate General of the Army.
"(8) The Chief of Chaplains of the Army.
"(9) The Chief of Army Reserve.

"(10) Other members of the Army assigned or detailed to the Army Staff.

"(11) Civilian employees of the Department of the Army assigned or detailed to the Army Staff.

"(c) Except as otherwise specifically prescribed by law, the Army Staff shall be organized in such manner, and its members shall perform such duties and have such titles, as the Secretary may prescribe.".

(b) GENERAL DUTIES.—(1) Subsection (a) of section 3032 is amended by inserting "and to the Chief of Staff of the Army" before the period.

(2) Subsection (b) of such section is amended—

(A) by striking out "direction and control of the Secretary" in the matter preceding clause (1) and inserting in lieu thereof "authority, direction, and control of the Secretary of the Army";

(B) by inserting "subject to subsections (c) and (d) of section 3014 of this title," before "prepare" in clause (1);

(C) by striking out ", training, serving, mobilizing, and demobilizing" in clause (1) and inserting in lieu thereof "(including those aspects of research and development assigned by the Secretary of the Army), training, servicing, mobilizing, demobilizing, administering, and maintaining";

(D) by striking out "for military operations" in clause (2) and inserting in lieu thereof "to support military operations by combatant commands"; and

(E) by striking out clause (4) and inserting in lieu thereof the following:

"(4) as directed by the Secretary or the Chief of Staff, coordinate the action of organizations of the Army; and".

(3) The heading of such section is amended to read as follows:

10 USC 3032.

"§ 3032. The Army Staff: general duties".

(c) CHIEF OF STAFF.—Section 3034 is redesignated as section 3033 and is amended to read as follows:

"§ 3033. Chief of Staff

"(a)(1) There is a Chief of Staff of the Army, appointed for a period of four years by the President, by and with the advice and consent of the Senate, from the general officers of the Army. He serves at the pleasure of the President. In time of war or during a national emergency declared by Congress, he may be reappointed for a term of not more than four years.

"(2) The President may appoint an officer as Chief of Staff only if—

"(A) the officer has had significant experience in joint duty assignments; and

"(B) such experience includes at least one joint duty assignment as a general officer.

President of U.S.

"(3) The President may waive paragraph (2) in the case of an officer if the President determines such action is necessary in the national interest.

"(b) The Chief of Staff, while so serving, has the grade of general without vacating his permanent grade.

"(c) Except as otherwise prescribed by law and subject to section 3013(f) of this title, the Chief of Staff performs his duties under the authority, direction, and control of the Secretary of the Army and is directly responsible to the Secretary.

"(d) Subject to the authority, direction, and control of the Secretary of the Army, the Chief of Staff shall—

"(1) preside over the Army Staff;

"(2) transmit the plans and recommendations of the Army Staff to the Secretary and advise the Secretary with regard to such plans and recommendations;

"(3) after approval of the plans or recommendations of the Army Staff by the Secretary, act as the agent of the Secretary in carrying them into effect;

"(4) exercise supervision, consistent with the authority assigned to commanders of unified or specified combatant commands under chapter 6 of this title, over such of the members and organizations of the Army as the Secretary determines; *Ante*, p. 1012.

"(5) perform the duties prescribed for him by section 171 of this title and other provisions of law; and

"(6) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President, the Secretary of Defense, or the Secretary of the Army.

"(e)(1) The Chief of Staff shall also perform the duties prescribed for him as a member of the Joint Chiefs of Staff under section 151 of this title.

"(2) To the extent that such action does not impair the independence of the Chief of Staff in the performance of his duties as a member of the Joint Chiefs of Staff, the Chief of Staff shall inform the Secretary regarding military advice rendered by members of the Joint Chiefs of Staff on matters affecting the Department of the Army.

"(3) Subject to the authority, direction, and control of the Secretary of Defense, the Chief of Staff shall keep the Secretary of the Army fully informed of significant military operations affecting the duties and responsibilities of the Secretary.".

(d) VICE CHIEF OF STAFF.—Section 3035 is redesignated as section 3034 and is amended—

(1) by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) There is a Vice Chief of Staff of the Army, appointed by the President, by and with the advice and consent of the Senate, from the general officers of the Army.

"(b) The Vice Chief of Staff of the Army, while so serving, has the grade of general without vacating his permanent grade.";

(2) by adding at the end the following new subsection:

"(d) When there is a vacancy in the office of Chief of Staff or during the absence or disability of the Chief of Staff—

"(1) the Vice Chief of Staff shall perform the duties of the Chief of Staff until a successor is appointed or the absence or disability ceases; or

"(2) if there is a vacancy in the office of the Vice Chief of Staff or the Vice Chief of Staff is absent or disabled, unless the President directs otherwise, the most senior officer of the Army in the Army Staff who is not absent or disabled and who is not restricted in performance of duty shall perform the duties of the Chief of Staff until a successor to the Chief of Staff or the Vice Chief of Staff is appointed or until the absence or disability of the Chief of Staff or Vice Chief of Staff ceases, whichever occurs first."; and

(3) by striking out the section heading and inserting in lieu thereof the following:

"§ 3034. Vice Chief of Staff".

Ante, p. 1034.

(e) DEPUTY CHIEFS OF STAFF.—Chapter 305 is further amended by inserting after section 3034 (as redesignated by subsection (d) of this section) the following new section:

10 USC 3035.

"§ 3035. Deputy Chiefs of Staff and Assistant Chiefs of Staff

"(a) The Deputy Chiefs of Staff and the Assistant Chiefs of Staff shall be general officers detailed to those positions.

"(b) The number of Deputy Chiefs of Staff and Assistant Chiefs of Staff shall be prescribed by the Secretary, except that—

"(1) there may not be more than five Deputy Chiefs of Staff; and

"(2) there may not be more than three Assistant Chiefs of Staff.".

(f) REPEAL OF SECTION FOR PROVOST MARSHAL GENERAL.—(1) Section 3039 is repealed.

Ante, p. 1034.

(2) Section 3040 (relating to Deputy and Assistant Chiefs of Branches) is redesignated as section 3039 and is amended by striking out "sections 3036 and 3039" in subsection (a) and inserting in lieu thereof "section 3036".

(3) Section 3081(a) is amended by striking out "section 3040" and inserting in lieu thereof "section 3039".

(g) TECHNICAL AND CLERICAL AMENDMENTS.—(1) Section 3038 (as redesignated by section 501(a)(4) of this Act) is amended by striking out "services" in subsection (c) and inserting in lieu thereof "service".

(2) The table of sections at the beginning of chapter 305 is amended to read as follows:

"Sec.
"3031. The Army Staff: function; composition.
"3032. The Army Staff: general duties.
"3033. Chief of Staff.
"3034. Vice Chief of Staff.
"3035. Deputy Chiefs of Staff and Assistant Chiefs of Staff.
"3036. Chiefs of branches: appointment; duties.
"3037. Judge Advocate General, Assistant Judge Advocate General, and general officers of Judge Advocate General's Corps: appointment; duties.
"3038. Office of Army Reserve: appointment of Chief.
"3039. Deputy and assistant chiefs of branches.
"3040. Chief of National Guard Bureau: appointment; acting chief.".

SEC. 503. AUTHORITY TO ORGANIZE ARMY INTO COMMANDS, FORCES, AND ORGANIZATIONS

Section 3074(a) is amended by inserting "or by the Secretary of Defense" after "by law".

PART B—DEPARTMENT OF THE NAVY

SEC. 511. THE NAVY SECRETARIAT

10 USC 5061 *et seq.*

(a) REPEAL OF SUPERSEDED CHAPTER.—Chapter 507 is repealed.

10 USC 5001 *et seq.*; *post*, pp. 1048, 1051.

(b) TRANSFER OF SECTIONS PROVIDING FOR COMPOSITION OF THE DEPARTMENT OF THE NAVY.—(1) Part I of subtitle C is amended by inserting after chapter 505 the following new chapter 507:

"CHAPTER 507—COMPOSITION OF THE DEPARTMENT OF THE NAVY

"Sec.
"5061. Department of the Navy: composition.

"5062. United States Navy: composition; functions.
"5063. United States Marine Corps: composition; functions.

"§ 5061. Department of the Navy: composition 10 USC 5061.

"The Department of the Navy is composed of the following:

"(1) The Office of the Secretary of the Navy.

"(2) The Office of the Chief of Naval Operations.

"(3) The Headquarters, Marine Corps.

"(4) The entire operating forces, including naval aviation, of the Navy and of the Marine Corps, and the reserve components of those operating forces.

"(5) All field activities, headquarters, forces, bases, installations, activities, and functions under the control or supervision of the Secretary of the Navy.

"(6) The Coast Guard when it is operating as a service in the Navy.".

(2) Section 5011 is amended by striking out the third and fourth sentences.

(3) Sections 5012 and 5013 are transferred to the end of chapter 507 (as added by paragraph (1)) and redesignated as sections 5062 and 5063, respectively.

(4) Section 5062 (as so transferred and redesignated) is amended—

(A) by striking out "assigned and is" in subsection (a) and all that follows in that subsection and inserting in lieu thereof "assigned and, in accordance with integrated joint mobilization plans, for the expansion of the peacetime components of the Navy to meet the needs of war."; and

(B) by striking out subsection (d).

(c) REVISION OF NAVY SECRETARIAT SECTIONS.—Chapter 503 (as amended by subsection (b)) is further amended as follows:

(1) The heading of section 5011 is amended to read as follows:

"§ 5011. Organization".

(2) Such chapter is amended by adding after section 5011 the following new sections:

"§ 5012. Department of the Navy: seal

"The Secretary of the Navy shall have a seal for the Department of the Navy. The design of the seal must be approved by the President. Judicial notice shall be taken of the seal.

"§ 5013. Secretary of the Navy

"(a)(1) There is a Secretary of the Navy, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Secretary is the head of the Department of the Navy.

"(2) A person may not be appointed as Secretary of the Navy within 10 years after relief from active duty as a commissioned officer of a regular component of an armed force.

"(b) Subject to the authority, direction, and control of the Secretary of Defense and subject to the provisions of chapter 6 of this title, the Secretary of the Navy is responsible for, and has the authority necessary to conduct, all affairs of the Department of the Navy, including the following functions: *Ante*, p. 1012.

"(1) Recruiting.

"(2) Organizing.

"(3) Supplying.

"(4) Equipping (including research and development).

"(5) Training.

"(6) Servicing.

"(7) Mobilizing.

"(8) Demobilizing.

"(9) Administering (including the morale and welfare of personnel).

"(10) Maintaining.

"(11) The construction, outfitting, and repair of military equipment.

"(12) The construction, maintenance, and repair of buildings, structures, and utilities and the acquisition of real property and interests in real property necessary to carry out the responsibilities specified in this section.

"(c) Subject to the authority, direction, and control of the Secretary of Defense, the Secretary of the Navy is also responsible to the Secretary of Defense for—

"(1) the functioning and efficiency of the Department of the Navy;

"(2) the formulation of policies and programs by the Department of the Navy that are fully consistent with national security objectives and policies established by the President or the Secretary of Defense;

"(3) the effective and timely implementation of policy, program, and budget decisions and instructions of the President or the Secretary of Defense relating to the functions of the Department of the Navy;

"(4) carrying out the functions of the Department of the Navy so as to fulfill (to the maximum extent practicable) the current and future operational requirements of the unified and specified combatant commands;

"(5) effective cooperation and coordination between the Department of the Navy and the other military departments and agencies of the Department of Defense to provide for more effective, efficient, and economical administration and to eliminate duplication;

"(6) the presentation and justification of the positions of the Department of the Navy on the plans, programs, and policies of the Department of Defense; and

"(7) the effective supervision and control of the intelligence activities of the Department of the Navy.

"(d) The Secretary of the Navy is also responsible for such other activities as may be prescribed by law or by the President or Secretary of Defense.

"(e) After first informing the Secretary of Defense, the Secretary of the Navy may make such recommendations to Congress relating to the Department of Defense as he considers appropriate.

"(f) The Secretary of the Navy may assign such of his functions, powers, and duties as he considers appropriate to the Under Secretary of the Navy and to the Assistant Secretaries of the Navy. Officers of the Navy and the Marine Corps shall, as directed by the Secretary, report on any matter to the Secretary, the Under Secretary, or any Assistant Secretary.

"(g) The Secretary of the Navy may—

"(1) assign, detail, and prescribe the duties of members of the Navy and Marine Corps and civilian personnel of the Department of the Navy;

"(2) change the title of any officer or activity of the Department of the Navy not prescribed by law; and

"(3) prescribe regulations to carry out his functions, powers, and duties under this title.".

(3) Section 5032 is transferred to the end of such chapter and redesignated as section 5013a.

(4) Such chapter is further amended by adding after section 5013a (as transferred and redesignated by paragraph (3)) the following new sections:

"§ 5014. Office of the Secretary of the Navy 10 USC 5014.

"(a) There is in the Department of the Navy an Office of the Secretary of the Navy. The function of the Office is to assist the Secretary of the Navy in carrying out his responsibilities.

"(b) The Office of the Secretary of the Navy is composed of the following:

"(1) The Under Secretary of the Navy.

"(2) The Assistant Secretaries of the Navy.

"(3) The General Counsel of the Department of the Navy.

"(4) The Judge Advocate General of the Navy.

"(5) The Naval Inspector General.

"(6) The Chief of Naval Research.

"(7) Such other offices and officials as may be established by law or as the Secretary of the Navy may establish or designate.

"(c)(1) The Office of the Secretary of the Navy shall have sole responsibility within the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps, for the following functions:

"(A) Acquisition.

"(B) Auditing.

"(C) Comptroller (including financial management).

"(D) Information management.

"(E) Inspector General.

"(F) Legislative affairs.

"(G) Public affairs.

"(2) The Secretary of the Navy shall establish or designate a single office or other entity within the Office of the Secretary of the Navy to conduct each function specified in paragraph (1). No office or other entity may be established or designated within the Office of the Chief of Naval Operations or the Headquarters, Marine Corps, to conduct any of the functions specified in paragraph (1).

"(3) The Secretary shall—

"(A) prescribe the relationship of each office or other entity established or designated under paragraph (2)—

"(i) to the Chief of Naval Operations and the Office of the Chief of Naval Operations; and

"(ii) to the Commandant of the Marine Corps and the Headquarters, Marine Corps; and

"(B) ensure that each such office or entity provides the Chief of Naval Operations and the Commandant of the Marine Corps such staff support as each considers necessary to perform his duties and responsibilities.

"(4) The vesting in the Office of the Secretary of the Navy of the responsibility for the conduct of a function specified in paragraph (1) does not preclude other elements of the executive part of the Department of the Navy (including the Office of the Chief of Naval Operations and the Headquarters, Marine Corps) from providing

advice or assistance to the Chief of Naval Operations and the Commandant of the Marine Corps or otherwise participating in that function within the executive part of the Department under the direction of the office assigned responsibility for that function in the Office of the Secretary of the Navy.

"(d)(1) Subject to paragraph (2), the Office of the Secretary of the Navy shall have sole responsibility within the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps, for the function of research and development.

"(2) The Secretary of the Navy may assign to the Office of the Chief of Naval Operations and the Headquarters, Marine Corps, responsibility for those aspects of the function of research and development relating to military requirements and test and evaluation.

"(3) The Secretary shall establish or designate a single office or other entity within the Office of the Secretary of the Navy to conduct the function specified in paragraph (1).

"(4) The Secretary shall—

"(A) prescribe the relationship of the office or other entity established or designated under paragraph (3)—

"(i) to the Chief of Naval Operations and the Office of the Chief of Naval Operations; and

"(ii) to the Commandant of the Marine Corps and the Headquarters, Marine Corps; and

"(B) ensure that each such office or entity provides the Chief of Naval Operations and the Commandant of the Marine Corps such staff support as each considers necessary to perform his duties and responsibilities.

"(e) The Secretary of the Navy shall ensure that the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps, do not duplicate specific functions for which the Secretary has assigned responsibility to another of such offices.

"(f)(1) The total number of members of the armed forces and civilian employees of the Department of the Navy assigned or detailed to permanent duty in the Office of the Secretary of the Navy, the Office of Chief of Naval Operations, and the Headquarters, Marine Corps, may not exceed 2,866.

"(2) Not more than 1,720 officers of the Navy and Marine Corps on the active-duty list may be assigned or detailed to permanent duty in the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps.

"(3) The total number of general and flag officers assigned or detailed to permanent duty in the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps, may not exceed the number equal to 85 percent of the number of general and flag officers assigned or detailed to such duty on the date of the enactment of this subsection.

"(4) The limitations in paragraphs (1), (2), and (3) do not apply in time of war or during a national emergency declared by Congress. The limitation in paragraph (2) does not apply whenever the President determines that it is in the national interest to increase the number of officers assigned or detailed to permanent duty in the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, or the Headquarters, Marine Corps.

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"(5) The limitations in paragraphs (1), (2), and (3) do not apply before October 1, 1988. Effective date.

"§ 5015. Under Secretary of the Navy 10 USC 5015.

"(a) There is an Under Secretary of the Navy, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Under Secretary shall perform such duties and exercise such powers as the Secretary of the Navy may prescribe.

"§ 5016. Assistant Secretaries of the Navy

"(a) There are four Assistant Secretaries of the Navy. They shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b)(1) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of the Navy may prescribe.

"(2) One of the Assistant Secretaries shall be the Assistant Secretary of the Navy for Manpower and Reserve Affairs. He shall have as his principal duty the overall supervision of manpower and reserve component affairs of the Department of the Navy.

"§ 5017. Secretary of the Navy: successors to duties

"If the Secretary of the Navy dies, resigns, is removed from office, is absent, or is disabled, the person who is highest on the following list, and who is not absent or disabled, shall perform the duties of the Secretary until the President, under section 3347 of title 5, directs another person to perform those duties or until the absence or disability ceases:

"(1) The Under Secretary of the Navy.

"(2) The Assistant Secretaries of the Navy, in the order prescribed by the Secretary of the Navy and approved by the Secretary of Defense.

"(3) The Chief of Naval Operations.

"(4) The Commandant of the Marine Corps.

"§ 5018. Administrative Assistant

"The Secretary of the Navy may appoint an Administrative Assistant in the Office of the Secretary of the Navy. The Administrative Assistant shall perform such duties as the Secretary may prescribe.

"§ 5019. General Counsel

"(a) There is a General Counsel of the Department of the Navy, appointed from civilian life by the President.

"(b) The General Counsel shall perform such functions as the Secretary of the Navy may prescribe.".

(5) Section 5088 is transferred to the end of such chapter (as amended by paragraph (4)), redesignated as section 5020, and amended—

(A) by striking out "Office of the Chief of Naval Operations" in subsection (a) and inserting in lieu thereof "Office of the Secretary of the Navy";

(B) by redesignating subsection (c) as subsection (d) and striking out "the Chief of Naval Operations" in such subsection and inserting in lieu thereof "the Secretary of the Navy"; and

(C) by inserting after subsection (b) the following new subsection (c):

"(c) The Naval Inspector General shall cooperate fully with the Inspector General of the Department of Defense in connection with the performance of any duty or function by the Inspector General of the Department of Defense under the Inspector General Act of 1978 (5 U.S.C. App. 3) regarding the Department of the Navy."

10 USC 5131 *et seq.*

(d) TRANSFERS FROM CHAPTER 513.—Sections 5150, 5151, 5152, and 5153 are transferred to the end of chapter 503 (as amended by subsection (c)) and redesignated as sections 5021, 5022, 5023, and 5024, respectively.

Post, p. 1055.

10 USC 5031 *et seq.*

(e) REPEAL OF SUPERSEDED CHAPTER.—Chapter 505 is repealed.

(f) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 503 is amended to read as follows:

"Sec.
"5011. Organization.
"5012. Department of the Navy: seal.
"5013. Secretary of the Navy.
"5013a. Secretary of the Navy: powers with respect to Coast Guard.
"5014. Office of the Secretary of the Navy.
"5015. Under Secretary of the Navy.
"5016. Assistant Secretaries of the Navy.
"5017. Secretary of the Navy: successors to duties.
"5018. Administrative Assistant.
"5019. General Counsel.
"5020. Naval Inspector General: detail; duties.
"5021. Office of Naval Research: Chief; appointment, term, emoluments; Assistant Chief; succession to duties.
"5022. Office of Naval Research: duties.
"5023. Office of Naval Research: appropriations; time limit.
"5024. Naval Research Advisory Committee.".

SEC. 512. OFFICE OF THE CHIEF OF NAVAL OPERATIONS

10 USC 5081 *et seq.*

(a) REPEAL OF FORMER CHAPTER ON OFFICE OF CNO.—Chapter 509 is repealed.

Ante, p. 1042; *post*, p. 1051.

(b) NEW CHAPTER ON OFFICE OF CNO.—Part I of subtitle C is amended by inserting after chapter 503 the following new chapter 505:

"CHAPTER 505—OFFICE OF THE CHIEF OF NAVAL OPERATIONS

"Sec.
"5031. Office of the Chief of Naval Operations: function; composition.
"5032. Office of the Chief of Naval Operations: general duties.
"5033. Chief of Naval Operations.
"5034. Chief of Naval Operations: retirement.
"5035. Vice Chief of Naval Operations.
"5036. Deputy Chiefs of Naval Operations.
"5037. Assistant Chiefs of Naval Operations.

10 USC 5031.

"§ 5031. Office of the Chief of Naval Operations: function; composition

"(a) There is in the executive part of the Department of the Navy an Office of the Chief of Naval Operations. The function of the Office of the Chief of Naval Operations is to assist the Secretary of the Navy in carrying out his responsibilities.

"(b) The Office of the Chief of Naval Operations is composed of the following:

"(1) The Chief of Naval Operations.

"(2) The Vice Chief of Naval Operations.

"(3) The Deputy Chiefs of Naval Operations.
"(4) The Assistant Chiefs of Naval Operations.
"(5) The Surgeon General of the Navy.
"(6) The Chief of Naval Personnel.
"(7) The Chief of Chaplains of the Navy.
"(8) Other members of the Navy and Marine Corps assigned or detailed to the Office of the Chief of Naval Operations.
"(9) Civilian employees in the Department of the Navy assigned or detailed to the Office of the Chief of Naval Operations.

"(c) Except as otherwise specifically prescribed by law, the Office of the Chief of Naval Operations shall be organized in such manner, and its members shall perform such duties and have such titles, as the Secretary may prescribe.

"§ 5032. Office of the Chief of Naval Operations: general duties 10 USC 5032.

"(a) The Office of the Chief of Naval Operations shall furnish professional assistance to the Secretary, the Under Secretary, and the Assistant Secretaries of the Navy and to the Chief of Naval Operations.

"(b) Under the authority, direction, and control of the Secretary of the Navy, the Office of the Chief of Naval Operations shall—

"(1) subject to subsections (c) and (d) of section 5014 of this title, prepare for such employment of the Navy, and for such recruiting, organizing, supplying, equipping (including those aspects of research and development assigned by the Secretary of the Navy), training, servicing, mobilizing, demobilizing, administering, and maintaining of the Navy, as will assist in the execution of any power, duty, or function of the Secretary or the Chief of Naval Operations;

"(2) investigate and report upon the efficiency of the Navy and its preparation to support military operations by combatant commands;

"(3) prepare detailed instructions for the execution of approved plans and supervise the execution of those plans and instructions;

"(4) as directed by the Secretary or the Chief of Naval Operations, coordinate the action of organizations of the Navy; and

"(5) perform such other duties, not otherwise assigned by law, as may be prescribed by the Secretary.

"§ 5033. Chief of Naval Operations

"(a)(1) There is a Chief of Naval Operations, appointed by the President, by and with the advice and consent of the Senate. The Chief of Naval Operations shall be appointed for a term of four years, from officers on the active-duty list in the line of the Navy who are eligible to command at sea and who hold the grade of rear admiral or above. He serves at the pleasure of the President. In time of war or during a national emergency declared by Congress, he may be reappointed for a term of not more than four years.

"(2) The President may appoint an officer as the Chief of Naval Operations only if—

"(A) the officer has had significant experience in joint duty assignments; and

"(B) such experience includes at least one joint duty assignment as a flag officer.

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"(3) The President may waive paragraph (2) in the case of an officer if the President determines such action is necessary in the national interest.

"(b) The Chief of Naval Operations, while so serving, has the grade of admiral without vacating his permanent grade. In the performance of his duties within the Department of the Navy, the Chief of Naval Operations takes precedence above all other officers of the naval service.

"(c) Except as otherwise prescribed by law and subject to section 5013(f) of this title, the Chief of Naval Operations performs his duties under the authority, direction, and control of the Secretary of the Navy and is directly responsible to the Secretary.

"(d) Subject to the authority, direction, and control of the Secretary of the Navy, the Chief of Naval Operations shall—

"(1) preside over the Office of the Chief of Naval Operations;

"(2) transmit the plans and recommendations of the Office of the Chief of Naval Operations to the Secretary and advise the Secretary with regard to such plans and recommendations;

"(3) after approval of the plans or recommendations of the Office of the Chief of Naval Operations by the Secretary, act as the agent of the Secretary in carrying them into effect;

"(4) exercise supervision, consistent with the authority assigned to commanders of unified or specified combatant commands under chapter 6 of this title, over such of the members and organizations of the Navy and the Marine Corps as the Secretary determines;

Ante, p. 1012.

"(5) perform the duties prescribed for him by section 171 of this title and other provisions of law; and

10 USC 171.

"(6) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President, the Secretary of Defense, or the Secretary of the Navy.

"(e)(1) The Chief of Naval Operations shall also perform the duties prescribed for him as a member of the Joint Chiefs of Staff under section 151 of this title.

Ante, p. 1005.

"(2) To the extent that such action does not impair the independence of the Chief of Naval Operations in the performance of his duties as a member of the Joint Chiefs of Staff, the Chief of Naval Operations shall inform the Secretary regarding military advice rendered by members of the Joint Chiefs of Staff on matters affecting the Department of the Navy.

"(3) Subject to the authority, direction, and control of the Secretary of Defense, the Chief of Naval Operations shall keep the Secretary of the Navy fully informed of significant military operations affecting the duties and responsibilities of the Secretary.

"§ 5034. Chief of Naval Operations: retirement

"An officer who is retired while serving as Chief of Naval Operations, or who, after serving at least two and one-half years as Chief of Naval Operations, is retired after completion of that service while serving in a lower grade than admiral, may, in the discretion of the President, be retired with the grade of admiral.

"§ 5035. Vice Chief of Naval Operations

"(a) There is a Vice Chief of Naval Operations, appointed by the President, by and with the advice and consent of the Senate, from officers on the active-duty list in the line of the Navy serving in grades above captain and eligible to command at sea.

"(b) The Vice Chief of Naval Operations, while so serving, has the grade of admiral without vacating his permanent grade.

"(c) The Vice Chief of Naval Operations has such authority and duties with respect to the Department of the Navy as the Chief of Naval Operations, with the approval of the Secretary of the Navy, may delegate to or prescribe for him. Orders issued by the Vice Chief of Naval Operations in performing such duties have the same effect as those issued by the Chief of Naval Operations.

"(d) When there is a vacancy in the office of Chief of Naval Operations or during the absence or disability of the Chief of Naval Operations—

"(1) the Vice Chief of Naval Operations shall perform the duties of the Chief of Naval Operations until a successor is appointed or the absence or disability ceases; or

"(2) if there is a vacancy in the office of the Vice Chief of Naval Operations or the Vice Chief of Naval Operations is absent or disabled, unless the President directs otherwise, the most senior officer of the Navy in the Office of the Chief of Naval Operations who is not absent or disabled and who is not restricted in performance of duty shall perform the duties of the Chief of Naval Operations until a successor to the Chief of Naval Operations or the Vice Chief of Naval Operations is appointed or until the absence or disability of the Chief of Naval Operations or Vice Chief of Naval Operations ceases, whichever occurs first.

"§ 5036. Deputy Chiefs of Naval Operations

"(a) There are in the Office of the Chief of Naval Operations not more than five Deputy Chiefs of Naval Operations, detailed by the Secretary of the Navy from officers on the active-duty list in the line of the Navy serving in grades above captain.

"(b) The Deputy Chiefs of Naval Operations are charged, under the direction of the Chief of Naval Operations, with the execution of the functions of their respective divisions. Orders issued by the Deputy Chiefs of Naval Operations in performing the duties assigned them are considered as coming from the Chief of Naval Operations.

"§ 5037. Assistant Chiefs of Naval Operations

"(a) There are in the Office of the Chief of Naval Operations not more than three Assistant Chiefs of Naval Operations, detailed by the Secretary of the Navy from officers on the active-duty list in the line of the Navy and officers on the active-duty list of the Marine Corps.

"(b) The Assistant Chiefs of Naval Operations shall perform such duties as the Secretary of the Navy prescribes.".

SEC. 513. HEADQUARTERS, MARINE CORPS

(a) REPEAL OF FORMER CHAPTER ON HEADQUARTERS, MARINE CORPS.—Chapter 515 is repealed.

(b) NEW CHAPTER.—Part I of subtitle C is amended by inserting after chapter 505 (as added by section 512 of this Act) the following new chapter:

10 USC 5201 *et seq.*

Ante, p. 1042.

"CHAPTER 506—HEADQUARTERS, MARINE CORPS

"Sec.

"5041. Headquarters, Marine Corps: function; composition.

"5042. Headquarters, Marine Corps: general duties.
"5043. Commandant of the Marine Corps.
"5044. Assistant Commandant of the Marine Corps.
"5045. Chief of Staff; Deputy and Assistant Chiefs of Staff.

10 USC 5041.

"§ 5041. Headquarters, Marine Corps: function; composition

"(a) There is in the executive part of the Department of the Navy a Headquarters, Marine Corps. The function of the Headquarters, Marine Corps, is to assist the Secretary of the Navy in carrying out his responsibilities.

"(b) The Headquarters, Marine Corps, is composed of the following:

"(1) The Commandant of the Marine Corps.

"(2) The Assistant Commandant of the Marine Corps.

"(3) The Chief of Staff of the Marine Corps.

"(4) The Deputy Chiefs of Staff.

"(5) The Assistant Chiefs of Staff.

"(6) Other members of the Navy and Marine Corps assigned or detailed to the Headquarters, Marine Corps.

"(7) Civilian employees in the Department of the Navy assigned or detailed to the Headquarters, Marine Corps.

"(c) Except as otherwise specifically prescribed by law, the Headquarters, Marine Corps, shall be organized in such manner, and its members shall perform such duties and have such titles, as the Secretary may prescribe.

"§ 5042. Headquarters, Marine Corps: general duties

"(a) The Headquarters, Marine Corps, shall furnish professional assistance to the Secretary, the Under Secretary, and the Assistant Secretaries of the Navy and to the Commandant of the Marine Corps.

"(b) Under the authority, direction, and control of the Secretary of the Navy, the Headquarters, Marine Corps, shall—

"(1) subject to subsections (c) and (d) of section 5014 of this title, prepare for such employment of the Marine Corps, and for such recruiting, organizing, supplying, equipping (including research and development), training, servicing, mobilizing, demobilizing, administering, and maintaining of the Marine Corps, as will assist in the execution of any power, duty, or function of the Secretary or the Commandant;

"(2) investigate and report upon the efficiency of the Marine Corps and its preparation to support military operations by combatant commanders;

"(3) prepare detailed instructions for the execution of approved plans and supervise the execution of those plans and instructions;

"(4) as directed by the Secretary or the Commandant, coordinate the action of organizations of the Marine Corps; and

"(5) perform such other duties, not otherwise assigned by law, as may be prescribed by the Secretary.

"§ 5043. Commandant of the Marine Corps

"(a)(1) There is a Commandant of the Marine Corps, appointed by the President, by and with the advice and consent of the Senate. The Commandant shall be appointed for a term of four years from officers on the active-duty list of the Marine Corps not below the grade of colonel. He serves at the pleasure of the President. In time

of war or during a national emergency declared by Congress, he may be reappointed for a term of not more than four years.

"(2) The President may appoint an officer as Commandant of the Marine Corps only if—

"(A) the officer has had significant experience in joint duty assignments; and

"(B) such experience includes at least one joint duty assignment as a general officer.

"(3) The President may waive paragraph (2) in the case of an officer if the President determines such action is necessary in the national interest. President of U.S.

"(b) The Commandant of the Marine Corps, while so serving, has the grade of general without vacating his permanent grade.

"(c) An officer who is retired while serving as Commandant of the Marine Corps, or who, after serving at least two and one-half years as Commandant, is retired after completion of that service while serving in a lower grade than general, may, in the discretion of the President, be retired with the grade of general.

"(d) Except as otherwise prescribed by law and subject to section 5013(f) of this title, the Commandant performs his duties under the authority, direction, and control of the Secretary of the Navy and is directly responsible to the Secretary.

"(e) Subject to the authority, direction, and control of the Secretary of the Navy, the Commandant shall—

"(1) preside over the Headquarters, Marine Corps;

"(2) transmit the plans and recommendations of the Headquarters, Marine Corps, to the Secretary and advise the Secretary with regard to such plans and recommendations;

"(3) after approval of the plans or recommendations of the Headquarters, Marine Corps, by the Secretary, act as the agent of the Secretary in carrying them into effect;

"(4) exercise supervision, consistent with the authority assigned to commanders of unified or specified combatant commands under chapter 6 of this title, over such of the members and organizations of the Marine Corps and the Navy as the Secretary determines; *Ante*, p. 1012.

"(5) perform the duties prescribed for him by section 171 of this title and other provisions of law; and

"(6) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President, the Secretary of Defense, or the Secretary of the Navy.

"(f)(1) The Commandant shall also perform the duties prescribed for him as a member of the Joint Chiefs of Staff under section 151 of this title. *Ante*, p. 1005.

"(2) To the extent that such action does not impair the independence of the Commandant in the performance of his duties as a member of the Joint Chiefs of Staff, the Commandant shall inform the Secretary regarding military advice rendered by members of the Joint Chiefs of Staff on matters affecting the Department of the Navy.

"(3) Subject to the authority, direction, and control of the Secretary of Defense, the Commandant shall keep the Secretary of the Navy fully informed of significant military operations affecting the duties and responsibilities of the Secretary.

10 USC 5044.

"§ 5044. Assistant Commandant of the Marine Corps

"(a) There is an Assistant Commandant of the Marine Corps, appointed by the President, by and with the advice and consent of the Senate, from officers on the active-duty list of the Marine Corps not restricted in the performance of duty.

"(b) The Assistant Commandant of the Marine Corps, while so serving, has the grade of general without vacating his permanent grade.

"(c) The Assistant Commandant has such authority and duties with respect to the Marine Corps as the Commandant, with the approval of the Secretary of the Navy, may delegate to or prescribe for him. Orders issued by the Assistant Commandant in performing such duties have the same effect as those issued by the Commandant.

"(d) When there is a vacancy in the office of Commandant of the Marine Corps, or during the absence or disability of the Commandant—

"(1) the Assistant Commandant of the Marine Corps shall perform the duties of the Commandant until a successor is appointed or the absence or disability ceases; or

"(2) if there is a vacancy in the office of the Assistant Commandant of the Marine Corps or the Assistant Commandant is absent or disabled, unless the President directs otherwise, the most senior officer of the Marine Corps in the Headquarters, Marine Corps, who is not absent or disabled and who is not restricted in performance of duty shall perform the duties of the Commandant until a successor to the Commandant or the Assistant Commandant is appointed or until the absence or disability of the Commandant or Assistant Commandant ceases, whichever occurs first.

"§ 5045. Chief of Staff; Deputy and Assistant Chiefs of Staff

"There are in the Headquarters, Marine Corps, a Chief of Staff, not more than five Deputy Chiefs of Staff, and not more than three Assistant Chiefs of Staff, detailed by the Secretary of the Navy from officers on the active-duty list of the Marine Corps.".

SEC. 514. TECHNICAL AND CLERICAL AMENDMENTS

(a) CONFORMING AMENDMENTS TO CHAPTER 513.—(1) The heading of chapter 513 is amended to read as follows:

"CHAPTER 513—BUREAUS; OFFICE OF THE JUDGE ADVOCATE GENERAL".

(2) Section 5155 is redesignated as section 5150.

(3) The table of sections at the beginning of such chapter is amended—

(A) by striking out the items relating to sections 5150, 5151, 5152, and 5153; and

(B) by redesignating the item relating to section 5155 to conform to the redesignation made by paragraph (2).

10 USC 7861 *et seq.*

(b) TECHNICAL AMENDMENTS TO CHAPTER 661.—Chapter 661 is amended—

(1) by redesignating sections 7861 and 7862 as sections 7862 and 7863, respectively; and

(2) by striking out the table of sections at the beginning of such chapter and inserting in lieu thereof the following:

"Sec.
"7861. Custody of departmental records and property.
"7862. Accounts of paymasters of lost or captured naval vessels.
"7863. Disbursements by order of commanding officer.

"§ 7861. Custody of departmental records and property 10 USC 7861.

"The Secretary of the Navy has custody and charge of all books, records, papers, furniture, fixtures, and other property under the lawful control of the executive part of the Department of the Navy.".

(c) CROSS-REFERENCE AMENDMENTS.—(1) Section 125(b) is amended by striking out "5012, 5013" and inserting in lieu thereof "5062, 5063". *Ante*, p. 996.

(2) Section 5023 (as redesignated by section 511(d) of this Act) is amended by striking out "section 5151" in subsection (a) and inserting in lieu thereof "section 5022".

(3) Sections 5589(a) and 6027 are amended by striking out "section 5155(b)" and inserting in lieu thereof "section 5150(b)".

(d) CLERICAL AMENDMENTS.—(1) The tables of chapters at the beginning of subtitle C, and at the beginning of part I of such subtitle, are each amended by striking out the items relating to chapters 505, 507, 509, 513, and 515 and inserting in lieu thereof the following:

"505. Office of the Chief of Naval Operations 5031
"506. Headquarters, Marine Corps 5041
"507. Composition of the Department of the Navy 5061
"513. Bureaus; Office of the Judge Advocate General ..... 5131".

(2) Subsection (c) of section 5024 (as redesignated by section 511(d) of this Act) is amended by striking out "claim proceeding" and inserting in lieu thereof "claim, proceeding,".

PART C—DEPARTMENT OF THE AIR FORCE

SEC. 521. THE AIR FORCE SECRETARIAT

(a) AMENDMENTS TO CHAPTER 803.—(1) Sections 8010, 8011, 8012, 8013, and 8014 are redesignated as sections 8011, 8012, 8013, 8014, and 8015, respectively. 10 USC 8010 *et seq.*

(2) Section 8019 is transferred to the end of chapter 805 and is redesignated as section 8038. 10 USC 8031 *et seq.*; *post*, p. 1062.

(3) Chapter 803 is amended by striking out sections 8013, 8014, and 8015 (as redesignated by paragraph (1)) and inserting in lieu thereof the following:

"§ 8013. Secretary of the Air Force

"(a)(1) There is a Secretary of the Air Force, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Secretary is the head of the Department of the Air Force.

"(2) A person may not be appointed as Secretary of the Air Force within 10 years after relief from active duty as a commissioned officer of a regular component of an armed force.

"(b) Subject to the authority, direction, and control of the Secretary of Defense and subject to the provisions of chapter 6 of this title, the Secretary of the Air Force is responsible for, and has the authority necessary to conduct, all affairs of the Department of the Air Force, including the following functions: *Ante*, p. 1012.

"(1) Recruiting.
"(2) Organizing.
"(3) Supplying.
"(4) Equipping (including research and development).
"(5) Training.
"(6) Servicing.
"(7) Mobilizing.
"(8) Demobilizing.
"(9) Administering (including the morale and welfare of personnel).
"(10) Maintaining.
"(11) The construction, outfitting, and repair of military equipment.
"(12) The construction, maintenance, and repair of buildings, structures, and utilities and the acquisition of real property and interests in real property necessary to carry out the responsibilities specified in this section.

"(c) Subject to the authority, direction, and control of the Secretary of Defense, the Secretary of the Air Force is also responsible to the Secretary of Defense for—

"(1) the functioning and efficiency of the Department of the Air Force;
"(2) the formulation of policies and programs by the Department of the Air Force that are fully consistent with national security objectives and policies established by the President or the Secretary of Defense;
"(3) the effective and timely implementation of policy, program, and budget decisions and instructions of the President or the Secretary of Defense relating to the functions of the Department of the Air Force;
"(4) carrying out the functions of the Department of the Air Force so as to fulfill (to the maximum extent practicable) the current and future operational requirements of the unified and specified combatant commands;
"(5) effective cooperation and coordination between the Department of the Air Force and the other military departments and agencies of the Department of Defense to provide for more effective, efficient, and economical administration and to eliminate duplication;
"(6) the presentation and justification of the positions of the Department of the Air Force on the plans, programs, and policies of the Department of Defense; and
"(7) the effective supervision and control of the intelligence activities of the Department of the Air Force.

"(d) The Secretary of the Air Force is also responsible for such other activities as may be prescribed by law or by the President or Secretary of Defense.

"(e) After first informing the Secretary of Defense, the Secretary of the Air Force may make such recommendations to Congress relating to the Department of Defense as he considers appropriate.

"(f) The Secretary of the Air Force may assign such of his functions, powers, and duties as he considers appropriate to the Under Secretary of the Air Force and to the Assistant Secretaries of the Air Force. Officers of the Air Force shall, as directed by the Secretary, report on any matter to the Secretary, the Under Secretary, or any Assistant Secretary.

"(g) The Secretary of the Air Force may—

"(1) assign, detail, and prescribe the duties of members of the Air Force and civilian personnel of the Department of the Air Force;

"(2) change the title of any officer or activity of the Department of the Air Force not prescribed by law; and

"(3) prescribe regulations to carry out his functions, powers, and duties under this title.

"§ 8014. Office of the Secretary of the Air Force 10 USC 8014.

"(a) There is in the Department of the Air Force an Office of the Secretary of the Air Force. The function of the Office is to assist the Secretary of the Air Force in carrying out his responsibilities.

"(b) The Office of the Secretary of the Air Force is composed of the following:

"(1) The Under Secretary of the Air Force.

"(2) The Assistant Secretaries of the Air Force.

"(3) The General Counsel of the Department of the Air Force.

"(4) The Inspector General of the Air Force.

"(5) The Air Reserve Forces Policy Committee.

"(6) Such other offices and officials as may be established by law or as the Secretary of the Air Force may establish or designate.

"(c)(1) The Office of the Secretary of the Air Force shall have sole responsibility within the Office of the Secretary and the Air Staff for the following functions:

"(A) Acquisition.

"(B) Auditing.

"(C) Comptroller (including financial management).

"(D) Information management.

"(E) Inspector General.

"(F) Legislative affairs.

"(G) Public affairs.

"(2) The Secretary of the Air Force shall establish or designate a single office or other entity within the Office of the Secretary of the Air Force to conduct each function specified in paragraph (1). No office or other entity may be established or designated within the Air Staff to conduct any of the functions specified in paragraph (1).

"(3) The Secretary shall prescribe the relationship of each office or other entity established or designated under paragraph (2) to the Chief of Staff and to the Air Staff and shall ensure that each such office or entity provides the Chief of Staff such staff support as the Chief of Staff considers necessary to perform his duties and responsibilities.

"(4) The vesting in the Office of the Secretary of the Air Force of the responsibility for the conduct of a function specified in paragraph (1) does not preclude other elements of the executive part of the Department of the Air Force (including the Air Staff) from providing advice or assistance to the Chief of Staff or otherwise participating in that function within the executive part of the Department under the direction of the office assigned responsibility for that function in the Office of the Secretary of the Air Force.

"(d)(1) Subject to paragraph (2), the Office of the Secretary of the Air Force shall have sole responsibility within the Office of the Secretary and the Air Staff for the function of research and development.

"(2) The Secretary of the Air Force may assign to the Air Staff responsibility for those aspects of the function of research and

development that relate to military requirements and test and evaluation.

"(3) The Secretary shall establish or designate a single office or other entity within the Office of the Secretary of the Air Force to conduct the function specified in paragraph (1).

"(4) The Secretary shall prescribe the relationship of the office or other entity established or designated under paragraph (3) to the Chief of Staff of the Air Force and to the Air Staff and shall ensure that each such office or entity provides the Chief of Staff such staff support as the Chief of Staff considers necessary to perform his duties and responsibilities.

"(e) The Secretary of the Air Force shall ensure that the Office of the Secretary of the Air Force and the Air Staff do not duplicate specific functions for which the Secretary has assigned responsibility to the other.

"(f)(1) The total number of members of the armed forces and civilian employees of the Department of the Air Force assigned or detailed to permanent duty in the Office of the Secretary of the Air Force and on the Air Staff may not exceed 2,639.

"(2) Not more than 1,585 officers of the Air Force on the active-duty list may be assigned or detailed to permanent duty in the Office of the Secretary of the Air Force and on the Air Staff.

"(3) The total number of general officers assigned or detailed to permanent duty in the Office of the Secretary of the Air Force and on the Air Staff may not exceed the number equal to 85 percent of the number of general officers assigned or detailed to such duty on the date of the enactment of this subsection.

"(4) The limitations in paragraphs (1), (2), and (3) do not apply in time of war or during a national emergency declared by Congress.

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The limitation in paragraph (2) does not apply whenever the President determines that it is in the national interest to increase the number of officers assigned or detailed to permanent duty in the Office of the Secretary of the Air Force or on the Air Staff.

"(5) The limitations in paragraphs (1), (2), and (3) do not apply before October 1, 1988.

10 USC 8015.

"§ 8015. Under Secretary of the Air Force

"(a) There is an Under Secretary of the Air Force, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Under Secretary shall perform such duties and exercise such powers as the Secretary of the Air Force may prescribe.

"§ 8016. Assistant Secretaries of the Air Force

"(a) There are three Assistant Secretaries of the Air Force. They shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b)(1) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of the Air Force may prescribe.

"(2) One of the Assistant Secretaries shall be the Assistant Secretary of the Air Force for Manpower and Reserve Affairs. He shall have as his principal duty the overall supervision of manpower and reserve component affairs of the Department of the Air Force.".

(4) Section 8017 is amended—

(A) by striking out "(a)" at the beginning of the text of such section;

(B) by striking out clause (2) and inserting in lieu thereof the following:

"(2) The Assistant Secretaries of the Air Force, in the order prescribed by the Secretary of the Air Force and approved by the Secretary of Defense."; and

(C) by striking out subsection (b).

(5) Chapter 803 is further amended by adding at the end the following new sections:

"§ 8018. Administrative Assistant 10 USC 8018.

"The Secretary of the Air Force may appoint an Administrative Assistant in the Office of the Secretary of the Air Force. The Administrative Assistant shall perform such duties as the Secretary may prescribe.

"§ 8019. General Counsel

"(a) There is a General Counsel of the Department of the Air Force, appointed from civilian life by the President.

"(b) The General Counsel shall perform such functions as the Secretary of the Air Force may prescribe.

"§ 8020. Inspector General

"(a) There is an Inspector General of the Air Force who shall be detailed to such position by the Secretary of the Air Force from the general officers of the Air Force. An officer may not be detailed to such position for a tour of duty of more than four years, except that the Secretary may extend such a tour of duty if he makes a special finding that the extension is necessary in the public interest.

"(b) When directed by the Secretary or the Chief of Staff, the Inspector General shall—

"(1) inquire into and report upon the discipline, efficiency, and economy of the Air Force; and

"(2) perform any other duties prescribed by the Secretary or the Chief of Staff.

"(c) The Inspector General shall periodically propose programs of inspections to the Secretary of the Air Force and shall recommend additional inspections and investigations as may appear appropriate.

"(d) The Inspector General shall cooperate fully with the Inspector General of the Department of Defense in connection with the performance of any duty or function by the Inspector General of the Department of Defense under the Inspector General Act of 1978 (5 U.S.C. App. 3) regarding the Department of the Air Force.

"(e) The Inspector General shall have such deputies and assistants as the Secretary of the Air Force may prescribe. Each such deputy and assistant shall be an officer detailed by the Secretary to that position from the officers of the Air Force for a tour of duty of not more than four years, under a procedure prescribed by the Secretary.".

(6) Section 8033 is transferred to the end of chapter 803 (as amended by paragraph (5)), redesignated as section 8021, and amended—

(A) in subsection (a)—

(i) by striking out "Policy which" and inserting in lieu thereof "Policy. The Committee";

(ii) by inserting "and the mobilization preparedness" after "reserve components";

(iii) by striking out "Air Force and the" and inserting in lieu thereof "Air Force. The"; and

(iv) by striking out "Chief of Staff, and the Assistant Secretary responsible for reserve affairs" and inserting in lieu thereof "Secretary of the Air Force and the Chief of Staff";

(B) in subsection (b), by inserting "and" after the semicolon in clause (2); and

(C) by striking out the section heading and inserting in lieu thereof the following:

10 USC 8021.

"§ 8021. Air Force Reserve Forces Policy Committee".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 803 is amended to read as follows:

"Sec.
"8011. Organization.
"8012. Department of the Air Force: seal.
"8013. Secretary of the Air Force.
"8014. Office of the Secretary of the Air Force.
"8015. Under Secretary of the Air Force.
"8016. Assistant Secretaries of the Air Force.
"8017. Secretary of the Air Force: successors to duties.
"8018. Administrative Assistant.
"8019. General Counsel.
"8020. Inspector General.
"8021. Air Force Reserve Forces Policy Committee.".

SEC. 522. THE AIR STAFF

(a) COMPOSITION OF THE AIR STAFF.—Section 8031 is amended to read as follows:

"§ 8031. The Air Staff: function; composition

"(a) There is in the executive part of the Department of the Air Force an Air Staff. The function of the Air Staff is to assist the Secretary of the Air Force in carrying out his responsibilities.

"(b) The Air Staff is composed of the following:

"(1) The Chief of Staff.

"(2) The Vice Chief of Staff.

"(3) The Deputy Chiefs of Staff.

"(4) The Assistant Chiefs of Staff.

"(5) The Surgeon General of the Air Force.

"(6) The Judge Advocate General of the Air Force.

"(7) The Chief of the Air Force Reserve.

"(8) Other members of the Air Force assigned or detailed to the Air Staff.

"(9) Civilian employees in the Department of the Air Force assigned or detailed to the Air Staff.

"(c) Except as otherwise specifically prescribed by law, the Air Staff shall be organized in such manner, and its members shall perform such duties and have such titles, as the Secretary may prescribe.".

(b) GENERAL DUTIES.—(1) Subsection (a) of section 8032 is amended by inserting "of the Air Force" after "Chief of Staff".

(2) Subsection (b) of such section is amended—

(A) by striking out "The Air Staff" in the matter preceding clause (1) and inserting in lieu thereof "Under the authority, direction, and control of the Secretary of the Air Force, the Air Staff";

(B) by inserting "subject to subsections (c) and (d) of section 8014 of this title," before "prepare" in clause (1);

(C) by striking out ", training, serving, mobilizing, and demobilizing" in clause (1) and inserting in lieu thereof "(including those aspects of research and development assigned by the Secretary of the Air Force), training, servicing, mobilizing, demobilizing, administering, and maintaining";

(D) by striking out "for military operations" in clause (2) and inserting in lieu thereof "to support military operations by combatant commands"; and

(E) by striking out clause (4) and inserting in lieu thereof the following:

"(4) as directed by the Secretary or the Chief of Staff, coordinate the action of organizations of the Air Force; and".

(3) The heading of such section is amended to read as follows:

"§ 8032. The Air Staff: general duties". 10 USC 8032.

(c) CHIEF OF STAFF.—Section 8034 is redesignated as section 8033 and is amended to read as follows:

"§ 8033. Chief of Staff

"(a)(1) There is a Chief of Staff of the Air Force, appointed for a period of four years by the President, by and with the advice and consent of the Senate, from the general officers of the Air Force. He serves at the pleasure of the President. In time of war or during a national emergency declared by Congress, he may be reappointed for a term of not more than four years.

"(2) The President may appoint an officer as Chief of Staff only if—

"(A) the officer has had significant experience in joint duty assignments; and

"(B) such experience includes at least one joint duty assignment as a general officer.

"(3) The President may waive paragraph (2) in the case of an officer if the President determines such action is necessary in the national interest. President of U.S.

"(b) The Chief of Staff, while so serving, has the grade of general without vacating his permanent grade.

"(c) Except as otherwise prescribed by law and subject to section 8013(f) of this title, the Chief of Staff performs his duties under the authority, direction, and control of the Secretary of the Air Force and is directly responsible to the Secretary.

"(d) Subject to the authority, direction, and control of the Secretary of the Air Force, the Chief of Staff shall—

"(1) preside over the Air Staff;

"(2) transmit the plans and recommendations of the Air Staff to the Secretary and advise the Secretary with regard to such plans and recommendations;

"(3) after approval of the plans or recommendations of the Air Staff by the Secretary, act as the agent of the Secretary in carrying them into effect;

"(4) exercise supervision, consistent with the authority assigned to commanders of unified or specified combatant commands under chapter 6 of this title, over such of the members and organizations of the Air Force as the Secretary determines; *Ante*, p. 1012.

"(5) perform the duties prescribed for him by section 171 of this title and other provisions of law; and

"(6) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President, the Secretary of Defense, or the Secretary of the Air Force.

"(e)(1) The Chief of Staff shall also perform the duties prescribed for him as a member of the Joint Chiefs of Staff under section 151 of this title.

"(2) To the extent that such action does not impair the independence of the Chief of Staff in the performance of his duties as a member of the Joint Chiefs of Staff, the Chief of Staff shall inform the Secretary regarding military advice rendered by members of the Joint Chiefs of Staff on matters affecting the Department of the Air Force.

"(3) Subject to the authority, direction, and control of the Secretary of Defense, the Chief of Staff shall keep the Secretary of the Air Force fully informed of significant military operations affecting the duties and responsibilities of the Secretary.".

(d) VICE CHIEF OF STAFF.—Section 8035 is redesignated as section 8034 and is amended—

(1) by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) There is a Vice Chief of Staff of the Air Force, appointed by the President, by and with the advice and consent of the Senate, from the general officers of the Air Force.

"(b) The Vice Chief of Staff of the Air Force, while so serving, has the grade of general without vacating his permanent grade.";

(2) by striking out subsection (c);

(3) by redesignating subsection (d) as subsection (c);

(4) by adding at the end the following new subsection:

"(d) When there is a vacancy in the office of Chief of Staff or during the absence or disability of the Chief of Staff—

"(1) the Vice Chief of Staff shall perform the duties of the Chief of Staff until a successor is appointed or the absence or disability ceases; or

"(2) if there is a vacancy in the office of the Vice Chief of Staff or the Vice Chief of Staff is absent or disabled, unless the President directs otherwise, the most senior officer of the Air Force in the Air Staff who is not absent or disabled and who is not restricted in performance of duty shall perform the duties of the Chief of Staff until a successor to the Chief of Staff or the Vice Chief of Staff is appointed or until the absence or disability of the Chief of Staff or Vice Chief of Staff ceases, whichever occurs first."; and

(5) by striking out the section heading and inserting in lieu thereof the following:

10 USC 8034.

"§ 8034. Vice Chief of Staff".

Ante, p. 1055.

(e) DEPUTY CHIEFS OF STAFF.—Chapter 805 is further amended by inserting after section 8034 (as redesignated by subsection (d) of this section) the following new section:

"§ 8035. Deputy Chiefs of Staff and Assistant Chiefs of Staff

"(a) The Deputy Chiefs of Staff and the Assistant Chiefs of Staff shall be general officers detailed to those positions.

"(b) The number of Deputy Chiefs of Staff and Assistant Chiefs of Staff shall be prescribed by the Secretary, except that—

"(1) there may not be more than five Deputy Chiefs of Staff; and

"(2) there may not be more than three Assistant Chiefs of Staff.".

(f) JUDGE ADVOCATE GENERAL; DEPUTY JUDGE ADVOCATE GENERAL.—Section 8072 is transferred to chapter 805, inserted after section 8036, and redesignated as section 8037.

Ante, p. 1062.

(g) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 805 is amended to read as follows:

"Sec.
"8031. The Air Staff: function; composition.
"8032. The Air Staff: general duties.
"8033. Chief of Staff.
"8034. Vice Chief of Staff.
"8035. Deputy Chiefs of Staff and Assistant Chiefs of Staff.
"8036. Surgeon General: appointment; grade.
"8037. Judge Advocate General, Deputy Judge Advocate General: appointment; duties.
"8038. Office of Air Force Reserve: appointment of Chief.".

(2) The heading of section 8036 is amended by striking out the comma and inserting in lieu thereof a semicolon.

10 USC 8036.

(3) Section 8038 (as redesignated by section 521(a)(2)) is amended by striking out the comma in subsection (a) after "Chief of Staff".

(4) The table of sections at the beginning of chapter 807 is amended by striking out the item relating to section 8072.

SEC. 523. AUTHORITY TO ORGANIZE AIR FORCE INTO SEPARATE ORGANIZATIONS

Section 8074(a) is amended by striking out "The" and inserting in lieu thereof "Except as otherwise prescribed by law or by the Secretary of Defense, the".

PART D—GENERAL CONFORMING AMENDMENTS AND TRANSITION PROVISIONS

SEC. 531. CONFORMING AMENDMENTS

(a) AMENDMENTS TO TITLE 10.—(1) Sections 175(d) and 523(b)(1)(B) are amended by striking out "3033" and "8033" and inserting in lieu thereof "3021" and "8021", respectively.

(2) Section 641(1)(B) is amended by striking out "3015, 3019, 3033, 3496, 5251, 5252, 8019, 8033," and inserting in lieu thereof "3021, 3038, 3040, 3496, 5251, 5252, 8021, 8038,".

(b) AMENDMENTS TO TITLE 37.—Section 204((a)(2) of title 37, United States Code, is amended by striking out "3033" and "8033" and inserting in lieu thereof "3021" and "8021", respectively.

SEC. 532. TRANSITION

(a) EFFECTIVE DATE.—The provisions of subsections (c) and (d) of each of sections 3014, 5014, and 8014 of title 10, United States Code, as added by sections 501, 511, and 521, respectively, shall be implemented not later than 180 days after the date of the enactment of this Act.

10 USC 3014 note.

(b) REPORT.—Not later than 210 days after the date of the enactment of this Act, the Secretary of each military department shall submit to Congress a report on the actions that have been taken to implement the provisions referred to in subsection (a) with respect to that military department.

(c) WAIVER OF QUALIFICATIONS FOR APPOINTMENT AS SERVICE CHIEF.—(1) The President may waive, as provided in paragraph (2),

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10 USC 3033 note.

the requirements provided for in section 3033(a)(2), 5033(a)(2), 5043(a)(2), and 8033(a)(2) of title 10, United States Code (as added or amended by sections 502, 512, 513, and 522, respectively).

(2) In exercising such waiver authority, the President may, in the case of any officer—

(A) waive the requirement under section 664 of such title (as added by section 401 of this Act) for the length of a joint duty assignment if the officer has served in such an assignment for not less than two years; and

(B) consider as a joint duty assignment any tour of duty served by the officer as a general or flag officer before the date of the enactment of this Act (or being served on the date of the enactment of this Act) that was considered to be a joint duty assignment or a joint equivalent assignment under regulations in effect at the time the assignment began.

(3) A waiver under paragraph (2) may not be made in the case of any officer more than four years after the date of the enactment of this Act.

(4) A waiver under this subsection may be made only on a case-by-case basis.

TITLE VI—MISCELLANEOUS

10 USC 194 note.

SEC. 601. REDUCTION IN PERSONNEL ASSIGNED TO MANAGEMENT HEADQUARTERS ACTIVITIES AND CERTAIN OTHER ACTIVITIES

Effective date.

(a) MILITARY DEPARTMENTS AND COMBATANT COMMANDS.—(1) Effective on October 1, 1988, the total number of members of the Armed Forces and civilian employees assigned or detailed to duty described in paragraph (2) may not exceed the number equal to 90 percent of the total number of such members and employees assigned or detailed to such duty on September 30, 1986.

(2) Duty referred to in paragraph (1) is permanent duty in the military departments and in the unified and specified combatant commands to perform management headquarters activities or management headquarters support activities.

(3) In computing and implementing the limitation in paragraph (1), the Secretary of Defense shall exclude members and employees who are assigned or detailed to permanent duty to perform management headquarters activities or management headquarters support activities in the following:

(A) The Office of the Secretary of the Army and the Army Staff.

(B) The Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps.

(C) The Office of the Secretary of the Air Force and the Air Staff.

(D) The immediate headquarters staff of the commander of each unified or specified combatant command.

(4) If the Secretary of Defense applies any reduction in personnel required by the limitation in paragraph (1) to a unified or specified combatant command, the commander of that command, after consulting with his directly subordinate commanders, shall determine the manner in which the reduction shall be accomplished.

(b) DEFENSE AGENCIES AND DOD FIELD ACTIVITIES.—(1)(A) Not later than September 30, 1988, the Secretary of Defense shall reduce

the total number of members of the Armed Forces and civilian employees assigned or detailed to permanent duty in the management headquarters activities and management headquarters support activities in the Defense Agencies and Department of Defense Field Activities by a number that is at least 5 percent of the total number of such members and employees assigned or detailed to such duty on September 30, 1986.

(B) Not later than September 30, 1989, the Secretary shall carry out an additional reduction in such members and employees of not less than 10 percent of the number of such members and employees assigned or detailed to such duty on September 30, 1988.

(C) If the number of members and employees reduced under subparagraph (A) or (B) is in excess of the reduction required to be made by that subparagraph, such excess number may be applied to the number required to be reduced under paragraph (2).

(2)(A) Not later than September 30, 1988, the Secretary of Defense shall reduce the total number of members of the Armed Forces and civilian employees assigned or detailed to permanent duty in the Defense Agencies and Department of Defense Field Activities, other than members and employees assigned or detailed to duty in management headquarters activities or management headquarters support activities, by a number that is at least 5 percent of the total number of such members and employees assigned or detailed to such duty on September 30, 1986.

(B) Not later than September 30, 1989, the Secretary shall carry out an additional reduction in such members and employees of not less than 5 percent of the number of such members and employees assigned or detailed to such duty on September 30, 1988.

(3) If after the date of the enactment of this Act and before October 1, 1988, the total number of members and employees described in paragraph (1)(A) or (2)(A) is reduced by a number that is in excess of the number required to be reduced under that paragraph, the Secretary may, in meeting the additional reduction required by paragraph (1)(B) or (2)(B), as the case may be, offset such additional reduction by that excess number.

(4) The National Security Agency shall be excluded in computing and making reductions under this subsection.

(c) PROHIBITION AGAINST CERTAIN ACTIONS TO ACHIEVE REDUCTIONS.—Compliance with the limitations and reductions required by subsections (a) and (b) may not be accomplished by recategorizing or redefining duties, functions, offices, or organizations.

(d) ALLOCATIONS TO BE MADE BY SECRETARY OF DEFENSE.—(1) The Secretary of Defense shall allocate the reductions required to comply with the limitations in subsections (a) and (b) in a manner consistent with the efficient operation of the Department of Defense. If the Secretary determines that national security requirements dictate that a reduction (or any portion of a reduction) required by subsection (b) not be made from the Defense Agencies and Department of Defense Field Activities, the Secretary may allocate such reduction (or any portion of such reduction) (A) to personnel assigned or detailed to permanent duty in management headquarters activities or management headquarters support activities, or (B) to personnel assigned or detailed to permanent duty in other than management headquarters activities or management headquarters support activities, as the case may be, of the Department of Defense other than the Defense Agencies and Department of Defense Field Activities.

(2) Among the actions that are taken to carry out the reductions required by subsections (a) and (b), the Secretary shall consolidate and eliminate unnecessary management headquarters activities and management headquarters support activities.

(e) TOTAL REDUCTIONS.—Reductions in personnel required to be made under this section are in addition to any reductions required to be made under other provisions of this Act or any amendment made by this Act.

(f) DEFINITIONS.—For purposes of this section, the terms "management headquarters activities" and "management headquarters support activities" have the meanings given those terms in Department of Defense Directive 5100.73, entitled "Department of Defense Management Headquarters and Headquarters Support Activities" and dated January 7, 1985.

10 USC 111 note.

SEC. 602. REDUCTION OF REPORTING REQUIREMENTS

(a) POLICY.—It is the policy of Congress to reduce the administrative burden placed on the Department of Defense by requirements for reports, studies, and notifications to be submitted to Congress through the elimination of outdated, redundant, or otherwise unnecessary reporting requirements.

President of U.S.

(b) COMPILATION OF EXISTING REPORTING REQUIREMENTS.—(1) The Secretary of Defense shall compile a list of all provisions of law in effect on the date of the enactment of this Act or enacted after such date and before February 1, 1987, that require the President, with respect to national defense functions of the Government, or any official or employee of the Department of Defense to submit a report, notification, or study to Congress or any committee of Congress. The preceding sentence does not apply to a requirement for a report, notification, or study to be submitted one time.

(2) The Secretary shall submit to Congress the list compiled under paragraph (1) not later than six months after the date of the enactment of this Act. The Secretary shall include with such list (with respect to each report, notification, or study shown on the list) the following:

(A) The date the requirement for such report, notification, or study was first imposed by law and the current legal citation for such requirement.

(B) The Secretary's assessment of the continuing utility of such requirement to Congress and to the executive branch.

(C) The Secretary's assessment of the administrative burden of such requirement and how such burden relates to the utility of the report, notification, or study.

(D) The Secretary's recommendation as to whether such requirement should be retained, modified, or repealed.

(3) The matter submitted under paragraph (2) shall also include—

(A) any recommendation of the Secretary for consolidation of different requirements for reports, notifications, and studies; and

(B) a draft of legislation to implement any changes in law recommended by the Secretary and to conform statutory provisions to the elimination of reporting requirements under subsection (c).

Effective date.

(c) TERMINATION OF REPORTING REQUIREMENTS.—Except as provided in subsection (d), effective on January 1, 1987, each provision of law that is contained in title 10, 32, or 37, United States Code, or in any Act authorizing appropriations or making appropriations for

military functions of the Department of Defense (including military construction and military family housing functions) shall not be effective to the extent such provision requires the submission of a report, notification, or study.

(d) EXCEPTIONS.—Subsection (c) does not apply—

(1) to a requirement for a report, notification, or study to be submitted one time;

(2) to a provision of law enacted on or after the date of the enactment of this Act (including any provision enacted by this Act); or

(3) to a provision of law that requires the submission of the reports, notifications, and studies described in subsections (e) through (u).

(e) PROVISIONS OF TITLE 10.—The exception provided in subsection (d)(3) applies to the following reports, notifications, and studies required by title 10, United States Code:

(1) The annual report required by section 113(c) of such title (as redesignated by section 101(a)), relating to the accomplishments of the Department of Defense.

(2) The annual report required by section 113(e) of such title (as redesignated by section 101(a) and amended by section 603), relating to major military missions and the military force structure of the United States.

(3) The annual reports required by section 115 of such title (as designated and amended by section 110(b))—

(A) under subsection (a)(2) of such section, relating to equipment of the National Guard and reserve components;

(B) under subsection (b)(3) of such section, relating to military and civilian personnel and strength levels, certain other manpower requirements, base structures, and certain requirements for and information on officers; and

(C) under subsection (c)(2) of such section, relating to average student training loads.

(4) The annual report required by section 116(a) of such title (as designated and amended by section 110(b)), relating to operations and maintenance.

(5) The annual report required by section 117 of such title (as redesignated by section 101(a)), relating to North Atlantic Treaty Organization readiness.

(6) The reports required by section 118 of such title (as redesignated by section 101(a)), relating to sales or transfers of certain defense articles.

(7) The report required by section 125(c) of such title, relating to the proposed reduction or elimination of a major weapon system.

(8) The reports required by subsection (b)(5) of section 138 of such title (as redesignated by section 101(a)) and the annual report required by subsection (g) of such section, relating to operational test and evaluation activities.

(9) Reports required by section 1092(a)(3) of such title, relating to studies and demonstration projects relating to delivery of health and medical care.

(10) The reports required by section 1464(c) of such title, relating to the status of the Department of Defense Military Retirement Fund.

10 USC 2131 *et seq.*

(11) The report required by section 2137 of such title, relating to the educational assistance program for members of the Selected Reserve under chapter 106 of such title.

(12) The annual report required by section 2208(k) of such title, relating to the condition and operation of working-capital funds.

(13) The notifications required by section 2233a(a)(1) of such title, relating to expenditures and contributions for acquisition of facilities for reserve components.

(14) The notifications required by section 2304(c)(7) of such title, relating to the use of procurement procedures other than competitive procedures.

(15) The notifications required by section 2306(h)(3) of such title, relating to cancellation ceilings in certain multiyear contracts.

(16) The annual report required by section 2313(d)(4) of such title, relating to subpoenas issued by the Director of the Defense Contract Audit Agency to obtain contractor records.

(17) The annual report required by section 2349 of such title, relating to North Atlantic Treaty Organization acquisition and cross-servicing agreements.

(18) The semiannual report required by section 2357 of such title, relating to contracts in excess of $50,000 entered into by the military departments for research and development.

(19) The report required by section 2362(c) of such title, relating to the testing of wheeled or tracked armored vehicle programs.

(20) The reports required by section 2391(c) of such title, relating to miltiary base reuse studies and community planning assistance.

(21) The notifications required by section 2394(b)(2) of such title, relating to contracts for energy or fuel.

(22) The annual report required by section 2397(e) of such title, relating to the names of certain employees and former employees of defense contractors.

(23) The notifications required by clauses (B) and (C) of section 2401(b)(1) of such title, the cost analyses required by section 2401(e)(1) of such title, and the reports required by section 2401(e)(2) of such title, all relating to the long-term lease or charter of vessels and aircraft by the military departments.

(24) The notifications required by subsection (e)(1) of section 2403 of such title and the annual report required by subsection (e)(2) of such section, relating to waivers of certain requirements for contractor guarantees.

(25) The notifications required by paragraphs (1) and (2) of section 2407(d) of such title, relating to certain contracts awarded by the Department of Defense in connection with North Atlantic Treaty Organization cooperative agreements.

(26)(A) The annual and supplemental reports required by section 2431 of such title (as redesignated by section 101(a)), relating to weapons development and procurement schedules, including the matter required by section 53(b) of the Arms Export Control Act (22 U.S.C. 2795b(b)) to be included in such annual reports.

(B) The notifications in lieu of such supplemental reports under subsection (b) of such section.

(27) The Selected Acquisition Reports required by section 2432 of such title (as redesignated by section 101(a)).

(28) The notifications required by subsection (d)(3) of section 2433 of such title (as redesignated by section 101(a)) and reports required by subsection (e) of such section, relating to increases in program acquisition unit costs and procurement unit costs of certain major defense acquisition programs.

(29) The annual report required by section 2457(d) of such title, relating to the policy to standardize equipment, ammunition, and fuel procured for the use of United States military forces stationed in Europe under the North Atlantic Treaty.

(30) The reports required by subsection (a) or (e) of section 2662 of such title and the annual report required by subsection (b) of such section, relating to certain real property transactions.

(31) The notifications required by section 2667a(g)(3) of such title, relating to expenditures in excess of $300,000 from the DOD Facilities Replacement Management Account.

(32) The notifications required by section 2672(b) of such title, relating to acquisitions of interests in land for more than $100,000.

(33) The notifications required by section 2676(d) of such title, relating to reductions in scope and increases in cost of a land acquisition.

(34)(A) The notifications required by section 2687(b) of such title, relating to base closures and realignments.

(B) The certification provided for in section 2687(c) of such title, relating to a closure or realignment of a military installation for reasons of national security.

(35) The annual report required by section 2779(b)(4) of such title, relating to the use of funds appropriated for the elimination of certain losses caused by fluctuations in currency exchange rates of foreign countries.

(36) The reports required by section 2803(b) of such title, relating to emergency military construction projects carried out under section 2803 of such title.

(37) The reports required by section 2804(b) of such title, relating to military construction projects not authorized by law.

(38) The notifications required by paragraphs (2) and (3) of section 2805(b) of such title, relating to minor construction in connection with certain relocations of activities from one installation to another.

(39) The reports required by section 2806(c)(2) of such title, relating to contributions for North Atlantic Treaty Organization Infrastructure.

(40) The notifications required by subsection (b) of section 2807 of such title and the reports required by subsection (c) of such section, relating to architectural and engineering services and construction design in connection with military construction or military family housing projects.

(41) The notifications required by section 2808(b) of such title, relating to military construction projects in the event of a declaration of war or national emergency.

(42) The justifications and economic analyses required by section 2809(a)(4) of such title, relating to long-term contracts for the construction, management, and operation of certain facilities.

(43) The notifications and justifications required by section 2823(b) of such title, relating to disagreements on the availability of suitable alternative housing at locations in the United States where family housing is proposed to be constructed.

(44) The notifications required by section 2827(b) of such title, relating to relocation of military family housing units.

(45) The notifications and reports of economic analyses required by section 2828 of such title—

(A) under subsection (b)(3) of such section, relating to domestic family housing limitations;

(B) under subsection (f) of such section, relating to the proposed lease of military family housing in excess of authorized amounts; and

(C) under subsection (g)(6)(A) of such section, relating to leasing of military family housing facilities.

(46) The notifications required by section 2834(b) of such title, relating to agreements with the Secretary of State for the use of Department of State housing and related services by Department of Defense personnel.

(47) The notifications required by subsections (d) and (e) of section 2853 of such title, relating to reductions in the scope of work or increases in the cost of military construction projects.

(48) The notifications required by section 2854(b) of such title, relating to repair, restoration, or replacement of damaged or destroyed military facilities.

(49) The notifications required by section 2856(b) of such title, relating to regulations establishing limitations on barracks space.

(50) The annual report required by section 2861(a) of such title, relating to military construction activities and military family housing activities.

(51) The notifications required by section 7307(b)(2) of such title, relating to the disposition of naval vessels to foreign nations.

(52) The quarterly report required by section 7434 of such title, relating to production from the naval petroleum reserves.

(f) PROVISIONS OF TITLE 37.—(1) The exception provided in subsection (d)(3) applies to the report required by section 406(i) of title 37, United States Code, relating to dependents accompanying members of the Armed Forces stationed outside the United States.

(2) Such section is amended—

(A) by striking out "quarter" in the matter preceding clause (1); and

(B) by striking out "quarter" in clauses (1) and (2) and inserting in lieu thereof "fiscal year".

(g) PUBLIC LAW 91-121.—Notifications required by subsections (b)(4) and (c)(1) of section 409 of Public Law 91-121 (50 U.S.C. 1512(4), 1513(1)), relating to chemical or biological warfare agents.

(h) PUBLIC LAW 91-441.—Reports required by section 203(c) of Public Law 91-441 (10 U.S.C. 2358 note), relating to independent research and development and bid and proposal programs.

(i) PUBLIC LAW 93-365.—The exception provided in subsection (d)(3) applies to the statements and quarterly report required by subsections (c) and (e) of section 709 of the Department of Defense Appropriation Authorization Act, 1975 (50 U.S.C. App. 2403-1(e)), relating to the export of certain goods, technology, and industrial techniques.

50 USC app. 2403-1.

(j) PUBLIC LAW 96-342.—The exception provided in subsection (d)(3) applies to the notifications, summaries, certifications, and reports required by subsections (a), (b), and (c) of section 502 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2304 note), relating to conversion of performance of commercial and other type functions from Department of Defense personnel to private contractors.

(k) PUBLIC LAW 98-94.—The exception provided in subsection (d)(3) applies to the following:

(1) The notifications required by section 1201(c) of the Department of Defense Authorization Act, 1984 (97 Stat. 678), relating to transfers of amounts of authorizations.

(2) The reports and assessments required by section 1231 of such Act (97 Stat. 693), relating to certain intercontinental ballistic missile systems.

(3) The reports required by section 1252(d) of such Act (97 Stat. 698), relating to the cost effectiveness of and the quality of medical care provided by public health service hospitals. 42 USC 248d.

(l) PUBLIC LAW 98-525.—The exception provided in subsection (d)(3) applies to the following:

(1) Reports required by section 105(b)(1) of the Department of Defense Authorization Act, 1985 (98 Stat. 2503), relating to government-to-government agreements for acquisition in connection with certain NATO cooperative programs.

(2) The reports required by section 307(b)(3) of the Department of Defense Authorization Act, 1985 (10 U.S.C. 2304 note), relating to waivers of a prohibition on contracting out certain logistics activities.

(3) The annual report required by section 1002(d)(1) of such Act (22 U.S.C. 1928 note), relating to the supply of munitions and certain aircraft facilities in support of the North Atlantic Treaty Organization.

(4) The annual report required by section 1002(d)(2) of such Act (22 U.S.C. 1928 note), relating to the status and cost of the United States commitment to the North Atlantic Treaty Organization and certain activities of other member nations of the North Atlantic Treaty Organization.

(5) The annual reports required by subsections (c) and (d) of section 1003 of such Act (22 U.S.C. 1928 note), relating to allied contributions to the common defense.

(6) The annual report required by section 1102 of such Act (10 U.S.C. 2872 note (formerly 10 U.S.C. 139 note)), relating to the Strategic Defense Initiative and any other antiballistic missile defense program.

(7) The notifications required by section 1501(c) of such Act (98 Stat. 2626), relating to transfers of amounts of authorizations.

(8) The notification required by section 1512 of the Department of Defense Authorization Act, 1985 (98 Stat. 2627), relating to the use of funds for the B-1B bomber aircraft program beyond 100 aircraft.

(9) The reports required by section 1536(g) of such Act (98 Stat. 2633; 46 U.S.C. 1120 note), relating to the Commission on Merchant Marine and Defense. 46 USC app. 1120 note.

(m) PUBLIC LAW 99-145.—The exception provided in subsection (d)(3) applies to the following:

(1) Reports required by section 106(a)(2) of the Department of Defense Authorization Act, 1986 (99 Stat. 596), relating to

government-to-government agreements for acquisition in connection with certain NATO cooperative programs.

(2) The certification required by section 125(a)(1) of the Department of Defense Authorization Act, 1986 (99 Stat. 601), relating to any new contract for the procurement of 5-ton trucks.

(3) The legislative environmental impact statement required by section 209(c) of such Act (99 Stat. 610), relating to full-scale development of a small intercontinental ballistic missile or the selection of basing areas for the deployment of such missile.

10 USC 139 note.

(4) The certification required by section 222 of such Act (99 Stat. 613), relating to termination of a prohibition of deployment of a strategic defense system.

(5) The reports required by section 223 of such Act (99 Stat. 613), relating to the Strategic Defense Initiative.

(6) The quarterly reports required by section 502(c) of such Act (99 Stat. 621), relating to the obligation of funds appropriated for civilian personnel.

Union of Soviet Socialist Republics.
22 USC 2592a.

(7) The report required by section 1002 of such Act (99 Stat. 705), relating to Soviet compliance with arms control commitments.

(8) The annual report required by section 1221(d)(2) of such Act (99 Stat. 727), relating to a research program to support the polygraph activities of the Department of Defense.

10 USC 133 note.

(9) The annual reports required by section 1407 of such Act (99 Stat. 745), relating to unobligated balances in appropriation accounts.

(10)(A) The certifications required by subsections (b) and (c)(2) of section 1411 of such Act (99 Stat. 745), relating to the procurement or assembly of binary chemical weapons.

(B) The report required by subsection (e) of such section, relating to consultations among member nations of the North Atlantic Treaty Organization concerning the chemical deterrent posture of the North Atlantic Treaty Organization.

50 USC 1521.

(11) The annual report required by section 1412(g) of the Department of Defense Authorization Act, 1986 (99 Stat. 748), relating to the program for the destruction of the United States stockpile of lethal chemical agents and munitions.

(n) PUBLIC LAW 98-473.—The exception provided in subsection (d)(3) applies to the following:

(1) The notifications required by the proviso in section 8005(m) of the Department of Defense Appropriations Act, 1985 (as contained in section 101(h) of Public Law 98-473 (98 Stat. 1923)), relating to unusual cost overruns incident to overhaul, maintenance, and repair for certain ships.

10 USC 139 note.

(2) The annual report required by section 8104(b) of such Act (98 Stat. 1942), relating to consultations with members of common defense alliances concerning Strategic Defense Initiative research.

(o) PUBLIC LAW 99-190.—The exception provided in subsection (d)(3) applies to the following:

(1) The notifications required by section 8020 or 8021 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190 (99 Stat. 1206)), relating to transfers of working capital funds.

(2) The notifications required by section 8021 of such Act (99 Stat. 1206), relating to the obligation of working capital funds to procure war reserve material inventory.

(3) The notifications required by section 8042 of such Act (99 Stat. 1210), relating to the availability of appropriated funds for intelligence or special activities different from activities justified to the Congress.

(4) The notification required by section 8075 of such Act (99 Stat. 1214), relating to the acquisition of certain types of weapons, subsystems, and munitions of European North Atlantic Treaty Organization manufacture.

(5) The certification required by section 8097 of such Act (99 Stat. 1219), relating to the obligation or expenditure of funds to carry out a test of the Space Defense System (anti-satellite weapon) against an object in space. 10 USC 139 note.

(p) MILITARY CONSTRUCTION AUTHORIZATION ACTS.—(1) The exception provided in subsection (d)(3) applies to the annual reports required by section 704 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1377), relating to contracts for construction in the United States and its possessions.

(2) The exception provided in subsection (d)(3) applies to the following:

(A) The economic analyses required by section 802(d)(1) of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note), relating to proposed military housing rental guarantee agreements.

(B) The notifications required by section 803(b)(2) of such Act (10 U.S.C. 2821 note), relating to waivers of a requirement to use manufactured or factory-built housing fabricated in the United States by a United States contractor for military family housing construction in foreign countries.

(3) The exception provided in subsection (d)(3) applies to the report required by section 840(d) of the Military Construction Authorization Act, 1986 (Public Law 99-167; 99 Stat. 998), relating to the sale of land at Fort Jackson, South Carolina. South Carolina.

(q) MILITARY CONSTRUCTION APPROPRIATION ACTS.—The exception provided in subsection (d)(3) applies to the following:

(1) The annual report required by the third proviso in the undesignated paragraph under the heading "FOREIGN CURRENCY FLUCTUATION, CONSTRUCTION, DEFENSE" in the Military Construction Appropriation Act, 1980 (Public Law 96-130; 93 Stat. 1019), relating to transfers of appropriated funds to eliminate losses in military construction or expenses of family housing caused by fluctuations in foreign currency exchange rates of foreign countries. 31 USC 628-3.

(2) The reports required by section 125(a) of the Military Construction Appropriations Act, 1985 (as contained in section 101(e) of Public Law 98-473; 98 Stat. 1883), relating to terminations of a prohibition on the availability of appropriated military construction funds to foreign governments ineligible to receive such funds by reason of inadequate drug control measures.

(r) The report required by section 1436(a) of title 38, United States Code, relating to the New GI-Bill Educational Assistance Program under chapter 30 of such title. 38 USC 1401 *et seq.*

(s) INSPECTOR GENERAL ACT OF 1978.—The exception provided in subsection (d)(3) applies to the following:

5 USC app.

(1) The semiannual report required by section 5(b) of the Inspector General Act of 1978 (5 U.S.C. App. 3), relating to activities of the Inspector General of the Department of Defense.

(2) The reports required by section 5(d) of such Act (5 U.S.C. App. 3), relating to particular cases of problems, abuses, or deficiencies which have come to the attention of the Inspector General of the Department of Defense.

5 USC app.

(3) The statements required by paragraphs (3) and (4) of section 8(b) of such Act (5 U.S.C. App. 3), relating to the exercise of certain authority of the Secretary of Defense with respect to the activities of the Inspector General of the Department of Defense.

(t) INTELLIGENCE COMMUNITY PROVISIONS.—The exception provided in subsection (d)(3) applies to the following:

(1) The requirement to furnish information and to report to Congress concerning intelligence activities as provided in title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

(2) Reports and information required to be furnished under the following provisions of law:

(A) Section 1601(e) of title 10, United States Code, relating to the Defense Intelligence Senior Executive Service.

(B) Section 1604(e) of such title, relating to termination of certain Defense Intelligence Agency personnel.

(C) Section 1605 of such title, relating to benefits and allowances for certain Defense Intelligence Agency civilian personnel.

(3) Reports and information required to be furnished under section 431 of title 37, United States Code, relating to benefits and allowances for certain military personnel assigned to the Defense Intelligence Agency.

(u) ADDITIONAL MISCELLANEOUS EXCEPTIONS.—The exception provided in subsection (d)(3) applies to the following:

(1) The reports required by section 673(d) of title 10, United States Code, relating to the necessity for units of the Ready Reserve being ordered to active duty.

(2) The reports required by section 673b(f) of such title, relating to necessity of ordering units or members of the Selected Reserve to active duty.

(3) The reports required under section 836(b) (article 36(b)) of such title, relating to rules and regulations prescribed by the President under such section.

(4) The reports required by section 867(g)(1) (article 69(g)(1) of such title, relating to the operation of the Uniform Code of Military Justice.

(5) The reports required by subsections (a) and (b) of section 1008 and subsections (e) and (f) of section 1009 of title 37, United States Code, relating to military compensation.

SEC. 603. ANNUAL REPORT ON NATIONAL SECURITY STRATEGY

(a) ANNUAL PRESIDENTIAL REPORT.—(1) Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by adding at the end the following new section:

"ANNUAL NATIONAL SECURITY STRATEGY REPORT

"SEC. 104. (a)(1) The President shall transmit to Congress each year a comprehensive report on the national security strategy of the United States (hereinafter in this section referred to as a 'national security strategy report'). 50 USC 404a.

"(2) The national security strategy report for any year shall be transmitted on the date on which the President submits to Congress the budget for the next fiscal year under section 1105 of title 31, United States Code.

"(b) Each national security strategy report shall set forth the national security strategy of the United States and shall include a comprehensive description and discussion of the following:

"(1) The worldwide interests, goals, and objectives of the United States that are vital to the national security of the United States.

"(2) The foreign policy, worldwide commitments, and national defense capabilities of the United States necessary to deter aggression and to implement the national security strategy of the United States.

"(3) The proposed short-term and long-term uses of the political, economic, military, and other elements of the national power of the United States to protect or promote the interests and achieve the goals and objectives referred to in paragraph (1).

"(4) The adequacy of the capabilities of the United States to carry out the national security strategy of the United States, including an evaluation of the balance among the capabilities of all elements of the national power of the United States to support the implementation of the national security strategy.

"(5) Such other information as may be necessary to help inform Congress on matters relating to the national security strategy of the United States.

"(c) Each national security strategy report shall be transmitted in both a classified and an unclassified form.". Classified information.

(2) The table of contents in the first section of such Act is amended by inserting after the item relating to section 103 the following new item:

"Sec. 104. Annual national security strategy report.".

(b) REVISION OF ANNUAL SECRETARY OF DEFENSE REPORT.—Subsection (e) of section 113 (as redesignated by section 101(a) of this Act) is amended to read as follows: *Ante*, pp. 996, 1022.

"(e)(1) The Secretary shall include in his annual report to Congress under subsection (c)—

"(A) a description of the major military missions and of the military force structure of the United States for the next fiscal year;

"(B) an explanation of the relationship of those military missions to that force structure; and

"(C) the justification for those military missions and that force structure.

"(2) In preparing the matter referred to in paragraph (1), the Secretary shall take into consideration the content of the annual national security strategy report of the President under section 104 of the National Security Act of 1947 for the fiscal year concerned.". *Supra*.

10 USC 111 note.

SEC. 604. LEGISLATION TO MAKE REQUIRED CONFORMING CHANGES IN LAW

Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a draft of legislation to make any technical and conforming changes to title 10, United States Code, and other provisions of law that are required or should be made by reason of the amendments made by this Act.

SEC. 605. GENERAL TECHNICAL AMENDMENTS

(a) The tables of chapters at the beginning of subtitle A, and at the beginning of part I of such subtitle, are amended by striking out the items relating to chapters 3 through 8 and inserting in lieu thereof the following:

"2. Department of Defense 111
"3. General Powers and Functions 121
"4. Office of the Secretary of Defense 131
"5. Joint Chiefs of Staff 151
"6. Combatant Commands 161
"7. Boards, Councils, and Committees 171
"8. Defense Agencies and Department of Defense Field Activities ..... 191".

(b) The tables of chapters at the beginning of subtitle A, and at the beginning of part IV of such subtitle, are amended by inserting after the item relating to chapter 143 the following new item:

"144. Oversight of Cost Growth in Major Programs ..... 2431".

Approved October 1, 1986.

LEGISLATIVE HISTORY—H.R. 3622 (S. 2295) (H.R. 4370):

HOUSE REPORTS: No. 99-375 and No. 99-700 accompanying H.R. 4370 (both from Comm. on Armed Services) and No. 99-824 (Comm. of Conference).
SENATE REPORTS: No. 99-280 accompanying S. 2295 (Comm. on Armed Services).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Nov. 20, considered and passed House.
Vol. 132 (1986): May 7, considered and passed Senate, amended, in lieu of S. 2295.
Aug. 11, House concurred in Senate amendments with amendments.
Sept. 16, Senate agreed to conference report.
Sept. 17, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Oct. 1, Presidential statement.

O

CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 1987

Public Law 99-434
99th Congress

Joint Resolution

Oct. 1, 1986
[H.J. Res. 743]

Making continuing appropriations for the fiscal year 1987, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1987, and for other purposes, namely:

SEC. 101. (a)(1) Such amounts as may be necessary are hereby appropriated for programs, projects, or activities, not otherwise specifically provided for in this joint resolution, for which appropriations, funds, or other authority would be available in the following appropriation Acts:

District of Columbia Appropriations Act, 1987, H.R. 5175 as passed by the House on July 24, 1986 and as passed by the Senate on September 16, 1986;

Department of the Interior and Related Agencies Appropriations Act, 1987, H.R. 5234 as passed by the House on July 31, 1986 and as passed by the Senate on September 16, 1986;

Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1987, H.R. 5233 as passed by the House on July 31, 1986 and as passed by the Senate on September 10, 1986;

Military Construction Appropriations Act, 1987, H.R. 5052 as passed by the House on June 25, 1986 and as passed by the Senate on August 13, 1986; and

Department of Transportation and Related Agencies Appropriations Act, 1987, H.R. 5205 as passed by the House on July 30, 1986 and as passed by the Senate on September 17, 1986.

(2) Appropriations made by this subsection shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

(3) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this subsection as passed by the House is different from that which would be available or granted under such Act as passed by the Senate, the pertinent program, project, or activity shall be continued under the lesser amount or the more restrictive authority: *Provided,* That where an item is included in only one version of an Act as passed by both Houses as of October 1, 1986, the pertinent program, project, or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1986.

(4) No provision which is included in an appropriations Act enumerated in this subsection but which was not included in the applicable appropriations Act of 1986, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in the joint resolution unless such provision shall have been included in identical form in such bill as enacted by both the House and the Senate.

(5) No appropriation or fund made available or authority granted pursuant to this subsection shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1986.

(6) Whenever a conference report and joint explanatory statement of the committee of conference on any appropriations bill listed in this subsection is filed in the House, such amounts as may be necessary are hereby appropriated and shall become available in lieu of the rates specified in this subsection at a rate of operations for activities and under the terms and conditions provided for in such conference report and accompanying joint explanatory statement of the committee of conference.

(b)(1) Such amounts as may be necessary are hereby appropriated for programs, projects, or activities, not otherwise specifically provided for in this joint resolution, for which appropriations, funds, or other authority would be available in the following appropriations Acts:

Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, H.R. 5177 as passed by the House on July 24, 1986;

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1987, H.R. 5161 as passed by the House on July 17, 1986;

Department of Defense Appropriations Act, 1987, H.R. 5438 as provided for in section 101(c) of H.J. Res. 738 which passed the House on September 25, 1986, and such Act shall be deemed to have passed the House for purposes of this joint resolution;

Energy and Water Development Appropriations Act, 1987, H.R. 5162 as passed by the House on July 23, 1986;

Foreign Assistance and Related Programs Appropriations Act, 1987, H.R. 5339 as provided for in section 101(f) of H.J. Res. 738 which passed the House on September 25, 1986, and such Act shall be deemed to have passed the House for purposes of this joint resolution;

Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1987, H.R. 5313 as passed by the House on September 12, 1986; and

Treasury, Postal Service, and General Government Appropriations Act, 1987, H.R. 5294 as passed by the House on August 6, 1986.

(2) Appropriations made by this subsection shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

(3) Whenever an Act listed in this subsection has been passed by only the House as of October 1, 1986, the pertinent program, project, or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the current rate or the rate permitted by the action of the House

whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1986.

(4) No appropriation or fund made available or authority granted pursuant to this subsection shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1986.

(c) Such amounts as may be necessary are hereby appropriated for programs, projects, or activities provided for in H.R. 5203, the Legislative Branch Appropriations Act, 1987, to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-805) as filed in the House of Representatives on August 15, 1986, as if enacted into law.

(d) Such amounts as may be necessary for continuing the following activities, not otherwise provided for in this joint resolution, which were conducted in the fiscal year 1986, under the terms and conditions provided in applicable appropriations Acts for the fiscal year 1986, at the current rate or as otherwise provided herein: *Provided*, That no appropriation or fund made available or authority granted pursuant to this subsection shall be used to initiate or resume any project or activity for which appropriations, funds, or authority were not available during fiscal year 1986 unless otherwise provided for herein:

8 USC 1521.
94 Stat. 109.
8 USC 1522 note.

Refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act, part B of title III of the Refugee Act of 1980, and section 501 of the Refugee Education Assistance Act of 1980 except that no activity authorized by such Acts shall be funded beyond September 30, 1987; and

42 USC 9801 note.

Activities authorized by the Follow Through Act.

SEC. 102. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1986, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) October 8, 1986, whichever first occurs.

SEC. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 105. No provision in any appropriations Act for the fiscal year 1987 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 102(c) of this joint resolution.

SEC. 106. Appropriations and funds made available or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

Approved October 1, 1986.

LEGISLATIVE HISTORY—H.J. Res. 743:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 30, considered and passed House and Senate.

91-139 O - 86 (451)

Public Law 99-435
99th Congress

An Act

Oct. 2, 1986
[S. 2703]

To amend the Federal Aviation Act of 1958 to provide that prohibitions of discrimination against handicapped individuals shall apply to air carriers.

Air Carrier Access Act of 1986.
49 USC app. 1301 note.
49 USC app. 1374.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Air Carrier Access Act of 1986".

SEC. 2. (a) Section 404 of the Federal Aviation Act of 1958 (49 U.S.C. 1374) is amended by adding at the end thereof the following new subsection:

"PROHIBITION ON DISCRIMINATION AGAINST HANDICAPPED INDIVIDUALS

"(c)(1) No air carrier may discriminate against any otherwise qualified handicapped individual, by reason of such handicap, in the provision of air transportation.

"(2) For the purposes of paragraph (1) of this subsection the term 'handicapped individual' means any individual who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.".

49 USC app. 1301 note.

(b) That portion of the table of contents of the Federal Aviation Act of 1958 which appears under the side heading

"SEC. 404. Rates for carriage of persons and property."

is amended by adding at the end thereof:

"(c) Prohibition on discrimination against handicapped individuals.".

Regulations.
49 USC app. 1374 note.

SEC. 3. Within one hundred and twenty days after the date of enactment of this Act, the Secretary of Transportation shall promulgate regulations to ensure non-discriminatory treatment of qualified handicapped individuals consistent with safe carriage of all passengers on air carriers.

Approved October 2, 1986.

LEGISLATIVE HISTORY—S. 2703:

SENATE REPORTS: No. 99-400 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 15, considered and passed Senate.
Sept. 18, considered and passed House.

○

91-139 O - 86 (452)

Public Law 99-436
99th Congress

Joint Resolution

To designate November 15, 1986, as "National Philanthropy Day".

Oct. 2, 1986
[S.J. Res. 207]

Whereas there are more than eight hundred thousand nonprofit philanthropic organizations in the United States, employing more than ten million individuals, including approximately four million five hundred thousand volunteers;

Whereas contributions by people of the United States to support such organizations amounted to approximately $70,000,000,000 in 1984;

Whereas philanthropic organizations are largely responsible for enhancing the quality of life for Americans and other people throughout the world;

Whereas our Nation owes a great debt to the schools, churches, museums, art and music centers, youth groups, hospitals, research institutions, and other institutions and organizations which aid and comfort the elderly, the disadvantaged, and the sick; and

Whereas the people of the United States should demonstrate their gratitude and support for philanthropic organizations and the efforts, skills, and resources of individuals who carry out their missions: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 15, 1986, is designated as "National Philanthropy Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved October 2, 1986.

LEGISLATIVE HISTORY—S.J. Res. 207:

CONGRESSIONAL RECORD:
Vol. 131 (1985): Oct. 25, considered and passed Senate.
Vol. 132 (1986): June 11, considered and passed House, amended.
Sept. 18, Senate concurred in House amendments.

○

91-139 O - 86 (453)

Public Law 99-437
99th Congress

Joint Resolution

Oct. 2, 1986
[S.J. Res. 263]

To designate September 1986 as "National Independent Retail Grocer Month".

Whereas the independent retailer has served the American consumer for over two hundred years;

Whereas independent retail grocers account for 64 per centum of all grocery stores in the United States and are responsible for nearly one-half of the grocery product distributed;

Whereas the independent retail grocer exemplifies the small business entrepreneur, the backbone of the American free enterprise system; and

Whereas the independent retail grocer offers a wide array of services to the community where the grocer lives and does business: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 1986 be proclaimed as "National Independent Retail Grocer Month".

Approved October 2, 1986.

LEGISLATIVE HISTORY—S.J. Res 263:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Mar. 2, considered and passed Senate
Sept. 18, considered and passed House, amended.
Sept. 29, Senate concurred in House amendments.

91-139 O - 86 (454)

Public Law 99-438
99th Congress

Joint Resolution

Designating July 2 and 3, 1987, as the "United States-Canada Days of Peace and Friendship".

Oct. 2, 1986
[S.J. Res. 402]

Whereas, since the War of 1812, the people of the United States and Canada have peacefully shared and extended the longest border in the world;

Whereas more cultural and economic exchanges are made between the United States and Canada than any other two countries;

Whereas the United States and Canada have welcomed immigrants from all nations everywhere, resulting in rich and similar cultures in each country;

Whereas the United States and Canada share common ideals and institutions, including freedom, democracy, human rights, justice under law, and an ardent desire for a peaceful world;

Whereas the United States and Canada have been allies against tyranny in two World Wars;

Whereas the United States and Canada have confronted differences between the two countries with diplomacy and goodwill;

Whereas the United States and Canada are rich in resources and, together, represent an ever-more-powerful prospect for world economic progress;

Whereas the United States and Canada demonstrate the dynamism of democracy and, together, contribute to establishing lasting peace in the world;

Whereas a similar resolution commemorating continued peace and friendship between the United States and Canada has been proposed in the Canadian Parliament;

Whereas in Canada July 1 is Canada Day;

Whereas in the United States July 4 is Independence Day; and

Whereas the days between Canada Day and Independence Day are appropriate annual days on which to commemorate the friendship between the United States and Canada: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 2 and 3, 1987, are designated as "United States-Canada Days of Peace and Friendship", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such days with appropriate ceremonies and activities.

Approved October 2, 1986.

LEGISLATIVE HISTORY—S.J. Res. 402:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 12, considered and passed Senate.
Sept. 18, considered and passed House.

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91-139 O - 86 (455)

Public Law 99-439
99th Congress

An Act

Relating to telephone services for Senators.

Oct. 2, 1986
[S. 2759]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1205(a) of the Supplemental Appropriations Act, 1984 (2 U.S.C. 58a) is amended by striking out "(except services for which the charge is based on the amount of time the service is used)".

Approved October 2, 1986.

LEGISLATIVE HISTORY—S. 2759:

SENATE REPORTS: No. 99-404 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 15, considered and passed Senate.
Sept. 18, considered and passed House.

91-139 O - 86 (456)

PUBLIC LAW 99-440—OCT. 2, 1986

COMPREHENSIVE ANTI-APARTHEID ACT OF 1986

Public Law 99-440
99th Congress

An Act

Oct. 2, 1986
[H.R. 4868]

To prohibit loans to, other investments in, and certain other activities with respect to, South Africa, and for other purposes

Comprehensive Anti-Apartheid Act of 1986.
Human rights.
Terrorism.
22 USC 5001 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Comprehensive Anti-Apartheid Act of 1986".

TABLE OF CONTENTS

SEC. 2. The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definitions.
Sec. 4. Purpose.

TITLE I—POLICY OF THE UNITED STATES WITH RESPECT TO ENDING APARTHEID

Sec. 101. Policy toward the Government of South Africa.
Sec. 102. Policy toward the African National Congress, etc.
Sec. 103. Policy toward the victims of apartheid.
Sec. 104. Policy toward other countries in Southern Africa.
Sec. 105. Policy toward "frontline" states.
Sec. 106. Policy toward a negotiated settlement.
Sec. 107. Policy toward international cooperation on measures to end apartheid.
Sec. 108. Policy toward necklacing.
Sec. 109. United States Ambassador to meet with Nelson Mandela.
Sec. 110. Policy toward the recruitment and training of black South Africans by United States employers.

TITLE II—MEASURES TO ASSIST VICTIMS OF APARTHEID

Sec. 201. Scholarships for the victims of apartheid.
Sec. 202. Human rights fund.
Sec. 203. Expanding participation in the South African economy.
Sec. 204. Export-Import Bank of the United States.
Sec. 205. Labor practices of the United States Government in South Africa.
Sec. 206. Welfare and protection of the victims of apartheid employed by the United States.
Sec. 207. Employment practices of United States nationals in South Africa.
Sec. 208. Code of Conduct.
Sec. 209. Prohibition on assistance.
Sec. 210. Use of the African Emergency Reserve.
Sec. 211. Prohibition on assistance to any person or group engaging in "necklacing".
Sec. 212. Participation of South Africa in agricultural export credit and promotion programs.

TITLE III—MEASURES BY THE UNITED STATES TO UNDERMINE APARTHEID

Sec. 301. Prohibition on the importation of krugerrands.
Sec. 302. Prohibition on the importation of military articles.
Sec. 303. Prohibition on the importation of products from parastatal organizations.
Sec. 304. Prohibition on computer exports to South Africa.

Sec. 305. Prohibition on loans to the Government of South Africa.
Sec. 306. Prohibition on air transportation with South Africa.
Sec. 307. Prohibitions on nuclear trade with South Africa.
Sec. 308. Government of South Africa bank accounts.
Sec. 309. Prohibition on importation of uranium and coal from South Africa.
Sec. 310. Prohibition on new investment in South Africa.
Sec. 311. Termination of certain provisions.
Sec. 312. Policy toward violence or terrorism.
Sec. 313. Termination of tax treaty and protocol.
Sec. 314. Prohibition on United States Government procurement from South Africa.
Sec. 315. Prohibition on the promotion of United States tourism in South Africa.
Sec. 316. Prohibition on United States Government assistance to, investment in, or subsidy for trade with, South Africa.
Sec. 317. Prohibition on sale or export of items on Munition List.
Sec. 318. Munitions list sales, notification.
Sec. 319. Prohibition on importation of South African agricultural products and food.
Sec. 320. Prohibition on importation of iron and steel.
Sec. 321. Prohibition on exports of crude oil and petroleum products.
Sec. 322. Prohibition on cooperation with the armed forces of South Africa.
Sec. 323. Prohibition on sugar imports.

TITLE IV—MULTILATERAL MEASURES TO UNDERMINE APARTHEID

Sec. 401. Negotiating authority.
Sec. 402. Limitation on imports from other countries.
Sec. 403. Private right of action.

TITLE V—FUTURE POLICY TOWARD SOUTH AFRICA

Sec. 501. Additional measures.
Sec. 502. Lifting of prohibitions.
Sec. 503. Study of health conditions in the "homelands" areas of South Africa.
Sec. 504. Reports on South African imports.
Sec. 505. Study and report on the economy of southern Africa.
Sec. 506. Report on relations between other industrialized democracies and South Africa.
Sec. 507. Study and report on deposit accounts of South African nationals in United States banks.
Sec. 508. Study and report on the violation of the international embargo on sale and export of military articles to South Africa.
Sec. 509. Report on Communist activities in South Africa.
Sec. 510. Prohibition on the importation of Soviet gold coins.
Sec. 511. Economic support for disadvantaged South Africans.
Sec. 512. Report on the African National Congress.

TITLE VI—ENFORCEMENT AND ADMINISTRATIVE PROVISIONS

Sec. 601. Regulatory authority.
Sec. 602. Congressional priority procedures.
Sec. 603. Enforcement and penalties.
Sec. 604. Applicability to evasions of Act.
Sec. 605. Construction of Act.
Sec. 606. State or local anti-apartheid laws, enforce.

DEFINITIONS

SEC. 3. As used in this Act— 22 USC 5001.

(1) the term "Code of Conduct" refers to the principles set forth in section 208(a);

(2) the term "controlled South African entity" means—

(A) a corporation, partnership, or other business association or entity organized in South Africa and owned or controlled, directly or indirectly, by a national of the United States; or

(B) a branch, office, agency, or sole proprietorship in South Africa of a national of the United States;

(3) the term "loan"—

(A) means any transfer or extension of funds or credit on the basis of an obligation to repay, or any assumption or

guarantee of the obligation of another to repay an extension of funds or credit, including—

(i) overdrafts,

(ii) currency swaps,

(iii) the purchase of debt or equity securities issued by the Government of South Africa or a South African entity on or after the date of enactment of this Act,

(iv) the purchase of a loan made by another person,

(v) the sale of financial assets subject to an agreement to repurchase, and

(vi) a renewal or refinancing whereby funds or credits are transferred or extended to the Government of South Africa or a South African entity, and

(B) does not include—

(i) normal short-term trade financing, as by letters of credit or similar trade credits;

(ii) sales on open account in cases where such sales are normal business practice; or

(iii) rescheduling of existing loans, if no new funds or credits are thereby extended to a South African entity or the Government of South Africa;

(4) the term "new investment"—

(A) means—

(i) a commitment or contribution of funds or other assets, and

(ii) a loan or other extension of credit, and

(B) does not include—

(i) the reinvestment of profits generated by a controlled South African entity into that same controlled South African entity or the investment of such profits in a South African entity;

(ii) contributions of money or other assets where such contributions are necessary to enable a controlled South African entity to operate in an economically sound manner, without expanding its operations; or

(iii) the ownership or control of a share or interest in a South African entity or a controlled South African entity or a debt or equity security issued by the Government of South Africa or a South African entity before the date of enactment of this Act, or the transfer or acquisition of such a share, interest, or debt or equity security, if any such transfer or acquisition does not result in a payment, contribution of funds or assets, or credit to a South African entity, a controlled South African entity, or the Government of South Africa;

(5) the term "national of the United States" means—

(A) a natural person who is a citizen of the United States or who owes permanent allegiance to the United States or is an alien lawfully admitted for permanent residence in the United States, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)); or

(B) a corporation, partnership, or other business association which is organized under the laws of the United States, any State or territory thereof, or the District of Columbia;

(6) the term "South Africa" includes—

(A) the Republic of South Africa;

(B) any territory under the Administration, legal or illegal, of South Africa; and

(C) the "bantustans" or "homelands", to which South African blacks are assigned on the basis of ethnic origin, including the Transkei, Bophuthatswana Ciskei, and Venda; and

(7) the term "South African entity" means—

(A) a corporation, partnership, or other business association or entity organized in South Africa; or

(B) a branch, office, agency, or sole proprietorship in South Africa of a person that resides or is organized outside South Africa; and

(8) the term "United States" includes the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

PURPOSE

SEC. 4. The purpose of this Act is to set forth a comprehensive and complete framework to guide the efforts of the United States in helping to bring an end to apartheid in South Africa and lead to the establishment of a nonracial, democratic form of government. This Act sets out United States policy toward the Government of South Africa, the victims of apartheid, and the other states in southern Africa. It also provides the President with additional authority to work with the other industrial democracies to help end apartheid and establish democracy in South Africa. 22 USC 5002.

TITLE I—POLICY OF THE UNITED STATES WITH RESPECT TO ENDING APARTHEID

POLICY TOWARD THE GOVERNMENT OF SOUTH AFRICA

SEC. 101. (a) United States policy toward the Government of South Africa shall be designed to bring about reforms in that system of government that will lead to the establishment of a nonracial democracy. 22 USC 5011.

(b) The United States will work toward this goal by encouraging the Government of South Africa to—

(1) repeal the present state of emergency and respect the principle of equal justice under law for citizens of all races;

(2) release Nelson Mandela, Govan Mbeki, Walter Sisulu, black trade union leaders, and all political prisoners; Nelson Mandela. Govan Mbeki. Walter Sisulu.

(3) permit the free exercise by South Africans of all races of the right to form political parties, express political opinions, and otherwise participate in the political process;

(4) establish a timetable for the elimination of apartheid laws;

(5) negotiate with representatives of all racial groups in South Africa the future political system in South Africa; and

(6) end military and paramilitary activities aimed at neighboring states.

(c) The United States will encourage the actions set forth in subsection (b) through economic, political, and diplomatic measures as set forth in this Act. The United States will adjust its actions toward the Government of South Africa to reflect the progress or lack of progress made by the Government of South Africa in meeting the goal set forth in subsection (a).

POLICY TOWARD THE AFRICAN NATIONAL CONGRESS, ETC.

Pan African Congress.
22 USC 5012.

SEC. 102 (a) United States policy toward the African National Congress, the Pan African Congress, and their affiliates shall be designed to bring about a suspension of violence that will lead to the start of negotiations designed to bring about a nonracial and genuine democracy in South Africa.

(b) The United States shall work toward this goal by encouraging the African National Congress and the Pan African Congress, and their affiliates, to—

(1) suspend terrorist activities so that negotiations with the Government of South Africa and other groups representing black South Africans will be possible;

(2) make known their commitment to a free and democratic post-apartheid South Africa;

(3) agree to enter into negotiations with the South African Government and other groups representing black South Africans for the peaceful solution of the problems of South Africa;

(4) reexamine their ties to the South African Communist Party.

(c) The United States will encourage the actions set forth in subsection (b) through political and diplomatic measures. The United States will adjust its actions toward the Government of South Africa not only to reflect progress or lack of progress made by the Government of South Africa in meeting the goal set forth in subsection 101(a) but also to reflect progress or lack of progress made by the ANC and other organizations in meeting the goal set forth in subsection (a) of this section.

POLICY TOWARD THE VICTIMS OF APARTHEID

22 USC 5013.

SEC. 103. (a) The United States policy toward the victims of apartheid is to use economic, political, diplomatic, and other effective means to achieve the removal of the root cause of their victimization, which is the apartheid system. In anticipation of the removal of the system of apartheid and as a further means of challenging that system, it is the policy of the United States to assist these victims of apartheid as individuals and through organizations to overcome the handicaps imposed on them by the system of apartheid and to help prepare them for their rightful roles as full participants in the political, social, economic, and intellectual life of their country in the post-apartheid South Africa envisioned by this Act.

(b) The United States will work toward the purposes of subsection (a) by—

(1) providing assistance to South African victims of apartheid without discrimination by race, color, sex, religious belief, or political orientation, to take advantage of educational opportunities in South Africa and in the United States to prepare for leadership positions in a post-apartheid South Africa;

(2) assisting victims of apartheid;

(3) aiding individuals or groups in South Africa whose goals are to aid victims of apartheid or foster nonviolent legal or political challenges to the apartheid laws;

(4) furnishing direct financial assistance to those whose nonviolent activities had led to their arrest or detention by the

South African authorities and (B) to the families of those killed by terrorist acts such as "necklacings";

(5) intervening at the highest political levels in South Africa to express the strong desire of the United States to see the development in South Africa of a nonracial democratic society;

(6) supporting the rights of the victims of apartheid through political, economic, or other sanctions in the event the Government of South Africa fails to make progress toward the removal of the apartheid laws and the establishment of such democracy; and

(7) supporting the rights of all Africans to be free of terrorist attacks by setting a time limit after which the United States will pursue diplomatic and political measures against those promoting terrorism and against those countries harboring such groups so as to achieve the objectives of this Act.

POLICY TOWARD OTHER COUNTRIES IN SOUTHERN AFRICA

SEC. 104. (a) The United States policy toward the other countries in the Southern African region shall be designed to encourage democratic forms of government, full respect for human rights, an end to cross-border terrorism, political independence, and economic development. 22 USC 5014.

(b) The United States will work toward the purposes of subsection (a) by—

(1) helping to secure the independence of Namibia and the establishment of Namibia as a nonracial democracy in accordance with appropriate United Nations Security Council resolutions; Namibia.

(2) supporting the removal of all foreign military forces from the region;

(3) encouraging the nations of the region to settle differences through peaceful means;

(4) promoting economic development through bilateral and multilateral economic assistance targeted at increasing opportunities in the productive sectors of national economies, with a particular emphasis on increasing opportunities for nongovernmental economic activities;

(5) encouraging, and when necessary, strongly demanding, that all countries of the region respect the human rights of their citizens and noncitizens residing in the country, and especially the release of persons persecuted for their political beliefs or detained without trial;

(6) encouraging, and when necessary, strongly demanding that all countries of the region take effective action to end cross-border terrorism; and

(7) providing appropriate assistance, within the limitations of American responsibilities at home and in other regions, to assist regional economic cooperation and the development of interregional transportation and other capital facilities necessary for economic growth. Transportation.

POLICY TOWARD "FRONTLINE" STATES

SEC. 105. It is the sense of the Congress that the President should discuss with the governments of the African "frontline" states the President of U.S. Transportation. 22 USC 5015.

effects on them of disruptions in transportation or other economic links through South Africa and of means of reducing those effects.

POLICY TOWARD A NEGOTIATED SETTLEMENT

22 USC 5016.

SEC. 106. (a)(1) United States policy will seek to promote negotiations among representatives of all citizens of South Africa to determine a future political system that would permit all citizens to be full participants in the governance of their country. The United States recognizes that important and legitimate political parties in South Africa include several organizations that have been banned and will work for the unbanning of such organizations in order to permit legitimate political viewpoints to be represented at such negotiations. The United States also recognizes that some of the organizations fighting apartheid have become infiltrated by Communists and that Communists serve on the governing boards of such organizations.

Communists.

President of U.S.
Communists.

(2) To this end, it is the sense of the Congress that the President, the Secretary of State, or other appropriate high-level United States officials should meet with the leaders of opposition organizations of South Africa, particularly but not limited to those organizations representing the black majority. Furthermore, the President, in concert with the major allies of the United States and other interested parties, should seek to bring together opposition political leaders with leaders of the Government of South Africa for the purpose of negotiations to achieve a transition to the post-apartheid democracy envisioned in this Act.

(b) The United States will encourage the Government of South Africa and all participants to the negotiations to respect the right of all South Africans to form political parties, express political opinions, and otherwise participate in the political process without fear of retribution by either governmental or nongovernmental organizations. It is the sense of the Congress that a suspension of violence is an essential precondition for the holding of negotiations. The United States calls upon all parties to the conflict to agree to a suspension of violence.

(c) The United States will work toward the achievement of agreement to suspend violence and begin negotiations through coordinated actions with the major Western allies and with the governments of the countries in the region.

Great Britain.
Canada.
France.
Italy.
Japan.
West Germany.

(d) It is the sense of the Congress that the achievement of an agreement for negotiations could be promoted if the United States and its major allies, such as Great Britain, Canada, France, Italy, Japan, and West Germany, would hold a meeting to develop a four-point plan to discuss with the Government of South Africa a proposal for stages of multilateral assistance to South Africa in return for the Government of South Africa implementing—

Nelson Mandela.

(1) an end to the state of emergency and the release of the political prisoners, including Nelson Mandela;

African National Congress.
Pan African Congress.
Black Consciousness Movement.

(2) the unbanning of the African National Congress, the Pan African Congress, the Black Consciousness Movement, and all other groups willing to suspend terrorism and to participate in negotiations and a democratic process;

(3) a revocation of the Group Areas Act and the Population Registration Act and the granting of universal citizenship to all South Africans, including homeland residents; and

(4) the use of the international offices of a third party as an intermediary to bring about negotiations with the object of the establishment of power-sharing with the black majority.

POLICY TOWARD INTERNATIONAL COOPERATION ON MEASURES TO END APARTHEID

SEC. 107. (a) The Congress finds that— 22 USC 5017.

(1) international cooperation is a prerequisite to an effective anti-apartheid policy and to the suspension of terrorism in South Africa; and

(2) the situation in South Africa constitutes an emergency in international relations and that action is necessary for the protection of the essential security interests of the United States.

(b) Accordingly, the Congress urges the President to seek such cooperation among all individuals, groups, and nations.

POLICY TOWARD NECKLACING

SEC. 108. It is the sense of the Congress that the African National Congress should strongly condemn and take effective actions against the execution by fire, commonly known as "necklacing", of any person in any country. African National Congress. 22 USC 5018.

UNITED STATES AMBASSADOR TO MEET WITH NELSON MANDELA

SEC. 109. It is the sense of the Senate that the United States Ambassador should promptly make a formal request to the South African Government for the United States Ambassador to meet with Nelson Mandela. Nelson Mandela. 22 USC 5019.

POLICY TOWARD THE RECRUITMENT AND TRAINING OF BLACK SOUTH AFRICANS BY UNITED STATES EMPLOYERS

SEC. 110. (a) The Congress finds that— 22 USC 5020.

(1) the policy of apartheid is abhorrent and morally repugnant;

(2) the United States believes strongly in the principles of democracy and individual freedoms;

(3) the United States endorses the policy of political participation of all citizens;

(4) a free, open, and vital economy is a primary means for achieving social equality and economic advancement for all citizens; and

(5) the United States is committed to a policy of securing and enhancing human rights and individual dignity throughout the world.

(b) It is the sense of the Congress that United States employers operating in South Africa are obliged both generally to actively oppose the policy and practices of apartheid and specifically to engage in recruitment and training of black and colored South Africans for management responsibilities.

TITLE II—MEASURES TO ASSIST VICTIMS OF APARTHEID

SCHOLARSHIPS FOR THE VICTIMS OF APARTHEID

22 USC 2151c.

SEC. 201. (a) Section 105(b) of the Foreign Assistance Act of 1961 is amended—

(1) by inserting "(1)" after "(b)"; and

Education. Schools and colleges.

(2) by adding at the end thereof the following new paragraph:

"(2)(A)(i) Of the amounts authorized to be appropriated to carry out this section for the fiscal years 1987, 1988, and 1989, not less than $4,000,000 shall be used in each such fiscal year to finance education, training, and scholarships for the victims of apartheid, including teachers and other educational professionals, who are attending universities and colleges in South Africa. Amounts available to carry out this subparagraph shall be provided in accordance with the provisions of section 802(c) of the International Security and Development Cooperation Act of 1985.

99 Stat. 260.

"(ii) Funds made available for each such fiscal year for purposes of chapter 4 of part II of this Act may be used to finance such education, training, and scholarships in lieu of an equal amount made available under this subparagraph.

22 USC 2346.

"(B)(i) In addition to amounts used for purposes of subparagraph (A), the agency primarily responsible for administering this part, in collaboration with other appropriate departments or agencies of the United States, shall use assistance provided under this section or chapter 4 of part II of this Act to finance scholarships for students pursuing secondary school education in South Africa. The selection of scholarship recipients shall be by a nationwide panel or by regional panels appointed by the United States chief of diplomatic mission to South Africa.

"(ii) Of the amounts authorized to be appropriated to carry out this section and chapter 4 of part II of this Act for the fiscal years 1987, 1988, and 1989, up to an aggregate of $1,000,000 may be used in each such fiscal year for purposes of this subparagraph.

"(C)(i) In addition to the assistance authorized in subparagraph (A), the agency primarily responsible for administering this part shall provide assistance for inservice teacher training programs in South Africa through such nongovernmental organizations as TOPS or teachers' unions.

"(ii) Of the amounts authorized to be appropriated to carry out this section and chapter 4 of part II of this Act, up to an aggregate of $500,000 for the fiscal year 1987 and up to an aggregate of $1,000,000 for the fiscal year 1988 may be used for purposes of this subparagraph, subject to standard procedures for project review and approval.".

22 USC 2151 note.

(b) The Foreign Assistance Act of 1961 is amended by inserting after section 116 the following new section:

22 USC 2151o.

"SEC. 117. ASSISTANCE FOR DISADVANTAGED SOUTH AFRICANS.—In providing assistance under this chapter or under chapter 4 of part II of this Act for disadvantaged South Africans, priority shall be given to working with and through South African nongovernmental organizations whose leadership and staff are selected on a nonracial basis, and which have the support of the disadvantaged communities being served. The measure of this community support shall be the willingness of a substantial number of disadvantaged persons to participate in activities sponsored by these organizations. Such organizations to which such assistance may be provided include the

Educational Opportunities Council, the South African Institute of Race Relations, READ, professional teachers' unions, the Outreach Program of the University of the Western Cape, the Funda Center in Soweto, SACHED, UPP Trust, TOPS, the Wilgespruit Fellowship Center (WFC), and civic and other organizations working at the community level which do not receive funds from the Government of South Africa.".

HUMAN RIGHTS FUND

SEC. 202. (a) Section 116(e)(2)(A) of the Foreign Assistance Act of 1961 is amended— 22 USC 2151n.

(1) by striking out "1984 and" and inserting in lieu thereof "1984,"; and

(2) by inserting after "1985" a comma and the following: "and $1,500,000 for the fiscal year 1986 and for each fiscal year thereafter".

(b) Section 116 of such Act is amended by adding at the end thereof the following new subsection:

"(f)(1) Of the funds made available to carry out subsection (e)(2)(A) for each fiscal year, not less than $500,000 shall be used for direct legal and other assistance to political detainees and prisoners and their families, including the investigation of the killing of protesters and prisoners, and for support for actions of black-led community organizations to resist, through nonviolent means, the enforcement of apartheid policies such as—

"(A) removal of black populations from certain geographic areas on account of race or ethnic origin,

"(B) denationalization of blacks, including any distinctions between the South African citizenships of blacks and whites,

"(C) residence restrictions based on race or ethnic origin,

"(D) restrictions on the rights of blacks to seek employment in South Africa and to live wherever they find employment in South Africa, and Employment and unemployment.

"(E) restrictions which make it impossible for black employees and their families to be housed in family accommodations near their place of employment. Housing.

"(2)(A) No grant under this subsection may exceed $100,000. Grants.

"(B) The average of all grants under this paragraph made in any fiscal year shall not exceed $70,000.

"(g) Of the funds made available to carry out subsection (e)(2)(A) for each fiscal year, $175,000 shall be used for direct assistance to families of victims of violence such as 'necklacing' and other such inhumane acts. An additional $175,000 shall be made available to black groups in South Africa which are actively working toward a multi-racial solution to the sharing of political power in that country through nonviolent, constructive means.".

EXPANDING PARTICIPATION IN THE SOUTH AFRICAN ECONOMY

SEC. 203. (a) The Congress declares that— 22 USC 5031.

(1) the denial under the apartheid laws of South Africa of the rights of South African blacks and other nonwhites to have the opportunity to participate equitably in the South African economy as managers or owners of, or professionals in, business enterprises, and

(2) the policy of confining South African blacks and other nonwhites to the status of employees in minority-dominated businesses,

is an affront to the values of a free society.

(b) The Congress hereby—

(1) applauds the commitment of nationals of the United States adhering to the Code of Conduct to assure that South African blacks and other nonwhites are given assistance in gaining their rightful place in the South African economy; and

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(2) urges the United States Government to assist in all appropriate ways the realization by South African blacks and other nonwhites of their rightful place in the South African economy.

Business and industry.

(c) Notwithstanding any other provision of law, the Secretary of State and any other head of a department or agency of the United States carrying out activities in South Africa shall, to the maximum extent practicable, in procuring goods or services, make affirmative efforts to assist business enterprises having more than 50 percent beneficial ownership by South African blacks or other nonwhite South Africans.

EXPORT-IMPORT BANK OF THE UNITED STATES

12 USC 635.

SEC. 204. Section 2(b)(9) of the Export-Import Bank Act of 1945 is amended—

(1) by striking out "(9) In" and inserting in lieu thereof "(9)(A) Except as provided in subparagraph (B), in"; and

(2) by adding at the end thereof the following:

Business and industry.

"(B) The Bank shall take active steps to encourage the use of its facilities to guarantee, insure, extend credit, or participate in the extension of credit to business enterprises in South Africa that are majority owned by South African blacks or other nonwhite South Africans. The certification requirement contained in clause (c) of subparagraph (A) shall not apply to exports to or purchases from business enterprises which are majority owned by South African blacks or other nonwhite South Africans.".

LABOR PRACTICES OF THE UNITED STATES GOVERNMENT IN SOUTH AFRICA

Employment and unemployment.
22 USC 5032.

SEC. 205. (a) It is the sense of the Congress that the labor practices used by the United States Government—

(1) for the direct hire of South Africans,

(2) for the reimbursement out of official residence funds of South Africans and employees of South African organizations for their long-term employment services on behalf of the United States Government, and

Contracts.

(3) for the employment services of South Africans arranged by contract,

should represent the best of labor practices in the United States and should serve as a model for the labor practices of nationals of the United States in South Africa.

(b) The Secretary of State and any other head of a department or agency of the United States carrying out activities in South Africa shall promptly take, without regard to any provision of law, the necessary steps to ensure that the labor practices applied to the employment services described in paragraphs (1) through (3) of subsection (a) are governed by the Code of Conduct. Nothing in this

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section shall be construed to grant any employee of the United States the right to strike.

WELFARE AND PROTECTION OF VICTIMS OF APARTHEID BY THE UNITED STATES

SEC. 206. (a) The Secretary of State shall acquire, through lease or purchase, residential properties in the Republic of South Africa that shall be made available, at rents that are equitable, to assist victims of apartheid who are employees of the United States Government in obtaining adequate housing. Such properties shall be acquired only in neighborhoods which would be open to occupancy by other employees of the United States Government in South Africa.

Real property. Housing. 22 USC 5033.

(b) There are authorized to be appropriated $10,000,000 for the fiscal year 1987 to carry out the purposes of this section.

Appropriation authorization.

EMPLOYMENT PRACTICES OF UNITED STATES NATIONALS IN SOUTH AFRICA

SEC. 207. (a) Any national of the United States that employs more than 25 persons in South Africa shall take the necessary steps to insure that the Code of Conduct is implemented.

22 USC 5034.

Infra.

(b) No department or agency of the United States may intercede with any foreign government or foreign national regarding the export marketing activities in any country of any national of the United States employing more than 25 persons in South Africa that is not implementing the Code of Conduct.

Exports.

CODE OF CONDUCT

SEC. 208. (a) The Code of Conduct referred to in sections 203, 205, 207, and 603 of this Act is as follows:

22 USC 5035.

(1) desegregating the races in each employment facility;

(2) providing equal employment opportunity for all employees without regard to race or ethnic origin;

(3) assuring that the pay system is applied to all employees without regard to race or ethnic origin;

(4) establishing a minimum wage and salary structure based on the appropriate local minimum economic level which takes into account the needs of employees and their families;

(5) increasing by appropriate means the number of persons in managerial, supervisory, administrative, clerical, and technical jobs who are disadvantaged by the apartheid system for the purpose of significantly increasing their representation in such jobs;

(6) taking reasonable steps to improve the quality of employees' lives outside the work environment with respect to housing, transportation, schooling, recreation, and health; and

(7) implementing fair labor practices by recognizing the right of all employees, regardless of racial or other distinctions, to self-organization and to form, join, or assist labor organizations, freely and without penalty or reprisal, and recognizing the right to refrain from any such activity.

(b) It is the sense of the Congress that in addition to the principles enumerated in subsection (a), nationals of the United States subject to section 207 should seek to comply with the following principle: taking reasonable measures to extend the scope of influence on activities outside the workplace, including—

(1) supporting the unrestricted rights of black businesses to locate in urban areas;

(2) influencing other companies in South Africa to follow the standards of equal rights principles;

(3) supporting the freedom of mobility of black workers to seek employment opportunities wherever they exist, and make provision for adequate housing for families of employees within the proximity of workers' employment; and

(4) supporting the rescission of all apartheid laws.

President of U.S.

(c) The President may issue additional guidelines and criteria to assist persons who are or may be subject to section 207 in complying with the principles set forth in subsection (a) of this section. The President may, upon request, give an advisory opinion to any person who is or may be subject to this section as to whether that person is subject to this section or would be considered to be in compliance with the principles set forth in subsection (a).

President of U.S.

(d) The President may require all nationals of the United States referred to in section 207 to register with the United States Government.

President of U.S. Contracts.

(e) Notwithstanding any other provision of law, the President may enter into contracts with one or more private organizations or individuals to assist in implementing this section.

PROHIBITION ON ASSISTANCE

22 USC 5036.

SEC. 209. No assistance may be provided under this Act to any group which maintains within its ranks any individual who has been found to engage in gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961).

22 USC 2304.

USE OF THE AFRICAN EMERGENCY RESERVE

President of U.S. 22 USC 5037.

SEC. 210. Whenever the President determines that such action is necessary or appropriate to meet food shortages in southern Africa, the President is authorized to utilize the existing, authorized, and funded reserve entitled the "Emergency Reserve for African Famine Relief" to provide food assistance and transportation for that assistance.

PROHIBITION ON ASSISTANCE TO ANY PERSON OR GROUP ENGAGING IN "NECKLACING"

22 USC 5038. 22 USC 2151 note.

SEC. 211. No assistance may be provided under this Act, the Foreign Assistance Act of 1961, or any other provision of law to any individual, group, organization, or member thereof, or entity that directly or indirectly engages in, advocates, supports, or approves the practice of execution by fire, commonly known as "necklacing".

PARTICIPATION OF SOUTH AFRICA IN AGRICULTURAL EXPORT CREDIT AND PROMOTION PROGRAMS

22 USC 5039.

SEC. 212. Notwithstanding any other provision of this Act or any other provision of law, the Secretary of Agriculture may permit South Africa to participate in agricultural export credit and promotion programs conducted by the Secretary at similar levels, and under similar terms and conditions, as other countries that have

traditionally purchased United States agricultural commodities and the products thereof.

TITLE III—MEASURES BY THE UNITED STATES TO UNDERMINE APARTHEID

PROHIBITION ON THE IMPORTATION OF KRUGERRANDS

SEC. 301. No person, including a bank, may import into the United States any South African krugerrand or any other gold coin minted in South Africa or offered for sale by the Government of South Africa.

Banks and banking.
22 USC 5051.

PROHIBITION ON THE IMPORTATION OF MILITARY ARTICLES

SEC. 302. No arms, ammunition, or military vehicles produced in South Africa or any manufacturing data for such articles may be imported into the United States.

22 USC 5052.

PROHIBITION ON THE IMPORTATION OF PRODUCTS FROM PARASTATAL ORGANIZATIONS

SEC. 303. (a) Notwithstanding any other provision of law, no article which is grown, produced, manufactured by, marketed, or otherwise exported by a parastatal organization of South Africa may be imported into the United States, (1) except for agricultural products during the 12-month period from the date of enactment; and (2) except for those strategic minerals for which the President has certified to the Congress that the quantities essential for the economy or defense of the United States are unavailable from reliable and secure suppliers and except for any article to be imported pursuant to a contract entered into before August 15, 1986: *Provided,* That no shipments may be received by a national of the United States under such contract after April 1, 1987.

Agriculture and agricultural products.
Defense and national security.
22 USC 5053.

(b) For purposes of this section, the term "parastatal organization" means a corporation or partnership owned or controlled or subsidized by the Government of South Africa, but does not mean a corporation or partnership which previously received start-up assistance from the South African Industrial Development Corporation but which is now privately owned.

PROHIBITION ON COMPUTER EXPORTS TO SOUTH AFRICA

SEC. 304. (a) No computers, computer software, or goods or technology intended to manufacture or service computers may be exported to or for use by any of the following entities of the Government of South Africa:

22 USC 5054.

(1) The military.
(2) The police.
(3) The prison system.
(4) The national security agencies.
(5) ARMSCOR and its subsidiaries or the weapons research activities of the Council for Scientific and Industrial Research.
(6) The administering authorities for controlling the movements of the victims of apartheid.
(7) Any apartheid enforcing agency.

(8) Any local, regional, or homelands government entity which performs any function of any entity described in paragraphs (1) through (7).

(b)(1) Computers, computer software, and goods or technology intended to service computers may be exported, directly or indirectly, to or for use by an entity of the Government of South Africa other than those set forth in subsection (a) only if a system of end use verification is in effect to ensure that the computers involved will not be used for any function of any entity set forth in subsection (a).

Regulations.

(2) The Secretary of Commerce may prescribe such rules and regulations as may be necessary to carry out this section.

PROHIBITION ON LOANS TO THE GOVERNMENT OF SOUTH AFRICA

22 USC 5055.

SEC. 305. (a) No national of the United States may make or approve any loan or other extension of credit, directly or indirectly, to the Government of South Africa or to any corporation, partnership or other organization which is owned or controlled by the Government of South Africa.

(b) The prohibition contained in subsection (a) shall not apply to—

(1) a loan or extension of credit for any education, housing, or humanitarian benefit which—

(A) is available to all persons on a nondiscriminatory basis; or

(B) is available in a geographic area accessible to all population groups without any legal or administrative restriction; or

(2) a loan or extension of credit for which an agreement is entered into before the date of enactment of this Act.

PROHIBITION ON AIR TRANSPORTATION WITH SOUTH AFRICA

President of U.S.
22 USC 5056.

SEC. 306. (a)(1) The President shall immediately notify the Government of South Africa of his intention to suspend the rights of any air carrier designated by the Government of South Africa under the Agreement Between the Government of the United States of America and the Government of the Union of South Africa Relating to Air Services Between Their Respective Territories, signed May 23, 1947, to service the routes provided in the Agreement.

61 Stat. 3057.

President of U.S.

(2) Ten days after the date of enactment of this Act, the President shall direct the Secretary of Transportation to revoke the right of any air carrier designated by the Government of South Africa under the Agreement to provide service pursuant to the Agreement.

President of U.S.

(3) Ten days after the date of enactment of this Act, the President shall direct the Secretary of Transportation not to permit or otherwise designate any United States air carrier to provide service between the United States and South Africa pursuant to the Agreement.

(b)(1) The Secretary of State shall terminate the Agreement Between the Government of the United States of America and the Government of the Union of South Africa Relating to Air Services Between Their Respective Territories, signed May 23, 1947, in accordance with the provisions of that agreement.

(2) Upon termination of such agreement, the Secretary of Transportation shall prohibit any aircraft of a foreign air carrier owned, directly or indirectly, by the Government of South Africa or

by South African nationals from engaging in air transportation with respect to the United States.

(3) The Secretary of Transportation shall prohibit the takeoff and landing in South Africa of any aircraft by an air carrier owned, directly or indirectly, or controlled by a national of the United States or by any corporation or other entity organized under the laws of the United States or of any State.

State and local governments.

(c) The Secretary of Transportation may provide for such exceptions from the prohibition contained in subsection (a) or (b) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

Safety.

(d) For purposes of this section, the terms "aircraft", "air transportation", and "foreign air carrier" have the meanings given those terms in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301).

49 USC app. 1301.

PROHIBITIONS ON NUCLEAR TRADE WITH SOUTH AFRICA

SEC. 307. (a) Notwithstanding any other provision of law—

Exports. Science and technology. 22 USC 5057. 42 USC 2139.

(1) the Nuclear Regulatory Commission shall not issue any license for the export to South Africa of production or utilization facilities, any source or special nuclear material or sensitive nuclear technology, or any component parts, items, or substances which the Commission has determined, pursuant to section 109b. of the Atomic Energy Act, to be especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes;

(2) the Secretary of Commerce shall not issue any license for the export to South Africa of any goods or technology which have been determined, pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978, to be of significance for nuclear explosive purposes for use in, or judged by the President to be likely to be diverted to, a South African production or utilization facility;

42 USC 2139a.

(3) the Secretary of Energy shall not, under section 57b.(2) of the Atomic Energy Act, authorize any person to engage, directly or indirectly, in the production of special nuclear material in South Africa; and

42 USC 2077.

(4) no goods, technology, source or special nuclear material, facilities, components, items, or substances referred to in clauses (1) through (3) shall be approved by the Nuclear Regulatory Commission or an executive branch agency for retransfer to South Africa,

unless the Secretary of State determines and certifies to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that the Government of South Africa is a party to the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow on July 1, 1968, or otherwise maintains International Atomic Energy Agency safeguards on all its peaceful nuclear activities, as defined in the Nuclear Non-Proliferation Act of 1978.

21 UST 483.

22 USC 3201 note.

(b) Nothing in this section shall preclude—

Exports.

(1) any export, retransfer, or activity generally licensed or generally authorized by the Nuclear Regulatory Commission or the Department of Commerce or the Department of Energy; or

(2) assistance for the purpose of developing or applying International Atomic Energy Agency or United States bilateral

Research and development. Health and medical care. Safety.

safeguards, for International Atomic Energy Agency programs generally available to its member states, for reducing the use of highly enriched uranium in research or test reactors, or for other technical programs for the purpose of reducing proliferation risks, such as programs to extend the life of reactor fuel and activities envisaged by section 223 of the Nuclear Waste Policy Act of 1982 or which are necessary for humanitarian reasons to protect the public health and safety.

42 USC 10203.

Exports. Defense and national security. President of U.S.

(c) The prohibitions contained in subsection (a) shall not apply with respect to a particular export, retransfer, or activity, or a group of exports, retransfers, or activities, if the President determines that to apply the prohibitions would be seriously prejudicial to the achievement of United States nonproliferation objectives or would otherwise jeopardize the common defense and security of the United States and, if at least 60 days before the initial export, retransfer, or activity is carried out, the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report setting forth that determination, together with his reasons therefor.

GOVERNMENT OF SOUTH AFRICA BANK ACCOUNTS

22 USC 5058.

SEC. 308. (a) A United States depository institution may not accept, receive, or hold a deposit account from the Government of South Africa or from any agency or entity owned or controlled by the Government of South Africa except for such accounts which may be authorized by the President for diplomatic or consular purposes. For purposes of the preceding sentence, the term "depository institution" has the same meaning as in section 19(b)(1) of the Federal Reserve Act.

12 USC 461.

Effective date.

(b) The prohibition contained in subsection (a) shall take effect 45 days after the date of enactment of this Act.

PROHIBITION ON IMPORTATION OF URANIUM AND COAL FROM SOUTH AFRICA

22 USC 5059.

SEC. 309. (a) Notwithstanding any other provision of law, no—

(1) uranium ore,
(2) uranium oxide,
(3) coal, or
(4) textiles,

that is produced or manufactured in South Africa may be imported into the United States.

Effective date.

(b) This section shall take effect 90 days after the date of enactment of this Act.

PROHIBITION ON NEW INVESTMENT IN SOUTH AFRICA

22 USC 5060.

SEC. 310. (a) No national of the United States may, directly or through another person, make any new investment in South Africa.

Effective date.

(b) The prohibition contained in subsection (a) shall take effect 45 days after the date of enactment of this Act.

(c) The prohibition contained in this section shall not apply to a firm owned by black South Africans.

TERMINATION OF CERTAIN PROVISIONS

SEC. 311. (a) This title and sections 501(c) and 504(b) shall terminate if the Government of South Africa— 22 USC 5061.

(1) releases all persons persecuted for their political beliefs or detained unduly without trial and Nelson Mandela from prison; Nelson Mandela.

(2) repeals the state of emergency in effect on the date of enactment of this Act and releases all detainees held under such state of emergency;

(3) unbans democratic political parties and permits the free exercise by South Africans of all races of the right to form political parties, express political opinions, and otherwise participate in the political process;

(4) repeals the Group Areas Act and the Population Registration Act and institutes no other measures with the same purposes; and

(5) agrees to enter into good faith negotiations with truly representative members of the black majority without preconditions.

(b) The President may suspend or modify any of the measures required by this title or section 501(c) or section 504(b) thirty days after he determines, and so reports to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, that the Government of South Africa has— President of U.S.

(1) taken the action described in paragraph (1) of subsection (a),

(2) taken three of the four actions listed in paragraphs (2) through (5) of subsection (a), and

(3) made substantial progress toward dismantling the system of apartheid and establishing a nonracial democracy,

unless the Congress enacts within such 30-day period, in accordance with section 602 of this Act, a joint resolution disapproving the determination of the President under this subsection.

(c) It is the policy of the United States to support the negotiations with the representatives of all communities as envisioned in this Act. If the South African Government agrees to enter into negotiations without preconditions, abandons unprovoked violence against its opponents, commits itself to a free and democratic post-apartheid South Africa under a code of law; and if nonetheless the African National Congress, the Pan African Congress, or their affiliates, or other organizations, refuse to participate; or if the African National Congress, the Pan African Congress or other organizations— African National Congress. Pan African Congress.

(1) refuse to abandon unprovoked violence during such negotiations; and

(2) refuse to commit themselves to a free and democratic post-apartheid South Africa under a code of law,

then the United States will support negotiations which do not include these organizations.

POLICY TOWARD VIOLENCE OR TERRORISM

SEC. 312. (a) United States policy toward violence in South Africa shall be designed to bring about an immediate end to such violence and to promote negotiations concluding with a removal of the system of apartheid and the establishment of a non-racial democracy in South Africa. 22 USC 5062.

(b) The United States shall work toward this goal by diplomatic and other measures designed to isolate those who promote terrorist attacks on unarmed civilians or those who provide assistance to individuals or groups promoting such activities.

(c) The Congress declares that the abhorrent practice of "necklacing" and other equally inhumane acts which have been practices in South Africa by blacks against fellow blacks are an affront to all throughout the world who value the rights of individuals to live in an atmosphere free from fear of violent reprisals.

TERMINATION OF TAX TREATY AND PROTOCOL

22 USC 5063.

SEC. 313. The Secretary of State shall terminate immediately the following convention and protocol, in accordance with its terms, the Convention Between the Government of the United States of America and the Government of the Union of South Africa for the Avoidance of Double Taxation and for Establishing Rules of Reciprocal Administrative Assistance With Respect to Taxes on Income, done at Pretoria on December 13, 1946, and the protocol relating thereto.

3 UST 3821.

PROHIBITION ON UNITED STATES GOVERNMENT PROCUREMENT FROM SOUTH AFRICA

Contracts.
22 USC 5064.

SEC. 314. On or after the date of enactment of this Act, no department, agency or any other entity of the United States Government may enter into a contract for the procurement of goods or services from parastatal organizations except for items necessary for diplomatic and consular purposes.

PROHIBITION ON THE PROMOTION OF UNITED STATES TOURISM IN SOUTH AFRICA

22 USC 5065.

SEC. 315. None of the funds appropriated or otherwise made available by any provision of law may be available to promote United States tourism in South Africa.

PROHIBITION ON UNITED STATES GOVERNMENT ASSISTANCE TO, INVESTMENT IN, OR SUBSIDY FOR TRADE WITH, SOUTH AFRICA

22 USC 5066.

SEC. 316. None of the funds appropriated or otherwise made available by any provision of law may be available for any assistance to investment in, or any subsidy for trade with, South Africa, including but not limited to funding for trade missions in South Africa and for participation in exhibitions and trade fairs in South Africa.

PROHIBITION ON SALE OR EXPORT OF ITEMS ON MUNITIONS LIST

22 USC 5067.

SEC. 317. (a) Except as provided in subsection (b), no item contained on the United States Munition List which is subject to the jurisdiction of the United States may be exported to South Africa.

(b) Subsection (a) does not apply to any item which is not covered by the United Nations Security Council Resolution 418 of November 4, 1977, and which the President determines is exported solely for commercial purposes and not exported for use by the armed forces, police, or other security forces of South Africa or for other military use.

(c) The President shall prepare and submit to Congress every six months a report describing any license issued pursuant to subsection (b). President of U.S. Reports.

MUNITIONS LIST SALES, NOTIFICATION

SEC. 318. (a) Notwithstanding any other provision of this Act, the President shall: President of U.S. Exports. 22 USC 5068.

(i) notify the Congress of his intent to allow the export to South Africa any item which is on the United States Munition List and which is not covered by the United Nations Security Council Resolution 418 of November 4, 1977, and

(ii) certify that such item shall be used solely for commercial purposes and not exported for use by the armed forces, police, or other security forces of South Africa or for other military use.

(b) The Congress shall have 30 calendar days of continuous session (computed as provided in section 906(b) of title 5, United States Code) to disapprove by joint resolution of any such sale. Congress.

PROHIBITION ON IMPORTATION OF SOUTH AFRICAN AGRICULTURAL PRODUCTS AND FOOD

SEC. 319. Notwithstanding any other provision of law, no: 22 USC 5069.

(1) agricultural commodity, product, byproduct of derivitive thereof,

(2) article that is suitable for human consumption, that is a product of South Africa may be imported into the customs territory of the United States after the date of enactment of this Act.

PROHIBITION ON IMPORTATION OF IRON AND STEEL

SEC. 320. Notwithstanding any other provision of law, no iron or steel produced in South Africa may be imported into the United States. 22 USC 5070.

PROHIBITION ON EXPORTS OF CRUDE OIL AND PETROLEUM PRODUCTS

SEC. 321. (a) No crude oil or refined petroleum product which is subject to the jurisdiction of the United States or which is exported by a person subject to the jurisdiction of the United States may be exported to South Africa. 22 USC 5071.

(b) Subsection (a) does not apply to any export pursuant to a contract entered into before the date of enactment of this Act.

PROHIBITION ON COOPERATION WITH THE ARMED FORCES OF SOUTH AFRICA

SEC. 322. No agency or entity of the United States may engage in any form of cooperation, direct or indirect, with the armed forces of the Government of South Africa, except activities which are reasonably designed to facilitate the collection of necessary intelligence. Each such activity shall be considered a significant anticipated intelligence activity for purposes of section 501 of the National Security Act of 1947. 22 USC 5072. 50 USC 413.

PROHIBITIONS ON SUGAR IMPORTS

SEC. 323. (a)(1) Notwithstanding any other provision of law, no sugars, sirups, or molasses that are products of the Republic of 22 USC 5073.

South Africa may be imported into the United States after the date of enactment of this Act.

Philippines.

(2) The aggregate quantity of sugars, sirups, and molasses that—

(A) are products of the Philippines, and

(B) may be imported into the United States (determined without regard to this paragraph) under any limitation imposed by law on the quantity of all sugars, sirups, and molasses that may be imported into the United States during any period of time occurring after the date of enactment of this Act,

shall be increased by the aggregate quantity of sugars, sirups, and molasses that are products of the Republic of South Africa which may have been imported into the United States under such limitation during such period if this section did not apply to such period.

Tariff Schedules of the U.S. 19 USC 1202 and note. Philippines.

(b)(1) Paragraph (c)(i) of headnote 3 of subpart A of part 10 of schedule 1 of the Tariff Schedules of the United States is amended—

(A) by striking out "13.5" in the item relating to the Philippines in the table and inserting in lieu thereof "15.8", and

(B) by striking out the item relating to the Republic of South Africa in the table.

(2) Paragraph (c) of headnote 3 of subpart A of part 10 of schedule 1 of the Tariff Schedules of the United States is amended by adding at the end thereof the following new subparagraph:

"(iii) Notwithstanding any authority given to the United States Trade Representative under paragraphs (e) and (g) of this headnote—

Philippines.

"(A) the percentage allocation made to the Philippines under this paragraph may not be reduced, and

"(B) no allocation may be made to the Republic of South Africa,

in allocating any limitation imposed under any paragraph of this headnote on the quantity of sugars, sirups, and molasses described in items 155.20 and 155.30 which may be entered.".

TITLE IV—MULTILATERAL MEASURES TO UNDERMINE APARTHEID

NEGOTIATING AUTHORITY

International agreements. 22 USC 5081.

SEC. 401. (a) It is the policy of the United States to seek international cooperative agreements with the other industrialized democracies to bring about the complete dismantling of apartheid. Sanctions imposed under such agreements should be both direct and official executive or legislative acts of governments. The net economic effect of such cooperative should be measurably greater than the net economic effect of the measures imposed by this Act.

President of U.S.

(b)(1) Negotiations to reach international cooperative arrangements with the other industrialized democracies and other trading partners of South Africa on measures to bring about the complete dismantling of apartheid should begin promptly and should be concluded not later than 180 days from the enactment of this Act. During this period, the President or, at his direction, the Secretary of State should convene an international conference of the other industrialized democracies in order to reach cooperative agreements to impose sanctions against South Africa to bring about the complete dismantling of apartheid.

President of U.S. Reports.

(2) The President shall, not less than 180 days after the date of enactment of this Act, submit to the Congress a report containing—

(A) a description of United States efforts to negotiate multilateral measures to bring about the complete dismantling of apartheid; and

(B) a detailed description of economic and other measures adopted by the other industrialized countries to bring about the complete dismantling of apartheid, including an assessment of the stringency with which such measures are enforced by those countries.

(c) If the President successfully concludes an international agreement described in subsection (b)(1), he may, after such agreement enters into force with respect to the United States, adjust, modify, or otherwise amend the measures imposed under any provision of sections 301 through 310 to conform with such agreement.

(d) Each agreement submitted to the Congress under this subsection shall enter into force with respect to the United States if (and only if)—

(1) the President, not less than 30 days before the day on which he enters into such agreement, notifies the House of Representatives and the Senate of his intention to enter into such an agreement, and promptly thereafter publishes notice of such intention in the Federal Register; President of U.S. Federal Register, publication.

(2) after entering into the agreement, the President transmits to the House of Representatives and to the Senate a document containing a copy of the final legal text of such agreement, together with— President of U.S.

(A) a description of any administrative action proposed to implement such agreement and an explanation as to how the proposed administrative action would change or affect existing law, and

(B) a statement of his reasons as to how the agreement serves the interest of United States foreign policy and as to why the proposed administrative action is required or appropriate to carry out the agreement; and

(3) a joint resolution approving such agreement has been enacted within 30 days of transmittal of such document to the Congress.

(e) It is the sense of the Congress that the President should instruct the Permanent Representative of the United States to the United Nations to propose that the United Nations Security Council, pursuant to Article 41 of the United Nations Charter, impose measures against South Africa of the same type as are imposed by this Act. President of U.S.

LIMITATION ON IMPORTS FROM OTHER COUNTRIES

SEC. 402. The President is authorized to limit the importation into the United States of any product or service of a foreign country to the extent to which such foreign country benefits from, or otherwise takes commercial advantage of, any sanction or prohibition against any national of the United States imposed by or under this Act. President of U.S. 22 USC 5082.

PRIVATE RIGHT OF ACTION

SEC. 403. (a) Any national of the United States who is required by this Act to terminate or curtail business activities in South Africa may bring a civil action for damages against any person, partnership, or corporation that takes commercial advantage or otherwise benefits from such termination or curtailment. Claims. Securities. 22 USC 5083.

(b) The action described in subsection (a) may only be brought, without respect to the amount in controversy, in the United States district court for the District of Columbia or the Court of International Trade. Damages which may be recovered include lost profits and the cost of bringing the action, including a reasonable attorney's fee.

(c) The injured party must show by a preponderance of the evidence that the damages have been the direct result of defendant's action taken with the deliberate intent to injure the party.

TITLE V—FUTURE POLICY TOWARD SOUTH AFRICA

ADDITIONAL MEASURES

22 USC 5091.

SEC. 501. (a) It shall be the policy of the United States to impose additional measures against the Government of South Africa if substantial progress has not been made within twelve months of the date of enactment of this Act in ending the system of apartheid and establishing a nonracial democracy.

President of U.S. Reports.

(b) The President shall prepare and transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate within twelve months of the date of enactment of this Act, and every twelve months thereafter, a report on the extent to which significant progress has been made toward ending the system of apartheid, including—

(1) an assessment of the extent to which the Government of South Africa has taken the steps set forth in section 101(b) of this Act;

(2) an analysis of any other actions taken by the Government of South Africa in ending the system of apartheid and moving toward a nonracial democracy; and

(3) the progress, or lack of progress, made in reaching a negotiated settlement to the conflict in South Africa.

President of U.S. Reports. Imports.

(c) If the President determines that significant progress has not been made by the Government of South Africa in ending the system of apartheid and establishing a nonracial democracy, the President shall include in the report required by subsection (b) a recommendation on which of the following additional measures should be imposed:

(1) a prohibition on the importation of steel from South Africa;

Weapons.

(2) a prohibition on military assistance to those countries that the report required by section 508 identifies as continuing to circumvent the international embargo on arms and military technology to South Africa;

(3) a prohibition on the importation of food, agricultural products, diamonds, and textiles from South Africa;

Banks and banking.

(4) a prohibition on United States banks accepting, receiving, or holding deposit accounts from South African nationals; and

(5) a prohibition on the importation into the United States of strategic minerals from South Africa.

(d) A joint resolution which would enact part or all of the measures recommended by the President pursuant to subsection (c) shall be considered in accordance with the provisions of section 602 of this Act.

LIFTING OF PROHIBITIONS

SEC. 502. (a) Notwithstanding any other provision of this Act, the President may lift any prohibition contained in this Act imposed against South Africa if the President determines, after six months from the date of the imposition of such prohibition, and so reports to Congress, that such prohibition would increase United States dependence upon any member country or observer country of the Council for Mutual Economic Assistance (C.M.E.A.) for the importation of coal or any strategic and critical material by an amount which exceeds by weight the average amounts of such imports from such country during the period 1981 through 1985.

President of U.S. Reports. Imports. 22 USC 5092.

(b)(1) Not later than 30 days after the date of enactment of this Act, the Secretary of Commerce shall prepare and transmit to the Congress a report setting forth for each country described in subsection (a)—

Reports.

(A) the average amount of such imports from such country during the period of 1981 through 1985; and

(B) the current amount of such imports from such country entering the United States.

(2) Thirty days after transmittal of the report required by paragraph (1) and every thirty days thereafter, the President shall prepare and transmit the information described in paragraph (1)(B).

President of U.S.

STUDY OF HEALTH CONDITIONS IN THE "HOMELANDS" AREAS OF SOUTH AFRICA

SEC. 503. The Secretary of State shall conduct a study to examine the state of health conditions and to determine the extent of starvation and malnutrition now prevalent in the "homelands" areas of South Africa and shall, not later than December 1, 1986, prepare and transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report setting forth the results of such study.

Reports. 22 USC 5093.

REPORT ON SOUTH AFRICAN IMPORTS

SEC. 504. (a) Not later than 90 days after the date of enactment of this Act, the President shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report on the extent to which the United States is dependent on the importation from South Africa of—

President of U.S. 22 USC 5094.

(1) chromium,

(2) cobalt,

(3) manganese,

(4) platinum group metals,

(5) ferroalloys, and

(6) other strategic and critical materials (within the meaning of the Strategic and Critical Materials Stock Piling Act).

50 USC 98 *et seq.*

(b) The President shall develop a program which reduces the dependence, if any, of the United States on the importation from South Africa of the materials identified in the report submitted under subsection (a).

STUDY AND REPORT ON THE ECONOMY OF SOUTHERN AFRICA

SEC. 505. (a) The President shall conduct a study on the role of American assistance in southern Africa to determine what needs to

President of U.S. Commerce and trade. Securities. Transportation. 22 USC 5095.

be done, and what can be done to expand the trade, private investment, and transport prospects of southern Africa's landlocked nations.

President of U.S. Reports.

(b) Not later than 180 days after the date of enactment of this Act, the President shall prepare and transmit to the chairman of the Committee on Foreign Affairs of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report setting forth the findings of the study conducted under subsection (a).

REPORT ON RELATIONS BETWEEN OTHER INDUSTRIALIZED DEMOCRACIES AND SOUTH AFRICA

President of U.S. 22 USC 5096.

SEC. 506. (a) Not later than 180 days after the date of enactment of this Act, the President shall prepare and transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report containing a detailed assessment of the economic and other relationships of other industrialized democracies with South Africa. Such report shall be transmitted without regard to whether or not the President successfully concluded an international agreement under section 401.

(b) For purposes of this section, the phrase "economic and other relationships" includes the same types of matters as are described in sections 201, 202, 204, 205, 206, 207, sections 301 through 307, and sections 309 and 310 of this Act.

STUDY AND REPORT ON DEPOSIT ACCOUNTS OF SOUTH AFRICAN NATIONALS IN UNITED STATES BANKS

22 USC 5097.

SEC. 507. (a)(1) The Secretary of the Treasury shall conduct a study on the feasibility of prohibiting each depository institution from accepting, receiving, or holding a deposit account from any South African national.

(2) For purposes of paragraph (1), the term "depository institution" has the same meaning as in section 19(b)(1) of the Federal Reserve Act.

12 USC 461.

(b) Not later than 180 days after the date of enactment of this Act, the Secretary of the Treasury shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report detailing the findings of the study required by subsection (a).

STUDY AND REPORT ON THE VIOLATION OF THE INTERNATIONAL EMBARGO ON SALE AND EXPORT OF MILITARY ARTICLES TO SOUTH AFRICA

President of U.S. 22 USC 5098.

SEC. 508. (a) The President shall conduct a study on the extent to which the international embargo on the sale and exports of arms and military technology to South Africa is being violated.

(b) Not later than 179 days after the date of enactment of this Act, the President shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report setting forth the findings of the study required by subsection (a), including an identification of those countries engaged in such sale or export, with a view to terminating United States military assistance to those countries.

REPORT ON COMMUNIST ACTIVITIES IN SOUTH AFRICA

SEC. 509. (a) Not later than 90 days after the date of enactment of this Act, the President shall prepare and transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Affairs of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate an unclassified version of a report, prepared with the assistance of the Director of the Central Intelligence Agency, the Director of the Defense Intelligence Agency, the National Security Advisor, and other relevant United States Government officials in the intelligence community, which shall set forth the activities of the Communist Party in South Africa, the extent to which Communists have infiltrated the many black and nonwhite South African organizations engaged in the fight against the apartheid system, and the extent to which any such Communist infiltration or influence sets the policies and goals of the organizations with which they are involved.

President of U.S. Public information. 22 USC 5099.

(b) At the same time the unclassified report in subsection (a) is transmitted as set forth in that subsection, a classified version of the same report shall be transmitted to the chairmen of the Select Committee on Intelligence of the Senate and of the Permanent Select Committee on Intelligence of the House of Representatives.

Classified information.

PROHIBITION ON THE IMPORTATION OF SOVIET GOLD COINS

SEC. 510. (a) No person, including a bank, may import into the United States any gold coin minted in the Union of Soviet Socialist Republics or offered for sale by the Government of the Union of Soviet Socialist Republics.

Banks and banking. 22 USC 5100.

(b) For purposes of this section, the term "United States" includes the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(c) Any individual who violates this section or any regulations issued to carry out this section shall be fined not more than five times the value of the rubles involved.

Law enforcement and crime.

ECONOMIC SUPPORT FOR DISADVANTAGED SOUTH AFRICANS

SEC. 511 (a) Chapter 4 of part II of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 535. ECONOMIC SUPPORT FOR DISADVANTAGED SOUTH AFRICANS.—(a)(1) Up to $40,000,000 of the funds authorized to be appropriated to carry out this chapter for the fiscal year 1987 and each fiscal year thereafter shall be available for assistance for disadvantaged South Africans. Assistance under this section shall be provided for activities that are consistent with the objective of a majority of South Africans for an end to the apartheid system and the establishment of a society based on non-racial principles. Such activities may include scholarships, assistance to promote the participation of disadvantaged South Africans in trade unions and private enterprise, alternative education and community development programs.

Commerce and trade. Education. Community development. 22 USC 2346d.

"(2) Up to $3,000,000 of the amounts provided in each fiscal year pursuant to subsection (a) shall be available for training programs for South Africa's trade unionists.

"(b) Assistance provided pursuant to the section shall be made available notwithstanding any other provision of law and shall not be used to provide support to organizations or groups which are financed or controlled by the Government of South Africa. Nothing in this subsection may be construed to prohibit programs which are consistent with subsection (a) and which award scholarships to students who choose to attend South African-supported institutions.".

Education.

Reports. 22 USC 2346d note.

(b) Not later than 90 days after the date of enactment of this Act, the Secretary of State shall prepare and transmit to the Congress a report describing the strategy of the President during the five-year period beginning on such date regarding the assistance of black Africans pursuant to section 535 of the Foreign Assistance Act of 1961 and describing the programs and projects to be funded under such section.

Ante, p. 1111.

REPORT ON THE AFRICAN NATIONAL CONGRESS

22 USC 5101.

SEC. 512. (a) Not later than 180 days after the date of enactment of this Act, the Attorney General shall prepare and transmit to the Congress a report on actual and alleged violations of the Foreign Agents Registration Act of 1938, and the status of any investigation pertaining thereto, by representatives of governments or opposition movements in Subsaharan Africa, including, but not limited to, members or representatives of the African National Congress.

22 USC 611.

(b) For purposes of conducting any investigations necessary in order to provide a full and complete report, the Attorney General shall have full authority to utilize civil investigative demand procedures, including but not limited to the issuance of civil subpenas.

TITLE VI—ENFORCEMENT AND ADMINISTRATIVE PROVISIONS

REGULATORY AUTHORITY

President of U.S. Regulations. 22 USC 5111. 50 USC 1701 note. 50 USC 1701 note.

SEC. 601. The President shall issue such rules, regulations, licenses, and orders as are necessary to carry out the provisions of this Act, including taking such steps as may be necessary to continue in effect the measures imposed by Executive Order 12532 of September 9, 1985, and Executive Order 12535 of October 1, 1985, and by any rule, regulation, license, or order issued thereunder (to the extent such measures are not inconsistent with this Act).

CONGRESSIONAL PRIORITY PROCEDURES

22 USC 5112.

SEC. 602. (a)(1) The provisions of this subsection apply to the consideration in the House of Representatives of a joint resolution under sections 311(b), 401(d), and 501(d).

(2) A joint resolution shall, upon introduction, be referred to the Committee on Foreign Affairs of the House of Representatives.

(3)(A) At any time after the joint resolution placed on the appropriate calendar has been on that calendar for a period of 5 legislative days, it is in order for any Member of the House (after consultation with the Speaker as to the most appropriate time for the consideration of that joint resolution) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of that joint resolution. The motion is highly privileged and is in order even though a previous motion to

the same effect has been disagreed to. All points of order against the joint resolution under clauses 2 and 6 of Rule XXI of the Rules of the House are waived. If the motion is agreed to, the resolution shall remain the unfinished business of the House until disposed of. A motion to reconsider the vote by which the motion is disagreed to shall not be in order.

(B) Debate on the joint resolution shall not exceed ten hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion to limit debate is in order at any time in the House or in the Committee of the Whole and is not debatable.

(C) An amendment to the joint resolution is not in order.

(D) At the conclusion of the debate on the joint resolution, the Committee of the Whole shall rise and report the joint resolution back to the House, and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion.

(b)(1) The provisions of this subsection apply to the consideration in the Senate of a joint resolution under section 311(b), 401(d), or 501(d).

(2) A joint resolution shall, upon introduction, be referred to the Committee on Foreign Relations of the Senate.

(3) A joint resolution described in this section shall be considered in the Senate in accordance with procedures contained in paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98-473), except that— 98 Stat. 1935.

(A) references in such paragraphs to the Committee on Appropriations of the Senate shall be deemed to be references to the Committee on Foreign Relations of the Senate; and

(B) amendments to the joint resolution are in order.

(c) For purposes of this subsection, the term "joint resolution" means only—

(A) in the case of section 311(b), a joint resolution which is introduced in a House of Congress within 3 legislative days after the Congress receives the report described in section 311(b) and for which the matter after the resolving clause reads as follows: "That the Congress, having received on the report of the President containing the determination required by section 311(b) of the Comprehensive Anti-Apartheid Act of 1986, disapproves of such determination.", with the date of the receipt of the report inserted in the blank;

(B) in the case of section 401(d)(3), a joint resolution which is introduced in a House of Congress within 3 legislative days after the Congress receives the document described in section 401(d)(2) and for which the matter after the resolving clause reads as follows: "That the Congress, having received on the text of the international agreement described in section 401(d)(3) of the Comprehensive Anti-Apartheid Act of 1986, approves of such agreement.", with the date of the receipt of the text of the agreement inserted in the blank; and

(C) in the case of section 501(d), a joint resolution which is introduced in a House of Congress within 3 legislative days after the Congress receives the determination of the President pursuant to section 501(c) and for which the matter after the resolving clause reads as follows: "That the Congress, having received on a determination of the President under section

501(c) of the Comprehensive Anti-Apartheid Act of 1986, approves the President's determination.", with the date of the receipt of the determination inserted in the blank.

(d) As used in this section, the term "legislative day" means a day on which the House of Representatives or the Senate is in session, as the case may be.

(e) This section is enacted—

(1) as an exercise of the rulemaking powers of the House of Representatives and the Senate, and as such it is deemed a part of the Rules of the House and the Rules of the Senate, respectively, but applicable only with respect to the procedure to be followed in the House and the Senate in the case of joint resolutions under this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of the House and the Senate to change their rules at any time, in the same manner, and to the same extent as in the case of any other rule of the House or Senate, and of the right of the Committee on Rules of the House of Representatives to report a resolution for the consideration of any measure.

ENFORCEMENT AND PENALTIES

President of U.S.
22 USC 5113.

SEC. 603. (a)(1) The President with respect to his authorities under section 601 shall take the necessary steps to ensure compliance with the provisions of this Act and any regulations, licenses, and orders issued to carry out this Act, including establishing mechanisms to monitor compliance with this Act and such regulations, licenses, and orders.

Records.
Reports.

(2) In ensuring such compliance, the President may—

(A) require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction described in this Act either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which a foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of this Act; and

(B) conduct investigations, hold hearings, administer oaths, examine witnesses, receive evidence, take depositions, and require by subpena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under investigation.

(b) Except as provided in subsection (d)—

(1) any person that violates the provisions of this Act, or any regulation, license, or order issued to carry out this Act shall be subject to a civil penalty of $50,000;

(2) any person, other than an individual, that willfully violates the provisions of this Act, or any regulation, license, or order issued to carry out this Act shall be fined not more than $1,000,000;

(3) any individual who willfully violates the provisions of this Act or any regulation, license, or order issued to carry out this Act shall be fined not more than $50,000, or imprisoned not more than 10 years, or both; and

(4) any individual who violates section 301(a) or any regulations issued to carry out that section shall, instead of the

penalty set forth in paragraph (2), be fined not more than 5 times the value of the krugerrands or gold coins involved.

(c)(1) Whenever a person commits a violation under subsection (b)—

(A) any officer, director, or employee of such person, or any natural person in control of such person who knowingly and willfully ordered, authorized, acquiesced in, or carried out the act or practice constituting the violation, and

(B) any agent of such person who knowingly and willfully carried out such act or practice,

shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

(2) Paragraph (1) shall not apply in the case of a violation by an individual of section 301(a) of this Act or of any regulation issued to carry out that section.

(3) A fine imposed under paragraph (1) on an individual for an act or practice constituting a violation may not be paid, directly or indirectly, by the person committing the violation itself.

(d)(1) Any person who violates any regulation issued under section 208(d) or who, in a registration statement or report required by the Secretary of State, makes any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading, shall be subject to a civil penalty of not more than $10,000 imposed by the Secretary of State. The provisions of subsections (d), (e), and (f) of section 11 of the Export Administration Act of 1979 shall apply with respect to any such civil penalty. Reports. 50 USC app. 2410.

(2) Any person who commits a willful violation under paragraph (1) shall upon conviction be fined not more than $1,000,000 or imprisoned not more than 2 years, or both.

(3) Nothing in this section may be construed to authorize the imposition of any penalty for failure to implement the Code of Conduct. *Ante*, p. 1097.

APPLICABILITY TO EVASIONS OF ACT

SEC. 604. This Act and the regulations issued to carry out this Act shall apply to any person who undertakes or causes to be undertaken any transaction or activity with the intent to evade this Act or such regulations. 22 USC 5114.

CONSTRUCTION OF ACT

SEC. 605. Nothing in this Act shall be construed as constituting any recognition by the United States of the homelands referred to in this Act. 22 USC 5115.

STATE OR LOCAL ANTI-APARTHEID LAWS, ENFORCE

SEC. 606. Notwithstanding section 210 of Public Law 99-349 or any other provision of law— 22 USC 5116. *Ante*, p. 749.

(1) no reduction in the amount of funds for which a State or local government is eligible or entitled under any Federal law may be made, and

Contracts.

(2) no other penalty may be imposed by the Federal Government,

by reason of the application of any State or local law concerning apartheid to any contract entered into by a State or local government for 90 days after the date of enactment of this Act.

THOMAS S. FOLEY
Speaker pro tempore.

STROM THURMOND
President of the Senate pro tempore.

IN THE HOUSE OF REPRESENTATIVES, U.S.,
September 29, 1986.

The House of Representatives having proceeded to reconsider the bill (H.R. 4868) entitled "An Act to prohibit loans to, other investments in, and certain other activities with respect to, South Africa, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

BENJAMIN J. GUTHRIE
Clerk.

I certify that this Act originated in the House of Representatives.

BENJAMIN J. GUTHRIE
Clerk.

IN THE SENATE OF THE UNITED STATES,
October 2 (legislative day, September 24), 1986.

The Senate having proceeded to reconsider the bill (H.R. 4868) entitled "An Act to prohibit loans to, other investments in, and certain other activities with respect to, South Africa, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, and passed by the House of Representatives on reconsideration of the same, it was

Resolved, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

JO-ANNE L. COE
Secretary.

LEGISLATIVE HISTORY—H.R. 4868 (S. 2701):

HOUSE REPORTS: No. 99-638, Pt. 1 (Comm. on Foreign Affairs) and Pt. 2 (Comm. on Ways and Means).
SENATE REPORTS: No. 99-370 accompanying S. 2701 (Comm. on Foreign Relations).
CONGRESSIONAL RECORD, Vol. 132 (1986):
June 18, considered and passed House.
Aug. 13, 14, S. 2701 considered in Senate.
Aug. 15, S. 2701 considered in Senate; H.R. 4868 considered and passed Senate, amended.
Sept. 12, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Oct. 2, Presidential veto message.
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 29, House overrode veto.
Oct. 2, Senate overrode veto.

O

Public Law 99-441
99th Congress

An Act

To extend the expiration date of the Defense Production Act of 1950 and to authorize appropriations for purposes of such Act.

Oct. 3, 1986
[H.R. 5480]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Defense Production Act Amendments of 1986.
50 USC app. 2061 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Defense Production Act Amendments of 1986".

SEC. 2. EXTENSION OF THE DEFENSE PRODUCTION ACT OF 1950.

The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking out "September 30, 1986" and inserting in lieu thereof "September 30, 1989".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 711(a)(4) of the Defense Production Act of 1950 (50 U.S.C. App. 2161(a)(4)) is amended to read as follows:

"(4)(A) There are authorized to be appropriated for fiscal years 1987, 1988, and 1989 not to exceed $150,000,000 to carry out the provisions of section 303, except that not more than $30,000,000 is authorized to be appropriated for fiscal year 1987.

50 USC app. 2093.

"(B) The aggregate amount of loans, guarantees, purchase agreements, and other actions under sections 301, 302, and 303 during fiscal years 1987, 1988, and 1989 may not exceed $150,000,000.".

50 USC app. 2091-2093.

SEC. 4. OFFSETS REPORTING REQUIREMENT.

Section 309 of the Defense Production Act of 1950 (50 U.S.C. App. 2099) is amended—

(1) by striking out "SEC. 309." and inserting in lieu thereof "SEC. 309. (a) REPORT REQUIRED.—";

(2) in the first sentence, by inserting "detailed" before "report"; and

(3) by adding at the end thereof the following new subsection:

"(b) INTERAGENCY STUDIES.—

"(1) IN GENERAL.—Each report under subsection (a) shall be based on requisite interagency studies designed to progressively capture—

"(A) the long-term as well as the short-term effects of offsets (with particular attention to the effects resulting from technology transfer associated with offset agreements); and

Science and technology.

"(B) the direct and indirect effects of offsets on lower tier defense subcontractors and on nondefense industry sectors which may be adversely affected by offsets.

Business and industry.

"(2) CONTENTS OF REPORTS.—Each report under subsection (a) shall contain an appropriate summary of—

"(A) the scope of the interagency studies conducted under paragraph (1); and

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"(B) the findings and conclusions of the agencies involved in the interagency studies (including any differences in the conclusions drawn by such agencies).".

SEC. 5. AMENDMENT TO EXPORT ADMINISTRATION AMENDMENTS ACT OF 1985.

5 USC 5314 note.

Section 116(d) of the Export Administration Amendments Act of 1985 is amended by striking "October 1, 1986" and inserting in lieu thereof "October 1, 1987".

Approved October 3, 1986.

LEGISLATIVE HISTORY—H.R. 5480 (S. 2855):

SENATE REPORTS: No. 99-480 accompanying S. 2855 (Comm. on Banking).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 23, considered and passed House.
Sept. 25, considered and passed Senate, amended.
Sept. 29, House concurred in Senate amendments.

O

Public Law 99-442
99th Congress

Joint Resolution

To designate the month of November 1986 as "National Hospice Month".

Oct. 3, 1986
[S.J. Res. 317]

Whereas hospice care has been demonstrated to be a humanitarian way for terminally ill patients to approach the end of their lives in comfort with appropriate, competent, and compassionate care in an environment of personal individuality and dignity;

Whereas hospice advocates care of the patient and family by attending to their physical, emotional, and spiritual needs and specifically, the pain and grief they experience;

Whereas hospice care is provided by an interdisciplinary team of physicians, nurses, social workers, pharmacists, psychological and spiritual counselors, and other community volunteers trained in the hospice concept of care;

Whereas hospice is rapidly becoming a full partner in the Nation's health care system;

Whereas the recent enactment of the medicare hospice benefit makes it possible for many more elderly Americans to have the opportunity to elect to receive hospice care;

Whereas private insurance carriers and employers have recognized the value of hospice care by the inclusion of hospice benefits in health care coverage packages; and

Whereas there remains a great need to increase public awareness of the benefits of hospice care: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November 1986 is designated "National Hospice Month". The President is requested to issue a proclamation calling upon all Government agencies, the health care community, appropriate private organizations, and people of the United States to observe that month with appropriate forums, programs, and activities designed to encourage national recognition of and support for hospice care as a humane response to the needs of the terminally ill and a viable component of the health care system in this country.

Approved October 3, 1986.

LEGISLATIVE HISTORY—S.J. Res. 317:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 22, considered and passed Senate.
Sept. 18, considered and passed House.

O

91-139 O - 86 (459)

Public Law 99-443
99th Congress

An Act

Oct. 6, 1986
[H.R. 4260]

To provide the Small Business Administration continuing authority to administer a program for small innovative firms, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Research and development.

SECTION 1. Section 9(e)(1) of the Small Business Act (15 U.S.C. 638(e)(1)) is amended by inserting immediately after "facilities," the following: "except that for the Department of Defense it shall not include amounts obligated solely for operational systems development, and".

15 USC 638 and note.

SEC. 2. Section 5 of Public Law 97-219 is amended by striking "1988" and inserting "1993".

15 USC 638 note.

SEC. 3. Section 6 of Public Law 97-219 is amended to read as follows:

Reports.

"SEC. 6. (a) The Comptroller General, no later than December 31, 1988, shall transmit a report to the appropriate committees of the House of Representatives and of the Senate evaluating the effectiveness to date of phase one and phase two of the SBIR Program as set out in section 9(e)(4) of the Small Business Act. Such report shall examine the quality of the research supported by the SBIR Program compared to that traditionally supported by the affected agencies, and the extent to which the goals of the SBIR Program are being met. Such report shall also include the judgments of the heads of departments and agencies as to the effect of this Act on research programs.

15 USC 638.

"(b) The Comptroller General, no later than December 31, 1991, shall transmit to such committees an update of the report mandated under subsection (a). Such report, in addition, shall include an evaluation of phase three of the SBIR Program including a discussion of the aggregate commercial trends for products which are then currently in or have completed phase three of the program.".

Approved October 6, 1986.

LEGISLATIVE HISTORY—H.R. 4260:

HOUSE REPORTS: No. 99-646 (Comm. on Small Business), Pt. 2 (Permanent Select Comm. on Intelligence) Pt. 3 (Comm. on Science and Technology), and Pt. 4 (Comm. on Energy and Commerce).

CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 12, 13, considered and passed House.
Sept. 18, considered and passed Senate.

O

Public Law 99-444
99th Congress

Joint Resolution

To designate the week beginning October 12, 1986, as "National Children's Television Awareness Week".

Oct. 6, 1986
[H.J. Res. 710]

Whereas children on average spend 4 hours of each day watching television and will have spent almost 15,000 hours watching television by the time they finish high school;

Whereas television can create an intellectual and emotional environment which can play a critical role in shaping a child's development and perception of the world;

Whereas television has the power to promote and reinforce the prosocial values parents try to teach their children regarding health and safety;

Whereas television often serves as a companion and babysitter for children with working parents;

Whereas many people do not realize television's great potential for enriching family life and for improving children's education;

Whereas families need to be shown how to use television as an educational resource;

Whereas national attention must be focused on the positive role that television can play in child development to insure that broadcasters uphold their obligation to serve the child audience;

Whereas schools, libraries, religious institutions, and community groups need to work with broadcasters in helping parents and children take advantage of television's potential as an educational and learning device; and

Whereas greater awareness must be achieved regarding how television can be effectively utilized and further developed to enhance the education of children: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning October 12, 1986, is designated as "National Children's Television Awareness Week". The President is requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved October 6, 1986.

LEGISLATIVE HISTORY—H.J. Res. 710:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 18, considered and passed House.
Sept. 24, considered and passed Senate.

O

91-139 O - 86 (461)

Public Law 99-445
99th Congress

An Act

Oct. 6, 1986
[S. 1542]

To amend the National Trails System Act by designating the Nez Perce (Nee-Me-Poo) Trail as a component of the National Trails System.

Conservation.
Historic preservation.
16 USC 1241 note.
16 USC 1244.
Oregon.
Montana.
Public information.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Trails System Act (82 Stat. 919), as amended, is further amended as follows: Section 5(a) is amended to insert the following new paragraph:

"(14) The Nez Perce National Historic Trail, a route of approximately eleven hundred and seventy miles extending from the vicinity of Wallowa Lake, Oregon, to Bear Paw Mountain, Montana, as generally depicted in 'Nez Perce (Nee-Me-Poo) Trail Study Report' prepared by the Department of Agriculture and dated March 1982. The report shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Washington, District of Columbia. The trail shall be administered by the Secretary of Agriculture. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Nez Perce National Historic Trail. The Secretary of Agriculture may designate lands outside of federally administered areas as segments of the trail upon application from the States or local governmental agencies involved if such segments meet the criteria established in this Act and are administered by such agencies without expense to the United States. So that significant route segments and sites recognized as associated with the Nez Perce Trail may be distinguished by suitable markers, the Secretary of Agriculture is authorized to accept the donation of suitable markers for placement at appropriate locations. Any such markers associated with the Nez Perce Trail which are to be located on lands administered by any other department or agency of the United States may be placed on such lands only with the concurrence of the head of such department or agency.".

91-139 O - 86 (462)

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. There are authorized to be appropriated $550,000 to carry out the purposes of this Act.

Approved October 6, 1986.

LEGISLATIVE HISTORY—S. 1542:

HOUSE REPORTS: No. 99-873 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 99-382 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 11, considered and passed Senate.
Sept. 24, considered and passed House.

Public Law 99-446
99th Congress

Joint Resolution

Oct. 6, 1986
[S.J. Res. 354]

To designate the week of October 5, 1986, through October 11, 1986, as "National Drug Abuse Education and Prevention Week".

Whereas the illegal drug trade consists of approximately $100 billion in retail business per year;

Whereas removing the demand for drugs would reduce the illegal drug trade;

Whereas drug abuse destroys the future of many of the young people and adults in the Nation;

Whereas the eradication of drug abuse requires a united mobilization of national resources, including law enforcement and educational efforts; and

Whereas the most effective deterrent to drug abuse is education of parents and children in the home, classroom, and community: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 5, 1986, through October 11, 1986, is designated as "National Drug Abuse Education and Prevention Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to participate in drug abuse education and prevention programs in their communities and encourage parents and children to investigate and discuss drug abuse problems and possible solutions.

Approved October 6, 1986.

LEGISLATIVE HISTORY—S.J. Res. 354:

CONGRESSIONAL RECORD, Vol. 132 (1986):
July 15, considered and passed Senate.
Sept. 18, considered and passed House.

O

91-139 O - 86 (463)

Public Law 99-447
99th Congress

Joint Resolution

To designate the week of December 14, 1986, through December 20, 1986, as "National Drunk and Drugged Driving Awareness Week".

Oct. 6, 1986
[S.J. Res. 362]

Whereas traffic accidents cause more violent deaths in the United States than any other cause, approximately forty-four thousand in 1985;

Whereas traffic accidents cause thousands of serious injuries in the United States each year;

Whereas about 54 per centum of drivers killed in single vehicle collisions and 38 per centum of all drivers fatally injured in 1985 had blood alcohol concentrations of 0.10 or above;

Whereas the United States Surgeon General has reported that life expectancy has risen for every age group over the past seventy-five years except for Americans fifteen to twenty-four years old, whose death rate, the leading cause of which is drunk driving, is higher now than it was twenty years ago;

Whereas the total societal cost of drunk driving has been estimated at more than $26,000,000,000 per year, which does not include the human suffering that can never be measured;

Whereas there are increasing reports of driving after drug use and accidents involving drivers who have used marijuana or other illegal drugs;

Whereas driving after the use of therapeutic drugs, either alone or in combination with alcohol, contrary to the advice of physician, pharmacist, or manufacturer, may create a safety hazard on the roads;

Whereas more research is needed on the effect of drugs either alone or in combination with alcohol, on driving ability and the incidence of traffic accidents;

Whereas an increased public awareness of the gravity of the problem of drugged driving may warn drug users to refrain from driving and may stimulate interest in increasing necessary research on the effect of drugs on driving ability and the incidence of traffic accidents;

Whereas the public, particularly through the work of citizens groups, is demanding a solution to the problem of drunk and drugged driving;

Whereas the Presidential Commission on Drunk Driving, appointed to heighten public awareness and stimulate the pursuit of solutions, provided vital recommendations for remedies for the problem of drunk driving;

Whereas the National Commission Against Drunk Driving was established to assist State and local governments and the private sector to implement these recommendations;

Whereas most States have appointed task forces to examine existing drunk driving programs and make recommendations for a renewed, comprehensive approach, and in many cases their rec-

91-139 O - 86 (464)

ommendations are leading to enactment of new laws, along with stricter enforcement;

Whereas the best defense against the drunk or drugged driver is the use of safety belts and consistent safety belt usage by all drivers and passengers would save as many as ten thousand lives each year;

Whereas an increase in the public awareness of the problem of drunk and drugged driving may contribute to a change in society's attitude toward the drunk or drugged driver and help to sustain current efforts to develop comprehensive solutions at the State and local levels;

Whereas the Christmas and New Year holiday period, with more drivers on the roads and an increased number of social functions, is a particularly appropriate time to focus national attention on this critical problem;

Whereas designation of National Drunk and Drugged Driving Awareness Week in each of the last four years stimulated many activities and programs by groups in both the private and public sectors aimed at curbing drunk and drugged driving in the high-risk Christmas and New Year holiday period and thereafter; and

Whereas the activities and programs during National Drunk and Drugged Driving Awareness Week have heightened the awareness of the American public to the danger of drunk and drugged driving: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of December 14, 1986, through December 20, 1986, is designated as "National Drunk and Drugged Driving Awareness Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate activities.

Approved October 6, 1986.

LEGISLATIVE HISTORY—S.J. Res. 362 (H.J. Res. 694):

CONGRESSIONAL RECORD, Vol. 132 (1986):
June 20, considered and passed Senate.
Aug. 13, H.J. Res. 694 considered and passed House.
Sept. 18, S.J. Res. 362 considered and passed House.

O

Public Law 99-448
99th Congress

Joint Resolution

To designate September 11, 1987, as "9-1-1 Emergency Number Day".

Oct. 6, 1986
[S.J. Res. 405]

Whereas protecting life and insuring safety are important responsibilities of local governments;

Whereas the ability of all persons to quickly summon help in an emergency is essential to a community's well-being;

Whereas thousands of municipalities throughout the United States have established 911 emergency telephone systems;

Whereas 911 emergency telephone systems have made it possible to save many lives, thereby enhancing the quality of life in communities throughout the Nation; and

Whereas 911 emergency telephone systems increase public confidence and provide efficient emergency services with greater response capabilities and cost savings to the public: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 11, 1987, is designated as "9-1-1 Emergency Number Day". The President of the United States is requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved October 6, 1986.

LEGISLATIVE HISTORY—S.J. Res. 405:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 10, considered and passed Senate.
Sept. 18, considered and passed House, amended.
Sept. 29, Senate concurred in House amendments.

O

91-139 O - 86 (465)

Public Law 99-449
99th Congress

Joint Resolution

Oct. 7, 1986
[S.J. Res. 159]

To designate the rose as the national floral emblem.

Whereas the study of fossils has shown that the rose has been a native wild flower in America for over thirty-five million years;
Whereas the rose is grown today in every State;
Whereas the rose has long represented love, friendship, peace, and the devotion of the American people to their country;
Whereas the rose has been cultivated and grown in gardens for over five thousand years and is referred to in both the Old and New Testaments;
Whereas the rose has for many years been the favorite flower of the American people, has captivated the affection of human kind, and has been revered and renowned in art, music, and literature;
Whereas our first President was also our first rose breeder, one of his varieties being named after his mother and still being grown today; and
Whereas the United States is without a national flower: Now, therefore, be it

36 USC 187.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the flower commonly known as the rose is designated and adopted as the national floral emblem of the United States of America, and the President of the United States is authorized and requested to declare such fact by proclamation.

Approved October 7, 1986.

LEGISLATIVE HISTORY—S.J. Res. 159:

HOUSE REPORTS: No. 99-836 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 16, considered and passed Senate.
Sept. 23, considered and passed House.

O

91-139 O - 86 (466)

Public Law 99-450
99th Congress

An Act

To establish a federally declared Floodway for the Colorado River below Davis Dam.

Oct. 8, 1986
[H.R. 1246]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Colorado River Floodway Protection Act.

SHORT TITLE

SECTION 1. This Act may be cited as the "Colorado River Floodway Protection Act".

43 USC 1600 note.

FINDINGS AND PURPOSES

SEC. 2. (a) FINDINGS.—The Congress finds that—

43 USC 1600.

(1) there are multiple purposes established by law for the dams and other control structures administered by the Secretary of the Interior on the Colorado River;

(2) the maintenance of the Colorado River Floodway established in this Act is essential to accomplish these multiple purposes;

(3) developments within the Floodway are and will continue to be vulnerable to damaging flows such as the property damage which occurred in 1983 and may occur in the future;

(4) certain Federal programs which subsidize or permit development within the Floodway threaten human life, health, property, and natural resources; and

(5) there is a need for coordinated Federal, State, and local action to limit Floodway development.

(b) PURPOSE.—The Congress declares that the purposes of this Act are to—

(1) establish the Colorado River Floodway, as designated and described further in this Act, so as to provide benefits to river users and to minimize the loss of human life, protect health and safety, and minimize damage to property and natural resources by restricting future Federal expenditures and financial assistance, except public health funds, which have the effect of encouraging development within the Colorado River Floodway; and

(2) establish a task force to advise the Secretary of the Interior and the Congress on establishment of the Floodway and on managing existing and future development within the Floodway, including the appropriateness of compensation in specified cases of extraordinary hardship.

DEFINITIONS

SEC. 3. (a) The term "Committees" refers to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Environment and Public Works and the Committee on Energy and Natural Resources of the United States Senate.

43 USC 1600a.

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(b) The term "financial assistance" means any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, or any other form of direct or indirect Federal assistance other than—

(1) general revenue-sharing grants made under section 102 of the State and Local Fiscal Assistance Amendments of 1972 (31 U.S.C. 1221);

(2) deposit or account insurance for customers of banks, savings and loan associations, credit unions, or similar institutions;

(3) the purchase of mortgages or loans by the Government National Mortgage Association, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation;

(4) assistance for environmental studies, plans, and assessments that are required incident to the issuance of permits or other authorizations under Federal law; and

(5) assistance pursuant to programs entirely unrelated to development, such as any Federal or federally assisted public assistance program or any Federal old-age, survivors, or disability insurance program.

Such term also includes flood insurance described in sections 1322 (a) and (b) of the National Flood Insurance Act of 1968, Public Law 90-448, title XIII (82 Stat. 572) as amended, on and after the dates on which the provisions of those sections become effective.

Post, p. 1135.

(c) The term "Secretary" means the Secretary of the Interior.

(d) The term "water district" means any public agency providing water service, including water districts, county water districts, public utility districts, and irrigation districts.

(e) The term "Floodway" means the Colorado River Floodway established in section 5 of this Act.

COLORADO RIVER FLOODWAY TASK FORCE

43 USC 1600b.

SEC. 4. (a) To advise the Secretary and the Congress there shall be a Colorado River Floodway Task Force, which shall include one representative of—

(1) each State (appointed by the Governor) and Indian reservation in which the Floodway is located;

(2) each county in which the Floodway is located;

(3) a law enforcement agency from each county in which the Floodway is located;

(4) each water district in which the Floodway is located;

(5) the cities of Needles, Parker, Blythe, Bullhead City, Yuma, Laughlin, Lake Havasu City, Nevada (if and when incorporated), and Mojave County, Arizona Supervisor District No. 2 (chosen by, but not a member of the Board of Supervisors);

(6) the Chamber of Commerce from each county in which the Floodway is located;

(7) the Colorado River Wildlife Council;

(8) the Army Corps of Engineers;

(9) the Federal Emergency Management Agency (FEMA);

(10) the Department of Agriculture;

(11) the Department of the Interior; and

(12) the Department of State.

(b) The task force shall be chartered and operate under the provisions of the Federal Advisory Committee Act (Public Law 92-463; 5 U.S.C. App. I) and shall prepare recommendations concerning the Colorado River Floodway, which recommendations shall deal with:

(1) the means to restore and maintain the Floodway specified in section 5 of this Act, including, but not limited to, specific instances where land transfers or relocations, or other changes in land management, might best effect the purposes of this Act;

(2) the necessity for additional Floodway management legislation at local, tribal, State, and Federal levels; State and local governments. Indians.

(3) the development of specific design criteria for the creation of the Floodway boundaries;

(4) the review of mapping procedures for Floodway boundaries;

(5) whether compensation should be recommended in specific cases of economic hardship resulting from impacts of the 1983 flood on property outside the Floodway which could not reasonably have been foreseen; and

(6) the potential application of the Floodway on Indian lands and recommended legislation or regulations that might be needed to achieve the purposes of the Floodway taking into consideration the special Federal status of Indian lands. Indians.

(c) The task force shall exist for at least one year after the date of enactment of this Act, or until such time as the Secretary has filed with the Committees the maps described in subsection 5(b)(2). The task force shall file its report with the Secretary and the Committees within nine months after the date of enactment of this Act. Reports.

COLORADO RIVER FLOODWAY

SEC. 5. (a) There is established the Colorado River Floodway as identified and generally depicted on maps that are to be submitted by the Secretary. 43 USC 1600c.

(b)(1) Within eighteen months after the date of enactment of this Act, the Secretary, in consultation with the seven Colorado River Basin States, represented by persons designated by the Governors of those States, the Colorado River Floodway Task Force, and any other interested parties shall:

(i) complete a study of the tributary floodflows downstream of Davis Dam; Davis Dam.

(ii) define the specific boundaries of the Colorado River Floodway so that the Floodway can accommodate either a one-in-one hundred year river flow consisting of controlled releases and tributary inflow, or a flow of forty thousand cubic feet per second (cfs), whichever is greater, from below Davis Dam to the Southerly International Boundary between the United States of America and the Republic of Mexico.

(2) As soon as practicable after the determination of the Floodway boundary pursuant to this subsection, the Secretary shall prepare and file with the Committees maps depicting the Colorado River Floodway, and each such map shall be considered a standard map to be adhered to by all agencies and shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map may be made. Each such map shall be on file and available for public inspection in the Office of the Commissioner of the Bureau of Reclamation, Department of the Interior, and in other appropriate offices of the Department.

(3) The Secretary shall provide copies of the Colorado River Floodway maps to (A) the chief executive officer of each State, county, municipality, water district, Indian tribe, or equivalent jurisdiction in which the Floodway is located, (B) each appropriate State and local governments. Indians. Banks and banking.

Federal agency, including agencies which regulate Federal financial institutions, and (C) each federally insured financial institution which serves the geographic area as one of its primary markets.

(c)(1) The Secretary shall conduct, at least once every five years, a review of the Colorado River Floodway and make, after notice to and in consultation with the appropriate officers referred to in paragraph (3) of subsection (b), and others, such minor and technical modifications to the boundaries of the Floodway as are necessary solely to reflect changes that have occurred in the size or location of any portion of the floodplain as a result of natural forces, and as necessary pursuant to subsection (c) of section (7) of this Act.

State and local governments. Indians.

(2) If, in the case of any minor and technical modification to the boundaries of the Floodway made under the authority of this subsection, an appropriate chief executive officer of a State, county, municipality, water district, Indian tribe, or equivalent jurisdiction, to which notice was given in accordance with this subsection files comments disagreeing with all or part of the modification and the Secretary makes a modification which is in conflict with such comments, the Secretary shall submit to the chief executive officer a written justification for his failure to make modifications consistent with such comments or proposals.

LIMITATIONS ON FEDERAL EXPENDITURES AFFECTING THE FLOODWAY

43 USC 1600d.

SEC. 6. (a) Except as provided in section 7, no new expenditures or new financial assistance may be made available under authority of any Federal law for any purpose within the Floodway established under section 5 of this Act.

(b) An expenditure or financial assistance made available under authority of Federal law shall, for purposes of this Act, be a new expenditure or new financial assistance if—

(1) in any case with respect to which specific appropriations are required, no money for construction or purchase purposes was appropriated before the date of the enactment of this Act; or

(2) no legally binding commitment for the expenditure or financial assistance was made before such date of enactment.

EXCEPTIONS

Grants. Loans. 43 USC 1600e.

SEC. 7. Notwithstanding section 6, the appropriate Federal officer, after consultation with the Secretary, may make Federal expenditures or financial assistance available within the Colorado River Floodway for—

(a) any dam, channel or levee construction, operation or maintenance for the purpose of flood control, water conservation, power or water quality;

(b) other remedial or corrective actions, including but not limited to drainage facilities essential to assist in controlling adjacent high ground water conditions caused by flood flows;

(c) the maintenance, replacement, reconstruction, repair, and expansion, of publicly or tribally owned or operated roads, structures (including bridges), or facilities: *Provided,* That, no such expansion shall be permitted unless—

(1) the expansion is designed and built in accordance with the procedures and standards established in section 650.101 of title 23, Code of Federal Regulations, and the following as they may be amended from time to time; and

(2) the boundaries of the Floodway are adjusted to ac-

count for changes in flows caused, directly or indirectly, by the expansion;

(d) military activities essential to national security;

(e) any of the following actions or projects, but only if the Secretary finds that the making available of expenditures or assistance therefor is consistent with the purposes of this Act:

(1) projects for the study, management, protection and enhancement of fish and wildlife resources and habitats, including, but not limited to, acquisition of fish and wildlife habitats and related lands, stabilization projects for fish and wildlife habitats, and recreational projects;

(2) the establishment, operation, and maintenance of air and water navigation aids and devices, and for access thereto;

(3) projects eligible for funding under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 through 11);

(4) scientific research, including but not limited to aeronautical, atmospheric, space, geologic, marine, fish and wildlife and other research, development, and applications;

(5) assistance for emergency actions essential to the saving of lives and the protection of property and the public health and safety, if such actions are performed pursuant to sections 305 and 306 of the Disaster Relief Act of 1974 (42 U.S.C. 5145 and 5146) and are limited to actions that are necessary to alleviate the emergency. Disaster assistance under other provisions of the Disaster Relief Act of 1974 (Public Law 93-288, as amended) may also be provided with respect to persons residing within the Floodway, or structures or public infrastructure in existence or substantially under construction therein, on the date ninety days after the date of enactment of this Act: *Provided,* That, such persons, or with respect to public infrastructure the State or local political entity which owns or controls such infrastructure, had purchased flood insurance for structures or infrastructure under the National Flood Insurance Program, if eligible, and had taken prudent and reasonable steps, as determined by the Director of the Federal Emergency Management Agency, to minimize damage from future floods or operations of the Floodway established in the Act;

42 USC 5121 note.

(6) other assistance for public health purposes, such as mosquito abatement programs;

(7) nonstructural projects for riverbank stabilization that are designed to enhance or restore natural stabilization systems;

(8) publicly or tribally financed, owned and operated compatible recreational developments such as regional parks, golf courses, docks, boat launching ramps (including steamboat and ferry landings), including compatible recreation uses and accompanying utility or interpretive improvements which are essential or closely related to the purpose of restoring the accuracy of a National Historical Landmark and which meet best engineering practices considering the nature of Floodway conditions; and

(9) compatible agricultural uses that do not involve permanent crops and include only a minimal amount of permanent facilities in the Floodway.

CERTIFICATION OF COMPLIANCE

43 USC 1600f.

SEC. 8. The Secretary of the Interior shall, on behalf of each Federal agency concerned, make written certification that each agency has complied with the provisions of this Act during each fiscal year beginning after September 30, 1985. Such certification shall be submitted on an annual basis to the United States House of Representatives and the United States Senate on or before January 15 of each fiscal year.

PRIORITY OF LAWS

State and local governments.
Indians.
43 USC 1600g.

SEC. 9. Nothing contained in this Act shall be construed to alter, amend, repeal, modify, interpret, or be in conflict with the provisions of the Colorado River Compact (45 Stat. 1057), the Upper Colorado River Basin Compact (63 Stat. 31), the Water Treaty of 1944 with the United Mexican States (Treaty Series 944, 59 Stat. 1219), the Flood Control Act of 1944 (58 Stat. 887), the decree entered by the Supreme Court of the United States in Arizona v. California, and others (376 U.S. 340), the Boulder Canyon Project Act (45 Stat. 1057), the Boulder Canyon Project Adjustment Act (54 Stat. 774; 43 U.S.C. 618a), the Colorado River Storage Project Act (70 Stat. 105; 43 U.S.C. 620), the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501). Furthermore, nothing contained in this Act shall be construed as indicating an intent on the part of the Congress to change the existing relationship of other Federal laws to the law of a State, or a political subdivision of a State, or to relieve any person of any obligation imposed by any law of any State, tribe, or political subdivision of a State. No provision of this Act shall be construed to invalidate any provision of State, tribal, or local law unless there is a direct conflict between such provision and the law of the State, or political subdivision of the State or tribe, so that the two cannot be reconciled or consistently stand together. Inconsistencies shall be reviewed by the task force, and the task force shall make recommendations concerning such local laws. This Act shall in no way be interpreted to interfere with a State's or tribe's right to protect, rehabilitate, preserve, and restore lands within its established boundary.

SEPARABILITY

43 USC 1600h.

SEC. 10. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

REPORTS TO CONGRESS

Indians.
43 USC 1600i.

SEC. 11. Within one year after the date of the enactment of this Act, the Secretary shall prepare and submit to the Committees a report regarding the Colorado River Floodway, the task force's report, and the Secretary's recommendations with respect to the objectives outlined in section 4(b) of this Act. In making his report, the Secretary shall analyze the effects of this Act on the economic development of the Indian tribes whose lands are located within the Floodway.

AMENDMENTS REGARDING FLOOD INSURANCE

SEC. 12. (a) The National Flood Insurance Act of 1968, Public Law 90-448, title XIII (82 Stat. 572), as amended, is amended by adding the following section:

42 USC 4029. 42 USC 4001 note.

"SEC. 1322. (a) Owners of existing National Flood Insurance Act policies with respect to structures located within the Floodway established under section 5 of the Colorado River Floodway Protection Act shall have the right to renew and transfer such policies. Owners of existing structures located within said Floodway on the date of enactment of the Colorado River Floodway Protection Act who have not acquired National Flood Insurance Act policies shall have the right to acquire policies with respect to such structures for six months after the Secretary of the Interior files the Floodway maps required by section 5(b)(2) of the Colorado River Floodway Protection Act and to renew and transfer such policies.

"(b) No new flood insurance coverage may be provided under this title on or after a date six months after the enactment of the Colorado River Floodway Protection Act for any new construction or substantial improvements of structures located within the Colorado River Floodway established by section 5 of the Colorado River Floodway Protection Act. New construction includes all structures that are not insurable prior to that date.

"(c) The Secretary of the Interior may by rule after notice and comment pursuant to 5 U.S.C. 553 establish temporary Floodway boundaries to be in effect until the maps required by section 5(b)(2) of the Colorado River Floodway Protection Act are filed, for the purpose of enforcing subsections (b) and (d) of this section.

"(d) A federally supervised, approved, regulated or insured financial institution may make loans secured by structures which are not eligible for flood insurance by reason of this section: *Provided,* That prior to making such a loan, such institution determines that the loans or structures securing the loan are within the Floodway.".

Banks and banking. Loans.

FEDERAL LEASES

SEC. 13. (a) No lease of lands owned in whole or in part by the United States and within the Colorado River Floodway shall be granted after the date of enactment of this Act unless the Secretary determines that such lease would be consistent with the operation and maintenance of the Colorado River Floodway.

Public lands. 43 USC 1600j.

(b) No existing lease of lands owned in whole or in part by the United States and within the Colorado River Floodway shall be extended beyond the date of enactment of this Act or the stated expiration date of its current term, whichever is later, unless the lessee agrees to take reasonable and prudent steps determined to be necessary by the Secretary to minimize the inconsistency of operation under such lease with the operation and maintenance of the Colorado River Floodway.

(c) No lease of lands owned in whole or part by the United States between Hoover Dam and Davis Dam below elevation 655.0 feet on Lake Mohave shall be granted unless the Secretary determines that such lease would be consistent with the operation of Lake Mohave.

(d) The provisions of subsections (a) and (b) of this section shall not apply to lease operations on Indian lands pursuant to a lease providing for activities which are exempted under section 7 of this Act.

Indians.

Public lands.
Indians.
Insurance.
Securities.

(e) Subsections (a) and (b) of this section shall not apply to lands held in trust by the United States for the benefit of any Indian tribe or individual with respect to any lease where capital improvements, and operation and maintenance costs are not provided for by Federal financial assistance if the lessee, tribe, or individual has provided insurance or other security for the benefit of the Secretary sufficient to insure against all reasonably forseeable, direct, and consequential damages to the property of the tribe, private persons, and the United States, which may result from the proposed lease.

NOTICES AND EXISTING LAWS

SEC. 14. (a)(1) Nothing in this Act shall alter or affect in any way the provisions of section 702c of title 33, United States Code.

Public lands.

(2) The Secretary shall provide notice of the provisions of section 702c of title 33, United States Code, and this Act to all existing and prospective lessees of lands leased by the United States and within the Colorado River Floodway.

42 USC 4001 note.

(b) Except as otherwise specifically provided in this Act, all provisions of the National Flood Insurance Act of 1968, as amended, and requirements of the National Flood Insurance Program ("NFIP") shall continue in full force and effect within areas wholly or partially within the Colorado River Floodway. Any maps or other information required to be prepared by this Act shall be used to the maximum extent practicable to support implementation of the NFIP.

(c) The Secretary shall publish notice on three successive occasions in newspapers of general circulation in communities affected by the provisions of section 1322 of Public Law 90-448 (82 Stat. 572), as amended by this Act.

Ante, p. 1135.

AUTHORIZATION OF APPROPRIATIONS

Contracts.
Indians.
43 USC 1600*l*.

SEC. 15. There is authorized to be appropriated to the Department of the Interior $600,000, through the end of fiscal year 1990, in addition to any other funds now available to the Department to discharge its duties to implement sections 4 through 14 of this Act: *Provided*, That by mutual agreement, such funds shall be made

available to the Federal Emergency Management Agency to discharge its duties under section 12 of this Act: *Provided further*, That the provisions of sections 6 and 7 of this Act shall not be affected by this section: *And provided further*, in addition, Indian tribes may be eligible under Public Law 93-638 to contract for studies of Indian lands required under the provisions of this Act.

25 USC 450 note.

Approved October 8, 1986.

LEGISLATIVE HISTORY—H.R. 1246 (S. 1696):

HOUSE REPORTS: No. 99-261 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 99-410 accompanying S. 1696 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Sept. 24, considered and passed House.
Vol. 132 (1986): Sept. 15, considered and passed Senate, amended, in lieu of S. 1696.
Sept. 23, House concurred in Senate amendment.

O

Public Law 99-451
99th Congress

An Act

Oct. 8, 1986
[H.R. 5506]

To amend the International Claims Settlement Act of 1949 to provide that the value of claims be based on the fair market value of the property taken.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DETERMINATION OF VALUE OF CLAIMS.

Securities.

(a) FAIR MARKET VALUE.—Section 4(a) of the International Claims Settlement Act of 1949 (22 U.S.C. 1623(a)) is amended by amending the second sentence to read as follows: "In the decision of claims under this title, the Commission shall apply the following in the following order:

"(1) The provisions of the applicable claims agreement as provided in this subsection.

"(2) The applicable principles of international law, justice, and equity. In determining the value of a claim under international law, the Commission shall award the fair market value of the property as of the time of the taking by the foreign government involved (without regard to any action or event that occurs after the taking), except that the value of the claim shall not reflect any diminution in value attributable to actions which are carried out, or threats of action which are made, by the foreign government with respect to the property before the taking. Fair market value shall be ascertained in accordance with the method most appropriate to the property taken and equitable to the claimant, including—

"(i) market value of outstanding equity securities;

"(ii) replacement value;

"(iii) going-concern value (which includes consideration of an enterprise's profitability); and

"(iv) book value.

In the case of any claim for losses in a service industry, the appropriate basis of valuation shall be presumed to be that referred to in clause (iii). For purposes of the preceding sentence, the term 'service' means economic activity the output of which is other than tangible goods.".

(b) APPLICABILITY.—Section 4 of the International Claims Settlement Act of 1949 is amended by adding at the end the following:

"(k) In exercising authority granted after the date of the enactment of this subsection under this or any other Act, the Commission, in determining the value of claims of the Government of the United States or of nationals of the United States (as defined in this Act or such other Act) against any foreign government for losses arising from the nationalization or other taking of property, shall comply with the principles set forth in subsection (a)(2) of this section.".

Supra.

91-139 O - 86 (468)

SEC. 2. EFFECTIVE DATE.

22 USC 1623 note.

The amendments made by this Act shall apply to any claim pending on the date of the enactment of this Act and to any other claim determined after such date.

Approved October 8, 1986.

LEGISLATIVE HISTORY—H.R. 5506:

HOUSE REPORTS: No. 99-837 (Comm. on Foreign Affairs).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 22, considered and passed House.
Sept. 24, considered and passed Senate.

O

Public Law 99-452
99th Congress

An Act

Oct. 8, 1986
[H.R. 5521]

To extend until October 13, 1986, the emergency acquisition and net worth guarantee provisions of the Garn-St Germain Depository Institutions Act of 1982.

12 USC 1464 note.
Ante, p. 902.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 141(a) of the Garn-St Germain Depository Institutions Act of 1982 is amended by striking out "September 15, 1986" and inserting in lieu thereof "October 13, 1986".

Ante, p. 902.
12 USC 1729, and note, 1823.
12 USC 1464 note.

(b) Section 206(a) of such Act is amended by striking out "September 15, 1986" and inserting in lieu thereof "October 13, 1986".

(c) No amendment made by section 141(a) or section 206(a) of the Garn-St Germain Depository Institutions Act of 1982, as in effect on the day before the date of the enactment of this Act, to any other provision of law shall be deemed to have taken effect before such date of enactment and any such provision of law shall be in effect as if no such amendment had taken effect before such date of enactment.

Approved October 8, 1986.

LEGISLATIVE HISTORY—H.R. 5521:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 16, considered and passed House.
Sept. 26, considered and passed Senate.

O

91-139 O - 86 (469)

Public Law 99-453
99th Congress

Joint Resolution

To designate October 1986 as "Polish American Heritage Month".

Oct. 8, 1986
[H.J. Res. 547]

Whereas, since the 1st immigration of Polish settlers to Jamestown in the 17th century, Poles and Americans of Polish descent have distinguished themselves by contributing to the development of arts, sciences, government, military service, athletics, and education in the United States;

Whereas Kazimierz Pulaski, Tadeusz Kosciuszko, and other sons of Poland came to our shores to fight in the American War of Independence and to give their lives and fortunes for the creation of the United States;

Whereas the Polish Constitution of May 3, 1791, was modeled directly on the Constitution of the United States, is recognized as the 2d written constitution in history, and is revered by Poles and Americans of Polish descent;

Whereas Americans of Polish descent and Americans sympathetic to the struggle of the Polish nation to regain its freedom remain committed to a free and independent Polish nation;

Whereas Poles and Americans of Polish descent take great pride in and honor the greatest son of Poland, His Holiness Pope John Paul II;

Whereas Poles and Americans of Polish descent take great pride in and honor Nobel Peace Prize laureate Lech Walesa, the founder of the Solidarity Labor Federation;

Whereas the Solidarity Labor Federation was founded in August 1980 and is continuing its struggle against oppression by the Government of Poland; and

Whereas the Polish American Congress is observing its 42d anniversary this year and is celebrating October 1986 as Polish American Heritage Month: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1986 is designated "Polish American Heritage Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Approved October 8, 1986.

LEGISLATIVE HISTORY—H.J. Res. 547:

CONGRESSIONAL RECORD, Vol. 132 (1986):
July 24, considered and passed House.
Sept. 24, considered and passed Senate.

O

91-139 O - 86 (470)

Public Law 99-454
99th Congress

Joint Resolution

Oct. 8, 1986
[H.J. Res. 611]

To designate the period of December 1, 1986, through December 7, 1986, as "National Aplastic Anemia Awareness Week".

Whereas aplastic anemia is a rare but extremely serious disorder that results from the unexplained failure of the bone marrow to produce blood cells;

Whereas aplastic anemia fatally strikes 2,000 Americans of all ages each year;

Whereas the causes of aplastic anemia are not known and there is only a limited understanding of how to treat the disease; and

Whereas increased public education on aplastic anemia will facilitate the battle against all bone marrow diseases: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period of December 1, 1986, through December 7, 1986, is designated as "National Aplastic Anemia Awareness Week" and the President is authorized and requested to issue a proclamation calling upon the American public to observe such period with appropriate activities to assure a better understanding of aplastic anemia.

Approved October 8, 1986.

LEGISLATIVE HISTORY—H.J. Res. 611:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 18, considered and passed House.
Sept. 24, considered and passed Senate.

O

91-139 O - 86 (471)

Public Law 99-455
99th Congress

Joint Resolution

To designate the week of October 12, 1986, through October 18, 1986, as "National Job Skills Week".

Oct. 8, 1986
[H.J. Res. 721]

Whereas one of the most critical problems facing the Nation is to design and engineer a national work force that can meet the challenges of today and tomorrow;

Whereas work in the United States is undergoing rapid and profound change;

Whereas advances in technology will require new skills not now held by the national work force;

Whereas it is predicted that during the decade beginning in 1980, businesses will experience a shortage of skilled workers;

Whereas the skills of many young adults and teenagers are inadequate to perform jobs that are becoming available, thereby contributing to a much greater than normal unemployment rate among young people;

Whereas the ability to maintain a competitive and productive edge necessary for a strong economy and relatively high quality of life standard are dependent on the national work force;

Whereas the productivity and ability of the Nation to compete in a world economy are dependent on the national work force; and

Whereas a National Job Skills Week can serve to highlight the many changes that are underway in the workplace which have necessitated the learning of new skills, concentrate attention on private and public job training efforts, and bring attention to present and future work force needs: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 12, 1986, through October 18, 1986, is designated as "National Job Skills Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States and interested groups to observe such week with appropriate programs and activities.

Approved October 8, 1986.

LEGISLATIVE HISTORY—H.J. Res. 721:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 18, considered and passed House.
Sept. 24, considered and passed Senate.

O

91-139 O - 86 (472)

Public Law 99-456
99th Congress

An Act

Oct. 8, 1986
[S. 1766]

To designate the Cumberland terminus of the Chesapeake and Ohio Canal National Historical Park in honor of J. Glenn Beall, Sr.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Cumberland terminus of the Chesapeake and Ohio Canal National Historical Park is hereby dedicated to J. Glenn Beall, Sr. in grateful recognition of his outstanding efforts to preserve and protect the canal and towpath from development.

(b) In order to carry out the provisions of this Act, the Secretary of the Interior is authorized and directed to provide such identification by signs, including changes in existing signs, materials, maps, markers, or other means as will appropriately inform the public of the contributions of J. Glenn Beall, Sr.

(c) The Secretary of the Interior is further authorized and directed to cause to be erected and maintained, within the exterior boundaries of the Cumberland terminus of the Chesapeake and Ohio Canal National Historical Park, an appropriate memorial to J. Glenn Beall, Sr. Such memorial shall be of such design and be located at such place as the Secretary shall determine.

Appropriation authorization.

(d) There are authorized to be appropriated up to $25,000 to carry out the purposes of this Act.

Approved October 8, 1986.

LEGISLATIVE HISTORY—S. 1766:

SENATE REPORTS: No. 99-340 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 1, considered and passed Senate.
Sept. 24, considered and passed House.

O

91-139 O - 86 (473)

Public Law 99-457
99th Congress

An Act

To amend the Education of the Handicapped Act to reauthorize the discretionary programs under that Act, to authorize an early intervention program under that Act for handicapped infants and toddlers and their families, and for other purposes.

Oct. 8, 1986
[S. 2294]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Education of the Handicapped Act Amendments of 1986.
Contracts.
Grants.
20 USC 1400 note.
20 USC 1400.

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Education of the Handicapped Act Amendments of 1986".

(b) REFERENCE.—References in this Act to "the Act" are references to the Education of the Handicapped Act.

TITLE I—HANDICAPPED INFANTS AND TODDLERS

SEC. 101. ADDITION OF A NEW PART RELATING TO HANDICAPPED INFANTS AND TODDLERS.

(a) AMENDMENT.—The Act is amended by inserting after the part added by section 316 the following new part:

"PART H—HANDICAPPED INFANTS AND TODDLERS

"FINDINGS AND POLICY

"SEC. 671. (a) FINDINGS.—The Congress finds that there is an urgent and substantial need— 20 USC 1471.

"(1) to enhance the development of handicapped infants and toddlers and to minimize their potential for developmental delay,

"(2) to reduce the educational costs to our society, including our Nation's schools, by minimizing the need for special education and related services after handicapped infants and toddlers reach school age,

"(3) to minimize the likelihood of institutionalization of handicapped individuals and maximize the potential for their independent living in society, and

"(4) to enhance the capacity of families to meet the special needs of their infants and toddlers with handicaps.

"(b) POLICY.—It is therefore the policy of the United States to provide financial assistance to States— State and local governments.

"(1) to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency program of early intervention services for handicapped infants and toddlers and their families,

"(2) to facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage), and

"(3) to enhance its capacity to provide quality early intervention services and expand and improve existing early interven-

tion services being provided to handicapped infants, toddlers, and their families.

"DEFINITIONS

20 USC 1472.

"SEC. 672. As used in this part—

"(1) The term 'handicapped infants and toddlers' means individuals from birth to age 2, inclusive, who need early intervention services because they—

"(A) are experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the following areas: Cognitive development, physical development, language and speech development, psychosocial development, or self-help skills, or

"(B) have a diagnosed physical or mental condition which has a high probability of resulting in developmental delay.

Such term may also include, at a State's discretion, individuals from birth to age 2, inclusive, who are at risk of having substantial developmental delays if early intervention services are not provided.

"(2) 'Early intervention services' are developmental services which—

"(A) are provided under public supervision,

"(B) are provided at no cost except where Federal or State law provides for a system of payments by families, including a schedule of sliding fees,

"(C) are designed to meet a handicapped infant's or toddler's developmental needs in any one or more of the following areas:

"(i) physical development,

"(ii) cognitive development,

"(iii) language and speech development,

"(iv) psycho-social development, or

"(v) self-help skills,

"(D) meet the standards of the State, including the requirements of this part,

"(E) include—

"(i) family training, counseling, and home visits,

"(ii) special instruction,

"(iii) speech pathology and audiology,

"(iv) occupational therapy,

"(v) physical therapy,

"(vi) psychological services,

"(vii) case management services,

"(viii) medical services only for diagnostic or evaluation purposes,

"(ix) early identification, screening, and assessment services, and

"(x) health services necessary to enable the infant or toddler to benefit from the other early intervention services,

"(F) are provided by qualified personnel, including—

"(i) special educators,

"(ii) speech and language pathologists and audiologists,

"(iii) occupational therapists,

"(iv) physical therapists,

"(v) psychologists,

"(vi) social workers,

"(vii) nurses, and

"(viii) nutritionists, and

"(G) are provided in conformity with an individualized family service plan adopted in accordance with section 677.

"(3) The term 'developmental delay' has the meaning given such term by a State under section 676(b)(1).

"(4) The term 'Council' means the State Interagency Coordinating Council established under section 682.

"GENERAL AUTHORITY

"SEC. 673. The Secretary shall, in accordance with this part, make grants to States (from their allocations under section 684) to assist each State to develop a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for handicapped infants and toddlers and their families.

State and local governments. Grants. 20 USC 1473.

"GENERAL ELIGIBILITY

"SEC. 674. In order to be eligible for a grant under section 673 for any fiscal year, a State shall demonstrate to the Secretary (in its application under section 678) that the State has established a State Interagency Coordinating Council which meets the requirements of section 682.

State and local governments. Grants. 20 USC 1474.

"CONTINUING ELIGIBILITY

"SEC. 675. (a) FIRST TWO YEARS.—In order to be eligible for a grant under section 673 for the first or second year of a State's participation under this part, a State shall include in its application under section 678 for that year assurances that funds received under section 673 shall be used to assist the State to plan, develop, and implement the statewide system required by section 676.

State and local governments. Grants. 20 USC 1475.

"(b) THIRD AND FOURTH YEAR.—(1) In order to be eligible for a grant under section 673 for the third or fourth year of a State's participation under this part, a State shall include in its application under section 678 for that year information and assurances demonstrating to the satisfaction of the Secretary that—

"(A) the State has adopted a policy which incorporates all of the components of a statewide system in accordance with section 676 or obtained a waiver from the Secretary under paragraph (2),

"(B) funds shall be used to plan, develop, and implement the statewide system required by section 676, and

"(C) such statewide system will be in effect no later than the beginning of the fourth year of the State's participation under section 673, except that with respect to section 676(b)(4), a State need only conduct multidisciplinary assessments, develop individualized family service plans, and make available case management services.

"(2) Notwithstanding paragraph (1), the Secretary may permit a State to continue to receive assistance under section 673 during such third year even if the State has not adopted the policy required by paragraph (1)(A) before receiving assistance if the State demonstrates in its application—

"(A) that the State has made a good faith effort to adopt such a policy,

"(B) the reasons why it was unable to meet the timeline and the steps remaining before such a policy will be adopted, and

"(C) an assurance that the policy will be adopted and go into effect before the fourth year of such assistance.

"(c) FIFTH AND SUCCEEDING YEARS.—In order to be eligible for a grant under section 673 for a fifth and any succeeding year of a State's participation under this part, a State shall include in its application under section 678 for that year information and assurances demonstrating to the satisfaction of the Secretary that the State has in effect the statewide system required by section 676 and a description of services to be provided under section 676(b)(2).

"(d) EXCEPTION.—Notwithstanding subsections (a) and (b), a State which has in effect a State law, enacted before September 1, 1986, that requires the provision of free appropriate public education to handicapped children from birth through age 2, inclusive, shall be eligible for a grant under section 673 for the first through fourth years of a State's participation under this part.

"REQUIREMENTS FOR STATEWIDE SYSTEM

20 USC 1476.

"SEC. 676. (a) IN GENERAL.—A statewide system of coordinated, comprehensive, multidisciplinary, interagency programs providing appropriate early intervention services to all handicapped infants and toddlers and their families shall include the minimum components under subsection (b).

"(b) MINIMUM COMPONENTS.—The statewide system required by subsection (a) shall include, at a minimum—

"(1) a definition of the term 'developmentally delayed' that will be used by the State in carrying out programs under this part,

"(2) timetables for ensuring that appropriate early intervention services will be available to all handicapped infants and toddlers in the State before the beginning of the fifth year of a State's participation under this part,

"(3) a timely, comprehensive, multidisciplinary evaluation of the functioning of each handicapped infant and toddler in the State and the needs of the families to appropriately assist in the development of the handicapped infant or toddler,

"(4) for each handicapped infant and toddler in the State, an individualized family service plan in accordance with section 677, including case management services in accordance with such service plan,

"(5) a comprehensive child find system, consistent with part B, including a system for making referrals to service providers that includes timelines and provides for the participation by primary referral sources,

Public information.

"(6) a public awareness program focusing on early identification of handicapped infants and toddlers,

"(7) a central directory which includes early intervention services, resources, and experts available in the State and research and demonstration projects being conducted in the State,

"(8) a comprehensive system of personnel development,

"(9) a single line of responsibility in a lead agency designated or established by the Governor for carrying out—

"(A) the general administration, supervision, and monitoring of programs and activities receiving assistance under section 673 to ensure compliance with this part,

"(B) the identification and coordination of all available resources within the State from Federal, State, local and private sources,

"(C) the assignment of financial responsibility to the appropriate agency,

"(D) the development of procedures to ensure that services are provided to handicapped infants and toddlers and their families in a timely manner pending the resolution of any disputes among public agencies or service providers,

"(E) the resolution of intra- and interagency disputes, and

"(F) the entry into formal interagency agreements that define the financial responsibility of each agency for paying for early intervention services (consistent with State law) and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination,

"(10) a policy pertaining to the contracting or making of other arrangements with service providers to provide early intervention services in the State, consistent with the provisions of this part, including the contents of the application used and the conditions of the contract or other arrangements,

"(11) a procedure for securing timely reimbursement of funds used under this part in accordance with section 681(a),

"(12) procedural safeguards with respect to programs under this part as required by section 680, and

"(13) policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including—

"(A) the establishment and maintenance of standards which are consistent with any State approved or recognized certification, licensing, registration, or other comparable requirements which apply to the area in which such personnel are providing early intervention services, and

"(B) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in the State, and

"(14) a system for compiling data on the numbers of handicapped infants and toddlers and their families in the State in need of appropriate early intervention services (which may be based on a sampling of data), the numbers of such infants and toddlers and their families served, the types of services provided (which may be based on a sampling of data), and other information required by the Secretary.

"INDIVIDUALIZED FAMILY SERVICE PLAN

"SEC. 677. (a) ASSESSMENT AND PROGRAM DEVELOPMENT.—Each handicapped infant or toddler and the infant or toddler's family shall receive— 20 USC 1477.

"(1) a multidisciplinary assessment of unique needs and the identification of services appropriate to meet such needs, and

"(2) a written individualized family service plan developed by a multidisciplinary team, including the parent or guardian, as required by subsection (d).

"(b) PERIODIC REVIEW.—The individualized family service plan shall be evaluated once a year and the family shall be provided a review of the plan at 6 month-intervals (or more often where appropriate based on infant and toddler and family needs).

"(c) PROMPTNESS AFTER ASSESSMENT.—The individualized family service plan shall be developed within a reasonable time after the assessment required by subsection (a)(1) is completed. With the parent's consent, early intervention services may commence prior to the completion of such assessment.

"(d) CONTENT OF PLAN.—The individualized family service plan shall be in writing and contain—

"(1) a statement of the infant's or toddler's present levels of physical development, cognitive development, language and speech development, psycho-social development, and self-help skills, based on acceptable objective criteria,

"(2) a statement of the family's strengths and needs relating to enhancing the development of the family's handicapped infant or toddler,

"(3) a statement of the major outcomes expected to be achieved for the infant and toddler and the family, and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the outcomes are being made and whether modifications or revisions of the outcomes or services are necessary,

"(4) a statement of specific early intervention services necessary to meet the unique needs of the infant or toddler and the family, including the frequency, intensity, and the method of delivering services,

"(5) the projected dates for initiation of services and the anticipated duration of such services,

"(6) the name of the case manager from the profession most immediately relevant to the infant's and toddler's or family's needs who will be responsible for the implementation of the plan and coordination with other agencies and persons, and

"(7) the steps to be taken supporting the transition of the handicapped toddler to services provided under part B to the extent such services are considered appropriate.

20 USC 1411.

"STATE APPLICATION AND ASSURANCES

Grants.
Regulations.
20 USC 1478.

"SEC. 678. (a) APPLICATION.—Any State desiring to receive a grant under section 673 for any year shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require by regulation. Such an application shall contain—

"(1) a designation of the lead agency in the State that will be responsible for the administration of funds provided under section 673,

"(2) information demonstrating eligibility of the State under section 674,

"(3) the information or assurances required to demonstrate eligibility of the State for the particular year of participation under section 675, and

"(4)(A) information demonstrating that the State has provided (i) public hearings, (ii) adequate notice of such hearings, and (iii) an opportunity for comment to the general public before the submission of such application and before the adoption by the

State of the policies described in such application, and (B) a summary of the public comments and the State's responses,

"(5) a description of the uses for which funds will be expended in accordance with this part and for the fifth and succeeding fiscal years a description of the services to be provided,

"(6) a description of the procedure used to ensure an equitable distribution of resources made available under this part among all geographic areas within the State, and

"(7) such other information and assurances as the Secretary may reasonably require by regulation.

"(b) STATEMENT OF ASSURANCES.—Any State desiring to receive a grant under section 673 shall file with the Secretary a statement at such time and in such manner as the Secretary may reasonably require by regulation. Such statement shall— Regulations.

"(1) assure that funds paid to the State under section 673 will be expended in accordance with this part,

"(2) contain assurances that the State will comply with the requirements of section 681,

"(3) provide satisfactory assurance that the control of funds provided under section 673, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this part and that a public agency will administer such funds and property,

"(4) provide for (A) making such reports in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this part, and (B) keeping such records and affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this part,

"(5) provide satisfactory assurance that Federal funds made available under section 673 (A) will not be commingled with State funds, and (B) will be so used as to supplement and increase the level of State and local funds expended for handicapped infants and toddlers and their families and in no case to supplant such State and local funds,

"(6) provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under section 673 to the State, and

"(7) such other information and assurances as the Secretary may reasonably require by regulation.

"(c) APPROVAL OF APPLICATION AND ASSURANCES REQUIRED.—No State may receive a grant under section 673 unless the Secretary has approved the application and statement of assurances of that State. The Secretary shall not disapprove such an application or statement of assurances unless the Secretary determines, after notice and opportunity for a hearing, that the application or statement of assurances fails to comply with the requirements of this section.

"USES OF FUNDS

"SEC. 679. In addition to using funds provided under section 673 to plan, develop, and implement the statewide system required by section 676, a State may use such funds— State and local governments. 20 USC 1479.

"(1) for direct services for handicapped infants and toddlers that are not otherwise provided from other public or private sources, and

"(2) to expand and improve on services for handicapped infants and toddlers that are otherwise available.

"PROCEDURAL SAFEGUARDS

State and local governments. 20 USC 1480.

"SEC. 680. The procedural safeguards required to be included in a statewide system under section 676(b)(12) shall provide, at a minimum, the following:

"(1) The timely administrative resolution of complaints by parents. Any party aggrieved by the findings and decision regarding an administrative complaint shall have the right to bring a civil action with respect to the complaint, which action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In any action brought under this paragraph, the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

Confidentiality.

"(2) The right to confidentiality of personally identifiable information.

"(3) The opportunity for parents and a guardian to examine records relating to assessment, screening, eligibility determinations, and the development and implementation of the individualized family service plan.

"(4) Procedures to protect the rights of the handicapped infant and toddlers whenever the parents or guardian of the child are not known or unavailable or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State agency providing services) to act as a surrogate for the parents or guardian.

"(5) Written prior notice to the parents or guardian of the handicapped infant or toddler whenever the State agency or service provider proposes to initiate or change or refuses to initiate or change the identification, evaluation, placement, or the provision of appropriate early intervention services to the handicapped infant or toddler.

"(6) Procedures designed to assure that the notice required by paragraph (5) fully informs the parents or guardian, in the parents' or guardian's native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section.

"(7) During the pendency of any proceeding or action involving a complaint, unless the State agency and the parents or guardian otherwise agree, the child shall continue to receive the appropriate early intervention services currently being provided or if applying for initial services shall receive the services not in dispute.

"PAYOR OF LAST RESORT

20 USC 1481.

"SEC. 681. (a) NONSUBSTITUTION.—Funds provided under section 673 may not be used to satisfy a financial commitment for services which would have been paid for from another public or private

source but for the enactment of this part, except that whenever considered necessary to prevent the delay in the receipt of appropriate early intervention services by the infant or toddler or family in a timely fashion, funds provided under section 673 may be used to pay the provider of services pending reimbursement from the agency which has ultimate responsibility for the payment.

"(b) REDUCTION OF OTHER BENEFITS.—Nothing in this part shall be construed to permit the State to reduce medical or other assistance available or to alter eligibility under title V of the Social Security Act (relating to maternal and child health) or title XIX of the Social Security Act (relating to medicaid for handicapped infants and toddlers) within the State.

42 USC 701.
42 USC 1396.

"STATE INTERAGENCY COORDINATING COUNCIL

"SEC. 682. (a) ESTABLISHMENT.—(1) Any State which desires to receive financial assistance under section 673 shall establish a State Interagency Coordinating Council composed of 15 members.

20 USC 1482.

"(2) The Council and the chairperson of the Council shall be appointed by the Governor. In making appointments to the Council, the Governor shall ensure that the membership of the Council reasonably represents the population of the State.

"(b) COMPOSITION.—The Council shall be composed of—

"(1) at least 3 parents of handicapped infants or toddlers or handicapped children aged 3 through 6, inclusive,

"(2) at least 3 public or private providers of early intervention services,

"(3) at least one representative from the State legislature,

"(4) at least one person involved in personnel preparation, and

"(5) other members representing each of the appropriate agencies involved in the provision of or payment for early intervention services to handicapped infants and toddlers and their families and others selected by the Governor.

"(c) MEETINGS.—The Council shall meet at least quarterly and in such places as it deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

"(d) MANAGEMENT AUTHORITY.—Subject to the approval of the Governor, the Council may prepare and approve a budget using funds under this part to hire staff, and obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions under this part.

"(e) FUNCTIONS OF COUNCIL.—The Council shall—

"(1) advise and assist the lead agency designated or established under section 676(b)(9) in the performance of the responsibilities set out in such section, particularly the identification of the sources of fiscal and other support for services for early intervention programs, assignment of financial responsibility to the appropriate agency, and the promotion of the interagency agreements,

"(2) advise and assist the lead agency in the preparation of applications and amendments thereto, and

"(3) prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention programs for handicapped infants and toddlers and their families operated within the State.

Report.

"(f) CONFLICT OF INTEREST.—No member of the Council shall cast a vote on any matter which would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under State law.

"(g) USE OF EXISTING COUNCILS.—To the extent that a State has established a Council before September 1, 1986, that is comparable to the Council described in this section, such Council shall be considered to be in compliance with this section. Within 4 years after the date the State accepts funds under section 673, such State shall establish a council that complies in full with this section.

"FEDERAL ADMINISTRATION

State and local governments. Education. 20 USC 1483. 20 USC 1416, 1417, 1420.

"SEC. 683. Sections 616, 617, and 620 shall, to the extent not inconsistent with this part, apply to the program authorized by this part, except that—

"(1) any reference to a State educational agency shall be deemed to be a reference to the State agency established or designated under section 676(b)(9),

"(2) any reference to the education of handicapped children and the education of all handicapped children and the provision of free public education to all handicapped children shall be deemed to be a reference to the provision of services to handicapped infants and toddlers in accordance with this part, and

"(3) any reference to local educational agencies and intermediate educational agencies shall be deemed to be a reference to local service providers under this part.

"ALLOCATION OF FUNDS

Guam. American Samoa. Virgin Islands. Republic of the Marshall Islands. Federated States of Micronesia. Republic of Palau. Commonwealth of the Northern Mariana Islands. 20 USC 1484.

"SEC. 684. (a) From the sums appropriated to carry out this part for any fiscal year, the Secretary may reserve 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, and the Commonwealth of the Northern Mariana Islands in accordance with their respective needs.

"(b)(1) The Secretary shall make payments to the Secretary of the Interior according to the need for such assistance for the provision of early intervention services to handicapped infants and toddlers and their families on reservations serviced by the elementary and secondary schools operated for Indians by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate of the amount available to all States under this part for that fiscal year.

"(2) The Secretary of the Interior may receive an allotment under paragraph (1) only after submitting to the Secretary an application which meets the requirements of section 678 and which is approved by the Secretary. Section 616 shall apply to any such application.

20 USC 1416.

"(c)(1) For each of the fiscal years 1987 through 1991 from the funds remaining after the reservation and payments under subsections (a) and (b), the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States, except that no State shall receive less than 0.5 percent of such remainder.

"(2) For the purpose of paragraph (1)—

"(A) the terms 'infants' and 'toddlers' mean children from birth to age 2, inclusive, and

"(B) the term 'State' does not include the jurisdictions described in subsection (a).

"(d) If any State elects not to receive its allotment under subsection (c)(1), the Secretary shall reallot, among the remaining States, amounts from such State in accordance with such subsection.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 685. There are authorized to be appropriated to carry out this part $50,000,000 for fiscal year 1987, $75,000,000 for fiscal year 1988, and such sums as may be necessary for each of the 3 succeeding fiscal years.". 20 USC 1485.

(b) STUDY OF SERVICES; COORDINATION OF ACTIONS.—(1) The Secretary of Education and the Secretary of Health and Human Services shall conduct a joint study of Federal funding sources and services for early intervention programs currently available and shall jointly act to facilitate interagency coordination of Federal resources for such programs and to ensure that funding available to handicapped infants, toddlers, children, and youth from Federal programs, other than programs under the Education of the Handicapped Act, is not being withdrawn or reduced. 20 USC 1485 note. 20 USC 1400.

(2) Not later than 18 months after the date of the enactment of this Act, the Secretary of Education and the Secretary of Health and Human Services shall submit a joint report to the Congress describing the findings of the study conducted under paragraph (1) and describing the joint action taken under that paragraph. Report.

TITLE II—HANDICAPPED CHILDREN AGED 3 TO 5

SEC. 201. PRE-SCHOOL GRANTS.

(a) AMENDMENT.—Section 619 of the Act (20 U.S.C. 1419) is amended to read as follows:

"PRE-SCHOOL GRANTS

"SEC. 619. (a)(1) For fiscal years 1987 through 1989 (or fiscal year 1990 if the Secretary makes a grant under this paragraph for such fiscal year) the Secretary shall make a grant to any State which— State and local governments.

"(A) has met the eligibility requirements of section 612, 20 USC 1412.

"(B) has a State plan approved under section 613, and 20 USC 1413.

"(C) provides special education and related services to handicapped children aged three to five, inclusive.

"(2)(A) For fiscal year 1987 the amount of a grant to a State under paragraph (1) may not exceed—

"(i) $300 per handicapped child aged three to five, inclusive, who received special education and related services in such State as determined under section 611(a)(3), or 20 USC 1411.

"(ii) if the amount appropriated under subsection (e) exceeds the product of $300 and the total number of handicapped children aged three to five, inclusive, who received special education and related services as determined under section 611(a)(3)—

"(I) $300 per handicapped child aged three to five, inclusive, who received special education and related services in such State as determined under section 611(a)(3), plus

"(II) an amount equal to the portion of the appropriation available after allocating funds to all States under subclause (I) (the excess appropriation) divided by the estimated increase, from the preceding fiscal year, in the number of handicapped children aged three to five, inclusive, who will be receiving special education and related services in all States multiplied by the estimated number of such children in such State.

"(B) For fiscal year 1988, funds shall be distributed in accordance with clause (i) or (ii) of paragraph (2)(A), except that the amount specified therein shall be $400 instead of $300.

"(C) For fiscal year 1989, funds shall be distributed in accordance with clause (i) or (ii) of paragraph (2)(A), except that the amount specified therein shall be $500 instead of $300.

"(D) If the Secretary makes a grant under paragraph (1) for fiscal year 1990, the amount of a grant to a State under such paragraph may not exceed $1,000 per handicapped child aged three to five, inclusive, who received special education and related services in such State as determined under section 611(a)(3).

20 USC 1411.

"(E) If the actual number of additional children served in a fiscal year differs from the estimate made under clause (ii)(II) of the applicable subparagraph, subparagraph (A)(ii)(II), the Secretary shall adjust (upwards or downwards) a State's allotment in the subsequent fiscal year.

"(F)(i) The amount of a grant under subparagraph (A), (B), or (C) to any State for a fiscal year may not exceed $3,800 per estimated handicapped child aged three to five, inclusive, who will be receiving or handicapped child, age three to five, inclusive, who is receiving special education and related services in such State.

"(ii) If the amount appropriated under subsection (e) for any fiscal year exceeds the amount of grants which may be made to the States for such fiscal year, the excess amount appropriated shall remain available for obligation under this section for 2 succeeding fiscal years.

"(3) To receive a grant under paragraph (1) a State shall make an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b)(1) For fiscal year 1990 (or fiscal year 1991 if required by paragraph (2)) and fiscal years thereafter the Secretary shall make a grant to any State which—

Post, p. 1158.

"(A) has met the eligibility requirements of section 612, and

Post, pp. 1159, 1174.

"(B) has a State plan approved under section 613 which includes policies and procedures that assure the availability under the State law and practice of such State of a free appropriate public education for all handicapped children aged three to five, inclusive.

"(2) The Secretary may make a grant under paragraph (1) only for fiscal year 1990 and fiscal years thereafter, except that if—

"(A) the aggregate amount that was appropriated under subsection (e) for fiscal years 1987, 1988, and 1989 was less than $656,000,000, and

"(B) the amount appropriated for fiscal year 1990 under subsection (e) is less than $306,000,000,

the Secretary may not make a grant under paragraph (1) until fiscal year 1991 and shall make a grant under subsection (a)(1) for fiscal year 1990.

"(3) The amount of any grant to any State under paragraph (1) for any fiscal year may not exceed $1,000 for each handicapped child in such State aged three to five, inclusive.

"(4) To receive a grant under paragraph (1) a State shall make an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(c)(1) For fiscal year 1987, a State which receives a grant under subsection (a)(1) shall—

"(A) distribute at least 70 percent of such grant to local educational agencies and intermediate educational units in such State in accordance with paragraph (3), except that in applying such section only handicapped children aged three to five, inclusive, shall be considered,

"(B) use not more than 25 percent of such grant for the planning and development of a comprehensive delivery system for which a grant could have been made under section 623(b) in effect through fiscal year 1987 and for direct and support services for handicapped children, and

Post, p. 1161.

"(C) use not more than 5 percent of such grant for administrative expenses related to the grant.

"(2) For fiscal years beginning after fiscal year 1987, a State which receives a grant under subsection (a)(1) or (b)(1) shall—

"(A) distribute at least 75 percent of such grant to local educational agencies and intermediate educational units in such State in accordance with paragraph (3), except that in applying such section only handicapped children aged three to five, inclusive, shall be considered,

"(B) use not more than 20 percent of such grant for the planning and development of a comprehensive delivery system for which a grant could have been made under section 623(b) in effect through fiscal year 1987 and for direct and support services for handicapped children, and

"(C) use not more than 5 percent of such grant for administrative expenses related to the grant.

"(3) From the amount of funds available to local educational agencies and intermediate educational units in any State under this section, each local educational agency or intermediate educational unit shall be entitled to—

"(A) an amount which bears the same ratio to the amount available under subsection (a)(2)(A)(i) or subsection (a)(2)(A)(ii)(I), as the case may be, as the number of handicapped children aged three to five, inclusive, who received special education and related services as determined under section 611(a)(3) in such local educational agency or intermediate educational unit bears to the aggregate number of handicapped children aged three to five, inclusive, who received special education and related services in all local educational agencies and intermediate educational units in the State entitled to funds under this section, and

20 USC 1411.

"(B) to the extent funds are available under subsection (a)(2)(A)(ii)(II), an amount which bears the same ratio to the amount available under subsection (a)(2)(A)(ii)(II) as the estimated number of additional handicapped children aged three to five, inclusive, who will be receiving special education and related services in such local educational agency or intermediate educational unit bears to the aggregate number of

handicapped children aged three to five, inclusive, who will be receiving special education and related services in all local educational agencies and intermediate educational units in the State entitled to funds under this section.

"(d) If the sums appropriated under subsection (e) for any fiscal year for making payments to States under subsection (a)(1) or (b)(1) are not sufficient to pay in full the maximum amounts which all States may receive under such subsection for such fiscal year, the maximum amounts which all States may receive under such subsection for such fiscal year shall be ratably reduced by first ratably reducing amounts computed under the excess appropriation provision of subsection (a)(2)(A)(ii)(II). If additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, the reduced maximum amounts shall be increased on the same basis as they were reduced.

"(e) For grants under subsections (a)(1) and (b)(1) there are authorized to be appropriated such sums as may be necessary.".

(b) CONFORMING AMENDMENTS.—

(1) Section 611(a)(1)(A) of the Act (20 U.S.C. 1411(a)(1)(A)) is amended to read as follows:

"(A) the number of handicapped children aged 3-5, inclusive, in a State who are receiving special education and related services as determined under paragraph (3) if the State is eligible for a grant under section 619 and the number of handicapped children aged 6-21, inclusive, in a State who are receiving special education and related services as so determined;".

20 USC 1419.

(2)(A) Section 611(g)(1) of the Act is amended by striking out "this part" each place it occurs and inserting in lieu thereof "subsection (a)".

(B) Section 611(g)(1) of the Act is amended by inserting "under subsection (h)" after "appropriated".

(C) Section 611(g)(2) of the Act is amended by striking out "this part" the first place it occurs and inserting in lieu thereof "this section".

(3) Section 611 of the Act is amended by adding at the end the following:

"(h) For grants under subsection (a) there are authorized to be appropriated such sums as may be necessary.".

20 USC 1419 note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to the school year 1987-1988.

SEC. 202. ELIGIBILITY FOR FINANCIAL ASSISTANCE.

20 USC 1400.

Part A of the Act is amended by adding at the end the following:

"ELIGIBILITY FOR FINANCIAL ASSISTANCE

State and local governments. 20 USC 1408. *Ante*, p. 1155. 20 USC 1421-1454; *post*, p. 1172.

"SEC. 609. Effective for fiscal years for which the Secretary may make grants under section 619(b)(1), no State or local educational agency or intermediate educational unit or other public institution or agency may receive a grant under parts C through G which relate exclusively to programs, projects, and activities pertaining to children aged three to five, inclusive, unless the State is eligible to receive a grant under section 619(b)(1).".

SEC. 203. SHARING OF COSTS OF FREE APPROPRIATE PUBLIC EDUCATION.

(a) ELIGIBILITY FOR SECTION 611 GRANTS.—Section 612(6) of the Act (20 U.S.C. 1412(6)) is amended by adding at the end the following:

"This paragraph shall not be construed to limit the responsibility of agencies other than educational agencies in a State from providing or paying for some or all of the costs of a free appropriate public education to be provided handicapped children in the State.".

(b) STATE PLANS.—

(1) Section 613(a)(9) of the Act (20 U.S.C. 1413(a)(9)) is amended to read as follows:

"(9) provide satisfactory assurance that Federal funds made available under this part (A) will not be commingled with State funds, and (B) will be so used as to supplement and increase the level of Federal, State, and local funds (including funds that are not under the direct control of State or local educational agencies) expended for special education and related services provided to handicapped children under this part and in no case to supplant such Federal, State, and local funds, except that, where the State provides clear and convincing evidence that all handicapped children have available to them a free appropriate public education, the Secretary may waive in part the requirement of this clause if he concurs with the evidence provided by the State;".

(2) Section 613(a) of the Act is amended by striking out "and" at the end of paragraph (11), by striking out the period at the end of paragraph (12) and inserting in lieu thereof a semicolon, and by adding at the end the following:

"(13) set forth policies and procedures for developing and implementing interagency agreements between the State educational agency and other appropriate State and local agencies to (A) define the financial responsibility of each agency for providing handicapped children and youth with free appropriate public education, and (B) resolve interagency disputes, including procedures under which local educational agencies may initiate proceedings under the agreement in order to secure reimbursement from other agencies or otherwise implement the provisions of the agreement.".

(3) Section 613 of the Act is amended by adding at the end the following:

"(e) This Act shall not be construed to permit a State to reduce medical and other assistance available or to alter eligibility under titles V and XIX of the Social Security Act with respect to the provision of a free appropriate public education for handicapped children within the State; and". 42 USC 701, 1396.

TITLE III—DISCRETIONARY PROGRAMS

SEC. 301. REGIONAL RESOURCE CENTERS.

Section 621 of the Act (20 U.S.C. 1421) is amended to read as follows:

"REGIONAL RESOURCE AND FEDERAL CENTERS

"SEC. 621. (a) The Secretary may make grants to, or enter into contracts or cooperative agreements with, institutions of higher education, public agencies, private nonprofit organizations, State educational agencies, or combinations of such agencies or institutions (which combinations may include one or more local educational agencies) within particular regions of the United States, to pay all or part of the cost of the establishment and operation of Grants. Contracts. State and local governments.

regional resource centers. Each regional resource center shall provide consultation, technical assistance, and training to State educational agencies and through such State educational agencies to local educational agencies and to other appropriate State agencies providing early intervention services. The services provided by a regional resource center shall be consistent with the priority needs identified by the States served by the center and the findings of the Secretary in monitoring reports prepared by the Secretary under section 617 of the Act. Each regional resource center established or operated under this section shall—

20 USC 1417.

"(1) assist in identifying and solving persistent problems in providing quality special education and related services for handicapped children and youth and early intervention services to handicapped infants and toddlers and their families,

"(2) assist in developing, identifying, and replicating successful programs and practices which will improve special education and related services to handicapped children and youth and their families and early intervention services to handicapped infants and toddlers and their families,

"(3) gather and disseminate information to all State educational agencies within the region and coordinate activities with other centers assisted under this subsection and other relevant projects conducted by the Department of Education,

"(4) assist in the improvement of information dissemination to and training activities for professionals and parents of handicapped infants, toddlers, children, and youth, and

"(5) provide information to and training for agencies, institutions, and organizations, regarding techniques and approaches for submitting applications for grants, contracts, and cooperative agreements under this part and parts D through G.

20 USC 1422-1454; *post*, p. 1172.

"(b) In determining whether to approve an application for a project under subsection (a), the Secretary shall consider the need for such a center in the region to be served by the applicant and the capability of the applicant to fulfill the responsibilities under subsection (a).

Report.

"(c) Each regional resource center shall report a summary of materials produced or developed and the summaries reported shall be included in the annual report to Congress required under section 618.

20 USC 1418.

"(d) The Secretary may establish one coordinating technical assistance center focusing on national priorities established by the Secretary to assist the regional resource centers in the delivery of technical assistance, consistent with such national priorities.

"(e) Before using funds made available in any fiscal year to carry out this section for purposes of subsection (d), not less than the amount made available for this section in the previous fiscal year shall be made available for regional resource centers under subsection (a) and in no case shall more than $500,000 be made available for the center under subsection (d).".

SEC. 302. SERVICES FOR DEAF-BLIND CHILDREN AND YOUTH.

20 USC 1422.

Section 622 is amended by adding at the end thereof the following new subsections:

Grants.
Contracts.

"(e) The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, public or nonprofit private agencies, institutions, or organizations for the development and operation of extended school year demonstration programs for se-

verely handicapped children and youth, including deaf-blind children and youth.

"(f) The Secretary may make grants to, or enter into contracts or cooperative agreements with, the entities under section 624(a) for the purposes in such section.".

Grants.
Contracts.
Post, p. 1162.

SEC. 303. EARLY EDUCATION FOR HANDICAPPED CHILDREN.

Section 623 of the Act (20 U.S.C. 1423) is amended to read as follows:

"EARLY EDUCATION FOR HANDICAPPED CHILDREN

"SEC. 623. (a)(1) The Secretary may arrange by contract, grant, or cooperative agreement with appropriate public agencies and private nonprofit organizations, for the development and operation of experimental, demonstration, and outreach preschool and early intervention programs for handicapped children which the Secretary determines show promise of promoting a comprehensive and strengthened approach to the special problems of such children. Such programs shall include activities and services designed to (1) facilitate the intellectual, emotional, physical, mental, social, speech, language development, and self-help skills of such children, (2) encourage the participation of the parents of such children in the development and operation of any such program, and (3) acquaint the community to be served by any such program with the problems and potentialities of such children, (4) offer training about exemplary models and practices to State and local personnel who provide services to handicapped children from birth through eight, and (5) support the adaption of exemplary models and practices in States and local communities.

Contracts.
Grants.
State and local governments.

"(2) Programs authorized by paragraph (1) shall be coordinated with similar programs in the schools operated or supported by State or local educational agencies of the community to be served and with similar programs operated by other public agencies in such community.

"(3) As much as is feasible, programs assisted under paragraph (1) shall be geographically dispersed throughout the Nation in urban as well as rural areas.

Urban areas.
Rural areas.

"(4)(A) Except as provided in subparagraph (B), no arrangement under paragraph (1) shall provide for the payment of more than 90 percent of the total annual costs of development, operation, and evaluation of any program. Non-Federal contributions may be in cash or in kind, fairly evaluated, including plant, equipment, and services.

"(B) The Secretary may waive the requirement of subparagraph (A) in the case of an arrangement entered into under paragraph (1) with governing bodies of Indian tribes located on Federal or State reservations and with consortia of such bodies.

Indians.

"(b) The Secretary shall arrange by contract, grant, or cooperative agreement with appropriate public agencies and private nonprofit organizations for the establishment of a technical assistance development system to assist entities operating experimental, demonstration, and outreach programs and to assist State agencies to expand and improve services provided to handicapped children.

Contracts.
Grants.
State and local governments.

"(c) The Secretary shall arrange by contract, grant, or cooperative agreement with appropriate public agencies and private nonprofit organizations for the establishment of early childhood research institutes to carry on sustained research to generate and dissemi-

nate new information on preschool and early intervention for handicapped children and their families.

Grants. Contracts.

"(d) The Secretary may make grants to, enter into contracts or cooperative agreements under this section with, such organizations or institutions, as are determined by the Secretary to be appropriate, for research to identify and meet the full range of special needs of handicapped children and for training of personnel for programs specifically designed for handicapped children.

Federal Register, publication.

"(e) At least one year before the termination of a grant, contract, or cooperative agreement made or entered into under subsections (b) and (c), the Secretary shall publish in the Federal Register a notice of intent to accept application for such a grant, contract, or cooperative agreement contingent on the appropriation of sufficient funds by Congress.

"(f) For purposes of this section the term 'handicapped children' includes children from birth through eight years of age.".

SEC. 304. PROGRAMS FOR SEVERELY HANDICAPPED CHILDREN.

Section 624 of the Act (20 U.S.C. 1424) is amended to read as follows:

"PROGRAMS FOR SEVERELY HANDICAPPED CHILDREN

Grants. Contracts.

"SEC. 624. (a) The Secretary may make grants to, or enter into contracts or cooperative agreements with, such organizations or institutions, as are determined by the Secretary to be appropriate, to address the needs of severely handicapped children and youth, for—

"(1) research to identify and meet the full range of special needs of such handicapped children and youth,

"(2) the development or demonstration of new, or improvements in, existing, methods, approaches, or techniques which would contribute to the adjustment and education of such handicapped children and youth,

"(3) training of personnel for programs specifically designed for such children, and

"(4) dissemination of materials and information about practices found effective in working with such children and youth.

"(b) In making grants and contracts under subsection (a), the Secretary shall ensure that the activities funded under such grants and contracts will be coordinated with similar activities funded from grants and contracts under other sections of this Act.

Urban areas. Rural areas.

"(c) To the extent feasible, programs, authorized by subsection (a) shall be geographically dispersed throughout the nation in urban and rural areas.".

SEC. 305. POSTSECONDARY EDUCATION PROGRAMS.

20 USC 1424a.

Section 625 is amended to read as follows:

"POSTSECONDARY EDUCATION

Grants. Contracts.

"SEC. 625. (a)(1) The Secretary may make grants to, or enter into contracts with, State educational agencies, institutions of higher education, junior and community colleges, vocational and technical institutions, and other appropriate nonprofit educational agencies for the development, operation, and dissemination of specially designed model programs of postsecondary, vocational, technical, continuing, or adult education for handicapped individuals.

"(2) In making grants or contracts on a competitive basis under paragraph (1), the Secretary shall give priority consideration to 4 regional centers for the deaf and to model programs for individuals with handicapping conditions other than deafness—

"(A) for developing and adapting programs of postsecondary, vocational, technical, continuing, or adult education to meet the special needs of handicapped individuals, and

"(B) for programs that coordinate, facilitate, and encourage education of handicapped individuals with their nonhandicapped peers.

"(3) Persons operating programs for handicapped persons under a grant or contract under paragraph (1) must coordinate their efforts with and disseminate information about their activities to the clearinghouse on postsecondary programs established under section 633(b).

20 USC 1433.

"(4) At least one year before the termination of a grant or contract with any of the 4 regional centers for the deaf, the Secretary shall publish in the Federal Register a notice of intent to accept application for such grant or contract, contingent on the appropriation of sufficient funds by Congress.

Federal Register, publication.

"(5) To the extent feasible, programs authorized by paragraph (1) shall be geographically dispensed throughout the nation in urban and rural areas.

"(6) Of the sums made available for programs under paragraph (1), not less than $2,000,000 shall first be available for the 4 regional centers for the deaf.

"(b) For the purposes of subsection (a) the term 'handicapped individuals' means individuals who are mentally retarded, hard of hearing, deaf, speech or language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired individuals, or individuals with specific learning disabilities who by reason thereof require special education and related services.".

SEC. 306. SECONDARY EDUCATION AND TRANSITIONAL SERVICES FOR HANDICAPPED YOUTH.

Section 626 of the Act is amended to read as follows:

20 USC 1425.

"SECONDARY EDUCATION AND TRANSITIONAL SERVICES FOR HANDICAPPED YOUTH

"SEC. 626. (a) The Secretary may make grants to, or enter into contracts with, institutions of higher education, State educational agencies, local educational agencies, or other appropriate public and private nonprofit institutions or agencies (including the State job training coordinating councils and service delivery area administrative entities established under the Job Training Partnership Act (Public Law 97-300)) to—

Grants. Contracts. State and local governments.

29 USC 1501 note.

"(1) strengthen and coordinate special education and related services for handicapped youth currently in school or who recently left school to assist them in the transition to postsecondary education, vocational training, competitive employment (including supported employment), continuing education, or adult services,

"(2) stimulate the improvement and development of programs for secondary special education, and

"(3) stimulate the improvement of the vocational and life skills of handicapped students to enable them to be better prepared for transition to adult life and services.

Urban areas.
Rural areas.

To the extent feasible, such programs shall be geographically dispersed through the Nation in urban and rural areas.

"(b) Projects assisted under subsection (a) may include—

"(1) developing strategies and techniques for transition to independent living, vocational training, vocational rehabilitation, postsecondary education, and competitive employment (including supported employment) for handicapped youth,

"(2) establishing demonstration models for services, programs, and individualized education programs, which emphasize vocational training, transitional services, and placement for handicapped youth,

"(3) conducting demographic studies which provide information on the numbers, age levels, types of handicapping conditions, and services required for handicapped youth in need of transitional programs,

"(4) specially designed vocational programs to increase the potential for competitive employment for handicapped youth,

"(5) research and development projects for exemplary service delivery models and the replication and dissemination of successful models,

"(6) initiating cooperative models between educational agencies and adult service agencies, including vocational rehabilitation, mental health, mental retardation, public employment, and employers, which facilitate the planning and developing of transitional services for handicapped youth to postsecondary education, vocational training, employment, continuing education, and adult services,

"(7) developing appropriate procedures for evaluating vocational training, placement, and transitional services for handicapped youth,

"(8) conducting studies which provide information on the numbers, age levels, types of handicapping conditions and reasons why handicapped youth drop out of school,

"(9) developing special education curriculum and instructional techniques that will improve handicapped students' acquisition of the skills necessary for transition to adult life and services, and

"(10) specifically designed physical education and therapeutic recreation programs to increase the potential of handicapped youths for community participation.

"(c) For purposes of paragraphs (1) and (2) of subsection (b), if an applicant is not an educational agency, such applicant shall coordinate with the State educational agency.

"(d) Applications for assistance under subsection (a) other than for the purpose of conducting studies or evaluations shall—

"(1) describe the procedures to be used for disseminating relevant findings and data to regional resource centers, clearinghouses, and other interested persons, agencies, or organizations,

"(2) describe the procedures that will be used for coordinating services among agencies for which handicapped youth are or will be eligible, and

"(3) to the extent appropriate, provide for the direct participation of handicapped students and the parents of handicapped

students in the planning, development, and implementation of such projects.

"(e) The Secretary is authorized to make grants to, or to enter into contracts or cooperative agreements with, such organizations or institutions as are determined by the Secretary to be appropriate for the development or demonstration of new or improvements in existing methods, approaches, or techniques which will contribute to the adjustment and education of handicapped children and youth and the dissemination of materials and information concerning practices found effective in working with such children and youth. Grants. Contracts.

"(f) The Secretary, as appropriate, shall coordinate programs described under subsection (a) with projects developed under section 311 of the Rehabilitation Act of 1973.". 29 USC 777a.

SEC. 307. AUTHORIZATION.

Section 628 is amended to read as follows: 20 USC 1427.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 628. (a) There are authorized to be appropriated to carry out section 621, $6,700,000 for fiscal year 1987, $7,100,000 for fiscal year 1988, and $7,500,000 for fiscal year 1989.

"(b) There are authorized to be appropriated to carry out section 622, $15,900,000 for fiscal year 1987, $16,800,000 for fiscal year 1988, and $17,800,000 for fiscal year 1989.

"(c) There are authorized to be appropriated to carry out section 623, $24,470,000 for fiscal year 1987, $25,870,000 for fiscal year 1988, and $27,410,000 for fiscal year 1989.

"(d) There are authorized to be appropriated to carry out section 624, $5,300,000 for fiscal year 1987, $5,600,000 for fiscal year 1988, and $5,900,000 for fiscal year 1989.

"(e) There are authorized to be appropriated to carry out section 625, $5,900,000 for fiscal year 1987, $6,200,000 for fiscal year 1988, and $6,600,000 for fiscal year 1989.

"(f) There are authorized to be appropriated to carry out section 626, $7,300,000 for fiscal year 1987, $7,700,000 for fiscal year 1988, and $8,100,000 for fiscal year 1989.".

SEC. 308. GRANTS FOR PERSONNEL TRAINING.

Section 631 of the Act (20 U.S.C. 1431) is amended to read as follows:

"GRANTS FOR PERSONNEL TRAINING

"SEC. 631. (a)(1) The Secretary may make grants, which may include scholarships with necessary stipends and allowances, to institutions of higher education (including the university-affiliated facilities program under the Rehabilitation Act of 1973 and satellite network of the developmental disabilities program) and other appropriate nonprofit agencies to assist them in training personnel for careers in special education and early intervention, including— 29 USC 701 note.

"(A) special education teaching, including speech-language pathology and audiology, and adaptive physical education,

"(B) related services to handicapped children and youth in educational settings,

"(C) special education supervision and administration,

"(D) special education research, and

"(E) training of special education personnel and other personnel providing special services and pre-school and early intervention services for handicapped children.

State and local governments.

"(2)(A) In making grants under paragraph (1), the Secretary shall base the determination of such grants on information relating to the present and projected need for the personnel to be trained based on identified State, regional, or national shortages, and the capacity of the institution or agency to train qualified personnel, and other information considered appropriate by the Secretary.

"(B) The Secretary shall ensure that grants are only made under paragraph (1) to applicant agencies and institutions that meet State and professionally recognized standards for the preparation of special education and related services personnel unless the grant is for the purpose of assisting the applicant agency or institution to meet such standards.

Fellowships.

"(3) Grants under paragraph (1) may be used by institutions to assist in covering the cost of courses of training or study for such personnel and for establishing and maintaining fellowships or traineeships with such stipends and allowances as may be determined by the Secretary.

"(4) The Secretary in carrying out paragraph (1) may reserve a sum not to exceed 5 percent of the amount available for paragraph (1) in each fiscal year for contracts to prepare personnel in areas where shortages exist when a response to that need has not been adequately addressed by the grant process.

"(b) The Secretary may make grants to institutions of higher education and other appropriate nonprofit agencies to conduct special projects to develop and demonstrate new approaches (including the application of new technology) for the preservice training purposes set forth in subsection (a), for regular educators, for the training of teachers to work in community and school settings with handicapped secondary school students, and for the inservice training of special education personnel, including classroom aides, related services personnel, and regular education personnel who serve handicapped children and personnel providing early intervention services.

"(c)(1) The Secretary may make grants through a separate competition to private nonprofit organizations for the purpose of providing training and information to parents of handicapped children and persons who work with parents to enable such individuals to participate more effectively with professionals in meeting the educational needs of handicapped children. Such grants shall be designed to meet the unique training and information needs of parents of handicapped children living in the area to be served by the grant, particularly those who are members of groups that have been traditionally underrepresented.

"(2) In order to receive a grant under paragraph (1) a private nonprofit organization shall—

"(A) be governed by a board of directors on which a majority of the members are parents of handicapped children and which includes members who are professionals in the field of special education and related services who serve handicapped children and youth, or if the nonprofit private organization does not have such a board, such organization shall have a membership which represents the interests of individuals with handicapping conditions, and shall establish a special governing committee on which a majority of the members are parents of handicapped

children and which includes members who are professionals in the fields of special education and related services, to operate the training and information program under paragraph (1).

"(B) serve the parents of children with the full range of handicapping conditions under such grant program, and

"(C) demonstrate the capacity and expertise to conduct effectively the training and information activities for which a grant may be made under paragraph (1).

"(3) The board of directors or special governing committee of a private nonprofit organization receiving a grant under paragraph (1) shall meet at least once in each calendar quarter to review the parent training and information activities for which the grant is made, and each such committee shall advise the governing board directly of its views and recommendations. Whenever a private nonprofit organization requests the renewal of a grant under paragraph (1) for a fiscal year, the board of directors or the special governing committee shall submit to the Secretary a written review of the parent training and information program conducted by that private nonprofit organization during the preceding fiscal year.

"(4) The Secretary shall ensure that grants under paragraph (1) will—

Urban areas. Rural areas. State and local governments.

"(A) be distributed geographically to the greatest extent possible throughout all the States and give priority to grants which involve unserved areas, and

"(B) be targeted to parents of handicapped children in both urban and rural areas or on a State or regional basis.

"(5) Parent training and information programs assisted under paragraph (1) shall assist parents to—

"(A) better understand the nature and needs of the handicapping conditions of children,

"(B) provide followup support for handicapped children's educational programs,

"(C) communicate more effectively with special and regular educators, administrators, related services personnel, and other relevant professionals,

"(D) participate in educational decisionmaking processes including the development of a handicapped child's individualized educational program,

"(E) obtain information about the programs, services, and resources available to handicapped children and the degree to which the programs, services, and resources are appropriate, and

"(F) understand the provisions for the education of handicapped children as specified under part B of this Act.

20 USC 1411.

"(6) Parent training and information programs may, at a grant recipient's discretion, include State or local educational personnel where such participation will further an objective of the program assisted by the grant.

State and local governments.

"(7) Each private nonprofit organization operating a program receiving a grant under paragraph (1) shall consult with appropriate agencies which serve or assist handicapped children and youth and are located in the jurisdictions served by the program.

"(8) The Secretary shall provide technical assistance, by grant or contract, for establishing, developing, and coordinating parent training and information programs.".

SEC. 309. GRANTS FOR STATE EDUCATIONAL AGENCIES AND INSTITUTIONS FOR TRAINEESHIPS.

Section 632 of the Act (20 U.S.C. 1432) is amended to read as follows:

"GRANTS TO STATE EDUCATIONAL AGENCIES AND INSTITUTIONS FOR TRAINEESHIPS

"SEC. 632. The Secretary shall make grants to each State educational agency and may make grants to institutions of higher education to assist in establishing and maintaining preservice and inservice programs to prepare personnel to meet the needs of handicapped infants, toddlers, children, and youth or supervisors of such persons, consistent with the personnel needs identified in the State's comprehensive system of personnel development under section 613.".

Ante, p. 1159; *post*, p. 1174.

SEC. 310. CLEARINGHOUSES.

State and local governments.

(a) IN GENERAL.—Subsection (a) of section 633 of the Act (20 U.S.C. 1433) is amended by striking out "to achieve" and all that follows in that subsection and inserting in lieu thereof the following: "to disseminate information and provide technical assistance on a national basis to parents, professionals, and other interested parties concerning—

"(1) programs relating to the education of the handicapped under this Act and under other Federal laws, and

"(2) participation in such programs, including referral of individuals to appropriate national, State, and local agencies and organizations for further assistance.".

(b) ADDITIONAL CLEARINGHOUSE.—Section 633 of the Act is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following:

Grants. Contracts.

"(c) The Secretary shall make a grant or enter into a contract for a national clearinghouse designed to encourage students to seek careers and professional personnel to seek employment in the various fields relating to the education of handicapped children and youth through the following:

"(1) Collection and dissemination of information on current and future national, regional, and State needs for special education and related services personnel.

"(2) Dissemination to high school counselors and others concerning current career opportunities in special education, location of programs, and various forms of financial assistance (such as scholarships, stipends, and allowances).

"(3) Identification of training programs available around the country.

"(4) Establishment of a network among local and State educational agencies and institutions of higher education concerning the supply of graduates and available openings.

"(5) Technical assistance to institutions seeking to meet State and professionally recognized standards.".

(c) TECHNICAL AMENDMENT.—The heading for section 633 of the Act is amended to read as follows:

"CLEARINGHOUSES".

SEC. 311. AUTHORIZATION.

Section 635 of the Act (20 U.S.C. 1435) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 635. (a) There are authorized to be appropriated to carry out this part (other than section 633) $70,400,000 for fiscal year 1987, $74,500,000 for fiscal year 1988, and $79,000,000 for fiscal year 1989. There are authorized to be appropriated to carry out section 633, $1,200,000 for fiscal year 1987, $1,900,000 for fiscal year 1988, and $2,000,000 for fiscal year 1989.

"(b) Of the funds appropriated pursuant to subsection (a) for any fiscal year, the Secretary shall reserve not less than 65 per centum for activities described in subparagraphs (A) through (E) of section 631(a)(1).

"(c) Of the funds appropriated under subsection (a) for any fiscal year, the Secretary shall reserve 10 percent for activities under section 631(c).".

SEC. 312. RESEARCH AND DEMONSTRATION PROJECTS IN EDUCATION OF HANDICAPPED CHILDREN.

Section 641 of the Act (20 U.S.C. 1441) is amended to read as follows:

"RESEARCH AND DEMONSTRATION PROJECTS IN EDUCATION OF HANDICAPPED CHILDREN

"SEC. 641. (a) The Secretary may make grants to, or enter into contracts or cooperative agreements with, State and local educational agencies, institutions of higher education, and other public agencies and nonprofit private organizations for research and related activities to assist special education personnel, related services personnel, early intervention personnel, and other appropriate persons, including parents, in improving the special education and related services and early intervention services for handicapped infants, toddlers, children, and youth, and to conduct research, surveys, or demonstrations relating to the provision of services to handicapped infants, toddlers, children, and youth. Research and related activities shall be designed to increase knowledge and understanding of handicapping conditions, and teaching, learning, and education-related developmental practices and services for handicapped infants, toddlers, children and youth. Research and related activities assisted under this section shall include the following:

Grants.
Contracts.

"(1) The development of new and improved techniques and devices for teaching handicapped infants, toddlers, children and youth.

"(2) The development of curricula which meet the unique educational and developmental needs of handicapped infants, toddlers, children and youth.

"(3) The application of new technologies and knowledge for the purpose of improving the instruction of handicapped infants, toddlers, children and youth.

"(4) The development of program models and exemplary practices in areas of special education and early intervention.

"(5) The dissemination of information on research and related activities conducted under this part to regional resource centers and interested individuals and organizations.

"(6) The development of instruments, including tests, inventories, and scales for measuring progress of handicapped infants, toddlers, children and youth across a number of developmental domains.

"(b) In carrying out subsection (a), the Secretary shall consider the special education or early intervention experience of applicants under such subsection.

Federal Register, publication.

"(c) The Secretary shall publish proposed research priorities in the Federal Register every 2 years, not later than July 1, and shall allow a period of 60 days for public comments and suggestions. After analyzing and considering the public comments, the Secretary shall publish final research priorities in the Federal Register not later than 30 days after the close of the comment period.

Reports.

"(d) The Secretary shall provide an index (including the title of each research project and the name and address of the researching organization) of all research projects conducted in the prior fiscal year in the annual report described under section 618. The Secretary shall make reports of research projects available to the education community at large and to other interested parties.

Post, p. 1174.

"(e) The Secretary shall coordinate the research priorities established under subsection (c) with research priorities established by the National Institute of Handicapped Research and shall provide information concerning research priorities established under such subsection to the National Council on the Handicapped, and to the Bureau of Indian Affairs Advisory Committee for Exceptional Children.".

SEC. 313. PANELS AND EXPERTS.

Section 643 of the Act (20 U.S.C. 1443) is amended to read as follows:

"PANELS OF EXPERTS

20 USC 1421-1454; *post*, p. 1172.

"SEC. 643. (a) The Secretary shall convene, in accordance with subsection (b), panels of experts who are competent to evaluate proposals for projects under parts C through G. The panels shall be composed of—

"(1) individuals from the field of special education for the handicapped and other relevant disciplines who have significant expertise and experience in the content areas and age levels addressed in the proposals, and

"(2) handicapped individuals and parents of handicapped individuals when appropriate.

"(b)(1) The Secretary shall convene panels under subsection (a) for any application which includes a total funding request exceeding $60,000 and may convene or otherwise appoint panels for applications which include funding requests that are less than such amount.

"(2) Such panels shall include a majority of non-Federal members. Such non-Federal members shall be provided travel and per diem not to exceed the rate provided to other educational consultants used by the Department and shall be provided consultant fees at such a rate.

"(c) The Secretary may use funds available under parts C through G to pay expenses and fees of non-Federal members under subsection (b).". 20 USC 1421-1454; *post*, p. 1172.

SEC. 314. AUTHORIZATION.

Section 644 of the Act (20 U.S.C. 1444) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 644. For purposes of carrying out this part, there are authorized to be appropriated $18,000,000 for fiscal year 1987, $19,000,000 for fiscal year 1988, and $20,100,000 for fiscal year 1989.".

SEC. 315. CAPTIONED FILMS AND EDUCATIONAL MEDIA FOR HANDICAPPED PERSONS.

(a) ILLITERACY.—Subsection (a) of section 652 of the Act (20 U.S.C. 1452) is amended—

(1) by striking out "in accordance with regulations" and inserting in lieu thereof ", including for the purpose of addressing problems of illiteracy among the handicapped",

(2) by inserting after "available" the following: ", in accordance with regulations,".

(b) AUTHORIZED USES.—(1) Subsection (b)(4) of section 652 of the Act is amended by inserting after "handicapped" the following: ", public libraries,".

(2) Subsection (b)(7) is amended by striking the period and inserting in lieu thereof "; and", and by adding the following:

"(8) provide by grant or contract for educational media and materials for the deaf.".

(c) NATIONAL THEATRE OF THE DEAF.—Section 652 of the Act is amended by adding at the end the following:

"(c) The Secretary may make grants to or enter into contracts or cooperative agreements with the National Theatre of the Deaf, Inc. for the purpose of providing theatrical experiences to— Grants. Contracts.

"(1) enrich the lives of deaf children and adults,

"(2) increase public awareness and understanding of deafness and of the artistic and intellectual achievements of deaf people, and

"(3) promote the integration of hearing and deaf people through shared cultural experiences.".

SEC. 316. AUTHORIZATION.

Section 653 of the Act (20 U.S.C. 1453) is repealed and section 654 of the Act (20 U.S.C. 1454) is redesignated as section 653 and amended to read as follows:

"AUTHORIZATION

"SEC. 653. For the purposes of carrying out this part, there are authorized to be appropriated $15,000,000 for fiscal year 1987, $15,750,000 for fiscal year 1988, and $16,540,000 for fiscal year 1989.". 20 USC 1454.

SEC. 317. TECHNOLOGY, EDUCATIONAL MEDIA, AND MATERIALS FOR THE HANDICAPPED.

The Act is amended by adding after part F the following: 20 USC 1451.

"PART G—TECHNOLOGY, EDUCATIONAL MEDIA, AND MATERIALS FOR THE HANDICAPPED

"FINANCIAL ASSISTANCE

Contracts.
20 USC 1461.

SEC. 661. The Secretary may make grants or enter into contracts or cooperative agreements with institutions of higher education, State and local educational agencies, or other appropriate agencies and organizations for the purpose of advancing the use of new technology, media, and materials in the education of handicapped students and the provision of early intervention to handicapped infants and toddlers. In carrying out this subsection, the Secretary may fund projects or centers for the purposes of—

"(1) determining how technology, media, and materials are being used in the education of the handicapped and how they can be used more effectively,

"(2) designing and adapting new technology, media, and materials to improve the education of handicapped students,

"(3) assisting the public and private sectors in the development and marketing of new technology, media, and materials for the education of the handicapped, and

"(4) disseminating information on the availability and use of new technology, media, and materials for the education of the handicapped.

"AUTHORIZATION OF APPROPRIATIONS

20 USC 1462.

"SEC. 662. For the purposes of carrying out this part, there are authorized to be appropriated $10,000,000 for fiscal year 1987, $10,500,000 for fiscal year 1988, and $11,025,000 for fiscal year 1989."

TITLE IV—MISCELLANEOUS

SEC. 401. REMOVAL OF ARCHITECTURAL BARRIERS.

Section 607(a) of the Act (20 U.S.C. 1406) is amended by inserting "with the Secretary of the Interior and" after "cooperative agreements".

SEC. 402. DEFINITIONS.

Section 602(a) of the Act (20 U.S.C. 1401(a)) is amended—

(1) in paragraph (11), by striking out "and" at the end of subparagraph (D), by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; and", and by adding at the end the following:

"(F) The term includes community colleges receiving funding from the Secretary of the Interior under Public Law 95-471.", and

25 USC 1801 note.

(2) by adding at the end the following:

"(23)(A) The term 'public or private nonprofit agency or organization' includes an Indian tribe.

"(B) The terms 'Indian', 'American Indian', and 'Indian American' mean an individual who is a member of an Indian tribe.

"(C) The term 'Indian tribe' means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaskan native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act).".

43 USC 1601 note.

SEC. 403. ALLOCATION; STATE ADMINISTRATION.

(a) ALLOCATION.—Section 611(a)(5)(A) of the Act (20 U.S.C. 1411(a)(5)(A)) is amended to read as follows:

"(5)(A) In determining the allotment of each State under paragraph (1), the Secretary may not count—

"(i) handicapped children aged three to seventeen, inclusive, in such State under paragraph (1)(A) to the extent the number of such children is greater than 12 percent of the number of all children aged three to seventeen, inclusive, in such State and the State serves all handicapped children aged three to five, inclusive, in the State pursuant to State law or practice or the order of any court,

"(ii) handicapped children aged five to seventeen, inclusive, in such State under paragraph (1)(A) to the extent the number of such children is greater than 12 percent of the number of all children aged five to seventeen, inclusive, in such State and the State does not serve all handicapped children aged three to five, inclusive, in the State pursuant to State law or practice on the order of any court; and

"(iii) handicapped children who are counted under section 121 of the Elementary and Secondary Education Act of 1965.". 20 USC 2731.

(b) STATE ADMINISTRATION.—Section 611(c)(2)(A)(ii) of the Act (20 U.S.C. 1411(c)(2)(A)(ii)) is amended to read as follows:

"(ii) the part remaining after use in accordance with clause (i) shall be used by the State (I) to provide support services and direct services in accordance with the priorities established under section 612(3), and (II) for the administrative costs of monitoring and complaint investigation but only to the extent that such costs exceed the costs of administration incurred during fiscal year 1985.". 20 USC 1412.

SEC. 404. INDIANS.

Subsection (f) of section 611 of such Act (20 U.S.C. 1411) is amended to read as follows:

"(f)(1) The Secretary shall make payments to the Secretary of the Interior according to the need for assistance for the education of handicapped children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate amounts available to all States under this section for that fiscal year.

"(2) The Secretary of the Interior may receive an allotment under paragraph (1) only after submitting to the Secretary an application which—

"(A) meets the applicable requirements of sections 612, 613, and 614(a), 20 USC 1412; *post*, p. 1174.

"(B) includes satisfactory assurance that all handicapped children aged 3 to 5, inclusive receive a free appropriate public education by or before the 1987-1988 school year, 20 USC 1414.

"(C) includes an assurance that there are public hearings, adequate notice of such hearings, and an opportunity for comment afforded to members of tribes, tribal governing bodies, and designated local school boards before adoption of the policies, programs, and procedures required under sections 612, 613, and 614(a), and

"(D) is approved by the Secretary.

Section 616 shall apply to any such application.". 20 USC 1416.

SEC. 405. QUALIFIED PERSONNEL.

State and local governments.
Ante, p. 1159.

Section 613(a) of the Act (20 U.S.C. 1413) is amended by inserting at the end thereof the following:

"(14) policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained, including—

"(A) the establishment and maintenance of standards which are consistent with any State approved or recognized certification, licensing, registration, or other comparable requirements which apply to the area in which he or she is providing special education or related services, and

"(B) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in the State.".

SEC. 406. EVALUATION.

Section 618 of the Act (20 U.S.C. 1418) is amended to read as follows:

"EVALUATION

Grants.
Contracts.
State and local governments.

"SEC. 618. (a) The Secretary shall directly or by grant, contract, or cooperative agreement, collect data and conduct studies, investigations, and evaluations—

"(1) to assess progress in the implementation of this Act, the impact, and the effectiveness of State and local efforts and efforts by the Secretary of Interior to provide free appropriate public education to all handicapped children and youth and early intervention services to handicapped infants and toddlers, and

"(2) to provide—

"(A) Congress with information relevant to policymaking, and

"(B) Federal, State, and local agencies and the Secretary of Interior with information relevant to program management, administration, and effectiveness with respect to such education and early intervention services.

"(b) In carrying out subsection (a), the Secretary, on at least an annual basis, shall obtain data concerning programs and projects assisted under this Act and under other Federal laws relating to handicapped infants, toddlers, children, and youth, and such additional information, from State and local educational agencies, the Secretary of Interior, and other appropriate sources, as is necessary for the implementation of this Act including—

"(1) the number of handicapped infants, toddlers, children, and youth in each State receiving a free appropriate public education or early intervention services (A) in age groups 0-2 and 3-5, and (B) in age groups 6-11, 12-17, and 18-21 by disability category,

"(2) the number of handicapped children and youth in each State who are participating in regular educational programs (consistent with the requirements of sections 612(5)(B) and 614(a)(1)(C)(iv)) by disability category, and the number of handicapped children and youth in separate classes, separate schools or facilities, or public or private residential facilities, or who

20 USC 1412, 1414.

have been otherwise removed from the regular education environment,

"(3) the number of handicapped children and youth exiting the educational system each year through program completion or otherwise (A) in age group 3-5, and (B) in age groups 6-11, 12-17, and 18-21 by disability category and anticipated services for the next year,

"(4) the amount of Federal, State, and local funds expended in each State specifically for special education and related services and for early intervention services (which may be based upon a sampling of data from State agencies including State and local educational agencies),

"(5) the number and type of personnel that are employed in the provision of special education and related services to handicapped children and youth and early intervention services to handicapped infants and toddlers by disability category served, and the estimated number and type of additional personnel by disability category needed to adequately carry out the policy established by this Act, and

"(6) a description of the special education and related services and early intervention services needed to fully implement this Act throughout each State, including estimates of the number of handicapped infants and toddlers in the 0-2 age group and estimates of the number of handicapped children and youth (A) in age group 3-5 and (B) in age groups 6-11, 12-17, and 18-21 and by disability category.

"(c) The Secretary shall, by grant, contract, or cooperative agreement, provide for evaluation studies to determine the impact of this Act. Each such evaluation shall include recommendations for improvement of the programs under this Act. The Secretary shall, not later than July 1 of each year, submit to the appropriate committees of each House of the Congress and publish in the Federal Register proposed evaluation priorities for review and comment.

Federal Register, publication.

"(d)(1) The Secretary may enter into cooperative agreements with State educational agencies and other State agencies to carry out studies to assess the impact and effectiveness of programs assisted under this Act.

"(2) An agreement under paragraph (1) shall—

"(A) provide for the payment of not to exceed 60 percent of the total cost of studies conducted by a participating State agency to assess the impact and effectiveness of programs assisted under this Act, and

"(B) be developed in consultation with the State Advisory Panel established under this Act, the local educational agencies, and others involved in or concerned with the education of handicapped children and youth and the provision of early intervention services to handicapped infants and toddlers.

"(3) The Secretary shall provide technical assistance to participating State agencies in the implementation of the study design, analysis, and reporting procedures.

"(4) In addition, the Secretary shall disseminate information from such studies to State agencies, regional resources centers, and clearinghouses established by this Act, and, as appropriate, to others involved in, or concerned with, the education of handicapped children and youth and the provision of early intervention services to handicapped infants and toddlers.

"(e)(1) At least one study shall be a longitudinal study of a sample of handicapped students, encompassing the full range of handicapping conditions, examining their educational progress while in special education and their occupational, educational, and independent living status after graduating from secondary school or otherwise leaving special education.

"(2) At least one study shall focus on obtaining and compiling current information available, through State educational agencies and local educational agencies and other service providers, regarding State and local expenditures for educational services for handicapped students (including special education and related services) and shall gather information needed in order to calculate a range of per pupil expenditures by handicapping condition.

Report.

"(f)(1) Not later than 120 days after the close of each fiscal year, the Secretary shall publish and disseminate an annual report on the progress being made toward the provision of a free appropriate public education to all handicapped children and youth and early intervention services for handicapped infants and toddlers. The annual report shall be transmitted to the appropriate committees of each House of Congress and published and disseminated in sufficient quantities to the education community at large and to other interested parties.

"(2) The Secretary shall include in each annual report under paragraph (1)—

"(A) a compilation and analysis of data gathered under subsection (b),

"(B) an index and summary of each evaluation activity and results of studies conducted under subsection (c),

"(C) a description of findings and determinations resulting from monitoring reviews of State implementation of part B of this Act,

20 USC 1411.

"(D) an analysis and evaluation of the participation of handicapped children and youth in vocational education programs and services,

"(E) an analysis and evaluation of the effectiveness of procedures undertaken by each State educational agency, local educational agency, and intermediate educational unit to ensure that handicapped children and youth receive special education and related services in the least restrictive environment commensurate with their needs and to improve programs of instruction for handicapped children and youth in day or residential facilities, and

"(F) any recommendation for change in the provisions of this Act or any other Federal law providing support for the education of handicapped children and youth.

"(3) In the annual report under paragraph (1) for fiscal year 1985 which is published in 1986 and for every third year thereafter, the Secretary shall include in the annual report—

"(A) an index of all current projects funded under parts C through G of this title, and

20 USC 1421-1454; *Ante*, p. 1172.

"(B) data reported under sections 621, 622, 623, 627, 634, 641, and 661.

Ante, pp. 1159-1161; 20 USC 1426, 1434, *Ante*, p. 1169. *Ante*, p. 1172.

"(4) In the annual report under paragraph (1) for fiscal year 1988 which is published in 1989, the Secretary shall include special sections addressing the provision of a free appropriate public education to handicapped infants, toddlers, children, and youth in rural areas and to handicapped migrants, handicapped Indians (particu-

larly programs operated under section 611(f)), handicapped Native Hawaiian, and other native Pacific basin children and youth, handicapped infants, toddlers, children and youth of limited English proficiency.

Ante, p. 1173.

"(5) Beginning in 1986, in consultation with the National Council for the Handicapped and the Bureau of Indian Affairs Advisory Committee for Exceptional Children, a description of the status of early intervention services for handicapped infants and toddlers from birth through age two, inclusive, and special education and related services to handicapped children from 3 through 5 years of age (including those receiving services through Head Start, Developmental Disabilities Programs, Crippled Children's Services, Mental Health/Mental Retardation Agency, and State child-development centers and private agencies under contract with local schools).

"(g) There are authorized to be appropriated $3,800,000 for fiscal year 1987, $4,000,000 for fiscal year 1988, and $4,200,000 for fiscal year 1989 to carry out this section.".

SEC. 407. REPEAL.

Section 604 of the Act (20 U.S.C. 1403) is repealed.

Approved October 8, 1986.

LEGISLATIVE HISTORY—S. 2294 (H.R. 5520):

HOUSE REPORTS: No. 99-860 accompanying H.R. 5520 (Comm. on Education and Labor).
SENATE REPORTS: No. 99-315 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
June 6, considered and passed Senate.
Sept. 22, H.R. 5520 considered and passed House; proceedings vacated and S. 2294, amended, passed in lieu.
Sept. 24, Senate concurred in House amendments.

O

Public Law 99-458
99th Congress

Joint Resolution

Oct. 8, 1986
[S.J. Res. 202]

Designating October 1986 as "American Liver Foundation National Liver Awareness Month".

Whereas there are more than one hundred liver diseases which are progressively debilitating and often fatal;

Whereas liver diseases claim fifty thousand lives annually and are the fourth leading cause of death of Americans between the ages of fifteen and sixty-five;

Whereas liver diseases strike infants, children, adolescents, and adults, regardless of sex, race, or economic status;

Whereas there are no known causes, effective treatments (other than liver transplants), or cures for the vast majority of liver diseases;

Whereas there are many conditions which can lead to liver diseases, including congenital or inherited abnormalities, severe reactions to drugs, prolonged exposure to environmental toxins, parasitic and other diseases, as well as alcoholism;

Whereas people with a liver disease suffer not only physically from the disease but also emotionally from the unjust stigma placed on them due to the common, but mistaken, notion that liver disease is caused only by alcoholism;

Whereas the American Liver Foundation is the only national organization to focus on the full array of liver diseases;

Whereas the Foundation is a network of volunteers, families, researchers, and health care professionals located throughout the United States, dedicated to funding and increasing research to find the causes, treatments, cures, and ways to prevent these devastating diseases; and

Whereas the Foundation is committed to promoting the health of Americans by increasing public awareness of all conditions which can lead to a liver disease, providing health and therapy information and education programs about liver diseases for lay persons and professionals, and supporting and enhancing the quality of life for those individuals and their families who must cope with a liver disease: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1986 is designated as "American Liver Foundation National Liver Awareness Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to—

(1) learn more about the liver and how to prevent liver diseases;

91-139 O - 86 (475)

(2) support the search for the causes and possible cures for liver diseases;

(3) aid those who suffer from the crushing physical, psychological, and financial burden of a liver disease; and

(4) observe such month with other appropriate activities.

Approved October 8, 1986.

LEGISLATIVE HISTORY—S.J. Res. 202:

CONGRESSIONAL RECORD:
Vol. 131 (1985): Nov. 18, considered and passed Senate.
Vol. 132 (1986): Sept. 18, considered and passed House, amended.
Sept. 29, Senate concurred in House amendments.

O

Public Law 99-459
99th Congress

Joint Resolution

Oct. 8, 1986
[S.J. Res. 245]

Designating "National Epidermolysis Bullosa Awareness Week".

Whereas the incidence and prevalence of epidermolysis bullosa presents a significant health problem in the United States;

Whereas epidermolysis bullosa is an inherited disorder showing widespread blistering and skin erosions which result in pain, scarring, deformity, contractures, malnutrition, anemia, gastrointestinal problems, dental problems, and carcinoma;

Whereas an estimated ten to fifteen thousand Americans of both sexes are afflicted with the disease, and another twenty to thirty thousand Americans may be carriers of this disease;

Whereas the Nation faces a continuing need to support innovative research into the causes, treatment, and cure of epidermolysis bullosa; and

Whereas it is appropriate to focus the Nation's attention upon the plight of epidermolysis bullosa sufferers and upon the continuing peril epidermolysis bullosa poses to humanity: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of December 1, 1986, through December 7, 1986, is designated "National Epidermolysis Bullosa Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the citizens of the United States to observe the week with appropriate programs, ceremonies, and activities.

Approved October 8, 1986.

LEGISLATIVE HISTORY—S.J. Res. 245:

CONGRESSIONAL RECORD, Vol. 132 (1986):
May 5, considered and passed Senate.
Oct. 1, considered and passed House.

O

91-139 O - 86 (476)

Public Law 99-460
99th Congress

Joint Resolution

Oct. 8, 1986
[S.J. Res. 318]

Designating November 1986 as "National Diabetes Month".

Whereas diabetes with its complications kills more than any other disease except cancer and cardiovascular diseases;

Whereas diabetes afflicts eleven million Americans and five million of these Americans are not aware of their illness;

Whereas more than $14,000,000,000 annually is used for health care costs, disability payments, and premature mortality costs due to diabetes;

Whereas up to 85 per centum of all cases of noninsulin dependent diabetes may be preventable through greater public understanding, awareness, and education;

Whereas diabetes is particularly prevalent among black Americans, Hispanic Americans, Native Americans, and women; and

Whereas diabetes is a leading cause of blindness, kidney disease, heart disease, stroke, birth defects, and lower life expectancy, which complications may be reduced through greater patient and public understanding, awareness, and education: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November 1986 is designated as "National Diabetes Month" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate programs, ceremonies, and activities.

Approved October 8, 1986.

LEGISLATIVE HISTORY— S.J. Res. 318:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 22, considered and passed Senate.
Oct. 1, considered and passed House.

91-139 O - 86 (477)

Public Law 99-461
99th Congress

Joint Resolution

Oct. 8, 1986
[S.J. Res. 368]

To designate the month of October 1986, as "National Spina Bifida Month".

Whereas spina bifida is a birth defect in the spinal column which occurs in one of every one thousand births in the United States;

Whereas spina bifida is the most common crippler of newborns, resulting when one or more bones in the back (vertebrae) fail to close completely during prenatal development;

Whereas while the cause of spina bifida is not known, it appears to be the result of multiple environmental and genetic factors;

Whereas although most of the March of Dimes and Easter Seal poster children have spina bifida, many people have not heard of the defect;

Whereas only a few cities in the United States have proper care centers and specialized professionals that can provide the most effective, aggressive treatment for children and adults with spina bifida; and

Whereas an increase in the national awareness of the problem of spina bifida may stimulate the interest and concern of the American people, which may lead, in turn, to increased research and eventually to the discovery of a cure for spina bifida: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of October 1986, is designated "National Spina Bifida Month" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Approved October 8, 1986.

LEGISLATIVE HISTORY—S.J. Res. 368:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 9, considered and passed Senate.
Oct. 1, considered and passed House.

O

91-139 O - 86 (478)

Public Law 99-462
99th Congress

Joint Resolution

To designate October 4, 1986, as "National Outreach to the Rural Disabled Day".

Oct. 8, 1986
[S.J. Res. 406]

Whereas there are approximately eight million five hundred thousand disabled persons in rural America;

Whereas, in 1984, farm residents suffered approximately two hundred and ninety thousand disabling injuries and approximately five hundred and sixty thousand agricultural workers were hindered in their farming operations because of permanent disabilities;

Whereas disability is proportionately more prevalent in rural areas than in urban areas and the rural disabled are more disadvantaged than their urban counterparts;

Whereas little attention has been given to the unique problems faced by the rural disabled in the United States; and

Whereas there is a need to focus attention on the unmet needs of the rural disabled, to underscore their potential, and to encourage outreach programs by rural communities to their disabled members: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 4, 1986, is hereby designated "National Outreach to the Rural Disabled Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe this day with appropriate ceremonies and activities.

Approved October 8, 1986.

LEGISLATIVE HISTORY—S.J. Res. 406:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 12, considered and passed Senate.
Oct. 1, considered and passed House.

O

91-139 O - 86 (479)

Public Law 99-463
99th Congress

Joint Resolution

Oct. 9, 1986
[H.J. Res. 749]

Waiving the printing on parchment of certain enrolled bills and joint resolutions during the remainder of the second session of the Ninety-ninth Congress.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the requirement of sections 106 and 107 of title I, United States Code, that the enrollment of the following bills and joint resolutions be printed on parchment be waived during the remainder of the second session of the Ninety-ninth Congress, and that the enrollment of said bills and joint resolutions be in such form as may be certified by the Committee on House Administration to be truly enrolled: H.R. 2005; H.R. 3838; H.R. 5300; H.R. 5484; and H.J. Res. 738, or any other measure continuing appropriations.

Approved October 9, 1986.

LEGISLATIVE HISTORY—H.J. Res. 749:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 8, considered and passed House and Senate.

O

91-139 O - 86 (480)

Public Law 99-464
99th Congress

Joint Resolution

Making further continuing appropriations for the fiscal year 1987, and for other purposes.

Oct. 9, 1986
[H.J. Res. 750]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1987, and for other purposes, namely:

SEC. 101. (a)(1) Such amounts as may be necessary are hereby appropriated for programs, projects, or activities, not otherwise specifically provided for in this joint resolution, for which appropriations, funds, or other authority would be available in the following appropriation Acts:

District of Columbia Appropriations Act, 1987, H.R. 5175 as passed by the House on July 24, 1986, and as passed by the Senate on September 16, 1986;

Department of the Interior and Related Agencies Appropriations Act, 1987, H.R. 5234 as passed by the House on July 31, 1986, and as passed by the Senate on September 16, 1986;

Military Construction Appropriations Act, 1987, H.R. 5052 as passed by the House on June 25, 1986, and as passed by the Senate on August 13, 1986; and

(2) Appropriations made by this subsection shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

(3) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this subsection as passed by the House is different from that which would be available or granted under such Act as passed by the Senate, the pertinent program, project, or activity shall be continued under the lesser amount or the more restrictive authority: *Provided,* That where an item is included in only one version of an Act as passed by both Houses as of October 1, 1986, the pertinent program, project, or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1986.

(4) No provision which is included in an appropriations Act enumerated in this subsection but which was not included in the applicable appropriations Act of 1986, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in the joint resolution unless such provision shall have been included

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in identical form in such bill as enacted by both the House and the Senate.

(5) No appropriation or fund made available or authority granted pursuant to this subsection shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1986.

(b)(1) Such amounts as may be necessary are hereby appropriated for programs, projects, or activities, not otherwise specifically provided for in this joint resolution, for which appropriations, funds, or other authority would be available in the following appropriations Acts:

Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, H.R. 5177 as passed by the House on July 24, 1986;

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1987, H.R. 5161 as passed by the House on July 17, 1986;

Department of Defense Appropriations Act, 1987, H.R. 5438 as provided for in section 101(c) of H.J. Res. 738 which passed the House on September 25, 1986, and such Act shall be deemed to have passed the House for purposes of this joint resolution;

Energy and Water Development Appropriations Act, 1987, H.R. 5162 as passed by the House on July 23, 1986;

Foreign Assistance and Related Programs Appropriations Act, 1987, H.R. 5339 as provided for in section 101(f) of H.J. Res. 738 which passed the House on September 25, 1986, and such Act shall be deemed to have passed the House for purposes of this joint resolution;

Treasury, Postal Service, and General Government Appropriations Act, 1987, H.R. 5294 as passed by the House on August 6, 1986.

(2) Appropriations made by this subsection shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

(3) Whenever an Act listed in this subsection has been passed by only the House as of October 1, 1986, the pertinent program, project, or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the current rate or the rate permitted by the action of the House whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1986.

(4) No appropriation or fund made available or authority granted pursuant to this subsection shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1986.

(c) Such amounts as may be necessary are hereby appropriated for programs, projects, or activities provided for in H.R. 5203, the Legislative Branch Appropriations Act, 1987, to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-805) as filed in the House of Representatives on August 15, 1986, as if enacted into law.

(d) Such amounts as may be necessary are hereby appropriated for programs, projects, or activities provided for in H.R. 5313, the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1987, to the extent and in the manner provided for in the conference report and joint explanatory state-

ment of the committee of conference (House Report 99-977) as filed in the House of Representatives on October 7, 1986, as if enacted into law.

(e) Such amounts as may be necessary are hereby appropriated for programs, projects, or activities provided for in H.R. 5233, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1987, to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-960) as filed in the House of Representatives on October 2, 1986, as if enacted into law.

(f) Such amounts as may be necessary are hereby appropriated for programs, projects, or activities provided for in H.R. 5205, the Department of Transportation and Related Agencies Appropriations Act, 1987, to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-976) as filed in the House of Representatives on October 7, 1986, as if enacted into law except that such conference agreement shall be considered as not including those provisions in Section 331 of H.R. 5205 as passed the House of Representatives on July 30, 1986.

(g) Such amounts as may be necessary for continuing the following activities, not otherwise provided for in this joint resolution, which were conducted in the fiscal year 1986, under the terms and conditions provided in applicable appropriations Acts for the fiscal year 1986, at the current rate or as otherwise provided herein: *Provided,* That no appropriation or fund made available or authority granted pursuant to this subsection shall be used to initiate or resume any project or activity for which appropriations, funds, or authority were not available during fiscal year 1986 unless otherwise provided for herein:

Refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act, part B of title III of the Refugee Act of 1980, and section 501 of the Refugee Education Assistance Act of 1980 except that no activity authorized by such Acts shall be funded beyond September 30, 1987; and

Activities authorized by the Follow Through Act.

8 USC 1521.
94 Stat. 109.
8 USC 1522 note.
42 USC 9801.

SEC. 102. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1986, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) October 10, 1986, whichever first occurs.

SEC. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 105. No provision in any appropriations Act for the fiscal year 1987 referred to in section 101 of this joint resolution that

makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 102(c) of this joint resolution.

SEC. 106. Appropriations and funds made available or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

DRUG COORDINATION PLAN

SEC. 107. Pending the enactment of the Omnibus Drug Supplemental Appropriations Act of 1987, contained as title II of the fiscal year 1987 Continuing Appropriations Act of 1987 (H.J. Res. 738), the President or his designee shall, out of the $1,200,000,000 made available for drug abuse prevention programs by House Joint Resolution 738 and continued by this resolution and in the regular appropriations bills for the fiscal year 1987, with the cooperation of those presently engaged in this effort in the executive departments, Members of Congress, and others experienced in the field of law enforcement, use $100,000 to develop an overall drug abuse prevention plan that coordinates the Government's efforts in combating the widespread use of illegal drugs: *Provided,* That this plan shall be presented to the Congress no later than January 1, 1987.

Approved October 9, 1986.

LEGISLATIVE HISTORY—H.J. Res. 750:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 8, considered and passed House and Senate.

O

Public Law 99-465
99th Congress

Joint Resolution

Making further continuing appropriations for the fiscal year ending September 30, 1987, and for other purposes.

Oct. 11, 1986
[H.J. Res. 751]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 102(c) of the joint resolution of October 9, 1986 (Public Law 99-464) is hereby amended by striking out "October 10, 1986" and inserting in lieu thereof "October 15, 1986".

100 Stat. 1187.

Approved October 11, 1986.

LEGISLATIVE HISTORY—H.J. Res. 751:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 10, considered and passed House and Senate.

O

91-139.0 - 86 (482)

Public Law 99-466
99th Congress

An Act

Oct. 14, 1986
[H.R. 2183]

To amend title 28 of the United States Code to make certain changes with respect to the participation of judges of the Court of International Trade in judicial conferences and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JUDICIAL CONFERENCE OF THE UNITED STATES.

(a) REPRESENTATION OF COURT OF INTERNATIONAL TRADE.—The first paragraph of section 331 of title 28, United States Code, is amended—

(1) in the first sentence by inserting ", the chief judge of the Court of International Trade," after "chief judge of each judicial circuit", and

(2) in the last sentence by striking out "conference" and inserting in lieu thereof "Conference".

(b) SELECTION OF ALTERNATE JUDGE TO ATTEND CONFERENCE.—The third paragraph of section 331 of title 28, United States Code, is amended in the first sentence—

(1) by inserting ", the chief judge of the Court of International Trade," after "chief judge of any circuit", and

(2) by inserting "or any other judge of the Court of International Trade, as the case may be" before the period at the end thereof.

(c) TECHNICAL AMENDMENT.—The sixth paragraph of section 331 of title 28, United States Code, is amended by striking out "conference" and inserting in lieu thereof "Conference".

SEC. 2. JUDICIAL CONFERENCE OF THE COURT OF INTERNATIONAL TRADE.

28 USC 331 *et seq.*

(a) ESTABLISHMENT OF JUDICIAL CONFERENCE OF THE COURT OF INTERNATIONAL TRADE.—Chapter 15 of title 28, the United States Code, is amended by adding at the end thereof the following new section:

28 USC 335.

"§ 335. Judicial Conference of the Court of International Trade

"(a) The chief judge of the Court of International Trade is authorized to summon annually the judges of such court to a judicial conference, at a time and place that such chief judge designates, for the purpose of considering the business of such court and improvements in the administration of justice in such court.

"(b) The Court of International Trade shall provide by its rules for representation and active participation at such conference by members of the bar.".

(b) TECHNICAL AMENDMENT.—The table of sections of chapter 15 of title 28, the United States Code, is amended by adding at the end thereof the following new item:

"335. Judicial Conference of the Court of International Trade.".

91-139 O - 86 (483)

SEC. 3. DUTIES OF UNITED STATES MARSHALS.

(a) UNITED STATES MARSHALS.—Section 569(a) of title 28, United States Code, is amended by striking out "elsewhere than in the Southern and Eastern Districts of New York". New York.

(b) CONFORMING AMENDMENTS.—Chapter 55 of title 28, United States Code, is amended— 28 USC 871 *et seq.*

(1) by striking out section 872,

(2) by redesignating section 873 as section 872, and

(3) in the table of sections—

(A) by striking out the item relating to section 872, and

(B) in the item relating to section 873, by striking out "873" and inserting in lieu thereof "872".

SEC. 4. EFFECTIVE DATE. 28 USC 331 note.

This Act and the amendments made by this Act shall take effect 60 days after the date of the enactment of this Act.

Approved October 14, 1986.

LEGISLATIVE HISTORY—H.R. 2183:

HOUSE REPORTS: No. 99-390 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 9, considered and passed House.
Vol. 132 (1986): Sept. 29, considered and passed Senate.

O

Public Law 99-467
99th Congress

An Act

Oct. 14, 1986
[H.R. 2721]

To amend title 13, United States Code, to require the collection of statistics on domestic apparel and textile industries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 3 of title 13, United States Code, is amended by redesignating subchapters III and IV as subchapters IV and V, respectively, and by inserting after subchapter II the following:

13 USC 41 *et seq.*
13 USC 91 *et seq.*, 101 *et seq.*

"SUBCHAPTER III—APPAREL AND TEXTILES

13 USC 81.

"§ 81. Statistics on apparel and textile industries

"The Secretary shall collect and publish quarterly statistics relating to domestic apparel and textile industries.".

(b) The analysis for chapter 3 of title 13, United States Code, is amended—

(1) by striking out the item relating to subchapter III and inserting in lieu thereof:

"SUBCHAPTER IV—QUARTERLY FINANCIAL STATISTICS";

(2) by striking out the item relating to subchapter IV and inserting in lieu thereof:

"SUBCHAPTER V—MISCELLANEOUS";

and

(3) by inserting after the item relating to section 63 the following:

"SUBCHAPTER III—APPAREL AND TEXTILES

"81. Statistics on apparel and textile industries.".

Approved October 14, 1986.

LEGISLATIVE HISTORY—H.R. 2721:

HOUSE REPORTS: No. 99-511 (Comm. on Post Office and Civil Service).
SENATE REPORTS: No. 99-450 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 14, considered and passed House.
Sept. 29, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Oct. 14, Presidential statement.

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91-139 0 - 86 (484)

Public Law 99-468
99th Congress

An Act

Granting the consent of the Congress to the amendments to the Susquehanna River Basin Compact.

Oct. 14, 1986
[H.R. 2971]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO SUSQUEHANNA RIVER BASIN COMPACT.

(a) CONSENT OF CONGRESS.—The consent of the Congress is hereby given to the amendments, described in subsection (b), to the Susquehanna River Basin Compact, entered into by the States of New York, Pennsylvania, and Maryland and consented to by the Congress in the Act of December 24, 1970 (84 Stat. 1509).

New York.
Pennsylvania.
Maryland.

(b) DESCRIPTION OF AMENDMENTS.—The amendments referred to in subsection (a) have been ratified by the States described in such subsection and have the effect of—

(1) amending section 13.9 of Article 13 of the Susquehanna River Basin Compact (84 Stat. 1528) to read as follows:

"13.9 Interest. Bonds shall bear interest at such rate as the commission shall determine, payable annually and semi-annually."; and

Securities.

(2) amending section 13.13 of such article (84 Stat. 1528) to read as follows:

"13.13 Sale. The commission may fix terms and conditions for the sale or other disposition of any authorized issue of bonds and may sell its bonds at less than their par or face value. All bonds issued or sold for cash pursuant to this compact shall be sold on sealed proposals to the highest bidder. Prior to such sale, the commission shall advertise for bids by publication of a notice of sale not less than ten days prior to the date of sale, at least once in a newspaper of general circulation printed and published in New York City carrying municipal bonds notices and devoted primarily to financial news. The commission may reject any and all bids submitted and may thereafter sell the bonds so advertised for sale at private sale to any financially responsible bidder under such terms and conditions as it deems

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most advantageous to the public interest, but the bonds shall not be sold at a net interest cost calculated upon the entire issue so advertised, greater than the lowest bid which was rejected. In the event the commission desires to issue its bonds in exchange for an existing facility or portion thereof, or in exchange for bonds secured by the revenues of an existing facility, it may exchange such bonds for the existing facility or portion thereof or for the bonds so secured, plus an additional amount of cash, without advertising such bonds for sale.".

Approved October 14, 1986.

LEGISLATIVE HISTORY—H.R. 2971 (S. 1421):

HOUSE REPORTS: No. 99-596 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 132 (1986):
May 19, considered and passed House.
Aug. 15, S. 1421 considered and passed Senate.
Sept. 29, H.R. 2971 considered and passed Senate.

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Public Law 99-469
99th Congress

An Act

To provide for the settlement of certain claims of the Papago Tribe of Arizona arising from the construction of Tat Momolikot Dam, and for other purposes.

Oct. 14, 1986
[H.R. 4217]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Tohono O'odham Tat Momolikot Dam Settlement Act.

SHORT TITLE

SECTION 1. This Act may be cited as the "Tohono O'odham Tat Momolikot Dam Settlement Act".

CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds that—

(1) it is the policy of the United States to settle, wherever possible, the land claims of Indian tribes without costly and lengthy litigation;

(2) Tat Momolikot Dam was constructed in 1974 by the Corps of Engineers, Department of the Army, on lands belonging to the Tohono O'odham Indians to provide off-reservation flood protection to Pinal County, Arizona, and water conservation for the tribe;

(3) the O'odham agreed to grant appropriate rights to approximately five thousand three hundred and twenty-four acres of land for the Tat Momolikot project on condition that the United States provide certain water conservation, irrigation, fish and wildlife and other benefits to the tribe;

(4) the United States has failed to provide those benefits;

(5) as a result, the United States has failed to acquire appropriate rights to the lands required for the construction of the dam and its reservoir;

(6) the claims of the O'odham for damages for the use of tribal land by the United States without authorization by the tribe or compensation to it are the subject of prospective lawsuits against the United States;

(7) it is in the long-term interest of the United States and the Tohono O'odham Indians to provide a fair and equitable settlement of the claims of the O'odham for the injuries they have sustained;

(8) the settlement contained in this Act will—

(A) provide fair and equitable compensation and other valuable considerations to the Tohono O'odham Indians and the former residents of Tat Momoli village; and

(B) secure for the United States appropriate rights for Tat Momolikot Dam and its reservoir.

DEFINITIONS

SEC. 3. For the purposes of this Act, the term—

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(1) "tribe" means the Tohono O'odham Nation, formerly known as the Papago Tribe of Arizona, organized under section 16 of the Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 478);

25 USC 476.

(2) "Secretary" means the Secretary of the Interior; unless otherwise specified; and

(3) "Tat Momolikot Dam" means the dam constructed by the Corps of Engineers, Department of the Army, on Santa Rosa Wash in the Sif Oidak District of the Sells Papago Reservation.

PAYMENTS TO TRIBE; LIMITS ON SECRETARY'S LIABILITY

SEC. 4. (a) If the tribe executes the waiver and release referred to in section 6(a)(1) and the grant of rights referred to in section 6(a)(2), the Secretary of the Treasury shall pay to the authorized governing body of the tribe the sum of $6,000,000 for the benefit of the tribe, together with interest accruing on such sum from the date of enactment of this Act at a rate determined by the Secretary of the Treasury taking into consideration the average market yield on Federal obligations of comparable maturity.

Securities. Community development.

(b) The tribe shall invest sums received under this section in interest bearing deposits and securities until expended. The authorized governing body of the tribe may spend the principal and interest and dividends accruing on such sums for economic and community development and other tribal purposes: *Provided*, That the sum of $100,000 shall be distributed by the tribe, on a fair and equitable basis, among those six individuals who were heads of households residing at Tat Momoli village in 1969 and owned improvements at said village, or among their heirs. No portion of the funds received under subsection (a) shall be used for per capita payments.

(c) The Secretary shall not be responsible for the review, approval or audit of the moneys referred to in this section, nor shall the Secretary be subject to liability for any claim or cause of action arising from the Tribe's use and expenditure of such moneys.

AUTHORIZATION OF APPROPRIATIONS

Effective date.

SEC. 5. Effective October 1, 1987, there are authorized to be appropriated such sums as are necessary to carry out the purposes of section 4 of this Act.

WAIVER AND RELEASE OF CLAIMS

SEC. 6. (a) The Secretary shall be required to carry out his obligations under this Act only if, within one year after the date of enactment of this Act, the Papago Tribe executes—

(1) a waiver and release in a manner satisfactory to the Secretary of any and all claims arising from the use of tribal land in connection with the construction of Tat Momolikot Dam and its reservoir prior to the date of enactment of this Act; and

(2) a grant of appropriate rights for said dam and reservoir.

Effective date.

(b) The waiver and release referred to in subsection (a)(1) and the grant of appropriate rights referred to in subsection (a)(2) shall not take effect until such time as the funds authorized to be paid to the Tribe have been appropriated and the payments referred to in section 4 have been made.

HAZARD REDUCTION

SEC. 7. Within two years after the date of enactment of this Act, the Secretary shall construct such fences and cattleguards in the immediate vicinity of Tat Momolikot Dam and its reservoir as may be necessary to protect livestock. Animals.

COMPLIANCE WITH BUDGET ACT

SEC. 8. No authority under this title to enter into contracts or to make payments shall be effective except to the extent and in such amounts as provided in advance in appropriations Acts. Any provision of this title which, directly or indirectly, authorizes the enactment of new budget authority shall be effective only for fiscal years beginning after September 30, 1987. Effective date.

Approved October 14, 1986.

LEGISLATIVE HISTORY—H.R. 4217:

HOUSE REPORTS: No. 99-852 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 23, considered and passed House.
Oct. 1, considered and passed Senate.

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Public Law 99-470
99th Congress

An Act

Oct. 14, 1986
[H.R. 4588]

To authorize appropriations for the Administrative Conference of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MEMBERSHIP OF ADMINISTRATIVE CONFERENCE.

(a) Section 573 of title 5, United States Code, is amended—

(1) in subsection (a) by striking "91" and inserting "101"; and

(2) in subsection (b)(6) by striking "36" and inserting "40".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 576 of title 5, United States Code, is amended to read as follows:

"§ 576. Authorization of appropriations

"There are authorized to be appropriated to carry out the purposes of this subchapter not more than $1,600,000 for fiscal year 1986 and not more than $2,000,000 for each fiscal year thereafter up to and including fiscal year 1990. Of any amounts appropriated under this section, not more than $1,000 may be made available in each fiscal year for official reception and entertainment expenses for foreign dignitaries.".

(b) CLERICAL AMENDMENT.—The item relating to section 576 in the table of sections for chapter 5 of title 5, United States Code, is amended to read as follows:

"576. Authorization of appropriations.".

Approved October 14, 1986.

LEGISLATIVE HISTORY—H.R. 4588:

HOUSE REPORTS: No. 99-603 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 132 (1986):
May 19, considered and passed House.
Sept. 29, considered and passed Senate.

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91-139 O - 86 (487)

Public Law 99-471
99th Congress

Joint Resolution

To authorize and request the President to proclaim the week of November 23, 1986, to November 30, 1986, as "American Indian Week".

Oct. 14, 1986
[S.J. Res. 390]

Whereas American Indians were the original inhabitants of the lands that now constitute the United States;

Whereas American Indians have made a unique and essential contribution to the United States;

Whereas the people of the United States should be reminded of the assistance American Indians provided to the Founding Fathers of our Nation;

Whereas the people of the United States should consider the present relationship between American Indians and the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to proclaim the week of November 23, 1986, to November 30, 1986, as "American Indian Week" and to call upon Federal, State, and local governments, interested groups and organizations, and the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved October 14, 1986.

LEGISLATIVE HISTORY—S.J. Res. 390:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 12, considered and passed House.
Oct. 1, considered and passed Senate.

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91-139 O - 86 (488)

EXPORT-IMPORT BANK ACT AMENDMENTS OF 1986

Public Law 99-472
99th Congress

An Act

Oct. 15, 1986
[H.R. 5548]

To amend the Export-Import Bank Act of 1945.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Export-Import Bank Act Amendments of 1986.
12 USC 635 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Export-Import Bank Act Amendments of 1986".

SEC. 2. FEES.

12 USC 635.

Section 2(a)(1) of the Export-Import Bank Act of 1945 is amended by inserting after the fifth sentence thereof the following: "The Bank may impose and collect reasonable fees to cover the costs of conferences and seminars sponsored by, and publications provided by, the Bank. Amounts received under the preceding sentence shall be credited to the fund which initially paid for such activities.".

SEC. 3. CREDIT APPLICATION FEES.

Post, p. 1201.

Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(B)) is amended by inserting after the third sentence the following: "The Bank may not impose a credit application fee unless (i) the fee is competitive with the average fee charged by the Bank's primary foreign competitors, and (ii) the borrower or the exporter is given the option of paying the fee at the outset of the loan or over the life of the loan and the present value of the fee determined under either such option is the same amount.".

SEC. 4. ENHANCEMENT OF MEDIUM-TERM PROGRAM.

Section 2(a) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(a)) is amended by adding at the end thereof the following new paragraph:

"(3) ENHANCEMENT OF MEDIUM-TERM PROGRAM.—

"(A) IN GENERAL.—To enhance the medium-term financing program established pursuant to paragraph (2), the Bank shall establish measures to—

"(i) improve the competitiveness of the Bank's medium-term financing and ensure that its medium-term financing is fully competitive with that of other major official export credit agencies;

"(ii) ease the administrative burdens and procedural and documentary requirements imposed on the users of medium-term financing;

"(iii) attract the widest possible participation of private financial institutions and other sources of private capital in the medium-term financing of United States exports; and

"(iv) render the Bank's medium-term financing as supportive of United States exports as is its Direct Loan Program.

"(B) REPORT REQUIRED.—Not later than April 15, 1988, the Bank shall transmit a report to the Congress analyzing the measures adopted to enhance medium-term financing.".

SEC. 5. COMPETITIVENESS MANDATE.

The second sentence of section 2(b)(1)(B) of the Export-Import Bank Act of 1945 is amended by striking out "equivalent" and inserting in lieu thereof "identical in all respects". *Ante*, p. 1200.

SEC. 6. MULTIPLE-EXPORTER RISK PROTECTION.

Section 2(b)(1)(E) of the Export-Import Bank Act of 1945 is amended by adding at the end thereof the following new clause: 12 USC 635.

"(ix) The Bank shall provide, through creditworthy trade associations, export trading companies, State export finance companies, export finance cooperatives, and other multiple-exporter organizations, medium-term risk protection coverage for the members and clients of such organizations. Such coverage shall be made available to each such organization under a single risk protection policy covering its members or clients. Nothing in this provision shall be interpreted as limiting the Bank's authority to deny support for specific transactions or to disapprove a request by such an organization to participate in such coverage.".

SEC. 7. PROGRAM ACCESS.

Section 2(b)(1) of the Export-Import Bank Act of 1945 is amended by adding at the end thereof the following new subparagraph:

"(G) Participation in or access to long-, medium-, and short-term financing, guarantees, and insurance provided by the Bank shall not be denied solely because the entity seeking participation or access is not a bank or is not a United States person.". Insurance.

SEC. 8. PROHIBITION ON AID TO MARXIST-LENINIST COUNTRIES.

Section 2(b)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(2)) is amended to read as follows:

"(2) PROHIBITION ON AID TO MARXIST-LENINIST COUNTRIES.—

"(A) IN GENERAL.—The Bank in the exercise of its functions shall not guarantee, insure, extend credit, or participate in the extension of credit—

"(i) in connection with the purchase or lease of any product by a Marxist-Leninist country, or agency or national thereof; or

"(ii) in connection with the purchase or lease of any product by any other foreign country, or agency or national thereof, if the product to be purchased or leased by such other country, agency, or national is, to the knowledge of the Bank, principally for use in, or sale or lease to, a Marxist-Leninist country.

"(B) MARXIST-LENINIST COUNTRY DEFINED.—

"(i) IN GENERAL.—For the purposes of this paragraph, the term 'Marxist-Leninist country' means any country which—

"(I) maintains a centrally planned economy based on the principles of Marxist-Leninism, or

"(II) is economically and militarily dependent on the Union of Soviet Socialist Republics or on any other Marxist-Leninist country.

"(ii) SPECIFIC COUNTRIES DEEMED TO BE MARXIST-LENINIST.—Unless otherwise determined by the President in the manner provided in subparagraph (C), the following countries are deemed to be Marxist-Leninist countries for purposes of this paragraph:

"Cambodian People's Republic.
"Cooperative Republic of Guyana.
"Czechoslovak Socialist Republic.
"Democratic People's Republic of Korea.
"Democratic Republic of Afghanistan.
"Estonia.
"German Democratic Republic.
"Hungarian People's Republic.
"Lao People's Democratic Republic.
"Latvia.
"Lithuania.
"Mongolian People's Republic.
"People's Democratic Republic of Yemen.
"People's Republic of Albania.
"People's Republic of Angola.
"People's Republic of Benin.
"People's Republic of Bulgaria.
"People's Republic of China.
"People's Republic of the Congo.
"People's Republic of Mozambique.
"Polish People's Republic.
"Republic of Cuba.
"Republic of Nicaragua.
"Socialist Ethiopia.
"Socialist Federal Republic of Yugoslavia.
"Socialist Republic of Romania.
"Socialist Republic of Vietnam.
"Surinam.
"Tibet.
"Union of Soviet Socialist Republics (including its captive constituent republics).

"(C) PRESIDENTIAL DETERMINATION THAT A COUNTRY HAS CEASED TO BE MARXIST-LENINIST.—If the President determines that any country on the list contained in subparagraph (B)(ii) has ceased to be a Marxist-Leninist country (within the definition of such term in subparagraph (B)(i)), such country shall not be treated as a Marxist-Leninist country for purposes of this paragraph after the date of such determination, unless the President subsequently determines that such country has again become a Marxist-Leninist country.".

"(D) PRESIDENTIAL DETERMINATION RELATING TO FINANCING IN THE NATIONAL INTEREST.—

Insurance.

"(i) IN GENERAL.—Subparagraph (A) shall not apply to guarantees, insurance, or extensions of credit by the Bank to a country, agency, or national described in clause (i) or (ii) of subparagraph (A) (in connection with transactions described in such clauses) if the President determines that such guarantees, insurance, or extensions of credit are in the national interest.

Loans.

"(ii) SEPARATE DETERMINATION FOR CERTAIN TRANSACTIONS.—The President shall make a separate determination under clause (i) for each transaction described in clause

(i) or (ii) of subparagraph (A) for which the Bank would extend a loan in an amount equal to or greater than $50,000,000.

"(iii) REPORT OF CLAUSE (i) DETERMINATIONS TO CONGRESS.—Any determination by the President under clause (i) shall be reported to the Congress not later than the earlier of—

"(I) the end of the 30-day period beginning on the date of such determination; or

"(II) the date the Bank takes final action with respect to the first transaction involving the country, agency, or national for which such determination is made after the date of the enactment of the Export-Import Bank Amendments of 1974, unless a report of a determination with respect to such country, agency, or national was made and reported before such date of enactment.

12 USC 635 note.

"(iv) REPORT OF CLAUSE (ii) DETERMINATIONS TO CONGRESS.—Any determination by the President under clause (ii) shall be reported to the Congress not later than the earlier of—

"(I) the end of the 30-day period beginning on the date of such determination; or

"(II) the date the Bank takes final action with respect to the transaction for which such determination is made.".

SEC. 9. PROHIBITION ON AID TO ANGOLA.

Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)) is amended by adding at the end thereof the following new paragraph:

"(1) PROHIBITION RELATING TO ANGOLA.—Notwithstanding any determination by the President under paragraph (2), the Bank may not guarantee, insure, or extend credit (or participate in the extension of credit) in connection with any export of goods or services, except food or agricultural commodities, to the People's Republic of Angola until the President certifies to the Congress that no combatant forces or military advisors of the Republic of Cuba or of any other Marxist-Leninist country (as such term is defined in paragraph (2)(B)) remain in Angola.".

Agriculture and agricultural commodities.

SEC. 10. TRANSFERABILITY OF GUARANTEES.

Section 2(c) of the Export-Import Bank Act of 1945 is amended by adding at the end thereof the following new paragraph:

"(3) TRANSFERABILITY OF GUARANTEES.—With respect to medium-term and long-term obligations insured or guaranteed by the Bank after the date of the enactment of the Export-Import Bank Act Amendments of 1986, the Bank shall authorize the unrestricted transfer of such obligations by the originating lenders or their transferees to other lenders without affecting, limiting, or terminating the guarantee or insurance provided by the Bank.".

SEC. 11. PROHIBITION AGAINST CERTAIN TRANSACTIONS.

Section 2 of the Export-Import Bank Act of 1945 is amended by adding at the end thereof the following:

"(e) LIMITATION ON ASSISTANCE WHICH ADVERSELY AFFECT THE UNITED STATES.—

"(1) IN GENERAL.—The Bank may not extend any direct credit or financial guarantee for establishing or expanding production of any commodity for export by any country other than the United States, if—

"(A) the Bank determines that—

"(i) the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative; or

"(ii) the resulting production capacity is expected to compete with United States production of the same, similar, or competing commodity; and

"(B) the Bank determines that the extension of such credit or guarantee will cause substantial injury to United States producers of the same, similar, or competing commodity.

"(2) EXCEPTION.—Paragraph (1) shall not apply in any case where, in the judgment of the Board of Directors of the Bank, the short- and long-term benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity.".

SEC. 12. IMPACT ANALYSIS.

Loans.
12 USC 635a-2.

Section 1911 of the Export-Import Bank Act Amendments of 1978 is amended by adding at the end thereof the following: "In all cases to which this section applies, the Bank shall consider and address in writing the views of parties or persons who may be substantially adversely affected by the loan or guarantee prior to taking final action on the loan or guarantee. This requirement does not subject the Bank to the provisions of subchapter II of chapter 5 of title 5, United States Code.".

5 USC 5311.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

12 USC 635e.
Post, p. 1205.
Loans.

Section 7(a) of the Export-Import Bank Act of 1945 is amended by adding at the end thereof the following new paragraph:

"(3) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated $145,259,000 for fiscal year 1987 to cover the subsidy cost of new direct loans obligated by the Bank in that fiscal year. Any amounts appropriated under this paragraph shall be permanent additions to the capital and reserves of the Bank.".

SEC. 14. EXTENSION OF CHARTER.

Section 8 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking out "September 30, 1986" and inserting in lieu thereof "September 30, 1992".

SEC. 15. MATCHING FOREIGN OFFICIAL EXPORT CREDITS IN THE UNITED STATES.

(a) IN GENERAL.—Section 1912(b) of the Export-Import Bank Act Amendments of 1978 (12 U.S.C. 635a-3(b)) is amended to read as follows:

Insurance.

"(b) The Secretary of the Treasury shall issue such authorization to the Bank to provide guarantees, insurance, and credits to competing United States sellers, unless the Secretary determines that—

"(1) the availability of foreign official noncompetitive financing is not likely to be a significant factor in the sale; or

"(2) the foreign noncompetitive financing has been withdrawn.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 1912(a)(1) of the Export-Import Bank Act Amendments of 1978 (12 U.S.C. 635a-3(a)(1)) is amended by inserting "irrespective of whether these credits are being offered by governments which are signatories to such standstills, minutes, or practices," after "major export countries have agreed,".

SEC. 16. REPORT ON ROLE OF PRIVATE INSURANCE.

Not later than October 1, 1987, the Export-Import Bank of the United States and the Office of Management and Budget shall jointly prepare and transmit to the Congress, and the General Accounting Office shall prepare and transmit to the Congress, reports analyzing—

(1) the need for United States Government involvement in export credit insurance, considering the current activities of private insurance companies in this area, private insurance industry trends over the longer term, and ways in which private insurance companies can be encouraged by the Bank to maximize export credit insurance activities;

(2) the need to employ an agent in administering government-supported insurance programs which are determined to be necessary; and

(3) the efficiency and effectiveness of continuing to utilize the Foreign Credit Insurance Association as the Bank's agent (including an analysis of the administrative and economic cost to the government and the Bank of maintaining the Foreign Credit Insurance Association).

SEC. 17. CONFORMING AMENDMENT RELATING TO CREDIT AUTHORITY.

The second sentence of section 7(a) of the Export-Import Bank Act of 1945 is amended by inserting "and credit" immediately after the words "All spending". *Ante*, p. 1204.

SEC. 18. DIRECTORS' TERMS.

Section 3(c)(8) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(c)(8)) is amended by adding at the end thereof the following new subparagraph:

"(E) Any director whose term has expired may continue to serve on the Board of Directors until the earlier of—

"(i) the date on which such director's successor is qualified; or

"(ii) the end of the 6-month period beginning on the date such director's term expires.".

SEC. 19. TIED AID CREDIT WAR CHEST.

Grants.
12 USC 635i-3.
12 USC 635 note.

The Export-Import Bank Act of 1945 is amended by adding at the end thereof the following new section:

"SEC. 15. TIED AID CREDIT PROGRAM AND FUND.

"(a) FINDINGS.—The Congress finds that—

"(1) tied aid and partially untied aid credits offered by other countries are a predacious method of financing exports because of their market-distorting effects;

"(2) these distortions have caused the United States to lose export sales, with resulting losses in economic growth and employment;

"(3) these practices undermine market mechanisms that would otherwise result in export purchase decisions made on the basis of price, quality, delivery, and other factors directly related to the export, where official financing is not subsidized and would be a neutral factor in the transaction;

"(4) support of commercial exports by donor countries with tied aid and partially untied aid credits impedes the growth of developing countries because it diverts development assistance funds from essential developmental purposes; and

"(5) there should be established in the Bank a temporary tied aid program to target the export markets of those countries which make extensive use of tied aid or partially untied aid credits for commercial advantage for the purpose of facilitating the negotiation of a comprehensive international arrangement restricting the use of tied aid and partially untied aid credits for commercial purposes, and such program should be aggressively used until such an arrangement is established.

"(b) ESTABLISHMENT OF TIED AID CREDIT PROGRAM.—

"(1) IN GENERAL.—For the purpose of facilitating the negotiation of a comprehensive international arrangement restricting the use of tied aid and partially untied aid credits for commercial purposes, the Bank shall establish a tied aid credit program under which grants shall be made from funds available in the Tied Aid Credit Fund established under subsection (c)—

"(A) to supplement the financing of a United States export when there is a reasonable expectation that predacious financing will be provided by another country for a sale by a competitor of the United States exporter with respect to such export;

"(B) to supplement the financing of United States exports to foreign markets which are actual or potential export markets for any country which the Bank determines—

"(i) engages in predacious official export financing through the use of tied aid or partially untied aid credits; and

"(ii) impedes negotiations to eliminate the use of such credits for commercial purposes; or

"(C) to supplement the financing of United States exports under such other circumstances as the Bank may determine to be appropriate for carrying out the purposes of this section.

"(2) ADMINISTRATION OF PROGRAM.—The tied aid credit program shall be administered by the Bank—

"(A) in consultation with the Secretary of the Treasury and in accordance with the Secretary's recommendations on how such credits could be used most effectively and efficiently to promote the negotiation of a comprehensive international arrangement restricting the use of tied aid and partially untied aid credits for commercial purposes;

"(B) in cooperation with private financial institutions or entities, as appropriate; and

"(C) in consultation with the National Advisory Council on International Monetary and Financial Policies.

"(3) COORDINATION WITH OTHER EXPORT FINANCING.—Under the tied aid credit program, the Bank may combine grants from the Tied Aid Credit Fund with—

"(A) any guarantee, insurance, or other extension of credit provided by the Bank under this Act; Insurance.

"(B) any export financing provided by any private financial institution or other entity; and

"(C) any other type of export financing,

in such manner and under such terms as the Bank determines to be appropriate, including combinations of export financing in the form of blended financing and parallel financing.

"(4) INFORMATION ON COUNTRIES WHICH ENGAGE IN OFFICIAL PREDACIOUS EXPORT FINANCING AND IMPEDE NEGOTIATIONS.—In order to assist the Bank to make the most efficient use of funds available for supplemental financing under paragraph (1)(B), the United States Trade Representative and the Secretary of Commerce may provide information on principal sectors and key markets of countries described in paragraph (1)(B) to the Bank, the Secretary, and the National Advisory Council on International Monetary and Financial Policies.

"(c) TIED AID CREDIT FUND.—

"(1) IN GENERAL.—There is hereby established within the Bank a fund to be known as the 'Tied Aid Credit Fund' (hereinafter in this section referred to as the 'Fund'), consisting of such amounts as may be appropriated to the Fund pursuant to the authorization contained in subsection (e).

"(2) EXPENDITURES FROM FUND.—Amounts in the Fund shall be available for grants made by the Bank under the tied aid credit program established pursuant to subsection (b) and to reimburse the Bank for the cost of any tied aid credits authorized by the Bank during fiscal year 1986.

"(d) CONSISTENCY WITH ARRANGEMENT.—Any export financing involving the use of a grant under the tied aid credit program shall be consistent with the procedures established by the Arrangement, as in effect at the time such financing is approved.

"(e) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is hereby authorized to be appropriated to the Fund for fiscal years 1987 and 1988, $300,000,000. Except as provided in paragraph (2), such sums shall remain available until expended.

"(2) RESCISSION AUTHORITY.—

"(A) DETERMINATION BY PRESIDENT.—If the President determines that any amount appropriated to the Fund is not required to achieve the purpose of the Fund, the President shall transmit a special message of such determination to the Congress in the manner provided in section 1012(a) of the Impoundment Control Act of 1974. 2 USC 683.

"(B) SPECIAL MESSAGE.—Any message under this paragraph shall be treated as a special message under such section for purposes of such Act.

"(f) NONREVIEWABILITY.—No action taken under this section shall be reviewable by any court, except for abuse of discretion.

"(g) REPORT TO CONGRESS.—

"(1) REPORT REQUIRED.—Before the end of the 6-month period beginning on the date of enactment of this section and every six months thereafter, the Bank, in consultation with the Secretary, shall prepare and transmit a report on tied aid credits to the President of the Senate and the Speaker of the House of Representatives.

"(2) CONTENTS OF REPORT.—Each report required by paragraph (1) shall contain a description of—

"(A) the principal offers of predacious financing by foreign countries during the course of the previous 6 months;

"(B) steps taken by the United States to combat specific predacious financing practices of foreign countries;

"(C) any use by the Bank of the Tied Aid Credit Fund to match specific predacious financing practices of foreign countries and to initiate tied aid credit offers;

"(D) any additional steps the United States may take in the future to discourage use of predacious financing practices; and

"(E) any progress achieved in negotiations to establish a comprehensive international arrangement restricting the use of tied aid and partially untied credits for commercial purposes.

"(3) CONFIDENTIAL INFORMATION.—To the extent the Bank determines any information required to be included in the report under this subsection should not be made public, such information may be submitted separately on a confidential basis or provided orally, rather than in written form, to the Chairmen and ranking minority Members of the Committees of the Senate and the House of Representatives with jurisdiction over the subject matter of the report.

"(h) DEFINITIONS.—For the purpose of this section—

"(1) TIED AID AND PARTIALLY UNTIED AID CREDIT.—The terms 'tied aid credit' and 'partially untied aid credit' mean any credit which—

"(A) has a grant element greater than zero percent, as determined by the Development Assistance Committee of the Organization for Economic Cooperation and Development;

"(B) is, in fact or in effect, tied to—

"(i) the procurement of goods or services from the donor country, in the case of tied aid credit; or

"(ii) the procurement of goods or services from a restricted number of countries, in the case of partially untied aid credit; and

"(C) is financed either exclusively from public funds or partly from public and partly from private funds.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

"(3) ARRANGEMENT.—The term 'Arrangement' means the Arrangement on Guidelines for Officially Supported Export Credits established through the Organization for Economic Cooperation and Development.

"(4) BLENDED FINANCING.—The term 'blended financing' means financing provided through any combination of official development assistance, official export credits, and private commercial credit which is integrated into a single agreement with a single set of financial terms.

"(5) PARALLEL FINANCING.—The term 'parallel financing' means financing provided by any combination of official development assistance, official export credits, and private commercial credit which is not integrated into a single agreement and does not have a single set of financial terms.".

SEC. 20. INTEREST SUBSIDY PAYMENTS. Loans.

(a) IN GENERAL.—Section 2 of the Export-Import Bank Act of 1945 (as amended by section 11) is amended by adding at the end thereof the following new subsection: *Ante*, p. 1203.

"(f) INTEREST SUBSIDY PAYMENTS.—

"(1) PAYMENTS AUTHORIZED.—The Bank may enter into commitments to make payments to commercial lending institutions and other lenders, in such amounts as the Bank may determine to be appropriate, to provide a sufficient return on loans by such lenders (including loans guaranteed by the Bank) in support of United States exports (of goods or services) when financing at less than market rates is required for such exports in order to respond to subsidized financing offered by foreign export credit agencies.

"(2) AUTHORITY TO MAKE PAYMENTS SUBJECT TO MINIMUM AMOUNT OF DIRECT LOAN AUTHORITY.—The authority to enter into commitments to make interest subsidy payments under paragraph (1) shall be effective for any fiscal year only if the aggregate principal amount of direct loans the Bank may obligate in such fiscal year is equal to or greater than $700,000,000.

"(3) PAYMENTS ALLOWED ONLY FROM FUNDS APPROPRIATED FOR SUCH PURPOSE.—The estimated aggregate amount of commitments entered into by the Bank under paragraph (1) in any fiscal year beginning after fiscal year 1986 may not exceed the amount of funds appropriated to the Bank for such purposes for such fiscal year.

"(4) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), there are authorized to be appropriated to the Bank, for any fiscal year beginning after fiscal year 1986, such sums as may be necessary to carry out the purposes of this subsection.

"(B) BUDGET SCORING.—No amount is authorized to be appropriated for commitments to make interest subsidy payments on loans for which the Bank extends a loan guarantee commitment if any amount of such loan guarantee commitment is scored as budget authority in any estimate of budget authority prepared pursuant to any provision of the Congressional Budget and Impoundment Control Act of 1974. 2 USC 621 note.

"(5) SUNSET PROVISION.—The authority to enter into commitments to make interest subsidy payments shall lapse on October 1, 1988.".

(b) GAO REPORT ON INTEREST SUBSIDY PAYMENTS.—Section 9 of the Export-Import Bank Act of 1945 (12 U.S.C. 635g) is amended by adding at the end thereof the following new subsection:

"(e) GAO REPORT ON INTEREST SUBSIDY PAYMENTS.—

"(1) REPORT REQUIRED.—Not later than March 1, 1988, the Comptroller General of the United States shall transmit to both Houses of the Congress a report on the manner in which and the extent to which the Bank is exercising its authority to make interest subsidy payments under section 2(f). *Supra.*

"(2) CONTENTS OF REPORT.—The report required under paragraph (1) with respect to interest subsidy payments shall—

"(A) compare the efficiency and competitiveness of interest subsidy payments with the efficiency and competi-

tiveness of direct Bank financing of an equivalent value of exports;

"(B) compare the cost, to the United States Government, of making interest subsidy payments and the impact of such payments on the financial condition of the Bank with the cost and impact of direct Bank financing of an equivalent value of exports;

"(C) compare the impact of interest subsidy payments on the Federal budget with the impact on such budget of direct Bank financing of an equivalent value of exports; and

"(D) include all views and recommendations of the Advisory Committee of the Bank which are submitted to the Comptroller General of the United States before December 1, 1987.".

12 USC 635g.

(c) REPORT SUNSET PROVISION.—Effective March 2, 1988, the amendment made by subsection (b) is repealed.

SEC. 21. POLICY TOWARD UNITED STATES BUSINESS TRANSACTIONS IN ANGOLA.

(a) The Congress finds that—

(1) the Marxist Popular Movement for the Liberation of Angola (hereafter in this section referred to as the "MPLA") has failed to hold fair and free elections since assuming power in Angola in 1975;

(2) Angola currently harbors more than 35,000 Soviet and Cuban troops and advisers;

(3) the Cubans and Soviets have channeled more than $4,000,000,000 in assistance and military aid in furtherance of this intervention in Africa;

(4) the MPLA government of Angola obtains more than 90 percent of its foreign exchange from the extraction and production of oil;

(5) most of Angola's oil is extracted in Cabinda Province, where 75 percent of it is extracted by the Chevron-Gulf Oil company;

(6) the MPLA has refused to take meaningful steps to end its dependency on Soviet and Cuban forces, engage in national reconciliation efforts within Angola, or encourage the independence of Namibia; and

(7) United States business interests are in direct conflict with United States foreign policy objectives in aiding the MPLA government of Angola, which directly opposes Jonas Savimbi and UNITA, recipients of United States support.

(b)(1) It is the sense of the Congress that the interests of the United States are best served when United States business transactions conducted in Angola do not directly or indirectly support Cuban troops and Soviet advisers.

50 USC app. 2401 note.

(2) The Congress hereby requests that the President consider using his authorities under the Export Administration Act of 1979 to restrict United States business transactions that conflict with United States security interests in Angola.

22 USC 262h.

SEC. 22. OPPOSITION OF MULTILATERAL ASSISTANCE FOR FOREIGN SURPLUS COMMODITIES AND MINERALS.

The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the

International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by such institutions, using funds appropriated or otherwise made available pursuant to any provision of law, for the production or extraction of any commodity or mineral for export, if—

(1) such commodity or mineral, as the case may be, is in surplus on world markets; and

(2) the export of such commodity or mineral, as the case may be, would cause substantial injury to the United States producers of the same, similar, or competing commodity or mineral.

Approved October 15, 1986.

LEGISLATIVE HISTORY—H.R. 5548 (S. 2878):

HOUSE REPORTS: No. 99-956 (Comm. of Conference).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 22, considered and passed House.
Sept. 25, S. 2878 considered in Senate.
Sept. 26, S. 2878 considered in Senate; H.R. 5548 considered and passed Senate, amended.
Oct. 2, House agreed to conference report.
Oct. 7, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Oct. 15, Presidential statement.

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Public Law 99-473
99th Congress

An Act

Oct. 16, 1986
[H.R. 4545]

To authorize appropriations for the American Folklife Center for fiscal years 1987, 1988, and 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8(a) of the American Folklife Preservation Act (20 U.S.C. 2107(a)) is amended—

(1) by striking out "(a)";

(2) by striking out "and" after "1985,"; and

(3) by inserting after "1986" the following: ", $867,900 for the fiscal year ending September 30, 1987, $919,974 for the fiscal year ending September 30, 1988, and $975,172 for the fiscal year ending September 30, 1989".

SEC. 2. Section 8(b) of the American Folklife Preservation Act (20 U.S.C. 2107(b)) is repealed.

Approved October 16, 1986.

LEGISLATIVE HISTORY—H.R. 4545:

HOUSE REPORTS: No. 99-800 (Comm. on House Administration).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 16, considered and passed House.
Oct. 3, considered and passed Senate.

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91-139 O - 86 (490)

Public Law 99-474
99th Congress

An Act

To amend title 18, United States Code, to provide additional penalties for fraud and related activities in connection with access devices and computers, and for other purposes.

Oct. 16, 1986
[H.R. 4718]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Computer Fraud and Abuse Act of 1986.
18 USC 1001 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Computer Fraud and Abuse Act of 1986".

SEC. 2. SECTION 1030 AMENDMENTS.

(a) MODIFICATION OF DEFINITION OF FINANCIAL INSTITUTION.—Section 1030(a)(2) of title 18, United States Code, is amended—

(1) by striking out "knowingly" and inserting "intentionally" in lieu thereof;

(2) by striking out "as such terms are defined in the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.),";

(3) by striking out the term "or" where it appears at the end of section 1030(a)(2) of title 18; and

(4) by adding after the term "financial institution" the following: "or of a card issuer as defined in section 1602(n) of title 15,".

(b) MODIFICATION OF EXISTING GOVERNMENT COMPUTERS OFFENSE.—Section 1030(a)(3) of title 18, United States Code, is amended—

(1) to read as follows:

"(3) intentionally, without authorization to access any computer of a department or agency of the United States, accesses such a computer of that department or agency that is exclusively for the use of the Government of the United States or, in the case of a computer not exclusively for such use, is used by or for the Government of the United States and such conduct affects the use of the Government's operation of such computer;"; and

(2) by striking out the flush language after section 1030(a)(3) of title 18, United States Code, beginning with "It is not an offense" and all that follows through "use of the computer.".

(c) MODIFICATION OF AUTHORIZED ACCESS ASPECT OF OFFENSES.—Paragraphs (1) and (2) of section 1030(a) of title 18, United States Code, are each amended by striking out ", or having accessed" and all that follows through "does not extend" and inserting "or exceeds authorized access" in lieu thereof.

(d) NEW OFFENSES.—Section 1030(a) of title 18, United States Code, is amended by inserting after paragraph (3) the following:

"(4) knowingly and with intent to defraud, accesses a Federal interest computer without authorization, or exceeds authorized access, and by means of such conduct furthers the intended fraud and obtains anything of value, unless the object of the

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fraud and the thing obtained consists only of the use of the computer;

"(5) intentionally accesses a Federal interest computer without authorization, and by means of one or more instances of such conduct alters, damages, or destroys information in any such Federal interest computer, or prevents authorized use of any such computer or information, and thereby—

"(A) causes loss to one or more others of a value aggregating $1,000 or more during any one year period; or

"(B) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or

"(6) knowingly and with intent to defraud traffics (as defined in section 1029) in any password or similar information through which a computer may be accessed without authorization, if—

18 USC 1029.

Commerce and trade.

"(A) such trafficking affects interstate or foreign commerce; or

"(B) such computer is used by or for the Government of the United States;".

(e) ELIMINATION OF SECTION SPECIFIC CONSPIRACY OFFENSE.—Section 1030(b) of title 18, United States Code, is amended—

(1) by striking out "(1)"; and

(2) by striking out paragraph (2).

(f) PENALTY AMENDMENTS.—Section 1030 of title 18, United States Code, is amended—

(1) by striking out "of not more than the greater of $10,000" and all that follows through "obtained by the offense" in subsection (c)(1)(A) and inserting "under this title" in lieu thereof;

(2) by striking out "of not more than the greater of $100,000" and all that follows through "obtained by the offense" in subsection (c)(1)(B) and inserting "under this title" in lieu thereof;

(3) by striking out "or (a)(3)" each place it appears in subsection (c)(2) and inserting ", (a)(3) or (a)(6)" in lieu thereof;

(4) by striking out "of not more than the greater of $5,000" and all that follows through "created by the offense" in subsection (c)(2)(A) and inserting "under this title" in lieu thereof;

(5) by striking out "of not more than the greater of $10,000" and all that follows through "created by the offense" in subsection (c)(2)(B) and inserting "under this title" in lieu thereof;

(6) by striking out "not than" in subsection (c)(2)(B) and inserting "not more than" in lieu thereof;

(7) by striking out the period at the end of subsection (c)(2)(B) and inserting "; and" in lieu thereof; and

(8) by adding at the end of subsection (c) the following:

"(3)(A) a fine under this title or imprisonment for not more than five years, or both, in the case of an offense under subsection (a)(4) or (a)(5) of this section which does not occur after a conviction for another offense under such subsection, or an attempt to commit an offense punishable under this subparagraph; and

"(B) a fine under this title or imprisonment for not more than ten years, or both, in the case of an offense under subsection (a)(4) or (a)(5) of this section which occurs after a conviction for another offense under such subsection, or an attempt to commit an offense punishable under this subparagraph."; and

(9) by deleting the term "(b)(1)" where it appears in the first line of section 1030(c) of title 18 and inserting in lieu thereof the term "(b)".

(g) CONFORMING AMENDMENTS TO DEFINITIONS PROVISION.—Section 1030(e) of title 18, United States Code, is amended—

(1) by striking out the comma after "As used in this section" and inserting a one-em dash in lieu thereof;

(2) by aligning the remaining portion of the subsection so that it is cut in two ems and begins as an indented paragraph, and inserting "(1)" before "the term";

(3) by striking out the period at the end and inserting a semicolon in lieu thereof; and

(4) by adding at the end thereof the following:

"(2) the term 'Federal interest computer' means a computer—

"(A) exclusively for the use of a financial institution or the United States Government, or, in the case of a computer not exclusively for such use, used by or for a financial institution or the United States Government and the conduct constituting the offense affects the use of the financial institution's operation or the Government's operation of such computer; or

"(B) which is one of two or more computers used in committing the offense, not all of which are located in the same State;

"(3) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and any other possession or territory of the United States;

"(4) the term 'financial institution' means—

"(A) a bank with deposits insured by the Federal Deposit Insurance Corporation;

"(B) the Federal Reserve or a member of the Federal Reserve including any Federal Reserve Bank;

"(C) an institution with accounts insured by the Federal Savings and Loan Insurance Corporation;

"(D) a credit union with accounts insured by the National Credit Union Administration;

"(E) a member of the Federal home loan bank system and any home loan bank;

"(F) any institution of the Farm Credit System under the Farm Credit Act of 1971; 12 USC 2001 note.

"(G) a broker-dealer registered with the Securities and Exchange Commission pursuant to section 15 of the Securities Exchange Act of 1934; and 15 USC 78o.

"(H) the Securities Investor Protection Corporation;

"(5) the term 'financial record' means information derived from any record held by a financial institution pertaining to a customer's relationship with the financial institution;

"(6) the term 'exceeds authorized access' means to access a computer with authorization and to use such access to obtain or alter information in the computer that the accesser is not entitled so to obtain or alter; and

"(7) the term 'department of the United States' means the legislative or judicial branch of the Government or one of the executive departments enumerated in section 101 of title 5.".

(h) LAW ENFORCEMENT AND INTELLIGENCE ACTIVITY EXCEPTION.—Section 1030 of title 18, United States Code, is amended by adding at the end the following new subsection:

Law enforcement. State and local governments.

"(f) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States.".

Approved October 16, 1986.

LEGISLATIVE HISTORY—H.R. 4718 (S. 2281):

HOUSE REPORTS: No. 99-612 (Comm. on the Judiciary).

SENATE REPORTS: No. 99-432 accompanying S. 2281 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 132 (1986):

June 3, considered and passed House.

Oct. 1, S. 2281 considered and passed Senate.

Oct. 3, H.R. 4718 considered and passed Senate, amended.

Oct. 6, House concurred in Senate amendments.

Public Law 99-475
99th Congress

An Act

To authorize the release to museums in the United States of certain objects owned by the United States Information Agency.

Oct. 16, 1986
[H.R. 5522]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELEASE OF CERTAIN OBJECTS OWNED BY USIA.

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461-1a), and the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461), the Director of the United States Information Agency may release to any museum located in the United States the objects described in section 2 if that museum pays all costs associated with the transfer of such objects to that museum (as determined by the Director).

SEC. 2. OBJECTS SUBJECT TO RELEASE.

The objects referred to in section 1 are those objects displayed at the United States Pavilion at the 86 Expo in Vancouver, British Columbia, Canada, which are owned by the United States Information Agency but (as determined by the Director of the United States Information Agency) not committed by it for other purposes.

Canada.

Approved October 16, 1986.

LEGISLATIVE HISTORY—H.R. 5522:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 22, considered and passed House.
Oct. 1, considered and passed Senate.

Public Law 99-476
99th Congress

Joint Resolution

Oct. 16, 1986
[H.J. Res. 210]

Designating the Study Center for Trauma and Emergency Medical Systems at the Maryland Institute for Emergency Medical Services Systems at the University of Maryland as the "Charles McC. Mathias, Jr., National Study Center for Trauma and Emergency Medical Systems".

Whereas Federal funding for emergency medical services systems has decreased, and some States have provided less support for such lifesaving systems;

Whereas private efforts are the primary means of improving the delivery of emergency medical services, and improvements are needed to meet the needs of increasing numbers of the critically ill and injured;

Whereas the designation of a national study center for trauma and emergency medical systems would focus attention on those areas needing improvement in the delivery of systematic emergency care;

Whereas a national study center for trauma and emergency medical systems is needed to serve as a resource center for information and data, and provide technical assistance concerning emergency medical systems; and

Whereas the Maryland Institute for Emergency Medical Services Systems at the University of Maryland has been a national leader in the development of systems of care for the critically ill and injured: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Study Center for Trauma and Emergency Medical Systems at the Maryland Institute for Emergency Medical Services Systems at the University of Maryland shall be known and designated as the "Charles McC. Mathias, Jr., National Study Center for Trauma and Emergency Medical Systems". Any reference in a law, map, regulation, document, record, or other paper of the United States to such Study Center for Trauma and Emergency Medical Systems shall be held to be a reference to the "Charles McC. Mathias, Jr., National Study Center for Trauma and Emergency Medical Systems".

Approved October 16, 1986.

LEGISLATIVE HISTORY—H.J. Res. 210:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 29, considered and passed House.
Oct. 3, considered and passed Senate.

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91-139 O - 86 (493)

Public Law 99-477
99th Congress

Joint Resolution

To designate the week beginning November 24, 1986, as "National Family Caregivers Week".

Oct. 16, 1986
[H.J. Res. 555]

Whereas the number of Americans who are sixty-five or older is growing, with an unprecedented increase in the number of persons eighty-five or older;

Whereas the incidences of frailty and disability increase among persons of advanced age;

Whereas approximately 5.2 million older persons who reside in the community have disabilities that leave them in need of help with such daily tasks as food preparation, dressing, and bathing;

Whereas families provide older persons help with such tasks, in addition to between 80 and 90 percent of the medical care, household maintenance, transportation, and shopping needed by older persons;

Whereas families who give care to older persons face many additional expenses due to home modifications, equipment rental, and higher heating bills;

Whereas 80 percent of the disabled elderly receive care from family members, most of whom are wives, daughters, and daughters-in-law, who often must sacrifice employment opportunities to provide such care;

Whereas the role of the aged spouse as a principal caregiver has generally been understated;

Whereas family caregivers are often physically and emotionally exhausted from the time and stress involved in caregiving activities;

Whereas family caregivers need information about available community resources;

Whereas family caregivers need respite from the strains of their caregiving roles;

Whereas the contribution of family caregivers helps maintain strong family ties and assures support among generations; and

Whereas there is a need for greater public awareness of and support for the care that family caregivers are providing: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning November 24, 1986, is designated "National Family Caregivers Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved October 16, 1986.

LEGISLATIVE HISTORY—H.J. Res. 555 (S.J. Res. 348):

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 1, considered and passed House.
Oct. 3, considered and passed Senate.

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Public Law 99-478
99th Congress

Joint Resolution

Commemorating January 28, 1987, as a National Day of Excellence in honor of the crew of the space shuttle Challenger.

Oct. 16, 1986
[H.J. Res. 588]

Whereas on January 28, 1986, the seven crew members of the space shuttle Challenger, Commander Francis R. Scobee, Pilot Michael J. Smith, Mission Specialist Ellison S. Onizuka, Mission Specialist Ronald E. McNair, Mission Specialist Judith Resnik, Payload Specialist Gregory B. Jarvis, Teacher-Observer S. Christa McAuliffe, were killed in a tragic explosion shortly after liftoff;

Whereas each of the crew members of the Challenger was a true American hero who represented the best and the brightest that our Nation has to offer;

Whereas the crew of the Challenger gave their lives while striving for an excellence of technology, of goal, and of personal achievement which fills all Americans with a sense of pride in their fellow human beings and countrymen;

Whereas the most appropriate tribute we could pay the crew of the Challenger is a national day when Americans would dedicate themselves in all their endeavors to the pursuit of excellence which makes our country great;

Whereas the American spirit is most responsive to a living tribute in which all citizens can participate and be enriched by such participation; and

Whereas this is a day for which our national character cries out: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 28, 1987, is designated as a "National Day of Excellence". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe such a day—

(1) by resolving that in the course of their regular activities they will pursue the spirit of excellence represented by the crew of the space shuttle Challenger; and

(2) with appropriate ceremonies and activities.

Approved October 16, 1986.

LEGISLATIVE HISTORY—H.J.Res. 588:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 18, considered and passed House.
Oct. 3, considered and passed Senate.

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91-139 O - 86 (495)

Public Law 99-479
99th Congress

Joint Resolution

Oct. 16, 1986
[H.J. Res. 617]

To designate the week beginning September 21, 1986, as "National Adult Day Care Center Week".

Whereas more than 1000 adult day care centers are in operation nationwide, providing safe and positive environments to functionally disabled adults and senior citizens who are in need of daytime assistance or supervision;

Whereas adult day care centers have comprehensive programs providing a variety of services related to health, including medical therapy, medication monitoring, counseling, and health education;

Whereas adult day care centers are operated by professional staffs which identify individual health needs and give appropriate advice;

Whereas adult day care centers assist functionally disabled adults and senior citizens in maintaining a maximum level of independence;

Whereas adult day care centers provide opportunities for social interaction to individuals who otherwise may be socially isolated; and

Whereas adult day care centers offer relief to families who otherwise must provide constant care to functionally disabled adults and senior citizens, including victims of Alzheimer's disease and other forms of dementia: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning September 21, 1986, is designated "National Adult Day Care Center Week". The President is requested to issue a proclamation calling on the people of the United States to observe such week with appropriate ceremonies and activities.

Approved October 16, 1986.

LEGISLATIVE HISTORY—H.J. Res. 617:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 18, considered and passed House.
Oct. 3, considered and passed Senate.

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91-139 O - 86 (496)

Public Law 99-480
99th Congress

Joint Resolution

To designate the school year of September 1986 through May 1987 as "National Year of the Teacher" and January 28, 1987, as "National Teacher Appreciation Day".

Oct. 16, 1986
[H.J. Res. 635]

Whereas the education of our Nation's youth is the foundation of America's strength in the future;

Whereas teachers are entrusted not only with imparting knowledge, but also with instilling our youth with basic human values during the most formative and impressionable years of their lives;

Whereas teachers play an integral role in the development of civil responsibility among our Nation's youth;

Whereas teachers deserve the respect of their students and the entire community for their selfless dedication, wisdom, sacrifice, community service, and many other intangible contributions to society;

Whereas teachers deserve credit for the continuing education and training of many citizens through a variety of traditional and non-traditional educational programs;

Whereas the dedication of teachers should be celebrated often to heighten public awareness and help maintain respect and discipline in our classrooms; and

Whereas Sharon Christa McAuliffe made a unique contribution to the teaching profession, and January 28, 1987, is an appropriate day on which, and the school year of 1986-1987 is an appropriate period during which, to commemorate Sharon Christa McAuliffe and all other teachers: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the school year of September 1986 through May 1987 is designated "National Year of the Teacher", and January 28, 1987, is designated "National Teacher Appreciation Day". The President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such year and day with appropriate ceremonies and activities.

Approved October 16, 1986.

LEGISLATIVE HISTORY—H.J. Res. 635:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 1, considered and passed House.
Oct. 3, considered and passed Senate.

91-139 O - 86 (497)

Public Law 99-481
99th Congress

Joint Resolution

Oct. 16, 1986
[H.J. Res. 678]

To designate October 1986 as "Crack/Cocaine Awareness Month".

Whereas cocaine is a drug that medical authorities consider to be very dangerous;

Whereas the amount of cocaine entering the United States from other countries has increased substantially in recent years;

Whereas, in the past, the most common method of taking cocaine into the body was by inhaling the drug through the nose;

Whereas cocaine may be smoked if the drug is subjected to certain procedures designed to harden the drug;

Whereas the form of cocaine that may be smoked is commonly known as crack;

Whereas crack can be developed easily from the standard form of cocaine, and law enforcement authorities are encountering difficulties in stopping the production of crack;

Whereas crack is extremely addictive, and a single incident of smoking crack may result in addiction;

Whereas crack may cause death or injury as a result of heart attacks, seizures, strokes, or damage to the lungs;

Whereas the use of crack is increasing rapidly;

Whereas the use of cocaine has become widespread among all socioeconomic groups, including young athletes;

Whereas the awareness of the people of the United States with respect to the dangers of the use of cocaine, and with respect to available treatments for addiction to cocaine, should be increased; and

Whereas parents, drug prevention agencies at all levels of government, civic organizations, and other individuals and groups should work to increase such awareness: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1986 is designated "Crack/Cocaine Awareness Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Approved October 16, 1986.

LEGISLATIVE HISTORY—H.J. Res. 678:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 13, considered and passed House.
Oct. 3, considered and passed Senate.

O

91-139 O - 86 (498)

Public Law 99-482
99th Congress

Joint Resolution

To designate August 12, 1987, as "National Civil Rights Day".

Oct. 16, 1986
[H.J. Res. 686]

Whereas the people of the United States are the heirs and beneficiaries of the courageous men and women who have struggled to achieve legal and social equality in the United States for men and women of every race, religion, and country;

Whereas such men and women include Martin Luther King Jr., Susan B. Anthony, and Mary McLeod Bethune;

Whereas the people of the United States should not forget that constant vigilance is necessary to ensure that civil rights are protected;

Whereas the people of the United States should not forget that much yet remains to be accomplished with respect to securing civil rights for all the people of the United States;

Whereas, in August 1963, Martin Luther King Jr. led a march in Washington, D.C., to demonstrate the need for legislation to protect the civil rights of the people of the United States;

Whereas August 12, 1987, is an appropriate date on which to commemorate the progress made in securing civil rights and the need for continued progress;

Whereas, at noon on such date, it would be appropriate for the people of the United States to pause for a moment of silence to pay tribute to the men and women who have struggled to secure civil rights for all the people of the United States;

Whereas, during the moment of silence, it would be appropriate for all church bells to ring 11 times as a reminder that the hour is late with respect to continuing progress in securing civil rights for all the people of the United States; and

Whereas the National Civil Rights Museum and Hall of Fame will be constructed in Gary, Indiana, to pay continued tribute to the fallen national heroes of civil rights and the cause which they embraced: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 12, 1987, is designated "National Civil Rights Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved October 16, 1986.

LEGISLATIVE HISTORY—H.J. Res. 686:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 8, considered and passed House.
Sept. 12, considered and passed Senate, amended.
Oct. 1, House concurred in Senate amendments.

O

91-139 O - 86 (499)

Public Law 99-483
99th Congress

Joint Resolution

Oct. 16, 1986
[H.J. Res. 741]

To designate March 1987, as "Developmental Disabilities Awareness Month".

Whereas there are 3,900,000 children and adults with developmental disabilities in the United States;

Whereas such persons have severe chronic disabilities attributed to mental or physical impairment which begin early in life and result in substantial limitations in major life activities such as self care, mobility, language, learning, and self direction;

Whereas persons with developmental disabilities need interdisciplinary or generic service and treatment for extended periods of their lives;

Whereas persons with developmental disabilities have the capability to become more independent and economically self sufficient;

Whereas the services and expertise provided by professional personnel, parents, and concerned citizens enable persons with developmental disabilities to participate more freely in education, employment and community living;

Whereas increasingly more persons with developmental disabilities are living in the community enabling them to live less restricted lives; and

Whereas through increased national awareness of such programs, the public will better understand the potential and needs of persons with developmental disabilities: Now, therefore, be it:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 1987 is designated as the "Developmental Disabilities Awareness Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States and all Federal, State, and local government officials to observe the month with appropriate programs and activities.

Approved October 16, 1986.

LEGISLATIVE HISTORY—H.J. Res. 741:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 1, considered and passed House.
Oct. 3, considered and passed Senate.

91-139 O - 86 (500)

Public Law 99-484
99th Congress

An Act

To designate the Federal Building and United States Courthouse to be constructed and located in Newark, New Jersey, as the "Martin Luther King, Jr. Federal Building and United States Courthouse".

Oct. 16, 1986
[S. 2062]

Public buildings and grounds.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Building and United States Courthouse to be constructed and located at Walnut and Orchard Streets in Newark, New Jersey, shall be known and designated as the "Martin Luther King, Jr. Federal Building and United States Courthouse". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building and courthouse is deemed to be a reference to the "Martin Luther King, Jr. Federal Building and United States Courthouse".

Approved October 16, 1986.

LEGISLATIVE HISTORY—S. 2062 (H.R. 4156):

HOUSE REPORTS: No. 99-877 accompanying H.R. 4156 (Comm. on Public Works and Transportation).
SENATE REPORTS: No. 99-471 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 24, considered and passed Senate.
Oct. 6, H.R. 4156 considered and passed House; proceedings vacated and S. 2062 passed in lieu.

O

91-139 O - 86 (501)

Public Law 99-485
99th Congress

An Act

Oct. 16, 1986
[S. 2788]

To designate the Federal building located in San Diego, California, as the "Jacob Weinberger Federal Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

Public buildings and grounds.

The Federal building located at 325 F Street in San Diego, in the State of California, commonly known as the Old Federal Courthouse, shall hereafter be known and designated as the "Jacob Weinberger Federal Building".

SEC. 2. LEGAL REFERENCES TO BUILDING.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the Federal Building referred to in section 1 is hereby deemed to be a reference to the "Jacob Weinberger Federal Building".

Approved October 16, 1986.

LEGISLATIVE HISTORY—S. 2788 (H.R. 5397):

HOUSE REPORTS: No. 99-886 accompanying H.R. 5397 (Comm. on Public Works and Transportation).
SENATE REPORTS: No. 99-472 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 24, considered and passed Senate.
Oct. 6, H.R. 5397 considered and passed House; proceedings vacated and S. 2788 passed in lieu.

O

91-139 O - 86 (502)

Public Law 99-486
99th Congress

An Act

To amend the Fair Labor Standards Act of 1938 to require that wages based on individual productivity be paid to handicapped workers employed under certificates issued by the Secretary of Labor.

Oct. 16, 1986
[S. 2884]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (c) of section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended to read as follows:

Regulations. Agriculture and agricultural commodities.

"(c)(1) The Secretary, to the extent necessary to prevent curtailment of opportunities for employment, shall by regulation or order provide for the employment, under special certificates, of individuals (including individuals employed in agriculture) whose earning or productive capacity is impaired by age, physical or mental deficiency, or injury, at wages which are—

"(A) lower than the minimum wage applicable under section 6,

"(B) commensurate with those paid to nonhandicapped workers, employed in the vicinity in which the individuals under the certificates are employed, for essentially the same type, quality, and quantity of work, and

"(C) related to the individual's productivity.

"(2) The Secretary shall not issue a certificate under paragraph (1) unless the employer provides written assurances to the Secretary that—

"(A) in the case of individuals paid on an hourly rate basis, wages paid in accordance with paragraph (1) will be reviewed by the employer at periodic intervals at least once every six months, and

"(B) wages paid in accordance with paragraph (1) will be adjusted by the employer at periodic intervals, at least once each year, to reflect changes in the prevailing wage paid to experienced nonhandicapped individuals employed in the locality for essentially the same type of work.

"(3) Notwithstanding paragraph (1), no employer shall be permitted to reduce the hourly wage rate prescribed by certificate under this subsection in effect on June 1, 1986, of any handicapped individual for a period of two years from such date without prior authorization of the Secretary.

Health and medical care.

"(4) Nothing in this subsection shall be construed to prohibit an employer from maintaining or establishing work activities centers to provide therapeutic activities for handicapped clients.

"(5)(A) Notwithstanding any other provision of this subsection, any employee receiving a special minimum wage at a rate specified pursuant to this subsection or the parent or guardian of such an employee may petition the Secretary to obtain a review of such special minimum wage rate. An employee or the employee's parent or guardian may file such a petition for and in behalf of the employee or in behalf of the employee and other employees simi-

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larly situated. No employee may be a party to any such action unless the employee or the employee's parent or guardian gives consent in writing to become such a party and such consent is filed with the Secretary.

"(B) Upon receipt of a petition filed in accordance with subparagraph (A), the Secretary within ten days shall assign the petition to an administrative law judge appointed pursuant to section 3105 of title 5, United States Code. The administrative law judge shall conduct a hearing on the record in accordance with section 554 of title 5, United States Code, with respect to such petition within thirty days after assignment.

Records.

"(C) In any such proceeding, the employer shall have the burden of demonstrating that the special minimum wage rate is justified as necessary in order to prevent curtailment of opportunities for employment.

"(D) In determining whether any special minimum wage rate is justified pursuant to subparagraph (C), the administrative law judge shall consider—

"(i) the productivity of the employee or employees identified in the petition and the conditions under which such productivity was measured; and

"(ii) the productivity of other employees performing work of essentially the same type and quality for other employers in the same vicinity.

"(E) The administrative law judge shall issue a decision within thirty days after the hearing provided for in subparagraph (B). Such action shall be deemed to be a final agency action unless within thirty days the Secretary grants a request to review the decision of the administrative law judge. Either the petitioner or the employer may request review by the Secretary within fifteen days of the date of issuance of the decision by the administrative law judge.

"(F) The Secretary, within thirty days after receiving a request for review, shall review the record and either adopt the decision of the administrative law judge or issue exceptions. The decision of the administrative law judge, together with any exceptions, shall be deemed to be a final agency action.

"(G) A final agency action shall be subject to judicial review pursuant to chapter 7 of title 5, United States Code. An action seeking such review shall be brought within thirty days of a final agency action described in subparagraph (F).

5 USC 701 *et seq.*

Approved October 16, 1986.

LEGISLATIVE HISTORY—S. 2884 (H.R. 5614):

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 26, considered and passed Senate.
Oct. 1, H.R. 5614 considered and passed House; proceedings vacated and S. 2884 passed in lieu.

O

Public Law 99-487
99th Congress

Joint Resolution

Designating the month of November 1986 as "National Alzheimer's Disease Month".

Oct. 16, 1986
[S.J. Res. 280]

Whereas more than two and a half million Americans are affected by Alzheimer's disease, which is a surprisingly common disorder that destroys certain vital cells of the brain;

Whereas Alzheimer's disease is the fourth leading cause of death among older Americans;

Whereas Alzheimer's disease is responsible for 50 per centum of all nursing home admissions, at an annual cost of more than $25,000,000,000;

Whereas in one-third of all American families one parent will succumb to this disease;

Whereas Alzheimer's disease is not a normal consequence of aging; and

Whereas an increase in the national awareness of the problem of Alzheimer's disease may stimulate the interest and concern of the American people, which may lead, in turn, to increased research and eventually to the discovery of a cure for Alzheimer's disease: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November 1986 is designated as "National Alzheimer's Disease Month". The President is requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Approved October 16, 1986.

LEGISLATIVE HISTORY—S.J. Res. 280:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 22, considered and passed Senate.
Oct. 1, considered and passed House.

91-139 O - 86 (504)

Public Law 99-488
99th Congress

Joint Resolution

Oct. 16, 1986
[S.J. Res. 385]

To designate October 23, 1986, as "National Hungarian Freedom Fighters Day".

Whereas the antidemocratic Government of Hungary was installed and is supported by the Government of the Soviet Union;

Whereas, on October 23, 1956, freedom fighters in Hungary attempted to establish a coalition government and free the people of Hungary from oppression by ending the political and economic domination of the people of Hungary by the Government of the Soviet Union;

Whereas the continued oppression of the people of Hungary by the Government of the Soviet Union is a violation of the principles set forth in the Yalta Agreement of 1945, the Universal Declaration of Human Rights, and the Helsinki Final Act of the Conference on Security and Cooperation in Europe, of which the Government of the Soviet Union is a signatory or under which such Government is otherwise obligated;

Whereas the Congress supports the efforts of the people of all nations to assert the right of self-determination; and

Whereas October 23, 1986, is the thirtieth anniversary of the uprising of the people of Hungary against the antidemocratic Government of Hungary: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 23, 1986, is designated "National Hungarian Freedom Fighters Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved October 16, 1986.

LEGISLATIVE HISTORY—S.J. Res. 385:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 29, considered and passed Senate.
Oct. 1, considered and passed House.

O

91-139 O - 86 (505)

Public Law 99-489
99th Congress

Joint Resolution

To designate the period October 1, 1986, through September 30, 1987, as "National Institutes of Health Centennial Year".

Oct. 16, 1986
[S.J. Res. 395]

Whereas the National Institutes of Health over the past 100 years, has grown from a one-room laboratory of hygiene within the Stapleton Marine Hospital on Staten Island, New York, to become one of the largest and most respected biomedical research centers in the world;

Whereas the National Institutes of Health, as an agency of the Department of Health and Human Services, is the Nation's flagship in mankind's continuing battle to conquer disease;

Whereas the National Institutes of Health continuously contributes to the discovery of new knowledge that leads to longer lives and better health for all people;

Whereas the National Institutes of Health provides national leadership in a critical partnership of the Government, academic, and private sectors;

Whereas the National Institutes of Health conducts research in its own laboratories, supports the research of non-Federal scientists in universities, medical schools, hospitals, and other public, private, and voluntary research institutions throughout this country and abroad;

Whereas the National Institutes of Health fosters training and career development of future research scientists, sponsors the enhancement of research resources, and promotes improvements in biomedical communications;

Whereas the National Institutes of Health facilitates the assembly of United States and foreign biomedical scientists and promotes the exchange of scientists and scientific information between the United States and other countries;

Whereas the National Institutes of Health supported the work of 60 Nobel Prize winners before their selection as laureates;

Whereas the National Institutes of Health has contributed to the great strides of the past 100 years in the control and virtual worldwide elimination of epidemic diseases such as cholera, smallpox, yellow fever, and bubonic plague, and the prevention in this country of childhood diseases such as diphtheria, polio, tetanus, and pertussis;

Whereas the National Institutes of Health has stimulated biomedical research that has played a role in the 70-percent reduction in the death rate in the United States since 1900;

Whereas the National Institutes of Health has pioneered new methods for the detection and treatment of diseases and has promoted their widespread dissemination into medical practice;

Whereas grantees and scientists of the National Institutes of Health work at the forefront of biomedical technologies that open up new opportunities in medical research;

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Whereas the next 100 years will undoubtedly see the National Institutes of Health lead the world in ways of promoting health and preventing disease;

Whereas the Congress of the United States has consistently supported the National Institutes of Health to maintain America's preeminence in medical research; and

Whereas the Congress of the United States looks to the National Institutes of Health for progress in overcoming the diseases that afflict the people of this country: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period of October 1, 1986, through September 30, 1987, is designated as "National Institutes of Health Centennial Year", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such year with appropriate ceremonies and activities.

Approved October 16, 1986.

LEGISLATIVE HISTORY—S.J. Res. 395:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 24, considered and passed Senate.
Oct. 10, considered and passed House.

O

Public Law 99-490
99th Congress

An Act

To designate certain lands in the Cherokee National Forest in the State of Tennessee as wilderness areas, and for other purposes.

Oct. 16, 1986
[H.R. 5166]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Tennessee Wilderness Act of 1986.
National Wilderness Preservation System.
National Forest System.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tennessee Wilderness Act of 1986".

SEC. 2. DESIGNATION OF WILDERNESS AREAS.

In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), the following lands in the Cherokee National Forest in the State of Tennessee are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands which comprise approximately 6,665 acres, as generally depicted on a map entitled "Pond Mountain Wilderness—Proposed and Pond Mountain Addition Wilderness—Proposed", dated July 15, 1986, and which shall be known as the Pond Mountain Wilderness; 16 USC 1132 note.

(2) certain lands which comprise approximately 6,251 acres, as generally depicted on a map entitled "Big Laurel Branch Wilderness—Proposed", dated July 15, 1986, and which shall be known as the Big Laurel Branch Wilderness; 16 USC 1132 note.

(3) certain lands which comprise approximately 4,700 acres, as generally depicted on a map entitled "Unaka Mountain Wilderness—Proposed", dated July 15, 1986, and which shall be known as the Unaka Mountain Wilderness; 16 USC 1132 note.

(4) certain lands which comprise approximately 8,319 acres, as generally depicted on a map entitled "Sampson Mountain Wilderness—Proposed", dated July 15, 1986, and which shall be known as the Sampson Mountain Wilderness; 16 USC 1132 note.

(5) certain lands which comprise approximately 4,800 acres, as generally depicted on a map entitled "Little Frog Mountain Wilderness—Proposed", dated July 15, 1986, and which shall be known as the Little Frog Mountain Wilderness; and 16 USC 1132 note.

(6) certain lands which comprise approximately 3,000 acres, as generally depicted on a map entitled "Big Frog Extension Wilderness—Proposed", dated July 15, 1986, and which shall be combined with the now existing Big Frog Wilderness and known as the Big Frog Wilderness.

SEC. 3. MAPS AND DESCRIPTIONS.

As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture shall file a map and legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate.

91-139 O - 86 (507)

Public information.

Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map and description may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

SEC. 4. ADMINISTRATION OF WILDERNESS.

16 USC 1131 note.

(a) IN GENERAL.—Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

SEC. 5. EFFECT OF RARE II.

Conservation.

(a) FINDINGS.—The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless area in Johnson, Carter, Sullivan, Unicoi, Washington, Greene, Cocke, and McMinn Counties, Tennessee, and of the environmental impacts associated with alternative allocations of such areas.

(b) REVIEW AND RELEASE.—On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to the National Forest System lands other than in Johnson, Carter, Sullivan, Unicoi, Washington, Greene, Cocke, and McMinn Counties, Tennessee, such statement shall not be subject to judicial review with respect to National Forest lands in Johnson, Carter, Sullivan, Unicoi, Washington, Greene, Monroe, Polk, McMinn, and Cocke Counties, Tennessee;

(2) with respect to the National Forest System lands in Johnson, Carter, Sullivan, Unicoi, Washington, Greene, Cocke, and McMinn Counties, Tennessee, which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), except those lands designated for wilderness study upon enactment of this Act, that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

16 USC 1600 note.

(3) areas in Johnson, Carter, Sullivan, Unicoi, Washington, Greene, Monroe, Polk, McMinn, and Cocke Counties, Tennessee,

reviewed in such final environmental statement or referenced in subsection (d) and not designated as wilderness or for wilderness study upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided,* That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during the revision of the initial land management plans; and

16 USC 1604.

(4) in the event that revised land management plans in Johnson, Carter, Sullivan, Unicoi, Washington, Greene, Monroe, Polk, McMinn, and Cocke Counties, Tennessee, are implemented pursuant to section 6 of the Forest and Rangelands Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law.

(c) REVISION.—As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) CERTAIN AREAS LESS THAN 5,000 ACRES IN SIZE.—The provisions of this section shall also apply to National Forest System roadless lands in Johnson, Carter, Sullivan, Unicoi, Washington, Greene, Monroe, Polk, McMinn, and Cocke Counties, Tennessee, which are less than 5,000 acres in size.

SEC. 6. TERMINATION OF WILDERNESS STUDY.

The designations of the Little Frog Wilderness Study Area and the Big Frog Study Area pursuant to section 6 of the Act of October 30, 1984 (98 Stat. 3090), are terminated, and the Secretary of Agriculture shall have no further obligation to study such areas for wilderness.

Approved October 16, 1986.

LEGISLATIVE HISTORY—H.R. 5166:

HOUSE REPORTS: No. 99-853, Pt. 1 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 22, considered and passed House.
Oct. 3, considered and passed Senate.

O

Public Law 99-491
99th Congress

Joint Resolution

Making further continuing contributions for the fiscal year ending September 30, 1987, and for other purposes.

Oct. 16, 1986
[H.J. Res. 753]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, **That the joint resolution of October 11, 1986 (Public Law 99-465) is hereby amended by striking out "October 15, 1986" and inserting in lieu thereof "October 16, 1986".**

Ante, p. 1189.

Approved October 16, 1986.

LEGISLATIVE HISTORY—H.J. Res. 753:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 15, considered and passed House.
Oct. 16, considered and passed Senate.

91-139 O - 86 (508)

Public Law 99-492
99th Congress

An Act

Oct. 16, 1986
[H.R. 5362]

To extend the authority of the Supreme Court Police to provide protective services for Justices and Court personnel.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 9(c) of the Act entitled "An Act relating to the policing of the building and grounds of the Supreme Court of the United States", approved August 18, 1949 (40 U.S.C. 13n(c)), is amended in the first sentence by striking "one year after the date of the enactment of this subsection" and inserting "on December 29, 1990".

SEC. 2. (a) Section 105(a) of the Legislative Branch Appropriations Act, 1979 (2 U.S.C. 72a note), as reenacted by section 115 of the joint resolution entitled "Joint resolution making continuing appropriations for the fiscal year 1982, and for other purposes", approved October 1, 1981 (95 Stat. 963), is amended by striking out "September 30, 1986," and inserting in lieu thereof "February 28, 1987,".

Effective date.
2 USC 72a note.

(b) The amendment made by subsection (a) shall take effect on October 1, 1986.

Approved October 16, 1986.

LEGISLATIVE HISTORY—H.R. 5362 (S. 2814):

HOUSE REPORTS: No. 99-912 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 29, considered and passed House.
Sept. 30, considered and passed Senate, amended.
Oct. 7, House concurred in Senate amendment.

O

91-139 O - 86 (509)

Public Law 99-493
99th Congress

An Act

To amend the Gila River Pima-Maricopa Indian Community judgment distribution plan.

Oct. 16, 1986
[H.R. 5430]

Claims.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any previously approved plan for the use and distribution of the Ak-Chin, Salt River Pima-Maricopa, and Gila River Pima-Maricopa Indian communities judgment funds in docket 228 before the United States Claims Court, upon the request of the governing body of the Gila River Pima-Maricopa Indian Community, as manifested by the appropriate tribal council resolution, the Secretary of the Interior shall make a per capita distribution not to exceed 80 per centum of the funds apportioned to the Gila River Pima-Maricopa Indian Community, in a sum as equal as possible, to each member of the Gila River Pima-Maricopa Indian Community born on or prior to and living on August 10, 1986.

Approved October 16, 1986.

LEGISLATIVE HISTORY—H.R. 5430:

HOUSE REPORTS: No. 99-869 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 23, considered and passed House.
Oct. 3, considered and passed Senate.

O

91-139 O - 86 (510)

Public Law 99-494
99th Congress

Joint Resolution

Oct. 16, 1986
[H.J. Res. 671]

Designating 1987 as the "Year of the Reader".

Whereas the ability and opportunity to read are of fundamental importance to everyone;

Whereas this Nation's democratic, individualistic tradition depends on a literate, informed citizenry;

Whereas the National Commission on Reading, the Librarian of Congress, and others have recently reported that an alarmingly large number of Americans are not able or motivated to read;

Whereas the Center for the Book in the Library of Congress has concluded that there is an urgent need to focus national attention on the importance of reading and to strengthen national and local efforts to combat illiteracy; and

Whereas this Nation, built on ideas expressed through books and the printed word, will celebrate the Bicentennial of the Constitution in 1987: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1987 is designated the "Year of the Reader" and the President is authorized and requested to issue a proclamation encouraging parents, teachers, librarians, government officials, members of the book and business communities, and the people of the United States to observe such year with appropriate programs, ceremonies, and activities aimed at restoring reading to a place of preeminence in our personal lives and in the life of our Nation.

Approved October 16, 1986.

LEGISLATIVE HISTORY—H.J. Res. 671:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 1, considered and passed House.
Oct. 3, considered and passed Senate.

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91-139 O - 86 (511)

Public Law 99-495
99th Congress

An Act

To amend the Federal Power Act to provide for more protection to electric consumers.

Oct. 16, 1986
[S. 426]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Electric Consumers Protection Act of 1986.
16 USC 791a note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Electric Consumers Protection Act of 1986".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Amendments to section 7 of Federal Power Act.
Sec. 3. Environmental consideration in licensing.
Sec. 4. Relicensing procedures.
Sec. 5. License term on relicensing.
Sec. 6. Unauthorized activities.
Sec. 7. Amendments to section 30 of Federal Power Act.
Sec. 8. Amendments concerning certain small power production facilities subject to PURPA benefits.
Sec. 9. Fees and charges for use of dams and structures.
Sec. 10. Election and negotiations concerning contested projects subject to litigation.
Sec. 11. Merwin Dam project.
Sec. 12. Additional Commission enforcement authority.
Sec. 13. Antitrust laws.
Sec. 14. Landowner notification.
Sec. 15. Applications for certain orders under Federal Power Act.
Sec. 15A. Miscellaneous provisions.
Sec. 16. Provision of information to Congress.
Sec. 17. Savings provisions.
Sec. 18. Effective date.

SEC. 2. AMENDMENTS TO SECTION 7 OF FEDERAL POWER ACT.

Section 7(a) of the Federal Power Act (16 U.S.C. 791(a) et seq.) is amended as follows: 16 USC 800.

(1) Insert "original" after "hereunder or".

(2) Strike out "and in issuing licenses to new licensees under section 15 hereof" and substitute a comma.

SEC. 3. ENVIRONMENTAL CONSIDERATION IN LICENSING.

(a) PURPOSES OF LICENSE.—Section 4(e) of the Federal Power Act is amended by adding the following at the end thereof: "In deciding whether to issue any license under this Part for any project, the Commission, in addition to the power and development purposes for which licenses are issued, shall give equal consideration to the purposes of energy conservation, the protection, mitigation of damage to, and enhancement of, fish and wildlife (including related spawning grounds and habitat), the protection of recreational opportunities, and the preservation of other aspects of environmental quality.". 16 USC 797.

(b) AMENDMENTS TO SECTION 10(a).—Section 10(a) of such Act is amended as follows: 16 USC 803.

(1) After "waterpower development," insert "for the adequate protection, mitigation, and enhancement of fish and wildlife (including related spawning grounds and habitat),".

(2) After "including", insert "irrigation, flood control, water supply, and".

(3) Strike "purposes; and" and insert after "recreational" the following: "and other purposes referred to in section 4(e)".

16 USC 797.

(4) insert "(1)" after "(a)" and insert the following new paragraphs at the end thereof:

"(2) In order to ensure that the project adopted will be best adapted to the comprehensive plan described in paragraph (1), the Commission shall consider each of the following:

Water.

"(A) The extent to which the project is consistent with a comprehensive plan (where one exists) for improving, developing, or conserving a waterway or waterways affected by the project that is prepared by—

"(i) an agency established pursuant to Federal law that has the authority to prepare such a plan; or

"(ii) the State in which the facility is or will be located.

State and local governments.

"(B) The recommendations of Federal and State agencies exercising administration over flood control, navigation, irrigation, recreation, cultural and other relevant resources of the State in which the project is located, and the recommendations (including fish and wildlife recommendations) of Indian tribes affected by the project.

"(C) In the case of a State or municipal applicant, or an applicant which is primarily engaged in the generation or sale of electric power (other than electric power solely from cogeneration facilities or small power production facilities), the electricity consumption efficiency improvement program of the applicant, including its plans, performance and capabilities for encouraging or assisting its customers to conserve electricity cost-effectively, taking into account the published policies, restrictions, and requirements of relevant State regulatory authorities applicable to such applicant.

Indians.

"(3) Upon receipt of an application for a license, the Commission shall solicit recommendations from the agencies and Indian tribes identified in subparagraphs (A) and (B) of paragraph (2) for proposed terms and conditions for the Commission's consideration for inclusion in the license.".

(c) FISH AND WILDLIFE PROTECTION, MITIGATION, AND ENHANCEMENT.—Section 10 of the Federal Power Act is amended by adding the following at the end:

16 USC 803.

State and local governments.

"(j)(1) That in order to adequately and equitably protect, mitigate damages to, and enhance, fish and wildlife (including related spawning grounds and habitat) affected by the development, operation, and management of the project, each license issued under this Part shall include conditions for such protection, mitigation, and enhancement. Subject to paragraph (2), such conditions shall be based on recommendations received pursuant to the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) from the National Marine Fisheries Service, the United States Fish and Wildlife Service, and State fish and wildlife agencies.

"(2) Whenever the Commission believes that any recommendation referred to in paragraph (1) may be inconsistent with the purposes and requirements of this Part or other applicable law, the Commission and the agencies referred to in paragraph (1) shall attempt to

resolve any such inconsistency, giving due weight to the recommendations, expertise, and statutory responsibilities of such agencies. If, after such attempt, the Commission does not adopt in whole or in part a recommendation of any such agency, the Commission shall publish each of the following findings (together with a statement of the basis for each of the findings):

"(A) A finding that adoption of such recommendation is inconsistent with the purposes and requirements of this Part or with other applicable provisions of law.

"(B) A finding that the conditions selected by the Commission comply with the requirements of paragraph (1).

Subsection (i) shall not apply to the conditions required under this subsection.".

SEC. 4. RELICENSING PROCEDURES.

(a) RELICENSING PROCESS.—Section 15 of the Federal Power Act is amended by inserting "(1)" after "(a)", by redesignating subsection (b) as subsection (f), and by adding the following at the end of subsection (a): 16 USC 808.

"(2) Any new license issued under this section shall be issued to the applicant having the final proposal which the Commission determines is best adapted to serve the public interest, except that in making this determination the Commission shall ensure that insignificant differences with regard to subparagraphs (A) through (G) of this paragraph between competing applications are not determinative and shall not result in the transfer of a project. In making a determination under this section (whether or not more than one application is submitted for the project), the Commission shall, in addition to the requirements of section 10 of this Part, consider (and explain such consideration in writing) each of the following: *Ante*, pp. 1243, 1244.

"(A) The plans and abilities of the applicant to comply with (i) the articles, terms, and conditions of any license issued to it and (ii) other applicable provisions of this Part.

"(B) The plans of the applicant to manage, operate, and maintain the project safely.

"(C) The plans and abilities of the applicant to operate and maintain the project in a manner most likely to provide efficient and reliable electric service.

"(D) The need of the applicant over the short and long term for the electricity generated by the project or projects to serve its customers, including, among other relevant considerations, the reasonable costs and reasonable availability of alternative sources of power, taking into consideration conservation and other relevant factors and taking into consideration the effect on the provider (including its customers) of the alternative source of power, the effect on the applicant's operating and load characteristics, the effect on communities served or to be served by the project, and in the case of an applicant using power for the applicant's own industrial facility and related operations, the effect on the operation and efficiency of such facility or related operations, its workers, and the related community. In the case of an applicant that is an Indian tribe applying for a license for a project located on the tribal reservation, a statement of the need of such tribe for electricity generated by the project to foster the purposes of the reservation may be included. Indians.

"(E) The existing and planned transmission services of the applicant, taking into consideration system reliability, costs, and other applicable economic and technical factors.

"(F) Whether the plans of the applicant will be achieved, to the greatest extent possible, in a cost effective manner.

"(G) Such other factors as the Commission may deem relevant, except that the terms and conditions in the license for the protection, mitigation, or enhancement of fish and wildlife resources affected by the development, operation, and management of the project shall be determined in accordance with section 10, and the plans of an applicant concerning fish and wildlife shall not be subject to a comparative evaluation under this subsection.

Ante, p. 1244.

"(3) In the case of an application by the existing licensee, the Commission shall also take into consideration each of the following:

"(A) The existing licensee's record of compliance with the terms and conditions of the existing license.

"(B) The actions taken by the existing licensee related to the project which affect the public.

"(b)(1) Each existing licensee shall notify the Commission whether the licensee intends to file an application for a new license or not. Such notice shall be submitted at least 5 years before the expiration of the existing license.

Public information. Regulations.

"(2) At the time notice is provided under paragraph (1), the existing licensee shall make each of the following reasonably available to the public for inspection at the offices of such licensee: current maps, drawings, data, and such other information as the Commission shall, by rule, require regarding the construction and operation of the licensed project. Such information shall include, to the greatest extent practicable pertinent energy conservation, recreation, fish and wildlife, and other environmental information. Copies of the information shall be made available at reasonable costs of reproduction. Within 180 days after the enactment of the Electric Consumers Protection Act of 1986, the Commission shall promulgate regulations regarding the information to be provided under this paragraph.

"(3) Promptly following receipt of notice under paragraph (1), the Commission shall provide public notice of whether an existing licensee intends to file or not to file an application for a new license. The Commission shall also promptly notify the National Marine Fisheries Service and the United States Fish and Wildlife Service, and the appropriate State fish and wildlife agencies.

Indians.

"(4) The Commission shall require the applicant to identify any Federal or Indian lands included in the project boundary, together with a statement of the annual fees paid as required by this Part for such lands, and to provide such additional information as the Commission deems appropriate to carry out the Commission's responsibilities under this section.

"(c)(1) Each application for a new license pursuant to this section shall be filed with the Commission at least 24 months before the expiration of the term of the existing license. Each applicant shall consult with the fish and wildlife agencies referred to in subsection (b) and, as appropriate, conduct studies with such agencies. Within 60 days after the statutory deadline for the submission of applications, the Commission shall issue a notice establishing expeditious procedures for relicensing and a deadline for submission of final amendments, if any, to the application.

"(2) The time periods specified in this subsection and in subsection (b) shall be adjusted, in a manner that achieves the objectives of this section, by the Commission by rule or order with respect to existing licensees who, by reason of the expiration dates of their licenses, are unable to comply with a specified time period.

"(d)(1) In evaluating applications for new licenses pursuant to this section, the Commission shall not consider whether an applicant has adequate transmission facilities with regard to the project.

"(2) When the Commission issues a new license (pursuant to this section) to an applicant which is not the existing licensee of the project and finds that it is not feasible for the new licensee to utilize the energy from such project without provision by the existing licensee of reasonable services, including transmission services, the Commission shall give notice to the existing licensee and the new licensee to immediately enter into negotiations for such services and the costs demonstrated by the existing licensee as being related to the provision of such services. It is the intent of the Congress that such negotiations be carried out in good faith and that a timely agreement be reached between the parties in order to facilitate the transfer of the license by the date established when the Commission issued the new license. If such parties do not notify the Commission that within the time established by the Commission in such notice (and if appropriate, in the judgment of the Commission, one 45-day extension thereof), a mutually satisfactory arrangement for such services that is consistent with the provisions of this Act has been executed, the Commission shall order the existing licensee to file (pursuant to section 205 of this Act) with the Commission a tariff, subject to refund, ensuring such services beginning on the date of transfer of the project and including just and reasonable rates and reasonable terms and conditions. After notice and opportunity for a hearing, the Commission shall issue a final order adopting or modifying such tariff for such services at just and reasonable rates in accordance with section 205 of this Act and in accordance with reasonable terms and conditions. The Commission, in issuing such order, shall ensure the services necessary for the full and efficient utilization and benefits for the license term of the electric energy from the project by the new licensee in accordance with the license and this Part, except that in issuing such order the Commission— 16 USC 824d.

"(A) shall not compel the existing licensee to enlarge generating facilities, transmit electric energy other than to the distribution system (providing service to customers) of the new licensee identified as of the date one day preceding the date of license award, or require the acquisition of new facilities, including the upgrading of existing facilities other than any reasonable enhancement or improvement of existing facilities controlled by the existing licensee (including any acquisition related to such enhancement or improvement) necessary to carry out the purposes of this paragraph;

"(B) shall not adversely affect the continuity and reliability of service to the customers of the existing licensee;

"(C) shall not adversely affect the operational integrity of the transmission and electric systems of the existing licensee;

"(D) shall not cause any reasonably quantifiable increase in the jurisdictional rates of the existing licensee; and

"(E) shall not order any entity other than the existing licensee to provide transmission or other services.

Such order shall be for such period as the Commission deems appropriate, not to exceed the term of the license. At any time, the Commission, upon its own motion or upon a petition by the existing or new licensee and after notice and opportunity for a hearing, may modify, extend, or terminate such order.".

16 USC 808.

(b) CONFORMING AMENDMENTS.—(1) Section 15(a) of the Federal Power Act is amended by striking out "original" each place it appears and substituting "existing".

16 USC 807.

(2) Section 14(b) of such Act is amended by striking out the first sentence.

16 USC 825h note.

(c) COMMISSION REVIEW.—In order to ensure that the provisions of Part I of the Federal Power Act, as amended by this Act, are fully, fairly, and efficiently implemented, that other governmental agencies identified in such Part I are able to carry out their responsibilities, and that the increased workload of the Federal Energy Regulatory Commission and other agencies is facilitated, the Commission shall, consistent with the provisions of section 309 of the Federal Power Act, review all provisions of that Act requiring an action within a 30-day period and, as the Commission deems appropriate, amend its regulations to interpret such period as meaning "working days", rather than "calendar days" unless calendar days is specified in such Act for such action.

16 USC 825h.

SEC. 5. LICENSE TERM ON RELICENSING.

Section 15 of the Federal Power Act is amended by adding the following after subsection (d) (as added by section 4 of this Act):

"(e) Except for an annual license, any license issued by the Commission under this section shall be for a term which the Commission determines to be in the public interest but not less than 30 years, nor more than 50 years, from the date on which the license is issued.".

SEC. 6. UNAUTHORIZED ACTIVITIES.

16 USC 817.

Section 23(b) of the Federal Power Act is amended by inserting "(1)" after "(b)" and by adding the following at the end thereof:

"(2) No person may commence any significant modification of any project licensed under, or exempted from, this Act unless such modification is authorized in accordance with terms and conditions of such license or exemption and the applicable requirements of this Part. As used in this paragraph, the term 'commence' refers to the beginning of physical on-site activity other than surveys or testing.".

SEC. 7. AMENDMENTS TO SECTION 30 OF FEDERAL POWER ACT.

Water.
16 USC 823a.

(a) STATE OR LOCAL CONDUITS.—Section 30(b) of the Federal Power Act is amended by inserting after "15 megawatts" the following: "(40 megawatts in the case of a facility constructed, operated, and maintained by an agency or instrumentality of a State or local government solely for water supply for municipal purposes)".

(b) NMFS.—Section 30(c) of the Federal Power Act is amended by inserting "National Marine Fisheries Service" after "the Fish and Wildlife Service" in both places such term appears.

(c) FEES FOR STUDIES.—Section 30 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

Ante, pp. 1243, 1244.

"(e) The Commission, in addition to the requirements of section 10(e), shall establish fees which shall be paid by an applicant for a license or exemption for a project that is required to meet terms and conditions set by fish and wildlife agencies under subsection (c).

Such fees shall be adequate to reimburse the fish and wildlife agencies referred to in subsection (c) for any reasonable costs incurred in connection with any studies or other reviews carried out by such agencies for purposes of compliance with this section. The fees shall, subject to annual appropriations Acts, be transferred to such agencies by the Commission for use solely for purposes of carrying out such studies and shall remain available until expended.".

SEC. 8. AMENDMENTS CONCERNING CERTAIN SMALL POWER PRODUCTION FACILITIES SUBJECT TO PURPA BENEFITS.

(a) NEW DAMS AND DIVERSIONS SEEKING PURPA BENEFITS.—Section 210 of the Public Utility Regulatory Policies Act of 1978 is amended by inserting the following new subsections after subsection (i) and by redesignating subsection (j) as subsection (l): 16 USC 824a-3.

"(j) NEW DAMS AND DIVERSIONS.—Except for a hydroelectric project located at a Government dam (as defined in section 3(10) of the Federal Power Act) at which non-Federal hydroelectric development is permissible, this section shall not apply to any hydroelectric project which impounds or diverts the water of a natural watercourse by means of a new dam or diversion unless the project meets each of the following requirements: 16 USC 796.

"(1) NO SUBSTANTIAL ADVERSE EFFECTS.—At the time of issuance of the license or exemption for the project, the Commission finds that the project will not have substantial adverse effects on the environment, including recreation and water quality. Such finding shall be made by the Commission after taking into consideration terms and conditions imposed under either paragraph (3) of this subsection or section 10 of the Federal Power Act (whichever is appropriate as required by that Act or the Electric Consumers Protection Act of 1986) and compliance with other environmental requirements applicable to the project. *Ante*, pp. 1243, 1244.

"(2) PROTECTED RIVERS.—At the time the application for a license or exemption for the project is accepted by the Commission (in accordance with the Commission's regulations and procedures in effect on January 1, 1986, including those relating to environmental consultation), such project is not located on either of the following:

"(A) Any segment of a natural watercourse which is included in (or designated for potential inclusion in) a State or national wild and scenic river system.

"(B) Any segment of a natural watercourse which the State has determined, in accordance with applicable State law, to possess unique natural, recreational, cultural, or scenic attributes which would be adversely affected by hydroelectric development.

"(3) FISH AND WILDLIFE TERMS AND CONDITIONS.—The project meets the terms and conditions set by fish and wildlife agencies under the same procedures as provided for under section 30(c) of the Federal Power Act. *Ante*, p. 1248.

"(k) DEFINITION OF NEW DAM OR DIVERSION.—For purposes of this section, the term 'new dam or diversion' means a dam or diversion which requires, for purposes of installing any hydroelectric power project, any construction, or enlargement of any impoundment or diversion structure (other than repairs or reconstruction or the addition of flashboards or similar adjustable devices)".

16 USC 824a-3 note.

(b) EFFECTIVE DATE.—(1) Subsection (j) of section 210 of the Public Utility Regulatory Policies Act of 1978 (as amended by subsection (a) of this section) shall apply to any project for which benefits under section 210 of the Public Utility Regulatory Policies Act of 1978 are sought and for which a license or exemption is issued by the Federal Energy Regulatory Commission after the enactment of this Act, except as otherwise provided in paragraph (2), (3) or (4) of this subsection.

(2) Subsection (j) shall not apply to the project if the application for license or exemption for the project was filed, and accepted for filing by the Commission, before the enactment of this Act.

(3) Paragraphs (1) and (3) of such subsection (j) shall not apply if the application for the license or exemption for the project was filed before the enactment of this Act and accepted for filing by the Commission (in accordance with the Commission's regulations and procedures in effect on January 1, 1986, including those relating to the requirement for environmental consultation) within 3 years after such enactment.

(4)(A) Paragraph (3) of subsection (j) shall not apply for projects where the license or exemption application was filed after enactment of this Act if, based on a petition filed by the applicant for such project within 18 months after such enactment, the Commission determines (after public notice and opportunity for public comment of at least 45 days) that the applicant has demonstrated that he had committed (prior to the enactment of this Act) substantial monetary resources directly related to the development of the project and to the diligent and timely completion of all requirements of the Commission for filing an acceptable application for license or exemption. Such petition shall be publicly available and shall be filed in such form as the Commission shall require by rule issued within 120 days after the enactment of this Act. The public notice required under this subparagraph shall include written notice by the petitioner to affected Federal and State agencies.

(B) In the case of any petition referred to in subparagraph (A), if the applicant had a preliminary permit and had completed environmental consultations (required by Commission regulations and procedures in effect on January 1, 1986) prior to enactment, there shall be a rebuttable presumption that such applicant had committed substantial monetary resources prior to enactment.

(C) The applicant for a license or exemption for a project described in subparagraph (A) may petition the Commission for an initial determination under paragraph (1) of section 210(j) of the Public Utility Regulatory Policies Act of 1978 prior to the time the license or exemption is issued. If the Commission initially finds that the project will have substantial adverse effects on the environment within the meaning of such paragraph (1), prior to making a final finding under that paragraph the Commission shall afford the applicant a reasonable opportunity to provide for mitigation of such adverse effects. The Commission shall make a final finding under such paragraph (1) at the time the license or exemption is issued. If the Federal Energy Regulatory Commission has notified the State of its initial finding and the State has not taken any action described in paragraph (2) of section 210(j) before such final finding, the failure to take such action shall be the basis for a rebuttable presumption that there is not a substantial adverse effect on the environment related to natural, recreational, cultural, or scenic attributes for purposes of such finding.

State and local governments.

(D) If a petition under subparagraph (A) is denied, all provisions of section 210(j) of the Public Utility Regulatory Policies Act of 1978 shall apply to the project regardless of when the license or exemption is issued. *Ante*, p. 1249.

(c) APPLICATION OF SECTION 30(c).—Nothing in this Act shall affect the application of section 30(c) of the Federal Power Act to any exemption issued after the enactment of this Act. 16 USC 823a note. *Ante*, p. 1248.

(d) STUDY.—(1) The Commission shall conduct a study (in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969) of whether the benefits of section 210 of the Public Utility Regulatory Policies Act of 1978 and section 210 of the Federal Power Act should be applied to hydroelectric power facilities utilizing new dams or diversions (within the meaning of section 210(k) of the Public Utility Regulatory Policies Act of 1978). 16 USC 824a-3 note. 42 USC 4332. *Ante*, p. 1249. 16 USC 824i. *Ante*, p. 1249.

(2) The study under this subsection shall take into consideration the need for such new dams or diversions for power purposes, the environmental impacts of such new dams and diversions (both with and without the application of the amendments made by this Act to sections 4, 10, and 30 of the Federal Power Act and section 210 of the Public Utility Regulatory Policies Act of 1978), the environmental effects of such facilities alone and in combination with other existing or proposed dams or diversions on the same waterway, the intent of Congress to encourage and give priority to the application of section 210 of Public Utility Regulatory Policies Act of 1978 to existing dams and diversions rather than such new dams or diversions, and the impact of such section 210 on the rates paid by electric power consumers. *Ante*, pp. 1243, 1244; *post*, pp. 1252, 1257; *ante*, p. 1248. *Ante*, p. 1249.

(3) The study under this subsection shall be initiated within 3 months after enactment of this Act and completed as promptly as practicable.

(4) A report containing the results of the study conducted under this subsection shall be submitted to the Committee on Energy and Commerce of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate while both Houses are in session. Report.

(5) The report submitted under paragraph (4) shall include a determination (and the basis thereof) by the Commission, based on the study and a public hearing and subject to review under section 313(b) of the Federal Power Act, whether any of the benefits referred to in paragraph (1) should be available for such facilities and whether applications for preliminary permits (or licenses where no preliminary permit has been issued) for such small power production facilities utilizing new dams or diversions should be accepted by the Commission after the moratorium period specified in subsection (e). The report shall include such other administrative and legislative recommendations as the Commission deems appropriate. 16 USC 825*l*.

(6) If the study under this subsection has not been completed within 18 months after its initiation, the Commission shall notify the Committees referred to in paragraph (4) of the reasons for the delay and specify a date when it will be completed and a report submitted.

(e) MORATORIUM ON APPLICATION OF PURPA TO NEW DAMS.—Notwithstanding the amendments made by subsection (a) of this section, in the case of a project for which a license or exemption is issued after the enactment of this Act, section 210 of the Public Utility Regulatory Policies Act of 1978 shall not apply during the 16 USC 824a-3 note. *Ante*, p. 1249.

moratorium period if the project utilizes a new dam or diversion (as defined in section 210(k) of such Act) unless the project is either—

Ante, p. 1249.

(1) a project located at a Government dam (as defined in section 3(10) of the Federal Power Act) at which non-Federal hydroelectric development is permissible, or

16 USC 796.

(2) a project described in paragraphs (2), (3), or (4) of subsection (b).

For purposes of this subsection, the term "moratorium period" means the period beginning on the date of the enactment of this Act and ending at the expiration of the first full session of Congress after the session during which the report under subsection (d) has been submitted to the Congress.

SEC. 9. FEES AND CHARGES FOR USE OF DAMS AND STRUCTURES.

16 USC 803.

(a) FEES AND CHARGES.—Section 10(e) of the Federal Power Act is amended as follows:

(1) Insert "(1)" after "(e)".

(2) Add the following at the end thereof:

"(2) In the case of licenses involving the use of Government dams or other structures owned by the United States, the charges fixed (or readjusted) by the Commission under paragraph (1) for the use of such dams or structures shall not exceed 1 mill per kilowatt-hour for the first 40 gigawatt-hours of energy a project produces in any year, 1½ mills per kilowatt-hour for over 40 up to and including 80 gigawatt-hours in any year, and 2 mills per kilowatt-hour for any energy the project produces over 80 gigawatt-hours in any year. Except as provided in subsection (f), such charge shall be the only charge assessed by any agency of the United States for the use of such dams or structures.

"(3) The provisions of paragraph (2) shall apply with respect to—

"(A) all licenses issued after the date of the enactment of this paragraph; and

"(B) all licenses issued before such date which—

"(i) did not fix a specific charge for the use of the Government dam or structure involved; and

"(ii) did not specify that no charge would be fixed for the use of such dam or structure.

"(4) Every 5 years, the Commission shall review the appropriateness of the annual charge limitations provided for in this subsection and report to Congress concerning its recommendations thereon.".

Indians.
16 USC 803 note.

(b) SAVINGS PROVISIONS.—Nothing in this Act shall affect any annual charge to be paid pursuant to section 10(e) of the Federal Power Act to Indian tribes for the use of their lands within Indian reservations.

SEC. 10. ELECTION AND NEGOTIATIONS CONCERNING CONTESTED PROJECTS SUBJECT TO LITIGATION.

(a) APPLICATION OF SECTION.—This section applies to any relicensing proceeding initiated prior to October 1983 at the Federal Energy Regulatory Commission involving the following projects: Mokelumne (No. 137), California; Phoenix (No. 1061), California; Rock Creek/Cresta (No. 1962), California; Haas-King (No. 1988), California; Poole (No. 1388), California; Olmsted (No. 596), Utah; Weber (No. 1744), Utah; Rush Creek (No. 1389), California; and Shawano (No. 710), Wisconsin. The numbers in this subsection refer to Federal Energy Regulatory Commission project identification numbers for the existing licensee. This subsection shall also apply to

any subsequent relicensing proceeding for any such project involving the same parties which results from the rejection, without prejudice, of an application in any of the proceedings specified in this subsection.

(b) PROVISIONS NOT APPLICABLE IF ELECTION MADE.—In the case of each project named in subsection (a), if the existing licensee fails to make an election under subsection (c) within 90 days after the enactment of this Act for negotiations under subsection (e)—

(1) the provisions of the Federal Power Act in effect one day prior to enactment of this Act; and 16 USC 791a.

(2) the amendments made by sections 3, 6, and 12 of this Act to the Federal Power Act;

shall apply to the relicensing proceeding referred to in subsection (a).

(c) ELECTION PROCEDURES.—An existing licensee for any project named in subsection (a) may file an election with the Commission under this subsection. The election shall be filed in the manner required by the Commission. The election, subject to subsection (d), shall consist of an agreement that, in the case of the project concerned, the licensee will—

(1) enter into good faith negotiations under subsection (e) with each person (or group of persons) who filed a competing application for a new license for the project before October 7, 1983; and

(2) be subject to the provisions of this section.

Notice of the election to negotiate or the refusal thereof shall be filed with the Commission within the 90-day period.

(d) ACCEPTANCE OR REFUSAL TO ACCEPT ELECTION.—Within 45 days after receiving notice from the Commission of an election to negotiate made by the existing licensee under subsection (c) for an applicable project, each competing license applicant (or group of applicants) referred to in subsection (a) may—

(1) accept the election, withdraw the competing application, enter into good faith negotiations in accordance with this section, and agree to be subject to the provisions of this section; or

(2) refuse to accept such election.

If the election to negotiate is not accepted by the competing applicant (or group) within the 45-day period, the relicensing proceeding for such project shall be continued and a new license issued solely in accordance with the Federal Power Act, as amended by this Act (including the amendments made by this Act to section 7 of the Federal Power Act). Notice of an election to negotiate or refusal must be filed with the Commission within the 45-day period. *Ante*, p. 1243.

(e) NEGOTIATIONS.—If an election to negotiate is made pursuant to subsections (c) and (d) for any project, the existing licensee and the competing applicant shall commence negotiations for each of the following:

(1) Compensation to be provided by the existing licensee for the reasonable costs incurred by the competing applicant which are related to pursuing—

(A) the application in the applicable relicensing proceeding, including the costs of preparing, filing, and maintaining such application for the period ending December 31, 1985; and

(B) the litigation in the courts involving the application of section 7 of the Federal Power Act to the applicable relicensing proceeding.

(2) Compensation in an additional sum (which may be in money or electric power or both) representing a reasonable percentage (but not to exceed 100 percent) of the net investment of the existing licensee in the project, as of October 22, 1985 (as determined by the Commission, prior to the initiation of such negotiations, in accordance with section 14(a) of the Federal Power Act). In making the determination of net investment, the Commission shall utilize all relevant records and data (which the existing licensee shall provide to the Commission) applicable to the project for the term of the existing license through October 22, 1985.

16 USC 807.

The parties to the negotiations shall establish the method, period, and manner of providing all such compensation.

(f) COMMISSION ORDER.—If an election is made and accepted but negotiations under subsection (e) are not commenced by the parties within the time established by the Commission (or, if appropriate, in the judgment of the Commission, one 45-day extension thereof) or if a mutually satisfactory compensation arrangement that is consistent with the provisions of the Federal Power Act has not been executed within such time, the Commission, after notice and opportunity for a hearing, shall issue an order establishing compensation in accordance with paragraphs (1) and (2) of subsection (e). In determining the amount of compensation, the Commission may accept any stipulations agreed to by the parties as a result of the negotiations. The Commission shall also take into consideration all of the following:

16 USC 791a.

(1) The quality of the relicensing proposals of the existing licensee and the competing applicant.

(2) The net benefits to both parties and their customers of obtaining the new license.

(3) The extent to which the applications filed by both parties were actively pursued (subject to the effect thereon of any action by the Commission or the applicable litigation) and filed with the Commission in good faith.

(4) The extent of reliance by the competing applicant on the provisions of the Federal Power Act in effect prior to enactment of this Act and the detrimental impact of such reliance on the operations and on the service area of the applicant.

(g) COMPENSATION.—The order of the Commission under this section shall establish the method, period, and manner of providing compensation under subsection (f), and such other reasonable terms and conditions concerning such compensation, consistent with the Federal Power Act, as the Commission deems appropriate. Any payment over a period of time shall include interest compounded at a rate based upon outstanding obligations of the United States of comparable maturity. The payment period shall not exceed one-third of the new license term for the project. The order shall state the basis for the Commission's determination. The provisions of section 313 of the Federal Power Act shall apply to such order and determinations. The order (or any agreement reached by the parties by negotiation) shall be a condition of any annual license or new license (depending when the order is issued or agreement reached) issued to the existing licensee for this project. Nothing in this section shall be construed to affect the treatment, by a State regulatory authority for ratemaking purposes, of any compensation paid under this section.

16 USC 825*l*.

State and local governments.

(h) COMMISSION PROCEEDINGS.—Upon mutual request of the parties to any negotiation under this section, the Commission may defer any determination of net investment for the applicable project until whenever it is required to issue an order under this section for such project. No new license shall be issued under the Federal Power Act for the projects referenced in this section until there is full compliance, to the extent applicable, with this section. The Commission shall ensure that negotiations and any determinations and orders required by this section shall be conducted, made, and issued expeditiously and shall ensure that the parties do not delay.

16 USC 791a.

SEC. 11. MERWIN DAM PROJECT.

The amendments made by this Act, except for the amendments made by sections 6 and 12 shall not apply to the Federal Energy Regulatory Commission proceeding involving FERC Project Number 935 (FERC Project Number 2791), relating to the Merwin Dam in Washington State.

Washington.

SEC. 12. ADDITIONAL COMMISSION ENFORCEMENT AUTHORITY.

Part I of the Federal Power Act is amended by adding the following new section at the end thereof:

"SEC. 31. ENFORCEMENT.

16 USC 823b.

"(a) MONITORING AND INVESTIGATION.—The Commission shall monitor and investigate compliance with each license and permit issued under this Part and with each exemption granted from any requirement of this Part. The Commission shall conduct such investigations as may be necessary and proper in accordance with this Act. After notice and opportunity for public hearing, the Commission may issue such orders as necessary to require compliance with the terms and conditions of licenses and permits issued under this Part and with the terms and conditions of exemptions granted from any requirement of this Part.

"(b) REVOCATION ORDERS.—After notice and opportunity for an evidentiary hearing, the Commission may also issue an order revoking any license issued under this Part or any exemption granted from any requirement of this Part where any licensee or exemptee is found by the Commission:

"(1) to have knowingly violated a final order issued under subsection (a) after completion of judicial review (or the opportunity for judicial review); and

"(2) to have been given reasonable time to comply fully with such order prior to commencing any revocation proceeding.

In any such proceeding, the order issued under subsection (a) shall be subject to de novo review by the Commission. No order shall be issued under this subsection until after the Commission has taken into consideration the nature and seriousness of the violation and the efforts of the licensee to remedy the violation.

"(c) CIVIL PENALTY.—Any licensee, permittee, or exemptee who violates or fails or refuses to comply with any rule or regulation under this Part, any term, or condition of a license, permit, or exemption under this Part, or any order issued under subsection (a) shall be subject to a civil penalty in an amount not to exceed $10,000 for each day that such violation or failure or refusal continues. Such penalty shall be assessed by the Commission after notice and opportunity for public hearing. In determining the amount of a proposed penalty, the Commission shall take into consideration the nature

and seriousness of the violation, failure, or refusal and the efforts of the licensee to remedy the violation, failure, or refusal in a timely manner. No civil penalty shall be assessed where revocation is ordered.

"(d) ASSESSMENT.—(1) Before issuing an order assessing a civil penalty against any person under this section, the Commission shall provide to such person notice of the proposed penalty. Such notice shall, except in the case of a violation of a final order issued under subsection (a), inform such person of his opportunity to elect in writing within 30 days after the date of receipt of such notice to have the procedures of paragraph (3) (in lieu of those of paragraph (2)) apply with respect to such assessment.

"(2)(A) In the case of the violation of a final order issued under subsection (a), or unless an election is made within 30 calendar days after receipt of notice under paragraph (1) to have paragraph (3) apply with respect to such penalty, the Commission shall assess the penalty, by order, after a determination of violation has been made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5, United States Code, before an administrative law judge appointed under section 3105 of such title 5. Such assessment order shall include the administrative law judge's findings and the basis for such assessment.

Courts, U.S.

"(B) Any person against whom a penalty is assessed under this paragraph may, within 60 calendar days after the date of the order of the Commission assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in Part, the order of the Commission, or the court may remand the proceeding to the Commission for such further action as the court may direct.

5 USC 701 *et seq.*

"(3)(A) In the case of any civil penalty with respect to which the procedures of this paragraph have been elected, the Commission shall promptly assess such penalty, by order, after the date of the receipt of the notice under paragraph (1) of the proposed penalty.

"(B) If the civil penalty has not been paid within 60 calendar days after the assessment order has been made under subparagraph (A), the Commission shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and the facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in Part, such assessment.

"(C) Any election to have this paragraph apply may not be revoked except with the consent of the Commission.

"(4) The Commission may compromise, modify, or remit, with or without conditions, any civil penalty which may be imposed under this subsection, taking into consideration the nature and seriousness of the violation and the efforts of the licensee to remedy the violation in a timely manner at any time prior to a final decision by the court of appeals under paragraph (2) or by the district court under paragraph (3).

"(5) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under paragraph (2), or after the appropriate district court has entered final judgment in favor of the Commission under paragraph (3), the Commission shall

institute an action to recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order or judgment shall not be subject to review.

"(6)(A) Notwithstanding the provisions of title 28, United States Code, or of this Act, the Commission may be represented by the general counsel of the Commission (or any attorney or attorneys within the Commission designated by the Chairman) who shall supervise, conduct, and argue any civil litigation to which paragraph (3) of this subsection applies (including any related collection action under paragraph (5)) in a court of the United States or in any other court, except the Supreme Court. However, the Commission or the general counsel shall consult with the Attorney General concerning such litigation, and the Attorney General shall provide, on request, such assistance in the conduct of such litigation as may be appropriate.

"(B) The Commission shall be represented by the Attorney General, or the Solicitor General, as appropriate, in actions under this subsection, except to the extent provided in subparagraph (A) of this paragraph.".

SEC. 13. ANTITRUST LAWS.

Section 10(h) of the Federal Power Act is amended by inserting "(1)" after "(h)" and by adding the following new paragraph at the end thereof: 16 USC 803.

"(2) That conduct under the license that: (A) results in the contravention of the policies expressed in the antitrust laws; and (B) is not otherwise justified by the public interest considering regulatory policies expressed in other applicable law (including but not limited to those contained in Part II of this Act) shall be prevented or adequately minimized by means of conditions included in the license prior to its issuance. In the event it is impossible to prevent or adequately minimize the contravention, the Commission shall refuse to issue any license to the applicant for the project and, in the case of an existing project, shall take appropriate action to provide thereafter for the operation and maintenance of the affected project and for the issuing of a new license in accordance with section 15 of this Part.".

SEC. 14. LANDOWNER NOTIFICATION.

Section 9 of the Federal Power Act is amended by inserting "(a)" after "9", by redesignating existing subsections (a) and (b) as paragraphs (1) and (2), and by adding the following at the end thereof: 16 USC 802.

"(b) Upon the filing of any application for a license (other than a license under section 15) the applicant shall make a good faith effort to notify each of the following by certified mail: 16 USC 808.

"(1) Any person who is an owner of record of any interest in the property within the bounds of the project.

"(2) Any Federal, State, municipal or other local governmental agency likely to be interested in or affected by such application.". State and local governments.

SEC. 15. APPLICATIONS FOR CERTAIN ORDERS UNDER FEDERAL POWER ACT.

Section 211(c)(2)(B) of the Federal Power Act is amended by adding the following before the period: ": *Provided*, That nothing in this subparagraph shall prevent an application for an order hereunder 16 USC 824j.

to be filed prior to termination of modification of an existing rate schedule: *Provided*, That such order shall not become effective until termination of such rate schedule or the modification becomes effective".

SEC. 15A. MISCELLANEOUS PROVISIONS.

Alabama.

(a) LAKE TUSCALOOSA.—In the case of any hydroelectric power project located or proposed to be located at Lake Tuscaloosa, in Tuscaloosa County, Alabama, the provisions of the Federal Power Act shall continue to apply, except that the Federal Energy Regulatory Commission shall not issue any permit, license, or exemption under that Act or under any other provision of law administered by the Commission to any person or public or private entity for such project or for any transmission or other facilities used in connection with, or appurtenant to, such project unless authorized by law enacted after the enactment of this Act.

16 USC 791a.

16 USC 806.

(b) TIME LIMITATIONS FOR CERTAIN PROJECTS.—Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission upon the request of the licensee for FERC Projects Nos. 3033, 3034, and 3044 (and after reasonable notice) is authorized, in accordance with the good faith, due diligence, and public interest requirements of such section 13 and the Commission's procedures under such section, to extend:

(1) the time required for commencement of construction of Projects Nos. 3033, 3034, and 3044 for up to a maximum of 3 consecutive 2-year periods for each such project,

(2) the time required for completion of construction of such projects for a reasonable period not to exceed 5 years after commencement of construction of each project, and

(3) the time required for the licensee to acquire the real property required for such projects for a period of up to 5 years from the date of enactment of the Act.

The authorization for issuing extensions under paragraphs (2) and (3) of this subsection shall terminate 3 years after enactment of this Act. The Commission to facilitate requests under this subsection may consolidate such requests.

Idaho.

(c) HENRY'S FORK.—(1) In the case of any project proposed to be sited on, or adjacent to, that portion of Henry's Fork of the Snake River, Idaho (including that segment originating at Big Springs), or its tributaries within one-half mile of their confluence with Henry's Fork of the Snake River, from its point of origin at Henry's Lake, Idaho to the point of its confluence with the backwaters of Ashton Reservoir, Idaho, the provisions of the Federal Power Act shall continue to apply, except that the Federal Energy Regulatory Commission shall not issue any permit, license, or exemption under that Act or under any other provision of law administered by the Commission to any person or public or private entity for such project or for any transmission or other facilities used in connection with, or appurtenant to, such project unless authorized by law enacted after the enactment of this Act. The prohibition in the preceding sentence shall not apply to the application for a license under Part I of the Federal Power Act, as amended by this Act, to the Island Park Dam Hydropower Project (FERC Project No. 2973), except that in addition to the requirements of that Act, the Commission may issue such license only if the Commission determines that significant and permanent alternation of streamflow, habitat, water temperature, and quality will not occur as a result of the project.

16 USC 791a.

Ante, p. 1255.

Nothing in this subsection shall be construed to affect the authority of this Commission to relicense, in accordance with the provisions of the Federal Power Act, as amended by this Act, the Ponds Lodge Hydropower Project (FERC Project No. 1413). 16 USC 791a.

(2) Except as expressly provided in paragraph (1), nothing in this subsection shall affect the validity of any existing license, permit, or certificate issued by any Federal agency pursuant to any other Federal law.

(3) The provisions of this subsection shall supersede the provisions of title VII (relating to the Henry's Fork of the Snake River, Idaho) of the Act entitled "An Act to amend the Wild and Scenic Rivers Act, and for other purposes" enacted during the 99th Congress, second session.

SEC. 16. PROVISION OF INFORMATION TO CONGRESS. 16 USC 797b.

The Federal Energy Regulatory Commission shall keep the Committee on Energy and Commerce of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate fully and currently informed regarding actions of the Commission with respect to the provisions of Part I of the Federal Power Act.

SEC. 17. SAVINGS PROVISIONS. State and local governments. Indians. 16 USC 797 note.

(a) IN GENERAL.—Nothing in this Act shall be construed as authorizing the appropriation of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual. Nor shall any provision of this Act—

(1) affect the rights or jurisdiction of the United States, the States, Indian tribes, or other entities over waters of any river or stream or over any ground water resource;

(2) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States;

(3) alter or establish the respective rights of States, the United States, Indian tribes, or any person with respect to any water or water-related right;

(4) affect, expand, or create rights to use transmission facilities owned by the Federal Government;

(5) alter, amend, repeal, interpret, modify, or be in conflict with, the Treaty rights or other rights of any Indian tribe;

(6) permit the filing of any competing application in any relicensing proceeding where the time for filing a competing application expired before the enactment of this Act; or

(7) modify, supersede, or affect the Pacific Northwest Electric Power Planning and Conservation Act. 16 USC 839 note.

SEC. 18. EFFECTIVE DATE. 16 USC 797 note.

Except as otherwise provided in this Act, the amendments made by this Act shall take effect with respect to each license, permit, or exemption issued under the Federal Power Act after the enactment of this Act. The amendments made by sections 6 and 12 of this Act 16 USC 791a.

shall apply to licenses, permits, and exemptions without regard to when issued.

Approved October 16, 1986.

LEGISLATIVE HISTORY—S. 426 (H.R. 44):

HOUSE REPORTS: No. 99-507 accompanying H.R. 44 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 99-161 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 11, 15-17, considered and passed Senate.
Apr. 21, H.R. 44 considered and passed House; proceedings vacated and S. 426 amended, passed in lieu.
June 10, Senate disagreed to House amendment.
Oct. 2, House agreed to conference report.
Oct. 3, Senate agreed to conference report.

O

Public Law 99-496
99th Congress

An Act

To make certain amendments to the Job Training Partnership Act.

Oct. 16, 1986
[S. 2069]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Job Training Partnership Act Amendments of 1986.

SHORT TITLE

SECTION 1. This Act may be cited as the "Job Training Partnership Act Amendments of 1986".

29 USC 1501 note.

DESIGNATION OF SERVICE DELIVERY AREAS BASED ON LABOR MARKET AREAS

SEC. 2. Section 101(a)(4)(A)(ii) of the Job Training Partnership Act (hereinafter in this Act referred to as the "Act") is amended by striking out "a labor market area" and inserting in lieu thereof "one or more labor market areas".

29 USC 1511.

LITERACY AND DROPOUT PREVENTION PROGRAMS

SEC. 3. Section 123 of the Act is amended—

29 USC 1533.

(1) in subsection (a)—

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) by inserting at the end of such subsection the following new paragraph:

"(3) to provide—

"(A) literacy training to youth and adults;

"(B) dropout prevention and reenrollment services to youth, giving priority to youth who are at risk of becoming dropouts;

"(C) a State-wide school-to-work transition program operated in a manner consistent with section 205(e); or

State and local governments.
29 USC 1605.

"(D) any combination of the activities described in subparagraphs (A), (B), and (C) of this paragraph."; and

(2) in subsection (c)—

(A) by striking out the first sentence of paragraph (2)(B) and inserting in lieu thereof the following: "At least 80 percent of the funds available under this section shall be used for clauses (1) and (3) of subsection (a) for the Federal share of the cost of carrying out activities described in such clauses."; and

(B) by striking out "clause (1)" in paragraph (3) and inserting in lieu thereof "clauses (1) and (3)".

PRESIDENTIAL AWARDS FOR OUTSTANDING PRIVATE SECTOR INVOLVEMENT IN JOB TRAINING PROGRAMS

SEC. 4. Part D of title I of the Act is amended by adding at the end thereof the following new section:

29 USC 1571 *et seq.*

"PRESIDENTIAL AWARDS FOR OUTSTANDING PRIVATE SECTOR INVOLVEMENT IN JOB TRAINING PROGRAMS

29 USC 1582.

"SEC. 172. (a)(1)(A) The President is authorized to make Presidential awards for outstanding achievement by the private sector in the job training partnership program authorized by this Act. The President is authorized to make such awards to individuals who, and organizations which, have demonstrated outstanding achievement in planning and administering job training partnership programs or in contributing to the success of the job training partnership program.

"(B) In making the awards pursuant to subparagraph (A) of this paragraph, the President shall consider the effectiveness of the program for which the award is made.

"(2) The President is authorized to make Presidential awards for model programs in the job training partnership program authorized by this Act which demonstrate effectiveness in addressing the job training needs of groups of individuals with multiple barriers to employment.

"(b)(1) Each year the President is authorized to make such awards under subsection (a) of this section as the President determines will carry out the objectives of this Act.

State and local governments.

"(2) The President shall establish such selection procedures, after consultation with the Secretary and the Governors of the States, as may be necessary.".

INTRASTATE HOLD HARMLESS ALLOCATION REQUIREMENT

29 USC 1602.

SEC. 5. (a) Section 202(a) of the Act is amended—

(1) in paragraph (2), by striking out "Of" and inserting in lieu thereof "Subject to the provisions of paragraph (3), of";

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) For fiscal years beginning after September 30, 1986, no service delivery area within any State shall be allocated an amount equal to less than 90 percent of the average of its allocation percentage for the two preceding fiscal years preceding the fiscal year for which the determination is made. The allocation percentage for a service delivery area is the percentage which the service delivery area received of the total amount allocated pursuant to this subsection to all service delivery areas within the State for each such preceding fiscal year. If the amounts appropriated pursuant to section 3 (a) and (b) are not sufficient to provide an amount equal to at least 90 percent of such allocation percentages to each such area, the amounts allocated to each area shall be ratably reduced.".

29 USC 1631.

(b) Section 251(b) of the Act is amended by striking out "section 202(a)(2) and (3)" and inserting in lieu thereof "section 202(a) (2), (3), and (4)".

USE OF INCENTIVE GRANT FUNDS

SEC. 6. Section 202(b)(3)(B) of the Act is amended—

(1) by striking out "which do not qualify for incentive grants under this subparagraph"; and

State and local governments.

29 USC 1518.

(2) by adding at the end thereof the following: "Funds available under this subparagraph may, without regard to section 108(a), be used by the Governor or a service delivery area during

not more than two program years to develop and implement a data collection system to track the postprogram experience of participants under this part.".

SERVICES TO YOUTH

SEC. 7. Section 203(b)(1) of the Act is amended by adding at the end thereof the following new sentence: "For the purpose of the preceding sentence, the term 'eligible youth' includes individuals who are 14 and 15 years of age and enrolled in pre-employment skills training.". 29 USC 1603.

SUMMER YOUTH EMPLOYMENT ASSESSMENT AND GOALS

SEC. 8. (a) Part B of title II of the Act is amended by— 29 USC 1631 *et seq.*

(1) redesignating sections 251 through 254, and all references thereto, as sections 252 through 255, respectively; and 29 USC 1631-1634.

(2) inserting after the part heading the following new section:

"PURPOSE

"SEC. 251. The purpose of programs assisted under this part is to— 29 USC 1630.

"(1) enhance the basic educational skills of youth;

"(2) encourage school completion, or enrollment in supplementary or alternative school programs; and

"(3) provide eligible youth with exposure to the world of work.".

(b) Section 253 of the Act (as redesignated by subsection (a)(1) of this section) is amended by— 29 USC 1632.

(1) inserting "(a)" before "Funds"; and

(2) adding at the end thereof the following new subsection:

"(b) A service delivery area shall assess the reading and mathematics skill levels of eligible participants in programs funded by this part and shall expend funds (from this Act or otherwise available to the service delivery area, or both) for basic and remedial education as described in the job training plan under section 104.". Education. 29 USC 1514.

(c) Section 255 of the Act (as redesignated by subsection (a)(1) of this section) is amended by— 29 USC 1634.

(1) inserting "(a)" before "private"; and

(2) adding at the end thereof the following new subsection:

"(b) In accordance with the provisions of subsection (a), each service delivery area shall establish written program goals and objectives which shall be used for evaluating the effectiveness of programs conducted under this part. Such goals and objectives may include—

"(1) improvement in school retention and completion;

"(2) improvement in academic performance, including mathematics and reading comprehension;

"(3) improvement in employability skills; and

"(4) demonstrated coordination with other community service organizations such as local educational agencies, law enforcement agencies, and drug and alcohol prevention and treatment programs.".

(d) The table of contents of the Act relating to part B of title II is amended to read as follows:

"PART B—SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAMS

"Sec. 251. Purposes.
"Sec. 252. Authorization of appropriations; allotment and allocation.
"Sec. 253. Use of funds.
"Sec. 254. Limitations.
"Sec. 255. Applicable provisions.".

AVAILABILITY OF SUMMER YOUTH PROGRAMS DURING NONSUMMER MONTHS

Education.
29 USC 1633.

SEC. 9. Section 254(a) of the Act (as redesignated by section 8(a)(1) of this Act) is amended by inserting before the period at the end thereof the following: ", except that a service delivery area may, within the jurisdiction of any local educational agency that operates its schools on a year-round, full-time basis, offer the programs under this part to participants during a vacation period treated as the equivalent of a summer vacation".

PROHIBITION OF MATCHING ON GRANTS FROM SECRETARY'S DISCRETIONARY FUNDS UNDER TITLE III

State and local governments.
29 USC 1651.

SEC. 10. Section 301(c) of the Act is amended by adding at the end thereof the following new sentence: "Such criteria shall not include any requirement that, in order to receive assistance under this subsection, the state shall provide a matching amount with funds available from one or more other sources.".

IDENTIFICATION OF DISLOCATED WORKERS

29 USC 1652.

SEC. 11. (a) Section 302(a) of the Act is amended—

(1) by striking out "or" at the end of clause (2);

(2) by striking out the period at the end of clause (3) and inserting in lieu thereof a semicolon and the word "or"; and

(3) by inserting at the end thereof the following:

"(4) were self-employed (including farmers) and are unemployed as a result of general economic conditions in the community in which they reside or because of natural disasters subject to the next sentence.

The Secretary shall establish categories of self-employed individuals and of economic conditions and natural disasters to which clause (4) of the preceding sentence applies.".

(b) Section 302(c) of the Act is amended by adding at the end thereof the following new paragraph:

State and local governments.

"(3) A State may serve any eligible individual under this part without regard to the residence of such individual.".

TAXATION OF JOB CORPS OPERATIONS PROHIBITED

State and local governments.
29 USC 1707.

SEC. 12. Section 437(c) of the Act is amended to read as follows:

"(c) Transactions conducted by a private for-profit contractor or a nonprofit contractor in connection with the contractor's operation of a Job Corps Center, program, or activity shall not be considered as generating gross receipts. Such contractors shall not be liable, directly or indirectly, to any State or subdivision thereof (nor to any person acting on behalf thereof) for any gross receipts taxes, business privilege taxes measured by gross receipts, or any similar taxes imposed on, or measured by, gross receipts in connection with any payments made to or by such contractor for operating a Job Corps Center, program, or activity. Such contractors shall not be liable to

any State or subdivision thereof to collect or pay any sales, excise, use, or similar tax imposed upon the sale to or use by such contractors of any property, service, or other item in connection with the operation of a Job Corps Center, program, or activity.".

ADDITIONAL EXPERIMENTAL AND DEVELOPMENTAL PROJECTS AUTHORIZED

SEC. 13. Section 453(a) of the Act is amended— 29 USC 1733.

(1) by inserting "(1)" after the subsection designation, and

(2) by adding at the end thereof the following new paragraph:

"(2) From funds made available under this part, the Secretary may provide financial assistance for pilot projects for the training of individuals who are threatened with loss of their jobs due to technological changes, international economic policies or, general economic conditions.". Grants. Loans.

PROJECTS FOR SPECIAL POPULATIONS

SEC. 14. (a) Part D of title IV of the Act is amended by adding at the end thereof the following new section: 29 USC 1736.

"PROJECTS FOR SPECIAL POPULATIONS

"SEC. 456. In carrying out this part, the Secretary shall include projects designed to serve populations with multiple barriers to employment, such as individuals listed in section 203(a)(2) and individuals not otherwise targeted for assistance under this Act, with special consideration for displaced homemakers and the handicapped.". Handicapped persons. 29 USC 1603.

(b)(1) Section 4 of the Act is amended by inserting at the end thereof the following new paragraph: 29 USC 1503.

"(29) The term 'displaced homemaker' means an individual who—

"(A) was a full-time homemaker for a substantial number of years; and

"(B) derived the substantial share of his or her support from—

"(i) a spouse and no longer receives such support due to the death, divorce, permanent disability of, or permanent separation from the spouse; or

"(ii) public assistance on account of dependents in the home and no longer receives such support.".

(2) The table of contents of the Act is amended by adding after item "Sec. 455." the following new item:

"Sec. 456. Projects for special populations.".

VETERANS AMENDMENTS

SEC. 15. (a)(1) Section 4(5) of the Act is amended by inserting after "handicapped" a comma and the following: "including disabled veterans". 29 USC 1503.

(2) Section 4(27) of the Act is amended by adding at the end thereof the following new subparagraph:

"(C) The term 'recently separated veteran' means any veteran who applies for participation under any title of this Act within 48 months of the discharge or release from active military, naval, or air service.

"(D) The term 'Vietnam era veteran' means a veteran any part of whose active military service occurred between August 5, 1964, and May 7, 1975.".

29 USC 1516.

(b) Section 106(d)(3) of the Act is amended by striking out "and offenders" and inserting in lieu thereof "disabled and Vietnam era veterans, including veterans who served in the Indochina Theater between August 5, 1964, and May 7, 1975, and offenders".

29 USC 1518.

(c) Section 108(c)(2)(B)(ii) of the Act is amended by inserting after "handicapped individuals" a comma and the following: "including disabled veterans".

29 USC 1531.

(d) Section 121(c)(10) of the Act is amended by adding before the period at the end thereof a comma and the following: "including Veterans' Administration programs".

29 USC 1533.

(e) Section 123(c)(1) of the Act is amended by inserting after "offenders" a comma and the following: "veterans,".

29 USC 1534.

(f) Section 124(b) of the Act is amended by inserting after "nonprofit private organizations" a comma and the following: "including veterans organizations".

FARMER AND RANCHER DISLOCATION REPORT

Agriculture and agricultural commodities.

SEC. 16. Within 12 months after the date of enactment of this Act, the Secretary of Labor shall submit a report to the Congress which—

(1) uses data sources within the Departments of Labor, Agriculture, Commerce, and other Federal agencies to describe the dislocation of farmers and ranchers resulting from farm and ranch failures;

(2) identifies and utilizes data sources and on-going studies conducted at the State and local levels, both within the public and private sectors, identifying and outlining the problem of farmer and rancher dislocation; and

(3) examines the feasibility of establishing a national statistical data collection program for permanently dislocated farmers and ranchers.

Approved October 16, 1986.

LEGISLATIVE HISTORY—S. 2069 (H.R. 5185):

HOUSE REPORTS: No. 99-754 accompanying H.R. 5185 (Comm. on Education and Labor).
SENATE REPORTS: No. 99-317 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
June 13, considered and passed Senate.
Aug. 11, H.R. 5185 considered and passed House; proceedings vacated and S. 2069, amended, passed in lieu.
Sept. 29, Senate concurred in House amendments with an amendment.
Oct. 1, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986): Oct. 16, Presidential statement.

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Public Law 99-497
99th Congress

An Act

To authorize the inclusion of certain additional lands within the Apostle Islands National Lakeshore.

Oct. 17, 1986
[H.R. 2182]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

The Act of September 26, 1970 (Public Law 91-424; 16 U.S.C. 460w) is amended as follows:

16 USC 460w.

(1) In section 1—

(a) in the first sentence, after the phrase "consisting of", insert: ": (a) IN GENERAL.—";

(b) at the end of the first sentence, delete "1970" and insert: "1970; and

"(b) LONG ISLAND ADDITION.—Approximately 200 acres of land at the mouth of Chequamegon Bay known as "Long Island", as depicted on the map numbered NL-AI-91,001 and dated December, 1985.";

(c) in the last sentence, delete "map" and insert "maps".

Coast Guard.
16 USC 460w-2.

(2) In section 3, after the word "donation.", strike the following sentence and insert in lieu thereof the following: "Notwithstanding any other provision of law, any Federal property located within the boundaries of the lakeshore is hereby transferred without transfer of funds to the administrative jurisdiction of the Secretary for the purposes of the lakeshore: *Provided,* That the United States Coast Guard may retain a right to utilize a portion of such land and facilities for use as navigational aids so long as may be required.".

16 USC 460w-3.

(3) In section 4(c), after "January 1, 1967", insert: ", or before January 1, 1985 for those lands referred to in section 1(b)".

Effective date.
16 USC 460w-7.

(4) Section 8 of such Act is amended by adding the following at the end thereof: "Effective October 1, 1986, there are authorized to be appropriated such additional sums as may be necessary for the acquisition of the lands described in section 1(b).".

Approved October 17, 1986.

LEGISLATIVE HISTORY—H.R. 2182:

HOUSE REPORTS: No. 99-441 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 99-499 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 16, considered and passed House.
Vol. 132 (1986): Oct. 8, considered and passed Senate.

O

91-139 O - 86 (514)

HIGHER EDUCATION AMENDMENTS OF 1986

Public Law 99-498
99th Congress

An Act

Oct. 17, 1986
[S. 1965]

Higher Education Amendments of 1986.
20 USC 1001 note.

To reauthorize and revise the Higher Education Act of 1965, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Higher Education Amendments of 1986".

(b) REFERENCES.—References in this Act (except as otherwise provided) to "the Act" are to the Higher Education Act of 1965.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; references; table of contents.
Sec. 2. Effective date.
Sec. 3. Contracting authority subject to appropriations.

TITLE I—AMENDMENT TO TITLE I OF THE ACT

Sec. 101. Revision of title I.

"TITLE I—POSTSECONDARY PROGRAMS FOR NONTRADITIONAL STUDENTS

"Sec. 101. Findings.
"Sec. 102. Definitions.
"Sec. 103. Limitation on contract authority.

"PART A—PROGRAM AND PLANNING GRANTS

"Sec. 111. Institutional development.
"Sec. 112. Establishment of off-campus program grants.
"Sec. 113. Adult and continuing education staff development.
"Sec. 114. Administration of programs by the Secretary.
"Sec. 115. Authorization of appropriations.

"PART B—NATIONAL PROGRAMS

"Sec. 121. Adult learning research.
"Sec. 122. Authorization limitation.

"PART C—THE NATIONAL ADVISORY COUNCIL ON CONTINUING EDUCATION

"Sec. 131. National Advisory Council on Continuing Education.".

TITLE II—LIBRARIES

Sec. 201. Purpose; authorization.
Sec. 202. College library resources.
Sec. 203. Definition of full-time equivalent student.
Sec. 204. Repeal of special purpose grants.
Sec. 205. Research and demonstration.
Sec. 206. Strengthening research library resources.
Sec. 207. College library technology and cooperation.

TITLE III—INSTITUTIONAL AID

Sec. 301. Institutional aid reauthorized.

"TITLE III—INSTITUTIONAL AID

"Sec. 301. Findings and purposes.

"PART A—STRENGTHENING INSTITUTIONS

"Sec. 311. Program purpose.
"Sec. 312. Definitions; eligibility.
"Sec. 313. Duration of grant.

"PART B—STRENGTHENING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

"Sec. 321. Findings and purposes.
"Sec. 322. Definitions.
"Sec. 323. Grants to institutions.
"Sec. 324. Allotments to institutions.
"Sec. 325. Applications.
"Sec. 326. Professional or graduate institutions.
"Sec. 327. Reporting and audit requirements.

"PART C—CHALLENGE GRANTS FOR INSTITUTIONS ELIGIBLE FOR ASSISTANCE UNDER PART A OR PART B

"Sec. 331. Establishment of challenge grant program.
"Sec. 332. Endowment challenge grants.

"PART D—GENERAL PROVISIONS

"Sec. 351. Applications for assistance.
"Sec. 352. Waiver authority and reporting requirement.
"Sec. 353. Application review process.
"Sec. 354. Cooperative arrangements.
"Sec. 355. Special payments rules.
"Sec. 356. Assistance to institutions under other programs.
"Sec. 357. Limitations.
"Sec. 358. Penalties.
"Sec. 359. Challenge grant application required.
"Sec. 360. Authorizations of appropriations.".

TITLE IV—STUDENT ASSISTANCE

Sec. 401. Students grants reauthorized.

"TITLE IV—STUDENT ASSISTANCE

"PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

"Sec. 401. Statement of purpose; program authorization.

"SUBPART 1—BASIC EDUCATIONAL OPPORTUNITY GRANTS

"Sec. 411. Basic educational opportunity grants: amount and determinations; applications.
"Sec. 411A. Family contribution schedule for Pell Grants; data elements.
"Sec. 411B. Eligibility determination for dependent students.
"Sec. 411C. Eligibility determination for independent students with dependents other than a spouse.
"Sec. 411D. Eligibility determination for single independent students or for married independent students without other dependents.
"Sec. 411E. Regulations; updated tables.
"Sec. 411F. Definitions; determinations.

"SUBPART 2—SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

"Sec. 413A. Purpose; appropriations authorized.
"Sec. 413B. Amount and duration of grants.
"Sec. 413C. Agreements with institutions; selection of recipients.
"Sec. 413D. Allocation of funds.

"SUBPART 3—GRANTS TO STATES FOR STATE STUDENT INCENTIVES

"Sec. 415A. Purpose; appropriations authorized.

"Sec. 415B. Allotment among States.
"Sec. 415C. Applications for State student incentive grant programs.
"Sec. 415D. Administration of State programs; judicial review.
"Sec. 415E. Definition.

"SUBPART 4—SPECIAL PROGRAMS FOR STUDENTS FROM DISADVANTAGED BACKGROUNDS

"Sec. 417A. Program authority; authorization of appropriations.
"Sec. 417B. Talent search.
"Sec. 417C. Upward bound.
"Sec. 417D. Student support services.
"Sec. 417E. Educational opportunity centers.
"Sec. 417F. Staff development activities.

"SUBPART 5—SPECIAL PROGRAMS FOR STUDENTS WHOSE FAMILIES ARE ENGAGED IN MIGRANT AND SEASONAL FARMWORK

"Sec. 418A. Maintenance and expansion of existing programs.

"SUBPART 6—ROBERT C. BYRD HONORS SCHOLARSHIP PROGRAM

"Sec. 419A. Statement of purpose.
"Sec. 419B. Definition.
"Sec. 419C. Scholarships authorized.
"Sec. 419D. Allocation among States.
"Sec. 419E. Agreements.
"Sec. 419F. Eligibility of scholars.
"Sec. 419G. Selection of scholars.
"Sec. 419H. Stipends and scholarship conditions.
"Sec. 419I. Awards ceremony.
"Sec. 419J. Construction of needs provisions.
"Sec. 419K. Authorization of appropriations.

"SUBPART 7—ASSISTANCE TO INSTITUTIONS OF HIGHER EDUCATION

"Sec. 420. Payments to institutions of higher education.
"Sec. 420A. Veterans education outreach program.

"SUBPART 8—SPECIAL CHILD CARE SERVICES FOR DISADVANTAGED COLLEGE STUDENTS

"Sec. 420B. Special child care services for disadvantaged college students.".

Sec. 402. Extension of guaranteed student loan program.

"PART B—GUARANTEED STUDENT LOAN PROGRAM

"Sec. 421. Statement of purpose; nondiscrimination; and appropriations authorized.
"Sec. 422. Advances for reserve funds of State and nonprofit private loan insurance programs.
"Sec. 423. Effects of adequate non-Federal programs.
"Sec. 424. Scope and duration of Federal loan insurance program.
"Sec. 425. Limitations on individual federally insured loans and on Federal loan insurance.
"Sec. 426. Sources of funds.
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"Sec. 428. Federal payments to reduce student interest costs.
"Sec. 428A. Supplemental loans for students.
"Sec. 428B. Plus loans.
"Sec. 428C. Consolidation loans.
"Sec. 428D. Commingling of funds.
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"Sec. 428F. Rehabilitation of defaulted loans.
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"Sec. 430. Default of student under Federal loan insurance program.
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"Sec. 431. Insurance fund.
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"Sec. 434. Participation by Federal credit unions in Federal, State, and private student loan insurance programs.
"Sec. 435. Definitions for student loan insurance program.
"Sec. 436. District of Columbia student loan insurance program.
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Sec. 403. Work study reauthorized.

"PART C—WORK-STUDY PROGRAMS

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"Sec. 442. Allocation of funds.
"Sec. 443. Grants for work-study programs.
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"PART D—INCOME CONTINGENT DIRECT LOAN DEMONSTRATION PROJECT

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"Sec. 453. Agreements with institutions of higher education.
"Sec. 454. Terms of loan under the pilot program.
"Sec. 455. Feasibility study.".

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"Sec. 463A. Student loan information by eligible institutions.
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"PART F—NEED ANALYSIS

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"Sec. 472. Cost of attendance.
"Sec. 473. Family contribution.
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"Sec. 475. Family contribution for dependent students.
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"Sec. 477. Family contribution for independent students with dependents.
"Sec. 478. Regulations; updated tables.
"Sec. 479. Simplified needs test.
"Sec. 479A. Discretion of student financial aid administrators.
"Sec. 479B. Student assistance and other Federal programs.
"Sec. 480. Definitions.".

Sec. 407. Revision of student assistance general provisions.

"PART G—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

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"Sec. 486. Training in financial aid and student support services.
"Sec. 487. Program participation agreements.
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"TITLE V—EDUCATOR RECRUITMENT, RETENTION, AND DEVELOPMENT

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"PART H—GENERAL

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Sec. 702. Conforming provision.

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"TITLE VIII—COOPERATIVE EDUCATION

"Sec. 801. Appropriations authorized; reservations.
"Sec. 802. Grants for cooperative education programs.
"Sec. 803. Demonstration and innovation projects; training and resource centers; and research.".

TITLE IX—GRADUATE EDUCATION

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"TITLE IX—GRADUATE PROGRAMS

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"Sec. 942. Grants to academic departments and programs of institutions.
"Sec. 943. Institutional eligibility.
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"PART E—ASSISTANCE FOR TRAINING IN THE LEGAL PROFESSION

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"PART F—LAW SCHOOL CLINICAL EXPERIENCE PROGRAMS

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"Sec. 962. Applications.

"PART G—AUTHORIZATION OF APPROPRIATIONS

"Sec. 971. Amount and duration of authorization.".

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"SUBPART 3—ADMINISTRATIVE AND GENERAL PROVISIONS

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"Sec. 1044. Administrative provisions.
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"PART C—INNOVATIVE PROJECTS FOR COMMUNITY SERVICES AND STUDENT FINANCIAL INDEPENDENCE

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"Sec. 1062. Innovative projects for community services and student financial independence.
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"TITLE XI—PARTNERSHIPS FOR ECONOMIC DEVELOPMENT AND URBAN COMMUNITY SERVICE

"PART A—PARTNERSHIPS FOR ECONOMIC DEVELOPMENT

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"Sec. 1102. Use of economic development funds.
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"PART B—URBAN COMMUNITY SERVICE

"Sec. 1111. Purpose.
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PART F—FAULKNER UNIVERSITY

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PART G—ALIEN YOUTH EDUCATION OPPORTUNITY PANEL

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Sec. 1402. Center for Education Statistics.
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PART A—AMERICAN INDIANS AND ALASKAN NATIVES

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Sec. 1505. Board of Trustees.
Sec. 1506. Executive Board.
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PART B—NATIVE HAWAIIANS

Sec. 1521. Program for Native Hawaiian culture and art development.
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Sec. 1531. Authorization of appropriations.

TITLE XVI—UNITED STATES INSTITUTE OF PEACE

Sec. 1601. Authorizations of appropriations.

SEC. 2. EFFECTIVE DATE.

20 USC 1001 note.

Except as otherwise provided in this Act, the amendments made by this Act shall take effect on the date of enactment of this Act.

20 USC 1146a.

SEC. 3. CONTRACTING AUTHORITY SUBJECT TO APPROPRIATIONS.

The authority to enter into contracts or other obligations under this Act (other than amendments made to part B of title IV of the Act) shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

20 USC 1071.

TITLE I—AMENDMENT TO TITLE I OF THE ACT

SEC. 101. REVISION OF TITLE I.

20 USC 1001.

Title I of the Act is amended to read as follows:

"TITLE I—POSTSECONDARY PROGRAMS FOR NONTRADITIONAL STUDENTS

"FINDINGS

20 USC 1001.

"SEC. 101. The Congress finds that—

"(1) the increasing incidence of relocation and dislocation of industries and workers, the entry and reentry of adults into the labor force, and the rapid rate of change in technology, the economy, population demographics, and social conditions, necessitate significant improvement in postsecondary educational opportunities for adults in all stages of life;

"(2) the majority of adults who continue their education do so for job-related and career-oriented reasons or to fulfill admissions requirements for educational or vocational training;

"(3) minority-group citizens comprise the fastest growing segment of the population and labor force, yet are underrepresented in adult education programs;

"(4) access to postsecondary educational opportunities is limited for adults whose educational needs have been inadequately served, or for those whose age, sex, race, disability, national origin, rural isolation, or economic or personal circumstances (such as marital status or responsibility with regard to dependent children) are barriers to such opportunities;

"(5) enrollment of adult learners (including individuals aged 50 and over) approaches or equals that of traditional students in postsecondary institutions and such enrollment patterns are changing the demography of postsecondary education;

"(6) the organizational structure and administration of postsecondary institutions often represents a significant barrier to matriculation for the adult learner and such institutions need to adapt themselves to integrate adult learners;

"(7) the Federal Government should encourage the development of institutional partnerships between the public and private sectors and postsecondary institutions for the purpose of planning and implementing effective educational programs and services for the adult learner; and

"(8) it is in the interest of the Federal Government to support continuing education for adults in order to reduce unemployment and underemployment, enhance job opportunities, and promote a well-trained, flexible, internationally competitive work force and an educated citizenry.

"DEFINITIONS

20 USC 1002.

"SEC. 102. For the purpose of this title—

"(1) the term 'continuing education' means postsecondary instruction and support services that are designed to meet the educational needs of adult learners;

"(2) the term 'adult learner' means an individual who by reason of personal circumstance, age, gender, disability, minority status, income, rural isolation, economic or educational disadvantage, marital status, presence of dependent children, lack of or need for new employment skills (including skills needed to pursue a new career) or other significant barrier (A) is not a traditional student, and (B) engages in some form of structured postsecondary study to improve the individual's knowledge, information skills, or employment opportunities;

"(3) the term 'eligible institution' means an institution of higher education, combinations of institutions of higher education, or consortia of any such institutions; and

"(4) the term 'qualified entity' means a public or nonprofit private organization which has—

"(A) experience in administering a program consistent with the requirements of this title; and

"(B) demonstrated the ability to coordinate, manage, and provide technical assistance to programs that receive grants under this title.

"LIMITATION ON CONTRACT AUTHORITY

"SEC. 103. The authority to enter into contracts under this title is subject to the availability of appropriations. 20 USC 1003.

"PART A—PROGRAM AND PLANNING GRANTS

"INSTITUTIONAL DEVELOPMENT

"SEC. 111. (a) PURPOSE.—It is the purpose of this section— Employment and Unemployment. 20 USC 1011.

"(1) to assist eligible institutions to establish programs relating postsecondary education resources more closely to the continuing educational training needs of the American work force;

"(2) to help strengthen the capacity of postsecondary institutions to respond to the continuing education needs of adults, especially adults—

"(A) dislocated by technological and economic change,

"(B) seeking entry, reentry, or progression in the work force after prolonged absences due to marriage and child-rearing;

"(C) isolated from educational resources due to age or geographic location;

"(D) seeking entry into nontraditional occupations for their race or sex;

"(E) receiving aid to families with dependent children;

"(F) who are functionally illiterate; and

"(G) who desire to pursue a new career; and

"(3) to support cooperative arrangements between eligible institutions, community-based organizations, and private and public sector employers that will facilitate meeting the goals of paragraphs (1) and (2).

Contracts.

"(b) GRANTS.—To carry out the purpose of this section, the Secretary shall make grants to, and enter into contracts with, eligible institutions for activities, such as—

"(1) structuring an academic program designed to facilitate the attendance of working students, parents caring for dependent children, and individuals seeking to reenter the educational system;

"(2) making academic programs available to adult learners at convenient times and locations;

"(3) the encouragement of resource sharing for innovative uses of technology, including telecommunications (on an interstate or intrastate basis) to overcome barriers to continuing education opportunities and to develop innovative delivery systems for education programs;

"(4) the creation or expansion of education programs and curriculum, including adult literacy efforts, designed to meet the present and future needs of the labor market;

"(5) the development of cooperative relationships between business and labor organizations, community-based organizations, and agencies which provide opportunities for continuing education;

"(6) the removal of barriers posed by previous education or training, age, sex, race, handicap, national origin, rural isolation, or economic circumstance which may place adults at a disadvantage in seeking continuing educational opportunities;

"(7) educational information, including literacy information, student financial assistance information, and occupational information and counseling services designed to meet the special needs of inadequately served adults and to assist their entry or reentry into continuing education and the labor force;

"(8) training for administrators, faculty, and staff to improve their ability to teach and serve adult learners; and

"(9) development of remedial instruction programs for adult learners to enable them to enroll in college-level educational programs.

"(c) ADDITIONAL USE OF FUNDS.—(1) Funds awarded under this section to any eligible institution shall be used for the purposes under subsection (b), except that, to a limited extent as approved by the Secretary, such funds may also be used for program planning and development to carry out the purposes of this section including—

"(A) making adult and continuing educational opportunities available at convenient times and locations, including off-campus locations;

"(B) evaluating the responsiveness of continuing education programs to the work and career-related objectives of adults;

"(C) developing or expanding educational and occupational information and counseling services to meet the special needs of adults, including information concerning available forms of student financial assistance;

"(D) training of personnel in continuing education programs to improve their ability to serve adult learners;

"(E) developing or expanding high-technology delivery systems and curricula to ensure closer development and career transitions for adult learners;

"(F) joint planning and implementation activities between institutional and private sector representatives to expand educational opportunities;

"(G) promoting the sharing of personnel and resources between an eligible institution and an employer;

"(H) contributing to dependent care programs for low income participants in adult and continuing education and the development of dependent care programs; and

"(I) encouraging and developing collaborative efforts between the institution or institutions and combinations of education institutions, private and public institutions, organizations, business, and labor to develop programs responsive to current employment and economic conditions.

"(2) Funds made available under this section may not be used—

"(A) to purchase or rent facilities to be used in connection with the program or for general operational overhead of the eligible institution; or

"(B) to pay stipends or provide direct financial assistance to any individual participating in the programs established under this section.

"(d) APPLICATIONS FOR ASSISTANCE.—(1) Any eligible institution may submit an application to the Secretary at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate the need for assistance. The Secretary shall make awards on a competitive basis.

"(2) Each such application shall—

"(A) provide evidence that the eligible institution has identified the educational needs of potential adult learners in the area served by the applicant, especially adults identified in subsection (a)(2);

"(B) describe the current continuing education program offered by the eligible institution (including information concerning the professional competence of faculty and staff, their degree of participation in the continuing education program, and institutional resources committed to the continuing education program) and the activities proposed to be developed or assisted to meet the purposes of this section;

"(C) provide assurance that Federal funds made available under this section will comprise not more than 87.5 percent of the cost of the program in the second year, and 75 percent in the third year;

"(D) describe procedures for evaluating the effectiveness of the activities for which a grant or contract is awarded under this section;

"(E) provide for such financial controls and accounting procedures as are necessary to ensure proper disbursement and accounting for funds made available to the applicant under this section and to ensure that funds made available under this section for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purpose of this section and in no case supplant those funds;

"(F) provide assurances that the continuing education programs, services, and activities, funded under this section will not be limited to individuals who are enrolled in programs of study that lead to baccalaureate or graduate degrees, but will also include programs for adults enrolled in noncredit continu-

ing education programs, that address the purposes of this section;

State and local governments.

"(G) provide assurances that the program funded under this section does not duplicate existing State funded programs, and, in the case of any public institution, that the proposed program is consistent with the State's goals for that institution;

"(H) provide the projected number of students who will participate in the program and the proposed operational budget for the program, including the specific amounts proposed to be expended for salaries;

"(I) include assurances that the applicant intends to continue the activities to be supported under the grant after termination of the grant, including a detailed plan for obtaining funds to continue such activities;

"(J) provide assurances that funds made available under this section will be used only for the purposes of this section;

"(K) provide for a reasonable period of review and comment on the proposed program by the appropriate State agency and include any such comments with the application to the Secretary; and

"(L) include such other information as the Secretary may reasonably require to carry out the provisions of this section.

"(3) In awarding grants or contracts the Secretary shall give priority consideration to eligible institutions which—

"(A) as appropriate, include area employer and employee organizations in the planning of the proposed continuing education activity and provide assurances of the continued participation of such organizations in the implementation, operation, and evaluation of the funded activities;

State and local governments.

"(B) include assurances that the appropriate State agencies concerned with postsecondary education and State labor market and economic agencies have been consulted in the development of the proposal;

"(C) demonstrate a willingness to conduct and integrate into the curriculum work-oriented professional and technical continuing education programs;

"(D) demonstrate the capacity to obtain contributions of staff, equipment, and resources for such programs from nonacademic sources, particularly employers; and

"(E) provide assurances that adults enrolled in such programs will have access to suitable and adequate financial assistance opportunities, including Federal student aid funds available for students enrolled less than half time.

"ESTABLISHMENT OF OFF-CAMPUS PROGRAM GRANTS

20 USC 1012.

"SEC. 112. (a) PURPOSE; OFF-CAMPUS EDUCATION PROGRAMS.—The Secretary shall establish a grant program to assist postsecondary institutions in developing programs to encourage the establishment and growth of off-campus educational programs.

"(b) USES OF FUNDS.—Grants made under this section to any institution may be used for planning, developing, or operating a program designed by the institution to carry out the purposes of this section including—

"(1) the development and use of high-technology educational delivery systems using computers, radio, television, teleconferencing, video-disc, print, any combination of such components,

or such other means as may provide direct use and access by individuals to off-campus programs;

"(2) the development of interstate educational delivery systems, cooperative, and consortia arrangements and programs (including telecommunications) which more effectively address regional needs for education;

"(3) training of faculty and staff to develop educational programs using creative and innovative delivery systems;

"(4) development of technological systems designed to enhance the teaching capabilities of faculty for students off-campus;

"(5) the development of curricula and student support services for students off-campus; and

"(6) acquisition (by lease or purchase) of necessary equipment, except that not more than 10 percent of such funds may be used for such acquisition.

"(c) APPLICATIONS FOR ASSISTANCE.—(1) Any eligible institution requesting assistance under this section shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be required by the Secretary. The Secretary shall make awards on a competitive basis taking into consideration the relative cost and effectiveness of the proposed program.

"(2) An institution, in its application for a grant, shall—

"(A) describe a program for establishing or improving delivery systems for students off-campus which shall include (i) the proposed operational budget for the program or activities to be conducted with funds received under the grant; (ii) the educational program or courses which would be made available off-campus; and (iii) the educational needs which the program is designed to address;

"(B) describe the applicant's current off-campus program or plans for an off-campus program;

"(C) provide for such financial control and accounting procedures as may be necessary to ensure proper disbursement and accounting for funds made available to the applicant under this section;

"(D) set forth policies and procedures to ensure that Federal funds made available under this section for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of this section and in no case supplant those funds;

"(E) provide assurances that Federal funds made available under this section will comprise not more than 87.5 percent of the cost of the program in the second year, and 75 percent in the third year;

"(F) set forth policies and procedures for evaluating the effectiveness of the institution in accomplishing the purposes of the activities for which a grant is awarded under this section; and

"(G) provide such other information as the Secretary may require.

"(3) Funds made available under this section to any institution may not be used for rent or the purchase of facilities to be used in connection with the program, for general operational overhead of the institution or combination of institutions, or for salaries or stipends to students participating in the program.

"ADULT AND CONTINUING EDUCATION STAFF DEVELOPMENT

20 USC 1013.

"SEC. 113. (a) PURPOSE.—It is the purpose of this section to assist eligible institutions to provide in-service training to individuals involved in providing adult and continuing education services, including personnel involved in training offered under the Adult Education Act, the Job Training Partnership Act, the Carl D. Perkins Vocational Education Act, the Rehabilitation Act of 1973, the National Apprenticeship Act, the Older Americans Act of 1965, and the Social Security Act.

20 USC 1201 note.
20 USC 1501 note.
20 USC 2301 note.
29 USC 701 note.
29 USC 50 note.
42 USC 3001 note.
42 USC 1305.

"(b) GRANTS AUTHORIZED.—To carry out the purpose of this section, the Secretary shall make grants to eligible postsecondary institutions that have entered into agreements with the Secretary to carry out an adult and continuing education staff development training program in accordance with the requirements of this section, which may include—

"(1) programs designed to enhance the pedagogical skills of the staff involved in programs offering adult and continuing education, including the training of staff and volunteers for literacy programs;

"(2) technical assistance to programs of adult education, with particular emphasis on federally funded programs; and

"(3) development of adult and continuing educational curricula materials, including adult literacy curricula, that may be used in adult and continuing education staff development training, especially materials that focus on utilization of new technologies.

"(c) APPLICATIONS FOR ASSISTANCE.—(1) Any eligible institution requesting assistance under this section shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be required by the Secretary. The Secretary shall make awards on a competitive basis taking into consideration the relative cost and effectiveness of the proposed program.

"(2) An institution, in its application for a grant, shall—

"(A) describe a proposal for establishing or improving staff development programs including the proposed operational budget for the program or activities to be conducted with funds made available under this section;

"(B) describe the applicant's current staff development program;

"(C) provide for such financial control and accounting procedures as may be necessary to ensure proper disbursement and accounting for funds made available to the applicant under this section;

"(D) set forth policies and procedures to ensure that Federal funds made available under this section for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of this part and in no case supplant those funds;

"(E) set forth policies and procedures for evaluating the effectiveness of the institution in accomplishing the purposes of the activities for which a grant is awarded under this section; and

"(F) provide such other information as the Secretary may require.

"(3) Funds made available under this section to any institution may not be used for rent or the purchase of facilities to be used in connection with the program, for general operational overhead of the institution or combination of institutions, or for salaries or stipends to students participating in the program.

"(4) A grant under this section may not exceed $50,000 for any fiscal year and may be awarded for a period not to exceed 3 years.

"ADMINISTRATION OF PROGRAMS BY THE SECRETARY

Urban areas.
Rural areas.
20 USC 1014.

"SEC. 114. The Secretary shall ensure the equitable geographic distribution of funds under this part. In making awards under this part, the Secretary shall consider the equitable levels of funding for urban and rural areas. Grants and contracts under section 111 or 112 may be awarded for a period not to exceed 3 years and may not exceed $100,000 in the first year of funding, except that a grant or contract involving combinations of institutions of higher education or a consortia with other institutions or organizations may not exceed $150,000 in the first year.

"AUTHORIZATION OF APPROPRIATIONS

20 USC 1015.

"SEC. 115. There is authorized to be appropriated to carry out this part $10,000,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years. One hundred percent of the funds appropriated under this section for fiscal year 1987 shall be available only to carry out sections 111 and 112.

"PART B—NATIONAL PROGRAMS

"ADULT LEARNING RESEARCH

Grants.
Contracts.
20 USC 1016.

"SEC. 121. (a) ESTABLISHMENT OF PROGRAM.—To carry out the purpose of this section by providing assistance to institutions of higher education, the Secretary is authorized to make grants to, and to enter into contracts with, eligible institutions to ensure a sustained capacity to undertake independent research and research application activities in adult and continuing education.

"(b) USES OF FUNDS.—Funds made available under this section to any eligible institution may be used for planning, developing, or operating a program which may include—

"(1) identifying and analyzing the special problems and needs of adult learners;

"(2) collecting, analyzing, and disseminating information relating to adult learners and their educational and employment objectives, with particular focus on analyzing and disseminating information on the current and projected needs of the labor market;

"(3) examining and applying uses of education technologies to reach new and isolated learners;

State and local governments.

"(4) collecting and disseminating relevant data from Federal agencies and other national and State resources applicable to postsecondary institutional planning for continuing education, including information related to Federal and other forms of student financial assistance;

"(5) supporting training programs designed to enhance the effectiveness of faculty to teach adult learners;

"(6) developing curriculum and instructional methods for adults seeking new employment opportunities;

"(7) demonstrating and disseminating new and existing programs designed for the adult learner; and

"(8) promoting resource sharing for innovative uses of technology, including telecommunications, to overcome barriers to postsecondary educational opportunities.

"(c) APPLICATION FOR ASSISTANCE.—A grant or contract authorized by this part may be awarded by the Secretary on a competitive basis upon receipt of an application, which is submitted to the Secretary at such time or times and contains such information as the Secretary may prescribe. Each such application shall—

"(1) contain provisions that demonstrate the existing resources and academic reputation of the institution of higher education in the field of continuing education and its ability to conduct such activities; and

"(2) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part.

"AUTHORIZATION LIMITATION

20 USC 1016a.

"SEC. 122. No funds are authorized to be appropriated for the purpose of this part for fiscal year 1987 and the 4 succeeding fiscal years.

"PART C—THE NATIONAL ADVISORY COUNCIL ON CONTINUING EDUCATION

"NATIONAL ADVISORY COUNCIL ON CONTINUING EDUCATION

20 USC 1017.

"SEC. 131. (a) ESTABLISHMENT AND COMPOSITION.—The President shall appoint a National Advisory Council on Continuing Education consisting of 8 representatives of Federal agencies having postsecondary continuing education and training responsibilities, including, but not limited to—

"(1) one representative each from—

"(A) the Department of Education,

"(B) the Department of Agriculture,

"(C) the Department of Defense,

"(D) the Department of Labor, and

"(E) the Veterans' Administration; and

"(2) 12 members, not full-time employees of the Federal Government, who are knowledgeable and experienced in the field of continuing education, including State and local government officials, representatives of business, labor, and community groups, and adults whose educational needs have been inadequately served.

The Advisory Council shall meet at the call of the Chairman but not less than twice a year.

"(b) ADVISORY FUNCTIONS.—The Advisory Council shall advise the Secretary in the preparation of general regulations and with respect to policies and procedures arising in the administration of this Act with respect to continuing education.

"(c) FUNCTIONS RELATING TO ELIMINATING DUPLICATION.—The Advisory Council shall examine all federally supported continuing education and training programs and make recommendations with regard to policies to eliminate duplication and to effectuate the

coordination of programs under this Act with respect to continuing education and other federally funded continuing education and training programs and services.

"(d) REPORTS.—The Advisory Council shall make annual reports to the President, the Congress, and the Secretary of its findings and recommendations, including recommendations for changes in the provisions of this Act with respect to continuing education and other Federal laws relating to continuing education and training activities. The President shall transmit each such report to the Congress with his comments and recommendations. The Advisory Council shall make such other reports or recommendations to the President, the Congress, the Secretary, or the head of any other Federal department or agency as may be appropriate. President of U.S.

"(e) USE OF SERVICES.—The Advisory Council may utilize the services and facilities of any agency of the Federal Government as may be necessary. The Advisory Council may accept, employ, and dispose of gifts or bequests to carry out its responsibilities under this section.".

TITLE II—LIBRARIES

SEC. 201. PURPOSE; AUTHORIZATION.

(a) DESIGNATION OF TITLE.—The heading of title II is amended to read as follows:

"TITLE II—ACADEMIC LIBRARY AND INFORMATION TECHNOLOGY ENHANCEMENT".

(b) PURPOSE.—Section 201(a) of the Act is amended by striking out paragraph (4) and inserting in lieu thereof the following: 20 USC 1021.

"(4) college and university libraries in acquiring technological equipment and in conducting research in information technology in accordance with part D.". *Post*, p. 1289.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 201(b) of the Act is amended to read as follows:

"(b)(1) There are authorized to be appropriated to carry out part A $10,000,000 for fiscal year 1987, and such sums as may be necessary for each of the 4 succeeding fiscal years. *Post*, p. 1289.

"(2) There are authorized to be appropriated to carry out part B $5,000,000 for fiscal year 1987, and such sums as may be necessary for each of the 4 succeeding fiscal years. 20 USC 1031.

"(3) There are authorized to be appropriated to carry out part C $10,000,000 for fiscal year 1987, and such sums as may be necessary for each of the 4 succeeding fiscal years. 20 USC 1041.

"(4) There are authorized to be appropriated to carry out part D $5,000,000 for fiscal year 1987, and such sums as may be necessary for each of the 4 succeeding fiscal years.".

SEC. 202. COLLEGE LIBRARY RESOURCES.

Section 211 of the Act is amended to read as follows: Grants. 20 USC 1029.

"COLLEGE LIBRARY RESOURCES

"SEC. 211. (a) From the amount appropriated for this part, the Secretary shall make grants to eligible institutions of higher education or combinations thereof (and to branches of institutions which are located in different communities from that in which its parent institution is located). The amount of a grant under this part

shall not be less than $2,000 nor more than $10,000 and shall reflect the number of full-time equivalent students enrolled at the recipient institution. If the funds are not sufficient to provide grants to all eligible institutions, grants shall be made to those institutions demonstrating the greatest need, based on the eligibility criteria in section 211(c).

"(b) A grant under this part may be made only if the application provides—

"(1) information about the institution and its library resources as prescribed by the Secretary in regulations;

"(2) satisfactory assurance that the applicant has expended for all library materials (exclusive of construction) during the institutional fiscal year preceding the year of application for which the grant is sought (hereafter in this section referred to as the 'base year'), from funds other than funds received under this part, an amount not less than the average annual aggregate amount or the average amount per full-time equivalent student it expended for such purposes during the two years preceding the base year;

"(3) for such fiscal control and fund accounting procedures as are necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part;

Reports.

"(4) for making such reports as the Secretary may require, including a report on how such funds received under a grant were expended, and for keeping such records and for affording such access thereto as the Secretary deems necessary to assure the correctness and verification of such reports; and

"(5) a statement setting forth how the funds received under this part will be used to improve the quality of the institution's library services.

"(c) In order to be considered an eligible institution, an institution must provide the Secretary assurance that—

"(1) the expenditures of the institution per full-time equivalent student for library materials are less than the average of the expenditures for library materials per full-time equivalent student by other institutions of comparable size and program, as determined by the Secretary in accord with definitions established by the Center for Education Statistics; and

"(2) the number of volumes per full-time equivalent student is less than the average of such number of volumes held by institutions of comparable size and program, as determined by the Secretary in accord with definitions established by the Center for Education Statistics.

"(d) If the Secretary determines, in accordance with regulations, that there are very unusual circumstances which prevent the applicant from making the assurance required by subsection (b)(2), the requirement for such assurance may be waived. For the purpose of this subsection, the term 'very unusual circumstances' means theft, vandalism, fire, flood, earthquake, or other occurrence which may temporarily reduce the level of expenditures for library materials, or which resulted in unusually high expenditures for library materials.

"(e) If the Secretary determines, in accordance with regulations, that there are very unusual circumstances which prevent an otherwise eligible institution from qualifying under subsection (c), the requirements of subsection (c) may be waived. The Secretary may

not grant such waivers to more than 5 percent of the eligible institutions receiving grants under this part.

"(f) Grants under this part may be used only for books, periodicals, documents, magnetic tapes, computer software, phonographic records, audiovisual materials, and other related library materials (including necessary binding) and for the establishment and maintenance of networks for sharing library resources with other institutions of higher education.".

SEC. 203. DEFINITION OF FULL-TIME EQUIVALENT STUDENT.

Part A of title II of the Act is further amended by inserting after section 212 the following new sections:

"DEFINITION

"SEC. 213. For the purpose of this part, the term 'full-time equivalent students' means the sum of the number of students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time at such institution (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by 12).". 20 USC 1030.

SEC. 204. REPEAL OF SPECIAL PURPOSE GRANTS.

(a) REPEAL.—Section 224 of the Act is repealed. 20 USC 1034.

(b) CONFORMING AMENDMENTS.—(1) Section 221 of the Act is amended to read as follows:

"GRANTS AUTHORIZED

"SEC. 221. From the amounts appropriated for this part for any fiscal year, the Secretary shall make grants in accordance with sections 222 and 223. Of such amount, two-thirds shall be available for the purpose of section 222 and one-third shall be available for the purpose of section 223.". 20 USC 1031. 20 USC 1032, 1033.

(2) Section 231(b) of the Act is amended by striking out "or 224". 20 USC 1041.

SEC. 205. RESEARCH AND DEMONSTRATION.

Section 223 of the Act is amended by striking out "and information technology,". 20 USC 1033.

SEC. 206. STRENGTHENING RESEARCH LIBRARY RESOURCES.

Section 231 of the Act is further amended by inserting at the end thereof the following new subsection: 20 USC 1041.

"(c) In determining eligibility for assistance under this part, the Secretary shall permit institutions that do not otherwise qualify to provide additional information or documents to demonstrate the national or international significance for scholarly research of the particular collection described in the grant proposal.".

SEC. 207. COLLEGE LIBRARY TECHNOLOGY AND COOPERATION.

Part D of title II of the Act is amended to read as follows:

"PART D—COLLEGE LIBRARY TECHNOLOGY AND COOPERATION GRANTS

"ESTABLISHMENT OF PROGRAM

"SEC. 241. (a) The Secretary is authorized to make grants for technological equipment and other special purposes to— 20 USC 1047.

"(1) institutions of higher education which demonstrate a need for special assistance for the planning, development, acquisition, installation, maintenance, or replacement of technological equipment (including computer hardware and software) necessary to participate in networks for sharing of library resources;

"(2) combinations of higher education institutions which demonstrate a need for special assistance in establishing and strengthening joint-use library facilities, resources, or equipment;

"(3) other public and private nonprofit organizations which provide library and information services to institutions of higher education on a formal, cooperative basis for the purpose of establishing, developing, or expanding programs or projects that improve their services to institutions of higher education; and

"(4) institutions of higher education conducting research or demonstration projects to meet special national or regional needs in utilizing technology to enhance library or information sciences.

"(b) From funds appropriated for this part, the Secretary shall make competitive awards to institutions or combinations of institutions in each of the categories described in clauses (1) through (4) of subsection (a). The minimum award shall be $15,000 and may be expended over a 3-year period.

"(c) A grant under this section may be made only if the application (whether by an individual institution or a combination of institutions) is approved by the Secretary on the basis of criteria prescribed in regulations and provides satisfactory assurance that the applicant will expend during the 3-year period for which the grant is sought (from funds other than funds received under this title), for the same purpose as such grant, an amount from such other sources equal to not less than one-third of such grant.

"(d) This program shall be administered in the Department by an expert in library technology.".

TITLE III—INSTITUTIONAL AID

SEC. 301. INSTITUTIONAL AID REAUTHORIZED.

(a) AMENDMENT.—Title III of the Act is amended to read as follows:

"TITLE III—INSTITUTIONAL AID

"FINDINGS AND PURPOSES

20 USC 1051.

"SEC. 301. (a) FINDINGS.—The Congress finds that—

"(1) many institutions of higher education in this era of declining enrollments and scarce resources face problems which threaten their ability to survive;

"(2) the problems relate to the management and fiscal operations of certain institutions of higher education, as well as to an inability to engage in long-range planning, recruitment activities, and development activities, including endowment building;

"(3) the title III program prior to 1985 did not always meet the specific development needs of historically Black colleges and

universities and other institutions with large concentrations of minority, low-income students;

"(4) the solution of the problems of these institutions would enable them to become viable, fiscally stable and independent, thriving institutions of higher education;

"(5) providing a minimum level of assistance to all categories of eligible institutions will assure the continued participation of the institutions in the program established in title III and enhance their role in providing access and quality education to low-income and minority students;

"(6) these institutions play an important role in the American system of higher education, and there is a strong national interest in assisting them in solving their problems and in stabilizing their management and fiscal operations, and in becoming financially independent; and

"(7) there is a particular national interest in aiding those institutions of higher education that have historically served students who have been denied access to postsecondary education because of race or national origin and whose participation in the American system of higher education is in the Nation's interest so that equality of access and quality of postsecondary education opportunities may be enhanced for all students.

"(b) PURPOSE.—It is the purpose of this title to assist such institutions in equalizing educational opportunity through a program of Federal assistance.

"PART A—STRENGTHENING INSTITUTIONS

"PROGRAM PURPOSE

"SEC. 311. (a) GENERAL AUTHORIZATION.—The Secretary shall carry out a program, in accordance with this part, to improve the academic quality, institutional management, and fiscal stability of eligible institutions, in order to increase their self-sufficiency and strengthen their capacity to make a substantial contribution to the higher education resources of the Nation. 20 USC 1057.

"(b) GRANTS AWARDED; SPECIAL CONSIDERATION.—(1) From the sums available for this part under section 358(a)(1), the Secretary may award grants to any eligible institution with an application approved under section 351 in order to assist such an institution to plan, develop, or implement activities that promise to strengthen the institution.

"(2) Special consideration shall be given to any eligible institution—

"(A) which has endowment funds (other than any endowment fund built under section 332 of this Act as in effect on September 30, 1986, and under part B) the market value of which, per full-time equivalent student, is less than the average current market value of the endowment funds, per full-time equivalent student (other than any endowment fund built under section 332 of this Act as in effect on September 30, 1986, and under part B) at similar institutions; or

"(B) which has expenditures per full-time equivalent student for library materials which is less than the average of the expenditures for library materials per full-time equivalent student by other similarly situated institutions.

"(3) Special consideration shall be given to applications which propose, pursuant to the institution's plan, to engage in—

"(A) faculty development;

"(B) funds and administrative management;

"(C) development and improvement of academic programs;

"(D) acquisition of equipment for use in strengthening funds management and academic programs;

"(E) joint use of facilities such as libraries and laboratories; and

"(F) student services.

"DEFINITIONS; ELIGIBILITY

20 USC 1058.

"SEC. 312. (a) EDUCATIONAL AND GENERAL EXPENDITURES.—For the purpose of this part, the term 'educational and general expenditures' means the total amount expended by an institution of higher education for instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation and maintenance expenditures for the physical plant, and any mandatory transfers which the institution is required to pay by law.

"(b) ELIGIBLE INSTITUTION.—For the purpose of this part, the term 'eligible institution' means—

"(1) an institution of higher education—

"(A) which has an enrollment of needy students as required by subsection (c) of this section;

"(B) except as provided in section 352(b), the average educational and general expenditures of which are low, per full-time equivalent undergraduate student, in comparison with the average educational and general expenditures per full-time equivalent undergraduate student of institutions that offer similar instruction;

"(C)(i) is legally authorized to provide, and provides within the State, an educational program for which it awards a bachelor's degree, or (ii) is a junior or community college;

"(D) is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation;

"(E) except as provided in section 352(b) has, during the 5 academic years preceding the academic year for which it seeks assistance under this part—

"(i) met the requirement of either subparagraph (C)(i) or (C)(ii), or of both such subparagraphs (simultaneously or consecutively); and

"(ii) met the requirement of subparagraph (D); and

"(F) meets such other requirements as the Secretary may prescribe;

"(2) any branch of any institution of higher education described under paragraph (1) which by itself satisfies the requirements contained in subparagraphs (A) and (B) of such paragraph;

"(3) any institution of higher education which has an enrollment of which at least 20 percent are Mexican American, Puerto Rican, Cuban, or other Hispanic students, or combina-

tion thereof, and which also satisfies the requirements of subparagraphs (A) and (B) of paragraph (1);

"(4) any institution of higher education which has an enrollment of at least 60 percent American Indian, or in the case of Alaska natives, an enrollment of at least 5 percent, and which also satisfies the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (1); and

"(5) any institution of higher education which has an enrollment of which at least 5 percent are Native Hawaiian, Asian American, American Samoan, Micronesian, Guamian (Chamorro), and Northern Marianian, or any combination thereof, and which also satisfies the requirements of subparagraphs (A) and (B) of paragraph (1).

For purposes of the determination of whether an institution is an eligible institution under this paragraph, the factor described under paragraph (1)(A) shall be given twice the weight of the factor described under paragraph (1)(B).

"(c) ENROLLMENT OF NEEDY STUDENTS.—For the purpose of this part, the term 'enrollment of needy students' means an enrollment at an institution of higher education or a junior or community college which includes—

"(1) at least 50 percent of the degree students so enrolled who are receiving need-based assistance under title IV of this Act (other than loans for which an interest subsidy is paid pursuant to section 428), or

"(2) a substantial percentage of students receiving Pell Grants in the second preceding fiscal year, in comparison with the percentage of students receiving Pell Grants at all such institutions in such fiscal year, unless the requirement of this subdivision is waived under section 352(a).

"(d) FULL-TIME EQUIVALENT STUDENTS.—For the purpose of this part, the term 'full-time equivalent students' means the sum of the number of students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by 12) at such institution.

"(e) JUNIOR OR COMMUNITY COLLEGE.—For the purpose of this part, the term 'junior or community college' means an institution of higher education—

"(1) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

"(2) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

"(3) that—

"(A) provides an educational program of not less than 2 years that is acceptable for full credit toward such a degree, or

"(B) offers a 2-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

"DURATION OF GRANT

20 USC 1059.

"SEC. 313. (a) GENERAL RULE.—The Secretary may award a grant to an eligible institution under this part for—

"(1) not to exceed 3 years;

"(2) not to exceed 4 years; or

"(3) not to exceed 5 years.

"(b) PROHIBITION.—An eligible institution that is awarded a grant—

"(1) under paragraph (2) of subsection (a) shall not be eligible to receive a grant under this part during the 4 years immediately following the period that it received such grant; and

"(2) under paragraph (3) of subsection (a) shall not be eligible to receive a grant under this part during the 5 years immediately following the period that it received such grant.

"(c) PLANNING GRANTS.—Notwithstanding subsection (a), the Secretary may award a grant to an eligible institution under this part for a period of one year for the purpose of preparation of plans and applications for a grant under this part.

"PART B—STRENGTHENING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

"FINDINGS AND PURPOSES

20 USC 1060.

"SEC. 321. The Congress finds that—

"(1) the historically Black colleges and universities have contributed significantly to the effort to attain equal opportunity through postsecondary education for Black, low-income, and educationally disadvantaged Americans;

"(2) States and the Federal Government have discriminated in the allocation of land and financial resources to support Black public institutions under the Morrill Act of 1862 and its progeny, and against public and private Black colleges and universities in the award of Federal grants and contracts, and the distribution of Federal resources under this Act and other Federal programs which benefit institutions of higher education;

7 USC 301 note.

"(3) the current state of Black colleges and universities is partly attributable to the discriminatory action of the States and the Federal Government and this discriminatory action requires the remedy of enhancement of Black postsecondary institutions to ensure their continuation and participation in fulfilling the Federal mission of equality of educational opportunity; and

"(4) financial assistance to establish or strengthen the physical plants, financial management, academic resources, and endowments of the historically Black colleges and universities are appropriate methods to enhance these institutions and facilitate a decrease in reliance on governmental financial support and to encourage reliance on endowments and private sources.

"DEFINITIONS

20 USC 1061.

"SEC. 322. For the purpose of this part:

"(1) The term 'graduate' means an individual who has attended an institution for at least three semesters and fulfilled

academic requirements for undergraduate studies in not more than 5 consecutive school years.

"(2) The term 'part B institution' means any historically Black college or university that was established prior to 1964, whose principal mission was, and is, the education of Black Americans, and that is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be a reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation.

"(3) The term 'Pell Grant recipient' means a recipient of financial aid under subpart 1 of part A of title IV of this Act.

"(4) The term 'professional and academic areas in which Blacks are underrepresented' shall be determined by the Secretary and the Commissioner of the Bureau of Labor Statistics, on the basis of the most recent available satisfactory data, as professional and academic areas in which the percentage of Black Americans who have been educated, trained, and employed is less than the percentage of Blacks in the general population.

"(5) The term 'school year' means the period of 12 months beginning July 1 of any calendar year and ending June 30 of the following calendar year.

"GRANTS TO INSTITUTIONS

"SEC. 323. (a) GENERAL AUTHORIZATION; USES OF FUNDS.—From amounts available under section 358(a)(2) in any fiscal year the Secretary shall make grants (under section 324) to institutions which have applications approved by the Secretary (under section 325) for any of the following uses: 20 USC 1062.

"(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

"(2) Construction, maintenance, renovation, and improvement in classroom, library, laboratory, and other instructional facilities.

"(3) Support of faculty exchanges and faculty fellowships to assist in attaining advanced degrees in their field of instruction.

"(4) Academic instruction in disciplines in which Black Americans are underrepresented.

"(5) Purchase of library books, periodicals, microfilm, and other educational materials.

"(6) Tutoring, counseling, and student service programs designed to improve academic success.

"(b) LIMITATIONS.—(1) No grant may be made under this Act for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For the purpose of this subsection, the term 'school or department of divinity' means an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

"(2) Not more than 50 percent of the allotment of any institution may be available for the purpose of constructing or maintaining a classroom, library, laboratory, or other instructional facility.

"ALLOTMENTS TO INSTITUTIONS

20 USC 1063.

"SEC. 324. (a) ALLOTMENT; PELL GRANT BASIS.—From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-half that amount as the number of Pell Grant recipients in attendance at such institution at the end of the school year preceding the beginning of that fiscal year bears to the total number of Pell Grant recipients at all part B institutions.

"(b) ALLOTMENT; GRADUATES BASIS.—From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-fourth that amount as the number of graduates for such school year at such institution bears to the total number of graduates for such school year at all part B institutions.

"(c) ALLOTMENT; GRADUATE AND PROFESSIONAL STUDENT BASIS.—From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-fourth that amount as the number of graduates, who are admitted to and in attendance at a graduate or professional school in a degree program in disciplines in which Blacks are underrepresented, bears to the number of such graduates for all part B institutions.

"(d) REALLOTMENT.—The amount of any part B institution's allotment under subsection (a), (b), or (c) for any fiscal year which the Secretary determines will not be required for such institution for the period such allotment is available shall be available for reallotment from time to time on such date during such period as the Secretary may determine to other part B institutions in proportion to the original allotment to such other institutions under this section for such fiscal year.

"(e) SPECIAL MERGER RULE.—(1) The Secretary shall permit any eligible institution for a grant under part B in any fiscal year prior to the fiscal year 1986 to apply for a grant under this part if the eligible institution has merged with another institution of higher education which is not so eligible or has merged with an eligible institution.

"(2) The Secretary may establish such regulations as may be necessary to carry out the requirement of paragraph (1) of this subsection.

"(f) SPECIAL RULE FOR CERTAIN DISTRICT OF COLUMBIA ELIGIBLE INSTITUTIONS.—In any fiscal year that the Secretary determines that Howard University or the University of the District of Columbia will receive an allotment under subsections (b) and (c) of this section which is not in excess of amounts received by Howard University under the Act of March 2, 1867 (14 Stat. 438; 20 U.S.C. 123), relating to annual authorization of appropriations for Howard University, or by the University of the District of Columbia under the District of Columbia Self-Government and Governmental Reorganization Act (87 Stat. 774) for such fiscal year, then Howard University and the University of the District of Columbia, as the case may be, shall be ineligible to receive an allotment under this section.

"APPLICATIONS

20 USC 1063a.

"SEC. 325. (a) CONTENTS.—No part B institution shall be entitled to its allotment of Federal funds for any grant under section 324 for

any period unless that institution meets the requirements of subparagraphs (C), (D), and (E) of section 312(b)(1) and submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

"(1) provide that the payments under this Act will be used for the purposes set forth in section 322; and

"(2) provide for making an annual report to the Secretary and provide for—

"(A) conducting, except as provided in subparagraph (B), a financial and compliance audit of an eligible institution, with regard to any funds obtained by it under this title at least once every 2 years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

"(B) with regard to an eligible institution which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of subparagraph (A) for the period covered by such audit. 31 USC 7501.

"(b) APPROVAL.—The Secretary shall approve any application which meets the requirements of subsection (a) and shall not disapprove any application submitted under this part, or any modification thereof, without first affording such institution reasonable notice and opportunity for a hearing.

"PROFESSIONAL OR GRADUATE INSTITUTIONS

"SEC. 326. (a) GENERAL AUTHORIZATION.—(1) Subject to the availability of funds appropriated to carry out this section, the Secretary shall award program grants to each of the postgraduate institutions listed in subsection (e) that is determined by the Secretary to be making a substantial contribution to the legal, medical, dental, veterinary, or other graduate education opportunities for Black Americans. Grants. 20 USC 1063b.

"(2) No grant in excess of $500,000 may be made under this section unless the postgraduate institution provides assurances that 50 percent of the cost of the purposes for which the grant is made will be paid from non-Federal sources.

"(b) DURATION.—Grants shall be made for a period not to exceed 5 years. No more than two 5-year grants (for a period of not more than 10 years) may be made to any one undergraduate or postgraduate institution.

"(c) USES OF FUNDS.—A grant under this section may be used for—

"(1) any of the purposes enumerated under section 323;

"(2) to establish or improve a development office to strengthen and increase contributions from alumni and the private sector; and

"(3) to assist in the establishment or maintenance of an institutional endowment to facilitate financial independence pursuant to section 333 of this title.

"(d) APPLICATION.—Any institution eligible for a grant under this section shall submit an application which—

"(1) demonstrates how the grant funds will be used to improve graduate educational opportunities for Black and low-income students, and lead to greater financial independence; and

"(2) provides, in the case of applications for grants in excess of $500,000, the assurances required by subsection (a)(2) and specifies the manner in which the eligible institution is going to pay the non-Federal share of the cost of the application.

"(e) ELIGIBLE PROFESSIONAL OR GRADUATE INSTITUTIONS.—Independent professional or graduate institutions eligible for grants under subsection (a) include—

"(1) Morehouse School of Medicine;

"(2) Meharry Medical School;

"(3) Charles R. Drew Postgraduate Medical School;

"(4) Atlanta University; and

"(5) Tuskegee Institute School of Veterinary Medicine.

"REPORTING AND AUDIT REQUIREMENTS

Grants.
20 USC 1063c.

"SEC. 327. (a) RECORDKEEPING.—Each recipient of a grant under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose—

"(1) the amount and disposition by such recipient of the proceeds of such assistance;

"(2) the cost of the project or undertaking in connection with which such assistance is given or used;

"(3) the amount of that portion of the cost of the project or undertaking supplied by other sources; and

"(4) such other records as will facilitate an effective audit.

"(b) REPAYMENT OF UNEXPENDED FUNDS.—Any funds paid to an institution and not expended or used for the purposes for which the funds were paid within 10 years following the date of the initial grant awarded to an institution under part B of this title shall be repaid to the Treasury of the United States.

"PART C—CHALLENGE GRANTS FOR INSTITUTIONS ELIGIBLE FOR ASSISTANCE UNDER PART A OR PART B

"ESTABLISHMENT OF CHALLENGE GRANT PROGRAM

20 USC 1064.

"SEC. 331. (a) GENERAL AUTHORIZATION; ELIGIBILITY.—(1) From the sums available under section 360(a)(3) for each fiscal year, the Secretary may award a challenge grant to each institution—

"(A) which is an eligible institution under part A or would be considered to be such an institution if section 312(b)(1)(C) referred to a postgraduate degree rather than a bachelor's degree;

"(B) which is an institution under part B or would be considered to be such an institution if section 324 referred to a postgraduate degree rather than a baccalaureate degree; or

"(C) which is an institution that makes a substantial contribution to postgraduate medical educational opportunities for minorities and the economically disadvantaged.

Disadvantaged persons.
Minorities.

"(2) The Secretary may waive the requirements set forth in subparagraphs (A) and (B) of paragraph (1) with respect to a postgraduate degree in the case of any institution otherwise eligible under such paragraph for a challenge grant upon determining that the institution makes a substantial contribution to medical edu-

cation opportunities for minorities and the economically disadvantaged.

"(b) USES OF FUNDS.—A grant under this section may be used by an institution eligible for a grant under this section to assist the institution to achieve financial independence.

"(c) DURATION OF GRANT.—The Secretary may make a grant under this section for a period of not more than 5 years, subject to annual appropriations.

"(d) CONTENTS OF APPLICATIONS.—Any institution eligible for a challenge grant under this section may apply for such a grant under section 351, except that the application for the purpose of this part shall— State and local governments.

"(1) provide assurances that funds will be available to the applicant within one year to match funds that the Secretary is requested to make available to the institution as a challenge grant;

"(2) in the case of an application by a public institution, contain the recommendations of an appropriate State agency responsible for higher education in the State, or provide evidence that the institution requested the State agency to comment but the State agency failed to comment; and

"(3) demonstrate how challenge grant funds will be used to achieve financial independence.

"(e) NOTICE OF APPROVAL.—Not later than April 1 of the fiscal year preceding the fiscal year in which any grant is to be made under this section, the Secretary shall determine which institutions will receive challenge grants under such section and notify the institutions of the amount of the grant.

"(f) PREFERENCE.—In approving applications for such grants, preference shall be given to institutions which are receiving, or have received, grants under part A or part B of this title.

"ENDOWMENT CHALLENGE GRANTS

"SEC. 332. (a) PURPOSE; DEFINITIONS.—(1) The purpose of this section is to establish a program to provide matching grants to eligible institutions of higher education in order to establish or increase endowment funds at such institutions, to provide additional incentives to promote fund raising activities by such institutions, and to foster increased independence and self-sufficiency at such institutions. 20 USC 1065.

"(2) For the purpose of this section:

"(A) The term 'endowment fund' means a fund established by State law, by an institution of higher education, or by a foundation which is exempt from taxation and is maintained for the purpose of generating income for the support of the institution, but which shall not include real estate.

"(B) The term 'endowment fund corpus' means an amount equal to the grant or grants awarded under this section plus an amount equal to such grant or grants provided by the institution.

"(C) The term 'endowment fund income' means an amount equal to the total value of the endowment fund established under this section minus the endowment fund corpus.

"(b) GRANTS AUTHORIZED.—(1) From sums available for this section under section 360, the Secretary is authorized to award challenge grants to eligible institutions of higher education to establish

or increase an endowment fund at such institution. Such grants shall be made only to eligible institutions described in paragraph (4) whose applications have been approved pursuant to subsection (g).

"(2)(A) Except as provided in subparagraph (B), no institution shall receive a grant under this section, unless such institution has deposited in its endowment fund established under this section an amount equal to the amount of such grant. The source of funds for this institutional match shall not include Federal funds or funds from an existing endowment fund.

"(B) In any fiscal year in which the appropriations for this part exceeds $10,000,000, the Secretary may make a grant under this part to an eligible institution of higher education if such institution—

"(i) has deposited in its endowment fund established under this section an amount which is equal to one-half of the amount of such grant; and

"(ii) applies for a grant in an amount exceeding $1,000,000.

"(C) An eligible institution of higher education that is awarded a grant under this section shall not be eligible to reapply for a grant under this section during the 10 years immediately following the period that it received such grant.

"(3) The period of a grant under this section shall be not more than 20 years. During the grant period, an institution may not withdraw or expend any of the endowment fund corpus. After the termination of the grant period, an institution may use the endowment fund corpus plus any endowment fund income for any educational purpose.

"(4)(A) An institution of higher education is eligible to receive a grant under this section if it is an eligible institution as described in section 331(a)(1).

"(B) No institution shall be ineligible for a challenge grant under this section for a fiscal year by reason of the previous receipt of such a grant but no institution shall be eligible to receive such a grant for more than 2 fiscal years out of any period of 5 consecutive fiscal years.

"(5) Except as provided in paragraph (2)(B), a challenge grant under this section to an eligible institution year shall—

"(A) not be less than $50,000 for any fiscal year; and

"(B) not be more than (i) $250,000 for fiscal year 1987; or (ii) $500,000 for fiscal year 1988 or any succeeding fiscal year.

"(6)(A) An eligible institution may designate a foundation, which was established for the purpose of raising money for the institution, as the recipient of the grant awarded under this section.

"(B) The Secretary shall not award a grant to a foundation on behalf of an institution unless—

"(i) the institution assures the Secretary that the foundation is legally authorized to receive the endowment fund corpus and is legally authorized to administer the fund in accordance with this section and any implementing regulation;

"(ii) the foundation agrees to administer the fund in accordance with the requirements of this section and any implementing regulation; and

"(iii) the institution agrees to be liable for any violation by the foundation of the provisions of this section and any implementing regulation, including any monetary liability that may arise as a result of such violation.

"(c) GRANT AGREEMENT; ENDOWMENT FUND PROVISIONS.—(1) An institution awarded a grant under this section shall enter into an agreement with the Secretary containing satisfactory assurances that it will (A) immediately comply with the matching requirements of subsection (b)(2), (B) establish an endowment fund independent of any other such fund of the institution, (C) invest the endowment fund corpus, and (D) meet the other requirements of this section.

"(2)(A) An institution shall invest the endowment fund corpus and endowment fund income in low-risk securities in which a regulated insurance company may invest under the law of the State in which the institution is located such as a federally insured bank savings account or comparable interest-bearing account, certificate of deposit, money market fund, mutual fund, or obligations of the United States.

Securities. Insurance. Banks and banking.

"(B) The institution, in investing the endowment fund established under this section, shall exercise the judgment and care, under the circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of such person's own affairs.

"(3)(A) An institution may withdraw and expend the endowment fund income to defray any expenses necessary to the operation of such college, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, and technical assistance.

"(B)(i) Except as provided in clause (ii), an institution may not spend more than 50 percent of the total aggregate endowment fund income earned prior to the time of expenditure.

"(ii) The Secretary may permit an institution to spend more than 50 percent of the endowment fund income notwithstanding clause (i) if the institution demonstrates such an expenditure is necessary because of (I) a financial emergency, such as a pending insolvency or temporary liquidity problem; (II) a life-threatening situation occasioned by a natural disaster or arson; or (III) any other unusual occurrence or exigent circumstance.

"(d) REPAYMENT PROVISIONS.—(1) If at any time an institution withdraws part of the endowment fund corpus, the institution shall repay to the Secretary an amount equal to 50 percent of the withdrawn amount, which represents the Federal share, plus income earned thereon. The Secretary may use such repaid funds to make additional challenge grants, or to increase existing endowment grants, to other eligible institutions.

"(2) If an institution expends more of the endowment fund income than is permitted under subsection (c), the institution shall repay the Secretary an amount equal to 50 percent of the amount improperly expended (representing the Federal share thereof). The Secretary may use such repaid fund to make additional challenge grants, or to increase existing challenge grants, to other eligible institutions.

"(e) AUDIT INFORMATION.—An institution receiving a grant under this section shall provide to the Secretary (or a designee thereof) such information (or access thereto) as may be necessary to audit or examine expenditures made from the endowment fund corpus or income in order to determine compliance with this section.

"(f) SELECTION CRITERIA.—In selecting eligible institutions for grants under this section for any fiscal year, the Secretary shall—

"(1) give priority to an applicant which is a recipient of a grant made under part A or B of this title during the academic year in which the applicant is applying for a grant under this section;

"(2) give priority to an applicant with a greater need for such a grant, based on the current market value of the applicant's existing endowment in relation to the number of full-time equivalent students enrolled at such institution; and

"(3) consider—

"(A) the effort made by the applicant to build or maintain its existing endowment fund; and

"(B) the degree to which an applicant proposes to match the grant with nongovernmental funds.

"(g) APPLICATION.—Any institution which is eligible for assistance under this section may submit to the Secretary a grant application at such time, in such form, and containing such information as the Secretary may prescribe. Subject to the availability of appropriations to carry out this section and consistent with the requirement of subsection (f), the Secretary may approve an application for a grant if an institution, in its application, provides adequate assurances that it will comply with the requirements of this section.

"(h) TERMINATION AND RECOVERY PROVISIONS.—(1) After notice and an opportunity for a hearing, the Secretary may terminate and recover a grant awarded under this section if the grantee institution—

"(A) expends portions of the endowment fund corpus or expends more than the permissible amount of the endowment funds income as prescribed in subsection (c)(3);

"(B) fails to invest the endowment fund in accordance with the investment standards set forth in subsection (c)(2); or

"(C) fails to properly account to the Secretary concerning the investment and expenditures of the endowment funds.

"(2) If the Secretary terminates a grant under paragraph (1), the grantee shall return to the Secretary an amount equal to the sum of each original grant under this section plus income earned thereon. The Secretary may use such repaid funds to make additional endowment grants, or to increase existing challenge grants, to other eligible institutions under this part.

"PART D—GENERAL PROVISIONS

"APPLICATIONS FOR ASSISTANCE

20 USC 1066.

"SEC. 351. (a) APPLICATION REQUIRED; APPROVAL.—Any institution which is eligible for assistance under this title shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate its need for assistance. Subject to the availability of appropriations to carry out this title, the Secretary may approve an application for a grant under this title if the application meets the requirements of subsection (b) and shows that the applicant is eligible for assistance in accordance with the part of this title under which the assistance is sought.

Grants.

"(b) CONTENTS.—An institution, in its application for a grant, shall—

"(1) set forth, or describe how the institution (other than an institution applying under part C) will develop, a comprehen-

sive development plan to strengthen the institution's academic quality and institutional management, and otherwise provide for institutional self-sufficiency and growth (including measurable objectives for the institution and the Secretary to use in monitoring the effectiveness of activities under this title);

"(2) set forth policies and procedures to ensure that Federal funds made available under this title for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of section 311(b) or 323, and in no case supplant those funds;

"(3) set forth policies and procedures for evaluating the effectiveness in accomplishing the purpose of the activities for which a grant is sought under this title;

"(4) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds made available to the applicant under this title;

"(5) provide (A) for making such reports, in such form and containing such information, as the Secretary may require to carry out the functions under this title, including not less than one report annually setting forth the institution's progress toward achieving the objectives for which the funds were awarded, and (B) for keeping such records and affording such access thereto, as the Secretary may find necessary to assure the correctness and verification of such reports; Report.

"(6) provide that the institution will comply with the limitations set forth in section 356;

"(7) describe in a comprehensive manner any proposed project for which funds are sought under the application and include—

"(A) a description of the various components of the proposed project, including the estimated time required to complete each such component;

"(B) in the case of any development project which consists of several components (as described by the applicant pursuant to subparagraph (A)), a statement identifying those components which, if separately funded, would be sound investments of Federal funds and those components which would be sound investments of Federal funds only if funded under this title in conjunction with other parts of the development project (as specified by the applicant);

"(C) an evaluation by the applicant of the priority given any proposed project for which funds are sought in relation to any other projects for which funds are sought by the applicant under this title, and a similar evaluation regarding priorities among the components of any single proposed project (as described by the applicant pursuant to subparagraph (A));

"(D) information explaining the manner in which the proposed project will assist the applicant to prepare for the critical financial problems that all institutions of higher education will face during the subsequent decade as a result of declining enrollment, and other problems;

"(E) a detailed budget showing the manner in which funds for any proposed project would be spent by the applicant; and

"(F) a detailed description of any activity which involves the expenditure of more than $25,000, as identified in the budget referred to in subparagraph (E); and

"(8) include such other information as the Secretary may prescribe.

"(c) PRIORITY CRITERIA PUBLICATION REQUIRED.—The Secretary shall publish in the Federal Register, pursuant to chapter 5 of title 5, United States Code, all policies and procedures required to exercise the authority set forth in subsection (a). No other criteria, policies, or procedures shall apply.

5 USC 500 *et seq.*

"(d) ELIGIBILITY DATA.—The Secretary shall use the most recent and relevant data concerning the number and percentage of students receiving need-based assistance under title IV of this Act in making eligibility determinations under section 312 and shall advance the base-year forward following each annual grant cycle.

"WAIVER AUTHORITY AND REPORTING REQUIREMENT

20 USC 1067.
State and local governments.
Disadvantaged persons.
Minorities.
Rural areas.
Indians.

"SEC. 352. (a) WAIVER REQUIREMENTS; NEED-BASED ASSISTANCE STUDENTS.—The Secretary shall waive the requirements set forth in section 312(b)(1)(A) in the case of an institution—

"(1) which is extensively subsidized by the State in which it is located and charges low or no tuition;

"(2) which serves a substantial number of low- and middle-income students as a percentage of its total student population;

"(3) which is contributing substantially to increasing higher education opportunities for educationally disadvantaged, underrepresented, or minority students, who are low-income individuals;

"(4) which is substantially increasing higher educational opportunities for individuals in rural or other isolated areas which are unserved by postsecondary institutions;

"(5) located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians; or

"(6) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of Black Americans, Hispanic Americans, Native Americans, Asian Americans, or Pacific Islanders, including Native Hawaiians.

"(b) WAIVER DETERMINATIONS; EXPENDITURES.—(1) The Secretary may waive the requirements set forth in section 312(b)(1)(B) if the Secretary determines, based on persuasive evidence submitted by the institution, that the institution's failure to meet that criterion is due to factors which, when used in the determination of compliance with such criterion, distort such determination, and that the institution's designation as an eligible institution under part A is otherwise consistent with the purposes of such parts.

Report.

"(2) The Secretary shall submit to the Congress every other year a report concerning the institutions which, although not satisfying the criterion contained in section 312(b)(1)(B), have been determined to be eligible institutions under part A institutions which enroll significant numbers of Black American, Hispanic, Native American, Asian American, or Native Hawaiian students under part A, as the case may be. Such report shall—

"(A) identify the factors referred to in paragraph (1) which were considered by the Secretary as factors that distorted the determination of compliance with subparagraphs (A) and (B) of section 312(b)(1); and

"(B) contain a list of each institution determined to be an eligible institution under part A including a statement of the reasons for each such determination.

"APPLICATION REVIEW PROCESS

"SEC. 353. (a) REVIEW PANEL.—(1) All applications submitted under this title by institutions of higher education shall be read by a panel of readers composed of individuals selected by the Secretary. The Secretary shall assure that no individual assigned under this section to review any application has any conflict of interest with regard to the application which might impair the impartiality with which the individual conducts the review under this section. 20 USC 1068.

"(2) The Secretary shall take care to assure that representatives of historically and predominantly Black colleges, Hispanic institutions, Native American colleges and universities, and institutions with substantial numbers of Hispanics, Native Americans, Asian Americans, and Native American Pacific Islanders (including Native Hawaiians) are included as readers.

"(3) All readers selected by the Secretary shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under this title and consistent with the provisions of this title, including— Grants.

"(A) explanations and examples of the types of activities referred to in section 311(b) that should receive special consideration for grants awarded under part A and of the types of activities referred to in section 323 that should receive special consideration for grants awarded under part B;

"(B) an enumeration of the factors to be used to determine the quality of applications submitted under this title; and

"(C) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under this title, the amount of any such grant, and the duration of any such grant.

"(b) RECOMMENDATIONS OF PANEL.—In awarding grants under this title, the Secretary shall take into consideration the recommendations of the panel made under subsection (a).

"(c) NOTIFICATION.—Not later than June 30 of each year, the Secretary shall notify each institution of higher education making an application under this title of—

"(1) the scores given the applicant by the panel pursuant to this section;

"(2) the recommendations of the panel with respect to such application; and

"(3) the reasons for the decision of the Secretary in awarding or refusing to award a grant under this title, and any modifications, if any, in the recommendations of the panel made by the Secretary.

"COOPERATIVE ARRANGEMENTS

"SEC. 354. (a) GENERAL AUTHORITY.—The Secretary may make grants to encourage cooperative arrangements— Grants. 28 USC 1069.

"(1) with funds available to carry out part A, between institutions eligible for assistance under part A and between such institutions and institutions not receiving assistance under this title; or

"(2) with funds available to carry out part B, between institutions eligible for assistance under part B and institutions not receiving assistance under this title;

for the activities described in section 311(b) or section 323, as the case may be, so that the resources of the cooperating institutions might be combined and shared to achieve the purposes of such parts and avoid costly duplicative efforts and to enhance the development of part A and part B eligible institutions.

"(b) PRIORITY.—The Secretary shall give priority to grants for the purposes described under subsection (a) whenever the Secretary determines that the cooperative arrangement is geographically and economically sound or will benefit the applicant institution.

"(c) DURATION.—Grants to institutions having a cooperative arrangement may be made under this section for a period as determined under section 313 or section 323.

"SPECIAL PAYMENTS RULES

Grants.
20 USC 1069a.

"SEC. 355. (a) HISTORICALLY BLACK COLLEGE PAYMENTS RULE.—Any historically Black college or university which, prior to September 30, 1986, received a grant under part A of this title as in effect prior to such date and continues to receive a grant under such part A for any fiscal year beginning after September 30, 1986, and ending prior to October 1, 1991, shall be paid from amounts appropriated to carry out part B of this title.

"(b) OTHER INSTITUTIONS SPECIAL PAYMENT RULE.—Each eligible institution other than an historically Black college or university which received a grant under part B of this title as in effect prior to such date and continues to receive a grant under such part B for any fiscal year beginning after September 30, 1986, and ending prior to October 1, 1991, shall be paid out of appropriations made pursuant to part A.

"(c) SPECIAL RULE FOR UNOBLIGATED PART A AND PART B FUNDS.—In any fiscal year in which amounts appropriated pursuant to part A or part B for this title are available for obligation in the year succeeding the year in which the funds were appropriated, the Secretary shall make such funds available for grants under section 332, relating to the endowment challenge grant program, for the same type of institution for which the grants would have been made had the funds been paid pursuant to such part A or part B.

"ASSISTANCE TO INSTITUTIONS UNDER OTHER PROGRAMS

20 USC 1069b.

"SEC. 356. (a) ASSISTANCE ELIGIBILITY.—Each institution which the Secretary determines to be an institution eligible under part A or an institution eligible under part B shall be eligible for waivers in accordance with subsection (b).

"(b) WAIVER APPLICABILITY.—(1) Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by an institution referred to in subsection (a) for assistance under any programs specified in paragraph (2), the Secretary is authorized, if such application is otherwise approvable, to waive any requirement for a non-Federal share of the cost of the

program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from other institutions.

"(2) The provisions of this section shall apply to any program authorized by title II, IV, VII, or VIII of this Act.

"(c) LIMITATION.—The Secretary shall not waive, under subsection (b), the non-Federal share requirement for any program for applications which, if approved, would require the expenditure of more than 10 percent of the appropriations for the program for any fiscal year.

"LIMITATIONS

"SEC. 357. The funds appropriated under section 360 may not be used— State and local governments. 20 USC 1069c.

"(1) for a school or department of divinity or any religious worship or sectarian activity;

"(2) for an activity that is inconsistent with a State plan for desegregation of higher education applicable to such institution;

"(3) for an activity that is inconsistent with a State plan of higher education applicable to such institution; or

"(4) for purposes other than the purposes set forth in the approved application under which the funds were made available to the institution.

"PENALTIES

"SEC. 358. Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any recipient of Federal financial assistance or grant pursuant to this title embezzles, willfully misapplies, steals, or obtains by fraud any of the funds which are the subject of such grant or assistance, shall be fined not more than $10,000 or imprisoned for not more than 2 years, or both. 20 USC 1069d.

"CHALLENGE GRANT APPLICATION REQUIRED

"SEC. 359. The Secretary shall not make a Challenge Grant to any grantee institution under section 313(a)(2) or under part B which has not applied for funds under part C and complied with section 332(a)(1) of part C after September 30, 1989. 20 USC 1069e.

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 360. (a) AUTHORIZATIONS.—(1) There are authorized to be appropriated to carry out part A $120,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years. 20 USC 1069f.

"(2)(A) There are authorized to be appropriated to carry out part B (other than section 326) $100,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(B) There are authorized to be appropriated to carry out section 326 $5,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(3) There are authorized to be appropriated to carry out part C $20,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(4) Funds appropriated for part C shall remain available until expended.

"(b) USE OF MULTIPLE YEAR AWARDS.—In the event of a multiple year award to any institution under this title, the Secretary shall

make funds available for such award from funds appropriated for this title for the fiscal year in which such funds are to be used by the recipient.

"(c) RESERVATIONS.—If the amount appropriated under subsection (a)(1) for part A for any fiscal year beginning after September 30, 1986, equals or exceeds the amount appropriated for such part for fiscal year 1986—

"(1) the Secretary shall, for such fiscal year, make available for use for the purposes of part A to institutions that are junior or community colleges not less than $51,400,000; and

"(2) the Secretary shall, for such fiscal year—

"(A) allocate 25 percent of the excess (above the amount appropriated for part A for fiscal year 1986) among eligible institutions with the highest percentages of students who are Black Americans, Hispanic Americans, Native Americans, Asian Americans, Native Hawaiians, or Pacific Islanders, or any combination thereof; and

"(B) allocate 75 percent of such excess among other eligible institutions.

"(d) RATABLE REDUCTION IN FISCAL YEARS IN WHICH AMOUNTS APPROPRIATED ARE INSUFFICIENT.—In any fiscal year in which the sums appropriated for part A are insufficient to make the reservations required by subsection (c) of this section, the Secretary shall ratably reduce the amount of the reservation.".

20 USC 1051 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect July 1, 1987.

TITLE IV—STUDENT ASSISTANCE

SEC. 401. STUDENTS GRANTS REAUTHORIZED.

(a) AMENDMENT.—Part A of title IV of the Act (20 U.S.C. 1070 et seq.) is amended to read as follows:

"TITLE IV—STUDENT ASSISTANCE

"PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

"STATEMENT OF PURPOSE; PROGRAM AUTHORIZATION

State and local governments. Disadvantaged persons. 20 USC 1070.

"SEC. 401. (a) PURPOSE.—It is the purpose of this part, to assist in making available the benefits of postsecondary education to eligible students (defined in accordance with section 484) in institutions of higher education by—

"(1) providing basic educational opportunity grants to all eligible students;

"(2) providing supplemental educational opportunity grants to those students who demonstrate financial need;

"(3) providing for payments to the States to assist them in making financial aid available to such students;

"(4) providing for special programs and projects designed (A) to identify and encourage qualified youths with financial or cultural need with a potential for postsecondary education, (B) to prepare students from low-income families for postsecondary education, and (C) to provide remedial (including remedial language study) and other services to students; and

"(5) providing assistance to institutions of higher education.

"(b) SECRETARY REQUIRED TO CARRY OUT PURPOSES.—The Secretary shall, in accordance with subparts 1 through 8, carry out programs to achieve the purposes of this part.

"SUBPART 1—BASIC EDUCATIONAL OPPORTUNITY GRANTS

"BASIC EDUCATIONAL OPPORTUNITY GRANTS: AMOUNT AND DETERMINATIONS; APPLICATIONS

"SEC. 411. (a) PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION.—(1) The Secretary shall, during the period beginning July 1, 1972, and ending September 30, 1992, pay to each eligible institution such sums as may be necessary to pay to each eligible student (defined in accordance with section 484) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a basic grant in the amount for which that student is eligible, as determined pursuant to paragraph (2). Not less than 85 percent of such sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based upon an amount requested by the institution as needed to pay eligible students. 20 USC 1070a.

"(2) Nothing in this section shall be interpreted to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which they are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

"(3) Basic grants made under this subpart shall be known as 'Pell Grants'.

"(b) PURPOSE AND AMOUNT OF GRANTS.—(1) The purpose of this subpart is to provide a basic grant that (A) as determined under paragraph (2), will meet 60 percent of a student's cost of attendance (as defined in section 411F); and (B) in combination with reasonable parental or independent student contribution and supplemented by the programs authorized under subparts 2 and 3 of this part, will meet 75 percent of a student's cost of attendance (as defined in section 472), unless the institution determines that a greater amount of assistance would better serve the purposes of section 401.

"(2)(A) The amount of the basic grant for a student eligible under this part shall be—

"(i) $2,300 for academic year 1987-1988,

"(ii) $2,500 for academic year 1988-1989,

"(iii) $2,700 for academic year 1989-1990,

"(iv) $2,900 for academic year 1990-1991, and

"(v) $3,100 for academic year 1991-1992,

less an amount equal to the amount determined to be the expected family contribution with respect to that student for that year.

"(B) In any case where a student attends an institution of higher education on less than a full-time basis during any academic year, the amount of the basic grant to which that student is entitled shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this division. Such schedule of reductions shall be established by regulation and published in the Federal Register in accordance with section 482 of this Act. Regulations. Federal Register, publication.

"(3) The amount of a basic grant to which a student is entitled under this subpart for any academic year shall not exceed 60

percent of the cost of attendance (as defined in section 411F) at the institution at which the student is in attendance for that year.

"(4) No basic grant under this subpart shall exceed the difference between the expected family contribution for a student and the cost of attendance (as defined in section 411F) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a basic grant plus the amount of the expected family contribution for that student exceeds the cost of attendance for that year, the amount of the basic grant shall be reduced until the combination of expected family contribution and the amount of the basic grant does not exceed the cost of attendance at such institution.

"(5) No basic grant shall be awarded to a student under this subpart if the amount of that grant for that student as determined under this subsection for any academic year is less than $200.

"(6) No basic grant shall be awarded under this subpart to any student who is attending on a less than half-time basis—

"(A) from funds appropriated for fiscal years before fiscal year 1989;

"(B) from funds appropriated for fiscal year 1989 or 1990, unless the expected family contribution for such student is less than or equal to zero; or

"(C) from funds appropriated for fiscal year 1991, unless the expected family contribution for such student is less than or equal to $200.

"(7) No basic grant shall be awarded under this subpart from funds appropriated for fiscal year 1989 to students who are attending on a less than half-time basis if awarding basic grants to such students would cause basic grants to other students to be reduced pursuant to subsection (g). The provisions of this paragraph may not be waived unless enacted in express limitation of this paragraph.

"(c) PERIOD OF ELIGIBILITY FOR GRANTS.—(1) The period during which a student may receive basic grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance except that—

"(A) such period may not exceed the full-time equivalent of—

"(i) 5 academic years in the case of an undergraduate degree or certificate program normally requiring 4 years or less;

"(ii) 6 academic years in the case of an undergraduate degree or certificate program normally requiring more than 4 years;

"(B) any period during which the student is enrolled in a noncredit or remedial course of study as defined in paragraph (2) shall not be counted for the purpose of subparagraph (A); and

"(C) an institution of higher education at which the student is in attendance may waive subparagraph (A) for undue hardship based on—

"(i) the death of a relative of the student;

"(ii) the personal injury or illness of the student; or

"(iii) special circumstances as determined by the institution.

"(2) Nothing in this section shall exclude from eligibility courses of study which are noncredit or remedial in nature (including courses in English language instruction) which are determined by the institution to be necessary to help the student be prepared for

the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills.

"(3) No student is entitled to receive Pell Grant payments concurrently from more than one institution or from the Secretary and an institution.

"(d) APPLICATIONS FOR GRANTS.—(1) The Secretary shall from time to time set dates by which students shall file applications for basic grants under this subpart.

"(2) Each student desiring a basic grant for any year shall file an application therefor containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the functions and responsibilities of this subpart.

"(e) DISTRIBUTION OF GRANTS TO STUDENTS.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

"(f) CALCULATION OF ELIGIBILITY.—(1) Each contractor processing applications for awards under this subpart (including a central processor, if any, designated by the Secretary) shall, in a timely manner, furnish to the student financial aid administrator (at each institution of higher education which a student awarded a basic grant under this subpart is attending) an estimate of the eligibility index for each such student. Each such student financial aid administrator shall—

"(A) examine and assess the data used to calculate the eligibility index of the student furnished pursuant to this subsection;

"(B) recalculate the eligibility index of the student if there has been a change in circumstances of the student or in the data submitted;

"(C) make the award to the student in the correct amount; and

"(D) after making such award report the corrected data to such contractor and to a central processor (if any) designated by the Secretary for a confirmation of the correct computation of amount of the eligibility index for each such student.

"(2) Whenever a student receives an award under this subpart that, due to recalculation errors by the institution of higher education, is in excess of the amount which the student is entitled to receive under this subpart, such institution of higher education shall pay to the Secretary the amount of such excess unless such excess can be resolved in a subsequent disbursement to the institution.

"(3) Each contractor processing applications for awards under this subpart shall for each academic year after academic year 1986-1987 prepare and submit a report to the Secretary on the correctness of the computations of amount of the eligibility index, and on the accuracy of the questions on the application form under this subpart for the previous academic year for which the contractor is responsible. The Secretary shall transmit the report, together with the

Report.

comments and recommendations of the Secretary, to the Committee on Appropriations and the Committee on Labor and Human Resources of the Senate and the Committee on Appropriations and the Committee on Education and Labor of the House of Representatives.

"(g) ADJUSTMENTS FOR INSUFFICIENT APPROPRIATIONS.—(1) If, for any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (b), the amount paid with respect to each entitlement shall be—

"(A) the full amount for any student whose expected family contribution is $200 or less, or

"(B) a percentage of that entitlement, as determined in accordance with a schedule of reductions established by the Secretary for this purpose, for any student whose expected family contribution is more than $200.

"(2) Any schedule established by the Secretary for the purpose of paragraph (1) of this subsection shall contain a single linear reduction formula in which the percentage reduction increases uniformly as the entitlement decreases, and shall provide that if an entitlement is reduced to less than $100, no payment shall be made.

"(h) USE OF EXCESS FUNDS.—(1) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by 15 percent or less, then all of the excess funds shall remain available for making payments under this subpart during the next succeeding fiscal year.

"(2) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by more than 15 percent, then all of such funds shall remain available for making such payments but payments may be made under this paragraph only with respect to entitlements for that fiscal year.

"(i) NONCONTRACTOR STATUS OF INSTITUTIONS.—Any institution of higher education which enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of such agreement, a contractor maintaining a system of records to accomplish a function of the Secretary.

"FAMILY CONTRIBUTION SCHEDULE FOR PELL GRANTS; DATA ELEMENTS

20 USC 1070a-1

"SEC. 411A. (a) GENERAL RULE FOR DETERMINATION OF EXPECTED FAMILY CONTRIBUTION.—(1) The expected family contribution—

"(A) for a dependent student shall be determined in accordance with section 411B,

"(B) for an independent student with dependents other than a spouse shall be determined in accordance with section 411C, and

"(C) for a single independent student or a married independent student without other dependents shall be determined in accordance with section 411D.

"(2) The following data elements are considered in determining the expected family contribution:

"(A) the effective income of (i) the student and the student's spouse; and (ii) the student's parents, in the case of a dependent student;

"(B) the number of family members in the household;

"(C) the number of family members in the household who are enrolled, on at least a half-time basis, in a program of post-secondary education;

"(D) the assets of (i) the student and the student's spouse, and (ii) the student's parents, in the case of a dependent student;

"(E) the marital status of the student;

"(F) the unusual medical expenses of (i) the student's parents, in the case of a dependent student, or (ii) the student and the student's spouse, in the case of an independent student;

"(G) the additional expenses incurred (i) in the case of a dependent student, when both parents of the student are employed or when the family is headed by a single parent who is employed, or (ii) in the case of an independent student, when both the student and the student's spouse are employed or when the employed student qualifies as a surviving spouse or as a head of a household under section 2 of the Internal Revenue Code of 1954; and 26 USC 2.

"(H) the tuition paid (i) in the case of a dependent student, by the student's parents for dependent children, other than the student, who are enrolled in an elementary or secondary school, (ii) in the case of an independent student, by the student or the student's spouse for dependent children who are so enrolled.

"ELIGIBILITY DETERMINATION FOR DEPENDENT STUDENTS

"SEC. 411B. (a) COMPUTATION OF STUDENT AID INDEX.—For each dependent student, the student aid index is equal to the sum of— 20 USC 1070a-2.

"(1) the contribution from parents' income and assets, determined in accordance with subsection (b);

"(2) the contribution from student's (and spouse's) income, determined in accordance with subsection (h); and

"(3) the contribution from student's (and spouse's) assets, determined in accordance with subsection (l).

"(b) CONTRIBUTION FROM PARENTS' INCOME AND ASSETS.—The parents' contribution from income and assets is equal to the amount determined by—

"(1) computing the standard contribution from parents' income, determined in accordance with subsection (c);

"(2) adding the contribution from parents' assets, determined in accordance with subsection (g); and

"(3) dividing the resultant amount by the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which aid under this subpart is requested.

"(c) STANDARD CONTRIBUTION FROM PARENTS' INCOME.—The standard contribution from parents' income is determined by calculating the effective family income in accordance with subsection (d); by deducting the total offsets against income, as determined in accordance with subsection (e); and by assessing the results in accordance with subsection (f).

"(d) DETERMINATION OF EFFECTIVE FAMILY INCOME.—The effective family income is equal to— Taxes.

"(1) the sum of—

"(A) the adjusted gross income of the parents as reported to the Internal Revenue Service for the year immediately preceding the award year, and income earned from work but not reported on a Federal income tax return; and

"(B) the total annual amount of untaxed income and benefits, received by the parents in the year immediately preceding the award year; minus

"(2) the sum of—

"(A) the amount of United States income tax paid or payable by the parents in the tax year preceding the award year; and

"(B) an allowance for State and other taxes, as determined by multiplying the parents' total income (as determined under paragraph (1)) by a percentage determined according to the following table:

"Percentages for Computation of State and Other Tax Allowance

If parents' State or territory of residence is—	And parents' total income is—	
	less than $15,000	$15,000 or more
	then the percentage is—	
Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13

"(e) TOTAL OFFSETS AGAINST INCOME.—Total offsets against income are determined by deducting—

"(1) a family size offset as determined by the following table:

"Family Size Offsets

Family members	Amount
2	$6,700
3	8,100
4	10,400
5	12,300
6	13,800
7 or more	13,800 plus $1,800 for each member over 6

"(2) an offset for unusual medical and dental expenses;

"(3) an offset for employment expenses; and

"(4) an offset for unreimbursed elementary and secondary school tuition and fees.

"(f) ASSESSMENT OF EFFECTIVE FAMILY INCOME.—(1) If the effective family income (as determined under subsection (d)) minus the total offsets (as determined under subsection (e)) is a negative amount, the standard contribution from the parents' income is zero.

"(2) If such effective family income is a positive amount, the standard contribution from effective family income is determined in accordance with the following chart:

"Effective family income	Expected contribution
$0 to $5,000	11% of effective family income.
$5,001 to $10,000	$550, plus 13% of amount over $5,000.
$10,001 to $15,000	$1,200, plus 18% of amount over $10,000.
$15,001 and above	$2,100, plus 25% of amount over $15,000.

"(g) CONTRIBUTION FROM PARENTS' ASSETS.—The standard contribution from parents' assets is determined in accordance with paragraphs (1) through (7):

"(1) If the parental assets include a principal place of residence, deduct $30,000 from the net value of the principal place of residence. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

"(2) If the parental assets include assets other than a principal place of residence and other than farm and business assets, deduct $25,000 from the net value of those other assets. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

"(3) If the parental assets include farm or business assets, or both, deduct $80,000 in the case of business assets or $100,000 in the case of farm assets from the net value of the farm or business assets, or both. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

"(4) If the sum of the farm and business deduction and the deductions in paragraphs (1) and (2) exceeds $110,000 in the case of business deductions or $130,000 in the case of farm deductions, the farm and business deduction shall be reduced by the amount that that sum exceeds $110,000, or $130,000, as the case may be.

"(5)(A) The expected contribution from parental assets equals 5 percent of the total of the amounts obtained under paragraphs (1), (2), and (3).

"(B) If the calculation of effective family income required by subsection (d) produces a negative number, the expected contribution from parental assets, calculated under this paragraph, shall be reduced by the amount of that negative effective family income. If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

"(6)(A) If the student's parents are separated, or divorced and not remarried, only the assets of the parent whose income is included in computing annual adjusted family income shall be considered.

"(B) If that parent has remarried, or if the parent was a widow or widower who has remarried, and the parent's spouse's

income also is included in computing effective family income, the assets of that parent's spouse shall also be included.

"(7) The Secretary shall promulgate special regulations to permit, in the computation of family contributions for the programs under this subpart for any academic year, the exclusion from family income of any proceeds of a sale of farm or business assets of that family if such sale results from a voluntary or involuntary foreclosure, forfeiture, liquidation, or bankruptcy.

"(h) CONTRIBUTION FROM STUDENT'S (AND SPOUSE'S) INCOME.—The contribution from student's (and spouse's) income is determined by calculating the student's (and spouse's) effective income, as determined in accordance with subsection (i), by deducting the total offsets against income, as determined in accordance with subsection (j), and by assessing the results in accordance with subsection (k).

"(i) DETERMINATION OF STUDENT'S (AND SPOUSE'S) EFFECTIVE INCOME.—The effective income of the student (and spouse) is equal to—

"(1) the sum of—

"(A) the adjusted gross income of the student (and spouse) as reported to the Internal Revenue Service for the year immediately preceding the award year, or income earned from work other than amounts earned under part C of this title, but not reported on a Federal income tax return; and

"(B) the total annual amount of untaxed income and benefits received by the student (and spouse) in the year immediately preceding the award year; minus

"(2) the amount of United States income tax paid or payable by the student (and spouse) in the tax year preceding the award year.

"(j) TOTAL OFFSETS AGAINST STUDENT'S (AND SPOUSE'S) INCOME.—Total offsets against student's (and spouse's) income are determined by deducting—

"(1) a dependent student offset of $3,500, or $5,100 in the case of a dependent student with a spouse; and

"(2) if the parental effective family income (as determined under subsection (f)) is a negative amount, the amount, if any, by which the result of the subtraction performed under subsection (g)(5) is less than zero.

"(k) ASSESSMENT OF STUDENT'S (AND SPOUSE'S) INCOME.—If the student's (and spouse's) effective income (as determined under subsection (i)) minus the total offsets (as determined under subsection (j)) is a negative amount, the contribution from student income is zero. If the student's (and spouse's) effective income is a positive amount, multiply it by 75 percent to determine the contribution from student's income.

"(l) DETERMINATION OF CONTRIBUTION FROM STUDENT'S (AND SPOUSE'S) ASSETS.—The contribution from the student's (and spouse's) assets is determined by calculating the net assets of the student (and spouse) and multiplying the amount by 33 percent.

"ELIGIBILITY DETERMINATION FOR INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE

20 USC 1070a-3.

"SEC. 411C. (a) COMPUTATION OF STUDENT AID INDEX.—For independent students with dependents other than a spouse, the student aid index is equal to the amount determined by—

"(1) computing the standard contribution from student's (and spouse's) income determined in accordance with subsection (b);

"(2) adding the contribution from student's (and spouse's) assets determined in accordance with subsection (f); and

"(3) dividing the resultant amount by the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which aid under this subpart is requested.

"(b) COMPUTING THE STANDARD CONTRIBUTION FROM STUDENT'S (AND SPOUSE'S) INCOME.—The standard contribution from the student's (and spouse's) income is determined by calculating the effective family income in accordance with subsection (c); by deducting the total offsets against income, as determined in accordance with subsection (d); and by assessing the results in accordance with subsection (e).

"(c) DETERMINATION OF EFFECTIVE FAMILY INCOME.—The effective family income is equal to— Taxes.

"(1) the sum of—

"(A) the adjusted gross income of the student (and spouse) as reported to the Internal Revenue Service for the year immediately preceding the award year and income earned from work, other than amounts received under part C of this title, but not reported on a Federal income tax return;

"(B) the total annual amount of untaxed income and benefits which is received by the student (and spouse) in the year immediately preceding the award year; and

"(C) one-half of the student's total veterans educational benefits, excluding Veterans' Administration contributory benefits, expected to be received during the award period; minus

"(2) the sum of—

"(A) the amount of United States income tax paid or payable by the student (and spouse) in the tax year preceding the award year; and

"(B) an allowance for State and other taxes as determined by multiplying the student's (and spouse's) total income (as determined under paragraph (1)) by a percentage determined according to the following table:

"Percentages for Computation of State and Other Tax Allowance

If student's State or territory of residence is—	And student's (and spouse's) total income is—	
	less than $15,000	$15,000 or more
	then the percentage is—	
Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7

"Percentages for Computation of State and Other Tax Allowance—Continued

If student's State or territory of residence is—	And student's (and spouse's) total income is—	
	less than $15,000	$15,000 or more
	then the percentage is—	
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13

"(d) TOTAL OFFSETS AGAINST INCOME.—Total offsets against income are determined by deducting—

"(1) a family size offset equal to the amount specified in the following table:

"Family Size Offsets

Family members	Amount
2	$6,700
3	8,100
4	10,400
5	12,300
6	13,800
7 or more	13,800 plus $1,800 for each member over 6

"(2) an offset for unusual medical and dental expenses;

"(3) in the case of a married independent student when both the student and spouse were employed in the year for which income is reported, or in the case of a student who qualifies as a head of household as defined in section 2 of the Internal Revenue Code of 1954, an offset for employment expenses; and

26 USC 2.

"(4) an offset for unreimbursed elementary and secondary school tuition and fees.

"(e) ASSESSMENT OF EFFECTIVE FAMILY INCOME.—(1) If the effective family income (as determined under subsection (c)) minus the total offsets (as determined under subsection (d)) is a negative amount, the standard contribution from the student's (and spouse's) income is zero.

"(2) If such effective family income is a positive amount, the standard contribution from effective family income is determined in accordance with the following chart:

"Effective family income	Expected contribution
$0 to $5,000	11% of effective family income.
$5,001 to $10,000	$550, plus 13% of amount over $5,000.
$10,001 to $15,000	$1,200, plus 18% of amount over $10,000.
$15,001 and above	$2,100, plus 25% of amount over $15,000.

"(f) CONTRIBUTION FROM STUDENT'S (AND SPOUSE'S) ASSETS.—The standard contribution from student's (and spouse's) assets is determined in accordance with paragraphs (1) through (7):

"(1) If the student's (and spouse's) assets include a principal place of residence, deduct $30,000 from the net value of the principal place of residence. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

"(2) If the student's (and spouse's) assets include assets other than a principal place of residence and other than farm and business assets, deduct $25,000 from the net value of those other assets. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

Farms and farming.

"(3) If the student's (and spouse's) assets include farm or business assets, or both, deduct $80,000 in the case of business assets or $100,000 in the case of farm assets from the net value of the farm or business assets, or both. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

"(4) If the sum of the farm and business deduction and the deductions in paragraphs (1) and (2) exceeds $110,000 in the case of business deductions or $130,000 in the case of farm deductions, the farm and business deduction shall be reduced by the amount that that sum exceeds $110,000, or $130,000, as the case may be.

"(5)(A) The expected contribution from student's (and spouse's) assets equals 5 percent of the total of the amounts obtained under paragraphs (1), (2), and (3).

"(B) If the calculation of effective family income required by subsection (c) produces a negative number, the expected contribution from student's (and spouse's) assets, calculated under this paragraph, shall be reduced by the amount of that negative effective family income. If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

"(6) If the married independent student with dependents is separated or divorced, only assets of the independent student shall be considered.

"(7) The Secretary shall promulgate special regulations to permit, in the computation of family contributions for the programs under this subpart for any academic year, the exclusion from family income of any proceeds of a sale of farm or business assets of that family if such sale results from a voluntary or involuntary foreclosure, forfeiture, liquidation, or bankruptcy.

"ELIGIBILITY DETERMINATION FOR SINGLE INDEPENDENT STUDENTS OR FOR MARRIED INDEPENDENT STUDENTS WITHOUT OTHER DEPENDENTS

20 USC 1070a-4.

"SEC. 411D. (a) COMPUTATION OF STUDENT AID INDEX.—For single independent students or married independent students without other dependents, the student aid index is equal to the amount determined by—

"(1) computing the standard contribution from student's (and spouse's) income determined in accordance with subsection (b);

"(2) adding contribution from student's (and spouse's) assets determined in accordance with subsection (f); and

"(3) dividing the resultant amount by the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which aid under this subpart is requested.

"(b) COMPUTING THE STANDARD CONTRIBUTION FROM STUDENT'S (AND SPOUSE'S) INCOME.—The standard contribution from the student's (and spouse's) income is determined by calculating the effective family income in accordance with subsection (c); by deducting the total offsets against income, as determined in accordance with subsection (d); and by assessing the results in accordance with subsection (e).

Taxes.

"(c) DETERMINATION OF EFFECTIVE FAMILY INCOME.—The effective family income is equal to—

"(1) the sum of—

"(A) the adjusted gross income of the student (and spouse) as reported to the Internal Revenue Service for the year immediately preceding the award year and income earned from work, other than amounts received under part C of this title, but not reported on a Federal income tax return;

"(B) the total annual amount of untaxed income and benefits which is received by the student (and spouse) in the year immediately preceding the award year; and

"(C) one-half of the student's total veterans educational benefits, excluding Veterans' Administration contributory benefits, expected to be received during the award period; minus

"(2) the sum of—

"(A) the amount of United States income tax paid or payable by the student (and spouse) in the tax year preceding the award year; and

"(B) an allowance for State and other taxes as determined by multiplying the student's (and spouse's) total income (as determined under paragraph (1)), by a percentage determined according to the following table:

"Percentages for Computation of State and Other Tax Allowance

If student's State or territory of residence is—	And student's (and spouse's) total income is—	
	less than $15,000	$15,000 or more
	then the percentage is—	
Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7

"Percentages for Computation of State and Other Tax Allowance—Continued

If student's State or territory of residence is—	And student's (and spouse's) total income is—	
	less than $15,000	$15,000 or more
	then the percentage is—	
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13

"(d) TOTAL OFFSETS AGAINST INCOME.—Total offsets against income are determined by deducting—

"(1) a family size offset equal to the amount specified in the following table:

"Family Size Offsets

Family members	Amount
1	$5,300
2	6,700

"(2) an offset for unusual medical and dental expenses; and

"(3) in the case of a married independent student when both the student and spouse were employed in the year for which income is reported, or in the case of a student who qualifies as a head of household as defined in section 2 of the Internal Revenue Code of 1954, an offset for employment expenses. 26 USC 2.

"(e) ASSESSMENT OF EFFECTIVE FAMILY INCOME.—(1) If the effective family income (as determined under subsection (c)), minus the total offsets (as determined under subsection (d)) is a negative amount, the standard contribution from the student's (and spouse's) income is zero.

"(2) If such effective family income is a positive amount, the standard contribution from student's (and spouse's) income is multiplied by 75 percent.

"(f) CONTRIBUTION FROM STUDENT'S (AND SPOUSE'S) ASSETS.—(1) The asset contribution amount of an independent student and the student's spouse is equal to 5 percent of the sum of the amounts computed under paragraphs (3) and (4), reduced by the amount, if any, by which effective family income as computed under subsection (c) is less than zero. If the result of such subtraction is a negative amount, the family asset contribution amount is zero.

"(2) The family asset contribution amount of a single independent student is equal to 33 percent of such student's net asset value, reduced by the amount, if any, by which effective family income as computed under subsection (c) is less than zero. If such value minus such amount is a negative amount, the family asset contribution amount is zero.

"(3) If the assets of an independent student with a spouse include a principal place of residence, deduct $30,000 from the net value of the principal place of residence. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

"(4)(A) If the assets of an independent student with a spouse include assets other than a principal place of residence and other than farm and business assets, deduct $25,000 from the net value of those other assets. If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

Farms and farming.

"(B)(i) If the assets of an independent student with a spouse include farm or business assets, or both, deduct $80,000 in the case of business assets or $100,000 in the case of farm assets from the net value of the farm or business assets, or both. If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

"(ii) If the sum of the farm and business deduction and the deductions in paragraphs (3) and (4)(A) exceeds $110,000 in the case of business deductions or $130,000 in the case of farm deductions, the farm and business deduction shall be reduced by the amount that that sum exceeds $110,000, or $130,000, as the case may be.

"(5) The Secretary shall promulgate special regulations to permit, in the computation of family contributions for the programs under this subpart for any academic year, the exclusion from family income of any proceeds of a sale of farm or business assets of that family if such sale results from a voluntary or involuntary foreclosure, forfeiture, liquidation, or bankruptcy.

"REGULATIONS; UPDATED TABLES

20 USC 1070a-5.

"SEC. 411E. (a) AUTHORITY TO PRESCRIBE REGULATIONS RESTRICTED.—(1) Notwithstanding any other provision of law, the Secretary shall not have the authority to prescribe regulations to carry out this subpart except—

"(A) to prescribe updated tables under sections 411B through 411D; or

"(B) to propose modifications in the need analysis methodology required by this subpart.

"(2) Any regulation proposed by the Secretary that (A) updates tables in a manner that does not comply with subsection (b), or (B) that proposes modifications under paragraph (1)(B) of this subsection, shall not be effective unless approved by joint resolution of the Congress by May 1 following the date such regulations are published in the Federal Register in accordance with section 482. If the Congress fails to approve such regulations by such May 1, the Secretary shall publish in the Federal Register in accordance with section 482 updated tables for the applicable award year that are prescribed in accordance with subsection (b) of this section.

Federal Register, publication.

"(b) PROVISIONS GOVERNING UPDATED TABLES.—(1)(A) Each of the amounts allowed as an offset for family size for dependent and independent students shall, for each academic year after academic year 1988-1989, be adjusted by the Secretary by increasing (or decreasing) the comparable amount for the preceding academic year by a percentage equal to the percentage increase (or decrease) in the Consumer Price Index for Wage Earners and Clerical Workers

published by the Department of Labor, and rounded to the nearest $100.

"(B) The Secretary shall publish in the Federal Register a revised table for an offset for family size in accordance with section 482.

Federal Register, publication.

"(2)(A) The Secretary shall, for each academic year after academic year 1988-1989, publish in the Federal Register such revisions in offsets against income, asset determination, and assessment rates as are necessary to reflect the most recent and relevant data.

Federal Register, publication.

"(B) The Secretary shall publish in the Federal Register the revised determinations required by subparagraph (A) in accordance with section 482.

"DEFINITIONS; DETERMINATIONS

"SEC. 411F. For the purpose of this subpart—

20 USC 1070a-6.

"(1) The term 'annual adjusted family income' means the sum received in the year immediately preceding the award year, by the student's parents (in the case of a dependent student), or by the student and, if applicable, the student's spouse (in the case of an independent student), except excludable income under paragraph (9) of this subsection, from the following sources subject to the following rules:

"(A) Adjusted gross income, as defined in section 62 of the Internal Revenue Code of 1954.

26 USC 62.

"(B) Untaxed income and benefits, as defined in paragraph (13) of this section.

"(C) Income from one-half of any veteran's benefits expected to be paid to the student during the award period under chapters 34 and 35 of title 38 of the United States Code.

38 USC 1651 *et. seq.*, 1700 *et seq.*

"(D) Income for a student whose parents are divorced or separated is determined under the following procedures:

"(i) Include only the income of the parent with whom the student resided for the greater portion of the 12-month period preceding the date of the application.

"(ii) If the preceding criterion does not apply, include only the income of the parent who provided the greater portion of the student's support for the 12-month period preceding the date of application.

"(iii) If neither of the preceding criteria apply, include only the income of the parent who provided the greater support during the most recent calendar year for which parental support was provided.

"(E) Income in the case of the death of any parent as follows:

"(i) If either of the parents have died, the student shall include only the income of the surviving parent.

"(ii) If both parents have died, the student shall not report any parental income.

"(F) Income in the case of a parent whose income is taken into account under subparagraph (D) of this paragraph, or a parent who is a widow or widower and whose income is taken into account under clause (i) of this subparagraph, has remarried, under the following rule: The income of that parent's spouse shall be included in determining the student's annual adjusted family income if—

"(i) the student's parent and the stepparent are married as of the date of application for the award year concerned; and

"(ii) the student is not an independent student.

"(G)(i) Income in the case of a dislocated worker shall be the income for the year for which the determination is made.

"(ii) For the purpose of this subparagraph, a dislocated worker is a worker identified pursuant to title III of the Job Training Partnership Act.

29 USC 1651.

"(2) The term 'assets' means cash on hand, including amount in checking and savings accounts, time deposits, money market funds, trusts, stocks, bonds, other securities, mutual funds, tax shelters, and the net value of real estate, income producing property, and business and farm assets.

"(3) The term 'award year' is the period of time between July 1 of the first year and June 30 of the following year.

"(4) The term 'business assets' means property that is used in the operation of a trade or business, including real estate, inventories, buildings, machinery, and other equipment, patents, franchise rights, and copyrights.

"(5) The term 'cost of attendance' means—

"(A) the student's tuition and uniform compulsory fees at the institution at which the student is in attendance for any award year, plus

"(B)(i) an allowance for room and board costs, books, supplies, transportation, and miscellaneous expenses incurred by the student which shall not exceed $1,700 for a student without dependents residing at home with parents;

"(ii) an allowance for room and board costs, books, supplies, transportation, and miscellaneous expenses incurred by the student which shall not exceed $2,300 for all other students, subject to clause (iii);

"(iii) an allowance for only books, supplies, and transportation (as determined by the institution) and dependent care expenses (in accordance with clause (iv)) for less than half-time students (as determined by the institution);

"(iv) an allowance for child care which shall not exceed $1,000; and

"(v) an allowance for the costs of special services and equipment required for attendance by the handicapped that are not provided by other assisting agencies;

except that, if the maximum award under this subpart is less than or greater than $2,300, then the dollar amounts specified in clauses (i) and (ii) of subparagraph (B) of this paragraph shall be increased or decreased by an amount equal to the amount by which such maximum award is greater than or less than $2,300, respectively.

"(6) Except as otherwise provided, the term 'dependent of the student' means the parents of the student, the student's spouse, any of the student's dependent children, dependent children of the student's parents, including those children who are deemed to be dependent students when applying for aid under this title, and other persons who live with and receive more than one-half of their support from the parents and will continue to receive more than half of their support from the parents during the award year.

"(7) Effective family income shall be determined on the basis of the annual adjusted family income minus the Federal taxes and imputed State and other taxes paid or payable for the year that adjusted gross income is used in the calculation of the student's Pell Grant. Taxes.

"(8)(A) The employment expense offset is determined as follows:

"(i) If both parents were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such offset is equal to the lesser of $1,500 or 50 percent of the earned income (income earned by work) of the parent with the lesser earned income.

"(ii) If a parent qualifies as a head of household as defined in section 2 of the Internal Revenue Code of 1954, such offset is equal to the lesser of $1,500 or 50 percent of the parent's earned income. 26 USC 2.

"(B) The employment expense offset in the case of an independent student with dependents is determined as follows:

"(i) If both the student and the student's spouse were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such offset is equal to the lesser of $1,500 or 50 percent of the earned income (income earned by work) of the spouse with the lesser earned income.

"(ii) If a student qualifies as a head of household as defined in section 2 of the Internal Revenue Code of 1954, such offset is equal to the lesser of $1,500 or 50 percent of the student's earned income.

"(9)(A) The term 'excludable income' means the income described in subparagraphs (B), (C), and (D) of this paragraph which is excluded for the purpose of determining 'annual adjusted family income' under paragraph (1).

"(B) For a Native American student, the annual adjusted family income does not include the income received by the student, the student's spouse, or the student's parents under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.), the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.), or the Maine Indians Claims Settlement Act (25 U.S.C. 1721, et seq.). Indians.

"(C) In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income shall not be considered in determining the effective family income.

"(D) The annual adjusted family income does not include any student financial assistance except veterans' or Social Security benefits set forth in paragraph (15) of this subsection.

"(10)(A) In determining family size in the case of a dependent student—

"(i) if the parents are not divorced or separated, family members include the student's parents, and the dependents of the student's parents including the student;

"(ii) if the parents are divorced or separated, family members include the parent whose income is included in computing the effective family income and that parent's dependents, including the student; and

"(iii) if the parents are divorced and the parent whose income is so included is remarried, or if the parent was a widow or widower who has remarried, family members also include, in addition to those individuals referred to in subparagraph (B), the new spouse and any dependents of the new spouse if that spouse's income is included in determining effective family income.

"(B) In determining family size in the case of an independent student with dependents—

"(i) family members include the student, the student's spouse, and the student's dependents; and

"(ii) if the student is divorced or separated, family members do not include the spouse (or ex-spouse), but do include the student and the student's dependents.

"(11) The term 'farm assets' means any property owned and used in the operation of a farm for profit, including real estate, livestock, livestock products, crops, farm machinery, and other equipment inventories. A farm is not considered to be operated for profit if crops or livestock are raised mainly for the use of the family, even if some income is derived from incidental sales.

"(12)(A) The term 'independent', when used with respect to a student, means any individual who—

"(i) is 24 years of age or older by December 31 of the award year; or

"(ii) meets the requirements of subparagraph (B).

"(B) Except as provided in subparagraph (C), an individual meets the requirements of this subparagraph if such individual—

"(i) is an orphan or ward of the court;

"(ii) is a veteran of the Armed Forces of the United States;

"(iii) is a gradulate or professional student who declares that he or she will not be claimed as a dependent for income tax purposes by his or her parents (or guardian) for the first calendar year of the award year;

"(iv) is a married individual who declares that he or she will not be claimed as a dependent for income tax purposes by his or her parents (or guardian) for the first calendar year of the award year;

"(v) has legal dependents other than a spouse;

"(vi) is a single undergraduate student with no dependents who was not claimed as a dependent by his or her parents (or guardian) for income tax purposes for the 2 calendar years preceding the award year and demonstrates to the student financial aid administrator total self-sufficiency during the 2 calendar years preceding the award year in which the initial award will be granted by demonstrating an annual total income of $4,000; or

"(vii) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

"(C) An individual may not be treated as an independent student pursuant to clauses (iii), (iv), and (vi) of subparagraph (B) if the financial aid administrator determines that such individual was treated as an independent student during the preceding award year, but was claimed as a dependent by any

other individual (other than a spouse) for income tax purposes for the first calendar year of such award year.

"(D) The financial aid administrator may certify an individual described in clause (iii), (iv), or (vi) of subparagraph (B) on the basis of a demonstration made by the individual, but no disbursal of an award may be made without documentation.

"(13) The term 'net assets' means the current market value at the time of application of the assets included in the definition of 'assets', minus the outstanding liabilities (indebtedness) against the assets.

"(14) The term 'unreimbursed elementary and secondary school tuition and fees' means the unreimbursed tuition and fees paid by the student's parents for each dependent other than the student, or by an independent student (and spouse) for dependents enrolled in elementary or secondary school, and may not exceed for each such dependent the national average per pupil instructional cost as published by the Center for Education Statistics using the most recent available data.

"(15) The term 'untaxed income and benefits' means—

"(A) investment income upon which no Federal income tax is required to be paid, such as the interest on municipal bonds;

"(B) untaxed portions of capital gains;

"(C) credit for Federal tax on special fuels;

"(D) dividend exclusions and dividend reinvestment exclusions;

"(E) foreign income exclusions;

"(F) child support received;

"(G) welfare benefits, including aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act, and aid to dependent children; 42 USC 601.

"(H) veterans benefits such as Death Pension and Dependency and Indemnity Compensation, except that veterans educational benefits paid under chapters 34 and 35 of title 38 of the United States Code, Veterans' Administration contributory benefits, and Veterans' Administration vocational rehabilitation program benefits for postsecondary education shall not be included; 38 USC 1651 *et. seq.*, 1700 *et seq.*

"(I) untaxed Social Security benefits, including supplemental security income which individuals receive for themselves and for children under age 18;

"(J) interest on tax free bonds;

"(K) housing, food, and other living allowances, excluding rent subsidies for low-income housing, paid to members of the military, the clergy, and others; and

"(L) Job Training Partnership Act noneducational benefits. 29 USC 1501 note.

"(16)(A) The term 'unusual medical and dental expenses' means an amount equal to the amount by which the sum of unreimbursed medical and dental expenses exceeds 20 percent of the effective family income of the parents. The expenses of both parents are included only if the income of both parents is included in determining effective family income. A stepparent's expenses are included only if the parent's income is included in determining effective family income.

"(B) The term 'unusual medical and dental expenses', in the case of an independent student with dependents, means an amount equal to the amount by which the sum of unreimbursed medical and dental expenses exceeds 20 percent of the effective family income of the independent student with dependents. The expenses of both the student and the student's spouse are included only if the incomes of both are included in determining effective family income.

"SUBPART 2—SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

"PURPOSE; APPROPRIATIONS AUTHORIZED

20 USC 1070b.

"SEC. 413A. (a) PURPOSE OF SUBPART.—It is the purpose of this subpart to provide, through institutions of higher education, supplemental grants to assist in making available the benefits of post-secondary education to qualified students who demonstrate financial need in accordance with the provisions of part F of this title.

"(b) AUTHORIZATION OF APPROPRIATIONS.—(1) For the purpose of enabling the Secretary to make payments to institutions of higher education which have made agreements with the Secretary in accordance with section 413C(a), for use by such institutions for payments to undergraduate students of supplemental grants awarded to them under this subpart, there are authorized to be appropriated $490,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(2) Sums appropriated pursuant to this subsection for any fiscal year shall be available for payments to institutions until the end of the second fiscal year succeeding the fiscal year for which they were appropriated.

"AMOUNT AND DURATION OF GRANTS

20 USC 1070b-1.

"SEC. 413B. (a) AMOUNT OF GRANT.—(1) From the funds received by it for such purpose under this subpart, an institution which awards a supplemental grant to a student for an academic year under this subpart shall, for each year, pay to that student an amount not to exceed the lesser of (A) the amount determined by the institution, in accordance with the provisions of part F of this title, to be needed by that student to enable the student to pursue a course of study at the institution, or (B) $4,000.

"(2) If the amount determined under paragraph (1) with respect to a student for any academic year is less than $100, no payment shall be made to that student for that year. For a student enrolled for less than a full academic year, the minimum payment required shall be reduced proportionately.

"(b) PERIOD FOR RECEIPT OF GRANTS; CONTINUING ELIGIBILITY.—(1) The period during which a student may receive supplemental grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student.

"(2) A supplemental grant awarded under this subpart shall entitle the student (to whom it is awarded) to payments pursuant to such grant only if the student meets the requirements of section 484, except as provided in section 413C(c).

"(c) DISTRIBUTION OF GRANT DURING ACADEMIC YEAR.—Nothing in this section shall be construed to prohibit an institution from making payments of varying amounts from a supplemental grant to

a student during an academic year to cover costs for a period which are not applicable to other periods of such academic year.

"AGREEMENTS WITH INSTITUTIONS; SELECTION OF RECIPIENTS

"SEC. 413C. (a) INSTITUTIONAL ELIGIBILITY.—Assistance may be made available under this subpart only to an institution which— 20 USC 1070b-2.

"(1) has, in accordance with section 487, an agreement with the Secretary applicable to this subpart;

"(2) agrees that the Federal share of awards under this subpart will not exceed—

"(A) 95 percent of such awards in fiscal year 1989,

"(B) 90 percent of such awards in fiscal year 1990, and

"(C) 85 percent of such awards in fiscal year 1991,

except that the Federal share may be exceeded if the Secretary determines, pursuant to regulations establishing objective criteria for such determinations, that a larger Federal share is required to further the purpose of this subpart; and

"(3) agrees that the non-Federal share of awards made under this subpart shall be made from the institution's own resources, including—

"(A) institutional grants and scholarships;

"(B) tuition or fee waivers;

"(C) State scholarships; and

"(D) foundation or other charitable organization funds.

"(b) ELIGIBILITY FOR SELECTION.—Awards may be made under this subpart only to a student who—

"(1) is an eligible student under section 484; and

"(2) makes application at a time and in a manner consistent with the requirements of the Secretary and that institution.

"(c) SELECTION OF INDIVIDUALS AND DETERMINATION OF AMOUNT OF AWARDS.—(1) From among individuals who are eligible for supplemental grants for each fiscal year, the institution shall, in accordance with the agreement under section 487, and within the amount allocated to the institution for that purpose for that year under section 413D, select individuals who are to be awarded such grants and determine, in accordance with section 413B, the amounts to be paid to them.

"(2)(A) In carrying out paragraph (1) of this subsection, each institution of higher education shall, in the agreement made under section 487, assure that the selection procedures—

"(i) will be designed to award supplemental grants under this subpart, first, to students with exceptional need, and

"(ii) will give a priority for supplemental grants under this subpart to students who receive Pell Grants and meet the requirements of section 484.

"(B) For the purpose of subparagraph (A), the term 'students with exceptional need' means students with the lowest expected family contributions at the institution.

"(d) USE OF FUNDS FOR LESS-THAN-FULL-TIME STUDENTS.—If the institution's allocation under this subpart is directly or indirectly based in part on the financial need demonstrated by students attending the institution less than full time, a reasonable proportion of the institution's allocation shall be made available to such students.

"(e) USE AND TRANSFER OF FUNDS FOR ADMINISTRATIVE EXPENSES.—An agreement entered into pursuant to this section shall

provide that funds granted to an institution of higher education may be used only to make payments to students participating in a grant program authorized under this subpart, except that an institution may use a portion of the sums allocated to it under this subpart to meet administrative expenses in accordance with section 489 of this title, and may transfer such funds in accordance with the provisions of section 488.

"ALLOCATION OF FUNDS

20 USC 1070b-3.

"SEC. 413D. (a) ALLOCATION BASED ON PREVIOUS ALLOCATION.—(1) From the amount appropriated pursuant to section 413A(b) for each fiscal year, the Secretary shall first allocate to each eligible institution an amount equal to 100 percent of the amount such institution received and used under this subpart for fiscal year 1985.

"(2)(A) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this subpart after fiscal year 1985 but is not a first or second time participant, an amount equal to the greater of—

"(i) $5,000; or

"(ii) 90 percent of the amount received and used under this subpart for the first year it participated in the program.

"(B) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this subpart after fiscal year 1985 and is a first or second time participant, an amount equal to the greatest of—

"(i) $5,000;

"(ii) an amount equal to (I) 90 percent of the amount received and used under this subpart in the second preceding fiscal year by eligible institutions offering comparable programs of instruction, divided by (II) the number of students enrolled at such comparable institutions in such fiscal year, multiplied by (III) the number of students enrolled at the applicant institution in such fiscal year; or

"(iii) 90 percent of the institution's allocation under this part for the preceding fiscal year.

"(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, the Secretary shall allocate to each eligible institution which—

"(i) was a first-time participant in the program in fiscal year 1986 or any subsequent fiscal year, and

"(ii) received a larger amount under this subsection in the second year of participation,

an amount equal to 90 percent of the amount it received under this subsection in its second year of participation.

"(3)(A) If the amount appropriated for any fiscal year is less than the amount required to be allocated to all institutions under paragraph (1) of this subsection, then the amount of the allocation to each such institution shall be ratably reduced.

"(B) If the amount appropriated for any fiscal year is more than the amount required to be allocated to all institutions under paragraph (1) but less than the amount required to be allocated to all institutions under paragraph (2), then—

"(i) the Secretary shall allot the amount required to be allocated to all institutions under paragraph (1), and

"(ii) the amount of the allocation to each institution under paragraph (2) shall be ratably reduced.

"(C) If additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced (until the amount allocated equals the amount required to be allocated under paragraphs (1) and (2) of this subsection).

"(b) ALLOCATION OF EXCESS BASED ON PRO RATA SHARE.—From one-quarter of the remainder of the amount appropriated pursuant to section 413A(b) for any fiscal year (after making the allocations required by subsection (a)), the Secretary shall allocate to each eligible institution an amount which bears the same ratio to such one-quarter as the amount the eligible institution receives for such fiscal year under subsection (a) bears to the amount all such institutions receive under such subsection (a).

"(c) ALLOCATION OF EXCESS BASED ON FAIR SHARE.—(1) From three-quarters of the remainder of the amount appropriated pursuant to section 413A(b) for each year (after making the allocations required by subsection (a)), the Secretary shall allocate to each eligible institution which has an excess eligible amount an amount which bears the same ratio to such remainder as such excess eligible amount bears to the sum of the excess eligible amounts of all such eligible institutions (having such excess eligible amounts).

"(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

"(A)(i) the amount of that institution's need (as determined under subsection (d)), divided by (ii) the sum of the need of all institutions (as so determined), multiplied by (iii) the amount appropriated pursuant to section 413A(b) of the fiscal year; exceeds

"(B) the amount required to be allocated to that institution under subsection (a).

"(d) DETERMINATION OF INSTITUTION'S NEED.—(1) The amount of an institution's need is equal to—

"(A) the sum of the need of the institution's eligible undergraduate students; minus

"(B) the sum of grant aid received by students under subparts 1 and 3 of this part.

"(2) To determine the need of an institution's eligible undergraduate students, the Secretary shall—

"(A) establish various income categories for dependent and independent undergraduate students;

"(B) establish an expected family contribution for each income category of dependent and independent undergraduate students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title) of a representative sample within each income category for the second preceding fiscal year;

"(C) compute 75 percent of the average cost of attendance for all undergraduate students;

"(D) multiply the number of eligible dependent students in each income category by the lesser of—

"(i) 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

"(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category,

except that the amount computed by such subtraction shall not be less than zero;

"(E) add the amounts determined under subparagraph (D) for each income category of dependent students;

"(F) multiply the number of eligible independent students in each income category by the lesser of—

"(i) 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

"(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

"(G) add the amounts determined under subparagraph (F) for each income category of independent students; and

"(H) add the amounts determined under subparagraphs (E) and (G).

"(3)(A) For purposes of paragraph (2), the term 'average cost of attendance' means the average of the attendance costs for undergraduate students and for graduate and professional students, which shall include (i) tuition and fees determined in accordance with subparagraph (B), (ii) standard living expenses determined in accordance with subparagraph (C), and (iii) books and supplies determined in accordance with subparagraph (D).

"(B) The average undergraduate and graduate and professional tuition and fees described in subparagraph (A)(i) shall be computed on the basis of information reported by the institution to the Secretary, which shall include (i) total revenue received by the institution from undergraduate and graduate tuition and fees for the second year preceding the year for which it is applying for an allocation, and (ii) the institution's enrollment for such second preceding year.

"(C) The standard living expense described in subparagraph (A)(ii) is equal to three-fourths in the Pell Grant family size offset for a single independent student.

"(D) The allowance for books and supplies described in subparagraph (A)(iii) is equal to $450.

"(e) REALLOCATION OF EXCESS ALLOCATIONS.—If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year the Secretary shall, in accordance with regulations, reallocate such excess to other institutions.

"(f) FILING DEADLINES.—The Secretary shall, from time to time, set dates before which institutions must file applications for allocations under this part.

"SUBPART 3—GRANTS TO STATES FOR STATE STUDENT INCENTIVES

"PURPOSE; APPROPRIATIONS AUTHORIZED

20 USC 1070c.

"SEC. 415A. (a) PURPOSE OF SUBPART.—It is the purpose of this subpart to make incentive grants available to the States to assist them in providing grants to eligible students attending institutions of higher education and grants to eligible students for campus-based community service work learning study.

"(b) AUTHORIZATION OF APPROPRIATIONS; AVAILABILITY.—(1) There are authorized to be appropriated $85,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(2) Sums appropriated pursuant to paragraph (1) for any fiscal year shall remain available for payments to States under this subpart until the end of the fiscal year succeeding the fiscal year for which such sums were appropriated.

"ALLOTMENT AMONG STATES

"SEC. 415B. (a) ALLOTMENT BASED ON NUMBER OF ELIGIBLE STUDENTS IN ATTENDANCE.—(1) From the sums appropriated pursuant to section 415A(b)(1) for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such sums as the number of students who are deemed eligible in such State for participation in the grant program authorized by this subpart bears to the total number of such students in all the States, except that no State shall receive less than the State received for fiscal year 1979. 20 USC 1070c-1.

"(2) For the purpose of this subsection, the number of students who are deemed eligible in a State for participation in the grant program authorized by this subpart, and the number of such students in all the States, shall be determined for the most recent year for which satisfactory data are available.

"(b) REALLOTMENT.—The amount of any State's allotment under subsection (a) for any fiscal year which the Secretary determines will not be required for such fiscal year for the State student grant incentive program of that State shall be available for reallotment from time to time, on such dates during such year as the Secretary may fix, to other States in proportion to the original allotments to such States under such part for such year, but with such proportionate amount for any of such States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use for such year for carrying out the State plan. The total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this part during a year from funds appropriated pursuant to section 415A(b)(1) shall be deemed part of its allotment under subsection (a) for such year.

"(c) ALLOTMENTS SUBJECT TO CONTINUING COMPLIANCE.—The Secretary shall make payments for continuing incentive grants only to States which continue to meet the requirements of section 415C(b).

"APPLICATIONS FOR STATE STUDENT INCENTIVE GRANT PROGRAMS

"SEC. 415C. (a) SUBMISSION AND CONTENTS OF APPLICATIONS.—A State which desires to obtain a payment under this subpart for any fiscal year shall submit annually an application therefor through the State agency administering its program under this subpart as of July 1, 1985, unless the Governor of that State so designates, in writing, a different agency to administer the program. The application shall contain such information as may be required by, or pursuant to, regulation for the purpose of enabling the Secretary to make the determinations required under this subpart. 20 USC 1070c-2.

"(b) PAYMENT OF FEDERAL SHARE OF GRANTS MADE BY QUALIFIED PROGRAM.—From a State's allotment under this subpart for any fiscal year the Secretary is authorized to make payments to such

State for paying up to 50 percent of the amount of student grants pursuant to a State program which—

"(1) is administered by a single State agency;

"(2) provides that such grants will be in amounts not in excess of $2,500 per academic year (A) for attendance on a full-time basis at an institution of higher education, and (B) for campus-based community service work learning study jobs;

"(3) provides that—

"(A) not more than 20 percent of the allotment to the State for each fiscal year may be used for the purpose described in paragraph (2)(B);

"(B) grants for the campus-based community work learning study jobs may be made only to students who are otherwise eligible for assistance under this subpart; and

"(C) grants for such jobs be made in accordance with the provisions of section 443(b)(1);

"(4) provides for the selection of recipients of such grants or of such State work-study jobs on the basis of substantial financial need determined annually on the basis of criteria established by the State and approved by the Secretary;

"(5) provides that, effective with respect to any academic year beginning on or after October 1, 1978, all nonprofit institutions of higher education in the State are eligible to participate in the State program, except in any State in which participation of nonprofit institutions of higher education is in violation of the constitution of the State or in any State in which participation of nonprofit institutions of higher education is in violation of a statute of the State which was enacted prior to October 1, 1978;

"(6) provides for the payment of the non-Federal portion of such grants or of such work-study jobs from funds supplied by such State which represent an additional expenditure for such year by such State for grants or work-study jobs for students attending institutions of higher education over the amount expended by such State for such grants or work-study jobs, if any, during the second fiscal year preceding the fiscal year in which such State initially received funds under this subpart;

"(7) provides that, if the institution's allocation under this subpart is based in part on the financial need demonstrated by students attending the institution less than full time, a reasonable proportion of the institution's allocation shall be made available to such students;

"(8) provides for State expenditures under such program of an amount not less than the average annual aggregate expenditures for the preceding three fiscal years or the average annual expenditure per full-time equivalent student for such years;

"(9) provides (A) for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State agency under this subpart, and (B) for the making of such reports, in such form and containing such information, as may be reasonably necessary to enable the Secretary to perform his functions under this subpart; and

"(10) for any academic year beginning after June 30, 1987, provides the non-Federal share of the amount of student grants or work-study jobs under this subpart through a direct appropriation of State funds for the program under this subpart.

"(c) RESERVATION AND DISBURSEMENT OF ALLOTMENTS AND REALLOTMENTS.—Upon his approval of any application for a payment under this subpart, the Secretary shall reserve from the applicable allotment (including any applicable reallotment) available therefor, the amount of such payment, which (subject to the limits of such allotment or reallotment) shall be equal to the Federal share of the cost of the students' incentive grants or work-study jobs covered by such application. The Secretary shall pay such reserved amount, in advance or by way of reimbursement, and in such installments as the Secretary may determine. The Secretary may amend the reservation of any amount under this section, either upon approval of an amendment of the application or upon revision of the estimated cost of the student grants or work-study jobs with respect to which such reservation was made. If the Secretary approves an upward revision of such estimated cost, the Secretary may reserve the Federal share of the added cost only from the applicable allotment (or reallotment) available at the time of such approval.

"ADMINISTRATION OF STATE PROGRAMS; JUDICIAL REVIEW

"SEC. 415D. (a) DISAPPROVAL OF APPLICATIONS; SUSPENSION OF ELIGIBILITY.—(1) The Secretary shall not finally disapprove any application for a State program submitted under section 415C, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing. 20 USC 1070c-3.

"(2) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering a State program approved under this subpart, finds—

"(A) that the State program has been so changed that it no longer complies with the provisions of this subpart, or

"(B) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Secretary shall notify such State agency that the State will not be regarded as eligible to participate in the program under this subpart until he is satisfied that there is no longer any such failure to comply.

"(b) REVIEW OF DECISIONS.—(1) If any State is dissatisfied with the Secretary's final action with respect to the approval of its State program submitted under this subpart or with his final action under subsection (a), such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Commissioner shall forthwith certify and file in the court the transcript of the proceedings and the record on which he based his action.

"(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the transcript and record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United

States upon certiorari or certification as provided in title 28, United States Code, section 1254.

"DEFINITION

20 USC 1070c-4.

"SEC. 415E. For the purpose of this subpart, the term 'community service' means services, including direct service, planning, and applied research which are identified by an institution of higher education, through formal or informal consultation with local nonprofit, governmental, and community-based organizations, and which—

"(1) are designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to the needs of such residents, including but not limited to, such fields as health care, child care, education, literary training, welfare, social services, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural development, and community improvement; and

"(2) provide participating students with work-learning opportunities related to their educational or vocational programs or goals.

"SUBPART 4—SPECIAL PROGRAMS FOR STUDENTS FROM DISADVANTAGED BACKGROUNDS

"PROGRAM AUTHORITY; AUTHORIZATION OF APPROPRIATIONS

20 USC 1070d.

"SEC. 417A. (a) GRANTS AND CONTRACTS AUTHORIZED.—The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants and contracts designed to identify qualified individuals from disadvantaged backgrounds, to prepare them for a program of postsecondary education, to provide support services for such students who are pursuing programs of postsecondary education, and to train individuals serving or preparing for service in programs and projects so designed.

"(b) ELIGIBLE GRANT AND CONTRACT RECIPIENTS.—(1) For the purposes described in subsection (a), the Secretary is authorized, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), to make grants to, and contracts with, institutions of higher education, public and private agencies and organizations, and, in exceptional circumstances, secondary schools for planning, developing, or carrying out one or more of the services assisted under this subpart.

"(2) In making grants and contracts under this subpart, the Secretary shall consider the prior experience of service delivery under the particular program for which funds are sought by each applicant. For fiscal years after 1985, the level of consideration given to prior experience shall not vary from the level of consideration given this factor for fiscal year 1985.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants and contracts under this subpart, there are authorized to be appropriated $205,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(d) DEFINITIONS.—For the purpose of this subpart—

"(1) the term 'first generation college student' means—

"(A) an individual both of whose parents did not complete a baccalaureate degree; or

"(B) in the case of any individual who regularly resided with and received support from only one parent, an individual whose only such parent did not complete a baccalaureate degree;

"(2) the term 'low-income individual' means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census; and

"(3) no veteran shall be deemed ineligible to participate in any program under this subpart by reason of such individual's age who— Veterans.

"(A) served on active duty for a period of more than 180 days, any part of which occurred after January 31, 1955, and was discharged or released therefrom under conditions other than dishonorable; or

"(B) served on active duty after January 31, 1955, and was discharged or released therefrom because of a service connected disability.

"TALENT SEARCH

"SEC. 417B. (a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to be known as talent search which shall be designed— 20 USC 1070d-1.

"(1) to identify qualified youths with potential for education at the postsecondary level and to encourage such youths to complete secondary school and to undertake a program of postsecondary education;

"(2) to publicize the availability of student financial assistance available to persons who pursue a program of postsecondary education; and

"(3) to encourage persons who have not completed programs of education at the secondary or postsecondary level, but who have the ability to complete such programs, to reenter such programs.

"(b) TUTORIAL SERVICES.—A talent search project assisted under this subpart may include, in addition to the services described in paragraphs (1), (2), and (3) of subsection (a), tutorial services for youths being encouraged to undertake or reenter programs of postsecondary education if such tutorial services are not otherwise available to such youths through a project assisted under this subpart.

"(c) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for talent search projects under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students; Disadvantaged persons.

"(2) require that such participants be persons who either have completed 6 years of elementary education or are at least 12 years of age but not more than 27 years of age, unless the imposition of any such limitation with respect to any person would defeat the purposes of this section or the purposes of section 417E;

"(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 417E; and

"(4) require assurances that the project will be located in a setting accessible to the persons proposed to be served by the project.

"UPWARD BOUND

20 USC 1070d-1a.

"SEC. 417C. (a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to be known as upward bound which shall be designed to generate skills and motivation necessary for success in education beyond high school.

"(b) PERMISSIBLE SERVICES.—Any upward bound project assisted under the subpart may provide services such as—

"(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond high school;

"(2) personal counseling;

"(3) academic advice and assistance in high school course selection;

"(4) tutorial services;

"(5) exposure to cultural events, academic programs, and other activities not usually available to disadvantaged youth;

"(6) activities designed to acquaint youths participating in the project with the range of career options available to them;

"(7) instruction designed to prepare youths participating in the project for careers in which persons from disadvantaged backgrounds are particularly underrepresented;

"(8) on-campus residential programs; and

"(9) programs and activities as described in paragraphs (1) through (8) which are specially designed for students of limited English proficiency.

"(c) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for upward bound projects under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

Disadvantaged persons.

"(2) require an assurance that the remaining youths participating in the project proposed to be carried out under any application be either low-income individuals or be first generation college students;

"(3) require that there be a determination by the institution, with respect to each participant in such project, that the participant has a need for academic support in order to pursue successfully a program of education beyond high school; and

"(4) require that such participants be persons who have completed 8 years of elementary education and are at least 13 years of age but not more than 19 years of age, unless the imposition of any such limitation would defeat the purposes of this section.

"(d) MAXIMUM STIPENDS.—Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $60 per month during June, July, and August, and not in excess of $40 per month during the remaining period of the year.

"STUDENT SUPPORT SERVICES

"SEC. 417D. (a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to be known as student support services (hereinafter referred to as 'student support services'). 20 USC 1070d-1b.

"(b) PERMISSIBLE SERVICES.—A support services project assisted under this subpart may provide services such as—

"(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond high school;

"(2) personal counseling;

"(3) academic advice and assistance in course selection;

"(4) tutorial services and counseling and peer counseling;

"(5) exposure to cultural events and academic programs not usually available to disadvantaged students;

"(6) activities designed to acquaint students participating in the project with the range of career options available to them;

"(7) activities designed to assist students participating in the project in securing admission and financial assistance for enrollment in graduate and professional programs;

"(8) activities designed to assist students currently enrolled in 2-year institutions in securing admission and financial assistance for enrollment in a four-year program of postsecondary education; and

"(9) programs and activities as described in paragraphs (1) through (8) which are specially designed for students of limited English proficiency.

"(c) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for support services projects under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application—

"(A) be physically handicapped, or

"(B) be low-income individuals who are first generation college students;

"(2) require an assurance that the remaining students participating in the project proposed to be carried out under any application either be low-income individuals, first generation college students, or physically handicapped;

"(3) require that there be a determination by the institution, with respect to each participant in such project, that the participant has a need for academic support in order to pursue successfully a program of education beyond high school;

"(4) require that such participants be enrolled or accepted for enrollment at the institution which is the recipient of the grant or contract; and

"(5) require an assurance from the institution which is the recipient of the grant or contract that each student enrolled in the project will receive sufficient financial assistance to meet that student's full financial need.

"(d) POST-BACCALAUREATE ACHIEVEMENT PROGRAM AUTHORITY.—(1) The Secretary shall carry out a program to be known as the "Post-Baccalaureate Achievement Program".

"(2) A post-baccalaureate achievement project assisted under this subsection may provide services such as—

"(A) opportunities for research or other scholarly activities at the institution or at graduate centers designed to provide students with effective preparation for doctoral study;

"(B) summer internships;

"(C) seminars and other educational activities designed to prepare students for doctoral study;

"(D) tutoring;

"(E) academic counseling; and

"(F) activities designed to assist students participating in the project in securing admission to and financial assistance for enrollment in graduate programs.

"(2) In approving applications for post-baccalaureate achievement projects assisted under this subsection for any fiscal year, the Secretary shall require—

Disadvantaged persons.

"(A) an assurance that not less than two-thirds of the individuals participating in the project proposed to be carried out under any application be low-income individuals who are first-generation college students;

"(B) an assurance that the remaining persons participating in the project proposed to be carried out be from a group that is underrepresented in graduate education;

"(C) an assurance that participants be enrolled in a degree program at an eligible institution in accordance with the provisions of section 487; and

"(D) an assurance that participants in summer research internships have completed their sophomore year in post-secondary education.

"(4) In addition to such other selection criteria as may be prescribed by regulations, the Secretary shall consider in making awards to institutions under this subsection—

"(A) the quality of research and other scholarly activities in which students will be involved;

"(B) the level of faculty involvement in the project and the description of the research in which students will be involved; and

"(C) the institution's plan for identifying and recruiting participants including students enrolled in projects authorized under this subsection.

"(5) Students participating in research under a post-baccalaureate achievement project may receive stipends not to exceed $2,400 per annum.

"(6) No funds shall be allocated to projects authorized under this subsection until projects authorized by the other provisions of this subpart are allocated a minimum of $168,800,000, and in no case shall funds allocated to projects authorized under this subsection exceed—

"(A) $1,000,000 in the fiscal year 1988,

"(B) $2,000,000 in the fiscal year 1989,

"(C) $3,000,000 in the fiscal year 1990, and

"(D) $4,000,000 in the fiscal year 1991.

"EDUCATIONAL OPPORTUNITY CENTERS

20 USC 1070d-1c.

"SEC. 417E. (a) PROGRAM AUTHORITY; SERVICES PROVIDED.—The Secretary shall carry out a program to be known as educational opportunity centers which shall be designed—

"(1) to provide information with respect to financial and academic assistance available for individuals desiring to pursue a program of postsecondary education; and

"(2) to provide assistance to such persons in applying for admission to institutions at which a program of postsecondary education is offered, including preparing necessary applications for use by admissions and financial aid officers.

"(b) TUTORIAL AND COUNSELING SERVICES.—An educational opportunity center assisted under this subpart may provide, in addition to the services described in paragraphs (1) and (2) of subsection (a), tutorial and counseling services for persons participating in the project if such tutorial and counseling services are not otherwise available through a project assisted under this subpart.

"(c) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for educational opportunity centers under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

"(2) require that such participants be persons who are at least nineteen years of age, unless the imposition of such limitation with respect to any person would defeat the purposes of this section or the purposes of section 417B; and

"(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 417B.

"STAFF DEVELOPMENT ACTIVITIES

"SEC. 417F. For the purpose of improving the operation of the programs and projects authorized by this subpart, the Secretary is authorized to make grants to institutions of higher education and other public and private nonprofit institutions and organizations to provide training for staff and leadership personnel employed in, or preparing for employment in, such programs and projects. Such training shall include conferences, internships, seminars, workshops, and the publication of manuals designed to improve the operation of such programs and projects and shall be carried out in the various regions of the Nation in order to ensure that the training opportunities are appropriate to meet the needs in the local areas being served by such programs and projects. Grants for the purposes of this section shall be made only after consultation with regional and State professional associations of persons having special knowledge with respect to the needs and problems of such programs and projects. 20 USC 1070d-1d.

"SUBPART 5—SPECIAL PROGRAMS FOR STUDENTS WHOSE FAMILIES ARE ENGAGED IN MIGRANT AND SEASONAL FARMWORK

"MAINTENANCE AND EXPANSION OF EXISTING PROGRAMS

"SEC. 418A. (a) PROGRAM AUTHORITY.—The Secretary shall maintain and expand existing secondary and postsecondary high school equivalency program and college assistance migrant program projects located at institutions of higher education or at private 20 USC 1070d-2.

nonprofit organizations working in cooperation with institutions of higher education.

"(b) SERVICES PROVIDED BY HIGH SCHOOL EQUIVALENCY PROGRAM.—The services authorized by this subpart for the high school equivalency program include—

"(1) recruitment services to reach persons who are 17 years of age and over, who themselves or whose parents have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork, and who lack a high school diploma or its equivalent;

"(2) educational services which provide instruction designed to help students obtain a general education diploma which meets the guidelines established by the State in which the project is located for high school equivalency;

"(3) supportive services which include the following:

"(A) personal, vocational, and academic counseling;

"(B) placement services designed to place students in a university, college, or junior college program, or in military service or career positions; and

"(C) health services;

"(4) information concerning and assistance in obtaining available student financial aid;

"(5) weekly stipends for high school equivalency program participants;

"(6) housing for those enrolled in residential programs;

"(7) exposure to cultural events, academic programs, and other educational and cultural activities usually not available to migrant youth; and

"(8) other essential supportive services, as needed to ensure the success of eligible students.

"(c) SERVICES PROVIDED BY COLLEGE ASSISTANCE MIGRANT PROGRAM.—Services authorized by this subpart for the college assistance migrant program include—

"(1) outreach and recruitment services to reach persons who themselves or whose parents have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork, and who meet the minimum qualifications for attendance at a college or university;

"(2) supportive and instructional services which include:

"(A) personal, academic, and career counseling as an ongoing part of the program;

"(B) tutoring and academic skill building instruction and assistance;

"(C) assistance with special admissions;

"(D) health services; and

"(E) other services as necessary to assist students in completing program requirements;

"(3) assistance in obtaining student financial aid which includes, but is not limited to:

"(A) stipends;

"(B) scholarships;

"(C) student travel;

"(D) career oriented work study;

"(E) books and supplies;

"(F) tuition and fees;

"(G) room and board; and

"(H) other assistance necessary to assist students in completing their first year of college;

"(4) housing support for students living in institutional facilities and commuting students;

"(5) exposure to cultural events, academic programs, and other activities not usually available to migrant youth; and

"(6) other support services as necessary to ensure the success of eligible students.

"(d) MANAGEMENT PLAN REQUIRED.—Each project application shall include a management plan which contains assurances that staff shall have a demonstrated knowledge and be sensitive to the unique characteristics and needs of the migrant and seasonal farmworker population, and provisions for:

"(1) staff in-service training;

"(2) training and technical assistance;

"(3) staff travel;

"(4) student travel;

"(5) interagency coordination; and

"(6) an evaluation plan.

"(e) THREE-YEAR GRANT PERIOD; CONSIDERATION OF PRIOR EXPERIENCE.—Except under extraordinary circumstances, the Secretary shall award grants for a 3-year period. For the purpose of making grants under this subpart, the Secretary shall consider the prior experience of service delivery under the particular project for which funds are sought by each applicant. Such prior experience shall be awarded the same level of consideration given this factor for applicants for programs authorized by subpart 4 of this part in accordance with section 417A(b)(2).

"(f) MINIMUM ALLOCATIONS.—The Secretary shall not allocate an amount less than—

"(1) $150,000 for each project under the high school equivalency program, and

"(2) $150,000 for each project under the college assistance migrant program.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for this part $9,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"SUBPART 6—ROBERT C. BYRD HONORS SCHOLARSHIP PROGRAM

"STATEMENT OF PURPOSE

"SEC. 419A. It is the purpose of this subpart to establish a Robert C. Byrd Honors Scholarship Program to promote student excellence and achievement and to recognize exceptionally able students who show promise of continued excellence. 20 USC 1070d-31.

"DEFINITION

"SEC. 419B. For the purpose of this subpart— 20 USC 1070d-32.

"(1) the term 'secondary school' has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965; and 20 USC 2854.

"(2) the term 'State' means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SCHOLARSHIPS AUTHORIZED

State and local governments. 20 USC 1070d-33.

"SEC. 419C. (a) PROGRAM AUTHORITY.—The Secretary is authorized, in accordance with the provisions of this subpart, to make grants to States to enable the States to award scholarships to individuals who have demonstrated outstanding academic achievement and who show promise of continued academic achievement.

"(b) PERIOD OF AWARD.—Scholarships under this section shall be awarded for a period of one academic year for the first year of study at an institution of higher education.

"(c) USE AT ANY INSTITUTION PERMITTED.—A student awarded a scholarship under this subpart may attend any institution of higher education.

"(d) BYRD SCHOLARS.—Individuals awarded scholarships under this subpart shall be known as 'Byrd Scholars'.

"ALLOCATION AMONG STATES

20 USC 1070d-34.

"SEC. 419D. From the sums appropriated pursuant to section 419K for any fiscal year, the Secretary shall allocate to each State having an agreement under section 419E—

"(1) $1,500 multiplied by the number of individuals in the State eligible for scholarships pursuant to section 419G(b), plus

"(2) $10,000, plus 5 percent of the amount to which a State is eligible under paragraph (1) of this section.

"AGREEMENTS

20 USC 1070d-35.

"SEC. 419E. The Secretary shall enter into an agreement with each State desiring to participate in the scholarship program authorized by this subpart. Each such agreement shall include provisions designed to assure that—

"(1) the State educational agency will administer the scholarship program authorized by this subpart in the State;

"(2) the State educational agency will comply with the eligibility and selection provisions of this subpart;

"(3) the State educational agency will conduct outreach activities to publicize the availability of scholarships under this subpart to all eligible students in the State, with particular emphasis on activities designed to assure that students from low-income and moderate-income families have access to the information on the opportunity for full participation in the scholarship program authorized by this subpart;

"(4) the State educational agency will pay to each individual in the State who is awarded a scholarship under this subpart $1,500 at an awards ceremony in accordance with section 419I; and

"(5) the State educational agency will use the amount of the allocation described in paragraph (2) of section 419D for administrative expenses, including the conduct of the awards ceremony required by section 419I.

"ELIGIBILITY OF SCHOLARS

20 USC 1070d-36.

"SEC. 419F. (a) HIGH SCHOOL GRADUATION OR EQUIVALENT AND ADMISSION TO INSTITUTION REQUIRED.—Each student awarded a scholarship under this subpart shall be a graduate of a public or private secondary school or have the equivalent of a certificate of

graduation as recognized by the State in which the student resides and must have been admitted for enrollment at an institution of higher education.

"(b) SELECTION BASED ON PROMISE OF ACADEMIC ACHIEVEMENT.—Each student awarded a scholarship under this subpart must demonstrate outstanding academic achievement and show promise of continued academic achievement.

"SELECTION OF SCHOLARS

"SEC. 419G. (a) ESTABLISHMENT OF CRITERIA.—The State educational agency is authorized to establish the criteria for the selection of scholars under this subpart.

State and local governments.
20 USC 1070d-37.

"(b) ADOPTION OF PROCEDURES.—The State educational agency shall adopt selection procedures which are designed to assure that 10 individuals will be selected from among residents of each congressional district in a State (and in the case of the District of Columbia and the Commonwealth of Puerto Rico not to exceed 10 individuals will be selected in such District or Commonwealth).

"(c) CONSULTATION REQUIREMENT.—In carrying out its responsibilities under subsections (a) and (b), the State educational agency shall consult with school administrators school boards, teachers, counselors, and parents.

"STIPENDS AND SCHOLARSHIP CONDITIONS

"SEC. 419H. (a) AMOUNT OF AWARD.—Each student awarded a scholarship under this subpart shall receive a stipend of $1,500 for the academic year of study for which the scholarship is awarded.

20 USC 1070d-38.

"(b) USE OF AWARD.—The State educational agency shall establish procedures to assure that a scholar awarded a scholarship under this subpart pursues a course of study at an institution of higher education.

State and local governments.

"AWARDS CEREMONY

"SEC. 419I. (a) LOCAL CEREMONY.—The State educational agency shall make arrangements to award scholarships under this subpart at a place in each State which is convenient to the individuals selected to receive such scholarships. To the extent possible, the award shall be made by Members of the Senate and Members of the House of Representatives (by the Delegate in the case of the District of Columbia and the Resident Commissioner in the case of the Commonwealth of Puerto Rico) who represent the State, Commonwealth, or District, as the case may be, from which the individuals come.

20 USC 1070d-39.

"(b) TIMING OF SELECTION.—The selection process shall be completed, and the awards made prior to the end of each secondary academic year.

"CONSTRUCTION OF NEEDS PROVISIONS

"SEC. 419J. Nothing in this subpart, or any other Act, shall be construed to permit the receipt of a scholarship under this subpart to be counted for any needs test in connection with the awarding of any grant or the making of any loan under this Act or any other provision of Federal law relating to educational assistance.

20 USC 1070d-40.

"AUTHORIZATION OF APPROPRIATIONS

20 USC 1070d-41.

"SEC. 419K. There are authorized to be appropriated for this subpart $8,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"SUBPART 7—ASSISTANCE TO INSTITUTIONS OF HIGHER EDUCATION

"PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION

Grants.
20 USC 1070e.

"SEC. 420. (a) COST OF EDUCATION PAYMENTS.—Each institution of higher education shall be entitled for each fiscal year to a cost-of-education payment in accordance with the provisions of this section.

"(b) COMPUTATION OF AMOUNT.—(1) The amount of the cost-of-education payment to which an institution shall be entitled under this section for a fiscal year shall be, subject to subsection (d), the amount determined under paragraph (2)(A) plus the amount determined under paragraph (2)(B).

"(2)(A)(i) The Secretary shall determine the amount to which an institution is entitled under this subparagraph on the basis of the total number of undergraduate students who are in attendance at the institution and the number of students who are also recipients of basic grants under subpart 1, in accordance with the following table:

"If the total number of students in attendance is—	The amount of the grant is—
Not over 1,000	$500 for each recipient.
Over 1,000 but not over 2,500	$500 for each of 100 recipients; plus $400 for each recipient in excess of 100.
Over 2,500 but not over 5,000	$500 for each of 100 recipients; plus $400 for each of 150 recipients in excess of 100; plus $300 for each recipient in excess of 250.
Over 5,000 but not over 10,000	$500 for each 100 recipients; plus $400 for each of 150 recipients in excess of 100; plus $300 for each of 250 recipients in excess of 250; plus $200 for each recipient in excess of 500.
Over 10,000	$500 for each of the 100 recipients; plus $400 for each of 150 recipients in excess of 100; plus $300 for each of 250 recipients in excess of 250; plus $200 for each of 500 recipients in excess of 500; plus $100 for each recipient in excess of 1,000.

"(ii) In any case where a recipient of a basic grant under subpart 1 attends an institution receiving a cost-of-education payment under this subpart on less than a full-time basis, the amount determined under this subparagraph with respect to the student shall be reduced in proportion to the degree to which that student is not attending on a full-time basis.

"(iii) If during any period of any fiscal year the funds available for making payments on the basis of entitlements established under this subparagraph are insufficient to satisfy fully all such entitlements, the amount paid with respect to each such entitlement shall be ratably reduced. When additional funds become available for such purpose, the amount of payment from such additional funds shall be in proportion to the degree to which each such entitlement is unsatisfied by the payments made under the first sentence of this division.

"(B)(i) The Secretary shall determine with respect to each institution an amount equal to the appropriate percent (specified on the table below) of the aggregate of—

"(I) supplemental educational opportunity grants under subpart 2;

"(II) work-study payments under part C; and

"(III) loans to students under part E;

made for such year to students who are in attendance at such institution. The Secretary shall determine such amounts on the basis of percentages of such aggregate, and the number of students in attendance at institutions during the most recent academic year ending prior to such fiscal year, in accordance with the following table:

"If the number of students in attendance at the institution is—	The percentage of such aggregate shall be—
Not over 1,000	50 percent.
Over 1,000 but not over 3,000	46 percent.
Over 3,000 but not over 10,000	42 percent.
Over 10,000	38 percent.

"(ii) If during any period of any fiscal year the funds available for making payments on the basis of entitlements established under this subparagraph are insufficient to satisfy fully all such entitlements, the amount paid with respect to each such entitlement shall be ratably reduced. When additional funds become available for such purpose, the amount of payment from such additional funds shall be in proportion to the degree to which each such entitlement is unsatisfied by the payments made under the first sentence of this division.

"(3)(A) In determining the number of students in attendance at institutions of higher education under this subsection, the Secretary shall compute the full-time equivalent of part-time students.

"(B) The Secretary shall make a separate determination of the number of students in attendance at an institution of higher education and the number of recipients of basic grants at any such institution at each branch or separate campus of that institution located in a different community from the principal campus of that institution pursuant to criteria established by him.

"(c) APPLICATIONS; CONTENTS AND MANNER OF FILING.—An institution of higher education may receive a cost-of-education payment in accordance with this section only upon application therefor. An application under this section shall be submitted at such time or times, in such manner, and containing such information as the Secretary determines necessary to carry out his functions under this title, and shall—

"(1) set forth such policies, assurances, and procedures as will ensure that—

"(A) the funds received by the institution under this section will be used solely to defray instructional expenses in academically related programs of the applicant;

"(B) the funds received by the institution under this section will not be used for a school or department of divinity or for any religious worship or sectarian activity;

"(C) the applicant will expend, during the academic year for which a payment is sought, for all academically related programs of the institution, an amount equal to at least the average amount so expended during the 3 years preceding the year for which the grant is sought; and

"(D) the applicant will submit to the Secretary such reports as the Secretary may require by regulation; and

"(2) contain such other statement of policies, assurances, and procedures as the Secretary may require by regulation in order to protect the financial interests of the United States.

"(d) APPORTIONMENT OF APPROPRIATIONS.—(1) The Secretary shall pay to each institution of higher education for each fiscal year the amount to which it is entitled under this section.

"(2) Of the total sums appropriated to make payments on the basis of entitlements established under this section and to make payments under part D of title IX—

"(A) 45 percent shall be available for making payments on the basis of entitlements established under paragraph (2)(A) of subsection (a);

"(B) 45 percent shall be available for making payments on the basis of entitlements established under paragraph (2)(B) of subsection (a); and

"(C) 10 percent shall be available for making payments under part D of title IX.

"(3) No payments on the basis of entitlements established under paragraph (2)(A) of subsection (a) may be made during any fiscal year for which the appropriations for making grants under subpart 1 does not equal at least 50 percent of the appropriation necessary for satisfying the total of all entitlements established under such subpart. In no event shall, during any fiscal year, the aggregate of the payments to which this paragraph applies exceed that percentage of the total entitlements established under such paragraph (2)(A) which equals the percentage of the total entitlements established under subpart 1 which are satisfied by appropriations for such purpose for that fiscal year.

"(e) LIMITATION ON APPROPRIATIONS.—No funds are authorized to be appropriated for this subpart for fiscal year 1987.

"VETERANS EDUCATION OUTREACH PROGRAM

20 USC 1070e-1.

"SEC. 420A. (a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section $5,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(b) SIZE AND DURATION OF AWARDS.—(1) The minimum grant that may be awarded to an institution under this section is $1,000, which may remain available for expenditure over a period not to exceed 2 academic years.

"(2) The amount of the payment to which any institution shall be entitled under this section for any fiscal year shall be—

"(A) $300 for each person who is a veteran receiving vocational rehabilitation under chapter 31 of title 38, United States Code, or a veteran receiving educational assistance under chapter 34 of such title 38, and who is in attendance at such institution as an undergraduate student during such year;

38 USC 1500 *et seq.*
38 USC 1651 *et seq.*

"(B) $150 for each person who is in attendance at such institution as an undergraduate student during such year and who has been the recipient of educational assistance under subchapter V or VI of chapter 34 of such title 38, or who has a service-connected disability as defined in section 101(16) of such title 38, or who is disabled, as determined in accordance with

38 USC 1690 *et seq.*, 1695 *et seq.*
38 USC 101.

regulations promulgated by the Secretary after consultation with the Administrator of Veterans' Affairs; and

"(C) $100 for each person who is in attendance at such institution as an undergraduate student during such year and who has received an honorable discharge from military service but who is no longer eligible to or does not receive educational benefits under chapter 31 or chapter 34 of title 38 of the United States Code.

38 USC 1500 *et seq.*, 1651 *et seq.*

"(3) In any case where a person on behalf of whom a payment is made under this section attends an institution on less than a full-time basis, the amount of the payment on behalf of that person shall be reduced in proportion to the degree to which that person is not attending on a full-time basis.

"(4)(A) The Secretary shall pay to each institution of higher education which has had an application approved under subsection (c) the amount to which it is entitled under this section. If the amount appropriated for any fiscal year is not sufficient to pay the amounts to which all such institutions are entitled, the Secretary shall ratably reduce such payments. If any amounts become available for a fiscal year after such reductions have been imposed, such reduced payments shall be increased on the same basis as they were reduced.

"(B) The maximum amount of payments to any institution of higher education, or any branch thereof which is located in a community which is different from that in which the parent institution thereof is located, in any fiscal year shall be $75,000. In making payments under this section for any fiscal year, the Secretary shall apportion the appropriation for making such payments, from funds which become available as a result of the limitation on payments set forth in the preceding sentence, in such a manner as will result in the receipt by each institution which is eligible for payment under this section of the first $9,000 (or the amount of its entitlement for that fiscal year, but not less than $1,000, whichever is the lesser) and then additional amounts up to the limitation set forth in the preceding sentence.

"(5) Not less than 90 percent of the amounts paid to any institution under paragraph (3)(A) in any fiscal year shall be used to implement the requirement of subsection (c)(2)(C)(i), and to the extent that such funds remain after implementing such requirement, funds limited by such 90 percent requirement shall be used for implementing the requirements of clauses (ii) through (v) of subsection (c)(2)(C), except that the Secretary may, in accordance with criteria established in regulations jointly prescribed by the Secretary with the Administrator, waive the requirement of this subsection to the extent that he finds that such institution is adequately carrying out all such requirements without the necessity for such application of such amount of the payments received under this subsection.

"(c) ELIGIBILITY FOR AWARDS.—(1) During the period beginning July 1, 1987, and ending September 1, 1991, each institution of higher education shall be entitled to a payment under, and in accordance with, this section during any fiscal year if the number of persons who are veterans with honorable discharges and are in attendance as undergraduate students at the institution is at least 100.

"(2) An institution of higher education shall be eligible to receive the payment to which it is entitled under this section only if it

makes application therefor to the Secretary. An application under this section shall be submitted at such time or times, in such manner, in such form and containing such information as the Secretary determines necessary to carry out the functions of the Secretary under this title, and shall—

"(A) set forth such policies, assurances, and procedures as will ensure that—

"(i) the funds received by the institution under this section and available to it after the requirements of subsection (e) have been met will be used solely to defray instructional expenses in academically related programs of the applicant;

"(ii) the funds received by the institution under this section will not be used for a school or department of divinity or for any religious worship or sectarian activity;

"(iii) the applicant will expend, during the academic year for which a payment is sought, for all academically related programs of the institution, an amount equal to at least the average amount so expended during the 3 years preceding the year for which the grant is sought;

"(iv) the applicant will expend, during the academic year for which a payment is sought, for enhancing the functions of the Veterans Education Outreach Program, an amount equal to at least the amount of the award under this section from sources other than this or any other Federal program; and

"(v) the applicant will submit to the Secretary such reports as the Secretary may require by regulation;

"(B) contain such other statement of policies, assurances, and procedures as the Secretary may require by regulation in order to protect the financial interests of the United States; and

"(C) set forth such plans, policies, assurances, and procedures as will ensure that the applicant will make an adequate effort—

"(i) to maintain an office of veterans' affairs which has responsibility for veterans' outreach, recruitment, and special education programs, including the provision of educational, vocational, and personal counseling for veterans,

"(ii) to carry out programs designed to prepare educationally disadvantaged veterans for postsecondary education (I) under subchapter V of chapter 34 of title 38, United States Code, and (II) in the case of any institution located near a military installation, under subchapter VI of such chapter 34,

38 USC 1690 *et seq.*

38 USC 1695 *et seq.*

"(iii) to carry out active outreach (with special emphasis on service-connected disabled veterans, other disabled or handicapped veterans, incarcerated veterans, and educationally disadvantaged veterans), recruiting, and counseling activities through the use of funds available under federally assisted work-study programs (with special emphasis on the veteran-student services program under section 1685 of such title 38),

"(iv) to carry out an active tutorial assistance program for veterans, including dissemination of information regarding such program, with special emphasis on making maximum use of the benefits available under section 1692 of such title 38, and

"(v) to coordinate activities carried out under this part with the readjustment counseling program authorized

under section 612A of title 38, United States Code, and with the programs of veterans employment and training authorized under the Job Training Partnership Act and under chapters 41 and 42 of title 38, United States Code, in order to assist in serving the readjustment, rehabilitation, personal counseling, and employment needs of veterans,

29 USC 1501 note.
38 USC 2000 *et seq.*, 2011 *et seq.*

except that an institution which the Secretary determines, in accordance with regulations jointly prescribed by the Secretary and the Administrator of Veterans' Affairs (hereinafter referred to as the 'Administrator'), cannot feasibly itself, in terms of the number of veterans in attendance there, carry out any or all of the programs set forth in clauses (i) through (v) of subparagraph (C), may carry out such program or programs through a consortium agreement with one or more other institutions of higher education and shall be required to carry out such programs only to the extent that the Secretary determines, in accordance with regulations jointly prescribed by the Secretary and the Administrator, is appropriate in terms of the number of veterans in attendance at such institution. The adequacy of efforts to meet the requirements of subparagraph (C) of this paragraph shall be determined by the Secretary, based upon the recommendations of the Administrator, in accordance with criteria established in regulations jointly prescribed by the Secretary and the Administrator.

"(3) The Secretary shall not approve an application under this subsection unless he determines that the applicant will implement the requirements of subparagraph (C) of paragraph (1) within the first academic year during which it receives a payment under this section.

"(4) Any institution which has been eligible under this section prior to September 30, 1985, for a continuous period of three of the last five years shall be determined eligible under the terms of this section.

"(d) COORDINATION OF PROGRAMS.—The Secretary, in carrying out the provisions of this section, shall seek to assure the coordination of programs assisted under this section with programs carried out by the Veterans' Administration pursuant to title 38, United States Code, and the Administrator shall provide all assistance, technical consultation, and information otherwise authorized by law as necessary to promote the maximum effectiveness of the activities and programs assisted under this section.

"(e) ADMINISTRATION OF PROGRAM.—The program provided for in this section shall be administered by an identifiable administrative unit in the Department.

"(f) DISSEMINATION OF INFORMATION.—From the amounts appropriated for this section, the Secretary shall retain one percent or $10,000, whichever is less, for the purpose of collecting information about exemplary Veterans Educational Outreach Programs and disseminating that information to other institutions of higher education having such programs on their campuses. Such collection and dissemination shall be done on an annual basis.

"SUBPART 8—SPECIAL CHILD CARE SERVICES FOR DISADVANTAGED COLLEGE STUDENTS

"SPECIAL CHILD CARE SERVICES FOR DISADVANTAGED COLLEGE STUDENTS

Grants.
20 USC 1070f.

"SEC. 420B. (a) PROGRAM AUTHORITY.—Funds appropriated pursuant to subsection (c) shall be used by the Secretary to make grants to institutions of higher education to provide special child care services to disadvantaged students.

"(b) APPLICATIONS.—Any institution wishing to receive a grant under this section shall submit an application to the Secretary. Such application shall include—

"(1) a description of the program to be established;

"(2) assurances by the applicant to the Secretary that—

"(A) not less than two-thirds of the participants in the program are low-income individuals;

"(B) the remaining participants in the program are either low-income individuals;

"(C) the participants require the services to pursue a successful program of education beyond high school;

"(D) the participants are enrolled at the institution which is the recipient of the grant;

"(E) all participants will receive sufficient assistance (under this subpart, other provisions of this title, or otherwise) to meet that student's full financial need for child care services related to such enrollment; and

"(F) the institution will meet such need of participants by providing child care through vouchers, contracted services, or direct provision of services; and

"(3) such information (and meet such conditions) as may be required by the Secretary.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the purpose of this section, $10,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(d) DEFINITIONS.—For the purpose of this subpart—

"(1) the term 'first generation college student' means—

"(A) an individual both of whose parents did not complete a baccalaureate degree; or

"(B) in the case of any individual who regularly resided with and received support from only one parent, an individual whose only such parent did not complete a baccalaureate degree; and

"(2) the term 'low-income individual' means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.".

20 USC 1070a-1 note.

(b) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), sections 411A through 411F of the Act as amended by this section shall apply with respect to the determination of need for Pell Grants for academic years beginning with academic year 1988-1989. With respect to any preceding academic year, such determinations shall be made in accordance with regulations prescribed by the Secretary of Education in accordance with the Student Financial Assistance Technical Amendments Act of 1982.

20 USC 1001 note.

(2) The definition of independent student contained in section 411F(12) of the Act as amended by this section shall apply with respect to the determination of such need for academic years beginning with academic year 1987-1988. 20 USC 1070a-1 note.

(3) Section 411(c) of the Act as amended by this section shall apply only to individuals who receive a Pell Grant for the first time for a period of enrollment beginning on or after July 1, 1987. 20 USC 1070a note.

(4) Section 411(f) of the Act as amended by this section shall apply to the awarding of Pell Grants for periods of enrollment beginning on or after July 1, 1987. 20 USC 1070a note.

(5) Section 413C(c)(2) of the Act as amended by this section shall apply to the awarding of grants under subpart 2 of part A of title IV of the Act for periods of enrollment beginning on or after July 1, 1987. 20 USC 1070b-2 note.

(6) The changes made in section 417D of the Act shall apply with respect to grants awarded under such section in fiscal year 1988 or any succeeding fiscal year. 20 USC 1070d-1b note.

SEC. 402. EXTENSION OF GUARANTEED STUDENT LOAN PROGRAM.

(a) AMENDMENT.—Part B of title IV of the Act (20 U.S.C. 1071 et seq.) is amended to read as follows:

"PART B—GUARANTEED STUDENT LOAN PROGRAM

"STATEMENT OF PURPOSE; NONDISCRIMINATION; AND APPROPRIATIONS AUTHORIZED

"SEC. 421. (a) PURPOSE; DISCRIMINATION PROHIBITED.— State and local governments. Insurance.

"(1) PURPOSE.—The purpose of this part is to enable the Secretary— 20 USC 1071.

"(A) to encourage States and nonprofit private institutions and organizations to establish adequate loan insurance programs for students in eligible institutions (as defined in section 435),

"(B) to provide a Federal program of student loan insurance for students or lenders who do not have reasonable access to a State or private nonprofit program of student loan insurance covered by an agreement under section 428(b),

"(C) to pay a portion of the interest on loans to qualified students which are insured under this part, and

"(D) to guarantee a portion of each loan insured under a program of a State or of a nonprofit private institution or organization which meets the requirements of section 428(a)(1)(B).

"(2) DISCRIMINATION BY CREDITORS PROHIBITED.—No agency, organization, institution, bank, credit union, corporation, or other lender who regularly extends, renews, or continues credit or provides insurance under this part shall exclude from receipt or deny the benefits of, or discriminate against any borrower or applicant in obtaining, such credit or insurance on the basis of race, national origin, religion, sex, marital status, age, or handicapped status.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part—

"(1) there are authorized to be appropriated to the student loan insurance fund (established by section 431) (A) the sum of

$1,000,000, and (B) such further sums, if any, as may become necessary for the adequacy of the student loan insurance fund,

"(2) there are authorized to be appropriated, for payments under section 428 with respect to interest on student loans and for payments under section 437, such sums for the fiscal year ending June 30, 1966, and succeeding fiscal years, as may be required therefor,

"(3) there is authorized to be appropriated the sum of $17,500,000 for making advances pursuant to section 422 for the reserve funds of State and nonprofit private student loan insurance programs,

"(4) there are authorized to be appropriated (A) the sum of $12,500,000 for making advances after June 30, 1968, pursuant to sections 422 (a) and (b), and (B) such sums as may be necessary for making advances pursuant to section 422(c), for the reserve funds of State and nonprofit private student loan insurance programs, and

"(5) there are authorized to be appropriated such sums as may be necessary for the purpose of paying an administrative cost allowance in accordance with section 428(f) to guaranty agencies.

Sums appropriated under paragraphs (1), (2), (4), and (5) of this subsection shall remain available until expended. No additional sums are authorized to be appropriated under paragraph (3) or (4) of this subsection by reason of the reenactment of such paragraphs by the Higher Education Amendments of 1986.

"ADVANCES FOR RESERVE FUNDS OF STATE AND NONPROFIT PRIVATE LOAN INSURANCE PROGRAMS

20 USC 1072.

"SEC. 422. (a) PURPOSE OF AND AUTHORITY FOR ADVANCES TO RESERVE FUNDS.—

"(1) PURPOSE; ELIGIBLE RECIPIENTS.—From sums appropriated pursuant to paragraphs (3) and (4)(A) of section 421(b), the Secretary is authorized to make advances to any State with which the Secretary has made an agreement pursuant to section 428(b) for the purpose of helping to establish or strengthen the reserve fund of the student loan insurance program covered by that agreement. If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 428(b), and the Secretary determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Secretary may make advances for such year for the same purpose to one or more nonprofit private institutions or organizations with which the Secretary has made an agreement pursuant to section 428(b) in order to enable students in the State to participate in a program of student loan insurance covered by such an agreement. The Secretary may make advances under this subsection both to a State program (with which he has such an agreement) and to one or more nonprofit private institutions or organizations (with which he has such an agreement) in that State if he determines that such advances are necessary in order that students in each eligible institution have access through such institution to a student loan insurance program which meets the requirements of section 428(b)(1).

"(2) MATCHING REQUIREMENT.—No advance shall be made after June 30, 1968, unless matched by an equal amount from non-Federal sources. Such equal amount may include the unencumbered non-Federal portion of a reserve fund. As used in the preceding sentence, the term 'unencumbered non-Federal portion' means the amount (determined as of the time immediately preceding the making of the advance) of the reserve fund less the greater of—

"(A) the sum of—

"(i) advances made under this section prior to July 1, 1968;

"(ii) an amount equal to twice the amount of advances made under this section after June 30, 1968, and before the advance for purposes of which the determination is made; and

"(iii) the proceeds of earnings on advances made under this section; or

"(B) any amount which is required to be maintained in such fund pursuant to State law or regulation, or by agreement with lenders, as a reserve against the insurance of outstanding loans.

"(3) TERMS AND CONDITIONS; REPAYMENT.—Advances pursuant to this subsection shall be upon such terms and conditions (including conditions relating to the time or times of payment) consistent with the requirements of section 428(b) as the Secretary determines will best carry out the purpose of this section. Advances made by the Secretary under this subsection shall be repaid within such period as the Secretary may deem to be appropriate in each case in the light of the maturity and solvency of the reserve fund for which the advance was made.

"(b) LIMITATIONS ON TOTAL ADVANCES.—

"(1) IN GENERAL.—The total of the advances from the sums appropriated pursuant to paragraph (4)(A) of section 421(b) to nonprofit private institutions and organizations for the benefit of students in any State and to such State may not exceed an amount which bears the same ratio to such sums as the population of such State aged 18 to 22, inclusive, bears to the population of all the States aged 18 to 22 inclusive, but such advances may otherwise be in such amounts as the Secretary determines will best achieve the purposes for which they are made. The amount available for advances to any State shall not be less than $25,000 and any additional funds needed to meet this requirement shall be derived by proportionately reducing (but not below $25,000) the amount available for advances to each of the remaining States.

"(2) CALCULATION OF POPULATION.—For the purpose of this subsection, the population aged 18 to 22, inclusive, of each State and of all the States shall be determined by the Secretary on the basis of the most recent satisfactory data available to him.

"(c) ADVANCES FOR INSURANCE OBLIGATIONS.—

"(1) USE FOR PAYMENT OF INSURANCE OBLIGATIONS.—From sums appropriated pursuant to section 421(b)(4)(B), the Secretary shall advance to each State which has an agreement with the Secretary under section 428(c) with respect to a student loan insurance program, an amount determined in accordance with paragraph (2) of this subsection to be used for the purpose of

making payments under the State's insurance obligations under such program.

"(2) AMOUNT OF ADVANCES.—(A) Except as provided in subparagraph (B), the amount to be advanced to each such State shall be equal to 10 percent of the principal amount of loans made by lenders and insured by such agency on those loans on which the first payment of principal became due during the fiscal year immediately preceding the fiscal year in which the advance is made.

"(B) The amount of any advance determined according to subparagraph (A) of this paragraph shall be reduced by—

"(i) the amount of any advance or advances made to such State pursuant to this subsection at an earlier date; and

"(ii) the amount of the unspent balance of the advances made to a State pursuant to subsection (a).

Notwithstanding subparagraph (A) and the preceding sentence of this subparagraph, but subject to subparagraph (D) of this paragraph, the amount of any advance to a State described in paragraph (5)(A) for the first year of its eligibility under such paragraph, and the amount of any advance to any State described in paragraph (5)(B) for each year of its eligibility under such paragraph, shall not be less than $50,000.

"(C) For the purpose of subparagraph (B), the unspent balance of the advances made to a State pursuant to subsection (a) shall be that portion of the balance of the State's reserve fund (remaining at the time of the State's first request for an advance pursuant to this subsection) which bears the same ratio to such balance as the Federal advances made and not returned by such State, pursuant to subsection (a), bears to the total of all past contributions to such reserve funds from all sources (other than interest on investment of any portion of the reserve fund) contributed since the date such State executed an agreement pursuant to section 428(b).

"(D) If the sums appropriated for any fiscal year for paying the amounts determined under subparagraphs (A) and (B) are not sufficient to pay such amounts in full, then such amounts shall be reduced—

"(i) by ratably reducing that portion of the amount allocated to each State which exceeds $50,000; and

"(ii) if further reduction is required, by equally reducing the $50,000 minimum allocation of each State.

If additional sums become available for paying such amounts for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

"(3) USE OF EARNINGS FOR INSURANCE OBLIGATIONS.—The earnings, if any, on any investments of advances received pursuant to this subsection must be used for making payments under the State's insurance obligations.

"(4) REPAYMENT OF ADVANCES.—Advances made by the Secretary under this subsection shall, subject to subsection (d), be repaid within such period as the Secretary may deem to be appropriate and shall be deposited in the fund established by section 431.

"(5) LIMITATION ON NUMBER OF ADVANCES.—Advances pursuant to this subsection shall be made to a State—

"(A) in the case of a State which is actively carrying on a program under an agreement pursuant to section 428(b) which was entered into before October 12, 1976, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the 2 succeeding calendar years after the date so requested; and

"(B) in the case of a State which enters into an agreement pursuant to section 428(b) on or after October 12, 1976, or which is not actively carrying on a program under an agreement pursuant to such section on such date, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the 4 succeeding calendar years after the date so requested of the advance.

"(6) PAYMENT OF ADVANCES WHERE NO STATE PROGRAM.—(A) If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 428(b), and the Secretary determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Secretary may make advances pursuant to this subsection for such year for the same purpose to one or more nonprofit private institutions or organizations with which he has made an agreement pursuant to subsection (c), as well as subsection (b), of section 428 and subparagraph (B) of this paragraph in order to enable students in that State to participate in a program of student loan insurance covered by such agreements.

"(B) The Secretary may enter into an agreement with a private nonprofit institution or organization for the purpose of this paragraph under which such institution or organization—

"(i) agrees to establish within such State at least one office with sufficient staff to handle written and telephone inquiries from students, eligible lenders, and other persons in the State, to encourage maximum commercial lender participation within the State, and to conduct periodic visits to at least the major eligible lenders within the State;

"(ii) agrees that its insurance will not be denied any student because of his or her choice of eligible institutions; and

"(iii) certifies that it is neither an eligible institution, nor has any substantial affiliation with an eligible institution.

"(d) RECOVERY OF ADVANCES DURING FISCAL YEARS 1988 AND 1989.—

"(1) AMOUNT AND USE OF RECOVERED FUNDS.—Notwithstanding any other provision of this section, advances made by the Secretary under this section shall be repaid in accordance with this subsection and shall be deposited in the fund established by section 431. The Secretary shall, in accordance with the requirements of paragraph (2), recover (and so deposit) an amount equal to $75,000,000 during fiscal year 1988 and an amount equal to $35,000,000 for fiscal year 1989.

"(2) DETERMINATION OF GUARANTY AGENCY OBLIGATIONS.—In determining the amount of advances which shall be repaid by a guaranty agency under paragraph (1), the Secretary—

"(A) shall consider the solvency and maturity of the reserve and insurance funds of the guaranty agency assisted by such advances, as determined by the Comptroller

General taking into account the requirements of State law as in effect on the date of enactment of the Higher Education Amendments of 1986;

"(B) shall not seek repayment of such advances from any State described in subsection (c)(5)(B) during any year of its eligibility under such subsection; and

"(C) shall not seek repayment of such advances from any State if such repayment encumbers the reserve fund requirement of State law as in effect on such date of enactment.

"EFFECTS OF ADEQUATE NON-FEDERAL PROGRAMS

20 USC 1073.

"SEC. 423. (a) FEDERAL INSURANCE BARRED TO LENDERS WITH ACCESS TO STATE OR PRIVATE INSURANCE.—Except as provided in subsection (b), the Secretary shall not issue certificates of insurance under section 429 to lenders in a State if the Secretary determines that every eligible institution has reasonable access in that State to a State or private nonprofit student loan insurance program which is covered by an agreement under section 428(b).

"(b) EXCEPTIONS.—The Secretary may issue certificates of insurance under section 429 to a lender in a State—

"(1) for insurance of a loan made to a student borrower who does not, by reason of the borrower's residence, have access to loan insurance under the loan insurance program of such State (or under any private nonprofit loan insurance program which has received an advance under section 422 for the benefit of students in such State);

"(2) for insurance of all the loans made to student borrowers by a lender who satisfies the Secretary that, by reason of the residence of such borrowers, such lender will not have access to any single State or nonprofit private loan insurance program which will insure substantially all of the loans such lender intends to make to such student borrowers; or

"(3) under such circumstances as may be approved by the guaranty agency in such State, for the insurance of a loan to a borrower for whom such lender previously was issued such a certificate if the loan covered by such certificate is not yet repaid.

"SCOPE AND DURATION OF FEDERAL LOAN INSURANCE PROGRAM

20 USC 1074.

"SEC. 424. (a) LIMITATIONS ON AMOUNTS OF LOANS COVERED BY FEDERAL INSURANCE.—The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 435) to students covered by Federal loan insurance under this part shall not exceed $2,000,000,000 for the period from July 1, 1976, to September 30, 1976, and for each of the succeeding fiscal years ending prior to October 1, 1992. Thereafter, Federal loan insurance pursuant to this part may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this part, to continue or complete their educational program; but no insurance may be granted for any loan made or installment paid after September 30, 1997.

"(b) APPORTIONMENT OF AMOUNTS.—The Secretary may, if he or she finds it necessary to do so in order to assure an equitable

distribution of the benefits of this part, assign, within the maximum amounts specified in subsection (a), Federal loan insurance quotas applicable to eligible lenders, or to States or areas, and may from time to time reassign unused portions of these quotas.

"LIMITATIONS ON INDIVIDUAL FEDERALLY INSURED LOANS AND ON FEDERAL LOAN INSURANCE

"SEC. 425. (a) ANNUAL AND AGGREGATE LIMITS.— 20 USC 1075.

"(1) ANNUAL LIMITS.—(A) The total of loans made to a student in any academic year or its equivalent (as determined by the Secretary) which may be covered by Federal loan insurance under this part may not exceed—

"(i) $2,625, in the case of a student who has not successfully completed the first and second year of a program of undergraduate education;

"(ii) $4,000, in the case of a student who has successfully completed such first and second year but who has not successfully completed the remainder of a program of undergraduate education; or

"(iii) $7,500, in the case of a graduate or professional student (as defined in regulations of the Secretary).

"(B) The annual insurable limits contained in subparagraph (A) shall not apply in cases where the Secretary determines, pursuant to regulations, that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education. The annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any year in excess of the annual limit.

"(2) AGGREGATE LIMITS.—(A) The aggregate insured unpaid principal amount for all such insured loans made to any student shall not at any time exceed—

"(i) $17,250, in the case of any student who has not successfully completed a program of undergraduate education; and

"(ii) $54,750, in the case of any graduate or professional student (as defined by regulations of the Secretary and including any loans which are insured by the Secretary under this part, or by a guaranty agency, made to such person before he or she became a graduate or professional student).

"(B) The Secretary may increase the aggregate insurable limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive.

"(b) LEVEL OF INSURANCE COVERAGE BASED ON DEFAULT RATE.—

"(1) REDUCTION FOR DEFAULTS IN EXCESS OF 5 OR 9 PERCENT.—(A) Except as provided in subparagraph (B), the insurance liability on any loan insured by the Secretary under this part shall be 100 percent of the unpaid balance of the principal amount of the loan plus interest, except that—

"(i) if, for any fiscal year, the total amount of payments under section 430 by the Secretary to any eligible lender as described in section 435(d)(1)(D) exceeds 5 percent of the sum of the loans made by such lender which are insured by the Secretary and which were in repayment at the end of

the preceding fiscal year, the insurance liability under this subsection for that portion of such excess which represents loans insured after the applicable date with respect to such loans, as determined under subparagraph (C), shall be equal to 90 percent of the amount of such portion; or

"(ii) if, for any fiscal year, the total amount of such payments to such a lender exceeds 9 percent of such sum, the insurance liability under this subsection for that portion of such excess which represents loans insured after the applicable date with respect to such loans, as determined under subparagraph (C), shall be equal to 80 percent of the amount of such portion.

"(B) Notwithstanding subparagraph (A), the provisions of clauses (i) and (ii) of such subparagraph shall not apply to an eligible lender as described in section 435(d)(1)(D) for the fiscal year in which such lender begins to carry on a loan program insured by the Secretary, or for any of the 4 succeeding fiscal years.

State and local governments. Securities.

"(C) The applicable date with respect to a loan made by an eligible lender as described in section 435(d)(1)(D) shall be—

"(i) the 90th day after the adjournment of the next regular session of the appropriate State legislature which convenes after the date of enactment of the Education Amendments of 1976, or

20 USC 1001 note.

"(ii) if the primary source of lending capital for such lender is derived from the sale of bonds, and the constitution of the appropriate State prohibits a pledge of such State's credit as security against such bonds, the day which is one year after such 90th day.

"(2) COMPUTATION OF AMOUNTS IN REPAYMENT.—For the purpose of this subsection, the sum of the loans made by a lender which are insured by the Secretary and which are in repayment shall be the original principal amount of loans made by such lender which are insured by the Secretary reduced by—

"(A) the amount the Secretary has been required to pay to discharge his or her insurance obligations under this part;

"(B) the original principal amount of loans insured by the Secretary which have been fully repaid;

"(C) the original principal amount insured on those loans for which payment of first installment of principal has not become due pursuant to section 427(a)(2)(B) or such first installment need not be paid pursuant to section 427(a)(2)(C); and

"(D) the original principal amount of loans repaid by the Secretary under section 437.

"(3) PAYMENTS TO ASSIGNEES.—For the purpose of this subsection, payments by the Secretary under section 430 to an assignee of the lender with respect to a loan shall be deemed payments made to such lender.

"(4) PLEDGE OF FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 430 or 437 of this part.

"SOURCES OF FUNDS

"SEC. 426. Loans made by eligible lenders in accordance with this part shall be insurable by the Secretary whether made from funds fully owned by the lender or from funds held by the lender in a trust or similar capacity and available for such loans. 20 USC 1076.

"ELIGIBILITY OF STUDENT BORROWERS AND TERMS OF FEDERALLY INSURED STUDENT LOANS

"SEC. 427. (a) LIST OF REQUIREMENTS.—Except as provided in section 428C, a loan by an eligible lender shall be insurable by the Secretary under the provisions of this part only if— 20 USC 1077.

"(1) made to a student who (A) is an eligible student under section 484, (B) has agreed to notify promptly the holder of the loan concerning any change of address, and (C) is carrying at least one-half the normal full-time academic workload for the course of study the student is pursuing (as determined by the institution); and

"(2) evidenced by a note or other written agreement which—

"(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by the borrower would not, under the applicable law, create a binding obligation, endorsement may be required;

"(B) provides for repayment (except as provided in subsection (c)) of the principal amount of the loan in installments over a period of not less than 5 years (unless sooner repaid or unless the student, during the 6 months preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than 10 years beginning 6 months after the month in which the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, except—

"(i) as provided in subparagraph (C);

"(ii) that the note or other written instrument may contain such reasonable provisions relating to repayment in the event of default in the payment of interest or in the payment of the cost of insurance premiums, or other default by the borrower, as may be authorized by regulations of the Secretary in effect at the time the loan is made; and

"(iii) that the lender and the student, after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, may agree to a repayment schedule which begins earlier, or is of shorter duration, than required by this subparagraph, but in the event a borrower has requested and obtained a repayment period of less than 5 years, the borrower may at any time prior to the total repayment of the loan, have the repayment period extended so that the total repayment period is not less than 5 years;

"(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

"(i) during which the borrower (I) is pursuing a full-time course of study at an eligible institution, (II) is pursuing at least a half-time course of study (as determined by such institution) during an enrollment period for which the student has obtained a loan under this part, or (III) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary;

Armed Forces.

"(ii) not in excess of 3 years during which the borrower is a member of the Armed Forces of the United States, is an active duty member of the National Oceanic and Atmospheric Administration Corps, or is an officer in the Commissioned Corps of the Public Health Service;

Voluntarism.

22 USC 2501 note.

"(iii) not in excess of 3 years during which the borrower is in service as a volunteer under the Peace Corps Act;

42 USC 4951 note.

"(iv) not in excess of 3 years during which the borrower is in service as a full-time volunteer under the Domestic Volunteer Service Act of 1973;

26 USC 501.

"(v) not in excess of 3 years during which the borrower is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954;

"(vi) not in excess of 3 years during which the borrower is engaged as a full-time teacher in a public or private elementary or secondary school in a teacher shortage area established by the Secretary pursuant to section 428(b)(4);

"(vii) not in excess of 2 years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service;

"(viii) not in excess of 3 years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a dependent who is so disabled;

"(ix) not in excess of 24 months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment;

"(x) not in excess of 6 months of parental leave; or

29 USC 206.

"(xi) not in excess of 12 months for mothers with preschool age children who are just entering or reentering the work force and who are compensated at a rate not exceeding $1 in excess of the rate prescribed under section 6 of the Fair Labor Standards Act of 1938,

and that any such period shall not be included in determining the 10-year period provided in subparagraph (B);

"(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maximum rate prescribed in section 427A, which interest

shall be payable in installments over the period of the loan except that, if provided in the note or other written agreement, any interest payable by the student may be deferred until not later than the date upon which repayment of the first installment of principal falls due, in which case interest accrued during that period may be added on that date to the principal;

"(E) provides that the lender will not collect or attempt to collect from the borrower any portion of the interest on the note which is payable by the Secretary under this part, and that the lender will enter into such agreements with the Secretary as may be necessary for the purpose of section 437;

"(F) entitles the student borrower to accelerate without penalty repayment of the whole or any part of the loan;

"(G)(i) contains a notice of the system, of disclosure of information concerning such loan to credit bureau organizations under section 430A, and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations; and

"(H) contains such other terms and conditions, consistent with the provisions of this part and with the regulations issued by the Secretary pursuant to this part, as may be agreed upon by the parties to such loan, including, if agreed upon, a provision requiring the borrower to pay the lender, in addition to principal and interest, amounts equal to the insurance premiums payable by the lender to the Secretary with respect to such loan;

"(3) the funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except nothing in this title shall be interpreted to allow the Secretary to require checks to be made co-payable to the institution and the borrower or to prohibit the disbursement of loan proceeds by means other than by check; and

"(4) in the case of any loan made for any period of enrollment that ends more than 180 days (or 6 months) after the date disbursement is scheduled to occur, and for an amount of more than $1,000, the proceeds of the loan will, subject to subsection (b), be disbursed directly by the lender in two or more installments, none of which exceeds one-half of the loan, with the second installment being disbursed after not less than one-third of such period (except as necessary to permit the second installment to be disbursed at the beginning of the second semester, quarter, or similar division of such period of enrollment).

"(b) SPECIAL RULES FOR MULTIPLE DISBURSEMENT.—For the purpose of subsection (a)(4)—

"(1) all loans issued for the same period of enrollment shall be considered as a single loan; and

"(2) the requirements of such subsection shall not apply in the case of a loan made under section 428A, 428B, or 428C, or made to a student to cover the cost of attendance at an eligible institution outside the United States.

"(c) MINIMUM REPAYMENT RATE.—The total of the payments by a borrower during any year of any repayment period with respect to

the aggregate amount of all loans to that borrower which are insured under this part shall not, unless the borrower and the lender otherwise agree, be less than $600 or the balance of all such loans (together with interest thereon), whichever amount is less, except that in the case of a husband and wife, both of whom have such loans outstanding, the total of the combined payments for such a couple during any year shall not be less than $600 or the balance of all such loans, whichever is less.

"APPLICABLE INTEREST RATES

20 USC 1077a.

"SEC. 427A. (a) RATES TO BE CONSISTENT FOR BORROWER'S ENTIRE DEBT.—With respect to any loan to cover the cost of instruction for any period of instruction beginning on or after January 1, 1981, the rate of interest applicable to any borrower shall—

"(1) not exceed 7 percent per year on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has an outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, for which the interest rate does not exceed 7 percent;

"(2) except as provided in paragraph (3), be 9 percent per year on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has no outstanding balance of principal or interest on any loan described in paragraph (1) or any loan for which the interest rate is determined under paragraph (1); or

"(3) be 8 percent per year on the unpaid principal balance of the loan for a loan to cover the cost of education for any period of enrollment beginning on or after a date which is 3 months after a determination made under subsection (b) in the case of any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan for which the interest rate is determined under paragraph (1) or (2) of this subsection.

"(b) REDUCTION FOR NEW BORROWERS AFTER DECLINE IN TREASURY BILL RATES.—If for any 12-month period beginning on or after January 1, 1981, the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period is equal to or less than 9 percent, the interest rate for loans under this part shall be the rate prescribed in subsection (a)(3) for borrowers described in such subsection.

"(c) RATES FOR SUPPLEMENTAL LOANS FOR STUDENTS AND LOANS FOR PARENTS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the applicable rate of interest on loans made pursuant to section 428A or 428B on or after October 1, 1981, shall be 14 percent per year on the unpaid principal balance of the loan.

"(2) REDUCTION OF RATE AFTER DECLINE IN TREASURY BILL RATES.—If for any 12-month period beginning on or after October 1, 1981, the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period is equal to or less than 14 percent, the applicable rate of interest for loans made pursuant to section 428A or 428B

on and after the first day of the first month beginning after the date of publication of such determination shall be 12 percent per year on the unpaid principal balance of the loan.

"(3) INCREASE OF RATE AFTER INCREASE IN TREASURY BILL RATES.—If for any 12-month period beginning on or after the date of publication of a determination under paragraph (2), the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period exceeds 14 percent, the applicable rate of interest for loans made pursuant to section 428A or 428B on and after the first day of the first month beginning after the date of publication of that determination under this paragraph shall be 14 percent per year on the unpaid principal balance of the loan. Securities.

"(4) AVAILABILITY OF VARIABLE RATES.—(A) For any loan made pursuant to section 428A or 428B to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1987, or any loan made pursuant to such section prior to such date that is refinanced pursuant to section 428A(d) or 428B(d), the applicable rate of interest during any calendar year shall be determined under subparagraph (B), except that such rate shall not exceed 12 percent.

"(B) For any calendar year, the rate determined under this subparagraph is determined on December 15 preceding such calendar year and is equal to—

"(i) the average of the bond equivalent rates of 91-day Treasury bills auctioned during the 12 months ending on November 30 preceding such calendar year; plus

"(ii) 3.75 percent.

"(C) The Secretary shall determine the applicable rate of interest under subparagraph (B) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination. Federal Register, publication.

"(d) INTEREST RATES FOR NEW BORROWERS AFTER JULY 1, 1988.—Notwithstanding subsections (a) and (b) of this section, with respect to any loan (other than a loan made pursuant to sections 428A, 428B, and 428C) to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1988, to any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, the applicable rate of interest shall be—

"(1) 8 percent per year on the unpaid principal balance of the loan during the period beginning on the date of the disbursement of the loan and ending 4 years after the commencement of repayment; and

"(2) 10 percent per year on the unpaid principal balance of the loan during the remainder of the repayment period.

"(e) TREATMENT OF EXCESS INTEREST PAYMENTS ON NEW BORROWER ACCOUNTS RESULTING FROM DECLINE IN TREASURY BILL RATES.—

"(1) IN GENERAL.—If, with respect to a loan for which the applicable interest rate is 10 percent under subsection (d) of this section at the close of any calendar quarter, the sum of the average of the bond equivalent rates of 91-day Treasury bills auctioned for that quarter and 3.25 percent is less than 10

percent, then an adjustment shall be made to a borrower's account—

"(A) by calculating excess interest in the amount computed under paragraph (2) of this subsection; and

"(B) by crediting the excess interest to the reduction of principal to the extent provided for under paragraph (3) of this subsection.

"(2) AMOUNT OF ADJUSTMENT.—The amount of any adjustment of interest on a loan to be made under this subsection for any quarter shall be equal to—

"(A) 10 percent minus the sum of (i) the average of the bond equivalent rates of 91-day Treasury bills auctioned for such calendar quarter, and (ii) 3.25 percent; multiplied by

"(B) the outstanding principal balance of the loan (not including unearned interest added to principal) at the end of such calendar quarter; divided by

"(C) four.

"(3) ANNUAL ADJUSTMENT OF INTEREST AND BORROWER ELIGIBILITY FOR CREDIT.—Any adjustment amount computed pursuant to paragraph (2) of this subsection for any quarter shall be credited, by the holder of the loan on the last day of the calendar year in which such quarter falls, to the loan account of the borrower so as to reduce the principal balance of such account. No such credit shall be made to the loan account of a borrower who on the last day of the calendar year is delinquent for more than 30 days in making a required payment on the loan. Any credit which is to be made to a borrower's account pursuant to this subsection shall be made effective commencing no later than 30 days following the last day of the calendar year in which the quarter falls for which the credit is being made. Nothing in this subsection shall be construed to require refunding any repayment of a loan. At the option of the lender, the amount of such adjustment may be distributed to the borrower either by reduction in the amount of the periodic payment on the loan, or by reducing the number of payments that shall be made with respect to the loan.

"(4) PUBLICATION OF TREASURY BILL RATE.—For the purpose of enabling holders of loans to make the determinations and adjustments provided for in this subsection, the Secretary shall for each calendar quarter commencing with the quarter beginning on July 1, 1987, publish a notice of the average of the bond equivalent rates of 91-day Treasury bills auctioned for such quarter. Such notice shall be published not later than 7 days after the end of the quarter to which the notice relates.

"(5) STUDY OF TREATMENT OF EXCESS INTEREST PAYMENTS PROVISIONS.—The Secretary shall examine and evaluate the provisions of this subsection, and not later than 6 months after the date of enactment of the Higher Education Amendments of 1986, prepare and submit to the Congress such legislative proposals as the Secretary determines are necessary to carry out the objectives of this subsection.

"(f) LESSER RATES PERMITTED.—Nothing in this section or section 428C shall be construed to prohibit a lender from charging a borrower interest at a rate less than the rate which is applicable under this part.

"(g) DEFINITIONS.—For the purpose of subsections (a) and (d) of this section—

"(1) the term 'period of instruction' shall, at the discretion of the lender, be any academic year, semester, trimester, quarter, or other academic period; or shall be the period for which the loan is made as determined by the institution of higher education; and

"(2) the term 'period of enrollment' shall be the period for which the loan is made as determined by the institution of higher education and shall coincide with academic terms such as academic year, semester, trimester, quarter, or other academic period as defined by such institution.

"FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS

"SEC. 428. (a) FEDERAL INTEREST SUBSIDIES.— 20 USC 1078.

"(1) TYPES OF LOANS THAT QUALIFY.—Each student who has received a loan for study at an eligible institution—

"(A) which is insured by the Secretary under this part; or

"(B) which is insured under a program of a State or of a nonprofit private institution or organization which was contracted for, and paid to the student, within the period specified in paragraph (5), and which—

"(i) in the case of a loan insured prior to July 1, 1967, was made by an eligible lender and is insured under a program which meets the requirements of subparagraph (E) of subsection (b)(1) and provides that repayment of such loan shall be in installments beginning not earlier than 60 days after the student ceases to pursue a course of study (as described in subparagraph (D) of subsection (b)(1)) at an eligible institution, or

"(ii) in the case of a loan insured after June 30, 1967, was made by an eligible lender and is insured under a program covered by an agreement made pursuant to subsection (b),

shall be entitled to have paid on his or her behalf and for his or her account to the holder of the loan a portion of the interest on such loan under circumstances described in paragraph (2).

"(2) ADDITIONAL REQUIREMENTS TO RECEIVE SUBSIDY.—(A) Each student qualifying for a portion of an interest payment under paragraph (1) shall—

"(i) have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which the student is in attendance, which—

"(I) sets forth such student's estimated cost of attendance (as determined under section 472); and

"(II) sets forth such student's estimated financial assistance; and

"(ii) meet the requirements of subparagraph (B).

"(B) For the purpose of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) if the eligible institution has provided the lender with a statement evidencing a determination of need for a loan (as determined under part F of this title) and the amount of such need, subject to the provisions of subparagraph (D).

"(C) For the purpose of paragraph (1) and this paragraph—

"(i) a student's estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under subpart 1 of part A (as determined in accordance with section 484(b)), subpart 2 of part A, and parts C and E of this title, and any amount paid the student under chapters 32, 34, and 35 of title 38, United States Code, plus other scholarship, grant, or loan assistance; and

38 USC 1601 *et seq.*, 1651 *et seq.*, 1700 *et seq.*

"(ii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B) with respect to a student shall be calculated by subtracting from the estimated cost of attendance at the eligible institution the total of the expected family contribution with respect to such student plus any estimated financial assistance reasonably available to such student.

"(D) An eligible institution may not, in carrying out the provisions of subparagraphs (A) and (B) of this paragraph, provide a statement which permits the student to receive any loan under this part in excess of the maximum amount applicable to such loan.

"(E) For the purpose of subparagraphs (B) and (C) of this paragraph, any loan obtained by a student under section 428A or a parent under section 428B of this Act or under any State-sponsored or private loan program for an academic year for which the determination is made may be used to offset the expected family contribution of the student for that year.

"(F) Except as provided in subparagraph (D), an eligible institution may not, in carrying out the provisions of subparagraphs (A) and (B) of this paragraph, refuse to provide to any eligible lender which has an agreement under subsection (b) of this section with any guaranty agency, a statement which permits a student to receive any loan under this part.

"(3) AMOUNT OF INTEREST SUBSIDY.—(A)(i) Subject to section 438(c), the portion of the interest on a loan which a student is entitled to have paid, on behalf of and for the account of the student, to the holder of the loan pursuant to paragraph (1) of this subsection shall be equal to the total amount of the interest on the unpaid principal amount of the loan—

"(I) which accrues prior to the beginning of the repayment period of the loan, or

"(II) which accrues during a period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in subsection (b)(1)(M) of this section or in section 427(a)(2)(C).

"(ii) Such portion of the interest on a loan shall not exceed, for any period, the amount of the interest on that loan which is payable by the student after taking into consideration the amount of any interest on that loan which the student is entitled to have paid on his or her behalf for that period under any State or private loan insurance program.

"(iii) The holder of a loan with respect to which payments are required to be made under this section shall be deemed to have a contractual right, as against the United States, to receive from the Secretary the portion of interest which has been so determined without administrative delay after the receipt by the Secretary of an accurate and complete request for payment pursuant to paragraph (4).

"(iv) The Secretary shall pay this portion of the interest to the holder of the loan on behalf of and for the account of the borrower at such times as may be specified in regulations in force when the applicable agreement entered into pursuant to subsection (b) was made, or, if the loan was made by a State or is insured under a program which is not covered by such an agreement, at such times as may be specified in regulations in force at the time the loan was paid to the student.

State and local governments.

"(B) If—

"(i) a State student loan insurance program is covered by an agreement under subsection (b),

"(ii) a statute of such State limits the interest rate on loans insured by such program to a rate which is less than the applicable interest rate under this part, and

"(iii) the Secretary determines that subsection (d) does not make such statutory limitation inapplicable and that such statutory limitation threatens to impede the carrying out of the purpose of this part,

then the Secretary may pay an administrative cost allowance to the holder of each loan which is insured under such program and which is made during the period beginning on the 60th day after the date of enactment of the Higher Education Amendments of 1968 and ending 120 days after the adjournment of such State's first regular legislative session which adjourns after January 1, 1969. Such administrative cost allowance shall be paid over the term of the loan in an amount per year (determined by the Secretary) which shall not exceed 1 percent of the unpaid principal balance of the loan.

20 USC 1001 note.

"(4) SUBMISSION OF STATEMENTS BY HOLDERS ON AMOUNT OF PAYMENT.—Each holder of a loan with respect to which payments of interest are required to be made by the Secretary shall submit to the Secretary, at such time or times and in such manner as the Secretary may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Secretary to determine the amount of the payment which he must make with respect to that loan.

"(5) DURATION OF AUTHORITY TO MAKE INTEREST SUBSIDIZED LOANS.—The period referred to in subparagraph (B) of paragraph (1) of this subsection shall begin on the date of enactment of this Act and end at the close of September 30, 1992, except that, in the case of a loan made or insured under a student loan or loan insurance program to enable a student who has obtained a prior loan made or insured under such program to continue his or her education program, such period shall end at the close of September 30, 1997.

"(6) ASSESSMENT OF BORROWER'S FINANCIAL CONDITION NOT PROHIBITED OR REQUIRED.—Nothing in this or any other Act shall be construed to prohibit or require, unless otherwise specifically provided by law, a lender to evaluate the total financial situation of a student making application for a loan under this part, or to counsel a student with respect to any such loan, or to make a decision based on such evaluation and counseling with respect to the dollar amount of any such loan.

"(b) INSURANCE PROGRAM AGREEMENTS TO QUALIFY LOANS FOR INTEREST SUBSIDIES.—

State and local governments.

"(1) REQUIREMENTS OF INSURANCE PROGRAM.—Any State or any nonprofit private institution or organization may enter into an agreement with the Secretary for the purpose of entitling students who receive loans which are insured under a student loan insurance program of that State, institution, or organization to have made on their behalf the payments provided for in subsection (a) if the Secretary determines that the student loan insurance program—

"(A) authorizes the insurance in any academic year or its equivalent (as determined under regulations of the Secretary) for any student who is carrying at an eligible institution at least one-half the normal full-time academic workload (as determined by the institution) in any amount up to a maximum of—

"(i) $2,625, in the case of a student who has not successfully completed the first or second year of a program of undergraduate education;

"(ii) $4,000, in the case of a student who has successfully completed such first and second year but who has not successfully completed the remainder of a program of undergraduate education; and

"(iii) $7,500, in the case of a graduate or professional student (as defined in regulations of the Secretary);

except in cases where the Secretary determines, pursuant to regulations, that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education, but the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit;

"(B) provides that the aggregate insured unpaid principal amount for all such insured loans made to any student shall be any amount up to a maximum of—

"(i) $17,250, in the case of any student who has not successfully completed a program of undergraduate education; and

"(ii) $54,750, in the case of any graduate or professional student (as defined by regulations of the Secretary and including any loans which are insured by the Secretary under this part, or by a guaranty agency, made to such student before the student became a graduate or professional student);

except that the Secretary may increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive;

"(C) authorizes the insurance of loans to any individual student for at least 6 academic years of study or their equivalent (as determined under regulations of the Secretary);

"(D) provides that (i) the student borrower shall be entitled to accelerate without penalty the whole or any part of an insured loan, (ii) except as provided in subparagraph (M) of this paragraph, the repayment period of any insured loan may not exceed 10 years, and (iii) the note or other written evidence of any loan, may contain such reasonable provi-

sions relating to repayment in the event of default by the borrower as may be authorized by regulations of the Secretary in effect at the time such note or written evidence was executed;

"(E) subject to subparagraphs (D) and (L) of this paragraph and except as provided by subparagraph (M) of this paragraph, provides that repayment of loans shall be in installments over a period of not less than 5 years (unless the student, during the 6 months preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than 10 years beginning 6 months after the month in which the student ceases to carry at least one-half the normal full-time academic workload as determined by the institution;

"(F) authorizes interest on the unpaid balance of the loan at a yearly rate not in excess (exclusive of any premium for insurance which may be passed on to the borrower) of the rate required by section 427A;

"(G) insures not less than 100 percent of the unpaid principal of loans insured under the program;

"(H) provides for collection of a single insurance premium equal to not more than 3 percent of the principal amount of the loan, by deduction proportionately from each installment payment of the proceeds of the loan to the borrower, and insures that the proceeds of the premium will not be used for incentive payments to lenders;

"(I) provides that the benefits of the loan insurance program will not be denied any student who is eligible for interest benefits under subsection (a) (1) and (2);

"(J) provides that a student may obtain insurance under the program for a loan for any year of study at an eligible institution;

"(K) in the case of a State program, provides that such State program is administered by a single State agency, or by one or more nonprofit private institutions or organizations under supervision of a single State agency;

State and local governments.

"(L) provides that the total of the payments by borrower—

"(i) during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not, unless the borrower and the lender otherwise agree, be less than $600 or the balance of all such loans (together with interest thereon), whichever amount is less, except that, in the case of a husband and wife, both of whom have such loans outstanding, the total of the combined payments for such a couple during any year shall not be less than $600 or the balance of all such loans, whichever is less; and

"(ii) for a monthly or other similar payment period with respect to the aggregate of all loans held by the lender may, when the amount of a monthly or other similar payment is not a multiple of $5, be rounded to the next highest whole dollar amount that is a multiple of $5;

"(M) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

"(i) during which the borrower (I) is pursuing a full-time course of study as determined by an eligible institution, (II) is pursuing at least a half-time course of study (as determined by such institution) for which the student has obtained a loan under this part, or (III) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary;

Armed Forces.

"(ii) not in excess of 3 years during which the borrower is a member of the Armed Forces of the United States, is an active duty member of the National Oceanic and Atmospheric Administration Corps, or is an officer in the Commissioned Corps of the Public Health Service;

Voluntarism. 22 USC 2501 note.

"(iii) not in excess of 3 years during which the borrower is in service as a volunteer under the Peace Corps Act;

"(iv) not in excess of 3 years during which the borrower is in service as a full-time volunteer under the Domestic Volunteer Service Act of 1973;

42 USC 4951 note.

"(v) not in excess of 3 years during which the borrower is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954;

26 USC 501.

"(vi) not in excess of 3 years during which the borrower is engaged as a full-time teacher in a public or private elementary or secondary school in a teacher shortage area established by the Secretary pursuant to paragraph (4) of this subsection;

"(vii) not in excess of 2 years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service;

"(viii) not in excess of 3 years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a dependent who is so disabled;

"(ix) not in excess of 24 months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment;

"(x) not in excess of 6 months of parental leave; and

"(xi) not in excess of 12 months for mothers with preschool age children who are just entering or reentering the work force and who are compensated at a rate not exceeding $1 in excess of the rate prescribed under section 6 of the Fair Labor Standards Act of 1938;

29 USC 206.

"(N) provides that funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certifi-

cation by such student, except nothing in this title shall be interpreted to allow the Secretary to require checks to be made co-payable to the institution and the borrower or to prohibit the disbursement of loan proceeds by means other than by check;

"(O) provides that the proceeds of any loan made for any period of enrollment that ends more than 180 days (or 6 months) after the date disbursement is scheduled to occur, and for an amount of more than $1,000—

"(i) will be disbursed directly by the lender in two or more installments, none of which exceeds one-half of the loan, with the second installment being dispensed after not less than one-third of such period (except as necessary to permit the second installment to be disbursed at the beginning of the second semester, quarter, or similar division of such period of enrollment), or

"(ii) will be disbursed in such installments pursuant to the escrow provisions of subsection (i) of this section,

but all loans issued for the same period of enrollment shall be considered as a single loan for the purpose of this subparagraph and the requirements of this subparagraph shall not apply in the case of a loan made under section 428A, 428B, or 428C, or made to a student to cover the cost of attendance at an eligible institution outside the United States;

"(P) requires the borrower and the institution at which the borrower is in attendance to promptly notify the holder of the loan, directly or through the guaranty agency, concerning any change of address or status;

"(Q) provides for the guarantee of loans made to students and parents under sections 428A and 428B;

"(R) with respect to lenders which are eligible institutions, provides for the insurance of loans by only such institutions as are located within the geographic area served by such guaranty agency;

"(S) provides no restrictions with respect to the insurance of loans for students who are otherwise eligible for loans under such program if such a student is accepted for enrollment in or is attending an eligible institution within the State, or if such a student is a legal resident of the State and is accepted for enrollment in or is attending an eligible institution outside that State;

State and local governments.

"(T) provides no restrictions with respect to eligible institutions which are more onerous than eligibility requirements for institutions under the Federal student loan insurance program as in effect on January 1, 1985, unless—

"(i) that institution is ineligible under regulations for the limitation, suspension, or termination of eligible institutions under the Federal student loan insurance program or is ineligible pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility issued under the Federal student loan insurance program; or

State and local governments.

"(ii) there is a State constitutional prohibition affecting the eligibility of such an institution; and

"(U) provides (i) for the eligibility of all lenders described in section 435(d)(1) under reasonable criteria, unless (I) that lender is eliminated as a lender under regulations for the limitation, suspension, or termination of a lender under the Federal student loan insurance program or is eliminated as a lender pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility as a lender issued under the Federal student loan insurance program, or (II) there is a State constitutional prohibition affecting the eligibility of a lender, and (ii) assurances that the guaranty agency will report to the Secretary concerning changes in such criteria, including any procedures in effect under such program to limit, suspend, or terminate lenders.

"(2) CONTENTS OF INSURANCE PROGRAM AGREEMENT.—Such an agreement shall—

"(A) provide that the holder of any such loan will be required to submit to the Secretary, at such time or times and in such manner as the Secretary may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Secretary to determine the amount of the payment which must be made with respect to that loan;

"(B) include such other provisions as may be necessary to protect the United States from the risk of unreasonable loss and promote the purpose of this part, including such provisions as may be necessary for the purpose of section 437, and as are agreed to by the Secretary and the guaranty agency, as the case may be;

"(C) provide for making such reports, in such form and containing such information, as the Secretary may reasonably require to carry out the Secretary's functions under this part, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

"(D) provide for—

"(i) conducting, except as provided in clause (ii), financial and compliance audits of the guaranty agency at least once every 2 years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

"(ii) with regard to a guaranty program of a State which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of clause (i) for the period of time covered by such audit; and

31 USC 7501 *et seq.*

"(E) provide that any guaranty agency may transfer loans which are insured under this part to any other guaranty agency with the approval of the holder of the loan and such other guaranty agency.

"(3) RESTRICTIONS ON INDUCEMENTS, MAILINGS, AND ADVERTISING.—A guaranty agency shall not—

"(A) offer, directly or indirectly, premiums, payments, or other inducements to any educational institution or its employees in order to secure applicants for loans under this part;

"(B) conduct unsolicited mailings to students enrolled in secondary school of student loan application forms; or

"(C) conduct fraudulent or misleading advertising concerning loan availability.

"(4) TARGETED TEACHER DEFERMENT RULE.—(A) The deferment for service as a teacher in a public or nonprofit private elementary or secondary school shall be for service as such a teacher in shortage areas prescribed by the Secretary, in consultation with the chief State school officer or, in the case of nonprofit private elementary or secondary schools, with appropriate officials of the nonprofit private schools in each State in accordance with this subparagraph.

State and local governments.

"(B) For the purpose of this paragraph, the term 'shortage areas' means (i) geographic areas of the State in which there is a shortage of elementary and secondary school teachers, and (ii) an area of shortage of elementary and secondary school teachers in specific grade levels and in specific academic, instructional, subject matter, and discipline classifications. In carrying out the provisions of this subparagraph, the Secretary shall give special consideration to areas in which emergency certification of individuals in a State is being used to correct teacher shortages; and to States which have retirement laws permitting early retirement.

"(5) SPECIAL RULE.—For the purpose of paragraph (1)(M) of this subsection, the Secretary shall approve any course of study at a foreign university that is accepted for the completion of a recognized international fellowship program by the administrator of such a program.

"(6) GUARANTY AGENCY INFORMATION TRANSFERS.—(A) Prior to the implementation of section 485B, any guaranty agency may request information regarding loans made after January 1, 1987, to students who are residents of the State for which the agency is the designated guarantor, from any other guaranty agency insuring loans to such students.

"(B) Upon a request pursuant to subparagraph (A), a guaranty agency shall provide—

"(i) the name and the social security number of the borrower; and

"(ii) the amount borrowed, the cumulative amount borrowed, the income reported on the loan application, and the purposes and the cost of attendance of the borrower.

"(C) Any costs associated with fulfilling the request of a guaranty agency for information on students shall be paid by the guaranty agency requesting the information.

"(c) GUARANTY AGREEMENTS FOR REIMBURSING LOSSES.—

"(1) AUTHORITY TO ENTER INTO AGREEMENTS.—(A) The Secretary may enter into a guaranty agreement with any guaranty agency, whereby the Secretary shall undertake to reimburse it, under such terms and conditions as the Secretary may establish, with respect to losses (resulting from the default of the student borrower) on the unpaid balance of the principal and

accrued interest of any insured loan, including the administrative costs of supplemental preclaim assistance for default prevention as defined in paragraph (6)(C). The guaranty agency shall be deemed to have a contractual right against the United States, during the life of such loan, to receive reimbursement according to the provisions of this subsection. Upon receipt of an accurate and complete request by a guaranty agency for reimbursement with respect to such losses, the Secretary shall pay promptly and without administrative delay. Except as provided in subparagraph (B) of this paragraph and in paragraph (7), the amount to be paid a guaranty agency as reimbursement under this subsection shall be equal to 100 percent of the amount expended by it in discharge of its insurance obligation incurred under its loan insurance program. In no case shall a guaranty agency file a claim under this subsection for reimbursement with respect to losses prior to 270 days after the loan becomes delinquent with respect to any installment thereon.

"(B) Notwithstanding subparagraph (A)—

"(i) if, for any fiscal year, the amount of such reimbursement payments by the Secretary under this subsection exceeds 5 percent of the loans which are insured by such guaranty agency under such program and which were in repayment at the end of the preceding fiscal year, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 90 percent of the amount of such excess; and

"(ii) if, for any fiscal year, the amount of such reimbursement payments exceeds 9 percent of such loans, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 80 percent of the amount of such excess.

"(C) For the purpose of this subsection, the amount of loans of a guaranty agency which are in repayment shall be the original principal amount of loans made by a lender which are insured by such a guaranty agency reduced by—

"(i) the amount the insurer has been required to pay to discharge its insurance obligations under this part;

"(ii) the original principal amount of loans insured by it which have been fully repaid; and

"(iii) the original principal amount insured on those loans for which payment of the first installment of principal has not become due pursuant to subsection (b)(1)(E) of this section or such first installment need not be paid pursuant to subsection (b)(1)(M) of this section.

"(2) CONTENTS OF GUARANTY AGREEMENTS.—The guaranty agreement—

"(A) shall set forth such administrative and fiscal procedures as may be necessary to protect the United States from the risk of unreasonable loss thereunder, to ensure proper and efficient administration of the loan insurance program, and to assure that due diligence will be exercised in the collection of loans insured under the program, including a requirement that each beneficiary of insurance on the loan submit proof that reasonable attempts were made to locate the borrower (when the location of the

borrower is unknown) and proof that contact was made with the borrower (when the location is known);

"(B) shall provide for making such reports, in such form and containing such information, as the Secretary may reasonably require to carry out the Secretary's functions under this subsection, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

"(C) shall set forth adequate assurances that, with respect to so much of any loan insured under the loan insurance program as may be guaranteed by the Secretary pursuant to this subsection, the undertaking of the Secretary under the guaranty agreement is acceptable in full satisfaction of State law or regulation requiring the maintenance of a reserve;

State and local governments.

"(D) shall provide that if, after the Secretary has made payment under the guaranty agreement pursuant to paragraph (1) of this subsection with respect to any loan, any payments are made in discharge of the obligation incurred by the borrower with respect to such loan (including any payments of interest accruing on such loan after such payment by the Secretary), there shall be paid over to the Secretary (for deposit in the fund established by section 431) such proportion of the amounts of such payments as is determined (in accordance with paragraph (6)) to represent his equitable share thereof, but (i) shall provide for subrogation of the United States to the rights of any insurance beneficiary only to the extent required for the purpose of paragraph (8); and (ii) except as the Secretary may otherwise by or pursuant to regulation provide, amounts so paid by a borrower on such a loan shall be first applied in reduction of principal owing on such loan;

"(E) shall set forth adequate assurance that an amount equal to each payment made under paragraph (1) will be promptly deposited in or credited to the accounts maintained for the purpose of section 422(c);

"(F) set forth adequate assurances that the guaranty agency will not engage in any pattern or practice which results in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, handicapped status, income, attendance at a particular eligible institution within the area served by the guaranty agency, length of the borrower's educational program, or the borrower's academic year in school; and

"(G) may include such other provisions as may be necessary to promote the purpose of this part.

"(3) FORBEARANCE.—To the extent provided in regulations of the Secretary, a guaranty agreement under this subsection may contain provisions which permit such forbearance for the benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer. Such regulations shall not preclude guaranty agencies from permitting the parties to such a loan from entering into a forbearance agreement solely because the loan is in default.

"(4) DEFINITIONS.—For the purpose of this subsection, the terms 'insurance beneficiary' and 'default' have the meanings assigned to them by section 435.

"(5) APPLICABILITY TO EXISTING LOANS.—In the case of any guaranty agreement with a guaranty agency, the Secretary may, in accordance with the terms of this subsection, undertake to guarantee loans described in paragraph (1) which are insured by such guaranty agency and are outstanding on the date of execution of the guaranty agreement, but only with respect to defaults occurring after the execution of such guaranty agreement or, if later, after its effective date.

"(6) SECRETARY'S EQUITABLE SHARE.—(A) For the purpose of paragraph (2)(D), the Secretary's equitable share of payments made by the borrower shall be that portion of the payments remaining after the guaranty agency with which the Secretary has an agreement under this subsection has deducted from such payments—

"(i) a percentage amount equal to the complement of the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

"(ii) an amount equal to 30 percent of such payments (subject to subparagraph (D) of this paragraph) for costs related to the student loan insurance program, including the administrative costs of collection of loans reimbursed under this subsection, the administrative costs of preclaims assistance for default prevention, the administrative costs of supplemental preclaims assistance for default prevention, and the administrative costs of monitoring the enrollment and repayment status of students (as such terms are defined in subparagraph (B) or (C) of this paragraph).

"(B) For the purpose of this paragraph and subsection (f) of this section, the term—

"(i) 'administrative costs of collection of loans' means any administrative costs incurred by a guaranty agency which are directly related to the collection of the loan on which a default claim has been paid to the participating lender, including the attributable compensation of collection personnel (and in the case of personnel who perform several functions for such an agency only the portion of the compensation attributable to the collection activity), attorney's fees, fees paid to collection agencies, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency whether or not attributable;

"(ii) 'administrative costs of preclaim assistance for default prevention' means any administrative costs incurred by a guaranty agency which are directly related to providing collection assistance to the lender on a delinquent loan, prior to the loan's being legally in a default status, including the attributable compensation of appropriate personnel (and in the case of personnel who perform several functions for such an agency only the portion of compensation attributable to the collection activity), fees paid to locate a missing borrower, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency whether or not attributable; and

"(iii) 'administrative costs of monitoring the enrollment and repayment status of students' means any administrative costs by a guaranty agency which are directly related to ascertaining the student's enrollment status, prompt notification to the lender of such status, an audit of the note or written agreement to determine if the provisions of that note or agreement are consistent with the records of the guaranty agency as to the principal amount of the loan guaranteed, and an examination of the note or agreement to assure that the repayment provisions are consistent with the provisions of this part,

subject to such additional criteria as the Secretary may by regulation prescribe.

"(C)(i) For the purpose of this paragraph, 'administrative costs of supplemental preclaims assistance' means (subject to divisions (ii) through (iv)) any administrative costs—

"(I) incurred by a guaranty agency in connection with a loan on which the guarantor has exercised preclaims assistance required or permitted under paragraph (2)(A) of this subsection and subsection (f), and which has been in delinquent status for at least 120 days; and

"(II) which are directly related to providing collection assistance to the lender on a delinquent loan, prior to a claim being filed with the guaranty agency,

including the attributable compensation of appropriate personnel (and in the case of personnel who perform several functions, only the portion of compensation attributable to the collection assistance), fees paid to locate a missing borrower, postage, equipment, supplies, telephone, and similar charges, but does not include overhead costs.

"(ii) The administrative costs for which reimbursement is authorized under this subparagraph must be clearly supplemental to the preclaim assistance for default prevention which the guaranty agency is required or permitted to provide pursuant to paragraph (2)(A) of this subsection and subsection (f).

"(iii) The services associated with carrying out this subparagraph may be provided by the guaranty agency directly or under contract, except that such services may not be carried out by an organization or entity (other than the guaranty agency)— Contracts.

"(I) that is the holder or servicer of the loan or an organization or entity that owns or controls the holder or servicer of the loan;

"(II) that is owned or controlled by the same corporation, partnership, association, or individual that owns or controls the holder or servicer of the loan; or

"(III) that is an organization or entity that has a contract with a guaranty agency to perform collection activities with respect to the same loans in the event of default.

"(iv) The costs for each delinquent loan associated with carrying out this subparagraph may not exceed 2 percent of the outstanding principal balance of each such loan subject to the supplemental preclaims assistance authorized by this subparagraph or $100, whichever is less.

"(D) In the case of a State which enacts a garnishment law that complies with the requirements of section 428E, subparagraph (A)(ii) shall be applied by substituting '35 percent' for '30 percent'. State and local governments.

"(7) NEW PROGRAMS ELIGIBLE FOR 100 PERCENT REINSURANCE.—(A) Notwithstanding paragraph (1)(B), the amount to be paid a guaranty agency for any fiscal year—

"(i) which begins on or after October 1, 1977; and

"(ii) which is either the fiscal year in which such guaranty agency begins to actively carry on a student loan insurance program which is subject to a guaranty agreement under subsection (b) of this section, or is one of the 4 succeeding fiscal years,

shall be 100 percent of the amount expended by such guaranty agency in discharge of its insurance obligation insured under such program.

"(B) The Secretary shall continuously monitor the operations of those guaranty agencies to which the provisions of subparagraph (A) are applicable and revoke the application of such subparagraph to any such guaranty agency which the Secretary determines has not exercised reasonable prudence in the administration of such program.

"(8) ASSIGNMENT TO PROTECT FEDERAL FISCAL INTEREST.—If the Secretary determines that the protection of the Federal fiscal interest so requires, a guaranty agency shall assign to the Secretary any loan of which it is the holder and for which the Secretary has made a payment pursuant to paragraph (1) of this subsection.

"(9) REINSURANCE FEES.—(A) Any guaranty agency which has entered into an agreement with the Secretary pursuant to this subsection shall pay to the Secretary during each fiscal year a reinsurance fee in an amount equal to—

"(i) 0.25 percent of the total principal amount of the loans upon which insurance was issued by such agency during such fiscal year, in any fiscal year other than a fiscal year described in clause (ii); or

"(ii) 0.5 percent of the total principal amount of the loans upon which insurance was issued by such agency during such fiscal year, in any fiscal year with respect to which the Secretary reimbursed the agency for any losses (resulting from the default of the borrower) pursuant to paragraph (1)(B) of this subsection.

"(B) The amount to be paid pursuant to subparagraph (A) may be paid from any funds available to the guaranty agency.

"(C) When the Secretary first reimburses a guaranty agency pursuant to paragraph (1)(B) of this subsection, the Secretary shall notify such agency of the exact date of such reimbursement.

"(d) USURY LAWS INAPPLICABLE.—No provision of any law of the United States (other than this Act) or of any State (other than a statute applicable principally to such State's student loan insurance program) which limits the rate or amount of interest payable on loans shall apply to a loan—

"(1) which bears interest (exclusive of any premium for insurance) on the unpaid principal balance at a rate not in excess of the rate specified in this part; and

"(2) which is insured (i) by the United States under this part, or (ii) by a guaranty agency under a program covered by an agreement made pursuant to subsection (b) of this section.

"(e) PAYMENTS FOR LENDER REFERRAL SERVICES.—

State and local governments.

"(1) IN GENERAL.—The Secretary shall make payments in accordance with this paragraph to a guaranty agency in any State which provides a lender referral service for students who meet the requirements of paragraph (2).

"(2) STUDENT ELIGIBILITY.—A student is eligible to apply for lender referral services to a guaranty agency in a State if—

"(A) such student is either a resident of such State or is accepted for enrollment in or is attending an eligible institution in such State; and

"(B) such student has sought and was unable to find a lender willing to make a loan under this part.

"(3) AMOUNT OF PAYMENT.—The amount which the Secretary shall pay to any eligible guaranty agency under this paragraph shall be equal to one-half of 1 percent of the total principal amount of the loans (upon which insurance was issued under this part) to a student described in paragraph (2) who subsequently obtained such loans because of such agency's referral service.

"(4) INCENTIVE FEES TO LENDERS.—Nothing in this or any law shall prohibit an agency from using all or any portion of the funds received under this part for the payment of incentive fees to lenders who agree to participate in a lender referral service.

"(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as are necessary to carry out the provisions of this paragraph.

"(f) PAYMENTS OF CERTAIN COSTS.—

"(1) PAYMENTS BASED ON INSURANCE PROGRAM AGREEMENT.—(A) The Secretary shall make payments in accordance with the provisions of this paragraph to any guaranty agency for the purposes of—

"(i) the administrative cost of promotion of commercial lender participation;

"(ii) the administrative costs of collection of loans;

"(iii) the administrative costs of preclaims assistance for default prevention;

"(iv) the administrative costs of monitoring the enrollment and repayment status of students; or

"(v) other such costs related to the student loan insurance program subject to such agreement.

"(B) The total amount of payments for any fiscal year made under this paragraph shall be equal to 1 percent of the total principal amount of the loans upon which insurance was issued under this part during such fiscal year by such guaranty agency. The guaranty agency shall be deemed to have a contractual right against the United States to receive payments according to the provisions of this subparagraph. Payments shall be made promptly and without administrative delay to any guaranty agency submitting an accurate and complete application therefor under this subparagraph.

"(2) APPLICATIONS FOR PAYMENTS.—No payment may be made under paragraph (1) of this subsection unless the guaranty agency submits to the Secretary an application at such time, at least annually, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

"(A) set forth assurances that the student loan insurance program subject to the guaranty agreement complies with

subparagraphs (A), (B), (G), (R), (S), (T), and (U) of subsection (b)(1);

"(B) contain provisions designed to demonstrate the capability of carrying out a necessary and successful program of collection of and preclaim assistance for the loan program subject to that agreement;

"(C) set forth an estimate of the costs which are eligible for payment under the provisions of this subsection;

"(D) provide for such administrative and fiscal procedures, including an audit, as are necessary to carry out the provisions of this subsection; and

"(E) set forth assurances that the guaranty agency will furnish such data and information, including where necessary estimates, as the Secretary may reasonably require, to carry out the provisions of this subsection.

State and local governments.

"(g) ACTION ON INSURANCE PROGRAM AND GUARANTY AGREEMENTS.—If a nonprofit private institution or organization—

"(1) applies to enter into an agreement with the Secretary under subsections (b) and (c) with respect to a student loan insurance program to be carried on in a State with which the Secretary does not have an agreement under subsection (b), and

"(2) as provided in the application, undertakes to meet the requirements of section 422(c)(6)(B) (i), (ii), and (iii),

the Secretary shall consider and act upon such application within 180 days, and shall forthwith notify the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of his actions.

State and local governments.

"(h) LENDING BY GUARANTY AGENCIES.—

"(1) LENDING FROM SALLIE MAE ADVANCES.—From sums advanced by the Association pursuant to section 439(p), each guaranty agency or an eligible lender in a State described in section 435(d)(1) (D) or (F) of the Act is authorized to make loans directly to students otherwise unable to obtain loans under this part.

"(2) AMOUNT OF ADVANCES.—(A) Each guaranty agency or an eligible lender in a State described in section 435(d)(1) (D) or (F) which has an application approved under section 439(p)(2) may receive advances under section 439(p) for each fiscal year in an amount necessary to meet the demand for loans under this section. The amount such agency or lender is eligible to receive may not exceed 25 percent of the average of the loans guaranteed by that agency or lender for the 3 years preceding the fiscal year for which the determination is made. Whenever the determination required by the preceding sentence cannot be made because the agency or lender does not have 3 years previous experience, the amount such agency or lender is eligible to receive may not exceed 25 percent of the loans guaranteed under a program of a State of comparable size.

"(B) Each guaranty agency and each eligible lender in a State described in section 435(d)(1) (D) or (F) shall repay advances made under section 439(p) in accordance with agreements entered into between the Association and such agency or lender.

"(3) LOAN TERM, CONDITIONS, AND BENEFITS.—Loans made pursuant to this subsection shall have the same terms, conditions, and benefits as all other loans made under this part.

"(i) MULTIPLE DISBURSEMENT OF LOANS.—

"(1) ESCROW ACCOUNTS ADMINISTERED BY ESCROW AGENT.—Any guaranty agency or eligible lender (hereafter in this subsection referred to as the 'escrow agent') may enter into an agreement with any other eligible lender that is not an eligible institution or an agency or instrumentality of the State (hereafter in this subsection referred to as the 'lender') for the purpose of authorizing multiple disbursements of the proceeds of a loan to a student. Such agreement shall provide that the lender will pay the proceeds of such loans into an escrow account to be administered by the escrow agent in accordance with the provisions of paragraph (2) of this subsection. Such agreement may allow the lender to make payments into the escrow account in amounts that do not exceed the sum of the amounts required for disbursement of initial or subsequent installments to borrowers and to make such payments not more than 45 days prior to the date of the disbursement of such installment to such borrowers. Such agreement shall require the lender to notify promptly the eligible institution when funds are escrowed under this subsection for a student at such institution.

State and local governments.

"(2) AUTHORITY OF ESCROW AGENT.—Each escrow agent entering into an agreement under paragraph (1) of this subsection is authorized to—

"(A) make the disbursements in accordance with the note evidencing the loan;

"(B) commingle the proceeds of all loans paid to the escrow agent pursuant to the escrow agreement entered into under such paragraph (1);

"(C) invest the proceeds of such loans in obligations of the Federal Government or obligations which are insured or guaranteed by the Federal Government;

"(D) retain interest or other earnings on such investment; and

"(E) return to the lender undisbursed funds when the student ceases to carry at an eligible institution at least one-half of the normal full-time academic workload as determined by the institution.

"(j) LENDERS-OF-LAST-RESORT.—In each State, the guaranty agency or an eligible lender in the State described in section 435(d)(1)(D) of this Act shall make loans directly, or through an agreement with an eligible lender or lenders, to students eligible to receive interest benefits paid on their behalf under subsection (a) of this section who are otherwise unable to obtain loans under this part. Loans made under this subsection shall not exceed the amount of the need of the borrower, as determined under subsection (a)(2)(B), nor be less than $200.

State and local governments.

"(k) INFORMATION ON DEFAULTS.—

"(1) PROVISION OF INFORMATION TO ELIGIBLE INSTITUTIONS.—In order to notify eligible institutions of former students who are in default of their continuing obligation to repay student loans, each guaranty agency may, upon the request of an eligible institution, furnish information with respect to students who were enrolled at the eligible institution and who are in default on the repayment of any loan made, insured, or guaranteed under this part. The information authorized to be furnished under this subsection may include the names and addresses of such students.

"(2) PUBLIC DISSEMINATION NOT AUTHORIZED.—Nothing in paragraph (1) of this subsection shall be construed to authorize public dissemination of the information described in paragraph (1).

"SUPPLEMENTAL LOANS FOR STUDENTS

20 USC 1078-1.

"SEC. 428A. (a) AUTHORITY TO BORROW.—Graduate and professional students (as defined by regulations of the Secretary) and undergraduate independent students shall be eligible to borrow funds under this section in amounts specified in subsection (b), and unless otherwise specified in subsections (c) and (d), loans under this section shall have the same terms, conditions, and benefits as all other loans made under this part.

"(b) LIMITATIONS ON AMOUNTS OF LOANS.—

"(1) ANNUAL LIMIT.—Subject to paragraphs (2) and (3), the maximum amount a student may borrow in any academic year or its equivalent (as defined by regulation by the Secretary) is $4,000.

Insurance.

"(2) AGGREGATE LIMIT.—The aggregate insured principal amount for insured loans made to any student under this section, exclusive of interest capitalized under subsection (c), shall not exceed $20,000.

"(3) LIMITATION BASED ON NEED.—Any loan under this section may be counted as part of the expected family contribution in the determination of need under this title, but no loans may be made to any student under this section which would cause the student's combined loans for any academic year to exceed the student's estimated cost of attendance minus such student's estimated financial assistance as certified by the eligible institution under section 428(a)(2)(A) of this part. The annual insurable limit on account of the student shall not be deemed to be exceeded by a line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.

"(c) PAYMENT OF PRINCIPAL AND INTEREST.—

"(1) COMMENCEMENT OF REPAYMENT.—Repayment of principal on loans made under this section shall commence not later than 60 days after the date such loan is disbursed by the lender, subject to deferral pursuant to sections 427(a)(2)(C) and 428(b)(1)(M).

"(2) CAPITALIZATION OF INTEREST.—Interest on loans made under this section for which payments of principal and interest are deferred under sections 427(a)(2)(C)(i) and 428(b)(1)(M)(i) shall, if agreed upon by the borrower and the lender (A) be paid quarterly or (B) be added to the principal amount of the loan on a quarterly basis by the lender. Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the student.

"(3) SUBSIDIES PROHIBITED.—No payments to reduce interest costs shall be paid pursuant to section 428(a) of this part on loans made pursuant to this section.

"(4) APPLICABLE RATES OF INTEREST.—Interest on loans made pursuant to this section shall be at the applicable rate of interest provided in section 427A(c).

"(5) AMORTIZATION.—The amount of the periodic payment and the repayment schedule for any loan made pursuant to this section shall be established by assuming an interest rate equal

to the applicable rate of interest at the time the repayment of the principal amount of the loan commences. At the option of the lender, the note or other written evidence of the loan may require that—

"(A) the amount of the periodic payment will be adjusted annually, or

"(B) the period of repayment of principal will be lengthened or shortened,

in order to reflect adjustments in interest rates occurring as a consequence of section 427A(c)(4).

"(d) REFINANCING.—

"(1) REFINANCING TO SECURE COMBINED PAYMENT.—An eligible lender may consolidate loans held by it which are made under this section to a borrower, including loans which were made under section 428B as in effect prior to the enactment of the Higher Education Amendments of 1986, under a single repayment schedule which provides for a single principal payment and a single payment of interest, and shall calculate the repayment period for each included loan from the date of the commencement of repayment of the most recent included loan. Unless the borrower complies with the requirements of paragraph (2), such consolidated loan shall bear interest at the weighted average of the rates of all included loans. The extension of any repayment period of an included loan pursuant to this paragraph shall be reported to the Secretary or guaranty agency insuring the loan, as the case may be, but no additional insurance premiums shall be payable with respect to any such extension. The extension of the repayment period of any included loan shall not require the formal extension of the promissory note evidencing the included loan or the execution of a new promissory note, but shall be treated as an administrative forbearance of the repayment terms of the included loan.

"(2) REFINANCING TO SECURE VARIABLE INTEREST RATE.—An eligible lender may reissue a loan which was made under section 428B as in effect prior to the enactment of the Higher Education Amendments of 1986 in order to permit the borrower to obtain the interest rate provided under section 427A(c)(4). A lender offering to reissue a loan for such purpose may charge a borrower an amount not to exceed $100 to cover the administrative costs of reissuing such loan, not more than one-half of which shall be paid to the guarantor of the loan being reissued to recover costs of reissuance. Reissuance of a loan under this paragraph shall not affect any insurance applicable with respect to the loan, and no additional insurance fee may be charged to the borrower with respect to the loan.

"(3) REFINANCING BY DISCHARGE OF PREVIOUS LOAN.—A borrower who has applied to an original lender for reissuance of a loan under paragraph (2) and who is denied such reissuance may obtain a loan from another lender for the purpose of discharging the loan from such original lender. A loan made for such purpose—

"(A) shall bear interest at the applicable rate of interest provided under section 427A(c)(4);

"(B) shall not result in the extension of the duration of the note (other than as permitted under subsection (c)(5)(B));

"(C) may be subject to an additional insurance fee but shall not be subject to the administrative cost charge permitted by paragraph (2) of this subsection; and

"(D) shall be applied to discharge the borrower from any remaining obligation to the original lender with respect to the original loan.

"(4) CERTIFICATION IN LIEU OF PROMISSORY NOTE PRESENTATION.—Each new lender may accept certification from the original lender of the borrower's original loan in lieu of presentation of the original promissory note.

"(5) NOTIFICATION TO BORROWERS OF AVAILABILITY OF REFINANCING OPTIONS.—Each holder of a loan made under this section or under section 428B as in effect prior to the date of enactment of this Act shall, not later than January 1, 1987, in the case of loans made before the date of enactment of this Act, notify the borrower of such loan—

"(A) of the refinancing options for which the borrower is eligible under this subsection;

"(B) of those options which will be made available by the holder; and

"(C) that, with respect to any option that the holder will not make available, the holder will, to the extent practicable, refer the borrower to an eligible lender offering such option.

"PLUS LOANS

20 USC 1078-2.

"SEC. 428B. (a) AUTHORITY TO BORROW.—Parents of a dependent student shall be eligible to borrow funds under this section in amounts specified in subsection (b), and unless otherwise specified in subsections (c) and (d), such loans shall have the same terms, conditions, and benefits as all other loans made under this part. Whenever necessary to carry out the provisions of this section, the terms 'student' and 'borrower' as used in this part shall include a parent borrower under this section, but such a parent borrower shall not be eligible for any deferment pursuant to section 427(a)(2)(C) or 428(b)(1)(M) except for the deferments allowed (with respect to the student) under clauses (i), (viii), and (ix) of such sections.

"(b) LIMITATIONS ON AMOUNTS OF LOANS.—

"(1) ANNUAL LIMIT.—Subject to paragraphs (2) and (3), the maximum amount parents may borrow for one student in any academic year or its equivalent (as defined by regulation of the Secretary) is $4,000.

"(2) AGGREGATE LIMIT.—The aggregate insured principal amount for insured loans made to parents on account of a student shall not exceed $20,000.

"(3) LIMITATION BASED ON NEED.—Any loan under this section may be counted as part of the expected family contribution in the determination of need under this title, but no loan may be made to any parent under this section which would cause the combined loans of the parent and the student for any academic year to exceed the student's estimated cost of attendance minus such student's estimated financial assistance as certified by the eligible institution under section 428(a)(2)(A) of this part. The annual insurable limit on account of any student shall not be deemed to be exceeded by a line of credit under which actual

payments to the borrower will not be made in any year in excess of the annual limit.

"(c) PAYMENT OF PRINCIPAL AND INTEREST.—

"(1) COMMENCEMENT OF REPAYMENT.—Repayment of principal on loans made under this section shall commence not later than 60 days after the date such loan is disbursed by the lender, subject to deferral pursuant to sections 427(a)(2)(C) (i), (viii), and (ix) and 428(b)(1)(M) (i), (viii), and (ix).

"(2) CAPITALIZATION OF INTEREST.—Interest on loans made under this section for which payments of principal and interest are deferred under sections 427(a)(2)(C)(i) and 428(b)(1)(M)(i) shall, if agreed upon by the borrower and the lender (A) be paid quarterly or (B) be added to the principal amount of the loan on a quarterly basis by the lender. Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the student.

"(3) SUBSIDIES PROHIBITED.—No payments to reduce interest costs shall be paid pursuant to section 428(a) of this part on loans made pursuant to this section.

"(4) APPLICABLE RATES OF INTEREST.—Interest on loans made pursuant to this section shall be at the applicable rate of interest provided in section 427A(c).

"(5) AMORTIZATION.—The amount of the periodic payment and the repayment schedule for any loan made pursuant to this section shall be established by assuming an interest rate equal to the applicable rate of interest at the time the repayment of the principal amount of the loan commences. At the option of the lender, the note or other written evidence of the loan may require that—

"(A) the amount of the periodic payment will be adjusted annually, or

"(B) the period of repayment of principal will be lengthened or shortened,

in order to reflect adjustments in interest rates occurring as a consequence of section 427A(c)(4).

"(d) REFINANCING.—

"(1) REFINANCING TO SECURE COMBINED PAYMENT.—An eligible lender may consolidate loans held by it which are made under this section to a borrower, including loans which were made under section 428B as in effect prior to the enactment of the Higher Education Amendments of 1986, under a single repayment schedule which provides for a single principal payment and a single payment of interest, and shall calculate the repayment period for each included loan from the date of the commencement of repayment of the most recent included loan. Unless the borrower complies with the requirements of paragraph (2), such consolidated loan shall bear interest at the weighted average of the rates of all included loans. The extension of any repayment period of an included loan pursuant to this paragraph shall be reported to the Secretary or guaranty agency insuring the loan, as the case may be, but no additional insurance premiums shall be payable with respect to any such extension. The extension of the repayment period of any included loan shall not require the formal extension of the promissory note evidencing the included loan or the execution of a new promissory note, but shall be treated as an administrative forbearance of the repayment terms of the included loan.

"(2) REFINANCING TO SECURE VARIABLE INTEREST RATE.—An eligible lender may reissue a loan which was made under section 428B as in effect prior to the enactment of the Higher Education Amendments of 1986 in order to permit the borrower to obtain the interest rate provided under section 427A(c)(4). A lender offering to reissue a loan for such purpose may charge a borrower an amount not to exceed $100 to cover the administrative costs of reissuing such loan, not more than one-half of which shall be paid to the guarantor of the loan being reissued to cover costs of reissuance. Reissuance of a loan under this paragraph shall not affect any insurance applicable with respect to the loan, and no additional insurance fee may be charged to the borrower with respect to the loan.

"(3) REFINANCING BY DISCHARGE OF PREVIOUS LOAN.—A borrower who has applied to an original lender for reissuance of a loan under paragraph (2) and who is denied such reissuance may obtain a loan from another lender for the purpose of discharging the loan from such original lender. A loan made for such purpose—

"(A) shall bear interest at the applicable rate of interest provided under section 427A(c)(4);

"(B) shall not result in the extension of the duration of the note (other than as permitted under subsection (c)(5)(B));

"(C) may be subject to an additional insurance fee but shall not be subject to the administrative cost charge permitted by paragraph (2) of this subsection; and

"(D) shall be applied to discharge the borrower from any remaining obligation to the original lender with respect to the original loan.

"(4) CERTIFICATION IN LIEU OF PROMISSORY NOTE PRESENTATION.—Each new lender may accept certification from the original lender of the borrower's original loan in lieu of presentation of the original promissory note.

"(5) NOTIFICATION TO BORROWERS OF AVAILABILITY OF REFINANCING OPTIONS.—Each holder of a loan made under this section or under section 428B as in effect prior to the date of enactment of this Act shall, not later than January 1, 1987, in the case of loans made before the date of enactment of this Act, notify the borrower of such loan—

"(A) of the refinancing options for which the borrower is eligible under this subsection;

"(B) of those options which will be made available by the holder; and

"(C) that, with respect to any option that the holder will not make available, the holder will, to the extent practicable, refer the borrower to an eligible lender offering such option.

"CONSOLIDATION LOANS

20 USC 1078-3.

"SEC. 428C. (a) AGREEMENTS WITH ELIGIBLE LENDERS.—

"(1) AGREEMENT REQUIRED FOR INSURANCE COVERAGE.—For the purpose of providing loans to eligible borrowers for consolidation of their obligations with respect to eligible student loans, the Secretary or a guaranty agency shall enter into agreements in accordance with subsection (b) with the following eligible lenders:

"(A) the Student Loan Marketing Association;

"(B) State agencies described in subparagraphs (D) and (F) of section 435(d)(1); and

"(C) other eligible lenders described in subparagraphs (A), (B), (C), and (E) of such section.

"(2) INSURANCE COVERAGE OF CONSOLIDATION LOANS.—Except as provided in section 429(e), no contract of insurance under this part shall apply to a consolidation loan unless such loan is made under an agreement pursuant to this section and is covered by a certificate issued in accordance with subsection (b)(2). Loans covered by such a certificate that is issued by a guaranty agency shall be considered to be insured loans for the purposes of reimbursements under section 428(c), but no payment shall be made with respect to such loans under section 428(f) to any such agency. Contracts.

"(3) DEFINITION OF ELIGIBLE BORROWER.—(A) For the purpose of this section, the term 'eligible borrower' means a borrower who, at the time of application for a consolidation loan—

"(i) has an outstanding indebtedness on eligible student loans, at the time of application for a consolidation loan, of not less than $5,000;

"(ii) is in repayment status, or in a grace period preceding repayment, and is not delinquent with respect to any required payment on such indebtedness by more than 90 days; and

"(iii) is not a parent borrower under section 428B.

"(B) An individual's status as an eligible borrower under this section terminates upon receipt of a consolidation loan under this section except with respect to loans received under this title after the date of receipt of the consolidation loan. Loans made under this section shall, to the extent used to discharge loans made under this part, be counted against the applicable limitations on aggregate indebtedness contained in sections 425(a)(2) and 428(b)(1)(B).

"(4) DEFINITION OF ELIGIBLE STUDENT LOANS.—For the purpose of paragraph (1), the term 'eligible student loans' means loans—

"(A) made, insured, or guaranteed under this part;

"(B) made under part E of this title; or

"(C) made under subpart II of part C of title VII of the Public Health Service Act. 42 USC 294m.

"(b) CONTENTS OF AGREEMENTS, CERTIFICATES OF INSURANCE, AND LOAN NOTES.—

"(1) AGREEMENTS WITH LENDERS.—Any lender described in subparagraph (A), (B), or (C) of subsection (a)(1) who wishes to make consolidation loans under this section shall enter into an agreement with the Secretary or a guaranty agency which provides—

"(A) that, in the case of all lenders described in subsection (a)(1), the lender will make a consolidation loan to an eligible borrower (on request of that borrower) only if the borrower certifies that the borrower has no other application pending for a loan under this section and (i) the lender holds an outstanding loan of that borrower which is selected by the borrower for consolidation under this section, or (ii) the borrower certifies that the borrower has sought and has been unable to obtain a consolidation loan from the

holders of the outstanding loans of that borrower (which are so selected for consolidation);

"(B) that each consolidation loan made by the lender will bear interest, and be subject to repayment, in accordance with subsection (c);

"(C) that each consolidation loan will be made, notwithstanding any other provision of this part limiting the annual or aggregate principal amount for all insured loans made to a borrower, in an amount (i) which is not less than the minimum amount required for eligibility of the borrower under subsection (a)(2), and (ii) which is equal to the sum of the unpaid principal and accrued unpaid interest and late charges of all loans received by the eligible borrower under this title which are selected by the borrower for consolidation;

"(D) that the proceeds of each consolidation loan will be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans;

"(E) such other terms and conditions as the Secretary or the guaranty agency may specifically require of the lender to carry out this section.

"(2) ISSUANCE OF CERTIFICATE OF COMPREHENSIVE INSURANCE COVERAGE.—The Secretary shall issue a certificate of comprehensive insurance coverage under section 429(b) to a lender which has entered into an agreement with the Secretary under paragraph (1) of this subsection. The guaranty agency may issue a certificate of comprehensive insurance coverage to a lender with which it has an agreement under such paragraph. The Secretary shall not issue a certificate to a lender described in subparagraph (B) or (C) of subsection (a)(1) unless the Secretary determines that such lender has first applied to, and has been denied a certificate of insurance by, the guaranty agency which insures the preponderance of its loans (by value).

"(3) CONTENTS OF CERTIFICATE.—A certificate issued under paragraph (2) shall, at a minimum, provide—

"(A) that all consolidation loans made by such lender in conformity with the requirements of this section will be insured by the Secretary or the guaranty agency (whichever is applicable) against loss of principal and interest;

"(B) that a consolidation loan will not be insured unless the lender has determined to its satisfaction, in accordance with reasonable and prudent business practices, for each loan being consolidated—

"(i) that the loan is a legal, valid, and binding obligation of the borrower;

"(ii) that each such loan was made and serviced in compliance with applicable laws and regulations; and

"(iii) in the case of loans under this part, that the insurance on such loan is in full force and effect;

"(C) the effective date and expiration date of the certificate;

"(D) the aggregate amount to which the certificate applies;

"(E) the reporting requirements of the Secretary on the lender and an identification of the office of the Department of Education or of the guaranty agency which will process claims and perform other related administrative functions;

"(F) the alternative repayment terms which will be offered to borrowers by the lender;

"(G) that, if the lender prior to the expiration of the certificate no longer proposes to make consolidation loans, the lender will so notify the issuer of the certificate in order that the certificate may be terminated (without affecting the insurance on any consolidation loan made prior to such termination); and

"(H) the terms upon which the issuer of the certificate may limit, suspend, or terminate the lender's authority to make consolidation loans under the certificate (without affecting the insurance on any consolidation loan made prior to such limitation, suspension, or termination).

"(4) TERMS AND CONDITIONS OF LOANS.—A consolidation loan made pursuant to this section shall be insurable by the Secretary or a guaranty agency pursuant to paragraph (2) only if the loan is made to an eligible borrower who has agreed to notify the holder of the loan promptly concerning any change of address and the loan is evidenced by a note or other written agreement which—

"(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him or her would not, under applicable law, create a binding obligation, endorsement may be required;

"(B) provides for the payment of interest and the repayment of principal in accordance with subsection (c) of this section;

"(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period for which the borrower would be eligible for a deferral under clause (i), (viii), or (ix) of section 428(b)(1)(M), and that any such period shall not be included in determining the repayment period pursuant to subsection (c)(2) of this section;

"(D) entitles the borrower to accelerate without penalty repayment of the whole or any part of the loan; and

"(E)(i) contains a notice of the system of disclosure concerning such loan to credit bureau organizations under section 430A, and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations.

"(c) PAYMENT OF PRINCIPAL AND INTEREST.—

"(1) INTEREST RATES.—(A) Consolidation loans made under this section shall bear interest at rates determined under subparagraph (B) or (C). For the purposes of payment of special allowances under section 438(b)(2), the interest rate required by this subsection is the applicable interest rate with respect to a consolidation loan.

"(B) Except as provided in subparagraph (C), a consolidation loan shall bear interest at an annual rate on the unpaid principal balance of the loan which is equal to the weighted average of the interest rates on the loans consolidated, rounded to the nearest whole percent.

"(C) A consolidation loan shall bear interest at an annual rate on the unpaid principal balance of the loan equal to not less than 9 percent.

"(2) REPAYMENT SCHEDULES.—(A) Notwithstanding any other provision of this part, to the extent authorized by its certificate of insurance under subsection (b)(2)(F) and approved by the issuer of such certificate, the lender of a consolidation loan shall establish repayment terms as will promote the objectives of this section, which may include the establishment of graduated or income sensitive repayment schedules. Such repayment terms shall require that if the sum of the consolidation loan and the amount outstanding on other student loans to the individual—

"(i) is equal to or greater than $5,000 but less than $7,500, then such consolidation loan shall be repaid in not more than 10 years;

"(ii) is equal to or greater than $7,500 but less than $10,000, then such consolidation loan shall be repaid in not more than 12 years;

"(iii) is equal to or greater than $10,000 but less than $20,000, then such consolidation loan shall be repaid in not more than 15 years;

"(iv) is equal to or greater than $20,000 but less than $45,000, then such consolidation loan shall be repaid in not more than 20 years; or

"(v) is more than $45,000, then such consolidation loan shall be repaid in not more than 25 years.

"(B) Unless a consolidation loan under subparagraph (A)(ii) will be used to discharge at least $5,000 of loans made under this part, such loan shall be repaid in accordance with subparagraph (A)(i).

"(C) The amount outstanding on other student loans which may be counted for the purpose of subparagraph (A) may not exceed the amount of the consolidation loan.

"(3) ADDITIONAL REPAYMENT REQUIREMENTS.—Notwithstanding paragraph (2)—

"(A) a repayment schedule established with respect to a consolidation loan shall require that the minimum installment payment equal to not less than the accrued unpaid interest; and

"(B) the lender of a consolidation loan may, with respect to repayment on the loan, when the amount of a monthly or other similar payment on the loan is not a multiple of $5, round the payment to the next highest whole dollar amount that is a multiple of $5.

"(4) COMMENCEMENT OF REPAYMENT.—Repayment of a consolidation loan shall commence within 60 days after all holders have, pursuant to subsection (b)(1)(D), discharged the liability of the borrower on the loans selected for consolidation.

"(5) INSURANCE PREMIUMS PROHIBITED.—No insurance premium shall be charged to the borrower on any consolidation loan, and no insurance premium shall be payable by the lender to the Secretary with respect to any such loan.

"(d) TERMINATION OF AUTHORITY.—The authority to make loans under this section expires at the close of September 30, 1992. Nothing in this section shall be construed to authorize the Secretary to promulgate rules or regulations governing the terms or conditions of the agreements and certificates under subsection (b). Loans made under this section which are insured by the Secretary shall be considered to be new loans made to students for the purpose of section 424(a).

"COMMINGLING OF FUNDS

"SEC. 428D. Notwithstanding any other provision of this part regarding permissible uses of funds from any source, funds received by a guaranty agency under any provision of this part may be commingled with funds received under any other provision of this part and may be used to carry out the purposes of such other provision, except that— 20 USC 1078-4.

"(1) the total amount expended for the purposes of such other provision shall not exceed the amount the guaranty agency would otherwise be authorized to expend; and

"(2) the authority to commingle such funds shall not relieve such agency of any accounting or auditing obligations under this part.

"STATE GARNISHMENT LAW REQUIREMENTS

"SEC. 428E. (a) REQUIREMENTS FOR ADDITIONAL COST PAYMENTS.— A garnishment law complies with the requirements of this section if such law— 20 USC 1078-5.

"(1) provides that the amount deducted for any pay period may not exceed 10 percent of disposable pay, except that a greater percentage may be deducted upon the written consent of the individual involved;

"(2) provides the individual with a minimum of 30 days written notice, informing such individual of the nature and amount of the indebtedness determined by such agency to be due, the intention of the agency to initiate proceedings to collect the debt through deductions from pay, and an explanation of the rights of the individual under such law;

"(3) provides the individual with an opportunity to inspect and copy records relating to the debts;

"(4) provides the individual with an opportunity to enter into a written agreement with the agency, under terms agreeable to the head of the agency or his designee, to establish a schedule for the repayment of the debt;

"(5) provides the individual with an opportunity for a hearing in accordance with subsection (b) on the determination of the agency concerning the existence or the amount of the debt, and in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to paragraph (4), concerning the terms of the repayment schedule, but does not permit additional administrative or judicial procedures that would delay collection of the debt (such as reduction of the debt to a judgment);

"(6) provides that the employer will be held liable to the agency for any amount which such employer fails to withhold from wages due an employee following receipt by such employer of proper notice under paragraph (2), but such employer shall not be required to vary the normal pay and disbursement cycles in order to comply with this paragraph; and

"(7) provides for the imposition of a fine against any employer who discharges from employment, refuses to employ, or takes disciplinary action against any individual subject to wage withholding required by this section because of the existence of such withholding and the obligations or additional obligations which it imposes upon the employer.

"(b) HEARING REQUIREMENTS.—A hearing described in subsection (a)(5) shall be provided if the individual, on or before the 15th day following receipt of the notice described in subsection (a)(2), and in accordance with such procedures as the head of the agency may prescribe, files a petition requesting such a hearing. The timely filing of a petition for hearing shall stay the commencement of collection proceedings. A hearing under subsection (a)(5) may not be conducted by an individual under the supervision or control of the head of the agency, except that nothing in this sentence shall be construed to prohibit the appointment of an administrative law judge. The hearing official shall issue a final decision at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing.

"(c) NOTICE REQUIREMENTS.—The notice given to the employer pursuant to subsection (a)(2) shall contain only such information as may be necessary for the employer to comply with the withholding order.

"(d) DEFINITION.—For the purpose of this section, the term 'disposable pay' means that part of pay of any individual remaining after the deduction of any amounts required by law to be withheld.

"REHABILITATION OF DEFAULTED LOANS

20 USC 1078-6.

"SEC. 428F. (a) AUTHORITY TO ESTABLISH PILOT PROGRAM.—The Secretary shall, in accordance with the requirements of this section, establish a pilot program to test the feasibility of rehabilitating defaulted loans under this part. Such pilot program shall be commenced within 3 months after the date of enactment of this section and shall be completed not later than 3 years after such date. The Secretary shall submit a report on the results of such pilot program within 3 months after its completion.

"(b) ELIGIBILITY FOR PILOT PROGRAM.—The loans which shall be eligible for rehabilitation under this section shall be only those loans which are made to borrowers who, at the time of default on the loan, are unemployed or institutionalized.

"(c) METHOD OF REHABILITATION.—

"(1) SALE OF LOAN PURSUANT TO AGREEMENT.—Upon securing consecutive payments for 12 months of amounts owed on a loan for which the Secretary has made a payment under section 428(c)(1), the guaranty agency (pursuant to an agreement with the Secretary) or the Secretary shall, if practicable, sell the rehabilitated loan to an eligible lender, other than an eligible lender who has been found by the guaranty agency or the Secretary to have substantially failed to exercise the due diligence required of lenders under this part.

"(2) TERMS OF AGREEMENT.—Such agreement between the guaranty agency and the Secretary shall provide—

"(A) for the repayment by the agency to the Secretary of 81.5 percent of the amount of the principal balance outstanding at the time of such sale multiplied by a percentage amount equal to the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

"(B) for the reinstatement by the Secretary (I) of the obligation to reimburse such agency for the amount expended by it in discharge of its insurance obligation under its loan insurance program, and (II) of the obligation to pay

to the holder of the rehabilitated loan a special allowance pursuant to section 438.

"(3) PROCEEDS OF SALES OFFSET AGAINST DEFAULT CLAIMS.—Amounts received by the Secretary pursuant to the sale of rehabilitated loans by a guaranty agency under this paragraph shall be deducted from the calculations of the amount of claims for reimbursement filed by the agency under section 428(c)(1) for the fiscal year in which the amount was received, notwithstanding the fact that the default occurred in a prior fiscal year.

"(4) EFFECT OF REHABILITATION ON BORROWER ELIGIBILITY.—Any borrower whose loan is rehabilitated under this subsection shall not be precluded by section 484 from receiving additional assistance under this title (for which he or she is otherwise eligible) on the basis of defaulting on the loan prior to rehabilitation.

"(5) APPLICABILITY OF OTHER TERMS, CONDITIONS, AND BENEFITS.—A loan which is rehabilitated under this paragraph shall be subject to the same terms and conditions and qualify for the same benefits and privileges as other loans made under this part.

"CERTIFICATE OF FEDERAL LOAN INSURANCE—EFFECTIVE DATE OF INSURANCE

"SEC. 429. (a) LOAN-BY-LOAN INSURANCE.— 20 USC 1079.

"(1) AUTHORITY TO ISSUE CERTIFICATES ON APPLICATION.—If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Secretary may require, and otherwise in conformity with this section, the Secretary finds that the applicant has made a loan to an eligible student which is insurable under the provisions of this part, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance.

"(2) EFFECTIVENESS OF CERTIFICATE.—Insurance evidenced by a certificate of insurance pursuant to subsection (a)(1) shall become effective upon the date of issuance of the certificate, except that the Secretary is authorized, in accordance with regulations, to issue commitments with respect to proposed loans, or with respect to lines (or proposed lines) of credit, submitted by eligible lenders, and in that event, upon compliance with subsection (a)(1) by the lender, the certificate of insurance may be issued effective as of the date when any loan, or any payment by the lender pursuant to a line of credit, to be covered by such insurance was made. Such insurance shall cease to be effective upon 60 days' default by the lender in the payment of any installment of the premiums payable pursuant to subsection (c).

"(3) CONTENTS OF APPLICATIONS.—An application submitted pursuant to subsection (a)(1) shall contain (A) an agreement by the applicant to pay, in accordance with regulations, the premiums fixed by the Secretary pursuant to subsection (c), and (B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statement during the effective period of the loan agreement, upon such forms, at such times, and containing such

information as the Secretary may prescribe by or pursuant to regulation.

"(b) COMPREHENSIVE INSURANCE COVERAGE CERTIFICATE.—

"(1) ESTABLISHMENT OF SYSTEM BY REGULATION.—In lieu of requiring a separate insurance application and issuing a separate certificate of insurance for each student loan made by an eligible lender as provided in subsection (a), the Secretary may, in accordance with regulations consistent with section 424, issue to any eligible lender applying therefor a certificate of comprehensive insurance coverage which shall, without further action by the Secretary, insure all insurable loans made by that lender, on or after the date of the certificate and before a specified cutoff date, within the limits of an aggregate maximum amount stated in the certificate. Such regulations may provide for conditioning such insurance, with respect to any loan, upon compliance by the lender with such requirements (to be stated or incorporated by reference in the certificate) as in the Secretary's judgment will best achieve the purpose of this subsection while protecting the United States from the risk of unreasonable loss and promoting the objectives of this part, including (but not limited to) provisions as to the reporting of such loans and information relevant thereto to the Secretary and as to the payment of initial and other premiums and the effect of default therein, and including provision for confirmation by the Secretary from time to time (through endorsement of the certificate) of the coverage of specific new loans by such certificate, which confirmation shall be incontestable by the Secretary in the absence of fraud or misrepresentation of fact or patent error.

"(2) UNCOVERED LOANS.—If the holder of a certificate of comprehensive insurance coverage issued under this subsection grants to a student a line of credit extending beyond the cutoff date specified in that certificate, loans or payments thereon made by the holder after that date pursuant to the line of credit shall not be deemed to be included in the coverage of that certificate except as may be specifically provided therein; but, subject to the limitations of section 424, the Secretary may, in accordance with regulations, make commitments to insure such future loans or payments, and such commitments may be honored either as provided in subsection (a) or by inclusion of such insurance on comprehensive coverage under the subsection for the period or periods in which such future loans or payments are made.

"(c) CHARGES FOR FEDERAL INSURANCE.—The Secretary shall, pursuant to regulations, charge for insurance on each loan under this part a premium in an amount not to exceed one-fourth of 1 percent per year of the unpaid principal amount of such loan (excluding interest added to principal), payable in advance, at such times and in such manner as may be prescribed by the Secretary. Such regulations may provide that such premium shall not be payable, or if paid shall be refundable, with respect to any period after default in the payment of principal or interest or after the borrower has died or becomes totally and permanently disabled, if (1) notice of such default or other event has been duly given, and (2) requests for payment of the loss insured against has been made or the Secretary has made such payment on his own motion pursuant to section 430(a).

"(d) ASSIGNABILITY OF INSURANCE.—The rights of an eligible lender arising under insurance evidenced by a certificate of insurance issued to it under this section may be assigned as security by such lender only to another eligible lender, and subject to regulation by the Secretary.

"(e) CONSOLIDATION NOT TO AFFECT INSURANCE.—The consolidation of the obligations of two or more federally insured loans obtained by a student borrower in any fiscal year into a single obligation evidenced by a single instrument of indebtedness shall not affect the insurance by the United States. If the loans thus consolidated are covered by separate certificates of insurance issued under subsection (a), the Secretary may upon surrender of the original certificates issue a new certificate of insurance in accordance with that subsection upon the consolidated obligation; if they are covered by a single comprehensive certificate issued under subsection (b), the Secretary may amend that certificate accordingly.

"DEFAULT OF STUDENT UNDER FEDERAL LOAN INSURANCE PROGRAM

"SEC. 430. (a) NOTICE TO SECRETARY AND PAYMENT OF LOSS.—Upon default by the student borrower on any loan covered by Federal loan insurance pursuant to this part, and prior to the commencement of suit or other enforcement proceedings upon security for that loan, the insurance beneficiary shall promptly notify the Secretary, and the Secretary shall if requested (at that time or after further collection efforts) by the beneficiary, or may on the Secretary's own motion, if the insurance is still in effect, pay to the beneficiary the amount of the loss sustained by the insured upon that loan as soon as that amount has been determined. The 'amount of the loss' on any loan shall, for the purposes of this subsection and subsection (b), be deemed to be an amount equal to the unpaid balance of the principal amount and accrued interest, including interest accruing from the date of submission of a valid default claim (as determined by the Secretary) to the date on which payment is authorized by the Secretary, reduced to the extent required by section 425(b). Such beneficiary shall be required to meet the standards of due diligence in the collection of the loan and shall be required to submit proof that reasonable attempts were made to locate the borrower (when the location of the borrower is unknown) and proof that contact was made with the borrower (when the location is known). The Secretary shall make the determination required to carry out the provisions of this section not later than 90 days after the notification by the insurance beneficiary and shall make payment in full on the amount of the beneficiary's loss pending completion of the due diligence investigation. 20 USC 1080.

"(b) EFFECT OF PAYMENT OF LOSS.—Upon payment of the amount of the loss pursuant to subsection (a), the United States shall be subrogated for all of the rights of the holder of the obligation upon the insured loan and shall be entitled to an assignment of the note or other evidence of the insured loan by the insurance beneficiary. If the net recovery made by the Secretary on a loan after deduction of the cost of that recovery (including reasonable administrative costs and collection costs, to the extent set forth in regulations issued by the Secretary) exceeds the amount of the loss, the excess shall be paid over to the insured. The Secretary may, in attempting to make recovery on such loans, contract with private business concerns, State student loan insurance agencies, or State guaranty agencies, Contracts.

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for payment for services rendered by such concerns or agencies in assisting the Secretary in making such recovery. Any contract under this subsection entered into by the Secretary shall provide that attempts to make recovery on such loans shall be fair and reasonable, and do not involve harassment, intimidation, false or misleading representations, or unnecessary communications concerning the existence of any such loan to persons other than the student borrower.

"(c) FORBEARANCE NOT PRECLUDED.—Nothing in this section or in this part shall be construed to preclude any forbearance for the benefit of the student borrower which may be agreed upon by the parties to the insured loan and approved by the Secretary, or to preclude forbearance by the Secretary in the enforcement of the insured obligation after payment on that insurance. Any forbearance which is approved by the Secretary under this subsection with respect to the repayment of a loan, including a forbearance during default, shall not be considered as indicating that a holder of a federally insured loan has failed to exercise reasonable care and due diligence in the collection of the loan.

"(d) CARE AND DILIGENCE REQUIRED OF HOLDERS.—Nothing in this section or in this part shall be construed to excuse the holder of a federally insured loan from exercising reasonable care and diligence in the making and collection of loans under the provisions of this part. If the Secretary, after a reasonable notice and opportunity for hearing to an eligible lender, finds that it has substantially failed to exercise such care and diligence or to make the reports and statements required under section 428(a)(4) and section 429(a)(3), or to pay the required Federal loan insurance premiums, the Secretary shall disqualify that lender for further Federal insurance on loans granted pursuant to this part until the Secretary is satisfied that its failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence or comply with such requirements, as the case may be.

"REPORTS TO CREDIT BUREAUS AND INSTITUTIONS OF HIGHER EDUCATION

20 USC 1080a.

"SEC. 430A. (a) AGREEMENTS TO EXCHANGE INFORMATION.—For the purpose of promoting responsible repayment of loans covered by Federal loan insurance pursuant to this part or covered by a guaranty agreement pursuant to section 428, the Secretary, each guaranty agency, eligible lender, and subsequent holder shall enter into agreements with credit bureau organizations to exchange information concerning student borrowers, in accordance with the requirements of this section. For the purpose of assisting such organizations in complying with the Fair Credit Reporting Act, such agreements may provide for timely response by the Secretary (concerning loans covered by Federal loan insurance), by a guaranty agency, eligible lender, or subsequent holder (concerning loans covered by a guaranty agreement), or to requests from such organizations for responses to objections raised by borrowers. Subject to the requirements of subsection (c), such agreements shall require the Secretary, the guaranty agency, eligible lender, or subsequent holder, as appropriate, to disclose to such organizations, with respect to any loan under this part that has not been repaid by the borrower—

15 USC 1681 note.

"(1) the total amount of loans made to any borrower under this part and the remaining balance of the loans;

"(2) information concerning the date of any default on the loan and the collection of the loan, including information concerning the repayment status of any defaulted loan on which the Secretary has made a payment pursuant to section 430(a) or the guaranty agency has made a payment to the previous holder of the loan; and

"(3) the date of cancellation of the note upon completion of repayment by the borrower of the loan or payment by the Secretary pursuant to section 437.

"(b) ADDITIONAL INFORMATION.—Such agreements may also provide for the disclosure by such organizations to the Secretary or a guaranty agency, whichever insures or guarantees a loan, upon receipt of a notice under subsection (a)(2) that such a loan is in default, of information concerning the borrower's location or other information which may assist the Secretary, the guaranty agency, the eligible lender, or the subsequent holder in collecting the loan.

"(c) CONTENTS OF AGREEMENTS.—Agreements entered into pursuant to this section shall contain such provisions as may be necessary to ensure that—

"(1) no information is disclosed by the Secretary or the guaranty agency, eligible lender, or subsequent holder unless its accuracy and completeness have been verified and the Secretary or the guaranty agency has determined that disclosure would accomplish the purpose of this section;

"(2) as to any information so disclosed, such organizations will be promptly notified of, and will promptly record, any change submitted by the Secretary, the guaranty agency, eligible lender, or subsequent holder with respect to such information, or any objections by the borrower with respect to any such information, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i);

"(3) no use will be made of any such information which would result in the use of collection practices with respect to such a borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning any such information; and

"(4) with regard to notices of default under subsection (a)(2) of this section, except for disclosures made to obtain the borrower's location, the Secretary, or the guaranty agency, eligible lender, or subsequent holder whichever is applicable (A) shall not disclose any such information until the borrower has been notified that such information will be disclosed to credit bureau organizations unless the borrower enters into repayment of his or her loan, but (B) shall, if the borrower has not entered into repayment within a reasonable period of time, but not less than 30 days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

"(d) CONTRACTOR STATUS OF PARTICIPANTS.—A guaranty agency, eligible lender, or subsequent holder or credit bureau organization which discloses or receives information under this section shall not be considered a Government contractor within the meaning of section 552a of title 5, United States Code.

"(e) DISCLOSURE TO INSTITUTIONS.—The Secretary and each guaranty agency, eligible lender, and subsequent holder of a loan are authorized to disclose information described in subsections (a) and

(b) concerning student borrowers to the eligible institutions such borrowers attend or previously attended.

Report.

"(f) DURATION OF AUTHORITY.—Notwithstanding paragraphs (4) and (6) of subsection (a) of section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c (a)(4), (a)(6)), a consumer reporting agency may make a report containing information received from the Secretary or a guaranty agency, eligible lender, or subsequent holder regarding the status of a borrower's defaulted account on a loan guaranteed under this part until—

"(1) 7 years from the date on which the Secretary or the agency paid a claim to the holder on the guaranty, or

"(2) with regard to an account on a loan on which the Secretary or the guaranty agency has paid a claim but not reported the account to a consumer reporting agency on or before October 1, 1985, 7 years from that date.

"INSURANCE FUND

20 USC 1081.

"SEC. 431. (a) ESTABLISHMENT.—There is hereby established a student loan insurance fund (hereinafter in this section called the 'fund') which shall be available without fiscal year limitation to the Secretary for making payments in connection with the default of loans insured by the Secretary under this part, or in connection with payments under a guaranty agreement under section 428(c). All amounts received by the Secretary as premium charges for insurance and as receipts, earnings, or proceeds derived from any claim or other assets acquired by the Secretary in connection with operations under this part, any excess advances under section 422(c)(4)(C), and any other moneys, property, or assets derived by the Secretary from operations in connection with this section, shall be deposited in the fund. All payments in connection with the default of loans insured by the Secretary under this part, or in connection with such guaranty agreements shall be paid from the fund. Moneys in the fund not needed for current operations under this section may be invested in bonds or other obligations guaranteed as to principal and interest by the United States.

"(b) BORROWING AUTHORITY.—If at any time the moneys in the fund are insufficient to make payments in connection with the default of any loan insured by the Secretary under this part, or in connection with any guaranty agreement made under section 428(c), the Secretary is authorized, to the extent provided in advance by appropriations Acts, to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the

31 USC 774.

Treasury may at any time sell any of the notes or other obligations acquired under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under the subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such fund.

"LEGAL POWERS AND RESPONSIBILITIES

"SEC. 432. (a) GENERAL POWERS.—In the performance of, and with respect to, the functions, powers, and duties, vested in him by this part, the Secretary may— 20 USC 1082.

"(1) prescribe such regulations as may be necessary to carry out the purposes of this part;

"(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in that office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under the Secretary's control and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 509, 517, 547, and 2679 of title 28 of the United States Code;

"(3) include in any contract for Federal loan insurance such terms, conditions, and covenants relating to repayment of principal and payment of interest, relating to the Secretary's obligations and rights to those of eligible lenders, and borrowers in case of default, and relating to such other matters as the Secretary determines to be necessary to assure that the purposes of this part will be achieved; and any term, condition, and covenant made pursuant to this paragraph or pursuant to any other provision of this part may be modified by the Secretary, after notice and opportunity for a hearing on the record, if the Secretary finds that the modification is necessary to protect the United States from the risk of unreasonable loss; Contracts.

"(4) subject to the specific limitations in this part, consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note or other instrument evidencing a loan which has been insured by the Secretary under this part;

"(5) enforce, pay, or compromise, any claim on, or arising because of, any such insurance or any guaranty agreement under section 428(c); and

"(6) enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption.

"(b) FINANCIAL OPERATIONS RESPONSIBILITIES.—The Secretary shall, with respect to the financial operations arising by reason of this part—

"(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31, United States Code; and

31 USC 9101 *et seq.*

Insurance.

"(2) maintain with respect to insurance under this part an integral set of accounts and prepare financial statements in accordance with generally accepted accounting principles, which shall be audited annually by the General Accounting Office in conformity with generally accepted Government auditing standards except that the transactions of the Secretary, including the settlement of insurance claims and of claims for payments pursuant to section 428, and transactions related thereto and vouchers approved by the Secretary in connection with such transactions, shall be final and conclusive upon all accounting and other officers of the Government.

"(c) DATA COLLECTION.—

"(1) COLLECTION BY CATEGORY OF LOAN.—(A) For loans insured after December 31, 1976, or in the case of each insurer after such earlier date where the data required by this subsection are available, the Secretary and all other insurers under this part shall collect and accumulate all data relating to (i) loan volume insured and (ii) defaults reimbursed or default rates according to the categories of loans listed in subparagraph (B) of this paragraph.

"(B) The data indicated in subparagraph (A) of this paragraph shall be accumulated according to the category of lender making the loan and shall be accumulated separately for lenders who are (i) eligible institutions, (ii) State or private, nonprofit direct lenders, (iii) commercial financial institutions who are banks, savings and loan associations, or credit unions, and (iv) all other types of institutions or agencies.

"(C) The Secretary may designate such additional subcategories within the categories specified in subparagraph (B) of this paragraph as the Secretary deems appropriate.

"(D) The category or designation of a loan shall not be changed for any reason, including its purchase or acquisition by a lender of another category.

Report.

"(2) COLLECTION AND REPORTING REQUIREMENTS.—(A) The Secretary shall collect data under this subsection from all insurers under this part and shall publish not less often than once every fiscal year a report showing loan volume guaranteed and default data for each category specified in subparagraph (B) of paragraph (1) of this subsection and for the total of all lenders.

Insurance.

"(B) The reports specified in subparagraph (A) of this paragraph shall include a separate report for each insurer under this part including the Secretary, and where an insurer insures loans for lenders in more than one State, such insurer's report shall list all data separately for each State.

"(3) INSTITUTIONAL, PUBLIC, OR NONPROFIT LENDERS.—For purposes of clarity in communications, the Secretary shall separately identify loans made by the lenders referred to in clause (i) and loans made by the lenders referred to in clause (ii) of paragraph (1)(B) of this subsection.

"(d) DELEGATION.—

"(1) REGIONAL OFFICES.—The functions of the Secretary under this part listed in paragraph (2) of this subsection may be delegated to employees in the regional office of the Department.

"(2) DELEGABLE FUNCTIONS.—The functions which may be delegated pursuant to this subsection are— Insurance. Contracts.

"(A) reviewing applications for loan insurance under section 429 and issuing contracts for Federal loan insurance, certificates of insurance, and certificates of comprehensive insurance coverage to eligible lenders which are financial or credit institutions subject to examination and supervision by an agency of the United States or of any State;

"(B) receiving claims for payments under section 430(a), examining those claims, and pursuant to regulations of the Secretary, approving claims for payment, or requiring lenders to take additional collection action as a condition for payment of claims; and

"(C) certifying to the central office when collection of defaulted loans has been completed, compromising or agreeing to the modification of any Federal claim against a borrower (pursuant to regulations of the Secretary issued under section 432(a)), and recommending litigation with respect to any such claim. Claims.

"(e) USE OF INFORMATION ON BORROWERS.—Notwithstanding any other provision of law, the Secretary may provide to eligible lenders, and to any guaranty agency having a guaranty agreement under section 428(c)(1), any information with respect to the names and addresses of borrowers or other relevant information which is available to the Secretary, from whatever source such information may be derived.

"(f) AUDIT OF FINANCIAL TRANSACTIONS.—

"(1) COMPTROLLER GENERAL AND INSPECTOR GENERAL AUTHORITY.—The Comptroller General and the Inspector General of the Department of Education shall each have the authority to conduct an audit of the financial transactions of—

"(A) any guaranty agency operating under an agreement with the Secretary pursuant to section 428(b);

"(B) any eligible lender as defined in section 435(d)(1) (D), (F), or (H);

"(C) a representative sample of eligible lenders under this part, upon the request of the Committee on Education and Labor of the House of Representatives or the Committee on Labor and Human Resources of the Senate, with respect to the payment of the special allowance under section 438 in order to evaluate the program authorized by this part; and

"(D) any Authority required to file a plan for doing business under section 438(d).

"(2) ACCESS TO RECORDS.—For the purpose of carrying out this subsection, the records of any entity described in subparagraph (A), (B), (C), or (D) of paragraph (1) shall be available to the Comptroller General and the Inspector General of the Department of Education. For the purpose of section 716(c) of title 31, United States Code, such records shall be considered to be records to which the Comptroller General has access by law, and for the purpose of section 6(a)(4) of the Inspector General Act of 1978, such records shall be considered to be records necessary in the performance of functions assigned by that Act to the Inspector General. 5 USC app.

"(3) DEFINITION OF RECORDS.—For the purpose of this subsection, the term 'record' includes any information, document,

report, answer, account, paper, or other data or documentary evidence.

"(g) CIVIL PENALTIES.—

"(1) AUTHORITY TO IMPOSE PENALTIES.—Upon determination, after reasonable notice and opportunity for a hearing on the record, that a lender or a guaranty agency—

"(A) has violated or failed to carry out any provision of this part or any regulation prescribed under this part, or

"(B) has engaged in substantial misrepresentation of the nature of its financial charges,

the Secretary may impose a civil penalty upon such lender or agency of not to exceed $25,000 for each violation, failure, or misrepresentation.

"(2) LIMITATIONS.—No civil penalty may be imposed under paragraph (1) of this subsection unless it is determined that the violation, failure, or substantial misrepresentation referred to in that paragraph resulted from—

"(A)(i) a clear and consistent pattern or practice of violations, failures, or substantial misrepresentations in which the lender or guaranty agency did not maintain procedures reasonably adapted to avoid the violation, failure, or substantial representation;

"(ii) gross negligence; or

"(iii) willful actions on the part of the lender or guaranty agency; and

"(B) the violation, failure, or substantial representation is material.

"(3) CORRECTION OF FAILURE.—A lender or guaranty agency has no liability under paragraph (1) of this subsection if, prior to the institution of an action under that paragraph, the lender or guaranty agency cures or corrects the violation or failure or notifies the person who received the substantial misrepresentation of the actual nature of the financial charges involved.

"(4) CONSIDERATION AS SINGLE VIOLATION.—For the purpose of paragraph (1) of this subsection, violations, failures, or substantial misrepresentations arising from a specific practice of a lender or guaranty agency shall be deemed to be a single violation, failure, or substantial misrepresentation even if the violation, failure, or substantial misrepresentation affects more than one loan or more than one borrower, or both, and the Secretary may only impose a single civil penalty for each such violation, failure, or substantial misrepresentation.

"(5) ASSIGNEES NOT LIABLE FOR VIOLATIONS BY OTHERS.—If a loan affected by a violation, failure, or substantial misrepresentation is assigned to another holder, the lender or guaranty agency responsible for the violation, failure, or substantial misrepresentation shall remain liable for any civil money penalty provided for under paragraph (1) of this subsection, but the assignee shall not be liable for any such civil money penalty.

"(6) COMPROMISE.—Until a matter is referred to the Attorney General, any civil penalty under paragraph (1) of this subsection may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the Secretary shall consider the appropriateness of the penalty to the resources of the lender or guaranty agency subject to the determination; the gravity of the violation, failure, or substantial misrepresentation; the frequency and

persistence of the violation, failure, or substantial misrepresentation; and the amount of any losses resulting from the violation, failure, or substantial misrepresentation. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the lender or agency charged, unless the lender or agency has, in the case of a final agency determination, commenced proceedings for judicial review within 90 days of the determination, in which case the deduction may not be made during the pendency of the proceeding.

"(h) AUTHORITY OF THE SECRETARY TO IMPOSE AND ENFORCE LIMITATIONS, SUSPENSIONS, AND TERMINATIONS.—

"(1) IMPOSITION OF SANCTIONS.—(A) If the Secretary, after a reasonable notice and opportunity for hearing to an eligible lender, finds that the eligible lender—

"(i) has substantially failed—

"(I) to exercise reasonable care and diligence in the making and collecting of loans under the provisions of this part,

"(II) to make the reports or statements under section 428(a)(4), or

"(III) to pay the required loan insurance premiums to any guaranty agency, or

"(ii) has engaged in—

"(I) fraudulent or misleading advertising or in solicitations that have resulted in the making of loans insured or guaranteed under this part to borrowers who are ineligible; or

"(II) the practice of making loans that violate the certification for eligibility provided in section 428, Insurance.

the Secretary shall limit, suspend, or terminate that lender from participation in the insurance programs operated by guaranty agencies under this part.

"(B) The Secretary shall not lift any such limitation, suspension, or termination until the Secretary is satisfied that the lender's failure under subparagraph (A)(i) of this paragraph or practice under subparagraph (A)(ii) of this paragraph has ceased and finds that there are reasonable assurances that the lender will—

"(i) exercise the necessary care and diligence,

"(ii) comply with the requirements described in subparagraph (A)(i), or

"(iii) cease to engage in the practices described in subparagraph (A)(ii),

as the case may be.

"(2) REVIEW OF SANCTIONS ON LENDERS.—(A) The Secretary shall, in accordance with sections 556 and 557 of title 5, United States Code, review each limitation, suspension, or termination imposed by any guaranty agency pursuant to section 428(b)(1)(U) within 60 days after receipt by the Secretary of a notice from the guaranty agency of the imposition of such limitation, suspension, or termination, unless the right to such review is waived in writing by the lender. The Secretary shall disqualify such lender from participation in the student loan insurance program of each of the guaranty agencies under this part, and notify such guaranty agencies of such disqualification—

"(i) if such review is waived; or

"(ii) if such review is not waived, unless the Secretary determines that the limitation, suspension, or termination was not imposed in accordance with requirements of such section.

"(B) The Secretary shall not lift any such disqualification until the Secretary is satisfied that the lender has corrected the failures which led to the limitation, suspension, or termination, and finds that there are reasonable assurances that the lender will, in the future, comply with the requirements of this part. The Secretary shall notify each guaranty agency of the lifting of any such disqualification.

"(3) REVIEW OF SANCTIONS ON ELIGIBLE INSTITUTIONS.—(A) The Secretary shall, in accordance with sections 556 and 557 of title 5, United States Code, review each limitation, suspension, or termination imposed by any guaranty agency pursuant to section 428(b)(1)(T) within 60 days after receipt by the Secretary of a notice from the guaranty agency of the imposition of such limitation, suspension, or termination, unless the right to such review is waived in writing by the institution. The Secretary shall disqualify such institution from participation in the student loan insurance program of each of the guaranty agencies under this part, and notify such guaranty agencies of such disqualification—

"(i) if such review is waived; or

"(ii) if such review is not waived, unless the Secretary determines that the limitation, suspension, or termination was not imposed in accordance with requirements of such section.

"(B) The Secretary shall not lift any such disqualification until the Secretary is satisfied that the institution has corrected the failures which led to the limitation, suspension, or termination, and finds that there are reasonable assurances that the institution will, in the future, comply with the requirements of this part. The Secretary shall notify each guaranty agency of the lifting of any such disqualification.

"(i) AUTHORITY TO SELL DEFAULTED LOANS.—In the event that all other collection efforts have failed, the Secretary is authorized to sell defaulted student loans assigned to the United States under this part to collection agencies, eligible lenders, guaranty agencies, or other qualified purchaser on such terms as the Secretary determines are in the best financial interests of the United States. A loan may not be sold pursuant to this subsection if such loan is in repayment status.

"STUDENT LOAN INFORMATION BY ELIGIBLE LENDERS

20 USC 1083.

"SEC. 433. (a) REQUIRED DISCLOSURE BEFORE DISBURSEMENT.—Each eligible lender shall, at or prior to the time such lender disburses a loan which is insured or guaranteed under this part, provide thorough and accurate loan information on such loan to the borrower. Any disclosure required by this subsection may be made by an eligible lender as part of the written application material provided to the borrower, or as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. The disclosure shall include—

"(1) the name of the eligible lender, and the address to which communications and payments should be sent;

"(2) the principal amount of the loan;

"(3) the amount of any charges, such as the origination fee and insurance premium, collected by the lender at or prior to the disbursal of the loan and whether such charges are deducted from the proceeds of the loan or paid separately by the borrower;

"(4) the stated interest rate on the loan;

"(5) the yearly and cumulative maximum amounts that may be borrowed;

"(6) an explanation of when repayment of the loan will be required and when the borrower will be obligated to pay interest that accrues on the loan;

"(7) a statement as to the minimum and maximum repayment term which the lender may impose, and the minimum annual payment required by law;

"(8) a statement of the total cumulative balance, including the loan applied for, owed by the student to that lender, the projected level of indebtedness of the student based on a 4-year college career, and an estimate of the projected monthly repayment given the level of indebtedness over a 4- or 5-year college career;

"(9) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

"(10) a statement that the borrower has the right to prepay all or part of the loan, at any time, without penalty, a statement summarizing circumstances in which repayment of the loan or interest that accrues on the loan may be deferred, and a brief notice of the program for repayment of loans, on the basis of military service, pursuant to section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141, note);

"(11) a definition of default and the consequences to the borrower if the borrower defaults, including a statement that the default will be reported to a credit bureau or credit reporting agency;

"(12) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance; and

"(13) an explanation of any cost the borrower may incur in the making or collection of the loan.

"(b) REQUIRED DISCLOSURE BEFORE REPAYMENT.—Each eligible lender shall, at or prior to the start of the repayment period of the student borrower on loans made, insured, or guaranteed under this part, disclose to the borrower the information required under this subsection. Any disclosure required by this subsection may be made by an eligible lender either in a promissory note evidencing the loan or loans or in a written statement provided to the borrower. The disclosure shall include—

"(1) the name of the eligible lender, and the address to which communications and payments should be sent;

"(2) the scheduled date upon which the repayment period is to begin;

"(3) the estimated balance owed by the borrower on the loan or loans covered by the disclosure as of the scheduled date on which the repayment period is to begin (including, if applicable, the estimated amount of interest to be capitalized);

"(4) the stated interest rate on the loan or loans, or the combined interest rate of loans with different stated interest rates;

"(5) the nature of any fees which may accrue or be charged to the borrower during the repayment period;

"(6) the repayment schedule for all loans covered by the disclosure including the date the first installment is due, and the number, amount, and frequency of required payments;

"(7) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan and of the availability and terms of such other options;

"(8) the projected total of interest charges which the borrower will pay on the loan or loans, assuming that the borrower makes payments exactly in accordance with the repayment schedule; and

"(9) a statement that the borrower has the right to prepay all or part of the loan or loans covered by the disclosure at any time without penalty.

Claims.
Contracts.

"(c) COST OF DISCLOSURE AND CONSEQUENCES OF NONDISCLOSURE.—Such information shall be available without cost to the borrower. The failure of an eligible lender to provide information as required by this section shall not (1) relieve a borrower of the obligation to repay a loan in accordance with its terms, (2) provide a basis for a claim for civil damages, or (3) be deemed to abrogate the obligation of the Secretary under a contract of insurance or reinsurance, or the obligation of a guaranty agency under a contract of guaranty. Nothing in this section shall be construed as subjecting the lender to the Truth in Lending Act with regard to loans made under this part. The Secretary may limit, suspend, or terminate the continued participation of an eligible lender in making loans under this part for failure by that lender to comply with this section.

15 USC 1601 note.

"(d) SEPARATE STATEMENT.—Each eligible lender shall, at the time such lender makes the first disbursement of a loan with respect to a borrower which is insured or guaranteed under this part, provide the borrower with a separate paper which summarizes (in plain English) the rights and responsibilities of the borrower with respect to the loan, including a statement of the consequences of defaulting on the loan and a statement that each borrower who defaults will be reported to a credit bureau. The requirement of this subsection shall be in addition to the information required by subsection (a) of this section.

"PARTICIPATION BY FEDERAL CREDIT UNIONS IN FEDERAL, STATE, AND PRIVATE STUDENT LOAN INSURANCE PROGRAMS

20 USC 1084.

"SEC. 434. Notwithstanding any other provision of law, Federal credit unions shall, pursuant to regulations of the National Credit Union Administration, have power to make insured loans to student members in accordance with the provisions of this part relating to federally insured loans, or in accordance with the provisions of any State or nonprofit private student loan insurance program which meets the requirements of section 428(a)(1)(B).

"DEFINITIONS FOR STUDENT LOAN INSURANCE PROGRAM

20 USC 1085.

"SEC. 435. As used in this part:

"(a) ELIGIBLE INSTITUTION.—

"(1) IN GENERAL.—The term 'eligible institution' means—

"(A) an institution of higher education;

"(B) a vocational school; or

"(C) with respect to students who are nationals of the United States, an institution outside the United States which is comparable to an institution of higher education or to a vocational school and which has been approved by the Secretary for the purpose of this part,

except that such term does not include any such institution or school which employs or uses commissioned salesmen to promote the availability of any loan program described in section 428(a)(1), 428A, or 428B at that institution or school.

"(2) FOREIGN MEDICAL SCHOOLS.—For the purpose of qualifying an institution under paragraph (1)(C) of this subsection, the Secretary shall establish criteria by regulation. In the case of a graduate medical school outside the United States, such criteria shall include a requirement that a student attending a medical school is ineligible for loans made, insured, or guaranteed under this part unless at least 60 percent of the students enrolled in such school are nationals of the country in which the school is located. A school that is unable to meet that criteria may establish the eligibility of its students for such loans if the United States nationals attending such school achieve a pass rate on the examinations administered by the Educational Commission for Foreign Medical Graduates that is—

"(A) not less than 45 percent for students taking such examination in the first and second years after the date of enactment of the Higher Education Amendments of 1986; and

"(B) not less than 50 percent for students taking such examination in any subsequent year.

"(b) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an educational institution in any State which—

"(1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, or who are beyond the age of compulsory school attendance;

"(2) is legally authorized within such State to provide a program of education beyond secondary education;

"(3) provides an educational program for which it awards a bachelor's degree or provides not less than a 2-year program which is acceptable for full credit toward such a degree;

"(4) is a public or other nonprofit institution; and

"(5) is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose or, if not so accredited—

"(A) is an institution with respect to which the Secretary has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time; or

"(B) is an institution whose credits are accepted on transfer by not less than three institutions which are so accred-

ited, for credit on the same basis as if transferred from an institution so accredited.

Such term includes any school which provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of paragraphs (1), (2), (4), and (5). If the Secretary determines that a particular category of such schools does not meet the requirements of paragraph (5) because there is no nationally recognized accrediting agency or association qualified to accredit schools in such category, the Secretary shall, pending the establishment of such an accrediting agency or association, appoint an advisory committee, composed of persons specially qualified to evaluate training provided by schools in such category, which shall (i) prescribe the standards of content, scope, and quality which must be met in order to qualify schools in such category to participate in the program pursuant to this part, and (ii) determine whether particular schools not meeting the requirements of paragraph (5) meet those standards. For the purpose of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which the Secretary determines to be reliable authorities as to the quality of training offered.

"(c) VOCATIONAL SCHOOL.—The term 'vocational school' means a business or trade school, or technical institution or other technical or vocational school, in any State, which—

"(1) admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit (as determined by the institution under section 481(d)) from the training offered by such institution;

"(2) is legally authorized to provide, and provides within that State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations;

"(3) has been in existence for 2 years or has been specially accredited by the Secretary as an institution meeting the other requirements of this subsection; and

"(4) is accredited—

"(A) by a nationally recognized accrediting agency or association listed by the Secretary pursuant to this paragraph;

"(B) if the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit schools of a particular category, by a State agency listed by the Secretary pursuant to this paragraph; and

"(C) if the Secretary determines there is no nationally recognized or State agency or association qualified to accredit schools of a particular category, by an advisory committee appointed by the Secretary and composed of persons specially qualified to evaluate training provided by schools of that category, which committee shall prescribe the standards of content, scope, and quality which must be met by those schools in order for loans to students attending them to be insurable under this part and shall also determine whether particular schools meet those standards.

For the purpose of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations and

State agencies which the Secretary determines to be reliable authority as to the quality of education or training afforded.

"(d) ELIGIBLE LENDER.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) through (5), the term 'eligible lender' means—

"(A) a National or State chartered bank, a mutual savings bank, a savings and loan association, a stock savings bank, a trust company, or a credit union which—

"(i) is subject to examination and supervision by an agency of the United States or of the State in which its principal place of operation is established, and

"(ii) does not have as its primary consumer credit function the making or holding of loans made to students under this part unless (I) it is a bank which is wholly owned by a State, (II) it is a single wholly owned subsidiary of a bank holding company which does not have as its primary consumer credit function the making or holding of loans made to students under this part, or (III) it is a trust company which makes student loans as a trustee pursuant to an express trust and which operated as a lender under this part prior to January 1, 1981;

"(B) a pension fund as defined in the Employee Retirement Income Security Act;

"(C) an insurance company which is subject to examination and supervision by an agency of the United States or a State;

"(D) in any State, a single agency of the State or a single nonprofit private agency designated by the State;

"(E) an eligible institution which meets the requirements of paragraphs (2) through (5) of this subsection;

"(F) for purposes only of purchasing and holding loans made by other lenders under this part, the Student Loan Marketing Association or an agency of any State functioning as a secondary market;

"(G) for purposes of making loans under sections 428A(d), 428B(d), 428C, and 439(q), the Student Loan Marketing Association;

"(H) for purposes of making loans under sections 428(h) and 428(j), a guaranty agency; and

"(I) a Rural Rehabilitation Corporation, or its successor agency, which has received Federal funds under Public Law 499, Eighty-first Congress (64 Stat. 98 (1950)).

"(2) ADDITIONAL REQUIREMENTS OF ELIGIBLE INSTITUTIONS.—To be an eligible lender under this part, an eligible institution—

"(A) shall employ at least one person whose full-time responsibilities are limited to the administration of programs of financial aid for students attending such institution; and

"(B) shall not be a home study school.

"(3) DISQUALIFICATION FOR HIGH DEFAULT RATES.—The term 'eligible lender' does not include any eligible institution in any fiscal year immediately after the fiscal year in which the Secretary determines, after notice and opportunity for a hearing, that for each of 2 consecutive years, 15 percent or more of the total amount of such loans as are described in section 428(a)(1) made by the institution with respect to students at that institu-

tion and repayable in each such year, are in default, as defined in section 435(o).

"(4) WAIVER OF DISQUALIFICATION.—Whenever the Secretary determines that—

"(A) there is reasonable possibility that an eligible institution may, within 1 year after a determination is made under paragraph (3), improve the collection of loans described in section 428(a)(1), so that the application of paragraph (3) would be a hardship to that institution, or

"(B) the termination of the lender's status under paragraph (3) would be a hardship to the present or for prospective students of the eligible institution, after considering the management of that institution, the ability of that institution to improve the collection of loans, the opportunities that institution offers to economically disadvantaged students, and other related factors,

the Secretary shall waive the provisions of paragraph (3) with respect to that institution. Any determination required under this paragraph shall be made by the Secretary prior to the termination of an eligible institution as a lender under the exception of paragraph (3). Whenever the Secretary grants a waiver pursuant to this paragraph, the Secretary shall provide technical assistance to the institution concerned in order to improve the collection rate of such loans.

"(5) DISQUALIFICATION FOR USE OF CERTAIN INCENTIVES.—The term 'eligible lender' does not include any lender that the Secretary determines, after notice and opportunity for a hearing, has after the date of enactment of this paragraph—

"(A) offered, directly or indirectly, points, premiums, payments, or other inducements, to any educational institution or individual in order to secure applicants for loans under this part;

"(B) conducted unsolicited mailings to students of student loan application forms, except to students who have previously received loans under this part from such lender;

"(C) offered, directly or indirectly, loans under this part as an inducement to a prospective borrower to purchase a policy of insurance or other product; or

"(D) engaged in fraudulent or misleading advertising.

"(e) LINE OF CREDIT.—The term 'line of credit' means an arrangement or agreement between the lender and the borrower whereby a loan is paid out by the lender to the borrower in annual installments, or whereby the lender agrees to make, in addition to the initial loan, additional loans in subsequent years.

"(f) DUE DILIGENCE.—The term 'due diligence' requires the utilization by a lender, in the servicing and collection of loans insured under this part, of collection practices at least as extensive and forceful as those generally practiced by financial institutions for the collection of consumer loans.

"(g) TEMPORARILY TOTALLY DISABLED.—

"(1) IN GENERAL.—The term 'temporarily totally disabled' when used with respect to a borrower means a borrower who, by reason of injury or illness, cannot be expected to be able to attend an eligible institution or to be gainfully employed during a reasonable period of recovery from such injury or illness not to exceed 3 years.

"(2) DISABLED DEPENDENT OF A BORROWER.—Such term when used with respect to the disabled dependent of a single parent borrower means a dependent who, by reason of injury or illness, cannot be expected to be able to attend school or to be gainfully employed during a period of injury or illness of not less than 3 months and who during such period requires continuous nursing or similar services.

"(3) DETERMINATIONS.—The determination that a borrower, or dependent of the borrower is temporarily totally disabled must be established by a sworn affidavit of a qualified physician.

"(h) DEFINITION OF PARENTAL LEAVE.—The term 'parental leave' means a period—

"(1) during which the borrower is pregnant, caring for his or her newborn child, or caring for his or her child immediately following the placement of the child through adoption;

"(2) during which such borrower is not in attendance at an eligible institution or gainfully employed; and

"(3) which follows, by 6 months or less, a period during which the borrower was enrolled in at least a half-time course of study at an eligible institution.

"(i) HOLDER.—The term 'holder' means an eligible lender who owns a loan.

"(j) GUARANTY AGENCY.—The term 'guaranty agency' means any State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b).

"(k) INSURANCE BENEFICIARY.—The term 'insurance beneficiary' means the insured or its authorized representative assigned in accordance with section 429(d).

"(l) DEFAULT.—The term 'default' includes only such defaults as have existed for (1) 180 days in the case of a loan which is repayable in monthly installments, or (2) 240 days in the case of a loan which is repayable in less frequent installments.

"DISTRICT OF COLUMBIA STUDENT LOAN INSURANCE PROGRAM

"SEC. 436. (a) AUTHORITY.—The government of the District of Columbia is authorized (1) to establish a student loan insurance program which meets the requirements of this part for a State loan insurance program in order to enter into agreements with the Secretary for the purposes of this title, (2) to enter into such agreements with the Secretary, (3) to use amounts appropriated for the purposes of this section to establish a fund for such purposes and for expenses in connection therewith, and (4) to accept and use donations for the purposes of this section. 20 USC 1086.

"(b) BINDING EFFECT ON MINORS.—Notwithstanding the provisions of any applicable law, if the borrower, on any loan insured under the program established pursuant to this section, is a minor, any otherwise valid vote or other written agreement executed by him for the purposes of such loan shall create a binding obligation.

"(c) APPROPRIATIONS AUTHORIZED.—There are authorized to be appropriated such amounts as may be necessary for the purposes of this section.

"REPAYMENT BY THE SECRETARY OF LOANS OF BANKRUPT, DECEASED, OR DISABLED BORROWERS

20 USC 1087.

"SEC. 437. (a) REPAYMENT IN FULL.—If a student borrower who has received a loan described in subparagraph (A) or (B) of section 428(a)(1) dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Secretary), then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan.

"(b) REPAYMENT OF AMOUNT DISCHARGED.—If a student borrower who has received a loan described in subparagraph (A) or (B) of section 428(a)(1) is relieved of his obligation to repay such loan, in whole or in part, through a discharge in bankruptcy, the Secretary shall repay the amount of the loan so discharged.

"SPECIAL ALLOWANCES

20 USC 1087-1.

"SEC. 438. (a) FINDINGS.—In order to assure (1) that the limitation on interest payments or other conditions (or both) on loans made or insured under this part, do not impede or threaten to impede the carrying out of the purposes of this part or do not cause the return to holders of loans to be less than equitable, (2) that incentive payments on such loans are paid promptly to eligible lenders, and (3) that appropriate consideration of relative administrative costs and money market conditions is made in setting the quarterly rate of such payments, the Congress finds it necessary to establish an improved method for the determination of the quarterly rate of the special allowances on such loans, and to provide for a thorough, expeditious, and objective examination of alternative methods for the determination of the quarterly rate of such allowances.

"(b) COMPUTATION AND PAYMENT.—

"(1) QUARTERLY PAYMENT BASED ON UNPAID BALANCE.—A special allowance shall be paid for each of the 3-month periods ending March 31, June 30, September 30, and December 31 of every year and the amount of such allowance paid to any holder with respect to any 3-month period shall be a percentage of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by such holder during such period.

"(2) RATE OF SPECIAL ALLOWANCE.—(A) Subject to subparagraphs (B), (C), and (D) and paragraph (4), the special allowance paid pursuant to this subsection on loans shall be computed (i) by determining the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period, (ii) by subtracting the applicable interest rate on such loans from such average, (iii) by adding 3.25 percent to the resultant percent, and (iv) by dividing the resultant percent by 4.

"(B)(i) The quarterly rate of the special allowance for holders of loans which were made or purchased with funds obtained by the holder from the issuance of obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954 shall be one-half the quarterly rate of the special allowance established under subparagraph (A), except that, in determining the rate for the purpose of this division, subparagraph (A)(iii) shall be applied by substituting '3.5 percent' for '3.25 percent'. Such rate shall also apply to holders of loans which were made or purchased with funds obtained by the

20 USC 1 *et seq.*

holder from collections or default reimbursements on, or interests or other income pertaining to, eligible loans made or purchased with funds described in the preceding sentence of this subparagraph or from income on the investment of such funds. This subparagraph shall not apply to loans which were made or insured prior to October 1, 1980.

"(ii) The rate set under division (i) shall not be less than (I) 2.5 percent per year in the case of loans for which the applicable interest rate is 7 percent per year, (II) 1.5 percent per year in the case of loans for which the applicable interest rate is 8 percent per year, or (III) 0.5 percent in the case of loans for which the applicable rate is 9 percent per year.

"(iii) No special allowance may be paid under this subparagraph unless the issuer of such obligations complies with subsection (c) of this section.

"(C) In the case of loans made pursuant to section 428A or 428B for which the interest rate is determined under section 427A(c)(4), a special allowance shall not be paid unless the rate determined for any 12-month period under subparagraph (B) of such section exceeds 12.5 percent.

"(D)(i) In the case of loans made or purchased directly from funds loaned or advanced pursuant to a qualified State obligation, subparagraph (A)(iii) shall be applied by substituting '3.5 percent' for '3.25 percent'.

"(ii) For the purpose of division (i) of this subparagraph, the term 'qualified State obligation' means—

"(I) an obligation of the Maine Educational Loan Marketing Corporation to the Student Loan Marketing Association pursuant to an agreement entered into on January 31, 1984; or

"(II) an obligation of the South Carolina Student Loan Corporation to the South Carolina National Bank pursuant to an agreement entered into on July 30, 1986.

"(3) CONTRACTUAL RIGHT OF HOLDERS TO SPECIAL ALLOWANCE.—The holder of an eligible loan shall be deemed to have a contractual right against the United States, during the life of such loan, to receive the special allowance according to the provisions of this section. The special allowance determined for any such 3-month period shall be paid promptly after the close of such period, and without administrative delay after receipt of an accurate and complete request for payment, pursuant to procedures established by regulations promulgated under this section.

"(4) PENALTY FOR LATE PAYMENT.—(A) If payments of the special allowances payable under this section or of interest payments under section 428(a) with respect to a loan have not been made within 30 days after the Secretary has received an accurate, timely, and complete request for payment thereof, the special allowance payable to such holder shall be increased by an amount equal to the daily interest accruing on the special allowance and interest benefits payments due the holder.

"(B) Such daily interest shall be computed at the daily equivalent rate of the sum of the special allowance rate computed pursuant to paragraph (2) and the interest rate applicable to the loan and shall be paid for the later of (i) the 31st day after the receipt of such request for payment from the holder, or (ii) the 31st day after the final day of the period or periods covered by

such request, and shall be paid for each succeeding day until, and including, the date on which the Secretary authorizes payment.

Reports.

"(C) For purposes of reporting to the Congress the amounts of special allowances paid under this section, amounts of special allowances paid pursuant to this paragraph shall be segregated and reported separately.

"(5) DEFINITION OF ELIGIBLE LOAN.—As used in this section, the term 'eligible loan' means a loan—

"(A)(i) on which a portion of the interest is paid on behalf of the student and for the student's account to the holder of the loan under section 428(a);

"(ii) which is made under section 428A, 428B, 428C, or 439(o); or

"(iii) which was made prior to October 1, 1981; and

"(B) which is insured under this part, or made under a program covered by an agreement under section 428(b) of this Act.

"(6) REGULATION OF TIME AND MANNER OF PAYMENT.—The Secretary shall pay the holder of an eligible loan, at such time or times as are specified in regulations, a special allowance prescribed pursuant to this subsection subject to the condition that such holder shall submit to the Secretary, at such time or times and in such a manner as the Secretary may deem proper, such information as may be required by regulation for the purpose of enabling the Secretary to carry out his functions under this section and to carry out the purposes of this section.

"(c) ORIGINATION FEES.—

"(1) DEDUCTION FROM INTEREST AND SPECIAL ALLOWANCE SUBSIDIES.—Notwithstanding subsection (b), the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, to any holder shall be reduced by the Secretary by the amount which the lender is authorized to charge as an origination fee in accordance with paragraph (2) of this subsection. If the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, is less than the amount the lender was authorized to charge borrowers for origination fees in that quarter, the Secretary shall deduct the excess amount from the subsequent quarters' payments until the total amount has been deducted.

"(2) AMOUNT OF ORIGINATION FEES.—With respect to any loan (other than loans made under sections 428A, 428B, 428C, and 439(o)) for which a completed note or other written evidence of the loan was sent or delivered to the borrower for signing on or after 10 days after the date of enactment of the Postsecondary Student Assistance Amendments of 1981, each eligible lender under this part is authorized to charge the borrower an origination fee in an amount not to exceed 5 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payment to the borrower.

"(3) RELATION TO APPLICABLE INTEREST.—Such origination fee shall not be taken into account for purposes of determining compliance with section 427A.

"(4) DISCLOSURE REQUIRED.—The lender shall disclose to the borrower the amount and method of calculating the origination fee.

"(5) PROHIBITION ON DEPARTMENT COMPELLING ORIGINATION FEE COLLECTIONS BY LENDERS.—Nothing in this subsection shall be construed to permit the Secretary to require any lender that is making loans that are insured or guaranteed under this part, but for which no amount will be payable for interest under section 428(a)(3)(A) or for special allowances under subsection (b) of this section, to collect any origination fee or to submit the sums collected as origination fees to the United States. The Secretary shall, not later than January 1, 1987, return to any such lender any such sums collected before the enactment of this paragraph, together with interest thereon.

"(d) LENDING FROM PROCEEDS OF TAX EXEMPT OBLIGATIONS.—

"(1) PLAN FOR DOING BUSINESS REQUIRED.—In order for the holders of loans any portion of which were made or purchased with funds obtained by the holder from an Authority issuing obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954, to be eligible to receive a special allowance under subsection (b)(2) of this section, the Authority shall submit to the Governor of the State, and to the guaranty agency determined by the Secretary to be the principal guaranty agency for the State, a plan for doing business. The Governor shall, after consultation with the guaranty agency, approve or disapprove the plan within 30 days of the receipt of the proposed plan from the Authority. Such plan shall also be transmitted to the Secretary within 60 days after approval.

State and local governments.

26 USC 1 *et seq.*

"(2) CONTENTS OF PLAN.—Each such plan shall contain provisions designed to assure that—

"(A) no eligible lender in the area served by the Authority will be excluded from participation in the program of the Authority and all eligible lenders may participate in the program on the same terms and conditions if eligible lenders are going to participate in the program;

"(B) no director or staff member of the Authority who receives compensation from the Authority may own stock in, or receive compensation from, any agency that would contract to service and collect the loans of the Authority;

"(C) student loans will not be purchased from participating lenders at a premium or discount amounting to more than 1 percent of the unpaid principal amount borrowed plus accrued interest to the date of acquisition, but a reasonable loan transfer fee may be paid by the purchaser;

"(D) the Authority will, within the limit of funds available and subject to the applicable State and Federal law, make loans to, or purchase loans incurred by, all eligible students who are residents of, or who attend an eligible institution within, the area served by the Authority;

"(E) the Authority has a plan under which the Authority will pursue the development of new lender participation in a continuing program of benefits to students together with assurances of existing lender commitments to the program; and

"(F) there will be an annual audit of the Authority by a certified public accounting firm which will include review

of compliance by the Authority with the provisions of the plan.

"(3) NONDISCRIMINATION.—In order for the holders of loans which were made or purchased with funds obtained by the holder from an Authority issuing obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954, to be eligible to receive a special allowance under subsection (b)(2) of this section on any such loans, the Authority shall not engage in any pattern or practice which results in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, handicapped status, income, attendance at a particular eligible institution within the area served by the Authority, length of the borrower's educational program, or the borrower's academic year in school.

26 USC 1 *et seq.*

"(4) REPORT BY THE SECRETARY.—The Secretary shall, no later than September 30, 1988, and each succeeding September 30th, submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate specifying—

"(A) the amount of student loan credit provided through the use of tax-exempt obligations for the most recent fiscal year;

"(B) an assessment of the impact of the availability of such financing on the availability of student credit in the areas served by the authorities issuing such obligations;

"(C) an assessment of the need for additional tax-exempt financing for student credit for the next fiscal year, as evidenced by the information submitted under paragraph (2)(G) of this subsection; and

"(D) any other information determined by the Secretary to be relevant to the purposes of the report.

"(e) REGULATIONS TO PREVENT DENIAL OF LOANS TO ELIGIBLE STUDENTS.—The Secretary shall adopt or amend appropriate regulations pertaining to programs carried out under this part to prevent, where practicable, any practices which the Secretary finds have denied loans to a substantial number of eligible students.

"STUDENT LOAN MARKETING ASSOCIATION

20 USC 1087-2.

"SEC. 439. (a) PURPOSE.—The Congress hereby declares that it is the purpose of this section (1) to establish a private corporation which will be financed by private capital and which will serve as a secondary market and warehousing facility for student loans, including loans which are insured by the Secretary under this part or by a guaranty agency, and which will provide liquidity for student loan investments; (2) in order to facilitate secured transactions involving student loans, to provide for perfection of security interests in student loans either through the taking of possession or by notice filing; and (3) to assure nationwide the establishment of adequate loan insurance programs for students, to provide for an additional program of loan insurance to be covered by agreements with the Secretary.

Insurance.

"(b) ESTABLISHMENT.—

District of Columbia.

"(1) IN GENERAL.—There is hereby created a body corporate to be known as the Student Loan Marketing Association (hereinafter referred to as the 'Association'). The Association shall

have succession until dissolved. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen thereof. Offices may be established by the Association in such other place or places as it may deem necessary or appropriate for the conduct of its business.

"(2) EXEMPTION FROM STATE AND LOCAL TAXES.—The Association, including its franchise, capital, reserves, surplus, mortgages, or other security holdings, and income shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the Association shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

"(3) APPROPRIATIONS AUTHORIZED FOR ESTABLISHMENT.—There is hereby authorized to be appropriated to the Secretary $5,000,000 for making advances for the purpose of helping to establish the Association. Such advances shall be repaid within such period as the Secretary may deem to be appropriate in light of the maturity and solvency of the Association. Such advances shall bear interest at a rate not less than (A) a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining period to maturity comparable to the maturity of such advances, adjusted to the nearest one-eighth of 1 percent, plus (B) an allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses. Repayments of such advances shall be deposited into miscellaneous receipts of the Treasury.

"(c) BOARD OF DIRECTORS.—

"(1) BOARD MEMBERSHIP.—The Association shall have a Board of Directors which shall consist of twenty-one persons, one of whom shall be designated Chairman by the President.

"(2) INTERIM BOARD.—An interim Board of Directors shall be appointed by the President, one of whom he shall designate an interim Chairman. The interim Board shall consist of twenty-one members, seven of whom shall be representative of banks or other financial institutions which are insured lenders pursuant to this section, seven of whom shall be representative of educational institutions, and seven of whom shall be representative of the general public. The interim Board shall arrange for an initial offering of common and preferred stocks and take whatever other actions are necessary to proceed with the operations of the Association.

"(3) REGULAR BOARD.—When, in the judgment of the President, sufficient common stock of the Association has been purchased by educational institutions and banks or other financial institutions, the holders of common stock which are educational institutions shall elect seven members of the Board of Directors and the holders of common stock which are banks or other financial institutions shall elect seven members of the Board of Directors. The President shall appoint the remaining seven directors, who shall be representative of the general public.

"(4) SUCCESSION OF REGULAR BOARD.—At the time the events described in paragraph (3) have occurred, the interim Board shall turn over the affairs of the Association to the regular Board so chosen or appointed.

"(5) TERMS OF APPOINTED AND ELECTED MEMBERS.—The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The remaining directors shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Association, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

"(6) MEETINGS AND FUNCTIONS OF BOARD.—The Board of Directors shall meet at the call of its Chairman, but at least semi-annually. The Board shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Association and shall discharge all such executive functions, powers, and duties.

"(d) AUTHORITY OF ASSOCIATION.—

"(1) IN GENERAL.—The Association is authorized, subject to the provisions of this section—

"(A) pursuant to commitments or otherwise to make advances on the security of, purchase, or repurchase, service, sell or resell, offer participations, or pooled interests or otherwise deal in, at prices and on terms and conditions determined by the Association, student loans which are insured by the Secretary under this part or by a guaranty agency;

"(B) to buy, sell, hold, underwrite, and otherwise deal in obligations, if such obligations are issued, for the purpose of making or purchasing insured loans, by a guaranty agency or by an eligible lender in a State described in section 435(d)(1) (D) or (F);

"(C) to buy, sell, hold, insure, underwrite, and otherwise deal in obligations issued for the purpose of financing or refinancing the construction, reconstruction, renovation, or purchase of educational and training facilities and housing for students and faculties (including the underlying real property), and related equipment, instrumentation, and furnishings;

Insurance.

"(D) to undertake a program of loan insurance pursuant to agreements with the Secretary under section 428, and except with respect to loans under subsection (o) of this section or under section 428C, the Secretary may enter into an agreement with the Association for such purpose only if the Secretary determines that (i) eligible borrowers are seeking and unable to obtain loans under this part, and (ii)

no guaranty agency is capable of or willing to provide a program of loan insurance for such borrowers; and

"(E) to undertake any other activity which the Board of Directors of the Association determines to be in furtherance of the programs of insured student loans authorized under this part or will otherwise support the credit needs of students, except that—

"(i) in carrying out all such activities the purpose shall always be to provide secondary market and other support for lending programs offered by other organizations and not to replace or compete with such other programs;

"(ii) nothing in this subparagraph (E) shall be deemed to authorize the Association to acquire, own, operate, or control any bank, savings and loan association, savings bank or credit union; and

"(iii) not later than 30 days prior to the initial implementation of a program undertaken pursuant to this subparagraph (E), the Association shall advise the Chairman and the Ranking Member on the Committee on Human Resources of the Senate and the Chairman and the Ranking Member of the Committee on Education and Labor of the House of Representatives in writing of its plans to offer such program and shall provide information relating to the general terms and conditions of such program.

The Association is further authorized to undertake any activity with regard to student loans which are not insured or guaranteed as provided for in this subsection as it may undertake with regard to insured or guaranteed student loans. Any warehousing advance made on the security of such loans shall be subject to the provisions of paragraph (3) of this subsection to the same extent as a warehousing advance made on the security of insured loans.

"(2) WAREHOUSING ADVANCES.—Any warehousing advance made under paragraph (1)(A) of this subsection shall be made on the security of (A) insured loans, (B) marketable obligations and securities issued, guaranteed, or insured by, the United States, or for which the full faith and credit of the United States is pledged for the repayment of principal and interest thereof, or (C) marketable obligations issued, guaranteed, or insured by any agency, instrumentality, or corporation of the United States for which the credit of such agency, instrumentality, or corporation is pledged for the repayment of principal and interest thereof, in an amount equal to the amount of such advance. The proceeds of any such advance secured by insured loans shall either be invested in additional insured loans or the lender shall provide assurances to the Association that during the period of the borrowing it will maintain a level of insured loans in its portfolio not less than the aggregate outstanding balance of such loans held at the time of the borrowing. The proceeds from any such advance secured by collateral described in clauses (B) and (C) shall be invested in additional insured student loans.

Securities.

"(3) PERFECTION OF SECURITY INTERESTS IN STUDENT LOANS.—Notwithstanding the provisions of any State law to the contrary, including the Uniform Commercial Code as in effect in any State, a security interest in insured student loans created

State and local governments.

on behalf of the Association or any eligible lender as defined in section 435(a) may be perfected either through the taking of possession of such loans or by the filing of notice of such security interest in such loans in the manner provided by such State law for perfection of security interests in accounts.

"(4) FORM OF SECURITIES.—Securities issued pursuant to the offering of participations or pooled interests under paragraph (1) of this subsection may be in the form of debt obligations, or trust certificates of beneficial ownership, or both. Student loans set aside pursuant to the offering of participations or pooled interests shall at all times be adequate to ensure the timely principal and interest payments on such securities.

"(5) RESTRICTIONS ON FACILITIES AND HOUSING ACTIVITIES.—Not less than 75 percent of the aggregate dollar amount of obligations bought, sold, held, insured, underwritten, and otherwise supported in accordance with the authority contained in paragraph (1)(C) shall be obligations which are listed by a nationally recognized statistical rating organization at a rating below the third highest rating of such organization.

Securities.

"(e) ADVANCES TO LENDERS THAT DO NOT DISCRIMINATE.—The Association, pursuant to such criteria as the Board of Directors may prescribe, shall make advances on security or purchase student loans pursuant to subsection (d) only after the Association is assured that the lender (1) does not discriminate by pattern or practice against any particular class or category of students by requiring that, as a condition to the receipt of a loan, the student or his family maintain a business relationship with the lender, except that this clause shall not apply in the case of a loan made by a credit union, savings and loan association, mutual savings bank, institution of higher education, or any other lender with less than $75,000,000 in deposits, and (2) does not discriminate on the basis of race, sex, color, creed, or national origin.

"(f) STOCK OF THE ASSOCIATION.—

"(1) COMMON STOCK TO INSURED LENDERS AND ELIGIBLE INSTITUTIONS ONLY.—The Association shall have common stock having such par value as may be fixed by its Board of Directors from time to time which may be issued only to lenders under this part, pertaining to guaranteed student loans, who are qualified as insured lenders under this part or who are eligible institutions, as defined in section 435(a), other than an institution outside of the United States.

"(2) VOTING RIGHTS.—Each share of common stock shall be entitled to one vote with rights of cumulative voting at all elections of Directors. Voting shall be by classes as described in subsection (c)(3).

"(3) NUMBER OF SHARES; TRANSFERABILITY.—The maximum number of shares of common stock that the Association may issue and have outstanding at any one time shall be fixed by the Board of Directors from time to time. Any common share issued shall be fully transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

"(4) DIVIDENDS.—To the extent that net income is earned and realized, subject to subsection (g)(2), dividends may be declared on common stock and nonvoting common stock by the Board of Directors. Such dividends as may be declared by the Board shall be paid to the holders of outstanding shares of common stock and nonvoting common stock, except that no such dividends

shall be payable with respect to any share which has been called for redemption past the effective date of such call.

"(5) NONVOTING COMMON STOCK.—The Association is authorized to issue nonvoting common stock having such par value as may be fixed by its Board of Directors from time to time. Any nonvoting common stock shall be freely transferable, except that, as to the Association, it shall be transferable only on the books of the Association.

"(g) PREFERRED STOCK.—

"(1) AUTHORITY OF BOARD.—The Association is authorized to issue nonvoting preferred stock having such par value as may be fixed by its Board of Directors from time to time. Any preferred share issued shall be freely transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

"(2) RIGHTS OF PREFERRED STOCK.—The holders of the preferred shares shall be entitled to such rate of cumulative dividends and such shares shall be subject to such redemption or other conversion provisions as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

"(3) PREFERENCE ON TERMINATION OF BUSINESS.—In the event of any liquidation, dissolution, or winding up of the Association's business, the holders of the preferred shares shall be paid in full at par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

"(h) DEBT OBLIGATIONS.—

"(1) APPROVAL BY SECRETARIES OF EDUCATION AND THE TREASURY.—The Association is authorized with the approval of the Secretary of Education and the Secretary of the Treasury to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association. The authority of the Secretary of Education to approve the issuance of such obligations is limited to obligations issued by the Association and guaranteed by the Secretary pursuant to paragraph (2) of this subsection. Such obligations may be redeemable at the option of the Association before maturity in such manner as may be stipulated therein. The Secretary of the Treasury may not direct as a condition of his approval that any such issuance of obligations by the Association be made or sold to the Federal Financing Bank. To the extent that the average outstanding amount of the obligations owned by the Association pursuant to the authority contained in subsection (d)(1) (B) and (C) of this section and as to which the income is exempt from taxation under the Internal Revenue Code of 1954 does not exceed the average stockholders' equity of the Association, the interest on obligations issued under this paragraph shall not be deemed to be interest on indebtedness incurred or continued to purchase or carry obligations for the purpose of section 265 of the Internal Revenue Code of 1954.

26 USC 1 *et seq.*

26 USC 265.

"(2) GUARANTEE OF DEBT.—The Secretary is authorized, prior to October 1, 1984, to guarantee payment when due of principal and interest on obligations issued by the Association in an aggregate amount determined by the Secretary in consultation with the Secretary of the Treasury. Nothing in this section shall be construed so as to authorize the Secretary of Education or

the Secretary of the Treasury to limit, control, or constrain programs of the Association or support of the Guaranteed Student Loan Program by the Association.

"(3) BORROWING AUTHORITY TO MEET GUARANTEE OBLIGATIONS.—To enable the Secretary to discharge his responsibilities under guarantees issued by him, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the months preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. There is authorized to be appropriated to the Secretary such sums as may be necessary to pay the principal and interest on the notes or obligations issued by him to the Secretary of the Treasury.

"(4) ACTION ON REQUEST FOR GUARANTEES.—Upon receipt of a request from the Association under this subsection requiring approvals by the Secretary of Education or the Secretary of the Treasury, the Secretary of Education or the Secretary of the Treasury shall act promptly either to grant approval or to advise the Association of the reasons for withholding approval. In no case shall such an approval be withheld for a period longer than 60 days unless, prior to the end of such period, the Secretary of Education and the Secretary of the Treasury submit to the Congress a detailed explanation of reasons for doing so.

Securities.

"(5) AUTHORITY OF TREASURY TO PURCHASE DEBT.—The Secretary of the Treasury is authorized to purchase any obligations issued by the Association pursuant to this subsection as now or hereafter in force, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force are extended to include such purchases. The Secretary of the Treasury shall not at any time purchase any obligations under this subsection if such purchase would increase the aggregate principal amount of his then outstanding holdings of such obligations under this subsection to an amount greater than $1,000,000,000. Each purchase of obligations by the Secretary of the Treasury under this

31 USC 774.

subsection shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States of comparable maturities as of the last day of the month preceding the making of such purchase. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

"(6) SALE OF DEBT TO FEDERAL FINANCING BANK.—Notwithstanding any other provision of law the Association is authorized to sell or issue obligations on the security of student loans, the payment of interest or principal of which has at any time been guaranteed under section 428 or 429 of this part, to the Federal Financing Bank.

"(i) GENERAL CORPORATE POWERS.—The Association shall have power—

"(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

"(2) to adopt, alter, and use the corporate seal, which shall be judicially noticed;

"(3) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

"(4) to conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

"(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

"(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Association;

"(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

"(8) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them, and fix the penalty thereof; and

"(9) to enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

"(j) ACCOUNTING, AUDITING, AND REPORTING.—The accounts of the Association shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants or by independent licensed public accountants, licensed on or before December 31, 1970, who are certified or licensed by a regulatory authority of a State or other political subdivision of the United States, except that independent public accountants licensed to practice by such regulatory authority after December 31, 1970, and persons who, although not so certified or licensed, meet, in the opinion of the Secretary, standards of

education and experience representative of the highest standards prescribed by the licensing authorities of the several States which provide for the continuing licensing of public accountants and which are prescribed by the Secretary in appropriate regulations may perform such audits until December 31, 1975. A report of each such audit shall be furnished to the Secretary of the Treasury. The audit shall be conducted at the place or places where the accounts are normally kept. The representatives of the Secretary shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Association and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians.

Report.

"(k) REPORT ON AUDITS BY TREASURY.—A report of each such audit for a fiscal year shall be made by the Secretary of the Treasury to the President and to the Congress not later than 6 months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement (showing intercorporate relations) of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Association, together with such recommendations with respect thereto as the Secretary may deem advisable, including a report of any impairment of capital or lack of sufficient capital noted in the audit. A copy of each report shall be furnished to the Secretary, and to the Association.

"(l) LAWFUL INVESTMENT INSTRUMENTS; EFFECT OF AND EXEMPTIONS FROM OTHER LAWS.—All obligations issued by the Association including those made under subsection (d)(4) shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All stock and obligations issued by the Association pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. The Association shall, for the purposes of section 14(b)(2) of the Federal Reserve Act, be deemed to be an agency of the United States. The obligations of the Association shall be deemed to be obligations of the United States for the purpose of section 3124 of title 31, United States Code. For the purpose of the distribution of its property pursuant to section 726 of title 11, United States Code, the Association shall be deemed a person within the meaning of such title. The priority established in favor of the United States by section 3713 of title 31, United States Code, shall not establish a priority over the indebtedness of the Association issued or incurred on or before September 30, 1992. The Federal Reserve Banks are authorized to act as depositaries, custodians, or fiscal agents, or a combination thereof, for the Association in the general performance of its powers under this section.

Securities.

12 USC 355.

"(m) PREPARATION OF OBLIGATIONS.—In order to furnish obligations for delivery by the Association, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Board of Directors may approve, such obligations when prepared to be held

in the Treasury subject to delivery upon order by the Association. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations. The Secretary of the Treasury is authorized to promulgate regulations on behalf of the Association so that the Association may utilize the book-entry system of the Federal Reserve Banks.

"(n) REPORT ON OPERATIONS AND ACTIVITIES.—The Association shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress a report of its operations and activities during each year.

"(o) LOAN CONSOLIDATIONS.—

"(1) IN GENERAL.—The Association or its designated agent may, upon request of a borrower, consolidate loans received under this title in accordance with section 428C.

"(2) USE OF EXISTING AGENCIES AS AGENT.—The Association in making loans pursuant to this subsection in any State served by a guaranty agency or an eligible lender in a State described in section 435(d)(1) (D) or (F) may designate as its agent such agency or lender to perform such functions as the Association determines appropriate. Any agreements made pursuant to this subparagraph shall be on such terms and conditions as agreed upon by the Association and such agency or lender.

State and local governments.

"(p) ADVANCES FOR DIRECT LOANS BY GUARANTY AGENCIES.—

"(1) IN GENERAL.—The Association shall make advances in each fiscal year from amounts available to it to each guaranty agency and eligible lender described in subsection 428(h)(1) which has an agreement with the Association which sets forth that advances are necessary to enable such agency or lender to make student loans in accordance with section 428(h) and that such advances will be repaid to the Association in accordance with such terms and conditions as may be set forth in the agreement and agreed to by the Association and such agency or lender. Advances made under this subsection shall not be subject to subsection (d)(2) of this section.

"(2) LIMITATION.—No advance may be made under this subsection unless the guaranty agency or lender makes an application to the Association, which shall be accompanied by such information as the Association determines to be reasonably necessary.

"(q) LENDER OF LAST RESORT.—

State and local governments.

"(1) ACTION AT REQUEST OF SECRETARY.—(A) Whenever the Secretary determines that eligible borrowers in a State not served by a guaranty agency or an eligible lender in a State described in section 435(d)(1) (D) or (F) are seeking and are unable to obtain loans under this part, the Association or its designated agent may begin making loans in accordance with this subsection at the request of the Secretary. The Association shall give preference to such States in making loans under this subsection.

"(B) Loans made pursuant to this subsection shall be insurable by the Secretary under section 429 with a certificate of comprehensive insurance coverage provided for under section 429(b)(1).

Insurance.

State and local governments.

"(2) ISSUANCE AND COVERAGE OF LOANS.—(A) Whenever the Secretary, after consultation with, and with the agreement of, representatives of the guaranty agency in a State, or an eligible lender in a State described in section 435(d)(1)(D), determines that a substantial portion of eligible borrowers in such State or within an area of such State are seeking and are unable to obtain loans under this part, the Association or its designated agent may begin making loans in accordance with this subsection at the request of the Secretary.

"(B) Loans made pursuant to this subsection shall be insurable by the agency identified in subparagraph (A) having an agreement pursuant to section 428(b). For loans insured by such agency, the agency shall provide the Association with a certificate of comprehensive insurance coverage, if the Association and the agency have mutually agreed upon a means to determine that the agency has not already guaranteed a loan under this part to a student which would cause a subsequent loan made by the Association to be in violation of any provision under this part.

State and local governments.

"(3) TERMINATION OF LENDING.—The Association or its designated agent shall cease making loans under this part in any State at such time as it is determined by the Secretary, with regard to loans made under paragraph (1), or by any party to the agreement required by paragraph (2), that—

"(A) the conditions which caused the implementation of this subsection have ceased to exist; or

"(B) the implementation of this subsection has either (i) further reduced the availability of loans from other sources in the applicable geographical area, or (ii) inhibited the formation in a State of an agency which would have an agreement pursuant to section 428(b) of this part which would have the responsibility of developing local sources of funds for student loans.".

20 USC 1071 note.

(b) EFFECTIVE DATES.—The changes made in part B of title IV of the Act by the amendment made by subsection (a) of this section shall take effect on the date of enactment of this Act, except—

(1) as otherwise provided in such part B;

(2) the changes in sections 427(a)(2)(C) and 428(b)(1)(M) of the Act (other than clause (ix) of each such section) shall apply only to loans made to cover the costs of instruction for periods of enrollment beginning on or after July 1, 1987, to individuals who are new borrowers on that date;

(3) the changes made in sections 425(a), 428(b)(1)(A), and 428(b)(1)(B) of the Act shall apply with respect only to loans made to cover the costs of instruction for periods of enrollment beginning on or after January 1, 1987;

(4) the changes made in subsections (a), (b), and (d) of section 433 of the Act shall apply with respect only to loans made to cover the costs of instruction for periods of enrollment beginning on or after January 1, 1987;

(5) the changes in section 428(b)(1)(H) shall apply with respect only to loans for which the borrower files an application on or after July 1, 1987;

(6) the changes in sections 435(d)(5) and 438(d) of the Act shall take effect 30 days after the date of enactment of this Act; and

(7) the changes made in section 438(b) shall take effect with respect to loans made to cover the costs of instruction for

periods of enrollment beginning on or after 30 days after the date of enactment of this Act.

(c) CHANGES EFFECTIVE WITHOUT REGARD TO REGULATIONS; REPUBLICATION OF REGULATIONS.—The changes made in part B of title IV of the Act by the amendment made by subsection (a) of this section shall be effective in accordance with subsection (b) of this section without regard to whether such changes are reflected in the regulations prescribed by the Secretary of Education for the purpose of such part. 20 USC 1071 note.

(d) NEW BORROWERS.—For the purpose of this section, the term "new borrower" means, with respect to any date, an individual who on that date has no outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under part B of title IV of the Act. 20 USC 1071 note.

SEC. 403. WORK STUDY REAUTHORIZED.

(a) AMENDMENT.—Part C of title IV of the Act is amended to read as follows:

"PART C—WORK-STUDY PROGRAMS

"PURPOSE; APPROPRIATIONS AUTHORIZED

"SEC. 441. (a) PURPOSE.—The purpose of this part is to stimulate and promote the part-time employment of students who are enrolled as undergraduate, graduate, or professional students and who are in need of earnings from employment to pursue courses of study at eligible institutions. 42 USC 2751.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part $656,000,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"ALLOCATION OF FUNDS

"SEC. 442. (a) ALLOCATION BASED ON PREVIOUS ALLOCATION.—(1) From the amount appropriated pursuant to section 441(b) for each fiscal year, the Secretary shall first allocate to each eligible institution for each succeeding fiscal year, an amount equal to 100 percent of the amount such institution received and used under this part for fiscal year 1985. 42 USC 2752.

"(2)(A) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1985 but is not a first or second time participant, an amount equal to the greater of—

"(i) $5,000; or

"(ii) 90 percent of the amount received and used under this part for the first year it participated in the program.

"(B) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1985 and is a first or second time participant, an amount equal to the greatest of—

"(i) $5,000;

"(ii) an amount equal to (I) 90 percent of the amount received and used under this part in the second preceding fiscal year by eligible institutions offering comparable programs of instruction, divided by (II) the number of students enrolled at such comparable institutions in such fiscal year, multiplied by (III)

the number of students enrolled at the applicant institution in such fiscal year; or

"(iii) 90 percent of the institution's allocation under this part for the preceding fiscal year.

"(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, the Secretary shall allocate to each eligible institution which—

"(i) was a first-time participant in the program in fiscal year 1986 or any subsequent fiscal year, and

"(ii) received a larger amount under this subsection in the second year of participation,

an amount equal to 90 percent of the amount it received under this subsection in its second year of participation.

"(3)(A) If the amount appropriated for any fiscal year is less than the amount required to be allocated to all institutions under paragraph (1) of this subsection, then the amount of the allocation to each such institution shall be ratably reduced.

"(B) If the amount appropriated for any fiscal year is more than the amount required to be allocated to all institutions under paragraph (1) but less than the amount required to be allocated to all institutions under paragraph (2), then—

"(i) the Secretary shall allot the amount required to be allocated to all institutions under paragraph (1), and

"(ii) the amount of the allocation to each institution under paragraph (2) shall be ratably reduced.

"(C) If additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced (until the amount allocated equals the amount required to be allocated under paragraphs (1) and (2) of this subsection).

"(b) ALLOCATION OF EXCESS BASED ON PRO RATA SHARE.—From one-quarter of the remainder of the amount appropriated pursuant to section 441(b) for any fiscal year (after making the allocations required by subsection (a)), the Secretary shall allocate to each eligible institution an amount which bears the same ratio to such one-quarter as the amount the eligible institution receives for such fiscal year under subsection (a) bears to the amount all such institutions receive under such subsection (a).

"(c) ALLOCATION OF EXCESS BASED ON SHARE OF EXCESS ELIGIBLE AMOUNTS.—(1) From three-quarters of the remainder of the amount appropriated pursuant to section 441(b) after making the allocations required by subsection (a), the Secretary shall allocate to each eligible institution which has an excess eligible amount an amount which bears the same ratio to such remainder as such excess eligible amount bears to the sum of the excess eligible amounts of all such eligible institutions (having such excess eligible amounts).

"(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

"(A)(i) the amount of that institution's need (as determined under subsection (d)), divided by (ii) the sum of the need of all institutions (as so determined), multiplied by (iii) the amount appropriated pursuant to section 441(b) for the fiscal year; exceeds

"(B) the amount required to be allocated to that institution under subsection (a).

"(d) DETERMINATION OF INSTITUTION'S NEED.—(1) The amount of an institution's need is equal to the sum of the self-help need of the

institution's eligible undergraduate students and the self-help need of the institution's eligible graduate and professional students.

"(2) To determine the self-help need of an institution's eligible undergraduate students, the Secretary shall—

"(A) establish various income categories for dependent and independent undergraduate students;

"(B) establish an expected family contribution for each income category of dependent and independent undergraduate students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title) of a representative sample within each income category for the second preceding fiscal year;

"(C) compute 25 percent of the average cost of attendance for all undergraduate students;

"(D) multiply the number of eligible dependent students in each income category by the lesser of—

"(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

"(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

"(E) add the amounts determined under subparagraph (D) for each income category of dependent students; and

"(F) multiply the number of eligible independent students in each income category by the lesser of—

"(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

"(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

"(G) add the amounts determined under subparagraph (F) for each income category of independent students; and

"(H) add the amounts determined under subparagraphs (E) and (G).

"(3) To determine the self-help need of an institution's eligible graduate and professional students, the Secretary, for academic year 1988-1989 shall use the procedures employed for academic year 1986-1987, and, for any subsequent academic years, the Secretary shall—

"(A) establish various income categories of graduate and professional students;

"(B) establish an expected family contribution for each income category of graduate and professional students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title) of a representative sample within each income category for the second preceding fiscal year;

"(C) determine the average cost of attendance for all graduate and professional students;

"(D) subtract from the average cost of attendance for all graduate and professional students (determined under subpara-

graph (C)), the expected family contribution (determined under subparagraph (B)) for each income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

"(E) multiply the amounts determined under subparagraph (D) by the number of eligible students in each category; and

"(F) add the amounts determined under subparagraph (E) of this paragraph for each income category.

"(4)(A) For purposes of paragraphs (2) and (3), the term 'average cost of attendance' means the average of the attendance costs for undergraduate students and for graduate and professional students, which shall include (i) tuition and fees determined in accordance with subparagraph (B), (ii) standard living expenses determined in accordance with subparagraph (C), and (iii) books and supplies determined in accordance with subparagraph (D).

"(B) The average undergraduate and graduate and professional tuition and fees described in subparagraph (A)(i) shall be computed on the basis of information reported by the institution to the Secretary, which shall include (i) total revenue received by the institution from undergraduate and graduate tuition and fees for the second year preceding the year for which it is applying for an allocation, and (ii) the institution's enrollment for such second preceding year.

"(C) The standard living expense described in subparagraph (A)(ii) is equal to three-fourths in the Pell Grant family size offset for a single independent student.

"(D) The allowance for books and supplies described in subparagraph (A)(iii) is equal to $450.

"(e) REALLOCATION OF EXCESS ALLOCATIONS.—(1) If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year the Secretary shall reallocate such excess in accordance with paragraph (2). Any sums reallocated under this subsection may be used in accordance with section 445(a)(2).

"(2) The Secretary shall reallot 25 percent of the amount available pursuant to paragraph (1) to eligible institutions for use in initiating, improving, and expanding programs of community service-learning conducted in accordance with section 448 of this part. The Secretary shall allocate the remainder of the amounts available pursuant to paragraph (1) to eligible institutions based upon the criteria described in subsection (c).

"(f) FILING DEADLINES.—The Secretary shall, from time to time, set dates before which institutions must file applications for allocations under this part.

"GRANTS FOR WORK-STUDY PROGRAMS

42 USC 2753.

"SEC. 443. (a) AGREEMENTS REQUIRED.—The Secretary is authorized to enter into agreements with institutions of higher education under which the Secretary will make grants to such institutions to assist in the operation of work-study programs as provided in this part.

"(b) CONTENTS OF AGREEMENTS.—An agreement entered into pursuant to this section shall—

"(1) provide for the operation by the institution of a program for the part-time employment of its students in work for the institution itself or work in the public interest for a Federal,

State, or local public agency or private nonprofit organization under an arrangement between the institution and such agency or organization, and such work—

"(A) will not result in the displacement of employed workers or impair existing contracts for services; Contracts.

"(B) will be governed by such conditions of employment as will be appropriate and reasonable in light of such factors as type of work performed, geographical region, and proficiency of the employee;

"(C) does not involve the construction, operation, or maintenance of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship; and

"(D) will not pay any wage to students employed under this subpart that is less than the current Federal minimum wage as mandated by section 6(a) of the Fair Labor Standards Act of 1938; 29 USC 206.

"(2) provide that funds granted an institution of higher education, pursuant to section 443, may be used only to make payments to students participating in work-study programs, except that—

"(A) an institution may use not to exceed 10 percent of the funds granted to the institution in any fiscal year to carry out the work study program described in section 447 at the increased Federal share specified in clause (6)(B) of this subsection, and

"(B) an institution may use a portion of the sums granted to it to meet administrative expenses in accordance with section 489 of this Act, may use a portion of the sums granted to it to meet the cost of a job location and development program in accordance with section 446 of this part, and may transfer funds in accordance with the provisions of section 488 of this Act;

"(3) provide that in the selection of students for employment under such work-study program, only students who demonstrate financial need in accordance with part F of this title, and who meet the requirements of section 484 will be assisted, except that, if the institution's grant under this part is directly or indirectly based in part on the financial need demonstrated by students attending the institution less than full time, a reasonable proportion of the institution's grant shall be made available to such students;

"(4) provide that for a student employed in a work-study program under this part, at the time income derived from any employment (including non-work-study or both) is in excess of the determination of the amount of such student's need by more than $200, continued employment shall not be subsidized with funds appropriated under this part;

"(5) provide that the Federal share of the compensation of students employed in the work study program in accordance with the agreement will not exceed 80 percent for academic years 1987-1988 and 1988-1989, 75 percent for academic year 1989-1990, and 70 percent for academic year 1990-1991 and succeeding academic years, except that—

"(A) the Federal share may exceed such amounts of such compensation if the Secretary determines, pursuant to regulations promulgated by the Secretary establishing

objective criteria for such determinations, that a Federal share in excess of such amounts is required in furtherance of the purpose of this part; and

"(B) the Federal share of the compensation of the students employed in the work study for community service-learning programs described in section 447 from funds available under clause (2)(A) in accordance with the agreement will not exceed 90 percent of such compensation;

"(6) include provisions to make employment under such work-study program reasonably available (to the extent of available funds) to all eligible students in the institution in need thereof, and to make equivalent employment offered or arranged by the institution reasonably available (to the extent of available funds) to all students in the institution who desire such employment;

"(7) provide assurances that employment made available from funds under this part will, to the maximum extent practicable, complement and reinforce the educational program or vocational goals of each student receiving assistance under this part;

"(8) provide assurances, in the case of each proprietary institution, that students attending the proprietary institution receiving assistance under this part who are employed by the institution may be employed in jobs—

"(A) on campus only;

"(B) that, to the maximum extent practicable, complement and reinforce the educational programs or vocational goals of such students; and

"(C) furnishing student services, as determined by the Secretary pursuant to regulations, except that no student shall be employed in any position that would involve the solicitation of other potential students to enroll in the school; and

"(9) include such other reasonable provisions as the Secretary shall deem necessary or appropriate to carry out the purpose of this part.

"(c) PRIVATE SECTOR EMPLOYMENT AGREEMENT.—In addition to the agreement described in subsection (b), an institution of higher education may, at its option, enter into an additional agreement with the Secretary which shall—

"(1) provide for the operation by the institution of a program of part-time employment of its students in work for a private for-profit organization under an arrangement between the institution and such organization that complies with the requirements of subparagraphs (A) through (D) of subsection (b)(1);

"(2) provide that the institution will use not more than 25 percent of the funds made available to such institution under this part for any fiscal year for the operation of the program described in paragraph (1);

"(3) provide that, notwithstanding subsection (b)(5), the Federal share of the compensation of students employed in such program will not exceed 60 percent for academic years 1987-1988 and 1988-1989, 55 percent for academic year 1989-1990, and 50 percent for academic year 1990-1991 and succeeding academic years, and that the non-Federal share of such compensation will be provided by the private for-profit organization in which the student is employed;

"(4) provide that jobs under the work study program will be academically relevant; and

"(5) provide that the for-profit organization will not use funds made available under this part to pay any employee who would otherwise be employed by the organization.

"SOURCES OF MATCHING FUNDS

"SEC. 444. Nothing in this part shall be construed as restricting the source (other than this part) from which the institution may pay its share of the compensation of a student employed under a work-study program covered by an agreement under this part, and such share may be paid to such student in the form of services and equipment (including tuition, room, board, and books) furnished by such institution. 20 USC 2754.

"FLEXIBLE USE OF FUNDS

"SEC. 445. (a) CARRY-OVER AUTHORITY.—(1) Of the sums granted to an eligible institution under this part for any fiscal year, 10 percent may, at the discretion of the institution, remain available for expenditure during the succeeding fiscal year to carry out programs under this part. 42 USC 2755.

"(2) Any of the sums so granted to an institution for a fiscal year which are not needed by that institution to operate work-study programs during that fiscal year, and which it does not wish to use during the next fiscal year as authorized in the preceding sentence, shall remain available to the Secretary for making grants under section 443 to other institutions in the same State until the close of the second fiscal year next succeeding the fiscal year for which such funds were appropriated. Grants. State and local governments.

"(b) CARRY-BACK AUTHORITY.—Up to 10 percent of the sums the Secretary determines an eligible institution may receive from funds which have been appropriated for a fiscal year may be used by the Secretary to make grants under this part to such institution for expenditure during the fiscal year preceding the fiscal year for which the sums were appropriated. Grants.

"JOB LOCATION AND DEVELOPMENT PROGRAMS

"SEC. 446. (a) AGREEMENTS REQUIRED.—(1) The Secretary is authorized to enter into agreements with eligible institutions under which— 42 USC 2756.

"(A) such institution may use not more than 10 percent or $30,000 of its allotment under section 442, whichever is less, to establish or expand a program under which such institution, separately or in combination with other eligible institutions, locates and develops jobs for currently enrolled students; and

"(B) such institution may use not more than 10 percent or $20,000 of its allotment under section 442, whichever is less, to establish or expand a program under which such institution, separately or in combination with other eligible institutions and through formal or informal consultation with local nonprofit, governmental, educational, and community-based organizations, locates and develops community services jobs for students eligible under this part.

"(2) Jobs located and developed under subparagraph (A) or (B) of paragraph (1) shall be jobs which are suitable to the scheduling and

other needs of such students and which, to the maximum extent practicable, complement and reinforce the educational programs or vocational goals of such students.

"(b) CONTENTS OF AGREEMENTS.—Agreements under subsection (a) shall—

"(1) provide that the Federal share of the cost of any program under this section will not exceed 80 percent of such cost;

"(2) provide satisfactory assurance that funds available under this section will not be used to locate or develop jobs at an eligible institution unless such jobs directly relate to the objectives described in subsection (a)(1)(B) of this section;

"(3) provide satisfactory assurance that the institution will continue to spend in its own job location and development programs, from sources other than funds received under this section, not less than the average expenditures per year made during the most recent 3 fiscal years preceding the effective date of the agreement;

"(4) provide satisfactory assurance that funds available under this section will not be used for the location or development of jobs for students to obtain upon graduation, but rather for the location and development of jobs available to students during and between periods of attendance at such institution;

Contracts.

"(5) provide satisfactory assurance that the location or development of jobs pursuant to programs assisted under this section will not result in the displacement of employed workers or impair existing contracts for services;

"(6) provide satisfactory assurance that Federal funds used for the purpose of this section can realistically be expected to help generate student wages exceeding, in the aggregate, the amount of such funds, and that if such funds are used to contract with another organization, appropriate performance standards are part of such contract; and

Report.

"(7) provide that the institution will submit to the Secretary an annual report on the uses made of funds provided under this section and an evaluation of the effectiveness of such program in benefiting the students of such institution.

"(c) DEFINITION OF COMMUNITY SERVICE.—For the purpose of this section, the term 'community services' means services which are identified by an institution of higher education, through formal or informal consultation with local nonprofit, governmental, and community-based organizations, as designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to their needs including, but not limited to, such fields as health care, child care, literacy training, education (including tutorial services), housing and neighborhood improvement, rural development, and community improvement.

"WORK STUDY FOR COMMUNITY SERVICE-LEARNING ON BEHALF OF LOW-INCOME INDIVIDUALS AND FAMILIES

42 USC 2756a.

"SEC. 447. (a) PURPOSE.—The purpose of this section is to encourage and enable institutions of higher education to develop work study programs involving eligible students in community service-learning designed to develop, improve, or expand services for low-income individuals and families or to solve particular problems related to the needs of low-income individuals.

"(b) DEFINITIONS.—For the purpose of this section—

"(1) 'community service-learning program' means a program of student work that—

"(A) provides tangible community services for or on behalf of low-income individuals or families; and

"(B) to the maximum extent practicable, provides participating students with work-learning opportunities which complement and reinforce their educational programs or vocational goals; and

"(2) 'community services' means services which are identified by an institution of higher education, through formal or informal consultation with local nonprofit, governmental, and community-based organizations, as designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to their needs including, but not limited to, such fields as health care, child care, literacy training, education (including tutorial services), welfare, social services, transportation, housing and neighborhood improvement, public safety, crime prevention and control, recreation, rural development, and community improvement.

"(c) USE OF OTHER FUNDS TO CONDUCT PROGRAM.—Each institution participating under this part may use funds made available under the last sentence of section 489(a) to conduct that institution's program of community service-learning, including—

"(1) development of mechanisms to assure the academic quality of the student experience,

"(2) assuring student access to educational resources, expertise, and supervision necessary to achieve community service objectives, and

"(3) collaboration with public and private nonprofit agencies in the planning, development, and administration of such programs.".

(b) EFFECTIVE DATE.—Sections 443(c), 446, and 447 of the Act as amended by this section shall apply to periods of enrollment beginning on or after July 1, 1987. 42 USC 2753 note.

SEC. 404. DEMONSTRATION PROJECT AUTHORIZED.

The Act is amended by adding after part C the following:

"PART D—INCOME CONTINGENT DIRECT LOAN DEMONSTRATION PROJECT

"STATEMENT OF PURPOSE

"SEC. 451. It is the purpose of this part to examine the feasibility of a direct loan program which uses the income contingent repayment method in order to increase the economic and full use of direct student loan funds. 20 USC 1087a.

"DEMONSTRATION PROJECT AUTHORIZED

"SEC. 452. (a) GENERAL AUTHORITY.—The Secretary shall, from the amounts appropriated each fiscal year, carry out demonstration projects in accordance with the provisions of this part. 20 USC 1087b.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making contributions to student loan funds established pursuant to this part, there are authorized to be appropriated $5,000,000 for

fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(c) ALLOTMENT; MAXIMUM NUMBER OF GRANTS.—(1) The Secretary shall allot the amounts appropriated in each fiscal year pursuant to subsection (b) among institutions of higher education which desire to participate in the pilot project authorized by this part and which have agreements with the Secretary under section 453.

"(2) The Secretary may not enter into agreements with more than 10 institutions of higher education under this part.

"AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION

20 USC 1087c.

"SEC. 453. An agreement with an institution of higher education under this part shall—

"(1) provide for the establishment and maintenance of a student loan fund for the purpose of this part;

"(2) provide for the deposit in such fund of Federal capital contributions from funds appropriated pursuant to section 452(b);

"(3) provide for the deposit in such fund of a capital contribution by such institution equal to not less than one-ninth of the amount of the Federal capital contribution described in paragraph (2);

"(4) provide for the deposit in such fund of collections of principal and interest on student loans made from deposited funds and any other earnings of such funds;

"(5) provide that such student loan fund shall be used only for—

"(A) loans to students, in accordance with the provisions of this part;

"(B) administrative expenses; and

"(C) costs of litigation, and other collection costs agreed to by the Secretary in connection with the collection of a loan from the fund (and interest thereon) or a charge assessed pursuant to regulations;

"(6) provide that repayment of the loans made from such student loan funds will be made in accordance with a repayment schedule, which will be adjusted annually on the basis of the total amount borrowed by the student and the income of the student borrower, together with such adjustments in the schedule as the Secretary and the institution determine will best carry out the purpose of this part, except that for the first 2 years of the repayment period the schedule may require a fixed payment plan;

"(7) provide for the distribution of assets from student loan funds under this part in accordance with criteria prescribed by the Secretary, based upon the provisions of section 466; and

"(8) provide for such other assurances and limitations as the Secretary may reasonably require.

"TERMS OF LOAN UNDER THE PILOT PROGRAM

20 USC 1087d.

"SEC. 454. (a) CONDITIONS, LIMITATIONS, AND REQUIREMENTS.—(1) Loans from any student loan fund established pursuant to an agreement under section 453, to any student by any institution shall, subject to such conditions, limitations, and requirements as the

Secretary shall prescribe by regulation, be made on such terms and conditions as the institution may determine.

"(2) The aggregate amount of all loans made by institutions of higher education from loan funds established pursuant to agreements under this part to any student may not exceed $17,500.

"(3) The total amount of loans made by institutions of higher education from loan funds established pursuant to such agreement for any academic year may not exceed—

"(A) $2,500 in the case of a student who is in the first or second academic year of a program of education leading to a bachelor's degree;

"(B) $3,500 in the case of a student who is in the third such year; and

"(C) $4,500 in the case of a student who is in the fourth and fifth such year.

"(4) The interest rate on all such loans shall be the rate equal to the rate obtained for each calendar year (A) by computing the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period preceding such year, and (B) by adding 3 percent to the resulting percent.

"(5) Loans made from loan funds established pursuant to such agreements shall contain such agreements for deferments, interest accrual during deferments, and loan cancellation, as are consistent with the provisions of part E of this title, subject to such modifications as the Secretary may, by regulation, prescribe.

"(b) AUTHORITY OF SECRETARY TO PRESCRIBE OTHER TERMS.—The Secretary may by regulation prescribe such other terms for loans made from loan funds established pursuant to such agreements as the Secretary determines will contribute to carrying out the provisions of this part.

"FEASIBILITY STUDY

"SEC. 455. (a) STUDY.—The Secretary shall, based upon the projects assisted under this part, conduct a study of the feasibility of extending the pilot project to a direct student loan fund program of general applicability beginning after September 30, 1990. 20 USC 1087e.

"(b) REPORT.—The Secretary shall prepare and submit to the Congress a report on the feasibility study begun pursuant to subsection (a) not later than October 1, 1991, and October 1, 1995, together with such recommendations as the Secretary deems appropriate.".

SEC. 405. AMENDMENT TO PART E OF THE ACT.

(a) AMENDMENT.—Part E of title IV of the Act is amended to read as follows:

"PART E—DIRECT LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

"APPROPRIATIONS AUTHORIZED

"SEC. 461. (a) PROGRAM AUTHORITY.—The Secretary shall carry out a program of stimulating and assisting in the establishment and maintenance of funds at institutions of higher education for the making of low-interest loans to students in need thereof to pursue their courses of study in such institutions. Loans made under this part shall be known as 'Perkins Loans'. 20 USC 1087aa.

"(b) AUTHORIZATION OF APPROPRIATIONS.—(1) For the purpose of enabling the Secretary to make contributions to student loan funds established under this part, there are authorized to be appropriated $268,000,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(2) In addition there are hereby authorized to be appropriated such sums for fiscal year 1991 and each of the five succeeding fiscal years as may be necessary to enable students who have received loans for academic years ending prior to October 1, 1991, to continue or complete courses of study.

"(c) USE OF APPROPRIATIONS.—Any sums appropriated pursuant to subsection (b) for any fiscal year shall be available for apportionment pursuant to section 462 and for payments of Federal capital contributions therefrom to institutions of higher education which have agreements with the Secretary under section 463. Such Federal capital contributions and all contributions from such institutions shall be used for the establishment, expansion, and maintenance of student loan funds.

"ALLOCATION OF FUNDS

20 USC 1087bb.

"SEC. 462. (a) ALLOCATION BASED ON PREVIOUS ALLOCATION.—(1) From the amount appropriated pursuant to section 461(b) for each fiscal year, the Secretary shall first allocate to each eligible institution an amount equal to—

"(A) 100 percent of the amount such institution expended under this part for fiscal year 1985, multiplied by

"(B) the institution's default penalty, as determined under subsection (f),

except that if the institution which has a default rate in excess of the applicable maximum default rate under subsection (g), the institution may not receive an allocation under this paragraph.

"(2)(A) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1985 but is not a first or second time participant, an amount equal to the greater of—

"(i) $5,000; or

"(ii) 100 percent of the amount received and expended under this part for the first year it participated in the program.

"(B) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1985 and is a first or second time participant, an amount equal to the greatest of—

"(i) $5,000;

"(ii) an amount equal to (I) 90 percent of the amount received and used under this part in the second preceding fiscal year by eligible institutions offering comparable programs of instruction, divided by (II) the number of students enrolled at such comparable institutions in such fiscal year, multiplied by (III) the number of students enrolled at the applicant institution in such fiscal year; or

"(iii) 90 percent of the institution's allocation under this part for the preceding fiscal year.

"(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, the Secretary shall allocate to each eligible institution which—

"(i) was a first-time participant in the program in fiscal year 1986 or any subsequent fiscal year, and

"(ii) received a larger amount under this subsection in the second year of participation,

an amount equal to 90 percent of the amount it received under this subsection in its second year of participation.

"(D) For any fiscal year after a fiscal year in which an institution receives an allocation under subparagraph (A), (B), or (C), the Secretary shall allocate to such institution an amount equal to the product of—

"(i) the amount determined under subparagraph (A), (B), or (C), multiplied by

"(ii) the institution's default penalty, as determined under subsection (f),

except that if the institution which has a default rate in excess of the applicable maximum default rate under subsection (g), the institution may not receive an allocation under this paragraph.

"(3)(A) If the amount appropriated for any fiscal year is less than the amount required to be allocated to all institutions under paragraph (1) of this subsection, then the amount of the allocation to each such institution shall be ratably reduced.

"(B) If the amount appropriated for any fiscal year is more than the amount required to be allocated to all institutions under paragraph (1) but less than the amount required to be allocated to all institutions under paragraph (2), then—

"(i) the Secretary shall allot the amount required to be allocated to all institutions under paragraph (1), and

"(ii) the amount of the allocation to each institution under paragraph (2) shall be ratably reduced.

"(C) If additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced (until the amount allocated equals the amount required to be allocated under paragraphs (1) and (2) of this subsection).

"(b) ALLOCATION OF EXCESS BASED ON PRO RATA SHARE.—From one-quarter of the remainder of the amount appropriated pursuant to section 461(b) for any fiscal year (after making the allocations required by subsection (a) of this section), the Secretary shall allocate to each eligible institution an amount which bears the same ratio to such one-quarter as—

"(1) the amount the eligible institution receives for such fiscal year under subsection (a), bears to

"(2) the amount all such institutions receive under such subsection (a).

"(c) ALLOCATION OF EXCESS BASED ON SHARE OF EXCESS ELIGIBLE AMOUNTS.—(1) From three-quarters of the remainder of the amount appropriated pursuant to section 461(b) after making the allocations required by subsection (a) of this section, the Secretary shall allocate to each eligible institution which has an excess eligible amount an amount which bears the same ratio to such remainder as such excess eligible amount bears to the sum of the excess eligible amounts of all such eligible institutions (having such excess eligible amounts).

"(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

"(A)(i) that institution's eligible amount (as determined under paragraph (3)), divided by (ii) the sum of the eligible amounts of all institutions (as so determined), multiplied by (iii) the amount

appropriated pursuant to section 461(b) for the fiscal year; exceeds

"(B) the amount required to be allocated to that institution under subsection (a),

except that an eligible institution which has a default rate in excess of the applicable maximum default rate under subsection (g) may not receive an allocation under this paragraph.

"(3) For any eligible institution, the eligible amount of that institution is equal to—

"(A) the amount of the institution's self-help need, as determined under subsection (d); minus

"(B) the institution's anticipated collections; multiplied by

"(C) the institution's default penalty, as determined under subsection (f);

except that, if the institution has a default rate in excess of the applicable maximum default rate under subsection (g), the eligible amount of that institution is zero.

"(d) DETERMINATION OF INSTITUTION'S SELF-HELP NEED.—(1) The amount of an institution's self-help need is equal to the sum of the self-help need of the institution's eligible undergraduate students and the self-help need of the institution's eligible graduate and professional students.

"(2) To determine the self-help need of an institution's eligible undergraduate students, the Secretary shall—

"(A) establish various income categories for dependent and independent undergraduate students;

"(B) establish an expected family contribution for each income category of dependent and independent undergraduate students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title) of a representative sample within each income category for the second preceding fiscal year;

"(C) compute 25 percent of the average cost of attendance for all undergraduate students;

"(D) multiply the number of eligible dependent students in each income category by the lesser of—

"(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

"(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

"(E) add the amounts determined under subparagraph (D) for each income category of dependent students;

"(F) multiply the number of eligible independent students in each income category by the lesser of—

"(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

"(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

"(G) add the amounts determined under subparagraph (F) for each income category of independent students; and

"(H) add the amounts determined under subparagraphs (E) and (G).

"(3) To determine the self-help need of an institution's eligible graduate and professional students, the Secretary, for academic year 1988-1989, shall use the procedures employed for academic year 1986-1987, and, for any subsequent academic years, the Secretary shall—

"(A) establish various income categories for graduate and professional students;

"(B) establish an expected family contribution for each income category of graduate and professional students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title) of a representative sample within each income category for the second preceding fiscal year;

"(C) determine the average cost of attendance for all graduate and professional students;

"(D) subtract from the average cost of attendance for all graduate and professional students (determined under subparagraph (C)), the expected family contribution (determined under subparagraph (B)) for each income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

"(E) multiply the amounts determined under subparagraph (D) by the number of eligible students in each category;

"(F) add the amounts determined under subparagraph (E) for each income category.

"(3)(A) For purposes of paragraphs (2) and (3), the term 'average cost of attendance' means the average of the attendance costs for undergraduate students and for graduate and professional students, which shall include (i) tuition and fees determined in accordance with subparagraph (B), (ii) standard living expenses determined in accordance with subparagraph (C), and (iii) books and supplies determined in accordance with subparagraph (D).

"(B) The average undergraduate and graduate and professional tuition and fees described in subparagraph (A)(i) shall be computed on the basis of information reported by the institution to the Secretary, which shall include (i) total revenue received by the institution from undergraduate and graduate tuition and fees for the second year preceding the year for which it is applying for an allocation, and (ii) the institution's enrollment for such second preceding year.

"(C) The standard living expense described in subparagraph (A)(ii) is equal to three-fourths in the Pell Grant family size offset for a single independent student.

"(D) The allowance for books and supplies described in subparagraph (A)(iii) is equal to $450.

"(e) ANTICIPATED COLLECTIONS; CASH ON HAND.—An institution's anticipated collections are equal to the amount which was collected during the second year preceding the beginning of the award period, multiplied by 1.21.

"(f) DEFAULT PENALTY.—For any institution which has a default rate which equals or exceeds 7.5 percent but does not exceed the maximum default rate applicable to the award year under paragraph (2), the institution's default penalty is a percentage equal to

the complement of such default rate. For any institution which has a default rate that does not exceed 7.5 percent, the institution's default penalty is equal to one.

"(g) APPLICABLE MAXIMUM DEFAULT RATE.—(1) For award years 1988, 1989, and 1990, the applicable maximum default rate is 20 percent.

"(2) For award year 1991 and subsequent years, the applicable maximum default rate is 15 percent.

"(h) DEFINITION OF DEFAULT RATE.—(1) For the purpose of this section, the default rate is computed by dividing—

"(A) the total principal amount of defaulted loans; by

"(B) the total principal amount of loans made under this part, less the principal amount of all loans made to borrowers who are eligible for deferment under section 464(c)(2)(A)(i) or are in a grace period preceding repayment.

"(2) For the purpose of paragraph (1)(A), the total principal amount of defaulted loans is equal to the total amount borrowed under loans that have reached repayment status and that are in default, minus—

"(A) amounts that have been repaid or cancelled on such loans;

"(B) loans discharged in bankruptcy;

"(C) loans referred or assigned to the Secretary for collection under paragraph (5)(A), (5)(B)(i), or (6) of section 463(a); and

"(D) loans that are in default but on which the borrowers have made satisfactory arrangements to resume payment.

"(3) A loan shall be considered to be in default—

"(A) 120 days (in the case of a loan repayable monthly), or

"(B) 180 days (in the case of a loan repayable quarterly), after the borrower fails to make an installment payment when due or to comply with other terms of the promissory note.

"(i) FILING DEADLINES.—The Secretary shall, from time to time, set dates before which institutions must file applications for allocations under this part.

"(j) REALLOCATION OF EXCESS ALLOCATIONS.—If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year the Secretary shall, in accordance with regulations, reallocate such excess to other institutions.

"AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION

20 USC 1087cc.

"SEC. 463. (a) CONTENTS OF AGREEMENTS.—An agreement with any institution of higher education for the payment of Federal capital contributions under this part shall—

"(1) provide for the establishment and maintenance of a student loan fund for the purpose of this part;

"(2) provide for the deposit in such fund of—

"(A) Federal capital contributions from funds appropriated under section 461;

"(B) a capital contribution by such institution in an amount equal to not less than one-ninth of the amount of the Federal capital contributions described in subparagraph (A);

"(C) collections of principal and interest on student loans made from deposited funds;

"(D) charges collected pursuant to regulations under section 464(c)(1)(H); and

"(E) any other earnings of the funds;

"(3) provide that such student loan fund shall be used only for—

"(A) loans to students, in accordance with the provisions of this part;

"(B) administrative expenses, as provided in subsection (b);

"(C) capital distributions, as provided in section 466; and

"(D) costs of litigation, and other collection costs agreed to by the Secretary in connection with the collection of a loan from the fund (and interest thereon) or a charge assessed pursuant to regulations under section 464(c)(1)(H);

"(4) provide that where a note or written agreement evidencing a note has been in default for (A) 120 days, in the case of a loan which is repayable in monthly installments, or (B) 180 days, in the case of a loan which is repayable in less frequent installments, notice of such default shall be given to the Secretary in a report describing the total number of loans from such fund which are in such default, and made to the Secretary at least semiannually; Report.

"(5) provide that where a note or written agreement evidencing a loan has been in default despite due diligence on the part of the institution in attempting collection thereon—

"(A) if the institution has knowingly failed to maintain an acceptable collection record with respect to such loan, as determined by the Secretary in accordance with criteria established by regulation, the Secretary may—

"(i) require the institution to assign such note or agreement to the Secretary, without recompense; and

"(ii) apportion any sums collected on such a loan, less an amount not to exceed 30 percent of any sums collected to cover the Secretary's collection costs, among other institutions in accordance with section 462; or

"(B) if the institution is not one described in subparagraph (A), the Secretary may—

"(i) allow such institution to transfer its interest in such loan to the Secretary, for collection, and the Secretary may use any collections thereon (less an amount not to exceed 30 percent of any such sums collected to cover the Secretary's collection costs) to make allocations to institutions of additional capital contributions in accordance with section 462; or

"(ii) allow such institution to refer such note or agreement to the Secretary, without recompense, except that any sums collected on such a loan (less an amount not to exceed 30 percent of any such sums collected to cover the Secretary's collection costs) shall be repaid to such institution no later than 180 days after collection by the Secretary and treated as an additional capital contribution;

"(6) provide that, if an institution of higher education determines not to service and collect student loans made available from funds under this part, the institution will assign, at the beginning of the repayment period, notes or evidence of obligations of student loans made from such funds to the Secretary

and the Secretary shall apportion any sums collected on such notes or obligations (less an amount not to exceed 30 percent of any such sums collected to cover that Secretary's collection costs) among other institutions in accordance with section 462;

"(7) provide that, notwithstanding any other provision of law, the Secretary will provide to the institution any information with respect to the names and addresses of borrowers or other relevant information which is available to the Secretary, from whatever source such information may be derived;

"(8) provide assurances that the institution will comply with the provisions of section 463A;

"(9) provide that the institution of higher education will make loans first to students with exceptional need; and

"(10) include such other reasonable provisions as may be necessary to protect the United States from unreasonable risk of loss and as are agreed to by the Secretary and the institution.

"(b) ADMINISTRATIVE EXPENSES.—An institution which has entered into an agreement under subsection (a) shall be entitled, for each fiscal year during which it makes student loans from a student loan fund established under such agreement, to a payment in lieu of reimbursement for its expenses in administering its student loan program under this part during such year. Such payment shall be made in accordance with section 485.

"(c) COOPERATIVE AGREEMENTS WITH CREDIT BUREAU ORGANIZATIONS.—(1) For the purpose of promoting responsible repayment of loans made pursuant to this part, the Secretary shall enter into cooperative agreements with credit bureau organizations to provide for the exchange of information concerning student borrowers concerning whom the Secretary has received a referral pursuant to section 467.

"(2) Each cooperative agreement made pursuant to paragraph (1) shall be made in accordance with the requirements of section 430A except that such agreement shall provide for the disclosure by the Secretary to such organizations, with respect to any loan for which the Secretary is responsible, of—

"(A) the date of disbursement and the amount of any such loan;

"(B) information concerning collection of any such loan, including information concerning the status of any defaulted loan; and

"(C) the date of cancellation of the note upon completion of repayment by the borrower of any such loan.

"(3) Notwithstanding paragraphs (4) and (6) of subsection (a) of section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c (a)(4), (a)(6)), a consumer reporting agency may make a report containing information received from the Secretary regarding the status of a borrower's account on a loan made under this part until—

"(A) 7 years from the date on which the Secretary accepted an assignment or referral of a loan, or

"(B) 7 years from the date the Secretary first reports the account to a consumer reporting agency, if that account has not been previously reported by any other holder of the note.

"STUDENT LOAN INFORMATION BY ELIGIBLE INSTITUTIONS

20 USC 1087cc-1.

"SEC. 463A. (a) DISCLOSURE REQUIRED PRIOR TO DISBURSEMENT.—Each institution of higher education, in order to carry out the

provisions of section 463(a)(8), shall, at or prior to the time such institution makes a loan to a student borrower which is made under this part, provide thorough and adequate loan information on such loan to the student borrower. Any disclosure required by this subsection may be made by an institution of higher education as part of the written application material provided to the borrower, or as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. The disclosures shall include—

"(1) the name of the institution of higher education, and the address to which communications and payments should be sent;

"(2) the principal amount of the loan;

"(3) the amount of any charges collected by the institution at or prior to the disbursal of the loan and whether such charges are deducted from the proceeds of the loan or paid separately by the borrower;

"(4) the stated interest rate on the loan;

"(5) the yearly and cumulative maximum amounts that may be borrowed;

"(6) an explanation of when repayment of the loan will be required and when the borrower will be obligated to pay interest that accrues on the loan;

"(7) a statement as to the minimum and maximum repayment term which the institution may impose, and the minimum monthly payment required by law and a description of any penalty imposed as a consequence of default, such as liability for expenses reasonably incurred in attempts by the Secretary or institutions to collect on a loan;

"(8) a statement of the total cumulative balance owed by the student to that institution, the projected level of indebtedness of the student based on a 2- or 4-year college career, and an estimate of the projected monthly repayment given the level of indebtedness over a 2-, 4-, or 5-year college career;

"(9) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

"(10) a statement that the borrower has the right to prepay all or part of the loan, at any time, without penalty, a statement summarizing circumstances in which repayment of the loan or interest that accrues on the loan may be deferred, and a brief notice of the program for repayment of loans, on the basis of military service, pursuant to section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141, note);

"(11) a definition of default and the consequences to the borrower if the borrower defaults, including a statement that the default may be reported to a credit bureau or credit reporting agency;

"(12) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance; and

"(13) an explanation of any cost the borrower may incur in the making or collection of the loan.

"(b) DISCLOSURE REQUIRED PRIOR TO REPAYMENT.—Each institution of higher education shall enter into an agreement with the Secretary under which the institution will, prior to the start of the repayment period of the student borrower on loans made under this part, disclose to the student borrower the information required under this subsection. Any disclosure required by this subsection may be made by an institution of higher education either in a

promissory note evidencing the loan or loans or in a written statement provided to the borrower. The disclosures shall include—

"(1) the name of the institution of higher education, and the address to which communications and payments should be sent;

"(2) the scheduled date upon which the repayment period is to begin;

"(3) the estimated balance owed by the borrower on the loan or loans covered by the disclosure as of the scheduled date on which the repayment period is to begin (including, if applicable, the estimated amount of interest to be capitalized);

"(4) the stated interest rate on the loan or loans, or the combined interest rate of loans with different stated interest rates;

"(5) the nature of any fees which may accrue or be charged to the borrower during the repayment period;

"(6) the repayment schedule for all loans covered by the disclosure including the date the first installment is due, and the number, amount, and frequency of required payments;

"(7) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

"(8) the projected total of interest charges which the borrower will pay on the loan or loans, assuming that the borrower makes payments exactly in accordance with the repayment schedule; and

"(9) a statement that the borrower has the right to prepay all or part of the loan or loans covered by the disclosure at any time without penalty.

Claims.

"(c) COSTS AND EFFECTS OF DISCLOSURES.—Such information shall be available without cost to the borrower. The failure of an eligible institution to provide information as required by this section shall not (1) relieve a borrower of the obligation to repay a loan in accordance with its terms, (2) provide a basis for a claim for civil damages, or (3) be deemed to abrogate the obligation of the Secretary to make payments with respect to such loan.

"TERMS OF LOANS

Regulations.
20 USC 1087dd.

"SEC. 464. (a) TERMS AND CONDITIONS.—(1) Loans from any student loan fund established pursuant to an agreement under section 463 to any student by any institution shall, subject to such conditions, limitations, and requirements as the Secretary shall prescribe by regulation, be made on such terms and conditions as the institution may determine.

"(2) The aggregate of the loans for all years made by institutions of higher education from loan funds established pursuant to agreements under this part may not exceed—

"(A) $18,000 in the case of any graduate or professional student (as defined by regulations of the Secretary, and including any loans from such funds made to such person before he became a graduate or professional student);

"(B) $9,000 in the case of a student who has successfully completed 2 years of a program of education leading to a bachelor's degree, but who has not completed the work necessary for such a degree (determined under regulations of the Secretary, and including any loans from such funds made to such person before he became such a student); and

"(C) $4,500 in the case of any other student.

"(3) Regulations of the Secretary under paragraph (1) shall be designed to prevent the impairment of the capital student loan funds to the maximum extent practicable and with a view toward the objective of enabling the student to complete his course of study.

"(b) DEMONSTRATION OF NEED AND ELIGIBILITY REQUIRED.—(1) A loan from a student loan fund assisted under this part may be made only to a student who demonstrates financial need in accordance with part F of this title and who meets the requirements of section 484.

"(2) If the institution's Federal capital contribution under section 462 is directly or indirectly based in part on the financial need demonstrated by students attending the institution less than full time, a reasonable proportion of the loans under this part shall be made available to such students.

"(c) CONTENTS OF LOAN AGREEMENT.—(1) Any agreement between an institution and a student for a loan from a student loan fund assisted under this part—

"(A) shall be evidenced by note or other written instrument which, except as provided in paragraph (2), provides for repayment of the principal amount of the loan, together with interest thereon, in equal installments (or, if the borrower so requests, in graduated periodic installments determined in accordance with such schedules as may be approved by the Secretary) payable quarterly, bimonthly, or monthly, at the option of the institution, over a period beginning nine months after the date on which the student ceases to carry, at an institution of higher education or a comparable institution outside the United States approved for this purpose by the Secretary, at least one-half the normal full-time academic workload, and ending 10 years and 9 months after such date except that such period may begin earlier than 9 months after such date upon the request of the borrower;

"(B) shall include provision for acceleration of repayment of the whole, or any part, of such loan, at the option of the borrower;

"(C)(i) may provide, at the option of the institution, in accordance with regulations of the Secretary, that during the repayment period of the loan, payments of principal and interest by the borrower with respect to all outstanding loans made to the student from a student loan fund assisted under this part shall be at a rate equal to not less than $30 per month, except that the institution may, subject to such regulations, permit a borrower to pay less than $30 per month for a period of not more than one year where necessary to avoid hardship to the borrower, but without extending the 10-year maximum repayment period provided for in subparagraph (A) of this paragraph; and

"(ii) may provide that the total payments by a borrower for a monthly or similar payment period with respect to the aggregate of all loans held by the institution may, when the amount of a monthly or other similar payment is not a multiple of $5, be rounded to the next highest whole dollar amount that is a multiple of $5;

"(D) shall provide that the loan shall bear interest, on the unpaid balance of the loan, at the rate of (i) 3 percent per year, (ii) 4 percent per year in the case of any loan made on or after July 1, 1981, or (iii) 5 percent per year in the case of any loan made on or after October 1, 1981, except that no interest shall

accrue (I) prior to the beginning date of repayment determined under subparagraph (A)(i), or (II) during any period in which repayment is suspended by reason of paragraph (2);

"(E) unless the borrower is a minor and the note or other evidence of obligation executed by him would not, under applicable law, create a binding obligation, shall provide that the loan shall be made without security and without endorsement;

"(F) shall provide that the liability to repay the loan shall be canceled upon the death of the borrower, or if he becomes permanently and totally disabled as determined in accordance with regulations of the Secretary;

"(G) shall provide that no note or evidence of obligation may be assigned by the lender, except upon the transfer of the borrower to another institution participating under this part (or, if not so participating, is eligible to do so and is approved by the Secretary for such purpose), to such institution, and except as necessary to carry out section 463(a)(6);

"(H) pursuant to regulations of the Secretary, shall provide for an assessment of a charge with respect to the loan for failure of the borrower to pay all or part of an installment when due, which shall include the expenses reasonably incurred in attempting collection of the loan, to the extent permitted by the Secretary, except that no charge imposed under this subparagraph shall exceed 20 percent of the amount of the monthly payment of the borrower; and

"(I) shall contain a notice of the system of disclosure of information concerning default on such loan to credit bureau organizations under section 463(c).

"(2)(A) No repayment of principal of, or interest on, any loan from a student loan fund assisted under this part shall be required during any period in which the borrower—

"(i) is carrying at least one-half the normal full-time academic workload at an institution of higher education or at a comparable institution outside the United States which is approved for this purpose by the Secretary;

Armed Forces.

"(ii) is a member of the Armed Forces of the United States, is an active duty member of the National Oceanic and Atmospheric Administration Corps, or is an officer in the Commissioned Corps of the Public Health Service;

22 USC 2501 note.

"(iii) is in service as a volunteer under the Peace Corps Act;

42 USC 4951 note.

"(iv) is in service as a volunteer under the Domestic Volunteer Act of 1973;

"(v) is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954;

26 USC 501.

"(vi) is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service;

"(vii) is temporarily totally disabled (as defined in section 435(g)), as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a dependent who is so disabled;

"(viii) is on parental leave, as defined in section 435(h); or

"(ix) is a mother with preschool age children who is just entering or reentering the workforce and who is compensated at

a rate not to exceed $1 in excess of the rate prescribed by section 6 of the Fair Labor Standards Act of 1938. 29 USC 206.

The period during which repayment may be deferred by reason of clause (ii), (iii), (iv), (v), or (vii) shall not exceed 3 years. The period during which repayment may be deferred by reason of clause (vi) shall not exceed 2 years. The period during which repayment may be deferred by reason of clause (viii) shall not exceed 6 months. The period during which the repayment may be deferred by reason of clause (ix) shall not exceed 12 months.

"(B) Any period during which repayment is deferred under subparagraph (A) shall not be included in computing the 10-year maximum period provided for in subparagraph (A) of paragraph (1).

"(C) No repayment of principal of, or interest on, any loan for any period of study, service, or disability described in subparagraph (A) or any combination thereof shall begin until 6 months after the completion of such period of study, service, disability, or combination thereof.

"(3)(A) The Secretary is authorized, when good cause is shown, to extend, in accordance with regulations, the 10-year maximum repayment period provided for in subparagraph (A) of paragraph (1) with respect to individual loans.

"(B) Pursuant to uniform criteria established by the Secretary, the repayment period for any student borrower who during the repayment period is a low-income individual may be extended for a period not to exceed 10 years and the repayment schedule may be adjusted to reflect the income of that individual.

"(4) The institution may elect—

"(A) to add the amount of any charge imposed under paragraph (1)(H) to the principal amount of the loan as of the first day after the day on which the installment was due and to notify the borrower of the assessment of the charge; or

"(B) to make the amount of the charge payable to the institution not later than the due date of the next installment.

"(d) AVAILABILITY OF LOAN FUND TO ALL ELIGIBLE STUDENTS.—An agreement under this part for payment of Federal capital contributions shall include provisions designed to make loans from the student loan fund established pursuant to such agreement reasonably available (to the extent of the available funds in such fund) to all eligible students in such institutions in need thereof.

"CANCELLATION OF LOANS FOR CERTAIN PUBLIC SERVICE

"SEC. 465. (a) CANCELLATION OF PERCENTAGE OF DEBT BASED ON YEARS OF QUALIFYING SERVICE.—(1) The percent specified in paragraph (3) of this subsection of the total amount of any loan made after June 30, 1972, from a student loan fund assisted under this part shall be canceled for each complete year of service after such date by the borrower under circumstances described in paragraph (2). 20 USC 1087ee.

"(2) Loans shall be canceled under paragraph (1) for service—

"(A) as a full-time teacher for service in an academic year in a public or other nonprofit private elementary or secondary school which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to title I of the Elementary and Secondary Education Act of 1965, and which for the purpose of this paragraph and for that year has been determined by the Secretary (pursuant to regulations 20 USC 2701.

and after consultation with the State educational agency of the State in which the school is located) to be a school in which the enrollment of children counted under section 111(c) of the Elementary and Secondary Education Act of 1965 exceeds 30 percent of the total enrollment of that school and such determination shall not be made with respect to more than 50 percent of the total number of schools in the State receiving assistance under such title I;

20 USC 2711.

"(B) as a full-time staff member in a preschool program carried on under section 222(a)(1) of the Economic Opportunity Act of 1964 which is operated for a period which is comparable to a full school year in the locality if the salary of such staff member is not more than the salary of a comparable employee of the local educational agency;

42 USC 2809.

"(C) as a full-time teacher of handicapped children in a public or other nonprofit elementary or secondary school system;

"(D) as a member of the Armed Forces of the United States, for service that qualifies for special pay under section 310 of title 37, United States Code, as an area of hostilities; or

"(E) as a volunteer under the Peace Corps Act or a volunteer under the Domestic Volunteer Service Act of 1973.

22 USC 2501 note.

42 USC 4951 note.

For the purpose of this paragraph, the term 'handicapped children' has the meaning set forth in section 602(1) of the Education of the Handicapped Act.

"(3)(A) The percent of a loan which shall be canceled under paragraph (1) of this subsection is—

"(i) in the case of service described in subparagraph (A) or (C) of paragraph (2), at the rate of 15 percent for the first or second year of such service, 20 percent for the third or fourth year of such service, and 30 percent for the fifth year of such service;

"(ii) in the case of service described in subparagraph (B) of paragraph (2), at the rate of 15 percent for each year of such service;

"(iii) in the case of service described in subparagraph (D) of paragraph (2), not to exceed a total of 50 percent of such loan at the rate of 12½ percent for each year of qualifying service; or

"(iv) in the case of service described in subparagraph (E) of paragraph (2) at the rate of 15 percent for the first or second year of such service and 20 percent for the third or fourth year of such service.

"(B) If a portion of a loan is canceled under this subsection for any year, the entire amount of interest on such loan which accrues for such year shall be canceled.

"(C) Nothing in this subsection shall be construed to authorize refunding of any repayment of a loan.

"(4) For the purpose of this subsection, the term 'year' where applied to service as a teacher means academic year as defined by the Secretary.

"(5) The amount of a loan, and interest on a loan, which is canceled under this section shall not be considered income for purposes of the Internal Revenue Code of 1954.

26 USC 1 *et seq.*

"(b) REIMBURSEMENT FOR CANCELLATION.—The Secretary shall pay to each institution for each fiscal year an amount equal to the aggregate of the amounts of loans from its student loan fund which are canceled pursuant to this section for such year, minus an amount equal to the aggregate of the amounts of any such loans so canceled which were made from Federal capital contributions to its

student loan fund provided by the Secretary under section 468. None of the funds appropriated pursuant to section 461(b) shall be available for payments pursuant to this subsection.

"DISTRIBUTION OF ASSETS FROM STUDENT LOAN FUNDS

"SEC. 466. (a) IN GENERAL.—After September 30, 1996, and not later than March 31, 1997, there shall be a capital distribution of the balance of the student loan fund established under this part by each institution of higher education as follows: 20 USC 1087ff.

"(1) The Secretary shall first be paid an amount which bears the same ratio to the balance in such fund at the close of September 30, 1996, as the total amount of the Federal capital contributions to such fund by the Secretary under this part bears to the sum of such Federal contributions and the institution's capital contributions to such fund.

"(2) The remainder of such balance shall be paid to the institution.

"(b) DISTRIBUTION OF LATE COLLECTIONS.—After March 31, 1997, each institution with which the Secretary has made an agreement under this part, shall pay to the Secretary the same proportionate share of amounts received by this institution after September 30, 1996, in payment of principal and interest on student loans made from the student loan fund established pursuant to such agreement (which amount shall be determined after deduction of any costs of litigation incurred in collection of the principal or interest on loans from the fund and not already reimbursed from the fund or from such payments of principal or interest), as was determined for the Secretary under subsection (a).

"(c) DISTRIBUTION OF EXCESS CAPITAL.—Upon a finding by the institution or the Secretary prior to October 1, 1997, that the liquid assets of a student loan fund established pursuant to an agreement under this part exceed the amount required for loans or otherwise in the foreseeable future, and upon notice to such institution or to the Secretary, as the case may be, there shall be, subject to such limitations as may be included in regulations of the Secretary or in such agreement, a capital distribution from such fund. Such capital distribution shall be made as follows:

"(1) The Secretary shall first be paid an amount which bears the same ratio to the total to be distributed as the Federal capital contributions by the Secretary to the student loan fund prior to such distribution bear to the sum of such Federal capital contributions and the capital contributions to the fund made by the institution.

"(2) The remainder of the capital distribution shall be paid to the institution.

"COLLECTION OF DEFAULTED LOANS

"SEC. 467. (a) AUTHORITY OF SECRETARY TO COLLECT REFERRED, TRANSFERRED, OR ASSIGNED LOANS.—With respect to any loan— Claims. 20 USC 1087gg.

"(1) which was made under this part, and

"(2) which is referred, transferred, or assigned to the Secretary by an institution with an agreement under section 463(a),

the Secretary is authorized to attempt to collect such loan by any means authorized by law for collecting claims of the United States (including referral to the Attorney General for litigation) and under

such terms and conditions as the Secretary may prescribe, including reimbursement for expenses reasonably incurred in attempting such collection.

"(b) COLLECTION OF REFERRED, TRANSFERRED, OR ASSIGNED LOANS.—The Secretary shall continue to attempt to collect any loan referred, transferred, or assigned under paragraph (5)(A), (5)(B)(i), or (6) of section 463(a) until all appropriate collection efforts, as determined by the Secretary, have been expended.

"GENERAL AUTHORITY OF SECRETARY

20 USC 1087hh.

"SEC. 468. In carrying out the provisions of this part, the Secretary is authorized—

"(1) to consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note evidencing a loan which has been made under this part;

"(2) to enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption;

"(3) to conduct litigation in accordance with the provisions of section 432(a)(2); and

Contracts.

"(4) to enter into a contract or other arrangement with State or nonprofit agencies and, on a competitive basis, with collection agencies for servicing and collection of loans under this part.".

20 USC 1087dd note.

(b) EFFECTIVE DATES.—(1) The changes made in sections 464(c)(1)(A), 464(c)(2), and 465(a)(2)(E) of the Act shall apply only to loans made to cover the costs of instruction for periods of enrollment beginning on or after July 1, 1987, to individuals who are new borrowers on that date.

(2) Section 463(a)(9) of the Act as amended by this section shall apply only to loans made for periods of enrollment beginning on or after July 1, 1987.

(3) For the purpose of this subsection, the term "new borrower" means, with respect to any date, an individual who on that date has no outstanding balance of principal or interest owing on any loan made under part E of title IV of the Act.

SEC. 406. ADDITION OF A NEW PART F RELATING TO NEED ANALYSIS FOR STUDENT ASSISTANCE.

(a) AMENDMENT.—Title IV of the Act is further amended by redesignating part F as part G and by inserting after part E the following new part:

"PART F—NEED ANALYSIS

"AMOUNT OF NEED

20 USC 1087kk.

"SEC. 471. Except as otherwise provided therein, the amount of need of any student for financial assistance under this title (except subparts 1 and 3 of part A) is equal to the cost of attendance of such student minus the expected family contribution for such student.

"COST OF ATTENDANCE

20 USC 1087ll.

"SEC. 472. For the purpose of this title (except for subpart 1 of part A and subject to section 478), the term 'cost of attendance' means—

"(1) tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study;

"(2) an allowance for books, supplies, transportation, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution;

"(3) an allowance (as determined by the institution) for room and board costs incurred by the student which—

"(A) shall be an allowance of not less than $1,500 for a student without dependents residing at home with parents;

"(B) for students without dependents residing in institutionally owned or operated housing, shall be a standard allowance determined by the institution based on the amount normally assessed most of its residents for room and board; and

"(C) for all other students shall be an allowance based on the expenses reasonably incurred by such students for room and board, except that the amount may not be less than $2,500;

"(4) for less than half-time students (as determined by the institution) tuition and fees and an allowance for only books, supplies, and transportation (as determined by the institution) and dependent care expenses (in accordance with paragraph (7));

"(5) for a student engaged in a program of study by correspondence, only tuition and fees and, if required, books and supplies, travel, and room and board costs incurred specifically in fulfilling a required period of residential training;

"(6) for a student enrolled in an academic program which normally includes a formal program of study abroad, reasonable costs associated with such study (as determined by the institution);

"(7) for a student with one or more dependents, an allowance (as determined by the institution) based on the expenses reasonably incurred for dependent care based on the number and age of such dependents;

"(8) for a handicapped student, an allowance (as determined by the institution) for those expenses related to his or her handicap, including special services, transportation, equipment, and supplies that are reasonably incurred and not provided for by other assisting agencies; and

Handicapped persons.

"(9) for a student receiving all or part of his or her instruction by means of telecommunications technology, no distinction shall be made with respect to the mode of instruction in determining costs, but this paragraph shall not be construed to permit including the cost of rental or purchase of equipment.

"FAMILY CONTRIBUTION

"SEC. 473. For the purpose of this title, except subparts 1 and 3 of part A, the term 'family contribution' with respect to any student means the amount which the student and his or her family may be reasonably expected to contribute toward his or her postsecondary education for the academic year for which the determination is made, as determined in accordance with this part.

20 USC 1087mm.

"DATA ELEMENTS USED IN DETERMINING EXPECTED FAMILY CONTRIBUTION

20 USC 1087nn.

"SEC. 474. The following data elements are considered in determining the expected family contribution:

"(1) the available income of (A) the student and his or her spouse, or (B) the student (and spouse) and the student's parents, in the case of a dependent student;

"(2) the number of dependents in the family of the student;

"(3) the number of dependents in the family of the student who are enrolled in, on at least a half-time basis, a program of postsecondary education and for whom the family may reasonably be expected to contribute to their postsecondary education;

"(4) the net assets of (A) the student and his or her spouse, and (B) the student (and spouse) and the student's parents, in the case of a dependent student;

"(5) the marital status of the student;

"(6) any unusual medical and dental expenses of (A) the student and the student's parents, in the case of a dependent student, or (B) the student and his or her dependents, in the case of an independent student;

"(7) the number of dependent children other than the student enrolled in a private elementary or secondary institution and the unreimbursed tuition paid (A) in the case of a dependent student, by the student's parents for such dependent children, or (B) in the case of an independent student with dependents, by the student or his or her spouse for such dependent children who are so enrolled; and

"(8) the additional expenses incurred (A) in the case of a dependent student, when both parents of the student are employed or when the family is headed by a single parent who is employed, or (B) in the case of an independent student, when both the student and his or her spouse are employed or when the employed student qualifies as a surviving spouse or as a head of a household under section 2 of the Internal Revenue Code of 1954.

26 USC 2.

"FAMILY CONTRIBUTION FOR DEPENDENT STUDENTS

20 USC 1087oo.

"SEC. 475. (a) COMPUTATION OF EXPECTED FAMILY CONTRIBUTION.—For each dependent student the expected family contribution is equal to the sum of—

"(1) the parents' contribution from adjusted available income (determined in accordance with subsection (b));

"(2) the student (and spouse) contribution from available income (determined in accordance with subsection (g)); and

"(3) the student (and spouse) income supplemental amount from assets (determined in accordance with subsection (h)).

"(b) PARENTS' CONTRIBUTION FROM ADJUSTED AVAILABLE INCOME.—The parents' contribution from adjusted available income is equal to the amount determined by—

"(1) computing adjusted available income by adding—

"(A) the parents' available income (determined in accordance with subsection (c)); and

"(B) the parents' income supplemental amount from assets (determined in accordance with subsection (d));

"(2) assessing such adjusted available income in accordance with the assessment schedule set forth in subsection (e); and

"(3) dividing the assessment resulting under paragraph (2) by the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which assistance under this title is requested;

except that the amount determined under this subsection shall not be less than zero.

"(c) PARENTS' AVAILABLE INCOME.—

"(1) IN GENERAL.—The parents' available income is determined by deducting from total income (as defined in section 480)—

"(A) Federal income taxes;

"(B) an allowance for State and other taxes, determined in accordance with paragraph (2);

"(C) an allowance for social security taxes, determined in accordance with paragraph (3);

"(D) a standard maintenance allowance, determined in accordance with paragraph (4);

"(E) an employment expense allowance, determined in accordance with paragraph (5);

"(F) a medical-dental expense allowance, determined in accordance with paragraph (6); and

"(G) an educational expense allowance, determined in accordance with paragraph (7).

"(2) ALLOWANCE FOR STATE AND OTHER TAXES.—The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 480) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 479):

"Percentages for Computation of State and Other Tax Allowance

If parents' State or territory of residence is—	And parents' total income is—	
	less than $15,000 or	$15,000 more
	then the percentage is—	
Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13

"(3) ALLOWANCE FOR SOCIAL SECURITY TAXES.—The allowance for social security taxes is equal to the amount earned by each parent multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

"(4) STANDARD MAINTENANCE ALLOWANCE.—The standard maintenance allowance is the amount of reasonable living expenses that would be associated with the maintenance of an individual or family. The standard maintenance allowance is determined by the following table (or a successor table prescribed by the Secretary under section 479):

"Standard Maintenance Allowance

Family Size	Number in College					
(including student)	1	2	3	4	5	For each additional substract:
2	$8,380	$6,950				
3	10,440	9,010	$7,580			
4	12,890	11,460	10,030	$8,600		
5	15,210	13,780	12,350	10,920	$8,490	
6	17,790	16,360	14,930	13,500	12,070	1,430
For each additional add:	2,010	2,010	2,010	2,010	2,010	

"(5) EMPLOYMENT EXPENSE ALLOWANCE.—The employment expense allowance is determined as follows:

"(A) If both parents were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such allowance is equal to the lesser of $2,100 or 35 percent of the earned income of the parent with the lesser earned income.

26 USC 2.

"(B) If a parent qualifies as a head of household as defined in section 2 of the Internal Revenue Code, such allowance is equal to the lesser of $2,100 or 35 percent of his or her earned income.

For any award year after award year 1987-1988, this paragraph shall be applied by increasing the dollar amount specified in subparagraphs (A) and (B) to reflect increases in the amount and percent of the Bureau of Labor Standards budget of the marginal costs for meals away from home, apparel and upkeep, transportation, and housekeeping services for a two-worker versus one-worker family.

"(6) MEDICAL-DENTAL EXPENSE ALLOWANCE.—The medical-dental expense allowance is equal to the amount by which the sum of unreimbursed medical and dental expenses, including medical insurance premiums, exceeds 5 percent of the total income of the parents.

"(7) EDUCATIONAL EXPENSE ALLOWANCE.—The educational expense allowance is equal to the unreimbursed tuition and fees paid by the student's parents for each dependent child, other than the student, enrolled in an elementary or secondary school, not to exceed for each such child the national average

per pupil instructional cost as published by the National Center for Educational Statistics using the most recent available data.

"(d) PARENTS' INCOME SUPPLEMENTAL AMOUNT FROM ASSETS.—

"(1) IN GENERAL.—The parents' income supplemental amount from assets is equal to—

"(A) the parental net worth (determined in accordance with paragraph (2)); minus

"(B) the asset protection allowance (determined in accordance with paragraph (3)); multiplied by

"(C) the asset conversion rate (determined in accordance with paragraph (4)).

"(2) PARENTAL NET WORTH.—The parental net worth is calculated by adding—

"(A) the current balance of checking and savings accounts and cash on hand;

"(B) the net value of investments and real estate, including the net value of the principal place of residence except in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a dislocated homemaker (as defined in section 480(e) of this Act); and 29 USC 1651.

"(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter in this subsection referred to as 'NW'), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 479):

"Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is:
Less than $1	$0
$1-$65,000	40 percent of NW
$65,001-$195,000	$26,000 plus 50 percent of NW over $65,000
$195,001-$325,000	$91,000 plus 60 percent of NW over $195,000
$325,001 or more	$169,000 plus 100 percent of NW over $325,000

"(3) ASSET PROTECTION ALLOWANCE.—The asset protection allowance is calculated according to the following table:

"Asset Protection Allowances for Families and Students

If the age of the oldest parent is—	And there are	
	two parents	one parent
	then the asset protection allowance is—	
25 or less	$0	$0
26	1,900	1,500
27	3,900	3,000
28	5,800	4,500
29	7,800	6,100
30	9,700	7,600
31	11,700	9,100
32	13,600	10,600

"Asset Protection Allowances for Families and Students—Continued

If the age of the oldest parent is—	And there are	
	two parents	one parent
33	15,600	12,100
34	17,500	13,600
35	19,500	15,100
36	21,400	16,600
37	23,400	18,200
38	25,300	19,700
39	27,300	21,200
40	29,200	22,700
41	30,000	23,200
42	30,800	23,800
43	31,600	24,200
44	32,500	24,800
45	33,300	25,400
46	34,200	26,100
47	35,200	26,700
48	36,100	27,200
49	37,300	27,900
50	38,300	28,800
51	39,600	29,500
52	40,900	30,300
53	42,000	31,000
54	43,400	32,000
55	44,800	32,800
56	46,300	33,800
57	48,100	34,600
58	49,700	35,700
59	51,600	36,800
60	53,300	37,900
61	55,300	39,000
62	57,400	40,200
63	59,600	41,400
64	61,800	42,600
65 or more	64,100	44,100

"(4) ASSET CONVERSION RATE.—The asset conversion rate is determined as follows:

"(A) if the parental net worth (determined in accordance with paragraph (2)) minus the asset protection allowance (determined in accordance with paragraph (3)) is equal to or greater than zero, the conversion rate is 12 percent;

"(B) if such parental net worth minus such asset protection allowance is less than zero and the parents' contribution from available income (determined in accordance with subsection (c)) is greater than $15,000, the conversion rate is zero percent;

"(C) if such parental net worth minus such asset protection allowance is less than zero and such parents' available income is equal to or greater than zero but less than $15,000, the conversion rate (rounded to 3 decimal places) is equal to 6 percent multiplied by a fraction—

"(i) the numerator of which is equal to $15,000 minus such parents' available income; and

"(ii) the denominator of which is $15,000; and

"(D) if such parental net worth minus such asset protection allowance is less than zero and such parents' available income is equal to or less than zero, the conversion rate is 6 percent.

"(e) ASSESSMENT SCHEDULE.—The adjusted available income (as determined under subsection (b)(1) and hereafter in this subsection referred to as 'AAI') is assessed according to the following table (or a successor table prescribed by the Secretary under section 479):

"Parents' Assessment From Adjusted Available Income (AAI)

If AAI is—	Then the assessment is—
Less than $3,409	−$750
$3,409 to $7,500	22% of AAI
$7,501 to $9,400	$1,650 + 25% of AAI over $7,500
$9,401 to $11,300	$2,125 + 29% of AAI over $9,400
$11,301 to $13,200	$2,676 + 34% of AAI over $11,300
$13,201 to $15,100	$3,322 + 40% of AAI over $13,200
$15,101 or more	$4,082 + 47% of AAI over $15,100

"(f) COMPUTATIONS IN CASE OF SEPARATION, DIVORCE, REMARRIAGE, OR DEATH.—

"(1) DIVORCED OR SEPARATED PARENTS.—Income for a student whose parents are divorced or separated is determined under the following procedures:

"(A) Include only the income of the parent with whom the student resided for the greater portion of the 12-month period preceding the date of the application.

"(B) If the preceding criterion does not apply, include only the income of the parent who provided the greater portion of the student's support for the 12-month period preceding the date of application.

"(C) If neither of the preceding criteria apply, include only the income of the parent who provided the greater support during the most recent calendar year for which parental support was provided.

"(2) DEATH OF A PARENT.—Income in the case of the death of any parent is determined as follows:

"(A) If either of the parents have died, the student shall include only the income of the surviving parent.

"(B) If both parents have died, the student shall not report any parental income.

"(3) REMARRIED PARENTS.—Income in the case of a parent whose income is taken into account under paragraph (1) of this subsection, or a parent who is a widow or widower and whose income is taken into account under paragraph (2) of this subsection, has remarried, is determined as follows: The income of that parent's spouse shall be included in determining the student's annual adjusted family income if—

"(A) the student's parent and the stepparent are married as of the date of application for the award year concerned; and

"(B) the student is not an independent student.

"(g) STUDENT CONTRIBUTION FROM AVAILABLE INCOME.—

"(1) IN GENERAL.—The student (and spouse) contribution from available income is equal to the greater of—

"(A) a mandatory self-help amount of $700 for a first-year undergraduate student;

"(B) a mandatory self-help amount of $900 for any other student; or

"(C) an amount equal to 70 percent of the student's total income (determined in accordance with section 480) minus the adjustment to student (and spouse) income (determined in accordance with paragraph (3)).

"(2) ADJUSTMENT TO STUDENT (AND SPOUSE) INCOME.—The adjustment to student (and spouse) income is equal to the sum of—

"(A) estimated Federal income taxes of the student (and spouse);

"(B) an allowance for State and local income taxes (determined in accordance with paragraph (3)); and

"(C) an allowance for social security taxes determined in accordance with paragraph (4).

"(3) ALLOWANCE FOR STATE AND LOCAL INCOME TAXES.—The allowance for State and local income taxes is equal to an amount determined by multiplying total taxable income (as defined in section 480) by a percentage determined according to the following table:

"Percentages for Computation of State and Local Income Tax Allowance

If the students' State or territory of residence is—	The percentage is—
Alaska, American Samoa, Florida, Guam, Nevada, South Dakota, Tennessee, Texas, Trust Territory, Virgin Islands, Washington, Wyoming	0
Connecticut, Louisiana, Puerto Rico	1
Arizona, New Hampshire, New Mexico, North Dakota	2
Alabama, Colorado, Illinois, Indiana, Kansas, Mississippi, Missouri, Montana, Nebraska, New Jersey, Oklahoma	3
Arkansas, Georgia, Iowa, Kentucky, Maine, Pennsylvania, Utah, Vermont, Virginia, West Virginia, Canada, Mexico	4
California, Idaho, Massachusetts, North Carolina, Ohio, Rhode Island, South Carolina	5
Hawaii, Maryland, Michigan, Wisconsin	6
Delaware, District of Columbia, Minnesota, Oregon	7
New York	8

"(4) ALLOWANCE FOR SOCIAL SECURITY TAXES.—The allowance for social security taxes is equal to the amount earned by the student (and spouse) multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

"(h) STUDENT (AND SPOUSE) INCOME SUPPLEMENTAL AMOUNT FROM ASSETS.—The student (and spouse) supplemental income amount from assets is determined by multiplying by 35 percent the sum of—

"(1) the current balance of checking and savings accounts and cash on hand; and

"(2) the net value of investments and real estate, including the net value in the principal place of residence except in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a dislocated homemaker (as defined in section 480(e) of this Act).

29 USC 1651.

"FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITHOUT DEPENDENTS

"SEC. 476. (a) COMPUTATION OF EXPECTED FAMILY CONTRIBUTION.— For each independent student without dependents (including a spouse), the expected family contribution is equal to the sum of— 20 USC 1087pp.

"(1) the student's contribution from income (determined in accordance with subsection (b)); and

"(2) the student's income supplemental amount from assets (determined in accordance with subsection (c)).

"(b) STUDENT'S CONTRIBUTION FROM INCOME.—

"(1) IN GENERAL.—The student's contribution from income is determined by—

"(A) computing the student's available taxable income by deducting from the student's adjusted gross income—

"(i) Federal income taxes;

"(ii) an allowance for State and local income taxes, determined in accordance with paragraph (2);

"(iii) the allowance for social security taxes, determined in accordance with paragraph (3); and

"(iv) a maintenance allowance for periods of non-enrollment not to exceed $600 per month;

"(B) assessing such available taxable income in accordance with paragraph (4); and

"(C) adding to the assessment resulting under subparagraph (B) the amount of the untaxed income and benefits of the student (determined in accordance with section 480(c)), except that the student's contribution from income shall not be less than $1,200.

"(2) ALLOWANCE FOR STATE AND LOCAL INCOME TAXES.—The allowance for State and local income taxes is equal to an amount determined by multiplying total taxable income (as defined in section 480) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 479):

"Percentages for Computation of State and Local Income Tax Allowance

If the students' State or territory of residence is—	The percentage is—
Alaska, American Samoa, Florida, Guam, Nevada, South Dakota, Tennessee, Texas, Trust Territory, Virgin Islands, Washington, Wyoming	0
Connecticut, Louisiana, Puerto Rico	1
Arizona, New Hampshire, New Mexico, North Dakota	2
Alabama, Colorado, Illinois, Indiana, Kansas, Mississippi, Missouri, Montana, Nebraska, New Jersey, Oklahoma	3
Arkansas, Georgia, Iowa, Kentucky, Maine, Pennsylvania, Utah, Vermont, Virginia, West Virginia, Canada, Mexico	4
California, Idaho, Massachusetts, North Carolina, Ohio, Rhode Island, South Carolina	5
Hawaii, Maryland, Michigan, Wisconsin	6
Delaware, District of Columbia, Minnesota, Oregon	7
New York	8

"(3) ALLOWANCE FOR SOCIAL SECURITY TAXES.—The allowance for social security taxes is equal to the amount earned by the student multiplied by the social security withholding rate

appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

"(4) ASSESSMENT OF AVAILABLE TAXABLE INCOME.—The student's available taxable income (determined in accordance with paragraph (1)(A) of this subsection) is assessed as follows:

"(A) if such available taxable income is equal to or greater than $0 but less than or equal to $8,900, then the assessment is equal to 70 percent of such available taxable income; and

"(B) if such available taxable income is greater than $8,900, then the assessment is equal to $6,230 plus 90 percent of such available taxable income in excess of $8,900.

"(c) STUDENT'S INCOME SUPPLEMENTAL AMOUNT FROM ASSETS.—

"(1) IN GENERAL.—The student's income supplemental amount from assets is equal to—

"(A) the student's net worth (determined in accordance with paragraph (2)); minus

"(B) the asset protection allowance (determined in accordance with paragraph (3)); multiplied by

"(C) the asset conversion rate (determined in accordance with paragraph (4)).

"(2) STUDENT'S NET WORTH.—The student's net worth is calculated by adding—

"(A) the current balance of checking and savings accounts and cash on hand;

"(B) the net value of investments and real estate, including the net value in the principal place of residence except in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a dislocated homemaker (as defined in section 480(e) of this Act); and

29 USC 1651.

"(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter referred to as 'NW'), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 479):

"Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than $1	$0
$1-$65,000	40 percent of NW
$65,001-$195,000	$26,000 plus 50 percent of NW over $65,000
$195,001-$325,000	$91,000 plus 60 percent of NW over $195,000
$325,001 or more	$169,000 plus 100 percent of NW over $325,000

"(3) ASSET PROTECTION ALLOWANCE.—The asset protection allowance is calculated according to the following table:

"Asset Protection Allowances for Students

If the age of the student is—	Then the asset protection allowance is—
25 or less	$0
26	1,500
27	3,000
28	4,500
29	6,100
30	7,600
31	9,100
32	10,600
33	12,100
34	13,600
35	15,100
36	16,600
37	18,200
38	19,700
39	21,200
40	22,700
41	23,200
42	23,800
43	24,200
44	24,800
45	25,400
46	26,100
47	26,700
48	27,200
49	27,900
50	28,800
51	29,500
52	30,300
53	31,000
54	32,000
55	32,800
56	33,800
57	34,600
58	35,700
59	36,800
60	37,900
61	39,000
62	40,200
63	41,400
64	42,600
65 or more	44,100

"(4) ASSET CONVERSION RATE.—The asset conversion rate is 35 percent.

"FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITH DEPENDENTS

"SEC. 477. (a) COMPUTATION OF EXPECTED FAMILY CONTRIBUTION.— For each independent student with dependents (including a spouse) the expected family contribution is equal to the amount determined by— 20 USC 1087qq.

"(1) computing adjusted available income by adding—

"(A) the family's available income (determined in accordance with subsection (b)); and

"(B) the family's income supplemental amount from assets (determined in accordance with subsection (c));

"(2) assessing such adjusted available income in accordance with an assessment schedule set forth in subsection (d); and

"(3) dividing the assessment resulting under paragraph (2) by the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which assistance under this title is requested;

except that the amount determined under this subsection shall not be less than zero.

"(b) FAMILY'S AVAILABLE INCOME.—

"(1) IN GENERAL.—The family's available income is determined by deducting from total income (as defined in section 480)—

"(A) Federal income taxes;

"(B) an allowance for State and other taxes, determined in accordance with paragraph (2);

"(C) an allowance for social security taxes, determined in accordance with paragraph (3);

"(D) a standard maintenance allowance, determined in accordance with paragraph (4);

"(E) an employment expense allowance, determined in accordance with paragraph (5);

"(F) a medical-dental expense allowance, determined in accordance with paragraph (6); and

"(G) an educational expense offset, determined in accordance with paragraph (7);

except that the family's available income shall not be less than $700 for a first year undergraduate student or $900 for any other student.

"(2) ALLOWANCE FOR STATE AND OTHER TAXES.—The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 480) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 479):

"Percentages for Computation of State and Other Tax Allowance

If student's State or territory of residence is—	And student's total income is—	
	less than $15,000	$15,000 or more
	then the percentage is—	
Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12

"Percentages for Computation of State and Other Tax Allowance—Continued

If student's State or territory of residence is—	And student's total income is—	
	less than $15,000	$15,000 or more
	then the percentage is—	
New York	14	13

"(3) ALLOWANCE FOR SOCIAL SECURITY TAXES.—The allowance for social security taxes is equal to the amount earned by the student and the student's spouse multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

"(4) STANDARD MAINTENANCE ALLOWANCE.—The standard maintenance allowance is the amount of reasonable living expenses that would be associated with the maintenance of an individual or family. The standard maintenance allowance is determined by the following table (or a successor table prescribed by the Secretary under section 479):

"Standard Maintenance Allowance

Family size	Number in college					
(including student)	1	2	3	4	5	For each additional subtract:
2	$8,380	$6,950				
3	10,440	9,010	$7,580			
4	12,890	11,460	10,030	$8,600		
5	15,210	13,780	12,350	10,920	$8,490	
6	17,790	16,360	14,930	13,500	12,070	1,430
For each additional add:	2,010	2,010	2,010	2,010	2,010	

"(5) EMPLOYMENT EXPENSE ALLOWANCE.—The employment expense allowance is determined as follows:

"(A) If both the student and a spouse were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such allowance is equal to the lesser of $2,000 or 35 percent of the earned income of the student or spouse with the lesser earned income.

"(B) If a student qualifies as a head of household as defined in section 2 of the Internal Revenue Code, such allowance is equal to the lesser of $2,100 or 35 percent of his or her earned income. 26 USC 2.

For any award year after award year 1987-1988, this paragraph shall be applied by increasing the dollar amount specified in subparagraphs (A) and (B) to reflect increases in the amount and percent of the Bureau of Labor Standards budget of the marginal costs for meals away from home, apparel and upkeep, transportation, and housekeeping services for a two-worker versus one-worker family.

"(6) MEDICAL-DENTAL EXPENSE ALLOWANCE.—The medical-dental expense allowance is equal to the amount by which the sum of unreimbursed medical and dental expenses, including

medical insurance premiums, exceeds 5 percent of the total income of the family.

"(7) EDUCATIONAL EXPENSE ALLOWANCE.—The educational expense allowance is equal to the unreimbursed tuition and fees paid by the student or the student's spouse, or both, for each dependent child, enrolled in elementary or secondary school, not to exceed for each such child the national average per pupil instructional cost as published by the National Center for Educational Statistics using the most recent available data.

"(c) FAMILY'S INCOME SUPPLEMENTAL AMOUNT FROM ASSETS.—

"(1) IN GENERAL.—The family's income supplemental amount from assets is equal to—

"(A) the family net worth (determined in accordance with paragraph (2)); minus

"(B) the asset protection allowance (determined in accordance with paragraph (3)); multiplied by

"(C) the asset conversion rate (determined in accordance with paragraph (4)).

"(2) FAMILY NET WORTH.—The family net worth is calculated by adding—

"(A) the current balance of checking and savings accounts and cash on hand;

"(B) the net value of investments and real estate, including the net value in the principal place of residence except in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a dislocated homemaker (as defined in section 480(e) of this Act); and

29 USC 1651.

"(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter referred to as 'NW'), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 479):

"Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than $1	$0
$1-$65,000	40 percent of NW
$65,001-$195,000	$26,000 plus 50 percent of NW over $65,000
$195,001-$325,000	$91,000 plus 60 percent of NW over $195,000
$325,001 or more	$169,000 plus 100 percent of NW over $325,000

"(3) ASSET PROTECTION ALLOWANCE.—The asset protection allowance is calculated according to the following table:

"Asset Protection Allowances for Families and Students

If the age of the student is—	And there are	
	two spouses	one spouse
	then the asset protection allowance is—	
25 or less	$0	$0
26	1,900	1,500
27	3,900	3,000
28	5,800	4,500
29	7,800	6,100
30	9,700	7,600
31	11,700	9,100
32	13,600	10,600
33	15,600	12,100
34	17,500	13,600
35	19,500	15,100
36	21,400	16,600
37	23,400	18,200
38	25,300	19,700
39	27,300	21,200
40	29,200	22,700
41	30,000	23,200
42	30,800	23,800
43	31,600	24,200
44	32,500	24,800
45	33,300	25,400
46	34,200	26,100
47	35,200	26,700
48	36,100	27,200
49	37,300	27,900
50	38,300	28,800
51	39,600	29,500
52	40,900	30,300
53	42,000	31,000
54	43,400	32,000
55	44,800	32,800
56	46,300	33,800
57	48,100	34,600
58	49,700	35,700
59	51,600	36,800
60	53,300	37,900
61	55,300	39,000
62	57,400	40,200
63	59,600	41,400
64	61,800	42,600
65 or more	64,100	44,100

"(4) ASSET CONVERSION RATE.—The asset conversion rate is determined as follows:

"(A) if the family's net worth (determined in accordance with paragraph (2)) minus the asset protection allowance (determined in accordance with paragraph (3)) is equal to or greater than zero, the conversion rate is 12 percent;

"(B) if such family's net worth minus such asset protection allowance is less than zero and the family's available income (determined in accordance with subsection (c)) is greater than $15,000, the conversion rate is zero percent;

"(C) if such family's net worth minus such asset protection allowance is less than zero and such family's available income is equal to or greater than zero but less than

$15,000, the conversion rate is equal to 6 percent multiplied by a fraction—

"(i) the numerator of which is equal to $15,000 minus such family's available income; and

"(ii) the denominator of which is $15,000; and

"(D) if such family's net worth minus such asset protection allowance is less than zero and such family's available income is less than zero, the conversion rate is 6 percent.

"(d) ASSESSMENT SCHEDULE.—The adjusted available income (as determined under subsection (a)(1) and hereafter referred to as 'AAI') is assessed according to the following table (or a successor table prescribed by the Secretary under section 479):

"Assessment From Adjusted Available Income (AAI)

If AAI is—	Then the assessment is—
Less than $3,409	−$750
$3,409 to $7,500	22% of AAI
$7,501 to $9,400	$1,650 + 25% of AAI over $7,500
$9,401 to $11,300	$2,125 + 29% of AAI over $9,400
$11,301 to $13,200	$2,676 + 34% of AAI over $11,300
$13,201 to $15,100	$3,322 + 40% of AAI over $13,200
$15,101 or more	$4,082 + 47% of AAI over $15,100

"REGULATIONS; UPDATED TABLES

20 USC 1087rr.

"SEC. 478. (a) AUTHORITY TO PRESCRIBE REGULATIONS RESTRICTED.—(1) Notwithstanding any other provision of law, the Secretary shall not have the authority to prescribe regulations to carry out this part except—

"(A) to prescribe updated tables in accordance with subsections (b) through (e) of this section; or

"(B) to propose modifications in the need analysis methodology required by this part.

Regulations.

"(2) Any regulation proposed by the Secretary that (A) updates tables in a manner that does not comply with subsections (b) through (e) of this section, or (B) that proposes modifications under paragraph (1)(B) of this subsection, shall not be effective unless approved by joint resolution of the Congress by May 1 following the date such regulations are published in the Federal Register in accordance with section 482. If the Congress fails to approve such regulations by such May 1, the Secretary shall publish in the Federal Register in accordance with section 482 updated tables for the applicable award year that are prescribed in accordance with subsections (b) through (e) of this section.

Federal Register, publication.

Federal Register, publication.

"(b) STANDARD MAINTENANCE ALLOWANCE.—For each academic year after academic year 1987-1988, the Secretary shall publish in the Federal Register a revised table of standard maintenance allowances for the purpose of sections 475(c)(4) and 477(b)(4). Such revised table shall be developed by increasing each of the dollar amounts contained in the table in each such section by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary after consultation with the Advisory Committee on Student Financial Assistance) between December 1986 and the December next preceding the beginning of such academic year, and rounding the result to the nearest $10.

"(c) ADJUSTED NET WORTH OF A FARM OR BUSINESS.—For each academic year after academic year 1987-1988, the Secretary shall publish in the Federal Register a revised table of adjusted net worth of a farm or business for the purpose of sections 475(d)(2)(C), 476(c)(2)(C), and 477(c)(2)(C). Such revised table shall be developed— Federal Register, publication.

"(1) by increasing each dollar amount that refers to net worth of a farm or business by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary after consultation with the Advisory Committee on Student Financial Assistance) between 1986 and the December next preceding the beginning of such academic year, and rounding the result to the nearest $5,000; and

"(2) by adjusting the dollar amounts '$26,000', '$91,000', and '$169,000' to reflect the changes made pursuant to paragraph (1).

"(d) ASSET PROTECTION ALLOWANCE.—For each academic year after academic year 1987-1988, the Secretary shall publish in the Federal Register a revised table of asset protection allowances for purposes of sections 475(d)(3), 476(c)(3), and 477(c)(3). Such revised table shall be developed by determining the present value cost of an annuity that would provide, for each age cohort, a supplemental income at age 65 (adjusted for inflation) equal to the difference between the moderate family income (as most recently determined by the Bureau of Labor Statistics) and the current average social security retirement benefits. In making such determinations— Federal Register, publication.

"(1) inflation shall be presumed to be 6 percent per year;

"(2) the rate of return of an annuity shall be presumed to be 8 percent; and

"(3) the sales commission on an annuity shall be presumed to be 6 percent.

"(e) ASSESSMENT SCHEDULES AND RATES.—(1) For each academic year after academic year 1987-1988, the Secretary shall publish in the Federal Register a revised table of assessments from adjusted available income for the purpose of sections 475(e) and 477(d). Such revised table shall be developed— Federal Register, publication.

"(A) by increasing each dollar amount that refers to adjusted available income by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary after consultation with the Advisory Committee on Student Financial Assistance) between December 1986 and the December next preceding the beginning of such academic year, rounded to the nearest $100; and

"(B) by adjusting the other dollar amounts to reflect the changes made pursuant to subparagraph (A).

"(2) For each academic year after academic year 1987-1988, the assessments made pursuant to section 476(b)(4) shall be made—

"(A) by increasing each dollar amount that refers to adjusted available income by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary after consultation with the Advisory Committee on Student Financial Assistance) between December 1986 and the December next preceding the beginning of such academic year, rounded to the nearest $100; and

"(B) by adjusting the other dollar amount to reflect the changes made pursuant to subparagraph (A).

The Secretary shall publish in the Federal Register the adjustments required to carry out this paragraph. Federal Register, publication.

"(f) DEFINITION OF CONSUMER PRICE INDEX.—As used in this section, the term 'Consumer Price Index' means the Consumer Price Index for Wage Earners and Clerical Workers published by the Department of Labor. Each annual update of tables to reflect changes in the Consumer Price Index shall be corrected for misestimation of actual changes in such Index in previous years.

"SIMPLIFIED NEEDS TEST

20 USC 1087ss.

"SEC. 479. (a) APPLICABLE TO ALL TITLE IV PROGRAMS.—The Secretary shall use a simplified needs analysis for any provision of this title based upon the elements set forth in paragraph (2) for the calculation of the expected family contribution for families which have adjusted gross incomes which are equal to or less than $15,000 per year and which file a form 1040A pursuant to the Internal Revenue Code of 1954.

26 USC 1 *et seq.*

"(b) ELEMENTS IN TESTS.—The five elements to be used for the simplified needs analysis are—

"(1) adjusted gross income,

"(2) Federal and State taxes paid,

"(3) untaxed income and benefits,

"(4) the number of family members, and

"(5) the number of family members in postsecondary education.

"DISCRETION OF STUDENT FINANCIAL AID ADMINISTRATORS

20 USC 1087tt.

"SEC. 479A. Nothing in this part shall be interpreted as limiting the ability of the student financial aid administrator, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and expected family contribution computations to allow for treatment of individual students with special circumstances. In addition, nothing in this part shall be interpreted as limiting the ability of the student financial aid administrator to use supplementary information about the financial status of eligible applicants in selecting recipients and determining the amount of awards under subparts 1 and 2 of part A and parts B, C, and E of this title.

"STUDENT ASSISTANCE AND OTHER FEDERAL PROGRAMS

20 USC 1087uu.

"SEC. 479B. No portion of any student financial assistance received by an individual from any program funded in whole or in part under title IV of this Act which is used by that individual for costs described in section 472 (1) and (2) of this title, shall be considered as income or resources in determining eligibility for assistance under any other program funded in whole or in part with Federal funds.

"DEFINITIONS

20 USC 1087vv.

"SEC. 480. As used in this part:

"(a) TOTAL INCOME.—(1) Except as provided in paragraphs (2) and (3), the term 'total income' is equal to adjusted gross income plus untaxed income and benefits for the preceding tax year.

Regulations.

"(2) The Secretary shall promulgate special regulations to permit, in the computation of family contributions for the programs under subpart 2 of part A and parts B, C, and E of this title for any academic year the exclusion from family income of any proceeds of a

sale of farm or business assets of that family if such sale results from a voluntary or involuntary foreclosure, forfeiture, liquidation, or bankruptcy.

"(3) Income in the case of a dislocated worker shall be the income for the year for which the determination is made. For the purpose of this subparagraph, a dislocated worker is a worker identified pursuant to title III of the Job Training Partnership Act. 29 USC 1651.

"(b) UNTAXED INCOME AND BENEFITS OF PARENTS AND INDEPENDENT STUDENTS WITH DEPENDENTS.—The term 'untaxed income and benefits' when applied to parent contributions or the contributions of independent students with dependents (including spouses) means—

"(1) the Federal income tax deduction for a married couple when both work;

"(2) child support received;

"(3) welfare benefits, including aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act and aid to dependent children; 42 USC 601.

"(4) untaxed portions of unemployment compensation, except in any case in which a student is a dislocated worker certified in accordance with title III of the Job Training Partnership Act;

"(5) workmen's compensation;

"(6) veterans benefits such as death pension, dependency and indemnity compensation, and Veterans' Administration vocational rehabilitation program benefits (excluding educational benefits);

"(7) educational benefits received under chapter 31 or chapter 34 of title 38, United States Code, by family members excluding dependent students; 38 USC 1500 *et seq.*, 1651 *et seq.*

"(8) interest on tax-free bonds;

"(9) the amount of dividends excluded for Federal income tax purposes;

"(10) untaxed portions of pensions and capital gains;

"(11) housing, food, and other living allowances (excluding rent subsidies for low-income housing) for military, clergy, and others (including cash payments and cash value of benefits);

"(12) Job Training Partnership Act noneducational benefits; 29 USC 1501 note.

"(13) payments to individual retirement accounts and Keogh accounts;

"(14) the amount of earned income credit claimed for Federal income tax purposes;

"(15) credit for Federal tax on special fuels;

"(16) the amount of dividend reinvestment excluded for purposes of Federal income taxes;

"(17) the amount of foreign income excluded for purposes of Federal income taxes;

"(18) untaxed social security benefits; and

"(19) any other untaxed income and benefits, such as black lung or railroad retirement benefits.

"(c) UNTAXED INCOME AND BENEFITS OF DEPENDENT STUDENTS OR INDEPENDENT STUDENTS WITHOUT DEPENDENTS.—For the purpose of this part, the term 'untaxed income and benefits' when applied to the contributions of dependent students or independent students without dependents means—

"(1) veterans benefits such as death pension, dependency and indemnity compensation, and Veterans' Administration voca-

tional rehabilitation program benefits (excluding educational benefits);

"(2) educational benefits received under chapter 31 or chapter 34 of title 38, United States Code, by the student;

38 USC 1500 *et seq.*, 1651 *et seq.*

"(3) interest on tax-free bonds;

"(4) the amount of dividends excluded for purposes of Federal income taxes;

"(5) untaxed portions of pensions and capital gains;

"(6) housing, food, and other living allowances (excluding rent subsidies for low-income housing) for military, clergy, and others (including cash payments and cash value of benefits);

29 USC 1501 note.

"(7) Job Training Partnership Act noneducational benefits, except in any case in which a student is a dislocated worker certified in accordance with title III of the Job Training Partnership Act;

29 USC 1651.

"(8) untaxed portions of social security;

"(9) welfare benefits;

"(10) untaxed portions of unemployment compensation;

"(11) workmen's compensation;

"(12) payments to individual retirement accounts and Keogh accounts;

"(13) credit for Federal tax on special fuels;

"(14) the amount of dividend reinvestment excluded for purposes of Federal income taxes;

"(15) the amount of foreign income excluded for purposes of Federal income taxes; and

"(16) any other untaxed income and benefits, such as black lung or railroad retirement benefits.

"(d) INDEPENDENT STUDENT.—(1) The term 'independent', when used with respect to a student, means any individual who—

"(A) is 24 years of age or older by December 31 of the award year; or

"(B) meets the requirements of paragraph (2).

"(2) Except as provided in paragraph (3), an individual meets the requirements of this paragraph if such individual—

"(A) is an orphan or ward of the court;

"(B) is a veteran of the Armed Forces of the United States;

"(C) is a graduate or professional student who declares that he or she will not be claimed as a dependent for income tax purposes by his or her parents (or guardian) for the first calendar year of the award year;

"(D) is a married individual who declares that he or she will not be claimed as a dependent for income tax purposes by his or her parents (or guardian) for the first calendar year of the award year;

"(E) has legal dependents other than a spouse;

"(F) is a single undergraduate student with no dependents who was not claimed as a dependent by his or her parents (or guardian) for income tax purposes for the 2 calendar years preceding the award year and demonstrates to the student financial aid administrator total self-sufficiency during the 2 calendar years preceding the award year in which the initial award will be granted by demonstrating an annual total income of $4,000; or

"(G) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

"(3) An individual may not be treated as an independent student pursuant to subparagraphs (C), (D), and (F) of paragraph (2) if the financial aid administrator determines that such individual was treated as an independent student during the preceding award year, but was claimed as a dependent by any other individual (other than a spouse) for income tax purposes for the first calendar year of such award year.

"(4) The financial aid administrator may certify an individual described in subparagraph (C), (D), or (F) of paragraph (2) on the basis of a demonstration made by the individual, but no disbursal of an award may be made without documentation.

"(e) DISPLACED HOMEMAKER.—The term 'displaced homemaker' means an individual who—

"(1) has not worked in the labor force for a substantial number of years but has, during those years, worked in the home providing unpaid services for family members;

"(2) (A) has been dependent on public assistance or on the income of another family member but is no longer supported by that income, or (B) is receiving public assistance on account of dependent children in the home; and

"(3) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.".

(b) EFFECTIVE DATES FOR NEED ANALYSIS PROVISIONS.—(1) Except as provided in paragraphs (2) and (3)— 20 USC 1087kk note.

(A) part F of title IV of the Act shall apply with respect to determinations of need under such title for academic years beginning with academic year 1988-1989 and succeeding academic years; and

(B) for any preceding academic year, determinations of need shall be made in accordance with regulations prescribed by the Secretary of Education in accordance with the Student Financial Assistance Technical Amendments Act of 1982. 20 USC 1001 note.

(2) With respect to an application filed after the date of enactment of this Act for a loan under part B of such title for any academic year preceding academic year 1988-1989, any determination of expected family contribution shall be made using the system of financial need analysis approved by the Secretary of Education for use under subpart 2 of part A and parts C and E of such title.

(3) For purposes of sections 413D(d)(2)(B), 442(d)(2)(B) and 462(d)(2)(B) for any academic year preceding academic year 1988-1989, the Secretary shall, in lieu of average expected family contribution, use the procedures for sampling expected family contribution within income categories that was employed for academic year 1986-1987, adjusted to reflect changes in data.

(4) The definition of independent student contained in section 480(d) of the Act as amended by subsection (a) of this section shall apply with respect to the determination of such need for periods of enrollment beginning on or after January 1, 1987, in the case of programs operated under part B of title IV of the Act, or for periods of enrollment beginning on or after July 1, 1987, in the case of programs operated under subpart 2 of part A and parts C and E of such title. 20 USC 1087vv note.

SEC. 407. REVISION OF STUDENT ASSISTANCE GENERAL PROVISIONS.

(a) AMENDMENT.—Part G of title IV of the Act (as redesignated by section 406) is amended to read as follows:

"PART G—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

"DEFINITIONS

20 USC 1088.

"SEC. 481. (a) INSTITUTION OF HIGHER EDUCATION.—(1) For the purpose of this title, except subpart 6 of part A and part B, the term 'institution of higher education' includes, in addition to the institutions covered by the definition contained in section 1201(a)—

"(A) a proprietary institution of higher education;

"(B) a postsecondary vocational institution;

"(C) a department, division, or other administrative unit in a college or university which provides primarily or exclusively an accredited program of education in professional nursing and allied subjects leading to the degree of bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing; and

"(D) a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively an accredited 2-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree.

"(2) The term 'accredited' when applied to any program of nurse education means a program accredited by a recognized body or bodies approved for such purpose by the Secretary.

"(b) PROPRIETARY INSTITUTION OF HIGHER EDUCATION.—For the purpose of this section, the term 'proprietary institution of higher education' means a school (1) which provides not less than a 6-month program of training to prepare students for gainful employment in a recognized occupation, (2) which meets the requirements of clauses (1) and (2) of section 1201(a), (3) which does not meet the requirement of clause (4) of section 1201(a), (4) which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose, and (5) which has been in existence for at least 2 years. Such term also includes a proprietary educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit (as determined by the institution under section 484(d)) from the training offered by the institution. For the purpose of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered. The Secretary shall not promulgate regulations defining the admissions procedures or remediation programs that must be used by an institution in admitting students on the basis of their ability to benefit from the training offered and shall not, as a condition of recognition under section 413(e) of this Act, impose upon any accrediting body or bodies standards which are different or more restrictive than the standards provided in this subsection.

"(c) POSTSECONDARY VOCATIONAL INSTITUTION.—For the purpose of this section, the term 'postsecondary vocational institution' means a school (1) which provides not less than a 6-month program of training to prepare students for gainful employment in a recognized occupation, (2) which meets the requirements of clauses (1), (2), (4), and (5) of section 1201(a), and (3) which has been in existence for at least 2 years. Such term also includes an educational institution in

any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit (as determined by the institution under subsection (d) of this section) from the training offered by the institution.

"(d) ACADEMIC YEAR.—For the purpose of any program under this title, the term 'academic year' shall be defined by the Secretary by regulation.

"MASTER CALENDAR

"SEC. 482. (a) SECRETARY REQUIRED TO COMPLY WITH SCHEDULE.— To assure adequate notification and timely delivery of student aid funds under this title, the Secretary shall adhere to the following calendar dates in the year preceding the award year: 20 USC 1089.

"(1) Development and distribution of Federal and multiple data entry forms—

"(A) by February 1: first meeting of the technical committee on forms design of the Department;

"(B) by March 1: proposed modifications and updates pursuant to sections 411E and 478 published in the Federal Register; Federal Register, publication.

"(C) by June 1: final modifications and updates pursuant to sections 411E and 478 published in the Federal Register; Federal Register, publication.

"(D) by August 15: application for Federal student assistance and multiple data entry data elements and instructions approved;

"(E) by August 30: final approved forms delivered to servicers and printers;

"(F) by October 1: Federal and multiple data entry forms and instructions printed; and

"(G) by November 1: Federal and multiple data entry forms, instructions, and training materials distributed.

"(2) Allocations of campus-based and Pell Grant funds—

"(A) by August 1: distribution of institutional application for campus-based funds (FISAP) to institutions;

"(B) by October 1: final date for submission of FISAP by institutions to the Department;

"(C) by November 15: edited FISAP and computer printout received by institutions;

"(D) by December 1: appeals procedures received by institutions;

"(E) by December 15: edits returned by institutions to the Department;

"(F) by February 1: tentative award levels received by institutions and final Pell Grant payment schedule;

"(G) by February 15: closing date for receipt of institutional appeals by the Department;

"(H) by March 1: appeals process completed;

"(I) by April 1: final award notifications sent to institutions; and

"(J) by June 1: Pell Grant authorization levels sent to institutions.

"(b) TIMING FOR REALLOCATIONS.—With respect to any funds reallocated under section 413D(e) or 442(e), the Secretary shall reallocate such funds at any time during the course of the year that will best meet the purpose of the programs under subpart 2 of part A

and part C, respectively. However, such reallocation shall occur at least once each year, not later than September 30 of that year.

"(c) DELAY OF EFFECTIVE DATE OF LATE PUBLICATIONS.—Any additional regulatory changes initiated by the Secretary affecting the general administration of the programs pursuant to this title that have not been published in final form by December 1 prior to the start of the award year shall not become effective until the beginning of the second award year after the December 1 date.

"(d) NOTICE TO CONGRESS.—The Secretary shall notify the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives when the items specified in the calendar have been completed and provide all relevant forms, rules, and instructions with such notice. When a deadline included in the calendar is not met, the Secretary, within 7 days, shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a written report, including proper documentation, as to why the deadline was not adhered to and a detailed plan for ensuring that subsequent dates are met. Nothing in this section shall be interpreted to penalize institutions or deny them the specified times allotted to enable them to return information to the Secretary based on the failure of the Secretary to adhere to the dates specified in this section.

Report.

"FORMS AND REGULATIONS

20 USC 1090.

"SEC. 483. (a) COMMON FINANCIAL AID FORM AND PROCESSING.—(1) The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall prescribe a common financial reporting form to be used to determine the need and eligibility of a student for financial assistance under parts A, C, and E of this title (other than under subpart 3 of part A) and to determine the need of a student for the purpose of part B of this title. For the purpose of collecting eligibility and other data for the purpose of part B, guaranty agencies, in cooperation with the Secretary, shall develop separate, identifiable loan application documents that applicants shall submit directly to eligible lenders. No student or parent of a student shall be charged a fee for processing the form prescribed by the Secretary whether the student completes that form or any other approved form. A student or parent may be charged a fee for processing an institutional or a State financial aid form or data elements that is not required by the Secretary.

State and local governments.

"(2) The Secretary shall, to the extent practicable, enter into not less than 3 contracts with States, institutions of higher education, or private organizations for the purpose of processing the application required under this subsection and issuing eligibility reports.

Contracts. State and local governments.

"(3) The Secretary shall reimburse all approved contractors at a reasonable predetermined rate for processing such applications, for issuing eligibility reports, and for carrying out other services or requirements that may be prescribed by the Secretary.

"(4) All approved contractors shall be required to adhere to all editing, processing, and reporting requirements established by the Secretary to ensure consistency.

"(5) Nothing in this section shall prohibit States, institutions of higher education, or private organizations from simultaneously collecting data elements, in addition to the data elements prescribed

State and local governments.

by the Secretary, as may be necessary to determine the eligibility of a student for financial aid funds not covered by this title.

"(b) INFORMATION TO COMMITTEES OF CONGRESS.—Copies of all rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this title shall be provided to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives at least 45 days prior to their effective date.

"(c) INFORMATION ON ELIGIBILITY FOR ASSISTANCE.—To help ensure access to postsecondary education by providing early notice to students of their potential eligibility for financial aid, the Secretary is authorized to enter into contracts with States, institutions of higher education, and private organizations for the purpose of— Contracts. State and local governments.

"(1) developing a common pre-eligibility Federal financial aid form,

"(2) distributing and processing such form on a year-round basis free of charge to students, and

"(3) issuing, on the basis of information reported by the student on such form, a pre-eligibility index designed to estimate the amount of Federal (and, if feasible, non-Federal) funds for which the student might qualify in later completing and submitting the application form called for under this section.

The Secretary shall widely disseminate the pre-eligibility form through post offices and other appropriate Federal installations, schools, postsecondary institutions, libraries, and community-based agencies, including projects assisted under subparts 4 and 5 of part A of this title.

"(d) TOLL-FREE INFORMATION.—The Secretary shall contract for, or establish, and publicize a toll-free telephone number to provide timely and accurate information to the general public. The information provided shall include specific instructions on completing application forms for assistance under this title. Contracts.

"(e) NOTICE OF STUDENT AID RECEIPT.—(1) The Secretary shall develop a single form on which the amount of assistance received under this title (except assistance received under subparts 4, 5, and 7 of part A) by each student who receives such assistance can be recorded. This form shall be titled 'United States Department of Education, Federal Student Assistance Report'. Such form shall have prominently displayed the Great Seal of the United States. Such form shall be the same or a closely similar color to that of checks issued by the Treasury Department and be provided by the Secretary free to eligible institutions in sufficient quantity and in a timely manner so that each eligible institution can provide a completed copy to each recipient of assistance under this title (except assistance received under subparts 4, 5, and 7 of part A) at the time awards are made but not less than once annually.

"(2) Eligible institutions shall provide to each recipient of assistance under this title (except assistance received under subparts 4, 5, and 7 of part A) a completed copy of the 'United States Department of Education, Federal Student Assistance Report' form at the time awards are made but not less than once annually.

"STUDENT ELIGIBILITY

"SEC. 484. (a) IN GENERAL.—In order to receive any grant, loan, or work assistance under this title, a student must— Grants. 20 USC 1091.

"(1) be enrolled or accepted for enrollment in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 487;

"(2) if the student is presently enrolled at an institution, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with the provisions of subsection (c);

"(3) not owe a refund on grants previously received at any institution under this title, or be in default on any loan from a student loan fund at any institution provided for in part E, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

"(4) file with the institution of higher education which the student intends to attend, or is attending (or in the case of a loan or loan guarantee with the lender), a statement of educational purpose (which need not be notarized but which shall include such student's social security number or, if the student does not have a social security number, such student's student identification number) stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution; and

Trust Territory of the Pacific Islands. Guam. Northern Mariana Islands.

"(5) be a citizen or national of the United States, a permanent resident of the United States, in the United States for other than a temporary purpose and able to provide evidence from the Immigration and Naturalization Service of his or her intent to become a permanent resident, or a permanent resident of the Trust Territory of the Pacific Islands, Guam, or the Northern Mariana Islands.

"(b) ELIGIBILITY FOR STUDENT LOANS.—In order to be eligible to receive any loan under this title (other than a loan under section 428A, 428B, or 428C) for any period of enrollment, a student who is not a graduate or professional student (as defined in regulations of the Secretary), and who is enrolled in a program at an institution which has a participation agreement with the Secretary to make awards under subpart 1 of part A of this title, shall—

"(1) have received a determination of eligibility or ineligibility for a grant under such subpart 1 for such period of enrollment; or

"(2) have (A) filed an application with the Pell Grant processor for such institution for such enrollment period, and (B) received from the financial aid administrator of the institution a preliminary determination of the student's eligibility or ineligibility for a grant under such subpart 1.

"(c) SATISFACTORY PROGRESS.—(1) For the purpose of subsection (a)(2), a student is maintaining satisfactory progress if—

"(A) the institution at which the student is in attendance, reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution, and

"(B) the student has a cumulative C average, or its equivalent or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

"(2) Whenever a student fails to meet the eligibility requirements of subsection (a)(2) as a result of the application of this subsection

and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(2) for a grant, loan, or work assistance under this title.

"(3) Any institution of higher education at which the student is in attendance may waive the provisions of paragraph (1) or paragraph (2) of this subsection for undue hardship based on—

"(A) the death of a relative of the student,

"(B) the personal injury or illness of the student, or

"(C) special circumstances as determined by the institution.

"(d) ABILITY TO BENEFIT.—A student who is admitted on the basis of the ability to benefit from the education or training in order to remain eligible for any grant, loan, or work assistance under this title shall—

"(1) receive the general education diploma prior to the student's certification or graduation from the program of study, or by the end of the first year of the course of study, whichever is earlier; or

"(2)(A) be counseled prior to admissions or be administered a nationally recognized standardized or industry developed test, subject to criteria developed by the appropriate accrediting association, measuring the applicant's aptitude to complete successfully the program to which he has applied; and

"(B) with respect to applicants who are unable to satisfy the institution's admissions testing requirements specified in subparagraph (A), be enrolled in an institutionally prescribed program or course of remedial or developmental education, not to exceed one academic year or its equivalent.

"(e) CERTIFICATION FOR GSL ELIGIBILITY.—Each eligible institution may certify student eligibility for a loan by an eligible lender under part B of this title prior to completing the review for accuracy of the information submitted by the applicant required by regulations issued under this title, if—

"(1) checks for the loans are mailed to the eligible institution prior to disbursements;

"(2) the disbursement is not made until the review is complete; and

"(3) the eligible institution has no evidence or documentation on which the institution may base a determination that the information submitted by the applicant is incorrect.

"(f) VERIFICATION LIMITATIONS.—Notwithstanding any other provision of law, the Secretary may not require, or prescribe regulations that require, institutions to verify the accuracy of data used to determine the eligibility for any program under this title for more than 30 percent of the applicants in any award year.

"(g) LOSS OF ELIGIBILITY FOR VIOLATION OF LOAN LIMITS.—No student shall be eligible to receive any grant, loan, or work assistance under this title if the eligible institution determines that the student borrowed in violation of the annual loan limits under part B or part E of this title in the same academic year, or if the student borrowed in excess of the aggregate maximum loan limits under such part B or part E.

"STATUTE OF LIMITATIONS

State and local governments.
20 USC 1091a.

"SEC. 484A. (a) IN GENERAL.—Notwithstanding any provision of State law that would set an earlier deadline for filing suit—

"(1) an institution which receives funds under this title may file suit for collection of a refund due from a student on a grant made or work assistance awarded under this title during a period of time extending at least until a date 6 years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date the refund first became due;

"(2) a guaranty agency which has an agreement with the Secretary under section 428(c) may file suit for collection of the amount due from a borrower on a loan made under part B of this title during a period of time extending at least until a date 6 years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date such guaranty agency reimburses the previous holder of the loan for its loss on account of the default of the borrower;

"(3) an institution which has an agreement with the Secretary pursuant to section 463(a) may file suit for collection of the amount due from a borrower on a loan made under part E of this title during a period of time extending at least until a date 6 years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date of the default of the borrower with respect to that amount; and

"(4) subject to the provisions of section 2416 of title 28 of the United States Code, the Attorney General may file suit—

"(A) for payment of a refund due from a student on a grant made under this title until 6 years following the date on which the refund first became due;

"(B) for collection of the amount due the Secretary from a borrower pursuant to section 428 (c)(2)(D) and (c)(8) of this title until 6 years following the date on which the loan is assigned to the Secretary under part B of this title; and

"(C) for collection of the amount due from a borrower on a loan made under part E until 6 years following the date on which the loan is assigned, transferred, or referred to the Secretary under part E of this title.

"(b) ASSESSMENT OF COSTS AND OTHER CHARGES.—Notwithstanding any provision of State law to the contrary—

"(1) a borrower who has defaulted on a loan made under this title shall be required to pay, in addition to other charges specified in this title, reasonable collection costs; and

"(2) in collecting any obligation arising from a loan made under part B of this title, a guaranty agency or the Secretary shall not be subject to a defense raised by any borrower based on a claim of infancy.

"INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS

20 USC 1092.

"SEC. 485. (a) INFORMATION DISSEMINATION ACTIVITIES.—(1) Each eligible institution participating in any program under this title shall carry out information dissemination activities for prospective

and enrolled students (including those attending or planning to attend less than full time) regarding the institution and all financial assistance under this title. The information required by this section shall be produced and be made readily available, through appropriate publications and mailings, to all current students, and to any prospective student upon request. The information required by this section shall accurately describe—

"(A) the student financial assistance programs available to students who enroll at such institution;

"(B) the methods by which such assistance is distributed among student recipients who enroll at such institution;

"(C) any means, including forms, by which application for student financial assistance is made and requirements for accurately preparing such application;

"(D) the rights and responsibilities of students receiving financial assistance under this title;

"(E) the cost of attending the institution, including (i) tuition and fees, (ii) books and supplies, (iii) estimates of typical student room and board costs or typical commuting costs, and (iv) any additional cost of the program in which the student is enrolled or expresses a specific interest;

"(F) a statement of the refund policy of the institution for the return of unearned tuition and fees or other refundable portion of cost, as described in subparagraph (E) of this paragraph;

"(G) the academic program of the institution, including (i) the current degree programs and other educational and training programs, (ii) the instructional, laboratory, and other physical plant facilities which relate to the academic program, and (iii) the faculty and other instructional personnel;

"(H) each person designated under subsection (c) of this section, and the methods by which and locations in which any person so designated may be contacted by students and prospective students who are seeking information required by this subsection;

"(I) special facilities and services available to handicapped students;

"(J) the names of associations, agencies, or governmental bodies which accredit, approve, or license the institution and its programs, and the procedures under which any current or prospective student may obtain or review upon request a copy of the documents describing the institution's accreditation, approval, or licensing; and

"(K) the standards which the student must maintain in order to be considered to be making satisfactory progress, pursuant to section 484(a)(2).

"(2) For the purpose of this section, the term 'prospective student' means any individual who has contacted an eligible institution requesting information concerning admission to that institution.

"(b) EXIT COUNSELING FOR BORROWERS.—Each eligible institution shall, through financial aid officers or otherwise, make available counseling to borrowers (individually or in groups) of loans which are made, insured, or guaranteed under part B of this title or made under part E of this title prior to the completion of the course of study for which the borrower enrolled at the institution or at the time of departure from such institution. The counseling required by this subsection shall include—

"(1) general information with respect to the average indebtedness of students who have loans under part B or part E; and

"(2) the average anticipated monthly repayments, a review of the repayment options available, together with such debt and management strategies as the institution determines are designed to facilitate the repayment of such indebtedness.

In the case of a borrower who leaves an institution without the prior knowledge of the institution, the institution shall attempt to provide the information to the student in writing.

"(c) FINANCIAL ASSISTANCE INFORMATION PERSONNEL.—Each eligible institution shall designate an employee or group of employees who shall be available on a full-time basis to assist students or potential students in obtaining information as specified in subsection (a). The Secretary may, by regulation, waive the requirement that an employee or employees be available on a full-time basis for carrying out responsibilities required under this section whenever an institution in which the total enrollment, or the portion of the enrollment participating in programs under this title at that institution, is too small to necessitate such employee or employees being available on a full-time basis. No such waiver may include permission to exempt any such institution from designating a specific individual or a group of individuals to carry out the provisions of this section.

"(d) DEPARTMENTAL PUBLICATION OF DESCRIPTIONS OF ASSISTANCE PROGRAMS.—The Secretary shall make available to eligible institutions, eligible lenders, and secondary schools descriptions of Federal student assistance programs including the rights and responsibilities of student and institutional participants, in order to (1) assist students in gaining information through institutional sources, and (2) assist institutions in carrying out the provisions of this section, so that individual and institutional participants will be fully aware of their rights and responsibilities under such programs. In particular, such information shall include information to enable students and prospective students to assess the debt burden and monthly and total repayment obligations that will be incurred as a result of receiving loans of varying amounts under this title. Such information shall be provided by eligible institutions and eligible lenders at any time that information regarding loan availability is provided to any student.

"COMBINED PAYMENT PLAN

20 USC 1092a.

"SEC. 485A. (a) ELIGIBILITY FOR PLAN.—Upon the request of the borrower, a lender described in clause (i), (ii), or (iii) of section 428C(a)(1) of this Act, or defined in subpart I of part C of title VII of the Public Health Service Act may, with respect to a consolidation loan made under section 428C of this Act (and section 439(o) of this Act as in effect prior to the enactment of section 428C) and loans guaranteed under subpart I of part C of title VII of the Public Health Service Act (known as Health Education Assistance Loans), offer a combined payment plan under which the lender shall submit one bill to the borrower for the repayment of all such loans for the monthly or other similar period of repayment.

42 USC 294.

"(b) APPLICABILITY OF OTHER REQUIREMENTS.—A lender offering a combined payment plan shall comply with all provisions of section 428C applicable to loans consolidated or to be consolidated and shall comply with all provisions of subpart I of part C of title VII of the Public Health Service Act applicable to loans under that subpart

which are made part of the combined payment plan, except that a lender offering a combined payment plan under this section may offer consolidation loans pursuant to section 428C(b)(1)(A) if such lender holds any outstanding loan of a borrower which is selected for inclusion in a combined payment plan.

"(c) LENDER ELIGIBILITY.—Such lender may offer a combined payment plan only if—

"(1) the lender holds an outstanding loan of that borrower which is selected by the borrower for incorporation into a combined payment plan pursuant to this section (including loans which are selected by the borrower for consolidation under this section); or

"(2) the borrower certifies that the borrower has sought and has been unable to obtain a combined payment plan from the holders of the outstanding loans of that borrower.

"(d) BORROWER SELECTION OF COMPETING OFFERS.—In the case of multiple offers by lenders to administer a combined payment plan for a borrower, the borrower shall select from among them the lender to administer the combined payment plan including its loan consolidation component.

"(e) EFFECT OF PLAN.—Upon selection of a lender to administer the combined payment plan, the lender may reissue any Health Education Assistance Loan selected by the borrower for incorporation in the combined payment plan which is not held by such lender and the proceeds of such reissued loan shall be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans, if—

"(1) the lender selected to administer the combined payment plan has determined to its satisfaction, in accordance with reasonable and prudent business practices, for each loan being reissued (A) that the loan is a legal, valid, and binding obligation of the borrower; (B) that each such loan was made and serviced in compliance with applicable laws and regulations; and (C) the insurance on such loan is in full force and effect; and

"(2) the loan being reissued was not in default (as defined in section 733(e)(3) of the Public Health Service Act) at the time the request for a combined payment plan is made. 42 USC 294f.

"(f) NOTES AND INSURANCE CERTIFICATES.—(1) Each loan reissued under subsection (e) shall be evidenced by a note executed by the borrower. The Secretary of Health and Human Services shall insure such loan under a certificate of comprehensive insurance with no insurance limit, but any such certificate shall only be issued to an authorized holder of loans insured under subpart I of part C of title VII of the Public Health Service Act (including the Student Loan Marketing Association). Such certificates shall provide that all loans reissued under this section shall be fully insured against loss of principal and interest. Any insurance issued with respect to loans reissued under this section shall be excluded from the limitation on maximum insurance authority set forth in section 728(a) of the Public Health Service Act. Notwithstanding the provisions of section 729(a) of the Public Health Service Act, the reissued loan shall be made in an amount, including outstanding principal, capitalized interest, accrued unpaid interest not yet capitalized, and authorized late charges. The proceeds of each such loan will be paid by the lender to the holder of the original loan being reissued and the borrower's obligation to that holder on that loan shall be discharged.

42 USC 294.

42 USC 294a.
42 USC 294b.

"(2) Except as otherwise specifically provided for under the provisions of this section, the terms of any reissued loan shall be the same as the terms of the original loan. The maximum repayment period for a loan reissued under this section shall not exceed the remainder of the period which would have been permitted on the original loan. If the lender holds more than one loan insured under subpart I of part C of title VII of the Public Health Service Act, the maximum repayment period for all such loans may extend to the latest date permitted for any individual loan. Any reissued loan may be consolidated with any other Health Education Assistance Loan as provided in the Public Health Service Act, and, with the concurrence of the borrower, repayment of any such loans during any period may be made in amounts that are less than the interest that accrues on such loans during that period.

42 USC 294.

42 USC 201 note.

"(g) TERMINATION OF BORROWER ELIGIBILITY.—The status of an individual as an eligible combined payment plan borrower terminates upon receipt of a combined payment plan.

"(h) FEES AND PREMIUMS.—No origination fee or insurance premium shall be charged to the borrower on any combined payment plan, and no origination fee or insurance premium shall be payable by the lender to the Secretary of Health and Human Services.

"(i) COMMENCEMENT OF REPAYMENT.—Repayment of a combined payment plan shall commence within 60 days after the later of the date of acceptance of the lender's offer to administer a combined payment plan, the making of the consolidation loan or the reissuance of any Health Education Assistance Loans pursuant to subsection (e).

"NATIONAL STUDENT LOAN DATA SYSTEM

20 USC 1092b.

"SEC. 485B. (a) AUTHORITY OF THE SECRETARY.—In order to assure improved and accurate information on student loan indebtedness and institutional lending practices, and to insure improved compliance with the repayment and loan limitation provisions of this title, the Secretary is authorized to establish and carry out a nationwide computerized student loan data system containing information regarding loans made, insured, or guaranteed under part B and loans made under part E. The information in the data system shall include—

"(1) the exact amount of such loans made;

"(2) the names, social security numbers, and addresses of the borrowers (and in the case of dependent students the names and addresses of the parents of such students);

"(3) the guaranty agency responsible for the guarantee of the loan in the case of loans made, insured, or guaranteed under part B; and

"(4) the institution of higher education or organization responsible for loans made under part E.

The information to be stored in the student loan data system established by this subsection shall be furnished by guaranty agencies for loans made, insured, or guaranteed under part B and by institutions of higher education for loans made under part E.

"(b) ACCESS TO INFORMATION.—(1) Subject to the provisions of paragraphs (2) and (3), and notwithstanding the provisions of section 552(a) of title 5, United States Code, relating to freedom of information, access to information in the data system established and maintained pursuant to subsection (a) of this section shall be re-

stricted to individuals and Federal agencies, specifically authorized by the Secretary to have such access.

"(2) In carrying out this subsection, the Secretary shall approve access to information for—

"(A) research on student loan practices, student and parental indebtedness, repayment and debt collection trends, Federal costs associated with the guaranteed student loan program under part B of this title, including the cost of interest subsidies and special allowance payments;

"(B) the improvement of Federal debt collection practices and Federal criminal prosecutions under this title, relating to loans made, insured, or guaranteed under part B or loans under part E of this title;

"(C) furnishing information in response to an official request made by any committee of the Congress; and

"(D) any guaranty agency under part B, except that such access shall be limited to the name, social security number, and the amount of indebtedness, including the amount borrowed each year, of a borrower for whom the guaranty agency provides insurance.

"(3) No name, address, or social security number of any individual borrower may be made available to any requesting individual, Federal agency, or organization, unless the Secretary determines that the request is connected with the enforcement or debt collection responsibilities imposed by Federal law on such individual, agency, or organization.

"(4) In carrying out this subsection, the Secretary shall require semiannual reports (continuing the information set forth in subsection (a) (1) and (2)) from each guaranty agency responsible for the guarantee of loans made, insured, or guaranteed under part B and any institution of higher education or proprietary institution responsible for a loan made under part E. Reports.

"(c) VERIFICATION NOT REQUIRED.—The Secretary shall not require lenders, guaranty agencies, or institutions of higher education to verify information or obtain eligibility or other information through the National Student Loan Data System prior to making, guaranteeing, or certifying a loan under part B or part E.

"(d) REPORT TO CONGRESS.—The Secretary shall prepare and submit to the Congress twice in each fiscal year a report describing the results obtained by the establishment and operation of the student loan data system authorized by this section.

"TRAINING IN FINANCIAL AID AND STUDENT SUPPORT SERVICES

"SEC. 486. (a) PROGRAM AUTHORITY.—The Secretary is authorized to enter into contracts with appropriate public agencies or nonprofit private organizations or institutions of higher education to provide training for financial aid administrators, student peer counselors, student staff or volunteers, and other part-time staff and volunteers who provide financial aid, admissions and academic counseling and outreach, and student support programs in postsecondary education in postsecondary institutions, communities, or statewide programs. Contracts. 20 USC 1093.

"(b) USE OF FUNDS.—Financial assistance under this section may be used for—

"(1) development of materials and in-service training and career awareness programs;

"(2) operation of short-term training institutes designed to improve the skills and career awareness of participants in such institutes; and

"(3) special programs to assist in training of students and part-time staff or volunteers at institutions eligible for assistance under title III of this Act.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 to carry out the provisions of this section for fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1986.

"PROGRAM PARTICIPATION AGREEMENTS

20 USC 1094.

"SEC. 487. (a) REQUIRED FOR PROGRAMS OF ASSISTANCE; CONTENTS.—In order to be an eligible institution for the purposes of any program authorized under this title, an institution must be an institution of higher education or an eligible institution (as that term is defined for the purpose of that program) and shall, except with respect to a program under subpart 3 of part A, enter into a program participation agreement with the Secretary. The agreement shall condition the initial and continuing eligibility of an institution to participate in a program upon compliance with the following requirements:

"(1) The institution will use funds received by it for any program under this title and any interest or other earnings thereon solely for the purpose specified in and in accordance with the provision of that program.

"(2) The institution shall not charge any student a fee for processing or handling any application, form, or data required to determine the student's eligibility for assistance under this title or the amount of such assistance, or for completing or handling the Federal Student Assistance Report provided for in section 483(e).

"(3) The institution will establish and maintain such administrative and fiscal procedures and records as may be necessary to ensure proper and efficient administration of funds received from the Secretary or from students under this title.

"(4) The institution will comply with the provisions of subsection (b) of this section and the regulations prescribed under that subsection, relating to fiscal eligibility.

Reports.

"(5) The institution will submit reports to the Secretary and, in the case of an institution participating in a program under part B or part E, to holders of loans made to the institution's students under such parts at such times and containing such information as the Secretary may reasonably require to carry out the purpose of this title.

"(6) The institution will not provide any student with any statement or certification to any lender under part B that qualifies the student for a loan or loans in excess of the amount that student is eligible to borrow in accordance with sections 425(a), 428(a)(2), and 428(b)(1) (A) and (B).

"(7) The institution will comply with the requirements of section 485.

"(8) In the case of an institution that advertises job placement rates as a means of attracting students to enroll in the institution, the institution will make available to prospective students, at or before the time of application, the most recent available

data concerning employment statistics, graduation statistics, and any other information necessary to substantiate the truthfulness of the advertisements.

"(9) In the case of an institution participating in a program under part B, the institution will inform all eligible borrowers enrolled in the institution about the availability and eligibility of such borrowers for State grant assistance from the State in which the institution is located, and will inform such borrowers from another State of the source for further information concerning such assistance from that State.

State and local governments.

"(10) The institution certifies that it has in operation a drug abuse prevention program that is determined by the institution to be accessible to any officer, employee, or student at the institution.

"(b) HEARINGS.—(1) An institution that has received written notice of a final audit or program review determination and that desires to have such determination reviewed by the Secretary shall submit to the Secretary a written request for review not later than 45 days after receipt of notification of the final audit or program review determination.

"(2) The Secretary shall, upon receipt of written notice under paragraph (1), arrange for a hearing on the record and notify the institution within 30 days of receipt of such notice the date, time, and place of such hearing. Such hearing shall take place not later than 120 days from the date upon which the Secretary notifies the institution.

"(c) AUDITS; FINANCIAL RESPONSIBILITY; ENFORCEMENT OF STANDARDS.—(1) Notwithstanding any other provisions of this title, the Secretary is authorized to prescribe such regulations as may be necessary to provide for—

"(A)(i) except as provided in clause (ii), a financial and compliance audit of an eligible institution, with regard to any funds obtained by it under this title or obtained from a student or a parent who has a loan insured or guaranteed by the Secretary under this title, at least once every 2 years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

"(ii) with regard to an eligible institution which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of clause (i) for the period covered by such audit;

31 USC 7501 *et seq.*

"(B) in matters not governed by specific program provisions, the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid under this title;

"(C) the establishment, by each eligible institution under part B responsible for furnishing to the lender the statement required by section 428(a)(2)(A)(i), of policies and procedures by which the latest known address and enrollment status of any student who has had a loan insured under this part and who has either formally terminated his enrollment, or failed to re-enroll on at least a half-time basis, at such institution, shall be fur-

nished either to the holder (or if unknown, the insurer) of the note, not later than 60 days after such termination or failure to re-enroll; and

"(D) the limitation, suspension, or termination of the eligibility for any program under this title of any otherwise eligible institution, or the imposition of a civil penalty under paragraph (2)(B) whenever the Secretary has determined, after reasonable notice and opportunity for hearing on the record, that such institution has violated or failed to carry out any provision of this title or any regulation prescribed under this title, except that no period of suspension under this section shall exceed 60 days unless the institution and the Secretary agree to an extension or unless limitation or termination proceedings are initiated by the Secretary within that period of time.

"(2)(A) Upon determination, after reasonable notice and opportunity for a hearing on the record, that an eligible institution has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, or the employability of its graduates, the Secretary may suspend or terminate the eligibility status for any or all programs under this title of any otherwise eligible institution, in accordance with procedures specified in paragraph (1)(D) of this subsection, until the Secretary finds that such practices have been corrected.

"(B)(i) Upon determination, after reasonable notice and opportunity for a hearing on the record, that an eligible institution—

"(I) has violated or failed to carry out any provision of this title or any regulation prescribed under this title; or

"(II) has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, and the employability of its graduates,

the Secretary may impose a civil penalty upon such institution of not to exceed $25,000 for each violation or misrepresentation.

"(ii) Any civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the institution of higher education subject to the determination, and the gravity of the violation, failure, or misrepresentation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the institution charged.

State and local governments.

"(3) The Secretary shall publish a list of State agencies which the Secretary determines to be reliable authority as to the quality of public postsecondary vocational education in their respective States for the purpose of determining eligibility for all Federal student assistance programs.

"(d) DEFINITION OF ELIGIBLE INSTITUTION.—For the purpose of this section, the term 'eligible institution' means any such institution described in section 435(a) of this Act.

"TRANSFER OF ALLOTMENTS

State and local governments.
20 USC 1095.

"SEC. 488. Up to 10 percent of the allotment of an eligible institution for a fiscal year under section 413D or 446 of this Act, may be transferred to, and used for the purposes of, the institution's allotment under the other section within the discretion of such institution in order to offer an arrangement of types of aid, including institutional and State aid, which best fits the needs of each individ-

ual student. The Secretary shall have no control over such transfer, except as specifically authorized, except for the collection and dissemination of information.

"ADMINISTRATIVE EXPENSES

"SEC. 489. (a) AMOUNT OF PAYMENTS.—From the sums appropriated for any fiscal year for the purpose of the program authorized under subpart 1 of part A, the Secretary shall reserve such sums as may be necessary to pay to each institution with which he has an agreement under section 487, an amount equal to $5 for each student at that institution who receives assistance under subpart 1 of part A. In addition, an institution which has entered into an agreement with the Secretary under subpart 2 of part A or part C (other than section 448), of this title or under part E of this title shall be entitled for each fiscal year which such institution disburses funds to eligible students under any such part to a payment for the purpose set forth in subsection (b). The payment for a fiscal year shall be payable from each such allotment by payment in accordance with regulations of the Secretary and shall be equal to 5 percent of the institution's first $2,750,000 of expenditures plus 4 percent of the institution's expenditures greater than $2,750,000 and less than $5,500,000, plus 3 percent of the institution's expenditures in excess of $5,500,000 during the fiscal year from the sum of its grants to students under subpart 2 of part A, its expenditures during such fiscal year under part C for compensation of students, and the principal amount of loans made during such fiscal year from its student loan fund established under part E, excluding the principal amount of any such loans which the institution has agreed to assign under section 463(a)(6)(B). The payment for a fiscal year for the purpose of subsection (b) with respect to section 447 shall be payable from each allotment under part C in accordance with regulations of the Secretary, and shall be 10 percent of the institution's expenditures during such fiscal year under such section. 20 USC 1096.

"(b) PURPOSE OF PAYMENTS.—The sums paid to institutions under this part are for the sole purpose of offsetting the administrative costs of the programs described in subsection (a).

"CRIMINAL PENALTIES

"SEC. 490. (a) IN GENERAL.—Any person who knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery any funds, assets, or property provided or insured under this title shall be fined not more than $10,000 or imprisoned for not more than 5 years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud, false statement, or forgery does not exceed $200, the fine shall not be more than $1,000 and imprisonment shall not exceed one year, or both. 20 USC 1097.

"(b) ASSIGNMENT OF LOANS.—Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with the assignment of a loan which is made or insured under this title shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

"(c) INDUCEMENTS TO LEND OR ASSIGN.—Any person who knowingly and willfully makes an unlawful payment to an eligible lender under part B as an inducement to make, or to acquire by assign-

ment, a loan insured under that part shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

"(d) OBSTRUCTION OF JUSTICE.—Any person who knowingly and willfully destroys or conceals any record relating to the provision of assistance under this title with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall upon conviction thereof, be fined not more than $10,000 or imprisoned not more than 5 years, or both.

"ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE

20 USC 1098.

"SEC. 491. (a) ESTABLISHMENT AND PURPOSE.—(1) There is established in the Department an independent Advisory Committee on Student Financial Assistance (hereafter in this section referred to as the 'Advisory Committee') which shall provide advice and counsel to the Congress and to the Secretary on student financial aid matters.

"(2) The purpose of the Advisory Committee is—

"(A) to provide extensive knowledge and understanding of the Federal, State, and institutional programs of postsecondary student assistance;

"(B) to provide technical expertise with regard to systems of needs analysis and application forms; and

"(C) to make recommendations that will result in the maintenance of access to postsecondary education for low- and middle-income students.

"(b) INDEPENDENCE OF ADVISORY COMMITTEE.—In the exercise of its functions, powers, and duties, the Advisory Committee shall be independent of the Secretary and the other offices and officers of the Department. The recommendations of the Committee shall not be subject to review or approval by any officer in the executive branch, but may be submitted to the Secretary for comment prior to submission to the Congress in accordance with subsection (f).

"(c) MEMBERSHIP.—(1) The Advisory Committee shall have 11 members of which—

"(A) 3 members shall be appointed by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader,

"(B) 3 members shall be appointed by the Speaker of the House of Representatives upon the recommendation of the Majority Leader and the Minority Leader, and

"(C) 5 members shall be appointed by the Secretary including, but not limited to representatives of States, institutions of higher education, secondary schools, credit institutions, students, and parents.

"(2) Not less than 7 members of the Advisory Committee shall be individuals who have been appointed on the basis of technical qualifications, professional standing and demonstrated knowledge in the fields of higher education and student aid administration, need analysis, financing postsecondary education, student aid delivery, and the operations and financing of student loan guarantee agencies.

"(d) FUNCTIONS OF THE COMMITTEE.—The Advisory Committee shall—

"(1) develop, review, and comment annually upon the system of needs analysis established under sections 411A through 411E and part F of this title;

"(2) monitor, apprise, and evaluate the effectiveness of student aid delivery and recommend improvements;

"(3) recommend data collection needs and student information requirements which would improve access and choice for eligible students under this title and assist the Department of Education in improving the delivery of student aid and in assessing the impact of legislative and administrative policy proposals;

"(4) review and comment upon, prior to promulgation, all regulations affecting programs under this title, including proposed regulations;

"(5) recommend to the Congress and to the Secretary such studies, surveys, and analyses of student financial assistance programs, policies, and practices, including the special needs of low-income, disadvantaged, and nontraditional students, and the means by which the needs may be met, but nothing in this section shall authorize the committee to perform such studies, surveys, or analyses;

"(6) review and comment upon standards by which financial need is measured in determining eligibility for Federal student assistance programs; and

"(7) appraise the adequacies and deficiencies of current student financial aid information resources and services and evaluate the effectiveness of current student aid information programs.

"(e) OPERATIONS OF THE COMMITTEE.—(1) Each member of the Advisory Committee shall be appointed for a term of 3 years, except that, of the members first appointed—

"(A) 4 shall be appointed for a term of 1 year;

"(B) 4 shall be appointed for a term of 2 years; and

"(C) 3 shall be appointed for a term of 3 years,

as designated at the time of appointment by the Secretary.

"(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term of a predecessor shall be appointed only for the remainder of such term. A member of the Advisory Committee shall, upon request, continue to serve after the expiration of a term until a successor has been appointed. A member of the Advisory Committee may be reappointed to successive terms on the Advisory Committee.

"(3) The Advisory Committee shall elect a Chairman and a Vice Chairman from among its members.

"(4) Six members of the Advisory Committee shall constitute a quorum.

"(5) The Advisory Committee shall meet at the call of the Chairman or a majority of its members.

"(f) SUBMISSION TO DEPARTMENT FOR COMMENT.—The Advisory Committee may submit its proposed recommendations to the Department of Education for comment for a period not to exceed 30 days in each instance.

"(g) COMPENSATION AND EXPENSES.—(1) Members of the Advisory Committee who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

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"(2) Members of the Advisory Committee who are not officers or full-time employees of the United States may each receive reimbursement for travel expenses incident to attending Advisory Committee meetings, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(h) PERSONNEL AND RESOURCES.—(1) The Advisory Committee may appoint such personnel as may be necessary by the Chairman without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subtitle III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS-18 of the General Schedule.

5 USC 5101 *et seq.*
5 USC 5331 *et seq.*

"(2) In carrying out its duties under the Act, the Advisory Committee shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

"(3)(A) The Advisory Committee is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purpose of this section and each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Advisory Committee, upon request made by the Chairman.

Contracts.

"(B) The Advisory Committee may enter into contracts for the acquisition of information, suggestions, estimates, and statistics for the purpose of this section.

"(4) The Advisory Committee is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

"(5) The head of each Federal agency shall, to the extent not prohibited by law, cooperate with the Advisory Committee in carrying out this section.

"(6) The Advisory Committee is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement.

"(i) AVAILABILITY OF FUNDS.—An amount, not to exceed $500,000 in any fiscal year, shall be available from the amount appropriated for each such fiscal year from salaries and expenses of the Department for the costs of carrying out the provisions of this section.".

20 USC 1091 note.

(b) EFFECTIVE DATES.—(1) Sections 483(e) and 484(d) of the Act as amended by this section shall apply to student assistance awarded for periods of enrollment beginning on or after July 1, 1987.

(2) The changes made in section 484(a)(1) of the Act shall apply to student assistance awarded for periods of enrollment beginning on or after July 1, 1987.

(3) Section 484(c) of the Act as amended by this section shall apply only to student assistance awarded for periods of enrollment beginning on or after July 1, 1987, to individuals who were not awarded such assistance for any preceding period of enrollment.

(4) Sections 484(f), 485(b), and 487(a)(10) of the Act as amended by this section shall apply only to periods of enrollment beginning on or after July 1, 1987.

SEC. 408. CONFORMING PROVISIONS.

(a) APPLICATION OF STUDENT FINANCIAL ASSISTANCE TECHNICAL AMENDMENTS TO ACADEMIC YEARS 1986-1987, AND 1987-1988.—The Student Financial Assistance Technical Amendments Act of 1982 is amended—

(1) in sections 3, 4, and 6 by striking out "and 1986-1987" each place it appears and inserting in lieu thereof "1986-1987, and 1987-1988"; 20 USC 1070a note, 1089 note, 1070a note.

(2) in section 5, by striking out "and 1986-1987" each place it appears and inserting in lieu thereof "1986-1987, and 1987-1988" in subsections (a), (b)(1), and (c); 20 USC 1070a note.

(3) in section 5(b)(2), by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and", and by inserting after such paragraph the following new subparagraph:

"(D) for the period from October 1, 1984, through September 30, 1985, and the arithmetic mean of such index for the period from October 1, 1985, through September 30, 1986, in the case of academic year 1987-1988.";

(4) in section 5(b)(3)—

(A) by striking out "1985-1986), and" and inserting in lieu thereof "1985-1986),"; and

(B) by inserting before the period at the end thereof the following: ", and immediately after such publication for September 1986 (with respect to academic year 1987-1988)";

(5) in section 5(d), by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and", and by inserting after such paragraph the following new paragraph:

"(4) not later than April 1, 1986, for academic year 1987-1988.";

(6) in section 9(a)— 20 USC 1078 note.

(A) by inserting "and" after "June 30, 1987"; and

(B) by striking out "from July 1, 1988, through June 30, 1989, and from July 1, 1989, through June 30, 1999,"; and

(7) in section 9(c), by inserting "and" at the end of paragraph (3) and by striking out paragraphs (5), (6), and (7).

(b) REPEAL.—Effective with respect to any academic year beginning on or after July 1, 1988, the Student Financial Assistance Technical Amendments Act of 1982 is repealed. 20 USC 1001 note, 1070a note, 1070b-3 note, 1078 note, 1087bb note, 1221e-1 note, 1089 note; 42 USC 2752 note.

TITLE V—TEACHER TRAINING AND DEVELOPMENT

SEC. 501. REVISION OF TITLE V.

(a) AMENDMENT.—Title V of the Act is amended to read as follows:

"TITLE V—EDUCATOR RECRUITMENT, RETENTION, AND DEVELOPMENT

"STATEMENT OF PURPOSE; APPLICABILITY

"SEC. 501. It is the purpose of this title— 20 USC 1101.

"(1) to encourage the establishment and maintenance of programs that provide teacher training to individuals who are moving to careers in education from other occupations;

"(2) to promote university partnerships with local education agencies serving at-risk students, providing stronger linkages

between teachers and such students, and with local labor, business, and professional associations;

"(3) to provide assistance to our Nation's teaching force for the continued improvement of their professional skills and expansion of their subject matter expertise, including pre-school and early childhood education specialists;

"(4) to improve the leadership and administrative skills of elementary and secondary school administrators;

"(5) to encourage academically qualified students to become teachers through scholarship assistance; and

State and local governments.

"(6) to encourage States to assess their need for teachers and to plan for meeting current and projected teacher shortages.

"AUTHORIZATION OF APPROPRIATIONS

20 USC 1101a.

"SEC. 502. (a) MID-CAREER TEACHER TRAINING PROGRAMS.—For part A, there are authorized to be appropriated $3,500,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(b) SCHOOL, COLLEGE, AND UNIVERSITY PARTNERSHIPS.—For part B, there are authorized to be appropriated $15,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(c) PROFESSIONAL DEVELOPMENT AND LEADERSHIP PROGRAMS.—(1) For subpart 1 of part C, there are authorized to be appropriated $15,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(2) For subpart 2 of part C, there are authorized to be appropriated $10,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(d) TEACHER SCHOLARSHIPS AND FELLOWSHIPS.—(1) For subpart 1 of part D, there are authorized to be appropriated $13,500,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(2) For subpart 2 of part D, there are authorized to be appropriated $2,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(e) TASK FORCES ON TEACHER EDUCATION.—For part E, there are authorized to be appropriated $1,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"PART A—MIDCAREER TEACHER TRAINING FOR NONTRADITIONAL STUDENTS

"STATEMENT OF PURPOSE

20 USC 1103.

"SEC. 511. It is the purpose of this part to encourage institutions of higher education with schools or departments of education to establish and maintain programs that will provide teacher training to individuals who are moving to a career in education from another occupation.

"SELECTION PROCEDURES

Grants.
20 USC 1103a.

"SEC. 512. From the funds available for this part, the Secretary shall make grants to institutions of higher education on the basis of the competitive selection among qualifying applications. Institutions selected as recipients shall be awarded (1) an initial planning grant

for use during the first 2 fiscal years after selection, and (2) for institutions demonstrating successful performance with the planning grant, a renewal grant for use during not more than 2 additional years.

"APPLICATIONS

"SEC. 513. (a) CONTENTS OF APPLICATIONS.—Applications for grants under this part shall demonstrate that— Grants. 20 USC 1103b.

"(1) the applicant will establish and maintain a program of midcareer teacher retraining designed to prepare individuals for teacher certification requirements who already have a baccalaureate or advanced degree and job experience in education-related fields of study, including pre-school and early childhood education;

"(2) the applicant has designed a program which includes at least the following elements:

"(A) a screening mechanism to assure that individuals who are admitted to the program possess the current subject matter knowledge and the characteristics that would make them likely to succeed as classroom teachers;

"(B) a clear set of program goals and expectations which are communicated to participants; and

"(C) a curriculum that, when successfully completed, will provide participants with the skills and credentials needed to teach in specific subject areas, as well as a realistic perspective on the educational process;

"(3) the program has been developed with the cooperation and assistance of the local business community;

"(4) the program will be operated under a cooperative agreement between the institution and one or more State or local educational agencies; and State and local governments.

"(5) the program will be designed and operated with the active participation of qualified classroom teachers, including early childhood education specialists, and will include an in-service training component and follow-up assistance.

"(b) REVIEW OF APPLICATIONS.—Applications for grants under this part shall be reviewed by a panel of experts in teacher training designated by the Secretary. The Secretary shall, to the extent of available funds, select at least one applicant from each of the 10 regions served by the Department and assure that programs offered reflect all significant areas of national need in which shortages exist.

"AMOUNT OF GRANTS

"SEC. 514. The initial planning grant to an institution of higher education under this part shall not exceed $100,000 for the 2 years for which it is available. The renewal grant to an institution under this part shall not exceed $50,000 for each of the 2 years for which it is available. 20 USC 1103c.

"REPORTS AND INFORMATION

"SEC. 515. Each institution of higher education that receives a grant under this part shall submit to the Secretary such reports and other information on the program it conducts under this part as the Secretary deems necessary. The Secretary shall disseminate such 20 USC 1103d.

information to other institutions of higher education for the purpose of promoting greater use of midcareer teacher training programs without direct Federal financial assistance.

"PART B—SCHOOL, COLLEGE, AND UNIVERSITY PARTNERSHIPS

"PURPOSE

20 USC 1105.

"SEC. 521. It is the purpose of this part to encourage partnerships between institutions of higher education and secondary schools serving low-income students, to support programs that improve the academic skills of public and private nonprofit secondary school students, increase their opportunity to continue a program of education after secondary school and improve their prospects for employment after secondary school.

"PARTNERSHIP AGREEMENT

Grants.
20 USC 1105a.

"SEC. 522. (a) PARTNERSHIP AGREEMENT.—To be eligible for a grant under this part, an institution of higher education and a local education agency must enter into a written partnership agreement. A partnership may include businesses, labor organizations, professional associations, community-based organizations, or other private or public agencies or associations. All partners shall sign the agreement.

"(b) CONTENTS OF AGREEMENT.—The agreement shall include—

"(1) a listing of all participants in the partnerships;

"(2) a description of the responsibilities of each participant in the partnership; and

"(3) a listing of the resources to be contributed by each participant in the partnership.

"GRANTS

20 USC 1105b.

"SEC. 523. (a) DIVISION BETWEEN SCHOOL-YEAR AND SUMMER PROGRAMS.—From the funds appropriated for this part pursuant to section 502(b), the Secretary shall reserve 65 percent to carry out programs operating during the regular school year and 35 percent to carry out programs operating during the summer.

"(b) AMOUNT AND USE OF GRANTS.—From such funds, the Secretary shall make grants of no less than $250,000 and no more than $1,000,000. The grants may be used by the partnership for programs that—

"(1) use college students to tutor secondary school students and improve their basic academic skills;

"(2) are designed to improve the basic academic skills of secondary school students;

"(3) are designed to increase the understanding of specific subjects of secondary school students;

"(4) are designed to improve the opportunity to continue a program of education after graduation for secondary school students; and

"(5) are designed to increase the prospects for employment after graduation of secondary school students.

Disadvantaged persons.

"(c) PREFERENCES.—In making grants under this part, the Secretary shall give a preference to—

"(1) programs which will serve predominantly low-income communities;

"(2) partnerships which will run programs during the regular school year and the summer; and

"(3) programs which will serve educationally disadvantaged students; potential dropouts; pregnant, adolescent, and teen parents; or children of migratory agricultural workers or of migratory fishermen.

"APPLICATION FOR GRANTS

"SEC. 524. (a) APPLICATION REQUIRED.—A partnership desiring to receive a grant under this part shall submit an application to the Secretary. 20 USC 1105c.

"(b) CONTENTS OF APPLICATION.—The application shall include—

"(1) the written and signed partnership agreement;

"(2) a listing of the public and private nonprofit secondary school or schools to be involved in the program;

"(3) a description of the programs to be developed and operated by the partnership;

"(4) assurances to the Secretary that—

"(A) the partnership will establish a governing body including one representative of each participant in the partnership;

"(B) Federal funds will provide no more than 70 percent of the cost of the project in the first year, 60 percent of such costs in the second year, and 50 percent of such costs in the third year and any subsequent year;

"(C) a local educational agency receiving funds under this subpart shall not reduce its combined fiscal effort per student or its aggregate expenditure on education; and

"(D) a local educational agency receiving funds under this part shall use the Federal funds so as to supplement and, to the extent practical, increase the resources that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of students participating in the project, and in no case may funds be used to supplant such non-Federal funds; and

"(5) provide such information and meet such conditions as may be required by the Secretary.

"COMMUNITY COLLEGE PILOT PROJECT

"SEC. 525. (a) PROGRAM AUTHORIZED.—In addition to the grants awarded under section 523, the Secretary is authorized to award 4 grants for pilot community college partnership projects under this section. 20 USC 1105d.

"(b) PARTNERSHIP AGREEMENTS.—To be eligible for a grant under this section, a community college shall enter into a partnership agreement in accordance with section 522 with a local educational agency and at least one local business or industry.

"(c) AMOUNT AND USE OF GRANTS.—Grants under this section shall be no less than $250,000. The grants may be used by the partnership for programs that—

"(1) use college students to tutor secondary school students and improve their basic academic skills;

"(2) are designed to improve the basic academic skills of secondary school students;

"(3) are designed to increase the understanding of specific subjects of secondary school students;

"(4) are designed to improve the opportunity to continue a program of education after graduation for secondary school students; and

"(5) are designed to increase the prospects for employment after graduation of secondary school students.

"(d) APPLICATION.—To receive a grant under this section, a community college shall submit an application in accordance with section 524(b).

"(e) AWARD OF GRANTS.—In making awards under this section, the Secretary shall give preference to applications indicating that the business or industry partner is engaged in technological or aerospace activities.

Michigan.
Vermont.
California.
Missouri.

"(f) ELIGIBLE INSTITUTIONS.—The institutions which may be awarded grants under this section are—

"(1) the Wayne County Community College of Wayne County, Michigan;

"(2) the Community College of Vermont;

"(3) the Compton Community College of Compton, California; and

"(4) the Metropolitan Community College of Kansas City, Missouri.

"(g) REPORTS AND INFORMATION.—Each community college that receives a grant under this subpart for establishing pilot projects shall submit to the Secretary such reports and other information as is requested in order to evaluate program effectiveness and to disseminate information on exemplary programs to other community colleges, area vocational-technical schools, and other institutions of higher education, for the purposes of promoting greater use of university-secondary school partnerships without direct Federal financial assistance.

"PART C—PROFESSIONAL DEVELOPMENT AND LEADERSHIP PROGRAMS

"SUBPART 1—PROFESSIONAL DEVELOPMENT RESOURCE CENTERS

"PROGRAM AUTHORITY AND PURPOSE

Grants.
20 USC 1107.

"SEC. 531. (a) AUTHORITY.—(1) The Secretary is authorized to make grants under this subpart to pay the Federal share of programs to assist teachers from public and private nonprofit schools in the continuous improvement of their professional skills and the expansion and updating of their subject matter expertise by establishing professional development resource centers for teachers.

"(2) The Federal share for each fiscal year shall be 50 percent.

"(b) PURPOSE.—It is the purpose of this subpart to assist in the establishment of professional development resource centers that will—

"(1) help teachers make effective use of educational tools including understanding new technologies and their application;

"(2) enhance teachers' subject matter expertise;

"(3) help teachers learn new classroom management techniques;

"(4) help teachers learn and apply the latest research on learning and teaching, including pre-school and early childhood education and development; and

"(5) help teachers to apply creative approaches toward achieving instructional goals, including making the best use of available community resources.

"GEOGRAPHICAL DISTRIBUTION OF GRANTS

"SEC. 532. In making grants under this subpart, the Secretary shall ensure that eligible applicants within each State receive sufficient funds to plan, establish, or operate at least one professional development resource center within the State in each fiscal year.

State and local governments. 20 USC 1107a.

"GRANT REQUIREMENTS

"SEC. 533. (a) ELIGIBLE APPLICANTS.—The Secretary is authorized to make grants to local educational agencies or consortia of local educational agencies, in accordance with the provisions of this section, to assist such agencies in planning, establishing, and operating professional development resource centers.

State and local governments. 20 USC 1107b.

"(b) DEFINITION OF CENTER.—For the purpose of this part, the term 'professional development resource centers' means any year-round program operated by a local educational agency, a combination of such agencies, or an educational service agency which serves teachers from public and private nonprofit schools, including pre-school and early childhood educational specialists, in a State or from an area or community within a State. Through the centers, teachers, with the assistance of such consultants and experts as may be necessary, including expertise available at institutions of higher education, shall conduct activities to advance the goal of professional excellence and to improve teaching skills for the teachers they serve.

"(c) USE OF FUNDS.—Grants under this subpart may be used for—

"(1) developing and disseminating curricula designed to meet the educational needs of students in pre-school and kindergarten through grade 12, in the community, area, or State being served, including the use of educational research findings or new or improved methods, practices, and techniques in the development of such curricula, and including the use of technology and telecommunications;

"(2) providing training to enable teachers to better meet the educational needs of students, including pre-school students, and to familiarize teachers with developments in curriculum, testing, and educational research including the manner in which the research can be used to improve classroom instruction;

"(3) providing for dissemination of information to those served by the center and to other professional development resource centers nationally about the activities and services of the centers;

"(4) bringing together teachers and materials from various school sites to serve as resources for teachers using the center;

"(5) encouraging collaborative activities between pre-school, elementary and secondary school teachers and faculty at institutions of higher education;

"(6) encouraging the application of institutional and community resources to the goal of improving the quality of classroom instruction; and

Disadvantaged persons.

"(7) providing professional development opportunities for teachers of special population groups (pre-school, handicapped children, limited English proficient children, educationally and economically disadvantaged children) in rural settings.

"PROFESSIONAL DEVELOPMENT POLICY BOARD

20 USC 1107c.

"SEC. 534. Each professional development resource center shall be planned and operated under the supervision of a professional development policy board, the majority of which shall be representatives or designees of the public and private nonprofit, pre-school, elementary and secondary classroom teachers to be served by such center. Such board shall also include individuals representative of, or designated by, school administrators, the school board (or boards) of the local educational agency (or agencies) served by such center, local business, and at least one representative designated by institutions of higher education, when such institutions are located within reasonable proximity of the center, including (but not limited to) institutions that have departments, schools, or colleges of education.

"SUBMISSION AND APPROVAL OF APPLICATIONS

Grants.
State and local governments.
20 USC 1107d.

"SEC. 535. (a) SUBMISSION.—(1) Any local educational agency or any consortium of local educational agencies including educational service agencies, desiring to receive a grant under this subpart shall make application therefor at such time, in such manner, and containing or accompanied by such information, as the Secretary may by regulation require. Each application shall be submitted through the State educational agency of the State in which the applicant is located. Each such State agency shall review the application, make comments thereon, and recommend each application the State agency finds should be approved. The recommendations of the State education agency shall be taken into consideration by the Secretary in awarding grants under this part.

"(2) Each State education agency, in reviewing local educational agency applications for a grant under this subpart, shall seek to assure an equitable within-State geographical distribution of center grant funds so that both large urban and small rural school districts are served.

"(b) MINIMUM REQUIREMENTS.—A grant under this subpart may be made only if the application provides—

"(1) satisfactory assurances that the program designed for the professional development resource center is based on a thorough assessment of instructional and professional development needs identified by the teachers to be served, including early childhood educational specialists, and establishes goals for the center derived from such assessment;

"(2) satisfactory assurances that the program the center plans to provide will meet the needs of the teachers served, including assurances that center activities will lead to in-depth and incremental knowledge and skill development;

"(3) a description of the activities planned to meet the center's goals;

"(4) procedures for the conduct of a yearly evaluation of center activities;

"(5) satisfactory assurances that the center will employ a full-time center director who has had classroom teaching experience and other staff as may be necessary;

"(6) satisfactory assurances that the applicant will pay the non-Federal share of the cost of the program for which assistance is sought and that 50 percent of such non-Federal share shall be paid by the State educational agency and 50 percent of the non-Federal share shall be from local resources, including institutions of higher education and other public and private non-Federal sources; and

"(7) satisfactory assurances that the facilities of the center will not be used for the purpose of influencing the result of an election to an office in Federal, State, or local government or for the purpose of supporting or opposing any campaign for such office.

"(c) SELECTION PROCEDURES.—(1) In approving any application under this subpart, the Secretary shall take into account the resources which the applicant will provide in addition to Federal funds provided under this or any other Federal program.

"(2) In approving applications under this subpart, the Secretary shall substantially involve teachers, including early childhood educational specialists, in reviewing and recommending programs for funding.

"(d) SUBCONTRACTING.—Any local educational agency having an application approved under this subpart may contract with an institution of higher education to carry out activities under, or provide technical assistance in connection with, such application. Contracts.

"(e) RESERVATION FOR DIRECT EXPENDITURES.—Notwithstanding the provisions of subsection (a)(1) of this section with respect to the requirement that professional development resource centers be operated by local educational agencies, 10 percent of the funds expended under this subpart may be expended directly by the Secretary to make grants to institutions of higher education to operate professional development resource centers, subject to the other provisions of this subpart.

"SUBPART 2—LEADERSHIP IN EDUCATIONAL ADMINISTRATION DEVELOPMENT

"PURPOSE; INTENTION; REGULATIONS

"SEC. 541. (a) PURPOSE.—It is the purpose of this subpart to improve the level of student achievement in public and private nonprofit elementary and secondary schools through the enhancement of the leadership skills of school administrators by establishing technical assistance centers for each State to promote the development of the leadership skills of public and private nonprofit elementary and secondary school administrators with particular emphasis upon increasing access for minorities and women to administrative positions. State and local governments. Minorities. Women. 20 USC 1109.

"(b) INTENTION.—It is the intention of Congress that contractors seeking to establish technical assistance and training centers should design programs which upgrade the skills of elementary and secondary school administrators in— Contracts.

"(1) enhancing the schoolwide learning environment by assessing the school climate, setting clear goals for improvement, and devising strategies for completing manageable projects with measurable objectives;

"(2) evaluating the school curriculum in order to assess its effectiveness in meeting academic goals;

"(3) developing skills in instructional analysis to improve the quality of teaching through classroom observation and supervision;

"(4) mastering and implementing objective techniques for evaluating teacher performance; and

"(5) improving communication, problemsolving, student discipline, time-management, and budgetary skills.

"(c) REGULATIONS.—The Secretary is authorized to prescribe such regulations as may be necessary to carry out this subpart.

"ALLOCATION OF APPROPRIATIONS

20 USC 1109a.

"SEC. 542. Of the amount appropriated for this subpart for any fiscal year, the Secretary shall make available an amount as may be necessary for establishing and operating a technical assistance center in each State, but not less than $150,000 for each State.

"TECHNICAL ASSISTANCE CENTERS

State and local governments.
20 USC 1109b.

"SEC. 543. (a) ELIGIBLE CONTRACTS RECIPIENTS.—The Secretary shall, subject to the availability of funds pursuant to section 542, enter into contracts with local educational agencies, intermediate school districts, State educational agencies, institutions of higher education, private management organizations, or nonprofit organizations (or consortium of such entities) for the establishment and operation of training centers in each State in accordance with the requirements of this section and section 544.

"(b) CONTRACT REQUIREMENTS.—Each contract entered into under subsection (a) shall require the contractor—

"(1) to make the services of the technical assistance center available to school administrators from any of the public and private nonprofit schools within the State served by that contractor;

"(2) to collect information on school leadership skills;

"(3) to assess the leadership skills of individual participants based on established effective leadership criteria;

Women.
Minorities.

"(4) to conduct training programs on leadership skills for new school administrators and to conduct training seminars on leadership skills for practicing school administrators, with particular emphasis on women and minority administrators;

"(5) to operate consulting programs to provide personnel within school districts with advice and guidance on leadership skills;

"(6) to maintain training curricula and materials on leadership skills drawing on expertise in business, academia, civilian and military governmental agencies, and existing effective schools;

"(7) to conduct programs which—

"(A) make available executives from business, scholars from various institutions of higher education, and practicing school administrators; and

"(B) offer internships in business, industry, and effective school districts to school administrators,

for the purpose of promoting improved leadership skills of such administrators;

"(8) to disseminate information on leadership skills associated with effective schools; and

"(9) to establish model administrator projects.

"(c) SELECTION OF CONTRACTORS.—In making a selection among applicants for any contract under this section, the Secretary shall take into account whether the applicant, if selected, would be able to operate its programs in a manner which would emphasize development of leadership skills identified by graduate schools of management and graduate schools of education.

"GENERAL CRITERIA FOR CONTRACTS

"SEC. 544. (a) CONTRACT REQUIREMENTS.—The following criteria shall apply to each contract under this subpart: 20 USC 1109c.

"(1) The contract shall assure the involvement of private sector managers and executives in the conduct of such programs.

"(2) The contract shall contain assurances of an ongoing organizational commitment to carrying out the purposes of this subpart through (A) obtaining matching funds for such programs in cash or in kind at least equal in amount to the amount of funds provided under this subpart, (B) making in-kind contributions to such programs, (C) demonstrating a commitment to continue to operate such programs after expiration of funding under this subpart, and (D) organizing a policy advisory committee including (but not limited to) representatives from business, private foundations, private nonprofit schools, and local and State educational agencies.

"(3) The contract shall indicate the level of development of human relations skills which its programs will instill by (A) identifying the credentials of the staff responsible for such development; (B) describing the manner in which such skills will be developed; and (C) describing the manner in which the program deals with human relations issues facing education administrators.

"(4) The contract shall establish a system for the evaluation of the programs conducted.

"(b) DURATION OF CONTRACT.—Each contract under this subpart shall be for a term of 3 years subject to the availability of appropriations. Such contract shall not be renewable, except that a single 3-year extension may be granted if the contractor agrees to maintain the programs with assistance under this part reduced by one-half.

"DEFINITIONS

"SEC. 545. For the purpose of this subpart— 20 USC 1109d.

"(1) the term 'school administrator' means a principal, assistant principal, district superintendent, and other local school administrators; and

"(2) the term 'leadership skills' includes, but is not limited to, managerial, administrative, evaluative, communication and disciplinary skills and related techniques.

"PART D—TEACHER SCHOLARSHIPS AND FELLOWSHIPS

"SUBPART 1—CONGRESSIONAL TEACHER SCHOLARSHIP PROGRAMS

"PURPOSE

20 USC 1111.

"SEC. 551. It is the purpose of this subpart to make available, through grants to the States, scholarships during fiscal years 1987 through 1991 to a maximum of 10,000 individuals who are outstanding high school graduates and who demonstrate an interest in teaching, in order to enable and encourage those individuals to pursue teaching careers in education at the pre-school, elementary or secondary level. Such scholarships shall be referred to as 'Congressional Teacher Scholarships'.

"ALLOCATION AMONG STATES

20 USC 1111a.

"SEC. 552. (a) PER CAPITA ALLOCATION.—From the sums appropriated for this subpart pursuant to section 502(d) for any fiscal year, the Secretary shall allocate to any State an amount which bears as nearly as possible the same ratio to such sums as the number of persons in that State bears to the number of persons in all States.

"(b) USE OF CENSUS DATA.—For the purpose of this section, the number of persons in a State and in all States shall be determined by the most recently available data from the United States Census Bureau.

"GRANT APPLICATIONS

State and local governments.
20 USC 1111b.

"SEC. 553. (a) SUBMISSION OF APPLICATIONS.—The Secretary is authorized to make grants to States in accordance with the provisions of this subpart. In order to receive a grant under this subpart, a State shall submit an application at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth a program of activities for carrying out the purposes set forth in section 546 in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purposes and such other policies, procedures, and assurances as the Secretary may require by regulation.

"(b) CONTENT OF APPLICATIONS.—The Secretary shall approve an application under this subpart only if the application—

"(1) describes the selection criteria and procedures to be used by the State in the selection of scholarships under this part which satisfy the provisions of this part;

"(2) designates the State agency which administers the program under subpart 3 of part A of title IV, relating to State student incentive grants, or the State agency with which the Secretary has an agreement under section 428(b);

"(3) describes the outreach effort the State agency intends to use to publicize the availability of Congressional Teacher Scholarships to high school students in the State;

"(4) provides assurances that each recipient eligible under section 555(b) of this part who receives a Congressional Teacher Scholarship shall enter into an agreement with the State agency under which the recipient shall—

"(A) within the 10-year period after completing the post-secondary education for which the Congressional Teacher Scholarship was awarded, teach, for a period of not less than 2 years for each year for which assistance was received, in a public or private nonprofit elementary or secondary school in any State, in a public education program in any State, or, on a full-time basis, handicapped children or children with limited English proficiency in a private nonprofit school, except that, in the case of individuals who teach in a shortage area established by the Secretary pursuant to section 428(b)(4), the requirements of this subparagraph shall be reduced by one-half;

"(B) provide the State agency evidence of compliance with section 557 as required by the State agency; and

"(C) repay all or part of a Congressional Teacher Scholarship received under section 554 plus interest and, if applicable, reasonable collection fees, in compliance with regulations issued by the Secretary under section 557, in the event that the conditions of subparagraph (A) are not complied with, except as provided for in section 558;

"(5) provides that the agreement entered into with recipients shall fully disclose the terms and conditions under which assistance under this subpart is provided and under which repayment may be required, including—

"(A) a description of the procedures required to be established under paragraph (6); and

"(B) a description of the appeals procedures required to be established under paragraph (7) under which a recipient may appeal a determination of noncompliance with any provision under this subpart;

"(6) provides for procedures under which a recipient of assistance received under this part who teaches for less than the period required under paragraph (4)(A) will have the repayment requirements reduced or eliminated consistent with the provisions of sections 557 and 558;

"(7) provides for appeals procedures under which a recipient may appeal any determination of noncompliance with any provision under this part;

"(8) provides assurances that the State agency shall make particular efforts to attract students from low-income backgrounds or who express a willingness or desire to teach in schools having less than average academic results or serving large numbers of economically disadvantaged students; and

Disadvantaged persons.

"(9) provides assurances that Congressional Teacher Scholarships will be awarded without regard to sex, race, handicapping condition, creed, or economic background.

"(c) SELECTION CRITERIA AND PROCEDURES.—The selection criteria and procedures to be used by the State shall reflect the present and projected teacher needs of the State, including the demand for and supply of early childhood and elementary teachers in the State, the demand for and supply of secondary teachers in the State, and the demand for teachers with training in specific academic disciplines in the State.

"(d) SOLICITATION OF VIEWS ON SELECTION CRITERIA AND PROCEDURES.—In developing the selection criteria and procedures to be used by the State, the State shall solicit the views of State and local

educational agencies, private educational institutions, and other interested parties. Such views—

"(1) shall be solicited by means of (A) written comments; and (B) publication of proposed selection criteria and procedures in final form for implementation; and

"(2) may be solicited by means of (A) public hearings on the teaching needs of elementary and secondary schools in the State (including the number of new teachers needed, the expected supply of new teachers, and the shortages in the State of teachers with training in specific academic disciplines, including early childhood education and development); or (B) such other methods as the State may determine to be appropriate to gather information on such needs.

"AMOUNT AND DURATION OF AND RELATION TO OTHER ASSISTANCE

20 USC 1111c.

"SEC. 554. (a) LIMITATIONS ON AMOUNT AND DURATION.—Subject to subsection (c), each Congressional Teacher Scholar shall receive a $5,000 scholarship for each academic year of postsecondary education for study in preparation to become a pre-school, elementary or secondary teacher. No individual shall receive scholarship assistance for more than 4 years of postsecondary education, as determined by the State agency.

"(b) CONSIDERATION OF AWARD IN OTHER PROGRAMS.—Notwithstanding the provisions of title IV of this Act, scholarship funds awarded pursuant to this part shall be considered in determining eligibility for student assistance under title IV of this Act.

"(c) ASSISTANCE NOT TO EXCEED NEED.—Congressional Teacher Scholarship assistance awarded by the statewide panel established pursuant to section 555 to any individual in any given year, when added to assistance received under title IV of this Act, shall not exceed the cost of attendance, as defined in section 472 of this Act, at the institution the individual is attending. If the amount of the Congressional Teacher Scholarship assistance and assistance received under title IV of this Act, exceeds the cost of attendance, the Congressional Teacher Scholarship shall be reduced by an amount equal to the amount by which the combined awards exceed the cost of attendance.

"(d) ASSISTANCE NOT TO EXCEED COST OF ATTENDANCE.—No individual shall receive an award under the Congressional Teacher Scholarship established under this subpart, in any academic year, which exceeds the cost of attendance, as defined in section 472 of this Act, at the institution the individual is attending.

"SELECTION OF CONGRESSIONAL TEACHER SCHOLARS

20 USC 1111d.

"SEC. 555. (a) SELECTION BY STATEWIDE PANELS.—Congressional Teacher Scholars shall be selected by a seven-member statewide panel appointed by the chief State elected official, acting in consultation with the State educational agency, or by an existing grant agency or panel designated by the chief State elected official and approved by the Secretary of Education. The statewide panel shall be representative of school administrators, teachers, including preschool teachers, and parents.

"(b) ELIGIBILITY FOR SELECTION; SELECTION CRITERIA AND PROCEDURES.—Selections of Congressional Teacher Scholars shall be made from students who have graduated or who are graduating from high

school and who rank in the top 10 percent of their graduating class. The State educational agency shall make applications available to public and private nonprofit high schools in the State and in other locations convenient to applicants, parents, and others. The statewide panel shall develop criteria and procedures for the selection of Congressional Teacher Scholars. Such criteria may include the applicant's high school grade point average, involvement in extracurricular activities, financial need, and expression of interest in teaching as expressed in an essay written by the applicant. The panel may also require the applicant to furnish letters of recommendation from teachers and others.

"SCHOLARSHIP CONDITIONS

"SEC. 556. Recipients of scholarship assistance under this subpart shall continue to receive such scholarship payments only during such periods that the State agency finds that the recipient is— 20 USC 1111e.

"(1) enrolled as a full-time student in an accredited postsecondary institution;

"(2) pursuing a course of study leading to teacher certification; and

"(3) maintaining satisfactory progress as determined by the postsecondary institution the recipient is attending.

"SCHOLARSHIP REPAYMENT PROVISIONS

"SEC. 557. Recipients found by the State agency to be in noncompliance with the agreement entered into under section 553(b)(4) of this subpart shall be required to repay a pro rata amount of the scholarship awards received, plus interest and, where applicable, reasonable collection fees, on a schedule and at a rate of interest to be prescribed by the Secretary by regulations issued pursuant to this subpart. 20 USC 1111f.

"EXCEPTIONS TO REPAYMENT PROVISIONS

"SEC. 558. (a) DEFERRAL DURING CERTAIN PERIODS.—A recipient shall not be considered in violation of the agreement entered into pursuant to section 553(b)(4)(C) during any period in which the recipient— 20 USC 1111g.

"(1) is pursuing a full-time course of study related to the field of teaching at an eligible institution;

"(2) is serving, not in excess of 3 years, as a member of the armed services of the United States;

"(3) is temporarily totally disabled for a period of time not to exceed 3 years as established by sworn affidavit of a qualified physician;

"(4) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

"(5) is seeking and unable to find full-time employment for a single period not to exceed 12 months;

"(6) is seeking and unable to find full-time employment as a teacher in a public or private nonprofit pre-school, elementary or secondary school or a public or private nonprofit pre-school, education program; or

"(7) satisfies the provisions of additional repayment exceptions that may be prescribed by the Secretary in regulations issued pursuant to this subpart.

"(b) FORGIVENESS IF PERMANENTLY TOTALLY DISABLED.—A recipient shall be excused from repayment of any scholarship assistance received under this subpart if the recipient becomes permanently totally disabled as established by sworn affidavit of a qualified physician.

"FEDERAL ADMINISTRATION OF STATE PROGRAMS; JUDICIAL REVIEW

20 USC 1111h.

"SEC. 559. (a) DISAPPROVAL HEARING REQUIRED.—The Secretary shall not finally disapprove any application for a State program submitted under section 553, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

"(b) SUSPENSION OF ELIGIBILITY.—Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering a State program approved under this subpart, finds—

"(1) that the State program has been so changed that it no longer complies with the provisions of this subpart, or

"(2) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Secretary shall notify such State agency that the State will not be regarded as eligible to participate in the program under this subpart until the Secretary is satisfied that there is no longer any such failure to comply.

"(c) COURT REVIEW.—(1) If any State is dissatisfied with the Secretary's final action under subsection (b) (1) or (2), such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Secretary shall forthwith certify and file in the court the transcript of the proceedings and the record on which the action was based.

"(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify any previous action, and shall certify to the court the transcript and record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"SUBPART 2—CHRISTA MCAULIFFE FELLOWSHIP PROGRAM

"DECLARATION OF PURPOSE; DESIGNATION

20 USC 1113.

"SEC. 561. (a) PURPOSE.—It is the purpose of this subpart to establish a national fellowship program for outstanding teachers.

"(b) DESIGNATION.—Individuals awarded fellowships under this subpart shall be known as 'Christa McAuliffe Fellows'.

"USE OF FUNDS FOR FELLOWSHIPS AND ADMINISTRATION

"SEC. 562. Funds appropriated for any fiscal year for fellowships to outstanding teachers under this subpart shall be used to award fellowships in accordance with the requirements of this subpart, except that not more than 2.5 percent of such funds shall be used for purposes of administering this subpart. 20 USC 1113a.

"CHRISTA MCAULIFFE FELLOWSHIPS

"SEC. 563. (a) AWARD DISTRIBUTION AND AMOUNTS.—(1) Except as provided under paragraph (3), sums available for the purpose of this subpart shall be used to award one national teacher fellowship to a public or private school teacher teaching in each congressional district of each State, and in the District of Columbia, and the Commonwealth of Puerto Rico; and one such fellowship in Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. 20 USC 1113b.

"(2) Fellowship awards may not exceed the average national salary of public school teachers in the most recent year for which satisfactory data are available, as determined by the Secretary. Christa McAuliffe teacher fellows may not receive an award for 2 consecutive years. Subject to the repayment provisions of section 566, Christa McAuliffe teacher fellows shall be required to return to a teaching position in their current school district or private school system for at least 2 years following the fellowship award.

"(3) If the appropriation for this subpart under section 502(d) is not sufficient to provide the number of fellowships required by paragraph (1) at the level required under paragraph (2), the Secretary shall determine and publish an alternative distribution of fellowships which will permit fellowship awards at that level and which is geographically equitable. The Secretary shall send a notice of such determination to each of the statewide panels established under section 564.

"(b) USE OF AWARDS.—Christa McAuliffe teacher fellows may use such awards for such projects for improving education as the Secretary may approve, including (1) sabbaticals for study or research directly associated with the objectives of this part, or academic improvement; (2) consultation with or assistance to other school districts or private school systems; (3) development of special innovative programs; or (4) model teacher programs and staff development.

"SELECTION OF CHRISTA MCAULIFFE TEACHER FELLOWSHIPS

"SEC. 564. Recipients of Christa McAuliffe teacher fellowship in each State shall be selected (in accordance with section 565) by a 7-member statewide panel appointed by the chief State elected official, acting in consultation with the State educational agency, or by an existing panel designated by the chief State elected official and approved by the Secretary. The statewide panel shall be representative of school administrators, teachers, parents, and institutions of higher education. 20 USC 1113c.

"EVALUATION OF APPLICATIONS

"SEC. 565. (a) SUBMISSION TO AND REVIEW BY STATEWIDE PANEL.—An applicant for Christa McAuliffe teacher fellowship assistance shall submit a proposal for a project under section 563(b), and shall 20 USC 1113d.

indicate the extent to which the applicant wishes to continue current teaching duties. The applicant shall submit such a proposal to the local education agency for comment prior to submission to the statewide panel (appointed under section 564) for the State within which the proposed project is to be conducted. In evaluating proposals, such statewide panel shall consult with the local education agency, requesting 2 recommendations from teaching peers; a recommendation from the principal; and a recommendation of the superintendent on the quality of the proposal and its benefit to education; and any other criteria for awarding fellowships as is considered appropriate by such statewide panel. Selection of fellows shall be made in accordance with regulations prescribed by the Secretary of Education.

"(b) PUBLIC ANNOUNCEMENT.—Announcement of awards shall be made in a public ceremony.

"FELLOWSHIP REPAYMENT PROVISIONS

20 USC 1113e.

"SEC. 566. Repayment of the award shall be made to the Federal Government in the case of fraud or gross noncompliance.

"PART E—STATE TASK FORCES ON TEACHER TRAINING

"STATE TASK FORCES ON TEACHER TRAINING

20 USC 1115.

"SEC. 571. (a) IN GENERAL.—No institution of higher education or other entity in any State shall be eligible for assistance under this title for any fiscal year beginning on or after October 1, 1987, unless—

"(1) the State educational agency has established a task force on teacher training in accordance with the requirements of subsections (b) and (c); or

"(2) the Secretary waives the requirements of this section if the State educational agency has substantially complied with the requirements of paragraphs (1), (2), and (3) of subsection (b), and submits evidence to the Secretary showing such compliance.

"(b) TASK FORCE.—The State educational agency, in consultation with the task force established under this section, shall be responsible—

"(1) for conducting a statewide assessment of the State's needs for recruiting, retaining, retraining, and improving the performance of, instructional and administrative personnel in pre-schools, elementary and secondary schools within the State;

"(2) for developing plans to meet the needs identified pursuant to paragraph (1); and

"(3) for conducting such activities in cooperation with the State needs assessment required under section 208 of the Education for Economic Security Act (20 U.S.C. 3968).

"(c) MEMBERSHIP OF TASK FORCE.—A task force established under this section shall be composed of at least one representative of each of the following:

"(1) The Governor of the State.

"(2) The chief State school officer.

"(3) The State higher education executive officer.

"(4) The State board of education.

"(5) The deans of the schools or colleges of education within the State.

"(6) The presidents of colleges and universities within the State.

"(7) Pre-school, elementary and secondary school teachers.

"(8) Elementary and secondary school administrators, including local superintendents and principals.

"(9) The State legislature.

"(10) Private nonprofit pre-school, elementary and secondary education.

"(d) ALTERNATIVE MEMBERSHIP.—Any previously existing State organization or entity whose membership is substantially the same as the membership required by subsection (c) may, with the approval of the State educational agency, assume the responsibilities of the task force on teacher training under this section.

"(e) LONG-RANGE PLANNING.—From the funds available to carry out this subpart, a State educational agency may apply to the Secretary for assistance in order to develop a long-range plan, in consultation with the task force established under this section. Such plan shall—

"(1) assess the supply and determine the future needs of educators in the State, including early childhood education and development specialists;

"(2) assess the ability of teacher training institutions, the State educational agency, and local educational agencies within the State to meet such needs;

"(3) describe the steps being taken within the State to improve the qualifications and performance of practicing and prospective educators and the availability of training resources for such educators;

"(4) if determined to be appropriate by the State education agency, establish a program of competitive grants to local educational agencies, professional organizations, institutions of higher education, and consortia of such agencies and institutions within the State that are allocated in accordance with specific criteria developed by the task force on teacher training; and

"(5) provide for the performance of such other activities as are deemed appropriate to carry out purposes of this subpart.

"(f) DISPOSITION OF FUNDS TO STATES.—Funds appropriated for this subpart shall be allocated among the States based on the number of children aged 5 through 17, inclusive, except that no State shall receive less than the greater of $10,000 or 0.01 percent of the amount so appropriated.

"(g) STATE APPLICATIONS.—A State educational agency which desires to obtain a grant under this subpart shall file an application with the Secretary which—

"(1) describes the methods which will be used to insure active and continuing consultation with the task force;

"(2) provides for timely public notice and public dissemination of the information collected and plans developed; and

"(3) ensures that the State educational agency will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation, consistent with the responsibilities of the Secretary under this subpart.".

20 USC 4201-4206. 42 USC 9801 note.

(b) CONFORMING AMENDMENT.—The Human Services Reauthorization Act (Public Law 98-558) is amended by striking out title IX, relating to leadership in educational administration development.

SEC. 502. TAFT INSTITUTE.

94 Stat. 1502.

Section 1373 of the Education Amendments of 1980, relating to the Robert A. Taft Institute, is amended by inserting after "1985" a comma and the following: "$750,000 for the fiscal year 1986 and for each succeeding fiscal year ending prior to October 1, 1988".

TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

SEC. 601. FINDINGS AND PURPOSES.

Section 601 of the Act is amended to read as follows:

"FINDINGS AND PURPOSES

20 USC 1121.

"SEC. 601. (a) The Congress finds that—

"(1) the well-being of the United States, its economy and long-range security, is dependent on the education and training of Americans in international and foreign language studies and on a strong research base in these areas;

"(2) knowledge of other countries and the ability to communicate in other languages is essential to the promotion of mutual understanding and cooperation among nations; and

"(3) present and future generations of Americans must be afforded the opportunity to develop to the fullest extent possible their intellectual capacities in all areas of knowledge.

"(b) It is the purpose of this part to assist in the development of knowledge, international study, resources and trained personnel, to stimulate the attainment of foreign language acquisition and fluency, and to coordinate the programs of the Federal Government in the areas of foreign language and international studies and research.".

SEC. 602. LANGUAGE AND AREA CENTERS.

20 USC 1122.

(a) AUTHORITY TO MAKE GRANTS.—(1) Section 602(a)(1) of the Act is amended to read as follows:

"SEC. 602. (a)(1) The Secretary is authorized—

"(A) to make grants to institutions of higher education, or combinations thereof, for the purpose of establishing, strengthening, and operating comprehensive language and area centers and programs; and

"(B) to make grants to such institutions or combinations for the purpose of establishing, strengthening, and operating undergraduate language and area centers and programs,

which will be national resources for teaching of any modern foreign language, for instruction in fields needed to provide full understanding of areas, regions, or countries in which such language is commonly used, for research and training in international studies, and the international and foreign language aspects of professional and other fields of study, and for instruction and research on issues in world affairs which concern one or more countries.".

(2) Section 602(a)(2) of the Act is amended by striking out "or contract".

(3) Section 602(a)(3) is amended by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1)(A)".

(b) STIPEND AND TRAVEL REQUIREMENTS.—Section 602 is further amended by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b)(1)(A) The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions for the purpose of paying stipends to individuals undergoing advanced training in any center or program approved by the Secretary under this part.

"(B) Stipend recipients shall be individuals who are engaged in a program of competency-based language training, in a program of competency-based training, or in a program developing competency-based language training, in combination with area studies, international studies, or the international aspects of a professional studies program.

"(C) Stipends awarded to graduate level recipients may include allowances for dependents and for travel for research and study in the United States and abroad.

"(2)(A) The Secretary is also authorized to award, on the basis of a national competition, stipends to students beginning their third year of graduate training.

"(B) Stipend recipients shall be selected by a nationally recognized panel of scholars on the basis of exceptional performance (on a nationally referenced test, if available) in the specialty language and evidence of substantial multidisciplinary area training.

"(C) Stipends may be held for up to a maximum 4 years contingent on periodic demonstration of a high level of language proficiency.

"(D) Stipends may be used for continuation of studies at the institution where the recipient is currently enrolled and for the conduct of research and advanced language study abroad.

"(3) The Secretary is not authorized to make awards under paragraph (2) for any fiscal year unless the amount made available by grants under paragraph (1) for such fiscal year equals or exceeds the current services equivalent of the level of funding during fiscal year 1985 under paragraph (1).

"(c) No funds may be expended under this part for undergraduate travel except in accordance with rules prescribed by the Secretary setting forth policies and procedures to assure that Federal funds made available for such travel are expended as part of a formal program of supervised study.".

SEC. 603. FOREIGN LANGUAGE RESOURCE CENTERS.

Section 603 of the Act is amended to read as follows:

"LANGUAGE RESOURCE CENTERS

"SEC. 603. (a) The Secretary is authorized to make grants to and enter into contracts with institutions of higher education, or combinations of such institutions, for the purpose of establishing, strengthening, and operating language training centers, which shall serve as resources to improve the capacity to teach and learn foreign languages effectively. Activities carried out by such centers may include— Grants. Contracts. 20 USC 1123.

"(1) the conduct of research on new and improved teaching methods, including the use of advanced educational technology;

"(2) the development of new teaching materials reflecting the use of such research in effective teaching strategies;

"(3) the development and application of proficiency testing appropriate to an educational setting for use as a standard and comparable measurement of skill levels in all languages;

"(4) the training of teachers in the administration and interpretation of proficiency tests, the use of effective teaching strategies, and the use of new technologies;

"(5) the publication of instructional materials in the less commonly taught languages; and

"(6) the widespread dissemination of research results, teaching materials, and improved pedagogical strategies to others within the postsecondary education community.

"(b) Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the provisions of this section.".

SEC. 604. UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS.

20 USC 1124.

(a) CLARIFYING PROVISION.—The matter preceding clause (1) of section 604 of the Act is amended by striking out "comprehensive" each place it appears.

(b) TYPE OF TRAINING.—Section 604(a)(7) of the Act is amended by inserting before "teacher" the following: "pre-service and in-service".

(c) MODEL PROGRAMS.—Section 604 is further amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

Grants.

"(b)(1) The Secretary is also authorized to make grants to institutions of higher education whose applications are approved under subsection (a) for the purpose of providing assistance to model programs designed to improve and expand foreign language studies at those institutions. Any institution of higher education desiring to receive a grant under this subsection shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require.

"(2)(A) An institution of higher education shall not be eligible for a grant under this subsection for a fiscal year unless—

"(i) the sum of the number of students enrolled at such institution in qualified postsecondary language courses on October 1 of that fiscal year exceeds 5 percent of the total number of students enrolled at such institution; and

"(ii) such institution requires that each entering student have successfully completed at least 2 years of secondary school foreign language instruction or requires that each graduating student have earned 2 years of postsecondary credit in a foreign language (or have demonstrated equivalent competence in a foreign language).

"(B) For the purpose of subparagraph (A)(i), the total number of students enrolled in an institution shall be considered to be equal to the sum of (i) the number of full-time degree candidate students enrolled at the institution, and (ii) the number of part-time degree candidate students who are enrolled at the institution for an academic workload which is at least half the full-time academic workload, as determined by the institution in accordance with standards prescribed by the Secretary.

Report.

"(3) As a condition for the award of any grant under this subsection, the Secretary may establish criteria for evaluating programs assisted with funds under this subsection and require an annual

report which evaluates the progress and proficiency of students in such programs.".

SEC. 605. INTENSIVE SUMMER LANGUAGE INSTITUTES.

Title VI of the Act is further amended—

(1) by redesignating sections 605, 606, and 607 as sections 606, 609, and 610, respectively; and 20 USC 1125-1127.

(2) by inserting after section 604 the following new section:

"INTENSIVE SUMMER LANGUAGE INSTITUTES

"SEC. 605. (a)(1) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, for the purpose of establishing and conducting intensive summer language institutes. 20 USC 1124a.

"(2) Training authorized by this section shall be provided through—

"(A) institutes designed to meet the needs for intensive language training by advanced foreign language students;

"(B) institutes designed to provide professional development and improve language instruction through pre-service and in-service training for language teachers; or

"(C) institutes that combine the purposes of subparagraphs (A) and (B).

"(3) Grants made under this section may be used for—

"(A) intensive training in languages critical to the national economic and political future;

"(B) training in neglected languages; and

"(C) stipends for students and faculty attending the institutes authorized by this section.

"(4) Institutes supported under this section may provide instruction on a full-time or part-time basis to supplement instruction not fully available in centers supported under section 602.

"(b) Grants made under this section shall be awarded on the basis of recommendations made by peer review panels composed of broadly representative professionals.".

SEC. 606. RESEARCH; STUDIES; ANNUAL REPORT.

(a) RESEARCH AND STUDIES.—Section 606 (as redesignated by section 605 of this Act) is amended— 20 USC 1125.

(1) by striking out "and part N of title III of the Elementary and Secondary Education Act of 1965";

(2) by striking out "and" at the end of paragraph (2);

(3) by redesignating paragraph (3) as paragraph (4);

(4) by inserting after paragraph (2) the following new paragraph:

"(3) the application of proficiency tests and standards across all areas of foreign language instruction and classroom use; and"; and

(5) by inserting "and publication" after "development" in paragraph (4) (as redesignated by this section).

(b) CONFORMING AMENDMENT.—Subsection (b) of such section is amended to read as follows:

"(b) The Secretary shall prepare and publish an annual report listing the books and research materials produced with assistance under this title.". Report.

SEC. 607. PERIODICALS PUBLISHED OUTSIDE THE UNITED STATES.

Title VI of the Act is further amended by inserting after section 606 (as redesignated by section 605 of this Act) the following new section:

"PERIODICALS PUBLISHED OUTSIDE THE UNITED STATES

20 USC 1125a.

"SEC. 607. (a) In addition to the amount authorized to be appropriated by section 609, there are authorized to be appropriated $1,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years to provide assistance for the acquisition of, and provision of access to, periodicals published outside the United States.

Grants.

"(b) From the amount appropriated under subsection (a) for any fiscal year, the Secretary shall make grants to institutions of higher education or public or nonprofit private library institutions or consortia of such institutions for the following purposes:

"(1) to acquire periodicals published outside the United States which are not commonly held by American academic libraries and which are of scholarly or research importance;

"(2) to maintain current bibliographic information on periodicals thus acquired in machine-readable form and to enter such information into one or more of the widely available bibliographic data bases;

"(3) to preserve such periodicals; and

"(4) to make such periodicals available to researchers and scholars.

Libraries.

"(c) The Secretary shall approve as a recipient of a grant under this section only an institution or consortium which has an established library or consortium of libraries with collection strengths in either specific geographical areas of the world or particular fields or issues in world affairs which concern one or more countries, or both, and which demonstrates a commitment to share the resources of the collection.

"(d) Nothing in this section shall be considered to amend, affect, or define the provisions of title 17, United States Code, relating to copyright.".

SEC. 608. SELECTION OF GRANT RECIPIENTS.

Title VI of the Act is further amended by inserting after section 607 (as added by section 607 of this Act) the following new section:

"SELECTION OF GRANT RECIPIENTS

20 USC 1125b.

"SEC. 608. (a) The Secretary shall award grants under section 602 competitively on the basis of criteria that separately, but not less rigorously, evaluate the applications for comprehensive and undergraduate language and area centers and programs.

"(b) The Secretary shall set criteria for grants awarded under section 602 by which a determination of excellence shall be made to meet the differing objectives of graduate and undergraduate institutions.

"(c) The Secretary shall, to the extent practicable, award grants under this part (other than section 602(a)(1)) in such manner as to achieve an equitable distribution of assistance throughout the Nation, based on the merit of a proposal with peer review by broadly representative professionals.".

SEC. 609. REAUTHORIZATION OF PART A.

Section 610 of the Act (as redesignated by section 605 of this Act) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 610. There are authorized to be appropriated to carry out this part $49,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.". 20 USC 1127.

SEC. 610. BUSINESS AND INTERNATIONAL EDUCATION PROGRAMS.

Section 611(a)(1) of the Act is amended by inserting "and educational" after "skills in the business". 20 USC 1130.

SEC. 611. OVERSEAS INTERNSHIPS.

Section 612(b) of the Act is amended— 20 USC 1130a.

(1) by striking out "and" at the end of paragraph (8);

(2) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (9) the following new paragraph:

"(10) the establishment of internships overseas to enable foreign language students to develop their foreign language skills and knowledge of foreign cultures and societies.".

SEC. 612. REAUTHORIZATION OF PART B.

Section 613 of the Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 613. There are authorized to be appropriated to carry out this part $5,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.". 20 USC 1130b.

SEC. 613. ADVISORY BOARD.

Section 621 of the Act is amended to read as follows:

"ADVISORY BOARD

"SEC. 621. (a) Not less than 2 times each year the Secretary shall convene an advisory board on the conduct of programs under this title. The Advisory Board shall consist of— 20 USC 1131.

"(1) 5 members selected by the Secretary from among members of the postsecondary educational community, at least two of whom shall be considered by their peers to be specialists in one or more fields of language, area, or international studies;

"(2) 2 members selected by the Secretary from among members of the public; and

"(3) 2 members selected by the Secretary from among representatives of the business community.

"(b) The Secretary may consult with, or include as ad hoc ex officio participants in Advisory Board meetings, a representative from any appropriate executive agency.

"(c) The Advisory Board shall advise the Secretary on—

"(1) any geographic areas of special concern to the United States;

"(2) innovative approaches which may help to fulfill the purposes of this title;

"(3) changes which should be made in the operation of programs under this part to ensure that the attention of scholars is attracted to problems of critical concern to United States international relations;

"(4) emerging trends within various segments (pre-college, undergraduate, graduate, and postgraduate) of the international education community;

"(5) administrative and staffing requirements of international education programs in the Department; and

"(6) special needs with regard to the programs operated under part B.

"(d) The Advisory Board shall advise the Secretary and the Congress on adequate budget levels for parts A and B of this title.".

SEC. 614. DEFINITIONS.

20 USC 1132.

Section 622 of the Act is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon; and

(3) by inserting at the end thereof the following:

"(5) the term 'comprehensive language and area center' means an administrative unit of a university that contributes significantly to the national interest in advanced research and scholarship, employs a critical mass of scholars in diverse disciplines related to a geographic concentration, offers intensive language training in languages of its area specialization, maintains important library collections related to the area, and makes training available in language and area studies to a graduate, postgraduate, and undergraduate clientele; and

"(6) the term 'undergraduate language and area center' means an administrative unit of an institution of higher education, including but not limited to 4-year colleges, that contributes significantly to the national interest through the education and training of students who matriculate into advanced language an area studies programs, professional school programs, or incorporates substantial international and foreign language content into baccalaureate degree programs, engages in research, curriculum development and community outreach activities designed to broaden international and foreign language knowledge, employs faculty with strong language, area, and international studies credentials, maintains library holdings, including basic reference works, journals, and works in translation, and makes training available predominantly to undergraduate students.".

TITLE VII—CONSTRUCTION AND RENOVATION

SEC. 701. REVISION OF TITLE VII.

Title VII of the Act is amended to read as follows:

"TITLE VII—CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

"PURPOSES

20 USC 1132a.

"SEC. 701. (a) IN GENERAL.—The Secretary shall carry out programs of financial assistance to institutions of higher education and

to higher education building agencies for the construction, reconstruction, or renovation of academic facilities and the acquisition and maintenance of special research and instructional instrumentation and equipment if the primary purpose of such assistance is to enable such institutions—

"(1) to bring their facilities into conformity with the requirements of—

"(A) the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968; 42 USC 4151 note.

"(B) section 504 of the Rehabilitation Act of 1973; 29 USC 794.

"(C) environmental protection or health and safety programs mandated by Federal, State, or local law, if such requirements were not in effect at the time such facilities were constructed; or

"(D) hazardous waste disposal, treatment, and storage requirements mandated by the Resource Conservation and Recovery Act of 1976, or similar State statutes; 42 USC 6901 note.

"(2) to more efficiently use available energy resources, especially coal, solar power, and other renewable energy resources; Energy.

"(3) to detect, remove, or otherwise contain asbestos hazards in academic and other facilities used by students, in accordance with regulations prescribed by the Secretary; Asbestos.

"(4) to construct, reconstruct, or renovate the Nation's academic research and instructional instrumentation and facilities, including libraries, and to acquire and maintain special research and instructional instrumentation and equipment; Libraries.

"(5) to provide facilities for advanced skill training programs that relate to emerging technologies and skill needs;

"(6) with unusual increases in enrollment or with significant internal programmatic enrollment shifts (according to data and criteria established by the Secretary) to construct, reconstruct, or renovate their facilities; or

"(7) to preserve significant architecture. Preservation.

"(b) PRIORITY ON RENOVATION.—In the awarding of grants under this title, priority shall be given to projects involving the renovation of facilities.

"APPROPRIATIONS AUTHORIZED

"SEC. 702. (a) PARTS A AND B.—There are authorized to be appropriated— 20 USC 1132a-1.

"(1) $15,000,000 for part A for fiscal year 1987,

"(2) $10,000,000 for part B for such fiscal year, and

"(3) such sums as may be necessary for parts A and B for each of the 4 succeeding fiscal years,

except that no funds may be appropriated for parts A and B for any such fiscal year unless at least $20,000,000 is appropriated for part E of this title for such fiscal year.

"(b) OTHER PROGRAMS.—There are authorized to be appropriated—

"(1) $25,000,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years for part C;

"(2) $25,000,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years for part D; and

"(3) $20,000,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years for part E.

"PART A—GRANTS FOR THE CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF UNDERGRADUATE ACADEMIC FACILITIES

"STATE PLAN

20 USC 1132b.

"SEC. 711. (a) SUBMISSION AND CONTENTS OF PLAN.—Any State desiring to participate in the grant program authorized by this part shall have an agreement pursuant to section 1203 and submit annually to the Secretary, through the State agency designated in such agreement, a State plan which shall—

"(1) provide that the plan shall be administered by the State entity having an agreement under section 1203;

"(2) set forth objective standards and methods which are consistent with basic criteria established under section 712, for—

"(A) determining the relative priorities of eligible projects submitted by institutions of higher education within the State, and

"(B) certifying the Federal share of the cost of each project;

"(3) provide for every applicant an opportunity for a hearing before the State agency regarding the priority assigned to such project, or any other decision by the State agency adversely affecting such applicant; and

"(4) provide for accounting procedures necessary to assure proper disbursement of Federal funds.

"(b) HEARING REQUIRED BEFORE DISAPPROVAL.—The Secretary shall not disapprove any State plan, or modification thereof, without first affording the State agency reasonable notice and opportunity for a hearing.

"(c) SUSPENSION FOR NONCOMPLIANCE.—Whenever the Secretary finds that the State plan substantially fails to comply with this section, the Secretary shall notify the State that it is ineligible to participate in the program under this part until a determination is made that there is no longer a failure to comply.

"BASIC CRITERIA

State and local governments. Regulations. 20 USC 1132b-1.

"SEC. 712. (a) SECRETARY TO PRESCRIBE CRITERIA.—The Secretary shall, by regulation, prescribe basic criteria for the consideration of State plans which ensure—

"(1) flexibility for States to accommodate the varied needs of institutions in the States;

"(2) consideration of the degree to which applicant institutions are effectively using existing facilities; and

"(3) that the Federal share shall not exceed 50 percent of the development costs of a project.

"(b) RULEMAKING PROCEDURES REQUIRED.—Section 553 of title 5, United States Code, shall apply to the prescription of regulations under this section.

"ALLOTMENT OF FUNDS

State and local governments. Grants. 20 USC 1132b-2.

"SEC. 713. (a) USE FOR PUBLIC COMMUNITY COLLEGES AND TECHNICAL INSTITUTES; OTHERS.—From the sums appropriated pursuant to section 702 to carry out the purposes of this part, not less than 24 percent shall be allotted to States under subsection (b) for public community colleges and public technical institutes. The remainder

of such sums shall be allotted to States under subsection (c) for all other institutions of higher education.

"(b) ALLOTMENT FOR PUBLIC COMMUNITY COLLEGES AND TECHNICAL INSTITUTES.—(1) For the purpose of making grants to public community colleges and public technical institutes, the Secretary shall allot to each State an amount which bears the same ratio to the amount available for allotment under this subsection as the product of—

"(A) the number of persons in the State who have graduated from high school or received an equivalent certificate during the previous school year, and

"(B) the State's allotment ratio,

bears to the sum of the corresponding products for all the States.

"(2)(A) Except as provided in subparagraph (B), the allotment ratio shall be 1.00 less the product of—

"(i) 0.50, and

"(ii) the quotient obtained by dividing the income per person for the State by the income per person for all States (not including Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam).

"(B) Notwithstanding subparagraph (A)—

"(i) the allotment ratio shall in no case be less than 0.33 1/3 or more than 0.66 2/3;

"(ii) the allotment ratio for Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam shall be 0.66 2/3; and

Puerto Rico. Virgin Islands. American Samoa. Trust Territory of the Pacific Islands. Guam.

"(iii) the allotment ratio of any State shall be 0.50 for any fiscal year if the Secretary finds that the cost of school construction in such State exceeds twice the median of such costs in all the States as determined by the Secretary on the basis of statistics and data as the Secretary shall deem adequate and appropriate.

"(C) Allotment ratios shall be promulgated annually by the Secretary on the basis of the average personal income in the State and in all the States for the three most recent consecutive calendar years for which data are available from the Department of Commerce.

"(c) ALLOTMENT FOR OTHER INSTITUTIONS.—For the purpose of making grants to all other institutions of higher education, the Secretary shall allot to each State—

"(1) an amount which bears the same ratio to 50 percent of the amount available for allotment under this subsection as the number of students enrolled in institutions of higher education in such State bears to the number of students so enrolled in all States; and

"(2) an amount which bears the same ratio to 50 percent of the amount available for allotment under this subsection as the number of students enrolled in grades 9 through 12 of schools in such State bears to the total number of students so enrolled in all the States.

"(d) AGGREGATE LIMITS AND RATABLE REDUCTIONS.—The aggregate amount allotted to any State under subsections (b) and (c) for any fiscal year shall not be less than $100,000. If the sums appropriated pursuant to section 702 are not sufficient to make payments to each State, then the amount of each State's allotment shall be ratably reduced.

"(e) REALLOCATION.—(1) Any portion of a State's allotment under subsections (b) and (c) for any fiscal year for which applications from

qualified institutions have not been received by the State agency prior to January 1 of such fiscal year shall, by request, be available for payment of the Federal share of cost of other approved projects.

"(2) Amounts allotted under this section for any fiscal year which are not used by the close of the fiscal year shall be reallotted by the Secretary among the States which are able to use the funds without delay during the next fiscal year.

"(f) USE FOR CONSTRUCTION, RECONSTRUCTION, RENOVATION.—Funds available under this part may be used for construction, reconstruction, or renovation of undergraduate facilities and combined graduate and undergraduate facilities.

"(g) USE FOR MAINTENANCE.—In addition, an amount less than or equal to 10 percent of that portion of an award granted under this part which is allotted by the recipient to meet costs of—

"(1) research or instructional instrumentation and equipment, and

"(2) equipment and structural changes necessary to ensure the proper functioning of such research or instructional instrumentation and equipment,

may be allocated by the recipient for maintenance of equipment and changes described in paragraphs (1) and (2). Part or all of this percentage may also be applied to costs of upgrading such equipment and structural changes within three years of the date of initial use, if the recipient deems such upgrading essential to the continued utility (usefulness) of such research or instructional instrumentation and equipment.

"PART B—GRANTS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF GRADUATE ACADEMIC FACILITIES

"GRANTS

20 USC 1132c.

"SEC. 721. (a) GRANT TO INSTITUTIONS; STATE LIMITATION.—(1) Funds available for this part shall be used by the Secretary to make grants to graduate institutions of higher education whose applications for assistance are consistent with the objectives of this title.

"(2) The total payment for any fiscal year made to institutions of higher education in any State shall not exceed 12.5 percent of sums appropriated for this part.

"(b) PEER REVIEW REQUIRED.—In making grants under this section, the Secretary shall utilize a national peer review panel. The National Peer Review Panel shall be broadly representative of all types and classes of institutions of higher education in the United States. Such panel shall make recommendations to the Secretary based on their assessment of—

"(1) the effectiveness of the program in the proposed use of Federal assistance; and

"(2) the extent to which the receipt of the grant will assist the institution in overcoming deficiencies in existing equipment and facilities.

"(c) COST LIMITATIONS.—The amount of the grant shall not exceed 50 percent of the development cost of the project. No funds or resources provided through Federal programs shall be used to meet the institution's share of the program supported under this section.

"(d) USE FOR MAINTENANCE.—An amount less than or equal to 10 percent of that portion of an award granted under this part which is allotted by the recipient to meet costs of—

"(1) research or instructional instrumentation and equipment, and

"(2) equipment and structural changes necessary to ensure the proper functioning of such research or instructional instrumentation and equipment,

may be allocated by the recipient for maintenance of equipment and changes described in paragraphs (1) and (2). Part or all of this percentage may also be applied to costs of upgrading such equipment and structural changes within three years of the date of initial use, if the recipient deems such upgrading essential to the continued utility (usefulness) of such research or instructional instrumentation and equipment.

"PART C—LOANS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

"ELIGIBILITY CONDITIONS, AMOUNTS, AND TERMS

"SEC. 731. (a) SELECTION OF RECIPIENTS.—From the sums available for this part, the Secretary shall make and insure loans to institutions of higher education and to higher education building agencies for programs consistent with the purposes of this title. No loan shall be made unless the Secretary finds that— 20 USC 1132d.

"(1) not less than 20 percent of the development cost of the project will be financed from non-Federal sources;

"(2) the applicant is unable to secure the loan from other sources upon terms and conditions equally as favorable as those applicable to loans under this part;

"(3) the project will be undertaken in an economical manner; and

"(4) for any project with regard to an infirmary or other outpatient care facility for students and institutional personnel, assistance will not be provided under part F of this title.

"(b) TERMS OF LOANS.—Loans shall be repaid within 50 years and shall bear interest at (1) a rate annually determined by the Secretary which shall be not more than one-quarter of 1 percentage point above the average annual interest rate on all interest-bearing obligations of the United States forming a part of the public debt as computed at the end of the preceding fiscal year, adjusted to the nearest one-eighth of 1 percent, or (2) the rate of 5.5 percent per year, whichever is less.

"(c) USE FOR MAINTENANCE.—An amount less than or equal to 10 percent of that portion of a loan granted under this part which is allotted by the recipient to meet costs of—

"(1) research or instructional instrumentation and equipment, and

"(2) equipment and structural changes necessary to ensure the proper functioning of such research or instructional instrumentation and equipment,

may be allocated by the recipient for maintenance of equipment and changes described in paragraphs (1) and (2). Part or all of this percentage may also be applied to costs of upgrading such equipment and structural changes within three years of the date of initial use, if the recipient deems such upgrading essential to the continued utility (usefulness) of such research or instructional instrumentation and equipment.

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"GENERAL PROVISIONS FOR LOAN PROGRAM

20 USC 1132d-1.

"SEC. 732. (a) CONCLUSIVENESS OF SECRETARY'S TRANSACTIONS.—Financial transactions of the Secretary, except with respect to administrative expenses, shall be final and conclusive on all officers of the Government and shall not be reviewable by any court.

"(b) GENERAL AUTHORITY.—In the performance of, and with respect to, the functions vested in the Secretary by this part, the Secretary may—

Regulations.

"(1) prescribe such rules and regulations as may be necessary to carry out the purposes of this part;

Courts, U.S.

"(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and any action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of the Secretary or any vacancy in such office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under his control, and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 507(b) and 517 and 2679 of title 28, United States Code;

"(3) foreclose on any property and bid for and purchase at any foreclosure, or any other sale, any property in connection with which the Secretary has made a loan pursuant to this part; in the event of such an acquisition, notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real property by the United States, the Secretary may complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property; except that (A) such action shall not preclude any other action by the Secretary to recover any deficiency in the amounts loaned, and (B) any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

State and local governments.

"(4) sell, exchange, or lease real or personal property and securities or obligations;

Contracts.

"(5) modify, with respect to the rate of interest, the time of payment of principal, interest, security, or any other term of any contract or agreement to which the Secretary is a party, including—

"(A) granting a moratorium on the repayment of principal or interest to a party temporarily unable to make such repayment without undue financial hardship provided the applicant files, and the Secretary approves, a plan to make repayment; and

"(B) granting to a borrower of a loan made before October 1, 1986, the option of repaying the loan at a discount computed in accordance with subsection (c) if the Secretary has received satisfactory assurances that the facilities financed with the loan will continue to be used for purposes related to the educational institution for the original term of the loan, and the prepayment is (i) made from non-Federal sources, (ii) not derived from proceeds of obliga-

tions the income of which is exempt from taxation under the Internal Revenue Code of 1954, (iii) made on a loan that has been outstanding for at least 5 years, and (iv) is made prior to October 1, 1991; and

26 USC 1 *et seq.*

"(6) include in any contract such other covenants, conditions, or provisions necessary to ensure that the purposes of this title will be achieved.

Contracts.

"(c) COMPUTATION OF ALLOWABLE DISCOUNTS.—The Secretary shall compute the discount which may be offered to a borrower as an inducement to early repayment under subsection (b)(5) in an amount determined by the Secretary to be in the best financial interests of the Government, taking into account the yield on outstanding marketable obligations of the United States having maturities comparable to the remaining term of such loan.

"(d) NONDISCRIMINATION BETWEEN BORROWERS IN OFFERING DISCOUNTED PREPAYMENT.—(1) If the Secretary offers a discount as an inducement to early repayment under subsection (b)(5), such offer shall be available without regard to whether the borrower is delinquent or in default on the loan on or before October 1, 1986, but the Secretary shall refuse to make such offer to a borrower that becomes delinquent or goes into default after that date.

"(2) The discount offered shall apply, in the case of a borrower that complies with paragraph (1), to the entire amount outstanding on the loan (including any amount owed with respect to payments that are overdue).

"REVOLVING LOAN AND INSURANCE FUND

"SEC. 733. (a) ESTABLISHMENT.—There is created within the Treasury a revolving loan fund for the purpose of making and insuring loans under this part (hereafter referred to as the 'fund') which shall be available to the Secretary without fiscal year limitation. The total of any loans made from the fund in any fiscal year shall not exceed limitations specified in appropriations Acts.

20 USC 1132d-2.

"(b) MANAGEMENT OF FUND.—(1) The Secretary shall transfer to the fund appropriations provided under section 702 to provide capital for making loans. Interest and principal payments on loans, and any other moneys, property, or assets derived from activities under this part shall be deposited in the fund.

"(2) All loans, expenses, and payments pursuant to operation of this part shall be paid from the fund, including expenses and payments in connection with sale, pursuant to section 302(c) of the Federal National Mortgage Association Charter Act, of participations in obligations acquired under this part. At the close of each fiscal year, the Secretary shall pay interest on the cumulative amount of funds paid out for loans under this part less the average undisbursed cash balance in the fund during the year. The interest rate shall be determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of maturity comparable to the average maturity of loans made from the fund during the month preceding each fiscal year. Interest payments may be deferred with the approval of the Secretary of the Treasury, but interest payments so deferred shall themselves bear interest. If the Secretary determines that moneys in the fund exceed the present and prospective needs of the fund, the excess may be transferred to the general fund of the Treasury.

12 USC 1717.

"PART D—GRANTS TO PAY INTEREST ON DEBT

"ANNUAL INTEREST GRANTS

20 USC 1132e.

"SEC. 741. (a) GRANT AUTHORITY.—To assist institutions of higher education and higher education building agencies in reducing the cost of borrowing from other sources for projects under this part, the Secretary may make annual interest grants to such institutions and agencies with respect to any project made over a fixed period not exceeding 40 years, and provision for the grants shall be embodied in the contract guaranteeing their payment. Grants shall not be greater than the difference between (1) the average annual debt service which would be required to be paid during the life of the loan on the amount borrowed from other sources for the construction of such facilities, and (2) the average annual debt service which the institution or agency would have been required to pay during the life of the loan if the applicable interest rate had been determined by the Secretary in accordance with section 731(b).

"(b) LIMITS ON GRANTS.—The total amount of annual interest grants which may be paid to institutions of higher education and higher education building agencies in any year pursuant to contracts entered into for such year under this section shall not exceed $13,500,000.

"(c) STATE ALLOCATION LIMITS.—The total payment for any fiscal year made to institutions of higher education and higher education building agencies in any State shall not exceed 12.5 percent of sums appropriated for this section.

"(d) REQUIREMENTS FOR GRANTS.—No annual interest grant shall be made unless (1) assurance is provided that not less than 10 percent of the costs of the project will be financed from non-Federal sources, (2) the applicant is unable to secure a loan from other sources upon terms and conditions as favorable as those applicable to loans under this title, and (3) the project will be undertaken in an economical manner. Loans for which an interest grant is made shall, for purposes of this section only, not be considered financing from a non-Federal source.

"PART E—COLLEGE CONSTRUCTION LOAN INSURANCE ASSOCIATION

"CONGRESSIONAL DECLARATION OF PURPOSE; DEFINITION; INCORPORATION

20 USC 1132f.

"SEC. 751. (a) PURPOSE.—The Congress hereby declares that it is the purpose of this part to authorize participation of the United States Government and the Student Loan Marketing Association in a private, for profit corporation to be known as the College Construction Loan Insurance Association (hereinafter referred to as the 'Corporation') which will, directly or indirectly, alone or in collaboration with others—

"(1) guarantee, insure, and reinsure bonds, debentures, notes, evidences of debt, loans, and interests therein, the proceeds of which are to be used for an education facilities purpose;

"(2) guarantee and insure leases of personal, real, or mixed property to be used for an education facilities purpose; and

"(3) issue letters of credit and undertake obligations and commitments as the Corporation deems necessary to carry out the purposes described in paragraphs (1) and (2).

"(b) STATUS AS NON-GOVERNMENTAL ENTITY.—The Corporation shall not be an agency, instrumentality, or establishment of the United States Government and shall not be a 'Government corporation' nor a 'Government controlled corporation' as defined in section 103 of title 5, United States Code. No action under section 1491 of title 28, United States Code (commonly known as the Tucker Act) shall be allowable against the United States based on the actions of the Corporation.

"(c) CORPORATE POWERS AND LIMITATIONS.—The Corporation shall be subject to the provisions of this part and, to the extent not inconsistent with this part, to the District of Columbia Business Corporation Act. The business activities of the Corporation shall always be limited to the purposes set forth in subsection (a) of this section. It shall have the powers conferred upon a corporation by the District of Columbia Business Corporation Act as from time to time in effect in order to conduct its corporate affairs and to carry out its purposes and activities incidental thereto. 68 Stat. 177.

"(d) DEFINITION OF EDUCATION FACILITIES PURPOSE.—As used in this section, an 'education facilities purpose' includes any activity (including activities related to the payment of financing or transaction costs) relating to the construction, reconstruction, renovation, acquisition, or purchase of (1) education, training, or research facilities or housing for students, faculty, or staff, (2) any underlying real property or any interest therein, (3) furniture, fixtures, and equipment to be used in connection with any education or training facility or housing for students, faculty, or staff, and (4) instructional equipment and research instrumentation including site preparation for such equipment and instrumentation.

"CRITERIA FOR GUARANTEES AND INSURANCE

"SEC. 752. (a) GENERAL RULE.—The Corporation shall provide direct insurance, guarantees, and reinsurance on obligations issued for education facilities purposes only in accordance with the requirements of this section. 20 USC 1132f-1.

"(b) ALLOCATION OF REINSURANCE CAPACITY.—

"(1) At least the percentages specified in paragraph (2) of the aggregate dollar amount of bond and debenture issues reinsured by the Corporation shall be issues which, without insurance, are listed by a nationally recognized statistical rating organization at a rating below the third highest rating of such organization.

"(2) For the purpose of paragraph (1) of this subsection, the percentages specified in this paragraph shall be—

"(A) 10 percent for the first full year of operation of the Corporation;

"(B) 30 percent for the second full year of such operation; and

"(C) 50 percent for the third full year of such operation and thereafter.

"(3) No bond or debenture issue which is both reinsured and directly insured by the Corporation may be counted toward the fulfillment of the requirements of paragraph (1).

"(c) DIRECT INSURANCE AND GUARANTEE ACTIVITIES; LIMITATIONS.—

"(1) All of the assets and obligations directly covered by primary insurance or guarantees issued by the Corporation shall be assets or obligations of institutions which are, without

insurance or guarantee, listed by a nationally recognized statistical rating organization at a rating below the third highest rating of such organization.

"(2) At least the percentages specified in paragraph (3) of the aggregate dollar amount of the assets and obligations reinsured, insured, and guaranteed by the Corporation under this section shall be in the direct insurance and guarantee activities specified in this subsection.

"(3) For the purpose of paragraph (2) of this paragraph, the percentages specified in this paragraph shall be—

"(A) 10 percent for the first full year of operation of the Corporation;

"(B) 30 percent for the second full year of such operation; and

"(C) 50 percent for the third full year of such operation and thereafter.

Bonds.
Real property.

"(4) For the purpose of paragraph (1), the assets and obligations which may be directly covered by primary insurance or guarantees issued by the Corporation are—

"(A) bonds, debentures, notes, evidences of debt, loans, and interests therein, the proceeds of which are to be used for an education facilities purpose; and

"(B) leases of personal, real, or mixed property to be used for an education facilities purpose.

"(d) NOTICE OF SERVICES.—The Corporation shall take such steps as may be necessary to publicize the availability of its insurance and reinsurance programs under this section in a manner that assures that information concerning such programs will be available to each eligible institution.

"(e) NONDISCRIMINATION REQUIRED.—

"(1) The Corporation may not carry out any activities with respect to any educational facilities purpose of a participating institution if the institution discriminates on account of race, color, religion (subject to paragraph (2)), national origin, sex (to the extent provided in title IX of the Education Amendments of 1972), or handicapping condition.

20 USC 1681.

"(2) The prohibition with respect to religion shall not apply to an educational institution which is controlled by or which is closely identified with the tenets of a particular religious organization if the application of this section would not be consistent with the religious tenets of such organization.

"(3) Each participating institution shall certify to the Corporation that the institution does not discriminate as required by the provisions of paragraph (1).

"PROCESS OF ORGANIZATION

20 USC 1132f-2.

"SEC. 753. The Secretary of the Treasury, the Secretary, and the Student Loan Marketing Association shall each appoint 2 persons to be incorporators of the Corporation. If either the Secretary of the Treasury or the Secretary fail to appoint incorporators within 90 days after the date of enactment of the Higher Education Amendments of 1986, the Student Loan Marketing Association, after consultation with the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives, shall have the authority to name the incorporators which have not been so appointed. The incorporators so appointed

shall each sign the articles of incorporation and shall serve as the initial Board of Directors until the members of the first regular Board of Directors shall have been appointed and elected. Such incorporators shall take whatever actions are necessary or appropriate to establish the Corporation, including the filing of articles of incorporation.

"OPERATION AND ELECTION OF BOARD OF DIRECTORS

"SEC. 754. (a) IN GENERAL.—The Corporation shall have a Board of Directors which shall consist of 11 members, of whom one shall be elected annually by the Board to serve as chairman. Directors shall serve for terms of one year or until their successors have been appointed and qualified, and any member so appointed to fill a vacancy shall be appointed only for the unexpired term of the Director whom he succeeds. Two Directors shall be appointed by the Secretary of the Treasury; 2 Directors shall be appointed by the Secretary; 3 Directors shall be appointed by the Student Loan Marketing Association; and the remaining 4 Directors shall be elected by the holders of the Corporation's voting common stock at least one of whom shall be a college or university administrator. The failure of the Secretary or the Secretary of the Treasury to make any one or more appointments to the Board of Directors of the Corporation shall not affect or diminish the right and power of (1) the other directors who have been appointed or elected to assume and carry out their duties as directors and (2) the Board so constituted to act for all purposes as the full Board of the Corporation. 20 USC 1132f-3.

"(b) CUMULATIVE VOTING.—The articles of incorporation of the Corporation shall provide for cumulative voting under section 27(d) of the District of Columbia Business Corporation Act (D.C. Code, sec. 29-327(d)).

"INITIAL CAPITAL

"SEC. 755. (a) AUTHORITY TO ISSUE COMMON STOCK.—The Corporation shall issue shares of voting common stock of no par value at such time within 6 months of its incorporation as shall be designated by the initial Board of Directors, and from time to time thereafter. 20 USC 1132f-4.

"(b) SUBSCRIPTION BY SECRETARY.—The Secretary is authorized and directed to subscribe to and purchase, in each of the 5 years following the incorporation of the Corporation, voting common stock of the Corporation having an aggregate purchase price of not more than $20,000,000, subject to availability of appropriations.

"(c) SUBSCRIPTION BY ASSOCIATION.—The Student Loan Marketing Association is authorized to subscribe to and purchase during the 5 years following the incorporation of the Corporation voting common stock of the Corporation having an aggregate purchase price of $25,000,000 or more.

"(d) ANNUAL ISSUANCE.—The Corporation is authorized to offer for subscription and purchase to the general public during the 5 years following the incorporation of the Corporation, voting common stock having an aggregate purchase price of $125,000,000. Not less than 40 percent of such stock shall be set aside for purchase by institutions of higher education prior to being offered to the general public.

"ISSUE OF NONVOTING STOCK AND DEBT TO THE PUBLIC

20 USC 1132f-5.

"SEC. 756. The Corporation may issue, without limitation as to amount or restriction as to ownership, such nonvoting common, preferred, and preference stock, debt, and such other securities and obligations, in such amounts, at such times, and having such terms and conditions as may be deemed necessary or appropriate by its Board of Directors.

"OBLIGATIONS NOT FEDERALLY GUARANTEED; NO FEDERAL PRIORITY

20 USC 1132f-6.

"SEC. 757. No obligation which is insured, guaranteed, or otherwise backed by the Corporation, shall be deemed to be an obligation which is guaranteed by the full faith and credit of the United States. No obligation which is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation which is guaranteed by the Student Loan Marketing Association. This section shall not affect the determination of whether such obligation is guaranteed for purposes of Federal income taxes.

"AUTHORITY OF SECRETARY TO SELL COMMON STOCK; RIGHT OF FIRST REFUSAL

20 USC 1132f-7.

"SEC. 758. (a) AUTHORITY TO SELL.—The Secretary may, at any time after a date which is 5 years after the date of incorporation of the Corporation, sell (in one or more transactions) the voting common stock of the Corporation owned by the Secretary. Prior to offering such common stock for sale to any other person, the Secretary shall offer such stock to the Student Loan Marketing Association at the price determined pursuant to subsection (b). Not later than 30 days prior to the sale of such stock, the Secretary shall advise, in writing, the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of plans of the Secretary.

"(b) PURCHASE PRICE.—The price at which the Secretary may sell the voting common stock of the Corporation under subsection (a) shall be the market value of such shares as determined by the Secretary, on the basis of an independent appraisal, but shall not be less than the value of such shares as shown on the books of account of the Corporation as of the date of closing of such purchase. In no event shall the purchase price be less than the original issuance price.

"(c) BOARD OF DIRECTORS ELECTED AFTER MAJORITY BUY-OUT.—If the Student Loan Marketing Association acquires from the Secretary sufficient voting common stock so as to own more than 50 percent of the issued and outstanding voting common stock of the Corporation, section 754 (except subsection (b)) shall be of no further force or effect and the Board of Directors of the Corporation shall thereafter be elected entirely by the voting common shareholders.

"(d) RIGHT OF FIRST REFUSAL TO ASSOCIATION.—Until such time as the Student Loan Marketing Association acquires all of the voting common stock owned by the Secretary, the Student Loan Marketing Association shall have the right to purchase all, or any lesser portion it shall select, of each of the issues of equity securities or other securities convertible into equity of the Corporation as the Corporation may issue from time to time, on the same terms and conditions as such securities are to be offered to other persons.

"(e) AUTHORITY OF ASSOCIATION WITH RESPECT TO CORPORATION.—The Student Loan Marketing Association is authorized and empowered to purchase stock and to carry out such other activities as are necessary and appropriate for carrying out the Association's obligations and responsibilities with respect to the Corporation. The Student Loan Marketing Association is also authorized to enter into such other transactions with the Corporation, including the acquisition of securities and obligations of the Corporation referred to in this section and sections 755 and 756, and arrangements for the provision of management and other services to the Corporation, as shall be approved by the Student Loan Marketing Association and the Corporation.

"USE OF STOCK SALE PROCEEDS

"SEC. 759. The proceeds received by the Secretary upon the sale of any shares of the Corporation to the Student Loan Marketing Association or any other person shall be deposited in the general fund of the Treasury. 20 USC 1132f-8.

"AUDITS; REPORTS TO THE PRESIDENT AND THE CONGRESS

"SEC. 760. (a) ACCOUNTING.—The books of account of the Corporation shall be maintained in accordance with generally accepted accounting principles and shall be subject to an annual audit by an independent public accountant. 20 USC 1132f-9.

"(b) REPORTS.—The Corporation shall transmit to the President and the Congress, annually and at such other times as it deems desirable, a report of its operations and activities under this part, which annual report shall include a copy of the Corporation's financial statements and the opinion with respect thereto prepared by the independent public accountant reviewing such statements and a copy of any report made on an audit conducted under subsection (a). The annual reports shall include such information and other evidence as is necessary to demonstrate that the Corporation has complied with the requirements of section 752.

"PART F—HOUSING AND OTHER EDUCATIONAL FACILITIES LOANS

"FEDERAL ASSISTANCE IN THE FORM OF LOANS

"SEC. 761. (a) AUTHORITY AND CONDITIONS FOR LOANS.—To assist undergraduate postsecondary educational institutions in the construction, reconstruction, or renovation of housing, undergraduate academic facilities, and other educational facilities for students and faculties, the Secretary may make loans of funds to such institutions for the construction, reconstruction, or renovation of such facilities. No such assistance shall be provided unless— 20 USC 1132g.

"(1) the educational institution involved is unable to secure the necessary funds for the construction or purchase from other sources upon terms and conditions equally as favorable as the terms and conditions applicable to loans under this title; and

"(2) the Secretary finds that any such construction will be undertaken in an economical manner, and that any such facilities are not or will not be of elaborate or extravagant design or materials.

"(b) USE OF LOANS FOR PREVIOUSLY MADE CONTRACTS.—Any undergraduate postsecondary educational institution which, prior to

the date of enactment of this section, has contracted for housing or other educational facilities may, in connection therewith, receive loans authorized under this title, as the Secretary may determine. No such loan shall be made for any housing or other educational facilities, the construction of which was begun prior to the effective date of this section, or completed prior to the filing of an application under this title.

"(c) AMOUNT AND CONDITIONS OF LOANS.—A loan to an undergraduate postsecondary educational institution—

"(1) may be in an amount not exceeding the total development cost of the facility, as determined by the Secretary;

"(2) shall be secured in such manner and be repaid within such period, not exceeding 50 years, as may be determined by the Secretary; and

"(3) shall bear interest at a rate determined by the Secretary which shall be not more than the lower of (A) 5.5 percent per annum, or (B) the total of one-quarter of 1 percent per annum added to the rate of interest paid by the Secretary on funds obtained from the Secretary of the Treasury as provided in subsection (d).

"(d) USE OF FUNDS FROM TITLE IV OF THE HOUSING ACT OF 1950.—Funds obtained pursuant to section 401(d) of the Housing Act of 1950 shall be available for the purposes of carrying out this part. For such purposes, the total amount of notes and obligations which the Secretary may continue to issue and have outstanding for purchase by the Secretary of the Treasury shall not exceed the amount issued and outstanding under such section 401(d) as of September 30, 1985. Such notes and other obligations shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as may be prescribed by the Secretary, with the approval of the Secretary of the Treasury. Such notes or other obligations issued to obtain funds for loan contracts entered into after the effective date of the Higher Education Act Amendments of 1986 shall bear interest at a rate determined by the Secretary of the Treasury which shall not be more than the average current yield on outstanding obligations of the United States of comparable maturities in the month preceding the month in which the contract for such loan is made. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations of the Secretary issued under this part and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchases of such notes and other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired under this part. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

Post, p. 1545.

Contracts.

Securities.
31 USC 3101 *et seq.*

"(e) USE OF FUNDS.—Not less than 10 percent of the funds held by the Secretary under subsection (d) shall be made available for loans under this part for each fiscal year.

"(f) APPROPRIATION TO COVER NOTES AND OBLIGATIONS NOT COVERED BY LOAN REPAYMENT.—There are authorized to be appropriated to the Secretary such sums as may be necessary, together with principal and interest payments made by postsecondary educational institutions assisted with loans made under this part (or

under title IV of the Housing Act of 1950), for payment on notes and obligations issued by the Secretary under this part or such title.

Post, p. 1545.

"GENERAL PROVISIONS

"SEC. 762. (a) BUDGET AND ACCOUNTING.—In the performance of, and with respect to, the functions, powers, and duties under this part, the Secretary notwithstanding the provisions of any other law, shall—

20 USC 1132g-1.

"(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31, United States Code; and

31 USC 9101 *et seq.*

"(2) maintain a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of chapter 35 of title 31, United States Code, but such financial transactions of the Secretary, as the making of loans and vouchers approved by the Secretary, in connection with such financial transactions shall be final and conclusive upon all officers of the Government.

31 USC 3501 *et seq.*

"(b) USE OF FUNDS.—Funds made available to the Secretary pursuant to the provisions of this part shall be deposited in a checking account or accounts with the Treasurer of the United States. Receipts and assets obtained or held by the Secretary in connection with the performance of functions under this part, and all funds available for carrying out the functions of the Secretary under this part (including appropriations therefore, which are hereby authorized), shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary in connection with the performance of such functions.

"(c) LEGAL POWERS.—In the performance of, and with respect to, the functions, powers, and duties under this part, the Secretary, notwithstanding the provisions of any other law, may—

"(1) prescribe such rules and regulations as may be necessary to carry out the purposes for this part;

"(2) sue and be sued;

"(3) foreclose on any property or commence any action to protect or enforce any right conferred upon him by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any property in connection with which the Secretary has made a loan pursuant to this part;

Real property.

"(4) in the event of any such acquisition, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property, but any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

"(5) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as the Secretary may fix;

Insurance.

"(6) obtain insurance against loss in connection with property and other assets held;

Contracts.

"(7) subject to the specific limitations in this part, consent to the modification, with respect to the rate of interest, time of

payment of any installment of principal or interest, security, or any other term of any contract or agreement to which the Secretary is a party or which has been transferred to the Secretary pursuant to this part, granting to a borrower of a loan made before October 1, 1986, the option of repaying the loan at a discount computed in accordance with subsection (d) if the repayment is (A) made from non-Federal sources, (B) not derived from proceeds of obligations the income of which is exempt from taxation under the Internal Revenue Code of 1954, and (C) made on a loan that has been outstanding for at least 5 years; and

26 USC 1 *et seq.*

Contracts.

"(8) include in any contract or instrument made pursuant to this title such other covenants, conditions, or provisions as may be necessary to assure that the purposes of this part will be achieved.

"(d) COMPUTATION OF ALLOWABLE DISCOUNTS.—The Secretary shall compute the discount which may be offered to a borrower as an inducement to early repayment under subsection (c)(7) in an amount determined by the Secretary to be in the best financial interests of the Government, taking into account the yield on outstanding marketable obligations of the United States having maturities comparable to the remaining term of such loan.

"(e) NONDISCRIMINATION BETWEEN BORROWERS IN OFFERING DISCOUNTED PREPAYMENT.—(1) If the Secretary offers a discount as an inducement to early repayment under subsection (c)(7), such offer shall be available without regard to whether the borrower is delinquent or in default on the loan on or before October 1, 1986, but the Secretary shall refuse to make such offer to a borrower that becomes delinquent or goes into default after that date.

"(2) The discount offered shall apply, in the case of a borrower that complies with paragraph (1), to the entire amount outstanding on the loan (including any amount owed with respect to payments that are overdue).

"(f) CONTRACTS FOR SUPPLIES OR SERVICES.—Section 3709 of the Revised Statutes shall not apply to any contract for services or supplies on account of any property acquired pursuant to this part if the amount of such contract does not exceed $1,000.

"(g) APPLICABILITY OF GOVERNMENT CORPORATION CONTROL ACT.—The provisions of section 9107(a) of title 31, United States Code, which are applicable to corporations or agencies subject to chapter 91 of such title, shall also be applicable to the activities of the Secretary under this part.

31 USC 9101 *et seq.*

"(h) WAGE RATES.—The Secretary shall take such action as may be necessary to ensure that all laborers and mechanics employed by contractors or subcontractors or any project assisted under this part, the construction or rehabilitation of which was commenced after the date of enactment of the Housing Act of 1950—

12 USC 1701k note.

"(1) shall be paid wages at rates not less than those prevailing on the same type of work on similar construction in the immediate locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (Davis-Bacon Act), as amended; and

40 USC 276a note.

"(2) shall be employed not more than 40 hours in any one week unless the employee receives wages for his employment in excess of the hours specified above at a rate not less than one and one-half times the regular rate at which he is employed;

but the Secretary may waive the application of this subsection in cases or classes of cases where laborers or mechanics, not otherwise employed at any time in the construction of such project, voluntarily donate their services without full compensation for the purpose of lowering the costs of construction and the Secretary determines that any amounts saved thereby are fully credited to the educational institution undertaking the construction.

"(i) LIMITATION.—No loan may be made under this part for any facility on the campus of any undergraduate postsecondary educational institution until 10 years after the date on which a previous loan for another facility on such campus was made under this part.

"APPORTIONMENT; PRIORITIES

"SEC. 763. (a) APPORTIONMENT.—Not more than 12.5 percent of the amount of the funds provided for in this part in the form of loans shall be made available to educational institutions within any one State. 20 USC 1132g-2.

"(b) PRIORITIES.—In awarding loans under this part, the Secretary shall give priority—

"(1) to loans for renovation or reconstruction of undergraduate academic facilities; and

"(2) to loans for renovation or reconstruction of older undergraduate academic facilities and undergraduate academic facilities that have gone without major renovation or reconstruction for an extended period.

"DEFINITIONS

"SEC. 764. For the purpose of this part: 20 USC 1132g-3.

"(a) HOUSING.—The term 'housing' means—

"(1) new or existing structures suitable for dwelling use, including single-room dormitories and apartments; and

"(2) dwelling facilities provided for rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for the proposed dwelling use.

"(b) EDUCATIONAL INSTITUTION.—The term 'undergraduate postsecondary educational institution' means—

"(1)(A) any educational institution which offers, or provides satisfactory assurance to the Secretary that it will offer within a reasonable time after completion of a facility for which assistance is requested under this part, at least a 2-year program acceptable for full credit toward a baccalaureate degree (including any public educational institution, or any private educational institution no part of the net earnings of which inures to the benefit of any private shareholder or individual); or

"(B) any public educational institution which—

"(i) is administered by a college or university which is accredited by a nationally recognized accrediting agency or association;

"(ii) offers technical or vocational instruction; and

"(iii) provides residential facilities for some or all of the students receiving such instruction;

"(2) any hospital operating a school of nursing beyond the level of high school approved by the appropriate State authority, or any hospital approved for internships, by recognized authority, if such hospital is either a public hospital or a private

hospital, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

"(3) any corporation (no part of the net earnings of which inures to the benefit of any private shareholder or individual)—

"(A) established for the sole purpose of providing housing or other educational facilities for students or students and faculty of one or more institutions included in paragraph (1) without regard to their membership in or affiliation with any social, fraternal, or honorary society or organization; and

"(B) upon dissolution of which all title to any property purchased or built from the proceeds of any loan which is made under section 761, will pass to such institution (or to anyone or more of such institutions) unless it is shown to the satisfaction of the Secretary that such property or the proceeds from its sale will be used for some other nonprofit educational purpose;

Grants.

"(4) any agency, public authority, or other instrumentality of any State, established for the purpose of providing or financing housing or other educational facilities for students or faculty of any educational institution included in paragraph (1), but nothing in this paragraph shall require an institution included in paragraph (1) to obtain loans or grants through any instrumentality included in this paragraph; and

"(5) any nonprofit student housing cooperative corporation established for the purpose of providing housing for students or students and faculty of any institution included in paragraph (1).

In the case of any loan made under section 761 to a corporation described in paragraph (3) which was not established by the institution or institutions for whose students or students and faculty it would provide housing, or to a student housing cooperative corporation described in paragraph (5), and in the case of any loan which is obtained from other sources by such a corporation, the Secretary shall require that the note securing such loan be cosigned by such institution (or by any one or more of such institutions). Where the law of any State in effect on the date of enactment of the Housing Act of 1964 prevents the institution or institutions, for whose students or students and faculty housing is to be provided, from cosigning the note, the Secretary shall require the corporation and the proposed project to be approved by such institution (or by any one or more of such institutions) in lieu of such cosigning.

State and local governments.

12 USC 1703 note.

"(c) UNDERGRADUATE ACADEMIC FACILITIES.—(1) Except as provided in paragraph (2), the term 'undergraduate academic facilities' means structures suitable for use as classrooms, laboratories, libraries, and related facilities, the primary purpose of which is the instruction of students pursuing a baccalaureate degree, or for administration of the educational programs serving such students, of an institution of higher education, and maintenance, storage, or utility facilities essential to operation of the foregoing facilities, as well as infirmaries or other facilities designed to provide primarily for outpatient care of student and instructional personnel. Plans for such facilities shall be in compliance with such standards as the Secretary may prescribe or approve in order to insure that projects assisted with the use of Federal funds under this title shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons.

Handicapped persons.

"(2) The term 'undergraduate academic facilities' shall not include (A) any facility intended primarily for events for which admission is to be charged to the general public, (B) any gymnasium or other facility specially designed for athletic or recreational activities, other than for an academic course in physical education or where the Secretary finds that the physical integration of such facilities with other undergraduate academic facilities included under this part is required to carry out the objectives of this part, (C) any facility used or to be used for sectarian instruction or as a place for religious worship, or (D) any facility which (although not a facility described in the preceding clause) is used or to be used primarily in connection with any part of the program of a school or department of divinity.

"(d) DEVELOPMENT COST.—The term 'development cost' means costs of the construction of the housing or other educational facilities and the land on which it is located, including necessary site improvements to permit its use for housing or other educational facilities; except that in the case of the purchase of facilities such term means the cost as approved by the Secretary.

"(e) FACULTIES.—The term 'faculties' means member of the faculty and their families.

"(f) OTHER EDUCATIONAL FACILITIES.—The term 'other educational facilities' means (1) new or existing structures suitable for use as cafeterias or dining halls, student centers or student unions, infirmaries or other inpatient or outpatient health facilities, or for other essential service facilities, and (2) structures suitable for the above uses provided by rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for such uses.

"PART G—SPECIAL PROGRAMS

"WELCH HALL

Michigan.
20 USC 1132h.

"SEC. 771. (a) PROGRAM AUTHORITY.—In recognition of the unique architectural and historic significance to the education profession of Welch Hall, the Secretary is authorized, in accordance with the provisions of this section, to provide financial assistance to Eastern Michigan University in Ypsilanti, Michigan, for the purpose of the renovation and restoration of the physical facilities of Welch Hall.

"(b) APPLICATION.—No financial assistance may be made available under this section except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

"ACADEMIC HEALTH EDUCATION CENTER AUTHORIZED

New York.
20 USC 1132h-1.

"SEC. 772. (a) ASSISTANCE AUTHORIZED.—The Secretary is authorized, in accordance with the provisions of this section, to provide financial assistance to the Rochester Institute of Technology located in Rochester, New York, to pay the Federal share of the cost of construction, and related costs (including equipment), for the Academic Health Education Center facility at the Rochester Institute of

Technology, to be used as a national model for the integration of student academic, counseling, health, and professional development activities. The Center will integrate students and programs developed for the hearing-impaired.

"(b) TERMS AND CONDITIONS.—(1) No financial assistance may be made available under this section except upon application at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(2) For the purpose of this section, the Federal share of the cost of the Academic Health Education Center facility at the Rochester Institute of Technology shall not exceed 50 percent.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums, not to exceed $1,800,000 to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

"ESTEY HALL

North Carolina.
20 USC 1132h-2.

"SEC. 773. (a) PROGRAM AUTHORITY.—In recognition of its historic and architectural significance as the first Black women's college dormitory, the Secretary is authorized, in accordance with the provisions of this section, to provide financial assistance to Shaw University of Raleigh, North Carolina, for the purpose of the renovation and restoration of the physical facilities of Estey Hall.

"(b) APPLICATION.—No financial assistance may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $550,000 to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

"ELECTRONIC INSTRUCTIONAL NETWORK FOR GIFTED AND TALENTED STUDENTS

20 USC 1132h-3.

"SEC. 774. (a) ASSISTANCE AUTHORIZED.—In recognition of the benefits to be gained from applying existing and emerging technologies to classroom instruction, the Secretary is authorized, under the provisions of this section, to provide financial assistance to a 4-year postsecondary institution in cooperation with school districts, for the purpose of renovating, constructing, and equipping a facility incorporating such technological advances as two-way interactive video communications to extend an existing electronic instructional network for providing college and advanced level courses to talented and gifted secondary school students.

"(b) APPLICATION.—No financial assistance may be made available under this section except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

"MARY MCLEOD BETHUNE MEMORIAL FINE ARTS CENTER

"SEC. 775. (a) GENERAL AUTHORITY.—In recognition of the remarkable career of Mary McLeod Bethune, founder and president of Bethune-Cookman College, founder and first president of the National Council of Negro Women, and confidant and advisor to Presidents of the United States, and in order to enhance the ability of Bethune-Cookman College to carry on the unique quality of service to the community and to the Nation that characterizes the life of Mary McLeod Bethune, the Secretary shall, in accordance with the provisions of this section, provide financial assistance to the Bethune-Cookman College in Volusia County, Florida, to enable the Bethune-Cookman College to establish the Mary McLeod Bethune Memorial Fine Arts Center. Florida. 20 USC 1132h-4.

"(b) APPLICATION.—No financial assistance may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(c) USES.—The financial assistance made available pursuant to this section shall be used for the construction of the Mary McLeod Bethune Memorial Fine Arts Center building, the acquisition of necessary equipment, and the acquisition of necessary real property for the establishment of the Center.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums, not to exceed $6,200,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

"UNIVERSITY OF CONNECTICUT BEHAVIORAL SCIENCE FACILITY

"SEC. 776. (a) GENERAL AUTHORITY.—The Secretary is authorized to provide financial assistance, in accordance with the provisions of this section, to pay the costs of the Behavioral Science Facility at the University of Connecticut, located at Storrs, Connecticut, to enable the University of Connecticut to expand collaborative research for the benefit of the region. 20 USC 1132h-5.

"(b) APPLICATION.—No financial assistance may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums, not to exceed $1,300,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

"UNIVERSITY OF RHODE ISLAND BUSINESS ADMINISTRATION PROGRAM

"SEC. 777. (a) GENERAL AUTHORITY.—The Secretary is authorized to provide financial assistance, in accordance with the provisions of this section, to pay the costs establishing a business administration program leading to a doctorate degree at the University of Rhode Island located at Kingston, Rhode Island, in order to enhance economic development of the southeastern New England region. 20 USC 1132h-6.

"(b) APPLICATION.—No financial assistance may be made under this section except upon an application at such time, in such

manner, and containing or accompanied by such information, as the Secretary may reasonably require.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums, not to exceed $300,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

"PART H—GENERAL

"RECOVERY OF PAYMENTS

20 USC 1132i.

"SEC. 781. (a) PUBLIC BENEFIT.—The Congress declares that, if a facility constructed with the aid of a grant under part A or B of this title is used as an academic facility for 20 years following completion of such construction, the public benefit accruing to the United States will equal in value the amount of the grant. The period of 20 years after completion of such construction shall therefore be deemed to be the period of Federal interest in such facility for the purposes of this title.

Grants.

"(b) RECOVERY UPON CESSATION OF PUBLIC BENEFIT.—If, within 20 years after completion of construction of an academic facility which has been constructed, in part with a grant under part A or B of this title—

"(1) the applicant (or its successor in title or possession) ceases or fails to be a public or nonprofit institution, or

"(2) the facility ceases to be used as an academic facility, or the facility is used as a facility excluded from the term 'academic facility', unless the Secretary determines that there is good cause for releasing the institution from its obligation,

the United States shall be entitled to recover from such applicant (or successor) an amount which bears to the value of the facility at that time (or so much thereof as constituted an approved project or projects) the same ratio as the amount of Federal grant bore to the cost of the facility financed with the aid of such grant. The value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

"(c) PROHIBITION ON USE FOR RELIGION.—Notwithstanding the provisions of subsections (a) and (b), no project assisted with funds under this title shall ever be used for religious worship or a sectarian activity or for a school or department of divinity.

"DEFINITIONS

20 USC 1132i-1.

"SEC. 782. The following definitions apply to terms used in this title:

"(1)(A) Except as provided in subparagraph (B), the term 'academic facilities' means structures suitable for use as classrooms, laboratories, libraries, and related facilities necessary or appropriate for instruction of students, or for research, or for administration of the educational or research programs, of an institution of higher education, and maintenance, storage, or utility facilities essential to operation of the foregoing facilities. For the purpose of part A or C, such term includes infirmaries or other facilities designed to provide primarily for outpatient care of student and instructional personnel. Plans for such

facilities shall be in compliance with such standards as the Secretary may prescribe or approve in order to ensure that projects assisted with the use of Federal funds under this title shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons.

"(B) The term 'academic facilities' shall not include (i) any facility intended primarily for events for which admission is to be charged to the general public, or (ii) any gymnasium or other facility specially designed for athletic or recreational activities, other than for an academic course in physical education or where the Secretary finds that the physical integration of such facilities with other academic facilities included under this title is required to carry out the objectives of this title, or (iii) any facility used or to be used for sectarian instruction or as a place for religious worship, or (iv) any facility which (although not a facility described in the preceding clause) is used or to be used primarily in connection with any part of the program of a school or department of divinity, or (v) any facility used or to be used by a school of medicine, school of dentistry, school of osteopathy, school of pharmacy, school of optometry, school of podiatry, or school of public health as these terms are defined in section 724 of the Public Health Service Act, or a school of nursing as defined in section 843 of that Act, except that the term 'academic facilities' may include any facility described in clause (v) to the degree that such facility is owned, operated, and maintained by the institution of higher education requesting the approval of a project; and that funds available for such facility under such project shall be used solely for the purpose of conversion or modernization of energy utilization techniques to economize on the use of energy resources; and that such project is not limited to facilities described in clause (v).

42 USC 293d.

"(2)(A) The term 'construction' means (i) erection of new or expansion of existing structures, and the acquisition and installation of initial equipment therefor; or (ii) acquisition of existing structures not owned by the institution involved; or (iii) a combination of either of the foregoing. For the purpose of the preceding sentence, the term 'equipment' includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, but not including books, curricular, and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term 'initial equipment' means equipment acquired and installed in connection with construction; and the terms 'equipment', 'initial equipment', and 'built-in equipment', shall be more particularly defined by the Secretary by regulation.

"(B) The term 'reconstruction or renovation' means rehabilitation, alteration, conversion, or improvement (including the acquisition and installation of initial equipment, or modernization or replacement of such equipment) of existing structures. For the purpose of the preceding sentence, the term 'equipment' includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary

furniture, but not including books, curricular, and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term 'initial equipment' means equipment acquired and installed either in connection with construction as defined in paragraph (2)(A), or as part of the rehabilitation, alteration, conversion, or improvement of an existing structure, which structure would otherwise not be adequate for use as an academic facility; the terms 'equipment', 'initial equipment', and 'built-in equipment' shall be more particularly defined by the Secretary by regulation; and the term 'rehabilitation, alteration, conversion, or improvement' includes such action as may be necessary to provide for the architectural needs of, or to remove architectural barriers to, handicapped persons with a view toward increasing the accessibility to, and use of, academic facilities by such persons.

"(3)(A) The term 'development cost', with respect to an academic facility, means the amount found by the Secretary to be the cost, to the applicant for a grant or loan under this title, of the construction, reconstruction, or renovation involved and the cost of necessary acquisition of the land on which the facility is located and of necessary site improvements to permit its use for such facility. There shall be excluded from the development cost—

"(i) in determining the amount of any grant under part A or B, an amount equal to the sum of (I) any Federal grant which the institution has obtained or is assured of obtaining, under any law other than this title, with respect to the construction, reconstruction, or renovation that is to be financed with the aid of a grant under part A or B, and (II) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant; and

"(ii) in determining the amount of any loan under part C, an amount equal to the amount of any Federal financial assistance which the institution has obtained, or is assured of obtaining, under any law other than this title, with respect to the construction, reconstruction, or renovation that is to be financed with the aid of a loan under part C.

"(B) In determining the development cost with respect to an academic facility, the Secretary may include expenditures for works of art for the facility not to exceed 1 percent of the total cost (including such expenditures) to the applicant of construction, reconstruction, or renovation of, and land acquisition and site improvements for, such facility.

"(4) The term 'maintenance', with respect to instructional and research equipment obtained with funding under this title, shall mean the care necessary to the optimal functioning of such equipment. With respect to the equipment and structural changes related to obtaining and sustaining the necessary environment (ventilation, etc.) for proper functioning of instructional and research equipment, 'maintenance' shall mean that portion of care above and beyond normal overhead costs.

"(5) The term 'Federal share' means in the case of any project a percentage (as determined under the applicable State plan) not in excess of 50 percent of its development cost.

"(6) The term 'higher education building agency' means (A) an agency, public authority, or other instrumentality of a State authorized to provide, or finance the construction, reconstruc-

tion, or renovation of, academic facilities for institutions of higher education (whether or not also authorized to provide or finance other facilities for such or other educational institutions, or for their students or faculty), or (B) any corporation (no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual (i) established by an institution of higher education for the sole purpose of providing academic facilities for the use of such institution, and (ii) upon dissolution of which, all title to any property purchased or built from the proceeds of any loan made under part C will pass to such institution), or (C) an institution of postsecondary education.

"(7) The term 'public community college and public technical institute' means an institution of higher education which is under public supervision and control, and is organized and administered principally to provide a 2-year program which is acceptable for full credit toward a bachelor's degree, or a 2-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge; and the term includes a branch of an institution of higher education offering 4 or more years of higher education which is located in a community different from that in which its parent institution is located.

"(8) The term 'public educational institution' does not include a school or institution of any agency of the United States.

"(9) The term 'State' includes in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"SALES OF OBLIGATIONS REQUIRED

"SEC. 783. The Secretary shall sell, at public or private sale, obligations held under parts C and F of this title upon such terms as the Secretary may fix and in such amounts as the Secretary determines will carry out the directions in the concurrent resolution on the budget for the fiscal year 1987 (S. Con. Res. 120, 99th Congress, agreed to June 27, 1986), but the Secretary shall not sell obligations having a market value of more than $579,000,000 in fiscal year 1987 and more than $314,000,000 in fiscal year 1988.". 20 USC 1132i-2.

SEC. 702. CONFORMING PROVISION.

Title IV of the Housing Act of 1950 is repealed. 12 USC 1749-1749c.

TITLE VIII—COOPERATIVE EDUCATION

SEC. 801. COOPERATIVE EDUCATION REAUTHORIZED.

Title VIII of the Act is amended to read as follows:

"TITLE VIII—COOPERATIVE EDUCATION

"APPROPRIATIONS AUTHORIZED; RESERVATIONS

20 USC 1133.

"SEC. 801. (a) APPROPRIATIONS AUTHORIZED.—There are authorized to be appropriated to carry out this title $17,000,000 for fiscal year 1987, and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(b) RESERVATIONS.—Of the amounts appropriated in each fiscal year—

"(1) not less than 75 percent shall be available for carrying out grants to institutions of higher education and combinations of such institutions for cooperative education under section 802;

"(2) not to exceed 12½ percent shall be available for demonstration projects under paragraph (1) of section 803(a);

"(3) not to exceed 10 percent shall be available for training and resource centers under paragraph (2) of section 803(a); and

"(4) not to exceed 2½ percent shall be available for research under paragraph (3) of section 803(a).

"(c) AVAILABILITY OF APPROPRIATIONS.—Appropriations under this title shall not be available for the payment of compensation of students for employment by employers under arrangements pursuant to this title.

"GRANTS FOR COOPERATIVE EDUCATION PROGRAMS

20 USC 1133a.

"SEC. 802. (a) GRANTS AUTHORIZED; MAXIMUM AMOUNT OF GRANT.—(1) The Secretary is authorized, from the amount available under section 801(b)(1) in each fiscal year and in accordance with the provisions of this title, to make grants to institutions of higher education, or to combinations of such institutions, to pay the Federal share of the cost of planning, establishing, expanding, or carrying out programs of cooperative education by such institutions or combinations of institutions.

"(2)(A) Cooperative education programs assisted under this section shall provide alternating or parallel periods of academic study and of public or private employment, giving work experience related to their academic or occupational objectives and the opportunity to earn the funds necessary for continuing and completing their education.

"(B) The amount of each grant shall not exceed $500,000 to any institution of higher education or combination of such institutions in any fiscal year.

"(b) APPLICATIONS.—Each institution of higher education, or combination of institutions desiring to receive a grant under this title shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe. Each such application shall—

"(1) set forth the program or activities for which a grant is authorized under this section;

"(2) specify each portion of such program or activities which will be performed by a nonprofit organization or institution other than the applicant and the compensation to be paid for such performance;

"(3) provide that the applicant will expend during such fiscal year for the purpose of such program or activities not less than

the amount expended for such purpose during the previous fiscal year;

"(4) describe the plans which the applicant will carry out to assure that the applicant will continue the cooperative education program beyond the 5-year period of Federal assistance described in subsection (c)(1);

"(5) provide that, in the case of an institution of higher education that provides a 2-year program which is acceptable for full credit toward a bachelor's degree, the cooperative education program will be available to students who are certificate candidates and who carry at least one-half the normal full time academic workload;

"(6) provide that the applicant will—

"(A) make such reports as may be essential to insure that the applicant is complying with the provisions of this section, including in the reports for the second and each succeeding fiscal year for which the applicant receives a grant data with respect to the impact of the cooperative education program in the previous fiscal year, including—

"(i) the number of students enrolled in the cooperative education program,

"(ii) the number of employers involved in the program,

"(iii) the income of the students enrolled, and

"(iv) the increase or decrease of enrollment in the program in the second previous year compared to such previous fiscal year; and

"(B) keep such records as are essential to insure that the applicant is complying with the provisions of this title;

"(7) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this title; and

"(8) include such other information as is essential to carry out the provisions of this title.

"(c) DURATION OF GRANTS; FEDERAL SHARE.—(1)(A) Except as provided in paragraph (3), no individual unit of an institution of higher education may receive, individually or as a participant in a combination of such institutions, grants under this section for more than 5 fiscal years.

"(B) The limitation contained in subparagraph (A) shall apply to each institution of higher education or participant in a combination of such institutions whether the grant was received before or after the date of enactment of the Higher Education Amendments of 1986.

"(2) The Federal share of a grant under this section may not exceed—

"(A) 90 percent of the cost of carrying out the application in the first year the applicant receives a grant under this section;

"(B) 80 percent of such cost in the second such year;

"(C) 70 percent of such cost in the third such year;

"(D) 60 percent of such cost in the fourth such year; and

"(E) 30 percent of such cost in the fifth such year.

"(3) Any institution of higher education, or participant in a combination of such institutions which—

"(A) has received a grant for 5 fiscal years under this section;

"(B) has conducted without Federal assistance a cooperative education program for at least 2 academic years subsequent to the end of the fifth such fiscal year;

"(C) has expended for the cooperative education program for each such subsequent academic year an amount at least equal to the total cost of the program in the fifth fiscal year in which the institution, or participant, received assistance under this section; and

"(D) provides statistics in the application required under subsection (b) on the number of students enrolled in the cooperative education program, the number of institutional personnel, including faculty advisers and cooperative education coordinators, and the income of the students enrolled, for each such year;

may apply under subsection (b) as an institution, or participant, to which subparagraph (A) of paragraph (2) applies.

"(4) Any provision of law to the contrary notwithstanding, the Secretary shall not waive the provisions of this subsection.

"(d) FACTORS FOR SPECIAL CONSIDERATION OF APPLICATIONS.—(1) In approving applications under this section, the Secretary shall give special consideration to applications from institutions of higher education for programs which show the greatest promise of success because of—

"(A) the extent to which programs in the academic discipline with respect to which the application is made have had a favorable reception by public and private sector employers,

"(B) the commitment of the institution of higher education to cooperative education has demonstrated by the plans which such institution has made to continue the program after the termination of Federal financial assistance,

"(C) the extent to which the institution is committed to extending cooperative education on an institution-wide basis for all students who can benefit, and

"(D) such other factors as are consistent with the purposes of this section.

Handicapped persons. Minorities.

"(2) The Secretary shall also give special consideration to applications from institutions of higher education or combinations thereof which demonstrate a commitment to serving special populations such as women, the handicapped and Black, Mexican American Puerto Rican, Cuban, other Hispanic, American Indian, Alaska Native, Aleut, Native Hawaiian, American Samoan, Micronesian, Guamian (Chamorro), and Northern Marianian students.

"DEMONSTRATION AND INNOVATION PROJECTS; TRAINING AND RESOURCE CENTERS; AND RESEARCH

Grants. Contracts. 20 USC 1133b.

"SEC. 803. (a) AUTHORIZATION.—The Secretary is authorized, in accordance with the provisions of this section, to make grants and enter into contracts for—

"(1) the conduct of demonstration projects designed to demonstrate or determine the feasibility or value of innovative methods of cooperative education from the amounts available in each fiscal year under section 801(b)(2);

"(2) the conduct of training and resource centers designed to—

"(A) train personnel in the field of cooperative education;

"(B) improve materials used in cooperative education programs;

"(C) furnish technical assistance to institutions of higher education to increase the potential of the institution to continue to conduct a cooperative education program without Federal assistance;

"(D) encourage model cooperative education programs which furnish education and training in occupations in which there is a national need; and

"(E) support partnerships under which an institution carrying out a comprehensive cooperative education program joins with another institution of higher education in order to (i) assist the institution other than the comprehensive cooperative education institution to develop and expand an existing program of cooperative education, or (ii) establish and improve or expand comprehensive cooperative education programs,

from the amounts available in each fiscal year under section 801(b)(3); and

"(3) the conduct of research relating to cooperative education, from the amounts available in each fiscal year under section 801(b)(4).

"(b) ADMINISTRATIVE PROVISION.—To carry out this section, the Secretary may—

"(1) make grants to or contracts with institutions of higher education, or combinations of such institutions, and

"(2) make grants to or contracts with other public or private nonprofit agencies or organizations, whenever such grants or contracts will make an especially significant contribution to attaining the objectives of this section.

"(c) SUPPLEMENT NOT SUPPLANT.—A recipient of a grant or contract under this section may use the funds provided only so as to supplement and, to the extent possible, increase the level of funds that would, in the absence of such funds, be made available from non-Federal sources to carry out the activities supported by such grant or contract, and in no case to supplant such funds from non-Federal sources.".

TITLE IX—GRADUATE EDUCATION

SEC. 901. REVISION OF TITLE IX.

(a) AMENDMENT.—Title IX of the Act is amended to read as follows:

"TITLE IX—GRADUATE PROGRAMS

"PART A—GRANTS TO INSTITUTIONS TO ENCOURAGE MINORITY PARTICIPATION IN GRADUATE EDUCATION

"PROGRAM AUTHORIZED

"SEC. 901. The Secretary shall make grants to institutions of higher education to enable such institutions to identify talented undergraduate students who demonstrate financial need and are from minority groups underrepresented in graduate education, and provide such students with an opportunity to participate in a program of research and scholarly activities at such institution 20 USC 1134.

designed to provide such students with effective preparation for graduate study in such field or related fields.

"SUBMISSION AND CONTENTS OF APPLICATIONS

20 USC 1134a.

"SEC. 902. (a) REQUIRED INFORMATION.—Each institution of higher education shall submit an application under this part to the Secretary in such form and containing such information as the Secretary may by regulation prescribe. Each such application shall provide information regarding—

"(1) the program of study, to take the form of summer research internships, seminars, and other educational experiences;

"(2) the institution's plan for identifying and recruiting talented minority undergraduates;

"(3) the participation of faculty in the program and a detailed description of the research in which students will be involved;

"(4) a plan for the evaluation of the effectiveness of the program; and

"(5) such other assurances and information as the Secretary may require by regulation.

"(b) SELECTION REQUIREMENTS.—In making awards to institutions—

"(1) the Secretary shall consider the quality of the research in which students will be involved as well as the recruitment program and program of study; and

"(2) the Secretary shall ensure an equitable geographic distribution among public and private institutions of higher education.

"USE OF FUNDS

20 USC 1134b.

"SEC. 903. Awards made to institutions under this part shall be used exclusively to provide direct fellowship aid which may include need-based stipends, room and board costs, transportation costs, and tuition for courses for which credit is given by the institution as approved by the Secretary.

"PART B—PATRICIA ROBERTS HARRIS FELLOWSHIPS

"STATEMENT OF PURPOSE; DESIGNATION OF AWARDS

20 USC 1134d.

"SEC. 921. (a) PURPOSE.—It is the purpose of this part to provide, through institutions of higher education, a program of grants to assist in making available the benefits of a post-baccalaureate education to graduate and professional students who demonstrate financial need.

"(b) DESIGNATION.—Each recipient of such an award under this part shall be known as a 'Patricia Roberts Harris Fellow'.

"PROGRAM AUTHORIZED

20 USC 1134e.

"SEC. 922. (a) GRANTS BY SECRETARY.—The Secretary shall make grants to institutions of higher education to enable such institutions to make grants in accordance with the provisions of this part.

"(b) DISTRIBUTION AND AMOUNTS OF GRANTS.—(1) In making such grants the Secretary shall, to the maximum extent feasible, ensure an equitable geographic distribution of awards and an equitable

distribution among eligible public and independent institutions of higher education.

"(2) Whenever the Secretary determines that an institution of higher education is unable to use all of the amounts available to it under this part, the Secretary shall, on such dates during each fiscal year as the Secretary may fix, reallot such amounts not needed to institutions which can use the grants authorized by this part.

"(c) APPLICATIONS.—Any eligible institution of higher education offering a program of post-baccalaureate study leading to a graduate or professional degree may apply for grants under this part. Each such institution may make an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Such application may be made on behalf of professional schools, academic departments, or similar organizational units within such institution meeting the requirements of this subsection, including interdisciplinary or interdepartmental programs.

"(d) SELECTION OF APPLICATIONS.—In making grants to institutions of higher education, the Secretary shall—

"(1) take into account present and projected needs for highly trained individuals in all areas of education beyond secondary school;

"(2) take into account present and projected needs for highly trained individuals in other than academic career fields of high national priority; and

"(3) consider the need to prepare a larger number of individuals from minority groups, especially from among such groups which have been traditionally underrepresented in colleges and universities, but nothing contained in this paragraph shall be interpreted to require any institution to grant preference or disparate treatment to the members of one minority group on account of an imbalance which may exist with respect to the total number or percentage of individuals of such group participating in or receiving the benefits of the program authorized in this section, in comparison with the total number or percentage of individuals of such group in any community State, section, or other area. Minorities.

"(e) PRIORITIES FOR FELLOWSHIPS.—The Secretary shall assure that, in making grants under this part, awards are made to—

"(1) individuals who plan to pursue a career in public service; and

"(2) individuals from traditionally underrepresented groups, as determined by the Secretary, undertaking graduate or professional study.

The Secretary shall assure that the amount expended for categories of fellowships described in paragraphs (1) and (2) of this subsection for each fiscal year is not less than the amount expended for each category in fiscal year 1985.

"(f) INSTITUTIONAL PAYMENTS.—From sums required to be expended by the Secretary for grants under subsection (e), the Secretary shall (in addition to the awards made to individuals) pay to the institution of higher education at which such individual is pursuing his or her course of study such amounts as are paid under similar fellowship programs administered through the National Science Foundation and other similar agencies, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required

by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.

"(g) USE FOR RELIGIOUS PURPOSES PROHIBITED.—No fellowship shall be awarded under this part for study at a school or department of divinity.

"AWARD OF FELLOWSHIPS

20 USC 1134f.

"SEC. 923. (a) AWARDS BASED ON NEED.—An institution of higher education receiving funds under this part shall make available to financially needy graduate and professional students an award determined by such institution of higher education, except that no award under this part may exceed the lesser of $10,000, or the demonstrated level of financial need as determined under part F of title IV of this Act.

"(b) REQUIREMENTS FOR AWARD.—No student shall receive an award except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to, study or research (including acting as a teaching assistant or research assistant as may be required as a condition to award of a degree) in the field in which such fellowship was awarded and is not engaging in gainful employment, other than part-time employment by the institution of higher education involved in teaching, research, or similar activities, approved by the Secretary. Such period shall not exceed a total of 3 years, except that the Secretary may provide by regulation for the granting of such fellowships for a period of study not to exceed one 12-month period, in addition to the 3-year period set forth in this section, under special circumstances which the Secretary determines would most effectively serve the purposes of this part. The Secretary shall make a determination to provide such 12-month extension of an award to an individual fellowship recipient upon review of an application for such extension by the recipient.

"PART C—JACOB K. JAVITS FELLOWS PROGRAM

"AWARD OF NATIONAL GRADUATE FELLOWSHIPS

20 USC 1134h.

"SEC. 931. (a) NUMBER AND TIMING OF AWARDS.—The Secretary is authorized to award not more than 450 fellowships per year in accordance with the provisions of this part for graduate study in the arts, humanities, and social sciences by students of superior ability selected on the basis of demonstrated achievement and exceptional promise. All funds appropriated in a fiscal year shall be obligated and expended to the students for fellowships for use in the academic year beginning after July 1 of the fiscal year for which the funds were appropriated. The fellowships shall be awarded for only one academic year of study and shall be renewable for a period not to exceed 4 years of study.

"(b) DESIGNATION OF FELLOWS.—Students receiving awards under this part shall be known as 'Jacob K. Javits Fellows'.

"(c) INTERRUPTIONS OF STUDY.—The institution of higher education may allow a fellowship recipient to interrupt periods of study for a period not to exceed 12 months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program

and shall continue payments for those 12-month periods during which the student is pursuing travel or independent study supportive of the recipient's academic program.

"ALLOCATION OF FELLOWSHIPS

"SEC. 932. (a) FELLOWSHIP BOARD.—(1) The Secretary shall appoint a National Graduate Fellows Program Fellowship Board consisting of not less than 9 and not more than 15 individuals prior to July 31, 1987, 13 individuals after July 31, 1987, and prior to August 1, 1989, 11 individuals after July 31, 1989, and prior to August 1, 1991, and 9 individuals after July 31, 1991, representatives of both public and private institutions of higher education especially qualified to serve on the Board. In making appointments, the Secretary shall give due consideration to the appointment of individuals who are highly respected in the academic community. The Secretary shall assure that individuals appointed to the Board are broadly knowledgeable about and have experience in doctoral education in arts, humanities, and social sciences. 20 USC 1134i.

"(2) The Board shall—

"(A) establish general policies for the program established by this part and oversee its operation;

"(B) establish general criteria for the distribution of fellowships among eligible academic fields identified by the Board;

"(C) appoint panels of academic scholars with distinguished backgrounds in the arts, humanities, and social sciences for the purpose of directing fellows; and

"(D) prepare and submit to the Congress at least once in every 3-year period a report on any modifications in the program that the Board determines are appropriate. Report.

"(3) In carrying out its responsibilities, the Board shall consult on a regular basis with representatives of the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, and representatives of institutions of higher education and associations of such institutions, learned societies, and professional organizations.

"(4) The term of office of each member of the Board shall be 4 years; except that any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed. No member may serve for a period in excess of 6 years.

"(5) The Secretary shall call the first meeting of the Board, at which the first order of business shall be the election of a Chairman and a Vice Chairman, who shall serve until one year after the date of their appointment. Thereafter each officer shall be elected for a term of 2 years. In case a vacancy occurs in either office, the Board shall elect an individual from among the members of the Board to fill such vacancy.

"(6)(A) A majority of the members of the Board shall constitute a quorum.

"(B) The Board shall meet at least once a year or more frequently, as may be necessary, to carry out its responsibilities.

"(7) Members of the Board, while serving on the business of the Board, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the rate prescribed for GS-18 of the General Schedule under section 5332, title 5, United States Code, including traveltime; and while so serving away from their homes or

regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

"(b) USE OF SELECTION PANELS.—The recipients of fellowships shall be selected in each designated field from among all applicants nationwide in each field by distinguished panels appointed by the Fellowship Board to make such selections under criteria established by the Board. The number of recipients in each field in each year shall not exceed the number of fellows allocated to that field for that year by the Fellowship Board.

"(c) FELLOWSHIP PORTABILITY.—Each recipient shall be entitled to use the fellowship in a doctoral program at any accredited institution of higher education in which the recipient may decide to enroll.

"STIPENDS

20 USC 1134j.

"SEC. 933. (a) AWARD BY SECRETARY.—The Secretary shall pay to individuals awarded fellowships under this part such stipends (including such allowances for subsistence and other expenses for such individuals and their dependents) as the Secretary may determine to be appropriate, adjusting such stipends as necessary so as not to exceed the fellow's demonstrated level of need according to measurements of need approved by the Secretary. The stipend levels established by the Secretary shall reflect the purpose of this program to encourage highly talented students to undertake graduate study and shall provide a level of support comparable to that provided by federally funded graduate fellowships in the science and engineering fields.

"(b) INSTITUTIONAL PAYMENTS.—(1) The Secretary shall (in addition to the stipends paid to individuals under subsection (a)) pay to the institution of higher education, for each individual awarded a fellowship for pursuing a course at such institution, $6,000.

"(2) Subject to the availability of appropriations, amounts payable to an institution by the Secretary pursuant to this subsection shall not be reduced for any purpose other than the purposes specified under paragraph (1).

"FELLOWSHIP CONDITIONS

20 USC 1134k.

"SEC. 934. (a) REQUIREMENTS FOR RECEIPT.—An individual awarded a fellowship under the provisions of this part shall continue to receive payments provided in section 933 only during such periods as the Secretary finds that he is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Secretary.

"(b) REPORTS FROM RECIPIENTS.—The Secretary is authorized to require reports containing such information in such form and to file at such times as the Secretary determines necessary from any person awarded a fellowship under the provisions of this part. The reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Secretary, stating that such

individual is making satisfactory progress in, and is devoting essentially full time to the program for which the fellowship was awarded.

"PART D—GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED

"PURPOSE

"SEC. 941. In order to sustain and enhance the capacity for teaching and research in areas of national need, it is the purpose of this part to provide, through academic departments and programs of institutions of higher education, a fellowship program to assist graduate students of superior ability who demonstrate financial need. 20 USC 1134l.

"GRANTS TO ACADEMIC DEPARTMENTS AND PROGRAMS OF INSTITUTIONS

"SEC. 942. (a) GRANT AUTHORITY.—(1) The Secretary shall make grants to academic departments and programs and other academic units of institutions of higher education that provide courses of study leading to a graduate degree in order to enable such institutions to provide assistance to graduate students in accordance with this part. 20 USC 1134m.

"(2) The Secretary may also make grants to such departments and programs and to other units of institutions of higher education granting graduate degrees which submit joint proposals involving nondegree granting institutions which have formal arrangements for the support of doctoral dissertation research with degree-granting institutions. Nondegree granting institutions eligible for awards as part of such joint proposals include any organization which—

"(A) is described in section 501(c)(3) of the Internal Revenue Code of 1954, and is exempt from tax under section 501(a) of such Code;

"(B) is organized and operated substantially to conduct scientific and cultural research and graduate training programs;

"(C) is not a private foundation;

"(D) has academic personnel for instruction and counseling who meet the standards of the institution of higher education in which the students are enrolled; and

"(E) has necessary research resources not otherwise readily available in such institutions to such students.

"(b) AWARD AND DURATION OF GRANTS.—(1) The principal criterion for the allocation of awards shall be the relative quality of the graduate programs presented in competing applications. Consistent with an allocation of awards based on quality of competing applications, the Secretary shall, in making such grants, promote an equitable geographic distribution among eligible public and private institutions of higher education.

"(2) The Secretary shall approve a grant recipient under this part for a 3-year period. From the sums appropriated under this part for any fiscal year, the Secretary shall not make a grant to any academic department or program of an institution of higher education of less than $100,000 or greater than $500,000 per fiscal year

"(3) Whenever the Secretary determines that an academic department or program of an institution of higher education is unable to use all of the amounts available to it under this part, the Secretary shall, on such dates during each fiscal year as the Secretary may fix,

reallot the amounts not needed to academic departments and programs of institutions which can use the grants authorized by this part.

"(c) PREFERENCE TO CONTINUING GRANT RECIPIENTS.—(1) The Secretary shall make new grant awards under this part only to the extent that each previous grant recipient has received continued funding in accordance with subsection (b)(2).

"(2) To the extent that appropriations under this part are insufficient to comply with paragraph (1), available funds shall be distributed by ratably reducing the amounts required to be awarded by subsection (b)(2).

"INSTITUTIONAL ELIGIBILITY

20 USC 1134m.

"SEC. 943. (a) ELIGIBILITY CRITERIA.—Any academic department or program of an institution of higher education that offers a program of post-baccalaureate study leading to a graduate degree in an area of national need (as designated under subsection (b)) may apply for a grant under this part. No department or program shall be eligible for a grant unless the program of post-baccalaureate study has been in existence for at least 4 years at the time of application for assistance under this part.

Grant.

"(b) DESIGNATION OF AREAS OF NATIONAL NEED.—After consultation with the National Science Foundation, the National Academy of Sciences, the National Endowments for the Arts and the Humanities, and other appropriate Federal and nonprofit agencies and organizations, the Secretary shall designate areas of national need, such as mathematics, biology, physics, chemistry, engineering, geosciences, computer science, or foreign languages or areas studies. In making such designations, the Secretary shall take into account the extent to which the interest is compelling and the extent to which other Federal programs support post-baccalaureate study in the area concerned.

"CRITERIA FOR APPLICATIONS

Grants.
20 USC 1134o.

"SEC. 944. (a) SELECTION OF APPLICATIONS.—The Secretary shall make grants to academic departments and programs of institutions of higher education on the basis of applications submitted in accordance with subsection (b). Applications shall be ranked on program quality by geographically balanced review panels of nationally recognized scholars. To the extent possible (consistent with other provisions of this section), the Secretary shall make awards that are consistent with recommendations of the review panels.

"(b) CONTENTS OF APPLICATIONS.—An academic department or program of an institution of higher education, in its application for a grant, shall—

"(1) describe the current academic program of the applicant for which the grant is sought;

"(2) provide assurances that the applicant will provide, from other non-Federal funds, for the purposes of the fellowship program under this part an amount equal to at least 25 percent of the amount of the grant received under this part;

"(3) set forth policies and procedures to assure that, in making fellowship awards under this part the institution will seek talented students from traditionally underrepresented backgrounds, as determined by the Secretary;

"(4) set forth policies and procedures to assure that, in making fellowship awards under this part, the institution will make awards to individuals who—

"(A) have financial need, as determined under criteria developed by the institution;

"(B) have excellent academic records in their previous programs of study;

"(C) plan teaching or research careers; and

"(D) plan to pursue the highest possible degree available in their course of study;

"(5) set forth policies and procedures to ensure that Federal funds made available under this part for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purpose of this part and in no case to supplant those funds;

"(6) provide assurances that, in the event that funds made available to the academic department or program under this part are insufficient to provide the assistance due a student under the commitment entered into between the academic department or program and the student, the academic department or program will endeavor, from any funds available to it, to fulfill the commitment to the student;

"(7) provide that the applicant will comply with the limitations set forth in section 945; and

"(8) include such other information as the Secretary may prescribe.

"AWARDS TO GRADUATE STUDENTS

"SEC. 945. (a) COMMITMENTS TO GRADUATE STUDENTS.—(1) From at least 60 percent of the funds received under this part, an academic department or program of an institution of higher education shall make commitments to graduate students at any point of their graduate study to provide stipends for the length of time necessary for a student to complete the course of graduate study, but in no case longer than 5 years. 20 USC 1134p.

"(2) No such commitments shall be made to students under this part unless the academic department or program has determined adequate funds are available to fulfill the commitment either from funds received or anticipated under this part, or from institutional funds.

"(b) AMOUNT OF STIPENDS.—The size of the stipend awarded to students for an individual academic year shall be determined by the institution, except that no annual stipend award under this part may exceed $10,000, or the demonstrated level of need (according to criteria of need developed by the institution), whichever is less.

"(c) ACADEMIC PROGRESS REQUIRED.—Notwithstanding the provisions of subsection (a), no student shall receive an award (1) except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, or (2) if the student is engaging in gainful employment other than part-time employment involved in teaching, research, or similar activities determined by the institution to be in support of the student's progress towards a degree.

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"ADDITIONAL ASSISTANCE FOR COST OF EDUCATION

20 USC 1134q.

"SEC. 946. (a) USE FOR TUITION AND FEES.—From the remainder of the funds received under this part after complying with the requirements of section 945, the academic department or program of an institution of higher education may award fellowship recipients under section 945 additional amounts to pay the recipients' tuition and fees and other costs of education.

"(b) USE FOR OVERHEAD PROHIBITED.—Funds made available pursuant to this part may not be used for the general operational overhead of the academic department or program.

"PART E—ASSISTANCE FOR TRAINING IN THE LEGAL PROFESSION

"PROGRAM AUTHORIZED

20 USC 1134r.

"SEC. 951. (a) GRANTS AND CONTRACTS.—The Secretary is authorized to make grants to, or enter into contracts with, public and private agencies and organizations other than institutions of higher education for the purpose of assisting individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary, to undertake training for the legal profession.

"(b) USE OF FUNDS.—Grants made, and contracts entered into, under subsection (a) may cover, in accordance with regulations of the Secretary, all or part of the cost of—

"(1) selecting individuals from disadvantaged backgrounds for training for the legal profession,

"(2) facilitating the entry of such individuals into institutions of higher education for the purpose of pursuing such training,

"(3) providing counseling or other services designed to assist such individuals to complete successfully such training,

"(4) providing, for not more than 6 months prior to the entry of such individuals upon their courses of training for the legal profession, preliminary training for such individuals designed to assist them to complete successfully such training for the legal profession,

"(5) paying such stipends (including allowances for travel and for dependents) as the Secretary may determine for such individuals for any such period of preliminary training or for any period of training for the legal profession during which such individuals maintain satisfactory academic proficiency, as determined by the Secretary, and

"(6) paying for administrative activities of the agencies and organizations which receive such grants, or with which such contracts are entered into, to the extent such activities are for the purpose of furthering activities described in paragraphs (1) through (5).

"PART F—LAW SCHOOL CLINICAL EXPERIENCE PROGRAMS

"PROGRAM AUTHORIZATION

State and local governments.
20 USC 1134s.

"SEC. 961. (a) GRANT AND CONTRACT PURPOSES.—The Secretary is authorized to enter into grants or contracts with accredited law schools in the States for the purpose of paying not to exceed 90 per centum of the costs of establishing or expanding programs in such schools to provide clinical experience to students in the practice of

law, which includes any form of law student work involving performance in the role of a lawyer exercising legal skills and roles such as those of an advocate, counselor, negotiator, investigator, and ethical practitioner, whether by way of the provision of representation of or services to an identifiable client in actual cases or situations (subject to existing State or local limitations upon such provision) or by way of simulation of such provision through appropriate exercises. Preference shall be given to those programs providing legal experience in the preparation and trial of actual cases, including administrative cases and the settlement of controversies outside the courtroom. The cases and situations handled in actuality or by simulation may encompass any one or more of the following:

"(1) judicial, administrative, executive, or legislative proceedings, including the full range of preparation therefor;

"(2) office or house counsel problems; or

"(3) factual investigation, empirical research, or policy or legal analysis.

"(b) USE OF FUNDS.—Such costs may include necessary expenditures incurred for—

"(1) planning;

"(2) training of faculty members and salary for additional faculty members;

"(3) travel and per diem for faculty and students;

"(4) reasonable stipends for students for work in the public service performed as part of any such program at a time other than during the regular academic year;

"(5) equipment and library resources;

"(6) involving practicing lawyers in the process of training law students to perform as lawyers; and

"(7) such other items as are allowed pursuant to regulations issued by the Secretary.

"(c) LIMITATIONS ON AMOUNTS.—No law school may receive more than $100,000 in any fiscal year pursuant to this part, no part of which may be used to pay for indirect costs or charges.

"(d) DEFINITION.—For the purpose of this part, the term 'accredited law school' means any law school which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose, including any combination or consortium of such schools.

"APPLICATIONS

"SEC. 962. (a) REQUIREMENTS.—A grant or contract authorized by this part may be made by the Secretary upon application which— Grants. Contracts. 20 USC 1134t.

"(1) is made at such time or times and contains such information as the Secretary may prescribe;

"(2) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

"(3) provides for making such reports, in such form and containing such information as the Secretary may require to carry out functions under this part, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports. Reports.

"(b) DISTRIBUTION OF GRANTS AND CONTRACTS.—The Secretary shall allocate grants or contracts under this part in such manner as will provide an equitable distribution of such grants or contracts throughout the United States among law schools which show promise of being able to use funds effectively for the purposes of this part.

"PART G—AUTHORIZATION OF APPROPRIATIONS

"AMOUNT AND DURATION OF AUTHORIZATION

20 USC 1134u.

"SEC. 971. (a) PART A.—There are authorized to be appropriated to carry out part A of this title $10,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(b) PART B.—There are authorized to be appropriated to carry out part B of this title $30,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(c) PART C.—There are authorized to be appropriated to carry out part C of this title $10,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(d) PART D.—There are authorized to be appropriated to carry out part D of this title $30,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(e) PART E.—There are authorized to be appropriated to carry out part E of this title $5,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(f) PART F.—There are authorized to be appropriated to carry out part F of this title $5,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(g) LIMITATION ON APPROPRIATIONS FOR PARTS A AND D.—No funds are authorized to be appropriated for part A or D of this title for any fiscal year unless the appropriation for the preceding fiscal year—

"(1) for part B equals or exceeds $18,000,000; and

"(2) for part C equals or exceeds $5,000,000.".

20 USC 1134i note.

(b) EFFECTIVE DATE.—The amendments made to section 932 (a) and (c) of the Act by this section shall take effect with respect to individuals appointed to the Fellowship Board to fill vacancies occurring after the date of enactment of this Act on the Fellowship Board as constituted prior to the amendments made by this section. The Secretary shall make initial appointments under this subsection so that the terms of 3 members expire at the end of 2 years, 3 members expire at the end of 3 years, and 3 members expire at the end of 4 years.

TITLE X—IMPROVEMENT OF POSTSECONDARY EDUCATION

SEC. 1001. FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION.

20 USC 1135a-1.

(a) FUNCTIONS.—(1) Section 1003(c)(2) of the Act is amended to read as follows:

"(2) advise the Secretary and the Director of the Fund for the Improvement of Postsecondary Education on priorities for the improvement of postsecondary education and make such recommendations as it may deem appropriate for the improvement of postsecondary education and for the evaluation, dissemination, and adaptation of demonstrated improvements in postsecondary educational practice;".

(b) REAUTHORIZATION.—Section 1005 of the Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1005. There are authorized to be appropriated to carry out this part $14,500,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.". 20 USC 1135a-3.

SEC. 1002. MINORITY SCIENCE AND ENGINEERING IMPROVEMENT PROGRAMS.

Part B of title X of the Act is amended to read as follows:

"PART B—MINORITY SCIENCE AND ENGINEERING IMPROVEMENT PROGRAMS

"SUBPART 1—MINORITY SCIENCE IMPROVEMENT PROGRAM

"PURPOSE; AUTHORITY

"SEC. 1021. (a) It is the purpose of this subpart to continue the authority of the Department to operate the Minority Institutions Science Improvement Program created under section 3(a)(1) of the National Science Foundation Act of 1950 and transferred to the Department by section 304(a)(1) of the Department of Education Organization Act of 1979. 20 USC 1135b. 42 USC 1862. 20 USC 3444.

"(b) The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants to institutions of higher education that are designed to effect long-range improvement in science and engineering education at predominantly minority institutions and to increase the participation of underrepresented ethnic minorities in scientific and technological careers.

"GRANT RECIPIENT SELECTION

"SEC. 1022. (a) ESTABLISHMENT OF CRITERIA.—Grants under this subpart shall be awarded on the basis of criteria established by the Secretary by regulations. 20 USC 1135b-1.

"(b) PRIORITIES TO BE GIVEN IN CRITERIA.—In establishing criteria under subsection (a), the Secretary shall give priority to applicants which have not previously received funding from the Minority Institutions Science Improvement Program and to previous grantees with a proven record of success, as well as to applications that contribute to achieving balance among projects with respect to geographic region, academic discipline, and project type.

"(c) REQUIRED CRITERIA.—In establishing criteria under subsection (a), the Secretary may consider the following selection criteria in making grants:

"(1) plan of operation;
"(2) quality of key personnel;
"(3) budget and cost effectiveness;
"(4) evaluation plan;
"(5) adequacy of resources;
"(6) identification of need for the project;
"(7) potential institutional impact of the project;
"(8) institutional commitment to the project;
"(9) expected outcomes; and

"(10) scientific and educational value of the proposed project.

"USE OF FUNDS

20 USC 1135b-2.

"SEC. 1023. (a) TYPES OF GRANTS.—Funds appropriated to carry out this subpart may be made available as—

"(1) institutional grants (as defined in section 1046(6));

"(2) cooperative grants (as defined in section 1046(7));

"(3) design projects (as defined in section 1046(8)); or

"(4) special projects (as defined in section 1046(9)).

"(b) AUTHORIZED USES FOR EACH TYPE OF GRANT.—(1) The authorized uses of funds made available as institutional grants include (but are not limited to)—

"(A) faculty development programs; or

"(B) development of curriculum materials.

"(2) The authorized uses of funds made available as cooperative grants include (but are not limited to)—

"(A) assisting institutions in sharing facilities and personnel;

"(B) disseminating information about established programs in science and engineering;

"(C) supporting cooperative efforts to strengthen the institutions' science and engineering programs; or

"(D) carrying out a combination of any of the activities in subparagraphs (A) through (C).

"(3) The authorized uses of funds made available as design projects include (but are not limited to)—

"(A) developing planning, management, and evaluation systems; or

"(B) developing plans for initiating scientific research and for improving institutions' capabilities for such activities.

Funds used for design project grants may not be used to pay more than 50 percent of the salaries during any academic year of faculty members involved in the project.

"(4) The authorized uses of funds made available as special projects include (but are not limited to)—

"(A) advanced science seminars;

"(B) science faculty workshops and conferences;

"(C) faculty training to develop specific science research or education skills;

"(D) research in science education;

"(E) programs for visiting scientists;

"(F) preparation of films or audio-visual materials in science;

"(G) development of learning experiences in science beyond those normally available to minority undergraduate students;

"(H) development of pre-college enrichment activities in science; or

"(I) any other activities designed to address specific barriers to the entry of minorities into science.

"ADMINISTRATION

20 USC 1135b-3.

"SEC. 1024. The Secretary shall submit to the Congress on an annual basis a list of grantees receiving awards under this part.

"SUBPART 2—SCIENCE AND ENGINEERING ACCESS PROGRAMS

"MINORITY SUPPORT IN SCIENCE AND ENGINEERING PROGRAMS

"SEC. 1031. The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants to institutions of higher education that are designed to provide or improve support programs for minority students enrolled in science and engineering programs at institutions with a significant minority enrollment (at least 10 percent). 20 USC 1135c.

"SPECIAL SERVICE PROJECTS PROGRAM

"SEC. 1032. The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants to institutions of higher education that are designed to provide or improve support to accredited colleges and universities and professional scientific societies for a broad range of activities designed to eliminate or reduce specific barriers to the entry of minorities into science and technology. 20 USC 1135c-1.

"SUPPORTABLE ACTIVITIES

"SEC. 1033. Funds appropriated for the purpose of this subpart may be made available for— 20 USC 1135c-2.

"(1) providing needed services to groups of minority institutions or providing training for scientists and engineers from eligible minority institutions;

"(2) providing needed services to groups of institutions serving significant numbers of minority students or providing training for scientists and engineers from such institutions to improve their ability to train minority students in science or engineering;

"(3) assisting minority institutions to improve the quality of preparation of their students for graduate work or careers in science, mathematics, and technology;

"(4) improving access of undergraduate students at minority institutions to careers in the sciences, mathematics, and engineering;

"(5) improving access of minority students to careers in the sciences, mathematics, and engineering;

"(6) improving access for pre-college minority students to careers in science, mathematics, and engineering through community outreach programs conducted through colleges and universities eligible for support through the Minority Science and Engineering Improvement Programs;

"(7) disseminating activities, information, and educational materials designed to address specific barriers to the entry of minorities into science and technology, and conducting activities and studies concerning the flow of underrepresented ethnic minorities into scientific careers;

"(8) supporting curriculum models to encourage minority student participation in research careers in science, mathematics, and technology; and

"(9) improving the capability of minority institutions for self-assessment, management, and evaluation of their science, mathematics, and engineering programs and dissemination of their results.

"SUBPART 3—ADMINISTRATIVE AND GENERAL PROVISIONS

"ELIGIBILITY FOR GRANTS

20 USC 1135d.

"SEC. 1041. Eligibility to receive grants under this part is limited to—

"(1) public and private nonprofit institutions that are minority institutions (as defined in section 1046(3));

"(2) nonprofit science-oriented organizations, professional scientific societies, and all nonprofit, accredited colleges and universities which provide a needed service to a group of eligible minority institutions or which provide in-service training for project directors, scientists, and engineers from eligible minority institutions; and

"(3) for the purposes of section 1032, public and private nonprofit institutions that have at least 10 percent minority enrollment.

"GRANT APPLICATION

20 USC 1135d-1.

"SEC. 1042. (a) SUBMISSION AND CONTENTS OF APPLICATIONS.—An eligible applicant (as determined under section 1041) that desires to receive a grant under this part shall submit to the Secretary an application therefor at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth—

"(1) a program of activities for carrying out one or more of the purposes described in section 1021(b) in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purpose or purposes; and

"(2) such other policies, procedures, and assurances as the Secretary may require by regulation.

"(b) APPROVAL BASED ON LIKELIHOOD OF PROGRESS.—The Secretary shall approve an application only if the Secretary determines that the application sets forth a program of activities which are likely to make substantial progress toward achieving the purposes of this part.

"CROSS PROGRAM AND CROSS AGENCY COOPERATION

State and local governments.
20 USC 1135d-2.

"SEC. 1043. The Minority Science and Engineering Improvement Programs shall cooperate with other programs within the Department and within Federal, State, and private agencies which carry out programs to improve the quality of science, mathematics, and engineering education.

"ADMINISTRATIVE PROVISIONS

20 USC 1135d-3.

"SEC. 1044. (a) TECHNICAL STAFF.—The Secretary shall appoint, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not less than 2 technical employees with appropriate scientific and educational background to administer the programs under this part who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

5 USC 5101 *et seq.*
5 USC 5331 *et seq.*
Contracts.

"(b) PROCEDURES FOR GRANT REVIEW.—The Secretary shall establish procedures for reviewing and evaluating grants and contracts

made or entered into under such programs. Procedures for reviewing grant applications, based on the peer review system, or contracts for financial assistance under this title may not be subject to any review outside of officials responsible for the administration of the Minority Science and Engineering Improvement Programs.

"ADVISORY PROVISIONS

"SEC. 1045. (a) ADVISORY BOARD FOR THE MINORITY SCIENCE AND ENGINEERING IMPROVEMENT PROGRAMS.—There shall be established an Advisory Board for the Minority Science and Engineering Improvement Programs. The Board shall consist of 9 members, at least 6 of whom must be racial and national origin minority scientists, engineers, or science or engineering educators. In constituting the initial Board under subsection (c), efforts shall be made to achieve a balance on the Board with respect to sexual, geographic, and institutional background. 20 USC 1135d-4.

"(b) PURPOSES OF THE BOARD.—The Board shall act as an advisory group to the program. Drawing on the expertise of members, the Board will recommend to the Secretary and the director of the program those policies, procedures, and other measures which will further the efforts made through the program to improve the quality of science and engineering education by contributing to the access and retention of ethnic minorities in science and engineering education programs. Upon the request of the Secretary, the Board may be called upon to advise the Secretary on any matters within the Department which could be expected to have an impact on the access of minority students to careers in science, mathematics, or engineering.

"(c) CONSTITUTION OF BOARD.—The initial Board shall be constituted as follows:

"(1) The Director of the Programs shall solicit nominations for the Board from present and past grant recipients of the Minority Institutions Science Improvement Program. The Director shall select from among the nominees 18 candidates whose names shall be given to the Secretary.

"(2) The Secretary shall choose 9 Board members from among the 18 presented.

"(3) The Secretary shall assign 3 Board members to a 3-year term, 3 members to a 4-year term, and 3 members to a 5-year term. Upon expiration of these initial terms, replacement Board members shall serve for 3-year terms. Board members may serve more than one term.

"(4) The Chair of the Board shall be selected by a simple majority vote of Board members and will serve a single term.

"(5) Vacancies on the Board shall be filled by the Board soliciting nominees from institutions eligible to receive grants through the Program. From among the nominees the present and immediate past Chair of the Board shall submit at least 2 nominees for each vacancy to the Secretary, who shall fill vacancies from among the names submitted.

"(d) COMPENSATION OF THE BOARD.—Members of the Board shall receive compensation at a rate not to exceed the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-15 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Board. 5 USC 5332.

"DEFINITIONS

20 USC 1135d-5.

"SEC. 1046. For the purpose of this part—

"(1) The term 'accredited' means currently certified by a nationally recognized accrediting agency or making satisfactory progress toward achieving accreditation.

"(2) The term 'minority' means American Indian, Alaskan Native, Black (not of Hispanic origin), Hispanic (including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin), Pacific Islander or other ethnic group underrepresented in science and engineering.

"(3) The term 'minority institution' means an institution of higher education whose enrollment of a single minority or a combination of minorities (as defined in paragraph (2)) exceeds 50 percent of the total enrollment. The Secretary shall verify this information from the data on enrollments in the higher education general information surveys (HEGIS) furnished by the institution to the Office for Civil Rights, Department of Education.

"(4) The term 'science' means, for the purpose of this program, the biological, engineering, mathematical, physical, and social sciences, and history and philosophy of science; also included are interdisciplinary fields which are comprised of overlapping areas among two or more sciences.

"(5) The term 'underrepresented in science and engineering' means a minority group whose number of scientists and engineers per 10,000 population of that group is substantially below the comparable figure for scientists and engineers who are white and not of Hispanic origin.

"(6) The term 'institutional grant' means a grant that supports the implementation of a comprehensive science improvement plan, which may include any combination of activities for improving the preparation of minority students for careers in science.

"(7) The term 'cooperative grant' means a grant that assists groups of nonprofit accredited colleges and universities to work together to conduct a science improvement program.

"(8) The term 'design projects' means projects that assist minority institutions that do not have their own appropriate resources or personnel to plan and develop long-range science improvement programs.

"(9) The term 'special projects' means—

"(A) a special project grant to a minority institution which support activities that—

"(i) improve the quality of training in science and engineering at minority institutions; or

"(ii) enhance the minority institutions' general scientific research capabilities; or

"(B) a special project grant to any eligible applicant which supports activities that—

"(i) provide a needed service to a group of eligible minority institutions; or

"(ii) provide in-service training for project directors, scientists, and engineers from eligible minority institutions.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1047. (a) AUTHORIZATIONS.—There are authorized to be appropriated to carry out the purposes of this part, $7,500,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years. 20 USC 1135d-6.

"(b) APPROPRIATION LIMITATION.—For any fiscal year, 50 percent of the funds under this part shall be allocated for the purpose of section 1021, 33.33 percent for the purpose of section 1031, and 16.67 percent for the purpose of section 1032.".

SEC. 1003. INNOVATIVE PROJECTS AUTHORIZED.

Title X of the Act is further amended by adding at the end thereof the following new part:

"PART C—INNOVATIVE PROJECTS FOR COMMUNITY SERVICES AND STUDENT FINANCIAL INDEPENDENCE

"STATEMENT OF PURPOSE

"SEC. 1061. It is the purpose of this part to support innovative projects in order to determine the feasibility of encouraging student participation in community service projects in exchange for educational services or financial assistance and thereby reduce the debt acquired by students in the course of completing postsecondary educational programs. 20 USC 1135e.

"INNOVATIVE PROJECTS FOR COMMUNITY SERVICES AND STUDENT FINANCIAL INDEPENDENCE

"SEC. 1062. (a) GENERAL AUTHORITY.—The Secretary is authorized, in accordance with the provisions of this part, to make grants to and contracts with institutions of higher education (including combinations of such institutions) and with such other public agencies and nonprofit private organizations as the Secretary deems necessary for innovative projects designed to carry out the purpose of this part. Grants. Contracts. 20 USC 1135e-1.

"(b) APPLICATIONS.—No grant may be made and no contract may be entered into under this section unless an application is made at such time, in such manner, and contained or accompanied by such information as the Director may require.

"(c) APPLICABLE PROCEDURES.—(1) No application may be approved under subsection (b) unless the National Board of the Fund for Improvement of Postsecondary Education, under procedures established by the Director, approves the application.

"(2) The provisions of section 1004(b) shall apply to grants made under this part.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1063. (a) There are authorized to be appropriated to carry out this part, $3,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years. 20 USC 1135e-2.

"(b) No funds may be appropriated pursuant to subsection (a) for any fiscal year unless funds are appropriated for part A of this title for such fiscal year.".

SEC. 1004. TECHNICAL AMENDMENT.

The headings of title X, and of part A of title X, of the Act are amended to read as follows:

"TITLE X—POSTSECONDARY IMPROVEMENT PROGRAMS

"PART A—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION".

TITLE XI—PARTNERSHIPS FOR ECONOMIC DEVELOPMENT AND URBAN COMMUNITY SERVICE

SEC. 1101. PROGRAM AUTHORIZED.

Title XI of the Act is amended to read as follows:

"TITLE XI—PARTNERSHIPS FOR ECONOMIC DEVELOPMENT AND URBAN COMMUNITY SERVICE

"PART A—PARTNERSHIPS FOR ECONOMIC DEVELOPMENT

"FINDINGS AND PURPOSE

State and local governments. 20 USC 1136.

"SEC. 1101. (a) FINDINGS.—The Congress finds that—

"(1) there is a need for more systematic and comprehensive efforts to link postsecondary education institutions with State and local governments, labor, business, industry, and community organizations, in order to meet local problems, and to plan, maintain, and attract lasting economic improvement;

"(2) effective economic development is enhanced by the active participation of postsecondary education institutions;

"(3) the economic vitality and international competitiveness of the United States depends on using all available resources; and

"(4) Federal leadership is critical to promoting such competitiveness efforts.

"(b) PURPOSE.—The purpose of this part is to encourage the involvement of postsecondary education institutions with units of government, labor, business, industry, and community organizations to—

"(1) conduct planning, research, and activities which promote economic development and the expansion and retention of jobs on the local, State, and regional level;

"(2) develop programs for job retraining and expanding business and industry opportunities in the area;

"(3) enhance local growth initiatives through utilization of their expertise in economic and community development; and

"(4) demonstrate new approaches to economic development partnerships and to make them available to other areas of the Nation.

"USE OF ECONOMIC DEVELOPMENT FUNDS

20 USC 1136a.

"SEC. 1102. (a) ALLOWABLE ACTIVITIES.—An eligible institution or consortium of such institutions may apply for assistance under this part to support—

"(1) planning and research (including applied research) directed at solving local economic development problems, promoting growth, and improving productivity;

"(2) resource exchanges between faculty, government personnel, and private sector experts in economic development activities; and

"(3) any combination of the activities described in subparagraphs (A) and (B) which promote local economic development.

"(b) SPECIAL PROJECTS AUTHORIZED.—Special projects which may be supported under subsection (a)(2) are projects which address broad or national economic development issues, are innovative in their approach, and hold promise of application beyond the area served. Such projects may include—

"(1) the application of technology research to manufacturing aspects of mature industries in a region or State;

"(2) the design and development of technical assistance centers based at eligible institutions which will provide an integrated program of education, research, and technology transfer to business and industry;

"(3) projects to support entrepreneurship training and technical assistance; and

"(4) projects to develop new approaches or complement efforts to explore, expand, and foster opportunities for international business and trade.

"(c) DISSEMINATION PROJECTS.—In addition to the activities described in subsections (a) and (b), the Secretary is authorized to make a limited number of grants to identify and disseminate effective models and techniques which use partnerships between post-secondary education institutions and others involved in economic development to support economic improvement. Grants.

"(d) MAXIMUM GRANT.—The maximum grant awarded under subsection (a) for any fiscal year shall be $50,000, except that the limitation contained in this paragraph shall not apply in the case of an application submitted by a consortium of eligible institutions.

"REQUIREMENTS FOR ECONOMIC DEVELOPMENT GRANT APPLICATIONS

"SEC. 1103. (a) LOCAL INVOLVEMENT.—The Secretary may make grants under this part to an eligible institution or consortium of such institutions that demonstrates in its application a proposed program that will involve the active participation of and commitment of resources and personnel by— State and local governments. 20 USC 1136b.

"(1) local or State units of governments;

"(2) business or industry;

"(3) labor unions or union representatives; and

"(4) nonprofit organizations concerned with economic development in the area to be served.

"(b) GENERAL CONDITIONS.—Each application under this part shall be filed with the Secretary at such time or times as the Secretary may prescribe. The application shall—

"(1) set forth a program which is likely to make substantial progress toward achieving the purposes of this part;

"(2) provide for an effective dissemination of information on successful results of the activities;

"(3) provide assurances that an assessment has been made of Federal and State resources and that the resources are unavailable for the proposed activity;

"(4) describe the consultation and, if appropriate, coordination with other Federal and State economic development efforts;

"(5) contain assurances that the eligible institution will, to the extent practicable, coordinate its use of resources available for student assistance in a manner which will support the activities conducted under this part;

"(6) describe how the plan fits into the overall economic development plan for the area to be served, contributes to long-term economic growth and employment opportunities, and furthers the goals of the postsecondary education institution; and

"(7) contain such other information and assurances as the Secretary may require by regulation.

"(c) SPECIAL CONSIDERATION.—In making grants under this part, the Secretary shall give special consideration to applications which—

"(1) propose to serve an area which—

"(A) has an unemployment rate 1 percent above the national average unemployment rate for the most recent 24-month period, or

"(B) has experienced or is about to experience sudden economic dislocation resulting in job loss that is significant, both in terms of the number of jobs eliminated and the effect upon the employment rate of the area;

"(2) are submitted by a consortia of postsecondary education institutions, including 4- and 2-year, public and private postsecondary education institutions, and provides a regional geographic approach to solving economic development problems; or

"(3) develop approaches which promote economic diversification for rural areas or areas whose economy is dependent upon a single industry or single employer.

"PART B—URBAN COMMUNITY SERVICE

"PURPOSE

20 USC 1137.

"SEC. 1111. It is the purpose of this part to encourage the use of urban universities as sources of skills, talents, and knowledge which can serve the urban areas in which they are located in meeting urban problems.

"USE OF URBAN COMMUNITY SERVICE FUNDS

20 USC 1137a.

"SEC. 1112. (a) ALLOWABLE ACTIVITIES.—An eligible institution that is an urban university, or consortium of such institutions, may apply for assistance under this part to support cooperative projects through which such universities provide urban areas with applied research, planning services, specialized training, technical assistance or other services to address high priority needs of such urban areas.

"(b) PRIORITY NEEDS.—Each eligible urban university shall establish high priority needs through consultation with local government, business, labor, or community-based organizations.

"CONTENTS FOR APPLICATIONS FOR URBAN COMMUNITY SERVICES PROJECTS

20 USC 1137b.

"SEC. 1113. (a) EVALUATION AND SELECTION OF APPLICATIONS.—An application submitted under this part shall—

"(1) contain assurances that the chief executive officer of the local government has been given a reasonable opportunity to review and comment on the proposed project or projects; and

"(2) show participation of any local agency of general government and of the community in the development and implementation of each project for which assistance is sought.

"(b) SELECTION PRIORITIES.—The Secretary shall give priority to applications which contain cooperative arrangements among urban universities, community colleges, and other institutions of higher education and other entities in the public, private, and nonprofit sectors within an urban area.

"PART C—GENERAL PROVISIONS

"ADMINISTRATIVE PROVISIONS

"SEC. 1121. (a) PEER REVIEW.—The Secretary shall designate a peer review panel to review applications submitted under parts A and B of this title and make recommendations for funding to the Secretary. In selecting the peer review panel, the Secretary shall consult with other appropriate Cabinet-level officials and non-Federal organizations, to ensure that the panel will be geographically balanced and be composed of an equal number of representatives from public and private higher education, labor, business, and State and local government who have expertise in economic development and urban community service. 20 USC 1138.

"(b) DURATION OF GRANTS.—Subject to the availability of appropriations, grants under parts A and B may be made on a multiyear basis, except that no institution, individually or as a participant in a combination of such institutions may receive a grant for one project for more than 5 years.

"(c) GEOGRAPHIC DISTRIBUTION.—The Secretary shall award grants under parts A and B in such a manner as to achieve broad and equitable distribution of assistance throughout the Nation.

"(d) NON-FEDERAL MATCH REQUIRED.—An applicant under parts A and B and the organizations associated with its application shall contribute to the conduct of the program supported by the grant an amount from non-Federal sources equal to at least one-fourth the amount of the grant, which contribution may be in cash or in services, supplies, or equipment.

"(e) WAIVER OF MATCHING REQUIREMENT.—The Secretary may waive the requirement of subsection (d) with respect to an eligible institution that demonstrates a unique hardship that precludes its compliance with that requirement.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1122. There are authorized to be appropriated to carry out parts A and B of this title $15,000,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years. The Secretary shall allocate 66⅔ percent of the funds appropriated under this title for part A and 33⅓ percent for part B. 20 USC 1138a.

"DEFINITIONS

"SEC. 1123. As used in this title— 20 USC 1138b.

"(1) the term 'eligible institution' has the meaning given such term by section 435(a) of this Act;

"(2) the term 'urban area' means a metropolitan statistical area having a population of not less than 500,000 individuals; or in any State which does not have a standard metropolitan statistical area which has such a population, the entity of the State having an agreement under section 1203 may, or if no such entity has an agreement, the Secretary shall designate one urban area for the purpose of this part; and

"(3) the term 'urban university' means an institution of higher education or a consortium of institutions of higher education, any one of which meets all the requirements of this paragraph which—

"(A) is located in an urban area,

"(B) draws a substantial portion of its undergraduate students from the urban area in which it is located or contiguous students from the urban area in which it is located or contiguous areas,

"(C) carries out programs to make postsecondary education opportunities more accessible to residents of such urban area or contiguous areas,

"(D) has the present capacity to provide resources responsive to the needs and priorities of such urban area and contiguous areas,

"(E) offers a range of professional or graduate programs sufficient to sustain its capacity to provide such resources, and

"(F) has demonstrated and sustained a sense of responsibility to such urban area and contiguous areas and its people.

"PART D—WAGNER INSTITUTE OF URBAN PUBLIC POLICY

"PURPOSE; DESIGNATION

New York.
20 USC 1139.

"SEC. 1131. It is the purpose of this part to provide assistance to the City University of New York to enable the University to establish a center to coordinate resources for the development of solutions to pressing urban and social problems. The institute shall be known as the 'Robert F. Wagner, Sr., Institute of Urban Public Policy' (hereafter in this part referred to as the 'Institute').

"APPLICATION FOR AND USE OF FUNDS

20 USC 1139a.

"SEC. 1132. (a) APPLICATION.—No payment may be made under this part except upon application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

"(b) USE OF FUNDS.—Payments made under this part may be used by the City University of New York to establish and operate the Institute and to support the following activities of the Institute:

"(1) The Institute shall inventory and assess academic research, education, and training capabilities with respect to urban redevelopment strategies. The Institute shall ensure that information derived from this activity shall be available for use in public policy debates on solutions to urban problems.

"(2) The Institute shall conduct a series of forums to promote and coordinate decisionmaking on urban problems. Such forums shall be focused upon such issues as economic development,

youth employment, law enforcement, education, services to the elderly, health care delivery systems, and immigration patterns. Participants in such forums shall be drawn from Federal, State, and local government, the business and professional community, labor, education, and community based organizations.

"(3) In developing topics for the forums to be conducted under paragraph (2), and in establishing priorities for the allocation of its resources, the Institute shall establish and regularly consult with an advisory council of urban advisors representing leaders in government, business, labor, education, and community based operations.

"(4) The Institute shall prepare and publish reports on the forums conducted pursuant to paragraph (2) and publish and disseminate the results of its research activities.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1133. There are authorized to be appropriated to carry out this part, $2,000,000, which may remain available until expended.". 20 USC 1139b.

TITLE XII—GENERAL PROVISIONS

SEC. 1201. TREATMENT OF TERRITORIES AND TERRITORIAL STUDENT ASSISTANCE.

Section 1204 of the Act is amended— 20 USC 1144a.

(1) by striking out the first sentence of subsection (a) and inserting in lieu thereof the following: "Within 6 months after the date of enactment of the Higher Education Amendments of 1986, the Secretary shall promulgate regulations in accordance with the recommendations in the report entitled 'Postsecondary Education in the U.S. Territories' (May 1982) in order to adapt programs under this Act to the needs of Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.";

(2) by striking out "October 1, 1985" in subsection (c) and inserting in lieu thereof "October 1, 1991,"; and

(3) by striking out subsection (b), by redesignating subsection (a) as subsection (b), and by inserting before such subsection the following new subsection:

"(a) The Secretary is required to waive the eligibility criteria of any postsecondary education program administered by the Department where such criteria does not take into account the unique circumstances in Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific Islands, and the Northern Mariana Islands. Priority shall be given to proposals submitted by these territories which otherwise meet program criteria.".

SEC. 1202. REAUTHORIZATION OF THE NATIONAL ADVISORY COMMITTEE ON ACCREDITATION AND INSTITUTIONAL ELIGIBILITY.

Section 1205(f) of the Act is amended by striking out "September 30, 1985" and inserting in lieu thereof "September 30, 1991". 20 USC 1145.

SEC. 1203. COMMISSION TO STUDY POSTSECONDARY INSTITUTIONAL AND PROGRAMMATIC RECOGNITION PROCESS.

Title XII of the Act is amended by adding at the end thereof the following new section:

"COMMISSION TO STUDY POSTSECONDARY INSTITUTIONAL AND PROGRAMMATIC RECOGNITION PROCESS

20 USC 1145a.

"SEC. 1206. (a) There is established in the legislative branch a Joint Study Commission on Postsecondary Institutional Recognition (hereafter in this section referred to as the 'Commission').

"(b) The Commission shall be composed of 5 members appointed jointly by the President pro tempore of the Senate, upon the recommendation of the Majority Leader and the Minority Leader, and by the Speaker of the House of Representatives, upon the recommendation of the Majority Leader and the Minority Leader.

"(c)(1) Members of the Commission shall be appointed, on the basis of their integrity, impartiality, and good judgment, from among individuals who, as a result of their training, experience, and attainment, are widely recognized by professionals in the fields of education and governmental administration as experts in those fields.

"(2) A majority of the members of the Commission may not, at the time of their appointment, be serving as either employees or officers of any accrediting agency or an organization of accrediting agencies, currently serving as administrators of accredited institutions, or be current or past members of the Advisory Committee on Accreditation and Institutional Eligibility of the Department.

"(3) Vacancies in the membership of the Commission shall not affect the power of the remaining members to perform the duties of the Commission and shall be filled in the same manner in which the original appointment was made.

"(4) Each member of the Commission not otherwise employed by the United States Government shall receive the daily equivalent of the annual basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day during which such member is actually engaged in the performance of the duties of the Commission. Each member of the Commission shall be allowed travel expenses in the same manner as any individual employed intermittently by the Federal Government is allowed travel expenses under section 5703 of title 5, United States Code.

"(d)(1) The Commission shall conduct a thorough study of the institutional and programmatic recognition process used by the Department in determining institutional or programmatic eligibility for student participation in Federal student assistance programs under this Act with attention being given to the accreditation of various types of public and private postsecondary institutions and programs.

"(2) The study shall address, analyze, and report specifically on—

"(A) the comprehensiveness of the standards and criteria used by existing accreditation agencies;

"(B) the reliability and validity of the institutional and programmatic review processes used by the existing accreditation agencies;

"(C) the adequacy of the current accreditation methodology and system;

"(D) alternative structures, standards, criteria, and processes that might be used in accrediting institutions and programs;

"(E) the indicators of educational quality that might be incorporated into the accreditation process;

"(F) the educational outcome measurements that might be used in the accreditation process;

"(G) the indicators of institutional and programmatic quality that should be provided to applicants and students; and

"(H) alternative approaches that might be used by the Secretary for institutional and programmatic recognition to permit student participation in Federal student assistance programs,

as each factor bears on eligibility for participation in Federal student assistance programs.

"(3) The study shall also include an analysis of—

"(A) the processes and procedures currently utilized by the Secretary and the Department in determining institutional and program eligibility for receiving Federal student assistance funds;

"(B) the operations and effectiveness in carrying out eligibility determination of the division of the Department referred to as the 'Division of Eligibility and Agency Evaluation';

"(C) review of alternatives to accreditation in determining eligibility and their acceptability;

"(D) the role and effectiveness of, participation agreements, between institutions and programs and the Department in determining specific institutional program eligibility for Federal funds;

"(E) the ability of the Department to enforce conditions specified in participation agreements, including institutional and program audits;

"(F) the current status, functioning, and effectiveness of the National Advisory Committee on Accreditation and Institutional Eligibility, including its role in developing criteria for recognition of accrediting agencies and evaluating their success in assessing the quality of the education or training offered.

"(e) The Commission shall adopt procedures allowing any interested party to submit information with respect to the recognition process, including critiques of current accrediting agency recognition procedures, accreditation procedures, possible alternative procedures, and proposed changes in criteria for recognition of individual accrediting agencies.

"(f) The Commission shall prepare a narrative and statistical report consisting of— Report.

"(1) an overview description of the voluntary accrediting process used for postsecondary education in the United States; and

"(2) a brief description of each accrediting agency recognized by the Department.

The report shall include at least a statement of the agency's purpose and a description of the organizational and governance structure of the agency, the agency's accreditation and visitation procedures, employers of members of the accrediting agency's governing body, the agency's sources of financial support, and such background information as the Commission may request from the agency regarding the number of members, number of candidates for accreditation, number of members voluntarily withdrawn after membership, number of applications withdrawn before membership, number of members dropped, and number of applicants denied accreditation. The report shall include the types of information shared among the various accrediting agencies, the degree of duplication among accrediting agencies in the current system, and an analysis of reported complaints by the agency and its member institutions and programs.

Report.

"(g) The Commission shall also prepare a report on—

"(1) the history, operation, procedures, and the role and adequacy of staff of the division described in subsection (e)(3)(B);

"(2) the history and current operations of the National Advisory Committee on Accreditation and Institutional Eligibility, including current criteria for Federal recognition of accrediting bodies, how the criteria were developed, possible modifications, and procedures for accomplishing this; and

"(3) with respect to the Department in general, an overview of its role in the institutional and programmatic recognition process as it relates to eligibility for Federal student assistance, including recommendations, if appropriate, on how this role might be changed and improved.

"(h)(1)(A) By agreement between the President pro tempore of the Senate and the Speaker of the House of Representatives, the Commission is authorized to secure on a reimbursable basis, office space, clerical personnel, travel expenses, and such supplies and equipment as may be necessary for the Commission to carry out the study.

Contract.

"(B) Subject to such limitations as the President pro tempore of the Senate and the Speaker of the House of Representatives may jointly prescribe, the Commission may appoint such personnel as the Commission deems necessary and fix the compensation at an annual rate that does not exceed the rate of basic pay then payable for GS-18 of the General Schedule under section 5332 of title 5, United States Code, and may procure by contract the temporary and intermittent services of clerical personnel and experts or consultants, or organizations thereof.

"(2) In conducting the study authorized by this section, the Commission is authorized to—

"(A) seek such assistance and support as may be required to conduct the study from appropriate Federal agencies;

"(B) arrange for the detail of staff personnel from other Federal agencies;

"(C) enter into contracts and make other arrangements, as may be necessary for the conduct of the study;

"(D) convene such technical groups as deemed necessary to secure information about the existing recognition process; and

"(E) provide transportation and subsistence for persons serving without compensation.

"(3) Upon request by the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist in the conduct of the study.

Report.

"(i) The Commission shall submit a report of the findings and recommendations of the study required by this section to the Postsecondary Education Subcommittee of the Education and Labor Committee of the House of Representatives and the Subcommittee on Education, Arts, and Humanities of the Labor and Human Resources Committee of the Senate not later than one year after funds are appropriated and made available for this study.

"(j) There are authorized to be appropriated $1,000,000 to carry out the study authorized by this section.".

SEC. 1204. STUDENT REPRESENTATION.

Title XII of the Act is further amended by adding at the end thereof the following new section:

"STUDENT REPRESENTATION

"SEC. 1207. The Secretary shall, in appointing individuals to any commission, committee, board, panel, or other body in connection with the administration of this Act, include individuals who are, at the time of appointment, attending an institution of higher education.". 20 USC 1145bb.

SEC. 1205. FINANCIAL RESPONSIBILITY OF FOREIGN STUDENTS.

Title XII of the Act is further amended by adding at the end thereof the following new section:

"FINANCIAL RESPONSIBILITY OF FOREIGN STUDENTS

"SEC. 1208. Nothing in this Act or any other Federal law shall be construed to prohibit any institution of higher education from requiring a student who is a foreign national (and not admitted to permanent residence in the United States) to guarantee the future payment of tuition and fees to such institution by (1) making advance payment of such tuition and fees, (2) making deposits in an escrow account administered by such institution for such payments, or (3) obtaining a bond or other insurance that such payments will be made.". 20 USC 1145c.

SEC. 1206. DISCLOSURES OF FOREIGN GIFTS.

(a) GENERAL RULE.—Title XII of the Act is further amended by adding at the end thereof the following new section:

"DISCLOSURES OF FOREIGN GIFTS

"SEC. 1209. (a) Whenever any institution receives a gift from or enters into a contract with a foreign source, the value of which is $250,000 or more, considered alone or in combination with all other gifts from or contracts with that foreign source within a calendar year, the institution shall file a disclosure report with the Secretary on January 31 or July 31, whichever is sooner. Contracts. 20 USC 1145d.

"(b) Each report to the Secretary required by this Act shall contain: Report.

"(1) For gifts received from or contracts entered into with a foreign source other than a foreign government, the aggregate dollar amount of such gifts and contracts attributable to a particular country. The country to which a gift is attributable is the country of citizenship, or if unknown, the principal residence for a foreign source who is a natural person, and the country of incorporation, or if unknown, the principal place of business, for a foreign source which is a legal entity.

"(2) For gifts received from or contracts entered into with a foreign government, the aggregate amount of such gifts and contracts received from each foreign government.

"(c) Notwithstanding the provisions of subsection (b), whenever any institution receives a restricted or conditional gift or contract from a foreign source, the institution shall disclose:

"(1) For such gifts received from or contracts entered into with a foreign source other than a foreign government, the amount, the date, and a description of such conditions or restrictions. The report shall also disclose the country of citizenship, or if unknown, the principal residence for a foreign source which is a natural person, and the country of incorporation, or if

unknown, the principal place of business for a foreign source which is a legal entity.

"(2) For gifts received from or contracts entered into with a foreign government, the amount, the date, a description of such conditions or restrictions, and the name of the foreign government.

State and local governments.

"(d)(1) If an institution described under subsection (a) is within a State which has enacted requirements for public disclosure of gifts from or contracts with a foreign source that are substantially similar to the requirements of this section, a copy of the disclosure report filed with the State may be filed with the Secretary in lieu of a report required under subsection (a). The State in which the institution is located shall provide to the Secretary such assurances as the Secretary may require to establish that the institution has met the requirements for public disclosure under State law if the State report is filed.

"(2) If an institution receives a gift from, or enters into a contract with, a foreign source, where any other department, agency, or bureau of the executive branch requires a report containing requirements substantially similar to those required under this Act, a copy of this report may be filed with the Secretary in lieu of a report required under subsection (a).

"(e) All disclosure reports required by this Act shall be public records open to inspection and copying during business hours.

"(f)(1) Whenever it appears that an institution has failed to comply with the requirements of this section, including any rule or regulation promulgated thereunder, a civil action may be brought in an appropriate district court of the United States, or the appropriate United States court of any territory or other place subject to the jurisdiction of the United States, to request such court to compel compliance with the requirements of the Act.

"(2) For knowing or willful failure to comply with the requirements of this section, including any rule or regulation promulgated thereunder, an institution shall pay to the Treasury of the United States the full costs to the United States of obtaining compliance, including all associated costs of investigation and enforcement.

"(g) The Secretary may promulgate regulations to carry out the ministerial duties imposed on the Secretary by this section.

"(h) For the purpose of this section—

"(1) the term 'contract' means any agreement for the acquisition by purchase, lease, or barter of property or services by the foreign source, for the direct benefit or use of either of the parties;

"(2) the term 'foreign source' means—

"(A) a foreign government, including an agency of a foreign government;

"(B) a legal entity, governmental or otherwise, created solely under the laws of a foreign state or states;

"(C) an individual who is not a citizen or a national of the United States or a trust territory or protectorate thereof; and

"(D) an agent, including a subsidiary or affiliate of a foreign legal entity, acting on behalf of a foreign source;

"(3) the term 'gift' means any gift of money or property;

"(4) the term 'institution' means any institution, public or private, or, if a multicampus institution, any single campus of such institution, in any State which—

"(A) is legally authorized within such State to provide a program of education beyond high school;

"(B) provides a program for which it awards a bachelor's degree (or provides not less than a 2-year program which is acceptable for full credit toward such a degree) or more advanced degrees; and

"(C) is accredited by a nationally recognized accrediting agency or association and to which institution Federal financial assistance is extended (directly or indirectly through another entity or person), or which institution receives support from the extension of Federal financial assistance to any of its subunits; and

"(5) the term 'restricted or conditional gift or contract' means any endowment, gift, grant, contract, award, present, or property of any kind which includes provisions regarding (A) the employment, assignment, or termination of faculty; (B) the establishment of departments, centers, research or lecture programs, or new faculty positions; (C) the selection or admission of students; or (D) the award of grants, loans, scholarships, fellowships, or other forms of financial aid restricted to students of a specified country, religion, sex, ethnic origin, or political opinion.".

(b) REPEALER.—Section 1208 of the Act, as added by subsection (a) of this section, is repealed on August 1, 1989. 20 USC 1145c.

SEC. 1207. AGGREGATE LIMIT OF AUTHORIZATION OF APPROPRIATIONS.

Title XII of the Act is further amended by adding at the end thereof the following new section:

"AGGREGATE LIMIT OF AUTHORIZATION OF APPROPRIATIONS

"SEC. 1210. Notwithstanding any other provision of this Act, the total amount which may be appropriated to carry out the programs and activities authorized by this Act, other than the programs and activities authorized by subpart 1 of part A and part B of title IV, shall not exceed— 20 USC 1145e.

"(1) $3,166,000,000 for fiscal year 1987,
"(2) $3,351,000,000 for fiscal year 1988,
"(3) $3,552,000,000 for fiscal year 1989,
"(4) $3,771,000,000 for fiscal year 1990, and
"(5) $4,007,000,000 for fiscal year 1991.".

TITLE XIII—EDUCATION ADMINISTRATION

PART A—SECRETARIAL STUDIES AND EVALUATIONS

SEC. 1301. SATISFACTORY PROGRESS.

The Secretary, through the Office of Educational Research and Improvement, shall conduct a survey on the impact, if any, on grades of students of the amendments made by this Act to section 484(d) of the Act. The study required by this subsection shall be conducted over the 5-year period ending September 30, 1991. The Secretary, after the end of each year of the study, shall submit to the Congress a report of the survey required by this subsection, together with such recommendations as the Secretary deems appropriate. 20 USC 1091 note. Report.

20 USC 1121 note.

SEC. 1302. NATIONAL ENDOWMENT FOR INTERNATIONAL STUDIES.

(a) STUDY REQUIRED.—The Secretary shall, in consultation with the Director of the United States Information Agency, the Director of the Agency for International Development, the Secretary of State, and the Secretary of Defense, conduct a study on the establishment of a National Endowment for International Studies. The study shall develop a program, a funding plan, and priorities for such an Endowment.

(b) CONDUCT OF STUDY.—In carrying out the study required by this section, the Secretary shall consider—

(1) the extent of the need for international studies programs at all educational levels, not served by this title;

(2) the programs at the Agency for International Development, the United States Information Agency, and the Departments of State, Defense, and Education which can be coordinated to increase the scope and number and kinds of participants in international educational programs;

(3) the feasibility of an Endowment for International Studies, by whom it shall be administered, and procedures for receiving corporate and other private contributions for supplemental funding, similar to Treasury fund accounts at other Federal agencies; and

(4) a comprehensive evaluation of the weaknesses and strengths in international education and foreign language training at all levels of education in our Nation and the role of the Endowment to remedy these weaknesses, and encourage expansion of these strengths.

(c) REPORT.—The Secretary shall prepare and submit to the Congress, not later than one year after the date of enactment of this section, a report on the study required by this section, together with such recommendations, including recommendations for legislation, as the Secretary deems appropriate.

20 USC 1221e-1 note.

SEC. 1303. DATA STUDY REQUIRED.

(a) CONDUCT OF STUDIES.—The Secretary shall, through the Office of Education Research and Improvement or the Center for Education Statistics, shall conduct the studies required by this section and submit reports thereon to the Congress not later than September 30, 1990. The reports shall contain such recommendations, including recommendations for legislation, as the Secretary deems appropriate.

(b) COST STUDY REQUIRED.—(1) The Secretary shall conduct a study on the escalating cost of higher education. The study required by this section shall—

(A) identify the current cost of obtaining a higher education and determine how that cost has changed in recent years,

(B) determine the specific causes of such changes in cost and the extent to which those causes have contributed to such changes,

(C) forecast the future cost of obtaining a higher education with consideration given to prospective demographic changes in student enrollments,

(D) evaluate the impact of such changes in cost on institutions of higher education, their students, and lower- and middle-income families,

(E) make recommendations on how such changes in cost can be minimized in the future, and

(F) outline State and Federal policy options which may help to minimize such changes in cost in the future.

State and local governments. Women. Minorities.

(2) In conducting such study, the Secretary shall give special consideration to the impact of escalating costs on lower- and middle-income students and families, the impact of escalating costs on female and minority students, the impact of escalating costs on the career choices made by students, and the relationship between escalating costs and the Federal student financial assistance programs.

(3) During the conduct of such study, the Secretary shall consult frequently with the Department of Education, the Chairman of the Senate Committee on Labor and Human Resources, and the Chairman of the House Committee on Education and Labor.

(c) STUDENT AID RECIPIENT SURVEY.—(1) The Secretary shall survey student aid recipients on a regular cycle, but not less than once every 3 years—

(A) to identify the population of students receiving Federal student aid;

(B) to determine the income distribution and other socioeconomic characteristics of federally aided students;

(C) to describe the combinations of aid from State, Federal, and private sources received by students from all income groups;

(D) to describe the debt burden of loan recipients and their capacity to repay their education debts; and

(E) to disseminate such information in both published and machine readable form.

(2) The survey shall be representative of full-time and part-time, undergraduate, graduate, and professional and current and former students in all types of institutions, and should be designed and administered in consultation with the Congress and the postsecondary education community.

(d) TEACHER SUPPLY AND DEMAND.—(1) The Secretary shall utilize the legislative authority under section 406(b) of the General Education Provisions Act to annually assess current and future supply and demand for teachers with particular attention to—

State and local governments. 20 USC 1221e-1.

(A) long-term and short-term shortages of personnel in various subject areas or teaching specialties;

(B) shortages in particular States or regions;

(C) the number of minorities entering teaching;

(D) the number of women and minorities entering educational administration;

(E) the effect of State curriculum and graduation requirements on the need for teachers in each State;

(F) the extent to which demographic characteristics of persons currently employed as teachers and persons studying to be teachers match the characteristics of the students in each State (race, age, sex);

(G) the academic qualifications of prospective teachers and the academic preparation of persons currently preparing to be teachers;

(H) the effect of the introduction of State mandated teacher competency tests on the demographic and educational characteristics of teachers and the supply of teachers; and

(I) an assessment of new and emerging specialties and the technologies, academic subjects, and occupational areas requiring vocational education, with emphasis on the unique needs for

preparing an adequate supply of vocational teachers of handicapped students, with added emphasis on the preparation required to teach combined classrooms of handicapped, or other highly targeted groups of students and other students within a vocational education setting.

(2) The analysis conducted under this subsection may include assessment of other educational needs identified by the Congress, including an assessment of the need for instructional equipment and materials in elementary and secondary schools and in institutions of higher education.

(e) EQUITABLE STUDENT AID FOR FARM FAMILIES.—The Secretary shall conduct a study of financial aid formulas under title IV of the Act for students in postsecondary educational institutions with special attention to devising a more equitable formula for farm families.

Contracts.
20 USC 1011 note.

SEC. 1304. EVALUATION OF CONTINUING EDUCATION.

(a) EVALUATION.—The Secretary shall enter into a contract with a qualified entity to study and evaluate the programs established under part A of this title.

(b) SECRETARY'S RESPONSIBILITIES.—The Secretary shall assist in evaluating the status and progress of adult education and postsecondary continuing education in achieving the purposes of this title. Such assistance shall include—

(1) an analysis of the findings of the report under subsection (a) together with suggestions for improvements in planning or program operation; and

(2) an information network on research in adult and continuing education, the operation of model or innovative programs, successful experiences in the planning, administration, and conduct of adult and continuing education programs, and advances in curriculum and instructional practices and technologies.

(c) REPORT.—Not later than January 1, 1990, the Secretary shall submit a report to the Congress on the program evaluations required under this title and on any progress in fulfilling the goals and purposes of this title. The Secretary may include in the report appropriate recommendations or legislative proposals.

SEC. 1305. STUDY OF BANKRUPTCY TREATMENT OF STUDENTS.

11 USC 1301 *et seq.*

Report.

The Secretary shall conduct a study of the treatment of students under chapter 13 of title 11, United States Code, relating to the discharge of student loan indebtedness in bankruptcy proceedings, and of the effect of including such students under that provision of that law. The Secretary shall prepare and submit a report to the Congress on the study required by this section not later than 3 months after the date of enactment of this Act.

20 USC 1070a note.

SEC. 1306. STUDY OF PELL GRANT LESS THAN HALF-TIME STUDENTS.

Report.

The Secretary shall conduct a study to determine the number of less than half-time students who would be eligible for Pell grants by reason of having an expected family contribution of $0 and by reason of having an expected family contribution of $0–$200 for the appropriate academic years. The Secretary shall prepare and submit a report to the Congress not later than September 30, 1988, on the results of the study required by this section.

SEC. 1307. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $2,700,000 for the fiscal year 1987 and for each of the 2 succeeding fiscal years to carry out the provisions of this part.

PART B—GENERAL ACCOUNTING OFFICE REPORTS

SEC. 1311. STUDY OF PRACTICES OF STATE GUARANTY AGENCIES AND MULTISTATE GUARANTORS UNDER THE GUARANTEED STUDENT LOAN PROGRAM.

20 USC 1071 note.

(a) STUDY REQUIRED.—The Comptroller General shall conduct a complete study of the practices of State guaranty agencies and multistate guarantors under the guaranteed student loan program authorized by part B of title IV of the Act. The study shall investigate, on a comparative basis—

(1) due diligence practice of lenders;

(2) default rates and recovery rates on student loans;

(3) changes in loan volume;

(4) methods of soliciting student borrowers;

(5) potential for fraudulent double borrowing by students;

(6) participation agreements between the types of guarantor and lenders;

(7) eligible institution participation agreements;

(8) adequacy of reserved funds in relation to guaranty commitments made by the agency and the default risk which such commitments represent, as reflected by the socio-economic background of the borrowers, the category of institution attended, and the historical experience of the agency;

(9) types of services provided to lenders, eligible institutions, and borrowers;

(10) use of funds generated through participation in the guaranteed student loan program by amount and nature of expenses for administrative support for programs other than the guaranteed student loan program;

(11) to what extent the guarantors meet the requirements of truth-in-lending provisions;

(12) profile of borrowers and defaulters of loans guaranteed by the agency and an assessment of the default risks inherent in such loans;

(13) coordination of the loan guaranty program with grant programs;

(14) general student access to loan assistance; and

(15) need for administrative cost allowances by particular guaranty agencies in relation to the default risk faced by the agency, the administrative costs incurred, or needed to be incurred by the agency, and other factors relevant to the cost of guaranteeing loans under the program.

(b) REPORT.—The Comptroller General of the United States shall prepare and submit a report, not later than 2 years after the date of enactment of this Act, to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives on the findings of the study required by subsection (a) of this section, together with such recommendations as the Comptroller General deems appropriate.

20 USC 1071 note.

SEC. 1312. STUDY OF USE OF MULTIPLE-YEAR LINES OF CREDIT.

The Comptroller General shall evaluate the feasibility and efficiency of permitting students to establish lines of credit with eligible lenders under part B of title IV of the Act that cover more than 2 years of attendance at an institution of higher education. Such evaluation shall determine the extent to which such an arrangement would reduce the administrative costs associated with making separate loans annually under such part. In conducting such evaluation, the Comptroller General shall consult institutions of higher education and eligible lenders under such part. Within 2 years after the date of enactment of this Act, the Comptroller General shall submit to the Congress a report on the results of such evaluation together with such recommendations as the Secretary considers appropriate.

Report.

20 USC 1071 note.

SEC. 1313. STUDY OF MULTIPLE DISBURSEMENT.

The Comptroller General shall evaluate the impact of the multiple disbursement system required for student loans under part B of title IV of the Act on the ability of both students and institutions of higher education to meet their expenses as they arise. Such evaluation shall include an assessment of any other impacts of such system on such students or institutions that the Comptroller General determines to be significant. A report on the results of such evaluation shall be submitted to the Congress not later than 2 years after the date of enactment of this Act.

Report.

20 USC 1071 note.

SEC. 1314. STUDENT LOAN CONSOLIDATION.

The Comptroller General shall evaluate the cost, efficiency, and impact of the consolidation loan program established by the amendments made by this Act to part B of title IV of the Act and shall report to the Congress not later than 2 years after the date of enactment of this Act on the findings and recommendations required by this subsection.

PART C—COSTS OF POSTSECONDARY EDUCATION

20 USC 1221-1 note.

SEC. 1321. NATIONAL COMMISSION ON RESPONSIBILITIES FOR FINANCING POSTSECONDARY EDUCATION.

(a) FINDINGS.—The Congress finds—

(1) that institutions of higher education in our Nation and their human and intellectual resources are critical to the future of the American society, and the Nation's economic potential, its strength, security, and freedom, and the quality of life for all citizens are tied to the quality and extent of higher education available;

(2) that it is the responsibility of the Federal Government to establish a clearly defined national policy regarding—

(A) the role and expectations of respective institutions in society (the family unit, institutions of higher education, government, and the individual in financing the costs of postsecondary education); and

(B) the most efficient and effective use of limited Federal, State, and private resources for supplementing the family effort in financing postsecondary education and for creating incentives for individuals and families to plan for financing postsecondary education; and

(3) the appropriate response to economic, budgetary, demographic, and social changes which will require individuals, families, institutions of higher education, and government to plan and adapt to the future needs for student financial assistance for postsecondary education.

(b) ESTABLISHMENT OF THE COMMISSION.—(1) There is established as an independent agency in the executive branch a commission to be known as the National Commission on Responsibilities for Financing Postsecondary Education (hereafter in this section referred to as the "Commission").

(2) The Commission shall be composed of 9 members, 3 of whom shall be appointed by the President, 3 of whom shall be appointed by the Speaker of the House of Representatives, and 3 of whom shall be appointed by the majority leader of the Senate. The membership of the Commission shall provide expertise and experience in the provision and financing of postsecondary education, including student financial aid administrators, secondary school administrators, individuals skilled in education economics research, individuals having expertise in the development of standards and systems of need analysis for student assistance programs, and individuals with particular expertise in credit financing for postsecondary education.

(c) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall study and investigate the extent to which—

(A) there is a consistent and coherent Federal policy regarding the appropriate family role in financing the costs of postsecondary education for family members;

(B) the current Federal laws and regulations promote the stated Federal policy; and

(C) the extent to which State laws which remove parental responsibilities for children over 18 years of age conflict with Federal policy in this area.

State and local governments.

(2) REPORT AND RECOMMENDATIONS.—The Commission shall—

(A) summarize the appropriate findings of the National Commission on Student Financial Assistance;

(B) recommend to the Congress a comprehensive analysis on the extent to which a consensus exists regarding the appropriate role of the family in financing postsecondary education; and

(C) to the extent that a consensus exists, recommend changes in current law that would be required to achieve the desired Federal policy, including recommendations on Federal incentives to encourage families to plan and save for their financial responsibilities in financing postsecondary education for family members taking into account the needs of future generations.

(d) SPECIFIC REQUIREMENTS.—In carrying out its responsibilities under subsection (c), the Commission shall make a study of the following areas:

(1) NEED ANALYSIS.—

(A) The most appropriate mechanisms for measuring student and family ability to pay for postsecondary education.

(B) The incentives and disincentives for family saving in existing need analysis systems.

(C) The feasibility and impact of different need analysis systems and eligibility formulas for determining student

and family contributions for Federal and non-Federal grant, loan, and work-study programs.

(D) The extent to which existing systems of need analysis take into account the circumstances of older and non-traditional students, students with minor dependents, and divorced and separated parents.

(E) The extent to which existing systems of need analysis recognize differing regional economic conditions.

(F) The feasibility of a simplified need analysis system for determining ability to pay for low-income families, economically disadvantaged families, and families receiving public assistance benefits.

(G) The postsecondary education financing partnership, and the impact of external influences, such as economic conditions or State-level initiatives, that affect the balance of financial support among students and their families, the Federal Government, States, postsecondary institutions, credit institutions, and the private sector.

(2) STUDENT INDEPENDENCE.—The most appropriate mechanisms and factors to be considered in determining student independence and self-support and in determining when families should be expected to provide parental financial information in determining expected family contributions for Federal student assistance programs.

(3) PARENTAL RESPONSIBILITY.—In consultation and cooperation with associations of higher education institutions and administrators, secondary schools, student and parent associations, and other organizations, the most effective means of reinforcing and promoting the principle of parental responsibility for contributing, to the extent that they are able, to the costs of their children's postsecondary education.

(4) STUDENT RESPONSIBILITY.—The most effective mechanisms for measuring student ability to contribute to educational cost through earnings and savings, the extent to which such mechanisms reflect the circumstances of students from disadvantaged families, and the existing levels of student contributions from past, current, and future earnings.

(5) INSTITUTIONAL RESPONSIBILITY.—The most effective mechanisms of reinforcing and promoting the principle of institutional responsibility for providing need-based aid to students attending postsecondary institutions.

(6) GOVERNMENTAL RESPONSIBILITY.—The most efficient and appropriate mechanisms for providing student assistance from the various levels of government.

(7) EARLY INFORMATION, PLANNING, AND INFORMATION TECHNOLOGY.—The extent to which programs providing early information on postsecondary education, costs, and financial aid programs to students and their families influence educational opportunity and family saving.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part $1,000,000.

(f) TERMINATION.—The Commission shall terminate 2 years after the initial appointment of members.

PART D—LIBRARY RESOURCES

SEC. 1331. STUDY OF THE EFFECTIVENESS OF THE NEEDS CRITERIA FOR THE COLLEGE LIBRARY RESOURCE PROGRAM AUTHORIZED.

20 USC 1029 note.

(a) STUDY REQUIRED.—The National Commission on Libraries and Information Sciences shall conduct a study on the effectiveness in directing assistance to libraries with the greatest need of the needs criteria specified in section 211 of the Act.

Ante, p. 1287.

(b) REPORT TO CONGRESS.—The National Commission on Libraries and Information Sciences shall prepare and submit a report to the Congress not later than 3 years after the conclusion of the first fiscal year in which appropriations are made for the College Library Resource Program authorized by section 211 of the Act, together with such recommendations as the Commission on Libraries and Information Sciences deems appropriate.

PART E—NATIONAL ACADEMY OF SCIENCES STUDY

SEC. 1341. VOLUNTEERS.

20 USC 1221-1 note.

(a) STUDY REQUIRED.—The National Academy of Sciences shall conduct a thorough study of how volunteers can best be used in the classroom. The study required by this section shall include—

(1) the feasibility of using recipients of student loans made, assured, or guaranteed under part B of title IV of the Act or part E of such title as part of repayment of such loans;

(2) the use of older Americans as such volunteers;

(3) the use of business persons and other professionals as volunteers; and

(4) the place of incentives to encourage volunteerism.

The study required by this section shall examine the methods of using volunteers designed to provide the greatest flexibility for local educational agencies.

(b) REPORTS REQUIRED.—The National Academy of Sciences shall, not later than one year after the date of enactment of this Act, prepare and submit to the Congress their respective reports, together with a description of programs on the use of volunteers and with such recommendations as the Secretary deems appropriate.

(c) AVAILABILITY OF FUNDS.—The Secretary shall, from funds available for the administration of the Department of Education, make available not to exceed $500,000 for the study required by this section.

PART F—FAULKNER UNIVERSITY

SEC. 1351. RELIEF OF LIABILITY.

(a) RELIEF OF LIABILITY.—Faulkner University (formerly Alabama Christian College) of Montgomery, Alabama, is relieved of all liability—

Alabama.

(1) to repay to the United States the sum of $147,681.39, plus accrued interest, and

(2) to pay $7,822.50 to the National Direct Student Loan Fund of the Faulkner University,

representing payments inadvertently made pursuant to subpart 1 and subpart 2 of part A and part C of title IV of the Higher Education Act of 1965 and direct student loans inadvertently made

Ante, p. 1308.

under part E of such title IV prior to the receipt of eligibility status for the junior and senior years of the baccalaureate degree programs offered by Faulkner University. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given for the amount for which liability is relieved by this section.

(b) SPECIAL RULE.—For the purpose of part B of title IV of the Higher Education Act of 1965, each student in attendance at the Faulkner University of Montgomery, Alabama, receiving a federally insured loan for the academic year 1981-1982 and for the academic year 1982-1983 pursuant to such part B shall be deemed to be in attendance at an eligible institution for that academic year.

PART G—ALIEN YOUTH EDUCATION OPPORTUNITY PANEL

20 USC 1091 note.

SEC. 1361. DENIAL OF STUDENT ASSISTANCE TO CERTAIN NONCITIZENS.

(a) ESTABLISHMENT OF PANEL.—(1) There is established in the Department of Education a panel to be known as the "Alien Youth Education Opportunity Panel" (hereafter in this section referred to as the "Panel").

(2) The Panel shall be composed of 7 members, 3 of whom shall be appointed by the Secretary, 2 of whom shall be appointed by the Speaker of the House of Representatives, and 2 of whom shall be appointed by the Majority Leader of the Senate.

(b) DUTIES OF PANEL.—The Panel shall study and investigate the extent to which the requirements of section 484(a)(5) of the Act result in the denial of student assistance to long-term residents of the United States who have graduated from United States high schools and the extent to which that denial deprives those individuals of an equal educational opportunity.

(c) REPORT AND RECOMMENDATIONS.—The Panel shall submit a report of its findings and recommendations to the Secretary, the President, and the Congress not later than 2 years after the date of enactment of this section.

(d) ADMINISTRATIVE AND CLERICAL SUPPORT.—The Secretary shall provide the Panel with such administrative and clerical support as it may require to carry out its activities under this section.

(e) COMPENSATION AND EXPENSES.—(1) Members of the Panel who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(2) Members of the Panel who are not officers or full-time employees of the United States may each receive reimbursement for travel expenses incident to attending Panel meetings, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(f) ACCESS TO INFORMATION.—The Panel is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purpose of this section and each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is

authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Panel.

PART H—BOSTON COLLEGE

SEC. 1371. DEBT PROVISION.

The Secretary is directed to cancel all annual debt service obligations of the receiving institution for fiscal years 1987, 1988, 1989, and 1990 of which the total amount to be cancelled shall not exceed $2,700,000 adjusted as required in fiscal year 1990, for the Department of Education Project Loan #5-1-00665-0 dated August 5, 1981, and shall adjust the loan agreement to reflect the change required by this section without any other provision of law being applicable.

PART I—CARL ALBERT CONGRESSIONAL RESEARCH AND STUDIES CENTER

SEC. 1381. APPROPRIATION PROVISION.

Funds appropriated in Public Law 97-377 under the heading "HIGHER AND CONTINUING EDUCATION", for the Carl Albert Congressional Research and Studies Center, under the terms of H.R. 3598 (97th Congress) shall be available as a direct appropriation without regard to section 4(a) of H.R. 3598 (97th Congress).

TITLE XIV—EDUCATION RESEARCH AND STATISTICS

SEC. 1401. EDUCATIONAL RESEARCH AND IMPROVEMENT.

(a) OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT.—Section 405 of the General Education Provisions Act (20 U.S.C. 1221e) is amended to read as follows:

"OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

"SEC. 405. (a)(1) The Congress declares it to be the policy of the United States to provide to every individual an equal opportunity to receive an education of high quality regardless of race, color, religion, sex, age, handicap, national origin, or social class. Although the American educational system has pursued this objective, it has not attained the objective. Inequalities of opportunity to receive high quality education remain pronounced. To achieve the goal of quality education requires the continued pursuit of knowledge about education through research, improvement activities, data collection, and information dissemination. While the direction of American education remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

"(2) The Congress further declares it to be the policy of the United States to—

"(A) promote the quality and equity of American education,

"(B) advance the practice of education as an art, science, and profession;

"(C) support educational research of the highest quality;

"(D) strengthen the educational research and development system;

"(E) improve educational techniques and training;

"(F) assess the national progress of this Nation's schools and educational institutions, particularly special populations; and

"(G) collect, analyze, and disseminate statistics and other data related to education in the United States and other nations.

"(3) For purposes of this section—

"(A) the term 'Assistant Secretary' means the Assistant Secretary for Educational Research and Improvement established by section 202 of the Department of Education Organization Act;

20 USC 3412.

"(B) the term 'Council' means the National Advisory Council on Educational Research and Improvement established by subsection (c);

"(C) the term 'educational research' includes basic and applied research, development, planning, surveys, assessments, evaluations, investigations, experiments, and demonstrations in the field of education and other fields relating to education;

"(D) the term 'Office' means the Office of Educational Research and Improvement established by section 209 of the Department of Education Organization Act; and

20 USC 3419.

"(E) the terms 'United States' and 'State' include the District of Columbia and the Commonwealth of Puerto Rico.

"(b)(1) It shall be the purpose of the Office to carry out the policies set forth in subsection (a) of this section. The Office shall be administered by the Assistant Secretary and shall include—

"(A) the National Advisory Council on Educational Research and Improvement established in subsection (c);

"(B) the Center for Education Statistics established by section 406; and

Post, p. 1597.

"(C) such other units as the Secretary deems appropriate to carry out the purposes of the Office.

Research.

"(2) The Office shall, in accordance with the provisions of this section, seek to improve education in the United States through concentrating the resources of the Office on the priority research and development needs described in paragraph (3).

"(3) The needs to which paragraph (2) apply are—

Women.
Elderly persons.
Minorities.
Handicapped persons.
Disadvantaged persons.

"(A) improving student achievement;

"(B) improving the ability of schools to meet their responsibilities to provide equal educational opportunities for all students, including those with limited English-speaking ability, women, older students, part-time students, minority students, gifted and talented students, handicapped students, and students who are socially, economically, or educationally disadvantaged;

"(C) collecting, analyzing, and disseminating statistics and other data related to education in the United States and other nations;

"(D) improving the dissemination and application of knowledge obtained through educational research and data gathering, particularly to education professionals and policy makers;

"(E) encouraging the study of the sciences, the arts, and the humanities, including foreign languages and cultures;

"(F) improving the data base of information on special populations and their educational status;

"(G) conducting research on adult educational achievement, particularly literacy and illiteracy as it affects employment, crime, health, and human welfare;

"(H) conducting research on postsecondary opportunities, especially access for minorities and women; and

"(I) conducting research on education professionals, especially at the elementary and secondary levels including issues of recruitment, training, retention, and compensation.

"(4) The Secretary shall publish proposed research priorities in the Federal Register every two years, not later than October 1, and shall allow a period of sixty days for public comments and suggestions.

Federal Register, publication.

"(c)(1) The Council shall consist of fifteen members appointed by the President, by and with the advice and consent of the Senate. In addition, there shall be such ex officio members who are officers of the United States as the President may designate, including the Assistant Secretary. A majority of the appointed members of the Council shall constitute a quorum. The chairperson of the Council shall be designated by the President from among the appointed members. Ex officio members shall not have a vote on the Council. The members of the Council shall be appointed to ensure that the Council is broadly representative of the general public; the education professions, including practitioners; policymakers and researchers; and the various fields and levels of education.

"(2)(A) Except as provided in subparagraph (B), members shall be appointed to terms of three years.

"(B) Of the members first appointed—

"(i) five shall be appointed for terms of one year;

"(ii) five shall be appointed for terms of two years; and

"(iii) five shall be appointed for terms of three years;

as designated by the President at the time of appointment.

"(C) Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of a term until a successor has taken office.

"(D) An appointed member who has been a member of the Council for six consecutive years shall be ineligible for appointment to the Council during the two-year period following the expiration of the sixth year.

"(3) The Council shall—

"(A) advise the Secretary and the Assistant Secretary on the policies and activities carried out by the Office;

"(B) review and publicly comment on the policies and activities of the Office;

"(C) conduct such activities as may be necessary to fulfill its functions under this subsection;

"(D) prepare such reports to the Secretary on the activities of the Office as are appropriate; and

"(E) submit, no later than March 31 of each year, a report to the President and the Congress on the activities of the Office, and on education, educational research, and data gathering in general.

Report.

"(d)(1) In order to carry out the objectives of the Office under this section, the Secretary within the limits of available resources shall—

"(A) conduct educational research;

"(B) collect, analyze, and disseminate the findings of education research;

"(C) train individuals in educational research;

"(D) assist and foster such research, collection, dissemination, and training through grants, cooperative agreements, and technical assistance;

"(E) promote the coordination of educational research and research support within the Federal Government and otherwise assist and foster such research; and

"(F) collect, analyze, and disseminate statistics and other data related to education in the United States and other nations.

"(2)(A) The Secretary may appoint, for terms not to exceed three years (without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service) and may compensate (without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates) such scientific or professional employees of the Office as the Secretary considers necessary to accomplish its functions. The Secretary may also appoint and compensate not more than one-fifth of the number of full-time, regular scientific or professional employees of the Office without regard to such provisions. The rate of basic pay for such employees may not exceed the maximum annual rate of pay for grade GS-15 under section 5332 of title 5 of the United States Code, except that the pay of any employee employed before the date of enactment of the Higher Education Amendments of 1986 shall not be reduced by application of such maximum pay limitation.

5 USC 5101 *et seq.*, 5332 *et seq.*

"(B) The Secretary may reappoint employees described in subparagraph (A) upon presentation of a clear and convincing justification of need, for one additional term not to exceed three years. All such employees shall work on activities of the Office and shall not be reassigned to other duties outside the Office during their term.

"(C) Individuals who are employed on the date of enactment of this Act and were employed by such Office on April 1, 1986, and who were employed under excepted hiring authority provided by section 209 of the Department of Education Organization Act or this section may continue to be employed for the duration of their current term.

20 USC 3419.

"(3)(A) The Secretary may carry out the activities in paragraph (1)—

"(i) directly;

"(ii) through grants, contracts, and cooperative agreements with institutions of higher education, public and private organizations, institutions, agencies, and individuals; and

"(iii) through the provision of technical assistance.

Grants.
Contracts.

"(B) When making competitive awards under this subsection, the Secretary shall—

"(i) solicit recommendations and advice regarding research priorities, opportunities, and strategies from qualified experts, such as education professionals and policymakers, personnel of the regional education laboratories and of the research and development centers supported under paragraph (4), and the Council, as well as parents and other members of the general public;

"(ii) employ suitable selection procedures utilizing the procedures and principles of peer review, except where such peer review procedures are clearly inappropriate given such factors as the relatively small amount of a grant or contract or the exigencies of the situation; and

"(iii) determine that the activities assisted will be conducted efficiently, will be of high quality, and will meet priority research and development needs under this section.

"(C) Whenever the Secretary enters into a cooperative agreement under this section, the Secretary shall negotiate any subsequent modifications in the cooperative agreement with all parties to the agreement affected by the modifications.

"(4)(A) In carrying out the functions of the Office, the Secretary shall, in accordance with the provisions of this subsection, support—

"(i) regional educational laboratories established by public agencies or private nonprofit organizations to serve the needs of a specific region of the Nation under the guidance of a regionally representative governing board, the regional agendas of which shall, consistent with the priority research and development needs established by subsection (b) (2) and (3), be determined by the governing boards of such labs;

"(ii) research and development centers established by institutions of higher education, by institutions of higher education in consort with public agencies or private nonprofit organizations, or by interstate agencies established by compact which operate subsidiary bodies established to conduct postsecondary educational research and development;

"(iii) meritorious unsolicited proposals for educational research and related activities that are authorized by this subsection; and

"(iv) proposals that are specifically invited or requested by the Secretary, on a competitive basis, which meet objectives authorized by this subsection.

"(B) Prior to awarding a grant or entering into a contract for a regional educational laboratory or research and development center under subparagraph (A)(i) or (A)(ii), the Secretary shall invite applicants to compete for such laboratories and centers through notice published in the Federal Register.

Grant. Contract. Federal Register, publication.

"(C) Each application for assistance under subparagraph (A) (i) or (ii) as a regional educational laboratory or a research and development center shall contain such information as the Secretary may reasonably require, including assurances that the applicant will—

"(i) be responsible for the conduct of the research and development activities;

"(ii) prepare a long-range plan relating to the conduct of such research and development activities;

"(iii) ensure that information developed as a result of such research and development activities, including new educational methods, practices, techniques, and products, will be appropriately disseminated;

"(iv) provide technical assistance to appropriate educational agencies and institutions; and

"(v) to the extent practicable, provide training for individuals, emphasizing training opportunities for women and members of minority groups, in the use of new educational methods, practices, techniques, and products developed in connection with such activities.

"(D) No grant may be made and no contract entered into for assistance described under subparagraph (A) (i) or (ii) unless—

"(i) proposals for assistance under this subsection are solicited from regional educational laboratories and research and development centers by the Office;

"(ii) proposals for such assistance are developed by the regional educational laboratories and the research and development centers in consultation with the Office; and

"(iii) the Office determines that the proposed activities will be consistent with the education research and development program and dissemination activities which are being conducted by the Office.

"(E) No regional educational laboratory or research and development center receiving assistance under this subsection shall, by reason of the receipt of that assistance, be ineligible to receive any other assistance from the Office authorized by law.

"(F) The Secretary shall make available adequate funds to support meritorious, unsolicited proposals as described under subparagraph (A)(iii), and provide sufficient notice of the availability of such funds to individual researchers in all regions of the country.

"(5) The Secretary, from funds appropriated under this section, may establish and maintain research fellowships in the Office, for scholars, researchers, and statisticians engaged in the collection and dissemination of information about education and educational research. Subject to regulations published by the Secretary, fellowships may include such stipends and allowance, including travel and subsistence expenses provided for under title 5, United States Code, as the Secretary considers appropriate.

Grants.

"(6) The Secretary may award grants to institutions of higher education, including technical and community colleges as appropriate, to assess the new and emerging specialties and the technologies, academic subjects, and occupational areas requiring vocational education, with emphasis on the unique needs for preparing an adequate supply of vocational teachers of handicapped students. The Secretary shall give special consideration to the preparation required to teach classrooms of handicapped, or other highly targeted groups of students, in combination with other nonhandicapped or other nontargeted students, within the same vocational education setting.

Handicapped persons.

Grant.

"(e)(1) In addition to the other responsibilities of the Office under this section, the Office shall carry out, by grant or cooperative agreement with a nonprofit educational organization, a National Assessment of Educational Progress which shall have as a primary purpose the assessment of the performance of children and young adults in the basic skills of reading, mathematics, communication, and other subjects and skills. Such a National Assessment shall—

Report.

"(A) collect and report at least once every five years data assessing the performance of students at various age or grade levels in each of the areas of reading, writing, and mathematics;

"(B) report periodically data on changes in knowledge and skills of such students over a period of time;

"(C) conduct special assessments of other educational areas, as the need for additional national information arises;

"(D) include in assessment activities information on special groups of individuals;

State and local governments.

"(E) provide technical assistance to State educational agencies and to local educational agencies on the use of National Assessment objectives, primarily pertaining to—

"(i) the basic skills of reading, mathematics, and communication, and

"(ii) on making comparisons of such assessments with the national profile (including special population profiles) and change data developed by the National Assessment; and

"(F) with respect to each State which voluntarily participates in accordance with paragraph (5), provide a statement of information collected by the National Assessment for each such State.

State and local governments.

"(2)(A) The organization through which the Office carries out the National Assessment shall be responsible for overall management of the National Assessment. Such organization shall delegate authority to design and supervise the conduct of the National Assessment to an Assessment Policy Committee, established by such organization. The Assessment Policy Committee shall be composed of—

"(i) five members appointed by the organization of whom two members shall be representatives of business and industry and three members shall be representatives of the general public; and

"(ii) fourteen members appointed by the organization from the categories of membership specified in subparagraph (B).

"(B) Members of the Assessment Policy Committee appointed in accordance with subparagraph (A)(ii) shall be—

"(i) one chief State school officer;

"(ii) two State legislators;

"(iii) two school district superintendents;

"(iv) one member of a State board of education;

"(v) one member of a local school board;

"(vi) one Governor of a State;

"(vii) four classroom teachers;

"(viii) one elementary school principal; and

"(ix) one secondary school principal.

"(C) The Assistant Secretary shall serve as an ex officio member of the Assessment Policy Committee. The Assistant Secretary shall also appoint a member of the Council to serve as nonvoting member of the Assessment Policy Committee.

"(D) Members appointed in accordance with subparagraph (A) (i) and (ii) shall be appointed for terms for three years on a staggered basis.

"(3) The Assessment Policy Committee established by paragraph (2) shall be responsible for the design of the National Assessment, including the selection of the learning areas to be assessed, the development and selection of goal statements and assessment items, the assessment methodology, the form and content of the reporting and dissemination of assessment results, and studies to evaluate and improve the form and utilization of the National Assessment. The appropriateness of all cognitive, background, and attitude items developed as part of the National Assessment shall be the responsibility of the Assessment Policy Committee. Such items shall be subject to review by the Department of Education and the Office of Management and Budget for a single period of not more than sixty days.

"(4) Each learning area assessment shall have goal statements devised through a national consensus approach, providing for active participation of teachers, curriculum specialists, subject matter specialists, local school administrators, parents, and members of the general public. All items selected for use in the assessment shall be reviewed to exclude items which might reflect racial, sex, cultural, or regional bias.

State and local governments.

"(5) Participation in the National Assessment by State and local education agencies selected as part of a sample of such agencies shall be voluntary.

Report.

"(6) The Secretary shall provide for a periodic review of the National Assessment. This review shall provide an opportunity for public comment on the conduct and usefulness of the National Assessment and shall result in a report to the Congress, the President, and the Nation on the findings and recommendations, if any, of the review. The Secretary shall consider the findings and recommendations in designing the competition to select the organization through which the Office carries out the National Assessment.

"(f)(1) There are authorized to be appropriated to carry out this section and section 406 of this Act, $72,231,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.

Post, p. 1597.

Contracts.

"(2) The Secretary may not enter into a contract for the purpose of regional educational laboratories under subsection (d)(3)(A)(i) for a period in excess of five years.

"(3) Not less than 95 per centum of funds appropriated pursuant to this subsection for any fiscal year shall be expended to carry out this section through grants, cooperative agreements, or contracts.

"(4) When more than one Federal agency uses funds to support a single project under this section, the Office may act for all such agencies in administering those funds.

"(g)(1) In each fiscal year for which the total amount appropriated to carry out this section and section 406 of this Act equals or exceeds the total amount appropriated for fiscal year 1986 to carry out such sections—

"(A) not less than $17,760,000 shall be available in each fiscal year to carry out subsection (d)(4)(A)(ii) of this section (relating to centers);

"(B) not less than $17,000,000 shall be available in each fiscal year to carry out subsection (d)(4)(A)(i) of this section (relating to labs);

"(C) not less than $5,700,000 shall be available in each fiscal year to assist the education resources information centers pursuant to subsection (d)(3)(A) of this section;

"(D) not less than $4,000,000 shall be available in each fiscal year to carry out subsection (e) of this section (relating to the National Assessment of Educational Progress);

"(E) not less than $8,750,000 shall be available in each fiscal year to carry out section 406 of this Act (relating to the Center for Educational Statistics); and

"(F) not less than $500,000 shall be available in each fiscal year to carry out subsection (d)(4)(A)(iii) of this section (relating to field initiated research).

"(2) If the sums appropriated for any fiscal year are less than the amount required to be made available under subparagraphs (A) through (F) of paragraph (1), then each of the amounts required to be made available under such subparagraphs shall be ratably reduced. If additional amounts become available for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced.".

20 USC 1221e note.

(b) TRANSITION PROVISIONS.—On the effective date of this title, the property and records of the National Institute of Education shall be transferred to the Office of Educational Research and Improvement.

(c) EMPLOYMENT LIMITATION WAIVER.—Notwithstanding the 3-year employment period limitation under section 405(d)(2) of the General Education Provisions Act, the Secretary may continue to employ for an indefinite period 3 individuals, selected by the Secretary, who are employed by the Office of Educational Research and Improvement on the date of enactment of this Act, were employed by such office on April 1, 1986, and were employed by the National Institute of Education under its excepted hiring authority immediately prior to employment by such office. 20 USC 1221e note.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—Section 401 of the Department of Education Organization Act (Public Law 96-88) is amended by striking out subsection (c). 20 USC 3461.

SEC. 1402. CENTER FOR EDUCATION STATISTICS.

(a) GENERAL AUTHORITY.—(1) Section 406 if the General Education Provisions Act is amended— 20 USC 1221e-1

(A) by striking out subsection (e); and

(B) by redesignating subsections (f), (g), (h), and (i) as subsections (e), (f), (g), and (h) respectively.

(2) The heading of such section is amended to read as follows:

"CENTER FOR EDUCATION STATISTICS";

(3) Section 406(a) of the General Education Provisions Act is amended—

(A) in the first sentence by striking out "Office" and everything that follows through the end thereof, and inserting in lieu thereof "Office of Educational Research and Improvement, a Center for Education Statistics (hereafter in this section referred to as the 'Center')."; and

(B) in the second sentence, by striking out "an Administrator" and inserting in lieu thereof "a Director".

(4) Section 406(b) of the General Education Provisions Act is amended—

(A) in the first sentence by inserting ", and analyze," immediately after "collect";

(B) in paragraph (1) by inserting "if feasible, on a State-by-State basis," after "(1)"; and

(C) in paragraph (5) by striking out "Education Division" and inserting "Department of Education".

(5) Section 406(b) of the General Education Provisions Act is amended—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and insert in lieu thereof a semicolon and the word "and"; and

(C) by adding at the end thereof the following:

"(6) access periodically the current and projected supply and demand for elementary and secondary school teachers (including teachers at the pre-school level) and early childhood education development personnel with particular attention to—

"(A) long-term and short-term needs for personnel in various subject areas or teaching specialities;

"(B) shortages in particular types of schools or communities, and in States or regions;

"(C) the number of minorities entering teaching;

"(D) the proportions of women and minorities in educational administration, and the trends over time;

"(E) the demographic characteristics, academic qualifications, job preparation, experience and skills of existing teachers and new entrants in the field of education;

"(F) the effect of the introduction of State mandated teacher competency tests on the demographic and educational characteristics of teachers and the supply of teachers; and

"(G) the rate at which teachers leave teaching, their reasons for leaving, the sources of supply for new entrants, and the trends over time.".

20 USC 1221e-1.

(b) ADVISORY COUNCIL.—Section 406(c)(2) of the General Education Provisions Act is amended—

(1) by striking out subparagraph (A);

(2) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively; and

(3) in subparagraph (A) (as redesignated by paragraph (2)), by striking out "Director of the National Institute of Education," and inserting "Assistant Secretary,".

(c) ANNUAL REPORT.—Section 406(d)(1) of the General Education Provisions Act is amended by striking out "Assistant Secretary" and inserting "Secretary".

(d) STATISTICAL RECORDS.—Section 406(e) of the General Education Provisions Act (as redesignated in subsection (a)(1)) is amended—

(1) in paragraph (1)—

(A) by striking out "(A)";

(B) by striking out the first sentence and inserting "The Center is authorized to furnish transcripts or copies of tables and other statistical records of the Office and make special statistical compilations and surveys for State and local officials, public and private organizations, and individuals. The Center shall provide State and local educational agencies opportunities to suggest the development of particular compilations of statistics, surveys, and analyses that would assist those educational agencies.";

State and local governments.

(C) in the fourth sentence by striking out "Assistant Secretary" each place it appears and inserting "Secretary"; and

(D) by striking out subparagraph (B); and

(2) by striking out paragraph (3).

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 406(f) of the General Education Provisions Act (as redesignated in subsection (a)(1)) is amended to read as follows:

"(f) Funds to carry out this section are authorized by section 405(g) of this Act.".

(f) UNIFORM FINANCING DATA.—Section 406(g) of the General Education Provisions Act (as redesignated in subsection (a)(1)) is amended to read as follows:

State and local governments.

"(g) In addition to its other responsibilities, the Center shall collect uniform data from the States on the financing of elementary and secondary education. Each State receiving funds under the Education Consolidation and Improvement Act of 1981 shall cooperate with the Center in this effort.".

SEC. 1403. USE OF COUNCIL STAFF AND FACILITIES.

20 USC 1221e-1d.

The National Advisory Council on Educational Research and Improvement, the Advisory Council on Education Statistics, and members of such councils may not use any staff, facilities, equipment, supplies, or franking privileges of the councils for activities unrelated to the purposes of the councils.

SEC. 1404. SPECIAL PROJECTS UNDER THE SECRETARY'S DISCRETIONARY FUNDS.

(a) DISCRETIONARY PROGRAMS.—Section 583(a)(1) of the Education Consolidation and Improvement Act of 1981 is amended by striking out ", including" and all that follows before the semicolon.

20 USC 3851.

(b) PRIORITY FUNDING.—Section 583(b) of the Education Consolidation and Improvement Act of 1981 is amended—

(1) by striking out "and" after the comma in paragraph (3);

(2) by inserting "and" after the comma in paragraph (4);

(3) by adding after paragraph (4) the following:

"(5) a National Diffusion Network program as described in subsection (c),";

(4) by striking out "paragraph (4))" and inserting "paragraph (4) and not less than 34 percent of funds reserved for the purposes of this section in the case of the program referred to in paragraph (5))".

(c) NATIONAL DIFFUSION NETWORK.—Section 583 of the Education Consolidation and Improvement Act of 1981 is amended by adding the following subsection (c):

"(c)(1) The National Diffusion Network program under subsection (b)(5) shall be a national program that recognizes and furthers excellence in education by: (A) promoting the awareness and implementation of exemplary educational programs, products, and practices to interested elementary, secondary, and postsecondary institutions throughout the Nation; and (B) promoting the utilization of the knowledge, talents, and services of local staff associated with various educational excellence recognition efforts.

"(2) The program shall be directed toward improving the quality of education through the implementation of promising and validated innovations and improvements in educational programs, products, and practices, and through the provision of training, consultation, and related assistance services.

"(3) In carrying out the program the Secretary shall—

"(A) acquaint persons responsible for the operation of elementary, secondary, and postsecondary schools with information about exemplary educational programs, products, practices, and services;

"(B) assist them in implementing programs, products, and practices, which those persons determine to hold promise for improving the quality of education in the schools for which they are responsible by providing materials, initial training, and ongoing implementation assistance;

"(C) ensure that all such programs, products, and practices are subjected to rigorous evaluation with respect to their effectiveness and their capacity for implementation;

"(D) provide program development assistance toward the recognition, dissemination, and implementation of promising practices that hold the potential for answering critical needs and that have achieved credibility because of their effective use in schools; and

"(E) ensure that a substantial percentage of the innovations disseminated represent significant changes in practice for schools and teachers;

Grants. Contracts. State and local governments.

"(4) For the purpose of carrying out the program the Secretary is authorized to make grants to, and contracts with, local educational agencies, State educational agencies, institutions of higher education, and other public and nonprofit private educational institutions and organizations.".

TITLE XV—AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN CULTURE AND ART DEVELOPMENT

20 USC 4401 note.

SEC. 1501. SHORT TITLE.

This title may be cited as the "American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act".

20 USC 4401.

SEC. 1502. FINDINGS.

The Congress finds that—

(1) Indian art and culture and Native Hawaiian art and culture have contributed greatly to the artistic and cultural richness of the Nation;

(2) Indian art and culture and Native Hawaiian art and culture occupy a unique position in American history as being our only native art form and cultural heritage;

(3) the enhancement and preservation of this Nation's native art and culture has a fundamental positive influence on the American people;

(4) although the encouragement and support of Indian and Native Hawaiian arts and crafts are primarily a matter for private, local, and Indian and Native Hawaiian initiative, it is also an appropriate matter of concern to the Federal Government;

(5) it is appropriate and necessary for the Federal Government to support research and scholarship in Indian art and culture and Native Hawaiian art and culture and to complement programs for the advancement of such art and culture by tribal, private, and public agencies and organizations;

(6) current Federal initiatives in the area of Indian art and culture and Native Hawaiian art and culture are fragmented and inadequate; and

(7) in order to coordinate the Federal Government's effort to preserve, support, revitalize, and disseminate Indian art and culture and Native Hawaiian art and culture, it is desirable to establish—

(A) a national Institute of American Indian and Alaska Native Culture and Arts Development, and

(B) a program for Native Hawaiian culture and arts development.

20 USC 4402.

SEC. 1503. DEFINITIONS.

For the purpose of this title—

(1) The term "Indian art and culture" includes (but is not limited to) the traditional and contemporary expressions of Indian language, history, visual and performing arts, and crafts.

(2) The term "Native Hawaiian art and culture" includes the traditional and contemporary expressions of Native Hawaiian language, history, visual and performing arts, and crafts.

(3) The term "Institute" means the Institute of American Indian and Alaska Native Culture and Arts Development established by this title.

(4) The term "Indian" means any person who is a member of an Indian tribe.

(5) The term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act), which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians. 43 USC 1601 note.

(6) The term "Native Hawaiian" means any descendent of a person who, prior to 1778, was a native of the Hawaiian Islands.

(7) The term "Secretary" means the Secretary of the Interior.

(8) The term "Board" means the Board of Trustees of the Institute established under this title.

PART A—AMERICAN INDIANS AND ALASKA NATIVES

SEC. 1504. ESTABLISHMENT OF INSTITUTE. 20 USC 4411.

(a) IN GENERAL.—There is hereby established a corporation to be known as the "Institute of American Indian and Alaska Native Culture and Arts Development", which shall be under the direction and control of a Board of Trustees established under section 1505.

(b) SUCCESSION AND AMENDMENT OF CHARTER.—The corporation established under subsection (a) shall have succession until dissolved by Act of Congress. Only the Congress shall have the authority to revise or amend the charter of such corporation.

SEC. 1505. BOARD OF TRUSTEES. 20 USC 4412.

(a) COMPOSITION.—

(1) The Board of Trustees of the Institute shall be composed of 13 voting members and 6 nonvoting members as follows:

(A) The voting members shall be appointed by the President of the United States by and with the advice and consent of the Senate, not later than 180 days after the date of enactment of this Act, from among individuals from private life who are Indians, or other individuals, widely recognized in the field of Indian art and culture and who represent diverse political views.

(B) The nonvoting members shall consist of—

(i) 2 Members of the House of Representatives appointed by the Speaker of the House of Representatives in consultation with the Minority Leader of the House of Representatives;

(ii) 2 Members of the Senate appointed by the President pro tempore of the Senate, upon the recommendation of the Majority Leader and the Minority Leader of the Senate;

(iii) the President of the Institute, ex officio; and

(iv) the president of the student body of the Institute, ex officio.

(2) In making appointments pursuant to paragraph (1)(A), the President of the United States shall— President of U.S.

(A) consult with the Indian tribes and the various organizations of Indians;

Federal Register, publication.

(B) publish in the Federal Register an announcement of the expiration of terms no less than 4 months before such expiration;

(C) solicit nominations from Indian tribes and various Indian organizations to fill the vacancies;

(D) give due consideration to the appointment of individuals who will provide appropriate regional and tribal representation on the Board; and

(E) ensure that a majority of the Board appointed under paragraph (1)(A) are Indians.

(3) Members of Congress appointed under this section, or their designees, shall be entitled to attend all meetings of the Board and to provide advice to the Board on any matter relating to the Institute.

(b) TERMS OF OFFICE.—

(1) Except as otherwise provided in this section, members shall be appointed for terms of office of 6 years.

(2) The terms of office on the Board for the Members of the House of Representatives and of the Senate shall expire at the end of the congressional term of office during which such Member or Senator was appointed to the Board.

(3) Of the members of the Board first appointed under subsection (a)(1)(A)—

(A) 4 shall be appointed for terms of office of 2 years;

(B) 4 shall be appointed for terms of office of 4 years; and

(C) 5 shall be appointed for terms of office of 6 years,

as determined by the drawing of lots during the first meeting of the Board.

(4) No member of the Board appointed under subsection (a)(1)(A) shall be eligible to serve in excess of 2 consecutive terms, but may continue to serve until such member's successor is appointed.

(c) VACANCIES.—Any member of the Board appointed under subsection (a) to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed for the remainder of such term. If the vacancy occurs prior to the expiration of the term of a member of the Board appointed under subsection (a)(1)(B), a replacement shall be appointed in the same manner in which the original appointment was made.

(d) REMOVAL.—No member of the Board may be removed during the term of office of such member except for just and sufficient cause.

(e) CHAIRMAN AND VICE CHAIRMAN.—The President of the United States shall designate the initial Chairman and Vice Chairman of the Board from among the members of the Board appointed pursuant to subsection (a)(1)(A). Such Chairman and Vice Chairman so designated shall serve for 12 calendar months. Thereafter, the Chairman and Vice Chairman shall be elected from among the members of the Board appointed pursuant to subsection (a)(1)(A) and shall serve for terms of 2 years. In the case of a vacancy in the office of Chairman or Vice Chairman, such vacancy shall be filled by the members of the Board appointed pursuant to subsection (a)(1)(A), and the member filling such vacancy shall serve for the remainder of the unexpired term.

(f) QUORUM.—Unless otherwise provided by the bylaws of the Institute, a majority of the members appointed under subsection (a)(1)(A) shall constitute a quorum.

(g) POWERS.—The Board is authorized—

(1) to formulate the policy of the Institute;

(2) to direct the management of the Institute; and

(3) to make such bylaws and rules as it deems necessary for the administration of its functions under this title, including the organization and procedures of the Board.

(h) COMPENSATION.—Members of the Board appointed pursuant to subsection (a)(1)(A) shall, for each day they are engaged in the performance of the duties under this title, receive compensation at the rate of $125 per day, including traveltime. All members of the Board, while so serving away from their homes or regular places of business, shall be allowed travel expenses (including per diem in lieu of subsistence), as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(i) REVIEW BY THE SECRETARY OF THE INTERIOR.—For so long as any employee of the Institute is covered under title 5, United States Code, the Board (acting by majority vote) shall submit final decisions relating to personnel to the Secretary of the Interior. Each such decision shall become final 30 days after the date of its receipt by the Secretary unless the Secretary disapproves of such decision. The Secretary may only disapprove a decision of the Board for just cause.

SEC. 1506. EXECUTIVE BOARD. 20 USC 4413.

(a) COMPOSITION.—The Board shall have an Executive Board composed of—

(1) the chairman of the Board;

(2) the vice chairman of the Board;

(3) the secretary of the Board;

(4) the treasurer of the Board; and

(5) an at-large member of the Board elected by the Board at its initial meeting.

(b) VACANCIES.—In the case of any vacancy which occurs in the position of at-large member before the expiration of such member's term, the Board shall elect a replacement to complete that term.

(c) MEETINGS.—The Executive Board shall hold not more than 4 regular meetings per calendar year. Special meetings may be held upon the call of the chairman or 3 members of the Executive Board.

(d) QUORUM.—A majority of the Executive Board shall constitute a quorum.

(e) POWERS.—The Executive Board may hold and use all the powers of the Board, subject to the approval of the Board.

SEC. 1507. GENERAL POWERS OF THE BOARD. 20 USC 4414.

In carrying out the provisions of this title, the Board shall have the power, consistent with the provisions of this title—

(1) to adopt, use, and alter a corporate seal;

(2) to make agreements and contracts with persons, Indian tribes, and private or governmental entities and to make payments or advance payments under such agreements or contracts without regard to section 3324 of title 31, United States Code;

(3) to sue and be sued in its corporate name and to complain and defend in any court of competent jurisdiction;

(4) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings;

(5) with the approval of the agency concerned, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the executive branch in carrying out the provisions of this title and to pay for such use (such payments to be credited to the applicable appropriation that incurred the expense);

(6) to use the United States mails on the same terms and conditions as the executive departments of the United States Government;

(7) to obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and to accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(8) to solicit, accept, and dispose of gifts, bequests, devises of money, securities, and other properties of whatever character, for the benefit of the Institute;

Grants.
Contracts.

(9) to receive grants from, and enter into contracts and other arrangements with, Federal, State, or local governments, public and private agencies, organizations, institutions, and individuals;

(10) to acquire, hold, maintain, use, operate, and dispose of such real property, including improvements thereon, personal property, equipment, and other items, as may be necessary to enable the Board to carry out the purpose of this title;

(11) to obtain insurance or make other provisions against losses;

(12) to use any funds or property received by the Institute to carry out the purpose of this title; and

(13) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Institute in order to carry out the provisions of this title and the exercise of the powers, purposes, functions, duties, and authorized activities of the Institute.

20 USC 4415.

SEC. 1508. PRESIDENT OF THE INSTITUTE.

(a) APPOINTMENT.—The Institute shall have a President who shall be appointed by the Board. The President of the Institute shall serve as the chief executive officer of the Institute. Subject to the direction of the Board and the general supervision of the Chairman of the Board, the President of the Institute shall have the responsibility for carrying out the policies and functions of the Institute and shall have authority over all personnel and activities of the Institute.

(b) COMPENSATION.—The President of the Institute shall be paid at a rate not to exceed the maximum rate of basic pay payable for grade GS-18 of the General Schedule.

5 USC 5332.

20 USC 4416.

SEC. 1509. STAFF OF INSTITUTE.

(a) EXEMPTION FROM CIVIL SERVICE.—Except as otherwise provided in this section, title 5, United States Code, shall not apply to the Institute.

(b) APPOINTMENT AND COMPENSATION.—

(1) The President of the Institute, with the approval of the Board, shall have the authority to appoint, fix the compensation of (including health and retirement benefits), and prescribe the duties of, such officers and employees as the President of the

Institute deems necessary for the efficient administration of the Institute.

(2) The President of the Institute shall fix the basic compensation for officers and employees of the Institute at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 of title 5, United States Code, applies.

5 USC 5332.

5 USC 5101 et seq.

(3)(A) Not later than 180 days after the President of the Institute is appointed, the President of the Institute shall make policies and procedures governing—

(i) the establishment of positions at the Institute,

(ii) basic compensation for such positions (including health and retirement benefits),

(iii) entitlement to compensation,

(iv) conditions of employment,

(v) discharge from employment,

(vi) the leave system, and

(vii) such other matters as may be appropriate.

(B) Rules and regulations promulgated with respect to discharge and conditions of employment shall require—

(i) that procedures be established for the rapid and equitable resolution of grievances of such individuals; and

(ii) that no individual may be discharged without notice of the reasons therefor and an opportunity for a hearing under procedures that comport with the requirements of due process.

(c) APPEAL TO BOARD.—Any officer or employee of the Institute may appeal to the Board any determination by the President of the Institute to not re-employ or to discharge such officer or employee. Upon appeal, the Board may, in writing, overturn the determination of the President of the Institute with respect to the employment of such officer or employee.

(d) NO REDUCTION IN CLASSIFICATION OR COMPENSATION.—Individuals who elect to remain civil service employees shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions and personnel, except that any such transfer shall not result in a reduction in classification or compensation with respect to any such individual for at least one year after the date on which such transfer occurs.

(e) LEAVE.—

(1) Any individual who—

(A) elects under subsection (g) to be covered under the provisions of this section; or

(B) is an employee of the Federal Government and is transferred or reappointed, without a break in service, from a position under a different leave system to the Institute,

shall be credited for purposes of the leave system provided under rules and regulations promulgated pursuant to subsection (b), with the annual and sick leave to the credit of such individual immediately before the effective date of such election, transfer, or reappointment.

(2) Upon termination of employment with the Institute, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance with sections 5551(a) and 6306 of title 5, United States Code, except that leave earned or accrued under rules and regulations

promulgated pursuant to subsection (b) shall not be so liquidated.

(3) In the case of any individual who is transferred, promoted, or reappointed, without break in service, to a position in the Federal Government under a different leave system, any remaining leave to the credit of such person earned or credited under the rules and regulations promulgated pursuant to subsection (b) shall be transferred to the credit of such individual in the employing agency on an adjusted basis in accordance with the rules and regulations which shall be promulgated by the Office of Personnel Management.

(f) APPLICABILITY.—This section shall apply to any individual appointed after the date of enactment of this title for employment in the Institute. Except as provided in subsections (d) and (g), the enactment of this title shall not affect—

(1) the continued employment of any individual employed immediately before the date of enactment of this title, or

(2) such individual's right to receive the compensation attached to such position.

(g) TERMINATION OF CIVIL SERVICE POSITIONS.—

(1) At the end of the 2-year period beginning on the date referred to in section 1514(f), any position at the Institute which is occupied by an individual in the civil service shall terminate. During such period, such individual may make an irrevocable election to be covered under the provisions of this section, except that any such individual who is subject to subchapter III of chapter 83 of title 5, United States Code, may elect to continue to be subject to such subchapter, and any such individual who is subject to chapter 84 of such title may elect to continue to be subject to such chapter.

5 USC 8331 *et seq.*
Ante, p. 516.

(2) Any individual who makes an election under paragraph (1) to continue to be subject to subchapter III of chapter 83 of title 5, United States Code, or chapter 84 of such title shall, so long as continually employed by the Institute without a break in service subject to such subchapter or such chapter 84, as the case may be, continue to be treated as an employee subject to such subchapter or such chapter 84, as the case may be. Employment by the Institute without a break of continuity in service shall be considered to be employment by the United States Government for the purpose of such subchapter or such chapter 84, as the case may be. The Institute shall be responsible for making the contributions required to be made by an employing agency under such subchapter or such chapter 84, as the case may be.

(h) COLLECTIVE BARGAINING.—The Institute shall be considered an agency for the purpose of chapter 71 of title 5, United States Code.

5 USC 7101 *et seq.*

(i) WORKMEN'S COMPENSATION.—Employees of the Institute shall receive compensation for work injuries and illnesses in accordance with chapter 81 of title 5, United States Code.

5 USC 8101 *et seq.*

20 USC 4417.

SEC. 1510. FUNCTIONS OF THE INSTITUTE.

(a) PRIMARY FUNCTIONS.—The primary functions of the Institute shall be—

(1) to provide scholarly study of, and instruction in, Indian art and culture, and

(2) to establish programs which culminate in the awarding of degrees in the various fields of Indian art and culture.

(b) ESTABLISHMENTS WITHIN INSTITUTE.—There shall be established within the Institute—

(1) a Center for Culture and Art Studies to be administered by a director (appointed by the President of the Institute, with the approval of the Board), which shall include (but not be limited to) Departments of Arts and Sciences, Visual Arts, Performing Arts, Language, Literature, and Museology; and

(2) a Center for Research and Cultural Exchange, administered by a director (appointed by the President of the Institute, with the approval of the Board), which shall include—

(A) a museum of Indian arts;

(B) a learning resources center;

(C) programs of institutional support and development;

(D) research programs;

(E) fellowship programs;

(F) seminars;

(G) publications;

(H) scholar-in-residence and artist-in-residence programs; and

(I) inter-institutional programs of cooperation at national and international levels.

(c) OTHER PROGRAMS.—In addition to the centers and programs described in subsection (b), the Institute shall develop such programs and centers as the Board determines are necessary to—

(1) foster research and scholarship in Indian art and culture through—

(A) resident programs;

(B) cooperative programs; and

(C) grant programs;

(2) complement existing tribal programs for the advancement of Indian art and culture; and

(3) coordinate efforts to preserve, support, revitalize, and develop evolving forms of Indian art and culture.

SEC. 1511. INDIAN PREFERENCE. 20 USC 4418.

(a) IN GENERAL.—Notwithstanding any other provision of Federal or State law, the Institute is authorized to extend preference to Indians in— Contracts. Grants.

(1) admissions to, and enrollment in, programs conducted by the Institute,

(2) employment by the Institute, and

(3) contracts, fellowships, and grants awarded by the Institute.

(b) HIRING PREFERENCE.—In carrying out section 1509(b)(1), the President of the Institute shall, to the maximum extent practicable, give preference in hiring to Indians.

SEC. 1512. NONPROFIT AND NONPOLITICAL NATURE OF THE INSTITUTE. 20 USC 4419.

(a) STOCK.—The Institute shall have no power to issue any shares of stock or to declare or pay any dividends.

(b) NONPROFIT NATURE.—No part of the income or assets of the Institute shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(c) NONPOLITICAL NATURE.—The Institute may not contribute to, or otherwise support, any political party or candidate for elective public office.

20 USC 4420.

SEC. 1513. TAX STATUS.

The Institute and the franchise, capital, reserves, income, and property of the Institute shall be exempt from all taxation now or hereafter imposed by the United States, by any Indian tribe, or by any State or political subdivision thereof.

20 USC 4421.

SEC. 1514. TRANSFER OF FUNCTIONS.

(a) INSTITUTE OF AMERICAN INDIAN ARTS.—There are hereby transferred to the Institute of American Indian and Alaska Native Culture and Art Development, and such Institute shall perform, the functions of the Institute of American Indian Arts established by the Secretary in 1962.

(b) CERTAIN MATTERS RELATING TO TRANSFERRED FUNCTIONS.—

(1) All personnel, liabilities, contracts, real property (including the collections of the museum located on the site known as the "Santa Fe Indian School" but not the museum building), personal property, assets, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function transferred under the provisions of this title (regardless of the administrative entity providing the services on the date before the transfer) shall be transferred to the Institute.

(2) Personnel engaged in functions transferred by this title shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions, except that such transfer shall be without reduction in classification or compensation for one year after such transfer.

(c) REFERENCES IN OTHER LAWS.—All laws and regulations relating to the Institute of American Indian Arts established by the Secretary in 1962 shall, insofar as such laws and regulations are appropriate, and not inconsistent with the provisions of this title, remain in full force and effect and apply with respect to the Institute. All references in any other Federal law to the Institute of American Indian Arts, or any officer transferred to the Institute of American Indian and Alaska Native Culture and Arts Development under subsection (b), shall be deemed to refer to the Institute of American Indian and Alaska Native Culture and Arts Development or an officer of the Institute of American Indian and Alaska Native Culture and Arts Development.

(d) TECHNICAL AND SUPPORT ASSISTANCE.—During the 2-year period beginning on the date referred to in subsection (f), the Secretary of the Interior shall provide such technical and support assistance to the Institute as the Secretary determines reasonable or necessary to assist the Institute. Such assistance shall include audit, accounting, computer services, and building and maintenance services.

(e) ADVISORY BOARD.—During the period beginning on the date of enactment of this title and ending on the date referred to in subsection (f), the Advisory Board for Institute of American Indian Arts shall continue to act in an advisory role for the Board and the Institute of American Indian and Alaska Native Culture and Arts Development.

(f) EFFECTIVE DATE.—The provisions of this section (other than subsection (e)) shall take effect on October 1, 1986.

SEC. 1515. REPORTS. 20 USC 4422.

(a) ANNUAL REPORT.—The President of the Institute shall submit an annual report to the Congress and to the Board concerning the status of the Institute during the 12 calendar months preceding the date of the report. Such report shall include, among other matters, a detailed statement of all private and public funds, gifts, and other items of a monetary value received by the Institute during such 12-month period and the disposition thereof as well as any recommendations for improving the Institute.

(b) BUDGET PROPOSAL.—

(1) During the 2-year period beginning on the date referred to in section 1514(f), the Board shall submit a budget proposal to the Secretary of the Interior. The Secretary shall submit that proposal to the Congress.

(2) After the period described in paragraph (1) and for each fiscal year thereafter, the Board shall submit a budget proposal to the Congress.

(3) A budget proposal under this subsection shall be submitted not later than April 1 of each calendar year and shall propose a budget for the Institute for the 2 fiscal years succeeding the fiscal year during which such proposal is submitted.

(4) In determining the amount of funds to be appropriated to the Institute on the basis of such proposals, the Congress shall not consider the amount of private fundraising or bequests made on behalf of the Institute during any preceding fiscal year.

SEC. 1516. HEADQUARTERS. State and local governments. 20 USC 4423.

The site of the Institute of American Indian Arts, at Santa Fe, New Mexico, shall be maintained as the location for the Institute of Indian and Alaska Native Culture and Arts Development. To facilitate this action and the continuity of programs being provided at the Institute of American Indian Arts, the Secretary may enter into negotiations with State and local governments for such exchanges or transfers of lands and such other assistance as may be required.

SEC. 1517. COMPLIANCE WITH OTHER ACTS. 20 USC 4424.

(a) IN GENERAL.—The Institute shall comply with the provisions of—

(1) Public Law 95-341 (42 U.S.C. 1996), popularly known as the American Indian Religious Freedom Act,

(2) the Archeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), and

(3) the National Historic Preservation Act (16 U.S.C. 470 et seq.).

(b) CRIMINAL LAWS.—All Federal criminal laws relating to larceny, embezzlement, or conversion of the funds or the property of the United States shall apply to the funds and property of the Institute.

SEC. 1518. ENDOWMENT PROGRAM. 20 USC 4425.

(a) ESTABLISHMENT.—

(1) From the amount appropriated pursuant to section 1521(a), the Secretary shall make available to the Institute not more than $500,000 which shall be deposited into a trust fund maintained by the Institute at a federally insured banking or savings institution.

(2) The President of the Institute shall provide for the deposit into the trust fund described in paragraph (1)—

(A) of a capital contribution by the Institute in an amount equal to the amount of each Federal contribution; and

(B) any earnings on the funds deposited under paragraph (1) or subparagraph (A).

(3) Funds in the trust fund described in paragraph (1) shall be invested in a manner as to insure the accumulation of interest thereon at a rate not less than that generally available for similar funds deposited at the same banking or savings institution for the same period or periods of time.

(4) If at any time the Institute withdraws any capital contribution made by the Institute to the trust fund described in paragraph (1), an equal amount of Federal capital contribution shall be withdrawn from such trust fund and returned to the Treasury as miscellaneous receipts.

(5) No part of the net earnings of the trust fund described in paragraph (1) shall inure to the benefit of any private person.

(6) The President of the Institute shall provide for such other provisions governing the trust fund described in paragraph (1) as may be necessary to protect the financial interest of the United States and to promote the purpose of this title as are agreed to by the Secretary and the Institute, including record-keeping procedures for the expenditure of accumulated interest which allow the Secretary to audit and monitor programs and activities conducted with such interest.

(b) USE OF FUNDS.—Interest deposited pursuant to subsection (a)(2)(B) in the trust fund described in subsection (a)(1) may be periodically withdrawn and used, at the discretion of the Institute, to defray any expenses associated with the operation of the Institute, including expense of operations and maintenance, administration, academic and support personnel, community and student services programs, and technical assistance.

(c) COMPLIANCE WITH MATCHING REQUIREMENT.—For the purpose of complying with the contribution requirement of subsection (a)(2)(A), the Institute may use funds which are available from any private or tribal source.

(d) ALLOCATION OF FUNDS.—From the amount appropriated pursuant to section 1521(a), the Secretary shall allocate to the Institute an amount for a Federal capital contribution equal to the amount which the Institute demonstrates has been placed within the control of, or irrevocably committed to the use of, the Institute and is available for deposit as a capital contribution of that Institute in accordance with subsection (a).

PART B—NATIVE HAWAIIANS

20 USC 4441.

SEC. 1521. PROGRAM FOR NATIVE HAWAIIAN CULTURE AND ARTS DEVELOPMENT.

(a) IN GENERAL.—The Secretary of the Interior is authorized to make grants for the purpose of supporting a program for Native Hawaiian culture and arts development to any private, nonprofit organization or institution which—

(1) primarily serves and represents Native Hawaiians, and

(2) has been recognized by the Governor of the State of Hawaii for the purpose of making such organization or institution eligible to receive such grants.

(b) PURPOSE OF GRANTS.—Grants made under subsection (a) shall, to the extent deemed possible by the Secretary and the recipient of the grant, be used—

(1) to provide scholarly study of, and instruction in, Native Hawaiian art and culture,

(2) to establish programs which culminate in the awarding of degrees in the various fields of Native Hawaiian art and culture, or

(3) to establish centers and programs with respect to Native Hawaiian art and culture that are similar in purpose to the centers and programs described in subsections (b) and (c) of section 1510.

(c) MANAGEMENT OF GRANTS.—

(1) Any organization or institution which is the recipient of a grant made under subsection (a) shall establish a governing board to manage and control the program with respect to which such grant is made.

(2) The members of the governing board which is required to be established under paragraph (1) shall—

(A) be Native Hawaiians or individuals widely recognized in the field of Native Hawaiian art and culture,

(B) include a representative of the Office of Hawaiian Affairs of the State of Hawaii,

(C) include the president of the University of Hawaii,

(D) include the president of the Bishop Museum, and

(E) shall serve for a fixed term of office.

SEC. 1522. ADMINISTRATIVE PROVISIONS.

Grants.
20 USC 4442.

(a) PAYMENTS.—The Secretary may award grants under this part in installments, in advance, or by way of reimbursement and may make necessary adjustments in payments of grants on account of overpayments or underpayments.

(b) RECOVERY OF OVERPAYMENTS.—

(1) If the Secretary or a court of competent jurisdiction finds that—

(A) any person—

(i) has—

(I) made, or has caused to be made by another, a false statement or representation of a material fact knowing it to be false, or

(II) knowingly failed, or caused another to fail, to disclose a material fact; and

(ii) as a result of such action, has received any funds under this part which such person would not have otherwise received, or

(B) any person misappropriates any funds paid by the Secretary under this part,

such person shall be liable to repay the amount of such funds to the United States. Any such finding by the Secretary may be made only after an opportunity for a fair hearing.

(2) Any amount repaid under this subsection shall be returned to the general fund of the Treasury of the United States.

(c) PENALTIES.—Whoever—

(1) makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, for the

purpose of obtaining or increasing for such person or for any other person any payment of funds provided under this part, or

(2) misappropriates any funds provided under this part,

shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

PART C—AUTHORIZATION OF APPROPRIATIONS

20 USC 4451.

SEC. 1531. AUTHORIZATION OF APPROPRIATIONS.

(a) PART A.—There are authorized to be appropriated for the purpose of carrying out the provisions of part A of this title—

(1) for fiscal year 1987, $4,000,000, and

(2) for each succeeding fiscal year, such sums as may be necessary to carry out such provisions.

(b) PART B.—There are authorized to be appropriated for the purpose of carrying out the provisions of part B of this title—

(1) for fiscal year 1987, $1,000,000, and

(2) for each succeeding fiscal year, such sums as may be necessary to carry out such provisions.

TITLE XVI—UNITED STATES INSTITUTE OF PEACE

SEC. 1601. AUTHORIZATIONS OF APPROPRIATIONS.

(a) AUTHORIZATIONS OF APPROPRIATIONS.—(1) The first sentence of section 1710(a) of the United States Institute of Peace Act (22 U.S.C. 4609(a)) is amended—

(A) by striking out "fiscal year 1985" and inserting in lieu thereof "fiscal year 1987"; and

(B) by striking out "fiscal year 1986" and inserting in lieu thereof "fiscal year 1988".

20 USC 4609 note.

(2) The amendments made by paragraph (1) shall take effect on October 1, 1986.

(b) AVAILABILITY OF FUNDS.—The second sentence of section 1710(a) of such Act (22 U.S.C. 4609(a)) is amended to read as follows: "Amounts appropriated under this section are authorized to remain available to the Institute until expended.".

Approved October 17, 1986.

LEGISLATIVE HISTORY—S. 1965 (H.R. 3700) (H.R. 2246):

HOUSE REPORTS: No. 99-383 accompanying H.R. 3700 and No. 99-589 accompanying H.R. 2246 (both from Comm. on Education and Labor) and No. 99-861 (Comm. of Conference).

SENATE REPORTS: No. 99-296 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD:

Vol. 131 (1985): Dec. 3, 4, H.R. 3700, considered and passed House.

Vol. 132 (1986): May 13, H.R. 2246, considered and passed House.
June 2, 3, S. 1965, considered and passed Senate.
June 17, considered and passed House, amended, in lieu of H.R. 3700 and H.R. 2246.
Sept. 24, House agreed to conference report.
Sept. 25, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22, (1986):
Oct. 17, Presidential statement.

O

Public Law 99-499
99th Congress

An Act

To extend and amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes.

Oct. 17, 1986
[H.R. 2005]

Hazardous materials.
Environmental protection.
42 USC 9601 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be cited as the "Superfund Amendments and Reauthorization Act of 1986".

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Sec. 208. Insurability study.
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*Note: The printed text of Public Law 99-499 is a reprint of the hand enrollment, signed by the President on October 17, 1986.

Sec. 213. Love Canal property acquisition.

TITLE III—EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW

Sec. 300. Short title; table of contents.

Subtitle A—Emergency Planning and Notification

Sec. 301. Establishment of State commissions, planning districts, and local committees.
Sec. 302. Substances and facilities covered and notification.
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TITLE IV—RADON GAS AND INDOOR AIR QUALITY RESEARCH

Sec. 401. Short title.
Sec. 402. Findings.
Sec. 403. Radon gas and indoor air quality research program.
Sec. 404. Construction of title.
Sec. 405. Authorizations.

42 USC 9601 note.

SEC. 2. CERCLA AND ADMINISTRATOR.

As used in this Act—

(1) CERCLA.—The term "CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(2) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

42 USC 9662.

SEC. 3. LIMITATION ON CONTRACT AND BORROWING AUTHORITY.

Any authority provided by this Act, including any amendment made by this Act, to enter into contracts to obligate the United States or to incur indebtedness for the repayment of which the United States is liable shall be effective only to such extent or in such amounts as are provided in appropriation Acts.

42 USC 9601 note.

SEC. 4. EFFECTIVE DATE.

Except as otherwise specified in section 121(b) of this Act or in any other provision of titles I, II, III, and IV of this Act, the amendments made by titles I through IV of this Act shall take effect on the enactment of this Act.

TITLE I—PROVISIONS RELATING PRIMARILY TO RESPONSE AND LIABILITY

SEC. 101. AMENDMENTS TO DEFINITIONS.

Post, p. 1652.
42 USC 9601.

(a) INDIAN TRIBE.—Paragraph (16) of section 101 of CERCLA (defining "natural resources") is amended by striking "or" the last time it appears and inserting before the punctuation at the end thereof the following: ", any Indian tribe, or, if such resources are subject to a trust restriction on alienation, any member of an Indian tribe".

(b) STATE OR LOCAL GOVERNMENT LIMITATION.—Paragraph (20) of section 101 of CERCLA (defining "owner or operator") is amended as follows:

(1) Add the following new subparagraph at the end thereof:

"(D) The term 'owner or operator' does not include a unit of State or local government which acquired ownership or control involuntarily through bankruptcy, tax delinquency, abandonment, or other circumstances in which the government involuntarily acquires title by virtue of its function as sovereign. The exclusion provided under this paragraph shall not apply to any State or local government which has caused or contributed to the release or threatened release of a hazardous substance from the facility, and such a State or local government shall be subject to the provisions of this Act in the same manner and to the same extent, both procedurally and substantively, as any nongovernmental entity, including liability under section 107.".

42 USC 9607.

(2) Amend clause (iii) of subparagraph (A) to read as follows: "(iii) in the case of any facility, title or control of which was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to a unit of State or local government, any person who owned, operated, or otherwise controlled activities at such facility immediately beforehand.".

(3) Capitalize the first word of subparagraphs (B) and (C) and substitute a period for the semicolon at the end of subparagraphs (A), (B), and (C).

(c) RELEASE.—Paragraph (22) of section 101 of CERCLA (defining "release") is amended by inserting after "environment" the following: "(including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant)".

(d) REMEDIAL ACTION.—Paragraph (24) of section 101 of CERCLA (defining "remedy" and "remedial action") is amended as follows:

(1) Strike "welfare. The term does not include offsite transport" and all that follows down through the semicolon at the end of such paragraph and insert "welfare; the term includes offsite transport and offsite storage, treatment, destruction, or secure disposition of hazardous substances and associated contaminated materials.".

(2) Strike "or" before "contaminated materials" and insert "and associated".

(e) RESPONSE.—Section 101(25) of CERCLA (defining "respond" and "response") is amended by inserting at the end thereof the following: ", all such terms (including the terms 'removal' and 'remedial action') include enforcement activities related thereto.".

42 USC 9601.

(f) ADDITIONAL DEFINITIONS.—Section 101 of CERCLA is amended by striking out "; and" at the end of paragraph (31) and substituting a period, by changing the semicolons at the end of paragraphs (1) through (29) to periods, by inserting "The term" at the beginning of paragraphs (1) through (22) and paragraphs (28) and (31), by inserting "The terms" at the beginning of paragraphs (23) through (27) and paragraphs (29), (30), and (32) by striking out ", the term" in the material preceding paragraph (1), and by adding the following new paragraphs at the end thereof:

"(33) The term 'pollutant or contaminant' shall include, but not be limited to, any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring; except that the term 'pollutant or contaminant' shall not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of paragraph (14) and shall not include natural gas, liquefied natural gas, or synthetic gas of pipeline quality (or mixtures of natural gas and such synthetic gas).

"(34) The term 'alternative water supplies' includes, but is not limited to, drinking water and household water supplies.

42 USC 9607.

"(35)(A) The term 'contractual relationship', for the purpose of section 107(b)(3), includes, but is not limited to, land contracts, deeds or other instruments transferring title or possession, unless the real property on which the facility concerned is located was acquired by the defendant after the disposal or placement of the hazardous substance on, in, or at the facility, and one or more of the circumstances described in clause (i), (ii), or (iii) is also established by the defendant by a preponderance of the evidence:

"(i) At the time the defendant acquired the facility the defendant did not know and had no reason to know that any hazardous substance which is the subject of the release or threatened release was disposed of on, in, or at the facility.

"(ii) The defendant is a government entity which acquired the facility by escheat, or through any other involuntary transfer or acquisition, or through the exercise of eminent domain authority by purchase or condemnation.

"(iii) The defendant acquired the facility by inheritance or bequest.

In addition to establishing the foregoing, the defendant must establish that he has satisfied the requirements of section 107(b)(3) (a) and (b).

"(B) To establish that the defendant had no reason to know, as provided in clause (i) of subparagraph (A) of this paragraph, the defendant must have undertaken, at the time of acquisition, all appropriate inquiry into the previous ownership and uses of the property consistent with good commercial or customary practice in an effort to minimize liability. For purposes of the

preceding sentence the court shall take into account any specialized knowledge or experience on the part of the defendant, the relationship of the purchase price to the value of the property if uncontaminated, commonly known or reasonably ascertainable information about the property, the obviousness of the presence or likely presence of contamination at the property, and the ability to detect such contamination by appropriate inspection.

"(C) Nothing in this paragraph or in section 107(b)(3) shall diminish the liability of any previous owner or operator of such facility who would otherwise be liable under this Act. Notwithstanding this paragraph, if the defendant obtained actual knowledge of the release or threatened release of a hazardous substance at such facility when the defendant owned the real property and then subsequently transferred ownership of the property to another person without disclosing such knowledge, such defendant shall be treated as liable under section 107(a)(1) and no defense under section 107(b)(3) shall be available to such defendant.

42 USC 9607.

Real property.

"(D) Nothing in this paragraph shall affect the liability under this Act of a defendant who, by any act or omission, caused or contributed to the release or threatened release of a hazardous substance which is the subject of the action relating to the facility.

"(36) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village but not including any Alaska Native regional or village corporation, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.".

SEC. 102. REPORTABLE QUANTITIES.

Section 102(a) of CERCLA is amended by adding at the end thereof the following new sentences: "For all hazardous substances for which proposed regulations establishing reportable quantities were published in the Federal Register under this subsection on or before March 1, 1986, the Administrator shall promulgate under this subsection final regulations establishing reportable quantities not later than December 31, 1986. For all hazardous substances for which proposed regulations establishing reportable quantities were not published in the Federal Register under this subsection on or before March 1, 1986, the Administrator shall publish under this subsection proposed regulations establishing reportable quantities not later than December 31, 1986, and promulgate final regulations under this subsection establishing reportable quantities not later than April 30, 1988.".

Regulations.
42 USC 9602.

Federal Register, publication.

SEC. 103. NOTICES; PENALTIES.

Section 103(b) of CERCLA is amended by striking out "paragraph" in the last sentence and inserting in lieu thereof "subsection" and by adjusting the left hand margin of the text of such subsection following "federally permitted release," the third place it appears so that there is no indentation of such text.

Post, p. 1632.

SEC. 104. RESPONSE AUTHORITIES.

President of U.S.
42 USC 9604.

(a) RESPONSE BY POTENTIALLY RESPONSIBLE PARTIES; PUBLIC HEALTH THREATS.—Section 104(a)(1) of CERCLA is amended by

striking ", unless the President determines" and all that follows down through "party." and inserting a period and the following: "When the President determines that such action will be done properly and promptly by the owner or operator of the facility or vessel or by any other responsible party, the President may allow such person to carry out the action, conduct the remedial investigation, or conduct the feasibility study in accordance with section 122. No remedial investigation or feasibility study (RI/FS) shall be authorized except on a determination by the President that the party is qualified to conduct the RI/FS and only if the President contracts with or arranges for a qualified person to assist the President in overseeing and reviewing the conduct of such RI/FS and if the responsible party agrees to reimburse the Fund for any cost incurred by the President under, or in connection with, the oversight contract or arrangement. In no event shall a potentially responsible party be subject to a lesser standard of liability, receive preferential treatment, or in any other way, whether direct or indirect, benefit from any such arrangements as a response action contractor, or as a person hired or retained by such a response action contractor, with respect to the release or facility in question. The President shall give primary attention to those releases which the President deems may present a public health threat.".

42 USC 9604.

(b) REMOVAL ACTION.—Section 104(a)(2) of CERCLA is amended to read as follows:

"(2) REMOVAL ACTION.—Any removal action undertaken by the President under this subsection (or by any other person referred to in section 122) should, to the extent the President deems practicable, contribute to the efficient performance of any long term remedial action with respect to the release or threatened release concerned.".

(c) LIMITATIONS ON RESPONSE.—Section 104(a) of CERCLA is further amended by adding after paragraph (2) the following new paragraphs:

"(3) LIMITATIONS ON RESPONSE.—The President shall not provide for a removal or remedial action under this section in response to a release or threat of release—

"(A) of a naturally occurring substance in its unaltered form, or altered solely through naturally occurring processes or phenomena, from a location where it is naturally found;

"(B) from products which are part of the structure of, and result in exposure within, residential buildings or business or community structures; or

"(C) into public or private drinking water supplies due to deterioration of the system through ordinary use.

"(4) EXCEPTION TO LIMITATIONS.—Notwithstanding paragraph (3) of this subsection, to the extent authorized by this section, the President may respond to any release or threat of release if in the President's discretion, it constitutes a public health or environmental emergency and no other person with the authority and capability to respond to the emergency will do so in a timely manner.".

(d) COORDINATION OF INVESTIGATIONS.—Section 104(b) of CERCLA is amended by inserting "(1) INFORMATION; STUDIES AND INVESTIGATIONS.—" after "(b)" and by adding at the end thereof the following new paragraph:

"(2) COORDINATION OF INVESTIGATIONS.—The President shall promptly notify the appropriate Federal and State natural resource trustees of potential damages to natural resources resulting from

releases under investigation pursuant to this section and shall seek to coordinate the assessments, investigations, and planning under this section with such Federal and State trustees.".

(e) INITIAL OBLIGATION OF FUND.—

(1) LIMITATION.—Section 104(c)(1) of CERCLA is amended by striking out "$1,000,000" and "six months" and inserting in lieu thereof "$2,000,000" and "12 months", respectively. 42 USC 9604.

(2) CONTINUED RESPONSE.—Section 104(c)(1) of CERCLA is amended by inserting before "obligations" the following: "or (C) continued response action is otherwise appropriate and consistent with the remedial action to be taken".

(f) FACILITIES OWNED AND OPERATED BY STATES.—Paragraph (3) of section 104(c) of CERCLA is amended by striking out "(ii) at least" and all that follows through the period at the end thereof and inserting "(ii) 50 percent (or such greater amount as the President may determine appropriate, taking into account the degree of responsibility of the State or political subdivision for the release) of any sums expended in response to a release at a facility, that was operated by the State or a political subdivision thereof, either directly or through a contractual relationship or otherwise, at the time of any disposal of hazardous substances therein. For the purpose of clause (ii) of this subparagraph, the term 'facility' does not include navigable waters or the beds underlying those waters.". *Post*, p. 1705.

(g) CROSS REFERENCE TO CLEANUP STANDARDS.—Section 104(c)(4) of CERCLA is amended to read as follows:

"(4) SELECTION OF REMEDIAL ACTION.—The President shall select remedial actions to carry out this section in accordance with section 121 of this Act (relating to cleanup standards).".

(h) STATE CREDITS.—Section 104(c) of CERCLA is amended by adding the following new paragraph after paragraph (4):

"(5) STATE CREDITS.—

"(A) GRANTING OF CREDIT.—The President shall grant a State a credit against the share of the costs, for which it is responsible under paragraph (3) with respect to a facility listed on the National Priorities List under the National Contingency Plan, for amounts expended by a State for remedial action at such facility pursuant to a contract or cooperative agreement with the President. The credit under this paragraph shall be limited to those State expenses which the President determines to be reasonable, documented, direct out-of-pocket expenditures of non-Federal funds. Contracts.

"(B) EXPENSES BEFORE LISTING OR AGREEMENT.—The credit under this paragraph shall include expenses for remedial action at a facility incurred before the listing of the facility on the National Priorities List or before a contract or cooperative agreement is entered into under subsection (d) for the facility if—

"(i) after such expenses are incurred the facility is listed on such list and a contract or cooperative agreement is entered into for the facility, and

"(ii) the President determines that such expenses would have been credited to the State under subparagraph (A) had the expenditures been made after listing of the facility on such list and after the date on which such contract or cooperative agreement is entered into.

"(C) RESPONSE ACTIONS BETWEEN 1978 AND 1980.—The credit under this paragraph shall include funds expended or obligated Claims.

by the State or a political subdivision thereof after January 1, 1978, and before December 11, 1980, for cost-eligible response actions and claims for damages compensable under section 111.

"(D) STATE EXPENSES AFTER DECEMBER 11, 1980, IN EXCESS OF 10 PERCENT OF COSTS.—The credit under this paragraph shall include 90 percent of State expenses incurred at a facility owned, but not operated, by such State or by a political subdivision thereof. Such credit applies only to expenses incurred pursuant to a contract or cooperative agreement under subsection (d) and only to expenses incurred after December 11, 1980, but before the date of the enactment of this paragraph.

Contracts.

"(E) ITEM-BY-ITEM APPROVAL.—In the case of expenditures made after the date of the enactment of this paragraph, the President may require prior approval of each item of expenditure as a condition of granting a credit under this paragraph.

"(F) USE OF CREDITS.—Credits granted under this paragraph for funds expended with respect to a facility may be used by the State to reduce all or part of the share of costs otherwise required to be paid by the State under paragraph (3) in connection with remedial actions at such facility. If the amount of funds for which credit is allowed under this paragraph exceeds such share of costs for such facility, the State may use the amount of such excess to reduce all or part of the share of such costs at other facilities in that State. A credit shall not entitle the State to any direct payment.".

(i) TREATMENT OF CERTAIN ACTIVITIES AS MAINTENANCE OR REMEDIAL ACTION.—Section 104(c) of CERCLA is amended by adding the following new paragraphs after paragraph (5):

"(6) OPERATION AND MAINTENANCE.—For the purposes of paragraph (3) of this subsection, in the case of ground or surface water contamination, completed remedial action includes the completion of treatment or other measures, whether taken onsite or offsite, necessary to restore ground and surface water quality to a level that assures protection of human health and the environment. With respect to such measures, the operation of such measures for a period of up to 10 years after the construction or installation and commencement of operation shall be considered remedial action. Activities required to maintain the effectiveness of such measures following such period or the completion of remedial action, whichever is earlier, shall be considered operation or maintenance.

"(7) LIMITATION ON SOURCE OF FUNDS FOR O&M.—During any period after the availability of funds received by the Hazardous Substance Superfund established under subchapter A of chapter 98 of the Internal Revenue Code of 1954 from tax revenues or appropriations from general revenues, the Federal share of the payment of the cost of operation or maintenance pursuant to paragraph (3)(C)(i) or paragraph (6) of this subsection (relating to operation and maintenance) shall be from funds received by the Hazardous Substance Superfund from amounts recovered on behalf of such fund under this Act.".

26 USC 9501.

(j) RECONTRACTING.—Section 104(c) of CERCLA is amended by adding the following new paragraph after paragraph (7):

"(8) RECONTRACTING.—The President is authorized to undertake or continue whatever interim remedial actions the President determines to be appropriate to reduce risks to public health or the environment where the performance of a complete remedial action requires recontracting because of the discovery of sources, types, or

quantities of hazardous substances not known at the time of entry into the original contract. The total cost of interim actions undertaken at a facility pursuant to this paragraph shall not exceed $2,000,000.".

(k) SITING.—Section 104(c) of CERCLA is amended by adding the following new paragraph after paragraph (8):

"(9) SITING.—Effective 3 years after the enactment of the Superfund Amendments and Reauthorization Act of 1986, the President shall not provide any remedial actions pursuant to this section unless the State in which the release occurs first enters into a contract or cooperative agreement with the President providing assurances deemed adequate by the President that the State will assure the availability of hazardous waste treatment or disposal facilities which— Contracts.

"(A) have adequate capacity for the destruction, treatment, or secure disposition of all hazardous wastes that are reasonably expected to be generated within the State during the 20-year period following the date of such contract or cooperative agreement and to be disposed of, treated, or destroyed,

"(B) are within the State or outside the State in accordance with an interstate agreement or regional agreement or authority,

"(C) are acceptable to the President, and

"(D) are in compliance with the requirements of subtitle C of the Solid Waste Disposal Act.". 42 USC 6921.

(l) COOPERATIVE AGREEMENTS WITH STATES.—Section 104(d)(1) of CERCLA is amended to read as follows:

"(1) COOPERATIVE AGREEMENTS.—

"(A) STATE APPLICATIONS.—A State or political subdivision thereof or Indian tribe may apply to the President to carry out actions authorized in this section. If the President determines that the State or political subdivision or Indian tribe has the capability to carry out any or all of such actions in accordance with the criteria and priorities established pursuant to section 105(a)(8) and to carry out related enforcement actions, the President may enter into a contract or cooperative agreement with the State or political subdivision or Indian tribe to carry out such actions. The President shall make a determination regarding such an application within 90 days after the President receives the application. Indians. 42 USC 9605.

"(B) TERMS AND CONDITIONS.—A contract or cooperative agreement under this paragraph shall be subject to such terms and conditions as the President may prescribe. The contract or cooperative agreement may cover a specific facility or specific facilities.

"(C) REIMBURSEMENTS.—Any State which expended funds during the period beginning September 30, 1985, and ending on the date of the enactment of this subparagraph for response actions at any site included on the National Priorities List and subject to a cooperative agreement under this Act shall be reimbursed for the share of costs of such actions for which the Federal Government is responsible under this Act.".

(m) INFORMATION GATHERING AND ACCESS AUTHORITIES.—Section 104(e) of CERCLA is amended by redesignating paragraph (2) as paragraph (7) and aligning the margin of such paragraph with paragraphs (1) through (6) of such subsection, by inserting "CONFIDENTIALITY OF INFORMATION.—" before "(A) Any records", by strik-

ing out paragraph (1), and by striking out "(e)" and inserting in lieu thereof the following:

Law enforcement and crime. Vessels.

"(e) INFORMATION GATHERING AND ACCESS.—

"(1) ACTION AUTHORIZED.—Any officer, employee, or representative of the President, duly designated by the President, is authorized to take action under paragraph (2), (3), or (4) (or any combination thereof) at a vessel, facility, establishment, place, property, or location or, in the case of paragraph (3) or (4), at any vessel, facility, establishment, place, property, or location which is adjacent to the vessel, facility, establishment, place, property, or location referred to in such paragraph (3) or (4). Any duly designated officer, employee, or representative of a State or political subdivision under a contract or cooperative agreement under subsection (d)(1) is also authorized to take such action. The authority of paragraphs (3) and (4) may be exercised only if there is a reasonable basis to believe there may be a release or threat of release of a hazardous substance or pollutant or contaminant. The authority of this subsection may be exercised only for the purposes of determining the need for response, or choosing or taking any response action under this title, or otherwise enforcing the provisions of this title.

Vessels.

"(2) ACCESS TO INFORMATION.—Any officer, employee, or representative described in paragraph (1) may require any person who has or may have information relevant to any of the following to furnish, upon reasonable notice, information or documents relating to such matter:

"(A) The identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel or facility or transported to a vessel or facility.

"(B) The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from a vessel or facility.

"(C) Information relating to the ability of a person to pay for or to perform a cleanup.

In addition, upon reasonable notice, such person either (i) shall grant any such officer, employee, or representative access at all reasonable times to any vessel, facility, establishment, place, property, or location to inspect and copy all documents or records relating to such matters or (ii) shall copy and furnish to the officer, employee, or representative all such documents or records, at the option and expense of such person.

Vessels.

"(3) ENTRY.—Any officer, employee, or representative described in paragraph (1) is authorized to enter at reasonable times any of the following:

"(A) Any vessel, facility, establishment, or other place or property where any hazardous substance or pollutant or contaminant may be or has been generated, stored, treated, disposed of, or transported from.

"(B) Any vessel, facility, establishment, or other place or property from which or to which a hazardous substance or pollutant or contaminant has been or may have been released.

"(C) Any vessel, facility, establishment, or other place or property where such release is or may be threatened.

"(D) Any vessel, facility, establishment, or other place or property where entry is needed to determine the need for

response or the appropriate response or to effectuate a response action under this title.

"(4) INSPECTION AND SAMPLES.—

"(A) AUTHORITY.—Any officer, employee or representative described in paragraph (1) is authorized to inspect and obtain samples from any vessel, facility, establishment, or other place or property referred to in paragraph (3) or from any location of any suspected hazardous substance or pollutant or contaminant. Any such officer, employee, or representative is authorized to inspect and obtain samples of any containers or labeling for suspected hazardous substances or pollutants or contaminants. Each such inspection shall be completed with reasonable promptness.

Vessels.

"(B) SAMPLES.—If the officer, employee, or representative obtains any samples, before leaving the premises he shall give to the owner, operator, tenant, or other person in charge of the place from which the samples were obtained a receipt describing the sample obtained and, if requested, a portion of each such sample. A copy of the results of any analysis made of such samples shall be furnished promptly to the owner, operator, tenant, or other person in charge, if such person can be located.

"(5) COMPLIANCE ORDERS.—

Law enforcement and crime.

"(A) ISSUANCE.—If consent is not granted regarding any request made by an officer, employee, or representative under paragraph (2), (3), or (4), the President may issue an order directing compliance with the request. The order may be issued after such notice and opportunity for consultation as is reasonably appropriate under the circumstances.

"(B) COMPLIANCE.—The President may ask the Attorney General to commence a civil action to compel compliance with a request or order referred to in subparagraph (A). Where there is a reasonable basis to believe there may be a release or threat of a release of a hazardous substance or pollutant or contaminant, the court shall take the following actions:

"(i) In the case of interference with entry or inspection, the court shall enjoin such interference or direct compliance with orders to prohibit interference with entry or inspection unless under the circumstances of the case the demand for entry or inspection is arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law.

"(ii) In the case of information or document requests or orders, the court shall enjoin interference with such information or document requests or orders or direct compliance with the requests or orders to provide such information or documents unless under the circumstances of the case the demand for information or documents is arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law.

The court may assess a civil penalty not to exceed $25,000 for each day of noncompliance against any person who unreasonably fails to comply with the provisions of paragraph (2), (3), or (4) or an order issued pursuant to subparagraph (A) of this paragraph.

"(6) OTHER AUTHORITY.—Nothing in this subsection shall preclude the President from securing access or obtaining information in any other lawful manner.".

42 USC 9604.

(n) BASIS FOR WITHHOLDING INFORMATION.—Paragraph (7) of section 104(e) of CERCLA (formerly paragraph (2), as redesignated by subsection (l) of this section) is amended by adding the following new subparagraphs at the end thereof:

Classified information.

"(E) No person required to provide information under this Act may claim that the information is entitled to protection under this paragraph unless such person shows each of the following:

"(i) Such person has not disclosed the information to any other person, other than a member of a local emergency planning committee established under title III of the Amendments and Reauthorization Act of 1986, an officer or employee of the United States or a State or local government, an employee of such person, or a person who is bound by a confidentiality agreement, and such person has taken reasonable measures to protect the confidentiality of such information and intends to continue to take such measures.

"(ii) The information is not required to be disclosed, or otherwise made available, to the public under any other Federal or State law.

"(iii) Disclosure of the information is likely to cause substantial harm to the competitive position of such person.

"(iv) The specific chemical identity, if sought to be protected, is not readily discoverable through reverse engineering.

Public information.

"(F) The following information with respect to any hazardous substance at the facility or vessel shall not be entitled to protection under this paragraph:

"(i) The trade name, common name, or generic class or category of the hazardous substance.

"(ii) The physical properties of the substance, including its boiling point, melting point, flash point, specific gravity, vapor density, solubility in water, and vapor pressure at 20 degrees celsius.

"(iii) The hazards to health and the environment posed by the substance, including physical hazards (such as explosion) and potential acute and chronic health hazards.

"(iv) The potential routes of human exposure to the substance at the facility, establishment, place, or property being investigated, entered, or inspected under this subsection.

"(v) The location of disposal of any waste stream.

"(vi) Any monitoring data or analysis of monitoring data pertaining to disposal activities.

"(vii) Any hydrogeologic or geologic data.

"(viii) Any groundwater monitoring data.".

(o) ACQUISITION OF PROPERTY.—

(1) IN GENERAL.—Section 104 of CERCLA is amended by adding the following new subsection at the end thereof:

"(j) ACQUISITION OF PROPERTY.—

"(1) AUTHORITY.—The President is authorized to acquire, by purchase, lease, condemnation, donation, or otherwise, any real property or any interest in real property that the President in his discretion determines is needed to conduct a remedial action under this Act. There shall be no cause of action to compel the

President to acquire any interest in real property under this Act.

"(2) STATE ASSURANCE.—The President may use the authority of paragraph (1) for a remedial action only if, before an interest in real estate is acquired under this subsection, the State in which the interest to be acquired is located assures the President, through a contract or cooperative agreement or otherwise, that the State will accept transfer of the interest following completion of the remedial action. Contracts.

"(3) EXEMPTION.—No Federal, State, or local government agency shall be liable under this Act solely as a result of acquiring an interest in real estate under this subsection.".

SEC. 105. NATIONAL CONTINGENCY PLAN.

(a) SUBSECTION (a) OF SECTION 105.—Section 105 of CERCLA is amended as follows: 42 USC 9605.

(1) HEADING.—Insert "(a) REVISION AND REPUBLICATION.—" after "105.".

(2) HAZARD RANKING SYSTEM.—In paragraph (8)(A) insert the following after "ecosystems,": "the damage to natural resources which may affect the human food chain and which is associated with any release or threatened release, the contamination or potential contamination of the ambient air which is associated with the release or threatened release,".

(3) NATIONAL PRIORITY LIST.—In paragraph (8)(B):

(A) Strike out "at least four hundred of".

(B) Strike out "facilities at least" and insert in lieu thereof "facilities".

(C) Insert after "in such State." the following: "A State shall be allowed to designate its highest priority facility only once.". State and local governments.

(4) CONFORMING AMENDMENT.—In paragraph (9) insert after "therefor" the following: "and including consideration of minority firms in accordance with subsection (f)".

(5) STANDARDS AND PROCEDURES FOR INNOVATIVE TREATMENT TECHNOLOGIES.—Strike out "and" at the end of paragraph (8), strike out the period at the end of paragraph (9) and insert in lieu thereof "; and", and insert after paragraph (9) the following new paragraph:

"(10) standards and testing procedures by which alternative or innovative treatment technologies can be determined to be appropriate for utilization in response actions authorized by this Act.".

(b) NEW SUBSECTIONS.—Section 105 of CERCLA is amended by adding the following new subsections at the end thereof: President of U.S.

"(b) REVISION OF PLAN.—Not later than 18 months after the enactment of the Superfund Amendments and Reauthorization Act of 1986, the President shall revise the National Contingency Plan to reflect the requirements of such amendments. The portion of such Plan known as 'the National Hazardous Substance Response Plan' shall be revised to provide procedures and standards for remedial actions undertaken pursuant to this Act which are consistent with amendments made by the Superfund Amendments and Reauthorization Act of 1986 relating to the selection of remedial action.

"(c) HAZARD RANKING SYSTEM.— Regulations.

"(1) REVISION.—Not later than 18 months after the enactment of the Superfund Amendments and Reauthorization Act of 1986

and after publication of notice and opportunity for submission of comments in accordance with section 553 of title 5, United States Code, the President shall by rule promulgate amendments to the hazard ranking system in effect on September 1, 1984. Such amendments shall assure, to the maximum extent feasible, that the hazard ranking system accurately assesses the relative degree of risk to human health and the environment posed by sites and facilities subject to review. The President shall establish an effective date for the amended hazard ranking system which is not later than 24 months after enactment of the Superfund Amendments and Reauthorization Act of 1986. Such amended hazard ranking system shall be applied to any site or facility to be newly listed on the National Priorities List after the effective date established by the President. Until such effective date of the regulations, the hazard ranking system in effect on September 1, 1984, shall continue in full force and effect.

Health and medical care.

"(2) HEALTH ASSESSMENT OF WATER CONTAMINATION RISKS.—In carrying out this subsection, the President shall ensure that the human health risks associated with the contamination or potential contamination (either directly or as a result of the runoff of any hazardous substance or pollutant or contaminant from sites or facilities) of surface water are appropriately assessed where such surface water is, or can be, used for recreation or potable water consumption. In making the assessment required pursuant to the preceding sentence, the President shall take into account the potential migration of any hazardous substance or pollutant or contaminant through such surface water to downstream sources of drinking water.

"(3) REEVALUATION NOT REQUIRED.—The President shall not be required to reevaluate, after the date of the enactment of the Superfund Amendments and Reauthorization Act of 1986, the hazard ranking of any facility which was evaluated in accordance with the criteria under this section before the effective date of the amendments to the hazard ranking system under this subsection and which was assigned a national priority under the National Contingency Plan.

"(4) NEW INFORMATION.—Nothing in paragraph (3) shall preclude the President from taking new information into account in undertaking response actions under this Act.

Health and medical care.

"(d) PETITION FOR ASSESSMENT OF RELEASE.—Any person who is, or may be, affected by a release or threatened release of a hazardous substance or pollutant or contaminant, may petition the President to conduct a preliminary assessment of the hazards to public health and the environment which are associated with such release or threatened release. If the President has not previously conducted a preliminary assessment of such release, the President shall, within 12 months after the receipt of any such petition, complete such assessment or provide an explanation of why the assessment is not appropriate. If the preliminary assessment indicates that the release or threatened release concerned may pose a threat to human health or the environment, the President shall promptly evaluate such release or threatened release in accordance with the hazard ranking system referred to in paragraph (8)(A) of subsection (a) to determine the national priority of such release or threatened release.

"(e) RELEASES FROM EARLIER SITES.—Whenever there has been, after January 1, 1985, a significant release of hazardous substances

or pollutants or contaminants from a site which is listed by the President as a 'Site Cleaned Up To Date' on the National Priorities List (revised edition, December 1984) the site shall be restored to the National Priorities List, without application of the hazard ranking system.

"(f) MINORITY CONTRACTORS.—In awarding contracts under this Act, the President shall consider the availability of qualified minority firms. The President shall describe, as part of any annual report submitted to the Congress under this Act, the participation of minority firms in contracts carried out under this Act. Such report shall contain a brief description of the contracts which have been awarded to minority firms under this Act and of the efforts made by the President to encourage the participation of such firms in programs carried out under this Act. Reports.

"(g) SPECIAL STUDY WASTES.—

"(1) APPLICATION.—This subsection applies to facilities—

"(A) which as of the date of enactment of the Superfund Amendments and Reauthorization Act of 1986 were not included on, or proposed for inclusion on, the National Priorities List; and

"(B) at which special study wastes described in paragraph (2), (3)(A)(ii) or (3)(A)(iii) of section 3001(b) of the Solid Waste Disposal Act are present in significant quantities, including any such facility from which there has been a release of a special study waste. 42 USC 6921.

"(2) CONSIDERATIONS IN ADDING FACILITIES TO NPL.—Pending revision of the hazard ranking system under subsection (c), the President shall consider each of the following factors in adding facilities covered by this section to the National Priorities List:

"(A) The extent to which hazard ranking system score for the facility is affected by the presence of any special study waste at, or any release from, such facility.

"(B) Available information as to the quantity, toxicity, and concentration of hazardous substances that are constituents of any special study waste at, or released from such facility, the extent of or potential for release of such hazardous constituents, the exposure or potential exposure to human population and the environment, and the degree of hazard to human health or the environment posed by the release of such hazardous constituents at such facility. This subparagraph refers only to available information on actual concentrations of hazardous substances and not on the total quantity of special study waste at such facility.

"(3) SAVINGS PROVISIONS.—Nothing in this subsection shall be construed to limit the authority of the President to remove any facility which as of the date of enactment of the Superfund Amendments and Reauthorization Act of 1986 is included on the National Priorities List from such List, or not to list any facility which as of such date is proposed for inclusion on such list.

"(4) INFORMATION GATHERING AND ANALYSIS.—Nothing in this Act shall be construed to preclude the expenditure of monies from the Fund for gathering and analysis of information which will enable the President to consider the specific factors required by paragraph (2).".

Claims.

SEC. 106. REIMBURSEMENT.

Post, p. 1633.

Section 106(b) of CERCLA is amended as follows:

(1) Insert "(1)" after "(b)".

(2) Strike out "who willfully" and insert "who, without sufficient cause, willfully".

(3) Add at the end thereof the following new paragraph:

"(2)(A) Any person who receives and complies with the terms of any order issued under subsection (a) may, within 60 days after completion of the required action, petition the President for reimbursement from the Fund for the reasonable costs of such action, plus interest. Any interest payable under this paragraph shall accrue on the amounts expended from the date of expenditure at the same rate as specified for interest on investments of the Hazardous Substance Superfund established under subchapter A of chapter 98 of the Internal Revenue Code of 1954.

26 USC 9501.

"(B) If the President refuses to grant all or part of a petition made under this paragraph, the petitioner may within 30 days of receipt of such refusal file an action against the President in the appropriate United States district court seeking reimbursement from the Fund.

"(C) Except as provided in subparagraph (D), to obtain reimbursement, the petitioner shall establish by a preponderance of the evidence that it is not liable for response costs under section 107(a) and that costs for which it seeks reimbursement are reasonable in light of the action required by the relevant order.

42 USC 9607.

"(D) A petitioner who is liable for response costs under section 107(a) may also recover its reasonable costs of response to the extent that it can demonstrate, on the administrative record, that the President's decision in selecting the response action ordered was arbitrary and capricious or was otherwise not in accordance with law. Reimbursement awarded under this subparagraph shall include all reasonable response costs incurred by the petitioner pursuant to the portions of the order found to be arbitrary and capricious or otherwise not in accordance with law.

"(E) Reimbursement awarded by a court under subparagraph (C) or (D) may include appropriate costs, fees, and other expenses in accordance with subsections (a) and (d) of section 2412 of title 28 of the United States Code.".

42 USC 9607.

SEC. 107. LIABILITY.

(a) FOREIGN VESSELS.—Section 107(a)(1) of CERCLA is amended by striking out "(otherwise subject to the jurisdiction of the United States)".

Post, p. 1705.

(b) RECOVERABLE COSTS AND DAMAGES.—Section 107(a) of CERCLA is amended by striking out "and" at the end of subparagraph (B), striking out the period at the end of subparagraph (C) and inserting "; and" and inserting at the end thereof the following:

"(D) the costs of any health assessment or health effects study carried out under section 104(i).

Post, p. 1636.

The amounts recoverable in an action under this section shall include interest on the amounts recoverable under subparagraphs (A) through (D). Such interest shall accrue from the later of (i) the date payment of a specified amount is demanded in writing, or (ii) the date of the expenditure concerned. The rate of interest on the

outstanding unpaid balance of the amounts recoverable under this section shall be the same rate as is specified for interest on investments of the Hazardous Substance Superfund established under subchapter A of chapter 98 of the Internal Revenue Code of 1954. For purposes of applying such amendments to interest under this subsection, the term 'comparable maturity' shall be determined with reference to the date on which interest accruing under this subsection commences.". 26 USC 9501.

(c) RENDERING CARE OR ADVICE; EMERGENCY RESPONSE ACTIONS.— Section 107(d) of CERCLA is amended to read as follows: Claims. 42 USC 9607.

"(d) RENDERING CARE OR ADVICE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no person shall be liable under this title for costs or damages as a result of actions taken or omitted in the course of rendering care, assistance, or advice in accordance with the National Contingency Plan ('NCP') or at the direction of an onscene coordinator appointed under such plan, with respect to an incident creating a danger to public health or welfare or the environment as a result of any releases of a hazardous substance or the threat thereof. This paragraph shall not preclude liability for costs or damages as the result of negligence on the part of such person. Health and medical care.

"(2) STATE AND LOCAL GOVERNMENTS.—No State or local government shall be liable under this title for costs or damages as a result of actions taken in response to an emergency created by the release or threatened release of a hazardous substance generated by or from a facility owned by another person. This paragraph shall not preclude liability for costs or damages as a result of gross negligence or intentional misconduct by the State or local government. For the purpose of the preceding sentence, reckless, willful, or wanton misconduct shall constitute gross negligence.

"(3) SAVINGS PROVISION.—This subsection shall not alter the liability of any person covered by the provisions of paragraph (1), (2), (3), or (4) of subsection (a) of this section with respect to the release or threatened release concerned.".

(d) NATURAL RESOURCES.—

(1) DESIGNATION OF FEDERAL AND STATE OFFICIALS.—Section 107(f) of CERCLA is amended by inserting "(1) NATURAL RESOURCES LIABILITY.—" after "(f)" and by adding at the end thereof the following new paragraphs: *Post*, p. 1705.

"(2) DESIGNATION OF FEDERAL AND STATE OFFICIALS.—

"(A) FEDERAL.—The President shall designate in the National Contingency Plan published under section 105 of this Act the Federal officials who shall act on behalf of the public as trustees for natural resources under this Act and section 311 of the Federal Water Pollution Control Act. Such officials shall assess damages for injury to, destruction of, or loss of natural resources for purposes of this Act and such section 311 for those resources under their trusteeship and may, upon request of and reimbursement from a State and at the Federal officials' discretion, assess damages for those natural resources under the State's trusteeship. President of U.S. 33 USC 1321.

"(B) STATE.—The Governor of each State shall designate State officials who may act on behalf of the public as trustees for natural resources under this Act and section 311 of the Federal Water Pollution Control Act and shall

notify the President of such designations. Such State officials shall assess damages to natural resources for the purposes of this Act and such section 311 for those natural resources under their trusteeship.

33 USC 1321.

"(C) REBUTTABLE PRESUMPTION.—Any determination or assessment of damages to natural resources for the purposes of this Act and section 311 of the Federal Water Pollution Control Act made by a Federal or State trustee in accordance with the regulations promulgated under section 301(c) of this Act shall have the force and effect of a rebuttable presumption on behalf of the trustee in any administrative or judicial proceeding under this Act or section 311 of the Federal Water Pollution Control Act.".

33 USC 1321.

42 USC 9651.

42 USC 9607.

(2) USE OF RECOVERED FUNDS.—Section 107(f)(1) of CERCLA (as designated by paragraph (1) of this subsection) is amended by striking out the third sentence and inserting in lieu thereof the following: "Sums recovered by the United States Government as trustee under this subsection shall be retained by the trustee, without further appropriation, for use only to restore, replace, or acquire the equivalent of such natural resources. Sums recovered by a State as trustee under this subsection shall be available for use only to restore, replace, or acquire the equivalent of such natural resources by the State. The measure of damages in any action under subparagraph (C) of subsection (a) shall not be limited by the sums which can be used to restore or replace such resources. There shall be no double recovery under this Act for natural resource damages, including the costs of damage assessment or restoration, rehabilitation, or acquisition for the same release and natural resource".

President of U.S.

42 USC 9651.

(3) DEADLINE FOR SECTION 301 REGULATIONS.—Section 301(c)(1) of CERCLA is amended by adding the following at the end thereof: "Notwithstanding the failure of the President to promulgate the regulations required under this subsection on the required date, the President shall promulgate such regulations not later than 6 months after the enactment of the Superfund Amendments and Reauthorization Act of 1986.".

42 USC 9607.

(e) FEDERAL AGENCIES.—Section 107(g) of CERCLA is amended to read as follows:

"(g) FEDERAL AGENCIES.—For provisions relating to Federal agencies, see section 120 of this Act."

Claims.

(f) FEDERAL LIEN.—Section 107 of CERCLA is amended by adding at the end thereof the following new subsection:

Real property.

Vessels.

"(l) FEDERAL LIEN.—

"(1) IN GENERAL.—All costs and damages for which a person is liable to the United States under subsection (a) of this section (other than the owner or operator of a vessel under paragraph (1) of subsection (a)) shall constitute a lien in favor of the United States upon all real property and rights to such property which—

"(A) belong to such person; and

"(B) are subject to or affected by a removal or remedial action.

"(2) DURATION.—The lien imposed by this subsection shall arise at the later of the following:

"(A) The time costs are first incurred by the United States with respect to a response action under this Act.

"(B) The time that the person referred to in paragraph (1) is provided (by certified or registered mail) written notice of potential liability.

Such lien shall continue until the liability for the costs (or a judgment against the person arising out of such liability) is satisfied or becomes unenforceable through operation of the statute of limitations provided in section 113.

Post, 1647.

"(3) NOTICE AND VALIDITY.—The lien imposed by this subsection shall be subject to the rights of any purchaser, holder of a security interest, or judgment lien creditor whose interest is perfected under applicable State law before notice of the lien has been filed in the appropriate office within the State (or county or other governmental subdivision), as designated by State law, in which the real property subject to the lien is located. Any such purchaser, holder of a security interest, or judgment lien creditor shall be afforded the same protections against the lien imposed by this subsection as are afforded under State law against a judgment lien which arises out of an unsecured obligation and which arises as of the time of the filing of the notice of the lien imposed by this subsection. If the State has not by law designated one office for the receipt of such notices of liens, the notice shall be filed in the office of the clerk of the United States district court for the district in which the real property is located. For purposes of this subsection, the terms 'purchaser' and 'security interest' shall have the definitions provided under section 6323(h) of the Internal Revenue Code of 1954.

State and local governments.

26 USC 6323.

"(4) ACTION IN REM.—The costs constituting the lien may be recovered in an action in rem in the United States district court for the district in which the removal or remedial action is occurring or has occurred. Nothing in this subsection shall affect the right of the United States to bring an action against any person to recover all costs and damages for which such person is liable under subsection (a) of this section.

"(m) MARITIME LIEN.—All costs and damages for which the owner or operator of a vessel is liable under subsection (a)(1) with respect to a release or threatened release from such vessel shall constitute a maritime lien in favor of the United States on such vessel. Such costs may be recovered in an action in rem in the district court of the United States for the district in which the vessel may be found. Nothing in this subsection shall affect the right of the United States to bring an action against the owner or operator of such vessel in any court of competent jurisdiction to recover such costs.".

Vessels.

SEC. 108. FINANCIAL RESPONSIBILITY.

42 USC 9608.

(a) EVIDENCE OF FINANCIAL RESPONSIBILITY.—Section 108(b)(2) of CERCLA is amended by adding the following at the end thereof: "Financial responsibility may be established by any one, or any combination, of the following: insurance, guarantee, surety bond, letter of credit, or qualification as a self-insurer. In promulgating requirements under this section, the President is authorized to specify policy or other contractual terms, conditions, or defenses which are necessary, or which are unacceptable, in establishing such evidence of financial responsibility in order to effectuate the purposes of this Act.".

President of U.S

(b) PHASE-IN PERIOD.—Section 108(b)(3) of CERCLA is amended by striking out "over a period of not less than three and no more than

six years" and inserting in lieu thereof "as quickly as can reasonably be achieved but in no event more than 4 years".

Claims.
42 USC 9608.

(c) DIRECT ACTION; LIABILITY.—Subsections (c) and (d) of section 108 of CERCLA are amended to read as follows:

"(c) DIRECT ACTION.—

"(1) RELEASES FROM VESSELS.—In the case of a release or threatened release from a vessel, any claim authorized by section 107 or 111 may be asserted directly against any guarantor providing evidence of financial responsibility for such vessel under subsection (a). In defending such a claim, the guarantor may invoke all rights and defenses which would be available to the owner or operator under this title. The guarantor may also invoke the defense that the incident was caused by the willful misconduct of the owner or operator, but the guarantor may not invoke any other defense that the guarantor might have been entitled to invoke in a proceeding brought by the owner or operator against him.

"(2) RELEASES FROM FACILITIES.—In the case of a release or threatened release from a facility, any claim authorized by section 107 or 111 may be asserted directly against any guarantor providing evidence of financial responsibility for such facility under subsection (b), if the person liable under section 107 is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code, or if, with reasonable diligence, jurisdiction in the Federal courts cannot be obtained over a person liable under section 107 who is likely to be solvent at the time of judgment. In the case of any action pursuant to this paragraph, the guarantor shall be entitled to invoke all rights and defenses which would have been available to the person liable under section 107 if any action had been brought against such person by the claimant and all rights and defenses which would have been available to the guarantor if an action had been brought against the guarantor by such person.

11 USC 101 *et seq.*

"(d) LIMITATION OF GUARANTOR LIABILITY.—

"(1) TOTAL LIABILITY.—The total liability of any guarantor in a direct action suit brought under this section shall be limited to the aggregate amount of the monetary limits of the policy of insurance, guarantee, surety bond, letter of credit, or similar instrument obtained from the guarantor by the person subject to liability under section 107 for the purpose of satisfying the requirement for evidence of financial responsibility.

"(2) OTHER LIABILITY.—Nothing in this subsection shall be construed to limit any other State or Federal statutory, contractual, or common law liability of a guarantor, including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed, interpreted, or applied to diminish the liability of any person under section 107 of this Act or other applicable law.".

42 USC 9603.

SEC. 109. PENALTIES.

(a) VIOLATIONS AND CRIMINAL PENALTIES.—

(1) NOTICE.—Section 103(b) of CERCLA is amended as follows:

(A) Insert after "knowledge of such release" the following: "or who submits in such a notification any information which he knows to be false or misleading".

(B) Strike out "not more than $10,000 or imprisoned for not more than one year, or both" and insert in lieu thereof "in accordance with the applicable provisions of title 18 of the United States Code or imprisoned for not more than 3 years (or not more than 5 years in the case of a second or subsequent conviction), or both".

(2) DESTRUCTION OF RECORDS.—Section 103(d)(2) of CERCLA is amended by striking out "not more than $20,000, or imprisoned for not more than one year or both." and inserting in lieu thereof "in accordance with the applicable provisions of title 18 of the United States Code or imprisoned for not more than 3 years (or not more than 5 years in the case of a second or subsequent conviction), or both.". 42 USC 9603.

(3) FALSE INFORMATION.—Section 112(b)(1) of CERCLA is amended by striking out "up to $5,000 or imprisoned for not more than one year, or both" and inserting in lieu thereof "in accordance with the applicable provisions of title 18 of the United States Code or imprisoned for not more than 3 years (or not more than 5 years in the case of a second or subsequent conviction), or both". 42 USC 9612.

(b) SECTION 106 PENALTY.—Section 106(b) of CERCLA is amended by striking out "$5,000" and inserting in lieu thereof "$25,000". 42 USC 9606.

(c) CIVIL PENALTIES AND AWARDS.—Section 109 of CERCLA is amended to read as follows:

"SEC. 109. CIVIL PENALTIES AND AWARDS. President of U.S. 42 USC 9609.

"(a) CLASS I ADMINISTRATIVE PENALTY.—

"(1) VIOLATIONS.—A civil penalty of not more than $25,000 per violation may be assessed by the President in the case of any of the following—

"(A) A violation of the requirements of section 103 (a) or (b) (relating to notice).

"(B) A violation of the requirements of section 103(d)(2) (relating to destruction of records, etc.).

"(C) A violation of the requirements of section 108 (relating to financial responsibility, etc.), the regulations issued under section 108, or with any denial or detention order under section 108.

"(D) A violation of an order under section 122(d)(3) (relating to settlement agreements for action under section 104(b)).

"(E) Any failure or refusal referred to in section 122(l) (relating to violations of administrative orders, consent decrees, or agreements under section 120).

"(2) NOTICE AND HEARINGS.—No civil penalty may be assessed under this subsection unless the person accused of the violation is given notice and opportunity for a hearing with respect to the violation.

"(3) DETERMINING AMOUNT.—In determining the amount of any penalty assessed pursuant to this subsection, the President shall take into account the nature, circumstances, extent and gravity of the violation or violations and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such other matters as justice may require.

"(4) REVIEW.—Any person against whom a civil penalty is assessed under this subsection may obtain review thereof in the appropriate district court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the President. The President shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed. If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order or after the appropriate court has entered final judgment in favor of the United States, the President may request the Attorney General of the United States to institute a civil action in an appropriate district court of the United States to collect the penalty, and such court shall have jurisdiction to hear and decide any such action. In hearing such action, the court shall have authority to review the violation and the assessment of the civil penalty on the record.

Records.

"(5) SUBPOENAS.—The President may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, or documents in connection with hearings under this subsection. In case of contumacy or refusal to obey a subpoena issued pursuant to this paragraph and served upon any person, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the administrative law judge or to appear and produce documents before the administrative law judge, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(b) CLASS II ADMINISTRATIVE PENALTY.—A civil penalty of not more than $25,000 per day for each day during which the violation continues may be assessed by the President in the case of any of the following—

"(1) A violation of the notice requirements of section 103 (a) or (b).

Ante, p. 1632.

"(2) A violation of section 103(d)(2) (relating to destruction of records, etc.).

Ante, p. 1633.

"(3) A violation of the requirements of section 108 (relating to financial responsibility, etc.), the regulations issued under section 108, or with any denial or detention order under section 108.

"(4) A violation of an order under section 122(d)(3) (relating to settlement agreements for action under section 104(b)).

"(5) Any failure or refusal referred to in section 122(l) (relating to violations of administrative orders, consent decrees, or agreements under section 120).

In the case of a second or subsequent violation the amount of such penalty may be not more than $75,000 for each day during which the violation continues. Any civil penalty under this subsection shall be assessed and collected in the same manner, and subject to the same provisions, as in the case of civil penalties assessed and collected after notice and opportunity for hearing on the record in accordance with section 554 of title 5 of the United States Code. In any proceeding for the assessment of a civil penalty under this subsection the President may issue subpoenas for the attendance

and testimony of witnesses and the production of relevant papers, books, and documents and may promulgate rules for discovery procedures. Any person who requested a hearing with respect to a civil penalty under this subsection and who is aggrieved by an order assessing the civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

District of Columbia.

"(c) JUDICIAL ASSESSMENT.—The President may bring an action in the United States district court for the appropriate district to assess and collect a penalty of not more than $25,000 per day for each day during which the violation (or failure or refusal) continues in the case of any of the following—

"(1) A violation of the notice requirements of section 103 (a) or (b).

Ante, p. 1632.

"(2) A violation of section 103(d)(2) (relating to destruction of records, etc.).

Ante, p. 1633.

"(3) A violation of the requirements of section 108 (relating to financial responsibility, etc.), the regulations issued under section 108, or with any denial or detention order under section 108.

"(4) A violation of an order under section 122(d)(3) (relating to settlement agreements for action under section 104(b)).

"(5) Any failure or refusal referred to in section 122(l) (relating to violations of administrative orders, consent decrees, or agreements under section 120).

In the case of a second or subsequent violation (or failure or refusal), the amount of such penalty may be not more than $75,000 for each day during which the violation (or failure or refusal) continues. For additional provisions providing for judicial assessment of civil penalties for failure to comply with a request or order under section 104(e) (relating to information gathering and access authorities), see section 104(e).

"(d) AWARDS.—The President may pay an award of up to $10,000 to any individual who provides information leading to the arrest and conviction of any person for a violation subject to a criminal penalty under this Act, including any violation of section 103 and any other violation referred to in this section. The President shall, by regulation, prescribe criteria for such an award and may pay any award under this subsection from the Fund, as provided in section 111.

42 USC 9603.
Regulations.

"(e) PROCUREMENT PROCEDURES.—Notwithstanding any other provision of law, any executive agency may use competitive procedures or procedures other than competitive procedures to procure the services of experts for use in preparing or prosecuting a civil or criminal action under this Act, whether or not the expert is expected to testify at trial. The executive agency need not provide any written justification for the use of procedures other than competitive procedures when procuring such expert services under this Act and need not furnish for publication in the Commerce Business Daily or otherwise any notice of solicitation or synopsis with respect to such procurement.

"(f) SAVINGS CLAUSE.—Action taken by the President pursuant to this section shall not affect or limit the President's authority to enforce any provisions of this Act.".

SEC. 110. HEALTH-RELATED AUTHORITIES.

42 USC 9604.

Section 104(i) of CERCLA is amended as follows:

(1) Insert "(1)" after "(i)" and redesignate paragraphs (1), (2), (3), (4), and (5) as subparagraphs (A), (B), (C), (D), and (E).

(2) In paragraph (1), strike "and" after "Health Administration," and insert after "Social Security Administration," the following: "the Secretary of Transportation, and appropriate State and local health officials,".

(3) Insert after "chromosomal testing" in subparagraph (D) (as redesignated by paragraph (1) of this subsection) the following: "where appropriate".

(4) Add the following new paragraphs at the end thereof:

"(2)(A) Within 6 months after the enactment of the Superfund Amendments and Reauthorization Act of 1986, the Administrator of the Agency for Toxic Substances and Disease Registry (ATSDR) and the Administrator of the Environmental Protection Agency (EPA) shall prepare a list, in order of priority, of at least 100 hazardous substances which are most commonly found at facilities on the National Priorities List and which, in their sole discretion, they determine are posing the most significant potential threat to human health due to their known or suspected toxicity to humans and the potential for human exposure to such substances at facilities on the National Priorities List or at facilities to which a response to a release or a threatened release under this section is under consideration.

"(B) Within 24 months after the enactment of the Superfund Amendments and Reauthorization Act of 1986, the Administrator of ATSDR and the Administrator of EPA shall revise the list prepared under subparagraph (A). Such revision shall include, in order of priority, the addition of 100 or more such hazardous substances. In each of the 3 consecutive 12-month periods that follow, the Administrator of ATSDR and the Administrator of EPA shall revise, in the same manner as provided in the 2 preceding sentences, such list to include not fewer than 25 additional hazardous substances per revision. The Administrator of ATSDR and the Administrator of EPA shall not less often than once every year thereafter revise such list to include additional hazardous substances in accordance with the criteria in subparagraph (A).

"(3) Based on all available information, including information maintained under paragraph (1)(B) and data developed and collected on the health effects of hazardous substances under this paragraph, the Administrator of ATSDR shall prepare toxicological profiles of each of the substances listed pursuant to paragraph (2). The toxicological profiles shall be prepared in accordance with guidelines developed by the Administrator of ATSDR and the Administrator of EPA. Such profiles shall include, but not be limited to each of the following:

"(A) An examination, summary, and interpretation of available toxicological information and epidemiologic evaluations on a hazardous substance in order to ascertain the levels of significant human exposure for the substance and the associated acute, subacute, and chronic health effects.

"(B) A determination of whether adequate information on the health effects of each substance is available or in the process of development to determine levels of exposure which present a

significant risk to human health of acute, subacute, and chronic health effects.

"(C) Where appropriate, an identification of toxicological testing needed to identify the types or levels of exposure that may present significant risk of adverse health effects in humans.

Any toxicological profile or revision thereof shall reflect the Administrator of ATSDR's assessment of all relevant toxicological testing which has been peer reviewed. The profiles required to be prepared under this paragraph for those hazardous substances listed under subparagraph (A) of paragraph (2) shall be completed, at a rate of no fewer than 25 per year, within 4 years after the enactment of the Superfund Amendments and Reauthorization Act of 1986. A profile required on a substance listed pursuant to subparagraph (B) of paragraph (2) shall be completed within 3 years after addition to the list. The profiles prepared under this paragraph shall be of those substances highest on the list of priorities under paragraph (2) for which profiles have not previously been prepared. Profiles required under this paragraph shall be revised and republished as necessary, but no less often than once every 3 years. Such profiles shall be provided to the States and made available to other interested parties.

State and local governments.

"(4) The Administrator of the ATSDR shall provide consultations upon request on health issues relating to exposure to hazardous or toxic substances, on the basis of available information, to the Administrator of EPA, State officials, and local officials. Such consultations to individuals may be provided by States under cooperative agreements established under this Act.

Research and development.

"(5)(A) For each hazardous substance listed pursuant to paragraph (2), the Administrator of ATSDR (in consultation with the Administrator of EPA and other agencies and programs of the Public Health Service) shall assess whether adequate information on the health effects of such substance is available. For any such substance for which adequate information is not available (or under development), the Administrator of ATSDR, in cooperation with the Director of the National Toxicology Program, shall assure the initiation of a program of research designed to determine the health effects (and techniques for development of methods to determine such health effects) of such substance. Where feasible, such program shall seek to develop methods to determine the health effects of such substance in combination with other substances with which it is commonly found. Before assuring the initiation of such program, the Administrator of ATSDR shall consider recommendations of the Interagency Testing Committee established under section 4(e) of the Toxic Substances Control Act on the types of research that should be done. Such program shall include, to the extent necessary to supplement existing information, but shall not be limited to—

15 USC 2603.

"(i) laboratory and other studies to determine short, intermediate, and long-term health effects;

"(ii) laboratory and other studies to determine organ-specific, site-specific, and system-specific acute and chronic toxicity;

"(iii) laboratory and other studies to determine the manner in which such substances are metabolized or to otherwise develop an understanding of the biokinetics of such substances; and

"(iv) where there is a possibility of obtaining human data, the collection of such information.

"(B) In assessing the need to perform laboratory and other studies, as required by subparagraph (A), the Administrator of ATSDR shall consider—

"(i) the availability and quality of existing test data concerning the substance on the suspected health effect in question;

"(ii) the extent to which testing already in progress will, in a timely fashion, provide data that will be adequate to support the preparation of toxicological profiles as required by paragraph (3); and

"(iii) such other scientific and technical factors as the Administrator of ATSDR may determine are necessary for the effective implementation of this subsection.

"(C) In the development and implementation of any research program under this paragraph, the Administrator of ATSDR and the Administrator of EPA shall coordinate such research program implemented under this paragraph with the National Toxicology Program and with programs of toxicological testing established under the Toxic Substances Control Act and the Federal Insecticide, Fungicide and Rodenticide Act. The purpose of such coordination shall be to avoid duplication of effort and to assure that the hazardous substances listed pursuant to this subsection are tested thoroughly at the earliest practicable date. Where appropriate, consistent with such purpose, a research program under this paragraph may be carried out using such programs of toxicological testing.

15 USC 2601 note.
7 USC 136 note.

"(D) It is the sense of the Congress that the costs of research programs under this paragraph be borne by the manufacturers and processors of the hazardous substance in question, as required in programs of toxicological testing under the Toxic Substances Control Act. Within 1 year after the enactment of the Superfund Amendments and Reauthorization Act of 1986, the Administrator of EPA shall promulgate regulations which provide, where appropriate, for payment of such costs by manufacturers and processors under the Toxic Substances Control Act, and registrants under the Federal Insecticide, Fungicide, and Rodenticide Act, and recovery of such costs from responsible parties under this Act.

Regulations.

"(6)(A) The Administrator of ATSDR shall perform a health assessment for each facility on the National Priorities List established under section 105. Such health assessment shall be completed not later than December 10, 1988, for each facility proposed for inclusion on such list prior to the date of the enactment of the Superfund Amendments and Reauthorization Act of 1986 or not later than one year after the date of proposal for inclusion on such list for each facility proposed for inclusion on such list after such date of enactment.

"(B) The Administrator of ATSDR may perform health assessments for releases or facilities where individual persons or licensed physicians provide information that individuals have been exposed to a hazardous substance, for which the probable source of such exposure is a release. In addition to other methods (formal or informal) of providing such information, such individual persons or licensed physicians may submit a petition to the Administrator of ATSDR providing such information and requesting a health assessment. If such a petition is submitted and the Administrator of ATSDR does not initiate a health assessment, the Administrator of ATSDR shall provide a written explanation of why a health assessment is not appropriate.

"(C) In determining the priority in which to conduct health assessments under this subsection, the Administrator of ATSDR, in consultation with the Administrator of EPA, shall give priority to those facilities at which there is documented evidence of the release of hazardous substances, at which the potential risk to human health appears highest, and for which in the judgment of the Administrator of ATSDR existing health assessment data are inadequate to assess the potential risk to human health as provided in subparagraph (F). In determining the priorities for conducting health assessments under this subsection, the Administrator of ATSDR shall consider the National Priorities List schedules and the needs of the Environmental Protection Agency and other Federal agencies pursuant to schedules for remedial investigation and feasibility studies.

"(D) Where a health assessment is done at a site on the National Priorities List, the Administrator of ATSDR shall complete such assessment promptly and, to the maximum extent practicable, before the completion of the remedial investigation and feasibility study at the facility concerned.

Reports.
State and local governments.

"(E) Any State or political subdivision carrying out a health assessment for a facility shall report the results of the assessment to the Administrator of ATSDR and the Administrator of EPA and shall include recommendations with respect to further activities which need to be carried out under this section. The Administrator of ATSDR shall state such recommendation in any report on the results of any assessment carried out directly by the Administrator of ATSDR for such facility and shall issue periodic reports which include the results of all the assessments carried out under this subsection.

"(F) For the purposes of this subsection and section 111(c)(4), the term 'health assessments' shall include preliminary assessments of the potential risk to human health posed by individual sites and facilities, based on such factors as the nature and extent of contamination, the existence of potential pathways of human exposure (including ground or surface water contamination, air emissions, and food chain contamination), the size and potential susceptibility of the community within the likely pathways of exposure, the comparison of expected human exposure levels to the short-term and long-term health effects associated with identified hazardous substances and any available recommended exposure or tolerance limits for such hazardous substances, and the comparison of existing morbidity and mortality data on diseases that may be associated with the observed levels of exposure. The Administrator of ATSDR shall use appropriate data, risk assessments, risk evaluations and studies available from the Administrator of EPA.

"(G) The purpose of health assessments under this subsection shall be to assist in determining whether actions under paragraph (11) of this subsection should be taken to reduce human exposure to hazardous substances from a facility and whether additional information on human exposure and associated health risks is needed and should be acquired by conducting epidemiological studies under paragraph (7), establishing a registry under paragraph (8), establishing a health surveillance program under paragraph (9), or through other means. In using the results of health assessments for determining additional actions to be taken under this section, the Administrator of ATSDR may consider additional information on the risks to the potentially affected population from all sources of

such hazardous substances including known point or nonpoint sources other than those from the facility in question.

"(H) At the completion of each health assessment, the Administrator of ATSDR shall provide the Administrator of EPA and each affected State with the results of such assessment, together with any recommendations for further actions under this subsection or otherwise under this Act. In addition, if the health assessment indicates that the release or threatened release concerned may pose a serious threat to human health or the environment, the Administrator of ATSDR shall so notify the Administrator of EPA who shall promptly evaluate such release or threatened release in accordance with the hazard ranking system referred to in section 105(a)(8)(A) to determine whether the site shall be placed on the National Priorities List or, if the site is already on the list, the Administrator of ATSDR may recommend to the Administrator of EPA that the site be accorded a higher priority.

"(7)(A) Whenever in the judgment of the Administrator of ATSDR it is appropriate on the basis of the results of a health assessment, the Administrator of ATSDR shall conduct a pilot study of health effects for selected groups of exposed individuals in order to determine the desirability of conducting full scale epidemiological or other health studies of the entire exposed population.

"(B) Whenever in the judgment of the Administrator of ATSDR it is appropriate on the basis of the results of such pilot study or other study or health assessment, the Administrator of ATSDR shall conduct such full scale epidemiological or other health studies as may be necessary to determine the health effects on the population exposed to hazardous substances from a release or threatened release. If a significant excess of disease in a population is identified, the letter of transmittal of such study shall include an assessment of other risk factors, other than a release, that may, in the judgment of the peer review group, be associated with such disease, if such risk factors were not taken into account in the design or conduct of the study.

"(8) In any case in which the results of a health assessment indicate a potential significant risk to human health, the Administrator of ATSDR shall consider whether the establishment of a registry of exposed persons would contribute to accomplishing the purposes of this subsection, taking into account circumstances bearing on the usefulness of such a registry, including the seriousness or unique character of identified diseases or the likelihood of population migration from the affected area.

"(9) Where the Administrator of ATSDR has determined that there is a significant increased risk of adverse health effects in humans from exposure to hazardous substances based on the results of a health assessment conducted under paragraph (6), an epidemiologic study conducted under paragraph (7), or an exposure registry that has been established under paragraph (8), and the Administrator of ATSDR has determined that such exposure is the result of a release from a facility, the Administrator of ATSDR shall initiate a health surveillance program for such population. This program shall include but not be limited to—

"(A) periodic medical testing where appropriate of population subgroups to screen for diseases for which the population or subgroup is at significant increased risk; and

"(B) a mechanism to refer for treatment those individuals within such population who are screened positive for such diseases.

"(10) Two years after the date of the enactment of the Superfund Amendments and Reauthorization Act of 1986, and every 2 years thereafter, the Administrator of ATSDR shall prepare and submit to the Administrator of EPA and to the Congress a report on the results of the activities of ATSDR regarding— Reports.

"(A) health assessments and pilot health effects studies conducted;

"(B) epidemiologic studies conducted;

"(C) hazardous substances which have been listed under paragraph (2), toxicological profiles which have been developed, and toxicologic testing which has been conducted or which is being conducted under this subsection;

"(D) registries established under paragraph (8); and

"(E) an overall assessment, based on the results of activities conducted by the Administrator of ATSDR, of the linkage between human exposure to individual or combinations of hazardous substances due to releases from facilities covered by this Act or the Solid Waste Disposal Act and any increased incidence or prevalence of adverse health effects in humans. 42 USC 6901 note.

"(11) If a health assessment or other study carried out under this subsection contains a finding that the exposure concerned presents a significant risk to human health, the President shall take such steps as may be necessary to reduce such exposure and eliminate or substantially mitigate the significant risk to human health. Such steps may include the use of any authority under this Act, including, but not limited to— President of U.S.

"(A) provision of alternative water supplies, and

"(B) permanent or temporary relocation of individuals.

In any case in which information is insufficient, in the judgment of the Administrator of ATSDR or the President to determine a significant human exposure level with respect to a hazardous substance, the President may take such steps as may be necessary to reduce the exposure of any person to such hazardous substance to such level as the President deems necessary to protect human health.

"(12) In any case which is the subject of a petition, a health assessment or study, or a research program under this subsection, nothing in this subsection shall be construed to delay or otherwise affect or impair the authority of the President, the Administrator of ATSDR, or the Administrator of EPA to exercise any authority vested in the President, the Administrator of ATSDR or the Administrator of EPA under any other provision of law (including, but not limited to, the imminent hazard authority of section 7003 of the Solid Waste Disposal Act) or the response and abatement authorities of this Act. 42 USC 6973.

"(13) All studies and results of research conducted under this subsection (other than health assessments) shall be reported or adopted only after appropriate peer review. Such peer review shall be completed, to the maximum extent practicable, within a period of 60 days. In the case of research conducted under the National Toxicology Program, such peer review may be conducted by the Board of Scientific Counselors. In the case of other research, such peer review shall be conducted by panels consisting of no less than three nor more than seven members, who shall be disinterested scientific experts selected for such purpose by the Administrator of Reports. Research and development.

ATSDR or the Administrator of EPA, as appropriate, on the basis of their reputation for scientific objectivity and the lack of institutional ties with any person involved in the conduct of the study or research under review. Support services for such panels shall be provided by the Agency for Toxic Substances and Disease Registry, or by the Environmental Protection Agency, as appropriate.

"(14) In the implementation of this subsection and other health-related authorities of this Act, the Administrator of ATSDR shall assemble, develop as necessary, and distribute to the States, and upon request to medical colleges, physicians, and other health professionals, appropriate educational materials (including short courses) on the medical surveillance, screening, and methods of diagnosis and treatment of injury or disease related to exposure to hazardous substances (giving priority to those listed in paragraph (2)), through such means as the Administrator of ATSDR deems appropriate.

"(15) The activities of the Administrator of ATSDR described in this subsection and section 111(c)(4) shall be carried out by the Administrator of ATSDR, either directly or through cooperative agreements with States (or political subdivisions thereof) which the Administrator of ATSDR determines are capable of carrying out such activities. Such activities shall include provision of consultations on health information, the conduct of health assessments, including those required under section 3019(b) of the Solid Waste Disposal Act, health studies, registries, and health surveillance.

42 USC 6939a.

President of U.S. Employment and unemployment.

"(16) The President shall provide adequate personnel for ATSDR, which shall not be fewer than 100 employees. For purposes of determining the number of employees under this subsection, an employee employed by ATSDR on a part-time career employment basis shall be counted as a fraction which is determined by dividing 40 hours into the average number of hours of such employee's regularly scheduled workweek.

"(17) In accordance with section 120 (relating to Federal facilities), the Administrator of ATSDR shall have the same authorities under this section with respect to facilities owned or operated by a department, agency, or instrumentality of the United States as the Administrator of ATSDR has with respect to any nongovernmental entity.

"(18) If the Administrator of ATSDR determines that it is appropriate for purposes of this section to treat a pollutant or contaminant as a hazardous substance, such pollutant or contaminant shall be treated as a hazardous substance for such purpose.".

42 USC 9611.

SEC. 111. USES OF FUND.

Appropriation authorization.

(a) AMOUNT OF FUND.—Section 111 of CERCLA is amended by inserting after "(a)" the following: "IN GENERAL.—For the purposes specified in this section there is authorized to be appropriated from the Hazardous Substance Superfund established under subchapter A of chapter 98 of the Internal Revenue Code of 1986 not more than $8,500,000,000 for the 5-year period beginning on the date of enactment of the Superfund Amendments and Reauthorization Act of 1986, and such sums shall remain available until expended. The preceding sentence constitutes a specific authorization for the funds appropriated under title II of Public Law 99-160 (relating to payment to the Hazardous Substances Trust Fund).".

99 Stat. 916.

(b) USES OF FUNDS UNDER SECTION 111(a).—Section 111(a) of CERCLA is amended by striking out "; and" at the end of paragraph

(3) and inserting a period, by striking out the semicolons at the end of paragraphs (1) and (2) and inserting in lieu thereof a period, by capitalizing the first letter in paragraphs (1) through (4), and by adding at the end thereof the following:

"(5) GRANTS FOR TECHNICAL ASSISTANCE.—The cost of grants under section 117(e) (relating to public participation grants for technical assistance).

"(6) LEAD CONTAMINATED SOIL.—Payment of not to exceed $15,000,000 for the costs of a pilot program for removal, decontamination, or other action with respect to lead-contaminated soil in one to three different metropolitan areas.".

(c) NATURAL RESOURCE DAMAGE CLAIMS.— 42 USC 9611.

(1) LIMITATION.—Section 111(b) of CERCLA is amended by inserting "(1) IN GENERAL.—" after "(b)" and by adding at the end thereof the following new paragraph:

"(2) LIMITATION ON PAYMENT OF NATURAL RESOURCE CLAIMS.— President of U.S.

"(A) GENERAL REQUIREMENTS.—No natural resource claim may be paid from the Fund unless the President determines that the claimant has exhausted all administrative and judicial remedies to recover the amount of such claim from persons who may be liable under section 107. 42 USC 9607.

"(B) DEFINITION.—As used in this paragraph, the term 'natural resource claim' means any claim for injury to, or destruction or loss of, natural resources. The term does not include any claim for the costs of natural resource damage assessment.".

(2) CONFORMING AMENDMENT.—Section 111(h) of CERCLA is repealed.

(d) SUBSECTION (c) AMENDMENTS.—

(1) SECTION 111(c)(4).—Section 111(c)(4) of CERCLA is amended by striking out "the costs of epidemiologic studies" and inserting "Any costs incurred in accordance with subsection (m) of this section (relating to ATSDR) and section 104(i), *Ante*, p. 1636. including the costs of epidemiologic and laboratory studies, health assessments, preparation of toxicologic profiles".

(2) NEW PARAGRAPHS IN SECTION 111(c).—Section 111(c) of CERCLA is amended by striking out "; and" at the end of paragraph (5) and inserting a period, by striking out the semicolons at the end of paragraphs (1) through (4) and inserting in lieu thereof a period, by capitalizing the first letter in paragraphs (1), (2), (3), (5), and (6), and by adding at the end thereof the following:

"(7) EVALUATION COSTS UNDER PETITION PROVISIONS OF SECTION 105(d).—Costs incurred by the President in evaluating facilities pursuant to petitions under section 105(d) (relating to petitions for assessment of release).

"(8) CONTRACT COSTS UNDER SECTION 104(a)(1).—The costs of contracts or arrangements entered into under section 104(a)(1) to oversee and review the conduct of remedial investigations and feasibility studies undertaken by persons other than the President and the costs of appropriate Federal and State oversight of remedial activities at National Priorities List sites resulting from consent orders or settlement agreements.

"(9) ACQUISITION COSTS UNDER SECTION 104(j).—The costs incurred by the President in acquiring real estate or interests in real estate under section 104(j) (relating to acquisition of property).

"(10) RESEARCH, DEVELOPMENT, AND DEMONSTRATION COSTS UNDER SECTION 311.—The cost of carrying out section 311 (relating to research, development, and demonstration), except that the amounts available for such purposes shall not exceed the amounts specified in subsection (n) of this section.

Post, p. 1708.

"(11) LOCAL GOVERNMENT REIMBURSEMENT.—Reimbursements to local governments under section 123, except that during the 5-fiscal-year period beginning October 1, 1986, not more than 0.1 percent of the total amount appropriated from the Fund may be used for such reimbursements.

"(12) WORKER TRAINING AND EDUCATION GRANTS.—The costs of grants under section 126(g) of the Superfund Amendments and Reauthorization Act of 1986 for training and education of workers to the extent that such costs do not exceed $10,000,000 for each of the fiscal years 1987, 1988, 1989, 1990, and 1991.

"(13) AWARDS UNDER SECTION 109.—The costs of any awards granted under section 109(d).

"(14) LEAD POISONING STUDY.—The cost of carrying out the study under subsection (f) of section 118 of the Superfund Amendments and Reauthorization Act of 1986 (relating to lead poisoning in children).".

42 USC 9611.

(e) LIMITATION ON CERTAIN CLAIMS.—Section 111(e)(2) of CERCLA is amended by adding at the end the following: "No money in the Fund may be used for the payment of any claim under subsection (a)(3) or subsection (b) of this section in any fiscal year for which the President determines that all of the Fund is needed for response to threats to public health from releases or threatened releases of hazardous substances.".

(f) FUND USE OUTSIDE FEDERAL PROPERTY BOUNDARIES.—Section 111(e)(3) of CERCLA is amended by inserting the following before the period: "; except that money in the Fund shall be available for the provision of alternative water supplies (including the reimbursement of costs incurred by a municipality) in any case involving groundwater contamination outside the boundaries of a federally owned facility in which the federally owned facility is not the only potentially responsible party".

(g) INSPECTOR GENERAL.—Section 111(k) of CERCLA is amended to read as follows:

"(k) INSPECTOR GENERAL.—In each fiscal year, the Inspector General of each department, agency, or instrumentality of the United States which is carrying out any authority of this Act shall conduct an annual audit of all payments, obligations, reimbursements, or other uses of the Fund in the prior fiscal year, to assure that the Fund is being properly administered and that claims are being appropriately and expeditiously considered. The audit shall include an examination of a sample of agreements with States (in accordance with the provisions of the Single Audit Act) carrying out response actions under this title and an examination of remedial investigations and feasibility studies prepared for remedial actions. The Inspector General shall submit to the Congress an annual report regarding the audit report required under this subsection. The report shall contain such recommendations as the Inspector General deems appropriate. Each department, agency, or instrumentality of the United States shall cooperate with its inspector general in carrying out this subsection.".

31 USC 7501 note.

Reports.

(h) NEW SUBSECTIONS.—Section 111 of CERCLA is amended by adding after subsection (l) the following new subsections:

Post, p. 1706.

"(m) AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY.—There shall be directly available to the Agency for Toxic Substances and Disease Registry to be used for the purpose of carrying out activities described in subsection (c)(4) and section 104(i) not less than $50,000,000 per fiscal year for each of fiscal years 1987 and 1988, not less than $55,000,000 for fiscal year 1989, and not less than $60,000,000 per fiscal year for each of fiscal years 1990 and 1991. Any funds so made available which are not obligated by the end of the fiscal year in which made available shall be returned to the Fund.

Ante, pp. 1643, 1636.

"(n) LIMITATIONS ON RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM.—

"(1) SECTION 311(b).—For each of the fiscal years 1987, 1988, 1989, 1990, and 1991, not more than $20,000,000 of the amounts available in the Fund may be used for the purposes of carrying out the applied research, development, and demonstration program for alternative or innovative technologies and training program authorized under section 311(b) (relating to research, development, and demonstration) other than basic research. Such amounts shall remain available until expended.

Post, p. 1708.

"(2) SECTION 311(a).—From the amounts available in the Fund, not more than the following amounts may be used for the purposes of section 311(a) (relating to hazardous substance research, demonstration, and training activities):

"(A) For the fiscal year 1987, $3,000,000.
"(B) For the fiscal year 1988, $10,000,000.
"(C) For the fiscal year 1989, $20,000,000.
"(D) For the fiscal year 1990, $30,000,000.
"(E) For the fiscal year 1991, $35,000,000.

No more than 10 percent of such amounts shall be used for training under section 311(a) in any fiscal year.

"(3) SECTION 311(d).—For each of the fiscal years 1987, 1988, 1989, 1990, and 1991, not more than $5,000,000 of the amounts available in the Fund may be used for the purposes of section 311(d) (relating to university hazardous substance research centers).

"(o) NOTIFICATION PROCEDURES FOR LIMITATIONS ON CERTAIN PAYMENTS.—Not later than 90 days after the enactment of this subsection, the President shall develop and implement procedures to adequately notify, as soon as practicable after a site is included on the National Priorities List, concerned local and State officials and other concerned persons of the limitations, set forth in subsection (a)(2) of this section, on the payment of claims for necessary response costs incurred with respect to such site.".

President of U.S. State and local governments. Claims.

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 111 of CERCLA is amended by adding the following subsection after subsection (o):

Post, p. 1706.

"(p) GENERAL REVENUE SHARE OF SUPERFUND.—

"(1) IN GENERAL.—The following sums are authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Hazardous Substance Superfund:

"(A) For fiscal year 1987, $212,500,000.
"(B) For fiscal year 1988, $212,500,000.
"(C) For fiscal year 1989, $212,500,000.
"(D) For fiscal year 1990, $212,500,000.
"(E) For fiscal year 1991, $212,500,000.

In addition there is authorized to be appropriated to the Hazardous Substance Superfund for each fiscal year an amount

equal to so much of the aggregate amount authorized to be appropriated under this subsection (and paragraph (2) of section 221(b) of the Hazardous Substance Response Revenue Act of 1980) as has not been appropriated before the beginning of the fiscal year involved.

42 USC 9631.

"(2) COMPUTATION.—The amounts authorized to be appropriated under paragraph (1) of this subsection in a given fiscal year shall be available only to the extent that such amount exceeds the amount determined by the Secretary under section 9507(b)(2) of the Internal Revenue Code of 1986 for the prior fiscal year.".

26 USC 9507.

42 USC 9612.

SEC. 112. CLAIMS PROCEDURE.

(a) CLAIMS AGAINST THE FUND FOR RESPONSE COSTS.—Section 112(a) of CERCLA is amended to read as follows:

"(a) CLAIMS AGAINST THE FUND FOR RESPONSE COSTS.—No claim may be asserted against the Fund pursuant to section 111(a) unless such claim is presented in the first instance to the owner, operator, or guarantor of the vessel or facility from which a hazardous substance has been released, if known to the claimant, and to any other person known to the claimant who may be liable under section 107. In any case where the claim has not been satisfied within 60 days of presentation in accordance with this subsection, the claimant may present the claim to the Fund for payment. No claim against the Fund may be approved or certified during the pendency of an action by the claimant in court to recover costs which are the subject of the claim.".

42 USC 9607.

(b) PROCEDURES.—Section 112(b) is amended by striking "(b)(1)" and inserting "(b)(1) PRESCRIBING FORMS AND PROCEDURES.—" and by striking paragraphs (2), (3), and (4) and inserting the following:

President of U.S.

"(2) PAYMENT OR REQUEST FOR HEARING.—The President may, if satisfied that the information developed during the processing of the claim warrants it, make and pay an award of the claim, except that no claim may be awarded to the extent that a judicial judgment has been made on the costs that are the subject of the claim. If the President declines to pay all or part of the claim, the claimant may, within 30 days after receiving notice of the President's decision, request an administrative hearing.

"(3) BURDEN OF PROOF.—In any proceeding under this subsection, the claimant shall bear the burden of proving his claim.

"(4) DECISIONS.—All administrative decisions made hereunder shall be in writing, with notification to all appropriate parties, and shall be rendered within 90 days of submission of a claim to an administrative law judge, unless all the parties to the claim agree in writing to an extension or unless the President, in his discretion, extends the time limit for a period not to exceed sixty days.

"(5) FINALITY AND APPEAL.—All administrative decisions hereunder shall be final, and any party to the proceeding may appeal a decision within 30 days of notification of the award or decision. Any such appeal shall be made to the Federal district court for the district where the release or threat of release took place. In any such appeal, the decision shall be considered binding and conclusive, and shall not be overturned except for arbitrary or capricious abuse of discretion.

President of U.S.

"(6) PAYMENT.—Within 20 days after the expiration of the appeal period for any administrative decision concerning an award, or within 20 days after the final judicial determination of any appeal

taken pursuant to this subsection, the President shall pay any such award from the Fund. The President shall determine the method, terms, and time of payment.".

(c) STATUTE OF LIMITATIONS.—Section 112(d) of CERCLA is amended to read as follows: 42 USC 9612.

"(d) STATUTE OF LIMITATIONS.—

"(1) CLAIMS FOR RECOVERY OF COSTS.—No claim may be presented under this section for recovery of the costs referred to in section 107(a) after the date 6 years after the date of completion of all response action.

"(2) CLAIMS FOR RECOVERY OF DAMAGES.—No claim may be presented under this section for recovery of the damages referred to in section 107(a) unless the claim is presented within 3 years after the later of the following:

"(A) The date of the discovery of the loss and its connection with the release in question.

"(B) The date on which final regulations are promulgated under section 301(c). 42 USC 9651.

"(3) MINORS AND INCOMPETENTS.—The time limitations contained herein shall not begin to run—

"(A) against a minor until the earlier of the date when such minor reaches 18 years of age or the date on which a legal representative is duly appointed for the minor, or

"(B) against an incompetent person until the earlier of the date on which such person's incompetency ends or the date on which a legal representative is duly appointed for such incompetent person.".

(d) DOUBLE RECOVERY PROHIBITED.—Section 112 of CERCLA is amended by adding the following new subsection at the end thereof:

"(f) DOUBLE RECOVERY PROHIBITED.—Where the President has paid out of the Fund for any response costs or any costs specified under section 111(c) (1) or (2), no other claim may be paid out of the Fund for the same costs.".

SEC. 113. LITIGATION, JURISDICTION, AND VENUE. 42 USC 9613.

(a) NATIONWIDE SERVICE OF PROCESS.—Section 113 of CERCLA is amended by adding the following new subsection at the end thereof:

"(e) NATIONWIDE SERVICE OF PROCESS.—In any action by the United States under this Act, process may be served in any district where the defendant is found, resides, transacts business, or has appointed an agent for the service of process.".

(b) CONTRIBUTION; STATUTE OF LIMITATIONS.—Section 113 of CERCLA is amended by adding the following new subsections after subsection (e): Claims.

"(f) CONTRIBUTION.—

"(1) CONTRIBUTION.—Any person may seek contribution from any other person who is liable or potentially liable under section 107(a), during or following any civil action under section 106 or under section 107(a). Such claims shall be brought in accordance with this section and the Federal Rules of Civil Procedure, and shall be governed by Federal law. In resolving contribution claims, the court may allocate response costs among liable parties using such equitable factors as the court determines are appropriate. Nothing in this subsection shall diminish the right of any person to bring an action for contribution in the absence of a civil action under section 106 or section 107.

"(2) SETTLEMENT.—A person who has resolved its liability to the United States or a State in an administrative or judicially approved settlement shall not be liable for claims for contribution regarding matters addressed in the settlement. Such settlement does not discharge any of the other potentially liable persons unless its terms so provide, but it reduces the potential liability of the others by the amount of the settlement.

State and local governments.

"(3) PERSONS NOT PARTY TO SETTLEMENT.—(A) If the United States or a State has obtained less than complete relief from a person who has resolved its liability to the United States or the State in an administrative or judicially approved settlement, the United States or the State may bring an action against any person who has not so resolved its liability.

"(B) A person who has resolved its liability to the United States or a State for some or all of a response action or for some or all of the costs of such action in an administrative or judicially approved settlement may seek contribution from any person who is not party to a settlement referred to in paragraph (2).

"(C) In any action under this paragraph, the rights of any person who has resolved its liability to the United States or a State shall be subordinate to the rights of the United States or the State. Any contribution action brought under this paragraph shall be governed by Federal law.

"(g) PERIOD IN WHICH ACTION MAY BE BROUGHT.—

42 USC 9601.

"(1) ACTIONS FOR NATURAL RESOURCE DAMAGES.—Except as provided in paragraphs (3) and (4), no action may be commenced for damages (as defined in section 101(6)) under this Act, unless that action is commenced within 3 years after the later of the following:

"(A) The date of the discovery of the loss and its connection with the release in question.

"(B) The date on which regulations are promulgated under section 301(c).

42 USC 9651.

Vessels.

With respect to any facility listed on the National Priorities List (NPL), any Federal facility identified under section 120 (relating to Federal facilities), or any vessel or facility at which a remedial action under this Act is otherwise scheduled, an action for damages under this Act must be commenced within 3 years after the completion of the remedial action (excluding operation and maintenance activities) in lieu of the dates referred to in subparagraph (A) or (B). In no event may an action for damages under this Act with respect to such a vessel or facility be commenced (i) prior to 60 days after the Federal or State natural resource trustee provides to the President and the potentially responsible party a notice of intent to file suit, or (ii) before selection of the remedial action if the President is diligently proceeding with a remedial investigation and feasibility study under section 104(b) or section 120 (relating to Federal facilities). The limitation in the preceding sentence on commencing an action before giving notice or before selection of the remedial action does not apply to actions filed on or before the enactment of the Superfund Amendments and Reauthorization Act of 1986.

"(2) ACTIONS FOR RECOVERY OF COSTS.—An initial action for recovery of the costs referred to in section 107 must be commenced—

"(A) for a removal action, within 3 years after completion of the removal action, except that such cost recovery action must be brought within 6 years after a determination to grant a waiver under section 104(c)(1)(C) for continued response action; and

"(B) for a remedial action, within 6 years after initiation of physical on-site construction of the remedial action, except that, if the remedial action is initiated within 3 years after the completion of the removal action, costs incurred in the removal action may be recovered in the cost recovery action brought under this subparagraph.

In any such action described in this subsection, the court shall enter a declaratory judgment on liability for response costs or damages that will be binding on any subsequent action or actions to recover further response costs or damages. A subsequent action or actions under section 107 for further response costs at the vessel or facility may be maintained at any time during the response action, but must be commenced no later than 3 years after the date of completion of all response action. Except as otherwise provided in this paragraph, an action may be commenced under section 107 for recovery of costs at any time after such costs have been incurred.

"(3) CONTRIBUTION.—No action for contribution for any response costs or damages may be commenced more than 3 years after—

"(A) the date of judgment in any action under this Act for recovery of such costs or damages, or

"(B) the date of an administrative order under section 122(g) (relating to de minimis settlements) or 122(h) (relating to cost recovery settlements) or entry of a judicially approved settlement with respect to such costs or damages.

"(4) SUBROGATION.—No action based on rights subrogated pursuant to this section by reason of payment of a claim may be commenced under this title more than 3 years after the date of payment of such claim.

"(5) ACTIONS TO RECOVER INDEMNIFICATION PAYMENTS.—Notwithstanding any other provision of this subsection, where a payment pursuant to an indemnification agreement with a response action contractor is made under section 119, an action under section 107 for recovery of such indemnification payment from a potentially responsible party may be brought at any time before the expiration of 3 years from the date on which such payment is made.

"(6) MINORS AND INCOMPETENTS.—The time limitations contained herein shall not begin to run—

"(A) against a minor until the earlier of the date when such minor reaches 18 years of age or the date on which a legal representative is duly appointed for such minor, or

"(B) against an incompetent person until the earlier of the date on which such incompetent's incompetency ends or the date on which a legal representative is duly appointed for such incompetent.".

(c) PRE-ENFORCEMENT REVIEW.— 42 USC 9613.

(1) CONFORMING AMENDMENT.—Section 113(b) of CERCLA is amended by striking out "subsection" and inserting in lieu thereof "subsections" and inserting "and (h)" after "(a)".

42 USC 9613.

(2) TIMING OF REVIEW; ADMINISTRATIVE RECORD.—Section 113 of CERCLA is amended by adding at the end thereof the following new subsections:

"(h) TIMING OF REVIEW.—No Federal court shall have jurisdiction under Federal law other than under section 1332 of title 28 of the United States Code (relating to diversity of citizenship jurisdiction) or under State law which is applicable or relevant and appropriate under section 121 (relating to cleanup standards) to review any challenges to removal or remedial action selected under section 104, or to review any order issued under section 106(a), in any action except one of the following:

"(1) An action under section 107 to recover response costs or damages or for contribution.

"(2) An action to enforce an order issued under section 106(a) or to recover a penalty for violation of such order.

"(3) An action for reimbursement under section 106(b)(2).

"(4) An action under section 310 (relating to citizens suits) alleging that the removal or remedial action taken under section 104 or secured under section 106 was in violation of any requirement of this Act. Such an action may not be brought with regard to a removal where a remedial action is to be undertaken at the site.

"(5) An action under section 106 in which the United States has moved to compel a remedial action.

42 USC 9201 note.

"(i) INTERVENTION.—In any action commenced under this Act or under the Solid Waste Disposal Act in a court of the United States, any person may intervene as a matter of right when such person claims an interest relating to the subject of the action and is so situated that the disposition of the action may, as a practical matter, impair or impede the person's ability to protect that interest, unless the President or the State shows that the person's interest is adequately represented by existing parties.

"(j) JUDICIAL REVIEW.—

"(1) LIMITATION.—In any judicial action under this Act, judicial review of any issues concerning the adequacy of any response action taken or ordered by the President shall be limited to the administrative record. Otherwise applicable principles of administrative law shall govern whether any supplemental materials may be considered by the court.

"(2) STANDARD.—In considering objections raised in any judicial action under this Act, the court shall uphold the President's decision in selecting the response action unless the objecting party can demonstrate, on the administrative record, that the decision was arbitrary and capricious or otherwise not in accordance with law.

"(3) REMEDY.—If the court finds that the selection of the response action was arbitrary and capricious or otherwise not in accordance with law, the court shall award (A) only the response costs or damages that are not inconsistent with the national contingency plan, and (B) such other relief as is consistent with the National Contingency Plan.

"(4) PROCEDURAL ERRORS.—In reviewing alleged procedural errors, the court may disallow costs or damages only if the errors were so serious and related to matters of such central relevance to the action that the action would have been significantly changed had such errors not been made.

President of U.S.

"(k) ADMINISTRATIVE RECORD AND PARTICIPATION PROCEDURES.—

"(1) ADMINISTRATIVE RECORD.—The President shall establish an administrative record upon which the President shall base the selection of a response action. The administrative record shall be available to the public at or near the facility at issue. The President also may place duplicates of the administrative record at any other location.

Public information.

"(2) PARTICIPATION PROCEDURES.—

"(A) REMOVAL ACTION.—The President shall promulgate regulations in accordance with chapter 5 of title 5 of the United States Code establishing procedures for the appropriate participation of interested persons in the development of the administrative record on which the President will base the selection of removal actions and on which judicial review of removal actions will be based.

Regulations.

5 USC 500 *et seq.*

"(B) REMEDIAL ACTION.—The President shall provide for the participation of interested persons, including potentially responsible parties, in the development of the administrative record on which the President will base the selection of remedial actions and on which judicial review of remedial actions will be based. The procedures developed under this subparagraph shall include, at a minimum, each of the following:

"(i) Notice to potentially affected persons and the public, which shall be accompanied by a brief analysis of the plan and alternative plans that were considered.

"(ii) A reasonable opportunity to comment and provide information regarding the plan.

"(iii) An opportunity for a public meeting in the affected area, in accordance with section 117(a)(2) (relating to public participation).

"(iv) A response to each of the significant comments, criticisms, and new data submitted in written or oral presentations.

"(v) A statement of the basis and purpose of the selected action.

For purposes of this subparagraph, the administrative record shall include all items developed and received under this subparagraph and all items described in the second sentence of section 117(d). The President shall promulgate regulations in accordance with chapter 5 of title 5 of the United States Code to carry out the requirements of this subparagraph.

Regulations.

5 USC 500 *et seq.*

"(C) INTERIM RECORD.—Until such regulations under subparagraphs (A) and (B) are promulgated, the administrative record shall consist of all items developed and received pursuant to current procedures for selection of the response action, including procedures for the participation of interested parties and the public. The development of an administrative record and the selection of response action under this Act shall not include an adjudicatory hearing.

"(D) POTENTIALLY RESPONSIBLE PARTIES.—The President shall make reasonable efforts to identify and notify potentially responsible parties as early as possible before selection of a response action. Nothing in this paragraph shall be construed to be a defense to liability.

"(l) NOTICE OF ACTIONS.—Whenever any action is brought under this Act in a court of the United States by a plaintiff other than the

United States, the plaintiff shall provide a copy of the complaint to the Attorney General of the United States and to the Administrator of the Environmental Protection Agency.".

SEC. 114. RELATIONSHIP TO OTHER LAW.

42 USC 9614.

(a) USED OIL.—Section 114(c) of CERCLA is amended to read as follows:

"(c) RECYCLED OIL.—

"(1) SERVICE STATION DEALERS, ETC.—No person (including the United States or any State) may recover, under the authority of subsection (a)(3) or (a)(4) of section 107, from a service station dealer for any response costs or damages resulting from a release or threatened release of recycled oil, or use the authority of section 106 against a service station dealer other than a person described in subsection (a)(1) or (a)(2) of section 107, if such recycled oil—

"(A) is not mixed with any other hazardous substance, and

"(B) is stored, treated, transported, or otherwise managed in compliance with regulations or standards promulgated pursuant to section 3014 of the Solid Waste Disposal Act and other applicable authorities.

42 USC 6935.

Nothing in this paragraph shall affect or modify in any way the obligations or liability of any person under any other provision of State or Federal law, including common law, for damages, injury, or loss resulting from a release or threatened release of any hazardous substance or for removal or remedial action or the costs of removal or remedial action.

"(2) PRESUMPTION.—Solely for the purposes of this subsection, a service station dealer may presume that a small quantity of used oil is not mixed with other hazardous substances if it—

"(A) has been removed from the engine of a light duty motor vehicle or household appliances by the owner of such vehicle or appliances, and

"(B) is presented, by such owner, to the dealer for collection, accumulation, and delivery to an oil recycling facility.

"(3) DEFINITION.—For purposes of this subsection, the terms 'used oil' and 'recycled oil' have the same meanings as set forth in sections 1004(36) and 1004(37) of the Solid Waste Disposal Act and regulations promulgated pursuant to that Act.

42 USC 6903.

Regulations.

"(4) EFFECTIVE DATE.—The effective date of paragraphs (1) and (2) of this subsection shall be the effective date of regulations or standards promulgated under section 3014 of the Solid Waste Disposal Act that include, among other provisions, a requirement to conduct corrective action to respond to any releases of recycled oil under subtitle C or subtitle I of such Act.".

42 USC 6921, 6991.

(b) DEFINITION OF SERVICE STATION DEALER.—Section 101 of CERCLA is amended by inserting the following at the end thereof:

42 USC 9601.

"(37)(A) The term 'service station dealer' means any person—

"(i) who owns or operates a motor vehicle service station, filling station, garage, or similar retail establishment engaged in the business of selling, repairing, or servicing motor vehicles, where a significant percentage of the gross revenue of the establishment is derived from the fueling, repairing, or servicing of motor vehicles, and

"(ii) who accepts for collection, accumulation, and delivery to an oil recycling facility, recycled oil that (I) has been

removed from the engine of a light duty motor vehicle or household appliances by the owner of such vehicle or appliances, and (II) is presented, by such owner, to such person for collection, accumulation, and delivery to an oil recycling facility.

"(B) For purposes of section 114(c), the term 'service station dealer' shall, notwithstanding the provisions of subparagraph (A), include any government agency that establishes a facility solely for the purpose of accepting recycled oil that satisfies the criteria set forth in subclauses (I) and (II) of subparagraph (A)(ii), and, with respect to recycled oil that satisfies the criteria set forth in subclauses (I) and (II), owners or operators of refuse collection services who are compelled by State law to collect, accumulate, and deliver such oil to an oil recycling facility.

"(C) The President shall promulgate regulations regarding the determination of what constitutes a significant percentage of the gross revenues of an establishment for purposes of this paragraph.". President of U.S. Regulations.

SEC. 115. DELEGATION; REGULATIONS.

Section 115 of CERCLA is not amended.

SEC. 116. SCHEDULES.

Title I of CERCLA is amended by adding the following new section after section 115:

"SEC. 116. SCHEDULES. President of U.S. 42 USC 9616.

"(a) ASSESSMENT AND LISTING OF FACILITIES.—It shall be a goal of this Act that, to the maximum extent practicable—

"(1) not later than January 1, 1988, the President shall complete preliminary assessments of all facilities that are contained (as of the date of enactment of the Superfund Amendments and Reauthorization Act of 1986) on the Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS) including in each assessment a statement as to whether a site inspection is necessary and by whom it should be carried out; and

"(2) not later than January 1, 1989, the President shall assure the completion of site inspections at all facilities for which the President has stated a site inspection is necessary pursuant to paragraph (1).

"(b) EVALUATION.—Within 4 years after enactment of the Superfund Amendments and Reauthorization Act of 1986, each facility listed (as of the date of such enactment) in the CERCLIS shall be evaluated if the President determines that such evaluation is warranted on the basis of a site inspection or preliminary assessment. The evaluation shall be in accordance with the criteria established in section 105 under the National Contingency Plan for determining priorities among release for inclusion on the National Priorities List. In the case of a facility listed in the CERCLIS after the enactment of the Superfund Amendments and Reauthorization Act of 1986, the facility shall be evaluated within 4 years after the date of such listing if the President determines that such evaluation is warranted on the basis of a site inspection or preliminary assessment.

"(c) EXPLANATIONS.—If any of the goals established by subsection (a) or (b) are not achieved, the President shall publish an expla- Public information.

nation of why such action could not be completed by the specified date.

"(d) COMMENCEMENT OF RI/FS.—The President shall assure that remedial investigations and feasibility studies (RI/FS) are commenced for facilities listed on the National Priorities List, in addition to those commenced prior to the date of enactment of the Superfund Amendments and Reauthorization Act of 1986, in accordance with the following schedule:

"(1) not fewer than 275 by the date 36 months after the date of enactment of the Superfund Amendments and Reauthorization Act of 1986, and

"(2) if the requirement of paragraph (1) is not met, not fewer than an additional 175 by the date 4 years after such date of enactment, an additional 200 by the date 5 years after such date of enactment, and a total of 650 by the date 5 years after such date of enactment.

"(e) COMMENCEMENT OF REMEDIAL ACTION.—The President shall assure that substantial and continuous physical on-site remedial action commences at facilities on the National Priorities List, in addition to those facilities on which remedial action has commenced prior to the date of enactment of the Superfund Amendments and Reauthorization Act of 1986, at a rate not fewer than:

"(1) 175 facilities during the first 36-month period after enactment of this subsection; and

"(2) 200 additional facilities during the following 24 months after such 36-month period.".

SEC. 117. PUBLIC PARTICIPATION.

Title I of CERCLA is amended by adding the following new section after section 116:

President of U.S. State and local governments. 42 USC 9617.

"SEC. 117. PUBLIC PARTICIPATION.

"(a) PROPOSED PLAN.—Before adoption of any plan for remedial action to be undertaken by the President, by a State, or by any other person, under section 104, 106, 120, or 122, the President or State, as appropriate, shall take both of the following actions:

"(1) Publish a notice and brief analysis of the proposed plan and make such plan available to the public.

"(2) Provide a reasonable opportunity for submission of written and oral comments and an opportunity for a public meeting at or near the facility at issue regarding the proposed plan and regarding any proposed findings under section 121(d)(4) (relating to cleanup standards). The President or the State shall keep a transcript of the meeting and make such transcript available to the public.

The notice and analysis published under paragraph (1) shall include sufficient information as may be necessary to provide a reasonable explanation of the proposed plan and alternative proposals considered.

"(b) FINAL PLAN.—Notice of the final remedial action plan adopted shall be published and the plan shall be made available to the public before commencement of any remedial action. Such final plan shall be accompanied by a discussion of any significant changes (and the reasons for such changes) in the proposed plan and a response to each of the significant comments, criticisms, and new data submitted in written or oral presentations under subsection (a).

"(c) EXPLANATION OF DIFFERENCES.—After adoption of a final remedial action plan—

"(1) if any remedial action is taken,

"(2) if any enforcement action under section 106 is taken, or

"(3) if any settlement or consent decree under section 106 or section 122 is entered into,

and if such action, settlement, or decree differs in any significant respects from the final plan, the President or the State shall publish an explanation of the significant differences and the reasons such changes were made.

"(d) PUBLICATION.—For the purposes of this section, publication shall include, at a minimum, publication in a major local newspaper of general circulation. In addition, each item developed, received, published, or made available to the public under this section shall be available for public inspection and copying at or near the facility at issue.

"(e) GRANTS FOR TECHNICAL ASSISTANCE.— President of U.S.

"(1) AUTHORITY.—Subject to such amounts as are provided in appropriations Acts and in accordance with rules promulgated by the President, the President may make grants available to any group of individuals which may be affected by a release or threatened release at any facility which is listed on the National Priorities List under the National Contingency Plan. Such grants may be used to obtain technical assistance in interpreting information with regard to the nature of the hazard, remedial investigation and feasibility study, record of decision, remedial design, selection and construction of remedial action, operation and maintenance, or removal action at such facility.

"(2) AMOUNT.—The amount of any grant under this subsection may not exceed $50,000 for a single grant recipient. The President may waive the $50,000 limitation in any case where such waiver is necessary to carry out the purposes of this subsection. Each grant recipient shall be required, as a condition of the grant, to contribute at least 20 percent of the total of costs of the technical assistance for which such grant is made. The President may waive the 20 percent contribution requirement if the grant recipient demonstrates financial need and such waiver is necessary to facilitate public participation in the selection of remedial action at the facility. Not more than one grant may be made under this subsection with respect to a single facility, but the grant may be renewed to facilitate public participation at all stages of remedial action.".

SEC. 118. MISCELLANEOUS PROVISIONS.

(a) PRIORITY FOR DRINKING WATER SUPPLIES.—Title I of CERCLA is amended by adding the following new section after section 117:

"SEC. 118. HIGH PRIORITY FOR DRINKING WATER SUPPLIES. President of U.S. 42 USC 9618.

"For purposes of taking action under section 104 or 106 and listing facilities on the National Priorities List, the President shall give a high priority to facilities where the release of hazardous substances or pollutants or contaminants has resulted in the closing of drinking water wells or has contaminated a principal drinking water supply.".

(b) REMOVAL AND TEMPORARY STORAGE OF CONTAINERS OF RADON CONTAMINATED SOIL.—Not later than 90 days after the enactment of Grants. New Jersey.

this Act, the Administrator shall make a grant of $7,500,000 to the State of New Jersey for transportation from residential areas in the State of New Jersey and temporary storage of approximately 14,000 containers of radon contaminated soil which is the subject of a remedial action for which a remedial investigation and feasibility study has been initiated before such date. Such containers shall be transported to and temporarily stored at any site in the State of New Jersey designated by the Governor of such State. For purposes of section 111(a) of CERCLA, the grant under this subsection for transportation and storage of such containers shall be treated as payment of governmental response cost incurred pursuant to section 104 of CERCLA.

Waste disposal.

(c) UNCONSOLIDATED QUATERNARY AQUIFER.—Notwithstanding any other provision of law, no person may—

(1) locate or authorize the location of a landfill, surface impoundment, waste pile, injection well, or land treatment facility over the Unconsolidated Quaternary Aquifer, or the recharge zone or streamflow source zone of such aquifer, in the Rockaway River Basin, New Jersey (as such aquifer and zones are described in the Federal Register, January 24, 1984, pages 2946–2948); or

(2) place or authorize the placement of solid waste in a landfill, surface impoundment, waste pile, injection well, or land treatment facility over such aquifer or zone.

Law enforcement and crime.
33 USC 1319.
33 USC 1311.

This subsection may be enforced under sections 309 (a) and (b) of the Federal Water Pollution Control Act. For purposes of section 309(c) of such Act, a violation of this subsection shall be considered a violation of section 301 of such Act.

(d) STUDY OF SHORTAGES OF SKILLED PERSONNEL.—The Comptroller General shall study the problem of shortages of skilled personnel in the Environmental Protection Agency to carry out response actions under CERCLA. In particular the Comptroller General shall study—

(1) the types of skilled personnel needed for response actions for which there are shortages in the Environmental Protection Agency,

(2) the extent of such shortages,

(3) pay differential between the public and private sectors for the skilled positions involved in response actions,

(4) the extent to which skilled personnel of Federal and State governments involved in response actions are leaving their positions for employment in the private sector,

(5) the success of programs of the Department of Defense and the Office of Personnel Management in retaining skilled personnel, and

(6) the types of training required to improve the skills of employees carrying out response actions.

Reports.

The Comptroller General shall complete the study required by this subsection and submit a report on the results thereof to Congress not later than July 1, 1987.

Waste disposal.

(e) STATE REQUIREMENTS NOT APPLICABLE TO CERTAIN TRANSFERS.—No State or local requirement shall apply to the transfer and disposal of any hazardous substance or pollutant or contaminant from a facility at which a release or threatened release has occurred to a facility for which a final permit under section 3005(a) of the Solid Waste Disposal Act is in effect if the following conditions apply—

42 USC 6925.

(1) Such permit was issued after January 1, 1983, and before November 1, 1984.

(2) The transfer and disposal is carried out pursuant to a cooperative agreement between the Administrator and the State.

(3) The facility at which the release or threatened release has occurred is identified as the McColl Site in Fullerton, California. The terms used in this section shall have the same meaning as when used in title I of CERCLA.

California.

42 USC 9601.

(f) STUDY OF LEAD POISONING IN CHILDREN.—(1) The Administrator of the Agency for Toxic Substances and Disease Registry shall, in consultation with the Administrator of the Environmental Protection Agency and other officials as appropriate, not later than March 1, 1987, submit to the Congress, a report on the nature and extent of lead poisoning in children from environmental sources. Such report shall include, at a minimum, the following information—

Reports.

(A) an estimate of the total number of children, arrayed according to Standard Metropolitan Statistical Area or other appropriate geographic unit, exposed to environmental sources of lead at concentrations sufficient to cause adverse health effects;

(B) an estimate of the total number of children exposed to environmental sources of lead arrayed according to source or source types;

(C) a statement of the long term consequences for public health of unabated exposures to environmental sources of lead and including but not limited to, diminution in intelligence, increases in morbidity and mortality; and

(D) methods and alternatives available for reducing exposures of children to environmental sources of lead.

(2) Such report shall also score and evaluate specific sites at which children are known to be exposed to environmental sources of lead due to releases, utilizing the Hazard Ranking system of the National Priorities List.

(3) The costs of preparing and submitting the report required by this section shall be borne by the Hazardous Substance Superfund established under subchapter A of chapter 98 of Internal Revenue Code of 1954.

26 USC 9501.

(g) FEDERALLY LICENSED DAM.—For purposes of CERCLA in the case of the Milltown Dam in the State of Montana licensed under part 1 of the Federal Power Act and designated as FERC license number 2543-004, if a hazardous substance, pollutant, or contaminant—

Montana.
42 USC 9601 note.
16 USC note prec. 791.

(1) has been released into the environment upstream of the dam, and

(2) has subsequently come to be located in the reservoir created by such dam

notwithstanding section 101(20) of such Act, the term "owner or operator" does not include the owner or operator of the dam unless such owner or operator is a person who would otherwise be liable for such release or threatened release under section 107 of such Act.

Ante, p. 1615.

(h) COMMUNITY RELOCATION AT TIMES BEACH SITE.—For purposes of any Missouri dioxon site at which a temporary or permanent relocation decision has been made, or is under active consideration, by the Administrator as of the enactment of this Act, the terms "remove" and "removal" as used in CERCLA shall be deemed to include the costs of permanent relocation of residents where it is

Missouri.
Health and medical care.
Safety.

determined that such permanent relocation is cost effective or may be necessary to protect health or welfare. In the case of a business located in an area of evacuation or relocation at such facility, such terms may also include the payment of those installments of principal and interest on business debt which accrue between the date of evacuation or temporary relocation and 30 days following the date that permanent relocation is actually accomplished or, if permanent relocation is formally rejected as the appropriate response, the date on which evacuation or temporary relocation ceases. In the case of an individual unemployed as a result of such evacuation or relocation, such terms may also include the provision of assistance identical to that authorized by sections 407, 408, and 409 of the Disaster Relief Act of 1974; except that the costs of such assistance shall be paid from the Trust Fund established under amendments made to the Internal Revenue Code of 1954 by this Act. Section 104(c)(1) of CERCLA shall not apply to obligations from the Fund for permanent relocation under this paragraph.

42 USC 5177-5179.

26 USC 1 *et seq.*

Waste disposal.

(i) LIMITED WAIVERS IN STATE OF ILLINOIS.—

(1) MOBILE INCINERATORS.—In the case of remedial actions specifically involving mobile incinerator units in the State of Illinois, if such remedial actions are undertaken by the State under the authority of a State Superfund law or equivalent authority, the State may, with the approval of the Administrator, waive any permit requirement under subtitle C of the Solid Waste Disposal Act which would be otherwise applicable to such action to the extent that the following conditions are met:

42 USC 6921.

(A) NO TRANSFER.—The incinerator does not involve the transfer of a hazardous substance or pollutant or contaminant from the facility at which the release or threatened release occurs to an offsite facility.

(B) REMEDIAL ACTION.—The remedial action provides each of the following:

(i) Changes in the character or composition of the hazardous substance or pollutant or contaminant concerned so that it no longer presents a risk to public health.

(ii) Protection against accidental emissions during operation.

(iii) Protection of public health considering the multimedia impacts of the treatment process.

(C) PUBLIC PARTICIPATION.—The State provides procedures for public participation regarding the response action which are at least equivalent to the level of public participation procedures applicable under CERCLA and under the Solid Waste Disposal Act.

42 USC 9601 note.

42 USC 6901 note.

(2) EFFECT OF WAIVER.—The waiver of any permit requirement under this subsection shall not be construed to waive any standard or level of control which—

(A) is applicable to any hazardous substance or pollutant or contaminant involved in the remedial action; and

(B) would otherwise be contained in the permit.

Such waiver of any permit requirement under subtitle C of the Solid Waste Disposal Act shall only apply to the extent that the facility or remedial action involves the onsite treatment with a mobile incineration unit of waste present at such site. The waiver shall not apply to any other regulated or potentially

regulated activity, including the use of the mobile incineration unit for actions not authorized by the State.

(3) EXPIRATION OF AUTHORITY.—The authority of this subsection shall terminate at the end of 3 years, unless the State demonstrates, to the satisfaction of the Administrator, that the operation of mobile incinerators in the State has sufficiently protected public health and the environment and is consistent with the criteria required for a permit under subtitle C of the Solid Waste Disposal Act. 42 USC 6921.

(j) STUDY OF JOINT USE OF TRUCKS.—

(1) STUDY.—The Administrator, in consultation with the Secretary of Transportation, shall conduct a study of problems associated with the use of any vehicle for purposes other than the transportation of hazardous substances when that vehicle is used at other times for the transportation of hazardous substances. At a minimum, the Administrator shall consider—

(A) whether such joint use of vehicles should be prohibited, and

(B) whether, if such joint use is permitted, special safeguards should be taken to minimize threats to public health and the environment.

(2) REPORT.—The Administrator shall submit a report, along with recommendations, to Congress on the results of the study conducted under paragraph (1) not later than 180 days after the date of the enactment of this Act. Reports.

(k) RADON ASSESSMENT AND MITIGATION.—

(1) NATIONAL ASSESSMENT OF RADON GAS.—No later than one year after the enactment of this Act, the Administrator shall submit to the Congress a report which shall, to the extent possible— Reports. 42 USC 7401 note.

(A) identify the locations in the United States where radon is found in structures where people normally live or work, including educational institutions;

(B) assess the levels of radon gas that are present in such structures;

(C) determine the level of radon gas and radon daughters which poses a threat to human health and assess for each location identified under subparagraph (A) the extent of the threat to human health;

(D) determine methods of reducing or eliminating the threat to human health of radon gas and radon daughters; and

(E) include guidance and public information materials based on the findings or research of mitigating radon.

(2) RADON MITIGATION DEMONSTRATION PROGRAM.—

(A) DEMONSTRATION PROGRAM.—The Administrator shall conduct a demonstration program to test methods and technologies of reducing or eliminating radon gas and radon daughters where it poses a threat to human health. The Administrator shall take into consideration any demonstration program underway in the Reading Prong of Pennsylvania, New Jersey, and New York and at other sites prior to enactment. The demonstration program under this section shall be conducted in the Reading Prong, and at such other sites as the Administrator considers appropriate.

(B) ANNUAL REPORTS.—The Administrator shall submit annual reports not later than February 1 of each year

(beginning February 1, 1987) on the status of the demonstration program carried out under this subsection and on any such demonstration program initiated prior to enactment.

(C) LIABILITY.—Liability, if any, for persons undertaking activities pursuant to the radon mitigation demonstration program authorized under this subsection shall be determined under principles of existing law.

(3) CONSTRUCTION OF SECTION.—Nothing in this subsection shall be construed to authorize the Administrator to carry out any regulatory program or any activity other than research, development, and related reporting, information dissemination, and coordination activities specified in this subsection. Nothing in paragraph (1) or (2) shall be construed to limit the authority of the Administrator or of any other agency or instrumentality of the United States under any other authority of law.

49 USC 9660 note.

(l) GULF COAST HAZARDOUS SUBSTANCE RESEARCH, DEVELOPMENT, AND DEMONSTRATION CENTER.—

(1) ESTABLISHMENT OF HAZARDOUS SUBSTANCE RESEARCH, DEVELOPMENT, AND DEMONSTRATION CENTER.—The Administrator shall establish a hazardous substance research, development, and demonstration center (hereinafter in this subsection referred to as the "Center") for the purpose of conducting research to aid in more effective hazardous substance response and waste management throughout the Gulf Coast.

(2) PURPOSES OF THE CENTER.—The Center shall carry out a program of research, evaluation, testing, development, and demonstration of alternative or innovative technologies which may be utilized in response actions or in normal handling of hazardous wastes to achieve better protection of human health and the environment.

Contracts. Grants. Schools and colleges. Texas.

(3) OPERATION OF CENTER.—(A) For purposes of operating the Center, the Administrator is authorized to enter into contracts and cooperative agreements with, and make grants to, a university related institute involved with the improvement of waste management. Such institute shall be located in Jefferson County, Texas.

Texas. Louisiana. Mississippi. Alabama. Florida.

(B) The Center shall be authorized to make grants, accept contributions, and enter into agreements with universities located in the States of Texas, Louisiana, Mississippi, Alabama, and Florida in order to carry out the purposes of the Center.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator for purposes of carrying out this subsection for fiscal years beginning after September 30, 1986, not more than $5,000,000.

(m) RADON PROTECTION AT CURRENT NATIONAL PRIORITIES LIST SITES.—It is the sense of the Congress that the President, in selecting response action for facilities included on the National Priorities List published under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 because of the presence of radon, is not required by statute or regulations to use fully demonstrated methods, particularly those involving the offsite transport and disposition of contaminated material, but may use innovative or alternative methods which protect human health and the environment in a more cost-effective manner.

Ante, p. 1625.

42 USC 7401 note.

(n) SPILL CONTROL TECHNOLOGY.—

(1) ESTABLISHMENT OF PROGRAM.—Within 180 days of enactment of this subsection, the Secretary of the United States Department of Energy is directed to carry out a program of testing and evaluation of technologies which may be utilized in responding to liquefied gaseous and other hazardous substance spills at the Liquefied Gaseous Fuels Spill Test Facility that threaten public health or the environment.

(2) TECHNOLOGY TRANSFER.—In carrying out the program established under this subsection, the Secretary shall conduct a technology transfer program that, at a minimum—

(A) documents and archives spill control technology;

(B) investigates and analyzes significant hazardous spill incidents;

(C) develops and provides generic emergency action plans;

(D) documents and archives spill test results;

(E) develops emergency action plans to respond to spills;

(F) conducts training of spill response personnel; and

(G) establishes safety standards for personnel engaged in spill response activities.

(3) CONTRACTS AND GRANTS.—The Secretary is directed to enter into contracts and grants with a nonprofit organization in Albany County, Wyoming, that is capable of providing the necessary technical support and which is involved in environmental activities related to such hazardous substance related emergencies. Wyoming.

(4) USE OF SITE.—The Secretary shall arrange for the use of the Liquefied Gaseous Fuels Spill Test Facility to carry out the provisions of this subsection.

(o) PACIFIC NORTHWEST HAZARDOUS SUBSTANCE RESEARCH, DEVELOPMENT, AND DEMONSTRATION CENTER.— 42 USC 9660 note.

(1) ESTABLISHMENT.—The Administrator shall establish a hazardous substance research, development, and demonstration center (hereinafter in this subsection referred to as the "Center") for the purpose of conducting research to aid in more effective hazardous substance response in the Pacific Northwest.

(2) PURPOSES OF CENTER.—The Center shall carry out a program of research, evaluation, testing, development, and demonstration of alternative or innovative technologies which may be utilized in response actions to achieve more permanent protection of human health and welfare and the environment.

(3) OPERATION OF CENTER.— Contracts. Grants.

(A) NONPROFIT ENTITY.—For the purposes of operating the Center, the Administrator is authorized to enter into contracts and cooperative agreements with, and make grants to, a nonprofit private entity as defined in section 201(i) of Public Law 96-517 which entity shall agree to provide the basic technical and management personnel. Such nonprofit private entity shall also agree to provide at least two permanent research facilities, one of which shall be located in Benton County, Washington, and one of which shall be located in Clallam County, Washington. 35 USC 201. Washington.

(B) AUTHORITIES.—The Center shall be authorized to make grants, accept contributions, and enter into agreements with universities located in the States of Washington, Oregon, Idaho, and Montana in order to carry out the purposes of the Center. Washington. Oregon. Idaho. Montana.

Contracts.
Washington.

(4) HAZARDOUS WASTE RESEARCH AT THE HANFORD SITE.—

(A) INTERAGENCY AGREEMENTS.—The Administrator and the Secretary of Energy are authorized to enter into interagency agreements with one another for the purpose of providing for research, evaluation, testing, development, and demonstration into alternative or innovative technologies to characterize and assess the nature and extent of hazardous waste (including radioactive mixed waste) contamination at the Hanford site, in the State of Washington.

Appropriation authorization.

(B) FUNDING.—There is authorized to be appropriated to the Secretary of Energy for purposes of carrying out this paragraph for fiscal years beginning after September 30, 1986, not more than $5,000,000. All sums appropriated under this subparagraph shall be provided to the Administrator by the Secretary of Energy, pursuant to the interagency agreement entered into under subparagraph (A), for the purpose of the Administrator entering into contracts and cooperative agreements with, and making grants to, the Center in order to carry out the research, evaluation, testing, development, and demonstration described in paragraph (1).

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator for purposes of carrying out this subsection (other than paragraph (4)) for fiscal years beginning after September 30, 1986, not more than $5,000,000.

Utah.

(p) SILVER CREEK TAILINGS.—Effective with the date of enactment of this Act, the facility listed in Group 7 in EPA National Priorities List Update #4 (50 Federal Register 37956, September 18, 1985), the site in Park City, Utah, which is located on tailings from noncoal mining operations, shall be deemed removed from the list of sites recommended for inclusion on the National Priorities List, unless the President determines upon site specific data not used in the proposed listing of such facility, that the facility meets requirements of the Hazard Ranking System or any revised Hazard Ranking System.

SEC. 119. RESPONSE ACTION CONTRACTORS.

Title I of CERCLA is amended by adding the following new section after section 118:

42 USC 9619.

"SEC. 119. RESPONSE ACTION CONTRACTORS.

"(a) LIABILITY OF RESPONSE ACTION CONTRACTORS.—

"(1) RESPONSE ACTION CONTRACTORS.—A person who is a response action contractor with respect to any release or threatened release of a hazardous substance or pollutant or contaminant from a vessel or facility shall not be liable under this title or under any other Federal law to any person for injuries, costs, damages, expenses, or other liability (including but not limited to claims for indemnification or contribution and claims by third parties for death, personal injury, illness or loss of or damage to property or economic loss) which results from such release or threatened release.

"(2) NEGLIGENCE, ETC.—Paragraph (1) shall not apply in the case of a release that is caused by conduct of the response action contractor which is negligent, grossly negligent, or which constitutes intentional misconduct.

"(3) EFFECT ON WARRANTIES; EMPLOYER LIABILITY.—Nothing in this subsection shall affect the liability of any person under any warranty under Federal, State, or common law. Nothing in this subsection shall affect the liability of an employer who is a response action contractor to any employee of such employer under any provision of law, including any provision of any law relating to worker's compensation.

"(4) GOVERNMENTAL EMPLOYEES.—A state employee or an employee of a political subdivision who provides services relating to response action while acting within the scope of his authority as a governmental employee shall have the same exemption from liability (subject to the other provisions of this section) as is provided to the response action contractor under this section.

"(b) SAVINGS PROVISIONS.—

"(1) LIABILITY OF OTHER PERSONS.—The defense provided by section 107(b)(3) shall not be available to any potentially responsible party with respect to any costs or damages caused by any act or omission of a response action contractor. Except as provided in subsection (a)(4) and the preceding sentence, nothing in this section shall affect the liability under this Act or under any other Federal or State law of any person, other than a response action contractor.

42 USC 9607.

Ante, p. 1662.

"(2) BURDEN OF PLAINTIFF.—Nothing in this section shall affect the plaintiff's burden of establishing liability under this title.

"(c) INDEMNIFICATION.—

"(1) IN GENERAL.—The President may agree to hold harmless and indemnify any response action contractor meeting the requirements of this subsection against any liability (including the expenses of litigation or settlement) for negligence arising out of the contractor's performance in carrying out response action activities under this title, unless such liability was caused by conduct of the contractor which was grossly negligent or which constituted intentional misconduct.

President of U.S.

"(2) APPLICABILITY.—This subsection shall apply only with respect to a response action carried out under written agreement with—

"(A) the President;

"(B) any Federal agency;

"(C) a State or political subdivision which has entered into a contract or cooperative agreement in accordance with section 104(d)(1) of this title; or

"(D) any potentially responsible party carrying out any agreement under section 122 (relating to settlements) or section 106 (relating to abatement).

"(3) SOURCE OF FUNDING.—This subsection shall not be subject to section 1301 or 1341 of title 31 of the United States Code or section 3732 of the Revised Statutes (41 U.S.C. 11) or to section 3 of the Superfund Amendments and Reauthorization Act of 1986. For purposes of section 111, amounts expended pursuant to this subsection for indemnification of any response action contractor (except with respect to federally owned or operated facilities) shall be considered governmental response costs incurred pursuant to section 104. If sufficient funds are unavailable in the Hazardous Substance Superfund established under subchapter A of chapter 98 of the Internal Revenue Code of 1954 to make payments pursuant to such indemnification or if the Fund is

Ante, p. 1642.

Appropriation authorization.

26 USC 9501.

repealed, there are authorized to be appropriated such amounts as may be necessary to make such payments.

"(4) REQUIREMENTS.—An indemnification agreement may be provided under this subsection only if the President determines that each of the following requirements are met:

"(A) The liability covered by the indemnification agreement exceeds or is not covered by insurance available, at a fair and reasonable price, to the contractor at the time the contractor enters into the contract to provide response action, and adequate insurance to cover such liability is not generally available at the time the response action contract is entered into.

"(B) The response action contractor has made diligent efforts to obtain insurance coverage from non-Federal sources to cover such liability.

"(C) In the case of a response action contract covering more than one facility, the response action contractor agrees to continue to make such diligent efforts each time the contractor begins work under the contract at a new facility.

"(5) LIMITATIONS.—

"(A) LIABILITY COVERED.—Indemnification under this subsection shall apply only to response action contractor liability which results from a release of any hazardous substance or pollutant or contaminant if such release arises out of response action activities.

"(B) DEDUCTIBLES AND LIMITS.—An indemnification agreement under this subsection shall include deductibles and shall place limits on the amount of indemnification to be made available.

President of U.S.

"(C) CONTRACTS WITH POTENTIALLY RESPONSIBLE PARTIES.—

"(i) DECISION TO INDEMNIFY.—In deciding whether to enter into an indemnification agreement with a response action contractor carrying out a written contract or agreement with any potentially responsible party, the President shall determine an amount which the potentially responsible party is able to indemnify the contractor. The President may enter into such an indemnification agreement only if the President determines that such amount of indemnification is inadequate to cover any reasonable potential liability of the contractor arising out of the contractor's negligence in performing the contract or agreement with such party. The President shall make the determinations in the preceding sentences (with respect to the amount and the adequacy of the amount) taking into account the total net assets and resources of potentially responsible parties with respect to the facility at the time of such determinations.

"(ii) CONDITIONS.—The President may pay a claim under an indemnification agreement referred to in clause (i) for the amount determined under clause (i) only if the contractor has exhausted all administrative, judicial, and common law claims for indemnification against all potentially responsible parties participating in the clean-up of the facility with respect to the liability of the contractor arising out of the contractor's

negligence in performing the contract or agreement with such party. Such indemnification agreement shall require such contractor to pay any deductible established under subparagraph (B) before the contractor may recover any amount from the potentially responsible party or under the indemnification agreement.

"(D) RCRA FACILITIES.—No owner or operator of a facility regulated under the Solid Waste Disposal Act may be indemnified under this subsection with respect to such facility. 42 USC 6901 note.

"(E) PERSONS RETAINED OR HIRED.—A person retained or hired by a person described in subsection (e)(2)(B) shall be eligible for indemnification under this subsection only if the President specifically approves of the retaining or hiring of such person.

"(6) COST RECOVERY.—For purposes of section 107, amounts expended pursuant to this subsection for indemnification of any person who is a response action contractor with respect to any release or threatened release shall be considered a cost of response incurred by the United States Government with respect to such release.

"(7) REGULATIONS.—The President shall promulgate regulations for carrying out the provisions of this subsection. Before promulgation of the regulations, the President shall develop guidelines to carry out this section. Development of such guidelines shall include reasonable opportunity for public comment. President of U.S.

"(8) STUDY.—The Comptroller General shall conduct a study in the fiscal year ending September 30, 1989, on the application of this subsection, including whether indemnification agreements under this subsection are being used, the number of claims that have been filed under such agreements, and the need for this subsection. The Comptroller General shall report the findings of the study to Congress no later than September 30, 1989. Reports.

"(d) EXCEPTION.—The exemption provided under subsection (a) and the authority of the President to offer indemnification under subsection (c) shall not apply to any person covered by the provisions of paragraph (1), (2), (3), or (4) of section 107(a) with respect to the release or threatened release concerned if such person would be covered by such provisions even if such person had not carried out any actions referred to in subsection (e) of this section.

"(e) DEFINITIONS.—For purposes of this section—

"(1) RESPONSE ACTION CONTRACT.—The term 'response action contract' means any written contract or agreement entered into by a response action contractor (as defined in paragraph (2)(A) of this subsection) with—

"(A) the President;

"(B) any Federal agency;

"(C) a State or political subdivision which has entered into a contract or cooperative agreement in accordance with section 104(d)(1) of this Act; or

"(D) any potentially responsible party carrying out an agreement under section 106 or 122;

to provide any remedial action under this Act at a facility listed on the National Priorities List, or any removal under this Act, with respect to any release or threatened release of a hazardous substance or pollutant or contaminant from the facility or to

provide any evaluation, planning, engineering, surveying and mapping, design, construction, equipment, or any ancillary services thereto for such facility.

"(2) RESPONSE ACTION CONTRACTOR.—The term 'response action contractor' means—

"(A) any—

"(i) person who enters into a response action contract with respect to any release or threatened release of a hazardous substance or pollutant or contaminant from a facility and is carrying out such contract; and

"(ii) person, public or nonprofit private entity, conducting a field demonstration pursuant to section 311(b); and

"(B) any person who is retained or hired by a person described in subparagraph (A) to provide any services relating to a response action.

"(3) INSURANCE.—The term 'insurance' means liability insurance which is fair and reasonably priced, as determined by the President, and which is made available at the time the contractor enters into the response action contract to provide response action.

"(f) COMPETITION.—Response action contractors and subcontractors for program management, construction management, architectural and engineering, surveying and mapping, and related services shall be selected in accordance with title IX of the Federal Property and Administrative Services Act of 1949. The Federal selection procedures shall apply to appropriate contracts negotiated by all Federal governmental agencies involved in carrying out this Act. Such procedures shall be followed by response action contractors and subcontractors.".

40 USC 541.

SEC. 120. FEDERAL FACILITIES.

(a) IN GENERAL.—Title I of CERCLA is amended by adding the following new section after section 119:

42 USC 9620.

"SEC. 120. FEDERAL FACILITIES.

"(a) APPLICATION OF ACT TO FEDERAL GOVERNMENT.—

"(1) IN GENERAL.—Each department, agency, and instrumentality of the United States (including the executive, legislative, and judicial branches of government) shall be subject to, and comply with, this Act in the same manner and to the same extent, both procedurally and substantively, as any nongovernmental entity, including liability under section 107 of this Act. Nothing in this section shall be construed to affect the liability of any person or entity under sections 106 and 107.

"(2) APPLICATION OF REQUIREMENTS TO FEDERAL FACILITIES.—All guidelines, rules, regulations, and criteria which are applicable to preliminary assessments carried out under this Act for facilities at which hazardous substances are located, applicable to evaluations of such facilities under the National Contingency Plan, applicable to inclusion on the National Priorities List, or applicable to remedial actions at such facilities shall also be applicable to facilities which are owned or operated by a department, agency, or instrumentality of the United States in the same manner and to the extent as such guidelines, rules, regulations, and criteria are applicable to other facilities. No department, agency, or instrumentality of the United States

may adopt or utilize any such guidelines, rules, regulations, or criteria which are inconsistent with the guidelines, rules, regulations, and criteria established by the Administrator under this Act.

"(3) EXCEPTIONS.—This subsection shall not apply to the extent otherwise provided in this section with respect to applicable time periods. This subsection shall also not apply to any requirements relating to bonding, insurance, or financial responsibility. Nothing in this Act shall be construed to require a State to comply with section 104(c)(3) in the case of a facility which is owned or operated by any department, agency, or instrumentality of the United States.

State and local governments.
Ante, p. 1619.

"(4) STATE LAWS.—State laws concerning removal and remedial action, including State laws regarding enforcement, shall apply to removal and remedial action at facilities owned or operated by a department, agency, or instrumentality of the United States when such facilities are not included on the National Priorities List. The preceding sentence shall not apply to the extent a State law would apply any standard or requirement to such facilities which is more stringent than the standards and requirements applicable to facilities which are not owned or operated by any such department, agency, or instrumentality.

"(b) NOTICE.—Each department, agency, and instrumentality of the United States shall add to the inventory of Federal agency hazardous waste facilities required to be submitted under section 3016 of the Solid Waste Disposal Act (in addition to the information required under section 3016(a)(3) of such Act) information on contamination from each facility owned or operated by the department, agency, or instrumentality if such contamination affects contiguous or adjacent property owned by the department, agency, or instrumentality or by any other person, including a description of the monitoring data obtained.

42 USC 6937.

"(c) FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET.—The Administrator shall establish a special Federal Agency Hazardous Waste Compliance Docket (hereinafter in this section referred to as the 'docket') which shall contain each of the following:

"(1) All information submitted under section 3016 of the Solid Waste Disposal Act and subsection (b) of this section regarding any Federal facility and notice of each subsequent action taken under this Act with respect to the facility.

"(2) Information submitted by each department, agency, or instrumentality of the United States under section 3005 or 3010 of such Act.

42 USC 6925, 6930.

"(3) Information submitted by the department, agency, or instrumentality under section 103 of this Act.

42 USC 9603.

The docket shall be available for public inspection at reasonable times. Six months after establishment of the docket and every 6 months thereafter, the Administrator shall publish in the Federal Register a list of the Federal facilities which have been included in the docket during the immediately preceding 6-month period. Such publication shall also indicate where in the appropriate regional office of the Environmental Protection Agency additional information may be obtained with respect to any facility on the docket. The Administrator shall establish a program to provide information to the public with respect to facilities which are included in the docket under this subsection.

Public information.
Federal Register, publication.

"(d) ASSESSMENT AND EVALUATION.—Not later than 18 months after the enactment of the Superfund Amendments and Reauthorization Act of 1986, the Administrator shall take steps to assure that a preliminary assessment is conducted for each facility on the docket. Following such preliminary assessment, the Administrator shall, where appropriate—

"(1) evaluate such facilities in accordance with the criteria established in accordance with section 105 under the National Contingency Plan for determining priorities among releases; and

"(2) include such facilities on the National Priorities List maintained under such plan if the facility meets such criteria.

Such criteria shall be applied in the same manner as the criteria are applied to facilities which are owned or operated by other persons. Evaluation and listing under this subsection shall be completed not later than 30 months after such date of enactment. Upon the receipt of a petition from the Governor of any State, the Administrator shall make such an evaluation of any facility included in the docket.

"(e) REQUIRED ACTION BY DEPARTMENT.—

"(1) RI/FS.—Not later than 6 months after the inclusion of any facility on the National Priorities List, the department, agency, or instrumentality which owns or operates such facility shall, in consultation with the Administrator and appropriate State authorities, commence a remedial investigation and feasibility study for such facility. In the case of any facility which is listed on such list before the date of the enactment of this section, the department, agency, or instrumentality which owns or operates such facility shall, in consultation with the Administrator and appropriate State authorities, commence such an investigation and study for such facility within one year after such date of enactment. The Administrator and appropriate State authorities shall publish a timetable and deadlines for expeditious completion of such investigation and study.

State and local governments.

"(2) COMMENCEMENT OF REMEDIAL ACTION; INTERAGENCY AGREEMENT.—The Administrator shall review the results of each investigation and study conducted as provided in paragraph (1). Within 180 days thereafter, the head of the department, agency, or instrumentality concerned shall enter into an interagency agreement with the Administrator for the expeditious completion by such department, agency, or instrumentality of all necessary remedial action at such facility. Substantial continuous physical onsite remedial action shall be commenced at each facility not later than 15 months after completion of the investigation and study. All such interagency agreements, including review of alternative remedial action plans and selection of remedial action, shall comply with the public participation requirements of section 117.

"(3) COMPLETION OF REMEDIAL ACTIONS.—Remedial actions at facilities subject to interagency agreements under this section shall be completed as expeditiously as practicable. Each agency shall include in its annual budget submissions to the Congress a review of alternative agency funding which could be used to provide for the costs of remedial action. The budget submission shall also include a statement of the hazard posed by the facility to human health, welfare, and the environment and identify the specific consequences of failure to begin and complete remedial action.

"(4) CONTENTS OF AGREEMENT.—Each interagency agreement under this subsection shall include, but shall not be limited to, each of the following:

"(A) A review of alternative remedial actions and selection of a remedial action by the head of the relevant department, agency, or instrumentality and the Administrator or, if unable to reach agreement on selection of a remedial action, selection by the Administrator.

"(B) A schedule for the completion of each such remedial action.

"(C) Arrangements for long-term operation and maintenance of the facility.

"(5) ANNUAL REPORT.—Each department, agency, or instrumentality responsible for compliance with this section shall furnish an annual report to the Congress concerning its progress in implementing the requirements of this section. Such reports shall include, but shall not be limited to, each of the following items:

"(A) A report on the progress in reaching interagency agreements under this section.

"(B) The specific cost estimates and budgetary proposals involved in each interagency agreement.

"(C) A brief summary of the public comments regarding each proposed interagency agreement.

"(D) A description of the instances in which no agreement was reached.

"(E) A report on progress in conducting investigations and studies under paragraph (1).

"(F) A report on progress in conducting remedial actions.

"(G) A report on progress in conducting remedial action at facilities which are not listed on the National Priorities List.

With respect to instances in which no agreement was reached within the required time period, the department, agency, or instrumentality filing the report under this paragraph shall include in such report an explanation of the reasons why no agreement was reached. The annual report required by this paragraph shall also contain a detailed description on a State-by-State basis of the status of each facility subject to this section, including a description of the hazard presented by each facility, plans and schedules for initiating and completing response action, enforcement status (where appropriate), and an explanation of any postponements or failure to complete response action. Such reports shall also be submitted to the affected States.

State and local governments.

"(6) SETTLEMENTS WITH OTHER PARTIES.—If the Administrator, in consultation with the head of the relevant department, agency, or instrumentality of the United States, determines that remedial investigations and feasibility studies or remedial action will be done properly at the Federal facility by another potentially responsible party within the deadlines provided in paragraphs (1), (2), and (3) of this subsection, the Administrator may enter into an agreement with such party under section 122 (relating to settlements). Following approval by the Attorney General of any such agreement relating to a remedial action, the agreement shall be entered in the appropriate United States district court as a consent decree under section 106 of this Act.

42 USC 9606.

"(f) STATE AND LOCAL PARTICIPATION.—The Administrator and each department, agency, or instrumentality responsible for compliance with this section shall afford to relevant State and local officials the opportunity to participate in the planning and selection of the remedial action, including but not limited to the review of all applicable data as it becomes available and the development of studies, reports, and action plans. In the case of State officials, the opportunity to participate shall be provided in accordance with section 121.

"(g) TRANSFER OF AUTHORITIES.—Except for authorities which are delegated by the Administrator to an officer or employee of the Environmental Protection Agency, no authority vested in the Administrator under this section may be transferred, by executive order of the President or otherwise, to any other officer or employee of the United States or to any other person.

Real property.

"(h) PROPERTY TRANSFERRED BY FEDERAL AGENCIES.—

"(1) NOTICE.—After the last day of the 6-month period beginning on the effective date of regulations under paragraph (2) of this subsection, whenever any department, agency, or instrumentality of the United States enters into any contract for the sale or other transfer of real property which is owned by the United States and on which any hazardous substance was stored for one year or more, known to have been released, or disposed of, the head of such department, agency, or instrumentality shall include in such contract notice of the type and quantity of such hazardous substance and notice of the time at which such storage, release, or disposal took place, to the extent such information is available on the basis of a complete search of agency files.

"(2) FORM OF NOTICE; REGULATIONS.—Notice under this subsection shall be provided in such form and manner as may be provided in regulations promulgated by the Administrator. As promptly as practicable after the enactment of this subsection but not later than 18 months after the date of such enactment, and after consultation with the Administrator of the General Services Administration, the Administrator shall promulgate regulations regarding the notice required to be provided under this subsection.

"(3) CONTENTS OF CERTAIN DEEDS.—After the last day of the 6-month period beginning on the effective date of regulations under paragraph (2) of this subsection, in the case of any real property owned by the United States on which any hazardous substance was stored for one year or more, known to have been released, or disposed of, each deed entered into for the transfer of such property by the United States to any other person or entity shall contain—

"(A) to the extent such information is available on the basis of a complete search of agency files—

"(i) a notice of the type and quantity of such hazardous substances,

"(ii) notice of the time at which such storage, release, or disposal took place, and

"(iii) a description of the remedial action taken, if any, and

"(B) a covenant warranting that—

"(i) all remedial action necessary to protect human health and the environment with respect to any such

substance remaining on the property has been taken before the date of such transfer, and

"(ii) any additional remedial action found to be necessary after the date of such transfer shall be conducted by the United States.

The requirements of subparagraph (B) shall not apply in any case in which the person or entity to whom the property is transferred is a potentially responsible party with respect to such real property.

"(i) OBLIGATIONS UNDER SOLID WASTE DISPOSAL ACT.—Nothing in this section shall affect or impair the obligation of any department, agency, or instrumentality of the United States to comply with any requirement of the Solid Waste Disposal Act (including corrective action requirements). 42 USC 6901 note.

"(j) NATIONAL SECURITY.—

"(1) SITE SPECIFIC PRESIDENTIAL ORDERS.—The President may issue such orders regarding response actions at any specified site or facility of the Department of Energy or the Department of Defense as may be necessary to protect the national security interests of the United States at that site or facility. Such orders may include, where necessary to protect such interests, an exemption from any requirement contained in this title or under title III of the Superfund Amendments and Reauthorization Act of 1986 with respect to the site or facility concerned. The President shall notify the Congress within 30 days of the issuance of an order under this paragraph providing for any such exemption. Such notification shall include a statement of the reasons for the granting of the exemption. An exemption under this paragraph shall be for a specified period which may not exceed one year. Additional exemptions may be granted, each upon the President's issuance of a new order under this paragraph for the site or facility concerned. Each such additional exemption shall be for a specified period which may not exceed one year. It is the intention of the Congress that whenever an exemption is issued under this paragraph the response action shall proceed as expeditiously as practicable. The Congress shall be notified periodically of the progress of any response action with respect to which an exemption has been issued under this paragraph. No exemption shall be granted under this paragraph due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. President of U.S.

"(2) CLASSIFIED INFORMATION.—Notwithstanding any other provision of law, all requirements of the Atomic Energy Act and all Executive orders concerning the handling of restricted data and national security information, including 'need to know' requirements, shall be applicable to any grant of access to classified information under the provisions of this Act or under title III of the Superfund Amendments and Reauthorization Act of 1986.". 42 USC 2011 note.

(b) LIMITED GRANDFATHER.—Section 120 of CERCLA shall not apply to any response action or remedial action for which a plan is under development by the Department of Energy on the date of enactment of this Act with respect to facilities— 42 USC 9620 note.

(1) owned or operated by the United States and subject to the jurisdiction of such Department;

Missouri.

(2) located in St. Charles and St. Louis counties, Missouri, or the city of St. Louis, Missouri, and

(3) published in the National Priorities List.

In preparing such plans, the Secretary of Energy shall consult with the Administrator of the Environmental Protection Agency.

SEC. 121. CLEANUP STANDARDS.

(a) AMENDMENT OF CERCLA.—Title I of CERCLA is amended by adding the following new section after section 120:

President of U.S.
42 USC 9621.

"SEC. 121. CLEANUP STANDARDS.

42 USC 9604, 9606.

"(a) SELECTION OF REMEDIAL ACTION.—The President shall select appropriate remedial actions determined to be necessary to be carried out under section 104 or secured under section 106 which are in accordance with this section and, to the extent practicable, the national contingency plan, and which provide for cost-effective response. In evaluating the cost effectiveness of proposed alternative remedial actions, the President shall take into account the total short- and long-term costs of such actions, including the costs of operation and maintenance for the entire period during which such activities will be required.

"(b) GENERAL RULES.—(1) Remedial actions in which treatment which permanently and significantly reduces the volume, toxicity or mobility of the hazardous substances, pollutants, and contaminants is a principal element, are to be preferred over remedial actions not involving such treatment. The offsite transport and disposal of hazardous substances or contaminated materials without such treatment should be the least favored alternative remedial action where practicable treatment technologies are available. The President shall conduct an assessment of permanent solutions and alternative treatment technologies or resource recovery technologies that, in whole or in part, will result in a permanent and significant decrease in the toxicity, mobility, or volume of the hazardous substance, pollutant, or contaminant. In making such assessment, the President shall specifically address the long-term effectiveness of various alternatives. In assessing alternative remedial actions, the President shall, at a minimum, take into account:

"(A) the long-term uncertainties associated with land disposal;

"(B) the goals, objectives, and requirements of the Solid Waste Disposal Act;

"(C) the persistence, toxicity, mobility, and propensity to bioaccumulate of such hazardous substances and their constituents;

"(D) short- and long-term potential for adverse health effects from human exposure;

"(E) long-term maintenance costs;

"(F) the potential for future remedial action costs if the alternative remedial action in question were to fail; and

"(G) the potential threat to human health and the environment associated with excavation, transportation, and redisposal, or containment.

The President shall select a remedial action that is protective of human health and the environment, that is cost effective, and that utilizes permanent solutions and alternative treatment technologies or resource recovery technologies to the maximum extent practicable. If the President selects a remedial action not appropriate for

a preference under this subsection, the President shall publish an explanation as to why a remedial action involving such reductions was not selected.

"(2) The President may select an alternative remedial action meeting the objectives of this subsection whether or not such action has been achieved in practice at any other facility or site that has similar characteristics. In making such a selection, the President may take into account the degree of support for such remedial action by parties interested in such site.

"(c) REVIEW.—If the President selects a remedial action that results in any hazardous substances, pollutants, or contaminants remaining at the site, the President shall review such remedial action no less often than each 5 years after the initiation of such remedial action to assure that human health and the environment are being protected by the remedial action being implemented. In addition, if upon such review it is the judgment of the President that action is appropriate at such site in accordance with section 104 or 106, the President shall take or require such action. The President shall report to the Congress a list of facilities for which such review is required, the results of all such reviews, and any actions taken as a result of such reviews.

42 USC 9604, 9606.
Reports.

"(d) DEGREE OF CLEANUP.—(1) Remedial actions selected under this section or otherwise required or agreed to by the President under this Act shall attain a degree of cleanup of hazardous substances, pollutants, and contaminants released into the environment and of control of further release at a minimum which assures protection of human health and the environment. Such remedial actions shall be relevant and appropriate under the circumstances presented by the release or threatened release of such substance, pollutant, or contaminant.

State and local governments.

"(2)(A) With respect to any hazardous substance, pollutant or contaminant that will remain onsite, if—

"(i) any standard, requirement, criteria, or limitation under any Federal environmental law, including, but not limited to, the Toxic Substances Control Act, the Safe Drinking Water Act, the Clean Air Act, the Clean Water Act, the Marine Protection, Research and Sanctuaries Act, or the Solid Waste Disposal Act; or

15 USC 2601 note, 42 USC 201 note.
42 USC 7401 note, 33 USC 1251 note.
33 USC 1401 note, 42 USC 6901 note.

"(ii) any promulgated standard, requirement, criteria, or limitation under a State environmental or facility siting law that is more stringent than any Federal standard, requirement, criteria, or limitation, including each such State standard, requirement, criteria, or limitation contained in a program approved, authorized or delegated by the Administrator under a statute cited in subparagraph (A), and that has been identified to the President by the State in a timely manner,

is legally applicable to the hazardous substance or pollutant or contaminant concerned or is relevant and appropriate under the circumstances of the release or threatened release of such hazardous substance or pollutant or contaminant, the remedial action selected under section 104 or secured under section 106 shall require, at the completion of the remedial action, a level or standard of control for such hazardous substance or pollutant or contaminant which at least attains such legally applicable or relevant and appropriate standard, requirement, criteria, or limitation. Such remedial action shall require a level or standard of control which at least attains Maximum Contaminant Level Goals established under the Safe

42 USC 201 note.
33 USC 1314, 1313.

Drinking Water Act and water quality criteria established under section 304 or 303 of the Clean Water Act, where such goals or criteria are relevant and appropriate under the circumstances of the release or threatened release.

33 USC 1251 note.

"(B)(i) In determining whether or not any water quality criteria under the Clean Water Act is relevant and appropriate under the circumstances of the release or threatened release, the President shall consider the designated or potential use of the surface or groundwater, the environmental media affected, the purposes for which such criteria were developed, and the latest information available.

"(ii) For the purposes of this section, a process for establishing alternate concentration limits to those otherwise applicable for hazardous constituents in groundwater under subparagraph (A) may not be used to establish applicable standards under this paragraph if the process assumes a point of human exposure beyond the boundary of the facility, as defined at the conclusion of the remedial investigation and feasibility study, except where—

"(I) there are known and projected points of entry of such groundwater into surface water; and

"(II) on the basis of measurements or projections, there is or will be no statistically significant increase of such constituents from such groundwater in such surface water at the point of entry or at any point where there is reason to believe accumulation of constituents may occur downstream; and

"(III) the remedial action includes enforceable measures that will preclude human exposure to the contaminated groundwater at any point between the facility boundary and all known and projected points of entry of such groundwater into surface water

then the assumed point of human exposure may be at such known and projected points of entry.

"(C)(i) Clause (ii) of this subparagraph shall be applicable only in cases where, due to the President's selection, in compliance with subsection (b)(1), of a proposed remedial action which does not permanently and significantly reduce the volume, toxicity, or mobility of hazardous substances, pollutants, or contaminants, the proposed disposition of waste generated by or associated with the remedial action selected by the President is land disposal in a State referred to in clause (ii).

"(ii) Except as provided in clauses (iii) and (iv), a State standard, requirement, criteria, or limitation (including any State siting standard or requirement) which could effectively result in the statewide prohibition of land disposal of hazardous substances, pollutants, or contaminants shall not apply.

"(iii) Any State standard, requirement, criteria, or limitation referred to in clause (ii) shall apply where each of the following conditions is met:

"(I) The State standard, requirement, criteria, or limitation is of general applicability and was adopted by formal means.

"(II) The State standard, requirement, criteria, or limitation was adopted on the basis of hydrologic, geologic, or other relevant considerations and was not adopted for the purpose of precluding onsite remedial actions or other land disposal for reasons unrelated to protection of human health and the environment.

"(III) The State arranges for, and assures payment of the incremental costs of utilizing, a facility for disposition of the hazardous substances, pollutants, or contaminants concerned.

"(iv) Where the remedial action selected by the President does not conform to a State standard and the State has initiated a law suit against the Environmental Protection Agency prior to May 1, 1986, to seek to have the remedial action conform to such standard, the President shall conform the remedial action to the State standard. The State shall assure the availability of an offsite facility for such remedial action.

"(3) In the case of any removal or remedial action involving the transfer of any hazardous substance or pollutant or contaminant offsite, such hazardous substance or pollutant or contaminant shall only be transferred to a facility which is operating in compliance with section 3004 and 3005 of the Solid Waste Disposal Act (or, where applicable, in compliance with the Toxic Substances Control Act or other applicable Federal law) and all applicable State requirements. Such substance or pollutant or contaminant may be transferred to a land disposal facility only if the President determines that both of the following requirements are met:

42 USC 6924, 6925.

15 USC 2601 note.

"(A) The unit to which the hazardous substance or pollutant or contaminant is transferred is not releasing any hazardous waste, or constituent thereof, into the groundwater or surface water or soil.

"(B) All such releases from other units at the facility are being controlled by a corrective action program approved by the Administrator under subtitle C of the Solid Waste Disposal Act. The President shall notify the owner or operator of such facility of determinations under this paragraph.

42 USC 6921.

"(4) The President may select a remedial action meeting the requirements of paragraph (1) that does not attain a level or standard of control at least equivalent to a legally applicable or relevant and appropriate standard, requirement, criteria, or limitation as required by paragraph (2) (including subparagraph (B) thereof), if the President finds that—

"(A) the remedial action selected is only part of a total remedial action that will attain such level or standard of control when completed;

"(B) compliance with such requirement at that facility will result in greater risk to human health and the environment than alternative options;

"(C) compliance with such requirements is technically impracticable from an engineering perspective;

"(D) the remedial action selected will attain a standard of performance that is equivalent to that required under the otherwise applicable standard, requirement, criteria, or limitation, through use of another method or approach;

"(E) with respect to a State standard, requirement, criteria, or limitation, the State has not consistently applied (or demonstrated the intention to consistently apply) the standard, requirement, criteria, or limitation in similar circumstances at other remedial actions within the State; or

"(F) in the case of a remedial action to be undertaken solely under section 104 using the Fund, selection of a remedial action that attains such level or standard of control will not provide a balance between the need for protection of public health and welfare and the environment at the facility under consider-

42 USC 9604.

ation, and the availability of amounts from the Fund to respond to other sites which present or may present a threat to public health or welfare or the environment, taking into consideration the relative immediacy of such threats.

Public information.

The President shall publish such findings, together with an explanation and appropriate documentation.

"(e) PERMITS AND ENFORCEMENT.—(1) No Federal, State, or local permit shall be required for the portion of any removal or remedial action conducted entirely onsite, where such remedial action is selected and carried out in compliance with this section.

State and local governments.

"(2) A State may enforce any Federal or State standard, requirement, criteria, or limitation to which the remedial action is required to conform under this Act in the United States district court for the district in which the facility is located. Any consent decree shall require the parties to attempt expeditiously to resolve disagreements concerning implementation of the remedial action informally with the appropriate Federal and State agencies. Where the parties agree, the consent decree may provide for administrative enforcement. Each consent decree shall also contain stipulated penalties for violations of the decree in an amount not to exceed $25,000 per day, which may be enforced by either the President or the State. Such stipulated penalties shall not be construed to impair or affect the authority of the court to order compliance with the specific terms of any such decree.

Regulations. State and local governments.

"(f) STATE INVOLVEMENT.—(1) The President shall promulgate regulations providing for substantial and meaningful involvement by each State in initiation, development, and selection of remedial actions to be undertaken in that State. The regulations, at a minimum, shall include each of the following:

"(A) State involvement in decisions whether to perform a preliminary assessment and site inspection.

"(B) Allocation of responsibility for hazard ranking system scoring.

"(C) State concurrence in deleting sites from the National Priorities List.

"(D) State participation in the long-term planning process for all remedial sites within the State.

"(E) A reasonable opportunity for States to review and comment on each of the following:

"(i) The remedial investigation and feasibility study and all data and technical documents leading to its issuance.

"(ii) The planned remedial action identified in the remedial investigation and feasibility study.

"(iii) The engineering design following selection of the final remedial action.

"(iv) Other technical data and reports relating to implementation of the remedy.

"(v) Any proposed finding or decision by the President to exercise the authority of subsection (d)(4).

"(F) Notice to the State of negotiations with potentially responsible parties regarding the scope of any response action at a facility in the State and an opportunity to participate in such negotiations and, subject to paragraph (2), be a party to any settlement.

"(G) Notice to the State and an opportunity to comment or the President's proposed plan for remedial action as well as on alternative plans under consideration. The President's proposed

decision regarding the selection of remedial action shall be accompanied by a response to the comments submitted by the State, including an explanation regarding any decision under subsection (d)(4) on compliance with promulgated State standards. A copy of such response shall also be provided to the State.

"(H) Prompt notice and explanation of each proposed action to the State in which the facility is located.

Prior to the promulgation of such regulations, the President shall provide notice to the State of negotiations with potentially responsible parties regarding the scope of any response action at a facility in the State, and such State may participate in such negotiations and, subject to paragraph (2), any settlements.

"(2)(A) This paragraph shall apply to remedial actions secured under section 106. At least 30 days prior to the entering of any consent decree, if the President proposes to select a remedial action that does not attain a legally applicable or relevant and appropriate standard, requirement, criteria, or limitation, under the authority of subsection (d)(4), the President shall provide an opportunity for the State to concur or not concur in such selection. If the State concurs, the State may become a signatory to the consent decree. 42 USC 9606.

"(B) If the State does not concur in such selection, and the State desires to have the remedial action conform to such standard, requirement, criteria, or limitation, the State shall intervene in the action under section 106 before entry of the consent decree, to seek to have the remedial action so conform. Such intervention shall be a matter of right. The remedial action shall conform to such standard, requirement, criteria, or limitation if the State establishes, on the administrative record, that the finding of the President was not supported by substantial evidence. If the court determines that the remedial action shall conform to such standard, requirement, criteria, or limitation, the remedial action shall be so modified and the State may become a signatory to the decree. If the court determines that the remedial action need not conform to such standard, requirement, criteria, or limitation, and the State pays or assures the payment of the additional costs attributable to meeting such standard, requirement, criteria, or limitation, the remedial action shall be so modified and the State shall become a signatory to the decree.

"(C) The President may conclude settlement negotiations with potentially responsible parties without State concurrence.

"(3)(A) This paragraph shall apply to remedial actions at facilities owned or operated by a department, agency, or instrumentality of the United States. At least 30 days prior to the publication of the President's final remedial action plan, if the President proposes to select a remedial action that does not attain a legally applicable or relevant and appropriate standard, requirement, criteria, or limitation, under the authority of subsection (d)(4), the President shall provide an opportunity for the State to concur or not concur in such selection. If the State concurs, or does not act within 30 days, the remedial action may proceed.

"(B) If the State does not concur in such selection as provided in subparagraph (A), and desires to have the remedial action conform to such standard, requirement, criteria, or limitation, the State may maintain an action as follows:

"(i) If the President has notified the State of selection of such a remedial action, the State may bring an action within 30 days of such notification for the sole purpose of determining whether the finding of the President is supported by substantial evi-

dence. Such action shall be brought in the United States district court for the district in which the facility is located.

"(ii) If the State establishes, on the administrative record, that the President's finding is not supported by substantial evidence, the remedial action shall be modified to conform to such standard, requirement, criteria, or limitation.

"(iii) If the State fails to establish that the President's finding was not supported by substantial evidence and if the State pays, within 60 days of judgment, the additional costs attributable to meeting such standard, requirement, criteria, or limitation, the remedial action shall be selected to meet such standard, requirement, criteria, or limitation. If the State fails to pay within 60 days, the remedial action selected by the President shall proceed through completion.

"(C) Nothing in this section precludes, and the court shall not enjoin, the Federal agency from taking any remedial action unrelated to or not inconsistent with such standard, requirement, criteria, or limitation.".

42 USC 9621 note.

(b) EFFECTIVE DATE.—With respect to section 121 of CERCLA, as added by this section—

(1) The requirements of section 121 of CERCLA shall not apply to any remedial action for which the Record of Decision (hereinafter in this section referred to as the "ROD") was signed, or the consent decree was lodged, before date of enactment.

(2) If the ROD was signed, or the consent decree lodged, within the 30-day period immediately following enactment of the Act, the Administrator shall certify in writing that the portion of the remedial action covered by the ROD or consent decree complies to the maximum extent practicable with section 121 of CERCLA.

Any ROD signed before enactment of this Act and reopened after enactment of this Act to modify or supplement the selection of remedy shall be subject to the requirements of section 121 of CERCLA.

SEC. 122. SETTLEMENTS.

(a) NEW SECTION.—Title I of CERCLA is amended by adding the following new section after section 121:

President of U.S.
42 USC 9622.

"SEC. 122. SETTLEMENTS.

"(a) AUTHORITY TO ENTER INTO AGREEMENTS.—The President, in his discretion, may enter into an agreement with any person (including the owner or operator of the facility from which a release or substantial threat of release emanates, or any other potentially responsible person), to perform any response action (including any action described in section 104(b)) if the President determines that such action will be done properly by such person. Whenever practicable and in the public interest, as determined by the President, the President shall act to facilitate agreements under this section that are in the public interest and consistent with the National Contingency Plan in order to expedite effective remedial actions and minimize litigation. If the President decides not to use the procedures in this section, the President shall notify in writing potentially responsible parties at the facility of such decision and the reasons why use of the procedures is inappropriate. A decision of the

Ante, p. 1618.

President to use or not to use the procedures in this section is not subject to judicial review.

"(b) AGREEMENTS WITH POTENTIALLY RESPONSIBLE PARTIES.—

"(1) MIXED FUNDING.—An agreement under this section may provide that the President will reimburse the parties to the agreement from the Fund, with interest, for certain costs of actions under the agreement that the parties have agreed to perform but which the President has agreed to finance. In any case in which the President provides such reimbursement, the President shall make all reasonable efforts to recover the amount of such reimbursement under section 107 or under other relevant authorities. 42 USC 9607.

"(2) REVIEWABILITY.—The President's decisions regarding the availability of fund financing under this subsection shall not be subject to judicial review under subsection (d).

"(3) RETENTION OF FUNDS.—If, as part of any agreement, the President will be carrying out any action and the parties will be paying amounts to the President, the President may, notwithstanding any other provision of law, retain and use such amounts for purposes of carrying out the agreement.

"(4) FUTURE OBLIGATION OF FUND.—In the case of a completed remedial action pursuant to an agreement described in paragraph (1), the Fund shall be subject to an obligation for subsequent remedial actions at the same facility but only to the extent that such subsequent actions are necessary by reason of the failure of the original remedial action. Such obligation shall be in a proportion equal to, but not exceeding, the proportion contributed by the Fund for the original remedial action. The Fund's obligation for such future remedial action may be met through Fund expenditures or through payment, following settlement or enforcement action, by parties who were not signatories to the original agreement.

"(c) EFFECT OF AGREEMENT.—

"(1) LIABILITY.—Whenever the President has entered into an agreement under this section, the liability to the United States under this Act of each party to the agreement, including any future liability to the United States, arising from the release or threatened release that is the subject of the agreement shall be limited as provided in the agreement pursuant to a covenant not to sue in accordance with subsection (f). A covenant not to sue may provide that future liability to the United States of a settling potentially responsible party under the agreement may be limited to the same proportion as that established in the original settlement agreement. Nothing in this section shall limit or otherwise affect the authority of any court to review in the consent decree process under subsection (d) any covenant not to sue contained in an agreement under this section. In determining the extent to which the liability of parties to an agreement shall be limited pursuant to a covenant not to sue, the President shall be guided by the principle that a more complete covenant not to sue shall be provided for a more permanent remedy undertaken by such parties.

"(2) ACTIONS AGAINST OTHER PERSONS.—If an agreement has been entered into under this section, the President may take any action under section 106 against any person who is not a party to the agreement, once the period for submitting a pro- 42 USC 9606.

posal under subsection (e)(2)(B) has expired. Nothing in this section shall be construed to affect either of the following:

42 USC 9606, 9607.

"(A) The liability of any person under section 106 or 107 with respect to any costs or damages which are not included in the agreement.

"(B) The authority of the President to maintain an action under this Act against any person who is not a party to the agreement.

"(d) ENFORCEMENT.—

"(1) CLEANUP AGREEMENTS.—

"(A) CONSENT DECREE.—Whenever the President enters into an agreement under this section with any potentially responsible party with respect to remedial action under section 106, following approval of the agreement by the Attorney General, except as otherwise provided in the case of certain administrative settlements referred to in subsection (g), the agreement shall be entered in the appropriate United States district court as a consent decree. The President need not make any finding regarding an imminent and substantial endangerment to the public health or the environment in connection with any such agreement or consent decree.

"(B) EFFECT.—The entry of any consent decree under this subsection shall not be construed to be an acknowledgment by the parties that the release or threatened release concerned constitutes an imminent and substantial endangerment to the public health or welfare or the environment. Except as otherwise provided in the Federal Rules of Evidence, the participation by any party in the process under this section shall not be considered an admission of liability for any purpose, and the fact of such participation shall not be admissible in any judicial or administrative proceeding, including a subsequent proceeding under this section.

"(C) STRUCTURE.—The President may fashion a consent decree so that the entering of such decree and compliance with such decree or with any determination or agreement made pursuant to this section shall not be considered an admission of liability for any purpose.

"(2) PUBLIC PARTICIPATION.—

"(A) FILING OF PROPOSED JUDGMENT.—At least 30 days before a final judgment is entered under paragraph (1), the proposed judgment shall be filed with the court.

"(B) OPPORTUNITY FOR COMMENT.—The Attorney General shall provide an opportunity to persons who are not named as parties to the action to comment on the proposed judgment before its entry by the court as a final judgment. The Attorney General shall consider, and file with the court, any written comments, views, or allegations relating to the proposed judgment. The Attorney General may withdraw or withhold its consent to the proposed judgment if the comments, views, and allegations concerning the judgment disclose facts or considerations which indicate that the proposed judgment is inappropriate, improper, or inadequate.

"(3) 104(b) AGREEMENTS.—Whenever the President enters into an agreement under this section with any potentially respon-

sible party with respect to action under section 104(b), the President shall issue an order or enter into a decree setting forth the obligations of such party. The United States district court for the district in which the release or threatened release occurs may enforce such order or decree.

Ante, p. 1617.

"(e) SPECIAL NOTICE PROCEDURES.—

"(1) NOTICE.—Whenever the President determines that a period of negotiation under this subsection would facilitate an agreement with potentially responsible parties for taking response action (including any action described in section 104(b)) and would expedite remedial action, the President shall so notify all such parties and shall provide them with information concerning each of the following:

"(A) The names and addresses of potentially responsible parties (including owners and operators and other persons referred to in section 107(a)), to the extent such information is available.

"(B) To the extent such information is available, the volume and nature of substances contributed by each potentially responsible party identified at the facility.

"(C) A ranking by volume of the substances at the facility, to the extent such information is available.

Public information.

Classified information.

The President shall make the information referred to in this paragraph available in advance of notice under this paragraph upon the request of a potentially responsible party in accordance with procedures provided by the President. The provisions of subsection (e) of section 104 regarding protection of confidential information apply to information provided under this paragraph. Disclosure of information generated by the President under this section to persons other than the Congress, or any duly authorized Committee thereof, is subject to other privileges or protections provided by law, including (but not limited to) those applicable to attorney work product. Nothing contained in this paragraph or in other provisions of this Act shall be construed, interpreted, or applied to diminish the required disclosure of information under other provisions of this or other Federal or State laws.

"(2) NEGOTIATION.—

"(A) MORATORIUM.—Except as provided in this subsection, the President may not commence action under section 104(a) or take any action under section 106 for 120 days after providing notice and information under this subsection with respect to such action. Except as provided in this subsection, the President may not commence a remedial investigation and feasibility study under section 104(b) for 90 days after providing notice and information under this subsection with respect to such action. The President may commence any additional studies or investigations authorized under section 104(b), including remedial design, during the negotiation period.

42 USC 9606.

"(B) PROPOSALS.—Persons receiving notice and information under paragraph (1) of this subsection with respect to action under section 106 shall have 60 days from the date of receipt of such notice to make a proposal to the President for undertaking or financing the action under section 106. Persons receiving notice and information under paragraph (1) of this subsection with respect to action under section

104(b) shall have 60 days from the date of receipt of such notice to make a proposal to the President for undertaking or financing the action under section 104(b).

"(C) ADDITIONAL PARTIES.—If an additional potentially responsible party is identified during the negotiation period or after an agreement has been entered into under this subsection concerning a release or threatened release, the President may bring the additional party into the negotiation or enter into a separate agreement with such party.

"(3) PRELIMINARY ALLOCATION OF RESPONSIBILITY.—

"(A) IN GENERAL.—The President shall develop guidelines for preparing nonbinding preliminary allocations of responsibility. In developing these guidelines the President may include such factors as the President considers relevant, such as: volume, toxicity, mobility, strength of evidence, ability to pay, litigative risks, public interest considerations, precedential value, and inequities and aggravating factors. When it would expedite settlements under this section and remedial action, the President may, after completion of the remedial investigation and feasibility study, provide a nonbinding preliminary allocation of responsibility which allocates percentages of the total cost of response among potentially responsible parties at the facility.

Courts, U.S.

"(B) COLLECTION OF INFORMATION.—To collect information necessary or appropriate for performing the allocation under subparagraph (A) or for otherwise implementing this section, the President may by subpoena require the attendance and testimony of witnesses and the production of reports, papers, documents, answers to questions, and other information that the President deems necessary. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In the event of contumacy or failure or refusal of any person to obey any such subpoena, any district court of the United States in which venue is proper shall have jurisdiction to order any such person to comply with such subpoena. Any failure to obey such an order of the court is punishable by the court as a contempt thereof.

"(C) EFFECT.—The nonbinding preliminary allocation of responsibility shall not be admissible as evidence in any proceeding, and no court shall have jurisdiction to review the nonbinding preliminary allocation of responsibility. The nonbinding preliminary allocation of responsibility shall not constitute an apportionment or other statement on the divisibility of harm or causation.

"(D) COSTS.—The costs incurred by the President in producing the nonbinding preliminary allocation of responsibility shall be reimbursed by the potentially responsible parties whose offer is accepted by the President. Where an offer under this section is not accepted, such costs shall be considered costs of response.

"(E) DECISION TO REJECT OFFER.—Where the President, in his discretion, has provided a nonbinding preliminary allocation of responsibility and the potentially responsible parties have made a substantial offer providing for response to the President which he rejects, the reasons for the

rejection shall be provided in a written explanation. The President's decision to reject such an offer shall not be subject to judicial review.

"(4) FAILURE TO PROPOSE.—If the President determines that a good faith proposal for undertaking or financing action under section 106 has not been submitted within 60 days of the provision of notice pursuant to this subsection, the President may thereafter commence action under section 104(a) or take an action against any person under section 106 of this Act. If the President determines that a good faith proposal for undertaking or financing action under section 104(b) has not been submitted within 60 days after the provision of notice pursuant to this subsection, the President may thereafter commence action under section 104(b).

42 USC 9606.

Ante, p. 1617.

"(5) SIGNIFICANT THREATS.—Nothing in this subsection shall limit the President's authority to undertake response or enforcement action regarding a significant threat to public health or the environment within the negotiation period established by this subsection.

"(6) INCONSISTENT RESPONSE ACTION.—When either the President, or a potentially responsible party pursuant to an administrative order or consent decree under this Act, has initiated a remedial investigation and feasibility study for a particular facility under this Act, no potentially responsible party may undertake any remedial action at the facility unless such remedial action has been authorized by the President.

"(f) COVENANT NOT TO SUE.—

"(1) DISCRETIONARY COVENANTS.—The President may, in his discretion, provide any person with a covenant not to sue concerning any liability to the United States under this Act, including future liability, resulting from a release or threatened release of a hazardous substance addressed by a remedial action, whether that action is onsite or offsite, if each of the following conditions is met:

"(A) The covenant not to sue is in the public interest.

"(B) The covenant not to sue would expedite response action consistent with the National Contingency Plan under section 105 of this Act.

42 USC 9605.

"(C) The person is in full compliance with a consent decree under section 106 (including a consent decree entered into in accordance with this section) for response to the release or threatened release concerned.

"(D) The response action has been approved by the President.

"(2) SPECIAL COVENANTS NOT TO SUE.—In the case of any person to whom the President is authorized under paragraph (1) of this subsection to provide a covenant not to sue, for the portion of remedial action—

"(A) which involves the transport and secure disposition offsite of hazardous substances in a facility meeting the requirements of sections 3004 (c), (d), (e), (f), (g), (m), (o), (p), (u), and (v) and 3005(c) of the Solid Waste Disposal Act, where the President has rejected a proposed remedial action that is consistent with the National Contingency Plan that does not include such offsite disposition and has thereafter required offsite disposition; or

42 USC 6924, 6925.

"(B) which involves the treatment of hazardous substances so as to destroy, eliminate, or permanently immobilize the hazardous constituents of such substances, such that, in the judgment of the President, the substances no longer present any current or currently foreseeable future significant risk to public health, welfare or the environment, no byproduct of the treatment or destruction process presents any significant hazard to public health, welfare or the environment, and all byproducts are themselves treated, destroyed, or contained in a manner which assures that such byproducts do not present any current or currently foreseeable future significant risk to public health, welfare or the environment,

the President shall provide such person with a covenant not to sue with respect to future liability to the United States under this Act for a future release or threatened release of hazardous substances from such facility, and a person provided such covenant not to sue shall not be liable to the United States under section 106 or 107 with respect to such release or threatened release at a future time.

42 USC 9606, 9607.

"(3) REQUIREMENT THAT REMEDIAL ACTION BE COMPLETED.—A covenant not to sue concerning future liability to the United States shall not take effect until the President certifies that remedial action has been completed in accordance with the requirements of this Act at the facility that is the subject of such covenant.

"(4) FACTORS.—In assessing the appropriateness of a covenant not to sue under paragraph (1) and any condition to be included in a covenant not to sue under paragraph (1) or (2), the President shall consider whether the covenant or condition is in the public interest on the basis of such factors as the following:

"(A) The effectiveness and reliability of the remedy, in light of the other alternative remedies considered for the facility concerned.

"(B) The nature of the risks remaining at the facility.

"(C) The extent to which performance standards are included in the order or decree.

"(D) The extent to which the response action provides a complete remedy for the facility, including a reduction in the hazardous nature of the substances at the facility.

"(E) The extent to which the technology used in the response action is demonstrated to be effective.

"(F) Whether the Fund or other sources of funding would be available for any additional remedial actions that might eventually be necessary at the facility.

"(G) Whether the remedial action will be carried out, in whole or in significant part, by the responsible parties themselves.

"(5) SATISFACTORY PERFORMANCE.—Any covenant not to sue under this subsection shall be subject to the satisfactory performance by such party of its obligations under the agreement concerned.

"(6) ADDITIONAL CONDITION FOR FUTURE LIABILITY.—(A) Except for the portion of the remedial action which is subject to a covenant not to sue under paragraph (2) or under subsection (g) (relating to de minimis settlements), a covenant not to sue a person concerning future liability to the United States shall

include an exception to the covenant that allows the President to sue such person concerning future liability resulting from the release or threatened release that is the subject of the covenant where such liability arises out of conditions which are unknown at the time the President certifies under paragraph (3) that remedial action has been completed at the facility concerned.

"(B) In extraordinary circumstances, the President may determine, after assessment of relevant factors such as those referred to in paragraph (4) and volume, toxicity, mobility, strength of evidence, ability to pay, litigative risks, public interest considerations, precedential value, and inequities and aggravating factors, not to include the exception referred to in subparagraph (A) if other terms, conditions, or requirements of the agreement containing the covenant not to sue are sufficient to provide all reasonable assurances that public health and the environment will be protected from any future releases at or from the facility.

"(C) The President is authorized to include any provisions allowing future enforcement action under section 106 or 107 that in the discretion of the President are necessary and appropriate to assure protection of public health, welfare, and the environment. 42 USC 9606, 9607.

"(g) DE MINIMIS SETTLEMENTS.—

"(1) EXPEDITED FINAL SETTLEMENT.—Whenever practicable and in the public interest, as determined by the President, the President shall as promptly as possible reach a final settlement with a potentially responsible party in an administrative or civil action under section 106 or 107 if such settlement involves only a minor portion of the response costs at the facility concerned and, in the judgment of the President, the conditions in either of the following subparagraph (A) or (B) are met:

"(A) Both of the following are minimal in comparison to other hazardous substances at the facility:

"(i) The amount of the hazardous substances contributed by that party to the facility.

"(ii) The toxic or other hazardous effects of the substances contributed by that party to the facility.

"(B) The potentially responsible party—

"(i) is the owner of the real property on or in which the facility is located; Real property.

"(ii) did not conduct or permit the generation, transportation, storage, treatment, or disposal of any hazardous substance at the facility; and

"(iii) did not contribute to the release or threat of release of a hazardous substance at the facility through any action or omission.

This subparagraph (B) does not apply if the potentially responsible party purchased the real property with actual or constructive knowledge that the property was used for the generation, transportation, storage, treatment, or disposal of any hazardous substance. Real property.

"(2) COVENANT NOT TO SUE.—The President may provide a covenant not to sue with respect to the facility concerned to any party who has entered into a settlement under this subsection unless such a covenant would be inconsistent with the public interest as determined under subsection (f).

"(3) EXPEDITED AGREEMENT.—The President shall reach any such settlement or grant any such covenant not to sue as soon as possible after the President has available the information necessary to reach such a settlement or grant such a covenant.

"(4) CONSENT DECREE OR ADMINISTRATIVE ORDER.—A settlement under this subsection shall be entered as a consent decree or embodied in an administrative order setting forth the terms of the settlement. In the case of any facility where the total response costs exceed $500,000 (excluding interest), if the settlement is embodied as an administrative order, the order may be issued only with the prior written approval of the Attorney General. If the Attorney General or his designee has not approved or disapproved the order within 30 days of this referral, the order shall be deemed to be approved unless the Attorney General and the Administrator have agreed to extend the time. The district court for the district in which the release or threatened release occurs may enforce any such administrative order.

Claims.

"(5) EFFECT OF AGREEMENT.—A party who has resolved its liability to the United States under this subsection shall not be liable for claims for contribution regarding matters addressed in the settlement. Such settlement does not discharge any of the other potentially responsible parties unless its terms so provide, but it reduces the potential liability of the others by the amount of the settlement.

"(6) SETTLEMENTS WITH OTHER POTENTIALLY RESPONSIBLE PARTIES.—Nothing in this subsection shall be construed to affect the authority of the President to reach settlements with other potentially responsible parties under this Act.

Claims.

"(h) COST RECOVERY SETTLEMENT AUTHORITY.—

"(1) AUTHORITY TO SETTLE.—The head of any department or agency with authority to undertake a response action under this Act pursuant to the national contingency plan may consider, compromise, and settle a claim under section 107 for costs incurred by the United States Government if the claim has not been referred to the Department of Justice for further action. In the case of any facility where the total response costs exceed $500,000 (excluding interest), any claim referred to in the preceding sentence may be compromised and settled only with the prior written approval of the Attorney General.

42 USC 9607.

Regulations.

"(2) USE OF ARBITRATION.—Arbitration in accordance with regulations promulgated under this subsection may be used as a method of settling claims of the United States where the total response costs for the facility concerned do not exceed $500,000 (excluding interest). After consultation with the Attorney General, the department or agency head may establish and publish regulations for the use of arbitration or settlement under this subsection.

"(3) RECOVERY OF CLAIMS.—If any person fails to pay a claim that has been settled under this subsection, the department or agency head shall request the Attorney General to bring a civil action in an appropriate district court to recover the amount of such claim, plus costs, attorneys' fees, and interest from the date of the settlement. In such an action, the terms of the settlement shall not be subject to review.

"(4) CLAIMS FOR CONTRIBUTION.—A person who has resolved its liability to the United States under this subsection shall not be liable for claims for contribution regarding matters ad-

dressed in the settlement. Such settlement shall not discharge any of the other potentially liable persons unless its terms so provide, but it reduces the potential liability of the others by the amount of the settlement.

"(i) SETTLEMENT PROCEDURES.—

"(1) PUBLICATION IN FEDERAL REGISTER.—At least 30 days before any settlement (including any settlement arrived at through arbitration) may become final under subsection (h), or under subsection (g) in the case of a settlement embodied in an administrative order, the head of the department or agency which has jurisdiction over the proposed settlement shall publish in the Federal Register notice of the proposed settlement. The notice shall identify the facility concerned and the parties to the proposed settlement.

Federal Register, publication.

"(2) COMMENT PERIOD.—For a 30-day period beginning on the date of publication of notice under paragraph (1) of a proposed settlement, the head of the department or agency which has jurisdiction over the proposed settlement shall provide an opportunity for persons who are not parties to the proposed settlement to file written comments relating to the proposed settlement.

"(3) CONSIDERATION OF COMMENTS.—The head of the department or agency shall consider any comments filed under paragraph (2) in determining whether or not to consent to the proposed settlement and may withdraw or withhold consent to the proposed settlement if such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate.

"(j) NATURAL RESOURCES.—

"(1) NOTIFICATION OF TRUSTEE.—Where a release or threatened release of any hazardous substance that is the subject of negotiations under this section may have resulted in damages to natural resources under the trusteeship of the United States, the President shall notify the Federal natural resource trustee of the negotiations and shall encourage the participation of such trustee in the negotiations.

"(2) COVENANT NOT TO SUE.—An agreement under this section may contain a covenant not to sue under section 107(a)(4)(C) for damages to natural resources under the trusteeship of the United States resulting from the release or threatened release of hazardous substances that is the subject of the agreement, but only if the Federal natural resource trustee has agreed in writing to such covenant. The Federal natural resource trustee may agree to such covenant if the potentially responsible party agrees to undertake appropriate actions necessary to protect and restore the natural resources damaged by such release or threatened release of hazardous substances.

42 USC 9607.

"(k) SECTION NOT APPLICABLE TO VESSELS.—The provisions of this section shall not apply to releases from a vessel.

"(l) CIVIL PENALTIES.—A potentially responsible party which is a party to an administrative order or consent decree entered pursuant to an agreement under this section or section 120 (relating to Federal facilities) or which is a party to an agreement under section 120 and which fails or refuses to comply with any term or condition of the order, decree or agreement shall be subject to a civil penalty in accordance with section 109.

"(m) APPLICABILITY OF GENERAL PRINCIPLES OF LAW.—In the case of consent decrees and other settlements under this section (including covenants not to sue), no provision of this Act shall be construed to preclude or otherwise affect the applicability of general principles of law regarding the setting aside or modification of consent decrees or other settlements.".

42 USC 9657.

(b) CONTRIBUTION.—Section 308 of CERCLA is amended by adding the following at the end thereof: "If an administrative settlement under section 122 has the effect of limiting any person's right to obtain contribution from any party to such settlement, and if the effect of such limitation would constitute a taking without just compensation in violation of the fifth amendment of the Constitution of the United States, such person shall not be entitled, under other laws of the United States, to recover compensation from the United States for such taking, but in any such case, such limitation on the right to obtain contribution shall be treated as having no force and effect.".

42 USC 9623.

SEC. 123. REIMBURSEMENT TO LOCAL GOVERNMENTS.

(a) Title I of CERCLA is amended by adding the following after section 122:

"SEC. 123. REIMBURSEMENT TO LOCAL GOVERNMENTS.

"(a) APPLICATION.—Any general purpose unit of local government for a political subdivision which is affected by a release or threatened release at any facility may apply to the President for reimbursement under this section.

"(b) REIMBURSEMENT.—

President of U.S.

"(1) TEMPORARY EMERGENCY MEASURES.—The President is authorized to reimburse local community authorities for expenses incurred (before or after the enactment of the Superfund Amendments and Reauthorization Act of 1986) in carrying out temporary emergency measures necessary to prevent or mitigate injury to human health or the environment associated with the release or threatened release of any hazardous substance or pollutant or contaminant. Such measures may include, where appropriate, security fencing to limit access, response to fires and explosions, and other measures which require immediate response at the local level.

"(2) LOCAL FUNDS NOT SUPPLANTED.—Reimbursement under this section shall not supplant local funds normally provided for response.

"(c) AMOUNT.—The amount of any reimbursement to any local authority under subsection (b)(1) may not exceed $25,000 for a single response. The reimbursement under this section with respect to a single facility shall be limited to the units of local government having jurisdiction over the political subdivision in which the facility is located.

"(d) PROCEDURE.—Reimbursements authorized pursuant to this section shall be in accordance with rules promulgated by the Administrator within one year after the enactment of the Superfund Amendments and Reauthorization Act of 1986.".

SEC. 124. METHANE RECOVERY.

(a) IN GENERAL.—Title I of CERCLA is amended by adding the following new section after section 123:

"SEC. 124. METHANE RECOVERY.

Waste disposal.
42 USC 9624.

"(a) IN GENERAL.—In the case of a facility at which equipment for the recovery or processing (including recirculation of condensate) of methane has been installed, for purposes of this Act:

"(1) The owner or operator of such equipment shall not be considered an 'owner or operator', as defined in section 101(20), with respect to such facility.

"(2) The owner or operator of such equipment shall not be considered to have arranged for disposal or treatment of any hazardous substance at such facility pursuant to section 107 of this Act.

42 USC 9607.

"(3) The owner or operator of such equipment shall not be subject to any action under section 106 with respect to such facility.

42 USC 9606.

"(b) EXCEPTIONS.—Subsection (a) does not apply with respect to a release or threatened release of a hazardous substance from a facility described in subsection (a) if either of the following circumstances exist:

"(1) The release or threatened release was primarily caused by activities of the owner or operator of the equipment described in subsection (a).

"(2) The owner or operator of such equipment would be covered by paragraph (1), (2), (3), or (4) of subsection (a) of section 107 with respect to such release or threatened release if he were not the owner or operator of such equipment.

In the case of any release or threatened release referred to in paragraph (1), the owner or operator of the equipment described in subsection (a) shall be liable under this Act only for costs or damages primarily caused by the activities of such owner or operator.".

(b) REGULATION UNDER THE SOLID WASTE DISPOSAL ACT.—Unless the Administrator of the Environmental Protection Agency promulgates regulations under subtitle C of the Solid Waste Disposal Act addressing the extraction of wastes from landfills as part of the process of recovering methane from such landfills, the owner and operator of equipment used to recover methane from a landfill shall not be deemed to be managing, generating, transporting, treating, storing, or disposing of hazardous or liquid wastes within the meaning of that subtitle. If the aqueous or hydrocarbon phase of the condensate or any other waste material removed from the gas recovered from the landfill meets any of the characteristics identified under section 3001 of subtitle C of the Solid Waste Disposal Act, the preceding sentence shall not apply and such condensate phase or other waste material shall be deemed a hazardous waste under that subtitle, and shall be regulated accordingly.

42 USC 6921 note.
42 USC 6921.
42 USC 6921.

SEC. 125. CERTAIN SPECIAL STUDY WASTES.

Title I of CERCLA is amended by adding the following new section after section 124:

"SEC. 125. SECTION 3001(b)(3)(A)(i) WASTE.

President of U.S.
42 USC 9625.

"(a) REVISION OF HAZARD RANKING SYSTEM.—This section shall apply only to facilities which are not included or proposed for inclusion on the National Priorities List and which contain substantial volumes of waste described in section 3001(b)(3)(A)(i) of the Solid Waste Disposal Act. As expeditiously as practicable, the President shall revise the hazard ranking system in effect under the National Contingency Plan with respect to such facilities in a manner which

assures appropriate consideration of each of the following site-specific characteristics of such facilities:

"(1) The quantity, toxicity, and concentrations of hazardous constituents which are present in such waste and a comparison thereof with other wastes.

"(2) The extent of, and potential for, release of such hazardous constituents into the environment.

"(3) The degree of risk to human health and the environment posed by such constituents.

"(b) INCLUSION PROHIBITED.—Until the hazard ranking system is revised as required by this section, the President may not include on the National Priorities List any facility which contains substantial volumes of waste described in section 3001(b)(3)(A)(i) of the Solid Waste Disposal Act on the basis of an evaluation made principally on the volume of such waste and not on the concentrations of the hazardous constituents of such waste. Nothing in this section shall be construed to affect the President's authority to include any such facility on the National Priorities List based on the presence of other substances at such facility or to exercise any other authority of this Act with respect to such other substances.".

42 USC 6921.

SEC. 126. WORKER PROTECTION STANDARDS.

29 USC 655 note.

(a) PROMULGATION.—Within one year after the date of the enactment of this section, the Secretary of Labor shall, pursuant to section 6 of the Occupational Safety and Health Act of 1970, promulgate standards for the health and safety protection of employees engaged in hazardous waste operations.

29 USC 655.

Regulations.

(b) PROPOSED STANDARDS.—The Secretary of Labor shall issue proposed regulations on such standards which shall include, but need not be limited to, the following worker protection provisions:

(1) SITE ANALYSIS.—Requirements for a formal hazard analysis of the site and development of a site specific plan for worker protection.

(2) TRAINING.—Requirements for contractors to provide initial and routine training of workers before such workers are permitted to engage in hazardous waste operations which would expose them to toxic substances.

(3) MEDICAL SURVEILLANCE.—A program of regular medical examination, monitoring, and surveillance of workers engaged in hazardous waste operations which would expose them to toxic substances.

(4) PROTECTIVE EQUIPMENT.—Requirements for appropriate personal protective equipment, clothing, and respirators for work in hazardous waste operations.

(5) ENGINEERING CONTROLS.—Requirements for engineering controls concerning the use of equipment and exposure of workers engaged in hazardous waste operations.

(6) MAXIMUM EXPOSURE LIMITS.—Requirements for maximum exposure limitations for workers engaged in hazardous waste operations, including necessary monitoring and assessment procedures.

(7) INFORMATIONAL PROGRAM.—A program to inform workers engaged in hazardous waste operations of the nature and degree of toxic exposure likely as a result of such hazardous waste operations.

(8) HANDLING.—Requirements for the handling, transporting, labeling, and disposing of hazardous wastes.

(9) NEW TECHNOLOGY PROGRAM.—A program for the introduction of new equipment or technologies that will maintain worker protections.

(10) DECONTAMINATION PROCEDURES.—Procedures for decontamination.

(11) EMERGENCY RESPONSE.—Requirements for emergency response and protection of workers engaged in hazardous waste operations.

(c) FINAL REGULATIONS.—Final regulations under subsection (a) shall take effect one year after the date they are promulgated. In promulgating final regulations on standards under subsection (a), the Secretary of Labor shall include each of the provisions listed in paragraphs (1) through (11) of subsection (b) unless the Secretary determines that the evidence in the public record considered as a whole does not support inclusion of any such provision.

Effective date.

(d) SPECIFIC TRAINING STANDARDS.—

(1) OFFSITE INSTRUCTION; FIELD EXPERIENCE.—Standards promulgated under subsection (a) shall include training standards requiring that general site workers (such as equipment operators, general laborers, and other supervised personnel) engaged in hazardous substance removal or other activities which expose or potentially expose such workers to hazardous substances receive a minimum of 40 hours of initial instruction off the site, and a minimum of three days of actual field experience under the direct supervision of a trained, experienced supervisor, at the time of assignment. The requirements of the preceding sentence shall not apply to any general site worker who has received the equivalent of such training. Workers who may be exposed to unique or special hazards shall be provided additional training.

(2) TRAINING OF SUPERVISORS.—Standards promulgated under subsection (a) shall include training standards requiring that onsite managers and supervisors directly responsible for the hazardous waste operations (such as foremen) receive the same training as general site workers set forth in paragraph (1) of this subsection and at least eight additional hours of specialized training on managing hazardous waste operations. The requirements of the preceding sentence shall not apply to any person who has received the equivalent of such training.

(3) CERTIFICATION; ENFORCEMENT.—Such training standards shall contain provisions for certifying that general site workers, onsite managers, and supervisors have received the specified training and shall prohibit any individual who has not received the specified training from engaging in hazardous waste operations covered by the standard.

(4) TRAINING OF EMERGENCY RESPONSE PERSONNEL.—Such training standards shall set forth requirements for the training of workers who are responsible for responding to hazardous emergency situations who may be exposed to toxic substances in carrying out their responsibilities.

(e) INTERIM REGULATIONS.—The Secretary of Labor shall issue interim final regulations under this section within 60 days after the enactment of this section which shall provide no less protection under this section for workers employed by contractors and emergency response workers than the protections contained in the Environmental Protection Agency Manual (1981) "Health and Safety Requirements for Employees Engaged in Field Activities"

29 USC 651 note. Effective date.

and existing standards under the Occupational Safety and Health Act of 1970 found in subpart C of part 1926 of title 29 of the Code of Federal Regulations. Such interim final regulations shall take effect upon issuance and shall apply until final regulations become effective under subsection (c).

Waste disposal. Safety.

(f) COVERAGE OF CERTAIN STATE AND LOCAL EMPLOYEES.—Not later than 90 days after the promulgation of final regulations under subsection (a), the Administrator shall promulgate standards identical to those promulgated by the Secretary of Labor under subsection (a). Standards promulgated under this subsection shall apply to employees of State and local governments in each State which does not have in effect an approved State plan under section 18 of the Occupational Safety and Health Act of 1970 providing for standards for the health and safety protection of employees engaged in hazardous waste operations.

29 USC 667.

42 USC 9660a.

(g) GRANT PROGRAM.—

(1) GRANT PURPOSES.—Grants for the training and education of workers who are or may be engaged in activities related to hazardous waste removal or containment or emergency response may be made under this subsection.

(2) ADMINISTRATION.—Grants under this subsection shall be administered by the National Institute of Environmental Health Sciences.

Waste disposal.

(3) GRANT RECIPIENTS.—Grants shall be awarded to nonprofit organizations which demonstrate experience in implementing and operating worker health and safety training and education programs and demonstrate the ability to reach and involve in training programs target populations of workers who are or will be engaged in hazardous waste removal or containment or emergency response operations.

SEC. 127. LIABILITY LIMITS FOR OCEAN INCINERATION VESSELS.

42 USC 9601.

(a) DEFINITION OF INCINERATION VESSEL.—Section 101 of CERCLA is amended by adding the following after paragraph (37):

"(38) The term 'incineration vessel' means any vessel which carries hazardous substances for the purpose of incineration of such substances, so long as such substances or residues of such substances are on board.".

42 USC 9607.

(b) LIABILITY.—Section 107 of CERCLA is amended as follows:

(1) Subsection (a)(3) is amended by inserting "or incineration vessel" after "facility".

(2) Subsection (a)(4) is amended by inserting ", incineration vessels" after "facilities".

(3) Subparagraph (A) of subsection (c)(1) is amended by inserting ", other than an incineration vessel," after "vessel".

(4) Subparagraph (B) of subsection (c)(1) is amended by inserting "other than an incineration vessel," after "other vessel,".

(5) Subparagraph (D) of subsection (c)(1) is amended by inserting "any incineration vessel or" before "any facility".

42 USC 9608.

(c) FINANCIAL RESPONSIBILITY.—Section 108(a) of CERCLA is amended as follows:

(1) Paragraph (1) is amended by inserting "to cover the liability prescribed under paragraph (1) of section 107(a) of this Act" after "whichever is greater)";

President of U.S.

(2) Add a new paragraph to read as follows:

"(4) In addition to the financial responsibility provisions of paragraph (1) of this subsection, the President shall require

additional evidence of financial responsibility for incineration vessels in such amounts, and to cover such liabilities recognized by law, as the President deems appropriate, taking into account the potential risks posed by incineration and transport for incineration, and any other factors deemed relevant.".

(d) SAVINGS CLAUSE.—Section 106 of the Marine Protection, Research, and Sanctuaries Act of 1972 is amended by adding the following new subsection at the end thereof: 33 USC 1416.

"(g) SAVINGS CLAUSE.—Nothing in this Act shall restrict, affect or modify the rights of any person (1) to seek damages or enforcement of any standard or limitation under State law, including State common law, or (2) to seek damages under other Federal law, including maritime tort law, resulting from noncompliance with any requirement of this Act or any permit under this Act.". State and local governments.

(e) MARITIME TORT.—Section 107(h) of CERCLA is amended by inserting ", under maritime tort law," after "with this section" and by inserting before the period "or the absence of any physical damage to the proprietary interest of the claimant". 42 USC 9607.

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. POST-CLOSURE LIABILITY PROGRAM STUDY, REPORT TO CONGRESS, AND SUSPENSION OF LIABILITY TRANSFERS.

Subsection (k) of section 107 of CERCLA is amended by adding at the end the following new paragraphs: 42 USC 9607.

"(5) SUSPENSION OF LIABILITY TRANSFER.—Notwithstanding paragraphs (1), (2), (3), and (4) of this subsection and subsection (j) of section 111 of this Act, no liability shall be transferred to or assumed by the Post-Closure Liability Trust Fund established by section 232 of this Act prior to completion of the study required under paragraph (6) of this subsection, transmission of a report of such study to both Houses of Congress, and authorization of such a transfer or assumption by Act of Congress following receipt of such study and report. 42 USC 9641.

"(6) STUDY OF OPTIONS FOR POST-CLOSURE PROGRAM.—

"(A) STUDY.—The Comptroller General shall conduct a study of options for a program for the management of the liabilities associated with hazardous waste treatment, storage, and disposal sites after their closure which complements the policies set forth in the Hazardous and Solid Waste Amendments of 1984 and assures the protection of human health and the environment. 42 USC 6901 note.

"(B) PROGRAM ELEMENTS.—The program referred to in subparagraph (A) shall be designed to assure each of the following:

"(i) Incentives are created and maintained for the safe management and disposal of hazardous wastes so as to assure protection of human health and the environment.

"(ii) Members of the public will have reasonable confidence that hazardous wastes will be managed and disposed of safely and that resources will be available to address any problems that may arise and to cover costs of long-term monitoring, care, and maintenance of such sites.

"(iii) Persons who are or seek to become owners and operators of hazardous waste disposal facilities will be able to manage their potential future liabilities and to attract the investment capital necessary to build, operate, and close such facilities in a manner which assures protection of human health and the environment.

"(C) ASSESSMENTS.—The study under this paragraph shall include assessments of treatment, storage, and disposal facilities which have been or are likely to be issued a permit under section 3005 of the Solid Waste Disposal Act and the likelihood of future insolvency on the part of owners and operators of such facilities. Separate assessments shall be made for different classes of facilities and for different classes of land disposal facilities and shall include but not be limited to—

42 USC 6925.

"(i) the current and future financial capabilities of facility owners and operators;

"(ii) the current and future costs associated with facilities, including the costs of routine monitoring and maintenance, compliance monitoring, corrective action, natural resource damages, and liability for damages to third parties; and

"(iii) the availability of mechanisms by which owners and operators of such facilities can assure that current and future costs, including post-closure costs, will be financed.

"(D) PROCEDURES.—In carrying out the responsibilities of this paragraph, the Comptroller General shall consult with the Administrator, the Secretary of Commerce, the Secretary of the Treasury, and the heads of other appropriate Federal agencies.

"(E) CONSIDERATION OF OPTIONS.—In conducting the study under this paragraph, the Comptroller General shall consider various mechanisms and combinations of mechanisms to complement the policies set forth in the Hazardous and Solid Waste Amendments of 1984 to serve the purposes set forth in subparagraph (B) and to assure that the current and future costs associated with hazardous waste facilities, including post-closure costs, will be adequately financed and, to the greatest extent possible, borne by the owners and operators of such facilities. Mechanisms to be considered include, but are not limited to—

42 USC 6901 note.

"(i) revisions to closure, post-closure, and financial responsibility requirements under subtitles C and I of the Solid Waste Disposal Act;

42 USC 6921, 6991.

"(ii) voluntary risk pooling by owners and operators;

"(iii) legislation to require risk pooling by owners and operators;

"(iv) modification of the Post-Closure Liability Trust Fund previously established by section 232 of this Act, and the conditions for transfer of liability under this subsection, including limiting the transfer of some or all liability under this subsection only in the case of insolvency of owners and operators;

42 USC 9641.

"(v) private insurance;

"(vi) insurance provided by the Federal Government;

"(vii) coinsurance, reinsurance, or pooled-risk insurance, whether provided by the private sector or provided or assisted by the Federal Government; and

"(viii) creation of a new program to be administered by a new or existing Federal agency or by a federally chartered corporation.

"(F) RECOMMENDATIONS.—The Comptroller General shall consider options for funding any program under this section and shall, to the extent necessary, make recommendations to the appropriate committees of Congress for additional authority to implement such program.".

SEC. 202. HAZARDOUS MATERIALS TRANSPORTATION. 42 USC 9656.

(a) REGULATION REQUIREMENT.—Section 306(a) of CERCLA is amended (1) by striking out "within ninety days after the date of enactment of this Act" and inserting in lieu thereof "within 30 days after the enactment of the Superfund Amendments and Reauthorization Act of 1986" and (2) by inserting "and regulated" before "as a hazardous material".

(b) CONFORMING AMENDMENT.—Section 306(b) of CERCLA is amended by inserting "and regulation" after "prior to the effective date of the listing". 42 USC 9656.

SEC. 203. STATE PROCEDURAL REFORM.

(a) IN GENERAL.—Title III of CERCLA is amended by adding the following new section at the end thereof:

"SEC. 309. ACTIONS UNDER STATE LAW FOR DAMAGES FROM EXPOSURE TO HAZARDOUS SUBSTANCES. 42 USC 9658.

"(a) STATE STATUTES OF LIMITATIONS FOR HAZARDOUS SUBSTANCE CASES.—

"(1) EXCEPTION TO STATE STATUTES.—In the case of any action brought under State law for personal injury, or property damages, which are caused or contributed to by exposure to any hazardous substance, or pollutant or contaminant, released into the environment from a facility, if the applicable limitations period for such action (as specified in the State statute of limitations or under common law) provides a commencement date which is earlier than the federally required commencement date, such period shall commence at the federally required commencement date in lieu of the date specified in such State statute.

"(2) STATE LAW GENERALLY APPLICABLE.—Except as provided in paragraph (1), the statute of limitations established under State law shall apply in all actions brought under State law for personal injury, or property damages, which are caused or contributed to by exposure to any hazardous substance, or pollutant or contaminant, released into the environment from a facility.

"(3) ACTIONS UNDER SECTION 107.—Nothing in this section shall apply with respect to any cause of action brought under section 107 of this Act. 42 USC 9607.

"(b) DEFINITIONS.—As used in this section—

"(1) TITLE I TERMS.—The terms used in this section shall have the same meaning as when used in title I of this Act. 42 USC 9601.

"(2) APPLICABLE LIMITATIONS PERIOD.—The term 'applicable limitations period' means the period specified in a statute of

limitations during which a civil action referred to in subsection (a)(1) may be brought.

"(3) COMMENCEMENT DATE.—The term 'commencement date' means the date specified in a statute of limitations as the beginning of the applicable limitations period.

"(4) FEDERALLY REQUIRED COMMENCEMENT DATE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'federally required commencement date' means the date the plaintiff knew (or reasonably should have known) that the personal injury or property damages referred to in subsection (a)(1) were caused or contributed to by the hazardous substance or pollutant or contaminant concerned.

"(B) SPECIAL RULES.—In the case of a minor or incompetent plaintiff, the term 'federally required commencement date' means the later of the date referred to in subparagraph (A) or the following:

"(i) In the case of a minor, the date on which the minor reaches the age of majority, as determined by State law, or has a legal representative appointed.

"(ii) In the case of an incompetent individual, the date on which such individual becomes competent or has had a legal representative appointed.".

42 USC 9658 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall take effect with respect to actions brought after December 11, 1980.

42 USC 9631.

SEC. 204. CONFORMING AMENDMENT TO FUNDING PROVISIONS.

Post, p. 1774.

(a) HAZARDOUS SUBSTANCES SUPERFUND.—Section 221(a) of CERCLA is amended by striking out "Hazardous Substance Response Trust Fund" and inserting in lieu thereof "Hazardous Substances Superfund".

Post, p. 1774.

(b) CROSS REFERENCE TO FUNDING PROVISIONS.—Section 221(c) of CERCLA is amended to read as follows:

"(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Hazardous Substances Superfund established under subchapter A of chapter 98 of the Internal Revenue Code of 1954 shall be available for expenditure only as provided in section 111 of this Act.".

26 USC 9501.
Ante, p. 1642.

SEC. 205. CLEANUP OF PETROLEUM FROM LEAKING UNDERGROUND STORAGE TANKS.

42 USC 6991.

(a) DEFINITION OF PETROLEUM.—Section 9001(2)(B) of the Solid Waste Disposal Act is amended by striking out all that follows "petroleum" and inserting in lieu thereof a period. Section 9001 of such Act is amended by adding at the end thereof the following:

"(8) The term 'petroleum' means petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).".

42 USC 6991a.

(b) STATE INVENTORIES.—Section 9002 of the Solid Waste Disposal Act is amended by adding the following new subsection at the end thereof:

"(c) STATE INVENTORIES.—Each State shall make 2 separate inventories of all underground storage tanks in such State containing regulated substances. One inventory shall be made with respect to petroleum and one with respect to other regulated substances. In making such inventories, the State shall utilize and aggregate the

data in the notification forms submitted pursuant to subsections (a) and (b) of this section. Each State shall submit such aggregated data to the Administrator not later than 270 days after the enactment of the Superfund Amendments and Reauthorization Act of 1986.".

(c) FINANCIAL RESPONSIBILITY.—

(1) REQUIREMENTS.—Section 9003(c) of the Solid Waste Disposal Act is amended by striking "and" at the end of paragraph (4), striking the period at the end of paragraph (5) and substituting "; and" and by adding the following new paragraph at the end thereof: 42 USC 6991b.

"(6) requirements for maintaining evidence of financial responsibility for taking corrective action and compensating third parties for bodily injury and property damage caused by sudden and nonsudden accidental releases arising from operating an underground storage tank.".

(2) CONFORMING AMENDMENT.—Section 9003(d) of such Act is amended by striking out paragraph (1) and renumbering paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

(3) OTHER METHODS.—Section 9003(d)(1) of such Act (as redesignated by paragraph (2) of this subsection) is amended by striking out "or" after "credit," and by striking out the period at the end thereof and inserting in lieu thereof the following: "or any other method satisfactory to the Administrator.".

(4) Section 9003(d) of such Act is further amended by adding at the end thereof the following new paragraph:

"(5)(A) The Administrator, in promulgating financial responsibility regulations under this section, may establish an amount of coverage for particular classes or categories of underground storage tanks containing petroleum which shall satisfy such regulations and which shall not be less than $1,000,000 for each occurrence with an appropriate aggregate requirement. Regulations.

"(B) The Administrator may set amounts lower than the amounts required by subparagraph (A) of this paragraph for underground storage tanks containing petroleum which are at facilities not engaged in petroleum production, refining, or marketing and which are not used to handle substantial quantities of petroleum.

"(C) In establishing classes and categories for purposes of this paragraph, the Administrator may consider the following factors:

"(i) The size, type, location, storage, and handling capacity of underground storage tanks in the class or category and the volume of petroleum handled by such tanks.

"(ii) The likelihood of release and the potential extent of damage from any release from underground storage tanks in the class or category.

"(iii) The economic impact of the limits on the owners and operators of each such class or category, particularly relating to the small business segment of the petroleum marketing industry. Small business. Marketing.

"(iv) The availability of methods of financial responsibility in amounts greater than the amount established by this paragraph.

"(v) Such other factors as the Administrator deems pertinent.

"(D) The Administrator may suspend enforcement of the financial responsibility requirements for a particular class or category of underground storage tanks or in a particular State, if the Administrator makes a determination that methods of financial responsibility satisfying the requirements of this subsection are not generally available for underground storage tanks in that class or category, and—

"(i) steps are being taken to form a risk retention group for such class of tanks; or

"(ii) such State is taking steps to establish a fund pursuant to section 9004(c)(1) of this Act to be submitted as evidence of financial responsibility.

42 USC 6991c.

A suspension by the Administrator pursuant to this paragraph shall extend for a period not to exceed 180 days. A determination to suspend may be made with respect to the same class or category or for the same State at the end of such period, but only if substantial progress has been made in establishing a risk retention group, or the owners or operators in the class or category demonstrate, and the Administrator finds, that the formation of such a group is not possible and that the State is unable or unwilling to establish such a fund pursuant to clause (ii).".

42 USC 6991b.

(d) EPA RESPONSE PROGRAM.—Section 9003 of the Solid Waste Disposal Act is amended by adding after subsection (g) the following new subsection:

State and local governments.

"(h) EPA RESPONSE PROGRAM FOR PETROLEUM.—

"(1) BEFORE REGULATIONS.—Before the effective date of regulations under subsection (c), the Administrator (or a State pursuant to paragraph (7)) is authorized to—

"(A) require the owner or operator of an underground storage tank to undertake corrective action with respect to any release of petroleum when the Administrator (or the State) determines that such corrective action will be done properly and promptly by the owner or operator of the underground storage tank from which the release occurs; or

"(B) undertake corrective action with respect to any release of petroleum into the environment from an underground storage tank if such action is necessary, in the judgment of the Administrator (or the State), to protect human health and the environment.

The corrective action undertaken or required under this paragraph shall be such as may be necessary to protect human health and the environment. The Administrator shall use funds in the Leaking Underground Storage Tank Trust Fund for payment of costs incurred for corrective action under subparagraph (B), enforcement action under subparagraph (A), and cost recovery under paragraph (6) of this subsection. Subject to the priority requirements of paragraph (3), the Administrator (or the State) shall give priority in undertaking such actions under subparagraph (B) to cases where the Administrator (or the State) cannot identify a solvent owner or operator of the tank who will undertake action properly.

"(2) AFTER REGULATIONS.—Following the effective date of regulations under subsection (c), all actions or orders of the Administrator (or a State pursuant to paragraph (7)) described in paragraph (1) of this subsection shall be in conformity with such regulations. Following such effective date, the Adminis-

trator (or the State) may undertake corrective action with respect to any release of petroleum into the environment from an underground storage tank only if such action is necessary, in the judgment of the Administrator (or the State), to protect human health and the environment and one or more of the following situations exists:

"(A) No person can be found, within 90 days or such shorter period as may be necessary to protect human health and the environment, who is—

"(i) an owner or operator of the tank concerned,

"(ii) subject to such corrective action regulations, and

"(iii) capable of carrying out such corrective action properly.

"(B) A situation exists which requires prompt action by the Administrator (or the State) under this paragraph to protect human health and the environment.

"(C) Corrective action costs at a facility exceed the amount of coverage required by the Administrator pursuant to the provisions of subsections (c) and (d)(5) of this section and, considering the class or category of underground storage tank from which the release occurred, expenditures from the Leaking Underground Storage Tank Trust Fund are necessary to assure an effective corrective action.

"(D) The owner or operator of the tank has failed or refused to comply with an order of the Administrator under this subsection or section 9006 or with the order of a State under this subsection to comply with the corrective action regulations.

42 USC 6991e.

"(3) PRIORITY OF CORRECTIVE ACTIONS.—The Administrator (or a State pursuant to paragraph (7)) shall give priority in undertaking corrective actions under this subsection, and in issuing orders requiring owners or operators to undertake such actions, to releases of petroleum from underground storage tanks which pose the greatest threat to human health and the environment.

"(4) CORRECTIVE ACTION ORDERS.—The Administrator is authorized to issue orders to the owner or operator of an underground storage tank to carry out subparagraph (A) of paragraph (1) or to carry out regulations issued under subsection (c)(4). A State acting pursuant to paragraph (7) of this subsection is authorized to carry out subparagraph (A) of paragraph (1) only until the State's program is approved by the Administrator under section 9004 of this subtitle. Such orders shall be issued and enforced in the same manner and subject to the same requirements as orders under section 9006.

42 USC 6991c.

"(5) ALLOWABLE CORRECTIVE ACTIONS.—The corrective actions undertaken by the Administrator (or a State pursuant to paragraph (7)) under paragraph (1) or (2) may include temporary or permanent relocation of residents and alternative household water supplies. In connection with the performance of any corrective action under paragraph (1) or (2), the Administrator may undertake an exposure assessment as defined in paragraph (10) of this subsection or provide for such an assessment in a cooperative agreement with a State pursuant to paragraph (7) of this subsection. The costs of any such assessment may be treated as corrective action for purposes of paragraph (6), relating to cost recovery.

"(6) RECOVERY OF COSTS.—

"(A) IN GENERAL.—Whenever costs have been incurred by the Administrator, or by a State pursuant to paragraph (7), for undertaking corrective action or enforcement action with respect to the release of petroleum from an underground storage tank, the owner or operator of such tank shall be liable to the Administrator or the State for such costs. The liability under this paragraph shall be construed to be the standard of liability which obtains under section 311 of the Federal Water Pollution Control Act.

33 USC 1321.

"(B) RECOVERY.—In determining the equities for seeking the recovery of costs under subparagraph (A), the Administrator (or a State pursuant to paragraph (7) of this subsection) may consider the amount of financial responsibility required to be maintained under subsections (c) and (d)(5) of this section and the factors considered in establishing such amount under subsection (d)(5).

"(C) EFFECT ON LIABILITY.—

"(i) NO TRANSFERS OF LIABILITY.—No indemnification, hold harmless, or similar agreement or conveyance shall be effective to transfer from the owner or operator of any underground storage tank or from any person who may be liable for a release or threat of release under this subsection, to any other person the liability imposed under this subsection. Nothing in this subsection shall bar any agreement to insure, hold harmless, or indemnify a party to such agreement for any liability under this section.

"(ii) NO BAR TO CAUSE OF ACTION.—Nothing in this subsection, including the provisions of clause (i) of this subparagraph, shall bar a cause of action that an owner or operator or any other person subject to liability under this section, or a guarantor, has or would have, by reason of subrogation or otherwise against any person.

"(D) FACILITY.—For purposes of this paragraph, the term 'facility' means, with respect to any owner or operator, all underground storage tanks used for the storage of petroleum which are owned or operated by such owner or operator and located on a single parcel of property (or on any contiguous or adjacent property).

"(7) STATE AUTHORITIES.—

"(A) GENERAL.—A State may exercise the authorities in paragraphs (1) and (2) of this subsection, subject to the terms and conditions of paragraphs (3), (5), (9), (10), and (11), and including the authorities of paragraphs (4), (6), and (8) of this subsection if—

"(i) the Administrator determines that the State has the capabilities to carry out effective corrective actions and enforcement activities; and

Contracts.

"(ii) the Administrator enters into a cooperative agreement with the State setting out the actions to be undertaken by the State.

The Administrator may provide funds from the Leaking Underground Storage Tank Trust Fund for the reasonable costs of the State's actions under the cooperative agreement.

"(B) COST SHARE.—Following the effective date of the regulations under subsection (c) of this section, the State shall pay 10 per centum of the cost of corrective actions undertaken either by the Administrator or by the State under a cooperative agreement, except that the Administrator may take corrective action at a facility where immediate action is necessary to respond to an imminent and substantial endangerment to human health or the environment if the State fails to pay the cost share.

"(8) EMERGENCY PROCUREMENT POWERS.—Notwithstanding any other provision of law, the Administrator may authorize the use of such emergency procurement powers as he deems necessary.

"(9) DEFINITION OF OWNER.—As used in this subsection, the term 'owner' does not include any person who, without participating in the management of an underground storage tank and otherwise not engaged in petroleum production, refining, and marketing, holds indicia of ownership primarily to protect the owner's security interest in the tank.

"(10) DEFINITION OF EXPOSURE ASSESSMENT.—As used in this subsection, the term 'exposure assessment' means an assessment to determine the extent of exposure of, or potential for exposure of, individuals to petroleum from a release from an underground storage tank based on such factors as the nature and extent of contamination and the existence of or potential for pathways of human exposure (including ground or surface water contamination, air emissions, and food chain contamination), the size of the community within the likely pathways of exposure, and the comparison of expected human exposure levels to the short-term and long-term health effects associated with identified contaminants and any available recommended exposure or tolerance limits for such contaminants. Such assessment shall not delay corrective action to abate immediate hazards or reduce exposure.

"(11) FACILITIES WITHOUT FINANCIAL RESPONSIBILITY.—At any facility where the owner or operator has failed to maintain evidence of financial responsibility in amounts at least equal to the amounts established by subsection (d)(5)(A) of this section (or a lesser amount if such amount is applicable to such facility as a result of subsection (d)(5)(B) of this section) for whatever reason the Administrator shall expend no monies from the Leaking Underground Storage Tank Trust Fund to clean up releases at such facility pursuant to the provisions of paragraph (1) or (2) of this subsection. At such facilities the Administrator shall use the authorities provided in subparagraph (A) of paragraph (1) and paragraph (4) of this subsection and section 9006 of this subtitle to order corrective action to clean up such releases. States acting pursuant to paragraph (7) of this subsection shall use the authorities provided in subparagraph (A) of paragraph (1) and paragraph (4) of this subsection to order corrective action to clean up such releases. Notwithstanding the provisions of this paragraph, the Administrator may use monies from the fund to take the corrective actions authorized by paragraph (5) of this subsection to protect human health at such facilities and shall seek full recovery of the costs of all such actions pursuant to the provisions of paragraph (6)(A) of this subsection and without consideration of the factors in paragraph (6)(B) of this

42 USC 6991e.

subsection. Nothing in this paragraph shall prevent the Administrator (or a State pursuant to paragraph (7) of this subsection) from taking corrective action at a facility where there is no solvent owner or operator or where immediate action is necessary to respond to an imminent and substantial endangerment of human health or the environment.".

42 USC 6991c.

(e) FINANCIAL RESPONSIBILITY IN STATE PROGRAMS.—

(1) Section 9004(c)(1) of the Solid Waste Disposal Act is amended by striking out "financed by fees on tank owners and operators and".

(2) Section 9004(c)(2) of the Solid Waste Disposal Act is amended by striking out "or" after "credit," in the first sentence and by striking out the period at the end thereof and inserting in lieu thereof the following: "or any other method satisfactory to the Administrator.". Such section is further amended by adding after the word "terms" in the second sentence the following: "including the amount of coverage required for various classes and categories of underground storage tanks pursuant to section 9003(d)(5)".

Ante, p. 1697.

42 USC 6991d.

(f) AUTHORITY TO ENTER FOR CORRECTIVE ACTIONS.—

(1) Section 9005(a) of the Solid Waste Disposal Act is amended by inserting the words "taking any corrective action" after the word "study", inserting the words "acting pursuant to subsection (h)(7) of section 9003 or" after the words "or representative of a State", striking the word "and" before the words "permit such officer", and inserting the words "and permit such officer to have access for corrective action" after the words "relating to such tanks" in the first sentence thereof. Such section is further amended by inserting the words "taking corrective action," after the word "study," in the second sentence thereof.

(2) Section 9005(a) of the Solid Waste Disposal Act is amended by striking the word "and" at the end of paragraph (2), striking out the period at the end of paragraph (3) and inserting "; and", and adding the following new paragraph at the end thereof—

"(4) to take corrective action.".

(3) Section 9005 of the Solid Waste Disposal Act is amended by changing the heading thereof to read as follows—

"INSPECTIONS, MONITORING, TESTING AND CORRECTIVE ACTION".

(g) COORDINATION WITH OTHER LAWS.—Section 9008 of the Solid Waste Disposal Act is amended to read as follows:

"STATE AUTHORITY

42 USC 6991g.

"SEC. 9008. Nothing in this subtitle shall preclude or deny any right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, or standard of performance respecting underground storage tanks that is more stringent than a regulation, requirement, or standard of performance in effect under this subtitle or to impose any additional liability with respect to the release of regulated substances within such State or political subdivision.".

42 USC 6991b note.

(h) POLLUTION LIABILITY INSURANCE.—

(1) STUDY.—The Comptroller General shall conduct a study of the availability of pollution liability insurance, leak insurance, and contamination insurance for owners and operators of petroleum storage and distribution facilities. The study shall assess

the current and projected extent to which private insurance can contribute to the financial responsibility of owners and operators of underground storage tanks and the ability of owners and operators of underground storage tanks to maintain financial responsibility through other methods. The study shall consider the experience of owners and operators of marine vessels in getting insurance for their liabilities under the Federal Water Pollution Control Act and the operation of the Water Quality Insurance Syndicate.

Vessels.

33 USC 1251 note.

(2) REPORT.—The Comptroller General shall report the findings under this subsection to the Congress within 15 months after the enactment of this subsection. Such report shall include recommendations for legislative or administrative changes that will enable owners and operators of underground storage tanks to maintain financial responsibility sufficient to provide all clean-up costs and damages that may result from reasonably foreseeable releases and events.

(i) CRIMINAL PENALTIES RELATING TO USED OIL.—Subtitle C of the Solid Waste Disposal Act is amended as follows:

42 USC 6928.

(1) In paragraphs (4) and (5) of section 3008(d) after "hazardous waste" insert "or any used oil not identified or listed as a hazardous waste under this subtitle".

(2) Delete "accompanied by a manifest; ; or" in paragraph (5) and insert "accompanied by a manifest;".

(3) Insert "; or" after paragraph (6).

(4) Add the following new paragraph after paragraph (6):

"(7) knowingly stores, treats, transports, or causes to be transported, disposes of, or otherwise handles any used oil not identified or listed as a hazardous waste under subtitle C of the Solid Waste Disposal Act—

42 USC 6921.

"(A) in knowing violation of any material condition or requirement of a permit under this subtitle C; or

"(B) in knowing violation of any material condition or requirement of any applicable regulations or standards under this Act;".

(5) In section 3008(e):

(A) Insert "or used oil not identified or listed as a hazardous waste under this subtitle" immediately after "this subtitle".

(B) Strike "or" immediately before "(6)".

(C) Insert ", or (7)" immediately after "(6)".

(j) STATE PROGRAMS FOR USED OIL.—Section 3006 of the Solid Waste Disposal Act is amended by adding the following new subsection at the end thereof:

42 USC 6926.

"(h) STATE PROGRAMS FOR USED OIL.—In the case of used oil which is not listed or identified under this subtitle as a hazardous waste but which is regulated under section 3014, the provisions of this section regarding State programs shall apply in the same manner and to the same extent as such provisions apply to hazardous waste identified or listed under this subtitle.".

42 USC 6935.

SEC. 206. CITIZENS SUITS.

Title III of CERCLA is amended by adding the following new section after section 309:

42 USC 9659.

"SEC. 310. CITIZENS SUITS.

"(a) AUTHORITY TO BRING CIVIL ACTIONS.—Except as provided in subsections (d) and (e) of this section and in section 113(h) (relating to timing of judicial review), any person may commence a civil action on his own behalf—

Ante, p. 1650.

"(1) against any person (including the United States and any other governmental instrumentality or agency, to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any standard, regulation, condition, requirement, or order which has become effective pursuant to this Act (including any provision of an agreement under section 120, relating to Federal facilities); or

"(2) against the President or any other officer of the United States (including the Administrator of the Environmental Protection Agency and the Administrator of the ATSDR) where there is alleged a failure of the President or of such other officer to perform any act or duty under this Act, including an act or duty under section 120 (relating to Federal facilities), which is not discretionary with the President or such other officer.

Paragraph (2) shall not apply to any act or duty under the provisions of section 311 (relating to research, development, and demonstration).

"(b) VENUE.—

"(1) ACTIONS UNDER SUBSECTION (a)(1).—Any action under subsection (a)(1) shall be brought in the district court for the district in which the alleged violation occurred.

District of Columbia.

"(2) ACTIONS UNDER SUBSECTION (a)(2).—Any action brought under subsection (a)(2) may be brought in the United States District Court for the District of Columbia.

Law enforcement and crime.

"(c) RELIEF.—The district court shall have jurisdiction in actions brought under subsection (a)(1) to enforce the standard, regulation, condition, requirement, or order concerned (including any provision of an agreement under section 120), to order such action as may be necessary to correct the violation, and to impose any civil penalty provided for the violation. The district court shall have jurisdiction in actions brought under subsection (a)(2) to order the President or other officer to perform the act or duty concerned.

"(d) RULES APPLICABLE TO SUBSECTION (a)(1) ACTIONS.—

"(1) NOTICE.—No action may be commenced under subsection (a)(1) of this section before 60 days after the plaintiff has given notice of the violation to each of the following:

"(A) The President.

"(B) The State in which the alleged violation occurs.

"(C) Any alleged violator of the standard, regulation, condition, requirement, or order concerned (including any provision of an agreement under section 120).

President of U.S. Regulations.

Notice under this paragraph shall be given in such manner as the President shall prescribe by regulation.

"(2) DILIGENT PROSECUTION.—No action may be commenced under paragraph (1) of subsection (a) if the President has commenced and is diligently prosecuting an action under this Act, or under the Solid Waste Disposal Act to require compliance with the standard, regulation, condition, requirement, or order concerned (including any provision of an agreement under section 120).

42 USC 6901 note.

"(e) RULES APPLICABLE TO SUBSECTION (a)(2) ACTIONS.—No action may be commenced under paragraph (2) of subsection (a) before the 60th day following the date on which the plaintiff gives notice to the Administrator or other department, agency, or instrumentality that the plaintiff will commence such action. Notice under this subsection shall be given in such manner as the President shall prescribe by regulation.

President of U.S. Regulations.

"(f) COSTS.—The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to the prevailing or the substantially prevailing party whenever the court determines such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

18 USC app.

"(g) INTERVENTION.—In any action under this section, the United States or the State, or both, if not a party may intervene as a matter of right. For other provisions regarding intervention, see section 113.

"(h) OTHER RIGHTS.—This Act does not affect or otherwise impair the rights of any person under Federal, State, or common law, except with respect to the timing of review as provided in section 113(h) or as otherwise provided in section 309 (relating to actions under State law).

Ante, p. 1650.

"(i) DEFINITIONS.—The terms used in this section shall have the same meanings as when used in title I.".

42 USC 9601.

SEC. 207. INDIAN TRIBES.

(a) DEFINITION.—For definition of Indian tribe, see the amendments made by section 101 of this Act.

(b) FUTURE MAINTENANCE AND COST SHARING.—Section 104(c)(3) of CERCLA is amended by adding at the end thereof the following: "In the case of remedial action to be taken on land or water held by an Indian tribe, held by the United States in trust for Indians, held by a member of an Indian tribe (if such land or water is subject to a trust restriction on alienation), or otherwise within the borders of an Indian reservation, the requirements of this paragraph for assurances regarding future maintenance and cost-sharing shall not apply, and the President shall provide the assurance required by this paragraph regarding the availability of a hazardous waste disposal facility.".

42 USC 9604.

(c) LIABILITY.—Section 107 of CERCLA is amended as follows:

42 USC 9607.

(1) In subsection (a) by inserting "or an Indian tribe" after "State";

(2) In subsection (f):

(A) Insert after "State" the third time that word appears the following: "and to any Indian tribe for natural resources belonging to, managed by, controlled by, or appertaining to such tribe, or held in trust for the benefit of such tribe, or belonging to a member of such tribe if such resources are subject to a trust restriction on alienation".

(B) Insert "or Indian tribe" after "State" the fourth time that word appears.

(C) Add before the period at the end of the first sentence the following: ", so long as, in the case of damages to an Indian tribe occurring pursuant to a Federal permit or license, the issuance of that permit or license was not

inconsistent with the fiduciary duty of the United States with respect to such Indian tribe".

(D) Insert "or the Indian tribe" after "State government".

(3) In subsection (i) insert "or Indian tribe" after "State" the first time it appears.

(4) In subsection (j) insert "or Indian tribe" after "State" the first time it appears.

42 USC 9611.

(d) NATURAL RESOURCES CLAIMS, DELEGATION, ETC.—Section 111 of CERCLA is amended as follows:

(1) In subsection (b), insert before the period at the end thereof the following: ", or by any Indian tribe or by the United States acting on behalf of any Indian tribe for natural resources belonging to, managed by, controlled by, or appertaining to such tribe, or held in trust for the benefit of such tribe, or belonging to a member of such tribe if such resources are subject to a trust restriction on alienation";

(2) In subsection (c)(2) insert "or Indian tribe" after "State".

(3) In subsection (f) insert "or Indian tribe" after "State"; and

(4) In subsection (i) insert after "State," the following: "and by the governing body of any Indian tribe having sustained damage to natural resources belonging to, managed by, controlled by, or appertaining to such tribe, or held in trust for the benefit of such tribe, or belonging to a member of such tribe if such resources are subject to a trust restriction on alienation,".

(e) TREATMENT OF TRIBES GENERALLY.—Title I of CERCLA is amended by adding the following new section after section 125:

42 USC 9626.

"SEC. 126. INDIAN TRIBES.

"(a) TREATMENT GENERALLY.—The governing body of an Indian tribe shall be afforded substantially the same treatment as a State with respect to the provisions of section 103(a) (regarding notification of releases), section 104(c)(2) (regarding consultation on remedial actions), section 104(e) (regarding access to information), section 104(i) (regarding health authorities) and section 105 (regarding roles and responsibilities under the national contingency plan and submittal of priorities for remedial action, but not including the provision regarding the inclusion of at least one facility per State on the National Priorities List).

42 USC 9603.
42 USC 9604.
Ante, p. 1636; 42 USC 9605.

President of U.S.
Health and medical care.

"(b) COMMUNITY RELOCATION.—Should the President determine that proper remedial action is the permanent relocation of tribal members away from a contaminated site because it is cost effective and necessary to protect their health and welfare, such finding must be concurred in by the affected tribal government before relocation shall occur. The President, in cooperation with the Secretary of the Interior, shall also assure that all benefits of the relocation program are provided to the affected tribe and that alternative land of equivalent value is available and satisfactory to the tribe. Any lands acquired for relocation of tribal members shall be held in trust by the United States for the benefit of the tribe.

Real property.

President of U.S.

"(c) STUDY.—The President shall conduct a survey, in consultation with the Indian tribes, to determine the extent of hazardous waste sites on Indian lands. Such survey shall be included within a report which shall make recommendations on the program needs of tribes under this Act, with particular emphasis on how tribal participation in the administration of such programs can be maximized. Such report shall be submitted to Congress along with the President's budget request for fiscal year 1988.

Reports.

"(d) LIMITATION.—Notwithstanding any other provision of this Act, no action under this Act by an Indian tribe shall be barred until the later of the following:

"(1) The applicable period of limitations has expired.

"(2) 2 years after the United States, in its capacity as trustee for the tribe, gives written notice to the governing body of the tribe that it will not present a claim or commence an action on behalf of the tribe or fails to present a claim or commence an action within the time limitations specified in this Act.". Claims.

SEC. 208. INSURABILITY STUDY.

Section 301 of CERCLA is amended by adding the following new subsection at the end thereof: Post, p. 1726. 42 USC 9651.

"(g) INSURABILITY STUDY.—

"(1) STUDY BY COMPTROLLER GENERAL.—The Comptroller General of the United States, in consultation with the persons described in paragraph (2), shall undertake a study to determine the insurability, and effects on the standard of care, of the liability of each of the following:

"(A) Persons who generate hazardous substances: liability for costs and damages under this Act.

"(B) Persons who own or operate facilities: liability for costs and damages under this Act.

"(C) Persons liable for injury to persons or property caused by the release of hazardous substances into the environment.

"(2) CONSULTATION.—In conducting the study under this subsection, the Comptroller General shall consult with the following:

"(A) Representatives of the Administrator.

"(B) Representatives of persons described in subparagraphs (A) through (C) of the preceding paragraph.

"(C) Representatives (i) of groups or organizations comprised generally of persons adversely affected by releases or threatened releases of hazardous substances and (ii) of groups organized for protecting the interests of consumers.

"(D) Representatives of property and casualty insurers.

"(E) Representatives of reinsurers.

"(F) Persons responsible for the regulation of insurance at the State level.

"(3) ITEMS EVALUATED.—The study under this section shall include, among other matters, an evaluation of the following:

"(A) Current economic conditions in, and the future outlook for, the commercial market for insurance and reinsurance.

"(B) Current trends in statutory and common law remedies.

"(C) The impact of possible changes in traditional standards of liability, proof, evidence, and damages on existing statutory and common law remedies.

"(D) The effect of the standard of liability and extent of the persons upon whom it is imposed under this Act on the protection of human health and the environment and on the availability, underwriting, and pricing of insurance coverage.

"(E) Current trends, if any, in the judicial interpretation and construction of applicable insurance contracts, together

with the degree to which amendments in the language of such contracts and the description of the risks assumed, could affect such trends.

"(F) The frequency and severity of a representative sample of claims closed during the calendar year immediately preceding the enactment of this subsection.

"(G) Impediments to the acquisition of insurance or other means of obtaining liability coverage other than those referred to in the preceding subparagraphs.

"(H) The effects of the standards of liability and financial responsibility requirements imposed pursuant to this Act on the cost of, and incentives for, developing and demonstrating alternative and innovative treatment technologies, as well as waste generation minimization.

Reports.

"(4) SUBMISSION.—The Comptroller General shall submit a report on the results of the study to Congress with appropriate recommendations within 12 months after the enactment of this subsection.".

SEC. 209. RESEARCH, DEVELOPMENT, AND DEMONSTRATION.

42 USC 9660 note.

(a) PURPOSE.—The purposes of this section are as follows:

(1) To establish a comprehensive and coordinated Federal program of research, development, demonstration, and training for the purpose of promoting the development of alternative and innovative treatment technologies that can be used in response actions under the CERCLA program, to provide incentives for the development and use of such technologies, and to improve the scientific capability to assess, detect and evaluate the effects on and risks to human health from hazardous substances.

Schools and colleges. Education.

(2) To establish a basic university research and education program within the Department of Health and Human Services and a research, demonstration, and training program within the Environmental Protection Agency.

(3) To reserve certain funds from the Hazardous Substance Trust Fund to support a basic research program within the Department of Health and Human Services, and an applied and developmental research program within the Environmental Protection Agency.

(4) To enhance the Environmental Protection Agency's internal research capabilities related to CERCLA activities, including site assessment and technology evaluation.

(5) To provide incentives for the development of alternative and innovative treatment technologies in a manner that supplements or coordinates with, but does not compete with or duplicate, private sector development of such technologies.

(b) AMENDMENT OF CERCLA.—Title III of CERCLA is amended by adding the following new section at the end thereof:

42 USC 9660.

"SEC. 311. RESEARCH, DEVELOPMENT, AND DEMONSTRATION.

"(a) HAZARDOUS SUBSTANCE RESEARCH AND TRAINING.—

"(1) AUTHORITIES OF SECRETARY.—The Secretary of Health and Human Services (hereinafter in this subsection referred to as the Secretary), in consultation with the Administrator, shall establish and support a basic research and training program (through grants, cooperative agreements, and contracts) consisting of the following:

"(A) Basic research (including epidemiologic and ecologic studies) which may include each of the following:

"(i) Advanced techniques for the detection, assessment, and evaluation of the effects on human health of hazardous substances.

"(ii) Methods to assess the risks to human health presented by hazardous substances.

"(iii) Methods and technologies to detect hazardous substances in the environment and basic biological, chemical, and physical methods to reduce the amount and toxicity of hazardous substances.

"(B) Training, which may include each of the following:

"(i) Short courses and continuing education for State and local health and environment agency personnel and other personnel engaged in the handling of hazardous substances, in the management of facilities at which hazardous substances are located, and in the evaluation of the hazards to human health presented by such facilities.

"(ii) Graduate or advanced training in environmental and occupational health and safety and in the public health and engineering aspects of hazardous waste control.

"(iii) Graduate training in the geosciences, including hydrogeology, geological engineering, geophysics, geochemistry, and related fields necessary to meet professional personnel needs in the public and private sectors and to effectuate the purposes of this Act.

"(2) DIRECTOR OF NIEHS.—The Director of the National Institute for Environmental Health Sciences shall cooperate fully with the relevant Federal agencies referred to in subparagraph (A) of paragraph (5) in carrying out the purposes of this section.

"(3) RECIPIENTS OF GRANTS, ETC.—A grant, cooperative agreement, or contract may be made or entered into under paragraph (1) with an accredited institution of higher education. The institution may carry out the research or training under the grant, cooperative agreement, or contract through contracts, including contracts with any of the following:

"(A) Generators of hazardous wastes.

"(B) Persons involved in the detection, assessment, evaluation, and treatment of hazardous substances.

"(C) Owners and operators of facilities at which hazardous substances are located.

"(D) State and local governments.

"(4) PROCEDURES.—In making grants and entering into cooperative agreements and contracts under this subsection, the Secretary shall act through the Director of the National Institute for Environmental Health Sciences. In considering the allocation of funds for training purposes, the Director shall ensure that at least one grant, cooperative agreement, or contract shall be awarded for training described in each of clauses (i), (ii), and (iii) of paragraph (1)(B). Where applicable, the Director may choose to operate training activities in cooperation with the Director of the National Institute for Occupational Safety and Health. The procedures applicable to grants and contracts under title IV of the Public Health Service Act shall be followed under this subsection.

Grants.
Contracts.

42 USC 281.

"(5) ADVISORY COUNCIL.—To assist in the implementation of this subsection and to aid in the coordination of research and demonstration and training activities funded from the Fund under this section, the Secretary shall appoint an advisory council (hereinafter in this subsection referred to as the 'Advisory Council') which shall consist of representatives of the following:

"(A) The relevant Federal agencies.

"(B) The chemical industry.

"(C) The toxic waste management industry.

"(D) Institutions of higher education.

"(E) State and local health and environmental agencies.

"(F) The general public.

"(6) PLANNING.—Within nine months after the date of the enactment of this subsection, the Secretary, acting through the Director of the National Institute for Environmental Health Sciences, shall issue a plan for the implementation of paragraph (1). The plan shall include priorities for actions under paragraph (1) and include research and training relevant to scientific and technological issues resulting from site specific hazardous substance response experience. The Secretary shall, to the maximum extent practicable, take appropriate steps to coordinate program activities under this plan with the activities of other Federal agencies in order to avoid duplication of effort. The plan shall be consistent with the need for the development of new technologies for meeting the goals of response actions in accordance with the provisions of this Act. The Advisory Council shall be provided an opportunity to review and comment on the plan and priorities and assist appropriate coordination among the relevant Federal agencies referred to in subparagraph (A) of paragraph (5).

Science and technology.

"(b) ALTERNATIVE OR INNOVATIVE TREATMENT TECHNOLOGY RESEARCH AND DEMONSTRATION PROGRAM.—

Health and medical care.

"(1) ESTABLISHMENT.—The Administrator is authorized and directed to carry out a program of research, evaluation, testing, development, and demonstration of alternative or innovative treatment technologies (hereinafter in this subsection referred to as the 'program') which may be utilized in response actions to achieve more permanent protection of human health and welfare and the environment.

"(2) ADMINISTRATION.—The program shall be administered by the Administrator, acting through an office of technology demonstration and shall be coordinated with programs carried out by the Office of Solid Waste and Emergency Response and the Office of Research and Development.

"(3) CONTRACTS AND GRANTS.—In carrying out the program, the Administrator is authorized to enter into contracts and cooperative agreements with, and make grants to, persons, public entities, and nonprofit private entities which are exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1954. The Administrator shall, to the maximum extent possible, enter into appropriate cost sharing arrangements under this subsection.

26 USC 501.

"(4) USE OF SITES.—In carrying out the program, the Administrator may arrange for the use of sites at which a response may be undertaken under section 104 for the purposes of carrying out research, testing, evaluation, development, and demonstra-

42 USC 9604.

tion projects. Each such project shall be carried out under such terms and conditions as the Administrator shall require to assure the protection of human health and the environment and to assure adequate control by the Administrator of the research, testing, evaluation, development, and demonstration activities at the site.

Health and medical care.

"(5) DEMONSTRATION ASSISTANCE.—

"(A) PROGRAM COMPONENTS.—The demonstration assistance program shall include the following:

"(i) The publication of a solicitation and the evaluation of applications for demonstration projects utilizing alternative or innovative technologies.

"(ii) The selection of sites which are suitable for the testing and evaluation of innovative technologies.

"(iii) The development of detailed plans for innovative technology demonstration projects.

"(iv) The supervision of such demonstration projects and the providing of quality assurance for data obtained.

"(v) The evaluation of the results of alternative innovative technology demonstration projects and the determination of whether or not the technologies used are effective and feasible.

"(B) SOLICITATION.—Within 90 days after the date of the enactment of this section, and no less often than once every 12 months thereafter, the Administrator shall publish a solicitation for innovative or alternative technologies at a stage of development suitable for full-scale demonstrations at sites at which a response action may be undertaken under section 104. The purpose of any such project shall be to demonstrate the use of an alternative or innovative treatment technology with respect to hazardous substances or pollutants or contaminants which are located at the site or which are to be removed from the site. The solicitation notice shall prescribe information to be included in the application, including technical and economic data derived from the applicant's own research and development efforts, and other information sufficient to permit the Administrator to assess the technology's potential and the types of remedial action to which it may be applicable.

42 USC 9604.

"(C) APPLICATIONS.—Any person and any public or private nonprofit entity may submit an application to the Administrator in response to the solicitation. The application shall contain a proposed demonstration plan setting forth how and when the project is to be carried out and such other information as the Administrator may require.

"(D) PROJECT SELECTION.—In selecting technologies to be demonstrated, the Administrator shall fully review the applications submitted and shall consider at least the criteria specified in paragraph (7). The Administrator shall select or refuse to select a project for demonstration under this subsection within 90 days of receiving the completed application for such project. In the case of a refusal to select the project, the Administrator shall notify the applicant within such 90-day period of the reasons for his refusal.

"(E) SITE SELECTION.—The Administrator shall propose 10 sites at which a response may be undertaken under section

42 USC 9604.

104 to be the location of any demonstration project under this subsection within 60 days after the close of the public comment period. After an opportunity for notice and public comment, the Administrator shall select such sites and projects. In selecting any such site, the Administrator shall take into account the applicant's technical data and preferences either for onsite operation or for utilizing the site as a source of hazardous substances or pollutants or contaminants to be treated offsite.

"(F) DEMONSTRATION PLAN.—Within 60 days after the selection of the site under this paragraph to be the location of a demonstration project, the Administrator shall establish a final demonstration plan for the project, based upon the demonstration plan contained in the application for the project. Such plan shall clearly set forth how and when the demonstration project will be carried out.

Contracts.

"(G) SUPERVISION AND TESTING.—Each demonstration project under this subsection shall be performed by the applicant, or by a person satisfactory to the applicant, under the supervision of the Administrator. The Administrator shall enter into a written agreement with each applicant granting the Administrator the responsibility and authority for testing procedures, quality control, monitoring, and other measurements necessary to determine and evaluate the results of the demonstration project. The Administrator may pay the costs of testing, monitoring, quality control, and other measurements required by the Administrator to determine and evaluate the results of the demonstration project, and the limitations established by subparagraph (J) shall not apply to such costs.

"(H) PROJECT COMPLETION.—Each demonstration project under this subsection shall be completed within such time as is established in the demonstration plan.

Contracts.

"(I) EXTENSIONS.—The Administrator may extend any deadline established under this paragraph by mutual agreement with the applicant concerned.

"(J) FUNDING RESTRICTIONS.—The Administrator shall not provide any Federal assistance for any part of a full-scale field demonstration project under this subsection to any applicant unless such applicant can demonstrate that it cannot obtain appropriate private financing on reasonable terms and conditions sufficient to carry out such demonstration project without such Federal assistance. The total Federal funds for any full-scale field demonstration project under this subsection shall not exceed 50 percent of the total cost of such project estimated at the time of the award of such assistance. The Administrator shall not expend more than $10,000,000 for assistance under the program in any fiscal year and shall not expend more than $3,000,000 for any single project.

42 USC 9604.
Reports.

"(6) FIELD DEMONSTRATIONS.—In carrying out the program, the Administrator shall initiate or cause to be initiated at least 10 field demonstration projects of alternative or innovative treatment technologies at sites at which a response may be undertaken under section 104, in fiscal year 1987 and each of the succeeding three fiscal years. If the Administrator determines that 10 field demonstration projects under this subsection

cannot be initiated consistent with the criteria set forth in paragraph (7) in any of such fiscal years, the Administrator shall transmit to the appropriate committees of Congress a report explaining the reasons for his inability to conduct such demonstration projects.

"(7) CRITERIA.—In selecting technologies to be demonstrated under this subsection, the Administrator shall, consistent with the protection of human health and the environment, consider each of the following criteria:

Health and medical care.

"(A) The potential for contributing to solutions to those waste problems which pose the greatest threat to human health, which cannot be adequately controlled under present technologies, or which otherwise pose significant management difficulties.

"(B) The availability of technologies which have been sufficiently developed for field demonstration and which are likely to be cost-effective and reliable.

"(C) The availability and suitability of sites for demonstrating such technologies, taking into account the physical, biological, chemical, and geological characteristics of the sites, the extent and type of contamination found at the site, and the capability to conduct demonstration projects in such a manner as to assure the protection of human health and the environment.

"(D) The likelihood that the data to be generated from the demonstration project at the site will be applicable to other sites.

"(8) TECHNOLOGY TRANSFER.—In carrying out the program, the Administrator shall conduct a technology transfer program including the development, collection, evaluation, coordination, and dissemination of information relating to the utilization of alternative or innovative treatment technologies for response actions. The Administrator shall establish and maintain a central reference library for such information. The information maintained by the Administrator shall be made available to the public, subject to the provisions of section 552 of title 5 of the United States Code and section 1905 of title 18 of the United States Code, and to other Government agencies in a manner that will facilitate its dissemination; except, that upon a showing satisfactory to the Administrator by any person that any information or portion thereof obtained under this subsection by the Administrator directly or indirectly from such person, would, if made public, divulge—

Public information. Classified information. Law enforcement and crime.

"(A) trade secrets; or

"(B) other proprietary information of such person,

the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18 of the United States Code. This subsection is not authority to withhold information from Congress or any committee of Congress upon the request of the chairman of such committee.

"(9) TRAINING.—The Administrator is authorized and directed to carry out, through the Office of Technology Demonstration, a program of training and an evaluation of training needs for each of the following:

"(A) Training in the procedures for the handling and removal of hazardous substances for employees who handle hazardous substances.

"(B) Training in the management of facilities at which hazardous substances are located and in the evaluation of the hazards to human health presented by such facilities for State and local health and environment agency personnel.

"(10) DEFINITION.—For purposes of this subsection, the term 'alternative or innovative treatment technologies' means those technologies, including proprietary or patented methods, which permanently alter the composition of hazardous waste through chemical, biological, or physical means so as to significantly reduce the toxicity, mobility, or volume (or any combination thereof) of the hazardous waste or contaminated materials being treated. The term also includes technologies that characterize or assess the extent of contamination, the chemical and physical character of the contaminants, and the stresses imposed by the contaminants on complex ecosystems at sites.

Grants. Contracts. Health and medical care.

"(c) HAZARDOUS SUBSTANCE RESEARCH.—The Administrator may conduct and support, through grants, cooperative agreements, and contracts, research with respect to the detection, assessment, and evaluation of the effects on and risks to human health of hazardous substances and detection of hazardous substances in the environment. The Administrator shall coordinate such research with the Secretary of Health and Human Services, acting through the advisory council established under this section, in order to avoid duplication of effort.

Grants.

"(d) UNIVERSITY HAZARDOUS SUBSTANCE RESEARCH CENTERS.—

"(1) GRANT PROGRAM.—The Administrator shall make grants to institutions of higher learning to establish and operate not fewer than 5 hazardous substance research centers in the United States. In carrying out the program under this subsection, the Administrator should seek to have established and operated 10 hazardous substance research centers in the United States.

"(2) RESPONSIBILITIES OF CENTERS.—The responsibilities of each hazardous substance research center established under this subsection shall include, but not be limited to, the conduct of research and training relating to the manufacture, use, transportation, disposal, and management of hazardous substances and publication and dissemination of the results of such research.

"(3) APPLICATIONS.—Any institution of higher learning interested in receiving a grant under this subsection shall submit to the Administrator an application in such form and containing such information as the Administrator may require by regulation.

"(4) SELECTION CRITERIA.—The Administrator shall select recipients of grants under this subsection on the basis of the following criteria:

"(A) The hazardous substance research center shall be located in a State which is representative of the needs of the region in which such State is located for improved hazardous waste management.

"(B) The grant recipient shall be located in an area which has experienced problems with hazardous substance management.

"(C) There is available to the grant recipient for carrying out this subsection demonstrated research resources.

"(D) The capability of the grant recipient to provide leadership in making national and regional contributions to the solution of both long-range and immediate hazardous substance management problems.

"(E) The grant recipient shall make a commitment to support ongoing hazardous substance research programs with budgeted institutional funds of at least $100,000 per year.

"(F) The grant recipient shall have an interdisciplinary staff with demonstrated expertise in hazardous substance management and research.

"(G) The grant recipient shall have a demonstrated ability to disseminate results of hazardous substance research and educational programs through an interdisciplinary continuing education program.

"(H) The projects which the grant recipient proposes to carry out under the grant are necessary and appropriate.

"(5) MAINTENANCE OF EFFORT.—No grant may be made under this subsection in any fiscal year unless the recipient of such grant enters into such agreements with the Administrator as the Administrator may require to ensure that such recipient will maintain its aggregate expenditures from all other sources for establishing and operating a regional hazardous substance research center and related research activities at or above the average level of such expenditures in its 2 fiscal years preceding the date of the enactment of this subsection.

"(6) FEDERAL SHARE.—The Federal share of a grant under this subsection shall not exceed 80 percent of the costs of establishing and operating the regional hazardous substance research center and related research activities carried out by the grant recipient.

"(7) LIMITATION ON USE OF FUNDS.—No funds made available to carry out this subsection shall be used for acquisition of real property (including buildings) or construction of any building. Real property.

"(8) ADMINISTRATION THROUGH THE OFFICE OF THE ADMINISTRATOR.—Administrative responsibility for carrying out this subsection shall be in the Office of the Administrator.

"(9) EQUITABLE DISTRIBUTION OF FUNDS.—The Administrator shall allocate funds made available to carry out this subsection equitably among the regions of the United States.

"(10) TECHNOLOGY TRANSFER ACTIVITIES.—Not less than five percent of the funds made available to carry out this subsection for any fiscal year shall be available to carry out technology transfer activities.

"(e) REPORT TO CONGRESS.—At the time of the submission of the annual budget request to Congress, the Administrator shall submit to the appropriate committees of the House of Representatives and the Senate and to the advisory council established under subsection (a), a report on the progress of the research, development, and demonstration program authorized by subsection (b), including an evaluation of each demonstration project completed in the preceding fiscal year, findings with respect to the efficacy of such demonstrated technologies in achieving permanent and significant reductions in risk from hazardous wastes, the costs of such demonstration projects, and the potential applicability of, and projected costs for, such technologies at other hazardous substance sites.

42 USC 6901 note.

"(f) SAVING PROVISION.—Nothing in this section shall be construed to affect the provisions of the Solid Waste Disposal Act.

"(g) SMALL BUSINESS PARTICIPATION.—The Administrator shall ensure, to the maximum extent practicable, an adequate opportunity for small business participation in the program established by subsection (b).".

SEC. 210. POLLUTION LIABILITY INSURANCE.

CERCLA is amended by adding the following new title at the end thereof:

"TITLE IV—POLLUTION INSURANCE

42 USC 9671.

"SEC. 401. DEFINITIONS.

"As used in this title—

"(1) INSURANCE.—The term 'insurance' means primary insurance, excess insurance, reinsurance, surplus lines insurance, and any other arrangement for shifting and distributing risk which is determined to be insurance under applicable State or Federal law.

"(2) POLLUTION LIABILITY.—The term 'pollution liability' means liability for injuries arising from the release of hazardous substances or pollutants or contaminants.

"(3) RISK RETENTION GROUP.—The term 'risk retention group' means any corporation or other limited liability association taxable as a corporation, or as an insurance company, formed under the laws of any State—

"(A) whose primary activity consists of assuming and spreading all, or any portion, of the pollution liability of its group members;

"(B) which is organized for the primary purpose of conducting the activity described under subparagraph (A);

"(C) which is chartered or licensed as an insurance company and authorized to engage in the business of insurance under the laws of any State; and

"(D) which does not exclude any person from membership in the group solely to provide for members of such a group a competitive advantage over such a person.

"(4) PURCHASING GROUP.—The term 'purchasing group' means any group of persons which has as one of its purposes the purchase of pollution liability insurance on a group basis.

"(5) STATE.—The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and any other territory or possession over which the United States has jurisdiction.

42 USC 9672.

"SEC. 402. STATE LAWS; SCOPE OF TITLE.

"(a) STATE LAWS.—Nothing in this title shall be construed to affect either the tort law or the law governing the interpretation of insurance contracts of any State. The definitions of pollution liability and pollution liability insurance under any State law shall not be applied for the purposes of this title, including recognition or qualification of risk retention groups or purchasing groups.

"(b) SCOPE OF TITLE.—The authority to offer or to provide insurance under this title shall be limited to coverage of pollution liability risks and this title does not authorize a risk retention group or purchasing group to provide coverage of any other line of insurance.

"SEC. 403. RISK RETENTION GROUPS. 42 USC 9673.

"(a) EXEMPTION.—Except as provided in this section, a risk retention group shall be exempt from the following:

"(1) A State law, rule, or order which makes unlawful, or regulates, directly or indirectly, the operation of a risk retention group.

"(2) A State law, rule, or order which requires or permits a risk retention group to participate in any insurance insolvency guaranty association to which an insurer licensed in the State is required to belong.

"(3) A State law, rule, or order which requires any insurance policy issued to a risk retention group or any member of the group to be countersigned by an insurance agent or broker residing in the State.

"(4) A State law, rule, or order which otherwise discriminates against a risk retention group or any of its members.

"(b) EXCEPTIONS.—

"(1) STATE LAWS GENERALLY APPLICABLE.—Nothing in subsection (a) shall be construed to affect the applicability of State laws generally applicable to persons or corporations. The State in which a risk retention group is chartered may regulate the formation and operation of the group.

"(2) STATE REGULATIONS NOT SUBJECT TO EXEMPTION.—Subsection (a) shall not apply to any State law which requires a risk retention group to do any of the following:

"(A) Comply with the unfair claim settlement practices law of the State.

"(B) Pay, on a nondiscriminatory basis, applicable premium and other taxes which are levied on admitted insurers and surplus line insurers, brokers, or policyholders under the laws of the State.

"(C) Participate, on a nondiscriminatory basis, in any mechanism established or authorized under the law of the State for the equitable apportionment among insurers of pollution liability insurance losses and expenses incurred on policies written through such mechanism.

"(D) Submit to the appropriate authority reports and other information required of licensed insurers under the laws of a State relating solely to pollution liability insurance losses and expenses.

"(E) Register with and designate the State insurance commissioner as its agent solely for the purpose of receiving service of legal documents or process.

"(F) Furnish, upon request, such commissioner a copy of any financial report submitted by the risk retention group to the commissioner of the chartering or licensing jurisdiction.

"(G) Submit to an examination by the State insurance commissioner in any State in which the group is doing business to determine the group's financial condition, if—

"(i) the commissioner has reason to believe the risk retention group is in a financially impaired condition; and

"(ii) the commissioner of the jurisdiction in which the group is chartered has not begun or has refused to initiate an examination of the group.

"(H) Comply with a lawful order issued in a delinquency proceeding commenced by the State insurance commissioner if the commissioner of the jurisdiction in which the group is chartered has failed to initiate such a proceeding after notice of a finding of financial impairment under subparagraph (G).

"(c) APPLICATION OF EXEMPTIONS.—The exemptions specified in subsection (a) apply to—

"(1) pollution liability insurance coverage provided by a risk retention group for—

"(A) such group; or

"(B) any person who is a member of such group;

"(2) the sale of pollution liability insurance coverage for a risk retention group; and

"(3) the provision of insurance related services or management services for a risk retention group or any member of such a group.

State and local governments. Discrimination, prohibition.

"(d) AGENTS OR BROKERS.—A State may require that a person acting, or offering to act, as an agent or broker for a risk retention group obtain a license from that State, except that a State may not impose any qualification or requirement which discriminates against a nonresident agent or broker.

42 USC 9674.

"SEC. 404. PURCHASING GROUPS.

"(a) EXEMPTION.—Except as provided in this section, a purchasing group is exempt from the following:

"(1) A State law, rule, or order which prohibits the establishment of a purchasing group.

"(2) A State law, rule, or order which makes it unlawful for an insurer to provide or offer to provide insurance on a basis providing, to a purchasing group or its member, advantages, based on their loss and expense experience, not afforded to other persons with respect to rates, policy forms, coverages, or other matters.

"(3) A State law, rule, or order which prohibits a purchasing group or its members from purchasing insurance on the group basis described in paragraph (2) of this subsection.

"(4) A State law, rule, or order which prohibits a purchasing group from obtaining insurance on a group basis because the group has not been in existence for a minimum period of time or because any member has not belonged to the group for a minimum period of time.

"(5) A State law, rule, or order which requires that a purchasing group must have a minimum number of members, common ownership or affiliation, or a certain legal form.

"(6) A State law, rule, or order which requires that a certain percentage of a purchasing group must obtain insurance on a group basis.

"(7) A State law, rule, or order which requires that any insurance policy issued to a purchasing group or any members of the group be countersigned by an insurance agent or broker residing in that State.

"(8) A State law, rule, or order which otherwise discriminate against a purchasing group or any of its members.

"(b) APPLICATION OF EXEMPTIONS.—The exemptions specified in subsection (a) apply to the following:

"(1) Pollution liability insurance, and comprehensive general liability insurance which includes this coverage, provided to—

"(A) a purchasing group; or

"(B) any person who is a member of a purchasing group.

"(2) The sale of any one of the following to a purchasing group or a member of the group:

"(A) Pollution liability insurance and comprehensive general liability coverage.

"(B) Insurance related services.

"(C) Management services.

"(c) AGENTS OR BROKERS.—A State may require that a person acting, or offering to act, as an agent or broker for a purchasing group obtain a license from that State, except that a State may not impose any qualification or requirement which discriminates against a nonresident agent or broker.

State and local governments. Discrimination, prohibition.

"SEC. 405. APPLICABILITY OF SECURITIES LAWS.

42 USC 9675.

"(a) OWNERSHIP INTERESTS.—The ownership interests of members of a risk retention group shall be considered to be—

"(1) exempted securities for purposes of section 5 of the Securities Act of 1933 and for purposes of section 12 of the Securities Exchange Act of 1934; and

15 USC 77e.
15 USC 78*l*.

"(2) securities for purposes of the provisions of section 17 of the Securities Act of 1933 and the provisions of section 10 of the Securities Exchange Act of 1934.

15 USC 77q.
15 USC 78j.

"(b) INVESTMENT COMPANY ACT.—A risk retention group shall not be considered to be an investment company for purposes of the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.).

"(c) BLUE SKY LAW.—The ownership interests of members in a risk retention group shall not be considered securities for purposes of any State blue sky law.".

SEC. 211. DEPARTMENT OF DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.

(a) IN GENERAL.—(1) Title 10, United States Code, is amended—

(A) by redesignating section 2701 as section 2721; and

(B) by inserting after chapter 159 the following new chapter:

"CHAPTER 160—ENVIRONMENTAL RESTORATION

"Sec.
"2701. Environmental restoration program.
"2702. Research, development, and demonstration program.
"2703. Environmental restoration transfer account.
"2704. Commonly found unregulated hazardous substances.
"2705. Notice of environmental restoration activities.
"2706. Annual report to Congress.
"2707. Definitions.

"§ 2701. Environmental restoration program

10 USC 2701.

"(a) ENVIRONMENTAL RESTORATION PROGRAM.—

"(1) IN GENERAL.—The Secretary of Defense shall carry out a program of environmental restoration at facilities under the jurisdiction of the Secretary. The program shall be known as the 'Defense Environmental Restoration Program'.

"(2) APPLICATION OF SECTION 120 OF CERCLA.—Activities of the program described in subsection (b)(1) shall be carried out subject to, and in a manner consistent with, section 120 (relating to Federal facilities) of the Comprehensive Environmental Re-

Ante, p. 1666.

sponse, Compensation, and Liability Act of 1980 (hereinafter in this chapter referred to as 'CERCLA') (42 U.S.C. 9601 et seq.).

"(3) CONSULTATION WITH EPA.—The program shall be carried out in consultation with the Administrator of the Environmental Protection Agency.

"(4) ADMINISTRATIVE OFFICE WITHIN OSD.—The Secretary shall identify an office within the Office of the Secretary which shall have responsibility for carrying out the program.

"(b) PROGRAM GOALS.—Goals of the program shall include the following:

"(1) The identification, investigation, research and development, and cleanup of contamination from hazardous substances, pollutants, and contaminants.

"(2) Correction of other environmental damage (such as detection and disposal of unexploded ordnance) which creates an imminent and substantial endangerment to the public health or welfare or to the environment.

"(3) Demolition and removal of unsafe buildings and structures, including buildings and structures of the Department of Defense at sites formerly used by or under the jurisdiction of the Secretary.

"(c) RESPONSIBILITY FOR RESPONSE ACTIONS.—

"(1) BASIC RESPONSIBILITY.—The Secretary shall carry out (in accordance with the provisions of this chapter and CERCLA) all response actions with respect to releases of hazardous substances from each of the following:

"(A) Each facility or site owned by, leased to, or otherwise possessed by the United States and under the jurisdiction of the Secretary.

"(B) Each facility or site which was under the jurisdiction of the Secretary and owned by, leased to, or otherwise possessed by the United States at the time of actions leading to contamination by hazardous substances.

"(C) Each vessel owned or operated by the Department of Defense.

"(2) OTHER RESPONSIBLE PARTIES.—Paragraph (1) shall not apply to a removal or remedial action if the Administrator has provided for response action by a potentially responsible person in accordance with section 122 of CERCLA (relating to settlements).

Waste disposal.

"(3) STATE FEES AND CHARGES.—The Secretary shall pay fees and charges imposed by State authorities for permit services for the disposal of hazardous substances on lands which are under the jurisdiction of the Secretary to the same extent that nongovernmental entities are required to pay fees and charges imposed by State authorities for permit services. The preceding sentence shall not apply with respect to a payment that is the responsibility of a lessee, contractor, or other private person.

"(d) SERVICES OF OTHER AGENCIES.—The Secretary may enter into agreements on a reimbursable basis with any other Federal agency, and on a reimbursable or other basis with any State or local government agency, to obtain the services of that agency to assist the Secretary in carrying out any of the Secretary's responsibilities under this section. Services which may be obtained under this subsection include the identification, investigation, and cleanup of any off-site contamination possibly resulting from the release of a

hazardous substance or waste at a facility under the Secretary's jurisdiction.

"(e) RESPONSE ACTION CONTRACTORS.—The provisions of section 119 of CERCLA apply to response action contractors (as defined in that section) who carry out response actions under this section.

"§ 2702. Research, development, and demonstration program 10 USC 2702.

"(a) PROGRAM.—As part of the Defense Environmental Restoration Program, the Secretary of Defense shall carry out a program of research, development, and demonstration with respect to hazardous wastes. The program shall be carried out in consultation and cooperation with the Administrator and the advisory council established under section 311(a)(5) of CERCLA. The program shall include research, development, and demonstration with respect to each of the following: *Ante*, p. 1708.

"(1) Means of reducing the quantities of hazardous waste generated by activities and facilities under the jurisdiction of the Secretary.

"(2) Methods of treatment, disposal, and management (including recycling and detoxifying) of hazardous waste of the types and quantities generated by current and former activities of the Secretary and facilities currently and formerly under the jurisdiction of the Secretary.

"(3) Identifying more cost-effective technologies for cleanup of hazardous substances.

"(4) Toxicological data collection and methodology on risk of exposure to hazardous waste generated by the Department of Defense.

"(5) The testing, evaluation, and field demonstration of any innovative technology, processes, equipment, or related training devices which may contribute to establishment of new methods to control, contain, and treat hazardous substances, to be carried out in consultation and cooperation with, and to the extent possible in the same manner and standards as, testing, evaluation, and field demonstration carried out by the Administrator, acting through the office of technology demonstration of the Environmental Protection Agency.

"(b) SPECIAL PERMIT.—The Administrator may use the authorities of section 3005(g) of the Solid Waste Disposal Act (42 U.S.C. 6925(g)) to issue a permit for testing and evaluation which receives support under this section.

"(c) CONTRACTS AND GRANTS.—The Secretary may enter into contracts and cooperative agreements with, and make grants to, universities, public and private profit and nonprofit entities, and other persons to carry out the research, development, and demonstration authorized under this section. Such contracts may be entered into only to the extent that appropriated funds are available for that purpose.

"(d) INFORMATION COLLECTION AND DISSEMINATION.—

"(1) IN GENERAL.—The Secretary shall develop, collect, evaluate, and disseminate information related to the use (or potential use) of the treatment, disposal, and management technologies that are researched, developed, and demonstrated under this section.

"(2) ROLE OF EPA.—The functions of the Secretary under paragraph (1) shall be carried out in cooperation and consultation with the Administrator. To the extent appropriate and

agreed upon by the Administrator and the Secretary, the Administrator shall evaluate and disseminate such information through the office of technology demonstration of the Environmental Protection Agency.

10 USC 2703.

"§ 2703. Environmental restoration transfer account

"(a) ESTABLISHMENT OF TRANSFER ACCOUNT.—

"(1) ESTABLISHMENT.—There is hereby established in the Department of Defense an account to be known as the 'Defense Environmental Restoration Account' (hereinafter in this section referred to as the 'transfer account'). All sums appropriated to carry out the functions of the Secretary of Defense relating to environmental restoration under this chapter or any other provision of law shall be appropriated to the transfer account.

"(2) REQUIREMENT OF AUTHORIZATION OF APPROPRIATIONS.—No funds may be appropriated to the transfer account unless such sums have been specifically authorized by law.

"(3) AVAILABILITY OF FUNDS IN TRANSFER ACCOUNT.—Amounts appropriated to the transfer account shall remain available until transferred under subsection (b).

"(b) AUTHORITY TO TRANSFER TO OTHER DOD ACCOUNTS.—Amounts in the transfer account shall be available to be transferred by the Secretary to any appropriation account or fund of the Department for obligation from that account or fund. Funds so transferred shall be merged with and available for the same purposes and for the same period as the account or fund to which transferred.

"(c) OBLIGATION OF TRANSFERRED AMOUNTS.—Funds transferred under subsection (b) may only be obligated or expended from the account or fund to which transferred in order to carry out the functions of the Secretary under this chapter or environmental restoration functions under any other provision of law.

President of U.S.

"(d) BUDGET REPORTS.—In proposing the Budget for any fiscal year pursuant to section 1105 of title 31, the President shall set forth separately the amount requested for environmental restoration programs of the Department of Defense under this chapter or any other Act.

"(e) AMOUNTS RECOVERED UNDER CERCLA.—Amounts recovered under section 107 of CERCLA for response actions of the Secretary shall be credited to the transfer account.

"§ 2704. Commonly found unregulated hazardous substances

"(a) NOTICE TO HHS.—

"(1) IN GENERAL.—The Secretary of Defense shall notify the Secretary of Health and Human Services of the hazardous substances which the Secretary of Defense determines to be the most commonly found unregulated hazardous substances at facilities under the Secretary's jurisdiction. The notification shall be of not less than the 25 most widely used such substances.

"(2) DEFINITION.—In this subsection, the term 'unregulated hazardous substance' means a hazardous substance—

"(A) for which no standard, requirement, criteria, or limitation is in effect under the Toxic Substances Control Act, the Safe Drinking Water Act, the Clean Air Act, or the Clean Water Act; and

15 USC 2601 note, 42 USC 201 note, 42 USC 7401 note. 33 USC 1251 note.

"(B) for which no water quality criteria are in effect under any provision of the Clean Water Act.

"(b) TOXICOLOGICAL PROFILES.—The Secretary of Health and Human Services shall take such steps as necessary to ensure the timely preparation of toxicological profiles of each of the substances of which the Secretary is notified under subsection (a). The profiles of such substances shall include each of the following:

"(1) The examination, summary, and interpretation of available toxicological information and epidemiologic evaluations on a hazardous substance in order to ascertain the levels of significant human exposure for the substance and the associated acute, subacute, and chronic health effects.

"(2) A determination of whether adequate information on the health effects of each substance is available or in the process of development to determine levels of exposure which present a significant risk to human health of acute, subacute, and chronic health effects.

"(3) Where appropriate, toxicological testing directed toward determining the maximum exposure level of a hazardous substance that is safe for humans.

"(c) DOD SUPPORT.—The Secretary of Defense shall transfer to the Secretary of Health and Human Services such toxicological data, such sums from amounts appropriated to the Department of Defense, and such personnel of the Department of Defense as may be necessary (1) for the preparation of toxicological profiles under subsection (b) or (2) for other health related activities under section 104(i) of CERCLA. The Secretary of Defense and the Secretary of Health and Human Services shall enter into a memorandum of understanding regarding the manner in which this section shall be carried out, including the manner for transferring funds and personnel and for coordination of activities under this section.

Ante, p. 1636.

"(d) EPA HEALTH ADVISORIES.—

"(1) PREPARATION.—At the request of the Secretary of Defense, the Administrator shall, in a timely manner, prepare health advisories on hazardous substances. Such an advisory shall be prepared on each hazardous substance—

"(A) for which no advisory exists;

"(B) which is found to threaten drinking water; and

"(C) which is emanating from a facility under the jurisdiction of the Secretary.

"(2) CONTENT OF HEALTH ADVISORIES.—Such health advisories shall provide specific advice on the levels of contaminants in drinking water at which adverse health effects would not be anticipated and which include a margin of safety so as to protect the most sensitive members of the population at risk. The advisories shall provide data on one-day, 10-day, and longer-term exposure periods where available toxicological data exist.

"(3) DOD SUPPORT FOR HEALTH ADVISORIES.—The Secretary of Defense shall transfer to the Administrator such toxicological data, such sums from amounts appropriated to the Department of Defense, and such personnel of the Department of Defense as may be necessary for the preparation of such health advisories. The Secretary and the Administrator shall enter into a memorandum of understanding regarding the manner in which this subsection shall be carried out, including the manner for transferring funds and personnel and for coordination of activities under this subsection.

Ante, p. 1636.

"(e) CROSS REFERENCE.—Section 104(i) of CERCLA applies to facilities under the jurisdiction of the Secretary of Defense in the manner prescribed in that section.

"(f) FUNCTIONS OF HHS TO BE CARRIED OUT THROUGH ATSDR.—The functions of the Secretary of Health and Human Services under this section shall be carried out through the Administrator of the Agency of Toxic Substances and Disease Registry of the Department of Health and Human Services established under section 104(i) of CERCLA.

10 USC 2705.

State and local governments.

"§ 2705. Notice of environmental restoration activities

"(a) EXPEDITED NOTICE.—The Secretary of Defense shall take such actions as necessary to ensure that the regional offices of the Environmental Protection Agency and appropriate State and local authorities for the State in which a facility under the Secretary's jurisdiction is located receive prompt notice of each of the following:

"(1) The discovery of releases or threatened releases of hazardous substances at the facility.

"(2) The extent of the threat to public health and the environment which may be associated with any such release or threatened release.

"(3) Proposals made by the Secretary to carry out response actions with respect to any such release or threatened release.

"(4) The initiation of any response action with respect to such release or threatened release and the commencement of each distinct phase of such activities.

"(b) COMMENT BY EPA AND STATE AND LOCAL AUTHORITIES.—

"(1) RELEASE NOTICES.—The Secretary shall ensure that the Administrator of the Environmental Protection Agency and appropriate State and local officials have an adequate opportunity to comment on notices under paragraphs (1) and (2) of subsection (a).

"(2) PROPOSALS FOR RESPONSE ACTIONS.—The Secretary shall require that an adequate opportunity for timely review and comment be afforded to the Administrator and to appropriate State and local officials after making a proposal referred to in subsection (a)(3) and before undertaking an activity or action referred to in subsection (a)(4). The preceding sentence does not apply if the action is an emergency removal taken because of imminent and substantial endangerment to human health or the environment and consultation would be impractical.

"(c) TECHNICAL REVIEW COMMITTEE.—Whenever possible and practical, the Secretary shall establish a technical review committee to review and comment on Department of Defense actions and proposed actions with respect to releases or threatened releases of hazardous substances at installations. Members of any such committee shall include at least one representative of the Secretary, the Administrator, and appropriate State and local authorities and shall include a public representative of the community involved.

"§ 2706. Annual report to Congress

"(a) REPORT ON PROGRESS IN IMPLEMENTATION.—The Secretary of Defense shall submit to Congress a report each fiscal year describing the progress made by the Secretary during the preceding fiscal year in implementing the requirements of this chapter.

"(b) MATTERS TO BE INCLUDED.—Each such report shall include the following:

"(1) A statement for each installation under the jurisdiction of the Secretary of the number of individual facilities at which a hazardous substance has been identified.

"(2) The status of response actions contemplated or undertaken at each such facility.

"(3) The specific cost estimates and budgetary proposals involving response actions contemplated or undertaken at each such facility.

"(4) A report on progress on conducting response actions at facilities other than facilities on the National Priorities List.

"§ 2707. Definitions 10 USC 2707.

"In this chapter:

"(1) The terms 'environment', 'facility', 'hazardous substance', 'person', 'release', 'removal', 'response', 'disposal', and 'hazardous waste' have the meanings given those terms in section 101 of CERCLA (42 U.S.C. 9601).

"(2) The term 'Administrator' means the Administrator of the Environmental Protection Agency.".

(2) The tables of chapters at the beginning of subtitle A, and at the beginning of part IV of subtitle A, of such title are each amended by inserting after the item relating to chapter 159 the following new item:

"160. Environmental Restoration ..... 2701".

(3) The table of sections at the beginning of chapter 161 of such title is amended to reflect the redesignation made by paragraph (1)(A).

(b) MILITARY CONSTRUCTION PROJECTS.—(1) Chapter 169 of title 10, United States Code, is amended by inserting at the end of subchapter I the following new section:

"§ 2810. Construction projects for environmental response actions 10 USC 2810.

"(a) Subject to subsection (b), the Secretary of Defense may carry out a military construction project not otherwise authorized by law (or may authorize the Secretary of a military department to carry out such a project) if the Secretary of Defense determines that the project is necessary to carry out a response action under chapter 160 of this title or under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

"(b)(1) When a decision is made to carry out a military construction project under this section, the Secretary of Defense shall submit a report in writing to the appropriate committees of Congress on that decision. Each such report shall include— Reports.

"(A) the justification for the project and the current estimate of the cost of the project; and

"(B) the justification for carrying out the project under this section.

"(2) The project may then be carried out only after the end of the 21-day period beginning on the date the notification is received by such committees.

"(c) In this section, the term 'response action' has the meaning given that term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).".

(2) The table of sections at the beginning of subchapter I of such chapter is amended by adding at the end thereof the following new item:

"2810. Construction projects for environmental response actions.".

10 USC 2703 note.

(c) EFFECTIVE DATE.—Section 2703(a)(2) of title 10, United States Code, as added by subsection (a), shall apply with respect to funds appropriated for fiscal years beginning after September 30, 1986.

SEC. 212. REPORT AND OVERSIGHT REQUIREMENTS.

Ante, p. 1707.
42 USC 9651.

Section 301 of CERCLA is amended by adding at the end thereof the following new subsection:

"(h) REPORT AND OVERSIGHT REQUIREMENTS.—

"(1) ANNUAL REPORT BY EPA.—On January 1 of each year the Administrator of the Environmental Protection Agency shall submit an annual report to Congress of such Agency on the progress achieved in implementing this Act during the preceding fiscal year. In addition such report shall specifically include each of the following:

"(A) A detailed description of each feasibility study carried out at a facility under title I of this Act.

"(B) The status and estimated date of completion of each such study.

"(C) Notice of each such study which will not meet a previously published schedule for completion and the new estimated date for completion.

"(D) An evaluation of newly developed feasible and achievable permanent treatment technologies.

"(E) Progress made in reducing the number of facilities subject to review under section 121(c).

"(F) A report on the status of all remedial and enforcement actions undertaken during the prior fiscal year, including a comparison to remedial and enforcement actions undertaken in prior fiscal years.

"(G) An estimate of the amount of resources, including the number of work years or personnel, which would be necessary for each department, agency, or instrumentality which is carrying out any activities of this Act to complete the implementation of all duties vested in the department, agency, or instrumentality under this Act.

5 USC app.

"(2) REVIEW BY INSPECTOR GENERAL.—Consistent with the authorities of the Inspector General Act of 1978 the Inspector General of the Environmental Protection Agency shall review any report submitted under paragraph (1) related to EPA's activities for reasonableness and accuracy and submit to Congress, as a part of such report a report on the results of such review.

"(3) CONGRESSIONAL OVERSIGHT.—After receiving the reports under paragraphs (1) and (2) of this subsection in any calendar year, the appropriate authorizing committees of Congress shall conduct oversight hearings to ensure that this Act is being implemented according to the purposes of this Act and congressional intent in enacting this Act.".

SEC. 213. LOVE CANAL PROPERTY ACQUISITION.

42 USC 9661 note.

(a) CONGRESSIONAL FINDINGS.—

(1) The area known as Love Canal located in the city of Niagara Falls and the town of Wheatfield, New York, was the first toxic waste site to receive national attention. As a result of that attention Congress investigated the problems associated with toxic waste sites and enacted CERCLA to deal with these problems. New York.

(2) Because Love Canal came to the Nation's attention prior to the passage of CERCLA and because the fund under CERCLA was not available to compensate for all of the hardships endured by the citizens in the area, Congress has determined that special provisions are required. These provisions do not affect the lawfulness, implementation, or selection of any other response actions at Love Canal or at any other facilities.

(b) AMENDMENT OF SUPERFUND.—Title III of CERCLA is amended by adding the following new section at the end thereof:

"SEC. 312. LOVE CANAL PROPERTY ACQUISITION. New York. 42 USC 9661.

"(a) ACQUISITION OF PROPERTY IN EMERGENCY DECLARATION AREA.—The Administrator of the Environmental Protection Agency (hereinafter referred to as the 'Administrator') may make grants not to exceed $2,500,000 to the State of New York (or to any duly constituted public agency or authority thereof) for purposes of acquisition of private property in the Love Canal Emergency Declaration Area. Such acquisition shall include (but shall not be limited to) all private property within the Emergency Declaration Area, including non-owner occupied residential properties, commercial, industrial, public, religious, non-profit, and vacant properties. Grants.

"(b) PROCEDURES FOR ACQUISITION.—No property shall be acquired pursuant to this section unless the property owner voluntarily agrees to such acquisition. Compensation for any property acquired pursuant to this section shall be based upon the fair market value of the property as it existed prior to the emergency declaration. Valuation procedures for property acquired with funds provided under this section shall be in accordance with those set forth in the agreement entered into between the New York State Disaster Preparedness Commission and the Love Canal Revitalization Agency on October 9, 1980.

"(c) STATE OWNERSHIP.—The Administrator shall not provide any funds under this section for the acquisition of any properties pursuant to this section unless a public agency or authority of the State of New York first enters into a cooperative agreement with the Administrator providing assurances deemed adequate by the Administrator that the State or an agency created under the laws of the State shall take title to the properties to be so acquired. Contracts.

"(d) MAINTENANCE OF PROPERTY.—The Administrator shall enter into a cooperative agreement with an appropriate public agency or authority of the State of New York under which the Administrator shall maintain or arrange for the maintenance of all properties within the Emergency Declaration Area that have been acquired by any public agency or authority of the State. Ninety (90) percent of the costs of such maintenance shall be paid by the Administrator. The remaining portion of such costs shall be paid by the State (unless a credit is available under section 104(c)). The Administrator is authorized, in his discretion, to provide technical assistance to any public agency or authority of the State of New York in order to implement the recommendations of the habitability and land-use Contracts. *Ante*, p. 1619.

study in order to put the land within the Emergency Declaration Area to its best use.

"(e) HABITABILITY AND LAND USE STUDY.—The Administrator shall conduct or cause to be conducted a habitability and land-use study. The study shall—

"(1) assess the risks associated with inhabiting of the Love Canal Emergency Declaration Area;

"(2) compare the level of hazardous waste contamination in that Area to that present in other comparable communities; and

"(3) assess the potential uses of the land within the Emergency Declaration Area, including but not limited to residential, industrial, commercial and recreational, and the risks associated with such potential uses.

The Administrator shall publish the findings of such study and shall work with the State of New York to develop recommendations based upon the results of such study.

"(f) FUNDING.—For purposes of section 111 **[and 221(c) of this Act]**, the expenditures authorized by this section shall be treated as a cost specified in section 111(c).

Ante, pp. 1642, 1706, 1696.

"(g) RESPONSE.—The provisions of this section shall not affect the implementation of other response actions within the Emergency Declaration Area that the Administrator has determined (before enactment of this section) to be necessary to protect the public health or welfare or the environment.

"(h) DEFINITIONS.—For purposes of this section:

"(1) EMERGENCY DECLARATION AREA.—The terms 'Emergency Declaration Area' and 'Love Canal Emergency Declaration Area' mean the Emergency Declaration Area as defined in section 950, paragraph (2) of the General Municipal Law of the State of New York, Chapter 259, Laws of 1980, as in effect on the date of the enactment of this section.

"(2) PRIVATE PROPERTY.—As used in subsection (a), the term 'private property' means all property which is not owned by a department, agency, or instrumentality of—

"(A) the United States, or

"(B) the State of New York (or any public agency or authority thereof).".

TITLE III—EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW

Emergency Planning and Community Right-To-Know Act of 1986.
42 USC 11001 note.

SEC. 300. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Emergency Planning and Community Right-To-Know Act of 1986".

(b) TABLE OF CONTENTS.—The table of contents of this title is as follows:

Sec. 300. Short title; table of contents.

Subtitle A—Emergency Planning and Notification

Sec. 301. Establishment of State commissions, planning districts, and local committees.
Sec. 302. Substances and facilities covered and notification.
Sec. 303. Comprehensive emergency response plans.
Sec. 304. Emergency notification.
Sec. 305. Emergency training and review of emergency systems.

Subtitle B—Reporting Requirements

Sec. 311. Material safety data sheets.

Sec. 312. Emergency and hazardous chemical inventory forms.
Sec. 313. Toxic chemical release forms.

Subtitle C—General Provisions

Sec. 321. Relationship to other law.
Sec. 322. Trade secrets.
Sec. 323. Provision of information to health professionals, doctors, and nurses.
Sec. 324. Public availability of plans, data sheets, forms, and followup notices.
Sec. 325. Enforcement.
Sec. 326. Civil Actions.
Sec. 327. Exemption.
Sec. 328. Regulations.
Sec. 329. Definitions.
Sec. 330. Authorization of appropriations.

Subtitle A—Emergency Planning and Notification

SEC. 301. ESTABLISHMENT OF STATE COMMISSIONS, PLANNING DISTRICTS, AND LOCAL COMMITTEES. 42 USC 11001.

(a) ESTABLISHMENT OF STATE EMERGENCY RESPONSE COMMISSIONS.—Not later than six months after the date of the enactment of this title, the Governor of each State shall appoint a State emergency response commission. The Governor may designate as the State emergency response commission one or more existing emergency response organizations that are State-sponsored or appointed. The Governor shall, to the extent practicable, appoint persons to the State emergency response commission who have technical expertise in the emergency response field. The State emergency response commission shall appoint local emergency planning committees under subsection (c) and shall supervise and coordinate the activities of such committees. The State emergency response commission shall establish procedures for receiving and processing requests from the public for information under section 324, including tier II information under section 312. Such procedures shall include the designation of an official to serve as coordinator for information. If the Governor of any State does not designate a State emergency response commission within such period, the Governor shall operate as the State emergency response commission until the Governor makes such designation.

(b) ESTABLISHMENT OF EMERGENCY PLANNING DISTRICTS.—Not later than nine months after the date of the enactment of this title, the State emergency response commission shall designate emergency planning districts in order to facilitate preparation and implementation of emergency plans. Where appropriate, the State emergency response commission may designate existing political subdivisions or multijurisdictional planning organizations as such districts. In emergency planning areas that involve more than one State, the State emergency response commissions of all potentially affected States may designate emergency planning districts and local emergency planning committees by agreement. In making such designation, the State emergency response commission shall indicate which facilities subject to the requirements of this subtitle are within such emergency planning district.

(c) ESTABLISHMENT OF LOCAL EMERGENCY PLANNING COMMITTEES.—Not later than 30 days after designation of emergency planning districts or 10 months after the date of the enactment of this title, whichever is earlier, the State emergency response commission shall appoint members of a local emergency planning committee for each emergency planning district. Each committee shall include, at

a minimum, representatives from each of the following groups or organizations: elected State and local officials; law enforcement, civil defense, firefighting, first aid, health, local environmental, hospital, and transportation personnel; broadcast and print media; community groups; and owners and operators of facilities subject to the requirements of this subtitle. Such committee shall appoint a chairperson and shall establish rules by which the committee shall function. Such rules shall include provisions for public notification of committee activities, public meetings to discuss the emergency plan, public comments, response to such comments by the committee, and distribution of the emergency plan. The local emergency planning committee shall establish procedures for receiving and processing requests from the public for information under section 324, including tier II information under section 312. Such procedures shall include the designation of an official to serve as coordinator for information.

(d) REVISIONS.—A State emergency response commission may revise its designations and appointments under subsections (b) and (c) as it deems appropriate. Interested persons may petition the State emergency response commission to modify the membership of a local emergency planning committee.

42 USC 11002.

SEC. 302. SUBSTANCES AND FACILITIES COVERED AND NOTIFICATION.

(a) SUBSTANCES COVERED.—

(1) IN GENERAL.—A substance is subject to the requirements of this subtitle if the substance is on the list published under paragraph (2).

(2) LIST OF EXTREMELY HAZARDOUS SUBSTANCES.—Within 30 days after the date of the enactment of this title, the Administrator shall publish a list of extremely hazardous substances. The list shall be the same as the list of substances published in November 1985 by the Administrator in Appendix A of the "Chemical Emergency Preparedness Program Interim Guidance".

Regulations.

(3) THRESHOLDS.—(A) At the time the list referred to in paragraph (2) is published the Administrator shall—

(i) publish an interim final regulation establishing a threshold planning quantity for each substance on the list, taking into account the criteria described in paragraph (4), and

(ii) initiate a rulemaking in order to publish final regulations establishing a threshold planning quantity for each substance on the list.

(B) The threshold planning quantities may, at the Administrator's discretion, be based on classes of chemicals or categories of facilities.

(C) If the Administrator fails to publish an interim final regulation establishing a threshold planning quantity for a substance within 30 days after the date of the enactment of this title, the threshold planning quantity for the substance shall be 2 pounds until such time as the Administrator publishes regulations establishing a threshold for the substance.

(4) REVISIONS.—The Administrator may revise the list and thresholds under paragraphs (2) and (3) from time to time. Any revisions to the list shall take into account the toxicity, reactivity, volatility, dispersability, combustability, or flammability of a substance. For purposes of the preceding sentence, the term

"toxicity" shall include any short- or long-term health effect which may result from a short-term exposure to the substance.

(b) FACILITIES COVERED.—(1) Except as provided in section 304, a facility is subject to the requirements of this subtitle if a substance on the list referred to in subsection (a) is present at the facility in an amount in excess of the threshold planning quantity established for such substance.

(2) For purposes of emergency planning, a Governor or a State emergency response commission may designate additional facilities which shall be subject to the requirements of this subtitle, if such designation is made after public notice and opportunity for comment. The Governor or State emergency response commission shall notify the facility concerned of any facility designation under this paragraph.

(c) EMERGENCY PLANNING NOTIFICATION.—Not later than seven months after the date of the enactment of this title, the owner or operator of each facility subject to the requirements of this subtitle by reason of subsection (b)(1) shall notify the State emergency response commission for the State in which such facility is located that such facility is subject to the requirements of this subtitle. Thereafter, if a substance on the list of extremely hazardous substances referred to in subsection (a) first becomes present at such facility in excess of the threshold planning quantity established for such substance, or if there is a revision of such list and the facility has present a substance on the revised list in excess of the threshold planning quantity established for such substance, the owner or operator of the facility shall notify the State emergency response commission and the local emergency planning committee within 60 days after such acquisition or revision that such facility is subject to the requirements of this subtitle.

(d) NOTIFICATION OF ADMINISTRATOR.—The State emergency response commission shall notify the Administrator of facilities subject to the requirements of this subtitle by notifying the Administrator of—

(1) each notification received from a facility under subsection (c), and

(2) each facility designated by the Governor or State emergency response commission under subsection (b)(2).

SEC. 303. COMPREHENSIVE EMERGENCY RESPONSE PLANS. 42 USC 11003.

(a) PLAN REQUIRED.—Each local emergency planning committee shall complete preparation of an emergency plan in accordance with this section not later than two years after the date of the enactment of this title. The committee shall review such plan once a year, or more frequently as changed circumstances in the community or at any facility may require.

(b) RESOURCES.—Each local emergency planning committee shall evaluate the need for resources necessary to develop, implement, and exercise the emergency plan, and shall make recommendations with respect to additional resources that may be required and the means for providing such additional resources.

(c) PLAN PROVISIONS.—Each emergency plan shall include (but is not limited to) each of the following:

(1) Identification of facilities subject to the requirements of this subtitle that are within the emergency planning district, identification of routes likely to be used for the transportation of substances on the list of extremely hazardous substances

referred to in section 302(a), and identification of additional facilities contributing or subjected to additional risk due to their proximity to facilities subject to the requirements of this subtitle, such as hospitals or natural gas facilities.

(2) Methods and procedures to be followed by facility owners and operators and local emergency and medical personnel to respond to any release of such substances.

(3) Designation of a community emergency coordinator and facility emergency coordinators, who shall make determinations necessary to implement the plan.

(4) Procedures providing reliable, effective, and timely notification by the facility emergency coordinators and the community emergency coordinator to persons designated in the emergency plan, and to the public, that a release has occurred (consistent with the emergency notification requirements of section 304).

(5) Methods for determining the occurrence of a release, and the area or population likely to be affected by such release.

(6) A description of emergency equipment and facilities in the community and at each facility in the community subject to the requirements of this subtitle, and an identification of the persons responsible for such equipment and facilities.

(7) Evacuation plans, including provisions for a precautionary evacuation and alternative traffic routes.

(8) Training programs, including schedules for training of local emergency response and medical personnel.

(9) Methods and schedules for exercising the emergency plan.

(d) PROVIDING OF INFORMATION.—For each facility subject to the requirements of this subtitle:

(1) Within 30 days after establishment of a local emergency planning committee for the emergency planning district in which such facility is located, or within 11 months after the date of the enactment of this title, whichever is earlier, the owner or operator of the facility shall notify the emergency planning committee (or the Governor if there is no committee) of a facility representative who will participate in the emergency planning process as a facility emergency coordinator.

(2) The owner or operator of the facility shall promptly inform the emergency planning committee of any relevant changes occurring at such facility as such changes occur or are expected to occur.

(3) Upon request from the emergency planning committee, the owner or operator of the facility shall promptly provide information to such committee necessary for developing and implementing the emergency plan.

(e) REVIEW BY THE STATE EMERGENCY RESPONSE COMMISSION.—After completion of an emergency plan under subsection (a) for an emergency planning district, the local emergency planning committee shall submit a copy of the plan to the State emergency response commission of each State in which such district is located. The commission shall review the plan and make recommendations to the committee on revisions of the plan that may be necessary to ensure coordination of such plan with emergency response plans of other emergency planning districts. To the maximum extent practicable, such review shall not delay implementation of such plan.

(f) GUIDANCE DOCUMENTS.—The national response team, as established pursuant to the National Contingency Plan as established

under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), shall publish guidance documents for preparation and implementation of emergency plans. Such documents shall be published not later than five months after the date of the enactment of this title. 42 USC 9605.

(g) REVIEW OF PLANS BY REGIONAL RESPONSE TEAMS.—The regional response teams, as established pursuant to the National Contingency Plan as established under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), may review and comment upon an emergency plan or other issues related to preparation, implementation, or exercise of such a plan upon request of a local emergency planning committee. Such review shall not delay implementation of the plan. 42 USC 9605.

SEC. 304. EMERGENCY NOTIFICATION. 42 USC 11004.

(a) TYPES OF RELEASES.—

(1) 302(a) SUBSTANCE WHICH REQUIRES CERCLA NOTICE.—If a release of an extremely hazardous substance referred to in section 302(a) occurs from a facility at which a hazardous chemical is produced, used, or stored, and such release requires a notification under section 103(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (hereafter in this section referred to as "CERCLA") (42 U.S.C. 9601 et seq.), the owner or operator of the facility shall immediately provide notice as described in subsection (b). *Ante*, p. 1730. 42 USC 9603.

(2) OTHER 302(a) SUBSTANCE.—If a release of an extremely hazardous substance referred to in section 302(a) occurs from a facility at which a hazardous chemical is produced, used, or stored, and such release is not subject to the notification requirements under section 103(a) of CERCLA, the owner or operator of the facility shall immediately provide notice as described in subsection (b), but only if the release—

(A) is not a federally permitted release as defined in section 101(10) of CERCLA,

(B) is in an amount in excess of a quantity which the Administrator has determined (by regulation) requires notice, and

(C) occurs in a manner which would require notification under section 103(a) of CERCLA.

Unless and until superseded by regulations establishing a quantity for an extremely hazardous substance described in this paragraph, a quantity of 1 pound shall be deemed that quantity the release of which requires notice as described in subsection (b).

(3) NON-302(a) SUBSTANCE WHICH REQUIRES CERCLA NOTICE.—If a release of a substance which is not on the list referred to in section 302(a) occurs at a facility at which a hazardous chemical is produced, used, or stored, and such release requires notification under section 103(a) of CERCLA, the owner or operator shall provide notice as follows:

(A) If the substance is one for which a reportable quantity has been established under section 102(a) of CERCLA, the owner or operator shall provide notice as described in subsection (b). *Ante*, p. 1617.

(B) If the substance is one for which a reportable quantity has not been established under section 102(a) of CERCLA—

(i) Until April 30, 1988, the owner or operator shall provide, for releases of one pound or more of the substance, the same notice to the community emergency coordinator for the local emergency planning committee, at the same time and in the same form, as notice is provided to the National Response Center under section 103(a) of CERCLA.

42 USC 9603.

(ii) On and after April 30, 1988, the owner or operator shall provide, for releases of one pound or more of the substance, the notice as described in subsection (b).

(4) EXEMPTED RELEASES.—This section does not apply to any release which results in exposure to persons solely within the site or sites on which a facility is located.

(b) NOTIFICATION.—

(1) RECIPIENTS OF NOTICE.—Notice required under subsection (a) shall be given immediately after the release by the owner or operator of a facility (by such means as telephone, radio, or in person) to the community emergency coordinator for the local emergency planning committees, if established pursuant to section 301(c), for any area likely to be affected by the release and to the State emergency planning commission of any State likely to be affected by the release. With respect to transportation of a substance subject to the requirements of this section, or storage incident to such transportation, the notice requirements of this section with respect to a release shall be satisfied by dialing 911 or, in the absence of a 911 emergency telephone number, calling the operator.

Ante, p. 1729.

(2) CONTENTS.—Notice required under subsection (a) shall include each of the following (to the extent known at the time of the notice and so long as no delay in responding to the emergency results):

(A) The chemical name or identity of any substance involved in the release.

(B) An indication of whether the substance is on the list referred to in section 302(a).

(C) An estimate of the quantity of any such substance that was released into the environment.

(D) The time and duration of the release.

(E) The medium or media into which the release occurred.

(F) Any known or anticipated acute or chronic health risks associated with the emergency and, where appropriate, advice regarding medical attention necessary for exposed individuals.

(G) Proper precautions to take as a result of the release, including evacuation (unless such information is readily available to the community emergency coordinator pursuant to the emergency plan).

(H) The name and telephone number of the person or persons to be contacted for further information.

(c) FOLLOWUP EMERGENCY NOTICE.—As soon as practicable after a release which requires notice under subsection (a), such owner or operator shall provide a written followup emergency notice (or notices, as more information becomes available) setting forth and updating the information required under subsection (b), and including additional information with respect to—

(1) actions taken to respond to and contain the release,

(2) any known or anticipated acute or chronic health risks associated with the release, and

(3) where appropriate, advice regarding medical attention necessary for exposed individuals.

(d) TRANSPORTATION EXEMPTION NOT APPLICABLE.—The exemption provided in section 327 (relating to transportation) does not apply to this section.

Post, p. 1757.

SEC. 305. EMERGENCY TRAINING AND REVIEW OF EMERGENCY SYSTEMS. 42 USC 11005.

(a) EMERGENCY TRAINING.—

(1) PROGRAMS.—Officials of the United States Government carrying out existing Federal programs for emergency training are authorized to specifically provide training and education programs for Federal, State, and local personnel in hazard mitigation, emergency preparedness, fire prevention and control, disaster response, long-term disaster recovery, national security, technological and natural hazards, and emergency processes. Such programs shall provide special emphasis for such training and education with respect to hazardous chemicals.

(2) STATE AND LOCAL PROGRAM SUPPORT.—There is authorized to be appropriated to the Federal Emergency Management Agency for each of the fiscal years 1987, 1988, 1989, and 1990, $5,000,000 for making grants to support programs of State and local governments, and to support university-sponsored programs, which are designed to improve emergency planning, preparedness, mitigation, response, and recovery capabilities. Such programs shall provide special emphasis with respect to emergencies associated with hazardous chemicals. Such grants may not exceed 80 percent of the cost of any such program. The remaining 20 percent of such costs shall be funded from non-Federal sources.

Appropriation authorization. Grants.

(3) OTHER PROGRAMS.—Nothing in this section shall affect the availability of appropriations to the Federal Emergency Management Agency for any programs carried out by such agency other than the programs referred to in paragraph (2).

(b) REVIEW OF EMERGENCY SYSTEMS.—

(1) REVIEW.—The Administrator shall initiate, not later than 30 days after the date of the enactment of this title, a review of emergency systems for monitoring, detecting, and preventing releases of extremely hazardous substances at representative domestic facilities that produce, use, or store extremely hazardous substances. The Administrator may select representative extremely hazardous substances from the substances on the list referred to in section 302(a) for the purposes of this review. The Administrator shall report interim findings to the Congress not later than seven months after such date of enactment, and issue a final report of findings and recommendations to the Congress not later than 18 months after such date of enactment. Such report shall be prepared in consultation with the States and appropriate Federal agencies.

Reports.

(2) REPORT.—The report required by this subsection shall include the Administrator's findings regarding each of the following:

(A) The status of current technological capabilities to (i) monitor, detect, and prevent, in a timely manner, significant releases of extremely hazardous substances, (ii) deter-

mine the magnitude and direction of the hazard posed by each release, (iii) identify specific substances, (iv) provide data on the specific chemical composition of such releases, and (v) determine the relative concentrations of the constituent substances.

(B) The status of public emergency alert devices or systems for providing timely and effective public warning of an accidental release of extremely hazardous substances into the environment, including releases into the atmosphere, surface water, or groundwater from facilities that produce, store, or use significant quantities of such extremely hazardous substances.

(C) The technical and economic feasibility of establishing, maintaining, and operating perimeter alert systems for detecting releases of such extremely hazardous substances into the atmosphere, surface water, or groundwater, at facilities that manufacture, use, or store significant quantities of such substances.

Reports.

(3) RECOMMENDATIONS.—The report required by this subsection shall also include the Administrator's recommendations for—

(A) initiatives to support the development of new or improved technologies or systems that would facilitate the timely monitoring, detection, and prevention of releases of extremely hazardous substances, and

(B) improving devices or systems for effectively alerting the public in a timely manner, in the event of an accidental release of such extremely hazardous substances.

Subtitle B—Reporting Requirements

42 USC 11021.

SEC. 311. MATERIAL SAFETY DATA SHEETS.

(a) BASIC REQUIREMENT.—

(1) SUBMISSION OF MSDS OR LIST.—The owner or operator of any facility which is required to prepare or have available a material safety data sheet for a hazardous chemical under the Occupational Safety and Health Act of 1970 and regulations promulgated under that Act (15 U.S.C. 651 et seq.) shall submit a material safety data sheet for each such chemical, or a list of such chemicals as described in paragraph (2), to each of the following:

29 USC 651 note.

(A) The appropriate local emergency planning committee.

(B) The State emergency response commission.

(C) The fire department with jurisdiction over the facility.

(2) CONTENTS OF LIST.—(A) The list of chemicals referred to in paragraph (1) shall include each of the following:

Regulations.

(i) A list of the hazardous chemicals for which a material safety data sheet is required under the Occupational Safety and Health Act of 1970 and regulations promulgated under that Act, grouped in categories of health and physical hazards as set forth under such Act and regulations promulgated under such Act, or in such other categories as the Administrator may prescribe under subparagraph (B).

(ii) The chemical name or the common name of each such chemical as provided on the material safety data sheet.

(iii) Any hazardous component of each such chemical as provided on the material safety data sheet.

(B) For purposes of the list under this paragraph, the Administrator may modify the categories of health and physical hazards as set forth under the Occupational Safety and Health Act of 1970 and regulations promulgated under that Act by requiring information to be reported in terms of groups of hazardous chemicals which present similar hazards in an emergency.

Reports.

29 USC 651 note.

(3) TREATMENT OF MIXTURES.—An owner or operator may meet the requirements of this section with respect to a hazardous chemical which is a mixture by doing one of the following:

(A) Submitting a material safety data sheet for, or identifying on a list, each element or compound in the mixture which is a hazardous chemical. If more than one mixture has the same element or compound, only one material safety data sheet, or one listing, of the element or compound is necessary.

(B) Submitting a material safety data sheet for, or identifying on a list, the mixture itself.

(b) THRESHOLDS.—The Administrator may establish threshold quantities for hazardous chemicals below which no facility shall be subject to the provisions of this section. The threshold quantities may, in the Administrator's discretion, be based on classes of chemicals or categories of facilities.

(c) AVAILABILITY OF MSDS ON REQUEST.—

(1) TO LOCAL EMERGENCY PLANNING COMMITTEE.—If an owner or operator of a facility submits a list of chemicals under subsection (a)(1), the owner or operator, upon request by the local emergency planning committee, shall submit the material safety data sheet for any chemical on the list to such committee.

(2) TO PUBLIC.—A local emergency planning committee, upon request by any person, shall make available a material safety data sheet to the person in accordance with section 324. If the local emergency planning committee does not have the requested material safety data sheet, the committee shall request the sheet from the facility owner or operator and then make the sheet available to the person in accordance with section 324.

(d) INITIAL SUBMISSION AND UPDATING.—(1) The initial material safety data sheet or list required under this section with respect to a hazardous chemical shall be provided before the later of—

(A) 12 months after the date of the enactment of this title, or

(B) 3 months after the owner or operator of a facility is required to prepare or have available a material safety data sheet for the chemical under the Occupational Safety and Health Act of 1970 and regulations promulgated under that Act.

29 USC 651 note.

(2) Within 3 months following discovery by an owner or operator of significant new information concerning an aspect of a hazardous chemical for which a material safety data sheet was previously submitted to the local emergency planning committee under subsection (a), a revised sheet shall be provided to such person.

(e) HAZARDOUS CHEMICAL DEFINED.—For purposes of this section, the term "hazardous chemical" has the meaning given such term by section 1910.1200(c) of title 29 of the Code of Federal Regulations, except that such term does not include the following:

(1) Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration.

(2) Any substance present as a solid in any manufactured item to the extent exposure to the substance does not occur under normal conditions of use.

(3) Any substance to the extent it is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public.

(4) Any substance to the extent it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual.

(5) Any substance to the extent it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate customer.

42 USC 11022.

SEC. 312. EMERGENCY AND HAZARDOUS CHEMICAL INVENTORY FORMS.

(a) BASIC REQUIREMENT.—(1) The owner or operator of any facility which is required to prepare or have available a material safety data sheet for a hazardous chemical under the Occupational Safety and Health Act of 1970 and regulations promulgated under that Act shall prepare and submit an emergency and hazardous chemical inventory form (hereafter in this title referred to as an "inventory form") to each of the following:

29 USC 651 note.

(A) The appropriate local emergency planning committee.

(B) The State emergency response commission.

(C) The fire department with jurisdiction over the facility.

(2) The inventory form containing tier I information (as described in subsection (d)(1)) shall be submitted on or before March 1, 1988, and annually thereafter on March 1, and shall contain data with respect to the preceding calendar year. The preceding sentence does not apply if an owner or operator provides, by the same deadline and with respect to the same calendar year, tier II information (as described in subsection (d)(2)) to the recipients described in paragraph (1).

(3) An owner or operator may meet the requirements of this section with respect to a hazardous chemical which is a mixture by doing one of the following:

(A) Providing information on the inventory form on each element or compound in the mixture which is a hazardous chemical. If more than one mixture has the same element or compound, only one listing on the inventory form for the element or compound at the facility is necessary.

(B) Providing information on the inventory form on the mixture itself.

(b) THRESHOLDS.—The Administrator may establish threshold quantities for hazardous chemicals covered by this section below which no facility shall be subject to the provisions of this section. The threshold quantities may, in the Administrator's discretion, be based on classes of chemicals or categories of facilities.

(c) HAZARDOUS CHEMICALS COVERED.—A hazardous chemical subject to the requirements of this section is any hazardous chemical for which a material safety data sheet or a listing is required under section 311.

(d) CONTENTS OF FORM.—

(1) TIER I INFORMATION.—

(A) AGGREGATE INFORMATION BY CATEGORY.—An inventory form shall provide the information described in subparagraph (B) in aggregate terms for hazardous chemi-

cals in categories of health and physical hazards as set forth under the Occupational Safety and Health Act of 1970 and regulations promulgated under that Act. 29 USC 651 note.

(B) REQUIRED INFORMATION.—The information referred to in subparagraph (A) is the following:

(i) An estimate (in ranges) of the maximum amount of hazardous chemicals in each category present at the facility at any time during the preceding calendar year.

(ii) An estimate (in ranges) of the average daily amount of hazardous chemicals in each category present at the facility during the preceding calendar year.

(iii) The general location of hazardous chemicals in each category.

(C) MODIFICATIONS.—For purposes of reporting information under this paragraph, the Administrator may—

(i) modify the categories of health and physical hazards as set forth under the Occupational Safety and Health Act of 1970 and regulations promulgated under that Act by requiring information to be reported in terms of groups of hazardous chemicals which present similar hazards in an emergency, or Regulations.

(ii) require reporting on individual hazardous chemicals of special concern to emergency response personnel.

(2) TIER II INFORMATION.—An inventory form shall provide the following additional information for each hazardous chemical present at the facility, but only upon request and in accordance with subsection (e):

(A) The chemical name or the common name of the chemical as provided on the material safety data sheet.

(B) An estimate (in ranges) of the maximum amount of the hazardous chemical present at the facility at any time during the preceding calendar year.

(C) An estimate (in ranges) of the average daily amount of the hazardous chemical present at the facility during the preceding calendar year.

(D) A brief description of the manner of storage of the hazardous chemical.

(E) The location at the facility of the hazardous chemical.

(F) An indication of whether the owner elects to withhold location information of a specific hazardous chemical from disclosure to the public under section 324.

(e) AVAILABILITY OF TIER II INFORMATION.—

(1) AVAILABILITY TO STATE COMMISSIONS, LOCAL COMMITTEES, AND FIRE DEPARTMENTS.—Upon request by a State emergency planning commission, a local emergency planning committee, or a fire department with jurisdiction over the facility, the owner or operator of a facility shall provide tier II information, as described in subsection (d), to the person making the request. Any such request shall be with respect to a specific facility.

(2) AVAILABILITY TO OTHER STATE AND LOCAL OFFICIALS.—A State or local official acting in his or her official capacity may have access to tier II information by submitting a request to the State emergency response commission or the local emergency planning committee. Upon receipt of a request for tier II information, the State commission or local committee shall,

pursuant to paragraph (1), request the facility owner or operator for the tier II information and make available such information to the official.

(3) AVAILABILITY TO PUBLIC.—

(A) IN GENERAL.—Any person may request a State emergency response commission or local emergency planning committee for tier II information relating to the preceding calendar year with respect to a facility. Any such request shall be in writing and shall be with respect to a specific facility.

(B) AUTOMATIC PROVISION OF INFORMATION TO PUBLIC.—Any tier II information which a State emergency response commission or local emergency planning committee has in its possession shall be made available to a person making a request under this paragraph in accordance with section 324. If the State emergency response commission or local emergency planning committee does not have the tier II information in its possession, upon a request for tier II information the State emergency response commission or local emergency planning committee shall, pursuant to paragraph (1), request the facility owner or operator for tier II information with respect to a hazardous chemical which a facility has stored in an amount in excess of 10,000 pounds present at the facility at any time during the preceding calendar year and make such information available in accordance with section 324 to the person making the request.

(C) DISCRETIONARY PROVISION OF INFORMATION TO PUBLIC.—In the case of tier II information which is not in the possession of a State emergency response commission or local emergency planning committee and which is with respect to a hazardous chemical which a facility has stored in an amount less than 10,000 pounds present at the facility at any time during the preceding calendar year, a request from a person must include the general need for the information. The State emergency response commission or local emergency planning committee may, pursuant to paragraph (1), request the facility owner or operator for the tier II information on behalf of the person making the request. Upon receipt of any information requested on behalf of such person, the State emergency response commission or local emergency planning committee shall make the information available in accordance with section 324 to the person.

(D) RESPONSE IN 45 DAYS.—A State emergency response commission or local emergency planning committee shall respond to a request for tier II information under this paragraph no later than 45 days after the date of receipt of the request.

(f) FIRE DEPARTMENT ACCESS.—Upon request to an owner or operator of a facility which files an inventory form under this section by the fire department with jurisdiction over the facility, the owner or operator of the facility shall allow the fire department to conduct an on-site inspection of the facility and shall provide to the fire department specific location information on hazardous chemicals at the facility.

(g) FORMAT OF FORMS.—The Administrator shall publish a uniform format for inventory forms within three months after the date of the enactment of this title. If the Administrator does not publish such forms, owners and operators of facilities subject to the requirements of this section shall provide the information required under this section by letter.

SEC. 313. TOXIC CHEMICAL RELEASE FORMS. 42 USC 11023.

(a) BASIC REQUIREMENT.—The owner or operator of a facility subject to the requirements of this section shall complete a toxic chemical release form as published under subsection (g) for each toxic chemical listed under subsection (c) that was manufactured, processed, or otherwise used in quantities exceeding the toxic chemical threshold quantity established by subsection (f) during the preceding calendar year at such facility. Such form shall be submitted to the Administrator and to an official or officials of the State designated by the Governor on or before July 1, 1988, and annually thereafter on July 1 and shall contain data reflecting releases during the preceding calendar year.

(b) COVERED OWNERS AND OPERATORS OF FACILITIES.—

(1) IN GENERAL.—(A) The requirements of this section shall apply to owners and operators of facilities that have 10 or more full-time employees and that are in Standard Industrial Classification Codes 20 through 39 (as in effect on July 1, 1985) and that manufactured, processed, or otherwise used a toxic chemical listed under subsection (c) in excess of the quantity of that toxic chemical established under subsection (f) during the calendar year for which a release form is required under this section.

(B) The Administrator may add or delete Standard Industrial Classification Codes for purposes of subparagraph (A), but only to the extent necessary to provide that each Standard Industrial Code to which this section applies is relevant to the purposes of this section.

(C) For purposes of this section—

(i) The term "manufacture" means to produce, prepare, import, or compound a toxic chemical.

(ii) The term "process" means the preparation of a toxic chemical, after its manufacture, for distribution in commerce—

(I) in the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such chemical, or

(II) as part of an article containing the toxic chemical.

(2) DISCRETIONARY APPLICATION TO ADDITIONAL FACILITIES.—The Administrator, on his own motion or at the request of a Governor of a State (with regard to facilities located in that State), may apply the requirements of this section to the owners and operators of any particular facility that manufactures, processes, or otherwise uses a toxic chemical listed under subsection (c) if the Administrator determines that such action is warranted on the basis of toxicity of the toxic chemical, proximity to other facilities that release the toxic chemical or to population centers, the history of releases of such chemical at

such facility, or such other factors as the Administrator deems appropriate.

(c) TOXIC CHEMICALS COVERED.—The toxic chemicals subject to the requirements of this section are those chemicals on the list in Committee Print Number 99-169 of the Senate Committee on Environment and Public Works, titled "Toxic Chemicals Subject to Section 313 of the Emergency Planning and Community Right-To-Know Act of 1986" (including any revised version of the list as may be made pursuant to subsection (d) or (e)).

(d) REVISIONS BY ADMINISTRATOR.—

(1) IN GENERAL.—The Administrator may by rule add or delete a chemical from the list described in subsection (c) at any time.

(2) ADDITIONS.—A chemical may be added if the Administrator determines, in his judgment, that there is sufficient evidence to establish any one of the following:

(A) The chemical is known to cause or can reasonably be anticipated to cause significant adverse acute human health effects at concentration levels that are reasonably likely to exist beyond facility site boundaries as a result of continuous, or frequently recurring, releases.

(B) The chemical is known to cause or can reasonably be anticipated to cause in humans—

(i) cancer or teratogenic effects, or

(ii) serious or irreversible—

(I) reproductive dysfunctions,

(II) neurological disorders,

(III) heritable genetic mutations, or

(IV) other chronic health effects.

(C) The chemical is known to cause or can reasonably be anticipated to cause, because of—

(i) its toxicity,

(ii) its toxicity and persistence in the environment, or

(iii) its toxicity and tendency to bioaccumulate in the environment,

a significant adverse effect on the environment of sufficient seriousness, in the judgment of the Administrator, to warrant reporting under this section. The number of chemicals included on the list described in subsection (c) on the basis of the preceding sentence may constitute in the aggregate no more than 25 percent of the total number of chemicals on the list.

Science and technology. Research and development.

A determination under this paragraph shall be based on generally accepted scientific principles or laboratory tests, or appropriately designed and conducted epidemiological or other population studies, available to the Administrator.

(3) DELETIONS.—A chemical may be deleted if the Administrator determines there is not sufficient evidence to establish any of the criteria described in paragraph (2).

(4) EFFECTIVE DATE.—Any revision made on or after January 1 and before December 1 of any calendar year shall take effect beginning with the next calendar year. Any revision made on or after December 1 of any calendar year and before January 1 of the next calendar year shall take effect beginning with the calendar year following such next calendar year.

(e) PETITIONS.—

(1) IN GENERAL.—Any person may petition the Administrator to add or delete a chemical from the list described in subsection (c) on the basis of the criteria in subparagraph (A) or (B) of subsection (d)(2). Within 180 days after receipt of a petition, the Administrator shall take one of the following actions:

(A) Initiate a rulemaking to add or delete the chemical to the list, in accordance with subsection (d)(2) or (d)(3).

(B) Publish an explanation of why the petition is denied.

(2) GOVERNOR PETITIONS.—A State Governor may petition the Administrator to add or delete a chemical from the list described in subsection (c) on the basis of the criteria in subparagraph (A), (B), or (C) of subsection (d)(2). In the case of such a petition from a State Governor to delete a chemical, the petition shall be treated in the same manner as a petition received under paragraph (1) to delete a chemical. In the case of such a petition from a State Governor to add a chemical, the chemical will be added to the list within 180 days after receipt of the petition, unless the Administrator—

(A) initiates a rulemaking to add the chemical to the list, in accordance with subsection (d)(2), or

(B) publishes an explanation of why the Administrator believes the petition does not meet the requirements of subsection (d)(2) for adding a chemical to the list.

(f) THRESHOLD FOR REPORTING.—

(1) TOXIC CHEMICAL THRESHOLD AMOUNT.—The threshold amounts for purposes of reporting toxic chemicals under this section are as follows:

(A) With respect to a toxic chemical used at a facility, 10,000 pounds of the toxic chemical per year.

(B) With respect to a toxic chemical manufactured or processed at a facility—

(i) For the toxic chemical release form required to be submitted under this section on or before July 1, 1988, 75,000 pounds of the toxic chemical per year.

(ii) For the form required to be submitted on or before July 1, 1989, 50,000 pounds of the toxic chemical per year.

(iii) For the form required to be submitted on or before July 1, 1990, and for each form thereafter, 25,000 pounds of the toxic chemical per year.

(2) REVISIONS.—The Administrator may establish a threshold amount for a toxic chemical different from the amount established by paragraph (1). Such revised threshold shall obtain reporting on a substantial majority of total releases of the chemical at all facilities subject to the requirements of this section. The amounts established under this paragraph may, at the Administrator's discretion, be based on classes of chemicals or categories of facilities.

(g) FORM.—

Public information.

(1) INFORMATION REQUIRED.—Not later than June 1, 1987, the Administrator shall publish a uniform toxic chemical release form for facilities covered by this section. If the Administrator does not publish such a form, owners and operators of facilities subject to the requirements of this section shall provide the information required under this subsection by letter postmarked on or before the date on which the form is due. Such form shall—

(A) provide for the name and location of, and principal business activities at, the facility;

(B) include an appropriate certification, signed by a senior official with management responsibility for the person or persons completing the report, regarding the accuracy and completeness of the report; and

(C) provide for submission of each of the following items of information for each listed toxic chemical known to be present at the facility:

(i) Whether the toxic chemical at the facility is manufactured, processed, or otherwise used, and the general category or categories of use of the chemical.

(ii) An estimate of the maximum amounts (in ranges) of the toxic chemical present at the facility at any time during the preceding calendar year.

(iii) For each wastestream, the waste treatment or disposal methods employed, and an estimate of the treatment efficiency typically achieved by such methods for that wastestream.

(iv) The annual quantity of the toxic chemical entering each environmental medium.

(2) USE OF AVAILABLE DATA.—In order to provide the information required under this section, the owner or operator of a facility may use readily available data (including monitoring data) collected pursuant to other provisions of law, or, where such data are not readily available, reasonable estimates of the amounts involved. Nothing in this section requires the monitoring or measurement of the quantities, concentration, or frequency of any toxic chemical released into the environment beyond that monitoring and measurement required under other provisions of law or regulation. In order to assure consistency, the Administrator shall require that data be expressed in common units.

Public information.

(h) USE OF RELEASE FORM.—The release forms required under this section are intended to provide information to the Federal, State, and local governments and the public, including citizens of communities surrounding covered facilities. The release form shall be available, consistent with section 324(a), to inform persons about releases of toxic chemicals to the environment; to assist governmental agencies, researchers, and other persons in the conduct of research and data gathering; to aid in the development of appropriate regulations, guidelines, and standards; and for other similar purposes.

(i) MODIFICATIONS IN REPORTING FREQUENCY.—

(1) IN GENERAL.—The Administrator may modify the frequency of submitting a report under this section, but the Administrator may not modify the frequency to be any more often than annually. A modification may apply, either nationally or in a specific geographic area, to the following:

(A) All toxic chemical release forms required under this section.

(B) A class of toxic chemicals or a category of facilities.

(C) A specific toxic chemical.

(D) A specific facility.

(2) REQUIREMENTS.—A modification may be made under paragraph (1) only if the Administrator—

(A) makes a finding that the modification is consistent with the provisions of subsection (h), based on—

(i) experience from previously submitted toxic chemical release forms, and

(ii) determinations made under paragraph (3), and

(B) the finding is made by a rulemaking in accordance with section 553 of title 5, United States Code.

(3) DETERMINATIONS.—The Administrator shall make the following determinations with respect to a proposed modification before making a modification under paragraph (1):

(A) The extent to which information relating to the proposed modification provided on the toxic chemical release forms has been used by the Administrator or other agencies of the Federal Government, States, local governments, health professionals, and the public.

(B) The extent to which the information is (i) readily available to potential users from other sources, such as State reporting programs, and (ii) provided to the Administrator under another Federal law or through a State program.

(C) The extent to which the modification would impose additional and unreasonable burdens on facilities subject to the reporting requirements under this section.

(4) 5-YEAR REVIEW.—Any modification made under this subsection shall be reviewed at least once every 5 years. Such review shall examine the modification and ensure that the requirements of paragraphs (2) and (3) still justify continuation of the modification. Any change to a modification reviewed under this paragraph shall be made in accordance with this subsection.

(5) NOTIFICATION TO CONGRESS.—The Administrator shall notify Congress of an intention to initiate a rulemaking for a modification under this subsection. After such notification, the Administrator shall delay initiation of the rulemaking for at least 12 months, but no more than 24 months, after the date of such notification.

(6) JUDICIAL REVIEW.—In any judicial review of a rulemaking which establishes a modification under this subsection, a court may hold unlawful and set aside agency action, findings, and conclusions found to be unsupported by substantial evidence.

(7) APPLICABILITY.—A modification under this subsection may apply to a calendar year or other reporting period beginning no earlier than January 1, 1993.

(8) EFFECTIVE DATE.—Any modification made on or after January 1 and before December 1 of any calendar year shall take effect beginning with the next calendar year. Any modification made on or after December 1 of any calendar year and before January 1 of the next calendar year shall take effect beginning with the calendar year following such next calendar year.

(j) EPA MANAGEMENT OF DATA.—The Administrator shall establish and maintain in a computer data base a national toxic chemical inventory based on data submitted to the Administrator under this section. The Administrator shall make these data accessible by computer telecommunication and other means to any person on a cost reimbursable basis.

Communications and telecommunications.

(k) REPORT.—Not later than June 30, 1991, the Comptroller General, in consultation with the Administrator and appropriate offi-

cials in the States, shall submit to the Congress a report including each of the following:

(1) A description of the steps taken by the Administrator and the States to implement the requirements of this section, including steps taken to make information collected under this section available to and accessible by the public.

(2) A description of the extent to which the information collected under this section has been used by the Environmental Protection Agency, other Federal agencies, the States, and the public, and the purposes for which the information has been used.

(3) An identification and evaluation of options for modifications to the requirements of this section for the purpose of making information collected under this section more useful.

(l) MASS BALANCE STUDY.—

(1) IN GENERAL.—The Administrator shall arrange for a mass balance study to be carried out by the National Academy of Sciences using mass balance information collected by the Administrator under paragraph (3). The Administrator shall submit to Congress a report on such study no later than 5 years after the date of the enactment of this title.

Reports.

(2) PURPOSES.—The purposes of the study are as follows:

(A) To assess the value of mass balance analysis in determining the accuracy of information on toxic chemical releases.

(B) To assess the value of obtaining mass balance information, or portions thereof, to determine the waste reduction efficiency of different facilities, or categories of facilities, including the effectiveness of toxic chemical regulations promulgated under laws other than this title.

(C) To assess the utility of such information for evaluating toxic chemical management practices at facilities, or categories of facilities, covered by this section.

(D) To determine the implications of mass balance information collection on a national scale similar to the mass balance information collection carried out by the Administrator under paragraph (3), including implications of the use of such collection as part of a national annual quantity toxic chemical release program.

State and local governments.

(3) INFORMATION COLLECTION.—(A) The Administrator shall acquire available mass balance information from States which currently conduct (or during the 5 years after the date of enactment of this title initiate) a mass balance-oriented annual quantity toxic chemical release program. If information from such States provides an inadequate representation of industry classes and categories to carry out the purposes of the study, the Administrator also may acquire mass balance information necessary for the study from a representative number of facilities in other States.

Public information. Classified information.

(B) Any information acquired under this section shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that the information (or a particular part thereof) to which the Administrator or any officer, employee, or representative has access under this section if made public would divulge information entitled to protection under section 1905 of title 18, United States Code, such information or part shall be considered confidential in accord-

ance with the purposes of that section, except that such information or part may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this section.

(C) The Administrator may promulgate regulations prescribing procedures for collecting mass balance information under this paragraph. Regulations.

(D) For purposes of collecting mass balance information under subparagraph (A), the Administrator may require the submission of information by a State or facility. State and local governments.

(4) MASS BALANCE DEFINITION.—For purposes of this subsection, the term "mass balance" means an accumulation of the annual quantities of chemicals transported to a facility, produced at a facility, consumed at a facility, used at a facility, accumulated at a facility, released from a facility, and transported from a facility as a waste or as a commercial product or byproduct or component of a commercial product or byproduct.

Subtitle C—General Provisions

SEC. 321. RELATIONSHIP TO OTHER LAW. State and local governments. 42 USC 11041.

(a) IN GENERAL.—Nothing in this title shall—

(1) preempt any State or local law,

(2) except as provided in subsection (b), otherwise affect any State or local law or the authority of any State or local government to adopt or enforce any State or local law, or

(3) affect or modify in any way the obligations or liabilities of any person under other Federal law.

(b) EFFECT ON MSDS REQUIREMENTS.—Any State or local law enacted after August 1, 1985, which requires the submission of a material safety data sheet from facility owners or operators shall require that the data sheet be identical in content and format to the data sheet required under subsection (a) of section 311. In addition, a State or locality may require the submission of information which is supplemental to the information required on the data sheet (including information on the location and quantity of hazardous chemicals present at the facility), through additional sheets attached to the data sheet or such other means as the State or locality considers appropriate.

SEC. 322. TRADE SECRETS. Classified information. Claims. 42 USC 11042.

(a) AUTHORITY TO WITHHOLD INFORMATION.—

(1) GENERAL AUTHORITY.—(A) With regard to a hazardous chemical, an extremely hazardous substance, or a toxic chemical, any person required under section 303(d)(2), 303(d)(3), 311, 312, or 313 to submit information to any other person may withhold from such submittal the specific chemical identity (including the chemical name and other specific identification), as defined in regulations prescribed by the Administrator under subsection (c), if the person complies with paragraph (2).

(B) Any person withholding the specific chemical identity shall, in the place on the submittal where the chemical identity would normally be included, include the generic class or category of the hazardous chemical, extremely hazardous substance, or toxic chemical (as the case may be).

(2) REQUIREMENTS.—(A) A person is entitled to withhold information under paragraph (1) if such person—

(i) claims that such information is a trade secret, on the basis of the factors enumerated in subsection (b),

(ii) includes in the submittal referred to in paragraph (1) an explanation of the reasons why such information is claimed to be a trade secret, based on the factors enumerated in subsection (b), including a specific description of why such factors apply, and

(iii) submits to the Administrator a copy of such submittal, and the information withheld from such submittal.

(B) In submitting to the Administrator the information required by subparagraph (A)(iii), a person withholding information under this subsection may—

(i) designate, in writing and in such manner as the Administrator may prescribe by regulation, the information which such person believes is entitled to be withheld under paragraph (1), and

(ii) submit such designated information separately from other information submitted under this subsection.

(3) LIMITATION.—The authority under this subsection to withhold information shall not apply to information which the Administrator has determined, in accordance with subsection (c), is not a trade secret.

(b) TRADE SECRET FACTORS.—No person required to provide information under this title may claim that the information is entitled to protection as a trade secret under subsection (a) unless such person shows each of the following:

(1) Such person has not disclosed the information to any other person, other than a member of a local emergency planning committee, an officer or employee of the United States or a State or local government, an employee of such person, or a person who is bound by a confidentiality agreement, and such person has taken reasonable measures to protect the confidentiality of such information and intends to continue to take such measures.

(2) The information is not required to be disclosed, or otherwise made available, to the public under any other Federal or State law.

(3) Disclosure of the information is likely to cause substantial harm to the competitive position of such person.

(4) The chemical identity is not readily discoverable through reverse engineering.

(c) TRADE SECRET REGULATIONS.—As soon as practicable after the date of enactment of this title, the Administrator shall prescribe regulations to implement this section. With respect to subsection (b)(4), such regulations shall be equivalent to comparable provisions in the Occupational Safety and Health Administration Hazard Communication Standard (29 C.F.R. 1910.1200) and any revisions of such standard prescribed by the Secretary of Labor in accordance with the final ruling of the courts of the United States in United Steelworkers of America, AFL-CIO-CLC v. Thorne G. Auchter.

(d) PETITION FOR REVIEW.—

(1) IN GENERAL.—Any person may petition the Administrator for the disclosure of the specific chemical identity of a hazardous chemical, an extremely hazardous substance, or a toxic chemical which is claimed as a trade secret under this section. The Administrator may, in the absence of a petition under this paragraph, initiate a determination, to be carried out in accord-

ance with this subsection, as to whether information withheld constitutes a trade secret.

(2) INITIAL REVIEW.—Within 30 days after the date of receipt of a petition under paragraph (1) (or upon the Administrator's initiative), the Administrator shall review the explanation filed by a trade secret claimant under subsection (a)(2) and determine whether the explanation presents assertions which, if true, are sufficient to support a finding that the specific chemical identity is a trade secret.

(3) FINDING OF SUFFICIENT ASSERTIONS.—

(A) If the Administrator determines pursuant to paragraph (2) that the explanation presents sufficient assertions to support a finding that the specific chemical identity is a trade secret, the Administrator shall notify the trade secret claimant that he has 30 days to supplement the explanation with detailed information to support the assertions.

(B) If the Administrator determines, after receipt of any supplemental supporting detailed information under subparagraph (A), that the assertions in the explanation are true and that the specific chemical identity is a trade secret, the Administrator shall so notify the petitioner and the petitioner may seek judicial review of the determination.

(C) If the Administrator determines, after receipt of any supplemental supporting detailed information under subparagraph (A), that the assertions in the explanation are not true and that the specific chemical identity is not a trade secret, the Administrator shall notify the trade secret claimant that the Administrator intends to release the specific chemical identity. The trade secret claimant has 30 days in which he may appeal the Administrator's determination under this subparagraph to the Administrator. If the Administrator does not reverse his determination under this subparagraph in such an appeal by the trade secret claimant, the trade secret claimaint may seek judicial review of the determination.

(4) FINDING OF INSUFFICIENT ASSERTIONS.—

(A) If the Administrator determines pursuant to paragraph (2) that the explanation presents insufficient assertions to support a finding that the specific chemical identity is a trade secret, the Administrator shall notify the trade secret claimant that he has 30 days to appeal the determination to the Administrator, or, upon a showing of good cause, amend the original explanation by providing supplementary assertions to support the trade secret claim.

(B) If the Administrator does not reverse his determination under subparagraph (A) after an appeal or an examination of any supplementary assertions under subparagraph (A), the Administrator shall so notify the trade secret claimant and the trade secret claimant may seek judicial review of the determination.

(C) If the Administrator reverses his determination under subparagraph (A) after an appeal or an examination of any supplementary assertions under subparagraph (A), the procedures under paragraph (3) of this subsection apply.

(e) EXCEPTION FOR INFORMATION PROVIDED TO HEALTH PROFESSIONALS.—Nothing in this section, or regulations adopted pursuant

to this section, shall authorize any person to withhold information which is required to be provided to a health professional, a doctor, or a nurse in accordance with section 323.

(f) PROVIDING INFORMATION TO THE ADMINISTRATOR; AVAILABILITY TO PUBLIC.—Any information submitted to the Administrator under subsection (a)(2) or subsection (d)(3) (except a specific chemical identity) shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that the information (or a particular part thereof) to which the Administrator has access under this section if made public would divulge information entitled to protection under section 1905 of title 18, United States Code, such information or part shall be considered confidential in accordance with the purposes of that section, except that such information or part may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this title.

(g) INFORMATION PROVIDED TO STATE.—Upon request by a State, acting through the Governor of the State, the Administrator shall provide to the State any information obtained under subsection (a)(2) and subsection (d)(3).

Health and medical care.

(h) INFORMATION ON ADVERSE EFFECTS.—(1) In any case in which the identity of a hazardous chemical or an extremely hazardous substance is claimed as a trade secret, the Governor or State emergency response commission established under section 301 shall identify the adverse health effects associated with the hazardous chemical or extremely hazardous substance and shall assure that such information is provided to any person requesting information about such hazardous chemical or extremely hazardous substance.

(2) In any case in which the identity of a toxic chemical is claimed as a trade secret, the Administrator shall identify the adverse health and environmental effects associated with the toxic chemical and shall assure that such information is included in the computer database required by section 313(j) and is provided to any person requesting information about such toxic chemical.

(i) INFORMATION PROVIDED TO CONGRESS.—Notwithstanding any limitatio contained in this section or any other provision of law, all information reported to or otherwise obtained by the Administrator (or any representative of the Administrator) under this title shall be made available to a duly authorized committee of the Congress upon written request by such a committee.

Classified information. 42 USC 11043.

SEC. 323. PROVISION OF INFORMATION TO HEALTH PROFESSIONALS, DOCTORS, AND NURSES.

(a) DIAGNOSIS OR TREATMENT BY HEALTH PROFESSIONAL.—An owner or operator of a facility which is subject to the requirements of section 311, 312, or 313 shall provide the specific chemical identity, if known, of a hazardous chemical, extremely hazardous substance, or a toxic chemical to any health professional who requests such information in writing if the health professional provides a written statement of need under this subsection and a written confidentiality agreement under subsection (d). The written statement of need shall be a statement that the health professional has a reasonable basis to suspect that—

(1) the information is needed for purposes of diagnosis or treatment of an individual,

(2) the individual or individuals being diagnosed or treated have been exposed to the chemical concerned, and

(3) knowledge of the specific chemical identity of such chemical will assist in diagnosis or treatment.

Following such a written request, the owner or operator to whom such request is made shall promptly provide the requested information to the health professional. The authority to withhold the specific chemical identity of a chemical under section 322 when such information is a trade secret shall not apply to information required to be provided under this subsection, subject to the provisions of subsection (d).

(b) MEDICAL EMERGENCY.—An owner or operator of a facility which is subject to the requirements of section 311, 312, or 313 shall provide a copy of a material safety data sheet, an inventory form, or a toxic chemical release form, including the specific chemical identity, if known, of a hazardous chemical, extremely hazardous substance, or a toxic chemical, to any treating physician or nurse who requests such information if such physician or nurse determines that—

(1) a medical emergency exists,

(2) the specific chemical identity of the chemical concerned is necessary for or will assist in emergency or first-aid diagnosis or treatment, and

(3) the individual or individuals being diagnosed or treated have been exposed to the chemical concerned.

Immediately following such a request, the owner or operator to whom such request is made shall provide the requested information to the physician or nurse. The authority to withhold the specific chemical identity of a chemical from a material safety data sheet, an inventory form, or a toxic chemical release form under section 322 when such information is a trade secret shall not apply to information required to be provided to a treating physician or nurse under this subsection. No written confidentiality agreement or statement of need shall be required as a precondition of such disclosure, but the owner or operator disclosing such information may require a written confidentiality agreement in accordance with subsection (d) and a statement setting forth the items listed in paragraphs (1) through (3) as soon as circumstances permit.

(c) PREVENTIVE MEASURES BY LOCAL HEALTH PROFESSIONALS.—

(1) PROVISION OF INFORMATION.—An owner or operator of a facility subject to the requirements of section 311, 312, or 313 shall provide the specific chemical identity, if known, of a hazardous chemical, an extremely hazardous substance, or a toxic chemical to any health professional (such as a physician, toxicologist, or epidemiologist)—

(A) who is a local government employee or a person under contract with the local government, and

(B) who requests such information in writing and provides a written statement of need under paragraph (2) and a written confidentiality agreement under subsection (d).

Following such a written request, the owner or operator to whom such request is made shall promptly provide the requested information to the local health professional. The authority to withhold the specific chemical identity of a chemical under section 322 when such information is a trade secret shall not apply to information required to be provided under this subsection, subject to the provisions of subsection (d).

(2) WRITTEN STATEMENT OF NEED.—The written statement of need shall be a statement that describes with reasonable detail one or more of the following health needs for the information:

(A) To assess exposure of persons living in a local community to the hazards of the chemical concerned.

(B) To conduct or assess sampling to determine exposure levels of various population groups.

(C) To conduct periodic medical surveillance of exposed population groups.

(D) To provide medical treatment to exposed individuals or population groups.

(E) To conduct studies to determine the health effects of exposure.

(F) To conduct studies to aid in the identification of a chemical that may reasonably be anticipated to cause an observed health effect.

(d) CONFIDENTIALITY AGREEMENT.—Any person obtaining information under subsection (a) or (c) shall, in accordance with such subsection (a) or (c), be required to agree in a written confidentiality agreement that he will not use the information for any purpose other than the health needs asserted in the statement of need, except as may otherwise be authorized by the terms of the agreement or by the person providing such information. Nothing in this subsection shall preclude the parties to a confidentiality agreement from pursuing any remedies to the extent permitted by law.

(e) REGULATIONS.—As soon as practicable after the date of the enactment of this title, the Administrator shall promulgate regulations describing criteria and parameters for the statement of need under subsection (a) and (c) and the confidentiality agreement under subsection (d).

42 USC 11044.

SEC. 324. PUBLIC AVAILABILITY OF PLANS, DATA SHEETS, FORMS, AND FOLLOWUP NOTICES.

(a) AVAILABILITY TO PUBLIC.—Each emergency response plan, material safety data sheet, list described in section 311(a)(2), inventory form, toxic chemical release form, and followup emergency notice shall be made available to the general public, consistent with section 322, during normal working hours at the location or locations designated by the Administrator, Governor, State emergency response commission, or local emergency planning committee, as appropriate. Upon request by an owner or operator of a facility subject to the requirements of section 312, the State emergency response commission and the appropriate local emergency planning committee shall withhold from disclosure under this section the location of any specific chemical required by section 312(d)(2) to be contained in an inventory form as tier II information.

(b) NOTICE OF PUBLIC AVAILABILITY.—Each local emergency planning committee shall annually publish a notice in local newspapers that the emergency response plan, material safety data sheets, and inventory forms have been submitted under this section. The notice shall state that followup emergency notices may subsequently be issued. Such notice shall announce that members of the public who wish to review any such plan, sheet, form, or followup notice may do so at the location designated under subsection (a).

SEC. 325. ENFORCEMENT. 42 USC 11045.

(a) CIVIL PENALTIES FOR EMERGENCY PLANNING.—The Administrator may order a facility owner or operator (except an owner or operator of a facility designated under section 302(b)(2)) to comply with section 302(c) and section 303(d). The United States district court for the district in which the facility is located shall have jurisdiction to enforce the order, and any person who violates or fails to obey such an order shall be liable to the United States for a civil penalty of not more than $25,000 for each day in which such violation occurs or such failure to comply continues.

(b) CIVIL, ADMINISTRATIVE, AND CRIMINAL PENALTIES FOR EMERGENCY NOTIFICATION.—

(1) CLASS I ADMINISTRATIVE PENALTY.—(A) A civil penalty of not more than $25,000 per violation may be assessed by the Administrator in the case of a violation of the requirements of section 304.

(B) No civil penalty may be assessed under this subsection unless the person accused of the violation is given notice and opportunity for a hearing with respect to the violation.

(C) In determining the amount of any penalty assessed pursuant to this subsection, the Administrator shall take into account the nature, circumstances, extent and gravity of the violation or violations and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such other matters as justice may require.

(2) CLASS II ADMINISTRATIVE PENALTY.—A civil penalty of not more than $25,000 per day for each day during which the violation continues may be assessed by the Administrator in the case of a violation of the requirements of section 304. In the case of a second or subsequent violation the amount of such penalty may be not more than $75,000 for each day during which the violation continues. Any civil penalty under this subsection shall be assessed and collected in the same manner, and subject to the same provisions, as in the case of civil penalties assessed and collected under section 16 of the Toxic Substances Control Act. In any proceeding for the assessment of a civil penalty under this subsection the Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents and may promulgate rules for discovery procedures.

(3) JUDICIAL ASSESSMENT.—The Administrator may bring an action in the United States District court for the appropriate district to assess and collect a penalty of not more than $25,000 per day for each day during which the violation continues in the case of a violation of the requirements of section 304. In the case of a second or subsequent violation, the amount of such penalty may be not more than $75,000 for each day during which the violation continues. 15 USC 2615.

(4) CRIMINAL PENALTIES.—Any person who knowingly and willfully fails to provide notice in accordance with section 304 shall, upon conviction, be fined not more than $25,000 or imprisoned for not more than two years, or both (or in the case of a second or subsequent conviction, shall be fined not more than $50,000 or imprisoned for not more than five years, or both).

(c) CIVIL AND ADMINISTRATIVE PENALTIES FOR REPORTING REQUIREMENTS.—(1) Any person (other than a governmental entity) who violates any requirement of section 312 or 313 shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation.

(2) Any person (other than a governmental entity) who violates any requirement of section 311 or 323(b), and any person who fails to furnish to the Administrator information required under section 322(a)(2) shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each such violation.

(3) Each day a violation described in paragraph (1) or (2) continues shall, for purposes of this subsection, constitute a separate violation.

(4) The Administrator may assess any civil penalty for which a person is liable under this subsection by administrative order or may bring an action to assess and collect the penalty in the United States district court for the district in which the person from whom the penalty is sought resides or in which such person's principal place of business is located.

(d) CIVIL, ADMINISTRATIVE, AND CRIMINAL PENALTIES WITH RESPECT TO TRADE SECRETS.—

(1) CIVIL AND ADMINISTRATIVE PENALTY FOR FRIVOLOUS CLAIMS.—If the Administrator determines—

(A)(i) under section 322(d)(4) that an explanation submitted by a trade secret claimant presents insufficient assertions to support a finding that a specific chemical identity is a trade secret, or (ii) after receiving supplemental supporting detailed information under section 322(d)(3)(A), that the specific chemical identity is not a trade secret; and

(B) that the trade secret claim is frivolous,

the trade secret claimant is liable for a penalty of $25,000 per claim. The Administrator may assess the penalty by administrative order or may bring an action in the appropriate district court of the United States to assess and collect the penalty.

(2) CRIMINAL PENALTY FOR DISCLOSURE OF TRADE SECRET INFORMATION.—Any person who knowingly and willfully divulges or discloses any information entitled to protection under section 322 shall, upon conviction, be subject to a fine of not more than $20,000 or to imprisonment not to exceed one year, or both.

(e) SPECIAL ENFORCEMENT PROVISIONS FOR SECTION 323.—Whenever any facility owner or operator required to provide information under section 323 to a health professional who has requested such information fails or refuses to provide such information in accordance with such section, such health professional may bring an action in the appropriate United States district court to require such facility owner or operator to provide the information. Such court shall have jurisdiction to issue such orders and take such other action as may be necessary to enforce the requirements of section 323.

(f) PROCEDURES FOR ADMINISTRATIVE PENALTIES.—

(1) Any person against whom a civil penalty is assessed under this section may obtain review thereof in the appropriate district court of the United States by filing a notice of appeal in such court within 30 days after the date of such order and by simultaneously sending a copy of such notice by certified mail to the Administrator. The Administrator shall promptly file in such court a certified copy of the record upon which such

Records.

violation was found or such penalty imposed. If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order or after the appropriate court has entered final judgment in favor of the United States, the Administrator may request the Attorney General of the United States to institute a civil action in an appropriate district court of the United States to collect the penalty, and such court shall have jurisdiction to hear and decide any such action. In hearing such action, the court shall have authority to review the violation and the assessment of the civil penalty on the record.

(2) The Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, or documents in connection with hearings under this section. In case of contumacy or refusal to obey a subpoena issued pursuant to this paragraph and served upon any person, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the administrative law judge or to appear and produce documents before the administrative law judge, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

SEC. 326. CIVIL ACTIONS. 42 USC 11046.

(a) AUTHORITY TO BRING CIVIL ACTIONS.—

(1) CITIZEN SUITS.—Except as provided in subsection (e), any person may commence a civil action on his own behalf against the following:

(A) An owner or operator of a facility for failure to do any of the following:

(i) Submit a followup emergency notice under section 304(c).

(ii) Submit a material safety data sheet or a list under section 311(a).

(iii) Complete and submit an inventory form under section 312(a) containing tier I information as described in section 312(d)(1) unless such requirement does not apply by reason of the second sentence of section 312(a)(2).

(iv) Complete and submit a toxic chemical release form under section 313(a).

(B) The Administrator for failure to do any of the following:

(i) Publish inventory forms under section 312(g).

(ii) Respond to a petition to add or delete a chemical under section 313(e)(1) within 180 days after receipt of the petition.

(iii) Publish a toxic chemical release form under 313(g).

(iv) Establish a computer database in accordance with section 313(j).

(v) Promulgate trade secret regulations under section 322(c).

(vi) Render a decision in response to a petition under section 322(d) within 9 months after receipt of the petition.

Public information. State and local governments.

(C) The Administrator, a State Governor, or a State emergency response commission, for failure to provide a mechanism for public availability of information in accordance with section 324(a).

(D) A State Governor or a State emergency response commission for failure to respond to a request for tier II information under section 312(e)(3) within 120 days after the date of receipt of the request.

(2) STATE OR LOCAL SUITS.—

(A) Any State or local government may commence a civil action against an owner or operator of a facility for failure to do any of the following:

(i) Provide notification to the emergency response commission in the State under section 302(c).

(ii) Submit a material safety data sheet or a list under section 311(a).

(iii) Make available information requested under section 311(c).

(iv) Complete and submit an inventory form under section 312(a) containing tier I information unless such requirement does not apply by reason of the second sentence of section 312(a)(2)..

(B) Any State emergency response commission or local emergency planning committee may commence a civil action against an owner or operator of a facility for failure to provide information under section 303(d) or for failure to submit tier II information under section 312(e)(1).

(C) Any State may commence a civil action against the Administrator for failure to provide information to the State under section 322(g).

(b) VENUE.—

(1) Any action under subsection (a) against an owner or operator of a facility shall be brought in the district court for the district in which the alleged violation occurred.

District of Columbia.

(2) Any action under subsection (a) against the Administrator may be brought in the United States District Court for the District of Columbia.

(c) RELIEF.—The district court shall have jurisdiction in actions brought under subsection (a) against an owner or operator of a facility to enforce the requirement concerned and to impose any civil penalty provided for violation of that requirement. The district court shall have jurisdiction in actions brought under subsection (a) against the Administrator to order the Administrator to perform the act or duty concerned.

(d) NOTICE.—

(1) No action may be commenced under subsection (a)(1)(A) prior to 60 days after the plaintiff has given notice of the alleged violation to the Administrator, the State in which the alleged violation occurs, and the alleged violator. Notice under this paragraph shall be given in such manner as the Administrator shall prescribe by regulation.

Regulations.

(2) No action may be commenced under subsection (a)(1)(B) or (a)(1)(C) prior to 60 days after the date on which the plaintiff gives notice to the Administrator, State Governor, or State emergency response commission (as the case may be) that the plaintiff will commence the action. Notice under this paragraph

Regulations.

shall be given in such manner as the Administrator shall prescribe by regulation.

(e) LIMITATION.—No action may be commenced under subsection (a) against an owner or operator of a facility if the Administrator has commenced and is diligently pursuing an administrative order or civil action to enforce the requirement concerned or to impose a civil penalty under this Act with respect to the violation of the requirement.

(f) COSTS.—The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to the prevailing or the substantially prevailing party whenever the court determines such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

18 USC app.

(g) OTHER RIGHTS.—Nothing in this section shall restrict or expand any right which any person (or class of persons) may have under any Federal or State statute or common law to seek enforcement of any requirement or to seek any other relief (including relief against the Administrator or a State agency).

State and local governments.

(h) INTERVENTION.—

(1) BY THE UNITED STATES.—In any action under this section the United States or the State, or both, if not a party, may intervene as a matter of right.

(2) BY PERSONS.—In any action under this section, any person may intervene as a matter of right when such person has a direct interest which is or may be adversely affected by the action and the disposition of the action may, as a practical matter, impair or impede the person's ability to protect that interest unless the Administrator or the State shows that the person's interest is adequately represented by existing parties in the action.

SEC. 327. EXEMPTION.

Natural gas.
42 USC 11047.

Except as provided in section 304, this title does not apply to the transportation, including the storage incident to such transportation, of any substance or chemical subject to the requirements of this title, including the transportation and distribution of natural gas.

SEC. 328. REGULATIONS.

42 USC 11048.

The Administrator may prescribe such regulations as may be necessary to carry out this title.

SEC. 329. DEFINITIONS.

42 USC 11049.

For purposes of this title—

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) ENVIRONMENT.—The term "environment" includes water, air, and land and the interrelationship which exists among and between water, air, and land and all living things.

(3) EXTREMELY HAZARDOUS SUBSTANCE.—The term "extremely hazardous substance" means a substance on the list described in section 302(a)(2).

(4) FACILITY.—The term "facility" means all buildings, equipment, structures, and other stationary items which are located

on a single site or on contiguous or adjacent sites and which are owned or operated by the same person (or by any person which controls, is controlled by, or under common control with, such person). For purposes of section 304, the term includes motor vehicles, rolling stock, and aircraft.

(5) HAZARDOUS CHEMICAL.—The term "hazardous chemical" has the meaning given such term by section 311(e).

(6) MATERIAL SAFETY DATA SHEET.—The term "material safety data sheet" means the sheet required to be developed under section 1910.1200(g) of title 29 of the Code of Federal Regulations, as that section may be amended from time to time.

(7) PERSON.—The term "person" means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or interstate body.

(8) RELEASE.—The term "release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles) of any hazardous chemical, extremely hazardous substance, or toxic chemical.

(9) STATE.—The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, and any other territory or possession over which the United States has jurisdiction.

(10) TOXIC CHEMICAL.—The term "toxic chemical" means a substance on the list described in section 313(c).

42 USC 11050.

SEC. 330. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal years beginning after September 30, 1986, such sums as may be necessary to carry out this title.

TITLE IV—RADON GAS AND INDOOR AIR QUALITY RESEARCH

Radon Gas and Indoor Air Quality Research Act of 1986.

SEC. 401. SHORT TITLE.

42 USC 7401 note.

This title may be cited as the "Radon Gas and Indoor Air Quality Research Act of 1986".

42 USC 7401 note.

SEC. 402. FINDINGS.

The Congress finds that:

(1) High levels of radon gas pose a serious health threat in structures in certain areas of the country.

(2) Various scientific studies have suggested that exposure to radon, including exposure to naturally occurring radon and indoor air pollutants, poses a public health risk.

(3) Existing Federal radon and indoor air pollutant research programs are fragmented and underfunded.

(4) An adequate information base concerning exposure to radon and indoor air pollutants should be developed by the appropriate Federal agencies.

42 USC 7401 note.

SEC. 403. RADON GAS AND INDOOR AIR QUALITY RESEARCH PROGRAM.

(a) DESIGN OF PROGRAM.—The Administrator of the Environmental Protection Agency shall establish a research program with

respect to radon gas and indoor air quality. Such program shall be designed to—

(1) gather data and information on all aspects of indoor air quality in order to contribute to the understanding of health problems associated with the existence of air pollutants in the indoor environment;

(2) coordinate Federal, State, local, and private research and development efforts relating to the improvement of indoor air quality; and

(3) assess appropriate Federal Government actions to mitigate the environmental and health risks associated with indoor air quality problems.

(b) PROGRAM REQUIREMENTS.—The research program required under this section shall include—

(1) research and development concerning the identification, characterization, and monitoring of the sources and levels of indoor air pollution, including radon, which includes research and development relating to—

(A) the measurement of various pollutant concentrations and their strengths and sources,

(B) high-risk building types, and

(C) instruments for indoor air quality data collection;

(2) research relating to the effects of indoor air pollution and radon on human health;

(3) research and development relating to control technologies or other mitigation measures to prevent or abate indoor air pollution (including the development, evaluation, and testing of individual and generic control devices and systems);

(4) demonstration of methods for reducing or eliminating indoor air pollution and radon, including sealing, venting, and other methods that the Administrator determines may be effective;

(5) research, to be carried out in conjunction with the Secretary of Housing and Urban Development, for the purpose of developing—

(A) methods for assessing the potential for radon contamination of new construction, including (but not limited to) consideration of the moisture content of soil, porosity of soil, and radon content of soil; and

(B) design measures to avoid indoor air pollution; and

(6) the dissemination of information to assure the public availability of the findings of the activities under this section.

(c) ADVISORY COMMITTEES.—The Administrator shall establish a committee comprised of individuals representing Federal agencies concerned with various aspects of indoor air quality and an advisory group comprised of individuals representing the States, the scientific community, industry, and public interest organizations to assist him in carrying out the research program for radon gas and indoor air quality.

(d) IMPLEMENTATION PLAN.—Not later than 90 days after the enactment of this Act, the Administrator shall submit to the Congress a plan for implementation of the research program under this section. Such plan shall also be submitted to the EPA Science Advisory Board, which shall, within a reasonable period of time, submit its comments on such plan to Congress.

(e) REPORT.—Not later than 2 years after the enactment of this Act, the Administrator shall submit to Congress a report respecting

his activities under this section and making such recommendations as appropriate.

42 USC 7401 note.

SEC. 404. CONSTRUCTION OF TITLE.

Nothing in this title shall be construed to authorize the Administrator to carry out any regulatory program or any activity other than research, development, and related reporting, information dissemination, and coordination activities specified in this title. Nothing in this title shall be construed to limit the authority of the Administrator or of any other agency or instrumentality of the United States under any other authority of law.

Appropriation authorization. 42 USC 7401 note.

SEC. 405. AUTHORIZATIONS.

There are authorized to be appropriated to carry out the activities under this title and under section 118(k) of the Superfund Amendments and Reauthorization Act of 1986 (relating to radon gas assessment and demonstration program) not to exceed $5,000,000 for each of the fiscal years 1987, 1988, and 1989. Of such sums appropriated in fiscal years 1987 and 1988, two-fifths shall be reserved for the implementation of section 118(k)(2).

Superfund Revenue Act of 1986.

TITLE V—AMENDMENTS OF THE INTERNAL REVENUE CODE OF 1986

26 USC 1 note.

SEC. 501. SHORT TITLE.

This title may be cited as the "Superfund Revenue Act of 1986".

PART I—SUPERFUND AND ITS REVENUE SOURCES

SEC. 511. EXTENSION OF ENVIRONMENTAL TAXES.

26 USC 4611.

(a) IN GENERAL.—Subsection (d) of section 4611 of the Internal Revenue Code of 1986 (relating to termination) is amended to read as follows:

Effective date.

"(d) APPLICATION OF TAXES.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the taxes imposed by this section shall apply after December 31, 1986, and before January 1, 1992.

"(2) NO TAX IF UNOBLIGATED BALANCE IN FUND EXCEEDS $3,500,000,000.—If on December 31, 1989, or December 31, 1990—

"(A) the unobligated balance in the Hazardous Substance Superfund exceeds $3,500,000,000, and

"(B) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the unobligated balance in the Hazardous Substance Superfund will exceed $3,500,000,000 on December 31 of 1990 or 1991, respectively, if no tax is imposed under section 59A, this section, and sections 4661 and 4671,

Post, p. 1770; 26 USC 4661, 4671.

then no tax shall be imposed under this section during 1990 or 1991, as the case may be.

"(3) NO TAX IF AMOUNTS COLLECTED EXCEED $6,650,000,000.—

"(A) ESTIMATES BY SECRETARY.—The Secretary as of the close of each calendar quarter (and at such other times as the Secretary determines appropriate) shall make an esti-

mate of the amount of taxes which will be collected under section 59A, this section, and sections 4661 and 4671 and credited to the Hazardous Substance Superfund during the period beginning January 1, 1987, and ending December 31, 1991.

Post, p. 1770; 26 USC 4661, 4671.

"(B) TERMINATION IF $6,650,000,000 CREDITED BEFORE JANUARY 1, 1992.—If the Secretary estimates under subparagraph (A) that more than $6,650,000,000 will be credited to the Fund before January 1, 1992, no tax shall be imposed under this section after the date on which (as estimated by the Secretary) $6,650,000,000 will be so credited to the Fund."

(b) TECHNICAL AMENDMENT.—Section 303 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is hereby repealed.

42 USC 9653.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1987.

26 USC 4611 note.

SEC. 512. INCREASE IN TAX ON PETROLEUM.

(a) IN GENERAL.—Subsections (a) and (b) of section 4611 of the Internal Revenue Code of 1986 (relating to environmental tax on petroleum) are each amended by striking out "of 0.79 cent a barrel" and inserting in lieu thereof "at the rate specified in subsection (c)".

26 USC 4611.

(b) INCREASE IN TAX.—Section 4611 of such Code is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

26 USC 4611.

"(c) RATE OF TAX.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the rate of the taxes imposed by this section is 8.2 cents a barrel.

"(2) IMPORTED PETROLEUM PRODUCTS.—The rate of the tax imposed by subsection (a)(2) shall be 11.7 cents a barrel."

(c) ALLOWANCE OF CREDIT FOR CRUDE OIL RETURNED TO PIPELINE.—Section 4612 of such Code (relating to definitions and special rules) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

26 USC 4612.

"(c) CREDIT WHERE CRUDE OIL RETURNED TO PIPELINE.—Under regulations prescribed by the Secretary, if an operator of a United States refinery—

Regulations.

"(1) removes crude oil from a pipeline, and

"(2) returns a portion of such crude oil into a stream of other crude oil in the same pipeline,

there shall be allowed as a credit against the tax imposed by section 4611 to such operator an amount equal to the product of the rate of tax imposed by section 4611 on the crude oil so removed by such operator and the number of barrels of crude oil returned by such operator to such pipeline. Any crude oil so returned shall be treated for purposes of this subchapter as crude oil on which no tax has been imposed by section 4611."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1987.

26 USC 4611 note.

SEC. 513. CHANGES RELATING TO TAX ON CERTAIN CHEMICALS.

(a) INCREASE IN RATE OF TAX ON XYLENE.—The table contained in subsection (b) of section 4661 of the Internal Revenue Code of 1986 (relating to tax on certain chemicals) is amended by adding at the end thereof the following new sentence:

26 USC 4661.

"For periods before 1992, the item relating to xylene in the preceding table shall be applied by substituting '10.13' for '4.87'."

26 USC 4662.

(b) EXEMPTION FOR EXPORTS OF TAXABLE CHEMICALS.—

(1) Section 4662 of such Code (relating to definitions and special rules) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) EXEMPTION FOR EXPORTS OF TAXABLE CHEMICALS.—

"(1) TAX-FREE SALES.—

"(A) IN GENERAL.—No tax shall be imposed under section 4661 on the sale by the manufacturer or producer of any taxable chemical for export, or for resale by the purchaser to a second purchaser for export.

"(B) PROOF OF EXPORT REQUIRED.—Rules similar to the rules of section 4221(b) shall apply for purposes of subparagraph (A).

"(2) CREDIT OR REFUND WHERE TAX PAID.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if—

"(i) tax under section 4661 was paid with respect to any taxable chemical, and

"(ii)(I) such chemical was exported by any person, or

"(II) such chemical was used as a material in the manufacture or production of a substance which was exported by any person and which, at the time of export, was a taxable substance (as defined in section 4672(a)),

credit or refund (without interest) of such tax shall be allowed or made to the person who paid such tax.

"(B) CONDITION TO ALLOWANCE.—No credit or refund shall be allowed or made under subparagraph (A) unless the person who paid the tax establishes that he—

"(i) has repaid or agreed to repay the amount of the tax to the person who exported the taxable chemical or taxable substance (as so defined), or

"(ii) has obtained the written consent of such exporter to the allowance of the credit or the making of the refund.

"(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection."

Post, p. 1764.

(2) Paragraph (1) of section 4662(d) of such Code (relating to refund or credit for certain uses) is amended—

(A) by striking out "the sale of which by such person would be taxable under such section" and inserting in lieu thereof "which is a taxable chemical", and

(B) by striking out "imposed by such section on the other substance manufactured or produced" and inserting in lieu thereof "imposed by such section on the other substance manufactured or produced (or which would have been imposed by such section on such other substance but for subsection (b) or (e) of this section)".

(c) SPECIAL RULE FOR XYLENE.—Subsection (b) of section 4662 of such Code (relating to exceptions; other special rules) is amended by adding after paragraph (6) the following new paragraph:

"(7) SPECIAL RULE FOR XYLENE.—Except in the case of any substance imported into the United States or exported from the

United States, the term 'xylene' does not include any separated isomer of xylene."

(d) EXEMPTION FOR CERTAIN RECYCLED CHEMICALS.—Subsection (b) of section 4662 of such Code (relating to exceptions; other special rules) is amended by adding after paragraph (7) the following new paragraph:

Ante, p. 1762; *post*, p. 1765; *infra*.

"(8) RECYCLED CHROMIUM, COBALT, AND NICKEL.—

"(A) IN GENERAL.—No tax shall be imposed under section 4661(a) on any chromium, cobalt, or nickel which is diverted or recovered in the United States from any solid waste as part of a recycling process (and not as part of the original manufacturing or production process).

"(B) EXEMPTION NOT TO APPLY WHILE CORRECTIVE ACTION UNCOMPLETED.—Subparagraph (A) shall not apply during any period that required corrective action by the taxpayer at the unit at which the recycling occurs is uncompleted.

"(C) REQUIRED CORRECTIVE ACTION.—For purposes of subparagraph (B), required corrective action shall be treated as uncompleted during the period—

"(i) beginning on the date that the corrective action is required by the Administrator or an authorized State pursuant to—

"(I) a final permit under section 3005 of the Solid Waste Disposal Act or a final order under section 3004 or 3008 of such Act, or

42 USC 6925.
42 USC 6924, 6928.

"(II) a final order under section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and

42 USC 9603.

"(ii) ending on the date the Administrator or such State (as the case may be) certifies to the Secretary that such corrective action has been completed.

"(D) SPECIAL RULE FOR GROUNDWATER TREATMENT.—In the case of corrective action requiring groundwater treatment, such action shall be treated as completed as of the close of the 10-year period beginning on the date such action is required if such treatment complies with the permit or order applicable under subparagraph (C)(i) throughout such period. The preceding sentence shall cease to apply beginning on the date such treatment ceases to comply with such permit or order.

Termination date.

"(E) SOLID WASTE.—For purposes of this paragraph, the term 'solid waste' has the meaning given such term by section 1004 of the Solid Waste Disposal Act, except that such term shall not include any byproduct, coproduct, or other waste from any process of smelting, refining, or otherwise extracting any metal."

42 USC 6903.

(e) EXEMPTION FOR ANIMAL FEED SUBSTANCES.—

(1) IN GENERAL.—Subsection (b) of section 4662 of such Code (relating to exceptions; other special rules) is amended by adding after paragraph (8) the following new paragraph:

"(9) SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—

"(A) IN GENERAL.—In the case of—

"(i) nitric acid,

"(ii) sulfuric acid,

"(iii) ammonia, or

"(iv) methane used to produce ammonia,

26 USC 4661.

which is a qualified animal feed substance, no tax shall be imposed under section 4661(a).

"(B) QUALIFIED ANIMAL FEED SUBSTANCE.—For purposes of this section, the term 'qualified animal feed substance' means any substance—

"(i) used in a qualified animal feed use by the manufacturer, producer, or importer,

"(ii) sold for use by any purchaser in a qualified animal feed use, or

"(iii) sold for resale by any purchaser for use, or resale for ultimate use, in a qualified animal feed use.

"(C) QUALIFIED ANIMAL FEED USE.—The term 'qualified animal feed use' means any use in the manufacture or production of animal feed or animal feed supplements, or of ingredients used in animal feed or animal feed supplements.

"(D) TAXATION OF NONQUALIFIED SALE OR USE.—For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of subparagraph (A), the 1st person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical."

Ante, p. 1762.

(2) REFUND OR CREDIT FOR SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—Subsection (d) of section 4662 of such Code (relating to refunds and credits with respect to the tax on certain chemicals) is amended by adding at the end thereof the following new paragraph:

"(4) USE IN THE PRODUCTION OF ANIMAL FEED.—Under regulations prescribed by the Secretary, if—

"(A) a tax under section 4661 was paid with respect to nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, without regard to subsection (b)(9), and

"(B) any person uses such substance as a qualified animal feed substance,

then an amount equal to the excess of the tax so paid over the tax determined with regard to subsection (b)(9) shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section."

(f) CERTAIN EXCHANGES BY TAXPAYERS NOT TREATED AS SALES.—Subsection (c) of section 4662 of such Code (relating to use by manufacturers) is amended to read as follows:

"(c) USE AND CERTAIN EXCHANGES BY MANUFACTURER, ETC.—

"(1) USE TREATED AS SALE.—Except as provided in subsections (b) and (e), if any person manufactures, produces, or imports any taxable chemical and uses such chemical, then such person shall be liable for tax under section 4661 in the same manner as if such chemical were sold by such person.

"(2) SPECIAL RULES FOR INVENTORY EXCHANGES.—

"(A) IN GENERAL.—Except as provided in this paragraph, in any case in which a manufacturer, producer, or importer of a taxable chemical exchanges such chemical as part of an inventory exchange with another person—

"(i) such exchange shall not be treated as a sale, and

"(ii) such other person shall, for purposes of section 4661, be treated as the manufacturer, producer, or importer of such chemical. 26 USC 4661.

"(B) REGISTRATION REQUIREMENT.—Subparagraph (A) shall not apply to any inventory exchange unless—

"(i) both parties are registered with the Secretary as manufacturers, producers, or importers of taxable chemicals, and

"(ii) the person receiving the taxable chemical has, at such time as the Secretary may prescribe, notified the manufacturer, producer, or importer of such person's registration number and the internal revenue district in which such person is registered.

"(C) INVENTORY EXCHANGE.—For purposes of this paragraph, the term 'inventory exchange' means any exchange in which 2 persons exchange property which is, in the hands of each person, property described in section 1221(1)."

(g) SPECIAL RULES RELATING TO HYDROCARBON STREAMS CONTAINING ORGANIC TAXABLE CHEMICALS.—Subsection (b) of section 4662 of such Code (relating to exceptions; other special rules) is amended by adding after paragraph (9) the following new paragraph: *Ante*, p. 1763.

"(10) HYDROCARBON STREAMS CONTAINING MIXTURES OF ORGANIC TAXABLE CHEMICALS.—

"(A) IN GENERAL.—No tax shall be imposed under section 4661(a) on any organic taxable chemical while such chemical is part of an intermediate hydrocarbon stream containing a mixture of organic taxable chemicals.

"(B) REMOVAL, ETC., TREATED AS USE.—For purposes of this part, if any organic taxable chemical on which no tax was imposed by reason of subparagraph (A) is isolated, extracted, or otherwise removed from, or ceases to be part of, an intermediate hydrocarbon stream—

"(i) such isolation, extraction, removal, or cessation shall be treated as use by the person causing such event, and

"(ii) such person shall be treated as the manufacturer of such chemical.

"(C) REGISTRATION REQUIREMENT.—Subparagraph (A) shall not apply to any sale of any intermediate hydrocarbon stream unless the registration requirements of clauses (i) and (ii) of subsection (c)(2)(B) are satisfied.

"(D) ORGANIC TAXABLE CHEMICAL.—For purposes of this paragraph, the term 'organic taxable chemical' means any taxable chemical which is an organic substance."

(h) EFFECTIVE DATES.— 26 USC 4661 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on January 1, 1987.

(2) REPEAL OF TAX ON XYLENE FOR PERIODS BEFORE OCTOBER 1, 1985.—

(A) REFUND OF TAX PREVIOUSLY IMPOSED.—

(i) IN GENERAL.—In the case of any tax imposed by section 4661 of the Internal Revenue Code of 1954 on the sale or use of xylene before October 1, 1985, such tax (including interest, additions to tax, and additional amounts) shall not be assessed, and if assessed, the

assessment shall be abated, and if collected shall be credited or refunded (with interest) as an overpayment.

(ii) CONDITION TO ALLOWANCE.—Clause (i) shall not apply to a sale of xylene unless the person who (but for clause (i)) would be liable for the tax imposed by section 4661 on such sale meets requirements similar to the requirements of paragraph (1) of section 6416(a) of such Code. For purposes of the preceding sentence, subparagraph (A) of section 6416(a)(1) of such Code shall be applied without regard to the material preceding "has not collected".

26 USC 4661.

Claims.

(B) WAIVER OF STATUTE OF LIMITATIONS.—If on the date of the enactment of this Act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of subparagraph (A) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefor is filed before the date 1 year after the date of the enactment of this Act.

(C) XYLENE TO INCLUDE ISOMERS.—For purposes of this paragraph, the term "xylene" shall include any isomer of xylene whether or not separated.

(3) INVENTORY EXCHANGES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendment made by subsection (f) shall apply as if included in the amendments made by section 211 of the Hazardous Substance Response Revenue Act of 1980.

26 USC prec. 4611-4612, prec. 4661-4662, prec. 4041, 4611 note.

Imports and exports.

(B) RECIPIENT MUST AGREE TO TREATMENT AS MANUFACTURER.—In the case of any inventory exchange before January 1, 1987, the amendment made by subsection (f) shall apply only if the person receiving the chemical from the manufacturer, producer, or importer in the exchange agrees to be treated as the manufacturer, producer, or importer of such chemical for purposes of subchapter B of chapter 38 of the Internal Revenue Code of 1954.

26 USC 4661.

Imports and exports.

(C) EXCEPTION WHERE MANUFACTURER PAID TAX.—In the case of any inventory exchange before January 1, 1987, the amendment made by subsection (f) shall not apply if the manufacturer, producer, or importer treated such exchange as a sale for purposes of section 4661 of such Code and paid the tax imposed by such section.

(D) REGISTRATION REQUIREMENTS.—Section 4662(c)(2)(B) of such Code (as added by subsection (f)) shall apply to exchanges made after December 31, 1986.

(4) EXPORTS OF TAXABLE SUBSTANCES.—Subclause (II) of section 4662(e)(2)(A)(ii) of such Code (as added by this section) shall not apply to the export of any taxable substance (as defined in section 4672(a) of such Code) before January 1, 1989.

Ante, p. 1762.

(5) SALES OF INTERMEDIATE HYDROCARBON STREAMS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendment made by subsection (g) shall apply as if included in the amendments made by section 211 of the Hazardous Substances Response Revenue Act of 1980.

(B) PURCHASER MUST AGREE TO TREATMENT AS MANUFACTURER.—In the case of any sale before January 1, 1987, of any intermediate hydrocarbon stream, the amendment made by subsection (g) shall apply only if the purchaser

agrees to be treated as the manufacturer, producer, or importer for purposes of subchapter B of chapter 38 of such Code.

(C) EXCEPTION WHERE MANUFACTURER PAID TAX.—In the case of any sale before January 1, 1987, of any intermediate hydrocarbon stream, the amendment made by subsection (g) shall not apply if the manufacturer, producer, or importer of such stream paid the tax imposed by section 4661 with respect to such sale on all taxable chemicals contained in such stream.

26 USC prec. 4611-4612, prec. 4661-4662, prec. 4041, 4611 note. Imports and exports.

(D) REGISTRATION REQUIREMENTS.—Section 4662(b)(10)(C) of such Code (as added by subsection (g)) shall apply to exchanges made after December 31, 1986.

SEC. 514. REPEAL OF POST-CLOSURE TAX AND TRUST FUND.

(a) REPEAL OF TAX.—

(1) Subchapter C of chapter 38 of the Internal Revenue Code of 1986 (relating to tax on hazardous wastes) is hereby repealed.

26 USC 4681, 4682.

(2) The table of subchapters for such chapter 38 is amended by striking out the item relating to subchapter C.

(b) REPEAL OF TRUST FUND.—Section 232 of the Hazardous Substance Response Revenue Act of 1980 is hereby repealed.

42 USC 9641.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on October 1, 1983.

26 USC 4681 note.

(2) WAIVER OF STATUTE OF LIMITATIONS.—If on the date of the enactment of this Act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of this section is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefor is filed before the date 1 year after the date of the enactment of this Act.

Claims.

SEC. 515. TAX ON CERTAIN IMPORTED SUBSTANCES DERIVED FROM TAXABLE CHEMICALS.

(a) GENERAL RULE.—Chapter 38 of the Internal Revenue Code of 1986 is amended by adding after subchapter B the following new subchapter:

"SUBCHAPTER C. Tax on Certain Imported Substances.

"Sec. 4671. Imposition of tax.
"Sec. 4672. Definitions and special rules.

"SEC. 4671. IMPOSITION OF TAX.

26 USC 4671.

"(a) GENERAL RULE.—There is hereby imposed a tax on any taxable substance sold or used by the importer thereof.

Imports and exports.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the tax imposed by subsection (a) with respect to any taxable substance shall be the amount of the tax which would have been imposed by section 4661 on the taxable chemicals used as materials in the manufacture or production of such substance if such taxable chemicals had been sold in the United States for use in the manufacture or production of such taxable substance.

"(2) RATE WHERE IMPORTER DOES NOT FURNISH INFORMATION TO SECRETARY.—If the importer does not furnish to the Secretary (at such time and in such manner as the Secretary shall pre-

scribe) sufficient information to determine under paragraph (1) the amount of the tax imposed by subsection (a) on any taxable substance, the amount of the tax imposed on such taxable substance shall be 5 percent of the appraised value of such substance as of the time such substance was entered into the United States for consumption, use, or warehousing.

"(3) AUTHORITY TO PRESCRIBE RATE IN LIEU OF PARAGRAPH (2) RATE.—The Secretary may prescribe for each taxable substance a tax which, if prescribed, shall apply in lieu of the tax specified in paragraph (2) with respect to such substance. The tax prescribed by the Secretary shall be equal to the amount of tax which would be imposed by subsection (a) with respect to the taxable substance if such substance were produced using the predominant method of production of such substance.

"(c) EXEMPTIONS FOR SUBSTANCES TAXED UNDER SECTIONS 4611 AND 4661.—No tax shall be imposed by this section on the sale or use of any substance if tax is imposed on such sale or use under section 4611 or 4661.

26 USC 4611, 4661.

"(d) TAX-FREE SALES, ETC. FOR SUBSTANCES USED AS CERTAIN FUELS OR IN THE PRODUCTION OF FERTILIZER OR ANIMAL FEED.—Rules similar to the following rules shall apply for purposes of applying this section with respect to taxable substances used or sold for use as described in such rules:

"(1) Paragraphs (2), (5), and (9) of section 4662(b) (relating to tax-free sales of chemicals used as fuel or in the production of fertilizer or animal feed).

"(2) Paragraphs (2), (3), and (4) of section 4662(d) (relating to refund or credit of tax on certain chemicals used as fuel or in the production of fertilizer or animal feed).

"(e) TERMINATION.—No tax shall be imposed under this section during any period during which no tax is imposed under section 4611(a).

26 USC 4672.

"SEC. 4672. DEFINITIONS AND SPECIAL RULES.

"(a) TAXABLE SUBSTANCE.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'taxable substance' means any substance which, at the time of sale or use by the importer, is listed as a taxable substance by the Secretary for purposes of this subchapter.

"(2) DETERMINATION OF SUBSTANCES ON LIST.—A substance shall be listed under paragraph (1) if—

"(A) the substance is contained in the list under paragraph (3), or

"(B) the Secretary determines, in consultation with the Administrator of the Environmental Protection Agency and the Commissioner of Customs, that taxable chemicals constitute more than 50 percent of the weight of the materials used to produce such substance (determined on the basis of the predominant method of production).

"(3) INITIAL LIST OF TAXABLE SUBSTANCES.—

Cumene	Methylene chloride
Styrene	Polypropylene
Ammonium nitrate	Propylene glycol
Nickel oxide	Formaldehyde
Isopropyl alcohol	Acetone

Ethylene glycol	Acrylonitrile
Vinyl chloride	Methanol
Polyethylene resins, total	Propylene oxide
Polybutadiene	Polypropylene resins
Styrene-butadiene, latex	Ethylene oxide
Styrene-butadiene, snpf	Ethylene dichloride
Synthetic rubber, not containing fillers	Cyclohexane
Urea	Isophthalic acid
Ferronickel	Maleic anhydride
Ferrochromium nov 3 pct	Phthalic anhydride
Ferrochrome ov 3 pct. carbon	Ethyl methyl ketone
Unwrought nickel	Chloroform
Nickel waste and scrap	Carbon tetrachloride
Wrought nickel rods and wire	Chromic acid
Nickel powders	Hydrogen peroxide
Phenolic resins	Polystyrene homopolymer resins
Polyvinylchloride resins	Melamine
Polystyrene resins and copolymers	Acrylic and methacrylic acid resins
Ethyl alcohol for nonbeverage use	Vinyl resins
Ethylbenzene	Vinyl resins, NSPF.

"(4) MODIFICATIONS TO LIST.—

"(A) IN GENERAL.—The Secretary may add substances to or remove substances from the list under paragraph (3) (including items listed by reason of paragraph (2)) as necessary to carry out the purposes of this subchapter.

"(B) AUTHORITY TO ADD SUBSTANCES TO LIST BASED ON VALUE.—The Secretary may, to the extent necessary to carry out the purposes of this subchapter, add any substance to the list under paragraph (3) if such substance would be described in paragraph (2)(B) if 'value' were substituted for 'weight' therein.

"(b) OTHER DEFINITIONS.—For purposes of this subchapter—

"(1) IMPORTER.—The term 'importer' means the person entering the taxable substance for consumption, use, or warehousing.

"(2) TAXABLE CHEMICALS; UNITED STATES.—The terms 'taxable chemical' and 'United States' have the respective meanings given such terms by section 4662(a). 26 USC 4662.

"(c) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4671."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 38 of such Code is amended by adding after the item relating to subchapter B the following new item:

"SUBCHAPTER C. Tax on certain imported substances."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1989. 26 USC 4671 note.

(d) STUDY.— 26 USC 4671 note.

(1) IN GENERAL.—The Secretary of the Treasury or his delegate shall conduct a study of issues relating to the implementation of—

(A) the tax imposed by the section 4671 of the Internal Revenue Code of 1986 (as added by this section), and

(B) the credit for exports of taxable substances under section 4661(e)(2)(A)(ii)(II) of such Code.

In conducting such study, the Secretary of the Treasury or his delegate shall consult with the Environmental Protection Agency and the International Trade Commission.

(2) REPORT.—The report of the study under paragraph (1) shall be submitted not later than January 1, 1988, to the Committee

on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 516. ENVIRONMENTAL TAX.

(a) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to income taxes) is amended by adding at the end thereof the following new part:

"PART VII—ENVIRONMENTAL TAX

"Sec. 59A. Environmental tax.

26 USC 59A.

"SEC. 59A. ENVIRONMENTAL TAX.

Corporation.

"(a) IMPOSITION OF TAX.—In the case of a corporation, there is hereby imposed (in addition to any other tax imposed by this subtitle) a tax equal to 0.12 percent of the excess of—

"(1) the modified alternative minimum taxable income of such corporation for the taxable year, over

"(2) $2,000,000.

"(b) MODIFIED ALTERNATIVE MINIMUM TAXABLE INCOME.—For purposes of this section, the term 'modified alternative minimum taxable income' means alternative minimum taxable income (as defined in section 55(b)(2)) but determined without regard to—

"(1) the alternative tax net operating loss deduction (as defined in section 56(d)), and

"(2) the deduction allowed under section 164(a)(5).

"(c) SPECIAL RULES.—

"(1) SHORT TAXABLE YEARS.—The application of this section to taxable years of less than 12 months shall be in accordance with regulations prescribed by the Secretary.

"(2) SECTION 15 NOT TO APPLY.—Section 15 shall not apply to the tax imposed by this section.

"(d) APPLICATION OF TAX.—

Effective date.

"(1) IN GENERAL.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1992.

"(2) EARLIER TERMINATION.—The tax imposed by this section shall not apply to taxable years—

"(A) beginning during a calendar year during which no tax is imposed under section 4611(a) by reason of paragraph (2) of section 4611(e), and

"(B) beginning after the calendar year which includes the termination date under paragraph (3) of section 4611(e)."

(b) TECHNICAL AMENDMENTS.—

(1) NO CREDITS ALLOWED AGAINST TAX.—

(A) Paragraph (2) of section 26(b) of such Code, as amended by the Tax Reform Act of 1986, is amended by redesignating subparagraphs (B) through (J) as subparagraphs (C) through (K), respectively, and by inserting after subparagraph (A) the following new subparagraph:

"(B) section 59A (relating to environmental tax),".

(B) Paragraph (3) of section 936(a) of such Code, as so amended, is amended by redesignating subparagraphs (A), (B), and (C) as subparagraphs (B), (C), and (D), respectively, and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

"(A) section 59A (relating to environmental tax),".

(2) TAX TO BE DEDUCTIBLE FOR INCOME TAX PURPOSES.—

(A) Subsection (a) of section 164 of such Code (relating to deduction for taxes), as so amended, is amended by inserting after paragraph (4) the following new paragraph: 26 USC 164.

"(5) The environmental tax imposed by section 59A." *Ante*, p. 1770.

(B) Subsection (a) of section 275 of such Code is amended by adding at the end thereof the following new sentence: "Paragraph (1) shall not apply to the tax imposed by section 59A."

(3) LIMITATION IN CASE OF CONTROLLED CORPORATIONS.—Subsection (a) of section 1561 of such Code (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations), as amended by the Tax Reform Act of 1986, is amended—

(A) by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and", and by inserting after paragraph (3) the following new paragraph:

"(4) one $2,000,000 amount for purposes of computing the tax imposed by section 59A.", and

(B) by striking out "(and the amount specified in paragraph (3))" and inserting in lieu thereof ", the amount specified in paragraph (3), and the amount specified in paragraph (4)".

(4) AMENDMENTS TO ESTIMATED TAX PROVISIONS.—

(A) TAX LIABILITY MUST BE ESTIMATED.—

(i) Paragraph (1) of section 6154(c) of such Code, as so amended, is amended by striking out "and" at the end of subparagraph (A), by striking out "over" at the end of subparagraph (B) and inserting in lieu thereof "and", and by adding at the end thereof the following new subparagraph:

"(C) the environmental tax imposed by section 59A, over".

(ii) Subsection (a) of section 6154 of such Code is amended by striking out "section 11" and inserting "section 11, 59A,".

(C) CONFORMING AMENDMENT TO OVERPAYMENT OF ESTIMATED TAX.—Subparagraph (A) of section 6425(c)(1) of such Code, as amended by the Tax Reform Act of 1986, is amended by striking out "plus" at the end of clause (i), by striking out "over" at the end of clause (ii) and inserting in lieu thereof "plus", and by adding at the end thereof the following new clause:

"(iii) the tax imposed by section 59A, over".

(D) CONFORMING AMENDMENT TO PENALTY FOR FAILURE TO PAY ESTIMATED TAX.—Paragraph (1) of section 6655(f) of such Code (defining tax), as so amended, is amended by striking out "plus" at the end of subparagraph (A), by striking out "over" at the end of subparagraph (B) and inserting in lieu thereof "plus", and by adding at the end thereof the following new subparagraph:

"(C) the tax imposed by section 59A, over".

(5) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Part VII. Environmental tax."

26 USC 26 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 517. HAZARDOUS SUBSTANCE SUPERFUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to establishment of trust funds) is amended by adding after section 9506 the following new section:

26 USC 9507.

"SEC. 9507. HAZARDOUS SUBSTANCE SUPERFUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Hazardous Substance Superfund' (hereinafter in this section referred to as the 'Superfund'), consisting of such amounts as may be—

"(1) appropriated to the Superfund as provided in this section,

"(2) appropriated to the Superfund pursuant to section 517(b) of the Superfund Revenue Act of 1986, or

Infra.

"(3) credited to the Superfund as provided in section 9602(b).

"(b) TRANSFERS TO SUPERFUND.—There are hereby appropriated to the Superfund amounts equivalent to—

Ante, p. 1770.

"(1) the taxes received in the Treasury under section 59A, 4611, 4661, or 4671 (relating to environmental taxes),

"(2) amounts recovered on behalf of the Superfund under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (hereinafter in this section referred to as 'CERCLA'),

42 USC 9601 note.

"(3) all moneys recovered or collected under section 311(b)(6)(B) of the Clean Water Act,

33 USC 1321.

42 USC 9601.

"(4) penalties assessed under title I of CERCLA, and

42 USC 9607.

"(5) punitive damages under section 107(c)(3) of CERCLA.

"(c) EXPENDITURES FROM SUPERFUND.—

"(1) IN GENERAL.—Amounts in the Superfund shall be available, as provided in appropriation Acts, only for purposes of making expenditures—

"(A) to carry out the purposes of—

"(i) paragraphs (1), (2), (5), and (6) of section 111(a) of CERCLA as in effect on the date of the enactment of the Superfund Amendments and Reauthorization Act of 1986,

Ante, p. 1642.

"(ii) section 111(c) of CERCLA (as so in effect), other than paragraphs (1) and (2) thereof, and

"(iii) section 111(m) of CERCLA (as so in effect), or

"(B) hereafter authorized by a law which does not authorize the expenditure out of the Superfund for a general purpose not covered by subparagraph (A) (as so in effect).

Waste disposal.

"(2) EXCEPTION FOR CERTAIN TRANSFERS, ETC., OF HAZARDOUS SUBSTANCES.—No amount in the Superfund or derived from the Superfund shall be available or used for the transfer or disposal of hazardous waste carried out pursuant to a cooperative agreement between the Administrator of the Environmental Protection Agency and a State if the following conditions apply—

"(A) the transfer or disposal, if made on December 13, 1985, would not comply with a State or local requirement,

"(B) the transfer is to a facility for which a final permit under section 3005(a) of the Solid Waste Disposal Act was issued after January 1, 1983, and before November 1, 1984, and

42 USC 6925.

"(C) the transfer is from a facility identified as the McColl Site in Fullerton, California. California.

"(d) AUTHORITY TO BORROW.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Superfund, as repayable advances, such sums as may be necessary to carry out the purposes of the Superfund. Appropriation authorization.

"(2) LIMITATION ON AGGREGATE ADVANCES.—The maximum aggregate amount of repayable advances to the Superfund which is outstanding at any one time shall not exceed an amount equal to the amount which the Secretary estimates will be equal to the sum of the amounts appropriated to the Superfund under subsection (b)(1) during the following 24 months.

"(3) REPAYMENT OF ADVANCES.—

"(A) IN GENERAL.—Advances made to the Superfund shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Superfund.

"(B) FINAL REPAYMENT.—No advance shall be made to the Superfund after December 31, 1991, and all advances to such Fund shall be repaid on or before such date.

"(C) RATE OF INTEREST.—Interest on advances made to the Superfund shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding and shall be compounded annually.

"(e) LIABILITY OF UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

"(1) GENERAL RULE.—Any claim filed against the Superfund may be paid only out of the Superfund. Claims.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in CERCLA or the Superfund Amendments and Reauthorization Act of 1986 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Superfund. 42 USC 9601 note.

"(3) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Superfund has insufficient funds to pay all of the claims payable out of the Superfund at such time, such claims shall, to the extent permitted under paragraph (1), be paid in full in the order in which they were finally determined."

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Hazardous Substance Superfund for fiscal year— 26 USC 9507 note.

(1) 1987, $250,000,000,
(2) 1988, $250,000,000,
(3) 1989, $250,000,000,
(4) 1990, $250,000,000, and
(5) 1991, $250,000,000,

plus for each fiscal year an amount equal to so much of the aggregate amount authorized to be appropriated under this subsec-

tion (and paragraph (2) of section 221(b) of the Hazardous Substance Response Act of 1980, as in effect before its repeal) as has not been appropriated before the beginning of the fiscal year involved.

42 USC 9631.

(c) CONFORMING AMENDMENTS.—

42 USC 9631-9633.

(1) Subtitle B of the Hazardous Substance Response Revenue Act of 1980 (relating to establishment of Hazardous Substance Response Trust Fund), as amended by section 204 of this Act, is hereby repealed.

42 USC 9601.

(2) Paragraph (11) of section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"(11) The term 'Fund' or 'Trust Fund' means the Hazardous Substance Superfund established by section 9507 of the Internal Revenue Code of 1986."

26 USC 9507.

(d) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding after the item relating to section 9506 the following new item:

"Sec. 9507. Hazardous Substance Superfund."

26 USC 9507 note.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1987.

(2) SUPERFUND TREATED AS CONTINUATION OF OLD TRUST FUND.—The Hazardous Substance Superfund established by the amendments made by this section shall be treated for all purposes of law as a continuation of the Hazardous Substance Response Trust Fund established by section 221 of the Hazardous Substance Response Revenue Act of 1980. Any reference in any law to the Hazardous Substance Response Trust Fund established by such section 221 shall be deemed to include (wherever appropriate) a reference to the Hazardous Substance Superfund established by the amendments made by this section.

42 USC 9631.

PART II—LEAKING UNDERGROUND STORAGE TANK TRUST FUND AND ITS REVENUE SOURCES

SEC. 521. ADDITIONAL TAXES ON GASOLINE, DIESEL FUEL, SPECIAL MOTOR FUELS, FUELS USED IN AVIATION, AND FUELS USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.

(a) GENERAL RULE.—

(1) GASOLINE.—

(A) GASOLINE TAX BEFORE AMENDMENT BY TAX REFORM ACT OF 1986.—

26 USC 4081.

(i) IN GENERAL.—Section 4081 of the Internal Revenue Code of 1986 (relating to imposition of tax on gasoline), as in effect on the day before the date of the enactment of the Tax Reform Act of 1986, is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) IN GENERAL.—There is hereby imposed on gasoline sold by the producer or importer thereof, or by any producer of gasoline, a tax at the rate specified in subsection (b).

"(b) RATE OF TAX.—

"(1) IN GENERAL.—The rate of the tax imposed by this section is the sum of—

"(A) the Highway Trust Fund financing rate, and

"(B) the Leaking Underground Storage Tank Trust Fund financing rate.

"(2) RATES.—For purposes of paragraph (1)—

"(A) the Highway Trust Fund financing rate is 9 cents a gallon, and

"(B) the Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cents a gallon."

(ii) TERMINATION.—Section 4081 of such Code, as so in effect, is amended by adding at the end thereof the following new subsection:

Ante, p. 1774.

"(d) TERMINATION.—

"(1) HIGHWAY TRUST FUND FINANCING RATE.—On and after October 1, 1988, the Highway Trust Fund financing rate under subsection (b)(2)(A) shall not apply.

"(2) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—

"(A) IN GENERAL.—The Leaking Underground Storage Tank Trust Fund financing rate under subsection (b)(2)(B) shall not apply after the earlier of—

"(i) December 31, 1991, or

"(ii) the last day of the termination month.

"(B) TERMINATION MONTH.—For purposes of subparagraph (A), the termination month is the 1st month as of the close of which the Secretary estimates that the net revenues from the taxes imposed by this section (to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under subsection (b)(2)(B)), section 4041(d), and section 4042 (to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under section 4042(b)) are at least $500,000,000.

Post, p. 1776.

Post, p. 1777.

"(C) NET REVENUES.—For purposes of subparagraph (B), the term 'net revenues' means the excess of gross revenues over amounts payable by reason of section 9508(c)(2) (relating to transfer from Leaking Underground Storage Tank Trust Fund for certain repayments and credits)."

(iii) TECHNICAL AMENDMENTS.—Subsection (c) of section 4081 of such Code, as so in effect, is amended—

(I) by striking out "subsection (a)" in paragraph (1) and inserting in lieu thereof "subsection (b)", and

(II) by striking out "a rate" in paragraph (2) and inserting in lieu thereof "a Highway Trust Fund financing rate".

(B) GASOLINE TAX AS AMENDED BY TAX REFORM ACT OF 1986.—

(i) IN GENERAL.—Subsections (a) and (b) of section 4081 of the Internal Revenue Code of 1986 (relating to imposition of tax on gasoline), as amended by the Tax Reform Act of 1986, are each amended by striking out "of 9 cents a gallon" and inserting in lieu thereof "at the rate specified in subsection (d)".

(ii) INCREASE IN TAX.—Section 4081 of such Code, as amended by the Tax Reform Act of 1986, is amended by striking out subsection (d) and inserting in lieu thereof the following new subsections:

"(d) RATE OF TAX.—

"(1) IN GENERAL.—The rate of the tax imposed by this section is the sum of—

"(A) the Highway Trust Fund financing rate, and

"(B) the Leaking Underground Storage Tank Trust Fund financing rate.

"(2) RATES.—For purposes of paragraph (1)—

"(A) the Highway Trust Fund financing rate is 9 cents a gallon, and

"(B) the Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cents a gallon.

"(e) TERMINATION.—

"(1) HIGHWAY TRUST FUND FINANCING RATE.—On and after October 1, 1988, the Highway Trust Fund financing rate under subsection (d)(2)(A) shall not apply.

"(2) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—

"(A) IN GENERAL.—The Leaking Underground Storage Tank Trust Fund financing rate under subsection (d)(2)(B) shall not apply after the earlier of—

"(i) December 31, 1991, or

"(ii) the last day of the termination month.

"(B) TERMINATION MONTH.—For purposes of subparagraph (A), the termination month is the 1st month as of the close of which the Secretary estimates that the net revenues from the taxes imposed by this section (to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under subsection (d)(2)(B)), section 4041(d), and section 4042 (to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under section 4042(b)) are at least $500,000,000.

Infra; 26 USC 4042.

Post, p. 1777.

"(C) NET REVENUES.—For purposes of subparagraph (B), the term 'net revenues' means the excess of gross revenues over amounts payable by reason of section 9508(c)(2) (relating to transfer from Leaking Underground Storage Tank Trust Fund for certain repayments and credits)."

(iii) TECHNICAL AMENDMENTS.—Subsection (c) of section 4081 of such Code, as amended by the Tax Reform Act of 1986, is amended—

(I) by striking out "subsection (a)" in paragraph (1) and inserting in lieu thereof "subsection (d)", and

(II) by striking out "a rate" in paragraph (2) and inserting in lieu thereof "a Highway Trust Fund financing rate".

(2) DIESEL AND SPECIAL MOTOR FUELS; FUELS USED IN AVIATION.—Section 4041 of such Code (relating to tax on special fuels) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) ADDITIONAL TAXES TO FUND LEAKING UNDERGROUND STORAGE TANK TRUST FUND.—

"(1) LIQUIDS OTHER THAN GASOLINE, ETC., USED IN MOTOR VEHICLES, MOTORBOATS, OR TRAINS.—In addition to the taxes imposed by subsection (a), there is hereby imposed a tax of 0.1 cents a gallon on benzol, benzene, naphtha, casing head and natural gasoline, or any other liquid (other than kerosene, gas

oil, liquefied petroleum gas, or fuel oil, or any product taxable under section 4081)— 26 USC 4081.

"(A) sold by any person to an owner, lessee, or other operator of a motor vehicle, motorboat, or train for use as a fuel in such motor vehicle, motorboat, or train, or

"(B) used by any person as a fuel in a motor vehicle, motorboat, or train unless there was a taxable sale of such liquid under subparagraph (A).

"(2) LIQUIDS USED IN AVIATION.—In addition to the taxes imposed by subsection (c) and section 4081, there is hereby imposed a tax of 0.1 cents a gallon on any liquid—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use as a fuel in such aircraft, or

"(B) used by any person as a fuel in an aircraft unless there was a taxable sale of such liquid under subparagraph (A).

The tax imposed by this paragraph shall not apply to any product taxable under section 4081 which is used as a fuel in an aircraft other than in noncommercial aviation.

"(3) TERMINATION.—The taxes imposed by this subsection shall not apply during any period during which the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 does not apply."

(3) FUEL USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.—Subsection (b) of section 4042 of such Code (relating to amount of tax on fuel used in commercial transportation on inland waterways) is amended to read as follows:

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The rate of the tax imposed by subsection (a) is the sum of—

"(A) the Inland Waterways Trust Fund financing rate, and

"(B) the Leaking Underground Storage Tank Trust Fund financing rate.

"(2) RATES.—For purposes of paragraph (1)—

"(A) the Inland Waterways Trust Fund financing rate is 10 cents a gallon, and

"(B) the Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cents a gallon.

"(3) EXCEPTION FOR FUEL TAXED UNDER SECTION 4041(d).—The Leaking Underground Storage Tank Trust Fund financing rate under paragraph (2)(B) shall not apply to the use of any fuel if tax under section 4041(d) was imposed on the sale of such fuel or is imposed on such use. *Ante*, p. 1776.

"(4) TERMINATION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—The Leaking Underground Storage Tank Trust Fund financing rate under paragraph (2)(B) shall not apply during any period during which the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 does not apply."

(b) ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND, AIRPORT AND AIRWAY TRUST FUND, AND INLAND WATERWAYS TRUST FUND.—

(1) HIGHWAY TRUST FUND.—

(A) IN GENERAL.—Subsection (b) of section 9503 of such Code (relating to transfer to Highway Trust Fund of

amounts equivalent to certain taxes) is amended by adding at the end thereof the following new paragraph:

"(4) CERTAIN ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND.—For purposes of paragraphs (1) and (2), there shall not be taken into account the taxes imposed by section 4041(d) and so much of the taxes imposed by section 4081 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate."

Ante, p. 1776.
26 USC 4081.

(B) CONFORMING AMENDMENT.—Subparagraph (D) of section 9503(c)(4) of such Code (defining motorboat fuel taxes) is amended by striking out "section 4081" and inserting in lieu thereof "section 4081 (to the extent attributable to the Highway Trust Fund financing rate)".

(2) AIRPORT AND AIRWAY TRUST FUND.—Subsection (b) of section 9502 of such Code (relating to transfer to Airport and Airway Trust Fund of amounts equivalent to certain taxes) is amended—

(A) by striking out "subsections (c) and (d) of section 4041" in paragraph (1) and inserting in lieu thereof "subsections (c) and (e) of section 4041", and

(B) by striking out "section 4081" in paragraph (2) and inserting in lieu thereof "section 4081 (to the extent attributable to the Highway Trust Fund financing rate)".

(3) INLAND WATERWAYS TRUST FUND.—Paragraph (1) of section 9506(b) of such Code is amended by adding at the end thereof the following new sentence: "The preceding sentence shall apply only to so much of such taxes as are attributable to the Inland Waterways Trust Fund financing rate under section 4042(b)."

(c) REPAYMENTS FOR GASOLINE USED ON FARMS, ETC.—

(1) GASOLINE USED ON FARMS.—Subsection (h) of section 6420 of such Code (relating to termination) is amended by striking out "This section" and inserting in lieu thereof "Except with respect to taxes imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, this section".

(2) GASOLINE USED FOR CERTAIN NONHIGHWAY PURPOSES OR BY LOCAL TRANSIT SYSTEMS.—

(A) TERMINATION NOT TO APPLY TO ADDITIONAL 0.1 CENT TAX.—Subsection (h) of section 6421 of such Code (relating to effective date), as in effect on the day before the date of the enactment of the Tax Reform Act of 1986, is amended by striking out "This section" and inserting in lieu thereof "Except with respect to taxes imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, this section".

(B) REPAYMENT OF ADDITIONAL TAX FOR OFF-HIGHWAY BUSINESS USE TO APPLY ONLY TO CERTAIN VESSELS.—Subsection (e) of section 6421 of such Code, as so in effect, is amended by adding at the end thereof the following new paragraph:

"(4) SECTION NOT TO APPLY TO CERTAIN OFF-HIGHWAY BUSINESS USES WITH RESPECT TO THE TAX IMPOSED BY SECTION 4081 AT THE LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—This section shall not apply with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate on gasoline used in any off-highway business use other than use in a vessel employed in the fisheries or in the whaling business."

Fish and fishing.

(3) FUELS USED FOR NONTAXABLE PURPOSES.—

(A) Subsection (m) of section 6427 of such Code (relating to termination), as in effect on the day before the date of the enactment of the Tax Reform Act of 1986, is amended by striking out "Subsections" and inserting in lieu thereof "Except with respect to taxes imposed by section 4041(d) and section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, subsections". 26 USC 6427. *Ante*, p. 1776.

(B)(i) Section 6427 of such Code, as so in effect, is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) PAYMENTS FOR TAXES IMPOSED BY SECTION 4041(d).—For purposes of subsections (a), (b), and (c), the taxes imposed by section 4041(d) shall be treated as imposed by section 4041(a)."

(ii) Subparagraph (A) of section 1703(e)(1) of the Tax Reform Act of 1986 is amended— 26 USC 6427.

(I) by striking out "and (o)" and inserting in lieu thereof "(o), and (p)", and

(II) by striking out "and (n)" and inserting in lieu thereof "(n), and (o)".

(C) Paragraph (1) of section 6427(f) of such Code (relating to gasoline used to produce certain alcohol fuels) is amended by striking out "at the rate" and inserting in lieu thereof "at the Highway Trust Fund financing rate".

(d) CONTINUATION OF CERTAIN EXEMPTIONS FROM ADDITIONAL TAXES, ETC.—

(1) Subsection (b) of section 4041 of such Code (relating to exemption for off-highway business use; reduction in tax for qualified methanol and ethanol fuel) is amended by adding at the end thereof the following new paragraph:

"(3) COORDINATION WITH TAXES IMPOSED BY SUBSECTION (d).—

"(A) OFF-HIGHWAY BUSINESS USE.—

"(i) IN GENERAL.—Except as provided in clause (ii), rules similar to the rules of paragraph (1) shall apply with respect to the taxes imposed by subsection (d).

"(ii) LIMITATION ON EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—For purposes of subparagraph (A), paragraph (1) shall apply only with respect to off-highway business use in a vessel employed in the fisheries or in the whaling business. Vessels. Fish and fishing.

"(B) QUALIFIED METHANOL AND ETHANOL FUEL.—In the case of qualified methanol or ethanol fuel, subsection (d) shall be applied by substituting '0.05 cents' for '0.1 cents' in paragraph (1) thereof."

(2) Paragraph (3) of section 4041(f) of such Code (relating to exemption for farm use) is amended by striking out "On and after" and inserting in lieu thereof "Except with respect to the taxes imposed by subsection (d), on and after".

(3) The last sentence of section 4041(g) of such Code (relating to other exemptions) is amended by striking out "Paragraphs" and inserting in lieu thereof "Except with respect to the taxes imposed by subsection (d), paragraphs".

(4)(A) The last sentence of section 4221(a) of such Code (relating to certain tax-free sales) is amended by striking out "4081" and inserting in lieu thereof "4081 (at the Highway Trust Fund financing rate)".

26 USC 4221.

(B) Subparagraph (C) of section 1703(c)(2) of the Tax Reform Act of 1986 is amended to read as follows:

"(C) Subsection (a) of section 4221 (relating to certain tax-free sales) is amended—

"(i) by inserting 'or section 4081 (at the Highway Trust Fund financing rate)' before 'section 4121' in the 1st sentence, and

"(ii) by striking out '4071, or 4081 (at the Highway Trust Fund financing rate)' in the last sentence and inserting in lieu thereof 'or 4071'."

(5) Paragraph (2) of section 6416(b) of such Code is amended by inserting "or under paragraph (1)(A) or (2)(A) of section 4041(d)" after "section 4041(a)".

26 USC 4041 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1987.

SEC. 522. LEAKING UNDERGROUND STORAGE TANK TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to establishment of trust funds) is amended by adding after section 9507 the following new section:

26 USC 9508.

"SEC. 9508. LEAKING UNDERGROUND STORAGE TANK TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Leaking Underground Storage Tank Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Leaking Underground Storage Tank Trust Fund amounts equivalent to—

"(1) taxes received in the Treasury under section 4041(d) (relating to additional taxes on motor fuels),

"(2) taxes received in the Treasury under section 4081 (relating to tax on gasoline) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under such section,

"(3) taxes received in the Treasury under section 4042 (relating to tax on fuel used in commercial transportation on inland waterways) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under such section, and

"(4) amounts received in the Treasury and collected under section 9003(h)(6) of the Solid Waste Disposal Act.

Ante, p. 1698.

"(c) EXPENDITURES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), amounts in the Leaking Underground Storage Tank Trust Fund shall be available, as provided in appropriation Acts, only for purposes of making expenditures to carry out section 9003(h) of the Solid Waste Disposal Act as in effect on the date of the enactment of the Superfund Amendments and Reauthorization Act of 1986.

"(2) TRANSFERS FROM TRUST FUND FOR CERTAIN REPAYMENTS AND CREDITS.—

"(A) IN GENERAL.—The Secretary shall pay from time to time from the Leaking Underground Storage Tank Trust Fund into the general fund of the Treasury amounts equivalent to—

"(i) amounts paid under—

"(I) section 6420 (relating to amounts paid in respect of gasoline used on farms), 26 USC 6420.

"(II) section 6421 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes or by local transit systems), and

"(III) section 6427 (relating to fuels not used for taxable purposes), and

"(ii) credits allowed under section 34, with respect to the taxes imposed by sections 4041(d) and 4081 (to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081). *Ante*, p. 1776.

"(B) TRANSFERS BASED ON ESTIMATES.—Transfers under subparagraph (A) shall be made on the basis of estimates by the Secretary, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(d) LIABILITY OF THE UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.— Claims.

"(1) GENERAL RULE.—Any claim filed against the Leaking Underground Storage Tank Trust Fund may be paid only out of such Trust Fund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or the Superfund Amendments and Reauthorization Act of 1986 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Leaking Underground Storage Tank Trust Fund. 42 USC 9601 note.

"(3) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Leaking Underground Storage Tank Trust Fund has insufficient funds to pay all of the claims out of such Trust Fund at such time, such claims shall, to the extent permitted under paragraph (1), be paid in full in the order in which they were finally determined."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding after the item relating to section 9507 the following new item:

"Sec. 9508. Leaking Underground Storage Tank Trust Fund."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1987. 26 USC 9508 note.

PART III—COORDINATION WITH OTHER PROVISIONS OF THIS ACT.

42 USC 9601 note.

SEC. 531. COORDINATION.

Notwithstanding any provision of this Act not contained in this title, any provision of this Act (not contained in this title) which—

(1) imposes any tax, premium, or fee,

(2) establishes any trust fund, or

(3) authorizes amounts to be expended from any trust fund,

shall have no force or effect.

Approved October 17, 1986.

LEGISLATIVE HISTORY—H.R. 2005 (H.R. 2817) (S. 51):

HOUSE REPORTS: No. 99-69 (Comm. on Ways and Means); No. 99-253, Pt. 1 (Comm. on Energy and Commerce), Pt. 2 (Comm. on Ways and Means), Pt. 3 (Comm. on the Judiciary), Pt. 4 (Comm. on Merchant Marine and Fisheries), Pt. 5 (Comm. on Public Works and Transportation), all accompanying H.R. 2817; and No. 99-962 (Comm. of Conference).

SENATE REPORTS: No. 99-11 (Comm. on Environment and Public Works) and No. 99-73 (Comm. on Finance), both accompanying S. 51.

CONGRESSIONAL RECORD:

Vol. 131 (1985): May 14, considered and passed House.
Sept. 17-20, 24, 26, considered and passed Senate, amended, in lieu of S. 51.
Dec. 5, 6, 10, H.R. 2817 considered and passed House; House agreed to Senate amendments to H.R. 2005 with amendments, inserting in lieu the text and title of H.R. 2817.

Vol. 132 (1986): Oct. 3, Senate agreed to conference report.
Oct. 8, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Oct. 17, Presidential statement.

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* Public Law 99-500
99th Congress

Joint Resolution

Making continuing appropriations for the fiscal year 1987, and for other purposes.

Oct. 18, 1986
[H.J. Res. 738]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1987, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary for programs, projects or activities provided for in the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1987, and for other purposes.

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, including not to exceed $75,000 for employment under 5 U.S.C. 3109, $1,623,000: *Provided,* That not to exceed $8,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration to carry out the programs funded in this Act, $455,000.

RENTAL PAYMENTS (USDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Department of Agriculture which are included in this Act, $48,728,000: *Provided,* That in the event an agency within the Department of Agriculture should require modification of space needs, the Secretary of Agriculture may transfer a share of that agency's appropriation made available

*Note: This is a subsequently typeset print of the hand enrollment which was signed by the President on October 18, 1986.

See also Public Law 99-591 (100 Stat. 3341) and related Presidential statement (100 Stat. 3341-388).

by this Act to this appropriation, or may transfer a share of this appropriation to that agency's appropriation, but such transfers shall not exceed 10 per centum of the funds made available for space rental and related costs to or from this account.

Building Operations and Maintenance

For the operation, maintenance, and repair of the Washington, D.C. Agriculture building complex pursuant to the delegation of authority from the Administrator of General Services authorized by 40 U.S.C. 486, $18,039,000.

Advisory Committees (USDA)

For necessary expenses for activities of Advisory Committees of the Department of Agriculture which are included in this Act, $1,308,000: *Provided,* That no other funds in this Act shall be available to the Department of Agriculture for support of activities of Advisory Committees.

Departmental Administration

(INCLUDING TRANSFERS OF FUNDS)

For Budget and Program Analysis, $3,611,000; for Personnel, Finance and Management, Operations, Information Resources Management, Advocacy and Enterprise, and Administrative Law Judges and Judicial Officer, $17,616,000; making a total of $21,227,000 for Departmental Administration to provide for necessary expenses for management support services to offices of the Department of Agriculture and for general administration and emergency preparedness of the Department of Agriculture, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department of Agriculture, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109: *Provided,* That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551-558.

Working Capital Fund

An amount of $5,708,000 is hereby appropriated to the Departmental Working Capital Fund to increase the Government's equity in this fund and to provide for the purchase of automated data processing, data communication, and other related equipment necessary for the provision of Departmental centralized services to the agencies.

Office of the Assistant Secretary for Governmental and Public Affairs

For necessary expenses of the Office of the Assistant Secretary for Governmental and Public Affairs to carry out the programs funded in this Act, $318,000.

OFFICE OF GOVERNMENTAL AND PUBLIC AFFAIRS

For necessary expenses to carry on services relating to the coordination of programs involving public affairs, and for the dissemination of agricultural information and the coordination of information, work and programs authorized by Congress in the Department, $7,293,000, of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed $2,000,000 may be used for farmers' bulletins and not fewer than two hundred thirty-two thousand two hundred and fifty copies for the use of the Senate and House of Representatives of part 2 of the annual report of the Secretary (known as the Yearbook of Agriculture) as authorized by 44 U.S.C. 1301: *Provided,* That in the preparation of motion pictures or exhibits by the Department, this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

For necessary expenses for liaison with the Congress on legislative matters, $465,000.

For necessary expenses for programs involving intergovernmental affairs and liaison within the executive branch, $440,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), $44,461,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(8) of the Inspector General Act of 1978 (Public Law 95-452), and including a sum not to exceed $50,000 for employment under 5 U.S.C. 3109; and including a sum not to exceed $75,000 for certain confidential operational expenses including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95-452 and section 1337 of Public Law 97-98.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $17,131,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ECONOMICS

For necessary expenses of the Office of the Assistant Secretary for Economics to carry out the programs funded in this Act, $448,000.

ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and service relating to agricultural production, marketing, and distribution, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and other laws, including economics of marketing; analyses relating to farm prices, income and population, and demand for farm products, use of resources in agriculture, adjustments, costs and returns in farming, and farm finance; research relating to the economic and marketing aspects of farmer cooperatives; and for analyses of supply and

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demand for farm products in foreign countries and their effect on prospects for United States exports, progress in economic development and its relation to sales of farm products, assembly and analysis of agricultural trade statistics and analysis of international financial and monetary programs and policies as they affect the competitive position of United States farm products, $43,982,000; of which not less than $200,000 shall be available for investigation, determination and finding as to the effect upon the production of food and upon the agricultural economy of any proposed action affecting such subject matter pending before the Administrator of the Environmental Protection Agency for presentation, in the public interest, before said Administrator, other agencies or before the courts: *Provided,* That not less than $350,000 of the funds contained in this appropriation shall be available to continue to gather statistics and conduct a special study on the price spread between the farmer and the consumer: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225): *Provided further,* That not less than $145,000 of the funds contained in this appropriation shall be available for analysis of statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

National Agricultural Statistics Service

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, and marketing surveys, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627) and other laws, $56,787,000: *Provided,* That, hereafter, no funds available to the Department of Agriculture shall be available to publish estimates of apple production for other than the commercial crop: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109.

World Agricultural Outlook Board

For necessary expenses of the World Agricultural Outlook Board to coordinate and review all commodity and aggregate agricultural and food data used to develop outlook and situation material within the Department of Agriculture, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), $1,608,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

Office of the Assistant Secretary for Science and Education

For necessary salaries and expenses of the Office of the Assistant Secretary for Science and Education to administer the laws enacted by the Congress for the Agricultural Research Service, Cooperative State Research Service, Extension Service, and National Agricultural Library, $350,000.

AGRICULTURAL RESEARCH SERVICE

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for), home economics or nutrition and consumer use, and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100; $497,664,000: *Provided*, That appropriations hereunder shall be available for temporary employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $115,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That funds appropriated herein can be used to provide financial assistance to the organizers of national and international conferences, if such conferences are in support of agency programs: *Provided further*, That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further*, That uniform allowances for each uniformed employee of the Agricultural Research Service shall not be in excess of $400 annually: *Provided further*, That of the appropriations hereunder not less than $10,526,600 shall be available to conduct marketing research: *Provided further*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided the cost of constructing any one building shall not exceed $150,000, except for headhouses connecting greenhouses which shall each be limited to $500,000, and except for ten buildings to be constructed or improved at a cost not to exceed $275,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building or $150,000 whichever is greater: *Provided further*, That the limitations on alterations contained in this Act shall not apply to a total of $250,000 for facilities at Beltsville, Maryland: *Provided further*, That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further*, That the limitation on purchase of land shall not apply to the purchase of land at Fresno, California, or to an option to purchase land at Florence, South Carolina, for a term of not to exceed one year: *Provided further*, That not to exceed $190,000 of this appropriation may be transferred to and merged with the appropriation for the Office of the Assistant Secretary for Science and Education for the scientific review of international issues involving agricultural chemicals and food additives: *Provided further*, That this appropriation shall be available for transfer of all necessary equipment and germplasm to fully equip the National Small Grains Germplasm Facility in Aberdeen, Idaho.

Special fund: To provide for additional labor, subprofessional, and junior scientific help to be employed under contracts and cooperative agreements to strengthen the work at Federal research installations in the field, $2,000,000.

BUILDINGS AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities and for grants to States and other eligible recipients for such purposes, as necessary to carry out the agricultural research, extension and teaching programs of the Department of Agriculture, where not otherwise provided, $37,400,000: *Provided,* That these funds may be transferred to such other accounts in this Act as may be appropriate to carry out these purposes: *Provided further,* That facilities to house Bonsai collections at the National Arboretum may be constructed with funds accepted under the provisions of Public Law 94-129 (20 U.S.C. 195) and the limitation on construction contained in the Act of August 24, 1912 (40 U.S.C. 68) shall not apply to the construction of such facilities.

COOPERATIVE STATE RESEARCH SERVICE

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, including $148,792,000 to carry into effect the provisions of the Hatch Act approved March 2, 1887, as amended by the Act approved August 11, 1955 (7 U.S.C. 361a-361i), and further amended by Public Law 92-318 approved June 23, 1972, and further amended by Public Law 93-471 approved October 26, 1974, including administration by the United States Department of Agriculture, and penalty mail costs of agricultural experiment stations under section 6 of the Hatch Act of 1887, as amended, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $12,412,000 for grants for cooperative forestry research under the Act approved October 10, 1962 (16 U.S.C. 582a—582a-7), as amended by Public Law 92-318 approved June 23, 1972, including administrative expenses, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n); $22,320,000 for payments to the 1890 land-grant colleges, including Tuskegee University, for research under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (Public Law 95-113), as amended, including administration by the United States Department of Agriculture, and penalty mail costs of the 1890 land-grant colleges, including Tuskegee University; $28,037,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i); $40,651,000 for competitive research grants, including administrative expenses; $5,476,000 for the support of animal health and disease programs authorized by section 1433 of Public Law 95-113, including administrative expenses; $20,368,000 for grants for research and for construction of facilities to conduct research pursuant to the Critical Agricultural Materials Act of 1984 (7 U.S.C. 178) and section 1472 of the Food and Agriculture Act of 1977, as amended (7 U.S.C. 3318), to remain available until expended; $475,000 for rangeland research grants as authorized by subtitle M of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended; $9,508,000 for grants to upgrade 1890 land-grant college research facilities as authorized by section 1433 of Public Law 97-98, as amended, to remain available until expended; $4,754,000 for higher education strengthening grants

under section 1417(a) of Public Law 95-113, as amended (7 U.S.C. 3152(a)); $3,000,000 for grants as authorized by section 1475 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977; $2,000,000 for grants as authorized by section 1411 of Public Law 99-198, to remain available until expended; and $2,630,000 for necessary expenses of Cooperative State Research Service activities, including coordination and program leadership for higher education work of the Department, administration of payments to State agricultural experiment stations, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; in all, $300,573,000.

EXTENSION SERVICE

(INCLUDING TRANSFERS OF FUNDS)

Payments to States, Puerto Rico, Guam, the Virgin Islands, Micronesia, and American Samoa: For payments for cooperative agricultural extension work under the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962 (7 U.S.C. 341-349), section 506 of the Act of June 23, 1972, and the Act of September 29, 1977 (7 U.S.C. 341-349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), to be distributed under sections 3(b) and 3(c) of said Act, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $229,713,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $57,635,000, of which $38,627,000 shall be derived by transfer from the appropriation "Food Stamp Program" and merged with this appropriation; payments for the urban gardening program under section 3(d) of the Act, $3,329,000; payments for the pest management program under section 3(d) of the Act, $7,164,000; payments for the farm safety program under section 3(d) of the Act, $970,000; payments for the pesticide impact assessment program under section 3(d) of the Act, $1,633,000; payments for a financial management assistance program under section 3(d) of the Act and section 1440 of Public Law 99-198, $3,277,000; payments for an integrated reproductive management program under section 3(d) of the Act, $47,000; payments for the rural development centers under section 3(d) of the Act, $689,000; payments for extension work under section 209(c) of Public Law 93-471, $935,000; payments for carrying out the provisions of the Renewable Resource Extension Act of 1978, $2,378,000; for special grants for financially stressed farmers and dislocated farmers as authorized by section 1440 of Public Law 99-198, $1,500,000; payments for extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321-326, 328) and Tuskegee University, $16,877,000; in all, $326,147,000; of which not less than $79,400,000 is for Home Economics: *Provided*, That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, as amended, shall not be paid to any State, Puerto Rico, Guam, or the Virgin Islands, Micronesia, and American Samoa prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

Federal administration and coordination: For administration of the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962, section 506 of the Act of June 23, 1972, section 209(d) of Public Law 93-471, and the Act of September 29, 1977 (7 U.S.C. 341-349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, $6,025,000; of which not less than $2,300,000 is for Home Economics.

National Agricultural Library

For necessary expenses of the National Agricultural Library, $10,936,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $35,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That not to exceed $575,000 shall be available pursuant to 7 U.S.C. 2250 for the alteration and repair of buildings and improvements.

Office of the Assistant Secretary for Marketing and Inspection Services

For necessary salaries and expenses of the Office of the Assistant Secretary for Marketing and Inspection Services to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service, Food Safety and Inspection Service, Federal Grain Inspection Service, Agricultural Cooperative Service, Agricultural Marketing Service (including Office of Transportation) and Packers and Stockyards Administration, $327,000.

Animal and Plant Health Inspection Service

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b-c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to discharge the authorities of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426-426b); and to protect the environment, as authorized by law, $300,967,000; of which $10,000,000 shall be available for the control of outbreaks of insects, plant diseases and animal diseases to the extent necessary to meet emergency conditions: *Provided,* That $1,000,000 of the funds for control of the fire ant shall be placed in reserve for matching purposes with States which may come into the program: *Provided further,* That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 per centum: *Provided further,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be

available for the operation and maintenance of aircraft and the purchase of not to exceed two, of which one shall be for replacement only: *Provided further,* That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious diseases or pests of animals, poultry, or plants, and for expenses in accordance with the Act of February 28, 1947, as amended, and section 102 of the Act of September 21, 1944, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $2,246,000.

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, and the Poultry Products Inspection Act, as amended, $361,400,000: *Provided,* That this appropriation shall be available for field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

FEDERAL GRAIN INSPECTION SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, as amended, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, as amended, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $6,697,000: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further,* That none of the funds provided by this Act may be used to pay the salaries of any person or persons who require, or who authorize payments from fee-supported funds to any person or persons who require, nonexport, nonterminal interior elevators to maintain records not involving official inspection or official weighing in the United States under Public Law 94-582 other than those necessary to fulfill the purposes of such Act.

INSPECTION AND WEIGHING SERVICES

LIMITATION ON INSPECTION AND WEIGHING SERVICE EXPENSES

Not to exceed $36,829,000 (from fees collected) shall be obligated during the current fiscal year for Inspection and Weighing Services.

AGRICULTURAL COOPERATIVE SERVICE

For necessary expenses to carry out the Cooperative Marketing Act of July 2, 1926 (7 U.S.C. 451-457), and for activities relating to the marketing aspects of cooperatives, including economic research and analysis and the application of economic research findings, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and for activities with institutions or organizations throughout the world concerning the development and operation of agricultural cooperatives (7 U.S.C. 3291), $4,469,000; of which $99,000 shall be available for a field office in Hawaii: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $15,000 shall be available for employment under 5 U.S.C. 3109.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry on services related to consumer protection, agricultural marketing and distribution and regulatory programs as authorized by law, and for administration and coordination of payments to States; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $70,000 for employment under 5 U.S.C. 3109, $30,945,000; of which not less than $1,501,000 shall be available for the Wholesale Market Development Program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $28,164,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $7,147,000 for formula-

tion and administration of Marketing Agreements and Orders pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $942,000.

OFFICE OF TRANSPORTATION

For necessary expenses to carry on services related to agricultural transportation programs as authorized by law; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $2,340,000: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

PACKERS AND STOCKYARDS ADMINISTRATION

For necessary expenses for administration of the Packers and Stockyards Act, as authorized by law, and for certifying procedures used to protect purchasers of farm products, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $5,000 for employment under 5 U.S.C. 3109, $8,945,000.

FARM INCOME STABILIZATION

OFFICE OF THE UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

For necessary salaries and expenses of the Office of the Under Secretary for International Affairs and Commodity Programs to administer the laws enacted by Congress for the Agricultural Stabilization and Conservation Service, Office of International Cooperation and Development, Foreign Agricultural Service, and the Commodity Credit Corporation, $473,000.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary administrative expenses of the Agricultural Stabilization and Conservation Service, including expenses to formulate and carry out programs authorized by title III of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301-1393); the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.); sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), 590p(f), and 590q); sections 1001 to 1004, 1006 to 1008, and

1010 of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501 to 1504, 1506 to 1508, and 1510); the Water Bank Act, as amended (16 U.S.C. 1301-1311); the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101); sections 202 and 205 of title II of the Colorado River Basin Salinity Control Act of 1974, as amended; sections 401, 402, and 404 to 406 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 to 2205); the United States Warehouse Act, as amended (7 U.S.C. 241-273); and laws pertaining to the Commodity Credit Corporation, not to exceed $491,856,000, to be derived by transfer from the Commodity Credit Corporation fund: *Provided,* That other funds made available to the Agricultural Stabilization and Conservation Service for authorized activities may be advanced to and merged with this account: *Provided further,* That these funds shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That no part of the funds made available under this Act shall be used (1) to influence the vote in any referendum; (2) to influence agricultural legislation, except as permitted in 18 U.S.C. 1913; or (3) for salaries or other expenses of members of county and community committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for engaging in any activities other than advisory and supervisory duties and delegated program functions prescribed in administrative regulations.

DAIRY INDEMNITY PROGRAM

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of August 13, 1968, as amended (7 U.S.C. 450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, $95,000: *Provided,* That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of his willful failure to follow procedures prescribed by the Federal Government.

CORPORATIONS

The following corporations and agencies are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be nec-

essary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided:

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATING EXPENSES

For administrative and operating expenses, as authorized by the Federal Crop Insurance Act, as amended (7 U.S.C. 1516), $209,568,000: *Provided,* That not to exceed $700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 508(b) of the Federal Crop Insurance Act, as amended, $135,743,000.

COMMODITY CREDIT CORPORATION

REIMBURSEMENT FOR NET REALIZED LOSSES

To reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed, pursuant to the Act of August 17, 1961 (15 U.S.C. 713a-11, 713a-12), $16,808,806,000, and in addition $3,000,000,000 which shall be available only to the extent an official budget request is transmitted to the Congress, such funds to be available, together with other resources available to the Corporation, to finance the Corporation's programs and activities during fiscal year 1987: *Provided,* That of the foregoing amount, not to exceed the following amounts shall be available for the following programs: export guaranteed loan claims, $683,350,000; conservation reserve program, $700,000,000; export enhancement program, $667,000,000; Federal crop insurance program, $375,000,000; targeted export assistance program, $325,000,000; storage facility loan program under section 4(h) of the Commodity Credit Corporation Charter Act, $100,000,000; and interest payments to the United States Treasury, $1,932,000,000.

SHORT-TERM EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $5,000,000,000 in credit guarantees under its export credit guarantee program for short-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1125(b) of the Food Security Act of 1985 (Public Law 99-198).

INTERMEDIATE EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $500,000,000 in credit guarantees under its export guarantee program for intermediate-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1131(3)(B) of the Food Security Act of 1985 (Public Law 99-198).

GENERAL SALES MANAGER

(INCLUDING TRANSFERS OF FUNDS)

Not to exceed $6,027,000 may be transferred from the Commodity Credit Corporation funds to support the General Sales Manager who shall work to expand and strengthen sales of United States commodities (including those of the Corporation) in world markets pursuant to existing authority (including that contained in the Corporation's charter), and that such funds shall be used by the General Sales Manager to carry out the above activities. The General Sales Manager shall report directly to the Board of Directors of the Corporation of which the Secretary of Agriculture is a member. The General Sales Manager shall obtain, assimilate, and analyze all available information on developments related to private sales, as well as those funded by the Corporation, including grade and quality as sold and as delivered, including information relating to the effectiveness of greater reliance by the General Sales Manager upon loan guarantees as contrasted to direct loans for financing commercial export sales of agricultural commodities out of private stocks on credit terms, as provided in titles I and II of the Agricultural Trade Act of 1978, Public Law 95-501, and shall submit quarterly reports to the appropriate committees of Congress concerning such developments.

TITLE II—RURAL DEVELOPMENT PROGRAMS

RURAL DEVELOPMENT ASSISTANCE

OFFICE OF THE UNDER SECRETARY FOR SMALL COMMUNITY AND RURAL DEVELOPMENT

For necessary salaries and expenses of the Office of the Under Secretary for Small Community and Rural Development to administer programs under the laws enacted by the Congress for the Farmers Home Administration, Rural Electrification Administration, Federal Crop Insurance Corporation, and rural development activities of the Department of Agriculture, $394,000.

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND

From funds in the Rural Housing Insurance Fund, and for insured loans as authorized by title V of the Housing Act of 1949, as amended, $2,033,093,000, of which not less than $2,032,519,000 shall be for subsidized interest loans to low-income borrowers, as determined by the Secretary, and for subsequent loans to existing borrowers or to purchasers under assumption agreements or credit sales; and not to exceed $10,000,000 to enter into collection and servicing contracts pursuant to the provisions of section 3(f)(3) of the Federal Claims Act of 1966 (31 U.S.C. 3718).

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) of the Housing Act of 1949, as amended, total new obligations shall not exceed $160,310,000 to be added to and merged with the authority provided for this purpose in prior fiscal years: *Provided,* That of this amount, not to exceed $28,413,000 is available for additional units financed by section 515 of the Housing Act of 1949, as amended, and not less

than $5,082,000 is for additional units financed under sections 514 and 516 of the Housing Act of 1949: *Provided further,* That agreements entered into or renewed during fiscal year 1987 shall be funded for a five-year period, although the life of any such agreement may be extended to fully utilize amounts obligated: *Provided further,* That agreements entered into or renewed during fiscal years 1984, 1985, and 1986, may also be extended beyond five years to fully utilize amounts obligated.

For an additional amount to reimburse the Rural Housing Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of title V of the Housing Act of 1949, as amended (42 U.S.C. 1483, 1487(e), and 1490a(c)), including $2,247,000 as authorized by section 521(c) of the Act, $2,296,283,000. For an additional amount as authorized by section 521(c) of the Act such sums as may be necessary to reimburse the fund to carry out a rental assistance program under section 521(a)(2) of the Housing Act of 1949, as amended.

SELF-HELP HOUSING LAND DEVELOPMENT FUND

For direct loans pursuant to section 523(b)(1)(B) of the Housing Act of 1949, as amended (42 U.S.C. 1490c), $500,000 shall be available from funds in the Self-Help Housing Land Development Fund.

AGRICULTURAL CREDIT INSURANCE FUND

For direct and guaranteed loans as authorized by 7 U.S.C. 1928-1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $400,000,000 of which $325,000,000 shall be guaranteed loans; $14,000,000 for water development, use, and conservation loans of which $3,000,000 shall be guaranteed loans; operating loans, $3,595,000,000 of which $2,170,000,000 shall be guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $2,000,000; and for emergency insured and guaranteed loans, $695,000,000 to meet the needs resulting from natural disasters.

For an additional amount to reimburse the Agricultural Credit Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $1,723,403,000.

RURAL DEVELOPMENT INSURANCE FUND

For direct and guaranteed loans as authorized by 7 U.S.C. 1928 and 86 Stat. 661-664, to be available from funds in the Rural Development Insurance Fund, as follows: insured water and sewer facility loans, $330,380,000; guaranteed industrial development loans, $95,700,000; and insured community facility loans, $95,700,000.

For an additional amount to reimburse the Rural Development Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $656,645,000.

RURAL WATER AND WASTE DISPOSAL GRANTS

For grants pursuant to sections 306(a)(2) and 306(a)(6) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926), $109,395,000, to remain available until expended, pursuant to section 306(d) of the above Act.

VERY LOW-INCOME HOUSING REPAIR GRANTS

For grants to the very low-income elderly for essential repairs to dwellings pursuant to section 504 of the Housing Act of 1949, as amended, $12,500,000.

RURAL HOUSING FOR DOMESTIC FARM LABOR

For financial assistance to eligible nonprofit organizations for housing for domestic farm labor, pursuant to section 516 of the Housing Act of 1949, as amended (42 U.S.C. 1486), $9,513,000.

MUTUAL AND SELF-HELP HOUSING

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $8,000,000.

RURAL COMMUNITY FIRE PROTECTION GRANTS

For grants pursuant to section 7 of the Cooperative Forestry Assistance Act of 1978 (Public Law 95-313), $3,091,000 to fund up to 50 per centum of the cost of organizing, training, and equipping rural volunteer fire departments.

COMPENSATION FOR CONSTRUCTION DEFECTS

For compensation for construction defects as authorized by section 509(c) of the Housing Act of 1949, as amended, $713,000.

RURAL HOUSING PRESERVATION GRANTS

For grants for rural housing preservation as authorized by section 552 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181), $19,140,000.

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Farmers Home Administration, not otherwise provided for, in administering the programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-1995), as amended; title V of the Housing Act of 1949, as amended (42 U.S.C. 1471-1490h); the Rural Rehabilitation Corporation Trust Liquidation Act, approved May 3, 1950 (40 U.S.C. 440-444), for administering the loan program authorized by title III A of the Economic Opportunity Act of 1964 (Public Law 88-452 approved August 20, 1964), as amended, and such other programs which Farmers Home Administration has the responsibility for administering, $386,867,000, together with not more than $3,000,000 of the charges collected in connection with the insurance of loans as authorized by section 309(e) of the Consolidated Farm and Rural Development Act, as amended, and section 517(i) of the Housing Act

of 1949, as amended, or in connection with charges made on borrowers under section 502(a) of the Housing Act of 1949, as amended: *Provided,* That, in addition, not to exceed $1,000,000 of the funds available for the various programs administered by this agency may be transferred to this appropriation for temporary field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), to meet unusual or heavy workload increases: *Provided further,* That not to exceed $500,000 of this appropriation may be used for employment under 5 U.S.C. 3109: *Provided further,* That not to exceed $2,047,000 of this appropriation shall be available for contracting with the National Rural Water Association or other equally qualified national organization for a circuit rider program to provide technical assistance for rural water systems: *Provided further,* That, in addition to any other authority that the Secretary may have to defer principal and interest and forego foreclosure, the Secretary may permit, at the request of the borrower, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary under this title, or under the provisions of any other law administered by the Farmers Home Administration, and may forego foreclosure of any such loan, for such period as the Secretary deems necessary upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower. The Secretary may permit interest that accrues during the deferral period on any loan deferred under this section to bear no interest during or after such period: *Provided further,* That, if the security instrument securing such loan is foreclosed, such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.

RURAL ELECTRIFICATION ADMINISTRATION

To carry into effect the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), as follows:

RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND LOAN AUTHORIZATIONS

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), shall be made as follows: rural electrification loans, not less than $622,050,000 nor more than $933,075,000; and rural telephone loans, not less than $239,250,000 nor more than $311,025,000; to remain available until expended: *Provided,* That loans made pursuant to section 306 of that Act are in addition to these amounts but during 1987 total commitments to guarantee loans pursuant to section 306 shall be not less than $933,075,000 nor more than $2,100,615,000 of contingent liability for total loan principal: *Provided further,* That as a condition of approval of insured electric loans during fiscal year 1987, borrowers shall obtain concurrent supplemental financing in accordance with the applicable criteria and ratios in effect as of July 15, 1982: *Provided further,* That no funds appropriated in this Act may be used to deny or reduce loans or loan advances based upon a borrower's level of general funds.

REIMBURSEMENT TO THE RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND

For an additional amount to reimburse the rural electrification and telephone revolving fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), $20,000,000.

RURAL TELEPHONE BANK

For the purchase of Class A stock of the Rural Telephone Bank, $28,710,000, to remain available until expended (7 U.S.C. 901-950(b)).

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out its authorized programs for the current fiscal year. During 1987, and within the resources and authority available, gross obligations for the principal amount of direct loans shall be not less than $177,045,000 nor more than $210,540,000.

RURAL COMMUNICATION DEVELOPMENT FUND

To reimburse the Rural Communication Development Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in making Community Antenna Television loans and loan guarantees under sections 306 and 310B of the Consolidated Farm and Rural Development Act, as amended, $1,591,000.

SALARIES AND EXPENSES

For administrative expenses to carry out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), and to administer the loan and loan guarantee programs for Community Antenna Television facilities as authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-1995), and for which commitments were made prior to fiscal year 1987, including not to exceed $7,000 for financial and credit reports, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $103,000 for employment under 5 U.S.C. 3109, $29,447,000.

CONSERVATION

OFFICE OF THE ASSISTANT SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses of the Office of the Assistant Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Soil Conservation Service, $363,000.

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-590f) including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100; purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $367,043,000 of which not less than $4,870,000 is for snow survey and water forecasting and not less than $4,408,000 is for operation and establishment of the plant materials centers: *Provided,* That of the foregoing amounts not less than $293,400,000 is for personnel compensation and benefits: *Provided further,* That the cost of any permanent building, purchased, erected, or as improved, exclusive of the cost of constructing a water supply or sanitary system and connecting the same to any such building and with the exception of buildings acquired in conjunction with land being purchased for other purposes, shall not exceed $10,000, except for one building to be constructed at a cost not to exceed $100,000 and eight buildings to be constructed or improved at a cost not to exceed $50,000 per building and except that alterations or improvements to other existing permanent buildings costing $5,000 or more may be made in any fiscal year in an amount not to exceed $2,000 per building: *Provided further,* That when buildings or other structures are erected on non-Federal land that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further,* That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C. 590a-590f) in demonstration projects: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service: *Provided further,* That none of the funds in this Act shall be used for the purpose of consolidating equipment, personnel, or services of the Soil Conservation Service's national technical centers in Portland, Oregon; Lincoln, Nebraska; Chester, Pennsylvania; and Fort Worth, Texas into a single national technical center.

RIVER BASIN SURVEYS AND INVESTIGATIONS

For necessary expenses to conduct research, investigations, and surveys of the watersheds of rivers and other waterways, in accordance with section 6 of the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1006-1009), $11,819,000: *Provided,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a)

of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $60,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED PLANNING

For necessary expenses for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001-1008), $8,480,000: *Provided,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1001-1005, 1007-1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), and in accordance with the provisions of laws relating to the activities of the Department, $165,885,000 (of which $26,271,000 shall be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented): *Provided,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $4,755,000 shall be available for emergency measures as provided by sections 403-405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203-2205), and not to exceed $200,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That $7,949,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further,* That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93-205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010-1011; 76 Stat. 607), and the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), and the provisions of the Agriculture and Food Act of 1981 (16 U.S.C. 3451-3461), $25,020,000: *Provided,* That $1,207,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

GREAT PLAINS CONSERVATION PROGRAM

For necessary expenses to carry into effect a program of conservation in the Great Plains area, pursuant to section 16(b) of the Soil Conservation and Domestic Allotment Act, as added by the Act of August 7, 1956, as amended (16 U.S.C. 590p(b)), $20,474,000, to remain available until expended.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act approved February 29, 1936, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), 590p(f), and 590q), and sections 1001-1004, 1006-1008, and 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501-1504, 1506-1508, and 1510), and including not to exceed $15,000 for the preparation and display of exhibits, including such displays at State, interstate, and international fairs within the United States, $176,935,000, to remain available until expended for agreements, excluding administration but including technical assistance and related expenses, except that no participant in the Agricultural Conservation Program shall receive more than $3,500 per year, except where the participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agricultural resources of the community, or where a participant has a long-term agreement, in which case the total payment shall not exceed the annual payment limitation multiplied by the number of years of the agreement: *Provided,* That no portion of the funds for the current year's program may be utilized to provide financial or technical assistance for drainage on wetlands now designated as Wetlands Types 3 (III) through 20 (XX) in United States Department of the Interior, Fish and Wildlife Circular 39, Wetlands of the United States, 1956: *Provided further,* That such amounts shall be available for the purchase of seeds, fertilizers, lime, trees, or any other conservation materials, or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out approved farming practices as authorized by the Soil Conservation and Domestic Allotment Act, as amended, as determined and recommended by the county committees, approved by the State committees and the Secretary, under programs provided for herein: *Provided further,* That such assistance will not be used for carrying out measures and practices that are primarily production-oriented or that have little or no conservation or pollution abatement benefits: *Provided further,* That not to exceed 5 per centum of the allocation for the current year's program for any county may, on the recommendation of such county committee and approval of the State committee, be withheld and allotted to the Soil Conservation Service for services of its technicians in formulating and carrying out the Agricultural Conservation Program in the participating counties, and shall not be utilized by the Soil Conservation Service for any purpose other than technical and other assistance in such counties, and in addition, on the recommendation of such county committee and approval of the State committee, not to exceed 1 per

centum may be made available to any other Federal, State, or local public agency for the same purpose and under the same conditions: *Provided further,* That for the current year's program $2,500,000 shall be available for technical assistance in formulating and carrying out rural environmental practices: *Provided further,* That no part of any funds available to the Department, or any bureau, office, corporation, or other agency constituting a part of such Department, shall be used in the current fiscal year for the payment of salary or travel expenses of any person who has been convicted of violating the Act entitled "An Act to prevent pernicious political activities" approved August 2, 1939, as amended, or who has been found in accordance with the provisions of title 18 U.S.C. 1913 to have violated or attempted to violate such section which prohibits the use of Federal appropriations for the payment of personal services or other expenses designed to influence in any manner a Member of Congress to favor or oppose any legislation or appropriation by Congress except upon request of any Member or through the proper official channels.

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101), including technical assistance and related expenses, $11,891,000, to remain available until expended, as authorized by that Act.

WATER BANK PROGRAM

For necessary expenses to carry into effect the provisions of the Water Bank Act (16 U.S.C. 1301-1311), $8,371,000, to remain available until expended.

COLORADO RIVER BASIN SALINITY CONTROL PROGRAM

For necessary expenses for carrying out the purposes of section 202 of title II of the Colorado River Basin Salinity Control Act, as amended (43 U.S.C. 1592), to be used to reduce salinity in the Colorado River and to enhance the supply and quality of water available for use in the United States and the Republic of Mexico, $3,804,000, for investigations and surveys, for technical assistance in developing conservation practices and in the preparation of salinity control plans, for the establishment of on-farm irrigation management systems, including related lateral improvement measures, for making cost-share payments to agricultural landowners and operators, Indian tribes, irrigation districts and associations, local governmental and nongovernmental entities, and other landowners to aid them in carrying out approved conservation practices as determined and recommended by the county committees, approved by the State committees and the Secretary, and for associated costs of program planning, information and education, and program monitoring and evaluation: *Provided,* That the Soil Conservation Service shall provide technical assistance and the Agricultural Stabilization and Conservation Service shall provide administrative services for the program, including but not limited to, the negotiation and administration of agreements and the disbursement of payments: *Provided further,* That such program shall be coordinated with the regular

Agricultural Conservation Program and with research programs of other agencies.

TITLE III—DOMESTIC FOOD PROGRAMS

OFFICE OF THE ASSISTANT SECRETARY FOR FOOD AND CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Food and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service and the Human Nutrition Information Service, $330,000.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751-1761, 1766 and 1769b) and the applicable provisions other than sections 3 and 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1773-1785, and 1788-1789); $4,233,617,000, to remain available through September 30, 1988, of which $937,680,000 is hereby appropriated and $3,295,937,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided,* That, of funds provided herein, $775,281,000 shall be available only to the extent an official budget request is transmitted to the Congress: *Provided further,* That funds appropriated for the purpose of section 7 of the Child Nutrition Act of 1966 shall be allocated among the States but the distribution of such funds to an individual State is contingent upon that State's agreement to participate in studies and surveys of programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966, when such studies and surveys have been directed by the Congress and requested by the Secretary of Agriculture: *Provided further,* That if the Secretary of Agriculture determines that a State's administration of any program under the National School Lunch Act or the Child Nutrition Act of 1966 (other than section 17), or the regulations issued pursuant to these Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under section 7 of the Child Nutrition Act of 1966 and under section 13(k)(1) of the National School Lunch Act; upon a subsequent determination by the Secretary that the programs are operated in an acceptable manner some or all of the funds withheld may be allocated: *Provided further,* That if the funds available for nutrition education and training grants authorized under section 19 of the Child Nutrition Act of 1966, as amended, require a ratable reduction in those grants, the minimum grant for each State shall be $50,000: *Provided further,* That only final reimbursement claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, institutions, and service institutions within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appro-

priated under this Act for meals, supplements, and milk served during any month only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary.

SPECIAL MILK PROGRAM

For necessary expenses, to carry out the special milk program, as authorized by section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772), $14,869,000, to remain available through September 30, 1988: *Provided,* That only final reimbursement claims for milk submitted to State agencies within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary.

FEEDING PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $1,663,497,000, to remain available through September 30, 1988: *Provided,* That none of the funds provided herein shall be used to issue interim or final regulations before May 1, 1987, to modify the formula used during fiscal year 1986 to divide funds among State agencies under section 17(i) of such Act to carry out such program, or to implement such regulations before October 1, 1987.

COMMODITY SUPPLEMENTAL FOOD PROGRAM

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), including not less than $2,950,000 for the projects in Detroit, New Orleans, and Des Moines, $41,497,000: *Provided,* That funds provided herein shall remain available through September 30, 1988: *Provided further,* That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program.

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011-2027, 2029), $12,684,665,000: *Provided,* That funds provided herein shall remain available through September 30, 1987, in accordance with section 18(a) of the Food Stamp Act: *Provided further,* That up to 5 per centum of the foregoing amount may be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further,* That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further,* That this appropriation shall be subject to any work registration or workfare requirements as may be required by

law: *Provided further,* That $345,000,000 of the funds provided herein shall be available only to the extent necessary after the Secretary has employed the regulatory and administrative methods available to him under the law to curtail fraud, waste and abuse in the program: *Provided further,* That $852,750,000 of the foregoing amount shall be available for Nutrition Assistance for Puerto Rico as authorized by 7 U.S.C. 2028.

FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)) and section 4(b) of the Food Stamp Act (7 U.S.C. 2013), $193,589,000.

TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM

For necessary expenses to carry out the Temporary Emergency Food Assistance Act of 1983, as amended, $50,000,000: *Provided,* That, in accordance with section 202 of Public Law 98-92, these funds shall be available only if the Secretary determines the existence of excess commodities.

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the Domestic Food Programs funded under this Act, $82,578,000; of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification and prosecution of fraud and other violations of law: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109.

HUMAN NUTRITION INFORMATION SERVICE

For necessary expenses to enable the Human Nutrition Information Service to perform applied research and demonstrations relating to human nutrition and consumer use and economics of food utilization, $6,876,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

TITLE IV—INTERNATIONAL PROGRAMS

FOREIGN AGRICULTURAL SERVICE

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954, as amended (7 U.S.C. 1761-1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $110,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $81,109,000: *Provided,* That not less than $255,000 of this appropriation shall be available to obtain statistics and related facts on foreign production and full and complete

information on methods used by other countries to move farm commodities in world trade on a competitive basis.

PUBLIC LAW 480

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, 1701-1715, 1721-1726, 1727-1727f, 1731-1736g), as follows: (1) financing the sale of agricultural commodities for convertible foreign currencies and for dollars on credit terms pursuant to titles I and III of said Act, or for convertible foreign currency for use under 7 U.S.C. 1708, and for furnishing commodities to carry out the Food for Progress Act of 1985, not more than $834,727,000, of which $454,727,000 is hereby appropriated and the balance derived from proceeds from sales of foreign currencies and dollar loan repayments, repayments on long-term credit sales and carryover balances, and (2) commodities supplied in connection with dispositions abroad, pursuant to title II of said Act, not more than $628,344,000, of which $628,344,000 is hereby appropriated: *Provided,* That not to exceed 15 per centum of the funds made available to carry out any title of this paragraph may be used to carry out any other title of this paragraph.

OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT

For necessary expenses of the Office of International Cooperation and Development to coordinate, plan, and direct activities involving international development, technical assistance and training, and international scientific and technical cooperation in the Department of Agriculture, including those authorized by the Food and Agriculture Act of 1977 (7 U.S.C. 3291), $5,035,000; and the Office may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

SCIENTIFIC ACTIVITIES OVERSEAS

(FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies owed to or owned by the United States for market development research authorized by section 104(b)(1) and for agricultural and forestry research and other functions related thereto authorized by section 104(b)(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704 (b)(1), (3)), $2,500,000: *Provided,* That this appropriation shall be available, in addition to other appropriations for these purposes, for payments in the foregoing currencies: *Provided further,* That funds appropriated herein shall be used for payments in such foreign currencies as the Department determines are needed and can be used most effectively to carry out the purposes of this paragraph: *Provided further,* That not to exceed $25,000 of this appropriation shall be available for payments in foreign currencies

for expenses of employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), as amended by 5 U.S.C. 3109.

TITLE V—RELATED AGENCIES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $411,803,000: *Provided,* That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701: *Provided further,* That of the sums provided herein, not to exceed $1,000,000 shall remain available until expended, and shall become available only to the extent necessary to meet unanticipated costs of emergency activities not provided for in budget estimates and after maximum absorption of such costs within the remainder of the account has been achieved.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $1,879,000.

RENTAL PAYMENTS (FDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Food and Drug Administration which are included in this Act, $24,627,000: *Provided,* That in the event the Food and Drug Administration should require modification of space needs, a share of the salaries and expenses appropriation may be transferred to this appropriation, or a share of this appropriation may be transferred to the salaries and expenses appropriation, but such transfers shall not exceed 10 per centum of the funds made available for Rental Payments (FDA) to or from this account.

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109; $29,761,000; including not to exceed $700 for official reception and representation expenses.

FARM CREDIT ADMINISTRATION

LIMITATION ON REVOLVING FUND FOR ADMINISTRATIVE EXPENSES

Not to exceed $39,420,000 (from assessments collected from farm credit system banks) shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249.

TITLE VI—GENERAL PROVISIONS

SEC. 601. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 602. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1987 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed seven hundred thirty-four (734) passenger motor vehicles, of which seven hundred twenty-six (726) shall be for replacement only, and for the hire of such vehicles.

SEC. 603. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances as authorized by law (5 U.S.C. 5901-5902).

SEC. 604. Not less than $1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by the Acts of August 14, 1946, July 28, 1954, and September 6, 1958 (7 U.S.C. 427, 1621-1629; 42 U.S.C. 1891-1893), shall be available for contracting in accordance with said Acts.

SEC. 605. No part of the funds contained in this Act may be used to make production or other payments to a person, persons, or corporations upon a final finding by court of competent jurisdiction that such party is guilty of growing, cultivating, harvesting, processing or storing marihuana, or other such prohibited drug-producing plants on any part of lands owned or controlled by such persons or corporations.

SEC. 606. Advances of money to chiefs of field parties from any appropriation in this Act for the Department of Agriculture may be made by authority of the Secretary of Agriculture.

SEC. 607. The cumulative total of transfers to the Working Capital Fund for the purpose of accumulating growth capital for data services and National Finance Center operations shall not exceed $2,000,000: *Provided,* That no funds in this Act appropriated to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator.

SEC. 608. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Public Law 480; Mutual and Self-Help Housing; Watershed and Flood Prevention Operations; Resource Conservation and Development; Colorado River Basin Salinity Control Program; Animal and Plant Health Inspection Service, Buildings and Facilities; Agricultural Stabilization and Conservation Service Salaries and Expenses funds made available to county committees; the Federal Crop Insurance Corporation Fund; Rural Housing for Domestic Farm Labor; Agricultural Research Service, Buildings and Facili-

ties; Scientific Activities Overseas (Foreign Currency Program); Dairy Indemnity Program; $5,000,000 for the grasshopper and Mormon cricket control program, Animal and Plant Health Inspection Service; $2,852,000 for higher education training grants under section 1417(a)(3)(B) of Public Law 95-113, as amended (7 U.S.C. 3152(a)(3)(B)); and Buildings and Facilities, Food and Drug Administration.

SEC. 609. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 610. Not to exceed $50,000 of the appropriation available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to Public Law 94-449.

SEC. 611. Notwithstanding any other provision of law, employees of the agencies of the Department of Agriculture, including employees of the Agricultural Stabilization and Conservation county committees, may be utilized to provide part-time and intermittent assistance to other agencies of the Department, without reimbursement, during periods when they are not otherwise fully utilized, and ceilings on full-time equivalent staff years established for or by the Department of Agriculture shall exclude overtime as well as staff years expended as a result of carrying out programs associated with natural disasters, such as forest fires, droughts, floods, and other acts of God.

SEC. 612. Funds provided by this Act for personnel compensation and benefits shall be available for obligation for that purpose only.

SEC. 613. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract as provided by law.

SEC. 614. None of the funds appropriated or otherwise made available by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 615. Certificates of beneficial ownership sold by the Farmers Home Administration in connection with the Agricultural Credit Insurance Fund, Rural Housing Insurance Fund, and the Rural Development Insurance Fund shall be not less than 65 per centum of the value of the loans closed during the fiscal year.

SEC. 616. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 per centum of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 617. None of the funds in this Act shall be used to carry out any activity related to phasing out the Resource Conservation and Development Program.

SEC. 618. None of the funds in this Act shall be used to prevent or interfere with the right and obligation of the Commodity Credit

Corporation to sell surplus agricultural commodities in world trade at competitive prices as authorized by law.

SEC. 619. Notwithstanding any other provision of this Act, commodities acquired by the Department in connection with Commodity Credit Corporation and section 32 price support operations may be used, as authorized by law (15 U.S.C. 714c and 7 U.S.C. 612c), to provide commodities to individuals in cases of hardship as determined by the Secretary of Agriculture.

SEC. 620. During fiscal year 1987, notwithstanding any other provision of law, no funds may be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual or corporation in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, unless the Polish People's Republic has been declared to be in default of its debt to such individual or corporation or unless the President has provided a monthly written report to the Speaker of the House of Representatives and the President of the Senate explaining the manner in which the national interest of the United States has been served by any payments during the previous month under loan guarantee or credit assurance agreement with respect to loans made or credits extended to the Polish People's Republic in the absence of a declaration of default.

SEC. 621. None of the funds in this Act shall be available to reimburse the General Services Administration for payment of space rental and related costs in excess of the amounts specified in this Act.

SEC. 622. In fiscal year 1987, the Secretary of Agriculture shall initiate construction on not less than twenty new projects under the Watershed Protection and Flood Prevention Act (Public Law 566) and not less than five new projects under the Flood Control Act (Public Law 534).

SEC. 623. Funds provided by this Act may be used for translation of publications of the Department of Agriculture into foreign languages when determined by the Secretary to be in the public interest.

SEC. 624. None of the funds appropriated by this or any other Act may be used to relocate the Hawaii State Office of the Farmers Home Administration from Hilo, Hawaii, to Honolulu, Hawaii.

SEC. 625. Provisions of law prohibiting or restricting personal services contracts shall not apply to veterinarians employed by the Department to take animal blood samples, test and vaccinate animals, and perform branding and tagging activities on a fee-for-service basis.

SEC. 626. None of the funds provided in this Act may be used to reduce programs by establishing an end-of-year employment ceiling on full-time equivalent staff years below the level set herein for the following agencies: Farmers Home Administration, 12,675; Agricultural Stabilization and Conservation Service, 2,550; and Soil Conservation Service, 14,177.

SEC. 627. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 628. Funds appropriated by this Act shall be applied only to the objects for which appropriations were made except as otherwise provided by law, as required by 31 U.S.C. 1301.

SEC. 629. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 630. All funds appropriated for this fiscal year and all funds appropriated hereafter by this or any other Act that are determined to be part of the "extramural budget" of the Department of Agriculture for any fiscal year for purposes of meeting the requirements of section 9 of the Small Business Act (15 U.S.C. 638), as amended by the Small Business Innovation Development Act of 1982, Public Law 97-219, shall be available for contracts, grants or cooperative agreements with small business concerns for any purpose in furtherance of the small business innovation research program. Such funds may be transferred for such purpose from one appropriation to another or to a single account.

SEC. 631. None of the funds provided in this Act may be expended to release information acquired from any handler under the Agricultural Marketing Agreement Act of 1937, as amended: *Provided,* That this provision shall not prohibit the release of information to other Federal agencies for enforcement purposes: *Provided further,* That this provision shall not prohibit the release of aggregate statistical data used in formulating regulations pursuant to the Agricultural Marketing Agreement Act of 1937, as amended: *Provided further,* That this provision shall not prohibit the release of information submitted by milk handlers.

SEC. 632. Unless otherwise provided in this Act, none of the funds appropriated in this Act may be used by the Farmers Home Administration to employ or otherwise contract with private debt collection agencies to collect delinquent payments from Farmers Home Administration borrowers.

SEC. 633. (A) Disaster Assistance to meet needs resulting from drought in the southeastern states, floods and excessive moisture in Michigan and Oklahoma and other natural disasters in such other states as may be determined by the President.

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount, for emergency measures under title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201-2205), $10,000,000 to remain available until expended.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

EMERGENCY CONSERVATION PROGRAM

For an additional amount, for necessary expenses to carry out the program authorized under title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201-2205), $10,000,000 to remain available until expended.

EMERGENCY ASSISTANCE TO AGRICULTURAL PRODUCERS

As authorized by existing law, and within the funding levels provided by this Act, for disasters occurring in 1986, the Secretary of Agriculture shall, in the case of any farmer or rancher suffering a major loss from such disaster, direct the Administrator of the Farmers Home Administration to, under such rules and regulations as the Secretary may determine as long as the objective of enabling farmers to stay in business is carried out:

(1) Refinance existing debt at the lowest allowable interest rate and such term as will give the borrower a reasonable chance to repay;

(2) Provide loans for financing 1987 crop production;

(3) Stretch out loan payments over a period of years, and base such payments on regaining our normal fair share of world markets, and

(4) Coordinate disaster assistance programs with the Administrator of the Small Business Administration to assure that all individuals affected by natural disaster are provided with the appropriate financial assistance.

(B) Within the funds made available by this section, the Secretary of Agriculture shall:

(a)(1) As soon as practicable, but not later than forty-five days after the date of application by an eligible producer, make available to eligible producers for losses of production due to drought, excessive heat, floods, hail or excessive moisture in 1986 payments determined in accordance with this subsection.

(2) An eligible producer shall be a producer of the 1986 crop of wheat, feed grains, upland cotton, rice, soybeans, sugar beets, sugar cane or peanuts who—

(A) is eligible to receive price support under section 107D, 105C, 103A, 101A, 201 or 108B of the Agricultural Act of 1949 (7 U.S.C. 1445b-3, 1444e, 1444-1, 1446, or 1445c-2); and

(B) is in a county in which producers are eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as the result of drought, excessive heat, floods, hail or excessive moisture which occurred in 1986.

(3) Payments made available to each eligible producer shall not exceed $100,000 for all crops (without regard to other limitations in farm program payments) and shall be determined for each crop of such commodities by multiplying—

(A) the payment rate; by

(B) the loss of production of the eligible producer.

(4)(A) Except for sugar beets and sugar cane, the payment rate shall be equal to the level of price support established for the crop of the commodity for the farm.

(B) For purposes of determining the payment rate for sugar beets and sugar cane, the Secretary shall establish a payment rate which is fair and reasonable in relation to the level of price support which is established for the 1986 crop of sugar beets and sugar cane.

(5)(A) The loss of production of the eligible producer shall be the quantity of wheat, feed grains, cotton, rice, soybeans, sugar beets and sugar cane or peanuts that eligible producers on a farm are unable to harvest due to reduced yields or are prevented from planting to such commodity or other nonconserving crops due to drought, excessive heat, floods, hail or excessive moisture in 1986.

Such loss of production of the eligible producer for each such crop shall be the difference between—

(i) The result determined by multiplying (I) 50 per centum of the farm program payment yield established for the crop of the commodity, by (II) the sum of the acreage of such crop planted to harvest and the acreage for which prevented planted credit is approved by the Secretary; and

(ii) The actual production on the farm of such crop of the commodity if such quantity is less than the quantity determined in accordance with clause (i).

(B) The sum of the acreage determined in accordance with paragraph (5)(A)(i)(II) shall not exceed—

(i) with respect to wheat, feed grains, upland cotton, or rice, the 1986 permitted acreage determined for such crop of the commodity; and

(ii) with respect to soybeans, peanuts, sugar beets and sugar cane, the acreage so affected but not to exceed the acreage planted in the immediately preceding year to soybeans or peanuts, respectively, for harvest including any acreage that the producer was prevented from planting to such commodity or to other nonconserving crops in lieu of soybeans or peanuts because of drought, excessive moisture, flood, hail, or other natural disaster, or other condition beyond the control of the producer.

(6) Payments determined in accordance with paragraph (3) with respect to any producer with crop insurance shall be reduced to the extent the amount determined by adding the total amount of crop insurance indemnity payments (gross indemnity less premium paid) received by the producer for the loss of production of each crop of such commodities on the farm and the payment determined in accordance with paragraphs (3) through (5) exceeds the amount determined by multiplying—

(A)(i) the quantity determined by multiplying 100 percent of the farm program payment yield established for each crop of such commodities by (ii) the sum of the acreage of each such crop planted to harvest and the acreage for which prevented planted credit is approved by the Secretary (the total not to exceed the quantity determined in accordance with subparagraph (5)(B)); by

(B) the payment rate for each crop of the commodity.

(7) The total amount of payments made under paragraph (3) to producers on a farm with respect to each crop of such commodities and the total amount of price support loans and purchases (and program benefits for sugar beets and sugar cane) made with respect to such crop on such farm may not exceed the amount determined by multiplying—

(A) The farm program payment yield for the crop of the commodity; by

(B) The sum of (i) the acreage of the crop of the commodity planted for harvest and (ii) the acreage for which prevented planted credit is approved by the Secretary, but for each such crop such sum shall not exceed the quantity determined in accordance with subparagraph (5)(B); by

(C) The payment rate for each crop of the commodity.

(8)(A) For purposes of determining the farm program payment yield, the Secretary shall use the 1986 farm program payment yield established for the crop of the commodity or, if such data is not

available, a yield determined by the Secretary to be fair and equitable.

(B) Notwithstanding any other provision of this subsection—

(i) a loss of production of quota peanuts from a farm as otherwise determined under paragraph (5) shall be reduced by the quantity of peanut poundage quota which was the basis of such anticipated production which has been transferred from the farm; and

(ii) payments made under this subsection shall be taken into account whether the lost production for which the loss of production is claimed was a loss of production of quota or additional peanuts and the payment rate shall be established accordingly. Further, notwithstanding any other provision of law, the amount of undermarketings of quota peanuts from a farm for the 1986 crop that may otherwise be claimed under section 358 of the Agricultural Adjustment Act of 1938 for purposes of future quota increases shall be reduced by the quantity of lost production of such peanuts for which payment has been received under this subsection.

(9) The disaster payments required by this section shall be made in the form of generic, negotiable commodity certificates redeemable from stocks of commodities held by the Commodity Credit Corporation.

(b)(1) notwithstanding any other provision of this section for the 1986 crop year, the Secretary of Agriculture shall utilize certificates redeemable from stocks of commodities held by the Commodity Credit Corporation, for the purpose of making disaster payments to producers of nonprogram crops, in counties in which producers became eligible subsequent to July 1, 1986, to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as the result of drought, excessive heat, flood, hail, or excessive moisture, and

(2) the Secretary of Agriculture shall make such payments (not to exceed $100,000 to any individual producer) if the Secretary determines that—

(A) the producer has suffered a substantial loss of production due to drought, excessive heat, flood, hail, or excessive moisture, and

(B) such loss has created an economic emergency for the producer to the extent that additional assistance must be made available to alleviate such economic emergency, and

(c) Within 30 days following the enactment of this Act the Secretary of Agriculture shall issue such rules and regulations as the Secretary determines necessary to carry out the program authorized by subsections (a) and (b) of this section. Such regulations shall provide that the term "nonprogram crops" shall include all crops insured directly or indirectly by the Federal Crop Insurance Corporation for crop year 1986, and in addition—

(1) the term shall include other commercial crops for which such insurance was not available for purchase or, if available, was not purchased by such by producers for crop year 1986, if—

(A) in accordance with rules and regulations issued by the Secretary of Agriculture, the producer of such crop(s) provides satisfactory evidence of actual crop yield for at least one of the immediately preceding 3 crop years: *Provided,* That in the event such data does not exist for any of the

three preceding crop years the Secretary shall use county average crop yield data; and

(B) that the producer of such crop(s) also provides satisfactory evidence of 1986 crop year losses resulting from drought, excessive heat, flood, excessive moisture, or hail exceeding 50 percentum of the crop yield established in subparagraph (A) of this paragraph, and

(2) that payments made available to producers of such crops shall be based upon the average market prices received by producers of such crops, as determined by the Secretary.

(d)(1) The Secretary shall carry out the program authorized by this proviso through the Commodity Credit Corporation.

(2) Applications for payments made in accordance with this proviso must be filed by January 31, 1987.

(3) Payments made by the Secretary of Agriculture to eligible producers under this section shall be made as soon as practicable but not later than 45 days following the producer's application.

(e)(1) The Secretary of Agriculture shall reduce the amount of funds available for emergency insured and guaranteed loans to meet the needs resulting from natural disasters from funds in the Agricultural Credit Insurance Fund by $400,000,000.

(2) For purposes of making payments in accordance with this proviso, there is transferred to the Commodity Credit Corporation $400,000,000 from funds in the Agricultural Credit Insurance Fund.

SEC. 634. Notwithstanding any other provision of law, including section 502(c)(2) of the Housing Act of 1949 (42 U.S.C. 1471 et seq.), none of the funds appropriated under this or any other Act shall be used prior to June 30, 1987 to accept prepayment of any loan made under section 515 of the Housing Act of 1949, unless such loan was made at least twenty years prior to the date of prepayment or, for loans made before December 21, 1979, the Secretary makes a determination that a supply of adequate, comparable housing is available in the community, or that prepayment of such loans will not result in a substantial increase in rents to tenants in residence upon date of prepayment or displacement of such tenants.

SEC. 635. The Secretary of Agriculture may transfer surplus agricultural commodities from inventory to the Department of Defense for use in complementing support provided by the Department of Defense to the Tenth International Pan American Games to be held in Indianapolis, Indiana.

SEC. 636. The Food Security Act of 1985 is amended by inserting at the end thereof the following new sentence: "Effective for each of the 1987 through 1990 crops, the Secretary may not deny a person status as a separate person solely on the ground that a family member cosigns for, or makes a loan to, such person and leases, loans, or gives such person equipment, land or labor, if such family members were organized as separate units prior to December 31, 1985.".

SEC. 637. Section 106A(d)(1)(A) of the Agricultural Act of 1949 is amended by—

(1) striking out the parenthetical phrase in clause (i);

(2) inserting "and" at the end of clause (i);

(3) striking out clause (ii); and,

(4) redesignating clause (iii) as clause (ii).

SEC. 638. (a) Clause (B) of the last sentence of section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by striking out

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"for the excess shelter expense deduction contained in clause (2)" and inserting in lieu thereof "contained in clause (1)".

(b)(1) Except as provided in paragraphs (2) and (3), the amendment made by subsection (a) shall become effective 30 days after the date of enactment of this Act.

(2) Except as provided in paragraph (3), the amendment made by subsection (a) shall not apply to an allotment issued to any eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) for any month beginning before the effective date of this subsection.

(3) If a State elected before the date of enactment of this Act to compute household income in accordance with section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) (as amended by subsection (a)), the amendment made by subsection (a) shall become effective on May 1, 1986.

SEC. 639. Section 108B(4)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445c-2(4)(A)) is amended by inserting after "additional peanuts" the following: "(other than net gain on additional peanuts in separate type pools established under paragraph (3)(B)(i) for Valencia peanuts produced in New Mexico)".

SEC. 640. Section 623B(b)(2) of the Community Economic Development Act of 1981 is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of law, any Utah or Ohio local public body to which a loan was made after December 31, 1982, from the Rural Development Loan Fund may, at the discretion of such local public body and with the approval of the Secretary of Health and Human Services, transfer such loan to a nonprofit corporation designated by such body to serve as an intermediate borrower and to carry out the purposes of the loan."

SEC. 641. (a) Section 1323(a)(1) of the Food Security Act of 1985 is amended by striking out "September 30, 1986," and inserting in lieu thereof "September 30, 1987,", and

(b) Section 1323(a) is further amended by adding at the end thereof a new subsection—

"(5) Notwithstanding any provision to the contrary of subsection (4) above, the $20,000,000 which was available pursuant to subsection (4) shall continue to be available and shall be used by the Secretary prior to September 30, 1987, to guarantee loans for the national rural development and finance program and shall remain available until expended.".

and,

(c) Section 1323(b)(1) of such Act is amended by striking out "September 30, 1986," and inserting in lieu thereof "September 30, 1987,", and inserting the words "made or to be" after the word "guarantees". *Provided further,* That such grant funds may be used by such corporation to provide technical assistance and financial assistance, including capitalizing revolving loan programs, pursuant to the Act.

SEC. 642. During fiscal year 1987, the Commodity Credit Corporation shall use $500,000 worth of surplus agricultural commodities owned by the Corporation in establishing and carrying out a research and development program on external combustion engines under section 4(m) of the Commodity Credit Corporation Charter Act. In addition to any sales required under any other Act, the Secretary of Agriculture, under such terms as the Secretary may prescribe, shall sell notes and other obligations held in the Rural Development Insurance Fund established under section 309A of the

Consolidated Farm and Rural Development Act in such amounts as to realize net proceeds to the Government of not less than $500,000.

SEC. 643. Section 1231 of the Food Security Act of 1985 is amended by adding at the end thereof the following new subsection:

"(f) For purposes of this subtitle, alfalfa and other multi-year grasses and legumes in a rotation practice, as approved by the Secretary, shall be considered agricultural commodities.".

SEC. 644. Paragraph (16) of section 103(h) of the Agricultural Act of 1949 (7 U.S.C. 1444(h)(16)) is amended to read as follows:

"(16)(A) Notwithstanding any other provision of law, except as provided in subparagraph (B), compliance on a farm with the terms and conditions of any other commodity program may not be required as a condition of eligibility for loans or payments under this subsection.

"(B) In the case of each of the 1989 and 1990 crops of extra long staple cotton, the Secretary may require that, as a condition of eligibility of producers for loans or payments under this subsection, the acreage planted for harvest on the farm to any other commodity for which an acreage limitation program is in effect shall not exceed the crop acreage base established for the farm for that commodity.

"(C) Notwithstanding any other provision of law, in the case of each of the 1987 and 1988 crops of extra long staple cotton, compliance with the terms and conditions of the program authorized by this subsection may not be required as a condition of eligibility for loans, purchases, or payments under any other commodity program.".

SEC. 645. The fifth paragraph of section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) (as amended by section 3 of Public Law 99-253 (100 Stat. 36)) is amended—

(1) by inserting after the third sentence the following new sentence: "Notwithstanding the preceding sentence, there may be 1 local administrative area in any county for which there had been established less than 3 local administrative areas as of December 23, 1985."; and

(2) in the sixth sentence (as it existed before the amendment made by paragraph (1)), by striking out ": *Provided,*" and all that follows through the period and inserting in lieu thereof a period.

SEC. 646. (1) It is the sense of the Senate that the Secretary of Agriculture should make available not less than $10,000,000 worth of flour and cornmeal using the wheat and cornstocks of the Commodity Credit Corporation. Such flour and cornmeal shall be in addition to the traditional level of assistance made available under section 1114 of the Agriculture and Food Act of 1981, section 416(a) of the Agricultural Act of 1949, section 4 of the Agriculture and Consumer Protection Act of 1973, and any other provision of law administered by the Secretary.

(2)(a) During the three-year period beginning with the fiscal year ending September 30, 1987, through the fiscal year ending September 30, 1989, the Secretary of Agriculture shall make available to PVO's and cooperatives and to governments a total of at least 500,000 metric tons of wheat, 500,000 metric tons of soybeans, and 50 million pounds of dairy products under paragraph (11)(B) of section 416(b) of the Agricultural Act of 1949, notwithstanding paragraph (11)(c) of section 416(b) of such Act.

(b) Commodities made available under this section during any fiscal year shall be—

(1) subject to the agreement of recipient nations—

(A) to acquire through commercial arrangements agricultural commodities directly or by private purchases during the fiscal year in an amount equal to 105 percent of the average amount of such agricultural commodities acquired through commercial arrangements during the 3 preceding years.

(B) to permit the sale of commodities furnished under this section in the recipient nation and to use the local currency generated from such sales—

(i) by PVO's and cooperatives to carry out approved programs of assistance in the recipient nation;

(ii) to operate lending programs in the manner provided for in section 108 of Public Law 480; and

(iii) to reimburse the United States in dollars for costs incurred in furnishing such commodities, including transportation and processing, during the same fiscal year in which such costs were incurred. Reimbursements under this paragraph may be made in local currencies generated from the sale of the commodities under this paragraph if they are used to pay expenses of the United States in the recipient nation.

(2) No greater than such amounts as is requested by recipient nations.

(c) To the extent practicable, commodities made available under this section shall be furnished in equal quantities during each of these fiscal years.

(d) It is the sense of Congress that commodities provided for in this subsection be made available to PVO's and cooperatives operating in the Republic of the Philippines, and the government of the Philippines.

(3)(a) During the three-year period beginning with the fiscal year ending September 30, 1987, through the fiscal year ending September 30, 1989, the Secretary of Agriculture shall make available to the friendly countries, under paragraph (b)(11)(A) of section 416 of the Agricultural Act of 1949, at least 500,000 metric tons of wheat and 45 million pounds of dairy products, notwithstanding paragraph (11)(c) of section 416(b) of such Act.

(b) Commodities made available to a nation under this section during any fiscal year shall be—

(1) subject to the agreement of the Nation—

(A) to acquire through commercial arrangements agricultural commodities directly or by private purchases during the fiscal year in an amount equal to 105 percent of the average amount of such agricultural commodities acquired through commercial arrangements during the preceding three years.

(B) to sell any commodities furnished under this section within the nation and to use the local currencies generated from such sales to (i) establish and carry out lending programs in such nations in the manner provided for in section 108 of the Agricultural Trade Development and Assistance Act of 1954 and (ii) reimburse the United States in dollars for costs incurred in furnishing such commodities, including transportation and processing, in the same fiscal year in which such costs were incurred. Reimbursements under

this paragraph may be made in local currencies generated from the sale of the commodities under paragraph (2) if they are used to pay expenses of the United States in the recipient Nation.

(2) No greater than such amounts as is requested by such governments.

(c) To the extent practicable, commodities made available under this section shall be furnished in equal quantities during each of the three fiscal years.

(d) For purchases of this section, the term "friendly countries" shall have the same meaning as that term has under the Agricultural Trade Development and Assistance Act of 1954.

(e) It is the sense of Congress that commodities provided for in this subsection be made available to the Philippines and friendly countries of Africa.

(4)(a) During the three-year period beginning with the fiscal year ending September 30, 1987, through the fiscal year ending September 30, 1989, the Secretary of Agriculture shall make available to PVO's cooperatives and governments, 460,000 metric tons of wheat, 137 million pounds of dairy products, and 180,000 metric tons of soybeans; under paragraph (11)(B) of section 416(b) of the Agricultural Act of 1949, notwithstanding paragraph (11)(C) of section 416(b) of such Act.

(b) Commodities made available to a nation, or PVO's and cooperatives operating in such nation, under this section during any fiscal year shall be—

(1) subject to the agreement of the nation—

(A) to acquire through commercial arrangements agricultural commodities directly or by private purchases during the fiscal year in an amount equal to 105 percent of the average amount of such agricultural commodities acquired through commercial arrangements during the preceding three years;

(B) to permit the sale of commodities furnished under this section within the nation and to use the local currencies generated from such sales (i) by PVO's and cooperatives to carry out approved programs of assistance in the country and (ii) to operate lending programs in the manner provided for in section 108 of Public Law 480; and

(C) to reimburse the United States in dollars for costs incurred in furnishing such commodities, including transportation and processing, in the same fiscal year in which such costs were incurred. Reimbursements under this paragraph may be made in local currencies generated from the sale of the commodities under paragraph (2) if they are used to pay expenses of the United States in the recipient nation.

(2) No greater than such amounts as is requested by such government.

(c) To the extent practicable, commodities made available under this section shall be furnished in equal quantities during each of the three fiscal years.

(d) For purposes of this section, the term "friendly countries" shall have the same meaning as that term has under the Agricultural Trade Development and Assistance Act of 1954.

(e) It is the sense of Congress that of the commodities made available under this subsection—

(1) 400,000 metric tons of wheat, 80 million pounds of dairy products and 180,000 metric tons of soybeans be made available to Nigeria;

(2) 1 million metric tons of wheat be made available to friendly countries in Africa, other than Nigeria;

(3) 30,000 metric tons of soybeans, and 50 million pounds of dairy products be made available to India; and

(4) 60,000 metric tons of wheat and 7 million pounds of dairy products be made available to Bangladesh.

This Act may be cited as the "Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987".

(b) Such amounts as may be necessary for programs, projects or activities provided for in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1987, and for other purposes.

TITLE I—DEPARTMENT OF COMMERCE

General Administration

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce, including not to exceed $2,000 for official entertainment, $36,300,000.

Bureau of the Census

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $90,780,000.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, $172,000,000, to remain available until expended.

Economic and Statistical Analysis

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs, $30,000,000.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, $180,443,000 of which $250,000 shall be obligated for the Center for International Trade Development at Oklahoma State University: *Provided,* That during fiscal year 1987 total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: *Provided further,* That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: *Provided further,* That notwithstanding any provision of title I of the Local Public Works Capital Development and Investment Act of 1976, as amended (Public Law 94-369), or any other provision of law to the contrary, any funds authorized and appropriated under title I of such Act, as amended, in any fiscal year for projects in New York, New York, but obligated as of December 19, 1985 and not disbursed, shall remain available for obligation and expenditure through March 31, 1988 for any authorized project in New York, New York, until title I of such Act, as amended, or for any project in New York, New York, determined to be eligible under title I of the Public Works and Economic Development Act of 1965, as amended, if the total amount of such funds is not finally determined by October 15, 1986: *Provided further,* That notwithstanding any other provision of law or a contract to the contrary, the SEDA-COG Joint Rail Authority, Lewisburg, Pennsylvania, may sell any portion of the real property that was acquired in part with proceeds of a grant from the Economic Development Administration (grant number 01-19-02563) and may retain all of the proceeds of any such sale so long as the proceeds are used for purposes which meet the criteria of and are approved by the Economic Development Administration: *Provided further,* That notwithstanding any other provision of law or regulation, including title I of the Public Works and Economic Development Act of 1965, as amended, and OMB Circular A-102 Attachment N, the Administrator of the Economic Development Administration is hereby directed to release, without any further requirement or delay, the funds previously appropriated in Public Law 99-190 to Lexington County, South Carolina, as a direct grant: *Provided further,* That in addition to funds made available pursuant to Public Law 99-190 for infrastructure projects and economic development activities at the site of the General Motors plant in the city of South Gate, California, such amounts as may be necessary shall be available for this purpose such that the total amount of funds available shall not exceed $431,012: *Provided further,* That in addition to funds made available pursuant to Public Law 99-190 for infrastructure projects and related economic development activities at the Jasper Industrial Park in Jasper, Alabama, such amounts as may be necessary shall be available for this purpose such that the total amount of funds available shall not exceed $470,224.

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $25,000,000: *Provided,* That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977. Notwithstanding any other provision of this Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-nine permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1987.

REGIONAL DEVELOPMENT PROGRAM

REGIONAL DEVELOPMENT PROGRAMS

(RESCISSION)

Of the funds available for Regional Development Program, "Regional Development Programs", $1,576,000 are rescinded.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

(INCLUDING RESCISSION)

For necessary expenses for international trade activities of the Department of Commerce, including trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $253,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use abroad and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $197,500,000, to remain available until expended, of which $6,785,000 is for the Office of Textiles and Apparels, including $3,349,000 for a grant to the Tailored Clothing Technology Corporation and, of which $3,500,000 is for a grant for support costs for a new materials center in Ames, Iowa: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities: *Provided further,* That none of the funds appropriated herein may be used for activities associated with conferences, trade shows, expositions, and/or seminars which feature or convey the advan-

tages of relocating U.S. industries, manufacturing and/or assembly plants, or companies, in a foreign country.

Of available funds under this head provided for direct loans in Public Law 98-411 and Public Law 99-180, $8,100,000 are rescinded.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $39,675,000, of which $26,080,000 shall remain available until expended: *Provided,* That not to exceed $13,595,000 shall be available for program management for fiscal year 1987: *Provided further,* That none of the funds appropriated in this paragraph or in this title for the Department of Commerce shall be available to reimburse the fund established by 15 U.S.C. 1521 on account of the performance of a program, project, or activity, nor shall such fund be available for the performance of a program, project, or activity, which had not been performed as a central service pursuant to 15 U.S.C. 1521 before July 1, 1982, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such action in accordance with the Committees' reprogramming procedures.

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration including travel and tourism promotional activities abroad for travel to the United States and its possessions without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; and carrying out the provisions of the 1981 Tourism Policy Act; and including employment of American citizens and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $8,000 for representation expenses abroad; $11,500,000.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; 399 commissioned officers on the active list; construction of facilities, including initial equipment; alteration, modernization, and relocation of facilities; and acquisition of land for facilities; $1,038,588,000, to remain available until expended, of which $27,500,000 shall be

available only for commercialization of the land remote sensing satellite system subject to the approval of the House and Senate Committees on Appropriations pursuant to section 607 of this Act; and in addition, $29,000,000 shall be derived from the Airport and Airways Trust Fund; and in addition, $51,800,000 shall be derived by transfer from the Fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries"; and in addition, $9,673,000 shall be derived by transfer from the Coastal Energy Impact Fund; and in addition, $1,800,000 shall be derived by transfer from the Fisheries Loan Fund: *Provided,* That grants to States pursuant to section 306 and section 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $450,000: *Provided further,* That of the funds appropriated in this paragraph, necessary funds shall be used to fill and maintain a staff of three persons, as National Oceanic and Atmospheric Administration personnel, to work on contracts and purchase orders at the National Data Buoy Center in Bay St. Louis, Mississippi, and report to the Director of the National Data Buoy Center in the same manner and extent that such procurement functions were performed at Bay St. Louis prior to June 26, 1983, except that they may provide procurement assistance to other Department of Commerce activities pursuant to ordinary interagency agreements. Where practicable, these positions shall be filled by the employees who performed such functions prior to June 26, 1983.

Fishermen's Contingency Fund

For carrying out the provisions of title IV of Public Law 95-372, not to exceed $750,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96-339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 94-265), and the American Fisheries Promotion Act (Public Law 96-561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $2,000,000, to remain available until expended.

Fishermen's Guaranty Fund

For expenses necessary to carry out the provisions of the Fishermen's Protective Act of 1967, as amended, $1,800,000 to be derived from the receipts collected pursuant to that Act, to remain available until expended.

Patent and Trademark Office

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office, including defense of suits instituted against the Commissioner of Patents and Trademarks, $98,000,000 and, in addition, such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, to remain available until expended.

NATIONAL BUREAU OF STANDARDS

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Bureau of Standards, $122,000,000 to remain available until expended, of which not to exceed $2,144,000 may be transferred to the "Working Capital Fund".

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law of the National Telecommunications and Information Administration, $13,000,000 of which $700,000 shall remain available until expended.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, $20,500,000 to remain available until expended: *Provided,* That not to exceed $1,200,000 shall be available for program management as authorized by section 391 of the Communications Act of 1934, as amended: *Provided further,* That notwithstanding the provisions of section 391 of the Communications Act of 1934, as amended, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 101. During the current fiscal year, applicable appropriations and funds available to the Department of Commerce shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act, and, notwithstanding 31 U.S.C. 3324, may be used for advance payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.

SEC. 102. During the current fiscal year, appropriations to the Department of Commerce which are available for salaries and expenses shall be available for hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 103. No funds in this title shall be used to sell to private interests, except with the consent of the borrower, or contract with private interests to sell or administer, any loans made under the Public Works and Economic Development Act of 1965 or any loans made under section 254 of the Trade Act of 1974.

SEC. 104. During the current fiscal year, the National Bureau of Standards is authorized to accept contributions of funds, to remain available until expended, from any public or private source to construct a facility for cold neutron research on materials, notwithstanding the limitations contained in 15 U.S.C. 278d.

This title may be cited as the "Department of Commerce Appropriation Act, 1987".

TITLE II—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $67,000,000: *Provided,* That none of the funds in this Act shall be used for positions for the Departmental Leadership offices of the Department of Justice in excess of 56.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission, as authorized by law, $10,300,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and rent of private or Government-owned space in the District of Columbia; $208,934,000, of which not to exceed $6,000,000 for litigation support contracts shall remain available until September 30, 1988: *Provided,* That of the funds available in this appropriation, $1,537,000 shall be available for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys and the Antitrust Division, to remain available until expended: *Provided further,* That of the funds appropriated to the Department of Justice in title II of this Act, not to exceed $1,000,000, may be transferred to this appropriation to pay expenses related to the activities of any Independent Counsel appointed pursuant to 28 U.S.C. 591, et seq., upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate and approval under said Committees' policies concerning the reprogramming of funds contained in section 607 of this Act.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $43,000,000.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Offices of the United States Attorneys, $320,000,000.

SALARIES AND EXPENSES, OVERSIGHT OF BANKRUPTCY CASES

For necessary expenses of the bankruptcy trustees, $11,500,000. Effective immediately before November 10, 1986, section 408(c) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2687), is

amended by striking out "November 10, 1986" and inserting in lieu thereof "September 30, 1987".

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109; allowances and benefits similar to those allowed under the Foreign Service Act of 1980 as determined by the Commission; expenses of packing, shipping, and storing personal effects of personnel assigned abroad; rental or lease, for such periods as may be necessary, of office space and living quarters of personnel assigned abroad; maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties; insurance on official motor vehicles abroad; advances of funds abroad; advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission; hire of motor vehicles for field use only; and employment of aliens; $564,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including acquisition, lease, maintenance, and operation of vehicles and aircraft, $142,000,000.

SUPPORT OF UNITED STATES PRISONERS

For support of United States prisoners in non-Federal institutions, $50,000,000; and in addition, $5,000,000 shall be available under the Cooperative Agreement Program until expended for the purposes of renovating, constructing, and equipping State and local correctional facilities: *Provided,* That amounts made available for constructing any local correctional facility shall not exceed the cost of constructing space for the average Federal prisoner population to be housed in the facility, or in other facilities in the same correctional system, as projected by the Attorney General: *Provided further,* That following agreement on or completion of any Federally assisted correctional facility construction, the availability of the space acquired for Federal prisoners with these Federal funds shall be assured and the per diem rate charged for housing Federal prisoners in the assured space shall not exceed operating costs for the period of time specified in the cooperative agreement: *Provided further,* That funds earmarked for the support of United States prisoners in non-Federal institutions in the Department of Justice Appropriations Acts, 1984 and 1985 that remain unobligated at the end of fiscal year 1986, are restored effective immediately before September 30, 1986, for the purpose of liquidating any 1986 obligations for that activity that cannot be funded from 1986 appropriations.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses and for per diems in lieu of subsistence, as authorized by law, including advances; $52,187,000, to remain available until expended, of which not to exceed $1,350,000 may be made available for planning, construction, renovation, maintenance, remodeling, and repair

of buildings and the purchase of equipment incident thereto for protected witness safesites.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $29,637,000 of which $23,266,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1809) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants: *Provided,* That notwithstanding section 501(e)(2)(B) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1810), funds may be expended for assistance with respect to Cuban and Haitian entrants as authorized under section 501(c) of such Act.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed one thousand five hundred seventy-nine passenger motor vehicles of which one thousand four hundred fifty will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $1,260,000,000, of which not to exceed $10,000,000 for automated data processing and telecommunications and $1,000,000 for undercover operations shall remain available until September 30, 1988; of which $3,000,000 for research related to investigative activities shall remain available until expended; and of which not to exceed $500,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism: *Provided,* That notwithstanding the provisions of title 31 U.S.C. 3302, the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records for noncriminal employment and licensing purposes, and credit not more than $15,500,000 of such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: *Provided further,* That not to exceed $45,000 shall be available for official reception and representation expenses: *Provided further,* That $13,800,000 for the expansion and renovation of the New ~~York~~ field office shall remain available until expended.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; purchase of not to exceed five hundred seventy-five passenger motor vehicles of which four hundred eighty-nine are for replacement only for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $412,000,000 of which not to exceed $1,200,000 for research shall remain available until expended and not to exceed $1,700,000 for purchase of evidence and payments for information shall remain available until September 30, 1988: *Provided,* That $140,000 shall only be available for the establishment and operation of an office in Hilo, Hawaii: *Provided further,* That notwithstanding section 1345 of title 31, United States Code, funds made available to the Drug Enforcement Administration in any fiscal year may be used for travel, transportation, and subsistence expenses of State, county, and local law enforcement officers attending conferences, meetings, and training courses at the FBI Academy, Quantico, Virginia.

CONSTRUCTION

For necessary expenses of the Drug Enforcement Administration for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for an all source intelligence center, $7,500,000, to remain available until expended: *Provided,* That such funds shall be available for obligation upon submission by the Attorney General to the Committees on Appropriations no later than July 1, 1987, of a reprogramming request in accordance with section 607 of this Act which sets forth specific details for the use of such funds.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use (not to exceed four hundred ninety, all of which shall be for replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; $593,000,000, of which not to exceed $400,000 for research shall remain available until expended: *Provided,* That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000 except in such instances when the Commissioner makes a determination that this restriction is impossible to implement: *Provided further,* That uniforms may be purchased without regard to

the general purchase price limitation for the current fiscal year: *Provided further,* That no funds appropriated in this Act may be used to implement Immigration and Naturalization Service reorganization proposals which would have the purpose of or would result in the closing of the Northern Regional Office of the Immigration and Naturalization Service at Fort Snelling, Minnesota: *Provided further,* That effective immediately before September 30, 1986, $3,385,000 made available for "Construction" for the Immigration and Naturalization Service in Public Law 99-88 shall be available for the Immigration and Naturalization Service, "Salaries and Expenses".

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed forty of which thirty are for replacement only) and hire of law enforcement and passenger motor vehicles; $598,807,000: *Provided,* That there may be transferred to the Health Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year.

NATIONAL INSTITUTE OF CORRECTIONS

For carrying out the provisions of sections 4351-4353 of title 18, United States Code, which established a National Institute of Corrections, $9,000,000, to remain available until expended.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $122,511,000, to remain available until expended: *Provided,* That labor of United States prisoners may be used for work performed under this appropriation.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of not to exceed five (for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE AND VOCATIONAL EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $2,157,000 of the funds of the corporation shall be available for its administrative expenses, and not to exceed $7,208,000 for the expenses of vocational training of prisoners, both amounts to be available for services as authorized by 5 U.S.C. 3109, and to be computed on an accrual basis to be determined in accordance with the corporation's prescribed accounting system in effect on July 1, 1946, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by the Justice Assistance Act of 1984, Runaway Youth and Missing Children Act Amendments of 1984, and the Missing Children Assistance Act including salaries and expenses in connection therewith, $115,368,000 and of the unobligated funds previously appropriated for the Juvenile Justice and Delinquency Prevention Act, other than funds subject to provisions of sections 222(b), 223(d), and 228(e) of title II of such Act, $3,500,000 shall be made available for programs authorized under parts D and E of the Justice Assistance Act of 1984, all funds appropriated herein to remain available until expended; and for grants, contracts, cooperative agreements, and other assistance authorized by title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith, $70,282,000 to remain available until expended. In addition, $5,000,000 for the purpose of making grants to States for their expenses by reason of Mariel Cubans having to be incarcerated in State facilities for terms requiring incarceration for the full period October 1, 1986 through September 30, 1987, following their conviction of a felony committed after having been paroled into the United States by the Attorney General: *Provided,* That within thirty days of enactment of this Act the Attorney General shall announce in the Federal Register that this appropriation will be made available to the States whose Governors certify by February 1, 1987, a listing of names of such Mariel Cubans incarcerated in their respective facilities: *Provided further,* That the Attorney General, not later than April 1, 1987, will complete his review of the certified listings of such incarcerated Mariel Cubans, and make grants to the States on the basis that the certified number of such incarcerated persons in a State bears to the total certified number of such incarcerated persons: *Provided further,* That the amount of reimbursements per prisoner per annum shall not exceed $12,000. Not to exceed $64,000,000 shall be obligated during fiscal year 1987 for victim compensation and assistance programs, notwithstanding section 1402, 1403, or 1404 of the Victims of Crime Act of 1984 (Public Law 98-473).

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 201. A total of not to exceed $75,000 from funds appropriated to the Department of Justice in this title shall be available for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 202. Notwithstanding any other provision of law or this Act, materials produced by convict labor may be used in the construction of any highways or portion of highways located on Federal-aid systems, as described in section 103 of title 23, United States Code.

SEC. 203. Appropriations for "Salaries and expenses, General Administration", "Salaries and expenses, United States Marshals Service", "Salaries and expenses, Federal Bureau of Investigation", "Salaries and expenses, Drug Enforcement Administration", "Salaries and expenses, Immigration and Naturalization Service", and "Salaries and expenses, Federal Prison System", shall be available for uniforms and allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 204. (a) Subject to subsection (b) of this section, authorities contained in Public Law 96-132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

(b)(1) With respect to any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counter-intelligence—

(A) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1987, may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to section 1341 of title 31 of the United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31 of the United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Service Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c)),

(B) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1987, may be used to establish or to acquire proprietary corporations or business entities as part of an undercover investigative operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31 of the United States Code,

(C) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1987, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18 of the

United States Code and section 3302 of title 31 of the United States Code, and

(D) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31 of the United States Code,

only, in operations designed to detect and prosecute crimes against the United States, upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, a member of the Undercover Operations Review Committee established by the Attorney General in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, as in effect on July 1, 1983) or the Administrator of the Drug Enforcement Administration, as the case may be, and the Attorney General (or, with respect to Federal Bureau of Investigation undercover operations, if designated by the Attorney General, a member of such Review Committee), that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation. If the undercover operation is designed to collect foreign intelligence or counterintelligence, the certification that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation shall be by the Director of the Federal Bureau of Investigation (or, if designated by the Director, the Assistant Director, Intelligence Division) and the Attorney General (or, if designated by the Attorney General, the Counsel for Intelligence Policy). Such certification shall continue in effect for the duration of such undercover operation, without regard to fiscal years.

(2) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (C) and (D) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

(3) If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation or the Drug Enforcement Administration, as much in advance as the Director or the Administrator, or the designee of the Director or the Administrator, determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(4)(A) The Federal Bureau of Investigation or the Drug Enforcement Administration, as the case may be, shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal year 1987—

(i) submit the results of such audit in writing to the Attorney General, and

(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(B) The Federal Bureau of Investigation and the Drug Enforcement Administration shall each also submit a report annually to the Congress specifying as to their respective undercover investigative operations—

(i) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,

(ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and

(iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to—

(I) the results,

(II) any civil claims, and

(III) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.

(5) For purposes of paragraph (4)—

(A) the term "closed" refers to the earliest point in time at which—

(i) all criminal proceedings (other than appeals) are concluded, or

(ii) covert activities are concluded, whichever, occurs later,

(B) the term "employees" means employees, as defined in section 2105 of title 5 of the United States Code, of the Federal Bureau of Investigation, and

(C) the terms "undercover investigative operation" and "undercover operation" means any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration (other than a foreign counterintelligence undercover investigative operation)—

(i) in which—

(I) the gross receipts (excluding interest earned) exceed $50,000, or

(II) expenditures (other than expenditures for salaries of employees) exceed $150,000, and

(ii) which is exempt from section 3302 or 9102 of title 31 of the United States Code,

except that clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of such paragraph.

SEC. 205. Section 286 of the Immigration and Nationality Act of 1952 (8 U.S.C. 1356) is amended by inserting after subsection (c) the following new subsections:

"(d) SCHEDULE OF FEES.—In addition to any other fee authorized by law, the Attorney General shall charge and collect $5 per individual for the immigration inspection of each passenger arriving at a port of entry in the United States, or for the preinspection of a passenger in a place outside of the United States prior to such arrival, aboard a commercial aircraft or commercial vessel.

"(e) LIMITATIONS ON FEES.—(1) No fee shall be charged under subsection (d) for immigration inspection or preinspection provided

in connection with the arrival of any passenger whose journey originated in the following:

"(A) Canada,

"(B) Mexico,

"(C) a territory or possession of the United States, or

"(D) any adjacent island (within the meaning of section 101(b)(5) of this title).

"(2) No fee may be charged under subsection (d) with respect to the arrival of any passenger—

"(A) who is in transit to a destination outside the United States, and

"(B) for whom immigration inspection services are not provided.

"(f) COLLECTION.—(1) Each person that issues a document or ticket to an individual for transportation by a commercial vessel or commercial aircraft into the United States shall—

"(A) collect from that individual the fee charged under subsection (d) at the time the document or ticket is issued; and

"(B) identify on that document or ticket the fee charged under subsection (d) as a Federal inspection fee.

"(2) If—

"(A) a document or ticket for transportation of a passenger into the United States is issued in a foreign country; and

"(B) the fee charged under subsection (d) is not collected at the time such document or ticket is issued;

the person providing transportation to such passenger shall collect such fee at the time such passenger departs from the United States and shall provide such passenger a receipt for the payment of such fee.

"(3) The person who collects fees under paragraph (1) or (2) shall remit those fees to the Attorney General at any time before the date that is thirty-one days after the close of the calendar quarter in which the fees are collected. Regulations issued by the Attorney General under this subsection with respect to the collection of the fees charged under subsection (d) and the remittance of such fees to the Treasury of the United States shall be consistent with the regulations issued by the Secretary of the Treasury for the collection and remittance of the taxes imposed by subchapter C of chapter 33 of the Internal Revenue Code of 1954, but only to the extent the regulations issued with respect to such taxes do not conflict with the provisions of this section.

"(g) PROVISION OF IMMIGRATION INSPECTION AND PREINSPECTION SERVICES.—Notwithstanding section 1353(a) of this title, or any other provision of law, the immigration services required to be provided to passengers upon arrival in the United States on scheduled airline flights shall be adequately provided when needed and at no cost (other than the fees imposed under subsection (d)) to airlines and airline passengers at:

"(1) immigration serviced airports, and

"(2) places located outside of the United States at which an immigration officer is stationed for the purpose of providing such immigration services.

"(h) DISPOSITION OF RECEIPTS.—(1)(A) All of the fees collected under subsection (d) shall be deposited in a separate account within the general fund of the Treasury of the United States. Such account shall be known as the 'Immigration User Fee Account.' At the end of each 2-year period, beginning with the creation of this account,

the Attorney General, following a public rulemaking with opportunity for notice and comment, shall submit a report to the Congress concerning the status of the account, including any balances therein, and recommend any adjustment in the prescribed fee that may be required to ensure that the receipts collected from the fee charged for the succeeding two years equal, as closely as possible, the cost of providing these services.

"(B) Notwithstanding any other provisions of law, all fines, penalties, liquidated damages or expenses collected pursuant to sections 271 and 273 of this title shall be deposited in the 'Immigration User Fee Account.'

"(2)(A) The Secretary of the Treasury shall refund out of the Immigration User Fee Account to any appropriation the amount paid out of such appropriation for expenses incurred by the Attorney General in providing immigration inspection and preinspection services for commercial aircraft or vessels and:

"(i) providing overtime immigration inspection services for commercial aircraft or vessels;

"(ii) administration of debt recovery, including the establishment and operation of a national collections office;

"(iii) expansion, operation and maintenance of information systems for nonimmigrant control and debt collection;

"(iv) detection of fraudulent documents used by passengers traveling to the United States;

"(v) providing detention and deportation services for excludable aliens arriving on commercial aircraft and vessels.

"(B) The amounts which are required to be refunded under subparagraph (A) shall be refunded at least quarterly on the basis of estimates made by the Attorney General of the expenses referred to in subparagraph (A). Proper adjustments shall be made in the amounts subsequently refunded under subparagraph (A) to the extent prior estimates were in excess of, or less than, the amount required to be refunded under subparagraph (A).

"(i) Notwithstanding any other provision of law, the Attorney General is authorized to receive reimbursement from the owner, operator, or agent of a private or commercial aircraft or vessel, or from any airport or seaport authority for expenses incurred by the Attorney General in providing immigration inspection services which are rendered at the request of such person or authority (including the salary and expenses of individuals employed by the Attorney General to provide such immigration inspection services). The Attorney General's authority to receive such reimbursement shall terminate immediately upon the provision for such services by appropriation.

"(j) REGULATIONS.—The Attorney General may prescribe such rules and regulations as may be necessary to carry out the provisions of this section.

"(k) ADVISORY COMMITTEE.—In accordance with the provisions of the Federal Advisory Committee Act, the Attorney General shall establish an advisory committee, whose membership shall consist of representatives from the airline and other transportation industries who may be subject to any fee or charge authorized by law or proposed by the Immigration and Naturalization Service for the purpose of covering expenses incurred by the Immigration and Naturalization Service. The advisory committee shall meet on a periodic basis and shall advise the Attorney General on issues related to the performance of the inspectional services of the

Immigration and Naturalization Service. This advice shall include, but not be limited to, such issues as the time periods during which such services should be performed, the proper number and deployment of inspection officers, the level of fees, and the appropriateness of any proposed fee. The Attorney General shall give substantial consideration to the views of the advisory committee in the exercise of his duties.

"(l) EFFECTIVE DATES.—(1) The provisions of this section and the amendments made by this section, shall apply with respect to immigration inspection services rendered after November 30, 1986.

"(2) Fees may be charged under subsection (d) only with respect to immigration inspection services rendered in regard to arriving passengers using transportation for which documents or tickets were issued after November 30, 1986.".

SEC. 206. Section 232 (8 U.S.C. 1222) is amended by striking "on board the vessel or at the airport" and all that follows through "as circumstances may require or justify," and inserting in lieu thereof "by the Attorney General", and section 233 (8 U.S.C. 1223) is repealed.

SEC. 207. Section 1203 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796(b)) is amended—

(1) in subsection (3) by striking the semicolon at the end thereof and inserting in lieu thereof "and an officially recognized or designated public employee member of a rescue squad or ambulance crew who was responding to a fire, rescue or police emergency;"; and

(2) in subsection (7) by striking all after the words "law enforcement officer" and inserting ", a firefighter, or rescue squad or ambulance crew.".

SEC. 208. (a) None of the funds appropriated or otherwise made available in this title may be available for the performance of any pre-inspection activities by the Immigration and Naturalization Service (1) at Shannon International Airport in Ireland or (2) at Gander Airport in Newfoundland.

(b) The General Accounting Office shall conduct a comprehensive analysis of the trial pre-inspection program conducted by the Immigration and Naturalization Service at Shannon International Airport from July 1, 1986 to October 31, 1986, and shall issue a report to Congress by April 30, 1987. The report shall include an evaluation of the economic impact on American airports and of whether pre-inspection is a cost-effective means of facilitating international air travel and enhancing law enforcement.

SEC. 209. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term or in the case of rape: *Provided,* That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

SEC. 210. The Director of the Federal Bureau of Investigation and the Administrator of the Drug Enforcement Administration shall not establish and collect fees to provide training to State and local law enforcement officers at the F.B.I. National Academy. Any fees collected for training of State and local law enforcement officers, which occurred at the National Academy on or after October 1, 1986, shall be reimbursed to the appropriate official or agency. In addition, the Director of the National Institute of Corrections shall not establish and collect fees to provide training to State and local

officers which was not provided on a reimbursable basis prior to October 1, 1986.

This title may be cited as the "Department of Justice Appropriation Act, 1987".

TITLE III—DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

For necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including obligations of the United States abroad pursuant to treaties, international agreements, and binational contracts (including obligations assumed in Germany on or after June 5, 1945), expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and section 2 of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2669); telecommunications; not to exceed $4,000,000 for expenses necessary for the Inspector General of the Department of State, pursuant to the Inspector General Act of 1978; expenses necessary to provide maximum physical security in Government-owned and leased properties and vehicles abroad; permanent representation to certain international organizations in which the United States participates pursuant to treaties, conventions, or specific Acts of Congress; acquisition by exchange or purchase of vehicles as authorized by law, except that special requirement vehicles may be purchased without regard to any price limitation otherwise established by law; $1,527,000,000.

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), and for representation by United States missions to the United Nations and the Organization of American States, $4,460,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314), and to provide for the protection of foreign missions in accordance with the provisions of 3 U.S.C. 208, $9,100,000.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292-300), $440,000,000, of which $15,000,000 shall become available for expenditure on October 1, 1987, to remain available until expended: *Provided,* That the funds appropriated in this paragraph shall be available subject to the approval of the House and Senate Committees on Appropriations under said Committees' policies concerning the reprogramming of funds contained in House Report 99-669: *Provided further,* That balances of previous appropriations for "Acquisition, operation, and maintenance of buildings abroad" shall be

transferred to and merged with this appropriation: *Provided further,* That up to $1,000,000 shall be available for transfer under the Economy Act to the Director of the National Bureau of Standards for the purpose of conducting an independent analysis of the new United States embassy office building being constructed in Moscow: *Provided further,* That a report including this analysis, an assessment of the current structure and recommendations and cost estimates for correcting any structural flaws or construction defects shall be transmitted by the Director of the National Bureau of Standards to the Speaker of the House of Representatives and the President of the Senate no later than April 15, 1987: *Provided further,* That beginning on February 1, 1987, the Secretary of State shall report every six months to the Speaker of the House of Representatives and the President of the Senate on any failures during the past six months by Soviet agencies to perform obligations to United States diplomats or United States missions to the Soviet Union and the actions undertaken by the Department of State to redress these failures.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service to be expended pursuant to the requirement of 31 U.S.C. 3526(e), $4,000,000.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96-8 (93 Stat. 14), $9,379,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $127,398,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties, conventions, or specific Acts of Congress, $385,000,000, of which $130,000,000, to remain available until expended, shall become available for expenditure on October 1, 1987: *Provided,* That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States for expenses of the United Nations peacekeeping forces, $29,400,000.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, contributions for the United States share of general expenses of international organizations and representation to such organizations, and personal services without regard to civil service and classification laws, $5,460,000, to remain available until expended, of which not to exceed $200,000 may be expended for representation as authorized by law.

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, conventions, or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the United States and Mexico International Boundary and Water Commission, and to comply with laws applicable to the United States Section; and leasing of private property to remove therefrom sand, gravel, stone, and other materials, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, including preliminary surveys, $10,800,000: *Provided,* That expenditures for the Rio Grande bank protection project shall be subject to the provisions and conditions contained in the appropriation for said project as provided by the Act approved April 25, 1945 (59 Stat. 89): *Provided further,* That the Anzalduas diversion dam shall not be operated for irrigation or water supply purposes in the United States unless suitable arrangements have been made with the prospective water users for repayment to the Government of such portions of the cost of said dam as shall have been allocated to such purposes by the Secretary of State: *Provided further,* That not to exceed $500,000 of the amount appropriated in this paragraph shall be available to reimburse the city of San Diego, in the State of California, for expenses incurred in treating domestic sewage received from the city of Tijuana, in the State of Baja California, Mexico.

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

For detailed plan preparation and construction of authorized projects, to remain available until expended, $3,900,000: *Provided,* That activities for the New River Project may be financed from these funds or from carry over balances under the heading, "International Boundary and Water Commission, United States and Mexico, Construction".

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, including not to exceed $6,000 for representation, $3,700,000; for the International Joint Commission, including salaries and expenses of the Commissioners on the part of the United States who shall serve at the pleasure of the President; salaries of employees appointed by the Commissioners on the part of the United States with the approval solely of the Secretary of State; travel expenses and compensation of witnesses; and the International Boundary Commission, for necessary expenses, not otherwise provided for, including expenses required by awards to the Alaskan Boundary Tribunal and existing treaties between the United States and Canada or Great Britain.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, $10,800,000: *Provided,* That the United States share of such expenses may be advanced to the respective commissions.

OTHER

UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

For expenses, not otherwise provided for, to enable the United States to participate in programs of scientific and technological cooperation with Yugoslavia, $1,900,000, to remain available until expended.

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, $8,800,000, to remain available until expended.

SOVIET-EAST EUROPEAN RESEARCH AND TRAINING

For expenses not otherwise provided to enable the Secretary of State to reimburse private firms and American institutions of higher education for research contracts and graduate training for development and maintenance of knowledge about the Soviet Union and Eastern European countries, $4,600,000.

GENERAL PROVISIONS—DEPARTMENT OF STATE

SEC. 301. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger or freight transportation.

SEC. 302. The Secretary of State shall report to the appropriate Committees of the Congress on the obligation of funds provided for diplomatic security and related expenses every thirty days from the date of enactment of this Act.

This title may be cited as the "Department of State Appropriation Act, 1987".

TITLE IV—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase, or hire, driving, maintenance and operation of an automobile for the Chief Justice and not to exceed $10,000 for the purpose of transporting Associate Justices, hire of passenger motor vehicles; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve; $14,600,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a-13b), including improvements, maintenance, repairs, equipment, supplies, materials, and appurtenances; special clothing for workmen; and personal and other services (including temporary labor without regard to the Classification and Retirement Acts, as amended), and for snow removal by hire of men and equipment or under contract, and for security installations both without compliance with section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); $2,279,000, of which $375,000 shall remain available until expended.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for all necessary expenses of the court, $6,800,000.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges; salaries of the officers and employees of the court; services as authorized by 5 U.S.C. 3109; and necessary expenses of the court, including exchange of books and traveling expenses, as may be approved by the court; $7,000,000: *Provided,* That travel expenses of judges of the Court of International Trade shall be paid upon written certificate of the judge.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the Claims Court, bankruptcy judges, magistrates, and all other officers and employees of the Federal Judiciary not otherwise specifically

provided for, and all necessary expenses of the courts, including the purchase of firearms and ammunition, $929,500,000, of which not to exceed $160,000,000 shall be available for payment of charges for space and facilities: *Provided,* That the number of staff attorneys to be appointed in each of the courts of appeals shall not exceed the ratio of one attorney for each authorized judgeship, exclusive of the seven attorneys assigned preargument conference duties.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by law; $68,378,000, to remain available until expended.

FEES OF JURORS AND COMMISSIONERS

For fees and expenses and refreshments of jurors; compensation of jury commissioners; and compensation of commissioners appointed in condemnation cases pursuant to Rule 71A(h) of the Federal Rules of Civil Procedure; $44,635,000, to remain available until expended: *Provided,* That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities; $36,000,000, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts, including travel, advertising, hire of a passenger motor vehicle, and rent in the District of Columbia and elsewhere, $29,500,000, of which an amount not to exceed $5,000 is authorized for official reception and representation expenses.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90-219, $9,600,000.

BICENTENNIAL EXPENSES, THE JUDICIARY

BICENTENNIAL ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For expenses to be incurred by the Judiciary for the observance of the Bicentennial of the Constitution of the United States, $1,000,000, to remain available until expended. Funds appropriated under this heading in The Judiciary Appropriation Act, 1976, shall also be available for this purpose.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $5,800,000.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 401. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 402. Appropriations made in this title shall be available for salaries and expenses of the Temporary Emergency Court of Appeals authorized by Public Law 92-210 and the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 93-236.

SEC. 403. The position of Trustee Coordinator in the Bankruptcy Courts of the United States shall not be limited to persons with formal legal training.

SEC. 404. Notwithstanding any other provision of law, the Administrative Office of the United States Courts, or any other agency or instrumentality of the United States, is prohibited from restricting solely to staff of the Clerks of the United States Bankruptcy Courts the issuance of notices to creditors and other interested parties. The Administrative Office shall permit and encourage the preparation and mailing of such notices to be performed by or at the expense of the debtors, trustees or such other interested parties as the Court may direct and approve. The Administrator of the United States Courts shall make appropriate provisions for the use of and accounting for any postage required pursuant to such directives. The provisions of this paragraph shall terminate on October 1, 1987.

SEC. 405. Such fees as shall be collected for the preparation and mailing of notices in bankruptcy cases as prescribed by the Judicial Conference of the United States pursuant to 28 U.S.C. 1930(b) shall be deposited to the "Courts of Appeals, District Courts, and Other Judicial Services, Salaries and Expenses" appropriation to be used for salaries and other expenses incurred in providing these services.

SEC. 406. Pursuant to section 140 of Public Law 97-92, during fiscal year 1987, justices and judges of the United States shall receive the same percentage increase in salary accorded to employees paid under the General Schedule (pursuant to 5 U.S.C. 5305).

SEC. 407. (a) Section 1914(a) of title 28, United States Code, is amended by striking out "$60" and inserting in lieu thereof "$120".

(b) Section 1930(a)(1) of title 28, United States Code, is amended by striking out "$60" and inserting in lieu thereof "$90".

(c) Chapter 123 of title 28, United States Code, is amended by adding at the end thereof the following:

"§ 1931. Disposition of filing fees

"The following portion of moneys paid to the clerk of court as filing fees under this chapter shall be deposited into a special fund of the Treasury to be available to offset funds appropriated for the operation and maintenance of the courts of the United States as provided in annual appropriation Acts:

"Under section 1914(a), $60.".

(d) The table of section headings preceding chapter 123 of title 28, United States Code, is amended by adding at the end thereof the following:

"1931. Disposition of filing fees.".

This title may be cited as "The Judiciary Appropriation Act, 1987".

TITLE V—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES (LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $320,000,000, to remain available until expended.

RESEARCH AND DEVELOPMENT

For necessary expenses for research and development activities, as authorized by law, $3,500,000, to remain available until expended.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $64,000,000, to remain available until expended: *Provided,* That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program.

GENERAL PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration and payments received by the Maritime

Administration for utilities, services, and repairs so furnished or made shall be credited to the appropriation charged with the cost thereof: *Provided,* That rental payments under any such lease, contract, or occupancy on account of items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act, or in any prior appropriation Act and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses, not otherwise provided for, for arms control and disarmament activities, including not to exceed $48,000 for official reception and representation expenses, authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.), $29,000,000.

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For expenses of the Board for International Broadcasting, including grants to RFE/RL, Inc., $140,000,000, of which not to exceed $52,000 may be made available for official reception and representation expenses, and of which $15,000,000, to remain available until expended, shall become available for expenditure on October 1, 1987.

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

SALARIES AND EXPENSES

For the necessary expenses of the Christopher Columbus Quincentenary Jubilee Commission, $220,000, to remain available until November 15, 1992.

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Commission on the Bicentennial of the United States Constitution authorized by Public Law 98-101 (97 Stat. 719-723), $13,200,000, to remain available until expended, of which $3,700,000 is for carrying out the provisions of Public Law 99-194, including $2,700,000 for implementation of the National Bicentennial Competition on the Constitution and the Bill of Rights and $1,000,000 for educational programs about the Constitution and the Bill of Rights below the university level as authorized by such Act.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, $7,500,000, of which $2,000,000 is for regional offices and $700,000 is for civil rights monitoring activities: *Provided,* That not to exceed $20,000 may be used to employ consultants: *Provided further,* That not to exceed $185,000 may be used to employ temporary or special needs appointees: *Provided further,* That none of the funds shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service, exclusive of one special assistant for each Commissioner whose compensation shall not exceed the equivalent of 150 billable days at the daily rate of a level 11 salary under the General Schedule: *Provided further,* That not to exceed $40,000 shall be available for new, continuing or modifications of contracts for performance of mission-related external services: *Provided further,* That none of the funds shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairman who is permitted 125 billable days.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, $526,000 to remain available until expended: *Provided,* That not to exceed $6,000 of such amount shall be available for official reception and representation expenses.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621-634), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $20,000,000 for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act, as amended, and sections 6 and 14 of the Age Discrimination in Employment Act; $165,000,000.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by law (5 U.S.C. 5901-02); not to exceed $700,000 for land and structures; not to exceed $200,000 for improvement and care of grounds and repair to buildings; not to exceed $3,000 for official reception and representation expenses; purchase (not to exceed ten) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $95,000,000, of which not to exceed $300,000 of the foregoing amount shall remain available

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until September 30, 1988, for research and policy studies: *Provided,* That notwithstanding any other provision of law, the Federal Communications Commission, during fiscal year 1987, may recover the costs incurred to assess and collect charges authorized by section 5002 of Public Law 99-272 from receipts generated by such charges: *Provided further,* That none of the funds appropriated to the Federal Communications Commission by this Act may be used to diminish the number of VHF channel assignments reserved for noncommercial educational television stations in the Television Table of Assignments (section 73.606 of title 47, Code of Federal Regulations): *Provided further,* That funds appropriated to the Federal Communications Commission by this Act shall be used to consider alternative means of administration and enforcement of the Fairness Doctrine and to report to the Congress by September 30, 1987.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-02; $11,600,000: *Provided,* That not to exceed $1,500 shall be available for official reception and representation expenses.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; the sum of $65,000,000: *Provided,* That the funds appropriated in this paragraph are subject to the limitations and provisions of sections 10(a) and 10(c) (notwithstanding section 10(e)), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252; 94 Stat. 374): *Provided further,* That (a) The Federal Trade Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate, to the Committee on Energy and Commerce of the House of Representatives and to the Appropriations Committees of the Senate and House of Representatives the information specified in subsection (b) of this section every 6 months during fiscal year 1987. A report containing such information shall be submitted when the Commission submits its annual report to the Congress during such fiscal year, and such report may be included in the annual report. A separate report containing such information shall be submitted 6 months after the date of submission of any such annual report. Each such report shall contain such information for the period since the last submission under this section.

(b) Each such report shall list and describe, with respect to instances in which predatory pricing practices have been suspected or alleged—

(1) each complaint made, orally or in writing, to the offices of the Commission;

(2) each preliminary investigation opened or closed at the Commission;

(3) each formal investigation opened or closed at the Commission;

(4) each recommendation for the issuance of a complaint forwarded by the staff to the Commission;

(5) each complaint issued by the Commission;

(6) each opinion and order entered by the Commission;

(7) each consent agreement accepted provisionally or finally by the Commission;

(8) each request for modification of an outstanding Commission order filed with the Commission;

(9) each recommendation by staff pertaining to a request for modification of an outstanding Commission order; and

(10) each disposition by the Commission of a request for modification of an outstanding Commission order.

Such report shall include copies of all such consent agreements and complaints executed by the Commission referred to in such report. Where a matter has been closed or terminated, the report shall include a statement of the reasons for that disposition. The descriptions required under this subsection shall be as complete as possible but shall not reveal the identity of persons or companies complained about or those subject to investigation that have not otherwise been made public. The report shall include any evaluation by the Commission of the potential impacts of predatory pricing upon businesses (including small businesses.)

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $33,900,000 of which $4,000,000 shall remain available until expended for expenses related to relocation of the Commission.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94-118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,408,000, to remain available until expended; and an amount of Japanese currency not to exceed the equivalent of $1,200,000 based on exchange rates at the time of payment of such amounts, to remain available until expended: *Provided*, That not to exceed a total of $2,500 of such amounts shall be available for official reception and representation expenses.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $305,500,000 of which $261,293,672 is for basic field programs, $7,022,000 is for Native American programs, $9,698,000 is for migrant programs, $1,339,800 is for program development and law school clinics, $1,000,000 is for supplemental field programs, $623,964 is for regional training centers, $376,036 is for training development and technical assistance, $7,528,218 is for national support, $7,842,866 is for state support, $865,000 is for the Clearinghouse, $510,444 is for computer assisted legal research grants, and $7,400,000 is for Corporation management and administration: *Provided,* That none of the funds appropriated in this paragraph shall be expended for any purpose prohibited or limited by or contrary to any of the provisions of Public Law 99-180 and section 112 of Public Law 99-190: *Provided further,* That the funds distributed to each grantee funded in fiscal year 1987 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area shall be distributed in the following order:

(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) shall be maintained in fiscal year 1987 at not less than 1 percent more than the annual level at which each grantee and contractor was funded in fiscal year 1986 or $8.30 per poor person within its geographical area under the 1980 Census, whichever is greater; and

(2) each such grantee shall be increased by an equal percentage of the amount by which such grantee's funding, including the increase under the first priority above, falls below $14.56 per poor person within its geographical area under the 1980 census:

Provided further, That if a Presidential Order pursuant to section 252 of Public Law 99-177 is issued for fiscal year 1987, funds provided to each grantee covered by the second proviso shall be reduced by the percentage specified in the Presidential Order: *Provided further,* That if funds become available because a national support center has been defunded or denied refunding pursuant to section 1011(2) of the Legal Services Corporation Act, as amended by this Act, such funds may be transferred to basic field programs, to be distributed in the manner specified by this paragraph, if the Appropriations Committees of both Houses of Congress have been notified pursuant to section 607 of this Act: *Provided further,* That none of the funds appropriated by this Act may be used to implement or enforce the regulations issued by the Legal Services Corporation regarding legislative and administrative advocacy (45 CFR part 1612) printed for final publication in the "Federal Register" on May 31, 1984, (49 FR 22651) and on August 1, 1986 (51 FR 27539).

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, as amended, $900,000.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $13,300,000: *Provided,* That not to exceed $59,000 shall be available for official reception and representation expenses.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $3,000 for official reception and representation expenses, $110,500,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Association of Securities Commissioners.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, of the Small Business Administration, including purchase of one motor vehicle for replacement only, and hire of passenger motor vehicles and not to exceed $2,500 for official reception and representation expenses, $162,000,000; and for grants for Small Business Development Centers as authorized by section 21(a) of the Small Business Act, as amended, $35,000,000: *Provided,* That notwithstanding any other provision of law, the Small Business Administration is authorized to recognize all costs incurred prior to December 16, 1980, by a small business development center at the University of Georgia in pursuit of the purposes of the small business development center program as allowable costs chargeable to a fiscal year 1981 cooperative agreement, provided such costs were incurred subsequent to October 1, 1979, and have not been reimbursed from non-Federal sources. In addition, $92,000,000 for disaster loan-making activities, including loan servicing, shall be transferred to this appropriation from the "Disaster Loan Fund".

REVOLVING FUNDS

The Small Business Administration is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to its revolving funds, and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for the "Disaster Loan Fund", the "Business Loan and Investment Fund", the "Lease Guarantees Revolving Fund", the "Pollution Control Equipment Contract Guarantees Revolving Fund", and the "Surety Bond Guarantees Revolving Fund".

BUSINESS LOAN AND INVESTMENT FUND

For additional capital for the "Business Loan and Investment Fund", $164,000,000, to remain available without fiscal year limitation; and for additional capital for new direct loan obligations to be incurred by the "Business Loan and Investment Fund", $97,000,000, to remain available without fiscal year limitation.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $9,497,000, to remain available without fiscal year limitation.

POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEE REVOLVING FUND

For additional capital for the "Pollution control equipment contract guarantee revolving fund" authorized by the Small Business Investment Act, as amended, $14,245,000, to remain available without fiscal year limitation.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by Public Law 98-620, $7,200,000 to remain available until expended.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by Reorganization Plan No. 2 of 1977, the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), to carry out international communication, educational and cultural activities, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $270,000, of which $250,000 is to facilitate United States participation in international expositions abroad); expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), living quarters as authorized by 5 U.S.C. 5912, and allowances as authorized by 5 U.S.C. 5921-5928 and 22 U.S.C. 287e-1; and entertainment, including official receptions, within the United States, not to exceed $20,000; $570,000,000, none of which shall be restricted from use for the purposes appropriated herein: *Provided,* That not to exceed $1,000,000 may be used for representation abroad: *Provided further,* That not to exceed $15,558,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended: *Provided further,* That receipts not to exceed $1,000,000 may be credited to this appropriation from fees or other

payments received from or in connection with English-teaching programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended: *Provided further,* That not to exceed $2,750,000 shall be available for the Office of Inspector General.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of Fulbright, International Visitor, Humphrey Fellowship and Congress-Bundestag Exchange Programs, as authorized by Reorganization Plan No. 2 of 1977 and the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), $135,270,000, of which $24,270,000, to remain available until expended, shall be available for expenditure on October 1, 1987. For the Private Sector Exchange Programs, $9,730,000 of which $730,000, to remain available until expended, shall be available for expenditure on October 1, 1987, and of which $1,500,000, to remain available until expended, is for the Eisenhower Exchange Fellowship Program notwithstanding section 209 of Public Law 99-93.

RADIO CONSTRUCTION

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception, $46,000,000, to remain available until expended: *Provided,* That not to exceed $12,000,000 of these funds shall be available for construction of facilities for Radio In the American Sector: *Provided further,* That such amounts as may be necessary shall be available until expended for contingent termination or cancellation costs: *Provided further,* That the Funds appropriated in this paragraph shall be available for expenditure on October 1, 1987.

RADIO BROADCASTING TO CUBA

For an additional amount, necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act (providing for the Radio Marti program or Cuba Service of the Voice of America), including the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception, $11,250,000, to remain available until expended.

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to any appropriate recipient in the State of Hawaii, $20,000,000: *Provided,* That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing for the payment thereof, in excess of the highest rate authorized in the General Schedule of the Classification Act of 1949, as amended.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $15,000,000.

ADMINISTRATIVE PROVISION—UNITED STATES INFORMATION AGENCY

Funds appropriated under this title to the United States Information Agency shall be available notwithstanding the provisions of sections 203, 204, 205, and 210(c) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93).

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. None of the funds appropriated in titles II and V of this Act may be used for any activity to alter the per se prohibition on resale price maintenance in effect under Federal antitrust laws: *Provided,* That nothing in this provision shall prohibit any employee of a department or agency for which funds are provided in titles II and V of this Act from presenting testimony on this matter before appropriate committees of the House and Senate.

SEC. 606. None of the funds appropriated by this Act to the Legal Services Corporation may be used by the Corporation or any recipient to participate in any litigation with respect to abortion, except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 607. (a) None of the funds provided under this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $250,000 or 10 per

centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 608. (a) Notwithstanding any provision of chapter 11 of title 11, United States Code, the trustee shall pay benefits until May 15, 1987 to retired former employees under a plan, fund, or program maintained or established by the debtor prior to filing a petition (through the purchase of insurance or otherwise) for the purpose of providing medical, surgical, or hospital care benefits, or benefits in the event of sickness, accident, disability, or death.

(b) This section is effective with respect to cases commenced under chapter 11, of title 11, United States Code, in which a plan for reorganization has not been confirmed by the court and in which any such benefit is still being paid on October 2, 1986, and in cases that become subject to chapter 11, title 11, United States Code, after October 2, 1986.

(c) This section shall not apply during any period in which a case is subject to chapter 7, title 11, United States Code.

TITLE VII—CHILD ABUSE VICTIMS' RIGHTS ACT OF 1986

SHORT TITLE

SEC. 701. This title may be cited as the "Child Abuse Victims' Rights Act of 1986".

FINDINGS

SEC. 702. The Congress finds that—

(1) child exploitation has become a multi-million dollar industry, infiltrated and operated by elements of organized crime, and by a nationwide network of individuals openly advertising their desire to exploit children;

(2) Congress has recognized the physiological, psychological, and emotional harm caused by the production, distribution, and display of child pornography by strengthening laws prescribing such activity;

(3) the Federal Government lacks sufficient enforcement tools to combat concerted efforts to exploit children prescribed by Federal law, and exploitation victims lack effective remedies under Federal law; and

(4) current rules of evidence, criminal procedure, and civil procedure and other courtroom and investigative procedures inhibit the participation of child victims as witnesses and damage their credibility when they do testify, impairing the prosecution of child exploitation offenses.

CIVIL REMEDY FOR PERSONAL INJURY

SEC. 703. (a) Chapter 110 of part I of title 18, United States Code, is amended by redesignating section 2255 as section 2256, and by inserting after section 2254 the following:

"§ 2255. Civil remedy for personal injuries

"(a) Any minor who is a victim of a violation of section 2251 or 2252 of this title and who suffers personal injury as a result of such violation may sue in any appropriate United States District Court and shall recover the actual damages such minor sustains and the cost of the suit, including a reasonable attorney's fee. Any minor as described in the preceding sentence shall be deemed to have sustained damages of no less than $50,000 in value.

"(b) Any action commenced under this section shall be barred unless the complaint is filed within six years after the right of action first accrues or in the case of a person under a legal disability, not later than three years after the disability.".

(b) The table of sections for chapter 110 of part I of title 18, United States Code, is amended by striking out the item relating to section 2255 and inserting in lieu thereof the following:

"2255. Civil remedy for personal injuries.
"2256. Definitions for chapter.".

MINIMUM SENTENCE FOR REPEAT OFFENDERS

SEC. 704. (a) Section 2251(c) of title 18, United States Code, is amended by striking out "or imprisoned not less than two years" and inserting in lieu thereof "or imprisoned not less than five years".

(b) Section 2252(b) of title 18, United States Code, is amended by striking out "or imprisoned not less than two years" and inserting in lieu thereof "or imprisoned not less than five years".

ATTORNEY GENERAL REPORT

SEC. 705. (a) Within one year after the date of enactment of this title, the Attorney General shall submit a report to Congress detailing possible changes in the Federal Rules of Evidence, the Federal Rules of Criminal Procedure, the Federal Rules of Civil Procedure, and other Federal courtroom, prosecutorial, and investigative procedures which would facilitate the participation of child witnesses in cases involving child abuse and sexual exploitation.

(b) In preparing the report, the Attorney General shall consider, but not be limited to, such changes as—

(1) use of closed-circuit cameras, two-way mirrors, and other out-of-court statements;

(2) judicial discretion to circumscribe use of harassing, overly complex, and confusing questions against child witnesses;

(3) use of videotape in investigations to reduce repetitions of interviews;

(4) streamlining investigative procedures; and

(5) improved training of prosecutorial and investigative staff in special problems of child witnesses, including handicapped children.

TITLE VIII

JAMES MADISON MEMORIAL FELLOWSHIP

SHORT TITLE

SEC. 801. This title may be cited as the "James Madison Memorial Fellowship Act".

PURPOSE

SEC. 802. It is the purpose of this title to establish the James Madison Fellowship Program which is designed to encourage graduate study of the American Constitution, its roots, its formation, its principles, and its development.

FOUNDATION

SEC. 803. (a) In order to commemorate the bicentennial of the Constitution, there is established, as an independent establishment of the executive branch, the James Madison Memorial Fellowship Foundation.

(b)(1) The Foundation shall be subject to the supervision and direction of a Board of Trustees. The Board shall be composed of thirteen members, as follows:

(A) Two Members of the Senate, of different political parties, shall be appointed by the President upon the recommendation of the President pro tempore of the Senate, in consultation with the Majority Leader and Minority Leader of the Senate.

(B) Two Members of the House of Representatives, of different political parties, shall be appointed by the President upon the recommendation of the Speaker of the House, in consultation with the Minority Leader of the House of Representatives.

(C) Two members of the Federal judiciary shall be appointed by the President upon the recommendation of the Chief Justice of the United States.

(D) Six members, not more than three of whom shall be of the same political party, shall be appointed by the President with the advice and consent of the Senate, of whom one shall be a chief executive officer of a State, two shall be members of the general public, and three shall be members of the academic community, appointed upon the recommendation of the Librarian of Congress.

(E) The Secretary of Education or his designate shall serve ex officio as a member of the Board, but shall not be eligible to serve as Chairman.

(2) The term of office of each member of the Board shall be six years; except that (A) the members first taking office shall serve as designated by the President, four for terms of two years, five for terms of four years, and four for terms of six years, and (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed, and shall be appointed in the same manner as the original appointment for that vacancy was made. This provision shall not apply to members ex officio.

(c) Members of the Board shall elect from the members of the Board a Chairman and such other officers as may be necessary to carry out the duties of the Foundation.

(d) Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

FELLOWSHIP RECIPIENTS

SEC. 804. (a) The Foundation is authorized to award fellowships to outstanding students and teachers who will pursue graduate study leading to the degree of Master of Arts in teaching or other appropriate masters degree for teachers, with a major in social studies or American history. Each recipient must take at least twelve semester hours, or its equivalent in topics directly related to the Constitution of the United States, as determined by the Board.

(b)(1) James Madison fellowships shall be awarded to individuals who are, or who desire to become, social studies and American history teachers in accordance with paragraphs (2) and (3).

(2) Junior fellowships shall be awarded to graduate students who are about to complete or have recently completed their undergraduate course of study, and plan to begin graduate work on a relatively full-time basis.

(3) Senior fellowships shall be awarded to experienced teachers who wish to undertake work for a graduate degree on a part-time basis during summers or in evening programs.

PERIOD FOR AWARD

SEC. 805. Junior fellowships shall be granted for such periods as the Foundation may prescribe but not to exceed two academic years. Senior fellowship shall be granted for such periods as the Foundation may prescribe, but not to exceed five calendar years.

RECIPIENT'S CHOICE OF INSTITUTION

SEC. 806. Fellowship recipients may attend any institution of higher education in the United States with an accredited graduate program which offers courses of study or training which emphasize the origins of the Constitution of the United States, its principles, its development, and its comparison with other forms of government, as determined according to criteria established by the Foundation.

RECIPIENT'S ELIGIBILITY

SEC. 807. Each student awarded a fellowship under this title shall demonstrate the potential, and a serious intention, to follow a career of educating students in secondary schools. Each institution of higher education at which such a student is in attendance shall make reasonable efforts to encourage such a student to meet the objectives of this section.

Each student receiving a Fellowship under this Act shall enter into an agreement under which the recipient shall:

(a) within a 5-year period after completing the education for which the fellowship was awarded, teach on a full-time basis students in secondary school for a period of not less than one year for each year for which asistance was received;

(b) repay all of the Fellowship assistance received plus interest at the rate of 6% per annum and, if applicable, reasonable collection fees for each school year for which assistance was received for which such recipient failed to teach as provided in paragraph (a); and

(c) not be considered to be in violation of the agreement entered into during any period during which the recipient:

(1) is pursuing a full-time course of study related to the field of teaching at an eligible institution;

(2) is serving, not in excess of 3 years, as a member of the armed services of the United States;

(3) is temporarily totally disabled for a period of time not to exceed 3 years as established by sworn affidavit of a qualified physician;

(4) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

(5) is seeking and unable to find full-time employment for a single period not to exceed 12 months; or

(6) is seeking and unable to find full-time employment as a teacher.

SELECTION OF FELLOWSHIP RECIPIENTS

SEC. 808. (a) Madison Fellows shall be selected for their academic achievements and their potential to become secondary school teachers of social studies and American history.

(b)(1) The Foundation is authorized, either directly or by contract, to provide for the conduct of a nationwide competition for the selection of fellowship recipients. Each applicant must have a demonstrated interest in pursuing a course of study which emphasizes the Constitution, its principles, and its history, and have a demonstrated record of willingness to devote themselves to civil responsibility.

(2) Each application shall be accompanied by an essay explaining the importance of the study of the Constitution both to the applicant's career aspirations and contributions to public service, and to citizenship generally in a constitutional regime.

(3)(A) Each application shall include a description of a program of study for the graduate program, designating the courses to be taken, and the proposed Master's thesis, where appropriate.

(B) For the purpose of this paragraph, the Board of Trustees of the Foundation shall establish general criteria for programs in constitutional studies.

(c) The Foundation shall adopt selection procedures which shall assure that at least one Madison Fellow shall be selected each year from each State, the District of Columbia, and the Commonwealth of Puerto Rico, and considered as a single entity, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific Islands, and the Commonwealth of the Northern Marianas in which there are at least two resident applicants who meet the minimum criteria established by the Foundation; and, if sufficient funding is available, to invite applications from scholars overseas for study in the United States.

AMOUNT OF FELLOWSHIPS

SEC. 809. Each student awarded a fellowship shall receive a stipend which shall not exceed the cost to the student for tuition, fees, books, room and board, or $12,000, whichever is less, for each academic year of study.

FELLOWSHIP CONDITIONS

SEC. 810. (a) A student awarded a Madison Fellowship shall continue to receive payments only during such periods as the Foundation finds that the student is maintaining satisfactory progress in an approved program of study or research. Recipients of junior fellowships shall devote essentially full time to their program of study.

(b) The Foundation is authorized to require reports from any fellowship recipient containing such information, in such form, and to be filed at such times as the Foundation determines to be necessary. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such student is making satisfactory progress in a program of study or research, with such exceptions as the Foundation may establish.

JAMES MADISON MEMORIAL FELLOWSHIP TRUST FUND

SEC. 811. (a)(1) There shall be established in the Treasury of the United States a trust fund consisting of appropriations and amounts contributed by the Foundation for the Commemoration of the Constitution an other private sources to be available, in accordance with the provisions of this title, to carry out the provisions of this title.

(2) No funds in the Trust Fund may be available for fellowships until the contributions from private sources are equal to $10,000,000.

(b) It shall be the duty of the Secretary of the Treasury to invest in full the amounts appropriated and contributed to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue at the market price, is not in the public interest.

(c) Any obligations acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) The interest on, and the proceeds from, the sale or redemption of any obligations held in the fund shall be credited to and form a part of the fund.

EXPENDITURES AND AUDIT

SEC. 812. (a) The Secretary of the Treasury is authorized to pay to the Foundation from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provisions of this title.

(b) The activities of the Foundation under this title may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Foundation, pertaining to such activities and necessary to facilitate the audit.

EXECUTIVE SECRETARY OF FOUNDATION

SEC. 813. (a) There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board.

(b) The Executive Secretary of the Foundation shall be compensated at the rate specified for employees placed in grade GS-18 of the General Schedule set forth in section 5332 of title 5.

ADMINISTRATIVE PROVISIONS

SEC. 814. (a) The Foundation is authorized—

(1) to appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter, except that in no case shall employees other than the Executive Secretary be compensated at a rate to exceed the rate provided for employees in grade GS-15 of the General Schedule set forth in section 5332 of title 5;

(2) to procure temporary and intermittent services of such experts and consultants as are necessary to the extent authorized by section 3109 of title 5, but at rates not to exceed the rate specified at the time of such service for grade GS-18 in section 5332 of such title;

(3) to prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(4) to receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) to accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5;

(6) to enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this chapter, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 5 of title 41;

(7) to make advances, progress, and other payments which the Board deems necessary under this chapter without regard to the provisions of section 529 of title 31;

(8) to rent office space;

(9) to conduct programs in addition to or in conjunction with the Fellowship program which shall further the Foundation's purpose of encouraging research and study of constitutionalism in America; and

(10) to make other necessary expenditures.

(b) The foundation shall submit to the President and to the Congress an annual report of its operations under this chapter.

DEFINITIONS

SEC. 815. As used in this title—

(1) the term "Board" means the Board of Trustees of the James Madison Memorial Fellowship Foundation;

(2) the term "Foundation" means the James Madison Memorial Fellowship Foundation;

(3) the term "institution of higher education" has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965; and

(4) the term "secondary school" has the same meaning given that term by section 1201(d) of the Higher Education Act of 1965.

APPROPRIATIONS

SEC. 816. There are appropriated to the James Madison Memorial Trust Fund $20,000,000 to carry out the provisions of this title, $10,000,000 of which shall be available on November 1, 1987, and to remain available until expended; and $10,000,000 of which shall be available on November 1, 1988, and to remain available until expended.

CONSTITUTIONAL LAW RESOURCE CENTERS

SEC. 817. (a) It is the purpose of this section to establish four centers where nationally recognized distinguished experts in Constitutional law will produce, on a periodic basis, articles of current interest relating to the Constitution of the United States which are suitable for use by James Madison scholars, educational institutions, law school reviews, bar associations, and the news media.

(b) In order to encourage recipient universities to provide such a continuing service, four endowments shall be established with funds from appropriations provided herein and such other amounts as may be contributed from other sources.

(c) The income from each endowment shall be used to help support a chair for a Professor of Constitutional law. Each endowment shall be held in trust with the income from the portion provided herein used exclusively to contribute toward the salary and related costs of the professor filling the chair and for services directly related to the support of such professor such as secretarial and research services. The recipient university shall from sources other than that portion of the endowment funded herein furnish the office, classroom and related services suitable to such a member of the faculty.

The professor holding each chair shall file a copy of such articles with the Library of Congress, which shall make them available to libraries in the usual manner and the recipient of the endowment

shall also make a copy available upon request by accredited educational institutions, bar associations, and general news media without royalty or charge other than the costs associated with printing or reprinting, handling and distribution.

(d) That portion of each endowment provided by this Act and any accumulations attributable to such grant shall be invested by the recipient university in interest bearing obligations of the United States or in obligations guaranteed both as to principal and interest by the United States and shall be subject to audit by the General Accounting Office for the sole purpose of determining that such funds are accounted for or have been used as provided herein. If a grantee university elects to discontinue such chair and support services, the corpus of the endowment attributable to the Federal grant shall revert to the Treasury of the United States.

(e) The application for the grant for an endowment shall require only such information and supporting material as is reasonably necessary to assure that the funds will be used for the purposes described herein. Acceptance of the grant by each university shall constitute an agreement and obligation of that university to fulfill the obligations set forth in this section.

(f) The grants for each endowment shall be for $800,000 and shall be offered to Howard University School of Law in Washington, D.C., Drake University School of Law in Des Moines, Iowa, the University of Akron School of Law in Akron, Ohio, and the University of South Carolina School of Law at Columbia, South Carolina.

SEC. 818. There is hereby appropriated to each recipient University named above or to the fund trustee of the designated by the President of the University the sum of $800,000 to carry out the provisions of section 817, to be available on November 1, 1987, and to remain available until expended.

This Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1987".

(c) Such amounts as may be necessary for programs, projects or activities provided for in the Department of Defense Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for the Department of Defense for the fiscal year ending September 30, 1987, and for other purposes

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; $22,353,990,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; $17,104,850,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; $5,266,053,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; $18,940,731,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3019, and 3033 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $2,323,210,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,464,453,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $303,968,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 8019, and 8033 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $629,200,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 265, 3033, or 3496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $3,323,145,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 265, 8033, or 8496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,027,778,000.

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $15,664,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; $20,022,399,000, of which not less than $1,705,000,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $3,919,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; $22,939,674,000, of which not less than $795,000,000 shall be available only for the maintenance of real property facilities, and of which $75,000,000 shall be available only to reimburse United States Coast Guard Operating Expenses for operations and training relating to the Coast Guard defense, military readiness and drug enforcement missions: *Provided,* That of the total amount of this appropriation made available for the alteration, overhaul, and

repair of naval vessels, not more than $3,415,000,000 shall be available for the performance of such work in Navy shipyards: *Provided further,* That from the amounts of this appropriation for the alteration, overhaul and repair of naval vessels and aircraft, funds shall be available to acquire the alteration, overhaul and repair by competition between public and private shipyards and air rework facilities. The Navy shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private shipyards and air rework facilities. Competitions shall not be subject to section 502 of the Department of Defense Authorization Act, 1981, as amended, section 307 of the fiscal year 1985 Department of Defense Authorization Act, or Office of Management and Budget Circular A-76: *Provided further,* That funds herein provided shall be available for payments in support of the LEASAT program in accordance with the terms of the Aide Memoire, dated January 5, 1981: *Provided further,* That of the funds appropriated herein, not to exceed $5,080,000 shall be available for a grant to the Battleship Texas Advisory Board of the State of Texas for the restoration of the Battleship Texas.

Operation and Maintenance, Marine Corps

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; $1,793,750,000, of which not less than $280,000,000 shall be available only for the maintenance of real property facilities.

Operation and Maintenance, Air Force

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law, including the lease and associated maintenance of replacement aircraft for the CT-39 aircraft to the same extent and manner as authorized for service contracts by section 2306(g), title 10, United States Code; and not to exceed $6,171,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; $18,636,816,000, of which not less than $1,650,000,000 shall be available only for the maintenance of real property facilities.

Operation and Maintenance, Defense Agencies

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; $7,978,674,000: *Provided,* That not to exceed $10,904,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided further,* That $372,000 is available to the Office of Economic Adjustment for making community planning assistance grants pursuant to section 2391 of title 10, United States Code, and joint community/military planning assistance grants for mitigation of operational impacts from encroachment: *Provided further,* That not less than $116,465,000 shall be available only for the maintenance of real property facilities: *Provided further,* That $1,500,000

shall be transferred to the Department of Commerce, International Trade Administration, "Operations and administration", for export administration activities.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $769,966,000, of which not less than $38,336,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $884,097,000, of which not less than $37,248,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $63,875,000, of which not less than $3,146,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $911,200,000, of which not less than $22,969,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compli-

ance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); $1,734,447,000, of which not less than $56,300,000 shall be available only for the maintenance of real property facilities.

Operation and Maintenance, Air National Guard

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; $1,755,658,000, of which not less than $41,000,000 shall be available only for the maintenance of real property facilities.

National Board for the Promotion of Rifle Practice, Army

For the necessary expenses and personnel services (other than pay and non-travel related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the national matches) in accordance with law, for construction, equipment, and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; the conduct of the national matches; the issuance of ammunition under the authority of title 10, United States Code, sections 4308 and 4311; and the travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions; not to exceed $4,316,000, of which not to exceed $7,500 shall be available for incidental expenses of the National Board: *Provided,* That competitors at national matches under title 10, United States Code, section 4312, may be paid subsistence and travel allowances in excess of the amounts provided under title 10, United States Code, section 4313.

Claims, Defense

For payment, not otherwise provided for, of claims authorized by law to be paid by the Department of Defense (except for civil functions), including claims for damages arising under training contracts with carriers, and repayment of amounts determined by the Secretary concerned, or officers designated by him, to have been erroneously collected from military and civilian personnel of the Department of Defense, or from States, territories, or the District of

Columbia, or members of the National Guard units thereof; $144,400,000: *Provided,* That section 4 of chapter III of Public Law 99-349 is amended by adding before the period at the end thereof the following: "without a determination of legal liability based on an act or omission of an agent or employee of the Federal Government": *Provided further,* That the Secretary of the Navy is authorized and directed to pay from previously authorized and appropriated funds not to exceed $10,000,000 to reimburse upon verification, the business entity responsible for performance of construction of the Norfolk Navy Steam Plant for losses incurred by said entity arising out of construction according to drawings reviewed and approved by the Navy and issued or released for construction in said performance.

COURT OF MILITARY APPEALS, DEFENSE

For salaries and expenses necessary for the United States Court of Military Appeals; $3,200,000, and not to exceed $1,500 can be used for official representation purposes.

TENTH INTERNATIONAL PAN AMERICAN GAMES

For logistical support and personnel services (other than pay and non-travel related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the Tenth International Pan American Games) provided by any component of the Department of Defense to the Tenth International Pan American Games; $15,000,000.

ENVIRONMENTAL RESTORATION, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense; $375,900,000, to remain available until transferred: *Provided,* That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, research and development associated with hazardous wastes and removal of unsafe buildings and debris of the Department of Defense, or for similar purposes (including programs and operations at sites formerly used by the Department of Defense), transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense as the Secretary may designate, to be merged with and to be available for the same purposes and for the same time period as the appropriations of funds to which transferred: *Provided further,* That upon a determination that all or part of the funds transferred pursuant to this provision are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

HUMANITARIAN ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For transportation for humanitarian relief for refugees of Afghanistan, acquisition of transportation assets to assist in the distribution of such relief, and distribution of excess nonlethal

supplies for worldwide humanitarian relief, as authorized by law; $10,000,000: *Provided,* That not more than $2,500,000 may be transferred to the Secretary of State to provide for necessary expenses related to the transportation of humanitarian relief: *Provided further,* That of the funds provided under "Operation and Maintenance, Air Force" in Public Law 99-190, $7,000,000 shall remain available for obligation until September 30, 1987, for nonlethal aid to Afghanistan.

TITLE III

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,762,750,000, to remain available for obligation until September 30, 1989.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,206,800,000, to remain available for obligation until September 30, 1989.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $3,804,300,000, to remain available for obligation until September 30, 1989: *Provided,* That none of these funds may be

used for the noncompetitive procurement of the M249 Squad Automatic Weapon.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized in military construction authorization Acts or authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,087,150,000, to remain available for obligation until September 30, 1989.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and nontracked combat vehicles; the purchase of not to exceed two hundred and ninety passenger motor vehicles for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $5,118,752,000, to remain available for obligation until September 30, 1989.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $9,794,262,000, to remain available for obligation until September 30, 1989: *Provided,* That four P-3C aircraft shall be for the Navy Reserve.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary

therefor, and such lands and interest therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, as follows:

Poseidon, $3,974,000;
TRIDENT I, $4,739,000;
TRIDENT II, $1,362,439,000;
UGM-73A Poseidon Modifications, $95,000;
Support equipment and facilities, $3,790,000;
Tomahawk, $723,800,000;
AIM/RIM-7 F/M Sparrow, $269,394,000;
AIM-9L/M Sidewinder, $35,800,000;
AIM-54A/C Phoenix, $267,272,000;
AIM-54A/C Phoenix advance procurement, $20,000,000;
AGM-84A Harpoon, $123,000,000;
AGM-88A HARM, $256,682,000;
SM-2 MR, $478,611,000;
SM-2 ER, $217,017,000;
RAM, $40,000,000;
Stinger, $39,740,000;
Sidearm, $22,858,000;
Laser Maverick, $165,691,000;
IIR Maverick, $35,200,000;
Aerial targets, $96,000,000;
Drones and decoys, $36,136,000;
Other missile support, $22,017,000;
Modification of missiles, $13,692,000;
Support equipment and facilities, $74,803,000;
Ordnance support equipment, $79,192,000;
MK-48 ADCAP torpedo program, $254,770,000;
MK-46 torpedo program, $97,861,000;
MK-50 torpedo program, $68,137,000;
Antisubmarine rocket (ASROC) program, $13,597,000;
Vertical launched ASROC, $74,289,000;
Modification of torpedoes, $97,705,000;
Torpedo support equipment program, $52,610,000;
MK-15 close-in weapons system program, $105,606,000;
MK-75 gun mount program, $14,875,000;
MK-19 machine gun program, $632,000;
25mm gun mount, $3,919,000;
Small arms and weapons, $10,082,000;
Modification of guns and gun mounts, $57,215,000;
Guns and gun mounts support equipment program, $873,000;
Spares and repair parts, $150,734,000;

In all: $5,290,847,000, to remain available for obligation until September 30, 1989: *Provided,* That within the total amount appropriated, the subdivisions within this appropriation shall be reduced by $104,000,000.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway;

procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein; may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

TRIDENT ballistic missile submarine program, $1,446,400,000;

SSN-688 attack submarine program, $2,250,800,000;

SSN-21 attack submarine program, $375,000,000;

Aircraft carrier service life extension program, $83,500,000;

CG-47 cruiser program, $2,725,500,000;

DDG-51 destroyer program, $1,750,100,000;

LHD-1 amphibious assault ship program, $35,000,000;

T-AO fleet oiler program, $259,000,000;

AO conversion program, $40,000,000;

T-AGOS ocean surveillance ship program, $228,000,000;

AOE fast combat support ship program, $499,000,000;

Oceanographic research ship program, $33,000,000;

Strategic sealift program, $77,800,000;

T-ACS auxiliary crane ship program, $61,100,000;

For craft, outfitting, and post delivery, $470,789,000;

In all: $10,210,989,000, to remain available for obligation until September 30, 1991: *Provided,* That within the total amount appropriated, the subdivisions within this appropriation shall be reduced by $124,000,000: *Provided further,* That additional obligations may be incurred after September 30, 1991, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction; and each Shipbuilding and Conversion, Navy, appropriation that is currently available for such obligations may also hereafter be so obligated after the date of its expiration: *Provided further,* That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: *Provided further,* That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards.

Other Procurement, Navy

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance and ammunition (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed five hundred and ninety-nine passenger motor vehicles of which five hundred and seventy-four shall be for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, as follows:

Ship support equipment, $1,037,619,000;

Communications and electronics equipment, $2,006,277,000;

Aviation support equipment, $788,366,000;

Ordnance support equipment, $1,245,355,000;

Civil engineering support equipment, $209,041,000;

Supply support equipment, $71,823,000;
Personnel and command support equipment, $502,498,000;
Spares and repair parts, $293,692,000;

In all: $6,033,371,000, to remain available for obligation until September 30, 1989: *Provided,* That within the total amount appropriated, the subdivisions within this appropriation shall be reduced by $121,300,000.

Coastal Defense Augmentation

For the augmentation of United States Coast Guard inventories to meet national security requirements; $200,000,000, to remain available until expended: *Provided,* That these funds shall be for the procurement by the Department of Defense of vessels, aircraft, and equipment and for modernization of existing Coast Guard assets, which assets are to be made available to the Coast Guard for operation and maintenance.

Procurement, Marine Corps

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including purchase of not to exceed sixty-four passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands, and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; $1,465,215,000, to remain available for obligation until September 30, 1989.

Aircraft Procurement, Air Force

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $17,131,281,000, to remain available for obligation until September 30, 1989: *Provided,* That none of the funds in this Act may be obligated on B-1B bomber production contracts if such contracts would cause the production portion of the Air Force's $20,500,000,000 estimate for the B-1B bomber baseline costs expressed in fiscal year 1981 constant dollars to be exceeded: *Provided further,* That notwithstanding the provisions of section 9032 of this Act (A) the Secretary of the Air Force may award a multiyear contract that employs economic order quantity procurement for the purchase of Air Defense Aircraft in accordance with section 2306(h) of title 10, United States Code, without prior notice to Congress if the results of the competitive

source selection demonstrate that (1) a multiyear contract will yield significant savings over the amount that would have resulted under an annual contract with the selected offeror; and (2) those savings have a positive present value; (B) the cancellation ceiling associated with the first year of a multiyear contract under subsection (A) may be carried as an unfunded contingent liability subject to section 2306(h)(5) of title 10, United States Code: *Provided further,* That $151,000,000 is available only for production of T-46A aircraft and related costs: *Provided further,* That $170,100,000 provided in fiscal year 1986 under this heading is available only for the production of T-46A aircraft and related costs: *Provided further,* That none of the funds provided in this or any prior Act may be used for the T-46A airframe production contract which existed on October 1, 1986 for other than lot one production: *Provided further,* That (1) the maximum program production cost for the T-46A aircraft program is $3,100,000,000 (in fiscal year 1986 dollars), based upon procurement of 650 aircraft. The maximum production unit cost for such program is $4,800,000 (in fiscal year 1986 dollars). The program production cost and production unit cost for such program determined for the purposes of this proviso shall be determined without regard to amounts for initial spares. (2) If during any fiscal year, after fiscal year 1987, the maximum program production cost or production unit cost for procurement of 650 aircraft is exceeded, the Secretary of the Air Force may not procure any T-46A aircraft during a later fiscal year no earlier than fiscal year 1989 until the Secretary has conducted a competition for procurement of that aircraft.

Missile Procurement, Air Force

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor; ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $7,446,718,000, to remain available for obligation until September 30, 1989: *Provided,* That no funds may be obligated or expended for Lot 1 low-rate production of the Advanced Medium Range Air-to-Air Missile, with the exception of long-lead procurement, until this missile has demonstrated, in flight test, the capability to successfully engage a minimum of two targets with two missiles on the same intercept in an electronic countermeasure environment after the missiles have been launched: *Provided further,* That funds made available for a portion of the MX missile program by the appropriation "Missile Procurement, Air Force, 1985/1987" and prior year funds referred to in that appropriation, shall remain available for the period originally appropriated for the purchase of the first 33 MX missiles of the MX missile program.

Other Procurement, Air Force

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground

electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; for the purchase of not to exceed seven hundred and forty-seven passenger motor vehicles of which six hundred and fifty-nine shall be for replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $9,254,941,000, to remain available for obligation until September 30, 1989.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, as follows:

Army Reserve, $90,000,000;
Army National Guard, $146,000,000;
Air National Guard, $50,000,000;
Navy Reserve, $61,000,000;
Marine Corps Reserve, $60,000,000;
Air Force Reserve, $150,000,000;

In all: $557,000,000, to remain available for obligation until September 30, 1989.

PROCUREMENT, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed seven hundred and seventy-nine passenger motor vehicles of which two hundred and fifty-nine shall be for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $1,498,256,000, to remain available for obligation until September 30, 1989.

DEFENSE PRODUCTION ACT PURCHASES

For purchases or commitments to purchase metals, minerals, or other materials by the Department of Defense pursuant to section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093); $13,000,000, to remain available for obligation until September 30, 1989.

TITLE IV

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $4,556,076,000, to remain available for obligation until September 30, 1988.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $9,326,418,000, to remain available for obligation until September 30, 1988; of the total amount available for obligation $173,525,000 is available only for full-scale development of the MK-50 Advanced Lightweight Torpedo Program, $39,704,000 is available only for the Low Cost Anti-Radiation Seeker Program, and $3,000,000 is available only for the Aircrew Impact Injury Prevention Project: *Provided,* That the funds available for the V-22 Osprey Program shall not be subject to obligational limitations set forth in a National Defense Authorization Act for fiscal year 1987: *Provided further,* That funds made available for the Surface ASW Systems Improvement Program shall not be obligated or expended until a Joint Resources Management Board Milestone II decision and a Secretary of Defense Decision Memorandum have approved the initiation of full-scale engineering development: *Provided further,* That $1,800,000 shall be made available for research and development and related equipment for the Institute for Technology Development, as a grant, for the National Center for Physical Acoustics.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $15,062,783,000, to remain available for obligation until September 30, 1988; of the total amount available for obligation $17,375,000 is available only for the Low Cost Seeker Program.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test, and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $6,742,091,000, to remain available for obligation until

September 30, 1988: *Provided,* That such amounts as may be determined by the Secretary of Defense to have been made available in other appropriations available to the Department of Defense during the current fiscal year for programs related to advanced research may be transferred to and merged with this appropriation to be available for the same purposes and time period: *Provided further,* That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to carry out the purposes of advanced research to those appropriations for military functions under the Department of Defense which are being utilized for related programs to be merged with and to be available for the same time period as the appropriation to which transferred: *Provided further,* That $200,000,000 is available to the Secretary of Defense only for the Conventional Defense Initiatives (CDI) program, which shall include conventional defense initiatives and conventional applications of the technologies developed under the Strategic Defense Initiative (SDI): *Provided further,* That such funds shall be under the control and management of the Secretary of Defense, who, with the concurrence of the Joint Chiefs of Staff, shall develop a plan for the utilization of emerging technologies for conventional applications including such technologies applicable from the Strategic Defense Initiative: *Provided further,* That not more than $100,000,000 of these funds shall be obligated or expended until the Secretary of Defense identifies the specific technology development efforts to be drawn from SDI, and the conventional defense applications for which they will be utilized. None of the restricted funds shall be obligated or expended until 15 days after the Secretary of Defense provides such notification to Congress, but not earlier than July 1, 1987: *Provided further,* That no portion of the $200,000,000 made available to the Secretary of Defense be applied to any program, project, or activity in support of the Strategic Defense Initiative: *Provided further,* That $55,000,000 of funds made available for the National Aerospace Plane (NASP) Program may not be obligated or expended until the Secretary of Defense certifies that the Department of Defense and the National Aeronautics and Space Administration (NASA) have negotiated revised funding arrangements for NASP development which significantly increase NASA investment as a percentage of total NASP research, development, test and evaluation costs and which incorporate mandatory industry investment out of private capital.

Developmental Test and Evaluation, Defense

For expenses, not otherwise provided for, of independent activities of the Deputy Under Secretary of Defense, Developmental Test and Evaluation in the direction and supervision of developmental test and evaluation, including performance of joint developmental testing and evaluation; and administrative expenses in connection therewith; $105,546,000, to remain available for obligation until September 30, 1988.

Operational Test and Evaluation, Defense

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is

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conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith; $11,300,000, to remain available for obligation until September 30, 1988.

TITLE V

SPECIAL FOREIGN CURRENCY PROGRAM

For payment in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States for expenses in carrying out programs of the Department of Defense, as authorized by law; $3,500,000, to remain available for obligation until September 30, 1988: *Provided,* That this appropriation shall be available in addition to other appropriations to such Department, for payments in the foregoing currencies.

TITLE VI

REVOLVING AND MANAGEMENT FUNDS

ARMY STOCK FUND

For the Army stock fund; $110,100,000.

NAVY STOCK FUND

For the Navy stock fund; $352,570,000.

MARINE CORPS STOCK FUND

For the Marine Corps stock fund; $822,000.

AIR FORCE STOCK FUND

For the Air Force stock fund; $139,980,000.

DEFENSE STOCK FUND

For the Defense stock fund; $47,200,000.

TITLE VII

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986; $118,700,000, of which $59,900,000 shall remain available for obligation until September 30, 1987, $9,600,000 shall remain available for obligation until September 30, 1988, and $49,200,000 shall remain available for obligation until September 30, 1989.

TITLE VIII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $125,800,000.

INTELLIGENCE COMMUNITY STAFF

For necessary expenses of the Intelligence Community Staff; $21,738,000.

THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FUND

For payment to the Barry Goldwater Scholarship and Excellence in Education Fund in the Department of the Treasury, pursuant to section 5104 of the National Defense Authorization Act for Fiscal Year 1987 (S. 2638) as passed the Senate on August 9, 1986, as if said section had been enacted into law; $40,000,000, to remain available until expended.

THE HENRY M. JACKSON FOUNDATION

For payment to the Henry M. Jackson Foundation, a direct and unrestricted grant, including any interest or earnings therefrom, to support the purposes of the Foundation, its on-going educational and public services programs and to serve as a memorial to the late Senator Henry M. Jackson; $10,000,000: *Provided,* That, notwithstanding any other provision of law or of this Act, the Secretary of Defense is hereby authorized and directed to make the grant authorized by this section to the Henry M. Jackson Foundation, and such grant shall be transferred to the Foundation by January 1, 1987.

TITLE IX

GENERAL PROVISIONS

SEC. 9001. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 9002. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 9003. During the current fiscal year, the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force, respectively, if they should deem it advantageous to the national defense, and if in their opinions the existing facilities of the Department of Defense

are inadequate, are authorized to procure services in accordance with section 3109 of title 5, United States Code, under regulations prescribed by the Secretary of Defense, and to pay in connection therewith travel expenses of individuals, including actual transportation and per diem in lieu of subsistence while traveling from their homes or places of business to official duty stations and return as may be authorized by law: *Provided,* That such contracts may be renewed annually.

SEC. 9004. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense.

SEC. 9005. The Secretary of Defense and each purchasing and contracting agency of the Department of Defense shall assist American small and minority-owned business to participate equitably in the furnishing of commodities and services financed with funds appropriated under this Act by increasing, to an optimum level, the resources and number of personnel jointly assigned to promoting both small and minority business involvement in purchases financed with funds appropriated herein, and by making available or causing to be made available to such businesses, information, as far in advance as possible, with respect to purchases proposed to be financed with funds appropriated under this Act, and by assisting small and minority business concerns to participate equitably as subcontractors on contracts financed with funds appropriated herein, and by otherwise advocating and providing small and minority business opportunities to participate in the furnishing of commodities and services financed with funds appropriated by this Act.

SEC. 9006. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 9007. No part of the appropriations in this Act shall be available for any expense of operating aircraft under the jurisdiction of the armed forces for the purpose of proficiency flying, as defined in Department of Defense Directive 1340.4, except in accordance with regulations prescribed by the Secretary of Defense. Such regulations (1) may not require such flying except that required to maintain proficiency in anticipation of a member's assignment to combat operations and (2) such flying may not be permitted in cases of members who have been assigned to a course of instruction of ninety days or more.

SEC. 9008. No part of any appropriation contained in this Act shall be available for expense of transportation, packing, crating, temporary storage, drayage, and unpacking of household goods and personal effects in any one shipment having a net weight in excess of eighteen thousand pounds.

SEC. 9009. No more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: *Provided,* That this section shall not apply to obligations for support of active duty training of civilian components or summer camp training of the Reserve Officers' Training Corps, or the National Board for the Promotion of Rifle Practice, Army, or to the appropriations provided in this Act for Claims, Defense.

SEC. 9010. During the current fiscal year the agencies of the Department of Defense may accept the use of real property from

foreign countries for the United States in accordance with mutual defense agreements or occupational arrangements and may accept services furnished by foreign countries as reciprocal international courtesies or as services customarily made available without charge; and such agencies may use the same for the support of the United States forces in such areas without specific appropriation therefor.

In addition to the foregoing, agencies of the Department of Defense may accept real property, services, and commodities from foreign countries for the use of the United States in accordance with mutual defense agreements or occupational arrangements and such agencies may use the same for the support of the United States forces in such areas, without specific appropriations therefor: *Provided,* That the foregoing authority shall not be available for the conversion of heating plants from coal to oil at defense facilities in Europe: *Provided further,* That within thirty days after the end of each quarter the Secretary of Defense shall render to Congress and to the Office of Management and Budget a full report of such property, supplies, and commodities received during such quarter.

SEC. 9011. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding $10,000 shall be available for the procurement of any article of food, clothing, cotton, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or specialty metals including stainless steel flatware, or hand or measuring tools, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that satisfactory quality and sufficient quantity of any articles of food or clothing or any form of cotton, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided,* That nothing herein shall preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of the standardization and interoperability of equipment requirements within NATO so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 2457 of title 10, United States Code: *Provided further,* That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions: *Provided further,* That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations: *Provided further,* That none of the funds

appropriated in this Act shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

SEC. 9012. During the current fiscal year, appropriations available to the Department of Defense for pay of civilian employees shall be available for uniforms, or allowances therefor, as authorized by section 5901 of title 5, United States Code.

SEC. 9013. Funds provided in this Act for legislative liaison activities of the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense shall not exceed $12,900,000 for the current fiscal year: *Provided,* That this amount shall be available for apportionment to the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense as determined by the Secretary of Defense: *Provided further,* That costs for military retired pay accrual shall be included within this limitation.

SEC. 9014. Of the funds made available by this Act for the services of the Military Airlift Command, $100,000,000 shall be available only for procurement of commercial transportation service from carriers participating in the civil reserve air fleet program; and the Secretary of Defense shall utilize the services of such carriers which qualify as small businesses to the fullest extent found practicable: *Provided,* That the Secretary of Defense shall specify in such procurement, performance characteristics for aircraft to be used based upon modern aircraft operated by the civil reserve air fleet.

(TRANSFER OF FUNDS)

SEC. 9015. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $1,100,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided,* That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: *Provided further,* That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

(TRANSFER OF FUNDS)

SEC. 9016. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided,* That transfers may be made between such funds in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that transfers between a stock fund account and an industrial fund account may not be made unless the Secretary of Defense has notified the Congress of the proposed

transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 9017. None of the funds available to the Department of Defense shall be utilized for the conversion of heating plants from coal to oil at defense facilities in Europe.

SEC. 9018. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

SEC. 9019. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions of section 1079(a) of title 10, United States Code, shall be available for reimbursement of any physician or other authorized individual provider of medical care in excess of the eightieth percentile of the customary charges made for similar services in the same locality where the medical care was furnished, as determined for physicians in accordance with section 1079(h) of title 10, United States Code.

SEC. 9020. No appropriation contained in this Act may be used to pay for the cost of public affairs activities of the Department of Defense in excess of $43,900,000: *Provided*, That costs for military retired pay accrual shall be included within this limitation.

SEC. 9021. None of the funds provided in this Act shall be available for the planning or execution of programs which utilize amounts credited to Department of Defense appropriations or funds pursuant to the provisions of section 37(a) of the Arms Export Control Act representing payment for the actual value of defense articles specified in section 21(a)(1)(A) of that Act: *Provided*, That such amounts shall be credited to the Special Defense Acquisition Fund, as authorized by law, or, to the extent not so credited shall be deposited in the Treasury as miscellaneous receipts as provided in section 3302(b) of title 31, United States Code.

SEC. 9022. No appropriation contained in this Act shall be available to fund any costs of a Senior Reserve Officers' Training Corps unit—except to complete training of personnel enrolled in Military Science 4—which in its junior year class (Military Science 3) has for the four preceding academic years, and as of September 30, 1983, enrolled less than (a) seventeen students where the institution prescribes a four-year or a combination four- and two-year program; or (b) twelve students where the institution prescribes a two-year program: *Provided*, That, notwithstanding the foregoing limitation, funds shall be available to maintain one Senior Reserve Officers' Training Corps unit in each State and at each State-operated maritime academy: *Provided further*, That units under the consortium system shall be considered as a single unit for purposes of evaluation of productivity under this provision: *Provided further*, That enrollment standards contained in Department of Defense Directive 1215.8 for Senior Reserve Officers' Training Corps units, as revised during fiscal year 1981, may be used to determine compliance with this provision, in lieu of the standards cited above.

SEC. 9023. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for

obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 1988.

SEC. 9024. None of the funds appropriated by this Act may be used to support more than 9,901 full-time and 2,603 part-time military personnel assigned to or used in the support of Morale, Welfare, and Recreation activities as described in Department of Defense Instruction 7000.12 and its enclosures, dated September 4, 1980.

SEC. 9025. All obligations incurred in anticipation of the appropriations and authority provided in this Act are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.

SEC. 9026. None of the funds appropriated by this Act or heretofore appropriated by any other Act shall be obligated or expended for the payment of anticipatory possession compensation claims to the Federal Republic of Germany other than claims listed in the 1973 agreement (commonly referred to as the Global Agreement) between the United States and the Federal Republic of Germany.

SEC. 9027. During the current fiscal year the Department of Defense may enter into contracts to recover indebtedness to the United States pursuant to section 3718 of title 31, United States Code.

SEC. 9028. None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines:

(a) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(b) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(c) where the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 9029. None of the funds appropriated by this Act shall be available to provide medical care in the United States on an inpatient basis to foreign military and diplomatic personnel or their dependents unless the Department of Defense is reimbursed for the costs of providing such care: *Provided*, That reimbursements for medical care covered by this section shall be credited to the appropriations against which charges have been made for providing such care, except that inpatient medical care may be provided in the United States without cost to military personnel and their dependents from a foreign country if comparable care is made available to a comparable number of United States military personnel in that foreign country.

SEC. 9030. None of the funds appropriated by this Act shall be obligated for the second career training program authorized by Public Law 96-347.

SEC. 9031. None of the funds appropriated or otherwise made available in this Act shall be obligated or expended for salaries or expenses during the current fiscal year for the purposes of demilitarization of surplus nonautomatic firearms less than .50 caliber.

SEC. 9032. None of the funds provided in this Act shall be available to initiate (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000, or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the Committees on Appropriations and Armed Services of the Senate and House of Representatives have been notified at least thirty days in advance of the proposed contract award: *Provided,* That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further,* That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further,* That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement. Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

UH-60/EH-60 airframe;
Patriot missile system;
Stinger missile system; and
Defense support program.

SEC. 9033. None of the funds appropriated by this Act which are available for payment of travel allowances for per diem in lieu of subsistence to enlisted personnel shall be used to pay such an allowance to any enlisted member in an amount that is more than the amount of per diem in lieu of subsistence that the enlisted member is otherwise entitled to receive minus the basic allowance for subsistence, or pro rata portion of such allowance, that the enlisted member is entitled to receive during any day, or portion of a day, that the enlisted member is also entitled to be paid a per diem in lieu of subsistence.

SEC. 9034. None of the funds appropriated by this Act shall be available to approve a request for waiver of the costs otherwise required to be recovered under the provisions of section 21(e)(1)(C) of the Arms Export Control Act unless the Committees on Appropriations have been notified in advance of the proposed waiver.

SEC. 9035. In the administration of the provisions of chapter 13 of title 38, United States Code, Michael J. Smith, pilot of the space shuttle, Challenger, shall be deemed to have held the grade of captain, United States Navy, at the time of his death on January 28, 1986, while so serving as pilot of such space shuttle.

SEC. 9036. (a) None of the funds in this Act may be used to transfer any article of military equipment or data related to the manufacture of such equipment to a foreign country prior to the approval in writing of such transfer by the Secretary of the military service involved.

(b) TECHNICAL DATA PACKAGES FOR PRODUCTION OF LARGE-CALIBER CANNON.—(1) Chapter 433 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4542. Technical data packages for large-caliber cannon: prohibition on transfers to foreign countries; exception

"(a) GENERAL RULE.—Funds appropriated to the Department of Defense may not be used—

"(1) to transfer to a foreign country a technical data package for a defense item being manufactured or developed in an arsenal; or

"(2) to assist a foreign country in producing such a defense item.

"(b) EXCEPTION.—The Secretary of the Army may use funds appropriated to the Department of Defense to transfer a technical data package, or to provide assistance, described in subsection (a) if—

"(1) the transfer or provision of assistance is to a friendly foreign country (as determined by the Secretary of Defense in consultation with the Secretary of State);

"(2) the Secretary of the Army determines that such action—

"(A) would have a clear benefit to the preservation of the production base for the production of cannon at the arsenal concerned; and

"(B) would not transfer technology (including production techniques) considered unique to the arsenal concerned; and

"(3) the Secretary of Defense enters into an agreement with the country concerned described in subsection (c).

"(c) COPRODUCTION AGREEMENTS.—An agreement under this subsection shall be in the form of a Government-to-Government Memorandum of Understanding and shall include provisions that—

"(1) prescribe the content of the technical data package or assistance to be transferred to the foreign country participating in the agreement;

"(2) require that production by the participating foreign country of the defense item to which the technical data package or assistance relates be shared with the arsenal concerned;

"(3) subject to such exceptions as may be approved under subsection (d), prohibit transfer by the participating foreign country to a third party or country of—

"(A) any defense article, technical data package, technology, or assistance provided by the United States under the agreement; and

"(B) any defense article produced by the participating foreign country under the agreement; and

"(4) require the Secretary of Defense to monitor compliance with the agreement and the participating foreign country to report periodically to the Secretary of Defense concerning the agreement.

"(d) TRANSFERS TO THIRD PARTIES.—A transfer described in subsection (b)(3) may be made if—

"(1) the defense article, technical data package, or technology to be transferred is a product of a cooperative research and development program in which the United States and the participating foreign country were partners; or

"(2) the President—

"(A) complies with all requirements of section 3(d) of the Arms Export Control Act (22 U.S.C. 2753(d)) with respect to such transfer; and

"(B) certifies to Congress, before the transfer, that the transfer would provide a clear benefit to the production base of the United States for large-caliber cannon.

"(e) NOTICE AND REPORTS TO CONGRESS.—(1) The Secretary of the Army shall submit to Congress a notice of each agreement entered into under this section.

"(2) The Secretary shall submit to Congress a semiannual report on the operation of this section and of agreements entered into under this section.

"(f) ARSENAL DEFINED.—In this section, the term 'arsenal' means a Government-owned, Government-operated defense plant that manufactures large-caliber cannon.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4542. Technical data packages for large-caliber cannon: prohibition on transfers to foreign countries; exception.".

(c) EFFECTIVE DATE.—Section 4542 of title 10, United States Code, as added by subsection (b), shall apply with respect to funds appropriated for fiscal years after fiscal year 1986.

(TRANSFER OF FUNDS)

SEC. 9037. None of the funds appropriated in this Act may be made available through transfer, reprogramming, or other means for any intelligence or special activity different from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense has notified the House and Senate Appropriations Committees of the intent to make such funds available for such activity.

SEC. 9038. None of the funds available to the Department of Defense during the current fiscal year shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.

SEC. 9039. None of the funds available to the Department of Defense shall be available for the procurement of manual typewriters which were manufactured by facilities located within states which are Signatories to the Warsaw Pact.

SEC. 9040. None of the funds appropriated by this Act may be used to appoint or compensate more than 39 individuals in the Department of Defense in positions in the Executive Schedule (as provided in sections 5312-5316 of title 5, United States Code).

SEC. 9041. None of the funds appropriated by this Act shall be available to convert a position in support of the Army Reserve, Air Force Reserve, Army National Guard, and Air National Guard occupied by, or programmed to be occupied by, a (civilian) military technician to a position to be held by a person in an active Guard or Reserve status if that conversion would reduce the total number of positions occupied by, or programmed to be occupied by, (civilian) military technicians of the component concerned, below 67,557: *Provided,* That none of the funds appropriated by this Act shall be available to support more than 45,098 positions in support of the Army Reserve, Army National Guard or Air National Guard occupied by, or programmed to be occupied by, persons in an active

Guard or Reserve status: *Provided further*, That none of the funds appropriated by this Act may be used to include (civilian) military technicians in computing civilian personnel ceilings, including statutory or administratively imposed ceilings, on activities in support of the Army Reserve, Air Force Reserve, Army National Guard or Air National Guard.

SEC. 9042. (a) The provisions of section 138(c)(2) of title 10, United States Code, shall not apply with respect to fiscal year 1987 or with respect to the appropriation of funds for that year.

(b) During fiscal year 1987, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(c) The fiscal year 1988 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 1988 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 1988.

SEC. 9043. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department to exceed, outside the fifty States of the United States and the District of Columbia, the aggregate civilian workyear totals in fiscal year 1986 for both direct hire and indirect hire employees including foreign national employees: *Provided*, That workyears shall be applied as defined in the Federal Personnel Manual Supplement 298-2, Book IV.

(TRANSFER OF FUNDS)

SEC. 9044. Appropriations or funds available to the Department of Defense during the current fiscal year may be transferred to appropriations provided in this Act for research, development, test, and evaluation to the extent necessary to meet increased pay costs authorized by or pursuant to law, to be merged with and to be available for the same purposes, and the same time period, as the appropriation to which transferred.

SEC. 9045. None of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended during fiscal year 1987 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance unless in accordance with the terms and conditions specified by section 106 of the Intelligence Authorization Act for fiscal year 1987.

(RESCISSION)

SEC. 9046. The following funds are hereby rescinded from the following accounts in the specified amounts:

Aircraft procurement, Army, 1985/1987	$15,600,000
Aircraft procurement, Army, 1986/1988	$78,800,000
Missile procurement, Army, 1985/1987	$32,800,000
Missile procurement, Army, 1986/1988	$66,800,000
Procurement of weapons and tracked combat vehicles, Army, 1985/1987	$25,100,000
Procurement of weapons and tracked combat vehicles, Army, 1986/1988	$188,200,000
Procurement of ammunition, Army 1985/1987	$33,000,000

Procurement of ammuition, Army 1986/1988	$39,562,000
Other procurement, Army, 1985/1987	$45,400,000
Other procurement, Army, 1986/1988	$133,300,000
Aircraft procurement, Navy, 1985/1987	$170,700,000
Aircraft procurement, Navy, 1986/1988	$408,200,000
Weapons procurement, Navy, 1985/1987	$59,500,000
Weapons procurement, Navy, 1986/1988	$185,100,000
Shipbuilding and conversion, Navy 1983/1987	$338,500,000
Shipbuilding and conversion, Navy 1984/1988	$53,000,000
Shipbuilding and conversion, Navy 1985/1989	$141,100,000
Shipbuilding and conversion, Navy 1986/1990	$737,900,000
Other procurement, Navy 1985/1987	$18,434,000
Other procurement, Navy 1986/1988	$214,769,000
Procurement, Marine Corps 1985/1987	$7,100,000
Procurement, Marine Corps 1986/1988	$19,400,000
Aircraft procurement, Air Force 1985/1987	$513,300,000
Aircraft procurement, Air Force 1986/1988	$619,500,000
Missile procurement, Air Force 1985/1987	$41,600,000
Missile procurement, Air Force 1986/1988	$629,700,000
Other procurement, Air Force 1985/1987	$68,611,000
Other procurement, Air Force 1986/1988	$122,900,000
Research, development, test and evaluation, Army, 1986/1987	$45,523,000
Research, development, test and evaluation, Navy, 1986/1987	$54,878,000
Research, development, test and evaluation, Air Force, 1986/1987	$167,000,000
Research, development, test and evaluation, Defense Agencies, 1986/1987	$48,400,000
Director of developmental test and evaluation, Defense, 1986/1987	$200,000

(TRANSFER OF FUNDS)

SEC. 9047. In addition to any other transfer authority contained in this Act, amounts from working capital funds may be transferred to the Operation and Maintenance appropriations contained in this Act to be merged with and to be available for the same purposes and for the same time period as the appropriation to which transferred: *Provided,* That such transfers shall not exceed $755,300,000 for Operation and Maintenance, Army; $2,341,400,000 for Operation and Maintenance, Navy; $29,200,000 for Operation and Maintenance, Marine Corps; $1,864,100,000 for Operation and Maintenance, Air Force; $40,600,000 for Operation and Maintenance, Defense Agencies; $14,526,000 for Operation and Maintenance, Army Reserve; $66,500,000 for Operation and Maintenance, Navy Reserve; $800,000 for Operation and Maintenance, Marine Corps Reserve; $63,000,000 for Operation and Maintenance, Air Force Reserve; $31,874,000 for Operation and Maintenance, Army National Guard; and $176,700,000 for Operation and Maintenance, Air National Guard.

SEC. 9048. None of the funds made available by this Act shall be used in any way for the leasing to non-Federal agencies in the United States aircraft or vehicles owned or operated by the Department of Defense when suitable aircraft or vehicles are commercially available in the private sector: *Provided,* That nothing in this section shall affect authorized and established procedures for the sale of surplus aircraft or vehicles: *Provided further,* That nothing in this section shall prohibit the leasing of helicopters authorized by section 1463 of the Department of Defense Authorization Act of 1986.

SEC. 9049. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 9050. No funds available to the Department of Defense during the current fiscal year may be used to enter into any contract with a term of eighteen months or more or to extend or renew any contract for a term of eighteen months or more, for any vessel, aircraft or vehicles, through a lease, charter, or similar agreement without previously having been submitted to the Committees on Appropriations of the House of Representatives and the Senate in the budgetary process. Further, any contractual agreement which imposes an estimated termination liability (excluding the estimated value of the leased item at the time of termination) on the Government exceeding 50 per centum of the original purchase value of the vessel, aircraft, or vehicle must have specific authority in an appropriation Act for the obligation of 10 per centum of such termination liability.

SEC. 9051. None of the funds made available by this Act shall be available to operate in excess of 247 commissaries in the contiguous United States.

SEC. 9052. None of the funds provided in this Act shall be used to procure aircraft ejection seats manufactured in any foreign nation that does not permit United States manufacturers to compete for ejection seat procurement requirements in that foreign nation. This limitation shall apply only to ejection seats procured for installation on aircraft produced or assembled in the United States.

SEC. 9053. No more than $174,598,000 of the funds appropriated by this Act shall be available for the payment of unemployment compensation benefits.

SEC. 9054. None of the funds appropriated by this Act shall be obligated for the pay of any individual who is initially employed after the date of enactment of this Act as a technician in the administration and training of the Army Reserve and the maintenance and repair of supplies issued to the Army Reserve unless such individual is also a military member of the Army Reserve troop program unit that he or she is employed to support. Those technicians employed by the Army Reserve in areas other than Army Reserve troop program units need only be members of the Selected Reserve.

SEC. 9055. None of the funds appropriated by this Act shall be used to purchase dogs or cats or otherwise fund the use of dogs or cats for the purpose of training Department of Defense students or other personnel in surgical or other medical treatment of wounds produced by any type of weapon: *Provided,* That the standards of such training with respect to the treatment of animals shall adhere to the Federal Animal Welfare Law and to those prevailing in the civilian medical community.

SEC. 9056. None of the funds made available by this Act shall be used to initiate full-scale engineering development of any major defense acquisition program until the Secretary of Defense has provided to the Committees on Appropriations of the House and Senate—

(a) a certification that the system or subsystem being developed will be procured in quantities that are not sufficient to warrant development of two or more production sources, or

(b) a plan for the development of two or more sources for the production of the system or subsystem being developed.

SEC. 9057. None of the funds available to the Department of Defense may be used for the floating storage of petroleum or

petroleum products except in vessels of or belonging to the United States.

SEC. 9058. Of the funds made available to the Department of the Air Force in this Act, not less than $5,000,000 shall be available for the Civil Air Patrol.

SEC. 9059. Funds available to the Department of Defense may be used by the Department of Defense for the use of helicopters and motorized equipment at Defense installations for removal of feral burros and horses.

(TRANSFER OF FUNDS)

SEC. 9060. Not to exceed $100,000,000 may be transferred from the appropriation "Operation and Maintenance, Defense Agencies" to operation and maintenance appropriations under the military departments in connection with demonstration projects authorized by section 1092 of title 10, United States Code: *Provided,* That the Secretary of Defense shall promptly notify the Congress of any such transfer of funds under this provision: *Provided further,* That the authority to make transfers pursuant to this section is in addition to the authority to make transfers under other provisions of this Act.

SEC. 9061. None of the funds appropriated by this Act shall be available to compensate foreign selling costs as described in Federal Acquisition Regulation 31.205-38(b) as in effect on April 1, 1984.

SEC. 9062. Of the funds appropriated for the operation and maintenance of the Armed Forces, obligations may be incurred for humanitarian and civic assistance costs incidental to authorized operations, and these obligations shall be reported to Congress on September 30, 1987: *Provided,* That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239.

SEC. 9063. Notwithstanding any other provision of law, the Secretaries of the Army and Air Force may authorize the retention in an active status until age sixty of any officer who would otherwise be removed from an active status and who is employed as a National Guard or Reserve technician in a position in which active status in a reserve component of the Army or Air Force is required as a condition of that employment.

SEC. 9064. None of the funds appropriated by this Act may be obligated or expended for the purposes delineated in section 1002(e)(2) of the Department of Defense Authorization Act, 1985, without the prior notification to the Committees on Appropriations of the House of Representatives and the Senate.

SEC. 9065. It is the sense of the Congress that the Secretary of Defense should formulate and carry out a program under which contracts awarded by the Department of Defense in fiscal year 1987 would, to the maximum extent practicable and consistent with existing law, be awarded to contractors who agree to carry out such contracts in labor surplus areas (as defined and identified by the Department of Labor).

SEC. 9066. It is the sense of the Congress that competition, which is necessary to enhance innovation, effectiveness, and efficiency, and which has served our Nation so well in other spheres of political and economic endeavor, should be expanded and increased in the provision of our national defense.

SEC. 9067. None of the funds appropriated by this Act shall be available to pay a dislocation allowance pursuant to section 407 of title 37, United States Code, in excess of one month's basic allowance for quarters.

SEC. 9068. None of the funds available to the Department of Defense shall be obligated or expended to contract out any activity currently performed by the Defense Personnel Support Center in Philadelphia, Pennsylvania: *Provided,* That this provision shall not apply after notification to the Committees on Appropriations of the House of Representatives and the Senate of the results of the cost analysis of contracting out any such activity.

SEC. 9069. Notwithstanding any other provision of law, each contract awarded by the Department of Defense in fiscal year 1987 for construction or services to be performed in whole or in part in a State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: *Provided,* That the Secretary of Defense may waive the requirements of this section in the interest of national security.

SEC. 9070. None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of enactment of this Act, receives an enlistment bonus under section 308a or 308f of title 37, United States Code; nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Administrator of Veterans' Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Administrator pay such benefits to any such member.

SEC. 9071. Notwithstanding any other provision of this Act, no funds appropriated by this Act shall be expended for the research, development, test, evaluation or procurement for integration of a nuclear warhead into the Joint Tactical Missile System (JTACMS).

SEC. 9072. So far as may be practicable, Indian labor shall be employed, and purchases of the products of Indian industry may be made in open market in the discretion of the Secretary of Defense: *Provided,* That the products must meet pre-set contract specifications.

SEC. 9073. Section 615 of S. 2638, as passed by the Senate on August 9, 1986, shall be deemed to be enacted into law as fully as if set forth herein: *Provided,* That the test authority provided for in section 618 of Public Law 99-145 and section 8083 of Public Law 99-190 shall remain in effect until such time as the system provided for in this section is implemented for both Department of Defense military and civilian employees.

SEC. 9074. Notwithstanding any other provision of law, during fiscal year 1987, the Department of Defense is to conduct a pilot test project of providing home health care to dependents entitled to health care under section 1076 of title 10, United States Code: *Provided,* That such care is medically necessary or appropriate,

more cost effective than to continue paying for otherwise authorized CHAMPUS benefits in medical facilities, and the beneficiary is not covered for such care under any other public or private health insurance plan.

SEC. 9075. Not more than $2,506,389,000 of the funds appropriated by this Act may be expended for permanent change of station travel (including all expenses of such travel for organizational movements): *Provided,* That assignments for temporary duty may not be increased in order to circumvent this limitation: *Provided further,* That this limitation may be exceeded only upon a determination and notification to the Congress by the Secretary of Defense that such action is necessary to meet national security requirements.

SEC. 9076. Funds appropriated in this Act shall be available for the payment of not more than 75 percent of the charges of a postsecondary educational institution for the tuition or expenses of an officer in the Ready Reserve of the Army National Guard or Army Reserve for education or training during his off-duty periods, except that no part of the charges may be paid unless the officer agrees to remain a member of the Ready Reserve for at least four years after completion of such training or education.

SEC. 9077. Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be available to pay more than 50 percent of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

SEC. 9078. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of enactment of this Act, is performed by more than ten Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate.

(TRANSFER OF FUNDS)

SEC. 9079. Upon a determination by the Secretary of Defense that such action will result in a more economical acquisition of automatic data processing equipment, funds provided in this Act under one appropriation account for the lease or purchase of such equipment may be transferred through the Automatic Data Processing Equipment Management Fund to another appropriation account in this Act for the lease or purchase of automatic data processing equipment to be merged with and to be available for the same purposes, and for the same time period, as the appropriation to which transferred: *Provided,* That within thirty days after the end of each quarter the Secretary of Defense shall report transfers made under this section to the Committees on Appropriations of the Senate and the House of Representatives: *Provided further,* That the authority to transfer funds under this section shall be in addition to any other transfer authority contained in this Act.

SEC. 9080. Appropriations available to the Department of Defense during the current fiscal year shall be available, under such regulations as the Secretary of Defense may deem appropriate, to exchange or furnish mapping, charting, and geodetic data, supplies or services to a foreign country pursuant to an agreement for the production or exchange of mapping, charting, and geodetic data.

SEC. 9081. None of the funds appropriated in this Act may be obligated or expended for procurement of C-12 aircraft unless such aircraft are procured through competitive procedures (as defined in section 2302(2) of title 10, United States Code), which shall be restricted to turboprop aircraft.

SEC. 9082. None of the funds in this Act may be obligated for procurement of 120mm mortars or 120mm mortar ammunition manufactured outside of the United States: *Provided*, That this limitation shall not apply to procurement of such mortars or ammunition required for testing, evaluation, type classification or equipping the Army's Ninth Infantry Division (Motorized).

SEC. 9083. Appropriations made available to the Department of Defense by this Act may be used at sites formerly used by the Department of Defense for removal of unsafe buildings or debris of the Department of Defense: *Provided*, That such removal must be completed before the property is released from Federal Government control, other than property conveyed to State or local government entities or native corporations.

SEC. 9084. Within the funds made available under title II of this Act, the military departments may use such funds as necessary, but not to exceed $4,700,000, to carry out the provisions of section 430 of title 37, United States Code.

SEC. 9085. None of the funds available to the Department of the Navy may be used to enter into any contract for the overhaul, repair, or maintenance of any naval vessel on the West Coast of the United States which includes charges for interport differential as an evaluation factor for award.

SEC. 9086. Notwithstanding section 213(b) of the Joint Chiefs of Staff Reorganization Act of 1985 or any other provision of law, none of the funds in this or any other Act may be used to alter the command structure for military forces in Alaska.

SEC. 9087. None of the funds appropriated in this Act may be obligated or expended to carry out a program to paint any naval vessel with paint known as organotin or with any other paint containing the chemical compound tributyltin until such time as the Environmental Protection Agency certifies to the Department of Defense that whatever toxicity as generated by organotin paints as included in Navy specifications does not pose an unacceptable hazard to the marine environment: *Provided*, That the Navy may use these funds to paint aluminum-hulled craft as necessary, and, in addition, the Navy may paint no more than fifteen steel-hulled ships to conduct research as described in the "Navy Organotin Program Plan for Two Case Study Harbors".

SEC. 9088. No funds appropriated under this Act for the Strategic Defense Initiative Program shall be earmarked by any agency of the United States Government or any contractor exclusively for contracts with non-United States contractors, subcontractors, or vendors, or exclusively for consortia containing non-United States contractors, subcontractors, or vendors, prior to source selection in order to meet a specific quota or allocation of funds to any allied nation. Furthermore, it is the sense of the Congress that, whenever possible, the Secretary of Defense and others should attempt to award Strategic Defense Initiative contracts to United States contractors, subcontractors, and vendors unless such awards would degrade the likely results obtained from such contracts: *Provided*, That allied nations should be encouraged to participate in the

Strategic Defense Initiative research effort on a competitive basis and be awarded contracts on the basis of technical merit.

SEC. 9089. The Secretary of Defense may only procure ammunition containing a depleted uranium penetrator component if the procurement of such component is done competitively and procured from at least two sources in the existing production base for such component.

SEC. 9090. None of the funds appropriated by this Act shall be used for the support of any nonappropriated fund activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States, unless such malt beverages and wine are procured in that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: *Provided,* That in a case in which a military installation is located in more than one State, purchases may be made in any State in which the installation is located: *Provided further,* That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages for military installations in states which are not contiguous with another state: *Provided further,* That alcoholic beverages other than wine and malt beverages in contiguous states and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

SEC. 9091. Notwithstanding any other provision of law, funds available in this Act shall be available to the Defense Logistics Agency to grant civilian employees participating in productivity-based incentive award programs paid administrative time off in lieu of cash payment as compensation for increased productivity.

(TRANSFER OF FUNDS)

SEC. 9092. No later than September 30, 1987, unobligated balances and appropriations made available to the Department of Defense for fiscal year 1983 that expired for obligation on September 30, 1985, may be transferred into the appropriation "Foreign Currency Fluctuations, Defense" to be merged with and available for the same time period and the same purposes as the appropriation to which transferred: *Provided,* That any transfer made pursuant to any use of the authority provided by this provision shall be limited so that the amount in the appropriation "Foreign Currency Fluctuations, Defense" does not exceed $970,000,000 at the time such a transfer is made.

SEC. 9093. None of the funds appropriated in this Act to the Department of the Army may be obligated for depot maintenance of equipment unless such funds provide for civilian personnel strengths at the Army depots performing communications—electronics depot maintenance at an amount above the strengths assigned to those depots on September 30, 1985: *Provided,* That the foregoing limitations shall not apply to civilian personnel who perform caretaker-type functions at these installations: *Provided further,* That nothing in this provision shall cause undue reductions of other Army depots, as determined by the Secretary of the Army.

(TRANSFER OF FUNDS)

SEC. 9094. In addition to the amounts appropriated or otherwise made available in this Act, $1,911,000,000 shall be available for military and civilian pay raises as authorized by law: *Provided,* That such amounts shall be transferred and merged with "Military Personnel" and "Operation and Maintenance" appropriations accounts as applicable and that such transfer authority shall be in addition to that provided elsewhere in this Act: *Provided further,* That such sums as may be necessary for authorized pay raise costs in excess of this appropriation shall be accommodated within the levels appropriated in this Act.

SEC. 9095. None of the funds appropriated by this Act shall be available to pay a variable housing allowance under section 403a of title 37, United States Code, with respect to an area at rates that are greater than the rates in effect for that area on August 1, 1986.

SEC. 9096. (a) None of the funds appropriated or made available by this Act shall be used to enter into a contract for the performance by contractor personnel of functions that on the date of enactment of this Act are performed by employees of the Department of Defense at the Crane Army Ammunition Activity, Crane, Indiana, or the McAlester Army Ammunition Plant, McAlester, Oklahoma.

(b) The prohibition in subsection (a) does not apply to a contract (or the renewal of a contract) for the performance of a function that on the date of the enactment of this Act is already under contract for performance by contractor personnel.

SEC. 9097. None of the funds appropriated by this Act shall be available to pay temporary lodging expenses pursuant to section 404a(a) of title 37, United States Code: *Provided,* That during fiscal year 1987, this provision shall not apply to those military personnel with dependents in grades E-4 and below.

SEC. 9098. None of the funds appropriated or made available by this Act may be obligated for acquisition of major automated information systems which have not successfully completed oversight reviews required by Defense Department regulations: *Provided,* That none of the funds appropriated or made available by this Act may be obligated on Composite Health Care System acquisition contracts if such contracts would cause the total life cycle cost estimate of $1,100,000,000 expressed in fiscal year 1986 constant dollars to be exceeded.

SEC. 9099. The Secretary of Defense shall take such action as may be necessary to implement at the earliest practicable date and with funds provided for such purpose by section 8110 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190; 99 Stat. 1222), the program proposed by the Department of Defense in a letter dated August 30, 1985, from the Assistant Secretary of Defense for Acquisition and Logistics to rehabilitate and convert current steam generating plants at defense facilities in the United States to coal burning facilities in order to achieve a coal consumption target of 1,600,000 short tons of coal per year (including at least 300,000 short tons of anthracite coal) above current consumption levels at Department of Defense facilities in the United States by fiscal year 1994: *Provided,* That such action shall be subject to the use of only the most cost effective fuel system in the construction of new plants or the conversion of existing plants: *Provided further,* That during fiscal year 1987, the amount of anthracite coal purchased by the Department shall be at least

300,000 short tons: *Provided further*, That the funds identified in section 8110 of Public Law 99-190 shall continue to be made available until expended to be used on a non-reimbursable basis for the administrative costs of this program.

SEC. 9100. Notwithstanding any other provision of law, the Department of Defense or the General Services Administration, whichever agency has jurisdiction, custody, and control shall convey at no cost real property described in "Department of the Army Final Report of Excess, NAN-85-3A, Hancock Field, New York," to Onondaga County, New York, for aviation and related industrial activities. This conveyance should be accomplished as soon as possible, but no later than ninety days after enactment of this Act.

SEC. 9101. No naval vessel or any vessel owned and operated by the Department of Defense homeported in the United States may be overhauled, repaired, or maintained in a foreign owned and operated shipyard located outside of the United States, except for voyage repairs.

SEC. 9102. After September 30, 1987, no appropriated funds may be used to support revenue generating Morale, Welfare and Recreation activities located in large metropolitan areas, as defined by Department of Defense regulation, of the fifty United States.

SEC. 9103. (1) Chapter 19 of title 37, United States Code, is amended by adding at the end the following new section:

"§ 1013. Payment date for pay and allowances

"(a) Amounts of basic pay, basic allowance for quarters, basic allowance for subsistence, and other payments of military compensation (other than travel and transportation allowances and separation allowances) shall be paid on the first day of the month beginning after the month during which the right to such compensation accrues.

"(b) Subsection (a) does not preclude one payment in midmonth for any element of compensation and does not affect any authority to make advance payments of pay and allowances.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1013. Payment date for pay and allowances.".

(3) Section 1466(a)(2) of title 10, United States Code, is amended by striking out "paid" and inserting in lieu thereof "accrued".

(4) Section 1013 of title 37, United States Code, as added by subsection (a), and the amendment made by subsection (b) shall take effect on September 1, 1987.

SEC. 9104. For the current fiscal year, the minimum requirement for the amount of payments received in a fiscal year by working capital funds for industrial-type activities to be used for the acquisition of capital equipment for such activities shall be equal to the minimum required percentage for fiscal year 1986.

SEC. 9105. None of the funds appropriated under this or any other Act for the Department of Defense shall be available to make progress payments at a percentage higher than 5 percentage points below the rate in use on the effective date of this Act (except for contracts under solicitation before the effective date of this Act and except for shipbuilding, military construction and architect-engineering contracts if the Secretary of Defense certifies to Congress that an exclusion is justified for these activities) for (a) contracts which provide for progress payments based either on the

percentage of work accomplished or on the contractors' costs under fixed-price type contracts and (b) modifications to existing contracts for additional supplies or services not contemplated by the existing contracts, unless a higher percentage is approved by the head of the contracting activity or designee based on demonstrated financial need: *Provided,* That for solicitations issued after the effective date of this Act, which require price negotiation, contracts may only be awarded if such negotiation is based on new profit calculation procedures which provide for increased emphasis on facilities capital employed and contractor risk and which procedures do not provide an explicit fixed rate for working capital and which do not include profit based on specific individual elements of contract costs: *Provided further,* That no contractor may be reimbursed directly under a contract awarded 90 days after the effective date of this Act, where the purchase of additional quantities of like items is contemplated in subsequent years, for more than 50 percent of the full acquisition cost of production special tooling and production special test equipment as a direct cost unless (a) such special equipment is to be used solely for final production acceptance test or (b) additional reimbursement that is in the best interest of the Government is approved in advance by the Service Secretary for programs reported on Selected Acquisition Reports or approved by an Assistant Service Secretary for all other programs: *Provided further,* That the contract may provide that if such a contract is terminated for any reason that does not reflect a failure of the contractor to perform, the contractor shall be entitled to be paid by the United States for the cost of any special tooling and special test equipment which has not been fully amortized and the United States may elect to take title to such special tooling and special test equipment.

SEC. 9106. (a) The Secretary of the Navy (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Philadelphia Municipal Authority, a State authority, (hereinafter in this section referred to as the "PMA"), all right, title, and interest of the United States in and to approximately 29 acres of land located in the United States Naval Base, Philadelphia, Pennsylvania, together with any improvements thereon.

(b) The exact acreage and legal description of the lands to be conveyed under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the PMA.

(c) In consideration for any conveyance authorized under subsection (a), the PMA shall pay to the United States an amount equal to the fair market value of the property to be conveyed (as determined by the Secretary).

(d) The Secretary may require such additional terms and conditions with respect to the conveyance under this section as he considers appropriate to protect the interests of the United States.

(e) In addition to the authority provided in subsection (a) and pursuant to section 2394 of title 10, United States Code, the Secretary, upon his determination that there is an economic advantage to the Navy, is authorized to enter into a long-term contract with the PMA for the purchase of steam generated from a facility to be constructed upon the land authorized to be conveyed herein.

SEC. 9107. Authority for reimbursement provided pursuant to section 3 of Public Law 96-357 (10 U.S.C. 7572 note) is hereby extended through September 30, 1987, at an amount not to exceed $1,657,000.

SEC. 9108. Notwithstanding any other provision of law, appropriations available in this Act may be used for the procurement, product improvement and modification of the Copperhead and five-inch guided projectiles, without regard to whether or not a second production source program or contract has been established for those programs, provided that the Secretary of Defense determines that such expenditures are in the interest of the Government of the United States.

SEC. 9109. (a) IN GENERAL.—The Administrator of General Services shall release to the Virginia Port Authority, an instrumentality of the Commonwealth of Virginia, all residuary rights of use held by the United States in three warehouses located in the city of Norfolk, Virginia, within the area operated as a public port facility and known as the Norfolk International Terminals.

(b) TIME LIMITATION; COMPENSATION.—The Administrator of General Services shall execute such documents and take such other actions as may be necessary to release, within one hundred and eighty days after the date of the enactment of this Act, the rights referred to in subsection (a). The release shall be made without any compensation in addition to compensation paid to the United States for such warehouses and other facilities by the city of Norfolk, Virginia, in 1968.

SEC. 9110. (a) IN GENERAL.—During fiscal year 1987 and during each of the six succeeding fiscal years, the Administrator of General Services shall obtain bids from domestic producers of high carbon ferrochromium and of high carbon ferromanganese and award contracts for the conversion of chromium and manganese ores held in the National Defense Stockpile into high carbon ferrochromium and high carbon ferromanganese, respectively.

(b) STOCKPILE GOALS.—(1) Contracts awarded under subsection (a) shall provide for the addition of not less than 53,500 short tons of high carbon ferrochromium and 67,500 short tons of high carbon ferromanganese to the National Defense Stockpile in each of the fiscal years referred to in the preceding sentence.

(2) If, in any fiscal year referred to in subsection (a), the minimum quantity of high carbon ferrochromium or high carbon ferromanganese to be added to the National Defense Stockpile, as prescribed in paragraph (1), is not met, the quantity of such material to be added to such stockpile in the succeeding fiscal year shall be increased by the quantity of the deficiency.

(c) SEVEN-YEAR MINIMUM QUANTITIES.—The total quantities of high carbon ferrochromium and high carbon ferromanganese to be added to the National Defense Stockpile over the seven fiscal years referred to in subsection (a) shall be as follows:

(1) High carbon ferrochromium, 374,000 short tons.

(2) High carbon ferromanganese, 472,000 short tons.

(d) In this section, the term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stockpiling Act (50 U.S.C. 98c).

SEC. 9111. None of the funds appropriated or made available by this Act shall be used to implement or enforce the rule proposed on May 7, 1986 (51 Fed. Reg. 16988-16991), or section 8.304-91 of the Air Force FAR Supplement issued on June 24, 1985.

SEC. 9112. (a) It is the sense of Congress that—

(1) the capabilities inherent in the technologies associated with the Advanced Technology Bomber Program and the Advanced Cruise Missile Program are a critical national security

asset for maintaining an adequate and credible deterrent posture;

(2) such technologies and programs should be developed as rapidly as feasible in order to produce and deploy advanced systems which will complicate the military planning of the Soviet Union and as a consequence enhance the deterrent posture of the United States;

(3) such technologies and programs should be funded at the levels authorized in this Act; and

(4) all the funds appropriated for such programs should be fully used for such programs.

(b) None of the funds appropriated in this Act to carry out the Advanced Technology Bomber Program or the Advanced Cruise Missile Program may be used for any other purpose.

(c) None of the funds appropriated in this or any other Act may be used for research, development, demonstration, procurement or any other purpose related to B-1B bombers beyond the 100 such bombers previously authorized.

SEC. 9113. (a) Not later than October 14, 1986, the Chairman of the Joint Chiefs of Staff of the Armed Forces of the United States shall submit to Congress a report, in both classified and unclassified versions, containing a detailed assessment, including the individual views of each of the Chiefs, of the military impacts on the national security of the United States, of the possible military responses of the Soviet Union to an American decision to no longer comply with major provisions of existing strategic offensive arms limitation agreements, including the central numerical sublimits on strategic nuclear delivery vehicles contained in the SALT II accord. This assessment shall concentrate on possible Soviet military responses during the period between fiscal year 1987 and fiscal year 1996, inclusive, and shall address, among other considerations, the following:

(1) the impact on the ability of United States strategic forces to accomplish their nuclear deterrent mission, including the impacts on the survivability of United States strategic forces and on the ability of United States strategic forces to achieve required damage expectancies against Soviet targets, of any expansion of Soviet military capabilities undertaken in response to a United States decision to abandon compliance with existing strategic offensive arms agreements;

(2) the additional cost to the United States, above currently projected military expenditures for those periods for which such budget projections are available, of research, development, production, deployment, and annual operations and support for any additional strategic forces required to counter any expansion in Soviet military capabilities undertaken in response to a United States decision to abandon compliance with existing strategic offensive arms agreements;

(3) under average annual real growth projections in defense spending of 0 percent, 1 percent, 2 percent, and 3 percent, the percent of the annual defense budget in each year between fiscal year 1987 and fiscal year 1996 which would be consumed by increased United States strategic forces needed to counter the Soviet force expansions;

(4) the military impacts on United States national security of the diversion of the funds identified in subsection (a)(2) away from nonstrategic defense programs and to strategic programs

to counter expanded Soviet strategic capabilities, including the military impacts of such a diversion on the ability of United States conventional forces to meet the Nation's specific nonnuclear defense commitments as a member of the North Atlantic Treaty Organization, and under the 1960 Treaty of Mutual Cooperation and Security with Japan;

(5) in addition, this report shall address the military implications for the United States of determined Soviet violations of offensive arms control agreements.

(b) Notwithstanding any other provision of law, none of the funds authorized or appropriated by this or any other Act may be obligated or expended, directly or indirectly, by the Organization of the Joint Chiefs of Staff for prospective studies and analyses to be accomplished by individual civilian contractors or civilian contractor entities, after October 14, 1986, if the report mandated in subsection (a) has not been received by the Congress; and

(c) The prohibition contained in subsection (b) on the obligation or expenditure of funds after October 14, 1986, shall cease to have effect upon the receipt by Congress of the report mandated in subsection (a).

SEC. 9114. Subsection (b) of section 223 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 613) is amended—

(1) by designating the matter after the subsection caption as paragraph (1); and

(2) by adding at the end the following:

"(2) The report required by paragraph (1) shall include the following information:

"(A) The cost goals or cost objectives—

"(i) for the production and deployment of a Strategic Defense Initiative System; and

"(ii) for the individual components of such system,

determined on the basis of capabilities expected to be developed in the future.

"(B) The estimated costs of—

"(i) the production and deployment of the Strategic Defense Initiative System; and

"(ii) the production and deployment of the individual components of such system,

determined on the basis of prices in effect and capabilities in existence at the time of the preparation of the report.".

SEC. 9115. (a) ASSISTANT SECRETARY OF DEFENSE.—Section 136(b) of title 10, United States Code (as amended by section 106 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986), is amended by adding at the end the following new paragraph:

"(4) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict. He shall have as his principal duty the overall supervision (including oversight of policy and resources) of special operations activities (as defined in section 167(j) of this title) and low intensity conflict activities of the Department of Defense.".

(b) UNIFIED COMBATANT COMMAND.—(1) Chapter 6 of such title (as added by section 211 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986) is amended by adding at the end the following new section:

"§ 167. Unified combatant command for special operations forces

"(a) ESTABLISHMENT.—With the advice and assistance of the Chairman of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall establish under section 161 of this title a unified combatant command for special operations forces (hereinafter in this section referred to as the 'special operations command'). The principal function of the command is to prepare special operations forces to carry out assigned missions.

"(b) ASSIGNMENT OF FORCES.—Unless otherwise directed by the Secretary of Defense, all active and reserve special operations forces of the armed forces stationed in the United States shall be assigned to the special operations command.

"(c) GRADE OF COMMANDER.—The commander of the special operations command shall hold the grade of general or, in the case of an officer of the Navy, admiral while serving in that position, without vacating his permanent grade. The commander of such command shall be appointed to that grade by the President, by and with the advice and consent of the Senate, for service in that position.

"(d) COMMAND OF ACTIVITY OR MISSION.—(1) Unless otherwise directed by the President or the Secretary of Defense, a special operations activity or mission shall be conducted under the command of the commander of the unified combatant command in whose geographic area the activity or mission is to be conducted.

"(2) The commander of the special operations command shall exercise command of a selected special operations mission if directed to do so by the President or the Secretary of Defense.

"(e) AUTHORITY OF COMBATANT COMMANDER.—(1) In addition to the authority prescribed in section 164(c) of this title, the commander of the special operations command shall be responsible for, and shall have the authority to conduct, all affairs of such command relating to special operations activities, including the following functions:

"(A) Developing strategy, doctrine, and tactics.

"(B) Training assigned forces.

"(C) Conducting specialized courses of instruction for commissioned and noncommissioned officers.

"(D) Validating requirements.

"(E) Establishing priorities for requirements.

"(F) Ensuring combat readiness.

"(G) Developing and acquiring special operations-peculiar equipment and acquiring special operations-peculiar material, supplies, and services.

"(H) Ensuring the interoperability of equipment and forces.

"(I) Formulating and submitting requirements for intelligence support.

"(J) Monitoring the promotions, assignments, retention, training, and professional military education of special operations forces officers.

"(2) The commander of such command shall be responsible for monitoring the preparedness of special operations forces assigned to other unified combatant commands to carry out assigned missions.

"(f) BUDGET.—In addition to the activities of a combatant command for which funding may be requested under section 166(b) of this title, the budget proposal of the special operations command shall include requests for funding for—

"(1) development and acquisition of special operations-peculiar equipment; and

"(2) acquisition of other material, supplies, or services that are peculiar to special operations activities.

"(g) INTELLIGENCE AND SPECIAL ACTIVITIES.—This section does not constitute authority to conduct any activity which, if carried out as an intelligence activity by the Department of Defense, would require—

"(1) a finding under section 662 of the Foreign Assistance Act of 1961 (22 U.S.C. 2422); or

"(2) a notice to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives under section 501(a)(1) of the National Security Act of 1947 (50 U.S.C. 413).

"(h) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the activities of the special operations command. Such regulations shall include authorization for the commander of such command to provide for operational security of special operations forces and activities.

"(i) IDENTIFICATION OF SPECIAL OPERATIONS FORCES.—(1) Subject to paragraph (2), for the purposes of this section special operations forces are those forces of the armed forces that—

"(A) are identified as core forces or as augmenting forces in the Joint Chiefs of Staff Joint Strategic Capabilities Plan, Annex E, dated December 17, 1985;

"(B) are described in the Terms of Reference and Conceptual Operations Plan for the Joint Special Operations Command, as in effect on April 1, 1986; or

"(C) are designated as special operations forces by the Secretary of Defense.

"(2) The Secretary of Defense, after consulting with the Chairman of the Joint Chiefs of Staff and the commander of the special operations command, may direct that any force included within the description in paragraph (1)(A) or (1)(B) shall not be considered as a special operations force for the purposes of this section.

"(j) SPECIAL OPERATIONS ACTIVITIES.—For purposes of this section, special operations activities include each of the following insofar as it relates to special operations:

"(1) Direct action.

"(2) Strategic reconnaissance.

"(3) Unconventional warfare.

"(4) Foreign internal defense.

"(5) Civil affairs.

"(6) Psychological operations.

"(7) Counterterrorism.

"(8) Humanitarian assistance.

"(9) Theater search and rescue.

"(10) Such other activities as may be specified by the President or the Secretary of Defense.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"167. Unified combatant command for special operations forces.".

(c) MAJOR FORCE PROGRAM CATEGORY.—The Secretary of Defense shall create for the special operations forces a major force program category for the Five-Year Defense Plan of the Department of Defense. The Assistant Secretary of Defense for Special Operations

and Low Intensity Conflict, with the advice and assistance of the commander of the special operations command, shall provide overall supervision of the preparation and justification of program recommendations and budget proposals to be included in such major force program category.

(d) PROGRAM AND BUDGET EXECUTION.—To the extent that there is authority to revise programs and budgets approved by Congress for special operations forces, such authority may be exercised only by the Secretary of Defense, after consulting with the commander of the special operations command.

(e) GRADE FOR COMMANDERS OF CERTAIN AREA SPECIAL OPERATIONS COMMANDS.—The commander of the special operations command of the United States European Command, the United States Pacific Command, and any other unified combatant command that the Secretary of Defense may designate for the purposes of this section shall be of general or flag officer grade.

(f) BOARD FOR LOW INTENSITY CONFLICT.—Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended by adding at the end the following new subsection:

"(f) The President shall establish within the National Security Council a board to be known as the 'Board for Low Intensity Conflict'. The principal function of the board shall be to coordinate the policies of the United States for low intensity conflict.".

(g) DEPUTY ASSISTANT TO THE PRESIDENT FOR NATIONAL SECURITY AFFAIRS FOR LOW INTENSITY CONFLICT.—It is the sense of Congress that the President should designate within the Executive Office of the President a Deputy Assistant to the President for National Security Affairs to be the Deputy Assistant for Low Intensity Conflict.

(h) REPORTS.—(1) Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the plans of the Secretary for implementation of this section, including a description of the progress made on such implementation.

(2) Not later than one year after the date of the enactment of this Act, the President shall transmit to Congress a report on the capabilities of the United States to conduct special operations and low intensity conflicts. The report shall include a description of the following:

(A) Deficiencies in such capabilities.

(B) Actions being taken throughout the executive branch to correct such deficiencies.

(C) The principal low intensity conflict threats to the interests of the United States.

(D) The actions taken and to be taken to implement this section.

(i) EFFECTIVE DATE.—Section 167 of title 10, United States Code (as added by subsection (b)), shall be implemented not later than 180 days after the date of the enactment of this Act.

(j) FUNDING FOR FISCAL YEAR 1987.—The Secretary of Defense may spend unobligated funds appropriated to the Department of Defense for fiscal years before fiscal year 1987 in such sums as necessary in order to carry out this section and section 167 of title 10, United States Code (as added by subsection (b)), during fiscal year 1987.

SEC. 9116. (a) The Secretary of Defense shall award to a United States firm a contract pursuant to a solicitation issued on or after

the date of enactment of this Act under the Department of Defense overseas fuel procurement programs that would otherwise be awarded to a foreign firm if such United States firm—

(1) has a crude oil refining capacity of not more than 75,000 barrels a day;

(2) participates in the Department of Defense overseas fuel procurement program;

(3) agrees to the contract on the terms proposed by the foreign firm to which the contract would otherwise be awarded; and

(4) does not use processing agreements in order to fulfill the contract.

(b) This provision shall not apply if the total cost of supplies offered by the United States firm, including transportation as specified in the solicitation, would exceed the total evaluated cost to the government if the contract were awarded to the foreign firm.

(c) This provision shall not supersede any status of forces agreement and shall not apply to acquisitions subject to the Agreement on Government Procurement of 1979 and the Trade Agreements Act of 1979 (19 U.S.C. 2501-2582) and including acquisitions from countries designated under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701, et seq.).

(d) For purposes of this section, the term "United States firm" means a corporation, partnership, association, joint stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States, or which is organized under the laws of a State of the United States or a territory, possession, or commonwealth of the United States.

SEC. 9117. (a) None of the funds appropriated in this Act may be available for any country if the President determines that the government of such country is failing to take adequate measures to prevent narcotic drugs or other controlled substances cultivated or produced or processed illicitly, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to United States personnel or their dependents, or from being smuggled into the United States. Such prohibition shall continue in force until the President determines and reports to the Congress in writing that—

(1) the government of such country has prepared and committed itself to a plan presented to the Secretary of State that would eliminate the cause or basis for the application to such country of the prohibition contained in the first sentence; and

(2) the government of such country has taken appropriate law enforcement measures to implement the plan presented to the Secretary of State.

(b) The provisions of subsection (a) shall not apply in the case of any country with respect to which the President determines that the application of the provisions of such subsection would be inconsistent with the national security interests of the United States.

SEC. 9118. (a) None of the funds made available by this Act to the Department of Defense may be used to procure the Federal Supply Classes of machine tools set forth in subsection (b) of this section, for use in any government-owned facility or property under control of the Department of Defense, which machine tools were not manufactured in the United States or Canada.

(b) The procurement restrictions contained in subsection (a) shall apply to Federal Supply Classes of metalworking machinery in

categories numbered 3408, 3410-3419, 3426, 3433, 3441-3443, 3446, 3448, 3449, 3460, and 3461.

(c) When adequate domestic supplies of the classifications of machine tools identified in subsection (b) are not available to meet Department of Defense requirements on a timely basis, the procurement restrictions contained in subsection (a) may be waived on a case by case basis by the Secretary of the Service Branch responsible for the procurement.

(d) Subsection (a) shall not apply to contracts which are binding as of the date of enactment of this Act.

SEC. 9119. (a) Notwithstanding sections 2394(b) and 2690 of title 10, United States Code, the Secretary of the Army may use funds appropriated for the construction and operation of the Louisiana Army Ammunition Plant for the provision and operation of energy production facilities at such plant.

(b) Funds available to the Secretary of the Army under subsection (a) may be obligated without seeking third party contracts for the financing and construction of heating and power plants.

SEC. 9120. Of the funds appropriated by this Act, $8,100,000 shall be made available to the Department of Defense in order to implement the recommendations of its Security Review Commission concerning personnel and industrial security programs: *Provided,* That the Department shall submit a reprogramming notification identifying funds for this purpose.

SEC. 9121. No funds shall be expended for implementation of the Department of Defense Federal Acquisition Regulation Supplement; Cargo Preference, published as proposed regulations on July 28, 1986, at page 27016 of volume 51, numbered 144 of the Federal Register.

SEC. 9122. Section 672 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) The consent of a Governor described in subsections (b) and (d) may not be withheld (in whole or in part) with regard to active duty outside the United States, its territories, and its possessions, because of any objection to the location, purpose, type, or schedule of such active duty.".

SEC. 9123. (a)(1) Notwithstanding any other provision of law, except as provided in paragraph (1) or (2), the Secretary of the Navy shall reimburse Valerie S. Ford of Richmond, Virginia, for the expenses she incurred for her travel and the travel of her two dependent children and the transportation of her household goods in moving herself and her children from Makakilo, Hawaii, to Richmond, Virginia, in May, 1984.

(2) The Secretary of the Navy may not make the reimbursement authorized in paragraph (1) unless, within one year after the date of enactment of this Act, the Secretary receives from Valerie S. Ford such application for reimbursement and documentation of expenses as the Secretary considers appropriate.

(3) The amount paid to Valerie S. Ford pursuant to paragraph (1) may not exceed the amount that would have been payable for the travel and transportation referred to in such paragraph if the travel and transportation had been timely and a proper and timely application had been submitted in the case of the said Valerie S. Ford as provided by law or applicable regulations.

(b) No part of any amount reimbursed pursuant to subsection (a) of this section in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of

services rendered in connection with such reimbursement, and the same shall be unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.

SEC. 9124. From existing funds the Secretary of Defense shall take additional steps for further development of planning, research, and facilities for physical acoustics and related matters and shall develop facilities for advanced microelectronics design research and development including but not restricted to military components replacement and the Mapped Array Differential Equation Machine.

SEC. 9125. Notwithstanding any other provision of law, appropriations available to the Department of Defense during the current fiscal year shall be available to make payments to a hospital that obtains 12 percent or more of its operating funds from contributions and that limits the care it provides to the treatment of heart and lung conditions: *Provided,* That payment may not be denied for a claim for otherwise reimbursable services submitted under a plan contracted for under sections 1079(a) and 1086(a) of title 10, United States Code, solely on the basis that such hospital does not impose a legal obligation, including a patient cost share or deductible, on its patients to pay for such services.

SEC. 9126. Notwithstanding the provisions of subsection 502(a)(1) of the National Security Act of 1947, funds appropriated by this Act may be obligated and expended for particular intelligence activities contained in this Act: *Provided,* That the funds appropriated or made available by this Act may be obligated and expended for the particular activities contained in this Act should the enactment of a National Defense Authorization Act for fiscal year 1987 fail to occur and this Act shall then be considered to provide the authorization and appropriation authority necessary to obligate and expend the funds provided herein.

SEC. 9127. Notwithstanding any other provision of law, where an error of the magnitude of four or greater in a financial ratio is made in the evaluation of an application for extension made by any firm in accordance with C.F.R. Section 124.1—(1)(f)(4)(i) (effective January 1, 1986), the maximum extension shall be granted.

SEC. 9128. None of the funds provided by this Act may be used to pay the salaries of any person or persons who authorize the transfer of unobligated and deobligated appropriations into the Reserve for Contingencies of the Central Intelligence Agency.

SEC. 9129. Of the funds appropriated in this Act for the procurement of P-3C aircraft, the Secretary of the Navy may carry out Navy obligations under the classified Maritime Surveillance Agreement of 1986: *Provided,* That two of the P-3C aircraft to be procured may be used to implement United States obligations under such classified agreement.

SEC. 9130. Funds appropriated by this Act for construction projects of the Central Intelligence Agency, which are transferred to another Agency for execution, shall remain available until expended.

SEC. 9131. Section 642 of S. 2638, as passed by the Senate on August 9, 1986, shall be deemed to be enacted into law as fully as if set forth herein: *Provided,* That the total amount herein appropriated for "Military Personnel" appropriations accounts shall be reduced by $350,000,000.

SEC. 9132. During the current fiscal year, the Department of Defense shall conduct a new competition for 9mm handguns, with

procurement starting in fiscal year 1988 in parallel with the current contract.

SEC. 9133. Funds appropriated to the Department of Defense during fiscal year 1987, or otherwise available for obligation during fiscal year 1987, shall be available for obligation notwithstanding any provisions contained in any Act authorizing appropriations for the Department of Defense for fiscal year 1987, heretofore or hereafter enacted, that would otherwise limit obligations of the aggregate amount that may be obligated at the appropriation account level, appropriations subdivision level, or appropriation budget activity level, unless a subsequently enacted provision expressly and specifically references this provision and directly amends or repeals this provision.

SEC. 9134. (a) Notwithstanding any other provision of this Joint Resolution, none of the funds appropriated in this or any other Act shall be used to sell, lease, transfer, or otherwise dispose of any portion of the approximately twenty-six acres of Fort DeRussy, Hawaii, lying southwest of Kalia Road, which includes the Hale Koa Hotel, the Armed Forces Recreation Center, and beachfront area.

(b) Notwithstanding any other provision of this Joint Resolution, to include section 509 of the Department of the Treasury, Postal Service, and General Government Appropriations Act as contained in this Joint Resolution, or any other provision of the law, including section 809 of the Military Construction Authorization Act, 1968, section 807(d) of the Military Construction Authorization Act, 1984, or any other provision of an annual Appropriation Act restricting use of funds for the sale, lease, rental, or excessing of Fort DeRussy, Hawaii, any right or interest of the United States in the remaining forty-five acres of Fort DeRussy, Hawaii, lying northeast of Kalia Road, which comprises the three United States Army Reserve Centers and miscellaneous facilities, may not be sold, leased, or transferred in accordance with Federal laws and Department of Defense regulations governing the disposal of Defense installations prior to August 1, 1987: *Provided,* That no such sale, lease, transfer, or other disposition proposed by the Secretary of the Army after August 1, 1987 shall occur until 60 legislative days after notification of the proposed action to the Committees on Armed Services and Appropriations of the House of Representatives and Senate.

(c) The exact acreages and legal descriptions of the property addressed by this section shall be determined by surveys which are satisfactory to the Secretary of the Army.

SEC. 9135. None of the funds appropriated or otherwise made available by this or any other Act may be obligated or expended during fiscal year 1987 for, or in connection with, a Strategic Defense Initiative Institute unless—

(1) obligation or expenditure of funds for such purpose is specifically authorized by law in an Act other than this Act; and

(2) funds are specifically appropriated for such purpose in an Act other than this Act.

For purposes of this section, a Strategic Defense Initiative Institute is a Federally Funded Research and Development Center intended to lend technical support to the Strategic Defense Initiative Organization, as described in the Federal Register on March 18, 1986, April 24, 1986, and May 21, 1986.

SEC. 9136 (a) The Secretary of Defense shall conduct through the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) a demonstration project on the treatment of alcohol-

ism designed to compare the use of chemical aversion therapy with the use of other treatments. The Secretary shall submit to the Committees on Appropriations and Armed Services of the Senate and House of Representatives a report describing the proposed conduct of the demonstration project not later than November 1, 1986. The Secretary shall implement the demonstration project not later than February 1, 1987. At the conclusion of the demonstration project, the Secretary shall submit to such committees a report on the results of the project: *Provided,* That the demonstration project shall be conducted at only one location: *Provided further,* That coverage for chemical aversion therapy under this demonstration project is extended to those beneficiaries referred for such treatment by a physician, psychiatrist or psychologist recognized as an authorized provider under CHAMPUS.

(b) Until the report required by subsection (a) on the results of the demonstration project is submitted, the Secretary of Defense shall ensure that coverage of beneficiaries under section 1079(a) or 1086(a) of title 10, United States Code, shall continue under the provisions of subsection (a).

TITLE X

DEFENSE ACQUISITION IMPROVEMENT

SEC. 900. SHORT TITLE.

This title may be cited as the "Defense Acquisition Improvement Act of 1986".

PART A—MANAGEMENT OF THE ACQUISITION PROCESS

SEC. 901. DUTIES AND PRECEDENCE OF UNDER SECRETARY OF DEFENSE FOR ACQUISITION

Section 133 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended to read as follows:

"§ 133. Under Secretary of Defense for Acquisition

"(a) There is an Under Secretary of Defense for Acquisition, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Under Secretary shall be appointed from among persons who have an extensive management background in the private sector.

"(b) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition shall perform such duties and exercise such powers relating to acquisition as the Secretary of Defense may prescribe, including—

"(1) supervising Department of Defense acquisition;

"(2) establishing policies for acquisition (including procurement, research and development, logistics, developmental testing, and contract administration) for all elements of the Department of Defense;

"(3) establishing policies of the Department of Defense for maintenance of the defense industrial base of the United States; and

"(4) the authority to direct the Secretaries of the military departments and the heads of all other elements of the Depart-

ment of Defense with regard to matters for which the Under Secretary has responsibility.

"(c) The Under Secretary—

"(1) is the senior procurement executive for the Department of Defense for the purposes of section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3));

"(2) is the Defense Acquisition Executive for purposes of regulations and procedures of the Department providing for a Defense Acquisition Executive; and

"(3) to the extent directed by the Secretary, exercises overall supervision of all personnel (civilian and military) in the Office of the Secretary of Defense with regard to matters for which the Under Secretary has responsibility, unless otherwise provided by law.

"(d)(1) The Under Secretary shall prescribe policies to ensure that audit and oversight of contractor activities are coordinated and carried out in a manner to prevent duplication by different elements of the Department.

"(2) In carrying out this subsection, the Under Secretary shall consult with the Inspector General of the Department of Defense.

"(3) Nothing in this subsection shall affect the authority of the Inspector General of the Department of Defense to establish audit policy for the Department of Defense under the Inspector General Act of 1978 and otherwise to carry out the functions of the Inspector General under that Act.

"(e)(1) With regard to all matters for which he has responsibility by law or by direction of the Secretary of Defense, the Under Secretary of Defense for Acquisition takes precedence in the Department of Defense after the Secretary of Defense and the Deputy Secretary of Defense.

"(2) With regard to all matters other than matters for which he has responsibility by law or by direction of the Secretary of Defense, the Under Secretary takes precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, and the Secretaries of the military departments.".

SEC. 902. ESTABLISHMENT OF POSITION OF DEPUTY UNDER SECRETARY OF DEFENSE FOR ACQUISITION

(a) ESTABLISHMENT OF POSITION.—(1) Chapter 4 of title 10, United States Code (as amended by title I of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended by inserting after section 133 the following new section:

"§ 133a. Deputy Under Secretary of Defense for Acquisition

"(a) There is a Deputy Under Secretary of Defense for Acquisition, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Deputy Under Secretary of Defense for Acquisition shall assist the Under Secretary of Defense for Acquisition in the performance of his duties. The Deputy Under Secretary shall act for, and exercise the powers of, the Under Secretary when the Under Secretary is absent or disabled.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 133 the following new item:

"133a. Deputy Under Secretary of Defense for Acquisition.".

(b) PAY GRADE.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Deputy Under Secretary of Defense for Acquisition.".

SEC. 903. OTHER SENIOR CIVILIAN ACQUISITION OFFICIALS

(a) PRECEDENCE OF UNDER SECRETARY FOR POLICY.—Section 134 of title 10, United State Code (as designated by section 105 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended by inserting "the Under Secretary of Defense for Acquisition," in subsection (c) after "Deputy Secretary of Defense,".

(b) FUNCTIONS AND GRADE OF DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING.—(1) Section 135 of title 10, United States Code (as amended by section 105 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended—

(A) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) Except as otherwise prescribed by the Secretary of Defense, the Director of Defense Research and Engineering shall perform such duties relating to research and engineering as the Under Secretary of Defense for Acquisition may prescribe."; and

(B) by striking out subsection (c).

(2)(A) Section 5314 of title 5, United States Code, is amended by striking out "Director of Defense Research and Engineering.".

(B) Section 5315 of such title is amended by adding at the end the following:

"Director of Defense Research and Engineering.".

(c) INDEPENDENCE AND STAFF OF DIRECTOR OF OPERATIONAL TEST AND EVALUATION.—Section 138 of title 10, United States Code (as redesignated by section 101(a), of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)) is amended—

(1) by inserting "and the Under Secretary of Defense for Acquisition" after "Secretary of Defense" in the first sentence of subsection (b);

(2) by inserting "and the Under Secretary of Defense for Acquisition" after "Secretary of Defense" in subsection (b)(2);

(3) by inserting ", to the Under Secretary of Defense for Acquisition," in subsection (b)(5) after "Secretary of Defense";

(4) by inserting ", to the Under Secretary of Defense for Acquisition," in subsection (c) after "Secretary of Defense" the first place such term appears;

(5) by inserting "personally" in the first sentence of subsection (d) after "Secretary of Defense";

(6) by inserting ", the Under Secretary of Defense for Acquisition," in the second sentence of subsection (g)(1) after "Secretary of Defense"; and

(7) by adding at the end the following new subsection:

"(i) The Director shall have sufficient professional staff of military and civilian personnel to enable the Director to carry out the duties and responsibilities of the Director prescribed by law.".

(d) DIRECTOR OF OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION.—Section 15(k)(3) of the Small Business Act (15 U.S.C. 644(k)(3)) is amended by inserting ", except that in the case of the Department of Defense the Director of the Office of Small and

Disadvantaged Business Utilization shall be responsible to, and report directly to, the Under Secretary of Defense for Acquisition".

(e) CONFORMING AMENDMENT FOR ARMED FORCES POLICY COUNCIL MEMBERSHIP.—Section 171(a) of title 10, United States Code is amended—

(1) by redesignating paragraphs (3) through (11) as paragraphs (4), (5), (6), (7), (9), (10), (11), (12), and (13), respectively;

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) the Under Secretary of Defense for Acquisition;"; and

(3) by striking out paragraph (7) (as so redesignated) and inserting in lieu thereof the following:

"(7) the Under Secretary of Defense for Policy;

"(8) the Deputy Under Secretary of Defense for Acquisition;".

SEC. 904. ENHANCED PROGRAM STABILITY FOR MAJOR DEFENSE ACQUISITION PROGRAMS

(a) PROGRAM STABILITY.—(1) Chapter 144 of title 10, United States Code, is amended by adding after section 2434 (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)) the following new section:

"§ 2435. Enhanced program stability

"(a) BASELINE DESCRIPTION REQUIREMENT.—(1) The Secretary of a military department shall establish a baseline description for a major defense acquisition program under the jurisdiction of such Secretary—

"(A) before such program enters full-scale engineering development; and

"(B) before such program enters full-rate production.

"(2) A baseline description required under paragraph (1) shall include the following:

"(A) In the case of the full-scale development stage—

"(i) a description of the performance goals for the weapons system to be acquired under the program;

"(ii) a description of the technical characteristics and configuration of such system;

"(iii) total development costs for such stage by fiscal year; and

"(iv) the schedule of development milestones.

"(B) In the case of the production stage—

"(i) a description of the performance of the weapons system to be acquired under the program;

"(ii) a description of the technical characteristics and configuration of such system;

"(iii) number of end items by fiscal year;

"(iv) the schedule of development milestones;

"(v) testing;

"(vi) initial training;

"(vii) initial provisioning; and

"(viii) total procurement costs for such stage (including the cost of all elements included in the baseline description) by fiscal year, which may not exceed the amount of the independent cost estimate for that program submitted to the Secretary of Defense under section 2434 of this title.

"(b) PROGRAM DEVIATION REPORTS.—(1) The program manager of a major defense acquisition program shall immediately submit a program deviation report for such program to the Secretary of the military department concerned and to the senior procurement executive of such military department (designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3))) if such manager determines at any time during the full-scale engineering development stage or the production stage that there is reasonable cause to believe that—

"(A) the total cost of completion of the program will be more than the amount specified in the baseline description established under subsection (a) for such stage;

"(B) any milestone specified in such baseline description will not be completed as scheduled; or

"(C) the system to be acquired under the program will not fulfill the description of performance, technical characteristics, or configuration specified in such baseline description.

"(2) The Secretary of the military department concerned shall, with respect to any major defense acquisition program for which a program deviation report is received under paragraph (1)—

"(A) establish a review panel to review such program; and

"(B) submit a report containing the program deviation report and the results of such review to the Under Secretary of Defense for Acquisition before the end of the 45-day period beginning on the date that the program deviation report is submitted under paragraph (1).

"(c) DEFINITION.—In this section, the term 'major defense acquisition program' has the meaning given that term in section 2432(a)(1) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2434 the following new item:

"2435. Enhanced program stability.".

(b) EFFECTIVE DATE.—Section 2435 of title 10, United States Code (as added by subsection (a)(1)), shall apply to major defense acquisition programs that enter full-scale engineering development or full-rate production after the date of the enactment of this Act.

SEC. 905. DEFENSE ENTERPRISE PROGRAMS

(a) IN GENERAL.—(1) Chapter 144 of title 10, United States Code, is amended by adding after section 2435 (as added by section 904) the following new section:

"§ 2436. Defense enterprise programs

"(a) IN GENERAL.—The Secretary of Defense shall conduct, through the Secretaries of the military departments, a program with respect to increasing the efficiency of the management structure of defense acquisition programs by reducing the number of officials through whom a program manager reports to the senior procurement executive of the military department concerned.

"(b) DESIGNATION OF PARTICIPATING PROGRAMS.—The Secretary of a military department may designate any defense acquisition program under the jurisdiction of the Secretary to participate in the program described in subsection (a). A program designated under this subsection shall be known as a 'defense enterprise program'.

"(c) GUIDELINES.—The Secretary of Defense shall issue guidelines governing the management of defense enterprise programs. Such guidelines shall include the following requirements:

"(1) The Secretary concerned shall designate a program executive officer for each program.

"(2) The program manager for each program shall report with respect to such program directly, without intervening review or approval, to the program executive officer for the program.

"(3) The program executive officer for a program shall report with respect to such program directly, without intervening review or approval, to the senior procurement executive of the military department concerned designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)).

"(4) The program executive officer to whom a defense enterprise program manager reports shall evaluate the job performance of such manager on an annual basis. In conducting an evaluation under this paragraph, a program executive officer shall consider the extent to which the manager has achieved the objectives of the program for which the manager is responsible, including quality, timeliness, and cost objectives.

"(5) The manager of a defense enterprise program shall be authorized staff positions for a technical staff, including experts in business management, contracting, auditing, engineering, testing, and logistics.

"(d) APPLICABLE RULES AND REGULATIONS.—(1) Except as specified by the senior procurement executive of the military department concerned, a defense enterprise program shall not be subject to any regulation, policy, directive, or administrative rule or guideline relating to the acquisition activities of the Department of Defense other than the Federal Acquisition Regulation and the Department of Defense supplement to the Federal Acquisition Regulation.

"(2) Paragraph (1) shall not be construed to limit or modify the application of Federal legislation relating to the acquisition activities of the Department of Defense.

"(3) In this subsection the term 'Federal Acquisition Regulation' has the meaning given such term in section 2320(a)(4) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2435 (as added by section 904) the following new item:

"2436. Defense enterprise programs.".

(b) The Secretary of each military department shall designate for fiscal year 1988 not less than three defense acquisition programs under the jurisdiction of the Secretary to participate in the program described in section 2436(a) of title 10, United States Code (as added by subsection (a)(1)).

SEC. 906. MILESTONE AUTHORIZATION OF DEFENSE ENTERPRISE PROGRAMS

(a) IN GENERAL.—(1) Chapter 144 of title 10, United States Code, is amended by adding after section 2436 (as inserted by section 905) the following new section:

"§ 2437. Defense enterprise programs: milestone authorization

"(a) DESIGNATION OF PARTICIPATING PROGRAMS.—(1) The Secretary of Defense may designate defense enterprise programs in each

military department (as designated by the Secretary of the military department under section 2436 of this title) to be considered for milestone authorization under subsection (b).

"(2) The Secretary may designate a defense enterprise program under paragraph (1) only if the program—

"(A) is ready to proceed into the full-scale engineering development stage or the full-rate production stage; or

"(B) is in either of such stages.

"(b) SUBMISSION OF BASELINE DESCRIPTIONS.—Not later than the end of the 90-day period beginning on the date that a defense enterprise program is designated under subsection (a), the Secretary of Defense shall—

"(1) in the case of a program that is subject to section 2435(a) of this title, submit to the Committees on Armed Services of the Senate and House of Representatives the baseline description for the program required to be submitted under such section;

"(2) in the case of a program that is not subject to such section—

"(A) establish a baseline description that meets the requirements of such section; and

"(B) submit the baseline description to such committees; and

"(3) request from Congress the authority to obligate funds in a single amount sufficient to carry out the stage for which the baseline description is submitted.

"(c) MILESTONE AUTHORIZATION.—Congress shall authorize funds for the full-scale engineering development stage or the full-rate production stage of a program designated by the Secretary of Defense under subsection (a) in a single amount sufficient to carry out that stage, but not for a period in excess of five years, if such program is approved by Congress to—

"(1) proceed into or complete the full-scale engineering development stage; or

"(2) proceed into or complete the full-rate production stage.

"(d) PROGRAM DEVIATIONS.—(1) If the Secretary of Defense receives a program deviation report under section 2435(b) of this title with respect to a defense enterprise program for which funds are authorized under subsection (b)—

"(A) the Secretary of Defense shall notify the Committees on Armed Services of the Senate and House of Representatives of the receipt of such report before the end of the 15-day period beginning on the date on which the Secretary receives such report; and

"(B) except as provided in paragraph (2), after the end of the 45-day period beginning on the date on which the Secretary of Defense receives such report, the Secretary concerned may not obligate amounts appropriated or otherwise made available to the Department of Defense for purposes of carrying out the program.

"(2) Paragraph (1)(B) does not apply if the Secretary of Defense notifies Congress that the Secretary intends to—

"(A) convene a board to formally review the program; and

"(B) submit to Congress a revised baseline description for the program and the recommendations of the board convened under subparagraph (A) concurrent with the submission by the President of the budget for the next fiscal year under section 1105(a) of title 31.

"(3) The Secretary concerned may not obligate, for the purpose of carrying out a program described in paragraph (1) for which a program deviation report is received, amounts appropriated or otherwise made available to the Department of Defense for the fiscal year following the fiscal year during which the program deviation report was received unless such amounts are authorized to be appropriated after the date on which such report was received.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2436 (as inserted by section 905) the following new item:

"2437. Defense enterprise programs: milestone authorization.".

(b) INITIAL DESIGNATION OF PARTICIPATING PROGRAMS.—The Secretary of Defense shall designate for fiscal year 1988 not less than three defense enterprise programs to be considered for milestone authorization under subsection (b). The Secretary shall make such designations as part of the budget submission of the Department of Defense for such fiscal year.

SEC. 907. PREFERENCE FOR NONDEVELOPMENTAL ITEMS

(a) IN GENERAL.—(1) Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2325. Preference for nondevelopmental items

"(a) PREFERENCE.—The Secretary of Defense shall ensure that, to the maximum extent practicable—

"(1) requirements of the Department of Defense with respect to a procurement of supplies are stated in terms of—

"(A) functions to be performed;

"(B) performance required; or

"(C) essential physical characteristics;

"(2) such requirements are defined so that nondevelopmental items may be procured to fulfill such requirements; and

"(3) such requirements are fulfilled through the procurement of nondevelopmental items.

"(b) IMPLEMENTATION.—The Secretary of Defense shall carry out this section through the Under Secretary of Defense for Acquisition, who shall have responsibility for its effective implementation.

"(c) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

"(d) DEFINITION.—In this section, the term 'nondevelopmental item' means—

"(1) any item of supply that is available in the commercial marketplace;

"(2) any previously-developed item of supply that is in use by a department or agency of the United States, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

"(3) any item of supply described in paragraph (1) or (2) that requires only minor modification in order to meet the requirements of the procuring agency; or

"(4) any item of supply that is currently being produced that does not meet the requirements of paragraph (1), (2), or (3) solely because the item—

"(A) is not yet in use; or

"(B) is not yet available in the commercial marketplace.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2325. Preference for nondevelopmental items.".

(3) The Secretary of Defense shall prescribe regulations as required by section 2325(c) of title 10, United States Code (as added by subsection (a)(1)), before the end of the 180-day period beginning on the date of the enactment of this Act.

(b) REMOVAL OF IMPEDIMENTS TO ACQUISITION OF NONDEVELOPMENTAL ITEMS.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report—

(A) identifying actions taken, including training of personnel and changes in regulations and procurement procedures, to implement the requirements of section 2325 of title 10, United States Code (as added by subsection (a)(1));

(B) identifying all statutes and regulations that are determined by the Secretary to impede the acquisition of nondevelopmental items by the Department of Defense; and

(C) recommending any legislation that the Secretary considers necessary or appropriate to promote maximum procurement of nondevelopmental items to fulfill the supply requirements of the Department of Defense.

(2) The Secretary shall take appropriate steps to remove any impediments identified by the Secretary under paragraph (1)(A) that are under the jurisdiction of the Secretary.

(3) The report required by paragraph (1) shall be submitted before the end of the one-year period beginning on the date of the enactment of this Act.

(c) EVALUATION BY COMPTROLLER GENERAL.—(1) The Comptroller General shall conduct an independent evaluation of the actions taken by the Secretary of Defense to carry out the requirements of section 2325 of title 10, United States Code (as added by subsection (a)(1)).

(2) The Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the evaluation required by paragraph (1). Such report shall include—

(A) an analysis of the effectiveness of the actions taken by the Secretary to carry out the requirements of section 2325 of title 10, United States Code (as added by subsection (a)(1));

(B) a description of any programs conducted to notify acquisition personnel of the Department of Defense of the requirements of such section and to train such personnel in the appropriate procedures for carrying out such section;

(C) a description of each law, regulation, and procedure which prevents or restricts maximum practicable use of nondevelopmental items to fulfill the supply requirements of the Department of Defense; and

(D) such recommendations for additional legislation as the Comptroller General considers necessary or appropriate to promote maximum procurement of nondevelopmental items to fulfill the supply requirements of the Department of Defense.

(3) The report required by paragraph (2) shall be submitted before the end of the two-year period beginning on the date of the enactment of this Act.

(d) DEFINITION.—For the purposes of subsections (b) and (c), the term "nondevelopmental items" has the meaning given such term in section 2325(d) of title 10, United States Code (as added by subsection (a)(1)).

SEC. 908. REQUIREMENTS RELATING TO UNDEFINITIZED CONTRACTUAL ACTIONS

(a) LIMITATION ON USE OF FUNDS FOR UNDEFINITIZED CONTRACTUAL ACTIONS.—(1) On the last day of each six-month period described in paragraph (4), the Secretary of Defense (with respect to the Defense Logistics Agency) and the Secretary of each military department shall determine—

(A) the total amount of funds obligated for contractual actions during the six-month period;

(B) the total amount of funds obligated during the six-month period for undefinitized contractual actions; and

(C) the total amount of funds obligated during the six-month period for undefinitized contractual actions that are not definitized on or before the last day of such period.

(2) On the last day of each six-month period described in paragraph (4), the amount of funds obligated for undefinitized contractual actions entered into by the Secretary of Defense (with respect to the Defense Logistics Agency) or the Secretary of a military department during the six-month period that are not definitized on or before such day may not exceed 10 percent of the amount of funds obligated for all contractual actions entered into by the Secretary during the six-month period.

(3) If on the last day of a six-month period described in paragraph (4) the total amount of funds obligated for undefinitized contractual actions under the jurisdiction of a Secretary that were entered into during the six-month period exceeds the limit established in paragraph (2), the Secretary—

(A) shall, not later than the end of the 45-day period beginning on the first day following the six-month period, submit to the defense committees an unclassified report concerning—

(i) the amount of funds obligated for contractual actions under the jurisdiction of the Secretary that were entered into during the six-month period with respect to which the report is submitted; and

(ii) the amount of such funds obligated for undefinitized contractual actions; and

(B) except with respect to the six-month period described in paragraph (4)(A), may not enter into any additional undefinitized contractual actions until the date on which the Secretary certifies to Congress that such limit is not exceeded by the cumulative amount of funds obligated for undefinitized contractual actions under the jurisdiction of the Secretary that are not definitized on or before such date and were entered into—

(i) during the six-month period for which such limit was exceeded; or

(ii) after the end of such six-month period.

(4) This subsection applies to the following six-month periods:

(A) The period beginning on October 1, 1986, and ending on March 31, 1987.

(B) The period beginning on April 1, 1987, and ending on September 30, 1987.

(C) The period beginning on October 1, 1987, and ending on March 31, 1988.

(D) The period beginning on April 1, 1988, and ending on September 30, 1988.

(E) The period beginning on October 1, 1988, and ending on March 31, 1989.

(b) OVERSIGHT BY INSPECTOR GENERAL.—The Inspector General of the Department of Defense shall—

(1) periodically conduct an audit of contractual actions under the jurisdiction of the Secretary of Defense (with respect to the Defense Logistics Agency) and the Secretaries of the military departments; and

(2) after each audit, submit to Congress a report on the management of undefinitized contractual actions by each Secretary, including the amount of contractual actions under the jurisdiction of each Secretary that is represented by undefinitized contractual actions.

(c) WAIVER AUTHORITY.—The Secretary of Defense may waive the application of this section for urgent and compelling considerations relating to national security or public safety if the Secretary notifies the Committees on Armed Services of the Senate and House of Representatives of such waiver before the end of the 30-day period beginning on the date that the waiver is made.

(d) ESTABLISHMENT OF REQUIREMENTS WITH RESPECT TO UNDEFINITIZED CONTRACTUAL ACTIONS.—(1)(A) Chapter 137 of title 10, United States Code, is amended by adding after section 2325 (as added by section 907) the following new section:

"§ 2326. Undefinitized contractual actions: restrictions

"(a) IN GENERAL.—The head of an agency may not enter into an undefinitized contractual action unless the request to the head of the agency for authorization of the contractual action includes a description of the anticipated effect on requirements of the military department concerned if a delay is incurred for purposes of determining contractual terms, specifications, and price before performance is begun under the contractual action.

"(b) LIMITATIONS ON OBLIGATION AND EXPENDITURE OF FUNDS.—(1) A contracting officer of the Department of Defense may not enter into an undefinitized contractual action unless the contractual action provides for agreement upon contractual terms, specifications, and price by the earlier of—

"(A) the end of the 180-day period beginning on the date on which the contractor submits a qualifying proposal to definitize the contractual terms, specifications, and price; or

"(B) the date on which the amount of funds obligated or expended under the contractual action is equal to more than 50 percent of the negotiated overall ceiling price for the contractual action.

"(2) Except as provided in paragraph (3), the contracting officer for an undefinitized contractual action may not expend with respect to such contractual action an amount that is equal to more than 50 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

"(3) If a contractor submits a qualifying proposal (as defined in subsection (g)) to definitize an undefinitized contractual action before an amount equal to more than 50 percent of the negotiated

overall ceiling price is expended on such action, the contracting officer for such action may not expend with respect to such contractual action an amount that is equal to more than 75 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

"(4) This subsection does not apply to an undefinitized contractual action for the purchase of initial spares.

"(c) INCLUSION OF NON-URGENT REQUIREMENTS.—Requirements for spare parts and support equipment that are not needed on an urgent basis may not be included in an undefinitized contractual action for spare parts and support equipment that are needed on an urgent basis unless the head of the agency approves such inclusion as being—

"(1) good business practice; and

"(2) in the best interests of the United States.

"(d) MODIFICATION OF SCOPE.—The scope of an undefinitized contractual action under which performance has begun may not be modified unless the head of the agency approves such modification as being—

"(1) good business practice; and

"(2) in the best interests of the United States.

"(e) ALLOWABLE PROFIT.—The head of an agency shall ensure that the profit allowed on an undefinitized contractual action for which the final price is negotiated after a substantial portion of the performance required is completed reflects—

"(1) the possible reduced cost risk of the contractor with respect to costs incurred during performance of the contract before the final price is negotiated; and

"(2) the reduced cost risk of the contractor with respect to costs incurred during performance of the remaining portion of the contract.

"(f) APPLICABILITY.—This section does not apply to the Coast Guard or the National Aeronautics and Space Administration.

"(g) DEFINITIONS.—In this section:

"(1) The term 'undefinitized contractual action' means a new procurement action entered into by the head of an agency for which the contractual terms, specifications, or price are not agreed upon before performance is begun under the action. Such term does not include contractual actions with respect to the following:

"(A) Foreign military sales.

"(B) Purchases of less than $25,000.

"(C) Special access programs.

"(D) Congressionally-mandated long-lead procurement contracts.

"(2) The term 'qualifying proposal' means a proposal that contains sufficient information to enable the Department of Defense to conduct complete and meaningful audits of the information contained in the proposal and of any other information that the Department is entitled to review in connection with the contract, as determined by the contracting officer.".

(B) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2325 (as added by section 907) the following new item:

"2326. Undefinitized contractual actions: restrictions.".

(2) Section 2326 of title 10, United States Code (as added by subsection (d)(1)), applies to undefinitized contractual actions that are entered into after the end of the 180-day period beginning on the date of the enactment of this Act.

(e) DEFINITION.—For purposes of this section, the term "undefinitized contractual action" has the meaning given such term in section 2325(g) of title 10, United States Code (as added by subsection (d)(1)).

SEC. 909. COMPETITIVE PROTOTYPE STRATEGY REQUIREMENT FOR MAJOR DEFENSE ACQUISITION PROGRAMS

(a) ESTABLISHMENT OF REQUIREMENT.—Chapter 139 of title 10, United States Code, is amended by adding after section 2364 (as added by section 234) the following new section:

"§ 2365. Competitive prototype strategy requirement: major defense acquisition programs

"(a) COMPETITIVE PROTOTYPE STRATEGY REQUIREMENT.—Except as provided in subsection (c), the Secretary of Defense shall require the use of a competitive prototype program strategy in the development of a major weapons system (or a subsystem of such system).

"(b) QUALIFYING STRATEGIES.—An acquisition strategy qualifies as a competitive prototype strategy if it—

"(1) requires that contracts be entered into with not less than two contractors, using the same combat performance requirements, for the competitive design and manufacture of a prototype system or subsystem for developmental test and evaluation;

"(2) requires that all systems or subsystems developed under contracts described in paragraph (1) be tested in a comparative side-by-side test that is designed to—

"(A) reproduce combat conditions to the extent practicable; and

"(B) determine which system or subsystem is most effective under such conditions; and

"(3) requires that each contractor that develops a prototype system or subsystem, before the testing described in subparagraph (B) is begun, submit—

"(A) cost estimates for full-scale engineering development and the basis for such estimates; and

"(B) production estimates, whenever practicable.

"(c) EXCEPTION.—Subsection (a) shall not apply to the development of a major weapons system (or subsystem of such system) after—

"(1) the Secretary submits to Congress—

"(A) written notification that use of a competitive prototype program strategy is not practicable with respect to such system or subsystem; and

"(B) a report that fully explains why use of such a strategy is not practicable, including cost estimates (and the bases for such estimates) comparing the total program cost of the competitive prototype strategy with the total program cost of the alternative acquisition strategy; and

"(2) 30 days elapse after the Secretary submits the notification and report required by paragraph (1).

"(d) DEFINITIONS.—In this section:

"(1) The term 'major weapons system' means a major weapons system that is acquired under a program that is a major defense acquisition program.

"(2) The term 'major defense acquisition program' means a Department of Defense acquisition program that—

"(A) is not a highly sensitive classified program (as determined by the Secretary of Defense); and

"(B) that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than $200,000,000 (based on fiscal year 1980 constant dollars).

"(3) The term 'subsystem of such system' means a collection of components (such as the propulsion system, avionics, or weapon controls) for which the prime contractors, major subcontractors, or government entities have responsibility for system integration.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2364 (as added by section 234) the following new item:

"2365. Competitive prototype strategy requirement: major defense acquisition programs.".

(b) EFFECTIVE DATE.—Section 2365 of title 10, United States Code (as added by subsection (a)(1)), shall apply to major weapons systems (as defined in subsection (c)(1) of such section) that enter the advanced development stage after September 30, 1986.

SEC. 910. TESTING OF CERTAIN WEAPON SYSTEMS AND MUNITIONS

(a) SURVIVABILITY AND LETHALITY TESTING AND OPERATIONAL TESTING.—(1) Chapter 139 of title 10, United States Code, is amended by adding after section 2365 (as added by section 909) the following new section:

"§ 2366. Major systems and munitions programs: survivability and lethality testing; operational testing

"(a) REQUIREMENTS.—The Secretary of Defense shall provide that—

"(1) a covered system may not proceed beyond low-rate initial production until realistic survivability testing of the system is completed in accordance with this section;

"(2) a major munition program or a missile program may not proceed beyond low-rate initial production until realistic lethality testing of the program is completed in accordance with this section; and

"(3) a major defense acquisition program may not proceed beyond low-rate initial production until initial operational test and evaluation of the program is completed in accordance with this section.

"(b) TEST GUIDELINES.—(1) Survivability and lethality tests required under subsection (a) shall be carried out sufficiently early in the development phase of the system or program to allow any design deficiency demonstrated by the testing to be corrected in the design of the system, munition, or missile before proceeding beyond low-rate initial production.

"(2) In the case of a major defense acquisition program, no person employed by the contractor for the system being tested may be

involved in the conduct of the operational test and evaluation required under subsection (a).

"(3) The costs of all tests required under that subsection shall be paid from funds available for the system being tested.

"(c) WAIVER AUTHORITY.—The Secretary of Defense may waive the application of the survivability and lethality tests of this section to a covered system, munitions program, or missile program if the Secretary, before the system or program enters full-scale engineering development, certifies to Congress that live-fire testing of such system or program would be unreasonably expensive and impractical.

"(d) WAIVER IN TIME OF WAR OR MOBILIZATION.—In time of war or mobilization, the President may suspend the operation of any provision of this section.

"(e) DEFINITIONS.—In this section:

"(1) The term 'covered system' means a vehicle, weapon platform, or conventional weapon system—

"(A) that includes features designed to provide some degree of protection to users in combat; and

"(B) that is a major system within the meaning of that term in section 2303(5) of this title.

"(2) The term 'major munitions program' means—

"(A) a munition program for which more than 1,000,000 rounds are planned to be acquired; or

"(B) a conventional munitions program that is a major system within the meaning of that term in section 2302(5) of this title.

"(3) The term 'major defense acquisition program' means—

"(A) a conventional weapons system that is a major system within the meaning of that term in section 2302(5) of this title; and

"(B) is designed for use in combat.

"(4) The term 'realistic survivability testing' means, in the case of a covered system, testing for vulnerability and survivability of the system in combat by firing munitions likely to be encountered in combat (or munitions with a capability similar to such munitions) at the system configured for combat, with the primary emphasis on testing vulnerability with respect to potential user casualties and taking into equal consideration the operational requirements and combat performance of the system.

"(5) The term 'realistic lethality testing' means, in the case of a major munitions program or a missile program, testing for lethality by firing the munition or missile concerned at appropriate targets configured for combat.

"(6) The term 'configured for combat', with respect to a weapon system, platform, or vehicle, means loaded or equipped with all dangerous materials (including all flammables and explosives) that would normally be on board in combat.

"(7) The term 'operational test and evaluation' has the meaning given that term in section 138(a)(2)(A) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2365 (as added by section 909) the following new item:

"2366. Major systems and munitions programs: survivability and lethality testing; operational testing.".

(b) EFFECTIVE DATE.—Section 2366 of title 10, United States Code (as added by subsection (a)), shall apply with respect to any decision to proceed with a program beyond low-rate initial production that is made—

(1) after May 31, 1987, in the case of a decision referred to in subsection (a)(1) or (a)(2) of such section; or

(2) after the date of the enactment of this Act, in the case of a decision referred to in subsection (a)(3) of such section.

(c) TIME FOR SUBMISSION OF ANNUAL REPORT OF DIRECTOR (OT&E).—Subsection (g)(1) of section 138 of such title (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)) is amended by striking out "January 15" in the second sentence and all that follows through 'is prepared' and inserting in lieu thereof "10 days after the transmission of the budget for the next fiscal year under section 1105 of title 31".

SEC. 911. GOALS FOR INCREASED USE OF MULTIYEAR CONTRACTING AUTHORITY IN FISCAL YEAR 1988

(a) IN GENERAL.—The Secretary of Defense shall take appropriate actions to ensure that the Department of Defense increases the use of multiyear contracting authority in fiscal year 1988.

(b) MULTIYEAR PROCUREMENT GOAL.—The total amount obligated under multiyear contracts (authorized by section 2306(h) of title 10, United States Code) for Department of Defense procurement program eligible for multiyear contracting during fiscal year 1988 should be an amount that is not less than 10 percent of the total obligational authority used by the Department of Defense for procurement programs of the Department during such fiscal year.

(c) APPORTIONMENT OF GOAL.—The Secretary of Defense shall specify the percentage of obligational authority of each military department and Defense Agency that is to be used for multiyear contracts to achieve the goal prescribed in subsection (b).

(d) BASELINE REPORT.—Not later than January 1, 1987, the Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a written report which contains—

(1) a list of all procurement programs which the Secretary determines to be procurement programs eligible for multiyear contracting that are subject to the requirements of section 2432 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433));

(2) the Secretary's assessment of the feasibility and desirability of the multiyear procurement goal prescribed in subsection (b); and

(3) whether the Secretary expects to achieve the goal prescribed in subsection (b) for fiscal year 1988 and, if the Secretary does not expect to achieve such goal, the reasons why such goal will not be achieved.

(e) DEFINITIONS.—As used in this section the term "procurement program eligible for multiyear contracting" means a procurement program of the Department of Defense—

(1) which satisfies the conditions of clauses (A) through (F) of section 2306(h)(1) of title 10, United States Code; and

(2) under which production of fully configured end items is planned for a period exceeding three fiscal years.

SEC. 912. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS

(a) IN GENERAL.—(1) Chapter 139 of title 10, United States Code, is amended by adding after section 2366 (as added by section 910) the following new section:

"§ 2367. Use of federally funded research and development centers

"(a) LIMITATION ON USE OF CENTERS.—Except as provided in subsection (b), the Secretary of Defense may not place work with a federally funded research and development center unless such work is within the purpose, mission, and general scope of effort of such center as established in the sponsoring agreement of the Department of Defense with such center.

"(b) EXCEPTION FOR APPLIED SCIENTIFIC RESEARCH.—This section does not apply to a federally funded research and development center that performs applied scientific research under laboratory conditions.

"(c) LIMITATION ON CREATION OF NEW CENTERS.—(1) The head of an agency may not obligate or expend amounts appropriated to the Department of Defense for purposes of operating a federally funded research center that was not in existence before June 2, 1986, until—

"(A) the head of the agency submits to Congress a report with respect to such center that describes the purpose, mission, and general scope of effort of the center; and

"(B) a period of 60 days beginning on the date such report is received by Congress has elapsed.

"(2) In this subsection, the term 'head of an agency' has the meaning given such term in section 2302(1) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2366 (as added by section 910) the following new item:

"2367. Use of Federally funded research and development centers.".

(b) GAO STUDY.—The Comptroller General shall conduct a study of the national defense role of federally funded research and development centers. Such study shall consider the following:

(1) The effectiveness of procedures in effect on the date of the enactment of this Act in ensuring that such centers are established on the basis of the criteria set forth in Office of Federal Procurement Policy Circular 84-1.

(2) The effectiveness of such procedures in ensuring that work placed with such centers is within the purpose, mission, and general scope of effort of such center as established in the sponsoring agreement with such center.

(3) The growth in the size of such centers during fiscal years 1982 through 1986, measured—

(A) in dollar value of work placed with such centers; and

(B) in man-years of effort required to complete work placed with such centers.

(4) The effect of the exemption of contracts with such centers from the competitive procedures required by section 2304 of title 10, United States Code.

(5) The relationship of such centers to their sponsors.

(c) GAO REPORT.—(1) The Comptroller General shall submit to Congress a report on the study required by subsection (b). Such report shall include a discussion of each of the matters listed in subsection (b).

(2) The report required by paragraph (1) shall be submitted not later than one year after the date of the enactment of this Act.

PART B—REQUIREMENTS RELATING TO THE ACQUISITION PROCESS

SEC. 921. SMALL BUSINESS SET-ASIDES

(a) PROPORTION OF CONTRACTS SET ASIDE DETERMINED ON INDUSTRY CATEGORY BASIS.—Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended—

(1) by inserting "in each industry category" in paragraph (3) after "Government", and

(2) by adding at the end the following new sentences: "For purposes of clause (3) of the first sentence of this subsection, an industry category is a discrete group of similar goods and services. Such groups shall be determined by the Administration in accordance with the four-digit standard industrial classification codes contained in the Standard Industrial Classification Manual published by the Office of Management and Budget, except that the Administration shall limit such an industry category to a greater extent than provided under such classification codes if the Administration receives evidence indicating that further segmentation for purposes of this paragraph is warranted due to special capital equipment needs or special labor or geographic requirements or to recognize a new industry. A market for goods or services may not be segmented under the preceding sentence due to geographic requirements unless the Government typically designates the area where work for contracts for such goods or services is to be performed and Government purchases comprise the major portion of the entire domestic market for such goods or services and, due to the fixed location of facilities, high mobilization costs, or similar economic factors, it is unreasonable to expect competition from business concerns located outside of the general areas where such concerns are located.".

(b) AWARDING OF CONTRACTS AT FAIR MARKET PRICES.—(1) Section 15(a) of such Act (15 U.S.C. 644(a)) is further amended by adding at the end the following new sentence: "A contract may not be awarded under this subsection if the award of the contract would result in a cost to the awarding agency which exceeds a fair market price.".

(2) Section 8(a)(1)(A) of such Act (15 U.S.C. 637(a)(1)(A)) is amended by striking out the semicolon at the end and adding in lieu thereof the following: ". A contract may not be awarded under this subsection if the award of the contract would result in a cost to the awarding agency which exceeds a fair market price;".

(c) ASSURANCE AS TO COMPOSITION OF LABOR FORCE.—(1) Section 8(a) of such Act (15 U.S.C. 637(a)) is amended by adding at the end the following new paragraph:

"(14)(A) A concern may not be awarded a contract under this subsection as a small business concern unless the concern agrees that—

"(i) in the case of a contract for services (except construction), at least 50 percent of the cost of contract performance incurred for personnel shall be expended for employees of the concern; and

"(ii) in the case of a contract for procurement of supplies (other than procurement from a regular dealer in such supplies), the concern will perform work for at least 50 percent of the cost of manufacturing the supplies (not including the cost of materials).

"(B) The Administrator may change the percentage under clause (i) or (ii) of subparagraph (A) if the Administrator determines that such change is necessary to reflect conventional industry practices among business concerns that are below the numerical size standard for businesses in that industry category. A percentage established under the preceding sentence may not differ from a percentage established under section 15(n).

"(C) The Administration shall establish, through public rulemaking, requirements similar to those specified in subparagraph (A) to be applicable to contracts for general and specialty construction and to contracts for any other industry category not otherwise subject to the requirements of such subparagraph. The percentage applicable to any such requirement shall be determined in accordance with subparagraph (B), except that such a percentage may not differ from a percentage established under section 15(n) for the same industry category.".

(2) Section 15 of such Act (15 U.S.C 644) is amended by adding at the end the following new subsection:

"(o)(1) A concern may not be awarded a contract under this subsection as a small business concern unless the concern agrees that—

"(A) in the case of a contract for services (except construction), the concern will perform at least 50 percent of the cost of the contract with its own employees; and

"(B) in the case of a contract for procurement of supplies (other than procurement from a regular dealer in such supplies), the concern will perform work for at least 50 percent of the cost of manufacturing the supplies (not including the cost of materials).

"(2) The Administrator may change the percentage under subparagraph (A) or (B) of paragraph (1) if the Administrator determines that such change is necessary to reflect conventional industry practices among business concerns that are below the numerical size standard for businesses in that industry category.

"(3) The Administration shall establish, through public rulemaking, requirements similar to those specified in paragraph (1) to be applicable to contracts for general and specialty construction and to contracts for any other industry category not otherwise subject to the requirements of such subparagraph.".

(d) EXPANSION OF ANNUAL PARTICIPATION GOALS.—Section 15(g) of such Act is amended—

(1) by striking out "having values of $10,000 or more" in the first sentence; and

(2) by adding at the end the following: "For the purpose of establishing goals under this subsection, the head of each Federal agency shall make consistent efforts to annually expand participation by small business concerns from each industry category in procurement contracts of the agency, including participation by small business concerns owned and controlled by socially and economically disadvantaged individuals. The head of each Federal agency, in attempting to attain such participation, shall consider—

"(1) contracts awarded as the result of unrestricted competition; and

"(2) contracts awarded after competition restricted to eligible small business concerns under this section and under the program established under section 8(a).".

(e) DISCLOSURE OF INFORMATION CONCERNING APPLICANTS FOR PROCUREMENT SET-ASIDES.—Section 15 of such Act is further amended by adding at the end the following new subsection:

"(p)(1) Except as provided in paragraphs (2) and (3), the head of any Federal agency shall, within five days of the agency's decision to set aside a procurement for small business concerns under this section, provide the names and addresses of the small business concerns expected to respond to the procurement to any person who requests such information.

"(2) The Secretary of Defense may decline to provide information under paragraph (1) in order to protect national security interests.

"(3) The head of a Federal agency is not required to release any information under paragraph (1) that is not required to be released under section 552 of title 5, United States Code.".

(f) REVIEW OF SIZE STANDARDS.—Section 3 of the Small Business Act is amended—

(1) by inserting "(1)" after "SEC. 3. (a)"; and

(2) by adding at the end of subsection (a) the following:

"(2)(A) The Small Business Administration shall establish a program for the review of the size standards for eligibility of business concerns in the industry categories described in subparagraph (B) for a procurement restricted to small business concerns under section 8(a) or 15(a).

"(B) Subparagraph (A) shall apply only to business concerns in the following industry categories:

"(i) Construction.

"(ii) Architectural and engineering services (including surveying and mapping services).

"(iii) Ship building and ship repair.

"(iv) Refuse systems and related services.

"(3) If the Administrator determines, on the basis of any such review, that contracts awarded under the set-aside programs under such sections exceed 30 percent of the dollar value of the total contract awards for that industry category, as determined under the last sentence of section 15(a)(3), the Administrator shall adjust the size standards for such industry category establishing eligibility for a set-aside program to a size that will likely reduce the number of contracts which may be set aside to approximately 30 percent of the value of contracts to be awarded under such sections.

"(4)(A) An interested person may petition the Administrator at any time to review an adjustment to a size standard made under paragraph (3) or any designation of an industry category made under section 15(a)(3) if the petitioner presents credible evidence that any such adjustment or designation—

"(i) is not likely to further the purposes of paragraph (3)(A) or section 15(a); and

"(ii) has caused the petitioner to suffer severe financial loss.

"(B) The Administrator shall render a final determination on any petition filed under subparagraph (A) before the end of the 30-day period beginning on the date that such petition is received by the Administration. Such determination shall be reviewable in the manner prescribed in chapter 7 of title 5, United States Code.

"(C) The Administrator shall prescribe regulations to carry out the provisions of this subsection.

"(5) The Administrator shall conduct a review under the program established under paragraph (2) at least once during every three years. Such review shall be completed and appropriate size standard adjustments made with the expiration of 180 days after each three-year review period.".

(g) EFFECTIVE DATE.—Except as otherwise provided in subsection (h), the amendments made by this section shall take effect on October 1, 1987.

(h) INITIAL REVIEW OF SIZE STANDARDS.—(1) Paragraph (2) of section 3(a) of the Small Business Act (as added by subsection (f)) shall take effect on the date of the enactment of this Act.

(2) The first review conducted by the Administrator under such paragraph shall review the periods beginning on October 1, 1983, and ending on September 30, 1986, and shall be completed not later than 180 days after the date of the enactment of this Act.

(3) If the Administrator of the Small Business Administration determines, on the basis of the review referred to in paragraph (2), that contracts awarded under the set-aside programs under sections 8(a) and 15(a) of the Small Business Act in any industry category subject to that review exceed 30 percent of the dollar value of the total contract awards for that industry category, as determined in accordance with the last sentence of section 15(a)(3) of such Act, the Administrator shall propose adjustments to the size standards for such industry category establishing eligibility for a set-aside program to a size that will likely reduce the number of contracts which may be set aside to approximately 30 percent of the value of contracts to be awarded under such sections. The Administrator shall publish such proposed adjustments in the Federal Register for public comment. The Administrator may not issue final regulations implementing revised size standards for an industry category under section 3(a)(3) of such Act (as added by subsection (f)) until October 1, 1987.

(i) REPORT ON EFFECT OF AMENDMENTS MADE BY THIS SECTION.—(1) The Administrator of the Small Business Administration shall submit to the Committees on Armed Services and the Committees on Small Business of the Senate and House of Representatives a report on the amendments made by this section. The report shall include the Administrator's views on the advisability and feasibility of implementing such amendments.

(2) The report shall also include—

(B) the Administrator's findings and determinations under the review of size standards for businesses that qualify as small businesses carried out pursuant to section 3(a)(2)(B) of the Small Business Act (as amended by subsection (f));

(B) a determination of whether or not the amendments made by subsection (f) will further the interests of the set-aside program; and

(C) recommendations for furthering the interests described in subparagraphs (A) and (B) in a more efficient or more effective manner than provided in such amendments.

(3) In preparing the report required by paragraph (1), the Administrator of the Small Business Administration shall seek the views of all affected agencies of the Government and the views of the public, including the views of business concerns of all sizes and of trade, business, and professional organizations. The views of such

agencies, and a summary of the views of the public, shall be included in the report.

(4) The report shall be submitted not later than July 15, 1987.

(j) LIMITATION RESPECTING GREAT LAKES NAS.—Of the total dollar amount of the contracts awarded for fiscal year 1987 for construction and of refuse systems and related services at Great Lakes Naval Training Station, ILL, not more than 30 percent of such dollar amount may be under contracts awarded through the so-called small business set-aside programs under sections 8 and 15 of the Small Business Act.

SEC. 922. THRESHOLDS FOR CERTAIN REQUIREMENTS RELATING TO SMALL PURCHASES

(a) SMALL BUSINESS ACT NOTICE THRESHOLDS.—Section 8(e)(1) of the Small Business Act (15 U.S.C. 637(e)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking out "$10,000" both places such term appears and inserting in lieu thereof "$25,000";

(B) by striking out "or" at the end of clause (i);

(C) by striking out the comma at the end of clause (ii) and inserting in lieu thereof "; or";

(D) by inserting after clause (ii) the following new clause:

"(iii) solicit bids or proposals for a contract for property or services for a price expected to exceed $10,000, if there is not a reasonable expectation that at least two offers will be received from responsive and responsible offerors,"; and

(E) by striking out "subsection (b); and" and inserting in lieu thereof "subsection (f);";

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) an executive agency intending to solicit bids or proposals for a contract for property or services shall post, for a period of not less than ten days, in a public place at the contracting office issuing the solicitation a notice of solicitation described in subsection (f)—

"(i) in the case of an executive agency other than the Department of Defense, if the contract is for a price expected to exceed $10,000, but not to exceed $25,000; and

"(ii) in the case of the Department of Defense, if the contract is for a price expected to exceed $5,000, but not to exceed $25,000; and".

(b) OFFICE OF FEDERAL PROCUREMENT POLICY ACT NOTICE THRESHOLDS.—Section 18(a)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)(1)(A)) is amended—

(1) in subparagraph (A)—

(A) by striking out "$10,000" both places such term appears in and inserting in lieu thereof "$25,000";

(B) by striking out "or" at the end of clause (i);

(C) by striking out the comma at the end of clause (ii) and inserting in lieu thereof "; or";

(D) by inserting after clause (ii) the following new clause:

"(iii) solicit bids or proposals for a contract for property or services for a price expected to exceed $10,000, if there is not a reasonable expectation that at least two offers will be received from responsive and responsible offerors,"; and

(E) by striking out "and" at the end;

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) an executive agency intending to solicit bids or proposals for a contract for property or services shall post, for a period of not less than ten days, in a public place at the contracting office issuing the solicitation a notice of solicitation described in subsection (f)—

"(i) in the case of an executive agency other than the Department of Defense, if the contract is for a price expected to exceed $10,000, but not to exceed $25,000; and

"(ii) in the case of the Department of Defense, if the contract is for a price expected to exceed $5,000, but not to exceed $25,000; and".

(c) SMALL BUSINESS SET-ASIDES.—The first sentence of section 15(j) of the Small Business Act (15 U.S.C. 644(j)) is amended by striking out "$10,000" and inserting in lieu thereof "25,000".

(d) CONFORMING AMENDMENTS.—(1) Section 8(f) of the Small Business Act is amended by striking out "subsection (e)(1)(A)" and inserting in lieu thereof "subparagraph (A) or (B) of subsection (e)(1)".

(2) Section 18(b) of the Office of Federal Procurement Policy Act is amended by striking out "subsection (a)(1)(A)" and inserting in lieu thereof "subparagraph (A) or (B) of subsection (a)(1)".

SEC. 923. REQUIREMENTS RELATING TO PROCEDURES OTHER THAN COMPETITIVE PROCEDURES

(a) LIMITED SOURCES.—Section 2304(c)(1) of title 10, United States Code, is amended by inserting "or only from a limited number of responsible sources" after "only one responsible source".

(b) UNSOLICITED PROPOSALS FOR SERVICE.—Subparagraph (A) of section 2304(d)(1) of such title is amended by striking out "a unique and innovative concept" and all that follows and inserting in lieu thereof "a concept—

"(i) that is unique and innovative or, in the case of a service, for which the source demonstrates a unique capability of the source to provide the service; and

"(ii) the substance of which is not otherwise available to the United States, and does not resemble the substance of a pending competitive procurement; and".

(c) FOLLOW-ON CONTRACTS.—Subparagraph (B) of such section is amended—

(1) by inserting ", or the continued provision of highly specialized services, such property or services may be deemed to be available only from the original source and may be procured through procedures other than competitive procedures" after "highly specialized equipment";

(2) by inserting a one-em dash after "would result in";

(3) by paragraphing clauses (i) and (ii) and aligning their margins so as to be cut in four ems;

(4) by striking out the comma after "competition" at the end of clause (i) and inserting in lieu thereof a semicolon; and

(5) by striking out ", such property" and all that follows and inserting in lieu thereof a period.

(d) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall apply with respect to contracts for which solicitations are issued after the end of the 180-day period beginning on the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply with respect to contracts awarded on the basis of unsolicited research proposals after the end of the 180-day period beginning on the date of the enactment of this Act.

(3) The amendments made by subsection (c) shall apply with respect to follow-on contracts awarded after the end of the 180-day period beginning on the date of the enactment of this Act.

SEC. 924. EVALUATION FACTORS IN AWARD OF CONTRACTS

(a) EVALUATION FACTORS.—Subsection (a) of section 2305 of title 10, United States Code, is amended—

(1) in paragraph (2)(A)(i)—

(A) by striking out "(including price)";

(B) by inserting "(including price)" after "sealed bids"; and

(C) by inserting "(including cost or price)" after "competitive proposals"; and

(2) by adding at the end the following new paragraph:

"(3) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, the head of an agency shall clearly establish the relative importance assigned to the quality of the services to be provided (including technical capability, management capability, and prior experience of the offeror).".

(b) CONFORMING AMENDMENT.—Subsection (b) of such section is amended by inserting "cost or" in paragraph (4)(B) before "price".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to solicitations for sealed bids or competitive proposals issued after the end of the 180-day period beginning on the date of the enactment of this Act.

SEC. 925. COMPUTATION OF CONTRACT BID PRICES

(a) IN GENERAL.—Section 2301(a) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(7) the head of an agency, in issuing a solicitation for a contract to be awarded using sealed-bid procedures, not included in such solicitation a clause providing for the evaluation of prices under the contract for options to purchase additional supplies or services under the contract unless the head of the agency has determined that there is a reasonable likelihood that the options will be exercised.".

(b) EFFECTIVE DATE.—Section 2301(a)(7) of title 10, United States Code (as added by subsection (a)), shall not apply to solicitations for sealed bids issued before the end of the 180-day period beginning on the date of the enactment of this Act.

SEC. 926. PRICES FOR SPARE OR REPAIR PARTS SOLD COMMERCIALLY

(a) ESTABLISHMENT OF COMMERCIAL PRICING REQUIREMENT.—(1) Section 2323 of title 10, United States Code, is amended to read as follows:

"§ 2323. Commercial pricing for spare or repair parts

"(a) LIMITATION ON PRICE OF COMMERCIALLY AVAILABLE PARTS.—Except in the case of an offer submitted with a written statement under subsection (b)(2) and except as provided in subsection (c), if the head of an agency, using procedures other than competitive procedures, enters into a contract with a contractor for the purchase of spare or repair parts which the contractor also offers for sale to the general public, the price charged the United States for such parts under the contract may not exceed the lowest commercial price charged by the contractor in sales of such parts during a period described in subsection (b)(1).

"(b) REQUIREMENTS FOR INCLUSION IN OFFER.—The head of an agency, with respect to an offeror who submits an offer to the head of an agency to enter into a contract for the supply of spare or repair parts under a contract awarded using procedures other than competitive procedures, and who also offers such parts for sale to the general public, shall require that the offeror—

"(1) certify in such offer that, to the best of the knowledge and belief of the offeror, the price proposed in the offer does not exceed the lowest commercial price at which such offeror sold such parts during the most recent regular monthly, quarterly, or other period for which sales data are reasonably available; or

"(2) submit with such offer a written statement—

"(A) specifying the amount of the difference between the price proposed in the offer and the lowest commercial price at which such offeror sold such parts during a period described in paragraph (1); and

"(B) providing a justification for that difference.

"(c) EXCEPTION TO LIMITATION.—Subsections (a) and (b) do not apply in the case of a contract with respect to which the contracting officer includes in the file on the contract a written determination by such officer that the use of the lowest commercial price with respect to such contract is not appropriate because of—

"(1) national security considerations; or

"(2) significant differences between the terms of the commercial sales of the parts to be acquired under such contract and the terms of such contract, including differences in—

"(A) quantity;

"(B) quality;

"(C) delivery requirements; or

"(D) other terms and conditions.

"(d) AUDITING.—(1) In order to verify any certification or statement made under subsection (b) with respect to a contract, the contracting officer who awards such contract (or any representative of the contracting officer who is an employee of the United States or a member of the armed forces), during the time period specified in paragraph (2), may examine and audit all records of sales (including contract terms and conditions) maintained by or for the contractor that are directly pertinent to sales by the contractor of spare or repair parts identical to those covered by the contract during the period covered by such certification or statement.

"(2) The head of an agency shall require an offeror who submits a certification or written statement under subsection (b) to make available the records, books, data, and documents described in paragraph (1) for examination, audit, or reproduction for the purposes of such paragraph during the three-year period beginning on

the date that the offeror submits such certification or statement to such head of an agency.

"(3) The authority provided by this subsection is in addition to the authority of the head of an agency under section 2306a of this title.

"(e) REGULATIONS.—The Secretary of Defense, after consultation with the Secretary of Transportation and the Administrator of the National Aeronautics and Space Administration, shall prescribe regulations to carry out this section. Such regulations may not require the disclosure or submission of any data related to any element underlying the price of a commercial product not otherwise required by law.

"(f) DEFINITIONS.—In this section:

"(1) The term 'spare or repair part' means any individual piece, part, subassembly, or component which is furnished for the logistic support or repair of an end item and not as an end item itself.

"(2) The term 'lowest commercial price' means the lowest price at which a sale was made to the general public of a particular part. Such term does not include the price at which a sale was made—

"(A) to any agency of the United States;

"(B) to any person for resale by such person after such person performs a service or function in connection with such part that increases the cost of the part, unless the agency procuring the part can demonstrate that the agency is procuring the part before such service or function has been performed by any such person;

"(C) to a subsidiary, affiliate, or parent business organization of the contractor, or any other branch of the same business entity;

"(D) to any person at a price that, for the purpose of making a donation, has been substantially discounted below the fair market value or regular price of such part; or

"(E) to a customer located outside the United States.

"(g) APPLICABILITY.—This section does not apply to a contract entered into using simplified small purchase procedures established under section 2304(g) of this title.".

(2) The item relating to section 2323 at the beginning of chapter 137 is amended to read as follows:

"2323. Commercial pricing for spare or repair parts.".

(b) EFFECTIVE DATE.—Regulations prescribed under section 2323(e) of title 10, United States Code (as amended by subsection (a)(1)), shall take effect on the date of the enactment of this Act.

SEC. 927. ALLOCATION OF OVERHEAD TO PARTS TO WHICH CONTRACTOR HAS ADDED LITTLE VALUE

(a) IN GENERAL.—Section 2304 of of title 10, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) The Secretary of Defense shall prescribe by regulation the manner in which the Department of Defense negotiates prices for supplies to be obtained through the use of procedures other than competitive procedures, as defined in section 2302(2) of this title.

"(2) The regulations required by paragraph (1) shall—

"(A) specify the incurred overhead a contractor may appropriately allocate to supplies referred to in that paragraph; and

"(B) require the contractor to identify those supplies which it did not manufacture or to which it did not contribute significant value.

"(3) Such regulations shall not apply to an item of supply included in a contract or subcontract for which the price is based on established catalog or market prices of commercial items sold in substantial quantities to the general public.".

(b) DEADLINE.—The Secretary of Defense shall prescribe the regulations required by section 2304(i) of such title (as added by subsection (a)) not later than 180 days after the date of the enactment of this Act.

(c) REPEAL.—Section 1245 of the Department of Defense Authorization Act, 1985 (Public Law 98-525, 98 Stat. 2609), is repealed.

SEC. 928. CLARIFICATION OF REQUIREMENTS TO MARK SUPPLIES TO IDENTIFY SUPPLIERS AND SOURCES

(a) EXCEPTION FOR CERTAIN COMMERCIAL ITEMS.—Section 2384(b) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by inserting "(1)" after "(b)";

(3) by inserting "(other than a contract described in paragraph (2))" after "delivery of supplies"; and

(4) by adding at the end the following new paragraph:

"(2) Paragraph (1) does not apply to a contract that requires the delivery of supplies that are commercial items sold in substantial quantities to the general public if the contract—

"(A) provides for the acquisition of such supplies by the Department of Defense at established catalog or market prices; or

"(B) is awarded through the use of competitive procedures.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to contracts entered into after the end of the 180-day period beginning on the date of the enactment of this Act.

PART C—PROCUREMENT PERSONNEL POLICY

SEC. 931. CONFLICT-OF-INTEREST IN DEFENSE PROCUREMENT

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2397a the following new sections:

"§ 2397b. Certain former Department of Defense procurement officials: limitations on employment by contractors

"(a)(1) Subject to subsections (c) and (d), a person who is a former officer or employee of the Department of Defense or a former or retired member of the armed forces may not accept compensation from a contractor during the two-year period beginning on the date of such person's separation from service in the Department of Defense if—

"(A) on a majority of the person's working days during the two-year period ending on the date of such person's separation from service in the Department of Defense, the person performed a procurement function (relating to a contract of the Department of Defense) at a site or plant that is owned or

operated by the contractor and that was the principal location of such person's performance of that procurement function;

"(B) the person performed, on a majority of the person's working days during such two-year period, procurement functions relating to a major defense system and, in the performance of such functions, participated personally and substantially, and in a manner involving decisionmaking responsibilities, with respect to a contract for that system through contact with the contractor; or

"(C) during such two-year period the person acted as a primary representative of the United States—

"(i) in the negotiation of a Department of Defense contract in an amount in excess of $10,000,000 with the contractor; or

"(ii) in the negotiation of a settlement of an unresolved claim of the contractor in an amount in excess of $10,000,000 under a Department of Defense contract.

"(2) In the application of paragraph (1) to a former officer or employee of the Department of Defense or a former or retired member of the armed forces, a person's status as a contractor shall be determined as of the date of the separation from service in the Department of Defense of the officer or employee or member or former member involved.

"(b)(1) Any person who knowingly violates subsection (a)(1) shall be subject to a civil fine, in an amount not to exceed $250,000, in a civil action brought by the United States in the appropriate district court of the United States.

"(2) Any person who knowingly offers or provides any compensation to another person, and who knew or should have known that the acceptance of such compensation is or would be in violation of subsection (a)(1), shall be subject to a civil fine, in an amount not to exceed $500,000, in a civil action brought by the United States in the appropriate district court of the United States.

"(c) This section does not apply to any person with respect to—

"(1) duties described in clause (A) or (B) of subsection (a)(1) which were performed while such person was serving—

"(A) in a civilian position for which the rate of pay is less than the minimum rate of pay payable for grade GS-13 of the General Schedule; or

"(B) as a member of the armed forces in a pay grade below pay grade O-4; or

"(2) duties described in clause (C) of subsection (a)(1) which were performed while such person was serving—

"(A) in a civilian position for which the rate of pay is less than the minimum rate of pay payable for a Senior Executive Service position; or

"(B) as a member of the armed forces in a pay grade below pay grade O-7.

"(d) This section does not prohibit any person from accepting compensation from any contractor that, during the fiscal year preceding the fiscal year in which such compensation is accepted, was not a Department of Defense contractor or was a contractor under Department of Defense contracts in a total amount less than $10,000,000.

"(e)(1) Any person may, before accepting any compensation, request the appropriate designated agency ethics official to advise such person on the applicability of this section to the acceptance of

such compensation. For purposes of the preceding sentence, the appropriate designated agency ethics official is the designated agency ethics official of the agency in which such person was serving at the time such person separated from service in the Department of Defense.

"(2) A request for advice under paragraph (1) shall contain all information that is relevant to a determination by the designated agency ethics official on such request.

"(3) Not later than 30 days after the date on which a designated agency ethics official receives a request for advice under paragraph (1), such official shall issue a written opinion on the applicability of this section to the acceptance of compensation covered by the request.

"(4) If a designated agency ethics official, on the basis of a complete disclosure as required by paragraph (2), states in a written opinion furnished to any person under this subsection that this section is inapplicable to the acceptance of compensation by such person from a contractor in a particular case, there shall be a conclusive presumption in favor of such person, for the purposes of this section, that the person's acceptance of such compensation in such case is not a violation of subsection (a)(1).

"(f) In this section:

"(1) The term 'compensation' includes any payment, gift, benefit, reward, favor, or gratuity—

"(A) which is provided, directly or indirectly, for services rendered by the person accepting such payment, gift, benefit, reward, favor, or gratuity; and

"(B) which is valued in excess of $250 at the prevailing market price.

"(2)(A) The term 'contractor' means a person—

"(i) that contracts to supply the Department of Defense with goods or services;

"(ii) that controls or is controlled by a person described in clause (i); or

"(iii) that is under common control with a person described in clause (i).

"(B) Such term does not include—

"(i) an affiliate or subsidiary of a person described in subparagraph (A) that is clearly not engaged in the performance of a Department of Defense contract; or

"(ii) a State or local government.

"(3) The term 'procurement function' includes, with respect to a contract, any function relating to—

"(A) the negotiation, award, administration, or approval of the contract;

"(B) the selection of a contractor;

"(C) the approval of changes in the contract;

"(D) quality assurance, operational and developmental testing, the approval of payment, or auditing under the contract; or

"(E) the management of the procurement program.

"(4) The term 'armed forces' does not include the Coast Guard.

"(5) The term 'major defense system' has the meaning given the term 'major system' in section 2302(5) of this title.

"(g) For the purposes of this section, a person who is a retired member or a former member of the armed forces shall be considered

to have been separated from service in the Department of Defense upon the date of the person's discharge or release from active duty.

"§ 2397c. Defense contractors: requirements concerning former Department of Defense officials

"(a)(1) Each contract for the procurement of goods or services in excess of $100,000 entered into by the Department of Defense shall include a provision under which the contractor agrees not to provide compensation to a person if the acceptance of such compensation by such person would violate section 2397b(a)(1) of this title.

"(2) Such a contract shall also provide that if the contractor knowingly violates a contract provision required by paragraph (1) the contractor shall pay to the United States, as liquidated damages under the contract, an amount equal to the greater of—

"(A) $100,000; or

"(B) three times the amount of the compensation paid by the contractor to the person in violation of such contract provision.

"(b)(1)(A) Any contractor that was awarded one or more contracts by the Department of Defense during the preceding fiscal year in an aggregate amount of at least $10,000,000 that is subject during a calendar year to a contract provision described in subsection (a) shall submit to the Secretary of Defense, not later than April 1 of the next year, a written report covering the preceding calendar year. Each such report shall list the name of each person (together with other information adequate for the Government to identify the person) who—

"(i) is a former officer or employee of the Department of Defense or a former or retired member of the armed forces; and

"(ii) during the preceding calendar year was provided compensation by that contractor, if such compensation was provided within two years after such officer, employee, or member left service in the Department of Defense.

"(B) In the case of each person named in a report submitted under subparagraph (A), the report shall—

"(i) identify the agency in which the person was employed or served on active duty during the last two years of the person's service with the Department of Defense;

"(ii) state the person's job title and identify each major defense system, if any, on which the person performed any work with the Department of Defense during the last two years of the person's service with the Department;

"(iii) contain a complete description of any work that the person is performing on behalf of the contractor; and

"(iv) identify each major defense system on which the person has performed any work on behalf of the contractor.

"(2) A person who knowingly fails to file a report required by paragraph (1) shall be subject to an administrative penalty, not to exceed $10,000, imposed by the Secretary of Defense after an opportunity for an agency hearing on the record pursuant to regulations prescribed by the Secretary of Defense. The determinations of the Secretary shall be included in such record. The determinations of the Secretary shall be subject to judicial review under chapter 7 of title 5.

"(3) The Secretary of Defense shall review each report under paragraph (1) for the purposes of (A) assessing the accuracy and completeness of the report, and (B) identifying possible violations of section 2397b(a)(1) of this title or of a contract provision required by

subsection (a). The Secretary shall report any such possible violation to the Attorney General.

"(4) The Secretary shall make reports submitted under this subsection available to any Member of Congress upon request.

"(d) Subsection (g) of section 2397b of this title, and the definitions prescribed in subsection (f) of such section, apply to this section.".

(2) The table of sections at the beginning of chapter 141 of title 10, United States Code, is amended by inserting after the item relating to section 2397a the following new items:

"2397b. Certain former Department of Defense procurement officials: limitations on employment by contractors.
"2397c. Defense contractors: requirements concerning former Department of Defense officials.".

(b) REPEAL.—Section 921 of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99-145; 10 U.S.C. 2397a note) is repealed.

(c) EFFECTIVE DATES.—(1) Subject to paragraph (2), this section and the amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

(2)(A) The amendments made by this section—

(i) do not preclude the continuation of employment that began before the effective date of this section or the acceptance of compensation for such employment; and

(ii) do not, except as provided in subparagraph (B), apply to a person whose service in the Department of Defense terminates before the effective date of this section.

(B) Subparagraph (A)(ii) does not preclude the application of the amendments made by this section to a person with respect to service in the Department of Defense by such person on or after the effective date of this section.

SEC. 932. PLAN FOR ENHANCEMENT OF PROFESSIONALISM OF ACQUISITION PERSONNEL

(a) DEVELOPMENT OF PLAN.—The Secretary of Defense shall develop a plan for a personnel initiative designed to enhance the professionalism of, and career opportunities available to, acquisition personnel of the Department of Defense.

(b) REQUIREMENTS FOR PLAN.—The plan required to be developed under subsection (a) shall—

(1) include standards for the examination, appointment, classification, training, and assignment of acquisition personnel; and

(2) assess the feasibility and desirability of—

(A) the designation of certain acquisition positions of the Department of Defense as professional positions; and

(B) the establishment of an alternative personnel system that would—

(i) include acquisition positions that are designated as professional positions; and

(ii) include quality of performance as a factor in promotions for persons in such positions.

(c) REPORT.—(1) The Secretary shall submit to Congress a report—

(A) describing the plan developed under subsection (a); and

(B) recommending any changes in existing law that would facilitate the enhancement of the professionalism of, and career opportunities available to, acquisition personnel of the Department of Defense.

(2) The report required by subparagraph (A) shall be submitted not later than April 15, 1987.

(d) EFFECTIVE DATE.—The report required by subsection (c) shall be submitted not later than the end of the one-year period beginning on the date of the enactment of this Act.

SEC. 933. EDUCATIONAL REQUIREMENTS FOR ACQUISITION PERSONNEL

Section 1622(b)(1) of title 10, United States Code, is amended by striking out "attended" and inserting in lieu thereof "completed".

SEC. 934. PLAN FOR COORDINATION OF DEFENSE ACQUISITION EDUCATIONAL PROGRAMS

(a) COORDINATION PLAN.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing a plan for the coordination of educational programs managed by the Department of Defense for acquisition personnel of the Department.

(b) REQUIREMENTS FOR PLAN.—The plan required by subsection (a) shall provide for—

(1) the education of acquisition personnel of the Department of Defense through programs offered by the Department or through educational courses offered by organizations other than the Department;

(2) the education of acquisition personnel of the Department in various acquisition specialties, including contracting, logistics, quality, program management, systems engineering, production, and manufacturing; and

(3) the elimination of duplication of functions and courses by schools of the Department that provide educational courses for acquisition personnel of the Department.

(c) EFFECTIVE DATE.—The report required by subsection (a) shall be submitted not later than the end of the one-year period beginning on the date of the enactment of this Act.

PART D—REQUIREMENTS RELATING TO DEFENSE CONTRACTORS

SEC. 941. CODIFICATION AND EXTENSION OF PROHIBITION ON PERSONS CONVICTED OF DEFENSE-CONTRACT RELATED FELONIES AND RELATED CRIMINAL PENALTY ON DEFENSE CONTRACTORS

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2408. Prohibition on persons convicted of defense-contract related felonies and related criminal penalty on defense contractors

"(a) PROHIBITION.—A person who is convicted of fraud or any other felony arising out of a contract with the Department of Defense shall be prohibited from working in a management or supervisory capacity on any defense contract, or serving on the board of directors of any defense contractor, for a period, as determined by the Secretary of Defense, of not less than one year from the date of the conviction.

"(b) CRIMINAL PENALTY.—A defense contractor shall be subject to a criminal penalty of not more than $500,000 if such contractor is convicted of knowingly—

"(1) employing a person under a prohibition under subsection (a); or

"(2) allowing such a person to serve on the board of directors of such contractor.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2408. Prohibition on persons convicted of defense-contract related felonies and related criminal penalty on defense contractors.".

(b) CONFORMING AMENDMENT.—Section 932 of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99-145; 99 Stat. 699) is repealed.

(c) EFFECTIVE DATE.—Section 2408 of title 10, United States Code (as added by subsection (a)(1)), shall apply with respect to employment or service on a board of directors after the date of the enactment of this Act.

SEC. 942. PROTECTION OF CONTRACTOR EMPLOYEES FROM REPRISAL FOR DISCLOSURE OF CERTAIN INFORMATION

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by adding after section 2408 (as added by section 941) the following new section:

"§ 2409. Contractor employees: protection from reprisal for disclosure of certain information

"(a) PROHIBITION OF REPRISALS.—An employee of a defense contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a Member of Congress or an authorized official of the Department of Defense or the Department of Justice information relating to a substantial violation of law related to a defense contract (including the competition for or negotiation of a defense contract).

"(b) INVESTIGATION OF COMPLAINTS.—A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint to the Inspector General of the Department of Defense. Unless the Inspector General determines that the complaint is frivolous, the Inspector General shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the contractor concerned, and the Secretary of Defense.

"(c) CONSTRUCTION.—Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2408 (as added by section 941) the following new item:

"2409. Contractor employees: protection from reprisal for disclosure of certain information.".

(b) EFFECTIVE DATE.—Section 2409 of title 10, United States Code (as added by subsection (a)(1)), shall apply with respect to any reprisal action taken on or after the date of the enactment of this Act.

SEC. 943. REVISION OF WORK MEASUREMENT PROVISIONS

(a) IN GENERAL.—(1) Section 2406 of title 10, United States Code, is amended to read as follows:

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"§ 2406. Availability of cost and pricing records

"(a) REQUIREMENT.—(1) The head of an agency shall require a contractor under a covered contract with that agency to make available in a timely manner to any authorized representative of the head of the agency records of the contractor's cost and pricing data described in subsection (b) with respect to work under the covered contract.

"(2) The head of the agency (or the representative of the head of the agency) shall be entitled to have access to records in the form and manner maintained by the contractor.

"(b) COVERED RECORDS.—Records covered by subsection (a) include (for a covered contract and end items under such a contract) the following:

"(1) Work measurement system data (and any revision to such data), including records of labor content expressed in standard hours of work content for—

(A) the contractor's proposal for the contract; and

(B) the contract as negotiated.

"(2) The costs described in subsection (c)—

"(A) as proposed by the contractor;

"(B) as negotiated by the contractor with the head of the agency; and

"(C) as incurred by the contractor.

"(3) Bills of material.

"(c) COVERED COSTS.—Costs referred to in subsection (b)(2) are—

"(1) labor costs;

"(2) material costs;

"(3) subcontract costs;

"(4) overhead costs;

"(5) general and administrative costs; and

"(6) fee or profit.

"(d) NATURE OF RECORDS TO BE MAINTAINED.—Nothing in this section shall require a contractor under a covered contract to—

"(1) collect or maintain additional data not otherwise collected or maintained by the contractor, or

"(2) maintain data in a form or manner different from that in which the contractor maintains such data.

"(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section. Such regulations shall specify the period for which records shall be covered by this section, which shall not be less than three years after final payment under the contract to which the records pertain.

"(f) DEFINITIONS.—In this section:

"(1) The term 'head of an agency' means the Secretary of Defense or the Secretary of a military department.

"(2) The term 'covered contract' means a manufacturing contract—

"(A) that is awarded under a major defense acquisition program (as such term is defined in 2432(a) of this title); and

"(B) that is subject to the provisions of section 2306a of this title.

"(3) The term 'work measurement system data' means—

"(A) data generated from time standard setting, time monitoring, and variance analysis; and

"(B) such data described in subparagraph (A) as included in planning, cost estimating, and productivity improvement.

"(4) The term 'authorized representative' means a representative of the head of an agency who is an employee of the United States or a member of the armed forces.".

(2) The item relating to such section in the table of sections at the beginning of chapter 141 of such title is amended to read as follows:

"2406. Availability of cost and pricing records.".

(b) APPLICABILITY OF SECTION.—Section 2406 of title 10, United States Code, as amended by subsection (a), shall apply with respect to—

(1) contracts entered into on or after the date of the enactment of this Act; and

(2) contracts entered into before such date that are not completed before such date.

(c) DEADLINE FOR REGULATIONS.—The Secretary of Defense shall prescribe regulations as required by section 2406(e) of title 10, United States Code (as amended by subsection (a)(1)), not later than the end of the 180-day period beginning on the date of the enactment of this Act.

PART E—MISCELLANEOUS

SEC. 951. CONTRACTING WITH FIRMS OWNED OR CONTROLLED BY GOVERNMENTS THAT SUPPORT TERRORISM

(a) CONSIDERATION OF NATIONAL INTERESTS WITH RESPECT TO DEFENSE CONTRACTS.—(1) Chapter 137 of title 10, United States Code, is amended by adding after the item relating to section 2326 (as added by section 908) the following new section:

"§ 2327. Contracts: consideration of national security objectives

"(a) DISCLOSURE OF OWNERSHIP OR CONTROL BY A FOREIGN GOVERNMENT.—The head of an agency shall require a firm or a subsidiary of a firm that submits a bid or proposal in response to a solicitation issued by the Department of Defense to disclose in that bid or proposal any significant interest in such firm or subsidiary (or, in the case of a subsidiary, in the firm that owns the subsidiary) that is owned or controlled (whether directly or indirectly) by a foreign government or an agent or instrumentality of a foreign government, if such foreign government is the government of a country that the Secretary of State determines under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. 2405(j)(1)(A)) has repeatedly provided support for acts of international terrorism.

"(b) PROHIBITION ON ENTERING INTO CONTRACTS AGAINST THE INTERESTS OF THE UNITED STATES.—Except as provided in subsection (c), the head of an agency may not enter into a contract with a firm or a subsidiary of a firm if—

"(1) a foreign government owns or controls (whether directly or indirectly) a significant interest in such firm or subsidiary (or, in the case of a subsidiary, in the firm that owns the subsidiary); and

"(2) such foreign government is the government of a country that the Secretary of State determines under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. 2405(j)(1)(A)) has repeatedly provided support for acts of international terrorism.

"(c) WAIVER.—(1)(A) If the Secretary of Defense determines under paragraph (2) that entering into a contract with a firm or a subsidiary of a firm described in subsection (b) is not inconsistent with the national security objectives of the United States, the head of an agency may enter into a contract with such firm or subsidiary after the date on which such head of an agency submits to Congress a report on the contract.

"(B) A report under subparagraph (A) shall include the following:

"(i) The identity of the foreign government concerned.

"(ii) The nature of the contract.

"(iii) The extent of ownership or control of the firm or subsidiary concerned (or, if appropriate in the case of a subsidiary, of the firm that owns the subsidiary) by the foreign government concerned or the agency or instrumentality of such foreign government.

"(iv) The reasons for entering into the contract.

"(C) After the head of an agency submits a report to Congress under subparagraph (A) with respect to a firm or a subsidiary, such head of an agency is not required to submit a report before entering into any subsequent contract with such firm or subsidiary unless the information required to be included in such report under subparagraph (B) has materially changed since the submission of the previous report.

"(2) Upon the request of the head of an agency, the Secretary of Defense shall determine whether entering into a contract with a firm or subsidiary described in subsection (b) is inconsistent with the national security objectives of the United States. In making such a determination, the Secretary of Defense shall consider the following:

"(A) The relationship of the United States with the foreign government concerned.

"(B) The obligations of the United States under international agreements.

"(C) The extent of the ownership or control of the firm or subsidiary (or, if appropriate in the case of a subsidiary, of the firm that owns the subsidiary) by the foreign government or an agent or instrumentality of the foreign government.

"(D) Whether payments made, or information made available, to the firm or subsidiary under the contract could be used for purposes hostile to the interests of the United States.

"(d) APPLICABILITY.—This section does not apply to a contract for an amount less than $100,000.

"(2) This section does not apply to the Coast Guard or the National Aeronautics and Space Administration.

"(e) REGULATIONS.—The Secretary of Defense, after consultation with the Secretary of State, shall prescribe regulations to carry out this section. Such regulations shall include a definition of the term 'significant interest'.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2326 (as added by section 908) the following new item:

"2327. Contracts: consideration of national security objectives.".

(b) CONFORMING AMENDMENT.—Section 503 of the Military Retirement Reform Act of 1986 (Public Law 99-348; 100 Stat. 708) is repealed.

(c) EFFECTIVE DATE.—Section 2327 of title 10, United States Code (as added by subsection (a)(1)), shall apply to contracts entered into

by the Secretary of Defense after the end of the 90-day period beginning on the date of the enactment of this Act.

SEC. 952. TRUTH-IN-NEGOTIATIONS ACT AMENDMENTS

(a) STRENGTHENING OF PREVENTION OF UNEARNED AND EXCESSIVE CONTRACTOR PROFITS.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2306 the following new section:

"§ 2306a. Cost or pricing data: truth in negotiations

"(a) REQUIRED COST OR PRICING DATA AND CERTIFICATION.—(1) The head of an agency shall require offerors, contractors, and subcontractors to make cost or pricing data available as follows:

"(A) An offeror for a prime contract under this chapter to be entered into using procedures other than sealed-bid procedures shall be required to submit cost or pricing data before the award of the contract if the price of the contract to the United States is expected to exceed $100,000.

"(B) The contractor for a contract under this chapter shall be required to submit cost or pricing data before the pricing of a change or modification to the contract if the price adjustment is expected to exceed $100,000 (or such lesser amount as may be prescribed by the head of the agency).

"(C) An offeror for a subcontract (at any tier) of a contract under this chapter shall be required to submit cost or pricing data before the award of the subcontract if—

"(i) the price of the subcontract is expected to exceed $100,000; and

"(ii) the prime contractor and each higher-tier subcontractor have been required to make available cost or pricing data under this section.

"(D) The subcontractor for a subcontract covered by subparagraph (C) shall be required to submit cost or pricing data before the pricing of a change or modification to the subcontract if the price adjustment is expected to exceed $100,000 (or such lesser amount as may be prescribed by the head of the agency).

"(2) A person required, as an offeror, contractor, or subcontractor, to submit cost or pricing data under paragraph (1) (or required by the head of the agency concerned to submit such data under subsection (c)) shall be required to certify that, to the best of the person's knowledge and belief, the cost or pricing data submitted are accurate, complete, and current.

"(3) Cost or pricing data required to be submitted under paragraph (1) (or under subsection (c)), and a certification required to be submitted under paragraph (2), shall be submitted—

"(A) in the case of a submission by a prime contractor (or an offeror for a prime contract), to the contracting officer for the contract (or to a designated representative of the contracting officer); or

"(B) in the case of a submission by a subcontractor (or an offeror for a subcontract), to the prime contractor.

"(4) Except as provided under subsection (b), this section applies to contracts entered into by the head of an agency on behalf of a foreign government.

"(5) The head of the agency may waive the requirement under this subsection for a contractor, subcontractor, or offeror to submit cost or pricing data. For purposes of paragraph (1)(C)(ii), a contractor or subcontractor granted such a waiver shall be considered as having

been required to make available cost or pricing data under this section.

"(b) EXCEPTIONS.—This section need not be applied to a contract or subcontract—

"(1) for which the price agreed upon is based on—

"(A) adequate price competition;

"(B) established catalog or market prices of commercial items sold in substantial quantities to the general public; or

"(C) prices set by law or regulation; or

"(2) in an exceptional case when the head of the agency determines that the requirements of this section may be waived and states in writing his reasons for such determination.

"(c) AUTHORITY TO REQUIRE COST OR PRICING DATA.—When cost or pricing data are not required to be submitted by subsection (a), such data may nevertheless be required to be submitted by the head of the agency if the head of the agency determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract.

"(d) PRICE REDUCTIONS FOR DEFECTIVE COST OR PRICING DATA.—(1)(A) A prime contract (or change or modification to a prime contract) under which a certificate under subsection (a)(2) is required shall contain a provision that the price of the contract to the United States, including profit or fee, shall be adjusted to exclude any significant amount by which it may be determined by the head of the agency that such price was increased because the contractor (or any subcontractor required to make available such a certificate) submitted defective cost or pricing data.

"(B) For the purposes of this section, defective cost or pricing data are cost or pricing data which, as of the date of agreement on the price of the contract (or another date agreed upon between the parties), were inaccurate, incomplete, or noncurrent. If for purposes of the preceding sentence the parties agree upon a date other than the date of agreement on the price of the contract, the date agreed upon by the parties shall be as close to the date of agreement on the price of the contract as is practicable.

"(2) In determining for purposes of a contract price adjustment under a contract provision required by paragraph (1) whether, and to what extent, a contract price was increased because the contractor (or a subcontractor) submitted defective cost or pricing data, it shall be a defense that the United States did not rely on the defective data submitted by the contractor or subcontractor.

"(3) It is not a defense to an adjustment of the price of a contract under a contract provision required by paragraph (1) that—

"(A) the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted by the contractor or subcontractor because the contractor or subcontractor—

"(i) was the sole source of the property or services procured; or

"(ii) otherwise was in a superior bargaining position with respect to the property or services procured;

"(B) the contracting officer should have known that the cost and pricing data in issue were defective even though the contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the contracting officer;

"(C) the contract was based on an agreement between the contractor and the United States about the total cost of the

contract and there was no agreement about the cost of each item procured under such contract; or

"(D) the prime contractor or subcontractor did not submit a certification of cost and pricing data relating to the contract as required under subsection (a)(2).

"(4)(A) A contractor shall be allowed to offset an amount against the amount of a contract price adjustment under a contract provision required by paragraph (1) if—

"(i) the contractor certifies to the contracting officer (or to a designated representative of the contracting officer) that, to the best of the contractor's knowledge and belief, the contractor is entitled to the offset; and

"(ii) the contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification) and that the data were not submitted as specified in subsection (a)(3) before such date.

"(B) A contractor shall not be allowed to offset an amount otherwise authorized to be offset under subparagraph (A) if—

(i) the certification under subsection (a)(2) with respect to the cost or pricing data involved was known to be false when signed; or

(ii) the United States proves that, had the cost or pricing data referred to in subparagraph (A)(ii) been submitted to the United States before the date of agreement on the price of the contract (or price of the modification), the submission of such cost or pricing data would not have resulted in an increase in that price in the amount to be offset.

"(e) INTEREST AND PENALTIES FOR CERTAIN OVERPAYMENTS.—(1) If the United States makes an overpayment to a contractor under a contract with the Department of Defense subject to this section and the overpayment was due to the submission by the contractor of defective cost or pricing data, the contractor shall be liable to the United States—

"(A) for interest on the amount of such overpayment, to be computed—

"(i) for the period beginning on the date the overpayment was made to the contractor and ending on the date the contractor repays the amount of such overpayment to the United States; and

"(ii) at the current rate prescribed by the Secretary of the Treasury under section 6621 of the Internal Revenue Code of 1954; and

"(B) if the submission of such defective data was a knowing submission, for an additional amount equal to the amount of the overpayment.

"(2) Except as provided under subsection (d), the liability of a contractor under this subsection shall not be affected by the contractor's refusal to submit a certification under subsection (a)(2) with respect to the cost or pricing data involved.

"(f) RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.—(1) For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this section with respect to a contract or subcontract, the head of the agency, acting through any authorized representative of the head of the agency who is an employee of the United States or a member of the armed forces, shall have the right to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;
"(B) the discussions conducted on the proposal;
"(C) pricing of the contract or subcontract; or
"(D) performance of the contract or subcontract.

"(2) The right of the head of an agency under paragraph (1) shall expire three years after final payment under the contract or subcontract.

"(3) In this subsection, the term 'records' includes books, documents, and other data.

"(g) COST OR PRICING DATA DEFINED.—In this section, the term 'cost or pricing data' means all information that is verifiable and that, as of the date of agreement on the price of a contract (or the price of a contract modification), a prudent buyer or seller would reasonably expect to affect price negotiations significantly. Such term does not include information that is judgmental, but does include the factual information from which a judgment was derived.".

(b) CONFORMING AMENDMENTS.—(1) Subsection (f) of section 2306 of such title is amended to read as follows:

"(f) So-called 'truth-in-negotiations' provisions relating to cost or pricing data to be submitted by certain contractors and subcontractors are provided in section 2306a of this title.".

(2) Section 934(a) of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99-145; 99 Stat. 700) is repealed.

(c) CLERICAL AMENDMENTS.—(1) The heading of section 2306 of title 10, United States Code, is amended to read as follows:

"§ 2306. Kinds of contracts".

(2) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2306 and inserting in lieu thereof the following:

"2306. Kinds of contracts.
"2306a. Cost or pricing data: truth in negotiations.".

(d) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), section 2306a of title 10, United States Code (as added by subsection (a)), and the amendment and repeal made by subsection (b), shall apply with respect to contracts or modifications on contracts entered into after the end of the 120-day period beginning on the date of the enactment of this Act.

(2) Subsection (e) of such section shall apply with respect to contracts or modifications on contracts entered into after November 7, 1985.

SEC. 953. RIGHTS IN TECHNICAL DATA

(a) RIGHTS IN TECHNICAL DATA.—Subsection (a) of section 2320 of title 10, United States Code, is amended to read as follows:

"(a)(1) The Secretary of Defense shall prescribe regulations to define the legitimate interest of the United States and of a contractor or subcontractor in technical data pertaining to an item or process. Such regulations shall be included in regulations of the Department of Defense prescribed as part of the Federal Acquisition Regulation. Such regulations may not impair any right of the United States or of any contractor or subcontractor with respect to patents or copyrights or any other right in technical data otherwise established by law.

"(2) Such regulations shall include the following provisions:

"(A) In the case of an item or process that is developed by a contractor or subcontractor exclusively with Federal funds, the United States shall have the unlimited right to—

"(i) use technical data pertaining to the item or process; or

"(ii) release or disclose the technical data to persons outside the government or permit the use of the technical data by such persons.

"(B) Except as provided in subparagraphs (C) and (D), in the case of an item or process that is developed by a contractor or subcontractor exclusively at private expense, the contractor or subcontractor may restrict the right of the United States to release or disclose technical data pertaining to the item or process to persons outside the government, or permit the use of the technical data by such persons.

"(C) Subparagraph (B) does not apply to technical data that—

"(i) constitutes a correction or change to data furnished by the United States;

"(ii) relates to form, fit, or function;

"(iii) is necessary for operation, maintenance, installation, or training (other than detailed manufacturing or process data); or

"(iv) is otherwise publicly available or has been released or disclosed by the contractor or subcontractor without restriction on further release or disclosure.

"(D) Notwithstanding subparagraph (B), the United States may release or disclose technical data to persons outside the Government, or permit the use of technical data by such persons, if—

"(i) such release, disclosure, or use—

"(I) is necessary for emergency repair and overhaul; or

"(II) is a release or disclosure of technical data (other than detailed manufacturing or process data) to, or use of such data by, a foreign government that is in the interest of the United States and is required for evaluational or informational purposes;

"(ii) such release, disclosure, or use is made subject to a prohibition that the person to whom the data is released or disclosed may not further release, disclose, or use such data; and

"(iii) the contractor or subcontractor asserting the restriction is notified of such release, disclosure, or use.

"(E) In the case of an item or process that is developed in part with Federal funds and in part at private expense, the respective rights of the United States and of the contractor or subcontractor in technical data pertaining to such item or process shall be agreed upon as early in the acquisition process as practicable (preferably during contract negotiations), based upon consideration of all of the following factors:

"(i) The statement of congressional policy and objectives in section 200 of title 35, the statement of purposes in section 2(b) of the Small Business Innovation Development Act of 1982 (15 U.S.C. 638 note), and the declaration of policy in section 2 of the Small Business Act (15 U.S.C. 631).

"(ii) The interest of the United States in increasing competition and lowering costs by developing and locating alternative sources of supply and manufacture.

"(iii) The interest of the United States in encouraging contractors to develop at private expense items for use by the Government.

"(F) A contractor or subcontractor (or a prospective contractor or subcontractor) may not be required, as a condition of being responsive to a solicitation or as a condition for the award of a contract, to sell or otherwise relinquish to the United States any rights in technical data except—

"(i) rights in technical data described in subparagraph (C); or

"(ii) under the conditions described in subparagraph (D).

"(G) The Secretary of Defense may—

"(i) negotiate and enter into a contract with a contractor or subcontractor for the acquisition of rights in technical data pertaining to an item or process developed by such contractor or subcontractor exclusively at private expense if necessary to develop alternative sources of supply and manufacture; or

"(ii) agree to restrict rights of the United States in technical data pertaining to an item or process developed entirely or in part with Federal funds if the United States receives a royalty-free license to use, release, or disclose the data for purposes of the United States (including purposes of competitive procurement).

"(3) The Secretary of Defense shall define the terms 'developed' and 'private expense' in regulations prescribed under paragraph (1).

"(4) For purposes of this subsection, the term 'Federal Acquisition Regulation' means the single system of Government-wide procurement regulations as defined in section 4(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4)).".

(b) VALIDATION OF PROPRIETARY DATA RESTRICTIONS.—Subsections (a) and (b) of section 2321 of title 10, United States Code, are amended to read as follows:

"(a) A contract for supplies or services entered into by the Department of Defense which provides for the delivery of technical data shall provide that a contractor or subcontractor at any tier shall be prepared to furnish to the contracting officer a written justification for any restriction asserted by the contractor or subcontractor on the right of the United States to use such technical data.

"(b)(1) The Secretary of Defense shall ensure that there is a thorough review of the appropriateness of any restriction on the right of the United States to release or disclose technical data delivered under a contract to persons outside the Government, or to permit the use of such technical data by such persons. Such review shall be conducted before the end of the three-year period beginning on the date on which final payment is made on a contract under which technical data is required to be delivered, or the date on which the technical data is delivered under such contract, whichever is later.

"(2)(A) If the Secretary determines, at any time before the end of the three-year period beginning on the date on which final payment is made on a contract under which technical data is required to be delivered, or the date on which the technical data is delivered under such contract, whichever is later, that a challenge to a restriction is

warranted, the Secretary shall provide written notice to the contractor or subcontractor asserting the restriction. Such a determination shall be based on a finding by the Secretary that reasonable grounds exist to question the current validity of the asserted restriction and that the continued adherence to the asserted restriction by the United States would make it impracticable to procure the item competitively at a later time. Such notice shall—

"(i) state the specific grounds for challenging the asserted restriction;

"(ii) require a response within 60 days justifying the current validity of the asserted restriction; and

"(iii) state that evidence of a validation by the Department of Defense of a restriction identical to the asserted restriction within the three-year period preceding the challenge shall serve as justification for the asserted restriction if—

"(I) the validation occurred after a review of the validated restriction under this subsection; and

"(II) the validated restriction was asserted by the same contractor or subcontractor (or any licensee of such contractor or subcontractor) to which such notice is being provided.

"(B) Notwithstanding subparagraph (A), the United States may challenge a restriction on the release, disclosure, or use of technical data delivered under a contract at any time if such technical data—

"(i) is publicly available;

"(ii) has been furnished to the United States without restriction; or

"(iii) has been otherwise made available without restriction.".

(c) CONFORMING AMENDMENTS.—Section 1202 of the Department of Defense Authorization Act, 1985 (10 U.S.C. 2301 note), is amended—

(1) by inserting "and" at the end of paragraph (4);

(2) by striking out "; and" at the end of paragraph (5) and inserting in lieu thereof a period; and

(3) by striking out paragraph (6).

(d) DEADLINE FOR REVISION OF REGULATIONS.—(1) Proposed regulations under section 2320(a)(1) of title 10, United States Code (as amended by subsection (a)), shall be published in the Federal Register for comment not later than 90 days after the date of the enactment of this Act.

(2) Proposed final regulations under such section shall be published in the Federal Register not later than 180 days after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to contracts for which solicitations are issued after the end of the 210-day period beginning on the date of the enactment of this Act.

SEC. 954. RECOVERY OF COSTS TO PROVIDE TECHNICAL DATA

(a) IN GENERAL.—(1) Chapter 137 of title 10, United States Code, is amended by adding after section 2327 (as added by section 951) the following new section:

"§ 2328. Release of technical data

"(a) IN GENERAL.—(1) The Secretary of Defense shall, if required to release technical data under section 552 of title 5 (relating to the Freedom of Information Act), release technical data to a person

requesting such a release if the person pays all reasonable costs attributable to search and duplication.

"(2) The Secretary of Defense shall prescribe regulations, pursuant to notice and receipt of public comment, specifying a uniform schedule of fees under this section.

"(b) DISPOSITION OF COSTS.—An amount received under this section—

"(1) shall be retained by the Department of Defense or the element of the Department of Defense receiving the amount; and

"(2) shall be merged with and available for the same purpose and the same time period as the appropriation from which the costs incurred in complying with requests for technical data were paid.

"(c) WAIVER.—The Secretary of Defense shall waive the payment of costs required by subsection (a) which are in an amount greater than the costs that would be required for such a release of information under section 552 of title 5 if—

"(1) the request is made by a citizen of the United States or a United States corporation, and such citizen or corporation certifies that the technical data requested is required to enable such citizen or corporation to submit an offer or determine whether it is capable of submitting an offer to provide the product to which the technical data relates to the United States or a contractor with the United States (except that the Secretary may require the citizen or corporation to pay a deposit in an amount equal to not more than the cost of complying with the request, to be refunded upon submission of an offer by the citizen or corporation);

"(2) the release of technical data is requested in order to comply with the terms of an international agreement; or

"(3) the Secretary determines, in accordance with section 552(a)(4)(A) of title 5, that such a waiver is in the interests of the United States.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2327 (as added by section 971) the following new item:

"2328. Release of technical data.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act.

SEC. 955. COMPARABLE BUDGETING FOR SIMILAR SYSTEMS

(a) MATTERS TO BE INCLUDED IN ANNUAL DEFENSE BUDGETS.—In preparing the defense budget for any fiscal year, the Secretary of Defense shall—

(1) specifically identify each common procurement weapon system included in the budget;

(2) take all feasible steps to minimize variations in procurement unit costs for any such system as shown in the budget requests of the different armed forces requesting procurement funds for the system; and

(3) identify and justify in the budget all such variations in procurement unit costs for common procurement weapon systems.

(b) ASSISTANT SECRETARY (COMPTROLLER).—The Secretary of Defense shall carry out this section through the Assistant Secretary of Defense (Comptroller).

(c) DEFINITIONS.—In this section:

(1) The term "defense budget" means the budget of the Department of Defense included in the President's budget submitted to Congress under section 1105 of title 31 United States Code, for a fiscal year.

(2) The term "common procurement weapon system" means a weapon system for which two or more of the Army, Navy, Air Force, and Marine Corps request procurement funds in a defense budget.

SEC. 956. FUNDING OF PROCUREMENT TECHNICAL ASSISTANCE PROGRAMS SERVING DISTRESSED AREAS

(a) DEFINITIONS.—Section 2411 of title 10, United States Code, is amended to read as follows:

"§ 2411. Definitions

"In this chapter:

"(1) The term 'eligible entity' means any of the following:

"(A) A State.

"(B) A local government.

"(C) A private, nonprofit organization.

"(2) The term 'distressed area' means the area of a unit of local government (or such area excluding the area of any defined political jurisdiction within the area of such unit of local government) that—

"(A) has a per capita income of 80 percent or less of the State average; or

"(B) has an unemployment rate that is one percent greater than the national average for the most recent 24-month period for which statistics are available.

"(3) The term 'Secretary' means the Secretary of Defense acting through the Director of the Defense Logistics Agency.

"(4) The terms 'State' and 'local government' have the meaning given those terms in section 6302 of title 31.".

(b) SERVICE AREAS.—Section 2413(b) of such title is amended—

(1) by inserting "sponsor programs to" after "agree to";

(2) by inserting "under such programs" after "cost of furnishing such assistance";

(3) by striking out "an eligible entity that is a distressed entity" and inserting in lieu thereof "a program sponsored by such an entity that provides services solely in a distressed area"; and

(3) by inserting "with respect to such program" before the period.

SEC. 957. SUBCONTRACTOR INFORMATION TO BE PROVIDED TO PROCUREMENT OUTREACH CENTERS

(a) CONTRACTORS TO FURNISH INFORMATION.—(1) Chapter 142 of title 10, United States Code, is amended—

(A) by redesignating section 2416 as section 2417; and

(B) by inserting after section 2415 the following new section:

"§ 2416. Subcontractor information

"(a) The Secretary of Defense shall require that any defense contractor in any year shall provide to an eligible entity with which the Secretary has entered into a cooperative agreement under this chapter, on the request of such entity, the information specified in subsection (b).

"(b) Information to be provided under subsection (a) is a listing of the name of each appropriate employee of the contractor who has responsibilities with respect to entering into contracts on behalf of such contractor that constitute subcontracts of contracts being performed by such contractor, together with the business address and telephone number and area of responsibility of each such employee.

"(c) A defense contractor need not provide information under this section to a particular eligible entity more frequently than once a year.

"(d) In this section, the term 'defense contractor', for any year, means a person awarded a contract with the Department of Defense in that year for an amount in excess of $500,000.".

(2) The table of sections at the beginning of such chapter is amended by striking out the item relating to section 2416 and inserting in lieu thereof the following new items:

"2416. Subcontractor information.
"2417. Regulations.".

(b) EFFECTIVE DATE.—Section 2416 of title 10, United States Code, as added by subsection (a), shall take effect on January 1, 1987.

SEC. 961. SELECTED ACQUISITION REPORTS

(a) REVISION OF REPORTING REQUIREMENTS.—Section 2432 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended—

(1) by adding at the end of subsection (a)(3) the following new sentence: "If for any fiscal year the funds appropriated, or the number of fully-configured end items to be purchased, differ from those programmed, the procurement unit cost shall be revised to reflect the appropriated amounts and quantities.";

(2) by striking out "$2,000,000" in subsection (a)(4) and inserting in lieu thereof "$40,000,000";

(3) by striking out "three-month" in subsection (b)(2)(B) and inserting in lieu thereof "six-month";

(4) by striking out paragraph (2) of subsection (c) and inserting in lieu thereof the following:

"(2) Each Selected Acquisition Report for the first quarter of a fiscal year shall be designed to provide to the Committees on Armed Services of the Senate and House of Representatives the information such Committees need to perform their oversight functions. A change in the content of the Selected Acquisition Report for the first quarter of a fiscal year from the content as reported for the first quarter of the previous fiscal year may not be made until appropriate officials of the Department of Defense consult with such Committees regarding the proposed changes.";

(5) by inserting "that is produced at a rate of six units or more per year" in subsection (c)(3)(C) after "report" in the matter preceding clause (i); and

(6) by adding at the end the following new subsection:

"(h)(1) Total program reporting under this section shall apply to a major defense acquisition program when funds have been appropriated for such and the Secretary of Defense has decided to proceed to full-scale engineering development of such program. Reporting may be limited to the development program as provided in paragraph (2) before a decision is made by the Secretary of Defense to proceed to full-scale engineering development if the Secretary notifies the Committees on Armed Services of the Senate and House of Representatives of the intention to submit a limited report under this subsection not less than 15 days before a report is due under this section.

"(2) A limited report under this subsection shall include the following:

"(A) The same information, in detail and summarized form, as is provided in reports submitted under subsections (c)(1) and (c)(3) of section 2431 of this title.

"(B) Reasons for any change in the development cost and schedule.

"(C) The major contracts under the development program and the reasons for any cost or schedule variances under those contracts since the last Selected Acquisition Report.

"(D) The completion status of the development program expressed—

"(i) as the percentage that the number of years for which funds have been appropriated for the development program is of the number of years for which it is planned that funds will be appropriated for the program; and

"(ii) as the percentage that the amount of funds that have been appropriated for the development program is of the total amount of funds which it is planned will be appropriated for the program.

"(E) Program highlights since the last Selected Acquisition Report.

"(F) Other information as the Secretary of Defense considers appropriate.

"(3) The submission requirements for a limited report under this subsection shall be the same as for quarterly Selected Acquisition Reports for total program reporting.".

(b) UNIT COST REPORTS.—Section 2433 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended—

(1) in subsection (b), by inserting "(excluding Saturdays, Sundays, and legal public holidays)" after "days" both places such term appears in the second sentence; and

(2) by adding at the end the following new subsection:

"(h) Reporting under this section shall not apply if a program has received a limited reporting waiver under section 2432(h) of this title.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on January 1, 1987.

SEC. 962. REPORT ON EFFORTS TO INCREASE DEFENSE CONTRACT AWARDS TO INDIAN-OWNED BUSINESSES

(a) REPORT.—The Secretary of Defense shall submit to Congress a report on the efforts by the Department of Defense during fiscal years 1986 and 1987 to increase awards of defense contracts to

Indian-owned businesses in accordance with the memorandum of understanding between the Department of Defense and the Small Business Administration of September 29, 1983. Such report shall include, to the maximum extent practicable, any data regarding the number and value of prime contracts awarded by the Department of Defense during such fiscal years to such businesses.

(b) DEADLINE.—The report required by subsection (a) shall be submitted no later than March 31, 1988.

(c) INDIAN-OWNED BUSINESS DEFINED.—For purposes of this section, the term "Indian-owned business" means a firm owned and controlled by American Indians, including a tribally owned for-profit entity.

SEC. 963. REPORT ON INCREASED GEOGRAPHIC DISTRIBUTION OF DEFENSE CONTRACTORS

(a) IN GENERAL.—(1) The Secretary of Defense shall submit to Congress a report on the actions taken by the Department of Defense during fiscal years 1985 and 1986 to increase contract competition and the national defense industrial base by increasing the participation in defense contracts of contractors in all geographic areas of the United States.

(2) Such report shall be submitted not later than March 31, 1987.

(b) CONTENTS OF REPORTS.—The report required by subsection (a)(1)—

(1) shall include a description of the use of procurement technical assistance centers, procurement conferences sponsored or supported by the Department of Defense, and any other Department of Defense programs conducted for the purpose of expanding the base of defense contractors; and

(2) shall categorize, by State and other appropriate geographic region, the actions described in the report.

TITLE XI

ARMS CONTROL

SEC. 1101. (a) LIMITATION ON TESTING OF ANTI-SATELLITE WEAPONS.—The Secretary of Defense may not carry out a test of the Space Defense System (anti-satellite weapon) against an object in space until the President certifies to Congress that the Soviet Union has conducted, after the date of the enactment of this Act, a test against an object in space of a dedicated anti-satellite weapon.

(b) EXPIRATION OF MORATORIUM.—The prohibition in subsection (a) expires on October 1, 1987.

SEC. 1102 (a) REPORT BY THE SECRETARY OF DEFENSE ON ICBM MODERNIZATION.—At the same time the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives the report on the intercontinental ballistic missile (ICBM) modernization program required by section 1231(c) of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 614), the Secretary shall submit to such Committees a statement containing the basis of the Secretary's recommendation to the President, and any decisions of the President, regarding the following matters:

(1) The configuration of a small intercontinental ballistic missile in terms of weight, number of warheads, and production schedule.

(2) The selected options for more survivable follow-on basing modes and basing locations for MX (Peacekeeper) missiles.

(3) The advisability of going forward with one or more selected basing modes to a full-scale engineering development decision.

(b) LIMITATION ON DEPLOYMENT OF PEACEKEEPER (MX) MISSILE; DEVELOPMENT OF SMALL ICBM.—The limitations contained in sections 206 and 1231 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 614), on the deployment of the MX missile and the development of a small intercontinental ballistic missile shall cease to apply when full-scale engineering development of a small mobile intercontinental ballistic missile begins.

(c) LIMITATIONS ON FUNDING.—Of the amounts appropriated herein for fiscal year 1987 for the ICBM Modernization Program—

(1) $120,000,000 shall be available for research and development on follow-on basing options;

(2) $290,000,000 shall be available for research and development of the Peacekeeper (MX) missile; and

(3) $1,200,000,000 shall be available for research and development of a small mobile intercontinental ballistic missile and basing for such missile.

SEC. 1103. Of the amount appropriated by this Act for research, development, test, and evaluation for the Defense Agencies, not more than $3,213,000,000 is available for the Strategic Defense Initiative (SDI) program.

SEC. 1104. Of the amounts appropriated in the Energy and Water Development Appropriations Act for fiscal year 1987 for national security programs for the Department of Energy, $317,000,000 is available for programs, projects, and activities of the Department of Energy relating to the Strategic Defense Initiative.

SEC. 1105. (a) SENSE OF CONGRESS RELATING TO CONTINUED ADHERENCE TO SALT II NUMERICAL SUBLIMITS.—It is the sense of the Congress that it is in the national security interests of the United States to continue voluntary compliance with the central numerical sublimits of the SALT II Treaty as long as the Soviet Union complies with such sublimits.

(b) DEFINITION.—For purposes of this section, the central numerical sublimits of the SALT II Treaty include prohibitions on the deployment of the following:

(1) Launchers for more than 820 intercontinental ballistic missiles carrying multiple independently-targetable reentry vehicles.

(2) Launchers for an aggregate of more than 1,200 intercontinental ballistic missiles carrying multiple independently-targetable reentry vehicles and submarine-launched ballistic missiles carrying multiple independently-targetable reentry vehicles.

(3) An aggregate of more than 1,320 launchers described in paragraph (2) and heavy bombers equipped for air-launched cruise missiles capable of a range in excess of 600 kilometers.

SEC. 1106. (a) SENSE OF CONGRESS ON NUCLEAR TESTING.—The Congress makes the following findings:

(1) The United States is committed in the Limited Test Ban Treaty of 1963 and in the Non-Proliferation Treaty of 1968 to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time.

(2) A comprehensive test ban treaty would promote the security of the United States by constraining the United States-

Soviet nuclear arms competition and by strengthening efforts to prevent the proliferation of nuclear weapons.

(3) The Threshold Test Ban Treaty was signed in 1974 and the Peaceful Nuclear Explosions Treaty was signed in 1976, and both have yet to be considered by the full Senate for its advice and consent to ratification.

(4) The entry into force of the Peaceful Nuclear Explosions Treaty and the Threshold Test Ban Treaty will ensure full implementation of significant new verification procedures and so make completion of a comprehensive test ban treaty more probable.

(5) A comprehensive test ban treaty must be adequately verifiable, and significant progress has been made in methods for detection of underground nuclear explosions by seismological and other means.

(6) At present, negotiations are not being pursued by the United States and the Soviet Union toward completion of a comprehensive test ban treaty.

(7) The past five administrations have supported the achievement of a comprehensive test ban treaty.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, at the earliest possible date, the President should—

(1) request the advice and consent of the Senate to ratification (with a report containing any plans the President may have to negotiate supplemental verification procedures, or if the President believes it necessary, any understanding or reservation on the subject of verification which should be attached to the treaty) of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties, signed in 1974 and 1976, respectively; and

(2) propose to the Soviet Union the immediate resumption of negotiations toward conclusion of a verifiable comprehensive test ban treaty.

In accordance with international law, the United States shall have no obligation to comply with any bilateral arms control agreement with the Soviet Union that the Soviet Union is violating.

SEC. 1107. (a) LIMITATION ON FISCAL YEAR 1987 FUNDS FOR THE BIGEYE BINARY CHEMICAL BOMB.—Before October 1, 1987, funds appropriated for fiscal year 1987 for procurement of the BIGEYE binary chemical bomb may not be obligated—

(1) for procurement (including procurement of components) of such bomb; or

(2) for assembly of such bomb.

(b) LIMITATION ON FINAL ASSEMBLY.—Before October 1, 1988, funds appropriated or otherwise made available to the Department of Defense may not be obligated or expended for the final assembly of complete BIGEYE binary chemical bombs.

(c) LIMITATION ON FISCAL YEAR 1986 FUNDS FOR PRODUCTION FACILITIES.—(1) Of the funds appropriated for fiscal year 1986 for production facilities for the BIGEYE binary chemical bomb, not more than $90,000,000 may be obligated or expended. None of such amount may be obligated or expended until the President certifies to Congress that—

(1) production of the BIGEYE binary chemical bomb is in the national security interests of the United States; and

(2) the design, planning, and environmental requirements for such facilities have been satisfied.

(d) GAO MONITORING AND REPORT.—(1) The Secretary of Defense shall provide for the involvement of the Comptroller General in monitoring the operational testing of the BIGEYE bomb.

(2) After any such testing is completed, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on such testing. The report shall include an assessment of such testing and any comments the Comptroller General considers appropriate.

(e) REPORT ON LONG-RANGE STANDOFF CHEMICAL MUNITIONS.—(1) The Secretary of Defense shall submit to Congress a report on the military requirements for long-range standoff chemical weapons. The report shall address the military advantages and disadvantages of such weapons and the potential of such weapons to complement the currently planned binary chemical weapon systems.

(2) Such report shall be submitted not later than March 15, 1987.

SEC. 1108. Of the amount appropriated by this Act for research, development, test, and evaluation for the Air Force, not more than $200,000,000 is available for the Space Defense System. None of such amount may be used for the production verification of the Miniature Homing Vehicle.

This Act may be cited as the "Department of Defense Appropriations Act, 1987".;

(d) Such amounts as may be necessary for programs, projects, or activities provided for in the District of Columbia Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1987, and for other purposes.

TITLE I

FISCAL YEAR 1987 APPROPRIATIONS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1987, $444,500,000: *Provided,* That none of these funds shall be made available to the District of Columbia until the number of full-time uniformed officers in permanent positions in the Metropolitan Police Department is at least 3,880, excluding any such officer appointed after August 19, 1982, under qualification standards other than those in effect on such date.

FEDERAL PAYMENT FOR WATER AND SEWER SERVICES

For payment to the District of Columbia for the fiscal year ending September 30, 1987, in lieu of reimbursement for charges for water and water services and sanitary sewer services furnished to facilities of the United States Government, $28,810,000, as authorized by the Act of May 18, 1954, as amended (D.C. Code, secs. 43-1552 and 43-1612).

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96-122), $52,070,000.

TRANSITIONAL PAYMENT FOR SAINT ELIZABETHS HOSPITAL

For a Federal contribution to the District of Columbia, as authorized by the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, approved November 8, 1984 (98 Stat. 3369; Public Law 98-621), $35,000,000.

CRIMINAL JUSTICE INITIATIVE

For the design and construction of a prison within the District of Columbia, $20,000,000, to become available October 1, 1987 together with funds previously appropriated under this head for the fiscal years ending September 30, 1986 and September 30, 1987: *Provided,* That the District of Columbia shall award a design and construction contract on or before October 15, 1986: *Provided further,* That the District of Columbia is directed to proceed with the design and construction of a prison facility within the District of Columbia without respect to the availability of Federal funds: *Provided further,* That a plan that includes the construction of not less than a 700 bed, medium security facility on the South part of Square E-1112 as recorded in Subdivision Book 140, Page 199 in the Office of the Surveyor of the District of Columbia is hereby approved: *Provided further,* That this approval shall satisfy the provisions as set forth in the first proviso under the heading "Criminal Justice Initiative" in H.R. 3067 as enacted by reference in section 101(c) of Public Law 99-190, approved December 19, 1985: *Provided further,* That the $50,000,000 herein and heretofore made available for the prison project shall remain in the United States Treasury and shall be transferred to the District of Columbia government only to the extent that outstanding obligations are due and payable to entities other than agencies and organizations of the District of Columbia government, and payments to such agencies and organizations may be made only in reimbursement for amounts actually expended in furtherance of the design and construction of the prison.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $108,407,000: *Provided,* That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: *Provided further,* That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further,* That not less than $320,000 shall be used by

the Office of Personnel exclusively for the administration of programs for the training of District of Columbia government employees: *Provided further,* That notwithstanding any other provision of law, there is hereby appropriated $3,772,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board, of which $754,000 shall be derived from the general fund and not to exceed $3,018,000 shall be derived from the earnings of the applicable retirement funds: *Provided further,* That the District of Columbia Retirement Board shall provide to the Congress and the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further,* That the District of Columbia Retirement Board shall provide the Mayor for transmittal to the Council of the District of Columbia an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report: *Provided further,* That of the $100,000 appropriated for fiscal year 1987 for Admission to Statehood, $50,000 shall be for the Statehood Commission and $50,000 shall be for the Statehood Compact Commission: *Provided further,* That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission.

Economic Development and Regulation

Economic development and regulation, $128,960,000, of which $2,000,000 shall be for non-recurring pay-as-you-go capital projects of the Department of Housing and Community Development: *Provided,* That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Code, sec. 45-2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: *Provided further,* That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the holders of any bonds or notes issued by the Agency and shall be repaid to the District of Columbia only from available operating revenues of the Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: *Provided further,* That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia.

Public Safety and Justice

Public safety and justice, including purchase of not to exceed 135 passenger-carrying vehicles for replacement only (including 130 for police-type use and five for fire-type use) and 14 replacement passenger-carrying vehicles for fire-type use without regard to the

general purchase price limitation for the current fiscal year, $600,165,000: *Provided,* That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further,* That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further,* That, notwithstanding any other provision of law, in the case of the 23 employees who retired from the Fire Department of the District of Columbia between November 24, 1984, and April 13, 1985 (both dates inclusive), and who on the date of the enactment of this Act are receiving annuities based on service in the Fire Department, the District of Columbia Retirement Board shall cause to be paid not later than October 15, 1986, to each such employee a lump-sum payment equal to three percent of his or her annuity: *Provided further,* That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93-412; D.C. Code, sec. 11-2601 et seq.), for the fiscal year ending September 30, 1987, shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1975: *Provided further,* That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5-129; D.C. Code, sec. 16-2304), for the fiscal year ending September 30, 1987, shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1985: *Provided further,* That $50,000 of any appropriation available to the District of Columbia may be used to match financial contributions from the Department of Defense to the District of Columbia Office of Emergency Preparedness for the purchase of civil defense equipment and supplies approved by the Department of Defense, when authorized by the Mayor: *Provided further,* That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further,* That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County and Prince William County, Virginia, for expenses incurred by the counties during fiscal year 1987 in relation to the Lorton prison complex. Such reimbursement shall be paid in all instances in which the District requests that the counties provide police, fire, rescue, and related services to help deal with escapes, riots, and similar disturbances involving the prison. The District shall make a quarterly report to the House and Senate Subcommittees on District of Columbia Appropriations regarding the amount and purpose of reimbursements made to the counties, and the amount of the authorization remaining for such reimbursements: *Provided further,* That within 30 days after the date of enactment of this Act, the District of Columbia shall establish a free, 24-hour telephone information service, whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further,* That the District of Columbia shall also take steps to publicize the availability of that service among the

residents of the area surrounding the Lorton prison: *Provided further,* That none of the funds appropriated by this Act may be used to implement any plan that includes the closing of Engine Company 3, located at 439 New Jersey Avenue, Northwest: *Provided further,* That none of the funds provided by this Act may be used to implement District of Columbia Board of Parole notice of emergency and proposed rulemaking as filed with the District of Columbia Register July 25, 1986: *Provided further,* That the District of Columbia shall not renovate or construct prison bed space at the Occoquan facilities of Lorton prison beyond the number of prison bed spaces which were damaged or destroyed there during the fire that occurred on July 25, 1986.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $541,318,000, to be allocated as follows: $394,406,000 for the public schools of the District of Columbia, of which $8,000,000 shall be for non-recurring pay-as-you-go capital projects of the public schools of the District of Columbia; $58,800,000 for the District of Columbia Teachers' Retirement Fund; $68,861,000 for the University of the District of Columbia; $16,646,000 for the Public Library; $2,368,000 for the Commission on the Arts and Humanities; and $237,000 for the Educational Institution Licensure Commission: *Provided,* That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further,* That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: *Provided further,* That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1987, a tuition rate schedule which will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area: *Provided further,* That of the amount made available to the University of the District of Columbia, $1,146,000 shall be used solely for the operation of the Antioch School of Law: *Provided further,* That acquisition or merger of the Antioch School of Law shall have been previously approved by both the Board of Trustees of the University of the District of Columbia and the Council of the District of Columbia, and that the Council shall have issued its approval by resolution: *Provided further,* That if the Council of the District of Columbia or the Board of Trustees of the University of the District of Columbia fails to approve the acquisition or merger of the Antioch School of Law, the $1,146,000 shall be used solely for the repayment of the general fund deficit.

HUMAN SUPPORT SERVICES

Human support services, $654,315,000, of which $298,000 shall be for non-recurring pay-as-you-go capital projects of the Department of Human Services: *Provided,* That the inpatient rate (excluding the

proportionate share for repairs and construction) for services rendered by Saint Elizabeths Hospital for patient care shall be at the per diem rate established pursuant to section 2 of an Act to authorize certain expenditures from the appropriation of Saint Elizabeths Hospital, and for other purposes, approved August 4, 1947 (61 Stat. 751; Public Law 80-353; 24 U.S.C. 168(a)): *Provided further,* That total funds paid by the District of Columbia as reimbursements for operating costs of Saint Elizabeths Hospital, including any District of Columbia payments (but excluding the Federal matching share of payments) associated with title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 343; Public Law 89-97; 42 U.S.C. 1396 et seq.), shall not exceed $71,200,000: *Provided further,* That $13,800,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation.

Public Works

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $204,748,000, of which not to exceed $4,150,000 shall be available for the School Transit Subsidy: *Provided,* That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business or from apartment houses with four or more apartments, or from any building or connected group of buildings operating as a rooming or boarding house as defined in the housing regulations of the District of Columbia.

Washington Convention Center Fund

For the Washington Convention Center Fund, $6,261,000: *Provided,* That the Convention Center Board of Directors, established by section 3 of the Washington Convention Center Management Act of 1979, effective November 3, 1979 (D.C. Law 3-36; D.C. Code, sec. 9-602), shall reimburse the Auditor of the District of Columbia for all reasonable costs for performance of the annual convention center audit.

Repayment of Loans and Interest

For reimbursement to the United States of funds loaned in compliance with an Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79-648); the Departments of Labor, and Health, Education and Welfare Appropriation Act of 1955, approved July 2, 1954 (68 Stat. 443; Public Law 83-472); section 1 of an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, sec. 9-219); section 4 of an Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86-515); and section 723 of

the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 821; Public Law 93-198; D.C. Code, sec. 47-321, note); and section 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act, approved October 13, 1977 (91 Stat. 1156; Public Law 95-131; D.C. Code, sec. 9-219, note), including interest as required thereby, $204,514,000.

REPAYMENT OF GENERAL FUND DEFICIT

For the purpose of reducing the $244,934,000 general fund accumulated deficit as of September 30, 1985, $20,000,000, of which not less than $11,325,000 shall be funded and apportioned by the Mayor from amounts otherwise available to the District of Columbia government (including amounts appropriated by this Act or revenues otherwise available, or both): *Provided,* That if the Federal payment to the District of Columbia for fiscal year 1987 is reduced pursuant to an order issued by the President under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177, approved December 12, 1985), the percentage (if any) by which the $20,000,000 set aside for repayment of the general fund accumulated deficit under this appropriation title is reduced as a consequence shall not exceed the percentage by which the Federal payment is reduced pursuant to such order.

SHORT-TERM BORROWINGS

For the purpose of funding interest related to borrowing funds for short-term cash needs, $3,750,000.

CAPITAL OUTLAY

For construction projects, $361,860,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, secs. 43-1512 to 43-1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83-364); an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, secs. 9-219 and 47-3402); section 3(g) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved August 20, 1958 (72 Stat. 686; Public Law 85-692; D.C. Code, sec. 40-805(7)); and the National Capital Transportation Act of 1969, approved December 9, 1969 (83 Stat. 320; Public Law 91-143; D.C. Code, secs. 1-2451, 1-2452, 1-2454, 1-2456, and 1-2457); including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided,* That $17,425,000 shall be available for project management and $24,139,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor, and that the funds for use of each capital project implement-

ing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further,* That $10,298,000 of the $361,860,000, shall be financed from general fund operating revenues to be allocated as follows: $8,000,000 for pay-as-you-go capital projects for public schools of the District of Columbia; $2,000,000 for pay-as-you-go capital projects for the Department of Housing and Community Development; and $298,000 for pay-as-you-go capital projects for the Department of Human Services: *Provided further,* That $19,218,000 of the $361,860,000, shall be available to the Board of Education of the District of Columbia for pay-as-you-go capital projects (maintenance improvements), for the construction of new roofs for various school buildings, and for school safety and building improvements projects, with $15,999,000 of these funds available for construction, $1,881,000 available for architectural design, and $1,338,000 available for project management: *Provided further,* That notwithstanding the last sentence of section 405(b) of the District of Columbia Public Postsecondary Education Reorganization Act, approved October 26, 1974 (88 Stat. 1423; D.C. Code, sec. 31-1535(b)), the Board of Education of the District of Columbia may procure contracts for its pay-as-you-go capital projects, for the construction of new roofs for various school buildings, and for school safety and building improvements projects: *Provided further,* That all such funds shall be available only for the specific projects and purposes intended: *Provided further,* That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 7-134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1988, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1988: *Provided further,* That upon expiration of any such project authorization the funds provided herein for the project shall lapse: *Provided further,* That $50,000,000 of the $361,860,000 is for the construction of a prison facility in the District of Columbia which is financed with Federal funds appropriated to the District of Columbia; namely, $10,000,000 appropriated in fiscal year 1986; $20,000,000 appropriated for fiscal year 1987, and $20,000,000 appropriated for fiscal year 1988.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $176,876,000, of which $32,834,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

For construction projects, $54,850,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; D.C. Code, sec. 43-1512 et seq.): *Provided,* That the requirements and restrictions which are applicable to general fund capital improvement projects and which are set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund established by the District of Columbia Appropriation Act for fiscal year 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97-91, as amended), for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Code, secs. 2-2501 et seq. and 22-1516 et seq.), $5,458,000, to be derived from non-Federal District of Columbia revenues: *Provided,* That the District of Columbia shall identify the sources of funding for this appropriation title from its own locally-generated revenues: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5-36; D.C. Code, sec. 43-1801 et seq.), $250,000.

GENERAL PROVISIONS

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount which may be expended for said purpose or object rather than an amount set apart exclusively therefor, except for those funds and programs for the Metropolitan Police Department under the heading "Public Safety and Justice" which shall be considered as the amounts set apart exclusively for and shall be expended solely by that Department; and the appropriation under the heading "Repayment of General Fund Deficit" which shall be considered as the amount set apart exclusively for and shall be expended solely for that purpose.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided,* That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101-7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government,

when authorized by the Mayor: *Provided,* That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided,* That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84-460; D.C. Code, sec. 47-1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Code, sec. 3-205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90-445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. Not to exceed 4½ per centum of the total of all funds appropriated by this Act for personal compensation may be used to pay the cost of overtime or temporary positions.

SEC. 110. Appropriations in this Act shall not be available, during the fiscal year ending September 30, 1987, for the compensation of any person appointed to a permanent position in the District of Columbia government during any month in which the number of employees exceeds 33,549, the number of positions authorized by this Act.

SEC. 111. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 112. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1988, shall be transmitted to the Congress by no later than April 15, 1987.

SEC. 113. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, the Subcommittee on Governmental Efficiency and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative.

SEC. 114. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2-20; D.C. Code, sec. 47-421 et seq.).

SEC. 115. None of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 116. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 117. None of the Federal funds provided in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

SEC. 118. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided,* That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowing and spending progress compared with projections.

SEC. 119. The Mayor shall not borrow any funds for capital projects unless he has obtained prior approval from the Council of the District of Columbia by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 120. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 121. None of the funds appropriated in this Act may be used for the implementation of a personnel lottery with respect to the hiring of fire fighters or police officers.

SEC. 122. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96-443) which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96-93), as modified in House Report No. 98-265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3-100; D.C. Code, sec. 47-361 et seq.)

SEC. 123. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 124. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96-425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided,* That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 125. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C.

Code, sec. 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) for any position for any period during the last quarter of calendar year 1986 shall be deemed to be the rate of pay payable for that position for September 30, 1986.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79-592; D.C. Code, sec. 5-803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, a per diem compensation at a rate established by the Mayor.

SEC. 126. Notwithstanding any other provision of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided,* That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

SEC. 127. None of the funds appropriated by this Act may be used to transport any output of the municipal waste system of the District of Columbia for disposal at any public or private landfill located in any State, excepting currently utilized landfills in Maryland and Virginia, until the appropriate State agency has issued the required permits.

SEC. 128. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72-212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency and the District's best interest.

SEC. 129. (a) Section 131 of the District of Columbia Appropriation Act, 1986 (H.R. 3067 as enacted by reference in section 101(c) of Public Law 99-190), is amended—

(1) by inserting "or leased" after "owned" in subsection (a); and

(2) by inserting before the period at the end of subsection (b)(3) the following: ", and includes any tax imposed with respect to the use or rental of a motor vehicle and levied on, with respect to, or measured by the sales price or market value of the vehicle or the gross proceeds from the rental".

(b) The amendments made by subsection (a) shall apply to all taxable periods described in section 131(c) of such Act.

SEC. 130. No later than 30 days after the end of the first quarter of fiscal year 1987, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1987

revenue estimate as of the end of the first quarter of fiscal year 1987: *Provided,* That these estimates shall be used in the fiscal year 1988 annual budget request: *Provided further,* That the officially revised estimates at midyear shall be used for the midyear report.

SEC. 131. Section 466(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 806; Public law 93-198; D.C. Code, sec. 47-326), is amended by striking out "sold before October 1, 1986" and inserting in lieu thereof "sold before October 1, 1987".

SEC. 132. The District of Columbia shall construct three signs which contain the words, "Sakharov Plaza". These signs shall be placed immediately above existing signs on the corners of 16th and L and 16th and M Streets, Northwest. These should be similar to signs used by the city to designate the location of Metro stations. In addition, a sign shall be placed on city property directly adjacent to, or directly in front of, 1125 16th Street designating the actual location of Andrei Sakharov Plaza. Hereafter the proper address of the Soviet Embassy in Washington, District of Columbia, shall be No. 1 Andrei Sakharov Plaza.

SEC. 133. The Congress of the United States reaffirms the authority of the Council of the District of Columbia, as authorized by the Street and Alley Closing and Acquisition Procedures Act of 1982 (D.C. Code, sec. 7-421), to enact the Closing of a Portion of 8th Street, Northwest, and Public Alleys in Square 403 Act of 1984 (D.C. Law 5-148), and the Closing of a Portion of 8th Street, Northwest, and Public Alleys and Square 403 Emergency Act of 1984 (D.C. Act 5-206).

SEC. 134. (a) Section 906 of the Leadership in Educational Administration Development Act of 1984 (20 U.S.C. 4206) is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(6) the term 'State' includes the 50 States and the District of Columbia.".

(b) The amendments made by subsection (a) shall be effective as though they had been included in section 906 of the Leadership in Educational Administration Development Act of 1984 at the time of its enactment.

TITLE II

FISCAL YEAR 1986 SUPPLEMENTAL

DISTRICT OF COLUMBIA FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

For an additional amount for "Governmental Direction and Support", $1,738,000.

ECONOMIC DEVELOPMENT AND REGULATION

For an additional amount for "Economic Development and Regulation", $5,658,000.

PUBLIC SAFETY AND JUSTICE

(INCLUDING RESCISSION)

For an additional amount for "Public Safety and Justice", $47,093,000: *Provided,* That of the funds appropriated under this heading for the Police and Fire Retirement System for fiscal year 1986 in H.R. 3067 as enacted by reference in section 101(c) of Public Law 99-190, $12,735,000 are rescinded.

PUBLIC EDUCATION SYSTEM

For an additional amount for "Public Education System", $92,000, for the Commission on the Arts and Humanities: *Provided,* That of the amount available for the District of Columbia Teachers' Retirement Fund for the fiscal year ending September 30, 1986, $3,423,000 shall be used solely for the purpose of reducing the fund's unfunded liabilities.

HUMAN SUPPORT SERVICES

(INCLUDING RESCISSION)

For an additional amount for "Human Support Services", $3,545,000: *Provided,* That of the funds appropriated under this heading for the Unemployment Compensation Fund for fiscal year 1986 in H.R. 3067 as enacted by reference in section 101(c) of Public Law 99-190, $1,982,000 are rescinded: *Provided further,* That of the amount available from the revenue sharing trust fund for the fiscal year ending September 30, 1986, $2,463,000 are rescinded.

PUBLIC WORKS

For an additional amount for "Public Works", $4,216,000.

WASHINGTON CONVENTION CENTER FUND

For an additional amount for "Washington Convention Center Fund", $150,000.

REPAYMENT OF LOANS AND INTEREST

(RESCISSION)

Of the funds appropriated under this heading for fiscal year 1986 in H.R. 3067 as enacted by reference in section 101(c) of Public Law 99-190, $16,316,000 are rescinded.

PERSONAL SERVICES

(INCLUDING RESCISSION)

For "Personal services", $1,000,000, to be apportioned by the Mayor to the various appropriation titles for optical and dental costs for nonunion employees: *Provided,* That of the funds appropriated under the various headings for the fiscal year 1986 in H.R. 3067 as enacted by reference in section 101(c) of Public Law 99-190, $3,423,000 in personal services costs are rescinded.

ADJUSTMENTS

(RESCISSION)

The Mayor shall reduce authorized appropriations and expenditures within Object Class 30A (energy) in the amount of $1,000,000 within the various appropriation titles of H.R. 3067 as enacted by reference in section 101(c) of Public Law 99-190, approved December 19, 1985 (99 Stat. 1224).

CAPITAL OUTLAY

For an additional amount for "Capital Outlay", $126,791,000: *Provided,* That $5,165,000 shall be for project management and $836,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor, and that the funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System.

WATER AND SEWER ENTERPRISE FUND

For an additional amount for "Water and Sewer Enterprise Fund", $300,000.

GENERAL PROVISIONS

SEC. 201. Notwithstanding any other provision of law, appropriations made and authority granted pursuant to this title shall be deemed to be available for the fiscal year ending September 30, 1986.

This Act may be cited as the "District of Columbia Appropriations Act, 1987".

(e) Such amounts as may be necessary for programs, projects or activities provided for in the Energy and Water Development Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

91-139 O - 87 - 7 (517)

AN ACT

Making appropriations for energy and water development for the fiscal year ending September 30, 1987, and for other purposes.

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, $135,517,000, to remain available until expended, and in addition, $250,000, to remain available until expended, for the Bolsa Chica/Sunset Harbor, California, study; and in addition, $520,000 to remain available until expended, for the Red River Waterway, Shreveport, Louisiana, to Index, Arkansas, project for continuation of preconstruction planning: *Provided,* That not to exceed $18,000,000 shall be available for obligation for research and development activities.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $1,065,950,000, of which $26,000,000 shall be derived from the Inland Waterway Trust Fund, to remain available until expended, and in addition, to remain available until expended, $2,300,000 for that increment of the project for beach erosion control, Sandy Hook to Barnegat Inlet, New Jersey, of which $1,300,000 shall be made available for the Sea Bright to Ocean Township reach and of which $1,000,000 for the Asbury Park to Manasquan reach; and in addition, $6,800,000 to remain available until expended for the construction of the Yatesville, Kentucky, construction project; and in addition, $1,600,000, to remain available until expended for construction of the Sturgeon Point Marina, New York, project authorized by section 107 of the Rivers and Harbors Act of 1960, as amended; and in addition, $1,600,000 to remain available until expended, for construction of recreation facilities at New Melones

Lake, California; and in addition, $1,200,000 to remain available until expended to be equally divided between the Crossett Harbor Public Access/Recreation Site and the Grand Marais Lake Public Access/Recreation Site at the Felsenthal National Wildlife Refuge, Arkansas (Ouachita and Black Rivers, Arkansas and Louisiana); and in addition, $1,100,000 to remain available until expended, for construction, at a standard project level of protection, for the Barbourville, Kentucky, project as authorized by section 202 of Public Law 96-367; and in addition, $3,600,000, to remain available until expended, for construction at a standard project flood level of protection, for the Harlan, Kentucky, project as authorized by section 202 of Public Law 96-367 (Levisa/Tug Forks of Big Sandy River and Upper Cumberland River, West Virginia, Virginia, and Kentucky); and in addition, $68,000,000, to remain available until expended, for construction of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project, $38,000,000 for Locks and Dams 1 and 2, and $30,000,000 with which the Secretary of the Army is directed, as a minimum, to award continuing contracts in fiscal year 1987 for construction and completion of each of the following features of the Red River Waterway: Lock and Dam No. 3 Phase III (consisting of the main lock and dam and connecting channels), realignment and bank stabilization measures in Pools 3, 4, and 5, including but not limited to Saint Maurice, Kadesh, Socot, Powhattan, Ile Au Vaches, Campti, Smith Island, Carroll, and Wilkerson Point Realignments, and Cognac and Lumbra Revetments. The Secretary is further directed to initiate and complete both the Lock and Dam No. 3 Phase IIB (consisting of the initial excavation for the lock and dam, the north cofferdam, the reservation mound and disposal area) and Phase IIC (consisting of the remaining access roads) contracts in fiscal year 1987. None of these contracts are to be considered fully funded. Contracts are to be initiated, or initiated and completed, with funds herein provided: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, shall provide funds for design and construction of a storage facility including necessary conveyances, to resolve a water quality problem associated with Dam Site 18 of the Papillion Creek and Tributaries Lakes, Nebraska. The funds are to be provided from available funds: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is authorized to construct flood control structures in accordance with the plan contained in the reevaluation report of the Chief of Engineers for Papillion Creek and Tributaries Lakes, Nebraska, dated March 1985 (revised October 1985). Features of such project authorized by the Flood Control Act of 1968 but eliminated by or otherwise not in accordance with the reevaluation report are not authorized after the date of enactment of this Act: *Provided further,* That Section 123 of Public Law 99-190 is amended by striking out "at an estimated cost of $1,000,000" and inserting in lieu thereof "a cost of $2,300,000".

Flood Control and Coastal Emergencies

For expenses necessary for emergency flood control, hurricane, and shore protection activities, as authorized by section 5 of the Flood Control Act, approved August 18, 1941, as amended, $10,000,000, to remain available until expended.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g-1), $310,797,000, to remain available until expended: *Provided,* That not less than $250,000 shall be available for bank stabilization measures as determined by the Chief of Engineers to be advisable for the control of bank erosion of streams in the Yazoo Basin, including the foothill area, and where necessary such measures shall complement similar works planned and constructed by the Soil Conservation Service and be limited to the areas of responsibility mutually agreeable to the District Engineer and the State Conservationist. The Secretary of the Army, acting through the Chief of Engineers, is hereby directed to repair the Pumping Station and Gravity Outlets at the City of DeValls Bluff, Arkansas, authorized by the Flood Control Act of August 18, 1941, as amended by the Flood Control Act of July 24, 1946, at an estimated cost of $250,000.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; administration of laws pertaining to preservation of navigable waters; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, $1,389,846,000, to remain available until expended, of which $12,500,000 shall be for construction, operation, and maintenance of outdoor recreation facilities, to be derived from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l), and of which $7,400,000 shall be for construction of recreation facilities (including a recreation lake) at Sepulveda Dam, California: *Provided,* That not to exceed $8,000,000 shall be available for obligation for mobilization planning activities.

REVOLVING FUND

For construction of a dustpan dredge and for the Corps of Engineers Automation Plan, $12,000,000, to remain available until expended (33 U.S.C. 576).

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the office of the Chief of Engineers and offices of the Division Engineers; activities of the Board of Engineers for Rivers and Harbors, the Coastal Engineering Research Board, the Engineer Automation Support Activity, and the Water Resources Support Center, $115,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations in this title shall be available for expenses of attendance by military personnel at meetings in the manner authorized by section 4110 of title 5, United States Code, uniforms, and allowances therefor, as authorized by law (5 U.S.C. 5901-5902), and for printing, either during a recess or session of Congress, of survey reports authorized by law, and such survey reports as may be printed during a recess of Congress shall be printed, with illustrations, as documents of the next succeeding session of Congress; not to exceed $2,000 for official reception and representation expenses; and during the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed 250 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS, CORPS OF ENGINEERS

SEC. 101. None of the funds appropriated in this title, except as specifically contained herein, shall be used to alter, modify, dismantle, or otherwise change any project which is partially constructed but not funded for construction in this title.

SEC. 102. The Secretary of the Army, acting through the Chief of Engineers, is directed to continue with planning, design, engineering, construction and the operation and maintenance of the Des Moines Recreational River and Greenbelt project as described in Conference Report 99-236 using funds heretofore, herein and hereafter appropriated. Notwithstanding the language contained in the 1985 Supplemental Appropriations Act, Public Law 99-88, the Corps of Engineers shall continue their work on the General Design Memorandum, which shall be completed by October 1987 to serve as a master plan for the overall project. The design memorandum must address all enhancements contained in the list prepared by the Des Moines Recreational River and Greenbelt Advisory Committee. The project after construction will be operated and maintained at full Federal expense.

SEC. 103. Notwithstanding any conditions to the contrary in executed local cooperation agreements, where such agreements exist, initiation of construction of new Department of the Army water resource projects funded and authorized by Public Law 99-88 shall not be contingent upon enactment of legislation imposing a Federal port use charge or increasing the tax imposed by section 4042 of the Internal Revenue Code of 1954. Upon fulfillment of all other conditions and subject to such other terms as might appear in a local cooperation agreement, where required, for such a project, the Secretary shall initiate and complete construction of the project. Once construction has been initiated, no work in connection with such project shall be considered a "new start" for budgetary or funding purposes.

SEC. 104. None of the funds provided in this act, or any other act, may be used by the Corps of Engineers to lease, contract or otherwise transfer to a non-government entity any parks or recreation resources, or the management or operation thereof, located at Greers Ferry Lake or Little Red River in the State of Arkansas, for which such arrangements did not exist on or before September 1, 1986, until the Corps has studied the economic, environmental and public use impact of leasing to private enterprise the parks and other recreation resources at lakes, reservoirs and reaches of river

under its jurisdiction and such study has been reviewed by the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works in the Senate.

SEC. 105. None of the funds made available by this Act or any other Act for any fiscal year may be used hereafter to study, to plan, to implement, to construct, or to issue any permit for the Northfield Mountain Water Supply Project, Massachusetts or the Millers and Tully Rivers Water Supply Project, Massachusetts: *Provided,* That this section shall not apply to environmental studies undertaken by the United States Fish and Wildlife Service: *Provided further,* That this shall not be construed as a precedent for any other Corps permit in any other state or region.

SEC. 106. Within available funds, the Secretary of the Army acting through the Chief of Engineers is authorized and directed to modify the Black Warrior and Tombigbee Rivers, Alabama, project, to provide a safe channel and general navigation facilities in the vicinity of Jackson, Alabama, at an estimated cost of $8,200,000. Necessary training works to provide a safe channel shall be constructed at full Federal expense as part of the Operation and Maintenance, General program. Development of general navigation facilities to provide a spur canal for a port facility at Jackson, at an estimated cost of $2,300,000, shall be part of the Construction, General program and shall be cost shared under terms and conditions acceptable to the Secretary of the Army as set forth in a binding agreement with a non-Federal sponsor desiring to participate in project construction.

TITLE II

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

GENERAL INVESTIGATIONS

For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects, to remain available until expended, $29,409,000: *Provided,* That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That all costs of an advance planning study of a proposed project shall be considered to be construction costs and to be reimbursable in accordance with the allocation of construction costs if the project is authorized for construction: *Provided further,* That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as

though specifically appropriated for said purposes, and such amounts shall remain available until expended.

CONSTRUCTION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For construction and rehabilitation of projects and parts thereof (including power transmission facilities for Bureau of Reclamation use) and for other related activities as authorized by law, to remain available until expended, $602,158,000, of which $110,929,000 shall be available for transfers to the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (43 U.S.C. 620d), and $145,596,000 shall be available for transfers to the Lower Colorado River Basin Development Fund authorized by section 403 of the Act of September 30, 1968 (43 U.S.C. 1543), and such amounts as may be necessary shall be considered as though advanced to the Colorado River Dam Fund for the Boulder Canyon Project as authorized by the Act of December 21, 1928, as amended: *Provided,* That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That transfers to the Upper Colorado River Basin Fund and Lower Colorado River Basin Development Fund may be increased or decreased by transfers within the overall appropriation to this heading: *Provided further,* That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such funds shall remain available until expended: *Provided further,* That the final point of discharge for the interceptor drain for the San Luis Unit shall not be determined until development by the Secretary of the Interior and the State of California of a plan, which shall conform with the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters: *Provided further,* That no part of the funds herein approved shall be available for construction or operation of facilities to prevent waters of Lake Powell from entering any national monument: *Provided further,* That of the amount herein appropriated, such amounts as may be necessary shall be available to enable the Secretary of the Interior to continue work on rehabilitating the Velarde Community Ditch Project, New Mexico, in accordance with the Federal Reclamation Laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) for the purposes of diverting and conveying water to irrigated project lands. The cost of the rehabilitation will be nonreimbursable and constructed features will be turned over to the appropriate entity for operation and maintenance: *Provided further,* That of the amount herein appropriated, such amounts as may be required shall be available to continue improvement activities for the Lower Colorado Regional Complex: *Provided further,* That section 507 of Public Law 92-514 (86 Stat. 970) is amended by striking out "$79,500,000 (based upon January 1972 prices)" and inserting in lieu thereof "$333,865,000 (based upon July 1984 prices)": *Provided further,* That of the total herein appropriated in this account, the Secretary of the Interior is authorized to obligate no more than $8,800,000 by August 1, 1987, for the San Joaquin Valley Drainage

Program: *Provided further,* That Section 8 of the Act of June 3, 1960 (74 Stat. 156; Public Law 86-488), is amended by inserting "(a)" after "SEC. 8." and by inserting at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of law, none of the costs associated with, or resulting from, the following which have been or will be incurred shall be recovered by the Secretary, directly or indirectly, from power contractors of the Central Valley project:

"(1) the construction of such distribution systems and drains as are not constructed by local interests;

"(2) the construction of the San Luis interceptor drain; or

"(3) the construction or acquisition of any facilities by the United States or the Westlands Water District as partial or full alternatives to the San Luis interceptor drain.".

OPERATION AND MAINTENANCE

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Bureau of Reclamation, pursuant to law, to remain available until expended, $140,000,000: *Provided,* That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That of the total appropriated, such amounts as may be required for replacement work on the Boulder Canyon Project which would require readvances to the Colorado River Dam Fund shall be readvanced to the Colorado River Dam Fund pursuant to section 5 of the Boulder Canyon Project Adjustment Act of July 19, 1940 (43 U.S.C. 618d), and such readvances since October 1, 1984, and in the future shall bear interest at the rate determined pursuant to section 104(a)(5) of Public Law 98-381: *Provided further,* That funds advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same objects and in the same manner as sums appropriated herein may be expended, and such advances shall remain available until expended: *Provided further,* That nonreimbursable funds will be available from revenues for performing examination of existing structures on participating projects of the Colorado River Storage Project.

LOAN PROGRAM

For loans to irrigation districts and other public agencies for construction of distribution systems on authorized Federal reclamation projects, and for loans and grants to non-Federal agencies for construction of projects, as authorized by the Acts of July 4, 1955, as amended (43 U.S.C. 421a-421d), and August 6, 1956, as amended (43 U.S.C. 422a-422l), including expenses necessary for carrying out the program, $37,480,000, to remain available until expended: *Provided,* That of the total sums appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That during fiscal year 1987 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $43,806,000: *Provided further,* That any contract under the Act of July 4, 1955 (69 Stat. 244), as amended, not yet executed by the Secretary, which

calls for the making of loans beyond the fiscal year in which the contract is entered into shall be made only on the same conditions as those prescribed in section 12 of the Act of August 4, 1939 (53 Stat. 1187, 1197).

GENERAL ADMINISTRATIVE EXPENSES

For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver Engineering and Research Center, and offices in the six regions of the Bureau of Reclamation, $51,200,000, of which $2,000,000, shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377): *Provided,* That no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

EMERGENCY FUND

For an additional amount for the "Emergency fund", as authorized by the Act of June 26, 1948 (43 U.S.C. 502), as amended, to remain available until expended for the purposes specified in said Act, $1,000,000, to be derived from the reclamation fund.

WORKING CAPITAL FUND

For acquisition of the Bureau's computer aided design and drafting system, $6,400,000, to remain available until expended, as authorized in section 1472 of title 43, United States Code (99 Stat. 571), the total amount to be derived from the reclamation fund.

SPECIAL FUNDS

(TRANSFER OF FUNDS)

Sums herein referred to as being derived from the reclamation fund or the Colorado River development fund are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391) and the Act of July 19, 1940 (43 U.S.C. 618a), respectively. Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the heads herein specified; and the unexpended balances of sums transferred for expenditure under the head "General Administrative Expenses" shall revert and be credited to the special fund from which derived.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 12 passenger motor vehicles of which 10 shall be for replacement only; payment of claims for damages to or loss of property, personal injury, or death arising out of activities of the Bureau of Reclamation; payment, except as otherwise provided for, of compensation and expenses of persons on the rolls of the Bureau of Reclamation appointed as authorized by law to represent the United States in the negotiations and administration of interstate compacts without reimbursement or return under the reclamation laws; for service as authorized by section 3109 of title 5, United States Code, in total not to exceed $500,000; rewards for

information or evidence concerning violations of law involving property under the jurisdiction of the Bureau of Reclamation; performance of the functions specified under the head "Operation and Maintenance Administration", Bureau of Reclamation, in the Interior Department Appropriations Act, 1945; preparation and dissemination of useful information including recordings, photographs, and photographic prints; and studies of recreational uses of reservoir areas, and investigation and recovery of archeological and paleontological remains in such areas in the same manner as provided for in the Acts of August 21, 1935 (16 U.S.C. 461-467) and June 27, 1960 (16 U.S.C. 469): *Provided,* That no part of any appropriation made herein shall be available pursuant to the Act of April 19, 1945 (43 U.S.C. 377), for expenses other than those incurred on behalf of specific reclamation projects except "General Administrative Expenses" and amounts provided for plan formulation and advance planning investigations, and general engineering and research under the head "General Investigations".

Sums appropriated herein which are expended in the performance of reimbursable functions of the Bureau of Reclamation shall be returnable to the extent and in the manner provided by law.

The costs of the Seedskadee Project may be reallocated in order to reflect revised project beneficial purposes.

No part of any appropriation for the Bureau of Reclamation, contained in this Act or in any prior Act, which represents amounts earned under the terms of a contract but remaining unpaid, shall be obligated for any other purpose, regardless of when such amounts are to be paid: *Provided,* That the incurring of any obligation prohibited by this paragraph shall be deemed a violation of section 3679 of the Revised Statutes, as amended (31 U.S.C. 1341).

No funds appropriated to the Bureau of Reclamation for operation and maintenance, except those derived from advances by water users, shall be used for the particular benefits of lands (a) within the boundaries of an irrigation district, (b) of any member of a water users' organization, or (c) of any individual when such district, organization, or individual is in arrears for more than twelve months in the payment of charges due under a contract entered into with the United States pursuant to laws administered by the Bureau of Reclamation.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 201. Appropriations in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided,* That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

SEC. 202. The Secretary may authorize the expenditure or transfer (within each bureau or office) of any appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior.

SEC. 203. Appropriations in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency, or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by the Act of June 30, 1932 (31 U.S.C. 1535 and 1536): *Provided,* That reimbursements for costs of supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 204. Appropriations in this title shall be available for hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchases of reprints; payment for telephone services in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 205. Of the appropriations provided for the Central Utah Project, in this or any other Act, not more than 20 percent of total in any one fiscal year may be expended by the Secretary for all administrative expenses: *Provided,* That the Inspector General of the Department of the Interior shall annually audit expenditures by the Bureau of Reclamation to determine compliance with this section: *Provided further,* That the Bureau of Reclamation's General Administrative Expenses appropriation shall be used to fund the audit: *Provided further,* That the Bureau of Reclamation shall not delay or stop construction of the project due to this limitation and shall apply all the remaining appropriations to completion of the project.

SEC. 206. The Central Utah Water Conservancy District shall pay principal and interest on those features of the Central Utah Project which develop 60,000 acre-feet of municipal and industrial water supply for which deferral was invoked in 1981, without the benefit of exceptions (1) and (2) of the last proviso of the first sentence of section 301(b) of the Water Supply Act of 1958, 43 U.S.C. 390(b)(2): *Provided,* That in the event that the Bonneville Unit is not substantially complete, as determined by the Secretary, at the end of fiscal year 1995, the Central Utah Water Conservancy District will be credited with $2,000,000 to be applied to its repayment obligation for the Bonneville Unit each year that the project is not substantially complete, as determined by the Secretary, but in no case beyond fiscal year 2000.

TITLE III—DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for energy supply, research and development activities, and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor

vehicles (not to exceed 18 for replacement only), $1,347,048,000, to remain available until expended; in addition $684,158,000 shall be derived by transfer from Uranium Supply and Enrichment Activities provided in prior years and shall be available until expended; and of which $84,100,000 which shall be available only for the Center for New Industrial Materials; the Center for Nuclear Imaging Research; the Energy Research Complex; Saint Christopher's Hospital for Children—Energy Demonstration Project; Center for Excellence in Education—Energy Utilization Performance Project; the Institute of Nuclear Medicine; the Advanced Science Center; the Center for Science and Engineering; and funds provided for by-products utilization activities shall be available only for the following regional projects: Florida Department of Agriculture and Consumer Services; Hawaii Department of Planning and Economic Development; Iowa State University; Oklahoma, Red-Ark Development Authority; Washington, Port of Pasco; State of Alaska.

Uranium Supply and Enrichment Activities

For expenses of the Department of Energy in connection with operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses incidental thereto necessary for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 33 for replacement only); $1,210,400,000, to remain available until expended: *Provided,* That revenues received by the Department for the enrichment of uranium and estimated to total $1,286,400,000 in fiscal year 1987, shall be retained and used for the specific purpose of offsetting costs incurred by the Department in providing uranium enrichment service activities as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302(b) of section 484, of title 31, United States Code: *Provided further,* That the sum herein appropriated shall be reduced as uranium enrichment revenues are received during fiscal year 1987 so as to result in a final fiscal year 1987 appropriation estimated at not more than $0.

General Science and Research Activities

For expenses of the Department of Energy, activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for general science and research activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 12 for replacement only); $708,400,000 to remain available until expended.

Nuclear Waste Disposal Fund

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, including the acquisition of real property or facility construction or expansion, $499,000,000, to remain available

until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise his authority pursuant to section 302(e)(5) to issue obligations to the Secretary of the Treasury: *Provided,* That of the funds available, $2,500,000 shall be provided to the State of Oregon for the purpose of researching, with respect to nuclear activities carried out at the Hanford Federal Reservation in Richland, Washington, the effects of such nuclear activities on the health of the people of Oregon and on the environment of Oregon.

Atomic Energy Defense Activities

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for atomic energy defense activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 344 of which 320 are for replacement only) including 36 police-type vehicles; and purchase of five aircraft, three of which are for replacement only, $7,477,750,000, to remain available until expended: *Provided,* That the Department is directed to provide the Committees on Appropriations within 120 days of enactment of this Act with a plan and schedule to discontinue disposal of contaminated liquids into the soil at the Hanford Reservation: *Provided further,* That (a) To provide for a security buffer zone for the United States Department of Energy's Savannah River Plant near Aiken, South Carolina, title, control, and custody to six thousand twenty-one acres, more or less, of United States Department of Agriculture, Forest Service, lands shown on a map entitled "Forest Service Property Transfer, Savannah River Plant, Aiken, South Carolina", dated June 1984, are transferred without cost or reimbursement to the United States Department of Energy. The map and legal description of the boundaries of these lands shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture, the Director of Real Property and Facilities Management, United States Department of Energy, and appropriate field offices of those agencies. (b) This joint resolution does not affect valid existing rights, or interests in existing land use authorizations, except that any right or authorization shall be administered by the Department of Energy after the enactment of this joint resolution. Reissuance of any authorization shall be in accordance with applicable law and the regulations of the Department of Energy, except that the change of administrative jurisdiction shall not in itself constitute a ground to deny the renewal or reissuance of any authorization: *Provided further,* That if the Department of Defense Authorization Act, 1987, is enacted into law by December 31, 1986, the funds provided in this paragraph for the Strategic Defense Initiative shall be limited to the amount and in the manner provided for in that legislation.

Departmental Administration

For salaries and expenses of the Department of Energy necessary for Departmental Administration and other activities in carrying

out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $17,500) $395,558,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided,* That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further,* That moneys received by the Department for miscellaneous revenues estimated to total $251,947,000 in fiscal year 1987 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302 of title 31, United States Code: *Provided further,* That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1987 so as to result in a final year 1987 appropriation estimated at not more than $143,611,000.

POWER MARKETING ADMINISTRATIONS

Operation and Maintenance, Alaska Power Administration

For necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, $2,881,000, to remain available until expended.

Bonneville Power Administration Fund

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for Enloe Dam Fish Passage Facilities. Expenditures are also approved for official reception and representation expenses in an amount not to exceed $2,500.

During fiscal year 1987, and within the resources and authority available, gross obligations for the principle amount of direct loans shall not exceed $10,000,000.

Operation and Maintenance, Southeastern Power Administration

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $19,647,000, to remain available until expended.

Operation and Maintenance, Southwestern Power Administration

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses connected therewith, in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the

southwestern power area, $25,337,000, to remain available until expended.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (Public Law 95-91), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, the purchase of passenger motor vehicles (not to exceed 4 for replacement only), $236,846,000, to remain available until expended, of which $214,835,000, shall be derived from the Department of the Interior Reclamation fund: *Provided,* That the Secretary of the Treasury is authorized to transfer from the Colorado River Dam Fund to the Western Area Power Administration $3,463,000, to carry out the power marketing and transmission activities of the Boulder Canyon project as provided in section 104(a)(4) of the Hoover Power Plant Act of 1984.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (Public Law 95-91), including services as authorized by 5 U.S.C. 3109, including the hire of passenger motor vehicles; official reception and representation expenses (not to exceed $1,500); $99,079,000, of which $3,000,000 shall remain available until expended and be available only for contractual activities: *Provided,* That hereafter and notwithstanding any other provision of law revenues from licensing fees, inspection services, and other services and collections, estimated at $78,754,000 in fiscal year 1987, may be retained and used for necessary expenses in this account, and may remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1987, so as to result in a final fiscal year 1987 appropriation estimated at not more than $20,325,000.

GEOTHERMAL RESOURCES DEVELOPMENT FUND

For carrying out the Loan Guarantee and Interest Assistance Program as authorized by the Geothermal Energy Research, Development and Demonstration Act of 1974, as amended, $72,000, to remain available until expended: *Provided,* That the indebtedness guaranteed or committed to be guaranteed through funds provided by this or any other appropriation Act shall not exceed the aggregate of $500,000,000.

GENERAL PROVISIONS—DEPARTMENT OF ENERGY

SEC. 301. Appropriations for the Department of Energy under this title for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance and operation of aircraft;

purchase, repair and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services. From these appropriations, transfers of sums may be made to other agencies of the United States Government for the performance of work for which this appropriation is made. None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriation Act. The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 302. Not to exceed 5 per centum of any appropriations made available for the current fiscal year for Department of Energy activities funded in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise provided, shall be increased or decreased by more than 5 per centum by any such transfers, and any such proposed transfers shall be submitted promptly to the Committees on Appropriations of the House and Senate.

SEC. 303. The unexpended balances of prior appropriations provided for activities covered in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 305. None of the funds provided in this joint resolution or in any other law may be used to implement the following provisions of the uranium enrichment criteria submitted to Congress on July 24, 1986:

(i) section 762.3, which specifies the permitted enrichment of source material of foreign origin for use in domestic utilization facilities;

(ii) the third sentence of section 762.11, to the extent that it provides limitations on free choice of transaction tails assays from 0.2 percent to 0.3 percent U-235 or imposition of an additional charge for selections in that range;

(iii) section 762.15, to the extent it might be construed to validate contract provisions permitting unrestricted delivery and enrichment of foreign-origin feed material after a final court decision requiring restriction of enrichment of foreign-origin source material for domestic use or permitting imposition of additional charges for customer selections of transaction tails assays within the range of 0.2 percent to 0.3 percent U-235;

(iv) any portion of the criteria or provision in any contact which permits or results in reduction of the amount of feed material otherwise required to be delivered to DOE by commer-

cial customers as a result of use of source material or special nuclear material from the government stockpiles in providing toll enrichment services for commercial customers;

(v) section 762.6 hereafter, insofar as it may convey a determination of the level of unrecouped costs that must be returned to the Treasury by the enrichment program, which determination shall be made by the Congress in future legislation.

The funds provided in this joint resolution shall be used to operate the enrichment program, consistent with the spending limitations imposed by this section, on the basis that the uranium enrichment criteria submitted to Congress on July 24, 1986 (except section 762.3 thereof) are in force and effect as modified above; *Provided,* That notwithstanding the effectiveness of the criteria as described above until amended or superseded in accordance with the Atomic Energy Act, except as is otherwise specifically provided by law, foreign-origin uranium may be enriched for domestic use only until a final judgment or dismissal in the pending litigation that determines whether section 161(v) of the Atomic Energy Act requires restriction of enrichment of foreign-origin source material, in which case the criteria shall be amended to impose such restrictions, or such unrestricted enrichment may continue, whichever is consistent with the decision of this question in the pending litigation; *Provided further,* That in expending funds hereunder, the Department shall be required to offer each customer, free of additional charge and irrespective of percentage of requirements contracted for, a transaction tails assay from 0.2 percent to 0.3 percent U-235; *Provided further,* That no provision of this joint resolution or the July 24, 1986, criteria shall affect the merits of the legal position of any of the parties concerning the questions whether section 161(v) of the Atomic Energy Act requires restriction of enrichment of foreign-origin source material destined for use in domestic utilization facilities, and whether distribution may be made of source material or special nuclear material from the government stockpile for commercial customers, in the pending litigation in the United States Court of Appeals for the Tenth Circuit and in the United States District Court for the District of Colorado.

TITLE IV—INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, except expenses authorized by section 105 of said Act, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, and for necessary expenses for the Federal Cochairman and the alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, to remain available until expended, $105,000,000.

DELAWARE RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Delaware River Basin Commission, as authorized by law (75 Stat. 716), $185,000.

CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Delaware River Basin Commission, as authorized by law (75 Stat. 706, 707), $200,000.

INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

CONTRIBUTION TO INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

To enable the Secretary of the Treasury to pay in advance to the Interstate Commission on the Potomac River Basin the Federal contribution toward the expenses of the Commission during the current fiscal year in the administration of its business in the conservancy district established pursuant to the Act of July 11, 1940 (54 Stat. 748), as amended by the Act of September 25, 1970 (Public Law 91-407), $79,000.

NATIONAL COUNCIL ON PUBLIC WORKS IMPROVEMENT

SALARIES AND EXPENSES

For expenses necessary to carry out provisions of the Public Works Improvement Act of 1984, section 3121 of title 42, United States Code, $1,750,000.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act, as amended, including the employment of aliens; services authorized by section 3109 of title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms; official representation expenses (not to exceed $8,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $401,000,000, to remain available until expended: *Provided,* That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further,* That moneys received by the Commission for the cooperative nuclear safety research program and the material and information access authorization programs including criminal history checks under Section 149 of the Atomic Energy Act, as amended, may be retained and used for salaries and expenses associated with those programs, notwithstand-

ing the provisions of section 3302 of title 31, United States Code, and shall remain available until expended.

SUSQUEHANNA RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1541), $179,000.

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

For payment of the United States share of the current expense of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1530, 1531), $240,000.

TENNESSEE VALLEY AUTHORITY

TENNESSEE VALLEY AUTHORITY FUND

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. ch. 12A), including purchase, hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, and for entering into contracts and making payments under section 11 of the National Trails System Act, as amended, $100,000,000 to remain available until expended: *Provided,* That this appropriation and other moneys available to the Tennessee Valley Authority may be used hereafter for payment of the allowances authorized by section 5948A of title 5, United States Code: *Provided further,* That the official of the Tennessee Valley Authority referred to as the "inspector general of the Tennessee Valley Authority" is authorized, during the fiscal year ending September 30, 1987, to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and other documentary evidence necessary in the performance of the audit and investigation functions of that official, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court: *Provided further,* That procedures other than subpoenas shall be used by the inspector general to obtain documents and evidence from Federal agencies.

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 503. None of the programs, projects or activities as defined in the report accompanying this Act, may be eliminated or disproportionately reduced due to the application of "Savings and Slippage", "general reductions", or the provisions of Public Law 99-177.

SEC. 504. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 505. None of the funds appropriated in this Act shall be used to implement a program of retention contracts for senior employees of the Tennessee Valley Authority.

SEC. 506. Notwithstanding any other provision of this Act or any other provision of law, none of the funds made available under this Act or any other law shall be used for the purposes of conducting any studies relating or leading to the possibility of changing from the currently required "at cost" to a "market rate" or any other noncost-based method for the pricing of hydroelectric power by the six Federal public power authorities, or other agencies or authorities of the Federal Government, except as may be specifically authorized by Act of Congress hereafter enacted.

SEC. 507. None of the funds appropriated in this Act shall be used to pay the salary of the Administrator of a Power Marketing Administration or the Board of Directors of the Tennessee Valley Authority, and none of the funds authorized to be expended by this or any previous Act from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, may be used to pay the salary of the Administrator of the Bonneville Power Administration, unless such Administrators or Directors award contracts for the procurement of extra high voltage (EHV) power equipment manufactured in the United States when such agencies determine that there are one or more manufacturers of domestic end product offering a product that meets the technical requirements of such agencies at a price not exceeding 130 per centum of the bid or offering price of the most competitive foreign bidder: *Provided,* That such agencies shall determine the incremental costs associated with implementing this section and defer or offset such incremental costs against otherwise existing repayment obligations: *Provided further,* That this section shall not apply to any procurement initiated prior to October 1, 1985, or to the acquisition of spare parts or accessory equipment necessary for the efficient operation and maintenance of existing equipment and available only from the manufacturer of the original equipment: *Provided further,* That this section shall not apply to procurements of domestic end product as defined in 48 C.F.R. sec. 25.101: *Provided further,* That this section shall not apply to EHV power equipment produced or manufactured in a country whose government has completed negotiations with the United States to extend the GATT Government Procurement Code, or a bilateral equivalent, to EHV power equipment, or which otherwise offers fair competitive opportunities in public procurements to United States manufacturers of such equipment.

SEC. 508. None of the funds in this Act may be used to construct or enter into an agreement to construct additional hydropower units at Denison Dam—Lake Texoma.

This Act may be cited as the "Energy and Water Development Appropriations Act, 1987".

(f) such amounts as may be necessary for projects or activities provided for in the Foreign Assistance and Related Programs Appropriations Act, 1987, at a rate for operations and to the extent and in

the manner provided for in the following Act; this subsection shall be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1987, and for other purposes, namely:

TITLE I—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increase in capital stock, $55,805,000 for the General and Selective Capital Increase, to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in capital stock in an amount not to exceed $688,261,667.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $622,623,251, for the United States contribution to the seventh replenishment, to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director to the International Bank for Reconstruction and Development is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE SPECIAL FACILITY FOR SUB-SAHARAN AFRICA

For payment to the Special Facility for Sub-Saharan Africa by the Secretary of the Treasury, $64,805,000, to remain available until expended: *Provided,* That funds made available under this heading shall be obligated to the Special Facility for Sub-Saharan Africa no later than March 1, 1987.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury for the United States share of the increase in the resources of the Fund for Special Operations, $17,263,000, to remain available until expended; and $16,417,000, for the United States share of the increase in paid-in capital stock to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director for the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director for the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Inter-American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such increase in capital stock in an amount not to exceed $1,111,561,128.

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK

For payment to the Asian Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $13,232,676 to remain available until expended; and for the United States contribution to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89-369), $91,406,000 to remain available until expended: *Provided,* That no such payment may be made while the United States Director of the Bank is compensated by the Bank at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to the Bank is compensated by the Bank in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Asian Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such increase in capital stock in an amount not to exceed $251,367,220.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For payment to the African Development Fund by the Secretary of the Treasury, $53,788,000, for the United States contribution to the fourth replenishment of the African Development Fund, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $13,988,000, to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $41,980,980.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of sections 301 and 103(g) of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1983, $237,264,000: *Provided,* That no funds shall be available for the United Nations Fund for Science and Technology: *Provided further,* That the total amount of funds made available by this paragraph shall be available only as follows: $107,500,000 for the United Nations Development Program; $51,080,000 for the United Nations Children's Fund; $1,818,000 for the World Food Program; $861,000 for the United Nations Capital Development Fund; $219,000 for the United Nations Voluntary Fund for the Decade for Women; $2,000,000 for the International Convention and Scientific Organization Contributions; $2,000,000 for the World Meteorological Organization Voluntary Cooperation Program; $20,500,000 for the International Atomic Energy Agency; $6,800,000 for the United Nations Environment Program; $789,000 for the United Nations Educational and Training Program for Southern Africa; $250,000 for the United Nations Trust Fund for South Africa; $110,000 for the United Nations Institute for Namibia; $172,000 for the Convention on International Trade in Endangered Species; $219,000 for the World Heritage Fund; $86,000 for the United Nations Voluntary Fund for Victims of Torture; $100,000 for the United Nations Fellowship Program; $150,000 for the UNIDO Investment Promotion Service; $400,000 for the Center on Human Settlements; $13,500,000 for the Organization of American States; and $28,710,000 for the International Fund for Agricultural Development, of which

$10,000,000 shall be made available for the Special Program for Sub-Saharan African Countries Affected by Drought and Desertification.

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 1987, unless otherwise specified herein, as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Agriculture, rural development and nutrition, Development Assistance: For necessary expenses to carry out the provisions of section 103, $639,613,000: *Provided,* That up to $5,000,000 shall be provided for new development projects of private entities and cooperatives utilizing surplus dairy products: *Provided further,* That not less than $6,000,000 shall be provided for the Vitamin A Deficiency Program: *Provided further,* That, notwithstanding any other provision of law, up to $10,000,000 of the funds appropriated under this paragraph may be available for agricultural activities in Poland which are managed by the Polish Catholic Church or other non-governmental organizations.

Population, Development Assistance: For necessary expenses to carry out the provisions of section 104(b), $234,625,000: *Provided,* That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further,* That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services: *Provided further,* That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further,* That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act.

Health, Development Assistance: For necessary expenses to carry out the provisions of section 104(c), $166,762,500.

Child Survival Fund: For necessary expenses to carry out the provisions of section 104(c)(2), $75,000,000, notwithstanding section 10 of P.L. 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956.

Education and human resources development, Development Assistance: For necessary expenses to carry out the provisions of section 105, $155,000,000: *Provided,* That of this amount not less

than $6,000,000 shall be made available only for the International Student Exchange Program.

Energy and selected development activities, Development Assistance: For necessary expenses to carry out the provisions of section 106, $140,328,500: *Provided,* That not less than $5,000,000 shall be made available only for cooperative projects among the United States, Israel and developing countries: *Provided further,* That not less than $5,000,000 shall be made available only for the Central American Rural Electrification Support project.

Science and technology, Development Assistance: For necessary expenses to carry out the provisions of section 106, $9,661,500.

Limitation on Development Assistance: None of the funds made available by this Act in order to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, as amended, may be expended to provide an amount which would result in the percentage of funds expended for centrally funded, country, or regional programs for areas other than Sub-saharan Africa exceeding the percentage of total funds designated for centrally funded, country, or regional programs for areas other than Sub-saharan Africa in fiscal year 1986, as shown in the fiscal year 1987 congressional presentation materials.

Limitation on Development Assistance: None of the funds made available by this Act in order to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, as amended, may be expended to provide an amount which would result in the percentage of funds expended for centrally funded, country, or regional programs for areas other than Central America exceeding the percentage of total funds designated for centrally funded, country, or regional programs for areas other than Central America in fiscal year 1986, as shown in the fiscal year 1987 congressional presentation materials.

Haiti, Development Assistance: Of the funds made available to carry out sections 103 through 106 of the Foreign Assistance Act of 1961, as amended, not less than $37,000,000 shall be available to support a transition to democracy through activities emphasizing job creation, rural development, health care, sanitation, small scale irrigation projects, reforestation, land conservation, and literacy education projects: *Provided,* That funds made available pursuant to this paragraph for Haiti shall be used to provide assistance, to the maximum extent practicable, equitably among the various regions of Haiti.

Private and Voluntary Organizations: None of the funds appropriated or otherwise made available in this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 per centum of its total annual funding for international activities from sources other than the United States Government: *Provided,* That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in title II of the "Foreign Assistance and Related Programs Appropriations Act, 1985" (as enacted in Public Law 98-473) shall be superseded by the provisions of this section.

Private sector revolving fund: For necessary expenses to carry out the provisions of section 108 of the Foreign Assistance Act of 1961, as amended, not to exceed $15,553,000 to be derived by transfer from funds appropriated to carry out the provisions of chapter 1 of part I of such Act, to remain available until expended. During fiscal year

1987, obligations for assistance from amounts in the revolving fund account under section 108 shall not exceed $15,553,000.

Loan allocation, Development Assistance: In order to carry out the provisions of part I, the Administrator of the agency responsible for administering such part may furnish loan assistance pursuant to existing law and on such terms and conditions as he may determine: *Provided,* That to the maximum extent practicable, loans to private sector institutions, from funds made available to carry out the provisions of sections 103 through 106, shall be provided at or near the prevailing interest rate paid on Treasury obligations of similar maturity at the time of obligating such funds: *Provided further,* That amounts appropriated to carry out the provisions of chapter 1 of part I which are provided in the form of loans shall remain available until September 30, 1988.

American schools and hospitals abroad: For necessary expenses to carry out the provisions of section 214, $35,000,000.

International disaster assistance: For necessary expenses to carry out the provisions of section 491, $70,000,000, to remain available until expended: *Provided,* That not less than $50,000,000 shall be available only for earthquake relief, reconstruction, and rehabilitation in EL Salvador, notwithstanding section 10 of P.L. 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956.

Sahel development program: For necessary expenses to carry out the provisions of section 121, $70,000,000, to remain available until expended: *Provided,* That no part of such appropriation may be available to make any contribution of the United States to the Sahel development program in excess of 10 percent of the total contributions to such program.

Payment to the Foreign Service Retirement and Disability Fund: For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $45,492,000.

Operating expenses of the Agency for International Development: For necessary expenses to carry out the provisions of section 667, $340,600,000: *Provided,* That not more than $15,000,000 of this amount shall be for Foreign Affairs Administrative Support: *Provided further,* That the Agency for International Development may use amounts appropriated to carry out the provisions of chapter 1 of part I (with the exception of the "Child Survival Fund") and chapter 4 of part II of the Foreign Assistance Act of 1961, for the overseas local support costs of its economic assistance programs and for the operating expenses of the Agency for International Development Office of Inspector General: *Provided further,* That except to the extent that the Administrator of the Agency for International Development determines otherwise, not less than 10 per centum of the aggregate of the funds made available for the fiscal year 1987 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be made available only for activities of economically and socially disadvantaged enterprises (within the meaning of section 133(c)(5) of the International Development and Food Assistance Act of 1977), historically black colleges and universities, and private and voluntary organizations which are controlled by individuals who are black Americans, Hispanic Americans, or Native Americans, or who are economically and socially disadvantaged (within the meaning of section 133(c)(5) (B) and (C) of the International Development and Food Assistance Act of 1977). For purposes of this proviso, economi-

cally and socially disadvantaged individuals shall be deemed to include women.

Operating expenses of the Agency for International Development Office of Inspector General: For necessary expenses to carry out the provisions of section 667, $21,000,000, which sum shall be available only for the operating expenses of the Office of the Inspector General notwithstanding sections 451 or 614 of the Foreign Assistance Act of 1961 or any other provision of law: *Provided,* That up to three percent of the amount made available under the paragraph "Operating expenses of the Agency for International Development" may be transferred to and merged and consolidated with amounts made available under this paragraph: *Provided further,* That the full-time equivalent staff years for the Office of the Inspector General for the fiscal year 1987 shall not be less than one hundred and ninety-three: *Provided further,* That except as may be required by an emergency evacuation affecting the United States diplomatic missions of which they are a component element, none of the funds in this Act, or any other Act, may be used to relocate the overseas Regional Offices of the Inspector General to another country.

Housing and other credit guaranty programs: During the fiscal year 1987, total commitments to guarantee loans shall not exceed $145,464,000 of contingent liability for loan principal: *Provided,* That the President shall enter into commitments to guarantee such loans in the full amount provided by this paragraph, subject only to the availability of qualified applicants for such guarantees: *Provided further,* That pursuant to section 223(e)(2) of the Foreign Assistance Act of 1961, as amended, borrowing authority provided therein may be exercised in such amounts as may be necessary to retain an adequate level of contingency reserves for the fiscal year 1987.

Economic support fund: For necessary expenses to carry out the provisions of chapter 4 of part II, $3,550,000,000 including such funds as may be made available in fiscal year 1987 for Economic support funds for Central American countries through final enactment of section 205 of H.R. 5052: *Provided,* That of the funds appropriated under this paragraph, not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within 30 days of enactment of this Act or by October 31, 1986, whichever is later: *Provided further,* That not less than $815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, of which not less than $115,000,000 shall be provided as a cash transfer in accordance with the provisions of section 202(b) of Public Law 99-83, and not less than $200,000,000 shall be provided as a Commodity Import Program: *Provided further,* That notwithstanding any other provision of law, the Agency for International Development is authorized to obligate such funds as it deems necessary in excess of $115,000,000 from the funds appropriated for assistance to Egypt for the fiscal year 1987 as direct cash transfer for Egypt: *Provided further,* That such obligations in excess of $115,000,000 shall only be made in support of the implementation of a comprehensive structural economic reform program by the Government of Egypt: *Provided further,* That all such cash transfers in excess of $115,000,000 shall be subject to the regular notification procedures of the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Appropriations Committees of the House and Senate: *Provided further,* That such notifications for the provision of cash transfers in

excess of $115,000,000 shall include detailed descriptions of the comprehensive structural economic reform program of the Government of Egypt: *Provided further,* That if the Agency for International Development obligates cash transfer assistance for Egypt exceeding $115,000,000, as permitted above, then such increased funding shall be derived through proportionate reductions in both the Commodity Import Program and project assistance: *Provided further,* That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty; and that Egypt and Israel are urged to continue their efforts to restore a full diplomatic relationship, including ambassadors, and achieve realization of the Camp David Accords: *Provided further,* That not less than $250,000,000 of the funds appropriated under this paragraph shall be available only for Pakistan: *Provided further,* That not less than $35,000,000 of the funds appropriated under this paragraph shall be available for a United States contribution to the International Fund for Northern Ireland and Ireland: *Provided further,* That not less than an additional sum of $200,000,000 shall be available only for the Philippines: *Provided further,* That not less than $15,000,000 of the funds appropriated under this paragraph shall be available for Cyprus: *Provided further,* That up to $15,000,000 shall be made available for Jordan in addition to funds otherwise made available by this paragraph and allocated to Jordan: *Provided further,* That any of the funds appropriated under this paragraph for El Salvador which are placed in the Central Reserve Bank of El Salvador shall be maintained in a separate account and not commingled with any other funds, except that such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the cash transfer nature of this assistance or which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Rept. No. 98-1159): *Provided further,* That pursuant to section 660(d) of the Foreign Assistance Act of 1961 up to $1,000,000 of the funds appropriated under this paragraph shall be made available to assist the Government of El Salvador's Special Investigative Unit for the purpose of bringing to justice those responsible for the murders of United States citizens in El Salvador: *Provided further,* That a report of the investigation shall be provided to the Congress: *Provided further,* That up to $20,000,000 of the funds appropriated under this paragraph may be made available to carry out the Administration of Justice program pursuant to section 534 of the Foreign Assistance Act of 1961: *Provided further,* That up to $20,000,000 of the funds made available by this paragraph may be provided to countries that are receiving "International Narcotics Control" assistance and that have made substantial progress in illicit drug control efforts: *Provided further,* That all funds made available pursuant to the previous proviso shall be subject to the regular notification procedures of the Committees on Appropriations and that such notifications shall contain an explanation of the progress in illicit drug control that has been made by the recipient country: *Provided further,* That all of the funds provided under this paragraph which are made available for disadvantaged persons in South Africa shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That after February 1, 1987, any country which receives in excess of a total of $5,000,000 as cash transfer

assistance shall maintain such funds in a separate account and shall not commingle such funds with any other funds, except that such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the cash transfer nature of this assistance or which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Rept. No. 98-1159): *Provided further,* That all local currencies that may be generated with funds provided as a cash transfer in accordance with the previous proviso shall be deposited in a special account to be used in accordance with section 609 of the Foreign Assistance Act of 1961: *Provided further,* That not more than $5,000,000 of the funds made available under this paragraph may be available to finance tied aid credits, unless the President determines it is in the national interest to provide in excess of $5,000,000 and so notifies the Committees on Appropriations through the regular notification procedures: *Provided further,* That funds made available under this paragraph shall remain available until September 30, 1988.

INDEPENDENT AGENCIES

AFRICAN DEVELOPMENT FOUNDATION

For necessary expenses to carry out the provisions of title V of the International Security and Development Cooperation Act of 1980, Public Law 96-533, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $6,500,000, notwithstanding section 10 of P.L. 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956.

INTER-AMERICAN FOUNDATION

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $11,800,000.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation is authorized to make such expenditures within the limits of funds available to it and in accordance with law (including not to exceed $35,000 for official reception and representation expenses), and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year.

During the fiscal year 1987 and within the resources and authority available, gross obligations for the amount of direct loans shall not exceed $23,000,000.

During the fiscal year 1987, total commitments to guarantee loans shall not exceed $200,000,000 of contingent liability for loan principal.

PEACE CORPS

For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), $130,000,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided,* That none of the funds appropriated in this paragraph shall be used to pay for abortions.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For necessary expenses to carry out the provisions of section 481, $65,445,000, notwithstanding section 10 of P.L. 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980, allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code; $346,856,000: *Provided,* That not less than $25,000,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel: *Provided further,* That these funds shall be administered in a manner that ensures equity in the treatment of all refugees receiving Federal assistance: *Provided further,* That no funds herein appropriated shall be used to assist directly in the migration to any nation in the Western Hemisphere of any person not having a security clearance based on reasonable standards to ensure against Communist infiltration in the Western Hemisphere: *Provided further,* That not more than $8,500,000 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State: *Provided further,* That amounts appropriated under this heading shall be available notwithstanding section 10 of P.L. 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), $14,000,000, to remain available until expended.

ANTI-TERRORISM ASSISTANCE

For necessary expenses to carry out the provisions of chapter 8 of part II, $9,840,000.

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551, $31,689,000: *Provided,* That, notwithstanding sections 451, 492(b), or 614 of the Foreign Assistance Act of 1961, or any other provision of law, these funds may be used only as justified in the Congressional Presentation Document for fiscal year 1987: *Provided further,* That, to the extent that these funds cannot be used to provide for such assistance, they shall revert to the Treasury as miscellaneous receipts: *Provided further,* That not more than half of the funds which are appropriated under this paragraph and which are allocated for the United Nations Force in Cyprus may be obligated for the United States contribution to that Force until the Secretary of State submits a report to the Congress detailing how the United States and other contributing countries plan to eliminate the financial deficit of that Force.

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

MILITARY ASSISTANCE

For necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, including administrative expenses and purchase of passenger motor vehicles for replacement only for use outside of the United States, $900,000,000: *Provided,* That none of the funds under this heading shall be obligated for law enforcement agencies in El Salvador and Honduras until the notification required under Section 660(d) of the Foreign Assistance Act of 1961, as amended, is provided to the Committees on Appropriations: *Provided further,* That of the funds provided under this paragraph not more than $37,000,000 shall be used for "Overseas Military Program Management": *Provided further,* That the reports required by section 702 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83) shall also be provided to the Committees on Appropriations: *Provided further,* That funds appropriated under this paragraph shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That amounts appropriated under this heading shall be available notwithstanding section 10 of P.L. 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541, $56,000,000.

FOREIGN MILITARY CREDIT SALES

For expenses necessary to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $4,040,441,284 of which not less than $1,800,000,000 shall be available only for Israel, not less than $1,300,000,000 shall be available only for Egypt, and not less than $312,500,000 shall be available only for Pakistan: *Provided,* That if the Government of Israel requests that funds be used for such purposes, up to $150,000,000 of the

amount of credits made available for Israel pursuant to this paragraph shall be available for research and development in the United States for the Lavi program, and not less than $300,000,000 shall be for the procurement in Israel of defense articles and services, including research and development, for the Lavi program and other activities if requested by Israel: *Provided further,* That funds for the Lavi program shall be expended upon the Department of Defense's determination that the proposed contracts meet applicable technical standards: *Provided further,* That during fiscal year 1987, gross obligations for the principal amount of direct loans, exclusive of loan guarantee defaults, shall not exceed $4,040,441,284: *Provided further,* That any funds made available by this paragraph, other than funds made available for Israel and Egypt, may be made available at concessional rates of interest, notwithstanding section 31(b)(2) of the Arms Export Control Act: *Provided further,* That the concessional rate of interest on foreign military credit sales loans for countries other than Israel and Egypt shall be not less than 5 percent per year: *Provided further,* That all country and funding level changes in requested concessional financing allocations shall be submitted through the regular notification procedures of the Committees on Appropriations: *Provided further,* That funds appropriated under this paragraph shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That of the funds made available by this Act to carry out the provisions of section 503 of the Foreign Assistance Act of 1961 and section 23 of the Arms Export Control Act, a total of $490,000,000 shall be available only for Turkey and, of the funds made available by this paragraph, only $343,000,000 shall be available for Greece, notwithstanding sections 101 (e)(1) and (f) of P.L. 99-83.

SPECIAL DEFENSE ACQUISITION FUND

(LIMITATION ON OBLIGATIONS)

Not to exceed $315,820,000 may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act for the purposes of the Special Defense Acquisition Fund during fiscal year 1987.

TITLE IV—EXPORT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided,* That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

LIMITATION ON PROGRAM ACTIVITY

During the fiscal year 1987 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $900,000,000, including such resources and authority as are made available in Public Law 99-349 for fiscal year 1987: *Provided,* That, if the Chairman of the Export-Import Bank certifies that such budget authority will not be fully utilized during the fiscal year 1987, up to $100,000,000 of that amount may be available, subject to the regular notification procedures of the Appropriations Committees of the Senate and House of Representatives, as tied aid credits in accordance with the provisions of the Export-Import Bank Act Amendments of 1986: *Provided further,* That there is appropriated to the Export-Import Bank of the United States an amount equal to the grant amount of tied aid credits which are made available from time to time, but not to exceed $100,000,000, which shall be subject to the limitation on gross obligations for the principal amount of direct loans specified under this heading: *Provided further,* That during the fiscal year 1987, total commitments to guarantee loans shall not exceed $11,355,000,000 of contingent liability for loan principal: *Provided further,* That the direct loan and guaranty authority provided in this paragraph shall remain available until September 30, 1988.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $18,371,500 (to be computed on an accrual basis) shall be available during fiscal year 1987 for administrative expenses, including hire of passenger motor vehicles and services as authorized by section 3109 of title 5, United States Code, and not to exceed $16,000 for official reception and representation expenses for members of the Board of Directors: *Provided,* That (1) fees or dues to international organizations of credit institutions engaged in financing foreign trade, (2) necessary expenses (including special services performed on a contract or a fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Export-Import Bank or in which it has an interest, including expenses of collections of pledged collateral, or the investigation or appraisal of any property in respect to which an application for a loan has been made, and (3) expenses (other than internal expenses of the Export-Import Bank) incurred in connection with the issuance and servicing of guarantees, insurance, and reinsurance, shall be considered as nonadministrative expenses for the purposes of this heading.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT PROGRAM

For necessary expenses to carry out the provisions of section 661, $20,000,000.

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AGENCY FOR INTERNATIONAL DEVELOPMENT

TRADE CREDIT INSURANCE PROGRAM

During fiscal year 1987, total commitments to guarantee or insure loans for the "Trade Credit Insurance Program" shall not exceed $275,000,000 of contingent liability for loan principal.

TITLE V—GENERAL PROVISIONS

SEC. 501. None of the funds appropriated in this Act (other than funds appropriated for "International organizations and programs") shall be used to finance the construction of any new flood control, reclamation, or other water or related land resource project or program which has not met the standards and criteria used in determining the feasibility of flood control, reclamation, and other water and related land resource programs and projects proposed for construction within the United States of America under the principles, standards and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.) or Acts amendatory or supplementary thereto.

SEC. 502. Except for the appropriations entitled "International disaster assistance", and "United States emergency refugee and migration assistance fund" not more than 15 per centum of any appropriation item made available by this Act shall be obligated during the last month of availability.

SEC. 503. None of the funds appropriated in this Act nor any of the counterpart funds generated as a result of assistance hereunder or any prior Act shall be used to pay pensions, annuities, retirement pay, or adjusted service compensation for any person heretofore or hereafter serving in the armed forces of any recipient country.

SEC. 504. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States.

SEC. 505. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

SEC. 506. None of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961.

SEC. 507. Of the funds appropriated or made available pursuant to this Act, not to exceed $110,000 shall be for official residence expenses of the Agency for International Development during the current fiscal year: *Provided*, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

SEC. 508. Of the funds appropriated or made available pursuant to this Act, not to exceed $10,000 shall be for entertainment expenses of the Agency for International Development during the current fiscal year.

SEC. 509. Of the funds appropriated or made available pursuant to this Act, not to exceed $100,000 shall be for representation allow-

ances for the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further,* That of the total funds made available by this Act under the headings "Military assistance" and "Foreign military credit sales", not to exceed $2,500 shall be available for entertainment expenses and not to exceed $70,000 shall be available for representation allowances: *Provided further,* That of the funds made available by this Act under the heading "International military education and training", not to exceed $125,000 shall be available for entertainment allowances: *Provided further,* That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,500 shall be available for entertainment and representation allowances: *Provided further,* That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,000 shall be available for entertainment expenses: *Provided further,* That of the funds made available by this Act under the heading "Trade and Development Program", not to exceed $2,000 shall be available for representation and entertainment allowances.

SEC. 510. None of the funds appropriated or made available (other than funds for "International organizations and programs") pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used to finance the export of nuclear equipment, fuel, or technology.

SEC. 511. Funds appropriated by this Act may not be obligated or expended to provide assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights.

SEC. 512. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, South Yemen, or Syria.

SEC. 513. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected Head of Government is deposed by military coup or decree.

SEC. 514. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated without the written prior approval of the Appropriations Committees of both Houses of the Congress.

SEC. 515. Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961 for the same general purpose as any of the paragraphs under the heading "Agency for International Development" are, if deobligated, hereby continued available for the same period as the respective appropriations in such paragraphs or until September 30, 1987 whichever is later, and for the same general purpose, and for countries within the same region as originally obligated: *Provided,* That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation and reobligation of such funds.

SEC. 516. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United

States not authorized before the date of enactment of this Act by the Congress.

SEC. 517. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided*, That funds appropriated for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, shall remain available until expended if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act.

SEC. 518. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act.

SEC. 519. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain the amounts and the names of borrowers for all loans of the international financial institution, including loans to employees of the institution, or the compensation and related benefits of employees of the institution.

SEC. 520. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain any document developed by the management of the international financial institution.

SEC. 521. None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided*, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity.

SEC. 522. The Secretary of the Treasury shall instruct the United States executive directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production of any commodity for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

SEC. 523. None of the funds made available under this Act for "Agriculture, rural development and nutrition, Development Assistance", "Population, Development Assistance", "Child Survival Fund", "Health, Development Assistance", "Education and human resources development, Development Assistance", "Energy and selected development activities, Development Assistance", "Science and technology, Development Assistance", "International organizations and programs", "American schools and hospitals abroad", "Sahel development program", "Trade and development program", "International narcotics control", "Economic support fund", "Peacekeeping operations", "Operating expenses of the Agency for International Development", "Operating expenses of the Agency for International Development Office of Inspector General", "Antiterrorism assistance", "Military assistance", "International military education and training", "Foreign military credit sales", "Inter-American Foundation", "African Development Foundation", "Peace Corps", or "Migration and refugee assistance", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operation not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for the current fiscal year unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance.

SEC. 524. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order pursuant to existing law.

SEC. 525. None of the funds appropriated under this Act may be used to lobby for abortion.

SEC. 526. None of the funds appropriated or otherwise made available under this Act may be available for any country during any three-month period beginning on or after October 1, 1986, immediately following a certification by the President to the Congress that the government of such country is failing to take adequate measures to prevent narcotic drugs or other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are cultivated, produced, or processed illicitly, in whole or in part, in such country, or transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from entering the United States unlawfully.

SEC. 527. Notwithstanding any other provision of law or this Act, none of the funds provided for "International organizations and programs" shall be available for the United States' proportionate share for any programs for the Palestine Liberation Organization, the Southwest African Peoples Organization, Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended.

SEC. 528. (a) Not later than January 31 of each year, or at the time of the transmittal by the President to the Congress of the annual presentation materials on foreign assistance, whichever is earlier, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate a full and complete report which assesses, with respect to each foreign country, the

degree of support by the government of each such country during the preceding twelve-month period for the foreign policy of the United States. Such report shall include, with respect to each such country which is a member of the United Nations, information to be compiled and supplied by the Permanent Representative of the United States to the United Nations, consisting of a comparison of the overall voting practices in the principal bodies of the United Nations during the preceding twelve-month period of such country and the United States, with special note of the voting and speaking records of such country on issues of major importance to the United States in the General Assembly and the Security Council, and shall also include a report on actions with regard to the United States in important related documents such as the Non-Aligned Communique. A full compilation of the information supplied by the Permanent Representative of the United States to the United Nations for inclusion in such report shall be provided as an addendum to such report.

(b) None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to a country which the President finds, based on the contents of the report required to be transmitted under subsection (a), is engaged in a consistent pattern of opposition to the foreign policy of the United States.

(c) The report required by subsection (a) of this section shall be in the identical format as the "Report to Congress on Voting Practices in the United Nations" which was submitted pursuant to Public Law 99-190 and Public Law 98-164 on June 6, 1986.

SEC. 529. Notwithstanding any other provision of law, Israel may utilize any loan which is or was made available under the Arms Export Control Act and for which repayment is or was forgiven before utilizing any other loan made available under the Arms Export Control Act.

SEC. 530. In reaffirmation of the 1975 memorandum of agreement between the United States and Israel, and in accordance with section 1302 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83), no employee of or individual acting on behalf of the United States Government shall recognize or negotiate with the Palestine Liberation Organization or representatives thereof, so long as the Palestine Liberation Organization does not recognize Israel's right to exist, does not accept Security Council Resolutions 242 and 338, and does not renounce the use of terrorism.

SEC. 531. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic support fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United

States Government in recognition that such a principle serves United States interests in the region.

SEC. 532. None of the funds made available in this Act shall be restricted for obligation or disbursement solely as a result of the policies of any multilateral institution.

SEC. 533. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent act unless such act specifically so directs.

SEC. 534. The Secretary of the Treasury and the Secretary of State are directed to submit to the Committees on Appropriations by February 1, 1987, a report on the domestic economic policies of those nations receiving economic assistance, either directly or indirectly from the United States including, where appropriate, an analysis of the foreign assistance programs conducted by these recipient nations.

SEC. 535. None of the funds appropriated or otherwise made available pursuant to this Act for "Economic support fund" or for "Foreign military credit sales" shall be obligated or expended for Lebanon except as provided through the regular notification procedures of the Committees on Appropriations.

SEC. 536. Of the funds made available by this Act for Jamaica and Peru, not more than 50 per centum of the funds made available for each country shall be obligated unless the President determines and reports to the Congress that the Governments of these countries are sufficiently responsive to the United States Government concerns on drug control and that the added expenditures of the funds for that country are in the national interest of the United States: *Provided,* That this provision shall not be applicable to funds made available to carry out section 481 of the Foreign Assistance Act of 1961: *Provided further,* That assistance may be provided to Bolivia for fiscal year 1987, under chapter 2 (relating to grant military assistance), chapter 4 (relating to the economic support fund), and chapter 5 (relating to international military education and training) of part II of the Foreign Assistance Act of 1961, and under chapter 2 of the Arms Export Control Act (relating to foreign military sales financing), only in accordance with the provisions of section 611 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83) as amended by section 2011 of H.R. 5484 as passed by the Senate on September 30, 1986.

SEC. 537. None of the funds available in this Act may be used to make available to El Salvador any helicopters or other aircraft, and licenses may not be issued under section 38 of the Arms Export Control Act for the export to El Salvador of any such aircraft, unless the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate are notified at least fifteen days in advance in accordance with the procedures applicable to notifications.

SEC. 538. Funds provided in this Act for Guatemala may not be provided to the Government of Guatemala for use in its rural resettlement program, except through the regular notification procedures of the Committees on Appropriations.

SEC. 539. (a) The Secretary of the Treasury shall instruct the United States Executive Directors of the Multilateral Development Banks to—

(1) vigorously promote a commitment of these institutions to—

(A) add professionally trained staff with experience in ecology and related areas to undertake environmental review of projects, and strengthen existing staff exercising environmental responsibilities;

(B) develop and implement management plans to ensure systematic and thorough environmental review of all projects and activities affecting the ecology and natural resources of borrowing countries, including—

(i) creation of a line unit to carry out such reviews as part of the normal project cycle,

(ii) appointment of an environmental advisor to the Presidents of the Multilateral Development Banks,

(iii) institution of a regular program of monitoring all ongoing projects to ensure that contract conditions and general bank policies to protect the environment and indigenous peoples are fully complied with;

(C) create career and other institutional incentives for all professionally trained bank staff to incorporate environmental and natural resources concerns into project planning and country programming activities;

(2) vigorously promote changes in these institutions in their preparation of projects and country programs that will prompt staff and encourage borrower countries to—

(A) actively and regularly involve environmental and health ministers, or comparable representatives, at the national, regional and local level, in the preparation of environmentally sensitive projects and in bank-supported country program planning and strategy sessions;

(B) actively and regularly seek the participation of non-governmental indigenous peoples and conservation organizations in the host countries at all stages of project planning and strategy sessions;

(C) fully inform local communities and appropriate non-governmental organizations with interests in local development projects of all project planning sufficiently in advance of project appraisal to allow informed participation of local communities and non-governmental organizations that may be adversely affected by them;

(3) establish a regular integrated multidisciplinary planning process to conduct land use capability analyses in reviewing potential loans. Such plans shall include, but not be limited to, a review of ongoing or other potential resource utilization efforts in and adjacent to the project area;

(4) vigorously promote a commitment of these institutions to develop and implement plans for the rehabilitation and management of the ecological resources of borrower nations on a sustained basis. Special attention shall be paid to soil conservation, wildlife, wetlands, estuaries, croplands, grasslands, forests, and fisheries, including—

(A) long-term programs of research designed to manage ecosystems properly;

(B) provision of adequate extension workers, park rangers, social forestry experts, and other appropriate personnel; and

(C) improved programs of training in environmental science and land-use planning;

(5) vigorously promote a commitment of these institutions to increase the proportion of their programs supporting environmentally beneficial projects and project components, such as technical assistance for environmental ministries and institutions, resource rehabilitation projects and project components, protection of indigenous peoples, and appropriate light capital technology projects. Other examples of such projects include small scale mixed farming and multiple cropping, agroforestry, programs to promote kitchen gardens, watershed management and rehabilitation, high yield wood lots, integrated pest management systems, dune stabilization programs, programs to improve energy efficiency, energy efficient technologies such as small scale hydro projects, rural solar energy systems, and rural and mobile telecommunications systems, and improved efficiency and management of irrigation systems.

(6) place an increased emphasis on upgrading the efficient use of energy and other resources by borrower nations. Such efforts shall include, but not be limited to—

(A) significantly increasing the proportion of energy project lending for energy efficiency improvements, and decentralized small scale facilities such as solar, wind, or biomass generating facilities; and

(B) conducting an analyses of the comparative costs of any new energy generating facilities with the cost of increasing the energy efficiency in the project service area;

(7) seek a commitment of these institutions to fund projects to protect and preserve crucial wetland systems and to avoid expenditures for projects designed to convert major wetland systems. Development proposals which may affect these areas should be the subject of detailed impact assessments so as to avoid detrimental impacts to fisheries, wildlife and other important resources;

(8) vigorously promote the establishment within the Economic Development Institute of the World Bank of a component which provides training in environmental and natural resource planning and program development;

(9) regularly raise, at meetings of the Boards of Directors of these institutions, the issue of their progress in improving their environmental performance, with specific focus on the measures set forth above; and

(10) require at least a four week project review period between the time when staff recommendations are presented to the board and board action on any projects.

(b) The Secretaries of Treasury and State, and the Administrator of the Agency for International Development, shall ensure and coordinate a thorough evaluation within the U.S. Government of the potential environmental problems, and the adequacy of measures to address these problems, associated with all proposed loans for projects involving large impoundments of rivers in tropical countries; penetration roads into relatively undeveloped areas; and agricultural and rural development programs. The potential environmental problems to be addressed in such evaluations shall include those relating to deterioration of water quality; siltation; spread of waterborne diseases; forced resettlement; deforestation; threats to the land, health and culture of indigenous peoples; wetlands disruption; topsoil management, water logging and

salinization in irrigation projects; and pesticide misuse and resistance.

(c) The Secretary of the Treasury and the Secretary of State shall regularly undertake and continue diplomatic and other initiatives, in addition to those mentioned in subsection (a)(5), to discuss measures to improve the environmental performance of the Multilateral Development Banks with the representatives to these institutions, and with ministries from which they receive their instructions, of borrower and donor nations. In particular, joint efforts shall be undertaken with borrowers and donors to ensure cooperative implementation of the reforms described above.

(d) The Secretary of the Treasury and the Secretary of State shall propose formally that the Boards of Governors of each Multilateral Development Bank hold a special meeting within the next twelve months, focused specifically on environmental performance and better implementation of multilateral development policies designed to protect the environment and indigenous peoples.

(e) The Secretary of the Treasury shall prepare and submit to the Committees on Appropriations by January 15, 1987, and annually thereafter, a report documenting the progress the Multilateral Development Banks have made in implementing the environmental reform measures described in paragraphs one through eight of subsection (a).

(f) In the report of the Secretary of the Treasury required by subsection (e), regarding the implementation of staffing measures suggested in subsection (a)(1)(A), the Secretary of the Treasury shall specifically discuss the progress of the International Bank for Reconstruction and Development in upgrading and adding environmentally trained professionals to each of its six regional offices to review projects for their prospective ecological impacts.

(g) The Administrator of the Agency for International Development in conjunction with the Secretaries of Treasury and State shall—

(1) instruct overseas missions of the Agency for International Development and embassies of the United States to analyze the impacts of Multilateral Development Bank projects proposed to be undertaken in the host country well in advance of a project's approval by the relevant institution. Such reviews shall address the economic viability of the project; adverse impacts on the environment, natural resources, and indigenous peoples; and recommendations as to measures, including alternatives, that could eliminate or mitigate adverse impacts. If not classified under the national security system of classification, such information shall be made available to the public;

(2) in preparation of reviews required by subsection (g)(1), compile a list of categories of projects likely to have adverse impacts on the environment, natural resources, or indigenous peoples. The list shall be developed in consultation with interested members of the public and made available to the Committee on Appropriations by December 31, 1986 and semiannually thereafter; and

(3) study the feasibility of creating a cooperative "early warning system" for projects of concern with other interested donors.

(h) If a review required by subsection (g)(1) identifies adverse impacts to the environment, natural resources, or indigenous peoples, the Secretary of the Treasury shall instruct the United States Executive Director of the Multilateral Development Bank to seek

changes to the project necessary to eliminate or mitigate those impacts.

(i) The Administrator of the Agency for International Development shall appoint a Committee on Health and the Environment to examine opportunities for assisting countries in the proper use of agricultural and industrial chemicals and processes and alternatives such as integrated pest management. The committee shall be broadly representative of industry, agriculture, labor, health and environmental interests and shall report its preliminary findings to Congress before hearings on the fiscal year 1988 budget.

SEC. 540. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations. The Congress reaffirms its commitments to Population, Development Assistance and to the need for informed voluntary family planning.

SEC. 541. Not less than $30,000,000 of the aggregate amount of funds appropriated by this Act to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961 and chapter 4 of part II of that Act, shall be available for the provision of food, medicine, or other humanitarian assistance to the Afghan people, notwithstanding any other provision of law.

SEC. 542. None of the funds provided in this Act shall be available for the Sudan if the President determines that the Sudan is acting in a manner that would endanger the stability of the region, or the Camp David peace process.

SEC. 543. The President shall make available to the Cambodian non-Communist resistance forces not less than $1,500,000 nor more than $5,000,000 of the funds appropriated by this Act for "Military assistance" and for the "Economic support fund", notwithstanding any other provision of law: *Provided*, That funds appropriated by this Act for this purpose shall be obligated in accordance with the provisions of section 906 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83).

SEC. 544. None of the funds appropriated or made available pursuant to this Act shall be available to a private voluntary organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the Agency for International Development.

SEC. 545. Of the amounts made available by this Act for military assistance and financing for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act, $5,000,000 may not be expended until the

President reports, following the conclusion of the Appeals process in the case of Captain Avila, to the Committees on Appropriations that the Government of El Salvador has (1) substantially concluded all investigative action with respect to those responsible for the January, 1981 deaths of the two United States land reform consultants Michael Hammer and Mark Pearlman and the Salvadoran Land Reform Institute Director Jose Rodolfo Viera, and (2) pursued all legal avenues to bring to trial and obtain a verdict of those who ordered and carried out the January, 1981 murders.

SEC. 546. It is the sense of the Congress that all countries receiving United States foreign assistance under the "Economic support fund", "Foreign Military Credit Sales", "Military Assistance" program, "International military education and training", Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), development assistance programs, or trade promotion programs should fully cooperate with the international refugee assistance organizations, the United States, and other governments in facilitating lasting solutions to refugee situations. Further, where resettlement to other countries is the appropriate solution, such resettlement should be expedited in cooperation with the country of asylum without respect to race, sex, religion, or national origin.

SEC. 547. (a) The Congress finds that—

(1) the United Nations Children's Fund (UNICEF) reports that four million children die annually because they have not been immunized against the six major childhood diseases: polio, measles, whooping cough, diphtheria, tetanus, and tuberculosis;

(2) at present less than 20 percent of children in the developing world are fully immunized against these diseases;

(3) each year more than five million additional children are permanently disabled and suffer diminished capacities to contribute to the economic, social and political development of their countries because they have not been immunized;

(4) ten million additional childhood deaths from immunizable and potentially immunizable diseases could be averted annually by the development of techniques in biotechnology for new and cost-effective vaccines;

(5) the World Health Assembly, the Executive Board of the United Nations Children's Fund, and the United Nations General Assembly are calling upon the nations of the world to commit the resources necessary to meet the challenge of universal access to childhood immunization by 1990;

(6) the United States, through the Centers for Disease Control and the Agency for International Development, joined in a global effort by providing political and technical leadership that made possible the eradication of smallpox during the 1970's;

(7) the development of national immunization systems that can both be sustained and also serve as a model for a wide range of primary health care actions is a desired outcome of our foreign assistance policy;

(8) the United States Centers for Disease Control headquartered in Atlanta is uniquely qualified to provide technical assistance for a worldwide immunization and eradication effort and is universally respected;

(9) at the 1984 Bellagio Conference it was determined that the goal of universal childhood immunization by 1990 is indeed achievable;

(10) the Congress, through authorizations and appropriations for international health research and primary health care activities and the establishment of the Child Survival Fund, has played a vital role in providing for the well-being of the world's children;

(11) the Congress has expressed its expectation that the Agency for International Development will set as a goal the immunization by 1990 of at least 80 percent of all the children in those countries in which the Agency has a program; and

(12) the United States private sector and public at large have responded generously to appeals for support for national immunization campaigns in developing countries.

(b)(1) The Congress calls upon the President to direct the Agency for International Development, working through the Centers for Disease Control and other appropriate Federal agencies, to work in a global effort to provide enhanced support toward achieving the goal of universal access to childhood immunization by 1990 by—

(A) assisting in the delivery, distribution, and use of vaccines, including—

(i) the building of locally sustainable systems and technical capacities in developing countries to reach, by the appropriate age, not less than 80 per centum of their annually projected target population with the full schedule of required immunizations, and

(ii) the development of a sufficient network of indigenous professionals and institutions with responsibility for developing, monitoring, and assessing immunization programs and continually adapting strategies to reach the goal of preventing immunizable diseases; and

(B) performing, supporting, and encouraging research and development activities, both in the public and private sector, that will be targeted at developing new vaccines and at modifying and improving existing vaccines to make them more appropriate for use in developing countries.

(2) In support of this global effort, the President should appeal to the people of the United States and the United States private sector to support public and private efforts to provide the resources necessary to achieve universal access to childhood immunization by 1990.

SEC. 548. None of the funds appropriated in this Act shall be made available for any costs associated with the Government of Ethiopia's forced resettlement or villagization programs.

SEC. 549. None of the funds appropriated in this Act shall be obligated or expended for Sudan or Liberia except as provided through the regular notification procedures of the Committees on Appropriations.

SEC. 550. For the purpose of this Act, "program, project, and activity" shall be defined at the Appropriations Act account level and shall include all Appropriations and Authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic support fund; Military Assistance; and Foreign military credit sales, "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account; for the functional development assistance accounts of the Agency for International Development "program, project, and activity" shall also be considered to include central program level funding, either as (1) justified to the

Congress, or (2) allocated by the Executive Branch in accordance with a report, to be provided to the Committees on Appropriations within thirty days of enactment of a Foreign Assistance and Related Programs Appropriations Act or of enactment of a continuing resolution containing funding for these programs for the balance of the fiscal year 1987, as required by Section 653(a) of the Foreign Assistance Act of 1961, as amended, whichever is the more recent action.

SEC. 551. Of the funds made available by this Act and appropriated for the "Child Survival Fund" and "Health, Development Assistance", up to an additional $4,150,000 may be used to reimburse the U.S. Public Health Service or the Centers for Disease Control for the full cost of up to an additional thirty Public Health Service employees specifically for the purpose of carrying out immunization activities of the Child Survival Fund.

SEC. 552. Earmarks, limitations, and ceilings on programs, projects, and activities for fiscal year 1987 shall be treated as follows: (1) earmarks, limitations, and ceilings shall be as designated in this Act; (2) earmarks, limitations, and ceilings, in other legislation which pertain to foreign assistance programs funded by this Act, shall be reduced proportionately by a percentage equal to the percentage decrease in funds available in each account for countries other than Israel, Egypt, and Pakistan from fiscal year 1986 post sequestration funding levels to fiscal year 1987 appropriation levels; and (3) nothing in this section shall preclude the application of sequestration action in fiscal year 1987, if it occurs, from applying to all earmarks, limitations, and ceilings in this Act and in applying to earmarks, limitations, and ceilings in corresponding authorizations legislation.

SEC. 553. If any funds appropriated by this Act for "Economic support fund", "Military assistance", "International military education and training", or "Foreign military credit sales" are not used for assistance for the country for which those funds were allocated because that country has not taken adequate steps to halt illicit drug production or trafficking (including any funds withheld pursuant to section 481(h) of the Foreign Assistance Act of 1961 or section 611 or 612 of the International Security and Development Cooperation Act of 1985), those funds shall be used for additional assistance for those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking, as follows:

(1) Except as provided in paragraph (2), those funds shall be transferred to the "International Narcotics Control" account in order to provide additional narcotics control assistance to those countries. Such transfers may be made without regard to the 20-percent increase limitation contained in section 610(a) of the Foreign Assistance Act of 1961. Such transfers shall be subject to the regular notification procedures of the Committees on Appropriations.

(2) Any of those funds—

(A) which the President determines (and reports to the Congress) should not be used for additional narcotics control assistance for those countries because the additional assistance could not be used effectively in halting illicit drug production or trafficking,

(B) whose transfer pursuant to paragraph (1) is not approved by the Appropriations Committees, or

(C) which are appropriated for "Foreign military credit sales",

shall be reprogrammed within the account for which they were appropriated (subject to regular reprogramming procedures of the Committees on Appropriations) in order to provide additional economic or military assistance (as the case may be) to those countries.

SEC. 554. The Secretary of the Treasury shall instruct the United States Executive Director of the Inter-American Development Bank to work with the representatives, and with the ministries from which they receive their instructions, of other donor nations to the Inter-American Development Bank, to develop a coordinated economic development program for the assistance activities of the Bank for Haiti. Such program should be developed in cooperation with the Department of State and the Agency for International Development to ensure that the bilateral economic assistance programs of the United States for Haiti are effectively coordinated with the activities of the Inter-American Development Bank.

SEC. 555. (a) Section 49 of the Bretton Woods Agreements Act (22 U.S.C. 286gg) is amended by adding at the end the following new subsection:

"(d) For purposes of this section, the term 'multilateral development banks' means the International Bank for Reconstruction and Development, the Inter-American Development Bank, the African Development Bank, and the Asian Development Bank.".

(b) Section 49(a)(1) of the Bretton Woods Agreements Act (22 U.S.C. 286gg(a)(1)) is amended—

(1) by inserting before "the Fund" the first place it appears the following: "each of the multilateral development banks (in this section referred to as the 'banks') and of";

(2) by inserting "each of the banks and of" before "the Fund" the second place it appears;

(3) by inserting "banks and of the" before "Fund" the third place it appears; and

(4) by striking "Fund" the fourth place it appears.

(c) Section 49(a)(3) of the Bretton Woods Agreements Act (22 U.S.C. 286gg(a)(3)) is amended—

(1) by inserting "each of the banks and of" before "the Fund" the first place it appears; and

(2) by striking "Fund" the second place it appears and inserting "their".

(d) Section 49(b)(1) of the Bretton Woods Agreements Act (22 U.S.C. 286gg(b)(1)) is amended—

(1) by inserting "each of the banks and" before "the Fund" the first place it appears;

(2) by inserting "the banks and by" before "the Fund" the second place it appears; and

(3) by inserting "the banks and" before "the Fund" the third place it appears.

(e) Section 49(c) of the Bretton Woods Agreements Act (22 U.S.C. 286gg(c)) is amended by inserting "bank and" before "Fund" each place it appears.

(f) Sections 49(c) (1) and (2) of the Bretton Woods Agreements Act (22 U.S.C. 286gg(c)) is amended by inserting after the word "for" the first time it appears "loans or".

SEC. 556. Section 901(d) of the International Security and Development Cooperation Act of 1985 is hereby repealed.

SEC. 557. (a) It is the sense of Congress that pursuant to section 701 of the International Institutions Act of 1977, the United States Government should oppose all loans to Chile from multilateral development institutions, except for those for basic human needs, until—

(1) the Government of Chile has ended its practice and pattern of gross abuse of internationally recognized human rights;

(2) significant steps have been taken by the Government of Chile to restore democracy, including—

(A) the implementation of political reforms which are essential to the development of democracy, such as the legalization of political parties, the enactment of election laws, the establishment of freedom of speech and the press, and the fair and prompt administration of justice; and

(B) a precise and reasonable timetable has been established for the transition to democracy.

(b) None of the funds made available by this Act for the "Economic support fund" or for Title III shall be obligated or expended for Chile.

SEC. 558. None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided,* That this section shall not prohibit:

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact in the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

SEC. 559. None of the funds provided in this Act to the Agency for International Development, other than funds made available to carry out Caribbean Basin Initiative programs under the Tariff Schedules of the United States, 19 U.S.C. 1202, Schedule 8, Part I, Subpart B, Item 807.00, shall be obligated or expended—

(1) to procure directly feasibility studies or prefeasibility studies for, or project profiles of potential investment in, the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined by section 503(c)(1)(A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1)(A) and (E)); or

(2) to assist directly in the establishment of facilities specifically designed for the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined in section 503(c)(1)(A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1)(A) and (E)).

SEC. 560. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, South Yemen, or Syria unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the United States.

This Act may be cited as the "Foreign Assistance and Related Programs Appropriations Act, 1987".

(g) Such amounts as may be necessary are hereby appropriated for programs, projects, or activities provided for in H.R. 5313, the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1987, to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-977) as filed in the House of Representatives on October 7, 1986, as if enacted into law: *Provided,* That, notwithstanding any other provision of this joint resolution, including section 102, in addition to the funds otherwise made available in this subsection, the following amounts are made available: (1) an additional $36,000,000, to remain available until September 30, 1988, is hereby appropriated for the National Aeronautics and Space Administration, "Research and development"; and (2) an additional $2,398,000,000, to remain available until expended, is hereby appropriated for the National Aeronautics and Space Administration, "Space flight, control and data communications", including (a) $2,100,000,000 for orbiter production only, which amount shall not become available for obligation until August 1, 1987, and (b) $265,000,000 for space shuttle operations, which amount, together with $266,000,000 otherwise made available for this account by this subsection (or by enactment into law of the above named Act) shall not become available for obligation until January 15, 1987.

(h) Such amounts as may be necessary for programs, projects or activities provided for in the Department of the Interior and Related Agencies Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act.

AN ACT

Making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1987, and for other purposes.

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau of Land Management, $483,610,000, of which $83,000,000 for firefighting and repayment to other appropriations from which funds were transferred under the authority of section 102 of the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190, and $5,000,000 for insect and disease control projects, including grasshoppers, shall remain available until expended: *Provided,* That regulations pertaining to mining operations on public lands conducted under the Mining Law of 1872 (30 U.S.C. 22, et seq.) and sections 302, 303, and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732, 1733, and 1782) shall be modified to include a requirement for the posting of reclamation bonds by operators for all operations which involve significant surface disturbance, (a) at the discretion of the authorized officer for operators who have a record of compliance with pertinent regulations concerning mining on public lands, and (b) on a mandatory basis only for operators with a history of noncompliance with the aforesaid regulations: *Provided further,* That surety bonds, third party surety bonds, or irrevocable letters of credit shall qualify as bond instruments: *Provided further,* That evidence of an equivalent bond posted with a State agency shall be accepted in lieu of a separate bond: *Provided further,* That the amount of such bonds shall be sufficient to cover the costs of reclamation as estimated by the Bureau of Land Management.

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $2,800,000, to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976 (31 U.S.C. 6901-07), $105,000,000, of which not to exceed $400,000 shall be available for administrative expenses.

LAND ACQUISITION

(INCLUDING RESCISSION)

For expenses necessary to carry out the provisions of sections 205, 206, and 318(d) of Public Law 94-579 including administrative

expenses and acquisition of lands or waters, or interest therein, $6,220,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

Of the funds appropriated under this head in Public Law 98-396 to carry out the provisions of Public Law 93-531, as amended, $3,200,000 are rescinded.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; $54,524,000, to remain available until expended: *Provided*, That the amount appropriated herein for road construction shall be transferred to the Federal Highway Administration, Department of Transportation: *Provided further*, That 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land grant fund and shall be transferred to the General Fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315, et seq.), but not less than $9,253,000 (43 U.S.C. 1901), and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, to remain available until expended: *Provided*, That not to exceed $600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93-153, to be immediately available until expended.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contrib-

uted under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $10,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: *Provided*, That appropriations herein made for Bureau of Land Management expenditures in connection with the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands (other than expenditures made under the appropriation "Oregon and California grant lands") shall be reimbursed to the General Fund of the Treasury from the 25 per centum referred to in subsection (c), title II, of the Act approved August 28, 1937 (50 Stat. 876), of the special fund designated the "Oregon and California land grant fund" and section 4 of the Act approved May 24, 1939 (53 Stat. 754), of the special fund designated the "Coos Bay Wagon Road grant fund": *Provided further*, That appropriations herein made may be expended for surveys of Federal lands of the United States and on a reimbursable basis for surveys of Federal lands of the United States and for protection of lands for the State of Alaska: *Provided further*, That an appeal of any reductions in grazing allotments on public rangelands must be taken within thirty days after receipt of a final grazing allotment decision. Reductions of up to 10 per centum in grazing allotments shall become effective when so designated by the Secretary of the Interior. Upon appeal any proposed reduction in excess of 10 per centum shall be suspended pending final action on the appeal, which shall be completed within two years after the appeal is filed: *Provided further*, That appropriations herein made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Bureau.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the United States Fish and Wildlife Service; and for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge; and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as

amended by Public Law 93-408, $314,692,000 of which $4,300,000, to carry out the purposes of 16 U.S.C. 1535, shall remain available until expended; and of which $6,411,000 shall be for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976 (90 Stat. 2921), to compensate for loss of fishery resources from water development projects on the Lower Snake River, and shall remain available until expended.

CONSTRUCTION AND ANADROMOUS FISH

For construction and acquisition of buildings and other facilities required in the conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, and the acquisition of lands and interests therein; $26,513,000, to remain available until expended, of which $2,000,000 shall be available for expenses to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a-757g).

MIGRATORY BIRD CONSERVATION ACCOUNT

For an advance to the migratory bird conservation account, as authorized by the Act of October 4, 1971, as amended (16 U.S.C. 715k-3, 5), $7,000,000, to remain available until expended.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $42,425,000, to be derived from the Land and Water Conservation Fund, to remain available until expended: *Provided*, That $3,000,000 for Bayou Sauvage NWR shall be available subject to authorization.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $5,645,000.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 72 passenger motor vehicles for replacement only (including 72 for police-type use); purchase of 1 new aircraft for replacement only; not to exceed $300,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife Service, and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; construction of permanent improvements for use

as a forensics laboratory, and structures appurtenant thereto, on a site leased by the Service; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed $408,000 for the Roosevelt Campobello International Park Commission and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $649,613,000, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451) and $15,158,000 to be derived from unappropriated balances in the National Park Service "Planning, development and operation of recreation facilities" account: *Provided,* That the Park Service shall not enter into future concessionaire contracts, including renewals, that do not include a termination for cause clause that provides for possible extinguishment of possessory interests excluding depreciated book value of concessionaire investments without compensation: *Provided further,* That none of these funds may be used to compensate a quantity of staff greater than existed as of May 1, 1986, in the Office of Legislative and Congressional Affairs of the National Park Service or to compensate individual staff members assigned subsequent to May 1, 1986, at grade levels greater than the staff replaced: *Provided further,* That $85,000 shall be available to assist the town of Harpers Ferry, West Virginia, for police force use: *Provided further,* That to advance the mission of the National Park Service, for a period of time not to extend beyond fiscal year 1987, the Secretary of the Interior is authorized to charge park entrance fees for all units of the National Park System, except as provided herein, of an amount not to exceed $3 for a single visit permit as defined in 36 CFR 71.7(b)(2) and of an amount not to exceed $5 for a single visit permit as defined in 36 CFR 71.7(b)(1): *Provided further,* That the cost of a Golden Eagle Passport as defined in 36 CFR 71.5 is increased to a reasonable fee but not to exceed $25 until September 30, 1987: *Provided further,* That for units of the National Park System where entrance fees are charged the Secretary shall establish an annual admission permit for each individual park unit for a reasonable fee but not to exceed $15, and that purchase of such annual admission permit for a unit of the National Park System shall relieve the requirement for payment of single visit permits as defined in 36 CFR 71.7(b): *Provided further,* That all funds derived from National Park Service entrance fees during fiscal year 1987 and all funds collected during fiscal year 1987 under subsections (a), (b), and (c) of section 4 of the Land and Water Conservation Fund

Act of 1965, as amended (16 U.S.C. 460l-6a), shall be transferred to the General Fund of the Treasury of the United States: *Provided further,* That notwithstanding any other provision of this Act, no admission fee may be charged at any unit of the National Park System which provides significant outdoor recreation opportunities in an urban environment and to which access is publicly available at multiple locations, nor shall an admission fee be charged at any unit of the National Park System which has a current, specific statutory exemption: *Provided further,* That where entrance fees are established on a per person basis, children 12 and under shall be exempt from the fees: *Provided further,* That if permanent statutory language is enacted during fiscal year 1987 establishing National Park System entrance fees, the provisions of that language shall supercede the fee provisions contained in this Act: *Provided further,* That of the funds provided under this head, $15,000,000 shall be distributed to units of the National Park System, to be available for resource protection, research, interpretation, and maintenance activities related to resource protection, to be distributed in the following manner: 50 percent shall be provided to all units of the System based on each unit's proportion of park operating expenses, and 50 percent shall be provided to units with entrance fees based on each collecting unit's proportion of total entrance fee collections: *Provided further,* That the following may be cited as the "Steamtown National Historic Site Act of 1986":

SECTION 1. DESIGNATION AS NATIONAL HISTORIC SITE.

The property known as Steamtown, consisting of the land, historic roundhouse, switchyard, and associated buildings, track and equipment, and located on approximately 40 acres in Scranton, Pennsylvania, is hereby designated as the Steamtown National Historic Site (hereafter in this Act referred to as "the Site"). The Site is generally depicted on the map entitled "Steamtown National Historic Site", numbered STTO-80,000 and dated September 1986. A copy of the map shall be on file and available for inspection in the offices of the National Park Service in Washington, D.C., and in appropriate regional and local offices.

SEC. 2. MANAGEMENT OF SITE.

(a) PREPARATION OF MANAGEMENT PLAN.—The Secretary shall prepare a comprehensive management plan for the Site, which shall include all of the elements required for general management plans under section 12 of the Act entitled "An Act to improve the administration of the National Park System by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes" approved August 18, 1970 (U.S.C. 1a-7), and shall be submitted to the Congress no later than September 30, 1987.

(b) ADMINISTRATION OF SITE.—(1) The Secretary shall administer the Site through cooperative agreements and grant agreements, as appropriate, with the owner or owners of the property. The Secretary may provide financial and technical assistance in planning interpretation, maintenance, preservation, and appropriate public use of the Site and associated rolling stock in order to further public understanding and appreciation of the development of steam locomotives in the region.

(2) The Secretary of the Interior may acquire the Site, and all or part of the associated rolling stock, by donation or with donated funds and may begin to take such actions as are called for in the

management plan. Upon acquisition pursuant to this paragraph, the Site and any acquired associated rolling stock shall thereafter be administered by the Secretary in accordance with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.), and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects and antiquities of national significance, and for other purposes" approved August 21, 1935 (16 U.S.C. 461 et seq.).

SEC. 3. ADVISORY COMMITTEE.

The Secretary is authorized to establish a Steamtown Advisory Committee and appoint up to ten members, who shall serve at no cost to the United States.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $20,000,000 for the administration of the Steamtown National Historic Site and for assistance to the owner thereof pursuant to the agreements referred to in section 2(b).

SEC. 5. APPROPRIATIONS.

For expenses necessary to carry out the provisions of this Act, $8,000,000, to remain available until expended.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental compliance and review, and grant administration, not otherwise provided for, $10,628,000.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), $24,250,000 to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1988: *Provided,* That the Trust Territory of the Pacific Islands is a State eligible for Historic Preservation Fund matching grant assistance as authorized under 16 U.S.C. 470w(2): *Provided further,* That pursuant to section 105(1) of the Compact of Free Association, Public Law 99-239, the Federated States of Micronesia and the Republic of the Marshall Islands shall also be considered States for purposes of this appropriation.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), $88,095,000, to remain available until expended, of which $8,500,000 shall be derived by transfer from the National Park System Visitor Facilities Fund, including $2,700,000 to carry out the provisions of sections 302, 303, and 304 of Public Law 95-290: *Provided,* That for payment of obligations incurred for continued construction of the Cumberland Gap Tunnel, as authorized by section 160 of Public Law 93-87, $10,000,000 to be derived from the Highway Trust Fund and to remain available until expended to

liquidate contract authority provided under section 104(a)(8) of Public Law 95-599, as amended, such contract authority to remain available until expended: *Provided further,* That for payments of obligations incurred for improvements to the George Washington Memorial Parkway, $2,500,000 to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under section 104(a)(8) of Public Law 95-599, as amended, subject to the availability of funds for an additional lane on the Theodore Roosevelt Bridge.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, $87,220,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, including $2,270,000 to administer the State Assistance program: *Provided,* That of the amounts previously appropriated to the Secretary's contingency fund for grants to States, $893,000 shall be available in 1987 for administrative expenses of the State grant program.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

For expenses necessary for operating and maintaining the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, $4,771,000.

ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR COMMISSION

For operation of the Illinois and Michigan Canal National Heritage Corridor Commission, $250,000.

JEFFERSON NATIONAL EXPANSION MEMORIAL COMMISSION

For operation of the Jefferson National Expansion Memorial Commission, $75,000.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 400 passenger motor vehicles, of which 348 shall be for replacement only, including not to exceed 300 for police-type use and 20 buses; to provide, notwithstanding any other provision of law, at a cost not exceeding $100,000, transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service; options for the purchase of land at not to exceed $1 for each option; and for the procurement and delivery of medical services within the jurisdiction of units of the National Park System: *Provided,* That no funds available to the National Park Service may be used, unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 99-714, to maintain law and order in emergency and other unforeseen law

enforcement situations and conduct emergency search and rescue operations in the National Park System: *Provided further,* That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided further,* That none of the funds appropriated to the National Park Service may be used to add industrial facilities to the list of National Historic Landmarks without the consent of the owner: *Provided further,* That the National Park Service may use helicopters and motorized equipment at Death Valley National Monument for removal of feral burros and horses: *Provided further,* That notwithstanding any other provision of law, the National Park Service may recover unbudgeted costs of providing necessary services associated with special use permits, such reimbursements to be credited to the appropriation current at that time: *Provided further,* That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project: *Provided further,* That the Secretary of the Interior shall begin processing claims of the licensees of the American Revolution Bicentennial Administration within 30 days of enactment of this Act, and that licensees who filed claims with the Department between July, 1984, and January, 1985, or who filed for relief from the Department under the Federal Tort Claims Act on December 31, 1979, or who were mentioned in the December 30, 1985, Opinion of the Comptroller General shall be eligible claimants: *Provided further,* That the Secretary shall process such claims consistent with the process employed in the Amerecord, Inc. test case which was settled on August 20, 1983, and other applicable legal principles to determine whether any or all of such claimants ought to be awarded equitable compensation by the Congress, and, if so, in what amount: *Provided further,* That these claims will be processed to completion in a judicious and expedient manner not to exceed one year from the date of enactment of this Act: *Provided further,* That none of the funds made available by this Act may be used to plan or implement the closure of the Pacific Northwest Regional Office in Seattle, Washington: *Provided further,* That notwithstanding any other provision of law, hereafter funds received by the National Park Service as reimbursement for the cost of providing security, law enforcement, interpretive, and other services with respect to the operation of facilities at the Jefferson National Expansion Memorial National Historic Site shall be credited to the appropriation bearing the cost of providing such services.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the Geological Survey to perform surveys, investigations, and research covering topography, geology,

hydrology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; $418,665,000: *Provided,* That $52,835,000 shall be available only for cooperation with States or municipalities for water resources investigations: *Provided further,* That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality: *Provided further,* That in fiscal year 1987 and thereafter the Geological Survey is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided further,* That, heretofore and hereafter, in carrying out work involving cooperation with any State, Territory, possession, or political subdivision thereof, the Geological Survey may, notwithstanding any other provision of law, record obligations against accounts receivable from any such entities and shall credit amounts received from such entities to this appropriation.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the Geological Survey shall be available for purchase of not to exceed 14 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts: *Provided,* That appropriations herein made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Geological Survey, and that within appropriations herein provided, Geological Survey officials may authorize either direct procurement of or reimbursement for expenses incidental to the effective use of volunteers such as, but not limited to, training, transportation, lodging, subsistence, equipment, and supplies: *Provided further,* That provision for such expenses or services is in accord with volunteer or cooperative agreements made with such individuals, private organizations, educational institutions, or State or local government: *Provided further,* That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in Public Law 95-224.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; $160,697,000, of which not less than $44,904,000 shall be available for royalty management activities including general administration: *Provided,* That not less than $11,059,000 is to be used for the mineral revenue compliance audit program: *Provided further,* That notwithstanding any other provision of law, funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721 (b) and (d): *Provided further,* That in fiscal year 1987 and thereafter, the Minerals Management Service is authorized to accept land, buildings, equipment and other contributions, from public and private sources, which shall be available for the purposes provided for in this account.

BUREAU OF MINES

MINES AND MINERALS

For expenses necessary for conducting inquiries, technological investigations, and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the development of mineral resources and the prevention of waste in the mining, minerals, metal, and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, $138,162,000, of which $83,130,000 shall remain available until expended.

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided,* That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral product that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not to exceed 14 passenger motor vehicles, of which 9 shall be for replacement only; and uniform allowances of not to exceed $400 for each uniformed employee of the Office of

Surface Mining Reclamation and Enforcement; $100,003,000, and notwithstanding 31 U.S.C. 3302, an additional amount, to remain available until expended, equal to receipts to the General Fund of the Treasury from performance bond forfeitures in fiscal year 1987.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 21 passenger motor vehicles, of which 15 shall be for replacement only, to remain available until expended, $203,720,000, to be derived from receipts of the Abandoned Mine Reclamation Fund: *Provided,* That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further,* That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 per centum: *Provided further,* That none of these funds shall be used for a reclamation grant to any State if the State has not agreed to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement through which all permit applications are reviewed and approvals withheld if the applicants (or those who control the applicants) applying for or receiving such permits have outstanding State or Federal air or water quality violations in accordance with section 510(c) of the Act of August 3, 1977 (30 U.S.C. 1260(c)), or failure to abate cessation orders, outstanding civil penalties associated with such failure to abate cessation orders, or uncontested past due Abandoned Mine Land fees: *Provided further,* That notwithstanding any legislative or judicial requirement, the Office of Surface Mining Reclamation and Enforcement may delay the finalization of the proposed rulemaking amending parts 773 and 778 of the Code of Federal Regulations as published in the Federal Register on April 5, 1985 (50 FR 13724) until March 31, 1987: *Provided further,* That the Secretary of the Interior may deny fifty percent of an Abandoned Mine Reclamation fund grant, available to a State pursuant to title IV of Public Law 95-87, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines that a State is systematically failing to administer adequately the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and the Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement: *Provided further,* That expenditure of moneys as authorized in section 402(g)(3) of Public Law 95-87 shall be on a priority basis with the first priority being protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices, as stated in section 403 of Public Law 95-87.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements, and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices, $911,182,000, of which not to exceed $55,668,000 for higher education scholarships and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall remain available for obligation until September 30, 1988, and $25,000,000 for firefighting and repayment to other appropriations from which funds were transferred under the authority of section 102 of the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190 shall remain available until expended, and the funds made available to tribes and tribal organizations through contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1988: *Provided,* That this carryover authority does not extend to programs directly operated by the Bureau of Indian Affairs unless the tribe(s) and the Bureau of Indian Affairs enter into a cooperative agreement for consolidated services; and for expenses necessary to carry out the provisions of section 19(a) of Public Law 93-531 (25 U.S.C. 640d-18(a)), $2,431,000, to remain available until expended: *Provided further,* That none of the funds appropriated to the Bureau of Indian Affairs shall be expended as matching funds for programs funded under section 103(b)(2) of the Carl D. Perkins Vocational Education Act: *Provided further,* That notwithstanding any provision of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act, the amounts appropriated for fiscal year 1987 for the Bureau of Indian Affairs for the Institute of American Indian Arts shall be available for use under part A of that Act and—

(1) that Act shall be implemented in a reasonable period of time and shall be fully implemented by no later than October 1, 1987,

(2) until the earlier of—

(A) October 1, 1987, or

(B) the appointment and confirmation of a majority of the members of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development under section 1505(a)(1)(A) of that Act,

the Secretary of the Interior shall have the authority conferred upon such members under that Act, and

(3) until the earlier of—

(A) October 1, 1987, or

(B) the appointment of a President of such Institute under section 1508 of that Act,

the Secretary of the Interior shall have the authority conferred upon the President of such Institute under this Act: *Provided further,* That no part of any appropriations to the Bureau of Indian Affairs shall be available to provide general assistance payments for Alaska Natives in the State of Alaska unless and until otherwise specifically provided for by Congress: *Provided further,* That none of the funds contained in this Act shall be available for any payment to any school to which such school would otherwise be entitled pursuant to section 1128(b) of Public Law 95-561, as amended: *Provided further,* That the amounts available for assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.) shall be distributed on the same basis as such funds were distributed in fiscal year 1986: *Provided further,* That before initiating any action to close the Phoenix Indian School but no later than February 1, 1987, the Secretary shall submit to the Congress a report (1) on the school as required under section 1121(g)(3) of Public Law 95-561, as amended, including any warranted recommendations for the establishment of special programs at existing schools or the establishment of a new school or schools to be operated either by the Bureau of Indian Affairs or by a public school district to meet the needs of students from Arizona who are attending or might otherwise have attended the Phoenix Indian School; (2) on the Secretary's recommendation for the disposition of the property (including real property, supplies, and equipment) used for the school which recommendations may include the donation (with any restrictions on use and subject to a reverter for specified reasons the Secretary deems necessary or desirable) of some or all of the property to the State of Arizona, one or more local or tribal governments, or another Federal agency or the sale or exchange of some or all of the property at fair market value and a recommendation for the use of any cash received for a sale or to equalize values in an exchange; and (3) documentation of the Secretary's efforts to consult with the affected tribes and to offer assistance to the tribes in planning for future educational requirements for those currently eligible to attend the Phoenix Indian School, including those students from the Phoenix area attending school in California: *Provided further,* That the Secretary shall take no action to close the school or dispose of the property of the Phoenix Indian School until action by the Congress affirming or modifying the recommendations of the Secretary.

CONSTRUCTION

For construction, major repair, and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands and interests in lands; preparation of lands for farming; and construction, repair, and improvement of Indian housing, $76,101,000, to remain available until expended: *Provided,* That $1,225,000 of the funds appropriated for use by the Secretary to construct homes and related facilities for the Navajo and Hopi Indian Relocation Commission in lieu of construction by the

Commission under section 15(d)(3) of the Act of December 22, 1974 (88 Stat. 1719; 25 U.S.C. 640d-14(d)(3)), may be used for counseling, water production and administration related to the relocation of Navajo families.

ROAD CONSTRUCTION

Of the funds otherwise available to the State of Oklahoma from the Federal Highway Trust Fund, $10,000,000 shall be available for construction of the Honobia Indian Road: *Provided,* That the matching requirement is hereby waived with respect to funds spent on the Honobia Road: *Provided further,* That not to exceed 5 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover roads program management costs and construction supervision costs of the Bureau of Indian Affairs.

WHITE EARTH TRUST FUND

For deposit into the White Earth Economic Development and Tribal Government Fund established pursuant to section 12 of Public Law 99-264, to be held in trust for the benefit of the White Earth Band of Chippewa Indians, $6,600,000.

MISCELLANEOUS TRUST FUNDS

TRIBAL TRUST FUNDS

In addition to the tribal funds authorized to be expended by existing law, there is hereby appropriated not to exceed $1,000,000 from tribal funds not otherwise available for expenditure.

REVOLVING FUND FOR LOANS

During fiscal year 1987, and within the resources and authority available, gross obligations for the principal amount of direct loans pursuant to the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451 et seq.), shall not exceed $16,320,000.

INDIAN LOAN GUARANTY AND INSURANCE FUND

For payment of interest subsidies on new and outstanding guaranteed loans and for necessary expenses of management and technical assistance in carrying out the provisions of the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), $2,452,000, to remain available until expended: *Provided,* That during fiscal year 1987, total commitments to guarantee loans pursuant to the Indian Financing Act of 1974 may be made only to the extent that the total loan principal, any part of which is to be guaranteed, shall not exceed resources and authority available.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans and the Indian loan guarantee and insurance fund) shall be available for expenses of exhibits; and purchase of not to exceed 150 passenger carrying motor vehicles, of which 100 shall be for replacement only.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of territories under the jurisdiction of the Department of the Interior, $78,224,000, of which (1) $75,501,000 shall be available until expended for technical assistance; late charges and payments of the annual interest rate differential required by the Federal Financing Bank, under terms of the second refinancing of an existing loan to the Guam Power Authority, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for support of governmental functions; construction grants to the Government of the Virgin Islands as authorized by Public Law 97-357 (96 Stat. 1709); construction grants to the Government of Guam, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94-241; 90 Stat. 272); and (2) $2,723,000 for salaries and expenses of the Office of Territorial and International Affairs: *Provided*, That the territorial and local governments herein provided for are authorized to make purchases through the General Services Administration: *Provided further*, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, shall be audited by the General Accounting Office, in accordance with chapter 35 of title 31, United States Code: *Provided further*, That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 99-396, except that should the Secretary of the Interior believe that the performance standards of such agreement are not being met, operations funds may be withheld, but only by Act of Congress as required by Public Law 99-396.

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (90 Stat. 299; 91 Stat. 1159; 92 Stat. 495); grants for the expenses of the High Commissioner of the Trust Territory of the Pacific Islands; grants for the compensation and expenses of the Judiciary of the Trust Territory of the Pacific Islands; grants to the Trust Territory of the Pacific Islands, in addition to local revenues, for support of governmental functions; $67,387,000, to remain available until expended: *Provided*, That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with chapter 35 of title 31, United States Code: *Provided further*, That the government of the Trust Territory of the Pacific Islands is authorized to make purchases through the General Services

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Administration: *Provided further*, That notwithstanding the proviso under "Trust Territory of the Pacific Islands" in Public Law 97-257 making funds available for the relocation and resettlement of the Bikini people in the Marshall Islands, such funds shall be available for relocation and resettlement of the Bikini people to any location.

COMPACT OF FREE ASSOCIATION

For the Enjebi Community Trust Fund, as authorized by Public Law 99-239, $2,250,000: *Provided*, That notwithstanding any other provision of law, the funds made available under this head in Public Law 99-349 shall remain available for obligation until expended: *Provided further*, That notwithstanding any other provision of law, for purposes of economic assistance as provided pursuant to the Compacts of Free Association, the effective date of the Compacts shall be October 1, 1986, except that the effective date for commencing the Kwajalein use and impact payments pursuant to sections 211(a)(1) and 213(a) of Public Law 99-239 shall be October 1, 1985: *Provided further*, That the $60,719,000 made available in fiscal year 1986 for the Compacts pursuant to Public Law 99-349 from the "Trust Territory of the Pacific Islands" appropriation shall remain available until expended for the Trust Territory of the Pacific Islands: *Provided further*, That upon the effective date determined by the President for implementing the Compacts, $60,719,000 of the amount made available for fiscal year 1987 under the "Trust Territory of the Pacific Islands" appropriation pursuant to this Act shall be considered to have been made available and expended for the "Compact of Free Association" appropriation as of October 1, 1986.

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of the Interior, including $1,586,000 for the Immediate Office of the Secretary, $42,816,000, of which not to exceed $10,000 may be for official reception and representation expenses.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $20,880,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, $16,300,000.

CONSTRUCTION MANAGEMENT

For necessary expenses of the Office of Construction Management, $684,000.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 12 additional aircraft, 10 of which shall be for replacement only: *Provided*, That no programs funded with appropriated funds in the "Office of the Secretary",

"Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: *Provided further*, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods or volcanoes; for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided*, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further*, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, U.S.C.: *Provided*, That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $300,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in

societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members: *Provided*, That no funds available to the Department of the Interior are available for any expenses of the Great Hall of Commerce.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902 and D.C. Code 4-204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued by the General Services Administration for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

SEC. 107. No funds provided in this title may be expended by the Department of the Interior for the preparation for, or conduct of, pre-leasing and leasing activities (including but not limited to: calls for information, tract selection, notices of sale, receipt of bids and award of leases) of lands described in, and under the same terms and conditions set forth in section 107 of the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190.

SEC. 108. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance changing the name of the mountain located 63 degrees, 04 minutes, 15 seconds west, presently named and referred to as Mount McKinley.

SEC. 109. Notwithstanding any other provision of law, appropriations in this title shall be available to provide insurance on official motor vehicles, aircraft, and boats operated by the Department of the Interior in Canada and Mexico.

SEC. 110. No funds provided in this title may be used to detail any employee to an organization unless such detail is in accordance with Office of Personnel Management regulations.

SEC. 111. (a) The Secretary of the Interior may consider and accept, as part of the Outer Continental Shelf oil and gas leasing program for 1987 to 1992, any recommendation included in any proposal submitted to him with respect to lease sales on the California Outer Continental Shelf by the co-chairmen of the Congressional panel established pursuant to Public Law 99-190 or by the Governor of California on May 7, 1986. The major components of those proposals shall be examined in the final environmental impact statement for the program. Consideration or acceptance of any such recommendation shall not require the preparation of a revised or supplemental draft environmental impact statement.

(b) The Secretary shall submit a copy of the draft proposed final leasing program for offshore California to the co-chairmen of the negotiating group referred to in subsection (a) who shall have a period of 30 days in which to review such program and provide their comments and the comments of the negotiating group on it to the Secretary prior to its submission to the President and the Congress. When submitting the proposed final leasing program to the President and the Congress in accordance with section 18(d) of the Outer Continental Shelf Lands Act (43 U.S.C. 1344(d)), such submission shall indicate in detail why any specific portion of the proposals referred to in subsection (a) of this section was not accepted.

(c) Prior to the approval of the Final Program, referenced in subsection (a), the Secretary may conduct prelease activities for

proposed California OCS Lease Sales 95, 91, and 119 and may make changes in those sales on the basis of comments submitted by the Congressional negotiating group or others, except that the Secretary may not issue a: (1) call for information and nominations for Sale 95 prior to March 1, 1987, and no draft environmental impact statement shall be published for Sale 91 sooner than 90 days after the Secretary's submission of the draft of the proposed Final Five Year Program to the members of the Congressional panel, and (2) final notice of lease sale for Lease Sale 91 prior to January 1, 1989.

(d) The members of Congress designated under Sec. 111 of Public Law 99-190 (99 Stat. 1243) are hereby authorized to continue as the Congressional negotiating group and to negotiate with the Department of the Interior, to provide the Secretary of the Interior with the appropriate range of advice, including proposals, and to review and comment on proposals by the Department of the Interior with respect to future oil and gas leasing and protection of lands on the California Outer Continental Shelf.

SEC. 112. Notwithstanding any other law, the Secretary of the Interior shall convey without reimbursement to the State of Montana no later than December 31, 1986, all of the right, including all water rights, title, and interest of the United States in and to the fish hatchery property located south of Miles City, Montana, and known as the Miles City National Fish Hatchery, consisting of 168.22 acres, more or less, of land, together with any improvements and related personal property thereon.

SEC. 113. The Secretary of the Interior is directed to designate the Laurel Highlands National Recreational Trail, as designated by the Secretary of the Interior pursuant to section 4 of the National Trails System Act, as part of the Potomac Heritage Trail, as requested by the State of Pennsylvania in its April 1984 application, subject to the provisions of paragraph (11) of section 5(a) of the National Trails System Act, as amended.

SEC. 114. (a) In order to provide for needed facilities for visitors to Fort Sumter National Monument, including a tour boat dock and associated facilities, and an interpretive and museum facility in cooperation with the State of South Carolina and the city of Charleston, the Secretary of the Interior (in this section referred to as the "Secretary"), is authorized to acquire by purchase with donated or appropriated funds, donation, or exchange, not to exceed 8.91 acres of lands, including submerged lands, and interests in lands, within the area generally depicted on the map entitled "Dockside II, Proposed Site, Tourboat Facility", which map shall be on file and available for public inspection in the office of the National Park Service. When acquired, lands, including submerged lands and interests in lands, depicted on such map shall be administered by the Secretary as a part of Fort Sumter National Monument, subject to the laws and regulations applicable to such monument, and subject to the provisions of this section.

(b)(1) With respect to the lands, including submerged lands, and interests in lands acquired pursuant to section (a), the Secretary is authorized—

(A) to convey, notwithstanding the provisions of section 5 of Public Law 90-400 (82 Stat. 356) and subject to the provisions of subsection (2), a leasehold interest in not to exceed one and a half acres to the State of South Carolina or the city of Charleston or either of them for development by either of them or their

agents or lessees of a marine museum and associated administrative facilities;

(B) to grant covenants or easements for ingress and egress to the State of South Carolina, the city of Charleston, and to other parties as the Secretary may deem necessary to facilitate public use; and

(C) to enter into cooperative agreements with the State of South Carolina, the city of Charleston, and other parties as the Secretary may deem necessary, pursuant to which construction, maintenance, and use of buildings, utilities, parking facilities, and other improvements may be shared among the parties to the agreement.

(2) Any conveyance made pursuant to subsection (b)(1)(A) and any renewal thereof may be for a period of up to 50 years, and may include the option to purchase the property in fee by the lessee within the first 10 years, upon payment by the lessee of the cost of the property to the United States plus interest based on the average yield of United States Treasury notes with maturities of one year. The Secretary may convey title to the property in fee in the event such option to purchase is exercised, subject to the condition that the property is used for a public marine museum and associated administrative facilities. Notwithstanding any other provision of law, any leasehold interest conveyed pursuant to subsection (b)(1)(A) shall be conveyed without monetary consideration. The proceeds from any conveyance of property in fee pursuant to subsection (b)(1)(A) shall be deposited in the Land and Water Conservation Fund in the Treasury of the United States.

(c) Section 117 of Public Law 96-199 (94 Stat. 71) is hereby repealed.

(d)(1) Notwithstanding any other provision of law, sums heretofore appropriated but not, on the date of enactment of this joint resolution, obligated for construction of a tourboat facility at the Broad Street site, and for the acquisition and construction of the Fleet landing site for Fort Sumter National Monument, which was authorized by section 117 of Public Law 96-199 (94 Stat. 71) are hereby made available for obligation for the acquisition of the lands including submerged lands, and interests in lands identified in section (a) and for construction of necessary facilities thereon, and to the extent that sums heretofore appropriated for land acquisition of the Fleet landing site are not sufficient to cover the cost of acquisition of the properties identified in section (a), sums heretofore appropriated for construction of facilities at the Broad Street site and the Fleet landing site may be obligated for the purposes of acquisition as authorized in section (a).

(2) In addition to the sums made available under subsection (d)(1), there is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(e) The Secretary of the Interior shall transfer administrative jurisdiction over the Federal property, consisting of approximately 1 acre, known as the Broad Street site, to the Secretary of the Department in which the Coast Guard is operating, who shall transfer to the Secretary of the Interior, subject to such reservations, terms, and conditions as may be necessary for Coast Guard purposes, administrative jurisdiction over the Federal property, consisting of approximately 1 acre located near Fort Moultrie on Sullivan's Island for purposes of a maintenance workshop, storage,

and seasonal housing in connection with the administration and protection of the Fort Sumter National Monument.

SEC. 115. (1) The primary term of any geothermal lease in effect as of July 27, 1984, issued pursuant to the Geothermal Act of 1970 (Public Law 91-581, 84 Stat. 1566, 30 U.S.C. 1001-1025) is hereby extended to December 31, 1988, if the Secretary of the Interior finds that—

(a) a bona fide sale of the geothermal resource, from a well capable of production, for delivery to or utilization by a facility or facilities, has not been completed (1) due to administrative delays by government entities, beyond the control of the lessee, or (2) such sale would be uneconomic;

(b) substantial investment in the development of or for the benefit of the lease has been made; and

(c) the lease would otherwise expire prior to December 31, 1988.

(2)(a) The Secretary of the Interior (hereinafter in this section referred to as "the Secretary" shall publish for public comment in the Federal Register within 120 days after the date of enactment of this section a proposed list of significant thermal features within the following units of the National Park System:

Mount Rainier National Park;
Lassen Volcanic National Park;
Yellowstone National Park;
Bering Land Bridge National Preserve;
Gates of the Arctic National Park and Preserve;
Yukon-Charley Rivers National Preserve;
Katmai National Park;
Aniakchak National Monument and Preserve;
Wrangell-St. Elias National Park and Preserve;
Glacier Bay National Park and Preserve;
Denali National Park and Preserve;
Lake Clark National Park and Preserve;
Hot Springs National Park;
Sequoia National Park;
Hawaii Volcanoes National Park;
Lake Mead National Recreation Area;
Big Bend National Park;
Olympic National Park;
Grand Teton National Park;
John D. Rockefeller, Jr. Memorial Parkway;
Haleakala National Park; and
Crater Lake National Park.

The Secretary shall include with such list the basis for his determination with respect to each thermal feature on the list. Based on public comment on such list, the Secretary is authorized to make additions to or deletions from the list. Not later than the 60th day from the date on which the proposed list was published in the Federal Register, the Secretary shall transmit the list to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives together with copies of all public comments which he has received and indicating any additions to or deletions from the list with a statement of the reasons therefor and the basis for inclusion of each thermal feature on the list. The Secretary shall consider the following criteria in determining the significance of thermal features:

(1) size, extent, and uniqueness;

(2) scientific and geologic significance;

(3) the extent to which such features remain in a natural, undisturbed condition; and

(4) significance of thermal features to the authorized purposes for which the National Park System unit was created.

The Secretary shall not issue any geothermal lease pursuant to the Geothermal Steam Act of 1970 (Public Law 91-581, 84 Stat. 1566), as amended, until such time as the Secretary has transmitted the list to the Committees of Congress as provided in this section.

(b) The Secretary shall maintain a monitoring program for those significant thermal features listed pursuant to subsection (a) of this section.

(c) Upon receipt of an application for a geothermal lease the Secretary shall determine on the basis of scientific evidence if exploration, development, or utilization of the lands subject to the geothermal lease application is reasonably likely to result in a significant adverse effect on a significant thermal feature listed pursuant to subsection (a) of this section. Such determination shall be subject to notice and public comment. If the Secretary determines on the basis of scientific evidence that the exploration, development, or utilization of the land subject to the geothermal lease application is reasonably likely to result in a significant adverse effect on a significant thermal feature listed pursuant to subsection (a) of this section, the Secretary shall not issue such geothermal lease. In addition, the Secretary shall withdraw from leasing under the Geothermal Steam Act of 1970, as amended, those lands, or portion thereof, subject to the application for geothermal lease, the exploration, development, or utilization of which is reasonably likely to result, based on the Secretary's determination, in a significant adverse effect on a significant thermal feature listed pursuant to subsection (a) of this section.

(d) With respect to all geothermal leases issued after the date of enactment of this section the Secretary shall include stipulations in leases necessary to protect significant thermal features listed pursuant to subsection (a) of this section where a determination is made based on scientific evidence that the exploration, development, or utilization of the lands subject to the lease is reasonably likely to adversely affect such significant features. Such stipulations shall include, but are not limited to:

(1) requiring the lessee to reinject geothermal fluids into the rock formations from which they originate;

(2) requiring the lessee to report annually to the Secretary on its activities;

(3) requiring the lessee to continuously monitor geothermal production and injection wells; and

(4) requiring the lessee to suspend activity, temporarily or permanently, on the lease if the Secretary determines that ongoing exploration, development, or utilization activities are having a significant adverse effect on significant thermal features listed pursuant to subsection (a) of this section until such time as the significant adverse effect is eliminated.

(e) The Secretary of Agriculture shall consider the effects on significant thermal features of those units of the National Park System identified in subsection (a) of this section in determining whether to consent to leasing under the Geothermal Steam Act of 1970, as amended, on national forest or other lands administered by

the Department of Agriculture available for leasing under the Geothermal Steam Act of 1970, as amended, including public, withdrawn, and acquired lands.

(f) Nothing contained in this section shall affect the ban on leasing under the Geothermal Steam Act of 1970, as amended, with respect to the Island Park Known Geothermal Resources Area, as provided for in Public Law 98-473 (98 Stat. 1837) and Public Law 99-190 (99 Stat. 1267).

(g) Except as provided herein, nothing contained in this section shall affect or modify the authorities or responsibilities of the Secretary under the Geothermal Steam Act of 1970, as amended, or any other provision of law.

(h) The provisions of this section shall remain in effect until Congress determines otherwise.

SEC. 116. (a) Section 1102(a) of the National Parks and Recreation Act of 1978 (Public Law 95-625) is amended by inserting the following after the second sentence: "In addition, the Secretary may acquire by any of the foregoing methods not to exceed ten acres outside the boundaries of the national river for an administrative headquarters site, and funds appropriated for land acquisition shall be available for the acquisition of the administrative headquarters site.".

(b) Section 1112 of Public Law 95-625 is amended by striking "$500,000" and inserting "$3,000,000".

SEC. 117. (1) The Women in Military Service for America Memorial Foundation is authorized to establish a memorial on Federal land in the District of Columbia and its environs to honor women who have served in the Armed Forces of the United States. Such memorial shall be established in accordance with the provisions of H.R. 4378, as approved by the Senate on September 10, 1986 (S. Rpt. 99-421).

(2) The organization or organizations approved by the Secretary shall establish the memorial with non-Federal funds.

SEC. 118. (1) The Black Revolutionary War Patriots Foundation is authorized to establish a memorial on Federal land in the District of Columbia and its environs to honor the estimated five thousand courageous slaves and free black persons who served as soldiers and sailors or provided civilian assistance during the American Revolution and to honor the countless black men, women, and children who ran away from slavery or filed petitions with courts and legislatures seeking their freedom. Such memorial shall be established in accordance with the provisions of H.R. 4378, as approved by the House of Representatives on September 29, 1986.

(2) The Black Revolutionary War Patriots Foundation shall establish the memorial with non-Federal funds.

SEC. 119. The Secretary of the Interior shall designate the visitor center to be associated with the headquarters of the Illinois and Michigan Canal National Heritage Corridor as the "George M. O'Brien Visitor Center" in recognition of the leadership and contributions of Representative George M. O'Brien with respect to the creation and establishment of this national heritage corridor.

SEC. 120. Notwithstanding any other provisions of the Land and Water Conservation Fund Act of 1965, Public Law 88-578, as amended, or other law, Land and Water Conservation Fund assisted land in Berkeley, Illinois, assisted under project No. 17-00180, may be exchanged for existing public lands if Land and Water Conservation

Fund conversion criteria regarding equal fair market value and reasonably equivalent use and location are met.

SEC. 121. None of the funds provided by this Act shall be expended by the Secretary of the Interior to promulgate final regulations concerning paleontological research on Federal lands until the Secretary has received the National Academy of Sciences' report concerning the permitting and post-permitting regulations concerning paleontological research and until the Secretary has, within 30 days, submitted a report to the appropriate committees of the Congress comparing the National Academy of Sciences' report with the proposed regulations of the Department of the Interior.

SEC. 122. Subsection (b) of the first section of the Act of August 9, 1955, as amended (25 U.S.C. 415(b)) is further amended—

(1) by striking "or" immediately before "(2)"; and

(2) by inserting immediately before the period at the end thereof the following: ", or (3) if the term does not exceed seventy-five years (including options to renew), and the lease is executed under tribal regulations approved by the Secretary under this clause (3)".

SEC. 123. Section 515(b)(10)(B)(ii) of the Surface Mining Control and Reclamation Act of 1977 is amended by inserting after "qualified registered engineer" the following: "or a qualified registered professional land surveyor in any State which authorizes land surveyors to prepare and certify such maps or plans".

SEC. 124. Notwithstanding any other provision of law, no funds appropriated by this Act shall be available for the implementation, by the Secretary of the Interior or the Attorney General or any other officer acting on behalf of the United States, of the "Agreement to Settle Pending Litigation Between the United States and the Owners of Certain Oil Shale Mining Claims in Colorado", dated August 4, 1986, or for the patenting of any other oil shale placer claims located prior to passage of the 1920 Mineral Leasing Act, for a period of 180 days from the date of enactment of this provision, in order to provide a period for Congressional review of this agreement: *Provided*, That the provisions of this section affecting the aforesaid settlement agreement shall be effective only if the United States Court of Appeals for the Tenth Circuit and the United States District Court for the District of Colorado approve a stay in the cases affected by such settlement agreement for 180 days and the parties to such agreement agree to continue to be bound by such agreement for the 180-day period: *Provided further*, That the Attorney General of the United States and the Secretary of the Interior are directed to immediately and in good faith seek concurrence of all parties to the agreement to continue such agreement for 180 days and to request such courts to issue stays for such period.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, $128,882,000, of which $6,000,000 shall remain available until ex-

pended for competitive research grants, as authorized by section 5 of Public Law 95-307.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others; and for forest pest management activities, $58,946,000, to remain available until expended, to carry out activities authorized in Public Law 95-313: *Provided*, That a grant of $2,800,000 shall be made to the State of Minnesota for the purposes authorized by section 6 of Public Law 95-495.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for for management, protection, improvement, and utilization of the National Forest System, and for repayment of advances made in the preceding fiscal year pursuant to 16 U.S.C. 556d for forest fire protection and emergency rehabilitation of National Forest System lands, and including administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", and "Land Acquisition", $1,158,294,000, of which $263,323,000 for reforestation and timber stand improvement, cooperative law enforcement, firefighting, and maintenance of forest development roads and trails shall remain available for obligation until September 30, 1988.

The Forest Service is to continue to complete as expeditiously as possible development of land and resource management plans to meet the requirements of the National Forest Management Act of 1976 (NFMA). Notwithstanding the date in section 6(c) of the NFMA (16 U.S.C. 1600), the Forest Service may continue the management of units of the National Forest System under existing land and resource management plans pending the completion of plans developed in accordance with the Act. Nothing shall limit judicial review of particular activities on management units of the National Forest System: *Provided*, however, That there shall be no challenges to any existing plan on the sole basis that the plan in its entirety is outdated: *Provided further*, That any and all particular activities to be carried out under existing plans may nevertheless be challenged.

CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, for construction, $261,436,000, to remain available until expended, of which $25,632,000 is for construction and acquisition of buildings and other facilities; and $236,104,000 is for construction of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532-538 and 23 U.S.C. 101 and 205: *Provided*, That funds becoming available in fiscal year 1987 under the Act of March 4, 1913 (16 U.S.C. 501), shall be transferred to the General Fund of the Treasury of the United States: *Provided further*, That the Forest Service shall achieve a 5 per centum reduction in the average cost per timber road mile as compared to the adjusted fiscal year 1985 average cost by a combination of the following two actions: (1) the application of road construction standards used to construct or reconstruct Forest Service timber roads, purchaser credit roads, or

purchaser elect roads, and (2) reducing the direct personnel cost of designing and constructing timber roads to these standards: *Provided further*, That the Forest Service shall take administrative cost saving actions, including reductions in indirect personnel, overhead charges, and productivity improvements, in fiscal year 1987 in a manner so as to achieve a 5 per centum reduction in the average cost per timber road mile as compared to the adjusted fiscal year 1985 average cost: *Provided further*, That such actions shall be taken so as to achieve these 5 per centum reductions in each Forest Service region.

Pursuant to section (b)(2), the Act of December 23, 1980, Public Law 96-581 (94 Stat. 3372), not to exceed $300,000 from the sale of 18.13 acres to the Flagstaff Medical Regional Center, Flagstaff, Arizona, are hereby appropriated and made available, until expended, to the Forest Service for the specific purpose of contract administration and overruns resulting from the construction of administrative improvements at the Mt. Elden Work Center, Flagstaff, Arizona: *Provided*, That the Secretary of Agriculture shall ensure that outlays associated with such action shall not cause the total outlays during fiscal year 1987 from Forest Service land acquisition and construction activities and construction activities in region 3 (including Arizona and New Mexico) to exceed the total that otherwise would have occurred as a result of enactment of this or previous appropriations Acts.

There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account), $9,915,000 to be transferred to the Forest Service for road construction to serve the Mount St. Helens National Volcanic Monument, Washington: *Provided*, That the funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except the Federal share of the cost of this project shall be 100 per centum, and such funds shall remain available until expended: *Provided further*, That the foregoing shall not alter the amount of funds or contract authority that would otherwise be available for road construction to serve any State other than the State of Washington.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460*l*-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $49,236,000, to be derived from the Land and Water Conservation Fund, and $3,000,000 for acquisition of land and interests therein in the Columbia River Gorge, Oregon and Washington, as depicted on a map entitled "Columbia Gorge Acquisitions—1986" on file with the Forest Service, pursuant to the Department of Agriculture Organic Act of 1956 (7 U.S.C. 428(a)), to remain available until expended.

ACQUISITION OF LANDS FOR NATIONAL FORESTS

SPECIAL ACTS

For acquisition of land within the exterior boundaries of the Cache and Uinta National Forests, Utah; the Toiyabe National

Forest, Nevada; and the Angeles, San Bernardino, and Cleveland National Forests, California, as authorized by law, $966,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, pursuant to section 401(b)(1) of Public Law 94-579, as amended, to remain available until expended.

MISCELLANEOUS TRUST FUNDS

For expenses authorized by 16 U.S.C. 1643(b), $90,000 to remain available until expended, to be derived from the fund established pursuant to the above Act.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 245 passenger motor vehicles of which eight will be used primarily for law enforcement purposes and of which 235 shall be for replacement only, of which acquisition of 148 passenger motor vehicles shall be from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed two for replacement only, and acquisition of 58 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) uniform allowances for each uniformed employee of the Forest Service, not in excess of $400 annually; (d) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (e) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (f) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note); and (g) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate and the Committee on Agriculture in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be advanced to the National Forest System appropriation for the emergency rehabilitation of burned-over lands under its jurisdiction.

Appropriations and funds available to the Forest Service shall be available to comply with the requirements of section 313(a) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1323(a)).

The appropriation structure for the Forest Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to reimburse employees for the cost of State licenses and certification fees pursuant to their Forest Service position and that are necessary to comply with State laws, regulations, and requirements.

Notwithstanding any other provision of law, the Secretary of Agriculture is hereafter authorized to use from any receipts from the sale of timber a sum equal to the cost of construction of roads under the purchaser election program as described and authorized in section 14(i) of the National Forest Management Act of 1976.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Office of International Cooperation and Development in connection with forest and rangeland research, and technical information and assistance in foreign countries.

Funds previously appropriated for timber salvage sales may be recovered from receipts deposited for use by the applicable national forest and credited to the Forest Service Permanent Appropriations to be expended for timber salvage sales from any national forest: *Provided,* That no less than $26,000,000 shall be made available to the Forest Service for obligation in fiscal year 1987 from the Timber Salvage Sales Fund appropriation.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprograming procedures contained in House Report 99-714.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Funds available to the Forest Service shall be available to conduct a program of not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408.

The Forest Service is authorized and directed to negotiate, within 90 days after the enactment of this Act, settlement of claims against the United States resulting from a forest fire in the Black Hills National Forest: *Provided,* That notwithstanding any other provision of law, the Secretary of the Treasury is authorized and directed to pay the amount of the settlement from the Claims, Judgments, and Relief Act Fund (Public Law 95-26).

In order to provide for more comprehensive and effective management, the exterior boundary of the Gifford Pinchot National Forest in the State of Washington is hereby modified as generally depicted on a map entitled "Boundary Modification, Gifford Pinchot National

Forest", dated August 1986. Such map and legal description of the boundary modification of said National Forest shall be on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture and in appropriate field offices of that agency. This boundary modification shall not affect valid existing rights or interests in existing land use authorizations.

No more than $500,000 made available to the Forest Service for obligation in fiscal year 1987 shall be expended to support Washington office staff in the development of the RPA: *Provided,* That this shall not reduce funds available for the development of forest plans pursuant to the National Forest Management Act of 1976.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

The Secretary of Energy pursuant to the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577), shall—

(1) no later than thirty days after the date of the enactment of this Act, publish in the Federal Register a notice soliciting statements of interest in, and informational proposals for, projects meeting the cost-sharing criteria contained under this head in Public Law 99-190 and employing emerging clean coal technologies which are capable of retrofitting, repowering, or modernizing existing facilities, which statements and informational proposals are to be submitted to the Secretary within sixty days after the publication of such notice; and

(2) no later than March 6, 1987, submit to Congress a summary report of statements of interest and informational proposals received and no later than one hundred and twenty days after the receipt of such statements and proposals submit to Congress a report that analyzes the information contained in such statements of interest and informational proposals and assesses the potential usefulness and commercial viability of each emerging clean coal technology for which a statement of interest or informational proposal has been received.

Notwithstanding guidance provided by the Department in the February 17, 1986 Clean Coal Technology Program Opportunity Notice, funds expended by a private sector participant during the period of Congressional review or approval of the projects selected by the Department for agreements may be eligible for cost-sharing, as appropriate, commencing immediately after a full and comprehensive report on the project in question is submitted to the Congress for a 30-day review pursuant to the Administrative Provisions of the Department of Energy in this Act: *Provided,* That such cost-sharing may only be reimbursed after the Congress has approved the project or the 30-day review period has elapsed and the agreement executed by the Department: *Provided further,* That in no case shall funds expended by the private sector during the review period be eligible for cost-sharing reimbursement of any project disapproved by the Congress.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, $295,866,000, to remain available until expended, of which $221,000 is for the functions of the Office of the Federal Inspector for the Alaska Natural Gas Transportation System established pursuant to the authority of Public Law 94-586 (90 Stat. 2908-2909), $411,000 to be derived by transfer from unobligated balances in the "Permitting and enforcement" account of the Federal Inspector for the Alaska Gas Pipeline, and $2,074,000 to be derived by transfer from unobligated balances in the "Fossil energy construction" account, and in addition, $437,000 to be derived by transfer from amounts derived from fees for guarantees of obligations collected pursuant to section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5919), and deposited in the "Energy security reserve" established by Public Law 96-126: *Provided,* That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas.

Of the funds herein provided, $26,500,000 is for implementation of the June 1984 multiyear, cost-shared magnetohydrodynamics program targeted on proof-of-concept testing: *Provided further,* That 20 per centum private sector cash or in-kind contributions shall be required for obligations in fiscal year 1987, and for each subsequent fiscal year's obligations private sector contributions shall increase by 5 per centum over the life of the proof-of-concept plan: *Provided further,* That existing facilities, equipment, and supplies, or previously expended research or development funds are not cost-sharing for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further,* That cost-sharing shall not be required for the costs of constructing or operating government-owned facilities or for the costs of Government organizations, National Laboratories, or universities and such costs shall not be used in calculating the required percentage for private sector contributions: *Provided further,* That private sector contribution percentages need not be met on each contract but must be met in total for each fiscal year.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserves activities, including the purchase of not to exceed 1 passenger motor vehicle, for replacement only, $122,177,000, to remain available until expended.

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $280,129,000, to remain available until expended, of which $10,000,000 shall be available for a grant for an energy demonstration and research facility at Tufts University when authorized by an Act of Congress: *Provided,* That award of such grant may be made

only upon approval of an appropriate technical review panel convened by the Department of Energy for the specific purpose of reviewing such grant application and subject to conditions, if any, contained in legislation authorizing such project, and of which $112,450,000 for the Weatherization Assistance Program authorized by Part A of the Energy Conservation in Existing Buildings Act of 1976 (42 U.S.C. 6861 et seq.) and the Institutional Conservation Program authorized by Part G of title III of the Energy Policy and Conservation Act (42 U.S.C. 6371 et seq.) shall be available effective March 1, 1987, only in such sums (up to a total of $112,450,000) as are equal to the difference between $200,000,000 and the excess amount for fiscal year 1987 disbursed by the Secretary of Energy for use in energy conservation programs under the provisions of section 3003(d) of subtitle A of title III of the conference agreement on H.R. 5300, the Omnibus Budget Reconciliation Act of 1986, or equivalent legislation enacted into law by March 1, 1987: *Provided further,* That if no such legislation is enacted into law by March 1, 1987, effective such date, such sums ($112,450,000) shall be immediately available to be derived from amounts held administratively in escrow by the Secretary of Energy pending restitution for actual or alleged petroleum product violations under the Emergency Petroleum Allocation Act of 1973 or the Economic Stabilization Act of 1970 (and the regulations issued thereunder): *Provided further,* That $2,000,000 of the amount provided under this heading shall be available for continuing a research and development initiative with the National Laboratories for new technologies up to proof-of-concept testing to increase significantly the energy efficiency of processes that produce steel: *Provided further,* That obligation of funds for these activities shall be contingent on an agreement to provide cash or in-kind contributions to the initiative or to other collaborative research and development activities related to the purpose of the initiative equal to 30 percent of the amount of Federal Government obligations: *Provided further,* That existing facilities, equipment, and supplies, or previously expended research or development funds are not acceptable as contributions for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further,* That the total Federal expenditure under this proviso shall be repaid up to one and one-half times from the proceeds of the commercial sale, lease, manufacture, or use of technologies developed under this proviso, at a rate of one-fourth of all net proceeds.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, $23,400,000.

EMERGENCY PREPAREDNESS

For necessary expenses in carrying out emergency preparedness activities, $6,044,000.

STRATEGIC PETROLEUM RESERVE

For expenses necessary to carry out the provisions of sections 151 through 166 of the Energy Policy and Conservation Act of 1975

(Public Law 94-163), $147,433,000, to remain available until expended.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $60,301,000.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: *Provided,* That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further,* That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further,* That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

The Secretary of Energy may transfer to the Emergency Preparedness appropriation such funds as are necessary to meet any unforeseen emergency needs from any funds available to the Department of Energy from this Act.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and XXI and section 338G of

the Public Health Service Act with respect to the Indian Health Service, including hire of passenger motor vehicles and aircraft; purchase of reprints; purchase and erection of portable buildings; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; $841,809,000: *Provided,* That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall remain available until September 30, 1988; and $10,000,000 shall remain available until expended, for the establishment of an Indian Catastrophic Health Emergency Fund (hereinafter referred to as the "Fund"). Hereafter, the Fund is to cover the Indian Health Service portion of the medical expenses of catastrophic illness falling within the responsibility of the Service and shall be administered by the Secretary of Health and Human Services, acting through the central office of the Indian Health Service. No part of the Fund or its administration shall be subject to contract or grant under the Indian Self-Determination and Education Assistance Act (Public Law 93-638). There shall be deposited into the Fund all amounts recovered under the authority of the Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.), which shall become available for obligation upon receipt and which shall remain available for obligation until expended. The Fund shall not be used to pay for health services provided to eligible Indians to the extent that alternate Federal, State, local, or private insurance resources for payment: (1) are available and accessible to the beneficiary; or (2) would be available and accessible if the beneficiary were to apply for them; or (3) would be available and accessible to other citizens similarly situated under Federal, State, or local law or regulation or private insurance program notwithstanding Indian Health Service eligibility or residency on or off a Federal Indian reservation. Funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further,* That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available until September 30, 1988, for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, construction of new facilities, or major renovation of existing Indian Health Service facilities): *Provided further,* That funding contained herein, and in any earlier appropriations Acts for scholarship programs under section 103 of the Indian Health Care Improvement Act and section 338G of the Public Health Service Act with respect to the Indian Health Service shall remain available for expenditure until September 30, 1988.

INDIAN HEALTH FACILITIES

For construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of portable buildings, purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the

Indian Health Care Improvement Act, $65,555,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem equivalent to the rate for GS-18, and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902), and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: *Provided,* That none of the funds appropriated under this Act to the Indian Health Service shall be available for the initial lease of permanent structures without advance provision therefor in appropriations Acts: *Provided further,* That non-Indian patients may be extended health care at all Indian Health Service facilities, if such care can be extended without impairing the ability of the Indian Health Service to fulfill its responsibility to provide health care to Indians served by such facilities and subject to such reasonable charges as the Secretary of Health and Human Services shall prescribe, the proceeds of which, together with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651-53), shall be deposited in the fund established by sections 401 and 402 of the Indian Health Care Improvement Act: *Provided further,* That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: *Provided further,* That with the exception of service units which currently have a billing policy, the Indian Health Service shall not initiate any further action to bill Indians in order to collect from third-party payers nor to charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy: *Provided further,* That the Secretary of Health and Human Services may authorize special retention pay under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve officer for the period during which the officer is obligated under section 338B of the Public Health Service Act and assigned and providing direct health services or serving the officer's obligation as a specialist: *Provided further,* That hereafter the Indian Health Service may seek subrogation of claims including but not limited to auto accident claims, including no-fault claims, personal injury, disease, or disability claims, and worker's compensation claims, the proceeds of which shall be credited to the funds established by sections 401 and 402 of the Indian Health Care Improvement Act: *Provided further,* That notwithstanding any other provision of law or regulation, for purposes of acquiring sites for new hospital facilities in Anchorage, Alaska, and in Kotzebue, Alaska, the Secretary of Health and Human Services may exchange any or all interests in any land administered by the Secretary in Alaska for any or all interests in any land of the State of Alaska, any political subdivision of the State, or any corporation, including the University of Alaska and may receive money if necessary to equalize the exchange: *Provided further,* That any such receipts shall be credited

to the Indian Health facilities appropriation and be used to offset the cost of construction of these two facilities.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, the Indian Education Act, $64,036,000 of which $47,200,000 shall be for part A and $14,568,000 shall be for parts B and C: *Provided,* That the amounts available pursuant to section 423 of the Act shall remain available for obligation until September 30, 1988: *Provided further,* That funds appropriated for fiscal year 1987 under this or any other Act to carry out part A of title IV of Public Law 92-318 (Indian Education Act) shall be distributed under the same proof of eligibility requirements as applied in fiscal year 1986.

OTHER RELATED AGENCIES

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Navajo and Hopi Indian Relocation Commission as authorized by Public Law 93-531, $22,335,000, to remain available until expended, for operating expenses of the Commission: *Provided,* That none of the funds contained in this or any other Act may be used to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further,* That no relocatee will be provided with more than one new or replacement home: *Provided further,* That the Commission shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d-10: *Provided further,* That for certified eligible households for whom a benefit level has not been determined, such level shall hereafter be determined consistent with the interpretation of 25 U.S.C. 640d-14 issued by the Solicitor of the Department of the Interior on August 25, 1986.

The Commission shall review the eligibility of all households certified as eligible who have not received relocation benefits and shall decertify any household which was certified contrary to law or regulation: *Provided,* That those who are decertified are to be provided the opportunity to appeal that decision in accordance with 25 CFR 700.305.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information

and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed ten years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; $183,920,000, including such funds as may be necessary to support American overseas research centers: *Provided,* That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, $2,500,000, to remain available until expended.

RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of restoration and renovation of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $12,975,000, to remain available until expended: *Provided,* That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price: *Provided further,* That notwithstanding any other provisions of law, the Secretary of the Smithsonian Institution is authorized to expend and/or transfer to the State of Arizona, the counties of Santa Cruz and/or Pima, a sum not to exceed $100,000 within available funds for the purpose of assisting in the construction or maintenance of an access to the Whipple Observatory.

CONSTRUCTION

For necessary expenses to construct, equip, and furnish the Center for African, Near Eastern, and Asian Cultures in the area south of the original Smithsonian Institution Building, and a research laboratory and conference facility at the Smithsonian Tropical Research Institute in Panama, $6,095,000, to remain available until expended.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of

uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901-5902); purchase, or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $34,607,000, of which not to exceed $2,420,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds, and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, $2,400,000, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price: *Provided further*, That unexpended balances of amounts previously appropriated for this purpose under the heading "Salaries and expenses, National Gallery of Art" may be transferred to and merged with this appropriation and accounted for as one appropriation for the same time period as originally enacted.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356), including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $3,322,000.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $136,661,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $28,420,000, to remain available until September 30, 1988, to the National Endowment for the Arts, of which $20,000,000 shall be available for purposes of section 5(*l*): *Provided*, That this appropriation shall be available for obligation only in such amounts as

may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $109,990,000 shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $28,500,000 to remain available until September 30, 1988, of which $16,500,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99-190 (99 Stat. 1261; 20 U.S.C. 956a), as amended, $4,000,000: *Provided*, That Public Law 99-190 (99 Stat. 1261) is amended under this heading as follows:

(1) in the first paragraph, strike the words "which are engaged primarily in" and insert in lieu thereof "whose primary purpose is",

(2) in the second paragraph, strike the words "an annual operating budget" and insert in lieu thereof "annual income, exclusive of Federal funds,",

(3) in the fourth paragraph, strike the words "operating budget" and insert in lieu thereof "annual income, exclusive of Federal funds,", and

(4) in the fourth paragraph, strike the words "operating budgets" and insert in lieu thereof "annual income, exclusive of Federal funds,".

INSTITUTE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, $21,250,000: *Provided*, That none of these funds shall be available for the compensation of Executive

Level V or higher positions: *Provided further*, That the Museum Services Board shall not meet more than three times during fiscal year 1987.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided*, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $450,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing an Advisory Council on Historic Preservation, Public Law 89-665, as amended, $1,533,000: *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71-71i), including services as authorized by 5 U.S.C. 3109, $2,684,000.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92-332 (86 Stat. 401), $5,000, to remain available until September 30, 1988.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17(a) of Public Law 92-578, as amended, $2,397,000 for operating and administrative expenses of the Corporation.

PUBLIC DEVELOPMENT

For public development activities and projects in accordance with the development plan as authorized by section 17(b) of Public Law 92-578, as amended, $3,924,000, to remain available until expended.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96-388, $2,040,000: *Provided*, That persons other than members of the United States Holocaust Memorial Council may be designated as members of committees associated with the United States Holocaust Memorial Council subject to appointment by the Chairman of the Council: *Provided further*, That any persons so designated shall serve without cost to the Federal Government: *Provided further*, That none of these funds shall be available for the compensation of Executive Level V or higher positions: *Provided further*, That the Chairman of the Council may waive any Council bylaw when the Chairman determines such waiver will be in the best interest of the Council: *Provided further*, That immediately after taking such action the Chairman shall send written notice to every voting member of the Council and such waiver shall become final if 30 days after the Chairman has sent such notice, a majority of Council members do not disagree in writing with the action taken.

TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretaries of the Interior and Agriculture for use for any sale hereafter made of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the purchaser: *Provided*, That this limitation shall not apply to specific quantities of grades and species of timber which said Secretaries determine are surplus to domestic lumber and plywood manufacturing needs.

SEC. 303. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided*, That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 304. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 305. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 306. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal

cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 307. Except for lands described by sections 105 and 106 of Public Law 96-560, section 103 of Public Law 96-550, section 5(d)(1) of Public Law 96-312, and except for land in the State of Alaska, and lands in the national forest system released to management for any use the Secretary of Agriculture deems appropriate through the land management planning process by any statement or other Act of Congress designating components of the National Wilderness Preservation System now in effect or hereinafter enacted, and except to carry out the obligations and responsibilities of the Secretary of the Interior under section 17(k)(1) (A) and (B) of the Mineral Leasing Act of 1920 (30 U.S.C. 226), none of the funds provided in this Act shall be obligated for any aspect of the processing or issuance of permits or leases pertaining to exploration for or development of coal, oil, gas, oil shale, phosphate, potassium, sulphur, gilsonite, or geothermal resources on Federal lands within any component of the National Wilderness Preservation System or within any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning in Executive Communication 1504, Ninety-sixth Congress (House Document numbered 96-119); or within any lands designated by Congress as wilderness study areas or within Bureau of Land Management wilderness study areas: *Provided*, That nothing in this section shall prohibit the expenditure of funds for any aspect of the processing or issuance of permits pertaining to exploration for or development of the mineral resources described in this section, within any component of the National Wilderness Preservation System now in effect or hereinafter enacted, any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning, within any lands designated by Congress as wilderness study areas, or Bureau of Land Management wilderness study areas, under valid existing rights, or leases validly issued in accordance with all applicable Federal, State, and local laws or valid mineral rights in existence prior to October 1, 1982: *Provided further*, That funds provided in this Act may be used by the Secretary of Agriculture in any area of National Forest lands or the Secretary of the Interior to issue under their existing authority in any area of National Forest or public lands withdrawn pursuant to this Act such permits as may be necessary to conduct prospecting, seismic surveys, and core sampling conducted by helicopter or other means not requiring construction of roads or improvement of existing roads or ways, for the purpose of gathering information about and inventorying energy, mineral, and other resource values of such area, if such activity is carried out in a manner compatible with the preservation of the wilderness environment: *Provided further*, That seismic activities involving the use of explosives shall not be permitted in designated wilderness areas: *Provided further*, That funds provided in this Act may be used by the Secretary of the Interior to augment recurring surveys of the mineral values of wilderness areas pursuant to section 4(d)(2) of the Wilderness Act and acquire information on other national forest and public land areas withdrawn pursuant to this Act, by conducting in conjunction with the Secretary of Energy, the National Laboratories, or other Federal agencies, as appropriate, such mineral inventories of areas withdrawn pursuant to this Act as he deems appropriate. These inventories shall be conducted in a manner compatible with the preservation of the

wilderness environment through the use of methods including core sampling conducted by helicopter; geophysical techniques such as induced polarization, synthetic aperture radar, magnetic and gravity surveys; geochemical techniques including stream sediment reconnaissance and x-ray diffraction analysis; land satellites; or any other methods he deems appropriate. The Secretary of the Interior is hereby authorized to conduct inventories or segments of inventories, such as data analysis activities, by contract with private entities deemed by him to be qualified to engage in such activities whenever he has determined that such contracts would decrease Federal expenditures and would produce comparable or superior results: *Provided further*, That in carrying out any such inventory or surveys, where National Forest System lands are involved, the Secretary of the Interior shall consult with the Secretary of Agriculture concerning any activities affecting surface resources: *Provided further*, That funds provided in this Act may be used by the Secretary of the Interior to issue oil and gas leases for the subsurface of any lands designated by Congress as wilderness study areas, that are immediately adjacent to producing oil and gas fields or areas that are prospectively valuable. Such leases shall allow no surface occupancy and may be entered only by directional drilling from outside the wilderness study area or other nonsurface disturbing methods.

SEC. 308. None of the funds provided in this Act shall be used to evaluate, consider, process, or award oil, gas, or geothermal leases on Federal lands in the Mount Baker-Snoqualmie National Forest, State of Washington, within the hydrographic boundaries of the Cedar River municipal watershed upstream of river mile 21.6, the Green River municipal watershed upstream of river mile 61.0, the North Fork of the Tolt River proposed municipal watershed upstream of river mile 11.7, and the South Fork Tolt River municipal watershed upstream of river mile 8.4.

SEC. 309. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such committees.

SEC. 310. Employment funded by this Act shall not be subject to any personnel ceiling or other personnel restriction for permanent or other than permanent employment except as provided by law.

SEC. 311. Notwithstanding any other provisions of law, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Energy, and the Secretary of the Smithsonian Institution are authorized to enter into contracts with State and local governmental entities, including local fire districts, for procurement of services in the presuppression, detection, and suppression of fires on any units within their jurisdiction.

SEC. 312. None of the funds provided by this Act to the United States Fish and Wildlife Service may be obligated or expended to plan for, conduct, or supervise deer hunting on the Loxahatchee National Wildlife Refuge.

SEC. 313. None of the funds made available to the Department of the Interior or the Forest Service during fiscal year 1987 by this or any other Act may be used to implement the proposed jurisdictional interchange program until enactment of legislation which authorizes the jurisdictional interchange.

SEC. 314. Not to exceed $500,000 appropriated or made available under this or any other Act may be used by the executive branch for soliciting proposals, preparing or reviewing studies or drafting proposals designed to aid in or achieve the transfer out of Federal ownership, management or control in whole or in part the facilities and functions of Naval Petroleum Reserve Numbered 1 (Elk Hills), located in Kern County, California, established by Executive order of the President, dated September 2, 1912, and Naval Petroleum Reserve Numbered 3 (Teapot Dome), located in Wyoming, established by Executive order of the President, dated April 30, 1915: *Provided*, That a report on any such studies shall be submitted to the Speaker of the House of Representatives and the President of the Senate no later than June 30, 1987.

SEC. 315. Notwithstanding any other provision of law, funds appropriated by this or any other Act shall be available to the Trust Territory of the Pacific Islands on the same basis as such funds were available during fiscal year 1986 until alternative funding is available under the terms of the Compact of Free Association Act of 1985 (Public Law 99-239).

SEC. 316. Notwithstanding any other provision of law, any lease for those Federal lands within the Gallatin and Flathead National Forests which were affected by case CV-82-42-BU of the United States District Court for the District of Montana, Butte Division, for which the Secretary of the Interior or the Secretary of Agriculture has directed or assented to the suspension of operations and production pursuant to section 39 of the Act of February 25, 1920 (30 U.S.C. 184) shall be excepted from the limits on aggregate acreage set out in that Act: *Provided*, That any person, association or corporation receiving relief under this section shall bring its aggregate acreage into compliance with the provisions of the Act of February 25, 1920 (30 U.S.C. 184) within six months from the date the suspension of operation and production ends.

SEC. 317. No funds appropriated by this Act shall be available for the implementation or enforcement of any rule or regulation of the United States Fish and Wildlife Service, Department of the Interior, requiring the use of steel shot in connection with the hunting of waterfowl in any State of the United States unless the appropriate State regulatory authority approves such implementation.

SEC. 318. Section 221 of the Biomass Energy and Alcohol Fuels Act of 1980 (Public Law 96-294; 42 U.S.C. 8821) is amended by striking out "June 30, 1986" and inserting in lieu thereof "June 30, 1987".

SEC. 319. Section 12(b)(7)(iv) of the Act of January 2, 1976 (Public Law 94-204), as amended, is amended by striking the word "ten" and inserting in lieu thereof the word "seven".

SEC. 320. To assure that National Forest and Bureau of Land Management timber included in sales defaulted by the purchaser, or returned under the Federal Timber Contract Payment Modification Act (Public Law 98-478), is available for resale in a timely manner, such sales shall be subject only to one level of administrative appeal. This limitation shall not abridge the right of judicial review. Actions on such administrative appeals should be completed within 90 days of receipt of the notice of appeal. Sales that are reoffered shall be modified, including minor additions or deletions, as appropriate, to reduce adverse environmental impacts, pursuant to current land management plans and guidelines, and such modifications in themselves should not be construed to require the preparation of new or supplemental environmental assessments. This section shall not

apply to any decision on the determination of damages due to the Government for defaulted or canceled contracts.

This Act may be cited as the "Department of the Interior and Related Agencies Appropriations Act, 1987".

(i) Such amounts as may be necessary for programs, projects, or activities provided for in H.R. 5233, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1987, to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-960) as filed in the House of Representatives on October 2, 1986, as if enacted into law: *Provided,* That funds made available under such Act, and the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1986 (Public Law 99-178; 99 Stat. 1103), under the paragraph of each Act entitled "STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS" that are authorized under section 6 of the Wagner-Peyser Act (29 U.S.C. 49e) may be used to carry out the targeted jobs tax credit program under section 51 of the Internal Revenue Code of 1986.

(j) Such amounts as may be necessary for programs, projects, or activities provided for in H.R. 5203, the Legislative Branch Appropriations Act, 1987, to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-805) as filed in the House of Representatives on August 15, 1986, as if enacted into law.

(k) Such amounts as may be necessary for programs, projects or activities provided for in the Military Construction Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriation Act:

AN ACT

Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1987, and for other purposes.

TITLE I—MILITARY CONSTRUCTION

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1987, for military construction functions administered by the Department of Defense, and for other purposes, namely:

MILITARY CONSTRUCTION, ARMY

(INCLUDING RESCISSION)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, and for construction and operation of facilities in support of the functions of the Commander-in-Chief, $1,260,110,000, to remain available until September 30, 1991: *Provided*, That of this amount, not to exceed $131,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the amount available for study, planning, design, architect and engineer services, $1,000,000 shall be available for the design of facilities at Fort Benning, Georgia necessary due to the establishment of the United States Army School of the Americas at Fort Benning: *Provided further*, That of the funds available for obligation for "Military Construction, Army" under Public Law 99-173, $36,400,000 is hereby rescinded. In addition, for construction at Fort Drum, New York, there is appropriated in advance to be available for obligation in fiscal year 1988, $221,000,000, to remain available until September 30, 1992, and to be available for obligation in fiscal year 1989, $214,000,000, to remain available until September 30, 1993.

MILITARY CONSTRUCTION, NAVY

(INCLUDING RESCISSION)

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $1,376,715,000, to remain available until September 30, 1991: *Provided*, That of this amount, not to exceed $143,770,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds available for obligation for "Military

Construction, Navy" under Public Law 99-173, $25,800,000 is hereby rescinded.

MILITARY CONSTRUCTION, AIR FORCE

(INCLUDING RESCISSION)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $1,242,530,000, to remain available until September 30, 1991: *Provided*, That of this amount, not to exceed $117,260,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds available for obligation for "Military Construction, Air Force" under Public Law 99-173, $24,700,000 is hereby rescinded.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $534,170,000, to remain available until September 30, 1991: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further*, That of the amount appropriated, not to exceed $83,000,000, shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

For the United States share of the cost of North Atlantic Treaty Organization Infrastructure programs for the acquisition of personal property, for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts and section 2806 of title 10, United States Code, $232,000,000, to remain available until expended.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construc-

tion authorization Acts, $140,879,000, to remain available until September 30, 1991.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $148,925,000, to remain available until September 30, 1991. In addition, notwithstanding any other provision of law, $5,000,000 shall be available only for transfer in fiscal year 1988 to the Federal Highway Administration of the Department of Transportation as the first increment of a four year program for construction of a defense access road under title 23, United States Code, section 210 at Greater Pittsburgh ANG base; and, notwithstanding any other provision of law, the Secretary of the Air Force may assure the Secretary of Transportation that funds will be provided for the remaining three annual increments of $5,000,000 each.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $86,700,000, to remain available until September 30, 1991.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $44,500,000, to remain available until September 30, 1991.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $58,900,000, to remain available until September 30, 1991.

FAMILY HOUSING, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $379,680,000; for Operation and maintenance, $1,209,914,000; for debt payment, $8,063,000; in all $1,597,657,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1991.

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Family Housing, Navy and Marine Corps

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $171,392,000; for Operation and maintenance, $528,230,000; for debt payment, $9,071,000; in all $708,693,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1991.

Family Housing, Air Force

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $104,840,000; for Operation and maintenance, $703,215,000; for debt payment, $7,365,000; in all $815,420,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1991.

Family Housing, Defense Agencies

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, leasing, and minor construction, as authorized by law, as follows: for Construction, $240,000; for Operation and maintenance, $16,403,000; in all $16,643,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1991.

Homeowners Assistance Fund, Defense

For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, as amended), $2,000,000.

GENERAL PROVISIONS

Sec. 101. None of the funds appropriated in this title shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

Sec. 102. Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

Sec. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States

Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this title may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in this title shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Corps of Engineers or the Naval Facilities Engineering Command, except; (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than $25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in this title shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual military construction appropriation Acts.

SEC. 107. None of the funds appropriated in this title for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in this title may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. No part of the funds appropriated in this title for dredging in the Indian Ocean may be used for the performance of the work by foreign contractors: *Provided*, That the low responsive and responsible bid of a United States contractor does not exceed the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 110. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 111. No part of the funds appropriated in this title may be used to pay the compensation of an officer of the Government of the United States or to reimburse a contractor for the employment of a person for work in the continental United States by any such person if such person is an alien who has not been lawfully admitted to the United States.

SEC. 112. The expenditure of any appropriation under this title for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 113. None of the funds appropriated by this title may be obligated and expended in any way for the express purpose of sale, lease, or rental of any portion of land currently identified as Fort DeRussy, Honolulu, Hawaii.

SEC. 114. None of the funds in this title may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 115. None of the funds appropriated in this title may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan or in any NATO member country, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 116. None of the funds appropriated in this title for military construction in the United States territories and possessions in the Pacific and on Kwajalein Island may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 117. The Secretary of Defense is to inform the Committees on Appropriations and Committees on Armed Services of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

(TRANSFER OF FUNDS)

SEC. 118. Unexpended balances in the Military Family Housing Management Account established pursuant to section 2831 of title 10, United States Code, as well as any additional amounts which would otherwise be transferred to the Military Family Housing Management Account during fiscal year 1987, shall be transferred to the appropriations for Family Housing provided in this title, as determined by the Secretary of Defense, based on the sources from which the funds were derived, and shall be available for the same purposes, and for the same time period, as the appropriation to which they have been transferred.

SEC. 119. Not more than 20 per centum of the appropriations in this title which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 120. Funds appropriated to the Department of Defense for construction in prior years are hereby made available for construction authorized for each such military department by the authorizations enacted into law during the second session of the Ninety-ninth Congress.

SEC. 121. For transfer by the Secretary of Defense to and from appropriations and funds not merged pursuant to subsection 1552(a)(1) of title 31 of the United State Code and available for obligation or expenditure during fiscal year 1987 or thereafter, for military construction or expenses of family housing for the military departments and Defense agencies, in order to maintain the budgeted level of operations for such appropriations and thereby eliminate substantial gains and losses to such appropriations caused by fluctuations in foreign currency exchange rates that vary substantially from those used in preparing budget submissions, an appropriation, to remain available until expended: *Provided*, That funds transferred from this appropriation shall be merged with and be available for the same purpose, and for the same time period, as the

appropriation or fund to which transferred, and funds transferred to this appropriation shall be merged with, and available for the purpose of this appropriation until expended: *Provided further*, That transfers may be made from time to time from this appropriation to the extent the Secretary of Defense determines it may be necessary to do so to reflect downward fluctuations in the currency exchange rates from those used in preparing the budget submissions for such appropriations, but transfers shall be made from such appropriations to this appropriation to reflect upward fluctuations in currency exchange rates to prevent substantial net gains in such appropriations: *Provided further*, That authorizations or limitations now or hereafter contained within appropriations or other provisions of law limiting the amounts that may be obligated or expended for military construction and family housing expenses are hereby increased to the extent necessary to reflect downward fluctuations in foreign currency exchange rates from those used in preparing the applicable budget submission: *Provided further*, That for the purposes of the appropriation "Foreign Currency Fluctuations, Construction, Defense" the foreign currency rates used in preparing budget submissions shall be the foreign currency exchange rates as adjusted or modified, as reflected in applicable Committee reports on the Acts making appropriations for military construction for the Department of Defense: *Provided further*, That the Secretary of Defense shall provide an annual report to the Congress on all transfers made to or made from this appropriation: *Provided further*, That contracts or other obligations entered into payable in foreign currencies may be recorded as obligations based on the currency exchange rates used in preparing budget submissions and adjustments to reflect fluctuations in such rates may be recorded as disbursements are made: *Provided further*, That no later than the end of the second fiscal year following the fiscal year for which appropriations for Family Housing Operation and Maintenance have been made available to the Department of Defense, and no later than the end of the sixth fiscal year following the fiscal year for which the appropriations for Military Construction and Family Housing Construction have been made available to the Department of Defense, unobligated balances of such appropriations may be transferred into the appropriation "Foreign Currency Fluctuations, Construction, Defense": *Provided further*, That, at the discretion of the Secretary of Defense, any savings generated in the military construction and family housing programs may be transferred to this appropriation.

SEC. 122. The Secretary of the Navy shall enter into negotiations with shipyards located on Sampson Street, San Diego, California, and on Fort George Island, Jacksonville, Florida, to determine what liability (if any) the United States has for damages suffered by such a shipyard resulting from facility improvements made by such shipyard during 1982 in good faith reliance on representations and assurances provided to officials of such shipyard by representatives of the Department of the Navy in 1981 and 1982 with respect to furture work of the Department of the Navy at such shipyard.

SEC. 123. For Military Construction for the strategic homeporting initiative, no more than $799,000,000 shall be appropriated or obligated through fiscal year 1991.

SEC. 124. Of the total amount of budget authority provided for fiscal year 1987 by this Act that would otherwise be available for consulting services, management and professional services, and spe-

cial studies and analyses, 10 per centum of the amount intended for such purposes in the President's budget for 1987, as amended, for any agency, department or entity subject to apportionment by the Executive shall be placed in reserve and not made available for obligation or expenditure: *Provided,* That this section shall not apply to any agency, department or entity whose budget request for 1987 for the purposes stated above did not amount to $5,000,000.

SEC. 125. (a) None of the funds appropriated in this Act may be available for any country if the President determines that the government of such country is failing to take adequate measures to prevent narcotic drugs or other controlled substances cultivated or produced or processed illicitly, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to United States personnel or their dependents, or from being smuggled into the United States. Such prohibition shall continue in force until the President determines and reports to the Congress in writing that—

(1) the government of such country has prepared and committed itself to a plan presented to the Secretary of State that would eliminate the cause or basis for the application to such country of the prohibition contained in the first sentence; and

(2) the government of such country has taken appropriate law enforcement measures to implement the plan presented to the Secretary of State.

(b) The provisions of subsection (a) shall not apply in the case of any country with respect to which the President determines that the application of the provisions of such subsection would be inconsistent with the national security interests of the United States.

SEC. 126. Section 4, chapter III of Public Law 99-349, dated July 2, 1986, is amended to read as follows: Of the amounts available to the Department of Defense, not to exceed $5,000,000 shall be available for such claims arising from property losses caused by the explosion of Army munitions near Checotah, Oklahoma, on August 4, 1985, and claims determined by the Department to be bona fide shall be paid from the funds made available by this section without a determination of legal liability based on an act or omission of an agent or employee of the Federal Government.

SEC. 127. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with a report by February 15, 1987, containing details of the specific actions proposed to be taken by the Department of Defense during fiscal year 1987 to encourage other member nations of the North Atlantic Treaty Organization and Japan to assume a greater share of the common defense burden of such nations and the United States.

This title may be cited as the "Military Construction Appropriations Act, 1987".

TITLE II—CENTRAL AMERICA

PURPOSES

SEC. 201. The purposes of this title are to promote economic and political development, peace, stability and democracy in Central America, to encourage a negotiated resolution of the conflict in the region, and towards these ends, to enable the President to provide additional economic assistance for the Central American democ-

racies as well as assistance for the Nicaraguan democratic resistance, subject to the terms and conditions of title.

POLICY TOWARD CENTRAL AMERICA

SEC. 202. (a) It is the policy of the United States that—

(1) the building of democracy, the restoration of peace, economic development, the improvement of living conditions, and the application of equal justice under law in Central America are important to the interests of the United States and the community of American States;

(2) the interrelated issues of social and human progress, economic growth, political reform, and regional security must be effectively dealt with to assure a democratic and economically and politically secure Central America; and

(3) the September 1983 Contadora Document of Objectives, which sets forth a framework for negotiating a peaceful settlement to the conflict and turmoil in the region, is to be encouraged and supported.

(b) The United States strongly supports as essential to the objectives set forth in subsection (a)—

(1) a long-term commitment of economic assistance to the Central American democracies in amounts recommended by the National Bipartisan Commission on Central America;

(2) national reconciliation in Nicaragua and the creation of a framework for negotiating a peaceful, democratic settlement to the Nicaraguan conflict; and

(3) efforts to reach a comprehensive and verifiable final agreement based on the Contadora Document of Objectives, including efforts to encourage the Government of Nicaragua to pursue a dialogue with the representatives of all elements of the Nicaraguan democratic opposition for the purpose of achieving a democratic political settlement of the conflict, including free and fair elections.

POLICY TOWARD THE GOVERNMENT OF NICARAGUA

SEC. 203. (a) United States policy toward the Government of Nicaragua shall be based upon that government's responsiveness to continuing concerns affecting the national security of the United States and Nicaragua's neighbors about—

(1) Nicaragua's close military and security ties to Cuba and the Soviet Union and its Warsaw Pact allies including the presence in Nicaragua of military and security personnel from those countries and allies;

(2) Nicaragua's buildup of military forces in numbers disproportionate to those of its neighbors and equipped with sophisticated weapons systems and facilities designed to accommodate even more advanced equipment;

(3) Nicaragua's unlawful support for armed subversion and terrorism directed against the democratically elected governments of other countries;

(4) Nicaragua's internal repression and lack of opportunity for the exercise of civil and political rights which would allow the people of Nicaragua to have a meaningful voice in determining the policies of their government through participation in

regularly scheduled free and fair elections and the establishment of democratic institutions; and

(5) Nicaragua's refusal to negotiate in good faith for a peaceful resolution of the conflict in Central America based upon the comprehensive implementation of the September 1983 Contadora Document of Objectives and, in particular, its refusal to engage in a serious national dialogue with all elements of the Nicaraguan democratic opposition.

(b) The United States will address the concerns described in subsection (a) through economic, political, and diplomatic measures (including efforts to secure the cooperation of other democratic nations in such measures), as well as through support for the Nicaraguan democratic resistance. In order to assure every opportunity for a peaceful resolution of the conflict in Central America, the United States will—

(1) engage in bilateral discussions with the Government of Nicaragua with a view toward facilitating progress in achieving a peaceful resolution of the conflict, if the Government of Nicaragua simultaneously engages in a serious dialogue with representatives of all elements of the Nicaraguan democratic opposition; and

(2) limit the types and amounts of assistance provided to the Nicaraguan democratic resistance and take other positive action in response to steps taken by the Government of Nicaragua toward meeting the concerns described in subsection (a).

(c) The duration of bilateral discussions with the Government of Nicaragua and the implementation of additional measures under subsection (b) shall be determined, after consultation with the Congress, by reference to Nicaragua's actions in response to the concerns described in subsection (a). Particular regard will be paid to whether—

(1) freedom of speech, assembly, religion, and political activity are being respected in Nicaragua and progress is being made toward the holding of regularly scheduled free and fair elections;

(2) there has been a halt to the flow of arms and the introduction of foreign military personnel into Nicaragua, and a withdrawal of all foreign military personnel has begun;

(3) a cease-fire with the Nicaraguan democratic resistance is being respected; and

(4) Nicaragua is refraining from acts of aggression, including support for insurgency and terrorism in other countries.

(d) The actions by the United States under this title in response to the concerns described in subsection (a) are consistent with the right of the United States to defend itself and to assist its allies in accordance with international law and treaties in force. Such actions are directed, not to determine the form or composition of any government of Nicaragua, but to achieve a comprehensive and verifiable agreement among Central American countries, based upon the 1983 Contadora Document of Objectives, including internal reconciliation within Nicaragua based upon democratic principles, without the use of force by the United States.

(e) Notwithstanding any other provision of this title, no member of the United States Armed Forces or employee of any department, agency, or other component of the United States Government may enter Nicaragua to provide military advice, training, or logistical support to paramilitary groups operating inside that country. Noth-

ing in this title shall be construed as authorizing any member or unit of the Armed Forces of the United States to engage in combat against the Government of Nicaragua.

POLICY TOWARD THE NICARAGUAN DEMOCRATIC RESISTANCE

SEC. 204. (a) It is the policy of the United States to assist all groups within the Nicaraguan democratic resistance which—

(1) are committed to work together for democratic national reconciliation in Nicaragua based on the document issued by the six Nicaraguan opposition parties on February 7, 1986, entitled "Proposal to the Nicaraguan Government for a Solution to the Crisis in Our Country"; and

(2) respect international standards of conduct and refrain from violations of human rights or from other criminal acts.

(b) No assistance under this title may be provided to any group that retains in its ranks any individual who has been found to engage in—

(1) gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961); or

(2) drug smuggling or significant misuse of public or private funds.

(c)(1) It is recognized that the Nicaraguan democratic resistance has been broadening its representative base, through the forging of cooperative relationships between the United Nicaraguan Opposition (UNO) and other democratic resistance elements, and has been increasing the responsiveness of military forces to civilian leadership.

(2) The President shall use the authority provided by this title to further the developments described in paragraph (1) and to encourage the Nicaraguan democratic resistance to take additional steps to strengthen its unity, pursue a defined and coordinated program for representative democracy in Nicaragua, and otherwise increase its appeal to the Nicaraguan people.

(d) In furtherance of the policy set out in this section, not less than $10,000,000 of the funds transferred by section 6(a) shall be available only for assistance to resistance forces otherwise eligible and not currently included within UNO, of which amount $5,000,000 shall be available only for the Southern Opposition Bloc (BOS) and $5,000,000 shall be available only for the Indian resistance force known as Misurasata.

ASSISTANCE FOR THE CENTRAL AMERICAN DEMOCRACIES

SEC. 205. (a) There are hereby transferred to the President for assistance to the Central American democracies (Costa Rica, El Salvador, Guatemala, and Honduras) in accordance with the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, $300,000,000 of unobligated funds from the accounts specified in subsection (b). Amounts transferred under this section shall be administered in accordance with the terms and conditions of chapter 6 of part I of the Foreign Assistance Act of 1961. Notwithstanding any other provision of law, funds made available by this section—

(1) shall be in addition to amounts previously appropriated for the fiscal year 1986 and allocated for assistance to Central American countries, and

(2) shall remain available for obligation until September 30, 1987, except that not less than $100,000,000 shall be obligated on or before September 30, 1986.

(b) Amounts made available by this section shall be transferred from such accounts as the President may designate for which appropriations were made by title II of the Foreign Assistance and Related Programs Appropriations Act, 1986, title IV of the Agriculture, Rural Development and Related Agencies Appropriations Act, 1986, (as contained in Public Law 99-190), and title II of the Urgent Supplemental Appropriations Act, 1985 (Public Law 99-10).

(c)(1) The Secretary of State, the Administrator of the Agency for International Development, and the Director of the Office of Management and Budget, shall—

(A) develop a plan for fully funding the assistance to the Central American democracies (Costa Rica, El Salvador, Guatemala, and Honduras) proposed in the January 1984 report of the National Bipartisan Commission on Central America; and

(B) provide a report describing this plan to the President and the Congress no later than March 1, 1987.

(2) The report required by paragraph (1) shall include an analysis and recommendations, prepared in consultation with the Secretary of Agriculture, on how more effective use can be made of agricultural commodities from the United States in alleviating hunger in Central America and contributing to the economic development of the Central American democracies.

(d)(1) There are hereby transferred to the President out of funds appropriated by the Supplemental Appropriations Act, 1985 (Public Law 99-88), under the heading "Assistance For Implementation of a Contadora Agreement" such sums as the President may require but not more than $2,000,000, to facilitate the participation of Costa Rica, El Salvador, Guatemala, and Honduras in regional meetings and negotiations to promote peace, stability, and security in Central America.

(2) Funds transferred under paragraph (1) shall remain available for the same period of time as such funds would have been available under the Supplemental Appropriations Act, 1985 (Public Law 99-88), but for the enactment of this title.

(e) The Congress reaffirms its support for the establishment of a Central American Development Organization, authorized by section 464 of the Foreign Assistance Act of 1961, as an effective forum for dialogue on, and the continuous review and advancement of, Central America's political, economic, and social development, including the strengthening of democratic pluralism and respect for internationally recognized human rights. Toward this end, not less than $750,000 of the funds transferred by this section should be used to establish the Central American Development Organization and its administrative apparatus so as to ensure that Central American development objectives are encouraged.

ASSISTANCE FOR THE NICARAGUAN DEMOCRATIC RESISTANCE

SEC. 206. (a)(1) The Congress hereby approves the provision of assistance for the Nicaraguan democratic resistance in accordance with the provisions of this title.

(2) There are hereby transferred to the President for the purposes of this section $100,000,000 of unobligated funds from such accounts for which appropriations were made by the Department of Defense Appropriations Act, 1986 (as contained in Public Law 99-190), as the President shall designate.

(b) Notwithstanding the Impoundment Control Act of 1974, not more than 40 percent of the funds transferred under subsection (a) may be available for obligation or expenditure in accordance with this title upon the date of its enactment; not more than an additional 20 percent of such funds may be so available no earlier than October 15, 1986, and 15 days after the transmittal to the Congress of the determination required by section 11(c); and not more than the remaining 40 percent may be so available no earlier than February 15, 1987, and 15 days after the transmittal to the Congress of the determination required by section 11(e).

(c) Funds transferred under subsection (a) shall remain available for the same periods of time, but not to exceed September 30, 1987, as such funds would have been available under the Department of Defense Appropriations Act, 1986 (as contained in Public Law 99-190), but for the enactment of this title.

COORDINATION OF AND ACCOUNTABILITY FOR ASSISTANCE TO THE NICARAGUAN DEMOCRATIC RESISTANCE

SEC. 207. (a) The Secretary of State (or his designee) shall be responsible for policy guidance, coordination, and supervision of United States Government activities under this title.

(b) Any agency to which funds transferred under section 6(a) are allocated shall establish standards, procedures and controls necessary to assure that such funds are fully accounted for and are used exclusively for the purposes authorized by this title. Such standards, procedures and controls shall be developed in consultation with the Comptroller General and the appropriate committees of the Congress, and shall include such safeguards as segregation of accounts, monitoring of deliveries, and requirements for the keeping of complete records available for audit by authorized representatives of the United States Government.

FUNDS FOR HUMANITARIAN ASSISTANCE

SEC. 208. (a) Of the amounts transferred under section 6(a), $30,000,000 shall be available only for the provision of humanitarian assistance to the Nicaraguan democratic resistance.

(b) Of the $30,000,000 made available only for purposes of subsection (a), $3,000,000 shall be available only for strengthening programs and activities of the Nicaraguan democratic resistance for the observance and advancement of human rights.

APPLICATION OF EXISTING LAWS

SEC. 209. (a) Except as otherwise provided in this title, funds transferred under section 6(a) shall be available for the purposes described in section 105(a) of the Intelligence Authorization Act for Fiscal Year 1986, and all the requirements, terms, and conditions of such section and sections 101 and 102 of such Act, section 502 of the National Security Act of 1947, and section 106 of the Supplemental Appropriations Act, 1985 (Public Law 99-88), shall be deemed to have been met for such use of such funds.

(b) The use of funds made available under this title is subject to all applicable provisions of law and established procedures relating to the oversight by the Congress of operations of departments and agencies.

(c) Nothing in this title shall be construed as permitting the President to furnish additional assistance to the Nicaraguan democratic resistance from funds other than the funds transferred under section 6(a) or otherwise specifically authorized by the Congress for assistance to the Nicaraguan democratic resistance.

(d) No limitation or restriction contained in section 10 of Public Law 91-672, section 8109 of the Department of Defense Appropriations Act, 1986, section 502 of the National Security Act of 1947, or any other provision of law shall apply to the transfer or use of funds transferred to the President under this title.

USE OF FUNDS AFTER A PEACEFUL SETTLEMENT

SEC. 210. If the President determines and so reports to the Congress that a peaceful settlement of the conflict in Central America has been reached, then—

(1) the unobligated balance, if any, of funds transferred under section 6(a) shall be available for the purposes of relief, rehabilitation, and reconstruction in Central American countries in accordance with the authorities contained in chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to economic support fund assistance);

(2) the President shall terminate any economic embargo of Nicaragua then in effect; and

(3) the President shall take such further actions as are appropriate to carry out the policy described in section 2(a)(1) of this title with respect to all Central American countries, including Nicaragua.

INCENTIVES FOR A NEGOTIATED SETTLEMENT

SEC. 211. (a) Assistance to the Nicaraguan democratic resistance under this title shall be provided in a manner designed to encourage the Government of Nicaragua to respond favorably to the many opportunities available for achieving a negotiated settlement of the conflict in Central America. These opportunities include the following proposals:

(1) Six opposition Nicaraguan political parties on February 7, 1986, called for an immediate cease-fire, an effective general amnesty, abolition of the state of emergency agreement on a new electoral process and general elections, effective fulfillment of international commitments for democratization, and observance of implementation of these actions and commitments by appropriate international groups and organizations;

(2) President Reagan on February 10, 1986, offered simultaneous talks between the Government of Nicaragua and all elements of the Nicaraguan democratic opposition in Nicaragua and between the Government of Nicaragua and the United States Government;

(3) President Jose Napoleon Duarte of El Salvador on March 5, 1986, offered an additional dialogue between the Government of El Salvador and the insurgents in El Salvador if the Govern-

ment of Nicaragua would simultaneously engage in a dialogue with all elements of the Nicaraguan democratic opposition; and

(4) The United Nicaraguan Opposition on May 29, 1986, reiterated its support for the six-party proposal described in paragraph (1) as a means to achieve national reconciliation and democratization.

(b)(1) In furtherance of the objectives set forth in subsection (a), and except as provided in subsection (e), assistance to the Nicaraguan democratic resistance under this title shall be limited to the following:

(A) humanitarian assistance (as defined in section 722(g)(5) of the International Security and Development Cooperation Act of 1985);

(B) logistics advice and assistance;

(C) support for democratic political and diplomatic activities;

(D) training, services, equipment and supplies for radio communications, collection, and utilization of intelligence, logistics, and small-unit skills, tactics and operations; and

(E) equipment and supplies necessary for defense against air attacks.

(2) The assistance described in paragraph (1) shall be limited, by type and value, to the matters specified in the classified annex to the communication from the President to the Speaker of the House of Representatives and the President of the Senate dated June 24, 1986.

(3) No weapons or ammunition shall be delivered under this title to the Nicaraguan democratic resistance prior to September 1, 1986.

(c) On and after October 15, 1986, an additional $20,000,000 of the funds transferred under section 6(a) may be made available for obligation and expenditure for assistance to the Nicaraguan democratic resistance 15 days after the President determines and reports to the Congress that—

(1) the Central American countries have not concluded a comprehensive and effective agreement based on the Contadora Document of Objectives;

(2) the Government of Nicaragua is not engaged in a serious dialogue with representatives of all elements of the Nicaraguan democratic opposition, accompanied by a cease-fire and an effective end to the existing constraints on freedom of speech, assembly, religion, and political activity, leading to regularly scheduled free and fair elections and the establishment of democratic institutions; and

(3) there is no reasonable prospect of achieving such agreement, dialogue, cease-fire, and end to constraints described in paragraphs (1) and (2) through further diplomatic measures, multilateral or bilateral, without additional assistance to the Nicaraguan democratic resistance.

(d)(1) Notwithstanding any other provision of this title, on or after October 15, 1986, funds transferred under section 6(a) may be obligaged or expended only if the President determines and reports to the Congress that the Nicaraguan democratic resistance groups receiving assistance under this title have agreed to and are beginning to implement—

(A) confederation and reform measures to broaden their leadership base;

(B) the coordination of their efforts;

(C) the elimination of human rights abuses;

(D) the pursuit of a defined and coordinated program for achieving representative democracy in Nicaragua; and

(E) the subordination of military forces to civilian leadership; and

(F) the application of rigorous standards, procedures and controls to assure that funds transferred under section 6(a) are fully accounted for and are used exclusively for the purposes authorized by this title.

(2) In making his determination under paragraph (1), the President shall take into account the effectiveness and legitimacy of the political leadership of those Nicaraguan democratic resistance groups receiving assistance under this title, including the ability of that political leadership—

(A) to reflect the views and objectives of the internal and external Nicaraguan democratic opposition;

(B) to function as the spokesman for the Nicaraguan democratic opposition with Central Americans, international organizations, and the United States Government;

(C) to represent the Nicaraguan democratic opposition in dealing with the Government of Nicaragua;

(D) to provide command and control for the military forces of all resistance groups receiving assistance under this title and to establish the goals for their military operations;

(E) to determine the distribution of and maintain accountability for assistance provided under this title; and

(F) to provide the legal mechanisms necessary for the enforcement of standards of conduct applicable to all members of the resistance groups receiving assistance under the title.

(e) On and after February 15, 1987, the restrictions in subsection (b) shall cease to apply and the remaining funds transferred under section 6(a) may be made available for obligation and expenditure for assistance to the Nicaraguan democratic resistance 15 days after the President determines and reports to the Congress that—

(1) the Central American countries have not concluded a comprehensive and effective agreement based on the Contadora Document of Objectives;

(2) the Government of Nicaragua is not engaged in a serious dialog with representatives of all elements of the Nicaraguan democratic opposition, accompanied by a cease-fire and an effective end to the existing constraints on freedom of speech, assembly, religion, and political activity leading to regularly scheduled free and fair elections and the establishment of democratic institutions; and

(3) there is no reasonable prospect of achieving such agreement, dialog, cease-fire, and end to constraints described in paragraphs (1) and (2) through further diplomatic measures, multilateral or bilateral, without additional assistance to the Nicaraguan democratic resistance,

unless the Congress has enacted a joint resolution under section 12 disapproving the provision of additional assistance (other than assistance described in subsection (b)(1) within the limits of funds previously made available).

(f)(1) Notwithstanding subsection (e), no assistance (other than the assistance described in subparagraphs (A) through (C) of subsection (b)(1) shall be provided at any time to the Nicaraguan democratic resistance under this title if—

(A) the President determines that—

(i) the Central American countries have concluded a comprehensive and effective agreement based on the Contadora Document of Objectives; or

(ii) the Government of Nicaragua is engaging in a serious dialog with representatives of all elements of the Nicaraguan democratic opposition, accompanied by a cease-fire and an effective end to the existing constraints on freedom of speech, assembly, religion, and political activity leading to regularly scheduled free and fair elections and the establishment of democratic institutions; or

(B) the Congress enacts a joint resolution under section 12 disapproving the provision of additional assistance (other than assistance described in subparagraphs (A) through (C) of subsection (b)(1)).

(2) The prohibition contained in paragraph (1) shall not apply—

(A) with respect to assistance described in subparagraph (D) of subsection (b)(1) if the Government of Nicaragua fails to observe an applicable cease-fire; or

(B) with respect to assistance described in subparagraph (E) of subsection (b)(1) if the Government of Nicaragua acquires additional equipment or materiel to carry out air attacks.

CONGRESSIONAL PRIORITY PROCEDURES

SEC. 212. (a)(1) A joint resolution described in subsection (e) of section 11 shall be one without a preamble, the matter after the resolving clause of which is as follows: "That the Congress disapproves the provision of additional assistance to the Nicaraguan democratic resistance pursuant to title of the Military Construction Appropriations Act, 1987, except as provided in section 11(b) thereof within the limits of funds previously made available.".

(2) A joint resolution described in subsection (f)(1)(B) of section 11 shall be one without a preamble, the matter after the resolving clause of which is as follows: "That the Congress disapproves the provision of additional assistance to the Nicaraguan democratic resistance pursuant to title of the Military Construction Appropriations Act, 1987, except as provided in subparagraphs (A) through (C) of section 11(b)(1) and paragraph (2) of section 11(f) thereof.".

(b) A joint resolution described in subsection (a)(1) or (a)(2) shall be considered in the House of Representatives and in the Senate in accordance with the provisions of paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98-473), except that—

(1) references in such paragraphs to a joint resolution shall be deemed to be references to the respective joint resolution set forth in subsection (a)(1) or subsection (a)(2);

(2) references in such paragraphs to Committee on Appropriations shall be deemed to be references to the appropriate committee or committees of the respective House of Congress; and

(3) references in such paragraphs to the eighth day and to fifteen calendar days shall be deemed to be references to the fifth day and to five calendar days, respectively.

(c) The provisions of this section are enacted—

(1) as exercises of the rulemaking powers of the House of Representatives and Senate, and as such they are deemed a part

of the Rules of the House and the Rules of the Senate, respectively, but applicable only with respect to the procedure to be followed in the House and the Senate in the case of joint resolutions under section 11, and they supersede other rules only to the extent that they are inconsistent with such rules; and

(2) with full recognition of the constitutional right of the House and the Senate to change their rules at any time, in the same manner, and to the same extent as in the case of any other rule of the House or Senate, and of the right of the Committee on Rules of the House of Representatives to report a resolution for the consideration of any measure.

COMMISSION ON CENTRAL AMERICAN NEGOTIATIONS

SEC. 213. (a)(1) There is established the Commission on Central American Negotiations (hereafter in this section referred to as the "Commission"), which shall be composed of five members appointed as follows:

(A) One individual appointed by the Speaker of the House of Representatives;

(B) One individual appointed by the Minority Leader of the House of Representatives;

(C) One individual appointed by the Majority Leader of the Senate;

(D) One individual appointed by the Minority Leader of the Senate; and

(E) One individual, who shall serve as Chairman of the Commission, selected by majority vote of the other members of the Commission.

(2) No officer or employee of the United States may be appointed as a member of the Commission.

(3) The appointments referred to in subparagraphs (A), (B), (C), and (D) of paragraph (1) shall be made within 5 calendar days following enactment of this title, and the selection of a chairman referred to in subparagraph (E) of paragraph (1) shall be made within 10 days following enactment of this title.

(b) The purpose of the Commission is to monitor and report on the efforts of the Nicaraguan democratic resistance to coordinate and reform and on the status of any negotiations on the peace, stability, and security of Central America, including negotiations conducted between or among—

(1) the Government of Nicaragua and all elements of the Nicaraguan democratic opposition, including the Nicaraguan democratic resistance;

(2) the governments of Central American countries;

(3) the Government of the United States and the Government of Nicaragua;

(4) the governments of the Contadora and Support Group countries and the governments of the Central American countries; and

(5) the Government of El Salvador and the insurgents in El Salvador.

(c)(1) The Commission may appoint and fix the pay of not more than seven staff personnel, but at such rates not in excess of the rate of pay for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(2)(A) Each member of the Commission shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day during which such member is engaged in the performance of duties as a member of the Commission.

(B) While away from his home or regular place of business in the performance of duties for the Commission, a member or staff personnel of the Commission shall be allowed travel expenses, including a per diem in lieu of subsistence, not to exceed the expenses allowed persons employed intermittently in Government service under section 5703 of title 5, United States Code.

(3) For purposes of pay and other employment benefits, rights, and privileges and for all other purposes, any employee of the Commission shall be considered to be a congressional employee as defined in section 2107 of title 5, United States Code.

(d)(1) A majority of the members of the Commission shall constitute a quorum.

(2) All decisions of the Commission shall be by majority vote.

(e) The Commission may make such reports in connection with its duties as it deems necessary to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, except that—

(1) not later than 5 days after receipt by the Congress of a report by the President under section 14 the Commission shall prepare and transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report addressing all the matters which are required to be included in reports of the President by paragraphs (1), (3), and (4) of section 14; and

(2) not later than September 30, 1986, the Commission shall prepare and transmit to the Congress a report on whether the Nicaraguan democratic resistance groups receiving assistance under this title have agreed to and are beginning to implement measures described in subparagraphs (A) through (F) of section 11(d)(1) and an evaluation of the factors described in section 11(d)(2).

(f)(1) Salaries and expenses of the Commission, but not more than $400,000, shall be paid from the contingent fund of the Senate out of the Account for Miscellaneous Items, in accordance with the provisions of this section.

(2) Funds made available to the Commission by paragraph (1) shall be disbursed on vouchers approved by the Chairman, except that no voucher shall be required for the disbursement of the salary of an individual appointed under subsection (c).

(3) For purposes of section 502(b) of the Mutual Security Act of 1954, the Commission shall be deemed to be a standing committee of the Congress and shall be entitled to use of funds in accordance with such section.

(g) The Commission shall terminate not later than 90 days after transmittal of the reports required by subsection (e).

PRESIDENTIAL REPORTING REQUIREMENT

SEC. 214. The President shall prepare and transmit to the Congress with each determination required by section 11 a report on actions taken to achieve a resolution of the conflict in Central

America in a manner that meets the concerns described in section 3(a). Each such report shall include—

(1) a detailed statement of the status of negotiations toward a negotiated settlement of the conflict in Central America, including the willingness of the Nicaraguan democratic resistance and the Government of Nicaragua to negotiate a settlement;

(2) a detailed accounting of the disbursements made to provide assistance with the funds transferred under section 6(a) and a detailed statement of how the accountability standards, procedures and controls established under section 7(b) and 11(d)(1)(F) are being implemented so as to assure that all such funds are fully accounted for and are being used exclusively for the purposes authorized by this title;

(3) a discussion of alleged human rights violations by the Nicaraguan democratic resistance and the Government of Nicaragua, including a statement of the steps taken by the Nicaraguan democratic resistance to remove from their ranks any individuals who have engaged in human rights abuses; and

(4) an evaluation of the progress made by the Nicaraguan democratic resistance in broadening its political base and defining a unified and coordinated program for achieving representative democracy in Nicaragua.

REQUESTS FOR ADDITIONAL ASSISTANCE

SEC. 215. The provisions of subsections (s) and (t) of section 722 of the International Security and Development Cooperation Act of 1985 shall apply—

(1) with respect to any request described in section 722(p) of such Act submitted by the President to the Congress on or after the date of enactment of this title, and

(2) with respect to any request by the President for additional economic assistance for the Central American democracies to carry out recommendations contained in the report required by section 5(c)(1)(B) (in which case references to a joint resolution in subsections (s) and (t) of section 722 of such Act shall be deemed to be references to a joint resolution without a preamble, the matter after the resolving clause of which is as follows: "That the Congress approves the additional economic assistance for the Central American democracies that the President requested pursuant to title of the Military Construction Appropriation Act, 1987."),

except that, for purposes of consideration in a House of Congress of a joint resolution under subsection (s) or (t) of such section, amendments to such a joint resolution may be in order but only if such amendments are germane.

LIMITATION ON PARTICIPATION OF UNITED STATES GOVERNMENT PERSONNEL IN DELIVERY OF ASSISTANCE

SEC. 216. (a) United States Government personnel may not provide any training or other service, or otherwise participate directly or indirectly in the provision of any assistance, to the Nicaraguan democratic resistance pursuant to this title within those land areas of Honduras and Costa Rica which are within 20 miles of the border with Nicaragua.

(b) As used in this section, the term "United States Government personnel" means—

(1) any member of the United States Armed Forces who is on active duty or is performing inactive duty training; and

(2) any employee of any department, agency, or other component of the executive branch of the United States Government;

but does not include any officer or employee of the United States General Accounting Office of any employee of the Inspector General of the Department of State and the Foreign Service who is carrying out inspections, investigations, or audits with respect to assistance for the Nicaraguan democratic resistance pursuant to this title.

TITLE III—EMERGENCY RESERVE FOR AFRICAN FAMINE RELIEF

SEC. 301. Title II of Public Law 99-10 is amended, under the heading "Emergency Reserve for African Famine Relief", by strikeing out "$225,000,000" and inserting in lieu thereof "$525,000,000".

SEC. 302. Of the funds appropriated under title II of Public Law 99-10, as amended by this Act, $300,000,000 shall remain available for obligation until September 30, 1987, notwithstanding any other provision of law or this Act.

(*l*) Such amounts as may be necessary are hereby appropriated for programs, projects, or activities provided for in H.R. 5205, the Department of Transportation and Related Agencies Appropriations Act, 1987, to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-976) as filed in the House of Representatives on October 7, 1986, as if enacted into law, except that such conference agreement shall be considered as including the following language in lieu of section 331 of H.R. 5205 as passed by the House of Representatives on July 30, 1986:

"SEC. 331. AIR TRAFFIC CONTROLLER WORK FORCE REQUIREMENTS.—The Federal Aviation Administration shall satisfy the following criteria by September 30, 1987:

(a) total air traffic controller work force level of 15,000;

(b) with respect to the air traffic controller work force, of those individuals eligible to be Full Performance Level controllers, 70 percent shall have achieved Full Performance Level status;

(c) with respect to staffing at particular air traffic control facilities, of those individuals eligible to be Full Performance Level controllers, at least 60 percent at all centers and level 3 and above terminals shall have achieved Full Performance Level status.".

(m) Such amounts as may be necessary for programs, projects or activities provided for in the Treasury, Postal Service and General Government Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1987, and for other purposes

TITLE I—TREASURY DEPARTMENT

OFFICE OF THE SECRETARY

Salaries and Expenses

For necessary expenses of the Office of the Secretary including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; not to exceed $22,000 for official reception and representation expenses; not to exceed $200,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; not to exceed $650,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex, $52,642,000.

International Affairs

For necessary expenses of the international affairs function of the Office of the Secretary, hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $2,000,000 for official travel expenses; and not to exceed $73,000 for official reception and representation expenses; $22,442,000.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

Salaries and Expenses

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including purchase (not to exceed eight for police-type use) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; not to exceed $3,000,000 for repair, alteration, minor construction, and related equipment for the Federal Law Enforcement Training Center facility to remain available until expended; not to exceed $2,000 for official reception and representation expenses; and services as authorized by 5 U.S.C. 3109: *Provided,* That funds appropriated in this account shall be available for State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; acceptance of gifts; training of private sector security officials on a space-available basis with reimbursement of actual costs to this appropriation; travel expenses of non-Federal personnel to attend State and local course development meetings at the Center; $29,499,000.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Financial Management Service, $240,117,000, of which not to exceed $2,137,000 shall remain available until expended for systems modernization initiatives.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms, including purchase of three hundred vehicles for police-type use for replacement only; and hire of passenger motor vehicles; hire of aircraft; and services of expert witnesses at such rates as may be determined by the Director; not to exceed $5,000 for official reception and representation expenses; $193,463,000, of which $15,000,000 shall be available solely for the enforcement of the Federal Alcohol Administration Act during fiscal year 1987, and of which $1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2): *Provided,* That no funds appropriated herein shall be available for administrative expenses in connection with consolidating or centralizing within the Department of the Treasury the records of receipts and disposition of firearms maintained by Federal firearms licensees or for issuing or carrying out any provisions of the proposed rules of the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, on Firearms Regulations, as published in the Federal Register, volume 43, number 55, of March 21, 1978: *Provided further,* That none of the funds appropriated herein shall be available for explosive identification or detection tagging research, development, or implementation: *Provided further,* That not to exceed $300,000 shall be available for research and development of an explosive identification and detection device.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Customs Service, including purchase of up to five hundred motor vehicles for replacement only, including four hundred and ninety for police-type use; hire of passenger motor vehicles; not to exceed $10,000 for official reception and representation expenses; and awards of compensation to informers, as authorized by any Act enforced by the United States Customs Service; $786,000,000, of which not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations, and not to exceed $1,000,000, to remain available until expended, for research: *Provided,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That none of the funds made available by this Act shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: *Provided further,* That the Commissioner or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Service: *Provided further,* That none of the funds made available by

this Act may be used for administrative expenses in connection with the proposed redirection of the Equal Employment Opportunity Program: *Provided further,* That none of the funds made available by this Act shall be available for administrative expenses to reduce the number of Customs Service regions below seven during fiscal year 1987: *Provided further,* That the United States Customs Service shall hire and maintain an average of 14,891 full-time equivalent positions in fiscal year 1987: *Provided further,* That none of the funds made available in this or any other Act may be used to fund more than nine hundred and fifty positions in the Headquarters staff of the United States Customs Service in the fiscal year ending September 30, 1986 and the Customs Service shall begin planning to reduce headquarters staff to no more than nine hundred positions by September 30, 1987: *Provided further,* That no funds appropriated by this Act may be used to implement single eight hour shifts at airports and that all current services as provided by the Customs Service shall continue through September 30, 1987.

Operation and Maintenance, Air Interdiction Program

For expenses, not otherwise provided for, necessary for the hire, lease, acquisition (transfer or acquisition from any other agency), operation and maintenance of aircraft, and other related equipment of the Air Program; $77,819,000.

Customs Forfeiture Fund

(LIMITATION ON AVAILABILITY OF DEPOSITS)

For necessary expenses of the Customs Forfeiture Fund, not to exceed $8,000,000, as authorized by Public Law 98-473 and Public Law 98-573; to be derived from deposits in the Fund.

Customs Services at Small Airports

(TO BE DERIVED FROM FEES COLLECTED)

Such sums as may be necessary, not to exceed $365,000, for expenses for the provision of Customs services at certain small airports designated by the Secretary of the Treasury, including expenditures for the salaries and expenses of individuals employed to provide such services, to be derived from fees collected by the Secretary of the Treasury pursuant to section 236 of Public Law 98-573 for each of these airports, and to remain available until expended.

UNITED STATES MINT

Salaries and Expenses

For necessary expenses of the United States Mint; $42,508,000, of which $1,325,000 shall remain available until expended for research and development projects.

Expansion and Improvements

For expansion and improvements to existing Mint facilities, $694,000, to remain available until expended.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For necessary expenses connected with any public-debt issues of the United States; $198,564,000.

INTERNAL REVENUE SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Internal Revenue Service, not otherwise provided; for executive direction and management services, and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services, as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $95,147,000, of which not to exceed $25,000 for official reception and representation expenses and of which not to exceed $500,000 shall remain available until expended, for research.

PROCESSING TAX RETURNS

For necessary expenses of the Internal Revenue Service not otherwise provided for; including processing tax returns; revenue accounting; computer services; and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,332,902,000, of which not to exceed $50,000,000 shall remain available until expended for systems modernization initiatives.

EXAMINATIONS AND APPEALS

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; employee plans and exempt organizations; tax litigation; hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,623,162,000.

INVESTIGATION, COLLECTION, AND TAXPAYER SERVICE

For necessary expenses of the Internal Revenue Service for investigation and enforcement activities; including purchase (not to exceed four hundred and fifty-one for replacement only, for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); securing unfiled tax returns; collecting unpaid accounts; examining selected employment and excise tax returns; technical rulings; enforcement litigation; providing assistance to taxpayers; and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner: *Provided*, That notwithstanding any other provision of this Act, none of the funds made available by this Act shall be used to reduce the number of positions allocated to taxpayer service activities below fiscal year 1984 levels, or to reduce the number of positions allocated to any other direct taxpayer assistance functions below fiscal year 1984 levels, including, but not limited to Internal Revenue Service toll-free telephone tax law assistance and walk-in assistance available at Internal Revenue Service field offices: *Provided further*, That the Internal Revenue Service shall fund the Tax Counseling for the Elderly Program at

$2,400,000. The Internal Revenue Service shall absorb within existing funds the administrative costs of the program in order that the full $2,400,000 can be devoted to program requirements; $1,196,581,000.

ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

SECTION 1. Not to exceed 1 per centum of any appropriation made available to the Internal Revenue Service for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation.

SEC. 2. Not to exceed 15 per centum, or $15,000,000, whichever is greater, of any appropriation made available to the Internal Revenue Service for document matching for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation for document matching.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase (not to exceed three hundred and forty-three vehicles for police-type use for replacement only) and hire of passenger motor vehicles; hire of aircraft; training and assistance requested by State and local governments, which may be provided without reimbursement; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; the conducting of and participating in firearms matches and presentation of awards and for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act: *Provided,* That approval is obtained in advance from the House and Senate Committees on Appropriations; including $6,000,000 for continued construction at the James J. Rowley Secret Service Training Center; for research and development; not to exceed $7,500 for official reception and representation expenses; and for uniforms without regard to the general purchase price limitation for the current fiscal year; $318,000,000, of which $500,000 shall remain available until expended for research.

DEPARTMENT OF THE TREASURY—GENERAL PROVISIONS

SEC. 101. Appropriations to the Treasury Department in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services as authorized by 5 U.S.C. 3109.

SEC. 102. None of the funds appropriated by this title shall be used in connection with the collection of any underpayment of any tax imposed by the Internal Revenue Code of 1954 unless the conduct of

officers and employees of the Internal Revenue Service in connection with such collection complies with subsection (a) of section 805 (relating to communication in connection with debt collection), and section 806 (relating to harassment or abuse), of the Fair Debt Collection Practices Act (15 U.S.C. 1692).

SEC. 103. Not to exceed 1 per centum of any appropriations in this Act for the Department of the Treasury may be transferred between such appropriations. However, no such appropriation shall be increased or decreased by more than 1 per centum and any such proposed transfers shall be approved in advance by the Committees on Appropriations of the House and Senate.

SEC. 104. None of the funds made available by this Act may be used to place the United States Secret Service, the United States Customs Service, or the Bureau of Alcohol, Tobacco and Firearms under the operation, oversight, or jurisdiction of the Inspector General of the Department of the Treasury.

This title may be cited as the "Treasury Department Appropriations Act, 1987".

TITLE II—POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsections (b) and (c) of section 2401 of title 39, United States Code; $650,000,000: *Provided*, That mail for overseas voting and mail for the blind shall continue to be free: *Provided further*, That six-day delivery and rural delivery of mail shall continue at the 1983 level: *Provided further*, That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further*, That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in the fiscal year ending on September 30, 1987: *Provided further*, That

(a) Section 2254 of title 18, United States Code, is amended by adding after subsection (b) the following:

"(c) The Postal Service may carry out a forfeiture under this section if the violation involves the mails. The Postal Service shall exercise the authority of the Attorney General under subsection (b) of this section with respect to such forfeiture.".

(b) Section 2003 of title 39, United States Code, is amended—

(1) in subsection (b)(5), by striking out "and";

(2) in subsection (b)(6), by striking out the period at the end and inserting "; and" in lieu thereof;

(3) by inserting at the end of subsection (b) the following:

"(7) amounts (including proceeds from the sale of forfeited items) from any civil administrative forfeiture conducted by the Postal Service under title 18."; and

(4) in the first sentence of subsection (e)(1), by striking out "under this title" and inserting in lieu thereof "as provided by law".

(c) Section 2254 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting before the period at the end of paragraph (1) ", and any property, real or personal, tangible or intangible, which was used or intended to be used, in any manner or part, to facilitate a violation of this chapter";

(2) in subsection (b) by striking "Attorney General," and inserting "Attorney General or the Postal Service,"; and

(3) by adding at the end the following new subsection:

"(d) The authority of the Postal Service under subsection (b) shall be exercised only where the conduct with respect to which such seizure or forfeiture occurs includes use of the mails in violation of this chapter.".

This title may be cited as the "Postal Service Appropriations Act, 1987".

TITLE III

EXECUTIVE OFFICE OF THE PRESIDENT

Compensation of the President

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102; $250,000: *Provided,* That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31 of the United States Code: *Provided further,* That none of the funds made available for official expenses shall be considered as taxable to the President.

OFFICE OF ADMINISTRATION

Salaries and Expenses

For necessary expenses of the Office of Administration; $15,700,000 including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles.

THE WHITE HOUSE OFFICE

Salaries and Expenses

For necessary expenses for the White House as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; including subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be expended and accounted for as provided by 3 U.S.C. 103); not to exceed $20,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President; $24,450,000.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

Operating Expenses

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and

fixtures, of the Executive Residence at the White House and official entertainment expenses of the President; $4,700,000, to be expended and accounted for as provided by 3 U.S.C. 105, 109-110, 112-114.

OFFICIAL RESIDENCE OF THE VICE PRESIDENT

Operating Expenses

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President, and not to exceed $60,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate; $211,000: *Provided*, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

SPECIAL ASSISTANCE TO THE PRESIDENT

Salaries and Expenses

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions, services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles; $1,790,000.

COUNCIL OF ECONOMIC ADVISERS

Salaries and Expenses

For necessary expenses of the council in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021); $2,275,000.

OFFICE OF POLICY DEVELOPMENT

Salaries and Expenses

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109, and 3 U.S.C. 107; $2,600,000.

NATIONAL CRITICAL MATERIALS COUNCIL

Salaries and Expenses

For necessary expenses of the National Critical Materials Council, including activities as authorized by Public Law 98-373; $175,000.

NATIONAL SECURITY COUNCIL

Salaries and Expenses

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109; $4,550,000.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109; $37,000,000 of which not to exceed $5,408,000 shall be available for the Office of Information and Regulatory Affairs; *Provided*, That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): *Provided further*, That none of the funds made available for the Office of Management and Budget by this Act may be expended for the review of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committee on Appropriations or the Committee on Veterans' Affairs or their subcommittees: *Provided further*, That this proviso shall not apply to printed hearings released by the Committee on Appropriations or the Committee on Veterans' Affairs: *Provided further*, That none of the funds made available by this Act or any other Act shall be used to reduce the scope or publication frequency of statistical data relative to the operations and production of the alcoholic beverage and tobacco industries below fiscal year 1985 levels: *Provided further*, That none of the funds appropriated by this Act shall be available to the Office of Management and Budget for revising, curtailing or otherwise amending the administrative and/or regulatory methodology employed by the Bureau of Alcohol, Tobacco and Firearms to assure compliance with section 205, title 27 of the United States Code (Federal Alcohol Administration Act) or with regulations, rulings or forms promulgated thereunder.

OFFICE OF FEDERAL PROCUREMENT POLICY

SALARIES AND EXPENSES

For expenses of the Office of Federal Procurement Policy, including services as authorized by 5 U.S.C. 3109; $1,600,000.

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year; $1,000,000.

This title may be cited as the "Executive Office Appropriations Act, 1987".

TITLE IV—INDEPENDENT AGENCIES

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

SALARIES AND EXPENSES

For necessary expenses of the Administrative Conference of the United States, established by the Administrative Conference Act, as

amended (5 U.S.C. 571 et seq.) including not to exceed $1,000 for official reception and representation expenses; $1,469,000.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Advisory Commission on Intergovernmental Relations Act of 1959, as amended, 42 U.S.C. 4271-79; $1,750,000, and additional amounts collected from the sale of publications shall be credited to and used for the purposes of this appropriation.

ADVISORY COMMITTEE ON FEDERAL PAY

SALARIES AND EXPENSES

For necessary expenses of the Advisory Committee on Federal Pay, established by 5 U.S.C. 5306; $201,000.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

SALARIES AND EXPENSES

For necessary expenses of the Committee for Purchase From the Blind and Other Severely Handicapped established by the Act of June 23, 1971, Public Law 92-28, including hire of passenger motor vehicles; $778,000.

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended; $12,800,000.

GENERAL SERVICES ADMINISTRATION

FEDERAL SUPPLY SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for supply distribution (including contractual services incident to receiving, handling and shipping supply items), procurement (including royalty payments), inspection, standardization, property management, and other supply management activities, transportation activities, transportation audits by in-house personnel; utilization of excess and disposal of surplus personal property, and the rehabilitation of personal property including services as authorized by 5 U.S.C. 3109; $160,944,000: *Provided*, That in addition to this appropriation, the annual limitation of $5,200,000 through September 30, 1989, in the Supplemental Appropriations Act, 1985, Public Law 99-88 payable from overcharges collected, for expenses of transportation audit contracts and contract administration is increased to $10,500,000 for fiscal year 1987.

FEDERAL PROPERTY RESOURCES SERVICE

OPERATING EXPENSES

(Including transfer of funds)

For expenses, not otherwise provided for, necessary for carrying out the functions of the Administrator with respect to utilization of excess real property; the disposal of surplus real property; the utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property; the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98, et seq.) the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061, et seq.) including services as authorized by 5 U.S.C. 3109 and reimbursement for recurring security guard service; $39,108,000, of which $11,000,000 shall be derived from proceeds from transfers of excess real property and disposal of surplus real property and related personal property, subject to the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-5), and of which $28,108,000 for the transportation, processing, refining, storage, security, maintenance, rotation, and disposal of materials contained in or acquired for the stockpile shall remain available through fiscal year 1988.

NATIONAL DEFENSE STOCKPILE TRANSACTION FUND

For the year ending September 30, 1987, in addition to the funds previously appropriated for the National Defense Stockpile Transaction Fund, pursuant to 50 U.S.C. 98a and g(a), (2)(c), and 50 U.S.C. 100a, notwithstanding the provisions of 50 U.S.C. 98h, an additional $5,000,000 is appropriated, to be available until expended, for a grant for construction of a strategic materials research facility at the University of Massachusetts at Amherst. For the year ending September 30, 1987, in addition to the funds previously appropriated for the National Defense Stockpile Transaction Fund, pursuant to 50 U.S.C. 98a and g(a), (2)(c), and 50 U.S.C. 100a, notwithstanding the provisions of 50 U.S.C. 98h, an additional $5,000,000 is appropriated, to be available until expended, for a grant for construction of a strategic materials research facility at the University of Nevada at Reno. Notwithstanding any other provision of law, funds previously made available to the fund before January 1, 1985, may be used for evaluating, testing, relocating, and upgrading stockpile materials to meet current stockpile goals and specifications.

GENERAL MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of agency management of activities under the control of the General Services Administration, and general administrative and staff support services not otherwise provided for; for providing accounting, records management, and other support incident to adjudication of Indian Tribal Claims by the United States Court of Claims, and services authorized by 5 U.S.C. 3109; $120,289,000, of which $800,000 shall be available only for, and is

hereby specifically earmarked for personnel and associated costs in support of Congressional District and Senate State offices: *Provided*, That this appropriation shall be available, subject to reimbursement by the applicable agency, for services performed for other agencies pursuant to subsections (a) and (b) of section 1535 of title 31, United States Code.

INFORMATION RESOURCES MANAGEMENT SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for carrying out Government-wide and internal responsibilities relating to automated data management, telecommunications, information resources management, and related activities, including services as authorized by 5 U.S.C. 3109; and for the Information Security Oversight Office established pursuant to Executive Order 12356; $29,000,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General; $21,108,000: *Provided*, That not to exceed $10,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95-138; $1,171,800: *Provided*, That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

GENERAL SERVICES ADMINISTRATION—GENERAL PROVISIONS

SECTION 1. The appropriate appropriation or fund available to the General Services Administration shall be credited with (1) cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129); and (2) appropriations or funds available to other agencies, and transferred to the General Services Administration, in connection with property transferred to the General Services Administration pursuant to the Act of July 2, 1948 (50 U.S.C. 451ff) and such appropriations or funds may be so transferred, with the approval of the Office of Management and Budget.

SEC. 2. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 3. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements, performed in accordance with the Public Buildings Act of 1959 (73 Stat.

749), the Public Buildings Amendments of 1972 (86 Stat. 216), or other applicable law.

SEC. 4. Not to exceed 1 per centum of funds made available in appropriations for operating expenses and salaries and expenses, during the current fiscal year, may be transferred between such appropriations for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. 5. Funds in the Federal Buildings Fund made available for fiscal year 1987 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. 6. Funds hereafter made available to the General Services Administration for the payment of rent shall be available for the purpose of leasing, for periods not to exceed thirty years, space in buildings erected on land owned by the United States.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with National Archives and Records Administration and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, $100,321,000 of which $4,000,000 for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, shall remain available until expended.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, medical examinations performed for veterans by private physicians on a fee basis, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, not to exceed $2,500 for official reception and representation expenses, and advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order 10422 of January 9, 1953, as amended; $99,000,000 in addition to $60,900,000 for administrative expenses for the retirement and insurance programs to be transferred from the appropriate trust funds of the Office of Personnel Management in the amounts determined by the Office of Personnel Management without regard to other statutes: *Provided*, That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by section 8348(a)(1)(B) of title 5, U.S.C.: *Provided further*, That funds made available by this appropriation may be used, at the discretion of the Director of the Office of Personnel

Management, to provide salaries, administrative support and for other expenses of the Commission on Executive, Legislative, and Judicial Salaries. No part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order 9358 of July 1, 1943, or any successor unit of like purpose.

Revolving Fund

Pursuant to section 1304(e)(1) of title 5, United States Code, costs for entertainment expenses of the President's Commission on Executive Exchange shall not exceed $12,000.

Government Payment for Annuitants, Employees Health Benefits

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, $1,459,000,000, to remain available until expended.

Payment to Civil Service Retirement and Disability Fund

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, $4,557,000,000: *Provided*, That annuities authorized by the Act of May 29, 1944, as amended (22 U.S.C. 3682(e)), August 19, 1950, as amended (33 U.S.C. 771-775), may hereafter be paid out of the Civil Service Retirement and Disability Fund.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Salaries and Expenses

For necessary expenses to carry out functions of the Federal Retirement Thrift Investment Board as authorized by the Federal Employees' Retirement System Act of 1986 (Public Law 99-335); $5,250,000: *Provided*, That section 701(a) of Public Law 99-335, the Federal Employees' Retirement System Act of 1986, is amended by striking "shall" after "1987" and inserting in lieu thereof, "may".

MERIT SYSTEMS PROTECTION BOARD

Salaries and Expenses

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles; $19,140,000, together with not to exceed $1,200,000 for administrative expenses to adjudicate retirement appeals to be

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transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

Office of Special Counsel

Salaries and Expenses

For necessary expenses to carry out functions of the Office of the Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978 (Public Law 95-454), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; $4,396,000.

FEDERAL LABOR RELATIONS AUTHORITY

Salaries and Expenses

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, rental of conference rooms in the District of Columbia and elsewhere; $16,330,000: *Provided,* That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistance as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government Service, and compensation as authorized by 5 U.S.C. 3109.

UNITED STATES TAX COURT

Salaries and Expenses

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109; $25,538,000: *Provided,* That travel expenses of the judges shall be paid upon the written certificate of the judge.

This title may be cited as the "Independent Agencies Appropriations Act, 1987".

TITLE V—GENERAL PROVISIONS

This Act

Sec. 501. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amount set forth therefor in the budget estimates submitted for the appropriations: *Provided,* That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans' Administration; to travel of the Office of Personnel Management in carrying out its observation respon-

sibilities of the Voting Rights Act; or to payments to interagency motor pools where separately set forth in the budget schedules.

SEC. 502. No part of any appropriation contained in this Act shall be available to pay the salary of any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service and has within ninety days after his release from such service or from hospitalization continuing after discharge for a period of not more than one year made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 503. No part of any appropriation made available in this Act shall be used for the purchase or sale of real estate or for the purpose of establishing new offices inside or outside the District of Columbia: *Provided*, That this limitation shall not apply to programs which have been approved by the Congress and appropriations made therefor.

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 506. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of any hand or measuring tool(s) not produced in the United States or its possessions except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of hand or measuring tools produced in the United States or its possessions cannot be procured as and when needed from sources in the United States and its possessions, or except in accordance with procedures prescribed by section 6-104.4(b) of Armed Services Procurement Regulation dated January 1, 1969, as such regulation existed on June 15, 1970: *Provided*, That a factor of 75 per centum in lieu of 50 per centum shall be used for evaluating foreign source end products against a domestic source end product. This section shall be applicable to all solicitations for bids opened after its enactment.

SEC. 507. None of the funds made available to the General Services Administration pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be obligated or expended after the date of enactment of this Act for the procurement by contract of any service which, before such date, was performed by individuals in their capacity as employees of the General Services Administration in any position of guards, elevator operators, messengers, and custodians, except that such funds may be obligated or expended for the procurement by contract of the covered services with sheltered workshops employing the severely handicapped under Public Law 92-28.

SEC. 508. No funds appropriated in this Act shall be available for administrative expenses in connection with implementing or enforc-

ing any provisions of the rule TD ATF-66 issued June 13, 1980, by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms on labeling and advertising of wine, distilled spirits and malt beverages, except if the expenditure of such funds is necessary to comply with a final order of the Federal court system.

SEC. 509. (a) The General Services Administration shall not sell, lease, transfer, or otherwise dispose of any portion of the approximately twenty-six acres of Fort DeRussy, Hawaii, lying southwest of Kalia Road, which includes the Hale Koa Hotel, the Armed Forces Recreation Center, and beachfront area.

(b) However, notwithstanding any other provision of law, including any limitation on appropriations in this or any other Act which, but for this provision, limit the obligation or expenditure of funds for the sale, lease, rental, or excessing of Fort DeRussy, Honolulu, Hawaii, the Secretary of the Army (hereinafter referred to as the "Secretary") is directed to sell and convey to the State of Hawaii or the city and county of Honolulu through the General Services Administration, at the fair market value as determined by, and upon such terms and conditions as are acceptable to the Administrator of General Services, the remaining approximately forty-five acres of Fort DeRussy lying northeast of Kalia Road, which comprises the three United States Army Reserves Centers and miscellaneous facilities. The exact acreages and legal descriptions shall be determined by the Secretary.

(c) The Secretary is authorized to acquire land and design and construct such facilities as are necessary to replace those on the land to be sold pursuant to subsection (b). The Secretary is also authorized to relocate activities currently located at Fort DeRussy to such replacement facilities.

(d) Notwithstanding any other provision of law, the General Services Administration is authorized to make funds available for the acquisition of land and replace facilities authorized to be acquired or constructed pursuant to subsection (c) and to pay associated relocation costs, and funds are hereby made available for this purpose.

(e) The proceeds of the sale authorized in subsection (b) shall be covered by the Administrator of General Services into the Treasury as miscellaneous receipts.

(f) A conveyance under subsection (b) shall provide that all of the land conveyed shall remain the property of the State of Hawaii, or the City and County of Honolulu, Hawaii, as the case may be.

SEC. 510. None of the funds appropriated in this Act may be used for administrative expenses to close the Information Resources Management Office of the General Services Administration located in Sacramento, California.

SEC. 511. None of the funds made available by this Act for the Department of the Treasury may be used for the purpose of eliminating any existing requirement for sureties on customs bonds.

SEC. 512. None of the funds made available by this Act shall be available for any activity or for paying the salary of any government employee where funding an activity or paying a salary to a government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the 1930 Tariff Act.

SEC. 513. None of the funds made available by this Act shall be available for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynco, Georgia, out of the Treasury Department.

SEC. 514. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 515. No part of any appropriation contained in this Act shall be available for the payment of the salary of any officer or employee of the United States Postal Service, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any officer or employee of the United States Postal Service from having any direct oral or written communication or contact with any member or committee of Congress in connection with any matter pertaining to the employment of such officer or employee or pertaining to the United States Postal Service in any way, irrespective of whether such communication or contact is at the initiative of such officer or employee or in response to the request or inquiry of such member or committee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any officer or employee of the United States Postal Service, or attempts or threatens to commit any of the foregoing actions with respect to such officer or employee, by reason of any communication or contact of such officer or employee with any member or committee of Congress as described in paragraph (1) of this subsection.

SEC. 516. Except for vehicles provided to the President, Vice President and their families, or to the United States Secret Service, none of the funds provided in this Act to any Department or Agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than twenty-two miles per gallon. The requirements of this section may be waived by the Administrator of the General Services Administration for special purpose or special mission automobiles.

SEC. 517. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverages for abortions.

SEC. 518. The provision of section 517 shall not apply where the life of the mother would be endangered if the fetus were carried to term.

SEC. 519. Effective September 30, 1987, none of the funds made available by this Act or any other Act with respect to fiscal year 1987 and any other fiscal year may be used to store, to maintain or to protect more than 128,000,000 troy ounces of silver deposited in the National Defense Stockpile. The Administrator of General Services, or any Federal officer assuming the Administrator's responsibilities with respect to management of the stockpile, shall use all proceeds generated from the disposal of silver to purchase, no later than October 1, 1988, stockpile materials to meet National Defense Stockpile goals and specifications in effect on October 1, 1984.

SEC. 520. No later than October 1, 1988, the Administrator of General Services, or any Federal officer assuming the Administrator's responsibilities with respect to management of the stockpile, shall use all funds authorized and appropriated before January 1,

1985 from the National Defense Stockpile Transaction Fund to evaluate, test, relocate, upgrade or purchase stockpile materials to meet National Defense Stockpile goals and specifications in effect on October 1, 1984.

SEC. 521. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States or its possessions or except in accordance with procedures provided by section 6-104.4(b) of Armed Services Procurement Regulations, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment.

SEC. 522. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, lease, rental, excessing, surplusing or disposal of any portion of land on which the Phoenix Indian School is located at Phoenix, Arizona without the specific approval of Congress.

SEC. 523. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing or disposal of lands in the vicinity of Bull Shoals Lake, Arkansas administered by the Corps of Engineers, Department of the Army without the specific approval of Congress.

SEC. 524. The Administrator of the General Services Administration, under section 210(h) of the Federal Property and Administrative Services Act of 1949, as amended, shall acquire, by means of a lease of up to 30 years duration, space for the U.S. Courts in Tacoma, Washington, at the site of Union Station, Tacoma, Washington.

SEC. 525. The United States Courthouse located at 223 Park Avenue Southwest in Aiken, South Carolina, shall be known and designated as the "Charles E. Simons, Jr., Federal Courthouse". Any reference in any law, regulation, document, record, map, or other paper of the United States to such courthouse is deemed to be a reference to the "Charles E. Simons, Jr., Federal Courthouse".

SEC. 526. The Director of the Office of Management and Budget shall include in the area designated as the Wichita Metropolitan Statistical Area the County of Harvey, Kansas.

SEC. 527. (a) The Director of the Office of Personnel Management (hereafter in this section referred to as the "Director") shall pay out of the Civil Service Retirement and Disability Fund, an annuity of $1,500 per month to Gladys Pyle of Huron, South Dakota, who served as a United States Senator from November, 1938, to January, 1939, and is not otherwise eligible to receive an annuity on the basis of her services as a Senator.

(b) The annuity provided under subsection (a)—

(1) shall commence on the first day of the month in which this joint resolution is enacted; and

(2) shall terminate on the date of the death of the said Gladys Pyle.

(c)(1) The Director shall administer the provisions of this section.

(2) Sections 8340, 8346, 8348(a), and 8348(f) of title 5, United States Code, shall apply with respect to the annuity provided under the subsection (a).

SEC. 528. In the administration of the provisions of section 603 of this Act, during fiscal year 1987, Erna Avari Patrick of Columbia, South Carolina shall be considered to have satisfied the requirement of clause (3) of such section.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

Section 601. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses and ambulances), is hereby fixed at $6,600 except station wagons for which the maximum shall be $7,600: *Provided*, That these limits may be exceeded by not to exceed $2,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: *Provided further*, That the limits set forth in this section shall not apply to electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976.

SEC. 602. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922-5924.

SEC. 603. Unless otherwise specified during the current fiscal year no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, South Vietnam, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese, Cambodian and Laotian refugees paroled in the United States after January 1, 1975: *Provided*, That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further*, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than one year, or both: *Provided further*, That the above penal clause shall be in addition to, and not in substitution for any other provisions of existing law: *Provided further*, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

SEC. 604. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (86 Stat. 216), or other applicable law.

SEC. 605. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided,* That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 606. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 607. Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662), foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: *Provided,* That such credits received as exchanged allowances or proceeds of sales of personal property may be used in whole or part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.

SEC. 608. No part of any appropriation contained in this or any other Act, shall be available for interagency financing of boards, commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 609. Funds made available by this or any other Act to (1) the General Services Administration, including the fund created by the Public Building Amendments of 1972 (86 Stat. 216), and (2) the "Postal Service Fund" (39 U.S.C. 2003), shall be available for employment of guards for all buildings and areas owned or occupied by the United States or the Postal Service and under the charge and control of the General Services Administration or the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318), but shall not be restricted to certain Federal property as otherwise required by the proviso contained in said section and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948, (62

Stat. 281; 40 U.S.C. 318a, 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318c): *Provided*, That when the Administrator of General Services delegates responsibility to protect property under his charge and control to the head of another Federal agency, that agency may employ guards to protect the property who shall have the same powers of special policemen in same manner as the foregoing.

SEC. 610. None of the funds available under this or any other Act shall be available for administrative expenses in connection with the designation for construction, arranging for financing, or execution of contracts or agreements for financing or construction of any additional purchase contract projects pursuant to section 5 of the Public Building Amendments of 1972 (Public Law 92-313) during the period beginning October 1, 1976, and ending September 30, 1987.

SEC. 611. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 612. No part of any appropriation contained in, or funds made available by this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the current fiscal year and for which appropriations were granted.

SEC. 613. (a)(1) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for the fiscal years ending September 30, 1987, or September 30, 1988, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or any employee covered by section 5348 of that title—

(1) during the period from the date of expiration of the limitation imposed by section 613 of H.R. 3036, incorporated by reference in section 101(h) of Public Law 99-190, until the first day of the first applicable pay period that begins not less than ninety days after that date, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section 613; and

(2) during the period consisting of the remainder, if any, of fiscal year 1987 and that portion of fiscal year 1988 that precedes the normal effective date of the applicable wage survey adjustment that is to be effective in fiscal year 1988, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) of this subsection by more than the overall average percentage adjustment in the General Schedule during fiscal year 1987.

(b) Notwithstanding the provisions of section 9(b) of Public Law 92-392 or section 704(b) of Public Law 95-454, the provisions of subsection (a) of this section shall apply (in such manner as the Office of Personnel Management shall prescribe) to any prevailing rate employee to whom such section 9(b) applies, except that the provisions of subsection (a) may not apply to any increase in a wage

schedule or rate that is required by the terms of a contract entered into before the date of enactment of this Act.

(c) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, may be paid during the periods for which subsection (a) of this section is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(d) For the purpose of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule that was not in existence on September 30, 1986, shall be determined under regulations prescribed by the Office of Personnel Management.

(e) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1986, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(f) The provisions of this section shall apply with respect to pay for services performed by any affected employee on or after October 1, 1986.

(g) For the purpose of administering any provision of law, rule, or regulation that provides premium pay, retirement, life insurance, or any other employee benefit, that requires any deduction or contribution, or that imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(h) Nothing in this section may be construed to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(i) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 614. None of the funds made available in this Act may be used to plan, implement, or administer (1) any reduction in the number of regions, districts or entry processing locations of the United States Customs Service; or (2) any consolidation or centralization of duty assessment or appraisement functions of any offices in the United States Customs Service.

SEC. 615. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to renovate, remodel, furnish, or redecorate the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless such renovation, remodeling, furnishing, or redecoration is expressly approved by the Committees on Appropriations of the House and Senate.

SEC. 616. (a) If any individual or entity which provides or proposes to provide child care services for Federal employees applies to the officer or agency of the United States charged with the allotment of space in the Federal buildings in the community or district in which such individual or entity provides or proposes to provide such

service, such officer or agency may allot space in such a building to such individual or entity if—

(1) such space is available;

(2) such officer or agency determines that such space will be used to provide child care services to a group of individuals of whom at least 50 percent are Federal employees; and

(3) such officer or agency determines that such individual or entity will give priority for available child care services in such space to Federal employees.

(b)(1) If an officer or agency allots space to an individual or entity under subsection (a), such space may be provided to such individual or entity without charge for rent or services.

(2) If there is an agreement for the payment of costs associated with the provision of space allotted under subsection (a) or services provided in connection with such space, nothing in title 31, United States Code, or any other provision of law, shall be construed to prohibit or restrict payment by reimbursement to the miscellaneous receipts or other appropriate account of the Treasury.

(3) For the purpose of this section, the term "services" includes the providing of lighting, heating, cooling, electricity, office furniture, office machines and equipment, telephone service (including installation of lines and equipment and other expenses associated with telephone service), and security systems (including installation and other expenses associated with security systems).

SEC. 617. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

SEC. 618. (a) ELIGIBILITY TO PARTICIPATE IN 1986.—(1) Notwithstanding any other provision of law, and any regulations prescribed thereunder, any application by the Federal Employee Education and Assistance Fund (a nonprofit corporation incorporated in the District of Columbia) for admission to the Combined Federal Campaign, whether in a particular community or otherwise, shall be considered without regard to any eligibility requirements, to the extent that such requirements relate to any period before the date on which such Fund became incorporated.

(2) The eligibility of the Fund to be admitted to the Combined Federal Campaign in a particular community shall also be determined without regard to any criteria relating to having a "direct and substantial presence" in the community involved.

(3) This subsection shall be effective only with respect to the Combined Federal Campaign as conducted during calendar year 1986.

(b) DEFINITIONS.—For the purpose of this section, the term "Combined Federal Campaign" and the term "community" each has the meaning given such term by section 950.101 of title 5 of the Code of Federal Regulations (as in effect on the date of the enactment of this Act).

SEC. 619. None of the funds appropriated by this Act or any other Act shall be used for preparing, promulgating or implementing any regulations dealing with organization participation in the 1986 and 1987 Combined Federal Campaign other than repromulgating and implementing the 1984 and 1985 Combined Federal Campaign regulations, unless such regulations provide that any charitable organization which participated in any prior campaign shall be allowed to participate in 1986 and 1987 campaign: *Provided further,*

That none of the funds appropriated by this Act or any other Act shall be used for preparing, promulgating or implementing new regulations dealing with the Combined Federal Campaign ("CFC") which require or allow the Office of Personnel Management to directly or indirectly determine the eligibility of any agency to participate in the CFC (other than the local service of those agencies which perform a substantial preponderance of their services in the United States) if that agency is a member of a qualified federated group.

SEC. 620. None of the funds appropriated or made available by this Act shall be used to implement or enforce the rule proposed on May 7, 1986 (51 Federal Register 16988-16991), or any other regulation issued pursuant to statute requiring competitive bidding for electricity, gas, or steam utility services acquired by the Federal Government.

SEC. 621. None of the funds appropriated by this or any other Act may be used prior to July 15, 1987, to repeal, amend, or modify any policy, procedure, or practice contained in subpart 19.5 of title 48 of the Code of Federal Regulations (as such subpart was in effect on July 31, 1986) except if such subpart requires modification to implement the amendments made by section 911 (relating to small business set-asides) of H.R. 4438 (99th Congress, 2d Session), or the amendments made by any successor provision to such section, if such bill is enacted into law.

SEC. 622. Section 202 of title 3, United States Code, is amended by inserting a new clause (3) to read "(3) the Treasury Building and grounds;" and by renumbering previously existing clauses (3) through (8) as clauses (4) through (9). The word "immediately" in prior clause (6) (renumbered clause (7)) is stricken and the word "immediate" is inserted in its place.

SEC. 623. The Rural Electrification Act of 1936 is amended by inserting after section 310 (7 U.S.C. 940) the following new section:

"SEC. 311. PRIVATIZATION PROGRAM. The Administrator shall establish a privatization demonstration program which shall permit borrowers to prepay loans made by the Federal Financing Bank and guaranteed under section 306 of this Act by paying the outstanding principal balance due on the loans. No sums in addition to the payment of the outstanding principal balance due on the Federal Financing Bank loans may be charged as the result of such prepayment against the borrower, the fund, or the Rural Electrification Administration. Federal Financing Bank loans shall be refinanced using the existing section 306 loan guarantee, with private capital, in an amount not to exceed the outstanding principal amount prepaid: *Provided,* That such guarantee of private capital shall be 90% of the principal amount of the loan or any portion thereof plus accrued interest outstanding at any time during the maturity period of the loan and shall be fully transferable and assignable. Notwithstanding any other provision of law, borrowers may prepay Federal Financing Bank loans under this section, except that such Borrowers shall be required to prepay all of their outstanding loans made or guaranteed under this Act within one year of prepayment of the first loan. A direct or insured loan prepaid under this section shall be prepaid by the borrower at the lesser of the outstanding principal balance due on the loan or the loan's present value discounted from the face value at maturity at the rate set by the Administrator. A Rural Telephone Bank loan shall be prepaid by paying the outstanding principal balance on the loan. No guarantee or other financial

assistance shall be available to the borrowers to refinance outstanding loans prepaid hereunder. In the case of an electric borrower prepaying under this section or otherwise prepaying a loan at less than the outstanding principal balance due on the loan, after the date of prepayment, no loans, loan guarantees or other financial assistance shall be provided pursuant to this Act to the borrower or its successors or for the purpose of financing the construction or operation of generating plants or bulk transmission lines for the purpose of furnishing electric energy in the area served on a retail or wholesale basis by such borrower. In the case of a telephone borrower prepaying under this section, or otherwise prepaying a loan at less than the outstanding principal balance due on the loan, after the date of prepayment, no loans, loan guarantees or other financial assistance shall be provided pursuant to this Act to the borrower or its successors or for the purpose of furnishing or improving telephone service in the area served by such borrower. In determining the service area of electric borrowers, the Administrator shall make allowances and adjustments to avoid adversely affecting the eligibility of other borrowers for financial assistance under this Act where such borrowers are currently providing electric supply services for retail loads in the same area and which are reasonably expected to continue providing electric supply services for retail loads in such areas. In the event that the borrower prepaying under this section shall be using a majority of its generating capacity to directly serve its retail consumers, other borrowers which are purchasing power from such borrower as of September 30, 1986, shall continue to remain eligible for financing under this Act for needs in their service area. Nothing in this section shall prohibit a borrower which has prepaid pursuant to this section from participating in generation and transmission projects with borrowers which have not prepaid, so long as the borrower which has prepaid utilizes private capital financing without financial assistance under this Act: *Provided further,* That nothing in this section shall prohibit short-term power purchases by borrowers which have prepaid under this section from borrowers which have not prepaid. The Administrator shall issue regulations to implement this section within 60 days."

TITLE VII—TRANSFER OF ANNUAL LEAVE AND SICK LEAVE

Section 701. (a) IN GENERAL.—Notwithstanding any provision of chapter 63 of title 5, United States Code, and with the approval of the director of the Fort Lauderdale district of the Internal Revenue Service, an employee of the Internal Revenue Service whose official station is the Fort Lauderdale district may transfer accumulated annual leave accrued under section 6303 of title 5, United States Code, and accumulated sick leave accrued under section 6307 of such title to the account of either Shannon Chiles or Joe Chiles, Jr., employees of the Internal Revenue Service in the Fort Lauderdale district.

(2) For purposes of chapter 63 of title 5, United States Code, annual leave and sick leave transferred under paragraph (1) shall be treated as the annual leave and sick leave accrued by the individual to whose account the leave is transferred, except that such annual leave accumulates without regard to the limitation imposed by section 6304(a) of title 5, United States Code.

(3) The transfer of annual leave or sick leave under paragraph (1) by an employee reduces the account of such employee by the amount of the leave so transferred.

(b) AUTHORITY TO RESTORE TRANSFERRED LEAVE.—With the approval of the director of the Fort Lauderdale district, Shannon Chiles or Joe Chiles, Jr., may, by transfer, restore unused leave to an employee from whom leave was received, except that the amount of leave so restored by each of them may not exceed the amount of leave received by them, respectively, from such employee.

(c) EXPIRATION OF AUTHORITY.—The authority to transfer leave under subsection (a)(1) and the authority to restore unused leave under subsection (b) shall terminate 180 days after the disease of Shannon Chiles no longer exists.

(d) TEMPORARY AUTHORITY TO TRANSFER LEAVE.—(1) Notwithstanding any other provision of law, under regulations prescribed by the President, the unused accrued leave of one officer or employee of the Federal Government may be transferred for use by another officer or employee of the Federal Government in not more than three cases of personal emergencies defined for the purposes of this paragraph in such regulations.

(2) The authority prescribed in paragraph (1) shall terminate upon the issuance of a report to Congress which contains the findings of the President on voluntary leave policy.

TITLE VIII—PAPERWORK REDUCTION REAUTHORIZATION

SHORT TITLE

Section 801. This title may be cited as the "Paperwork Reduction Reauthorization Act of 1986".

PART A—AMENDMENTS TO THE PAPERWORK REDUCTION ACT OF 1980

PURPOSE

SEC. 811. (a) Section 3501(3) of title 44, United States Code, is amended to read as follows:

"(3) to maximize the usefulness of information collected, maintained, and disseminated by the Federal Government;".

(b) Section 3501(5) of such title is amended to read as follows:

"(5) to ensure that automatic data processing, telecommunications, and other information technologies are acquired and used by the Federal Government in a manner which improves service delivery and program management, increases productivity, improves the quality of decisionmaking, reduces waste and fraud, and wherever practicable and appropriate, reduces the information processing burden for the Federal Government and for persons who provide information to and for the Federal Government; and".

DEFINITIONS

SEC. 812. Section 3502 of title 44, United States Code, is amended—

(1) by inserting "collection of information requirement," after "reporting or recordkeeping requirement," in paragraph (11);

(2) by redesignating paragraphs (13) through (16) as paragraphs (14) through (17), respectively; and

(3) by inserting after paragraph (12) the following new paragraph:

"(13) the term 'information resources management' means the planning, budgeting, organizing, directing, training, promoting, controlling, and management activities associated with the burden, collection, creation, use, and dissemination of information by agencies, and includes the management of information and related resources such as automatic data processing equipment (as such term is defined in section 111(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a));"

OFFICE OF INFORMATION AND REGULATORY AFFAIRS

SEC. 813. (a) Section 3503(b) of title 44, United States Code, is amended to read as follows:

"(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall delegate to the Administrator the authority to administer all functions under this chapter, except that any such delegation shall not relieve the Director of responsibility for the administration of such functions. The Administrator shall serve as principal adviser to the Director on Federal information policy and shall report directly to the Director.".

(b) The amendment made by this section, insofar as it relates to appointment of the Administrator of the Office of Information and Regulatory Affairs, shall take effect on the earlier of—

(1) January 20, 1989; or

(2) the date on which a vacancy in that Office first occurs after the date of enactment of this Act.

AUTHORITY AND FUNCTIONS OF DIRECTOR

SEC. 814. (a) Section 3504(a) of title 44, United States Code, is amended to read as follows:

"(a) The Director shall develop and implement Federal information policies, principles, standards, and guidelines and shall provide direction and oversee the review and approval of information collection requests, the reduction of the paperwork burden, Federal statistical activities, records management activities, privacy and security of records, agency sharing and dissemination of information, and acquisition and use of automatic data processing, telecommunications, and other information technology for managing information resources. The authority of the Director under this section shall be exercised consistent with applicable law.".

(b) Section 3504(d) of such title is amended to read as follows:

"(d) The statistical policy and coordination functions of the Director shall include—

"(1) developing and periodically reviewing and, as necessary, revising long-range plans for the improved coordination and performance of the statistical activities and programs of the Federal Government;

"(2) reviewing budget proposals of agencies to assure that the proposals are consistent with such long-range plans;

"(3) coordinating, through the review of budget proposals and as otherwise provided in this chapter, the functions of the

Federal Government with respect to gathering, interpreting, and disseminating statistics and statistical information;

"(4) developing and implementing Government-wide policies, principles, standards, and guidelines concerning statistical collection procedures and methods, statistical data classification, statistical information presentation and dissemination, and such statistical data sources as may be required for the administration of Federal programs;

"(5) evaluating statistical program performance and agency compliance with Government-wide policies, principles, standards, and guidelines;

"(6) integrating the functions described in paragraphs (1) through (5) of this subsection with the other information resources management functions specified in this chapter; and

"(7) appointing a chief statistician who is a trained and experienced professional statistician to carry out the functions described in paragraphs (1) through (6) of this subsection.".

(c) Section 3504(g) of such title is amended by striking out "and telecommunications" each place it appears and inserting in lieu thereof "(including telecommunications)".

ASSIGNMENT OF TASKS AND DEADLINES

SEC. 815. Section 3505 of title 44, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (2)(E);

(2) by striking out paragraph (3)(E) and inserting in lieu thereof the following:

"(E) develop and annually revise, in consultation with the Administrator of General Services, a 5-year plan for meeting the automatic data processing equipment (including telecommunications) and other information technology needs of the Federal Government in accordance with the requirements of sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757, 759) and the purposes of this chapter; and";

(3) by striking out the period at the end of paragraph (3)(F) and inserting in lieu thereof a semicolon; and

(4) by inserting after paragraph (3) the following new paragraphs:

"(4) upon the enactment of the Paperwork Reduction Reauthorization Act of 1986—

"(A) set a goal to reduce, by September 30, 1987, the burden of Federal collections of information existing on September 30, 1986, by at least 5 percent; and

"(B) for the fiscal year beginning on October 1, 1987, and each of the next two fiscal years, set a goal to reduce the burden of Federal collections of information existing at the end of the immediately preceding fiscal year by at least 5 percent;

"(5) maintain a comprehensive set of information resources management policies; and

"(6) within one year after the date of enactment of the Paperwork Reduction Reauthorization Act of 1986—

"(A) issue, in consultation with the Administrator of General Services, principles, standards, and guidelines to implement the policies described in paragraph (5);

"(B) report to the Congress on the feasibility and means of enhancing public access, including access by electronic media, to information relating to information collection requests required by this chapter to be made available to the public; and

"(C) identify further initiatives to reduce the burden of Federal collections of information associated with the administration of Federal grant programs.".

FEDERAL AGENCY RESPONSIBILITIES

SEC. 816. Section 3506(c) of title 44, United States Code, is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) systematically inventory its major information systems and periodically review its information resources management activities;";

(2) by striking out "and" at the end of paragraph (4);

(3) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon and "and"; and

(4) by adding at the end thereof the following new paragraphs:

"(6) implement applicable Government-wide and agency information policies, principles, standards, and guidelines with respect to information collection, paperwork reduction, statistical activities, records management activities, privacy and security of records, sharing and dissemination of information, acquisition and use of information technology, and other information resource management functions;

"(7) periodically evaluate and, as needed, improve, the accuracy, completeness, and reliability of data and records contained within Federal information systems; and

"(8) develop and annually revise a 5-year plan, in accordance with appropriate guidance provided by the Director, for meeting the agency's information technology needs.".

PUBLIC INFORMATION COLLECTION ACTIVITIES

SEC. 817. (a) Section 3507(a)(2)(B) of title 44, United States Code, is amended by inserting before the semicolon the following: "and setting forth a title for the information collection request, a brief description of the need for the information and its proposed use, a description of the likely respondents and proposed frequency of response to the information collection request, and an estimate of the burden that will result from the information collection request".

(b) Section 3507(b) of such title is amended by inserting ", including an explanation thereof," after "decisions" in the first sentence.

(c) Section 3507 of such title is further amended by adding at the end thereof the following new subsection:

"(h) Any written communication to the Administrator of the Office of Information and Regulatory Affairs or to any employee thereof from any person not employed by the Federal Government or from an agency concerning a proposed information collection request, and any written communication from the Administrator or employee of the Office to such person or agency concerning such proposal, shall be made available to the public. This subsection shall not require the disclosure of any information which is protected at

all times by procedures established for information which has been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept secret in the interest of national defense or foreign policy.".

FEDERAL INFORMATION LOCATOR SYSTEM

SEC. 818. Section 3511(a) of title 44, United States Code, is amended to read as follows:

"(a) There is established in the Office of Information and Regulatory Affairs a Federal Information Locator System (hereafter in this section referred to as the 'system') which shall be composed of a directory of information resources, a data element dictionary, and an information referral service. The system shall serve as the authoritative register of all information collection requests, and shall be designed so as to assist agencies and the public in locating existing Government information derived from information collection requests.".

RESPONSIVENESS TO CONGRESS

SEC. 819. Subsection (a) of section 3514 of title 44, United States Code, is amended—

(1) by striking out "and" after the semicolon in paragraph (7);

(2) by striking out the period at the end of paragraph (8)(C) and inserting in lieu thereof a semicolon; and

(3) by inserting after paragraph (8) the following new paragraph:

"(9)(A) a summary of accomplishments in the improvement of, and planned initiatives to improve, Federal information resources management within agencies;

"(B) a detailed statement with respect to each agency of new initiatives to acquire information technology to improve such management; and

"(C) an analysis of the extent to which the policies, principles, standards, and guidelines issued and maintained pursuant to paragraphs (5) and (6) of section 3505 of this title promote or deter such new initiatives; and

"(10) with respect to the statistical policy and coordination functions described in section 3504(d) of this title—

"(A) a description of the specific actions taken, or planned to be taken, to carry out each such function;

"(B) a description of the status of each major statistical program, including information on—

"(i) any improvements in each such program;

"(ii) any program which has been reduced or eliminated; and

"(iii) the budget for each such program for the previous fiscal year and the fiscal year in progress and the budget proposed for each such program for the next fiscal year; and

"(C) a description and summary of the long-range plans currently in effect for the major Federal statistical activities and programs.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 820. Section 3520 of title 44, United States Code, is amended to read as follows:

"§ 3520. Authorization of appropriations

"(a) Subject to subsection (b), there are authorized to be appropriated to the Office of Information and Regulatory Affairs to carry out the provisions of this chapter, and for no other purpose, $5,500,000 for each of the fiscal years 1987, 1988, and 1989.

"(b) No funds may be appropriated pursuant to subsection (a) unless such funds are appropriated in an appropriation Act (or continuing resolution) which separately and expressly states the amount appropriated pursuant to subsection (a) of this section. No funds are authorized to be appropriated to the Office of Information and Regulatory Affairs, or to any other officer or administrative unit of the Office of Management and Budget, to carry out the provisions of this chapter, or to carry out any function under this chapter, for any fiscal year pursuant to any provision of law other than subsection (a) of this section.

"(c) Funds appropriated pursuant to subsection (a) may not be used to carry out any function or activity which is not specifically authorized or required by this chapter, but funds so appropriated may be used for necessary expenses of a function or activity which is so authorized or required, such as hire of passenger motor vehicles and services authorized by section 3109 of title 5, United States Code. For the purposes of this subsection, the review of a rule or regulation is specifically authorized or required by this chapter only to the extent that such review is for the sole purpose of reviewing an information collection request contained in, or derived from, such rule or regulation.".

PART B—AMENDMENTS TO THE BROOKS ACT

INFORMATION TECHNOLOGY FUND

SEC. 821. (a)(1) Section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757) is amended to read as follows:

"INFORMATION TECHNOLOGY FUND

"SEC. 110. (a)(1) There is established on the books of the Treasury an Information Technology Fund (hereinafter referred to as the 'Fund'), which shall be available without fiscal year limitation. There are authorized to be appropriated to the Fund such sums as may be required. For purposes of subsection (b), the Fund shall consist of—

"(A) the capital and assets of the Federal telecommunications fund established under this section (as in effect on December 31, 1986), which are in such fund on January 1, 1987;

"(B) the capital and assets which are in the automatic data processing fund established under section 111 of this Act (as in effect on December 31, 1986) which are in such fund on January 1, 1987; and

"(C) the supplies and equipment transferred to the Administrator under sections 111 and 205(f) of this Act, subject to any liabilities assumed with respect to such supplies and equipment.

"(2) The Administrator shall determine the cost and capital requirements of the Fund for each fiscal year and shall submit plans concerning such requirements and such other information as may be requested for the review and approval of the Director of the Office of Management and Budget. Any change to the cost and capital requirements of the Fund for a fiscal year shall be made in the same manner as provided by this section for the initial fiscal year determination. If approved by the Director, the Administrator shall establish rates to be charged agencies provided, or to be provided, information technology resources through the Fund consistent with such approvals. Such cost and capital requirements may include funds—

"(A) needed for the purchase (if the Administrator has determined that purchase is the least costly alternative of information processing and transmission equipment, software, systems, and operating facilities necessary for the provision of such services;

"(B) resulting from operations of the Fund, including the net proceeds of disposal of excess or surplus personal property and receipts from carriers and others for loss or damage to property; and

"(C) which are appropriated, authorized to be transferred, or otherwise made available to the Fund.

"(b) The Fund shall—

"(1) assume all of the liabilities, obligations, and commitments of the funds described in subparagraphs (A) and (B) of subsection (a)(1); and

"(2) be available for expenses, including personal services and other costs, and for procurement (by lease, purchase, transfer, or otherwise) for efficiently providing information technology resources to Federal agencies and for the efficient management, coordination, operation, and utilization of such resources.

"(c)(1) In the operation of the Fund, the Administrator is authorized to enter into multiyear contracts for the provision of information technology hardware, software, or services for periods not in excess of five years, if—

"(A) funds are available and adequate for payment of the costs of such contract for the first fiscal year and any costs of cancellation or termination;

"(B) such contract is awarded on a fully competitive basis; and

"(C) the Administrator determines that—

"(i) the need for the information technology hardware, software, or services being provided will continue over the period of the contract;

"(ii) the use of the multiyear contract will yield substantial cost savings when compared with other methods of providing the necessary resources; and

"(iii) such a method of contracting will not exclude small business participation.

"(2) Any cancellation costs incurred with respect to a contract entered into under this subsection shall be paid from currently available funds in the Fund.

"(3) This subsection shall not be construed to limit the authority of the Administrator to procure equipment and services under section 201 of this Act.

"(d) Following the close of each fiscal year, the uncommitted balance of any funds remaining in the Fund, after making provision

for anticipated operating needs as determined by the Office of Management and Budget, shall be transferred to the general fund of the Treasury as miscellaneous receipts.

"(e) A report on the operation of the Fund shall be made annually by the Administrator to the Director of the Office of Management and Budget. Such report shall identify any proposed increases to the capital of the Fund and shall include a report on information processing equipment inventory, utilization, and acquisition.

"(f) For purposes of this section, the term 'information technology resources' includes any service or equipment which had been acquired or provided under this section or section 111 of this Act, including other information processing and transmission equipment, software, systems, operating facilities, supplies, and services related thereto, and maintenance and repair thereof.".

(2) The table of contents of the Federal Property and Administrative Services Act of 1949 is amended by striking out the item pertaining to section 110 and inserting in lieu thereof the following:

"Sec. 110. Information Technology Fund.".

(b)(1) Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is amended—

(A) by striking out subsections (c) and (d); and

(B) by redesignating subsections (e), (f), (g), (h), and (i) as subsections (c), (d), (e), (f), and (g), respectively.

(2) Section 3504(g) of title 44, United States Code, is amended—

(A) by striking out "section 111(f)" in paragraph (1) and inserting in lieu thereof "section 111(d)"; and

(B) by striking out "section 111(g)" in paragraph (2) and inserting in lieu thereof "section 111(e)".

(3) Section 3(b) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3503 note) is amended by striking out "section 111" and inserting in lieu thereof "sections 110 and 111".

APPLICATION OF ACT

SEC. 822. (a) Section 111(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)) is amended—

(1) by inserting "(1)" after "SEC. 111. (a)"; and

(2) by adding at the end thereof the following:

"(2)(A) For purposes of this section, the term 'automatic data processing equipment' means any equipment or interconnected system or subsystems of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching interchange, transmission, or reception, of data or information—

"(i) by a Federal agency, or

"(ii) under a contract with a Federal agency which—

"(I) requires the use of such equipment, or

"(II) requires the performance of a service or the furnishing of a product which is performed or produced making significant use of such equipment.

"(B) Such term includes—

"(i) computers;

"(ii) ancillary equipment;

"(iii) software, firmware, and similar procedures;

"(iv) services, including support services; and

"(v) related resources as defined by regulations issued by the Administrator for General Services.

"(3) This section does not apply to—

"(A) automatic data processing equipment acquired by a Federal contractor which is incidental to the performance of a Federal contract;

"(B) radar, sonar, radio, or television equipment;

"(C) the procurement by the Department of Defense of automatic data processing equipment or services if the function, operation, or use of which—

"(i) involves intelligence activities;

"(ii) involves cryptologic activities related to national security;

"(iii) involves the command and control of military forces;

"(iv) involves equipment which is an integral part of a weapon or weapons system; or

"(v) is critical to the direct fulfillment of military or intelligence missions, provided that this exclusion shall not include automatic data processing equipment used for routine administrative and business applications such as payroll, finance, logistics, and personnel management; or

"(D) the procurement of automatic data processing equipment or services by the Central Intelligence Agency.".

(b) Section 111(b) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) If the Administrator finds that a senior official of an agency designated pursuant to section 3506(b) of title 44, United States Code, is sufficiently independent of program responsibility and has sufficient experience, resources, and ability to carry out fairly and effectively procurements under this section, the Administrator may delegate to such official the authority to lease, purchase, or maintain automatic data processing equipment pursuant to paragraph (2) of this subsection, except that any such delegation shall not relieve the Administrator of the responsibilities assigned to the Administrator under this section. A delegation by the Administrator under this subsection shall not preclude the Administrator from reviewing individual procurement requests if the Administrator determines that circumstances warrant such a review. The Administrator shall retain authority to revoke such delegations, both in general and with regard to any specific matter. In acting for the Administrator, any official to whom approval authority has been delegated under this subsection shall comply fully with the rules and regulations promulgated by the Administrator .".

REVIEW OF DELEGATION DETERMINATIONS

SEC. 823. Section 111(e) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(e)) (as redesignated by section 821(b)(1) of this Act) is amended—

(1) by striking out "specifically affecting them or the automatic data processing equipment or components used by them" and inserting in lieu thereof "whether or not the automatic data processing equipment will be provided by the Administrator or whether or not the authority to lease, purchase, or maintain the equipment will be delegated"; and

(2) by striking out the last sentence and inserting in lieu thereof the following: "If the Administrator denies an agency

procurement request such denial shall be subject to review and decision by the Director of the Office of Management and Budget, unless the President otherwise directs. "Such review and decision shall be made only on the basis of a written appeal, and such written appeal, together with any written communications to the Administrator or any officer or employee of the Office of Management and Budget concerning such denial shall be made available to the public.".

BOARD OF CONTRACT APPEALS PROCEEDINGS

SEC. 824. Section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)) (as redesignated by section 821(b)(1) of this Act) is amended—

(1) in the first sentence of paragraph (1) thereof, by striking out "in connection with any procurement conducted under the authority of this section" and inserting in lieu thereof "in connection with any procurement which is subject to this section";

(2) in such sentence, by striking out "conducted under delegations" and inserting in lieu thereof "subject to delegation";

(3) by inserting before the last sentence of such paragraph the following new sentences: "The authority of the board to conduct such review shall include the authority to determine whether any procurement is subject to this section and the authority to review regulations to determine their consistency with applicable statutes.

A proceeding, decision, or order of the board pursuant to this subsection shall not be subject to interlocutory appeal or review."; and

(4) in paragraph (5) thereof, by adding at the end of subparagraph (A) the following: "The board may consider any decision, determination, opinion, or statement made by the Director of the Office of Management and Budget or any officer of any other Federal agency regarding applicability of this section to a particular procurement, and may request the advice of the Director or such officer with regard to such applicability, but shall not be bound by any such decision, determination, opinion, or statement when determining whether a procurement is subject to this section.".

CONFORMING AMENDMENT

SEC. 825. Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is further amended by striking out "Bureau of the Budget" each place it appears and inserting in lieu thereof "Office of Management and Budget".

PART C—MISCELLANEOUS PROVISIONS

EXTENSION OF AUTHORITY OF GENERAL SERVICES BOARD OF CONTRACT APPEALS

SEC. 831. Section 2713 of the Deficit Reduction Act of 1984 (98 Stat. 1184) is amended by striking out subsection (b).

CLARIFICATION OF AUTHORITY OF GENERAL SERVICES ADMINISTRATOR

SEC. 832. Section 101 of Federal Property and Administrative Services Act of 1949 (40 U.S.C. 751) is amended by adding at the end thereof the following:

"(f) The Administrator shall have authority to prescribe regulations to carry out this Act.".

EFFECTIVE DATE

SEC. 833. This title and the amendments made by this title shall take effect on the date of enactment of this Act, except as provided in section 813(b) and except that the provisions of section 821 and the amendments made by such section shall take effect on January 1, 1987.

(n) Such amounts as may be necessary for continuing the following activities, not otherwise provided for in this joint resolution, which were conducted in the fiscal year 1986, under the terms and conditions provided in applicable appropriations Acts for the fiscal year 1986, at the current rate or as otherwise provided herein: *Provided*, That no appropriation or fund made available or authority granted pursuant to this subsection shall be used to initiate or resume any project or activity for which appropriations, funds, or authority were not available during fiscal year 1986 unless otherwise provided for herein:

Refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act, part B of title III of the Refugee Act of 1980, and section 501 of the Refugee Education Assistance Act of 1980, except that the amount necessary for continuing such activities at the current rate shall be reduced, on an activity by activity basis, by the total of amounts of prior appropriations remaining available to the States for conducting any such activities, other than education assistance for children and social services, in fiscal year 1987 or thereafter, and shall not be available for conducting any such activities other than education assistance for children and social services in any fiscal year after 1987;

ACTIVITIES AUTHORIZED BY THE FOLLOW THROUGH ACT;

Economic Development Administration, notwithstanding any other provision of this Joint Resolution, for additional amounts for "Economic development assistance programs", $1,000,000, to remain available until expended, for a grant to the City of Portland, Oregon, for preliminary engineering, design and other related activities associated with expansion of the Oregon Museum of Science and Industry; and $1,000,000, to remain available until expended, for a grant to improve the existing county road in Sumter County, Alabama, from the Mississippi State line to Alabama Highway #17 (also known as Scooba Road); and $7,500,000, to remain available until expended, for a grant to continue economic development facilities and related infrastructure activities of the Fort Worth Stockyards Project at full Federal expense: *Provided*, That in addition, the Secretary of the Army, acting through the Chief of Engineers, using any funds heretofore, herein, and hereafter available to the Corps of Engineers, is authorized and directed to develop at full Federal

expense detailed plans and specifications and to construct measures in Tarrant County, Texas, to eliminate flood damage in the historical stockyards area along Tony's Creek and Marine Creek.

SEC. 102. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1986, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) September 30, 1987, whichever first occurs.

SEC. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 108. (a) AMENDMENTS TO FOOD SECURITY ACT OF 1985.—Effective with respect to each of the 1987 through 1990 crops, section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by—

(1) striking out paragraphs (1), (2), and (3), and inserting in lieu thereof the following:

"(1) For each of the 1987 through 1990 crops, the total amount of deficiency payments (excluding any deficiency payments described in paragraph (2)(B)(iv) of this section) and land diversion payments that a person shall be entitled to receive under one or more of the annual programs established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for wheat, feed grains, upland cotton, extra long staple cotton, and rice may not exceed $50,000.

"(2)(A) For each of the 1987 through 1990 crops, the total amount of payments set forth in subparagraph (B) that a person shall be entitled to receive under one or more of the annual programs established under the Agricultural Act of 1949 for wheat, feed grains, upland cotton, extra long staple cotton, rice, honey, and (with respect to clause (iii)(II) of subparagraph (B)) other commodities, when combined with payments for such crop described in paragraph (1), shall not exceed $250,000.

"(B) As used in subparagraph (A), the term 'payments' means—

"(i) any part of any payment that is determined by the Secretary of Agriculture to represent compensation for resource adjustment (excluding land diversion payments) or public access for recreation;

"(ii) any disaster payment under one or more of the annual programs for a commodity established under the Agricultural Act of 1949;

"(iii)(I) any gain realized by a producer from repaying a loan for a crop of wheat, feed grains, upland cotton, rice, or honey at the rate permitted under section 107D(a)(5), 105C(a)(4), 103A(a)(5), 101A(a)(5), or 201(b)(2), respectively, of the Agricultural Act of 1949, or (II) any gain realized by a producer from repaying a loan for a crop of any other commodity at a lower

level than the original loan level established under the Agricultural Act of 1949;

"(iv) any deficiency payment received for a crop of wheat or feed grains under section 107D(c)(1) or 105C(c)(1), respectively, of the Agricultural Act of 1949 as the result of a reduction of the loan level for such crop under section 107D(a)(4) or 105C(a)(3) of such Act;

"(v) any loan deficiency payment received for a crop of wheat, feed grains, upland cotton, or rice under section 107D(b), 105C(b), 103A(b), or 101A(b), respectively, of the Agricultural Act of 1949; and

"(vi) any inventory reduction payment received for a crop of wheat, feed grains, upland cotton, or rice under section 107D(g), 105C(g), 103A(g), or 101A(g), respectively, of the Agricultural Act of 1949.

Such term shall not include loans or purchases, except as specifically provided for in this paragraph.

"(C) The total amount of loans on a crop of honey that a person may have outstanding at any one time under the annual program established for such crop under the Agricultural Act of 1949 may not exceed $250,000 less the amount of payments, as described in paragraph (1) and subparagraphs (A) and (B) of this paragraph, received by such person for the crop year involved.

"(3) Notwithstanding the foregoing provisions of this section, if the Secretary of Agriculture determines that any of the limitations provided for in paragraph (2) will result in a substantial increase in the number or dollar amount of loan forfeitures for a crop of a commodity, will substantially reduce the acreage taken out of production under an acreage reduction program for a crop of a commodity, or will cause the market prices for a crop of a commodity to fall substantially below the effective loan rate for the crop, the Secretary shall adjust upward such limitation, under such terms and conditions as the Secretary determines appropriate, as necessary to eliminate such adverse effect on the program involved.";

(2) adding at the end of subparagraph (A) of paragraph (5) the following: "Such regulations shall provide that the term 'person' does not include any cooperative association of producers that markets commodities for producers with respect to the commodities so marketed for producers."; and

(3) in paragraph (6), striking out "lands owned" and inserting in lieu thereof "lands or animals owned", and inserting after "lands are farmed" the following: "or animals are husbanded".

(b) APPLICATION OF AMENDMENTS.—The amendments made by subsection (a) shall not apply with respect to any payment or loan received under any agreement or contract made before the date of enactment of this Act.

(c) REVISION OF REGULATIONS.—

(1)(A) The Secretary of Agriculture shall review the regulations in effect on the date of enactment of this Act that define "person" under section 1001 of the Food Security Act of 1985 and related regulations in effect on such date otherwise affecting the payment limitations under such section, to determine ways in which such regulations can be revised to better ensure the fair and reasonable application of limitations and eliminate fraud and abuse in the application of such payment limitations.

(B) The Secretary also shall review the amendments to section 1001 of the Food Security Act of 1985 made by this section.

(2) Based on the reviews conducted under paragraph (1), the Secretary of Agriculture shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives, not later than March 1, 1987, a report on such reviews and—

(A) with respect to the matters reviewed under paragraph (1)(A), proposed regulations or amendments to regulations, to take effect not earlier than October 1, 1987, that will meet the object with respect to limitations specified in paragraph (1)(A); and

(B) with respect to the matters reviewed under paragraph (1)(B), recommendations on legislative changes to section 1001 of the Food Security Act of 1985 that the Secretary determines are necessary or appropriate.

SEC. 110. The Interagency Committee on Cigarette and Little Cigar Fire Safety, established pursuant to Public Law 98-567, shall have an additional six months to complete its final technical report and submit policy recommendations to the Congress.

SEC. 111. (a) Any individual who—

(1) on the day before the date on which food services operations for the House of Representatives are transferred by contract to a corporation or other person—

(A) is a congressional employee (as defined in section 2107 of title 5, United States Code), other than an employee of the Architect of the Capitol, engaged in providing such food services under the administrative control of the Architect of the Capitol; and

(B) is subject to subchapter III of chapter 83 of title 5, United States Code, or chapter 84 of such title;

(2) as a result of such contract, ceases to be an employee described in paragraph (1); and

(3) becomes employed to provide such food services under contract, including a successor contract;

may, for purposes of the provisions of law specified in subsection (b), elect to be treated, for so long as such individual continues to be employed (without a break in service) as described in paragraph (3), as if such individual had not ceased to be an employee described in paragraph (1). Such election shall be made on or before the day referred to in paragraph (1) and shall be available only to an individual whose transition from the employment described in paragraph (1) to the employment described in paragraph (3) takes place without a break in service.

(b) The provisions of law referred to in subsection (a) are—

(1) subchapter III of chapter 83 of title 5, United States Code (including section 8339(m) of such title (which shall be applied, when an employee retires on an immediate annuity or dies, as if the employment at the time of retirement or death were under a formal leave system), with respect to unused sick leave to the credit of an employee on the day referred to in subsection (a)(1));

(2) chapter 84 of title 5, United States Code; and

(3) title III of the Federal Employees' Retirement System Act of 1986.

(c)(1) At the earliest practicable opportunity, the Director of the Office of Personnel Management shall, in consultation with the Architect of the Capitol, prescribe regulations to carry out this section with respect to matters within the jurisdiction of the Office, including regulations under which—

(A) an individual who makes an election under subsection (a) shall pay into the Civil Service Retirement and Disability Fund any employee contributions which would be required if such individual were a Congressional employee; and

(B) the employer furnishing food services under a contract referred to in subsection (a) shall pay into the Civil Service Retirement and Disability Fund amounts equal to any agency contributions which would be required if the individual were a Congressional employee.

(2) At the earliest practicable opportunity, the Executive Director of the Federal Retirement Thrift Investment Board shall, in consultation with the Architect of the Capitol, prescribe regulations to carry out this section with respect to matters within the jurisdiction of the Board.

SEC. 112. Notwithstanding any other provision of law, none of the funds in this or any other Act shall be used by the Coast Guard to participate in any demonstration project or to implement in any way the extension of the navigation season on the Great Lakes or the St. Lawrence River without written notification to and prior approval of the House and Senate Committees on Appropriations: *Provided*, That nothing in this section shall preclude the Coast Guard from performing routine search and rescue operations.

SEC. 113. Within 30 days of enactment, the Federal Aviation Administration shall initiate rulemaking action to consider the question of requiring the installation and carriage of operating transponders with automatic altitude reporting capability for all aircraft operating in terminal airspace where the Federal Aviation Administration provides radar service, and in all controlled airspace above a minimum altitude to be determined by the Federal Aviation Administration. This regulation shall be effective on the earliest feasible date.

SEC. 114. (a) The Secretary of Transportation shall approve the construction of Interstate Highway H-3 between the Halawa interchange to, and including the Halekou interchange (a distance of approximately 10.7 miles), and such construction shall proceed to completion notwithstanding section 138 of title 23 and section 303 of title 49, United States Code.

(b) Notwithstanding section 102 of this joint resolution the provisions of subsection (a) shall constitute permanent law.

SEC. 106. The Administrator of the General Services Administration, under section 210(h) of the Federal Property and Administrative Services Act of 1949, as amended, shall acquire, by means of a lease of up to 30 years duration, space for the U.S. Courts in Tacoma, Washington at the site of Union Station, Tacoma, Washington.

Notwithstanding any other provisions of this joint resolution, no funds shall be appropriated for the procurement of T-46 aircraft in fiscal year 1987. Funds appropriated in fiscal year 1986 for the procurement of T-46 aircraft shall be available to conduct the competitive fly-off set forth in section 145 of the fiscal year 1987 Defense Authorization Act: *Provided*, That such funds shall not be available for the modification or development of any candidate aircraft for the purposes of that competition. Such competition shall be completed by January 1, 1988. The Air Force shall proceed immediately to prepare for the required competition mandated by section 145: *Provided further*, That section 2304 of said Act (S. 2638) shall not be interpreted to apply to any funds provided for operation

and maintenance, design funds, or military construction funds for other than major military construction projects at any military installation or facility.

SEC. 144. (a) CIVILIAN PAY RAISE.—(1) Notwithstanding any other provision of law, in the case of fiscal year 1987, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems, shall be an increase of 3 percent.

(2) Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period commencing on or after January 1, 1987.

(3)(A) Notwithstanding any other provision of law, determinations relating to amounts to be appropriated in order to provide for the adjustment described in paragraph (1) shall be made based on the assumption that the various departments and agencies of the Government will, in the aggregate, absorb 50 percent of the increase in total pay for fiscal year 1987.

(B) Subparagraph (A) does not apply with respect to the Department of Defense or pay for employees of the Department of Defense.

(4) For purposes of this subsection—

(A) the term "total pay" means, with respect to a fiscal year, the total amount of basic pay which will be payable to employees covered by the statutory pay systems for service performed during such fiscal year;

(B) the term "increase in total pay" means, with respect to a fiscal year, that part of total pay for such year which is attributable to the adjustment taking effect under this section during such year; and

(C) the term "statutory pay system" has the meaning given such term by section 5301(c) of title 5, United States Code.

(b) MILITARY PAY RAISE.—(1) Any adjustment required by section 1009 of title 37, United States Code, in elements of the compensation of members of the uniformed services to become effective during fiscal year 1987 shall not be made.

(2) The rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 3 percent effective on January 1, 1987.

SEC. 145. (a)(1)(A) Since the Department of State has determined that "In the area of human rights, major discrepancies persist between Romania's Constitution, law, public pronouncements and international commitments on the one hand, and the civil liberties and human rights allowed by the regime on the other";

(B) Since it is apparent from numerous accounts by the State Department, congressional delegations, and human rights organizations that Romanian citizens are being arbitrarily harassed, interrogated, and arrested by government authorities for exercising their civil and religious liberties;

(C) Since Romania's harassment of religious believers extends to the arrest of persons for distributing Bibles and the destruction of places of worship, including most recently the country's largest Seventh Day Adventist Church and the Sephardic synagogue in Bucharest;

(D) Since the Romanian government has imposed severe limits on the freedom of Hungarians and other ethnic minorities to express

and maintain their cultural heritage, and has attempted to systematically eliminate Hungarian churches, schools, traditions, and even the Hungarian language from Romanian society;

(E) Since the United States' extension of Most-Favored-Nation trade status to Romania, although linked in the Jackson-Vanik Amendment to freedom of emigration from that country, might be misconstrued as an endorsement of that nation's abusive internal practices:

(2) Now, therefore be it declared by the Senate—

(b) The Congress strongly condemns Romania's continued hostility to the exercise of religious, political and cultural rights, and calls upon Romania to cease such persecution, to halt its destruction of places of worship, and to lift its ban on the production and distribution of Bibles and other religious literature.

(c) It is the sense of the Congress that the President should consider the following factors in shaping our bilateral relations with Romania:

(1) whether Romania is making substantial progress in halting its persecution of Romanian citizens on religious and political grounds and its repression of Hungarians and other ethnic minorities; and

(2) whether Romania is fulfilling its commitments to permit the printing of several thousand Bibles in Romania and to provide for the preserve places of worship.

(d) The Secretary of State shall transmit a copy of this resolution to the head of the diplomatic mission of Romania to the United States and to Romania's permanent representative to the United Nations.

SEC. 146. Such amounts as may be necessary of the Polish currencies held by the United States which have been generated by the sale to Poland of surplus United States dairy products shall be available for construction and renovation projects to be undertaken in Poland under the auspices of the Charitable Commission of the Polish Catholic Episcopate for the benefit of handicapped and orphaned children. Such currencies may be utilized without regard to the requirements of section 1306 of title 31, United States Code, or any other provision of law.

SEC. 147. Section 61(a) of the Arms Export Control Act is amended by adding at the end thereof the following: "The President may waive the requirement of paragraph (3) with respect to a lease which is made in exchange with the lessee for a lease on substantially reciprocal terms of defense articles for the Department of Defense, except that this waiver authority—

"(A) may be exercised only if the President submits to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate, in accordance with the regular notification procedures of those Committees, a detailed notification for each lease with respect to which the authority is exercised; and

"(B) may be exercised only during the fiscal year 1987 and only with respect to one country, unless the Congress hereafter provides otherwise.

The preceding sentence does not constitute authorization of appropriations for payments by the United States for leased articles.".

SEC. 148. Notwithstanding any other provisions of title 23, the Secretary of Transportation shall carry out the following project:

I-75 corridor in Kenton County, Kentucky, to examine the feasibility of unmanned radar units for safety purposes.

SEC. 149. Notwithstanding any other provision of law or this joint resolution, assistance to Bolivia shall be provided in accordance with the provisions of the Anti-Drug Abuse Act of 1986, as passed by the Senate on September 30, 1986.

SEC. 150. (a) Section 445(b)(1) of the Social Security Act is amended by striking out "June 30, 1985," and inserting in lieu thereof "June 30, 1987,".

(b) Section 445(d) of such Act is amended by striking out "June 30, 1984," and inserting in lieu thereof "June 30, 1987," and by striking out "June 30, 1987" and inserting in lieu thereof "June 30, 1988".

SEC. 151. (a) Notwithstanding any other provision of law, the Administrator of General Services is authorized during fiscal year 1987 to accept periodic reimbursement from the Senate and from the House of Representatives for the cost of any equipment purchased for the Senate or the House of Representatives, respectively, with funds from the General Supply Fund established under section 109 of the Federal Property and Administrative Services Act of 1949. The amount of each such periodic reimbursement shall be computed by amortizing the total cost of each item of equipment over the useful life of the equipment, as determined by the Administrator, in consultation with the Sergeant at Arms and Doorkeeper of the Senate or the Clerk of the House of Representatives, as appropriate.

(b) Subsection (a) applies to reimbursements to the General Supply Fund for any equipment purchased for the Senate or the House of Representatives before, on, or after the date of enactment of this section.

SEC. 152. Section 107D(c)(1)(E)(ii) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1)(E)(ii)) is amended by striking out "marketing year for such crop" and inserting in lieu thereof "first 5 months of the marketing year for the 1986 crop and the marketing year for each of the 1987 through 1990 crops".

SEC. 153. (a) The Congress finds that the activities conducted under the authorities of the Foreign Assistance Act of 1961 have contributed greatly to the alleviation of human suffering and the promotion of economic development in the recipient countries. The Congress finds further that changing circumstances in the developing countries and changing availability of resources from the United States require that a comprehensive review of the activities under that Act be undertaken.

(b) It is, therefore, the sense of the Congress that the President should undertake a comprehensive review of the activities authorized by the Foreign Assistance Act of 1961 and should send to the Committees on Appropriations and to the Senate Foreign Relations Committee and the House Foreign Affairs Committee by February 1, 1987, his recommendations for amending the Act or otherwise modifying those activities.

SEC. 154. (a) Section 502(a) of title 21 of the District of Columbia Code is amended by striking out the last sentence and inserting in lieu thereof "Eight of the members of the Commission shall be health care professionals who are psychiatrists, or doctoral level psychologists, practicing in the District of Columbia who have had not less than five years' experience in the treatment of mental illnesses.".

(b) Section 502(c) of title 21 of the District of Columbia Code is amended to read as follows:

"(c) Members of the Commission who are health care professionals shall serve on a part-time basis and shall be rotated by assignment of the Chief Judge of the court, so that at any one time the Commission shall consist of the chairman and two members who are health care professionals. Members of the Commission who are health care professionals may practice their profession during their tenure of office, but may not participate in the disposition of a case in which they have rendered professional service or advice.".

(c) The members of the District of Columbia Commission on Mental Health on the date of the enactment of this joint resolution shall serve the unexpired portions of their terms as members of such commission.

(d) The provisions of this joint resolution shall take effect on the date of enactment.

SEC. 163. Notwithstanding any legislative or judicial requirement, the Office of Surface Mining Reclamation and Enforcement may delay the finalization of the proposed rulemaking amending Parts 773 and 778 of the Code of Federal Regulations as published in the Federal Register on April 5, 1985 (50 FR 13724) until March 31, 1987.

TITLE II

OMNIBUS DRUG SUPPLEMENTAL APPROPRIATIONS ACT OF 1987

CHAPTER I

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For an additional amount for "Salaries and expenses, United States Attorneys", $31,000,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For an additional amount for "Salaries and expenses, United States Marshals Service", $17,000,000.

SUPPORT OF UNITED STATES PRISONERS

For an additional amount for "Support of United States prisoners", $5,000,000.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524, as amended by the Comprehensive Forefeiture Act of 1984 and the Anti-Drug Abuse Act of 1986 as passed the House of Representatives on October 8, 1986 or similar legislation if enacted into law, such sums as may be necessary to be derived from the Department of Justice Assets Forefeiture Fund.

FEDEREAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $2,000,000.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $60,000,000.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $28,000,000.

BUILDINGS AND FACILITIES

For an additional amount for "Buildings and facilities", $96,500,000, to remain available until expended.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For an additional amount for "Justice assistance", $225,000,000, to remain available until expended, for grants for drug law enforcement programs, to be used only to carry out provisions of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by H.R. 5484 as passed the House of Representatives on October 8, 1986 or similar legislation if enacted into law: *Provided*, That $2,000,000 shall be available only to carry out a pilot prison capacity program.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $12,000,000, to carry out the provisions of the Drug and Alcohol Dependent Offenders Treatment Act of 1986 as passed the House of Representatives on October 8, 1986 or similar legislation if enacted into law.

DEFENDER SERVICES

For an additional amount for "Defender services", $18,000,000, to remain available until expended.

FEES OF JURORS AND COMMISSIONERS

For an additional amount for "Fees of jurors and commissioners", $7,500,000, to remain available until expended.

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RELATED AGENCY

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $2,000,000, to be available only for drug education programs abroad.

CHAPTER II

FOREIGN ASSISTANCE

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

AGENCY FOR INTERNATIONAL DEVELOPMENT

Education and Human Resources Development, Development Assistance:

For an additional amount to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, $3,000,000: *Provided*, That these funds shall be used pursuant to section 126(b)(2) of the Foreign Assistance Act of 1961 for additional activities aimed at increasing awareness of the effects of production and trafficking of illicit narcotics on source and transit countries: *Provided further*, That funds made available by this paragraph shall be available through the regular notification procedures of the Committees on Appropriations.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For an additional amount to carry out the provisions of section 481 of the Foreign Assistance Act of 1961, $53,000,000: *Provided*, That of this amount $45,000,000 shall be made available only in accordance with the provisions of section 2001(2) of H.R. 5484, as passed in the Senate on September 30, 1986: *Provided further*, That funds made available by this paragraph shall be available through the regular notification procedures of the Committees on Appropriations.

CHAPTER III

DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For an additional amount for "Operation of the National Park System", $1,000,000.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For an additional amount for "Operation of Indian programs", $10,000,000: *Provided*, That funds made available to tribes and tribal organizations through grants or contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1988.

CONSTRUCTION

For an additional amount for "Construction", $12,500,000, to remain available until expended.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

INDIAN HEALTH SERVICES

For an additional amount for "Indian health services", $16,200,000: *Provided*, That funds made available to tribes and tribal organizations through grants or contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1988.

INDIAN HEALTH FACILITIES

For an additional amount for "Indian health facilities", $5,500,000, to remain available until expended.

CHAPTER IV

DEPARTMENT OF LABOR

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For an additional amount for the development of information on drug abuse in the workplace, $3,000,000 to remain available until September 30, 1988.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For an additional amount for substance abuse prevention and treatment activities as authorized by titles III, V and XIX of the Public Health Service Act, $262,000,000 to remain available until September 30, 1988.

DEPARTMENT OF EDUCATION

SPECIAL PROGRAMS

For an additional amount for carrying out drug abuse education and prevention activities, $200,000,000 to remain available until September 30, 1988, of which $5,500,000 shall be used for the development of audio-visual materials for distribution to local educational authorities.

RELATED AGENCY

ACTION

OPERATING EXPENSES

For an additional amount for substance abuse prevention and education activities as authorized by the Domestic Volunteer Service Act of 1973, $3,000,000.

CHAPTER V

DEPARTMENT OF TRANSPORTATION

COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating expenses", $39,000,000.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for "Acquisition, construction, and improvements", $89,000,000, to remain available until September 30, 1991.

CHAPTER VI

DEPARTMENT OF TREASURY

U.S. CUSTOMS SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $44,120,000.

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

For an additional amount for "Operation and Maintenance, Air Interdiction Program", $93,131,000, of which up to $10,000,000 is available for the U.S.-Bahamas Task Force; $25,000,000 is available for establishment of command, control, communications, and intelligence (C-3I) centers under the exclusive control of the U.S. Customs Service; and $9,131,000 for additional modification of Customs P-3 aircraft with 360 degree radar, such sums to remain available until expended.

CUSTOMS FORFEITURE FUND

For an additional amount for the "Customs Forfeiture Fund", $10,000,000, to be derived from deposits in the Fund.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $5,000,000.

PAYMENT TO THE GOVERNMENT OF PUERTO RICO

For payment of a grant to the government of Puerto Rico, $7,800,000, to remain available until expended.

EXECUTIVE OFFICE OF THE PRESIDENT

WHITE HOUSE CONFERENCE ON DRUG ABUSE AND CONTROL

SALARIES AND EXPENSES

For necessary expenses of the White House Conference on Drug Abuse and Control, $5,000,000.

CHAPTER VII

DEPARTMENT OF DEFENSE

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and maintenance, Navy", $15,000,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and maintenance, Air Force", $12,615,000.

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for "Aircraft procurement, Army", $18,000,000.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for "Aircraft procurement, Navy", $183,000,000.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other procurement, Air Force", $71,385,000.

ADMINISTRATIVE PROVISION

Notwithstanding any other provision of law, all purchases, leases, or other uses of military type equipment acquired from appropria-

tions provided in this chapter shall be procured under existing procedures established by the Department of Defense.

This title may be cited as the "Omnibus Drug Supplemental Appropriations Act of 1987".

TITLE III

SCHOOL LUNCH AND CHILD NUTRITION AMENDMENTS

SEC. 301. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "School Lunch and Child Nutrition Amendments of 1986".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

TABLE OF CONTENTS

Sec. 301. Short title; table of contents.

Subtitle A—Reauthorization of Child Nutrition Programs

Sec. 311. Summer food service program for children.
Sec. 312. Commodity distribution program.
Sec. 313. State administrative expenses.
Sec. 314. Special supplemental food program for women, infants, and children.
Sec. 315. Nutrition education and training program.

Subtitle B—School Lunch and Breakfast Programs

Sec. 321. Basis of commodity assistance.
Sec. 322. Inclusion of whole milk as a school lunch beverage.
Sec. 323. Automatic eligibility for certain programs.
Sec. 324. Limitation on meal contracting.
Sec. 325. Change in tuition limitation for private schools.
Sec. 326. Use of school lunch facilities for elderly programs.
Sec. 327. Pilot projects for administration of child nutrition programs by contract or direct disbursement.
Sec. 328. Department of Defense overseas dependents' schools.
Sec. 329. Restoration of certain kindergartens to the special milk program.
Sec. 330. Improvement of breakfast program meal pattern.
Sec. 331. Extension of offer versus serve provision to the school breakfast program.
Sec. 332. Staffing standards.

Subtitle C—Special Supplemental Food Program for Women, Infants, and Children

Sec. 341. Costs for nutrition services and administration.
Sec. 342. State eligibility for WIC funds.
Sec. 343. Participation report.
Sec. 344. Plan of operation and administration.
Sec. 345. Public comment.
Sec. 346. Availability of program benefits.
Sec. 347. Repayment of certain benefits by recipients.
Sec. 348. Priority funds for WIC migrant programs.
Sec. 349. Improving State agency administrative systems.
Sec. 350. Paperwork reduction.
Sec. 351. Allocation standards.
Sec. 352. Advance payments.
Sec. 353. Availability of funds.

Subtitle D—Other Nutrition Programs

Sec. 361. Hearings on Federal audit actions under the child care food program.
Sec. 362. Basis for nutrition education grants.
Sec. 363. Extension of alternative means of assistance.
Sec. 364. National donated commodity processing programs.

Subtitle E—Technical Corrections

Sec. 371. Obsolete provisions.
Sec. 372. Obsolete references to Health, Education, and Welfare.
Sec. 373. Conforming amendments.

Subtitle F—Sale of Agricultural Notes and Other Obligations

Sec. 381. Sale of agricultural notes and other obligations.

Subtitle A—Reauthorization of Child Nutrition Programs

SEC. 311. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

Section 13(p) of the National School Lunch Act (42 U.S.C. 1761(p)) is amended by striking out "1984" and inserting in lieu thereof "1989".

SEC. 312. COMMODITY DISTRIBUTION PROGRAM.

Section 14(a) of the National School Lunch Act (42 U.S.C. 1762a(a)) is amended by striking out "1984" and inserting in lieu thereof "1989".

SEC. 313. STATE ADMINISTRATIVE EXPENSES.

Section 7(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(i)) is amended by striking out "1984" and inserting in lieu thereof "1989".

SEC. 314. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.

Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended—

(1) in subsection (c)(2), by striking out "Subject to" and all that follows through "1984" and inserting in lieu thereof "Subject to amounts appropriated to carry out this section under subsection (g)";

(2) in subsection (g)—

(A) by designating the first and second sentences as paragraphs (1) and (3), respectively; and

(B) by amending paragraph (1) (as so designated) to read as follows:

"(1) There are authorized to be appropriated to carry out this section $1,580,494,000 for the fiscal year ending September 30, 1986, such sums as may be necessary for each of the fiscal years ending September 30, 1987, and September 30, 1988, and $1,782,000,000 for the fiscal year ending September 30, 1989."; and

(3) in subsection (h)(2), by striking out "1984" and inserting in lieu thereof "1989".

SEC. 315. NUTRITION EDUCATION AND TRAINING PROGRAM.

The first sentence of section 19(j)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(j)(2)) is amended by striking out "1984" and inserting in lieu thereof "1989".

Subtitle B—School Lunch and Breakfast Programs

SEC. 321. BASIS OF COMMODITY ASSISTANCE.

Section 6(b) of the National School Lunch Act (42 U.S.C. 1755(b)) is amended—

(1) in the first sentence, by striking out "May 15" and inserting in lieu thereof "June 1"; and

(2) in the second sentence, by striking out "June 15" and inserting in lieu thereof "July 1".

SEC. 322. INCLUSION OF WHOLE MILK AS A SCHOOL LUNCH BEVERAGE.

Effective July 1, 1986, section 9(a) of the National School Lunch Act (42 U.S.C. 1758(a)) is amended—

(1) by designating the first, second, and third sentences as paragraphs (1), (3), and (4), respectively; and

(2) by inserting after paragraph (1) (as so designated) the following new paragraph:

"(2) In addition to such other forms of milk as the Secretary may determine, the lunches shall offer whole milk as a beverage.".

SEC. 323. AUTOMATIC ELIGIBILITY FOR CERTAIN PROGRAMS.

Effective July 1, 1986, section 9(b) of the National School Lunch Act (42 U.S.C. 1758(b)) is amended by adding at the end thereof the following new paragraph:

"(6)(A) A child shall be considered automatically eligible for a free lunch and breakfast under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), respectively, without further application or eligibility determination, if the child is a member of—

"(i) a household receiving assistance under the food stamp program authorized under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

"(ii) an AFDC assistance unit (under the aid to families with dependent children program authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)), in a State where the standard of eligibility for the assistance does not exceed 130 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))).

"(B) Proof of receipt of food stamps or aid to families with dependent children shall be sufficient to satisfy any verification requirement imposed under paragraph (2)(C).".

SEC. 324. LIMITATION ON MEAL CONTRACTING.

Effective July 1, 1986, section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended by adding at the end thereof the following new subsection:

"(e) A school or school food authority participating in a program under this Act may not contract with a food service company to provide a la carte food service unless the company agrees to offer free, reduced-price, and full-price reimbursable meals to all eligible children.".

SEC. 325. CHANGE IN TUITION LIMITATION FOR PRIVATE SCHOOLS.

(a) SCHOOL LUNCH PROGRAMS.—Section 12(d)(5) of the National School Lunch Act (42 U.S.C. 1760(d)(5)) is amended in the first sentence by striking "except private schools whose average yearly tuition exceeds $1,500 per child,".

(b) SCHOOL BREAKFAST PROGRAMS.—Section 15(c) of the Child Nutrition Act of 1966 (42 U.S.C. 1784(c)) is amended in subparagraph (A) of the first sentence by striking "except private schools whose average yearly tuition exceeds $1,500 per child,".

(c) The amendments made by this section shall take effect July 1, 1987.

SEC. 326. USE OF SCHOOL LUNCH FACILITIES FOR ELDERLY PROGRAMS.

Section 12 of the National School Lunch Act (42 U.S.C. 1760) is amended by adding at the end thereof the following new subsection:

"(i) Facilities, equipment, and personnel provided to a school food authority for a program authorized under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) may be used, as determined by a local educational agency, to support a nonprofit nutrition program for the elderly, including a program funded under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).".

SEC. 327. PILOT PROJECTS FOR ADMINISTRATION OF CHILD NUTRITION PROGRAMS BY CONTRACT OR DIRECT DISBURSEMENT.

(a) PILOT PROJECTS.—Section 20 of the National School Lunch Act (42 U.S.C. 1769) is amended by striking out subsection (d) and inserting in lieu thereof the following new subsection:

"(d) The Secretary may conduct pilot projects in not more than three States in which the Secretary is currently administering programs to evaluate the effects of the Secretary contracting with private profit and nonprofit organizations to act as a State agency under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) for schools, institutions, or service institutions referred to in section 10 of this Act and section 5 of the Child Nutrition Act of 1966 (42 U.S.C. 1774).".

(b) CONFORMING AMENDMENT.—The first sentence of section 20(c) of the National School Lunch Act is amended by striking out "except for the pilot projects conducted under subsection (d) of this section,".

SEC. 328. DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS' SCHOOLS.

(a) SCHOOL LUNCHES.—Section 22(d) of the National School Lunch Act (42 U.S.C. 1769b(d)) (as added by section 1408(a) of the Education Amendments of 1978 (92 Stat. 2368)) is amended by striking out "and for" and all that follows through "reduced-price lunch".

(b) SCHOOL BREAKFASTS.—Section 20(d) of the Child Nutrition Act of 1966 (42 U.S.C. 1789) is amended by striking out "and for" and all that follows through "reduced-price breakfast".

SEC. 329. RESTORATION OF CERTAIN KINDERGARTENS TO THE SPECIAL MILK PROGRAM.

Effective July 1, 1987, section 3(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)) is amended—

(1) in the first sentence—

(A) by inserting "(1)" after the subsection designation;

(B) by redesignating clauses (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) in subparagraph (A) (as so redesignated), by inserting "except as provided in paragraph (2)," after "and under,";

(2) by designating the second through eighth sentences as paragraphs (3) through (9), respectively; and

(3) by inserting after paragraph (1) (as so designated) the following new paragraph:

"(2) The limitation imposed under paragraph (1)(A) for participation of nonprofit schools in the special milk program shall not apply to split-session kindergarten programs conducted in schools in which children do not have access to the meal service program operating in schools the children attend as authorized under this Act or the National School Lunch Act (42 U.S.C. 1751 et seq.).".

SEC. 330. IMPROVEMENT OF BREAKFAST PROGRAM MEAL PATTERN.

(a) ADDITIONAL ASSISTANCE.—Effective July 1, 1987, section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)) is amended by adding at the end thereof the following new paragraphs:

"(3) The Secretary shall increase by 3 cents the annually adjusted payment for each breakfast served under this Act and section 17 of the National School Lunch Act (42 U.S.C. 1766). These funds shall be used to assist States, to the extent feasible, in improving the nutritional quality of the breakfasts.

"(4) Notwithstanding any other provision of law, whenever stocks of agricultural commodities are acquired by the Secretary or the Commodity Credit Corporation and are not likely to be sold by the Secretary or the Commodity Credit Corporation or otherwise used in programs of commodity sale or distribution, the Secretary shall make such commodities available to school food authorities and eligible institutions serving breakfasts under this Act in a quantity equal in value to not less than 3 cents for each breakfast served under this Act and section 17 of the National School Lunch Act.

"(5) Expenditures of funds from State and local sources for the maintenance of the breakfast program shall not be diminished as a result of funds or commodities received under paragraph (3) or (4).".

(b) NUTRITION REQUIREMENTS.—(1) The Secretary of Agriculture shall review and revise the nutrition requirements for meals served under the breakfast program authorized under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) and section 17 of the National School Lunch Act (42 U.S.C. 1766) to improve the nutritional quality of the meals, taking into consideration both the findings of the National Evaluation of School Nutrition Programs and the need to provide increased flexibility in meal planning to local food authorities.

(2) Not later than 180 days after the date of enactment of this title, the Secretary of Agriculture shall promulgate regulations to implement the revisions.

SEC. 331. EXTENSION OF OFFER VERSUS SERVE PROVISION TO THE SCHOOL BREAKFAST PROGRAM.

Section 4(e) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) At the option of a local school food authority, a student in a school under the authority that participates in the school breakfast program under this Act may be allowed to refuse not more than one item of a breakfast that the student does not intend to consume. A refusal of an offered food item shall not affect the full charge to the student for a breakfast meeting the requirements of this section or the amount of payments made under this Act to a school for the breakfast.".

SEC. 332. STAFFING STANDARDS.

Section 7 of the Child Nutrition Act of 1966 (42 U.S.C. 1776) (as amended by section 313) is further amended—

(1) by striking out subsection (b); and

(2) by redesignating subsections (c) through (i) as subsections (b) through (h), respectively.

Subtitle C—Special Supplemental Food Program for Women, Infants, and Children

SEC. 341. COSTS FOR NUTRITION SERVICES AND ADMINISTRATION.

(a) DEFINITIONS.—Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) is amended—

(1) by striking out paragraph (1);

(2) by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively; and

(3) by inserting after paragraph (3) (as so redesignated) the following new paragraph:

"(4) 'Costs for nutrition services and administration' means costs that shall include, but not be limited to, costs for certification of eligibility of persons for participation in the program (including centrifuges, measuring boards, spectrophotometers, and scales used for the certification), food delivery, monitoring, nutrition education, outreach, startup costs, and general administration applicable to implementation of the program under this section, such as the cost of staff, transportation, insurance, developing and printing food instruments, and administration of State and local agency offices.".

(b) CONFORMING AMENDMENTS.—Section 17 of such Act is amended—

(1) by striking out "administrative funds" each place it appears in subsections (f)(11), (h)(2), (h)(3), and (h)(4) and inserting in lieu thereof "funds for nutrition services and administration"; and

(2) by striking out "administrative costs" each place it appears in subsection (h) and inserting in lieu thereof "costs for nutrition services and administration".

SEC. 342. STATE ELIGIBILITY FOR WIC FUNDS.

(a) ELIGIBILITY.—Section 17(c) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(c)) is amended by adding at the end thereof the following new paragraph:

"(4) A State shall be ineligible to participate in programs authorized under this section if the Secretary determines that State or local sales taxes are collected within the State on purchases of food made to carry out this section.".

(b) APPLICATION.—The amendment made by subsection (a) shall apply to a State beginning with the fiscal year that commences after the end of the first regular session of the State legislature following the date of the enactment of this title.

SEC. 343. PARTICIPATION REPORT.

(a) BIENNIAL REPORT.—Section 17(d) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)) is amended by adding at the end thereof the following new paragraph:

"(4) The Secretary shall report biennially to Congress on—

"(A) the income and nutritional risk characteristics of participants in the program;

"(B) participation in the program by members of families of migrant farmworkers; and

"(C) such other matters relating to participation in the program as the Secretary considers appropriate.".

(b) USE OF EVALUATION FUNDS FOR REPORT.—Section 17(g)(3) of such Act (as amended by section 314(2)(A)) is further amended by

inserting "preparing the report required under subsection (d)(4)," after "health benefits,".

SEC. 344. PLAN OF OPERATION AND ADMINISTRATION.

(a) PLAN.—Paragraph (1) of section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(1)) is amended to read as follows:

"(1)(A) Each State agency shall submit annually to the Secretary, by a date specified by the Secretary, a plan of operation and administration for a fiscal year.

"(B) To be eligible to receive funds under this section for a fiscal year, a State agency must receive the approval of the Secretary for the plan submitted for the fiscal year.

"(C) The plan shall include—

"(i) a description of the food delivery system of the State agency and the method of enabling participants to receive supplemental foods under the program, to be administered in accordance with standards developed by the Secretary;

"(ii) a description of the financial management system of the State agency;

"(iii) a plan to coordinate operations under the program with special counseling services, such as the expanded food and nutrition education program, immunization programs, prenatal care, well-child care, family planning, alcohol and drug abuse counseling, child abuse counseling, and with the aid to families with dependent children, food stamp, and maternal and child health care programs;

"(iv) a plan to provide program benefits under this section to, and to meet the special nutrition education needs of, eligible migrants and Indians;

"(v) a plan to expend funds to carry out the program during the relevant fiscal year;

"(vi) a plan to provide program benefits under this section to unserved and underserved areas in the State, if sufficient funds are available to carry out this clause;

"(vii) a plan to provide program benefits under this section to eligible persons most in need of the benefits and to enroll eligible women in the early months of pregnancy, to the maximum extent practicable; and

"(viii) such other information as the Secretary may require.

"(D) The Secretary may permit a State agency to submit only those parts of a plan that differ from plans submitted for previous fiscal years.

"(E) The Secretary may not approve any plan that permits a person to participate simultaneously in both the program authorized under this section and the commodity supplemental food program authorized under sections 4 and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note).".

(b) APPLICATION.—The amendment made by subsection (a) shall apply to a plan submitted by a State agency under section 17(f)(1) of the Child Nutrition Act of 1966 for the fiscal year ending September 30, 1987, and each fiscal year thereafter.

SEC. 345. PUBLIC COMMENT.

Paragraph (2) of section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(2)) is amended to read as follows:

"(2) A State agency shall establish a procedure under which members of the general public are provided an opportunity to comment on the development of the State agency plan.".

SEC. 346. AVAILABILITY OF PROGRAM BENEFITS.

Paragraph (8) of section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(8)) is amended to read as follows:

"(8)(A) The State agency shall, in cooperation with participating local agencies, publicly announce and distribute information on the availability of program benefits (including the eligibility criteria for participation and the location of local agencies operating the program) to offices and organizations that deal with significant numbers of potentially eligible persons (including health and medical organizations, hospitals and clinics, welfare and unemployment offices, social service agencies, farmworker organizations, Indian tribal organizations, and religious and community organizations in low income areas).

"(B) The information shall be publicly announced by the State agency and by local agencies at least annually.

"(C) The State agency and local agencies shall distribute the information in a manner designed to provide the information to potentially eligible persons who are most in need of the benefits, including pregnant women in the early months of pregnancy.".

SEC. 347. REPAYMENT OF CERTAIN BENEFITS BY RECIPIENTS.

Effective October 1, 1986, section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end thereof the following new paragraph:

"(15) If a State agency determines that a member of a family has received an overissuance of food benefits under the program authorized by this section as the result of such member intentionally making a false or misleading statement or intentionally misrepresenting, concealing, or withholding facts, the State agency shall recover, in cash, from such member an amount that the State agency determines is equal to the value of the overissued food benefits, unless the State agency determines that the recovery of the benefits would not be cost effective.".

SEC. 348. PRIORITY FUNDS FOR WIC MIGRANT PROGRAMS.

(a) PRIORITY FUNDING.—Effective October 1, 1986, section 17(g) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)) (as amended by section 314(2)(A)) is further amended by inserting after paragraph (1) the following new paragraph:

"(2) Of the sums appropriated for any fiscal year for programs authorized under this section, not less than nine-tenths of 1 percent shall be available first for services to eligible members of migrant populations. The migrant services shall be provided in a manner consistent with the priority system of a State for program participation.".

(b) ACCOUNTABILITY.—To the extent possible, accountability for migrant services under section 17(g)(2) of the Child Nutrition Act of 1966 (as added by subsection (a)) shall be conducted under regulations in effect on the date of the enactment of this Act.

SEC. 349. IMPROVING STATE AGENCY ADMINISTRATIVE SYSTEMS.

Section 17(g)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)(3)) (as amended by sections 314(2)(A) and 343(b)) is further

amended by inserting "providing technical assistance to improve State agency administrative systems," after "subsection (d)(4),".

SEC. 350. PAPERWORK REDUCTION.

Section 17(h)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(1)) is amended by adding at the end thereof the following new sentence: "The Secretary shall limit to a minimal level any documentation required under the preceding sentence.".

SEC. 351. ALLOCATION STANDARDS.

Section 17(h)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(3)) is amended—

(1) in the second sentence, by striking out ", which satisfy allocation guidelines established by the Secretary"; and

(2) by striking out the last sentence.

SEC. 352. ADVANCE PAYMENTS.

Effective October 1, 1986, section 17(h)(4) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(4)) is amended by striking out "shall" and inserting in lieu thereof "may".

SEC. 353. AVAILABILITY OF FUNDS.

(a) AVAILABILITY.—Section 17(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(i)) is amended—

(1) by designating the first, second, third, fourth, and fifth sentences as paragraphs (1), (2), (4), (5), and (6), respectively; and

(2) by inserting after paragraph (2) (as so designated) the following new paragraph:

"(3)(A) Notwithstanding paragraph (2)—

"(i) not more than 1 percent of the amount of funds allocated to a State agency under this section for supplemental foods for a fiscal year may be expended by the State agency for expenses incurred under this section for supplemental foods during the preceding fiscal year; or

"(ii) not more than 1 percent of the amount of funds allocated to a State agency for a fiscal year under this section may be expended by the State agency during the subsequent fiscal year.

"(B) Any funds made available to a State agency in accordance with subparagraph (A)(ii) for a fiscal year shall not affect the amount of funds allocated to the State agency for such year.".

(b) APPLICATION.—Section 17(i)(3)(A)(i) of the Child Nutrition Act of 1966 (as amended by subsection (a)) shall not apply to appropriations made before the date of enactment of this title.

Subtitle D—Other Nutrition Programs

SEC. 361. HEARINGS ON FEDERAL AUDIT ACTIONS UNDER THE CHILD CARE FOOD PROGRAM.

Section 17(e) of the National School Lunch Act (42 U.S.C. 1766(e)) is amended—

(1) by striking out "The" and inserting in lieu thereof "(1) Except as provided in paragraph (2), the"; and

(2) by adding at the end thereof the following new paragraphs:

"(2) A State is not required to provide a hearing to an institution concerning a State action taken on the basis of a Federal audit determination.

"(3) If a State does not provide a hearing to an institution concerning a State action taken on the basis of a Federal audit determination, the Secretary, on request, shall afford a hearing to the institution concerning the action.".

SEC. 362. BASIS FOR NUTRITION EDUCATION GRANTS.

Section 19(j)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(j)(2)) is amended by striking out "$75,000" each place it appears and inserting in lieu thereof "$50,000".

SEC. 363. EXTENSION OF ALTERNATIVE MEANS OF ASSISTANCE.

Section 14 of the National School Lunch Act (42 U.S.C. 1762a) is amended by adding at the end thereof the following new subsection:

"(g)(1) As used in this subsection, the term 'eligible school district' has the same meaning given such term in section 1581(a) of the Food Security Act of 1985.

"(2) In accordance with the terms and conditions of section 1581 of such Act, the Secretary shall permit an eligible school district to continue to receive assistance in the form of cash or commodity letters of credit assistance, in lieu of commodities, to carry out the school lunch program operated in the district.

"(3)(A) On request of a participating school district (and after consultation with the Comptroller General of the United States with respect to accounting procedures used to determine any losses) and subject to the availability of funds, the Secretary shall provide cash compensation to an eligible school district for losses sustained by the district as a result of the alteration of the methodology used to conduct the study referred to in section 1581(a) of such Act during the school year ending June 30, 1983.

"(B) There are authorized to be appropriated $50,000 to carry out this paragraph, to be available without fiscal year limitation.".

SEC. 364. NATIONAL DONATED COMMODITY PROCESSING PROGRAMS.

In accordance with the terms and conditions of section 1114(a)(2) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(a)(2)), whenever a commodity is made available without charge or credit under any nutrition program administered by the Secretary of Agriculture, the Secretary shall encourage consumption of the commodity through agreements with private companies under which the commodity is reprocessed into end-food products for use by eligible recipient agencies.

Subtitle E—Technical Corrections

SEC. 371. OBSOLETE PROVISIONS.

(a) NUTRITION PROGRAM STAFF STUDY; TRUST TERRITORY APPROPRIATIONS.—(1) Sections 18 and 19 of the National School Lunch Act (42 U.S.C. 1767 and 1768) are repealed.

(2) The first sentence of section 3 of such Act (42 U.S.C. 1752) is amended by striking out "sections 13, 17, and 19" and inserting in lieu thereof "sections 13 and 17".

(b) STUDY OF MENU CHOICE.—Section 22 of such Act (42 U.S.C. 1769c) (as added by section 9 of the Child Nutrition Amendments of 1978 (92 Stat. 3623)) is repealed.

(c) CONFORMING AMENDMENTS.—(1) The National School Lunch Act (as amended by sections 327 and 328(a) and subsection (b)) is

further amended by redesignating sections 20, 21, and 22 (42 U.S.C. 1769, 1769a, and 1769b) as sections 18, 19, and 20, respectively.

(2) Clause (3) of the first sentence of section 6(a) of such Act (42 U.S.C. 1755(a)) is amended by striking out "section 20" and inserting in lieu thereof "section 18".

SEC. 372. OBSOLETE REFERENCES TO HEALTH, EDUCATION, AND WELFARE.

(a) REFERENCES IN NATIONAL SCHOOL LUNCH ACT.—Clause (1) of the sixth sentence of section 17(a) of the National School Lunch Act (42 U.S.C. 1766(a)) is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(b) REFERENCES IN CHILD NUTRITION ACT OF 1966.—(1) The Child Nutrition Act of 1966 is amended by striking out "Health, Education, and Welfare" each place it appears in section 4(a) (42 U.S.C. 1773(a)), subsections (b)(6), (b)(13), (e)(2), (k)(1), and (k)(2) of section 17 (42 U.S.C. 1786), and subsections (d)(2) and (d)(3) of section 19 (42 U.S.C. 1788) and inserting in lieu thereof "Health and Human Services".

(2) Section 19(j)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(j)(3)) is amended by striking out "Office of Education of the Department of Health, Education, and Welfare" and inserting in lieu thereof "Department of Education".

SEC. 373. CONFORMING AMENDMENTS.

(a) DEFINITION OF SECRETARY.—Section 12(d) of the National School Lunch Act (42 U.S.C. 1760(d)) is amended by adding at the end thereof the following new paragraph:

"(8) 'Secretary' means the Secretary of Agriculture.".

(b) REDESIGNATION OF SUBSECTION.—Section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) (as amended by sections 315, 362, and 372(b)(2)) is further amended by redesignating subsection (j) as subsection (i).

Subtitle F—Sale of Agricultural Notes and Other Obligations

SEC. 381. SALE OF AGRICULTURAL NOTES AND OTHER OBLIGATIONS.

(a) IN GENERAL.—The Secretary of Agriculture shall, under such terms as the Secretary may prescribe, sell notes and other obligations held in the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a) in such amounts as to realize net proceeds of not less than—

(1) $25,000,000 from such sales during fiscal year 1987;

(2) $36,000,000 from such sales during fiscal year 1988; and

(3) $37,000,000 from such sales during fiscal year 1989.

(b) COLLECTION AND SALE OF NOTES.—The second sentence of section 309A(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a(e)) is amended—

(1) by inserting "and other obligations" after "Notes"; and

(2) by striking out the period at the end thereof and inserting the following: ", including sale on a nonrecourse basis. The Secretary and any subsequent purchaser of such notes and other obligations sold by the Secretary on a nonrecourse basis shall be relieved of any responsibilities that might have been imposed had the borrower remained indebted to the Secretary.".

(c) FARM CREDIT SYSTEM INSTITUTIONS.—Notwithstanding any other provision of law, institutions of the Farm Credit System operating under the Farm Credit Act of 1971 (12 U.S.C. 2001) shall be eligible to purchase notes and other obligations held in the Rural Development Insurance Fund and to service (including the extension of additional credit and all other actions necessary to preserve, conserve, or protect the institutions' interests in such notes and other obligations), collect, and dispose of such notes and other obligations, subject only to such terms and conditions as may be agreed to by the Secretary of Agriculture and such purchasing institutions and as are approved by the Farm Credit Administration.

TITLE V—AVIATION SAFETY

SHORT TITLE

SEC. 501. This title may be cited as the "Aviation Safety Commission Act of 1986".

COMMISSION ESTABLISHED

SEC. 502. (a) There is established a commission to be known as the Aviation Safety Commission (hereinafter referred to as the "Commission").

(b)(1) The Commission shall be composed of seven members appointed by the President no later than 30 days after the date of enactment of this Act.

(2) Appointees to the Commission shall possess extensive experience and expertise at the highest executive levels of public or corporate management.

(3) No member of the Commission shall, at the time of such member's appointment, be an employee or officer of the Federal Government, nor shall any member have been an employee of the Federal Government for at least 3 years before such member's appointment to the Commission.

(4)(A) At least four members of the Commission, including the Chairman, shall not have performed any service or have been involved in any way in any business concern in air commerce or any aviation-related industry for at least 3 years before their appointment to the Commission.

(B) For the purposes of this paragraph, the term "air commerce" has the meaning given to such term in section 101(4) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301(4)).

(c) The President shall appoint one of the members to serve as Chairman of the Commission.

(d) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(e) Four members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f)(1) The Commission shall hold its first meeting within 30 days after the appointment of all members.

(2) The Commission shall meet at the call of the Chairman or a majority of the members.

(g) Members of the Commission shall serve until the expiration of the Commission.

(h) The Commission shall cease to exist 18 months after the date of enactment of this Act.

FUNCTIONS OF THE COMMISSION

SEC. 503. The Commission shall make a complete study of the organization and functions of the Federal Aviation Administration (hereinafter referred to as the "Administration") and the means by which the Administration may most efficiently and effectively perform the responsibilities assigned to it by law and increase aviation safety.

(a)(1) In conducting such study, the Commission shall consider whether—

(A) the dual responsibilities of the Administration of promoting commercial aviation and ensuring aviation safety are in conflict, and whether such conflict impedes the effective maintenance and enhancement of aviation safety;

(B) the Administration should be reorganized as an independent Federal agency with the promotion, maintenance, and enhancement of aviation safety as the sole responsibility of such agency;

(C) the promotion of commercial aviation should be assigned as a responsibility to another agency of the Federal Government;

(D) airline deregulation has an adverse effect on the margin of aviation safety, including a review of whether the practice of airline self-compliance with respect to aviation maintenance standards is an outmoded approach in an environment designed to maximize cost-savings;

(E) it is feasible to make mandatory certain or all of the safety recommendations issued by the National Transportation Safety Board; and

(F) the Administration has adequately used its resources to ensure aviation safety.

(2) The study conducted under this subsection shall include findings and recommendations, including any recommendations for legislative action, regarding—

(A) the most appropriate and effective organizational approach to ensuring aviation safety; and

(B) measures to improve the enforcement of Federal regulations relating to aviation safety.

(3) In conducting such study, the Commission shall consult with the National Transportation Safety Board and a broad spectrum of representatives of the aviation industry, including—

(A) air traffic controllers;

(B) representatives of the commercial aviation industry;

(C) representatives of airways facilities technicians;

(D) independent experts on aviation safety;

(E) former Administrators of the Administration; and

(F) representatives of civil aviation.

(4) Within 9 months after the date of enactment of this Act, the Commission shall submit a report on the study conducted pursuant to this subsection to the President and to each House of Congress. Such report shall contain a detailed statement of the findings and conclusions of the Commission, together with recommendations for legislative and administrative actions.

(b) The Commission shall also make a complete investigation of management and employee relationships within the Administration, particularly the air traffic control system, and recommend actions for improvements.

(1) In conducting such investigation, the Commission shall:

(A) consider the findings and recommendations of the March 17, 1982, report of the "Task Force for the Study of Management-Employee Relationships in the FAA" (Jones Report) and document the progress made in implementing the recommendations of that report;

(B) assess the safety impact of rehiring former air traffic controllers who were dismissed as a result of the 1981 air traffic controller strike;

(C) assess the adequacy of the Administration's air traffic controller staffing standards, especially as they relate to the number of "full performance level" controllers, and review the Administration's experience in meeting those standards in each year since 1981; and

(D) formulate cost-effective recommendations to improve aviation safety based on the findings and conclusions of its investigation.

(2) Within 18 months after the date of enactment of this Act, the Commission shall submit a report on the investigation conducted pursuant to this subsection to the President and to each House of Congress. Such report shall contain a detailed statement of the findings and conclusions of the Commission, together with recommendations for legislative and administrative actions.

POWERS AND ADMINISTRATIVE PROVISIONS

SEC. 504. (a) The Commission may, for the purpose of carrying out the provisions of this Act, hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and publish such reports as the Commission considers appropriate.

(b)(1) Subject to such rules as may be adopted by the Commission, the Chairman, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 of such title relating to classification or chapter 53 of such title relating to General Schedule pay rates, may—

(A) appoint and fix the compensation of such staff personnel as the Chairman considers necessary, including an executive director who may be compensated at a rate not in excess of that provided for level V of the Executive Schedule in title 5, United States Code; and

(B) procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(2) Any person appointed as executive director pursuant to paragraph (1)(A) of this subsection shall meet the same qualifications required of members pursuant to section 502(b) of this Act.

(c) Each department, agency, and instrumentality of the executive branch of the Federal Government, including independent agencies, shall furnish to the Commission, upon request made by the Chairman, such information as the Commission considers necessary to carry out its functions.

(d) Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of

such agency to the Commission to assist the Commission in carrying out its duties.

(e) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(f) The Commission may use the United States mail in the same manner and under the same conditions as departments and agencies of the United States.

(g) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission may take under this section.

COMPENSATION OF MEMBERS

SEC. 505. Members of the Commission shall serve without compensation, but shall be reimbursed for travel or transportation expenses under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business and engaged in the actual performance of duties of the Commission.

AUTHORIZATION

SEC. 506. There is hereby authorized to be appropriated such sums as may be necessary in fiscal years 1987 and 1988 to carry out the provisions of this Act.

APPROPRIATIONS

SEC. 507. There is hereby appropriated for fiscal year 1987, $2,000,000 to carry out the provisions of this Act, to remain available until expended.

TITLE VI—METROPOLITAN WASHINGTON AIRPORTS

SEC. 6001. SHORT TITLE.

This title may be cited as the "Metropolitan Washington Airports Act of 1986".

SEC. 6002. FINDINGS.

The Congress finds that—

(1) the two federally owned airports in the metropolitan area of Washington, District of Columbia, constitute an important and growing part of the commerce, transportation, and economic patterns of the Commonwealth of Virginia, the District of Columbia, and the surrounding region;

(2) Baltimore/Washington International Airport, owned and operated by the State of Maryland, is an air transportation facility that provides service to the greater Metropolitan Washington region together with the two federally owned airports, and timely Federal-aid grants to Baltimore/Washington International Airport will provide additional capacity to meet the growing air traffic needs and to compete with other airports on a fair basis;

(3) the Federal Government has a continuing but limited interest in the operation of the two federally owned airports, which serve the travel and cargo needs of the entire Metropolitan Washington region as well as the District of Columbia as the national seat of government;

(4) operation of the Metropolitan Washington Airports by an independent local agency will facilitate timely improvements at both airports to meet the growing demand of interstate air transportation occasioned by the Airline Deregulation Act of 1978 (Public Law 95-504; 92 Stat. 1705);

(5) all other major air carrier airports in the United States are operated by public entities at the State, regional, or local level;

(6) any change in status of the two airports must take into account the interest of nearby communities, the traveling public, air carriers, general aviation, airport employees, and other interested groups, as well as the interests of the Federal Government and State governments involved;

(7) in recognition of a perceived limited need for a Federal role in the management of these airports and the growing local interest, the Secretary has recommended a transfer of authority from the Federal to the local/State level that is consistent with the management of major airports elsewhere in the Nation;

(8) an operating authority with representation from local jurisdictions, similar to authorities at all major airports in the United States, will improve communications with local officials and concerned residents regarding noise at the Metropolitan Washington Airports;

(9) a commission of congressional, State, and local officials and aviation representatives has recommended to the Secretary that transfer of the federally owned airports be as a unit to an independent authority to be created by the Commonwealth of Virginia and the District of Columbia; and

(10) the Federal interest in these airports can be provided through a lease mechanism which provides for local control and operation.

SEC. 6003. PURPOSE.

(a) IN GENERAL.—It is therefore declared to be the purpose of the Congress in this title to authorize the transfer of operating responsibility under long-term lease of the two Metropolitan Washington Airport properties as a unit, including access highways and other related facilities, to a properly constituted independent airport authority created by the Commonwealth of Virginia and the District of Columbia, in order to achieve local control, management, operation, and development of these important transportation assets.

(b) INCLUSION OF BWI NOT PRECLUDED.—Nothing in this title shall be construed to prohibit the Airports Authority and the State of Maryland from entering into an agreement whereby Baltimore/Washington International Airport may be made part of a regional airports authority, subject to terms and conditions agreed to by the Airports Authority, the Secretary, the Commonwealth of Virginia, the District of Columbia, and the State of Maryland.

SEC. 6004. DEFINITIONS.

In this title—

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(2) AIRPORTS AUTHORITY.—The term "Airports Authority" means the Metropolitan Washington Airports Authority, a public body to be created by the Commonwealth of Virginia and

the District of Columbia consistent with the requirements of section 6007.

(3) EMPLOYEES.—The term "employees" means all permanent Federal Aviation Administration personnel employed on the date the lease under section 6005 takes effect by the Metropolitan Washington Airports, an organization within the Federal Aviation Administration.

(4) METROPOLITAN WASHINGTON AIRPORTS.—The term "Metropolitan Washington Airports" means Washington National Airport and Washington Dulles International Airport.

(5) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(6) WASHINGTON DULLES INTERNATIONAL AIRPORT.—The term "Washington Dulles International Airport" means the airport constructed under the Act entitled "An Act to authorize the construction, protection, operation, and maintenance of a public airport in or in the vicinity of the District of Columbia", approved September 7, 1950 (64 Stat. 770), and includes the Dulles Airport Access Highway and Right-of-way, including the extension between the Interstate Routes I-495 and I-66.

(7) WASHINGTON NATIONAL AIRPORT.—The term "Washington National Airport" means the airport described in the Act entitled "An Act to provide for the administration of the Washington National Airport, and for other purposes", approved June 29, 1940 (54 Stat. 686).

SEC. 6005. LEASE OF METROPOLITAN WASHINGTON AIRPORTS.

(a) AUTHORITY TO ENTER INTO LEASE.—The Secretary is authorized to enter into a lease of the Metropolitan Washington Airports with the Airports Authority for a 50-year term and to enter into any related agreement necessary for the transfer of authority and property to the Airports Authority. Authority to enter into a lease and agreement under this section shall lapse two years after the date of the enactment of this title.

(b) PAYMENTS.—

(1) LEASE PAYMENTS.—The lease shall provide for the Airports Authority to pay to the general fund of the Treasury annually an amount, computed using the GNP Price Deflator, to equal $3,000,000 in 1987 dollars. The Secretary and the Airports Authority may renegotiate the level of lease payments attributable to inflation costs every ten years.

(2) RETIREMENT OBLIGATIONS.—

(A) DISCONTINUED SERVICE.—Not later than one year after the lease takes effect, the Airports Authority shall pay to the Treasury of the United States, to be deposited to the credit of the Civil Service Retirement and Disability Fund, an amount determined by the Office of Personnel Management to represent the actual added costs incurred by the Fund due to discontinued service retirement under section 8336(d)(1) of title 5, United States Code, of employees who elect not to transfer to the Airports Authority.

(B) UNFUNDED LIABILITY.—Not later than one year after the lease takes effect, the Airports Authority shall pay to the Treasury of the United States, to be deposited to the credit of the Civil Service Retirement and Disability Fund, an amount determined by the Office of Personnel Management to represent the present value of the difference

between (i) the future cost of benefits payable from the Fund and due the employees covered under section 6008(e) of this title that are attributable to the period of employment following the date the lease takes effect, and (ii) the contributions made by the employees and the Airports Authority under section 6008(e). In determining the amount due, the Office of Personnel Management shall take into consideration the actual interest such amount can be expected to earn when invested in the Treasury of the United States.

(c) MINIMUM TERMS AND CONDITIONS.—The Airports Authority shall agree, at a minimum, to the following conditions and requirements in the lease:

(1) OPERATION OF AIRPORTS AS A UNIT.—The Airports Authority shall operate, maintain, protect, promote, and develop the Metropolitan Washington Airports as a unit and as primary airports serving the Metropolitan Washington area.

(2) AIRPORT PURPOSES.—The real property constituting the Metropolitan Washington Airports shall, during the period of the lease, be used only for airport purposes. For the purposes of this paragraph, the term "airport purposes" means a use of property interests (other than a sale) for aviation business or activities, or for activities necessary or appropriate to serve passengers or cargo in air commerce, or for nonprofit, public use facilities. If the Secretary determines that any portion of the real property leased to the Airports Authority pursuant to this Act is used for other than airport purposes, the Secretary shall (A) direct that appropriate measures be taken by the Airports Authority to bring the use of such portion of real property in conformity with airport purposes, and (B) retake possession of such portion of real property if the Airports Authority fails to bring the use of such portion into a conforming use within a reasonable period of time, as determined by the Secretary.

(3) AIP REQUIREMENTS.—The Airports Authority shall be subject to the requirements of section 511(a) of the Airport and Airway Improvement Act of 1982 and the assurances and conditions required of grant recipients under such Act as of the date the lease takes effect. Notwithstanding section 511(a)(12) of such Act, all revenues generated by the Metropolitan Washington Airports shall be expended for the capital and operating costs of such airports.

(4) CONTRACTS.—In acquiring by contract supplies or services for an amount estimated to be in excess of $200,000, or awarding concession contracts, the Airports Authority shall obtain, to the maximum extent practicable, full and open competition through the use of published competitive procedures. By a vote of seven members, the Airports Authority may grant exceptions to the requirements of this paragraph.

(5) CONTINUATION OF REGULATIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), all regulations of the Metropolitan Washington Airports (14 C.F.R. part 159) shall become regulations of the Airports Authority on the date the lease takes effect and shall remain in effect until modified or revoked by the Airports Authority in accordance with procedures of the Airports Authority.

(B) EXCEPTIONS.—The following regulations shall cease to be in effect on the date the lease takes effect:

(i) section 159.59(a) of title 14, Code of Federal Regulations (relating to new-technology aircraft); and

(ii) section 159.191 of title 14, Code of Federal Regulations (relating to violations of Federal Aviation Administration regulations as Federal misdemeanors).

(C) OPERATIONS.—The Airports Authority may not increase or decrease the number of instrument flight rule takeoffs and landings authorized by the High Density Rule (14 C.F.R. 93.121 et seq.) at Washington National Airport on the date of the enactment of this Act and may not impose a limitation after the date the lease takes effect on the number of passengers taking off or landing at Washington National Airport.

(6) TRANSFER OF RIGHTS, LIABILITIES, AND OBLIGATIONS.—

(A) IN GENERAL.—Except as specified in subparagraph (B) of this paragraph, the Airports Authority shall assume all rights, liabilities, and obligations (tangible and incorporeal, present and executory) of the Metropolitan Washington Airports on the date the lease takes effect, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, accounts payable, and litigation relating to such rights and obligations, regardless whether judgment has been entered, damages awarded, or appeal taken. Before the date the lease takes effect, the Secretary shall also assure that the Airports Authority has agreed to cooperate in allowing representatives of the Attorney General and the Secretary adequate access to employees and records when needed for the performance of functions related to the period before the effectiveness of the lease. The Airports Authority shall assume responsibility for the Federal Aviation Administration's Master Plans for the Metropolitan Washington Airports.

(B) EXCEPTIONS.—The procedure for disputes resolution contained in any contract entered into on behalf of the United States before the date the lease takes effect shall continue to govern the performance of the contract unless otherwise agreed to by the parties to the contract. Claims for monetary damages founded in tort, by or against the United States as the owner and operator of the Metropolitan Washington Airports, arising before the date the lease takes effect shall be adjudicated as if the lease had not been entered into.

(C) PAYMENTS INTO EMPLOYEES' COMPENSATION FUND.—The Federal Aviation Administration shall remain responsible for reimbursing the Employees' Compensation Fund, pursuant to section 8147 of title 5, United States Code, for compensation paid or payable after the date the lease takes effect in accordance with chapter 81 of title 5, United States Code, with regard to any injury, disability, or death due to events arising before such date, whether or not a claim has been filed or is final on such date.

(D) COLLECTIVE BARGAINING RIGHTS.—The Airports Authority shall continue all collective bargaining rights enjoyed before the date the lease takes effect by employees of the Metropolitan Washington Airports.

(7) AUDITS.—The Comptroller General of the United States may conduct periodic audits of the activities and transactions of the Airports Authority in accordance with generally accepted management principles, and under such rules and regulations as may be prescribed by the Comptroller General. Any such audit shall be conducted at such place or places as the Comptroller General may deem appropriate. All books, accounts, records, reports, files, papers, and property of the Airports Authority shall remain in possession and custody of the Airports Authority.

(8) CODE OF ETHICS.—The Airports Authority shall develop a code of ethics and financial disclosure in order to assure the integrity of all decisions made by its board of directors and employees.

(9) RESTRICTION ON USE OF CERTAIN REVENUES.—Notwithstanding any other provision of law, no landing fee imposed for operating an aircraft or revenues derived from parking automobiles—

(A) at Washington Dulles International Airport may be used for maintenance or operating expenses (excluding debt service, depreciation, and amortization) at Washington National Airport; or

(B) at Washington National Airport may be used for maintenance or operating expenses (excluding debt service, depreciation, and amortization) at Washington Dulles International Airport.

(10) GENERAL AVIATION FEES.—The Airports Authority shall compute the fees and charges for landing general aviation aircraft at the Metropolitan Washington Airports on the same basis as the landing fees for air carrier aircraft, except that the Airports Authority may require a minimum landing fee not in excess of the landing fee for aircraft weighing 12,500 pounds.

(11) OTHER TERMS.—The Secretary shall include such other terms and conditions applicable to the parties to the lease as are consistent with and carry out the provisions of this title.

(d) SUBMISSION TO CONGRESS.—The Secretary shall submit the lease entered into under this section to Congress. The lease may not take effect before the passage of (1) 30 days, or (2) 10 days in which either House of Congress is in session, whichever occurs later.

(e) ENFORCEMENT OF LEASE PROVISIONS.—The district courts of the United States shall have jurisdiction to compel the Airports Authority and its officers and employees to comply with the terms of the lease. An action may be brought on behalf of the United States by the Attorney General, or by any aggrieved party.

SEC. 6006. CAPITAL IMPROVEMENTS, CONSTRUCTION, AND REHABILITATION.

(a) IMPROVEMENTS.—It is the sense of the Congress that the Airports Authority should—

(1) pursue the improvement, construction, and rehabilitation of the facilities at Washington Dulles International Airport and Washington National Airport simultaneously; and

(2) to the extent practicable, cause the improvement, construction, and rehabilitation proposed by the Secretary to be completed at both of such Airports within 5 years after the earliest date on which the Airports Authority issues bonds

under the authority required by section 6007 of this title for any such improvement, construction, or rehabilitation.

(b) SECRETARY'S ASSISTANCE.—The Secretary shall assist the three airports serving the Washington, D.C. metropolitan area in planning for operational and capital improvements at those airports and shall accelerate consideration of applications for Federal financial assistance by whichever of the three airports is most in need of increasing airside capacity.

SEC. 6007. AIRPORTS AUTHORITY.

(a) POWERS CONFERRED BY VIRGINIA AND THE DISTRICT OF COLUMBIA.—The Airports Authority shall be a public body corporate and politic, having the powers and jurisdiction as are conferred upon it jointly by the legislative authority of the Commonwealth of Virginia and the District of Columbia or by either of the jurisdictions and concurred in by the legislative authority of the other jurisdiction, but at a minimum meeting the requirements of this section.

(b) PURPOSE.—The Airports Authority shall be—

(1) independent of the Commonwealth of Virginia and its local governments, the District of Columbia, and the Federal Government; and

(2) a political subdivision constituted solely to operate and improve both Metropolitan Washington Airports as primary airports serving the Metropolitan Washington area.

(c) GENERAL AUTHORITIES.—The Airports Authority shall be authorized—

(1) to acquire, maintain, improve, operate, protect, and promote the Metropolitan Washington Airports for public purposes;

(2) to issue bonds from time to time in its discretion for public purposes, including the purposes of paying all or any part of the cost of airport improvements, construction, and rehabilitation, and the acquisition of real and personal property, including operating equipment for the airports, which bonds—

(A) shall not constitute a debt of either jurisdiction or a political subdivision thereof; and

(B) may be secured by the Airports Authority's revenues generally, or exclusively from the income and revenues of certain designated projects whether or not they are financed in whole or part from the proceeds of such bonds;

(3) to acquire real and personal property by purchase, lease, transfer, or exchange, and to exercise such powers of eminent domain within the Commonwealth of Virginia as are conferred upon it by the Commonwealth of Virginia;

(4) to levy fees or other charges; and

(5) to make and maintain agreements with employee organizations to the extent that the Federal Aviation Administration is so authorized on the date of enactment of this title.

(d) CONFLICT-OF-INTEREST PROVISIONS.—The Airports Authority shall be subject to a conflict-of-interest provision providing that members of the board and their immediate families may not be employed by or otherwise hold a substantial financial interest in any enterprise that has or is seeking a contract or agreement with the Airports Authority or is an aeronautical, aviation services, or airport services enterprise that otherwise has interests that can be directly affected by the Airports Authority. Exceptions to requirements of the preceding sentence may be made by the official

appointing a member at the time the member is appointed, if the financial interest is fully disclosed and so long as the member does not participate in board decisions that directly affect such interest. The Airports Authority shall include in its code developed under section 6005(c)(8) of this title the standards by which members will determine what constitutes a substantial financial interest and the circumstances under which an exception may be granted.

(e) BOARD OF DIRECTORS.—

(1) APPOINTMENT.—The Airports Authority shall be governed by a board of directors of 11 members, as follows:

(A) five members shall be appointed by the Governor of Virginia;

(B) three members shall be appointed by the Mayor of the District of Columbia;

(C) two members shall be appointed by the Governor of Maryland; and

(D) one member shall be appointed by the President with the advice and consent of the Senate.

The Chairman shall be appointed from among the members by majority vote of the members and shall serve until replaced by majority vote of the members.

(2) RESTRICTIONS.—Members shall (A) not hold elective or appointive political office, (B) serve without compensation other than for reasonable expenses incident to board functions, and (C) reside within the Washington Standard Metropolitan Statistical Area, except that the member appointed by the President shall not be required to reside in that area.

(3) TERMS.—Members shall be appointed to the board for a term of 6 years, except that of members first appointed—

(A) by the Governor of Virginia, 2 shall be appointed for 4 years and 2 shall be appointed for 2 years;

(B) by the Mayor of the District of Columbia, 1 shall be appointed for 4 years and 1 shall be appointed for 2 years; and

(C) by the Governor of Maryland, 1 shall be appointed for 4 years.

(4) REMOVAL OF PRESIDENTIAL APPOINTEES.—A member of the board appointed by the President shall be subject to removal by the President for cause.

(5) REQUIRED NUMBER OF VOTES.—Seven votes shall be required to approve bond issues and the annual budget.

(f) BOARD OF REVIEW.—

(1) COMPOSITION.—The board of directors shall be subject to review of its actions and to requests, in accordance with this subsection, by a Board of Review of the Airports Authority. Such Board of Review shall be established by the board of directors and shall consist of the following, in their individual capacities, as representatives of users of the Metropolitan Washington Airports:

(A) two members of the Public Works and Transportation Committee and two members of the Appropriations Committee of the House of Representatives from a list provided by the Speaker of the House;

(B) two members of the Commerce, Science, and Transportation Committee and two members of the Appropriations Committee of the Senate from a list provided by the President pro tempore of the Senate; and

(C) one member chosen alternately from members of the House of Representatives and members of the Senate, from a list provided by the Speaker of the House or the President pro tempore of the Senate, respectively.

The members of the Board of Review shall elect a chairman. A member of the House of Representatives or the Senate from Maryland or Virginia and the Delegate from the District of Columbia may not serve on the Board of Review.

(2) TERMS.—Members of the Board of Review appointed under subparagraphs (A) and (B) of paragraph (1) shall be appointed for terms of six years, except that of the members first appointed, one member under each of subparagraphs (A) and (B) shall be appointed for a term of two years and one member under each of subparagraphs (A) and (B) shall be appointed for a term of four years. Members of the Board of Review appointed under subparagraph (C) shall be appointed for terms of two years. A vacancy in the Board shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term.

(3) PROCEDURES.—The Board of Review shall establish procedures for conducting its business. The procedures may include requirements for a quorum at meetings and for proxy voting. The Board shall meet at least once each year and shall meet at the call of the chairman or 3 members of the Board. Any decision of the Board of Review under paragraph (4) or (5) shall be by a vote of 5 members of the Board.

(4) DISAPPROVAL PROCEDURE.—

(A) SUBMISSION REQUIRED.—An action of the Airports Authority described in subparagraph (B) shall be submitted to the Board of Review at least 30 days (or at least 60 days in the case of the annual budget) before it is to become effective.

(B) ACTIONS AFFECTED.—The following are the actions referred to in subparagraph (A):

(i) the adoption of an annual budget;

(ii) the authorization for the issuance of bonds;

(iii) the adoption, amendment, or repeal of a regulation;

(iv) the adoption or revision of a master plan, including any proposal for land acquisition; and

(v) the appointment of the chief executive officer.

(C) 30-DAY DISAPPROVAL PERIOD.—If the Board of Review does not disapprove an action within 30 days of its submission under this paragraph, the action may take effect. If the Board of Review disapproves any such action, it shall notify the Airports Authority and shall give reasons for the disapproval.

(D) EFFECT OF DISAPPROVAL.—An action disapproved under this paragraph shall not take effect. Unless an annual budget for a fiscal year has taken effect in accordance with this paragraph, the Airports Authority may not obligate or expend any money in such fiscal year, except for (i) debt service on previously authorized obligations, and (ii) obligations and expenditures for previously authorized capital expenditures and routine operating expenses.

(5) REQUEST FOR CONSIDERATION OF OTHER MATTERS.—The Board of Review may request the Airports Authority to consider and vote, or to report, on any matter related to the Metropolitan Washington Airports. Upon receipt of such a request the Airports Authority shall consider and vote, or report, on the matter as promptly as feasible.

(6) PARTICIPATION IN MEETINGS OF AIRPORTS AUTHORITY.—Members of the Board of Review may participate as nonvoting members in meetings of the board of the Airports Authority.

(7) STAFF.—The Board of Review may hire two staff persons to be paid by the Airports Authority. The Airports Authority shall provide such clerical and support staff as the Board may require.

(8) LIABILITY.—A member of the Board of Review shall not be liable in connection with any claim, action, suit, or proceeding arising from service on the Board.

(g) CERTAIN ACTIONS TO BE TAKEN BY REGULATION.—Any action of the Airports Authority changing, or having the effect of changing, the hours of operation of or the type of aircraft serving either of the Metropolitan Washington Airports may be taken only by regulation of the Airports Authority.

(h) LIMITATION ON AUTHORITY.—If the Board of Review established under subsection (f) is unable to carry out its functions under this title by reason of a judicial order, the Airports Authority shall have no authority to perform any of the actions that are required by paragraph (f)(4) to be submitted to the Board of Review.

SEC. 6008. FEDERAL EMPLOYEES AT THE METROPOLITAN WASHINGTON AIRPORTS.

(a) EMPLOYEE PROTECTION.—Not later than the date the lease under section 6005 takes effect, the Secretary shall ensure that the Airports Authority has established arrangements to protect the employment interests of employees during the 5-year period beginning on such date. These arrangements shall include provisions—

(1) which ensure that the Airports Authority will adopt labor agreements in accordance with the provisions of subsection (b) of this section;

(2) for the transfer and retention of all employees who agree to transfer to the Airports Authority in their same positions for the 5-year period commencing on the date the lease under section 6005 takes effect except in cases of reassignment, separation for cause, resignation, or retirement;

(3) for the payment by the Airports Authority of basic and premium pay to transferred employees, except in cases of separation for cause, resignation, or retirement, for 5 years commencing on the date the lease takes effect at or above the rates of pay in effect for such employees on such date;

(4) for credit during the 5-year period commencing on the date the lease takes effect for accrued annual and sick leave and seniority rights which have been accrued during the period of Federal employment by transferred employees retained by the Airports Authority; and

(5) for an offering of not less than one life insurance and three health insurance programs for transferred employees retained by the Airports Authority during the 5-year period beginning on the date the lease takes effect which are reasonably comparable with respect to employee premium cost and coverage to the

Federal health and life insurance programs available to employees on the day before such date.

(b) LABOR AGREEMENTS.—

(1) ADOPTION.—The Airports Authority shall adopt all labor agreements which are in effect on the date the lease under section 6005 takes effect. Such agreements shall continue in effect for the 5-year period commencing on such date, unless the agreement provides for a shorter duration or the parties agree to the contrary before the expiration of that 5-year period. Such agreements shall be renegotiated during the 5-year period, unless the parties agree otherwise. Any labor-management negotiation impasse declared before the date the lease takes effect shall be settled in accordance with chapter 71 of title 5, United States Code.

(2) CONTINUATION.—The arrangements made pursuant to this section shall assure, during the 50-year lease term, the continuation of all collective bargaining rights enjoyed by transferred employees retained by the Airports Authority.

(c) RIGHTS OF TERMINATED EMPLOYEES.—Any transferred employee whose employment with the Airports Authority is terminated during the 5-year period beginning on the date the lease under section 6005 takes effect shall be entitled, as a condition of any lease entered into in accordance with section 6005 of this title, to rights and benefits to be provided by the Airports Authority that are similar to those such employee would have had under Federal law if termination had occurred immediately before such date.

(d) ANNUAL AND SICK LEAVE.—Any employee who transfers to the Airports Authority under this section shall not be entitled to lump-sum payment for unused annual leave under section 5551 of title 5, United States Code, but shall be credited by the Airports Authority with the unused annual leave balance on the date the lease under section 6005 takes effect, along with any unused sick leave balance on such date. During the 5-year period beginning on such date, annual and sick leave shall be earned at the same rates permitted on the day before such date, and observed official holidays shall be the same as those specified in section 6103 of title 5, United States Code.

(e) CIVIL SERVICE RETIREMENT.—Any Federal employee who transfers to the Airports Authority and who on the day before the date the lease under section 6005 takes effect is subject to subchapter III of chapter 83 of title 5, United States Code, or chapter 84 of such title shall, so long as continually employed by the Airports Authority without a break in service, continue to be subject to such subchapter or chapter, as the case may be. Employment by the Airports Authority without a break in continuity of service shall be considered to be employment by the United States Government for purposes of such subchapter and chapter. The Airports Authority shall be the employing agency for purposes of such subchapter and chapter and shall contribute to the Civil Service Retirement and Disability Fund such sums as are required by such subchapter and chapter.

(f) SEPARATED EMPLOYEES.—An employee who does not transfer to the Airports Authority and who does not otherwise remain a Federal employee shall be entitled to all of the rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to an employee who does not

accept an offer of employment from the Airports Authority of work substantially similar to that performed for the Federal Government.

(g) ACCESS TO RECORDS.—The Airports Authority shall allow representatives of the Secretary adequate access to employees and employee records of the Airports Authority when needed for the performance of functions related to the period before the date the lease under section 6005 takes effect. The Secretary shall provide the Airports Authority access to employee records of transferring employees for appropriate purposes.

SEC. 6009. RELATIONSHIP TO AND EFFECT OF OTHER LAWS.

(a) OTHER LAWS.—In order to assure that the Airports Authority has the same proprietary powers and is subject to the same restrictions with respect to Federal law as any other airport except as otherwise provided in this title, during the period that the lease authorized by section 6005 of this title is in effect—

(1) the Metropolitan Washington Airports shall be considered public airports for purposes of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2201 et seq.); and

(2) the Acts entitled "An Act to provide for the administration of the Washington National Airport, and for other purposes", approved June 29, 1940 (54 Stat. 686), "An Act to authorize the construction, protection, operation, and maintenance of a public airport in or in the vicinity of the District of Columbia", approved September 7, 1950 (64 Stat. 770), and "An act making supplemental appropriations for the support of the Government for the fiscal year ending June 30, 1941, and for other purposes", approved October 9, 1940 (54 Stat. 1030), shall not apply to the operation of the Metropolitan Washington Airports, and the Secretary shall be relieved of all responsibility under those Acts.

(b) INAPPLICABILITY OF CERTAIN LAWS.—The Metropolitan Washington Airports and the Airports Authority shall not be subject to the requirements of any law solely by reason of the retention by the United States of the fee simple title to such airports or by reason of the authority of the Board of Review under subsection 6007(f).

(c) POLICE POWER.—The Commonwealth of Virginia shall have concurrent police power authority over the Metropolitan Washington Airports, and the courts of the Commonwealth of Virginia may exercise jurisdiction over Washington National Airport.

(d) PLANNING.—

(1) IN GENERAL.—The authority of the National Capital Planning Commission under section 5 of the Act of June 6, 1924 (40 U.S.C. 71d) shall not apply to the Airports Authority.

(2) CONSULTATION.—The Airports Authority shall consult—

(A) with the National Capital Planning Commission and the Advisory Council on Historic Preservation before undertaking any major alterations to the exterior of the main terminal at Washington Dulles International Airport, and

(B) with the National Capital Planning Commission before undertaking development that would alter the skyline of Washington National Airport when viewed from the opposing shoreline of the Potomac River or from the George Washington Parkway.

(e) OPERATION LIMITATIONS.—

(1) HIGH DENSITY RULE.—The Administrator may not increase the number of instrument flight rule takeoffs and landings authorized for air carriers by the High Density Rule (14 C.F.R. 93.121 et seq.) at Washington National Airport on the date of the enactment of this title and may not decrease the number of such takeoffs and landings except for reasons of safety.

(2) ANNUAL PASSENGER LIMITATIONS.—The Federal Aviation Administration air traffic regulation entitled "Modification of Allocation: Washington National Airport" (14 C.F.R. 93.124) shall cease to be in effect on the date of the enactment of this title.

SEC. 6010. AUTHORITY TO NEGOTIATE EXTENSION OF LEASE.

The Secretary and the Airports Authority may at any time negotiate an extension of the lease entered into under section 6005(a).

SEC. 6011. SEPARABILITY.

Except as provided in section 6007(h), if any provision of this title or the application thereof to any person or circumstance, is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 6012. NONSTOP FLIGHTS.

PERIMETER RULE.—An air carrier may not operate an aircraft nonstop in air transportation between Washington National Airport and another airport that is more than 1,250 statute miles away from Washington National Airport.

Approved October 18, 1986.

LEGISLATIVE HISTORY—H.J. Res. 738 (H.R. 5052) (H.R. 5161) (H.R. 5162) (H.R. 5175) (H.R. 5177) (H.R. 5203) (H.R. 5205) (H.R. 5233) (H.R. 5234) (H.R. 5294) (H.R. 5313) (H.R. 5339) (H.R. 5438):

HOUSE REPORT No. 99-1005 (Comm. of Conference).
SENATE REPORT No. 99-500 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 25, considered and passed House.
Sept. 29, considered and passed Senate, amended.
Oct. 15, House agreed to conference report, receded and concurred in certain Senate amendments, in others with amendments.
Oct. 16, Senate agreed to conference report, concurred in certain House amendment and receded from another.
Oct. 17, Senate concurred in certain House amendments with an amendment; House receded from certain Senate amendments and concurred in another.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Oct. 30, Presidential statement.

O

Public Law 99-501
99th Congress

An Act

Oct. 20, 1986
[H.R. 3526]

To provide for the settlement of certain claims respecting the San Carlos Apache Tribe of Arizona.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that—

(1) the San Carlos Apache Tribe of Arizona and the Government of the United States entered into an agreement on May 15, 1985, to provide for the settlement of a dispute over certain liabilities owing to the United States;

(2) in partial fulfillment of this agreement—

(a) the tribe paid, in a timely manner, the unpaid liability claimed by the United States; and

(b) the United States has abated the penalties and interest on penalties arising from that liability; and

(3) the abatement provided for in this Act will complete the terms of said agreement.

SEC. 2. All interest arising from that liability which the San Carlos Apache Tribe of Arizona, as consideration, paid in full on May 16, 1985, is hereby abated and the tribe is released from any claim of the United States with respect to this matter.

Approved October 20, 1986.

LEGISLATIVE HISTORY—H.R. 3526:

HOUSE REPORTS: No. 99-631 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 99-474 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 132 (1986):
June 26, considered and passed House.
Oct. 3, considered and passed Senate, amended.

O

91-139 O - 86 (518)

Public Law 99-502
99th Congress

An Act

To amend the Stevenson-Wydler Technology Innovation Act of 1980 to promote technology transfer by authorizing Government-operated laboratories to enter into cooperative research agreements and by establishing a Federal Laboratory Consortium for Technology Transfer within the National Bureau of Standards, and for other purposes.

Oct. 20, 1986
[H.R. 3773]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Technology Transfer Act of 1986.
Commerce and trade.
Government organization and employees.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Technology Transfer Act of 1986".

SEC. 2. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

15 USC 3701 note.

The Stevenson-Wydler Technology Innovation Act of 1980 is amended by redesignating sections 12 through 15 as sections 16 through 19, and by inserting immediately after section 11 the following:

15 USC 3701 note.
15 USC 3711-3714.
15 USC 3710a.

"SEC. 12. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

"(a) GENERAL AUTHORITY.—Each Federal agency may permit the director of any of its Government-operated Federal laboratories—

"(1) to enter into cooperative research and development agreements on behalf of such agency (subject to subsection (c) of this section) with other Federal agencies; units of State or local government; industrial organizations (including corporations, partnerships, and limited partnerships, and industrial development organizations); public and private foundations; nonprofit organizations (including universities); or other persons (including licensees of inventions owned by the Federal agency); and

State and local governments.
Business and industry.
Schools and colleges.

"(2) to negotiate licensing agreements under section 207 of title 35, United States Code, or under other authorities for Government-owned inventions made at the laboratory and other inventions of Federal employees that may be voluntarily assigned to the Government.

"(b) ENUMERATED AUTHORITY.—Under agreements entered into pursuant to subsection (a)(1), a Government-operated Federal laboratory may (subject to subsection (c) of this section)—

"(1) accept, retain, and use funds, personnel, services, and property from collaborating parties and provide personnel, services, and property to collaborating parties;

"(2) grant or agree to grant in advance, to a collaborating party, patent licenses or assignments, or options thereto, in any invention made in whole or in part by a Federal employee under the agreement, retaining a nonexclusive, nontransferrable, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the Government and such other rights as the Federal laboratory deems appropriate; and

Patents and trademarks.

91-139 O - 86 (519)

"(3) waive, subject to reservation by the Government of a nonexclusive, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the Government, in advance, in whole or in part, any right of ownership which the Federal Government may have to any subject invention made under the agreement by a collaborating party or employee of a collaborating party; and

"(4) to the extent consistent with any applicable agency requirements and standards of conduct, permit employees or former employees of the laboratory to participate in efforts to commercialize inventions they made while in the service of the United States.

Regulations.

"(c) CONTRACT CONSIDERATIONS.—(1) A Federal agency may issue regulations on suitable procedures for implementing the provisions of this section; however, implementation of this section shall not be delayed until issuance of such regulations.

"(2) The agency in permitting a Federal laboratory to enter into agreements under this section shall be guided by the purposes of this Act.

"(3)(A) Any agency using the authority given it under subsection (a) shall review employee standards of conduct for resolving potential conflicts of interest to make sure they adequately establish guidelines for situations likely to arise through the use of this authority, including but not limited to cases where present or former employees or their partners negotiate licenses or assignments of titles to inventions or negotiate cooperative research and development agreements with Federal agencies (including the agency with which the employee involved is or was formerly employed).

"(B) If, in implementing subparagraph (A), an agency is unable to resolve potential conflicts of interest within its current statutory framework, it shall propose necessary statutory changes to be forwarded to its authorizing committees in Congress.

"(4) The laboratory director in deciding what cooperative research and development agreements to enter into shall—

Small business.

"(A) give special consideration to small business firms, and consortia involving small business firms; and

Business and industry.
International agreements.

"(B) give preference to business units located in the United States which agree that products embodying inventions made under the cooperative research and development agreement or produced through the use of such inventions will be manufactured substantially in the United States and, in the case of any industrial organization or other person subject to the control of a foreign company or government, as appropriate, take into consideration whether or not such foreign government permits United States agencies, organizations, or other persons to enter into cooperative research and development agreements and licensing agreements.

"(5)(A) If the head of the agency or his designee desires an opportunity to disapprove or require the modification of any such agreement, the agreement shall provide a 30-day period within which such action must be taken beginning on the date the agreement is presented to him or her by the head of the laboratory concerned.

"(B) In any case in which the head of an agency or his designee disapproves or requires the modification of an agreement presented under this section, the head of the agency or such designee shall

transmit a written explanation of such disapproval or modification to the head of the laboratory concerned.

"(6) Each agency shall maintain a record of all agreements entered into under this section. Records.

"(d) DEFINITION.—As used in this section—

"(1) the term 'cooperative research and development agreement' means any agreement between one or more Federal laboratories and one or more non-Federal parties under which the Government, through its laboratories, provides personnel, services, facilities, equipment, or other resources with or without reimbursement (but not funds to non-Federal parties) and the non-Federal parties provide funds, personnel, services, facilities, equipment, or other resources toward the conduct of specified research or development efforts which are consistent with the missions of the laboratory; except that such term does not include a procurement contract or cooperative agreement as those terms are used in sections 6303, 6304, and 6305 of title 31, United States Code; and

"(2) the term 'laboratory' means a facility or group of facilities owned, leased, or otherwise used by a Federal agency, a substantial purpose of which is the performance of research, development, or engineering by employees of the Federal Government.

"(e) DETERMINATION OF LABORATORY MISSIONS.—For purposes of this section, an agency shall make separate determinations of the mission or missions of each of its laboratories.

"(f) RELATIONSHIP TO OTHER LAWS.—Nothing in this section is intended to limit or diminish existing authorities of any agency.".

SEC. 3. ESTABLISHMENT OF FEDERAL LABORATORY CONSORTIUM FOR TECHNOLOGY TRANSFER.

Section 11 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710) is amended— *Post*, p. 1791.

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) ESTABLISHMENT OF FEDERAL LABORATORY CONSORTIUM FOR TECHNOLOGY TRANSFER.—(1) There is hereby established the Federal Laboratory Consortium for Technology Transfer (hereinafter referred to as the 'Consortium') which, in cooperation with Federal Laboratories and the private sector, shall—

"(A) develop and (with the consent of the Federal laboratory concerned) administer techniques, training courses, and materials concerning technology transfer to increase the awareness of Federal laboratory employees regarding the commercial potential of laboratory technology and innovations;

"(B) furnish advice and assistance requested by Federal agencies and laboratories for use in their technology transfer programs (including the planning of seminars for small business and other industry);

"(C) provide a clearinghouse for requests, received at the laboratory level, for technical assistance from States and units of local governments, businesses, industrial development organizations, not-for-profit organizations including universities, Federal agencies and laboratories, and other persons, and—

"(i) to the extent that such requests can be responded to with published information available to the National Tech-

nical Information Service, refer such requests to that Service, and

"(ii) otherwise refer these requests to the appropriate Federal laboratories and agencies;

"(D) facilitate communication and coordination between Offices of Research and Technology Applications of Federal laboratories;

"(E) utilize (with the consent of the agency involved) the expertise and services of the National Science Foundation, the Department of Commerce, the National Aeronautics and Space Administration, and other Federal agencies, as necessary;

"(F) with the consent of any Federal laboratory, facilitate the use by such laboratory of appropriate technology transfer mechanisms such as personnel exchanges and computer-based systems;

"(G) with the consent of any Federal laboratory, assist such laboratory to establish programs using technical volunteers to provide technical assistance to communities related to such laboratory;

"(H) facilitate communication and cooperation between Offices of Research and Technology Applications of Federal laboratories and regional, State, and local technology transfer organizations;

"(I) when requested, assist colleges or universities, businesses, nonprofit organizations, State or local governments, or regional organizations to establish programs to stimulate research and to encourage technology transfer in such areas as technology program development, curriculum design, long-term research planning, personnel needs projections, and productivity assessments; and

"(J) seek advice in each Federal laboratory consortium region from representatives of State and local governments, large and small business, universities, and other appropriate persons on the effectiveness of the program (and any such advice shall be provided at no expense to the Government).

"(2) The membership of the Consortium shall consist of the Federal laboratories described in clause (1) of subsection (b) and such other laboratories as may choose to join the Consortium. The representatives to the Consortium shall include a senior staff member of each Federal laboratory which is a member of the Consortium and a representative appointed from each Federal agency with one or more member laboratories.

"(3) The representatives to the Consortium shall elect a Chairman of the Consortium.

"(4) The Director of the National Bureau of Standards shall provide the Consortium, on a reimbursable basis, with administrative services, such as office space, personnel, and support services of the Bureau, as requested by the Consortium and approved by such Director.

"(5) Each Federal laboratory or agency shall transfer technology directly to users or representatives of users, and shall not transfer technology directly to the Consortium. Each Federal laboratory shall conduct and transfer technology only in accordance with the practices and policies of the Federal agency which owns, leases, or otherwise uses such Federal laboratory.

Reports.

"(6) Not later than one year after the date of the enactment of this subsection, and every year thereafter, the Chairman of the Consor-

tium shall submit a report to the President, to the appropriate authorization and appropriation committees of both Houses of the Congress, and to each agency with respect to which a transfer of funding is made (for the fiscal year or years involved) under paragraph (7), concerning the activities of the Consortium and the expenditures made by it under this subsection during the year for which the report is made.

"(7)(A) Subject to subparagraph (B), an amount equal to 0.005 percent of that portion of the research and development budget of each Federal agency that is to be utilized by the laboratories of such agency for a fiscal year referred to in subparagraph (B)(ii) shall be transferred by such agency to the National Bureau of Standards at the beginning of the fiscal year involved. Amounts so transferred shall be provided by the Bureau to the Consortium for the purpose of carrying out activities of the Consortium under this subsection.

"(B) A transfer shall be made by any Federal agency under subparagraph (A), for any fiscal year, only if—

"(i) the amount so transferred by that agency (as determined under such subparagraph) would exceed $10,000; and

"(ii) such transfer is made with respect to the fiscal year 1987, 1988, 1989, 1990, or 1991.

"(C) The heads of Federal agencies and their designees, and the directors of Federal laboratories, may provide such additional support for operations of the Consortium as they deem appropriate.

"(8)(A) The Consortium shall use 5 percent of the funds provided in paragraph (7)(A) to establish demonstration projects in technology transfer. To carry out such projects, the Consortium may arrange for grants or awards to, or enter into agreements with, nonprofit State, local, or private organizations or entities whose primary purposes are to facilitate cooperative research between the Federal laboratories and organizations not associated with the Federal laboratories, to transfer technology from the Federal laboratories, and to advance State and local economic activity.

"(B) The demonstration projects established under subparagraph (A) shall serve as model programs. Such projects shall be designed to develop programs and mechanisms for technology transfer from the Federal laboratories which may be utilized by the States and which will enhance Federal, State, and local programs for the transfer of technology.

"(C) Application for such grants, awards, or agreements shall be in such form and contain such information as the Consortium or its designee shall specify.

"(D) Any person who receives or utilizes any proceeds of a grant or award made, or agreement entered into, under this paragraph shall keep such records as the Consortium or its designee shall determine are necessary and appropriate to facilitate effective audit and evaluation, including records which fully disclose the amount and disposition of such proceeds and the total cost of the project in connection with which such proceeds were used.". Records.

SEC. 4. UTILIZATION OF FEDERAL TECHNOLOGY.

(a) RESPONSIBILITY FOR TECHNOLOGY TRANSFER.—Section 11(a) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(a)) is amended—

(1) by inserting "(1)" after "POLICY.—"; and

(2) by adding at the end thereof the following new paragraphs:

(2) Technology transfer, consistent with mission responsibilities, is a responsibility of each laboratory science and engineering professional.

"(3) Each laboratory director shall ensure that efforts to transfer technology are considered positively in laboratory job descriptions, employee promotion policies, and evaluation of the job performance of scientists and engineers in the laboratory.".

(b) RESEARCH AND TECHNOLOGY APPLICATIONS OFFICES.—(1) Section 11(b) of such Act (15 U.S.C. 3710(b)) is amended—

(A) by striking out "a total annual budget exceeding $20,000,000 shall provide at least one professional individual full-time" and inserting in lieu thereof "200 or more full-time equivalent scientific, engineering, and related technical positions shall provide one or more full-time equivalent positions";

(B) by inserting immediately before the next to last sentence the following new sentence: "Furthermore, individuals filling positions in an Office of Research and Technology Applications shall be included in the overall laboratory/agency management development program so as to ensure that highly competent technical managers are full participants in the technology transfer process.";

(C) by striking out "requirements set forth in (1) and/or (2) of this subsection" in the next to last sentence and inserting in lieu thereof "requirement set forth in clause (2) of the preceding sentence"; and

(D) by striking out "either requirement (1) or (2)" in the last sentence and inserting in lieu thereof "such requirement".

(2) Section 11(c) of such Act (15 U.S.C. 3710(c)) is amended—

(A) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) to prepare application assessments for selected research and development projects in which that laboratory is engaged and which in the opinion of the laboratory may have potential commercial applications;";

(B) by striking out "the Center for the Utilization of Federal Technology" in paragraph (3) and inserting in lieu thereof "the National Technical Information Service, the Federal Laboratory Consortium for Technology Transfer,", and by striking out "and" after the semicolon;

(C) by striking out "in response to requests from State and local government officials." in paragraph (4) and inserting in lieu thereof "to State and local government officials; and"; and

(D) by inserting immediately after paragraph (4) the following new paragraph:

State and local governments.

"(5) to participate, where feasible, in regional, State, and local programs designed to facilitate or stimulate the transfer of technology for the benefit of the region, State, or local jurisdiction in which the Federal laboratory is located."

(c) DISSEMINATION OF TECHNICAL INFORMATION.—Section 11(d) of such Act (15 U.S.C. 3710(d)) is amended—

(1) by striking out "(d)" and all that follows down through "shall—" and inserting in lieu thereof the following:

(d) DISSEMINATION OF TECHNICAL INFORMATION.—The National Technical Information Service shall—";

(2) by striking out paragraph (2);

(3) by striking out "existing" in paragraph (3), and redesignating such paragraph as paragraph (2);

(4) by striking out paragraph (4) and inserting in lieu thereof the following:

"(3) receive requests for technical assistance from State and local governments, respond to such requests with published information available to the Service, and refer such requests to the Federal Laboratory Consortium for Technology Transfer to the extent that such requests require a response involving more than the published information available to the Service;";

State and local governments.

(5) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively; and

(6) by striking out "(c)(4)" in paragraph (4) as so redesignated and inserting in lieu thereof "(c)(3)".

(d) AGENCY REPORTING.—Section 11(f) of such Act (15 U.S.C. 3710(e)) (as redesignated by section 3(1) of this Act) is amended—

(1) by striking out "prepare biennially a report summarizing the activities" in the first sentence and inserting in lieu thereof "report annually to the Congress, as part of the agency's annual budget submission, on the activities"; and

Reports.

(2) by striking out the second sentence.

SEC. 5. FUNCTIONS OF THE SECRETARY OF COMMERCE.

15 USC 3710.

Section 11 of the Stevenson-Wydler Technology Innovation Act of 1980 (as amended by the preceding provisions of this Act) is further amended by adding at the end thereof the following new subsection:

"(g) FUNCTIONS OF THE SECRETARY.—(1) The Secretary, in consultation with other Federal agencies, may—

"(A) make available to interested agencies the expertise of the Department of Commerce regarding the commercial potential of inventions and methods and options for commercialization which are available to the Federal laboratories, including research and development limited partnerships;

"(B) develop and disseminate to appropriate agency and laboratory personnel model provisions for use on a voluntary basis in cooperative research and development arrangements; and

"(C) furnish advice and assistance, upon request, to Federal agencies concerning their cooperative research and development programs and projects.

"(2) Two years after the date of the enactment of this subsection and every two years thereafter, the Secretary shall submit a summary report to the President and the Congress on the use by the agencies and the Secretary of the authorities specified in this Act. Other Federal agencies shall cooperate in the report's preparation.

Reports.

"(3) Not later than one year after the date of the enactment of the Federal Technology Transfer Act of 1986, the Secretary shall submit to the President and the Congress a report regarding—

Reports.

"(A) any copyright provisions or other types of barriers which tend to restrict or limit the transfer of federally funded computer software to the private sector and to State and local governments, and agencies of such State and local governments; and

Copyrights.
State and local governments.

"(B) the feasibility and cost of compiling and maintaining a current and comprehensive inventory of all federally funded training software.".

SEC. 6. REWARDS FOR SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL OR FEDERAL AGENCIES.

The Stevenson-Wydler Technology Innovation Act of 1980 (as amended by the preceding provisions of this Act) is further amended by inserting after section 12 the following new section:

15 USC 3710b.

"SEC. 13. REWARDS FOR SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL OF FEDERAL AGENCIES.

"The head of each Federal agency that is making expenditures at a rate of more than $50,000,000 per fiscal year for research and development in its Government-operated laboratories shall use the appropriate statutory authority to develop and implement a cash awards program to reward its scientific, engineering, and technical personnel for—

"(1) inventions, innovations, or other outstanding scientific or technological contributions of value to the United States due to commercial application or due to contributions to missions of the Federal agency or the Federal government, or

"(2) exemplary activities that promote the domestic transfer of science and technology development within the Federal Government and result in utilization of such science and technology by American industry or business, universities, State or local governments, or other non-Federal parties.".

SEC. 7. DISTRIBUTION OF ROYALTIES RECEIVED BY FEDERAL AGENCIES.

The Stevenson-Wydler Technology Innovation Act of 1980 (as amended by the preceding provisions of this Act) is further amended by inserting after section 13 the following new section:

15 USC 3710c.

"SEC. 14. DISTRIBUTION OF ROYALTIES RECEIVED BY FEDERAL AGENCIES.

"(a) IN GENERAL.—(1) Except as provided in paragraphs (2) and (4), any royalties or other income received by a Federal agency from the licensing or assignment of inventions under agreements entered into under section 12, and inventions of Government-operated Federal laboratories licensed under section 207 of title 35, United States Code, or under any other provision of law, shall be retained by the agency whose laboratory produced the invention and shall be disposed of as follows:

"(A)(i) The head of the agency or his designee shall pay at least 15 percent of the royalties or other income the agency receives on account of any invention to the inventor (or co-inventors) if the inventor (or each such co-inventor) was an employee of the agency at the time the invention was made. This clause shall take effect on the date of the enactment of this section unless the agency publishes a notice in the Federal Register within 90 days of such date indicating its election to file a Notice of Proposed Rulemaking pursuant to clause (ii).

Effective date. Federal Register, publication.

Regulations.

"(ii) An agency may promulgate, in accordance with section 553 of title 5, United States Code, regulations providing for an alternative program for sharing royalties with inventors who were employed by the agency at the time the invention was made and whose names appear on licensed inventions. Such regulations must—

"(I) guarantee a fixed minimum payment to each such inventor, each year that the agency receives royalties from that inventor's invention;

"(II) provide a percentage royalty share to each such inventor, each year that the agency receives royalties from that inventor's invention in excess of a threshold amount;

"(III) provide that total payments to all such inventors shall exceed 15 percent of total agency royalties in any given fiscal year; and

"(IV) provide appropriate incentives from royalties for those laboratory employees who contribute substantially to the technical development of a licensed invention between the time of the filing of the patent application and the licensing of the invention.

"(iii) An agency that has published its intention to promulgate regulations under clause (ii) may elect not to pay inventors under clause (i) until the expiration of two years after the date of the enactment of this Act or until the date of the promulgation of such regulations, whichever is earlier. If an agency makes such an election and after two years the regulations have not been promulgated, the agency shall make payments (in accordance with clause (i)) of at least 15 percent of the royalties involved, retroactive to the date of the enactment of this Act. If promulgation of the regulations occurs within two years after the date of the enactment of this Act, payments shall be made in accordance with such regulations, retroactive to the date of the enactment of this Act. The agency shall retain its royalties until the inventor's portion is paid under either clause (i) or (ii). Such royalties shall not be transferred to the agency's Government-operated laboratories under subparagraph (B) and shall not revert to the Treasury pursuant to paragraph (2) as a result of any delay caused by rulemaking under this subparagraph. Regulations.

"(B) The balance of the royalties or other income shall be transferred by the agency to its Government-operated laboratories, with the majority share of the royalties or other income from any invention going to the laboratory where the invention occurred; and the funds so transferred to any such laboratory may be used or obligated by that laboratory during the fiscal year in which they are received or during the succeeding fiscal year—

"(i) for payment of expenses incidental to the administration and licensing of inventions by that laboratory or by the agency with respect to inventions which occurred at that laboratory, including the fees or other costs for the services of other agencies, persons, or organizations for invention management and licensing services;

"(ii) to reward scientific, engineering, and technical employees of that laboratory;

"(iii) to further scientific exchange among the Government-operated laboratories of the agency; or

"(iv) for education and training of employees consistent with the research and development mission and objectives of the agency, and for other activities that increase the licensing potential for transfer of the technology of the Government-operated laboratories of the agency.

Any of such funds not so used or obligated by the end of the fiscal year succeeding the fiscal year in which they are received shall be paid into the Treasury of the United States.

"(2) If, after payments to inventors under paragraph (1), the royalties received by an agency in any fiscal year exceed 5 percent of the budget of the Government-operated laboratories of the agency for that year, 75 percent of such excess shall be paid to the Treasury

of the United States and the remaining 25 percent may be used or obligated for the purposes described in clauses (i) through (iv) of paragraph (1)(B) during that fiscal year or the succeeding fiscal year. Any funds not so used or obligated shall be paid into the Treasury of the United States.

Wages.

"(3) Any payment made to an employee under this section shall be in addition to the regular pay of the employee and to any other awards made to the employee, and shall not affect the entitlement of the employee to any regular pay, annuity, or award to which he is otherwise entitled or for which he is otherwise eligible or limit the amount thereof. Any payment made to an inventor as such shall continue after the inventor leaves the laboratory or agency. Payments made under this section shall not exceed $100,000 per year to any one person, unless the President approves a larger award (with the excess over $100,000 being treated as a Presidential award under section 4504 of title 5, United States Code).

"(4) A Federal agency receiving royalties or other income as a result of invention management services performed for another Federal agency or laboratory under section 207 of title 35, United States Code, shall retain such royalties or income to the extent required to offset the payment of royalties to inventors under clause (i) of paragraph (1)(A), costs and expenses incurred under clause (i) of paragraph (1)(B), and the cost of foreign patenting and maintenance for such invention performed at the request of the other agency or laboratory. All royalties and other income remaining after payment of the royalties, costs, and expenses described in the preceding sentence shall be transferred to the agency for which the services were performed, for distribution in accordance with clauses (i) through (iv) of paragraph (1)(B).

"(b) CERTAIN ASSIGNMENTS.—If the invention involved was one assigned to the Federal agency—

"(1) by a contractor, grantee, or participant in a cooperative agreement with the agency, or

"(2) by an employee of the agency who was not working in the laboratory at the time the inventon was made,

the agency unit that was involved in such assignment shall be considered to be a laboratory for purposes of this section.

"(c) REPORTS.—(1) In making their annual budget submissions Federal agencies shall submit, to the appropriate authorization and appropriation committees of both Houses of the Congress, summaries of the amount of royalties or other income received and expenditures made (including inventor awards) under this section.

"(2) The Comptroller General, five years after the date of the enactment of this section, shall review the effectiveness of the various royalty-sharing programs established under this section and report to the appropriate committees of the House of Representatives and the Senate, in a timely manner, his findings, conclusions, and recommendations for improvements in such programs.".

SEC. 8. EMPLOYEE ACTIVITIES.

The Stevenson-Wydler Technology Innovation Act of 1980 (as amended by the preceding provisions of this Act) is further amended by inserting after section 14 the following new section:

Patents and trademarks.
Business and industry.
15 USC 3710d.

"SEC. 15. EMPLOYEE ACTIVITIES.

"(a) IN GENERAL.—If a Federal agency which has the right of ownership to an invention under this Act does not intend to file for

a patent application or otherwise to promote commercialization of such invention, the agency shall allow the inventor, if the inventor is a Government employee or former employee who made the invention during the course of employment with the Government, to retain title to the invention (subject to reservation by the Government of a nonexclusive, nontransferrable, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the Government). In addition, the agency may condition the inventor's right to title on the timely filing of a patent application in cases when the Government determines that it has or may have a need to practice the invention.

"(b) DEFINITION.—For purposes of this section, Federal employees include 'special Government employees' as defined in section 202 of title 18, United States Code.

"(c) RELATIONSHIP TO OTHER LAWS.—Nothing in this section is intended to limit or diminish existing authorities of any agency.".

SEC. 9. MISCELLANEOUS AND CONFORMING AMENDMENTS.

(a) REPEAL OF NATIONAL INDUSTRIAL TECHNOLOGY BOARD.—Section 10 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3709) is repealed.

(b) CHANGES IN TERMINOLOGY OR ADMINISTRATIVE STRUCTURE.—(1) Section 3(2) of the Stevenson-Wydler Technology Innovation Act of 1980 is amended by striking out "centers for industrial technology" and inserting in lieu thereof "cooperative research centers". 15 USC 3702.

(2) Section 4 of such Act is amended— 15 USC 3703.

(A) by striking out "Industrial Technology" in paragraph (1) and inserting in lieu thereof "Productivity, Technology, and Innovation";

(B) by striking out " 'Director' means the Director of the Office of Industrial Technology" in paragraph (3) and inserting in lieu thereof " 'Assistant Secretary' means the Assistant Secretary for Productivity, Technology, and Innovation";

(C) by striking out "Centers for Industrial Technology" in paragraph (4) and inserting in lieu thereof "Cooperative Research Centers";

(D) by striking out paragraph (6), and redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively; and

(E) by striking out "owned and funded" in paragraph (6) as so redesignated and inserting in lieu thereof "owned, leased, or otherwise used by a Federal agency and funded".

(3) Section 5(a) of such Act is amended by striking out "Industrial Technology" and inserting in lieu thereof "Productivity, Technology, and Innovation". 15 USC 3704.

(4) Section 5(b) of such Act is amended by striking out "DIRECTOR" and inserting in lieu thereof "ASSISTANT SECRETARY", and by striking out "a Director of the Office" and all that follows and inserting in lieu thereof "an Assistant Secretary for Productivity, Technology, and Innovation.".

(5) Section 5(c) of such Act is amended—

(A) by striking out "the Director" each place it appears and inserting in lieu thereof "the Assistant Secretary";

(B) by redesignating paragraphs (7) and (8) as paragraphs (9) and (10), respectively; and

(C) by inserting immediately after paragraph (6) the following new paragraphs:

"(7) encourage and assist the creation of centers and other joint initiatives by State of local governments, regional organizations, private businesses, institutions of higher education, nonprofit organizations, or Federal laboratories to encourage technology transfer, to stimulate innovation, and to promote an appropriate climate for investment in technology-related industries;

"(8) propose and encourage cooperative research involving appropriate Federal entities, State or local governments, regional organizations, colleges or universities, nonprofit organizations, or private industry to promote the common use of resources, to improve training programs and curricula, to stimulate interest in high technology careers, and to encourage the effective dissemination of technology skills within the wider community;".

15 USC 3705.

(6) The heading of section 6 of such Act is amended to read as follows:

"SEC. 6. COOPERATIVE RESEARCH CENTERS."

(7) Section 6(a) of such Act is amended by striking out "Centers for Industrial Technology" and inserting in lieu thereof "Cooperative Research Centers".

(8) Section 6(b)(1) of such Act is amended by striking out "basic and applied".

(9) Section 6(e) of such Act is amended to read as follows:

"(e) RESEARCH AND DEVELOPMENT UTILIZATION.—In the promotion of technology from research and development efforts by Centers under this section, chapter 18 of title 35, United States Code, shall apply to the extent not inconsistent with this section.".

35 USC 200 *et seq.*

(10) Section 6(f) of such Act is repealed.

15 USC 3707.

(11) The heading of section 8 of such Act is amended by striking out "CENTERS FOR INDUSTRIAL TECHNOLOGY" and inserting in lieu thereof "COOPERATIVE RESEARCH CENTERS".

(12) Section 8(a) of such Act is amended by striking out "Centers for Industrial Technology" and inserting in lieu thereof "Cooperative Research Centers".

15 USC 3714.

(13) Section 19 of such Act (as redesignated by section 2 of this Act) is amended by striking out "pursuant to this Act" and inserting in lieu thereof "pursuant to the provisions of this Act (other than sections 12, 13, and 14)".

(c) RELATED CONFORMING AMENDMENT.—Section 210 of title 35, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) The provisions of the Stevenson-Wydler Technology Innovation Act of 1980, as amended by the Federal Technology Transfer Act of 1986, shall take precedence over the provisions of this chapter to the extent that they permit or require a disposition of rights in subject inventions which is inconsistent with this chapter.".

Ante, p. 1785.

15 USC 3703.

(d) ADDITIONAL DEFINITIONS.—Section 4 of such Act (as amended by subsection (b)(2) of this section) is further amended by adding at the end thereof the following new paragraphs:

"(8) 'Federal agency' means any executive agency as defined in section 105 of title 5, United States Code, and the military departments as defined in section 102 of such title.

"(9) 'Invention' means any invention or discovery which is or may be patentable or otherwise protected under title 35, United States Code, or any novel variety of plant which is or may be

protectable under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

"(10) 'Made' when used in conjunction with any invention means the conception or first actual reduction to practice of such invention.

"(11) 'Small business firm' means a small business concern as defined in section 2 of Public Law 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration.

"(12) 'Training technology' means computer software and related materials which are developed by a Federal agency to train employees of such agency, including but not limited to software for computer-based instructional systems and for interactive video disc systems.".

(e) REDESIGNATION OF SECTIONS TO REFLECT CHANGES MADE BY PRECEDING PROVISIONS.—(1) Such Act (as amended by the preceding provisions of this Act) is further amended by redesignating sections 11 through 19 as sections 10 through 18, respectively. 15 USC 3710-3714.

(2)(A) Section 5(d) of such Act is amended by inserting "(as then in effect)" after "sections 5, 6, 8, 11, 12, and 13 of this Act". 15 USC 3704.

(B) Section 8(a) of such Act is amended by striking out the last sentence. 15 USC 3707.

(C) Section 9(d) of such Act is amended by striking out "or 13" and inserting in lieu thereof "10, 14, or 16". 15 USC 3708.

(3) Section 13(a)(1) of such Act (as redesignated by paragraph (1) of this subsection) is amended by striking out "section 12" in the matter preceding subparagraph (A) and inserting in lieu thereof "section 11". 15 USC 3710c.

(4) Section 18 of such Act (as redesignated by paragraph (1) of this subsection) is amended by striking out "sections 12, 13, and 14" and inserting in lieu thereof "sections 11, 12, and 13". 15 USC 3714.

(f) CLARIFICATION OF FINDINGS AND PURPOSES.—(1) The second sentence of section 2(10) of such Act (15 U.S.C. 3701(10)) is amended by inserting ", which include inventions, computer software, and training technologies," immediately after "developments".

(2) Section 3(3) of such Act (15 U.S.C. 3702(3)) is amended by inserting ", including inventions, software, and training technologies," immediately after "developments".

Approved October 20, 1986.

LEGISLATIVE HISTORY—H.R. 3773:

HOUSE REPORTS: No. 99-415 (Comm. on Science and Technology) and No. 99-953 (Comm. of Conference).
SENATE REPORTS: No. 99-283 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 9, considered and passed House.
Vol. 132 (1986): Aug. 9, considered and passed Senate, amended.
Oct. 3, Senate agreed to conference report.
Oct. 7, House agreed to conference report.

O

PUBLIC LAW 99-503—OCT. 20, 1986

GILA BEND INDIAN RESERVATION LANDS REPLACEMENT ACT

91-139 O -- 87 (520)

Public Law 99-503
99th Congress

An Act

Oct. 20, 1986
[H.R. 4216]

To provide for the replacement of certain lands within the Gila Bend Indian Reservation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Gila Bend Indian Reservation Lands Replacement Act.
Public lands.
Agriculture and agricultural commodities.
Arizona.

SHORT TITLE

SECTION 1. This Act may be cited as the "Gila Bend Indian Reservation Lands Replacement Act".

CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds that:

96 Stat. 1282.

(1) Section 308 of Public Law 97-293 authorizes the Secretary of the Interior to exchange certain agricultural lands of the Gila Bend Indian Reservation, Arizona, for public lands suitable for farming.

(2) An examination of public lands within a one-hundred-mile radius of the reservation disclosed that those which might be suitable for agriculture would require substantial Federal outlays for construction of irrigation systems, roads, education and health facilities.

(3) The lack of an appropriate land base severely retards the economic self-sufficiency of the O'odham people of the Gila Bend Indian Reservation, contributes to their high unemployment and acute health problems, and results in chronic high costs for Federal services and transfer payments.

(4) This Act will facilitate replacement of reservation lands with lands suitable for sustained economic use which is not principally farming and do not require Federal outlays for construction, and promote the economic self-sufficiency of the O'odham Indian people.

DEFINITIONS

SEC. 3. For the purposes of this Act, the term:

(1) "Central Arizona Project" means the project authorized under title III of the Colorado River Basin Project Act (82 Stat. 887; 43 U.S.C. 1521, et seq.).

(2) "Tribe" means the Tohono O'odham Nation, formerly known as the Papago Tribe of Arizona, organized under section 16 of the Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476).

(3) "Secretary" means the Secretary of the Interior.

(4) "San Lucy District" means the political subdivision of the Tohono O'odham Nation exercising governmental functions on the Gila Bend Indian Reservation.

ASSIGNMENT OF TRIBAL LANDS; RETAINED RIGHTS

SEC. 4. (a) If the tribe assigns to the United States all right, title, and interest of the Tribe in nine thousand eight hundred and eighty acres of land within the Gila Bend Indian Reservation, the Secretary of the Interior shall pay to the authorized governing body of the Tribe the sum of $30,000,000—$10,000,000 in fiscal year 1988, $10,000,000 in fiscal year 1989 and $10,000,000 in fiscal year 1990—together with interest accruing from the date of enactment of this Act at a rate determined by the Secretary of the Treasury taking into consideration the average market yield on outstanding Federal obligations of comparable maturity, to be used for the benefit of the San Lucy District. The Secretary shall accept any assignment under this subsection.

(b) The Tribe shall be permitted to continue to hunt, fish, and gather on any lands assigned to the United States under subsection (a) of this section so long as such lands remain in Federal ownership. Hunting. Fish and fishing.

(c) With respect to any lands of the Gila Bend Indian Reservation which the Tribe does not assign to the United States, the Tribe shall have the right to withdraw ground water therefrom from wells having a capacity of less than thirty-five gallons per minute and which are used only for domestic purposes. Water.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. Effective October 1, 1987 there is authorized to be appropriated such sums as may be necessary to carry out the purposes of section 4. Effective date.

USE OF SETTLEMENT FUNDS; ACQUISITION OF LANDS

SEC. 6. (a) The Tribe shall invest sums received under section 4 in interest bearing deposits and securities until expended. The authorized governing body of the Tribe may spend the principal and the interest and dividends accruing on such sums on behalf of the San Lucy District for land and water rights acquisition, economic and community development, and relocation costs. Such income may be used by the Tribe for planning and administration related to land and water rights acquisition, economic and community development and relocation for the San Lucy District. Securities. Water. Community development.

(b) The Secretary shall not be responsible for the review, approval or audit of the use and expenditure of the moneys referred to in this section, nor shall the Secretary be subject to liability for any claim or cause of action arising from the Tribe's use and expenditure of such moneys. No portion of such moneys shall be used for per capita payments to any members of the Tribe. Claims.

(c) The Tribe is authorized to acquire by purchase private lands in an amount not to exceed, in the aggregate, nine thousand eight hundred and eighty acres. The Tribe and the United States shall be forever barred from asserting any and all claims for reserved water rights with respect to any land acquired pursuant to this subsection. Claims.

(d) The Secretary, at the request of the Tribe, shall hold in trust for the benefit of the Tribe any land which the Tribe acquires pursuant to subsection (c) which meets the requirements of this subsection. Any land which the Secretary holds in trust shall be deemed to be a Federal Indian Reservation for all purposes. Land does not meet the requirements of this subsection if it is outside the counties of Maricopa, Pinal, and Pima, Arizona, or within the

corporate limits of any city or town. Land meets the requirements of this subsection only if it constitutes not more than three separate areas consisting of contiguous tracts, at least one of which areas shall be contiguous to San Lucy Village. The Secretary may waive the requirements set forth in the preceding sentence if he determines that additional areas are appropriate.

State and local governments.

(e) The Secretary shall establish a water management plan for any land which is held in trust under subsection (c) which, except as is necessary to be consistent with the provisions of this Act, will have the same effect as any management plan developed under Arizona law.

REAL PROPERTY TAXES

SEC. 7. (a) With respect to any private land acquired by the Tribe under section 6 and held in trust by the Secretary, the Secretary shall make payments to the State of Arizona and its political subdivisions in lieu of real property taxes.

Contracts.

(b) The Secretary is authorized to enter into agreements with the State of Arizona and its political subdivisions pursuant to which the Secretary may satisfy the obligation under subsection (a), in whole or in part, through the transfer of public land under his jurisdiction or interests therein, including land within the Gila Bend Indian Reservation or interests therein.

WATER DELIVERY

Contracts.

SEC. 8. If the tribe acquires rights to the use of any water by purchase, rental, or exchange within the State of Arizona, the Secretary, at the request of the Tribe, shall deliver such water, at no cost to the United States, through the main project works of the Central Arizona Project to any land acquired under section 5(c), if, in the judgment of the Secretary, sufficient canal capacity exists to convey such water: *Provided*, That deliveries of such water shall not displace deliveries of Central Arizona Project water. The rate charged to the tribe for water delivery shall be the same as that charged by the Central Arizona Water Conservation District pursuant to contracts entered into pursuant to the Colorado River Basin Project Act (43 U.S.C. 1521, et seq.). Nothing in this section shall be deemed to obligate the Secretary to construct any water delivery system.

WAIVER AND RELEASE OF CLAIMS; EFFECTIVE DATE

Water.

SEC. 9. (a) The Secretary shall be required to carry out the obligations of this Act only if within one year after the enactment of this Act the Tribe executes a waiver and release in a manner satisfactory to the Secretary of any and all claims of water rights or injuries to land or water rights (including rights to both surface and ground water) with respect to the lands of the Gila Bend Indian Reservation from time immemorial to the date of the execution by the Tribe of such a waiver.

(b) Nothing in this section shall be construed as a waiver or release by the Tribe of any claim where such claim arises under this Act.

(c) The assignment referred to in section 4 and the waiver and release referred to in this section shall not take effect until such time as the full amount authorized to be appropriated in section 4 has been appropriated by the Congress and paid to the Tribe.

COMPLIANCE WITH BUDGET ACT

SEC. 10. No authority under this Act to enter into contracts or to make payments shall be effective except to the extent and in such amounts as provided in advance in appropriations Acts. Any provision of this Act which, directly or indirectly, authorizes the enactment of new budget authority shall be effective only for fiscal years beginning after September 30, 1987.

Contracts. Effective date.

Approved October 20, 1986.

LEGISLATIVE HISTORY—H.R. 4216:

HOUSE REPORTS: No. 99-851 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 23, considered and passed House.
Oct. 1, considered and passed Senate.

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NEBRASKA WILDERNESS ACT OF 1985

91-139 O -- 87 (521)

the House of Representatives. Such map and legal description shall have the same force and effect as if included in this Act, except that any clerical or typographical error in such map or legal description may be corrected. The Secretary shall place such map and legal description on file, and make them available for public inspection, in the Office of the Chief of the Forest Service, Department of Agriculture.

Public information.

WILDERNESS REVIEW CONCERNS

SEC. 104. (a) The Congress finds that—

Environmental protection.

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Nebraska and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than Nebraska, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Nebraska;

(2) with respect to the National Forest System lands in the State of Nebraska, which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II), that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary of Agriculture finds that conditions in a unit have significantly changed;

16 USC 1600 note.

(3) areas in the State of Nebraska reviewed in such final environmental statement and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

16 USC 1604.

(4) in the event that revised land management plans in the State of Nebraska are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of

protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

16 USC 1600 note.

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Nebraska for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

16 USC 1604.

TITLE II—PINE RIDGE NATIONAL RECREATION AREA

DESIGNATION OF PINE RIDGE NATIONAL RECREATION AREA

16 USC 460rr.

SEC. 201. Certain lands in the Nebraska National Forest, Nebraska, which comprise approximately six thousand six hundred acres, as generally depicted on a map entitled "Pine Ridge National Recreation Area—Proposed", dated September 1986, are hereby designated as the Pine Ridge National Recreation Area.

MAP AND DESCRIPTION

16 USC 460rr-1.

SEC. 202. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and legal description of the national recreation area designated by this title with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such map and description shall have the same force and effect as if included in this title, except that correction of clerical and typographical errors in such map and description may be made by the Secretary. Such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

Public information.

ADMINISTRATION OF THE NATIONAL RECREATION AREA

16 USC 460rr-2.

SEC. 203. (a) Subject to valid existing rights, the Pine Ridge National Recreation Area designated by this title shall be administered by the Secretary of Agriculture in accordance with the laws, rules, and regulations applicable to the national forests in a manner compatible with the following objectives:

(1) the continuation of existing primitive and semiprimitive recreational use in a natural environment;

(2) preservation and protection of forest, aquatic and grassland habitat;

(3) protection and conservation of special areas having uncommon or outstanding wilderness, biological, geological, recreational, cultural, historical or archeological, and scientific, or other values contributing to the public benefit;

(4) the continuation of existing livestock grazing uses; Animals.

(5) the control of noxious weeds and insects and prevention of their spreading onto the nearby private and Federal lands; and

(6) the control of fires and prevention of their spreading onto nearby private and Federal lands.

(b) The Secretary shall enter into a Memorandum of Agreement with local and State firefighting agencies and individuals to assure the best utilization of the firefighting resources available in the nearby communities for control of fire in the national recreation area. Contracts. State and local governments.

(c) The Secretary shall permit hunting, fishing, and trapping on lands and waters under the Secretary's jurisdiction within the boundaries of the national recreation area designated by this title in accordance with applicable laws of the United States and the State of Nebraska. Hunting. Fish and fishing. Trapping.

(d) Subject to valid existing rights, all Federal lands within the national recreation area are hereby withdrawn from location, entry, and patent under the United States mining laws, and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto. Mines and mining.

(e) Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Nebraska with respect to wildlife and fish in the national recreation area. Fish and fishing.

(f) Within eighteen months after the date of enactment of this Act, the Secretary shall develop and submit to the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a comprehensive management plan for the national recreation area designated by this title.

(g) In conducting the reviews and preparing the comprehensive management plan required by subsection (d), the Secretary shall provide for full public participation, and shall consider the views of all interested agencies, organizations, and individuals.

Approved October 20, 1986.

LEGISLATIVE HISTORY—S. 816:

HOUSE REPORTS: No. 99-854, Pt. 1 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 99-122 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 1, considered and passed Senate.
Sept. 23, considered and passed House, amended.
Oct. 3, Senate concurred in House amendments.

O

Public Law 99-505
99th Congress

An Act

Oct. 21, 1986
[H.R. 2224]

To amend the Immigration and Nationality Act to permit nonimmigrant alien crewmen on fishing vessels to stop temporarily at ports in Guam.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NEW NONIMMIGRANT CREWMAN CLASSIFICATION.

Section 101(a)(15)(D) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(D)) is amended by inserting "(i)" after "(D)" and by adding at the end the following new clause:

"(ii) an alien crewman serving in good faith as such in any capacity required for normal operations and service aboard a fishing vessel having its home port or an operating base in the United States who intends to land temporarily in Guam and solely in pursuit of his calling as a crewman and to depart from Guam with the vessel on which he arrived;".

8 USC 1101 note.

SEC. 2. TREATMENT OF DEPARTURES FROM GUAM.

In the administration of section 101(a)(15)(D)(ii) of the Immigration and Nationality Act (added by the amendment made by section 1 of this Act), an alien crewman shall be considered to have departed from Guam after leaving the territorial waters of Guam, without regard to whether the alien arrives in a foreign state before returning to Guam.

Approved October 21, 1986.

LEGISLATIVE HISTORY—H.R. 2224:

HOUSE REPORTS: No. 99-592 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 132 (1986):
May 12, considered and passed House.
Oct. 3, considered and passed Senate.

O

91-139 O - 86 (523)

Public Law 99-506
99th Congress

An Act

To extend and improve the Rehabilitation Act of 1973.

Oct. 21, 1986
[H.R. 4021]

Rehabilitation Act Amendments of 1986.
29 USC 701 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Rehabilitation Act Amendments of 1986".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

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Sec. 102. Rehabilitation Services Administration.
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Sec. 104. Monitoring, evaluation, and administration.
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TITLE II—VOCATIONAL REHABILITATION SERVICES

Sec. 201. Authorization of appropriations.
Sec. 202. State plans.
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TITLE IV—SUPPLEMENTARY SERVICES AND FACILITIES

Sec. 401. Grants for construction of rehabilitation facilities.
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Sec. 403. Training.
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TITLE VI—ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

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TITLE VII—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH HANDICAPS

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Sec. 801. Eligibility for comprehensive services.
Sec. 802. State plan assurance.
Sec. 803. State independent living council.
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Sec. 901. Reauthorization of Helen Keller National Center Act.
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Sec. 1001. Use of gender neutral terminology in Act.
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Sec. 1004. Cost rate report of secretary.
Sec. 1005. Maintenance of effort.
Sec. 1006. Effective Date.

TITLE I—AMENDMENTS TO THE GENERAL PROVISIONS

29 USC 701.

SEC. 101. STATEMENT OF PURPOSE.

Section 2 of the Rehabilitation Act of 1973 (hereinafter referred to as the "Act") is amended by inserting immediately before the period at the end thereof a comma and "for individuals with handicaps in order to maximize their employability, independence, and integration into the workplace and the community".

29 USC 702.

SEC. 102. REHABILITATION SERVICES ADMINISTRATION.

(a) QUALIFICATION OF COMMISSIONER.—Section 3 of the Act is amended by inserting after the second sentence the following new sentence: "The Commissioner shall be an individual with substantial experience in rehabilitation and in rehabilitation program management.".

(b) STAFFING.—Section 3 of the Act is amended by adding at the end thereof the following new subsection:

"(c) The Secretary shall take such action as necessary to ensure that—

"(1) the staffing of the Rehabilitation Services Administration shall be in sufficient numbers to meet program needs and at levels which will attract and maintain the most qualified personnel; and

"(2) such staff includes individuals who have training and experience in the provision of rehabilitation services and that staff competencies meet professional standards.".

SEC. 103. DEFINITIONS. 29 USC 706.

(a) EVALUATION OF REHABILITATION POTENTIAL.—Paragraph (5) of section 7 of the Act is amended—

(1) by inserting "recreational," in subparagraph (B) after "cultural, social,";

(2) by inserting "employability" after "individual's" the second time it appears;

(3) by striking out "and" at the end of subparagraph (F);

(4) by striking out the period at the end of subparagraph (G) and inserting in lieu thereof a semicolon and "and"; and

(5) by adding at the end thereof the following new subparagraph:

"(H) where appropriate, the provision of rehabilitation engineering services to any individual with a handicap to assess and develop the individual's capacities to perform adequately in a work environment.".

(b) EMPLOYABILITY.—Section 7 of the Act is amended by redesignating paragraphs (6) through (10) as paragraphs (7) through (11), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) The term 'employability', with respect to an individual, means a determination that, with the provision of vocational rehabilitation services, the individual is likely to enter or retain, as a primary objective, full-time employment, and when appropriate, part-time employment, consistent with the capacities or abilities of the individual in the competitive labor market or any other vocational outcome the Secretary may determine consistent with this Act.".

(c) FEDERAL SHARE.—

(1) Effective October 1, 1988, section 7(7) of the Act (as redesignated by subsection (b)) is amended to read as follows: Effective date.

"(7)(A) Subject to subparagraphs (B) and (C), the term 'Federal share' means 80 percent.

"(B) For any fiscal year for which payments to a State under section 111(a) exceed such payments for fiscal year 1988, the Federal share for those payments in excess of the fiscal year 1988 amount shall be 79 percent for fiscal year 1989, 78 percent for fiscal year 1990, 77 percent for fiscal year 1991, 76 percent for fiscal year 1992, and 75 percent for fiscal year 1993. 29 USC 731.

"(C) The term 'Federal share' means 90 percent for the purposes of part C of title I of this Act and as specifically set forth in section 301(b)(3), except that with respect to payments pursuant to part B of title I of this Act to any State which are used to meet the costs of construction of those rehabilitation facilities identified in section 103(b)(2) in such State, the Federal share shall be the percentages determined in accordance with the provisions of section 301(b)(3) applicable with respect to the State. 29 USC 740. 29 USC 771. 29 USC 730. 29 USC 723.

"(D) For the purpose of determining the non-Federal share with respect to a State, expenditures by a political subdivision thereof or by a local agency shall be regarded as expenditures by such State, subject to such limitations and conditions as the Secretary shall by regulation prescribe.". State and local governments.

Effective date.
29 USC 730.

(2) Effective October 1, 1988, section 110(b)(2) of the Act is amended by striking out "80 percent" both places it appears and inserting in lieu thereof "the applicable Federal share".

(d) HANDICAPPED INDIVIDUAL.—

29 USC 706.

(1) Section 7(8) of the Act (as redesignated by subsection (b)) is amended by striking out "handicapped individual" both places it appears and inserting in lieu thereof "individual with handicaps"; and

(2) The Act is amended—

(A) by striking out "a handicapped individual" each place it appears and inserting in lieu thereof "an individual with handicaps";

(B) by striking out "handicapped individual" each place it appears and inserting in lieu thereof "individual with handicaps"; and

(C) by striking out "handicapped individuals" each place it appears and inserting in lieu thereof "individuals with handicaps".

Indians.

(e) LOCAL AGENCY.—Section 7(9) of the Act (as redesignated by subsection (b)) is amended in the first sentence by striking out "Indian tribal organization (or combination of such units or organizations)" and inserting "Indian tribe (or combination of such units or tribes)".

(f) REHABILITATION ENGINEERING.—Section 7 of the Act is further amended by redesignating paragraphs (11), (12), and (13) as paragraphs (13), (14), and (15), respectively, and by inserting before paragraph (13) (as redesignated) the following new paragraph:

"(12) The term 'rehabilitation engineering' means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with handicaps in areas which include education, rehabilitation, employment, transportation, independent living, and recreation.".

(g) REHABILITATION FACILITY.—Paragraph (13) of section 7 of the Act (as redesignated by subsection (f) of this section) is amended—

(1) by striking out "and" at the end of subparagraph (K);

(2) by striking out the period at the end of subparagraph (L) and inserting in lieu thereof a comma and "and"; and

(3) by adding at the end thereof "(M) psychosocial rehabilitation services for individuals with chronic mental illness.".

(h) SEVERE HANDICAP.—

(1) Paragraph (15) of section 7 of the Act (as redesignated by subsection (c)) is amended to read as follows:

"(15)(A) Except as provided in subparagraph (B), for purposes of this Act the term 'individual with severe handicaps' means an individual with handicaps (as defined in paragraph (8))—

"(i) who has a severe physical or mental disability which seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of employability;

"(ii) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

"(iii) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness,

head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an evaluation of rehabilitation potential to cause comparable substantial functional limitation.

"(B) For purposes of title VII of this Act the term 'individual with severe handicaps' means an individual whose ability to function independently in family or community or whose ability to engage or continue in employment is so limited by the severity of his or her physical or mental disability that independent living rehabilitation services are required in order to achieve a greater level of independence in functioning in family or community or engaging or continuing in employment.". 29 USC 796.

(2) The Act is amended by striking out "severely handicapped individuals" each place it appears and inserting in lieu thereof "individuals with severe handicaps".

(i) SUPPORTED EMPLOYMENT.—Section 7 of the Act is further amended— 29 USC 706.

(1) by redesignating paragraphs (14) and (15) as paragraphs (16) and (17), respectively; and

(2) by adding at the end thereof the following new paragraph:

"(18) The term 'supported employment' means competitive work in integrated work settings—

"(A) for individuals with severe handicaps for whom competitive employment has not traditionally occurred, or

"(B) for individuals for whom competitive employment has been interrupted or intermittent as a result of a severe disability, and

who, because of their handicap, need on-going support services to perform such work. Such term includes transitional employment for individuals with chronic mental illness. For the purpose of this Act, supported employment as defined in this paragraph may be considered an acceptable outcome for employability.".

(j) INDIAN.—Section 7 of the Act is further amended by inserting at the end thereof the following new paragraphs:

"(19) The term 'public or nonprofit agency or organization' shall include an Indian tribe.

"(20) The terms 'Indian', 'American Indian', and 'Indian American' mean an individual who is a member of an Indian tribe.

"(21) The term 'Indian tribe' means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaskan native village or regional village corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act).". 43 USC 1601 note.

SEC. 104. MONITORING, EVALUATION, AND ADMINISTRATION. 29 USC 711.

(a) MONITORING AND EVALUATION.—Section 12(a) of the Act is amended by striking out paragraph (5) and inserting in lieu thereof the following new paragraph:

"(5) provide monitoring and conduct evaluations.".

29 USC 711.

(b) INFORMATION TASK FORCE.—Section 12(b) of the Act is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) In carrying out the provisions of this Act, the Commissioner shall appoint such task forces as may be necessary to collect and disseminate information in order to improve the ability of the Commissioner to carry out the provisions of this Act.".

SEC. 105. REPORTS.

29 USC 712.

Section 13 of the Act is amended—

(1) in the first sentence by striking out "for transmittal" and inserting in lieu thereof "and";

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof ", including the activities and staffing of the information clearinghouse under section 15."; and

(3) by inserting at the end thereof "The annual report shall include an evaluation of the status of individuals with severe handicaps participating in programs under this Act.".

SEC. 106. EVALUATION.

29 USC 713.

(a) EVALUATION GENERAL RULE.—The first sentence of section 14(a) of the Act is amended to read as follows: "For the purpose of improving program management and effectiveness, the Commissioner shall evaluate all the programs authorized by this Act, their general effectiveness in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services, using appropriate methodology and evaluative research designs.".

(b) REPORT OF THE COMMISSIONER.—Section 14(c) of the Act is amended by inserting "including the standards used for such evaluations," after "effectiveness,".

(c) USE OF STANDARDS.—Section 14 of the Act is amended by striking out "Secretary" each time it appears and inserting in lieu thereof "Commissioner".

SEC. 107. TRANSFER OF FUNDS.

Section 16 of the Act is amended to read as follows:

"TRANSFER OF FUNDS

Contracts
Grants.
29 USC 715.

"SEC. 16. (a) Except as provided in subsection (b) of this section, no funds appropriated under this Act for any research program or activity may be used for any purpose other than that for which the funds were specifically authorized.

"(b) No more than one-half of 1 percent of funds appropriated for discretionary grants, contracts, or cooperative agreements authorized by this Act may be used for the purpose of providing non-Federal panels of experts to review applications for such grants, contracts, or cooperative agreements.".

SEC. 108. STATE ADMINISTRATION.

(a) STATE ADMINISTRATION.—The Act is amended by inserting after section 16 the following new section:

"STATE ADMINISTRATION

"SEC. 17. The application of any State rule or policy relating to the administration or operation of programs funded by this Act (including any rule or policy based on State interpretation of any Federal law, regulation, or guideline) shall be identified as a State imposed requirement.". 29 USC 716.

(b) CONFORMING AMENDMENT.—The table of contents of the Act is amended by inserting after the item relating to section 16 the following:

"Sec. 17. State administration.".

SEC. 109. REVIEW OF APPLICATIONS.

(a) REVIEW AUTHORIZED.—The Act is amended by inserting after section 17 (as added by section 108) the following new section:

"REVIEW OF APPLICATIONS

"SEC. 18. Applications for grants or contracts in excess of $60,000 in the aggregate authorized to be funded under this Act other than grants or contracts for evaluations, dissemination, or conferences shall be reviewed by panels of experts which shall include a majority of non-Federal members. Non-Federal members may be provided travel, per diem, and consultant fees not to exceed the rate provided for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code.". Grants. Contracts. 29 USC 717.

(b) CONFORMING AMENDMENT.—The table of contents of the Act is amended by inserting after the item relating to section 16 the following:

"Sec. 18. Review of applications.".

TITLE II—VOCATIONAL REHABILITATION SERVICES

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

(a) STATE GRANT AUTHORIZATION.—Section 100(b)(1) of the Act is amended to read as follows— 29 USC 720.

"(b)(1)(A) For the purpose of making grants to States under part B of this title (other than grants under section 112) to assist States in meeting the costs of vocational rehabilitation services provided in accordance with State plans under section 101, there is authorized to be appropriated $1,281,000,000 for fiscal year 1987 and the amount determined under subsection (c) for each of the fiscal years 1988, 1989, 1990, and 1991. The amount determined under subsection (c) for each fiscal year shall be based upon the amount authorized by this subsection, or the amount appropriated for this subsection, whichever is higher, plus the amount of the Consumer Price Index addition determined under subsection (c) for the immediately preceding fiscal year. 29 USC 732. 29 USC 721.

"(B) In addition, there are authorized to be appropriated for such purpose such additional sums as may be necessary for each of the fiscal years 1987 through 1991. Any such sums shall be allocated in accordance with section 110(a)(4). 29 USC 730.

"(C) In no event may the amount appropriated for the purpose of making grants to States under part B of this title (other than section 112) be more than $1,281,000,000 for fiscal year 1987, $1,409,100,000

for fiscal year 1988, $1,550,010,000 for fiscal year 1989, $1,705,011,000 for fiscal year 1990, and $1,875,512,100 for fiscal year 1991.".

(b) INNOVATION AND EXPANSION GRANTS AUTHORIZATION.—Section 100(b)(2) of the Act is amended to read as follows:

29 USC 720.
29 USC 740.

"(2) For the purpose of allotments under section 120(a)(1), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1987, 1988, 1989, 1990, and 1991.".

(c) CONFORMING AMENDMENT.—Section 100(d) of the Act is amended by striking out "1986" and inserting "1991".

SEC. 202. STATE PLANS.

(a) ASSESSMENT OF REHABILITATION NEEDS.—

29 USC 721.

(1) Section 101(a)(5)(A) of the Act is amended—

(A) by inserting "the results of a comprehensive, Statewide assessment of the rehabilitation needs of individuals with severe handicaps residing within the State and the State's response to the assessment," after "including";

(B) by inserting after "severe handicaps" the first time it appears, the following: "including individuals served under part C of title VI of this Act,";

Post, p. 1834.

(C) by striking out "show (i)" and inserting in lieu thereof "(i) show and provide the justification for"; and

(D) by inserting "show" after "(ii)".

(2) Section 101(a)(5) of the Act is amended—

(A) by striking out "and" at the end of subclause (A);

(B) by inserting "and" at the end of subclause (B); and

(C) by adding at the end thereof the following new subclause:

"(C) describe how rehabilitation engineering services will be provided to assist an increasing number of individuals with handicaps;".

(b) PERSONNEL.—Section 101(a)(7)(B) of the Act is amended by inserting "qualified" after "facilities and".

(c) PROVISION OF SERVICES.—Section 101(a)(8) of the Act is amended to read as follows:

"(8) provide, at a minimum, for the provision of the vocational rehabilitation services specified in clauses (1) through (3) and clause (12) of section 103(a), and for the provision of such other services as are specified under such section after a determination that comparable services and benefits are not available under any other program, except that such determinations shall not be required where it would delay the provision of such services to any individual at extreme medical risk;".

29 USC 723.

(d) COOPERATIVE ARRANGEMENTS.—Section 101(a)(11) of the Act is amended by inserting "community mental health programs,", after "veterans programs,".

(e) NEEDS ASSESSMENT.—Section 101(a)(15) of the Act is amended—

(1) by striking out "(including" and inserting in lieu thereof ", including conducting a full needs assessment for serving individuals with severe handicaps and including"; and

(2) by striking out "agency)" and inserting in lieu thereof "agency".

(f) CONSULTATION WITH INDIAN TRIBES.—Section 101(a)(20) of the Act is amended by inserting "as appropriate, the State shall actively consult with Indian tribes and tribal organizations and native Hawaiian organizations in the development of the State plan, and that," after "Commissioner that,".

(g) PUBLIC MEETINGS; TRANSITION.—Section 101(a) of the Act is amended— 29 USC 721.

(1) in paragraph (21) by striking out "and" after "organizations;";

(2) in paragraph (22) by striking out the period and inserting in lieu thereof a semicolon; and

(3) by inserting at the end thereof the following new paragraphs:

"(23)(A) provide satisfactory assurances that in the formulation of policies governing the provision of the rehabilitation services consistent with the State plan, and any revisions, that the State agency conducts public meetings throughout the State, after appropriate and sufficient notice, to allow interested groups and organizations and all segments of the public an opportunity to comment on the State plan, and (B) include a summary of such comments and the State agency's response to such comments;

"(24) contain the plans, policies, and methods to be followed to assist in the transition from education to employment related activities.".

(h) SUPPORTED EMPLOYMENT SERVICES.—Section 101(a) of the Act (as amended by subsection (g)) —

(1) by striking out the period at the end of clause (24) and inserting in lieu thereof a semicolon and the word "and"; and

(2) by adding at the end thereof the following new clause:

"(25) provide satisfactory assurances that the State has an acceptable plan for part C of title VI.". *Post*, p. 1834.

SEC. 203. INDIVIDUALIZED REHABILITATION PROGRAM.

(a) INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM.—Section 102(b) of the Act is amended to read as follows: 29 USC 722.

"(b)(1) Each individualized written rehabilitation program shall—

"(A) be developed on the basis of a determination of employability designed to achieve the vocational objective of the individual;

"(B) include a statement of the long-range rehabilitation goals based on an assessment determined through an evaluation of rehabilitation potential for the individual;

"(C) include a statement of the intermediate rehabilitation objectives related to the attainment of such goals based on an assessment determined through an evaluation of rehabilitation potential;

"(D) where appropriate, include a statement of the specific rehabilitation engineering services to be provided to assist in the implementation of intermediate objectives and long-range rehabilitation goals for the individual;

"(E) include an assessment of the expected need for post-employment services;

"(F) include a statement of the specific vocational rehabilitation services to be provided and the projected dates for the initiation and the anticipated duration of each such service;

"(G) include objective criteria and an evaluation procedure and schedule for determining whether such goals and objectives are being achieved;

"(H) provide for a reassessment of the need for post-employment services prior to case closure and, where appropriate, for severely handicapped individuals, the development of a state-

ment detailing how such services shall be provided or arranged through cooperative agreements with other service providers; and

"(I) provide a description of the availability of a client assistance project established in such area pursuant to section 112.

29 USC 732.

"(2) Each individualized written rehabilitation program shall be reviewed annually at which time such individual (or in appropriate cases, the parents or guardian of the individual) will be afforded an opportunity to review such program and jointly redevelop and agree to its terms. Each individualized written rehabilitation program shall be revised as needed.".

29 USC 722.

(b) REVIEW OF DETERMINATIONS.—Section 102(d) of the Act is amended to read as follows:

State and local governments.

"(d)(1) Except as provided in paragraph (4), the Director of any designated State unit shall establish procedures for the review of determinations made by the rehabilitation counselor or coordinator under this section, upon the request of an individual with handicaps (or, in appropriate cases, such individual's parents or guardian).

"(2) Such review procedures shall provide an opportunity to such individuals for the submission of additional evidence and information to an impartial hearing officer who shall make a decision based on the provisions of the State plan approved under section 101(a).

Ante, p. 1814.

"(3)(A) Within 20 days of the mailing of the decision to the individual with handicaps (or, in appropriate cases, such individual's parents or guardian), the Director shall notify such individuals of the intent to review such decision in whole or in part.

"(B) If the Director decides to review the decision, such individuals shall be provided an opportunity for the submission of additional evidence and information relevant to a final decision.

Reports.

"(C) A final decision shall be made in writing by the Director and shall include a full report of the findings and the grounds for such decision. When a final decision is made, a copy of such decision shall be provided to such individuals.

"(D) Except as provided in paragraph (4), the Director may not delegate responsibility to make any such final decision to any other officer or employee of the designated State unit.

State and local governments.

"(4)(A) A fair hearing board, established by a State before January 1, 1985, and authorized under State law to review determinations under this Act, is authorized to carry out the responsibilities of the Director under this subsection.

"(B) The provisions of paragraphs (1) through (3) of this subsection shall not apply to any State to which subparagraph (A) of this paragraph applies.".

Reports.

"(5)(A) The Director shall collect data described in subparagraph (B) and prepare and submit to the Commissioner a report containing such data. For the report submitted on or before February 1, 1988, the Commissioner shall prepare a summary of the information furnished under this paragraph and include the summary in the annual report submitted under section 13.

Ante, p. 1812.

"(B) The data required to be collected under this paragraph shall include—

"(1) a description of State procedures for review;

"(2) the number of appeals to the independent hearing officer and the State Director, including the type of complaint and the issues involved;

"(3) the number of decisions by the State Director reversing in whole or in part the decision of the impartial hearing officer; and

"(4) the number of decisions affirming the position of the individual with handicaps assisted through the client assistance program.".

SEC. 204. SCOPE OF VOCATIONAL REHABILITATION SERVICES. 29 USC 723.

(a) REHABILITATION TECHNOLOGY.—Section 103(a)(1) of the Act is amended by inserting "evaluation by personnel skilled in rehabilitation engineering technology," after "appropriate,".

(b) POSTEMPLOYMENT SERVICES.—Section 103(a)(2) of the Act is amended by striking out "other postemployment services necessary to assist such individuals to maintain their employment and" and insert in lieu thereof "specific postemployment services necessary to assist such individuals maintain or regain employment, and other".

(c) REHABILITATION ENGINEERING SERVICES.—Section 103(a) of the Act is amended—

(1) by striking out "and" at the end of clause (10);

(2) by striking out the period at the end of clause (11) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new clause: "(12) rehabilitation engineering services.".

SEC. 205. NON-FEDERAL SHARE FOR CONSTRUCTION.

Section 104 of the Act is amended by striking out "title," and inserting in lieu thereof "title (or to an Indian tribe under part D of this title),". 29 USC 724.

SEC. 206. STATE ALLOTMENTS.

(a) ADDITIONAL PAYMENTS.—Section 110(b)(2) of the Act is amended— 29 USC 730.

(1) by striking out ", as a result of the maintenance of effort provisions of such section,"; and

(2) by inserting "for fiscal year 1972" after "of such State".

(b) REALLOTMENT.—Section 110(c) of the Act is amended to read as follows:

"(c)(1) Not later than forty-five days prior to the end of the fiscal year, the Commissioner shall determine, after reasonable opportunity for the submission to the Commissioner of comments by the State agency administering or supervising the program established under this title, that any payment of an allotment to a State under section 111(a) for any fiscal year will not be utilized by such State in carrying out the purposes of this title. 29 USC 731.

"(2) As soon as practicable but not later than the end of the fiscal year, the Commissioner shall make such amount available for carrying out the purposes of this title to one or more other States to the extent the Commissioner determines that such other State will be able to use such additional amount during that fiscal year or to pay for initial expenditures during the subsequent fiscal year for carrying out such purposes.

"(3) For the purposes of this part, any amount made available to a State for any fiscal year pursuant to this subsection shall be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.".

29 USC 730.

SEC. 207. FUNDS FOR AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES.

Section 110 of the Act is amended—

(1) in subsection (a)(1) by striking out "For" and inserting in lieu thereof "Subject to the provisions of subsection (d), for"; and

(2) by inserting after subsection (c) the following subsection:

"(d)(1) For fiscal year 1987 and for each subsequent fiscal year, the Commissioner shall reserve from the amount appropriated under section 100(b)(1) for allotment under this section a sum, determined under paragraph (2), to carry out the purposes of part D of this title.

Ante, p. 1813.

"(2) For any fiscal year the sum shall be not less than ¼ of one percent and not more than one percent of the amount under paragraph (1), as determined by the Secretary.".

SEC. 208. PAYMENTS TO STATES; MAINTENANCE OF EFFORT.

29 USC 731.

Section 111(a) of the Act is amended to read as follows:

"SEC. 111. (a)(1) Except as provided in paragraph (2), from each State's allotment under this part for any fiscal year (including any additional payment to it under section 110(b)), the Commissioner shall pay to a State an amount equal to the Federal share of the cost of vocational rehabilitation services under the plan for that State approved under section 101, including expenditures for the administration of the State plan.

Ante, p. 1814.

"(2)(A) The total of payments under paragraph (1) to a State for a fiscal year may not exceed its allotment under subsection (a) (and any additional payment under subsection (b)), of section 110 for such year and such payments shall not be made in an amount which would result in a violation of the provisions of the State plan required by section 101(a)(17).

"(B) The amount otherwise payable to a State for a fiscal year under this section shall be reduced by any amount by which expenditures from non-Federal sources under the State plan during such year under this title are less than the average of the total of such expenditures for the three preceding fiscal years.

"(C) The Commissioner may waive or modify any requirement or limitation under paragraphs (A) and (B) if the Commissioner determines that a waiver or modification is an equitable response to exceptional or uncontrollable circumstances affecting the State.".

29 USC 732.

SEC. 209. CLIENT ASSISTANCE PROGRAM.

(a) INFORMATION ON AVAILABLE SERVICES.—Section 112(a) of the Act is amended by adding at the end thereof the following new sentence: "The client assistance program may provide information on the available services under this Act to any handicapped individuals in the State.".

(b) REDESIGNATION OF CLIENT ASSISTANCE AGENCY.—

(1) The last sentence of section 112(c)(1) of the Act is amended by inserting after "may" a comma and the following: "in the initial designation,".

(2) Section 112(c)(1) of the Act is amended—

(A) by inserting "(A)" after the paragraph designation; and

(B) by adding at the end thereof the following new paragraph:

"(B) The Governor may not redesignate the agency designated under subparagraph (A) without good cause and only after notice and an opportunity for public comment has been given of the intention to make such redesignation.".

(c) PAYMENT OF ALLOTMENT.—Section 112(e)(3) of the Act is amended to read as follows: 29 USC 732.

"(3) Except as specifically prohibited by or as otherwise provided in State law, the Secretary shall pay to the agency designated under subsection (c) the amount specified in the application approved under subsection (f).".

(d) ALLOTMENT.—Paragraph (1) of section 112(e) of the Act is amended by inserting at the end thereof the following new subparagraph:

"(D)(i) In any fiscal year that the funds appropriated for such fiscal year exceed $7,500,000, the minimum allotment shall be $75,000 for States and $45,000 for territories.

"(ii) Subject to subsection (c), the Commissioner may increase the minimum allotment under subparagraph (A) for any fiscal year for which funds appropriated under this section for such fiscal year exceed the sums appropriated under this section for the preceding fiscal year by more than the percentage increase in the Consumer Price Index published monthly by the Bureau of Labor Statistics.".

(e) EMPLOYEE PROVISION.—Paragraph (1) of section 112(g) of the Act is amended by striking out ", or receive benefits of any kind directly or indirectly from".

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 112(i) of the Act is amended to read as follows:

"(i) There are authorized to be appropriated $7,100,000 for fiscal year 1987, $7,550,000 for fiscal year 1988, $8,000,000 for fiscal year 1989, $8,450,000 for fiscal year 1990, and $8,796,000 for fiscal year 1991 to carry out the provisions of this section.".

SEC. 210. PAYMENTS TO STATES. 29 USC 741.

Section 121(b) of the Act is amended in the first sentence by striking out "the fiscal year ending September 30, 1986." and inserting in lieu thereof "fiscal year 1991.".

SEC. 211. AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES GRANTS. 29 USC 750.

(a) GRANTS.—Section 130(a) of the Act is amended to read as follows:

"SEC. 130. (a) The Commissioner, in accordance with the provisions of this part may make grants to the governing bodies of Indian tribes located on Federal and State reservations (and consortia of such governing bodies) to pay 90 percent of the costs of vocational rehabilitation services for handicapped American Indians residing on such reservations. The non-Federal share of such costs may be in cash or in kind, fairly valued, and the Commissioner may waive such non-Federal share requirement in order to carry out the purposes of this Act.". State and local governments.

(b) APPLICATION.—Section 130(b) of the Act is amended—

(1) in paragraph (1)(B) by inserting immediately before the semicolon "and that, where appropriate, may include services traditionally used by Indian tribes";

(2) in paragraph (3) after "months" by inserting "or more than 36 months,"; and

(3) by inserting after paragraph (3) the following new paragraphs.

"(4) In making grants under this part, the Secretary shall give priority consideration to applications for the continuation of programs which have been funded under this part.

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"(5) Nothing in this section may be construed to authorize a separate service delivery system for Indian residents of a State who reside in non-reservation areas.".

29 USC 750.

(c) ALLOTMENT.—Section 130 of the Act is amended by striking out all of subsection (c) and by redesignating subsection (d) as subsection (c).

SEC. 212. STUDY OF NEEDS OF AMERICAN INDIANS WITH HANDICAPS.

(a) STUDY OF NEEDS OF AMERICAN INDIANS WITH HANDICAPS.—Part D of title I of the Act is amended by inserting at the end thereof the following new section:

"STUDY OF NEEDS OF AMERICAN INDIANS WITH HANDICAPS

29 USC 752.

"SEC. 132. The Secretary shall conduct a study on the special problems and needs of Indians with handicaps both on and off the reservation, in consultation with the Director of the Office of Special Education and Rehabilitative Services, the Director of the National Institute on Disability and Rehabilitation Research, the Assistant Secretary of the Interior for Indian Affairs, the Director of Indian Health Services, representatives of affected Indian tribes and tribal groups, and other appropriate officials, organizations, and individuals. The study shall also evaluate the nature and extent of cooperative efforts among programs conducted under this Act. Not later than 12 months after the date of enactment of the Rehabilitation Act Amendments of 1986, the Secretary shall submit the results of such study, together with such recommendations as are appropriate, to the President and to the appropriate committees of the Congress.".

(b) CONFORMING AMENDMENT.—The table of contents of the Act is amended by inserting after the item relating to section 131 the following:

"Sec. 132. Study of needs of handicapped American Indians.".

TITLE III—RESEARCH AND TRAINING

29 USC 761.

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Section 201(a) of the Act is amended to read as follows:

"SEC. 201. (a) There are authorized to be appropriated—

"(1) for the purpose of providing for the expenses of the National Institute on Disability and Rehabilitation Research under section 202, other than expenses to carry out section 204, such sums as may be necessary for fiscal year 1987 and for each succeeding fiscal year ending prior to October 1, 1991; and

Infra; post, p. 1822.

"(2) $49,000,000 for fiscal year 1987, $52,000,000 for fiscal year 1988, $55,000,000 for fiscal year 1989, $58,000,000 for fiscal year 1990, and $60,378,500 for fiscal year 1991 for the purpose of carrying out section 204, of which $1,000,000 shall be available for fiscal year 1987, $1,050,000 for fiscal year 1988, $1,102,500 for fiscal year 1989, $1,160,000 for fiscal year 1990, and $1,208,000 for fiscal year 1991 for the purpose of carrying out the last sentence of section 204(b)(2)(C).".

29 USC 761a.

SEC. 302. REDESIGNATION OF NATIONAL INSTITUTE.

(a) REDESIGNATION.—Section 202 of the Act is amended by redesignating the "National Institute of Handicapped Research" as the "National Institute on Disability and Rehabilitation Research".

(b) REFERENCES.—The Act is amended by striking out "National Institute of Handicapped Research" each place it appears in the Act (including the table of contents) and inserting in lieu thereof "National Institute on Disability and Rehabilitation Research". Any reference in any other provision of law to the "National Institute of Handicapped Research" shall be considered to be a reference to the "National Institute on Disability and Rehabilitation Research". 29 USC 761a note.

SEC. 303. NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH. 29 USC 761a.

(a) AMERICAN INDIAN SERVICES.—Section 202(b) of the Act is amended—

(1) in paragraph (2) by inserting "tribal," after "State,"; and

(2) in paragraph (8) by inserting "the Bureau of Indian Affairs, the Indian Health Service," after "Administration,".

(b) PACIFIC BASIN REHABILITATION CENTER.—Section 202(j)(2) of the Act is amended—

(1) by inserting immediately before the period the following: "in order to improve services to individuals with handicaps through relevant rehabilitation research and training in the Pacific Basin and to assist in the coordination of rehabilitation services provided by a broad range of agencies and entities; and

(2) by adding at the end thereof the following: "Such Center shall (A) develop a sound demographic base, (B) analyze, develop, and utilize appropriate technology, (C) develop a culturally relevant rehabilitation manpower development program, and (D) facilitate interagency communication and cooperation, implementing advanced information technology.".

(c) RURAL REHABILITATION CENTER.—Section 202(j) of the Act is amended by inserting at the end thereof the following new paragraph:

"(3) The Director shall establish, directly or by grant or contract, a center associated with an institution of higher education, for research and training concerning the delivery of rehabilitation services to rural areas.". Contracts. Grants.

(d) GRANTS FOR TRAINING.—Section 202 of the Act is amended by inserting after subsection (j) the following subsection:

"(k) The Director shall make grants to institutions of higher education for the training of researchers in the field of rehabilitation of individuals with handicaps.".

(e) REPORT TO CONGRESS.—Section 202 of the Act is amended by inserting after subsection (k) the following new subsection:

"(l) The Director shall submit to the Congress, not later than one year after the date of the enactment of the Rehabilitation Act Amendments of 1986, policy recommendations for the establishment by the Congress of an agency designed to ensure (1) the development and cost-effective production and marketing of technological devices; and (2) the efficient distribution of such technology to individuals with handicaps. Such recommendations shall specifically evaluate the feasibility of the chartering by Congress of a private organization or the establishment of a joint public-private corporation to provide marketing and production-related services to the public and private sectors. The policy recommendation shall include suggested funding alternatives for an organization or agency and such other suggestions as the Director or the Committee on Handicapped Research may consider appropriate. Further such recommendations shall consider any potential conflicts of interest in the evaluation

and marketing of new products for use by individuals with handicaps. In developing such policy recommendations, the Director shall solicit the views of the Interagency Committee on Handicapped Research and shall submit any dissenting views offered by any member of that Committee together with the submission of policy recommendations.".

29 USC 761a.

(f) STUDY OF HEALTH INSURANCE PRACTICES.—Section 202 of the Act is amended by inserting after subsection (l) the following subsection:

Reports.

"(m) The Director shall conduct a study of health insurance practices and policies which affect individuals with handicaps. Not later than February 1, 1990, the Director shall submit a report of the study to the appropriate committees of the Congress.".

29 USC 761b.

SEC. 304. COMPOSITION OF INTERAGENCY COMMITTEE.

Section 203(a)(1) of the Act is amended—

(1) by inserting "the Director of the National Institute of Mental Health," after "Institutes of Health,"; and

(2) by inserting "the Assistant Secretary of the Interior for Indian Affairs, the Director of the Indian Health Service," after "Transportation,".

29 USC 762.

SEC. 305. RESEARCH.

Indians.

(a) RESEARCH ACTIVITIES.—Section 204(a) of the Act is amended in the first sentence by inserting "Indian tribes, and tribal organizations," after "education,".

(b) GENERAL AUTHORITY.—Section 204(a) of the Act is amended in the second sentence—

(1) by inserting "recreational," after "vocational, social,"; and

(2) by inserting "studies, analyses, and other activities related to supported employment;" after "special needs of handicapped individuals;".

(c) SPECIALIZED RESEARCH ACTIVITIES.—(1) Section 204(b) of the Act is amended—

(A) in the second sentence of paragraph (1) by striking out "Center," and inserting in lieu thereof "Center (and as appropriate shall include consideration of rural issues),";

(B) by adding at the end of paragraph (1) the following: "The peer review of all applications for the renewal of a Rehabilitation Research and Training Center grant shall take into account the past performance of the applicant in carrying out the grant. The host institution with which the Rehabilitation Research and Training Center is affiliated may not collect in excess of 15 percent in indirect cost charges. Beginning with fiscal year 1991, awards under clause (C) of this paragraph shall be made on a competitive basis.".

(2) Section 204(b)(2) of the Act is amended—

(A) by inserting "and disseminate" after "develop" in clause (A);

Rural areas.
Urban areas.
Handicapped persons.

(B) by striking out "and to (B)" and inserting in lieu thereof "(B) demonstrate and disseminate innovative models for the delivery to rural and urban areas of cost-effective rehabilitation engineering services that promote utilization of engineering and other scientific research to assist in meeting the employment and independent living needs of individuals with severe handicaps, to (C)"; and

(C) by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and to (D) demonstrate and disseminate innovative models for the delivery of cost-effective rehabilitation engineering services to assist in meeting the needs of, and addressing the barriers confronted by, individuals with handicaps. In fiscal year 1987, at least two such Rehabilitation Engineering Centers shall be established. One grant to provide demonstrations pursuant to clause (D) of this paragraph shall be made to an agency or organization in the State of South Carolina and one such grant shall be made to an agency or organization in the State of Connecticut.".

Grants.
South Carolina.
Connecticut.

(3) Section 204(b)(3) of the Act is amended by inserting at the end thereof: "In the award of grants under this paragraph the Director shall take into account the location of any proposed Center and the appropriate geographic and regional allocation of such Centers.".

29 USC 762.

(4) Section 204(b)(7) of the Act is amended by inserting "the National Institute of Mental Health," after "Institutes of Health,".

(5) Section 204(b)(8) of the Act is amended by inserting before the period ", except that research concerning handicapped Indian Americans shall include those 55 and older".

Indians.

(6) Section 204(b)(11) of the Act is amended by striking out all that follows "(B)" and inserting in lieu thereof "such physical therapy, language development, pediatric, nursing, psychological, and psychiatric services as are necessary for such children; and (C) appropriate services for the parents of such children, including psychological and psychiatric services, parent counseling, and training.".

(c) ADDITIONAL RESEARCH ACTIVITIES.—Section 204(b) of the Act is amended by adding at the end thereof the following new paragraphs:

"(14) Conduct of studies of the rehabilitation needs of American Indian populations and of effective mechanisms for the delivery of rehabilitation services to Indians residing on and off reservations.".

Indians.

"(15) Conduct of a demonstration program under which one or more projects national in scope shall be established to develop procedures to provide incentives for the development, manufacturing, and marketing of orphan technological devices designed to enable individuals with handicaps to achieve independence and access to gainful employment.".

(d) SPECIAL RULE.—Section 204 of the Act is amended by adding at the end thereof the following new subsection:

"(d)(1) In carrying out evaluations of research demonstration and related projects under this section, the Director is authorized to make arrangements for site visits to obtain information on the accomplishments of the projects.

"(2) The Director shall not make a grant under this section which exceeds $299,999 unless the peer review of the grant application has included a site visit.".

TITLE IV—SUPPLEMENTARY SERVICES AND FACILITIES

SEC. 401. GRANTS FOR CONSTRUCTION OF REHABILITATION FACILITIES.

29 USC 771.

Section 301(a) of the Act is amended—

(1) in the first sentence by striking out "fiscal year ending before October 1, 1986." and inserting in lieu thereof "of the fiscal years 1987, 1988, 1989, 1990, and 1991."; and

(2) in the second sentence by striking out "October 1, 1987." and inserting in lieu thereof "October 1, 1992.".

SEC. 402. VOCATIONAL TRAINING SERVICES FOR INDIVIDUALS WITH HANDICAPS.

29 USC 772.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 302(a) of the Act is amended by striking out "fiscal year ending before October 1, 1986." and inserting in lieu thereof "of the fiscal years 1987, 1988, 1989, 1990, and 1991.".

(b) INCLUSION OF SUPPORTED EMPLOYMENT.—Section 302(b)(3)(A) of the Act is amended by inserting before the semicolon ", including supported employment".

SEC. 403. TRAINING.

29 USC 774.

(a) TRAINING OF QUALIFIED PERSONNEL.—Section 304(a) of the Act is amended—

(1) in the first sentence—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(B) by inserting after paragraph (1)—"(2) personnel specifically trained to identify, assess, and meet the individual rehabilitation needs of individuals with severe handicaps,"; and

Grants. Contracts.

(2) by inserting after the first sentence—"Recipients of grants or contracts under this section shall give due regard to the training of individuals with handicaps as part of the effort to increase the number of qualified personnel available to provide rehabilitation services.".

(b) TARGETING.—The first sentence of section 304(b) of the Act is amended—

(1) by inserting before "rehabilitation medicine" the following: "rehabilitation engineering,";

(2) by inserting "rehabilitation dentistry," after "rehabilitation psychology,";

(3) by inserting "physical education, therapeutic recreation," after "speech pathology and audiology,"; and

(4) by inserting "specialized personnel in providing employment training for supported employment, other specialized personnel for those individuals who meet the definition of severely handicapped," after "job placement services for handicapped individuals,".

(c) LENGTH OF GRANT.—Section 304(b) of the Act is amended—

(1) by designating the first sentence as paragraph (1); and

(2) by striking out the last sentence and inserting in lieu thereof the following:

"(2)(A) Except as provided in subparagraph (B), no grant under this section may be used to provide any one course of study to an individual for a period of more than 4 years.

"(B) If the grant recipient determines that an individual has a handicap which seriously affects the completion of training under this section, the grant recipient may modify the limitation under subparagraph (A).".

(d) SCHOLARSHIP REQUIREMENTS.—Section 304(b) of the Act is amended by inserting at the end thereof the following new paragraph: 29 USC 774.

"(3)(A) A recipient of a grant of contract under this section shall provide assurances that each individual who receives a scholarship from funds provided under such grant or contract shall enter into an agreement with the recipient under which the individual shall— Grants. Contracts.

"(i) within the ten-year period after completing the training for which the scholarship was awarded, maintain employment in a nonprofit rehabilitation or related agency, or in a State rehabilitation agency, on a full-time basis for a period of not less than two years for each year for which assistance was received; and State and local governments.

"(ii) repay all or part of any scholarship received, plus interest, if the individual does not fulfill the requirements of clause (i),

except as the Commissioner by regulation may provide for repayment exceptions and deferrals.

"(B) The Commissioner shall be responsible for the enforcement of each agreement entered into under subparagraph (A) upon completion of training under such subparagraph.".

(e) TECHNICAL ASSISTANCE.—Section 304 is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e)(1) The Commissioner is authorized to provide technical assistance to State rehabilitation agencies and rehabilitation facilities, directly or through contracts with State vocational rehabilitation agencies or nonprofit organizations. State and local governments.

"(2) An expert or consultant appointed or serving under contract pursuant to this section shall be compensated at a rate subject to approval of the Commissioner which shall not exceed the daily rate payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code. Such an expert or consultant may be allowed travel and transportation expenses in accordance with section 5703 of title 5, United States Code.".

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 304(e) of the Act is amended by striking out "$22,000,000 for the fiscal year 1984, $27,000,000 for the fiscal year 1985, and $31,000,000 for the fiscal year 1986" and inserting in lieu thereof "$31,000,000 for the fiscal year 1987, $33,000,000 for the fiscal year 1988, $35,000,000 for the fiscal year 1989, $37,000,000 for the fiscal year 1990, and $38,517,000 for fiscal year 1991.".

SEC. 404. COMPREHENSIVE REHABILITATION CENTERS.

Section 305(g) of the Act is amended to read as follows: 29 USC 775.

"(g) There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1987, 1988, 1989, 1990, and 1991.".

SEC. 405. SPECIAL PROJECTS AND SUPPLEMENTARY SERVICES; REAUTHORIZATION. 29 USC 777.

Section 310(a) of the Act is amended—

(1) by striking out "section 316" and inserting in lieu thereof "sections 311(d), 311(e), and 316"; and *Post*, pp. 1826, 1827.

(2) by striking out "$12,900,000 for the fiscal year 1984, $13,600,000 for the fiscal year 1985, and $14,300,000 for the

fiscal year 1986" and inserting in lieu thereof the following: "$15,860,000 for fiscal year 1987, $16,790,000 for fiscal year 1988, $17,800,000 for fiscal year 1989, $18,900,000 for fiscal year 1990, and $19,675,000 for fiscal year 1991".

29 USC 777a.

SEC. 406. SPECIAL DEMONSTRATION PROGRAMS.

(a) NEEDS OF ISOLATED POPULATIONS OF INDIVIDUALS WITH HANDICAPS.—Section 311(a) of the Act is amended—

(1) in paragraph (2) by striking out "and" after the semicolon;

(2) in paragraph (3) by striking out the period and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (3) the following new paragraph:

Indians.

"(4) operating programs to meet the special needs of isolated populations of individuals with handicaps, particularly among American Indians residing on or outside of reservations.".

(b) SPECIAL DEMONSTRATION PROGRAMS FOR SUPPORTED EMPLOYMENT AND TRANSITIONAL EMPLOYMENT SERVICES FOR SEVERELY HANDICAPPED YOUTH.—Section 311 of the Act is amended by inserting at the end thereof the following new subsections:

Grants.
State and local governments.

"(d)(1)(A) The Commissioner may make grants to public and nonprofit rehabilitation facilities, designated State units, and other public and private agencies and organizations for the cost of developing special projects and demonstrations providing supported employment.

"(B) Not less than one such grant shall be nationwide in scope. The grant shall (i) identify community-based models that can be replicated, (ii) identify impediments to the development of supported employment programs (including funding and cost considerations), and (iii) develop a mechanism to explore the use of existing community-based rehabilitation facilities as well as other community-based programs.

"(2)(A) The Commissioner may make grants to public agencies and nonprofit private organizations for the cost of providing technical assistance to States in implementing part C of title VI of this Act.

Post, p. 1834.

"(B) Not less than one such grant shall be nationwide in scope. Each eligible applicant must have experience in training and provision of supported employment services.

Reports.

"(3)(A) On June 1, 1988, and on each subsequent June 1, the Commissioner shall submit a report to the Congress on activities assisted under paragraph (1) for the preceding fiscal year which includes—

"(i) a list of the grants awarded under this subsection;

"(ii) the number of individuals with severe handicaps served by each grant recipient, the average cost to provide support services to each such individual, and the average wage paid to each such individual; and

"(iii) the recommendations of the projects under paragraph (1)(B).

"(B) Each such report shall also include activities assisted under paragraph (2) for the preceding fiscal year, including (i) a list of the grants awarded under paragraph (2), (ii) the nature of technical assistance activities undertaken, and (iii) recommended areas where additional technical assistance is necessary.

"(4) There are authorized to be appropriated to carry out the provisions of this subsection $9,000,000 for the fiscal year 1987, $9,520,000 for the fiscal year 1988, $10,000,000 for the fiscal year

1989, $10,690,000 for the fiscal year 1990, and $11,128,000 for the fiscal year 1991.

"(e)(1) The Commissioner, subject to the provisions of section 306, shall make grants in accordance with the provisions of this subsection for the purpose of developing, expanding, and disseminating model statewide transitional planning services for severely handicapped youth. In order to facilitate similar model transitional programs, each grantee under this subsection shall—

29 USC 776.
Grants.
State and local governments.
Handicapped persons.

"(A) collect data documenting the effectiveness of the project, including data on the outcome of the individuals served; and

"(B) disseminate the information to other States.

"(2) No grant may be made under this subsection unless an application is submitted to the Commissioner at such time, in such form, and in accordance with such procedures as the Commissioner may require.

"(3)(A) One grant under this subsection shall be made to a public agency in a predominantly urban State in New England for an existing model statewide transitional planning services program.

Urban areas.

"(B) The application for the grant specified in subparagraph (A) shall—

"(i) provide assurances that a single office or agency of the State has responsibility for managing the referral process assigned under the model program for which assistance is sought;

"(ii) provide assurances that the schools involved, in consultation with families, initiate a referral at least two years prior to the anticipated date on which each such student will finish courses of study at the school;

"(iii) provide assurances that individualized transition plans will be developed by the schools and adult providers working cooperatively;

"(iv) provide assurances that case management responsibilities, together with appropriate tracking of each case designed to report on the progress of the handicapped individual, will be part of the responsibility of the office or agency designed under clause (i); and

"(v) contain such other assurances as the Commissioner may reasonably require.

"(4)(A)(i) A second grant authorized by this subsection shall be made to a public agency in a predominantly rural western State.

Rural areas.

"(ii) A third grant authorized by this subsection shall be made to a public agency or nonprofit private organization in a predominantly rural southwestern State.

"(B) Each application for a grant submitted pursuant to subparagraph (A) of this paragraph shall describe model transitional planning services for both severely and mildly handicapped youth designed to develop procedures, strategies, and techniques which may be replicated successfully in other rural States.

"(5) There are authorized to be appropriated $450,000 for fiscal year 1987, $475,830 for fiscal year 1988, $504,427 for fiscal year 1989, $535,550 for fiscal year 1990, and $557,000 for fiscal year 1991 to carry out the provisions of this subsection.".

SEC. 407. SPECIAL RECREATIONAL PROGRAMS.

Grants.
29 USC 777f.

Section 316 of the Act is amended to read as follows:

"SEC. 316. (a)(1) The Commissioner, subject to the provisions of section 306, shall make grants to States, public agencies, and nonprofit private organizations for paying part or all of the cost of

State and local governments.
29 USC 776.

initiation of recreation programs to provide handicapped individuals with recreational activities and related experiences to aid in the mobility, socialization, independence, and community integration of such individuals. The programs authorized to be assisted under this section may include, but are not limited to, leisure education, leisure networking, leisure resource development, physical education and sports, scouting and camping, 4-H activities, music, dancing, handicrafts, art, and homemaking. Whenever possible and appropriate, such programs and activities should be provided in settings with nonhandicapped peers. Programs and activities under this section shall be designed to demonstrate ways in which such programs assist in maximizing the independence and integration of individuals with handicaps.

"(2) Each such grant shall be made for a minimum of a three-year period.

"(3) No grant may be made under this section unless the agreement with respect to such grant contains provisions to assure that, to the extent possible, existing resources will be used to carry out the activities for which the grant is to be made, and that with respect to children the activities for which the grant is to be made will be conducted before or after school.

"(b) There are authorized to be appropriated $2,330,000 for fiscal year 1987, $2,470,000 for fiscal year 1988, $2,620,000 for fiscal year 1989, $2,780,000 for fiscal year 1990, and $2,894,000 for fiscal year 1991 to carry out this section.".

TITLE V—NATIONAL COUNCIL ON THE HANDICAPPED

SEC. 501. PURPOSE OF THE COUNCIL.

29 USC 780.

Section 400(a) of the Act is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) The purpose of the National Council is to promote the full integration, independence, and productivity of handicapped individuals in the community, schools, the workplace and all other aspects of American life.".

SEC. 502. DUTIES OF NATIONAL COUNCIL.

29 USC 781.

(a) DUTIES.—

(1) Section 401(a)(4) of the Act is amended to read as follows:

"(4) review and evaluate on a continuing basis—

"(A) all policies, programs, and activities concerning handicapped individuals and persons with disabilities conducted or assisted by Federal departments and agencies, including programs established or assisted under this Act or under the Developmental Disabilities Assistance and Bill of Rights Act; and

"(B) all statutes pertaining to Federal programs which assisted such handicapped individuals and persons with disabilities;

in order to assess the effectiveness of such policies, programs, activities, and statutes in meeting the needs of handicapped individuals and persons with disabilities;".

(2) Section 401(a) of the Act is amended—

(A) by redesignating clauses (5), (6), and (7), as clauses (6), (7), and (8), respectively, and

(B) by inserting after clause (4) the following:

"(5) assess the extent to which such policies, programs, and activities provide incentives or disincentives to the establishment of community-based services for handicapped individuals, promote the full integration of such individuals in the community, in schools, and in the workplace, and contribute to the independence and dignity of such individuals;".

(3) Section 401(a)(8) of the Act (as redesignated by paragraph (2)) is amended by inserting "legislative proposals" after "recommendations". 29 USC 781.

(b) ADDITIONAL DUTIES.—Section 401(b) of the Act is amended to read as follows:

"(b)(1) Not later than January 30, 1988, and annually thereafter, the National Council shall issue a report to the President and the Congress on the progress that has been made in implementing the recommendation contained in the Council's January 30, 1986, report Toward Independence. Reports.

"(2) The reports issued pursuant to paragraph (1) shall present, as appropriate, available data on health, housing, employment, insurance, transportation, recreation, and education, and shall include appropriate information on the current status and trends in the status of individuals with disabilities.".

SEC. 503. STAFF. 29 USC 783.

Section 403(b) of the Act is amended by striking out paragraph (4).

SEC. 504. REAUTHORIZATION. 29 USC 785.

Section 405 of the Act is amended by inserting before the period at the end thereof the following: "for each of the fiscal years 1987, 1988, 1989, 1990, and 1991".

TITLE VI—ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SEC. 601. ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD. 29 USC 792.

(a) MEMBERSHIP AND QUORUM REQUIREMENTS.—Section 502(a) of the Act is amended—

(1) in paragraph (1)(B) by striking out "The President" and all that follows through the end of such paragraph and inserting in lieu thereof "The Chairperson and vice-chairperson of the Board shall be elected by majority vote of the members of the Board to serve for terms of one year. When the chairperson is a member of the general public, the vice-chairperson shall be a Federal official; and when the chairperson is a Federal official, the vice-chairperson shall be a member of the general public. Upon the expiration of the term as chairperson of a member who is a Federal official, the subsequent chairperson shall be a member of the general public; and vice versa.";

(2) in paragraph (1)(A)—

(A) by striking out "Eleven" and inserting in lieu thereof "Twelve"; and

(B) by striking out "five" and inserting in lieu thereof "six";

(3) in paragraph (2) by striking out "and (ii)" and all that follows through the end of such paragraph and inserting in lieu thereof "(ii) a member whose term has expired may continue to serve until a successor has been appointed, and (iii) a member appointed to fill a vacancy shall serve for the remainder of the term to which that member's predecessor was appointed."; and

(4) by inserting after paragraph (5) the following paragraph:

"(6)(A) The Board shall establish such bylaws and other rules as may be appropriate to enable the Board to carry out its functions under this Act.

"(B) The bylaws shall include quorum requirements. The quorum requirements shall provide that (i) a proxy may not be counted for purposes of establishing a quorum, and (ii) not less than half the members required for a quorum shall be members of the general public appointed under paragraph (1)(A).".

29 USC 792.

(b) SPECIAL REPORTS.—Section 502(g) of the Act is amended by adding at the end thereof the following: "The Board shall prepare and submit two additional reports of its activities under subsection (c) of this section, one report on its activities in the field of transportation barriers of handicapped individuals and the other report on its activities in the field of the housing needs of handicapped individuals. The two additional reports required by the previous sentence shall be submitted not later than February 1, 1988.".

(c) AUTHORIZATIONS.—Section 502(i) of the Act is amended by striking out "fiscal year ending before October 1, 1986," and inserting in lieu thereof "of the fiscal years 1987, 1988, 1989, 1990, and 1991,".

29 USC 794c.

SEC. 602. INTERAGENCY COORDINATING COUNCIL.

The first sentence of section 507 of the Act is amended by inserting "the Assistant Secretary of the Interior for Indian Affairs," after "Labor,".

SEC. 603. ELECTRONIC EQUIPMENT ACCESSIBILITY.

(a) ELECTRONIC EQUIPMENT ACCESSIBILITY.—Title V of the Act is amended by inserting after section 507 the following new section:

"ELECTRONIC EQUIPMENT ACCESSIBILITY

29 USC 794d.

"SEC. 508. (a)(1) The Secretary, through the National Institute on Disability and Rehabilitation Research and the Administrator of the General Services, in consultation with the electronics industry, shall develop and establish guidelines for electronic equipment accessibility designed to insure that handicapped individuals may use electronic office equipment with or without special peripherals.

"(2) The guidelines established pursuant to paragraph (1) shall be applicable with respect to electronic equipment, whether purchased or leased.

"(3) The initial guidelines shall be established not later than October 1, 1987, and shall be periodically revised as technologies advance or change.

"(b) Beginning after September 30, 1988, the Administrator of General Services shall adopt guidelines for electronic equipment accessibility established under subsection (a) for Federal procure-

ment of electronic equipment. Each agency shall comply with the guidelines adopted under this subsection.

"(c) For the purpose of this section, the term 'special peripherals' means a special needs aid that provides access to electronic equipment that is otherwise inaccessible to a handicapped individual.".

(b) CONFORMING AMENDMENT.—The table of contents of the Act is amended by inserting after item "Sec. 507." the following new item:

"Sec. 508. Electronic equipment accessibility.".

TITLE VII—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH HANDICAPS

SEC. 701. EQUITABLE DISTRIBUTION OF ASSISTANCE.

Indians.

29 USC 795d.

(a) EQUITABLE DISTRIBUTION.—Section 615(a)(1) of the Act is amended in the second sentence by inserting before the period "and the needs of Indian tribes".

(b) APPORTIONMENT.—Section 615(c)(2) of the Act is amended by inserting before the period "(including individuals residing on Indian reservations)".

SEC. 702. REAUTHORIZATION OF PART A OF TITLE VI.

29 USC 795f.

Section 617 of the Act is amended by striking out "1984, 1985, and 1986." and inserting in lieu thereof "1987, 1988, 1989, 1990, and 1991."

SEC. 703. PROJECTS WITH INDUSTRY.

29 USC 795g.

(a) GENERAL PROVISIONS.—

(1) Section 621(a) of the Act is amended—

(A) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively; and

(B) by inserting after the subsection designation the following: "(1) The purpose of this title is to promote opportunities for competitive employment of individuals with handicaps, to provide appropriate placement resources, to engage the talent and leadership of private industry as partners in the rehabilitation process, to create practical settings for job readiness and training programs, and to secure the participation of private industry in identifying and providing job opportunities and the necessary skills and training to qualify people with handicaps for competitive employment.".

(2) Clauses (A), (B), and (C) of section 621(a)(2) of the Act (as redesignated by this subsection) are amended to read as follows:

"(A) shall create and expand job opportunities for individuals with handicaps by providing for the establishment of appropriate job placement services;

"(B) shall provide individuals with handicaps with training in a realistic work setting in order to prepare them for employment in the competitive market;

"(C) shall provide individuals with handicaps with such supportive services as may be required to permit them to continue to engage in the employment for which they have received training under this section;

"(D) shall, to the extent appropriate, expand job opportunities for individuals with handicaps by providing for (i) the development and modification of jobs to accommodate the special needs of such individuals, (ii) the distribution of special aids, appliances, or adapted equipment to such individuals, and (iii) the modification of any facilities or equipment of the employer which are to be used primarily by handicapped individuals; and

"(E) shall provide for business advisory councils comprised of representatives of private industry, business concerns, and organized labor who will identify job availability within the community and the skills necessary to fill jobs identified, and prescribe training and programs tailored to their need.".

29 USC 795g.

(3) Paragraph (4) of section 621(a) of the Act (as redesignated by this section) is amended by striking out "each year of a funding cycle" and inserting in lieu thereof "each project year".

29 USC 795g note.

(4) The amendment made by paragraph (2), adding clause (E) to section 621(a)(2) of the Act, shall take effect one year after the date of enactment of this Act.

(b) AGREEMENT.—Section 621(b) of the Act is amended—

(A) by striking out "and" at the end of paragraph (2);

(B) By striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (3) the following paragraph:

Reports.

"(4) provides assurance that an evaluation report containing data specified under subsection (a)(4) shall be submitted as determined by the Commissioner."; and

(c) Section 621(e) of the Act is amended to read as follows:

"(e)(1) Subject to the availability of appropriations, an agreement for financial assistance under this section may be effective for a period not to exceed five years. Any subsequent agreement for financial assistance under this section may be effective for not more than five years. In making a determination concerning any subsequent agreement, the Commissioner shall consider performance under the previous agreement and evaluation reports submitted under subsection (b)(4).

"(2) The Commissioner shall annually review each evaluation report submitted under subsection (b)(4) and make a determination concerning the termination, modification, or renewal of each agreement for financial assistance under this section.".

(b) Section 621(b) of the Act is amended—

(1) by striking out "and" at the end of clause (2);

(2) by striking out the period at the end of clause (3) and inserting in lieu thereof a semicolon and "and"; and

(3) by inserting after clause (3) the following new clause:

"(4) provides assurances that an evaluation report containing data specified under subsection (a)(4) shall be submitted to the Commissioner.".

(c) Section 621(d)(1) of the Act is amended by adding at the end thereof the following new sentence: "Such standards shall be revised as necessary, subject to paragraph (4) of this subsection.".

(d) TECHNICAL ASSISTANCE; INDICATORS FOR STANDARDS; CONTINUED FUNDING; APPLICATION APPROVAL.—(1) Subsection (f) of section 621 of the Act are amended to read as follows:

Federal Register, publication.

"(f)(1) By July 1, 1988, the Commissioner shall publish in the Federal Register in final form indicators of what constitutes mini-

mum compliance consistent with the evaluation standards under subsection (d)(1).

"(2) Each grantee shall report to the Commissioner at the end of each project year the extent to which the grantee is in compliance with the evaluation standards, beginning with fiscal year 1989.

"(3) By the end of fiscal year 1991, the Commissioner shall have conducted on-site compliance reviews of at least one-third of the grantees receiving funding under this part in fiscal year 1987. The Commissioner shall conduct on-site compliance reviews of at least 15 percent of grantees annually in subsequent years. Selection of grantees for compliance reviews shall be on a random basis. The Commissioner shall use the indicators of the evaluation standards in determining compliance. At least one member of an on-site compliance review shall be a non-Federal employee with experience or expertise in conducting Projects With Industry.

"(4) Beginning with the annual report to Congress for fiscal year 1990 and in subsequent years, the Commissioner shall include an analysis of the extent to which grantees have complied with the evaluation standards. The Commissioner may identify individual grantees in the analysis. In addition, the Commissioner shall report the results of on-site compliance reviews, identifying individual grantees. Reports.

"(g) The Commissioner may provide, directly or by way of grant or contract, technical assistance to (1) entities conducting Projects With Industry for the purpose of assisting such entities in the improvement of or in the development of relationships with private industry or labor, and (2) entities planning the development of new Projects With Industry.". Grants. Contracts.

(2) Section 621 is further amended by adding at the end thereof the following new subsections: 29 USC 795g.

"(h)(1)(A) From sums appropriated for the purposes of this section for fiscal year 1990, an amount which is 80 percent of the amount appropriated for fiscal year 1989 shall be available only for grantees receiving assistance in fiscal year 1989.

"(B) The Secretary shall ensure that grants are made under subparagraph (A) only to Projects With Industry recipients that meet the evaluation standards and shall make a determination concerning the termination, modification, or renewal of each grant on the basis of such evaluation. Grants.

"(2) To the extent funds are available under paragraph (1), the Secretary shall award grants to new Projects With Industry recipients located in unserved geographic areas. Grants to new recipients shall be awarded on a competitive basis.

"(3) For fiscal year 1991 and for any subsequent fiscal year, new grant awards shall be made on a competitive basis and shall include consideration of past performance, where appropriate.

"(4)(A) Each grant recipient receiving assistance under this section in fiscal year 1986 shall continue to receive assistance through September 30, 1987, unless the Commissioner determines that the grant recipient is not in compliance with the provisions of the approved application of the grant recipient.

"(B) Grant recipients continuing to receive assistance on the basis of the review described in subparagraph (A) of this paragraph shall be evaluated by the Commissioner using standards described in subsection (d) and (f) of this section. Each such grant recipient shall continue to receive assistance for 3 years unless the Commissioner determines that the grantee is not substantially in compliance with

such standards and with the provisions of the approved application of the grant recipient.

"(i) In approving applications under this section, the Commissioner shall give priority to the geographic areas among the States which are currently not served or underserved by Projects With Industry.".

SEC. 704. PROJECTS WITH INDUSTRY REAUTHORIZATION.

Section 623 of the Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

29 USC 795i.

"SEC. 623. There are authorized to be appropriated to carry out the provisions of section 621, $16,070,000 for fiscal year 1987, $17,010,000 for fiscal year 1988, $18,030,000 for fiscal year 1989, $19,149,000 for fiscal year 1990, and $19,925,000 for fiscal year 1991 and for section 622 such sums as may be necessary for each of the fiscal years 1987, 1988, 1989, 1990 and 1991.".

SEC. 704. SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH SEVERE HANDICAPS.

(a) GENERAL AUTHORIZATION.—

(1) Title VI of the Act is amended by inserting after part B of such title the following new part:

Grants.
State and local governments.
29 USC 795j.

"PART C—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH SEVERE HANDICAPS

"PURPOSE

"SEC. 631. It is the purpose of this part to authorize grants (supplementary to grants for vocational rehabilitation services under title I) to assist States in developing collaborative programs with appropriate public agencies and private nonprofit organizations for training and traditionally time-limited post-employment services leading to supported employment for individuals with severe handicaps.

"ELIGIBILITY

29 USC 795k.

"SEC. 632. Services may be provided under this part to any individual with severe handicaps whose ability or potential to engage in a training program and whose ability to engage in a supported employment setting has been determined by an evaluation of rehabilitation potential as defined in section 7 of this Act.

Ante, p. 1809.

"ALLOTMENTS

State and local governments.
29 USC 795*l*.

"SEC. 633. (a)(1) The Secretary shall allot the sums appropriated for each fiscal year under this section among the States on the basis of relative population of each State, except that no State shall receive less than $250,000 or one-third of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater.

"(2)(A) For the purposes of this subsection, the term 'States' does not include Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

"(B) The jurisdictions described in subparagraph (A) shall be allotted not less than one-eighth of 1 percent of the amounts made available for purposes of this subpart for each such clause for the fiscal year for which the allotment is made.

"(b) Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State to carry out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States which the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the State's allotment for such year.

"(c)(1) In the first fiscal year in which appropriations are made pursuant to section 638 a State may, in lieu of receiving its allotment under this part, make an application for a planning grant for that fiscal year. The Secretary is authorized to approve the appropriation of States which meet the requirements of this subsection. Grants.

"(2)(A) The grant made under this subsection shall be used for planning activities designed to facilitate the State using its allotment under this part.

"(B) No grant under this subsection may exceed a period of 18 months.

"(3) No planning grant made under this subsection may exceed $250,000.

"STATE PLAN

"SEC. 634. (a) In order to be eligible for grants under this part, a State shall submit to the Commissioner as part of the State plan under title I of this Act a State plan supplement for a three-year period for providing training and traditionally time-limited post-employment services leading to supported employment for individuals with severe handicaps. Each State shall make such annual revisions in the plan supplement as may be necessary. Grants. 29 USC 795m. *Ante*, p. 1808.

"(b) Each such plan supplement shall—

"(1) designate each agency of such State designated under section 101(a)(2)(B) of this Act as the agency to administer the program assisted under this part; *Ante*, p. 1814.

"(2)(A) specify results of the needs assessment conducted as required by title I of this Act of individuals with severe handicaps as such assessment identifies the need for supported employment services, including the coordination and use of the information within the State relating to section 618(b)(3) of the Education of the Handicapped Act; and

"(B) describe the quality, scope, and extent of supported employment services to be provided to individuals with severe handicaps under this part, and specify the State's goals and plans with respect to the distribution of funds received under section 635 of this part;

"(3) provide assurances that—

"(A) an evaluation for each individual describes training and traditionally time-limited post-employment services leading to supported employment;

"(B) an individualized written rehabilitation program as required by section 102 will be developed outlining the services to be provided; *Ante*, p. 1808.

"(C) such services will be provided in accordance with such program or a program specified under subsection (b)(3)(D) of this part;

"(D) such services will be coordinated with the evaluation results, the individual written rehabilitation plan or education plan as required under section 102 of this Act, section 123 of the Developmental Disabilities Act of 1984, and sections 612(4) and 614(5) of the Education of the Handicapped Act, respectively;

Ante, p. 1815.
42 USC 6023.
20 USC 1412, 1414.

"(E) the State will conduct periodic reviews of the progress of individuals assisted under this part to determine whether services provided to such individuals should be continued, modified, or discontinued; and

"(F) the State will make maximum use of services from public agencies, private nonprofit organizations, and other appropriate resources in the community to carry out this part;

"(4) demonstrate evidence of collaboration by and funding from relevant State agencies and private nonprofit organizations to assist in the provision of supported employment services;

"(5) provide assurances that all designated State agencies will expend not more than 5 percent of the State's allotment under this part for administrative costs for carrying out this part; and

"(6) contain such other information and be submitted in such form and in accordance with such procedures as the Commissioner may require.

"SERVICES; AVAILABILITY AND COMPARABILITY

29 USC 795n.

"SEC. 635. (a)(1) Services available under this part may include but are not limited to an evaluation of rehabilitation potential, provision of skilled job trainers who accompany the worker for intensive on-the-job training, systematic training, job development, follow-up services (including regular contact with the employer, trainee, and the parent or guardian), and consistent with subsection (b) regular observation or supervision of the individual with severe handicaps at the training site and other services needed to support the individual in employment.

"(2) The evaluation of rehabilitation potential authorized by paragraph (1) of this subsection shall be supplementary to the evaluation of rehabilitation potential provided under title I of this Act.

Ante, p. 1808.

"(b) Services authorized under this part are limited to training and traditionally time-limited post-employment services leading to supported employment. Extended supported employment services shall be provided by the relevant State agencies and private organizations as specified under section 634(b)(4) of this part or any other available source.

"(c) Services provided under this part shall be complementary to services provided under title I of this Act.

"RESTRICTION

29 USC 795o.
Ante, p. 1812.

"SEC. 636. Each designated State agency shall collect the client information required by section 13 of this Act separately for supported employment clients under this part and for supported employment clients under title I.

"SAVINGS PROVISION

"SEC. 637. Nothing in this Act shall be construed to prohibit a State from conducting or from carrying out training and traditionally time-limited post-employment services leading to supported employment in accordance with the State plan submitted under section 101 from its State allotment under section 110. 29 USC 795p.

Ante, pp. 1814, 1817.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 638. There are authorized to be appropriated to carry out this part $25,000,000 for the fiscal year 1987, $26,470,000 for the fiscal year 1988, $28,060,000 for the fiscal year 1989, $29,730,000 for the fiscal year 1990, $30,949,000 for the fiscal year 1991.". 29 USC 795q.

(2) The table of contents of the Act is amended by inserting after item "Sec. 623." the following:

"PART C—SUPPORTED EMPLOYMENT SERVICES FOR SEVERELY HANDICAPPED INDIVIDUALS WITH SEVERE HANDICAPS

"Sec. 631. Purpose.
"Sec. 632. Eligibility.
"Sec. 633. Allotments.
"Sec. 634. State plan.
"Sec. 635. Services; availability and comparability.
"Sec. 636. Restriction.
"Sec. 637. Savings provision.
"Sec. 638. Authorization of appropriations.".

(b) LIMITATION.— 29 USC 795m note.

(1) The amendment adding section 634(a) (made by subsection (a) of this section) shall not apply in any fiscal year in which the appropriation for part C of title VI of the Rehabilitation Act of 1973 do not equal or exceed $5,000,000. *Ante*, p. 1834.

(2) The provisions of paragraph (1) are repealed on September 30, 1990.

TITLE VIII—SERVICES FOR INDEPENDENT LIVING

SEC. 801. ELIGIBILITY FOR COMPREHENSIVE SERVICES. 29 USC 796a.

Section 702(b) of the Act is amended by striking out "recreational activities" and inserting in lieu thereof "recreational services".

SEC. 802. STATE PLAN ASSURANCE. 29 USC 796d.

Section 705(a) of the Act is amended—

(1) by redesignating clauses (5), (6), (7), (8), and (9) as clauses (6), (7), (8), (9), and (10), respectively; and

(2) by inserting after clause (4) the following:

"(5) provide assurances that the State will consider recommendations of the State independent living council in determining how independent living services will be expanded or modified;".

SEC. 803. STATE INDEPENDENT LIVING COUNCIL.

(a) GENERAL AUTHORITY.—Part A of title VII of the Act is amended by adding at the end thereof the following new section:

"STATE INDEPENDENT LIVING COUNCIL

29 USC 796d-1.

"SEC. 706. (a) There shall be established in each State receiving assistance under this title a State Independent Living Council (hereafter in this section referred to as the 'Council'). The Council shall—

"(1) provide guidance for the development and expansion of independent living programs and concepts on a statewide basis;

"(2) provide guidance to State agencies and to local planning and administrative entities assisted under this title; and

"(3) prepare and submit to the State agency designated under section 705(a)(1) a five-year plan addressing the long-term goals and recommendations for the need for independent living services and programs within the State.

Handicapped persons.

"(b)(1) The Council shall be composed of representatives of the principal State agencies, local agencies, and nongovernmental agencies and groups concerned with services to handicapped individuals under this title; handicapped individuals and parents or guardians of handicapped individuals; directors of independent living centers; representatives from private business employing or interested in employing handicapped individuals; representatives of other appropriate organizations and other appropriate individuals.

"(2) A majority of the membership of the Council shall be handicapped individuals and parents or guardians of handicapped individuals.

"(3) The members of the Council shall be appointed by the director of the State agency designated under section 705(a)(1).

"(c) The chairperson of the Council shall be selected from among the membership and shall also serve as a member of any State advisory committee primarily concerned with the provision of rehabilitation services and any other appropriate State advisory committee concerned with services to handicapped individuals.

"(d) Any State in which there is a council which substantially meets the requirements of paragraphs (1) and (2) of subsection (b) and has the authority or will, promptly after the date of enactment of the Rehabilitation Act Amendments of 1986, have the authority to carry out the functions prescribed in subsection (a) shall be deemed to meet the requirements of this section.".

(b) CONFORMING AMENDMENT.—The table of contents of the Act is amended by inserting after item "Sec. 705." the following new item:

"Sec. 706. State independent living council.".

SEC. 804. GRANTS FOR CENTERS FOR INDEPENDENT LIVING.

(a) APPLICATION CONDITIONS.—

29 USC 796e.

(1) Section 711(b) of the Act is amended—

(A) by striking out "and" at the end of clause (1);

(B) by striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon and the word "and"; and

(C) by adding at the end thereof the following new clause:

Handicapped persons.

"(3) contains assurances that each center will have a board which is composed of a majority of handicapped individuals.".

(2) The amendments made by paragraph (1) shall take effect one year after the date of enactment of this Act.

29 USC 796e note.

(b) APPLICATION CONTENTS.—Section 711(c)(2) of the Act is amended—

(1) by inserting after "housing" in clause (E) a comma and the following: "recreation";

(2) by inserting after "housing" in clause (F) a comma and the following: "recreational opportunities"; and

(3) by striking out "activities" in clause (K) and inserting in lieu thereof "services".

(c) TIMELINESS OF APPLICATION.—Section 711(d) of the Act is amended by striking out "six months" and inserting in lieu thereof "three months".

SEC. 805. EVALUATION AND REVIEW OF INDEPENDENT LIVING CENTERS. 29 USC 796e.

(a) REVISION OF STANDARDS.—Section 711(e)(1) of the Act is amended by adding at the end thereof the following new sentence: "Such standards shall be revised as necessary, subject to paragraph (4) of this subsection.".

(b) INDICATORS FOR STANDARDS; CONTINUED FUNDING; APPROVAL OF APPLICATIONS.—Section 711 of the Act is amended by striking subsection (f) and by adding at the end thereof the following: Grants.

"(f)(1) By July 1, 1988, the Commissioner shall publish in the Federal Register in final form indicators of what constitutes minimum compliance consistent with the evaluation standards in subsection (e)(1). Federal Register, publication.

"(2) Each grantee shall report to the Commissioner at the end of each project year the extent to which the grantee is in compliance with the evaluation standards, beginning with fiscal year 1989.

"(3) By the end of fiscal year 1991, the Commissioner shall have conducted on-site compliance reviews of at least one-third of the grantees receiving funding under this part in fiscal year 1987. The Commissioner shall conduct on-site compliance review of at least 15 percent of grantees annually in subsequent years. Selection of grantees for compliance reviews shall be on a random basis. The Commissioner shall use the indicators of the evaluation standards in determining compliance. At least one member of an on-site compliance review shall be a non-Federal employee with experience or expertise in the provision of independent living services.

"(4) Beginning with the annual report to Congress for fiscal year 1990 and in subsequent years, the Commissioner shall include an analysis of the extent to which grantees have complied with the evaluation standards. The Commissioner may identify individual grantees in the analysis. In addition, the Commissioner shall report the results of on-site compliance reviews, identifying individual grantees. Reports.

"(g)(1)(A) From sums appropriated for the purposes of this section for fiscal year 1990, an amount which is 90 percent of the amount appropriated for fiscal year 1989 shall be available only for grantees receiving assistance in fiscal year 1989.

"(B) The Secretary shall ensure that grants are made under subparagraph (A) only to Centers that meet the evaluation standards and shall make a determination concerning the termination, modification, or renewal of each grant on the basis of such evaluation.

"(C) A grant under subparagraph (A) may not be less than 80 percent or more than 100 percent of the grant to the Center for fiscal year 1989. The Commissioner shall determine the amount of each grant on the basis of—

"(i) the capacity of the recipient to obtain local resources to pay the non-Federal share of the cost of the Center; and

"(ii) the economic conditions in the community to be served by the Center.

"(2) To the extent funds are available under paragraph (1), the Secretary shall award grants to new Centers located in unserved geographic areas. Grants to new Centers shall be awarded on a competitive basis.

"(3) For fiscal year 1991 and for any subsequent fiscal year, new grant awards shall be made on a competitive basis and shall include consideration of past performance, where appropriate.

"(4)(A) Each grant recipient receiving assistance under this section in fiscal year 1986 shall continue to receive assistance through September 30, 1987, unless the Commissioner determines that the grant recipient is not in compliance with the provisions of the approved application of the grant recipient.

"(B) Grant recipients continuing to receive assistance on the basis of the review described in subparagraph (A) of this paragraph shall be evaluated by the Commissioner using standards described in subsections (e) and (f) of this section. Each such grant recipient shall continue to receive assistance for 3 years unless the Commissioner determines that the grantee is not substantially in compliance with such standards and with the provisions of the approved application of the grant recipient.

State and local governments.

"(h) In approving applications under this section, the Commissioner shall give priority to geographic areas among the States which are currently not served or underserved by independent living centers.".

SEC. 806. REAUTHORIZATION FOR TITLE VII.

Section 741 of the Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

29 USC 796d.
Ante, p. 1838.

"SEC. 741. (a) There are authorized to be appropriated to carry out part A of this title $11,830,000 for fiscal year 1987, $12,310,000 for fiscal year 1988, $13,050,000 for fiscal year 1989, $13,860,000 for fiscal year 1990, and $14,428,000 for fiscal year 1991.

29 USC 796e.

"(b) There are authorized to be appropriated to carry out part B of this title $24,320,000 for fiscal year 1987, $25,750,000 for fiscal year 1988, $27,300,000 for fiscal year 1989, $28,980,000 for fiscal year 1990, and $30,168,000 for fiscal year 1991.

29 USC 796f.

"(c) There are authorized to be appropriated to carry out part C of this title $5,290,000 for fiscal year 1987, $5,600,000 for fiscal year 1988, $5,930,000 for fiscal year 1989, $6,300,000 for fiscal year 1990, and $6,558,000 for fiscal year 1991.

29 USC 796g.

"(d)(1) There are authorized to be appropriated to carry out part D of this title such sums as may be necessary for each of the fiscal years 1987, 1988, 1989, and 1990.

"(2) The provisions of section 1913 of title 18, United States Code, shall be applicable to all moneys authorized under the provisions of this subsection.".

TITLE IX—AMENDMENTS TO OTHER LAWS

SEC. 901. REAUTHORIZATION OF HELEN KELLER NATIONAL CENTER ACT.

Section 205(a) of the Helen Keller National Center Act (29 U.S.C. 1904) is amended by striking out the first sentence and inserting in lieu thereof "There are authorized to be appropriated to carry out

the provisions of this title such sums as may be necessary for each of the fiscal years 1987 through 1990.".

SEC. 902. PRESIDENT'S COMMITTEE ON EMPLOYMENT OF THE HANDICAPPED.

The joint resolution entitled "Joint resolution authorizing an appropriation for the work of the President's Committee on National Employ the Physically Handicapped Week", approved July 11, 1949 (63 Stat. 409) is amended—

(1) by striking out "annually, out of any money in the Treasury not otherwise appropriated, not to exceed the sum of $1,000,000" and inserting in lieu thereof "for each of the fiscal years 1987, 1988, 1989, 1990, and 1991, such sums as may be necessary"; and

(2) by inserting at the end thereof "The President's Committee on Employment of the Handicapped shall be guided by the general policies of the National Council on the Handicapped.".

TITLE X—TECHNICAL AND CONFORMING AMENDMENTS TO THE ACT

SEC. 1001. USE OF GENDER NEUTRAL TERMINOLOGY IN ACT.

(a) AMENDMENTS TO THE GENERAL PROVISIONS.—

(1) Section 3(a) of the Act is amended— *Ante*, p. 1808.

(A) in the third sentence by striking out "his functions," and inserting in lieu thereof "the functions of the office,"; and 29 USC 702.

(B) in the sixth sentence by striking out "his functions" and inserting in lieu thereof "the functions of the office".

(2) Section 6(b) of the Act is amended— 29 USC 705.

(A) by striking out "he" after "satisfied," and inserting in lieu thereof "the Secretary"; and

(B) by striking out "he" after "or".

(3) Section 7(4) of the Act is amended by striking out "he" and inserting in lieu thereof "the Secretary". 29 USC 706.

(4) Section 12 of the Act is amended— *Ante*, p. 1811.

(A) in subsection (b) by striking out "his" and inserting in lieu thereof "the"; and

(B) in subsection (c) by striking out "he considers" and inserting in lieu thereof "are considered".

(5) Section 14(e) of the Act is amended— 29 USC 713.

(A) by striking "Secretary" and inserting "Commissioner"; and

(B) by striking out "to him, upon request" and inserting in lieu thereof "upon request of the Commissioner".

(b) AMENDMENTS TO TITLE I.—Title I of the Act is amended as follows: 29 USC 721.

(1) Section 101(a)(10) of the Act is amended—

(A) by striking out "his functions" and inserting in lieu thereof "the functions of the Commissioner"; and

(B) by striking out "he may find" and inserting in lieu thereof "are".

(2) Section 101(b) of the Act is amended—

(A) in the first sentence by striking out "he" and inserting in lieu thereof "the Commissioner" and by striking out "he"; and

(B) in the second sentence by striking out "his" and inserting in lieu thereof "the" and by striking out "he".

(3) Section 101(c)(1) of the Act is amended—

(A) in the first sentence by striking out "his discretion" and inserting in lieu thereof "the discretion of the Commissioner" and by striking out "he" and inserting in lieu thereof "the Commissioner"; and

(B) in the second sentence by striking out "he" and inserting in lieu thereof "the Commissioner".

(4) Section 101(d)(1) of the Act is amended by striking out "him" and inserting in lieu thereof "the Commissioner" and by striking out "he" and inserting in lieu thereof "the Commissioner".

29 USC 722.

(5) Section 102 of the Act is amended—

(A) by striking out "his parents" each place it appears in such section and inserting in lieu thereof "such individual's parents";

(B) by striking out "his parent" and inserting in lieu thereof "such individual's parent";

(C) in subsection (d)(1) by striking out "his" and inserting in lieu thereof "the"; and

(D) in subsection (d)(2) by striking out "his responsibilities" and inserting in lieu thereof "any responsibility of the Secretary".

29 USC 731.

(6) Section 111(b) of the Act is amended—

(A) in paragraph (1) by striking out "him," and inserting in lieu thereof "the Commissioner,"; and

(B) in the first sentence of paragraph (2)—

(i) by striking out "him" and inserting in lieu thereof "the Commissioner"; and

(ii) by striking out "he finds that his" and inserting in lieu thereof "the Commissioner finds that the".

29 USC 732.

(7) Section 112(e)(2) of the Act is amended by striking out "from time to time on such dates he may fix" and inserting in lieu thereof "at appropriate times".

29 USC 740.

(8) Section 120(b) of the Act is amended by striking out "he" both places it appears and inserting in lieu thereof "the Commissioner".

29 USC 761a.

(c) AMENDMENTS TO TITLE II.—Section 202 of the Act is amended—

(1) in the second sentence of subsection (a) by striking out "his functions," and inserting in lieu thereof "the functions of the office,";

(2) in subsection (e) by striking out "he" and inserting in lieu thereof "the Director";

(3) in subsection (g) by striking out "he considers"; and

(4) in subsection (i)—

(A) by striking out "whatever actions he considers appropriate" and inserting in lieu thereof "appropriate actions"; and

(B) by striking out "in his role of Chairman" and inserting "as Chairperson".

(d) AMENDMENTS TO TITLE III.—Title III of the Act is amended as follows:

29 USC 772.

(1) Section 302(b)(3) of the Act is amended—

(A) by striking out "on his determination" and inserting in lieu thereof "if the Commissioner determines";

(B) in subparagraph (C) by striking out "his" and inserting in lieu thereof "that individual's"; and

(C) in subparagraph (D) by striking out "he" and inserting in lieu thereof "the Commissioner".

(2) Section 303 of the Act is amended— 29 USC 773.

(A) in subsection (e)(1) by striking out "he" and inserting in lieu thereof "the Commissioner";

(B) in subsection (e)(2)(B) by striking out "he considers" and inserting in lieu thereof "considered";

(C) in subsection (e)(2)(C) by striking out "his" both places it appears and inserting in lieu thereof "a";

(D) by amending subsection (f)(1)(A) to read as follows: "(A) to enable the Commissioner to discharge the responsibilities under loan guarantees issued under this section; and";

(E) in the third sentence of subsection (f)(1) by striking out "him from his" and inserting in lieu thereof "the Commissioner from";

(F) in subsection (f)(2)(A) by striking out "he", and inserting in lieu thereof "the Commissioner"; and

(G) in subsection (f)(2)(C) by striking out "he" and by striking out "him" and inserting in lieu thereof "the Secretary".

(e) AMENDMENTS TO TITLE IV.— 29 USC 780.

(1) Section 400(b)(3) of the Act is amended by striking out "his" and inserting in lieu thereof "such member's".

(2) Section 400(c) of the Act is amended by striking out "Chairman" both places it appears and inserting in lieu thereof "Chairperson".

(f) AMENDMENTS TO TITLE V.—Title V of the Act is amended as follows:

(1) Section 501(e) of the Act is amended by striking out "his" and inserting in lieu thereof "a". 29 USC 791.

(2) Section 503(b) of the Act is amended by striking out "his" and inserting in lieu thereof "a". 29 USC 793.

(3) Section 503(c) of the Act is amended by striking out "he" both places it appears and inserting in lieu thereof "The President", and by striking out "his" and inserting in lieu thereof "the".

(4) Section 507 of the Act is amended by striking out "Chairman" and inserting in lieu thereof "Chairperson". 29 USC 794c.

(g) AMENDMENTS TO TITLE VII.—Title VII of the Act is amended as follows:

(1) Section 702 of the Act is amended by striking out "his" each place it appears and by inserting in lieu thereof "the". 29 USC 796a.

(2) Section 703(c) of the Act is amended by striking out "he" both places it appears and inserting in lieu thereof "the Commissioner". 29 USC 796b.

(3) Section 705(b) of the Act is amended by striking out "he" and inserting in lieu thereof "the Commissioner". 29 USC 796d.

(4) Section 721(a) of the Act is amended— 29 USC 796f.

(A) by striking out "his" both places it appears; and

(B) in paragraph (3) by striking out "able to care for himself;" and inserting in lieu thereof "self-sufficient;".

SEC. 1002. TECHNICAL AND CONFORMING AMENDMENTS.

29 USC 706. (a) AMENDMENTS TO THE GENERAL PROVISIONS.—

(1) Section 7(3) of the Act is amended by striking out "designated State units" and inserting in lieu thereof "designated State unit".

(2) Section 7(11) of the Act is amended—

(A) by striking out subparagraph (B) and inserting in lieu thereof "(B) testing, fitting, or training in the use of prosthetic and orthotic devices,"; and

(B) in subparagraph (F) by inserting "psychiatric," before "psychological".

(b) AMENDMENTS TO TITLE I.—

29 USC 750. (1) Section 130(b)(2) of the Act is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Education".

29 USC 751. (2)(A) Section 131 of the Act is repealed.

(B) The table of contents of the Act is amended by striking out the item relating to "Sec. 131".

29 USC 761a. (c) AMENDMENTS TO TITLE II.—Section 202(j)(1) of the Act is amended by striking out "at an institution of higher education".

(d) AMENDMENTS TO TITLE III.—

29 USC 771. (1) Section 301(b)(1) of the Act is amended by striking out "Commission" and inserting in lieu thereof "Commissioner".

29 USC 774. (2) Section 304(a)(2) of the Act is amended by striking out "program, and" and inserting in lieu thereof "program, and".

29 USC 775. (3) Section 305(c) of the Act is amended by redesignating paragraph (3) as paragraph "(2)".

29 USC 776. (4) Section 306 of the Act is amended by striking out "305(g)" and inserting in lieu thereof "305(f)".

(e) AMENDMENTS TO TITLE V.—

29 USC 791. (1) Section 501 of the Act is amended by striking out "Office of Personnel Management" each place it appears and inserting in lieu thereof "Equal Employment Opportunity Commission".

(2)(A) Section 501(d) of the Act is amended by striking out "of the the activities" and inserting in lieu thereof "of the activities".

29 USC 792. (B) Section 502(d)(2)(A) of the Act is amended by striking out "any, final order" and inserting in lieu thereof "any final order".

(C)(i) Section 502(d)(3) of the Act is amended by striking out "Department of Health, Education, and Welfare" and inserting in lieu thereof "Department of Education".

(ii) Section 502(d)(3) of the Act is further amended by striking out "with respect overcoming to" and inserting in lieu thereof "with respect to overcoming".

(D) Section 502(e)(2) of the Act is amended by inserting "and" after "noncompliance".

29 USC 793. (3) Section 503(a) of the Act is amended by striking out "section 7(7)" and inserting in lieu thereof "section 7(8)".

29 USC 794. (4) Section 504 of the Act is amended by striking out "section 7(7)" and inserting in lieu thereof "section 7(8)".

29 USC 795. (f) AMENDMENTS TO TITLE VI.—Section 611(a) of the Act is amended by striking out "section 7(7)" and inserting in lieu thereof "section 7(8)".

29 USC 796a. (h) AMENDMENTS TO TITLE VII.—Section 702 of the Act is amended by inserting "(a)" after the section designation.

SEC. 1003. CIVIL RIGHTS REMEDIES EQUALIZATION.

42 USC 2000d-7.

(a) GENERAL PROVISION.—

State and local governments. USC prec. title 1.

(1) A State shall not be immune under the Eleventh Amendment of the Constitution of the United States from suit in Federal court for a violation of section 504 of the Rehabilitation Act of 1973, title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, or the provisions of any other Federal statute prohibiting discrimination by recipients of Federal financial assistance.

29 USC 794. 20 USC 1681. 42 USC 6101 note. 42 USC 2000a note.

(2) In a suit against a State for a violation of a statute referred to in paragraph (1), remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in the suit against any public or private entity other than a State.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall take effect with respect to violations that occur in whole or in part after the date of enactment of the Rehabilitation Act Amendments of 1986.

SEC. 1004. COST RATE REPORT OF THE SECRETARY.

(a) ASSESSMENT.—The Secretary of Education shall conduct an assessment of the direct and indirect cost rates charged to State agencies designated to administer or supervise the administration of the State plan under the Rehabilitation Act of 1973 by other State agencies.

State and local governments.

29 USC 701 note.

(b) REPORT.—Not later than February 1, 1987, the Secretary shall submit a report of such assessment to the Congress. Such report shall include recommendations regarding alternative methods for establishing indirect cost rates, including establishing predetermined fixed rates by statute and prescribing standards for negotiating such rates.

SEC. 1005. MAINTENANCE OF EFFORT.

20 USC 1414 note.

(a) GENERAL PROVISION.—Notwithstanding any other provision of the Education of the Handicapped Act, the Secretary and the State educational agency, in the case of section 614(a)(2)(B)(ii) of that Act, shall not include expenditures made from an accrued fund reserve surplus after July 1, 1983, and prior to October 1, 1985, which are used for services for handicapped children.

State and local governments. Handicapped persons.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to fiscal years beginning after September 30, 1983.

29 USC 701 note.

SEC. 1006. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act shall take effect on the date of its enactment.

Approved October 21, 1986.

LEGISLATIVE HISTORY—H.R. 4021 (S. 2515):

HOUSE REPORTS: No. 99-571 (Comm. on Education and Labor) and No. 99-955 (Comm. of Conference).

SENATE REPORTS: No. 99-388 accompanying S. 2515 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD, Vol. 132 (1986):

May 6, 7, considered and passed House.

Sept. 8, considered and passed Senate, amended, in lieu of S. 2515.

Oct. 2, House agreed to conference report.

Oct. 3, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):

Oct. 21, Presidential statement.

O

Public Law 99-507
99th Congress

An Act

To provide for the reauthorization of the Deep Seabed Hard Mineral Resources Act, and for other purposes.

Oct. 21, 1986
[H.R. 4212]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Deep Seabed Hard Mineral Resources Reauthorization Act of 1986.
30 USC 1401 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Deep Seabed Hard Mineral Resources Reauthorization Act of 1986".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 310 of the Deep Seabed Hard Mineral Resources Act (30 U.S.C. 1470) is amended—

(1) by striking out "and" immediately after "1984," and

(2) by inserting ", and $1,500,000 for each of the fiscal years ending September 30, 1987, September 30, 1988, and September 30, 1989" immediately before the period at the end thereof.

Approved October 21, 1986.

LEGISLATIVE HISTORY—H.R. 4212:

HOUSE REPORTS: No. 99-609, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 99-460 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
July 21, considered and passed House.
Oct. 8, considered and passed Senate.

O

91-139 O - 86 (525)

PUBLIC LAW 99-508—OCT. 21, 1986

ELECTRONIC COMMUNICATIONS PRIVACY ACT OF 1986

Public Law 99-508
99th Congress

An Act

Oct. 21, 1986
[H.R. 4952]

To amend title 18, United States Code, with respect to the interception of certain communications, other forms of surveillance, and for other purposes.

Electronic Communications Privacy Act of 1986.
18 USC 2510 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Electronic Communications Privacy Act of 1986".

TITLE I—INTERCEPTION OF COMMUNICATIONS AND RELATED MATTERS

SEC. 101. FEDERAL PENALTIES FOR THE INTERCEPTION OF COMMUNICATIONS.

(a) DEFINITIONS.—(1) Section 2510(1) of title 18, United States Code, is amended—

(A) by striking out "any communication" and inserting "any aural transfer" in lieu thereof;

(B) by inserting "(including the use of such connection in a switching station)" after "reception".

(C) by striking out "as a common carrier" and

(D) by inserting before the semicolon at the end the following: "or communications affecting interstate or foreign commerce and such term includes any electronic storage of such communication, but such term does not include the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit".

(2) Section 2510(2) of title 18, United States Code, is amended by inserting before the semicolon at the end the following: ", but such term does not include any electronic communication".

(3) Section 2510(4) of title 18, United States Code, is amended—

(A) by inserting "or other" after "aural"; and

(B) by inserting ", electronic," after "wire".

(4) Section 2510(5) of title 18, United States Code, is amended in clause (a)(i) by inserting before the semicolon the following: "or furnished by such subscriber or user for connection to the facilities of such service and used in the ordinary course of its business".

(5) Section 2510(8) of title 18, United States Code, is amended by striking out "identity of the parties to such communication or the existence,".

(6) Section 2510 of title 18, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (10);

(B) by striking out the period at the end of paragraph (11) and inserting a semicolon in lieu thereof; and

(C) by adding at the end the following:

"(12) 'electronic communication' means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any

nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system that affects interstate or foreign commerce, but does not include—

"(A) the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit;

"(B) any wire or oral communication;

"(C) any communication made through a tone-only paging device; or

"(D) any communication from a tracking device (as defined in section 3117 of this title); 18 USC 3117.

"(13) 'user' means any person or entity who—

"(A) uses an electronic communication service; and

"(B) is duly authorized by the provider of such service to engage in such use;

"(14) 'electronic communications system' means any wire, radio, electromagnetic, photooptical or photoelectronic facilities for the transmission of electronic communications, and any computer facilities or related electronic equipment for the electronic storage of such communications;

"(15) 'electronic communication service' means any service which provides to users thereof the ability to send or receive wire or electronic communications;

"(16) 'readily accessible to the general public' means, with respect to a radio communication, that such communication is not—

"(A) scrambled or encrypted;

"(B) transmitted using modulation techniques whose essential parameters have been withheld from the public with the intention of preserving the privacy of such communication;

"(C) carried on a subcarrier or other signal subsidiary to a radio transmission;

"(D) transmitted over a communication system provided by a common carrier, unless the communication is a tone only paging system communication; or

"(E) transmitted on frequencies allocated under part 25, subpart D, E, or F of part 74, or part 94 of the Rules of the Federal Communications Commission, unless, in the case of a communication transmitted on a frequency allocated under part 74 that is not exclusively allocated to broadcast auxiliary services, the communication is a two-way voice communication by radio;

"(17) 'electronic storage' means—

"(A) any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof; and

"(B) any storage of such communication by an electronic communication service for purposes of backup protection of such communication; and

"(18) 'aural transfer' means a transfer containing the human voice at any point between and including the point of origin and the point of reception.".

(b) EXCEPTIONS WITH RESPECT TO ELECTRONIC COMMUNICATIONS.—

(1) Section 2511(2)(a)(ii) of title 18, United States Code, is amended—

(A) by striking out "violation of this subparagraph by a communication common carrier or an officer, employee, or agent thereof" and inserting in lieu thereof "such disclosure";

(B) by striking out "the carrier" and inserting in lieu thereof "such person"; and

(C) by striking out "an order or certification under this subparagraph" and inserting in lieu thereof "a court order or certification under this chapter".

(2) Section 2511(2)(d) of title 18, United States Code, is amended by striking out "or for the purpose of committing any other injurious act".

(3) Section 2511(2)(f) of title 18, United States Code, is amended—

(A) by inserting "or chapter 121" after "this chapter"; and

(B) by striking out "by" the second place it appears and inserting in lieu thereof ", or foreign intelligence activities conducted in accordance with otherwise applicable Federal law involving a foreign electronic communications system, utilizing".

(4) Section 2511(2) of title 18, United States Code, is amended by adding at the end the following:

"(g) It shall not be unlawful under this chapter or chapter 121 of this title for any person—

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"(i) to intercept or access an electronic communication made through an electronic communication system that is configured so that such electronic communication is readily accessible to the general public;

"(ii) to intercept any radio communication which is transmitted—

"(I) by any station for the use of the general public, or that relates to ships, aircraft, vehicles, or persons in distress;

"(II) by any governmental, law enforcement, civil defense, private land mobile, or public safety communications system, including police and fire, readily accessible to the general public;

"(III) by a station operating on an authorized frequency within the bands allocated to the amateur, citizens band, or general mobile radio services; or

"(IV) by any marine or aeronautical communications system;

"(iii) to engage in any conduct which—

"(I) is prohibited by section 633 of the Communications Act of 1934; or

47 USC 553.

"(II) is excepted from the application of section 705(a) of the Communications Act of 1934 by section 705(b) of that Act;

47 USC 605.

"(iv) to intercept any wire or electronic communication the transmission of which is causing harmful interference to any lawfully operating station or consumer electronic equipment, to the extent necessary to identify the source of such interference; or

"(v) for other users of the same frequency to intercept any radio communication made through a system that utilizes frequencies monitored by individuals engaged in the provision or the use of such system, if such communication is not scrambled or encrypted.

"(h) It shall not be unlawful under this chapter—

"(i) to use a pen register or a trap and trace device (as those terms are defined for the purposes of chapter 206 (relating to pen registers and trap and trace devices) of this title); or

Post, p. 1868.

"(ii) for a provider of electronic communication service to record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire or electronic communication, or a user of that service, from fraudulent, unlawful or abusive use of such service.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Chapter 119 of title 18, United States Code, is amended—

18 USC 2510 *et seq.*

(A) in each of sections 2510(5), 2510(8), 2510(9)(b), 2510(11), and 2511 through 2519 (except sections 2515, 2516(1) and 2518(10)), by striking out "wire or oral" each place it appears (including in any section heading) and inserting "wire, oral, or electronic" in lieu thereof; and

(B) in section 2511(2)(b), by inserting "or electronic" after "wire".

(2) The heading of chapter 119 of title 18, United States Code, is amended by inserting "and electronic communications" after "wire".

(3) The item relating to chapter 119 in the table of chapters at the beginning of part I of title 18 of the United States Code is amended by inserting "and electronic communications" after "Wire".

(4) Section 2510(5)(a) of title 18, United States Code, is amended by striking out "communications common carrier" and inserting "provider of wire or electronic communication service" in lieu thereof.

(5) Section 2511(2)(a)(i) of title 18, United States Code, is amended—

(A) by striking out "any communication common carrier" and inserting "a provider of wire or electronic communication service" in lieu thereof;

(B) by striking out "of the carrier of such communication" and inserting "of the provider of that service" in lieu thereof; and

(C) by striking out ": *Provided*, That said communication common carriers" and inserting ", except that a provider of wire communication service to the public" in lieu thereof.

(6) Section 2511(2)(a)(ii) of title 18, United States Code, is amended—

(A) by striking out "communication common carriers" and inserting "providers of wire or electronic communication service" in lieu thereof;

(B) by striking out "communication common carrier" each place it appears and inserting "provider of wire or electronic communication service" in lieu thereof; and

(C) by striking out "if the common carrier" and inserting "if such provider" in lieu thereof.

(7) Section 2512(2)(a) of title 18, United States Code, is amended—

(A) by striking out "a communications common carrier" the first place it appears and inserting "a provider of wire or electronic communication service" in lieu thereof; and

(B) by striking out "a communications common carrier" the second place it appears and inserting "such a provider" in lieu thereof; and

(C) by striking out "communications common carrier's business" and inserting "business of providing that wire or electronic communication service" in lieu thereof.

(8) Section 2518(4) of title 18, United States Code, is amended—

(A) by striking out "communication common carrier" in both places it appears and inserting "provider of wire or electronic communication service" in lieu thereof; and

(B) by striking out "carrier" and inserting in lieu thereof "service provider".

(d) PENALTIES MODIFICATION.—(1) Section 2511(1) of title 18, United States Code, is amended by striking out "shall be" and all that follows through "or both" and inserting in lieu thereof "shall be punished as provided in subsection (4) or shall be subject to suit as provided in subsection (5)".

(2) Section 2511 of title 18, United States Code, is amended by adding after the material added by section 102 the following:

"(4)(a) Except as provided in paragraph (b) of this subsection or in subsection (5), whoever violates subsection (1) of this section shall be fined under this title or imprisoned not more than five years, or both.

"(b) If the offense is a first offense under paragraph (a) of this subsection and is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain, and the wire or electronic communication with respect to which the offense under paragraph (a) is a radio communication that is not scrambled or encrypted, then—

"(i) if the communication is not the radio portion of a cellular telephone communication, a public land mobile radio service communication or a paging service communication, and the conduct is not that described in subsection (5), the offender shall be fined under this title or imprisoned not more than one year, or both; and

"(ii) if the communication is the radio portion of a cellular telephone communication, a public land mobile radio service communication or a paging service communication, the offender shall be fined not more than $500.

"(c) Conduct otherwise an offense under this subsection that consists of or relates to the interception of a satellite transmission that is not encrypted or scrambled and that is transmitted—

"(i) to a broadcasting station for purposes of retransmission to the general public; or

"(ii) as an audio subcarrier intended for redistribution to facilities open to the public, but not including data transmissions or telephone calls,

is not an offense under this subsection unless the conduct is for the purposes of direct or indirect commercial advantage or private financial gain.

"(5)(a)(i) If the communication is—

"(A) a private satellite video communication that is not scrambled or encrypted and the conduct in violation of this chapter is the private viewing of that communication and is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain; or

"(B) a radio communication that is transmitted on frequencies allocated under subpart D of part 74 of the rules of the Federal Communications Commission that is not scrambled or encrypted and the conduct in violation of this chapter is not for

a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain,

then the person who engages in such conduct shall be subject to suit by the Federal Government in a court of competent jurisdiction.

"(ii) In an action under this subsection—

"(A) if the violation of this chapter is a first offense for the person under paragraph (a) of subsection (4) and such person has not been found liable in a civil action under section 2520 of this title, the Federal Government shall be entitled to appropriate injunctive relief; and *Infra.*

"(B) if the violation of this chapter is a second or subsequent offense under paragraph (a) of subsection (4) or such person has been found liable in any prior civil action under section 2520, the person shall be subject to a mandatory $500 civil fine.

"(b) The court may use any means within its authority to enforce an injunction issued under paragraph (ii)(A), and shall impose a civil fine of not less than $500 for each violation of such an injunction.".

(e) EXCLUSIVITY OF REMEDIES WITH RESPECT TO ELECTRONIC COMMUNICATIONS.—Section 2518(10) of title 18, United States Code, is amended by adding at the end the following:

"(c) The remedies and sanctions described in this chapter with respect to the interception of electronic communications are the only judicial remedies and sanctions for nonconstitutional violations of this chapter involving such communications.".

(f) STATE OF MIND.—Paragraphs (a), (b), (c), and (d) of subsection (1) of section 2511 of title 18, United States Code, are amended by striking out "willfully" and inserting in lieu thereof "intentionally".

(2) Subsection (1) of section 2512 of title 18, United States Code, is amended in the matter before paragraph (a) by striking out "willfully" and inserting in lieu thereof "intentionally".

SEC. 102. REQUIREMENTS FOR CERTAIN DISCLOSURES.

Section 2511 of title 18, United States Code, is amended by adding at the end the following:

"(3)(a) Except as provided in paragraph (b) of this subsection, a person or entity providing an electronic communication service to the public shall not intentionally divulge the contents of any communication (other than one to such person or entity, or an agent thereof) while in transmission on that service to any person or entity other than an addressee or intended recipient of such communication or an agent of such addressee or intended recipient.

"(b) A person or entity providing electronic communication service to the public may divulge the contents of any such communication—

"(i) as otherwise authorized in section 2511(2)(a) or 2517 of this title;

"(ii) with the lawful consent of the originator or any addressee or intended recipient of such communication;

"(iii) to a person employed or authorized, or whose facilities are used, to forward such communication to its destination; or

"(iv) which were inadvertently obtained by the service provider and which appear to pertain to the commission of a crime, if such divulgence is made to a law enforcement agency.".

SEC. 103. RECOVERY OF CIVIL DAMAGES.

Section 2520 of title 18, United States Code, is amended to read as follows:

"§ 2520. Recovery of civil damages authorized

"(a) IN GENERAL.—Except as provided in section 2511(2)(a)(ii), any person whose wire, oral, or electronic communication is intercepted, disclosed, or intentionally used in violation of this chapter may in a civil action recover from the person or entity which engaged in that violation such relief as may be appropriate.

"(b) RELIEF.—In an action under this section, appropriate relief includes—

"(1) such preliminary and other equitable or declaratory relief as may be appropriate;

"(2) damages under subsection (c) and punitive damages in appropriate cases; and

"(3) a reasonable attorney's fee and other litigation costs reasonably incurred.

"(c) COMPUTATION OF DAMAGES.—(1) In an action under this section, if the conduct in violation of this chapter is the private viewing of a private satellite video communication that is not scrambled or encrypted or if the communication is a radio communication that is transmitted on frequencies allocated under subpart D of part 74 of the rules of the Federal Communications Commission that is not scrambled or encrypted and the conduct is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain, then the court shall assess damages as follows:

"(A) If the person who engaged in that conduct has not previously been enjoined under section 2511(5) and has not been found liable in a prior civil action under this section, the court shall assess the greater of the sum of actual damages suffered by the plaintiff, or statutory damages of not less than $50 and not more than $500.

"(B) If, on one prior occasion, the person who engaged in that conduct has been enjoined under section 2511(5) or has been found liable in a civil action under this section, the court shall assess the greater of the sum of actual damages suffered by the plaintiff, or statutory damages of not less than $100 and not more than $1000.

"(2) In any other action under this section, the court may assess as damages whichever is the greater of—

"(A) the sum of the actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation; or

"(B) statutory damages of whichever is the greater of $100 a day for each day of violation or $10,000.

"(d) DEFENSE.—A good faith reliance on—

"(1) a court warrant or order, a grand jury subpoena, a legislative authorization, or a statutory authorization;

"(2) a request of an investigative or law enforcement officer under section 2518(7) of this title; or

"(3) a good faith determination that section 2511(3) of this title permitted the conduct complained of;

is a complete defense against any civil or criminal action brought under this chapter or any other law.

"(e) LIMITATION.—A civil action under this section may not be commenced later than two years after the date upon which the claimant first has a reasonable opportunity to discover the violation.".

SEC. 104. CERTAIN APPROVALS BY JUSTICE DEPARTMENT OFFICIALS.

Section 2516(1) of title 18 of the United States Code is amended by striking out "or any Assistant Attorney General" and inserting in lieu thereof "any Assistant Attorney General, any acting Assistant Attorney General, or any Deputy Assistant Attorney General in the Criminal Division".

SEC. 105. ADDITION OF OFFENSES TO CRIMES FOR WHICH INTERCEPTION IS AUTHORIZED.

(a) WIRE AND ORAL INTERCEPTIONS.—Section 2516(1) of title 18 of the United States Code is amended—

(1) in paragraph (c)—

(A) by inserting "section 751 (relating to escape)," after "wagering information),";

(B) by striking out "2314" and inserting "2312, 2313, 2314," in lieu thereof;

(C) by inserting "the second section 2320 (relating to trafficking in certain motor vehicles or motor vehicle parts), section 1203 (relating to hostage taking), section 1029 (relating to fraud and related activity in connection with access devices), section 3146 (relating to penalty for failure to appear), section 3521(b)(3) (relating to witness relocation and assistance), section 32 (relating to destruction of aircraft or aircraft facilities)," after "stolen property),";

Motor vehicles. Aircraft and air carriers.

(D) by inserting "section 1952A (relating to use of interstate commerce facilities in the commission of murder for hire), section 1952B (relating to violent crimes in aid of racketeering activity)," after "1952 (interstate and foreign travel or transportation in aid of racketeering enterprises),";

(E) by inserting ", section 115 (relating to threatening or retaliating against a Federal official), the section in chapter 65 relating to destruction of an energy facility, and section 1341 (relating to mail fraud)," after "section 1963 (violations with respect to racketeer influenced and corrupt organizations)"; and

Energy. Mail. Fraud.

(F) by—

(i) striking out "or" before "section 351" and inserting in lieu thereof a comma; and

(ii) inserting before the semicolon at the end thereof the following: ", section 831 (relating to prohibited transactions involving nuclear materials), section 33 (relating to destruction of motor vehicles or motor vehicle facilities), or section 1992 (relating to wrecking trains)";

Hazardous materials. Motor vehicles.

(2) by striking out "or" at the end of paragraph (g);

(3) by inserting after paragraph (g) the following:

"(h) any felony violation of sections 2511 and 2512 (relating to interception and disclosure of certain communications and to certain intercepting devices) of this title;

"(i) any violation of section 1679a(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of the United States Code;

Natural gas. Aircraft and air carriers.

"(j) any criminal violation of section 2778 of title 22 (relating to the Arms Export Control Act); or";

22 USC 2751 note.

"(k) the location of any fugitive from justice from an offense described in this section;

(4) by redesignating paragraph (h) as paragraph (l); and

(5) in paragraph (a) by—

Hazardous materials.

(A) inserting after "Atomic Energy Act of 1954)," the following: "section 2284 of title 42 of the United States Code (relating to sabotage of nuclear facilities or fuel),";

(B) striking out "or" after "(relating to treason),"; and

(C) inserting before the semicolon at the end thereof the following: "chapter 65 (relating to malicious mischief), chapter 111 (relating to destruction of vessels), or chapter 81 (relating to piracy)".

18 USC 1361 *et seq.*
18 USC 2271 *et seq.*
Vessels.
18 USC 1651 *et seq.*

(b) INTERCEPTION OF ELECTRONIC COMMUNICATIONS.—Section 2516 of title 18 of the United States Code is amended by adding at the end the following:

18 USC app.

"(3) Any attorney for the Government (as such term is defined for the purposes of the Federal Rules of Criminal Procedure) may authorize an application to a Federal judge of competent jurisdiction for, and such judge may grant, in conformity with section 2518 of this title, an order authorizing or approving the interception of electronic communications by an investigative or law enforcement officer having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of any Federal felony.".

SEC. 106. APPLICATIONS, ORDERS, AND IMPLEMENTATION OF ORDERS.

(a) PLACE OF AUTHORIZED INTERCEPTION.—Section 2518(3) of title 18 of the United States Code is amended by inserting "(and outside that jurisdiction but within the United States in the case of a mobile interception device authorized by a Federal court within such jurisdiction)" after "within the territorial jurisdiction of the court in which the judge is sitting".

(b) REIMBURSEMENT FOR ASSISTANCE.—Section 2518(4) of title 18 of the United States Code is amended by striking out "at the prevailing rates" and inserting in lieu thereof "for reasonable expenses incurred in providing such facilities or assistance".

(c) COMMENCEMENT OF THIRTY-DAY PERIOD AND POSTPONEMENT OF MINIMIZATION.—Section 2518(5) of title 18 of the United States Code is amended—

(1) by inserting after the first sentence the following: "Such thirty-day period begins on the earlier of the day on which the investigative or law enforcement officer first begins to conduct an interception under the order or ten days after the order is entered."; and

(2) by adding at the end the following: "In the event the intercepted communication is in a code or foreign language, and an expert in that foreign language or code is not reasonably available during the interception period, minimization may be accomplished as soon as practicable after such interception. An interception under this chapter may be conducted in whole or in part by Government personnel, or by an individual operating under a contract with the Government, acting under the supervision of an investigative or law enforcement officer authorized to conduct the interception.".

(d) ALTERNATIVE TO DESIGNATING SPECIFIC FACILITIES FROM WHICH COMMUNICATIONS ARE TO BE INTERCEPTED.—(1) Section 2518(1)(b)(ii) of title 18 of the United States Code is amended by inserting "except as provided in subsection (11)," before "a particular description".

(2) Section 2518(3)(d) of title 18 of the United States Code is amended by inserting "except as provided in subsection (11)," before "there is".

(3) Section 2518 of title 18 of the United States Code is amended by adding at the end the following:

"(11) The requirements of subsections (1)(b)(ii) and (3)(d) of this section relating to the specification of the facilities from which, or the place where, the communication is to be intercepted do not apply if—

"(a) in the case of an application with respect to the interception of an oral communication—

"(i) the application is by a Federal investigative or law enforcement officer and is approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, an Assistant Attorney General, or an acting Assistant Attorney General;

"(ii) the application contains a full and complete statement as to why such specification is not practical and identifies the person committing the offense and whose communications are to be intercepted; and

"(iii) the judge finds that such specification is not practical; and

"(b) in the case of an application with respect to a wire or electronic communication—

"(i) the application is by a Federal investigative or law enforcement officer and is approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, an Assistant Attorney General, or an acting Assistant Attorney General;

"(ii) the application identifies the person believed to be committing the offense and whose communications are to be intercepted and the applicant makes a showing of a purpose, on the part of that person, to thwart interception by changing facilities; and

"(iii) the judge finds that such purpose has been adequately shown.

"(12) An interception of a communication under an order with respect to which the requirements of subsections (1)(b)(ii) and (3)(d) of this section do not apply by reason of subsection (11) shall not begin until the facilities from which, or the place where, the communication is to be intercepted is ascertained by the person implementing the interception order. A provider of wire or electronic communications service that has received an order as provided for in subsection (11)(b) may move the court to modify or quash the order on the ground that its assistance with respect to the interception cannot be performed in a timely or reasonable fashion. The court, upon notice to the government, shall decide such a motion expeditiously.".

(4) Section 2519(1)(b) of title 18, United States Code, is amended by inserting "(including whether or not the order was an order with respect to which the requirements of sections 2518(1)(b)(ii) and 2518(3)(d) of this title did not apply by reason of section 2518(11) of this title)" after "applied for".

18 USC 2510 note.

SEC. 107. INTELLIGENCE ACTIVITIES.

(a) IN GENERAL.—Nothing in this Act or the amendments made by this Act constitutes authority for the conduct of any intelligence activity.

(b) CERTAIN ACTIVITIES UNDER PROCEDURES APPROVED BY THE ATTORNEY GENERAL.—Nothing in chapter 119 or chapter 121 of title 18, United States Code, shall affect the conduct, by officers or employees of the United States Government in accordance with other applicable Federal law, under procedures approved by the Attorney General of activities intended to—

18 USC 2510 *et seq.*; *post*, p. 1860.

(1) intercept encrypted or other official communications of United States executive branch entities or United States Government contractors for communications security purposes;

(2) intercept radio communications transmitted between or among foreign powers or agents of a foreign power as defined by the Foreign Intelligence Surveillance Act of 1978; or

50 USC 1801 note.

(3) access an electronic communication system used exclusively by a foreign power or agent of a foreign power as defined by the Foreign Intelligence Surveillance Act of 1978.

SEC. 108. MOBILE TRACKING DEVICES.

(a) IN GENERAL.—Chapter 205 of title 18, United States Code, is amended by adding at the end the following:

18 USC 3117.

"§ 3117. Mobile tracking devices

"(a) IN GENERAL.—If a court is empowered to issue a warrant or other order for the installation of a mobile tracking device, such order may authorize the use of that device within the jurisdiction of the court, and outside that jurisdiction if the device is installed in that jurisdiction.

"(b) DEFINITION.—As used in this section, the term 'tracking device' means an electronic or mechanical device which permits the tracking of the movement of a person or object.".

(b) CLERICAL AMENDMENT.—The table of contents at the beginning of chapter 205 of title 18, United States Code, is amended by adding at the end the following:

"3117. Mobile tracking devices.".

SEC. 109. WARNING SUBJECT OF SURVEILLANCE.

Section 2232 of title 18, United States Code, is amended—

(1) by inserting "(a) PHYSICAL INTERFERENCE WITH SEARCH.—" before "Whoever" the first place it appears;

(2) by inserting "(b) NOTICE OF SEARCH.—" before "Whoever" the second place it appears; and

(3) by adding at the end the following:

Law enforcement and crime.

"(c) NOTICE OF CERTAIN ELECTRONIC SURVEILLANCE.—Whoever, having knowledge that a Federal investigative or law enforcement officer has been authorized or has applied for authorization under chapter 119 to intercept a wire, oral, or electronic communication, in order to obstruct, impede, or prevent such interception, gives notice or attempts to give notice of the possible interception to any person shall be fined under this title or imprisoned not more than five years, or both.

18 USC 2510 *et seq.*; *post*, p. 1859.

"Whoever, having knowledge that a Federal officer has been authorized or has applied for authorization to conduct electronic surveillance under the Foreign Intelligence Surveillance Act (50

U.S.C. 1801, et seq.), in order to obstruct, impede, or prevent such activity, gives notice or attempts to give notice of the possible activity to any person shall be fined under this title or imprisoned not more than five years, or both.".

SEC. 110. INJUNCTIVE REMEDY.

(a) IN GENERAL.—Chapter 119 of title 18, United States Code, is amended by adding at the end the following:

"§ 2521. Injunction against illegal interception 18 USC 2521.

"Whenever it shall appear that any person is engaged or is about to engage in any act which constitutes or will constitute a felony violation of this chapter, the Attorney General may initiate a civil action in a district court of the United States to enjoin such violation. The court shall proceed as soon as practicable to the hearing and determination of such an action, and may, at any time before final determination, enter such a restraining order or prohibition, or take such other action, as is warranted to prevent a continuing and substantial injury to the United States or to any person or class of persons for whose protection the action is brought. A proceeding under this section is governed by the Federal Rules of Civil Procedure, except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.". 28 USC app. 18 USC app.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 119 of title 18, United States Code, is amended by adding at the end thereof the following:

"2521. Injunction against illegal interception.".

SEC. 111. EFFECTIVE DATE. 18 USC 2510 note.

(a) IN GENERAL.—Except as provided in subsection (b) or (c), this title and the amendments made by this title shall take effect 90 days after the date of the enactment of this Act and shall, in the case of conduct pursuant to a court order or extension, apply only with respect to court orders or extensions made after this title takes effect.

(b) SPECIAL RULE FOR STATE AUTHORIZATIONS OF INTERCEPTIONS.—Any interception pursuant to section 2516(2) of title 18 of the United States Code which would be valid and lawful without regard to the amendments made by this title shall be valid and lawful notwithstanding such amendments if such interception occurs during the period beginning on the date such amendments take effect and ending on the earlier of—

(1) the day before the date of the taking effect of State law conforming the applicable State statute with chapter 119 of title 18, United States Code, as so amended; or 18 USC 2510 *et seq.*

(2) the date two years after the date of the enactment of this Act.

(c) EFFECTIVE DATE FOR CERTAIN APPROVALS BY JUSTICE DEPARTMENT OFFICIALS.—Section 104 of this Act shall take effect on the date of enactment of this Act.

TITLE II—STORED WIRE AND ELECTRONIC COMMUNICATIONS AND TRANSACTIONAL RECORDS ACCESS

SEC. 201. TITLE 18 AMENDMENT.

Title 18, United States Code, is amended by inserting after chapter 119 the following:

"CHAPTER 121—STORED WIRE AND ELECTRONIC COMMUNICATIONS AND TRANSACTIONAL RECORDS ACCESS

"Sec.
"2701. Unlawful access to stored communications.
"2702. Disclosure of contents.
"2703. Requirements for governmental access.
"2704. Backup preservation.
"2705. Delayed notice.
"2706. Cost reimbursement.
"2707. Civil action.
"2708. Exclusivity of remedies.
"2709. Counterintelligence access to telephone toll and transactional records.
"2710. Definitions.

18 USC 2701.

"§ 2701. Unlawful access to stored communications

"(a) OFFENSE.—Except as provided in subsection (c) of this section whoever—

"(1) intentionally accesses without authorization a facility through which an electronic communication service is provided; or

"(2) intentionally exceeds an authorization to access that facility;

and thereby obtains, alters, or prevents authorized access to a wire or electronic communication while it is in electronic storage in such system shall be punished as provided in subsection (b) of this section.

"(b) PUNISHMENT.—The punishment for an offense under subsection (a) of this section is—

"(1) if the offense is committed for purposes of commercial advantage, malicious destruction or damage, or private commercial gain—

"(A) a fine of not more than $250,000 or imprisonment for not more than one year, or both, in the case of a first offense under this subparagraph; and

"(B) a fine under this title or imprisonment for not more than two years, or both, for any subsequent offense under this subparagraph; and

"(2) a fine of not more than $5,000 or imprisonment for not more than six months, or both, in any other case.

"(c) EXCEPTIONS.—Subsection (a) of this section does not apply with respect to conduct authorized—

"(1) by the person or entity providing a wire or electronic communications service;

"(2) by a user of that service with respect to a communication of or intended for that user; or

"(3) in section 2703, 2704 or 2518 of this title.

18 USC 2702.

"§ 2702. Disclosure of contents

"(a) PROHIBITIONS.—Except as provided in subsection (b)—

"(1) a person or entity providing an electronic communication service to the public shall not knowingly divulge to any person or entity the contents of a communication while in electronic storage by that service; and

"(2) a person or entity providing remote computing service to the public shall not knowingly divulge to any person or entity the contents of any communication which is carried or maintained on that service—

"(A) on behalf of, and received by means of electronic transmission from (or created by means of computer processing of communications received by means of electronic transmission from), a subscriber or customer of such service; and

"(B) solely for the purpose of providing storage or computer processing services to such subscriber or customer, if the provider is not authorized to access the contents of any such communications for purposes of providing any services other than storage or computer processing.

"(b) EXCEPTIONS.—A person or entity may divulge the contents of a communication—

"(1) to an addressee or intended recipient of such communication or an agent of such addressee or intended recipient;

"(2) as otherwise authorized in section 2516, 2511(2)(a), or 2703 of this title; 18 USC 2516, 2511; *infra.*

"(3) with the lawful consent of the originator or an addressee or intended recipient of such communication, or the subscriber in the case of remote computing service;

"(4) to a person employed or authorized or whose facilities are used to forward such communication to its destination;

"(5) as may be necessarily incident to the rendition of the service or to the protection of the rights or property of the provider of that service; or

"(6) to a law enforcement agency, if such contents—

"(A) were inadvertently obtained by the service provider; and

"(B) appear to pertain to the commission of a crime.

"§ 2703. Requirements for governmental access

State and local governments. 18 USC 2703.

"(a) CONTENTS OF ELECTRONIC COMMUNICATIONS IN ELECTRONIC STORAGE.—A governmental entity may require the disclosure by a provider of electronic communication service of the contents of an electronic communication, that is in electronic storage in an electronic communications system for one hundred and eighty days or less, only pursuant to a warrant issued under the Federal Rules of Criminal Procedure or equivalent State warrant. A governmental entity may require the disclosure by a provider of electronic communications services of the contents of an electronic communication that has been in electronic storage in an electronic communications system for more than one hundred and eighty days by the means available under subsection (b) of this section. 18 USC app.

"(b) CONTENTS OF ELECTRONIC COMMUNICATIONS IN A REMOTE COMPUTING SERVICE.—(1) A governmental entity may require a provider of remote computing service to disclose the contents of any electronic communication to which this paragraph is made applicable by paragraph (2) of this subsection—

"(A) without required notice to the subscriber or customer, if the governmental entity obtains a warrant issued under the

18 USC app.

Federal Rules of Criminal Procedure or equivalent State warrant; or

"(B) with prior notice from the governmental entity to the subscriber or customer if the governmental entity—

"(i) uses an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury subpoena; or

"(ii) obtains a court order for such disclosure under subsection (d) of this section;

except that delayed notice may be given pursuant to section 2705 of this title.

Post, p. 1864.

"(2) Paragraph (1) is applicable with respect to any electronic communication that is held or maintained on that service—

"(A) on behalf of, and received by means of electronic transmission from (or created by means of computer processing of communications received by means of electronic transmission from), a subscriber or customer of such remote computing service; and

"(B) solely for the purpose of providing storage or computer processing services to such subscriber or customer, if the provider is not authorized to access the contents of any such communications for purposes of providing any services other than storage or computer processing.

"(c) RECORDS CONCERNING ELECTRONIC COMMUNICATION SERVICE OR REMOTE COMPUTING SERVICE.—(1)(A) Except as provided in subparagraph (B), a provider of electronic communication service or remote computing service may disclose a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a) or (b) of this section) to any person other than a governmental entity.

"(B) A provider of electronic communication service or remote computing service shall disclose a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a) or (b) of this section) to a governmental entity only when the governmental entity—

"(i) uses an administrative subpoena authorized by a Federal or State statute, or a Federal or State grand jury subpoena;

"(ii) obtains a warrant issued under the Federal Rules of Criminal Procedure or equivalent State warrant;

"(iii) obtains a court order for such disclosure under subsection (d) of this section; or

"(iv) has the consent of the subscriber or customer to such disclosure.

"(2) A governmental entity receiving records or information under this subsection is not required to provide notice to a subscriber or customer.

Records.

"(d) REQUIREMENTS FOR COURT ORDER.—A court order for disclosure under subsection (b) or (c) of this section shall issue only if the governmental entity shows that there is reason to believe the contents of a wire or electronic communication, or the records or other information sought, are relevant to a legitimate law enforcement inquiry. In the case of a State governmental authority, such a court order shall not issue if prohibited by the law of such State. A court issuing an order pursuant to this section, on a motion made promptly by the service provider, may quash or modify such order, if

the information or records requested are unusually voluminous in nature or compliance with such order otherwise would cause an undue burden on such provider.

"(e) NO CAUSE OF ACTION AGAINST A PROVIDER DISCLOSING INFORMATION UNDER THIS CHAPTER.—No cause of action shall lie in any court against any provider of wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order, warrant, subpoena, or certification under this chapter.

"§ 2704. Backup preservation 18 USC 2704.

"(a) BACKUP PRESERVATION.—(1) A governmental entity acting under section 2703(b)(2) may include in its subpoena or court order a requirement that the service provider to whom the request is directed create a backup copy of the contents of the electronic communications sought in order to preserve those communications. Without notifying the subscriber or customer of such subpoena or court order, such service provider shall create such backup copy as soon as practicable consistent with its regular business practices and shall confirm to the governmental entity that such backup copy has been made. Such backup copy shall be created within two business days after receipt by the service provider of the subpoena or court order.

"(2) Notice to the subscriber or customer shall be made by the governmental entity within three days after receipt of such confirmation, unless such notice is delayed pursuant to section 2705(a).

"(3) The service provider shall not destroy such backup copy until the later of—

"(A) the delivery of the information; or

"(B) the resolution of any proceedings (including appeals of any proceeding) concerning the government's subpoena or court order.

"(4) The service provider shall release such backup copy to the requesting governmental entity no sooner than fourteen days after the governmental entity's notice to the subscriber or customer if such service provider—

"(A) has not received notice from the subscriber or customer that the subscriber or customer has challenged the governmental entity's request; and

"(B) has not initiated proceedings to challenge the request of the governmental entity.

"(5) A governmental entity may seek to require the creation of a backup copy under subsection (a)(1) of this section if in its sole discretion such entity determines that there is reason to believe that notification under section 2703 of this title of the existence of the subpoena or court order may result in destruction of or tampering with evidence. This determination is not subject to challenge by the subscriber or customer or service provider.

"(b) CUSTOMER CHALLENGES.—(1) Within fourteen days after notice by the governmental entity to the subscriber or customer under subsection (a)(2) of this section, such subscriber or customer may file a motion to quash such subpoena or vacate such court order, with copies served upon the governmental entity and with written notice of such challenge to the service provider. A motion to vacate a court order shall be filed in the court which issued such order. A motion to quash a subpoena shall be filed in the appropriate United States

district court or State court. Such motion or application shall contain an affidavit or sworn statement—

"(A) stating that the applicant is a customer or subscriber to the service from which the contents of electronic communications maintained for him have been sought; and

"(B) stating the applicant's reasons for believing that the records sought are not relevant to a legitimate law enforcement inquiry or that there has not been substantial compliance with the provisions of this chapter in some other respect.

"(2) Service shall be made under this section upon a governmental entity by delivering or mailing by registered or certified mail a copy of the papers to the person, office, or department specified in the notice which the customer has received pursuant to this chapter. For the purposes of this section, the term 'delivery' has the meaning given that term in the Federal Rules of Civil Procedure.

28 USC app.

"(3) If the court finds that the customer has complied with paragraphs (1) and (2) of this subsection, the court shall order the governmental entity to file a sworn response, which may be filed in camera if the governmental entity includes in its response the reasons which make in camera review appropriate. If the court is unable to determine the motion or application on the basis of the parties' initial allegations and response, the court may conduct such additional proceedings as it deems appropriate. All such proceedings shall be completed and the motion or application decided as soon as practicable after the filing of the governmental entity's response.

"(4) If the court finds that the applicant is not the subscriber or customer for whom the communications sought by the governmental entity are maintained, or that there is a reason to believe that the law enforcement inquiry is legitimate and that the communications sought are relevant to that inquiry, it shall deny the motion or application and order such process enforced. If the court finds that the applicant is the subscriber or customer for whom the communications sought by the governmental entity are maintained, and that there is not a reason to believe that the communications sought are relevant to a legitimate law enforcement inquiry, or that there has not been substantial compliance with the provisions of this chapter, it shall order the process quashed.

"(5) A court order denying a motion or application under this section shall not be deemed a final order and no interlocutory appeal may be taken therefrom by the customer.

18 USC 2705.

"§ 2705. Delayed notice

"(a) DELAY OF NOTIFICATION.—(1) A governmental entity acting under section 2703(b) of this title may—

"(A) where a court order is sought, include in the application a request, which the court shall grant, for an order delaying the notification required under section 2703(b) of this title for a period not to exceed ninety days, if the court determines that there is reason to believe that notification of the existence of the court order may have an adverse result described in paragraph (2) of this subsection; or

State and local governments.

"(B) where an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury subpoena is obtained, delay the notification required under section 2703(b) of this title for a period not to exceed ninety days upon the execution of a written certification of a supervisory official that there is reason to believe that notification of the existence of the

subpoena may have an adverse result described in paragraph (2) of this subsection.

"(2) An adverse result for the purposes of paragraph (1) of this subsection is—

"(A) endangering the life or physical safety of an individual;

"(B) flight from prosecution;

"(C) destruction of or tampering with evidence;

"(D) intimidation of potential witnesses; or

"(E) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

"(3) The governmental entity shall maintain a true copy of certification under paragraph (1)(B).

"(4) Extensions of the delay of notification provided in section 2703 of up to ninety days each may be granted by the court upon application, or by certification by a governmental entity, but only in accordance with subsection (b) of this section.

"(5) Upon expiration of the period of delay of notification under paragraph (1) or (4) of this subsection, the governmental entity shall serve upon, or deliver by registered or first-class mail to, the customer or subscriber a copy of the process or request together with notice that—

"(A) states with reasonable specificity the nature of the law enforcement inquiry; and

"(B) informs such customer or subscriber—

"(i) that information maintained for such customer or subscriber by the service provider named in such process or request was supplied to or requested by that governmental authority and the date on which the supplying or request took place;

"(ii) that notification of such customer or subscriber was delayed;

"(iii) what governmental entity or court made the certification or determination pursuant to which that delay was made; and

"(iv) which provision of this chapter allowed such delay.

"(6) As used in this subsection, the term 'supervisory official' means the investigative agent in charge or assistant investigative agent in charge or an equivalent of an investigating agency's headquarters or regional office, or the chief prosecuting attorney or the first assistant prosecuting attorney or an equivalent of a prosecuting attorney's headquarters or regional office.

"(b) PRECLUSION OF NOTICE TO SUBJECT OF GOVERNMENTAL ACCESS.—A governmental entity acting under section 2703, when it is not required to notify the subscriber or customer under section 2703(b)(1), or to the extent that it may delay such notice pursuant to subsection (a) of this section, may apply to a court for an order commanding a provider of electronic communications service or remote computing service to whom a warrant, subpoena, or court order is directed, for such period as the court deems appropriate, not to notify any other person of the existence of the warrant, subpoena, or court order. The court shall enter such an order if it determines that there is reason to believe that notification of the existence of the warrant, subpoena, or court order will result in—

"(1) endangering the life or physical safety of an individual;

"(2) flight from prosecution;

"(3) destruction of or tampering with evidence;

"(4) intimidation of potential witnesses; or

"(5) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

18 USC 2706.

"§ 2706. Cost reimbursement

"(a) PAYMENT.—Except as otherwise provided in subsection (c), a governmental entity obtaining the contents of communications, records, or other information under section 2702, 2703, or 2704 of this title shall pay to the person or entity assembling or providing such information a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching for, assembling, reproducing, or otherwise providing such information. Such reimbursable costs shall include any costs due to necessary disruption of normal operations of any electronic communication service or remote computing service in which such information may be stored.

"(b) AMOUNT.—The amount of the fee provided by subsection (a) shall be as mutually agreed by the governmental entity and the person or entity providing the information, or, in the absence of agreement, shall be as determined by the court which issued the order for production of such information (or the court before which a criminal prosecution relating to such information would be brought, if no court order was issued for production of the information).

"(c) The requirement of subsection (a) of this section does not apply with respect to records or other information maintained by a communications common carrier that relate to telephone toll records and telephone listings obtained under section 2703 of this title. The court may, however, order a payment as described in subsection (a) if the court determines the information required is unusually voluminous in nature or otherwise caused an undue burden on the provider.

"§ 2707. Civil action

"(a) CAUSE OF ACTION.—Except as provided in section 2703(e), any provider of electronic communication service, subscriber, or customer aggrieved by any violation of this chapter in which the conduct constituting the violation is engaged in with a knowing or intentional state of mind may, in a civil action, recover from the person or entity which engaged in that violation such relief as may be appropriate.

"(b) RELIEF.—In a civil action under this section, appropriate relief includes—

"(1) such preliminary and other equitable or declaratory relief as may be appropriate;

"(2) damages under subsection (c); and

"(3) a reasonable attorney's fee and other litigation costs reasonably incurred.

"(c) DAMAGES.—The court may assess as damages in a civil action under this section the sum of the actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation, but in no case shall a person entitled to recover receive less than the sum of $1,000.

"(d) DEFENSE.—A good faith reliance on—

"(1) a court warrant or order, a grand jury subpoena, a legislative authorization, or a statutory authorization;

"(2) a request of an investigative or law enforcement officer under section 2518(7) of this title; or

"(3) a good faith determination that section 2511(3) of this title permitted the conduct complained of;

is a complete defense to any civil or criminal action brought under this chapter or any other law.

"(e) LIMITATION.—A civil action under this section may not be commenced later than two years after the date upon which the claimant first discovered or had a reasonable opportunity to discover the violation.

"§ 2708. Exclusivity of remedies 18 USC 2708.

"The remedies and sanctions described in this chapter are the only judicial remedies and sanctions for nonconstitutional violations of this chapter.

"§ 2709. Counterintelligence access to telephone toll and transactional records 18 USC 2709.

"(a) DUTY TO PROVIDE.—A wire or electronic communication service provider shall comply with a request for subscriber information and toll billing records information, or electronic communication transactional records in its custody or possession made by the Director of the Federal Bureau of Investigation under subsection (b) of this section.

"(b) REQUIRED CERTIFICATION.—The Director of the Federal Bureau of Investigation (or an individual within the Federal Bureau of Investigation designated for this purpose by the Director) may request any such information and records if the Director (or the Director's designee) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(1) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(2) there are specific and articulable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

"(c) PROHIBITION OF CERTAIN DISCLOSURE.—No wire or electronic communication service provider, or officer, employee, or agent thereof, shall disclose to any person that the Federal Bureau of Investigation has sought or obtained access to information or records under this section.

"(d) DISSEMINATION BY BUREAU.—The Federal Bureau of Investigation may disseminate information and records obtained under this section only as provided in guidelines approved by the Attorney General for foreign intelligence collection and foreign counterintelligence investigations conducted by the Federal Bureau of Investigation, and, with respect to dissemination to an agency of the United States, only if such information is clearly relevant to the authorized responsibilities of such agency.

"(e) REQUIREMENT THAT CERTAIN CONGRESSIONAL BODIES BE INFORMED.—On a semiannual basis the Director of the Federal Bureau of Investigation shall fully inform the Permanent Select Committee

on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all requests made under subsection (b) of this section.

18 USC 2710.

"§ 2710. Definitions for chapter

"As used in this chapter—

"(1) the terms defined in section 2510 of this title have, respectively, the definitions given such terms in that section; and

"(2) the term 'remote computing service' means the provision to the public of computer storage or processing services by means of an electronic communications system.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by adding at the end the following:

"121. Stored Wire and Electronic Communications and Transactional Records Access ..... 2701".

18 USC 2701 note.

SEC. 202. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect ninety days after the date of the enactment of this Act and shall, in the case of conduct pursuant to a court order or extension, apply only with respect to court orders or extensions made after this title takes effect.

TITLE III—PEN REGISTERS AND TRAP AND TRACE DEVICES

SEC. 301. TITLE 18 AMENDMENT.

(a) IN GENERAL.—Title 18 of the United States Code is amended by inserting after chapter 205 the following new chapter:

"CHAPTER 206—PEN REGISTERS AND TRAP AND TRACE DEVICES

"Sec.
"3121. General prohibition on pen register and trap and trace device use; exception.
"3122. Application for an order for a pen register or a trap and trace device.
"3123. Issuance of an order for a pen register or a trap or trace device.
"3124. Assistance in installation and use of a pen register or a trap and trace device.
"3125. Reports concerning pen registers and trap and trace devices.
"3126. Definitions for chapter.

18 USC 3121.

"§ 3121. General prohibition on pen register and trap and trace device use; exception

"(a) IN GENERAL.—Except as provided in this section, no person may install or use a pen register or a trap and trace device without first obtaining a court order under section 3123 of this title or under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

"(b) EXCEPTION.—The prohibition of subsection (a) does not apply with respect to the use of a pen register or a trap and trace device by a provider of electronic or wire communication service—

"(1) relating to the operation, maintenance, and testing of a wire or electronic communication service or to the protection of the rights or property of such provider, or to the protection of users of that service from abuse of service or unlawful use of service; or

"(2) to record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire communication, or a user of that service, from fraudulent, unlawful or abusive use of service; or (3) where the consent of the user of that service has been obtained.

"(c) PENALTY.—Whoever knowingly violates subsection (a) shall be fined under this title or imprisoned not more than one year, or both.

"§ 3122. Application for an order for a pen register or a trap and trace device 18 USC 3122.

"(a) APPLICATION.—(1) An attorney for the Government may make application for an order or an extension of an order under section 3123 of this title authorizing or approving the installation and use of a pen register or a trap and trace device under this chapter, in writing under oath or equivalent affirmation, to a court of competent jurisdiction.

"(2) Unless prohibited by State law, a State investigative or law enforcement officer may make application for an order or an extension of an order under section 3123 of this title authorizing or approving the installation and use of a pen register or a trap and trace device under this chapter, in writing under oath or equivalent affirmation, to a court of competent jurisdiction of such State. State and local governments.

"(b) CONTENTS OF APPLICATION.—An application under subsection (a) of this section shall include—

"(1) the identity of the attorney for the Government or the State law enforcement or investigative officer making the application and the identity of the law enforcement agency conducting the investigation; and

"(2) a certification by the applicant that the information likely to be obtained is relevant to an ongoing criminal investigation being conducted by that agency.

"§ 3123. Issuance of an order for a pen register or a trap and trace device

"(a) IN GENERAL.—Upon an application made under section 3122 of this title, the court shall enter an ex parte order authorizing the installation and use of a pen register or a trap and trace device within the jurisdiction of the court if the court finds that the attorney for the Government or the State law enforcement or investigative officer has certified to the court that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation.

"(b) CONTENTS OF ORDER.—An order issued under this section—

"(1) shall specify—

"(A) the identity, if known, of the person to whom is leased or in whose name is listed the telephone line to which the pen register or trap and trace device is to be attached;

"(B) the identity, if known, of the person who is the subject of the criminal investigation;

"(C) the number and, if known, physical location of the telephone line to which the pen register or trap and trace device is to be attached and, in the case of a trap and trace device, the geographic limits of the trap and trace order; and

"(D) a statement of the offense to which the information likely to be obtained by the pen register or trap and trace device relates; and

"(2) shall direct, upon the request of the applicant, the furnishing of information, facilities, and technical assistance necessary to accomplish the installation of the pen register or trap and trace device under section 3124 of this title.

"(c) TIME PERIOD AND EXTENSIONS.—(1) An order issued under this section shall authorize the installation and use of a pen register or a trap and trace device for a period not to exceed sixty days.

"(2) Extensions of such an order may be granted, but only upon an application for an order under section 3122 of this title and upon the judicial finding required by subsection (a) of this section. The period of extension shall be for a period not to exceed sixty days.

"(d) NONDISCLOSURE OF EXISTENCE OF PEN REGISTER OR A TRAP AND TRACE DEVICE.—An order authorizing or approving the installation and use of a pen register or a trap and trace device shall direct that—

"(1) the order be sealed until otherwise ordered by the court; and

"(2) the person owning or leasing the line to which the pen register or a trap and trace device is attached, or who has been ordered by the court to provide assistance to the applicant, not disclose the existence of the pen register or trap and trace device or the existence of the investigation to the listed subscriber, or to any other person, unless or until otherwise ordered by the court.

18 USC 3124.

"§ 3124. Assistance in installation and use of a pen register or a trap and trace device

"(a) PEN REGISTERS.—Upon the request of an attorney for the Government or an officer of a law enforcement agency authorized to install and use a pen register under this chapter, a provider of wire or electronic communication service, landlord, custodian, or other person shall furnish such investigative or law enforcement officer forthwith all information, facilities, and technical assistance necessary to accomplish the installation of the pen register unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if such assistance is directed by a court order as provided in section 3123(b)(2) of this title.

"(b) TRAP AND TRACE DEVICE.—Upon the request of an attorney for the Government or an officer of a law enforcement agency authorized to receive the results of a trap and trace device under this chapter, a provider of a wire or electronic communication service, landlord, custodian, or other person shall install such device forthwith on the appropriate line and shall furnish such investigative or law enforcement officer all additional information, facilities and technical assistance including installation and operation of the

device unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if such installation and assistance is directed by a court order as provided in section 3123(b)(2) of this title. Unless otherwise ordered by the court, the results of the trap and trace device shall be furnished to the officer of a law enforcement agency, designated in the court, at reasonable intervals during regular business hours for the duration of the order.

"(c) COMPENSATION.—A provider of a wire or electronic communication service, landlord, custodian, or other person who furnishes facilities or technical assistance pursuant to this section shall be reasonably compensated for such reasonable expenses incurred in providing such facilities and assistance.

"(d) NO CAUSE OF ACTION AGAINST A PROVIDER DISCLOSING INFORMATION UNDER THIS CHAPTER.—No cause of action shall lie in any court against any provider of a wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order under this chapter.

"(e) DEFENSE.—A good faith reliance on a court order, a legislative authorization, or a statutory authorization is a complete defense against any civil or criminal action brought under this chapter or any other law.

"§ 3125. Reports concerning pen registers and trap and trace devices 18 USC 3125.

"The Attorney General shall annually report to Congress on the number of pen register orders and orders for trap and trace devices applied for by law enforcement agencies of the Department of Justice.

"§ 3126. Definitions for chapter

"As used in this chapter—

"(1) the terms 'wire communication', 'electronic communication', and 'electronic communication service' have the meanings set forth for such terms in section 2510 of this title;

"(2) the term 'court of competent jurisdiction' means—

"(A) a district court of the United States (including a magistrate of such a court) or a United States Court of Appeals; or

"(B) a court of general criminal jurisdiction of a State authorized by the law of that State to enter orders authorizing the use of a pen register or a trap and trace device;

"(3) the term 'pen register' means a device which records or decodes electronic or other impulses which identify the numbers dialed or otherwise transmitted on the telephone line to which such device is attached, but such term does not include any device used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communications services provided by such provider or any device used by a provider or customer of a wire communication service for cost accounting or other like purposes in the ordinary course of its business;

"(4) the term 'trap and trace device' means a device which captures the incoming electronic or other impulses which identify the originating number of an instrument or device from which a wire or electronic communication was transmitted;

"(5) the term 'attorney for the Government' has the meaning given such term for the purposes of the Federal Rules of Criminal Procedure; and

"(6) the term 'State' means a State, the District of Columbia, Puerto Rico, and any other possession or territory of the United States.".

(b) CLERICAL AMENDMENT.—The table of chapters for part II of title 18 of the United States Code is amended by inserting after the item relating to chapter 205 the following new item:

"206. Pen Registers and Trap and Trace Devices ..... 3121".

18 USC 3121 note.

SEC. 302. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect ninety days after the date of the enactment of this Act and shall, in the case of conduct pursuant to a court order or extension, apply only with respect to court orders or extensions made after this title takes effect.

(b) SPECIAL RULE FOR STATE AUTHORIZATIONS OF INTERCEPTIONS.—Any pen register or trap and trace device order or installation which would be valid and lawful without regard to the amendments made by this title shall be valid and lawful notwithstanding such amendments if such order or installation occurs during the period beginning on the date such amendments take effect and ending on the earlier of—

(1) the day before the date of the taking effect of changes in State law required in order to make orders or installations under Federal law as amended by this title; or

(2) the date two years after the date of the enactment of this Act.

SEC. 303. INTERFERENCE WITH THE OPERATION OF A SATELLITE.

(a) OFFENSE.—Chapter 65 of title 18, United States Code, is amended by inserting at the end the following:

18 USC 1367.

"§ 1367. Interference with the operation of a satellite

"(a) Whoever, without the authority of the satellite operator, intentionally or maliciously interferes with the authorized operation of a communications or weather satellite or obstructs or hinders any satellite transmission shall be fined in accordance with this title or imprisoned not more than ten years or both.

"(b) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency or of an intelligence agency of the United States."

(b) CONFORMING AMENDMENT.—The table of sections for chapter 65 of title 18, United States Code, is amended by adding at the end the following new item:

"1367. Interference with the operation of a satellite.".

Approved October 21, 1986.

LEGISLATIVE HISTORY—H.R. 4952 (S. 2575):

HOUSE REPORTS: No. 99-647 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 132 (1986):
June 23, considered and passed House.
Oct. 1, considered and passed Senate, amended.
Oct. 2, House concurred in Senate amendments.

O

91-139 O - 87 (526)

OMNIBUS BUDGET RECONCILIATION ACT OF 1986

*Public Law 99-509
99th Congress

An Act

Oct. 21, 1986
[H.R. 5300]

To provide for reconciliation pursuant to section 2 of the concurrent resolution on the budget for fiscal year 1987.

Omnibus Budget Reconciliation Act of 1986.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Omnibus Budget Reconciliation Act of 1986".

(b) TABLE OF CONTENTS.—

Title I. Agriculture programs.
Title II. Banking and housing programs.
Title III. Energy and environmental programs.
Title IV. Transportation and related programs.
Title V. Maritime programs.
Title VI. Civil service, Postal Service, and governmental affairs generally.
Title VII. Fiscal procedures.
Title VIII. Revenues, trade, and related programs.
Title IX. Income security, medicare, medicaid, and maternal and child health programs.

TITLE I—AGRICULTURAL PROGRAMS

Subtitle A—Sale of Notes

SEC. 1001. SALE OF RURAL DEVELOPMENT NOTES.

7 USC 1929a note.

(a) SALES REQUIRED.—The Secretary of Agriculture, under such terms as the Secretary may prescribe, shall sell notes and other obligations held in the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act in such amounts as to realize net proceeds to the Government of not less than—

7 USC 1929a.

(1) $1,000,000,000 from such sales during fiscal year 1987,
(2) $552,000,000 from such sales during fiscal year 1988, and
(3) $547,000,000 from such sales during fiscal year 1989.

(b) NONRECOURSE SALES.—The second sentence of section 309A(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a(e)) is amended by—

(1) inserting "and other obligations" after "Notes"; and
(2) striking out the period at the end thereof and inserting in lieu thereof the following: ", including sale on a nonrecourse basis. The Secretary and any subsequent purchaser of such notes or other obligations sold by the Secretary on a nonrecourse basis shall be relieved of any responsibilities that might have been imposed had the borrower remained indebted to the Secretary.".

7 USC 1929a note.

(c) CONTRACT PROVISIONS.—Consistent with section 309A(e) of the Consolidated Farm and Rural Development Act, as amended by subsection (b), any sale of notes or other obligations, as described in

*Note: This is a subsequently typeset print of the hand enrollment which was signed by the President on October 21, 1986.

subsection (a), shall not alter the terms specified in the note or other obligation, except that, on sale, a note or other obligation shall not be subject to the provisions of section 333(c) of the Consolidated Farm and Rural Development Act.

7 USC 1983.
7 USC 1929a note.

(d) ELIGIBILITY TO PURCHASE NOTES.—Notwithstanding any other provision of law, each institution of the Farm Credit System shall be eligible to purchase notes and other obligations held in the Rural Development Insurance Fund and to service (including the extension of additional credit and all other actions necessary to preserve, conserve, or protect the institution's interest in the purchased notes or other obligations), collect, and dispose of such notes and other obligations, subject only to such terms and conditions as may be agreed to by the Secretary of Agriculture and the purchasing institution and as may be approved by the Farm Credit Administration.

7 USC 1929 note.

(e) LOAN SERVICING.—Prior to selling any note or other obligation, as described in subsection (a), the Secretary of Agriculture shall require persons offering to purchase the note or other obligation to demonstrate—

(1) an ability or resources to provide such servicing, with respect to the loans represented by the note or other obligation, that the Secretary deems necessary to ensure the continued performance on the loan; and

(2) the ability to generate capital to provide the borrowers of the loans such additional credit as may be necessary in proper servicing of the loans.

7 USC 1729 note.

SEC. 1002. LIMITATION ON SALES FROM THE AGRICULTURAL CREDIT INSURANCE FUND.

During fiscal years 1987 through 1989, no note shall be sold out of the Agricultural Credit Insurance Fund, except in connection with transactions with the Secretary of the Treasury, without prior approval by Congress.

Subtitle B—Prepayment of Loans

7 USC 936a.
Banks and banking.

SEC. 1011. PREPAYMENT OF REA GUARANTEED LOANS.

(a) AMENDMENT TO RURAL ELECTRIFICATION ACT OF 1936.—The Rural Electrification Act of 1936 is amended by inserting after section 306 (7 U.S.C. 936) the following new sections:

"SEC. 306A. PREPAYMENT OF LOANS.

"(a) Except as provided in subsection (c), a borrower of a loan made by the Federal Financing Bank and guaranteed under section 306 of this Act may prepay such loan (or any loan advance thereunder) by paying the outstanding principal balance due on the loan (or advance), if—

"(1) the loan is outstanding on July 2, 1986;

"(2) private capital, with the existing loan guarantee, is used to replace the loan; and

"(3) the borrower certifies that any savings from such prepayment will be passed on to its customers or used to improve the financial strength of the borrower in cases of financial hardship.

"(b) No sums in addition to the payment of the outstanding principal balance due on the loan may be charged as the result of

such prepayment against the borrower, the fund, or the Rural Electrification Administration.

Banks and banking.

"(c)(1) A borrower will not qualify for prepayment under this section if, in the opinion of the Secretary of the Treasury, to prepay in such borrower's case would adversely affect the operation of the Federal Financing Bank.

Effective date.

"(2) Paragraph (1) shall be effective in fiscal year 1987 only for any loan the prepayment of the principal amount of which will cause the cumulative amount of net proceeds from all such prepayments made during such year to exceed $2,017,500,000.

"(d)(1) The Administrator shall permit, subject to subsection (a), prepayments of principal on loans in fiscal year 1987 under this section or Public Law 99-349 in such amounts as to realize net proceeds from all such prepayments in fiscal year 1987 in an amount not less than $2,017,500,000.

Ante, p. 710.

"(2) The Administrator shall establish—

"(A) eligibility criteria to ensure that any loan prepayment activity required to be carried out under this subsection will be directed to those cooperative borrowers in greatest need of the benefits associated with prepayment, as determined by the Administrator; and

"(B) such other eligibility criteria as the Administrator determines are necessary to carry out this subsection.

Securities.
7 USC 936.

"(e) Any guarantee of a loan prepaid under this section shall be fully assignable under the provisions of section 306 of this Act and transferable. However, the Administrator may require that any such guarantee, if transfered or assigned, be transferred or assigned to a loan or security that, if sold, will be grouped with nonguaranteed loans or securities and sold in a manner to ensure that such sale will not unreasonably compete with the marketing of obligations of the United States.

7 USC 936b.

"SEC. 306B. SALE OR PREPAYMENT OF DIRECT OR INSURED LOANS.

"A direct or insured loan made under this Act shall not be sold or prepaid at a value less than the face value of any outstanding principal balance on such loan, except when sold to or prepaid by the borrower at the lesser of the outstanding principal balance due on the loan or the loan's present value discounted from the face value at maturity at the rate set by the Administrator. The exception contained in the preceding sentence shall be effective for the period ending September 30, 1987.".

Effective date.

7 USC 936 note.

(b) CONFORMING AMENDMENT.—Chapter I of the Act entitled "An Act making urgent supplemental appropriations for the fiscal year ending September 30, 1986, and for other purposes" (Public Law 99-349), approved July 2, 1986, is amended by striking out the undesignated paragraph relating to the prepayment of loans by Rural Electrification and Telephone Systems.

Ante, p. 710.

7 USC 936a note.

(c) REGULATIONS.—The Secretary of Agriculture shall issue regulations to implement this section within 60 days after the date of enactment of this Act. Such regulations—

(1) shall facilitate prepayment of loans under section 306A of the Rural Electrification Act of 1936, as added by subsection (a); and

Ante, p. 1875.

Utilities.

(2) may not require any rural utility that is a borrower of loans subject to section 306A to make unreasonable reductions in rates to its customers as a condition of such prepayment.

Subtitle C—Advance Deficiency Payments

SEC. 1021. ADVANCE DEFICIENCY PAYMENTS.

7 USC 1445b-2 note.

Notwithstanding any other provision of law, the Secretary of Agriculture, in accordance with the criteria in section 107C of the Agricultural Act of 1949, shall make advance deficiency payments available for the 1987 crops of wheat, feed grains, upland cotton, and rice. The percentage of the projected payment rate used in computing such payments shall not be less than (1) 40 percent in the case of wheat and feed grains, and (2) 30 percent in the case of rice and upland cotton.

7 USC 1445b-2.

Subtitle D—Farm Credit Institutions

Farm Credit Act Amendments of 1986.

SEC. 1031. SHORT TITLE.

12 USC 2001 note.

This subtitle may be cited as the "Farm Credit Act Amendments of 1986".

SEC. 1032. POLICY.

Loans.

Section 1.1 of the Farm Credit Act of 1971 (12 U.S.C. 2001) is amended by adding at the end thereof the following new subsection:

"(c) It is declared to be the policy of Congress that the credit needs of farmers, ranchers, and their cooperatives are best served if the institutions of the Farm Credit System provide equitable and competitive interest rates to eligible borrowers, taking into consideration the creditworthiness and access to alternative sources of credit for borrowers, the cost of funds, including any costs of defeasance under section 4.8(b), the operating costs of the institution, including the costs of any loan loss amortization under section 5.19(b), the cost of servicing loans, the need to retain earnings to protect borrowers' stock, and the volume of net new borrowing. Further, it is declared to be the policy of Congress that Farm Credit System institutions take action in accordance with the Farm Credit Act Amendments of 1986 in such manner that borrowers from the institutions derive the greatest benefit practicable from that Act: *Provided*, That in no case is any borrower to be charged a rate of interest that is below competitive market rates for similar loans made by private lenders to borrowers of equivalent creditworthiness and access to alternative credit.".

12 USC 2159.
Post., p. 1878.

SEC. 1033. TERMINATION OF FARM CREDIT ADMINISTRATION APPROVAL OF INTEREST RATES CHARGED BY SYSTEM INSTITUTIONS.

(a) FEDERAL LAND BANKS.—The first sentence of section 1.7 of the Farm Credit Act of 1971 (12 U.S.C. 2015) is amended by striking out ", with the approval of the Farm Credit Administration as provided in section 4.17 of this Act".

(b) FEDERAL INTERMEDIATE CREDIT BANKS.—The second sentence of section 2.4 of the Farm Credit Act of 1971 (12 U.S.C. 2075) is amended by striking out "with the approval of the Farm Credit Administration as provided in section 4.17 of this Act".

(c) BANKS FOR COOPERATIVES.—The first sentence of section 3.10(a) of the Farm Credit Act of 1971 (12 U.S.C. 2131(a)) is amended by striking out ", with the approval of the Farm Credit Administration as provided in section 4.17 of this Act".

SEC. 1034. CERTAIN TRANSACTIONS WITH RESPECT TO SYSTEM OBLIGATIONS.

Section 4.8 of the Farm Credit Act of 1971 (12 U.S.C. 2159) is amended by—

(1) inserting the designation "(a)" after the heading; and

(2) adding at the end thereof the following:

"(b) Through December 31, 1988, each bank of the System, in addition to purchasing obligations as authorized by this Act, may, with the prior approval of the Farm Credit Administration and subject to such conditions as it may establish, (1) reduce the cost of its borrowings by doing one or more of the following: (A) contracting with a third party, or an entity that is established as a limited purpose System institution under section 4.25 and that is not to be included in the combined financial statements of other System institutions, with respect to the payment of interest on the bank's obligations and the obligations of other banks incurred before January 1, 1985, in consideration of the payment of market interest rates on such obligations, plus a premium, or (B) for the period July 1, 1986, through December 31, 1988, capitalizing interest costs on obligations incurred before January 1, 1985, in excess of the estimated interest costs on an equivalent amount of Farm Credit System obligations at prevailing market rates on such obligations of similar maturities as of the date of the enactment of this subsection, or (C) taking other similar action; and (2) amortize, over a period of not to exceed 20 years, the capitalization of the premium, capitalization of interest expense, or like costs of any action taken under clause (1).".

Contracts.

12 USC 2211.

SEC. 1035. DETERMINATION OF INTEREST RATES.

Loans.
State and local governments.

Section 4.17 of the Farm Credit Act of 1971 (12 U.S.C. 2205) is amended by striking out the first sentence and inserting in lieu thereof the following: "Interest rates on loans from institutions of the Farm Credit System shall not be subject to any interest rate limitation imposed by any State constitution or statute or other laws. Such limitation is preempted for purposes of this Act.".

SEC. 1036. TERMINATION OF FARM CREDIT ADMINISTRATION APPROVAL OF INTEREST RATES CHARGED ON DIRECT AND DISCOUNTED LOANS.

Section 5.17(a)(5)(A) of the Farm Credit Act of 1971 (12 U.S.C. 2252(a)(5)(A)) is amended by striking out "and on loans made or discounted by such institutions".

SEC. 1037. ACCOUNTING.

Section 5.19(b) of the Farm Credit Act of 1971 (12 U.S.C. 2254(b)) is amended by striking out the second sentence and inserting in lieu thereof the following: "Each such report shall contain financial statements prepared in accordance with generally accepted accounting principles, except with respect to any actions taken by any banks of the System under section 4.8(b), and contain such additional information as the Farm Credit Administration by regulation may require. Notwithstanding the provisions of the preceding sentence and any other provision of this Act, for the period July 1, 1986, through December 31, 1988, the institutions of the Farm Credit System may, on the prior approval of the Farm Credit Administration and subject to such conditions as it may establish, capitalize annually their provision for losses that is in excess of one-half of 1

Reports.
Banks and banking.
Loans.
Supra.

percent of loans outstanding and amortize such capitalized amounts over a period not to exceed 20 years.".

TITLE II—BANKING AND HOUSING PROGRAMS

SEC. 2001. SALE OF RURAL HOUSING LOANS.

42 USC 1487 note.

(a) REQUIRED SALES TO PUBLIC.—The Secretary of Agriculture shall take such actions as may be necessary to ensure that loans made under title V of the Housing Act of 1949 are sold to the public in amounts sufficient to provide a net reduction in outlays of not less than $1,715,000,000 in fiscal year 1987 from the proceeds of such sales.

42 USC 1471.

(b) PROCEDURES AND TERMS OF SALES.—

(1) ESTABLISHMENT OF GUIDELINES.—The Secretary of Agriculture shall establish specific guidelines for the sale of loans under subsection (a). The guidelines shall address the procedures and terms applicable to the sale of the loans, including the kind of protections that should be provided to borrowers and terms that will ensure that the sale of the loans will be made at the lowest practicable cost to the Federal Government.

(2) ASSISTANCE BY FEDERAL FINANCING BANK.—In selling loans to the public under subsection (a), the Secretary of Agriculture shall use the Federal Financing Bank as an agent to sell the loans, unless the Secretary determines that the sale of loans directly by the Secretary will result in a higher rate of return to the Federal Government. If the Secretary determines to sell loans directly under this paragraph, the Secretary shall notify the Federal Financing Bank of such determination and the loans involved and, to the extent practicable, shall implement any reasonable recommendations that may be made by the Federal Financing Bank with respect to the procedures and terms applicable to the sale.

(c) REPORTS TO CONGRESS.—

(1) NOTIFICATION OF INITIAL LOAN SALE.—Not less than 20 days before the initial sale of loans under subsection (a), the Secretary of Agriculture shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives containing an estimate of the amount of the discount at which loans will be sold at such initial sale and an estimate of the discount at which loans will be sold at each subsequent sale during fiscal year 1987.

(2) REPORTS BY SECRETARY.—The Secretary of Agriculture shall submit periodic reports to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives setting forth the activities of the Secretary under this section. Each report shall include the guidelines established under subsection (b)(1), a description of the loans sold under subsection (a), and an analysis of the net reduction in outlays provided by the sale of the loans. The Secretary shall submit the first report under this paragraph not later than 60 days after the date of the enactment of this Act, and shall submit subse-

quent reports each 60 days thereafter through the end of fiscal year 1987.

(3) REPORTS BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall conduct an audit and evaluation of the activities of the Secretary of Agriculture described in each report submitted under paragraph (1) or (2), in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Secretary as the Comptroller General determines necessary to conduct each such audit and evaluation. The Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report setting forth the results of each such audit and evaluation.

Records.

(d) RELATION TO OTHER LAW.—The sale of loans under this section shall not be subject to paragraph (2) or (3) of section 517(d) of the Housing Act of 1949.

42 USC 1487.

SEC. 2002. SALE OF EXPORT-IMPORT BANK LOANS.

The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended by adding at the end the following new section:

12 USC 635i-4.

"SEC. 16. SALE OF BANK LOANS.

"(a) REQUIRED SALES TO PUBLIC.—The Board of Directors shall take such actions as may be necessary to ensure that loans made by the Bank under this Act are sold to the public in amounts sufficient to provide a net reduction in outlays of not less than $1,500,000,000 in fiscal year 1987 from the proceeds of such sales.

"(b) PROCEDURES AND TERMS OF SALES.—

"(1) ESTABLISHMENT OF GUIDELINES.—The Board of Directors shall establish specific guidelines for the sale of loans under subsection (a). The guidelines shall address the procedures and terms applicable to the sale of the loans, including terms that will ensure that the sale of the loans will bring the highest possible return to the Federal Government.

"(2) ASSISTANCE BY FEDERAL FINANCING BANK.—In selling loans to the public under subsection (a), the Board of Directors shall use the Federal Financing Bank as an agent to sell the loans, unless the Board of Directors determines that the sale of loans directly by the Export-Import Bank will result in a higher rate of return to the Federal Government. If the Board of Directors determines to sell loans directly under this paragraph, the Board shall notify the Federal Financing Bank of such determination and the loans involved and, to the extent practicable, shall implement any reasonable recommendations that may be made by the Federal Financing Bank with respect to the procedures and terms applicable to the sale.

"(c) REPORTS TO CONGRESS.—

"(1) NOTIFICATION OF INITIAL LOAN SALE.—Not less than 20 days before the initial sale of loans under subsection (a), the Board of Directors shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives containing an estimate of the amount of the discount at which loans will be sold at such initial sale

and an estimate of the discount at which loans will be sold at each subsequent sale during fiscal year 1987.

"(2) REPORTS BY BANK.—The Board of Directors shall submit periodic reports to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives setting forth the activities of the Board of Directors under this section. Each such report shall include the guidelines established under subsection (b)(1), a description of the loans sold under subsection (a), and an analysis of the net reduction in outlays provided by the sale of such loans. The Board of Directors shall submit the first report under this paragraph not later than 60 days after the date of the enactment of this Act, and shall submit subsequent reports each 60 days thereafter through the end of fiscal year 1987.

"(3) REPORTS BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall conduct an audit and evaluation of the activities of the Board of Directors described in each report submitted under paragraph (1) or (2), in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Board of Directors as the Comptroller General determines necessary to conduct each such audit and evaluation. The Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report setting forth the results of each such audit and evaluation. Records.

"(d) SECURITIES LAWS NOT APPLICABLE TO SALES.—The sale of any loan under this section shall be deemed to be a sale of exempted securities within the meaning of section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) and section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)). The Bank shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in view of the special character of the Bank and its operations as may be necessary in the public interest or for the protection of investors.". Reports.

TITLE III—ENERGY AND ENVIRONMENTAL PROGRAMS

Subtitle A—Distribution of Petroleum Overcharge Funds

Petroleum Overcharge Distribution and Restitution Act of 1986.

SEC. 3001. SHORT TITLE.

15 USC 4501 note.

This subtitle may be cited as the "Petroleum Overcharge Distribution and Restitution Act of 1986".

SEC. 3002. RESTITUTIONARY AMOUNTS COVERED.

15 USC 4501.

(a) IN GENERAL—This subtitle (other than section 3005)—

(1) specifies the procedure for the disbursement of funds collected, including interest thereon, by the Secretary or the courts pursuant to the Emergency Petroleum Allocation Act of

15 USC 751 note; 12 USC 1904 note.

1973 or the Economic Stabilization Act of 1970 (and the regulations issued thereunder) as restitution for actual or alleged violations of such Acts or regulations; and

(2) subject to subsection (c), applies to—

(A) any amount of such funds held in escrow by the Secretary through accounts administered by the Secretary of the Treasury on or after the date of enactment of this Act; and

(B) any amount of such funds determined at any time, pursuant to judicial or administrative proceedings (including any settlement agreement or declaratory judgment) instituted by the Secretary to enforce such Acts and regulations, to be amounts paid for such actual or alleged violations, including any such amounts held in escrow by any court.

(b) SPECIAL RULE.—Amounts described in subsection (a)(2) and held in an escrow account by a court before the date of enactment of this Act may continue to be held by such court but shall be disbursed, together with any interest thereon, by the Secretary or, as appropriate, by the court only in accordance with the provisions of this subtitle.

(c) EXCLUSIONS.—Subsection (a)(2) does not apply to—

(1) any amount actually disbursed before the date of enactment of this Act to any person or class of persons pursuant to section 155 of Public Law 97-377 or any final judicial or administrative order or judgment (including any settlement agreement or declaratory judgment);

96 Stat. 1919.

(2) any amount to which any person or class of persons has an enforceable right, created or vested, or governed by the terms and conditions of the settlement approved on July 7, 1986, in In Re: the Department of Energy Stripper Well Exemption Litigation, M.D.L. No. 378, in the United States District Court for the District of Kansas; and

(3) any amount designated by judicial or administrative order or judgment (including any settlement agreement or declaratory judgment) for disbursement at any time to any specific person or class of persons—

(A) identified in such order or judgment as injured by the violation or alleged violation of the Acts described in subsection (a)(1) (including the regulations thereunder); or

(B) identified in such order or judgment issued before the date of enactment of this Act for indirect restitution.

(d) ESCROW ACCOUNTS.—Subject to subsections (b) and (c), the amounts covered by subsection (a) shall be held in appropriate escrow accounts administered for the Secretary by the Secretary of the Treasury.

Securities. Banks and banking.

(e) INTEREST.—Consistent with the disbursement requirements of this subtitle, the Secretary of the Treasury shall provide that amounts described in subsection (a) shall earn interest at the maximum rate earned on investments of Federal trust funds by the Secretary of the Treasury in short-term and long-term securities issued by the Federal Government (including minority bank investments).

15 USC 4502.

SEC. 3003. IDENTIFICATION AND DISBURSEMENT OF RESTITUTIONARY AMOUNTS.

(a) IN GENERAL.—(1) Subject to paragraph (2)—

(A) all rulings, policies, or other statements (including any administrative order or settlement agreement) issued after the date of the enactment of this Act by any office, official, or employee of the Department of Energy; and

(B) all orders, including declaratory judgments, issued by any court after the date of the enactment of this Act,

shall be consistent with the provisions of this subtitle.

(2) Nothing in this section shall affect the settlement approved on July 7, 1986, in In Re: the Department of Energy Stripper Well Exemption Litigation, M.D.L. No. 378, in the United States District Court for the District of Kansas.

(b) DISBURSEMENT OF RESTITUTIONARY AMOUNTS AS DIRECT RESTITUTION TO INJURED PERSONS.—(1) The Secretary shall, through the Office of Hearings and Appeals of the Department of Energy, conduct proceedings expeditiously in accordance with subpart V regulations for the purpose of, to the maximum extent possible—

(A) identifying persons or classes of persons injured by any actual or alleged violation of the petroleum pricing and allocation regulations issued pursuant to the Emergency Petroleum Allocation Act of 1973 or the Economic Stabilization Act of 1970;

15 USC 751 note.
12 USC 1904 note.

(B) establishing the amount of any injury incurred by such persons; and

(C) making restitution, through the disbursement of amounts in the escrow accounts described in subsections (b) and (d) of section 3002, to such persons.

(2) In conducting such proceedings, the Secretary shall take into consideration the reports released pursuant to several orders of the applicable Federal district court in In Re: the Department of Energy Stripper Well Exemption Litigation, M.D.L. No. 378, in the United States District Court for the District of Kansas.

Reports.

(c) DETERMINATION OF EXCESS AMOUNT TO BE USED FOR INDIRECT RESTITUTION.—(1) Within 45 days after the date of the enactment of this Act in the case of fiscal year 1987, and within 45 days after the beginning of each fiscal year after fiscal year 1987, the Secretary shall, using the best information available to the Secretary, determine and publish (along with a justification thereof) in the Federal Register the amount held in the escrow accounts described in subsections (b) and (d) of section 3002 that is in excess of the amount that will be needed to make restitution to persons or classes of persons in accordance with subsection (b)(1) of this section and to meet other commitments of such accounts (including the requirements of section 155 of Public Law 97-377). In making such determination, the Secretary shall give primary consideration to assuring that at all times sufficient funds (including a reasonable reserve) are set aside for making such restitution and meeting such other commitments.

Federal Register, publication.

96 Stat. 1919.

(2) The Secretary shall make public the information referred to in the first sentence of paragraph (1).

Public information.

(d) DISBURSEMENT OF EXCESS AMOUNT AS INDIRECT RESTITUTION FOR ENERGY CONSERVATION PROGRAMS.—(1) After the publication of the determination of an excess amount under subsection (c) for a fiscal year, the Secretary shall promptly provide for the disbursement of a portion or all of such excess amount for use in energy conservation programs. The amount so disbursed for a fiscal year shall be the smaller of—

(A) $200,000,000 minus the amount of Federal funds appropriated for energy conservation programs for such fiscal year; or

(B) the amount determined under subsection (c) to be the excess amount for such fiscal year.

(2) After determining the amount to be made available under paragraph (1), the Secretary shall apportion such amount among each of the energy conservation programs in a manner that will provide funding under this subtitle for the fiscal year concerned for each of such programs in the same proportionate amount that was provided for each of the programs by the Congress for fiscal year 1986. The Secretary shall then make available each amount apportioned for use under an energy conservation program in the same manner, to the same extent, under the same rulings and regulations, and for the same uses that Federal appropriated funds are made available and used under such program.

State and local governments.

(3) The Secretary shall require that amounts made available under this subsection are used to supplement, and not supplant, funds otherwise available for energy conservation activities under Federal or State law.

15 USC 4503.

SEC. 3004. DEPOSIT OF REMAINDER OF EXCESS AMOUNT INTO THE TREASURY AS INDIRECT RESTITUTION.

The amount that remains from the excess amount described in section 3003(c) after all disbursements have been made for a fiscal year under section 3003(d) shall be deposited by the Secretary of the Treasury into the general fund of the Treasury.

15 USC 4504.

SEC. 3005. STATUTE OF LIMITATION.

(a) IN GENERAL.—(1) Except as provided in subsection (b), the commencement of a civil enforcement action shall be barred unless such action is commenced before the later of—

(A) September 30, 1988; or

(B) six years after the date of the violation upon which the action is based.

(2) For purposes of paragraph (1), the term "commencement of a civil enforcement action" means—

(A) the signing and issuance of a proposed remedial order against any person for filing with the Office of Hearings and Appeals of the Department of Energy; or

(B) the filing of a complaint with the appropriate district court of the United States.

(3) For purposes of this section, the term "civil enforcement action" means an administrative or judicial civil action by the Secretary under the Emergency Petroleum Allocation Act of 1973 or the Economic Stabilization Act of 1970 (or the regulations issued thereunder) for the enforcement of any violation of such Acts or regulations.

15 USC 751 note.
12 USC 1904 note.

(b) EXCEPTIONS.—(1) In computing the periods established in subparagraphs (A) and (B) of subsection (a)(1), there shall be excluded any period—

(A) during which any person who is or may become the subject of a civil enforcement action is outside the United States, has absconded or concealed himself, or is not subject to legal process;

(B) during which facts material to the establishment and maintenance of a civil enforcement action could not be known;

(C) occurring before full compliance with any subpoena or special report order issued to any person under section 13 of the Federal Energy Administration Act of 1974, and such additional

15 USC 772.

period (not to exceed 12 calendar months) after such compliance for the Secretary to consider the results thereof and commence a civil enforcement action;

(D) during the pendency of any relevant criminal action under the Acts or regulations described in subsection (a)(1) during which a civil enforcement action is held in abeyance as a result of prosecutorial discretion and with or without a stay, and such additional period (not to exceed 12 calendar months) after a final judicial order or dismissal of such criminal action to commence a civil enforcement action;

(E) before the issuance of an order that constitutes final agency action on a request for adjustment from any rule, regulation, or order under section 504 of the Department of Energy Organization Act, and such additional period (not to exceed 12 calendar months) to commence a civil enforcement action; or

42 USC 7194.

(F) of extension, to which the Secretary and the defendant have consented in writing, before the expiration of the time periods prescribed in subsection (a)(1).

(2) The provisions of subsection (a) shall not affect or apply to any civil enforcement action commenced before, on, or after the date of enactment of this Act and remanded by the Office of Hearings and Appeals, the Federal Energy Regulatory Commission, or the court for further action of any kind.

(3) The provisions of subsection (a) shall not apply to any agency orders issued under the Acts or regulations described in subsection (a)(1) or to regulations issued under this Act, other than a proposed remedial order subject to this section.

(c) EXPRESSION OF INTENT.—(1) It is the intent of the Congress that—

(A) the Secretary and the Administrator of the Economic Regulatory Administration shall, to the greatest extent possible and within the time frames specified on September 12, 1986, by such Administrator to the Committee on Energy and Commerce of the House of Representatives, commence civil enforcement actions with respect to all cases known by such Administrator as of the date of the enactment of this Act and designated by such Administrator as "prelitigation cases", unless such an action is found not to be warranted;

(B) the Secretary and such Administrator not delay civil enforcement actions so as to cause the limitation in subsection (a)(1) to apply to any such case;

(C) any negotiations for the purpose of settlement of alleged violations not delay the commencement of a civil enforcement action; and

(D) the Department of Justice cooperate in ensuring that activities necessary, including the enforcement of subpoenas, to commence civil enforcement actions are carried out in a timely manner.

(2) Any failure to comply with the time frames described in paragraph (1)(A) shall not be considered for any purpose in any administrative or judicial proceeding subsequently commenced.

(d) END OF INVESTIGATIONS AND AUDITS.—Notwithstanding any other provision of law, the Secretary shall not initiate, after January 1, 1987, any audit or investigation of alleged civil violations of the Acts or regulations described in subsection (a)(1) for the purpose of commencement of any civil enforcement action. Nothing in this subsection shall affect or apply to any audit or investigation con-

ducted with respect to any civil enforcement action commenced (within the limitation established by subsection (a)(1)) before, on, or after the date of the enactment of this Act. Nothing in this subsection shall limit the authority of the Secretary to continue any audit or investigation initiated before January 1, 1987.

(e) LIMITATION ON REVIEW.—Any review of a final agency action determined under section 503 or 504 of the Department of Energy Organization Act may not be initiated in any court by any person subject to such action after—

42 USC 7193, 7194.

(1) 60 days after the effective date of that action; or

(2) 90 days after the date of the enactment of this Act, whichever occurs later.

(f) OVERSIGHT.—(1) In order to ensure the expeditious, effective, and efficient resolution of all civil enforcement actions (whether or not in administrative or judicial litigation) and all cases pending at the Office of Hearings and Appeals under subpart V regulations, the Secretary shall—

(A) maintain a personnel level for the compliance program of the Economic Regulatory Administration of 170 full-time equivalents for fiscal year 1987, subject to normal attrition and subject to the provisions of any appropriation Act enacted for such fiscal year concerning such program; and

(B) maintain for the remainder of the program an adequate mix of lawyers, auditors, technical, clerical, and administrative personnel.

(2) By July 1, 1987, and by July 1 of each year thereafter, the Administrator of the Economic Regulatory Administration shall provide to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate the full-time equivalent level necessary for such compliance program for the next fiscal year and the basis for that level.

(3) The Secretary shall, in any fiscal year, provide a notice of at least 30 days to such Committees before initiating any reduction of force at the Economic Regulatory Administration. Such notice shall provide at least—

(A) the reasons for such reduction;

(B) the impact on the mix of personnel and on all cases, whether or not in litigation, including the subpart V regulation proceedings; and

(C) the expected costs and savings for the applicable fiscal year.

(4) The Administrator of the Economic Regulatory Administration shall keep such Committees fully and currently informed about the status (including delays, settlement negotiations, and other pertinent matters) of all enforcement cases (whether or not in litigation) and subpart V regulation proceedings.

15 USC 4505.

SEC. 3006. REPORTS.

(a) REPORT ON RECEIPTS AND DISBURSEMENTS.—The Secretary shall transmit, not later than 60 days after the date of the enactment of this Act, a report to the committees referred to in subsection (d) containing a clear and complete statement of all receipts, disbursements, and commitments of restitutionary amounts, as of such date of enactment, by the Secretary pursuant to—

(1) any judicial or administrative proceeding (including any settlement agreement or declaratory judgment) instituted at

any time by the Secretary to enforce the crude oil and petroleum product pricing and allocation regulations issued under the Emergency Petroleum Allocation Act of 1973 or the Economic Stabilization Act of 1970; or

(2) section 155 of Public Law 97-377.

15 USC 751 note.
12 USC 1904 note.
96 Stat. 1919.
State and local governments.

(b) REPORT ON COLLECTION OF CERTAIN DEFICIENCY FUNDS.—The Secretary shall transmit a report each fiscal year, beginning in fiscal year 1987, to such committees on the status of collections by the Secretary of deficiency funds to be deposited into the M.D.L. No. 378 escrow account established by the United States District Court for the District of Kansas until all such deficiency funds have been paid. The Secretary shall, in a manner substantially similar to that required by section 155 of Public Law 97-377 with respect to amounts disbursed under such section, monitor the disposition by the States of any funds disbursed to the States by the court pursuant to the opinion and order of such District Court, dated July 7, 1986, with respect to In Re: the Department of Energy Stripper Well Exemption Litigation, M.D.L. No. 378, including the use of such funds for administrative costs and attorneys fees.

(c) REPORT ON AMOUNT ESTIMATED TO BE AVAILABLE FOR INDIRECT RESTITUTION.—The Secretary shall transmit, on March 1 of each year beginning with 1987 and continuing until all the restitutionary amounts to which section 3002(a) applies have been collected and disbursed as provided in this subtitle, a report to such committees containing an estimate of the amount that will be determined under section 3003(c) to be the excess amount for purposes of section 3003(d)(1)(B) for the fiscal year beginning the next October 1.

(d) RECEIPT BY COMMITTEES.—The reports required by this subtitle shall be transmitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 3007. TERMINATION.

15 USC 4506.

(a) IN GENERAL.—(1) Except as provided in subsection (b), the provisions of this subtitle (other than section 3005) shall terminate 90 days after the Secretary—

(A) determines that all of the restitutionary amounts to which section 3002(a) applies have been collected and disbursed as provided in this subtitle; and

(B) submits to Congress the final report required by section 3006.

(2) Such final report shall include the determination (and the justification thereof) described in paragraph (1)(A). Such report shall also be published in the Federal Register.

Reports.
Federal Register, publication.

(b) EXCEPTION.—The requirements of section 3003(d) shall continue to be applicable to the use of restitutionary amounts received under this subtitle as long as such funds remain available.

SEC. 3008. DEFINITIONS.

15 USC 4507.

For purposes of this subtitle:

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "subpart V regulations" means the provisions of Subpart V—Special Procedures for Distribution of Refunds (10 CFR 205.280-205.288) and any amendment made after the date of the enactment of this Act, and all precedents and decisions under such regulations, but only to the extent that such provi-

sions, precedents, decisions, and amendments are consistent with the provisions of this subtitle.

(3) The term "energy conservation programs" means—

(A) the program under part A of the Energy Conservation and Existing Buildings Act of 1976 (42 U.S.C. 6861 and following);

(B) the programs under part D of title III of the Energy Policy and Conservation Act (relating to primary and supplemental State energy conservation programs; 42 U.S.C. 6321 and following);

(C) the program under part G of title III of the Energy Policy and Conservation Act (relating to energy conservation for schools and hospitals; 42 U.S.C. 6371 and following); and

(D) the program under the National Energy Extension Service Act (42 U.S.C. 7001 and following).

(4) The term "person" includes refiners, retailers, resellers, farmer cooperatives, transportation entities, public and private utilities, school districts, Federal, State, and local governmental entities, farmers, and other individuals and their successors.

(5) The term "State" means each of the several States, the District of Columbia, the commonwealth of Puerto Rico, and any territory or possession of the United States.

Subtitle B—Information and Study Requirements

SEC. 3101. MANUFACTURERS ENERGY CONSUMPTION SURVEY.

(a) IN GENERAL.—Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding at the end the following new subsection:

Classified information.

"(i)(1) The Administrator shall conduct and publish the results of a survey of energy consumption in the manufacturing industries in the United States on at least a triennial basis and in a manner designed to protect the confidentiality of individual responses. In conducting the survey, the Administrator shall collect information, including—

"(A) quantity of fuels consumed;

"(B) energy expenditures;

"(C) fuel switching capabilities; and

"(D) use of nonpurchased sources of energy, such as cogeneration and waste by-products.

"(2) This subsection does not affect the authority of the Administrator to collect data under section 52 of the Federal Energy Administration Act of 1974 (15 U.S.C. 790a).".

(b) REPEAL.—Part E of title III of the Energy Policy and Conservation Act (42 U.S.C. 6341-6346) is hereby repealed.

SEC. 3102. CRUDE OIL PRODUCTION AND REFINING CAPACITY IN THE UNITED STATES.

Imports.

(a) IN GENERAL.—(1) The Secretary of Energy, acting with the Energy Information Administration, shall conduct a study of domestic crude oil production and petroleum refining capacity and the effects of imports thereon in order to assist the Congress and the

President in determining whether such production and capacity are adequate to protect the national security.

(2) The study provided for by this section shall be carried out within available appropriations.

(b) PUBLIC COMMENT.—The Secretary shall provide notice and reasonable opportunity for public comment with respect to conducting the study carried out under this section.

(c) REPORTING DATE.—The Secretary shall, within 120 days of the date of the enactment of this Act, transmit to the Congress and the President a copy of the findings and conclusions of the study carried out under this section. Such findings and conclusions shall be referred to the Committee on Energy and Natural Resources of the Senate and appropriate authorization committees of the House of Representatives.

(d) ACTION BY THE PRESIDENT.—The President shall, within 45 days after the date on which such report is transmitted to him, report his views concerning the levels at which imports of crude oil and refined petroleum products become a threat to the national security and advise the Congress concerning his views of the legislative or administrative action, or both, that will be required to prevent imports of crude oil and refined petroleum products from exceeding those import levels that threaten our national security.

President of U.S. Defense and national security.

Subtitle C—Strategic Petroleum Reserve

SEC. 3201. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 1987, 1988, AND 1989.

(a) IN GENERAL.—The following amounts are hereby authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the Strategic Petroleum Reserve to carry out part B of title I of the Energy Policy and Conservation Act for the acquisition, transportation, and injection of petroleum products, as defined for purposes of such part B, for the Reserve and for any drawdown and distribution of the Reserve:

42 USC 7270.

42 USC 6231.

(1) For fiscal year 1987, $200,000,000.

(2) For fiscal year 1988, $291,000,000.

(3) For fiscal year 1989, $479,000,000.

(b) EFFECT ON OTHER AUTHORIZATIONS.—The authorization made by subsection (a) is in lieu of any other authorization of appropriation for fiscal years 1987, 1988, and 1989 for the expenses described in such subsection.

SEC. 3202. FILL RATE OF THE RESERVE; LIMITATION ON UNITED STATES SHARE OF THE NAVAL PETROLEUM RESERVE.

(a) FILL RATE OF THE RESERVE.—Section 160(c)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6240(c)(3)) is amended—

Ante, p. 141.

(1) by striking out "fiscal year 1986 and continuing through fiscal years 1987 and 1988" and inserting in lieu thereof "fiscal year 1987 and continuing through fiscal years 1988 and 1989";

(2) by striking out "527,000,000 barrels" and inserting in lieu thereof "750,000,000 barrels"; and

(3) by striking out "at a level" and all that follows through the period and inserting in lieu thereof "at the highest practicable fill rate achievable, subject to the availability of appropriated funds."

Ante, p. 142.

(b) LIMITATION ON UNITED STATES SHARE OF THE NAVAL PETROLEUM RESERVE.—Section 160(d)(1) of such Act (42 U.S.C. 6240(d)(1)) is amended—

(1) in subparagraph (A), by striking out "527,000,000 barrels" and inserting in lieu thereof "750,000,000 barrels";

(2) in subparagraph (B)—

(A) by striking out "100,000 barrels" and inserting in lieu thereof "75,000 barrels"; and

(B) by striking out "; or" and inserting in lieu thereof a period; and

(3) by striking out subparagraph (C).

SEC. 3203. INFORMATION TO BE CONTAINED IN ANNUAL REPORT ON SPR.

Section 165(a) of the Energy Policy and Conservation Act (42 U.S.C. 6245(a)) is amended by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) a detailed statement of the status of the Strategic Petroleum Reserve, including—

"(A) an estimate of the final capacity of the Reserve and the scheduled annual fill rate for achieving such capacity;

"(B) the scheduled quarterly fill rate for the 12-month period beginning on the date on which such report is transmitted;

"(C) the type and quality of crude oil to be acquired for the Reserve pursuant to the schedule described in subparagraph (A);

"(D) the schedule of construction of any facilities needed to achieve the final capacity of the Reserve, including a description of the type and location of such facilities and of enhancements and improvements to existing facilities;

"(E) an estimate of the cost of acquiring crude oil and constructing facilities necessary to complete the Reserve;

"(F) a description of the current distribution plan for using the Reserve, including the method of drawdown and distribution to be utilized; and

"(G) an explanation of any changes made in the matters described in subparagraphs (A) through (F) since the transmittal of the previous report under this subsection;".

Subtitle D—Federal Energy Management

SEC. 3301. FEDERAL ENERGY MANAGEMENT.

Section 545(a)(2) of the National Energy Conservation Policy Act (42 U.S.C. 8255(a)(2)) is amended by striking out "marginal" and inserting in lieu thereof "average".

Subtitle E—Fees and Charges

42 USC 7178.

SEC. 3401. FEDERAL ENERGY REGULATORY COMMISSION FEES AND ANNUAL CHARGES.

(a) IN GENERAL.—(1) Except as provided in paragraph (2) and beginning in fiscal year 1987 and in each fiscal year thereafter, the Federal Energy Regulatory Commission shall, using the provisions of this subtitle and authority provided by other laws, assess and

collect fees and annual charges in any fiscal year in amounts equal to all of the costs incurred by the Commission in that fiscal year.

(2) The provisions of this subtitle shall not affect the authority, requirements, exceptions, or limitations in sections 10(e) and 30(e) of the Federal Power Act. 16 USC 803, 791.

(b) BASIS FOR ASSESSMENTS.—The fees or annual charges assessed shall be computed on the basis of methods that the Commission determines, by rule, to be fair and equitable.

(c) ESTIMATES.—The Commission may assess fees and charges under this section by making estimates based on data available to the Commission at the time of assessment.

(d) TIME OF PAYMENT.—The Commission shall provide that the fees and charges assessed under this section shall be paid by the end of the fiscal year for which they were assessed.

(e) ADJUSTMENTS.—The Commission shall, after the completion of a fiscal year, make such adjustments in the assessments for such fiscal year as may be necessary to eliminate any overrecovery or underrecovery of its total costs, and any overcharging or undercharging of any person.

(f) USE OF FUNDS.—All moneys received under this section shall be credited to the general fund of the Treasury.

(g) WAIVER.—The Commission may waive all or part of any fee or annual charge assessed under this section for good cause shown.

Subtitle F—Environmental Programs

SEC. 3501. ABANDONED MINE RECLAMATION RESEARCH AND DEVELOPMENT.

30 USC 1231 note.

After the enactment of this Act, the research and demonstration authorities of the Department of the Interior under the provisions of section 401(c)(6) of the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87) shall be transferred to, and carried out by, the Director of the Bureau of Mines. Research and demonstration projects under such provision shall be selected by a panel appointed by the Director of the Bureau of Mines to be comprised of 9 persons, including 4 representatives of State abandoned mine reclamation programs, 4 representatives of the Bureau of Mines, and one representative of the Office of Surface Mining Reclamation and Enforcement. 30 USC 1231.

SEC. 3502. GREAT SWAMP NATIONAL WILDLIFE REFUGE.

(a) No later than 60 days after the enactment of this section, the United States Environmental Protection Agency shall provide the House Committee on Merchant Marine and Fisheries and the Senate Committees on Environment and Public Works and Energy and Natural Resources with an interim status report on the implementation of agency responsibilities for conducting or approving preliminary assessments, site investigations and, if necessary, Remedial Investigation/Feasibility Studies for contaminant problems on the Great Swamp National Wildlife Refuge, as set forth in the July 9, 1985, Interagency Memorandum of Agreement between the United States Environmental Protection Agency, the United States Fish and Wildlife Service, and the National Park Service. This report shall describe in a systematic and comprehensive way the clean-up plan developed to date and the progress made thereunder, including the identification of responsible parties where possible, for Reports.

the Rolling Knoll landfill, the Harding landfill, and all asbestos dumpsites identified within the Great Swamp National Wildlife Refuge. The report shall also discuss the appointment of appropriate field personnel to direct the clean-up effort; an assessment and ranking of the contaminant threats to the Refuge based upon information available to date; and a detailed work plan and schedule for completing site investigation work, including the analysis of samples collected during site investigations, and initiating Remedial Investigation/Feasibility Studies where necessary.

Reports.

(b) Not later than 240 days after the enactment of this section, the United States Environmental Protection Agency shall provide the committees of Congress set forth in subsection (a) of this section with an update of its interim status report. This update shall address the same factors included in the original interim report and shall identify what progress has been made in implementing the site investigation, data analysis, and remedial clean-up responsibilities set forth in the interim report.

Reports.

(c) The development of the interim and updated reports required in subsections (a) and (b) of this section shall be carried out with unobligated funds available to the United States Environmental Protection Agency.

TITLE IV—TRANSPORTATION AND RELATED PROGRAMS

Subtitle A—Rail Related Issues

Conrail Privatization Act.

PART 1—GENERAL PROVISIONS

SEC. 4001. SHORT TITLE; TABLE OF CONTENTS OF SUBTITLE.

(a) SHORT TITLE.—This subtitle may be cited as the "Conrail Privatization Act".

(b) TABLE OF CONTENTS OF SUBTITLE.—

PART 1—GENERAL PROVISIONS

Sec. 4001. Short title; table of contents of subtitle.
Sec. 4002. Findings.
Sec. 4003. Purposes.
Sec. 4004. Definitions.

PART 2—CONRAIL

SUBPART A—SALE OF CONRAIL

Sec. 4011. Preparation for public offering.
Sec. 4012. Public offering.
Sec. 4013. Fees.

SUBPART B—OTHER MATTERS RELATING TO THE SALE

Sec. 4021. Rail service obligations.
Sec. 4022. Ownership limitations.
Sec. 4023. Board of Directors.
Sec. 4024. Provisions for employees.
Sec. 4025. Certain enforcement relief.

SUBPART C—MISCELLANEOUS TECHNICAL AND CONFORMING AMENDMENTS AND REPEALS

Sec. 4031. Abolition of United States Railway Association.
Sec. 4032. Applicability of Regional Rail Reorganization Act of 1973 to Conrail after sale.
Sec. 4033. Miscellaneous amendments and repeals.
Sec. 4034. Exemption from liability.

Sec. 4035. Charter amendment.
Sec. 4036. Status of Conrail after sale.
Sec. 4037. Effect on contracts.
Sec. 4038. Resolution of certain issues.

PART 3—PROMOTION OF RAIL COMPETITION

Sec. 4051. Agriculture contract disclosure.
Sec. 4052. Boxcar provision.

SEC. 4002. FINDINGS. 45 USC 1301.

The Congress finds that—

(1) the bankruptcy of the Penn Central and other railroads in the Northeast and Midwest resulted in a transportation emergency which required the intervention of the Federal Government;

(2) the United States Government created the Consolidated Rail Corporation, which provides essential rail service to the Northeast and Midwest;

(3) the future of rail service in the Northeast and Midwest is essential and must be protected through rail service obligations, consistent with the transfer of the Corporation to the private sector;

(4) the Northeast Rail Service Act of 1981 has achieved its purpose in allowing the Corporation to become financially self-sustaining; 45 USC 1101 note.

(5) the Federal Government has invested over $7,000,000,000 in providing rail service to the Northeast and Midwest;

(6) the Government, as a result of its ownership and investment of taxpayer dollars in the Corporation, controls substantial assets, including cash of approximately $1,000,000,000;

(7) the Corporation's viability and sound performance allow it to be sold to the American public for a substantial sum through a public offering;

(8) a public offering of the Corporation's stock will preserve competitive rail service in the region, provide a reasonable return to the Government, and protect employment;

(9) the Corporation's employees contributed significantly to the turnaround in the Corporation's financial performance and they should share in the Corporation's success through a settlement of their claims for reimbursement for wages below industry standard, and a share in the common equity of the Corporation;

(10) the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 are met by this subtitle; and 45 USC 761.

(11) the Secretary of Transportation has discharged the responsibilities of the Department of Transportation under the Northeast Rail Service Act of 1981 with respect to the sale of the Corporation as a single entity.

SEC. 4003. PURPOSES. 45 USC 1302.

The purposes of this subtitle are to transfer the interest of the United States in the common stock of the Corporation to the private sector in a manner that provides for the long-term viability of the Corporation, provides for the continuation by the Corporation of its rail service in the Northeast and Midwest, provides for the protection of the public interest in a sound rail transportation system, and, to the extent not inconsistent with such purposes, secures the maximum proceeds to the United States.

45 USC 1303.

SEC. 4004. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "capital expenditures" means amounts expended by the Corporation and its subsidiaries for replacement or rehabilitation of, or enhancements to, the railroad plant, property, trackage, and equipment of the Corporation and its subsidiaries, as determined in accordance with generally accepted accounting principles, and in interpreting generally accepted accounting principles, no amount spent on normal repair, maintenance, and upkeep of such railroad plant, property, trackage, and equipment in the ordinary course of business shall constitute capital expenditures;

(2) the term "Commission" means the Interstate Commerce Commission;

(3) the term "consolidated funded debt" means the aggregate, after eliminating intercompany items, of all funded debt of the Corporation and its consolidated subsidiaries, consolidated in accordance with generally accepted accounting principles;

(4) the term "consolidated tangible net worth" means the market value of the common equity of the Corporation as of the sale date, plus or minus the change from the sale date to the date of measurement in the excess, after making appropriate deductions for any minority interest in the net worth of subsidiaries, of—

(A) the assets of the Corporation and its subsidiaries (excluding intercompany items) which, in accordance with generally accepted accounting principles, are tangible assets, after deducting adequate reserves in each case where, in accordance with generally accepted accounting principles, a reserve is proper, over

(B) all liabilities of the Corporation and its subsidiaries (excluding intercompany items),

taking into account inventory and securities on the basis of the cost or current market value, whichever is lower, and not taking into account patents, trademarks, trade names, copyrights, licenses, goodwill, treasury stock, or any write-up in the book value of any assets;

(5) the term "Corporation" means the Consolidated Rail Corporation;

(6) the term "cumulative net income" means, for any period, the net income of the Corporation and its consolidated subsidiaries as determined in accordance with generally accepted accounting principles, before provision for expenses (net of income tax effect) related to—

(A) amounts paid by the Corporation under section 4024(e), and comparable payments made to present and former employees of the Corporation not covered by such section; and

(B) the aggregate value of any shares and cash distributed by the Corporation under section 4024(f);

(7) the term "debt" means (A) indebtedness, whether or not represented by bonds, debentures, notes, or other securities, for the repayment of money borrowed, (B) deferred indebtedness for the payment of the purchase price of property or assets purchased, (C) guarantees, endorsements, assumptions, and other contingent obligations in respect of, or to purchase or to other-

wise acquire, indebtedness of others, and (D) indebtedness secured by any mortgage, pledge, or lien existing on property owned, subject to such mortgage, pledge, or lien, whether or not indebtedness secured thereby shall have been assumed;

(8) the term "funded debt" means all debt created, assumed, or guaranteed, directly or indirectly, by the Corporation and its subsidiaries which matures by its terms, or is renewable at the option of the Corporation or any such subsidiary to a date, more than 1 year after the date of the original creation, assumption, or guarantee of such debt by the Corporation or such subsidiary;

(9) the term "liabilities" means all items of indebtedness or liability which, in accordance with generally accepted accounting principles, would be included in determining total liabilities as shown on the liabilities side of a balance sheet as at the date as of which liabilities are to be determined;

(10) the term "person" means an individual, corporation, partnership, association, trust, or other entity or organization, including a government or political subdivision thereof or a governmental body;

(11) the term "preferred stock" means any class or series of preferred stock, and any class or series of common stock having liquidation and dividend rights and preferences superior to the common stock of the Corporation offered for sale under section 4012;

(12) the term "public offering" means an underwritten offering to the public of such common stock of the Corporation as the Secretary of Transportation determines to sell under section 4012;

(13) the term "sale date" means the date on which the initial public offering is closed;

(14) the term "subsidiary" means any corporation more than 50 percent of whose outstanding voting securities are directly or indirectly owned by the Corporation; and

(15) the term "United States share" means a share of common stock of the Corporation held by the United States Government on the date of the enactment of this Act or as a result of any split required pursuant to section 4012(d).

PART 2—CONRAIL

Subpart A—Sale of Conrail

SEC. 4011. PREPARATION FOR PUBLIC OFFERING.

Securities. Banks and banking. 45 USC 1311.

(a) PUBLIC OFFERING MANAGERS.—(1) Not later than 30 days after the date of the enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of the Treasury and the Chairman of the Board of Directors of the Corporation, shall retain the services of investment banking firms to serve jointly and be compensated equally as co-lead managers of the public offering (hereafter in this subpart referred to as the "co-lead managers") and to establish a syndicate to underwrite the public offering. The total number of co-lead managers shall be no fewer than 4 nor greater than 6. The Secretary shall designate one co-lead manager to coordinate and administer the public offering.

(2) In selecting the investment banking firms to serve as co-lead managers of the public offering under paragraph (1), consideration

shall be given to the firm's institutional and retail distribution capabilities, financial strength, knowledge of the railroad industry, experience in large scale public offerings, research capability, and reputation. In addition, recognition shall also be given to contributions made by particular investment banking firms before the date of the enactment of this Act in demonstrating and promoting the long-term financial viability of the Corporation.

(b) PAYMENT TO THE UNITED STATES.—(1) Not later than 30 days after the date of the enactment of this Act, the Corporation shall transfer to the Secretary of the Treasury $200,000,000.

(2) On or before February 1, 1987, or 30 days before the sale date, whichever occurs first, the Secretary of Transportation shall determine whether to require the Corporation to transfer to the Secretary of the Treasury, in addition to amounts transferred under paragraph (1), not to exceed $100,000,000, taking into account the viability of the Corporation. The Corporation shall transfer such funds as are required to be transferred under this paragraph.

(c) REGISTRATION STATEMENT.—The Corporation shall prepare and cause to be filed with the Securities and Exchange Commission a registration statement with respect to the securities to be offered and sold in accordance with the securities laws and the rules and regulations thereunder in connection with the initial and any subsequent public offering.

(d) LIMIT ON AUTHORITY TO PURCHASE STOCK.—Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following new paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation shall terminate upon the date of the enactment of the Conrail Privatization Act.".

Securities.
45 USC 1312.

SEC. 4012. PUBLIC OFFERING.

(a) STRUCTURE OF PUBLIC OFFERING.—(1) After the registration statement referred to in section 4011(c) is declared effective by the Securities and Exchange Commission, the Secretary of Transportation, in consultation with the Secretary of the Treasury, the Chairman of the Board of Directors of the Corporation, and the co-lead managers, shall offer the United States shares for sale in a public offering, except as provided in paragraphs (2) and (3).

(2) The Secretary of Transportation, after such consultation, may elect to offer less than all of the United States shares for sale at the time of the initial sale.

(3) Under no circumstances shall the Secretary of Transportation offer any of the United States shares for sale unless, before the sale date, the Secretary determines, after such consultation, that the estimated sum of the gross proceeds from the sale of all the United States shares will be an adequate amount. A determination by the Secretary under this paragraph shall not be reviewable.

(4) In making a determination under paragraph (3), the Secretary shall have the goal of obtaining at least $2,000,000,000 in aggregate gross proceeds for the United States from the public offering and any payments made under section 4011(b).

(b) SUBSEQUENT SALES.—If the Secretary of Transportation elects to offer for sale less than all the United States shares, the Secretary shall sell the remaining United States shares in subsequent public offerings.

(c) CONSENT OF THE CORPORATION NOT REQUIRED.—Any public offering under this section may be made without the consent of the Corporation.

(d) AUTHORITY TO REQUIRE STOCK SPLITS.—(1) The Secretary of Transportation, in consultation with the co-lead managers and the Chairman of the Board of Directors of the Corporation, may, in connection with the initial public offering described in subsection (a), before the filing of the registration statement referred to in section 4011(c), require the Corporation to declare a stock split or reverse stock split.

(2) The Corporation shall take such action as may be necessary to comply with the Secretary's requirements under this subsection.

(e) CANCELLATION OF OTHER SECURITIES HELD BY THE UNITED STATES.—(1) In consideration for amounts transferred to the United States under section 4011(b), the Secretary of Transportation shall, concurrent with the initial public offering described in subsection (a), deliver to the Corporation all preferred stock, 7.5 percent debentures, and contingent interest notes of the Corporation. The Corporation shall immediately cancel such debentures, preferred stock, and contingent interest notes, and any interest of the United States in such debentures, preferred stock, and contingent interest notes shall be thereby extinguished.

(2) For purposes of regulation by the Commission and State public utility regulation, the actions authorized by this subsection, the public offering, and the value of the consideration received therefor shall not change the value of the Corporation's assets net of depreciation and shall not be used to alter the calculation of the Corporation's stock or asset values, rate base, expenses, costs, returns, profits, or revenues, or otherwise affect or be the basis for a change in the regulation of any railroad service, rate, or practice provided or established by the Corporation, or any change in the financial reporting practice of the Corporation.

(f) MINORITY INVESTMENT BANKING FIRMS.—The Secretary of Transportation shall ensure that minority owned or controlled investment banking firms shall have an opportunity to participate to a significant degree in any public offering under this part.

(g) INVESTMENT BANKING FIRM REQUIREMENTS.—(1) The level of any investment banking firm's participation in the public offering shall be consistent with that firm's financial capabilities.

(2) No investment banking firm which was not in existence on September 1, 1986, shall participate in the public offering.

(h) GENERAL ACCOUNTING OFFICE AUTHORITY TO CONDUCT AUDITS.—The General Accounting Office may make such audits as may be deemed appropriate by the Comptroller General of the United States of all accounts, books, records, memoranda, correspondence, and other documents and transactions of the Corporation and the co-lead managers associated with the public offering. The co-lead managers shall agree, in writing, to allow the General Accounting Office to make such audits. The General Accounting Office shall report the results of all such audits to the Congress.

Records.
Reports.

SEC. 4013. FEES.

45 USC 1313.

(a) INVESTMENT BANKING FIRM FEES.—The Secretary of Transportation, in consultation with the Secretary of the Treasury, shall agree to pay to investment banking firms and other persons participating with such firms in the public offering the absolute minimum amount in fees necessary to carry out the public offering.

(b) COSTS OF THE PUBLIC OFFERING.—All costs of the public offering payable by the Secretary of Transportation shall be paid from the proceeds of the public offering.

Subpart B—Other Matters Relating to the Sale

45 USC 1321.

SEC. 4021. RAIL SERVICE OBLIGATIONS.

(a) OBLIGATIONS OF THE CORPORATION.—During a period of 5 years beginning on the date of the enactment of this Act, the following obligations shall apply to the Corporation:

(1) The Corporation shall spend in each fiscal year the greater of (A) an amount equal to the Corporation's depreciation for financial reporting purposes for such year or (B) $500,000,000, in capital expenditures. With respect to any fiscal year, the Corporation's Board of Directors may reduce the required capital expenditures for such year to an amount which the Board determines is justified by prudent business and engineering practices, except that the Corporation's capital expenditures shall not be less than $350,000,000 for its first fiscal year beginning after the sale date, a total of $700,000,000 for its first two fiscal years beginning after the sale date, a total of $1,050,000,000 for its first three fiscal years beginning after the sale date, a total of $1,400,000,000 for its first four fiscal years beginning after the sale date, and a total of $1,750,000,000 for its first five fiscal years beginning after the sale date.

(2)(A) Unless the Corporation is in compliance with the requirements of subparagraph (B), no common stock dividend or preferred stock dividend may be declared or paid by the Corporation.

(B)(i) The Corporation shall have been in compliance with the requirements of paragraph (1) as of the end of the fiscal year immediately preceding the fiscal year in which such dividend payment is made.

(ii) After payment of any common stock dividend, the Corporation shall have on hand cash or cash equivalents of $400,000,000. Such amount may include amounts borrowed by the Corporation only to the extent that the consolidated funded debt of the Corporation does not exceed 175 percent of the consolidated tangible net worth of the Corporation.

(iii) After payment of any common stock dividend, the cumulative amount of all common stock dividends paid between the sale date and the date of payment of such dividend shall not exceed 45 percent of—

(I) the cumulative net income of the Corporation as reflected in the quarterly financial statements of the Corporation, for the period beginning after the end of the last fiscal quarter of the Corporation ending before the sale date, and ending at the end of the last fiscal quarter of the Corporation ending before the date of the declaration of such dividend, less

(II) the cumulative amount of any preferred stock dividends declared and paid between the sale date and the date of payment of such common stock dividend.

(C) For purposes of this paragraph—

(i) the term "common stock dividend" means—

(I) the declaration or payment by the Corporation of any dividends in cash, property, or other assets with respect to any shares of the common stock of the Corporation (other than dividends payable solely in shares of the common stock of the Corporation);

(II) the application of any of the property or assets of the Corporation to the purchase, redemption, or other acquisition or retirement of any shares of the common stock of the Corporation;

(III) the setting apart of any sum for the purchase, redemption, or other acquisition or retirement of any shares of the common stock of the Corporation; and

(IV) the making of any other distribution, by reduction of capital or otherwise, with respect to any shares of the common stock of the Corporation,

except that the merger of ConRail Equity Corporation into the Corporation shall not constitute a common stock dividend; and

(ii) the term "preferred stock dividend" means—

(I) the declaration or payment by the Corporation of any dividends in cash, property, or other assets with respect to any shares of the preferred stock of the Corporation;

(II) the application of any of the property or assets of the Corporation to the purchase, redemption, or other acquisition or retirement of any shares of the preferred stock of the Corporation;

(III) the setting apart of any sum for the purchase, redemption, or other acquisition or retirement of any shares of the preferred stock of the Corporation; and

(IV) the making of any other distribution, by reduction of capital or otherwise, with respect to any shares of the preferred stock of the Corporation.

(3) The Corporation shall continue its affirmative action program and its minority vendor program, substantially as such programs were being conducted by the Corporation as of February 8, 1985, subject to any provisions of applicable law. Minorities.

(4) The Corporation shall not permit to occur any transaction or series of transactions (other than in the ordinary course of business of the Corporation and its subsidiaries) whereby all or any substantial part of the railroad assets and business of the Corporation and its subsidiaries taken as a whole are sold, leased, transferred, or otherwise disposed of to any corporation or entity other than to a wholly owned subsidiary of the Corporation.

(5) The Corporation shall offer any line for which an abandonment certificate is issued by the Commission to a purchaser who agrees to provide interconnecting rail service. Such offer shall last for the 120-day period following the date of issuance of the abandonment certificate and the price for such abandoned line shall be equal to 75 percent of net liquidation value as determined by the Commission, pursuant to regulations that had been issued under section 308 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 748).

(6) The Corporation and its subsidiaries shall maintain, preserve, protect, and keep their respective properties in good repair, working order, and condition, and shall not permit

deferral of normal and prudent maintenance necessary to provide and maintain rail service.

(b) COMPLIANCE CERTIFICATES.—(1) Within 90 days after the close of each of its fiscal years, or at the time its financial statements have been audited, whichever occurs later, the Corporation shall deliver to the Secretary of Transportation a certificate executed by an executive officer of the Corporation. Such certificate shall certify that, as of such date, the Corporation is in compliance with all requirements (other than the requirement regarding a common stock dividend or a preferred stock dividend) set forth in this section. Such certificate shall include audited consolidated financial statements.

(2) Within 5 days after the declaration of any common stock dividend or preferred stock dividend, the Corporation shall deliver to the Secretary of Transportation a certificate executed by an executive officer of the Corporation. Such certificate shall certify that, after giving effect to any such dividend, the Corporation shall be in compliance with any requirement regarding a common stock dividend or a preferred stock dividend set forth in this section. Such certificate shall include—

(A) quarterly financial statements; and

Reports.

(B) a report of the Corporation's total capital expenditures, for the period with respect to which the dividend has been declared, and the fiscal year to date, and shall compare such capital expenditures to the budgeted capital expenditures and to the capital expenditures during the comparable periods of the previous fiscal year.

Securities.
45 USC 1322.

SEC. 4022. OWNERSHIP LIMITATIONS.

(a) GENERAL.—(1) During a period of 3 years beginning on the sale date, no person, directly or indirectly, may acquire or hold securities representing more than 10 percent of the total votes of all outstanding voting securities of the Corporation.

(2) This subsection shall not apply—

(A) to the employee stock ownership plan (or successor plans) of the Corporation,

(B) to the Secretary of Transportation,

(C) to a railroad as described under subsection (b),

(D) to underwriting syndicates holding shares for resale, or

Banks and banking.

(E) in the case of shares beneficially held for others, to commercial banks, broker-dealers, clearing corporations, or other nominees.

(b) RAILROADS.—(1) During a period of 1 year beginning on the sale date, no railroad may purchase or hold, directly or indirectly, more than 10 percent of any class of stock of the Corporation. During such period, no railroad may file an application with the Commission for a merger or consolidation with the Corporation or the acquisition of control of the Corporation under section 11344 of title 49, United States Code.

(2) During a period of 3 years beginning on the sale date, any railroad which purchases or holds any stock of the Corporation shall vote such stock in the same proportion as all other common stock of the Corporation is voted. After the expiration of 1 year after the sale date, the preceding sentence shall not apply to any railroad with respect to which the Commission has approved an application for a merger or consolidation with the Corporation or the acquisition of

control of the Corporation under section 11344 of title 49, United States Code.

(3) As used in this subsection, the term "railroad" means a class I railroad as determined by the Commission under the definition in effect on the date of the enactment of this Act, and includes any entity controlling, controlled by, or under common control with any railroad (other than the Corporation or its subsidiaries).

SEC. 4023. BOARD OF DIRECTORS. 45 USC 1323.

The Board of Directors of the Corporation shall be comprised as follows:

(1) Except as provided in paragraph (3), with respect to the period ending June 30, 1987, the board shall remain as it exists on the date of the enactment of this Act, with any vacancies being filled by directors nominated and elected by the remainder of the members of the board.

(2)(A) Except as provided in paragraph (3), with respect to the period beginning July 1, 1987, the board shall consist of—

(i) 3 directors appointed by the Secretary of Transportation;

(ii) the Chief Executive Officer and the Chief Operating Officer of the Corporation; and

(iii) 8 directors appointed from among persons knowledgeable in business affairs by the special court trustees named under subparagraph (C), in consultation with the Secretary of Transportation and the Chairman of the Board of Directors of the Corporation, and recognizing the need for and importance of—

(I) continuity in the direction of the Corporation's business and affairs;

(II) preserving the value of the investment of the United States in the Corporation;

(III) preserving essential rail service provided by the Corporation; and

(IV) providing for the sale of the United States shares.

(B) The Secretary of Transportation and the special court trustees may appoint directors under subparagraph (A) from among existing directors of the Corporation.

(C)(i) If more than 50 percent of the interest of the United States in the Corporation has not been sold before June 1, 1987, the special court established under section 209 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719) shall, on that date, name 3 trustees from among persons knowledgeable in business affairs to make the appointments required by subparagraph (A)(iii). The Corporation shall compensate the special court trustees in an amount to be specified by the special court, not to exceed the amount paid by the Corporation to its directors for comparable services.

(ii) No person shall be eligible to be appointed as a special court trustee under this subparagraph who, at any time during the 30 months immediately preceding such appointment, was an officer, employee, or director of the United States Railway Association, the Corporation, or the Department of Transportation.

(3)(A) After the sale date, one director shall be elected by the public shareholders of the Corporation for each increment of

12.5 percent of the interest of the United States in the Corporation that has been sold through public offering.

(B) With respect to the period ending June 30, 1987—

(i) the first director elected under this paragraph shall replace the member of the board who became a director most recently from among—

(I) directors appointed by the United States Railway Association, or elected under paragraph (1) to replace such a director, and

(II) directors appointed by the Secretary of Transportation, or elected under paragraph (1) to replace such a director;

(ii) the second director elected under this paragraph shall replace the member of the Board who became a director most recently from among directors described in clause (i)(I) or (II), whichever group the first director replaced under this subparagraph was not a member of; and

(iii) subsequent directors elected under this paragraph shall replace members alternately from the groups described in clause (i)(I) and (II).

(C) With respect to the period beginning July 1, 1987, directors elected under this paragraph shall replace directors appointed by the special court trustees under paragraph (2)(A)(iii), in the order designated by the special court trustees in a list to be issued at the time of such original appointments.

(D) With respect to the period beginning on the first date more than 50 percent of the interest of the United States in the Corporation has been sold through public offering and ending when 100 percent of such interest has been sold—

(i) all remaining members of the board referred to in paragraph (2)(A)(iii), and

(ii) with respect to the period ending June 30, 1987, all remaining members of the board, except 3 members appointed by the Secretary of Transportation and the Chief Executive Officer and the Chief Operating Officer of the Corporation,

shall be replaced by directors elected by the public shareholders of the Corporation.

(E) After 100 percent of the interest of the United States in the Corporation has been sold, any remaining directors appointed by the Secretary of Transportation, the United States Railway Association, or the special court trustees referred to under paragraph (2)(A)(iii), shall be replaced by directors elected by the public shareholders of the Corporation.

(F) Nothing in this paragraph shall be construed to prohibit any director referred to in this section from being elected as a director by the public shareholders of the Corporation.

(4)(A) No director appointed or elected under this section shall be a special court trustee or an employee of the United States, except as elected by the public shareholders of the Corporation.

(B) No director appointed or elected under this section shall be an employee of the Corporation, except as provided in paragraph (2)(A)(ii) or as elected by the public shareholders of the Corporation.

SEC. 4024. PROVISIONS FOR EMPLOYEES.

(a) TRANSITIONAL EMPLOYEE PROTECTION.—Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended to read as follows:

"(2) Notwithstanding any other provision of law—

"(A) upon exhaustion of appropriated funds available for payment of benefits or expenses of administration of the Railroad Retirement Board (hereafter in this section referred to as the 'Board') under this section, or on the expiration of 60 days after the date of enactment of the Conrail Privatization Act, whichever first occurs, the United States shall have no further liability under this section, but the Corporation shall—

"(i) as agent for the Board, pay benefits under this section, without reimbursement, in such amounts and to such eligible employees as the Board shall designate, subject to the limitations prescribed in the benefit schedules issued under subsection (a); and

"(ii) on a periodic basis determined by the Board, advance to the Board its necessary expenses of administration, including expenses reasonably required for close-out of the program of labor protection under this section and for technical transition to the program of labor protection required by the Conrail Privatization Act, which advances shall be made without reimbursement.

"(B) The Corporation shall promptly honor the Board's requests for advances under this paragraph as due and payable liquidated debts, subject to later adjustment after audit by the Inspector General of the Board. The Board is authorized to receive and apply Corporation funds advanced under this paragraph for administration of this section and to refund to the Corporation any excess administrative funds advanced by the Corporation.

"(C) The Corporation shall be deemed subrogated to the right of the Board to recover any benefit paid by the Corporation as agent for the Board that was improvidently paid under this paragraph, and the Board shall cooperate with the Corporation in its effort to recover any such payment; but the Corporation shall have no claim against the Board for such payment, and the Board shall not be made a real party in interest to any lawsuit or to any proceeding with respect to recovery of such payment.

"(D) Benefits provided by the Corporation, as agent for the Board, shall, for purposes of this title, be deemed to have been made available under section 713 of this title.". 45 USC 797*l*.

(b) DISPUTE RESOLUTION.—Section 701 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797) is further amended by adding at the end thereof a new subsection as follows:

"(e) DISPUTE RESOLUTION.—Any dispute or controversy regarding eligibility for benefits under this section shall be determined under such procedures as the Board may by regulation prescribe. Subject to administrative reconsideration by the Board under its own procedures, findings of fact and conclusions of law of the Board in determination of any claim for such benefits shall, in the absence of fraud or an action exceeding the Board's jurisdiction, be binding and conclusive for all purposes and shall not be subject to review in any manner. For purposes of administration of this section, the adminis-

trative powers and penalties set forth in sections 9 and 12 of the Railroad Unemployment Insurance Act shall apply as if incorporated herein.".

45 USC 359, 362

Effective date.
45 USC 797, 797 note.
Ante, p. 1903.

(c) REPEAL OF SECTION 701.—Section 701 of the Regional Rail Reorganization Act of 1973 is repealed effective on the sale date. Notwithstanding this repeal—

(1) any dispute or controversy regarding benefits under section 701 shall be determined under the terms of the law in effect prior to such repeal; and

(2) the Railroad Retirement Board shall take such actions as may be necessary to complete administration and closeout of the section 701 program and the Board is authorized to receive and apply Corporation funds for this purpose.

45 USC 797 note.

(d) CONTINUING RESPONSIBILITIES.—(1) On and after the sale date, the Corporation shall provide the protection for its employees described in "Part III, Article III, Employee Protection", of the "Definitive Agreement of September 17, 1985, By and Between Conrail and the Undersigned Representatives of Conrail's Agreement Employees" and Appendix 3 thereto, together with any amendments thereto, or under any other terms and conditions as shall be agreed between the Corporation and the representatives of its employees.

(2) The Corporation shall pay, as designated by the Railroad Retirement Board, any remaining benefits under section 701 of the Regional Rail Reorganization Act of 1973 that accrued, but were not disbursed, prior to the sale date.

Records.

(3) The Railroad Retirement Board shall transfer to the Corporation such information regarding administration of the labor protection program under such section 701 as may be reasonably necessary for the Corporation to discharge its responsibilities under this subsection, including copies of the individual claim records of employees of the Corporation.

(4) The United States shall have no liability for benefits under this subsection.

45 USC 797 note.

(e) COMPENSATION FOR WAGES BELOW INDUSTRY STANDARD.—The Corporation shall pay $200,000,000 to present and former employees subject to collective bargaining agreements, in accordance with the terms and conditions in the Definitive Agreement referred to in subsection (d)(1), or as otherwise agreed between the parties.

Securities.
45 USC 797 note.

(f) ESOP TRANSACTIONS.—(1) As soon as practicable after the date of the enactment of this Act, the employee stock ownership plan of the Corporation (hereafter in this subsection referred to as the "ESOP") shall be amended to provide that—

(A) the shares of the ConRail Equity Corporation preferred stock held by the ESOP shall be surrendered by the ESOP in exchange for an equal number of shares of the common stock of the Corporation, and such common stock of the Corporation shall be allocated by the ESOP to the same persons in the same amounts as the shares of ConRail Equity Corporation preferred stock had been allocated; and

(B) the remaining shares of the ConRail Equity Corporation preferred stock held by the Corporation shall be cancelled, and an equal number of shares of the common stock of the Corporation shall be contributed by the Corporation to the ESOP, which shares shall be allocated by the ESOP to persons who are or were ESOP participants in accordance with the formula set forth in section 2 of Article II of Part III of the Definitive

Agreement referred to in subsection (d)(1), and in accordance with a comparable formula for present and former employees of the Corporation not covered by such section of the Definitive Agreement, except that no contribution by the Corporation to the ESOP shall be made which would affect the tax-qualified status of the ESOP, or of any of the employee benefit plans maintained by the Corporation or any affiliate of the Corporation, under the Internal Revenue Code of 1954.

Post, p. 2095.

(2)(A)(i) As soon as practicable after the expiration of 180 days after 100 percent of the United States shares are sold, the ESOP shall distribute all of the stock in the accounts of its participants and beneficiaries, except as provided in clause (ii).

(ii) Fractional shares shall not be distributed under clause (i). Shares equal to the aggregate amount of fractional shares shall be surrendered by the ESOP and redeemed by the Corporation for cash at the average closing price for the common stock of the Corporation on a national securities exchange for the 10 business days immediately preceding the date of distribution under clause (i), or, if the common stock of the Corporation is not listed on a national securities exchange, at the average closing price for such stock for such 10 business days as appearing in any regularly published reporting or quotation service, and the proceeds of such redemption shall be distributed by the ESOP to the same participants and beneficiaries and in the same amounts as the fractional shares had been allocated.

(B) After completing the distribution under subparagraph (A), the ESOP shall terminate.

(3) The Corporation shall distribute any full shares of its common stock which, because of the exception under paragraph (1)(B), could not be contributed to the ESOP to those persons to whom the ESOP would have allocated such shares pursuant to paragraph (1)(B) had such shares been contributed to the ESOP. The Corporation shall pay cash pursuant to the formula set forth in paragraph (2)(A)(ii) in lieu of fractional shares.

(4) For purposes of Rule 144 promulgated under the Securities Act of 1933, each share of the common stock of the Corporation distributed under this subsection shall be deemed to have been beneficially owned by the recipient, as of the date of such distribution, for a period of 3 years.

15 USC 77a.

SEC. 4025. CERTAIN ENFORCEMENT RELIEF.

Claims.
45 USC 1324.

(a) ENFORCEMENT ACTIONS.—The Secretary of Transportation, with respect to any provision of section 4021 or 4022, and any person who suffers direct and substantial economic injury as a result of an alleged violation by the Corporation, with respect to the provisions of section 4021(a)(1) and (2), and section 4022, may bring an action to require compliance with such provision.

(b) SPECIAL COURT.—Any action brought under this part shall be brought before the special court established under section 209 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719). Such special court may limit the enforcement of a restriction under section 4021, if the effect of such restriction would be to substantially impair the continued viability of the Corporation.

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Subpart C—Miscellaneous Technical and Conforming Amendments and Repeals

45 USC 1341.

SEC. 4031. ABOLITION OF UNITED STATES RAILWAY ASSOCIATION.

Effective date.

(a) ABOLITION AND TERMINATION.—(1) Effective April 1, 1987, the United States Railway Association is abolished.

(2) On January 1, 1987, all powers, duties, rights, and obligations of such association relating to the Corporation under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) shall be transferred to the Secretary of Transportation.

(3) The sole function of the United States Railway Association after January 1, 1987, shall be the termination of its affairs and the liquidation of its assets.

(b) TRANSFER OF SECURITIES AND RESPONSIBILITIES.—(1) Any securities of the Corporation held by the United States Railway Association shall, upon the date of the enactment of this Act, be transferred to the Secretary of Transportation.

(2) If, on the date the United States Railway Association is abolished under subsection (a), such association shall not have completed the termination of its affairs and the liquidation of its assets, the duty of completing such winding up of its affairs and liquidation shall be transferred to the Secretary of Transportation, who for such purposes shall succeed to all remaining powers, duties, rights, and obligations of such association.

Securities.

(c) FINANCING AGREEMENT.—(1) On January 1, 1987, the Amended and Restated Financing Agreement, dated May 10, 1979, between the United States Railway Association and the Corporation, together with any and all rights and obligations of or on behalf of any person with respect to such agreement, shall terminate and be of no further force or effect, except for those provisions specifying terms and conditions for payments made to the United States with respect to debentures, preferred stock, and contingent interest notes.

Effective date.

(2) Effective as of the sale date, those provisions of the Financing Agreement referred to in paragraph (1) shall terminate.

SEC. 4032. APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE.

Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following new subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors and employees after the sale date, other than with regard to—

Post, p. 1908.

"(1) section 102;

45 USC 711.

"(2) section 201(d);

45 USC 713.

"(3) section 203, but only with respect to information relating to proceedings before the special court established under section 209(b);

45 USC 719.

"(4) section 209, other than subsection (f) thereof;

45 USC 726.

"(5) section 216(f)(8), but only as such authority applies to activities related to the ESOP and related trust before the sale date;

"(6) section 216(f)(9), but only as such indemnification applies to activities relating to the ESOP and related trust before the sale date;

"(7) section 216(f)(10) with respect to all securities of the Corporation issued or transferred in connection with the public offering under the Conrail Privatization Act and all securities of ConRail Equity Corporation and all interests in the ESOP; Securities. 45 USC 726.

"(8) section 217(c) and (e); *Post*, p. 1908.

"(9) subsection (b) of this section, but only with respect to matters covered by the last sentence of such subsection;

"(10) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation before the sale of the interest of the United States in the common stock of the Corporation; Securities.

"(11) section 302, but only to the extent of (A) the creation and maintenance of the power and authority of the Corporation to operate rail service and to rehabilitate, improve, and modernize rail properties, and (B) the creation and maintenance of the powers of the Corporation as a railroad in any State in which it operates as of the sale date; State and local governments. 45 USC 742.

"(12) section 303(b)(1) and (2), but only to the extent of establishing the legal effect of the conveyance of property ordered and of the deeds and other instruments executed, acknowledged, delivered, or recorded in connection therewith and the quality of title acquired in such property; 45 USC 743.

"(13) section 303(b)(3)(B) with respect to the effect of an assignment, conveyance, or assumption as set forth in the last sentence of such subparagraph (B);

"(14) section 303(b)(5);

"(15) section 303(b)(6), but only with respect to establishing and maintaining the rights of the Corporation with respect to, limiting its obligations with respect to, and establishing the status of, the employee pension and welfare benefit plans transferred to the Corporation thereunder and with respect to the exclusivity of the jurisdiction of the special court and the limitation of jurisdiction of other courts;

"(16) section 303(e);

"(17) section 304, but only with respect to the finality of abandonments completed before the sale date pursuant to the authority thereof; 45 USC 744.

"(18) section 305, but only as to the effect, and continuing administration, of supplemental transactions consummated before the sale date; 45 USC 745.

"(19) section 308, but only (A) as to the finality of abandonments completed before the sale date and (B) as to abandonments of lines where a notice or notices of insufficient revenues with respect to such lines have been filed before November 1, 1985; 45 USC 748.

"(20) section 601(a)(2), but only with respect to activities before the sale date; 45 USC 791.

"(21) section 601(b)(2) and (b)(3), but only with respect to issuance of and transactions in any security of the Corporation before the sale date;

"(22) section 702(e); 45 USC 797a.

"(23) section 703; 45 USC 797b.

"(24) section 704; 45 USC 797c.

"(25) sections 706(a), 707, and 708(a), but only insofar as they establish part of the prevailing status quo for the Corporation's employees' rates of pay, rules, and working conditions, such 45 USC 797e–797g.

provisions to continue to apply unless changed pursuant to section 6 of the Railway Labor Act (45 U.S.C. 156);

45 USC 797h. "(26) section 709;

45 USC 797i. "(27) section 710(b)(1);

45 USC 797j. "(28) section 711; and

45 USC 797m. "(29) section 714, but only with regard to disputes or controversies specified in such section that arose before the sale date.".

SEC. 4033. MISCELLANEOUS AMENDMENTS AND REPEALS.

45 USC 701 note. (a) REGIONAL RAIL REORGANIZATION ACT OF 1973 REPEALS.—The following provisions of the Regional Rail Reorganization Act of 1973 (together with any items relating to such provisions contained in the table of contents of such Act) are repealed:

(1) Title IV (45 U.S.C. 761 through 769c).

(2) Section 713 (45 U.S.C. 797l).

(b) REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS.—(1) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended by inserting after paragraph (17) a new paragraph as follows:

"(17A) 'sale date' means the date on which the initial public offering of the securities of the Corporation is closed under the Conrail Privatization Act;".

(2) Section 217(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(c)) is amended by striking ", until the property" and all that follows, and inserting in lieu thereof "applicable to any taxable period commencing before January 1, 1987.".

(3) Section 217(e) of such Act (45 U.S.C. 727(e)) is amended by striking "and shall collect".

(c) AMENDMENTS AND REPEALS OF OTHER RAIL LAWS.—(1)(A) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(i) by inserting "or part 2 of the Conrail Privatization Act" after "subtitle" each place it appears; and

(ii) in the second sentence of subsection (c), by inserting ", as the case may be," after the insertion made by clause (i) of this subparagraph.

(B) Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by inserting before the period at the end the following: "and to the implementation of the sale of the interest of the United States in Conrail under the Conrail Privatization Act".

(C)(i) The following provisions of the Northeast Rail Service Act of 1981 are repealed:

(I) Section 1154 (45 U.S.C. 1107).

(II) Section 1161 (45 U.S.C. 1110).

(III) Section 1166 (45 U.S.C. 1114).

(IV) Subsection (c) of section 1167 (45 U.S.C. 1115).

(ii) The items relating to such sections 1154, 1161, and 1166 in the table of contents of such Act are repealed.

(2) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended by striking out "(A)" and by striking out all that follows "improved asset utilization;".

(3) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking out all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking out all after "costs" the second time it appears through "subsidy".

(4) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829) is repealed.

(5) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended—

(A) by striking out "(1)" in the first paragraph;

(B) by striking all that follows "time" in the first paragraph and inserting in lieu thereof a period; and

(C) by striking out paragraph (2).

(6) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(7) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking out "by the Consolidated Rail Corporation or".

SEC. 4034. EXEMPTION FROM LIABILITY. 45 USC 1342.

(a) IN GENERAL.—No person referred to in section 216(f)(8)(C)(i), (ii), or (iii) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(C)(i), (ii), or (iii)) shall be liable, for money damages or otherwise, to any party if, with respect to the subject matter of the action, suit, or proceeding, such person was fulfilling a duty, in connection with any action taken under this part, which such person in good faith reasonably believed to be required by law or vested in such person.

(b) EXCEPTION.—This section shall not apply to claims arising out of the Securities Act of 1933, the Securities Exchange Act of 1934, or the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities, which claims are in connection with a public offering under section 4012 of this Act. Claims. Securities. State and local governments. 15 USC 77a. 15 USC 78a.

SEC. 4035. CHARTER AMENDMENT. 45 USC 1343.

Within 60 days after the date of the enactment of this Act, the Corporation shall amend its Articles of Incorporation to contain the following provision, which provision shall not be subject to amendment or repeal:

"It shall be a fundamental purpose of the Corporation to maintain continued rail service in its service area.".

SEC. 4036. STATUS OF CONRAIL AFTER SALE. 45 USC 1344.

The Corporation shall be a rail carrier as defined in section 10102(19) of title 49, United States Code, notwithstanding this part.

SEC. 4037. EFFECT ON CONTRACTS. 45 USC 1345.

Nothing in this part shall affect any obligation of the Corporation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sales agreements, in accordance with their terms.

SEC. 4038. RESOLUTION OF CERTAIN ISSUES. 45 USC 1346.

(a) EMPLOYEE ISSUES.—Section 4024 completely and finally—

(1) extinguishes all employee rights, and any obligation of the United States, under section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)) as in effect immediately before the date of the enactment of this Act;

(2) resolves any and all claims against the Corporation or any other person arising under the Definitive Agreement referred to Claims.

in section 4024(d)(1) or any other agreement containing similar terms and conditions;

Claims.

(3) resolves all claims to pay entitlements arising out of the pay increase deferrals by present and former employees of the Corporation under the Agreement of May 5, 1981, between Conrail and Certain Labor Organizations for Labor Contributions to Self-Sufficiency for Conrail;

(4) resolves all issues raised by notices served by representatives of such employees under section 6 of the Railway Labor Act proposing repayment of or compensation for such deferrals; and

45 USC 156.

Claims.

(5) resolves all claims against the Railway Labor Executives' Association or the Corporation by any adviser, consultant, or other person who has provided services to such association in connection with any matter referred to in this part.

(b) CORPORATION ACTIONS.—The Corporation shall not be considered to be in breach, default, or violation of any agreement to which it is a party, notwithstanding any provision of such agreement, because of any provision of this part or any action the Corporation is required to take under this part.

Claims.

(c) RIGHT TO SUE WITHDRAWN.—The United States hereby withdraws any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising out of, or resulting from, acts or omissions under this part, except actions brought to require the Secretary of Transportation to perform duties or acts required under subpart A.

PART 3—PROMOTION OF RAIL COMPETITION

SEC. 4051. AGRICULTURE CONTRACT DISCLOSURE.

Section 10713(b) of title 49, United States Code, is amended by inserting "(1)" after "(b)"; and by adding at the end a new paragraph as follows:

"(2)(A) The essential terms of any contract for the transportation of agricultural commodities to be made available to the general public in tariff format under this subsection shall include, but shall not be limited to (i) the identity of the shipper party to the contract; (ii) the specific origins, transit points and other shipper facilities subject to the contract, and destinations served under such contract; (iii) the duration of the contract, including provisions for optional extension; (iv) the actual volume requirements, if any; (v) whether any transportation service has begun under a contract before the date such contract is filed with or approved by the Commission, and (vi) the date on which the contract became applicable to the transportation services provided under the contract. The Commission shall interpret this subsection to provide for liberal discovery to shippers seeking remedies under subsection (d)(2)(B) of this section.

"(B) Any amendment, supplement, or change to any term or provision of any contract described in subparagraph (A), including extensions of such contract, changes of origin, transit points, affected shipper facilities, destination points, or negotiated economic terms, shall be deemed to be a separate and new contract for the purposes of this subsection. Such amendments, supplements, or changes shall be filed separately with the Commission as provided in paragraph (1).

"(C) Within 60 days after the date of the enactment of the Conrail Privatization Act, the Commission shall issue regulations which require that essential terms of contracts described in subparagraph (A) shall be made available to the general public in tariff format as provided in this paragraph. Regulations.

"(D) The railroad contract rate advisory service established pursuant to subsection (m) of this section shall assess the impact on competition among agricultural shippers of variations between contract rates for various shipments and the published single car rates, and shall submit a report to the Congress not later than 120 days after the date of the enactment of the Conrail Privatization Act.". Reports.

SEC. 4052. BOXCAR PROVISION.

The authority of the Commission to promulgate that portion of the rule adopted by the Commission in Ex Parte No. 346 (Sub. No. 19) served September 12, 1986, consisting of small railroad protections, is hereby confirmed.

Subtitle B—Economic Development Administration

SEC. 4101. SALE OF NOTES.

Notwithstanding any other provision of law, the Secretary of Commerce shall, under such terms as the Secretary may provide, sell defaulted notes held by the Economic Development Administration in such amounts as to realize net proceeds of not less than $50,000,000 from such sales during fiscal year 1987.

TITLE V—MARITIME PROGRAMS

Subtitle A—Maritime Loan Guarantees

SEC. 5001. LOAN GUARANTEES.

(a) Section 362(b) of title 11, United States Code, is amended—

(1) by striking the period in paragraph (11) and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following:

"(12) under subsection (a) of this section, after the date which is 90 days after the filing of such petition, of the commencement or continuation, and conclusion to the entry of final judgment, of an action which involves a debtor subject to reorganization pursuant to chapter 11 of this title and which was brought by the Secretary of Transportation under the Ship Mortgage Act, 1920 (46 App. U.S.C. 911 et seq.) (including distribution of any proceeds of sale) to foreclose a preferred ship or fleet mortgage, or a security interest in or relating to a vessel or vessel under construction, held by the Secretary of Transportation under section 207 or title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1117 and 1271 et seq., respectively), or under applicable State law; or State and local governments. 11 USC 1101 *et seq.*

"(13) under subsection (a) of this section, after the date which is 90 days after the filing of such petition, of the commencement or continuation, and conclusion to the entry of final judgment, of an action which involves a debtor subject to reorganization

11 USC 1101 *et seq.*

pursuant to chapter 11 of this title and which was brought by the Secretary of Commerce under the Ship Mortgage Act, 1920 (46 App. U.S.C. 911 et seq.) (including distribution of any proceeds of sale) to foreclose a preferred ship or fleet mortgage in a vessel or a mortgage, deed of trust, or other security interest in a fishing facility held by the Secretary of Commerce under section 207 or title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1117 and 1271 et seq., respectively).

The provisions of paragraphs (12) and (13) of this subsection shall apply with respect to any such petition filed on or before December 31, 1989.".

Reports.
11 USC 362 note.

Before July 1, 1989, the Secretary of Transportation and the Secretary of Commerce each shall submit a report to the Committees on Merchant Marine and Fisheries, and the Judiciary of the House of Representatives and the Committees on Commerce, Science, and Transportation, and the Judiciary of the Senate on the effects of this subsection together with any recommendations for legislation.

11 USC 362 note.

(b) The amendments made by subsection (a) of this section shall apply only to petitions filed under section 362 of title 11, United States Code, which are made after August 1, 1986.

(c) Subsection L of section 30 of the Merchant Marine Act of 1920 (46 App. U.S.C. 952) is amended by adding at the end the following: "When the Secretary of Commerce or Transportation is a mortgagee under this Act, the Secretary may foreclose on liens arising from rights attendant to the creation of mortgages under title XI of the Merchant Marine Act, 1936, subject to section 362(b) of title 11, United States Code.".

46 USC 1271 *et seq.*

SEC. 5002. AMOUNT OF GUARANTEE FOR OBLIGATIONS.

Section 1103(a) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1273(a)) is amended by adding at the end thereof the following: "A guarantee, or commitment to guarantee, made by the Secretary under this title shall cover 100 percent of the amount of the principal and interest of the obligation.".

SEC. 5003. AMOUNT OF GUARANTEE FOR OBLIGATIONS RELATING TO FISHING VESSELS OR FISHERY FACILITIES.

Section 1104(b)(2) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1274(b)(2)) is amended by striking *"Provided, further,* That in the case of any vessel to be used in the fishing trade or industry, such obligations may be in an aggregate principal amount which does not exceed 87½ per centum of the actual cost or depreciated actual cost of the vessel:" and inserting in lieu thereof *"Provided further,* That in the case of a fishing vessel or fishery facility, the obligation shall be in an aggregate principal amount equal to 80 percent of the actual cost or depreciated actual cost of the fishing vessel or fishery facility, except that no debt may be placed under this proviso through the Federal Financing Bank:".

Alaska.
16 USC 1856 note.

SEC. 5004. FOREIGN FISH PROCESSING IN NORTON SOUND.

For purposes of processing pink salmon within the internal waters of the State of Alaska, the geographic area bounded on the north by a parallel of latitude of 64 degrees, 23 minutes, on the south by a parallel of latitude of 63 degrees, 51 minutes, on the east by the baseline from which the territorial sea is measured, and on the west by the outer limit of the territorial sea, shall be considered to be internal waters of the State of Alaska for the purposes of section

306(c)(4)(B) of the Fishery Conservation and Management Act (16 U.S.C. 1856(c)(4)(B)) until September 30, 1993.

Subtitle B—Load Line and Tonnage Measurement User Fees

SEC. 5101. AMENDMENTS TO TITLE 46.

Subtitle II of title 46, United States Code, is amended as follows:

(1) The table of chapters at the beginning of the subtitle is amended by—

(A) striking "[PART C—RESERVED FOR LOAD LINES OF VESSELS]" and inserting—

"PART C—LOAD LINES OF VESSELS

"51. Load lines ..... 5101";

and

(B) striking "[PART J—RESERVED FOR MEASUREMENT OF VESSELS]" and inserting—

"PART J—MEASUREMENT OF VESSELS

"141. General 14101
"143. Convention measurement 14301
"145. Regulatory measurement 14501
"147. Penalties ..... 14701"

(2) Immediately after part B, strike "[PART C—RESERVED FOR LOAD LINES OF VESSELS]" and insert the following new part C:

"PART C—LOAD LINES OF VESSELS

"CHAPTER 51—LOAD LINES

Sec.
"5101. Definitions.
"5102. Application.
"5103. Load line requirements.
"5104. Assignment of load lines.
"5105. Load line surveys.
"5106. Load line certificate.
"5107. Delegation of authority.
"5108. Special exemptions.
"5109. Reciprocity for foreign vessels.
"5110. Submersible vessels.
"5111. Providing loading information.
"5112. Loading restrictions.
"5113. Detention of vessels.
"5114. Use of Customs Service officers and employees for enforcement.
"5115. Regulations.
"5116. Penalties.

"§ 5101. Definitions

16 USC 5101.

"In this chapter—

"(1) 'domestic voyage' means movement of a vessel between places in, or subject to the jurisdiction of, the United States, except movement between—

"(A) a place in a territory or possession of the United States or the Trust Territory of the Pacific Islands; and

"(B) a place outside that territory, possession, or Trust Territory.

"(2) 'economic benefit of the overloading' means the amount obtained by multiplying the weight of the overload (in tons) by the lesser of—

"(A) the average freight rate value of a ton of the vessel's cargo for the voyage; or

"(B) $50.

"(3) 'existing vessel' means—

"(A) a vessel on a domestic voyage, the keel of which was laid, or that was at a similar stage of construction, before January 1, 1986; and

"(B) a vessel on a foreign voyage, the keel of which was laid, or that was at a similar stage of construction, before July 21, 1968.

"(4) 'freeboard' means the distance from the mark of the load line assigned under this chapter to the freeboard deck.

"(5) 'freeboard deck' means the deck or other structure the Secretary prescribes by regulation.

"(6) 'minimum safe freeboard' means the freeboard that the Secretary decides cannot be reduced safely without limiting the operation of the vessel.

"(7) 'weight of the overload' means the amount obtained by multiplying the number of inches that the vessel is submerged below the applicable assigned freeboard by the tons-an-inch immersion factor for the vessel at the assigned minimum safe freeboard.

46 USC 5102.

"§ 5102. Application

"(a) Except as provided in subsection (b) of this section, this chapter applies to the following:

"(1) a vessel of the United States.

"(2) a vessel on the navigable waters of the United States.

"(3) a vessel—

State and local governments.

"(A) owned by a citizen of the United States or a corporation established by or under the laws of the United States or a State; and

"(B) not registered in a foreign country.

"(4) a public vessel of the United States.

"(5) a vessel otherwise subject to the jurisdiction of the United States.

"(b) This chapter does not apply to the following:

"(1) a vessel of war.

"(2) a recreational vessel when operated only for pleasure.

"(3) a fishing vessel.

"(4) a fish processing vessel of not more than 5,000 gross tons that—

"(A)(i) was constructed as a fish processing vessel before August 16, 1974; or

"(ii) was converted for use as a fish processing vessel before January 1, 1983; and

"(B) is not on a foreign voyage.

"(5) a fish tender vessel of not more than 500 gross tons that—

"(A)(i) was constructed, under construction, or under contract to be constructed as a fish tender vessel before January 1, 1980; or

"(ii) was converted for use as a fish tender vessel before January 1, 1983; and

"(B) is not on a foreign voyage.

"(6) a vessel of the United States on a domestic voyage that does not cross the Boundary Line, except a voyage on the Great Lakes.

"(7) a vessel of less than 24 meters (79 feet) overall in length.

"(8) a public vessel of the United States on a domestic voyage.

"(9) a vessel excluded from the application of this chapter by an international agreement to which the United States Government is a party. International agreements.

"(10) an existing vessel of not more than 150 gross tons that is on a domestic voyage.

"(11) a small passenger vessel on a domestic voyage.

"(12) a vessel of the working fleet of the Panama Canal Commission not on a foreign voyage.

"(c) On application by the owner and after a survey under section 5105 of this title, the Secretary may assign load lines for a vessel excluded from the application of this chapter under subsection (b) of this section. A vessel assigned load lines under this subsection is subject to this chapter until the surrender of its load line certificate and the removal of its load line marks.

"(d) This chapter does not affect an international agreement to which the Government is a party that is not in conflict with the International Convention on Load Lines currently in force for the United States. International agreements.

"§ 5103. Load line requirements 46 USC 5103.

"(a) A vessel may be operated only if the vessel has been assigned load lines.

"(b) The owner, charterer, managing operator, agent, master, and individual in charge of a vessel shall mark and maintain the load lines permanently and conspicuously in the way prescribed by the Secretary.

"§ 5104. Assignment of load lines 46 USC 5104.

"(a) The Secretary shall assign load lines for a vessel so that they indicate the minimum safe freeboard to which the vessel may be loaded. However, if the owner requests, the Secretary may assign load lines that result in greater freeboard than the minimum safe freeboard.

"(b) In assigning load lines for a vessel, the Secretary shall consider—

"(1) the service, type, and character of the vessel;

"(2) the geographic area in which the vessel will operate; and

"(3) applicable international agreements to which the United States Government is a party. International agreements.

"(c) An existing vessel may retain its load lines assigned before January 1, 1986, unless the Secretary decides that a substantial change in the vessel after those load lines were assigned requires that new load lines be assigned under this chapter.

"(d) The minimum freeboard of an existing vessel may be reduced only if the vessel complies with every applicable provision of this chapter.

"(e) The Secretary may designate by regulation specific geographic areas that have less severe weather or sea conditions and from which there is adequate time to return to available safe harbors. The Secretary may reduce the minimum freeboard of a vessel operating in these areas.

46 USC 5105.

"§ 5105. Load line surveys

"(a) The Secretary may provide for annual, renewal, and other load line surveys.

"(b) In conducting a load line survey, the Secretary shall consider whether—

"(1) the hull and fittings of the vessel—

"(A) are adequate to protect the vessel from the sea; and

"(B) meet other requirements the Secretary may prescribe by regulation;

"(2) the strength of the hull is adequate for all loading conditions;

"(3) the stability of the vessel is adequate for all loading conditions;

"(4) the topsides of the vessel are arranged and constructed to allow rapid overboard drainage of deck water in heavy weather; and

"(5) the topsides of the vessel are adequate in design, arrangement, and equipment to protect crewmembers performing outside tasks necessary for safe operation of the vessel.

46 USC 5106.

"§ 5106. Load line certificate

"(a) On finding that a load line survey of a vessel under this chapter is satisfactory and that the vessel's load lines are marked correctly, the Secretary shall issue the vessel a load line certificate and deliver it to the owner, master, or individual in charge of the vessel.

"(b) The certificate shall be maintained as required by the Secretary.

46 USC 5107.

"§ 5107. Delegation of authority

"(a) The Secretary shall delegate to the American Bureau of Shipping or other similarly qualified organizations the authority to assign load lines, survey vessels, determine that load lines are marked correctly, and issue load line certificates under this chapter.

"(b) Under regulations prescribed by the Secretary, a decision of an organization delegated authority under subsection (a) of this section related to the assignment of a load line may be appealed to the Secretary.

"(c) For a vessel intended to be engaged on a foreign voyage, the Secretary may delegate to another country that is a party to the International Convention on Load Lines, 1966, the authority to assign load lines, survey vessels, determine that the load lines are marked correctly, and issue an International Load Line Certificate (1966).

"(d) The Secretary may terminate a delegation made under this section after giving written notice to the organization.

46 USC 5108.

"§ 5108. Special exemptions

"(a) The Secretary may exempt a vessel from any part of this chapter when—

"(1) the vessel is entitled to an exemption under an international agreement to which the United States Government is a party; or

International agreements.

"(2) under regulations (including regulations on special operations conditions) prescribed by the Secretary, the Secretary finds that good cause exists for granting an exemption.

"(b) When the Secretary grants an exemption under this section, the Secretary may issue a certificate of exemption stating the extent of the exemption.

"(c) A certificate of exemption issued under subsection (b) of this section shall be maintained as required by the Secretary.

"§ 5109. Reciprocity for foreign vessels

International agreements.
46 USC 5109.

"(a) When the Secretary finds that the laws and regulations of a foreign country related to load lines are similar to those of this chapter and the regulations prescribed under this chapter, or when a foreign country is a party to an international load line agreement to which the United States Government is a party, the Secretary shall accept the load line marks and certificate of a vessel of that foreign country as complying with this chapter and the regulations prescribed under this chapter. The Secretary may control the vessel as provided for in the applicable international agreement.

"(b) Subsection (a) of this section does not apply to a vessel of a foreign country that does not recognize load lines assigned under this chapter.

"§ 5110. Submersible vessels

46 USC 5110.

"Notwithstanding sections 5103-5105 of this title, the Secretary may prescribe regulations for submersible vessels to provide a minimum level of safety. In developing the regulations, the Secretary shall consider factors relevant to submersible vessels, including the structure, stability, and watertight integrity of those vessels.

"§ 5111. Providing loading information

46 USC 5111.

"The Secretary may prescribe regulations requiring the owner, charterer, managing operator, and agent of a vessel to provide loading information (including information on loading distribution, stability, and margin of strength) to the master or individual in charge of the vessel in a language the master or individual understands.

"§ 5112. Loading restrictions

46 USC 5112.

"(a) A vessel may not be loaded in a way that submerges the assigned load line or the place at which the load line is required to be marked on the vessel.

"(b) If the loading or stability conditions of a vessel change, the master or individual in charge of the vessel, before moving the vessel, shall record in the official logbook or other permanent record of the vessel—

Records.

"(1) the position of the assigned load line relative to the water surface; and

"(2) the draft of the vessel fore and aft.

"(c) A vessel may be operated only if the loading distribution, stability, and margin of strength are adequate for the voyage or movement intended.

"(d) Subsections (a) and (b) of this section do not apply to a submersible vessel.

46 USC 5113.

"§ 5113. Detention of vessels

"(a) When the Secretary believes that a vessel is about to leave a place in the United States in violation of this chapter or a regulation prescribed under this chapter, the Secretary may detain the vessel by giving notice to the owner, charterer, managing operator, agent, master, or individual in charge of the vessel.

"(b) A detained vessel may be cleared under section 4197 of the Revised Statutes (46 App. U.S.C. 91) only after the violation has been corrected. If the vessel was cleared before being detained, the clearance shall be withdrawn.

"(c) Under regulations prescribed by the Secretary, the owner, charterer, managing operator, agent, master, or individual in charge of a detained vessel may petition the Secretary to review the detention order.

"(d) After reviewing a petition, the Secretary may affirm, withdraw, or change the detention order. Before acting on the petition, the Secretary may require any independent survey that may be necessary to determine the condition of the vessel.

"(e) The owner of a vessel is liable for the cost incident to a petition for review and any required survey if the vessel is found to be in violation of this chapter or a regulation prescribed under this chapter.

46 USC 5114.

"§ 5114. Use of Customs Service officers employees for enforcement

"(a) With the approval of the Secretary of the Treasury, the Secretary may use an officer or employee of the United States Customs Service to enforce this chapter and the regulations prescribed under this chapter.

"(b) The Secretary shall consult with the Secretary of the Treasury before prescribing a regulation that affects the enforcement responsibilities of an officer or employee of the Customs Service.

46 USC 5115.

"§ 5115. Regulations

"(a) The Secretary may prescribe regulations to carry out this part.

46 USC 5116.

"§ 5116. Penalties

"(a) Except as otherwise provided in this section, the owner, charterer, managing operator, agent, master, and individual in charge of a vessel violating this chapter or a regulation prescribed under this chapter are each liable to the United States Government for a civil penalty of not more than $5,000. Each day of a continuing violation is a separate violation. The vessel also is liable in rem for the penalty.

"(b) The owner, charterer, managing operator, agent, master, and individual in charge of a vessel allowing, causing, attempting to cause, or failing to take reasonable care to prevent a violation of section 5112(a) of this title are each liable to the Government for a civil penalty of not more than $10,000 plus an additional amount equal to twice the economic benefit of the overloading. The vessel also is liable in rem for the penalty.

"(c) The master or individual in charge of a vessel violating section 5112(b) of this title is liable to the Government for a civil penalty of not more than $5,000. The vessel also is liable in rem for the penalty.

"(d) A person causing or allowing the departure of a vessel from a place within the jurisdiction of the United States in violation of a detention order issued under section 5113 of this title shall be fined not more than $10,000, imprisoned for not more than one year, or both.

"(e) A person causing or allowing the alteration, concealment, or removal of a mark placed on a vessel under section 5103(b) of this title and the regulations prescribed under this chapter, except to make a lawful change or to escape enemy capture in time of war, shall be fined not more than $10,000, imprisoned for not more than 2 years, or both.".

(3) Immediately after part I, strike "[PART J—RESERVED FOR MEASUREMENT OF VESSELS]" and insert the following new part J:

"PART J—MEASUREMENT OF VESSELS

"CHAPTER 141—GENERAL

"Sec.
"14101. Definitions.
"14102. Regulations.
"14103. Delegation of authority.
"14104. Measurement to determine application of a law.

"§ 14101. Definitions

46 USC 14101.

"In this part—

"(1) 'Convention' means the International Convention on Tonnage Measurement of Ships, 1969.

TIAS 10490.

"(2) 'existing vessel' means a vessel the keel of which was laid or that was at a similar stage of construction before July 18, 1982.

"(3) 'Great Lakes' means—

"(A) the Great Lakes; and

"(B) the St. Lawrence River west of—

"(i) a rhumb line drawn from Cap des Rosiers to West Point, Anticosti Island; and

"(ii) on the north side of Anticosti Island, the meridian of longitude 63 degrees west.

"(4) 'vessel engaged on a foreign voyage' means a vessel—

"(A) arriving at a place under the jurisdiction of the United States from a place in a foreign country;

"(B) making a voyage between places outside the United States (except a foreign vessel engaged on that voyage);

"(C) departing from a place under the jurisdiction of the United States for a place in a foreign country; or

"(D) making a voyage between a place within a territory or possession of the United States and another place under the jurisdiction of the United States not within that territory or possession.

"§ 14102. Regulations

46 USC 14102.

The Secretary may prescribe regulations to carry out this part.

"§ 14103. Delegation of authority

46 USC 14103.

"(a) The Secretary may delegate to a qualified person the authority to measure a vessel and issue an International Tonnage Certificate (1969) or other appropriate certificate of measurement under this part.

"(b) Under regulations prescribed by the Secretary, a decision of the person delegated authority under subsection (a) of this section related to measuring a vessel or issuing a certificate may be appealed to the Secretary.

"(c) For a vessel intended to be engaged on a foreign voyage, the Secretary may delegate to another country that is a party to the Convention the authority to measure the vessel and issue an International Tonnage Certificate (1969) under chapter 143 of this title.

Infra.

"(d) The Secretary may terminate a delegation made under this section after giving written notice to the person.

46 USC 14104.

"§ 14104. Measurement to determine application of a law

"When the application of a law of the United States to a vessel depends on the vessel's tonnage, the vessel shall be measured under this part.

"CHAPTER 143—CONVENTION MEASUREMENT

"Sec.
"14301. Application.
"14302. Measurement.
"14303. International Tonnage Certificate (1969).
"14304. Remeasurement.
"14305. Optional regulatory measurement.
"14306. Reciprocity for foreign vessels.
"14307. Inspection of foreign vessels.

46 USC 14301.

"§ 14301. Application

"(a) Except as otherwise provided in this section, this chapter applies to the following:

"(1) a documented vessel.

"(2) a vessel that is to be documented under chapter 121 of this title.

46 USC 12101 *et seq.*

"(3) a vessel engaged on a foreign voyage.

"(b) This chapter does not apply to the following:

"(1) a vessel of war.

"(2) a vessel of less than 24 meters (79 feet) overall in length.

"(3) a vessel operating only on the Great Lakes, unless the owner requests.

"(4) a vessel (except a vessel engaged on a foreign voyage) the keel of which was laid or that was at a similar stage of construction before January 1, 1986, unless—

"(A) the owner requests; or

"(B) the vessel undergoes a change that the Secretary finds substantially affects the vessel's gross tonnage.

"(5) before July 19, 1994, an existing vessel unless—

"(A) the owner requests; or

"(B) the vessel undergoes a change that the Secretary finds substantially affects the vessel's gross tonnage.

"(c) A vessel made subject to this chapter at the request of the owner may be remeasured only as provided by this chapter.

International agreements.

"(d) After July 18, 1994, an existing vessel (except an existing vessel referred to in subsection (b)(5) (A) or (B) of this section) may retain its tonnages existing on July 18, 1994, for the application of relevant requirements under international agreements (except the Convention) and other laws of the United States. However, if the vessel undergoes a change substantially affecting its tonnage after July 18, 1994, the vessel shall be remeasured under this chapter.

"(e) This chapter does not affect an international agreement to which the United States Government is a party that is not in conflict with the Convention or the application of IMO Resolutions A.494 (XII) of November 19, 1981, A.540 (XIII) of November 17, 1983, and A.541 (XIII) of November 17, 1983. International agreements.

"§ 14302. Measurement 46 USC 14302.

"(a) The Secretary shall measure a vessel to which this chapter applies in the way provided by this chapter and the Convention.

"(b) Except as provided in section 1602(a) of the Panama Canal Act of 1979 (22 U.S.C. 3792(a)), a vessel measured under this chapter may not be required to be measured under another law.

"(c) Unless otherwise provided by law, the measurement of a vessel under this chapter applies to a law of the United States whose applicability depends on a vessel's tonnage, if that law—

"(1) becomes effective after July 18, 1994; or Effective date.

"(2) is in effect before July 19, 1994, is not enumerated in section 14305 of this title, and is identified by the Secretary by regulation as a law to which this chapter applies. Regulations.

"§ 14303. International Tonnage Certificate (1969) 46 USC 14303.

"(a) After measuring a vessel under this chapter, the Secretary shall issue, on request of the owner, an International Tonnage Certificate (1969) and deliver it to the owner or master of the vessel.

"(b) The certificate shall be maintained as required by the Secretary.

"§ 14304. Remeasurement 46 USC 14304.

"(a) To the extent necessary, the Secretary shall remeasure a vessel to which this chapter applies if—

"(1) the Secretary or the owner alleges an error in its measurement; or

"(2) the vessel or the use of its space is changed in a way that substantially affects its tonnage.

"(b) Except as provided in this chapter or section 14504 of this title, a vessel that has been measured does not have to be remeasured to obtain another document or endorsement under chapter 121 of this title. *Post*, p. 1923. 46 USC 12101 *et seq.*

"§ 14305. Optional regulatory measurement 46 USC 14305.

"(a) On request of the owner of a documented vessel measured under this chapter, the Secretary also shall measure the vessel under chapter 145 of this title. The tonnages determined under that chapter shall be used in applying— *Post*, p. 1923.

"(1) parts A, B, C, E, F, and G and sections 12106(c) and 12108(c) of this title; 46 USC 12106, 12108.

"(2) section 3(d)(3) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 903(d)(3));

"(3) section 4 of the Bridge to Bridge Radiotelephone Act (33 U.S.C. 1203(a));

"(4) section 4(a)(3) of the Ports and Waterways Safety Act (33 U.S.C. 1223(a)(3));

"(5) section 4283 of the Revised Statutes of the United States (46 App. U.S.C. 183);

"(6) sections 27 and 27A of the Act of June 5, 1920 (46 App. U.S.C. 883 and 883-1);

"(7) Act of July 14, 1956 (46 App. U.S.C. 883a);

"(8) sections 351, 352, 355, and 356 of the Ship Radio Act (47 U.S.C. 351, 352, 354, and 354a);

"(9) section 403 of the Commercial Fishing Industry Vessel Act (46 U.S.C. 3302 note);

46 USC 8303, 8304.

"(10) the Officers' Competency Certificates Convention, 1936, and sections 8303 and 8304 of this title;

16 UST 185.

"(11) the International Convention for the Safety of Life at Sea as provided by IMCO Resolution A.494 (XII) of November 19, 1981;

"(12) the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers, 1978, as provided by IMO Resolution A.540 (XIII) of November 17, 1983;

"(13) the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, as provided by IMO Resolution A.541 (XIII) of November 17, 1983;

"(14) provisions of law establishing the threshold tonnage levels at which evidence of financial responsibility must be demonstrated; or

"(15) unless otherwise provided by law, any other law of the United States in effect before July 19, 1994, and not listed by the Secretary under section 14302(c) of this title.

"(b) As long as the owner of a vessel has a request in effect under subsection (a) of this section, the tonnages determined under that request shall be used in applying the other provisions of law described in subsection (a) to that vessel.

46 USC 14306.

"§ 14306. Reciprocity for foreign vessels

"(a) When the Secretary finds that the laws and regulations of a foreign country related to measurement of vessels are similar to those of this chapter and the regulations prescribed under this chapter, or when a foreign country is a party to the Convention, the Secretary shall accept the measurement and certificate of a vessel of that foreign country as complying with this chapter and the regulations prescribed under this chapter.

International agreements.

"(b) Subsection (a) of this section does not apply to a vessel of a foreign country that does not recognize measurements under this chapter. The Secretary may apply measurement standards the Secretary considers appropriate to the vessel, subject to applicable international agreements to which the United States Government is a party.

46 USC 14307.

"§ 14307. Inspection of foreign vessels

"(a) The Secretary may inspect a vessel of a foreign country to verify that—

"(1) the vessel has an International Tonnage Certificate (1969) and the main characteristics of the vessel correspond to the information in the certificate; or

"(2) if the vessel is from a country not a party to the Convention, the vessel has been measured under laws and regulations similar to those of this chapter and the regulations prescribed under this chapter.

Records.

"(b) For a vessel of a country that is a party to the Convention, if the inspection reveals that the vessel does not have an International Tonnage Certificate (1969) or that the main characteristics of the vessel differ from those stated on the certificate or other records in a

way that increases the gross or net tonnage of the vessel, the Secretary promptly shall inform the country whose flag the vessel is flying.

"(c) For a vessel of a country not a party to the Convention—

"(1) if the vessel has been measured under laws and regulations that the Secretary finds are similar to those of this chapter and the regulations prescribed under this chapter, the vessel shall be deemed to have been issued an International Tonnage Certificate (1969); and

"(2) if the vessel has not been measured as described in clause (1) of this subsection, the Secretary may measure the vessel.

"(d) An inspection under this section shall be conducted in a way that does not delay a vessel of a country that is a party to the Convention.

"CHAPTER 145—REGULATORY MEASUREMENT

"Subchapter I—General

"Sec.
"14501. Application.
"14502. Measurement.
"14503. Certificate of measurement.
"14504. Remeasurement.

"Subchapter II—Formal Systems

"14511. Application.
"14512. Standard tonnage measurement.
"14513. Dual tonnage measurement.

"Subchapter III—Simplified System

"14521. Application.
"14522. Measurement.

Subchapter I—General

"§ 14501. Application 46 USC 14501.

"This chapter applies to the following:

"(1) a vessel not measured under chapter 143 of this title if— *Ante*, p. 1920.

"(A) the vessel is to be documented under chapter 121 of this title; or 46 USC 12101 *et seq.*

"(B) the application of a law of the United States to the vessel depends on the vessel's tonnage.

"(2) a vessel measured under chapter 143 of this title if the owner requests that the vessel also be measured under this chapter as provided in section 14305 of this title. *Ante*, p. 1921.

"§ 14502. Measurement 46 USC 14502.

"The Secretary shall measure a vessel to which this chapter applies in the way provided by this chapter.

"§ 14503. Certificate of measurement 46 USC 14503.

"The Secretary shall prescribe the certificate to be issued as evidence of a vessel's measurement under this chapter.

"§ 14504. Remeasurement 46 USC 14504.

"(a) To the extent necessary, the Secretary shall remeasure a vessel to which this chapter applies if—

"(1) the Secretary or the owner alleges an error in its measurement;

"(2) the vessel or the use of its space is changed in a way that substantially affects its tonnage;

"(3) after being measured under subchapter III of this chapter, the vessel becomes subject to subchapter II of this chapter because the vessel or its use is changed; or

Post, p. 1925; *infra*.

"(4) although not required to be measured under subchapter II of this chapter, the vessel was measured under subchapter II and the owner requests that the vessel be measured under subchapter III of this chapter.

Ante, p. 1920.

"(b) Except as provided in this section and chapter 143 of this title, a vessel that has been measured does not have to be remeasured to obtain another document or endorsement under chapter 121 of this title.

46 USC 12101 *et seq.*

"Subchapter II—Formal Systems

46 USC 14511.

"§ 14511. Application

"This subchapter applies to a vessel described in section 14501 of this title if—

"(1) the owner requests; or

"(2) the vessel is—

"(A) self-propelled;

"(B) at least 24 meters (79 feet) overall in length; and

"(C) not operated only for pleasure.

46 USC 14512.

"§ 14512. Standard tonnage measurement

Regulations.

"(a) The Secretary shall prescribe regulations for measuring the gross and net tonnages of a vessel under this subchapter. The regulations shall provide for tonnages comparable to the tonnages that could have been assigned under sections 4151 and 4153 of the Revised Statutes of the United States, as sections 4151 and 4153 existed immediately before the enactment of this section.

Post, p. 1928.

"(b) On application of the owner or master of a vessel of the United States used in foreign trade, the Secretary may attach an appendix to the vessel's register stating the measurement of spaces that may be deducted from gross tonnage under laws and regulations of other countries but not under those of the United States.

46 USC 14513.

"§ 14513. Dual tonnage measurement

"(a) On application by the owner and approval by the Secretary, the tonnage of spaces prescribed by the Secretary may be excluded in measuring under this section the gross tonnage of a vessel measured under section 14512 of this title. The spaces prescribed by the Secretary shall be comparable to the spaces that could have been excluded under section 2 of the Act of September 29, 1965 (Public Law 89-219, 79 Stat. 891), as section 2 existed immediately before the enactment of this section.

46 USC 83a.

"(b) The Secretary shall prescribe the design, location, and dimensions of the tonnage mark to be placed on a vessel measured under this section.

"(c)(1) If a vessel's tonnage mark is below the uppermost part of the load line marks, each certificate stating the vessel's tonnages shall state the gross and net tonnages when the mark is submerged and when it is not submerged.

"(2) Except as provided in paragraph (1) of this subsection, a certificate stating a vessel's tonnages may state only one set of gross and net tonnages.

"Subchapter III—Simplified System

"§ 14521. Application

46 USC 14521.

"This subchapter applies to a vessel described in section 14501 of this title that is not measured under subchapter II of this chapter.

Ante, p. 1924.

"§ 14522. Measurement

46 USC 14522.

"(a) In this section, "length" means the horizontal distance of the hull between the foremost part of the stem and the aftermost part of the stern, excluding fittings and attachments.

"(b)(1) The Secretary shall assign gross and net tonnages to a vessel based on its length, breadth, depth, other dimensions, and appropriate coefficients.

"(2) The Secretary shall prescribe the way dimensions (except length) are measured and which coefficients are appropriate.

"(c) The resulting gross tonnages, taken as a group, reasonably shall reflect the relative internal volumes of the vessels measured under this subchapter. The resulting net tonnages shall be in approximately the same ratios to corresponding gross tonnages as are the net and gross tonnages of comparable vessels measured under subchapter II of this chapter.

"(d) Under regulations prescribed by the Secretary, the Secretary may determine the gross and net tonnages of a vessel representative of a designated class, model, or type, and then assign those gross and net tonnages to other vessels of the same class, model, or type.

"CHAPTER 147—PENALTIES

"Sec.
"14701. General violation.
"14702. False statements.

"§ 14701. General violation

46 USC 14701.

"The owner, charterer, managing operator, agent, master, and individual in charge of a vessel violating this part or a regulation prescribed under this part are each liable to the United States Government for a civil penalty of not more than $20,000. Each day of a continuing violation is a separate violation. The vessel also is liable in rem for the penalty.

"§ 14702. False statements

46 USC 14702.

"A person knowingly making a false statement or representation in a matter in which a statement or representation is required by this part or a regulation prescribed under this part is liable to the United States Government for a civil penalty of not more than $20,000 for each false statement or representation. The vessel also is liable in rem for the penalty.".

SEC. 5102. CONFORMING AND MISCELLANEOUS AMENDMENTS.

(a) Title 14, United States Code, is amended as follows:

(1) In the analysis of chapter 17, add the following after item 663:

"664. User fees.".

(2) In section 651, strike "preceding fiscal year." and substitute "preceding fiscal year, including amounts collected as provided under section 664 of this title.".

(3) After section 663, add the following new section:

46 USC 664.

"§ 664. User fees

Uniformed services.

"(a) A fee or charge for a service or thing of value provided by the Coast Guard shall be prescribed as provided in section 9701 of title 31.

"(b) Amounts collected by the Secretary for a service or thing of value provided by the Coast Guard shall be deposited in the general fund of the Treasury as proprietary receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities.

Reports.

"(c) Before January 1 of each year, the Secretary shall submit a report to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that includes—

"(1) a verification of each activity for which a fee or charge is collected stating—

"(A) the amount collected in the prior fiscal year; and

"(B) that the amount spent on that activity in that fiscal year is not less than the amount collected; and

"(2) the amount expected to be collected in the current fiscal year for each activity for which a fee or charge is expected to be collected.".

(b) Title 46, United States Code, is amended as follows:

(1) In section 2101—

(A) between clauses (20) and (21), insert the following new clause:

"(20a) 'overall in length' means—

"(A) for a foreign vessel or a vessel engaged on a foreign voyage, the greater of—

"(i) 96 percent of the length on a waterline at 85 percent of the least molded depth measured from the top of the keel (or on a vessel designed with a rake of keel, on a waterline parallel to the designed waterline); or

"(ii) the length from the fore side of the stem to the axis of the rudder stock on that waterline; and

"(B) for any other vessel, the horizontal distance of the hull between the foremost part of the stem and the aftermost part of the stern, excluding fittings and attachments."; and

(B) add at the end the following new clause:

"(47) 'vessel of war' means a vessel—

"(A) belonging to the armed forces of a country;

"(B) bearing the external marks distinguishing vessels of war of that country;

"(C) under the command of an officer commissioned by the government of that country and whose name appears in the appropriate service list or its equivalent; and

"(D) staffed by a crew under regular armed forces discipline.".

(2) Section 2102 is amended by striking "chapters 43" and substituting "chapters 37, 43, 51,".

46 USC 3701 *et seq.*, 4301 *et seq.*; *ante*, p. 1913.

(3) In section 2109, strike "This" and substitute "Except as otherwise provided, this".

(4) In section 2110—

(A) strike "examination of vessels" and substitute "examination of vessels under part B of this subtitle"; and

(B) strike "measurement or".

(5) Section 3701 (5) and (6) is repealed.

(6) In section 12102—

(A) insert the subsection designation "(a)" at the beginning of the text of the section; and

(B) add at the end of the section the following new subsection:

"(b) A vessel is eligible for documentation only if it has been measured under part J of this subtitle. However, the Secretary may issue a temporary certificate of documentation for a vessel before it is measured.". *Ante*, p. 1919.

SEC. 5103. MISCELLANEOUS PROVISIONS. 46 USC note prec. 2101.

(a) Laws effective after January 1, 1986, that are inconsistent with this subtitle supersede this subtitle to the extent of the inconsistency.

(b) A reference to a law replaced by this subtitle, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision of this subtitle.

(c) An order, rule, or regulation in effect under a law replaced by this subtitle continues in effect under the corresponding provision of this subtitle until repealed, amended, or superseded.

(d) An action taken or an offense committed under a law replaced by this subtitle is deemed to have been taken or committed under the corresponding provision of this subtitle.

(e) An inference of legislative construction is not to be drawn by reason of the caption or catch line of a provision enacted by this subtitle.

(f) If a provision enacted by this subtitle is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this subtitle is held invalid in one or more of its applications, the provision remains in effect in all valid applications that are severable from the invalid application or applications.

(g) The Secretary of Transportation shall— 46 USC 14301 note.

(1) before July 19, 1990, submit to Congress—

(A) a study of—

(i) the impact of applying vessel tonnage determined under chapter 143 of title 46 (as enacted by section 5101 of this subtitle), United States Code, in laws of the United States that contain provisions based on tonnage, including an analysis of the number and types of vessels that would become subject to additional laws or more stringent requirements because of that application; and

(ii) the extent to which the tonnage thresholds in laws of the United States whose application is based on tonnage would have to be raised so that additional vessels would not become subject to those laws if their application is based on tonnage determined under chapter 143; and

(B) a recommendation of the levels to which the tonnage thresholds in laws of the United States whose application is

based on tonnage should be raised if a complete conversion to the International Convention measurement system under chapter 143 is made;

Ante, p. 1920.

(2) in conducting the study under clause (1) of this subsection, consult with representatives of the private sector having experience with the operation of vessels likely to be affected by laws of the United States whose application is based on tonnage; and

Reports.

(3) before July 19, 1988, submit to Congress an interim progress report on the study conducted under clause (1) of this subsection.

46 USC note prec. 2101.

SEC. 5104. REPEALS.

(a) The repeal of a law by this subtitle may not be construed as a legislative implication that the provision was or was not in effect before its repeal.

(b) The laws specified in the following schedule are repealed, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this subtitle:

Revised Statutes

Revised Statutes Section	United States Code	Title Section
4148	46 App.	71
4149	46 App.	72
4151	46 App.	75
4153	46 App.	77
4154	46 App.	81

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		United States Code	
			Volume	Page	Title	Section
1882 Aug. 5	398		22	300	46 App.	81
1935 Aug. 27	747		49	888	46 App.	88–88i
1965 Sept. 29	89-219		79	891	46 App.	72, 74, 77, 83–83k
1973 Oct. 1	93-115		87	418	46 App.	86–86i
1976 Sept. 10	94-406	8	90	1236	46 App.	420

Subtitle C—Establishment of a Timetable for Completion of Coast Guard Offshore Safety Studies

SEC. 5201. REGULATIONS.

(a) DEADLINE FOR EFFECTIVENESS.—The Secretary of the department in which the Coast Guard is operating (hereafter in this subtitle referred to as the "Secretary") shall issue final regulations, to become effective before September 1, 1987, relating to the evacuation of personnel as provided for in the advance notice of proposed rulemaking regarding the revision of the regulations on outer Continental Shelf activities (50 Fed. Reg. 9290 (1985)), published March 7, 1985.

(b) CONSIDERATION OF STANDBY VESSELS FOR EVACUATION.—In preparing regulations referred to in subsection (a), the Secretary shall consider requiring standby vessels for the evacuation of personnel from manned installations on the outer Continental Shelf.

SEC. 5202. REPORTS TO CONGRESS.

(a) PRELIMINARY REPORT.—The Secretary shall, before December 31, 1986, submit to the Congress a report setting forth the progress made in preparing the regulations referred to in section 5201(a).

(b) FINAL REPORT.—The Secretary shall, before September 1, 1987, submit to the Congress a report setting forth the justification for the manned installation evacuation procedures contained in the final regulations referred to in section 5201(a).

TITLE VI—CIVIL SERVICE, POSTAL SERVICE, AND GOVERNMENTAL AFFAIRS GENERALLY

Subtitle A—Civil Service and Postal Service

SEC. 6001. ELECTIONS TO CONTRIBUTE TO THE THRIFT SAVINGS FUND.

(a) PARTICIPANTS IN THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—(1) Paragraph (4) of section 8432(b) of title 5, United States Code (as added by Public Law 99-335), is amended— *Ante*, p. 541.

(A) by inserting "(A)" after "(4)";

(B) by inserting "continues as an employee or Member without a break in service through April 1, 1987," in the first sentence after "January 1, 1987,";

(C) by striking out "January 1, 1987." in the second sentence and inserting in lieu thereof "April 1, 1987.";

(D) by striking out "the last day of that election period." in the third sentence and inserting in lieu thereof "the date on which the employee or Member makes that election."; and

(E) by adding at the end thereof the following new subparagraph:

"(B) Notwithstanding subsection (a), the maximum amount that an employee or Member may contribute during any pay period which begins on or after April 1, 1987, and before October 1, 1987, pursuant to an election made during the election period provided

under subparagraph (A) is the amount equal to 15 percent of such individual's basic pay for such pay period.".

Ante, p. 541.

(2) Section 8432(c) of title 5, United States Code, is amended—

(A) in paragraph (1)—

(i) by inserting "(A)" after "(c)(1)"; and

(ii) by adding at the end thereof the following new subparagraphs:

"(B) In the case of each employee or Member who is an employee or Member on January 1, 1987, and continues as an employee or Member without a break in service through April 1, 1987, the employing agency shall contribute to the Thrift Savings Fund for the benefit of such employee or Member the amount equal to 1 percent of the total basic pay paid to such employee or Member for that period of service.

"(C) If an employee or Member—

"(i) is an employee or Member on January 1, 1987;

"(ii) separates from Government employment before April 1, 1987; and

"(iii) before separation, completes the number of years of civilian service applicable to such employee or Member under subparagraph (A) or (B) of subsection (g)(2),

the employing agency shall contribute to the Thrift Savings Fund for the benefit of such employee or Member the amount equal to 1 percent of the total basic pay paid to such employee or Member for service performed on or after January 1, 1987, and before the date of the separation."; and

(B) in paragraph (2), by inserting after subparagraph (B) the following:

"(C) Notwithstanding subparagraph (B), the amount contributed under subparagraph (A) by an employing agency with respect to any contribution made by an employee or Member during any pay period which begins after the date on which such employee or Member makes an election under subsection (b)(4) and before July 1, 1987, shall be the amount equal to the sum of—

"(i) two times such portion of the total amount of the employee's or Member's contribution as does not exceed 3 percent of such employee's or Member's basic pay for such pay period; and

"(ii) such portion of the total amount of the employee's or Member's contributions as exceeds 3 percent, but does not exceed 5 percent, of such employee's or Member's basic pay for such pay period.".

5 USC 8432 note.

(3) The contributions required to be made to the Thrift Savings Fund under paragraphs (1)(B), (1)(C), and (3) of section 8432(c) of title 5, United States Code, shall be made as soon as practicable during the 15-day period which begins on April 1, 1987.

5 USC 8351 note.

(b) PARTICIPANTS IN THE CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM.—Section 206(b) of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335) is amended to read as follows:

Ante, p. 593.

"(b)(1) An election may first be made by an employee of the Federal Government or a Member of Congress under subsection (a)(2) of section 8351 of title 5, United States Code (as added by subsection (a)(1)), during an election period prescribed for the purposes of this subsection by the Executive Director of the Federal Retirement Thrift Investment Board. Such period shall begin on April 1, 1987.

Ante, p. 593.

"(2) An election made by an employee or Member as provided in paragraph (1) shall take effect on the first day of the employee's or Member's first pay period which begins on or after the date of such election. Effective date.

"(3) Notwithstanding section 8351(b)(2) of title 5, United States Code (as added by subsection (a)(1)), the maximum amount that an employee or Member may contribute during any pay period which begins on or after April 1, 1987, and before October 1, 1987, pursuant to an election made during the election period provided under paragraph (1) is the amount equal to 7.5 percent of such individual's basic pay for such pay period.". *Ante*, p. 593.

(c) INAPPLICABILITY OF LIMITATION ON NUMBER OF ELECTIONS WITHIN A SIX-MONTH PERIOD.—(1) The requirement to make contributions for a 6-month period after an election, as provided in subsection (a) of section 8432 of title 5, United States Code, shall not apply to contributions made pursuant to an election made during the period provided in subsection (b)(4) of such section or 206(b) of the Federal Employees' Retirement System Act of 1986. 5 USC 8432 note. *Ante*, p. 541. *Ante*, p. 1930.

(2) The first election period prescribed under section 8432(b)(1) of title 5, United States Code, shall commence on July 1, 1987.

(3) Each employee or Member who makes an election referred to in paragraph (1) may make an election under section 8432(b)(1) of title 5, United States Code, during the election period that begins on July 1, 1987.

(d) REGULATIONS.—The Executive Director of the Federal Retirement Thrift Investment Board may prescribe regulations to carry out subsections (a), (b), and (c) and the amendments made by subsections (a) and (b). 5 USC 8432 note.

(e) BUDGET OF THE FEDERAL EMPLOYEES' THRIFT INVESTMENT BOARD.—Section 8472 of title 5, United States Code, is amended by adding at the end thereof the following: *Ante*, p. 578.

"(i) The Board shall prepare and submit to the President, and, at the same time, to the appropriate committees of Congress, an annual budget of the expenses and other items relating to the Board which shall be included as a separate item in the budget required to be transmitted to the Congress under section 1105 of title 31.

"(j) The Board may submit to the President, and, at the same time, shall submit to each House of the Congress, any legislative recommendations of the Board relating to any of its functions under this title or any other provision of law.".

(f) EFFECTIVE DATE.—This section, other than subsection (d), and the amendments made by this section shall take effect on January 1, 1987. 5 USC 8432 note.

SEC. 6002. CIVIL SERVICE RETIREMENT AND DISABILITY FUND.

(a) INVESTMENT AND RESTORATION OF THE FUND.—Section 8348 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(j)(1) Notwithstanding subsection (c) of this section, the Secretary of the Treasury may suspend additional investment of amounts in the Fund if such additional investment could not be made without causing the public debt of the United States to exceed the public debt limit. Public debt limit.

"(2) Any amounts in the Fund which, solely by reason of the public debt limit, are not invested shall be invested by the Secretary of the Treasury as soon as such investments can be made without exceeding the public debt limit. Public debt limit.

"(3) Upon expiration of the debt issuance suspension period, the Secretary of the Treasury shall immediately issue to the Fund obligations under chapter 31 of title 31 that (notwithstanding subsection (d) of this section) bear such interest rates and maturity dates as are necessary to ensure that, after such obligations are issued, the holdings of the Fund will replicate to the maximum extent practicable the obligations that would then be held by the Fund if the suspension of investment under paragraph (1) of this subsection, and any redemption or disinvestment under subsection (k) of this section for the purpose described in such paragraph, during such period had not occurred.

31 USC 3101 *et seq.*

"(4) On the first normal interest payment date after the expiration of any debt issuance suspension period, the Secretary of the Treasury shall pay to the Fund, from amounts in the general fund of the Treasury of the United States not otherwise appropriated, an amount determined by the Secretary to be equal to the excess of—

Public debt limit.

"(A) the net amount of interest that would have been earned by the Fund during such debt issuance suspension period if—

"(i) amounts in the Fund that were not invested during such debt issuance suspension period solely by reason of the public debt limit had been invested, and

"(ii) redemptions and disinvestments with respect to the Fund which occurred during such debt issuance suspension period solely by reason of the public debt limit had not occurred, over

"(B) the net amount of interest actually earned by the Fund during such debt issuance suspension period.

"(5) For purposes of this subsection and subsections (k) and (l) of this section—

"(A) the term 'public debt limit' means the limitation imposed by section 3101(b) of title 31; and

"(B) the term 'debt issuance suspension period' means any period for which the Secretary of the Treasury determines for purposes of this subsection that the issuance of obligations of the United States may not be made without exceeding the public debt limit.".

(b) SALES AND REDEMPTIONS BY THE FUND.—Section 8348 of title 5, United States Code, as amended by subsection (a), is further amended by adding at the end the following new subsection:

Securities.
Public debt limit.

"(k)(1) Subject to paragraph (2) of this subsection, the Secretary of the Treasury may sell or redeem securities, obligations, or other invested assets of the Fund before maturity in order to prevent the public debt of the United States from exceeding the public debt limit.

"(2) The Secretary may sell or redeem securities, obligations, or other invested assets of the Fund under paragraph (1) of this subsection only during a debt issuance suspension period, and only to the extent necessary to obtain any amount of funds not exceeding the amount equal to the total amount of the payments authorized to be made from the Fund under the provisions of this subchapter or chapter 84 of this title or related provisions of law during such period. A sale or redemption may be made under this subsection even if, before the sale or redemption, there is a sufficient amount in the Fund to ensure that such payments are made in a timely manner.".

Ante, p. 516.

(c) REPORTS REGARDING THE OPERATION AND STATUS OF THE FUND.—Section 8348 of title 5, United States Code, as amended by

subsections (a) and (b), is further amended by adding at the end the following new subsection:

"(l)(1) The Secretary of the Treasury shall report to Congress on the operation and status of the Fund during each debt issuance suspension period for which the Secretary is required to take action under paragraph (3) or (4) of subsection (j) of this section. The report shall be submitted as soon as possible after the expiration of such period, but not later than the date that is 30 days after the first normal interest payment date occurring after the expiration of such period. The Secretary shall concurrently transmit a copy of such report to the Comptroller General of the United States. Reports.

"(2) Whenever the Secretary of the Treasury determines that, by reason of the public debt limit, the Secretary will be unable to fully comply with the requirements of subsection (c) of this section, the Secretary shall immediately notify Congress of the determination. The notification shall be made in writing.". Public debt limit.

SEC. 6003. CHANGE IN METHOD BY WHICH REVENUE FOREGONE IS COMPUTED FOR CERTAIN CATEGORIES OF MAIL.

(a) IN GENERAL.—Section 3626 of title 39, United States Code, is amended by adding at the end the following:

"(i)(1) As used in this subsection—

"(A) 'reduced-rate category' means any class of mail or kind of mailer for which a rate schedule is established under subsection (a) of this section; and

"(B) 'regular-rate category' means any class or kind of mail other than a class or kind referred to in section 2401(c) of this title.

"(2) This subsection shall be used in determining the costs recovered by revenues plus appropriations for the reduced-rate categories, for the purpose of distinguishing costs to be recovered from rates and fees for regular-rate categories under this chapter, and for the purpose of determining the appropriation requests under section 2401(c) of this title relating to the reduced-rate categories. It shall be assumed that the combination of postage and appropriations to be received for each of the reduced-rate categories will bear the same ratio to the costs attributed as required by section 3622(b)(3) of this title to such respective categories, as the revenues to be received from the most closely corresponding regular-rate category, as estimated in determining the rates for such category, bear to the costs attributed to that regular-rate category as required by section 3622(b)(3) of this title.".

(b) CONFORMING AMENDMENT.—Section 2401(c) of title 39, United States Code, is amended by striking "3626" and inserting "3626(a)-(h)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1989, or on the effective date of the next general change in rates and fees under sections 3622 and 3625 of title 39, United States Code, whichever is sooner. 39 USC 3626 note.

SEC. 6004. APPLICABILITY OF CERTAIN LIMITATIONS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) shall not apply with respect to any transfer of funds from the principal campaign committee of the incumbent candidate for the office of Representative who died on January 20, 1985, to the principal campaign committee of his surviving spouse, who was a candidate for such office.

Program Fraud Civil Remedies Act of 1986. 31 USC 3801 note.

Subtitle B—Program Fraud Civil Remedies

SEC. 6101. SHORT TITLE.

This subtitle may be cited as the "Program Fraud Civil Remedies Act of 1986".

31 USC 3801 note.

SEC. 6102. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) false, fictitious, and fraudulent claims and statements in Government programs are a serious problem;

(2) false, fictitious, and fraudulent claims and statements in Government programs result in the loss of millions of dollars annually by allowing persons to receive Federal funds to which they are not entitled;

(3) false, fictitious, and fraudulent claims and statements in Government programs undermine the integrity of such programs by allowing ineligible persons to participate in such programs; and

(4) present civil and criminal remedies for such claims and statements are not sufficiently responsive.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to provide Federal agencies which are the victims of false, fictitious, and fraudulent claims and statements with an administrative remedy to recompense such agencies for losses resulting from such claims and statements, to permit administrative proceedings to be brought against persons who make, present, or submit such claims and statements, and to deter the making, presenting, and submitting of such claims and statements in the future; and

(2) to provide due process protections to all persons who are subject to the administrative adjudication of false, fictitious, or fraudulent claims or statements.

SEC. 6103. PROVISION OF ADMINISTRATIVE REMEDIES FOR FALSE CLAIMS AND STATEMENTS.

(a) ESTABLISHMENT OF REMEDIES.—Subtitle III of title 31, United States Code, is amended by inserting after chapter 37 the following new chapter:

"CHAPTER 38—ADMINISTRATIVE REMEDIES FOR FALSE CLAIMS AND STATEMENTS

"Sec.
"3801. Definitions.
"3802. False claims and statements; liability.
"3803. Hearing and determinations.
"3804. Subpoena authority.
"3805. Judicial review.
"3806. Collection of civil penalties and assessments.
"3807. Right to administrative offset.
"3808. Limitations.
"3809. Regulations.
"3810. Reports.
"3811. Effect on other law.
"3812. Prohibition against delegation.

31 USC 3801.

"§ 3801. Definitions

"(a) For purposes of this chapter—

"(1) 'authority' means—

"(A) an executive department;

"(B) a military department;

"(C) an establishment (as such term is defined in section 11(2) of the Inspector General Act of 1978) which is not an executive department; and 5 USC app.

"(D) the United States Postal Service;

"(2) 'authority head' means—

"(A) the head of an authority; or

"(B) an official or employee of the authority designated, in regulations promulgated by the head of the authority, to act on behalf of the head of the authority;

"(3) 'claim' means any request, demand, or submission—

"(A) made to an authority for property, services, or money (including money representing grants, loans, insurance, or benefits);

"(B) made to a recipient of property, services, or money from an authority or to a party to a contract with an authority—

"(i) for property or services if the United States—

"(I) provided such property or services;

"(II) provided any portion of the funds for the purchase of such property or services; or

"(III) will reimburse such recipient or party for the purchase of such property or services; or

"(ii) for the payment of money (including money representing grants, loans, insurance, or benefits) if the United States—

"(I) provided any portion of the money requested or demanded; or

"(II) will reimburse such recipient or party for any portion of the money paid on such request or demand; or

"(C) made to an authority which has the effect of decreasing an obligation to pay or account for property, services, or money,

except that such term does not include any claim made in any return of tax imposed by the Internal Revenue Code of 1954; *Post*, p. 2095.

"(4) 'investigating official' means an individual who—

"(A)(i) in the case of an authority in which an Office of Inspector General is established by the Inspector General Act of 1978 or by any other Federal law, is the Inspector General of that authority or an officer or employee of such Office designated by the Inspector General; 5 USC app.

"(ii) in the case of an authority in which an Office of Inspector General is not established by the Inspector General Act of 1978 or by any other Federal law, is an officer or employee of the authority designated by the authority head to conduct investigations under section 3803(a)(1) of this title; or *Post*, p. 1939.

"(iii) in the case of a military department, is the Inspector General of the Department of Defense or an officer or employee of the Office of Inspector General of the Department of Defense who is designated by the Inspector General; and

"(B) who, if a member of the Armed Forces of the United States on active duty, is serving in grade O-7 or above or, if

a civilian employee, is serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS-16 under the General Schedule;

5 USC 5331.

"(5) 'knows or has reason to know', for purposes of establishing liability under section 3802, means that a person, with respect to a claim or statement—

Post, p. 1937.

"(A) has actual knowledge that the claim or statement is false, fictitious, or fraudulent;

"(B) acts in deliberate ignorance of the truth or falsity of the claim or statement; or

"(C) acts in reckless disregard of the truth or falsity of the claim or statement,

and no proof of specific intent to defraud is required;

"(6) 'person' means any individual, partnership, corporation, association, or private organization;

"(7) 'presiding officer' means—

"(A) in the case of an authority to which the provisions of subchapter II of chapter 5 of title 5 apply, an administrative law judge appointed in the authority pursuant to section 3105 of such title or detailed to the authority pursuant to section 3344 of such title; or

5 USC 551 *et seq.*

"(B) in the case of an authority to which the provisions of such subchapter do not apply, an officer or employee of the authority who—

5 USC 3301 *et seq.*

"(i) is selected under chapter 33 of title 5 pursuant to the competitive examination process applicable to administrative law judges;

"(ii) is appointed by the authority head to conduct hearings under section 3803 of such title;

Post, p. 1939.

"(iii) is assigned to cases in rotation so far as practicable;

"(iv) may not perform duties inconsistent with the duties and responsibilities of a presiding officer;

"(v) is entitled to pay prescribed by the Office of Personnel Management independently of ratings and recommendations made by the authority and in accordance with chapter 51 of such title and subchapter III of chapter 53 of such title;

5 USC 5101 *et seq.*
5 USC 5331 *et seq.*

"(vi) is not subject to performance appraisal pursuant to chapter 43 of such title; and

5 USC 4301 *et seq.*

"(vii) may be removed, suspended, furloughed, or reduced in grade or pay only for good cause established and determined by the Merit Systems Protection Board on the record after opportunity for hearing by such Board;

"(8) 'reviewing official' means any officer or employee of an authority—

"(A) who is designated by the authority head to make the determination required under section 3803(a)(2) of this title;

"(B) who, if a member of the Armed Forces of the United States on active duty, is serving in grade O-7 or above or, if a civilian employee, is serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS-16 under the General Schedule; and

5 USC 5331.

"(C) who is—

"(i) not subject to supervision by, or required to report to, the investigating official; and

"(ii) not employed in the organizational unit of the authority in which the investigating official is employed; and

"(9) 'statement' means any representation, certification, affirmation, document, record, or accounting or bookkeeping entry made—

"(A) with respect to a claim or to obtain the approval or payment of a claim (including relating to eligibility to make a claim); or

"(B) with respect to (including relating to eligibility for)—

"(i) a contract with, or a bid or proposal for a contract with; or

(ii) a grant, loan, or benefit from,

an authority, or any State, political subdivision of a State, or other party, if the United States Government provides any portion of the money or property under such contract or for such grant, loan, or benefit, or if the Government will reimburse such State, political subdivision, or party for any portion of the money or property under such contract or for such grant, loan, or benefit,

except that such term does not include any statement made in any return of tax imposed by the Internal Revenue Code of 1954.

Post, p. 2095.

"(b) For purposes of paragraph (3) of subsection (a)—

"(1) each voucher, invoice, claim form, or other individual request or demand for property, services, or money constitutes a separate claim;

"(2) each claim for property, services, or money is subject to this chapter regardless of whether such property, services, or money is actually delivered or paid; and

"(3) a claim shall be considered made, presented, or submitted to an authority, recipient, or party when such claim is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of such authority, recipient, or party.

"(c) For purposes of paragraph (9) of subsection (a)—

"(1) each written representation, certification, or affirmation constitutes a separate statement; and

"(2) a statement shall be considered made, presented, or submitted to an authority when such statement is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of such authority.

"§ 3802. False claims and statements; liability 31 USC 3802.

"(a)(1) Any person who makes, presents, or submits, or causes to be made, presented, or submitted, a claim that the person knows or has reason to know—

"(A) is false, fictitious, or fraudulent;

"(B) includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;

"(C) includes or is supported by any written statement that—

"(i) omits a material fact;

"(ii) is false, fictitious, or fraudulent as a result of such omission; and

"(iii) is a statement in which the person making, presenting, or submitting such statement has a duty to include such material fact; or

"(D) is for payment for the provision of property or services which the person has not provided as claimed,

shall be subject to, in addition to any other remedy that may be prescribed by law, a civil penalty of not more than $5,000 for each such claim. Except as provided in paragraph (3) of this subsection, such person shall also be subject to an assessment, in lieu of damages sustained by the United States because of such claim, of not more than twice the amount of such claim, or the portion of such claim, which is determined under this chapter to be in violation of the preceding sentence.

"(2) Any person who makes, presents, or submits, or causes to be made, presented, or submitted, a written statement that—

"(A) the person knows or has reason to know—

"(i) asserts a material fact which is false, fictitious, or fraudulent; or

"(ii)(I) omits a material fact; and

"(II) is false, fictitious, or fraudulent as a result of such omission;

"(B) in the case of a statement described in clause (ii) of subparagraph (A), is a statement in which the person making, presenting, or submitting such statement has a duty to include such material fact; and

"(C) contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement,

shall be subject to, in addition to any other remedy that may be prescribed by law, a civil penalty of not more than $5,000 for each such statement.

"(3) An assessment shall not be made under the second sentence of paragraph (1) with respect to a claim if payment by the Government has not been made on such claim.

"(b)(1) Except as provided in paragraphs (2) and (3) of this subsection—

Post, p. 1939.

"(A) a determination under section 3803(a)(2) of this title that there is adequate evidence to believe that a person is liable under subsection (a) of this section; or

"(B) a determination under section 3803 of this title that a person is liable under subsection (a) of this section,

Contracts.

may provide the authority with grounds for commencing any administrative or contractual action against such person which is authorized by law and which is in addition to any action against such person under this chapter.

"(2) A determination referred to in paragraph (1) of this subsection may be used by the authority, but shall not require such authority, to commence any administrative or contractual action which is authorized by law.

"(3) In the case of an administrative or contractual action to suspend or debar any person who is eligible to enter into contracts with the Federal Government, a determination referred to in paragraph (1) of this subsection shall not be considered as a conclusive determination of such person's responsibility pursuant to Federal procurement laws and regulations.

"§ 3803. Hearing and determinations

31 USC 3803.

Reports.
Ante, p. 1937.

"(a)(1) The investigating official of an authority may investigate allegations that a person is liable under section 3802 of this title and shall report the findings and conclusions of such investigation to the reviewing official of the authority. The preceding sentence does not modify any responsibility of an investigating official to report violations of criminal law to the Attorney General.

"(2) If the reviewing official of an authority determines, based upon the report of the investigating official under paragraph (1) of this subsection, that there is adequate evidence to believe that a person is liable under section 3802 of this title, the reviewing official shall transmit to the Attorney General a written notice of the intention of such official to refer the allegations of such liability to a presiding officer of such authority. Such notice shall include—

"(A) a statement of the reasons of the reviewing official for the referral of such allegations;

"(B) a statement specifying the evidence which supports such allegations;

"(C) a description of the claims or statements for which liability under section 3802 of this title is alleged;

"(D) an estimate of the amount of money or the value of property or services requested or demanded in violation of section 3802 of this title; and

"(E) a statement of any exculpatory or mitigating circumstances which may relate to such claims or statements.

"(b)(1) Within 90 days after receipt of a notice from a reviewing official under paragraph (2) of subsection (a), the Attorney General or an Assistant Attorney General designated by the Attorney General shall transmit a written statement to the reviewing official which specifies—

"(A) that the Attorney General or such Assistant Attorney General approves or disapproves the referral to a presiding officer of the allegations of liability stated in such notice;

"(B) in any case in which the referral of allegations is approved, that the initiation of a proceeding under this section with respect to such allegations is appropriate; and

"(C) in any case in which the referral of allegations is disapproved, the reasons for such disapproval.

"(2) A reviewing official may refer allegations of liability to a presiding officer only if the Attorney General or an Assistant Attorney General designated by the Attorney General approves the referral of such allegations in a written statement described in paragraph (1) of this subsection.

"(3) If the Attorney General or an Assistant Attorney General designated by the Attorney General transmits to an authority head a written finding that the continuation of any hearing under this section with respect to a claim or statement may adversely affect any pending or potential criminal or civil action related to such claim or statement, such hearing shall be immediately stayed and may be resumed only upon written authorization of the Attorney General.

"(c)(1) No allegations of liability under section 3802 of this title with respect to any claim made, presented, or submitted by any person shall be referred to a presiding officer under paragraph (2) of subsection (b) if the reviewing official determines that—

"(A) an amount of money in excess of $150,000; or

"(B) property or services with a value in excess of $150,000, is requested or demanded in violation of section 3802 of this title in such claim or in a group of related claims which are submitted at the time such claim is submitted.

Ante, p. 1937.

"(2)(A) Except as provided in subparagraph (B) of this paragraph, no allegations of liability against an individual under section 3802 of this title with respect to any claim or statement made, presented, or submitted, or caused to be made, presented, or submitted, by such individual relating to any benefits received by such individual shall be referred to a presiding officer under paragraph (2) of subsection (b).

"(B) Allegations of liability against an individual under section 3802 of this title with respect to any claim or statement made, presented, or submitted, or caused to be made, presented, or submitted, by such individual relating to any benefits received by such individual may be referred to a presiding officer under paragraph (2) of subsection (b) if—

"(i) such claim or statement is made by such individual in making application for such benefits;

"(ii) such allegations relate to the eligibility of such individual to receive such benefits; and

"(iii) with respect to such claim or statement, the individual—

"(I) has actual knowledge that the claim or statement is false, fictitious, or fraudulent;

"(II) acts in deliberate ignorance of the truth or falsity of the claim or statement; or

"(III) acts in reckless disregard of the truth or falsity of the claim or statement.

"(C) For purposes of this subsection, the term 'benefits' means—

"(i) benefits under the supplemental security income program under title XVI of the Social Security Act;

42 USC 1381.

"(ii) old age, survivors, and disability insurance benefits under title II of the Social Security Act;

42 USC 401.

"(iii) benefits under title XVIII of the Social Security Act;

42 USC 1395.

"(iv) aid to families with dependent children under a State plan approved under section 402(a) of the Social Security Act;

42 USC 602.

"(v) medical assistance under a State plan approved under section 1902(a) of the Social Security Act;

42 USC 1396a.

"(vi) benefits under title XX of the Social Security Act;

42 USC 1397.

"(vii) benefits under the food stamp program (as defined in section 3(h) of the Food Stamp Act of 1977);

7 USC 2012.

"(viii) benefits under chapters 11, 13, 15, 17, and 21 of title 38;

38 USC 301 *et seq.*, 40 *et seq.*, 501 *et seq.*, 601 *et seq.*, 801 *et seq.*

"(ix) benefits under the Black Lung Benefits Act;

"(x) benefits under the special supplemental food program for women, infants, and children established under section 17 of the Child Nutrition Act of 1966;

42 USC 1786.

"(xi) benefits under section 336 of the Older Americans Act;

42 USC 3030f.

"(xii) any annuity or other benefit under the Railroad Retirement Act of 1974;

45 USC 231t.

"(xiii) benefits under the National School Lunch Act;

42 USC 1751 note.

"(xiv) benefits under any housing assistance program for lower income families or elderly or handicapped persons which is administered by the Secretary of Housing and Urban Development or the Secretary of Agriculture;

"(xv) benefits under the Low-Income Home Energy Assistance Act of 1981; and

42 USC 8621 note.

"(xvi) benefits under part A of the Energy Conservation in Existing Buildings Act of 1976, 42 USC 6861.

which are intended for the personal use of the individual who receives the benefits or for a member of the individual's family.

"(d)(1) On or after the date on which a reviewing official is permitted to refer allegations of liability to a presiding officer under subsection (b) of this section, the reviewing official shall mail, by registered or certified mail, or shall deliver, a notice to the person alleged to be liable under section 3802 of this title. Such notice shall specify the allegations of liability against such person and shall state the right of such person to request a hearing with respect to such allegations. *Ante*, p. 1937.

"(2) If, within 30 days after receiving a notice under paragraph (1) of this subsection, the person receiving such notice requests a hearing with respect to the allegations contained in such notice—

"(A) the reviewing official shall refer such allegations to a presiding officer for the commencement of such hearing; and

"(B) the presiding officer shall commence such hearing by mailing by registered or certified mail, or by delivery of, a notice which complies with paragraphs (2)(A) and (3)(B)(i) of subsection (g) to such person.

"(e)(1)(A) Except as provided in subparagraph (B) of this paragraph, at any time after receiving a notice under paragraph (2)(B) of subsection (d), the person receiving such notice shall be entitled to review, and upon payment of a reasonable fee for duplication, shall be entitled to obtain a copy of, all relevant and material documents, transcripts, records, and other materials, which relate to such allegations and upon which the findings and conclusions of the investigating official under paragraph (1) of subsection (a) are based. Records.

"(B) A person is not entitled under subparagraph (A) to review and obtain a copy of any document, transcript, record, or material which is privileged under Federal law.

"(2) At any time after receiving a notice under paragraph (2)(B) of subsection (d), the person receiving such notice shall be entitled to obtain all exculpatory information in the possession of the investigating official or the reviewing official relating to the allegations contained in such notice. The provisions of subparagraph (B) of paragraph (1) do not apply to any document, transcript, record, or other material, or any portion thereof, in which such exculpatory information is contained.

"(f) Any hearing commenced under paragraph (2) of subsection (d) shall be conducted by the presiding officer on the record in order to determine— Records.

"(1) the liability of a person under section 3802 of this title; and

"(2) if a person is determined to be liable under such section, the amount of any civil penalty or assessment to be imposed on such person.

Any such determination shall be based on the preponderance of the evidence.

"(g)(1) Each hearing under subsection (f) of this section shall be conducted—

"(A) in the case of an authority to which the provisions of subchapter II of chapter 5 of title 5 apply, in accordance with— 5 USC 551 *et seq.*

"(i) the provisions of such subchapter to the extent that such provisions are not inconsistent with the provisions of this chapter; and

"(ii) procedures promulgated by the authority head under paragraph (3) of this subsection; or

"(B) in the case of an authority to which the provisions of such subchapter do not apply, in accordance with procedures promulgated by the authority head under paragraphs (2) and (3) of this subsection.

Regulations.

"(2) An authority head of an authority described in subparagraph (B) of paragraph (1) shall by regulation promulgate procedures for the conduct of hearings under this chapter. Such procedures shall include:

"(A) The provision of written notice of the hearing to any person alleged to be liable under section 3802 of this title, including written notice of—

Ante, p. 1937.

"(i) the time, place, and nature of the hearing;

"(ii) the legal authority and jurisdiction under which the hearing is to be held; and

"(iii) the matters of facts and law to be asserted.

"(B) The provision to any person alleged to be liable under section 3802 of this title of opportunities for the submission of facts, arguments, offers of settlement, or proposals of adjustment.

"(C) Procedures to ensure that the presiding officer shall not, except to the extent required for the disposition of ex parte matters as authorized by law—

"(i) consult a person or party on a fact in issue, unless on notice and opportunity for all parties to the hearing to participate; or

"(ii) be responsible to or subject to the supervision or direction of the investigating official or the reviewing official.

"(D) Procedures to ensure that the investigating official and the reviewing official do not participate or advise in the decision required under subsection (h) of this section or the review of the decision by the authority head under subsection (i) of this section, except as provided in subsection (j) of this section.

"(E) The provision to any person alleged to be liable under section 3802 of this title of opportunities to present such person's case through oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

"(F) Procedures to permit any person alleged to be liable under section 3802 of this title to be accompanied, represented, and advised by counsel or such other qualified representative as the authority head may specify in such regulations.

"(G) Procedures to ensure that the hearing is conducted in an impartial manner, including procedures to—

"(i) permit the presiding officer to at any time disqualify himself; and

"(ii) permit the filing, in good faith, of a timely and sufficient affidavit alleging personal bias or another reason for disqualification of a presiding officer or a reviewing official.

Regulations.

"(3)(A) Each authority head shall promulgate by regulation procedures described in subparagraph (B) of this paragraph for the conduct of hearings under this chapter. Such procedures shall be in addition to the procedures described in paragraph (1) or paragraph (2) of this subsection, as the case may be.

"(B) The procedures referred to in subparagraph (A) of this paragraph are:

"(i) Procedures for the inclusion, in any written notice of a hearing under this section to any person alleged to be liable under section 3802 of this title, of a description of the procedures for the conduct of the hearing.

Ante, p. 1937.

"(ii) Procedures to permit discovery by any person alleged to be liable under section 3802 of this title only to the extent that the presiding officer determines that such discovery is necessary for the expeditious, fair, and reasonable consideration of the issues, except that such procedures shall not apply to documents, transcripts, records, or other material which a person is entitled to review under paragraph (1) of subsection (e) or to information to which a person is entitled under paragraph (2) of such subsection. Procedures promulgated under this clause shall prohibit the discovery of the notice required under subsection (a)(2) of this section.

Records.

"(4) Each hearing under subsection (f) of this section shall be held—

"(A) in the judicial district of the United States in which the person alleged to be liable under section 3802 of this title resides or transacts business;

"(B) in the judicial district of the United States in which the claim or statement upon which the allegation of liability under such section was made, presented, or submitted; or

"(C) in such other place as may be agreed upon by such person and the presiding officer who will conduct such hearing.

"(h) The presiding officer shall issue a written decision, including findings and determinations, after the conclusion of the hearing. Such decision shall include the findings of fact and conclusions of law which the presiding officer relied upon in determining whether a person is liable under this chapter. The presiding officer shall promptly send to each party to the hearing a copy of such decision and a statement describing the right of any person determined to be liable under section 3802 of this title to appeal the decision of the presiding officer to the authority head under paragraph (2) of subsection (i).

"(i)(1) Except as provided in paragraph (2) of this subsection and section 3805 of this title, the decision, including the findings and determinations, of the presiding officer issued under subsection (h) of this section are final.

Post, p. 1944.

"(2)(A)(i) Except as provided in clause (ii) of this subparagraph, within 30 days after the presiding officer issues a decision under subsection (h) of this section, any person determined in such decision to be liable under section 3802 of this title may appeal such decision to the authority head.

"(ii) If, within the 30-day period described in clause (i) of this subparagraph, a person determined to be liable under this chapter requests the authority head for an extension of such 30-day period to file an appeal of a decision issued by the presiding officer under subsection (h) of this section, the authority head may extend such period if such person demonstrates good cause for such extension.

"(B) Any authority head reviewing under this section the decision, findings, and determinations of a presiding officer shall not consider any objection that was not raised in the hearing conducted pursuant to subsection (f) of this section unless a demonstration is made of extraordinary circumstances causing the failure to raise the objec-

tion. If any party demonstrates to the satisfaction of the authority head that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at such hearing, the authority head shall remand the matter to the presiding officer for consideration of such additional evidence.

"(C) The authority head may affirm, reduce, reverse, compromise, remand, or settle any penalty or assessment determined by the presiding officer pursuant to this section. The authority head shall promptly send to each party to the appeal a copy of the decision of the authority head and a statement describing the right of any person determined to be liable under section 3802 of this title to judicial review under section 3805 of this title.

Ante, p. 1937.
Infra.

"(j) The reviewing official has the exclusive authority to compromise or settle any allegations of liability under section 3802 of this title against a person without the consent of the presiding officer at any time after the date on which the reviewing official is permitted to refer allegations of liability to a presiding officer under subsection (b) of this section and prior to the date on which the presiding officer issues a decision under subsection (h) of this section. Any such compromise or settlement shall be in writing.

31 USC 3804.

"§ 3804. Subpoena authority

Records.
Reports.
Ante, p. 1939.

"(a) For the purposes of an investigation under section 3803(a)(1) of this title, an investigating official is authorized to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and data not otherwise reasonably available to the authority.

"(b) For the purposes of conducting a hearing under section 3803(f) of this title, a presiding officer is authorized—

"(1) to administer oaths or affirmations; and

"(2) to require by subpoena the attendance and testimony of witnesses and the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence which the presiding officer considers relevant and material to the hearing.

"(c) In the case of contumacy or refusal to obey a subpoena issued pursuant to subsection (a) or (b) of this section, the district courts of the United States shall have jurisdiction to issue an appropriate order for the enforcement of any such subpoena. Any failure to obey such order of the court is punishable by such court as contempt. In any case in which an authority seeks the enforcement of a subpoena issued pursuant to subsection (a) or (b) of this section, the authority shall request the Attorney General to petition any district court in which a hearing under this chapter is being conducted, or in which the person receiving the subpoena resides or conducts business, to issue such an order.

31 USC 3805.

"§ 3805. Judicial review

"(a)(1) A determination by a reviewing official under section 3803 of this title shall be final and shall not be subject to judicial review.

"(2) Unless a petition is filed under this section, a determination under section 3803 of this title that a person is liable under section 3802 of this title shall be final and shall not be subject to judicial review.

"(b)(1)(A) Any person who has been determined to be liable under section 3802 of this title pursuant to section 3803 of this title may obtain review of such determination in—

Ante, pp. 1937, 1939.

"(i) the United States district court for the district in which such person resides or transacts business;

"(ii) the United States district court for the district in which the claim or statement upon which the determination of liability is based was made, presented, or submitted; or

"(iii) the United States District Court for the District of Columbia.

"(B) Such review may be obtained by filing in any such court a written petition that such determination be modified or set aside. Such petition shall be filed—

"(i) only after such person has exhausted all administrative remedies under this chapter; and

"(ii) within 60 days after the date on which the authority head sends such person a copy of the decision of such authority head under section 3803(i)(2) of this title.

"(2) The clerk of the court shall transmit a copy of a petition filed under paragraph (1) of this subsection to the authority and to the Attorney General. Upon receipt of the copy of such petition, the authority shall transmit to the Attorney General the record in the proceeding resulting in the determination of liability under section 3802 of this title. Except as otherwise provided in this section, the district courts of the United States shall have jurisdiction to review the decision, findings, and determinations in issue and to affirm, modify, remand for further consideration, or set aside, in whole or in part, the decision, findings, and determinations of the authority, and to enforce such decision, findings, and determinations to the extent that such decision, findings, and determinations are affirmed or modified.

Records.

"(c) The decisions, findings, and determinations of the authority with respect to questions of fact shall be final and conclusive, and shall not be set aside unless such decisions, findings, and determinations are found by the court to be unsupported by substantial evidence. In concluding whether the decisions, findings, and determinations of an authority are unsupported by substantial evidence, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

Records.

"(d) Any district court reviewing under this section the decision, findings, and determinations of an authority shall not consider any objection that was not raised in the hearing conducted pursuant to section 3803(f) of this title unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at such hearing, the court shall remand the matter to the authority for consideration of such additional evidence.

"(e) Upon a final determination by the district court that a person is liable under section 3802 of this title, the court shall enter a final judgment for the appropriate amount in favor of the United States.

"§ 3806. Collection of civil penalties and assessments

31 USC 3806.

"(a) The Attorney General shall be responsible for judicial enforcement of any civil penalty or assessment imposed pursuant to the provisions of this chapter.

"(b) Any penalty or assessment imposed in a determination which has become final pursuant to this chapter may be recovered in a civil action brought by the Attorney General. In any such action, no matter that was raised or that could have been raised in a hearing conducted under section 3803(f) of this title or pursuant to judicial review under section 3805 of this title may be raised as a defense, and the determination of liability and the determination of amounts of penalties and assessments shall not be subject to review.

Ante, p. 1939.
Ante, p. 1944.

"(c) The district courts of the United States shall have jurisdiction of any action commenced by the United States under subsection (b) of this section.

"(d) Any action under subsection (b) of this section may, without regard to venue requirements, be joined and consolidated with or asserted as a counterclaim, cross-claim, or setoff by the United States in any other civil action which includes as parties the United States and the person against whom such action may be brought.

"(e) The United States Claims Court shall have jurisdiction of any action under subsection (b) of this section to recover any penalty or assessment if the cause of action is asserted by the United States as a counterclaim in a matter pending in such court.

"(f) The Attorney General shall have exclusive authority to compromise or settle any penalty or assessment the determination of which is the subject of a pending petition pursuant to section 3805 of this title or a pending action to recover such penalty or assessment pursuant to this section.

"(g)(1) Except as provided in paragraph (2) of this subsection, any amount of penalty or assessment collected under this chapter shall be deposited as miscellaneous receipts in the Treasury of the United States.

"(2)(A) Any amount of a penalty or assessment imposed by the United States Postal Service under this chapter shall be deposited in the Postal Service Fund established by section 2003 of title 39.

"(B) Any amount of a penalty or assessment imposed by the Secretary of Health and Human Services under this chapter with respect to a claim or statement made in connection with old age and survivors benefits under title II of the Social Security Act shall be deposited in the Federal Old-Age and Survivors Insurance Trust Fund.

42 USC 401.

"(C) Any amount of a penalty or assessment imposed by the Secretary of Health and Human Services under this chapter with respect to a claim or statement made in connection with disability benefits under title II of the Social Security Act shall be deposited in the Federal Disability Insurance Trust Fund.

"(D) Any amount of a penalty or assessment imposed by the Secretary of Health and Human Services under this chapter with respect to a claim or statement made in connection with benefits under part A of title XVIII of the Social Security Act shall be deposited in the Federal Hospital Insurance Trust Fund.

42 USC 1395c.

"(E) Any amount of a penalty or assessment imposed by the Secretary of Health and Human Services under this chapter with respect to a claim or statement made in connection with benefits under part B of title XVIII of the Social Security Act shall be deposited in the Federal Supplementary Medical Insurance Trust Fund.

42 USC 1395j.

"§ 3807. Right to administrative offset 31 USC 3807.

"(a) The amount of any penalty or assessment which has become final under section 3803 of this title, or for which a judgment has been entered under section 3805(e) or 3806 of this title, or any amount agreed upon in a settlement or compromise under section 3803(j) or 3806(f) of this title, may be collected by administrative offset under section 3716 of this title, except that an administrative offset may not be made under this subsection against a refund of an overpayment of Federal taxes, then or later owing by the United States to the person liable for such penalty or assessment.

Taxes.
Ante, p. 1939.
Ante, pp. 1944, 1945.

"(b) All amounts collected pursuant to this section shall be remitted to the Secretary of the Treasury for deposit in accordance with section 3806(g) of this title.

"§ 3808. Limitations 31 USC 3808.

Claims.

"(a) A hearing under section 3803(d)(2) of this title with respect to a claim or statement shall be commenced within 6 years after the date on which such claim or statement is made, presented, or submitted.

"(b) A civil action to recover a penalty or assessment under section 3806 of this title shall be commenced within 3 years after the date on which the determination of liability for such penalty or assessment becomes final.

"(c) If at any time during the course of proceedings brought pursuant to this chapter the authority head receives or discovers any specific information regarding bribery, gratuities, conflict of interest, or other corruption or similar activity in relation to a false claim or statement, the authority head shall immediately report such information to the Attorney General, and in the case of an authority in which an Office of Inspector General is established by the Inspector General Act of 1978 or by any other Federal law, to the Inspector General of that authority.

5 USC app.

"§ 3809. Regulations 31 USC 3809.

"Within 180 days after the date of enactment of this chapter, each authority head shall promulgate rules and regulations necessary to implement the provisions of this chapter. Such rules and regulations shall—

"(1) ensure that investigating officials and reviewing officials are not responsible for conducting the hearing required in section 3803(f) of this title, making the determinations required by subsections (f) and (h) of section 3803 of this title, or making collections under section 3806 of this title; and

"(2) require a reviewing official to include in any notice required by section 3803(a)(2) of this title a statement which specifies that the reviewing official has determined that there is a reasonable prospect of collecting, from a person with respect to whom the reviewing official is referring allegations of liability in such notice, the amount for which such person may be liable.

"§ 3810. Reports 31 USC 3810.

"Not later than October 31 of each year, each authority head shall prepare and transmit to the appropriate committees and subcommittees of the Congress an annual report summarizing actions

taken under this chapter during the most recent 12-month period ending the previous September 30. Such report shall include—

"(1) a summary of matters referred by the investigating official of the authority to the reviewing official of the authority under section 3803(a)(1) of this title during such period;

Ante, p. 1939.

"(2) a summary of matters transmitted to the Attorney General under section 3803(a)(2) of this title during such period;

"(3) a summary of all hearings conducted by presiding officers under section 3803(f) of this title, and the results of such hearings, during such period; and

"(4) a summary of the actions taken during such period to collect any civil penalty or assessment imposed under this chapter.

31 USC 3811.

"§ 3811. Effect on other law

"(a) This chapter does not diminish the responsibility of any agency to comply with the provisions of chapter 35 of title 44.

44 USC 3501 *et seq.*

"(b) This chapter does not supersede the provisions of section 3512 of title 44.

"(c) For purposes of this section, the term 'agency' has the same meaning as in section 3502(1) of title 44.

31 USC 3812.

"§ 3812. Prohibition against delegation

"Any function, duty, or responsibility which this chapter specifies be carried out by the Attorney General or an Assistant Attorney General designated by the Attorney General, shall not be delegated to, or carried out by, any other officer or employee of the Department of Justice.".

(b) TECHNICAL AMENDMENT.—The table of chapters for subtitle III of title 31, United States Code, is amended by inserting after the item relating to chapter 37 the following new item:

"38. Administrative Remedies for False Claims and Statements ..... 3801".

(c) CONFORMING AMENDMENTS.—Section 504(b)(1)(C) of title 5, United States Code, is amended—

(1) by striking out "and" before "(ii)"; and

(2) by inserting before the semicolon a comma and "and (iii) any hearing conducted under chapter 38 of title 31".

Ante, p. 1934.

31 USC 3801 note.

SEC. 6104. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect on the date of enactment of this Act, and shall apply to any claim or statement made, presented, or submitted on or after such date.

TITLE VII—FISCAL PROCEDURES

2 USC 907 note.

SEC. 7001. COST-OF-LIVING ADJUSTMENTS IN CERTAIN FEDERAL BENEFITS.

(a) IN GENERAL.—Benefits which are payable in calendar year 1987, 1988, 1989, 1990, or 1991, under programs listed in section 257(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), including any cost-of-living adjustment in such benefits, shall not be subject to modification, suspension, or reduction in such calendar year pursuant to a Presidential order issued under such Act.

2 USC 907.

(b) DEFINITION.—For purposes of this section, the term "cost-of-living adjustment" means any increase or change in the amount of a benefit or in standards relating to such benefit under any provision of Federal law which requires such increase or change as a result of any change in the Consumer Price Index (or any component thereof) or any other index which measures costs, prices, or wages.

SEC. 7002. EXEMPT PROGRAMS AND ACTIVITIES.

(a) IN GENERAL.—Section 255(g)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)) is amended by inserting after the item relating to Compensation of the President the following new item:

"Dual benefits payments account (60-0111-0-1-601);".

(b) APPLICATION.—The amendment made by subsection (a) shall apply to fiscal years beginning after September 30, 1986. 2 USC 905 note.

SEC. 7003. COMPUTATION OF RETIREMENT ANNUITY FOR PART-TIME EMPLOYMENT.

(a)(1) Subsection (b) of section 15204 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272; 100 Stat. 335) is repealed. 38 USC 4109.

(2) The provision of title 38, United States Code, that was repealed by such subsection is revived.

(b) Subsection (c) of section 15204 of such Act is redesignated as subsection (b). 5 USC 8339 note.

(c) This section is effective with respect to individuals who retire after September 19, 1986. Effective date. 38 USC 4109 note.

SEC. 7004. REVENUE SHARING PAYMENTS.

Notwithstanding section 6702(b) of title 31, United States Code, the Secretary of the Treasury shall make the installment payment of revenue sharing funds under chapter 67 of such title that is otherwise required to be paid on or before October 5, 1986, by no later than September 30, 1986. 31 USC 6701 *et seq.*

SEC. 7005. HIGHER EDUCATION SAVINGS.

For the purpose of complying with the instructions set forth in the concurrent resolution on the budget for the fiscal year 1987 (S. Con. Res. 120, 99th Congress, agreed to June 27, 1986), the provisions of the bill, S. 1965, as passed by the House of Representatives on September 24, 1986, as passed by the Senate on September 25, 1986, and submitted to the President, shall be treated as if they were included in this Act. *Ante*, p. 1268.

SEC. 7006. MISCELLANEOUS.

(a) Section 20001(d) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended— *Ante*, p. 390.

(1) by striking out "(1)(A) above if" in paragraph (2) and inserting in lieu thereof "paragraph (1)(A) if the Chairman and Ranking Minority Member of the Committee on the Budget and the Chairman and Ranking Minority Member of the Committee which reported the provision certify that";

(2) by striking out "it is designed to mitigate the" in clause (A of such paragraph and inserting in lieu thereof "the provision mitigates";

(3) by striking out "it" in clause (B) of such paragraph and inserting in lieu thereof "the provision"; and

(4) by adding at the end thereof the following new paragrapn.

"(3) A provision reported by a committee shall not be considered extraneous under paragraph (1)(C) if (A) the provision is an integral part of a provision or title, which if introduced as a bill or resolution would be referred to such committee, and the provision sets forth the procedure to carry out or implement the substantive provisions that were reported and which fall within the jurisdiction of such committee; or (B) the provision states an exception to, or a special application of, the general provision or title of which it is a part and such general provision or title if introduced as a bill or resolution would be referred to such committee.".

Ante, p. 390.

(b) Section 20001(c) of such Act is amended by striking out "January 2, 1987" and inserting in lieu thereof "January 2, 1988".

(c) Senate Resolution 286 (99th Congress, 2d Session) is amended by striking "section 1201" each place it appears and inserting in lieu thereof "section 20001"

20 USC 1063.

SEC. 7007. MODIFICATION OF TITLE III, PART B, HIGHER EDUCATION ACT ALLOCATION FORMULA.

Section 324 of the Higher Education Act (as amended by the Higher Education Amendments of 1986) is amended—

Ante, p. 1296.

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(2) by inserting after subsection (c) the following new subsection:

"(d) MINIMUM ALLOTMENT.—(1) Notwithstanding subsections (a), (b), and (c), the amount allotted to each part B institution under this section shall not be less than $350,000.

Ante, p. 1307.

"(2) If the amount appropriated pursuant to section 360(a)(2)(A) for any fiscal year is not sufficient to pay the minimum allotment required by paragraph (1) of this subsection to all part B institutions, the amount of such minimum allotments shall be ratably reduced. If additional sums become available for such fiscal year, such reduced allocation shall be increased on the same basis as they were reduced (until the amount allotted equals the minimum allotment required by paragraph (1)).";; and

(3) by striking out "subsection (a), (b), or (c)" in subsection (e) (as redesignated by paragraph (1) of this subsection) and inserting in lieu thereof "subsection (a), (b), (c), or (d)"; and

(4) by amending subsection (c) to read as follows:

Minorities.

"(c) ALLOTMENT; GRADUATE AND PROFESSIONAL STUDENT BASIS.—From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-fourth of that amount as the percentage of graduates per institution, who are admitted to and in attendance at a graduate or professional school in a degree program in disciplines in which Blacks are underrepresented, bears to the percentage of such graduates per institution for all part B institutions."

SEC. 7008. USE OF URBAN RENEWAL LAND DISPOSITION PROCEEDS.

Massachusetts.

Notwithstanding any other provision of law or other requirement, the City of Boston in the State of Massachusetts is authorized to retain any land disposition proceeds from the financially closed-out Government Center Urban Renewal Project (NO MASS. R-35) not paid to the Department of Housing and Urban Development, and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of

the Housing and Community Development Act of 1974. The City of Boston shall retain such proceeds in a lump sum and shall be entitled to retain and use all past and future earnings from such proceeds, including any interest. 42 USC 5301.

TITLE VIII—REVENUES, TRADE, AND RELATED PROGRAMS

Subtitle A—Revenue Provisions

PART I—INCREASES IN CERTAIN PENALTIES

SEC. 8001. INCREASE IN PENALTY FOR UNDERPAYMENTS OF TAX DEPOSITS.

(a) IN GENERAL.—Subsection (a) of section 6656 of the Internal Revenue Code of 1954 (relating to underpayment of deposits) is amended by striking out "5 percent" and inserting in lieu thereof "10 percent". *Post*, p. 2095; 26 USC 6656.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to penalties assessed after the date of the enactment of this Act. 26 USC 6656 note.

SEC. 8002. INCREASE IN PENALTY FOR SUBSTANTIAL UNDERSTATEMENT OF LIABILITY.

(a) IN GENERAL.—Subsection (a) of section 6661 of the Internal Revenue Code of 1954 (relating to substantial understatement of liability) is amended to read as follows: 26 USC 6661.

"(a) ADDITION TO TAX.—If there is a substantial understatement of income tax for any taxable year, there shall be added to the tax an amount equal to 25 percent of the amount of any underpayment attributable to such understatement."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to penalties assessed after the date of the enactment of this Act. 26 USC 6661 note.

(c) REPEAL OF INCREASE IN PENALTY BY TAX REFORM ACT OF 1986.—Section 1504 of the Tax Reform Act of 1986 (relating to increase in penalty for substantial understatement of liability) is hereby repealed. 26 USC 6661, 6661 note. *Post*, p. 2743.

PART II—CERTAIN EXCISE TAX DEPOSITS ACCELERATED

SEC. 8011. CERTAIN EXCISE TAX DEPOSITS ACCELERATED.

(a) TOBACCO.—

(1) IN GENERAL.—Paragraph (2) of section 5703(b) of the Internal Revenue Code of 1954 (relating to method of payment of tax) is amended to read as follows: *Post*, p. 2095; 26 USC 5703.

"(2) TIME FOR PAYMENT OF TAXES.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, in the case of taxes on tobacco products and cigarette papers and tubes removed during any semimonthly period under bond for deferred payment of tax, the last day for payment of such taxes shall be the 14th day after the last day of such semimonthly period.

"(B) IMPORTED ARTICLES.—In the case of tobacco products and cigarette papers and tubes which are imported into the United States—

"(i) IN GENERAL.—The last day for payment of tax shall be the 14th day after the date on which the article is entered into the customs territory of the United States.

"(ii) SPECIAL RULE FOR ENTRY FOR WAREHOUSING.—Except as provided in clause (iv), in the case of an entry for warehousing, the last day for payment of tax shall not be later than the 14th day after the date on which the article is removed from the 1st such warehouse.

"(iii) FOREIGN TRADE ZONES.—Except as provided in clause (iv) and in regulations prescribed by the Secretary, articles brought into a foreign trade zone shall, notwithstanding any other provision of law, be treated for purposes of this subsection as if such zone were a single customs warehouse.

"(iv) EXCEPTION FOR ARTICLES DESTINED FOR EXPORT.—Clauses (ii) and (iii) shall not apply to any article which is shown to the satisfaction of the Secretary to be destined for export.

"(C) TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES BROUGHT INTO THE UNITED STATES FROM PUERTO RICO.—In the case of tobacco products and cigarette papers and tubes which are brought into the United States from Puerto Rico, the last day for payment of tax shall be the 14th day after the date on which the article is brought into the United States.

"(D) SPECIAL RULE WHERE 14TH DAY FALLS ON SATURDAY, SUNDAY, OR HOLIDAY.—Notwithstanding section 7503, if, but for this subparagraph, the due date under this paragraph would fall on a Saturday, Sunday, or a legal holiday (as defined in section 7503), such due date shall be the immediately preceding day which is not a Saturday, Sunday, or such a holiday."

(2) TECHNICAL AMENDMENT.—Subsection (c) of section 5704 of such Code (relating to tobacco products and cigarette papers and tubes released in bond from customs custody) is amended by striking out "to a manufacturer of tobacco products or cigarette papers and tubes or".

(b) DISTILLED SPIRITS, WINES, AND BEER.—

(1) IN GENERAL.—Subsection (d) of section 5061 of such Code (relating to method of collecting tax) is amended to read as follows:

"(d) TIME FOR COLLECTING TAX ON DISTILLED SPIRITS, WINES, AND BEER.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, in the case of distilled spirits, wines, and beer to which this part applies (other than subsection (b) of this section) which are withdrawn under bond for deferred payment of tax, the last day for payment of such tax shall be the 14th day after the last day of the semimonthly period during which the withdrawal occurs.

"(2) IMPORTED ARTICLES.—In the case of distilled spirits, wines, and beer which are imported into the United States (other than in bulk containers)—

"(A) IN GENERAL.—The last day for payment of tax shall be the 14th day after the date on which the article is entered into the customs territory of the United States.

"(B) SPECIAL RULE FOR ENTRY FOR WAREHOUSING.—Except as provided in subparagraph (D), in the case of an entry for warehousing, the last day for payment of tax shall not be later than the 14th day after the date on which the article is removed from the 1st such warehouse.

"(C) FOREIGN TRADE ZONES.—Except as provided in subparagraph (D) and in regulations prescribed by the Secretary, articles brought into a foreign trade zone shall, notwithstanding any other provision of law, be treated for purposes of this subsection as if such zone were a single customs warehouse.

"(D) EXCEPTION FOR ARTICLES DESTINED FOR EXPORT.—Subparagraphs (B) and (C) shall not apply to any article which is shown to the satisfaction of the Secretary to be destined for export.

"(3) DISTILLED SPIRITS, WINES, AND BEER BROUGHT INTO THE UNITED STATES FROM PUERTO RICO.—In the case of distilled spirits, wines, and beer which are brought into the United States (other than in bulk containers) from Puerto Rico, the last day for payment of tax shall be the 14th day after the date on which the article is brought into the United States.

"(4) SPECIAL RULE WHERE 14TH DAY FALLS ON SATURDAY, SUNDAY, OR HOLIDAY.—Notwithstanding section 7503, if, but for this paragraph, the due date under this subsection for payment of tax would fall on a Saturday, Sunday, or a legal holiday (within the meaning of section 7503), such due date shall be the immediately preceding day which is not a Saturday, Sunday, or such a holiday."

(2) TECHNICAL AMENDMENT.—Paragraph (2) of section 5054(a) of such Code (relating to determination and collection of tax on beer) is amended by striking out all that follows "or," and inserting in lieu thereof "if entered for warehousing, at the time of removal from the 1st such warehouse".

(c) EFFECTIVE DATES.— 26 USC 5061 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to removals during semimonthly periods ending on or after December 31, 1986.

(2) IMPORTED ARTICLES, ETC.—Subparagraphs (B) and (C) of section 5703(b)(2) of the Internal Revenue Code of 1954 (as added by this section), paragraphs (2) and (3) of section 5061(d) of such Code (as amended by this section), and the amendments made by subsections (a)(2) and (b)(2) shall apply to articles imported, entered for warehousing, or brought into the United States or a foreign trade zone after December 15, 1986. 26 USC 5703.

(3) SPECIAL RULE FOR DISTILLED SPIRITS AND TOBACCO FOR SEMIMONTHLY PERIOD ENDING DECEMBER 15, 1986.—With respect to remittances of—

(A) taxes imposed on distilled spirits by section 5001 or 7652 of such Code, and

(B) taxes imposed on tobacco products and cigarette papers and tubes by section 5701 or 7652 of such Code,

for the semimonthly period ending December 15, 1986, the last day for payment of such remittances shall be January 14, 1987.

(4) TREATMENT OF SMOKELESS TOBACCO IN INVENTORY ON JUNE 30, 1986.—The tax imposed by section 5701(e) of the Internal Revenue Code of 1954 shall not apply to any smokeless tobacco which—

26 USC 5701.

(A) on June 30, 1986, was in the inventory of the manufacturer or importer, and

(B) on such date was in a form ready for sale.

PART III—TAX TREATMENT OF CONRAIL PUBLIC SALE

45 USC 1347.

SEC. 8021. TAX TREATMENT OF CONRAIL PUBLIC SALE.

(a) TREATMENT AS NEW CORPORATION.—

(1) IN GENERAL.—For periods after the public sale, for purposes of the Internal Revenue Code of 1954, Conrail shall be treated as a new corporation which purchased all of its assets as of the beginning of the day after the date of the public sale for an amount equal to the deemed purchase price.

Post, p. 2095.

(2) ALLOCATION AMONG ASSETS.—The deemed purchase price shall be allocated among the assets of Conrail in accordance with the temporary regulations prescribed under section 338 of the Internal Revenue Code of 1954 (as such regulations were in effect on the date of the enactment of this Act). The Secretary shall establish specific guidelines for carrying out the preceding sentence so that the basis of each asset will be clearly ascertainable. For purposes of applying the regulations referred to in the first sentence, accounts receivable and materials and supplies shall be treated as cash equivalents.

26 USC 338.

(3) DEEMED PURCHASE PRICE.—For purposes of this subsection, the deemed purchase price is an amount equal to the gross amount received pursuant to the public sale, multiplied by a fraction—

(A) the numerator of which is 100 percent, and

Securities.

(B) the denominator of which is the percentage (by value) of the stock of Conrail sold in the public sale.

The amount determined under the preceding sentence shall be adjusted under regulations prescribed by the Secretary for liabilities of Conrail and other relevant items.

(b) NO INCOME FROM CANCELLATION OF DEBT OR PREFERRED STOCK.—No amount shall be included in the gross income of any person by reason of any cancellation of any obligation (or preferred stock) of Conrail in connection with the public sale.

(c) DISALLOWANCE OF CERTAIN DEDUCTIONS.—No deduction shall be allowed to Conrail for any amount which is paid after the date of the public sale to employees of Conrail for services performed on or before the date of the public sale.

(d) WAIVER OF CERTAIN EMPLOYEE STOCK OWNERSHIP PLAN PROVISIONS.—For purposes of determining whether the employee stock ownership plans of Conrail meet the qualifications of sections 401 and 501 of the Internal Revenue Code of 1954—

26 USC 401, 501.

(1) the limits of section 415 of such Code (relating to limitations on benefits and contributions under qualified plans) shall not apply with respect to interests in stock transferred pursuant to this Act or a law heretofore enacted, and

(2) the 2-year waiting period for withdrawals shall not apply to withdrawals of amounts (or shares) in participants accounts in connection with the public sale.

(e) DEFINITIONS.—For purposes of this section—

(1) CONRAIL.—The term "Conrail" means the Consolidated Rail Corporation. Such term includes any corporation which was a subsidiary of Conrail immediately before the public sale.

(2) PUBLIC SALE.—The term "public sale" means the sale of stock in Conrail pursuant to a public offering under the Conrail Privatization Act. If there is more than 1 public offering under such Act, such term means the sale pursuant to the initial public offering under such Act.

Ante, p. 1892.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

PART IV—TAX ON PETROLEUM AND OIL SPILL LIABILITY TRUST FUND

Subpart A—Tax Provisions if Superfund Amendments Not Enacted

SEC. 8031. TAX ON PETROLEUM.

(a) IN GENERAL.—Subsections (a) and (b) of section 4611 of the Internal Revenue Code of 1954 (relating to environmental tax on petroleum) are each amended by striking out "of 0.79 cent a barrel" and inserting in lieu thereof "at the rate specified in subsection (c)".

Ante, p. 1761; *post*, p. 1956.

(b) INCREASE IN TAX.—Section 4611 of such Code is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) RATE OF TAX.—

"(1) IN GENERAL.—The rate of the taxes imposed by this section is the sum of—

"(A) the Hazardous Substance Superfund financing rate, and

"(B) the Oil Spill Liability Trust Fund financing rate.

"(2) RATES.—For purposes of paragraph (1)—

"(A) the Hazardous Substance Superfund financing rate is 0.79 cent a barrel, and

"(B) the Oil Spill Liability Trust Fund financing rate is 1.3 cents a barrel."

(c) CREDIT AGAINST PORTION OF TAX ATTRIBUTABLE TO OIL SPILL RATE.—Section 4612 of such Code (relating to definitions and special rules) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

Ante, p. 1761.

"(c) CREDIT AGAINST PORTION OF TAX ATTRIBUTABLE TO OIL SPILL RATE.—There shall be allowed as a credit against so much of the tax imposed by section 4611 as is attributable to the Oil Spill Liability Trust Fund financing rate for any period an amount equal to the excess of—

"(1) the sum of—

"(A) the aggregate amounts paid by the taxpayer before January 1, 1987, into the Deepwater Port Liability Trust Fund and the Offshore Oil Pollution Compensation Fund, and

"(B) the interest accrued on such amounts before such date, over

"(2) the amount of such payments taken into account under this subsection for all prior periods."

(d) CONFORMING AMENDMENTS.—

(1) Subsection (e) of section 4611 of such Code (relating to application of taxes), as redesignated by subsection (b), is amended to read as follows:

"(e) APPLICATION OF TAXES.—

"(1) SUPERFUND RATE.—The Hazardous Substance Superfund financing rate under subsection (c) shall not apply after September 30, 1985.

"(2) OIL SPILL RATE.—

"(A) IN GENERAL.—Except as provided in subparagraph (C), the Oil Spill Liability Trust Fund financing rate under subsection (c) shall apply on and after the commencement date and before January 1, 1992.

"(B) COMMENCEMENT DATE.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'commencement date' means the later of—

"(I) February 1, 1987, or

"(II) the 1st day of the 1st calendar month beginning more than 30 days after the date of the enactment of qualified authorizing legislation.

"(ii) QUALIFIED AUTHORIZING LEGISLATION.—For purposes of clause (i), the term 'qualified authorizing legislation' means any law enacted before September 1, 1987, which is substantially identical to subtitle E of title VI, or subtitle D of title VIII, of H.R. 5300 of the 99th Congress as passed the House of Representatives.

"(C) NO TAX IF AMOUNTS COLLECTED EXCEED $300,000,000.—

"(i) ESTIMATES BY SECRETARY.—The Secretary as of the close of each calendar quarter (and at such other times as the Secretary determines appropriate) shall make an estimate of the amount of taxes which will be collected under this section (to the extent attributable to the Oil Spill Liability Trust Fund financing rate) during the period beginning on the commencement date and ending on December 31, 1991.

"(ii) TERMINATION IF $300,000,000 CREDITED BEFORE JANUARY 1, 1992.—If the Secretary estimates under clause (i) that more than $300,000,000 will be credited to the Fund before January 1, 1992, the Oil Spill Liability Trust Fund financing rate shall not apply after the date on which (as estimated by the Secretary) $300,000,000 will be so credited to the Fund."

(2) Subsection (c) of section 4661 of such Code (relating to termination of tax on certain chemicals) is amended to read as follows:

Post, p. 1958.

"(c) TERMINATION.—The tax imposed by this section shall not apply after September 30, 1985."

(3) Paragraph (1) of section 221(b) of the Hazardous Substance Response Revenue Act of 1980 (relating to transfers to Response Trust Fund) is amended by adding at the end thereof the following:

Ante, p. 1774.

"In the case of the tax imposed by section 4611, subparagraph (A) shall apply only to so much of such tax as is attributable to

the Hazardous Substance Superfund financing rate under section 4611(c)."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the commencement date (as defined in section 4611(e)(2) of the Internal Revenue Code of 1954, as added by this section). *Ante*, p. 1956.

(2) COORDINATION WITH SUPERFUND REAUTHORIZATION.—The amendments made by this section shall not take effect if the Superfund Amendments and Reauthorization Act of 1986 is enacted. *Ante*, p. 1613.

Subpart B—Tax Provisions If Superfund Amendments Enacted

SEC. 8032. INCREASE IN ENVIRONMENTAL TAX ON PETROLEUM.

(a) IN GENERAL.—Subsection (c) of section 4611 of the Internal Revenue Code of 1954 (relating to environmental tax on petroleum), as amended by the Superfund Amendments and Reauthorization Act of 1986, is amended to read as follows: *Ante*, pp. 1761, 1955.

"(c) RATE OF TAX.—

"(1) IN GENERAL.—The rate of the taxes imposed by this section is the sum of—

"(A) the Hazardous Substance Superfund financing rate, and

"(B) the Oil Spill Liability Trust Fund financing rate.

"(2) RATES.—For purposes of paragraph (1)—

"(A) the Hazardous Substance Superfund financing rate is—

"(i) except as provided in clause (ii), 8.2 cents a barrel, and

"(ii) 11.7 cents a barrel in the case of the tax imposed by subsection (a)(2), and

"(B) the Oil Spill Liability Trust Fund financing rate is 1.3 cents a barrel."

(b) CREDIT AGAINST PORTION OF TAX ATTRIBUTABLE TO OIL SPILL RATE.—Section 4612 of such Code (relating to definitions and special rules), as so amended, is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection: *Ante*, pp. 1761, 1955.

"(d) CREDIT AGAINST PORTION OF TAX ATTRIBUTABLE TO OIL SPILL RATE.—There shall be allowed as a credit against so much of the tax imposed by section 4611 as is attributable to the Oil Spill Liability Trust Fund financing rate for any period an amount equal to the excess of—

"(1) the sum of—

"(A) the aggregate amounts paid by the taxpayer before January 1, 1987, into the Deepwater Port Liability Trust Fund and the Offshore Oil Pollution Compensation Fund, and

"(B) the interest accrued on such amounts before such date, over

"(2) the amount of such payments taken into account under this subsection for all prior periods."

(c) CONFORMING AMENDMENTS.—

Ante, pp. 1761, 1955.

(1) Subsection (e) of section 4611 of such Code (relating to application of taxes), as so amended, is amended—

(A) in the subsection heading by striking out "TAXES" and inserting in lieu thereof "HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE",

(B) in paragraph (1) by striking out "the taxes imposed by this section" and inserting in lieu thereof "the Hazardous Substance Superfund financing rate under this section",

(C) in paragraphs (2) and (3)(A) after "this section" by inserting "(to the extent attributable to the Hazardous Substance Superfund financing rate)", and

(D) in paragraph (3)(B) by striking out "no tax shall be imposed under this section" and inserting in lieu thereof "the Hazardous Substance Superfund financing rate under this section shall not apply".

(2) Section 4611 of such Code, as so amended, is amended by adding at the end thereof the following new subsection:

"(f) APPLICATION OF OIL SPILL LIABILITY TRUST FUND FINANCING RATE.—

"(1) IN GENERAL.—Except as provided in paragraph (3), the Oil Spill Liability Trust Fund financing rate under subsection (c) shall apply on and after the commencement date and before January 1, 1992.

"(2) COMMENCEMENT DATE.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'commencement date' means the later of—

"(i) February 1, 1987, or

"(ii) the 1st day of the 1st calendar month beginning more than 30 days after the date of the enactment of qualified authorizing legislation.

"(B) QUALIFIED AUTHORIZING LEGISLATION.—For purposes of subparagraph (A), the term 'qualified authorizing legislation' means any law enacted before September 1, 1987, which is substantially identical to subtitle E of title VI, or subtitle D of title VIII, of H.R. 5300 of the 99th Congress as passed the House of Representatives.

"(3) NO TAX IF AMOUNTS COLLECTED EXCEED $300,000,000.—

"(A) ESTIMATES BY SECRETARY.—The Secretary as of the close of each calendar quarter (and at such other times as the Secretary determines appropriate) shall make an estimate of the amount of taxes which will be collected under this section (to the extent attributable to the Oil Spill Liability Trust Fund financing rate) during the period beginning on the commencement date and ending on December 31, 1991.

"(B) TERMINATION IF $300,000,000 CREDITED BEFORE JANUARY 1, 1992.—If the Secretary estimates under subparagraph (A) that more than $300,000,000 will be credited to the Fund before January 1, 1992, the Oil Spill Liability Trust Fund financing rate shall not apply after the date on which (as estimated by the Secretary) $300,000,000 will be so credited to the Fund."

Ante, pp. 1761, 1956.

(3) Sections 4661(c) and 4671(e) of such Code (relating to termination of environmental taxes) are each amended by striking out "no tax is imposed under section 4611(a)" and inserting in lieu thereof "the Hazardous Substance Superfund financing rate under section 4611 does not apply".

(4) Subsection (b) of section 9507 of such Code (relating to transfers to Superfund) is amended by adding at the end thereof the following:

Infra; post, p. 1962.

"In the case of the tax imposed by section 4611, paragraph (1) shall apply only to so much of such tax as is attributable to the Hazardous Substance Superfund financing rate under section 4611(c)."

Ante, pp. 1955, 1957.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the commencement date (as defined in section 4611(f)(2) of the Internal Revenue Code of 1954, as added by this section).

26 USC 4611 note.

Ante, p. 1958.

(2) COORDINATION WITH SUPERFUND REAUTHORIZATION.—The amendments made by this section shall take effect only if the Superfund Amendments and Reauthorization Act of 1986 is enacted.

Ante, p. 1613.

Subpart C—Oil Spill Liability Trust Fund

SEC. 8033. OIL SPILL LIABILITY TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to establishment of trust funds) is amended by adding after section 9506 the following new section:

Post, p. 2095; 26 USC 9501.

"SEC. 9507. OIL SPILL LIABILITY TRUST FUND.

Post, p. 1962; 26 USC 9507.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Oil Spill Liability Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Oil Spill Liability Trust Fund amounts equivalent to—

"(1) taxes received in the Treasury under section 4611 (relating to environmental tax on petroleum) to the extent attributable to the Oil Spill Liability Trust Fund financing rate under section 4611(c),

"(2) amounts recovered, collected, or received under subtitle A of the Comprehensive Oil Pollution Liability and Compensation Act,

"(3) amounts remaining (on the 1st day the Oil Spill Liability Trust Fund financing rate under section 4611(c) applies) in the Deep Water Port Liability Fund established by section 18(f) of the Deep Water Port Act of 1974,

33 USC 1517.

"(4) amounts remaining (on such date) in the Offshore Oil Pollution Compensation Fund established under section 302 of the Outer Continental Shelf Lands Act Amendments of 1978, and

43 USC 1812.

"(5) amounts credited to such trust fund under section 311(s) of the Federal Water Pollution Control Act.

33 USC 1321.

"(c) EXPENDITURES.—

"(1) GENERAL EXPENDITURE PURPOSES.—

"(A) IN GENERAL.—Amounts in the Oil Spill Liability Trust Fund shall be available, as provided in appropriation Acts, only for purposes of making expenditures for—

"(i) the payment of removal costs described in the Comprehensive Oil Pollution Liability and Compensation Act,

"(ii) the payment of claims under the Comprehensive Oil Pollution Liability and Compensation Act for damage which is not otherwise compensated,

"(iii) carrying out subsections (c), (d), (i), and (l) of section 311 of the Federal Water Pollution Control Act with respect to any discharge of oil (as defined in such section),

33 USC 1321.

"(iv) carrying out section 5 of the Intervention on the High Seas Act relating to oil pollution or the substantial threat of oil pollution,

33 USC 1474.

"(v) the payment of all expenses of administration incurred by the Federal Government under the Comprehensive Oil Pollution Liability and Compensation Act, and

"(vi) the payment of contributions to the International Fund under such Act.

For purposes of this subparagraph, references to the Comprehensive Oil Pollution Liability and Compensation Act shall be treated as references to qualified authorizing legislation (as defined in section 4611).

Ante, pp. 1761, 1955.

"(B) SPECIAL RULES.—

"(i) PAYMENTS TO GOVERNMENTS ONLY FOR REMOVAL COSTS AND NATURAL RESOURCE DAMAGE ASSESSMENTS AND CLAIMS.—Except in the case of payments described in subparagraph (A)(v), amounts shall be available under subparagraph (A) for payments to any government only for—

"(I) removal costs and natural resource damage assessments and claims, and

"(II) administrative expenses related to such costs, assessments, or claims.

"(ii) RESTRICTIONS ON CONTRIBUTIONS TO INTERNATIONAL FUND.—Under regulations prescribed by the Secretary, amounts shall be available under subparagraph (A) with respect to any contribution to the International Fund only in proportion to the portion of such fund used for a purpose for which amounts may be paid from the Oil Spill Liability Trust Fund.

"(2) LIMITATIONS ON EXPENDITURES.—

"(A) $500,000,000 PER INCIDENT, ETC.—The maximum amount which may be paid from the Oil Spill Liability Trust Fund with respect to—

"(i) any single incident shall not exceed $500,000,000, and

"(ii) natural resource damage assessments and claims in connection with any single incident shall not exceed $250,000,000.

"(B) $30,000,000 MINIMUM BALANCE.—Except in the case of payments described in paragraph (1)(A)(i), a payment may be made from such Trust Fund only if the amount in such Trust Fund after such payment will not be less than $30,000,000.

"(d) AUTHORITY TO BORROW.—

Appropriation authorization.

"(1) IN GENERAL.—There are authorized to be appropriated to the Oil Spill Liability Trust Fund, as repayable advances, such sums as may be necessary to carry out the purposes of such Trust Fund.

"(2) LIMITATION ON AMOUNT OUTSTANDING.—The maximum aggregate amount of repayable advances to the Oil Spill Liability Trust Fund which is outstanding at any one time shall not exceed $500,000,000.

"(3) REPAYMENT OF ADVANCES.—

"(A) IN GENERAL.—Advances made to the Oil Spill Liability Trust Fund shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in such Fund.

"(B) FINAL REPAYMENT.—No advance shall be made to the Oil Spill Liability Trust Fund after December 31, 1991, and all advances to such Fund shall be repaid on or before such date.

"(C) RATE OF INTEREST.—Interest on advances made pursuant to this subsection shall be—

"(i) at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding, and

"(ii) compounded annually.

"(e) LIABILITY OF THE UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

"(1) GENERAL RULE.—Any claim filed against the Oil Spill Liability Trust Fund may be paid only out of such Trust Fund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in the Comprehensive Oil Pollution Liability and Compensation Act (or in any amendment made by such Act) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Oil Spill Liability Trust Fund.

"(3) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Oil Spill Liability Trust Fund has insufficient funds (or is unable by reason of subsection (c)(2)) to pay all of the claims out of such Trust Fund at such time, such claims shall, to the extent permitted under paragraph (1) and such subsection, be paid in full in the order in which they were finally determined."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding after the item relating to section 9506 the following new item:

"Sec. 9507. Oil Spill Liability Trust Fund."

(c) EFFECTIVE DATE.— 26 USC 9509.

(1) IN GENERAL.—The amendments made by this section shall take effect on the commencement date (as defined in section 4611 of the Internal Revenue Code of 1954, as amended by this part). *Ante*, pp. 1761, 1955.

(2) COORDINATION WITH SUPERFUND REAUTHORIZATION.—If the Superfund Amendments and Reauthorization Act of 1986 is enacted— *Ante*, p. 1613.

(A) subsection (a) of this section shall be applied by substituting "section 9508" for "section 9506",

Ante, p. 1959.

(B) section 9507 of the Internal Revenue Code of 1954, as added by this section, is hereby redesignated as section 9509 of such Code, and

(C) in lieu of the amendment made by subsection (b), the table of sections for subchapter A of chapter 98 of such Code is amended by adding after the item relating to section 9508 the following new item:

"Sec. 9509. Oil Spill Liability Trust Fund."

PART V—DENIAL OF CERTAIN TAX BENEFITS WITH RESPECT TO ACTIVITIES IN CERTAIN FOREIGN COUNTRIES

SEC. 8041. DENIAL OF CERTAIN TAX BENEFITS WITH RESPECT TO ACTIVITIES IN CERTAIN FOREIGN COUNTRIES.

(a) DENIAL OF FOREIGN TAX CREDIT.—Section 901 of the Internal Revenue Code of 1954 (relating to taxes of foreign countries and of possessions of the United States), as amended by the Tax Reform Act of 1986, is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

Post, p. 2095; 26 USC 901.

"(j) DENIAL OF FOREIGN TAX CREDIT, ETC., WITH RESPECT TO CERTAIN FOREIGN COUNTRIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this part—

"(A) no credit shall be allowed under subsection (a) for any income, war profits, or excess profits taxes paid or accrued (or deemed paid under section 902 or 960) to any country if such taxes are with respect to income attributable to a period to which this subsection applies to such country, and

"(B) subsections (a), (b), and (c) of section 904 and sections 902 and 960 shall be applied separately with respect to income attributable to such a period from sources within any country so identified.

"(2) COUNTRIES TO WHICH SUBSECTION APPLIES.—

"(A) IN GENERAL.—This subsection shall apply to any foreign country—

"(i) the government of which the United States does not recognize, unless such government is otherwise eligible to purchase defense articles or services under the Arms Export Control Act,

22 USC 2751 note.

"(ii) with respect to which the United States has severed diplomatic relations,

"(iii) with respect to which the United States has not severed diplomatic relations but does not conduct such relations, or

Terrorism.
Ante, p. 874.

"(iv) which the Secretary of State has, pursuant to section 6(j) of the Export Administration Act of 1979, as amended, designated as a foreign country which repeatedly provides support for acts of international terrorisms.

"(B) PERIOD FOR WHICH SUBSECTION APPLIES.—This subsection shall apply to any foreign country described in subparagraph (A) during the period—

"(i) beginning on the later of—

"(I) January 1, 1987, or

"(II) 6 months after such country becomes a country described in subparagraph (A), and

"(ii) ending on the date the Secretary of State certifies to the Secretary of the Treasury that such country is no longer described in subparagraph (A).

"(3) TAXES ALLOWED AS A DEDUCTION.—Section 275 shall not apply to any tax which is not allowable as a credit under subsection (a) by reason of this subsection.

"(4) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations which treat income paid through 1 or more entities as derived from a foreign country to which this subsection applies if such income was, without regard to such entities, derived from such country."

(b) DENIAL OF DEFERRAL OF INCOME.—

(1) GENERAL RULE.—Section 952(a) of such Code (defining subpart F income) is amended—

(A) by striking out "and" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", and", and by inserting immediately after paragraph (4) the following new paragraph:

"(5) the income of such corporation derived from any foreign country during any period during which section 901(j) applies to such foreign country.", and

(B) by adding at the end thereof the following sentence: "For purposes of paragraph (5), the income described therein shall be reduced, under regulations prescribed by the Secretary, so as to take into account deductions (including taxes) properly allocable to such income."

(2) INCOME DERIVED FROM FOREIGN COUNTRY.—Section 952 of such Code (defining subpart F income), as amended by the Tax Reform Act of 1986, is amended by adding at the end thereof the following new subsection:

Post, p. 2095.

"(d) INCOME DERIVED FROM FOREIGN COUNTRY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of subsection (a)(5), including regulations which treat income paid through 1 or more entities as derived from a foreign country to which section 901(j) applies if such income was, without regard to such entities, derived from such country."

Regulations.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1987.

26 USC 901 note.

PART VI—APPROPRIATIONS FOR IRS ENFORCEMENT

SEC. 8051. APPROPRIATIONS FOR IRS ENFORCEMENT.

For purposes of reconciliation, in order to provide for an accurate estimate of revenue raised by increased appropriations for the Internal Revenue Service, the enacted appropriations measure providing funding for the Internal Revenue Service for the fiscal year ending September 30, 1987, will include the following funding levels: for "Salaries and Expenses", $95,147,000; for "Processing Tax Returns", $1,332,902,000; for "Examinations and Appeals", $1,623,162,000; and for "Investigation, Collection, and Taxpayer

Service", $1,196,581,000: *Provided,* That the allocation to the Senate Committee on Appropriations pursuant to section 302(a) of the Budget Act, as amended, under Senate Concurrent Resolution 120, the concurrent resolution on the budget for fiscal year 1987, is increased by $300,000,000 in both new budget authority and outlays.

PART VII—STUDY OF COMMUNICATION SERVICES NOT SUBJECT TO FEDERAL EXCISE TAX

SEC. 8061. STUDY OF COMMUNICATION SERVICES NOT SUBJECT TO FEDERAL EXCISE TAX.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall conduct a study of communication services which are exempt from the tax imposed by section 4251 of the Internal Revenue Code of 1954 by reason of being a private communication service (as defined in section 4252(d) of such Code) or by reason of a specific exemption from such tax under section 4253 of such Code. Such study shall include an estimate of the reduction in tax revenues by reason of each such exemption, shall describe the types of persons which benefit from each such exemption, and a method under which such tax could be extended to private communication services (as so defined). In conducting such study, the Secretary of the Treasury or his delegate shall consult with the Secretary of Commerce and the Chairman of the Federal Communications Commission.

Post, p. 2095; 26 USC 4251.

(b) REPORT.—The report of the study under subsection (a) shall be submitted, not later than June 30, 1987, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

PART VIII—AMENDMENTS RELATED TO TAX REFORM ACT OF 1986

SEC. 8071. TREATMENT OF CERTAIN TRUCKS, ETC.

Subsection (a) of section 204 of the Tax Reform Act of 1986 (relating to additional transitional rules) is amended by adding at the end thereof the following new paragraph:

Post, p. 2095; 26 USC 168 note.

Iowa.

"(40) CERTAIN TRUCKS, ETC.—The amendments made by section 201 shall not apply to trucks, tractor units, and trailers which a privately held truck leasing company headquartered in Des Moines, Iowa, contracted to purchase in September 1985 but only to the extent the aggregate reduction in Federal tax liability by reason of the application of this paragraph does not exceed $8,500,000."

SEC. 8072. APPLICATION OF AT-RISK RULES TO LOW-INCOME HOUSING CREDIT.

(a) IN GENERAL.—Paragraph (1) of section 42(k) of the Internal Revenue Code of 1986 (relating to low-income housing credit), as added by the Tax Reform Act of 1986, is amended by striking out "subparagraph (D)(iv)(I)" and inserting in lieu thereof "subparagraphs (D)(ii)(II) and (D)(iv)(I)".

Post, p. 2095; 26 USC 42.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendment made by section 252(a) of the Tax Reform Act of 1986.

26 USC 42 note.

Post, p. 2095.

SEC. 8073. TREATMENT OF CERTAIN RURAL HOUSING FOR PURPOSES OF TRANSITIONAL RULE FOR LOW-INCOME HOUSING.

(a) IN GENERAL.—Subsection (d) of section 502 of the Tax Reform Act of 1986 (defining qualified investor) is amended by adding at the end thereof the following new paragraph: 26 USC 469 note. *Post*, p. 2095.

"(4) SPECIAL RULE FOR CERTAIN RURAL HOUSING.—In the case of any interest in a qualified low-income housing project which—

"(A) is assisted under section 515 of the Housing Act of 1949 (relating to the Farmers' Home Administration Program), and 42 USC 1485.

"(B) is located in a town with a population of less than 10,000 and which is not part of a metropolitan statistical area,

paragraph (1)(B) shall be applied by substituting '35 percent' for '50 percent' and subsection (b)(1) shall be applied by substituting '5th taxable year' for '6th taxable year'. The preceding sentence shall not apply to any interest unless, on December 31, 1986, at least one-half of the number of payments required with respect to such interest remain to be paid."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in section 502 of the Tax Reform Act of 1986 on the date of its enactment. 26 USC 469 note.

PART IX—COORDINATION WITH OTHER PROVISIONS

SEC. 8081. COORDINATION WITH OTHER PROVISIONS. 26 USC 1 note.

Nothing in any provision of this Act (other than this title) shall be construed as— Taxes.

(1) imposing any tax (or exempting any person or property from any tax),

(2) establishing any trust fund, or

(3) authorizing amounts to be expended from any trust fund.

Subtitle B—Customs Revenues

SEC. 8101. CUSTOMS USER FEES FOR THE PROCESSING OF MERCHANDISE ENTRIES.

(a) AMOUNT OF FEE.—Subsection (a) of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)) is amended by adding at the end thereof the following new paragraphs:

"(9) For the processing of any merchandise (other than an article that is—

"(A) provided for in schedule 8 of the Tariff Schedules of the United States, 19 USC 1202 note.

"(B) a product of an insular possession of the United States, or

"(C) a product of any county listed in General Headnote 3(e)(vi) or (vii) of such Schedules)

that is formally entered, or withdrawn from warehouse for consumption—

"(i) after November 30, 1986, and

"(ii) before October 1, 1987;

a fee in an amount equal to 0.22 percent ad valorem.

"(10) For the processing of any merchandise (other than an

article described in subparagraph (A), (B), or (C) of paragraph (9)) that is formally entered, or withdrawn from warehouse for consumption, during any fiscal year occurring after September 30, 1987; a fee in an amount equal to the lesser of—

"(A) 0.17 percent ad valorem, or

"(B) an ad valorem rate which the Secretary of the Treasury estimates will provide a total amount of revenue during the fiscal year equal to—

"(i) the total amount authorized to be appropriated for such fiscal year to the United States Customs Service for salaries and expenses incurred in conducting commercial operations during such fiscal year, reduced by

"(ii) the excess, if any, of—

"(I) the total amount authorized to be appropriated for such salaries and expenses for such fiscal year, over

"(II) the total amount actually appropriated for such salaries and expenses for such fiscal year;

except that if appropriations are not authorized for a fiscal year, the fee imposed under this paragraph with respect to that year shall be in an amount equal to 0.17 percent ad valorem.".

(b) REDUCTION IN AMOUNT OF FEE.—Subsection (b) of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by adding at the end thereof the following new paragraphs:

Ante, p. 308.

"(8)(A) The fee charged under subsection (a)(9) or (10) with respect to the processing of merchandise shall—

"(i) be paid by the importer of record of the merchandise; and

"(ii) be based on the value of the merchandise as determined under section 402 of the Tariff Act of 1930.

19 USC 1401a.

"(B)(i) By no later than the date that is 5 days after the date on which any funds are appropriated to the United States Customs Service for salaries or expenses incurred in conducting commercial operations, the Secretary of the Treasury shall determine the ad valorem rate of the fee charged under subsection (a)(10) and shall publish the determination in the Federal Register. Such ad valorem rate shall apply with respect to services provided for the processing of entries, and withdrawals from warehouse, for consumption made after the date that is 60 days after the date of such determination.

Federal Register, publication.

"(ii) No determination is required under clause (i) with respect to an appropriation to the United States Customs Service if the funds appropriated are available for less than 60 days.

"(9) The Secretary may reduce by an amount he considers equitable the fees charged under subsection (a) for the processing of merchandise entries at facilities at which users reimburse the United States Customs Service, pursuant to section 9701 of title 31, United States Code, or section 236 of the Trade and Tariff Act of 1984 (19 U.S.C. 58b), for the services that it provides at the facilities.".

(c) PROVISION OF CUSTOMS SERVICES.—(1) Subsection (e) of section 13031(e) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by adding at the end thereof the following new paragraph:

"(4) Notwithstanding any other provision of law, during any period when fees are authorized under subsection (a), no charges, other than such fees, may be collected for—

"(A) any cargo inspection, clearance, or other customs service performed (regardless whether performed outside of normal business hours on an overtime basis); or

"(B) any customs personnel provided;

in connection with the arrival or departure of any commercial vessel, vehicle or aircraft, or its passengers, crew, and cargo, in the United States.".

(2) Paragraph (2) of such subsection (e), as amended by section 1893 of the Tax Reform Act of 1986, is amended by striking out "Paragraph (1)" and inserting "This subsection".

(d) CUSTOMS USER FEE ACCOUNT.—Subsection (f) of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) is amended by adding at the end thereof the following new paragraphs:

"(3) Except as provided in paragraph (2), all funds in the Customs User Fee Account shall only be available, to the extent provided for in appropriation Acts, for the salaries and expenses of the United States Customs Service incurred in conducting commercial operations.

"(4) At the close of fiscal year 1988 and each even-numbered fiscal year occurring thereafter, the Secretary of the Treasury shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding how the fees imposed under subsection (a) should be adjusted in order that the balance of the Customs User Fee Account approximates a zero balance. Before making recommendations regarding any such adjustments, the Secretary of the Treasury shall provide adequate opportunity for public comment. The recommendations shall, as precisely as possible, propose fees which reflect the actual costs to the United States Government for the commercial services provided by the United States Customs Service.". Reports.

(e) TERMINATION OF FEES.—Subsection (j) of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended— 19 USC 58c note. *Ante*, p. 310.

(1) by striking out "provided in paragraph (2)" in paragraph (1) and inserting in lieu thereof "otherwise provided in this subsection"; and

(2) by adding at the end thereof the following new paragraph:

"(3) Fees may not be charged under subsection (a) after September 30, 1989.".

Paragraph (3) shall not apply to any authorization made by title IX of this Act.

SEC. 8102. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1987 FOR THE UNITED STATES CUSTOMS SERVICE.

Section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075) is amended as follows: *Ante*, p. 305.

(1) Subsection (a) is amended—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end thereof the following new paragraph:

"(2) The authorization of the appropriations for the United States Customs Service for each fiscal year after fiscal year 1987 shall specify—

"(A) the amount authorized for the fiscal year for the salaries and expenses of the Service in conducting commercial operations; and

"(B) the amount authorized for the fiscal year for the salaries and expenses of the Service for other than commercial operations."; and

(2) Subsection (b) is amended to read as follows:

Appropriation authorization.

"(b)(1) There are authorized to be appropriated to the Department of the Treasury not to exceed $1,001,180,000 for the salaries and expenses of the United States Customs Service for fiscal year 1987; of which—

"(A) $749,131,000 is for salaries and expenses to maintain current operating levels, and includes such sums as may be necessary to complete the testing of the prototype of the automatic license plate reader program and to implement that program;

"(B) $80,999,000 is for the salaries and expenses of additional personnel to be used in carrying out drug enforcement activities; and

"(C) $171,050,000 is for the operation and maintenance of the air interdiction program of the Service, of which—

"(i) $93,500,000 is for additional aircraft, communications enhancements, and command, control, communications, and intelligence centers, and

"(ii) $350,000 is for a feasibility and application study for a low-level radar detection system in collaboration with the Los Alamos National Laboratory.

"(2) No part of any sum that is appropriated under the authority of paragraph (1) may be used to close any port of entry at which, during fiscal year 1986—

"(A) not less than 2,500 merchandise entries (including informal entries) were made; and

"(B) not less than $1,500,000 in customs revenues were assessed.".

Subtitle C—Public Debt Limit and Related Provisions

31 USC 3101 note.

SEC. 8201. TEMPORARY INCREASE IN PUBLIC DEBT LIMIT.

During the period beginning on the date of the enactment of this Act and ending on May 15, 1987, the public debt limit set forth in subsection (b) of section 3101 of title 31, United States Code, shall be temporarily increased by $189,000,000,000.

SEC. 8202. RESTORATION OF LOST INTEREST TO CERTAIN TRUST FUNDS.

(a) GENERAL RULE.—The Secretary of the Treasury shall pay, from amounts in the general fund of the Treasury not otherwise appropriated, to each qualified fund on the 1st normal interest payment date after the date of the enactment of this Act an amount equal to the interest payment shortfall for such fund.

(b) QUALIFIED FUND.—For purposes of this section, the term "qualified fund" means any fund which is listed in Table III of the Monthly Statement of Public Debt issued by the Department of the Treasury for September 30, 1986, and which has an interest pay-

ment shortfall. Such term shall not include the Department of Defense Military Retirement Fund.

(c) INTEREST PAYMENT SHORTFALL.—For purposes of this section, the term "interest payment shortfall" means, with respect to any fund, the reduction in the interest which would have been earned by such fund during the period beginning with September 30, 1986, and ending with the date of the enactment of this Act as the result of noninvestments, redemptions, and disinvestments with respect to such fund which occurred during such period and which would not have occurred if H.J. Res. 668 (99th Congress, 2d Session), as passed by the House of Representatives on June 26, 1986, had been enacted into law on September 30, 1986. Such amount shall be reduced by any payment to such fund under any other provision of law in respect of such lost interest.

SEC. 8203. RESTORATION OF DEPARTMENT OF DEFENSE MILITARY RETIREMENT FUND.

The Secretary of the Treasury shall immediately issue to the Department of Defense Military Retirement Fund obligations under chapter 31 of title 31, United States Code, which such Secretary, in consultation with the Secretary of Defense, determines would have been issued to such fund on October 1, 1986, if H.J. Res. 668 (99th Congress, 2d session), as passed by the House of Representatives on June 26, 1986, had been enacted into law on September 30, 1986. Such obligations shall be market-based special obligations issued at prices, including accrued interest, prevailing for such obligations on October 1, 1986. Such obligations shall be issued as of October 1, 1986, and the fund shall earn interest on such obligations beginning on October 1, 1986. Such obligations shall be substituted for obligations which are held by such fund on the date of the enactment of this Act (and any uninvested balance on such date in such fund shall be reduced) in a manner which will ensure that, after such substitution (and reduction), the holdings of such fund will replicate to the maximum extent practicable the holdings which would have been held by such fund on such date if such H.J. Res. 668 had been enacted into law on September 30, 1986.

31 USC 3101 *et seq.*

TITLE IX—INCOME SECURITY, MEDICARE, MEDICAID, AND MATERNAL AND CHILD HEALTH PROGRAMS

Subtitle A—OASDI provisions
Subtitle B—Provisions relating to public assistance
Subtitle C—Older Americans pension benefits
Subtitle D—Provisions relating to medicare
Subtitle E—Medicaid and maternal and child health
Subtitle F—Provision relating to access to health care

Subtitle A—OASDI Provisions

SEC. 9001. ELIMINATION OF 3-PERCENT TRIGGER FOR COST-OF-LIVING INCREASES.

(a) ELIMINATION OF TRIGGER.—Section 215(i)(1)(B) of the Social Security Act is amended by striking out "with respect to which the applicable increase percentage is 3 percent or more" and inserting

42 USC 415.

in lieu thereof "with respect to which the applicable increase percentage is greater than zero".

(b) CONFORMING AMENDMENTS.—

42 USC 415.

(1) IN CURRENT LAW.—Section 215(i) of such Act is further amended—

(A)(i) by striking out clause (i) in paragraph (2)(C) and redesignating clauses (ii) and (iii) of such paragraph as clauses (i) and (ii), respectively; and

(ii) by striking out "under clause (ii)" in clause (ii) of such paragraph as so redesignated and inserting in lieu thereof "under clause (i)";

(B) by inserting "and by section 9001 of the Omnibus Budget Reconciliation Act of 1986" after "Social Security Amendments of 1983" in paragraph (4); and

42 USC 1305 note.

(C) by striking out "because the wage increase percentage was less than 3 percent" in paragraph (5)(A)(i) and inserting in lieu thereof "because there was no wage increase percentage greater than zero".

(2) IN APPLICABLE FORMER LAW.—Section 215(i) of such Act, as in effect in December 1978 and applied in certain cases under the provisions of such Act in effect after December 1978, is amended—

(A) by striking out ", by not less than 3 per centum," in paragraph (1)(B); and

(B) by striking out "(C)(i) Whenever" and all that follows down through "(ii) Whenever" in paragraph (2)(C) and inserting in lieu thereof "(C) Whenever".

(c) TECHNICAL AMENDMENT TO SMI PROGRAM.—Section 1839(f)(2)(A) of such Act is amended to read as follows:

42 USC 1395r.

"(A) the monthly premium amount determined under subsection (a)(2) for that January reduced by the amount (if any) by which the monthly benefit under section 202 or 223 for that November, after the deduction of the premium (disregarding subsection (b)) for that individual for that December and after rounding under section 215(g), would exceed the monthly benefit under section 202 or 223 for that December, after the deduction of the monthly premium amount determined under subsection (a)(2) (disregarding subsection (b)) for that individual for that January and after rounding under section 215(g), or".

42 USC 402, 423.

42 USC 415.

42 USC 415 note.

(d) EFFECTIVE DATE.—(1) Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply with respect to cost-of-living increases determined under section 215(i) of the Social Security Act (as currently in effect, and as in effect in December 1978 and applied in certain cases under the provisions of such Act in effect after December 1978) in 1986 and subsequent years.

(2) The amendments made by paragraphs (1)(A) and (2)(B) of subsection (b) shall apply with respect to months after September 1986.

(3) The amendment made by subsection (c) shall apply with respect to monthly premiums (under section 1839 of the Social Security Act) for months after December 1986.

SEC. 9002. DEPOSITS OF SOCIAL SECURITY CONTRIBUTIONS BY STATE AND LOCAL GOVERNMENT EMPLOYERS.

26 USC 3126, 3127; *post*, p. 2095; 26 USC 3121 *et seq.*

(a) RETURNS AND PAYMENTS.—(1) Subchapter C of chapter 21 of the Internal Revenue Code of 1954 is amended by redesignating

section 3126 as section 3127, and by inserting after section 3125 the following new section:

"SEC. 3126. RETURN AND PAYMENT BY GOVERNMENTAL EMPLOYER.

Wages.
26 USC 3126.

"If the employer is a State or political subdivision thereof, or an agency or instrumentality of any one or more of the foregoing, the return of the amount deducted and withheld upon any wages under section 3101 and the amount of the tax imposed by section 3111 may be made by any officer or employee of such State or political subdivision or such agency or instrumentality, as the case may be, having control of the payment of such wages, or appropriately designated for that purpose.".

(2) The table of sections for subchapter C of chapter 21 of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 3126. Return and payment by governmental employer.
"Sec. 3127. Short title.".

(b) TREATMENT OF SERVICE UNDER SECTION 218 AGREEMENTS AS EMPLOYMENT PERFORMED BY EMPLOYEES.—

(1) SERVICE TREATED AS EMPLOYMENT.—(A) Section 3121(b)(7) of such Code is amended—

(i) by striking out "; or" at the end of subparagraph (C) and inserting in lieu thereof a comma;

(ii) by striking out the semicolon at the end of subparagraph (D) and inserting in lieu thereof ", or "; and

(iii) by adding after subparagraph (D) the following new subparagraph:

"(E) service included under an agreement entered into pursuant to section 218 of the Social Security Act;".

Infra.

(B) Section 1402(b) of such Code is amended by striking out "under an agreement entered into pursuant to the provisions of section 218 of the Social Security Act (relating to coverage of State employees), or" in the flush sentence immediately following paragraph (2).

(2) INDIVIDUAL PERFORMING SERVICES TREATED AS EMPLOYEE.—(A) Section 3121(d) of such Code is amended by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

"(3) any individual who performs services that are included under an agreement entered into pursuant to section 218 of the Social Security Act; or".

(B) Section 3306(i) of such Code is amended by striking out "subparagraphs (B) and (C) of paragraph (3)" and inserting in lieu thereof "paragraph (3) and subparagraphs (B) and (C) of paragraph (4)".

(c) CONFORMING AMENDMENTS IN SOCIAL SECURITY ACT.—(1) Subsections (e), (h), (i), (j), (q), (r), (s), (t), and (w) of section 218 of the Social Security Act are repealed; and subsections (f), (g), (k), (l), (m), (n), (o), (p), and (u) of such section are redesignated as subsections (e), (f), (g), (h), (i), (j), (k), (l), and (m), respectively.

42 USC 418.

(2)(A) Section 205(c)(1)(D)(i) of such Act is amended by inserting "(as in effect prior to December 31, 1986)" after "section 218(e)".

42 USC 405.

(B) Section 205(c)(5)(F)(iii) of such Act is amended—

(i) by inserting "(as in effect prior to December 31, 1986)" after "section 218"; and

(ii) by inserting "(as so in effect)" after "subsection (q) of such section".

42 USC 418.

(C) Section 218(d)(6) of such Act is amended—

(i) by striking out "subsection (f)" in subparagraph (A) and inserting in lieu thereof "subsection (e)"; and

(ii) by striking out "subsection (f)(1)" in subparagraph (F) and inserting in lieu thereof "subsection (e)(1)".

(D) Section 218(d)(8)(D) of such Act is amended by striking out "subsection (p)" and inserting in lieu thereof "subsection (l)".

(E) Section 218(e)(1) of such Act (as redesignated by paragraph (1) of this subsection) is amended by striking out "Except as provided in subsection (e)(2), any agreement" and inserting in lieu thereof "Any agreement".

42 USC 424a.

(F) Section 224(a)(2)(B) of such Act is amended by striking out "section 218(k)" and inserting in lieu thereof "section 218(g)".

Wages.
Taxes.
42 USC 418 note.

(d) EFFECTIVE DATE.—The amendments made by this section are effective with respect to payments due with respect to wages paid after December 31, 1986, including wages paid after such date by a State (or political subdivision thereof) that modified its agreement pursuant to the provisions of section 218(e)(2) of the Social Security Act prior to the date of the enactment of this Act; except that in cases where, in accordance with the currently applicable schedule, deposits of taxes due under an agreement entered into pursuant to section 218 of the Social Security Act would be required within 3 days after the close of an eighth-monthly period, such 3-day requirement shall be changed to a 7-day requirement for wages paid prior to October 1, 1987, and to a 5-day requirement for wages paid after September 30, 1987, and prior to October 1, 1988. For wages paid prior to October 1, 1988, the deposit schedule for taxes imposed under sections 3101 and 3111 shall be determined separately from the deposit schedule for taxes withheld under section 3402 if the taxes imposed under sections 3101 and 3111 are due with respect to service included under an agreement entered into pursuant to section 218 of the Social Security Act.

26 USC 3101, 3111.
26 USC 3402.

Subtitle B—Provisions Relating to Public Assistance

SEC. 9101. TARGETING UNDER INCOME AND ELIGIBILITY VERIFICATION SYSTEM.

State and local governments.
42 USC 1520b-7.

Section 1137(a)(4)(C) of the Social Security Act is amended by inserting after "payments" the following: ", and no State shall be required to use such information to verify the eligibility of all recipients".

SEC. 9102. ANNUAL CALCULATION OF FEDERAL PERCENTAGE FOR AFDC PURPOSES.

42 USC 1301 note.
Ante, p. 219.

Section 9528(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (as added by section 9421(a) of this Act) is amended (effective as provided in section 9421(b))—

State and local governments.
42 USC 603, 1396b.

(1) by striking out "payment to a State under section 1903" and inserting in lieu thereof "payments to States under sections 403 and 1903"; and

(2) by inserting "with respect to either such section" after "shall not apply to a State".

SEC. 9103. REQUIREMENT OF STATUTORILY PRESCRIBED PROCEDURES TO PROHIBIT RETROACTIVE MODIFICATION OF CHILD SUPPORT ARREARAGES.

(a) IN GENERAL.—Section 466(a) of the Social Security Act is amended by inserting immediately after paragraph (8) the following new paragraph:

State and local governments. 42 USC 666.

"(9) Procedures which require that any payment or installment of support under any child support order, whether ordered through the State judicial system or through the expedited processes required by paragraph (2), is (on and after the date it is due)—

"(A) a judgment by operation of law, with the full force, effect, and attributes of a judgment of the State, including the ability to be enforced,

"(B) entitled as a judgment to full faith and credit in such State and in any other State, and

"(C) not subject to retroactive modification by such State or by any other State;

except that such procedures may permit modification with respect to any period during which there is pending a petition for modification, but only from the date that notice of such petition has been given, either directly or through the appropriate agent, to the obligee or (where the obligee is the petitioner) to the obligor.".

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

42 USC 666 note.

(2) In the case of a State with respect to which the Secretary of Health and Human Services has determined that State legislation is required in order to conform the State plan approved under part D of title IV of the Social Security Act to the requirements imposed by the amendment made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such part solely by reason of its failure to meet the requirements imposed by such amendment prior to the beginning of the fourth month beginning after the end of the first session of the State legislature which ends on or after the date of the enactment of this Act. For purposes of the preceding sentence, the term "session" means a regular, special, budget, or other session of a State legislature.

State and local governments.

42 USC 651.

Subtitle C—Older Americans Pension Benefits

SEC. 9201. PROHIBITION AGAINST DISCRIMINATION ON THE BASIS OF AGE IN EMPLOYEE PENSION BENEFIT PLANS.

Section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C 623) is amended by adding at the end the following new subsection:

"(i)(1) Except as otherwise provided in this subsection, it shall be unlawful for an employer, an employment agency, a labor organization, or any combination thereof to establish or maintain an employee pension benefit plan which requires or permits—

"(A) in the case of a defined benefit plan, the cessation of an employee's benefit accrual, or the reduction of the rate of an employee's benefit accrual, because of age, or

"(B) in the case of a defined contribution plan, the cessation of allocations to an employee's account, or the reduction of the rate at which amounts are allocated to an employee's account, because of age.

"(2) Nothing in this section shall be construed to prohibit an employer, employment agency, or labor organization from observing any provision of an employee pension benefit plan to the extent that such provision imposes (without regard to age) a limitation on the amount of benefits that the plan provides or a limitation on the number of years of service or years of participation which are taken into account for purposes of determining benefit accrual under the plan.

"(3) In the case of any employee who, as of the end of any plan year under a defined benefit plan, has attained normal retirement age under such plan—

"(A) if distribution of benefits under such plan with respect to such employee has commenced as of the end of such plan year, then any requirement of this subsection for continued accrual of benefits under such plan with respect to such employee during such plan year shall be treated as satisfied to the extent of the actuarial equivalent of in-service distribution of benefits, and

"(B) if distribution of benefits under such plan with respect to such employee has not commenced as of the end of such year in accordance with section 206(a)(3) of the Employee Retirement Income Security Act of 1974 and section 401(a)(14)(C) of the Internal Revenue Code of 1986, and the payment of benefits under such plan with respect to such employee is not suspended during such plan year pursuant to section 203(a)(3)(B) of the Employee Retirement Income Security Act of 1974 or section 411(a)(3)(B) of the Internal Revenue Code of 1986, then any requirement of this subsection for continued accrual of benefits under such plan with respect to such employee during such plan year shall be treated as satisfied to the extent of any adjustment in the benefit payable under the plan during such plan year attributable to the delay in the distribution of benefits after the attainment of normal retirement age.

29 USC 1056.

Post, p. 2095.

29 USC 1053.

Regulations.

The provisions of this paragraph shall apply in accordance with regulations of the Secretary of the Treasury. Such regulations shall provide for the application of the preceding provisions of this paragraph to all employee pension benefit plans subject to this subsection and may provide for the application of such provisions, in the case of any such employee, with respect to any period of time within a plan year.

"(4) Compliance with the requirements of this subsection with respect to an employee pension benefit plan shall constitute compliance with the requirements of this section relating to benefit accrual under such plan.

"(5) Paragraph (1) shall not apply with respect to any employee who is a highly compensated employee (within the meaning of section 414(q) of the Internal Revenue Code of 1986) to the extent provided in regulations prescribed by the Secretary of the Treasury for purposes of precluding discrimination in favor of highly compensated employees within the meaning of subchapter D of chapter 1 of the Internal Revenue Code of 1986.

"(6) A plan shall not be treated as failing to meet the requirements of paragraph (1) solely because the subsidized portion of any

early retirement benefit is disregarded in determining benefit accruals.

"(7) Any regulations prescribed by the Secretary of the Treasury pursuant to clause (v) of section 411(b)(1)(H) of the Internal Revenue Code of 1986 and subparagraphs (C) and (D) of section 411(b)(2) of such Code shall apply with respect to the requirements of this subsection in the same manner and to the same extent as such regulations apply with respect to the requirements of such sections 411(b)(1)(H) and 411(b)(2).

"(8) A plan shall not be treated as failing to meet the requirements of this section solely because such plan provides a normal retirement age described in section 3(24)(B) of the Employee Retirement Income Security Act of 1974 and section 411(a)(8)(B) of the Internal Revenue Code of 1986.

29 USC 1002.
Post, p. 2095.

"(9) For purposes of this subsection—

"(A) The terms 'employee pension benefit plan', 'defined benefit plan', 'defined contribution plan', and 'normal retirement age' have the meanings provided such terms in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

"(B) The term 'compensation' has the meaning provided by section 414(s) of the Internal Revenue Code of 1986.".

SEC. 9202. BENEFIT ACCRUAL BEYOND NORMAL RETIREMENT AGE.

(a) ERISA AMENDMENTS.—

(1) IN GENERAL.—Subsection (a) of section 204 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(a)) is amended to read as follows:

"(a) Each pension plan shall satisfy the requirements of subsection (b)(3), and—

"(1) in the case of a defined benefit plan, shall satisfy the requirements of subsection (b)(1); and

"(2) in the case of a defined contribution plan, shall satisfy the requirements of subsection (b)(2).".

(2) DEFINED BENEFIT PLANS.—Section 204(b)(1) of such Act is amended by adding at the end thereof the following new subparagraph:

"(H)(i) Notwithstanding the preceding subparagraphs, a defined benefit plan shall be treated as not satisfying the requirements of this paragraph if, under the plan, an employee's benefit accrual is ceased, or the rate of an employee's benefit accrual is reduced, because of the attainment of any age.

"(ii) A plan shall not be treated as failing to meet the requirements of this subparagraph solely because the plan imposes (without regard to age) a limitation on the amount of benefits that the plan provides or a limitation on the number of years of service or years of participation which are taken into account for purposes of determining benefit accrual under the plan.

"(iii) In the case of any employee who, as of the end of any plan year under a defined benefit plan, has attained normal retirement age under such plan—

"(I) if distribution of benefits under such plan with respect to such employee has commenced as of the end of such plan year, then any requirement of this subparagraph for continued accrual of benefits under such plan with respect to such employee during such plan year shall be treated as satisfied to the extent

of the actuarial equivalent of in-service distribution of benefits, and

"(II) if distribution of benefits under such plan with respect to such employee has not commenced as of the end of such year in accordance with section 206(a)(3), and the payment of benefits under such plan with respect to such employee is not suspended during such plan year pursuant to section 203(a)(3)(B), then any requirement of this subparagraph for continued accrual of benefits under such plan with respect to such employee during such plan year shall be treated as satisfied to the extent of any adjustment in the benefit payable under the plan during such plan year attributable to the delay in the distribution of benefits after the attainment of normal retirement age.

29 USC 1056.

29 USC 1053.

The preceding provisions of this clause shall apply in accordance with regulations of the Secretary of the Treasury. Such regulations may provide for the application of the preceding provisions of this clause, in the case of any such employee, with respect to any period of time within a plan year.

"(iv) Clause (i) shall not apply with respect to any employee who is a highly compensated employee (within the meaning of section 414(q) of the Internal Revenue Code of 1986) to the extent provided in regulations prescribed by the Secretary of the Treasury for purposes of precluding discrimination in favor of highly compensated employees within the meaning of subchapter D of chapter 1 of the Internal Revenue Code of 1986.

Post, p. 2095.

"(v) A plan shall not be treated as failing to meet the requirements of clause (i) solely because the subsidized portion of any early retirement benefit is disregarded in determining benefit accruals.

Regulations.

"(vi) Any regulations prescribed by the Secretary of the Treasury pursuant to clause (v) of section 411(b)(1)(H) of the Internal Revenue Code of 1986 shall apply with respect to the requirements of this subparagraph in the same manner and to the same extent as such regulations apply with respect to the requirements of such section 411(b)(1)(H).".

29 USC 1054.

(3) DEFINED CONTRIBUTION PLANS.—Section 204(b) of such Act is further amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

"(2)(A) A defined contribution plan satisfies the requirements of this paragraph if, under the plan, allocations to the employee's account are not ceased, and the rate at which amounts are allocated to the employee's account is not reduced, because of the attainment of any age.

"(B) Subparagraph (A) shall not apply with respect to any employee who is a highly compensated employee (within the meaning of section 414(q) of the Internal Revenue Code of 1986) to the extent provided in regulations prescribed by the Secretary of the Treasury for purposes of precluding discrimination in favor of highly compensated employees within the meaning of subchapter D of chapter 1 of the Internal Revenue Code of 1986.

"(C) A plan shall not be treated as failing to meet the requirements of subparagraph (A) solely because the subsidized portion of any early retirement benefit is disregarded in determining benefit accruals.

"(D) Any regulations prescribed by the Secretary of the Treasury pursuant to subparagraphs (C) and (D) of section 411(b)(2) of the Internal Revenue Code of 1986 shall apply with respect to the requirements of this paragraph in the same manner and to the same extent as such regulations apply with respect to the requirements of such section 411(b)(2).". Regulations.

(b) IRC AMENDMENTS.—

(1) DEFINED BENEFIT PLANS.—Section 411(b)(1) of the Internal Revenue Code of 1986 (relating to accrued benefit requirements) is amended— 26 USC 411.

(A) by striking out "GENERAL RULES.—" and inserting in lieu thereof "DEFINED BENEFIT PLANS.—"; AND

(B) by adding at the end thereof the following new subparagraph:

"(H) CONTINUED ACCRUAL BEYOND NORMAL RETIREMENT AGE.—

"(i) IN GENERAL.—Notwithstanding the preceding subparagraphs, a defined benefit plan shall be treated as not satisfying the requirements of this paragraph if, under the plan, an employee's benefit accrual is ceased, or the rate of an employee's benefit accrual is reduced, because of the attainment of any age.

"(ii) CERTAIN LIMITATIONS PERMITTED.—A plan shall not be treated as failing to meet the requirements of this subparagraph solely because the plan imposes (without regard to age) a limitation on the amount of benefits that the plan provides or a limitation on the number of years of service or years of participation which are taken into account for purposes of determining benefit accrual under the plan.

"(iii) ADJUSTMENTS UNDER PLAN FOR DELAYED RETIREMENT TAKEN INTO ACCOUNT.—In the case of any employee who, as of the end of any plan year under a defined benefit plan, has attained normal retirement age under such plan—

"(I) if distribution of benefits under such plan with respect to such employee has commenced as of the end of such plan year, then any requirement of this subparagraph for continued accrual of benefits under such plan with respect to such employee during such plan year shall be treated as satisfied to the extent of the actuarial equivalent of in-service distribution of benefits, and

"(II) if distribution of benefits under such plan with respect to such employee has not commenced as of the end of such year in accordance with section 401(a)(14)(C), and the payment of benefits under such plan with respect to such employee is not suspended during such plan year pursuant to subsection (a)(3)(B), then any requirement of this subparagraph for continued accrual of benefits under such plan with respect to such employee during such plan year shall be treated as satisfied to the extent of any adjustment in the benefit payable under the plan during such plan year attributable to the delay in the distribution of

benefits after the attainment of normal retirement age.

The preceding provisions of this clause shall apply in accordance with regulations of the Secretary. Such regulations may provide for the application of the preceding provisions of this clause, in the case of any such employee, with respect to any period of time within a plan year.

"(iv) DISREGARD OF SUBSIDIZED PORTION OF EARLY RETIREMENT BENEFIT.—A plan shall not be treated as failing to meet the requirements of clause (i) solely because the subsidized portion of any early retirement benefit is disregarded in determining benefit accruals.

Regulations.

"(v) COORDINATION WITH OTHER REQUIREMENTS.—The Secretary shall provide by regulation for the coordination of the requirements of this subparagraph with the requirements of subsection (a), sections 404, 410, and 415, and the provisions of this subchapter precluding discrimination in favor of highly compensated employees.".

Ante, p. 1977.

(2) DEFINED CONTRIBUTION PLANS.—Section 411(b) of such Code is further amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

"(B) by inserting after paragraph (1) the following new paragraph:

"(2) DEFINED CONTRIBUTION PLANS.—

"(A) IN GENERAL.—A defined contribution plan satisfies the requirements of this paragraph if, under the plan, allocations to the employee's account are not ceased, and the rate at which amounts are allocated to the employee's account is not reduced, because of the attainment of any age.

"(B) DISREGARD OF SUBSIDIZED PORTION OF EARLY RETIREMENT BENEFIT.—A plan shall not be treated as failing to meet the requirements of subparagraph (A) solely because the subsidized portion of any early retirement benefit is disregarded in determining benefit accruals.

Regulations.

"(C) APPLICATION TO TARGET BENEFIT PLANS.—The Secretary shall provide by regulation for the application of the requirements of this paragraph to target benefit plans.

"(D) COORDINATION WITH OTHER REQUIREMENTS.—The Secretary may provide by regulation for the coordination of the requirements of this subparagraph with the requirements of subsection (a), sections 404, 410, and 415, and the provisions of this subchapter precluding discrimination in favor of highly compensated employees.".

(3) CONFORMING AMENDMENT.—The first sentence of section 411(a) of such Code (relating to minimum vesting standards) is amended by striking out "paragraph (2) of subsection (b), and" and all that follows through the end thereof and inserting in lieu thereof "subsection (b)(3), and also satisfies, in the case of a defined benefit plan, the requirements of subsection (b)(1) and, in the case of a defined contribution plan, the requirements of subsection (b)(2).".

SEC. 9203. TREATMENT OF INDIVIDUALS HIRED AT AGES NEAR RETIREMENT AGE.

(a) REPEAL OF PROVISIONS PERMITTING CERTAIN PLANS TO EXCLUDE OLDER EMPLOYEES FROM PLAN PARTICIPATION ON THE BASIS OF AGE.—

(1) ERISA AMENDMENT.—Section 202(a)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1052(a)(2)) is amended by striking out "unless—" and all that follows and inserting in lieu thereof a period.

(2) IRC AMENDMENT.—Section 410(a)(2) of the Internal Revenue Code of 1986 (relating to maximum age conditions) is amended by striking out "unless—" and all that follows and inserting in lieu thereof a period.

Post, p. 2095; 26 USC 410.

(b) DELAYED NORMAL RETIREMENT AGE FOR INDIVIDUALS COMMENCING PLAN PARTICIPATION WITHIN 5 YEARS OF ATTAINING NORMAL RETIREMENT AGE UNDER THE PLAN.—

(1) ERISA AMENDMENT.—Subparagraph (B) of section 3(24) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(24)(B)) is amended to read as follows:

"(B) the latest of—

"(i) the time a plan participant attains age 65,

"(ii) in the case of a plan participant who commences participation in the plan within 5 years before attaining normal retirement age under the plan, the 5th anniversary of the time the plan participant commences participation in the plan, or

"(iii) in the case of a plan participant not described in clause (ii), the 10th anniversary of the time the plan participant commences participation in the plan.".

(2) IRC AMENDMENT.—Subparagraph (B) of section 411(a)(8) of the Internal Revenue Code of 1986 (relating to normal retirement age) is amended to read as follows:

26 USC 411.

"(B) the latest of—

"(i) the time a plan participant attains age 65,

"(ii) in the case of a plan participant who commences participation in the plan within 5 years before attaining normal retirement age under the plan, the 5th anniversary of the time the plan participant commences participation in the plan, or

"(iii) in the case of a plan participant not described in clause (ii), the 10th anniversary of the time the plan participant commences participation in the plan.".

SEC. 9204. EFFECTIVE DATE; REGULATIONS.

29 USC 623 note.

(a) APPLICABILITY TO EMPLOYEES WITH SERVICE AFTER 1988.—

(1) IN GENERAL.—The amendments made by sections 9201 and 9202 shall apply only with respect to plan years beginning on or after January 1, 1988, and only to employees who have 1 hour of service in any plan year to which such amendments apply.

(2) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, paragraph (1) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for "January 1, 1988" the date of the commencement of the first plan year beginning on or after the earlier of—

(A) the later of—

(i) January 1, 1988, or

(ii) the date on which the last of such collective bargaining agreements terminate (determined without regard to any extension thereof after February 28, 1986), or

(B) January 1, 1990.

(b) APPLICABILITY OF AMENDMENTS RELATING TO NORMAL RETIREMENT AGE.—The amendments made by section 9203 shall apply only with respect to plan years beginning on or after January 1, 1988, and only with respect to service performed on or after such date.

(c) PLAN AMENDMENTS.—If any amendment made by this subtitle requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 1989, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment, and

(2) such plan amendment applies retroactively to the period after such amendment takes effect and such first plan year.

A pension plan shall not be treated as failing to provide definitely determinable benefits or contributions, or to be operated in accordance with the provisions of the plan, merely because it operates in accordance with this subsection.

Regulations.

(d) INTERAGENCY COORDINATION.—The regulations and rulings issued by the Secretary of Labor, the regulations and rulings issued by the Secretary of the Treasury, and the regulations and rulings issued by the Equal Employment Opportunity Commission pursuant to the amendments made by this subtitle shall each be consistent with the others. The Secretary of Labor, the Secretary of the Treasury, and the Equal Employment Opportunity Commission shall each consult with the others to the extent necessary to meet the requirements of the preceding sentence.

(e) FINAL REGULATIONS.—The Secretary of Labor, the Secretary of the Treasury, and the Equal Employment Opportunity Commission shall each issue before February 1, 1988, such final regulations as may be necessary to carry out the amendments made by this subtitle.

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PART 1—PROVISIONS RELATING TO MEDICARE PART A ONLY

SEC. 9301. CHANGES IN INPATIENT HOSPITAL DEDUCTIBLE.

(a) IN GENERAL.—Section 1813(b) of the Social Security Act (42 U.S.C. 1395e(b)) is amended to read as follows:

"(b)(1) The inpatient hospital deductible for 1987 shall be $520. The inpatient hospital deductible for any succeeding year shall be an amount equal to the inpatient hospital deductible for the preceding calendar year, changed by the applicable percentage increase (as defined in section 1886(b)(3)(B)) which is applied under section 1886(d)(3)(A) for discharges in the fiscal year that begins on October 1 of such preceding calendar year, and adjusted to reflect changes in real case mix (determined on the basis of the most recent case mix data available). Any amount determined under the preceding sentence which is not a multiple of $4 shall be rounded to the nearest multiple of $4 (or, if it is midway between two multiples of $4, to the next higher multiple of $4).

Ante, p. 153.
Post, p. 1983.

"(2) The Secretary shall promulgate the inpatient hospital deductible and all coinsurance amounts under this section between September 1 and September 15 of the year preceding the year to which they will apply.

"(3) The inpatient hospital deductible for a year shall apply to—

"(A) the deduction under the first sentence of subsection (a)(1) for the year in which the first day of inpatient hospital services occurs in a spell of illness, and

"(B) to the coinsurance amounts under subsection (a) for inpatient hospital services and post-hospital extended care services furnished in that year.".

42 USC 1395e note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to inpatient hospital services and post-hospital extended care services furnished on or after January 1, 1987, and to the monthly premium (under part A of title XVIII of the Social Security Act) for months beginning with January 1987.

42 USC 1395c.

42 USC 1395e note.

(c) PROMULGATION OF NEW DEDUCTIBLE.—The Secretary of Health and Human Services shall provide, within 30 days after the date of the enactment of this Act, for the publication of the inpatient hospital deductible, the coinsurance amounts for inpatient hospital services and post-hospital extended care services and the monthly part A premiums for 1987, as modified under the amendment made by subsection (a).

SEC. 9302. APPLICABLE PERCENTAGE INCREASE IN PAYMENTS FOR INPATIENT HOSPITAL SERVICES.

(a) APPLICABLE PERCENTAGE INCREASE.—

(1) IN GENERAL.—Subclause (II) of section 1886(b)(3)(B)(i) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended to read as follows:

"(II) for fiscal year 1987, 1.15 percent, and for fiscal year 1988, the market basket percentage increase (as defined in clause (ii)) minus 2.0 percentage points, and".

Ante, p. 154; *post*, p. 1983.

(2) CONFORMING AMENDMENTS.—(A) Section 1886(d)(3)(A) of such Act is amended by striking "and 1986" and inserting ", 1986, 1987, and 1988".

(B) Section 1886(e)(4) of such Act is amended by striking "determine for each fiscal year (beginning with fiscal year 1987)" and inserting "recommend for fiscal year 1988 an appropriate change factor for inpatient hospital services for discharges in that fiscal year and shall determine for each subsequent fiscal year".

(C) Section 1866(e)(5) of such Act is amended by inserting "recommendation or" before "determination" each place it appears.

42 USC 1395ww note.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to cost reporting periods beginning on or after October 1, 1986 and, for purposes of section 1886(d) of the Social Security Act, for cost reporting periods beginning and discharges occurring on or after October 1, 1986.

(b) SEPARATE OUTLIER OFFSETS FOR URBAN AND RURAL HOSPITALS.—

(1) IN GENERAL.—Section 1886(d)(3)(B) of such Act is amended—

(A) by inserting "for hospitals located in an urban area and for hospitals located in a rural area" after "subparagraph (A)", and

(B) by inserting before the period the following: "for hospitals located in such respective area".

42 USC 1395ww note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to discharges occurring on or after October 1, 1986.

42 USC 1395ww note.

(3) MAINTAINING CURRENT OUTLIER POLICY IN FISCAL YEAR 1987.—For payments made under section 1886(d) of the Social Security Act for discharges occurring in fiscal year 1987—

(A) the proportions under paragraph (3)(B) for hospitals located in urban and rural areas shall be established at such levels as produce the same total dollar reduction under such paragraph as if this section had not been enacted; and

(B) the thresholds and standards used for making additional payments under paragraph (5) of such section shall be the same as those in effect as of October 1, 1986.

(c) COMPUTING URBAN AND RURAL AVERAGES.—Section 1886(d)(3)(A) of such Act is amended by adding at the end the following: "With respect to discharges occurring on or after October 1, 1987, the Secretary shall compute urban and rural averages on the basis of discharge weighting rather than hospital weighting, making appropriate adjustments to ensure that computation on such basis does not result in total payments under this section that are greater or less than the total payments that would have been made under this section but for this sentence, and making appropriate changes in the manner of determining the reductions under subparagraph (C)(ii).". 42 USC 1395ww.

(d) REGIONAL REFERRAL CENTERS.—

(1) CRITERIA.—

(A) IN GENERAL.—Section 1886(d)(5)(C)(i) of such Act is amended—

(i) by inserting "(I)" after "(C)(i)", and

(ii) by adding at the end the following new subclause:

"(II) The Secretary shall provide, under subclause (I), for the classification of a rural hospital as a regional referral center if the hospital has a case mix equal to or greater than the median case mix for hospitals (other than hospitals with approved teaching programs) located in an urban area in the same region (as defined in paragraph (2)(D)), has at least 5,000 discharges a year or, if less, the median number of discharges in urban hospitals in the region in which the hospital is located (or, in the case of a rural osteopathic hospital, meets the criterion established by the Secretary under subclause (I) with respect to the annual number of discharges for such hospitals), and meets any other criteria established by the Secretary under subclause (I).".

(B) EFFECTIVE DATE.—(i) Subject to clause (ii), the amendments made by subparagraph (A) shall apply to payments for discharges occurring on or after October 1, 1986. 42 USC 1395ww note.

(ii) An appeal for classification of a rural hospital as a regional referral center, pursuant to the amendments made by subparagraph (A), which is filed before January 1, 1987, and which is approved shall be effective with respect to discharges occurring on or after October 1, 1986.

(2) EXTENSION OF REGIONAL REFERRAL CENTER CLASSIFICATION.—Any hospital that is classified as a regional referral center under section 1886(d)(5)(C)(i) of the Social Security Act on the date of the enactment of this Act shall continue to be classified as a regional referral center for cost reporting periods beginning on or after October 1, 1986, and before October 1, 1989. 42 USC 1395ww note.

(3) BUDGET-NEUTRAL IMPLEMENTATION.—Paragraph (2) and the amendment made by paragraph (1)(A) shall be implemented in a manner that ensures that total payments under section 1886 of the Social Security Act are not increased or decreased by 42 USC 1395ww note.

reason of the classifications required by such paragraph or amendment.

(4) RURAL SECONDARY SPECIALTY DEMONSTRATION PROJECT.—

Minnesota.

(A) ESTABLISHMENT.—The Secretary of Health and Human Services (in this paragraph referred to as the "Secretary") shall enter into an agreement with Lake Region Hospital and Nursing Home at Fergus Falls, Minnesota, for the purpose of conducting a rural secondary specialty center demonstration project (in this paragraph referred to as the "project") under title XVIII of the Social Security Act.

42 USC 1395.

(B) PURPOSE.—The purpose of this project shall be to determine the effect that a modified system of making payments under part A of such title to rural secondary specialty centers would have on—

42 USC 1395c.

(i) total expenditures under such part, and

(ii) the access of medicare beneficiaries located in rural areas to quality health care.

(C) PAYMENTS.—During the period of the demonstration project, payments under part A of such title shall be made under the project on the basis of average standardized amounts computed for urban areas in the region in which the project is conducted, as adjusted by a rural wage index.

(D) DURATION.—The project shall be of a maximum duration of three years.

(E) REPORTS.—The Secretary shall submit a final report to the Congress on the project not later than six months after the completion of the project.

(e) MISCELLANEOUS PROVISIONS.—

42 USC 1395ww.

(1) ANNUAL ADJUSTMENT.—Section 1886(d)(4)(C) of such Act is amended by striking "in fiscal year 1986 and at least every four fiscal years" and inserting "in fiscal year 1988 and at least annually".

Puerto Rico.

(2) CLARIFYING AUTHORITY TO VARY RATES.—Section 1886(e)(4) of such Act is amended by adding at the end the following new sentence: "The percentage change shall be the same for all subsection (d) hospitals and subsection (d) Puerto Rico hospitals, but may be different from that for other hospitals (and units not included as such hospitals) and may vary among such other hospitals and units.".

(3) NOTICE OF EARLIER PROMULGATION OF PERCENTAGE INCREASE.—Section 1886(e)(3) of such Act is amended—

(A) by inserting "(A)" after "(3)", and

Reports.

(B) by adding at the end the following new subparagraph: "(B) The Secretary, not later than April 1, 1987, for fiscal year 1988 and not later than March 1 before the beginning of each fiscal year (beginning with fiscal year 1989), shall report to the Congress the Secretary's initial estimate of the percentage change that the Secretary will recommend or determine under paragraph (4) with respect to that fiscal year.".

(4) EXTENSION OF SOLE COMMUNITY PROVIDER PROVISION.—Section 1886(d)(5)(C)(ii) of such Act is amended by striking "1986" and inserting "1988".

42 USC 1395ww note.

(f) PROMULGATION OF NEW RATE.—The Secretary of Health and Human Services shall provide, within 30 days after the date of the enactment of this Act, for the publication of the payments rates that will apply under section 1886 of the Social Security Act, for dis-

charges occurring on or after October 1, 1986, taking into account the amendments made by this section, without regard to the provisions of chapter 5 of title 5, United States Code. 5 USC 500 *et seq.*

SEC. 9303. PAYMENTS FOR HOSPITAL CAPITAL-RELATED COSTS.

(a) IN GENERAL.—Section 1886(g) of the Social Security Act (42 U.S.C. 1395ww(g)) is amended by adding at the end the following new paragraph:

"(3)(A) Except as provided in subparagraph (B), in determining the amount of the payments that may be made under this title with respect to all the capital-related costs of inpatient hospital services of a subsection (d) hospital, the Secretary shall reduce the amounts of such payments otherwise established under this title by—

"(i) 3.5 percent for payments attributable to portions of cost reporting periods occurring during fiscal year 1987,

"(ii) 7 percent for payments attributable to portions of cost reporting periods or discharges (as the case may be) occurring during fiscal year 1988, and

"(iii) 10 percent for payments attributable to portions of cost reporting periods or discharges (as the case may be) occurring during fiscal year 1989.

"(B) Subparagraph (A) shall not apply to payments with respect to the capital-related costs of any hospital that is a sole community hospital (as defined in subsection (d)(5)(C)(ii)).

"(C) If the Secretary provides, under subsection (a)(4), for the inclusion of other capital-related costs in operating costs of inpatient hospital services, the Secretary shall provide—

"(i) notwithstanding any other provision of this title, for the continuation of payment under the reasonable cost methodology described in section 1861(v)(1) with respect to capital-related costs of any hospital that is such a sole community hospital for cost reporting periods beginning before October 1, 1990, and 42 USC 1395x.

"(ii) in the design of such payment system that the aggregate payment amounts under this title for such other capital-related costs for payments attributable to portions of cost reporting periods occurring during fiscal year 1988 and fiscal year 1989 shall approximate the aggregate payment amount under this title that would have been made (taking into account the provisions of subparagraphs (A) and (B)) during that fiscal year but for the inclusion of such costs by the Secretary.".

(b) ADDITION OF PUERTO RICO HOSPITALS.—Effective for cost reporting periods beginning and discharges occurring (as the case may be) on or after October 1, 1987, section 1886(g)(3)(A) of the Social Security Act (as amended by subsection (a)) is amended by inserting "and a subsection (d) Puerto Rico hospital" after "subsection (d) hospital".

(c) CLARIFICATION OF SECRETARIAL AUTHORITY TO INCORPORATE PAYMENT FOR OTHER CAPITAL-RELATED COSTS UNDER THE PROSPECTIVE PAYMENT SYSTEM.—Section 1886(a)(4) of such Act is amended by striking "October 1, 1987" and inserting "October 1 of 1987 (or of such later year as the Secretary may, in his discretion, select)". *Ante*, p. 749.

SEC. 9304. COVERAGE OF HOSPITALS IN PUERTO RICO UNDER A DRG PROSPECTIVE PAYMENT SYSTEM.

(a) IN GENERAL.—Section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) is amended by adding at the end the following new paragraph:

42 USC 1395f.
42 USC 1395e.

"(9)(A) Notwithstanding section 1814(b) but subject to the provisions of section 1813, the amount of the payment with respect to the operating costs of inpatient hospital services of a subsection (d) Puerto Rico hospital for inpatient hospital discharges in a fiscal year beginning on or after October 1, 1987, is equal to the sum of—

"(i) 75 percent of the Puerto Rico adjusted DRG prospective payment rate (determined under subparagraph (B) or (C)) for such discharges, and

"(ii) 25 percent of the discharge-weighted average of—

"(I) the national adjusted DRG prospective payment rate (determined under paragraph (3)(D)) for hospitals located in an urban area, and

Rural areas.

"(II) such rate for hospitals located in a rural area, for such discharges, adjusted in the manner provided in paragraph (3)(E) for different area wage levels. As used in this section, the term 'subsection (d) Puerto Rico hospital' means a hospital that is located in Puerto Rico and that would be a subsection (d) hospital (as defined in paragraph (1)(B)) if it were located in one of the fifty States.

Rural areas.
Urban areas.

"(B) The Secretary shall determine a Puerto Rico adjusted DRG prospective payment rate, for each inpatient hospital discharge in fiscal year 1988 involving inpatient hospital services of a subsection (d) Puerto Rico hospital for which payment may be made under part A of this title. Such rate shall be determined for such hospitals located in urban or rural areas within Puerto Rico, as follows:

"(i) The Secretary shall determine the target amount (as defined in subsection (b)(3)(A)) for the hospital for the cost reporting period beginning in fiscal year 1987 and increase such amount by prorating the applicable percentage increase (as defined in subsection (b)(3)(B)) to update the amount to the midpoint in fiscal year 1988.

"(ii) The Secretary shall standardize the amount determined under clause (i) for each hospital by—

"(I) excluding an estimate of indirect medical education costs,

"(II) adjusting for variations among hospitals by area in the average hospital wage level,

"(III) adjusting for variations in case mix among hospitals, and

"(IV) excluding an estimate of the additional payments to certain subsection (d) Puerto Rico hospitals to be made under subparagraph (D)(v) (relating to disproportionate share payments).

"(iii) The Secretary shall compute a discharge weighted average of the standardized amounts determined under clause (ii) for all hospitals located in an urban area and for all hospitals located in a rural area (as such terms are defined in paragraph (2)(D)).

"(iv) The Secretary shall reduce the average standardized amount by a proportion equal to the proportion (estimated by the Secretary) of the amount of payments under this paragraph which are additional payments described in subparagraph (D)(i) (relating to outlier payments).

"(v) For each discharge classified within a diagnosis-related group for hospitals located in an urban or rural area, respec-

tively, the Secretary shall establish a Puerto Rico DRG prospective payment rate equal to the product of—

"(I) the average standardized amount (computed under clause (iii) and reduced under clause (iv)) for hospitals located in an urban or rural area, respectively, and

"(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group.

"(vi) The Secretary shall adjust the proportion (as estimated by the Secretary from time to time) of hospitals' costs which are attributable to wages and wage-related costs, of the Puerto Rico DRG prospective payment rate computed under clause (v) for area differences in hospital wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the hospital compared to the Puerto Rican average hospital wage level.

"(C) The Secretary shall determine a Puerto Rico adjusted DRG prospective payment rate, for each inpatient hospital discharge after fiscal year 1988 involving inpatient hospital services of a subsection (d) Puerto Rico hospital for which payment may be made under part A of this title. Such rate shall be determined for hospitals located in urban or rural areas within Puerto Rico as follows:

Urban areas.
Rural areas.

42 USC 1395c.

"(i) The Secretary shall compute an average standardized amount for hospitals located in an urban area and for hospitals located in a rural area equal to the respective average standardized amount computed for the previous fiscal year under subparagraph (B)(iii) or under this clause, increased for fiscal year 1989 by the applicable percentage increase under subsection (b)(3)(B), and adjusted for subsequent fiscal years in accordance with the final determination of the Secretary under subsection (e)(4), and adjusted to reflect the most recent case-mix data available.

"(ii) The Secretary shall reduce each of the average standardized amounts by a proportion equal to the proportion (estimated by the Secretary) of the amount of payments under this paragraph which are additional payments described in subparagraph (D)(i) (relating to outlier payments).

"(iii) For each discharge classified within a diagnosis-related group for hospitals located in an urban or rural area, respectively, the Secretary shall establish a Puerto Rico DRG prospective payment rate equal to the product of—

"(I) the average standardized amount (computed under clause (i) and reduced under clause (ii)) for hospitals located in an urban or rural area, respectively, and

"(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group.

"(iv) The Secretary shall adjust the proportion (as estimated by the Secretary from time to time) of hospitals' costs which are attributable to wages and wage-related costs, of the Puerto Rico DRG prospective payment rate computed under clause (iii) for area differences in hospital wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the hospital compared to the Puerto Rico average hospital wage level.

"(D) The following provisions of paragraph (5) shall apply to subsection (d) Puerto Rico hospitals receiving payment under this paragraph in the same manner and to the extent as they apply to subsection (d) hospitals receiving payment under this subsection:

"(i) Subparagraph (A) (relating to outlier payments).

"(ii) Subparagraph (B) (relating to payments for indirect medical education costs), except that for this purpose the sum of the amount determined under subparagraph (A) of this paragraph and the amount paid to the hospital under clause (i) of this subparagraph shall be substituted for the sum referred to in paragraph (5)(B)(i)(I).

"(iii) Subparagraph (C)(iii) (relating to exceptions and adjustments).

"(iv) Subparagraph (E) (relating to payments for costs of certified registered nurse anesthetists).

"(v) Subparagraph (F) (relating to disproportionate share payments), except that for this purpose the sum described in clause (ii) of this subparagraph shall be substituted for the sum referred to in paragraph (5)(F)(ii)(I).".

(b) CONFORMING AMENDMENTS.—(1) The first sentence of subclause (I) of section 1886(d)(5)(C)(i)(I) of such Act, as redesignated by section 9302(d), is amended by inserting "(other than under paragraph (9))" after "established under this subsection".

42 USC 1395ww.

(2) The second and third sentences of section 1886(d)(5)(C)(ii) of such Act are each amended by inserting "(other than under paragraph (9))" after "payment amounts under this subsection".

(c) BUDGET NEUTRALITY.—Section 1886(e)(1) of the Social Security Act is amended by adding at the end the following new subparagraph:

"(C) For discharges occurring in fiscal year 1988, the Secretary shall provide for such equal proportional adjustment in each of the average standardized amounts otherwise computed under subsection (d)(3) for that fiscal year as may be necessary to assure that—

"(i) the aggregate payment amounts otherwise provided under subsections (d)(1)(A)(iii), (d)(5), and (d)(9) for that fiscal year for operating costs of inpatient hospital services of subsection (d) hospitals and subsection (d) Puerto Rico hospitals,

are not greater or less than—

"(ii) the payment amounts that would have been payable for such services for those same hospitals for that fiscal year but for the enactment of the amendments made by section 9304 of the Omnibus Budget Reconciliation Act of 1986.".

42 USC 1395ww note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges occurring on or after October 1, 1987.

SEC. 9305. IMPROVING QUALITY OF CARE WITH RESPECT TO PART A SERVICES.

(a) REFINEMENT OF PROSPECTIVE PAYMENT SYSTEM.—

(1) DEVELOPMENT OF LEGISLATIVE PROPOSAL.—The Secretary of Health and Human Services shall develop and submit to Congress a specific legislative proposal to improve the classification and payment system under section 1886(d) of the Social Security Act (and, as appropriate, the system for payment of outliers under section 1886(d)(5)(A) of such Act) in order to assure that the amount of payment per discharge approximates the cost of medically necessary care provided in an efficient manner for individual patients or classes of patients with similar conditions.

Ante, p. 1985.

(2) ACCOUNTING FOR SEVERITY OF ILLNESS.—In developing the proposal, the Secretary shall account for variations in severity

of illness and case complexity which are not adequately accounted for by the current classification and payment system.

(3) DEADLINE.—The proposal shall be submitted to Congress by not later than 2 years after the date of the enactment of this Act.

(b) REQUIRING NOTICE OF HOSPITAL DISCHARGE RIGHTS.—

(1) REQUIREMENT FOR HOSPITALS TO PROVIDE STATEMENT.—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)), as amended by section 1895(b) of the Tax Reform Act of 1986 and by section 233 of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986, is amended—

Post, p. 2025.
Post, p. 2931.

(A) by striking "and" at the end of the subparagraph (K),

(B) by striking the period at the end of subparagraph (L) and inserting ", and", and

(C) by inserting after subparagraph (L) the following new subparagraph:

"(M) in the case of hospitals, to provide to each individual who is entitled to benefits under part A (or to a person acting on the individual's behalf), at or about the time of the individual's admission as an inpatient to the hospital, a written statement (containing such language as the Secretary prescribes consistent with this paragraph) which explains—

"(i) the individual's rights to benefits for inpatient hospital services and for post-hospital services under this title,

"(ii) the circumstances under which such an individual will and will not be liable for charges for continued stay in the hospital,

"(iii) the individual's right to appeal denials of benefits for continued inpatient hospital services, including the practical steps to initiate such an appeal, and

"(iv) the individual's liability for payment for services if such a denial of benefits is upheld on appeal,

and which provides such additional information as the Secretary may specify."

(2) EFFECTIVE DATE.—The Secretary of Health and Human Services shall first prescribe the language required under section 1866(a)(1)(M) of the Social Security Act not later than six months after the date of the enactment of this Act. The requirement of such section shall apply to admissions to hospitals occurring on such date (not later than 60 days after the date such language is first prescribed) as the Secretary shall provide.

42 USC 1395cc note.

(c) REQUIRING HOSPITALS TO PROVIDE DISCHARGE PLANNING PROCESS.—

(1) REQUIREMENT AS CONDITION OF PARTICIPATION.—Section 1861(e)(6) of the Social Security Act (42 U.S.C. 1395x(e)(6)) is amended—

(A) by inserting "(A)" after "(6)", and

(B) by inserting before the semicolon at the end the following: "and (B) has in place a discharge planning process that meets the requirements of subsection (ee)".

(2) DISCHARGE PLANNING PROCESS DEFINED.—Section 1861 of such Act is further amended by adding at the end the following new subsection:

"DISCHARGE PLANNING PROCESS

"(ee)(1) A discharge planning process of a hospital shall be considered sufficient if it is applicable to services furnished by the hospital to individuals entitled to benefits under this title and if it meets the guidelines and standards established by the Secretary under paragraph (2).

"(2) The Secretary shall develop guidelines and standards for the discharge planning process in order to ensure a timely and smooth transition to the most appropriate type of and setting for post-hospital or rehabilitative care. The guidelines and standards shall include the following:

"(A) The hospital must identify, at an early stage of hospitalization, those patients who are likely to suffer adverse health consequences upon discharge in the absence of adequate discharge planning.

"(B) Hospitals must provide a discharge planning evaluation for patients identified under subparagraph (A) and for other patients upon the request of the patient, patient's representative, or patient's physician.

"(C) Any discharge planning evaluation must be made on a timely basis to ensure that appropriate arrangements for post-hospital care will be made before discharge and to avoid unnecessary delays in discharge.

"(D) A discharge planning evaluation must include an evaluation of a patient's likely need for appropriate post-hospital services and the availability of those services.

"(E) The discharge planning evaluation must be included in the patient's medical record for use in establishing an appropriate discharge plan and the results of the evaluation must be discussed with the patient (or the patient's representative).

"(F) Upon the request of a patient's physician, the hospital must arrange for the development and initial implementation of a discharge plan for the patient.

"(G) Any discharge planning evaluation or discharge plan required under this paragraph must be developed by, or under the supervision of, a registered professional nurse, social worker, or other appropriately qualified personnel."

(3) EFFECT OF ACCREDITATION.—The second sentence of section 1865(a) of such Act (42 U.S.C. 1395bb(a)) is amended—

(A) by inserting ", requires a discharge planning process (or imposes another requirement which serves substantially the same purpose)," after "the same purpose)", and

(B) by inserting "clause (A) or (B) of" after "comply also with".

42 USC 1395x note.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to hospitals as of one year after the date of the enactment of this Act.

(d) REVIEW OF STANDARDS FOR MEDICARE CONDITIONS OF PARTICIPATION FOR ASSURING QUALITY OF INPATIENT HOSPITAL SERVICES.—The Secretary of Health and Human Services shall arrange for a study of the adequacy of the standards used for hospitals, for purposes of meeting the conditions of participation under title XVIII of the Social Security Act, in assuring the quality of services furnished in hospitals. The Secretary shall report to Congress on the results of the study by not later than 2 years after the date of the enactment of this Act.

42 USC 1395. Reports.

(e) STUDY OF PAYMENT FOR ADMINISTRATIVELY NECESSARY DAYS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study to determine whether a payment should be made (in a budget-neutral manner under title XVIII of such Act to hospitals receiving payments under section 1886(d) of such Act) to a hospital for administratively necessary days, separate from the per-discharge and outlier payments made under such section. Hospitals. 42 USC 1395

(2) ADMINISTRATIVELY NECESSARY DAYS DEFINED.—In this subsection, an "administratively necessary day" is a day of continued inpatient hospital stay, for an individual entitled to benefits under part A of title XVIII of the Social Security Act, necessitated by a delay in obtaining placement for the individual in a skilled nursing facility. 42 USC 1935c.

(3) CONSIDERATIONS IN CONDUCTING STUDY.—In conducting the study, the Secretary shall consider—

(A) the need for such a payment in order to minimize—

(i) the disproportionate financial impact of current law on certain hospitals (or hospitals in certain locations) due to difficulties in arranging for appropriate post-hospital care, such as difficulties resulting from a shortage of beds in skilled nursing facilities where those hospitals are located and from the source of payment for such care, and

(ii) the risk of inappropriate discharge to a non-institutional or inappropriate institutional setting of individuals who need post-hospital services in a skilled nursing facility, and

(B) the administrative mechanisms that can be used to prevent inappropriate payments for administratively necessary days.

(4) REPORT ON STUDY.—The Secretary shall report to Congress on the results of the study not later than January 1, 1989.

(f) EXTENDING WAIVER OF LIABILITY PROVISIONS TO HOSPICE PROGRAMS.— 42 USC 1395y note.

(1) IN GENERAL.—The Secretary of Health and Human Services shall, for purposes of determining whether payments to a hospice program should be denied pursuant to section 1862(a)(1)(C) of the Social Security Act, apply (under section 1879(a) of such Act) a presumption of compliance of 2.5 percent (based on the number of days of hospice care billed) in a manner substantially similar to that provided to home health agencies under policies in effect as of July 1, 1985. 42 USC 1395y. *Infra.*

(2) EFFECTIVE DATE.—Paragraph (1) shall apply to hospice care furnished on or after the first day of the first month that begins at least 6 months after the date of the enactment of this Act and before November 1, 1988.

(g) EXTENSION OF WAIVER OF LIABILITY PROVISIONS TO CERTAIN COVERAGE DENIALS FOR HOME HEALTH SERVICES.—

(1) IN GENERAL.—Section 1879 of the Social Security Act (42 U.S.C. 1395pp) is amended—

(A) in subsection (a)(1), by inserting "or by reason of a coverage denial described in subsection (g)" after "section 1862(a)(1) or (9)";

(B) in the first sentence of subsection (a), by inserting "and as though the coverage denial described in subsection (g) had not occurred" before the period at the end;

(C) in the third sentence of subsection (a), by inserting "or by reason of a coverage denial described in subsection (g)" after "section 1862(a)(1) or (9)";

42 USC 1395y.

(D) in subsection (c), by inserting "or by reason of a coverage denial described in subsection (g)" after "section 1862(a)(1) or (9)"; and

(E) by adding at the end the following new subsections:

"(f)(1) A home health agency which meets the applicable requirements of paragraphs (3) and (4) shall be presumed to meet the requirement of subsection (a)(2) with respect to any coverage denial described in subsection (g).

"(2) The presumption of paragraph (1) with respect to specific services may be rebutted by actual or imputed knowledge of the facts described in subsection (a)(2), including any of the following:

"(A) Notice by the fiscal intermediary of the fact that payment may not be made under this title with respect to the services.

"(B) It is clear and obvious that the provider should have known at the time the services were furnished that they were excluded from coverage.

"(3) The requirements of this paragraph are as follows:

"(A) The agency complies with requirements of the Secretary under this title respecting timely submittal of bills for payment and medical documentation.

"(B) The agency program has reasonable procedures to notify promptly each patient (and the patient's physician) where it is determined that a patient is being or will be furnished items or services which are excluded from coverage under this title.

"(4) The requirement of this paragraph is that, on the basis of bills submitted by a home health agency during the previous quarter, the rate of denial of bills for the agency by reason of a coverage denial described in subsection (g) does not exceed 2.5 percent, computed based on visits for home health services billed.

"(5) In this subsection, the term 'fiscal intermediary' means, with respect to a home health agency, an agency or organization with an agreement under section 1816 with respect to the agency.

42 USC 1395h.

"(g) The coverage denial described in this subsection is, with respect to the provision of home health services to an individual, a failure to meet the requirements of section 1814(a)(2)(C) or section 1835(a)(2)(A) in that the individual—

42 USC 1395f.
42 USC 1395n.

"(1) is or was not confined to his home, or

"(2) does or did not need skilled nursing care on an intermittent basis."

42 USC 1395pp note.

(2) REPORTS.—The Secretary of Health and Human Services shall report to Congress annually in March of 1987 and 1988—

(A) information on the frequency and distribution (by type of provider) of denials of bills for payment under title XVIII of the Social Security Act for extended care services, home health services, and hospice care, by reason of section 1862(a)(1) or (9) of such Act and coverage denials described in section 1879(g) of such Act, including—

42 USC 1395.

Ante, p. 1991.

(i) the reasons for such denials,

(ii) the extent to which payments were nonetheless made because of section 1879 of such Act, and

(iii) the rate of reversals of such denials, and

(B) such other information as may be appropriate to evaluate the appropriateness of any percentage standards

established for the granting of favorable presumptions with respect to such denials.

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to coverage denials occurring on or after July 1, 1987, and before October 1, 1989. 42 USC 1395pp note.

(h) DEVELOPMENT OF UNIFORM NEEDS ASSESSMENT INSTRUMENT.— 42 USC 1395x note.

(1) DEVELOPMENT.—The Secretary of Health and Human Services shall develop a uniform needs assessment instrument that—

(A) evaluates—

(i) the functional capacity of an individual,

(ii) the nursing and other care requirements of the individual to meet health care needs and to assist with functional incapacities, and

(iii) the social and familial resources available to the individual to meet those requirements; and

(B) can be used by discharge planners, hospitals, nursing facilities, other health care providers, and fiscal intermediaries in evaluating an individual's need for post-hospital extended care services, home health services, and long-term care services of a health-related or supportive nature.

The Secretary may develop more than one such instrument for use in different situations.

(2) ADVISORY PANEL.—The Secretary shall develop any instrument in consultation with an advisory panel, appointed by the Secretary, that includes experts in the delivery of post-hospital extended care services, home health services, and long-term care services and includes representatives of hospitals, of physicians, of skilled nursing facilities, of home health agencies, of long-term care providers, of fiscal intermediaries, and of medicare beneficiaries.

(3) REPORT ON INSTRUMENT.—The Secretary shall report to Congress, not later than January 1, 1989, on the instrument or instruments developed under this section. The report shall recommendations for the appropriate use of such instrument or instruments.

(i) INCLUDING IN ANNUAL REPORTS ON PROSPECTIVE PAYMENT SYSTEM INFORMATION ON QUALITY OF POST-HOSPITAL CARE.—

(1) IN GENERAL.—Section 603(a)(2) of the Social Security Amendments of 1983 is amended— 42 USC 1395ww note.

(A) by striking "1987" in subparagraph (A) and inserting "1989", and

(B) by adding at the end the following new subparagraph:

"(E) In each annual report to Congress under subparagraph (A), the Secretary shall include—

"(i) an evaluation of the adequacy of the procedures for assuring quality of post-hospital services furnished under title XVIII of the Social Security Act, 42 USC 1395.

"(ii) an assessment of problems that have prevented groups of medicare beneficiaries (including those eligible for medical assistance under title XIX of such Act) from receiving appropriate post-hospital services covered under such title, and 42 USC 1396.

"(iii) information on reconsiderations and appeals taken under title XVIII of such Act with respect to payment for post-hospital services.".

42 USC 1395ww note.
42 USC 1395x note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1)(B) shall apply to reports for years beginning with 1986.

(k) PRIOR AND CONCURRENT AUTHORIZATION DEMONSTRATION PROJECT.—

Hospitals.

(1) IN GENERAL.—The Secretary of Health and Human Services shall conduct a demonstration program concerning prior and concurrent authorization for post-hospital extended care services and home health services furnished under part A or part B of title XVIII of the Social Security Act.

42 USC 1395c, 1395j.

(2) SCOPE.—The program shall include at least four projects and shall be initiated by not later than January 1, 1987.

Hospitals. Physicians.

(3) CONSULTATION AND MONITORING.—The program shall be developed in consultation with an advisory panel that includes experts in the delivery of post-hospital extended care services, home health services, and long-term care services and includes representatives of hospitals, of physicians, of skilled nursing facilities, of home health agencies, of long-term care providers, of fiscal intermediaries, and of medicare beneficiaries. The Secretary shall monitor the acceptance of individuals entitled to benefits under title XVIII of the Social Security Act by providers to ensure that the placement of such individuals is not delayed until the results of prior and concurrent review are known.

42 USC 1395.

(4) EVALUATION AND REPORT.—The Secretary shall evaluate the demonstration program conducted under this subsection and shall report to Congress on such evaluation no later than February 1, 1989. Such evaluation and report shall address—

(A) the administrative and program costs for prior and concurrent authorization across demonstration projects and in comparison to administrative and program costs under the current system of retroactive review, including costs for uncovered services paid under the waiver of liability which would not be incurred under prior or concurrent authorization;

(B) impact of prior or concurrent authorization on access to and availability of extended care services and home health services in comparison to the current system (including costs to providers) and on timely discharge of hospital inpatients; and

(C) accuracy and associated cost savings of payment determinations and rates of claim reversals under prior or concurrent authorization versus the current system.

Grants. Contracts. 42 USC 1395i.

(5) FUNDING.—Expenditures made for the demonstration program shall be made from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act. Grants and payments under contracts may be made either in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this subsection.

42 USC 1395.

(6) WAIVER OF MEDICARE REQUIREMENTS.—The Secretary shall waive compliance with such requirements of title XVIII of the Social Security Act to the extent and for the period the Secretary finds necessary for the conduct of the demonstration program.

SEC. 9306. PAYMENTS TO LARGE RURAL HOSPITALS SERVING A DISPROPORTIONATE SHARE OF LOW-INCOME PATIENTS.

(a) QUALIFYING HOSPITALS.—Section 1886(d)(5)(F)(v) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)(v)) is amended by adding at the end the following new sentence:

"A hospital located in a rural area and with 500 or more beds also 'serves a significantly disproportionate number of low income patients' for a cost reporting period if the hospital has a disproportionate patient percentage (as defined in clause (vi)) for that period which equals or exceeds a percentage specified by the Secretary.".

(b) PAYMENT AMOUNT.—Section 1886(d)(5)(F)(iv) of such Act is amended—

(1) in subclause (I), by inserting "or is described in the second sentence of subclause (III)" after "100 or more beds", and

(2) in subclause (III), by inserting "and is not described in the second sentence of clause (v)" after "rural area".

(c) EXTENSION OF DISPROPORTIONATE SHARE PROVISION.—Section 1886(d) of such Act is further amended, in paragraphs (2)(C)(iv), (3)(C)(ii), (5)(B)(ii), and (5)(F)(i), by striking "1988" each place it appears and inserting "1989".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to discharges occurring on or after October 1, 1986. 42 USC 1395ww note.

SEC. 9307. TECHNICAL AMENDMENTS AND MISCELLANEOUS PROVISIONS RELATING TO PART A.

(a) TEMPORARY WAIVER OF INPATIENT LIMITATIONS FOR THE CONNECTICUT HOSPICE, INC.—With respect to the Connecticut Hospice, Inc., for hospice care provided before October 1, 1988, the reference in section 1861(dd)(2)(A)(iii) of the Social Security Act (42 U.S.C. 1395x(dd)(2)(A)(iii)) to "20 percent" is deemed a reference to "50 percent".

(b) MASSACHUSETTS MEDICARE REPAYMENT.—The Secretary of Health and Human Services shall not, on or after the date of the enactment of this section and before January 1, 1988, recoup from, or otherwise reduce payments to, hospitals in the State of Massachusetts because of alleged overpayments to such hospitals under part A of title XVIII of the Social Security Act which occurred during the period of the State-wide hospital reimbursement demonstration project conducted in that State, between October 1, 1982, and June 30, 1986, under section 402 of the Social Security Amendments of 1967 and section 222 of the Social Security Amendments of 1972. 42 USC 1395c. 42 USC 1395b-1, 1395*ll*.

(c) PART A COBRA TECHNICAL CORRECTIONS.—(1) Effective as if included in the enactment of the Tax Reform Act of 1986, if House Concurrent Resolution 395 (99th Congress, 2d Session) has not been adopted, section 1895(b) of the Tax Reform Act of 1986 is amended— 86 Stat. 1390. 42 USC 1395ww. *Post*, p. 2095.

(A) by striking paragraph (1), and

(B) by striking subparagraphs (A) and (B) of paragraph (2).

(2) Effective as if included in the enactment of the Tax Reform Act of 1986—

(A) section 1895(b) of such Act is amended, in subparagraph (A)(ii) of the paragraph relating to "PHYSICIAN PAYMENT", by inserting before the period the following: "the first place it appears", and

(B) section 1895(d)(5)(A) of such Act is amended by striking "162(k)(2)" and inserting "162(k)(5)". 42 USC 162.

(3) If House Concurrent Resolution 395 (99th Congress, 2d Session) has been adopted, effective for discharges occurring on or after May 1, 1986, section 1886(d)(5)(F)(vi)(I) of the Social Security Act is amended—

42 USC 1395ww.

(A) by striking "supplementary" and inserting "supplemental", and

(B) by striking "fiscal year" and inserting "period".

42 USC 1395dd.
Ante, p. 164.

(4) Paragraphs (2) and (3) of section 1867(b) of the Social Security Act are amended by striking "legally responsible".

Effective date.
42 USC 1395ww note.
42 USC 1395ww note.

(d) MISCELLANEOUS ACCOUNTING PROVISION.—Effective on the date of the enactment of Public Law 99-107, in applying section 5(a) of such Act, a cost reporting period beginning on September 28, 29, or 30 is deemed to begin on October 1 and any reference to September 30 is deemed also to be a reference to September 27.

PART 2—PROVISIONS RELATING TO PARTS A AND B

SEC. 9311. PERIODIC INTERIM PAYMENT SYSTEM (PIP) FOR DRG HOSPITALS AND PROMPT PAYMENT FOR MEDICARE PROVIDERS.

(a) PERIODIC INTERIM PAYMENTS.—

(1) IN GENERAL.—Section 1815 of the Social Security Act (42 U.S.C. 1395g) is amended by adding at the end the following new subsection:

Puerto Rico.
42 USC 1395ww.

"(e)(1) The Secretary shall provide payment under this part for inpatient hospital services furnished by a subsection (d) hospital (as defined in section 1886(d)(1)(B), and including a distinct psychiatric or rehabilitation unit of such a hospital) and a subsection (d) Puerto Rico hospital (as defined in section 1886(d)(9)(A)) on a periodic interim payment basis (rather than on the basis of bills actually submitted) in the following cases:

42 USC 1395h.

"(A) Upon the request of a hospital which is paid through an agency or organization with an agreement with the Secretary under section 1816, if the agency or organization, for three consecutive calendar months, fails to meet the requirements of subsection (c)(2) of such section and if the hospital meets the requirements (in effect as of October 1, 1986) applicable to payment on such a basis, until such time as the agency or organization meets such requirements for three consecutive calendar months.

"(B) In the case of hospital that—

"(i) has a disproportionate share adjustment percentage (as established in clause (iv) of such section) of at least 5.1 percent (as computed for purposes of establishing the average standardized amounts for discharges occurring during fiscal year 1987), and

"(ii) requests payment on such basis,

but only if the hospital was being paid for inpatient hospital services on such a periodic interim payment basis as of June 30, 1987, and continues to meet the requirements (in effect as of October 1, 1986) applicable to payment on such a basis.

"(C) In the case of a hospital that—

Rural areas.

"(i) is located in a rural area,

"(ii) has 100 or fewer beds, and

"(iii) requests payment on such basis,

but only if the hospital was being paid for inpatient hospital services on such a periodic interim payment basis as of June 30, 1987, and continues to meet the requirements (in effect as of October 1, 1986) applicable to payment on such a basis.

"(2) The Secretary shall provide (or continue to provide) for payment on a periodic interim payment basis (under the standards established under section 405.454(j) of title 42, Code of Federal Regulations, as in effect on October 1, 1986) with respect to—

"(A) inpatient hospital services of a hospital that is not a subsection (d) hospital (as defined in section 1886(d)(1)(B)); 42 USC 1395ww.

"(B) a hospital which is receiving payment under a State hospital reimbursement system under section 1814(b)(3) or 1886(c), if payment on a periodic interim payment basis is an integral part of such reimbursement system; State and local governments. 42 USC 1395f.

"(C) extended care services;

"(D) home health services; and

"(E) hospice care;

if the provider of such services elects to receive, and qualifies for, such payments.

"(3) In the case of a subsection (d) hospital or a subsection (d) Puerto Rico hospital (as defined for purposes of section 1886) which has significant cash flow problems resulting from operations of its intermediary or from unusual circumstances of the hospital's operation, the Secretary may make available appropriate accelerated payments.". Puerto Rico.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to claims received on or after July 1, 1987. Claims. 42 USC 1395g note.

(3) TRANSITION.—Upon the request of a hospital which— 42 USC 1395g note.

(A) as of June 30, 1987, is receiving payments under part A of title XVIII of such Act for inpatient hospital services on a periodic interim payment basis, 42 USC 1395c.

(B) requests continuation of payment on such basis, and

(C) is paid through an agency or organization with an agreement under section 1816 of such Act, Claims. 42 USC 1395h.

the Secretary of Health and Human Services shall continue payment on such a basis until not earlier than the end of the first period of three consecutive calendar months (beginning no earlier than April 1987) during all of which the agency or organization has met the requirements of section 1816(c)(2) of such Act (relating to prompt payment of claims).

(b) PROMPT PAYMENT OF CLAIMS UNDER PART A.—Section 1816(c) of the Social Security Act (42 U.S.C. 1395h(c)) is amended—

(1) by inserting "(1)" after "(c)", and

(2) by adding at the end the following new paragraph:

"(2)(A) Each agreement under this section shall provide that payment shall be issued, mailed, or otherwise transmitted with respect to not less than 95 percent of all claims submitted under this title— Claims.

"(i) which are clean claims, and

"(ii) for which payment is not made on a periodic interim payment basis,

within the applicable number of calendar days after the date on which the claim is received.

"(B) In this paragraph:

"(i) The term 'clean claim' means a claim that has no defect or impropriety (including any lack of any required substantiating documentation) or particular circumstance requiring special

treatment that prevents timely payment from being made on the claim under this title.

"(ii) The term 'applicable number of calendar days' means—

"(I) with respect to claims received in the 12-month period beginning October 1, 1986, 30 calendar days,

"(II) with respect to claims received in the 12-month period beginning October 1, 1987, 26 calendar days,

"(III) with respect to claims received in the 12-month period beginning October 1, 1988, 25 calendar days, and

"(IV) with respect to claims received in the 12-month period beginning October 1, 1989, and claims received in any succeeding 12-month period, 24 calendar days.

Claims.

"(C) If payment is not issued, mailed, or otherwise transmitted within the applicable number of calendar days (as defined in clause (ii) of subparagraph (B)) after a clean claim (as defined in clause (i) of such subparagraph) is received from a hospital, skilled nursing facility, home health agency, or hospice program that is not receiving payments on a periodic interim payment basis with respect to such services, interest shall be paid at the rate used for purposes of section 3902(a) of title 31, United States Code (relating to interest penalties for failure to make prompt payments) for the period beginning on the day after the required payment date and ending on the date on which payment is made.".

(c) PROMPT PAYMENT OF CLAIMS UNDER PART B.—Section 1842(c) of the Social Security Act (42 U.S.C. 1395u(c)) is amended—

(1) by inserting "(1)" after "(c)", and

(2) by adding at the end the following new paragraph:

Contracts.
Claims.

"(2)(A) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall provide that payment shall be issued, mailed, or otherwise transmitted with respect to not less than 95 percent of all claims submitted under this part—

"(i) which are clean claims, and

"(ii) for which payment is not made on a periodic interim payment basis,

within the applicable number of calendar days after the date on which the claim is received.

"(B) In this paragraph:

"(i) The term 'clean claim' means a claim that has no defect or impropriety (including any lack of any required substantiating documentation) or particular circumstance requiring special treatment that prevents timely payment from being made on the claim under this part.

"(ii) The term 'applicable number of calendar days' means—

"(I) with respect to claims received in the 12-month period beginning October 1, 1986, 30 calendar days,

"(II) with respect to claims received in the 12-month period beginning October 1, 1987, 26 calendar days (or 19 calendar days with respect to claims submitted by participating physicians),

"(III) with respect to claims received in the 12-month period beginning October 1, 1988, 25 calendar days (or 18 calendar days with respect to claims submitted by participating physicians), and

"(IV) with respect to claims received in the 12-month period beginning October 1, 1989, and claims received in any succeeding 12-month period, 24 calendar days (or 17

calendar days with respect to claims submitted by participating physicians).

"(C) If payment is not issued, mailed, or otherwise transmitted within the applicable number of calendar days (as defined in clause (ii) of subparagraph (B)) after a clean claim (as defined in clause (i) of such subparagraph) is received, interest shall be paid at the rate used for purposes of section 3902(a) of title 31, United States Code (relating to interest penalties for failure to make prompt payments) for the period beginning on the day after the required payment date and ending on the date on which payment is made.". Claims.

(d) EFFECTIVE DATES.— 42 USC 1395h note.

(1) Except as provided in paragraph (2), the amendments made by subsections (b) and (c) shall apply to claims received on or after November 1, 1986. Claims.

(2) Sections 1816(c)(2)(C)) and 1842(c)(2)(C) of the Social Security Act, as added by such amendments, shall apply to claims received on or after April 1, 1987. *Ante*, pp. 1997, 1998. Claims.

(3) The Secretary of Health and Human Services shall provide for such timely amendments to agreements under section 1816 of the Social Security Act and contracts under section 1842 of such Act, and regulations, to such extent as may be necessary to implement the provisions of this Act on a timely basis. Contracts.

SEC. 9312. HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS.

(a) REPEAL OF "2 FOR 1" CONVERSION REQUIREMENT FOR CERTAIN HEALTH MAINTENANCE ORGANIZATIONS.—Section 114(c)(2) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by adding at the end the following new subparagraph: 42 USC 1395mm note.

"(E) The preceding provisions of this paragraph shall not to apply to payments made for current, nonrisk medicare enrollees for months beginning with April 1987.".

(b) REQUIRING THE PROVISION OF AN EXPLANATION OF ENROLLEE RIGHTS.—

(1) IN GENERAL.—Subsection (c)(3) of section 1876 of the Social Security Act (42 U.S.C. 1395mm) is amended by adding at the end the following new subparagraph:

"(E) Each eligible organization shall provide each enrollee, at the time of enrollment and not less frequently than annually thereafter, an explanation of the enrollee's rights under this section, including an explanation of—

"(i) the enrollee's rights to benefits from the organization,

"(ii) the restrictions on payments under this title for services furnished other than by or through the organization,

"(iii) out-of-area coverage provided by the organization,

"(iv) the organization's coverage of emergency services and urgently needed care, and

"(v) appeal rights of enrollees.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on January 1, 1987, and shall apply to enrollments effected on or after such date. 42 USC 1395mm note.

(c) RESTRICTING WAIVER OF REQUIREMENT OF 50 PERCENT NON-MEDICARE ENROLLMENT.—

(1) RESTRICTION ON NEW WAIVERS.—Paragraph (2) of subsection (f) of such section is amended by striking all that follows "only" and inserting a dash and the following:

"(A) to the extent that more than 50 percent of the population of the area served by the organization consists of individuals who are entitled to benefits under this title or under a State plan approved under title XIX, or

42 USC 1396. Contracts. State and local governments.

"(B) in the case of an eligible organization that is owned and operated by a governmental entity, only with respect to a period of three years beginning on the date the organization first enters into a contract under this section, and only if the organization has taken and is making reasonable efforts to enroll individuals who are not entitled to benefits under this title or under a State plan approved under title XIX.".

(2) SANCTIONS FOR NONCOMPLIANCE.—

(A) SUSPENSION OF ENROLLMENT OR PAYMENT FOR NEW ENROLLEES.—Such subsection is further amended by adding at the end the following new paragraph:

"(3) If the Secretary determines that an eligible organization has failed to comply with the requirements of this subsection, the Secretary may provide for the suspension of enrollment of individuals under this section or of payment to the organization under this section for individuals newly enrolled with the organization, after the date the Secretary notifies the organization of such noncompliance.".

(B) TERMINATION OF CONTRACT.—Subsection (i)(1)(C) of such section is amended by striking "and (e)" and insert "(e), and (f)".

42 USC 1395mm note.

(3) EFFECTIVE DATES.—

(A) NEW RESTRICTION.—The amendment made by paragraph (1) shall apply to modifications and waivers granted after the date of the enactment of this Act.

(B) SANCTIONS FOR NONCOMPLIANCE.—The amendments made by paragraph (2) shall take effect on the date of the enactment of this Act.

(C) TREATMENT OF CURRENT WAIVERS.—In the case of an eligible organization (or successor organization) that—

42 USC 1395mm.

(i) as of the date of the enactment of this Act, has been granted, under paragraph (2) of section 1876(f) of the Social Security Act, a modification or waiver of the requirement imposed by paragraph (1) of that section, but

(ii) does not meet the requirement for such modification or waiver under the amendment made by paragraph (1) of this subsection,

the organization shall make, and continue to make, reasonable efforts to meet scheduled enrollment goals, consistent with a schedule of compliance approved by the Secretary of Health and Human Services. If the Secretary determines that the organization has complied, or made significant progress towards compliance, with such schedule of compliance, the Secretary may extend such waiver. If the Secretary determines that the organization has not complied with such schedule, the Secretary may provide for a sanction described in section 1876(f)(3) of the Social Security Act (as amended by this section) effective with respect to individuals enrolling with the organization after the date the Secretary notifies the organization of such noncompliance.

(d) REQUIRING PROMPT PAYMENT OF CLAIMS.—

(1) IN GENERAL.—Subsection (g) of such section is amended by adding at the end the following new paragraph:

"(6)(A) A risk-sharing contract under this section shall require the eligible organization to provide prompt payment (consistent with the provisions of sections 1816(c)(2) and 1842(c)(2)) of claims submitted for services and supplies furnished to individuals pursuant to such contract, if the services or supplies are not furnished under a contract between the organization and the provider or supplier. Contracts. *Ante*, pp. 1997, 1998.

"(B) In the case of an eligible organization which the Secretary determines, after notice and opportunity for a hearing, has failed to make payments of amounts in compliance with subparagraph (A), the Secretary may provide for direct payment of the amounts owed to providers and suppliers for such covered services furnished to individuals enrolled under this section under the contract. If the Secretary provides for such direct payments, the Secretary shall provide for an appropriate reduction in the amount of payments otherwise made to the organization under this section to reflect the amount of the Secretary's payments (and costs incurred by the Secretary in making such payments).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to risk-sharing contracts under section 1876 of the Social Security Act with respect to services furnished on or after January 1, 1987. Contracts. 42 USC 1395mm note.

(e) REQUIRING ACCESS TO FINANCIAL RECORDS AND DISCLOSURE OF INTERNAL LOANS.—

(1) IN GENERAL.—Subsection (i)(3)(C) of such section is amended—

(A) by striking "and" at the end,

(B) by inserting "(i)" after "(C)", and

(C) by adding at the end the following new clauses:

"(ii) shall require the organization to provide and supply information (described in section 1866(b)(2)(C)(ii)) in the manner such information is required to be provided or supplied under that section; 42 USC 1395cc.

"(iii) shall require the organization to notify the Secretary of loans and other special financial arrangements which are made between the organization and subcontractors, affiliates, and related parties; and". Loans.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to contracts as of January 1, 1987. Contracts. 42 USC 1395mm note.

(f) AUTHORITY TO IMPOSE CIVIL MONEY PENALTIES.—Subsection (i) of such section is amended by adding at the end the following new paragraph:

"(6)(A) Any eligible organization with a risk-sharing contract under this section that fails substantially to provide medically necessary items and services that are required (under law or such contract) to be provided to individuals covered under such contract, if the failure has adversely affected (or has a substantial likelihood of adversely affecting) these individuals, is subject to a civil money penalty of not more than $10,000 for each such failure. Contracts.

"(B) The provisions of section 1128A (other than subsection (a)) shall apply to a civil money penalty under subparagraph (A) in the same manner as they apply to a civil money penalty under that section.". *Post*, pp. 2003, 2008.

(g) STUDY OF AAPCC AND ACR.—The Secretary of Health and Human Services shall provide, through contract with an appropriate organization, for a study of the methods by which— Contracts. 42 USC 1395 mm note.

42 USC 1395mm.

(1) the adjusted average per capita cost ("AAPCC", as defined in section 1876(a)(4) of the Social Security Act) can be refined to more accurately reflect the average cost of providing care to different classes of patients, and

(2) the adjusted community rate ("ACR", as defined in section 1876(e)(3) of such Act) can be refined.

The Secretary shall submit to Congress, by not later than January 1, 1988, specific legislative recommendations concerning methods by which the calculation of the AAPCC and the ACR can be refined.

42 USC 1395mm note.

(h) ALLOWING MEDICARE BENEFICIARIES TO DISENROLL AT A LOCAL SOCIAL SECURITY OFFICE.—The Secretary of Health and Human Services shall provide that individuals enrolled with an eligible organization under section 1876 of the Social Security Act may disenroll, on and after June 1, 1987, at any local office of the Social Security Administration.

42 USC 1395mm note.

(i) USE OF RESERVE FUNDS.—Notwithstanding any provision of section 1876(g)(5) of the Social Security Act (42 U.S.C. 1395mm(g)(5)) to the contrary, funds reserved by an eligible organization under such section before the date of the enactment of this Act may be applied, at the organization's option, to offset the amount of any reduction in payment amounts to the organization effected under Public Law 99-177 during fiscal year 1986.

99 Stat. 1037.

SEC. 9313. PROVISIONS RELATING TO IMPROVEMENT OF QUALITY OF CARE.

(a) PERMITTING PROVIDER REPRESENTATION OF BENEFICIARIES.—

(1) IN GENERAL.—Section 1869(b)(1) of the Social Security Act (42 U.S.C. 1395ff(b)(1)) is amended by adding at the end the following new sentence: "Sections 206(a), 1102, and 1871 shall not be construed as authorizing the Secretary to prohibit an individual from being represented under this subsection by a person that furnishes or supplies the individual, directly or indirectly, with services or items solely on the basis that the person furnishes or supplies the individual with such a service or item. Any person that furnishes services or items to an individual may not represent an individual under this subsection with respect to the issue described in section 1879(a)(2) unless the person has waived any rights for payment from the beneficiary with respect to the services or items involved in the appeal. If a person furnishes services or items to an individual and represents the individual under this subsection, the person may not impose any financial liability on such individual in connection with such representation.".

42 USC 406, 1302, 1395hh.

42 USC 1395pp.

(2) TREATMENT OF COSTS OF UNSUCCESSFUL APPEAL.—Section 1861(v)(1) of such Act (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(R) In determining such reasonable cost, costs incurred by a provider of services representing a beneficiary in an unsuccessful appeal of a determination described in section 1869(b) shall not be allowable as reasonable costs.".

42 USC 1395x note.

(3) EFFECTIVE DATE.—The amendments made by this paragraph take effect on the date of the enactment of this Act.

(b) PERMITTING REVIEW OF TECHNICAL DENIALS.—

(1) IN GENERAL.—Section 1869 of such Act is further amended—

(A) in subsection (a), by inserting before "shall" the following: "and any other determination with respect to a claim for benefits under part A", and

(B) in subsection (b)(1)—

(i) by striking "or" at the end of subparagraph (B),

(ii) by inserting ", or" at the end of subparagraph (C), and

(iii) by inserting after subparagraph (C) the following new subparagraph:

"(D) any other denial (other than under part B of title XI) of a claim for benefits under part A or a claim for benefits with respect to home health services under part B,". 42 USC 1320c.

(2) EFFECTIVE DATE.—The amendments made by this subsection take effect on the date of the enactment of this Act. 42 USC 1395ff note.

(c) PROHIBITION OF CERTAIN PHYSICIAN INCENTIVE PLANS.—

(1) MAKING CERTAIN PLANS SUBJECT TO CIVIL MONETARY PENALTIES.—Section 1128A of the Social Security Act (42 U.S.C. 1320a-7a) is amended— *Post*, p. 2008.

(A) by striking "subsection (a)" each place it appears and inserting "subsection (a) or (b)",

(B) in subsection (a)(1), by striking "(h)(1)" and "(h)(2)" and inserting "(i)(1)" and "(i)(2)", respectively,

(C) in subsection (f), by striking "subsection (d)" and inserting "subsection (e)",

(D) by redesignating subsections (b) through (h) as subsections (c) through (i), respectively, and

(E) by inserting after subsection (a) the following new subsection:

"(b)(1) If a hospital, an eligible organization with a risk-sharing contract under section 1876, or an entity with a contract under section 1903(m) knowingly makes a payment, directly or indirectly, to a physician as an inducement to reduce or limit services provided with respect to individuals who— Contracts. *Ante*, p. 1999. 42 USC 1396b.

"(A) are entitled to benefits under part A or part B of title XVII or to medical assistance under a State plan approved under title XIX, State and local governments. 42 USC 300u. 42 USC 1396.

"(B) in the case of an eligible organization or an entity, are enrolled with the organization or entity, and

"(C) are under the direct care of the physician,

the hospital or organization shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than $2,000 for each such individual with respect to whom the payment is made.

"(2) Any physician who knowingly accepts receipt of a payment described in paragraph (1) shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than $2,000 for individual described in such paragraph with respect to whom the payment is made."

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to— 42 USC 1320a-7a note.

(A) payments by hospitals occurring more than 6 months after the date of the enactment of this Act, and

(B) payments by eligible organizations or entities occurring on or after April 1, 1989.

(3) STUDY.—The Secretary of Health and Human Services shall report to Congress, not later than January 1, 1988, concerning incentive arrangements offered by health mainte- Reports. Physicians. 42 USC 1320a-7a note.

nance organizations and competitive medical plans to physicians. The report shall—

(A) review the type of incentive arrangements in common use,

(B) evaluate their potential to pressure improperly physicians to reduce or limit services in a medically inappropriate manner, and

(C) make recommendations concerning providing for an exception, to the prohibition contained in section 1128A(b) of the Social Security Act, for incentive arrangements that may be used by such organizations and plans to encourage efficiency in the utilization of medical and other services but that do not have a substantial potential for adverse effect on quality.

Post, pp. 2003, 2008.

42 USC 1395*ll* note.

(d) STUDY TO DEVELOP A STRATEGY FOR QUALITY REVIEW AND ASSURANCE.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall arrange for a study to design a strategy for reviewing and assuring the quality of care for which payment may be made under title XVIII of the Social Security Act.

42 USC 1395.

(2) ITEMS INCLUDED IN STUDY.—Among other items, the study shall—

(A) identify the appropriate considerations which should be used in defining "quality of care";

(B) evaluate the relative roles of structure, process, and outcome standards in assuring quality of care;

(C) develop prototype criteria and standards for defining and measuring quality of care;

(D) evaluate the adequacy and focus of the current methods for measuring, reviewing, and assuring quality of care;

Research and development.

(E) evaluate the current research on methodologies for measuring quality of care, and suggest areas of research needed for further progress;

(F) evaluate the adequacy and range of methods available to correct or prevent identified problems with quality of care;

(G) review mechanisms available for promoting, coordinating, and supervising at the national level quality review and assurance activities; and

(H) develop general criteria which may be used in establishing priorities in the allocation of funds and personnel in reviewing and assuring quality of care.

(3) REPORT.—The Secretary shall submit to Congress, not later than 2 years after the date of the enactment of this Act, a report on the study. Such report shall address the items described in paragraph (2) and shall include recommendations with respect to strengthening quality assurance and review activities for services furnished under the medicare program.

(4) ARRANGEMENTS FOR STUDY.—(A) The Secretary shall request the National Academy of Sciences, acting through appropriate units, to submit an application to conduct the study described in this subsection. If the Academy submits an acceptable application, the Secretary shall enter into an appropriate arrangement with the Academy for the conduct of the study. If the Academy does not submit an acceptable application to conduct the study, the Secretary may request one or more appropriate nonprofit private entities to submit an application

to conduct the study and may enter into an appropriate arrangement for the conduct of the study by the entity which submits the best acceptable application.

(B) In developing plans for the conduct of the study, the Secretary shall assure that consumer and provider groups, peer review organizations, the Joint Commission on Accreditation of Hospitals, professional societies, and private purchasers of care with experience and expertise in the monitoring of the quality of care are consulted.

(5) COORDINATION.—The Secretary shall designate an office with responsibilities for coordinating studies, under this subsection and other authority, relating to the quality of services furnished to medicare and medicaid beneficiaries, in particular studies relating to the evaluation of the prospective payment system on the quality of health care provided to medicare beneficiaries. These responsibilities shall include assessing the feasibility and costs of alternative studies in relation to their importance, overseeing and coordinating access to needed data, and maintaining a clearinghouse for both public and private sector studies.

SEC. 9314. DIRECT COSTS OF GRADUATE MEDICAL EDUCATION.

(a) CLARIFYING COUNTING OF TIME SPENT IN OUTPATIENT SETTINGS.—Section 1886(h)(4) of such Act, as amended by section 1895(b) of the Tax Reform Act of 1986, is amended by adding at the end the following new subparagraph: 42 USC 1395ww. *Post*, p. 2095.

"(E) COUNTING TIME SPENT IN OUTPATIENT SETTINGS.—Such rules shall provide that only time spent in activities relating to patient care shall be counted and that all the time so spent by a resident under an approved medical residency training program shall be counted towards the determination of full-time equivalency, without regard to the setting in which the activities are performed, if the hospital incurs all, or substantially all, of the costs for the training program in that setting.". Hospitals.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments for approved residency training programs as of July 1, 1987. 42 USC 1395 ww note.

SEC. 9315. PAYMENTS FOR HOME HEALTH SERVICES.

(a) LIMITATIONS ON PAYMENT FOR HOME HEALTH SERVICES.—Section 1861(v)(1)(L) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)) is amended—

(1) by inserting "(i)" after "(L)", and

(2) by striking "the 75th percentile" and all that follows through "as the Secretary may determine." and inserting in lieu thereof "for cost reporting periods beginning on or after—

"(I) July 1, 1985, and before July 1, 1986, 120 percent,

"(II) July 1, 1986, and before July 1, 1987, 115 percent, or

"(III) July 1, 1987, 112 percent,

of the mean of the labor-related and nonlabor per visit costs for free standing home health agencies.

"(ii) Effective for cost reporting periods beginning on or after July 1, 1986, such limitations shall be applied on an aggregate basis for the agency, rather than on a discipline specific basis, with appropriate adjustment for administrative and general costs of hospital-based agencies.". Effective date.

42 USC 1395x note.

(b) CONSIDERATIONS IN ESTABLISHING LIMITS.—In establishing limitations under section 1861(v)(1)(L) of the Social Security Act on payment for home health services for cost reporting periods beginning on or after July 1, 1986, the Secretary of Health and Human Services shall—

(1) base such limitations on the most recent data available, which data may be for cost reporting periods beginning no earlier than October 1, 1983; and

(2) take into account the changes in costs of home health agencies for billing and verification procedures that result from the Secretary's changing the requirements for such procedures, to the extent the changes in costs are not reflected in such data.

Paragraph (2) shall apply to changes in requirements effected before, on, or after July 1, 1986.

42 USC 1395x note.

(c) GAO REPORT.—The Comptroller General shall study and report to Congress, not later than February 1, 1988, on—

(1) the appropriateness and impact on medicare beneficiaries of applying the per visit cost limits for home health services under section 1861(v)(1)(L) of the Social Security Act on a discipline-specific basis, rather than on an aggregate basis, for all home health services furnished by an agency, and

(2) the appropriateness of the percentage limits established under such section.

SEC. 9316. ESTABLISHMENT OF PATIENT OUTCOME ASSESSMENT RESEARCH PROGRAM.

(a) IN GENERAL.—Section 1875 of the Social Security Act (42 U.S.C. 139511) is amended by adding at the end the following new subsection:

"(c)(1) The Secretary shall establish a patient outcome assessment research program (in this subsection referred to as the 'research program') to promote research with respect to patient outcomes of selected medical treatments and surgical procedures for the purpose of assessing their appropriateness, necessity, and effectiveness. The research program shall include—

"(A) reorganization of data relating to claims under parts A and B of this title in a manner that facilitates research with respect to patient outcomes,

"(B) assessments of the appropriateness of admissions and discharges,

"(C) assessments of the extent of professional uncertainty regarding efficacy,

"(D) development of improved methods for measuring patient outcomes,

"(E) evaluations of patient outcomes, and

Physicians. Contracts.

42 USC 1320c.

"(F) evaluation of the effects on physicians' practice patterns of the dissemination to physicians and peer review organizations with contracts under part B of title XI of the findings of the research conducted under subparagraphs (B), (C), (D), and (E).

"(2) In selecting treatments and procedures to be studied, the Secretary shall give priority to those medical and surgical treatments and procedures—

"(A) for which data indicate a highly (or potentially highly) variable pattern of utilization among beneficiaries under this title in different geographic areas, and

"(B) which are significant (or potentially significant) for purposes of this title in terms of utilization by beneficiaries, length of hospitalization associated with the treatment or procedure, costs to the research program, and risk involved to the beneficiary.

"(3) For purposes of carrying out the research program, there are authorized to be appropriated— Appropriation authorization.

"(A) from the Federal Hospital Insurance Trust Fund $4,000,000 for fiscal year 1987 and $5,000,000 for each of fiscal years 1988 and 1989, and

"(B) from the Federal Supplementary Medical Insurance Trust Fund $2,000,000 for fiscal years 1987 and $2,500,000 for each of fiscal years 1988 and 1989.

"(4) Not less than 90 percent of the amount appropriated for any fiscal year to carry out the research program shall be used to fund grants to, and cooperative agreements with, non-Federal entities to conduct research described in paragraph (1). The remainder may be used by the Secretary to provide such research by Federal entities and for administrative costs.

"(5) The research program shall be administered by the National Center for Health Services Research and Health Care Technology established under section 305 of the Public Health Service Act (in this subsection referred to as the 'Center'). The Center shall establish application procedures for grants and cooperative agreements, and shall establish peer review panels to review all such applications and all research findings. The Center shall consult with the council on health care technology (established under a grant under section 309 of the Public Health Service Act) in establishing the scope and priorities for the research program and shall report periodically to any such council on the status of the program. Grants. Contracts. 42 USC 242c. Reports. 42 USC 242n.

"(6) The Secretary shall make available data derived from the programs under this title and other programs administered by the Secretary for use in the research program.

"(7) The Center shall report to the Committees on Finance and Appropriations of the Senate and the Committees on Ways and Means, Energy and Commerce, and Appropriations of the House of Representatives not later than 18 months after the date of the enactment of this Act, and annually thereafter, with respect to the findings under the research program. In cooperation with appropriate medical specialty groups, the Center shall disseminate such findings as widely as possible, including disseminating such findings to each peer review organization which has a contract under part B of title XI." Reports. Contracts. 42 USC 1320c.

(b) PERMITTING SERVICES TO BE PROVIDED UNDER RESEARCH PROGRAM.—Section 1862(a)(1) of such Act (42 U.S.C. 1395y(a)(1)) is amended—

(1) by striking "and" at the end of subparagraph (C),

(2) by striking the semicolon at the end of subparagraph (D) and inserting ", and", and

(3) by adding at the end the following new subparagraph:

"(E) in the case of research conducted pursuant to section 1875(c), which is not reasonable and necessary to carry out the purposes of that section;". *Ante*, p. 2006.

SEC. 9317. IMPROVEMENTS IN CIVIL MONETARY PENALTY AND EXCLUSION PROVISIONS.

(a) COLLATERAL ESTOPPEL EFFECT OF PRIOR FEDERAL CRIMINAL CONVICTIONS.—Section 1128A(c) of the Social Security Act (42 U.S.C. 1320a-7a(c)), as redesignated by section 9313(c), is amended by adding at the end the following new paragraph:

"(3) In a proceeding under subsection (a) or (b) which—

"(A) is against a person who has been convicted (whether upon a verdict after trial or upon a plea of guilty or nolo contendere) of a Federal crime charging fraud or false statements, and

"(B) involves the same transaction as in the criminal action, the person is estopped from denying the essential elements of the criminal offense.".

(b) AUTHORITY OF HEARING OFFICER TO SANCTION MISCONDUCT.—Such section is further amended by adding at the end the following new paragraph:

"(4) The official conducting a hearing under this section may sanction a person, including any party or attorney, for failing to comply with an order or procedure, failing to defend an action, or other misconduct as would interfere with the speedy, orderly, or fair conduct of the hearing. Such sanction shall reasonably relate to the severity and nature of the failure or misconduct. Such sanction may include—

"(A) in the case of refusal to provide or permit discovery, drawing negative factual inferences or treating such refusal as an admission by deeming the matter, or certain facts, to be established,

"(B) prohibiting a party from introducing certain evidence or otherwise supporting a particular claim or defense,

"(C) striking pleadings, in whole or in part,

"(D) staying the proceedings,

"(E) dismissal of the action,

"(F) entering a default judgment,

"(G) ordering the party or attorney to pay attorneys' fees and other costs caused by the failure or misconduct, and

"(H) refusing to consider any motion or other action which is not filed in a timely manner.".

(c) CLARIFICATION OF EXCLUSION AUTHORITY FOR CERTAIN OFFENDERS.—Section 1128 of such Act (42 U.S.C. 1320a-7) is amended by adding at the end the following new subsection:

Physicians. State and local governments.

"(f) For purposes of subsection (a), a physician or other individual is considered to have been 'convicted' of a criminal offense—

"(1) when a judgment of conviction has been entered against the physician or individual by a Federal, State, or local court, regardless of whether there is an appeal pending or whether the judgment of conviction or other record relating to criminal conduct has been expunged;

"(2) when there has been a finding of guilt against the physician or individual by a Federal, State, or local court;

"(3) when a plea of guilty or nolo contendere by the physician or individual has been accepted by a Federal, State, or local court; or

"(4) when the physician or individual has entered into participation in a first offender or other program where judgment of conviction has been withheld.".

(d) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, without regard to when the criminal conviction was obtained, but shall only apply to a conviction upon a plea of nolo contendere tendered after the date of the enactment of this Act. 42 USC 1320a-7a note.

(2) The amendment made by subsection (b) shall apply to failures or misconduct occurring on or after the date of the enactment of this Act.

(3) The provisions— 42 USC 1320a-7 note.

(A) of paragraphs (1), (2), and (3) of section 1128(f) of the Social Security Act (as added by the amendment made by subsection (c)) shall apply to judgments entered, findings made, and pleas entered, before, on, or after the date of the enactment of this Act, and *Ante*, p. 2008.

(B) of paragraph (4) of such section shall apply to participation in a program entered into on or after the date of the enactment of this Act.

SEC. 9318. HOSPITAL PROTOCOLS FOR ORGAN PROCUREMENT AND STANDARDS FOR ORGAN PROCUREMENT AGENCIES.

(a) IN GENERAL.—Title XI of the Social Security Act is amended by inserting after section 1137 the following new section:

"HOSPITAL PROTOCOLS FOR ORGAN PROCUREMENT AND STANDARDS FOR ORGAN PROCUREMENT AGENCIES

"SEC. 1138. (a)(1) The Secretary shall provide that a hospital meeting the requirements of title XVIII or XIX may participate in the program established under such title only if— 42 USC 1320b-8. 42 USC 1395, 1396.

"(A) the hospital establishes written protocols for the identification of potential organ donors that—

"(i) assure that families of potential organ donors are made aware of the option of organ or tissue donation and their option to decline,

"(ii) encourage discretion and sensitivity with respect to the circumstances, views, and beliefs of such families, and

"(iii) require that an organ procurement agency designated by the Secretary pursuant to subsection (b)(1)(F) be notified of potential organ donors; and

"(B) In the case of a hospital in which organ transplants are performed, the hospital is a member of, and abides by the rules and requirements of, the Organ Procurement and Transplantation Network established pursuant to section 372 of the Public Health Service Act (in this section referred to as the 'Network'). 42 USC 274.

"(2) For purposes of this subsection, the term 'organ' means a human kidney, liver, heart, lung, pancreas, and any other human organ or tissue specified by the Secretary for purposes of this subsection.

"(b)(1) The Secretary shall provide that payment may be made under title XVIII or XIX with respect to organ procurement costs attributable to payments made to an organ procurement agency only if the agency—

"(A)(i) is a qualified organ procurement organization (as described in section 371(b) of the Public Health Service Act) that is operating under a grant made under section 371(a) of such Act, or (ii) has been certified or recertified by the Secretary within 42 USC 273.

the previous two years as meeting the standards to be a qualified organ procurement organization (as so described);

"(B) meets the requirements that are applicable under such title for organ procurement agencies;

"(C) meets performance-related standards prescribed by the Secretary;

"(D) is a member of, and abides by the rules and requirements of, the Network;

"(E) allocates organs, within its service area and nationally, in accordance with medical criteria and the policies of the Network; and

"(F) is designated by the Secretary as an organ procurement organization payments to which may be treated as organ procurement costs for purposes of reimbursement under such title.

"(2) The Secretary may not designate more than one organ procurement organization for each service area (described in section 371(b)(1)(E) of the Public Health Service Act) under paragraph (1)(F).".

42 USC 273.

42 USC 1320b-8 note.

42 USC 1395, 1396.

(b) EFFECTIVE DATES.—(1) Section 1138(a) of the Social Security Act shall apply to hospitals participating in the programs under titles XVIII and XIX of such Act as of October 1, 1987.

(2) Section 1138(b) of such Act shall apply to costs of organs procured on or after October 1, 1987.

SEC. 9319. MEDICARE AS SECONDARY PAYER; COVERAGE REQUIREMENTS FOR CERTAIN OTHER PAYERS.

(a) MEDICARE SECONDARY FOR DISABLED EMPLOYEES OF CERTAIN LARGE EMPLOYERS.—Section 1862(b) of the Social Security Act (42 U.S.C. 1395y(b)) is amended by adding at the end the following new paragraph:

"(4)(A)(i) A large group health plan may not take into account that an active individual is eligible for or receives benefits under this title under section 226(b), other than an individual who is, or would upon application be, entitled to benefits under section 226A.

42 USC 426.

42 USC 426-1.

"(ii) Payment may not be made under this title, except as provided in clause (iii), with respect to any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to the item or service as required under clause (i).

Claims.

"(iii) Any payment under this title with respect to any item or service to which clause (i) applies shall be conditioned on reimbursement to the appropriate Trust Fund established by this title. In order to recover payment made under this title for the item or service, the United States may bring an action against any entity which is required under this subsection (a) to pay with respect to the item or service (and may, in accordance with paragraph (5), collect double damages against that entity), or against any other entity that has received payment from that entity with respect to the item or service, and may join or intervene in any action related to the events that gave rise to the need for the item or service. The United States shall be subrogated (to the extent of payment made under this title for an item or service) to any right under clause (i) of an individual or any other entity to payment with respect to the item or service. The Secretary may waive (in whole or in part) the provisions of this clause in the case of an individual claim if the Secretary determines that the waiver is in the best interests of the program established under this title.

"(B) In this paragraph:

"(i) The term 'large group health plan' has the meaning given such term in section 5000(b) of the Internal Revenue Code of 1986.

Post, p. 2095.

"(ii) The term 'active individual' means an employee (as may be defined in regulations), the employer, an individual associated with the employer in a business relationship, or a member of the family of any of those persons.

"(C) The provisions of subparagraph (B) of paragraph (3) shall apply to coordination of payment under this paragraph in the case of large group health plans in the same manner as they apply to coordination of payment under paragraph (3) in the case of group health plans.

"(D) The preceding provisions of this paragraph shall only apply to items and services furnished on or after January 1, 1987, and before January 1, 1992.".

(b) ESTABLISHMENT OF PRIVATE CAUSE OF ACTION WHERE MEDICARE SECONDARY.—Such section is further amended by adding at the end the following new paragraph:

"(5) There is hereby created a private cause of action for damages (which shall be in an amount double the amount otherwise provided) in the case of a workmen's compensation law or plan, automobile or liability insurance policy or plan or no fault insurance plan, group health plan, or large group health plan which is made a primary payer under paragraph (1), (2), (3), or (4), respectively, and which fails to provide for primary payment (or appropriate reimbursement) in accordance with such respective paragraphs."

Insurance.

(c) SPECIAL ENROLLMENT PERIODS.—

(1) Section 1837(i)(1) of such Act (42 U.S.C. 1395p(i)(1)) is amended by adding at the end the following: "In the case of an individual who has not attained the age of 65, at the time the individual first satisfies paragraph (1) of section 1836, is enrolled in a large group health plan as an active individual (as those terms are defined in section 1862(b)(4)(B)), and has elected not to enroll (or to be deemed enrolled) under this section during the individual's initial enrollment period, there shall be a special enrollment period described in paragraph (3)(B).".

42 USC 1395o.

42 USC 1395y.

(2) Section 1837(i)(2) of such Act (42 U.S.C. 1395p(i)(2)) is amended by adding at the end the following: "In the case of an individual who has not attained the age of 65, has enrolled (or has been deemed to have enrolled) in the medical insurance program established under this part during the individual's initial enrollment period, or is an individual described in the second sentence of paragraph (1), has enrolled in such program during any subsequent special enrollment period under this subsection during which the individual was not enrolled in a large group health plan as an active individual (as those terms are defined in section 1862(b)(4)(B)), and has not terminated enrollment under this section at any time at which the individual is not enrolled in such a large group health plan as an active individual, there shall be a special enrollment period described in paragraph (3)(B).".

(3) Section 1837(i)(3) of such Act (42 U.S.C. 1395p(i)(3)) is amended—

Ante, p. 171.

(A) by inserting "(A)" after "(3)",

(B) by inserting "the first sentences of" after "referred to in",

(C) by adding at the end the following new subparagraph:

"(B) The special enrollment period referred to in the second sentences of paragraphs (1) and (2) is the period beginning with the first day of the first month in which the individual is no longer enrolled as an active individual in a large group health plan (as such terms are defined in section 1862(b)(4)(B)) and ending seven months later.".

42 USC 1395y.

(4) The second sentence of section 1839(b) of such Act (42 U.S.C. 1395r(b)) is amended by inserting before the period the following: "or months during which the individual has not attained the age of 65 and for which the individual can demonstrate that the individual was enrolled in a large group health plan as an active individual (as those terms are defined in section 1862(b)(4)(B))".

(d) TAX IMPOSED ON NONCONFORMING PLANS.—

Post, p. 2095.

(1) Subtitle D of the Internal Revenue Code of 1954 (relating to miscellaneous excise taxes) is amended by adding at the end the following new chapter:

"CHAPTER 47—CERTAIN LARGE GROUP HEALTH PLANS

"Sec. 5000. Certain large group health plans.

26 USC 5000.

"SEC. 5000. CERTAIN LARGE GROUP HEALTH PLANS.

"(a) IMPOSITION OF TAX.—There is hereby imposed on any employer or employee organization that contributes to a nonconforming large group health plan a tax equal to 25 percent of the employer's or employee organization's expenses incurred during the calendar year for each large group health plan to which the employer or employee organization contributes.

"(b) LARGE GROUP HEALTH PLAN.—For purposes of this section, the term 'large group health plan' means a plan of, or contributed to by, an employer or employee organization (including a self-insured plan) to provide health care (directly or otherwise) to the employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, or their families, that covers employees of at least one employer that normally employed at least 100 employees on a typical business day during the previous calendar year.

"(c) NONCONFORMING LARGE GROUP HEALTH PLAN.—For purposes of this section, the term 'nonconforming large group health plan' means a large group health plan that at any time during a calendar year does not comply with the requirements of section 1862(b)(4)(A)(i) of the Social Security Act.

42 USC 1395y.

"(d) GOVERNMENT ENTITIES.—For purposes of this section, the term 'employer' does not include a Federal or other governmental entity.".

(2) The table of chapters of subtitle D of such Code is amended by adding at the end thereof the following:

"CHAPTER 47. Certain large group health plans.".

Reports.
42 USC 1395y note.

(e) STUDY OF IMPACT ON DISABLED BENEFICIARIES AND FAMILY.—The Comptroller General shall study and report to Congress, by not later than March 1, 1990, the impact of the amendments made by this section on access of disabled individuals and members of their family to employment and health insurance. The report shall include information relating to—

(1) the number of disabled medicare beneficiaries for whom medicare has become secondary, either through their employment or the employment of a family member;

(2) the amount of savings to the medicare program achieved annually through this provision; and

(3) the effect on employment, and employment-based health coverage, of disabled individuals and family members.

(f) EFFECTIVE DATES.— 42 USC 1395y note.

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to items and services furnished on or after January 1, 1987.

(2) The amendments made by subsection (c) shall apply to enrollments occurring on or after January 1, 1987.

SEC. 9320. PAYMENT FOR SERVICES OF CERTIFIED REGISTERED NURSE ANESTHETISTS.

(a) EXTENSION OF PASS-THROUGH FOR COSTS OF CERTIFIED REGISTERED NURSE ANESTHETISTS.—Section 2312(c) of the Deficit Reduction Act of 1984 is amended by striking "October 1, 1987." and inserting "January 1, 1989. In the case of a cost reporting period that begins before January 1, 1989, but end after such date, additional payments under the amendment made by subsection (a) shall be proportionately reduced to reflect the portion of the period occurring after such date.". 42 USC 1395ww note.

(b) COVERAGE OF SERVICES OF A CERTIFIED REGISTERED NURSE ANESTHETIST UNDER PART B.—Section 1861(s) of the Social Security Act (42 U.S.C. 1395x(s)) is amended—

(1) by redesignating paragraphs (11) through (14) as paragraphs (12) through (15), respectively;

(2) by striking "and" at the end of paragraph (9);

(3) by striking the period at the end of paragraph (10) and inserting "; and"; and

(4) by inserting after paragraph (10) the following new paragraph:

"(11) services of a certified registered nurse anesthetist (as defined in subsection (bb)).".

(c) DEFINITION OF SERVICES OF A CERTIFIED REGISTERED NURSE ANESTHETIST.—Section 1861 of such Act is amended by inserting after subsection (aa) the following new subsection:

"SERVICES OF A CERTIFIED REGISTERED NURSE ANESTHETIST

"(bb)(1) The term 'services of a certified registered nurse anesthetist' means anesthesia services and related care furnished by a certified registered nurse anesthetist (as defined in paragraph (2)) which the nurse anesthetist is legally authorized to perform as such by the State in which the services are furnished.

"(2) The term 'certified registered nurse anesthetist' means a certified registered nurse anesthetist licensed by the State who meets such education, training, and other requirements relating to anesthesia services and related care as the Secretary may prescribe. In prescribing such requirements the Secretary may use the same requirements as those established by a national organization for the certification of nurse anesthetists.".

(d) DIRECT PAYMENT FOR SERVICES.—Section 1832(a)(2)(B) of such Act (42 U.S.C. 1395k(a)(2)(B)) is amended—

(1) by striking "and" at the end of clause (i),

(2) by striking "; and" at the end of clause (ii) and inserting ", and", and

(3) by adding at the end the following new clause:

"(iii) services of a certified registered nurse anesthetist; and".

(e) AMOUNT OF PAYMENT.—(1) Section 1833(a)(1) of such Act (42 U.S.C. 1395l(a)(1)) is amended by striking "and" at the end of subparagraph (E), and by adding at the end the following: "and (H) with respect to services of a certified registered nurse anesthetist under section 1861(s)(11), the amounts paid shall be 80 percent of the lesser of the actual charge or the fee schedule for such services established by the Secretary in accordance with subsection (l),".

Ante, p. 2013.

(2) Section 1833 of such Act is further amended by adding at the end the following new subsection:

"(l)(1) The Secretary shall establish a fee schedule for services of certified registered nurse anesthetists under section 1861(s)(11).

Effective date.

"(2) Except as provided in paragraph (3), the fee schedule established under paragraph (1) shall be initially based on audited data from cost reporting periods ending in fiscal year 1985. The fee schedule shall be adjusted annually (to become effective on January 1 of each calendar year) by the percentage increase in the MEI (as defined in section 1842(b)(4)(E)(ii)) for that year.

42 USC 1395u.

"(3)(A) In establishing the initial fee schedule for those services, the Secretary shall adjust the fee schedule to the extent necessary to ensure that the estimated total amount which will be paid under this title for those services plus applicable coinsurance in 1989 will equal the estimated total amount which would be paid under this title for those services in 1989 if the services were included as inpatient hospital services and payment for such services was made under part A in the same manner as payment was made in fiscal year 1987, adjusted to take into account changes in prices and technology relating to the administration of anesthesia.

Physicians.

"(B) The Secretary shall also reduce the prevailing charge of physicians for medical direction of a certified registered nurse anesthetist, or the fee schedule for services of certified registered nurse anesthetists, or both, to the extent necessary to ensure that the estimated total amount which will be paid under this title plus applicable coinsurance for such medical direction and such services in 1989 and 1990 will not exceed the estimated total amount which would have been paid but for the enactment of the amendments made by section 9320 of the Omnibus Budget Reconciliation Act of 1986. A reduced prevailing charge under this subparagraph shall become the prevailing charge but for subsequent years for purposes of applying the economic index under the fourth sentence of section 1842(b)(3).

"(4) In establishing the fee schedule under paragraph (1), the Secretary may utilize a system of time units, a system of base and time units, or any appropriate methodology. The Secretary may establish a nationwide fee schedule or adjust the fee schedule for geographic areas (as the Secretary may determine to be appropriate).

Claims.
Contracts.

"(5)(A) Payment for the services of a certified registered nurse anesthetist (for which payment may otherwise be made under this part) may be made on the basis of a claim or request for payment presented by the certified registered nurse anesthetist furnishing such services, or by a hospital, physician, or group practice with which the certified registered nurse anesthetist furnishing such

services has an employment or contractual relationship that provides for payment to be made under this part for such services to such hospital, physician, or group practice.

"(B)(i) Payment for the services of a certified registered nurse anesthetist under this part may be made only on an assignment-related basis, and any such assignment agreed to by a certified registered nurse anesthetist shall be binding upon any other person presenting a claim or request for payment for such services.

"(ii) Except for deductible and coinsurance amounts applicable under this section, any person who knowingly and willfully presents, or causes to be presented, to an individual enrolled under this part a bill or request for payment for services of a certified registered nurse anesthetist for which payment may be made under this part only on an assignment-related basis is subject to a civil monetary penalty of not to exceed $2,000 for each such bill or request. Such a penalty shall be imposed in the same manner as civil monetary penalties are imposed under section 1128A with respect to actions described in subsection (a) of that section.

Ante, pp. 2003, 2008.

"(C) No hospital that presents a claim or request for payment for services of a certified nurse anesthetist under this part may treat any uncollected coinsurance amount imposed under this part with respect to such services as a bad debt of such hospital for purposes of this title.

Claims.

"(6)(A) If an adjustment under paragraph (3)(B) results in a reduction in the reasonable charge for a physicians' service and a nonparticipating physician furnishes the service to an individual entitled to benefits under this part (subject to subparagraph (D)), the physician may not charge the individual more than the limiting charge (as defined in subparagraph (B)) plus (for services furnished during the 12-month period beginning on the effective date of the reduction) ½ of the amount by which the physician's actual charges for the service for the previous 12-month period exceeds the limiting charge.

Physicians.

"(B) In subparagraph (A), the term 'limiting charge' means, with respect to a service, 125 percent of the prevailing charge for the service after the reduction referred to in subparagraph (A).

"(C) If a physician knowingly and willfully imposes charges in violation of subparagraph (A), the Secretary may apply sanctions against such physician in accordance with subsection (j)(2).

Physicians. Sanctions.

"(D) This paragraph shall not apply to services furnished after the earlier of (i) December 31, 1990, or (ii) one-year after the date the Secretary reports to Congress, under section 1845(e)(3), on the development of the relative value scale under section 1845.".

Reports.

Ante, p. 190.

(3) Section 1842(j)(2) of such Act (42 U.S.C. 1395u(j)(2)) is amended by striking "paragraph (1) or subsection (k)" and inserting "this paragraph".

(f) NOT TREATED AS PART OF INPATIENT HOSPITAL SERVICES.—Section 1861(b)(4) of such Act (42 U.S.C. 1395x(b)(4)) is amended by inserting before the semicolon the following: ", anesthesia services provided by a certified certified registered nurse anesthetist".

(g) CONFORMING AMENDMENTS TO HOSPITAL PAYMENTS.—(1) Section 1886(a)(4) of such Act (42 U.S.C. 1395ww(a)(4)) is amended by striking ", costs of anesthesia services provided by a certified registered nurse anesthetist,".

(2) Section 1886(d)(5) of such Act (42 U.S.C. 1395ww(d)(5)) is amended by striking subparagraph (E).

(h) OTHER CONFORMING AMENDMENTS.—(1) Section 1862(a)(14) of such Act (42 U.S.C. 1395y(a)(14)) is amended by inserting before the period the following: "or are services of a certified registered nurse anesthetist".

(2) Section 1866(a)(1)(H) of such Act (42 U.S.C. 1395cc(a)(1)(H)) is amended by inserting ", and other than services of a certified registered nurse anesthetist" after "1862(a)(14)".

(3) Sections 1864(a), 1865(a), 1902(a)(9)(C), and 1915(a)(1)(B)(ii)(I) of such Act (42 U.S.C. 1395aa(a), 1395bb(a), 1396a(a)(9)(C), 1396n(a)(1)(B)(ii)(I)) are each amended by striking "paragraphs (11) and (12)" and inserting "paragraphs (12) and (13)".

42 USC 1395k note.

(i) EFFECTIVE DATE.—The amendments made by this section (other than subsection (a)) shall apply to services furnished on or after January 1, 1989.

42 USC 1395k note.

(j) CONSTRUCTION.—Nothing in this section or the amendments made by this section shall contravene provisions of State law relating to the practice of medicine or nursing or State law requirements or institutional requirements regarding the administration of anesthesia and its medical direction or supervision.

SEC. 9321. TECHNICAL AMENDMENTS AND MISCELLANEOUS PROVISIONS RELATING TO PARTS A AND B.

(a) TREATMENT OF GROUP PURCHASING VENDOR AGREEMENTS.—

(1) IN GENERAL.—Section 1877(b)(3) of the Social Security Act (42 U.S.C. 1395nn(b)(3)) is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting "; and", and

(C) by adding at the end the following:

"(C) any amount paid by a vendor of goods or services to a person authorized to act as a purchasing agent for a group of individuals or entities who are furnishing services reimbursed under this title if—

Contracts.

"(i) the person has a written contract, with each such individual or entity which specifies the amount to be paid the person, which amount may be a fixed amount or a fixed percentage of the value of the purchases made by each such individual or entity under the contract, and

"(ii) in the case of an entity that is a provider of services, the person discloses (in such form and manner as the Secretary requires) to the entity and, upon request, to the Secretary the amount received from each such vendor with respect to purchases made by or on behalf of the entity.".

42 USC 1395nn note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) apply to payments made before, on, or after the date of the enactment of this Act.

42 USC 1395h note.

(b) EXTENSION AND CLARIFICATION OF COMPETITIVE CONTRACTING AUTHORITY.—Section 2326(a) of the Deficit Reduction Act of 1984 is amended—

(1) by striking "of the fiscal years" and all that follows through ", the Secretary" and inserting "fiscal year (beginning with fiscal year 1985 and ending with fiscal year 1989), the Secretary", and

(2) by inserting "or cost reimbursement provisions under sections 1816(c) or 1842(c) of such Act" after "such Act" the second place it appears.

Ante, pp. 1997, 1998.

42 USC 1395ww note.

(c) TREATMENT OF CAPITAL-RELATED REGULATIONS.—

(1) PROHIBITION OF ISSUANCE OF FINAL REGULATIONS ON CAPITAL-RELATED COSTS AS PART OF PAYMENT FOR OPERATING COSTS BEFORE SEPTEMBER 1, 1987.—Notwithstanding any other provision of law (except as provided in paragraph (3)), the Secretary of Health and Human Services may not issue, in final form, after September 1, 1986, and before September 1, 1987, any regulation that changes the methodology for computing the amount of payment for capital-related costs (as defined in paragraph (4)) for inpatient hospital services under part A of title XVIII of the Social Security Act. Any regulation published in violation of the previous sentence before the date of the enactment of this Act is void and of no effect. 42 USC 1395c.

(2) NOT INCLUDING CAPITAL-RELATED REGULATIONS IN BUDGET BASELINE.—Any reference in law to a regulation issued in final form or proposed by the Health Care Financing Administration pursuant to sections 1886(b)(3)(B), 1886(d)(3)(A), and 1886(e)(4) of the Social Security Act shall not include any regulation issued or proposed with respect to capital-related costs (as defined in paragraph (4)). 42 USC 1395ww.

(3) EXCEPTION.—Paragraph (1) shall not apply to any regulation issued for the sole purpose of implementing section 1886(g)(3)(A) and (B) of the Social Security Act (as amended by section 9303(a) of this Act).

(4) CAPITAL-RELATED COSTS DEFINED.—In this subsection, the term "capital-related costs" means those capital-related costs that are specifically excluded, under the second sentence of "operating costs of inpatient hospital services" (as defined in that section) for cost reporting periods beginning prior to October 1, 1987.

(d) LIMITATION ON AUTHORITY TO ISSUE CERTAIN FINAL REGULATIONS AND INSTRUCTIONS RELATING TO HOSPITALS OR PHYSICIANS.—Notwithstanding any other provision of law, except as required to implement specific provisions required under statute and except as provided under subsection (c) with respect to a regulation described in that subsection, the Secretary of Health and Human Services is not authorized to issue in final form after the date of the enactment of this Act and before September 1, 1987, any regulation, instruction, or other policy which is estimated by the Secretary to result in a net reduction in expenditures under title XVIII of the Social Security Act in fiscal year 1988 of more than $50,000,000, and which relates to hospitals or physicians. 42 USC 1395ww note. 42 USC 1395.

(e) 60-DAY NOTICE FOR PROPOSED REGULATIONS.—

(1) IN GENERAL.—Section 1871 of the Social Security Act (42 U.S.C. 1395hh) is amended by inserting "(a)" after "1871." and by adding at the end the following new subsection:

"(b)(1) Except as provided in paragraph (2), before issuing in final form any regulation under subsection (a), the Secretary shall provide for notice of the proposed regulation in the Federal Register and a period of not less than 60 days for public comment thereon. Federal Register, publication.

"(2) Paragraph (1) shall not apply where—

"(A) a statute specifically permits a regulation to be issued in interim final form or otherwise with a shorter period for public comment,

"(B) a statute establishes a specific deadline for the implementation of a provision and the deadline is less than 150 days after the date of the enactment of the statute in which the deadline is contained, or

"(C) subsection (b) of section 553 of title 5, United States Code, does not apply pursuant to subparagraph (B) of such subsection.".

(2) CONFORMING AMENDMENTS.—(A) Section 1886(e)(3)(A) of such Act (42 U.S.C. 1395ww(e)(3)(A)), as amended by section 9302(e)(3)(B), is amended by striking "April" and inserting "March".

(B) Section 1886(e)(5)(A) of such Act is amended by striking "June"and inserting "May".

(3) EFFECTIVE DATES.—

42 USC 1395hh note.

(A) The amendments made by paragraph (1) shall apply to notices of proposed rulemaking issued after the date of the enactment of this Act.

42 USC 1395ww note.

(B) The amendments made by paragraph (2) shall take effect beginning with fiscal year 1989.

PART 3—PROVISIONS RELATING TO MEDICARE PART B

SEC. 9331. PAYMENT FOR PHYSICIANS' SERVICES.

(a) DETERMINATION OF MAXIMUM ALLOWABLE PREVAILING CHARGES FOR PHYSICIANS' SERVICES.—

(1) IN GENERAL.—Section 1842(b)(4)(A) of the Social Security Act (42 U.S.C. 1395u(b)(4)(A)) is amended by striking clause (iii) and inserting the following:

"(iii) In determining the maximum allowable prevailing charges which may be recognized consistent with the index described in the fourth sentence of paragraph (3) for physicians' services furnished on or after January 1, 1987, by participating physicians, the Secretary shall treat the maximum allowable prevailing charges recognized as of December 31, 1986, under such sentence with respect to participating physicians as having been justified by economic changes.

"(iv) In determining the prevailing charge level under the third and fourth sentences of paragraph (3) for a physicians' service furnished on or after January 1, 1987, by a nonparticipating physician, the Secretary shall set the level at 96 percent of the prevailing charge levels established under such sentences with respect to such service furnished by participating physicians.

"(v) Beginning with 1987, the percentage increase in the MEI (as defined in subparagraph (E)(ii)) for each year shall be the same for nonparticipating physicians as for participating physicians.".

(2) CONFORMING AMENDMENT.—Section 1842(b)(4)(C) of such Act is amended—

(A) by striking "(i)" after "(C)", and

(B) by striking clause (ii).

(3) DEFINITIONS.—Section 1842(b)(4) of such Act is further amended by adding at the end the following new subparagraph:

"(E) In this section:

"(i) The term 'participating physician' refers, with respect to the furnishing of services, to a physician who at the time of furnishing the services is a participating physician (under subsection (h)(1)), and the term 'nonparticipating physician' refers, with respect to the furnishing of services, a physician who at the time of furnishing the services is not a participating physician.

"(ii) The term 'percentage increase in the MEI' means, with respect to physicians' services furnished in a year, the percentage increase in the medicare economic index (referred to in the fourth sentence of paragraph (3)) applicable to such services furnished as of the first day of that year.".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services furnished on or after January 1, 1987. 42 USC 1395u note.

(b) GENERAL LIMIT ON ACTUAL CHARGES FOR NONPARTICIPATING PHYSICIANS.— 42 USC 1395u.

(1) IN GENERAL.—Section 1842(j)(1) of such Act is amended—

(A) by inserting "(A)" after "(j)(1)", and

(B) by adding at the end the following new subparagraph:

"(B)(i) During any period (on or after January 1, 1987, and before the date specified in clause (ii)), during which a physician is a nonparticipating physician, the Secretary shall monitor each such physician's actual charges for physicians' services furnished to individuals enrolled under this part. If such physician knowingly and willfully bills for such a service a physician's actual charge (as defined in subparagraph (C)(vi) in excess of the maximum allowable actual charge determined under subparagraph (C) for that service, the Secretary may apply sanctions against such physician in accordance with paragraph (2). Sanctions.

"(ii) Clause (i) shall not apply to services furnished after the earlier of (I) December 31, 1990, or (II) one-year after the date the Secretary reports to Congress, under section 1845(e)(3), on the development of the relative value scale under section 1845. *Ante*, p. 190.

"(C)(i) For a particular physicians' service furnished by a nonparticipating physician to individuals enrolled under this part during a year, for purposes of subparagraph (B), the maximum allowable actual charge is determined as follows: If the physician's actual charge for that service in the previous year was—

"(I) less than 115 percent of the prevailing charge for the year involved for such service furnished by nonparticipating physicians, the maximum allowable actual charge for the year involved is the greater of the maximum allowable actual charge described in subclause (II) or the charge described in clause (ii), or

"(II) equal to, or greater than, 115 percent of the prevailing charge for the year involved for such service furnished by nonparticipating physicians, the maximum allowable actual charge is 101 percent of the physician's maximum allowable actual charge for the service for the previous year.

"(ii) For purposes of clause (i)(I), the charge described in this clause for a particular physicians' service furnished in a year is the maximum allowable actual charge for the service of the physician for the previous year plus the product of (I) the applicable fraction (as defined in clause (iii)) and (II) the amount by which 115 percent of the prevailing charge for the year involved for such service furnished by nonparticipating physicians, exceeds the physician's maximum allowable actual charge for the service for the previous year.

"(iii) In clause (ii), the 'applicable fraction' is—

"(I) for 1987, ¼,

"(II) for 1988, ⅓,

"(III) for 1989, ½, and

"(IV) for any subsequent year, 1.

"(iv) For purposes of determining the maximum allowable actual charge under clauses (i) and (ii) for 1987, in the case of a physicians' service for which the physician has actual charges for the calendar quarter beginning on April 1, 1984, the 'maximum allowable actual charge' for 1986 is the physician's actual charge for such service furnished during such quarter.

"(v) For purposes of determining the maximum allowable actual charge under clauses (i) and (ii) for a year after 1987, in the case of a physicians' service for which the physician has no actual charges for the calendar quarter beginning on April 1, 1984, and for which a maximum allowable actual charge has not been previously established under this clause, the 'maximum allowable actual charge' for the previous year shall be the 50th percentile of the customary charges for the service (weighted by frequency of the service) performed by nonparticipating physicians in the locality during the 12-month period ending June 30 of that previous year.

"(vi) For purposes of this subparagraph and subparagraph (B), a 'physician's actual charge' for a physicians' service furnished in a year or other period is the weighted average (or, at the option of the Secretary for a service furnished in the calendar quarter beginning April 1, 1984, the median) of the physician's charges for such service furnished in the year or other period.".

42 USC 1395u.

(2) PROVISION OF ACTUAL CHARGE INFORMATION BY CARRIER TO NONPARTICIPATING PHYSICIANS.—Section 1842(b)(3) of such Act is amended—

(A) by striking "and" at the end of subparagraph (E),

(B) by inserting "and" at the end of subparagraph (F), and

(C) by inserting after subparagraph (F) the following new subparagraph:

"(G) will provide to each nonparticipating physician, at the beginning of each year, a list of the physician's maximum allowable actual charges (established under subsection (j)(1)(C)) for the year for the physicians' services mostly commonly furnished by that physician;".

(3) CONFORMING AMENDMENT.—Section 1842(b)(4)(D) of such Act is amended by adding at the end the following new clause:

"(iv) In determining the customary charges for a physicians' service furnished on or after January 1, 1988, if a physician was a nonparticipating physician in a previous year (beginning with 1987), the Secretary shall not recognize any amount of such actual charges (for that service furnished during such previous year) that exceeds the maximum allowable actual charge for such service established under subsection (j)(1)(C).".

42 USC 1395u note.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services furnished on or after January 1, 1987.

42 USC 1395u note.

(c) MEDICARE ECONOMIC INDEX.—

42 USC 1395j.

(1) FOR 1987.—Notwithstanding any other provision of law, for purposes of part B of title XVIII of the Social Security Act for physicians' services furnished in 1987, the percentage increase in the MEI (as defined in section 1842(b)(4)(E)(ii) of the Social Security Act) shall be 3.2 percent.

(2) PROHIBITING RETROACTIVE ADJUSTMENT OF MEDICARE ECONOMIC INDEX.—The Secretary of Health and Human Services is not authorized to revise the MEI in a manner that provides, for any period before January 1, 1985, for the substitution of a

rental equivalence or rental substitution factor for the housing component of the consumer price index.

(3) ANNUALIZATION OF MEI.—(A) The fourth sentence of section 1842(b)(3) of the Social Security Act (42 U.S.C. 1395u(b)(3)) is amended by inserting after "ending June 30, 1973," the following: "or (with respect to physicians services furnished in a year after 1987) the level determined under this sentence for the previous year", and inserting "year-to-year" before "economic changes".

(B) The amendments made by subparagraph (A) shall apply to physicians' services furnished on or after January 1, 1988. 42 USC 1395u note.

(4) STUDY.—The Secretary shall conduct a study of the extent to which the MEI appropriately and equitably reflects economic changes in the provision of the physicians' services to medicare beneficiaries. In conducting such study the Secretary shall consult with appropriate experts. 42 USC 1395u note.

(5) LIMITATION ON CHANGES IN MEI METHODOLOGY.—The Secretary shall not change the methodology (including the basis and elements) used in the MEI from that in effect as of October 1, 1985, until completion of the study under paragraph (4). After the completion of the study, the Secretary may not change such methodology except after providing notice in the Federal Register and opportunity for public comment. Public information. 42 USC 1395u note.

(6) MEI DEFINED.—In this subsection, the term "MEI" means the economic index referred to in the fourth sentence of section 1842(b)(3) of the Social Security Act. 42 USC 1395u note.

(d) DEVELOPMENT AND USE OF HCFA COMMON PROCEDURE CODING SYSTEM.— 42 USC 1395u note.

(1) Not later than July 1, 1989, the Secretary of Health and Human Services (in this subsection referred to as the "Secretary"), after public notice and opportunity for public comment and after consulation with appropriate medical and other experts, shall group the procedure codes contained in any HCFA Common Procedure Coding System for payment purposes to minimize inappropriate increases in the intensity or volume of services provided as a result of coding distinctions which do not reflect substantial differences in the services rendered. Public information.

(2) Not later than January 1, 1990, each carrier with which the Secretary has entered into a contract under section 1842 of the Social Security Act shall make payments under part B of title XVIII of such Act based on the grouping of procedure codes effected under paragraph (1). Contracts. 42 USC 1395u. 42 USC 1395j.

(e) RECOMMENDATIONS.—

(1) Section 1845(e) of the Social Security Act is amended by adding at the end thereof the following new paragraph: *Ante*, p. 192.

"(4)(A) In making recommendations with respect to the application of the relative value scale for purposes of establishing a fee schedule, the Secretary shall—

"(i) develop and assess an appropriate index to be used for making adjustments to reflect justifiable differences in the costs of practice based upon geographic location without exacerbating the geographic maldistribution of physicians, and

"(ii) assess the advisability and feasibility of developing an appropriate adjustment to assist in attracting and retaining physicians in medically underserved areas.

"(B) In carrying out the requirements of subparagraph (A), the Secretary shall take into consideration the recommendations made by the Physician Payment Review Commission.

"(C)(i) The Secretary shall develop an interim index under subparagraph (A)(i) prior to January 1, 1988, based upon the most accurate and recent data that are available with respect to the costs of practice.

"(ii) The Secretary shall collect data with respect to the costs of practice (including, but not limited to, data on nonphysician personnel costs, malpractice insurance costs, and commercial rents) for the purpose of refining the index under subparagraph (A)(i) prior to December 31, 1989, and periodically updating the index thereafter.

"(D) In conjunction with developing an index under subparagraph (A), the Secretary shall conduct a study of the advisability of redefining the localities designated by carriers for payment purposes.".

42 USC 1395w-1.

(2) Section 1845(b)(3) of such Act is amended by inserting "and respecting the index and the adjustment described in subsection (e)(4)(A)" after "subsection (e)".

(3) Section 1845(e)(3) of such Act is amended—

(A) by striking "July 1, 1987" and inserting in lieu thereof "July 1, 1989", and

(B) by striking "on or after January 1, 1988" and inserting in lieu thereof "after December 31, 1989".

SEC. 9332. INCENTIVES FOR PHYSICIAN PARTICIPATION.

(a) RECRUITING.—

(1) CARRIER RESPONSIBILITY.—Section 1842(b)(3) of the Social Security Act (42 U.S.C. 1395u(b)(3)), as amended by section 9331(b)(2), is further amended—

(A) by striking "and" at the end of subparagraph (F),

(B) by inserting "and" at the end of subparagraph (G), and

(C) by inserting after subparagraph (G) the following new subparagraph:

"(H) if it makes determinations or payments with respect to physicians' services, will implement—

"(i) programs to recruit and retain physicians as participating physicians in the area served by the carrier, including educational and outreach activities and the use of professional relations personnel to handle billing and other problems relating to payment of claims of participating physicians; and

"(ii) programs to familiarize beneficiaries with the participating physician program and to assist such beneficiaries in locating participating physicians;".

Contracts.
42 USC 1395u note.

(2) MEASURING CARRIER PERFORMANCE.—The Secretary of Health and Human Services shall provide, in the standards and criteria established under section 1842(b)(2) of the Social Security Act for contracts under that section, a system to measure a carrier's performance of the responsibilities described in sections 1842(b)(3)(H) and 1842(h) of such Act.

42 USC 1395u note.

42 USC 1395j.

(3) CARRIER BONUSES FOR GOOD PERFORMANCE.—Of the amounts appropriated for administrative activities to carry out part B of title XVIII of the Social Security Act, the Secretary of Health and Human Services shall provide payments, totaling 1

percent of the total payments to carriers for claims processing in any fiscal year, to carriers under section 1842 of such Act, to reward such carriers for their success in increasing the proportion of physicians in the carrier's service area who are participating physicians.

(4) EFFECTIVE DATES.— 42 USC 1395u note.

(A) CARRIER RESPONSIBILITY.—The amendment made by paragraph (1) shall be effective for contracts under section 1842 of the Social Security Act as of October 1, 1987. Contracts.

(B) PERFORMANCE MEASURES.—The Secretary of Health and Human Services shall provide for the establishment of the standards and criteria required under paragraph (2) by not later than October 1, 1987, which shall apply to contracts as of October 1, 1987.

(C) CARRIER BONUSES.—From the amounts appropriated for each fiscal year (beginning with fiscal year 1988), the Secretary of Health and Human Services shall first provide for payments of bonuses to carriers under paragraph (3) not later than April 1, 1988, to reflect performance of carriers during the enrollment period at the end of 1987.

(b) DIRECTORIES OF PARTICIPATING PHYSICIANS.—

(1) REQUIRING DISTRIBUTION TO MEDICARE BENEFICIARIES, UPON REQUEST.—Section 1842(h) of the Social Security Act (42 U.S.C. 1395u(h)) is amended—

(A) in paragraph (2), by striking period and inserting the following: "and may request a copy of an appropriate directory published under paragraph (4). Each such carrier shall, without charge, mail a copy of such directory upon such a request.";

(B) in paragraph (5)—

(i) by striking "publication of the directories" and inserting "the participation program under this subsection and the publication and availability of the directories", and

(ii) by adding at the end the following: "The Secretary shall include such notice in the mailing of appropriate benefit checks provided under title II."; and

(C) in the second sentence of paragraph (6)—

(i) by inserting before the period the following: "and that an appropriate number of copies of each such directory is sent to hospitals located in the area", and Hospitals.

(ii) by adding at the end the following: "Such copies shall be sent free of charge.".

(2) ORGANIZATION OF DIRECTORIES.—Section 1842(h)(4) of such Act is amended by adding at the end the following: "Each participating physician directory for an area shall provide an alphabetical listing of all participating physicians practicing in the area and an alphabetical listing by locality and specialty of such physicians.".

(3) EFFECTIVE DATES.—The amendments made by this paragraph shall first apply to directories for 1987. 42 USC 1395u note.

(c) PROHIBITING UNASSIGNED BILLING OF SERVICES DETERMINED TO BE MEDICALLY UNNECESSARY BY A CARRIER.—

(1) IN GENERAL.—Section 1842 of the Social Security Act is further amended by adding at the end the following new subsection:

"(l)(1)(A) Subject to subparagraph (C), if—

"(i) a nonparticipating physician furnishes services to an individual enrolled for benefits under this part,

"(ii) payment for such services is not accepted on an assignment-related basis,

"(iii) a carrier determines under this part or a peer review organization determines under part B of title XI that payment may not be made by reason of section 1862(a)(1) because a service otherwise covered under this title is not reasonable and necessary under the standards described in that section, and

42 USC 1320c.
42 USC 1395y.

"(iv) the physician has collected any amounts for such services,

the physician shall refund on a timely basis to the individual (and shall be liable to the individual for) any amounts so collected.

"(B) A refund under subparagraph (A) is considered to be on a timely basis only if—

"(i) in the case of a physician who does not request reconsideration or seek appeal on a timely basis, the refund is made within 30 days after the date the physician receives a denial notice under paragraph (2), or

"(ii) in the case in which such a reconsideration or appeal is taken, the refund is made within 15 days after the date the physician receives notice of an adverse determination on reconsideration or appeal.

"(C) Subparagraph (A) shall not apply to the furnishing of a service by a physician to an individual if—

"(i) the physician did not know and could not reasonably have been expected to know that payment may not be made for the service by reason of section 1862(a)(1), or

"(ii) before the service was provided, the individual was informed that payment under this part may not be made for the specific service and the individual has agreed to pay for that service.

Contracts.

"(2) Each carrier with a contract in effect under this section with respect to physicians and each peer review organization with a contract under part B of title XI shall send any notice of denial of payment for physicians' services based on section 1862(a)(1) and for which payment is not requested on an assignment-related basis to the physician and the individual involved.

Sanctions.

"(3) If a physician knowingly and willfully fails to make refunds in violation of paragraph (1)(A), the Secretary may apply sanctions against such physician in accordance with subsection (j)(2).".

42 USC 1395u note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services furnished on or after October 1, 1987.

42 USC 1395u.

(d) DISCLOSURE OF INFORMATION OF UNASSIGNED CLAIMS FOR CERTAIN PHYSICIANS' SERVICES.—

(1) IN GENERAL.—Section 1842 of the Social Security Act, as amended by subsection (c)(1), is further amended by adding at the end the following new subsection:

"(m)(1) In the case of a nonparticipating physician who—

"(A) performs an elective surgical procedure for an individual enrolled for benefits under this part and for which the physician's actual charge is at least $500, and

"(B) does not accept payment for such procedure on an assignment-related basis,

the physician must disclose to the individual, in writing and in a form approved by the Secretary, the physician's estimated actual charge for the procedure, the estimated approved charge under this

part for the procedure, the excess of the physician's actual charge over the approved charge, and the coinsurance amount applicable to the procedure. The written estimate may not be used as the basis for, or evidence in, a civil suit.

"(2) A physician who fails to make a disclosure required under paragraph (1) with respect to a procedure shall refund on a timely basis to the individual (and shall be liable to the individual for) any amounts collected for the procedure in excess of the charges recognized and approved under this part.

"(3) If a physician knowingly and willfully fails to comply with paragraph (2), the Secretary may apply sanctions against such physician in accordance with subsection (j)(2). Sanctions.

"(4) The Secretary shall provide for such monitoring of requests for payment for physicians' services to which paragraph (1) applies as is necessary to assure compliance with paragraph (2).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to surgical procedures performed on or after October 1, 1987. 42 USC 1395u note.

(e) MAINTENANCE AND USE OF PARTICIPATING PHYSICIAN DIRECTORIES BY HOSPITALS.— 42 USC 1395cc.

(1) REQUIREMENT OF PARTICIPATION.—Section 1866(a)(1) of the Social Security Act, as amended by section 9305(b)(1), is further amended— *Ante*, p. 1989.

(A) by striking "and" at the end of subparagraph (L),

(B) by striking the period at the end of subparagraph (M) and inserting ", and", and

(C) by inserting after subparagraph (M) the following new subparagraph:

"(N) in the case of hospitals—

"(i) to make available to its patients the directory or directories of participating physicians (published under section 1842(h)(4)) for the area served by the hospital, and

"(ii) if hospital personnel (including staff of any emergency or outpatient department) refer a patient to a nonparticipating physician for further medical care on an outpatient basis, the personnel must inform the patient that the physician is a nonparticipating physician and, whenever practicable, must identify at least one qualified participating physician who is listed in such a directory and from whom the patient may receive the necessary services.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to agreements under section 1866(a) of the Social Security Act as of October 1, 1987. 42 USC 1395cc note.

SEC. 9333. LIMITS ON REASONABLE CHARGES.

(a) PROCEDURES FOR ESTABLISHMENT OF SPECIAL LIMITS ON REASONABLE CHARGES FOR PART B SERVICES.—Section 1842(b)(8) of the Social Security Act (42 U.S.C. 1395u(b)(8)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by inserting "(A)" after "(8)"; and

(3) by adding at the end the following new subparagraphs:

"(B)(i) The Secretary may provide for an increase or decrease in the reasonable charge otherwise recognized under this section with respect to a specific physicians' service only in accordance with the Physicians.

criteria set forth in subparagraph (A) and with the succeeding provisions of this paragraph.

"(ii) The factors described pursuant to subparagraph (A)(i) with respect to payment for physicians' services shall include, but need not be limited to, the following:

"(I) Prevailing charges for a service in a particular locality are significantly in excess of or below prevailing charges in other comparable localities, taking into account the relative costs of furnishing the services in the different localities.

42 USC 1396.

"(II) The programs established under this title and title XIX are the sole or primary sources of payment for a service.

"(III) The marketplace for a service is not truly competitive because of a limited number of physicians who perform that service.

"(IV) There have been increases in charges for a service that cannot be explained by inflation or technology.

"(V) The charges do not reflect changing technology, increased facility with that technology, or reductions in acquisition or production costs.

"(VI) The prevailing charges for a service under this part are substantially higher or lower than the payments made for the service by other purchasers in the same locality.

"(iii) In applying subparagraph (A), the Secretary may compare—

"(I) the charges and resource costs for related procedures,

"(II) charges and resource costs for the procedure over a period of time,

"(III) charges for a procedure in different geographic areas, and

"(IV) the charges and allowed payments for a procedure under this part and by other payors.

"(iv) The factors considered under subparagraph (A)(ii) shall take into account regional differences in fees, unless there is substantial economic justification for a uniform fee or a uniform payment limit. Such substantial economic justification must be explained by the Secretary in the notice and final determination required by paragraph (9).

"(v) An adjustment under clause (i) on the basis of a comparison of the prevailing charges in different localities may be made only if the Secretary determines that the prevailing charge allowed in one locality is out of line with prevailing charges allowed in other localities after accounting for differences in practice costs.

"(vi) In this subparagraph, 'resource costs' include factors such as the time required to provide a procedure (including pre-procedure evaluation and post-procedure follow-up), the complexity of the procedure, the training required to perform the procedure, and the risk involved in the procedure.

Claims.

"(C) In determining whether to adjust payment rates under subparagraph (B)(i), the Secretary shall consider the potential impacts on quality, access, and beneficiary liability of the adjustment, including the likely effects on assignment rates, reasonable charge reductions on unassigned claims, and participation rates of physicians.".

Post, p. 2035.

(b) INHERENT REASONABLENESS PROCEDURES.—Section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)) is amended by redesignating paragraph (9) as paragraph (11) and inserting after paragraph (8) the following new paragraphs:

"(9)(A) In the case of any physicians' service with respect to which the Secretary— Physicians.

"(i) determines, after appropriate consultation with representatives of the physicians likely to be affected by any change in the reasonable charge, that the application of this subsection results in the determination of a reasonable charge that, by reason of its grossly excessive or grossly deficient amount, is not inherently reasonable, and

"(ii) proposes to establish a reasonable charge that is realistic and equitable or a methodology for arriving at such a charge, the Secretary shall publish notice of such proposal in the Federal Register. Federal Register, publication.

"(B) A notice required by subparagraph (A) shall—

"(i) specify the charge or methodology proposed to be established with respect to a service and shall explain the factors and data that the Secretary took into account in determining the charge or methodology so specified, and

"(ii) explain the potential impacts described in paragraph (8)(C).

"(C) After publication of the notice required by subparagraph (A), the Secretary shall allow not less than 60 days for public comment on the proposal.

"(D) In addition to carrying out its functions under section 1845, the Physician Payment Review Commission (in this paragraph referred to as the 'Commission') shall comment on any such proposal within the period of comment allowed by the Secretary pursuant to subparagraph (C). *Ante*, p. 190.

"(E)(i) Taking into consideration the comments made by the Commission and the public, the Secretary shall publish in the Federal Register a final determination with respect to the reasonable charge or methodology to be established with respect to the service. Federal Register, publication.

"(ii) A final determination published pursuant to clause (i) shall explain the factors and data that the Secretary took into consideration in making the final determination, and shall include and respond to the comments made by the Commission pursuant to subparagraph (D).

"(10)(A)(i) If an adjustment under paragraph (8)(B) results in a reduction in the reasonable charge for a physicians' service, and a nonparticipating physician furnishes the service to an individual entitled to benefits under this part after the effective date of such reduction and before the end of the period described in subparagraph (C), the physician may not charge the individual more than the limiting charge (as defined in clause (ii)) plus (for services furnished during the 12-month period beginning on the effective date of the reduction) ½ of the amount by which the physician's actual charge for the service for the previous 12-month period exceeds the limiting charge. Physicians.

"(ii) In clause (i), the term 'limiting charge' means, with respect to a service, 125 percent of the inherently reasonable charge established under paragraph (8).

"(B) If a physician knowingly and willfully imposes charges in violation of subparagraph (A), the Secretary may apply sanctions against such physician in accordance with subsection (j)(2). Sanctions.

"(C) Subparagraph (A) shall not apply to services furnished after the earlier of (i) December 31, 1990, or (ii) one-year after the date the Reports.

Ante, p. 192.

Secretary reports to Congress, under section 1845(e)(3), on the development of the relative value scale under section 1845.".

42 USC 1395u note.

(c) REVIEW OF PROCEDURES.—Not later than October 1, 1987, the Secretary of Health and Human Services shall review the inherent reasonableness of the reasonable charges for at least 10 of the most costly procedures with respect to which payment is made under part B of title XVIII of the Social Security Act (determined on the basis of the aggregate annual payments under such part with respect to each such procedure).

42 USC 1395j.

42 USC 1395u note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 9334. PAYMENT FOR CATARACT SURGICAL PROCEDURES.

(a) LIMITATIONS.—Section 1842(b)(11) of the Social Security Act (42 U.S.C. 1395u(b)(11)), as redesignated by section 9333(b), is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively,

(2) by inserting "(A)" after "(11)", and

(3) by adding at the end the following new subparagraphs:

"(B)(i) In determining the reasonable charge under paragraph (3) for a cataract surgical procedure, subject to clause (ii), the prevailing charge for such procedure otherwise recognized for participating and nonparticipating physicians shall be reduced by 10 percent with respect to procedures performed in 1987 and shall be further reduced by 2 percent with respect to procedures performed in 1988. A reduced prevailing charge under this subparagraph shall become the prevailing charge level for subsequent years for purposes of applying the economic index under the fourth sentence of paragraph (3).

"(ii) In no case shall the reduction under clause (i) for a surgical procedure result in a prevailing charge in a locality for a year which is less than 75 percent of the weighted national average of such prevailing charges for such procedure for all the localities in the United States for 1986.

"(C)(i) In the case of a reduction in the reasonable charge for a physicians' service under subparagraph (B), if a nonparticipating physician furnishes the service to an individual entitled to benefits under this part after the effective date of such reduction (subject to clause (iv)), the physician may not charge the individual more than the limiting charge (as defined in clause (ii)) plus (for services furnished during the 12-month period beginning on the effective date of the reduction) ½ of the amount by which the physician's actual charges for the service for the previous 12-month period exceeds the limiting charge.

"(ii) In clause (i), the term 'limiting charge' means, with respect to a service, 125 percent of the prevailing charge for the service after the reduction referred to in clause (i).

Sanctions.

"(iii) If a physician knowingly and willfully imposes charges in violation of clause (i), the Secretary may apply sanctions against such physician in accordance with subsection (j)(2).

"(iv) This subparagraph shall not apply to services furnished after the earlier of (I) December 31, 1990, or (II) one-year after the date the Secretary reports to Congress, under section 1845(e)(3), on the development of the relative value scale under section 1845.".

(b) RATIFICATION OF REGULATIONS.—

42 USC 1395u note.

(1) IN GENERAL.—The Congress hereby ratifies the final regulation of the Secretary of Health and Human Services published

on page 35693 of volume 51 of the Federal Register on October 7, 1986, relating to reasonable charge payment limits for anesthesia services under the medicare program.

(2) PATIENT PROTECTIONS.—In the case of any reduction in the reasonable charge for physicians' services effected under the regulation described in paragraph (1), the provisions of section 1842(b)(10) of the Social Security Act (added by the amendment made by subsection (a)(3)) shall apply in the same manner and to the same extent as they apply to a reduction in the reasonable charge for a physicians' service effected under section 1842(b)(8) of such Act. Physicians. 42 USC 1395u.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1987. 42 USC 1395u note.

SEC. 9335. PAYMENT RATES FOR RENAL SERVICES AND IMPROVEMENTS IN ADMINISTRATION OF END STAGE RENAL DISEASE NETWORKS AND PROGRAM.

(a) COMPOSITE RATES FOR DIALYSIS SERVICES.— 42 USC 1395rr note.

(1) IN GENERAL.—Effective with respect to dialysis services provided on or after October 1, 1986, and before October 1, 1988, the Secretary of Health and Human Services shall establish the base rate for routine dialysis treatment in a free-standing facility and in a hospital-based facility under section 1881(b)(7) of the Social Security Act at a level equal to the respective rate in effect as of May 13, 1986, reduced by $2.00. 42 USC 1395rr.

(2) ASSURING PROMPT CONSIDERATION OF EXCEPTION REQUESTS.—Section 1881(b)(7) of the Social Security Act (42 U.S.C. 1395rr(b)(7)) is amended—

(A) in the third sentence, by inserting "and of pediatric facilities" after "isolated, rural areas", and

(B) by inserting after the third sentence the following new sentence: "Each application for such an exception shall be deemed to be approved unless the Secretary disapproves it by not later than 60 working days after the date the application is filed.".

(3) EFFECTIVE DATE.—The amendments made by paragraph (2) shall apply to applications filed on or after the date of the enactment of this Act. 42 USC 1395rr note.

(b) REPORT ON PAYMENT RATES.— 42 USC 1395rr note.

(1) IN GENERAL.—The Secretary of Health and Human Services shall provide for—

(A) a study to evaluate the effects of reductions in the rates of payment for facility and physicians' services under the medicare program for patients with end stage renal disease on their access to care or on the quality of care, and Physicians.

(B) a report to Congress on the results of the study by not later than January 1, 1988. Reports.

(2) ARRANGEMENTS WITH INSTITUTE OF MEDICINE.—The Secretary shall request the National Academy of Sciences, acting through appropriate units, to submit an application to conduct the study described in paragraph (1). If the Academy submits an acceptable application, the Secretary shall enter into an appropriate arrangement with the Academy for the conduct of the study. If the Academy does not submit an acceptable application to conduct the study, the Secretary may request one or more appropriate nonprofit private entities to submit an application to conduct the study and may enter into an appropriate

arrangement for the conduct of the study by the entity which submits the best acceptable application.

(c) COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.—

(1) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(A) by striking "and" at the end of subparagraph (H)(ii),

(B) by inserting "and" at the end of subparagraph (I), and

(C) by inserting after subparagraph (I) the following new subparagraph:

"(J) immunosuppressive drugs furnished, to an individual who receives an organ transplant for which payment is made under this title, within 1 year after the date of the transplant procedure;".

42 USC 1395x note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to immunosuppressive drugs furnished on or after January 1, 1987.

(d) REORGANIZATION OF ESRD NETWORK AREAS AND ORGANIZATIONS.—

(1) IN GENERAL.—Subparagraph (A) of subsection (c)(1) of section 1881 of the Social Security Act (42 U.S.C. 1395rr) is amended to read as follows:

"(A)(i) For the purpose of assuring effective and efficient administration of the benefits provided under this section, the Secretary shall, in accordance with such criteria as he finds necessary to assure the performance of the responsibilities and functions specified in paragraph (2)—

"(I) establish at least 17 end stage renal disease network areas, and

Physicians. Nurses.

"(II) for each such area, designate a network administrative organization which, in accordance with regulations of the Secretary, shall establish (aa) a network council of renal dialysis and transplant facilities located in the area and (bb) a medical review board, which has a membership including at least one patient representative and physicians, nurses, and social workers engaged in treatment relating to end stage renal disease.

Federal Register, publication.

The Secretary shall publish in the Federal Register a description of the geographic area that he determines, after consultation with appropriate professional and patient organizations, constitutes each network area and the criteria on the basis of which such determination is made.

Federal Register, publication.

"(ii)(I) In order to determine whether the Secretary should enter into, continue, or terminate an agreement with a network administrative organization designated for an area established under clause (i), the Secretary shall develop and publish in the Federal Register standards, criteria, and procedures to evaluate an applicant organization's capabilities to perform (and, in the case of an organization with which such an agreement is in effect, actual performance of) the responsibilities described in paragraph (2). The Secretary shall evaluate each applicant based on quality and scope of services and may not accord more than 20 percent of the weight of the evaluation to the element of price.

"(II) An agreement with a network administrative organization may be terminated by the Secretary only if he finds, after applying such standards and criteria, that the organization has failed to perform its prescribed responsibilities effectively and efficiently. If such an agreement is to be terminated, the Secretary shall select a

successor to the agreement on the basis of competitive bidding and in a manner that provides an orderly transition.".

(2) DEADLINE FOR ESTABLISHING NEW AREAS.—The Secretary of Health and Human Services shall establish end stage renal disease network areas, pursuant to the amendment made by paragraph (1), not later than May 1, 1987. The Secretary shall establish network administrative organizations for such areas by not later than July 1, 1987. 42 USC 1395rr note.

(3) TRANSITION.—If, under the amendment made by paragraph (1), the Secretary designates a network administrative organization for an area which was not previously designated for that area, the Secretary shall offer to continue to fund the previously designated organization for that area for a period of 30 days after the first date the newly designated organization assumes the duties of a network administrative organization for that area. 42 USC 1395rr note.

(e) PATIENT REPRESENTATION ON COUNCILS AND MEDICAL REVIEW BOARDS.—Subparagraph (B) of subsection (c)(1) of section 1881 of the Social Security Act is amended to read as follows: 42 USC 1395rr.

"(B) At least one patient representative shall serve as a member of each network council and each medical review board.".

(f) RESPONSIBILITIES OF NETWORK ORGANIZATIONS.—Subsection (c)(2) of section 1881 of such Act is amended—

(1) in subparagraph (A), by inserting before the semicolon the following: "and the participation of patients, providers of services, and renal disease facilities in vocational rehabilitation programs";

(2) in subparagraph (B), by inserting before the first semicolon the following: "and with respect to working with patients, facilities, and providers in encouraging participation in vocational rehabilitation programs";

(3) in subparagraph (D), by inserting before the semicolon the following: "and reporting to the Secretary on facilities and providers that are not providing appropriate medical care";

(4) in subparagraph (E), by inserting "and encouraging participation in vocational rehabilitation programs" after "self-care settings and transplantation"; and

(5) by redesignating subparagraphs (D) and (E) as subparagraphs (G) and (H), respectively, and inserting after subparagraph (C) the following new subparagraphs:

"(D) implementing a procedure for evaluating and resolving patient grievances;

"(E) conducting on-site reviews of facilities and providers as necessary (as determined by a medical review board or the Secretary), utilizing standards of care established by the network organization to assure proper medical care;

"(F) collecting, validating, and analyzing such data as are necessary to prepare the reports required by subparagraph (H) and subsection (g) and to assure the maintenance of the registry established under paragraph (7);". Reports.

(g) FACILITY COOPERATION WITH NETWORKS.—The first sentence of subsection (c)(3) of section 1881 of such Act is amended by inserting "or to follow the recommendations of the medical review board" after "consistently failed to cooperate with network plans and goals".

(h) INTENT OF CONGRESS RESPECTING MAXIMUM USE OF VOCATIONAL REHABILITATION SERVICES.—The first sentence of subsection

42 USC 1395rr.

(c)(6) of section 1881 of such Act is amended by inserting before the period the following: "and that the maximum practical number of patients who are suitable candidates for vocational rehabilitation services be given access to such services and encouraged to return to gainful employment".

42 USC 1395rr.

(i) NATIONAL END STAGE RENAL DISEASE REGISTRY.—

(1) ESTABLISHMENT OF REGISTRY.—Subsection (c) of section 1881 of such Act is further amended by adding at the end the following new paragraph:

"(7) The Secretary shall establish a national end stage renal disease registry the purpose of which shall be to assemble and analyze the data reported by network organizations, transplant centers, and other sources on all end stage renal disease patients in a manner that will permit—

Reports.

"(A) the preparation of the annual report to the Congress required under subsection (g);

"(B) an identification of the economic impact, cost-effectiveness, and medical efficacy of alternative modalities of treatment;

Research and development.

"(C) an evaluation with respect to the most appropriate allocation of resources for the treatment and research into the cause of end stage renal disease;

"(D) the determination of patient mortality and morbidity rates, and trends in such rates, and other indices of quality of care; and

"(E) such other analyses relating to the treatment and management of end stage renal disease as will assist the Congress in evaluating the end stage renal disease program under this section.

The Secretary shall provide for such coordination of data collection activities, and such consolidation of existing end stage renal disease data systems, as is necessary to achieve the purpose of such registry, shall determine the appropriate location of the registry, and shall provide for the appointment of a professional advisory group to assist the Secretary in the formulation of policies and procedures relevant to the management of such registry.".

42 USC 1395rr note.

(2) REPORT.—The Secretary of Health and Human Services shall submit to the Congress, no later than April 1, 1987, a full report on the progress made in establishing the national end stage renal disease registry under the amendment made by paragraph (1) and shall establish such registry by not later than January 1, 1988.

(j) FUNDING OF ESRD NETWORK ORGANIZATIONS.—

(1) IN GENERAL.—Subsection (b)(7) of section 1881 of the Social Security Act is amended by adding at the end the following new sentence: "The Secretary shall reduce the amount of each composite rate payment under this paragraph for each treatment by 50 cents (subject to such adjustments as may be required to reflect modes of dialysis other than hemodialysis) and provide for payment of such amount to the network administrative organization (designated under subsection (c)(1)(A) for the network area in which the treatment is provided) for its necessary and proper administrative costs incurred in carrying out its responsibilities under subsection (c)(2).".

42 USC 1395rr note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to treatment furnished on or after January 1, 1987.

(k) PROTOCOLS ON REUSE OF DIALYSIS FILTERS AND OTHER DIALYSIS SUPPLIES.—

(1) ESTABLISHMENT OF PROTOCOLS.—Paragraph (7) of subsection (f) of section 1881 of the Social Security Act is amended to read as follows: 42 USC 1395rr.

"(7)(A) The Secretary shall establish protocols on standards and conditions for the reuse of dialyzer filters for those facilities and providers which voluntarily elect to reuse such filters.

"(B) With respect to dialysis services furnished on or after January 1, 1988, no dialysis facility may reuse dialysis supplies (other than dialyzer filters) unless the Secretary has established a protocol with respect to the reuse of such supplies and the facility follows the protocol so established.

"(C) The Secretary shall incorporate protocols established under this paragraph, and the requirement of subparagraph (B), into the requirements for facilities prescribed under subsection (b)(1)(A) and failure to follow such a protocol or requirement subjects such a facility to denial of participation in the program established under this section and to denial of payment for dialysis treatment not furnished in compliance with such a protocol or in violation of such requirement.".

(2) DEADLINE.—The Secretary of Health and Human Services shall establish the protocols described in section 1881(f)(7)(A) of the Social Security Act by not later than October 1, 1987. 42 USC 1395rr note.

(l) EFFECTIVE DATE FOR CERTAIN AMENDMENTS.—The amendments made by subsections (e), (f), and (g) shall apply to network administrative organizations designated for network areas established under the amendment made by subsection (d)(1). 42 USC 1395rr note.

SEC. 9336. VISION CARE.

(a) DEFINING SERVICES AN OPTOMETRIST CAN PROVIDE.—Clause (4) of section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)) is amended to read as follows: "(4) a doctor of optometry, but only with respect to the provision of items or services described in subsection (s) which he is legally authorized to perform as a doctor of optometry by the State in which he performs them, or".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after April 1, 1987. 42 USC 1395x note.

SEC. 9337. OCCUPATIONAL THERAPY SERVICES.

(a) COVERAGE.—Subparagraph (C) of section 1832(a)(2) of the Social Security Act (42 U.S.C. 1395k(a)(2)) is amended to read as follows:

"(C) outpatient physical therapy services (other than services to which the second sentence of section 1861(p) applies) and outpatient occupational therapy services (other than services to which such sentence applies through the operation of section 1861(g));".

(b) LIMITATION ON PAYMENTS.—Section 1833(g) of such Act (42 U.S.C. 1395l(g)) is amended—

(1) by striking "next to last sentence" and inserting "second sentence", and

(2) by adding at the end thereof the following new sentence: "In the case of outpatient occupational therapy services which are described in the second sentence of section 1861(p) through the operation of section 1861(g), with respect to expenses incurred in any calendar year, no more than $500 shall be consid-

ered as incurred expenses for purposes of subsections (a) and (b).".

(c) CERTIFICATION STANDARD.—(1) Section 1835(a)(2)(C) of such Act (42 U.S.C. 1395n(a)(2)(C)) is amended—

(A) by inserting "or outpatient occupational therapy services" after "outpatient physical therapy services",

(B) in clause (i), by inserting "or occupational therapy services, respectively," after "physical therapy services", and

(C) in clause (ii), by inserting "or qualified occupational therapist, respectively," after "qualified physical therapist".

(2) The second sentence of section 1835(a) of such Act and section 1866(e) of such Act (42 U.S.C. 1395n(a), 1395cc(e)) are each amended—

(A) by inserting "(or meets the requirements of such section through the operation of section 1861(g))" after "1861(p)(4)(A)" and after "1861(p)(4)(B)", and

(B) by inserting "or (through the operation of section 1861(g)) with respect to the furnishing of outpatient occupational therapy services" after "(as therein defined)".

(d) DEFINITION AND INCLUSION WITH OTHER PART B SERVICES.—(1) Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by inserting after subsection (f) the following new subsection:

"OUTPATIENT OCCUPATIONAL THERAPY SERVICES

"(g) The term 'outpatient occupational therapy services' has the meaning given the term 'outpatient physical therapy services' in subsection (p), except that 'occupational' shall be substituted for 'physical' each place it appears therein.".

(2) Section 1861(s)(2)(D) of such Act (42 U.S.C. 1395x(s)(2)(D)) is amended by inserting "and outpatient occupational therapy services" after "outpatient physical therapy services".

(3) Section 1861(v)(5)(A) of such Act (42 U.S.C. 1395x(v)(5)(A)) is amended by inserting "(including through the operation of section 1861(g))" after "section 1861(p)".

42 USC 1395k note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses incurred for outpatient occupational therapy services furnished on or after July 1, 1987.

SEC. 9338. SERVICES OF A PHYSICIAN ASSISTANT.

(a) SERVICES COVERED.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)), as amended by section 9335(c)(1) of this subtitle, is amended—

(1) by striking "and" at the end of subparagraph (I),

(2) by adding "and" at the end of subparagraph (J), and

(3) by adding at the end the following new subparagraph:

"(K)(i) services which would be physicians' services if furnished by a physician (as defined in subsection (r)(1)) and which are performed by a physician assistant (as defined in subsection (aa)(3)) under the supervision of a physician (as so defined) in a hospital, skilled nursing facility, or intermediate care facility (as defined in section 1905(c)) or as an assistant at surgery and which the physician assistant is legally authorized to perform by the State in which the services are performed, and

42 USC 1396d.

"(ii) such services and supplies furnished as an incident to such services as would be covered under subparagraph (A) if furnished as an incident to a physician's professional service;".

(b) DETERMINATION OF PAYMENT AMOUNT.—Section 1842(b) of such Act (42 U.S.C. 1395u(b)), as amended by section 9333(b), is amended by adding at the end the following new paragraph:

"(12)(A) With respect to services described in section 1861(s)(2)(K) (relating to a physician assistant acting under the supervision of a physician)— 42 USC 1395x.

"(i) payment under this part may only be made on an assignment-related basis; and

(ii) the prevailing charges determined under paragraph (3) shall not exceed—

"(I) in the case of services performed as an assistant at surgery, 65 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistant at surgery, or

"(II) in other cases, the applicable percentage (as defined in subparagraph (B)) of the prevailing charge rate determined for such services performed by physicians who are not specialists.

"(B) In subparagraph (A)(ii)(II), the term 'applicable percentage' means—

"(i) 75 percent in the case of services performed (other than as an assistant at surgery) in a hospital, and

"(ii) 85 percent in the case of other services.

"(C) Except for deductible and coinsurance amounts applicable under section 1833, any person who knowingly and willfully presents, or causes to be presented, to an individual enrolled under this part a bill or request for payment for services described in section 1861(s)(2)(K) in violation of subparagraph (A)(i) is subject to a civil monetary penalty of not to exceed $2,000 for each such bill or request. Such a penalty shall be imposed in the same manner as civil monetary penalties are imposed under section 1128A with respect to actions described in subsection (a) of that section.". *Ante*, p. 2014. *Ante*, pp. 2003, 2008.

(c) PAYMENT TO EMPLOYER.—The first sentence of section 1842(b)(6) of such Act (42 U.S.C. 1395u(b)(6)) is amended—

(1) by striking "except that payment may be made (A)(i)" and inserting "except that (A) payment may be made (i)";

(2) by striking "or (B)" and by inserting "(B) payment may be made"; and

(3) by inserting before the period at the end the following: ", and (C) in the case of services described in section 1861(s)(2)(K) payment shall be made to the employer of the physician assistant involved".

(d) REDUCTION IN PAYMENT TO AVOID DUPLICATE PAYMENT.—Notwithstanding any other provision of law, the Secretary of Health and Human Services may reduce the amount of payments otherwise made to hospitals and skilled nursing facilities under title XVIII of the Social Security Act, so as to eliminate estimated duplicate payments for historical or current costs attributable to services described in section 1861(s)(2)(K) of such Act (for which payment may be made under the amendments made by this section). Hospitals. 42 USC 1395x note. 42 USC 1395.

(e) STUDY OF PAYMENT RATES.—The Secretary shall report to Congress, by not later than April 1, 1988, concerning adjustments to the amount of payment made, under part B of title XVIII of the Social Security Act, for services described in section 1861(s)(2)(K) of such Act, to ensure that the amount of such payments reflects the approximate cost of furnishing the services, taking into account Reports. 42 USC 1395x note. 42 USC 1395j.

compensation costs and overhead and supervision costs attributable to physician assistants.

42 USC 1395x note.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1987.

SEC. 9339. PAYMENT FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) TREATMENT OF HOSPITAL OUTPATIENT LABORATORIES.—

(1) IN GENERAL.—Section 1833(h) of the Social Security Act (42 U.S.C. 1395l(h)) is amended—

(A) in paragraph (1)(B), by striking "hospital laboratory" and inserting "qualified hospital laboratory (as defined in subparagraph (D))",

(B) in paragraph (1)(C)—

(i) in the first sentence, by striking "hospital laboratory" and inserting "qualified hospital laboratory (as defined in subparagraph (D))", and by striking ", and ending on December 31, 1987", and

(ii) by striking the second sentence;

(C) by adding at the end of paragraph (1) the following new subparagraph:

"(D) In this subsection, the term 'qualified hospital laboratory' means a hospital laboratory which provides some clinical diagnostic laboratory tests 24 hours a day in order to serve a hospital emergency room which is available to provide services 24 hours a day and 7 days a week."; and

(D) in paragraph (2), by striking "hospital laboratory" and inserting "qualified hospital laboratory (as defined in paragraph (1)(D))".

42 USC 1395l note.

(2) EFFECTIVE DATE.—The amendments made by this subsection apply to clinical diagnostic laboratory tests performed on or after January 1, 1987.

(b) DELAYING FOR 2 YEARS REQUIREMENT OF NATIONAL FEE SCHEDULE.—

(1) IN GENERAL.—Section 1833(h)(1)(B) of such Act is amended by striking "1987" and "1988" and inserting "1989" and "1990", respectively.

(2) CONFORMING AMENDMENT.—Section 1833(h)(2) of such Act is amended by striking "(or, effective January 1, 1988, for the United States)".

42 USC 1395l note.

(3) REPORT.—The Secretary of Health and Human Services shall report to Congress, by not later than April 1, 1988, on the advisability and feasibility of, and methodology for, establishing national fee schedules for payment for clinical diagnostic laboratory tests under section 1833(h) of the Social Security Act.

(c) PAYMENT FOR TIME AND TRAVEL COSTS TO COLLECT SAMPLES FROM CERTAIN IMMOBILE BENEFICIARIES.—

(1) IN GENERAL.—Section 1833(h)(3) of such Act is amended—

(A) by inserting "(A)" after "provide for and establish", and

(B) by inserting before the period at the end the following: ", and (B) a fee to cover the transportation and personnel expenses for trained personnel to travel to the location of an individual to collect the sample, except that such a fee may be provided only with respect to an individual who is homebound or an inpatient in an inpatient facility (other than a hospital)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to samples collected on or after January 1, 1987. 42 USC 1395*l* note.

(d) STATE STANDARDS FOR DIRECTORS OF CLINICAL LABORATORIES.— 42 USC 1395*l* note.

(1) IN GENERAL.—If a State (as defined for purposes of title XVIII of the Social Security Act) provides for the licensing or other standards with respect to the operation of clinical laboratories (including such laboratories in hospitals) in the State under which such a laboratory may be directed by an individual with certain qualifications, nothing in such title shall be construed as authorizing the Secretary of Health and Human Services to require such a laboratory, as a condition of payment or participation under such title, to be directed by an individual with other qualifications. 42 USC 1395.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on January 1, 1987.

(e) EXTENSION OF MORATORIUM ON LABORATORY PAYMENT DEMONSTRATION.—Section 9204(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking "January 1, 1987" and inserting "January 1, 1988". 42 USC 1395ww note. *Ante*, p. 177.

SEC. 9340. PAYMENT FOR PARENTERAL AND ENTERAL NUTRITION SUPPLIES AND EQUIPMENT.

The Secretary of Health and Human Services shall apply the sixth sentence of section 1842(b)(3) of the Social Security Act to payment— 42 USC 1395u note.

(1) for enteral nutrition nutrients, supplies, and equipment and parenteral nutrition supplies and equipment furnished on or after January 1, 1987, and

(2) for parenteral nutrition nutrients furnished on or after October 1, 1987.

SEC. 9341. CHANGING MEDICARE APPEAL RIGHTS.

(a) REVIEW OF PART B DETERMINATIONS.—(1) Section 1869 of the Social Security Act (42 U.S.C. 1395ff) is amended—

(A) by inserting "or part B" in subsection (a) after "amount of benefits under part A",

(B) by inserting "or part B" in subsection (b)(1)(C) after "part A",

(C) by amending paragraph (2) of subsection (b) to read as follows:

"(2) Notwithstanding paragraph (1)(C), in the case of a claim arising—

"(A) under part A, a hearing shall not be available to an individual under paragraph (1)(C) if the amount in controversy is less than $100 and judicial review shall not be available to the individual under that paragraph if the amount in controversy is less than $1,000; or

"(B) under part B, a hearing shall not be available to an individual under paragraph (1)(C) if the amount in controversy is less than $500 and judicial review shall not be available to the individual under that paragraph if the aggregate amount in controversy is less than $1,000.

In determining the amount in controversy, the Secretary, under regulations, shall allow two or more claims to be aggregated if the claims involve the delivery of similar or related services to the same individual or involve common issues of law and fact arising from services furnished to two or more individuals.", and Regulations. Claims.

(D) by adding at the end the following new paragraphs:

"(3) Review of any national coverage determination under section 1862(a)(1) respecting whether or not a particular type or class of items or services is covered under this title shall be subject to the following limitations:

42 USC 1395y.

"(A) Such a determination shall not be reviewed by any administrative law judge.

"(B) Such a determination shall not be held unlawful or set aside on the ground that a requirement of chapter 5 of title 5, United States Code, or section 1871(b), relating to publication in the Federal Register or opportunity for public comment, was not satisfied.

5 USC 500 *et seq*; *ante*, p. 2017.

Records.

"(C) In any case in which a court determines that the record is incomplete or otherwise lacks adequate information to support the validity of the determination, it shall remand the matter to the Secretary for additional proceedings to supplement the record and the court may not determine that an item or service is covered except upon review of the supplemented record.

"(4) A regulation or instruction which relates to a method for determining the amount of payment under part B and which was initially issued before January 1, 1981, shall not be subject to judicial review.".

(2) Section 1842(b)(3)(C) of such Act (42 U.S.C. 1395u(b)(3)(C)) is amended by striking "$100 or more" and inserting "at least $100, but not more than $500".

(3) Section 1879(d) of such Act (42 U.S.C. 1395pp(d)) is amended by striking "section 1869(b)" and all that follows through "part B)" and inserting "sections 1869(b) and 1842(b)(3)(C) (as may be applicable)".

42 USC 1395ff.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to items and services furnished on or after January 1, 1987.

42 USC 1395ff note.

42 USC 1395b-1 note.

SEC. 9342. ALZHEIMER'S DISEASE DEMONSTRATION PROJECTS.

(a) DEMONSTRATION PROJECTS.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct at least 5 (and not more than 10) demonstration projects to determine the effectiveness, cost, and impact on health status and functioning of providing comprehensive services for individuals entitled to benefits under title XVIII of the Social Security Act (in this section referred to as "medicare beneficiaries") who are victims of Alzheimer's disease or related disorders.

42 USC 1395.

(b) SERVICES UNDER DEMONSTRATION PROJECTS.—The services provided under demonstration projects must be designed to meet the specific needs of Alzheimer's disease patients and may include—

(1) case management services,

(2) home and community-based services,

(3) mental health services,

(4) outpatient drug therapy,

(5) respite care and other supportive services and counseling for family,

(6) adult day care services, and

(7) other in-home services.

(c) CONDUCT OF PROJECTS.—The demonstration projects shall—

(1) each be conducted over a period of 3 years;

(2) provide each medicare beneficiary with a comprehensive medical and mental status evaluation upon entering the project and at discharge;

(3) be conducted by an entity which either directly or by contract is able to provide such comprehensive evaluations and the additional services (described in subsection (b)) covered by the project; Contracts.

(4) be conducted in sites which are chosen so as to be geographically diverse and located in States with a high proportion of medicare beneficiaries and in areas readily accessible to a significant number of medicare beneficiaries; and State and local governments.

(5) involve community outreach efforts at each site to enroll the maximum number of medicare beneficiaries in each project.

(d) EVALUATION AND REPORTS.—The Secretary shall provide for an evaluation of the demonstration projects and shall submit to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(1) a preliminary report during the third year of the projects, which report shall include a description of the sites at which the projects are being conducted and the services being provided at the different sites, and

(2) a final report upon completion of the projects, which report shall include recommendations for appropriate legislative changes.

(f) FUNDING.—Expenditures (not to exceed $40,000,000 for the projects and $2,000,000 for the evaluation of the projects) made for the demonstration projects shall be made from the Federal Supplementary Medical Insurance Trust Fund (established by section 1841 of the Social Security Act). Grants and payments under contracts may be made either in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section. Grants. Contracts. 42 USC 1395t.

(g) WAIVER OF MEDICARE REQUIREMENTS.—The Secretary shall waive compliance with the requirements of title XVIII of the Social Security Act to the extent and for the period the Secretary finds necessary for the conduct of the demonstration projects. 42 USC 1395.

SEC. 9343. PAYMENTS FOR AMBULATORY SURGERY.

(a) AMOUNTS PAYABLE; ANNUAL UPDATING.—

(1)(A) Section 1833(a)(4) of the Social Security Act (42 U.S.C. 1395l(a)(4)) is amended to read as follows:

"(4) in the case of facility services described in section 1832(a)(2)(F), and outpatient hospital facility services furnished in connection with surgical procedures specified by the Secretary pursuant to section 1833(i)(1)(A), the applicable amount as determined under paragraph (2) or (3) of subsection (i).". Hospitals. 42 USC 1395k.

(B) Section 1833(i) of such Act (42 U.S.C. 1395l(i)) is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and inserting after paragraph (2) the following new paragraph:

"(3)(A) The aggregate amount of the payments to be made under this part for outpatient hospital facility services furnished in connection with surgical procedures specified under paragraph (1)(A) in a cost reporting period shall be equal to the lesser of— Hospitals.

"(i) the amount determined with respect to such services under subsection (a)(2)(B); or

"(ii) the blend amount (described in subparagraph (B)).

"(B)(i) The blend amount for a cost reporting period is the sum of—

"(I) the cost proportion (as defined in clause (ii)(I)) of the amount described in subparagraph (A)(i), and

"(II) the ASC proportion (as defined in clause (ii)(II)) of 80 percent of the standard overhead amount payable with respect to the same surgical procedure as if it were provided in an ambulatory surgical center in the same area, as determined under paragraph (2)(A).

"(ii) In this paragraph:

"(I) The term 'cost proportion' means 75 percent for cost reporting periods beginning in fiscal year 1988, and 50 percent for other cost reporting periods.

"(II) The term 'ASC proportion' means 25 percent for cost reporting periods beginning in fiscal year 1988, and 50 percent for other cost reporting periods.".

42 USC 1395*l*.

(2) CONFORMING AMENDMENT.—Section 1833(b)(3) of such Act is amended by striking "or (i)(4)" and inserting in lieu thereof "or (i)(5)".

(b) UPDATING ASC RATES.—

(1) RATE UPDATE.—Subparagraphs (A) and (B) of section 1833(i)(2) of such Act are each amended by striking "shall be reviewed periodically" and inserting in lieu thereof "shall be reviewed and updated not later than July 1, 1987, and annually thereafter".

(2) ASC LIST UPDATE.—Section 1833(i)(1) of such Act is amended by adding at the end (after and below subparagraph (B)) the following:

"The lists of procedures established under subparagraphs (A) and (B) shall be reviewed and updated not less often than every 2 years.".

(c) PREVENTING UNBUNDLING OF HOSPITAL OUTPATIENT SERVICES.—

(1) Section 1862(a)(14) of such Act (42 U.S.C. 1395y(a)(14)) is amended by striking "inpatient" and inserting "patient".

(2) Section 1866(a)(1)(H) of such Act (42 U.S.C. 1395cc(a)(1)(H)) is amended—

(A) by striking "inpatient hospital", and

(B) by striking "an inpatient" and inserting "a patient".

(3) Section 1866 of such Act (42 U.S.C. 1395cc) is further amended by adding at the end the following new subsection:

Hospitals.

"(g) Except as permitted under subsection (a)(2), any person who knowingly and willfully presents, or causes to be presented, a bill or request for payment for a hospital outpatient service for which payment may be made under part B and such bill or request violates an arrangement under subsection (a)(1)(H), is subject to a civil monetary penalty of not to exceed $2,000. Such a penalty shall be imposed in the same manner as civil monetary penalties are imposed under section 1128A with respect to actions described in subsection (a) of that section.".

Ante, pp. 2003, 2008.

(d) PRO REVIEW.—

(1) Section 1154(a)(1) of the Social Security Act (42 U.S.C. 1320c-3(a)(1)) is amended by inserting "and subject to the requirements of subsection (d)" after "subject to the terms of the contract".

(2) Section 1154 of such Act is amended by adding at the end the following new subsection:

"(d) Each contract under this part shall require that the utilization and quality control peer review organization's review responsibility pursuant to subsection (a)(1) will include review of all ambulatory surgical procedures specified pursuant to section 1833(i)(1)(A) which are performed in the area, or, at the discretion of the Secretary (and except as provided in section 1164(b)(4)) a sample of such procedures.". Contracts. 42 USC 1395*l*. 42 USC 1320c-13.

(e) COINSURANCE AND DEDUCTIBLE TO APPLY WITHOUT REGARD TO SETTING OF AMBULATORY SURGERY.—

(1) Clauses (i) and (ii) of section 1832(a)(2)(F) of the Social Security Act (42 U.S.C. 1395k(a)(2)(F)) are each amended by inserting "standard overhead" before "amount".

(2)(A) Section 1833(b) of such Act (42 U.S.C. 1395l(b)) is amended by striking paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (3) and (4).

(B) Subparagraphs (A) and (B) of section 1833(i)(2) of such Act are each amended by inserting "80 percent of" before "a standard overhead amount".

(f) DEVELOPMENT OF PROSPECTIVE PAYMENT METHODOLOGY FOR OUTPATIENT HOSPITAL SERVICES.—Section 1135 of the Social Security Act (42 U.S.C. 1320b-5) is amended by adding at the end the following new subsection:

"(d)(1) The Secretary shall develop a fully prospective payment system for ambulatory surgical procedures performed on patients in hospitals on an outpatient basis.

"(2) The system shall, to the extent practicable, provide for an all-inclusive payment rate for ambulatory surgical procedures performed on patients in hospitals on an outpatient basis, which rate encompasses payment for facility services and all medical and other health services, other than physicians' services, commonly furnished in connection with such procedures.

"(3) The system shall provide for appropriate payment rates with respect to such procedures.

"(4) Such rates shall take into account at least the following considerations:

"(A) The costs of hospitals providing ambulatory surgical procedures.

"(B) The costs under this title of payment for such procedures performed in ambulatory surgical centers.

"(C) The extent to which any differences in such costs are justifiable.

"(5) The Secretary shall submit to Congress—

"(A) an interim report on the development of the system by April 1, 1988, and Reports.

"(B) a final report on such system by April 1, 1989.

The report under subparagraph (B) shall include recommendations concerning the implementation of the payment system for ambulatory surgical procedures performed on or after October 1, 1989.

"(6)(A) The Secretary shall develop a model system for the payment for outpatient hospital services other than ambulatory surgery.

"(B) The Secretary shall submit to Congress a report on the model payment system under subparagraph (A) by January 1, 1991.". Reports.

(g) REPORTING OF OPD SERVICES USING HCPCS.—Not later than July 1, 1987, each fiscal intermediary which processes claims under part B of title XVIII of the Social Security Act shall require hospitals, as a condition of payment for outpatient hospital services Claims. 42 USC 1395u note. 42 USC 1395j.

under that part, to report claims for payment for such services under such part using a HCFA Common Procedure Coding System.

42 USC 1395*l* note.

(h) EFFECTIVE DATES.—

(1) The amendments made by subsection (a)(1) shall apply to cost reporting periods beginning on or after October 1, 1987

(2) The amendments made by subsections (b)(1) and (d) shall apply to services furnished after June 30, 1987.

(3) The Secretary of Health and Human Services shall first provide, under the amendment made by subsection (b)(2), for the review and update of procedure lists within 6 months after the date of the enactment of this Act.

Contracts.

(4) The amendments made by subsection (c) shall apply to contracts entered into or renewed after January 1, 1987.

SEC. 9311. TECHNICAL AMENDMENTS AND MISCELLANEOUS PROVISIONS RELATING TO PART B.

(a) ADDITIONAL MEMBERS FOR PHYSICIAN PAYMENT REVIEW COMMISSION.—

(1) 2 ADDITIONAL MEMBERS.—Section 1845(a)(2) of the Social Security Act (42 U.S.C. 1395w-1(a)(2)) is amended by striking "11 individuals" and inserting "13 individuals".

42 USC 1395w-1 note.

(2) APPOINTMENT OF ADDITIONAL MEMBERS.—The Director of the Congressional Office of Technology Assessment shall appoint the two additional members of the Physician Payment Review Commission, as required by the amendment made by paragraph (1), no later than 60 days after the date of the enactment of this Act, for terms of 3 years, except that the Director may provide initially for such terms as will insure that (on a continuing basis) the terms of no more than five members expire in any one year.

(b) EFFECTIVE DATE OF VOLUNTARY DISENROLLMENT FROM MEDICARE.—

42 USC 1395q.

(1) IN GENERAL.—The second and sixth sentences of section 1838(b) of the Social Security Act (42 U.S.C. 1395p(b)) are each amended by striking "calendar quarter following the calendar quarter" and inserting "month following the month".

42 USC 1395q note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to notices filed on or after July 1, 1987.

(c) STUDY ON PROSPECTIVE PAYMENT OF RADIOLOGY, ANESTHESIA, AND PATHOLOGY SERVICES TO HOSPITAL INPATIENTS.—The Secretary of Health and Human Services shall study and report to Congress by July 1, 1987, concerning the design and implementation of a prospective payment system for payment, under part B of title XVIII of the Social Security, for radiology, anesthesia, and pathology services furnished to hospital inpatients. Such report shall include data, from a representative sample, showing, for discharges classified within each diagnosis-related group, the distribution of total reasonable charges and costs for each inpatient discharge for such services.

42 USC 1395j.

42 USC 1395b-1 note.

Ante, p. 194.

(d) PREVENTIVE HEALTH SERVICES DEMONSTRATION PROGRAM.—Effective as if included in section 9314 of the Consolidated Omnibus Budget Reconciliation Act of 1985 when such section was enacted, such section is amended—

Rural areas.

(1) in subsection (c)(2), by inserting "(at least one of which shall serve a rural area)" after "five sites", and

(2) by striking the last sentence of subsection (f) and inserting the following: "Funding for the administrative costs of the

demonstration program shall not exceed $5,900,000 over the duration of the program.".

PART 4—IMPROVED REVIEW OF QUALITY BY PEER REVIEW ORGANIZATIONS

SEC. 9351. PRO REVIEW OF HOSPITAL DENIAL NOTICES.

(a) IN GENERAL.—Section 1154 of the Social Security Act (42 U.S.C. 1320c-3), as amended by section 9343(d)(2) of this subtitle, is amended by adding at the end the following new subsection:

"(e)(1) If—

"(A) a hospital has determined that a patient no longer requires inpatient hospital care, and

"(B) the attending physician has agreed with the hospital's determination,

Physicians.

the hospital may provide the patient (or the patient's representative) with a notice (meeting conditions prescribed by the Secretary under section 1879) of the determination.

Ante, p. 1991.

"(2) If—

"(A) a hospital has determined that a patient no longer requires inpatient hospital care, but

"(B) the attending physician has not agreed with the hospital's determination,

the hospital may request the appropriate peer review organization to review under subsection (a) the validity of the hospital's determination.

"(3)(A) If a patient (or a patient's representative)—

"(i) has received a notice under paragraph (1), and

"(ii) requests the appropriate peer review organization to review the determination,

then, the organization shall conduct a review under subsection (a) of the validity of the hospital's determination and shall provide notice (by telephone and in writing) to the patient or representative and the hospital and attending physician involved of the results of the review. Such review shall be conducted regardless of whether or not the hospital will charge for continued hospital care or whether or not the patient will be liable for payment for such continued care.

"(B) If a patient (or a patient's representative) requests a review under subparagraph (A) while the patient is still an inpatient in the hospital and not later than noon of the first working day after the date the patient receives the notice under paragraph (1), then—

"(i) the hospital shall provide to the appropriate peer review organization the records required to review the determination by the close of business of such first working day, and

Records.

"(ii) the peer review organization must provide the notice under subparagraph (A) by not later than one full working day after the date the organization has received the request and such records.

"(4) If—

"(A) a request is made under paragraph (3)(A) not later than noon of the first working day after the date the patient (or patient's representative) receives the notice under paragraph (1), and

"(B) the conditions described in section 1879(a)(2) with respect to the patient or representative are met,

the hospital may not charge the patient for inpatient hospital services furnished before noon of the day after the date the patient or representative receives notice of the peer review organization's decision.

42 USC 1320c-3 note.

"(5) In any review conducted under paragraph (2) or (3), the organization shall solicit the views of the patient involved (or the patient's representative).".

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to denial notices furnished by hospitals to individuals on or after the first day of the first month that begins more than 30 days after the date of the enactment of this Act.

(2) Section 1154(e)(4) of the Social Security Act (as added by the amendment made by subsection (a)) shall take effect on the date of the enactment of this Act.

SEC. 9352. PRO REVIEW OF INPATIENT HOSPITAL SERVICES AND EARLY READMISSION CASES.

(a) TIMELY PROVISION OF HOSPITAL INFORMATION.—(1) Section 1153 of the Social Security Act (42 U.S.C. 1320c-2) is amended by adding at the end the following new subsection:

42 USC 1320c-3.

"(g) The Secretary shall provide that fiscal intermediaries furnish to peer review organizations, each month on a timely basis, data necessary to initiate the review process under section 1154(a) on a timely basis. If the Secretary determines that a fiscal intermediary is unable to furnish such data on a timely basis, the Secretary shall require the hospital to do so.".

Contracts.

(2) Section 1816(a) of such Act (42 U.S.C. 1395h(a)) is amended by adding at the end the following: "As used in this title and part B of title XI, the term 'fiscal intermediary' means an agency or organization with a contract under this section.".

42 USC 1320c.

(b) REQUIRING REVIEW OF EARLY READMISSION CASES.—Section 1154(a) of such Act (42 U.S.C. 1320c-3(a)), as amended by section 9401(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985, is amended by adding at the end the following new paragraph:

Ante, p. 196.

"(13) Notwithstanding paragraph (4), the organization shall perform the review described in paragraph (1) with respect to early readmission cases to determine if the previous inpatient hospital services and the post-hospital services met professionally recognized standards of health care. Such reviews may be performed on a sample basis if the organization and the Secretary determine it to be appropriate. In this paragraph, an 'early readmission case' is a case in which an individual, after discharge from a hospital, is readmitted to a hospital less than 31 days after the date of the most recent previous discharge.".

42 USC 1320c-2 note.

(c) EFFECTIVE DATES.—(1) The Secretary of Health and Human Services shall implement the amendment made by subsection (a) not later than 6 months after the date of the enactment of this Act.

Contracts.
42 USC 1320c-3 note.

(2) The amendment made by subsection (b) shall apply to contracts entered into or renewed on or after January 1, 1987, except that in applying such amendment before January 1, 1989, the term "post-hospital services" does not include physicians' services, other than physicians' services furnished in a hospital, other inpatient facility, ambulatory surgical center, or rural health clinic.

SEC. 9353. PRO REVIEW OF QUALITY OF CARE.

(a) REQUIRING PRO REVIEW OF QUALITY OF CARE.—

(1) ALLOCATION OF FUNDS FOR QUALITY CARE REVIEW.—Section 1154(a)(4) of the Social Security Act (42 U.S.C. 1320c-3(a)(4)) is amended by adding at the end the following: "Each peer review organization shall provide that a reasonable proportion of its activities are involved with reviewing, under paragraph (1)(B), the quality of services and that a reasonable allocation of such activities is made among the different cases and settings (including post-acute-care settings, ambulatory settings, and health maintenance organizations). In establishing such allocation, the organization shall consider (i) whether there is reason to believe that there is a particular need for reviews of particular cases or settings because of previous problems regarding quality of care, (ii) the cost of such reviews and the likely yield of such reviews in terms of number and seriousness of quality of care problems likely to be discovered as a result of such reviews, and (iii) the availability and adequacy of alternative quality review and assurance mechanisms.".

(2) REQUIRING REVIEW OF HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS.—Such section is further amended—

(A) by inserting "(A)" after "(4)";

(B) by adding at the end the following new subparagraph:

"(B) The contract of each organization shall provide for the review of services (including both inpatient and outpatient services) provided by eligible organizations pursuant to a contract under section 1876 for the purpose of determining whether the quality of such services meets professionally recognized standards of health care, including whether appropriate health care services have not been provided or have been provided in inappropriate settings. The previous sentence shall not apply with respect to a contract year if another entity has been awarded a contract under subparagraph (C).";

Contracts.

42 USC 1395mm.

(C) by adding at the end of such subparagraph the following: "Under the contract the level of effort expended by the organization on reviews under this subparagraph shall be equivalent, on a per enrollee basis, to the level of effort expended by the organization on utilization and quality reviews performed with respect to individuals not enrolled with an eligible organization."; and

Contracts.

(D) by adding at the end the following additional new subparagraph:

"(C) The Secretary may provide, by contract under competitive procurement procedures on a State-by-State basis in up to 25 States, for the review described in subparagraph (B) by an appropriate entity (which may be a peer review organization described in that subparagraph). In selecting among States in which to conduct such competitive procurement procedures, the Secretary may not select States which, as a group, have more than 50 percent of the total number of individuals enrolled with eligible organizations under section 1876. Under a contract with an entity under this subparagraph—

Contracts.
State and local governments.

"(i) the entity must be, or must meet all the requirements under section 1152 to be, a utilization and quality control peer review organization,

42 USC 1320c-1.

"(ii) the contract must meet the requirement of section 1153(b)(3), and

42 USC 1320c-2.

"(iii) the level of effort expended under the contract shall be, to the extent practicable, not less than the level of effort that would otherwise be required under the third sentence of subparagraph (B) if this subparagraph did not apply.".

(3) IDENTIFICATION OF METHODS FOR IDENTIFYING CASES OF SUBSTANDARD CARE.—Section 1154 of such Act (42 U.S.C. 1320c-3), as amended by sections 9343(d)(2) and 9351(a), is amended by adding at the end the following new subsection:

"(f) The Secretary, in consultation with appropriate experts, shall identify methods that would be available to assist peer review organizations (under subsection (a)(4)) in identifying those cases which are more likely than others to be associated with a quality of services which does not meet professionally recognized standards of health care."

42 USC 1320c-3 note.

(4) SMALL-AREA ANALYSIS.—The Secretary of Health and Human Services shall provide, to at least 12 utilization and quality control peer review organizations with contracts under part B of title XI of the Social Security Act, data and data processing assistance to allow each of these organizations to review and analyze small-area variations, in the service area of the organization, in the utilization of hospital and other health care services for which payment is made under title XVIII of such Act.

42 USC 1320c.

42 USC 1395.

42 USC 1320c-3 note.

(5) CONFORMING AMENDMENT.—Section 9405 of the Consolidated Omnibus Budget Reconciliation Act of 1986 is amended by striking "January" and inserting "April".

Contracts.

42 USC 1320c-3 note.

(6) EFFECTIVE DATES.—(A)(i) Except as provided in clause (ii), the amendments made by paragraphs (1) and (2)(D) shall apply to contracts as of January 1, 1987.

(ii) The amendment made by paragraph (1) shall not be construed as requiring, before January 1, 1989, the review of physicians' services, other than physicians' services furnished in a hospital, other inpatient facility, ambulatory surgical center, or rural health clinic.

Contracts.

(B) The amendment made by paragraph (2)(B) shall apply to contracts as of April 1, 1987.

(C) The amendment made by paragraph (2)(C) shall apply to review activities conducted by organizations on or after January 1, 1988.

(D) The amendment made by paragraph (3) becomes effective on the date of the enactment of this Act.

(b) REQUIRING CONSUMER REPRESENTATIVE ON PEER REVIEW BOARDS.—

(1) IN GENERAL.—Section 1152 of such Act (42 U.S.C. 1320c-1) is amended—

(A) by striking "and" at the end of paragraph (1),

(B) by striking the period at the end of paragraph (2) and inserting "; and", and

(C) by adding at the end the following new paragraph:

"(3) has at least one individual who is a representative of consumers on its governing body.".

Contracts.

42 USC 1320c-1 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contracts entered into or renewed on or after January 1, 1987.

(c) IMPROVING PEER REVIEW RESPONSIVENESS TO BENEFICIARY COMPLAINTS.—

(1) APPROPRIATE REVIEW OF COMPLAINTS REQUIRED.—Section 1154(a) of such Act (42 U.S.C. 1320c-3(a)), as amended by section 9352(b), is further amended by adding at the end the following new paragraph:

"(14) The organization shall conduct an appropriate review of all written complaints about the quality of services (for which payment may otherwise be made under title XVIII) not meeting professionally recognized standards of health care, if the complaint is filed with the organization by an individual entitled to benefits for such services under such title (or a person acting on the individual's behalf). The organization shall inform the individual (or representative) of the organization's final disposition of the complaint. Before the organization concludes that the quality of services does not meet professionally recognized standards of health care, the organization must provide the practitioner or person concerned with reasonable notice and opportunity for discussion.". 42 USC 1395.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to complaints received on or after the first day of the first month that begins more than 9 months after the date of the enactment of this Act. 42 USC 1320c-3 note.

(d) SHARING OF INFORMATION BY PEER REVIEW ORGANIZATIONS.—

(1) IN GENERAL.—Subparagraph (C) of section 1160(b)(1) of such Act (42 U.S.C. 1320c-9(b)(1)) is amended to read as follows:

"(C) to assist appropriate State agencies recognized by the Secretary as having responsibility for licensing or certification of providers or practitioners or to assist national accreditation bodies acting pursuant to section 1865 in accrediting providers for purposes of meeting the conditions described in title XVIII, which data and information shall be provided by the peer review organization to any such agency or body at the request of such agency or body relating to a specific case or to a possible pattern of substandard care, but only to the extent that such data and information are required by the agency or body to carry out its respective function which is within the jurisdiction of the agency or body under State law or under section 1865;". State and local governments. 42 USC 1395bb.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to requests for data and information made on and after the end of the 6-month period beginning on the date of the enactment of this Act. 42 USC 1320c-9 note.

(e) FUNDING OF ADDITIONAL PRO ACTIVITIES.—

(1) THROUGH AGREEMENTS WITH HOSPITALS, SKILLED NURSING FACILITIES, AND HOME HEALTH AGENCIES.—Section 1866(a) of such Act (42 U.S.C. 1395cc(a)) is amended—

(A) in paragraph (1)(F)—

(i) by redesignating clauses (i), (ii), and (iii), as subclauses (I), (II), and (III), respectively,

(ii) by inserting "(i)" after "(F)", and

(iii) by adding at the end the following new clause:

"(ii) in the case of hospitals, skilled nursing facilities, and home health agencies, to maintain an agreement with a utilization and quality control peer review organization (which has a contract with the Secretary under part B of title XI for the area in which the hospital, facility, or agency is located) to perform the functions described in paragraph (4)(A);"; and Contracts. 42 USC 1320c.

(B) by adding at the end the following new paragraph:

"(4)(A) Under the agreement required under paragraph (1)(F)(ii), the peer review organization must perform functions (other than those covered under an agreement under paragraph (1)(F)(i)) under the third sentence of section 1154(a)(4)(A) and under section 1154(a)(14) with respect to services, furnished by the hospital, facility, or agency involved, for which payment may be made under this title.

"(B) For purposes of payment under this title, the cost of such an agreement to the hospital, facility, or agency shall be considered a cost incurred by such hospital, facility, or agency in providing covered services under this title and shall be paid directly by the Secretary to the peer review organization on behalf of such hospital, facility, or agency in accordance with a schedule established by the Secretary.

"(C) Such payments—

"(i) shall be transferred in appropriate proportions from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund, without regard to amounts appropriated in advance in appropriation Acts, in the same manner as transfers are made for payment for services provided directly to beneficiaries, and

"(ii) shall not be less in the aggregate for hospitals, facilities, and agencies for a fiscal year than the amounts the Secretary determines to be sufficient to cover the costs of such organizations' conducting the activities described in subparagraph (A) with respect to such hospitals, facilities, or agencies under part B of title XI.".

42 USC 1320c.

(2) THROUGH AGREEMENTS WITH HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS.—Section 1876(i) of such Act (42 U.S.C. 1395mm(i)), as amended by section 9312(f) of this subtitle, is amended by adding at the end the following new paragraph:

"(7)(A) Except as provided under section 1154(a)(4)(C), each risk-sharing contract with an eligible organization under this section shall provide that the organization will maintain an agreement with a utilization and quality control peer review organization (which has a contract with the Secretary under part B of title XI for the area in which the eligible organization is located) under which the peer review organization will perform functions under section 1154(a)(4)(B) and section 1154(a)(14) (other than those performed under contracts described in section 1866(a)(1)(F)) with respect to services, furnished by the eligible organization, for which payment may be made under this title.

42 USC 1395cc.

"(B) For purposes of payment under this title, the cost of such agreement to the eligible organization shall be considered a cost incurred by a provider of services in providing covered services under this title and shall be paid directly by the Secretary to the peer review organization on behalf of such eligible organization in accordance with a schedule established by the Secretary.

"(C) Such payments—

"(i) shall be transferred in appropriate proportions from the Federal Hospital Insurance Trust Fund and from the Supplementary Medical Insurance Trust Fund, without regard to amounts appropriated in advance in appropriation Acts, in the same manner as transfers are made for payment for services provided directly to beneficiaries, and

"(ii) shall not be less in the aggregate for such organizations for a fiscal year than the amounts the Secretary determines to be sufficient to cover the costs of such organizations' conducting activities described in subparagraph (A) with respect to such eligible organizations under part B of title XI.". 42 USC 1320c.

(3) EFFECTIVE DATE.—

(A) HOSPITALS, SKILLED NURSING FACILITIES, AND HOME HEALTH AGENCIES.—The amendments made by paragraph (1) shall apply to provider agreements as of October 1, 1987. 42 USC 1395cc note.

(B) HMOs AND CMPS.—The amendment made by paragraph (2) shall apply to risk-sharing contracts with eligible organizations, under section 1876 of the Social Security Act, as of April 1, 1987. Contracts. 42 USC 1395mm note. 42 USC 1395mm.

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PART 1—COVERAGE OF INDIVIDUALS

SEC. 9401. OPTIONAL COVERAGE OF POOR PREGNANT WOMEN, INFANTS, AND CHILDREN.

(a) CREATION OF NEW OPTIONAL CATEGORICALLY NEEDY GROUP.—Section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(1) by striking ", or" at the end of subclause (VII) and inserting a semicolon,

(2) by inserting "or" at the end of subclause (VIII), and

(3) by adding at the end the following new subclause:

"(IX) subject to subsection (l)(4), who are described in subsection (l)(l);".

(b) DESCRIPTION OF GROUP.—Section 1902 of such Act is amended by inserting after subsection (k) the following new subsection:

"(l)(l) Individuals described in this paragraph are—

"(A) women during pregnancy (and during the 60-day period beginning on the last day of the pregnancy),

"(B) infants under one year of age,

"(C) children who have attained one year of age but have not attained two years of age,

"(D) children who have attained two years of age but have not attained three years of age,

"(E) children who have attained three years of age but have not attained four years of age, and

State and local governments.

"(F) children who have attained four years of age but have not yet attained five years of age,

who are not described in subsection (a)(10)(A)(i), whose family income does not exceed the income level established by the State under paragraph (2) for a family size equal to the size of the family, including the woman, infant, or child.

"(2) For purposes of paragraph (1), the State shall establish an income level which is a percentage (not more than 100 percent) of the nonfarm income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

42 USC 9902.

"(3) Notwithstanding subsection (a)(17), for individuals who are eligible for medical assistance because of subsection (a)(10)(A)(ii)(IX)—

"(A) application of a resource standard shall be at the option of the State;

"(B) any resource standard or methodology that is applied with respect to an individual described in subparagraph (A) of paragraph (1) may not be more restrictive than the resource standard or methodology that is applied under title XVI;

42 USC 1381.

"(C) any resource standard or methodology that is applied with respect to an individual described in subparagraph (B), (C), (D), (E), or (F) of paragraph (1) may not be more restrictive than the corresponding methodology that is applied under the State plan under part A of title IV;

42 USC 601.

"(D) the income standard to be applied is the income standard established under paragraph (2); and

"(E) family income shall be determined in accordance with the methodology employed under the State plan under part A

or E of title IV, and costs incurred for medical care or for any other type of remedial care shall not be taken into account. Any different treatment provided under this paragraph for such individuals shall not, because of subsection (a)(17), require or permit such treatment for other individuals.

42 USC 670.

"(4)(A) A State plan may not elect the option of furnishing medical assistance to individuals described in subsection (a)(10)(A)(ii)(IX) unless the State has in effect, under its plan established under part A of title IV, payment levels that are not less than the payment levels in effect under its plan on April 17, 1986.

State and local governments.

"(B)(i) A State may not elect, under subsection (a)(10)(A)(ii)(IX), to cover only individuals described in paragraph (1)(A) or to cover only individuals described in paragraph (1)(B).

"(ii) A State may not elect, under subsection (a)(10)(A)(ii)(IX), to cover individuals described in subparagraph (C), (D), (E), or (F) of paragraph (1) unless the State has elected, under such subsection, to cover individuals described in the preceding subparagraphs of such paragraph.".

(c) LIMITED BENEFITS FOR NEWLY ELIGIBLE PREGNANT WOMEN.—Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)) is amended, in the matter after subparagraph (D)—

(1) by striking "and" before "(VI)", and

(2) by inserting before the semicolon at the end the following: ", and (VII) the medical assistance made available to an individual described in subsection (l)(1)(A) who is eligible for medical assistance only because of subparagraph (A)(ii)(IX) shall be limited to medical assistance for services related to pregnancy (including prenatal, delivery, and postpartum services) and to other conditions which may complicate pregnancy".

(d) CONTINUATION OF MEDICAL ASSISTANCE FOR CERTAIN PREGNANT WOMEN DURING PREGNANCY AND FOR CERTAIN INFANTS AND CHILDREN RECEIVING INPATIENT SERVICES.—Section 1902(e) of such Act (42 U.S.C. 1396a(e)) is amended by adding at the end the following new paragraphs:

"(6) At the option of a State, if a State plan provides medical assistance for individuals under subsection (a)(10)(A)(ii)(IX), the plan may provide that any woman described in such subsection and subsection (l)(1)(A) shall continue to be treated as an individual described in subsection (a)(10)(A)(ii)(IX) without regard to any change in income of the family of which she is a member until the end of the 60-day period beginning on the last day of her pregnancy.

State and local governments.

"(7) If a State plan provides medical assistance for individuals under subsection (a)(10)(A)(ii)(IX), in the case of an infant or child described in subparagraph (B), (C), (D), (E), or (F) of subsection (l)(1)—

"(A) who is receiving inpatient services for which medical assistance is provided on the date the infant or child attains the maximum age with respect to which coverage is provided under the State plan for such individuals, and

"(B) who, but for attaining such age, would remain eligible for medical assistance under such subsection,

the infant or child shall continue to be treated as an individual described in subsection (a)(10)(A)(ii)(IX) and subsection (l)(1) until the end of the stay for which the inpatient services are furnished.".

(e) CONFORMING AMENDMENTS.—

(1) Section 1902(a)(17) of such Act (42 U.S.C. 1396(a)(17)) is amended by inserting "except as provided in subsection (l)(3)," after "(17)".

(2) Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended by inserting "for any individual described in section 1902(a)(10)(A)(ii)(IX) or" after "as medical assistance".

42 USC 1396a note.

(f) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to medical assistance furnished in calendar quarters beginning on or after April 1, 1987.

(2)(A) Subparagraph (C) of section 1902(l)(1) of the Social Security Act, as added by subsection (b) of this section, shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1987.

(B) Subparagraph (D) of section 1902(l)(1) of the Social Security Act, as added by subsection (b) of this section, shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1988.

(C) Subparagraph (E) of section 1902(l)(1) of the Social Security Act, as added by subsection (b) of this section, shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1989.

(D) Subparagraph (F) of section 1902(l)(1) of the Social Security Act, as added by subsection (b) of this section, shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1990.

(3) An amendment made by this section shall become effective as provided in paragraph (1) or (2) without regard to whether or not final regulations to carry out such amendment have been promulgated by the applicable date.

SEC. 9402. OPTIONAL COVERAGE OF ELDERLY AND DISABLED POOR FOR ALL MEDICAID BENEFITS.

(a) CREATION OF NEW OPTIONAL CATEGORICALLY NEEDY GROUPS.—

(1) IN GENERAL.—Subsection (a)(10)(A)(ii) of section 1902 of the Social Security Act (42 U.S.C. 1396a), as amended by section 9401(a) of this subtitle, is amended—

(A) by striking "or" at the end of subclause (VIII),

(B) by striking the semicolon at the end of subclause (IX) and inserting ", or", and

(C) by adding at the end the following new subclause:

"(X) subject to subsection (m)(3), who are described in subsection (m)(1);".

(2) DESCRIPTION OF INDIVIDUALS.—Section 1902 of such Act is further amended by adding after subsection (l), as added by section 9401(b) of this subtitle, the following new subsection:

"(m)(1) Individuals described in this paragraph are individuals—

42 USC 1382c.

"(A) who are 65 years of age or older or are disabled individuals (as determined under section 1614(a)(3)),

State and local governments.

42 USC 1382a.

"(B) whose income (as determined under section 1612 for purposes of the supplemental security income program) does not exceed an income level established by the State consistent with paragraph (2)(A), and

42 USC 1382b.

"(C) whose resources (as determined under section 1613 for purposes of the supplemental security income program) do not exceed (except as provided in paragraph (2)(B)) the maximum

amount of resources that an individual may have and obtain benefits under that program.

"(2)(A) The income level established under paragraph (1)(B) may not exceed a percentage (not more than 100 percent) of the nonfarm official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved. 42 USC 9902.

"(B) In the case of a State that provides medical assistance to individuals not described in subsection (a)(10)(A) and at the State's option, the State may use under paragraph (1)(C) such resource level (which is higher than the level described in that paragraph) as may be applicable with respect to individuals described in paragraph (1)(A) who are not described in subsection (a)(10)(A).". State and local governments.

(b) REQUIREMENT OF COVERAGE OF CERTAIN PREGNANT WOMEN AND CHILDREN AND OTHER SPECIAL RULES.—Section 1902(m) of such Act, as added by subsection (a)(2), is further amended by adding at the end the following new paragraphs: 42 USC 1396a.

"(3) A State plan may not provide coverage for individuals under subsection (a)(10)(A)(ii)(X), unless the plan provides coverage of some or all of the individuals described in subsection (l)(1). State and local governments.

"(4) Notwithstanding subsection (a)(17), for individuals described in paragraph (1) who are covered under the State plan by virtue of subsection (a)(10)(A)(ii)(X)—

"(A) the income standard to be applied is the income standard described in paragraph (1)(B), and

"(B) except as provided in section 1612(b)(4)(B)(ii), costs incurred for medical care or for any other type of remedial care shall not be taken into account in determining income. 42 USC 1382a.

Any different treatment provided under this paragraph for such individuals shall not, because of subsection (a)(17), require or permit such treatment for other individuals.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments to States for calendar quarters beginning on or after July 1, 1987, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date. State and local governments. 42 USC 1396a note.

SEC. 9403. OPTIONAL COVERAGE OF POOR MEDICARE BENEFICIARIES FOR MEDICARE COST-SHARING EXPENSES.

(a) ELIGIBILITY OF QUALIFIED MEDICARE BENEFICIARY.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 139a(a)(10)) is amended— 42 USC 1396a.

(1) by striking "and" at the end of subparagraph (C),

(2) by inserting "and" at the end of subparagraph (D), and

(3) by inserting after subparagraph (D) the following new subparagraph:

"(E) at the option of a State, but subject to subsection (m)(3), for making medical assistance available for medicare cost-sharing (as defined in section 1905(p)(3)) for qualified medicare beneficiaries described in section 1905(p)(1);" State and local governments. 42 USC 1396d.

(b) QUALIFIED MEDICARE BENEFICIARY DEFINED.—Section 1905 of such Act (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

"(p)(1) The term 'qualified medicare beneficiary' means an individual—

42 USC 1395c.
42 USC 1395i-2.

"(A) who is entitled to hospital insurance benefits under part A of title XVIII (including an individual entitled to such benefits pursuant to an enrollment under section 1818),

"(B) who, but for section 1902(a)(10)(E) and the election of the State, is not eligible for medical assistance under the plan,

State and local governments.
42 USC 1382a.

"(C) whose income (as determined under section 1612 for purposes of the supplemental security income program) does not exceed an income level established by the State consistent with paragraph (2)(A), and

42 USC 1382b.

"(D) whose resources (as determined under section 1613 for purposes of the supplemental security income program) do not exceed (except as provided in paragraph (2)(B)) the maximum amount of resources that an individual may have and obtain benefits under that program.

"(2)(A) The income level established under paragraph (1)(C) may not exceed a percentage (not more than 100 percent) of the nonfarm official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

42 USC 9902.

State and local governments.

"(B) In the case of a State that provides medical assistance to individuals not described in section 1902(a)(10)(A) and at the State's option, the State may use under paragraph (1)(D) such resource level (which is higher than the level described in that paragraph) as may be applicable with respect to individuals described in paragraph (1)(A) who are not described in section 1902(a)(10)(A).".

42 USC 1396a.

(c) LIMITED, MEDICARE GAP-FILLING BENEFITS.—Section 1902(a)(10) of such Act (42 U.S.C. 1395a(a)(10)), as amended by section 9401(c) of this subtitle and by subsection (a) of this section, is amended, in the matter after subparagraph (E)—

(1) by striking "and" before "(VII)", and

(2) by inserting before the semicolon at the end the following: ", and (VIII) the medical assistance made available to a qualified medicare beneficiary described in section 1905(p)(1) shall be limited to medical assistance for medicare cost-sharing (described in section 1905(p)(3)), subject to the provisions of subsection (n) and section 1916(b)".

42 USC 1396d.
42 USC 1396o.

(d) MEDICARE COST-SHARING DEFINED.—Section 1905(p) of such Act, as added by subsection (b), is amended by adding at the end the following:

"(3) The term 'medicare cost-sharing' means the following costs incurred with respect to a qualified medicare beneficiary:

"(A) Premiums under part B and (if applicable) under section 1818.

42 USC 1395i-2.
42 USC 1395e.
42 USC 1395l.
State and local governments.

"(B) Deductibles and coinsurance described in section 1813.

"(C) The annual deductible described in section 1833(b).

"(D) The difference between the amount that is paid under section 1833(a) and the amount that would be paid under such section if any reference to '80 percent' therein were deemed a reference to '100 percent'.

Such term also may include, at the option of a State, premiums for enrollment of a qualified medicare beneficiary with an eligible organization under section 1876.".

42 USC 1395mm.

(e) PAYMENT AMOUNTS.—Section 1902 of such Act, as amended by sections 9401(b) and 9402(a)(2) of this subtitle, is further amended by adding at the end the following new subsection:

"(n) In the case of medical assistance furnished under this title for medicare cost-sharing respecting the furnishing of a service or item to a qualified medicare beneficiary, the State plan may provide payment in an amount with respect to the service or item that results in the sum of such payment amount and any amount of payment made under title XVIII with respect to the service or item exceeding the amount that is otherwise payable under the State plan for the item or service for eligible individuals who are not qualified medicare beneficiaries.". State and local governments. 42 USC 1395.

(f) REQUIREMENT OF COVERAGE OF CERTAIN PREGNANT WOMEN AND CHILDREN AND OTHER SPECIAL RULES.— 42 USC 1396a.

(1) REQUIRING COVERAGE OF CERTAIN PREGNANT WOMEN AND CHILDREN AND INCOME STANDARD TO BE USED.—Section 1902(m) of such Act, as added by section 9402(a)(2) of this subtitle, and as amended by section 9402(b) of this subtitle, is amended—

(A) in paragraph (3), by inserting "or coverage under subsection (a)(10)(E)" after "subsection (a)(10)(A)(ii)(IX)", and

(B) by adding at the end the following new paragraph:

"(5) Notwithstanding subsection (a)(17), for qualified medicare beneficiaries described in section 1905(p)(1)— 42 USC 1396d.

"(A) the income standard to be applied is the income standard described in section 1905(p)(1)(C), and

"(B) except as provided in section 1612(b)(4)(B)(ii), costs incurred for medical care or for any other type of remedial care shall not be taken into account in determining income. 42 USC 1382a.

Any different treatment provided under this paragraph for such individuals shall not, because of subsection (a)(17), require or permit such treatment for other individuals.".

(2) EFFECTIVE DATE OF BENEFITS.—Section 1902(e) of such Act, as amended by section 9401(d) of this subtitle, is amended by adding at the end the following new paragraph:

"(8) If an individual is determined to be a qualified medicare beneficiary (as defined in section 1905(p)(1)), such determination shall apply to services furnished after the end of the month in which the determination first occurs. For purposes of payment to a State under section 1903(a), such determination shall be considered to be valid for an individual for a period of 12 months, except that a State may provide for such determinations more frequently, but not more frequently than once every 6 months for an individual.". State and local governments. 42 USC 1396b.

(g) CONFORMING AMENDMENTS.—

(1) TREATMENT OF BENEFITS.—Section 1902(a)(10)(C) of such Act (42 U.S.C. 1396a(a)(10)(C)) is amended, in the matter before clause (i), by inserting "or (E)" after "subparagraph (A)".

(2) PAYMENT OF MEDICARE PREMIUMS AND PART A DEDUCTIBLE.—Section 1903(a)(1) of such Act (42 U.S.C. 1396b(a)(1)) is amended—

(A) by inserting "deductible amounts under part A and" after "(including expenditures for",

(B) by inserting "(and, in the case of qualified medicare beneficiaries described in section 1905(p)(1), part A)" after "premiums under part B", and

(C) by striking "or (B)" and inserting "(B) are qualified medicare beneficiaries described in section 1905(p)(1), or (C)".

(3) TIMING OF BENEFITS.—Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended, in the matter before subdivision (i), by inserting "or, in the case of a qualified medicare beneficiary described in subsection (p)(1), if provided after the month in which the individual becomes such a beneficiary" after "makes application for assistance".

(4) COPAYMENTS.—

(A) Section 1902(a)(15) of such Act (42 U.S.C. 1396a(a)(15)) is amended by inserting "are not qualified medicare beneficiaries (as defined in section 1905(p)(1)) but" after "older who".

(B) Subsections (a) and (b) of section 1916 of such Act (42 U.S.C. 1396o) are each amended by striking "section 1902(a)(10)(A)" and inserting "subparagraph (A) or (E) of section 1902(a)(10)".

42 USC 1396a note.
42 USC 1396.

(h) EFFECTIVE DATE.—The amendments made by this section apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1987, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 9404. MEDICAID ELIGIBILITY FOR QUALIFIED SEVERELY IMPAIRED INDIVIDUALS.

(a) AS CATEGORICALLY NEEDY.—Section 1902(a)(10)(A)(i)(II) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)(II)) is amended by inserting "or who are qualified severely impaired individuals (as defined in section 1905(q))" after "title XVI".

(b) DESCRIPTION OF QUALIFIED SEVERELY IMPAIRED INDIVIDUALS.—Section 1905 of such Act (42 U.S.C. 1396d), as amended by section 9403(b) of this subtitle, is amended by adding at the end the following new subsection:

"(q) The term 'qualified severely impaired individual' means an individual under age 65—

"(1) who for the month preceding the first month to which this subsection applies to such individual—

42 USC 1382.
42 USC 1382e.
42 USC 1382 note.
42 USC 1382h.

"(A) received (i) a payment of supplemental security income benefits under section 1611(b) on the basis of blindness or disability, (ii) a supplementary payment under section 1616 of this Act or under section 212 of Public Law 93-66 on such basis, (iii) a payment of monthly benefits under section 1619(a), or (iv) a supplementary payment under section 1616(c)(3), and

State and local governments.

"(B) was eligible for medical assistance under the State plan approved under this title; and

"(2) with respect to whom the Secretary determines that—

42 USC 1381.

"(A) the individual continues to be blind or continues to have the disabling physical or mental impairment on the basis of which he was found to be under a disability and, except for his earnings, continues to meet all non-disability-related requirements for eligibility for benefits under title XVI,

"(B) the income of such individual would not, except for his earnings, be equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611(b) (if he were otherwise eligible for such payments),

"(C) the lack of eligibility for benefits under this title would seriously inhibit his ability to continue or obtain employment, and

"(D) the individual's earnings are not sufficient to allow him to provide for himself a reasonable equivalent of the benefits under title XVI (including any federally administered State supplementary payments), this title, and publicly funded attendant care services (including personal care assistance) that would be available to him in the absence of such earnings.

State and local governments.

42 USC 1381.

In the case of an individual who is eligible for medical assistance pursuant to section 1619(b) in June, 1987, the individual shall be a qualified severely impaired individual for so long as such individual meets the requirements of paragraph (2).".

42 USC 1382h.

(c) EFFECTIVE DATE.—(1) The amendments made by this section apply (except as provided under paragraph (2)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1987, without regard to whether regulations to implement such amendments are promulgated by such date.

42 USC 1396a note.
42 USC 1396.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

State and local governments.

SEC. 9405. CLARIFICATION OF ELIGIBILITY OF HOMELESS INDIVIDUALS.

Section 1902(b)(2) of the Social Security Act (42 U.S.C. 1396a(b)(2)) is amended by inserting before the semicolon the following: ", regardless of whether or not the residence is maintained permanently or at a fixed address".

SEC. 9406. PAYMENT FOR ALIENS UNDER MEDICAID.

(a) IN GENERAL.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended by adding at the end thereof the following new subsection:

"(v)(1) Notwithstanding the preceding provisions of this section, except as provided in paragraph (2), no payment may be made to a State under this section for medical assistance furnished to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

State and local governments.

"(2) Payment shall be made under this section for care and services that are furnished to an alien described in paragraph (1) only if—

"(A) such care and services are necessary for the treatment of an emergency medical condition of the alien, and

"(B) such alien otherwise meets the eligibility requirements for medical assistance under the State plan approved under this title (other than the requirement of the receipt of aid or assistance under title IV, supplemental security income benefits under title XVI, or a State supplementary payment).

42 USC 601.
42 USC 1381.

"(3) For purposes of this subsection, the term 'emergency medical condition' means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

"(A) placing the patient's health in serious jeopardy,

"(B) serious impairment to bodily functions, or

"(C) serious dysfunction of any bodily organ or part.".

State and local governments.

(b) CONFORMING AMENDMENT.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended by adding at the end thereof the following new sentence: "Notwithstanding paragraph (10)(B) or any other provision of this subsection, a State plan shall provide medical assistance with respect to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law only in accordance with section 1903(v).".

42 USC 1396a note.

(c) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to medical assistance furnished to aliens on or after January 1, 1987, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

42 USC 1396.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by the amendment made in subsection (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet such additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

SEC. 9407. OPTIONAL PRESUMPTIVE ELIGIBILITY PERIOD FOR PREGNANT WOMEN.

(a) STATE OPTION.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (45),

(2) by striking the period at the end of paragraph (46) and inserting in lieu thereof "; and", and

(3) by adding at the end the following:

"(47) at the option of the State, provide for making ambulatory prenatal care available to pregnant women during a presumptive eligibility period in accordance with section 1920.".

(b) PRESUMPTIVE ELIGIBILITY.—Title XIX of the Social Security Act is amended by redesignating section 1920 as section 1921 and inserting after section 1919 the following new section:

42 USC 1396s.

"PRESUMPTIVE ELIGIBILITY FOR PREGNANT WOMEN

42 USC 1396r-1.

"SEC. 1920. (a) A State plan approved under section 1902 may provide for making ambulatory prenatal care available to a pregnant woman during a presumptive eligibility period.

"(b) For purposes of this section—

"(1) the term 'presumptive eligibility period' means, with respect to a pregnant woman, the period that—

"(A) begins with the date on which a qualified provider determines, on the basis of preliminary information, that the family income of the woman does not exceed the applicable income level of eligibility under the State plan, and

"(B) ends with (and includes) the earlier of—

"(i) the day on which a determination is made with respect to the eligibility of the woman for medical assistance under the State plan,

"(ii) the day that is 45 days after the date on which the provider makes the determination referred to in subparagraph (A), or

"(iii) in the case of a woman who does not file an application for medical assistance within 14 calendar days after the date on which the provider makes the determination referred to in subparagraph (A), the fourteenth calendar day after such determination is made; and

"(2) the term 'qualified provider' means any provider that—

"(A) is eligible for payments under a State plan approved under this title,

"(B) provides services of the type described in subparagraph (A) or (B) of section 1905(a)(2) or in section 1905(a)(9), 42 USC 1396d.

"(C) is determined by the State agency to be capable of making determinations of the type described in paragraph (1)(A), and

"(D)(i) receives funds under—

"(I) section 329 or section 330 of the Public Health Service Act, or 42 USC 254b, 254e.

"(II) title V of this Act; 42 USC 701.

"(ii) participates in a program established under—

"(I) section 17 of the Child Nutrition Act of 1966, or 42 USC 1786.

"(II) section 4(a) of the Agriculture and Consumer Protection Act of 1973; or 42 USC 1446a.

"(iii) participates in a State perinatal program.

"(c)(1) The State agency shall provide qualified providers with—

"(A) such forms as are necessary for a pregnant woman to make application for medical assistance under the State plan, and

"(B) information on how to assist such women in completing and filing such forms.

"(2) A qualified provider that determines under subsection (b)(1)(A) that a pregnant woman is presumptively eligible for medical assistance under a State plan shall—

"(A) notify the State agency of the determination within 5 working days after the date on which determination is made, and

"(B) inform the woman at the time the determination is made that she is required to make application for medical assistance under the State plan within 14 calendar days after the date on which the determination is made.

"(3) A pregnant woman who is determined by a qualified provider to be presumptively eligible for medical assistance under a State plan shall make application for medical assistance under such plan within 14 calendar days after the date on which the determination is made.

"(d) Notwithstanding any other provision of this title, ambulatory prenatal care that—

"(1) is furnished to a pregnant woman—

"(A) during a presumptive eligibility period,

"(B) by a qualified provider; and

"(2) is included in the care and services covered by a State plan;

shall be treated as medical assistance provided by such plan for purposes of section 1903.".

42 USC 1396b.

(c) CONFORMING CHANGE.—Section 1903(u)(1)(D) of such Act (42 U.S.C. 1396b(u)(1)(D)) is amended by adding at the end the following:

"(v) In determining the amount of erroneous excess payments, there shall not be included any erroneous payments made for ambulatory prenatal care provided during a presumptive eligibility period (as defined in section 1920(b)(1)).".

Ante, p. 2058.

42 USC 1396a note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to ambulatory prenatal care furnished in calendar quarters beginning on or after April 1, 1987, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 9408. RESPIRATORY CARE SERVICES FOR VENTILATOR-DEPENDENT INDIVIDUALS.

(a) REQUIRED SERVICES.—Section 1902(e) of the Social Security Act (42 U.S.C. 1396b(e)), as amended by sections 9401(d) and 9403(f) of this subtitle, is further amended by adding at the end the following new paragraph:

42 USC 1396a.

State and local governments.

"(9)(A) At the option of the State, the plan may include as medical assistance respiratory care services for any individual who—

"(i) is medically dependent on a ventilator for life support at least six hours per day;

"(ii) has been so dependent for at least 30 consecutive days (or the maximum number of days authorized under the State plan, whichever is less) as an inpatient;

Hospitals.

"(iii) but for the availability of respiratory care services, would require respiratory care as an inpatient in a hospital, skilled nursing facility, or intermediate care facility, and would be eligible to have payment made for such inpatient care under the State plan;

"(iv) has adequate social support services to be cared for at home; and

"(v) wishes to be cared for at home.

"(B) The requirements of subparagraph (A)(ii) may be satisfied by a continuous stay in one or more hospitals, skilled nursing facilities, or intermediate care facilities.

"(C) For purposes of this paragraph, respiratory care services means services provided on a part-time basis in the home of the individual by a respiratory therapist or other health care professional trained in respiratory therapy (as determined by the State), payment for which is not otherwise included within other items and services furnished to such individual as medical assistance under the plan.".

(b) WAIVER OF COMPARABILITY.—Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)), as amended by sections 9401(c), 9403(a), and

9403(c) of this subtitle, is further amended, in the matter following subparagraph (E)—

(1) by striking "and" before "(VIII)"; and

(2) by inserting before the semicolon at the end thereof the following: ", and (IX) the making available of respiratory care services in accordance with subsection (e)(9) shall not, by reason of this paragraph (10), require the making available of such services, or the making available of such services of the same amount, duration, and scope, to any individuals not included under subsection (e)(9)(A), provided such services are made available (in the same amount, duration, and scope) to all individuals described in such subsection".

(c) CONFORMING CHANGES.—

(1) Section 1905(a) of the Social Security Act (42 U.S.C. 1395d(a)), as amended by section 1895(c)(3) of the Tax Reform Act of 1986, is further amended— *Ante*, p. 2931.

(A) by striking "and" at the end of paragraph (19),

(B) by redesignating paragraph (20) as paragraph (21), and

(C) by inserting after paragraph (19) the following new paragraph:

"(20) respiratory care services (as defined in section 1902(e)(9)(C)); and". *Ante*, p. 2060.

(2) Section 1902(j) of the Social Security Act (42 U.S.C. 1396a(j)), as amended by section 1895(c)(3) of the Tax Reform Act of 1986, is amended by striking "(20)" and inserting in lieu thereof "(21)".

(3) Section 1902(a)(10)(C)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(C)(iv)), as amended by section 1895(c)(3) of the Tax Reform Act of 1986, is amended by striking "through (19)" and inserting in lieu thereof "through (20)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after the date of the enactment of this Act. 42 USC 1396a note.

PART 2—PROVISION OF SERVICES UNDER WAIVER AUTHORITY

SEC. 9411. PERMITTING STATES TO OFFER HOME AND COMMUNITY-BASED SERVICES TO CERTAIN LOW-INCOME INDIVIDUALS.

(a) WAIVER AUTHORITY.— Hospitals.

(1) Section 1915(c)(1) of the Social Security Act (42 U.S.C. 1396n(c)(1)) is amended—

(A) by inserting "a hospital or" after "level of care provided in", and

(B) by striking out all beginning with "or but for" through "State plan" the third place it appears.

(2) Section 1915(c)(2)(B) of such Act is amended—

(A) in clause (i) by striking "skilled nursing facility or" and inserting in lieu thereof "inpatient hospital, skilled nursing facility, or", and

(B) in the matter following clause (iii) by inserting "inpatient hospital," after "need for".

(3) Section 1915(c)(7) of such Act is amended to read as follows:

"(7) In making estimates under paragraph (2)(D) in the case of a waiver that applies only to individuals with a particular illness or

condition who are inpatients in hospitals or in skilled nursing or intermediate care facilities, the State may determine the average per capita expenditure that would have been made in a fiscal year for those individuals under the State plan separately from the expenditures for other individuals who are inpatients of those respective facilities.".

State and local governments. Acquired immune deficiency syndrome. 42 USC 1396n.

(b) PROVIDING CASE MANAGEMENT SERVICES TO PATIENTS WITH CERTAIN CONDITIONS.—Section 1915(g)(1) of such Act is amended by adding at the end the following: "A State may limit the provision of case management services under this subsection to individuals with acquired immune deficiency syndrome (AIDS), or with AIDS-related conditions, or with either, and a State may limit the provision of case management services under this subsection to individuals with chronic mental illness.".

Ante, pp. 203, 204. 42 USC 1396a.

(c) WAIVER OF COMPARABILITY REQUIREMENT.—The first sentence of section 1915(c)(3) of such Act is amended by striking all that follows "statewideness)" and inserting "and section 1902(a)(10)(B) (relating to comparability).".

(d) PROVIDING CERTAIN OTHER SERVICES TO PATIENTS WITH CHRONIC MENTAL ILLNESS.—Section 1915(c)(4)(B) of such Act is amended by inserting before the period at the end the following: "and for day treatment or other partial hospitalization services, psychosocial rehabilitation services, and clinic services (whether or not furnished in a facility) for individuals with chronic mental illness".

42 USC 1396n note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to applications for waivers (or renewals thereof) approved on or after the date of the enactment of this Act.

SEC. 9412. WAIVER AUTHORITY FOR CHRONICALLY MENTALLY ILL AND FRAIL ELDERLY.

(a) CHRONICALLY MENTALLY ILL DEMONSTRATION PROGRAM.—

State and local governments. 42 USC 1396.

(1) The Secretary of Health and Human Services may, in accordance with this subsection, waive certain provisions of title XIX of the Social Security Act in order to allow States to implement demonstration programs to improve the continuity, quality, and cost-effectiveness of mental health services available to chronically mentally ill medicaid beneficiaries.

(2) A waiver shall be granted under this subsection with respect to a demonstration program only if—

Grants.

(A) the demonstration program has been awarded a grant from the Robert Wood Johnson Foundation and the Department of Housing and Urban Development under their "Program for the Chronically Mentally Ill",

(B) the State provides assurances satisfactory to the Secretary that under such waiver—

(i) the average per capita expenditure estimated by the State in any fiscal year for medical assistance for mental health services provided with respect to individuals covered under the program does not exceed 100 percent of the average per capita expenditure that the State reasonably estimates would have been made in that fiscal year for expenditures under the State plan for such services for such individuals if the waiver had not been granted, and

(ii) there will be no reduction or limitation in benefits to a medicaid beneficiary under the program.

(3) The authority under this subsection extends only to the following, as they relate to the provision of mental health services:

(A) A waiver of the requirements of sections 1902(a)(1), 1902(a)(10)(B), 1902(a)(23), and 1902(a)(30) and clauses (i) and (ii) of section 1903(m)(2) of the Social Security Act. 42 USC 1396a, 1396b.

(B) Including as "medical assistance" under the State plan case management services with respect to mentally ill patients, habilitation services (as defined in section 1915(c)(5) of such Act), day treatment or other partial hospitalization services, residential services (other than room and board), psychosocial rehabilitation services, clinic services (whether or not furnished in a facility), and such other services as the State may request and the Secretary may approve for individuals covered under the demonstration project. 42 USC 1396n.

(4)(A) A waiver under this subsection shall be for an initial term of three years which may be extended for an additional two-year term. The request of a State for extension of such a waiver shall be deemed granted unless the Secretary denies such request in writing within 90 days after the date of its submission to the Secretary.

(B) The authority to approve a waiver under this subsection extends only during the five-year period beginning on October 1, 1986.

(5) Subsections (c)(6) and (e)(1) of section 1915 of the Social Security Act shall apply to a waiver under this subsection in the same manner as they apply to a waiver under that section.

(6) The Secretary shall report, not later than January 1, 1993, to Congress on the cost, accessibility, utilization, and quality of services provided under waivers granted under this subsection. Reports.

(b) FRAIL ELDERLY DEMONSTRATION PROJECT WAIVERS.—

(1) The Secretary of Health and Human Services shall grant waivers of certain requirements of titles XVIII and XIX of the Social Security Act to not more than 10 public or nonprofit private community-based organizations to enable such organizations to provide comprehensive health care services on a capitated basis to frail elderly patients at risk of institutionalization. 42 USC 1395, 1396.

(2)(A) Except as provided in subparagraph (B), the terms and conditions of a waiver granted pursuant to this subsection shall be substantially the same as the terms and conditions of the On Lok waiver (referred to in section 603(c) of the Social Security Amendments of 1983 and extended by section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985). 42 USC 1395b-1 notes.

(B) In order to receive a waiver under this subsection, an organization must be awarded a grant from the Robert Wood Johnson Foundation. *Ante*, p. 183. Grants.

(C) Subject to subparagraph (B), any waiver granted pursuant to this subsection shall be for an initial period of 3 years. The Secretary may extend such waiver beyond such initial period for so long as the Secretary finds that the organization complies with the terms and conditions described in subparagraphs (A) and (B).

SEC. 9413. CONTINUATION OF "CASE-MANAGED MEDICAL CARE FOR NURSING HOME PATIENTS" DEMONSTRATION PROJECT.

Massachusetts.

42 USC 1395, 1396.

42 USC 1315.

(a) APPROVAL OF APPLICATION.—The Secretary of Health and Human Services shall approve any application for a waiver of any requirement of title XVIII or XIX of the Social Security Act necessary to provide for continuation, from July 1, 1987, through June 30, 1989, of the "Case-Managed Medical Care for Nursing Home Patients" demonstration project (#95-P-98346/1-01) carried out pursuant to section 222 of the Social Security Amendments of 1972, section 402 of the Social Security Amendments of 1967, and section 1115 of the Social Security Act by the Department of Public Welfare, Commonwealth of Massachusetts.

(b) TERMS AND CONDITIONS.—The Secretary's approval of an application (or renewal of an application) under subsection (a) shall be on the same terms and conditions as applied to the demonstration project on July 1, 1986.

SEC. 9414. NEW JERSEY RESPITE CARE PILOT PROJECT.

Disabled persons.
Aged persons.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into an agreement with the State of New Jersey (in this section referred to as the "State") for the purpose of conducting a pilot project (in this section referred to as the "project") under title XIX of the Social Security Act for providing respite care services for elderly and disabled individuals in order to determine the extent to which—

(1) the provision of necessary respite care services to individuals at risk of institutionalization will delay or avert the need for institutional care, and

(2) respite care services enhance and sustain the role of the family in providing long-term care services for elderly and disabled individuals at risk of institutionalization.

Contracts.

(b) CONDITIONS.—The agreement with the Secretary under this section shall—

State and local governments.

42 USC 1396.

(1) provide that the project shall be administered by a State health services agency designated for such purpose by the Governor (which may be the State agency administering or responsible for the administration of the State plan for medical assistance under title XIX of the Social Security Act),

42 USC 1396o.

(2) provide that if the project imposes any cost sharing requirements on participants who are eligible for benefits under title XIX of the Social Security Act, such requirements shall be imposed only in accordance with the provisions of section 1916 of such Act,

(3) provide for a system of review to assure that respite care services are provided only to individuals reasonably determined to be in need of such services, and

(4) meet such other requirements as the Secretary may establish for the proper and efficient implementation of the project.

(c) DEFINITION.—For purposes of this section, the term "respite care services" shall include—

(1) short-term and intermittent—

(A) companion or sitter services (paid as well as volunteer),

(B) homemaker and personal-care services,

(C) adult day care, and

(D) inpatient care in a hospital, a skilled nursing facility, or an intermediate care facility (not to exceed a total of 14 days for any individual); and

(2) peer support and training for family caregivers (using informal support groups and organized counseling).

(d) PAYMENTS.—The agreement under this section shall be entered into between the Secretary and the State agency designated by the Governor. Under such agreement the Secretary shall pay to the State, as in additional payment under section 1903 of the Social Security Act for each quarter, an amount equal to 50 percent of the reasonable costs incurred by such State during such quarter in providing respite care services under the project for elderly and disabled individuals who are eligible for medical assistance under the State plan approved under title XIX of such Act (or who would be eligible if coverage under such plan was as broad as allowed under Federal law). The Federal payment shall not exceed $1,000,000 for fiscal year 1987, and $2,000,000 for each of the fiscal years 1988, 1989, and 1990. No payments shall be made pursuant to this section for any fiscal year beginning after September 30, 1990.

Contracts. State and local governments. Aged persons. Disabled persons. 42 USC 1396b.

42 USC 1396.

(e) DURATION.—The project under this section shall be of a maximum duration of four years, plus an additional time period of up to six months for final evaluation and reporting.

Reports.

(f) REPORTS.—The State shall arrange for an independent evaluation of the project and shall transmit the evaluation to the Secretary not more than six months after the conclusion of project.

(g) PROVISIONS SUBJECT TO WAIVER.—At the request of the State, the Secretary shall waive the following provisions of title XIX of the Social Security Act as they relate to the pilot project: section 1902(a)(1), section 1902(a)(10)(B), section 1902(a)(13), and section 1902(a)(30). The Secretary may not waive any other provision of such title with respect to the pilot project.

42 USC 1396a.

SEC. 9415. INAPPLICABILITY OF PAPERWORK REDUCTION ACT.

Notwithstanding any other provision of law, chapter 35 of title 44, United States Code, shall not apply to information required to carry out any provision of this part or the amendments made by this part.

44 USC 3501 *et seq.*

PART 3—PAYMENTS

SEC. 9421. HOLDING STATES HARMLESS IN FISCAL YEAR 1987 AGAINST A DECREASE IN THE FEDERAL MEDICAL ASSISTANCE PERCENTAGE.

(a) IN GENERAL.—Section 9528 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by adding at the end the following new subsection:

42 USC 1301 note. *Ante*, p. 1972.

"(c) HOLD HARMLESS PROVISION.—Notwithstanding subsection (b), for calendar quarters occurring during fiscal year 1987 and only for purposes of making payment to a State under section 1903 of the Social Security Act, the amendments made by subsection (a) shall not apply to a State if the effect of the applying the amendments would be to reduce the amount of payment made to the State under that section.".

42 USC 1396b.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as though it had been included in the Consolidated Omnibus Budget Reconciliation Act of 1985 at the time of its enactment.

42 USC 1301 note. *Ante*, p. 82.

SEC. 9422. WAIVER OF CERTAIN REQUIREMENTS.

Notwithstanding the three-month limitation set forth in sections 1902(a)(34) and 1905(a) of the Social Security Act, payment may be

South Carolina. 42 USC 1396a, 1396d.

42 USC 1396.

made under title XIX of such Act with respect to care and services provided by the Medical University of South Carolina, after September 30, 1984, and before July 1, 1985, to individuals—

42 USC 1396a.

Women.

State and local governments.

(1) who are not described in section 1902(a)(10)(A) of such Act,

(2) who, upon application, would have been eligible as individuals under the age of 18 or pregnant women, for medical assistance under the State plan approved under such title at the time such care and services were provided, and

(3) who, not later than six months after the date of the enactment of this Act, are determined by the State agency administering or supervising the administration of such plan to have been so eligible.

PART 4—OTHER QUALITY AND EFFICIENCY MEASURES

SEC. 9431. INDEPENDENT QUALITY REVIEW OF HMO SERVICES.

(a) IN GENERAL.—Section 1902(a)(30) of the Social Security Act (42 U.S.C. 1396a(a)(30)) is amended—

(1) by inserting "and" at the end of subparagraph (B), and

(2) by adding at the end the following new subparagraph:

Contracts.

State and local governments.

42 USC 1320c.

42 USC 1396b.

"(C) provide a utilization and quality control peer review organization (under part B of title XI) or a private accreditation body to conduct (on an annual basis) an independent, external review of the quality of services furnished under each contract under section 1903(m), with the results of such review made available to the State and, upon request, to the Secretary, the Inspector General in the Department of Health and Human Services, and the Comptroller General;".

(b) CONFORMING AMENDMENTS.—(1) Section 1902(d) of such Act (42 U.S.C. 1396a(d)) is amended by inserting "(including quality review functions described in subsection (a)(30)(C))" after "medical or utilization review functions".

(2) Section 1903(a)(3)(C) of such Act (42 U.S.C. 1396b(a)(3)(C)) is amended by inserting "or quality review" after "medical and utilization review".

42 USC 1396a note.

(c) EFFECTIVE DATE.—The amendments made by this section apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1987, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 9432. STATE UTILIZATION REVIEW SYSTEMS.

Hospitals.

42 USC 1396a note.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") may not, during the period beginning with the date of the enactment of this Act and ending with the date that is 180 days after the day on which the report required by subsection (b) is submitted to the Congress, publish final or interim final regulations requiring a State plan approved under title XIX of the Social Security Act to include a program requiring second surgical opinions or a program of inpatient hospital preadmission review.

42 USC 1396.

(b) REPORT.—

(1) The Secretary shall report to Congress, by not later than October 1, 1988, for each State in a representative sample of States—

(A) the identity of those procedures which are high volume or high cost procedures among patients who are covered under the State medicaid plan,

(B) the payment rates under those plans for such procedures, and the aggregate annual payment amounts made under such plans for such procedures (including the Federal share of such payment amounts),

(C) the rate at which each such procedure is performed on medicaid patients and (to the extent that data are available) comparisons to the rate at which such procedure is performed on patients of comparable age who are not medicaid patients,

(D) with respect to each such procedure—

(i) the number of board certified or board eligible physicians in the State who provide care and services to medicaid patients and who perform the procedure, and

Physicians.

(ii) in the case of a State with a mandatory second surgical opinion program in operation, the number of physicians described in clause (i) who provide second opinions (of the type described in section 1164 of the Social Security Act) for the procedure at prevailing payment rates under the State medicaid plan, and

Ante, p. 196.

(E) in the case of a State with a mandatory second surgical opinion program or a program of inpatient hospital preadmission review in operation, a description of—

Hospitals.

(i) the extent to which such program impedes access to necessary care and services, and

(ii) the measures that the State has taken to address such impediments, particularly in rural areas.

Rural areas.

(2) Such report shall also include a list of those surgical procedures which the Secretary believes meet the following criteria and for which a mandatory second opinion program under medicaid plans may be appropriate:

(A) The procedure is one which generally can be postponed without undue risk to the patient.

(B) The procedure is a high volume procedure among patients who are covered under State medicaid plans or is a high cost procedure.

(C) The procedure has a comparatively high rate of nonconfirmation upon examination by another qualified physician, there is substantial geographic variation in the rates of performance of the procedure, or there are other reasons why requiring second opinions for 100 percent of such procedures would be cost effective.

Physicians.

(3) The representative sample of States required to be included in the report shall include States with mandatory second surgical opinion programs in operation, States with programs of inpatient hospital preadmission review in operation, and States with neither such program in operation.

Hospitals.

(4) In this subsection, the term "medicaid plan" means a State plan approved under title XIX of the Social Security Act.

42 USC 1396.

(c) STUDY.—

(1) The Secretary shall conduct a study of the utilization of selected medical treatments and surgical procedures by medicaid beneficiaries in order to assess the appropriateness, necessity, and effectiveness of such treatments and procedures.

(2) The study shall analyze the extent to which there is significant variation in the rate of utilization by medicaid bene-

ficiaries of selected treatments and procedures for different geographic areas within States and among States.

(3) The study shall also identify underutilized, medically necessary treatments and procedures for which—

(A) a failure to furnish could have an adverse effect on health status, and

(B) the rate of utilization by medicaid beneficiaries is significantly less than the rate for comparable, age-adjusted populations.

Research and development.

Ante, p. 2006.

(4) The study shall be coordinated, to the extent practicable, with the research program established pursuant to section 1875(c) of the Social Security Act, with particular regard to the relationship of the variations described in paragraph (2) to patient outcomes.

(5) The Secretary shall report the results of the study to the Congress not later than January 1, 1990.

SEC. 9433. CLARIFICATION OF FLEXIBILITY FOR STATE MEDICAID PAYMENT SYSTEMS FOR INPATIENT SERVICES.

42 USC 1396a.

(a) IN GENERAL.—Section 2173 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35, 95 Stat. 809) is amended by adding at the end the following new subsection:

42 USC 1396a.

"(d) Section 1902 of such Act is further amended by inserting before subsection (i) the following new subsection:

Hospitals. Disadvantaged persons.

" '(h) Nothing in this title (including subsections (a)(13) and (a)(30) of this section) shall be construed as authorizing the Secretary to limit the amount of payment adjustments that may be made under a plan under this title with respect to hospitals that serve a disproportionate number of low-income patients with special needs.' ".

42 USC 1396a note.

95 Stat. 357.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply as though it was included in the enactment of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35).

SEC. 9434. FINANCIAL DISCLOSURE REQUIREMENTS FOR HMOS; CIVIL MONEY PENALTIES.

(a) DISCLOSURE OF INTERLOCKING RELATIONSHIPS.—

(1) Section 1903(m) of the Social Security Act (42 U.S.C. 1396b(m)) is amended—

(A) in paragraph (2)(A)—

(i) by striking "and" at the end of clause (vi),

(ii) by striking the period at the end of clause (vii) and inserting ", and", and

(iii) by adding after clause (vii) the following new clause:

Contracts.

42 USC 1320a-3.

"(viii) such contract provides for disclosure of information in accordance with section 1124 and paragraph (4) of this subsection."; and

(B) by adding at the end the following new paragraph:

Reports.

42 USC 300e-9.

42 USC 300e-17.

"(4)(A) Each health maintenance organization which is not a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) must report to the State and, upon request, to the Secretary, the Inspector General of the Department of Health and Human Services, and the Comptroller General a description of transactions between the organization and a party in interest (as defined in section 1318(b) of such Act), including the following transactions:

"(i) Any sale or exchange, or leasing of any property between the organization and such a party. Gifts and property.

"(ii) Any furnishing for consideration of goods, services (including management services), or facilities between the organization and such a party, but not including salaries paid to employees for services provided in the normal course of their employment.

"(iii) Any lending of money or other extension of credit between the organization and such a party.

The State or Secretary may require that information reported respecting an organization which controls, or is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the organization and such entity. State and local governments.

"(B) Each organization shall make the information reported pursuant to subparagraph (A) available to its enrollees upon reasonable request.".

(2) Section 1903(m)(2)(A)(iii) of the Social Security Act (42 U.S.C. 1396b(m)(2)(A)(iii)) is amended by inserting before the semicolon the following: "and under which the Secretary must provide prior approval for contracts providing for expenditures in excess of $100,000". Contracts.

(3)(A) The amendments made by paragraph (1) shall take effect 6 months after the date of the enactment of this Act. Effective date. Contracts. 42 USC 1396b note.

(B) The amendment made by paragraph (2) shall take effect on the date of the enactment of this Act and shall apply to contracts entered into, renewed, or extended after the end of the 30-day period beginning on the date of the enactment of this Act.

(b) CIVIL MONEY PENALTIES.—Section 1903(m) of the Social Security Act, as amended by subsection (a), is further amended by adding at the end the following new paragraph:

"(5)(A) Any entity with a contract under this subsection that fails substantially to provide medically necessary items and services that are required (under law or such contract) to be provided to individuals covered under such contract, if the failure has adversely affected (or has a substantial likelihood of adversely affecting) these individuals, is subject to a civil money penalty of not more than $10,000 for each such failure. Contracts.

"(B) The provisions of section 1128A (other than subsection (a)) shall apply to a civil money penalty under subparagraph (A) in the same manner as they apply to a civil money penalty under that section.". *Ante*, pp. 2003, 2008.

SEC. 9435. COBRA TECHNICAL CORRECTIONS AND CLARIFICATIONS RELATING TO THE MEDICAID PROGRAM.

(a) MAINTENANCE INCOME STANDARDS.—Section 9502(j)(4) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking out "on or after" and inserting in lieu thereof "before, on, or after". 42 USC 1396n note. *Ante*, p. 202.

(b) HOSPICE CARE FOR DUAL ELIGIBLES.—

(1) Section 1902(a)(13)(D) of the Social Security Act, as amended by sections 9505(c)(1) and 9509(a)(4) of the Consolidated Omnibus Budget Reconciliation Act of 1985, is amended by inserting before the first semicolon the following: "and for payment of amounts under section 1905(o)(3)". 42 USC 1396a. *Ante*, pp. 208, 211. 42 USC 1396d.

(2) Section 1905(o) of the Social Security Act, as amended by section 9505(a)(2) of the Consolidated Omnibus Budget Reconciliation Act of 1985, is amended by adding at the end the following new paragraph:

Ante, p. 208.

State and local governments.

"(3) In the case of a State which elects not to provide medical assistance for hospice care, but provides medical assistance for skilled nursing or intermediate care facility services with respect to an individual—

"(A) who is residing in a skilled nursing or intermediate care facility and is receiving medical assistance for services in such facility under the plan,

42 USC 1395c.
42 USC 1395d.

"(B) who is entitled to benefits under part A of title XVIII and has elected, under section 1812(d), to receive hospice care under such part, and

"(C) with respect to whom the hospice program under such title and the skilled nursing or intermediate care facility have entered into a written agreement under which the program takes full responsibility for the professional management of the individual's hospice care and the facility agrees to provide room and board to the individual,

instead of any payment otherwise made under the plan with respect to the facility's services, the State shall provide for payment to the hospice program of an amount equal to the amounts allocated under the plan for room and board in the facility, in accordance with the rates established under section 1902(a)(13), and, if the individual is an individual described in section 1902(a)(10)(A), shall provide for payment of any coinsurance amounts imposed under section 1813(a)(4). For purposes of this paragraph and section 1902(a)(13)(D), the term 'room and board' includes performance of personal care services, including assistance in activities of daily living, in socializing activities, administration of medication, maintaining the cleanliness of a resident's room, and supervising and assisting in the use of durable medical equipment and prescribed therapies.".

42 USC 1396a.
42 USC 1395e.

42 USC 1396a note.
Ante, p. 210.

(c) MEDICAID QUALIFYING TRUSTS.—Section 9506 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by adding at the end the following new subsection:

Handicapped persons.

"(c) EXCEPTION.—The amendment made by subsection (a) shall not apply to any trust or initial trust decree established prior to April 7, 1986, solely for the benefit of a mentally retarded individual who resides in an intermediate care facility for the mentally retarded.".

(d) EFFECTIVE DATES.—

Ante, pp. 208, 210.

(1) Sections 9505(e) and 9508(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 are each amended by inserting before the period at the end the following: ", without regard to whether or not regulations to carry out the amendments have been promulgated by that date".

Ante, p. 212.

(2) Sections 9510(b) and 9511(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 are each amended by inserting before the period at the end the following: ", without regard to whether or not regulations to carry out the amendment have been promulgated by that date".

42 USC 1396b note.
Ante, p. 2931.

(e) HEALTH INSURING ORGANIZATIONS.—Section 9517(c)(2) of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 1895(c)(4) of the Tax Reform Act of 1986, is amended by adding at the end the following new subparagraph:

"(D) Nothing in section 1903(m)(1)(A) of the Social Security Act shall be construed as requiring a health-insuring organization to be organized under the health maintenance organization laws of a State.".

State and local governments.
42 USC 1396b.

(f) EFFECTIVE DATE.—The amendments made by this section shall be effective as if included in the enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985.

42 USC 1396a note.
Ante, p. 82.

SEC. 9436. PAYMENT FOR CERTAIN LONG-TERM CARE PATIENTS IN HOSPITALS.

(a) IN GENERAL.—In the case of a State which received a waiver under the authority of section 402(b) of the Social Security Amendments of 1967 with respect to payment methodology for inpatient hospital services under title XVIII and XIX of the Social Security Act during the 3-year period beginning January 1, 1983, notwithstanding section 1902(a)(13) of such Act, the State may pay under title XIX of such Act for hospital patients receiving services at an inappropriate level of care at the rate for hospital patients receiving an appropriate level of care if the Secretary of Health and Human Services determines that a sufficient number of hospital beds have been decertified in the State to reduce the payments to hospitals under such title in the State by amount equal to or greater than the amount by which payments to hospitals under such title in such State will increase as a result of the payment of such higher rates for patients receiving inappropriate levels of care.

State and local governments.
42 USC 1395b-1.
42 USC 1395, 1396.
42 USC 1396a.

(b) EFFECTIVE PERIOD.—Subsection (a) shall apply to payments for services furnished during the 3-year period beginning January 1, 1986, after the date the Secretary makes the determination described in that subsection.

PART 5—MATERNAL AND CHILD HEALTH

SEC. 9441. AUTHORIZATION AND ALLOTMENT OF ADDITIONAL FUNDS.

(a) ADDITIONAL FUNDS.—Section 501(a) of the Social Security Act (42 U.S.C. 701(a)) is amended by striking "$478,000,000 for fiscal year 1984" and inserting "$553,000,000 for fiscal year 1987, $557,000,000 for fiscal year 1988, and $561,000,000 for fiscal year 1989".

(b) ALLOTMENT OF ADDITIONAL APPROPRIATIONS.—Section 502 of such Act (42 U.S.C. 702) is amended—

(1) in subsection (a)(1) by striking "amount appropriated under section 501(a)" and inserting in lieu thereof "amounts appropriated under section 501(a) for a fiscal year that are not in excess of $478,000,000";

(2) in subsection (b)—

(A) by inserting "that are not in excess of $478,000,000" after "fiscal year" the first place it appears, and

(B) by striking paragraph (3); and

(3) by adding at the end the following new subsections:

"(c)(1) Of the amounts appropriated for a fiscal year in excess of $478,000,000, an amount equal to 7 percent for fiscal year 1987, 8 percent for fiscal year 1988, and 9 percent for fiscal year 1989 shall be retained by the Secretary for the purpose of carrying out (through grants, contracts, or otherwise) projects for the screening of newborns for sickle-cell anemia and other genetic disorders. The provisions of paragraph (3) of subsection (a) shall apply to projects authorized by this paragraph to the same extent as such provisions apply to projects authorized under such subsection.

Grants.
Contracts.

"(2)(A) Of the amounts appropriated for a fiscal year in excess of $478,000,000 that remain after the Secretary has retained the applicable amount (if any) for such fiscal year under paragraph (1), an amount equal to 33⅓ percent shall be retained and allotted in the same manner as the amounts retained and allotted under subsections (a) and (b).

Research and development.

"(B) The amounts retained by the Secretary under this paragraph shall be used for the purpose of carrying out (through grants, contracts, or otherwise) special projects of regional or national significance, training, and research to promote access to primary health services for children and community-based service networks and case management services for children with special health care needs.

State and local governments.

"(C) The amounts allotted to the States under this paragraph shall be used to develop primary health services demonstration programs and projects for children and to promote the development of community-based service networks and case management services for children with special health care needs.

"(D) For purposes of this paragraph—

"(i) the term 'primary health services' includes—

"(I) any assessment, diagnosis, or treatment service provided on an outpatient basis that is designed to promote the health, to prevent the development of disease or disability, or to treat an illness or other health condition, of a child, and

"(II) any service designed to promote the access of children to high quality, continuous, and comprehensive primary health services, including case management;

"(ii) the term 'community-based service network for children with special health care needs' means a network of coordinated, high-quality services that is located in or near the home communities of children with special health care needs in order to improve the health status, functioning, and well-being of such children;

"(iii) the term 'case management services' means services to promote the effective and efficient organization and utilization of resources to assure access to necessary comprehensive services for children and their families; and

"(iv) the term 'comprehensive services' includes early identification and intervention services, diagnostic and evaluation services, treatment services, rehabilitation services, family support services, and special education services.

"(3) Of the amounts appropriated for a fiscal year in excess of $478,000,000 that remain after the Secretary has retained the applicable amount (if any) for such fiscal year under paragraph (1), an amount equal to 66⅔ percent shall be retained and allotted in the same manner and for the same purposes as the amounts retained and allotted under subsections (a) and (b).

State and local governments.

42 USC 705.

"(d)(1) To the extent that all the funds appropriated under this title for a fiscal year are not otherwise allotted to States either because all the States have not qualified for such allotments under section 505 for the fiscal year or because some States have indicated in their descriptions of activities under section 505 that they do not intend to use the full amount of such allotments, such excess shall be allotted among the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this paragraph.

"(2) To the extent that all the funds appropriated under this title for a fiscal year are not otherwise allotted to States because some State allotments are offset under section 506(b)(2), such excess shall be allotted among the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this paragraph.". 42 USC 706.

SEC. 9442. MATERNAL AND CHILD HEALTH AND ADOPTION CLEARINGHOUSE.

The Secretary of Health and Human Services shall establish, either directly or by grant or contract, a National Adoption Information Clearinghouse. The Clearinghouse shall— Grants. Contracts. 42 USC 679a.

(1) collect, compile, and maintain information obtained from available research, studies, and reports by public and private agencies, institutions, or individuals concerning all aspects of infant adoption and adoption of children with special needs;

(2) compile, maintain, and periodically revise directories of information concerning— Women. Education. State and local governments.

(A) crisis pregnancy centers,

(B) shelters and residences for pregnant women,

(C) training programs on adoption,

(D) educational programs on adoption,

(E) licensed adoption agencies,

(F) State laws relating to adoption,

(G) intercountry adoption, and

(H) any other information relating to adoption for pregnant women, infertile couples, adoptive parents, unmarried individuals who want to adopt children, individuals who have been adopted, birth parents who have placed a child for adoption, adoption agencies, social workers, counselors, or other individuals who work in the adoption field;

(3) disseminate the information compiled and maintained pursuant to paragraph (1) and the directories compiled and maintained pursuant to paragraph (2); and

(4) upon the establishment of an adoption and foster care data collection system pursuant to section 479 of the Social Security Act, disseminate the data and information made available through that system. *Infra.*

SEC. 9443. COLLECTION OF DATA RELATING TO ADOPTION AND FOSTER CARE.

Part E of title IV of the Social Security Act, as amended by section 1883(b)(10) of the Tax Reform Act of 1986, is further amended by adding at the end thereof the following new section:

"COLLECTION OF DATA RELATING TO ADOPTION AND FOSTER CARE

"SEC. 479. (a)(1) Not later than 90 days after the date of the enactment of this subsection, the Secretary shall establish an Advisory Committee on Adoption and Foster Care Information (in this section referred to as the 'Advisory Committee') to study the various methods of establishing, administering, and financing a system for the collection of data with respect to adoption and foster care in the United States. 42 USC 679.

"(2) The study required by paragraph (1) shall—

"(A) identify the types of data necessary to—

"(i) assess (on a continuing basis) the incidence, characteristics, and status of adoption and foster care in the United States, and

"(ii) develop appropriate national policies with respect to adoption and foster care;

"(B) evaluate the feasibility and appropriateness of collecting data with respect to privately arranged adoptions and adoptions arranged through private agencies without assistance from public child welfare agencies;

"(C) assess the validity of various methods of collecting data with respect to adoption and foster care; and

"(D) evaluate the financial and administrative impact of implementing each such method.

Reports.

"(3) Not later than October 1, 1987, the Advisory Committee shall submit to the Secretary and the Congress a report setting forth the results of the study required by paragraph (1) and evaluating and making recommendations with respect to the various methods of establishing, administering, and financing a system for the collection of data with respect to adoption and foster care in the United States.

"(4)(A) Subject to subparagraph (B), the membership and organization of the Advisory Committee shall be determined by the Secretary.

State and local governments.

"(B) The membership of the Advisory Committee shall include representatives of—

"(i) private, nonprofit organizations with an interest in child welfare (including organizations that provide foster care and adoption services),

"(ii) organizations representing State and local governmental agencies with responsibility for foster care and adoption services,

"(iii) organizations representing State and local governmental agencies with responsibility for the collection of health and social statistics,

"(iv) organizations representing State and local judicial bodies with jurisdiction over family law,

"(v) Federal agencies responsible for the collection of health and social statistics, and

"(vi) organizations and agencies involved with privately arranged or international adoptions.

"(5) After the date of the submission of the report required by paragraph (3), the Advisory Committee shall cease to exist.

Reports.

"(b)(1)(A) Not later than July 1, 1988, the Secretary shall submit to the Congress a report that—

"(i) proposes a method of establishing, administering, and financing a system for the collection of data relating to adoption and foster care in the United States,

"(ii) evaluates the feasibility and appropriateness of collecting data with respect to privately arranged adoptions and adoptions arranged through private agencies without assistance from public child welfare agencies, and

"(iii) evaluates the impact of the system proposed under clause (i) on the agencies with responsibility for implementing it.

Reports.

"(B) The report required by subparagraph (A) shall—

"(i) specify any changes in law that will be necessary to implement the system proposed under subparagraph (A)(i), and

"(ii) describe the type of system that will be implemented under paragraph (2) in the absence of such changes.

"(2) Not later than December 31, 1988, the Secretary shall promulgate final regulations providing for the implementation of— Regulations.

"(A) the system proposed under paragraph (1)(A)(i), or

"(B) if the changes in law specified pursuant to paragraph (1)(B)(i) have not been enacted, the system described in paragraph (1)(B)(ii).

Such regulations shall provide for the full implementation of the system not later than October 1, 1991.

"(c) Any data collection system developed and implemented under this section shall—

"(1) avoid unnecessary diversion of resources from agencies responsible for adoption and foster care;

"(2) assure that any data that is collected is reliable and consistent over time and among jurisdictions through the use of uniform definitions and methodologies;

"(3) provide comprehensive national information with respect to—

"(A) the demographic characteristics of adoptive and foster children and their biological and adoptive or foster parents,

"(B) the status of the foster care population (including the number of children in foster care, length of placement, type of placement, availability for adoption, and goals for ending or continuing foster care),

"(C) the number and characteristics of—

"(i) children placed in or removed from foster care, and

"(ii) children adopted or with respect to whom adoptions have been terminated, and

"(D) the extent and nature of assistance provided by Federal, State, and local adoption and foster care programs and the characteristics of the children with respect to whom such assistance is provided; and State and local governments.

"(4) utilize appropriate requirements and incentives to ensure that the system functions reliably throughout the United States.".

Subtitle F—Provision Relating to Access to Health Care

Sec. 9501. Continuation coverage for retirees in cases of bankruptcies.

SEC. 9501. CONTINUATION COVERAGE FOR RETIREES IN CASES OF BANKRUPTCIES.

(a) LOSS OF COVERAGE OF RETIREE THROUGH BANKRUPTCY AS QUALIFYING EVENT.—

(1) IRC AMENDMENT.—Paragraph (3) of section 162(k) of the Internal Revenue Code of 1986 (relating to qualifying event with respect to continuation coverage requirements under group health plans) is amended by adding at the end the following: *Post*, p. 2095. 26 USC 162.

"(F) A proceeding in a case under title 11, United States Code, commencing on or after July 1, 1986, with respect to the employer from whose employment the covered employee retired at any time. Employment and unemployment.

In the case of an event described in subparagraph (F), a loss of coverage includes a substantial elimination of coverage with

respect to a qualified beneficiary described in paragraph (7)(B)(iv) within one year before or after the date of commencement of the proceeding."

(2) ERISA AMENDMENT.—Section 603 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163) is amended by adding at the end the following:

Employment and unemployment.

"(6) A proceeding in a case under title 11, United States Code, commencing on or after July 1, 1986, with respect to the employer from whose employment the covered employee retired at any time.

In the case of an event described in paragraph (6), a loss of coverage includes a substantial elimination of coverage with respect to a qualified beneficiary described in section 607(3)(C) within one year before or after the date of commencement of the proceeding."

Post, p. 2077.

(b) PERIOD OF CONTINUATION COVERAGE.—

(1) LIFE OF COVERED EMPLOYEE OR WIDOW AND ADDITIONAL 36 MONTHS FOR SURVIVING SPOUSE AND DEPENDENTS.—

(A) IRC AMENDMENTS.—Clause (i) of section 162(k)(2)(B) of the Internal Revenue Code of 1986 (relating to maximum period), as amended by section 1895(d)(2)(A) of the Tax Reform Act of 1986, is amended—

Post, p. 2095.
26 USC 162.

(i) in subclause (II), by inserting "(other than a qualifying event described in paragraph (3)(F))" after "qualifying event" the first place it appears,

(ii) in subclause (III), by inserting "or (3)(F)" after "(3)(B)",

(iii) by redesignating subclause (III) as subclause (IV), and

(iv) by inserting after subclause (II) the following new subclause:

"(III) SPECIAL RULE FOR CERTAIN BANKRUPTCY PROCEEDINGS.—In the case of a qualifying event described in paragraph (3)(F) (relating to bankruptcy proceedings), the date of the death of the covered employee or qualified beneficiary (described in paragraph (7)(B)(iv)(III)), or in the case of the surviving spouse or dependent children of the covered employee, 36 months after the date of the death of the covered employee."

(B) ERISA AMENDMENTS.—Subparagraph (A) of section 602(2) of the Employee Retirement Income Security Act of 1974 (relating to maximum period), as amended by section 1895(d)(2)(B) of the Tax Reform Act of 1986, is amended—

Post p. 2095;
29 USC 1162.

(i) in clause (ii), by inserting "(other than a qualifying event described in section 603(6))" after "qualifying event" the first place it appears,

(ii) in clause (iii), by inserting "or 603(6)" after "603(2)",

(iii) by redesignating clause (iii) as clause (iv), and

(iv) by inserting after clause (ii) the following new clause:

"(iii) SPECIAL RULE FOR CERTAIN BANKRUPTCY PROCEEDINGS.—In the case of a qualifying event described in 603(6) (relating to bankruptcy proceedings), the date of the death of the covered employee or qualified beneficiary (described in section 607(3)(C)(iii)), or in the case of the surviving spouse or dependent children

of the covered employee, 36 months after the date of the death of the covered employee."

(2) COVERAGE NOT LOST UPON ENTITLEMENT TO MEDICARE BENEFITS.—

(A) IRC AMENDMENT.—Subclause (II) of section 162(k)(2)(B)(iv) of the Internal Revenue Code of 1986 (relating to reemployment or medicare eligibility) is amended by inserting "in the case of a qualified beneficiary other than a qualified beneficiary described in paragraph (7)(B)(iv)," before "entitled". 26 USC 162.

(B) ERISA AMENDMENT.—Clause (ii) of section 602(2)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(D)) is amended by inserting "in the case of a qualified beneficiary other than a qualified beneficiary described in section 607(3)(C)," before "entitled". *Infra.*

(c) DEFINITION OF QUALIFIED BENEFICIARY MODIFIED IN REORGANIZATION CASES.—

(1) IRC AMENDMENT.—Section 162(k)(7)(B) of the Internal Revenue Code of 1986, as amended by section 1895(d)(7) of the Tax Reform Act of 1986 (relating to special rule for termination and reduced employment in definition of qualified beneficiary), is amended by adding at the end the following new clause: *Post,* p. 2095.

"(iv) SPECIAL RULE FOR RETIREES AND WIDOWS.—In the case of a qualifying event described in paragraph (3)(F), the term 'qualified beneficiary' includes a covered employee who had retired on or before the date of substantial elimination of coverage and any other individual who, on the day before such qualifying event, is a beneficiary under the plan—

"(I) as the spouse of the covered employee,

"(II) as the dependent child of the employee, or

"(III) as the surviving spouse of the covered employee.".

(2) ERISA AMENDMENT.—Section 607(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(3)) (relating to special rule for termination and reduced employment in definition of qualified beneficiary) is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULE FOR RETIREES AND WIDOWS.—In the case of a qualifying event described in section 603(6), the term 'qualified beneficiary' includes a covered employee who had retired on or before the date of substantial elimination of coverage and any other individual who, on the day before such qualifying event, is a beneficiary under the plan— *Ante,* p. 2076.

"(i) as the spouse of the covered employee,

"(ii) as the dependent child of the employee, or

"(iii) as the surviving spouse of the covered employee.".

(d) NOTICE.—

(1) IRC AMENDMENT.—Subparagraphs (B) and (D)(i) of section 162(k)(6) of the Internal Revenue Code of 1986 (relating to notice requirements) are amended by striking "or (D)" each place it appears and inserting in lieu thereof "(D), or (F)". *Post,* p. 2095.

(2) ERISA AMENDMENT.—Paragraphs (2) and (4)(A) of section 606 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166) (relating to notice requirements) are amended by

striking "or (4)" each place it appears and inserting in lieu thereof "(4), or (6)".

26 USC 162 note.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect as if included in title X of the Consolidated Omnibus Budget Reconciliation Act of 1985.

Ante, p. 222.

(2) TREATMENT OF CERTAIN BANKRUPTCY PROCEEDINGS.—Notwithstanding paragraph (1), section 10001(e) of the Consolidated Omnibus Budget Reconciliation Act of 1985, and section 10002(d) of such Act, the amendments made by this section and by sections 10001 and 10002 of such Act shall apply in the case of plan years ending during the 12-month period beginning July 1, 1986, but only with respect to—

Ante, pp. 222, 227.

(A) a qualifying event described in section 162(k)(3)(F) of the Internal Revenue Code of 1986 or section 603(6) of the Employee Retirement Income Security Act of 1974, and

Ante, p. 2095.
Ante, p. 2076.

(B) a qualifying event described in section 162(k)(3)(A) of the Internal Revenue Code of 1986 or section 603(1) of the Employee Retirement Income Security Act of 1974 relating to the death of a retired employee occurring after the date of the qualifying event described in subparagraph (A).

(3) TREATMENT OF CURRENT RETIREES.—Section 162(k)(3)(F) of the Internal Revenue Code of 1986 and section 603(6) of the Employee Retirement Income Security Act of 1974 apply to covered employees who retired before, on, or after the date of the enactment of this Act.

(4) NOTICE.—In the case of a qualifying event described in section 603(6) of the Employee Retirement Income Security Act of 1974 that occurred before the date of the enactment of this Act, the notice required under section 606(2) of such Act (and under section 162(k)(6)(B) of the Internal Revenue Code of 1986) with respect to such event shall be provided no later than 30 days after the date of the enactment of this Act.

Ante, p. 230.
Ante, p. 2077.
Post, p. 2095; 26 USC 162.

Approved October 21, 1986.

LEGISLATIVE HISTORY—H.R. 5300 (S. 2706) (S. 2799):

HOUSE REPORTS: No. 99-727 (Comm. on the Budget) and No. 99-1012 (Comm. of Conference).

SENATE REPORTS: No. 99-348 accompanying S. 2706 (Comm. on the Budget) and No. 99-479 accompaning S. 2799 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 132 (1986):

Sept. 17-19, S. 2706 considered and passed Senate.
Sept. 24, H.R. 5300 considered and passed House.
Sept. 25, considered and passed Senate, amended, in lieu of S. 2706.
Sept. 27, S. 2799 considered and passed Senate.
Oct. 17, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):

Oct. 21, Presidential statement.

O

Public Law 99-510
99th Congress

Joint Resolution

Providing for reappointment of David C. Acheson as a citizen regent of the Board of Regents of the Smithsonian Institution.

Oct. 21, 1986
[H.J. Res. 517]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of David C. Acheson of the District of Columbia, is filled by reappointment of the incumbent for a term of six years, effective December 22, 1986.

Approved October 21, 1986.

LEGISLATIVE HISTORY—H.J. Res. 517 (S.J. Res. 269):

SENATE REPORTS: No. 99-405 accompanying S.J. Res. 269 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 15, S.J. Res. 269 considered and passed Senate.

Public Law 99-511
99th Congress

Joint Resolution

Oct. 21, 1986
[H.J. Res. 666]

Expressing the sense of Congress in support of a commemorative structure within the National Park System dedicated to the promotion of understanding, knowledge, opportunity and equality for all people.

Minorities.
Children and youth.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Council for Education and Economic Development, Inc., a private nonprofit organization having for its primary purposes examination of the economic, constitutional, legal and social conditions and ramifications of slavery; the history of Afro-Americans; promotion of education and understanding among all people of the American slave experience and its role in the history of the United States; and elimination of barriers of every kind and nature to learning and opportunity faced by Afro-American, minority, poor and other children, is deserving of encouragement and support of the American people in its program to raise an endowment to assure a permanent location of a commemorative structure within the National Park System, or on other Federal lands, dedicated to understanding, knowledge, opportunity and equality for all people.

Approved October 21, 1986.

LEGISLATIVE HISTORY—H.J. Res. 666:

SENATE REPORTS: No. 99-463 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
June 26, considered and passed House.
Oct. 8, considered and passed Senate.

O

Public Law 99-512
99th Congress

Joint Resolution

To designate December 11, 1986, as "National SEEK and College Discovery Day".

Oct. 21, 1986
[H.J. Res. 735]

Whereas the development of effective means to foster higher educational opportunity and attainment among members of minority groups, the economically disadvantaged, and the educationally underprepared is a matter of great national concern;

Whereas the City University of New York has implemented two programs—College Discovery for community college students, and SEEK (Search for Elevation, Education, and Knowledge) for senior college students—which provide specialized counseling, remedial instruction, and tutorial services enabling nearly 14,000 disadvantaged students a year to receive the benefits of a college education;

Whereas almost 100,000 students have participated in the SEEK and College Discovery programs since their inception 20 years ago, which the City University of New York is celebrating in a special ceremony December 11, 1986; and

Whereas the concept and innovative educational techniques employed by the SEEK and College Discovery programs have served as a forerunner and model for college remedial programs across the country, and for the Federal TRIO program under title IV of the Higher Education Act of 1965: Now, therefore, be it

Ante, p. 1308.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 11, 1986, is designated as "National SEEK and College Discovery Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved October 21, 1986.

LEGISLATIVE HISTORY—H.J. Res. 735:

CONGRESSIONAL RECORD, Vol. 132 (1986):

R.M.S. TITANIC MARITIME MEMORIAL ACT OF 1986

Public Law 99-513
99th Congress

An Act

Oct. 21, 1986
[S. 2048]

To encourage international efforts to designate the shipwreck of the R.M.S. Titanic as an international maritime memorial and to provide for reasonable research, exploration, and, if appropriate, salvage activities with respect to the shipwreck.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

R.M.S. Titanic Maritime Memorial Act of 1986.
16 USC 450rr note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "R.M.S. Titanic Maritime Memorial Act of 1986".

16 USC 450rr.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the R.M.S. Titanic, the ocean liner which sank on her maiden voyage after striking an iceberg on April 14, 1912, should be designated as an international maritime memorial to the men, women, and children who perished aboard her;

(2) the recent discovery of the R.M.S. Titanic, lying more than twelve thousand feet beneath the ocean surface, demonstrates the practical applications of ocean science and engineering;

(3) the R.M.S. Titanic, well preserved in the cold, oxygen-poor waters of the deep North Atlantic Ocean, is of major national and international cultural and historical significance, and merits appropriate international protection; and

(4) the R.M.S. Titanic represents a special opportunity for deep ocean scientific research and exploration.

(b) PURPOSE.—The Congress declares that the purposes of this Act are—

(1) to encourage international efforts to designate the R.M.S. Titanic as an international maritime memorial to those who lost their lives aboard her in 1912;

(2) to direct the United States to enter into negotiations with other interested nations to establish an international agreement which will provide for the designation of the R.M.S. Titanic as an international maritime memorial, and protect the scientific, cultural, and historical significance of the R.M.S. Titanic;

(3) to encourage, in those negotiations or in other fora, the development and implementation of international guidelines for conducting research on, exploration of, and if appropriate, salvage of the R.M.S. Titanic; and

(4) to express the sense of the United States Congress that, pending such international agreement or guidelines, no person should physically alter, disturb, or salvage the R.M.S. Titanic in any research or exploratory activities which are conducted.

16 USC 450rr-1.

SEC. 3. DEFINITIONS.

For the purposes of this Act, the term—

(a) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration (NOAA);

(b) "person" means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government;

(c) "R.M.S. Titanic" means the shipwrecked vessel R.M.S. Titanic, her cargo or other contents, including those items which are scattered on the ocean floor in her vicinity; and

(d) "Secretary" means the Secretary of State.

SEC. 4. COMMENDATION. 16 USC 450rr-2.

The Congress of the United States highly commends the members of the joint international expedition which discovered the R.M.S. Titanic.

SEC. 5. INTERNATIONAL GUIDELINES. 16 USC 450rr-3.

(a) The Administrator is directed to enter into consultations with the United Kingdom, France, Canada, and other interested nations to develop international guidelines for research on, exploration of, and if appropriate, salvage of the R.M.S. Titanic, which— United Kingdom. France. Canada.

(1) are consistent with its national and international scientific, cultural, and historical significance and the purposes of this Act; and

(2) promote the safety of individuals involved in such operations.

(b) In carrying out subsection (a), the Administrator shall consult with the Secretary and shall promote full participation by other interested Federal agencies, academic and research institutions, and members of the public.

SEC. 6. INTERNATIONAL AGREEMENT. 16 USC 450rr-4.

(a) The Secretary is directed to enter into negotiations with the United Kingdom, France, Canada, and other interested nations to develop an international agreement which provides for— United Kingdom. France. Canada.

(1) the designation of the R.M.S. Titanic as an international maritime memorial; and

(2) research on, exploration of, and if appropriate, salvage of the R.M.S. Titanic consistent with the international guidelines developed pursuant to section 5 and the purposes of this Act.

(b) In carrying out the requirements of subsection (a), the Secretary shall consult with the Administrator, who shall provide research and technical assistance to the Secretary.

(c) The Secretary and the Administrator shall report semiannually to the Committee on Merchant Marine and Fisheries and the Committee on Foreign Affairs in the House of Representatives and to the Committee on Foreign Relations and the Committee on Commerce, Science, and Transportation in the Senate on the progress of the negotiations and consultations. Reports.

(d) Upon adoption of an international agreement as described in subsection (a), the Secretary shall provide notification of the agreement and recommendations for legislation to implement the agreement to the Committee on Merchant Marine and Fisheries and the Committee on Foreign Affairs in the House of Representatives and to the Committee on Foreign Relations and the Committee on Commerce, Science, and Transportation in the Senate.

16 USC 450rr-5.

SEC. 7. SENSE OF CONGRESS REGARDING CONDUCT OF FUTURE ACTIVITIES.

It is the sense of Congress that research and limited exploration activities concerning the R.M.S. Titanic should continue for the purpose of enhancing public knowledge of its scientific, cultural, and historical significance: *Provided,* That, pending adoption of the international agreement described in section 6(a) or implementation of the international guidelines described in section 5, no person should conduct any such research or exploration activity which would physically alter, disturb, or salvage the R.M.S. Titanic.

16 USC 450rr-6.

SEC. 8. DISCLAIMER OF EXTRATERRITORIAL SOVEREIGNTY.

By enactment of this Act, the United States does not assert sovereignty, or sovereign or exclusive rights or jurisdiction over, or the ownership of, any marine areas or the R.M.S. Titanic.

Approved October 21, 1986.

LEGISLATIVE HISTORY—S. 2048 (H.R. 3272):

HOUSE REPORT: No. 99-393 accompanying H.R. 3272 (Comm. on Merchant Marine and Fisheries).

CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 2, H.R. 3272 considered and passed House.
Vol. 132 (1986): Sept. 24, S. 2048 considered and passed Senate.
Oct. 16, considered and passed House.

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Public Law 99-514
99th Congress

An Act

To reform the internal revenue laws of the United States.

Oct. 22, 1986
[H.R. 3838]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Tax Reform Act of 1986.
26 USC 1 *et seq.*

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Sec. 1890. Amendments to the Caribbean Basin Economic Recovery Act.
Sec. 1891. Conforming amendments regarding customs brokers.
Sec. 1892. Special effective date provisions for certain articles given duty-free treatment under the Trade and Tariff Act of 1984.
Sec. 1893. Technical amendments relating to customs user fees.

Subtitle C—Miscellaneous

CHAPTER 1—AMENDMENTS RELATED TO THE CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT OF 1985

Sec. 1895. COBRA technical corrections relating to Social Security Act programs.
Sec. 1896. Extension of time for filing for credit or refund with respect to certain changes involving insolvent farmers.
Sec. 1897. Correction of clerical error in amendments to coal tax.

CHAPTER 2—AMENDMENTS RELATED TO THE RETIREMENT EQUITY ACT OF 1984

Sec. 1898. Technical corrections to the Retirement Equity Act of 1984.

CHAPTER 3—AMENDMENT RELATED TO THE CHILD SUPPORT ENFORCEMENT AMENDMENTS OF 1984

Sec. 1899. Amendment related to the Child Support Enforcement Amendments of 1984.

CHAPTER 4—MISCELLANEOUS AMENDMENTS CORRECTING ERRORS OF SPELLING, PUNCTUATION, ETC.

Sec. 1899A. Miscellaneous amendments correcting errors of spelling, punctuation, etc.

SEC. 2. INTERNAL REVENUE CODE OF 1986.

(a) REDESIGNATION OF 1954 CODE.—The Internal Revenue Title enacted August 16, 1954, as heretofore, hereby, or hereafter amended, may be cited as the "Internal Revenue Code of 1986".

(b) REFERENCES IN LAWS, ETC.—Except when inappropriate, any reference in any law, Executive order, or other document—

(1) to the Internal Revenue Code of 1954 shall include a reference to the Internal Revenue Code of 1986, and

(2) to the Internal Revenue Code of 1986 shall include a reference to the provisions of law formerly known as the Internal Revenue Code of 1954.

SEC. 3. AMENDMENT OF 1986 CODE; COORDINATION WITH SECTION 15.

(a) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(b) COORDINATION WITH SECTION 15.—

(1) IN GENERAL.—Except as provided in paragraph (2), for purposes of section 15 of the Internal Revenue Code of 1986, no amendment or repeal made by this Act shall be treated as a change in the rate of a tax imposed by chapter 1 of such Code.

(2) EXCEPTION.—Paragraph (1) shall not apply to the amendment made by section 601 (relating to corporate rate reductions).

TITLE I—INDIVIDUAL INCOME TAX PROVISIONS

Subtitle A—Rate Reductions; Increase in Standard Deduction and Personal Exemptions

SEC. 101. RATE REDUCTIONS.

(a) GENERAL RULE.—Section 1 (relating to tax imposed on individuals) is amended to read as follows:

"SECTION 1. TAX IMPOSED.

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If taxable income is	The tax is:
Not over $29,750	15% of taxable income.
Over $29,750	$4,462.50, plus 28% of the excess over $29,750.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is	The tax is:
Not over $23,900	15% of taxable income.
Over $23,900	$3,585, plus 28% of the excess over $23,900.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 7703) a tax determined in accordance with the following table:

"If taxable income is	The tax is:
Not over $17,850	15% of taxable income.
Over $17,850	$2,677.50, plus 28% of the excess over $17,850.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

"If taxable income is	The tax is:
Not over $14,875	15% of taxable income.
Over $14,875	$2,231.25, plus 28% of the excess over $14,875.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of—

"(1) every estate, and

"(2) every trust,

taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is	The tax is:
Not over $5,000	15% of taxable income.
Over $5,000	$750, plus 28% of the excess over $5,000

"(f) ADJUSTMENTS IN TAX TABLES SO THAT INFLATION WILL NOT RESULT IN TAX INCREASES.—

"(1) IN GENERAL.—Not later than December 15 of 1988, and each subsequent calendar year, the Secretary shall prescribe tables which shall apply in lieu of the tables contained in subsections (a), (b), (c), (d), and (e) with respect to taxable years beginning in the succeeding calendar year.

"(2) METHOD OF PRESCRIBING TABLES.—The table which under paragraph (1) is to apply in lieu of the table contained in subsection (a), (b), (c), (d), or (e), as the case may be, with respect to taxable years beginning in any calendar year shall be prescribed—

"(A) by increasing the minimum and maximum dollar amounts for each rate bracket for which a tax is imposed under such table by the cost-of-living adjustment for such calendar year,

"(B) by not changing the rate applicable to any rate bracket as adjusted under subparagraph (A), and

"(C) by adjusting the amounts setting forth the tax to the extent necessary to reflect the adjustments in the rate brackets.

"(3) COST-OF-LIVING ADJUSTMENT.—For purposes of paragraph (2), the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(A) the CPI for the preceding calendar year, exceeds

"(B) the CPI for the calendar year 1987.

"(4) CPI FOR ANY CALENDAR YEAR.—For purposes of paragraph (3), the CPI for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on August 31 of such calendar year.

"(5) CONSUMER PRICE INDEX.—For purposes of paragraph (4), the term 'Consumer Price Index' means the last Consumer Price Index for all-urban consumers published by the Department of Labor. For purposes of the preceding sentence, the revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1986 shall be used.

"(6) ROUNDING.—

"(A) IN GENERAL.—If any increase determined under paragraph (2)(A), subsection (g)(4), section 63(c)(4), or section 151(d)(3) is not a multiple of $50, such increase shall be rounded to the next lowest multiple of $50.

"(B) TABLE FOR MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of a married individual filing a separate return, subparagraph (A) (other than with respect to section 63(c)(4)) shall be applied by substituting '$25' for '$50' each place it appears.

"(g) PHASEOUT OF 15-PERCENT RATE AND PERSONAL EXEMPTIONS.—

"(1) IN GENERAL.—The amount of tax imposed by this section (determined without regard to this subsection) shall be increased by 5 percent of the excess (if any) of—

"(A) taxable income, over

"(B) the applicable dollar amount.

"(2) LIMITATION.—The increase determined under paragraph (1) with respect to any taxpayer for any taxable year shall not exceed the sum of—

"(A) 13 percent of the maximum amount of taxable income to which the 15-percent rate applies under the table contained in subsection (a), (b), (c), or (e) (whichever applies), and

"(B) 28 percent of the deductions for personal exemptions allowable to the taxpayer for the taxable year under section 151.

In the case of any individual taxable under subsection (d), subparagraph (A) shall apply as if such individual were taxable under subsection (a).

"(3) APPLICABLE DOLLAR AMOUNT.—For purposes of paragraph (1), the applicable dollar amount shall be determined under the following table:

"In the case of a taxpayer to which the following subsection of this section applies:	The applicable dollar amount is:
Subsection (a)	$71,900
Subsection (b)	61,650
Subsection (c)	43,150
Subsection (d)	35,950
Subsection (e)	13,000.

"(4) ADJUSTMENT FOR INFLATION.—In the case of any taxable year beginning in a calendar year after 1988, each dollar amount contained in paragraph (3) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under subsection (f)(3) for the calendar year in which the taxable year begins.

"(h) TAX SCHEDULES FOR TAXABLE YEARS BEGINNING IN 1987.—In the case of any taxable year beginning in 1987—

"(1) subsection (g) shall not apply, and

"(2) the following tables shall apply in lieu of the tables set forth in subsections (a), (b), (c), (d), and (e):

"(A) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—The table to apply for purposes of subsection (a) is as follows:

"If taxable income is	The tax is:
Not over $3,000	11% of taxable income.
Over $3,000 but not over $28,000	$330, plus 15% of the excess over $3,000.
Over $28,000 but not over $45,000	$4,080, plus 28% of the excess over $28,000.
Over $45,000 but not over $90,000	$8,840, plus 35% of the excess over $45,000.
Over $90,000	$24,590, plus 38.5% of the excess over $90,000.

"(B) HEADS OF HOUSEHOLDS.—The table to apply for purposes of subsection (b) is as follows:

"If taxable income is	The tax is:
Not over $2,500	11% of taxable income.
Over $2,500 but not over $23,000	$275, plus 15% of the excess over $2,500.
Over $23,000 but not over $38,000	$3,350, plus 28% of the excess over $23,000.

"If taxable income is	The tax is:
Over $38,000 but not over $80,000	$7,550, plus 35% of the excess over $38,000.
Over $80,000	$22,250, plus 38.5% of the excess over $80,000.

"(C) UNMARRIED INDIVIDUALS OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS.—The table to apply for purposes of subsection (c) is as follows:

"If taxable income is	The tax is:
Not over $1,800	11% of taxable income.
Over $1,800 but not over $16,800	$198, plus 15% of the excess over $1,800.
Over $16,800 but not over $27,000	$2,448, plus 28% of the excess over $16,800.
Over $27,000 but not over $54,000	$5,304, plus 35% of the excess over $27,000.
Over $54,000	$14,754, plus 38.5% of the excess over $54,000.

"(D) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—The table to apply for purposes of subsection (d) is as follows:

"If taxable income is	The tax is:
Not over $1,500	11% of taxable income.
Over $1,500 but not over $14,000	$165, plus 15% of the excess over $1,500.
Over $14,000 but not over $22,500	$2,040, plus 28% of the excess over $14,000.
Over $22,500 but not over $45,000	$4,420, plus 35% of the excess over $22,500.
Over $45,000	$12,295, plus 38.5% of the excess over $45,000.

"(E) ESTATES AND TRUSTS.—The table to apply for purposes of subsection (e) is as follows:

"If taxable income is	The tax is:
Not over $500	11% of taxable income.
Over $500 but not over $4,700	$55, plus 15% of the excess over $500.
Over $4,700 but not over $7,550	$685, plus 28% of the excess over $4,700.
Over $7,550 but not over $15,150	$1,483, plus 35% of the excess over $7,550.
Over $15,150	$4,143, plus 38.5% of the excess over $15,150."

(b) AMENDMENT OF SECTION 15.—Subsection (d) of section 15 (relating to effect of changes in rates during a taxable year) is amended to read as follows:

"(d) SECTION NOT TO APPLY TO INFLATION ADJUSTMENTS.—This section shall not apply to any change in rates under subsection (f) of section 1 (relating to adjustments in tax tables so that inflation will not result in tax increases)."

SEC. 102. INCREASE IN STANDARD DEDUCTION.

(a) GENERAL RULE.—Section 63 (defining taxable income) is amended to read as follows:

"SEC. 63. TAXABLE INCOME DEFINED.

"(a) IN GENERAL.—Except as provided in subsection (b), for purposes of this subtitle, the term 'taxable income' means gross income minus the deductions allowed by this chapter (other than the standard deduction).

"(b) INDIVIDUALS WHO DO NOT ITEMIZE THEIR DEDUCTIONS.—In the case of an individual who does not elect to itemize his deductions for

the taxable year, for purposes of this subtitle, the term 'taxable income' means adjusted gross income, minus—

"(1) the standard deduction, and

"(2) the deduction for personal exemptions provided in section 151.

"(c) STANDARD DEDUCTION.—For purposes of this subtitle—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'standard deduction' means the sum of—

"(A) the basic standard deduction, and

"(B) the additional standard deduction.

"(2) BASIC STANDARD DEDUCTION.—For purposes of paragraph (1), the basic standard deduction is—

"(A) $5,000 in the case of—

"(i) a joint return, or

"(ii) a surviving spouse (as defined in section 2(a)),

"(B) $4,400 in the case of a head of household (as defined in section 2(b)),

"(C) $3,000 in the case of an individual who is not married and who is not a surviving spouse or head of household, or

"(D) $2,500 in the case of a married individual filing a separate return.

"(3) ADDITIONAL STANDARD DEDUCTION FOR AGED AND BLIND.—For purposes of paragraph (1), the additional standard deduction is the sum of each additional amount to which the taxpayer is entitled under subsection (f).

"(4) ADJUSTMENTS FOR INFLATION.—In the case of any taxable year beginning in a calendar year after 1988, each dollar amount contained in paragraph (2) or (5)(A) or subsection (f) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins.

"(5) LIMITATION ON STANDARD DEDUCTION IN THE CASE OF CERTAIN DEPENDENTS.—In the case of an individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, the standard deduction applicable to such individual for such individual's taxable year shall not exceed the greater of—

"(A) $500, or

"(B) such individual's earned income.

"(6) CERTAIN INDIVIDUALS, ETC., NOT ELIGIBLE FOR STANDARD DEDUCTION.—In the case of—

"(A) a married individual filing a separate return where either spouse itemizes deductions,

"(B) a nonresident alien individual,

"(C) a citizen of the United States entitled to the benefits of section 931 (relating to income from sources within possessions of the United States),

"(D) an individual making a return under section 443(a)(1) for a period of less than 12 months on account of a change in his annual accounting period, or

"(E) an estate or trust, common trust fund, or partnership,

the standard deduction shall be zero.

"(d) ITEMIZED DEDUCTIONS.—For purposes of this subtitle, the term 'itemized deductions' means the deductions allowable under this chapter other than—

"(1) the deductions allowable in arriving at adjusted gross income, and

"(2) the deduction for personal exemptions provided by section 151.

"(e) ELECTION TO ITEMIZE.—

"(1) IN GENERAL.—Unless an individual makes an election under this subsection for the taxable year, no itemized deduction shall be allowed for the taxable year. For purposes of this subtitle, the determination of whether a deduction is allowable under this chapter shall be made without regard to the preceding sentence.

"(2) TIME AND MANNER OF ELECTION.—Any election under this subsection shall be made on the taxpayer's return, and the Secretary shall prescribe the manner of signifying such election on the return.

"(3) CHANGE OF ELECTION.—Under regulations prescribed by the Secretary, a change of election with respect to itemized deductions for any taxable year may be made after the filing of the return for such year. If the spouse of the taxpayer filed a separate return for any taxable year corresponding to the taxable year of the taxpayer, the change shall not be allowed unless, in accordance with such regulations—

"(A) the spouse makes a change of election with respect to itemized deductions, for the taxable year covered in such separate return, consistent with the change of treatment sought by the taxpayer, and

"(B) the taxpayer and his spouse consent in writing to the assessment (within such period as may be agreed on with the Secretary) of any deficiency, to the extent attributable to such change of election, even though at the time of the filing of such consent the assessment of such deficiency would otherwise be prevented by the operation of any law or rule of law.

This paragraph shall not apply if the tax liability of the taxpayer's spouse for the taxable year corresponding to the taxable year of the taxpayer has been compromised under section 7122.

"(f) AGED OR BLIND ADDITIONAL AMOUNTS.—

"(1) ADDITIONAL AMOUNTS FOR THE AGED.—The taxpayer shall be entitled to an additional amount of $600—

"(A) for himself if he has attained age 65 before the close of his taxable year, and

"(B) for the spouse of the taxpayer if the spouse has attained age 65 before the close of the taxable year and an additional exemption is allowable to the taxpayer for such spouse under section 151(b).

"(2) ADDITIONAL AMOUNT FOR BLIND.—The taxpayer shall be entitled to an additional amount of $600—

"(A) for himself if he is blind at the close of the taxable year, and

"(B) for the spouse of the taxpayer if the spouse is blind as of the close of the taxable year and an additional exemption is allowable to the taxpayer for such spouse under section 151(b).

For purposes of subparagraph (B), if the spouse dies during the taxable year the determination of whether such spouse is blind shall be made as of the time of such death.

"(3) HIGHER AMOUNT FOR CERTAIN UNMARRIED INDIVIDUALS.—In the case of an individual who is not married and is not a surviving spouse, paragraphs (1) and (2) shall be applied by substituting '$750' for '$600'.

"(4) BLINDNESS DEFINED.—For purposes of this subsection, an individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

"(g) MARITAL STATUS.—For purposes of this section, marital status shall be determined under section 7703.

"(h) TRANSITIONAL RULE FOR TAXABLE YEARS BEGINNING IN 1987.—In the case of any taxable year beginning in 1987, paragraph (2) of subsection (c) shall be applied—

"(1) by substituting '$3,760' for '$5,000',

"(2) by substituting '$2,540' for '$4,400',

"(3) by substituting '$2,540' for '$3,000', and

"(4) by substituting '$1,880' for '$2,500'.

The preceding sentence shall not apply if the taxpayer is entitled to an additional amount determined under subsection (f) (relating to additional amount for aged and blind) for the taxable year."

(b) TAX TABLES.—Section 3 (relating to tax tables for individuals) is amended by striking out subsection (a) and inserting in lieu thereof the following:

"(a) IMPOSITION OF TAX TABLE TAX.—

"(1) IN GENERAL.—In lieu of the tax imposed by section 1, there is hereby imposed for each taxable year on the taxable income of every individual—

"(A) who does not itemize his deductions for the taxable year, and

"(B) whose taxable income for such taxable year does not exceed the ceiling amount,

a tax determined under tables, applicable to such taxable year, which shall be prescribed by the Secretary and which shall be in such form as he determines appropriate. In the table so prescribed, the amounts of the tax shall be computed on the basis of the rates prescribed by section 1.

"(2) CEILING AMOUNT DEFINED.—For purposes of paragraph (1), the term 'ceiling amount' means, with respect to any taxpayer, the amount (not less than $20,000) determined by the Secretary for the tax rate category in which such taxpayer falls.

"(3) AUTHORITY TO PRESCRIBE TABLES FOR TAXPAYERS WHO ITEMIZE DEDUCTIONS.—The Secretary may provide that this section shall apply also for any taxable year to individuals who itemize their deductions. Any tables prescribed under the preceding sentence shall be on the basis of taxable income."

SEC. 103. INCREASE IN PERSONAL EXEMPTIONS.

(a) GENERAL RULE.—Subsection (f) of section 151 (defining exemption amount) is amended to read as follows:

"(f) EXEMPTION AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'exemption amount' means—

"(A) $1,900 for taxable years beginning during 1987,

"(B) $1,950 for taxable years beginning during 1988, and

"(C) $2,000 for taxable years beginning after December 31, 1988.

"(2) EXEMPTION AMOUNT DISALLOWED IN THE CASE OF CERTAIN DEPENDENTS.—In the case of an individual with respect to whom a deduction under this section is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, the exemption amount applicable to such individual for such individual's taxable year shall be zero.

"(3) INFLATION ADJUSTMENT FOR YEARS AFTER 1989.—In the case of any taxable year beginning in a calendar year after 1989, the dollar amount contained in paragraph (1)(C) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3), for the calendar year in which the taxable year begins, by substituting 'calendar year 1988' for 'calendar year 1987' in subparagraph (B) thereof."

(b) REPEAL OF ADDITIONAL EXEMPTIONS FOR TAXPAYERS OVER AGE 65 OR BLIND.—Section 151 is amended by striking out subsections (c) and (d) and by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

SEC. 104. TECHNICAL AMENDMENTS.

(a) FILING REQUIREMENTS.—

(1) SECTION 6012.—

(A) Paragraph (1) of section 6012(a) (relating to persons required to make returns of income) is amended to read as follows:

"(1)(A) Every individual having for the taxable year gross income which equals or exceeds the exemption amount, except that a return shall not be required of an individual—

"(i) who is not married (determined by applying section 7703), is not a surviving spouse (as defined in section 2(a)), is not a head of a household (as defined in section 2(b)), and for the taxable year has gross income of less than the sum of the exemption amount plus the basic standard deduction applicable to such an individual,

"(ii) who is a head of a household (as so defined) and for the taxable year has gross income of less than the sum of the exemption amount plus the basic standard deduction applicable to such an individual,

"(iii) who is a surviving spouse (as so defined) and for the taxable year has gross income of less than the sum of the exemption amount plus the basic standard deduction applicable to such an individual, or

"(iv) who is entitled to make a joint return and whose gross income, when combined with the gross income of his spouse, is, for the taxable year, less than the sum of twice the exemption amount plus the basic standard deduction applicable to a joint return, but only if such individual and his spouse, at the close of the taxable year, had the same household as their home.

Clause (iv) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(c).

"(B) The amount specified in clause (i), (ii), or (iii) of subparagraph (A) shall be increased by the amount of 1 additional standard deduction (within the meaning of section 63(c)(3)) in the case of an individual entitled to such deduction by reason of section 63(f)(1)(A) (relating to individuals age 65 or more), and the amount specified in clause (iv) of subparagraph (A) shall be increased by the amount of the additional standard deduction for each additional standard deduction to which the individual or his spouse is entitled by reason of section 63(f)(1).

"(C) The exception under subparagraph (A) shall not apply to any individual—

"(i) who is described in section 63(c)(5) and who has—

"(I) income (other than earned income) in excess of the amount in effect under section 63(c)(5)(A) (relating to limitation on standard deduction in the case of certain dependents), or

"(II) total gross income in excess of the standard deduction, or

"(ii) for whom the standard deduction is zero under section 63(c)(6).

"(D) For purposes of this subsection—

"(i) The terms 'standard deduction', 'basic standard deduction' and 'additional standard deduction' have the respective meanings given such terms by section 63(c).

"(ii) The term 'exemption amount' has the meaning given such term by section 151(d). In the case of an individual described in section 151(d)(2), the exemption amount shall be zero."

(B) Paragraph (9) of section 6012(a) is amended by striking out "$2,700 or more" and inserting in lieu thereof "not less than the sum of the exemption amount plus the basic standard deduction under section 63(c)(2)(D)".

(2) SECTION 6013.—Subparagraph (A) of section 6013(b)(3) (relating to when return deemed filed) is amended—

(A) by striking out "(twice the exemption amount in case such spouse was 65 or over)" each place it appears,

(B) by striking out "section 151(f)" and inserting in lieu thereof "section 151(d)", and

(C) by adding at the end thereof the following new sentence: "For purposes of clauses (ii) and (iii), if the spouse whose gross income is being compared to the exemption amount is 65 or over, such clauses shall be applied by substituting 'the sum of the exemption amount and the additional standard deduction under section 63(c)(2) by reason of section 63(f)(1)(A)' for 'the exemption amount'."

(b) OTHER AMENDMENTS.—

(1) SECTION 21, ETC.—

(A) Sections 21(b)(1)(A), 21(e)(6)(A), and 129(c)(1) are each amended by striking out "section 151(e)" and inserting in lieu thereof "section 151(c)".

(B) Sections 21(e)(6)(B), 32(c)(1)(A)(i), 129(c)(2), and 152(e)(1)(A) are each amended by striking out "section 151(e)(3)" and inserting in lieu thereof "section 151(c)(3)".

(2) SECTION 108.—Subparagraph (B) of section 108(b)(3) is amended by striking out "50 cents" and inserting in lieu thereof "33⅓ cents".

(3) SECTION 152, ETC.—Sections 152(d)(2) and 2032A(c)(7)(D) are each amended by striking out "section 151(e)(4)" and inserting in lieu thereof "section 151(c)(4)".

(4) SECTION 172.—Subsection (d) of section 172 (relating to modifications) is amended by striking out paragraph (7).

(5) SECTION 402.—Subparagraph (B) of section 402(e)(1), as amended by section 1222(b), is amended by striking out "the zero bracket amount applicable to such individual for the taxable year plus".

(6) SECTION 441.—Clause (iii) of section 441(f)(2)(B) (relating to change in accounting period) is amended by striking out "and by adding the zero bracket amount,".

(7) SECTION 443.—

(A) Paragraph (1) of section 443(b) (relating to computation of tax on change of annual accounting period) is amended by striking out ", and adding the zero bracket amount".

(B) Clause (ii) of section 443(b)(2)(A) (relating to computation based on 12-month period) is amended to read as follows:

"(ii) the tax computed on the modified taxable income for the short period."

(8) SECTION 541.—Section 541 is amended by striking out "50 percent" and inserting in lieu thereof "28 percent (38.5 percent in the case of taxable years beginning in 1987)".

(9) SECTION 613A.—Paragraph (1) of section 613A(d) (relating to limitation on percentage depletion based on taxable income) is amended by striking out "(reduced in the case of an individual by the zero bracket amount)".

(10) SECTION 667.—Paragraph (2) of section 667(b) (relating to tax on amount deemed distributed by trust in preceding years) is amended to read as follows:

"(2) TREATMENT OF LOSS YEARS.—For purposes of paragraph (1), the taxable income of the beneficiary for any taxable year shall be deemed to be not less than zero."

(11) SECTION 861.—Subsection (b) of section 861 (relating to taxable income from sources within the United States) is amended by striking out "the zero bracket amount" and inserting in lieu thereof "the standard deduction".

(12) SECTION 862.—Subsection (b) of section 862 (relating to taxable income from sources without the United States) is amended by striking out "the zero bracket amount" and inserting in lieu thereof "the standard deduction".

(13) SECTION 904.—Subsection (a) of section 904 (relating to limitation on foreign tax credit) is amended by striking out the last sentence.

(14) SECTION 1398.—Subsection (c) of section 1398 (relating to computation and payment of tax; zero bracket amount) is amended—

(A) by striking out "ZERO BRACKET AMOUNT" in the subsection heading and inserting in lieu thereof "BASIC STANDARD DEDUCTION", and

(B) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) BASIC STANDARD DEDUCTION.—In the case of an estate which does not itemize deductions, the basic standard deduction for the estate for the taxable year shall be the same as for a married individual filing a separate return for such year."

(15) SECTION 3402.—

(A) Paragraph (1) of section 3402(f) (relating to withholding exemptions) is amended by striking out subparagraphs (B) and (C) and by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (B), (C), (D), and (E), respectively.

(B) Subparagraph (A) of section 3402(f)(1) is amended by inserting "unless he is an individual described in section 151(d)(2)" after "himself".

(C) Subparagraph (B) of section 3402(f)(1), as redesignated by subparagraph (A), is amended by striking out "subparagraph (A), (B), (C), or (F)" and inserting in lieu thereof "subparagraph (A) or (D)".

(D) Subparagraph (C) of section 3402(f)(1), as redesignated by subparagraph (A), is amended by striking out "section 151(e)" and inserting in lieu thereof "section 151(c)".

(E) Subparagraph (E) of section 3402(f)(1), as redesignated by subparagraph (A), is amended by striking out "zero bracket" and inserting in lieu thereof "standard deduction".

(F) The last sentence of paragraph (1) of section 3402(f) is amended—

(i) by striking out "subparagraph (G)" and inserting in lieu thereof "subparagraph (E)", and

(ii) by striking out "zero bracket" and inserting in lieu thereof "standard deduction".

(G) Paragraph (3) of section 3402(m) is amended by inserting "(including the additional standard deduction under section 63(c)(3) for the aged and blind)" after "deductions".

(16) SECTION 6014.—

(A) Subsection (a) of section 6014 (relating to income tax return—tax not computed by taxpayer) is amended by striking out "who does not have an unused zero bracket amount (determined under section 63(e))" and inserting in lieu thereof "who is not described in section 6012(a)(1)(C)(i)".

(B) Paragraph (4) of section 6014(b) is amended to read as follows:

"(4) to cases where the taxpayer itemizes his deductions or where the taxpayer claims a reduced standard deduction by reason of section 63(c)(5)."

(17) SECTION 6212.—Subparagraph (A) of section 6212(c)(2) (relating to cross references) is amended to read as follows:

"(A) Deficiency attributable to change of treatment with respect to itemized deductions, see section 63(e)(3)."

(18) SECTION 6504.—Paragraph (2) of section 6504 (relating to cross references) is amended to read as follows:

"(2) Change of treatment with respect to itemized deductions where taxpayer and his spouse make separate returns, see section 63(e)(3)."

Subtitle B—Provisions Related to Tax Credits

SEC. 111. INCREASE IN EARNED INCOME CREDIT.

(a) INCREASE IN AMOUNT OF CREDIT.—Subsection (a) of section 32 (relating to earned income credit) is amended—

(1) by striking out "11 percent" and inserting in lieu thereof "14 percent", and

(2) by striking out "$5,000" and inserting in lieu thereof "$5,714".

(b) INCREASE IN INCOME LEVEL AT WHICH PHASEOUT BEGINS.—Subsection (b) of section 32 is amended to read as follows:

"(b) LIMITATION.—The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the maximum credit allowable under subsection (a) to any taxpayer, over

"(2) 10 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $9,000.

In the case of any taxable year beginning in 1987, paragraph (2) shall be applied by substituting '$6,500' for '$9,000'."

(c) INFLATION ADJUSTMENTS.—Section 32 is amended by adding at the end thereof the following new subsection:

"(i) INFLATION ADJUSTMENTS.—

"(1) IN GENERAL.—In the case of any taxable year beginning after the applicable calendar year, each dollar amount referred to in paragraph (2)(B) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3), for the calendar year in which the taxable year begins, by substituting 'calendar year 1984' for 'calendar year 1987' in subparagraph (B) thereof.

"(2) DEFINITIONS, ETC.—For purposes of paragraph (1)—

"(A) APPLICABLE CALENDAR YEAR.—The term 'applicable calendar year' means—

"(i) 1986 in the case of the dollar amounts referred to in clause (i) or (ii) of subparagraph (B), and

"(ii) 1987 in the case of the dollar amount referred to in clause (iii) of subparagraph (B).

"(B) DOLLAR AMOUNTS.—The dollar amounts referred to in this subparagraph are—

"(i) the $5,714 amount contained in subsection (a),

"(ii) the $6,500 amount contained in the last sentence of subsection (b), and

"(iii) the $9,000 amount contained in subsection (b)(2).

"(3) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or, if such increase is a multiple of $5, such increase shall be increased to the next higher multiple of $10)."

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 32(f) (relating to amount of credit to be determined under tables) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) for earned income between $0 and the amount of earned income at which the credit is phased out under subsection (b), and

"(B) for adjusted gross income between the dollar amount at which the phaseout begins under subsection (b) and the amount of adjusted gross income at which the credit is phased out under subsection (b)."

(2) Subparagraph (B) of section 3507(c)(2) (relating to earned income advance amount) is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) of not more than 14 percent of earned income not in excess of the amount of earned income taken into account under section 32(a), which

"(ii) phases out between the amount of earned income at which the phaseout begins under subsection (b) of section 32 and the amount of earned income at which the credit under section 32 is phased out under such subsection, or".

(3) Subparagraph (C) of section 3507(c)(2) is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) of not more than 14 percent of earned income not in excess of ½ of the amount of earned income taken into account under section 32(a), which

"(ii) phases out between amounts of earned income which are ½ of the amounts of earned income described in subparagraph (B)(ii)."

(e) EMPLOYEE NOTIFICATION.—The Secretary of the Treasury is directed to require, under regulations, employers to notify any employee who has not had any tax withheld from wages (other than an employee whose wages are exempt from withholding pursuant to section 3402(n) of the Internal Revenue Code of 1986) that such employee may be eligible for a refund because of the earned income credit.

SEC. 112. REPEAL OF CREDIT FOR CONTRIBUTIONS TO CANDIDATES FOR PUBLIC OFFICE.

(a) GENERAL RULE.—Section 24 (relating to contributions to candidates for public office) is hereby repealed.

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (g) of section 527 (relating to treatment of newsletter funds) is amended—

(A) by striking out "section 24(c)(2)" in paragraph (1) and inserting in lieu thereof "paragraph (3)", and

(B) by adding at the end thereof the following new paragraph:

"(3) CANDIDATE.—For purposes of paragraph (1), the term 'candidate' means, with respect to any Federal, State, or local elective public office, an individual who—

"(A) publicly announces that he is a candidate for nomination or election to such office, and

"(B) meets the qualifications prescribed by law to hold such office."

(2) Subsection (a) of section 642 (relating to credits against tax for estates and trusts) is amended to read as follows:

"(a) FOREIGN TAX CREDIT ALLOWED.—An estate or trust shall be allowed the credit against tax for taxes imposed by foreign countries

and possessions of the United States, to the extent allowed by section 901, only in respect of so much of the taxes described in such section as is not properly allocable under such section to the beneficiaries."

(3) Paragraph (3) of section 901(i) (relating to cross references) is amended by striking out "section 642(a)(1)" and inserting in lieu thereof "section 642(a)".

(4) Paragraph (6) of section 7871(a) (relating to Indian tribal governments treated as States for certain purposes) is amended by striking out subparagraph (A) and by redesignating subparagraphs (B), (C), (D), (E), and (F) as subparagraphs (A), (B), (C), (D), and (E), respectively.

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 24.

Subtitle C—Provisions Related to Exclusions

SEC. 121. TAXATION OF UNEMPLOYMENT COMPENSATION.

Section 85 (relating to unemployment compensation) is amended to read as follows:

"SEC. 85. UNEMPLOYMENT COMPENSATION.

"(a) GENERAL RULE.—In the case of an individual, gross income includes unemployment compensation.

"(b) UNEMPLOYMENT COMPENSATION DEFINED.—For purposes of this section, the term 'unemployment compensation' means any amount received under a law of the United States or of a State which is in the nature of unemployment compensation."

SEC. 122. PRIZES AND AWARDS.

(a) EXCLUSION FROM GROSS INCOME.—

(1) IN GENERAL.—Section 74 (relating to prizes and awards) is amended—

(A) by striking out "Except as provided in subsection (b) and" in subsection (a) and inserting in lieu thereof "Except as otherwise provided in this section or",

(B) by striking out "EXCEPTION" in the heading for subsection (b) and inserting in lieu thereof "EXCEPTION FOR CERTAIN PRIZES AND AWARDS TRANSFERRED TO CHARITIES",

(C) by striking out "and" at the end of subsection (b)(1), by striking out the period at the end of subsection (b)(2) and inserting in lieu thereof "; and", and by adding after subsection (b)(2) the following new paragraph:

"(3) the prize or award is transferred by the payor to a governmental unit or organization described in paragraph (1) or (2) of section 170(c) pursuant to a designation made by the recipient.", and

(D) by adding at the end thereof the following new subsection:

"(c) EXCEPTION FOR CERTAIN EMPLOYEE ACHIEVEMENT AWARDS.—

"(1) IN GENERAL.—Gross income shall not include the value of an employee achievement award (as defined in section 274(j)) received by the taxpayer if the cost to the employer of the employee achievement award does not exceed the amount

allowable as a deduction to the employer for the cost of the employee achievement award.

"(2) EXCESS DEDUCTION AWARD.—If the cost to the employer of the employee achievement award received by the taxpayer exceeds the amount allowable as a deduction to the employer, then gross income includes the greater of—

"(A) an amount equal to the portion of the cost to the employer of the award that is not allowable as a deduction to the employer (but not in excess of the value of the award), or

"(B) the amount by which the value of the award exceeds the amount allowable as a deduction to the employer.

The remaining portion of the value of such award shall not be included in the gross income of the recipient.

"(3) TREATMENT OF TAX-EXEMPT EMPLOYERS.—In the case of an employer exempt from taxation under this subtitle, any reference in this subsection to the amount allowable as a deduction to the employer shall be treated as a reference to the amount which would be allowable as a deduction to the employer if the employer were not exempt from taxation under this subtitle.

"(4) CROSS REFERENCE.—

"For provisions excluding certain de minimis fringes from gross income, see section 132(e)."

(2) CONFORMING AMENDMENTS.—

(A) Clause (i) of section 4941(d)(2)(G) is amended by striking out "section 74(b)" and inserting in lieu thereof "section 74(b) (without regard to paragraph (3) thereof)".

(B) Paragraph (2) of section 4945(g) is amended by striking out "section 74(b)" and inserting in lieu thereof "section 74(b) (without regard to paragraph (3) thereof)".

(b) AMOUNTS TRANSFERRED BY EMPLOYER NOT EXCLUDABLE AS GIFTS.—Section 102 (relating to gifts and inheritances) is amended by adding at the end thereof the following new subsection:

"(c) EMPLOYEE GIFTS.—

"(1) IN GENERAL.—Subsection (a) shall not exclude from gross income any amount transferred by or for an employer to, or for the benefit of, an employee.

"(2) CROSS REFERENCES.—

"For provisions excluding certain employee achievement awards from gross income, see section 74(c).

"For provisions excluding certain de minimis fringes from gross income, see section 132(e)."

(c) GIFTS.—Section 274(b) (relating to gifts) is amended—

(1) by adding "or" at the end of subparagraph (A) of paragraph (1),

(2) by striking out "or" at the end of subparagraph (B) of paragraph (1), and inserting in lieu thereof a period,

(3) by striking out subparagraph (C) of paragraph (1), and

(4) by striking out paragraph (3).

(d) DEDUCTION FOR COST OF EMPLOYEE ACHIEVEMENT AWARDS.—Section 274 (relating to certain entertainment, etc., expenses) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) EMPLOYEE ACHIEVEMENT AWARDS.—

"(1) GENERAL RULE.—No deduction shall be allowed under section 162 or section 212 for the cost of an employee achieve-

ment award except to the extent that such cost does not exceed the deduction limitations of paragraph (2).

"(2) DEDUCTION LIMITATIONS.—The deduction for the cost of an employee achievement award made by an employer to an employee—

"(A) which is not a qualified plan award, when added to the cost to the employer for all other employee achievement awards made to such employee during the taxable year which are not qualified plan awards, shall not exceed $400, and

"(B) which is a qualified plan award, when added to the cost to the employer for all other employee achievement awards made to such employee during the taxable year (including employee achievement awards which are not qualified plan awards), shall not exceed $1,600.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) EMPLOYEE ACHIEVEMENT AWARD.—The term 'employee achievement award' means an item of tangible personal property which is—

"(i) transferred by an employer to an employee for length of service achievement or safety achievement,

"(ii) awarded as part of a meaningful presentation, and

"(iii) awarded under conditions and circumstances that do not create a significant likelihood of the payment of disguised compensation.

"(B) QUALIFIED PLAN AWARD.—

"(i) IN GENERAL.—The term 'qualified plan award' means an employee achievement award awarded as part of an established written plan or program of the taxpayer which does not discriminate in favor of highly compensated employees (within the meaning of section 414(q)) as to eligibility or benefits.

"(ii) LIMITATION.—An employee achievement award shall not be treated as a qualified plan award for any taxable year if the average cost of all employee achievement awards which are provided by the employer during the year, and which would be qualified plan awards but for this subparagraph, exceeds $400. For purposes of the preceding sentence, average cost shall be determined by including the entire cost of qualified plan awards, without taking into account employee achievement awards of nominal value.

"(4) SPECIAL RULES.—For purposes of this subsection—

"(A) PARTNERSHIPS.—In the case of an employee achievement award made by a partnership, the deduction limitations contained in paragraph (2) shall apply to the partnership as well as to each member thereof.

"(B) LENGTH OF SERVICE AWARDS.—An item shall not be treated as having been provided for length of service achievement if the item is received during the recipient's 1st 5 years of employment or if the recipient received a length of service achievement award (other than an award excludable under section 132(e)(1)) during that year or any of the prior 4 years.

"(C) SAFETY ACHIEVEMENT AWARDS.—An item provided by an employer to an employee shall not be treated as having been provided for safety achievement if—

"(i) during the taxable year, employee achievement awards (other than awards excludable under section 132(e)(1)) for safety achievement have previously been awarded by the employer to more than 10 percent of the employees of the employer (excluding employees described in clause (ii)), or

"(ii) such item is awarded to a manager, administrator, clerical employee, or other professional employee.".

(e) TREATMENT FOR PURPOSES OF EMPLOYMENT TAXES.—Each of the following provisions are amended by striking out "117 or" and inserting in lieu thereof "74(c), 117, or":

(1) Section 3121(a)(20).
(2) Section 3231(e)(5).
(3) Section 3306(b)(16).
(4) Section 3401(a)(20).
(5) Section 209(s) of the Social Security Act.

SEC. 123. SCHOLARSHIPS.

(a) IN GENERAL.—Section 117 (relating to scholarship and fellowship grants) is amended to read as follows:

"SEC. 117. QUALIFIED SCHOLARSHIPS.

"(a) GENERAL RULE.—Gross income does not include any amount received as a qualified scholarship by an individual who is a candidate for a degree at an educational organization described in section 170(b)(1)(A)(ii).

"(b) QUALIFIED SCHOLARSHIP.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified scholarship' means any amount received by an individual as a scholarship or fellowship grant to the extent the individual establishes that, in accordance with the conditions of the grant, such amount was used for qualified tuition and related expenses.

"(2) QUALIFIED TUITION AND RELATED EXPENSES.—For purposes of paragraph (1), the term 'qualified tuition and related expenses' means—

"(A) tuition and fees required for the enrollment or attendance of a student at an educational organization described in section 170(b)(1)(A)(ii), and

"(B) fees, books, supplies, and equipment required for courses of instruction at such an educational organization.

"(c) LIMITATION.—Subsections (a) and (d) shall not apply to that portion of any amount received which represents payment for teaching, research, or other services by the student required as a condition for receiving the qualified scholarship or qualified tuition reduction.

"(d) QUALIFIED TUITION REDUCTION.—

"(1) IN GENERAL.—Gross income shall not include any qualified tuition reduction.

"(2) QUALIFIED TUITION REDUCTION.—For purposes of this subsection, the term 'qualified tuition reduction' means the amount of any reduction in tuition provided to an employee of an organization described in section 170(b)(1)(A)(ii) for the edu-

cation (below the graduate level) at such organization (or another organization described in section 170(b)(1)(A)(ii)) of—

"(A) such employee, or

"(B) any person treated as an employee (or whose use is treated as an employee use) under the rules of section 132(f).

"(3) REDUCTION MUST NOT DISCRIMINATE IN FAVOR OF HIGHLY COMPENSATED, ETC.—Paragraph (1) shall apply with respect to any qualified tuition reduction provided with respect to any officer, owner, or highly compensated employee only if such reduction is available on substantially the same terms to each member of a group of employees which is defined under a reasonable classification set up by the employer which does not discriminate in favor of officers, owners, or highly compensated employees (within the meaning of section 414(q))."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 74 is amended by striking out "(relating to scholarship and fellowship grants)" and inserting in lieu thereof "(relating to qualified scholarships)".

(2) The second sentence of section 1441(b) (relating to income items) is amended to read as follows: "The items of income referred to in subsection (a) from which tax shall be deducted and withheld at the rate of 14 percent are amounts which are received by a nonresident alien individual who is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 101(a)(15) of the Immigration and Nationality Act and which are incident to a qualified scholarship to which section 117(a) applies, but only to the extent such amounts are includible in gross income."

(3) Paragraph (6) of section 7871(a) (relating to Indian tribal governments treated as States for certain purposes), as amended by section 112, is amended by striking out subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(4) The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 117 and inserting in lieu thereof the following new item:

"Sec. 117. Qualified scholarships."

Subtitle D—Provisions Related to Deductions

SEC. 131. REPEAL OF DEDUCTION FOR 2-EARNER MARRIED COUPLES.

(a) GENERAL RULE.—Section 221 (relating to deduction for 2-earner married couples) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 62 is amended by striking out paragraph (16).

(2) Subparagraph (A) of section 86(b)(2) is amended by striking out "sections 221," and inserting in lieu thereof "sections".

(3) The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the item relating to section 221.

SEC. 132. 2-PERCENT FLOOR ON MISCELLANEOUS ITEMIZED DEDUCTIONS.

(a) GENERAL RULE.—Part I of subchapter B of chapter 1 (defining gross income, adjusted gross income, etc.) is amended by adding at the end thereof the following new section:

"SEC. 67. 2-PERCENT FLOOR ON MISCELLANEOUS ITEMIZED DEDUCTIONS.

"(a) GENERAL RULE.—In the case of an individual, the miscellaneous itemized deductions for any taxable year shall be allowed only to the extent that the aggregate of such deductions exceeds 2 percent of adjusted gross income.

"(b) MISCELLANEOUS ITEMIZED DEDUCTIONS.—For purposes of this section, the term 'miscellaneous itemized deductions' means the itemized deductions other than—

"(1) the deduction under section 163 (relating to interest),

"(2) the deduction under section 164 (relating to taxes),

"(3) the deduction under section 165(a) for losses described in subsection (c)(3) or (d) of section 165,

"(4) the deduction under section 170 (relating to charitable, etc., contributions and gifts),

"(5) the deduction under section 213 (relating to medical, dental, etc., expenses),

"(6) the deduction under section 217 (relating to moving expenses),

"(7) any deduction allowable for impairment-related work expenses,

"(8) the deduction under section 691(c) (relating to deduction for estate tax in case of income in respect of the decedent),

"(9) any deduction allowable in connection with personal property used in a short sale,

"(10) the deduction under section 1341 (relating to computation of tax where taxpayer restores substantial amount held under claim of right),

"(11) the deduction under section 72(b)(3) (relating to deduction where annuity payments cease before investment recovered),

"(12) the deduction under section 171 (relating to deduction for amortizable bond premium), and

"(13) the deduction under section 216 (relating to deductions in connection with cooperative housing corporations).

"(c) DISALLOWANCE OF INDIRECT DEDUCTION THROUGH PASS-THRU ENTITY.—The Secretary shall prescribe regulations which prohibit the indirect deduction through pass-thru entities of amounts which are not allowable as a deduction if paid or incurred directly by an individual and which contain such reporting requirements as may be necessary to carry out the purposes of this subsection. The preceding sentence shall not apply with respect to estates, trusts, cooperatives, and real estate investment trusts.

"(d) IMPAIRMENT-RELATED WORK EXPENSES.—For purposes of this section, the term 'impairment-related work expenses' means expenses—

"(1) of a handicapped individual (as defined in section 190(b)(3)) for attendant care services at the individual's place of employment and other expenses in connection with such place of employment which are necessary for such individual to be able to work, and

"(2) with respect to which a deduction is allowable under section 162 (determined without regard to this section).

"(e) DETERMINATION OF ADJUSTED GROSS INCOME IN CASE OF ESTATES AND TRUSTS.—For purposes of this section, the adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that the deductions for osts

which are paid or incurred in connection with the administration of the estate or trust and would not have been incurred if the property were not held in such trust or estate shall be treated as allowable in arriving at adjusted gross income."

(b) TREATMENT OF TRADE AND BUSINESS DEDUCTIONS OF EMPLOYEES.—

(1) IN GENERAL.—Paragraph (2) of section 62 (defining adjusted gross income) is amended to read as follows:

"(2) CERTAIN TRADE AND BUSINESS DEDUCTIONS OF EMPLOYEES.—

"(A) REIMBURSED EXPENSES OF EMPLOYEES.—The deductions allowed by part VI (section 161 and following) which consist of expenses paid or incurred by the taxpayer, in connection with the performance by him of services as an employee, under a reimbursement or other expense allowance arrangement with his employer.

"(B) CERTAIN EXPENSES OF PERFORMING ARTISTS.—The deductions allowed by section 162 which consist of expenses paid or incurred by a qualified performing artist in connection with the performances by him of services in the performing arts as an employee."

(2) DEFINITION OF QUALIFIED PERFORMING ARTIST.—Section 62 is amended—

(A) by striking out "For purposes of this subtitle" and inserting in lieu thereof "(a) GENERAL RULE.—For purposes of this subtitle", and

(B) by adding at the end thereof the following new subsection:

"(b) QUALIFIED PERFORMING ARTIST.—

"(1) IN GENERAL.—For purposes of subsection (a)(2)(B), the term 'qualified performing artist' means, with respect to any taxable year, any individual if—

"(A) such individual performed services in the performing arts as an employee during the taxable year for at least 2 employers,

"(B) the aggregate amount allowable as a deduction under section 162 in connection with the performance of such services exceeds 10 percent of such individual's gross income attributable to the performance of such services, and

"(C) the adjusted gross income of such individual for the taxable year (determined without regard to subsection (a)(2)(B)) does not exceed $16,000.

"(2) NOMINAL EMPLOYER NOT TAKEN INTO ACCOUNT.—An individual shall not be treated as performing services in the performing arts as an employee for any employer during any taxable year unless the amount received by such individual from such employer for the performance of such services during the taxable year equals or exceeds $200.

"(3) SPECIAL RULES FOR MARRIED COUPLES.—

"(A) IN GENERAL.—Except in the case of a husband and wife who lived apart at all times during the taxable year, if the taxpayer is married at the close of the taxable year, subsection (a)(2)(B) shall apply only if the taxpayer and his spouse file a joint return for the taxable year.

"(B) APPLICATION OF PARAGRAPH (1).—In the case of a joint return—

"(i) paragraph (1) (other than subparagraph (C) thereof) shall be applied separately with respect to each spouse, but

"(ii) paragraph (1)(C) shall be applied with respect to their combined adjusted gross income.

"(C) DETERMINATION OF MARITAL STATUS.—For purposes of this subsection, marital status shall be determined under section 7703(a).

"(D) JOINT RETURN.—For purposes of this subsection, the term 'joint return' means the joint return of a husband and wife made under section 6013."

(c) MOVING EXPENSE DEDUCTION NOT ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 (as amended by subsection (b)) is amended by striking out paragraph (8).

(d) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 67. 2-percent floor on miscellaneous itemized deductions."

SEC. 133. MEDICAL EXPENSE DEDUCTION LIMITATION INCREASED.

Subsection (a) of section 213 (relating to deduction for medical, dental, etc., expenses) is amended by striking out "5 percent" and inserting in lieu thereof "7.5 percent".

SEC. 134. REPEAL OF DEDUCTION FOR STATE AND LOCAL SALES TAXES.

(a) GENERAL RULE.—Subsection (a) of section 164 (relating to deduction for taxes) is amended—

(1) by striking out paragraph (4) and by redesignating paragraph (5) as paragraph (4), and

(2) by adding at the end thereof the following new sentence: "Notwithstanding the preceding sentence, any tax (not described in the first sentence of this subsection) which is paid or accrued by the taxpayer in connection with an acquisition or disposition of property shall be treated as part of the cost of the acquired property or, in the case of a disposition, as a reduction in the amount realized on the disposition."

(b) CONFORMING AMENDMENTS.—Subsection (b) of section 164 is amended—

(1) by striking out paragraphs (2) and (5), and

(2) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

SEC. 135. REPEAL OF DEDUCTION FOR ADOPTION EXPENSES.

(a) GENERAL RULE.—Section 222 (relating to deduction for adoption expenses) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 223 is redesignated as section 220.

(2) The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the items relating to sections 222 and 223 and inserting in lieu thereof the following:

"Sec. 220. Cross references."

Subtitle E—Miscellaneous Provisions

SEC. 141. REPEAL OF INCOME AVERAGING.

(a) GENERAL RULE.—Part I of subchapter Q of chapter 1 (relating to income averaging) is hereby repealed.

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (b) of section 3 (relating to section inapplicable to certain individuals) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(2) Subsection (b) of section 5 (relating to cross references relating to tax on individuals) is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(3) Subparagraph (B) of section 6511(d)(2) (relating to special rules applicable to income taxes) is amended to read as follows:

"(B) APPLICABLE RULES.—

"(i) IN GENERAL.—If the allowance of a credit or refund of an overpayment of tax attributable to a net operating loss carryback or a capital loss carryback is otherwise prevented by the operation of any law or rule of law other than section 7122 (relating to compromises), such credit or refund may be allowed or made, if claim therefor is filed within the period provided in subparagraph (A) of this paragraph.

"(ii) TENTATIVE CARRYBACK ADJUSTMENTS.—If the allowance of an application, credit, or refund of a decrease in tax determined under section 6411(b) is otherwise prevented by the operation of any law or rule of law other than section 7122, such application, credit, or refund may be allowed or made if application for a tentative carryback adjustment is made within the period provided in section 6411(a).

"(iii) DETERMINATIONS BY COURTS TO BE CONCLUSIVE.—In the case of any such claim for credit or refund or any such application for a tentative carryback adjustment, the determination by any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall be conclusive except with respect to—

"(I) the net operating loss deduction and the effect of such deduction, and

"(II) the determination of a short-term capital loss and the effect of such short-term capital loss, to the extent that such deduction or short-term capital loss is affected by a carryback which was not an issue in such proceeding."

(c) CLERICAL AMENDMENT.—The table of parts for subchapter Q of chapter 1 is amended by striking out the item relating to part I.

SEC. 142. LIMITATIONS ON DEDUCTIONS FOR MEALS, TRAVEL, AND ENTERTAINMENT.

(a) BUSINESS MEALS.—

(1) IN GENERAL.—Section 274 (relating to disallowance of certain entertainment, etc. expenses), as amended by section 122(d), is amended by redesignating subsection (k) as subsection

(o) and by inserting after subsection (j) the following new subsection:

"(k) BUSINESS MEALS.—

"(1) IN GENERAL.—No deduction shall be allowed under this chapter for the expense of any food or beverages unless—

"(A) such expense is not lavish or extravagant under the circumstances, and

"(B) the taxpayer (or an employee of the taxpayer) is present at the furnishing of such food or beverages.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to any expense if subsection (a) does not apply to such expense by reason of paragraph (2), (3), (4), (7), (8), or (9) of subsection (e)."

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (e) of section 274 (relating to specific exceptions to application of subsection (a)) is amended by striking out paragraph (1) and by redesignating paragraphs (2) through (10) as paragraphs (1) through (9), respectively.

(B) Paragraph (3) of section 274(e), as redesignated by subparagraph (A), is amended by striking out "paragraph (3)" and inserting in lieu thereof "paragraph (2)".

(b) ADDITIONAL RESTRICTIONS ON EXPENSES FOR MEALS, TRAVEL, AND ENTERTAINMENT.—Section 274 is amended by inserting after the subsection added by subsection (a) the following new subsections:

"(l) ADDITIONAL LIMITATIONS ON ENTERTAINMENT TICKETS.—

"(1) ENTERTAINMENT TICKETS.—

"(A) IN GENERAL.—In determining the amount allowable as a deduction under this chapter for any ticket for any activity or facility described in subsection (d)(2), the amount taken into account shall not exceed the face value of such ticket.

"(B) EXCEPTION FOR CERTAIN CHARITABLE SPORTS EVENTS.—Subparagraph (A) shall not apply to any ticket for any sports event—

"(i) which is organized for the primary purpose of benefiting an organization which is described in section 501(c)(3) and exempt from tax under section 501(a),

"(ii) all of the net proceeds of which are contributed to such organization, and

"(iii) which utilizes volunteers for substantially all of the work performed in carrying out such event.

"(2) SKYBOXES, ETC.—

"(A) IN GENERAL.—In the case of a skybox or other private luxury box leased for more than 1 event, the amount allowable as a deduction under this chapter with respect to such events shall not exceed the sum of the face value of non-luxury box seat tickets for the seats in such box covered by the lease. For purposes of the preceding sentence, 2 or more related leases shall be treated as 1 lease.

"(B) PHASEIN.—In the case of—

"(i) a taxable year beginning in 1987, the amount disallowed under subparagraph (A) shall be ⅓ of the amount which would be disallowed without regard to this subparagraph, and

"(ii) in the case of a taxable year beginning in 1988, the amount disallowed under subparagraph (A) shall be ⅔ of the amount which would have been disallowed without regard to this subparagraph."

"(m) ADDITIONAL LIMITATIONS ON TRAVEL EXPENSES.—

"(1) LUXURY WATER TRANSPORTATION.—

"(A) IN GENERAL.—No deduction shall be allowed under this chapter for expenses incurred for transportation by water to the extent such expenses exceed twice the aggregate per diem amounts for days of such transportation. For purposes of the preceding sentence, the term 'per diem amounts' means the highest amount generally allowable with respect to a day to employees of the executive branch of the Federal Government for per diem while away from home but serving in the United States.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply to—

"(i) any expense allocable to a convention, seminar, or other meeting which is held on any cruise ship, and

"(ii) any expense to which subsection (a) does not apply by reason of paragraph (2), (3), (4), (7), (8), or (9) of subsection (e).

"(2) TRAVEL AS FORM OF EDUCATION.—No deduction shall be allowed under this chapter for expenses for travel as a form of education.

"(n) ONLY 80 PERCENT OF MEAL AND ENTERTAINMENT EXPENSES ALLOWED AS DEDUCTION.—

"(1) IN GENERAL.—The amount allowable as a deduction under this chapter for—

"(A) any expense for food or beverages, and

"(B) any item with respect to an activity which is of a type generally considered to constitute entertainment, amusement, or recreation, or with respect to a facility used in connection with such activity,

shall not exceed 80 percent of the amount of such expense or item which would (but for this paragraph) be allowable as a deduction under this chapter.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to any expense if—

"(A) subsection (a) does not apply to such expense by reason of paragraph (2), (3), (4), (7), (8), or (9) of subsection (e),

"(B) in the case of an expense for food or beverages, such expense is excludable from the gross income of the recipient under section 132 by reason of subsection (e) thereof (relating to de minimis fringes),

"(C) such expense is covered by a package involving a ticket described in subsection (l)(1)(B), or

"(D) in the case of an expense for food or beverages before January 1, 1989, such expense is an integral part of a qualified meeting.

"(3) QUALIFIED MEETING.—For purposes of paragraph (2)(D), the term 'qualified meeting' means any convention, seminar, annual meeting, or similar business program with respect to which—

"(A) an expense for food or beverages is not separately stated,

"(B) more than 50 percent of the participants are away from home,

"(C) at least 40 individuals attend, and

"(D) such food and beverages are part of a program which includes a speaker."

(c) NO DEDUCTION ALLOWED FOR SEMINARS, ETC., FOR SECTION 212 PURPOSES.—

(1) IN GENERAL.—Subsection (h) of section 274 (relating to attendance at conventions, etc.) is amended by adding at the end thereof the following new paragraph:

"(7) SEMINARS, ETC. FOR SECTION 212 PURPOSES.—No deduction shall be allowed under section 212 for expenses allocable to a convention, seminar, or similar meeting."

(2) TECHNICAL AMENDMENTS.—Paragraphs (1), (2), (4), and (5) of section 274(h) are each amended—

(A) by striking out "or 212" each place it appears, and

(B) by striking out "or to an activity described in section 212 and" each place it appears.

(d) DENIAL OF CHARITABLE CONTRIBUTION FOR CERTAIN TRAVEL EXPENSES.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and by inserting after subsection (j) the following new subsection:

"(k) DENIAL OF DEDUCTION FOR CERTAIN TRAVEL EXPENSES.—No deduction shall be allowed under this section for traveling expenses (including amounts expended for meals and lodging) while away from home, whether paid directly or by reimbursement, unless there is no significant element of personal pleasure, recreation, or vacation in such travel."

SEC. 143. CHANGES IN TREATMENT OF HOBBY LOSS, ETC.

(a) HOBBY LOSS.—Subsection (d) of section 183 (relating to presumption) is amended—

(1) by striking out "2 or more of the taxable years in the period of 5 consecutive taxable years" and inserting in lieu thereof "3 or more of the taxable years in the period of 5 consecutive taxable years", and

(2) by striking out the last sentence and inserting in lieu thereof the following: "In the case of an activity which consists in major part of the breeding, training, showing, or racing of horses, the preceding sentence shall be applied by substituting '2' for '3' and '7' for '5'."

(b) TREATMENT OF RENTAL TO EMPLOYER UNDER SECTION 280A.—Subsection (c) of section 280A (relating to exceptions for certain business or rental use; limitation on deductions for such use) is amended by adding at the end thereof the following new paragraph:

"(6) TREATMENT OF RENTAL TO EMPLOYER.—Paragraphs (1) and (3) shall not apply to any item which is attributable to the rental of the dwelling unit (or any portion thereof) by the taxpayer to his employer during any period in which the taxpayer uses the dwelling unit (or portion) in performing services as an employee of the employer."

(c) REVISION OF LIMITATION ON DEDUCTION FOR BUSINESS USE OF HOME.—Paragraph (5) of section 280A(c) (relating to exceptions for certain business or rental use; limitation on deductions for such use) is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) the sum of—

"(i) the deductions allocable to such use which are allowable under this chapter for the taxable year

whether or not such unit (or portion thereof) was so used, and

"(ii) the deductions allocable to the trade or business in which such use occurs (but which are not allocable to such use) for such taxable year.

Any amount not allowable as a deduction under this chapter by reason of the preceding sentence shall be taken into account as a deduction (allocable to such use) under this chapter for the succeeding taxable year."

SEC. 144. DEDUCTION FOR MORTGAGE INTEREST AND REAL PROPERTY TAXES ALLOWABLE WHERE PARSONAGE ALLOWANCE OR MILITARY HOUSING ALLOWANCE RECEIVED.

Section 265 (relating to expenses and interest relating to tax-exempt income) is amended by adding at the end thereof the following new paragraph:

"(6) SECTION NOT TO APPLY WITH RESPECT TO PARSONAGE AND MILITARY HOUSING ALLOWANCES.—No deduction shall be denied under this section for interest on a mortgage on, or real property taxes on, the home of the taxpayer by reason of the receipt of an amount as—

"(A) a military housing allowance, or

"(B) a parsonage allowance excludable from gross income under section 107."

Subtitle F—Effective Dates

SEC. 151. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this title shall apply to taxable years beginning after December 31, 1986.

(b) UNEMPLOYMENT COMPENSATION.—The amendment made by section 121 shall apply to amounts received after December 31, 1986, in taxable years ending after such date.

(c) PRIZES AND AWARDS.—The amendments made by section 122 shall apply to prizes and awards granted after December 31, 1986.

(d) SCHOLARSHIPS.—The amendments made by section 123 shall apply to taxable years beginning after December 31, 1986, but only in the case of scholarships and fellowships granted after August 16, 1986.

(e) PARSONAGE AND MILITARY HOUSING ALLOWANCES.—The amendment made by section 144 shall apply to taxable years beginning before, on, or after, December 31, 1986.

TITLE II—PROVISIONS RELATING TO CAPITAL COST

Subtitle A—Depreciation Provisions

SEC. 201. MODIFICATION OF ACCELERATED COST RECOVERY SYSTEM.

(a) GENERAL RULE.—Section 168 (relating to accelerated cost recovery system) is amended to read as follows:

"SEC. 168. ACCELERATED COST RECOVERY SYSTEM.

"(a) GENERAL RULE.—Except as otherwise provided in this section, the depreciation deduction provided by section 167(a) for any tangible property shall be determined by using—

"(1) the applicable depreciation method,

"(2) the applicable recovery period, and

"(3) the applicable convention.

"(b) APPLICABLE DEPRECIATION METHOD.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the applicable depreciation method is—

"(A) the 200 percent declining balance method,

"(B) switching to the straight line method for the 1st taxable year for which using the straight line method with respect to the adjusted basis as of the beginning of such year will yield a larger allowance.

"(2) 15-YEAR AND 20-YEAR PROPERTY.—In the case of 15-year and 20-year property, paragraph (1) shall be applied by substituting '150 percent' for '200 percent'.

"(3) PROPERTY TO WHICH STRAIGHT LINE METHOD APPLIES.—The applicable depreciation method shall be the straight line method in the case of the following property:

"(A) Nonresidential real property.

"(B) Residential rental property.

"(C) Property with respect to which the taxpayer elects under paragraph (5) to have the provisions of this paragraph apply.

"(4) SALVAGE VALUE TREATED AS ZERO.—Salvage value shall be treated as zero.

"(5) ELECTION.—An election under paragraph (3)(C) may be made with respect to 1 or more classes of property for any taxable year and once made with respect to any class shall apply to all property in such class placed in service during such taxable year. Such an election, once made, shall be irrevocable.

"(c) APPLICABLE RECOVERY PERIOD.—For purposes of this section, the applicable recovery period shall be determined in accordance with the following table:

"In the case of:	The applicable recovery period is:
3-year property	3 years
5-year property	5 years
7-year property	7 years
10-year property	10 years
15-year property	15 years
20-year property	20 years
Residential rental property	27.5 years
Nonresidential real property	31.5 years.

"(d) APPLICABLE CONVENTION.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the applicable convention is the half-year convention.

"(2) REAL PROPERTY.—In the case of—

"(A) nonresidential real property, and

"(B) residential rental property,

the applicable convention is the mid-month convention.

"(3) SPECIAL RULE WHERE SUBSTANTIAL PROPERTY PLACED IN SERVICE DURING LAST 3 MONTHS OF TAXABLE YEAR.—

"(A) IN GENERAL.—Except as provided in regulations, if during any taxable year—

"(i) the aggregate bases of property to which this section applies and which are placed in service during the last 3 months of the taxable year, exceed

"(ii) 40 percent of the aggregate bases of property to which this section applies placed in service during such taxable year,

the applicable convention for all property to which this section applies placed in service during such taxable year shall be the mid-quarter convention.

"(B) CERTAIN REAL PROPERTY NOT TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), nonresidential real property and residential rental property shall not be taken into account.

"(4) DEFINITIONS.—

"(A) HALF-YEAR CONVENTION.—The half-year convention is a convention which treats all property placed in service during any taxable year (or disposed of during any taxable year) as placed in service (or disposed of) on the mid-point of such taxable year.

"(B) MID-MONTH CONVENTION.—The mid-month convention is a convention which treats all property placed in service during any month (or disposed of during any month) as placed in service (or disposed of) on the mid-point of such month.

"(C) MID-QUARTER CONVENTION.—The mid-quarter convention is a convention which treats all property placed in service during any quarter of a taxable year (or disposed of during any quarter of a taxable year) as placed in service (or disposed of) on the mid-point of such quarter.

"(e) CLASSIFICATION OF PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, property shall be classified under the following table:

"Property shall be treated as:	If such property has a class life (in years) of:
3-year property	4 or less
5-year property	More than 4 but less than 10
7-year property	10 or more but less than 16
10-year property	16 or more but less than 20
15-year property	20 or more but less than 25
20-year property	25 or more.

"(2) RESIDENTIAL RENTAL OR NONRESIDENTIAL REAL PROPERTY.—

"(A) RESIDENTIAL RENTAL PROPERTY.—The term 'residential rental property' has the meaning given such term by section 167(j)(2)(B).

"(B) NONRESIDENTIAL REAL PROPERTY.—The term 'nonresidential real property' means section 1250 property which is not—

"(i) residential rental property, or

"(ii) property with a class life of less than 27.5 years.

"(3) CLASSIFICATION OF CERTAIN PROPERTY.—

"(A) 3-YEAR PROPERTY.—The term '3-year property' includes—

"(i) any race horse which is more than 2 years old at the time it is placed in service, and

"(ii) any horse other than a race horse which is more than 12 years old at the time it is placed in service.

"(B) 5-YEAR PROPERTY.—The term '5-year property' includes—

"(i) any automobile or light general purpose truck,

"(ii) any semi-conductor manufacturing equipment,

"(iii) any computer-based telephone central office switching equipment,

"(iv) any qualified technological equipment,

"(v) any property used in connection with research and experimentation, and

"(vi) any property which—

"(I) is described in paragraph (3)(A)(viii), (3)(A)(ix), or (4) of section 48(l), or

"(II) is described in paragraph (15) of section 48(l) and is a qualifying small power production facility within the meaning of section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)), as in effect on September 1, 1986.

"(C) 7-YEAR PROPERTY.—The term '7-year property' includes—

"(i) any railroad track,

"(ii) any single-purpose agricultural or horticultural structure (within the meaning of section 48(p)), and

"(iii) any property which—

"(I) does not have a class life, and

"(II) is not otherwise classified under paragraph (2) or this paragraph.

"(D) 15-YEAR PROPERTY.—The term '15-year property' includes—

"(i) any municipal wastewater treatment plant, and

"(ii) any telephone distribution plant and comparable equipment used for 2-way exchange of voice and data communications.

"(E) 20-YEAR PROPERTY.—The term '20-year property' includes any municipal sewers.

"(f) PROPERTY TO WHICH SECTION DOES NOT APPLY.—This section shall not apply to—

"(1) CERTAIN METHODS OF DEPRECIATION.—Any property if—

"(A) the taxpayer elects to exclude such property from the application of this section, and

"(B) for the 1st taxable year for which a depreciation deduction would be allowable with respect to such property in the hands of the taxpayer, the property is properly depreciated under the unit-of-production method or any method of depreciation not expressed in a term of years (other than the retirement-replacement-betterment method or similar method).

"(2) CERTAIN PUBLIC UTILITY PROPERTY.—Any public utility property (within the meaning of section 167(l)(3)(A)) if the taxpayer does not use a normalization method of accounting.

"(3) FILMS AND VIDEO TAPE.—Any motion picture film or video tape.

"(4) SOUND RECORDINGS.—Any sound recording described in section 48(r)(5).

"(5) CERTAIN PROPERTY PLACED IN SERVICE IN CHURNING TRANSACTIONS.—

"(A) IN GENERAL.—Property—

"(i) described in paragraph (4) of section 168(e) (as in effect before the amendments made by the Tax Reform Act of 1986), or

"(ii) which would be described in such paragraph if such paragraph were applied by substituting '1987' for '1981' and '1986' for '1980' each place such terms appear.

"(B) SUBPARAGRAPH (A)(ii) NOT TO APPLY.—Clause (ii) of subparagraph (A) shall not apply to—

"(i) any residential rental property or nonresidential real property, or

"(ii) any property if, for the 1st full taxable year in which such property is placed in service—

"(I) the amount allowable as a deduction under this section (as in effect before the date of the enactment of this paragraph) with respect to such property is greater than,

"(II) the amount allowable as a deduction under this section (as in effect on or after such date and using the half-year convention) for such taxable year.

"(g) ALTERNATIVE DEPRECIATION SYSTEM FOR CERTAIN PROPERTY.—

"(1) IN GENERAL.—In the case of—

"(A) any tangible property which during the taxable year is used predominantly outside the United States,

"(B) any tax-exempt use property,

"(C) any tax-exempt bond financed property,

"(D) any imported property covered by an Executive order under paragraph (6), and

"(E) any property to which an election under paragraph (7) applies,

the depreciation deduction provided by section 167(a) shall be determined under the alternative depreciation system.

"(2) ALTERNATIVE DEPRECIATION SYSTEM.—For purposes of paragraph (1), the alternative depreciation system is depreciation determined by using—

"(A) the straight line method (without regard to salvage value),

"(B) the applicable convention determined under subsection (d), and

"(C) a recovery period determined under the following table:

"In the case of:	The recovery period shall be:
(i) Property not described in clause (ii) or (iii)	The class life.
(ii) Personal property with no class life	12 years.
(iii) Nonresidential real and residential rental property	40 years.

"(3) SPECIAL RULES FOR DETERMINING CLASS LIFE.—

"(A) TAX-EXEMPT USE PROPERTY SUBJECT TO LEASE.—In the case of any tax-exempt use property subject to a lease, the recovery period used for purposes of paragraph (2) shall in no event be less than 125 percent of the lease term.

"(B) SPECIAL RULE FOR CERTAIN PROPERTY ASSIGNED TO CLASSES.—For purposes of paragraph (2), in the case of property described in any of the following subparagraphs of subsection (e)(3), the class life shall be determined as follows:

"If property is described in subparagraph:	The class life is:
(B)(ii)	5
(B)(iii)	9.5
(C)(i)	10
(C)(ii)	15
(D)(i)	24
(D)(ii)	24
(E)	50.

"(C) QUALIFIED TECHNOLOGICAL EQUIPMENT.—In the case of any qualified technological equipment, the recovery period used for purposes of paragraph (2) shall be 5 years.

"(D) AUTOMOBILES, ETC.—In the case of any automobile or light general purpose truck, the recovery period used for purposes of paragraph (2) shall be 5 years.

"(E) CERTAIN REAL PROPERTY.—In the case of any section 1245 property which is real property with no class life, the recovery period used for purposes of paragraph (2) shall be 40 years.

"(4) PROPERTY USED PREDOMINANTLY OUTSIDE THE UNITED STATES.—For purposes of this subsection, rules similar to the rules under section 48(a)(2) (including the exceptions contained in subparagraph (B) thereof) shall apply in determining whether property is used predominantly outside the United States. In addition to the exceptions contained in such subparagraph (B), there shall be excepted any satellite or other spacecraft (or any interest therein) held by a United States person if such satellite or spacecraft was launched from within the United States.

"(5) TAX-EXEMPT BOND FINANCED PROPERTY.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'tax-exempt bond financed property' means any property to the extent such property is financed (directly or indirectly) by an obligation the interest on which is exempt from tax under section 103(a).

"(B) ALLOCATION OF BOND PROCEEDS.—For purposes of subparagraph (A), the proceeds of any obligation shall be treated as used to finance property acquired in connection with the issuance of such obligation in the order in which such property is placed in service.

"(C) QUALIFIED RESIDENTIAL RENTAL PROJECTS.—The term 'tax-exempt bond financed property' shall not include any qualified residential rental project (within the meaning of section 142(a)(7)).

"(6) IMPORTED PROPERTY.—

"(A) COUNTRIES MAINTAINING TRADE RESTRICTIONS OR ENGAGING IN DISCRIMINATORY ACTS.—If the President determines that a foreign country—

"(i) maintains nontariff trade restrictions, including variable import fees, which substantially burden United States commerce in a manner inconsistent with provisions of trade agreements, or

"(ii) engages in discriminatory or other acts (including tolerance of international cartels) or policies unjustifiably restricting United States commerce,

the President may by Executive order provide for the application of paragraph (1)(D) to any article or class of articles manufactured or produced in such foreign country for such period as may be provided by such Executive order. Any period specified in the preceding sentence shall not apply to any property ordered before (or the construction, reconstruction, or erection of which began before) the date of the Executive order unless the President determines an earlier date to be in the public interest and specifies such date in the Executive order.

"(B) IMPORTED PROPERTY.—For purposes of this subsection, the term 'imported property' means any property if—

"(i) such property was completed outside the United States, or

"(ii) less than 50 percent of the basis of such property is attributable to value added within the United States.

For purposes of this subparagraph, the term 'United States' includes the Commonwealth of Puerto Rico and the possessions of the United States.

"(7) ELECTION TO USE ALTERNATIVE DEPRECIATION SYSTEM.—

"(A) IN GENERAL.—If the taxpayer makes an election under this paragraph with respect to any class of property for any taxable year, the alternative depreciation system under this subsection shall apply to all property in such class placed in service during such taxable year. Notwithstanding the preceding sentence, in the case of nonresidential real property or residential rental property, such election may be made separately with respect to each property.

"(B) ELECTION IRREVOCABLE.—An election under subparagraph (A), once made, shall be irrevocable.

"(h) TAX-EXEMPT USE PROPERTY.—

"(1) IN GENERAL.—For purposes of this section—

"(A) PROPERTY OTHER THAN NONRESIDENTIAL REAL PROPERTY.—Except as otherwise provided in this subsection, the term 'tax-exempt use property' means that portion of any tangible property (other than nonresidential real property) leased to a tax-exempt entity.

"(B) NONRESIDENTIAL REAL PROPERTY.—

"(i) IN GENERAL.—In the case of nonresidential real property, the term 'tax-exempt use property' means that portion of the property leased to a tax-exempt entity in a disqualified lease.

"(ii) DISQUALIFIED LEASE.—For purposes of this subparagraph, the term 'disqualified lease' means any lease of the property to a tax-exempt entity, but only if—

"(I) part or all of the property was financed (directly or indirectly) by an obligation the interest on which is exempt from tax under section 103(a) and such entity (or a related entity) participated in such financing,

"(II) under such lease there is a fixed or determinable price purchase or sale option which in-

volves such entity (or a related entity) or there is the equivalent of such an option,

"(III) such lease has a lease term in excess of 20 years, or

"(IV) such lease occurs after a sale (or other transfer) of the property by, or lease of the property from, such entity (or a related entity) and such property has been used by such entity (or a related entity) before such sale (or other transfer) or lease.

"(iii) 35-PERCENT THRESHOLD TEST.—Clause (i) shall apply to any property only if the portion of such property leased to tax-exempt entities in disqualified leases is more than 35 percent of the property.

"(iv) TREATMENT OF IMPROVEMENTS.—For purposes of this subparagraph, improvements to a property (other than land) shall not be treated as a separate property.

"(v) LEASEBACKS DURING 1ST 3 MONTHS OF USE NOT TAKEN INTO ACCOUNT.—Subclause (IV) of clause (ii) shall not apply to any property which is leased within 3 months after the date such property is first used by the tax-exempt entity (or a related entity).

"(C) EXCEPTION FOR SHORT-TERM LEASES.—

"(i) IN GENERAL.—Property shall not be treated as tax-exempt use property merely by reason of a short-term lease.

"(ii) SHORT-TERM LEASE.—For purposes of clause (i), the term 'short-term lease' means any lease the term of which is—

"(I) less than 3 years, and

"(II) less than the greater of 1 year or 30 percent of the property's present class life.

In the case of nonresidential real property and property with no present class life, subclause (II) shall not apply.

"(D) EXCEPTION WHERE PROPERTY USED IN UNRELATED TRADE OR BUSINESS.—The term 'tax-exempt use property' shall not include any portion of a property if such portion is predominantly used by the tax-exempt entity (directly or through a partnership of which such entity is a partner) in an unrelated trade or business the income of which is subject to tax under section 511. For purposes of subparagraph (B)(iii), any portion of a property so used shall not be treated as leased to a tax-exempt entity in a disqualified lease.

"(E) NONRESIDENTIAL REAL PROPERTY DEFINED.—For purposes of this paragraph, the term 'nonresidential real property' includes residential rental property.

"(2) TAX-EXEMPT ENTITY.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'tax-exempt entity' means—

"(i) the United States, any State or political subdivision thereof, any possession of the United States, or any agency or instrumentality of any of the foregoing,

"(ii) an organization (other than a cooperative described in section 521) which is exempt from tax imposed by this chapter, and

"(iii) any foreign person or entity.

"(B) EXCEPTIONS FOR CERTAIN PROPERTY SUBJECT TO UNITED STATES TAX AND USED BY FOREIGN PERSON OR ENTITY.—

"(i) INCOME FROM PROPERTY SUBJECT TO UNITED STATES TAX.—Clause (iii) of subparagraph (A) shall not apply with respect to any property if more than 50 percent of the gross income for the taxable year derived by the foreign person or entity from the use of such property is—

"(I) subject to tax under this chapter, or

"(II) included under section 951 in the gross income of a United States shareholder for the taxable year with or within which ends the taxable year of the controlled foreign corporation in which such income was derived.

For purposes of the preceding sentence, any exclusion or exemption shall not apply for purposes of determining the amount of the gross income so derived, but shall apply for purposes of determining the portion of such gross income subject to tax under this chapter.

"(ii) MOVIES AND SOUND RECORDINGS.—Clause (iii) of subparagraph (A) shall not apply with respect to any qualified film (as defined in section 48(k)(1)(B)) or any sound recording (as defined in section 48(r)(5)).

"(C) FOREIGN PERSON OR ENTITY.—For purposes of this paragraph, the term 'foreign person or entity' means—

"(i) any foreign government, any international organization, or any agency or instrumentality of any of the foregoing, and

"(ii) any person who is not a United States person.

Such term does not include any foreign partnership or other foreign pass-thru entity.

"(D) TREATMENT OF CERTAIN TAXABLE INSTRUMENTALITIES.—For purposes of this subsection, a corporation shall not be treated as an instrumentality of the United States or of any State or political subdivision thereof if—

"(i) all of the activities of such corporation are subject to tax under this chapter, and

"(ii) a majority of the board of directors of such corporation is not selected by the United States or any State or political subdivision thereof.

"(E) CERTAIN PREVIOUSLY TAX-EXEMPT ORGANIZATIONS.—

"(i) IN GENERAL.—For purposes of this subsection, an organization shall be treated as an organization described in subparagraph (A)(ii) with respect to any property (other than property held by such organization) if such organization was an organization (other than a cooperative described in section 521) exempt from tax imposed by this chapter at any time during the 5-year period ending on the date such property was first used by such organization. The preceding sentence and subparagraph (D)(ii) shall not apply to the Federal Home Loan Mortgage Corporation.

"(ii) ELECTION NOT TO HAVE CLAUSE (I) APPLY.—

"(I) IN GENERAL.—In the case of an organization formerly exempt from tax under section 501(a) as an organization described in section 501(c)(12),

clause (i) shall not apply to such organization with respect to any property if such organization elects not to be exempt from tax under section 501(a) during the tax-exempt use period with respect to such property.

"(II) TAX-EXEMPT USE PERIOD.—For purposes of subclause (I), the term 'tax-exempt use period' means the period beginning with the taxable year in which the property described in subclause (I) is first used by the organization and ending with the close of the 15th taxable year following the last taxable year of the applicable recovery period of such property.

"(III) ELECTION.—Any election under subclause (I), once made, shall be irrevocable.

"(iii) TREATMENT OF SUCCESSOR ORGANIZATIONS.—Any organization which is engaged in activities substantially similar to those engaged in by a predecessor organization shall succeed to the treatment under this subparagraph of such predecessor organization.

"(iv) FIRST USED.—For purposes of this subparagraph, property shall be treated as first used by the organization—

"(I) when the property is first placed in service under a lease to such organization, or

"(II) in the case of property leased to (or held by) a partnership (or other pass-thru entity) in which the organization is a member, the later of when such property is first used by such partnership or pass-thru entity or when such organization is first a member of such partnership or pass-thru entity.

"(3) SPECIAL RULES FOR CERTAIN HIGH TECHNOLOGY EQUIPMENT.—

"(A) EXEMPTION WHERE LEASE TERM IS 5 YEARS OR LESS.—For purposes of this section, the term 'tax-exempt use property' shall not include any qualified technological equipment if the lease to the tax-exempt entity has a lease term of 5 years or less.

"(B) EXCEPTION FOR CERTAIN PROPERTY.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the term 'qualified technological equipment' shall not include any property leased to a tax-exempt entity if—

"(I) part or all of the property was financed (directly or indirectly) by an obligation the interest on which is exempt from tax under section 103(a),

"(II) such lease occurs after a sale (or other transfer) of the property by, or lease of such property from, such entity (or related entity) and such property has been used by such entity (or a related entity) before such sale (or other transfer) or lease, or

"(III) such tax-exempt entity is the United States or any agency or instrumentality of the United States.

"(ii) LEASEBACKS DURING 1ST 3 MONTHS OF USE NOT TAKEN INTO ACCOUNT.—Subclause (II) of clause (i) shall not apply to any property which is leased within 3

months after the date such property is first used by the tax-exempt entity (or a related entity).

"(4) RELATED ENTITIES.—For purposes of this subsection—

"(A)(i) Each governmental unit and each agency or instrumentality of a governmental unit is related to each other such unit, agency, or instrumentality which directly or indirectly derives its powers, rights, and duties in whole or in part from the same sovereign authority.

"(ii) For purposes of clause (i), the United States, each State, and each possession of the United States shall be treated as a separate sovereign authority.

"(B) Any entity not described in subparagraph (A)(i) is related to any other entity if the 2 entities have—

"(i) significant common purposes and substantial common membership, or

"(ii) directly or indirectly substantial common direction or control.

"(C)(i) An entity is related to another entity if either entity owns (directly or through 1 or more entities) a 50 percent or greater interest in the capital or profits of the other entity.

"(ii) For purposes of clause (i), entities treated as related under subparagraph (A) or (B) shall be treated as 1 entity.

"(D) An entity is related to another entity with respect to a transaction if such transaction is part of an attempt by such entities to avoid the application of this subsection.

"(5) TAX-EXEMPT USE OF PROPERTY LEASED TO PARTNERSHIPS, ETC., DETERMINED AT PARTNER LEVEL.—For purposes of this subsection—

"(A) IN GENERAL.—In the case of any property which is leased to a partnership, the determination of whether any portion of such property is tax-exempt use property shall be made by treating each tax-exempt entity partner's proportionate share (determined under paragraph (6)(C)) of such property as being leased to such partner.

"(B) OTHER PASS-THRU ENTITIES; TIERED ENTITIES.—Rules similar to the rules of subparagraph (A) shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

"(C) PRESUMPTION WITH RESPECT TO FOREIGN ENTITIES.—Unless it is otherwise established to the satisfaction of the Secretary, it shall be presumed that the partners of a foreign partnership (and the beneficiaries of any other foreign pass-thru entity) are persons who are not United States persons.

"(6) TREATMENT OF PROPERTY OWNED BY PARTNERSHIPS, ETC.—

"(A) IN GENERAL.—For purposes of this subsection, if—

"(i) any property which (but for this subparagraph) is not tax-exempt use property is owned by a partnership which has both a tax-exempt entity and a person who is not a tax-exempt entity as partners, and

"(ii) any allocation to the tax-exempt entity of partnership items is not a qualified allocation,

an amount equal to such tax-exempt entity's proportionate share of such property shall (except as provided in paragraph (1)(D)) be treated as tax-exempt use property.

"(B) QUALIFIED ALLOCATION.—For purposes of subparagraph (A), the term 'qualified allocation' means any allocation to a tax-exempt entity which—

"(i) is consistent with such entity's being allocated the same distributive share of each item of income, gain, loss, deduction, credit, and basis and such share remains the same during the entire period the entity is a partner in the partnership, and

"(ii) has substantial economic effect within the meaning of section 704(b)(2).

For purposes of this subparagraph, items allocated under section 704(c) shall not be taken into account.

"(C) DETERMINATION OF PROPORTIONATE SHARE.—

"(i) IN GENERAL.—For purposes of subparagraph (A), a tax-exempt entity's proportionate share of any property owned by a partnership shall be determined on the basis of such entity's share of partnership items of income or gain (excluding gain allocated under section 704(c)), whichever results in the largest proportionate share.

"(ii) DETERMINATION WHERE ALLOCATIONS VARY.—For purposes of clause (i), if a tax-exempt entity's share of partnership items of income or gain (excluding gain allocated under section 704(c)) may vary during the period such entity is a partner in the partnership, such share shall be the highest share such entity may receive.

"(D) DETERMINATION OF WHETHER PROPERTY USED IN UNRELATED TRADE OR BUSINESS.—For purposes of this subsection, in the case of any property which is owned by a partnership which has both a tax-exempt entity and a person who is not a tax-exempt entity as partners, the determination of whether such property is used in an unrelated trade or business of such an entity shall be made without regard to section 514.

"(E) OTHER PASS-THRU ENTITIES; TIERED ENTITIES.—Rules similar to the rules of subparagraphs (A), (B), (C), and (D) shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

"(F) TREATMENT OF CERTAIN TAXABLE ENTITIES.—

"(i) IN GENERAL.—For purposes of this paragraph and paragraph (5), except as otherwise provided in this subparagraph, any tax-exempt controlled entity shall be treated as a tax-exempt entity.

"(ii) ELECTION.—If a tax-exempt controlled entity makes an election under this clause—

"(I) such entity shall not be treated as a tax-exempt entity for purposes of this paragraph and paragraph (5), and

"(II) any gain recognized by a tax-exempt entity on any disposition of an interest in such entity (and any dividend or interest received or accrued by a tax-exempt entity from such tax-exempt controlled entity) shall be treated as unrelated business taxable income for purposes of section 511.

Any such election shall be irrevocable and shall bind all tax-exempt entities holding interests in such tax-exempt controlled entity. For purposes of subclause (II), there shall only be taken into account dividends which are properly allocable to income of the tax-exempt controlled entity which was not subject to tax under this chapter.

"(iii) TAX-EXEMPT CONTROLLED ENTITY.—

"(I) IN GENERAL.—The term 'tax-exempt controlled entity' means any corporation (which is not a tax-exempt entity determined without regard to this subparagraph and paragraph (2)(E)) if 50 percent or more (in value) of the stock in such corporation is held by 1 or more tax-exempt entities (other than a foreign person or entity).

"(II) ONLY 5-PERCENT SHAREHOLDERS TAKEN INTO ACCOUNT IN CASE OF PUBLICLY TRADED STOCK.—For purposes of subclause (I), in the case of a corporation the stock of which is publicly traded on an established securities market, stock held by a tax-exempt entity shall not be taken into account unless such entity holds at least 5 percent (in value) of the stock in such corporation. For purposes of this subclause, related entities (within the meaning of paragraph (4)) shall be treated as 1 entity.

"(III) SECTION 318 TO APPLY.—For purposes of this clause, a tax-exempt entity shall be treated as holding stock which it holds through application of section 318 (determined without regard to the 50-percent limitation contained in subsection (a)(2)(C) thereof).

"(G) REGULATIONS.—For purposes of determining whether there is a qualified allocation under subparagraph (B), the regulations prescribed under paragraph (8) for purposes of this paragraph—

"(i) shall set forth the proper treatment for partnership guaranteed payments, and

"(ii) may provide for the exclusion or segregation of items.

"(7) LEASE.—For purposes of this subsection, the term 'lease' includes any grant of a right to use property.

"(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection.

"(i) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CLASS LIFE.—

"(A) IN GENERAL.—Except as provided in this section, the term 'class life' means the class life (if any) which would be applicable with respect to any property as of January 1, 1986, under subsection (m) of section 167 (determined without regard to paragraph (4) thereof and as if the taxpayer had made an election under such subsection).

"(B) SECRETARIAL AUTHORITY.—The Secretary, through an office established in the Treasury—

"(i) shall monitor and analyze actual experience with respect to all depreciable assets, and

"(ii) except in the case of residential rental property or nonresidential real property—

"(I) may prescribe a new class life for any property,

"(II) in the case of assigned property, may modify any assigned item, or

"(III) may prescribe a class life for any property which does not have a class life within the meaning of subparagraph (A).

Any class life or assigned item prescribed or modified under the preceding sentence shall reasonably reflect the anticipated useful life, and the anticipated decline in value over time, of the property to the industry or other group.

"(C) EFFECT OF MODIFICATION.—Any class life or assigned item with respect to any property prescribed or modified under subparagraph (B) shall be used in classifying such property under subsection (e) and in applying subsection (g).

"(D) NO MODIFICATION OF ASSIGNED PROPERTY BEFORE JANUARY 1, 1992.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the Secretary may not modify an assigned item under subparagraph (B)(ii)(II) for any assigned property which is placed in service before January 1, 1992.

"(ii) EXCEPTION FOR SHORTER CLASS LIFE.—In the case of assigned property which is placed in service before January 1, 1992, and for which the assigned item reflects a class life which is shorter than the class life under subparagraph (A), the Secretary may modify such assigned item under subparagraph (B)(ii)(II) if such modification results in an item which reflects a shorter class life than such assigned item.

"(E) ASSIGNED PROPERTY AND ITEM.—For purposes of this paragraph—

"(i) ASSIGNED PROPERTY.—The term 'assigned property' means property for which a class life, classification, or recovery period is assigned under subsection (e)(3) or subparagraph (B), (C), or (D) of subsection (g)(3).

"(ii) ASSIGNED ITEM.—The term 'assigned item' means the class life, classification, or recovery period assigned under subsection (e)(3) or subparagraph (B), (C), or (D) of subsection (g)(3).

"(2) QUALIFIED TECHNOLOGICAL EQUIPMENT.—

"(A) IN GENERAL.—The term 'qualified technological equipment' means—

"(i) any computer or peripheral equipment,

"(ii) any high technology telephone station equipment installed on the customer's premises, and

"(iii) any high technology medical equipment.

"(B) COMPUTER OR PERIPHERAL EQUIPMENT DEFINED.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'computer or peripheral equipment' means—

"(I) any computer, and

"(II) any related peripheral equipment.

"(ii) COMPUTER.—The term 'computer' means a programmable electronically activated device which—

"(I) is capable of accepting information, applying prescribed processes to the information, and supplying the results of these processes with or without human intervention, and

"(II) consists of a central processing unit containing extensive storage, logic, arithmetic, and control capabilities.

"(iii) RELATED PERIPHERAL EQUIPMENT.—The term 'related peripheral equipment' means any auxiliary machine (whether on-line or off-line) which is designed to be placed under the control of the central processing unit of a computer.

"(iv) EXCEPTIONS.—The term 'computer or peripheral equipment' shall not include—

"(I) any equipment which is an integral part of other property which is not a computer,

"(II) typewriters, calculators, adding and accounting machines, copiers, duplicating equipment, and similar equipment, and

"(III) equipment of a kind used primarily for amusement or entertainment of the user.

"(C) HIGH TECHNOLOGY MEDICAL EQUIPMENT.—For purposes of this paragraph, the term 'high technology medical equipment' means any electronic, electromechanical, or computer-based high technology equipment used in the screening, monitoring, observation, diagnosis, or treatment of patients in a laboratory, medical, or hospital environment.

"(3) LEASE TERM.—

"(A) IN GENERAL.—In determining a lease term—

"(i) there shall be taken into account options to renew, and

"(ii) 2 or more successive leases which are part of the same transaction (or a series of related transactions) with respect to the same or substantially similar property shall be treated as 1 lease.

"(B) SPECIAL RULE FOR FAIR RENTAL OPTIONS ON NONRESIDENTIAL REAL PROPERTY OR RESIDENTIAL RENTAL PROPERTY.—For purposes of clause (i) of subparagraph (A), in the case of nonresidential real property or residential rental property, there shall not be taken into account any option to renew at fair market value, determined at the time of renewal.

"(4) GENERAL ASSET ACCOUNTS.—Under regulations, a taxpayer may maintain 1 or more general asset accounts for any property to which this section applies. Except as provided in regulations, all proceeds realized on any disposition of property in a general asset account shall be included in income as ordinary income.

"(5) CHANGES IN USE.—The Secretary shall, by regulations, provide for the method of determining the deduction allowable under section 167(a) with respect to any tangible property for any taxable year (and the succeeding taxable years) during which such property changes status under this section but continues to be held by the same person.

"(6) TREATMENTS OF ADDITIONS OR IMPROVEMENTS TO PROPERTY.—In the case of any addition to (or improvement of) any property—

"(A) any deduction under subsection (a) for such addition or improvement shall be computed in the same manner as the deduction for such property would be computed if such property had been placed in service at the same time as such addition or improvement, and

"(B) the applicable recovery period for such addition or improvement shall begin on the later of—

"(i) the date on which such addition (or improvement) is placed in service, or

"(ii) the date on which the property with respect to which such addition (or improvement) was made is placed in service.

"(7) TREATMENT OF CERTAIN TRANSFEREES.—

"(A) IN GENERAL.—In the case of any property transferred in a transaction described in subparagraph (B), the transferee shall be treated as the transferor for purposes of computing the depreciation deduction determined under this section with respect to so much of the basis in the hands of the transferee as does not exceed the adjusted basis in the hands of the transferor.

"(B) TRANSACTIONS COVERED.—The transactions described in this subparagraph are any transaction described in section 332, 351, 361, 371(a), 374(a), 721, or 731. Subparagraph (A) shall not apply in the case of a termination of a partnership under section 708(b)(1)(B).

"(C) PROPERTY REACQUIRED BY THE TAXPAYER.—Under regulations, property which is disposed of and then reacquired by the taxpayer shall be treated for purposes of computing the deduction allowable under subsection (a) as if such property had not been disposed of.

"(D) EXCEPTION.—This paragraph shall not apply to any transaction to which subsection (f)(5) applies (relating to churning transactions).

"(8) TREATMENT OF LEASEHOLD IMPROVEMENTS.—In the case of any building erected (or improvements made) on leased property, if such building or improvement is property to which this section applies, the depreciation deduction shall be determined under the provisions of this section.

"(9) NORMALIZATION RULES.—

"(A) IN GENERAL.—In order to use a normalization method of accounting with respect to any public utility property for purposes of subsection (f)(2)—

"(i) the taxpayer must, in computing its tax expense for purposes of establishing its cost of service for ratemaking purposes and reflecting operating results in its regulated books of account, use a method of depreciation with respect to such property that is the same as, and a depreciation period for such property that is no shorter than, the method and period used to compute its depreciation expense for such purposes; and

"(ii) if the amount allowable as a deduction under this section with respect to such property differs from the amount that would be allowable as a deduction under section 167 (determined without regard to sec-

tion 167(l)) using the method (including the period, first and last year convention, and salvage value) used to compute regulated tax expense under clause (i), the taxpayer must make adjustments to a reserve to reflect the deferral of taxes resulting from such difference.

"(B) USE OF INCONSISTENT ESTIMATES AND PROJECTIONS, ETC.—

"(i) IN GENERAL.—One way in which the requirements of subparagraph (A) are not met is if the taxpayer, for ratemaking purposes, uses a procedure or adjustment which is inconsistent with the requirements of subparagraph (A).

"(ii) USE OF INCONSISTENT ESTIMATES AND PROJECTIONS.—The procedures and adjustments which are to be treated as inconsistent for purposes of clause (i) shall include any procedure or adjustment for ratemaking purposes which uses an estimate or projection of the taxpayer's tax expense, depreciation expense, or reserve for deferred taxes under subparagraph (A)(ii) unless such estimate or projection is also used, for ratemaking purposes, with respect to the other 2 such items and with respect to the rate base.

"(iii) REGULATORY AUTHORITY.—The Secretary may by regulations prescribe procedures and adjustments (in addition to those specified in clause (ii)) which are to be treated as inconsistent for purposes of clause (i).

"(C) PUBLIC UTILITY PROPERTY WHICH DOES NOT MEET NORMALIZATION RULES.—In the case of any public utility property to which this section does not apply by reason of subsection (f)(2), the allowance for depreciation under section 167(a) shall be an amount computed using the method and period referred to in subparagraph (A)(i).

"(10) PUBLIC UTILITY PROPERTY.—The term 'public utility property' has the meaning given such term by section 167(l)(3)(A).

"(11) RESEARCH AND EXPERIMENTATION.—The term 'research and experimentation' has the same meaning as the term research and experimental has under section 174.

"(12) SECTION 1245 AND 1250 PROPERTY.—The terms 'section 1245 property' and 'section 1250 property' have the meanings given such terms by sections 1245(a)(3) and 1250(c), respectively."

(b) SYSTEM USED FOR PURPOSES OF EARNINGS AND PROFITS.—Paragraph (3) of section 312(k) is amended to read as follows:

"(3) EXCEPTION FOR TANGIBLE PROPERTY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of tangible property to which section 168 applies, the adjustment to earnings and profits for depreciation for any taxable year shall be determined under the alternative depreciation system (within the meaning of section 168(g)(2)).

"(B) TREATMENT OF AMOUNTS DEDUCTIBLE UNDER SECTION 179.—For purposes of computing the earnings and profits of a corporation, any amount deductible under section 179 shall be allowed as a deduction ratably over the period of 5 taxable years (beginning with the taxable year for which such amount is deductible under section 179)."

(c) CONTINUATION OF RULES RELATING TO MOTOR VEHICLE OPERATING LEASES.—Section 7701 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) MOTOR VEHICLE OPERATING LEASES.—

"(1) IN GENERAL.—For purposes of this title, in the case of a qualified motor vehicle operating agreement which contains a terminal rental adjustment clause—

"(A) such agreement shall be treated as a lease if (but for such terminal rental adjustment clause) such agreement would be treated as a lease under this title, and

"(B) the lessee shall not be treated as the owner of the property subject to an agreement during any period such agreement is in effect.

"(2) QUALIFIED MOTOR VEHICLE OPERATING AGREEMENT DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified motor vehicle operating agreement' means any agreement with respect to a motor vehicle (including a trailer) which meets the requirements of subparagraphs (B), (C), and (D) of this paragraph.

"(B) MINIMUM LIABILITY OF LESSOR.—An agreement meets the requirements of this subparagraph if under such agreement the sum of—

"(i) the amount the lessor is personally liable to repay, and

"(ii) the net fair market value of the lessor's interest in any property pledged as security for property subject to the agreement,

equals or exceeds all amounts borrowed to finance the acquisition of property subject to the agreement. There shall not be taken into account under clause (ii) any property pledged which is property subject to the agreement or property directly or indirectly financed by indebtedness secured by property subject to the agreement.

"(C) CERTIFICATION BY LESSEE; NOTICE OF TAX OWNERSHIP.—An agreement meets the requirements of this subparagraph if such agreement contains a separate written statement separately signed by the lessee—

"(i) under which the lessee certifies, under penalty of perjury, that it intends that more than 50 percent of the use of the property subject to such agreement is to be in a trade or business of the lessee, and

"(ii) which clearly and legibly states that the lessee has been advised that it will not be treated as the owner of the property subject to the agreement for Federal income tax purposes.

"(D) LESSOR MUST HAVE NO KNOWLEDGE THAT CERTIFICATION IS FALSE.—An agreement meets the requirements of this subparagraph if the lessor does not know that the certification described in subparagraph (C)(i) is false.

"(3) TERMINAL RENTAL ADJUSTMENT CLAUSE DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'terminal rental adjustment clause' means a provision of an agreement which permits or requires the rental price to be adjusted upward or downward by reference to the

amount realized by the lessor under the agreement upon sale or other disposition of such property.

"(B) SPECIAL RULE FOR LESSEE DEALERS.—The term 'terminal rental adjustment clause' also includes a provision of an agreement which requires a lessee who is a dealer in motor vehicles to purchase the motor vehicle for a predetermined price and then resell such vehicle where such provision achieves substantially the same results as a provision described in subparagraph (A)."

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECTION 167.—Paragraph (4) of section 167(m) (relating to termination of class lives) is amended to read as follows:

"(4) TERMINATION.—This subsection shall not apply with respect to any property to which section 168 applies."

(2) SECTION 178.—

(A) Section 178 is amended to read as follows:

"SEC. 178. AMORTIZATION OF COST OF ACQUIRING A LEASE.

"(a) GENERAL RULE.—In determining the amount of the deduction allowable to a lessee of a lease for any taxable year for amortization under section 167, 169, 179, 185, 190, 193, or 194 in respect of any cost of acquiring the lease, the term of the lease shall be treated as including all renewal options (and any other period for which the parties reasonably expect the lease to be renewed) if less than 75 percent of such cost is attributable to the period of the term of the lease remaining on the date of its acquisition.

"(b) CERTAIN PERIODS EXCLUDED.—For purposes of subsection (a), in determining the period of the term of the lease remaining on the date of acquisition, there shall not be taken into account any period for which the lease may subsequently be renewed, extended, or continued pursuant to an option exercisable by the lessee."

(B) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 178 and inserting in lieu thereof the following new item:

"Sec. 178. Amortization of cost of acquiring a lease."

(3) SECTION 179.—Paragraph (8) of section 179(d) is amended to read as follows:

"(8) TREATMENT OF PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership, the limitations of subsection (b) shall apply with respect to the partnership and with respect to each partner. A similar rule shall apply in the case of an S corporation and its shareholders."

(4) SECTION 280F.—

(A) Paragraph (2) of section 280F(a) (relating to depreciation) is amended—

(i) by striking out clauses (i) and (ii) of subparagraph (A) thereof and inserting in lieu thereof the following new clauses:

"(i) $2,560 for the 1st taxable year in the recovery period,

"(ii) $4,100 for the 2nd taxable year in the recovery period,

"(iii) $2,450 for the 3rd taxable year in the recovery period, and

"(iv) $1,475 for each succeeding taxable year in the recovery period.", and

(ii) by striking out "$4,800" each place it appears in subparagraph (B) thereof and inserting in lieu thereof "$1,475".

(B) Subparagraph (A) of section 280F(b)(3) (relating to recapture) is amended by striking out "the straight line method over the earnings and profits life" and inserting in lieu thereof "section 168(g) (relating to alternative depreciation system)".

(C) Paragraph (4) of section 280F(b) (relating to definitions) is amended to read as follows:

"(4) PROPERTY PREDOMINANTLY USED IN QUALIFIED BUSINESS USE.—For purposes of this subsection, property shall be treated as predominantly used in a qualified business use for any taxable year if the business use percentage for such taxable year exceeds 50 percent."

(D) Paragraph (4) of section 280F(c) is amended by striking out "section 168(j)(6)(B)" and inserting in lieu thereof "section 168(i)(3)(A)".

(E) Paragraph (1) of section 280F(d) is amended by striking out "recovery deduction" and inserting in lieu thereof "depreciation deduction".

(F) Paragraph (2) of section 280F(d) is amended—

(i) by striking out "recovery deduction" and inserting in lieu thereof "depreciation deduction", and

(ii) by striking out "use described in section 168(c)(1) (defining recovery property)" and inserting in lieu thereof "use in a trade or business (including the holding for the production of income)".

(G) Clause (iv) of section 280F(d)(4)(A) is amended by striking out "section 168(j)(5)(D)" and inserting in lieu thereof "section 168(i)(2)(B)".

(H) Paragraph (8) of section 280F(d) (defining unrecovered basis) is amended to read as follows:

"(8) UNRECOVERED BASIS.—For purposes of subsection (a)(2), the term 'unrecovered basis' means the adjusted basis of the passenger automobile determined after the application of subsection (a) and as if all use during the recovery period were use in a trade or business (including the holding of property for the production of income)."

(I) Paragraph (10) of section 280F(d) is amended by striking out ", notwithstanding any regulations prescribed under section 168(f)(7),".

(J) Paragraph (2) of section 280F(b) is amended by striking out "the straight line method over the earnings and profits life for such property" and inserting in lieu thereof "section 168(g) (relating to alternative depreciation system)".

(K) Subsections (a) and (b) of section 280F are amended by striking out "recovery deduction" each place it appears and inserting in lieu thereof "depreciation deduction".

(5) SECTION 291.—

(A) Subparagraph (A) of section 291(a)(1) is amended by striking out "or section 1245 recovery property".

(B) Paragraph (1) of section 291(c) is amended to read as follows:

"(1) ACCELERATED COST RECOVERY DEDUCTION.—Section 168 shall apply with respect to that portion of the basis of any property not taken into account under section 169 by reason of subsection (a)(5)."

(C) Section 291(e)(2) is amended by striking out ", 'section 1245 recovery property'," and ", section 1245(a)(5),".

(6) SECTION 312.—Paragraph (4) of section 312(k) is amended by striking out the last sentence.

(7) SECTION 465.—

(A) Subparagraph (C) of section 465(b)(3) is amended to read as follows:

"(C) RELATED PERSON.—For purposes of this subsection, a person (hereinafter in this paragraph referred to as the 'related person') is related to any person if—

"(i) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

"(ii) the related person and such person are engaged in trades or business under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of clause (i), in applying section 267(b) or 707(b)(1), '10 percent' shall be substituted for '50 percent'."

(B) Section 46(c)(8)(D)(v) is amended by striking out "section 168(e)(4)" and inserting in lieu thereof "section 465(b)(3)(C)".

(C) Section 4162(c)(3) is amended by striking out "section 168(e)(4)(D)" and inserting in lieu thereof "section 465(b)(3)(C)".

(8) SECTION 467.—

(A) Paragraph (3) of section 467(e) is amended to read as follows:

"(3) STATUTORY RECOVERY PERIOD.—

"(A) IN GENERAL.—

"In the case of:	The statutory recovery period is:
3-year property	3 years
5-year property	5 years
7-year property	7 years
10-year property	10 years
15-year and 20-year property	15 years
Residential rental property and nonresidential real property	19 years.

"(B) SPECIAL RULE FOR PROPERTY NOT DEPRECIABLE UNDER SECTION 168.—In the case of property to which section 168 does not apply, subparagraph (A) shall be applied as if section 168 applies to such property."

(B) Paragraph (5) of section 467(e) (defining related person) is amended by striking out "section 168(e)(4)(D)" and inserting in lieu thereof "section 465(b)(3)(C)".

(9) SECTION 514.—Subclause (II) of section 514(c)(9)(B)(vi) (relating to real property acquired by a qualified organization) is amended by striking out "section 168(j)(9)" and inserting in lieu thereof "section 168(h)(6)".

(10) SECTION 751.—Subsection (c) of section 751 (defining unrealized receivables) is amended by striking out "section 1245 recovery property (as defined in section 1245(a)(5)),".

(11) SECTION 1245.—

(A) Paragraph (1) of section 1245(a) (relating to gain from dispositions of certain depreciable property) is amended by striking out "during a taxable year beginning after December 31, 1962, or section 1245 recovery property is disposed of after December 31, 1980,".

(B) Paragraph (2) of section 1245(a) (defining recomputed basis) is amended to read as follows:

"(2) RECOMPUTED BASIS.—For purposes of this section—

"(A) IN GENERAL.—The term 'recomputed basis' means, with respect to any property, its adjusted basis recomputed by adding thereto all adjustments reflected in such adjusted basis on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for depreciation or amortization.

"(B) TAXPAYER MAY ESTABLISH AMOUNT ALLOWED.—For purposes of subparagraph (A), if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed for depreciation or amortization for any period was less than the amount allowable, the amount added for such period shall be the amount allowed.

"(C) CERTAIN DEDUCTIONS TREATED AS AMORTIZATION.—Any deduction allowable under section 179, 190, or 193 shall be treated as if it were a deduction allowable for amortization."

(C) Paragraph (3) of section 1245(a) (defining section 1245 property) is amended by striking out subparagraph (C) and by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively.

(D) Subsection (a) of section 1245 is amended by striking out paragraphs (5) and (6).

(12) SECTION 4162.—Paragraph (3) of section 4162(c) (defining related person) is amended by striking out "section 168(e)(4)(D)" and inserting in lieu thereof "section 465(b)(3)(C)".

(13) SECTION 6111.—Clause (ii) of section 6111(c)(3)(B) (relating to certain borrowed amounts excluded) is amended by striking out "section 168(e)(4)" and inserting in lieu thereof "section 465(b)(3)(C)".

(14) SECTION 7701.—

(A) Subparagraph (A) of section 7701(e)(4) is amended by striking out "section 168(j)" and inserting in lieu thereof "section 168(h)".

(B) Paragraph (5) of section 7701(e) (relating to exception for certain low-income housing) is amended by striking out "low-income housing (section 168(c)(2)(F))" and inserting in lieu thereof "property described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B) (relating to low-income housing)".

SEC. 202. EXPENSING OF DEPRECIABLE ASSETS.

(a) LIMITATIONS ON EXPENSING.—Subsection (b) of section 179 (relating o election to expense certain depreciable assets) is amended to read as follows:

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed $10,000.

"(2) REDUCTION IN LIMITATION.—The limitation under paragraph (1) for any taxable year shall be reduced (but not below zero) by the amount by which the cost of section 179 property placed in service during such taxable year exceeds $200,000.

"(3) LIMITATION BASED ON INCOME FROM TRADE OR BUSINESS.—

"(A) IN GENERAL.—The aggregate cost of section 179 property taken into account under subsection (a) for any taxable year shall not exceed the aggregate amount of taxable income of the taxpayer for such taxable year which is derived from the active conduct by the taxpayer of any trade or business during such taxable year.

"(B) CARRYOVER OF UNUSED COST.—The amount of any cost which (but for subparagraph (A)) would have been allowed as a deduction under subsection (a) for any taxable year shall be carried to the succeeding taxable year and added to the amount allowable as a deduction under subsection (a) for such succeeding taxable year.

"(C) COMPUTATION OF TAXABLE INCOME.—For purposes of this paragraph, taxable income derived from the conduct of a trade or business shall be computed without regard to the cost of any section 179 property.

"(4) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of a husband and wife filing separate returns for the taxable year—

"(A) such individuals shall be treated as 1 taxpayer for purposes of paragraphs (1) and (2), and

"(B) unless such individuals elect otherwise, 50 percent of the cost which may be taken into account under subsection (a) for such taxable year (before application of paragraph (3)) shall be allocated to each such individual."

(b) SECTION 179 PROPERTY.—Paragraph (1) of section 179(d) (defining section 179 property) is amended by inserting "in the active conduct of" after "purchase for use".

(c) RECAPTURE.—Section 179(d)(10) (relating to recapture in certain cases) is amended by striking out all that follows "at any time" and inserting in lieu thereof a period.

SEC. 203. EFFECTIVE DATES; GENERAL TRANSITIONAL RULES.

(a) GENERAL EFFECTIVE DATES.—

(1) SECTION 201.—

(A) IN GENERAL.—Except as provided in this section, section 204, and section 251(d), the amendments made by section 201 shall apply to property placed in service after December 31, 1986, in taxable years ending after such date.

(B) ELECTION TO HAVE AMENDMENTS MADE BY SECTION 201 APPLY.—A taxpayer may elect (at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe) to have the amendments made by section 201 apply to any property placed in service after July 31, 1986, and before January 1, 1987.

(2) SECTION 202.—The amendments made by section 202 shall apply to property placed in service after December 31, 1986, in taxable years ending after such date.

(b) GENERAL TRANSITIONAL RULE.—

(1) IN GENERAL.—The amendments made by section 201 shall not apply to—

(A) any property which is constructed, reconstructed, or acquired by the taxpayer pursuant to a written contract which was binding on March 1, 1986,

(B) property which is constructed or reconstructed by the taxpayer if—

(i) the lesser of (I) $1,000,000, or (II) 5 percent of the cost of such property has been incurred or committed by March 1, 1986, and

(ii) the construction or reconstruction of such property began by such date; or

(C) an equipped building or plant facility if construction has commenced as of March 1, 1986, pursuant to a written specific plan and more than one-half of the cost of such equipped building or facility has been incurred or committed by such date.

(2) REQUIREMENT THAT CERTAIN PROPERTY BE PLACED IN SERVICE BEFORE CERTAIN DATE.—

(A) IN GENERAL.—Paragraph (1) and section 204(a) (other than paragraph (8) or (12) thereof) shall not apply to any property unless such property has a class life of at least 7 years and is placed in service before the applicable date determined under the following table:

In the case of property with a class life of:	The applicable date is:
At least 7 but less than 20 years	January 1, 1989
20 years or more	January 1, 1991.

(B) RESIDENTIAL RENTAL AND NONRESIDENTIAL REAL PROPERTY.—In the case of residential rental property and nonresidential real property, the applicable date is January 1, 1991.

(C) CLASS LIVES.—For purposes of subparagraph (A)—

(i) the class life of property to which section 168(g)(3)(B) of the Internal Revenue Code of 1986 (as added by section 201) shall be the class life in effect on January 1, 1986, except that computer-based telephone central office switching equipment described in section 168(e)(3)(B)(iii) of such Code shall be treated as having a class life of 6 years,

(ii) property described in section 204(a) shall be treated as having a class life of 20 years, and

(iii) property with no class life shall be treated as having a class life of 12 years.

(D) SUBSTITUTION OF APPLICABLE DATES.—If any provision of this Act substitutes a date for an applicable date, this paragraph shall be applied by using such date.

(3) PROPERTY QUALIFIES IF SOLD AND LEASED BACK IN 3 MONTHS.—Property shall be treated as meeting the requirements of paragraphs (1) and (2) or section 204(a) with respect to any taxpayer if such property is acquired by the taxpayer from a person—

(A) in whose hands such property met the requirements of paragraphs (1) and (2) or section 204(a), or

(B) who placed the property in service before January 1, 1987,

and such property is leased back by the taxpayer to such person not later than the earlier of the applicable date under para-

graph (2) or the day which is 3 months after such property was placed in service.

(4) PLANT FACILITY.—For purposes of paragraph (1), the term "plant facility" means a facility which does not include any building (or with respect to which buildings constitute an insignificant portion) and which is—

(A) a self-contained single operating unit or processing operation,

(B) located on a single site, and

(C) identified as a single unitary project as of March 1, 1986.

(c) PROPERTY FINANCED WITH TAX-EXEMPT BONDS.—

(1) IN GENERAL.—Subparagraph (C) of section 168(g)(1) of the Internal Revenue Code of 1986 (as added by this Act) shall apply to property placed in service after December 31, 1986, in taxable years ending after such date, to the extent such property is financed by the proceeds of an obligation (including a refunding obligation) issued after March 1, 1986.

(2) EXCEPTIONS.—

(A) CONSTRUCTION OR BINDING AGREEMENTS.—Subparagraph (C) of section 168(g)(1) of such Code (as so added) shall not apply to obligations with respect to a facility—

(i)(I) the original use of which commences with the taxpayer, and the construction, reconstruction, or rehabilitation of which began before March 2, 1986, and was completed on or after such date,

(II) with respect to which a binding contract to incur significant expenditures for construction, reconstruction, or rehabilitation was entered into before March 2, 1986, and some of such expenditures are incurred on or after such date, or

(III) acquired on or after March 2, 1986, pursuant to a binding contract entered into before such date, and

(ii) described in an inducement resolution or other comparable preliminary approval adopted by the issuing authority (or by a voter referendum) before March 2, 1986.

(B) REFUNDING.—

(i) IN GENERAL.—Except as provided in clause (ii), in the case of property placed in service after December 31, 1986, which is financed by the proceeds of an obligation which is issued solely to refund another obligation which was issued before March 2, 1986, subparagraph (C) of section 168(g)(1) of such Code (as so added) shall apply only with respect to an amount equal to the basis in such property which has not been recovered before the date such refunded obligation is issued.

(ii) SIGNIFICANT EXPENDITURES.—In the case of facilities the original use of which commences with the taxpayer and with respect to which significant expenditures are made before January 1, 1987, subparagraph (C) of section 168(g)(1) of such Code (as so added) shall not apply with respect to such facilities to the extent such facilities are financed by the proceeds of an obligation issued solely to refund another obligation which was issued before March 2, 1986.

(C) FACILITIES.—In the case of an inducement resolution or other comparable preliminary approval adopted by an issuing authority before March 2, 1986, for purposes of subparagraphs (A) and (B)(ii) with respect to obligations described in such resolution, the term "facilities" means the facilities described in such resolution.

(D) SIGNIFICANT EXPENDITURES.—For purposes of this paragraph, the term "significant expenditures" means expenditures greater than 10 percent of the reasonably anticipated cost of the construction, reconstruction, or rehabilitation of the facility involved.

(d) MID-QUARTER CONVENTION.—In the case of any taxable year in which property to which the amendments made by section 201 do not apply is placed in service, such property shall be taken into account in determining whether section 168(d)(3) of the Internal Revenue Code of 1986 (as added by section 201) applies for such taxable year to property to which such amendments apply.

(e) NORMALIZATION REQUIREMENTS.—

(1) IN GENERAL.—A normalization method of accounting shall not be treated as being used with respect to any public utility property for purposes of section 167 or 168 of the Internal Revenue Code of 1986 if the taxpayer, in computing its cost of service for ratemaking purposes and reflecting operating results in its regulated books of account, reduces the excess tax reserve more rapidly or to a greater extent than such reserve would be reduced under the average rate assumption method.

(2) DEFINITIONS.—For purposes of this subsection—

(A) EXCESS TAX RESERVE.—The term "excess tax reserve" means the excess of—

(i) the reserve for deferred taxes (as described in section 167(l)(3)(G)(ii) or 168(e)(3)(B)(ii) of the Internal Revenue Code of 1954 as in effect on the day before the date of the enactment of this Act), over

(ii) the amount which would be the balance in such reserve if the amount of such reserve were determined by assuming that the corporate rate reductions provided in this Act were in effect for all prior periods.

(B) AVERAGE RATE ASSUMPTION METHOD.—The average rate assumption method is the method under which the excess in the reserve for deferred taxes is reduced over the remaining lives of the property as used in its regulated books of account which gave rise to the reserve for deferred taxes. Under such method, if timing differences for the property reverse, the amount of the adjustment to the reserve for the deferred taxes is calculated by multiplying—

(i) the ratio of the aggregate deferred taxes for the property to the aggregate timing differences for the property as of the beginning of the period in question, by

(ii) the amount of the timing differences which reverse during such period.

SEC. 204. ADDITIONAL TRANSITIONAL RULES.

(a) OTHER TRANSITIONAL RULES.—

(1) URBAN RENOVATION PROJECTS.—

(A) IN GENERAL.—The amendments made by section 201 shall not apply to any property which is an integral part of any qualified urban renovation project.

(B) QUALIFIED URBAN RENOVATION PROJECT.—For purposes of subparagraph (A), the term "qualified urban renovation project" means any project—

(i) described in subparagraph (C), (D), (E), or (G) which before March 1, 1986, was publicly announced by a political subdivision of a State for a renovation of an urban area within its jurisdiction,

(ii) described in subparagraph (C), (D) or (G) which before March 1, 1986, was identified as a single unitary project in the internal financing plans of the primary developer of the project, and

(iii) described in subparagraph (C) or (D), which is not substantially modified on or after March 1, 1986.

(C) PROJECT WHERE AGREEMENT ON DECEMBER 19, 1984.—A project is described in this subparagraph if—

(i) a political subdivision granted on July 11, 1985, development rights to the primary developer-purchaser of such project, and

(ii) such project was the subject of a development agreement between a political subdivision and a bridge authority on December 19, 1984.

For purposes of this subparagraph, subsection (b)(2) shall be applied by substituting "January 1, 1994" for "January 1, 1991".

(D) CERTAIN ADDITIONAL PROJECTS.—A project is described in this subparagraph if it is described in any of the following clauses of this subparagraph and the primary developer of all such projects is the same person:

(i) A project is described in this clause if the development agreement with respect thereto was entered into during April 1984 and the estimated cost of the project is approximately $194,000,000.

(ii) A project is described in this clause if the development agreement with respect thereto was entered into during May 1984 and the estimated cost of the project is approximately $190,000,000.

(iii) A project is described in this clause if the project has an estimated cost of approximately $92,000,000 and at least $7,000,000 was spent before September 26, 1985, with respect to such project.

(iv) A project is described in this clause if the estimated project cost is approximately $39,000,000 and at least $2,000,000 of construction cost for such project were incurred before September 26, 1985.

(v) A project is described in this clause if the development agreement with respect thereto was entered into before September 26, 1985, and the estimated cost of the project is approximately $150,000,000.

(vi) A project is described in this clause if the board of directors of the primary developer approved such project in December 1982, and the estimated cost of such project is approximately $107,000,000.

(vii) A project is described in this clause if the board of directors of the primary developer approved such

project in December 1982, and the estimated cost of such project is approximately $59,000,000.

(viii) A project is described in this clause if the Board of Directors of the primary developer approved such project in December 1983, following selection of the developer by a city council on September 26, 1983, and the estimated cost of such project is approximately $107,000,000."

(E) PROJECT WHERE PLAN CONFIRMED ON OCTOBER 4, 1984.—A project is described in this subparagraph if—

(i) a State or an agency, instrumentality, or political subdivision thereof approved the filing of a general project plan on June 18, 1981, and on October 4, 1984, a State or an agency, instrumentality, or political subdivision thereof confirmed such plan,

(ii) the project plan as confirmed on October 4, 1984, included construction or renovation of office buildings, a hotel, a trade mart, theaters, and a subway complex, and

(iii) significant segments of such project were the subject of one or more conditional designations granted by a State or an agency, instrumentality, or political subdivision thereof to one or more developers before January 1, 1985.

The preceding sentence shall apply with respect to a property only to the extent that a building on such property site was identified as part of the project plan before September 26, 1985, and only to the extent that the size of the building on such property site was not substantially increased by reason of a modification to the project plan with respect to such property on or after such date. For purposes of this subparagraph, subsection (b)(2) shall be applied by substituting "January 1, 1998" for "January 1, 1991".

(F) A project is described in this paragraph if it is a sports and entertainment facility which—

(i) is to be used by both a National Hockey League team and a National Basketball Association team;

(ii) is to be constructed on a platform utilizing air rights over land acquired by a State authority and identified as site B in a report dated May 30, 1984, prepared for a State urban development corporation; and

(iii) is eligible for real property tax, and power and energy benefits pursuant to the provisions of State legislation approved and effective July 7, 1982, or

(iv) the mixed-use development is—

(I) to be constructed above a public railroad station utilized by the national railroad passenger corporation and commuter railroads serving two States; and

(II) will include the reconstruction of such station so as to make it a more efficient transportation center and to better integrate the station with the development above, such reconstruction plans to be prepared in cooperation with a State transportation authority.

For purposes of this subparagraph, subsection (b)(2) shall be applied by substituting "January 1, 1993" for the applicable date that would otherwise apply.

(G) A project is described in this subparagraph if—

(i) an inducement resolution was passed on March 9, 1984, for the issuance of obligations with respect to such project,

(ii) such resolution was extended by resolutions passed on August 14, 1984, April 2, 1985, August 13, 1985, and July 8, 1986,

(iii) an application was submitted on January 31, 1984, for an Urban Development Action Grant with respect to such project, and

(iv) an Urban Development Action Grant was preliminarily approved for all or part of such project on July 3, 1986.

(H) A project is described in this subparagraph if it is a redevelopment project, with respect to which $10,000,000 in industrial revenue bonds were approved by a State Development Finance Authority on January 15, 1986, a village transferred approximately $4,000,000 of bond volume authority to the State in June 1986, and a binding Redevelopment Agreement was executed between a city and the development team on July 1, 1986.

(2) CERTAIN PROJECTS GRANTED FERC LICENSES, ETC.—The amendments made by section 201 shall not apply to any property which is part of a project—

(A) which is certified by the Federal Energy Regulatory Commission before March 2, 1986, as a qualifying facility for purposes of the Public Utility Regulatory Policies Act of 1978,

(B) which was granted before March 2, 1986, a hydroelectric license for such project by the Federal Energy Regulatory Commission, or

(C) which is a hydroelectric project of less than 80 megawatts that filed an application for a permit, exemption, or license with the Federal Energy Regulatory Commission before March 2, 1986.

(3) SUPPLY OR SERVICE CONTRACTS.—The amendments made by section 201 shall not apply to any property which is readily identifiable with and necessary to carry out a written supply or service contract, or agreement to lease, which was binding on March 1, 1986.

(4) PROPERTY TREATED UNDER PRIOR TAX ACTS.—The amendments made by section 201 shall not apply to property described in section 12(c)(2) or 31(g)(5) and 31(g)(17)(j) of the Tax Reform Act of 1984, to property described in section 209(d)(1)(B) of the Tax Equity and Fiscal Responsibility Act of 1982, as amended by the Tax Reform Act of 1984 and to property described in section 216(b)(3) of the Tax Equity and Fiscal Responsibility Act of 1982.

(5) SPECIAL RULES FOR PROPERTY INCLUDED IN MASTER PLANS OF INTEGRATED PROJECTS.—The amendments made by section 201 shall not apply to any property placed in service pursuant to a master plan which is clearly identifiable as of March 1, 1986, for any project described in any of the following subparagraphs of this paragraph:

(A) A project is described in this subparagraph if—

(i) the project involves production platforms for offshore drilling, oil and gas pipeline to shore, process and storage facilities, and a marine terminal, and

(ii) at least $900,000,000 of the costs of such project were incurred before September 26, 1985.

(B) A project is described in this subparagraph if—

(i) such project involves a fiber optic network of at least 20,000 miles, and

(ii) before September 26, 1985, construction commenced pursuant to the master plan and at least $85,000,000 was spent on construction.

(C) A project is described in this subparagraph if—

(i) such project passes through at least 10 States and involves intercity communication links (including one or more repeater sites, terminals and junction stations for microwave transmissions, regenerators or fiber optics and other related equipment),

(ii) the lesser of $150,000,000 or 5 percent of the total project cost has been expended, incurred, or committed before March 2, 1986, by one or more taxpayers each of which is a member of the same affiliated group (as defined in section 1504(a)), and

(iii) such project consists of a comprehensive plan for meeting network capacity requirements as encompassed within either:

(I) a November 5, 1985, presentation made to and accepted by the Chairman of the Board and the president of the taxpayer, or

(II) the approvals by the Board of Directors of the parent company of the taxpayer on May 3, 1985, and September 22, 1985, and of the executive committee of said board on December 23, 1985.

(D) A project is described in this subparagraph if—

(i) such project is part of a flat rolled product modernization plan which was initially presented to the Board of Directors of the taxpayer on July 8, 1983,

(ii) such program will be carried out at 3 locations, and

(iii) such project will involve a total estimated minimum capital cost of at least $250,000,000.

(E) A project is described in this subparagraph if the project is being carried out by a corporation engaged in the production of paint, chemicals, fiberglass, and glass, and if—

(i) the project includes a production line which applies a thin coating to glass in the manufacture of energy efficient residential products, if approved by the management committee of the corporation on January 29, 1986,

(ii) the project is a turbogenerator which was approved by the president of such corporation and at least $1,000,000 of the cost of which was incurred or committed before such date,

(iii) the project is a waste-to-energy disposal system which was initially approved by the management committee of the corporation on March 29, 1982, and at

least $5,000,000 of the cost of which was incurred before September 26, 1985,

(iv) the project, which involves the expansion of an existing service facility and the addition of new lab facilities needed to accommodate topcoat and undercoat production needs of a nearby automotive assembly plant, was approved by the corporation's management committee on March 5, 1986, or

(v) the project is part of a facility to consolidate and modernize the silica production of such corporation and the project was approved by the president of such corporation on August 19, 1985.

(F) A project is described in this subparagraph if—

(i) such project involves a port terminal and oil pipeline extending generally from the area of Los Angeles, California, to the area of Midland, Texas, and

(ii) before September 26, 1985, there is a binding contract for dredging and channeling with respect thereto and a management contract with a construction manager for such project.

(G) A project is described in this subparagraph if—

(i) the project is a newspaper printing and distribution plant project with respect to which a contract for the purchase of 8 printing press units and related equipment to be installed in a single press line was entered into on January 8, 1985, and

(ii) the contract price for such units and equipment represents at least 50 percent of the total cost of such project.

(H) A project is described in this subparagraph if it is the second phase of a project involving direct current transmission lines spanning approximately 190 miles from the United States-Canadian border to Ayer, Massachusetts, alternating current transmission lines in Massachusetts from Ayers to Millbury to West Medway, DC-AC converted terminals to Monroe, New Hampshire, and Ayer, Massachusetts, and other related equipment and facilities.

(I) A project is described in this subparagraph if it involves not more than two natural gas-fired combined cycle electric generating units each having a net electrical capability of approximately 233 megawatts, and a sales contract for approximately one-half of the output of the 1st unit was entered into in December 1985.

(J) A project is described in this subparagraph if—

(i) the project involves an automobile manufacturing facility (including equipment and incidental appurtenances) to be located in the United States, and

(ii) either—

(I) the project was the subject of a memorandum of understanding between 2 automobile manufacturers that was signed before September 25, 1985, the automobile manufacturing facility (including equipment and incidental appurtenances) will involve a total estimated cost of approximately $750,000,000, and will have an annual production capacity of approximately 240,000 vehicles or

(II) the Board of Directors of an automobile manufacturer approved a written plan for the conversion of an existing facility to produce a new model of a vehicle currently not produced in the United States, such facility will be placed in service by July 1, 1987, and such Board action occurred in July 1985, with respect to a $523,000,000 expenditure, in June 1983, with respect to a $475,000,000 expenditure, or in July 1984, with respect to a $312,000,000 expenditure.

(K) A project is described in this subparagraph if either—

(i) the project involves a joint venture between a utility company and a paper company for a super calendar paper mill, and at least $50,000,000 were incurred or committed with respect to such project before March 1, 1986, or

(ii) the project involves a paper mill for the manufacture of newsprint (including a cogeneration facility) is generally based on a written design and feasibility study that was completed on December 15, 1981, and will be placed in service before January 1, 1991, or

(iii) the project is undertaken by a Maine corporation and involves the modernization of pulp and paper mills in Millinocket and/or East Millinocket, Maine, or

(iv) the project involves the installation of a paper machine for production of coated publication papers, the modernization of a pulp mill, and the installation of machinery and equipment with respect to related processes, as of December 31, 1985, in excess of $50,000,000 was incurred for the project, as of July 1986, in excess of $150,000,000 was incurred for the project, and the project is located in Pine Bluff, Arkansas, or

(v) involves property of a type described in ADR classes 26.1, 26.2, 25, 00.3 and 00.4 included in a paper plant which will manufacture and distribute tissue, towel or napkin products; is located in Effingham County, Georgia; and is generally based upon a written General Description which was submitted to the Georgia Department of Revenue on or about June 13, 1985.

(L) A project is described in this subparagraph if—

(i) a letter of intent with respect to such project was executed on June 4, 1985, and

(ii) a 5-percent downpayment was made in connection with such project for 2 10-unit press lines and related equipment.

(M) A project is described in this subparagraph if—

(i) the project involves the retrofit of ammonia plants,

(ii) as of March 1, 1986, more than $390,000 had been expended for engineering and equipment, and

(iii) more than $170,000 was expensed in 1985 as a portion of preliminary engineering expense.

(N) A project is described in this subparagraph if the project involves bulkhead intermodal flat cars which are placed in service before January 1, 1987, and either—

(i) more than $2,290,000 of expenditures were made before March 1, 1986, with respect to a project involving up to 300 platforms, or

(ii) more than $95,000 of expenditures were made before March 1, 1986, with respect to a project involving up to 850 platforms.

(O) A project is described in this subparagraph if—

(i) the project involves the production and transportation of oil and gas from a well located north of the Arctic Circle, and

(ii) more than $200,000,000 of cost had been incurred or committed before September 26, 1985.

(P) A project is described in this subparagraph if—

(i) a commitment letter was entered into with a financial institution on January 23, 1986, for the financing of the project,

(ii) the project involves intercity communication links (including microwave and fiber optics communications systems and related property),

(iii) the project consists of communications links between—

(I) Omaha, Nebraska, and Council Bluffs, Iowa,

(II) Waterloo, Iowa and Sioux City, Iowa,

(III) Davenport, Iowa and Springfield, Illinois, and

(iv) the estimated cost of such project is approximately $13,000,000.

(Q) A project is described in this subparagraph if—

(i) such project is a mining modernization project involving mining, transport, and milling operations,

(ii) before September 26, 1985, at least $20,000,000 was expended for engineering studies which were approved by the Board of Directors of the taxpayer on January 27, 1983, and

(iii) such project will involve a total estimated minimum cost of $350,000,000.

(R) A project is described in this subparagraph if—

(i) such project is a dragline acquired in connection with a 3-stage program which began in 1980 to increase production from a coal mine,

(ii) at least $35,000,000 was spent before September 26, 1985, on the 1st 2 stages of the program, and

(iii) at least $4,000,000 was spent to prepare the mine site for the dragline.

(S) A project is described in this subparagraph if—it is a project consisting of a mineral processing facility using a heap leaching system (including waste dumps, low-grade dumps, a leaching area, and mine roads) and if—

(i) convertible subordinated debentures were issued in August 1985, to finance the project,

(ii) construction of the project was authorized by the Board of Directors of the taxpayer on or before December 31, 1985,

(iii) at least $750,000 was paid or incurred with respect to the project on or before December 31, 1985, and

(iv) the project is placed in service on or before December 31, 1986.

(T) A project is described in this subparagraph if it is a plant facility on Alaska's North Slope and—

(i) the approximate cost is $575,000,000 of which approximately $100,000,000 was spent on off-site construction or

(ii) the approximate cost of which is $450,000,000, of which approximately $100,000,000 was spent on off-site construction, more than 50 percent of the project cost was spent prior to December 31, 1985, and which will be placed in service in 1987.

(U) A project is described in this subparagraph if it involves the connecting of existing retail stores in the downtown area of a city to a new covered area, the total project will be 250,000 square feet, a formal Memorandum of Understanding relating to development of the project was executed with the city on July 2, 1986, and the estimated cost of the project is $18,186,424.

(V) A project is described in this subparagraph if it includes a 200,000 square foot office tower, a 200-room hotel, a 300,000 square foot retail center, an 800-space parking facility, the total cost is projected to be $60,000,000, and $1,250,000 was expended with respect to the site before August 25, 1986.

(W) A project is described in this subparagraph if it is a joint use and development project including an integrated hotel, convention center, office, related retail facilities and public mass transportation terminal, and vehicle parking facilities which satisfies the following conditions:

(i) is developed within certain air space rights and upon real property exchanged for such joint use and development project which is owned or acquired by a state department of transportation, a regional mass transit district in a county with a population of at least 5,000,000 and a community redevelopment agency;

(ii) such project affects an existing, approximately 40 acre public mass transportation bus-way terminal facility located adjacent to an interstate highway;

(iii) a memorandum of understanding with respect to such joint use and development project is executed by a state department of transportation, such a county regional mass transit district and a community redevelopment agency on or before December 31, 1986, and

(iv) a major portion of such joint use and development project is placed in service by December 31, 1990.

(X) A project is described in this subparagraph if—

(i) it is an $8,000,000 project to provide advanced control technology for adipic acid at a plant, which was authorized by the company's Board of Directors in October 1985, at December 31, 1985, $1,400,000 was committed and $400,000 expended with respect to such project, or

(ii) it is an $8,300,000 project to achieve compliance with State and Federal regulations for particulates emissions, which was authorized by the company's Board of Directors in December 1985, by March 31, 1986, $250,000 was committed and $250,000 was expended with respect to such project, or

(iii) it is a $22,000,000 project for the retrofit of a plant that makes a raw material for aspartame, which was approved in the company's December 1985 capital budget, if approximately $3,000,000 of the $22,000,000 was spent before August 1, 1986.

(Y) A project is described in this subparagraph if such project passes through at least 9 States and involves an intercity communication link (including multiple repeater sites and junction stations for microwave transmissions and amplifiers for fiber optics); the link from Buffalo to New York/Elizabeth was completed in 1984; the link from Buffalo to Chicago was completed in 1985; and the link from New York to Washington is completed in 1986.

(6) NATURAL GAS PIPELINE.—The amendments made by section 201 shall not apply to any interstate natural gas pipeline (and related equipment) if—

(A) 3 applications for the construction of such pipeline were filed with the Federal Energy Regulatory Commission before November 22, 1985 (and 2 of which were filed before September 26, 1985), and

(B) such pipeline has 1 of its terminal points near Bakersfield, California.

(7) CERTAIN LEASEHOLD IMPROVEMENTS.—The amendments made by section 201 shall not apply to any reasonable leasehold improvements, equipment and furnishings placed in service by a lessee or its affiliates if—

(A) the lessee or an affiliate is the original lessee of each building in which such property is to be used,

(B) such lessee is obligated to lease the building under an agreement to lease entered into before September 26, 1985, and such property is provided for such building, and

(C) such buildings are to serve as world headquarters of the lessee and its affiliates.

For purposes of this paragraph, a corporation is an affiliate of another corporation if both corporations are members of a controlled group of corporations within the meaning of section 1563(a) of the Internal Revenue Code of 1954 without regard to section 1563(b)(2) of such Code. Such lessee shall include a securities firm that meets the requirements of subparagraph (A), except the lessee is obligated to lease the building under a lease entered into on June 18, 1986.

(8) SOLID WASTE DISPOSAL FACILITIES.—The amendments made by section 201, and section 203(c), shall not apply to the taxpayer who originally places in service any qualified solid waste disposal facility (as defined in section 7701(e)(3)(B) of the Internal Revenue Code of 1986) if before March 2, 1986—

(A) there is a binding written contract between a service recipient and a service provider with respect to the operation of such facility to pay for the services to be provided by such facility,

(B) a service recipient or governmental unit (or any entity related to such recipient or unit) made a financial commitment of at least $200,000 for the financing or construction of such facility,

(C) such facility is the Tri-Cities Solid Waste Recovery Project involving Fremont, Newark, and Union City, California, and has received an authority to construct from

the Environmental Protection Agency or from a State or local agency authorized by the Environmental Protection Agency to issue air quality permits under the Clean Air Act.

(9) CERTAIN SUBMERSIBLE DRILLING UNITS.—In the case of a binding contract entered into on October 30, 1984, for the purchase of 6 semi-submersible drilling units at a cost of $425,000,000, such units shall be treated as having an applicable date under subsection 203(b)(2) of January 1, 1991.

(10) WASTEWATER OR SEWAGE TREATMENT FACILITY.—The amendments made by section 201 shall not apply to any property which is part of a wastewater or sewage treatment facility if either—

(A) site preparation for such facility commenced before September 1985, and a parish council approved a service agreement with respect to such facility on December 4, 1985;

(B) a city-parish advertised in September 1985, for bids for construction of secondary treatment improvements for such facility, in May 1985, the city-parish received statements from 16 firms interested in privatizing the wastewater treatment facilities, and the metropolitan council selected a privatizer at its meeting on November 20, 1985, and adopted a resolution authorizing the Mayor to enter into contractual negotiation with the selected privatizer;

(C) the property is part of a wastewater treatment facility with respect to which a binding service agreement between a privatizer and the Western Carolina Regional Sewer Authority with respect to such facility was signed before January 1, 1986; or

(D) such property is part of a wastewater treatment facility (located in Cameron County, Texas, within one mile of the City of Harlingen), an application for a wastewater discharge permit was filed with respect to such facility on December 4, 1985, and a City Commission approved a letter of intent relating to a service agreement with respect to such facility on August 7, 1986; or a wastewater facility (located in Harlingen, Texas) which is a subject of the letter of intent and service agreement described in subparagraph (A)(2) of this paragraph and the design of which was contracted for in a letter of intent dated January 23, 1986.

(11) CERTAIN AIRCRAFT.—The amendments made by section 201 shall not apply to any new aircraft with 19 or fewer passenger seats if—

(A) the aircraft is manufactured in Kansas, Florida, Georgia, or Texas. For purposes of this subparagraph, an aircraft is "manufactured" at the point of its final assembly,

(B) the aircraft was in inventory or in the planned production schedule of the final assembly manufacturer, with orders placed for the engine(s) on or before August 16, 1986, and

(C) the aircraft is purchased or subject to a binding contract on or before December 31, 1986, and is delivered and placed in service by the purchase, before July 1, 1987.

Section 211(d)(2)(B) shall not apply to aircraft which meet the requirements of this subparagraph.

(12) CERTAIN SATELLITES.—The amendments made by section 201 shall not apply to any satellite with respect to which—

(A) on or before January 28, 1986, there was a binding contract to construct or acquire a satellite, and

(i) an agreement to launch was in existence on that date, or

(ii) on or before August 5, 1983, the Federal Communications Commission had authorized the construction and for which the authorized party has a specific although undesignated agreement to launch in existence on January 28, 1986;

(B) by order adopted on July 25, 1985, the Federal Communications Commission granted the taxpayer an orbital slot and authorized the taxpayer to launch and operate 2 satellites with a cost of approximately $300,000,000; or

(C) the International Telecommunications Satellite Organization or the International Maritime Satellite Organization entered into written binding contracts before May 1, 1985.

(13) CERTAIN NONWIRE LINE CELLULAR TELEPHONE SYSTEMS.—The amendments made by section 201 shall not apply to property that is part of a nonwire line system in the Domestic Public Cellular Radio Telecommunications Service for which the Federal Communications Commission has issued a construction permit before September 26, 1985, but only if such property is placed in service before January 1, 1987.

(14) CERTAIN COGENERATION FACILITIES.—The amendments made by section 201 shall not apply to projects consisting of 1 or more facilities for the cogeneration and distribution of electricity and steam or other forms of thermal energy if—

(A) at least $100,000 was paid or incurred with respect to the project before March 1, 1986, a memorandum of understanding was executed on September 13, 1985, and the project is placed in service before January 1, 1989,

(B) at least $500,000 was paid or incurred with respect to the projects before May 6, 1986, the projects involve a 22-megawatt combined cycle gas turbine plant and a 45-megawatt coal waste plant, and applications for qualifying facility status were filed with the Federal Energy Regulatory Commission on March 5, 1986,

(C) the project cost approximates $125,000,000 to $140,000,000 and an application was made to the Federal Energy Regulatory Commission in July 1985,

(D) an inducement resolution for such facility was adopted on September 10, 1985, a development authority was given an inducement date of September 10, 1985, for a loan not to exceed $80,000,000 with respect to such facility, and such facility is expected to have a capacity of approximately 30 megawatts of electric power and 70,000 pounds of steam per hour,

(E) at least $1,000,000 was incurred with respect to the project before May 6, 1986, the project involves a 52-megawatt combined cycle gas turbine plant and a petition was filed with the Connecticut Department of Public Utility Control to approve a power sales agreement with respect to the project on March 27, 1986.

(15) CERTAIN ELECTRIC GENERATING STATIONS.—The amendments made by section 201 shall not apply to a project consisting of a coal-fired electric generating station (including multiple generating units, coal mine equipment, and transmission facilities) if—

(A) a tax-exempt entity will own an equity interest in all property included in the project (except the coal mine equipment), and

(B) at least $72,000 was expended in the acquisition of coal leases, land and water rights, engineering studies, and other development costs before May 6, 1986.

For purposes of this subparagraph, subsection (b)(2) shall be applied by substituting "January 1, 1986" for "January 1, 1991."

(16) SPORTS ARENAS.—

(A) INDOOR SPORTS FACILITY.—The amendments made by section 201 shall not apply to up to $20,000,000 of improvements made by a lessee of any indoor sports facility pursuant to a lease from a State commission granting the right to make limited and specified improvements (including planned seat explanations), if architectural renderings of the project were commissioned and received before December 22, 1985.

(B) METROPOLITAN SPORTS ARENA.—The amendments made by section 201 shall not apply to any property which is part of an arena constructed for professional sports activities in a metropolitan area, provided that such arena is capable of seating no less than 18,000 spectators and a binding contract to incur significant expenditures for its construction was entered into before June 1, 1986.

(17) CERTAIN WASTE-TO-ENERGY FACILITIES.—The amendments made by section 201 shall not apply to 2 agricultural waste-to-energy powerplants (and required transmission facilities), in connection with which a contract to sell 100 megawatts of electricity to a city was executed in October 1984.

(18) CERTAIN COAL-FIRED PLANTS.—The amendments made by section 201 shall not apply to one of three 540 megawatt coal-fired plants that are placed in service after a sale leaseback occurring after January 1, 1986, if—

(A) the Board of Directors of an electric power cooperation authorized the investigation of a sale leaseback of a nuclear generation facility by resolution dated January 22, 1985, and

(B) a loan was extended by the Rural Electrification Administration on February 20, 1986, which contained a covenant with respect to used property leasing from unit II.

(19) CERTAIN RAIL SYSTEMS.—

(A) The amendments made by section 201 shall not apply to a light rail transit system, the approximate cost of which is $235,000,000, if, with respect to which, the board of directors of a corporation (formed in September 1984 for the purpose of developing, financing, and operating the system) authorized a $300,000 expenditure for a feasibility study in April 1985.

(B) The amendments made by section 201 shall not apply to any project for rehabilitation of regional railroad rights of way and properties including grade crossings which was

authorized by the Board of Directors of such company prior to October 1985; and/or was modified, altered or enlarged as a result of termination of company contracts, but approved by said Board of Directors no later than January 30, 1986, and which is in the public interest, and which is subject to binding contracts or substantive commitments by December 31, 1987.

(20) CERTAIN DETERGENT MANUFACTURING FACILITY.—The amendments made by section 201 shall not apply to a laundry detergent manufacturing facility, the approximate cost of which is $13,200,000, with respect to which a project agreement was fully executed on March 17, 1986.

(21) CERTAIN RESOURCE RECOVERY FACILITY.—The amendments made by section 201 shall not apply to any of 3 resource recovery plants, the aggregate cost of which approximates $300,000,000, if an industrial development authority adopted a bond resolution with respect to such facilities on December 17, 1984, and the projects were approved by the department of commerce of a Commonwealth on December 27, 1984.

(22) The amendments made by section 201 shall not apply to a computer and office support center building in Minneapolis, with respect to which the first contract, with an architecture firm, was signed on April 30, 1985, and a construction contract was signed on March 12, 1986.

(23) CERTAIN DISTRICT HEATING AND COOLING FACILITIES.—The amendments made by section 201 shall not apply to pipes, mains, and related equipment included in district heating and cooling facilities, with respect to which the development authority of a State approved the project through an inducement resolution adopted on October 8, 1985, and in connection with which approximately $11,000,000 of tax-exempt bonds are to be issued.

(24) CERTAIN VESSELS.—

(A) CERTAIN OFFSHORE VESSELS.—The amendments made by section 201 shall not apply to any offshore vessel the construction contract for which was signed on February 28, 1986, and the approximate cost of which is $9,000,000.

(B) CERTAIN INLAND RIVER VESSEL.—The amendments made by section 201 shall not apply to a project involving the reconstruction of an inland river vessel docked on the Mississippi River at St. Louis, Missouri, on July 14, 1986, and with respect to which:

(i) the estimated cost of reconstruction is approximately $39,000,000;

(ii) reconstruction was commenced prior to December 1, 1985;

(iii) at least $17,000,000 was expended before December 31, 1985; and

(C) SPECIAL AUTOMOBILE CARRIER VESSELS.—The amendments made by section 201 shall not apply to two new automobile carrier vessels which will cost approximately $47,000,000 and will be constructed by a United States-flag carrier to operate, under the United States-flag and with an American crew, to transport foreign automobiles to the United States, in a case where negotiations for such transportation arrangements commenced in April 1985, formal contract bids were submitted prior to the end of

1985, and definitive transportation contracts were awarded in May 1986.

(D) The amendments made by section 201 shall not apply to a 562-foot passenger cruise ship, which was purchased in 1980 for the purpose of returning the vessel to United States service, the approximate cost of refurbishment of which is approximately $47,000,000.

(25) CERTAIN WOOD ENERGY PROJECTS.—The amendments made by section 201 shall not apply to two wood energy products for which applications with the Federal Energy Regulatory Commission were filed before January 1, 1986, which are described as follows:

(A) a 26.5 megawatt plant in Fresno, California, and

(B) a 26.5 megawatt plant in Rocklin, California.

(26) The amendments made by section 201 shall not apply to property which is a geothermal project of less than 20 megawatts that was certified by the Federal Energy Regulatory Commission on July 14, 1986, as a qualifying small power production facility for purposes of the Public Utility Regulatory Policies Act of 1978 pursuant to an application filed with the Federal Energy Regulatory Commission on April 17, 1986.

(27) CERTAIN ECONOMIC DEVELOPMENT PROJECTS.—The amendments made by section 201 shall not apply to any of the following projects:

(A) A mixed use development on the East River the total cost of which is approximately $400,000,000, with respect to which a letter of intent was executed on January 24, 1984, and with respect to which approximately $2.5 million had been spent by March 1, 1986.

(B) A 356-room hotel, banquet, and conference facility (including 525,000 square feet of office space) the approximate cost of which is $158,000,000, with respect to which a letter of intent was executed on June 1, 1984, and with respect to which an inducement resolution and bond resolution was adopted on August 20, 1985.

(C) Phase 1 of a 4-phase project involving the construction of laboratory space and ground-floor retail space the estimated cost of which is $32,000,000 and with respect to which a memoradum of understanding was made before August 29, 1983.

(D) A project involving the development of a 490,000 square foot mixed-use building at 152 W. 57th Street and 7th Avenue, New York, New York, the estimated cost of which is $100,000,000, and with respect to which a building permit application was filed in May 1986.

(E) A mixed-use project containing a 300 unit, 12-story hotel, garage, two multi-rise office buildings, and also included a park, renovated riverboat, and barge with festival marketplace, the capital outlays for which approximate $68,000,000.

(F) The construction of a three-story office building that will serve as the home office for an insurance group and its affiliated companies, with respect to which a city agreed to transfer its ownership of the land for the project in a Redevelopment Agreement executed on September 18, 1985, once certain conditions are met.

(G) A commercial bank formed under the laws of the State of New York which entered into an agreement on September 5, 1985, to construct its headquarters at 60 Wall Street, New York, New York, with respect to such headquarters.

(H) Any property which is part of a commercial and residential project, the first phase of which is currently under construction, to be developed on land which is the subject of an ordinance passed on July 20, 1981, by the city council of the city in which such land is located, designating such land and the improvements to be placed thereon as a residential-business planned development, which development is being financed in part by the proceeds of industrial development bonds in the amount of $62,000 issued on December 4, 1985.

(28) The amendments made by section 201 shall not apply to an $80,000,000 capital project steel seamless tubular casings minimill and melting facility located in Youngstown, Ohio, which was purchased by the taxpayer in April 1985, and—

(A) the purchase and renovation of which was approved by a committee of the Board of Directors on February 22, 1985, and

(B) as of December 31, 1985, more than $20,000,000 was incurred or committed with respect to the renovation.

(29) The amendments made by section 201 shall not apply to any project for residential rental property if—

(A) an inducement resolution with respect to such project was adopted by the State housing development authority on January 18, 1985, and

(B) such project was the subject of law suits filed on June 22, 1984, and November 21, 1985.

(30) The amendments made by section 201 shall not apply to a 30 megawatt electric generating facility fueled by geothermal and wood waste, the approximate cost of which is $55,000,000, and with respect to which a 30-year power sales contract was executed on March 22, 1985.

(31) The amendments made by section 201 shall not apply to railroad maintenance-of-way equipment, with respect to which a Boston bank entered into a firm binding contract with a major northeastern railroad before March 2, 1986, to finance $10,200,000 of such equipment, if all of the equipment was placed in service before August 1, 1986.

(32) The amendment made by section 201 shall not apply to—

(A) a facility constructed on approximately seven acres of land located on Ogle's Poso Creek Oil field, the primary fuel of which will be bituminous coal from Utah or Wyoming, with respect to which an application for an authority to construct was filed on July 30, 1984, an authority to construct was issued on February 28, 1985, and a prevention of significant deterioration permit application was submitted on June 17, 1985,

(B) a facility constructed on approximately seven acres of land located on Teorco's Jasmin oil field, the primary fuel of which will be bituminous coal from Utah or Wyoming, with respect to which an authority to construct was filed on August 30, 1984, an authority to construct was issued on

May 4, 1985, and a prevention of significant deterioration permit application was submitted on July 3, 1985,

(C) the Mountain View Apartments, in Hadley, Massachusetts,

(D) a facility expected to have a capacity of not less than 65 megawatts of electricity, the steam from which is to be sold to a pulp and paper mill, with respect to which application was made to the Federal Regulatory Commission for certification as a qualified facility on November 1, 1985, and received such certification on January 24, 1986,

(E) $2,200,000 of equipment ordered on January 27, 1986, in connection with a 60,000 square foot plant that was completed in 1983,

(F) a magnetic resonance imaging machine, with respect to which a binding contract to purchase was entered into in April 1986, in connection with the construction of a magnetic resonance imaging clinic with respect to which a Determination of Need certification was obtained from a State Department of Public Health on October 22, 1985, if such property is placed in service before December 31, 1986,

(G) a company located in Salina, Kansas, which has been engaged in the construction of highways and city streets since 1946, but only to the extent of $1,410,000 of investment in new section 38 property,

(H) a $300,000 project undertaken by a small metal finishing company located in Minneapolis, Minnesota, the first parts of which were received and paid for in January 1986, with respect to which the company received Board approval to purchase the largest piece of machinery it has ever ordered in 1985,

(I) A $1,200,000 finishing machine that was purchased on April 2, 1986 and placed into service in September 1986 by a company located in Davenport, Iowa,

(J) A 25 megawatt small power production facility, with respect to which Qualifying Facility status numbered QF86-593-000 was granted on March 5, 1986,

(K) A $600,000,000, 250 megawatt plant placed in service by the Sierra Pacific Power Company,

(L) 128 units of rental housing the Point Gloria Limited Partnership,

(M) Kenosha Harbor, in Kenosha, Wisconsin,

(N) Lakeland Park Phase II, in Baton Rouge, Louisiana,

(O) the Santa Rosa Hotel, in New Orleans, Louisiana,

(P) the Sheraton Baton Rouge, in Baton Rouge, Louisiana,

(Q) $300,000 of equipment placed in service in 1986, in connection with the renovation of the Best Western Townhouse Convention Center in Cedar Rapids, Iowa,

(R) the segment of a nationwide fiber optics telecommunications network placed in service by SouthernNet, the total estimated cost of which is $37,000,000,

(S) two cogeneration facilities, placed in service by the Reading Anthracite Company, costing approximately $110,000,000 each, with respect to which filings were made with the Federal Energy Regulatory Commission on December 31, 1985, and which are located in Pennsylvania,

(T) a fiber optics network placed in service by Kansas City Southern Industries, the total estimated cost of which is $25,000,000,

(U) 3 newly constructed fishing vessels, and one vessel that is overhauled, placed in service by Mid Coast Marine, but only to the extent of $6,700,000 of investment,

(V) $350,000 of equipment acquired in connection with the reopening of a plant in Bristol, Rhode Island, which plant was purchased by Buttonwoods, Ltd., Associates on February 7, 1986,

(W) $4,046,000 of equipment placed in service by Brendle's Incorporated, acquired in connection with a Distribution Center,

(X) a multi-family mixed-use housing project located in a home rule city, the zoning for which was changed to residential business planned development on November 26, 1985, and with respect to which both the home rule city and the State housing finance agency adopted inducement resolutions on December 20, 1985,

(Y) the Myrtle Beach Convention Center, in South Carolina, to the extent of $25,000,000 of investment, and

(Z) railroad cars placed in service by the Pullman Leasing Company, pursuant to an April 3, 1986 purchase order, costing approximately $10,000,000.

(33) The amendments made by section 201 shall not apply to—

(A) $400,000 of equipment placed in service by Super Key Market, if such equipment is placed in service before January 1, 1987,

(B) the Trolley Square project, the total project cost of which is $24,500,000, and the amount of depreciable real property of which is $14,700,000.

(C) a waste-to-energy project in Derry, New Hampshire, costing approximtely $60,000,000,

(D) the City of Los Angeles Co-composting project, the estimated cost of which is $62,000,000, with respect to which, on July 17, 1985, the California Pollution Control Financing Authority issued an initial resolution in the maximum amount of $75,000,000 to finance this project,

(E) the St. Charles, Missouri Mixed-Use Center,

(F) Oxford Place in Tulsa, Oklahoma,

(G) an amount of investment generating $20,000,000 of investment tax credits attributable to property used on the Illinois Diversatech Campus,

(H) $25,000,000 of equipment used in the Melrose Park Engine Plant that is sold and leased back by Navistar,

(I) 80,000 vending machines, for a cost approximating $3,400,000 placed into service by Folz Vending Co.,

(J) a 24 megawatt alternative energy facility placed in service by Peat Products, with respect to which certification by the Federal Energy Regulatory Commission on April 3, 1986, and

(K) Burbank Manors, in Illinois.

(b) SPECIAL RULE FOR CERTAIN PROPERTY.—The provisions of section 168(f)(8) of the Internal Revenue Code of 1954 (as amended by section 209 of the Tax Equity and Fiscal Responsibility Act of 1982) shall continue to apply to any transaction permitted by reason of

section 12(c)(2) of the Tax Reform Act of 1984 or section 209(d)(1)(B) of the Tax Equity and Fiscal Responsibility Act of 1982.

(c) APPLICABLE DATE IN CERTAIN CASES.—

(1) Section 203(b)(2) shall be applied by substituting "January 1, 1992" for January 1, 1991" in the following cases.

(A) in the case of a 2-unit nuclear powered electric generating plant (and equipment and incidental appurtenances), constructed pursuant to contracts entered into by the owner operator of the facility before December 31, 1975, including contracts with the engineer/constructor and the nuclear steam system supplier, such contracts shall be treated as contracts described in section 203(b)(1)(A),

(B) a cogeneration facility with respect to which an application with the Federal Energy Regulatory Commission was filed on August 2, 1985, and approved October 15, 1985.

(C) in the case of a 1,300 megawatt coal-fired steam powered electric generating plant (and related equipment and incidental appurtenances), which the three owners determined in 1984 to convert from nuclear power to coal power and for which more than $600,000,000 had been incurred or committed for construction before September 25, 1985, except that no investment tax credit will be allowable under section 49(d)(3) added by section 211(a) of this Act for any qualified progress expenditures made after December 31, 1990.

(2) Section 203(b)(2) shall be applied by substituting "April 1, 1992" for the applicable date that would otherwise apply, in the case of the second unit of a twin steam electric generating facility and related equipment which was granted a certificate of public convenience and necessity by a public service commission prior to January 1, 1982, if the first unit of the facility was placed in service prior to January 1, 1985, and before September 26, 1985, more than $100,000,000 had been expended toward the construction of the second unit.

(3) Section 203(b)(2) shall be applied by substituting "January 1, 1990," for the applicable date that would otherwise apply in the case of—

(A) new commercial passenger aircraft used by a domestic airline, if a binding contract with respect to such aircraft was entered into before April 1, 1986, and such aircraft has a present class life of 12 years,

(B) a pumped storage hydroelectric project with respect to which an application was made to the Federal Energy Regulatory Commission for a license on February 4, 1974, and license was issued August 1, 1977, the project number of which is 2740,

(C) a facility for the manufacture of an improved particleboard, if—a binding contract to purchase such equipment was executed March 3, 1986, such equipment will be placed in service by January 1, 1988, and such facility is located in or near Moncure, North Carolina, and

(D) a newsprint mill in Pend Oreille county, Washington, costing about $290,000,000.

(4) The amendments made by section 201 shall not apply to a limited amount of the following property or a limited amount of property set forth in submission before September 16, 1986, by the following taxpayers—

(A) Arena project, Michigan,

(B) Campbell Soup Company, Pennsylvania and California,

(C) Overton, Florida,

(D) Legett and Platt,

(E) East Bank Housing Project,

(F) Standard Telephone Company,

(G) Presidential Air,

(H) Ann Arbor Railroad,

(I) Ada, Michigan Cogeneration,

(J) Anchor Store Project, Michigan,

(K) Biogen Power,

(L) $14,000,000 of television transmitting towers placed in service by Media General, Inc., which were subject to binding contracts as of January 21, 1986, and will be placed in service before January 1, 1988,

(M) Hardage Company,

(N) Mesa Airlines,

(O) Yarn-spinning equipment used at Spring Cotton Mills, and

(P) 328 units of low-income housing at Angelus Plaza.

(d) RAILROAD GRADING AND TUNNEL BORES.—

(1) IN GENERAL.—In the case of expenditures for railroad grading and tunnel bores which were incurred by a common carrier by railroad to replace property destroyed in a disaster occurring on or about April 17, 1983, near Thistle, Utah, such expenditures, to the extent not in excess of $15,000,000, shall be treated as recovery property which is 5-year property under section 168 of the Internal Revenue Code of 1954 (as in effect before the amendments made by this Act) and which is placed in service at the time such expenditures were incurred.

(2) BUSINESS INTERRUPTION PROCEEDS.—Business interruption proceeds received for loss of use, revenues, or profits in connection with the disaster described in paragraph (1) and devoted by the taxpayer described in paragraph (1) to the construction of replacement track and related grading and tunnel bore expenditures shall be treated as constituting an amount received from the involuntary conversion of property under section 1033(a)(2) of such Code.

(3) EFFECTIVE DATE.—This subsection shall apply to taxable years ending after April 17, 1983.

(e) TREATMENT OF CERTAIN DISASTER LOSSES.—

(1) IN GENERAL.—In the case of a disaster described in paragraph (2), at the election of the taxpayer, the amendments made by section 201 of this Act—

(A) shall not apply to any property placed in service during 1987 or 1988, or

(B) shall apply to any property placed in service during 1985 or 1986,

which is property to replace property lost, damaged, or destroyed in such disaster.

(2) DISASTER TO WHICH SECTION APPLIES.—This section shall apply to a flood which occurred on November 3 through 7, 1985, and which was declared a natural disaster area by the President of the United States.

Subtitle B—Repeal of Regular Investment Tax Credit

SEC. 211. REPEAL OF REGULAR INVESTMENT TAX CREDIT.

(a) GENERAL RULE.—Subpart E of part IV of subchapter A of chapter 1 (relating to investment tax credit) is amended by adding at the end thereof the following new section:

"SEC. 49. TERMINATION OF REGULAR PERCENTAGE.

"(a) GENERAL RULE.—For purposes of determining the amount of the investment tax credit determined under section 46, the regular percentage shall not apply to any property placed in service after December 31, 1985.

"(b) EXCEPTIONS.—Subject to the provisions of subsections (c) and (d), subsection (a) shall not apply to the following:

"(1) TRANSITION PROPERTY.—Property which is transition property (within the meaning of subsection (e)).

"(2) QUALIFIED PROGRESS EXPENDITURE FOR PERIODS BEFORE JANUARY 1, 1986.—In the case of any taxpayer who has made an election under section 46(d)(6), the portion of the adjusted basis of any progress expenditure property attributable to qualified progress expenditures for periods before January 1, 1986.

"(3) QUALIFIED TIMBER PROPERTY.—The portion of the adjusted basis of qualified timber property which is treated as section 38 property under section 48 (a)(1)(F).

"(c) 35-PERCENT REDUCTION IN CREDIT FOR TAXABLE YEARS AFTER 1986.—

"(1) REDUCTION IN CURRENT YEAR INVESTMENT CREDIT.—Any portion of the current year business credit under section 38(b) for any taxable year beginning after June 30, 1987, which is attributable to the regular investment credit shall be reduced by 35 percent.

"(2) UNEXPIRED CARRYFORWARDS TO 1ST TAXABLE YEAR BEGINNING AFTER JUNE 30, 1987.—Any portion of the business credit carryforward under section 38(a)(1) attributable to the regular investment credit which has not expired as of the close of the taxable year preceding the 1st taxable year of the taxpayer beginning after June 30, 1987, shall be reduced by 35 percent.

"(3) SPECIAL RULE FOR TAXABLE YEARS BEGINNING BEFORE AND ENDING AFTER JULY 1, 1987.—In the case of any taxable year beginning before and ending after July 1, 1987—

"(A) any portion of the current year business credit under section 38(b) for such taxable year, or

"(B) any portion of the business credit carryforward under section 38(a)(1) to such year,

which is attributable to the regular investment credit shall be reduced by the applicable percentage.

"(4) TREATMENT OF DISALLOWED CREDIT.—

"(A) IN GENERAL.—The amount of the reduction of the regular investment credit under paragraphs (1) and (2) shall not be allowed as a credit for any taxable year.

"(B) NO CARRYBACK FOR YEAR STRADDLING JULY 1, 1987; GROSS UP OF CARRYFORWARDS.—The amount of the reduction of the regular investment credit under paragraph (3)—

"(i) may not be carried back to any taxable year, but

"(ii) shall be added to the carryforwards from the taxable year before applying paragraph (2).

"(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means, with respect to a taxable year beginning before and ending after July 1, 1987, the percentage which bears the same ratio to 35 percent as—

"(i) the number of months in such taxable year after June 30, 1987, bears to

"(ii) the number of months in such taxable year.

"(B) REGULAR INVESTMENT CREDIT.—

"(i) IN GENERAL.—The term 'regular investment credit' has the meaning given such term by section 48(o).

"(ii) EXCEPTION FOR TIMBER PROPERTY.—The term 'regular investment credit' shall not include any portion of the regular investment credit which is attributable to section 38 property described in section 48(a)(1)(F).

"(C) PORTION OF CREDITS ATTRIBUTABLE TO REGULAR INVESTMENT CREDIT.—The portion of any current year business credit or business credit carryforward which is attributable to the regular investment credit shall be determined on the basis that the regular investment credit is used first.

"(d) FULL BASIS ADJUSTMENT.—

"(1) IN GENERAL.—In the case of periods after December 31, 1985, section 48(q) (relating to basis adjustment to section 38 property) shall be applied with respect to transaction property—

"(A) by substituting '100 percent' for '50 percent' in paragraph (1), and

"(B) without regard to paragraph (4) thereof (relating to election of reduced credit in lieu of basis adjustment).

"(2) SPECIAL RULE FOR QUALIFIED PROGRESS EXPENDITURES.—If the taxpayer made an election under section 48(q)(4) with respect to any qualified progress expenditures for periods before January 1, 1986—

"(A) paragraph (1) shall not apply to the portion of the adjusted basis attributable to such expenditures, and

"(B) such election shall not apply to such expenditures for periods after December 31, 1985.

"(e) TRANSITION PROPERTY.—For purposes of this section—

"(1) TRANSITION PROPERTY.—The term 'transition property' means any property placed in service after December 31, 1985, and to which the amendments made by section 201 of the Tax Reform Act of 1986 do not apply, except that in making such determination—

"(A) section 203(a)(1)(A) of such Act shall be applied by substituting '1985' for '1986',

"(B) sections 203(b)(1) and 204(a)(3) of such Act shall be applied by substituting 'December 31, 1985' for 'March 1, 1986',

"(C) in the case of transition property with a class life of less than 7 years—

"(i) section 203(b)(2) of such Act shall apply, and

"(ii) in the case of property with a class life—

"(I) of less than 5 years, the applicable date shall be July 1, 1986, and

"(II) at least 5 years, but less than 7 years, the applicable date shall be January 1, 1987, and

"(D) section 203(b)(3) shall be applied by substituting '1986' for '1987'.

"(2) TREATMENT OF PROGRESS EXPENDITURES.—No progress expenditures for periods after December 31, 1985, with respect to any property shall be taken into account for purposes of applying the regular percentage unless it is reasonable to expect that such property will be transition property when placed in service. If any progress expenditures are taken into account by reason of the preceding sentence and subsequently there is not a reasonable expectation that such property would be transition property when placed in service, the credits attributable to progress expenditures with respect to such property shall be recaptured under section 47."

(b) NORMALIZATION RULES.—If, for any taxable year beginning after December 31, 1985, the requirements of paragraph (1) or (2) of section 46(f) of the Internal Revenue Code of 1986 are not met with respect to public utility property to which the regular percentage applied for purposes of determining the amount of the investment tax credit—

(1) all credits for open taxable years as of the time of the final determination referred to in section 46(f)(4)(A) of such Code shall be recaptured, and

(2) if the amount of the taxpayer's unamortized credits (or the credits not previously restored to rate base) with respect to such property (whether or not for open years) exceeds the amount referred to in paragraph (1), the taxpayer's tax for the taxable year shall be increased by the amount of such excess.

If any portion of the excess described in paragraph (2) is attributable to a credit which is allowable as a carryover to a taxable year beginning after December 31, 1985, in lieu of applying paragraph (2) with respect to such portion, the amount of such carryover shall be reduced by the amount of such portion. Rules similar to the rules of this subsection shall apply in the case of any property with respect to which the requirements of section 46(f)(9) of such Code are met.

(c) CONFORMING AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 49. Termination of regular percentage."

(d) EXCEPTION FOR CERTAIN AIRCRAFT USED IN ALASKA.—

(1) The amendments made by subsection (a) shall not apply to property originally placed in service after December 29, 1982, and before August 1, 1985, by a corporation incorporated in Alaska on May 21, 1953, and used by it—

(A) in part, for the transportation of mail for the United States Postal Service in the State of Alaska, and

(B) in part, to provide air service in the State of Alaska on routes which had previously been served by an air carrier that received compensation from the Civil Aeronautics Board for providing service.

(2) In the case of property described in subparagraph (A)—

(A) such property shall be treated as recovery property described in section 208(d)(5) of the Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA");

(B) "48 months" shall be substituted for "3 months" each place it appears in applying—

(i) section 48(b)(2)(B) of the Code, and

(ii) section 168(f)(8)(D) of the Code (as in effect after the amendments made by the Technical Corrections Act of 1982 but before the amendments made by TEFRA); and

(C) the limitation of section 168(f)(8)(D)(ii)(III) (as then in effect) shall be read by substituting "the lessee's original cost basis.", for "the adjusted basis of the lessee at the time of the lease.".

(3) The aggregate amount of property to which this paragraph shall apply shall not exceed $60,000,000.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to property placed in service after December 31, 1985, in taxable years ending after such date.

(2) EXCEPTIONS FOR CERTAIN FILMS.—For purposes of determining whether any property is transition property within the meaning of section 49(e) of the Internal Revenue Code of 1986—

(A) in the case of any motion picture or television film, construction shall be treated as including production for purposes of section 203(b)(1) of this Act, and written contemporary evidence of an agreement (in accordance with industry practice) shall be treated as a written binding contract for such purposes,

(B) in the case of any television film, a license agreement or agreement for production services between a television network and a producer shall be treated as a binding contract for purposes of section 203(b)(1)(A) of this Act, and

(C) a motion picture film shall be treated as described in section 203(b)(1)(A) of this Act if—

(i) funds were raised pursuant to a public offering before September 26, 1985, for the production of such film,

(ii) 40 percent of the funds raised pursuant to such public offering are being spent on films the production of which commenced before such date, and

(iii) all of the films funded by such public offering are required to be distributed pursuant to distribution agreements entered into before September 26, 1985.

(3) NORMALIZATION RULES.—The provisions of subsection (b) shall apply to any violation of the normalization requirements under paragraph (1) or (2) of section 46(f) of the Internal Revenue Code of 1986 occurring in taxable years ending after December 31, 1985.

(4) ADDITIONAL EXCEPTIONS.—

(A) Paragraphs (c) and (d) of section 49 of the Internal Revenue Code of 1954 shall not apply to any continuous caster facility for slabs and blooms which is subject to a lease and which is part of a project the second phase of which is a continuous slab caster which was placed in service before December 31, 1935.

(B) For purposes of determining whether an automobile manufacturing facility (including equipment and incidental appurtenances) is transition property within the meaning of section 49(e), property with respect to which the Board of Directors of an automobile manufacturer formally approved the plan for the project on January 7, 1985 shall be treated as transition property, but only with respect to $70,000,000 of regular investment tax credits.

SEC. 212. EFFECTIVE 15-YEAR CARRYBACK OF EXISTING CARRYFORWARDS OF STEEL COMPANIES.

(a) GENERAL RULE.—If a qualified corporation makes an election under this section for its 1st taxable year beginning after December 31, 1986, with respect to any portion of its existing carryforwards, the amount determined under subsection (b) shall be treated as a payment against the tax imposed by chapter 1 of the Internal Revenue Code of 1986 made by such corporation on the last day prescribed by law (without regard to extensions) for filing its return of tax under chapter 1 of such Code for such 1st taxable year.

(b) AMOUNT.—For purposes of subsection (a), the amount determined under this subsection shall be the lesser of—

(1) 50 percent of the portion of the corporation's existing carryforwards to which the election under subsection (a) applies, or

(2) the corporation's net tax liability for the carryback period.

(c) CORPORATION MAKING ELECTION MAY NOT USE SAME AMOUNTS UNDER SECTION 38.—In the case of a qualified corporation which makes an election under subsection (a), the portion of such corporation's existing carryforwards to which such an election applies shall not be taken into account under section 38 of the Internal Revenue Code of 1986 for any taxable year beginning after December 31, 1986.

(d) NET TAX LIABILITY FOR CARRYBACK PERIOD.—For purposes of this section—

(1) IN GENERAL.—A corporation's net tax liability for the carryback period is the aggregate of such corporation's net tax liability for taxable years in the carryback period.

(2) NET TAX LIABILITY.—The term "net tax liability" means, with respect to any taxable year, the amount of the tax imposed by chapter 1 of the Internal Revenue Code of 1954 for such taxable year, reduced by the sum of the credits allowable under part IV of subchapter A of such chapter 1 (other than section 34 thereof). For purposes of the preceding sentence, any tax treated as not imposed by chapter 1 of such Code under section 26(b)(2) of such Code shall not be treated as tax imposed by such chapter 1.

(3) CARRYBACK PERIOD.—The term "carryback period" means the period—

(A) which begins with the corporation's 15th taxable year preceding the 1st taxable year from which there is an unused credit included in such corporation's existing carryforwards (but in no event shall such period begin before the corporation's 1st taxable year ending after December 31, 1961), and

(B) which ends with the corporation's last taxable year beginning before January 1, 1986.

(e) NO RECOMPUTATION OF MINIMUM TAX, ETC.—Nothing in this section shall be construed to affect—

(1) the amount of the tax imposed by section 56 of the Internal Revenue Code of 1986, or

(2) the amount of any credit allowable under such Code, for any taxable year in the carryback period.

(f) REINVESTMENT REQUIREMENT.—

(1) IN GENERAL.—Any amount determined under this section must be committed to reinvestment in, and modernization of the steel industry through investment in modern plant and equipment, research and development, and other appropriate projects, such as working capital for steel operations and programs for the retraining of steel workers.

(2) GENERAL RULE.—If this section applies to LTV Corporation, then, in lieu of the requirements of paragraph (1)—

(A) such corporation shall place such refund in a separate account; and

(B) amounts in such separate account—

(i) shall only be used by the corporation—

(I) to purchase an insurance policy which provides that, in the event the corporation becomes involved in a title 11 or similar case (as defined in section 368(a)(3)(A) of the Internal Revenue Code of 1954), the insurer will provide life and health insurance coverage during the 1-year period beginning on the date such involvement begins to any individual with respect to whom the corporation would (but for such involvement) have been obligated to provide such coverage the coverage provided by the insurer will be identical to the coverage which the corporation would (but for such involvement) have been obligated to provide, and provides that the payment of insurance premiums will not be required during such 1-year period to keep such policy in force, or

(II) directly in connection with the trade or business of the corporation in the manufacturer or production of steel; and

(ii) shall be used (or obligated) for purposes described in clause (i) not later than 3 months after the corporation receives the refund.

(g) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED CORPORATION.—

(A) IN GENERAL.—The term "qualified corporation" means any corporation which is described in section 806(b) of the Steel Import Stabilization Act and a company which was incorporated on February 11, 1983, in Michigan.

(B) CERTAIN PREDECESSORS INCLUDED.—In the case of any qualified corporation which has carryforward attributable to a predecessor corporation described in such section 806(b), the qualified corporation and the predecessor corporation shall be treated as 1 corporation for purposes of subsections (d) and (e).

(2) EXISTING CARRYFORWARDS.—The term "existing carryforward" means the aggregate of the amounts which—

(A) are unused business credit carryforwards to the taxpayer's 1st taxable year beginning after December 31, 1986

(determined without regard to the limitations of section 38(c) and any reduction under section 49 of the Internal Revenue Code of 1986), and

(B) are attributable to the amount of the regular investment credit determined under section 46(a)(1) of such Code (relating to regular percentage), or any corresponding provision of prior law, determined on the basis that the regular investment credit was used first.

SEC. 213. EFFECTIVE 15-YEAR CARRYBACK OF EXISTING CARRYFORWARDS OF QUALIFIED FARMERS.

(a) GENERAL RULE.—If a taxpayer who is a qualified farmer makes an election under this section for its 1st taxable year beginning after December 31, 1986, with respect to any portion of its existing carryforwards, the amount determined under subsection (b) shall be treated as a payment against the tax imposed by chapter 1 of the Internal Revenue Code of 1986 made by such taxpayer on the last day prescribed by law (without regard to extensions) for filing its return of tax under chapter 1 of such Code for such 1st taxable year.

(b) AMOUNT.—For purposes of subsection (a), the amount determined under this subsection shall be equal to the smallest of—

(1) 50 percent of the portion of the taxpayer's existing carryforwards to which the election under subsection (a) applies,

(2) the taxpayer's net tax liability for the carryback period (within the meaning of section 212(d) of this Act), or

(3) $750.

(c) TAXPAYER MAKING ELECTION MAY NOT USE SAME AMOUNTS UNDER SECTION 38.—In the case of a qualified farmer who makes an election under subsection (a), the portion of such farmer's existing carryforwards to which such an election applies shall not be taken into account under section 38 of the Internal Revenue Code of 1986 for any taxable year beginning after December 31, 1986.

(d) NO RECOMPUTATION OF MINIMUM TAX, ETC.—Nothing in this section shall be construed to affect—

(1) the amount of the tax imposed by section 56 of the Internal Revenue Code of 1954, or

(2) the amount of any credit allowable under such Code, for any taxable year in the carryback period (within the meaning of section 212(d)(3) of this Act).

(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) QUALIFIED FARMER.—The term "qualified farmer" means any taxpayer who, during the 3-taxable year period preceding the taxable year for which an election is made under subsection (a), derived 50 percent or more of the taxpayer's gross income from the trade or business of farming.

(2) EXISTING CARRYFORWARD.—The term "existing carryforward" means the aggregate of the amounts which—

(A) are unused business credit carryforwards to the taxpayer's 1st taxable year beginning after December 31, 1986 (determined without regard to the limitations of section 38(c) of the Internal Revenue Code of 1986), and

(B) are attributable to the amount of the investment credit determined under section 46(a) of such Code (or any corresponding provision of prior law) with respect to section 38 property which was used by the taxpayer in the trade or

business of farming, determined on the basis that such credit was used first.

(3) FARMING.—The term "farming" has the meaning given such term by section 2032A(e) (4) and (5) of such Code.

Subtitle C—General Business Credit Reduction

SEC. 221. REDUCTION IN TAX LIABILITY WHICH MAY BE OFFSET BY BUSINESS CREDIT FROM 85 PERCENT TO 75 PERCENT.

(a) IN GENERAL.—Subparagraph (B) of section 38(c)(1) (relating to limitation based on amount of tax) is amended by striking out "85 percent" and inserting in lieu thereof "75 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

Subtitle D—Research and Development Provisions

SEC. 231. AMENDMENTS RELATING TO CREDIT FOR INCREASING RESEARCH ACTIVITIES.

(a) 3-YEAR EXTENSION OF THE RESEARCH CREDIT.—

(1) IN GENERAL.—Section 30 (relating to credit for increasing research activities) is amended by adding at the end thereof the following new subsection:

"(h) TERMINATION.—

"(1) IN GENERAL.—This section shall not apply to any amount paid or incurred after December 31, 1988.

"(2) COMPUTATION OF BASE PERIOD EXPENSES.—In the case of any taxable year which begins before January 1, 1989, and ends after December 31, 1988, any amount for any base period with respect to such taxable year shall be the amount which bears the same ratio to such amount for such base period as the number of days in such taxable year before January 1, 1989, bears to the total number of days in such taxable year."

(2) CONFORMING AMENDMENT.—Subsection (d) of section 221 of the Economic Recovery Tax Act of 1981 is amended—

(A) by striking out ", and before January 1, 1986" in paragraph (1), and

(B) by striking out the last sentence of paragraph (2)(A).

(b) DEFINITION OF QUALIFIED RESEARCH; CERTAIN RESEARCH NOT ELIGIBLE FOR CREDIT.—Subsection (d) of section 30 (defining qualified research) is amended to read as follows:

"(d) QUALIFIED RESEARCH DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified research' means research—

"(A) with respect to which expenditures may be treated as expenses under section 174,

"(B) which is undertaken for the purpose of discovering information—

"(i) which is technological in nature, and

"(ii) the application of which is intended to be useful in the development of a new or improved business component of the taxpayer, and

"(C) substantially all of the activities of which constitute elements of a process of experimentation for a purpose described in paragraph (3).

Such term does not include any activity described in paragraph (4).

"(2) TESTS TO BE APPLIED SEPARATELY TO EACH BUSINESS COMPONENT.—For purposes of this subsection—

"(A) IN GENERAL.—Paragraph (1) shall be applied separately with respect to each business component of the taxpayer.

"(B) BUSINESS COMPONENT DEFINED.—The term 'business component' means any product, process, computer software, technique, formula, or invention which is to be—

"(i) held for sale, lease, or license, or

"(ii) used by the taxpayer in a trade or business of the taxpayer.

"(C) SPECIAL RULE FOR PRODUCTION PROCESSES.—Any plant process, machinery, or technique for commercial production of a business component shall be treated as a separate business component (and not as part of the business component being produced).

"(3) PURPOSES FOR WHICH RESEARCH MAY QUALIFY FOR CREDIT.—For purposes of paragraph (1)(C)—

"(A) IN GENERAL.—Research shall be treated as conducted for a purpose described in this paragraph if it relates to—

"(i) a new or improved function,

"(ii) performance, or

"(iii) reliability or quality.

"(B) CERTAIN PURPOSES NOT QUALIFIED.—Research shall in no event be treated as conducted for a purpose described in this paragraph if it relates to style, taste, cosmetic, or seasonal design factors.

"(4) ACTIVITIES FOR WHICH CREDIT NOT ALLOWED.—The term 'qualified research' shall not include any of the following:

"(A) RESEARCH AFTER COMMERCIAL PRODUCTION.—Any research conducted after the beginning of commercial production of the business component.

"(B) ADAPTATION OF EXISTING BUSINESS COMPONENTS.—Any research related to the adaptation of an existing business component to a particular customer's requirement or need.

"(C) DUPLICATION OF EXISTING BUSINESS COMPONENT.—Any research related to the reproduction of an existing business component (in whole or in part) from a physical examination of the business component itself or from plans, blueprints, detailed specifications, or publicly available information with respect to such business component.

"(D) SURVEYS, STUDIES, ETC.—Any—

"(i) efficiency survey,

"(ii) activity relating to management function or technique,

"(iii) market research, testing, or development (including advertising or promotions),

"(iv) routine data collection, or

"(v) routine or ordinary testing or inspection for quality control.

"(E) COMPUTER SOFTWARE.—Except to the extent provided in regulations, any research with respect to computer software which is developed by (or for the benefit of) the taxpayer primarily for internal use by the taxpayer, other than for use in—

"(i) an activity which constitutes qualified research (determined with regard to this subparagraph), or

"(ii) a production process with respect to which the requirements of paragraph (1) are met.

"(F) FOREIGN RESEARCH.—Any research conducted outside the United States.

"(G) SOCIAL SCIENCES, ETC.—Any research in the social sciences, arts, or humanities.

"(H) FUNDED RESEARCH.—Any research to the extent funded by any grant, contract, or otherwise by another person (or governmental entity)."

(c) REDUCTION IN CREDIT; CREDIT FOR BASIC RESEARCH PAYMENTS TO QUALIFIED ORGANIZATIONS.—

(1) IN GENERAL.—Subsection (a) of section 30 is amended to read as follows:

"(a) GENERAL RULE.—For purposes of section 38, the research credit determined under this section for the taxable year shall be an amount equal to the sum of—

"(1) 20 percent of the excess (if any) of—

"(A) the qualified research expenses for the taxable year, over

"(B) the base period research expenses, and

"(2) 20 percent of the basic research payments determined under subsection (e)(1)(A)."

(2) DEFINITIONS AND SPECIAL RULES RELATING TO PAYMENTS FOR BASIC RESEARCH.—Subsection (e) of section 30 (relating to credit available with respect to certain basic research by colleges, universities, and certain research organizations) is amended to read as follows:

"(e) CREDIT ALLOWABLE WITH RESPECT TO CERTAIN PAYMENTS TO QUALIFIED ORGANIZATIONS FOR BASIC RESEARCH.—For purposes of this section—

"(1) IN GENERAL.—In the case of any taxpayer who makes basic research payments for any taxable year—

"(A) the amount of basic research payments taken into account under subsection (a)(2) shall be equal to the excess of—

"(i) such basic research payments, over

"(ii) the qualified organization base period amount, and

"(B) that portion of such basic research payments which does not exceed the qualified organization base period amount shall be treated as contract research expenses for purposes of subsection (a)(1).

"(2) BASIC RESEARCH PAYMENTS DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'basic research payment' means, with respect to any taxable year, any amount paid in cash during such taxable year by a corporation to any qualified organization for basic research but only if—

"(i) such payment is pursuant to a written agreement between such corporation and such qualified organization, and

"(ii) such basic research is to be performed by such qualified organization.

"(B) EXCEPTION TO REQUIREMENT THAT RESEARCH BE PERFORMED BY THE ORGANIZATION.—In the case of a qualified organization described in subparagraph (C) or (D) of paragraph (6), clause (ii) of subparagraph (A) shall not apply.

"(3) QUALIFIED ORGANIZATION BASE PERIOD AMOUNT.—For purposes of this subsection, the term 'qualified organization base period amount' means an amount equal to the sum of—

"(A) the minimum basic research amount, plus

"(B) the maintenance-of-effort amount.

"(4) MINIMUM BASIC RESEARCH AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'minimum basic research amount' means an amount equal to the greater of—

"(i) 1 percent of the average of the sum of amounts paid or incurred during the base period for—

"(I) any in-house research expenses, and

"(II) any contract research expenses, or

"(ii) the amounts treated as contract research expenses during the base period by reason of this subsection (as in effect during the base period).

"(B) FLOOR AMOUNT.—Except in the case of a taxpayer which was in existence during a taxable year (other than a short taxable year) in the base period, the minimum basic research amount for any base period shall not be less than 50 percent of the basic research payments for the taxable year for which a determination is being made under this subsection.

"(5) MAINTENANCE-OF-EFFORT AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'maintenance-of-effort amount' means, with respect to any taxable year, an amount equal to the excess (if any) of—

"(i) an amount equal to—

"(I) the average of the nondesignated university contributions paid by the taxpayer during the base period, multiplied by

"(II) the cost-of-living adjustment for the calendar year in which such taxable year begins, over

"(ii) the amount of nondesignated university contributions paid by the taxpayer during such taxable year.

"(B) NONDESIGNATED UNIVERSITY CONTRIBUTIONS.—For purposes of this paragraph, the term 'nondesignated university contribution' means any amount paid by a taxpayer to any qualified organization described in paragraph (6)(A)—

"(i) for which a deduction was allowable under section 170, and

"(ii) which was not taken into account—

"(I) in computing the amount of the credit under this section (as in effect during the base period) during any taxable year in the base period, or

"(II) as a basic research payment for purposes of this section.

"(C) COST-OF-LIVING ADJUSTMENT DEFINED.—

"(i) IN GENERAL.—The cost-of-living adjustment for any calendar year is the cost-of-living adjustment for such calendar year determined under section 1(f)(3).

"(ii) SPECIAL RULE WHERE BASE PERIOD ENDS IN A CALENDAR YEAR OTHER THAN 1983 OR 1984.—If the base period of any taxpayer does not end in 1983 or 1984, section 1(f)(3)(B) shall, for purposes of this paragraph, be applied by substituting the calendar year in which such base period ends for 1987.

"(6) QUALIFIED ORGANIZATION.—For purposes of this subsection, the term 'qualified organization' means any of the following organizations:

"(A) EDUCATIONAL INSTITUTIONS.—Any educational organization which—

"(i) is an institution of higher education (within the meaning of section 3304(f)), and

"(ii) is described in section 170(b)(1)(A)(ii).

"(B) CERTAIN SCIENTIFIC RESEARCH ORGANIZATIONS.—Any organization not described in subparagraph (A) which—

"(i) is described in section 501(c)(3) and is exempt from tax under section 501(a),

"(ii) is organized and operated primarily to conduct scientific research, and

"(iii) is not a private foundation.

"(C) SCIENTIFIC TAX-EXEMPT ORGANIZATIONS.—Any organization which—

"(i) is described in—

"(I) section 501(c)(3) (other than a private foundation), or

"(II) section 501(c)(6),

"(ii) is exempt from tax under section 501(a),

"(iii) is organized and operated primarily to promote scientific research by qualified organizations described in subparagraph (A) pursuant to written research agreements, and

"(iv) currently expends—

"(I) substantially all of its funds, or

"(II) substantially all of the basic research payments received by it,

for grants to, or contracts for basic research with, an organization described in subparagraph (A).

"(D) CERTAIN GRANT ORGANIZATIONS.—Any organization not described in subparagraph (B) or (C) which—

"(i) is described in section 501(c)(3) and is exempt from tax under section 501(a) (other than a private foundation),

"(ii) is established and maintained by an organization established before July 10, 1981, which meets the requirements of clause (i),

"(iii) is organized and operated exclusively for the purpose of making grants to organizations described in subparagraph (A) pursuant to written research agreements for purposes of basic research, and

"(iv) makes an election, revocable only with the consent of the Secretary, to be treated as a private foundation for purposes of this title (other than section 4940, relating to excise tax based on investment income).

"(7) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) BASIC RESEARCH.—The term 'basic research' means any original investigation for the advancement of scientific knowledge not having a specific commercial objective, except that such term shall not include—

"(i) basic research conducted outside of the United States, and

"(ii) basic research in the social sciences, arts, or humanities.

"(B) BASE PERIOD.—The term 'base period' means the 3-taxable-year period ending with the taxable year immediately preceding the 1st taxable year of the taxpayer beginning after December 31, 1983.

"(C) EXCLUSION FROM INCREMENTAL CREDIT CALCULATION.—For purposes of determining the amount of credit allowable under subsection (a)(1) for any taxable year, the amount of the basic research payments taken into account under subsection (a)(2)—

"(i) shall not be treated as qualified research expenses under subsection (a)(1)(A), and

"(ii) shall not be included in the computation of base period research expenses under subsection (a)(1)(B).

"(D) TRADE OR BUSINESS QUALIFICATION.—For purposes of applying subsection (b)(1) to this subsection, any basic research payments shall be treated as an amount paid in carrying on a trade or business of the taxpayer in the taxable year in which it is paid (without regard to the provisions of subsection (b)(3)(B)).

"(E) CERTAIN CORPORATIONS NOT ELIGIBLE.—The term 'corporation' shall not include—

"(i) an S corporation,

"(ii) a personal holding company (as defined in section 542), or

"(iii) a service organization (as defined in section 414(m)(3))."

(d) RESEARCH CREDIT TREATED AS OTHER BUSINESS CREDITS.—

(1) IN GENERAL.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking out "plus" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", plus", and by adding at the end thereof the following new paragraph:

"(4) the research credit determined under section 41(a)."

(2) TRANSFER OF RESEARCH CREDIT TO SUBPART RELATING TO BUSINESS CREDITS.—Section 30 (relating to credit for increasing research activities) is hereby transferred to subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (as amended by this Act), inserted after section 40 of such Code, and redesignated as section 41 of such Code.

(3) TECHNICAL AND CONFORMING AMENDMENTS.—

(A)(i) Subsections (b) and (c) of section 28 are each amended by striking out "section 30" each place it appears and inserting in lieu thereof "section 41".

(ii) Paragraph (2) of section 28(c) is amended by striking out "section 30(b)" and inserting in lieu thereof "section 41(b)".

(iii) Paragraph (4) of section 28(d) is amended by striking out "section 30(f)" and inserting in lieu thereof "section 41(f)".

(iv) Subparagraph (D) of section 28(b)(1) is amended by striking out "1985" and inserting in lieu thereof "1988".

(B) Subsection (d) of section 38, as amended by this Act, is amended by inserting "41(a)," after "40(a),".

(C)(i) Subsection (d) of section 39 (relating to carryback and carry forward of unused credits) is amended by adding at the end thereof the following new paragraph:

"(3) SIMILAR RULES FOR RESEARCH CREDIT.—Rules similar to the rules of paragraphs (1) and (2) shall apply to the credit allowable under section 30 (as in effect before the date of the enactment of the Tax Reform Act of 1986) except that—

"(A) 'December 31, 1985' shall be substituted for 'December 31, 1983' each place it appears, and

"(B) 'January 1, 1986' shall be substituted for 'January 1, 1984'."

(ii) Subsection (g) of section 41 (relating to limitation based on amount of tax), as redesignated by this section, is amended to read as follows:

"(g) SPECIAL RULE FOR PASS-THRU OF CREDIT.—In the case of an individual who—

"(1) owns an interest in an unincorporated trade or business,

"(2) is a partner in a partnership,

"(3) is a beneficiary of an estate or trust, or

"(4) is a shareholder in an S corporation,

the amount determined under subsection (a) for any taxable year shall not exceed an amount (separately computed with respect to such person's interest in such trade or business or entity) equal to the amount of tax attributable to that portion of a person's taxable income which is allocable or apportionable to the person's interest in such trade or business or entity."

(D) Subparagraph (B) of section 108(b)(2) (relating to reduction of tax attributes in title 11 case or insolvency), as amended by this Act, is amended to read as follows:

"(B) GENERAL BUSINESS CREDIT.—Any carryover to or from the taxable year of a discharge of an amount for purposes for determining the amount allowable as a credit under section 38 (relating to general business credit)."

(E) Paragraph (3) of section 280C(b) is amended—

(i) by striking out "section 30(f)(5)" and inserting in lieu thereof "section 41(f)(5)",

(ii) by striking out "section 30(f)(1)(B)" and inserting in lieu thereof "section 41(f)(1)(B)", and

(iii) by striking out "section 30(f)(1)" and inserting in lieu thereof "section 41(f)(1)".

(F) Subsection (c) of section 381 is amended by striking out paragraph (25) and by redesignating paragraph (26) as paragraph (25).

(G) Section 936(h)(5)(C)(i)(I)(a) (defining product area research) is amended by striking out "section 30(b)" and inserting in lieu thereof "section 41(b)".

(H) Section 6411 (relating to tentative carryback and refund adjustments) is amended—

(i) by striking out "by a research credit carryback provided in section 30(g)(2)" in subsection (a),

(ii) by striking out "a research credit carryback or" in subsection (a),

(iii) by striking out "(or, with respect to any portion of a business credit carryback attributable to a research credit carryback from a subsequent taxable year within a period of 12 months from the end of such subsequent taxable year)" in subsection (a), and

(iv) by striking out "unused research credit," each place it appears in subsections (a) and (b).

(I) Subparagraph (C) of section 6511(d)(6) (defining credit carryback) is amended by striking out "and any research credit carryback under section 30(g)(2)".

(J) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 30.

(K) The table of sections for subpart D of such part is amended by inserting after the item relating to section 40 the following new item:

"Sec. 41. Credit for increasing research activities."

(e) DENIAL OF CREDIT WITH RESPECT TO AMOUNTS FOR CERTAIN LEASED PERSONAL PROPERTY.—Clause (iii) of section 41(b)(2)(A) (defining in-house research expenses), as redesignated by subsection (d), is amended to read as follows:

"(iii) under regulations prescribed by the Secretary, any amount paid or incurred to another person for the right to use computers in the conduct of qualified research."

(f) DEDUCTION FOR CERTAIN CONTRIBUTIONS OF SCIENTIFIC RESEARCH PROPERTY.—Clause (i) of section 170(e)(4)(B) (relating to special rule for contributions of scientific property used for research) is amended to read as follows:

"(i) the contribution is to an organization described in subparagraph (A) or subparagraph (B) of section 41(e)(6),".

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) SUBSECTION (a).—The amendments made by subsection (a) shall apply to taxable years ending after December 31, 1985.

(3) BASIC RESEARCH.—Section 41(a)(2) of the Internal Revenue Code of 1986 (as added by this section), and the amendments made by subsection (c)(2), shall apply to taxable years beginning after December 31, 1986.

SEC. 232. EXTENSION OF CREDIT FOR CLINICAL TESTING EXPENSES FOR CERTAIN DRUGS.

Subsection (e) of section 28 (relating to termination) is amended by striking out "1987" and inserting in lieu thereof "1990".

Subtitle E—Changes in Certain Amortization Provisions

SEC. 241. REPEAL OF 5-YEAR AMORTIZATION OF TRADEMARK AND TRADE NAME EXPENDITURES.

(a) IN GENERAL.—Section 177 (relating to trademark and trade name expenditures) is hereby repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 312(n) is amended by striking out ", 177,".

(2) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking out paragraph (16) and by redesignating paragraphs (17) through (27) as paragraphs (16) through (26), respectively.

(3) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 177.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to expenditures paid or incurred after December 31, 1986.

(2) TRANSITIONAL RULE.—The amendments made by this section shall not apply to any expenditure incurred—

(A) pursuant to a binding contract entered into before March 2, 1986, or

(B) with respect to the development, protection, expansion, registration, or defense of a trademark or trade name commenced before March 2, 1986, but only if not less than the lesser of $1,000,000 or 5 percent of the aggregate cost of such development, protection, expansion, registration, or defense has been incurred or committed before such date.

The preceding sentence shall not apply to any expenditure with respect to a trademark or trade name placed in service after December 31, 1987.

SEC. 242. REPEAL OF AMORTIZATION OF RAILROAD GRADING AND TUNNEL BORES.

(a) IN GENERAL.—Section 185 (relating to amortization of railroad grading and tunnel bores) is hereby repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 1082(a)(2) is amended by striking out ", 185,".

(2) Paragraph (3) of section 1250(b) (defining additional depreciation) is amended by inserting "(as in effect before its repeal by the Tax Reform Act of 1986)" after "185".

(3) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 185.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to that portion of the basis of any property which is attributable to expenditures paid or incurred after December 31, 1986.

(2) TRANSITIONAL RULE.—The amendments made by this section shall not apply to any expenditure incurred—

(A) pursuant to a binding contract entered into before March 2, 1986, or

(B) with respect to any improvement commenced before March 2, 1986, but only if not less than the lesser of $1,000,000 or 5 percent of the aggregate cost of such improvement has been incurred or committed before such date.

The preceding sentence shall not apply to any expenditure with respect to an improvement placed in service after December 31, 1987.

SEC. 243. DEDUCTION FOR BUS AND FREIGHT FORWARDER OPERATING AUTHORITY.

(a) BUS OPERATING AUTHORITY.—

(1) IN GENERAL.—Subject to the modifications contained in paragraph (2), section 266 of the Economic Recovery Tax Act of 1981 shall be applied as if the term "motor carrier operating authority" included a bus operating authority.

(2) MODIFICATIONS.—For purposes of paragraph (1), section 266 of such Act shall be applied—

(A) by substituting "November 19, 1982" for "July 1, 1980" each place it appears, and

(B) by substituting "November 1982" for "July 1980" in subsection (a) thereof.

(3) BUS OPERATING AUTHORITY DEFINED.—For purposes of this subsection and section 266 of such Act, the term "bus operating authority" means—

(A) a certificate or permit held by a motor common or contract carrier of passengers which was issued pursuant to subchapter II of chapter 109 of title 49, United States Code, and

(B) a certificate or permit held by a motor carrier authorizing the transportation of passengers, as a common carrier, over regular routes in intrastate commerce which was issued by the appropriate State agency.

(b) FREIGHT FORWARDER OPERATING AUTHORITY.—

(1) IN GENERAL.—Subject to the modifications contained in paragraph (2), section 266 of the Economic Recovery Tax Act of 1981 shall be applied as if subsection (b) thereof contained "or a freight forwarder" after "contract carrier of property".

(2) MODIFICATIONS.—The modifications referred to in this paragraph are:

(A) 60-MONTH PERIOD TO BEGIN IN 1987.—The 60-month period referred to in section 266(a) of such Act shall begin with the later of—

(i) the deregulation month, or

(ii) at the election of the taxpayer, the 1st month of the taxpayer's 1st taxable year beginning after the deregulation month.

(B) AUTHORITY MUST BE HELD AS OF BEGINNING OF 60-MONTH PERIOD.—A motor carrier operating authority shall not be taken into account unless such authority is held by the taxpayer at the beginning of the 60-month period applicable to the taxpayer under subparagraph (A).

(C) ADJUSTED BASIS NOT TO EXCEED ADJUSTED BASIS AT BEGINNING OF 60-MONTH PERIOD.—The adjusted basis taken into account with respect to any motor carrier operating authority shall not exceed the adjusted basis of such

authority as of the beginning of the 60-month period applicable to the taxpayer under subparagraph (A).

(3) DEREGULATION MONTH.—For purposes of this section, the term "deregulation month" means the month in which the Secretary of the Treasury or his delegate determines that a Federal law has been enacted which deregulates the freight forwarding industry.

(c) SPECIAL RULE FOR MOTOR CARRIER OPERATING AUTHORITY.—In the case of a corporation which was incorporated on December 29, 1969, in the State of Delaware, notwithstanding any other provision of law, there shall be allowed as a deduction for the taxable year of the taxpayer beginning in 1980 an amount equal to $2,705,188 for its entire loss due to a decline in value of its motor carrier operating authority by reason of deregulation.

(d) EFFECTIVE DATES.—

(1) BUS OPERATING AUTHORITY.—

(A) IN GENERAL.—Subsection (a) shall apply to taxable years ending after November 18, 1982.

(B) STATUTE OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from subsection (a) is prevented at any time on or before the date which is 1 year after the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the application of such subsection) may, notwithstanding such law or rule of law, be made or allowed if claim therefore is filed on or before the date which is 18 months after such date of enactment.

(2) FREIGHT FORWARDER OPERATING AUTHORITY.—Subsection (b) shall apply to taxable years ending after the month preceding the deregulation month.

SEC. 244. TREATMENT OF EXPENDITURES FOR REMOVAL OF ARCHITECTURAL BARRIERS TO THE HANDICAPPED AND ELDERLY MADE PERMANENT.

Paragraph (2) of section 190(d) (relating to expenditures to remove architectural and transportation barriers to the handicapped and elderly) is amended by striking out "1983, and before January 1, 1986" and inserting in lieu thereof "1983"

Subtitle F—Provisions Relating to Real Estate

SEC. 251. MODIFICATION OF INVESTMENT TAX CREDIT FOR REHABILITATION EXPENDITURES.

(a) REDUCTION IN PERCENTAGE.—Paragraph (4) of section 46(b) (relating to rehabilitation percentage) is amended to read as follows:

"(4) REHABILITATION PERCENTAGE.—

"(A) IN GENERAL.—The term 'rehabilitation percentage' means—

"(i) 10 percent in the case of qualified rehabilitation expenditures with respect to a qualified rehabilitated building other than a certified historic structure, and

"(ii) 20 percent in the case of such expenditure with respect to a certified historic structure.

"(B) REGULAR AND ENERGY PERCENTAGES NOT TO APPLY.—The regular percentage and the energy percentages shall

not apply to that portion of the basis of any property which is attributable to qualified rehabilitation expenditures."

(b) SPECIAL RULES FOR QUALIFIED REHABILITATED BUILDINGS.—Subsection (g) of section 48 (relating to special rules for qualified rehabilitated buildings) is amended to read as follows:

"(g) SPECIAL RULES FOR QUALIFIED REHABILITATED BUILDINGS.—For purposes of this subpart—

"(1) QUALIFIED REHABILITATED BUILDING.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified rehabilitated building' means any building (and its structural components) if—

"(i) such building has been substantially rehabilitated,

"(ii) such building was placed in service before the beginning of the rehabilitation, and

"(iii) in the case of any building other than a certified historic structure, in the rehabilitation process—

"(I) 50 percent or more of the existing external walls of such building are retained in place as external walls,

"(II) 75 percent or more of the existing external walls of such building are retained in place as internal or external walls, and

"(III) 75 percent or more of the existing internal structural framework of such building is retained in place.

"(B) BUILDING MUST BE FIRST PLACED IN SERVICE BEFORE 1936.—In the case of a building other than a certified historic structure, a building shall not be a qualified rehabilitated building unless the building was first placed in service before 1936.

"(C) SUBSTANTIALLY REHABILITATED DEFINED.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(i), a building shall be treated as having been substantially rehabilitated only if the qualified rehabilitation expenditures during the 24-month period selected by the taxpayer (at the time and in the manner prescribed by regulations) and ending with or within the taxable year exceed the greater of—

"(I) the adjusted basis of such building (and its structural components), or

"(II) $5,000.

The adjusted basis of the building (and its structural components) shall be determined as of the beginning of the 1st day of such 24-month period, or of the holding period of the building, whichever is later. For purposes of the preceding sentence, the determination of the beginning of the holding period shall be made without regard to any reconstruction by the taxpayer in connection with the rehabilitation.

"(ii) SPECIAL RULE FOR PHASED REHABILITATION.—In the case of any rehabilitation which may reasonably be expected to be completed in phases set forth in architectural plans and specifications completed before the rehabilitation begins, clause (i) shall be applied by substituting '60-month period' for '24-month period'.

"(iii) LESSEES.—The Secretary shall prescribe by regulation rules for applying this subparagraph to lessees.

"(D) RECONSTRUCTION.—Rehabilitation includes reconstruction.

"(2) QUALIFIED REHABILITATION EXPENDITURE DEFINED.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified rehabilitation expenditure' means any amount properly chargeable to capital account—

"(i) for property for which depreciation is allowable under section 168 and which is—

"(I) nonresidential real property,

"(II) residential rental property,

"(III) real property which has a class life of more than 12.5 years, or

"(IV) an addition or improvement to property or housing described in subclause (I), (II), or (III), and

"(ii) in connection with the rehabilitation of a qualified rehabilitated building.

"(B) CERTAIN EXPENDITURES NOT INCLUDED.—The term 'qualified rehabilitation expenditure' does not include—

"(i) STRAIGHT LINE DEPRECIATION MUST BE USED.—Any expenditure with respect to which the taxpayer does not use the straight line method over a recovery period determined under subsection (c) or (g) of section 168. The preceding sentence shall not apply to any expenditure to the extent the alternative depreciation system of section 168(g) applies to such expenditure by reason of subparagraph (B) or (C) of section 168(g)(1).

"(ii) COST OF ACQUISITION.—The cost of acquiring any building or interest therein.

"(iii) ENLARGEMENTS.—Any expenditure attributable to the enlargement of an existing building.

"(iv) CERTIFIED HISTORIC STRUCTURE, ETC.—Any expenditure attributable to the rehabilitation of a certified historic structure or a building in a registered historic district, unless the rehabilitation is a certified rehabilitation (within the meaning of subparagraph (C)). The preceding sentence shall not apply to a building in a registered historic district if—

"(I) such building was not a certified historic structure,

"(II) the Secretary of the Interior certified to the Secretary that such building is not of historic significance to the district, and

"(III) if the certification referred to in subclause (II) occurs after the beginning of the rehabilitation of such building, the taxpayer certifies to the Secretary that, at the beginning of such rehabilitation, he in good faith was not aware of the requirement of subclause (II).

"(v) TAX-EXEMPT USE PROPERTY.—

"(I) IN GENERAL.—Any expenditure in connection with the rehabilitation of a building which is allocable to that portion of such building which is

(or may reasonably be expected to be) tax-exempt use property (within the meaning of section 168(h)).

"(II) CLAUSE NOT TO APPLY FOR PURPOSES OF PARAGRAPH (1)(C).—This clause shall not apply for purposes of determining under paragraph (1)(C) whether a building has been substantially rehabilitated.

"(vi) EXPENDITURES OF LESSEE.—Any expenditure of a lessee of a building if, on the date the rehabilitation is completed, the remaining term of the lease (determined without regard to any renewal periods) is less than the recovery period determined under section 168(c).

"(C) CERTIFIED REHABILITATION.—For purposes of subparagraph (B), the term 'certified rehabilitation' means any rehabilitation of a certified historic structure which the Secretary of the Interior has certified to the Secretary as being consistent with the historic character of such property or the district in which such property is located.

"(D) NONRESIDENTIAL REAL PROPERTY; RESIDENTIAL RENTAL PROPERTY; CLASS LIFE.—For purposes of subparagraph (A), the terms 'nonresidential real property', 'residential rental property', and 'class life' have the respective meanings given such terms by section 168.

"(3) CERTIFIED HISTORIC STRUCTURE DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'certified historic structure' means any building (and its structural components) which—

"(i) is listed in the National Register, or

"(ii) is located in a registered historic district and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district.

"(B) REGISTERED HISTORIC DISTRICT.—The term 'registered historic district' means—

"(i) any district listed in the National Register, and

"(ii) any district—

"(I) which is designated under a statute of the appropriate State or local government, if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district, and

"(II) which is certified by the Secretary of the Interior to the Secretary as meeting substantially all of the requirements for the listing of districts in the National Register.

"(4) PROPERTY TREATED AS NEW SECTION 38 PROPERTY.—Property which is treated as section 38 property by reason of subsection (a)(1)(E) shall be treated as new section 38 property."

(c) BASIS ADJUSTMENT FOR CERTIFIED HISTORIC STRUCTURES.—Paragraph (3) of section 48(q) (relating to special rule for qualified rehabilitated buildings) is amended by striking out "other than a certified historic structure".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to

property placed in service after December 31, 1986, in taxable years ending after such date.

(2) GENERAL TRANSITIONAL RULE.—The amendments made by this section and section 201 shall not apply to any property placed in service before January 1, 1994, if such property is placed in service as part of—

(A) a rehabilitation which was completed pursuant to a written contract which was binding on March 1, 1986, or

(B) a rehabilitation incurred in connection with property (including any leasehold interest) acquired before March 2, 1986, or acquired on or after such date pursuant to a written contract that was binding on March 1, 1986, if—

(i) the rehabilitation was completed pursuant to a written contract that was binding on March 1, 1986,

(ii) parts 1 and 2 of the Historic Preservation Certification Application were filed with the Department of the Interior (or its designee) before March 2, 1986, or

(iii) the lesser of $1,000,000 or 5 percent of the cost of the rehabilitation is incurred before March 2, 1986, or is required to be incurred pursuant to a written contract which was binding on March 1, 1986.

(3) CERTAIN ADDITIONAL REHABILITATIONS.—The amendments made by this section and section 201 shall not apply to—

(A) the rehabilitation of 8 bathhouses within the Hot Springs National Park or of buildings in the Central Avenue Historic District at such Park,

(B) the rehabilitation of the Upper Pontabla Building in New Orleans, Louisiana,

(C) the rehabilitation of at least 60 buildings listed on the National Register at the Frankford Arsenal,

(D) the rehabilitation of De Baliveriere Arcade, St. Louis Centre, and Drake Apartments in Missouri,

(E) the rehabilitation of The Tides in Bristol, Rhode Island,

(F) the rehabilitation and renovation of the Outlet Company building and garage in Providence, Rhode Island,

(G) the rehabilitation of 10 structures in Harrisburg, Pennsylvania, with respect to which the Harristown Development Corporation was designated redeveloper and received an option to acquire title to the entire project site for $1 on June 27, 1984,

(H) the rehabilitation of a project involving the renovation of 3 historic structures on the Minneapolis riverfront, with respect to which the developer of the project entered into a redevelopment agreement with a municipality dated January 4, 1985, and industrial development bonds were sold in 3 separate issues in May, July, and October 1985,

(I) the rehabilitation of a bank's main office facilities of approximately 120,000 square feet, in connection with which the bank's board of directors authorized a $3,300,000 expenditure for the renovation and retrofit on March 20, 1984,

(J) the rehabilitation of 10 warehouse buildings built between 1906 and 1910 and purchased under a contract dated February 17, 1986,

(K) the rehabilitation of a facility which is customarily used for conventions and sporting events if an analysis of

operations and recommendations of utilization of such facility was prepared by a certified public accounting firm pursuant to an engagement authorized on March 6, 1984, and presented on June 11, 1984, to officials of the city in which such facility is located,

(L) Mount Vernon Mills in Columbia, South Carolina,

(M) the Barbara Jordan II Apartments,

(N) the rehabilitation of the Federal Building and Post Office, 120 Hanover Street, Manchester, New Hampshire,

(O) the rehabilitation of the Charleston Waterfront project in South Carolina,

(P) the Hayes Mansion in San Francisco,

(Q) the renovation of a facility owned by the National Railroad Passenger Corporation ("Amtrak") for which project Amtrak engaged a development team by letter agreement dated August 23, 1985, as modified by letter agreement dated September 9, 1985,

(R) the rehabilitation of a structure or its components which is listed in the National Register of Historic Places, is located in Allegheny County, Pennsylvania, will be substantially rehabilitated (as defined in section 48(g)(1)(C) prior to amendment by this Act), prior to December 31, 1989; and was previously utilized as a market and an auto dealership,

(S) The Bellevue Stratford Hotel in Philadelphia, Pennsylvania,

(T) the Dixon Mill Housing project in Jersey City, New Jersey,

(U) Motor Square Garden,

(V) the Blackstone Apartments, and the Shriver-Johnson building, in Sioux Falls, South Dakota,

(W) the Holy Name Academy in Spokane, Washington,

(X) the Nike/Clemson Mill in Exeter, New Hampshire,

(Y) the Central Bank Building in Grand Rapids, Michigan, and

(Z) the Heritage Hotel, in the City of Marquette, Michigan.

(4) ADDITIONAL REHABILITATIONS.—The amendments made by this section and section 201 shall not apply to—

(A) the Fort Worth Town Square Project in Texas,

(B) the American Youth Hostel in New York, New York,

(C) The Riverwest Loft Development (including all three phases, two of which do not involve rehabilitations),

(D) the Gaslamp Quarter Historic District in California,

(E) the Eberhardt & Ober Brewery, in Pennsylvania,

(F) the Captain's Walk Limited Partnership-Harris Place Development, in Connecticut,

(G) the Velvet Mills in Connecticut,

(H) the Roycroft Inn, in New York,

(I) Old Main Village, in Mankato, Minnesota,

(J) the Washburn-Crosby A Mill, in Minneapolis, Minnesota,

(K) the Lakeland marbel Arcade in Lakeland, Florida,

(L) the Willard Hotel, in Washington, D.C.,

(M) the H. P. Lau Building in Lincoln, Nebraska,

(N) the Starks Building, in Louisville, Kentucky,

(O) the Bellevue High School, in Bellevue, Kentucky,

(P) the Major Hampden Smith House, in Owensboro, Kentucky,

(Q) the Doe Run Inn, in Brandenburg, Kentucky,

(R) the State National Bank, in Frankfort, Kentucky,

(S) the Captain Jack House, in Fleming, Kentucky,

(T) the Elizabeth Arlinghaus House, in Louisville, Kentucky,

(U) Limerick Shamrock, in Louisville, Kentucky,

(V) the Robert Mills Project, in South Carolina,

(W) the 620 Project, consisting of 3 buildings, in Kentucky,

(X) the Warrior Hotel, Ltd., the first two floors of the Martin Hotel, and the 105,000 square foot warehouse constructed in 1910, all in Sioux City, Iowa,

(Y) the waterpark condominium residential project, to the extent of $2 million of expenditures, and

(Z) the Apollo and Bishop Building Complex on 125th Street, the Bigelow-Hartford Carpet Mill in New York, New York.

(5) REDUCTION IN CREDIT FOR PROPERTY UNDER TRANSITIONAL RULES.—In the case of property placed in service after December 31, 1986, and to which the amendments made by this section do not apply, subparagraph (A) of section 46(b)(4) of the Internal Revenue Code of 1954 (as in effect before the enactment of this Act) shall be applied—

(A) by substituting "10 percent" for "15 percent", and

(B) by substituting "13 percent" for "20 percent".

(6) EXPENSING OF REHABILITATION EXPENDITURES FOR THE FRANKFORD ARSENAL.—In the case of any expenditures paid or incurred in connection with the rehabilitation of the Frankford Arsenal during the 8-year period beginning on January 1, 1987, such expenditures (including expenditures for repair and maintenance of the building and property) shall be allowable as a deduction in the taxable year in which paid or incurred in an amount not in excess of the submissions made by the taxpayer before September 16, 1986.

SEC. 252. LOW-INCOME HOUSING CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business credits) is amended by adding at the end thereof the following new section:

"SEC. 42. LOW-INCOME HOUSING CREDIT.

"(a) IN GENERAL.—For purposes of section 38, the amount of the low-income housing credit determined under this section for any taxable year in the credit period shall be an amount equal to—

"(1) the applicable percentage of

"(2) the qualified basis of each qualified low-income building.

"(b) APPLICABLE PERCENTAGE: 70 PERCENT PRESENT VALUE CREDIT FOR CERTAIN NEW BUILDINGS; 30 PERCENT PRESENT VALUE CREDIT FOR CERTAIN OTHER BUILDINGS.—For purposes of this section—

"(1) BUILDING PLACED IN SERVICE DURING 1987.—In the case of any qualified low-income building placed in service by the taxpayer during 1987, the term 'applicable percentage' means—

"(A) 9 percent for new buildings which are not federally subsidized for the taxable year, or

"(B) 4 percent for—

"(i) new buildings which are federally subsidized for the taxable year, and

"(ii) existing buildings.

"(2) BUILDINGS PLACED IN SERVICE AFTER 1987.—

"(A) IN GENERAL.—In the case of any qualified low-income building placed in service by the taxpayer after 1987, the term 'applicable percentage' means the appropriate percentage prescribed by the Secretary for the month in which such building is placed in service.

"(B) METHOD OF PRESCRIBING PERCENTAGES.—The percentages prescribed by the Secretary for any month shall be percentages which will yield over a 10-year period amounts of credit under subsection (a) which have a present value equal to—

"(i) 70 percent of the qualified basis of a building described in paragraph (1)(A), and

"(ii) 30 percent of the qualified basis of a building described in paragraph (1)(B).

"(C) METHOD OF DISCOUNTING.—The present value under subparagraph (B) shall be determined—

"(i) as of the last day of the 1st year of the 10-year period referred to in subparagraph (B),

"(ii) by using a discount rate equal to 72 percent of the average of the annual Federal mid-term rate and the annual Federal long-term rate applicable under section 1274(d)(1) to the month in which the building was placed in service and compounded annually, and

"(iii) by assuming that the credit allowable under this section for any year is received on the last day of such year.

"(3) CROSS REFERENCE.—

"For treatment of certain rehabilitation expenditures as separate new buildings, see subsection (e).—

"(c) QUALIFIED BASIS; QUALIFIED LOW-INCOME BUILDING.—For purposes of this section—

"(1) QUALIFIED BASIS.—

"(A) DETERMINATION.—The qualified basis of any qualified low-income building for any taxable year is an amount equal to—

"(i) the applicable fraction (determined as of the close of such taxable year) of

"(ii) the eligible basis of such building (determined under subsection (d)(5)).

"(B) APPLICABLE FRACTION.—For purposes of subparagraph (A), the term 'applicable fraction' means the smaller of the unit fraction or the floor space fraction.

"(C) UNIT FRACTION.—For purposes of subparagraph (B), the term 'unit fraction' means the fraction—

"(i) the numerator of which is the number of low-income units in the building, and

"(ii) the denominator of which is the number of residential rental units (whether or not occupied) in such building.

"(D) FLOOR SPACE FRACTION.—For purposes of subparagraph (B), the term 'floor space fraction' means the fraction—

"(i) the numerator of which is the total floor space of the low-income units in such building, and

"(ii) the denominator of which is the total floor space of the residential rental units (whether or not occupied) in such building.

"(2) QUALIFIED LOW-INCOME BUILDING.—The term 'qualified low-income building' means any building—

"(A) which at all times during the compliance period with respect to such building is part of a qualified low-income housing project, and

"(B) to which the amendments made by section 201(a) of the Tax Reform Act of 1986 apply.

"(d) ELIGIBLE BASIS.—For purposes of this section—

"(1) NEW BUILDINGS.—The eligible basis of a new building is its adjusted basis.

"(2) EXISTING BUILDINGS.—

"(A) IN GENERAL.—The eligible basis of an existing building is—

"(i) in the case of a building which meets the requirements of subparagraph (B), the sum of—

"(I) the portion of its adjusted basis attributable to its acquisition cost, plus

"(II) amounts chargeable to capital account and incurred by the taxpayer (before the close of the 1st taxable year of the credit period for such building) for property (or additions or improvements to property) of a character subject to the allowance for depreciation, and

"(ii) zero in any other case.

"(B) REQUIREMENTS.—A building meets the requirements of this subparagraph if—

"(i) the building is acquired by purchase (as defined in section 179(d)(2)),

"(ii) there is a period of at least 10 years between the date of its acquisition by the taxpayer and the later of—

"(I) the date the building was last placed in service, or

"(II) the date of the most recent nonqualified substantial improvement of the building, and

"(iii) the building was not previously placed in service by the taxpayer or by any person who was a related person with respect to the taxpayer as of the time previously placed in service.

"(C) ACQUISITION COST.—For purposes of subparagraph (A), the cost of any building shall not include so much of the basis of such building as is determined by reference to the basis of other property held at any time by the person acquiring the building.

"(D) SPECIAL RULES FOR SUBPARAGRAPH (B).—

"(i) NONQUALIFIED SUBSTANTIAL IMPROVEMENT.—For purposes of subparagraph (B)(ii)—

"(I) IN GENERAL.—The term 'nonqualified substantial improvement' means any substantial improvement if section 167(k) was elected with respect to such improvement or section 168 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) applied to such improvement.

"(II) DATE OF SUBSTANTIAL IMPROVEMENT.—The date of a substantial improvement is the last day of the 24-month period referred to in subclause (III).

"(III) SUBSTANTIAL IMPROVEMENT.—The term 'substantial improvement' means the improvements added to capital account with respect to the building during any 24-month period, but only if the sum of the amounts added to such account during such period equals or exceeds 25 percent of the adjusted basis of the building (determined without regard to paragraphs (2) and (3) of section 1016(a)) as of the 1st day of such period.

"(ii) SPECIAL RULE FOR NONTAXABLE EXCHANGES.—For purposes of determining under subparagraph (B)(ii) when a building was last placed in service, there shall not be taken into account any placement in service in connection with the acquisition of the building in a transaction in which the basis of the building in the hands of the person acquiring it is determined in whole or in part by reference to the adjusted basis of such building in the hands of the person from whom aquired.

"(iii) RELATED PERSON, ETC.—

"(I) APPLICATION OF SECTION 179.—For purposes of subparagraph (B)(i), section 179(d) shall be applied by substituting '10 percent' for '50 percent' in section 267(b) and 707(b) and in section 179(b)(7).

"(II) RELATED PERSON.—For purposes of subparagraph (B)(iii), a person (hereinafter in this subclause referred to as the 'related person') is related to any person if the related person bears a relationship to such person specified in section 267(b) or 707(b)(1), or the related person and such person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52). For purposes of the preceding sentence, in applying section 267(b) or 707(b)(1), '10 percent' shall be substituted for '50 percent'.

"(3) ELIGIBLE BASIS REDUCED WHERE DISPROPORTIONATE STANDARDS FOR UNITS.—The eligible basis of any building shall be reduced by an amount equal to the portion of the adjusted basis of the building which is attributable to residential rental units in the building which are not low-income units and which are above the average quality standard of the low-income units in the building.

"(4) SPECIAL RULES RELATING TO DETERMINATION OF ADJUSTED BASIS.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the adjusted basis of any building shall be determined without regard to the adjusted basis of any property which is not residential rental property.

"(B) BASIS OF PROPERTY IN COMMON AREAS, ETC., INCLUDED.—The adjusted basis of any building shall be determined by taking into account the adjusted basis of property (of a character subject to the allowance for depreciation) used in common areas or provided as comparable amenities to all residential rental units in such building.

"(C) NO REDUCTION FOR DEPRECIATION.—The adjusted basis of any building shall be determined without regard to paragraphs (2) and (3) of section 1016(a).

"(5) ELIGIBLE BASIS DETERMINED WHEN BUILDING PLACED IN SERVICE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the eligible basis of any building for the entire compliance period for such building shall be its eligible basis on the date such building is placed in service.

"(B) ELIGIBLE BASIS REDUCED BY FEDERAL GRANTS.—If, during any taxable year of the compliance period, a grant is made with respect to any building or the operation thereof and any portion of such grant is funded with Federal funds (whether or not includible in gross income), the eligible basis of such building for such taxable year and all succeeding taxable years shall be reduced by the portion of such grant which is so funded.

"(6) CREDIT ALLOWABLE FOR CERTAIN FEDERALLY-ASSISTED BUILDINGS ACQUIRED DURING 10-YEAR PERIOD DESCRIBED IN PARAGRAPH (2)(B)(ii).—

"(A) IN GENERAL.—On application by the taxpayer, the Secretary (after consultation with the appropriate Federal official) may waive paragraph (2)(B)(ii) with respect to any federally-assisted building if the Secretary determines that such waiver is necessary—

"(i) to avert an assignment of the mortgage secured by property in the project (of which such building is a part) to the Department of Housing and Urban Development or the Farmers' Home Administration,

"(ii) to avert a claim against a Federal mortgage insurance fund (or such Department or Administration) with respect to a mortgage which is so secured, or

"(iii) to the extent provided in regulations, by reason of other circumstances of financial distress.

The preceding sentence shall not apply to any building described in paragraph (7)(B).

"(B) FEDERALLY-ASSISTED BUILDING.—For purposes of subparagraph (A), the term 'federally-assisted building' means any building which is substantially assisted, financed, or operated under—

"(i) section 8 of the United States Housing Act of 1937,

"(ii) section 221(d)(3) or 236 of the National Housing Act of 1934, or

"(iii) section 515 of the Housing Act of 1949,

as such Acts are in effect on the date of the enactment of the Tax Reform Act of 1986.

"(C) APPROPRIATE FEDERAL OFFICIAL.—For purposes of subparagraph (A), the term 'appropriate Federal official' means—

"(i) the Secretary of Housing and Urban Development in the case of any building described in subparagraph (B) by reason of clause (i) or (ii) thereof, and

"(ii) the Secretary of Agriculture in the case of any building described in subparagraph (B) by reason of clause (iii) thereof.

"(7) ACQUISITION OF BUILDING BEFORE END OF PRIOR COMPLIANCE PERIOD.—

"(A) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of a building described in subparagraph (B) which is acquired by the taxpayer—

"(i) paragraph (2)(B) shall not apply, but

"(ii) the credit allowable by reason of subsection (a) to the taxpayer for any period after such acquisition shall be equal to the amount of credit which would have been allowable under sebsection (a) for such period to the prior owner referred to in subparagraph (B) had such owner not disposed of the building.

"(B) DESCRIPTION OF BUILDING.—A building is described in this subparagraph if—

"(i) a credit was allowed by reason of subsection (a) to any prior owner of such building, and

"(ii) the taxpayer acquired such building before the end of the compliance period for such building with respect to such prior owner (determined without regard to any disposition by such prior owner).

"(e) REHABILITATION EXPENDITURES TREATED AS SEPARATE NEW BUILDING.—

"(1) IN GENERAL.—Rehabilitation expenditures paid or incurred by the taxpayer with respect to any building shall be treated for purposes of this section as a separate new building.

"(2) REHABILITATION EXPENDITURES.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'rehabilitation expenditures' means amounts chargeable to captial account and incurred for property (or additions or improvements to property) of a character subject to the allowance for depreciation in connection with the rehabilitation of a building.

"(B) COST OF ACQUISITION, ETC, NOT INCLUDED.—Such term does not include the cost of acquiring any building (or interest therein) or any amount not permitted to be taken into account under paragraph (3) or (4) of subsection (d).

"(3) AVERAGE OF REHABILITATION EXPENDITURES MUST BE $2,000 OR MORE.—

"(A) IN GENERAL.—Paragraph (1) shall apply to rehabilitation expenditures with respect to any building only if the qualified basis attributable to such expenditures incurred during any 24-month period, when divided by the low-income units in the building, is $2,000 or more.

"(B) DATE OF DETERMINATION.—The determination under subparagraph (A) shall be made as of the close of the 1st taxable year in the credit period with respect to such expenditures.

"(4) SPECIAL RULES.—For purposes of applying this section with respect to expenditures which are treated as a separate building by reason of this subsection—

"(A) such expenditures shall be treated as placed in service at the close of the 24-month period referred to in paragraph (3)(A), and

"(B) the applicable fraction under subsection (c)(1) shall be the applicable fraction for the building (without regard to paragraph (1)) with respect to which the expenditures were incurred.

Nothing in subsection (d)(2) shall prevent a credit from being allowed by reason of this subsection.

"(5) NO DOUBLE COUNTING.—Rehabilitation expenditures may, at the election of the taxpayer, be taken into account under this subsection or subsection (d)(2)(A)(i)(II) but not under both such subsections.

"(6) REGULATIONS TO APPLY SUBSECTION WITH RESPECT TO GROUP OF UNITS IN BUILDING.—The Secretary may prescribe regulations, consistent with the purposes of this subsection, treating a group of units with respect to which rehabilitation expenditures are incurred as a separate new building.

"(f) DEFINITION AND SPECIAL RULES RELATING TO CREDIT PERIOD.—

"(1) CREDIT PERIOD DEFINED.—For purposes of this section, the term 'credit period' means, with respect to any building, the period of 10 taxable years beginning with the taxable year in which the building is placed in service or, at the election of the taxpayer, the succeeding taxable year. Such an election, once made, shall be irrevocable.

"(2) SPECIAL RULE FOR 1ST YEAR OF CREDIT PERIOD.—

"(A) IN GENERAL.—The credit allowable under subsection (a) with respect to any building for the 1st taxable year of the credit period shall be determined by substituting for the applicable fraction under subsection (c)(1) the fraction—

"(i) the numerator of which is the sum of the applicable fractions determined under subsection (c)(1) as of the close of each full month of such year during which such building was in service, and

"(ii) the denominator of which is 12.

"(B) DISALLOWED 1ST YEAR CREDIT ALLOWED IN 11TH YEAR.—Any reduction by reason of subparagraph (A) in the credit allowable (without regard to subparagraph (A)) for the 1st taxable year of the credit period shall be allowable under subsection (a) for the 1st taxable year following the credit period.

"(3) SPECIAL RULE WHERE INCREASE IN QUALIFIED BASIS AFTER 1ST YEAR OF CREDIT PERIOD.—

"(A) CREDIT INCREASED.—If—

"(i) as of the close of any taxable year in the compliance period (after the 1st year of the credit period) the qualified basis of any building exceeds

"(ii) the qualified basis of such building as of the close of the 1st year of the credit period,

the credit allowable under subsection (a) for the taxable year (determined without regard to this paragraph) shall be increased by an amount equal to the product of such excess and the percentage equal to ⅔ of the applicable percentage for such building.

"(B) 1ST YEAR COMPUTATION APPLIES.—A rule similar to the rule of paragraph (2)(A) shall apply to the additional credit allowable by reason of this paragraph for the 1st year in which such additional credit is allowable.

"(g) QUALIFIED LOW-INCOME HOUSING PROJECT.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified low-income housing project' means any project for residential rental property if the project meets the requirements of subparagraph (A) or (B) whichever is elected by the taxpayer:

"(A) 20-50 TEST.—The project meets the requirements of this subparagraph if 20 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income.

"(B) 40-60 TEST.—The project meets the requirements of this subparagraph if 40 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 60 percent or less of area median gross income.

Any election under this paragraph, once made, shall be irrevocable. For purposes of this paragraph, any property shall not be treated as failing to be residential rental property merely because part of the building in which such property is located is used for purposes other than residential rental purposes.

"(2) RENT-RESTRICTED UNITS.—

"(A) IN GENERAL.—For purposes of paragraph (1), a residential unit is rent-restricted if the gross rent with respect to such unit does not exceed 30 percent of the income limitation under paragraph (1) applicable to individuals occupying such unit.

"(B) GROSS RENT.—For purposes of subparagraph (A), gross rent—

"(i) does not include any payment under section 8 of the United States Housing Act of 1937 or any comparable Federal rental assistance program (with respect to such unit or occupants thereof), and

"(ii) includes any utility allowance determined by the Secretary after taking into account such determinations under section 8 of the United States Housing Act of 1937.

"(3) DATE FOR MEETING REQUIREMENTS.—

"(A) PROJECTS CONSISTING OF 1 BUILDING.—In the case of a project which does not have any other building in service, such project shall not be treated as meeting the requirements of paragraph (1) unless it meets such requirements not later than the date which is 12 months after the date such project is placed in service.

"(B) PROJECTS CONSISTING OF MORE THAN 1 BUILDING.—In the case of a project which has a building in service when a later building is placed in service as part of such project, such project shall not be treated as meeting the requirements of paragraph (1) with respect to such later building unless—

"(i) such project meets such requirements without regard to such later building on the date such later building is placed in service, and

"(ii) such project meets such requirements with regard to such later building not later than the date which is 12 months after the date such later building is placed in service.

"(4) CERTAIN RULES MADE APPLICABLE.—Paragraphs (2) (other than subparagraph (A) thereof), (3), (4), (5), (6), and (7) of section 142(d), and section 6652(j), shall apply for purposes of determining whether any project is a qualified low-income housing project and whether any unit is a low-income unit.

"(5) ELECTION TO TREAT BUILDING AFTER COMPLIANCE PERIOD AS NOT PART OF A PROJECT.—For purposes of this section, the taxpayer may elect to treat any building as not part of a qualified low-income housing project for any period beginning after the compliance period for such building.

"(h) LIMITATION ON AGGREGATE CREDIT ALLOWABLE WITH RESPECT TO PROJECTS LOCATED IN A STATE.—

"(1) CREDIT MAY NOT EXCEED CREDIT AMOUNT ALLOCATED TO BUILDING.—No credit shall be allowed by reason of this section for any taxable year with respect to any building in excess of the housing credit dollar amount allocated to such building under this subsection. An allocation shall be taken into account under the preceding sentence only if it occurs not later than the earlier of—

"(A) the 60th day after the close of the taxable year, or

"(B) the close of the calendar year in which such taxable year ends.

"(2) ALLOCATED CREDIT AMOUNT TO APPLY TO ALL TAXABLE YEARS ENDING DURING OR AFTER CREDIT ALLOCATION YEAR.—Any housing credit dollar amount allocated to any building for any calendar year—

"(A) shall apply to such building for all taxable years in the compliance period ending during or after such calendar year, and

"(B) shall reduce the aggregate housing credit dollar amount of the allocating agency only for such calendar year.

"(3) HOUSING CREDIT DOLLAR AMOUNT FOR AGENCIES.—

"(A) IN GENERAL.—The aggregate housing credit dollar amount which a housing credit agency may allocate for any calendar year is the portion of the State housing credit ceiling allocated under this paragraph for such calendar year to such agency.

"(B) STATE CEILING INITIALLY ALLOCATED TO STATE HOUSING CREDIT AGENCIES.—Except as provided in subparagraphs (D) and (E), the State housing credit ceiling for each calendar year shall be allocated to the housing credit agency of such State. If there is more than 1 housing credit agency of a State, all such agencies shall be treated as a single agency.

"(C) STATE HOUSING CREDIT CEILING.—The State housing credit ceiling applicable to any State for any calendar year shall be an amount equal to $1.25 multiplied by the State population.

"(D) SPECIAL RULE FOR STATES WITH CONSTITUTIONAL HOME RULE CITIES.—For purposes of this subsection—

"(i) IN GENERAL.—The aggregate housing credit dollar amount for any constitutional home rule city for any calendar year shall be an amount which bears the same ratio to the State housing credit ceiling for such calendar year as—

"(I) the population of such city, bears to

"(II) the population of the entire State.

"(ii) COORDINATION WITH OTHER ALLOCATIONS.—In the case of any State which contains 1 or more constitutional home rule cities, for purposes of applying this paragraph with respect to housing credit agencies in

such State other than constitutional home rule cities, the State housing credit ceiling for any calendar year shall be reduced by the aggregate housing credit dollar amounts determined for such year for all constitutional home rule cities in such State.

"(iii) CONSTITUTIONAL HOME RULE CITY.—For purposes of this paragraph, the term 'constitutional home rule city' has the meaning given such term by section 146(d)(3)(C).

"(E) STATE MAY PROVIDE FOR DIFFERENT ALLOCATION.—Rules similar to the rules of section 146(e) (other than paragraph (2)(B) thereof) shall apply for purposes of this paragraph.

"(F) POPULATION.—For purposes of this paragraph, population shall be determined in accordance with section 146(j).

"(4) CREDIT FOR BUILDINGS FINANCED BY TAX-EXEMPT BONDS SUBJECT TO VOLUME CAP NOT TAKEN INTO ACCOUNT.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to the portion of any credit allowable under subsection (a) which is attributable to eligible basis financed by any obligation the interest on which is exempt from tax under section 103 and which is taken into account under section 146.

"(B) SPECIAL RULE WHERE 70 PERCENT OR MORE OF BUILDING IS FINANCED WITH TAX-EXEMPT BONDS SUBJECT TO VOLUME CAP.—For purposes of subparagraph (A), if 70 percent or more of the aggregate basis of any building and the land on which the building is located is financed by any obligation described in subparagraph (A), paragraph (1) shall not apply to any portion of the credit allowable under subsection (a) with respect to such building.

"(5) PORTION OF STATE CEILING SET-ASIDE FOR CERTAIN PROJECTS INVOLVING QUALIFIED NONPROFIT ORGANIZATIONS.—

"(A) IN GENERAL.—Not more than 90 percent of the State housing credit ceiling for any State for any calendar year shall be allocated to projects other than qualified low-income housing projects described in subparagraph (B).

"(B) PROJECTS INVOLVING QUALIFIED NONPROFIT ORGANIZATIONS.—For purposes of subparagraph (A), a qualified low-income housing project is described in this subparagraph if a qualified nonprofit organization is to materially participate (within the meaning of section 469(h)) in the development and operation of the project throughout the compliance period.

"(C) QUALIFIED NONPROFIT ORGANIZATION.—For purposes of this paragraph, the term 'qualified nonprofit organization' means any organization if—

"(i) such organization is described in paragraph (3) or (4) of section 501(c) and is exempt from tax under section 501(a), and

"(ii) 1 of the exempt purposes of such organization includes the fostering of low-income housing.

"(D) STATE MAY NOT OVERRIDE SET-ASIDE.—Nothing in subparagraph (E) of paragraph (3) shall be construed to permit a State not to comply with subparagraph (A) of this paragraph.

"(6) SPECIAL RULES.—

"(A) BUILDING MUST BE LOCATED WITHIN JURISDICTION OF CREDIT AGENCY.—A housing credit agency may allocate its aggregate housing credit dollar amount only to buildings located in the jurisdiction of the governmental unit of which such agency is a part.

"(B) HOUSING CREDIT DOLLAR AMOUNT MAY NOT BE CARRIED OVER, ETC.—

"(i) NO CARRYOVER.—The portion of the aggregate housing credit dollar amount of any housing credit agency which is not allocated for any calendar year may not be carried over to any other calendar year.

"(ii) ALLOCATION MAY NOT BE EARLIER THAN YEAR IN WHICH BUILDING PLACED IN SERVICE.—A housing credit agency may allocate its housing credit dollar amount for any calendar year only to buildings placed in service before the close of such calendar year.

"(C) AGENCY ALLOCATIONS IN EXCESS OF LIMIT.—If the aggregate housing credit dollar amounts allocated by a housing credit agency for any calendar year exceed the portion of the State housing credit ceiling allocated to such agency for such calendar year, the housing credit dollar amounts so allocated shall be reduced (to the extent of such excess) for buildings in the reverse of the order in which the allocations of such amounts were made.

"(D) CREDIT ALLOWABLE DETERMINED WITHOUT REGARD TO AVERAGING CONVENTION, ETC.—For purposes of this subsection, the credit allowable under subsection (a) with respect to any building shall be determined—

"(i) without regard to paragraphs (2)(A) and (3)(B) of subsection (f), and

"(ii) by applying subsection (f)(3)(A) without regard to 'the percentage equal to ⅔ of'.

"(7) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) HOUSING CREDIT AGENCY.—The term 'housing credit agency' means any agency authorized to carry out this subsection.

"(B) POSSESSIONS TREATED AS STATES.—The term 'State' includes a possession of the United States.

"(i) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) COMPLIANCE PERIOD.—The term 'compliance period' means, with respect to any building, the period of 15 taxable years beginning with the 1st taxable year of the credit period with respect thereto.

"(2) DETERMINATION OF WHETHER BUILDING IS FEDERALLY SUBSIDIZED.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, for purposes of subsection (b)(1), a new building shall be treated as federally subsidized for any taxable year if, at any time during such taxable year, there is outstanding any obligation the interest on which is exempt from tax under section 103, or any below market Federal loan, the proceeds of which are used (directly or indirectly) with respect to such building or the operation thereof.

"(B) ELECTION TO REDUCE ELIGIBLE BASIS BY OUTSTANDING BALANCE OF LOAN.—A loan shall not be taken into account under subparagraph (A) if the taxpayer elects to exclude an

amount equal to the outstanding balance of such loan from the eligible basis of the building for purposes of subsection (d).

"(C) BELOW MARKET FEDERAL LOAN.—For purposes of subparagraph (A), the term 'below market Federal loan' means any loan funded in whole or in part with Federal funds if the interest rate payable on such loan is less than the applicable Federal rate in effect under section 1274(d)(1) (as of the date on which the loan was made).

"(3) LOW-INCOME UNIT.—

"(A) IN GENERAL.—The term 'low-income unit' means any unit in a building if—

"(i) such unit is rent-restricted (as defined in subsection (g)(2)), and

"(ii) the individuals occupying such unit meet the income limitation applicable under subsection (g)(1) to the project of which such building is a part.

"(B) EXCEPTIONS.—A unit shall not be treated as a low-income unit unless the unit is suitable for occupancy and used other than on a transient basis.

"(C) SPECIAL RULE FOR BUILDINGS HAVING 4 OR FEWER UNITS.—In the case of any building which has 4 or fewer residential rental units, no unit in such building shall be treated as a low-income unit if the units in such building are owned by—

"(i) any individual who occupies a residential unit in such building, or

"(ii) any person who is related (as defined in subsection (d)(2)(D)(iii)) to such individual.

"(4) NEW BUILDING.—The term 'new building' means a building the original use of which begins with the taxpayer.

"(5) EXISTING BUILDING.—The term 'existing building' means any building which is not a new building.

"(j) RECAPTURE OF CREDIT.—

"(1) IN GENERAL.—If—

"(A) as of the close of any taxable year in the compliance period, the amount of the qualified basis of any building with respect to the taxpayer is less than

"(B) the amount of such basis as of the close of the preceding taxable year,

then the taxpayer's tax under this chapter for the taxable year shall be increased by the credit recapture amount.

"(2) CREDIT RECAPTURE AMOUNT.—For purposes of paragraph (1), the credit recapture amount is an amount equal to the sum of—

"(A) the aggregate decrease in the credits allowed to the taxpayer under section 38 for all prior taxable years which would have resulted if the accelerated portion of the credit allowable by reason of this section were not allowed for all prior taxable years with respect to the excess of the amount described in paragraph (1)(B) over the amount described in paragraph (1)(A), plus

"(B) interest at the overpayment rate established under section 6621 on the amount determined under subparagraph (A) for each prior taxable year for the period beginning on the due date for filing the return for the prior taxable year involved.

No deduction shall be allowed under this chapter for interest described in subparagraph (B).

"(3) ACCELERATED PORTION OF CREDIT.—For purposes of paragraph (2), the accelerated portion of the credit for the prior taxable years with respect to any amount of basis is the excess of—

"(A) the aggregate credit allowed by reason of this section (without regard to this subsection) for such years with respect to such basis, over

"(B) the aggregate credit which would be allowable by reason of this section for such years with respect to such basis if the aggregate credit which would (but for this subsection) have been allowable for the entire compliance period were allowable ratably over 15 years.

"(4) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) ONLY BASIS FOR WHICH CREDIT ALLOWED TAKEN INTO ACCOUNT.—Qualified basis shall be taken into account under paragraph (1)(B) only to the extent such basis was taken into account in determining the credit under subsection (a) for the preceding taxable year referred to in such paragraph.

"(C) NO RECAPTURE OF ADDITIONAL CREDIT ALLOWABLE BY REASON OF SUBSECTION (f)(3).—Paragraph (1) shall apply to a decrease in qualified basis only to the extent such decrease exceeds the amount of qualified basis with respect to which a credit was allowable for the taxable year referred to in paragraph (1)(B) by reason of subsection (f)(3).

"(D) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

"(E) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a reduction in qualified basis by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

"(5) CERTAIN PARTNERSHIPS TREATED AS THE TAXPAYER.—

"(A) IN GENERAL.—For purposes of applying this subsection to a partnership to which this paragraph applies—

"(i) such partnership shall be treated as the taxpayer to which the credit allowable under subsection (a) was allowed,

"(ii) the amount of such credit allowed shall be treated as the amount which would have been allowed to the partnership were such credit allowable to such partnership,

"(iii) paragraph (4)(A) shall not apply, and

"(iv) the amount of the increase in tax under this subsection for any taxable year shall be allocated among the partners of such partnership in the same

manner as such partnership's taxable income for such year is allocated among such partners.

"(B) PARTNERSHIPS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any partnership—

"(i) which has 35 or more partners each of whom is a natural person or an estate, and

"(ii) which elects the application of this paragraph.

"(C) SPECIAL RULES.—

"(i) HUSBAND AND WIFE TREATED AS 1 PARTNER.—For purposes of subparagraph (B)(i), a husband and wife (and their estates) shall be treated as 1 partner.

"(ii) ELECTION IRREVOCABLE.—Any election under subparagraph (B), once made, shall be irrevocable.

"(6) NO RECAPTURE ON DISPOSITION OF BUILDING WHERE BOND POSTED.—In the case of a disposition of a building, the taxpayer shall be discharged from liability for any additional tax under this subsection by reason of such disposition if—

"(A) the taxpayer furnishes to the Secretary a bond in an amount satifactory to the Secretary and for the period required by the Secretary, and

"(B) it is reasonably expected that such building will continue to be operated as a qualified low-income building for the remaining compliance period with respect to such building.

"(k) APPLICATION OF AT-RISK RULES.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, rules similar to the rules of section 46(c)(8) (other than subparagraph (D)(iv)(I) thereof), section 46(c)(9), and section 47(d)(1) shall apply in determining the qualified basis of any building in the same manner as such sections apply in determining the credit base of property.

"(2) SPECIAL RULES FOR DETERMINING QUALIFIED PERSON.—For purposes of paragraph (1)—

"(A) IN GENERAL.—If the requirements of subparagraphs (B), (C), and (D) are met with respect to any financing borrowed from a qualified nonprofit organization (as defined in subsection (h)(5)), the determination of whether such financing is qualified commercial financing with respect to any qualified low-income building shall be made without regard to whether such organization—

"(i) is actively and regularly engaged in the business of lending money, or

"(ii) is a person described in section 46(c)(8)(D)(iv)(II).

"(B) FINANCING SECURED BY PROPERTY.—The requirements of this subparagraph are met with respect to any financing if such financing is secured by the qualified low-income building.

"(C) PORTION OF BUILDING ATTRIBUTABLE TO FINANCING.—The requirements of this subparagraph are met with respect to any financing for any taxable year in the compliance period if, as of the close of such taxable year, not more than 60 percent of the eligible basis of the qualified low-income building is attributable to such financing (reduced by the principal and interest of any governmental financing which is part of a wrap-around mortgage involving such financing).

"(D) REPAYMENT OF PRINCIPAL AND INTEREST.—The requirements of this subparagraph are met with respect to any financing if such financing is fully repaid on or before the earliest of—

"(i) the date on which such financing matures,

"(ii) the 90th day after the close of the compliance period with respect to the qualified low-income building, or

"(iii) the date of its refinancing or the sale of the building to which such financing relates.

"(3) PRESENT VALUE OF FINANCING.—If the rate of interest on any financing described in paragraph (2)(A) is less than the rate which is 1 percentage point below the applicable Federal rate as of the time such financing is incurred, then the qualified basis (to which such financing relates) of the qualified low-income building shall be the present value of the amount of such financing, using as the discount rate such applicable Federal rate. For purposes of the preceding sentence, the rate of interest on any financing shall be determined by treating interest to the extent of government subsidies as not payable.

"(4) FAILURE TO FULLY REPAY.—

"(A) IN GENERAL.—To the extent that the requirements of paragraph (2)(D) are not met, then the taxpayer's tax under this chapter for the taxable year in which such failure occurs shall be increased by an amount equal to the applicable portion of the credit under this section with respect to such building, increased by an amount of interest for the period—

"(i) beginning with the due date for the filing of the return of tax imposed by chapter 1 for the 1st taxable year for which such credit was allowable, and

"(ii) ending with the due date for the taxable year in which such failure occurs,

determined by using the underpayment rate and method under section 6621.

"(B) APPLICABLE PORTION.—For purposes of subparagraph (A), the term 'applicable portion' means the aggregate decrease in the credits allowed to a taxpayer under section 38 for all prior taxable years which would have resulted if the eligible basis of the building were reduced by the amount of financing which does not meet requirements of paragraph (2)(D).

"(C) CERTAIN RULES TO APPLY.—Rules similar to the rules of subparagraphs (A) and (D) of subsection (j)(4) shall apply for purposes of this subsection.

"(l) CERTIFICATIONS TO SECRETARY.—

"(1) CERTIFICATION WITH RESPECT TO 1ST YEAR OF CREDIT PERIOD.—Not later than the 90th day following the close of the 1st taxable year in the credit period with respect to any qualified low-income building, the taxpayer shall certify to the Secretary (in such form and in such manner as the Secretary prescribes)—

"(A) the taxable year, and calendar year, in which such building was placed in service,

"(B) the adjusted basis and eligible basis of such building as of the close of the 1st year of the credit period,

"(C) the maximum applicable percentage and qualified basis permitted to be taken into account by the appropriate housing credit agency under subsection (h),

"(D) the election made under subsection (g) with respect to the qualified low-income housing project of which such building is a part, and

"(E) such other information as the Secretary may require.

In the case of a failure to make the certification required by the preceding sentence on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, no credit shall be allowable by reason of subsection (a) with respect to such building for any taxable year ending before such certification is made.

"(2) ANNUAL REPORTS FROM HOUSING CREDIT AGENCIES.—Each agency which allocates any housing credit amount to any building for any calendar year shall submit to the Secretary (at such time and in such manner as the Secretary shall prescribe) an annual report specifying—

"(A) the amount of housing credit amount allocated to each building for such year,

"(B) sufficient information to identify each such building and the taxpayer with respect thereto, and

"(C) such other information as the Secretary may require.

The penalty under section 6652(j) shall apply to any failure to submit the report required by the preceding sentence on the date prescribed therefor.

"(m) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

"(1) dealing with—

"(A) projects which include more than 1 building or only a portion of a building,

"(B) buildings which are placed in service in portions,

"(2) providing for the application of this section to short taxable years, and

"(3) preventing the avoidance of the rules of this section.

"(n) TERMINATION.—

"(1) IN GENERAL.—Except as provided in parargraph (2), the State housing credit ceiling under subsection (h) shall be zero for any calendar year after 1989.

"(2) CARRYOVER OF 1989 LIMIT FOR CERTAIN PROJECTS IN PROGRESS.—

"(A) IN GENERAL.—The aggregate housing credit amount of any agency for 1989 which is not allocated for 1989 shall be treated for purposes of applying this section to any building described in subparagraph (B) as the housing credit amount of such agency for 1990.

"(B) DESCRIPTION.—A building is described in this subparagraph if—

"(i) such building is constructed, reconstructed, or rehabilitated by the taxpayer,

"(ii) more than 10 percent of the reasonably anticipated cost of such construction, reconstrcution, or rehabilitation has been incurred as of January 1, 1989, and

"(iii) such building is placed in service before January 1, 1991.

"(C) CERTAIN RULE NOT TO APPLY.—Subsection (h)(6)(B)(i) shall not apply for purposes of this paragraph."

(b) LOW-INCOME HOUSING CREDIT TREATED AS OTHER BUSINESS CREDITS.—

(1) Subsection (b) of section 38 (relating to current year business credits), as amended by this Act, is amended by striking out "plus" at the end of paragraph (3), but striking out the period at the end of paragraph (4) and inserting in lieu thereof ", plus", and by adding at the end thereof the following new paragraph:

"(5) the low-income housing credit determined under section 42(a)."

(2) Subsection (d) of section 38 is amended by inserting "42(a)," before "46(a)".

(c) RECAPTURE TAX NOT TO REDUCE MINIMUM TAX.—Paragraph (1) of section 55(c), as amended by section 701 of this Act, is amended by inserting "or section 42(j)" after "section 47".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 42. Low-income housing credit."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to buildings placed in service after December 31, 1986, in taxable years ending after such date.

(2) SPECIAL RULE FOR REHABILITATION EXPENDITURES.—Subsection (e) of section 42 of the Internal Revenue Code of 1986 (as added by this section) shall apply for purposes of paragraph (1).

(f) TRANSITIONAL RULES.—

(1) LIMITATION TO NON-ACRS BUILDINGS NOT TO APPLY TO CERTAIN BUILDINGS, ETC.—

(A) IN GENERAL.—In the case of a building which is part of a project described in subparagraph (B)—

(i) section 42(c)(2)(B) of the Internal Revenue Code of 1986 (as added by this section) shall not apply, and

(ii) such building shall be treated as not federally subsidized for purposes of section 42(b)(1)(A) of such Code.

(B) PROJECT DESCRIBED.—A project is described in this subparagraph if—

(i) an urban development action grant application with respect to such project was submitted on September 13, 1984,

(ii) a zoning commission map amendment related to such project was granted on July 17, 1985, and

(iii) the number assigned to such project by the Federal Housing Administration is 023-36602.

(C) ADDITIONAL UNITS ELIGIBLE FOR CREDIT.—In the case of a building to which subparagraph (A) applies and which is part of a project which meets the requirements of subparagraph (D), for each low-income unit in such building which is occupied by individuals whose income is 30 percent or less of area median gross income, one additional unit (not otherwise a low-income unit) in such building shall be treated as a low-income unit for purposes of such section 42.

(D) PROJECT DESCRIBED.—A project is described in this subparagraph if—

(i) rents charged for units in such project are restricted by State regulations,

(ii) the annual cash flow of such project is restricted by State law,

(iii) the project is located on land owned by or ground leased from a public housing authority,

(iv) construction of such project begins on or before December 31, 1986, and units within such project are placed in service on or before June 1, 1990, and

(v) for a 20-year period, 20 percent or more of the residential units in such project are occupied by individuals whose income is 50 percent or less of area median gross income.

(E) MAXIMUM ADDITIONAL CREDIT.—The maximum annual additional credit allowable under section 42 of such Code by reason of subparagraph (C) shall not exceed 25 percent of the eligible basis of the building.

(2) ADDITIONAL ALLOCATION OF HOUSING CREDIT CEILING.—

(A) IN GENERAL.—There is hereby allocated to each housing credit agency described in subparagraph (B) an additional housing credit dollar amount determined in accordance with the following table:

For calendar year:	The additional allocation is:
1987	$3,900,000
1988	$7,600,000
1989	$1,300,000.

(B) HOUSING CREDIT AGENCIES DESCRIBED.—The housing credit agencies described in this subparagraph are:

(i) A corporate governmental agency constituted as a public benefit corporation and established in 1971 under the provisions of Article XII of the Private Housing Finance Law of the State.

(ii) A city department established on December 20, 1979, pursuant to chapter XVIII of a municipal code of such city for the purpose of supervising and coordinating the formation and execution of projects and programs affecting housing within such city.

(iii) The State housing finance agency referred to in subparagraph (C), but only with respect to projects described in subparagraph (C).

(C) PROJECT DESCRIBED.—A project is described in this subparagraph if such project is a qualified low-income housing project which—

(i) receives financing from a State housing finance agency from the proceeds of bonds issued pursuant to chapter 708 of the Acts of 1966 of such State pursuant to loan commitments from such agency made between May 8, 1984, and July 8, 1986, and

(ii) is subject to subsidy commitments issued pursuant to a program established under chapter 574 of the Acts of 1983 of such State having award dates from such agency between May 31, 1984, and June 11, 1985.

(D) SPECIAL RULES.—

(i) Any building—

(I) which is allocated any housing credit dollar amount by a housing credit agency described in clause (iii) of subparagraph (B), and

(II) which is placed in service after June 30, 1986, and before January 1, 1987,

shall be treated for purposes of the amendments made by this section as placed in service on January 1, 1987.

(ii) Section 42(c)(2)(B) of the Internal Revenue Code of 1986 shall not apply to any building which is allocated any housing credit dollar amount by any agency described in subparagraph (B).

(E) ALL UNITS TREATED AS LOW INCOME UNITS IN CERTAIN CASES.—In the case of any building—

(i) which is allocated any housing credit dollar amount by any agency described in subparagraph (B), and

(ii) which after the application of subparagraph (D)(ii) is a qualified low-income building at all times during any taxable year,

such building shall be treated as described in section 42(b)(1)(B) of such Code and having an applicable fraction for such year of 1.

(3) CERTAIN PROJECTS PLACED IN SERVICE BEFORE 1987.—

(A) IN GENERAL.—In the case of a building which is part of a project described in subparagraph (B)—

(i) section 42(c)(2)(B) of such Code shall not apply,

(ii) such building shall be treated as placed in service during the first calendar year after 1986 and before 1990 in which such building is a qualified low-income building (determined after the application of clause (i)), and

(iii) for purposes of section 42(h) of such Code, such building shall be treated as having allocated to it a housing credit dollar amount equal to the dollar amount appearing in the clause of subparagraph (B) in which such building is described.

(B) PROJECT DESCRIBED.—A project is described in this subparagraph if the code number assigned to such project by the Farmers' Home Administration appears in the following table:

The code number is:	The housing credit dollar amount is:
(i) 49284553664	$16,000
(ii) 4927742022446	$22,000
(iii) 49270742276087	$64,000
(iv) 490270742387293	$48,000
(v) 4927074218234	$32,000
(vi) 49270742274019	$36,000
(vii) 51460742345074	$53,000.

(C) DETERMINATION OF ADJUSTED BASIS.—The adjusted basis of any building to which this paragraph applies for purposes of section 42 of such Code shall be its adjusted basis as of the close of the taxable year ending before the first taxable year of the credit period for such building

(D) CERTAIN RULES TO APPLY.—Rules similar to the rules of subparagraph (E) of paragraph (2) shall apply for purposes of this paragraph.

(4) DEFINITIONS.—For purposes of this subsection, terms used in such subsection which are also used in section 42 of the Internal Revenue Code of 1986 (as added by this section) shall have the meanings given such terms by such section 42.

Subtitle G—Merchant Marine Capital Construction Funds

SEC. 261. PROVISIONS RELATING TO MERCHANT MARINE CAPITAL CONSTRUCTION FUNDS.

(a) PURPOSE.—The purpose of this section is to coordinate the application of the Internal Revenue Code of 1986 with the capital construction program under the Merchant Marine Act, 1936.

(b) AMENDMENT OF 1986 CODE.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7518. TAX INCENTIVES RELATING TO MERCHANT MARINE CAPITAL CONSTRUCTION FUNDS.

"(a) CEILING ON DEPOSITS.—

"(1) IN GENERAL.—The amount deposited in a fund established under section 607 of the Merchant Marine Act, 1936 (hereinafter in this section referred to as a 'capital construction fund') shall not exceed for any taxable year the sum of:

"(A) that portion of the taxable income of the owner or lessee for such year (computed as provided in chapter 1 but without regard to the carryback of any net operating loss or net capital loss and without regard to this section) which is attributable to the operation of the agreement vessels in the foreign or domestic commerce of the United States or in the fisheries of the United States,

"(B) the amount allowable as a deduction under section 167 for such year with respect to the agreement vessels,

"(C) if the transaction is not taken into account for purposes of subparagraph (A), the net proceeds (as defined in joint regulations) from—

"(i) the sale or other disposition of any agreement vessel, or

"(ii) insurance or indemnity attributable to any agreement vessel, and

"(D) the receipts from the investment or reinvestment of amounts held in such fund.

"(2) LIMITATIONS ON DEPOSITS BY LESSEES.—In the case of a lessee, the maximum amount which may be deposited with respect to an agreement vessel by reason of paragraph (1)(B) for any period shall be reduced by any amount which, under an agreement entered into under section 607 of the Merchant Marine Act, 1936, the owner is required or permitted to deposit for such period with respect to such vessel by reason of paragraph (1)(B).

"(3) CERTAIN BARGES AND CONTAINERS INCLUDED.—For purposes of paragraph (1), the term 'agreement vessel' includes barges and containers which are part of the complement of such vessel and which are provided for in the agreement.

"(b) REQUIREMENTS AS TO INVESTMENTS.—

"(1) IN GENERAL.—Amounts in any capital construction fund shall be kept in the depository or depositories specified in the agreement and shall be subject to such trustee and other fiduciary requirements as may be specified by the Secretary.

"(2) LIMITATION ON FUND INVESTMENTS.—Amounts in any capital construction fund may be invested only in interest-bearing securities approved by the Secretary; except that, if such Secretary consents thereto, an agreed percentage (not in excess of 60 percent) of the assets of the fund may be invested in the stock of domestic corporations. Such stock must be currently fully listed and registered on an exchange registered with the Securities and Exchange Commission as a national securities exchange, and must be stock which would be acquired by prudent men of discretion and intelligence in such matters who are seeking a reasonable income and the preservation of their capital. If at any time the fair market value of the stock in the fund is more than the agreed percentage of the assets in the fund, any subsequent investment of amounts deposited in the fund, and any subsequent withdrawal from the fund, shall be made in such a way as to tend to restore the fund to a situation in which the fair market value of the stock does not exceed such agreed percentage.

"(3) INVESTMENT IN CERTAIN PREFERRED STOCK PERMITTED.—For purposes of this subsection, if the common stock of a corporation meets the requirements of this subsection and if the preferred stock of such corporation would meet such requirements but for the fact that it cannot be listed and registered as required because it is nonvoting stock, such preferred stock shall be treated as meeting the requirements of this subsection.

"(c) NONTAXABILITY FOR DEPOSITS.—

"(1) IN GENERAL.—For purposes of this title—

"(A) taxable income (determined without regard to this section and section 607 of the Merchant Marine Act, 1936) for the taxable year shall be reduced by an amount equal to the amount deposited for the taxable year out of amounts referred to in subsection (a)(1)(A),

"(B) gain from a transaction referred to in subsection (a)(1)(C) shall not be taken into account if an amount equal to the net proceeds (as defined in joint regulations) from such transaction is deposited in the fund,

"(C) the earnings (including gains and losses) from the investment and reinvestment of amounts held in the fund shall not be taken into account,

"(D) the earnings and profits (within the meaning of section 316) of any corporation shall be determined without regard to this section and section 607 of the Merchant Marine Act, 1936, and

"(E) in applying the tax imposed by section 531 (relating to the accumulated earnings tax), amounts while held in the fund shall not be taken into account.

"(2) ONLY QUALIFIED DEPOSITS ELIGIBLE FOR TREATMENT.—Paragraph (1) shall apply with respect to any amount only if such amount is deposited in the fund pursuant to the agreement and not later than the time provided in joint regulations.

"(d) ESTABLISHMENT OF ACCOUNTS.—For purposes of this section—

"(1) IN GENERAL.—Within a capital construction fund 3 accounts shall be maintained:

"(A) the capital account,

"(B) the capital gain account, and

"(C) the ordinary income account.

"(2) CAPITAL ACCOUNT.—The capital account shall consist of—

"(A) amounts referred to in subsection (a)(1)(B),

"(B) amounts referred to in subsection (a)(1)(C) other than that portion thereof which represents gain not taken into account by reason of subsection (c)(1)(B),

"(C) the percentage applicable under section 243(a)(1) of any dividend received by the fund with respect to which the person maintaining the fund would (but for subsection (c)(1)(C)) be allowed a deduction under section 243, and

"(D) interest income exempt from taxation under section 103.

"(3) CAPITAL GAIN ACCOUNT.—The capital gain account shall consist of—

"(A) amounts representing capital gains on assets held for more than 6 months and referred to in subsection (a)(1)(C) or (a)(1)(D), reduced by

"(B) amounts representing capital losses on assets held in the fund for more than 6 months.

"(4) ORDINARY INCOME ACCOUNT.—The ordinary income account shall consist of—

"(A) amounts referred to in subsection (a)(1)(A),

"(B)(i) amounts representing capital gains on assets held for 6 months or less and referred to in subsection (a)(1)(C) or (a)(1)(D), reduced by

"(ii) amounts representing capital losses on assets held in the fund for 6 months or less,

"(C) interest (not including any tax-exempt interest referred to in paragraph (2)(D)) and other ordinary income (not including any dividend referred to in subparagraph (E)) received on assets held in the fund,

"(D) ordinary income from a transaction described in subsection (a)(1)(C), and

"(E) the portion of any dividend referred to in paragraph (2)(C) not taken into account under such paragraph.

"(5) CAPITAL LOSSES ONLY ALLOWED TO OFFSET CERTAIN GAINS.—Except on termination of a capital construction fund, capital losses referred to in paragraph (3)(B) or in paragraph (4)(B)(ii), shall be allowed only as an offset to gains referred to in paragraph (3)(A) or (4)(B)(i), respectively.

"(e) PURPOSES OF QUALIFIED WITHDRAWALS.—

"(1) IN GENERAL.—A qualified withdrawal from the fund is one made in accordance with the terms of the agreement but only if it is for:

"(A) the acquisition, construction, or reconstruction of a qualified vessel,

"(B) the acquisition, construction, or reconstruction of barges and containers which are part of the complement of a qualified vessel, or

"(C) the payment of the principal on indebtedness incurred in connection with the acquisition, construction, or reconstruction of a qualified vessel or a barge or container which is part of the complement of a qualified vessel.

Except to the extent provided in regulations prescribed by the Secretary, subparagraph (B), and so much of subparagraph (C)

as relates only to barges and containers, shall apply only with respect to barges and containers constructed in the United States.

"(2) PENALTY FOR FAILING TO FULFILL ANY SUBSTANTIAL OBLIGATION.—Under joint regulations, if the Secretary determines that any substantial obligation under any agreement is not being fulfilled, he may, after notice and opportunity for hearing to the person maintaining the fund, treat the entire fund or any portion thereof as an amount withdrawn from the fund in a nonqualified withdrawal.

"(f) TAX TREATMENT OF QUALIFIED WITHDRAWALS.—

"(1) ORDERING RULE.—Any qualified withdrawal from a fund shall be treated—

"(A) first as made out of the capital account,

"(B) second as made out of the capital gain account, and

"(C) third as made out of the ordinary income account.

"(2) ADJUSTMENT TO BASIS OF VESSEL, ETC., WHERE WITHDRAWAL FROM ORDINARY INCOME ACCOUNT.—If any portion of a qualified withdrawal for a vessel, barge, or container is made out of the ordinary income account, the basis of such vessel, barge, or container shall be reduced by an amount equal to such portion.

"(3) ADJUSTMENT TO BASIS OF VESSEL, ETC., WHERE WITHDRAWAL FROM CAPITAL GAIN ACCOUNT.—If any portion of a qualified withdrawal for a vessel, barge, or container is made out of the capital gain account, the basis of such vessel, barge, or container shall be reduced by an amount equal to such portion.

"(4) ADJUSTMENT TO BASIS OF VESSELS, ETC., WHERE WITHDRAWALS PAY PRINCIPAL ON DEBT.—If any portion of a qualified withdrawal to pay the principal on any indebtedness is made out of the ordinary income account or the capital gain account, then an amount equal to the aggregate reduction which would be required by paragraphs (2) and (3) if this were a qualified withdrawal for a purpose described in such paragraphs shall be applied, in the order provided in joint regulations, to reduce the basis of vessels, barges, and containers owned by the person maintaining the fund. Any amount of a withdrawal remaining after the application of the preceding sentence shall be treated as a nonqualified withdrawal.

"(5) ORDINARY INCOME RECAPTURE OF BASIS REDUCTION.—If any property the basis of which was reduced under paragraph (2), (3), or (4) is disposed of, any gain realized on such disposition, to the extent it does not exceed the aggregate reduction in the basis of such property under such paragraphs, shall be treated as an amount referred to in subsection (g)(3)(A) which was withdrawn on the date of such disposition. Subject to such conditions and requirements as may be provided in joint regulations, the preceding sentence shall not apply to a disposition where there is a redeposit in an amount determined under joint regulations which will, insofar as practicable, restore the fund to the position it was in before the withdrawal.

"(g) TAX TREATMENT OF NONQUALIFIED WITHDRAWALS.—

"(1) IN GENERAL.—Except as provided in subsection (h), any withdrawal from a capital construction fund which is not qualified withdrawal shall be treated as a nonqualified withdrawal.

"(2) ORDERING RULE.—Any nonqualified withdrawal from a fund shall be treated—

"(A) first as made out of the ordinary income account,

"(B) second as made out of the capital gain account, and

"(C) third as made out of the capital account.

For purposes of this section, items withdrawn from any account shall be treated as withdrawn on a first-in-first-out basis; except that (i) any nonqualified withdrawal for research, development, and design expenses incident to new and advanced ship design, machinery and equipment, and (ii) any amount treated as a nonqualified withdrawal under the second sentence of subsection (f)(4), shall be treated as withdrawn on a last-in-first-out basis.

"(3) OPERATING RULES.—For purposes of this title—

"(A) any amount referred to in paragraph (2)(A) shall be included in income as an item of ordinary income for the taxable year in which the withdrawal is made,

"(B) any amount referred to in paragraph (2)(B) shall be included in income for the taxable year in which the withdrawal is made as an item of gain realized during such year from the disposition of an asset held for more than 6 months, and

"(C) for the period on or before the last date prescribed for payment of tax for the taxable year in which this withdrawal is made—

"(i) no interest shall be payable under section 6601 and no addition to the tax shall be payable under section 6651,

"(ii) interest on the amount of the additional tax attributable to any item referred to in subparagraph (A) or (B) shall be paid at the applicable rate (as defined in paragraph (4)) from the last date prescribed for payment of the tax for the taxable year for which such item was deposited in the fund, and

"(iii) no interest shall be payable on amounts referred to in clauses (i) and (ii) of paragraph (2) or in the case of any nonqualified withdrawal arising from the application of the recapture provision of section 606(5) of the Merchant Marine Act of 1936 as in effect on December 31, 1969.

"(4) INTEREST RATE.—For purposes of paragraph (3)(C)(ii), the applicable rate of interest for any nonqualified withdrawal—

"(A) made in a taxable year beginning in 1970 or 1971 is 8 percent, or

"(B) made in a taxable year beginning after 1971, shall be determined and published jointly by the Secretary of the Treasury or his delegate and the applicable Secretary and shall bear a relationship to 8 percent which the Secretaries determine under joint regulations to be comparable to the relationship which the money rates and investment yields for the calendar year immediately preceding the beginning of the taxable year bear to the money rates and investment yields for the calendar year 1970.

"(5) AMOUNT NOT WITHDRAWN FROM FUND AFTER 25 YEARS FROM DEPOSIT TAXED AS NONQUALIFIED WITHDRAWAL.—

"(A) IN GENERAL.—The applicable percentage of any amount which remains in a capital construction fund at the

close of the 26th, 27th, 28th, 29th, or 30th taxable year following the taxable year for which such amount was deposited shall be treated as a nonqualified withdrawal in accordance with the following table:

"If the amount remains in the fund at the close of the—	The applicable percentage is—
26th taxable year	20 percent
27th taxable year	40 percent
28th taxable year	60 percent
29th taxable year	80 percent
30th taxable year	100 percent.

"(B) EARNINGS TREATED AS DEPOSITS.—The earnings of any capital construction fund for any taxable year (other than net gains) shall be treated for purposes of this paragraph as an amount deposited for such taxable year.

"(C) AMOUNTS COMMITTED TREATED AS WITHDRAWN.—For purposes of subparagraph (A), an amount shall not be treated as remaining in a capital construction fund at the close of any taxable year to the extent there is a binding contract at the close of such year for a qualified withdrawal of such amount with respect to an identified item for which such withdrawal may be made.

"(D) AUTHORITY TO TREAT EXCESS FUNDS AS WITHDRAWN.—If the Secretary determines that the balance in any capital construction fund exceeds the amount which is appropriate to meet the vessel construction program objectives of the person who established such fund, the amount of such excess shall be treated as a nonqualified withdrawal under subparagraph (A) unless such person develops appropriate program objectives within 3 years to dissipate such excess.

"(E) AMOUNTS IN FUND ON JANUARY 1, 1987.—For purposes of this paragraph, all amounts in a capital construction fund on January 1, 1987, shall be treated as deposited in such fund on such date.

"(6) NONQUALIFIED WITHDRAWALS TAXED AT HIGHEST MARGINAL RATE.—

"(A) IN GENERAL.—In the case of any taxable year for which there is a nonqualified withdrawal (including any amount so treated under paragraph (5)), the tax imposed by chapter 1 shall be determined—

"(i) by excluding such withdrawal from gross income, and

"(ii) by increasing the tax imposed by chapter 1 by the product of the amount of such withdrawal and the highest rate of tax specified in section 1 (section 11 in the case of a corporation).

With respect to the portion of any nonqualified withdrawal made out of the capital gain account during a taxable year to which section 1(i) or 1201(a) applies, the rate of tax taken into account under the preceding sentence shall not exceed 28 percent (34 percent in the case of a corporation).

"(B) TAX BENEFIT RULE.—If any portion of a nonqualified withdrawal is properly attributable to deposits (other than earnings on deposits) made by the taxpayer in any taxable year which did not reduce the taxpayer's liability for tax under chapter 1 for any taxable year preceding the taxable year in which such withdrawal occurs—

"(i) such portion shall not be taken into account under subparagraph (A), and

"(ii) an amount equal to such portion shall be treated as allowed as a deduction under section 172 for the taxable year in which such withdrawal occurs.

"(C) COORDINATION WITH DEDUCTION FOR NET OPERATING LOSSES.—Any nonqualified withdrawal excluded from gross income under subparagraph (A) shall be excluded in determining taxable income under section 172(b)(2).

"(h) CERTAIN CORPORATE REORGANIZATIONS AND CHANGES IN PARTNERSHIPS.—Under joint regulations—

"(1) a transfer of a fund from one person to another person in a transaction to which section 381 applies may be treated as if such transaction did not constitute a nonqualified withdrawal, and

"(2) a similar rule shall be applied in the case of a continuation of a partnership.

"(i) DEFINITIONS.—For purposes of this section, any term defined in section 607(k) of the Merchant Marine Act, 1936 which is also used in this section (including the definition of 'Secretary') shall have the meaning given such term by such section 607(k) as in effect on the date of the enactment of this section."

(c) CREDITS NOT ALLOWED AGAINST INCREASE IN TAX.—Paragraph (2) of section 26(b) is amended by striking out "and" at the end of subparagraph (G), by striking out the period at the end of subparagraph (H) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(I) subparagraph (A) of section 7518(g)(6) (relating to nonqualified withdrawals from capital construction funds taxed at highest marginal rate)."

(d) DEPARTMENTAL REPORTS AND CERTIFICATION.—Section 607 of the Merchant Marine Act, 1936, is amended by adding at the end thereof the following new subsection:

"(m) DEPARTMENTAL REPORTS AND CERTIFICATION.—

"(1) IN GENERAL.—For each calendar year, the Secretaries shall each provide the Secretary of the Treasury, within 120 days after the close of such calendar year, a written report with respect to those capital construction funds that are under their jurisdiction.

"(2) CONTENTS OF REPORTS.—Each report shall set forth the name and taxpayer identification number of each person—

"(A) establishing a capital construction fund during such calendar year;

"(B) maintaining a capital construction fund as of the last day of such calendar year;

"(C) terminating a capital construction fund during such calendar year;

"(D) making any withdrawal from or deposit into (and the amounts thereof) a capital construction fund during such calendar year; or

"(E) with respect to which a determination has been made during such calendar year that such person has failed to fulfill a substantial obligation under any capital construction fund agreement to which such person is a party."

(e) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 607(d)(1) of the Merchant Marine Act, 1936 is amended by inserting "and section 7518 of such Code" after "this section".

(2) Subparagraph (D) of section 607(d)(1) of such Act is amended by inserting "and section 7518 of such Code" after "this section".

(3) Subparagraph (C) of section 607(e)(2) of such Act is amended by striking out "85 percent" and inserting in lieu thereof "the percentage applicable under section 243(a)(1) of the Internal Revenue Code of 1986".

(4) Subparagraph (E) of section 607(e)(4) of such Act is amended to read as follows:

"(E) the portion of any dividend referred to in paragraph (2)(C) not taken into account under such paragraph."

(5) Paragraph (3) of section 607(g) of such Act is amended to read as follows:

"(3) If any portion of a qualified withdrawal for a vessel, barge, or container is made out of the capital gain account, the basis of such vessel, barge, or container shall be reduced by an amount equal to such portion."

(6) Subsection (h) of section 607 of such Act is amended by adding at the end thereof the following new paragraphs:

"(5) AMOUNT NOT WITHDRAWN FROM FUND AFTER 25 YEARS FROM DEPOSIT TAXED AS NONQUALIFIED WITHDRAWAL.—

"(A) IN GENERAL.—The applicable percentage of any amount which remains in a capital construction fund at the close of the 26th, 27th, 28th, 29th, or 30th taxable year following the taxable year for which such amount was deposited shall be treated as a nonqualified withdrawal in accordance with the following table:

"If the amount remains in the fund at the close of the—	The applicable percentage is—
26th taxable year	20 percent
27th taxable year	40 percent
28th taxable year	60 percent
29th taxable year	80 percent
30th taxable year	100 percent.

"(B) EARNINGS TREATED AS DEPOSITS.—The earnings of any capital construction fund for any taxable year (other than net gains) shall be treated for purposes of this paragraph as an amount deposited for such taxable year.

"(C) AMOUNTS COMMITTED TREATED AS WITHDRAWN.—For purposes of subparagraph (A), an amount shall not be treated as remaining in a capital construction fund at the close of any taxable year to the extent there is a binding contract at the close of such year for a qualified withdrawal of such amount with respect to an identified item for which such withdrawal may be made.

"(D) AUTHORITY TO TREAT EXCESS FUNDS AS WITHDRAWN.—If the Secretary determines that the balance in any capital construction fund exceeds the amount which is appropriate to meet the vessel construction program objectives of the person who established such fund, the amount of such excess shall be treated as a nonqualified withdrawal under subparagraph (A) unless such person develops appropriate program objectives within 3 years to dissipate such excess.

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"(E) AMOUNTS IN FUND ON JANUARY 1, 1987.—For purposes of this paragraph, all amounts in a capital construction fund on January 1, 1987, shall be treated as deposited in such fund on such date.

"(6) NONQUALIFIED WITHDRAWALS TAXED AT HIGHEST MARGINAL RATE.—

"(A) IN GENERAL.—In the case of any taxable year for which there is a nonqualified withdrawal (including any amount so treated under paragraph (5)), the tax imposed by chapter 1 of the Internal Revenue Code of 1986 shall be determined—

"(i) by excluding such withdrawal from gross income, and

"(ii) by increasing the tax imposed by chapter 1 of such Code by the product of the amount of such withdrawal and the highest rate of tax specified in section 1 (section 11 in the case of a corporation) of such Code.

With respect to the portion of any nonqualified withdrawal made out of the capital gain account during a taxable year to which section 1(i) or 1201(a) of such Code applies, the rate of tax taken into account under the preceding sentence shall not exceed 28 percent (34 percent in the case of a corporation).

"(B) TAX BENEFIT RULE.—If any portion of a nonqualified withdrawal is properly attributable to deposits (other than earnings on deposits) made by the taxpayer in any taxable year which did not reduce the taxpayer's liability for tax under chapter 1 for any taxable year preceding the taxable year in which such withdrawal occurs—

"(i) such portion shall not be taken into account under subparagraph (A), and

"(ii) an amount equal to such portion shall be treated as allowed as a deduction under section 172 of such Code for the taxable year in which such withdrawal occurs.

"(C) COORDINATION WITH DEDUCTION FOR NET OPERATING LOSSES.—Any nonqualified withdrawal excluded from gross income under subparagraph (A) shall be excluded in determining taxable income under section 172(b)(2) of the Internal Revenue Code of 1986."

(f) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end thereof the following new item:

"Sec. 7518. Tax incentives relating to merchant marine capital construction funds."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

TITLE III—CAPITAL GAINS

Subtitle A—Individual Capital Gains

SEC. 301. REPEAL OF EXCLUSION FOR LONG-TERM CAPITAL GAINS OF INDIVIDUALS.

(a) IN GENERAL.—Section 1202 (relating to deduction for capital gains) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 62(a) (defining adjusted gross income), as amended by section 132, is amended by striking out paragraph (3) and redesignating paragraphs (4), (5), (6), (7), (10), (11), (12), (13), (14), and (15) as paragraphs (3) through (12), respectively.

(2) Section 170(e)(1) (relating to certain contributions of ordinary income and capital gain property) is amended by striking out "40 percent (28/46 in the case of a corporation) of".

(3) Paragraph (2) of section 172(d) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation, the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets."

(4) Paragraph (1) of section 219(f) (defining compensation) is amended by striking out "paragraph (7)" and inserting in lieu thereof "paragraph (6)".

(5)(A) Section 223 (relating to cross references) is amended to read as follows:

"SEC. 223. CROSS REFERENCE.

"For deductions in respect of a decedent, see section 691."

(B) The table of sections for part VII of subchapter B of chapter 1 is amended by striking out "references" in the item relating to section 223 and inserting in lieu thereof "reference".

(6) Paragraph (4) of section 642(c) (relating to deduction for amounts paid or permanently set aside for a charitable purpose) is amended—

(A) by striking out the 1st sentence, and

(B) by striking out "ADJUSTMENTS" in the paragraph heading and inserting in lieu thereof "COORDINATION WITH SECTION 681".

(7) Paragraph (3) of section 643(a) (relating to distributable net income) is amended by striking out the last sentence.

(8) Paragraph (4) of section 691(c) (relating to deduction for estate tax) is amended—

(A) by striking out "1201, 1202, and 1211, and for purposes of section 57(a)(9)" and inserting in lieu thereof "1(j), 1201, and 1211", and

(B) by striking out "CAPITAL GAIN DEDUCTION, ETC.—" in the paragraph heading and inserting in lieu thereof "CAPITAL GAIN PROVISIONS.—".

(9) The second sentence of paragraph (2) of section 871(a) (relating to income not connected with United States business) is amended by striking out "such gains and losses shall be determined without regard to section 1202 (relating to deduction for capital gains) and".

(10) Subsection (b) of section 1211 (relating to limitation on capital losses) is amended to read as follows:

"(b) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, losses from sales or exchanges of capital assets shall be allowed only to the extent of the gains from such sales or exchanges, plus (if such losses exceed such gains) the lower of—

"(1) $3,000 ($1,500 in the case of a married individual filing a separate return), or

"(2) the excess of such losses over such gains."

(11) Paragraph (2) of section 1212(b) (relating to capital loss carrybacks and carryovers) is amended to read as follows:

"(2) SPECIAL RULE.—For purposes of determining the excess referred to in subparagraph (A) or (B) of paragraph (1), an amount equal to the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b) shall be treated as a short-term capital gain in such year."

(12) Paragraph (1) of section 1402(i) (relating to special rules for options and commodities dealers) is amended to read as follows:

"(1) IN GENERAL.—Notwithstanding subsection (a)(3)(A), in determining the net earnings from self-employment of any options dealer or commodities dealer, there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts."

(13) The table of sections for part I of subchapter P of chapter 1 is amended by striking out the item relating to section 1202.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 302. 28-PERCENT CAPITAL GAINS RATE FOR TAXPAYERS OTHER THAN CORPORATIONS.

(a) IN GENERAL.—Section 1 (relating to tax imposed on individuals), as amended by sections 101 and 1411, is amended by adding at the end thereof the following new subsection:

"(j) MAXIMUM CAPITAL GAINS RATE.—

"(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year to which this subsection applies, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(i) the taxable income reduced by the amount of net capital gain, or

"(ii) the amount of taxable income taxed at a rate below 28 percent, plus

"(B) a tax of 28 percent of the amount of taxable income in excess of the amount determined under subparagraph (A), plus

"(C) the amount of increase determined under subsection (g).

"(2) YEARS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to—

"(A) any taxable year beginning in 1987, and

"(B) any taxable year beginning after 1987 if the highest rate of tax set forth in subsection (a), (b), (c), (d), or (e) (whichever applies) for such taxable year exceeds 28 percent."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

(c) TRANSITIONAL RULE.—The tax under section 1 of the Internal Revenue Code of 1986 on the long-term capital gain on rights to royalties paid under leases and assignments binding on Septem-

ber 25, 1985, by a limited partnership formed on March 1, 1977, which on October 30, 1979, assigned leases and which assignment was amended on April 27, 1981, shall not exceed 20 percent.

Subtitle B—Repeal of Corporate Capital Gains Treatment

SEC. 311. REPEAL OF CORPORATE CAPITAL GAINS TREATMENT.

(a) GENERAL RULE.—Section 1201 (relating to alternative tax for corporations) is amended to read as follows:

"SEC. 1201. ALTERNATIVE TAX FOR CORPORATIONS.

"(a) GENERAL RULE.—If for any taxable year a corporation has a net capital gain and any rate of tax imposed by section 11, 511, or 831(a) (whichever is applicable) exceeds 34 percent (determined without regard to the last sentence of section 11(b)), then, in lieu of any such tax, there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus

"(2) a tax of 34 percent of the net capital gain.

"(b) CROSS REFERENCES.—

"For computation of the alternative tax—

"(1) in the case of life insurance companies, see section 801(a)(2),

"(2) in the case of regulated investment companies and their shareholders, see section 852(b)(3)(A) and (D), and

"(3) in the case of real estate investment trusts, see section 857(b)(3)(A)."

(b) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 852(b)(3)(D) is amended by striking out "72 percent" and inserting in lieu thereof "66 percent".

(2) Subparagraph (E) of section 593(b)(2), as in effect before the amendments made by title IX, is amended by adding "and" at the end of clause (iii), by striking out clause (iv), and by redesignating clause (v) as clause (iv).

(3) The second sentence of section 631(c) is amended by striking out "Such owner" and inserting in lieu thereof "If for the taxable year of such gain or loss the maximum rate of tax imposed by this chapter on any net capital gain is less than such maximum rate for ordinary income, such owner".

(4) Paragraphs (1) and (2) of section 1445(e) (as amended by title XVIII) are each amended by striking out "28 percent" and inserting in lieu thereof "34 percent".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1986.

(d) TRANSITIONAL RULES.—

(1) TAXABLE YEARS WHICH BEGIN IN 1986 AND END IN 1987.—In the case of any taxable year which begins before January 1, 1987, and ends on or after such date, paragraph (2) of section 1201(a) of the Internal Revenue Code of 1954, as in effect on the date before the date of enactment of this Act, shall be applied as if it read as follows:

"(2) the sum of—

"(A) 28 percent of the lesser of—

"(i) the net capital gain determined by taking into account only gain or loss which is properly taken into account for the portion of the taxable year before January 1, 1987, or

"(ii) the net capital gain for the taxable year, and

"(B) 34 percent of the excess (if any) of—

"(i) the net capital gain for the taxable year, over

"(ii) the amount of the net capital gain taken into account under subparagraph (A)."

(2) REVOCATION OF ELECTIONS UNDER SECTION 631(a).—Any election under section 631(a) of the Internal Revenue Code of 1954 made (whether by a corporation or a person other than a corporation) for a taxable year beginning before January 1, 1987, may be revoked by the taxpayer for any taxable year ending after December 31, 1986. For purposes of determining whether the taxpayer may make a further election under such section, such election (and any revocation under this paragraph) shall not be taken into account.

Subtitle C—Incentive Stock Options

SEC. 321. REPEAL OF REQUIREMENT THAT INCENTIVE STOCK OPTIONS ARE EXERCISABLE ONLY IN CHRONOLOGICAL ORDER; MODIFICATION OF $100,000 LIMITATION.

(a) GENERAL RULE.—Subsection (b) of section 422A is amended by inserting "and" at the end of paragraph (6) and by striking out paragraphs (7) and (8) and inserting in lieu thereof the following new paragraph:

"(7) under the terms of the plan, the aggregate fair market value (determined at the time the option is granted) of the stock with respect to which incentive stock options are exercisable for the 1st time by such individual during any calendar year (under all such plans of the individual's employer corporation and its parent and subsidiary corporations) shall not exceed $100,000."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 422A is amended—

(A) by striking out paragraphs (4) and (7), and

(B) by redesignating paragraphs (5), (6), (8), (9), and (10) as paragraphs (4), (5), (6), (7), and (8), respectively.

(2) The last sentence of section 422A(c)(1) is amended by striking out "paragraph (8) of subsection (b) and paragraph (4) of this subsection" and inserting in lieu thereof "paragraph (7) of subsection (b)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to options granted after December 31, 1986.

Subtitle D—Straddles

SEC. 331. YEAR-END RULE EXPANDED.

(a) IN GENERAL.—Subparagraph (E) of section 1092(c)(4) (defining straddle) is amended—

(1) by inserting "or the stock is disposed of at a loss" in clause (i) after "closed",

(2) by striking out "is" in clause (ii) and inserting in lieu thereof "or gains on such options are", and

(3) by inserting "or option" after "stock" and "or the disposition of such stock" after "options" in clause (iii).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to positions established on or after January 1, 1987.

TITLE IV—AGRICULTURE, ENERGY, AND NATURAL RESOURCES

Subtitle A—Agriculture

SEC. 401. LIMITATION ON EXPENSING OF SOIL AND WATER CONSERVATION EXPENDITURES.

(a) GENERAL RULE.—Subsection (c) of section 175 (relating to soil and water conservation expenditures) is amended by adding at the end thereof the following new paragraph:

"(3) ADDITIONAL LIMITATIONS.—

"(A) EXPENDITURES MUST BE CONSISTENT WITH SOIL CONSERVATION PLAN.—Notwithstanding any other provision of this section, subsection (a) shall not apply to any expenditures unless such expenditures are consistent with—

"(i) the plan (if any) approved by the Soil Conservation Service of the Department of Agriculture for the area in which the land is located, or

"(ii) if there is no plan described in clause (i), any soil conservation plan of a comparable State agency.

"(B) CERTAIN WETLAND, ETC., ACTIVITIES NOT QUALIFIED.—Subsection (a) shall not apply to any expenditures in connection with the draining or filling of wetlands or land preparation for center pivot irrigation systems."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after December 31, 1986, in taxable years ending after such date.

SEC. 402. REPEAL OF SPECIAL TREATMENT FOR EXPENDITURES FOR CLEARING LAND.

(a) IN GENERAL.—Section 182 (relating to expenditures by farmers for clearing land) is hereby repealed.

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 263(a) (relating to capital expenditures) is amended by striking out subparagraph (E) and by redesignating subparagraphs (F), (G), and (H) as subparagraphs (E), (F), and (G), respectively.

(2) Subparagraph (A) of section 1252(a)(1) (relating to gain from disposition of farm land) is amended by striking out "(relating to expenditures by farmers for clearing land)" and inserting in lieu thereof "(as in effect on the day before the date of the enactment of the Tax Reform Act of 1986)".

(3) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 182.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 1985, in taxable years ending after such date.

SEC. 403. TREATMENT OF DISPOSITIONS OF CONVERTED WETLANDS OR HIGHLY ERODIBLE CROPLANDS.

(a) GENERAL RULE.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding at the end thereof the following new section:

"SEC. 1257. DISPOSITION OF CONVERTED WETLANDS OR HIGHLY ERODIBLE CROPLANDS.

"(a) GAIN TREATED AS ORDINARY INCOME.—Any gain on the disposition of converted wetland or highly erodible cropland shall be treated as ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle, except that this section shall not apply to the extent such gain is recognized as ordinary income under any other provision of this part.

"(b) LOSS TREATED AS LONG-TERM CAPITAL LOSS.—Any loss recognized on the disposition of converted wetland or highly erodible cropland shall be treated as a long-term capital loss.

"(c) DEFINITIONS.—For purposes of this section—

"(1) CONVERTED WETLAND.—The term 'converted wetland' means any converted wetland (as defined in section 1201(4) of the Food Security Act of 1985 (16 U.S.C. 3801(4))) held—

"(A) by the person whose activities resulted in such land being converted wetland, or

"(B) by any other person who at any time used such land for farming purposes.

"(2) HIGHLY ERODIBLE CROPLAND.—The term 'highly erodible cropland' means any highly erodible cropland (as defined in section 1201(6) of the Food Security Act of 1985 (16 U.S.C. 3801(6))), if at any time the taxpayer used such land for farming purposes (other than the grazing of animals).

"(3) TREATMENT OF SUCCESSORS.—If any land is converted wetland or highly erodible cropland in the hands of any person, such land shall be treated as converted wetland or highly erodible cropland in the hands of any other person whose adjusted basis in such land is determined (in whole or in part) by reference to the adjusted basis of such land in the hands of such person.

"(d) SPECIAL RULES.—Under regulations prescribed by the Secretary, rules similar to the rules applicable under section 1245 shall apply for purposes of subsection (a). For purposes of sections 170(e), 341(e)(12), and 751(c), amounts treated as ordinary income under subsection (a) shall be treated in the same manner as amounts treated as ordinary income under section 1245."

(b) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1257. Disposition of converted wetlands or highly erodible croplands."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions of converted wetland or highly erodible cropland (as defined in section 1257(c) of the Internal Revenue Code of 1986 as added by this section) first used for farming after March 1, 1986, in taxable years ending after that date.

SEC. 404. LIMITATION ON CERTAIN PREPAID FARMING EXPENSES.

(a) GENERAL RULE.—Section 464 (relating to limitations on deductions in case of farming syndicates) is amended by adding at the end thereof the following new subsection:

"(f) SUBSECTIONS (a) AND (b) TO APPLY TO CERTAIN PERSONS PREPAYING 50 PERCENT OR MORE OF CERTAIN FARMING EXPENSES.—

"(1) IN GENERAL.—In the case of a taxpayer to whom this subsection applies, subsections (a) and (b) shall apply to the excess prepaid farm supplies of such taxpayer in the same manner as if such taxpayer were a farming syndicate.

"(2) TAXPAYER TO WHOM SUBSECTION APPLIES.—This subsection applies to any taxpayer for any taxable year if such taxpayer—

"(A) does not use an accrual method of accounting,

"(B) has excess prepaid farm supplies for the taxable year, and

"(C) is not a qualified farm-related taxpayer.

"(3) QUALIFIED FARM-RELATED TAXPAYER.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified farm-related taxpayer' means any farm-related taxpayer if—

"(i)(I) the aggregate prepaid farm supplies for the 3 taxable years preceding the taxable year are less than 50 percent of,

"(II) the aggregate deductible farming expenses (other than prepaid farm supplies) for such 3 taxable years, or

"(ii) the taxpayer has excess prepaid farm supplies for the taxable year by reason of any change in business operation directly attributable to extraordinary circumstances.

"(B) FARM-RELATED TAXPAYER.—For purposes of this paragraph, the term 'farm-related taxpayer' means any taxpayer—

"(i) whose principal residence (within the meaning of section 1034) is on a farm,

"(ii) who has a principal occupation of farming, or

"(iii) who is a member of the family (within the meaning of subsection (c)(2)(E)) of a taxpayer described in clause (i) or (ii).

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) EXCESS PREPAID FARM SUPPLIES.—The term 'excess prepaid farm supplies' means the prepaid farm supplies for the taxable year to the extent the amount of such supplies exceeds 50 percent of the deductible farming expenses for the taxable year (other than prepaid farm supplies).

"(B) PREPAID FARM SUPPLIES.—The term 'prepaid farm supplies' means any amounts which are described in subsection (a) or (b) and would be allowable for a subsequent taxable year under the rules of subsections (a) and (b).

"(C) DEDUCTIBLE FARMING EXPENSES.—The term 'deductible farming expenses' means any amount allowable as a deduction under this chapter (including any amount allowable as a deduction for depreciation or amortization) which is properly allocable to the trade or business of farming."

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 464 is amended by striking out "IN CASE OF FARMING SYNDICATES" and inserting in lieu thereof "FOR CERTAIN FARMING".

(2) The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by striking out "in case of farming syndicates" in the item relating to section 464 and inserting in lieu thereof "for certain farming expenses".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after March 1, 1986, in taxable years beginning after such date.

SEC. 405. TAX TREATMENT OF DISCHARGE OF CERTAIN INDEBTEDNESS OF SOLVENT FARMERS.

(a) IN GENERAL.—Section 108 (relating to income from discharge of indebtedness) is amended by adding at the end thereof the following new subsection:

"(g) SPECIAL RULES FOR DISCHARGE OF QUALIFIED FARM INDEBTEDNESS OF SOLVENT FARMERS.—

"(1) IN GENERAL.—For purposes of this section and section 1017, the discharge by a qualified person of qualified farm indebtedness of a taxpayer who is not insolvent at the time of the discharge shall be treated in the same manner as if the discharge had occurred when the taxpayer was insolvent.

"(2) QUALIFIED FARM INDEBTEDNESS.—For purposes of this subsection, indebtedness of a taxpayer shall be treated as qualified farm indebtedness if—

"(A) such indebtedness was incurred directly in connection with the operation by the taxpayer of the trade or business of farming, and

"(B) 50 percent or more of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the discharge of such indebtedness occurs is attributable to the trade or business of farming.

"(3) QUALIFIED PERSON.—For purposes of this subsection, the term 'qualified person' means a person described in section 46(c)(8)(D)(iv)."

(b) BASIS ADJUSTMENT.—Section 1017(b) (relating to basis adjustment) is amended by adding at the end thereof the following new paragraph:

"(4) ORDERING RULE IN THE CASE OF QUALIFIED FARM INDEBTEDNESS.—Any amount which is excluded from gross income under section 108(a) by reason of the discharge of qualified farm indebtedness (within the meaning of section 108(g)(2)) and which under subsection (b) of section 108 is to be applied to reduce basis shall be applied—

"(A) first to reduce the tax attributes described in section 108(b)(2) (other than subparagraph (D) thereof),

"(B) then to reduce basis of property other than property described in subparagraph (C), and

"(C) then to reduce the basis of land used or held for use in the trade or business of farming."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges of indebtedness occurring after April 9, 1986, in taxable years ending after such date.

SEC. 406. RETENTION OF CAPITAL GAINS TREATMENT FOR SALES OF DAIRY CATTLE UNDER MILK PRODUCTION TERMINATION PROGRAM.

The amendments made by subtitles A and B of title III shall not apply to any gain from the sale of dairy cattle under a valid contract with the United States Department of Agriculture under the milk production termination program to the extent such gain is properly taken into account under the taxpayer's method of accounting after January 1, 1987, and before September 1, 1987.

Subtitle B—Treatment of Oil, Gas, Geothermal, and Hard Minerals

SEC. 411. TREATMENT OF INTANGIBLE DRILLING COSTS AND MINERAL EXPLORATION AND DEVELOPMENT COSTS.

(a) TREATMENT UNDER SECTION 291.—

(1) INCREASE IN PERCENTAGE DISALLOWANCE.—Paragraph (1) of section 291(b) (relating to special rules for treatment of intangible drilling costs and mineral exploration and development costs) is amended by striking out "20 percent" and inserting in lieu thereof "30 percent".

(2) TREATMENT OF DISALLOWED AMOUNT.—Subsection (b) of section 291 is amended by striking out paragraphs (2), (3), (4), (5), and (6) and inserting in lieu thereof the following new paragraphs:

"(2) AMORTIZATION OF AMOUNTS NOT ALLOWABLE AS DEDUCTIONS UNDER PARAGRAPH (1).—The amount not allowable as a deduction under section 263(c), 616(a), or 617(a) (as the case may be) for any taxable year by reason of paragraph (1) shall be allowable as a deduction ratably over the 60-month period beginning with the month in which the costs are paid or incurred.

"(3) DISPOSITIONS.—For purposes of section 1254, any deduction under paragraph (2) shall be treated as a deduction allowable under section 263(c), 616(a), or 617(a) (whichever is appropriate).

"(4) INTEGRATED OIL COMPANY DEFINED.—For purposes of this subsection, the term 'integrated oil company' means, with respect to any taxable year, any producer (within the meaning of section 4996(a)(1)) of crude oil other than an independent producer (within the meaning of section 4992(b)).

"(5) COORDINATION WITH COST DEPLETION.—The portion of the adjusted basis of any property which is attributable to amounts to which paragraph (1) applied shall not be taken into account for purposes of determining depletion under section 611."

(b) TREATMENT OF COSTS INCURRED OUTSIDE THE UNITED STATES.—

(1) INTANGIBLE DRILLING AND DEVELOPMENT COSTS.—

(A) IN GENERAL.—Section 263 (relating to capital expenditures) is amended by adding at the end thereof the following new subsection:

"(i) SPECIAL RULES FOR INTANGIBLE DRILLING AND DEVELOPMENT COSTS INCURRED OUTSIDE THE UNITED STATES.—In the case of intangible drilling and development costs paid or incurred with respect to an oil, gas, or geothermal well located outside the United States—

"(1) subsection (c) shall not apply, and

"(2) such costs shall—

"(A) at the election of the taxpayer, be included in adjusted basis for purposes of computing the amount of any deduction allowable under section 611 (determined without regard to section 613), or

"(B) if subparagraph (A) does not apply, be allowed as a deduction ratably over the 10-taxable year period beginning with the taxable year in which such costs were paid or incurred.

This subsection shall not apply to costs paid or incurred with respect to a nonproductive well."

(B) CONFORMING AMENDMENT.—Section 263(c) is amended by inserting "and except as provided in subsection (i)," after "subsection (a),".

(2) DEVELOPMENT AND MINING EXPLORATION COSTS.—

(A) IN GENERAL.—Section 616 (relating to development expenditures) is amended by redesignating subsection (d) as subsection (e), and inserting after subsection (c) the following new subsection:

"(d) SPECIAL RULES FOR FOREIGN DEVELOPMENT.—In the case of any expenditures paid or incurred with respect to the development of a mine or other natural deposit (other than an oil, gas, or geothermal well) located outside of the United States—

"(1) subsections (a) and (b) shall not apply, and

"(2) such expenditures shall—

"(A) at the election of the taxpayer, be included in adjusted basis for purposes of computing the amount of any deduction allowable under section 611 (without regard to section 613), or

"(B) if subparagraph (A) does not apply, be allowed as a deduction ratably over the 10-taxable year period beginning with the taxable year in which such expenditures were paid or incurred."

(B) CERTAIN MINING EXPLORATION EXPENDITURES OUTSIDE THE UNITED STATES.—Section 617(h) (relating to limitation) is amended to read as follows:

"(h) SPECIAL RULES FOR FOREIGN EXPLORATION.—In the case of any expenditures paid or incurred before the development stage for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (other than an oil, gas, or geothermal well) located outside the United States—

"(1) subsection (a) shall not apply, and

"(2) such expenditures shall—

"(A) at the election of the taxpayer, be included in adjusted basis for purposes of computing the amount of any deduction allowable under section 611 (without regard to section 613), or

"(B) if subparagraph (A) does not apply, be allowed as a deduction ratably over the 10-taxable year period beginning with the taxable year in which such expenditures were paid or incurred."

(C) CONFORMING AMENDMENTS.—

(i) Subsection (a) of section 616 is amended by striking out "subsection (b)" and inserting in lieu thereof "subsections (b) and (d)".

(ii) Subparagraph (B) of section 291(b)(1) is amended by striking out "617" and inserting in lieu thereof "617(a)".

(iii) Paragraph (10) of section 381(c) is amended by striking out the last sentence thereof.

(iv) Subparagraph (C) of section 243(b)(3) is amended—

(I) by adding "and" at the end of clause (i),

(II) by striking out clause (ii), and

(III) by redesignating clause (iii) as clause (ii).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to costs paid or incurred after December 31, 1986, in taxable years ending after such date.

(2) TRANSITION RULE.—The amendments made by this section shall not apply with respect to intangible drilling and development costs incurred by United States companies pursuant to a minority interest in a license for Netherlands or United Kingdom North Sea development if such interest was acquired on or before December 31, 1985.

SEC. 412. MODIFICATION OF PERCENTAGE DEPLETION RULES.

(a) PERCENTAGE DEPLETION NOT ALLOWED FOR LEASE BONUSES, ETC.—

(1) IN GENERAL.—Subsection (d) of section 613A (relating to limitations on application of subsection (c)) is amended by adding at the end thereof the following new paragraph:

"(5) PERCENTAGE DEPLETION NOT ALLOWED FOR LEASE BONUSES, ETC.—In the case of any oil or gas property to which subsection (c) applies, for purposes of section 613, the term 'gross income from the property' shall not include any lease bonus, advance royalty, or other amount payable without regard to production from property."

(2) GEOTHERMAL DEPOSITS.—Section 613(e) is amended by adding at the end thereof the following new paragraph:

"(4) PERCENTAGE DEPLETION NOT TO INCLUDE LEASE BONUSES, ETC.—In the case of any geothermal deposit, the term 'gross income from the property' shall, for purposes of this section, not include any amount described in section 613A(d)(5)."

(3) EFFECTIVE DATE.—The amendment made by this subsection shall apply to amounts received or accrued after August 16, 1986, in taxable years ending after such date.

(b) TREATMENT UNDER SECTION 291 OF COAL AND IRON ORE.—

(1) IN GENERAL.—Paragraph (2) of section 291(a) (relating to reductions in percentage depletion) is amended by striking out "15 percent" and inserting in lieu thereof "20 percent".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

SEC. 413. GAIN FROM DISPOSITION OF INTERESTS IN OIL, GAS, GEOTHERMAL, OR OTHER MINERAL PROPERTIES.

(a) GENERAL RULE.—Section 1254 is amended to read as follows:

"SEC. 1254. GAIN FROM DISPOSITION OF INTEREST IN OIL, GAS, GEOTHERMAL, OR OTHER MINERAL PROPERTIES.

"(a) GENERAL RULE.—

"(1) ORDINARY INCOME.—If any section 1254 property is disposed of, the lesser of—

"(A) the aggregate amount of—

"(i) expenditures which have been deducted by the taxpayer or any person under section 263, 616, or 617 with respect to such property and which, but for such deduction, would have been included in the adjusted basis of such property, and

"(ii) the deductions for depletion under section 611 which reduced the adjusted basis of such property, or

"(B) the excess of—

"(i) in the case of—

"(I) a sale, exchange, or involuntary conversion, the amount realized, or

"(II) in the case of any other disposition, the fair market value of such property, over

"(ii) the adjusted basis of such property,

shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(2) DISPOSITION OF PORTION OF PROPERTY.—For purposes of paragraph (1)—

"(A) In the case of the disposition of a portion of section 1254 property (other than an undivided interest), the entire amount of the aggregate expenditures or deductions described in paragraph (1)(A) with respect to such property shall be treated as allocable to such portion to the extent of the amount of the gain to which paragraph (1) applies.

"(B) In the case of the disposition of an undivided interest in a section 1254 property (or a portion thereof), a proportionate part of the expenditures or deductions described in paragraph (1)(A) with respect to such property shall be treated as allocable to such undivided interest to the extent of the amount of the gain to which paragraph (1) applies.

This paragraph shall not apply to any expenditures to the extent the taxpayer establishes to the satisfaction of the Secretary that such expenditures do not relate to the portion (or interest therein) disposed of.

"(3) SECTION 1254 PROPERTY.—The term 'section 1254 property' means any property (within the meaning of section 614) if—

"(A) any expenditures described in paragraph (1)(A) are properly chargeable to such property, or

"(B) the adjusted basis of such property includes adjustments for deductions for depletion under section 611.

"(b) SPECIAL RULES UNDER REGULATIONS.—Under regulations prescribed by the Secretary—

"(1) rules similar to the rule of subsection (g) of section 617 and to the rules of subsections (b) and (c) of section 1245 shall be applied for purposes of this section; and

"(2) in the case of the sale or exchange of stock in an S corporation, rules similar to the rules of section 751 shall be applied to that portion of the excess of the amount realized over the adjusted basis of the stock which is attributable to expenditures referred to in subsection (a)(1)(A) of this section."

(b) COORDINATION WITH SECTION 617(d).—Subsection (d) of section 617 is amended by adding at the end thereof the following new paragraph:

"(5) COORDINATION WITH SECTION 1254.—This subsection shall not apply to any disposition to which section 1254 applies."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to any disposition of property which is placed in service by the taxpayer after December 31, 1986.

(2) EXCEPTION FOR BINDING CONTRACTS.—The amendments made by this section shall not apply to any disposition of property placed in service after December 31, 1986, if such property was acquired pursuant to a written contract which was entered into before September 26, 1985, and which was binding at all times thereafter.

Subtitle C—Other Provisions

SEC. 421. EXTENSION OF ENERGY INVESTMENT CREDIT FOR SOLAR, GEOTHERMAL, OCEAN THERMAL, AND BIOMASS PROPERTY.

(a) IN GENERAL.—The table contained in subparagraph (A) of section 46(b)(2) (relating to energy percentage) is amended by adding at the end thereof the following new items:

"(viii) SOLAR ENERGY PROPERTY.—Property described in section 48(l)(4) (other than wind energy property).	A. 15 percent B. 12 percent C. 10 percent	Jan. 1, 1986 Jan. 1, 1987 Jan. 1, 1988	Dec. 31, 1986. Dec. 31, 1987. Dec. 31, 1988.
"(ix) GEOTHERMAL PROPERTY.—Property described in section 48(l)(3)(A)(viii).	A. 15 percent B. 10 percent	Jan. 1, 1986 Jan. 1, 1987	Dec. 31, 1986. Dec. 31, 1988.
"(x) OCEAN THERMAL PROPERTY.—Property described in section 48(l)(3)(A)(ix).	15 percent	Jan. 1, 1986	Dec. 31, 1988.
"(xi) BIOMASS PROPERTY.—Property described in section 48(l)(15).	A. 15 percent B. 10 percent	Jan. 1, 1986 Jan. 1, 1987	Dec. 31, 1986. Dec. 31, 1987."

(b) TREATMENT OF CERTAIN TRANSITIONAL RULE PROPERTY.—Paragraph (2) of section 46(b) is amended by adding at the end thereof the following new subparagraph:

"(E) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c) and (d) of section 49 shall apply to any credit allowable by reason of subparagraph (C) or (D)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to periods beginning after December 31, 1985, under rules similar to rules under section 48(m) of the Internal Revenue Code of 1986.

SEC. 422. PROVISIONS RELATING TO EXCISE TAX ON FUELS.

(a) REDUCTION IN EXCISE TAX EXEMPTION FOR QUALIFIED METHANOL AND ETHANOL FUELS.—

(1) IN GENERAL.—Subparagraph (A) of section 4041(b)(2) (relating to exemption for qualified ethanol and methanol fuels) is amended to read as follows:

"(A) IN GENERAL.—In the case of any qualified methanol or ethanol fuel, subsection (a)(2) shall be applied by substituting '3 cents' for '9 cents'.".

(2) CONFORMING AMENDMENT.—The heading for section 4041(b) is amended by striking out "Exemption" the second

place it appears and inserting in lieu thereof "Reduction in Tax".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1987.

(b) EXTENSION OF REDUCTION IN TAX FOR FUEL USED BY TAXICABS.—Paragraph (3) of section 6427(e) (relating to termination) is amended by striking out "September 30, 1985" and inserting in lieu thereof "September 30, 1988".

SEC. 123. ETHYL ALCOHOL AND MIXTURES THEREOF FOR FUEL USE.

(a) IN GENERAL.—Except as provided in subsection (b), no ethyl alcohol or a mixture thereof may be considered—

(1) for purposes of general headnote 3(a) of the Tariff Schedules of the United States, to be—

(A) the growth or product of an insular possession of the United States,

(B) manufactured or produced in an insular possession from materials which are the growth, product, or manufacture of any such possession, or

(C) otherwise eligible for exemption from duty under such headnote as the growth or product of an insular possession; or

(2) for purposes of section 213 of the Caribbean Basin Economic Recovery Act, to be—

(A) an article that is wholly the growth, product, or manufacture of a beneficiary country,

(B) a new or different article of commerce which has been grown, produced, or manufactured in a beneficiary country,

(C) a material produced in a beneficiary country, or

(D) otherwise eligible for duty-free treatment under such Act as the growth, product, or manufacture of a beneficiary country;

unless the ethyl alcohol or mixture thereof is an indigenous product of that insular possession or beneficiary country.

(b) EXCEPTION.—

(1) Subject to the limitation in paragraph (2), subsection (a) shall not apply to ethyl alcohol that is imported into the United States during calendar years 1987 and 1988 and produced in—

(A) an azeotropic distillation facility located in an insular possession of the United States or a beneficiary country, if that facility was established before, and in operation on, January 1, 1986, or

(B) an azeotropic distillation facility—

(i) at least 50 percent of the total value of the equipment and components of which were—

(I) produced in the United States, and

(II) owned by a corporation at least 50 percent of the total value of the outstanding shares of stock of which were owned by a United States person (or persons) on or before January 1, 1986, and

(ii) substantially all of the equipment and components of which were, on or before January 1, 1986—

(I) located in the United States under the possession or control of such corporation,

(II) ready for shipment to, and installation in, a beneficiary country, and

(iii) which—

(I) has on the date of enactment of this Act, or

(II) will have at the time such facility is placed in service (based on estimates made before the date of enactment of this Act),

a stated capacity to produce not more than 42,000,000 gallons of such product per year.

(2) The exception provided under paragraph (1) shall cease to apply during each of calendar years 1987 and 1988 to ethyl alcohol produced in a facility described in subparagraph (A) or (B) of paragraph (1) after 20,000,000 gallons of ethyl alcohol produced in that facility are entered into the United States during that year.

(c) DEFINITIONS.—For purposes of this section—

(1) The term "ethyl alcohol or a mixture thereof" means (except for purposes of subsection (e)) ethyl alcohol or any mixture thereof described in item 901.50 of the Appendix to the Tariff Schedules of the United States.

(2) Ethyl alcohol or a mixture thereof may be treated as being an indigenous product of an insular possession or beneficiary country only if the ethyl alcohol or a mixture thereof—

(A) has been both dehydrated and produced by a process of full-scale fermentation within that insular possession or beneficiary country; or

(B) has been dehydrated within that insular possession or beneficiary country from hydrous ethyl alcohol that includes hydrous ethyl alcohol which is wholly the product or manufacture of any insular possession or beneficiary country and which has a value not less than—

(i) 30 percent of the value of the ethyl alcohol or mixture, if entered during calendar year 1987, except that this clause shall not apply to any ethyl alcohol or mixture which has been dehydrated in the United States Virgin Islands by a facility with respect to which—

(I) the ~~owner has~~ entered into a binding contract for the engineering and design of full-scale fermentation capacity, and

(II) authorization for operation of a full-scale fermentation facility has been granted by the Island authorities before May 1, 1986,

(ii) 60 percent of the value of the ethyl alcohol or mixture, if entered during calendar year 1988, and

(iii) 75 percent of the value of the ethyl alcohol or mixture, if entered after December 31, 1988.

(3) The term "beneficiary country" has the meaning given to such term under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702).

(4) The term "United States person" has the meaning given to such term by section 7701(a)(3) of the Internal Revenue Code of 1986.

(5) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

(d) AMENDMENT TO APPENDIX TO SCHEDULES.—The item designation for item 901.50 of the Appendix to the Tariff Schedules of the United States is amended to read as follows: "Ethyl alcohol (provided for in item 427.88, part 2D, schedule 4) or any mixture

containing such ethyl alcohol (provided for in part 1, 2 or 10, schedule 4) if such ethyl alcohol or mixture is to be used as fuel or in producing a mixture of gasoline and alcohol, a mixture of a special fuel and alcohol, or any other mixture to be used as fuel (including motor fuel provided for in item 475.25), or is suitable for any such uses."

(e) DRAWBACKS.—

(1) For purposes of subsections (b) and (j)(2) of section 313 of the Tariff Act of 1930 (19 U.S.C. 1313), as amended by section 1888(2) of this Act, any ethyl alcohol (provided for in item 427.88 of the Tariff Schedules of the United States) or mixture containing such ethyl alcohol (provided for in part 1, 2, or 10 of schedule 4 of such Schedules) which is subject to the additional duty imposed by item 901.50 of the Appendix to such Schedules may be treated as being fungible with, or of being of the same kind and quality as, any other imported ethyl alcohol (provided for in item 427.88 of such Schedules) or mixture containing such ethyl alcohol (provided for in part 1, 2, or 10 of schedule 4 of such Schedules) only if such other imported ethyl alcohol or mixture thereof is also subject to such additional duty.

(2) Paragraph (1) shall not apply with respect to ethyl alcohol (provided for in item 427.88 of the Tariff Schedules of the United States) or mixture containing such ethly alcohol (provided for in part 1, 2, or 10 of schedule 4 of such Schedules) that is exempt from the additional duty imposed by item 901.50 of the Appendix to such Schedules by reason of—

(A) subsection (b), or

(B) any agreement entered into under section 102 (b) of the Trade Act of 1974.

(f) CONFORMING AMENDMENTS.—

(1) General headnote 3(a)(i) of the Tariff Schedules of the United States is amended by inserting "and except as provided in section 423 of the Tax Reform Act of 1986," after "part 7 of schedule 7,".

(2) Section 213(a)(1) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(a)(1)) is amended by inserting "and subject to section 423 of the Tax Reform Act of 1986," after "Unless otherwise excluded from eligibility by this title,".

(3) The headnotes to subpart A of part 1 of the Appendix to the Tariff Schedules of the United States are amended by adding at the end thereof the following:

"2. For purposes of item 901.50, the phrase 'is suitable for any such uses' does not include ethyl alcohol (provided for in item 427.88, part 2D, schedule 4) that is certified by the importer of record to the satisfaction of the Commissioner of Customs (hereinafter in this headnote referred to as the 'Commissioner') to be ethyl alcohol or a mixture containing such ethyl alcohol imported for uses other than liquid motor fuel use or use in producing liquid motor fuel related mixtures. If the importer of record certifies nonliquid motor fuel use for purposes of establishing actual use or suitability under item 901.50, the Commissioner shall not liquidate the entry of ethyl alcohol until he is satisfied that the ethyl alcohol has in fact not been used for liquid motor fuel use or use in producing liquid motor fuel related mixtures. If he is not satisfied within a reasonable period of time not less than 18 months from the date of entry, then the duties provided for in item 901.50 shall be payable retroactive to the date of entry. Such duties shall also become payable, retroactive

to the date of entry, immediately upon the diversion to liquid motor fuel use of any ethyl alcohol or ethyl alcohol mixture certified upon entry as having been imported for non-liquid motor fuel use."

(g) EFFECTIVE PERIOD.—

(1) The provisions of, and the amendments made by, this section (other than subsection (e)) shall apply to articles entered—

(A) after December 31, 1986, and

(B) before the expiration of the effective period of item 901.50 of the Appendix to the Tariff Schedules of the United States.

(2) The provisions of subsection (e) shall take effect on the date of the enactment of this Act.

TITLE V—TAX SHELTER LIMITATIONS; INTEREST LIMITATIONS

Subtitle A—Limitations On Tax Shelters

SEC. 501. LIMITATIONS ON LOSSES AND CREDITS FROM PASSIVE ACTIVITIES.

(a) GENERAL RULE.—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deductions taken) is amended by adding at the end thereof the following new section:

"SEC. 469. PASSIVE ACTIVITY LOSSES AND CREDITS LIMITED.

"(a) DISALLOWANCE.—

"(1) IN GENERAL.—If for any taxable year the taxpayer is described in paragraph (2), neither—

"(A) the passive activity loss, nor

"(B) the passive activity credit,

for the taxable year shall be allowed.

"(2) PERSONS DESCRIBED.—The following are described in this paragraph:

"(A) any individual, estate, or trust,

"(B) any closely held C corporation, and

"(C) any personal service corporation.

"(b) DISALLOWED LOSS OR CREDIT CARRIED TO NEXT YEAR.—Except as otherwise provided in this section, any loss or credit from an activity which is disallowed under subsection (a) shall be treated as a deduction or credit allocable to such activity in the next taxable year.

"(c) PASSIVE ACTIVITY DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'passive activity' means any activity—

"(A) which involves the conduct of any trade or business, and

"(B) in which the taxpayer does not materially participate.

"(2) PASSIVE ACTIVITY INCLUDES ANY RENTAL ACTIVITY.—The term 'passive activity' includes any rental activity.

"(3) WORKING INTERESTS IN OIL AND GAS PROPERTY.—

"(A) IN GENERAL.—The term 'passive activity' shall not include any working interest in any oil or gas property which the taxpayer holds directly or through an entity

which does not limit the liability of the taxpayer with respect to such interest.

"(B) INCOME IN SUBSEQUENT YEARS.—If any taxpayer has any loss for any taxable year from a working interest in any oil or gas property which is treated as a loss which is not from a passive activity, then any net income from such property (or any property the basis of which is determined in whole or in part by reference to the basis of such property) for any succeeding taxable year shall be treated as income of the taxpayer which is not from a passive activity.

"(4) MATERIAL PARTICIPATION NOT REQUIRED FOR PARAGRAPHS (2) AND (3).—Paragraphs (2) and (3) shall be applied without regard to whether or not the taxpayer materially participates in the activity.

"(5) TRADE OR BUSINESS INCLUDES RESEARCH AND EXPERIMENTATION ACTIVITY.—For purposes of paragraph (1)(A), the term 'trade or business' includes any activity involving research or experimentation (within the meaning of section 174).

"(6) ACTIVITY IN CONNECTION WITH TRADE OR BUSINESS OR PRODUCTION OF INCOME.—To the extent provided in regulations, for purposes of paragraph (1)(A), the term 'trade or business' includes—

"(A) any activity in connection with a trade or business, or

"(B) any activity with respect to which expenses are allowable as a deduction under section 212.

"(d) PASSIVE ACTIVITY LOSS AND CREDIT DEFINED.—For purposes of this section—

"(1) PASSIVE ACTIVITY LOSS.—The term 'passive activity loss' means the amount (if any) by which—

"(A) the aggregate losses from all passive activities for the taxable year, exceed

"(B) the aggregate income from all passive activities for such year.

"(2) PASSIVE ACTIVITY CREDIT.—The term 'passive activity credit' means the amount (if any) by which—

"(A) the sum of the credits from all passive activities allowable for the taxable year under—

"(i) subpart D of part IV of subchapter A, or

"(ii) subpart B (other than section 27(a)) of such part IV, exceeds

"(B) the regular tax liability of the taxpayer for the taxable year allocable to all passive activities.

"(e) SPECIAL RULES FOR DETERMINING INCOME OR LOSS FROM A PASSIVE ACTIVITY.—For purposes of this section—

"(1) CERTAIN INCOME NOT TREATED AS INCOME FROM PASSIVE ACTIVITY.—In determining the income or loss from any activity—

"(A) IN GENERAL.—There shall not be taken into account—

"(i) any—

"(I) gross income from interest, dividends, annuities, or royalties not derived in the ordinary course of a trade or business,

"(II) expenses (other than interest) which are clearly and directly allocable to such gross income, and

"(III) interest expense properly allocable to such gross income, and

"(ii) gain or loss attributable to the disposition of property—

"(I) producing income of a type described in clause (i), or

"(II) held for investment.

For purposes of clause (ii), any interest in a passive activity shall not be treated as property held for investment.

"(B) RETURN ON WORKING CAPITAL.—For purposes of subparagraph (A), any income, gain, or loss which is attributable to an investment of working capital shall be treated as not derived in the ordinary course of a trade or business.

"(2) PASSIVE LOSSES OF CERTAIN CLOSELY HELD CORPORATIONS MAY OFFSET ACTIVE INCOME.—

"(A) IN GENERAL.—If a closely held C corporation (other than a personal service corporation) has net active income for any taxable year, the passive activity loss of such taxpayer for such taxable year (determined without regard to this paragraph)—

"(i) shall be allowable as a deduction against net active income, and

"(ii) shall not be taken into account under subsection (a) to the extent so allowable as a deduction.

A similar rule shall apply in the case of any passive activity credit of the taxpayer.

"(B) NET ACTIVE INCOME.—For purposes of this paragraph, the term 'net active income' means the taxable income of the taxpayer for the taxable year determined without regard to—

"(i) any income or loss from a passive activity, and

"(ii) any item of gross income, expense, gain, or loss described in paragraph (1)(A).

"(3) COMPENSATION FOR PERSONAL SERVICES.—Earned income (within the meaning of section 911(d)(2)(A)) shall not be taken into account in computing the income or loss from a passive activity for any taxable year.

"(4) DIVIDENDS REDUCED BY DIVIDENDS RECEIVED DEDUCTION.—For purposes of paragraphs (1) and (2), income from dividends shall be reduced by the amount of any dividends received deduction under section 243, 244, or 245.

"(f) TREATMENT OF FORMER PASSIVE ACTIVITIES.—For purposes of this section—

"(1) IN GENERAL.—If an activity is a former passive activity for any taxable year—

"(A) any unused deduction allocable to such activity under subsection (b) shall be offset against the income from such activity for the taxable year,

"(B) any unused credit allocable to such activity under subsection (b) shall be offset against the regular tax liability (computed after the application of paragraph (1)) allocable to such activity for the taxable year, and

"(C) any such deduction or credit remaining after the application of subparagraphs (A) and (B) shall continue to be treated as arising from a passive activity.

"(2) CHANGE IN STATUS OF CLOSELY HELD C CORPORATION OR PERSONAL SERVICE CORPORATION.—If a taxpayer ceases for any taxable year to be a closely held C corporation or personal service corporation, this section shall continue to apply to losses and credits to which this section applied for any preceding taxable year in the same manner as if such taxpayer continued to be a closely held C corporation or personal service corporation, whichever is applicable.

"(3) FORMER PASSIVE ACTIVITY.—The term 'former passive activity' means any activity which, with respect to the taxpayer—

"(A) is not a passive activity for the taxable year, but

"(B) was a passive activity for any prior taxable year.

"(g) DISPOSITIONS OF ENTIRE INTEREST IN PASSIVE ACTIVITY.—If during the taxable year a taxpayer disposes of his entire interest in any passive activity (or former passive activity), the following rules shall apply:

"(1) FULLY TAXABLE TRANSACTION.—

"(A) IN GENERAL.—If all gain or loss realized on such disposition is recognized, any loss from such activity which has not previously been allowed as a deduction (and in the case of a passive activity for the taxable year, any loss realized on such disposition) shall not be treated as a passive activity loss and shall be allowable as a deduction against income in the following order:

"(i) Income or gain from the passive activity for the taxable year (including any gain recognized on the disposition).

"(ii) Net income or gain for the taxable year from all passive activities.

"(iii) Any other income or gain.

"(B) SUBPARAGRAPH (A) NOT TO APPLY TO DISPOSITION INVOLVING RELATED PARTY.—If the taxpayer and the person acquiring the interest bear a relationship to each other described in section 267(b) or section 707(b)(1), then subparagraph (A) shall not apply to any loss of the taxpayer until the taxable year in which such interest is acquired (in a transaction described in subparagraph (A)) by another person who does not bear such a relationship to the taxpayer.

"(C) COORDINATION WITH SECTION 1211.—In the case of any loss realized on the disposition of an interest in a passive activity, section 1211 shall be applied before subparagraph (A) is applied.

"(2) DISPOSITION BY DEATH.—If an interest in the activity is transferred by reason of the death of the taxpayer—

"(A) paragraph (1) shall apply to such losses to the extent such losses are greater than the excess (if any) of—

"(i) the basis of such property in the hands of the transferee, over

"(ii) the adjusted basis of such property immediately before the death of the taxpayer, and

"(B) any losses to the extent of the excess described in subparagraph (A) shall not be allowed as a deduction for any taxable year.

"(3) INSTALLMENT SALE OF ENTIRE INTEREST.—In the case of an installment sale of an entire interest in an activity to which section 453 applies, paragraph (1) shall apply to the portion of such losses for each taxable year which bears the same ratio to all such losses as the gain recognized on such sale during such taxable year bears to the gross profit from such sale realized (or to be realized) when payment is completed.

"(h) MATERIAL PARTICIPATION DEFINED.—For purposes of this section—

"(1) IN GENERAL.—A taxpayer shall be treated as materially participating in an activity only if the taxpayer is involved in the operations of the activity on a basis which is—

"(A) regular,

"(B) continuous, and

"(C) substantial.

"(2) INTERESTS IN LIMITED PARTNERSHIPS.—Except as provided in regulations, no interest in a limited partnership as a limited partner shall be treated as an interest with respect to which a taxpayer materially participates.

"(3) TREATMENT OF CERTAIN RETIRED INDIVIDUALS AND SURVIVING SPOUSES.—A taxpayer shall be treated as materially participating in any farming activity for a taxable year if paragraph (4) or (5) of section 2032A(b) would cause the requirements of section 2032A(b)(1)(C)(ii) to be met with respect to real property used in such activity if such taxpayer had died during the taxable year.

"(4) CERTAIN CLOSELY HELD C CORPORATIONS AND PERSONAL SERVICE CORPORATIONS.—A closely held C corporation or personal service corporation shall be treated as materially participating in an activity if—

"(A) 1 or more shareholders holding stock representing more than 50 percent (by value) of the outstanding stock of such corporation materially participate in such activity, or

"(B) in the case of a closely held C corporation (other than a personal service corporation), the requirements of section 465(c)(7)(C) (without regard to clause (iv)) are met with respect to such activity.

"(5) PARTICIPATION BY SPOUSE.—In determining whether a taxpayer materially participates, the participation of the spouse of the taxpayer shall be taken into account.

"(i) $25,000 OFFSET FOR RENTAL REAL ESTATE ACTIVITIES.—

"(1) IN GENERAL.—In the case of any natural person, subsection (a) shall not apply to that portion of the passive activity loss or the deduction equivalent (within the meaning of subsection (j)(5)) of the passive activity credit for any taxable year which is attributable to all rental real estate activities with respect to which such individual actively participated in the taxable year in which such portion of such loss or credit arose.

"(2) DOLLAR LIMITATION.—The aggregate amount to which paragraph (1) applies for any taxable year shall not exceed $25,000.

"(3) PHASE-OUT OF EXEMPTION.—

"(A) IN GENERAL.—In the case of any taxpayer, the $25,000 amount under paragraph (2) shall be reduced (but

not below zero) by 50 percent of the amount by which the adjusted gross income of the taxpayer for the taxable year exceeds $100,000.

"(B) SPECIAL PHASE-OUT OF LOW-INCOME HOUSING AND REHABILITATION CREDITS.—In the case of any portion of the passive activity credit for any taxable year which is attributable to any credit to which paragraph (6)(B) applies, subparagraph (A) shall be applied by substituting '$200,000' for '$100,000'.

"(C) ORDERING RULE TO REFLECT SEPARATE PHASE-OUTS.—If subparagraph (B) applies for any taxable year, paragraph (1) shall be applied—

"(i) first to the passive activity loss,

"(ii) second to the portion of the passive activity credit to which subparagraph (B) does not apply, and

"(iii) then to the portion of such credit to which subparagraph (B) applies.

"(D) ADJUSTED GROSS INCOME.—For purposes of this paragraph, adjusted gross income shall be determined without regard to—

"(i) any amount includible in gross income under section 86,

"(ii) any amount allowable as a deduction under section 219, and

"(iii) any passive activity loss.

"(4) SPECIAL RULE FOR ESTATES.—

"(A) IN GENERAL.—In the case of taxable years of an estate ending less than 2 years after the date of the death of the decedent, this subsection shall apply to all rental real estate activities with respect to which such decedent actively participated before his death.

"(B) REDUCTION FOR SURVIVING SPOUSE'S EXEMPTION.—For purposes of subparagraph (A), the $25,000 amount under paragraph (2) shall be reduced by the amount of the exemption under paragraph (1) (without regard to paragraph (3)) allowable to the surviving spouse of the decedent for the taxable year ending with or within the taxable year of the estate.

"(5) MARRIED INDIVIDUALS FILING SEPARATELY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of any married individual filing a separate return, this subsection shall be applied by substituting—

"(i) '$12,500' for '$25,000' each place it appears,

"(ii) '$50,000' for '$100,000' in paragraph (3)(A), and

"(iii) '$100,000' for '$200,000' in paragraph (3)(B).

"(B) TAXPAYERS NOT LIVING APART.—This subsection shall not apply to a taxpayer who—

"(i) is a married individual filing a separate return for any taxable year, and

"(ii) does not live apart from his spouse at all times during such taxable year.

"(6) ACTIVE PARTICIPATION.—

"(A) IN GENERAL.—An individual shall not be treated as actively participating with respect to any interest in any rental real estate activity for any period if, at any time during such period, such interest (including any interest of

the spouse of the individual) is less than 10 percent (by value) of all interests in such activity.

"(B) NO PARTICIPATION REQUIREMENT FOR LOW-INCOME HOUSING OR REHABILITATION CREDIT.—Paragraphs (1) and (4)(A) shall be applied without regard to the active participation requirement in the case of—

"(i) any credit determined under section 42 for any taxable year, or

"(ii) any rehabilitation investment credit (within the meaning of section 48(o)).

"(C) INTEREST AS A LIMITED PARTNER.—No interest as a limited partner in a limited partnership shall be treated as an interest with respect to which the taxpayer actively participates.

"(D) PARTICIPATION BY SPOUSE.—In determining whether a taxpayer actively participates, the participation of the spouse of the taxpayer shall be taken into account.

"(j) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CLOSELY HELD C CORPORATION.—The term 'closely held C corporation' means any C corporation described in section 465(a)(1)(B).

"(2) PERSONAL SERVICE CORPORATION.—The term 'personal service corporation' has the meaning given such term by section 269A(b)(1), except that section 269A(b)(2) shall be applied—

"(A) by substituting 'any' for 'more than 10 percent', and

"(B) by substituting 'any' for '50 percent or more in value' in section 318(a)(2)(C).

A corporation shall not be treated as a personal service corporation unless more than 10 percent of the stock (by value) in such corporation is held by employee-owners (within the meaning of section 269A(b)(2), as modified by the preceding sentence).

"(3) REGULAR TAX LIABILITY.—The term 'regular tax liability' has the meaning given such term by section 26(b).

"(4) ALLOCATION OF PASSIVE ACTIVITY LOSS AND CREDIT.—The passive activity loss and the passive activity credit (and the $25,000 amount under subsection (i)) shall be allocated to activities, and within activities, on a pro rata basis in such manner as the Secretary may prescribe.

"(5) DEDUCTION EQUIVALENT.—The deduction equivalent of credits from a passive activity for any taxable year is the amount which (if allowed as a deduction) would reduce the regular tax liability for such taxable year by an amount equal to such credits.

"(6) SPECIAL RULE FOR GIFTS.—In the case of a disposition of any interest in a passive activity by gift—

"(A) the basis of such interest immediately before the transfer shall be increased by the amount of any passive activity losses allocable to such interest, and

"(B) such losses shall not be allowable as a deduction for any taxable year.

"(7) QUALIFIED RESIDENCE INTEREST.—The passive activity loss of a taxpayer shall be computed without regard to qualified residence interest (within the meaning of section 163(h)(3)).

"(8) RENTAL ACTIVITY.—The term 'rental activity' means any activity where payments are principally for the use of tangible property.

"(9) ELECTION TO INCREASE BASIS OF PROPERTY BY AMOUNT OF DISALLOWED CREDIT.—For purposes of determining gain or loss from a disposition of any property to which subsection (g)(1) applies, the transferor may elect to increase the basis of such property immediately before the transfer by an amount equal to the portion of any unused credit allowable under this chapter which reduced the basis of such property for the taxable year in which such credit arose. If the taxpayer elects the application of this paragraph, such portion of the passive activity credit of such taxpayer shall not be allowed for any taxable year.

"(k) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out provisions of this section, including regulations—

"(1) which specify what constitutes an activity, material participation, or active participation for purposes of this section,

"(2) which provide that certain items of gross income will not be taken into account in determining income or loss from any activity (and the treatment of expenses allocable to such income),

"(3) requiring net income or gain from a limited partnership or other passive activity to be treated as not from a passive activity,

"(4) which provide for the determination of the allocation of interest expense for purposes of this section, and

"(5) which deal with changes in marital status and changes between joint returns and separate returns.

"(l) PHASE-IN OF DISALLOWANCE OF LOSSES AND CREDITS FOR INTERESTS HELD BEFORE DATE OF ENACTMENT.—

"(1) IN GENERAL.—In the case of any passive activity loss or credit for any taxable year beginning in calendar years 1987 through 1990 which—

"(A) is attributable to a pre-enactment interest, but

"(B) is not attributable to a carryforward to such taxable year of any loss or credit which was disallowed under this section for a preceding taxable year,

there shall be disallowed under subsection (a) only the applicable percentage of the amount which (but for this subsection) would have been disallowed under subsection (a) for such taxable year.

"(2) APPLICABLE PERCENTAGE.—For purposes of this subsection, the applicable percentage shall be determined in accordance with the following table:

"In the case of taxable years beginning in:	The applicable percentage is:
1987	35
1988	60
1989	80
1990	90.

"(3) PORTION OF LOSS OR CREDIT ATTRIBUTABLE TO PRE-ENACTMENT INTERESTS.—For purposes of this subsection—

"(A) IN GENERAL.—The portion of the passive activity loss for any taxable year which is attributable to pre-enactment interests shall be equal to the lesser of—

"(i) the passive activity loss for such taxable year, or

"(ii) the passive activity loss for such taxable year determined by taking into account only pre-enactment interests.

For purposes of this subparagraph, the deduction equivalent (within the meaning of subsection (j)(5)) of a passive activity credit shall be taken into account.

"(B) PRE-ENACTMENT INTEREST.—

"(i) IN GENERAL.—The term 'pre-enactment interest' means any interest in a passive activity held by a taxpayer on the date of the enactment of the Tax Reform Act of 1986, and at all times thereafter.

"(ii) BINDING CONTRACT EXCEPTION.—For purposes of clause (i), any interest acquired after such date of enactment pursuant to a written binding contract in effect on such date, and at all times thereafter, shall be treated as held on such date.

"(iii) INTEREST IN ACTIVITIES.—The term 'pre-enactment interest' shall not include an interest in a passive activity unless such activity was being conducted on such date of enactment. The preceding sentence shall not apply to an activity commencing after such date if—

"(I) the property used in such activity is acquired pursuant to a written binding contract in effect on August 16, 1986, and at all times thereafter, or

"(II) construction of property used in such activity began on or before August 16, 1986."

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 469. Passive activity losses and credits limited."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) SPECIAL RULE FOR CARRYOVERS.—The amendments made by this section shall not apply to any loss, deduction, or credit carried to a taxable year beginning after December 31, 1986, from a taxable year beginning before January 1, 1987.

(3) SPECIAL RULE FOR LOW-INCOME HOUSING.—

(A) IN GENERAL.—Except as provided in subparagraph (B), section 469(i)(6)(B)(i) of the Internal Revenue Code of 1986 (as added by this section) shall not apply to any property placed in service after December 31, 1989.

(B) EXCEPTION WHERE AT LEAST 10 PERCENT OF COSTS INCURRED.—In the case of property placed in service after December 31, 1989, and before January 1, 1991, section 469(i)(6)(B)(i) of such Code shall apply to such property if at least 10 percent of the costs of such property were incurred before January 1, 1989.

SEC. 502. TRANSITIONAL RULE FOR LOW-INCOME HOUSING.

(a) GENERAL RULE.—Any loss sustained by a qualified investor with respect to an interest in a qualified low-income housing project for any taxable year in the relief period shall not be treated as a loss from a passive activity for purposes of section 469 of the Internal Revenue Code of 1986.

(b) RELIEF PERIOD.—For purposes of subsection (a), the term "relief period" means the period beginning with the taxable year in which the investor made his initial investment in the qualified low-income

housing project and ending with whichever of the following is the earliest—

(1) the 6th taxable year after the taxable year in which the investor made his initial investment,

(2) the 1st taxable year after the taxable year in which the investor is obligated to make his last investment, or

(3) the taxable year preceding the 1st taxable year for which such project ceased to be a qualified low-income housing project.

(c) QUALIFIED LOW-INCOME HOUSING PROJECT.—For purposes of this section, the term "qualified low-income housing project" means any project if—

(1) such project meets the requirements of clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B) as of the date placed in service and for each taxable year thereafter which begins after 1986 and for which a passive loss may be allowable with respect to such project,

(2) the operator certifies to the Secretary of the Treasury or his delegate that such project met the requirements of paragraph (1) on the date of the enactment of this Act (or, if later, when placed in service) and annually thereafter,

(3) such project is constructed or acquired pursuant to a binding written contract entered into on or before August 16, 1986, and

(4) such project is placed in service before January 1, 1989.

(d) QUALIFIED INVESTOR.—For purposes of this section—

(1) IN GENERAL.—The term "qualified investor" means any natural person who holds (directly or through 1 or more entities) an interest in a qualified low-income housing project—

(A) if—

(i) in the case of a project placed in service before August 16, 1986, such person held an interest in such project on August 16, 1986, and the taxpayer made his initial investment after December 31, 1983, or

(ii) in the case of a project not described in subparagraph (A), such investor held an interest in such project on December 31, 1986, and

(B) if such investor is required to make payments after December 31, 1986, of 50 percent or more of the total original obligated investment for such interest.

For purposes of subparagraph (A), a person shall be treated as holding an interest on August 16, 1986, or December 31, 1986, if on such date such person had a binding contract to acquire such interest.

(2) TREATMENT OF ESTATES.—The estate of a decedent shall succeed to the treatment under this section of the decedent but only with respect to the 1st 2 taxable years of such estate ending after the date of the decedent's death.

(d) SPECIAL RULES.—

(1) WHERE MORE THAN 1 BUILDING IN PROJECT.—If there is more than 1 building in any project, the determination of when such project is placed in service shall be based on when the 1st building in such project is placed in service.

(2) ONLY CASH AND OTHER PROPERTY TAKEN INTO ACCOUNT.—In determining the amount any person invests in (or is obligated to invest in) any interest, only cash and other property shall be taken into account.

(3) COORDINATION WITH CREDIT.—No low-income housing credit shall be determined under section 42 of the Internal Revenue Code of 1986 with respect to any project with respect to which any person has been allowed any benefit under this section.

SEC. 503. EXTENSION OF AT RISK LIMITATIONS TO REAL PROPERTY.

(a) IN GENERAL.—Paragraph (3) of section 465(c) (relating to activities to which section applies) is amended by striking out subparagraph (D) and by redesignating subparagraph (E) as subparagraph (D).

(b) QUALIFIED NONRECOURSE FINANCING TREATED AS AN AMOUNT AT RISK.—Section 465(b) (relating to amounts considered at risk) is amended by adding at the end thereof the following new paragraph:

"(6) QUALIFIED NONRECOURSE FINANCING TREATED AS AMOUNT AT RISK.—For purposes of this section—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection, in the case of an activity of holding real property, a taxpayer shall be considered at risk with respect to the taxpayer's share of any qualified nonrecourse financing which is secured by real property used in such activity.

"(B) QUALIFIED NONRECOURSE FINANCING.—For purposes of this paragraph, the term 'qualified nonrecourse financing' means any financing—

"(i) which is borrowed by the taxpayer with respect to the activity of holding real property,

"(ii) which is borrowed by the taxpayer from a qualified person or represents a loan from any Federal, State, or local government or instrumentality thereof, or is guaranteed by any Federal, State, or local government,

"(iii) except to the extent provided in regulations, with respect to which no person is personally liable for repayment, and

"(iv) which is not convertible debt.

"(C) SPECIAL RULE FOR PARTNERSHIPS.—In the case of a partnership, a partner's share of any qualified nonrecourse financing of such partnership shall be determined on the basis of the partner's share of liabilities of such partnership incurred in connection with such financing (within the meaning of section 752).

"(D) QUALIFIED PERSON DEFINED.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'qualified person' has the meaning given such term by section 46(c)(8)(D)(iv).

"(ii) CERTAIN COMMERCIALLY REASONABLE FINANCING FROM RELATED PERSONS.—For purposes of clause (i), section 46(c)(8)(D)(iv) shall be applied without regard to subclause (I) thereof (relating to financing from related persons) if the financing from the related person is commercially reasonable and on substantially the same terms as loans involving unrelated persons.

"(E) ACTIVITY OF HOLDING REAL PROPERTY.—For purposes of this paragraph—

"(i) INCIDENTAL PERSONAL PROPERTY AND SERVICES.—The activity of holding real property includes the hold-

ing of personal property and the providing of services which are incidental to making real property available as living accommodations.

"(ii) MINERAL PROPERTY.—The activity of holding real property shall not include the holding of mineral property."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to losses incurred after December 31, 1986, with respect to property placed in service by the taxpayer after December 31, 1986.

(2) SPECIAL RULE FOR LOSSES OF S CORPORATION, PARTNERSHIP, OR PASS-THRU ENTITY.—In the case of an interest in an S corporation, a partnership, or other pass-thru entity acquired after December 31, 1986, the amendments made by this section shall apply to losses after December 31, 1986, which are attributable to property placed in service by the S corporation, partnership, or pass-thru entity on, before, or after January 1, 1986.

(3) SPECIAL RULE FOR ATHLETIC STADIUM.—The amendments made by this section shall not apply to any losses incurred by a taxpayer with respect to the holding of a multi-use athletic stadium in Pittsburgh, Pennsylvania, which the taxpayer acquired in a sale for which a letter of understanding was entered into before April 16, 1986.

Subtitle B—Interest Expense

SEC. 511. LIMITATIONS ON DEDUCTION FOR NONBUSINESS INTEREST.

(a) LIMITATION ON INVESTMENT INTEREST.—Subsection (d) of section 163 (relating to limitation on interest on investment indebtedness) is amended to read as follows:

"(d) LIMITATION ON INVESTMENT INTEREST.—

"(1) IN GENERAL.—In the case of a taxpayer other than a corporation, the amount allowed as a deduction under this chapter for investment interest for any taxable year shall not exceed the net investment income of the taxpayer for the taxable year.

"(2) CARRYFORWARD OF DISALLOWED INTEREST.—The amount not allowed as a deduction for any taxable year by reason of paragraph (1) shall be treated as investment interest paid or accrued by the taxpayer in the succeeding taxable year.

"(3) INVESTMENT INTEREST.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'investment interest' means any interest allowable as a deduction under this chapter (determined without regard to paragraph (1)) which is paid or accrued on indebtedness incurred or continued to purchase or carry property held for investment.

"(B) EXCEPTIONS.—The term 'investment interest' shall not include—

"(i) any qualified residence interest (as defined in subsection (h)(3)), or

"(ii) any interest which is taken into account under section 469 in computing income or loss from a passive activity of the taxpayer.

"(C) PERSONAL PROPERTY USED IN SHORT SALE.—For purposes of this paragraph, the term 'interest' includes any

amount allowable as a deduction in connection with personal property used in a short sale.

"(4) NET INVESTMENT INCOME.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'net investment income' means the excess of—

"(i) investment income, over

"(ii) investment expenses.

"(B) INVESTMENT INCOME.—The term 'investment income' means the sum of—

"(i) gross income (other than gain described in clause (ii)) from property held for investment, and

"(ii) any net gain attributable to the disposition of property held for investment,

but only to the extent such amounts are not derived from the conduct of a trade or business.

"(C) INVESTMENT EXPENSES.—The term 'investment expenses' means the deductions allowed under this chapter (other than for interest) which are directly connected with the production of investment income.

"(D) INCOME AND EXPENSES FROM PASSIVE ACTIVITIES.—Investment income and investment expenses shall not include any income or expenses taken into account under section 469 in computing income or loss from a passive activity.

"(E) REDUCTION IN INVESTMENT INCOME DURING PHASE-IN OF PASSIVE LOSS RULES.—Investment income of the taxpayer for any taxable year shall be reduced by the amount of the passive activity loss to which section 469(a) does not apply for such taxable year by reason of section 469(l). The preceding sentence shall not apply to any portion of such passive activity loss which is attributable to a rental real estate activity with respect to which the taxpayer actively participates (within the meaning of section 469(i)(6)) during such taxable year.

"(5) PROPERTY HELD FOR INVESTMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'property held for investment' shall include—

"(i) any property which produces income of a type described in section 469(e)(1), and

"(ii) any interest held by a taxpayer in an activity involving the conduct of a trade or business—

"(I) which is not a passive activity, and

"(II) with respect to which the taxpayer does not materially participate.

"(B) INVESTMENT EXPENSES.—In the case of property described in subparagraph (A)(i), expenses shall be allocated to such property in the same manner as under section 469.

"(C) TERMS.—For purposes of this paragraph, the terms 'activity', 'passive activity', and 'materially participate' have the meanings given such terms by section 469.

"(6) PHASE-IN OF DISALLOWANCE.—In the case of any taxable year beginning in calendar years 1987 through 1990—

"(A) IN GENERAL.—The amount of interest disallowed under this subsection for any such taxable year shall be equal to the sum of—

"(i) the applicable percentage of the amount which (without regard to this paragraph) is not allowed as a deduction under this subsection for the taxable year to the extent such amount does not exceed the ceiling amount,

"(ii) the amount which (without regard to this paragraph) is not allowed as a deduction under this subsection in excess of the ceiling amount, plus

"(iii) the amount of any carryforward to such taxable year under paragraph (2) with respect to which a deduction was disallowed under this subsection for a preceding taxable year.

For purposes of this subparagraph, the amount under clause (i) or (ii) shall be computed without regard to the amount described in clause (iii).

"(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined in accordance with the following table:

"In the case of taxable years beginning in:	The applicable percentage is:
1987	35
1988	60
1989	80
1990	90.

"(C) CEILING AMOUNT.—For purposes of this paragraph, the term 'ceiling amount' means—

"(i) $10,000 in the case of a taxpayer not described in clause (ii) or (iii),

"(ii) $5,000 in the case of a married individual filing a separate return, and

"(iii) zero in the case of a trust."

(b) DISALLOWANCE OF DEDUCTION FOR PERSONAL INTEREST OF INDIVIDUALS.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) DISALLOWANCE OF DEDUCTION FOR PERSONAL INTEREST.—

"(1) IN GENERAL.—In the case of a taxpayer other than a corporation, no deduction shall be allowed under this chapter for personal interest paid or accrued during the taxable year.

"(2) PERSONAL INTEREST.—For purposes of this subsection, the term 'personal interest' means any interest allowable as a deduction under this chapter other than—

"(A) interest paid or accrued on indebtedness incurred or continued in connection with the conduct of a trade or business (other than the trade or business of performing services as an employee),

"(B) any investment interest (within the meaning of subsection (d)),

"(C) any interest which is taken into account under section 469 in computing income or loss from a passive activity of the taxpayer,

"(D) any qualified residence interest (within the meaning of paragraph (3)), and

"(E) any interest payable under section 6601 on any unpaid portion of the tax imposed by section 2001 for the period during which an extension of time for payment of such tax is in effect under section 6163 or 6166.

"(3) QUALIFIED RESIDENCE INTEREST.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified residence interest' means interest which is paid or accrued during the taxable year on indebtedness which is secured by any property which (at the time such interest is paid or accrued) is a qualified residence of the taxpayer.

"(B) LIMITATION ON AMOUNT OF INTEREST.—The term 'qualified residence interest' shall not include any interest paid or accrued on indebtedness secured by any qualified residence which is allocable to that portion of the principal amount of such indebtedness which, when added to the outstanding aggregate principal amount of all other indebtedness previously incurred and secured by such qualified residence, exceeds the lesser of—

"(i) the fair market value of such qualified residence, or

"(ii) the sum of—

"(I) the taxpayer's basis in such qualified residence (adjusted only by the cost of any improvements to such residence), plus

"(II) the aggregate amount of qualified indebtedness of the taxpayer with respect to such qualified residence.

"(C) COST NOT LESS THAN BALANCE OF INDEBTEDNESS INCURRED ON OR BEFORE AUGUST 16, 1986.—The amount under subparagraph (B)(ii)(I) at any time after August 16, 1986, shall not be less than the outstanding aggregate principal amount (as of such time) of indebtedness which was incurred on or before August 16, 1986, and which was secured by the qualified residence on August 16, 1986.

"(D) TIME FOR DETERMINATION.—Except as provided in regulations, any determination under subparagraph (B) shall be made as of the time the indebtedness is incurred.

"(4) QUALIFIED INDEBTEDNESS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified indebtedness' means indebtedness secured by a qualified residence of the taxpayer which is incurred after August 16, 1986, to pay for—

"(i) qualified medical expenses, or

"(ii) qualified educational expenses,

which are paid or incurred within a reasonable period of time before or after such indebtedness is incurred.

"(B) QUALIFIED MEDICAL EXPENSES.—For purposes of this paragraph, the term 'qualified medical expenses' means amounts, not compensated for by insurance or otherwise, incurred for medical care (within the meaning of subparagraphs (A) and (B) of section 213(d)(1)) for the taxpayer, his spouse, or a dependent.

"(C) QUALIFIED EDUCATIONAL EXPENSES.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'qualified educational expenses' means qualified tuition and related expenses of the taxpayer, his spouse, or a dependent for attendance at an educational institution described in section 170(b)(1)(A)(ii).

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"(ii) QUALIFIED TUITION AND RELATED EXPENSES.—The term 'qualified tuition and related expenses' has the meaning given such term by section 117(b), except that such term shall include any reasonable living expenses while away from home.

"(D) DEPENDENT.—For purposes of this paragraph, the term 'dependent' has the meaning given such term by section 152.

"(5) OTHER DEFINITIONS AND SPECIAL RULES.—

"(A) QUALIFIED RESIDENCE.—For purposes of this subsection—

"(i) IN GENERAL.—The term 'qualified residence' means—

"(I) the principal residence (within the meaning of section 1034) of the taxpayer, and

"(II) 1 other residence of the taxpayer which is selected by the taxpayer for purposes of this subsection for the taxable year and which is used by the taxpayer as a residence (within the meaning of section 280A(d)(1)).

"(ii) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If a married couple does not file a joint return for the taxable year—

"(I) such couple shall be treated as 1 taxpayer for purposes of clause (i), and

"(II) each individual shall be entitled to take into account 1 residence unless both individuals consent in writing to 1 individual taking into account the principal residence and 1 other residence.

"(iii) RESIDENCE NOT USED OR RENTED.—For purposes of clause (i)(II), notwithstanding section 280A(d)(1), if the taxpayer does not rent or use a dwelling unit at any time during a taxable year, such unit may be treated as a residence for such taxable year.

"(B) SPECIAL RULE FOR COOPERATIVE HOUSING CORPORATIONS.—For purposes of this paragraph, any indebtedness secured by stock held by the taxpayer as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as so defined) shall be treated as secured by the house or apartment which the taxpayer is entitled to occupy as such a tenant-stockholder. If stock described in the preceding sentence may not be used to secure indebtedness, indebtedness shall be treated as so secured if the taxpayer establishes to the satisfaction of the Secretary that such indebtedness was incurred to acquire such stock.

"(6) PHASE-IN OF LIMITATION.—In the case of any taxable year beginning in calendar years 1987 through 1990, the amount of interest with respect to which a deduction is disallowed under this subsection shall be equal to the applicable percentage (within the meaning of subsection (d)(6)(B)) of the amount which (but for this subsection) would have been so disallowed."

(d) TECHNICAL AMENDMENTS.—

(1) Clause (i) of section 7872(d)(1)(E) is amended by striking out "section 163(d)(3)" and inserting in lieu thereof "section 163(d)(4)".

(2)(A) Sections 467(c)(5) and 1255(b)(2) are each amended by striking out "section 163(d),".

(B) Section 703(b) is amended by striking out paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(C) Section 1363(c)(2) is amended by striking out subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

TITLE VI—CORPORATE PROVISIONS

Subtitle A—Corporate Rate Reductions

SEC. 601. CORPORATE RATE REDUCTIONS.

(a) GENERAL RULE.—Subsection (b) of section 11 is amended to read as follows:

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) shall be the sum of—

"(1) 15 percent of so much of the taxable income as does not exceed $50,000,

"(2) 25 percent of so much of the taxable income as exceeds $50,000 but does not exceed $75,000, and

"(3) 34 percent of so much of the taxable income as exceeds $75,000.

In the case of a corporation which has taxable income in excess of $100,000 for any taxable year, the amount of tax determined under the preceding sentence for such taxable year shall be increased by the lesser of (A) 5 percent of such excess, or (B) $11,750."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning on or after July 1, 1987.

(2) CROSS REFERENCE.—

For treatment of taxable years which include July 1, 1987, see section 15 of the Internal Revenue Code of 1986.

Subtitle B—Treatment of Stock and Stock Dividends

SEC. 611. REDUCTION IN DIVIDENDS RECEIVED DEDUCTION.

(a) GENERAL RULE.—The following provisions are each amended by striking out "85 percent" and inserting in lieu thereof "80 percent":

(1) Section 243(a)(1) (relating to dividends received by corporations).

(2) Sections 244 (a)(3) and (b)(2) (relating to dividends received on certain preferred stock).

(3) Section 246(b)(1) (relating to limitation on aggregate amount of deductions).

(4) Section 246A(a)(1) (relating to dividends received deduction reduced where portfolio stock is debt financed).

(5) Subparagraph (B) of section 805(a)(4) (relating to dividends received by insurance company).

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to dividends received or accrued after December 31, 1986, in taxable years ending after such date.

(2) AMENDMENT RELATING TO LIMITATION ON DEDUCTIONS.—The amendment made by subsection (a) to section 246(b) of the Internal Revenue Code of 1986 shall apply to taxable years beginning after December 31, 1986.

SEC. 612. REPEAL OF PARTIAL EXCLUSION OF DIVIDENDS RECEIVED BY INDIVIDUALS.

(a) GENERAL RULE.—Section 116 (relating to partial exclusion of dividends received by individuals) is hereby repealed.

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (g) of section 301 is amended by striking out paragraph (4).

(2)(A) Subsection (c) of section 584 is amended to read as follows:

"(c) INCOME OF PARTICIPANTS IN FUND.—Each participant in the common trust fund in computing its taxable income shall include, whether or not distributed and whether or not distributable—

"(1) as part of its gains and losses from sales or exchanges of capital assets held for not more than 6 months, its proportionate share of the gains and losses of the common trust fund from sales or exchanges of capital assets held for not more than 6 months,

"(2) as part of its gains and losses from sales or exchanges of capital assets held for more than 6 months, its proportionate share of the gains and losses of the common trust fund from sales or exchanges of capital assets held for more than 6 months, and

"(3) its proportionate share of the ordinary taxable income or the ordinary net loss of the common trust fund, computed as provided in subsection (d)."

(B) If the amendments made by section 1001 of the Tax Reform Act of 1984 cease to apply, effective with respect to property to which such amendments do not apply, subsection (c) of section 584 is amended by striking out "6 months" each place it appears and inserting in lieu thereof "1 year".

(3) Section 642 is amended by striking out subsection (j).

(4) Paragraph (7) of section 643(a) is hereby repealed.

(5) Paragraph (5) of section 702(a) is amended to read as follows:

"(5) dividends with respect to which there is a deduction under part VIII of subchapter B,".

(6) Section 854 is amended—

(A) by striking out "section 116 (relating to an exclusion for dividends received by individuals), and" in subsection (a),

(B) in subsection (b)—

(i) by striking out subparagraph (B) of paragraph (1) and redesignating subparagraph (C) as subparagraph (B),

(ii) by striking out "or (B)" in subparagraph (B) (as so redesignated),

(iii) by striking out "the exclusion under section 116 and" in paragraph (2), and

(iv) by amending subparagraph (B) of paragraph (3) to read as follows:

"(B)(i) The term 'aggregate dividends received' includes only dividends received from domestic corporations.

"(ii) For purposes of clause (i), the term 'dividend' shall not include any distribution from—

"(I) a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations), or

"(II) a real estate investment trust which, for the taxable year of the trust in which the dividend is paid, qualifies under part II of subchapter M (section 856 and following).

"(iii) In determining the amount of any dividend for purposes of this subparagraph, a dividend received from a regulated investment company shall be subject to the limitations prescribed in this section."

(7) Subsection (c) of section 857 is amended by striking out "section 116 (relating to an exclusion for dividends received by individuals), and".

(8) The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 116.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 613. NONDEDUCTIBILITY OF STOCK REDEMPTION EXPENSES.

(a) IN GENERAL.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (l) as subsection (m) and inserting after subsection (k) the following new subsection:

"(l) STOCK REDEMPTION EXPENSES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred by a corporation in connection with the redemption of its stock.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) CERTAIN SPECIFIC DEDUCTIONS.—Any—

"(i) deduction allowable under section 163 (relating to interest), or

"(ii) deduction for dividends paid (within the meaning of section 561).

"(B) STOCK OF CERTAIN REGULATED INVESTMENT COMPANIES.—Any amount paid or incurred in connection with the redemption of any stock in a regulated investment company which issues only stock which is redeemable upon the demand of the shareholder."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to any amount paid or incurred after February 28, 1986, in taxable years ending after such date.

SEC. 614. REDUCTION IN STOCK BASIS FOR NONTAXED PORTION OF EXTRAORDINARY DIVIDENDS.

(a) 2-YEAR HOLDING REQUIREMENT.—

(1) IN GENERAL.—Section 1059(a) (relating to corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends) is amended to read as follows:

"(a) GENERAL RULE.—If any corporation receives any extraordinary dividend with respect to any share of stock and such corporation has not held such stock for more than 2 years before the dividend announcement date—

"(1) REDUCTION IN BASIS.—The basis of such corporation in such stock shall be reduced (but not below zero) by the nontaxed portion of such dividends.

"(2) RECOGNITION UPON SALE OR DISPOSITION IN CERTAIN CASES.—In addition to any gain recognized under this chapter, there shall be treated as gain from the sale or exchange of any stock for the taxable year in which the sale or disposition of such stock occurs an amount equal to the aggregate nontaxed portions of any extraordinary dividends with respect to such stock which did not reduce the basis of such stock by reason of the limitation on reducing basis below zero."

(2) DIVIDEND ANNOUNCEMENT DATE.—Section 1059(d) (relating to special rules) is amended by adding at the end thereof the following new paragraph:

"(6) DIVIDEND ANNOUNCEMENT DATE.—The term 'dividend announcement date' means, with respect to any dividend, the date on which the corporation declares, announces, or agrees to the payment of such dividend, whichever is the earliest."

(3) CONFORMING AMENDMENT.—Section 1059(d)(3) (relating to determination of holding period) is amended by striking out "1 year" and inserting in lieu thereof "2 years".

(b) EXTRAORDINARY DIVIDEND MAY BE DETERMINED BY REFERENCE TO FAIR MARKET VALUE.—Section 1059(c) (defining extraordinary dividend) is amended by adding at the end thereof the following new paragraph:

"(4) FAIR MARKET VALUE DETERMINATION.—If the taxpayer establishes to the satisfaction of the Secretary the fair market value of any share of stock as of the day before the ex-dividend date, the taxpayer may elect to apply paragraphs (1) and (3) by substituting such value for the taxpayer's adjusted basis."

(c) TIME FOR REDUCTION IN BASIS.—

(1) IN GENERAL.—Paragraph (1) of section 1059(d) (relating to time for reduction) is amended to read as follows:

"(1) TIME FOR REDUCTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any reduction in basis under subsection (a)(1) shall occur immediately before any sale or disposition of the stock.

"(B) SPECIAL RULE FOR COMPUTING EXTRAORDINARY DIVIDEND.—In determining a taxpayer's adjusted basis for purposes of subsection (c)(1), any reduction in basis under subsection (a)(1) by reason of a prior distribution which was an extraordinary dividend shall be treated as occurring at the beginning of the ex-dividend date for such distribution."

(2) CONFORMING AMENDMENT.—Section 1059(c)(1) is amended by striking out "(determined without regard to this section)".

(d) NO EXTRAORDINARY DIVIDEND WHERE STOCK HELD DURING ENTIRE EXISTENCE OF CORPORATION.—Section 1059(d) (relating to special rules) is amended by adding at the end thereof the following new paragraph:

"(7) EXCEPTION WHERE STOCK HELD DURING ENTIRE EXISTENCE OF CORPORATION.—Subsection (a) shall not apply to any extraordinary dividend with respect to any share of stock of a corporation if—

"(A) such stock was held by the taxpayer during the entire period such corporation (and any precedessor corporation) was in existence,

"(B) except as provided in regulations, the only earnings and profits of such corporation were earnings and profits accumulated by such corporation (or any predecessor corporation) during such period, and

"(C) the application of this paragraph to such dividend is not inconsistent with the purposes of this section."

(e) CERTAIN LIQUIDATIONS AND REDEMPTIONS TREATED AS EXTRAORDINARY DIVIDENDS; QUALIFYING DIVIDENDS NOT TREATED AS EXTRAORDINARY DIVIDENDS; SPECIAL RULE FOR PREFERRED DIVIDENDS.—Section 1059 (relating to extraordinary dividends) is amended by redesignating subsection (e) as subsection (f) and by adding after subsection (d) the following new subsection:

"(e) SPECIAL RULES FOR CERTAIN DISTRIBUTIONS.—

"(1) TREATMENT OF PARTIAL LIQUIDATIONS AND NON-PRO RATA REDEMPTIONS.—Except as otherwise provided in regulations, in the case of any redemption of stock which is—

"(A) part of a partial liquidation (within the meaning of section 302(e)) of the redeeming corporation, or

"(B) not pro rata as to all shareholders,

any amount treated as a dividend under section 301 with respect to such redemption shall be treated as an extraordinary dividend for purposes of this section (without regard to the holding period of the stock).

"(2) QUALIFYING DIVIDENDS.—Except as provided in regulations, the term 'extraordinary dividend' shall not include any qualifying dividend (within the meaning of section 243(b)(1)).

"(3) QUALIFIED PREFERRED DIVIDENDS.—

"(A) IN GENERAL.—A qualified preferred dividend shall be treated as an extraordinary dividend—

"(i) only if the actual rate of return of the taxpayer on the stock with respect to which such dividend was paid exceeds 15 percent, or

"(ii) if clause (i) does not apply, and the taxpayer disposes of such stock before the taxpayer has held such stock for more than 5 years, only to the extent the actual rate of return exceeds the stated rate of return.

"(B) RATE OF RETURN.—For purposes of subparagraph (A)—

"(i) ACTUAL RATE OF RETURN.—The actual rate of return shall be the rate of return for the period for which the taxpayer held the stock, determined—

"(I) by only taking into account dividends during such period, and

"(II) by using the lesser of the adjusted basis of the taxpayer in such stock or the liquidation preference of such stock.

"(ii) STATED RATE OF RETURN.—The stated rate of return shall be the annual rate of the qualified preferred dividend payable with respect to any share of

stock (expressed as a percentage of the amount described in subparagraph (B)(i)(II)).

"(C) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

"(i) QUALIFIED PREFERRED DIVIDEND.—The term 'qualified preferred dividend' means any dividend payable with respect to any share of stock which—

"(I) provides for fixed preferred dividends payable not less frequently than annually, and

"(II) is not in arrears as to dividends at the time the taxpayer acquires the stock.

"(ii) HOLDING PERIOD.—In determining the holding period for purposes of subparagraph (A)(ii), subsection (d)(3) shall be applied by substituting '5 years' for '2 years'."

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to dividends declared after July 18, 1986, in taxable years ending after such date.

(2) AGGREGATION.—For purposes of section 1059(c)(3) of the Internal Revenue Code of 1986, dividends declared after July 18, 1986, shall not be aggregated with dividends declared on or before July 18, 1986.

(3) REDEMPTIONS.—Section 1059(e)(1) of the Internal Revenue Code of 1986 (as added by subsection (e)) shall apply to dividends declared after the date of the enactment of this Act, in taxable years ending after such date.

Subtitle C—Limitation on Net Operating Loss Carryforwards and Excess Credit Carryforwards

SEC. 621. LIMITATION ON NET OPERATING LOSS CARRYFORWARDS.

(a) IN GENERAL.—Section 382 (relating to special limitations on net operating loss carryovers) is amended to read as follows:

"SEC. 382. LIMITATION ON NET OPERATING LOSS CARRYFORWARDS AND CERTAIN BUILT-IN LOSSES FOLLOWING OWNERSHIP CHANGE.

"(a) GENERAL RULE.—The amount of the taxable income of any new loss corporation for any post-change year which may be offset by pre-change losses shall not exceed the section 382 limitation for such year.

"(b) SECTION 382 LIMITATION.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the section 382 limitation for any post-change year is an amount equal to—

"(A) the value of the old loss corporation, multiplied by

"(B) the long-term tax-exempt rate.

"(2) CARRYFORWARD OF UNUSED LIMITATION.—If the section 382 limitation for any post-change year exceeds the taxable income of the new loss corporation for such year which was offset by pre-change losses, the section 382 limitation for the

next post-change year shall be increased by the amount of such excess.

"(3) SPECIAL RULE FOR POST-CHANGE YEAR WHICH INCLUDES CHANGE DATE.—In the case of any post-change year which includes the change date—

"(A) LIMITATION DOES NOT APPLY TO TAXABLE INCOME BEFORE CHANGE.—Subsection (a) shall not apply to the portion of the taxable income for such year which is allocable to the period in such year on or before the change date. Except as provided in subsection (h)(5) and in regulations, taxable income shall be allocated ratably to each day in the year.

"(B) LIMITATION FOR PERIOD AFTER CHANGE.—For purposes of applying the limitation of subsection (a) to the remainder of the taxable income for such year, the section 382 limitation shall be an amount which bears the same ratio to such limitation (determined without regard to this paragraph) as—

"(i) the number of days in such year after the change date, bears to

"(ii) the total number of days in such year.

"(c) CARRYFORWARDS DISALLOWED IF CONTINUITY OF BUSINESS REQUIREMENTS NOT MET.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if the new loss corporation does not continue the business enterprise of the old loss corporation at all times during the 2-year period beginning on the change date, the section 382 limitation for any post-change year shall be zero.

"(2) EXCEPTION FOR CERTAIN GAINS.—The section 382 limitation for any post-change year shall not be less than the sum of—

"(A) any increase in such limitation under—

"(i) subsection (h)(1)(A) for recognized built-in gains for such year, and

"(ii) subsection (h)(1)(C) for gain recognized by reason of an election under section 338, plus

"(B) any increase in such limitation under subsection (b)(2) for amounts described in subparagraph (A) which are carried forward to such year.

"(d) PRE-CHANGE LOSS AND POST-CHANGE YEAR.—For purposes of this section—

"(1) PRE-CHANGE LOSS.—The term 'pre-change loss' means—

"(A) any net operating loss carryforward of the old loss corporation to the taxable year ending with the ownership change or in which the change date occurs, and

"(B) the net operating loss of the old loss corporation for the taxable year in which the ownership change occurs to the extent such loss is allocable to the period in such year on or before the change date.

Except as provided in subsection (h)(5) and in regulations, the net operating loss shall, for purposes of subparagraph (B), be allocated ratably to each day in the year.

"(2) POST-CHANGE YEAR.—The term 'post-change year' means any taxable year ending after the change date.

"(e) VALUE OF OLD LOSS CORPORATION.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the value of the old loss corporation is the value of

the stock of such corporation (including any stock described in section 1504(a)(4)) immediately before the ownership change.

"(2) SPECIAL RULE IN THE CASE OF REDEMPTION.—If a redemption occurs in connection with an ownership change, the value under paragraph (1) shall be determined after taking such redemption into account.

"(f) LONG-TERM TAX-EXEMPT RATE.—For purposes of this section—

"(1) IN GENERAL.—The long-term tax-exempt rate shall be the highest of the adjusted Federal long-term rates in effect for any month in the 3-calendar-month period ending with the calendar month in which the change date occurs.

"(2) ADJUSTED FEDERAL LONG-TERM RATE.—For purposes of paragraph (1), the term 'adjusted Federal long-term rate' means the Federal long-term rate determined under section 1274(d), except that—

"(A) paragraphs (2) and (3) thereof shall not apply, and

"(B) such rate shall be properly adjusted for differences between rates on long-term taxable and tax-exempt obligations.

"(g) OWNERSHIP CHANGE.—For purposes of this section—

"(1) IN GENERAL.—There is an ownership change if, immediately after any owner shift involving a 5-percent shareholder or any equity structure shift—

"(A) the percentage of the stock of the new loss corporation owned by 1 or more 5-percent shareholders has increased by more than 50 percentage points, over

"(B) the lowest percentage of stock of the old loss corporation (or any predecessor corporation) owned by such shareholders at any time during the testing period.

"(2) OWNER SHIFT INVOLVING 5-PERCENT SHAREHOLDER.—There is an owner shift involving a 5-percent shareholder if—

"(A) there is any change in the respective ownership of stock of a corporation, and

"(B) such change affects the percentage of stock of such corporation owned by any person who is a 5-percent shareholder before or after such change.

"(3) EQUITY STRUCTURE SHIFT DEFINED.—

"(A) IN GENERAL.—The term 'equity structure shift' means any reorganization (within the meaning of section 368). Such term shall not include—

"(i) any reorganization described in subparagraph (D) or (G) of section 368(a)(1) unless the requirements of section 354(b)(1) are met, and

"(ii) any reorganization described in subparagraph (F) of section 368(a)(1).

"(B) TAXABLE REORGANIZATION-TYPE TRANSACTIONS, ETC.—To the extent provided in regulations, the term 'equity structure shift' includes taxable reorganization-type transactions, public offerings, and similar transactions.

"(4) SPECIAL RULES FOR APPLICATION OF SUBSECTION.—

"(A) TREATMENT OF LESS THAN 5-PERCENT SHAREHOLDERS.—Except as provided in subparagraphs (B)(i) and (C), in determining whether an ownership change has occurred, all stock owned by shareholders of a corporation who are not 5-percent shareholders of such corporation shall be treated as stock owned by 1 5-percent shareholder of such corporation.

"(B) COORDINATION WITH EQUITY STRUCTURE SHIFTS.—For purposes of determining whether an equity structure shift (or subsequent transaction) is an ownership change—

"(i) LESS THAN 5-PERCENT SHAREHOLDERS.—Subparagraph (A) shall be applied separately with respect to each group of shareholders (immediately before such equity structure shift) of each corporation which was a party to the reorganization involved in such equity structure shift.

"(ii) ACQUISITIONS OF STOCK.—Unless a different proportion is established, acquisitions of stock after such equity structure shift shall be treated as being made proportionately from all shareholders immediately before such acquisition.

"(C) COORDINATION WITH OTHER OWNER SHIFTS.—Except as provided in regulations, the rules of subparagraph (B) shall apply in determining whether there has been an owner shift involving a 5-percent shareholder and whether such shift (or subsequent transaction) results in an ownership change.

"(h) SPECIAL RULES FOR BUILT-IN GAINS AND LOSSES AND SECTION 338 GAINS.—For purposes of this section—

"(1) IN GENERAL.—

"(A) NET UNREALIZED BUILT-IN GAIN.—

"(i) IN GENERAL.—If the old loss corporation has a net unrealized built-in gain, the section 382 limitation for any recognition period taxable year shall be increased by the recognized built-in gains for such taxable year.

"(ii) LIMITATION.—The increase under clause (i) for any recognition period taxable year shall not exceed—

"(I) the net unrealized built-in gain, reduced by

"(II) recognized built-in gains for prior years ending in the recognition period.

"(B) NET UNREALIZED BUILT-IN LOSS.—

"(i) IN GENERAL.—If the old loss corporation has a net unrealized built-in loss, the recognized built-in loss for any recognition period taxable year shall be subject to limitation under this section in the same manner as if such loss were a pre-change loss.

"(ii) LIMITATION.—Clause (i) shall apply to recognized built-in losses for any recognition period taxable year only to the extent such losses do not exceed—

"(I) the net unrealized built-in loss, reduced by

"(II) recognized built-in losses for prior taxable years ending in the recognition period.

"(C) SECTION 338 GAIN.—The section 382 limitation for any taxable year in which gain is recognized by reason of an election under section 338 shall be increased by the excess of—

"(i) the amount of such gain, over

"(ii) the portion of such gain taken into account in computing recognized built-in gains for such taxable year.

"(2) RECOGNIZED BUILT-IN GAIN AND LOSS.—

"(A) RECOGNIZED BUILT-IN GAIN.—The term 'recognized built-in gain' means any gain recognized during the rec-

ognition period on the disposition of any asset to the extent the new loss corporation establishes that—

"(i) such asset was held by the old loss corporation immediately before the change date, and

"(ii) such gain does not exceed the excess of—

"(I) the fair market value of such asset on the change date, over

"(II) the adjusted basis of such asset on such date.

"(B) RECOGNIZED BUILT-IN LOSS.—The term 'recognized built-in loss' means any loss recognized during the recognition period on the disposition of any asset except to the extent the new loss corporation establishes that—

"(i) such asset was not held by the old loss corporation immediately before the change date, or

"(ii) such loss exceeds the excess of—

"(I) the adjusted basis of such asset on the change date, over

"(II) the fair market value of such asset on such date.

"(3) NET UNREALIZED BUILT-IN GAIN AND LOSS DEFINED.—

"(A) NET UNREALIZED BUILT-IN GAIN AND LOSS.—

"(i) IN GENERAL.—The terms 'net unrealized built-in gain' and 'net unrealized built-in loss' mean, with respect to any old loss corporation, the amount by which—

"(I) the fair market value of the assets of such corporation immediately before an ownership change is more or less, respectively, than

"(II) the aggregate adjusted basis of such assets at such time.

"(ii) SPECIAL RULE FOR REDEMPTIONS.—If a redemption occurs in connection with an ownership change, determinations under clause (i) shall be made after taking such redemption into account.

"(B) THRESHOLD REQUIREMENT.—

"(i) If the amount of the net unrealized built-in gain or net unrealized built-in loss (determined without regard to this subparagraph) of any old loss corporation is not greater than 25 percent of the amount determined for purposes of subparagraph (A)(i)(I), the net unrealized built-in gain or net unrealized built-in loss shall be zero.

"(ii) CASH AND CASH ITEMS NOT TAKEN INTO ACCOUNT.—In computing any net unrealized built-in gain or net unrealized built-in loss under clause (i), there shall not be taken into account—

"(I) any cash or cash item, or

"(II) any marketable security which has a value which does not substantially differ from adjusted basis.

"(4) DISALLOWED LOSS TREATED AS A NET OPERATING LOSS.—If a deduction for any portion of a recognized built-in loss is disallowed for any post-change year, such portion—

"(A) shall be carried forward to subsequent taxable years under rules similar to the rules for the carrying forward of net operating losses, but

"(B) shall be subject to limitation under this section in the same manner as a pre-change loss.

"(5) SPECIAL RULES FOR POST-CHANGE YEAR WHICH INCLUDES CHANGE DATE.—For purposes of subsection (b)(3)—

"(A) in applying subparagraph (A) thereof, taxable income shall be computed without regard to recognized built-in gains and losses, and gain described in paragraph (1)(C), for the year, and

"(B) in applying subparagraph (B) thereof, the section 382 limitation shall be computed without regard to recognized built-in gains, and gain described in paragraph (1)(C), for the year.

"(6) SECRETARY MAY TREAT CERTAIN DEDUCTIONS AS BUILT-IN LOSSES.—The Secretary may by regulation treat amounts which accrue on or before the change date but which are allowable as a deduction after such date as recognized built-in losses.

"(7) RECOGNITION PERIOD, ETC.—

"(A) RECOGNITION PERIOD.—The term 'recognition period' means, with respect to any ownership change, the 5-year period beginning on the change date.

"(B) RECOGNITION PERIOD TAXABLE YEAR.—The term 'recognition period taxable year' means any taxable year any portion of which is in the recognition period.

"(8) DETERMINATION OF FAIR MARKET VALUE IN CERTAIN CASES.—If 80 percent or more in value of the stock of a corporation is acquired in 1 transaction (or in a series of related transactions during any 12-month period), for purposes of determining the net unrealized built-in loss, the fair market value of the assets of such corporation shall not exceed the grossed up amount paid for such stock properly adjusted for indebtedness of the corporation and other relevant items.

"(9) TAX-FREE EXCHANGES OR TRANSFERS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection where property held on the change date is transferred in a transaction where gain or loss is not recognized (in whole or in part).

"(i) TESTING PERIOD.—For purposes of this section—

"(1) 3-YEAR PERIOD.—Except as otherwise provided in this section, the testing period is the 3-year period ending on the day of any owner shift involving a 5-percent shareholder or equity structure shift.

"(2) SHORTER PERIOD WHERE THERE HAS BEEN RECENT OWNERSHIP CHANGE.—If there has been an ownership change under this section, the testing period for determining whether a 2nd ownership change has occurred shall not begin before the 1st day following the change date for such earlier ownership change.

"(3) SHORTER PERIOD WHERE ALL LOSSES ARISE AFTER 3-YEAR PERIOD BEGINS.—The testing period shall not begin before the 1st day of the 1st taxable year from which there is a carryforward of a loss or of an excess credit to the 1st post-change year. Except as provided in regulations, this paragraph shall not apply to any loss corporation which has a net unrealized built-in loss (determined after application of subsection (h)(3)(B)).

"(j) CHANGE DATE.—For purposes of this section, the change date is—

"(1) in the case where the last component of an ownership change is an owner shift involving a 5-percent shareholder, the date on which such shift occurs, and

"(2) in the case where the last component of an ownership change is an equity structure shift, the date of the reorganization.

"(k) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) LOSS CORPORATION.—The term 'loss corporation' means a corporation entitled to use a net operating loss carryover. Except to the extent provided in regulations, such term includes any corporation with a net unrealized built-in loss.

"(2) OLD LOSS CORPORATION.—The term 'old loss corporation' means any corporation with respect to which there is an ownership change—

"(A) which (before the ownership change) was a loss corporation, or

"(B) with respect to which there is a pre-change loss described in subsection (d)(1)(B).

"(3) NEW LOSS CORPORATION.—The term 'new loss corporation' means a corporation which (after an ownership change) is a loss corporation. Nothing in this section shall be treated as implying that the same corporation may not be both the old loss corporation and the new loss corporation.

"(4) TAXABLE INCOME.—Taxable income shall be computed with the modifications set forth in section 172(d).

"(5) VALUE.—The term 'value' means fair market value.

"(6) RULES RELATING TO STOCK.—

"(A) PREFERRED STOCK.—Except as provided in regulations and subsection (e), the term 'stock' means stock other than stock described in section 1504(a)(4).

"(B) TREATMENT OF CERTAIN RIGHTS, ETC.—The Secretary shall prescribe such regulations as may be necessary—

"(i) to treat warrants, options, contracts to acquire stock, convertible debt interests, and other similar interests as stock, and

"(ii) to treat stock as not stock.

"(C) DETERMINATIONS ON BASIS OF VALUE.—Determinations of the percentage of stock of any corporation held by any person shall be made on the basis of value.

"(7) 5-PERCENT SHAREHOLDER.—The term '5-percent shareholder' means any person holding 5 percent or more of the stock of the corporation at any time during the testing period.

"(l) CERTAIN ADDITIONAL OPERATING RULES.—For purposes of this section—

"(1) CERTAIN CAPITAL CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—

"(A) IN GENERAL.—Any capital contribution received by an old loss corporation as part of a plan a principal purpose of which is to avoid or increase any limitation under this section shall not be taken into account for purposes of this section.

"(B) CERTAIN CONTRIBUTIONS TREATED AS PART OF PLAN.—For purposes of subparagraph (A), any capital contribution made during the 2-year period ending on the change date shall, except as provided in regulations, be treated as part of a plan described in subparagraph (A).

"(2) ORDERING RULES FOR APPLICATION OF SECTION.—

"(A) COORDINATION WITH SECTION 172(b) CARRYOVER RULES.—In the case of any pre-change loss for any taxable year (hereinafter in this subparagraph referred to as the 'loss year') subject to limitation under this section, for purposes of determining under the 2nd sentence of section 172(b)(2) the amount of such loss which may be carried to any taxable year, taxable income for any taxable year shall be treated as not greater than—

"(i) the section 382 limitation for such taxable year, reduced by

"(ii) the unused pre-change losses for taxable years preceding the loss year.

Similar rules shall apply in the case of any credit or loss subject to limitation under section 383.

"(B) ORDERING RULE FOR LOSSES CARRIED FROM SAME TAXABLE YEAR.—In any case in which—

"(i) a pre-change loss of a loss corporation for any taxable year is subject to a section 382 limitation, and

"(ii) a net operating loss of such corporation from such taxable year is not subject to such limitation,

taxable income shall be treated as having been offset first by the loss subject to such limitation.

"(3) OPERATING RULES RELATING TO OWNERSHIP OF STOCK.—

"(A) CONSTRUCTIVE OWNERSHIP.—Section 318 (relating to constructive ownership of stock) shall apply in determining ownership of stock, except that—

"(i) paragraphs (1) and (5)(B) of section 318(a) shall not apply and an individual and all members of his family described in paragraph (1) of section 318(a) shall be treated as 1 individual for purposes of applying this section,

"(ii) paragraph (2) of section 318(a) shall be applied—

"(I) without regard to the 50-percent limitation contained in subparagraph (C) thereof, and

"(II) except as provided in regulations, by treating stock attributed thereunder as no longer being held by the entity from which attributed,

"(iii) paragraph (3) of section 318(a) shall be applied only to the extent provided in regulations, and

"(iv) except to the extent provided in regulations, paragraph (4) of section 318(a) shall apply to an option if such application results in an ownership change.

A rule similar to the rule of clause (iv) shall apply in the case of any contingent purchase, warrant, convertible debt, put, stock subject to a risk of forfeiture, contract to acquire stock, or similar interests.

"(B) STOCK ACQUIRED BY REASON OF DEATH, GIFT, DIVORCE, SEPARATION, ETC.—If—

"(i) the basis of any stock in the hands of any person is determined—

"(I) under section 1014 (relating to property acquired from a decedent),

"(II) section 1015 (relating to property acquired by a gift or transfer in trust), or

"(III) section 1041(b)(2) (relating to transfers of property between spouses or incident to divorce,

"(ii) stock is received by any person in satisfaction of a right to receive a pecuniary bequest, or

"(iii) stock is acquired by a person pursuant to any divorce or separation instrument (within the meaning of section 71(b)(2)),

such person shall be treated as owning such stock during the period such stock was owned by the person from whom it was acquired.

"(C) SPECIAL RULE FOR EMPLOYEE STOCK OWNERSHIP PLANS.—

"(i) IN GENERAL.—Except as provided in clause (ii), the acquisition of employer securities (within the meaning of section 409(l)) by—

"(I) a tax credit employee stock ownership plan or an employee stock ownership plan (within the meaning of section 4975(e)(7)), or

"(II) a participant of any such plan pursuant to the requirements of section 409(h),

shall not be taken into account in determining whether an ownership change has occurred.

"(ii) OWNERSHIP AND ALLOCATION REQUIREMENTS.—Subclause (I) of clause (i) shall not apply to any acquisition unless—

"(I) immediately after such acquisition the plan holds stock meeting the requirements of section 1042(b)(2), except that such section shall be applied by substituting '50 percent' for '30 percent', and

"(II) the plan meets requirements similar to the requirements of section 409(n).

"(D) CERTAIN CHANGES IN PERCENTAGE OWNERSHIP WHICH ARE ATTRIBUTABLE TO FLUCTUATIONS IN VALUE NOT TAKEN INTO ACCOUNT.—Except as provided in regulations, any change in proportionate ownership which is attributable solely to fluctuations in the relative fair market values of different classes of stock shall not be taken into account.

"(4) REDUCTION IN VALUE WHERE SUBSTANTIAL NONBUSINESS ASSETS.—

"(A) IN GENERAL.—If, immediately after an ownership change, the new loss corporation has substantial nonbusiness assets, the value of the old loss corporation shall be reduced by the excess (if any) of—

"(i) the fair market value of the nonbusiness assets of the old loss corporation, over

"(ii) the nonbusiness asset share of indebtedness for which such corporation is liable.

"(B) CORPORATION HAVING SUBSTANTIAL NONBUSINESS ASSETS.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The old loss corporation shall be treated as having substantial nonbusiness assets if at least ⅓ of the value of the total assets of such corporation consists of nonbusiness assets.

"(ii) EXCEPTION FOR CERTAIN INVESTMENT ENTITIES.—A regulated investment company to which part I of subchapter M applies, a real estate investment trust to which part II of subchapter M applies, or a real estate mortgage pool to which part IV of subchapter M ap-

plies, shall not be treated as a new loss corporation having substantial nonbusiness assets.

"(C) NONBUSINESS ASSETS.—For purposes of this paragraph, the term 'nonbusiness assets' means assets held for investment.

"(D) NONBUSINESS ASSET SHARE.—For purposes of this paragraph, the nonbusiness asset share of the indebtedness of the corporation is an amount which bears the same ratio to such indebtedness as—

"(i) the fair market value of the nonbusiness assets of the corporation, bears to

"(ii) the fair market value of all assets of such corporation.

"(E) TREATMENT OF SUBSIDIARIES.—For purposes of this paragraph, stock and securities in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets. For purposes of the preceding sentence, a corporation shall be treated as a subsidiary if the parent owns 50 percent or more of the combined voting power of all classes of stock entitled to vote, and 50 percent or more of the total value of shares of all classes of stock.

"(5) TITLE 11 OR SIMILAR CASE.—

"(A) IN GENERAL.—Subsection (a) shall not apply to any ownership change if—

"(i) the old loss corporation is (immediately before such ownership change) under the jurisdiction of the court in a title 11 or similar case, and

"(ii) the shareholders and creditors of the old loss corporation (determined immediately before such ownership change) own (immediately after such ownership change) stock of the new loss corporation (or stock of controlling corporation if also in bankruptcy) which meets the requirements of section 1504(a)(2) (determined by substituting '50 percent' for '80 percent' each place it appears).

"(B) REDUCTION FOR INTEREST PAYMENTS TO CREDITORS BECOMING SHAREHOLDERS.—In any case to which subparagraph (A) applies, the net operating loss deduction under section 172(a) for any post-change year shall be determined as if no deduction was allowable under this chapter for the interest paid or accrued by the old loss corporation on indebtedness which was converted into stock pursuant to title 11 or similar case during—

"(i) any taxable year ending during the 3-year period preceding the taxable year in which the ownership change occurs, and

"(ii) the period of the taxable year in which the ownership change occurs on or before the change date.

"(C) REDUCTION OF CARRYFORWARDS WHERE DISCHARGE OF INDEBTEDNESS.—In any case to which subparagraph (A) applies, the pre-change losses and excess credits (within the meaning of section 383(a)(2)) which may be carried to a post-change year shall be computed as if 50 percent of the amount which, but for the application of section 108(e)(10)(B), would have been includible in gross income for any taxable year had been so included.

"(D) SECTION 382 LIMITATION ZERO IF ANOTHER CHANGE WITHIN 2 YEARS.—If, during the 2-year period immediately following an ownership change to which this paragraph applies, an ownership change of the new loss corporation occurs, this paragraph shall not apply and the section 382 limitation with respect to the 2nd ownership change for any post-change year ending after the change date of the 2nd ownership change shall be zero.

"(E) ONLY CERTAIN STOCK OF CREDITORS TAKEN INTO ACCOUNT.—For purposes of subparagraph (A)(ii), stock transferred to a creditor in satisfaction of indebtedness shall be taken into account only if such indebtedness—

"(i) was held by the creditor at least 18 months before the date of the filing of the title 11 or similar case, or

"(ii) arose in the ordinary course of the trade or business of the old loss corporation and is held by the person who at all times held the beneficial interest in such indebtedness.

"(F) SPECIAL RULE FOR CERTAIN FINANCIAL INSTITUTIONS.—

"(i) IN GENERAL.—In the case of any ownership change to which this subparagraph applies, this paragraph shall be applied—

"(I) by substituting '20 percent' for '50 percent' in subparagraph (A)(ii), and

"(II) without regard to subparagraphs (B) and (C).

"(ii) SPECIAL RULE FOR DEPOSITORS.—For purposes of applying this paragraph to an ownership change to which this subparagraph applies—

"(I) a depositor in the old loss corporation shall be treated as a stockholder in such loss corporation immediately before the change,

"(II) deposits which, after the change, become deposits of the new loss corporation shall be treated as stock of the new loss corporation, and

"(III) the fair market value of the outstanding stock of the new loss corporation shall include deposits described in subclause (II).

"(iii) CHANGES TO WHICH SUBPARAGRAPH APPLIES.—This subparagraph shall apply to—

"(I) an equity structure shift which is a reorganization described in section 368(a)(3)(D)(ii), or

"(II) any other equity structure shift (or transaction to which section 351 applies) which occurs as an integral part of a transaction involving a change to which subclause (I) applies.

This subparagraph shall not apply to any equity structure shift or transaction occurring after December 31, 1988.

"(G) TITLE 11 OR SIMILAR CASE.—For purposes of this paragraph, the term 'title 11 or similar case' has the meaning given such term by section 368(a)(3)(A).

"(H) ELECTION NOT TO HAVE PARAGRAPH APPLY.—A new loss corporation may elect, subject to such terms and conditions as the Secretary may prescribe, not to have the provisions of this paragraph apply.

"(6) SPECIAL RULE FOR INSOLVENCY TRANSACTIONS.—If paragraph (5) does not apply to any reorganization described in

subparagraph (G) of section 368(a)(1) or any exchange of debt for stock in a title 11 or similar case (as defined in section 368(a)(3)(A)), the value under subsection (e) shall be the value of the new loss corporation immediately after the ownership change.

"(7) COORDINATION WITH ALTERNATIVE MINIMUM TAX.—The Secretary shall by regulation provide for the application of this section to the alternative tax net operating loss deduction under section 56(d).

"(m) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section and section 383, including (but not limited to) regulations—

"(1) providing for the application of this section and section 383 where an ownership change with respect to the old loss corporation is followed by an ownership change with respect to the new loss corporation, and

"(2) providing for the application of this section and section 383 in the case of a short taxable year,

"(3) providing for such adjustments to the application of this section and section 383 as is necessary to prevent the avoidance of the purposes of this section and section 383, including the avoidance of such purposes through the use of related persons, pass-thru entities, or other intermediaries,

"(4) providing for the treatment of corporate contractions as redemptions for purposes of subsections (e)(2) and (h)(3)(A), and

"(5) providing for the application of subsection (g)(4) where there is only 1 corporation involved."

(b) AMENDMENT OF SECTION 383.—Section 383 (relating to special limitations on unused investment credits, etc.) is amended to read as follows:

"SEC. 383. SPECIAL LIMITATIONS ON CERTAIN EXCESS CREDITS, ETC.

"(a) EXCESS CREDITS.—

"(1) IN GENERAL.—Under regulations, if an ownership change occurs with respect to a corporation, the amount of any excess credit for any taxable year which may be used in any post-change year shall be limited to an amount determined on the basis of the tax liability which is attributable to so much of the taxable income as does not exceed the section 382 limitation for such post-change year to the extent available after the application of section 382 and subsections (b) and (c) of this section.

"(2) EXCESS CREDIT.—For purposes of paragraph (1), the term 'excess credit' means—

"(A) any unused general business credit of the corporation under section 39, and

"(B) any unused minimum tax credit of the corporation under section 53.

"(b) LIMITATION ON NET CAPITAL LOSS.—If an ownership change occurs with respect to a corporation, the amount of any net capital loss under section 1212 for any taxable year before the 1st post-change year which may be used in any post-change year shall be limited under regulations which shall be based on the principles applicable under section 382. Such regulations shall provide that any such net capital loss used in a post-change year shall reduce the section 382 limitation which is applied to pre-change losses under section 382 for such year.

"(c) FOREIGN TAX CREDITS.—If an ownership change occurs with respect to a corporation, the amount of any excess foreign taxes under section 904(c) for any taxable year before the 1st post-change taxable year shall be limited under regulations which shall be consistent with purposes of this section and section 382.

"(d) PRO RATION RULES FOR YEAR WHICH INCLUDES CHANGE.—For purposes of this section, rules similar to the rules of subsections (b)(3) and (d)(1)(B) of section 382 shall apply.

"(e) DEFINITIONS.—Terms used in this section shall have the same respective meanings as when used in section 382, except that appropriate adjustments shall be made to take into account that the limitations of this section apply to credits and net capital losses."

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (5) of section 318(b) is amended by striking out "section 382(a)(3)" and inserting in lieu thereof "section 382(l)(3)".

(2) The table of sections for part V of subchapter C of chapter 1 is amended—

(A) by striking out the item relating to section 382 and inserting in lieu thereof the following new item:

"Sec. 382. Limitation on net operating loss carryforwards and certain built-in losses following ownership change.",

and

(B) by striking out the item relating to section 383 and inserting in lieu thereof the following new item:

"Sec. 383. Special limitations on certain excess credits, etc.".

(d) REPORT ON DEPRECIATION AND BUILT-IN DEDUCTIONS; REPORT ON BANKRUPTCY WORKOUTS.—The Secretary of the Treasury or his delegate—

(1) shall, not later than January 1, 1989, conduct a study and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate with respect to the treatment of depreciation, amortization, depletion, and other built-in deductions for purposes of sections 382 and 383 of the Internal Revenue Code of 1986 (as amended by this section), and

(2) shall, not later than January 1, 1988, conduct a study and report to the committees referred to in paragraph (1) with respect to the treatment of informal bankruptcy workouts for purposes of sections 108 and 382 of such Code.

(e) REPEAL OF CHANGES MADE BY TAX REFORM ACT OF 1976.—

(1) Subsections (e) and (f) of section 806 of the Tax Reform Act of 1976 (including the amendment treated as part of such subsections under section 59(b) of the Tax Reform Act of 1984) are hereby repealed.

(2) Subsection (g) of such section 806 is amended by striking out paragraphs (2) and (3).

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (c) shall apply to any ownership change following—

(A) an owner shift involving a 5-percent shareholder occurring after December 31, 1986, or

(B) an equity structure shift occurring pursuant to a plan of reorganization adopted after December 31, 1986.

(2) FOR AMENDMENTS TO TAX REFORM ACT OF 1976.—

(A) IN GENERAL.—The repeals made by subsection (e)(1) and the amendment made by subsection (e)(2) shall take effect on January 1, 1986.

(B) ELECTION TO HAVE AMENDMENTS APPLY.—

(i) If a taxpayer described in clause (ii) elects to have the provisions of this subparagraph apply, the amendments made by subsections (e) and (f) of section 806 of the Tax Reform Act of 1976 shall apply to the reorganization described in clause (ii).

(ii) A taxpayer is described in this clause if the taxpayer filed a title 11 or similar case on December 8, 1981, filed a plan of reorganization on February 5, 1986, filed an amended plan on March 14, 1986, and received court approval for the amended plan and disclosure statement on April 16, 1986.

(C) APPLICATION OF OLD RULES TO CERTAIN DEBT.—In the case of debt of a corporation incorporated in Colorado on November 8, 1924, with headquarters in Denver, Colorado—

(i) the amendments made by subsections (a), (b), and (c) shall not apply to any debt restructuring of such debt which was approved by the debtor's Board of Directors and the lenders in 1986, and

(ii) the amendments made by subsections (e) and (f) of section 806 of the Tax Reform Act of 1976 (including the amendment treated as part of such subsections under section 59(b) of the Tax Reform Act of 1984) shall apply to such debt restructuring.

(D) SPECIAL RULE FOR OIL AND GAS WELL DRILLING BUSINESS.—In the case of a Texas corporation incorporated on July 23, 1935, in applying section 382 of the Internal Revenue Code of 1986 (as in effect before and after the amendments made by subsections (a), (b), and (c)) to a loan restructuring agreement during 1985, section 382(a)(5)(C) of the Internal Revenue Code of 1954 (as added by the amendments made by subsections (e) and (f) of section 806 of the Tax Reform Act of 1976) shall be applied as if it were in effect with respect to such restructuring or reorganization.

(3) TESTING PERIOD.—For purposes of determining whether there is an ownership change after December 31, 1986, the testing period shall not begin before the later of—

(A) May 6, 1986, or

(B) in the case of an ownership change which occurs after May 5, 1986, and to which the amendments made by subsections (a), (b), and (c) do not apply, the first day following the date on which such ownership change occurs.

(4) SPECIAL TRANSITION RULES.—The amendments made by subsections (a), (b), and (c) shall not apply to any—

(A) stock-for-debt exchanges and stock sales made pursuant to a plan of reorganization with respect to a petition for reorganization filed by a corporation under chapter 11 of title 11, United States Code, on August 26, 1982, and which filed with a United States district court a first amended and related plan of reorganization before March 1, 1986, or

(B) ownership change of a Delaware corporation incorporated in August 1983, which may result from the exercise of put or call option under an agreement entered into on September 14, 1983, but only with respect to taxable years

beginning after 1991 regardless of when such ownership change takes place.

Any regulations prescribed under section 382(g)(3)(B) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall not apply with respect to domestic building and loan trasactions for any period before January 1, 1989.

(5) BANKRUPTCY PROCEEDINGS.—In the case of a reorganization described in subparagraph (G) of section 368(a)(1) of the Internal Revenue Code of 1986 or an exchange of debt for stock in a title 11 or similar case, as defined in section 368(a)(3) of such Code, the amendments made by subsections (a), (b), and (c) shall not apply to any ownership change resulting from such a reorganization or proceeding if a petition in such case was filed with the court before August 14, 1986.

(6) CERTAIN PLANS.—The amendments made by subsections (a), (b), and (c) shall not apply to any ownership change with respect to—

(A) the acquisition of a corporation the stock of which is acquired pursuant to a plan of divestiture which identified such corporation and its assets, and was agreed to by the board of directors of such corporation's parent corporation on May 17, 1985,

(B) a merger which occurs pursuant to a merger agreement (entered into before September 24, 1985) and an application for approval by the Federal Home Loan Bank Board was filed on October 4, 1985,

(C) a reorganization involving a party to a reorganization of a group of corporations engaged in enhanced oil recovery operations in California, merged in furtherance of a plan of reorganization adopted by a board of directors vote on September 24, 1985, and a Delaware corporation whose principal oil and gas producing fields are located in California, or

(D) the conversion of a mutual savings and loan association holding a Federal charter dated March 22, 1985, to a stock savings and loan association pursuant to the rules and regulations of the Federal Home Loan Bank Board.

(7) OWNERSHIP CHANGE OF REGULATED AIR CARRIER.—The amendments made by subsections (a), (b), and (c) shall not apply to an ownership change of a regulated air carrier if—

(A) on July 16, 1986, at least 40 percent of the outstanding common stock (excluding all preferred stock, whether or not convertible) of such carrier had been acquired by the parent corporation referred to in section 203(d)(13)(B), and

(B) the acquisition (by or for such parent corporation) or retirement of the remaining common stock of such carrier is completed before the later of March 31, 1987, or 90 days after the requisite governmental approvals are finally granted,

but only if the ownership change occurs on or before the later of March 31, 1987, or such 90th day. The aggregate reduction in tax for any taxable year by reason of this paragraph shall not exceed $10,000,000. The testing period for determining whether a subsequent ownership change has occurred shall not begin before the 1st day following an ownership change to which this paragraph applies.

(8) The amendments made by subsections (a), (b), and (c) shall not apply to any ownership change resulting from the conversion of a Minnesota mutual savings bank holding a Federal charter dated December 31, 1985, to a stock savings bank pursuant to the rules and regulations of the Federal Home Loan Bank Board, and from the issuance of stock pursuant to that conversion to a holding company incorporated in Delaware on February 21, 1984. For purposes of determining whether any ownership change occurs with respect to the holding company or any subsidiary thereof (whether resulting from the transaction described in the preceding sentence or otherwise), any issuance of stock made by such holding company in connection with the transaction described in the preceding sentence shall not be taken into account.

(9) DEFINITIONS.—Except as otherwise provided, terms used in this subsection shall have the same meaning as when used in section 382 of the Internal Revenue Code of 1986 (as amended by this section).

Subtitle D—Recognition of Gain and Loss on Distributions of Property in Liquidation

SEC. 631. RECOGNITION OF GAIN AND LOSS ON DISTRIBUTIONS OF PROPERTY IN LIQUIDATION.

(a) GENERAL RULE.—Subpart B of part II of subchapter C (relating to effects on corporation) is amended by striking out sections 336 and 337 and inserting in lieu thereof the following:

"SEC. 336. GAIN OR LOSS RECOGNIZED ON PROPERTY DISTRIBUTED IN COMPLETE LIQUIDATION.

"(a) GENERAL RULE.—Except as otherwise provided in this section or section 337, gain or loss shall be recognized to a liquidating corporation on the distribution of property in complete liquidation as if such property were sold to the distributee at its fair market value.

"(b) TREATMENT OF LIABILITIES IN EXCESS OF BASIS.—If any property distributed in the liquidation is subject to a liability or the shareholder assumes a liability of the liquidating corporation in connection with the distribution, for purposes of subsection (a) and section 337, the fair market value of such property shall be treated as not less than the amount of such liability.

"(c) EXCEPTION FOR CERTAIN LIQUIDATIONS TO WHICH PART III APPLIES.—This section shall not apply with respect to any distribution of property to the extent there is nonrecognition of gain or loss with respect to such property to the recipient under part III.

"(d) LIMITATIONS ON RECOGNITION OF LOSS.—

"(1) NO LOSS RECOGNIZED IN CERTAIN DISTRIBUTIONS TO RELATED PERSONS.—

"(A) IN GENERAL.—No loss shall be recognized to a liquidating corporation on the distribution of any property to a related person (within the meaning of section 267) if—

"(i) such distribution is not pro rata, or

"(ii) such property is disqualified property.

"(B) DISQUALIFIED PROPERTY.—For purposes of subparagraph (A), the term 'disqualified property' means any prop-

erty which is acquired by the liquidating corporation in a transaction to which section 351 applied, or as a contribution to capital, during the 5-year period ending on the date of the distribution. Such term includes any property if the adjusted basis of such property is determined (in whole or in part) by reference to the adjusted basis of property described in the preceding sentence.

"(2) SPECIAL RULE FOR CERTAIN PROPERTY ACQUIRED IN CERTAIN CARRYOVER BASIS TRANSACTIONS.—

"(A) IN GENERAL.—For purposes of determining the amount of loss recognized by any liquidating corporation on any sale, exchange, or distribution of property described in subparagraph (B), the adjusted basis of such property shall be reduced (but not below zero) by the excess (if any) of—

"(i) the adjusted basis of such property immediately after its acquisition by such corporation, over

"(ii) the fair market value of such property as of such time.

"(B) DESCRIPTION OF PROPERTY.—

"(i) IN GENERAL.—For purposes of subparagraph (A), property is described in this subparagraph if—

"(I) such property is acquired by the liquidating corporation in a transaction to which section 351 applied or as a contribution to capital, and

"(II) the acquisition of such property by the liquidating corporation was part of a plan a principal purpose of which was to recognize loss by the liquidating corporation with respect to such property in connection with the liquidation.

Other property shall be treated as so described if the adjusted basis of such other property is determined (in whole or in part) by reference to the adjusted basis of property described in the preceding sentence.

"(ii) CERTAIN ACQUISITIONS TREATED AS PART OF PLAN.—For purposes of clause (i), any property described in clause (i)(I) acquired by the liquidating corporation during the 2-year period ending on the date of the adoption of the plan of complete liquidation shall, except as provided in regulations, be treated as part of a plan described in clause (i)(II).

"(C) RECAPTURE IN LIEU OF DISALLOWANCE.—The Secretary may prescribe regulations under which, in lieu of disallowing a loss under subparagraph (A) for a prior taxable year, the gross income of the liquidating corporation for the taxable year in which the plan of complete liquidation is adopted shall be increased by the amount of the disallowed loss.

"(3) SPECIAL RULE IN CASE OF LIQUIDATION TO WHICH SECTION 332 APPLIES.—In the case of any liquidation to which section 332 applies, no loss shall be recognized to the liquidating corporation on any distribution in such liquidation.

"(e) CERTAIN STOCK SALES AND DISTRIBUTIONS MAY BE TREATED AS ASSET TRANSFERS.—Under regulations prescribed by the Secretary, if—

"(1) a corporation owns stock in another corporation meeting the requirements of section 1504(a)(2), and

"(2) such corporation sells, exchanges, or distributes all of such stock,

such corporation may elect to treat such sale, exchange, or distribution as a disposition of all of the assets of such other corporation, and no gain or loss shall be recognized on the sale, exchange, or distribution of such stock.

"SEC. 337. NONRECOGNITION FOR PROPERTY DISTRIBUTED TO PARENT IN COMPLETE LIQUIDATION OF SUBSIDIARY.

"(a) IN GENERAL.—No gain or loss shall be recognized to the liquidating corporation on the distribution to the 80-percent distributee of any property in a complete liquidation to which section 332 applies.

"(b) TREATMENT OF INDEBTEDNESS OF SUBSIDIARY, ETC.—

"(1) INDEBTEDNESS OF SUBSIDIARY TO PARENT.—If—

"(A) a corporation is liquidated in a liquidation to which section 332 applies, and

"(B) on the date of the adoption of the plan of liquidation, such corporation was indebted to the 80-percent distributee,

for purposes of this section and section 336, any transfer of property to the 80-percent distributee in satisfaction of such indebtedness shall be treated as a distribution to such distributee in such liquidation.

"(2) TREATMENT OF TAX-EXEMPT DISTRIBUTEE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), paragraph (1) and subsection (a) shall not apply where the 80-percent distributee is an organization (other than a cooperative described in section 521) which is exempt from the tax imposed by this chapter.

"(B) EXCEPTION WHERE PROPERTY WILL BE USED IN UNRELATED BUSINESS.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to any distribution of property to an organization described in section 511(a)(2) or 511(b)(2) if, immediately after such distribution, such organization uses such property in an unrelated trade or business (as defined in section 513).

"(ii) LATER DISPOSITION OR CHANGE IN USE.—If any property to which clause (i) applied is disposed of by the organization acquiring such property, notwithstanding any other provision of law, any gain (not in excess of the amount not recognized by reason of clause (i)) shall be included in such organization's unrelated business taxable income. For purposes of the preceding sentence, if such property ceases to be used in an unrelated trade or business of such organization, such organization shall be treated as having disposed of such property on the date of such cessation.

"(c) 80-PERCENT DISTRIBUTEE.—For purposes of this section, the term '80-percent distributee' means only the corporation which meets the 80-percent stock ownership requirements specified in section 332(b).

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of the amendments made to this subpart by the Tax Reform Act of 1986, including—

"(1) regulations to ensure that such purposes may not be circumvented through the use of any provision of law or regulations (including the consolidated return regulations and part III of this subchapter), and

"(2) regulations providing for appropriate coordination of the provisions of this section with the provisions of this title relating to taxation of foreign corporations and their shareholders."

(b) AMENDMENTS TO SECTION 338.—

(1) Subsection (a) of section 338 (relating to certain stock purchases treated as asset acquisitions) is amended by striking out "to which section 337 applies".

(2) Subsection (c) of section 338 is hereby repealed.

(3) Subparagraph (B) of section 338(h)(10) is amended by adding at the end thereof the following new sentence:

"To the extent provided in regulations, such term also includes any affiliated group of corporations which includes the target corporation (whether or not such group files a consolidated return)."

(c) TREATMENT OF DISTRIBUTIONS OF APPRECIATED PROPERTY.—Section 311 is amended to read as follows:

"SEC. 311. TAXABILITY OF CORPORATION ON DISTRIBUTION.

"(a) GENERAL RULE.—Except as provided in subsection (b), no gain or loss shall be recognized to a corporation on the distribution, with respect to its stock, of—

"(1) its stock (or rights to acquire its stock), or

"(2) property.

"(b) DISTRIBUTIONS OF APPRECIATED PROPERTY.—

"(1) IN GENERAL.—If—

"(A) a corporation distributes property (other than an obligation of such corporation) to a shareholder in a distribution to which subpart A applies, and

"(B) the fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation),

then gain shall be recognized to the distributing corporation as if such property were sold to the distributee at its fair market value.

"(2) TREATMENT OF LIABILITIES IN EXCESS OF BASIS.—Rules similar to the rules of section 336(b) shall apply for purposes of this subsection."

(d) TREATMENT OF FOREIGN DISTRIBUTEES.—

(1) AMENDMENTS TO SECTION 367.—Subsection (e) of section 367 is amended to read as follows:

"(e) TREATMENT OF DISTRIBUTIONS DESCRIBED IN SECTION 355 OR LIQUIDATIONS UNDER SECTION 332.—

"(1) DISTRIBUTIONS DESCRIBED IN SECTION 355.—In the case of any distribution described in section 355 (or so much of section 356 as relates to section 355) by a domestic corporation to a person who is not a United States person, to the extent provided in regulations, gain shall be recognized under principles similar to the principles of this section.

"(2) LIQUIDATIONS UNDER SECTION 332.—In the case of any liquidation to which section 332 applies, except as provided in regulations, subsections (a) and (b)(1) of section 337 shall not apply where the 80-percent distributee (as defined in section 337(c)) is a foreign corporation."

(2) AMENDMENTS TO SECTION 1248.—

(A) Subsection (e) of section 1248 is amended by striking out "Under regulations" and inserting in lieu thereof "Except as provided in regulations".

(B) Subsection (f) of section 1248 is amended by inserting "Except as provided in regulations prescribed by the Secretary—" after the subsection heading.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraph (4) of section 312(n) (as redesignated by title XVIII) is amended to read as follows:

"(4) LIFO INVENTORY ADJUSTMENTS.—

"(A) IN GENERAL.—Earnings and profits shall be increased or decreased by the amount of any increase or decrease in the LIFO recapture amount as of the close of each taxable year; except that any decrease below the LIFO recapture amount as of the close of the taxable year preceding the 1st taxable year to which this paragraph applies to the taxpayer shall be taken into account only to the extent provided in regulations prescribed by the Secretary.

"(B) LIFO RECAPTURE AMOUNT.—For purposes of this paragraph, the term 'LIFO recapture amount' means the amount (if any) by which—

"(i) the inventory amount of the inventory assets under the first-in, first-out method authorized by section 471, exceeds

"(ii) the inventory amount of such assets under the LIFO method.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) LIFO METHOD.—The term 'LIFO method' means the method authorized by section 472 (relating to last-in, first-out inventories).

"(ii) INVENTORY ASSETS.—The term 'inventory assets' means stock in trade of the corporation, or other property of a kind which would properly be included in the inventory of the corporation if on hand at the close of the taxable year.

"(iii) INVENTORY AMOUNT.—The inventory amount of assets under the first-in, first-out method authorized by section 471 shall be determined—

"(I) if the corporation uses the retail method of valuing inventories under section 472, by using such method, or

"(II) if subclause (I) does not apply, by using cost or market, whichever is lower."

(2) Subsection (c) of section 332 is hereby repealed.

(3) Section 333 is hereby repealed.

(4)(A) Subsection (a) of section 334 is amended by striking out "(other than a distribution to which section 333 applies)".

(B) Subsection (c) of section 334 is hereby repealed.

(5) Paragraph (12) of section 338(h) is hereby repealed.

(6)(A) Subsection (e) of section 341 is amended by striking out paragraphs (2), (3), and (4).

(B) Paragraph (5) of section 341(e) is amended—

(i) by striking out "paragraphs (1), (2), and (4)" and inserting in lieu thereof "paragraph (1)", and

(ii) by striking out subparagraph (B).

(7) Subsection (b) of section 346 is amended by striking out "337,".

(8)(A) Subparagraphs (A) and (B) of section 453(h)(1) (relating to use of installment sales in section 337 liquidations) are amended to read as follows:

"(A) IN GENERAL.—If, in a liquidation to which section 331 applies, the shareholder receives (in exchange for the shareholder's stock) an installment obligation acquired in respect of a sale or exchange by the corporation during the 12-month period beginning on the date a plan of complete liquidation is adopted and the liquidation is completed during such 12-month period, then, for purposes of this section, the receipt of payments under such obligation (but not the receipt of such obligation) by the shareholder shall be treated as the receipt of payment for the stock.

"(B) OBLIGATIONS ATTRIBUTABLE TO SALE OF INVENTORY MUST RESULT FROM BULK SALE.—Subparagraph (A) shall not apply to an installment obligation acquired in respect of a sale or exchange of—

"(i) stock in trade of the corporation,

"(ii) other property of a kind which would properly be included in the inventory of the corporation if on hand at the close of the taxable year, and

"(iii) property held by the corporation primarily for sale to customers in the ordinary course of its trade or business,

unless such sale or exchange is to one person and involves substantially all of such property attributable to a trade or business of the corporation."

(B) Subparagraph (E) of section 453(h)(1) is amended to read as follows:

"(E) SALES BY LIQUIDATING SUBSIDIARIES.—For purposes of subparagraph (A), in the case of a controlling corporate shareholder (within the meaning of section 368(c)(1)) of a selling corporation, an obligation acquired in respect of a sale or exchange by the selling corporation shall be treated as so acquired by such controlling corporate shareholder. The preceding sentence shall be applied successively to each controlling corporate shareholder above such controlling corporate shareholder."

(C) The heading for section 453(h) is amended by striking out "SECTION 337" and inserting in lieu thereof "CERTAIN".

(9) Subsection (d) of section 453B is amended to read as follows:

"(d) EFFECT OF DISTRIBUTION IN LIQUIDATIONS TO WHICH SECTION 332 APPLIES.—If—

"(1) an installment obligation is distributed in a liquidation to which section 332 (relating to complete liquidations of subsidiaries) applies, and

"(2) the basis of such obligation in the hands of the distributee is determined under section 334(b)(1),

then no gain or loss with respect to the distribution of such obligation shall be recognized by the distributing corporation."

(10) Paragraph (5) of section 467(c) is amended by striking out "453B(d)(2),".

(11) Subsection (b) of section 852 is amended by adding at the end thereof the following new paragraph:

"(6) SECTION 311(b) NOT TO APPLY TO CERTAIN DISTRIBUTIONS.—Section 311(b) shall not apply to any distribution by a regulated

investment company to which this part applies, if such distribution is in redemption of its stock upon the demand of the shareholder."

(12) Subsection (d) of section 897 is amended—

(A) by striking out paragraph (2),

(B) by striking out the heading for paragraph (1),

(C) by appropriately redesignating each subparagraph, clause, and subclause of paragraph (1) as a paragraph, subparagraph, or clause, as the case may be,

(D) by striking out "subparagraph (A)" in paragraph (2) (as so redesignated) and inserting in lieu thereof "paragraph (1)", and

(E) by striking out "; ETC.," in the subsection heading.

(13) Subsection (a) of section 1056 is amended by striking out the last sentence thereof.

(14) Paragraph (2) of section 1255(b) is amended by striking out "453B(d)(2)".

(15) Paragraph (3) of section 1276(c) is amended by striking out "334(c),".

(16) The table of sections for subpart A of part II of subchapter C of chapter 1 is amended by striking out the item relating to section 333.

(17) The table of sections for subpart B of part II of subchapter C of chapter 1 is amended by striking out the items relating to sections 336 and 337 and inserting in lieu thereof the following:

"Sec. 336. Gain or loss recognized on property distributed in complete liquidation.

"Sec. 337. Nonrecognition for property distributed to parent in complete liquidation of subsidiary."

SEC. 632. TREATMENT OF C CORPORATIONS ELECTING SUBCHAPTER S STATUS.

(a) GENERAL RULE.—Section 1374 (relating to tax imposed on certain capital gains) is amended to read as follows:

"SEC. 1374. TAX IMPOSED ON CERTAIN BUILT-IN GAINS.

"(a) GENERAL RULE.—If for any taxable year beginning in the recognition period an S corporation has a recognized built-in gain, there is hereby imposed a tax (computed under subsection (b)) on the income of such corporation for such taxable year.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The tax imposed by subsection (a) shall be a tax computed by applying the highest rate of tax specified in section 11(b) to the lesser of—

"(A) the recognized built-in gains of the S corporation for the taxable year, or

"(B) the amount which would be the taxable income of the corporation for such taxable year if such corporation were not an S corporation.

"(2) NET OPERATING LOSS CARRYFORWARDS FROM C YEARS ALLOWED.—Notwithstanding section 1371(b)(1), any net operating loss carryforward arising in a taxable year for which the corporation was a C corporation shall be allowed as a deduction against the lesser of the amounts referred to in subparagraph (A) or (B) of paragraph (1). For purposes of determining the amount of any such loss which may be carried to subsequent taxable years, the lesser of the amounts referred to in subpara-

graph (A) or (B) of paragraph (1) shall be treated as taxable income.

"(3) CREDITS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no credit shall be allowable under part IV of subchapter A of this chapter (other than under section 34) against the tax imposed by subsection (a).

"(B) BUSINESS CREDIT CARRYFORWARDS FROM C YEARS ALLOWED.—Notwithstanding section 1371(b)(1), any business credit carryforward under section 39 arising in a taxable year for which the corporation was a C corporation shall be allowed as a credit against the tax imposed by subsection (a) in the same manner as if it were imposed by section 11.

"(4) COORDINATION WITH SECTION 1201(a).—For purposes of section 1201(a)—

"(A) the tax imposed by subsection (a) shall be treated as if it were imposed by section 11, and

"(B) the lower of the amounts specified in subparagraphs (A) and (B) of paragraph (1) shall be treated as the taxable income.

"(c) LIMITATIONS.—

"(1) CORPORATIONS WHICH WERE ALWAYS S CORPORATIONS.—Subsection (a) shall not apply to any corporation if an election under section 1362(a) has been in effect with respect to such corporation for each of its taxable years. Except as provided in regulations, an S corporation and any predecessor corporation shall be treated as 1 corporation for purposes of the preceding sentence.

"(2) LIMITATION ON AMOUNT OF RECOGNIZED BUILT-IN GAINS.—The amount of the recognized built-in gains taken into account under this section for any taxable year shall not exceed the excess (if any) of—

"(A) the net unrealized built-in gain, over

"(B) the recognized built-in gains for prior taxable years beginning in the recognition period.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) NET UNREALIZED BUILT-IN GAIN.—The term 'net unrealized built-in gain' means the amount (if any) by which—

"(A) the fair market value of the assets of the S corporation as of the beginning of its 1st taxable year for which an election under section 1362(a) is in effect, exceeds

"(B) the aggregate adjusted bases of such assets at such time.

"(2) RECOGNIZED BUILT-IN GAIN.—The term 'recognized built-in gain' means any gain recognized during the recognition period on the disposition of any asset except to the extent that the S corporation establishes that—

"(A) such asset was not held by the S corporation as of the beginning of the 1st taxable year referred to in paragraph (1), or

"(B) such gain exceeds the excess (if any) of—

"(i) the fair market value of such asset as of the beginning of such 1st taxable year, over

"(ii) the adjusted basis of the asset as of such time.

"(3) RECOGNITION PERIOD.—The term 'recognition period' means the 10-year period beginning with the 1st day of the 1st taxable year for which the corporation was an S corporation.

"(4) TAXABLE INCOME.—Taxable income of the corporation shall be determined under section 63(a)—

"(A) without regard to the deductions allowed by part VIII of subchapter B (other than the deduction allowed by section 248, relating to organization expenditures), and

"(B) without regard to the deduction under section 172."

(b) TREATMENT OF DISTRIBUTIONS.—Subsection (e) of section 1363 is amended to read as follows:

"(e) SUBSECTION (d) NOT TO APPLY TO REORGANIZATIONS, ETC.—Subsection (d) shall not apply to any distribution to the extent it consists of property permitted by section 354, 355, or 356 to be received without the recognition of gain."

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (G) of section 26(b)(2) is amended by striking out "certain capital gains" and inserting in lieu thereof "certain built-in gains".

(2) Paragraph (2) of section 1366(f) is amended to read as follows:

"(2) REDUCTION IN PASS-THRU FOR TAX IMPOSED ON BUILT-IN GAINS.—If any tax is imposed under section 1374 for any taxable year on an S corporation, for purposes of subsection (a), the amount of each recognized built-in gain (as defined in section 1374(d)(2)) for such taxable year shall be reduced by its proportionate share of such tax."

(3) Subparagraph (B) of section 1375(b)(1) is amended by striking out "section 1374(d)" and inserting in lieu thereof "section 1374(d)(4)".

(d) CLERICAL AMENDMENT.—The table of sections for part III of subchapter S of chapter 1 is amended by striking out the item relating to section 1374 and inserting in lieu thereof the following:

"Sec. 1374. Tax imposed on certain built-in gains."

SEC. 633. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to—

(1) any distribution in complete liquidation, and any sale or exchange, made by a corporation after July 31, 1986, unless such corporation is completely liquidated before January 1, 1987,

(2) any transaction described in section 338 of the Internal Revenue Code of 1986 for which the acquisition date occurs after December 31, 1986, and

(3) any distribution (not in complete liquidation) made after December 31, 1986.

(b) BUILT-IN GAINS OF S CORPORATIONS.—The amendments made by section 632 (other than subsection (b) thereof) shall apply to taxable years beginning after December 31, 1986, but only in cases where the 1st taxable year for which the corporation is an S corporation is pursuant to an election made after December 31, 1986.

(c) EXCEPTION FOR CERTAIN PLANS OF LIQUIDATION AND BINDING CONTRACTS.—

(1) IN GENERAL.—The amendments made by this subtitle shall not apply to—

(A) any distribution or sale or exchange made pursuant to a plan of liquidation adopted before August 1, 1986, if the liquidating corporation is completely liquidated before January 1, 1988,

(B) any distribution or sale or exchange made by any corporation if 50 percent or more of the voting stock (by value) of such corporation is acquired on or after August 1, 1986, pursuant to a written binding contract in effect before such date and if such corporation is completely liquidated before January 1, 1988,

(C) any distribution or sale or exchange made by any corporation if substantially all of the assets of such corporation are sold on or after August 1, 1986, pursuant to 1 or more written binding contracts in effect before such date and if such corporation is completely liquidated before January 1, 1988, or

(D) any transaction described in section 338 of the Internal Revenue Code of 1986 with respect to any target corporation if a qualified stock purchase of such target corporation is made on or after August 1, 1986, pursuant to a written binding contract in effect before such date and the acquisition date (within the meaning of such section 338) is before January 1, 1988.

(2) SPECIAL RULE FOR CERTAIN ACTIONS TAKEN BEFORE NOVEMBER 20, 1985.—For purposes of paragraph (1), transactions shall be treated as pursuant to a plan of liquidation adopted before August 1, 1986, if—

(A) before November 20, 1985—

(i) the board of directors of the liquidating corporation adopted a resolution to solicit shareholder approval for a transaction of a kind described in section 336 or 337, or

(ii) the shareholders or board of directors have approved such a transaction,

(B) before November 20, 1985—

(i) there has been an offer to purchase a majority of the voting stock of the liquidating corporation, or

(ii) the board of directors of the liquidating corporation has adopted a resolution approving an acquisition or recommending the approval of an acquisition to the shareholders, or

(C) before November 20, 1985, a ruling request was submitted to the Secretary of the Treasury or his delegate with respect to a transaction of a kind described in section 336 or 337 of the Internal Revenue Code of 1954 (as in effect before the amendments made by this subtitle).

For purposes of the preceding sentence, any action taken by the board of directors or shareholders of a corporation with respect to any subsidiary of such corporation shall be treated as taken by the board of directors or shareholders of such subsidiary.

(d) TRANSITIONAL RULE FOR CERTAIN SMALL CORPORATIONS.—

(1) IN GENERAL.—In the case of the complete liquidation before January 1, 1989, of a qualified corporation, the amendments made by this section shall not apply to the applicable percentage of each gain or loss which (but for this paragraph) would be recognized by reason of the amendments made by this subtitle.

(2) PARAGRAPH (1) NOT TO APPLY TO CERTAIN ITEMS.—Paragraph (1) shall not apply to—

(A) any gain or loss which is an ordinary gain or loss (determined without regard to section 1239 of the Internal Revenue Code of 1986),

(B) any gain or loss on a capital asset held for not more than 6 months, and

(C) any gain to the extent section 453B of such Code applies.

(3) APPLICABLE PERCENTAGE.—For purposes of this subsection, the term 'applicable percentage' means—

(A) 100 percent if the applicable value of the qualified corporation is less than $5,000,000, or

(B) 100 percent reduced by an amount which bears the same ratio to 100 percent as—

(i) the excess of the applicable value of the corporation over $5,000,000, bears to

(ii) $5,000,000.

(4) APPLICABLE VALUE.—For purposes of this subsection, the applicable value is the fair market value of all of the stock of the corporation on the date of the adoption of the plan of complete liquidation (or if greater, on August 1, 1986).

(5) QUALIFIED CORPORATION.—For purposes of this subsection, the term "qualified corporation" means any corporation if—

(A) on August 1, 1986, and at all times thereafter before the corporation is completely liquidated, more than 50 percent (by value) of the stock in such corporation is held by 10 or fewer qualified persons, and

(B) the applicable value of such corporation does not exceed $10,000,000.

(6) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

(A) QUALIFIED PERSON.—The term "qualified person" means—

(i) an individual,

(ii) an estate, or

(iii) any trust described in clause (ii) or (iii) of section 1361(c)(2)(A) of the Internal Revenue Code of 1986.

(B) ATTRIBUTION RULES.—

(i) ENTITIES.—Any stock held by a corporation, trust, or partnership shall be treated as owned proportionally by its shareholders, beneficiaries, or partners. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

(ii) FAMILY MEMBERS.—Stock owned (or treated as owned under clause (i)) by members of the same family (within the meaning of section 318(a)(1) of the Internal Revenue Code of 1986) shall be treated as owned by 1 person.

(C) CONTROLLED GROUP OF CORPORATIONS.—All members of the same controlled group (as defined in section 267(f)(1) of such Code) shall be treated as 1 corporation for purposes of this subsection.

(7) SECTION 338 TRANSACTIONS.—The provisions of this subsection shall also apply in the case of a transaction described in

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section 338 of the Internal Revenue Code of 1986 where the acquisition date (within the meaning of such section 338) is before January 1, 1989.

(8) APPLICATION OF SECTION 1374.—Rules similar to the rules of this subsection shall apply for purposes of applying section 1374 of the Internal Revenue Code of 1986 (as amended by section 632) in the case of a qualified corporation which becomes an S corporation for a taxable year beginning before January 1, 1989.

(d) COMPLETE LIQUIDATION DEFINED.—For purposes of this section, a corporation shall be treated as completely liquidated if all of the assets of such corporation are distributed in complete liquidation, less assets retained to meet claims.

(e) OTHER TRANSITIONAL RULES.—

(1) The amendments made by this subtitle shall not apply to any liquidation of a corporation incorporated under the laws of Pennsylvania on August 3, 1970, if—

(A) the board of directors of such corporation approved a plan of liquidation before January 1, 1986,

(B) an agreement for the sale of a material portion of the assets of such corporation was signed on May 9, 1986 (whether or not the assets are sold in accordance with such agreement), and

(C) the corporation is completely liquidated on or before December 31, 1988.

(2) The amendments made by this subtitle shall not apply to any liquidation (or deemed liquidation under section 338 of the Internal Revenue Code of 1986) of a diversified financial services corporation incorporated under the laws of Delaware on May 9, 1929, pursuant to a binding written contract entered into on or before December 31, 1986; but only if the liquidation is completed (or in the case of a section 338 election, the acquisition date occurs) before January 1, 1988.

(3) The amendments made by this subtitle shall not apply to any distribution, or sale, or exchange—

(A) of the assets owned (directly or indirectly) by a testamentary trust established under the will of a decedent dying on June 15, 1956, or its beneficiaries,

(B) made pursuant to a court order in an action filed on January 18, 1984, if such order—

(i) is issued after July 31, 1986, and

(ii) directs the disposition of the assets of such trust and the division of the trust corpus into 3 separate subtrusts.

For purposes of the preceding sentence, an election under section 338(g) of the Internal Revenue Code of 1986 (or an election under section 338(h)(10) of such Code) qualifying as a section 337 liquidation pursuant to regulations prescribed by the Secretary under section 1.338(h)(10)-1T(j)) made in connection with a sale or exchange pursuant to a court order described in subparagraph (B) shall be treated as a sale of exchange.

(4)(A) The amendments made by this subtitle shall not apply to any distribution, or sale, or exchange—

(i) if—

(I) an option agreement binding on the selling corporation to sell substantially all its assets is executed

before August 1, 1986, the corporation adopts (by approval of its shareholders) a conditional plan of liquidation before August 1, 1986 to become effective upon the exercise of such option agreement (or modification thereto), and the assets are sold pursuant to the exercise of the option (as originally executed or subsequently modified provided that the purchase price is not thereby increased), or

(II) in the event that the optionee does not acquire substantially all the assets of the corporation, the optionor corporation sells substantially all its assets to another purchaser at a purchase price not greater than that contemplated by such option agreement pursuant to an effective plan of liquidation, and

(ii) the complete liquidation of the corporation occurs within 12 months of the time the plan of liquidation becomes effective, but in no event later than December 31, 1989.

(B) For purposes of subparagraph (A), a distribution, or sale, or exchange, of a distributee corporation (within the meaning of section 337(c)(3) of the Internal Revenue Code of 1986) shall be treated as satisfying the requirements of subparagraph (A) if its subsidiary satisfies the requirements of subparagraph (A).

(C) For purposes of section 56 of the Internal Revenue Code of 1986 (as amended by this Act), any gain or loss not recognized by reason of this paragraph shall not be taken into account in determining the adjusted net book income of the corporation.

(5) In the case of a corporation incorporated under the laws of Wisconsin on April 3, 1948—

(A) a voting trust established not later than December 31, 1987, for purposes of holding employees' shares of stock in such corporation, shall qualify as a trust permitted as a shareholder of an S corporation, and

(B) the amendment made by section 632 (other than subsection (b) thereof) shall not apply to such corporation if it elects to be an S corporation before January 1, 1989.

(6) The amendments made by this subtitle shall not apply to the liquidation of a corporation incorporated on January 26, 1982, under the laws of the State of Alabama with a principal place of business in Colbert County, Alabama, but only if such corporation is completely liquidated on or before December 31, 1987.

(7) The amendments made by this subtitle shall not apply to the acquisition by a Delaware bank holding company of all of the assets of an Iowa bank holding company pursuant to a written contract dated December 9, 1981.

(8) The amendments made by this subtitle shall not apply to the liquidation of a corporation incorporated under the laws of Delaware on January 20, 1984, if more than 40 percent of the stock of such corporation was acquired by purchase on June 11, 1986, and there was a tender offer with respect to all additional outstanding shares of such corporation on July 29, 1986, but only if the corporation is completely liquidated on or before December 31, 1987.

(f) TREATMENT OF CERTAIN DISTRIBUTIONS IN RESPONSE TO HOSTILE TENDER OFFER.—

(1) IN GENERAL.—No gain or loss shall be recognized under the Internal Revenue Code of 1986 to a corporation (hereinafter in this subsection referred to as "parent") on a qualified distribution.

(2) QUALIFIED DISTRIBUTION DEFINED.—For purposes of paragraph (1)—

(A) IN GENERAL.—The term "qualified distribution" means a distribution—

(i) by parent of all of the stock of a qualified subsidiary in exchange for stock of parent which was acquired for purposes of such exchange pursuant to a tender offer dated February 16, 1982, and

(ii) pursuant to a contract dated February 13, 1982, and

(iii) which was made not more than 60 days after the board of directors of parent recommended rejection of an unsolicited tender offer to obtain control of parent.

(B) QUALIFIED SUBSIDIARY.—The term "qualified subsidiary" means a corporation created or organized under the laws of Delaware on September 7, 1976, all of the stock of which was owned by parent immediately before the qualified distribution.

SEC. 634. STUDY OF CORPORATE PROVISIONS.

The Secretary of the Treasury or his delegate shall conduct a study of proposals to reform the provisions of subchapter C of chapter 1 of the Internal Revenue Code of 1986. Not later than January 1, 1988, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under this section (together with such recommendations as he may deem advisable).

Subtitle E—Other Corporate Provisions

SEC. 641. SPECIAL ALLOCATION RULES FOR CERTAIN ASSET ACQUISITIONS.

(a) IN GENERAL.—Part IV of subchapter O of chapter 1 (relating to special rules for determining basis) is amended by redesignating section 1060 as section 1061 and by inserting after section 1059 the following new section:

"SEC. 1060. SPECIAL ALLOCATION RULES FOR CERTAIN ASSET ACQUISITIONS.

"(a) GENERAL RULE.—In the case of any applicable asset acquisition, for purposes of determining both—

"(1) the transferee's basis in such assets, and

"(2) the gain or loss of the transferor with respect to such acquisition,

the consideration received for such assets shall be allocated among such assets acquired in such acquisition in the same manner as amounts are allocated to assets under section 338(b)(5).

"(b) INFORMATION REQUIRED TO BE FURNISHED TO SECRETARY.—Under regulations, the transferor and transferee in an applicable asset acquisition shall, at such times and in such manner as may be

provided in such regulations, furnish to the Secretary the following information:

"(1) The amount of the consideration received for the assets which is allocated to goodwill or going concern value.

"(2) Any modification of the amount described in paragraph (1).

"(3) Any other information with respect to other assets transferred in such acquisition as the Secretary may find necessary to carry out the provisions of this section.

"(c) APPLICABLE ASSET ACQUISITION.—For purposes of this section, the term 'applicable asset acquisition' means any transfer (whether directly or indirectly)—

"(1) of assets which constitute a trade or business, and

"(2) with respect to which the transferee's basis in such assets is determined wholly by reference to the consideration paid for such assets.

A transfer shall not be treated as failing to be an applicable asset acquisition merely because section 1031 applies to a portion of the assets transferred."

(b) CONFORMING AMENDMENT.—The table of sections for part IV of subchapter O of chapter 1 is amended by striking out the item relating to section 1060 and inserting in lieu thereof the following new items:

"Sec. 1060. Special allocation rules for certain asset acquisitions.
"Sec. 1061. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any acquisition of assets after May 6, 1986, unless such acquisition is pursuant to a binding contract which was in effect on May 6, 1986, and at all times thereafter.

SEC. 642. MODIFICATION OF DEFINITION OF RELATED PARTY.

(a) DEFINITIONS OF RELATED PARTY FOR PURPOSES OF CERTAIN SALES.—

(1) SALE OF DEPRECIABLE PROPERTY BETWEEN CERTAIN RELATED TAXPAYERS.—

(A) IN GENERAL.—Paragraph (1) of section 1239(b) (defining related persons) is amended by striking out "80-percent owned entities" and inserting in lieu thereof "controlled entities".

(B) CONTROLLED ENTITY DEFINED.—

(i) IN GENERAL.—Section 1239(c)(1) (defining 80-percent owned entity) is amended—

(I) by striking out "80-percent owned entity" and inserting in lieu thereof "controlled entity",

(II) by striking out "80 percent or more in value" in subparagraph (A) and inserting in lieu thereof "more than 50 percent of the value",

(III) by striking out "80 percent or more" in subparagraph (B) and inserting in lieu thereof "more than 50 percent", and

(IV) by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(C) any entity which is a related person to such person under paragraph (3), (10), (11), or (12) of section 267(b)."

(ii) CONFORMING AMENDMENT.—Section 1239(a) is amended by striking out "90-PERCENT OWNED ENTITY" in the heading thereof and inserting in lieu thereof "CONTROLLED ENTITY".

(C) CONSTRUCTIVE OWNERSHIP.—Paragraph (2) of section 1239(c) is amended to read as follows:

"(2) CONSTRUCTIVE OWNERSHIP.—For purposes of this section, ownership shall be determined in accordance with rules similar to the rules under section 267(c) (other than paragraph (3) thereof)."

(D) CONFORMING AMENDMENT.—Section 453(g) is amended by striking out "90-PERCENT OWNED" in the heading thereof and inserting in lieu thereof "CONTROLLED".

(2) PARTNERSHIPS.—Paragraph (2) of section 707(b) (relating to gains treated as ordinary income) is amended by striking out "90 percent" each place it appears and inserting in lieu thereof "50 percent".

(3) INSTALLMENT SALES.—Paragraph (1) of section 453(f) (defining related person) is amended to read as follows:

"(1) RELATED PERSON.—Except for purposes of subsection (g) and (h), the term 'related person' means—

"(A) a person whose stock would be attributed under section 318(a) (other than paragraph (4) thereof) to the person first disposing of the property, or

"(B) a person who bears a relationship described in section 267(b) to the person first disposing of the property."

(b) RULES RELATING TO CONTINGENT PAYMENTS.—

(1) PAYMENTS TO BE RECEIVED DEFINED.—Section 453(f) (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(8) PAYMENTS TO BE RECEIVED DEFINED.—The term 'payment to be received' includes—

"(A) the aggregate amount of all payments which are not contingent as to amount, and

"(B) the fair market value of any payments which are contingent as to amount."

(2) SALE OF DEPRECIABLE PROPERTY BETWEEN RELATED PARTIES.—Paragraph (1) of section 453(g) (relating to sale of depreciable property to controlled entities) is amended to read as follows:

"(1) IN GENERAL.—In the case of an installment sale of depreciable property between related persons (within the meaning of section 1239(b))—

"(A) subsection (a) shall not apply, and

"(B) for purposes of this title—

"(i) except as provided in clause (ii), all payments to be received shall be treated as received in the year of the disposition, and

"(ii) in the case of any payments which are contingent as to amount but with respect to which the fair market value may not be reasonably ascertained—

"(I) the basis shall be recovered ratably, and

"(II) the purchaser may not increase the basis of any property acquired in such sale by any amount before such time as the seller includes such amount in income."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to sales after the date of the enactment of this Act, in taxable years ending after such date.

(2) TRADITIONAL RULE FOR BINDING CONTRACTS.—The amendments made by this section shall not apply to sales made after August 14, 1986, which are made pursuant to a binding contract in effect on August 14, 1986, and at all times thereafter.

SEC. 643. TREATMENT OF AMORTIZABLE BOND PREMIUM AS INTEREST.

(a) IN GENERAL.—Section 171 (relating to amortizable bond premium) is amended by redesignating subsection (e) as (f) and by inserting after subsection (d) the following new subsection:

"(e) TREATMENT AS INTEREST.—Except as provided in regulations, the amount of any amortizable bond premium with respect to which a deduction is allowed under subsection (a)(1) for any taxable year shall be treated as interest for purposes of this title."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to obligations acquired after the date of the enactment of this Act, in taxable years ending after such date.

(2) REVOCATION OF ELECTION.—In the case of a taxpayer with respect to whom an election is in effect on the date of enactment of this Act under section 171(c) of the Internal Revenue Code of 1986, such election shall apply to obligations issued after the date of the enactment of this Act only if the taxpayer chooses (at such time and in such manner as may be prescribed by the Secretary of the Treasury or his delegate) to have such election apply with respect to such obligations.

SEC. 644. PROVISIONS RELATING TO COOPERATIVE HOUSING CORPORATIONS.

(a) TENANT-STOCKHOLDER MAY INCLUDE PERSON OTHER THAN INDIVIDUAL.—

(1) IN GENERAL.—Section 216(b)(2) (defining tenant-stockholder) is amended—

(A) by striking out "an individual" and inserting in lieu thereof "a person", and

(B) by striking out "such individual" and inserting in lieu thereof "such person".

(2) PRIOR APPROVAL OF OCCUPANCY.—Paragraphs (5) and (6) of section 216(b) are amended to read as follows:

"(5) PRIOR APPROVAL OF OCCUPANCY.—For purposes of this section, in the following cases there shall not be taken into account the fact that (by agreement with the cooperative housing corporation) the person or his nominee may not occupy the house or apartment without the prior approval of such corporation:

"(A) In any case where a person acquires stock of a cooperative housing corporation by operation of law.

"(B) In any case where a person other than an individual acquires stock of a cooperative housing corporation.

"(C) In any case where the original seller acquires any stock of the cooperative housing corporation from the corporation not later than 1 year after the date on which the apartments or houses (or leaseholds therein) are transferred by the original seller to the corporation.

"(6) ORIGINAL SELLER DEFINED.—For purposes of paragraph (5), the term 'original seller' means the person from whom the corporation has acquired the apartments or houses (or leaseholds therein).".

(b) TREATMENT OF DEPRECIATION.—Section 216(c) (relating to treatment as property subject to depreciation) is amended to read as follows:

"(c) TREATMENT AS PROPERTY SUBJECT TO DEPRECIATION.—

"(1) IN GENERAL.—So much of the stock of a tenant-stockholder in a cooperative housing corporation as is allocable, under regulations prescribed by the Secretary, to a proprietary lease or right of tenancy in property subject to the allowance for depreciation under section 167(a) shall, to the extent such proprietary lease or right of tenancy is used by such tenant-stockholder in a trade or business or for the production of income, be treated as property subject to the allowance for depreciation under section 167(a). The preceding sentence shall not be construed to limit or deny a deduction for depreciation under section 167(a) by a cooperative housing corporation with respect to property owned by such a corporation and leased to tenant-stockholders.

"(2) DEDUCTION LIMITED TO ADJUSTED BASIS IN STOCK.—

"(A) IN GENERAL.—The amount of any deduction for depreciation allowable under section 167(a) to a tenant-stockholder with respect to any stock for any taxable year by reason of paragraph (1) shall not exceed the adjusted basis of such stock as of the close of the taxable year of the tenant-stockholder in which such deduction was incurred.

"(B) CARRYFORWARD OF DISALLOWED AMOUNT.—The amount of any deduction which is not allowed by reason of subparagraph (A) shall, subject to the provisions of subparagraph (A), be treated as a deduction allowable under section 167(a) in the succeeding taxable year.".

(c) DISALLOWANCE OF DEDUCTIONS FOR PAYMENTS TO CORPORATION.—Section 216 is amended by adding at the end thereof the following new subsection:

"(d) DISALLOWANCE OF DEDUCTION FOR CERTAIN PAYMENTS TO THE CORPORATION.—No deduction shall be allowed to a stockholder in a cooperative housing corporation for any amount paid or accrued to such corporation during any taxable year (in excess of the stockholder's proportionate share of the items described in subsections (a)(1) and (a)(2)) to the extent that, under regulations prescribed by the Secretary, such amount is properly allocable to amounts paid or incurred at any time by the corporation which are chargeable to the corporation's capital account. The stockholder's adjusted basis in the stock in the corporation shall be increased by the amount of such disallowance."

(d) DEDUCTION OF TAXES AND INTEREST.—Paragraph (3) of section 216(b) (defining tenant-stockholder's proportionate share) is amended to read as follows:

"(3) TENANT-STOCKHOLDER'S PROPORTIONATE SHARE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'tenant-stockholder's proportionate share' means that proportion which the stock of the cooperative housing corporation owned by the tenant-stockholder is of the total outstanding stock of the corporation (including any stock held by the corporation).

"(B) SPECIAL RULE WHERE ALLOCATION OF TAXES OR INTEREST REFLECT COST TO CORPORATION OF STOCKHOLDER'S UNIT.—

"(i) IN GENERAL.—If, for any taxable year—

"(I) each dwelling unit owned or leased by a cooperative housing corporation is separately allocated a share of such corporation's real estate taxes described in subsection (a)(1) or a share of such corporation's interest described in subsection (a)(2), and

"(II) such allocations reasonably reflect the cost to such corporation of such taxes, or of such interest, attributable to the tenant-stockholder's dwelling unit (and such unit's share of the common areas),

then the term 'tenant-stockholder's proportionate share' means the shares determined in accordance with the allocations described in subclause (II).

"(ii) ELECTION BY CORPORATION REQUIRED.—Clause (i) shall apply with respect to any cooperative housing corporation only if such corporation elects its application. Such an election, once made, may be revoked only with the consent of the Secretary."

(e) TREATMENT OF AMOUNTS RECEIVED IN CONNECTION WITH THE REFINANCING OF INDEBTEDNESS OF CERTAIN COOPERATIVE HOUSING CORPORATIONS; TREATMENT OF AMOUNTS PAID FROM QUALIFIED REFINANCING-RELATED RESERVE.—

(1) PAYMENT OF CLOSING COSTS AND CREATION OF RESERVE EXCLUDED FROM GROSS INCOME.—For purposes of the Internal Revenue Code of 1954, no amount shall be included in the gross income of a qualified cooperative housing corporation by reason of the payment or reimbursement by a city housing development agency or corporation of amounts for—

(A) closing costs, or

(B) the creation of reserves for the qualified cooperative housing corporation,

in connection with a qualified refinancing.

(2) INCOME FROM RESERVE FUND TREATED AS MEMBER INCOME.—

(A) IN GENERAL.—Income from a qualified refinancing-related reserve shall be treated as derived from its members for purposes of—

(i) section 216 of the Internal Revenue Code of 1954 (relating to deduction of taxes, interest, and business depreciation by cooperative housing corporation tenant-stockholder), and

(ii) section 277 of such Code (relating to deductions incurred by certain membership organizations in transactions with members).

(B) NO INFERENCE.—Nothing in the provisions of this paragraph shall be construed to infer that a change in law is intended with respect to the treatment of deductions under section 277 of the Internal Revenue Code of 1954 with respect to cooperative housing corporations, and any determination of such issue shall be made as if such provisions had not been enacted.

(3) TREATMENT OF CERTAIN INTEREST CLAIMED AS DEDUCTION.—Any amount—

(A) claimed (on a return of tax imposed by chapter 1 of the Internal Revenue Code of 1954) as a deduction by a qualified cooperative housing corporation for interest for any taxable year beginning before January 1, 1986, on a second mortgage loan made by a city housing development agency or corporation in connection with a qualified refinancing, and

(B) reported (before April 16, 1986) by the qualified cooperative housing corporation to its tenant-stockholders as interest described in section 216(a)(2) of such Code,

shall be treated for purposes of such Code as if such amount were paid by such qualified cooperative housing corporation during such taxable year.

(4) QUALIFIED COOPERATIVE HOUSING CORPORATION.—

(A) IN GENERAL.—For purposes of this subsection, the term "qualified cooperative housing corporation" means any corporation if—

(i) such corporation is, after the application of paragraphs (1) and (2), a cooperative housing corporation (as defined in section 216(b) of the Internal Revenue Code of 1954),

(ii) such corporation is subject to a qualified limited-profit housing companies law, and

(iii) such corporation either—

(I) filed for incorporation on July 22, 1965, or

(II) filed for incorporation on March 5, 1964.

(B) QUALIFIED LIMITED-PROFIT HOUSING COMPANIES LAW.—For purposes of subparagraph (A), the term "qualified limited-profit housing companies law" means any limited-profit housing companies law which limits the resale price for a tenant-stockholder's stock in a cooperative housing corporation to the sum of his basis for such stock plus his proportionate share of part or all of the amortization of any mortgage on the building owned by such corporation.

(5) QUALIFIED REFINANCING.—For purposes of this subsection, the term "qualified refinancing" means any refinancing—

(A) which occurred—

(i) with respect to a qualified cooperative housing corporation described in paragraph (4)(A)(iii)(I) on September 20, 1978, or

(ii) with respect to a qualified cooperative housing corporation described in paragraph (4)(A)(iii)(II) on November 21, 1978, and

(B) in which a qualified cooperative housing corporation refinanced a first mortgage loan made to such corporation by a city housing development agency with a first mortgage loan made by a city housing development corporation and insured by an agency of the Federal Government and a second mortgage loan made by such city housing development agency, in the process of which a reserve was created (as required by such Federal agency) and closing costs were paid or reimbursed by such city housing development agency or corporation.

(6) QUALIFIED REFINANCING-RELATED RESERVE.—For purposes of this subsection, the term "qualified refinancing-related reserve" means any reserve of a qualified cooperative housing corporation with respect to the creation of which no amount

was included in the gross income of such corporation by reason of paragraph (a).

(7) TREATMENT OF AMOUNTS PAID FROM QUALIFIED REFINANCING-RELATED RESERVE.—

(A) IN GENERAL.—With respect to any payment from a qualified refinancing-related reserve out of amounts excluded from gross income by reason of paragraph (1)—

(i) no deduction shall be allowed under chapter 1 of such Code, and

(ii) the basis of any property acquired with such payment (determined without regard to this subparagraph) shall be reduced by the amount of such payment.

(B) ORDERING RULES.—For purposes of subparagraph (A), payments from a reserve shall be treated as being made—

(i) first from amounts excluded from gross income by reason of paragraph (1) to the extent thereof, and

(ii) then from other amounts in the reserve.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) SUBSECTION (e).—

(A) Except as provided in subparagraph (B), subsection (e) shall apply to taxable years beginning before January 1, 1986.

(B) Subsection (e)(7) shall apply to amounts paid or incurred, and property acquired, in taxable years beginning, after December 31, 1985.

SEC. 645. SPECIAL RULES RELATING TO PERSONAL HOLDING COMPANY TAX.

(a) COMPUTER SOFTWARE ROYALTIES.—

(1) IN GENERAL.—Paragraph (1) of section 543(a) (defining personal holding company income) is amended—

(A) by striking out "and" at the end of subparagraph (A),

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and

(C) by adding at the end thereof the following new subparagraph:

"(C) active business computer software royalties (within the meaning of subsection (d))."

(2) ACTIVE BUSINESS COMPUTER SOFTWARE ROYALTIES DEFINED.—Section 543 is amended by adding at the end thereof the following new subsection:

"(d) ACTIVE BUSINESS COMPUTER SOFTWARE ROYALTIES.—

"(1) IN GENERAL.—For purposes of this section, the term 'active business computer software royalties' means any royalties—

"(A) received by any corporation during the taxable year in connection with the licensing of computer software, and

"(B) with respect to which the requirements of paragraphs (2), (3), (4), and (5) are met.

"(2) ROYALTIES MUST BE RECEIVED BY CORPORATION ACTIVELY ENGAGED IN COMPUTER SOFTWARE BUSINESS.—The requirements of this paragraph are met if the royalties described in paragraph (1)—

"(A) are received by a corporation engaged in the active conduct of the trade or business of developing, manufacturing, or producing computer software, and

"(B) are attributable to computer software which—

"(i) is developed, manufactured, or produced by such corporation (or its predecessor) in connection with the trade or business described in subparagraph (A), or

"(ii) is directly related to such trade or business.

"(3) ROYALTIES MUST CONSTITUTE AT LEAST 50 PERCENT OF INCOME.—The requirements of this paragraph are met if the royalties described in paragraph (1) constitute at least 50 percent of the ordinary gross income of the corporation for the taxable year.

"(4) DEDUCTIONS UNDER SECTIONS 162 AND 174 RELATING TO ROYALTIES MUST EQUAL OR EXCEED 25 PERCENT OF ORDINARY GROSS INCOME.—

"(A) IN GENERAL.—The requirements of this paragraph are met if—

"(i) the sum of the deductions allowable to the corporation under sections 162, 174, and 195 for the taxable year which are properly allocable to the trade or business described in paragraph (2) equals or exceeds 25 percent of the ordinary gross income of such corporation for such taxable year, or

"(ii) the average of such deductions for the 5-taxable year period ending with such taxable year equals or exceeds 25 percent of the average ordinary gross income of such corporation for such period.

If a corporation has not been in existence during the 5-taxable year period described in clause (ii), then the period of existence of such corporation shall be substituted for such 5-taxable year period.

"(B) DEDUCTIONS ALLOWABLE UNDER SECTION 162.—For purposes of subparagraph (A), a deduction shall not be treated as allowable under section 162 if it is specifically allowable under another section.

"(C) LIMITATION ON ALLOWABLE DEDUCTIONS.—For purposes of subparagraph (A), no deduction shall be taken into account with respect to compensation for personal services rendered by the 5 individual shareholders holding the largest percentage (by value) of the outstanding stock of the corporation. For purposes of the preceding sentence—

"(i) individuals holding less than 5 percent (by value) of the stock of such corporation shall not be taken into account, and

"(ii) stock deemed to be owned by a shareholder solely by attribution from a partner under section 544(a)(2) shall be disregarded.

"(5) DIVIDENDS MUST EQUAL OR EXCEED EXCESS OF PERSONAL HOLDING COMPANY INCOME OVER 10 PERCENT OF ORDINARY GROSS INCOME.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the sum of—

"(i) the dividends paid during the taxable year (determined under section 562),

"(ii) the dividends considered as paid on the last day of the taxable year under section 563(c) (as limited by the second sentence of section 563(b)), and

"(iii) the consent dividends for the taxable year (determined under section 565),

equals or exceeds the amount, if any, by which the personal holding company income for the taxable year exceeds 10 percent of the ordinary gross income of such corporation for such taxable year.

"(B) COMPUTATION OF PERSONAL HOLDING COMPANY INCOME.—For purposes of this paragraph, personal holding company income shall be computed—

"(i) without regard to amounts described in subsection (a)(1)(C),

"(ii) without regard to interest income during any taxable year—

"(I) which is in the 5-taxable year period beginning with the later of the 1st taxable year of the corporation or the 1st taxable year in which the corporation conducted the trade or business described in paragraph (2)(A), and

"(II) during which the corporation meets the requirements of paragraphs (2), (3), and (4), and

"(iii) by including adjusted income from rents and adjusted income from mineral, oil, and gas royalties (within the meaning of paragraphs (2) and (3) of subsection (a)).

"(6) SPECIAL RULES FOR AFFILIATED GROUP MEMBERS.—

"(A) IN GENERAL.—In any case in which—

"(i) the taxpayer receives royalties in connection with the licensing of computer software, and

"(ii) another corporation which is a member of the same affiliated group as the taxpayer meets the requirements of paragraphs (2), (3), (4), and (5) with respect to such computer software,

the taxpayer shall be treated as having met such requirements.

"(B) AFFILIATED GROUP.—For purposes of this paragraph, the term 'affiliated group' has the meaning given such term by section 1504(a)."

(3) FOREIGN PERSONAL HOLDING COMPANY INCOME.—Paragraph (1) of section 553(a) (defining foreign personal holding company income) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to active business computer software royalties (as defined in section 543(d))."

(4) CONFORMING AMENDMENTS.—

(A) Section 543(a)(4) (relating to copyright royalties) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to active business computer software royalties.".

(B) Section 543(b)(3) (relating to adjusted income from rents) is amended—

(i) by striking out "or" at the end of subparagraph (C),

(ii) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", or", and

(iii) by adding at the end thereof the following new subparagraph:

"(E) active business computer software royalties (as defined in subsection (d))."

(b) SPECIAL RULES FOR BROKER-DEALERS.—In the case of a broker-dealer which is part of an affiliated group which files a consolidated Federal income tax return, the common parent of which was incorporated in Nevada on January 27, 1972, the personal holding company income (within the meaning of section 543 of the Internal Revenue Code of 1986) of such broker-dealer, shall not include any interest received after the date of the enactment of this Act with respect to—

(1) any securities or money market instruments held as inventory,

(2) margin accounts, or

(3) any financing for a customer secured by securities or money market instruments.

(c) SPECIAL RULE FOR ROYALTIES RECEIVED BY QUALIFIED TAXPAYER.—

(1) IN GENERAL.—Any qualified royalty received or accrued in taxable years beginning after December 31, 1981, by a qualified taxpayer shall be treated in the same manner as a royalty with respect to software is treated under the amendments made by this section.

(2) QUALIFIED TAXPAYER.—For purposes of this subsection, a qualified taxpayer is any taxpayer incorporated on September 7, 1978, which is engaged in the trade or business of manufacturing dolls and accessories.

(3) QUALIFIED ROYALTY.—For purposes of this subsection, the term "qualified royalty" means any royalty arising from an agreement entered into in 1982 which permits the licensee to manufacture and sell dolls and accessories.

(d) SPECIAL RULE FOR TREATMENT OF ACTIVE BUSINESS COMPUTER ROYALTIES FOR S CORPORATION PURPOSES.—In the case of a taxpayer which was incorporated on May 3, 1977, in California and which elected to be taxed as an S corporation for its taxable year ending on December 31, 1985, any active business computer royalties (within the meaning of section 543(d) of the Internal Revenue Code of 1986 as added by this Act) which are received by the taxpayer in taxable years beginning after December 31, 1984, shall not be treated as passive investment income (within the meaning of section 1362(d)(3)(D)) for purposes of subchapter S of chapter 1 of such Code.

(e) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to royalties received before, on, and after December 31, 1986.

SEC. 646. CERTAIN ENTITIES NOT TREATED AS CORPORATIONS.

(a) GENERAL RULE.—For purposes of the Internal Revenue Code of 1986, if the entity described in subsection (b) makes an election under subsection (c), such entity shall be treated as a trust to which subpart E of part 1 of subchapter J of chapter 1 of such Code applies.

(b) ENTITY.—An entity is described in this subsection if—

(1) such entity was created in 1906 as a common law trust and is governed by the trust laws of the State of Minnesota,

(2) such entity receives royalties from iron ore leases, and

(3) income interests in such entity are publicly traded on a national stock exchange.

(c) ELECTION.—

(1) IN GENERAL.—An election under this subsection to have the provisions of this section apply—

(A) shall be made by the board of trustees of the entity, and

(B) shall not be valid unless accompanied by an agreement described in paragraph (2).

(2) AGREEMENT.—The agreement described in this paragraph is a written agreement signed by the board of trustees of the entity which provides that the entity will not—

(A) sell any trust property,

(B) purchase any additional trust properties, or

(C) receive any income other than—

(i) income from long-term mineral leases, or

(ii) interest or other income attributable to ordinary and necessary reserves of the entity.

(3) PERIOD FOR WHICH ELECTION IS IN EFFECT.—An election under this subsection shall be in effect during the period—

(A) beginning on the first day of the first taxable year beginning after the date of the enactment of this Act and following the taxable year in which the election is made, and

(B) ending as of the close of the taxable year preceding the taxable year in which the entity ceases to be described in subsection (b) or violates any term of the agreement under paragraph (2).

(4) MANNER OF ELECTION.—Any election under this subsection shall be made in such manner as the Secretary of the Treasury or his delegate may prescribe.

(d) SPECIAL RULES FOR TAXATION OF TRUST.—

(1) ELECTION TREATED AS A LIQUIDATION.—If an election is made under subsection (c) with respect to any entity—

(A) such entity shall be treated as having been liquidated into a trust immediately before the period described in subsection (c)(3) in a liquidation to which section 333 of the Internal Revenue Code of 1954 (as in effect before the amendments made by this Act) applies, and

(B) any person holding an interest in the property held by such entity as of such time shall be treated as a qualified electing shareholder for purposes of section 333 of such Code (as so in effect).

(2) TERMINATION OF ELECTION.—If an entity ceases to be described in subsection (b) or violates any term of the agreement described in subsection (c)(2), then the tax imposed on such entity for the taxable year in which such cessation or violation occurs shall be increased by the sum of—

(A) the amount of taxes which would have been imposed on such entity during any taxable year with respect to which an election under subsection (c) was in effect if such election had not been in effect, plus

(B) interest determined for the period—

(i) beginning on the due date for any such taxable year, and

(ii) ending on the due date for the taxable year in which such cessation or violation occurs,

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

(3) TRUST CEASING TO EXIST.—Paragraph (2) shall not apply if the trust ceases to be described in subsection (b) or violates the agreement in subsection (c)(2) because the trust ceases to exist or by reason of subsection (e).

(e) TERMINATION OF ELECTION.—Any election under subsection (c) shall not apply to any taxable year beginning more than 5 years after the date of the enactment of this Act unless the trust petitions a court of competent jurisdiction and the court acts to remove from the trust instrument any powers deemed by the court to be inconsistent with the operation of the entity as a trust for tax purposes (as described in an Internal Revenue Service ruling dated November 1, 1983).

SEC. 647. SPECIAL RULE FOR DISPOSITION OF STOCK OF SUBSIDIARY.

If for a taxable year of an affiliated group filing a consolidated return ending on or before December 31, 1987, there is a disposition of stock of a subsidiary (within the meaning of Treasury Regulation section 1.1502-19), the amount required to be included in income with respect to such disposition under Treasury Regulation section 1 1502-19(a) shall, notwithstanding such section, be included in income ratably over the 15-year period beginning with the taxable year in which the disposition occurs. The preceding sentence shall apply only if such subsidiary was incorporated on December 24, 1969, and is a participant in a mineral joint venture with a corporation organized under the laws of the foreign country in which the joint venture mineral project is located.

Subtitle F—Regulated Investment Companies

SEC. 651. EXCISE TAX ON UNDISTRIBUTED INCOME OF REGULATED INVESTMENT COMPANIES.

(a) GENERAL RULE.—Chapter 44 (relating to real estate investment trusts) is amended by adding at the end thereof the following new section:

"SEC. 4982. EXCISE TAX ON UNDISTRIBUTED INCOME OF REGULATED INVESTMENT COMPANIES.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax on every regulated investment company for each calendar year equal to 4 percent of the excess (if any) of—

"(1) the required distribution for such calendar year, over

"(2) the distributed amount for such calendar year.

"(b) REQUIRED DISTRIBUTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'required distribution' means, with respect to any calendar year, the sum of—

"(A) 97 percent of the regulated investment company's ordinary income for such calendar year, plus

"(B) 90 percent of the regulated investment company's capital gain net income for the 1-year period ending on October 31 of such calendar year.

"(2) INCREASE BY PRIOR YEAR SHORTFALL.—The amount determined under paragraph (1) for any calendar year shall be increased by the excess (if any) of—

"(A) the grossed up required distribution for the preceding calendar year, over

"(B) the distributed amount for such preceding calendar year.

"(3) GROSSED UP REQUIRED DISTRIBUTION.—The grossed up required distribution for any calendar year is the required distribution for such year determined—

"(A) with the application of paragraph (2) to such taxable year, and

"(B) by substituting '100 percent' for each percentage set forth in paragraph (1).

"(c) DISTRIBUTED AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'distributed amount' means, with respect to any calendar year, the sum of—

"(A) the deduction for dividends paid (as defined in section 561) during such calendar year, and

"(B) any amount on which tax is imposed under subsection (b)(1) or (b)(3)(A) of section 852 for any taxable year ending in such calendar year.

"(2) INCREASE BY PRIOR YEAR OVERDISTRIBUTION.—The amount determined under paragraph (1) for any calendar year shall be increased by the excess (if any) of—

"(A) the distributed amount for the preceding calendar year (determined with the application of this paragraph to such preceding calendar year), over

"(B) the grossed up required distribution for such preceding calendar year.

"(3) DETERMINATION OF DIVIDENDS PAID.—The amount of the dividends paid during any calendar year shall be determined without regard to—

"(A) the provisions of section 855, and

"(B) any exempt-interest dividend as defined in section 852(b)(5).

"(d) TIME FOR PAYMENT OF TAX.—The tax imposed by this section for any calendar year shall be paid on or before March 15 of the following calendar year.

"(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ORDINARY INCOME.—The term 'ordinary income' means the investment company taxable income (as defined in section 852(b)(2)) determined—

"(A) without regard to subparagraphs (A) and (D) of section 852(b)(2),

"(B) by not taking into account any gain or loss from the sale or exchange of a capital asset, and

"(C) by treating the calendar year as the company's taxable year.

"(2) CAPITAL GAIN NET INCOME.—The term 'capital gain net income' has the meaning given to such term by section 1222(9) (determined by treating the 1-year period ending on October 31 of any calendar year as the company's taxable year).

"(3) TREATMENT OF DEFICIENCY DISTRIBUTIONS.—In the case of any deficiency dividend (as defined in section 860(f))—

"(A) such dividend shall be taken into account when paid without regard to section 860, and

"(B) any income giving rise to the adjustment shall be treated as arising when the dividend is paid.

"(4) ELECTION TO USE TAXABLE YEAR IN CERTAIN CASES.—

"(A) IN GENERAL.—If—

"(i) the taxable year of the regulated investment company ends with the month of November or December, and

"(ii) such company makes an election under this paragraph,

subsection (b)(1)(B) and paragraph (2) of this subsection shall be applied by taking into account the company's taxable year in lieu of the 1-year period ending on October 31 of the calendar year.

"(B) ELECTION REVOCABLE ONLY WITH CONSENT.—An election under this paragraph, once made, may be revoked only with the consent of the Secretary."

(b) RELATED AMENDMENTS.—

(1) TIME CERTAIN DIVIDENDS TAKEN INTO ACCOUNT.—

(A) Subsection (b) of section 852 (relating to method of taxation of regulated investment companies and their shareholders) is amended by adding at the end thereof the following new paragraph:

"(6) TIME CERTAIN DIVIDENDS TAKEN INTO ACCOUNT.—For purposes of this title, any dividend declared by a regulated investment company in December of any calendar year and payable to shareholders of record on a specified date in such month shall be deemed—

"(A) to have been received by each shareholder on such date, and

"(B) to have been paid by such company on such date (or, if earlier, as provided in section 855).

The preceding sentence shall apply only if such dividend is actually paid by the company before February 1 of the following calendar year."

(B) Subsection (b) of section 855 is amended by striking out "Amounts" and inserting in lieu thereof "Except as provided in section 852(b)(6), amounts".

(2) TREATMENT OF EARNINGS AND PROFITS.—Subsection (c) of section 852 is amended to read as follows:

"(c) EARNINGS AND PROFITS.—

"(1) IN GENERAL.—The earnings and profits of a regulated investment company for any taxable year (but not its accumulated earnings and profits) shall not be reduced by any amount which is not allowable as a deduction in computing its taxable income for such taxable year. For purposes of this subsection, the term 'regulated investment company' includes a domestic corporation which is a regulated investment company determined without regard to the requirements of subsection (a).

"(2) COORDINATION WITH TAX ON UNDISTRIBUTED INCOME.—A regulated investment company shall be treated as having sufficient earnings and profits to treat as a dividend any distribution (other than in a redemption to which section 302(a) applies) which is treated as a dividend by such company. The preceding sentence shall not apply to the extent that the amount distributed during any calendar year by the company exceeds the required distribution for such calendar year (as determined under section 4982)."

(3) TREATMENT OF NET CAPITAL LOSS AFTER OCTOBER 31 OF ANY YEAR.—Subparagraph (C) of section 852(b)(3) (defining capital gain dividend) is amended by adding at the end thereof the following new sentences: "For purposes of this subparagraph,

the amount of the net capital gain for a taxable year (to which an election under section 4982(e)(4) does not apply) shall be determined without regard to any net capital loss attributable to transactions after October 31 of such year, and any such net capital loss shall be treated as arising on the 1st day of the next taxable year. To the extent provided in regulations, the preceding sentence shall apply also for purposes of computing regulated investment company taxable income."

(c) CLERICAL AMENDMENT.—Chapter 44 is amended by striking out the chapter heading and the table of sections and inserting in lieu thereof the following:

"CHAPTER 44—QUALIFIED INVESTMENT ENTITIES

"Sec. 4981. Excise tax on undistributed income of real estate investment trusts.
"Sec. 4982. Excise tax on undistributed income of regulated investment companies."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after December 31, 1986.

SEC. 652. TREATMENT OF BUSINESS DEVELOPMENT COMPANIES.

(a) GENERAL RULE.—Paragraph (1) of section 851(a) is amended by striking out "either as a management company or as a unit investment trust" and inserting in lieu thereof "as a management company, business development company, or unit investment trust".

(b) TECHNICAL AMENDMENT.—Paragraph (1) of section 851(e) (relating to investment companies furnishing capital to development corporations) is amended by striking out "registered management company" and inserting in lieu thereof "registered management company or registered business development company".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 653. AMENDMENTS TO QUALIFICATION RULES.

(a) TREATMENT OF CERTAIN HEDGING TRANSACTIONS.—Section 851 (defining regulated investment company) is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF CERTAIN HEDGING TRANSACTIONS.—

"(1) IN GENERAL.—In the case of any designated hedge, for purposes of subsection (b)(3), increases (and decreases) during the period of the hedge in the value of positions which are part of such hedge shall be netted.

"(2) DESIGNATED HEDGE.—For purposes of this subsection, there is a designated hedge where—

"(A) the taxpayer's risk of loss with respect to any position in property is reduced by reason of—

"(i) the taxpayer having an option to sell, being under a contractual option to sell, or having made (and not closed) a short sale of substantially identical property,

"(ii) the taxpayer being the grantor of an option to buy substantially identical property, or

"(iii) under regulations prescribed by the Secretary, the taxpayer holding 1 or more other positions, and

"(B) the positions which are part of the hedge are clearly identified by the taxpayer in the manner prescribed by regulations."

(b) DEFINITION OF QUALIFYING INCOME.—Paragraph (2) of subsection 851(b) is amended by striking out the semicolon at the end thereof and inserting in lieu thereof: "(as defined in section 2(a)(36) of the Investment Company Act of 1940, as amended) or foreign currencies, or other income (including but not limited to gains from options, futures, or forward contracts) derived with respect to its business of investing in such stock, securities, or currencies;".

(c) FOREIGN CURRENCY GAINS.—Subsection (b) of section 851 is amended by inserting before the last sentence thereof the following new sentence: "For purposes of paragraph (2), the Secretary may by regulation exclude from qualifying income foreign currency gains which are not ancillary to the company's principal business of investing in stock or securities (or options and futures with respect to stock or securities)."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 654. TREATMENT OF SERIES FUNDS AS SEPARATE CORPORATIONS.

(a) GENERAL RULE.—Section 851 is amended by adding at the end thereof the following new subsection:

"(q) SPECIAL RULE FOR SERIES FUNDS.—

"(1) IN GENERAL.—In the case of a regulated investment company (within the meaning of subsection (a)) having more than one fund, each fund of such regulated investment company shall be treated as a separate corporation for purposes of this title (except with respect to the definitional requirement of subsection (a)).

"(2) FUND DEFINED.—For purposes of paragraph (1) the term 'fund' means a segregated portfolio of assets, the beneficial interests in which are owned by the holders of a class or series of stock of the regulated investment company that is preferred over all other classes or series in respect of such portfolio of assets."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

(2) TREATMENT OF CERTAIN EXISTING SERIES FUNDS.—In the case of a regulated investment company which has more than one fund on the date of the enactment of this act, and has before such date been treated for Federal income tax purposes as a single corporation—

(A) the amendment made by subsection (a), and the resulting treatment of each fund as a separate corporation, shall not give rise to the realization or recognition of income or loss by such regulated investment company, its funds, or its shareholders, and

(B) the tax attributes of such regulated investment company shall be appropriately allocated among its funds.

SEC. 655. EXTENSION OF PERIOD FOR MAILING NOTICES TO SHAREHOLDERS.

(a) GENERAL RULE.—The following provisions are each amended by striking out "45 days" each place it appears and inserting in lieu thereof "60 days":

(1) Paragraph (3) of subsection 852(b).

(2) Subparagraph (A) of paragraph 852(b)(5).
(3) Subsection (c) of section 853.
(4) Paragraph (2) of subsection 854(b).
(5) Subsection (c) of section 855.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 656. PROTECTION OF MUTUAL FUNDS RECEIVING THIRD-PARTY SUMMONSES.

(a) GENERAL RULE.—Paragraph (3) of subsection 7609(a) is amended—

(1) by striking out "and" at the end of subparagraph (F);
(2) by striking out the period at the end of subparagraph (G) and inserting in lieu thereof "; and"; and
(3) by adding the following new subparagraph:

"(H) any regulated investment company (as defined in section 851) and any agent of such regulated investment company when acting as an agent thereof."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to summonses served after the date of the enactment of this Act.

SEC. 657. CERTAIN DISTRIBUTIONS NOT TREATED AS PREFERENTIAL DIVIDENDS.

(a) GENERAL RULE.—Subsection (c) of section 562 (relating to preferential dividends) is amended by adding at the end thereof the following new sentence: "In the case of a distribution by a regulated investment company to a shareholder who made an initial investment of at least $10,000,000 in such company, such distribution shall not be treated as not being pro rata or as being preferential solely by reason of an increase in the distribution by reason of reductions in administrative expenses of the company."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

Subtitle G—Real Estate Investment Trusts

SEC. 661. GENERAL QUALIFICATION REQUIREMENTS.

(a) MODIFICATION OF CLOSELY-HELD REQUIREMENTS.—

(1) Paragraph (6) of section 856(a) is amended to read as follows:

"(6) which is not closely held (as determined under subsection (h)); and".

(2) Section 856 is amended by adding at the end thereof the following new subsection:

"(h) CLOSELY HELD DETERMINATIONS.—

"(1) SECTION 542(a)(2) APPLIED.—

"(A) IN GENERAL.—For purposes of subsection (a)(6), a corporation, trust, or association is closely held if the stock ownership requirement of section 542(a)(2) is met.

"(B) WAIVER OF PARTNERSHIP ATTRIBUTION, ETC.—For purposes of subparagraph (A)—

"(i) paragraph (2) of section 544(a) shall be applied as if such paragraph did not contain the phrase 'or by or for his partner', and

"(ii) sections 544(a)(4)(A) and 544(b)(1) shall be applied by substituting 'the entity meet the stock ownership requirement of section 542(a)(2)' for 'the corporation a personal holding company'.

"(2) SUBSECTIONS (a) (5) AND (6) NOT TO APPLY TO 1ST YEAR.—Paragraphs (5) and (6) of subsection (a) shall not apply to the 1st taxable year for which an election is made under subsection (c)(1) by any corporation, trust, or association."

(b) REQUIREMENT OF NO EARNINGS AND PROFITS ACCUMULATED IN NON-REIT YEARS.—Subsection (a) of section 857 is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following:

"(3) either—

"(A) the provisions of this part apply to the real estate investment trust for all taxable years beginning after February 28, 1986, or

"(B) as of the close of the taxable year, the real estate investment trust has no earnings and profits accumulated in any non-REIT year.

For purposes of the preceding sentence, the term 'non-REIT year' means any taxable year to which the provisions of this part did not apply with respect to the entity."

(c) INITIAL CHANGE IN ANNUAL ACCOUNTING PERIOD PERMITTED.—

(1) Section 859 is amended by adding at the end thereof the following new subsection:

"(b) CHANGE OF ACCOUNTING PERIOD WITHOUT APPROVAL.—Notwithstanding section 442, an entity which has not engaged in any active trade or business may change its accounting period to a calendar year without the approval of the Secretary if such change is in connection with an election under section 856(c)."

(2) Section 859 is amended by striking out "For purposes of" and inserting in lieu thereof "(a) GENERAL RULE.—For purposes of".

SEC. 662. ASSET AND INCOME REQUIREMENTS.

(a) TREATMENT OF CERTAIN WHOLLY OWNED SUBSIDIARIES.—Section 856 (defining real estate investment trust) is amended by adding at the end thereof the following new subsection:

"(i) TREATMENT OF CERTAIN WHOLLY OWNED SUBSIDIARIES.—

"(1) IN GENERAL.—For purposes of this title—

"(A) a corporation which is a qualified REIT subsidiary shall not be treated as a separate corporation, and

"(B) all assets, liabilities, and items of income, deduction, and credit of a qualified REIT subsidiary shall be treated as assets, liabilities, and such items (as the case may be) of the real estate investment trust.

"(2) QUALIFIED REIT SUBSIDIARY.—For purposes of this subsection, the term 'qualified REIT subsidiary' means any corporation if 100 percent of the stock of such corporation is held by the real estate investment trust at all times during the period such corporation was in existence.

"(3) TREATMENT OF TERMINATION OF QUALIFIED SUBSIDIARY STATUS.—For purposes of this subtitle, if any corporation which

was a qualified REIT subsidiary ceases to meet the requirements of paragraph (2), such corporation shall be treated as a new corporation acquiring all of its assets (and assuming all of its liabilities) immediately before such cessation from the real estate investment trust in exchange for its stock."

(b) TEMPORARY INVESTMENT OF NEW EQUITY CAPITAL.—

(1) Paragraph (3) of section 856(c) is amended by striking out "and" at the end of subparagraph (G), by adding "and" at the end of subparagraph (H), and by inserting after subparagraph (H) the following new subparagraph:

"(I) qualified temporary investment income;".

(2) Subparagraph (B) of section 856(c)(6) is amended by adding at the end thereof the following new sentence: "Such term also includes any property (not otherwise a real estate asset) attributable to the temporary investment of new capital, but only if such property is stock or a debt instrument, and only for the 1-year period beginning on the date the real estate trust receives such capital."

(3) Paragraph (6) of section 856(c) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) QUALIFIED TEMPORARY INVESTMENT INCOME.—

"(i) IN GENERAL.—The term 'qualified temporary investment income' means any income which—

"(I) is attributable to stock or a debt instrument,

"(II) is attributable to the temporary investment of new capital, and

"(III) is received or accrued during the 1-year period beginning on the date on which the real estate investment trust receives such capital.

"(ii) NEW CAPITAL.—The term 'new capital' means any amount received by the real estate investment trust—

"(I) in exchange for stock in such trust (other than amounts received pursuant to a dividend reinvestment plan), or

"(II) in a public offering of debt obligations of such trust which have maturities of at least 5 years."

(c) TREATMENT OF SHARED APPRECIATION MORTGAGES.—Section 856 is amended by adding at the end thereof the following new subsection:

"(j) TREATMENT OF SHARED APPRECIATION MORTGAGES.—

"(1) IN GENERAL.—Solely for purposes of subsection (c) of this section and section 857(b)(6), any income derived from a shared appreciation provision shall be treated as gain recognized on the sale of the secured property.

"(2) TREATMENT OF INCOME.—For purposes of applying subsection (c) of this section and section 857(b)(6) to any income described in paragraph (1)—

"(A) the real estate investment trust shall be treated as holding the secured property for the period during which it held the shared appreciation provision (or, if shorter, for the period during which the secured property was held by the person holding such property), and

"(B) the secured property shall be treated as property described in section 1221(1) if it is so described in the hands

of the person holding the secured property (or it would be so described if held by the real estate investment trust).

"(3) COORDINATION WITH PROHIBITED TRANSACTIONS SAFE HARBOR.—For purposes of section 857(b)(6)(C)—

"(A) the real estate investment trust shall be treated as having sold the secured property when it recognizes any income described in paragraph (1), and

"(B) any expenditures made by any holder of the secured property shall be treated as made by the real estate investment trust.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) SHARED APPRECIATION PROVISION.—The term 'shared appreciation provision' means any provision—

"(i) which is in connection with an obligation which is held by the real estate investment trust and is secured by an interest in real property, and

"(ii) which entitles the real estate investment trust to receive a specified portion of any gain realized on the sale or exchange of such real property (or of any gain which would be realized if the property were sold on a specified date).

"(B) SECURED PROPERTY.—The term 'secured property' means the real property referred to in subparagraph (A)."

SEC. 663. DEFINITION OF RENTS.

(a) MODIFICATION OF INDEPENDENT CONTRACTOR REQUIREMENTS.—Paragraph (2) of section 856(d) (relating to certain amounts excluded from rents from real property) is amended by adding at the end thereof the following:

"Subparagraph (C) shall not apply with respect to any amount if such amount would be excluded from unrelated business taxable income under section 512(b)(3) if received by an organization described in section 511(a)(2)."

(b) CERTAIN RENTS OR INTEREST BASED ON NET INCOME OR PROFITS PERMITTED.—

(1) RENTS.—Subsection (d) of section 856 is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR CERTAIN PROPERTY SUBLEASED BY TENANT OF REAL ESTATE INVESTMENT TRUSTS.—

"(A) IN GENERAL.—If—

"(i) a real estate investment trust receives or accrues, with respect to real or personal property, amounts from a tenant which derives substantially all of its income with respect to such property from the subleasing of substantially all of such property, and

"(ii) such tenant receives or accrues, directly or indirectly, from subtenants only amounts which are qualified rents,

then the amounts that the trust receives or accrues from the tenant shall not be excluded from the term 'rents from real property' solely by reason of being based on the income or profits of such tenant.

"(B) QUALIFIED RENTS.—For purposes of subparagraph (A), the term 'qualified rents' means any amount which would be treated as rents from real property if received by the real estate investment trust."

(2) INTEREST.—Subsection (f) of section 856 (relating to qualifying interest income) is amended to read as follows:

"(f) INTEREST.—

"(1) IN GENERAL.—For purposes of paragraphs (2)(B) and (3)(B) of subsection (c), the term 'interest' does not include any amount received or accrued (directly or indirectly) if the determination of such amount depends (in whole or in part) on the income or profits of any person, except that—

"(A) any amount so received or accrued shall not be excluded from the term 'interest' solely by reason of being based on a fixed percentage or percentages of receipts or sales, and

"(B) any amount so received or accrued with respect to an obligation secured by a mortgage on real property or an interest in real property shall not be excluded from the term 'interest' solely by reason of being based on the income or profits of the debtor from such property, if—

"(i) the debtor derives substantially all of its gross income with respect to such property from the leasing of substantially all of its interests in such property to tenants, and

"(ii) the amounts received or accrued directly or indirectly by the debtor from such tenants are only qualified rents (as defined in subsection (d)(6)(B)).

"(2) SPECIAL RULE.—Where a real estate investment trust receives or accrues any amount which would be excluded from the term 'interest' solely because the debtor of the real estate investment trust receives or accrues any amount the determination of which depends (in whole or in part) on the income or profits of any person, only a proportionate part (determined under regulations prescribed by the Secretary) of the amount received or accrued by the real estate investment trust shall be excluded from the term 'interest'."

(3) CONFORMING AMENDMENT.—Subparagraph (A) of section 856(d)(2) is amended by striking out "paragraph (4)" and inserting in lieu thereof "paragraphs (4) and (6)".

SEC. 664. DISTRIBUTION REQUIREMENTS.

(a) EXCLUSION OF CERTAIN NONCASH INCOME FROM DISTRIBUTION REQUIREMENT.—Subparagraph (B) of section 857(a)(1) (relating to distribution requirements) is amended to read as follows:

"(B) any excess noncash income (as determined under subsection (e)); and"

(b) EXCESS NONCASH INCOME DEFINED.—Section 857 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) EXCESS NONCASH INCOME.—

"(1) IN GENERAL.—For purposes of subsection (a)(1)(B), the term 'excess noncash income' means the excess (if any) of—

"(A) the amount determined under paragraph (2) for the taxable year, over

"(B) 5 percent of the real estate investment trust taxable income for the taxable year determined without regard to the deduction for dividends paid (as defined in section 561) and by excluding any net capital gain.

"(2) DETERMINATION OF AMOUNT.—The amount determined under this paragraph for the taxable year is the sum of—

"(A) the amount (if any) by which—

"(i) the amounts includible in gross income under section 467 (relating to certain payments for the use of property or services), exceed

"(ii) the amounts which would have been includible in gross income without regard to such section,

"(B) in the case of a real estate investment trust using the cash receipts and disbursements method of accounting, the amount (if any) by which—

"(i) the amounts includible in gross income as original issue discount on instruments to which section 1274 (relating to certain debt instruments issued for property) applies, exceed

"(ii) the amount of money and the fair market value of other property received during the taxable year under such instruments; plus

"(C) any income on the disposition of a real estate asset if—

"(i) there is a determination (as defined in section 860(e)) that such income is not eligible for nonrecognition under section 1031, and

"(ii) failure to meet the requirements of section 1031 was due to reasonable cause and not to willful neglect."

SEC. 665. TREATMENT OF CAPITAL GAINS.

(a) COORDINATION OF NET OPERATING LOSS DEDUCTION WITH PAYMENT OF CAPITAL GAIN DIVIDENDS.—

(1) IN GENERAL.—Paragraph (3) of section 857(b) (relating to capital gains) is amended by adding at the end thereof the following new subparagraph:

"(D) COORDINATION WITH NET OPERATING LOSS PROVISIONS.—For purposes of section 172, if a real estate investment trust pays capital gain dividends during any taxable year, the amount of the net capital gain for such taxable year (to the extent such gain does not exceed the amount of such capital gain dividends) shall be excluded in determining—

"(i) the net operating loss for the taxable year, and

"(ii) the amount of the net operating loss of any prior taxable year which may be carried through such taxable year under section 172(b)(2) to a succeeding taxable year."

(2) REPEAL OF LIMITATION OF NET CAPITAL GAIN TO REAL ESTATE INVESTMENT TRUST TAXABLE INCOME.—Subparagraph (C) of section 857(b)(3) (defining capital gain dividend) is amended by striking out the last sentence.

(b) NOTICE OF CAPITAL GAINS DIVIDENDS MAY BE MAILED WITH ANNUAL REPORT.—

(1) Subparagraph (C) of section 857(b)(3) (defining capital gain dividend) is amended by striking out "the close of its taxable year" and inserting in lieu thereof "the close of its taxable year (or mailed to its shareholders or holders of beneficial interests with its annual report for the taxable year)".

(2) Subsection (c) of section 858 (relating to notice to shareholders) is amended by striking out "distribution is made" and inserting in lieu thereof "distribution is made (or mailed to its

shareholders or holders of beneficial interests with its annual report for the taxable year)".

SEC. 666. MODIFICATIONS OF PROHIBITED TRANSACTION RULES.

(a) EXEMPTIONS FROM PROHIBITED TRANSACTIONS RULES.—

(1) Clause (iii) of section 857(b)(6)(C) (relating to certain sales not to constitute prohibited transactions) is amended to read as follows:

"(iii)(I) during the taxable year the trust does not make more than 7 sales of property (other than foreclosure property), or (II) the aggregate adjusted bases (as determined for purposes of computing earnings and profits) of property (other than foreclosure property) sold during the taxable year does not exceed 10 percent of the aggregate bases (as so determined) of all of the assets of the trust as of the beginning of the taxable year; and".

(2) Clause (ii) of section 857(b)(6)(C) is amended by striking out "20 percent" and inserting in lieu thereof "30 percent".

(3) Subparagraph (C) of section 857(b)(6) is amended by striking out "and" at the end of clause (iii), by striking out the period at the end of clause (iv) and inserting in lieu thereof "; and", and by inserting after clause (iv) the following new clause:

"(v) if the requirement of clause (iii)(I) is not satisfied, substantially all of the marketing and development expenditures with respect to the property were made through an independent contractor (as defined in section 856(d)(3)) from whom the trust itself does not derive or receive any income."

(b) NET LOSS FROM PROHIBITED TRANSACTIONS.—

(1) LOSS FROM PROHIBITED TRANSACTIONS NOT ALLOWED TO OFFSET GAIN FROM SUCH TRANSACTIONS.—Clause (ii) of section 857(b)(6)(B) (relating to income from prohibited transactions) is amended to read as follows:

"(ii) in determining the amount of the net income derived from prohibited transactions, there shall not be taken into account any item attributable to any prohibited transaction for which there was a loss; and".

(2) NET LOSS MAY REDUCE TAXABLE INCOME.—Subparagraph (F) of section 857(b)(2) (defining real estate investment trust taxable income) is amended by striking out "and there shall be included an amount equal to any net loss derived from prohibited transactions".

SEC. 667. DEFICIENCY DIVIDENDS OF REAL ESTATE INVESTMENT TRUSTS NOT SUBJECT TO PENALTY UNDER SECTION 6697.

(a) GENERAL RULE.—The section heading and subsection (a) of section 6697 (relating to assessable penalties with respect to liability for tax of qualified investment entities) are amended to read as follows:

"SEC. 6697. ASSESSABLE PENALTIES WITH RESPECT TO LIABILITY FOR TAX OF REGULATED INVESTMENT COMPANIES.

"(a) CIVIL PENALTY.—In addition to any other penalty provided by law, any regulated investment company whose tax liability for any taxable year is deemed to be increased pursuant to section 860(c)(1)(A) shall pay a penalty in an amount equal to the amount of

the interest (for which such company is liable) which is attributable solely to such increase."

(b) CONFORMING AMENDMENT.—

(1) Subsection (j) of section 860 is amended by striking out "qualified investment entity" and inserting in lieu thereof "regulated investment company".

(2) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6697 and inserting in lieu thereof the following:

"Sec. 6697. Assessable penalties with respect to liability for tax of regulated investment companies."

SEC. 668. EXCISE TAX ON UNDISTRIBUTED INCOME OF REAL ESTATE INVESTMENT TRUSTS.

(a) GENERAL RULE.—Section 4981 is amended to read as follows:

"SEC. 4981. EXCISE TAX ON UNDISTRIBUTED INCOME OF REAL ESTATE INVESTMENT TRUSTS.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax on every real estate investment trust for each calendar year equal to 4 percent of the excess (if any) of—

"(1) the required distribution for such calendar year, over

"(2) the distributed amount for such calendar year.

"(b) REQUIRED DISTRIBUTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'required distribution' means, with respect to any calendar year, the sum of—

"(A) 85 percent of the real estate investment trust's ordinary income for such calendar year, plus

"(B) 95 percent of the real estate investment trust's capital gain net income for such calendar year.

"(2) INCREASE BY PRIOR YEAR SHORTFALL.—The amount determined under paragraph (1) for any calendar year shall be increased by the excess (if any) of—

"(A) the grossed up required distribution for the preceding calendar year, over

"(B) the distributed amount for such preceding calendar year.

"(3) GROSSED UP REQUIRED DISTRIBUTION.—The grossed up required distribution for any calendar year is the required distribution for such year determined—

"(A) with the application of paragraph (2) to such taxable year, and

"(B) by substituting '100 percent' for each percentage set forth in paragraph (1).

"(c) DISTRIBUTED AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'distributed amount' means, with respect to any calendar year, the sum of—

"(A) the deduction for dividends paid (as defined in section 561) during such calendar year, and

"(B) any amount on which tax is imposed under subsection (b)(1) or (b)(3)(A) of section 857 for any taxable year ending in such calendar year.

"(2) INCREASE BY PRIOR YEAR OVERDISTRIBUTION.—The amount determined under paragraph (1) for any calendar year shall be increased by the excess (if any) of—

"(A) the distributed amount for the preceding calendar year (determined with the application of this paragraph to such preceding calendar year), over

"(B) the grossed up required distribution for such preceding calendar year.

"(3) DETERMINATION OF DIVIDENDS PAID.—The amount of the dividends paid during any calendar year shall be determined without regard to the provisions of section 858.

"(d) TIME FOR PAYMENT OF TAX.—The tax imposed by this section for any calendar year shall be paid on or before March 15 of the following calendar year.

"(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ORDINARY INCOME.—The term 'ordinary income' means the real estate investment trust taxable income (as defined in section 857(b)(2)) determined—

"(A) without regard to subparagraph (B) of section 857(b)(2),

"(B) by not taking into account any gain or loss from the sale or exchange of a capital asset, and

"(C) by treating the calendar year as the trust's taxable year.

"(2) CAPITAL GAIN NET INCOME.—The term 'capital gain net income' has the meaning given to such term by section 1222(9) (determined by treating the calendar year as the trust's taxable year).

"(3) TREATMENT OF DEFICIENCY DISTRIBUTIONS.—In the case of any deficiency dividend (as defined in section 860(f))—

"(A) such dividend shall be taken into account when paid without regard to section 860, and

"(B) any income giving rise to the adjustment shall be treated as arising when the dividend is paid."

(b) RELATED AMENDMENTS.—

(1) TIME CERTAIN DIVIDENDS TAKEN INTO ACCOUNT.—

(A) Subsection (b) of section 857 (relating to method of taxation of real estate investment trusts and holders of interests therein) is amended by adding at the end thereof the following new paragraph:

"(8) TIME CERTAIN DIVIDENDS TAKEN INTO ACCOUNT.—For purposes of this title, any dividend declared by a real estate investment trust in December of any calendar year and payable to shareholders of record on a specified date in such month shall be deemed—

"(A) to have been received by each shareholder on such date, and

"(B) to have been paid by such trust on such date (or, if earlier, as provided in section 858).

The preceding sentence shall apply only if such dividend is actually paid by the company before February 1 of the following calendar year."

(B) Subsection (b) of section 856 is amended by striking out "Amounts" and inserting in lieu thereof "Except as provided in section 857(b)(8), amounts".

(2) TREATMENT OF EARNINGS AND PROFITS.—Subsection (d) of section 857 is amended to read as follows:

"(d) EARNINGS AND PROFITS.—

"(1) IN GENERAL.—The earnings and profits of a real estate investment trust for any taxable year (but not its accumulated earnings) shall not be reduced by any amount which is not allowable in computing its taxable income for such taxable year. For purposes of this subsection, the term 'real estate investment trust' includes a domestic corporation, trust, or association which is a real estate investment trust determined without regard to the requirements of subsection (a).

"(2) COORDINATION WITH TAX ON UNDISTRIBUTED INCOME.—A real estate investment trust shall be treated as having sufficient earnings and profits to treat as a dividend any distribution (other than in a redemption to which section 302(a) applies) which is treated as a dividend by such trust. The preceding sentence shall not apply to the extent that the amount distributed during any calendar year by the trust exceeds the required distribution for such calendar year (as determined under section 4981)."

(3) TREATMENT OF NET CAPITAL GAIN AFTER OCTOBER 31 OF ANY YEAR.—Subparagraph (C) of section 857(b)(3) (defining capital gain dividend) is amended by adding at the end thereof the following new sentences: "For purposes of this subparagraph, the amount of the net capital gain for any taxable year which is not a calendar year shall be determined without regard to any net capital loss attributable to transactions after December 31 of such year, and any such net capital loss such be treated as arising on the 1st day of the next taxable year. To the extent provided in regulations, the preceding sentence shall apply also for purposes of computing real estate investment trust taxable income."

SEC. 669. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this part shall apply to taxable years beginning after December 31, 1986.

(b) SECTION 668.—The amendments made by section 668 shall apply to calendar years beginning after December 31, 1986.

(c) RETENTION OF EXISTING TRANSITIONAL RULE.—The amendment made by section 663(b)(2) shall not apply with respect to amounts received or accrued pursuant to loans made before May 28, 1976. For purposes of the preceding sentence, a loan is considered to be made before May 28, 1976, if such loan is made pursuant to a binding commitment entered into before May 28, 1976.

Subtitle H—Taxation of Interests in Entities Holding Real Estate Mortgages

SEC. 671. TAXATION OF REAL ESTATE MORTGAGE INVESTMENT CONDUITS.

(a) GENERAL RULE.—Subchapter M of chapter 1 (relating to regulated investment companies and real estate investment trusts) is amended by adding at the end thereof the following new part:

"PART IV—REAL ESTATE MORTGAGE INVESTMENT CONDUITS

"Sec. 860A. Taxation of REMIC's.
"Sec. 860B. Taxation of holders of regular interests
"Sec. 860C. Taxation of residual interests
"Sec. 860D. REMIC defined.
"Sec. 860E. Treatment of income in excess of daily accruals on residual interests.
"Sec. 860F. Other rules.
"Sec. 860G. Other definitions and special rules

"SEC. 860A. TAXATION OF REMIC'S.

"(a) GENERAL RULE.—Except as otherwise provided in this part, a REMIC shall not be subject to taxation under this chapter (and shall not be treated as a corporation, partnership, or trust for purposes of this chapter).

"(b) INCOME TAXABLE TO HOLDERS.—The income of any REMIC shall be taxable to the holders of interests in such REMIC as provided in this part.

"SEC. 860B. TAXATION OF HOLDERS OF REGULAR INTERESTS

"(a) GENERAL RULE.—In determining the tax under this chapter of any holder of a regular interest in a REMIC, such interest (if not otherwise a debt instrument) shall be treated as a debt instrument.

"(b) HOLDERS MUST USE ACCRUAL METHOD.—The amounts includible in gross income with respect to any regular interest in a REMIC shall be determined under the accrual method of accounting.

"(c) PORTION OF GAIN TREATED AS ORDINARY INCOME.—Gain on the disposition of a regular interest shall be treated as ordinary income to the extent such gain does not exceed the excess (if any) of—

"(1) the amount which would have been includible in the gross income of the taxpayer with respect to such interest if the yield on such interest were 110 percent of the applicable Federal rate (as defined in section 1274(d) without regard to paragraph (2) thereof) as of the beginning of the taxpayer's holding period, over

"(2) the amount actually includible in gross income with respect to such interest by the taxpayer.

"(d) CROSS REFERENCE.—

"For special rules in determining inclusion of original issue discount on regular interests, see section 1272(a)(6).

"SEC. 860C. TAXATION OF RESIDUAL INTERESTS.

"(a) PASS-THRU OF INCOME OR LOSS.—

"(1) IN GENERAL.—In determining the tax under this chapter of any holder of a residual interest in a REMIC, such holder shall take into account his daily portion of the taxable income or net loss of such REMIC for each day during the taxable year on which such holder held such interest.

"(2) DAILY PORTION.—The daily portion referred to in paragraph (1) shall be determined—

"(A) by allocating to each day in any calendar quarter its ratable portion of the taxable income (or net loss) for such quarter, and

"(B) by allocating the amount so allocated to any day among the holders (on such day) of residual interests in proportion to their respective holdings on such day.

"(b) DETERMINATION OF TAXABLE INCOME OR NET LOSS.—For purposes of this section—

"(1) TAXABLE INCOME.—The taxable income of a REMIC shall be determined under an accrual method of accounting and in the same manner as in the case of an individual, except that—

"(A) regular interests in such REMIC (if not otherwise debt instruments) shall be treated as indebtedness of such REMIC,

"(B) market discount on any market discount bond shall be included in gross income for the taxable years to which it is attributable as determined under the rules of section 1276(b)(2) (and sections 1276(a) and 1277 shall not apply),

"(C) there shall not be taken into account any item of income, gain, loss, or deduction allocable to a prohibited transaction, and

"(D) the deductions referred to in section 703(a)(2) (other than any deduction under section 212) shall not be allowed.

"(2) NET LOSS.—The net loss of any REMIC is the excess of—

"(A) the deductions allowable in computing the taxable income of such REMIC, over

"(B) its gross income.

Such amount shall be determined with the modifications set forth in paragraph (1).

"(c) DISTRIBUTIONS.—Any distribution by a REMIC—

"(1) shall not be included in gross income to the extent it does not exceed the adjusted basis of the interest, and

"(2) to the extent it exceeds the adjusted basis of the interest, shall be treated as gain from the sale or exchange of such interest.

"(d) BASIS RULES.—

"(1) INCREASE IN BASIS.—The basis of any person's residual interest in a REMIC shall be increased by the amount of the taxable income of such REMIC taken into account under subsection (a) by such person with respect to such interest.

"(2) DECREASES IN BASIS.—The basis of any person's residual interest in a REMIC shall be decreased (but not below zero) by the sum of the following amounts:

"(A) any distributions to such person with respect to such interest, and

"(B) any net loss of such REMIC taken into account under subsection (a) by such person with respect to such interest.

"(e) SPECIAL RULES.—

"(1) AMOUNTS TREATED AS ORDINARY INCOME.—Any amount included in the gross income of any holder of a residual interest in a REMIC by reason of subsection (a) shall be treated as ordinary income.

"(2) LIMITATION ON LOSSES.—

"(A) IN GENERAL.—The amount of the net loss of any REMIC taken into account by a holder under subsection (a) with respect to any calendar quarter shall not exceed the adjusted basis of such holder's residual interest in such REMIC as of the close of such calendar quarter (determined without regard to the adjustment under subsection (d)(2)(B) for such calendar quarter).

"(B) INDEFINITE CARRYFORWARD.—Any loss disallowed by reason of subparagraph (A) shall be treated as incurred by

the REMIC in the succeeding calendar quarter with respect to such holder

"(3) CROSS REFERENCE.—

"For special treatment of income in excess of daily accruals, see section 860E.

"SEC. 860D. REMIC DEFINED.

"(a) GENERAL RULE.—For purposes of this title, the terms 'real estate mortgage investment conduit' and 'REMIC' mean any entity—

"(1) to which an election to be treated as a REMIC applies for the taxable year and all prior taxable years,

"(2) all of the interests in which are regular interests or residual interests,

"(3) which has 1 (and only 1) class of residual interests (and all distributions, if any, with respect to such interests are pro rata),

"(4) as of the close of the 4th month ending after the startup day and each quarter ending thereafter, substantially all of the assets of which consist of qualified mortgages and permitted investments, and

"(5) which has a taxable year which is a calendar year.

"(b) ELECTION.—

"(1) IN GENERAL.—An entity (otherwise meeting the requirements of subsection (a)) may elect to be treated as a REMIC for its 1st taxable year. Such an election shall be made on its return for such 1st taxable year. Except as provided in paragraph (2), such an election shall apply to the taxable year for which made and all subsequent taxable years.

"(2) TERMINATION.—

"(A) IN GENERAL.—If any entity ceases to be a REMIC at any time during the taxable year, such entity shall not be treated as a REMIC for such taxable year or any succeeding taxable year.

"(B) INADVERTENT TERMINATIONS.—If—

"(i) an entity ceases to be a REMIC,

"(ii) the Secretary determines that such cessation was inadvertent,

"(iii) no later than a reasonable time after the discovery of the event resulting in such cessation, steps are taken so that such entity is once more a REMIC, and

"(iv) such entity, and each person holding an interest in such entity at any time during the period specified pursuant to this subsection, agrees to make such adjustments (consistent with the treatment of such entity as a REMIC or a C corporation) as may be required by the Secretary with respect to such period,

then, notwithstanding such terminating event, such entity shall be treated as continuing to be a REMIC (or such cessation shall be disregarded for purposes of subparagraph (A)) whichever the Secretary determines to be appropriate.

"SEC 860E. TREATMENT OF INCOME IN EXCESS OF DAILY ACCRUALS ON RESIDUAL INTERESTS.

"(a) EXCESS INCLUSIONS MAY NOT BE OFFSET BY NET OPERATING LOSSES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the taxable income of any holder of a residual interest in a REMIC

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for any taxable year shall in no event be less than the excess inclusion for such taxable year.

"(2) EXCEPTION FOR CERTAIN FINANCIAL INSTITUTIONS.—Paragraph (1) shall not apply to any organization to which section 593 applies. The Secretary may by regulations provide that the preceding sentence shall not apply where necessary or appropriate to prevent avoidance of tax imposed by this chapter.

"(b) ORGANIZATIONS SUBJECT TO UNRELATED BUSINESS TAX.—If the holder of any residual interest in a REMIC is an organization subject to the tax imposed by section 511, the excess inclusion of such holder for any taxable year shall be treated as unrelated business taxable income of such holder for purposes of section 511.

"(c) EXCESS INCLUSION.—For purposes of this section—

"(1) IN GENERAL.—The term 'excess inclusion' means, with respect to any residual interest in a REMIC for any calendar quarter, the excess (if any) of—

"(A) the amount taken into account with respect to such interest by the holder under section 860C(a), over

"(B) the sum of the daily accruals with respect to such interest for days during such calendar quarter while held by such holder.

To the extent provided in regulations, if residual interests in a REMIC do not have significant value, the excess inclusions with respect to such interests shall be the amount determined under subparagraph (A) without regard to subparagraph (B).

"(2) DETERMINATION OF DAILY ACCRUALS.—

"(A) IN GENERAL.—For purposes of this subsection, the daily accrual with respect to any residual interest for any day in any calendar quarter shall be determined by allocating to each day in such quarter its ratable portion of the product of—

"(i) the adjusted issue price of such interest at the beginning of such quarter, and

"(ii) 120 percent of the long-term Federal rate (determined on the basis of compounding at the close of each calendar quarter and properly adjusted for the length of such quarter).

"(B) ADJUSTED ISSUE PRICE.—For purposes of this paragraph, the adjusted issue price of any residual interest at the beginning of any calendar quarter is the issue price of residual interest—

"(i) increased by the amount of daily accruals for prior quarters, and

"(ii) decreased by any distribution made with respect to such interest before the beginning of such quarter.

"(C) FEDERAL LONG-TERM RATE.—For purposes of this paragraph, the term 'Federal long-term rate' means the Federal long-term rate which would have applied to the residual interest under section 1274(d) (determined without regard to paragraph (2) thereof) if it were a debt instrument.

"(d) TREATMENT OF RESIDUAL INTERESTS HELD BY REAL ESTATE INVESTMENT TRUSTS.—If a residual interest in a REMIC is held by a real estate investment trust, under regulations prescribed by the Secretary—

"(1) any excess of—

"(A) the aggregate excess inclusions determined with respect to such interests, over

"(B) the real estate investment trust taxable income (within the meaning of section 857(b)(2), excluding any net capital gain),

shall be allocated among the shareholders of such trust in proportion to the dividends received by such shareholders from such trust, and

"(2) any amount allocated to a shareholder under paragraph (1) shall be treated as an excess inclusion with respect to a residual interest held by such shareholder.

"SEC. 860F. OTHER RULES.

"(a) 100 PERCENT TAX ON PROHIBITED TRANSACTIONS.—

"(1) TAX IMPOSED.—There is hereby imposed for each taxable year of a REMIC a tax equal to 100 percent of the net income derived from prohibited transactions.

"(2) PROHIBITED TRANSACTION.—For purposes of this part, the term 'prohibited transaction' means—

"(A) DISPOSITION OF QUALIFIED MORTGAGE.—The disposition of any qualified mortgage transferred to the REMIC other than a disposition pursuant to—

"(i) the substitution of a qualified replacement mortgage for a qualified mortgage,

"(ii) a disposition incident to the foreclosure, default, or imminent default of the mortgage,

"(iii) the bankruptcy or insolvency of the real estate mortgage pool, or

"(iv) a qualified liquidation.

Notwithstanding the preceding sentence, the term 'prohibited transaction' shall not include any disposition required to prevent default on a regular interest where the threatened default resulted from a default on 1 or more qualified mortgages.

"(B) INCOME FROM NONPERMITTED ASSETS.—The receipt of any income attributable to any asset which is neither a qualified mortgage nor a permitted investment.

"(C) COMPENSATION FOR SERVICES.—The receipt by the real estate mortgage pool of any amount representing a fee or other compensation for services.

"(D) GAIN FROM DISPOSITION OF CASH FLOW INVESTMENTS.—Gain from the disposition of any cash flow investment other than pursuant to any qualified liquidation described in subsection (b).

"(3) DETERMINATION OF NET INCOME.—For purposes of paragraph (1), the term 'net income derived from prohibited transactions' means the excess of the gross income from prohibited transactions over the deductions allowed by this chapter which are directly connected with such transactions; except that there shall not be taken into account any item attributable to any prohibited transaction for which there was a loss.

"(4) QUALIFIED LIQUIDATION.—For purposes of this part—

"(A) IN GENERAL.—The term 'qualified liquidation' means a transaction in which—

"(i) the REMIC adopts a plan of complete liquidation,

"(ii) such REMIC sells all its assets (other than cash) within the liquidation period, and

"(iii) all proceeds of the liquidation (plus the cash), less assets retained to meet claims, are credited or distributed to holders of regular or residual interests on or before the last day of the liquidation period.

"(B) LIQUIDATION PERIOD.—The term 'liquidation period' means the period—

"(i) beginning on the date of the adoption of the plan of liquidation, and

"(ii) ending at the close of the 90th day after such date.

"(b) TREATMENT OF TRANSFERS TO THE REMIC.—

"(1) TREATMENT OF TRANSFEROR.—

"(A) NONRECOGNITION GAIN OR LOSS.—No gain or loss shall be recognized to the transferor on the transfer of any property to a REMIC.

"(B) ADJUSTED BASES OF INTERESTS.—The adjusted bases of the regular and residual interests received in a transfer described in subparagraph (A) shall be equal to the aggregate adjusted bases of the property transferred in such transfer. Such amount shall be allocated among such interests in proportion to their respective fair market values.

"(C) TREATMENT OF NONRECOGNIZED GAIN.—If the issue price of any regular or residual interest exceeds its adjusted basis as determined under subparagraph (B), for periods during which such interest is held by the transferor (or by any other person whose basis is determined in whole or in part by reference to the basis of such interest in the hand of the transferor)—

"(i) in the case of a regular interest, such excess shall be included in gross income (as determined under rules similar to rules of section 1276(b)), and

"(ii) in the case of a residual interest, such excess shall be included in gross income ratably over the anticipated period during which the real estate mortgage pool will be in existence.

"(D) TREATMENT OF NONRECOGNIZED LOSS.—If the adjusted basis of any regular or residual interest received in a transfer described in subparagraph (A) exceeds its issue price, for periods during which such interest is held by the transferor (or by any other person whose basis is determined in whole or in part by reference to the basis of such interest in the hand of the transferor)—

"(i) in the case of a regular interest, such excess shall be allowable as a deduction under rules similar to the rules of section 171, and

"(ii) in the case of a residual interest, such excess shall be allowable as a deduction ratably over the anticipated period during which the real estate mortgage pool will be in existence.

"(2) BASIS TO REMIC.—The basis of any property received by a REMIC in a transfer described in paragraph (1)(A) shall be its fair market value immediately after such transfer.

"(c) DISTRIBUTIONS OF PROPERTY.—If a REMIC makes a distribution of property with respect to any regular or residual interest—

"(1) notwithstanding any other provision of this subtitle, gain shall be recognized to such REMIC on the distribution in the

same manner as if it had sold such property to the distributee at its fair market value, and

"(2) the basis of the distributee in such property shall be its fair market value.

"(d) COORDINATION WITH WASH SALE RULES.—For purposes of section 1091—

"(1) any residual interest in a REMIC shall be treated as a security, and

"(2) in applying such section to any loss claimed to have been sustained on the sale or other disposition of a residual interest in a REMIC—

"(A) except as provided in regulations, any residual interest in any REMIC and any interest in a taxable mortgage pool (as defined in section 7701(i)) comparable to a residual interest in a REMIC shall be treated as substantially identical stock or securities, and

"(B) subsections (a) and (e) of such section shall be applied by substituting '6 months' for '30 days' each place it appears.

"(e) TREATMENT UNDER SUBTITLE F.—For purposes of subtitle F, a REMIC shall be treated as a partnership (and holders of residual interests in such REMIC shall be treated as partners). Any return required by reason of the preceding sentence shall include the amount of the daily accruals determined under section 860E(c).

"SEC. 860G. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this part—

"(1) REGULAR INTEREST.— The term 'regular interest' means an interest in a REMIC the terms of which are fixed on the startup day, and which—

"(A) unconditionally entitles the holder to receive a specified principal amount (or other similar amount), and

"(B) provides that interest payments (or other similar amounts), if any, at or before maturity are payable based on a fixed rate (or to the extent provided in regulations, at a variable rate).

An interest shall not fail to meet the requirements of subparagraph (A) merely because the timing (but not the amount) of the principal payments (or other similar amounts) may be contingent on the extent of prepayments on qualified mortgages and the amount of income from permitted investments.

"(2) RESIDUAL INTEREST.—The term 'residual interest' means an interest in a REMIC which is not a regular interest and is designated as a residual interest.

"(3) QUALIFIED MORTGAGE.—The term 'qualified mortgage' means—

"(A) any obligation (including any participation or certificate of beneficial ownership therein) which is principally secured, directly or indirectly, by an interest in real property and which—

"(i) is transferred to the REMIC on or before the startup day, or

"(ii) is purchased by the REMIC within the 3-month period beginning on the startup day,

"(B) any qualified replacement mortgage, and

"(C) any regular interest in another REMIC transferred to the REMIC on or before the startup day.

"(4) QUALIFIED REPLACEMENT MORTGAGE.—The term 'qualified replacement mortgage' means any obligation—

"(A) which would be described in paragraph (3)(A) if it were transferred to the REMIC on or before the startup day, and

"(B) which is received for—

"(i) another obligation within the 3-month period beginning on the startup day, or

"(ii) a defective obligation within the 2-year period beginning on the startup day.

"(5) PERMITTED INVESTMENTS.—The term 'permitted investments' means any—

"(A) cash flow investment,

"(B) qualified reserve asset, or

"(C) foreclosure property.

"(6) CASH FLOW INVESTMENT.—The term 'cash flow investment' means any investment of amounts received under qualified mortgages for a temporary period before distribution to holders of interests in the REMIC.

"(7) QUALIFIED RESERVE ASSET.—

"(A) IN GENERAL.—The term 'qualified reserve asset' means any intangible property which is held for investment and as part of a qualified reserve fund.

"(B) QUALIFIED RESERVE FUND.—For purposes of subparagraph (A), the term 'qualified reserve fund' means any reasonably required reserve to provide for full payment of expenses of the REMIC or amounts due on regular interests in the event of defaults on qualified mortgages. The amount of any such reserve shall be promptly and appropriately reduced as payments of qualified mortgages are received.

"(C) SPECIAL RULE.—A reserve shall not be treated as a qualified reserve for any taxable year (and all subsequent taxable years) if more than 30 percent of the gross income from the assets in such fund for the taxable year is derived from the sale or other disposition of property held for less than 3 months. For purposes of the preceding sentence, gain on the disposition of a qualified reserve asset shall not be taken into account if the disposition giving rise to such gain is required to prevent default on a regular interest where the threatened default resulted from a default on 1 or more qualified mortgages.

"(8) FORECLOSURE PROPERTY.—The term 'foreclosure property' means property—

"(A) which would be foreclosure property under section 856(e) if acquired by a real estate investment trust, and

"(B) which is acquired in connection with the default or imminent default of a qualified mortgage held by the REMIC.

Property shall cease to be foreclosure property with respect to the REMIC on the date which is 1 year after the date such real estate mortgage pool acquired such property.

"(9) STARTUP DAY.—The term 'startup day' means any day selected by a REMIC which is on or before the 1st day on which interests in such REMIC are issued.

"(10) ISSUE PRICE.—The issue price of any regular or residual interest in a REMIC shall be determined under section 1273(b) in the same manner as if such interest were a debt instrument;

except that if the interest is issued for property, paragraph (3) of section 1273(b) shall apply whether or not the requirements of such paragraph are met.

"(b) TREATMENT OF NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.—If the holder of a residual interest in a REMIC is a nonresident alien individual or a foreign corporation, for purposes of sections 871(a), 881, 1441, and 1442—

"(1) amounts includible in the gross income of such holder under this part shall be taken into account when paid or distributed (or when the interest is disposed of), and

"(2) no exemption from the taxes imposed by such sections (and no reduction in the rates of such taxes) shall apply to any excess inclusion.

The Secretary may by regulations provide that such amounts shall be taken into account earlier than as provided in paragraph (1) where necessary or appropriate to prevent the avoidance of tax imposed by this chapter.

"(c) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations—

"(1) to prevent unreasonable accumulations of assets in a REMIC,

"(2) permitting determinations of the fair market value of property transferred to a REMIC and issue price of interests in a REMIC to be made earlier than otherwise provided, and

"(3) requiring reporting to holders of residual interests of such information as frequently as is necessary or appropriate to permit such holders to compute their taxable income accurately."

(b) TECHNICAL AMENDMENTS.—

(1) TREATMENT FOR REIT PURPOSES.—Paragraph (6) of section 856(c) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) A regular or residual interest in a REMIC shall be treated as an interest in real property, and any amount includible in gross income with respect to such an interest shall be treated as interest; except that, if less than 95 percent of the assets of such REMIC are interests in real property (determined as if the taxpayer held such assets), such interest shall be so treated only in the proportion which the assets of the REMIC consist of such interests."

(2) TREATMENT FOR PURPOSES OF SECTION 593.—Subsection (d) of section 593 (defining loans) is amended by adding at the end thereof the following new paragraph:

"(4) TREATMENT OF INTERESTS IN REMIC'S.—A regular or residual interest in a REMIC shall be treated as a qualifying real property loan; except that, if less than 95 percent of the assets of such REMIC are qualifying real property loans (determined as if the taxpayer held the assets of the REMIC), such interest shall be so treated only in the proportion which the assets of such REMIC consist of such loans."

(3) TREATMENT FOR PURPOSES OF SECTION 7701(a)(19).—Subparagraph (C) of section 7701(a)(19) (defining domestic building and loan associations) is amended by striking out "and" at the end of clause (ix), by striking out the period at the end of

clause (x) and inserting in lieu thereof ", and", and by inserting after clause (x) the following new clause:

"(xi) any regular or residual interest in a REMIC, but only in the proportion which the assets of such REMIC consist of property described in any of the preceding clauses of this subparagraph; except that if 95 percent or more of the assets of such REMIC are loans described in clauses (i) through (x), the entire interest in the REMIC shall qualify."

(4) TREATMENT FOR PURPOSES OF SECTION 582(c).—Paragraph (1) of section 582(c) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, any regular or residual interest in a REMIC shall be treated as an evidence of indebtedness."

SEC. 672. RULES FOR ACCRUING ORIGINAL ISSUE DISCOUNT ON REGULAR INTERESTS AND SIMILAR DEBT INSTRUMENTS.

Subsection (a) of section 1272 (relating to current inclusion in income of original issue discount) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) DETERMINATION OF DAILY PORTIONS WHERE PRINCIPAL SUBJECT TO ACCELERATION.—

"(A) IN GENERAL.—In the case of any debt instrument to which this paragraph applies, the daily portion of the original issue discount shall be determined by allocating to each day in any accrual period its ratable portion of the excess (if any) of—

"(i) the sum of (I) the present value determined under subparagraph (B) of all remaining payments under the debt instrument as of the close of such period, and (II) the payments during the accrual period of amounts included in the stated redemption price of the debt instrument, over

"(ii) the adjusted issue price of such debt instrument at the beginning of such period.

"(B) DETERMINATION OF PRESENT VALUE.—For purposes of subparagraph (A), the present value shall be determined on the basis of—

"(i) the original yield to maturity (determined on the basis of compounding at the close of each accrual period and properly adjusted for the length of the accrual period),

"(ii) events which have occurred before the close of the accrual period, and

"(iii) a prepayment assumption determined in the manner prescribed by regulations.

"(C) DEBT INSTRUMENTS TO WHICH PARAGRAPH APPLIES.—This paragraph applies to—

"(i) any regular interest in a REMIC or qualified mortgage held by a REMIC, or

"(ii) any other debt instrument if payments under such debt instrument may be accelerated by reason of prepayments of other obligations securing such debt instrument (or, to the extent provided in regulations, by reason of other events)."

SEC. 673. TREATMENT OF TAXABLE MORTGAGE POOLS.

Section 7701, as amended by section 201(c), is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) TAXABLE MORTGAGE POOLS.—

"(1) TREATED AS SEPARATE CORPORATIONS.—A taxable mortgage pool shall be treated as a separate corporation which may not be treated as an includible corporation with any other corporation for purposes of section 1501.

"(2) TAXABLE MORTGAGE POOL DEFINED.—For purposes of this title—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, a taxable mortgage pool is any entity (other than a REMIC) if—

"(i) substantially all of the assets of such entity consists of debt obligations (or interests therein) and more than 50 percent of such debt obligations (or interests) consists of real estate mortgages (or interests therein),

"(ii) such entity is the obligor under debt obligations with 2 or more maturities, and

"(iii) under the terms of the debt obligations referred to in clause (ii) (or underlying arrangement), payments on such debt obligations bear a relationship to payments on the debt obligations (or interests) referred to in clause (i).

"(B) PORTION OF ENTITIES TREATED AS POOLS.—Any portion of an entity which meets the definition of subparagraph (A) shall be treated as a taxable mortgage pool.

"(C) EXCEPTION FOR DOMESTIC BUILDING AND LOAN.—Nothing in this subsection shall be construed to treat any domestic building and loan association (or portion thereof) as a taxable mortgage pool.

"(D) TREATMENT OF CERTAIN EQUITY INTERESTS.—To the extent provided in regulations, equity interest of varying classes which correspond to maturity classes of debt shall be treated as debt for purposes of this subsection.

"(3) TREATMENT OF CERTAIN REIT'S.—If—

"(A) a real estate investment trust is a taxable mortgage pool, or

"(B) a qualified REIT subsidiary (as defined in section 856(i)(2)) of a real estate investment trust is a taxable mortgage pool,

under regulations prescribed by the Secretary, adjustments similar to the adjustments provided in section 860E(d) shall apply to the shareholders of such real estate investment trust."

SEC. 674. COMPLIANCE PROVISIONS.

Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end thereof the following new paragraph:

"(7) INTERESTS IN REMIC'S AND CERTAIN OTHER DEBT INSTRUMENTS.—

"(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income with respect to regular interests in REMIC's.

"(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A) of this paragraph and any other debt instrument to which section 1272(a)(6) applies, subsection (b)(4) of this section shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i).

"(C) ADDITIONAL INFORMATION.—Except as otherwise provided in regulations, any return or statement required to be filed or furnished under this section with respect to interest income described in subparagraph (A) and interest on any other debt instrument to which section 1272(a)(6) applies shall also provide information setting forth the issue price of the interest to which the return or statement relates at the beginning of each accrual period with respect to which interest income is required to be reported on such return or statement and information necessary to compute accrual of market discount.

"(D) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting."

SEC. 675. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this part shall apply to taxable years beginning after December 31, 1986.

(b) RULES FOR ACCRUING ORIGINAL ISSUE DISCOUNT.—The amendment made by section 672 shall apply to debt instruments issued after December 31, 1986, in taxable years ending after such date.

(c) TREATMENT OF TAXABLE MORTGAGE POOLS.—

(1) IN GENERAL.—The amendment made by section 673 shall take effect on January 1, 1992.

(2) TREATMENT OF EXISTING ENTITIES.—The amendment made by section 673 shall not apply to any entity in existence on December 31, 1991. The preceding sentence shall cease to apply with respect to any entity as of the 1st day after December 31, 1991, on which there is a substantial transfer of cash or other property to such entity.

(3) SPECIAL RULE FOR COORDINATION WITH WASH-SALE RULES.—Notwithstanding paragraphs (1) and (2), for purposes of applying section 860F(d) of the Internal Revenue Code of 1986 (as added by this part), the amendment made by section 673 shall apply to taxable years beginning after December 31, 1986.

TITLE VII—ALTERNATIVE MINIMUM TAX

SEC. 701. ALTERNATIVE MINIMUM TAX FOR INDIVIDUALS AND CORPORATIONS.

(a) GENERAL RULE.—Part VI of subchapter A of chapter 1 (relating to minimum tax for tax preferences) is amended to read as follows:

"PART VI—ALTERNATIVE MINIMUM TAX

"Sec. 55. Alternative minimum tax imposed.
"Sec. 56. Adjustments in computing alternative minimum taxable income.

"Sec. 57. Items of tax preference.
"Sec. 58. Denial of certain losses.
"Sec. 59 Other definitions and special rules

"SEC. 55. ALTERNATIVE MINIMUM TAX IMPOSED.

"(a) GENERAL RULE.—There is hereby imposed (in addition to any other tax imposed by this subtitle) a tax equal to the excess (if any) of—

"(1) the tentative minimum tax for the taxable year, over

"(2) the regular tax for the taxable year.

"(b) TENTATIVE MINIMUM TAX.—For purposes of this part—

"(1) IN GENERAL.—The tentative minimum tax for the taxable year is—

"(A) 20 percent (21 percent in the case of a taxpayer other than a corporation) of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, reduced by

"(B) the alternative minimum tax foreign tax credit for the taxable year.

"(2) ALTERNATIVE MINIMUM TAXABLE INCOME.—The term 'alternative minimum taxable income' means the taxable income of the taxpayer for the taxable year—

"(A) determined with the adjustments provided in section 56 and section 58, and

"(B) increased by the amount of the items of tax preference described in section 57.

"(c) REGULAR TAX.—

"(1) IN GENERAL.—For purposes of this section, the term 'regular tax' means the regular tax liability for the taxable year (as defined in section 26(b)) reduced by the foreign tax credit allowable under section 27(a). Such term shall not include any tax imposed by section 402(e) and shall not include any increase in tax under section 47.

"(2) CROSS REFERENCES.—

"For provisions providing that certain credits are not allowable against the tax imposed by this section, see sections 26(a), 28(d)(2), 29(b)(5), and 38(c).

"(d) EXEMPTION AMOUNT.—For purposes of this section—

"(1) EXEMPTION AMOUNT FOR TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation, the term 'exemption amount' means—

"(A) $40,000 in the case of—

"(i) a joint return, or

"(ii) a surviving spouse,

"(B) $30,000 in the case of an individual who—

"(i) is not a married individual, and

"(ii) is not a surviving spouse, and

"(C) $20,000 in the case of—

"(i) a married individual who files a separate return, or

"(ii) an estate or trust.

For purposes of this paragraph, the term 'surviving spouse' has the meaning given to such term by section 2(a), and marital status shall be determined under section 7703.

"(2) CORPORATIONS.—In the case of a corporation, the term 'exemption amount' means $40,000.

"(3) PHASE-OUT OF EXEMPTION AMOUNT.—The exemption amount of any taxpayer shall be reduced (but not below zero) by an amount equal to 25 percent of the amount by which the alternative minimum taxable income of the taxpayer exceeds—

"(A) $150,000 in the case of a taxpayer described in paragraph (1)(A) or (2),

"(B) $112,500 in the case of a taxpayer described in paragraph (1)(B), and

"(C) $75,000 in the case of a taxpayer described in paragraph (1)(C).

"SEC. 56. ADJUSTMENTS IN COMPUTING ALTERNATIVE MINIMUM TAXABLE INCOME.

"(a) ADJUSTMENTS APPLICABLE TO ALL TAXPAYERS.—In determining the amount of the alternative minimum taxable income for any taxable year the following treatment shall apply (in lieu of the treatment applicable for purposes of computing the regular tax):

"(1) DEPRECIATION.—

"(A) IN GENERAL.—

"(i) PROPERTY OTHER THAN CERTAIN REAL PROPERTY.—Except as provided in clause (ii), the depreciation deduction allowable under section 167 with respect to any tangible property placed in service after December 31, 1986, shall be determined under the alternative system of section 168(g).

"(ii) 150-PERCENT DECLINING BALANCE METHOD FOR CERTAIN PROPERTY.—The method of depreciation used shall be—

"(I) the 150 percent declining balance method,

"(II) switching to the straight line method for the 1st taxable year for which using the straight line method with respect to the adjusted basis as of the beginning of the year will yield a higher allowance.

The preceding sentence shall not apply to any section 1250 property (as defined in section 1250(c)) or to any other property if the depreciation deduction determined under section 168 with respect to such other property for purposes of the regular tax is determined by using the straight line method.

"(B) EXCEPTION FOR CERTAIN PROPERTY.—This paragraph shall not apply to property described in paragraph (1), (2), (3), or (4) of section 168(f).

"(C) COORDINATION WITH TRANSITIONAL RULES.—

"(i) IN GENERAL.—This paragraph shall not apply to property placed in service after December 31, 1986, to which the amendments made by section 201 of the Tax Reform Act of 1986 do not apply.

"(ii) TREATMENT OF CERTAIN PROPERTY PLACED IN SERVICE BEFORE 1987.—This paragraph shall apply to any property to which the amendments made by section 201 of the Tax Reform Act of 1986 apply by reason of an election under section 203(a)(1)(B) of such Act without regard to the requirement of subparagraph (A) that the property be placed in service after December 31, 1986.

"(D) NORMALIZATION RULES.—With respect to public utility property described in section 167(1)(3)(A), the Secretary

shall prescribe the requirements of a normalization method of accounting for this section.

"(2) MINING EXPLORATION AND DEVELOPMENT COSTS.—

"(A) IN GENERAL.—With respect to each mine or other natural deposit (other than an oil, gas, or geothermal well) of the taxpayer, the amount allowable as a deduction under section 616(a) or 617(a) (determined without regard to section 291(b)) in computing the regular tax for costs paid or incurred after December 31, 1986, shall be capitalized and amortized ratably over the 10-year period beginning with the taxable year in which the expenditures were made.

"(B) LOSS ALLOWED.—If a loss is sustained with respect to any property described in subparagraph (A), a deduction shall be allowed for the expenditures described in subparagraph (A) for the taxable year in which such loss is sustained in an amount equal to the lesser of—

"(i) the amount allowable under section 165(a) for the expenditures if they had remained capitalized, or

"(ii) the amount of such expenditures which have not previously been amortized under subparagraph (A).

"(3) TREATMENT OF CERTAIN LONG-TERM CONTRACTS.—In the case of any long-term contract entered into by the taxpayer on or after March 1, 1986, the taxable income from such contract shall be determined under the percentage of completion method of accounting (as modified by section 460(b)).

"(4) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—The alternative tax net operating loss deduction shall be allowed in lieu of the net operating loss deduction allowed under section 172.

"(5) POLLUTION CONTROL FACILITIES.—In the case of any certified pollution control facility placed in service after December 31, 1986, the deduction allowable under section 169 (without regard to section 291) shall be determined under the alternative system of section 168(g).

"(6) INSTALLMENT SALES OF CERTAIN PROPERTY.—In the case of any—

"(A) disposition after March 1, 1986, of property described in section 1221(1), or

"(B) other disposition if an obligation arising from such disposition would be an applicable installment obligation (as defined in section 453C(e)) to which section 453C applies,

income from such disposition shall be determined without regard to the installment method under section 453 or 453A and all payments to be received for the disposition shall be deemed received in the taxable year of the disposition. This paragraph shall not apply to any disposition with respect to which an election is in effect under section 453C(e)(4).

"(7) ADJUSTED BASIS.—The adjusted basis of any property to which paragraph (1) or (5) applies (or with respect to which there are any expenditures to which paragraph (2) or subsection (b)(2) applies) shall be determined on the basis of the treatment prescribed in paragraph (1), (2), or (5), or subsection (b)(2), whichever applies.

"(b) ADJUSTMENTS APPLICABLE TO INDIVIDUALS.—In determining the amount of the alternative minimum taxable income of any taxpayer (other than a corporation), the following treatment shall

apply (in lieu of the treatment applicable for purposes of computing the regular tax):

"(1) LIMITATION ON ITEMIZED DEDUCTIONS.—

"(A) IN GENERAL.—No deduction shall be allowed—

"(i) for any miscellaneous itemized deduction (as defined in section 67(b)), or

"(ii) for any taxes described in paragraph (1), (2), or (3) of section 164(a).

Clause (ii) shall not apply to any amount allowable in computing adjusted gross income.

"(B) MEDICAL EXPENSES.—In determining the amount allowable as a deduction under section 213, subsection (a) of section 213 shall be applied by substituting '10 percent' for '7.5 percent'.

"(C) INTEREST.—In determining the amount allowable as a deduction for interest, subsections (d) and (h) of section 163 shall apply, except that—

"(i) in lieu of the exception under section 163(h)(2)(D), the term 'personal interest' shall not include any qualified housing interest (as defined in subsection (e)),

"(ii) sections 163(d)(6) and 163(h)(6) (relating to phase-ins) shall not apply, and

"(iii) interest on any specified private activity bond (and any amount treated as interest on a specified activity bond under section 56(a)(5)(B)), and any deduction referred to in section 57(a)(5)(A), shall be treated as includible in gross income (or as deductible) for purposes of applying section 163(d).

"(D) TREATMENT OF CERTAIN RECOVERIES.—No recovery of any tax to which subparagraph (A)(ii) applied shall be included in gross income for purposes of determining alternative minimum taxable income.

"(E) STANDARD DEDUCTION NOT ALLOWED.—The standard deduction provided in section 63(c) shall not be allowed.

"(2) CIRCULATION AND RESEARCH AND EXPERIMENTAL EXPENDITURES.—

"(A) IN GENERAL.—The amount allowable as a deduction under section 173 or 174(a) in computing the regular tax for amounts paid or incurred after December 31, 1986, shall be capitalized and—

"(i) in the case of circulation expenditures described in section 173, shall be amortized ratably over the 3-year period beginning with the taxable year in which the expenditures were made, or

"(ii) in the case of research and experimental expenditures described in section 174(a), shall be amortized ratably over the 10-year period beginning with the taxable year in which the expenditures were made.

"(B) LOSS ALLOWED.—If a loss is sustained with respect to any property described in subparagraph (A), a deduction shall be allowed for the expenditures described in subparagraph (A) for the taxable year in which such loss is sustained in an amount equal to the lesser of—

"(i) the amount allowable under section 165(a) for the expenditures if they had remained capitalized, or

"(ii) the amount of such expenditures which have not previously been amortized under subparagraph (A).

"(C) SPECIAL RULE FOR PERSONAL HOLDING COMPANIES.—In the case of circulation expenditures described in section 173, the adjustments provided in this paragraph shall apply also to a personal holding company (as defined in section 542).

"(c) ADJUSTMENTS APPLICABLE TO CORPORATIONS.—In determining the amount of the alternative minimum taxable income of a corporation, the following treatment shall apply:

"(1) ADJUSTMENT FOR BOOK INCOME OR ADJUSTED EARNINGS AND PROFITS.—

"(A) BOOK INCOME ADJUSTMENT.—For taxable years beginning in 1987, 1988, and 1989, alternative minimum taxable income shall be adjusted as provided under subsection (f).

"(B) ADJUSTED EARNINGS AND PROFITS.—For taxable years beginning after 1989, alternative minimum taxable income shall be adjusted as provided under subsection (g).

"(2) MERCHANT MARINE CAPITAL CONSTRUCTION FUNDS.—In the case of a capital construction fund established under section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177)—

"(A) subparagraphs (A), (B), and (C) of section 7518(c)(1) (and the corresponding provisions of such section 607) shall not apply to—

"(i) any amount deposited in such fund after December 31, 1986, or

"(ii) any earnings (including gains and losses) after December 31, 1986, on amounts in such fund, and

"(B) no reduction in basis shall be made under section 7518(f) (or the corresponding provisions of such section 607) with respect to the withdrawal from the fund of any amount to which subparagraph (A) applies.

For purposes of this paragraph, any withdrawal of deposits or earnings from the fund shall be treated as allocable first to deposits made before (and earnings received or accrued before) January 1, 1987.

"(3) SPECIAL DEDUCTION FOR CERTAIN ORGANIZATIONS NOT ALLOWED.—The deduction determined under section 833(b) shall not be allowed.

"(d) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION DEFINED.—

"(1) IN GENERAL.—For purposes of subsection (a)(4), the term 'alternative tax net operating loss deduction' means the net operating loss deduction allowable for the taxable year under section 172, except that—

"(A) the amount of such deduction shall not exceed 90 percent of alternative minimum taxable income determined without regard to such deduction, and

"(B) in determining the amount of such deduction—

"(i) the net operating loss (within the meaning of section 172(c)) for any loss year shall be adjusted as provided in paragraph (2), and

"(ii) in the case of taxable years beginning after December 31, 1986, section 172(b)(2) shall be applied by substituting '90 percent of alternative minimum taxable income determined without regard to the alternative tax net operating loss deduction' for 'taxable income' each place it appears.

"(2) ADJUSTMENTS TO NET OPERATING LOSS COMPUTATION.—

"(A) POST-1986 LOSS YEARS.—In the case of a loss year beginning after December 31, 1986, the net operating loss for such year under section 172(c) shall—

"(i) be determined with the adjustments provided in this section and section 58, and

"(ii) be reduced by the items of tax preference determined under section 57 for such year (other than subsection (a)(6) thereof).

"(B) PRE-1987 YEARS.—In the case of loss years beginning before January 1, 1987, the amount of the net operating loss which may be carried over to taxable years beginning after December 31, 1986, for purposes of paragraph (2), shall be equal to the amount which may be carried from the loss year to the first taxable year of the taxpayer beginning after December 31, 1986.

"(e) QUALIFIED HOUSING INTEREST.—For purposes of this part—

"(1) IN GENERAL.—The term 'qualified housing interest' means interest which is paid or accrued during the taxable year on indebtedness which is incurred in acquiring, constructing, or substantially rehabilitating any property which—

"(A) is the principal residence (within the meaning of section 1034) of the taxpayer at the time such interest accrues or is paid, or

"(B) is a qualified dwelling which is a qualified residence (within the meaning of section 163(h)(3)).

Such term also includes interest on any indebtedness resulting from the refinancing of indebtedness meeting the requirements of the preceding sentence; but only to the extent that the amount of the indebtedness resulting from such refinancing does not exceed the amount of the refinanced indebtedness immediately before the refinancing.

"(2) QUALIFIED DWELLING.—The term 'qualified dwelling' means any—

"(A) house,

"(B) apartment,

"(C) condominium, or

"(D) mobile home not used on a transient basis (within the meaning of section 7701(a)(19)(C)(v)),

including all structures or other property appurtenant thereto.

"(3) SPECIAL RULE FOR INDEBTEDNESS INCURRED BEFORE JULY 1, 1982.—The term 'qualified housing interest' includes interest paid or accrued on indebtedness which—

"(A) was incurred by the taxpayer before July 1, 1982, and

"(B) is secured by property which, at the time such indebtedness was incurred, was—

"(i) the principal residence (within the meaning of section 1034) of the taxpayer, or

"(ii) a qualified dwelling used by the taxpayer (or any member of his family (within the meaning of section 267(c)(4))).

"(f) ADJUSTMENTS FOR BOOK INCOME OF CORPORATIONS.—

"(1) IN GENERAL.—The alternative minimum taxable income of any corporation for any taxable year beginning in 1987, 1988, or 1989 shall be increased by 50 percent of the amount (if any) by which—

"(A) the adjusted net book income of the corporation, exceeds

"(B) the alternative minimum taxable income for the taxable year (determined without regard to this subsection and the alternative tax net operating loss deduction).

"(2) ADJUSTED NET BOOK INCOME.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'adjusted net book income' means the net income or loss of the taxpayer set forth on the taxpayer's applicable financial statement, adjusted as provided in this paragraph.

"(B) ADJUSTMENTS FOR CERTAIN TAXES.—The amount determined under subparagraph (A) shall be appropriately adjusted to disregard any Federal income taxes, or income, war profits, or excess profits taxes imposed by any foreign country or possession of the United States, which are directly or indirectly taken into account on the taxpayer's applicable financial statement. The preceding sentence shall not apply to any such taxes imposed by a foreign country or possession of the United States if the taxpayer does not choose to take, to any extent, the benefits of section 901.

"(C) SPECIAL RULES FOR RELATED CORPORATIONS.—

"(i) CONSOLIDATED RETURNS.—If the taxpayer files a consolidated return for any taxable year, adjusted net book income for such taxable year shall take into account items on the taxpayer's applicable financial statement which are properly allocable to members of such group included on such return.

"(ii) TREATMENT OF DIVIDENDS.—In the case of any corporation which is not included on a consolidated return with the taxpayer, adjusted net book income shall take into account the earnings of such other corporation only to the extent of the sum of the dividends received from such other corporation and other amounts required to be included in gross income under this chapter in respect of the earnings of such other corporation.

"(D) STATEMENTS COVERING DIFFERENT PERIODS.—Appropriate adjustments shall be made in adjusted net book income in any case in which an applicable financial statement covers a period other than the taxable year.

"(E) SPECIAL RULE FOR COOPERATIVES.—In the case of a cooperative to which section 1381 applies, the amount determined under subparagraph (A) shall be reduced by the amounts referred to in section 1382(b) (relating to patronage dividends and per-unit retain allocations) to the extent such amounts were not otherwise taken into account in determining adjusted net book income.

"(F) TREATMENT OF DIVIDENDS FROM 936 CORPORATIONS.—

"(i) IN GENERAL.—In determining the amount of adjusted net book income, any dividend received from a corporation eligible for the credit provided by section 936 shall be increased by the amount of any withholding tax paid to a possession of the United States with respect to such dividend.

"(ii) TREATMENT AS FOREIGN TAXES.—

"(I) IN GENERAL.—50 percent of any withholding tax paid to a possession of the United States with respect to dividends referred to in clause (i) (to the extent such dividends do not exceed the excess referred to in paragraph (1), determined without regard to clause (i)) shall, for purposes of this part, be treated as a tax paid by the corporation receiving the dividend to a foreign country.

"(II) TREATMENT OF TAXES IMPOSED ON 936 CORPORATION.—For purposes of this subparagraph, taxes paid by any corporation eligible for the credit provided by section 936 to a possession of the United States, shall be treated as a withholding tax paid with respect to any dividend paid by such corporation to the extent such taxes would be treated as paid by the corporation receiving the dividend under rules similar to the rules of section 902.

"(G) RULES FOR ALASKA NATIVE CORPORATIONS.—The amount determined under subparagraph (A) shall be appropriately adjusted to allow:

"(i) cost recovery and depletion attributable to property the basis of which is determined under section 21(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1620(c)), and

"(ii) deductions for amounts payable made pursuant to section 7(i) or section 7(j) of such Act (43 U.S.C. 1606(i) and 1606(j)) only at such time as the deductions are allowed for tax purposes.

"(H) SECRETARIAL AUTHORITY TO ADJUST ITEMS.—Under regulations, adjusted net book income shall be properly adjusted to prevent the omission or duplication of any item.

"(3) APPLICABLE FINANCIAL STATEMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable financial statement' means, with respect to any taxable year, any statement covering such taxable year—

"(i) which is required to be filed with the Securities and Exchange Commission,

"(ii) which is a certified audited income statement to be used for the purposes of a statement or report—

"(I) for credit purposes,

"(II) to shareholders, or

"(III) for any other substantial nontax purpose,

"(iii) which is an income statement required to be provided to—

"(I) the Federal Government or any agency thereof,

"(II) a State government or any agency thereof, or

"(III) a political subdivision of a State or any agency thereof, or

"(iv) which is an income statement to be used for the purposes of a statement or report—

"(I) for credit purposes,

"(II) to shareholders, or

"(III) for any other substantial nontax purpose.

"(B) EARNINGS AND PROFITS USED IN CERTAIN CASES.—If—

"(i) a taxpayer has no applicable financial statement, or

"(ii) a taxpayer has only a statement described in subparagraph (A)(iv) and the taxpayer elects the application of this subparagraph,

the net income or loss set forth on the taxpayer's applicable financial statement shall, for purposes of paragraph (3)(A), be treated as being equal to the taxpayer's earnings and profits for the taxable year (without diminution by reason of distributions during the tax year). Such election, once made, shall remain in effect for any taxable year for which the taxpayer is described in this subparagraph unless revoked with the consent of the Secretary.

"(C) SPECIAL RULE WHERE MORE THAN 1 STATEMENT.—For purposes of subparagraph (A), if a taxpayer has a statement described in more than 1 clause or subclause, the applicable financial statement shall be the statement described in the clause or subclause with the lowest number designation.

"(4) EXCEPTION FOR CERTAIN CORPORATIONS.—This subsection shall not apply to any S corporation, regulated investment company, real estate investment trust, or REMIC.

"(g) ADJUSTMENTS BASED ON ADJUSTED CURRENT EARNINGS.—

"(1) IN GENERAL.—The alternative minimum taxable income of any corporation for any taxable year beginning after 1989 shall be increased by 75 percent of the excess (if any) of—

"(A) the adjusted current earnings of the corporation, over

"(B) the alternative minimum taxable income (determined without regard to this subsection and the alternative tax net operating loss deduction).

"(2) ALLOWANCE OF NEGATIVE ADJUSTMENTS.—

"(A) IN GENERAL.—The alternative minimum taxable income for any corporation of any taxable year beginning after 1989, shall be reduced by 75 percent of the excess (if any) of—

"(i) the amount referred to in subparagraph (B) of paragraph (1), over

"(ii) the amount referred to in subparagraph (A) of paragraph (1).

"(B) LIMITATION.—The reduction under subparagraph (A) for any taxable year shall not exceed the excess (if any) of—

"(i) the aggregate increases in alternative minimum taxable income under paragraph (1) for prior taxable years, over

"(ii) the aggregate reductions under subparagraph (A) of this paragraph for prior taxable years.

"(3) ADJUSTED CURRENT EARNINGS.—For purposes of this subsection, the term 'adjusted current earnings' means the alternative minimum taxable income for the taxable year—

"(A) determined with the adjustments provided in paragraph (4), and

"(B) determined without regard to this subsection and the alternative tax net operating loss deduction.

"(4) ADJUSTMENTS.—In determining adjusted current earnings, the following adjustments shall apply:

"(A) DEPRECIATION.—

"(i) PROPERTY PLACED IN SERVICE AFTER 1989.—The depreciation deduction with respect to any property placed in service in a taxable year beginning after 1989 shall be determined under whichever of the following methods yields deductions with a smaller present value:

"(I) The alternative system of section 168(g), or

"(II) The method used for book purposes.

"(ii) PROPERTY TO WHICH NEW ACRS SYSTEM APPLIES.—In the case of any property to which the amendments made by section 201 of the Tax Reform Act of 1986 apply and which is placed in service in a taxable year beginning before 1990, the depreciation deduction shall be determined—

"(I) by taking into account the adjusted basis of such property (as determined for purposes of computing alternative minimum taxable income) as of the close of the last taxable year beginning before January 1, 1990, and

"(II) by using the straight-line method over the remainder of the recovery period applicable to such property under the alternative system of section 168(g).

"(iii) PROPERTY TO WHICH ORIGINAL ACRS SYSTEM APPLIES.—In the case of any property to which section 168 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986 and without regard to subsection (d)(1)(A)(ii) thereof) applies, the depreciation deduction shall be determined—

"(I) by taking into account the adjusted basis of such property (as determined for purposes of computing the regular tax) as of the close of the last taxable year beginning before January 1, 1990, and

"(II) by using the straight line method over the remainder of the recovery period which would apply to such property under the alternative system of section 168(g).

"(iv) PROPERTY PLACED IN SERVICE BEFORE 1981.—In the case of any property not described in clause (i), (ii), or (iii), the amount allowable as depreciation or amortization with respect to such property shall be determined in the same manner as for purposes of computing taxable income.

"(v) SLOWER METHOD USED IF USED FOR BOOK PURPOSES.—In the case of any property to which clause (ii), (iii), or (iv) applies, if the depreciation method used for book purposes yields deductions for taxable years beginning after 1989 with a smaller present value than the method which would otherwise be used under such clause, the method used for book purposes shall be used in lieu of the method which would otherwise be used under such clause.

"(B) INCLUSION OF ITEMS INCLUDED FOR PURPOSES OF COMPUTING EARNINGS AND PROFITS.—

"(i) IN GENERAL.—In the case of any amount which is excluded from gross income for purposes of computing

alternative minimum taxable income but is taken into account in determining the amount of earnings and profits—

"(I) such amount shall be included in income in the same manner as if such amount were includible in gross income for purposes of computing alternative minimum taxable income, and

"(II) the amount of such income shall be reduced by any deduction which would have been allowable in computing alternative minimum taxable income if such amount were includible in gross income.

"(ii) INCLUSION OF BUILDUP IN LIFE INSURANCE CONTRACTS.—In the case of any life insurance contract—

"(I) the income on such contract (as determined under section 7702(g)) for any taxable year shall be treated as includible in gross income for such year, and

"(II) there shall be allowed as a deduction that portion of any premium which is attributable to insurance coverage.

"(iii) INCLUSION OF INCOME ON ANNUITY CONTRACT.—In the case of any annuity contract, the income on such contract (as determined under section 72(u)(2)) shall be treated as includible in gross income for such year.

"(C) DISALLOWANCE OF ITEMS NOT DEDUCTIBLE IN COMPUTING EARNINGS AND PROFITS.—

"(i) IN GENERAL.—A deduction shall not be allowed for any item if such item would not be deductible for any taxable year for purposes of computing earnings and profits.

"(ii) SPECIAL RULE FOR 100-PERCENT DIVIDENDS.—Clause (i) shall not apply to any deduction allowable under section 243 or 245 for a 100-percent dividend—

"(I) if the corporation receiving such dividend and the corporation paying such dividend could not be members of the same affiliated group under section 1504 by reason of section 1504(b),

"(II) but only to the extent such dividend is attributable to income of the paying corporation which is subject to tax under this chapter (determined after the application of sections 936 and 921).

For purposes of the preceding sentence, the term '100 percent dividend' means any dividend if the percentage used for purposes of determining the amount allowable as a deduction under section 243 or 245 with respect to such dividend is 100 percent.

"(iii) SPECIAL RULE FOR DIVIDENDS FROM SECTION 936 COMPANIES.—In the case of any dividend received from a corporation eligible for the credit provided by section 936, rules similar to the rules of subparagraph (F) of subsection (f)(1) shall apply, except that '75 percent' shall be substituted for '50 percent' in clause (ii)(I) thereof.

"(D) CERTAIN OTHER EARNINGS AND PROFITS ADJUSTMENTS.—

"(i) IN GENERAL.—The adjustments provided in section 312(n) shall apply; except that—

"(I) paragraphs (1), (2), and (3) shall apply only to amounts paid or incurred in taxable years beginning after December 31, 1989,

"(II) paragraph (4) shall apply only to taxable years beginning after December 31, 1989,

"(III) paragraph (5) shall apply only to installment sales in taxable years beginning after December 31, 1989,

"(IV) paragraph (6) shall apply only to contracts entered into on or after March 1, 1986, and

"(V) paragraphs (7) and (8) shall not apply.

"(ii) SPECIAL RULE FOR INTANGIBLE DRILLING COSTS AND MINERAL EXPLORATION AND DEVELOPMENT COSTS.—If—

"(I) the present value of the deductions provided under subparagraph (A)(ii) or (B)(ii) of section 312(n)(2) with respect to amounts paid or incurred in taxable years beginning after December 31, 1989, exceeds

"(II) the present value of the deductions for such amounts under the method used for book purposes,

such amounts shall be deductible under the method used for book purposes in lieu of that provided in such subparagraph.

"(E) DISALLOWANCE OF LOSS ON EXCHANGE OF DEBT POOLS.—No loss shall be recognized on the exchange of any pool of debt obligations for another pool of debt obligations having substantially the same effective interest rates and maturities.

"(F) ACQUISITION EXPENSES OF LIFE INSURANCE COMPANIES.—Acquisition expenses of life insurance companies shall be capitalized and amortized in accordance with the treatment generally required under generally accepted accounting principles as if this subparagraph applied to all taxable years.

"(G) DEPLETION.—The allowances for depletion with respect to any property placed in service in a taxable year beginning after 1989, shall be determined under whichever of the following methods yields deductions with a smaller present value:

"(i) cost depletion determined under section 611, or

"(ii) the method used for book purposes.

"(H) TREATMENT OF CERTAIN OWNERSHIP CHANGES.—If—

"(i) there is an ownership change (within the meaning of section 382) after the date of the enactment of the Tax Reform Act of 1986 with respect to any corporation, and

"(ii)(I) the aggregate adjusted bases of the assets of such corporation (immediately after the change), exceed

"(II) the value of the stock of such corporation (as determined for purposes of section 382), properly adjusted for liabilities and other relevant items,

then the adjusted basis of each asset of such corporation (as of such time) shall be its proportionate share (determined

on the basis of respective fair market values) of the amount referred to in clause (ii)(II).

"(5) OTHER DEFINITIONS.—For purposes of paragraph (4)—

"(A) BOOK PURPOSES.—The term 'book purposes' means the treatment for purposes of preparing the applicable financial statement referred to in subsection (f).

"(B) EARNINGS AND PROFITS.—The term 'earnings and profits' means earnings and profits computed for purposes of subchapter C.

"(C) PRESENT VALUE.—Present value shall be determined as of the time the property is placed in service (or, if later, as of the beginning of the first taxable year beginning after 1989) and under regulations prescribed by the Secretary.

"(D) TREATMENT OF ALTERNATIVE MINIMUM TAXABLE INCOME.—The treatment of any item for purposes of computing alternative minimum taxable income shall be determined without regard to this subsection.

"(6) EXCEPTION FOR CERTAIN CORPORATIONS.—This subsection shall not apply to any S corporation, regulated investment company, real estate investment trust, or REMIC.

"SEC. 57. ITEMS OF TAX PREFERENCE.

"(a) GENERAL RULE.—For purposes of this part, the items of tax preference determined under this section are—

"(1) DEPLETION.—With respect to each property (as defined in section 614), the excess of the deduction for depletion allowable under section 611 for the taxable year over the adjusted basis of the property at the end of the taxable year (determined without regard to the depletion deduction for the taxable year).

"(2) INTANGIBLE DRILLING COSTS.—

"(A) IN GENERAL.—With respect to all oil, gas, and geothermal properties of the taxpayer, the amount (if any) by which the amount of the excess intangible drilling costs arising in the taxable year is greater than 65 percent of the net income of the taxpayer from oil, gas, and geothermal properties for the taxable year.

"(B) EXCESS INTANGIBLE DRILLING COSTS.—For purposes of subparagraph (A), the amount of the excess intangible drilling costs arising in the taxable year is the excess of—

"(i) the intangible drilling and development costs paid or incurred in connection with oil, gas, and geothermal wells (other than costs incurred in drilling a nonproductive well) allowable under section 263(c) or 291(b) for the taxable year, over

"(ii) the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in subsection (b)) had been used with respect to such costs.

"(C) NET INCOME FROM OIL, GAS, AND GEOTHERMAL PROPERTIES.—For purposes of subparagraph (A), the amount of the net income of the taxpayer from oil, gas, and geothermal properties for the taxable year is the excess of—

"(i) the aggregate amount of gross income (within the meaning of section 613(a)) from all oil, gas, and geothermal properties of the taxpayer received or accrued by the taxpayer during the taxable year, over

"(ii) the amount of any deductions allocable to such properties reduced by the excess described in subparagraph (B) for such taxable year.

"(D) PARAGRAPH APPLIED SEPARATELY WITH RESPECT TO GEOTHERMAL PROPERTIES AND OIL AND GAS PROPERTIES.—This paragraph shall be applied separately with respect to—

"(i) all oil and gas properties which are not described in clause (ii), and

"(ii) all properties which are geothermal deposits (as defined in section 613(e)(3)).

"(3) INCENTIVE STOCK OPTIONS.—

"(A) IN GENERAL.—With respect to the transfer of a share of stock pursuant to the exercise of an incentive stock option (as defined in section 422A), the amount by which the fair market value of the share at the time of exercise exceeds the option price. For purposes of this paragraph, the fair market value of a share of stock shall be determined without regard to any restriction other than a restriction which, by its terms, will never lapse.

"(B) BASIS ADJUSTMENT.—In determining the amount of gain or loss recognized for purposes of this part on any disposition of a share of stock acquired pursuant to an exercise (in a taxable year beginning after December 31, 1986) of an incentive stock option, the basis of such stock shall be increased by the amount of the excess referred to in subparagraph (A).

"(4) RESERVES FOR LOSSES ON BAD DEBTS OF FINANCIAL INSTITUTIONS.—In the case of a financial institution to which section 585 or 593 applies, the amount by which the deduction allowable for the taxable year for a reasonable addition to a reserve for bad debts exceeds the amount that would have been allowable had the institution maintained its bad debt reserve for all taxable years on the basis of actual experience.

"(5) TAX-EXEMPT INTEREST.—

"(A) IN GENERAL.—Interest on specified private activity bonds reduced by any deduction (not allowable in computing the regular tax) which would have been allowable if such interest were includible in gross income.

"(B) TREATMENT OF EXEMPT-INTEREST DIVIDENDS.—Under regulations prescribed by the Secretary, any exempt-interest dividend (as defined in section 852(b)(5)(A)) shall be treated as interest on a specified private activity bond to the extent of its proportionate share of the interest on such bonds received by the company paying such dividend.

"(C) SPECIFIED PRIVATE ACTIVITY BONDS.—

"(i) IN GENERAL.—For purposes of this part, the term 'specified private activity bonds' means any private activity bond (as defined in section 141) issued after August 7, 1986.

"(ii) EXCEPTION FOR QUALIFIED 501(C)(3) BONDS.—For purposes of clause (i), the term 'private activity bond' shall not include any qualified 501(c)(3) bond (as defined in section 145).

"(iii) EXCEPTION FOR REFUNDINGS.—For purposes of clause (i), the term 'private activity bond' shall not include any refunding bond if the refunded bond (or in

the case of a series of refundings, the original bond) was issued before August 8, 1986.

"(iv) CERTAIN BONDS ISSUED BEFORE SEPTEMBER 1, 1986.—For purposes of this subparagraph, a bond issued before September 1, 1986, shall be treated as issued before August 8, 1986, unless such bond would be a private activity bond if—

"(I) paragraphs (1) and (2) of section 141(b) were applied by substituting '25 percent' for '10 percent' each place it appears,

"(II) paragraphs (3), (4), and (5) of section 141(b) did not apply, and

"(III) subparagraph (B) of section 141(c)(1) did not apply.

"(6) APPRECIATED PROPERTY CHARITABLE DEDUCTION.—

"(A) IN GENERAL.—The amount by which the deduction allowable under section 170 would be reduced if all capital gain property were taken into account at its adjusted basis.

"(B) CAPITAL GAIN PROPERTY.—For purposes of subparagraph (A), the term 'capital gain property' has the meaning given to such term by section 170(b)(1)(C)(iv). Such term shall not include any property to which an election under section 170(b)(1)(C)(iii) applies.

"(7) ACCELERATED DEPRECIATION OR AMORTIZATION ON CERTAIN PROPERTY PLACED IN SERVICE BEFORE JANUARY 1, 1987.—The amounts which would be treated as items of tax preference with respect to the taxpayer under paragraphs (2), (3), (4), and (12) of this subsection (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986). The preceding sentence shall not apply to any property to which section 56(a)(1) or (5) applies.

"(b) STRAIGHT LINE RECOVERY OF INTANGIBLES DEFINED.—For purposes of paragraph (2) of subsection (a)—

"(1) IN GENERAL.— The term 'straight line recovery of intangibles', when used with respect to intangible drilling and development costs for any well, means (except in the case of an election under paragraph (2)) ratable amortization of such costs over the 120-month period beginning with the month in which production from such well begins.

"(2) ELECTION.—If the taxpayer elects with respect to the intangible drilling and development costs for any well, the term 'straight line recovery of intangibles' means any method which would be permitted for purposes of determining cost depletion with respect to such well and which is selected by the taxpayer for purposes of subsection (a)(2).

"SEC. 58. DENIAL OF CERTAIN LOSSES.

"(a) DENIAL OF FARM LOSS.—

"(1) IN GENERAL.—For purposes of computing the amount of the alternative minimum taxable income for any taxable year of a taxpayer other than a corporation—

"(A) DISALLOWANCE OF FARM LOSS.—No loss of the taxpayer for such taxable year from any tax shelter farm activity shall be allowed.

"(B) DEDUCTION IN SUCCEEDING TAXABLE YEAR.—Any loss from a tax shelter farm activity disallowed under subpara-

graph (A) shall be treated as a deduction allocable to such activity in the 1st succeeding taxable year.

"(2) TAX SHELTER FARM ACTIVITY.—For purposes of this subsection, the term 'tax shelter farm activity' means—

"(A) any farming syndicate as defined in section 464(c) (as modified by section 461(i)(4)(A)), and

"(B) any other activity consisting of farming which is a passive activity (within the meaning of section 469(d), without regard to paragraph (1)(B) thereof).

"(3) APPLICATION TO PERSONAL SERVICE CORPORATIONS.—For purposes of paragraph (1), a personal service corporation (within the meaning of section 469(g)(1)(C)) shall be treated as a taxpayer other than a corporation.

"(b) DISALLOWANCE OF PASSIVE ACTIVITY LOSS.—In computing the alternative minimum taxable income of the taxpayer for any taxable year, section 469 shall apply, except that in applying section 469—

"(1) the adjustments of section 56 shall apply,

"(2) any deduction to the extent such deduction is an item of tax preference under section 57(a) shall not be taken into account, and

"(3) the provisions of section 469(l) (relating to phase-in of disallowance) shall not apply.

"(c) SPECIAL RULES.—For purposes of this section—

"(1) SPECIAL RULE FOR INSOLVENT TAXPAYERS.—

"(A) IN GENERAL.—The amount of losses to which subsection (a) or (b) applies shall be reduced by the amount (if any) by which the taxpayer is insolvent as of the close of the taxable year.

"(B) INSOLVENT.—For purposes of this paragraph, the term 'insolvent' means the excess of liabilities over the fair market value of assets.

"(2) LOSS ALLOWED FOR YEAR OF DISPOSITION OF FARM SHELTER ACTIVITY.—If the taxpayer disposes of his entire interest in any tax shelter farm activity during any taxable year, the amount of the loss attributable to such activity (determined after carryovers under subsection (a)(1)(B)) shall (to the extent otherwise allowable) be allowed for such taxable year in computing alternative minimum taxable income and not treated as a loss from a tax shelter farm activity.

"SEC. 59. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) ALTERNATIVE MINIMUM TAX FOREIGN TAX CREDIT.—For purposes of this part—

"(1) IN GENERAL.—The alternative minimum tax foreign tax credit for any taxable year shall be the credit which would be determined under section 27(a) for such taxable year if—

"(A) the amount determined under section 55(b)(1)(A) were the tax against which such credit was taken for purposes of section 904 for the taxable year and all prior taxable years beginning after December 31, 1986,

"(B) section 904 were applied on the basis of alternative minimum taxable income instead of taxable income, and

"(C) for purposes of section 904, any increase in alternative minimum taxable income by reason of section 56(c)(1)(A) (relating to adjustment for book income) shall have the same proportionate source (and character) as

alternative minimum taxable income determined without regard to such increase.

"(2) LIMITATION TO 90 PERCENT OF TAX.—

"(A) IN GENERAL.—The alternative minimum tax foreign tax credit for any taxable year shall not exceed the excess (if any) of—

"(i) the amount determined under section 55(b)(1)(A) for the taxable year, over

"(ii) 10 percent of the amount which would be determined under section 55(b)(1)(A) without regard to the alternative tax net operating loss deduction.

"(B) CARRYBACK AND CARRYFORWARD.—If the alternative minimum tax foreign tax credit exceeds the amount determined under subparagraph (A), such excess shall, for purposes of this part, be treated as an amount to which section 904(c) applies.

"(b) MINIMUM TAX NOT TO APPLY TO INCOME ELIGIBLE FOR SECTION 936 CREDIT.—In the case of any corporation for which a credit is allowable for the taxable year under section 936, alternative minimum taxable income shall not include any amount with respect to which the requirements of subparagraph (A) or (B) of section 936(a)(1) are met.

"(c) TREATMENT OF ESTATES AND TRUSTS.—In the case of any estate or trust, the alternative minimum taxable income of such estate or trust and any beneficiary thereof shall be determined by applying part I of subchapter J with the adjustments provided in this part.

"(d) APPORTIONMENT OF DIFFERENTLY TREATED ITEMS IN CASE OF CERTAIN ENTITIES.—

"(1) IN GENERAL.—The differently treated items for the taxable year shall be apportioned (in accordance with regulations prescribed by the Secretary)—

"(A) REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—In the case of a regulated investment company to which part I of subchapter M applies or a real estate investment company to which part II of subchapter M applies, between such company or trust and shareholders and holders of beneficial interest in such company or trust.

"(B) COMMON TRUST FUNDS.—In the case of a common trust fund (as defined in section 584(a)), pro rata among the participants of such fund.

"(2) DIFFERENTLY TREATED ITEMS.—For purposes of this section, the term 'differently treated item' means any item of tax preference or any other item which is treated differently for purposes of this part than for purposes of computing the regular tax.

"(e) OPTIONAL 10-YEAR WRITEOFF OF CERTAIN TAX PREFERENCES.—

"(1) IN GENERAL.—For purposes of this title, any qualified expenditure to which an election under this paragraph applies shall be allowed as a deduction ratably over the 10-year period (3-year period in the case of circulation expenditures described in section 173) beginning with the taxable year in which such expenditure was made.

"(2) QUALIFIED EXPENDITURE.—For purposes of this subsection, the term 'qualified expenditure' means any amount which, but for an election under this subsection, would have been allowable as a deduction for the taxable year in which paid or incurred under—

"(A) section 173 (relating to circulation expenditures),

"(B) section 174(a) (relating to research and experimental expenditures),

"(C) section 263(c) (relating to intangible drilling and development expenditures),

"(D) section 616(a) (relating to development expenditures), or

"(E) section 617(a) (relating to mining exploration expenditures).

"(3) OTHER SECTIONS NOT APPLICABLE.—Except as provided in this subsection, no deduction shall be allowed under any other section for any qualified expenditure to which an election under this subsection applies.

"(4) ELECTION.—

"(A) IN GENERAL.—An election may be made under paragraph (1) with respect to any portion of any qualified expenditure.

"(B) REVOCABLE ONLY WITH CONSENT.—Any election under this subsection may be revoked only with the consent of the Secretary.

"(C) PARTNERS AND SHAREHOLDERS OF S CORPORATIONS.—In the case of a partnership, any election under paragraph (1) shall be made separately by each partner with respect to the partner's allocable share of any qualified expenditure. A similar rule shall apply in the case of an S corporation and its shareholders.

"(5) DISPOSITIONS.—

"(A) APPLICATION OF SECTION 1254.—In the case of any disposition of property to which section 1254 applies (determined without regard to this section), any deduction under paragraph (1) with respect to amounts which are allocable to such property shall, for purposes of section 1254, be treated as a deduction allowable under section 263(c), 616(a), or 617(a), whichever is appropriate.

"(B) APPLICATION OF SECTION 617(d).—In the case of any disposition of mining property to which section 617(d) applies (determined without regard to this subsection), any deduction under paragraph (1) with respect to amounts which are allocable to such property shall, for purposes of section 617(d), be treated as a deduction allowable under section 617(a).

"(6) AMOUNTS TO WHICH ELECTION APPLY NOT TREATED AS TAX PREFERENCE.—Any portion of any qualified expenditure to which an election under paragraph (1) applies shall not be treated as an item of tax preference under section 57(a) and section 56 shall not apply to such expenditure.

"(f) COORDINATION WITH SECTION 291.—Except as otherwise provided in this part, section 291 (relating to cutback of corporate preferences) shall apply before the application of this part.

"(g) TAX BENEFIT RULE.—The Secretary may prescribe regulations under which differently treated items shall be properly adjusted where the tax treatment giving rise to such items will not result in the reduction of the taxpayer's regular tax for any taxable year.

"(h) COORDINATION WITH CERTAIN LIMITATIONS.—The limitations of sections 704(d), 465, and 1366(d) (and such other provisions as may be specified in regulations) shall be applied for purposes of comput-

ing the alternative minimum taxable income of the taxpayer for the taxable year—

"(1) with the adjustments of section 56, and

"(2) by not taking into account any deduction to the extent such deduction is an item of tax preference under section 57(a).

"(i) SPECIAL RULE FOR INTEREST TREATED AS TAX PREFERENCE.—For purposes of this subtitle, interest shall not fail to be treated as wholly exempt from tax imposed by this title solely by reason of being included in alternative minimum taxable income."

(b) CREDIT AGAINST REGULAR TAX FOR PRIOR YEAR MINIMUM TAX LIABILITY.—Part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by adding at the end thereof the following new subpart:

"Subpart G—Credit Against Regular Tax for Prior Year Minimum Tax Liability

"Sec. 53. Credit for prior year minimum tax liability.

"SEC. 53. CREDIT FOR PRIOR YEAR MINIMUM TAX LIABILITY.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for any taxable year an amount equal to the minimum tax credit for such taxable year.

"(b) MINIMUM TAX CREDIT.—For purposes of subsection (a), the minimum tax credit for any taxable year is the excess (if any) of—

"(1) the adjusted net minimum tax imposed for all prior taxable years beginning after 1986, over

"(2) the amount allowable as a credit under subsection (a) for such prior taxable years.

"(c) LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax liability of the taxpayer for such taxable year reduced by the sum of the credits allowable under subparts A, B, D, E, and F of this part, over

"(2) the tentative minimum tax for the taxable year.

"(d) DEFINITIONS.—For purposes of this section—

"(1) NET MINIMUM TAX.—

"(A) IN GENERAL.—The term 'net minimum tax' means the tax imposed by section 55.

"(B) CREDIT NOT ALLOWED FOR EXCLUSION PREFERENCES.—

"(i) ADJUSTED NET MINIMUM TAX.—The adjusted net minimum tax for any taxable year is—

"(I) the amount of the net minimum tax for such taxable year, reduced by

"(II) the amount which would be the net minimum tax for such taxable year if the only adjustments and items of tax preference taken into account were those specified in clause (ii).

"(ii) SPECIFIED ITEMS.—The following are specified in this clause—

"(I) the adjustments provided for in subsections (b)(1) and (c)(3) of section 56, and

"(II) the items of tax preference described in paragraphs (1), (5), and (6) of section 57(a).

In the case of taxable years beginning after 1989, the adjustments provided in section 56(g) shall be treated as specified in this clause to the extent attributable to

items which are excluded from gross income for any taxable year for purposes of the regular tax, or are not deductible for any taxable year under the adjusted earnings and profits method of section 56(g).

"(2) TENTATIVE MINIMUM TAX.—The term 'tentative minimum tax' has the meaning given to such term by section 55(b)."

(c) CREDITS NOT ALLOWABLE AGAINST MINIMUM TAX.—

(1) PERSONAL CREDITS.—

(A) IN GENERAL.—Subsection (a) of section 26 (relating to limitation based on amount of tax) is amended to read as follows:

"(a) LIMITATION BASED ON AMOUNT OF TAX.—The aggregate amount of credits allowed by this subpart for the taxable year shall not exceed the excess (if any) of—

"(1) the taxpayer's regular tax liability for the taxable year, over

"(2) the tentative minimum tax for the taxable year (determined without regard to the alternative minimum tax foreign tax credit)."

(B) REGULAR TAX LIABILITY.—Subsection (b) of section 26 (as amended by title II) is amended—

(i) by striking out "this section" in the matter preceding paragraph (1) and inserting in lieu thereof "this part",

(ii) by striking out "tax liability" in paragraph (1) and inserting in lieu thereof "regular tax liability",

(iii) by striking out subparagraph (A) of paragraph (2) and inserting in lieu thereof the following:

"(A) section 55 (relating to minimum tax),",

(iv) by striking out "and" at the end of paragraph (2)(H), by striking out the period at the end of paragraph (2)(I) and inserting in lieu thereof ", and", and by adding at the end of paragraph (2) the following new subparagraph:

"(J) sections 871(a) and 881 (relating to certain income of nonresident aliens and foreign corporations,", and

(v) by striking out "TAX LIABILITY" in the subsection heading and inserting in lieu thereof "REGULAR TAX LIABILITY".

(C) TENTATIVE MINIMUM TAX.—Subsection (c) of section 26 is amended to read as follows:

"(c) TENTATIVE MINIMUM TAX.—For purposes of this part, the term 'tentative minimum tax' means the amount determined under section 55(b)(1)."

(2) CREDIT FOR CLINICAL TESTING EXPENSES.—Paragraph (2) of section 28(d) is amended to read as follows:

"(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed by this section for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax (reduced by the sum of the credits allowable under subpart A and section 27), over

"(B) the tentative minimum tax for the taxable year."

(3) CREDIT FOR PRODUCTION OF FUEL FROM NONCONVENTIONAL SOURCES.—Paragraph (5) of section 29(b) is amended to read as follows:

"(5) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27 and 28, over

"(B) the tentative minimum tax for the taxable year."

(4) GENERAL BUSINESS CREDIT.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by section 631(a), is amended by redesignating paragraph (3) as paragraph (4), and by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the lesser of—

"(A) the allowable portion of the taxpayer's net regular tax liability for the taxable year, or

"(B) the excess (if any) of the taxpayer's net regular tax liability for the taxable year over the tentative minimum tax for the taxable year.

"(2) ALLOWABLE PORTION OF NET REGULAR TAX LIABILITY.—For purposes of this subsection, the allowable portion of the taxpayer's net regular tax liability for the taxable year is the sum of—

"(A) so much of the taxpayer's net regular tax liability for the taxable year as does not exceed $25,000, plus

"(B) 75 percent of so much of the taxpayer's net regular tax liability for the taxable year as exceeds $25,000.

For purposes of the preceding sentence, the term 'net regular tax liability' means the regular tax liability reduced by the sum of the credits allowable under subparts A and B of this part.

"(3) REGULAR INVESTMENT TAX CREDIT MAY OFFSET 25 PERCENT OF MINIMUM TAX.—In the case of any C corporation, to the extent the credit under subsection (a) is attributable to the application of the regular percentage under section 46, the limitation of paragraph (1) shall be the greater of—

"(A) the lesser of—

"(i) the allowable portion of the taxpayer's net regular tax liability for the taxable year, or

"(ii) the excess (if any) of the taxpayer's net regular tax liability for the taxable year over 75 percent of the tentative minimum tax for the taxable year, or

"(B) 25 percent of the taxpayer's tentative minimum tax for the year."

In no event shall this paragraph permit the allowance of a credit which (in combination with the alternative tax net operating loss deduction and the alternative minimum tax foreign tax credit) would reduce the tax payable under section 55 below an amount equal to 10 percent of the amount which would be determined under section 55(b) without regard to the alternative tax net operating loss deduction and the alternative minimum tax foreign tax credit."

(d) ESTIMATED TAX PROVISIONS TO APPLY TO CORPORATE MINIMUM TAX.—

(1) Paragraph (1) of section 6154(c) is amended to read as follows:

"(1) The amount which the corporation estimates as the sum of—

"(A) the income tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever applies, and

"(B) the minimum tax imposed by section 55, over"

(2) Subparagraph (A) of section 6425(c)(1) is amended to read as follows:

"(A) The sum of—

"(i) the tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, plus

"(ii) the tax imposed by section 55, over".

(3) Paragraph (1) of section 6655(f) is amended to read as follows:

"(1) the sum of—

"(A) the tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, plus

"(B) the tax imposed by section 55, over".

(e) TECHNICAL AMENDMENTS.—

(1) APPLICATION OF SECTION 381.—Subsection (c) of section 381 is amended by adding at the end thereof the following new paragraph:

"(27) CREDIT UNDER SECTION 53.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 53, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 53 in respect of the distributor or transferor corporation."

(2) LIMITATION IN CASE OF CONTROLLED CORPORATIONS.—Subsection (a) of section 1561 (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) is amended—

(A) by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and" and by inserting after paragraph (2) the following new paragraph:

"(3) one $40,000 exemption amount for purposes of computing the amount of the minimum tax.",

(B) by striking out "amounts specified in paragraph (1)", and inserting in lieu thereof "amounts specified in paragraph (1) (and the amount specified in paragraph (3))", and

(C) by adding at the end thereof the following new sentence: "In applying section 55(d)(3), the alternative minimum taxable income of all component members shall be taken into account and any decrease in the exemption amount shall be allocated to the component members in the same manner as under paragraph (3)."

(3) TREATMENT OF SHORT TAXABLE YEARS.—Subsection (d) of section 443 (relating to adjustment in computing minimum tax for tax preference) is amended to read as follows:

"(d) ADJUSTMENT IN COMPUTING MINIMUM TAX AND TAX PREFERENCES.—If a return is made for a short period by reason of subsection (a)—

"(1) the alternative minimum taxable income for the short period shall be placed on an annual basis by multiplying such amount by 12 and dividing the result by the number of months in the short period, and

"(2) the amount computed under paragraph (1) of section 55(a) shall bear the same relation to the tax computed on the annual basis as the number of months in the short period bears to 12."

(4) CONFORMING AMENDMENTS.—

(A) Paragraph (4) of section 5(a) is amended to read as follows:

"(4) For alternative minimum tax, see section 55."

(B) Paragraph (7) of section 12 is amended to read as follows:

"(7) For alternative minimum tax, see section 55."

(C) Subparagraph (D) of section 48(d)(4) is amended by striking out "section 57(c)(1)(B)" and inserting in lieu thereof "section 57(c)(1)(B) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986)".

(D) Section 173(b), 174(e)(2), 263(c), and 1016(a)(24) (as redesignated by section 634(b)(2)) are each amended by striking out "section 58(i)" and inserting in lieu thereof "section 59(d)".

(E) Subsection (b) of section 703 (relating to elections of the partnership), as amended by title V, is amended by striking out paragraph (1) and by redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively.

(F) Paragraph (1) of section 882(a) (relating to imposition of tax on income of foreign corporations connected with United States business) is amended by striking out "or 1201(a)" and inserting in lieu thereof ", 55, or 1201(a)".

(G) So much of section 897(a)(2) as precedes subparagraph (B) thereof is amended to read as follows:

"(2) 21-PERCENT MINIMUM TAX ON NONRESIDENT ALIEN INDIVIDUALS.—

"(A) IN GENERAL.—In the case of any nonresident alien individual, the amount determined under section 55(b)(1)(A) shall not be less than 21 percent of the lesser of—

"(i) the individual's alternative minimum taxable income (as defined in section 55(b)(2)) for the taxable year, or

"(ii) the individual's net United States real property gain for the taxable year."

(H) Paragraph (2) of section 904(i) (relating to cross references) is amended by striking out "by an individual" and all that follows and inserting in lieu thereof "against the alternative minimum tax, see section 59(a)."

(I) Paragraph (3) of section 936(a) is amended by striking out subparagraph (A) and by redesignating subparagraphs (B), (C), and (E) as subparagraphs (A), (B), and (C), respectively.

(J) Subsection (a) of section 1363 is amended by striking out "and in section 58(d)".

(K) Paragraph (2) of section 1366(f) (relating to reduction in pass-thru for tax imposed on capital gain) is amended by striking out "56 or".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) ADJUSTMENT OF NET OPERATING LOSS.—

(A) INDIVIDUALS.—In the case of a net operating loss of an individual for a taxable year beginning after December 31,

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1982, and before January 1, 1987, for purposes of determining the amount of such loss which may be carried to a taxable year beginning after December 31, 1986, for purposes of the minimum tax, such loss shall be adjusted in the manner provided in section 55(d)(2) of the Internal Revenue Code of 1954 as in effect on the day before the date of the enactment of this Act.

(B) CORPORATIONS.—If the minimum tax of a corporation was deferred under section 56(b) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) for any taxable year beginning before January 1, 1987, and the amount of such tax has not been paid for any taxable year beginning before January 1, 1987, the amount of the net operating loss carryovers of such corporation which may be carried to taxable years beginning after December 31, 1986, for purposes of the minimum tax shall be reduced by the amount of tax preferences a tax on which was so deferred.

(3) INSTALLMENT SALES.—Section 56(a)(6) of the Internal Revenue Code of 1986 (as amended by this section) shall not apply to any disposition to which the amendments made by section 811 of this Act (relating to allocation of dealer's indebtedness to installment obligations) do not apply by reason of section 811(c)(2) of this Act.

(4) EXCEPTION FOR CHARITABLE CONTRIBUTIONS BEFORE AUGUST 16, 1986.—Section 57(a)(6) of the Internal Revenue Code of 1986 (as amended by this section) shall not apply to any deduction attributable to contributions made before August 16, 1986.

(5) BOOK INCOME.—

(A) IN GENERAL.—In the case of a corporation to which this paragraph applies, the amount of any increase for any taxable year under section 56(c)(1)(A) of the Internal Revenue Code of 1986 (as added by this section) shall be reduced (but not below zero) by the excess (if any) of—

(i) 50 percent of the excess of taxable income for the 5-taxable year period ending with the taxable year preceding the 1st taxable year to which such section applies over the adjusted net book income for such period, over

(ii) the aggregate amounts taken into account under this paragraph for preceding taxable years.

(B) TAXPAYER TO WHOM PARAGRAPH APPLIES.—This paragraph applies to a taxpayer which was incorporated in Delaware on May 31, 1912.

(C) TERMS.—Any term used in this paragraph which is used in section 56 of such Code (as so added) shall have the same meaning as when used in such section.

(6) CERTAIN PUBLIC UTILITY.—

(A) In the case of investment tax credits described in subparagraph (B) or (C), subsection 38(c)(3)(A)(ii) of the Internal Revenue Code of 1986 shall be applied by substituting "25 percent" for "75 percent", and section 38(c)(3)(B) of the Internal Revenue Code of 1986 shall be applied by substituting "75 percent" for "25 percent".

(B) If, on September 25, 1985, a regulated electric utility owned an undivided interest, within the range of 1,111 and 1,149, in the "maximum dependable capacity, net,

megawatts electric" of an electric generating unit located in Illinois or Mississippi for which a binding written contract was in effect on December 31, 1980, then any investment tax credit with respect to such unit shall be described in this subparagraph. The aggregate amount of investment tax credits with respect to such unit shall be described in this subparagraph.

(C) If, on September 25, 1985, a regulated electric utility owned an undivided interest, within the range of 1,104 and 1,111, in the "maximum dependable capacity, net, megawatts electric" of an electric generating unit located in Louisiana for which a binding written contract was in effect on December 31, 1980, then any investment tax credit of such electric utility shall be described in this subparagraph. The aggregate amount of investment tax credits allowed solely by reason of being described by this subparagraph shall not exceed $20,000,000.

SEC. 702. STUDY OF BOOK AND EARNINGS AND PROFITS ADJUSTMENTS.

The Secretary of the Treasury or his delegate shall conduct a study of the operation and effect of the provisions of sections 56(f) and 56(g) of the Internal Revenue Code of 1986.

TITLE VIII—ACCOUNTING PROVISIONS

Subtitle A—General Provisions

SEC. 801. LIMITATION ON USE OF CASH METHOD OF ACCOUNTING.

(a) GENERAL RULE.—Subpart A of part II of subchapter E of chapter 1 (relating to methods of accounting) is amended by adding at the end thereof the following new section:

"SEC. 448. LIMITATION ON USE OF CASH METHOD OF ACCOUNTING.

"(a) GENERAL RULE.—Except as otherwise provided in this section, in the case of a—

"(1) C corporation,

"(2) partnership which has a C corporation as a partner, or

"(3) tax shelter,

taxable income shall not be computed under the cash receipts and disbursements method of accounting.

"(b) EXCEPTIONS.—

"(1) FARMING BUSINESS.—Paragraphs (1) and (2) of subsection (a) shall not apply to any farming business.

"(2) QUALIFIED PERSONAL SERVICE CORPORATIONS.—Paragraphs (1) and (2) of subsection (a) shall not apply to a qualified personal service corporation, and such a corporation shall be treated as an individual for purposes of determining whether paragraph (2) of subsection (a) applies to any partnership.

"(3) ENTITIES WITH GROSS RECEIPTS OF NOT MORE THAN $5,000,000.—Paragraphs (1) and (2) of subsection (a) shall not apply to any corporation or partnership for any taxable year if, for all prior taxable years beginning after December 31, 1985, such entity (or any predecessor) met the $5,000,000 gross receipts test of subsection (c).

"(c) $5,000,000 GROSS RECEIPTS TEST.—For purposes of this section—

"(1) IN GENERAL.—A corporation or partnership meets the $5,000,000 gross receipts test of this subsection for any prior taxable year if the average annual gross receipts of such entity for the 3-taxable-year period ending with such prior taxable year does not exceed $5,000,000.

"(2) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as one person for purposes of paragraph (1).

"(3) SPECIAL RULES.—For purposes of this subsection—

"(A) NOT IN EXISTENCE FOR ENTIRE 3-YEAR PERIOD.—If the entity was not in existence for the entire 3-year period referred to in paragraph (1), such paragraph shall be applied on the basis of the period during which such entity (or trade or business) was in existence.

"(B) SHORT TAXABLE YEARS.—Gross receipts for any taxable year of less than 12 months shall be annualized by multiplying the gross receipts for the short period by 12 and dividing the result by the number of months in the short period.

"(C) GROSS RECEIPTS.—Gross receipts for any taxable year shall be reduced by returns and allowances made during such year.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) FARMING BUSINESS.—

"(A) IN GENERAL.—The term 'farming business' means the trade or business of farming (within the meaning of section 263A(e)(4)).

"(B) TIMBER AND ORNAMENTAL TREES.—The term 'farming business' includes the raising, harvesting, or growing of trees to which section 263A(c)(5) applies.

"(2) QUALIFIED PERSONAL SERVICE CORPORATION.—The term 'qualified personal service corporation' means any corporation—

"(A) substantially all of the activities of which involve the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting, and

"(B) substantially all of the stock of which (by value) is held directly or indirectly by—

"(i) employees performing services for such corporation in connection with the activities involving a field referred to in subparagraph (A),

"(ii) retired employees who had performed such services for such corporation,

"(iii) the estate of any individual described in clause (i) or (ii), or

"(iv) any other person who acquired such stock by reason of the death of an individual described in clause (i) or (ii) (but only for the 2-year period beginning on the date of the death of such individual).

"(3) TAX SHELTER DEFINED.—The term 'tax shelter' has the meaning given such term by section 461(i)(3) (determined after application of paragraph (4) thereof).

"(4) SPECIAL RULES FOR APPLICATION OF PARAGRAPH (2).—For purposes of paragraph (2)—

"(A) community property laws shall be disregarded,

"(B) stock held by a plan described in section 401(a) which is exempt from tax under section 501(a) shall be treated as held by an employee described in paragraph (2)(B)(i), and

"(C) at the election of the common parent of an affiliated group (within the meaning of section 1504(a)), all members of such group may be treated as 1 taxpayer for purposes of paragraph (2)(B) if substantially all of the activities of all such members involve the performance of services in the same field described in paragraph (2)(A).

"(5) SPECIAL RULE FOR SERVICES.—In the case of any person using an accrual method of accounting with respect to amounts to be received for the performance of services by such person, such person shall not be required to accrue any portion of such amounts which (on the basis of experience) will not be collected. This paragraph shall not apply to any amount if interest is required to be paid on such amount or there is any penalty for failure to timely pay such amount.

"(6) TREATMENT OF CERTAIN TRUSTS SUBJECT TO TAX ON UNRELATED BUSINESS INCOME.—For purposes of this section, a trust subject to tax under section 511(b) shall be treated as a C corporation with respect to its activities constituting an unrelated trade or business.

"(7) COORDINATION WITH SECTION 481.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

"(A) such change shall be treated as initiated by the taxpayer,

"(B) such change shall be treated as made with the consent of the Secretary, and

"(C) the period for taking into account the adjustments under section 481 by reason of such change—

"(i) except as provided in clause (ii), shall not exceed 4 years, and

"(ii) in the case of a hospital, shall be 10 years."

(b) COORDINATION WITH APPLICATION OF ECONOMIC PERFORMANCE RULES TO TAX SHELTERS.—

(1) IN GENERAL.—So much of section 461(i) as precedes paragraph (3) thereof is amended to read as follows:

"(i) SPECIAL RULES FOR TAX SHELTERS.—

"(1) RECURRING ITEM EXCEPTION NOT TO APPLY.—In the case of a tax shelter, economic performance shall be determined without regard to paragraph (3) of subsection (h).

"(2) SPECIAL RULE FOR SPUDDING OF OIL OR GAS WELLS.—In the case of a tax shelter, economic performance with respect to the act of drilling an oil or gas well shall be treated as having occurred within a taxable year if drilling of the well commences before the close of the 90th day after the close of the taxable year."

(2) CONFORMING AMENDMENT.—Paragraph (4) of section 461(i) is amended to read as follows:

"(4) SPECIAL RULES FOR FARMING.—In the case of the trade or business of farming (as defined in section 464(e)), in determining whether an entity is a tax shelter, the definition of farming syndicate in section 464(c) shall be substituted for subparagraphs (A) and (B) of paragraph (3)."

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 448. Limitation on use of cash method of accounting."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) ELECTION TO RETAIN CASH METHOD FOR CERTAIN TRANSACTIONS.—A taxpayer may elect not to have the amendments made by this section apply to any loan or lease, or any transaction with a related party (within the meaning of section 267(b) of the Internal Revenue Code of 1954, as in effect before the enactment of this Act), entered into on or before September 25, 1985. Any election under the preceding sentence may be made separately with respect to each transaction.

(3) CERTAIN CONTRACTS.—The amendments made by this section shall not apply to—

(A) contracts for the acquisition or transfer of real property, and

(B) contracts for services related to the acquisition or development of real property,

but only if such contracts were entered into before September 25, 1985, and the sole element of the contract which has not been performed as of September 25, 1985, is payment for such property or services.

(4) TREATMENT OF AFFILIATED GROUP PROVIDING ENGINEERING SERVICES.—Each member of an affiliated group of corporations (within the meaning of section 1504(a) of the Internal Revenue Code of 1986) shall be allowed to use the cash receipts and disbursements method of accounting for any trade or business of providing engineering services with respect to taxable years ending after December 31, 1986, if the common parent of such group—

(A) was incorporated in the State of Delaware in 1970,

(B) was the successor to a corporation that was incorporated in the State of Illinois in 1949, and

(C) used the completed contract method of accounting for a substantial part of its income from the performance of engineering services.

SEC. 802. SIMPLIFIED DOLLAR-VALUE LIFO METHOD FOR CERTAIN SMALL BUSINESSES.

(a) GENERAL RULE.—Section 474 (relating to election by certain small businesses to use one inventory pool) is amended to read as follows:

"SEC. 474. SIMPLIFIED DOLLAR-VALUE LIFO METHOD FOR CERTAIN SMALL BUSINESSES.

"(a) GENERAL RULE.—An eligible small business may elect to use the simplified dollar-value method of pricing inventories for purposes of the LIFO method.

"(b) SIMPLIFIED DOLLAR-VALUE METHOD OF PRICING INVENTORIES.—For purposes of this section—

"(1) IN GENERAL.—The simplified dollar-value method of pricing inventories is a dollar-value method of pricing inventories under which—

"(A) the taxpayer maintains a separate inventory pool for items in each major category in the applicable Government price index, and

"(B) the adjustment for each such separate pool is based on the change from the preceding taxable year in the component of such index for the major category.

"(2) APPLICABLE GOVERNMENT PRICE INDEX.—The term 'applicable Government price index' means—

"(A) except as provided in subparagraph (B), the Producer Price Index published by the Bureau of Labor Statistics, or

"(B) in the case of a retailer using the retail method, the Consumer Price Index published by the Bureau of Labor Statistics.

"(3) MAJOR CATEGORY.—The term 'major category' means—

"(A) in the case of the Producer Price Index, any of the 2-digit standard industrial classifications in the Producer Prices Data Report, or

"(B) in the case of the Consumer Price Index, any of the general expenditure categories in the Consumer Price Index Detailed Report.

"(c) ELIGIBLE SMALL BUSINESS.—For purposes of this section, a taxpayer is an eligible small business for any taxable year if the average annual gross receipts of the taxpayer for the 3 preceding taxable years do not exceed $5,000,000. For purposes of the preceding sentence, rules similar to the rules of section 448(c)(3) shall apply.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) CONTROLLED GROUPS.—

"(A) IN GENERAL.—In the case of a taxpayer which is a member of a controlled group, all persons which are component members of such group shall be treated as 1 taxpayer for purposes of determining the gross receipts of the taxpayer.

"(B) CONTROLLED GROUP DEFINED.—For purposes of subparagraph (A), persons shall be treated as being component members of a controlled group if such persons would be treated as a single employer under section 52.

"(2) ELECTION.—

"(A) IN GENERAL.—The election under this section may be made without the consent of the Secretary.

"(B) PERIOD TO WHICH ELECTION APPLIES.—The election under this section shall apply—

"(i) to the taxable year for which it is made, and

"(ii) to all subsequent taxable years for which the taxpayer is an eligible small business,

unless the taxpayer secures the consent of the Secretary to the revocation of such election.

"(3) LIFO METHOD.—The term 'LIFO method' means the method provided by section 472(b).

"(4) TRANSITIONAL RULES.—

"(A) IN GENERAL.—In the case of a year of change under this section—

"(i) the inventory pools shall—

"(I) in the case of the 1st taxable year to which such an election applies, be established in accordance with the major categories in the applicable Government price index, or

"(II) in the case of the 1st taxable year after such election ceases to apply, be established in the manner provided by regulations under section 472;

"(ii) the aggregate dollar amount of the taxpayer's inventory as of the beginning of the year of change shall be the same as the aggregate dollar value as of the close of the taxable year preceding the year of change, and

"(iii) the year of change shall be treated as a new base year in accordance with procedures provided by regulations under section 472.

"(B) YEAR OF CHANGE.—For purposes of this paragraph, the year of change under this section is—

"(i) the 1st taxable year to which an election under this section applies, or

"(ii) in the case of a cessation of such an election, the 1st taxable year after such election ceases to apply."

(b) CLERICAL AMENDMENT.—The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by striking out the item relating to section 474 and inserting in lieu thereof the following:

"Sec. 474. Simplified dollar-value LIFO method for certain small businesses."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) TREATMENT OF TAXPAYERS WHO MADE ELECTIONS UNDER EXISTING SECTION 474.—The amendments made by this section shall not apply to any taxpayer who made an election under section 474 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) for any period during which such election is in effect. Notwithstanding any provision of such section 474 (as so in effect), an election under such section may be revoked without the consent of the Secretary.

SEC. 803. CAPITALIZATION AND INCLUSION IN INVENTORY COSTS OF CERTAIN EXPENSES.

(a) GENERAL RULE.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by inserting after section 263 the following new section:

"SEC. 263A. CAPITALIZATION AND INCLUSION IN INVENTORY COSTS OF CERTAIN EXPENSES.

"(a) NONDEDUCTIBILITY OF CERTAIN DIRECT AND INDIRECT COSTS.—

"(1) IN GENERAL.—In the case of any property to which this section applies, any costs described in paragraph (2)—

"(A) in the case of property which is inventory in the hands of the taxpayer, shall be included in inventory costs, and

"(B) in the case of any other property, shall be capitalized.

"(2) ALLOCABLE COSTS.—The costs described in this paragraph with respect to any property are—

"(A) the direct costs of such property, and

"(B) such property's proper share of those indirect costs (including taxes) part or all of which are allocable to such property.

"(b) PROPERTY TO WHICH SECTION APPLIES.—Except as otherwise provided in this section, this section shall apply to—

"(1) PROPERTY PRODUCED BY TAXPAYER.—Real or tangible personal property produced by the taxpayer.

"(2) PROPERTY ACQUIRED FOR RESALE.—

"(A) IN GENERAL.—Real or personal property described in section 1221(1) which is acquired by the taxpayer for resale.

"(B) EXCEPTION FOR TAXPAYER WITH GROSS RECEIPTS OF $10,000,000 OR LESS.—Subparagraph (A) shall not apply to any personal property acquired during any taxable year by the taxpayer for resale if the average annual gross receipts of the taxpayer (or any predecessor) for the 3-taxable year period ending with the taxable year preceding such taxable year do not exceed $10,000,000.

"(C) AGGREGATION RULES, ETC.—For purposes of subparagraph (B), rules similar to the rules of paragraphs (2) and (3) of section 448(c) shall apply.

For purposes of paragraph (1), the term 'tangible personal property' shall include a film, sound recording, video tape, book, or similar property.

"(c) GENERAL EXCEPTIONS.—

"(1) PERSONAL USE PROPERTY.—This section shall not apply to any property produced by the taxpayer for use by the taxpayer other than in a trade or business or an activity conducted for profit.

"(2) RESEARCH AND EXPERIMENTAL EXPENDITURES.—This section shall not apply to any amount allowable as a deduction under section 174.

"(3) CERTAIN DEVELOPMENT AND OTHER COSTS OF OIL AND GAS WELLS OR OTHER MINERAL PROPERTY.—This section shall not apply to any cost allowable as a deduction under section 263(c), 616(a), or 617(a).

"(4) COORDINATION WITH LONG-TERM CONTRACT RULES.—This section shall not apply to any property produced by the taxpayer pursuant to a long-term contract.

"(5) TIMBER AND CERTAIN ORNAMENTAL TREES.—This section shall not apply to—

"(A) trees raised, harvested, or grown by the taxpayer other than trees described in clause (ii) of subsection (e)(4)(B) (after application of the last sentence thereof), and

"(B) any real property underlying such trees.

"(d) EXCEPTION FOR FARMING BUSINESSES.—

"(1) SECTION TO APPLY ONLY IF PREPRODUCTIVE PERIOD IS MORE THAN 2 YEARS.—

"(A) IN GENERAL.—This section shall not apply to any plant or animal which is produced by the taxpayer in a farming business and which has a preproductive period of 2 years or less.

"(B) EXCEPTION FOR TAXPAYERS REQUIRED TO USE ACCRUAL METHOD.—Subparagraph (A) shall not apply to any corpora-

tion, partnership, or tax shelter required to use an accrual method of accounting under section 447 or 448(a)(3).

"(2) TREATMENT OF CERTAIN PLANTS LOST BY REASON OF CASUALTY.—

"(A) IN GENERAL.—If plants bearing an edible crop for human consumption were lost or damaged (while in the hands of the taxpayer) by reason of freezing temperatures, disease, drought, pests, or casualty, this section shall not apply to any costs of the taxpayer of replanting plants bearing the same type of crop (whether on the same parcel of land on which such lost or damaged plants were located or any other parcel of land of the same acreage in the United States).

"(B) SPECIAL RULE FOR PERSON WITH MINORITY INTEREST WHO MATERIALLY PARTICIPATES.—Subparagraph (A) shall apply to amounts paid or incurred by a person (other than the taxpayer described in subparagraph (A)) if—

"(i) the taxpayer described in subparagraph (A) has an equity interest of more than 50 percent in such grove, orchard, or vineyard, and

"(ii) such other person holds any part of the remaining equity interest and materially participates in the planting, maintenance, cultivation, or development of such grove, orchard, or vineyard during the 4-taxable year period beginning with the taxable year in which the grove, orchard or vineyard was lost or damaged.

The determination of whether an individual materially participates in any activity shall be made in a manner similar to the manner in which such determination is made under section 2032A(e)(6).

"(3) ELECTION TO HAVE THIS SECTION NOT APPLY.—

"(A) IN GENERAL.—If a taxpayer makes an election under this paragraph, this section shall not apply to any plant or animal produced in any farming business carried on by such taxpayer.

"(B) CERTAIN PERSONS NOT ELIGIBLE.—No election may be made under this paragraph—

"(i) by a corporation, partnership, or tax shelter, if such corporation, partnership, or tax shelter is required to use an accrual method of accounting under section 447 or 448(a)(3), or

"(ii) with respect to the planting, cultivation, maintenance, or development of pistachio trees.

"(C) SPECIAL RULE FOR CITRUS AND ALMOND GROWERS.—An election under this paragraph shall not apply with respect to any item which is attributable to the planting, cultivation, maintenance, or development of any citrus or almond grove (or part thereof) and which is incurred before the close of the 4th taxable year beginning with the taxable year in which the trees were planted. For purposes of the preceding sentence, the portion of a citrus or almond grove planted in 1 taxable year shall be treated separately from the portion of such grove planted in another taxable year.

"(D) ELECTION.—Unless the Secretary otherwise consents, an election under this paragraph may be made only for the taxpayer's 1st taxable year which begins after December 31, 1986, and during which the taxpayer engages in a farming

business. Any such election, once made, may be revoked only with the consent of the Secretary.

"(e) DEFINITIONS AND SPECIAL RULES FOR PURPOSES OF SUBSECTION (d).—

"(1) RECAPTURE OF EXPENSED AMOUNTS ON DISPOSITION.—

"(A) IN GENERAL.—In the case of any plant or animal with respect to which amounts would have been capitalized under subsection (a) but for an election under subsection (d)(3)—

"(i) such plant or animal (if not otherwise section 1245 property) shall be treated as section 1245 property, and

"(ii) for purposes of section 1245, the recapture amount shall be treated as a deduction allowed for depreciation with respect to such property.

"(B) RECAPTURE AMOUNT.—For purposes of subparagraph (A), the term 'recapture amount' means any amount allowable as a deduction to the taxpayer which, but for an election under subsection (d)(3), would have been capitalized with respect to the plant or animal.

"(2) EFFECTS OF ELECTION ON DEPRECIATION.—

"(A) IN GENERAL.—If the taxpayer (or any related person) makes an election under subsection (d)(3), the provisions of section 168(g)(2) (relating to alternative depreciation) shall apply to all property of the taxpayer used predominantly in the farming business and placed in service in any taxable year during which any such election is in effect.

"(B) RELATED PERSON.—For purposes of subparagraph (A), the term 'related person' means—

"(i) the taxpayer and members of the taxpayer's family,

"(ii) any corporation (including an S corporation) if 50 percent or more (in value) of the stock of such corporation is owned (directly or through the application of section 318) by the taxpayer or members of the taxpayer's family,

"(iii) a corporation and any other corporation which is a member of the same controlled group described in section 1563(a)(1), and

"(iv) any partnership if 50 percent or more (in value) of the interests in such partnership is owned directly or indirectly by the taxpayer or members of the taxpayer's family.

"(C) MEMBERS OF FAMILY.—For purposes of this paragraph, the term 'family' means the taxpayer, the spouse of the taxpayer, and any of their children who have not attained age 18 before the close of the taxable year.

"(3) PREPRODUCTIVE PERIOD.—

"(A) IN GENERAL.—For purposes of this section, the term 'preproductive period' means—

"(i) in the case of a plant or animal which will have more than 1 crop or yield, the period before the 1st marketable crop or yield from such plant or animal, or

"(ii) in the case of any other plant or animal, the period before such plant or animal is reasonably expected to be disposed of.

For purposes of this subparagraph, use by the taxpayer in a farming business of any supply produced in such business shall be treated as a disposition.

"(B) RULE FOR DETERMINING PERIOD.—In the case of a plant grown in commercial quantities in the United States, the preproductive period for such plant if grown in the United States shall be based on the nationwide weighted average preproductive period for such plant.

"(4) FARMING BUSINESS.—For purposes of this section—

"(A) IN GENERAL.—The term 'farming business' means the trade or business of farming.

"(B) CERTAIN TRADES AND BUSINESSES INCLUDED.—The term 'farming business' shall include the trade or business of—

"(i) operating a nursery or sod farm, or

"(ii) the raising or harvesting of trees bearing fruit, nuts, or other crops, or ornamental trees.

For purposes of clause (ii), an evergreen tree which is more than 6 years old at the time severed from the roots shall not be treated as an ornamental tree.

"(5) CERTAIN INVENTORY VALUATION METHODS PERMITTED.—The Secretary shall by regulations permit the taxpayer to use reasonable inventory valuation methods to compute the amount required to be capitalized under subsection (a) in the case of any plant or animal.

"(f) SPECIAL RULES FOR ALLOCATION OF INTEREST TO PROPERTY PRODUCED BY THE TAXPAYER.—

"(1) INTEREST CAPITALIZED ONLY IN CERTAIN CASES.—Subsection (a) shall only apply to interest costs which are—

"(A) paid or incurred during the production period, and

"(B) allocable to property which is described in subsection (b)(1) and which has—

"(i) a long useful life,

"(ii) an estimated production period exceeding 2 years, or

"(iii) an estimated production period exceeding 1 year and a cost exceeding $1,000,000.

"(2) ALLOCATION RULES.—

"(A) IN GENERAL.—In determining the amount of interest required to be capitalized under subsection (a) with respect to any property—

"(i) interest on any indebtedness directly attributable to production expenditures with respect to such property shall be assigned to such property, and

"(ii) interest on any other indebtedness shall be assigned to such property to the extent that the taxpayer's interest costs could have been reduced if production expenditures (not attributable to indebtedness described in clause (i)) had not been incurred.

"(B) EXCEPTION FOR QUALIFIED RESIDENCE INTEREST.—Subparagraph (A) shall not apply to any qualified residence interest (within the meaning of section 163(h)).

"(C) SPECIAL RULE FOR FLOW-THROUGH ENTITIES.—Except as provided in regulations, in the case of any flow-through entity, this paragraph shall be applied first at the entity level and then at the beneficiary level.

"(3) INTEREST RELATING TO PROPERTY USED TO PRODUCE PROPERTY.—This subsection shall apply to any interest on indebtedness incurred or continued in connection with property used to produce property to which this subsection applies to the extent such interest is allocable to the produced property.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) LONG USEFUL LIFE.—Property has a long useful life if such property is—

"(i) real property, or

"(ii) property with a class life of 20 years or more (as determined under section 168).

"(B) PRODUCTION PERIOD.—The term 'production period' means, when used with respect to any property, the period—

"(i) beginning on the date on which production of the property begins, and

"(ii) ending on the date on which the property is ready to be placed in service or is ready to be held for sale.

"(C) PRODUCTION EXPENDITURES.—The term 'production expenditures' means the costs (whether or not incurred during the production period) required to be capitalized under subsection (a) with respect to the property.

"(g) PRODUCTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'produce' includes construct, build, install, manufacture, develop, or improve.

"(2) TREATMENT OF PROPERTY PRODUCED UNDER CONTRACT FOR THE TAXPAYER.—The taxpayer shall be treated as producing any property produced for the taxpayer under a contract with the taxpayer; except that only costs paid or incurred by the taxpayer (whether under such contract or otherwise) shall be taken into account in applying subsection (a) to the taxpayer.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including—

"(1) regulations to prevent the use of related parties, pass-thru entities, or intermediaries to avoid the application of this section, and

"(2) regulations providing for simplified procedures for the application of this section in the case of property described in subsection (b)(2)."

(b) TECHNICAL AMENDMENTS.—

(1) Section 189 is hereby repealed.

(2)(A) Section 280 is hereby repealed.

(B) Paragraph (5) of section 48(r) (defining sound recording) is amended to read as follows:

"(5) SOUND RECORDING.—For purposes of this subsection, the term 'sound recording' means works which result from the fixation of a series of musical, spoken, or other sounds, regardless of the nature of the material objects (such as discs, tapes, or other phonorecordings) in which such sounds are embodied."

(3) Section 312(n)(1) is amended—

(A) by striking out "(determined without regard to section 189) in subparagraph (B)", and

(B) by striking out subparagraph (C) and inserting in lieu thereof:

"(C) CONSTRUCTION PERIOD.—The term 'construction period' has the meaning given the term production period under section 263A(f)(4)(B)."

(4) Section 471 (relating to general rule for inventories) is amended—

(A) by striking out "Whenever" and inserting in lieu thereof "(a) GENERAL RULE.—Whenever", and

(B) by adding at the end thereof the following new subsection:

"(b) CROSS REFERENCE.—

"For rules relating to capitalization of direct and indirect costs of property, see section 263A."

(5) Section 267(e)(5)(D) is amended—

(A) by striking out "low-income housing (as defined in paragraph (5) of section 189(e))" and inserting "property described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B)", and

(B) by striking out "low-income housing (as so defined)" and inserting "such property".

(6) Section 278 is hereby repealed.

(7)(A) Subsection (b) of section 447 is amended to read as follows:

"(b) PREPRODUCTIVE PERIOD OF EXPENSES.—

"For rules requiring capitalization of certain preproductive period of expenses, see section 263A."

(B) Subsection (a) of section 447 is amended by striking out "and with the capitalization of preproductive period of expenses described in subsection (b)".

(C) Section 447(g)(1) is amended by striking out "If" and inserting in lieu thereof "Notwithstanding subsection (a) or section 263A, if".

(8) Subsection (d) of section 464 is amended to read as follows:

"(d) EXCEPTION.—Subsection (a) shall not apply to any amount paid for supplies which are on hand at the close of the taxable year on account of fire, storm, or other casualty, or on account of disease or drought."

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for part IX of subchapter B of chapter 1 is amended by striking out the item relating to section 278 and by inserting after the item relating to section 263 the following:

"Sec. 263A. Capitalization and inclusion in inventory costs of certain expenses."

(2) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 189.

(3) The table of sections for part IX of subchapter B of chapter 1 is amended by striking out the item relating to section 280.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to costs incurred after December 31, 1986, in taxable years ending after such date.

(2) SPECIAL RULE FOR INVENTORY PROPERTY.—In the case of any property which is inventory in the hands of the taxpayer—

(A) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(B) CHANGE IN METHOD OF ACCOUNTING.—If the taxpayer is required by the amendments made by this section to change its method of accounting with respect to such property for any taxable year—

(i) such change shall be treated as initiated by the taxpayer,

(ii) such change shall be treated as made with the consent of the Secretary, and

(iii) the period for taking into account the adjustments under section 481 by reason of such change shall not exceed 4 years.

(3) SPECIAL RULE FOR SELF-CONSTRUCTED PROPERTY.—The amendments made by this section shall not apply to any property which is produced by the taxpayer for use by the taxpayer if substantial construction had occurred before March 1, 1986.

(4) TRANSITIONAL RULE FOR CAPITALIZATION OF INTEREST AND TAXES.—

(A) TRANSITION PROPERTY EXEMPTED FROM INTEREST CAPITALIZATION.—Section 263A(f) of the Internal Revenue Code of 1986 (as added by this section) and the amendment made by subsection (b)(1) shall not apply to any property—

(i) to which the amendments made by section 201 do not apply by reason of sections 203(a)(1)(D) and (E) and 203(a)(5)(A), and

(ii) to which the amendments made by section 251 do not apply by reason of section 251(d)(3)(M).

(B) INTEREST AND TAXES.—Section 263A of such Code shall not apply to property described in the matter following subparagraph (B) of section 207(e)(2) of the Tax Equity and Fiscal Responsibility Act of 1982 to the extent it would require the capitalization of interest and taxes paid or incurred in connection with such property which are not required to be capitalized under section 189 of such Code (as in effect before the amendment made by subsection (b)(1)).

(5) TRANSITION RULE CONCERNING CAPITALIZATION OF INVENTORY RULES.—In the case of a corporation which on the date of the enactment of this Act was a member of an affiliated group of corporations (within the meaning of section 1504(a) of the Internal Revenue Code of 1986), the parent of which—

(A) was incorporated in California on April 15, 1925,

(B) adopted LIFO accounting as of the close of the taxable year ended December 31, 1950, and

(C) was, on May 22, 1986, merged into a Delaware corporation incorporated on March 12, 1986,

the amendments made by this section shall apply under a cutoff method whereby the uniform capitalization rules are applied only in costing layers of inventory acquired during taxable years beginning on or after January 1, 1987.

(6) TREATMENT OF CERTAIN REHABILITATION PROJECT.—The amendments made by this section shall not apply to interest and taxes paid or incurred with respect to the rehabilitation and conversion of a certified historic building which was formerly a factory into an apartment project with 155 units, 39 units of which are for low-income families, if the project was approved for annual interest assistance on June 10, 1986, by the housing authority of the State in which the project is located.

(7) SPECIAL RULE FOR CASUALTY LOSSES.—Section 263A(d)(2) of the Internal Revenue Code of 1986 (as added by this section) shall apply to expenses incurred on er after the date of the enactment of this Act.

SEC. 804. MODIFICATIONS OF METHOD OF ACCOUNTING FOR LONG-TERM CONTRACT.

(a) GENERAL RULE.—Subpart B of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 460. SPECIAL RULES FOR LONG-TERM CONTRACTS.

"(a) PERCENTAGE OF COMPLETION-CAPITALIZED COST METHOD.—

"(1) IN GENERAL.—In the case of any long-term contract—

"(A) 40 percent of the items with respect to such contract shall be taken into account under the percentage of completion method (as modified by subsection (b)), and

"(B) 60 percent of the items with respect to such contract shall be taken into account under the taxpayer's normal method of accounting.

"(2) 40 PERCENT LOOK-BACK METHOD TO APPLY.—Upon completion of any long-term contract, the taxpayer shall pay (or shall be entitled to receive) interest determined by applying the look-back method of subsection (b)(3) to 40 percent of the items with respect to the contract.

"(b) PERCENTAGE OF COMPLETION METHOD.—

"(1) SUBSECTION (a) NOT TO APPLY WHERE PERCENTAGE OF COMPLETION METHOD USED.—Subsection (a) shall not apply to any long-term contract with respect to which amounts includible in gross income are determined under the percentage of completion method.

"(2) REQUIREMENTS OF PERCENTAGE OF COMPLETION METHOD.—In the case of any long-term contract with respect to which the percentage of completion method is used—

"(A) the percentage of completion shall be determined by comparing costs allocated to the contract under subsection (c) and incurred before the close of the taxable year with the estimated total contract costs, and

"(B) upon completion of the contract, the taxpayer shall pay (or shall be entitled to receive) interest computed under the look-back method of paragraph (3).

"(3) LOOK-BACK METHOD.—The interest computed under the look-back method of this subparagraph shall be determined by—

"(A) first allocating income under the contract among taxable years before the year in which the contract is completed on the basis of the actual contract price and costs instead of the estimated contract price and costs,

"(B) second, determining (solely for purposes of computing such interest) the overpayment or underpayment of tax for each taxable year referred to in paragraph (1) which would result solely from the application of paragraph (1), and

"(C) then using the overpayment rate established by section 6621, compounded daily, on the overpayment or underpayment determined under paragraph (1).

"(c) ALLOCATION OF COSTS TO CONTRACT.—

"(1) DIRECT AND CERTAIN INDIRECT COSTS.—In the case of a long-term contract, all costs (including research and experimental costs) which directly benefit, or are incurred by reason of, the long-term contract activities of the taxpayer shall be allocated to such contract in the same manner as costs are allocated to extended period long-term contracts under section 451 and the regulations thereunder.

"(2) COSTS IDENTIFIED UNDER COST-PLUS AND CERTAIN FEDERAL CONTRACTS.—In the case of a cost-plus long-term contract or a Federal long-term contract, any cost not allocated to such contract under paragraph (1) shall be allocated to such contract if such cost is identified by the taxpayer (or a related person), pursuant to the contract or Federal, State, or local law or regulation, as being attributable to such contract.

"(3) ALLOCATION OF PRODUCTION PERIOD INTEREST TO CONTRACT.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), in the case of a long-term contract, interest costs shall be allocated to the contract in the same manner as interest costs are allocated to property produced by the taxpayer under section 263A(f).

"(B) PRODUCTION PERIOD.—In applying section 263A(f) for purposes of subparagraph (A), the production period shall be the period—

"(i) beginning on the later of—

"(I) the contract commencement date, or

"(II) in the case of a taxpayer who uses an accrual method with respect to long-term contracts, the date by which at least 5 percent of the total estimated costs (including design and planning costs) under the contract have been incurred, and

"(ii) ending on the contract completion date.

"(C) APPLICATION OF DE MINIMIS RULE.—In applying section 263A(f) for purposes of subparagraph (A), paragraph (1)(B)(iii) of such section shall be applied on a contract-by-contract basis; except that, in the case of a taxpayer described in subparagraph (B)(i)(II) of this paragraph, paragraph (1)(B)(iii) of section 263A(f) shall be applied on a property-by-property basis.

"(4) CERTAIN COSTS NOT INCLUDED.—This subsection shall not apply to any—

"(A) independent research and development expenses,

"(B) expenses for unsuccessful bids and proposals, and

"(C) marketing, selling, and advertising expenses.

"(5) INDEPENDENT RESEARCH AND DEVELOPMENT EXPENSES.—For purposes of paragraph (4), the term 'independent research and development expenses' means any expenses incurred in the performance of research or development, except that such term shall not include—

"(A) any expenses which are directly attributable to a long-term contract in existence when such expenses are incurred, or

"(B) any expenses under an agreement to perform research or development.

"(d) FEDERAL LONG-TERM CONTRACT.—For purposes of this section—

"(1) IN GENERAL.—The term 'Federal long-term contract' means any long-term contract—

"(A) to which the United States (or any agency or instrumentality thereof) is a party, or

"(B) which is a subcontract under a contract described in subparagraph (A).

"(2) SPECIAL RULES FOR CERTAIN TAXABLE ENTITIES.—For purposes of paragraph (1), the rules of section 168(h)(2)(D) (relating to certain taxable entities not treated as instrumentalities) shall apply.

"(e) EXCEPTION FOR CERTAIN CONSTRUCTION CONTRACTS.—

"(1) IN GENERAL.—Subsections (a), (b), and (c)(1) and (2) shall not apply to any construction contract entered into by a taxpayer—

"(A) who estimates (at the time such contract is entered into) that such contract will be completed within the 2-year period beginning on the contract commencement date of such contract, and

"(B) whose average annual gross receipts for the 3 taxable years preceding the taxable year in which such contract is entered into do not exceed $10,000,000.

"(2) DETERMINATION OF TAXPAYER'S GROSS RECEIPTS.—For purposes of paragraph (1), the gross receipts of—

"(A) all trades or businesses (whether or not incorporated) which are under common control with the taxpayer (within the meaning of section 52(b)), and

"(B) all members of any controlled group of corporations of which the taxpayer is a member,

for the 3 taxable years of such persons preceding the taxable year in which the contract described in paragraph (1) is entered into shall be included in the gross receipts of the taxpayer for the period described in paragraph (1)(B). The Secretary shall prescribe regulations which provide attribution rules that take into account, in addition to the persons and entities described in the preceding sentence, taxpayers who engage in construction contracts through partnerships, joint ventures, and corporations.

"(3) CONTROLLED GROUP OF CORPORATIONS.—For purposes of this subsection, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(A) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(4) CONSTRUCTION CONTRACT.—For purposes of this subsection, the term 'construction contract' means any contract for the building, construction, reconstruction, or rehabilitation of, or the installation of any integral component to, or improvements of, real property.

"(f) LONG-TERM CONTRACT.—For purposes of this section—

"(1) IN GENERAL.—The term 'long-term contract' means any contract for the manufacture, building, installation, or construction of property if such contract is not completed within the taxable year in which such contract is entered into.

"(2) SPECIAL RULE FOR MANUFACTURING CONTRACTS.—A contract for the manufacture of property shall not be treated as a

long-term contract unless such contract involves the manufacture of—

"(A) any unique item of a type which is not normally included in the finished goods inventory of the taxpayer, or

"(B) any item which normally requires more than 12 calendar months to complete (without regard to the period of the contract).

"(3) AGGREGATION, ETC.—For purposes of this subsection, under regulations prescribed by the Secretary—

"(A) 2 or more contracts which are interdependent (by reason of pricing or otherwise) may be treated as 1 contract, and

"(B) a contract which is properly treated as an aggregation of separate contracts may be so treated.

"(g) CONTRACT COMMENCEMENT DATE.—For purposes of this section, the term 'contract commencement date' means, with respect to any contract, the first date on which any costs (other than bidding expenses or expenses incurred in connection with negotiating the contract) allocable to such contract are incurred."

(b) CHANGE IN REGULATIONS.—The Secretary of the Treasury or his delegate shall modify the income tax regulations relating to accounting for long-term contracts to carry out the provisions of section 460 of the Internal Revenue Code of 1986 (as added by subsection (a)).

(c) CONFORMING AMENDMENT.—The table of sections for subpart B of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 460. Special rules for long-term contracts."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to any contract entered into after February 28, 1986.

(2) CLARIFICATION OF TREATMENT OF INDEPENDENT RESEARCH AND DEVELOPMENT EXPENSES.—

(A) IN GENERAL.—For periods before, on, or after the date of enactment of this Act—

(i) any independent research and development expenses taken into account in determining the total contract price shall not be severable from the contract, and

(ii) any independent research and development expenses shall not be treated as amounts chargeable to capital account.

(B) INDEPENDENT RESEARCH AND DEVELOPMENT EXPENSES.—For purposes of subparagraph (A), the term "independent research and development expenses" has the meaning given to such term by section 263A(c)(5) of the Internal Revenue Code of 1986, as added by this section.

SEC. 805. REPEAL OF RESERVE FOR BAD DEBTS OF TAXPAYERS OTHER THAN FINANCIAL INSTITUTIONS.

(a) GENERAL RULE.—Subsection (c) of section 166 (relating to reserve for bad debts) is hereby repealed.

(b) REPEAL OF RESERVE FOR CERTAIN GUARANTEED DEBT OBLIGATIONS.—Section 166 is amended by striking out subsection (f) and by redesignating subsection (g) as subsection (f).

(c) TECHNICAL AMENDMENTS.—

(1)(A) Section 81 (relating to certain increases in suspense accounts) is amended to read as follows:

"SEC. 81. INCREASE IN VACATION PAY SUSPENSE ACCOUNT.

"There shall be included in gross income for the taxable year the amount of any increase in any suspense account for such taxable year required by paragraph (2)(B) of section 463(c) (relating to accrual of vacation pay)."

(B) The table of sections for part II of subchapter B of chapter 1 is amended by striking out the item relating to section 81 and inserting in lieu thereof the following:

"Sec. 81. Increase in vacation pay suspense account."

(2) Clause (ii) of section 108(e)(7)(A) is amended by striking out "subsection (a), (b), or (c) of section 166" and inserting in lieu thereof "subsection (a) or (b) of section 166".

(3) Paragraph (7) of section 108(e) is amended by striking out subparagraph (B) and by redesignating subparagraphs (C), (D), (E), and (F) as subparagraphs (B), (C), (D), and (E), respectively.

(4) Subparagraph (E) of section 108(e)(7) (as so redesignated) is amended by striking out "subparagraphs (A), (B), (C), (D), and (E)" and inserting in lieu thereof "the foregoing subparagraphs".

(5) Paragraph (5) of section 461(h) is amended by striking out subparagraph (A) and by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

(6) Subsection (b) of section 805 is amended by striking out paragraph (2) and by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5), respectively.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer who maintained a reserve for bad debts for such taxpayer's last taxable year beginning before January 1, 1987, and who is required by the amendments made by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary, and

(C) the net amount of adjustments required by section 481 of the Internal Revenue Code of 1986 to be taken into account by the taxpayer shall—

(i) in the case of a taxpayer maintaining a reserve under section 166(f), be reduced by the balance in the suspense account under section 166(f)(4) of such Code as of the close of such last taxable year, and

(ii) be taken into account ratably in each of the first 4 taxable years beginning after December 31, 1986.

SEC. 806. TAXABLE YEARS OF CERTAIN ENTITIES.

(a) PARTNERSHIPS.—

(1) IN GENERAL.—Paragraph (1) of section 706(b) (relating to partnership's taxable year) is amended to read as follows:

"(1) PARTNERSHIP'S TAXABLE YEAR.—

"(A) PARTNERSHIP TREATED AS TAXPAYER.—The taxable year of a partnership shall be determined as though the partnership were a taxpayer.

"(B) TAXABLE YEAR DETERMINED BY REFERENCE TO PARTNERS.—Except as provided in subparagraph (C), a partnership shall not have a taxable year other than—

"(i) the taxable year of 1 or more of its partners who have an aggregate interest in partnership profits and capital of greater than 50 percent,

"(ii) if there is no taxable year described in clause (i), the taxable year of all the principal partners of the partnership, or

"(iii) if there is no taxable year described in clause (i) or (ii), the calendar year or such other period as the Secretary may prescribe in regulations.

"(C) BUSINESS PURPOSE.—A partnership may have a taxable year not described in subparagraph (B) if it establishes, to the satisfaction of the Secretary, a business purpose therefor. For purposes of this subparagraph, any deferral of income to partners shall not be treated as a business purpose."

(2) DETERMINATION OF MAJORITY INTEREST.—Section 706(b) is amended by adding at the end thereof the following new paragraph:

"(4) APPLICATION OF MAJORITY INTEREST RULE.—Clause (i) of paragraph (1)(B) shall not apply to any taxable year of a partnership unless the period which constitutes the taxable year of 1 or more of its partners who have an aggregate interest in partnership profits and capital of greater than 50 percent has been the same for—

"(A) the 3-taxable year period of such partner or partners ending on or before the beginning of such taxable year of the partnership, or

"(B) if the partnership has not been in existence during all of such 3-taxable year period, the taxable years of such partner or partners ending with or within the period of existence.

This paragraph shall apply without regard to whether the same partners or interests are taken into account in determining the 50 percent interest during any period."

(3) CONFORMING AMENDMENT.—The heading for section 706(b) is amended by striking out "ADOPTION OF".

(b) S CORPORATION.—

(1) IN GENERAL.—Section 1378(a) (relating to taxable year of S corporation) is amended to read as follows:

"(a) GENERAL RULE.—For purposes of this subtitle, the taxable year of an S corporation shall be a permitted year."

(2) BUSINESS PURPOSE.—Section 1378(b) (defining permitted year) is amended by adding at the end thereof the following new flush sentence:

"For purposes of paragraph (2), any deferral of income to shareholders shall not be treated as a business purpose."

(3) CONFORMING AMENDMENT.—Section 1378 is amended by striking out subsection (c).

(c) PERSONAL SERVICE CORPORATION.—

(1) IN GENERAL.—Section 441 (relating to period for computation of taxable income) is amended by adding at the end thereof the following new subsection:

"(i) TAXABLE YEAR OF PERSONAL SERVICE CORPORATIONS.—

"(1) IN GENERAL.—For purposes of this subtitle, the taxable year of any personal service corporation shall be the calendar year unless the corporation establishes, to the satisfaction of the Secretary, a business purpose for having a different period for its taxable year. For purposes of this paragraph, any deferral of income to shareholders shall not be treated as a business purpose.

"(2) PERSONAL SERVICE CORPORATION.—For purposes of this subsection, the term 'personal service corporation' has the meaning given such term by section 269A(b)(1), except that section 269A(b)(2) shall be applied—

"(A) by substituting 'any' for 'more than 10 percent', and

"(B) by substituting 'any' for '50 percent or more in value' in section 318(a)(2)(C)."

(2) CONFORMING AMENDMENT.—Section 267(a) (relating to matching of deduction and payee income in the case of expenses and interest) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, in the case of a personal service corporation (within the meaning of section 441(i)(2)), such corporation and any employee-owner (within the meaning of section 269A(b)(2), as modified by section 441(i)(2)) shall be treated as persons specified in subsection (b)."

(d) COORDINATION WITH 52-53 WEEK PERIOD.—Section 441(f) (relating to election of year consisting of 52-53 weeks) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) SPECIAL RULE FOR PARTNERSHIPS, S CORPORATIONS, AND PERSONAL SERVICE CORPORATIONS.—The Secretary may by regulation provide terms and conditions for the application of this subsection to a partnership, S corporation, or personal service corporation (within the meaning of section 441(i)(2))."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) CHANGE IN ACCOUNTING PERIOD.—In the case of any taxpayer required by the amendments made by this section to change its accounting period for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as having been made with the consent of the Secretary, and

(C) with respect to any partner or shareholder of an S corporation which is required to include the items from more than 1 taxable year of the partnership or S corporation in any 1 taxable year, income in excess of expenses of such partnership or corporation for the short taxable year required by such amendments shall be taken into account ratably in each of the first 4 taxable years (including such short taxable year) beginning after December 31, 1986, unless such partner or shareholder elects to include all such income in the short taxable year.

Subparagraph (C) shall apply to a shareholder of an S corporation only if such corporation was an S corporation for a taxable year beginning in 1986.

Subtitle B—Treatment of Installment Obligations

SEC. 811. ALLOCATION OF INDEBTEDNESS AS PAYMENT ON INSTALLMENT OBLIGATION.

(a) IN GENERAL.—Subpart B of part II of subchapter E of chapter 1 (relating to taxable year for which item of gross income included) is amended by inserting after section 453B the following new section:

"SEC. 453C. CERTAIN INDEBTEDNESS TREATED AS PAYMENT ON INSTALLMENT OBLIGATIONS.

"(a) GENERAL RULE.—For purposes of sections 453 and 453A, if a taxpayer has allocable installment indebtedness for any taxable year, such indebtedness—

"(1) shall be allocated on a pro rata basis to any applicable installment obligation of the taxpayer which—

"(A) arises in such taxable year, and

"(B) is outstanding as of the close of such taxable year, and

"(2) shall be treated as a payment received on such obligation as of the close of such taxable year.

"(b) ALLOCABLE INSTALLMENT INDEBTEDNESS.—For purposes of this section—

"(1) IN GENERAL.—The term 'allocable installment indebtedness' means, with respect to any taxable year, the excess (if any) of—

"(A) the installment percentage of the taxpayer's average quarterly indebtedness for such taxable year, over

"(B) the aggregate amount treated as allocable installment indebtedness with respect to applicable installment obligations which—

"(i) are outstanding as of the close of such taxable year, but

"(ii) did not arise during such taxable year.

"(2) INSTALLMENT PERCENTAGE.—The term 'installment percentage' means the percentage (not in excess of 100 percent) determined by dividing—

"(A) the face amount of all applicable installment obligations of the taxpayer outstanding as of the close of the taxable year, by

"(B) the sum of—

"(i) the aggregate adjusted bases of all assets not described in clause (ii) held as of the close of the taxable year, and

"(ii) the face amount of all installment obligations outstanding as of such time.

For purposes of subparagraph (B)(i), a taxpayer may elect to compute the aggregate adjusted bases of all assets using the deduction for depreciation which is used in computing earnings and profits under section 312(k).

"(3) SPECIAL RULES FOR PERSONAL USE PROPERTY.—For purposes of this subsection—

"(A) for purposes of paragraph (2)(B), there shall not be taken into account any personal use property (within the meaning of section 1275(b)(3)) held by an individual or any installment obligation arising from the sale of such property, and

"(B) for purposes of computing the taxpayer's average quarterly indebtedness under paragraph (1)(A), there shall not be taken into account any indebtedness with respect to which substantially all of the property securing such indebtedness is property described in subparagraph (A).

"(4) SPECIAL RULE FOR CASUAL SALES.—If the taxpayer has no applicable installment obligations described in subclause (I) or (II) of subsection (e)(1)(A)(i) outstanding at any time during the taxable year, then the taxpayer's allocable installment indebtedness for such taxable year shall be computed by using the taxpayer's indebtedness as of the close of such taxable year in lieu of the taxpayer's average quarterly indebtedness.

"(c) TREATMENT OF SUBSEQUENT PAYMENTS.—

"(1) PAYMENTS TREATED AS RECEIPT OF TAX PAID AMOUNTS.—If any amount is treated as received under subsection (a) (after application of subsection (d)(2)) with respect to any applicable installment obligation, subsequent payments received on such obligation shall not be taken into account for purposes of sections 453 and 453A to the extent that the aggregate amount of such subsequent payments does not exceed the aggregate amount treated as received on such obligation under subsection (a).

"(2) REDUCTION OF ALLOCABLE INSTALLMENT INDEBTEDNESS.—For purposes of applying subsection (b)(1)(B) for the taxable year in which any payment to which paragraph (1) of this subsection applies was received (and for any subsequent taxable year), the allocable installment indebtedness with respect to the applicable installment obligation shall be reduced (but not below zero) by the amount of such payment not taken into account by reason of paragraph (1).

"(d) LIMITATION BASED ON TOTAL CONTRACT PRICE.—

"(1) IN GENERAL.—The amount treated as received under subsection (a) (after application of paragraph (2)) with respect to any applicable installment obligation for any taxable year shall not exceed the excess (if any) of—

"(A) the total contract price, over

"(B) any portion of the total contract price received under the contract before the close of such taxable year—

"(i) including amounts so treated under subsection (a) for all preceding taxable years (after application of paragraph (2)), but

"(ii) not including amounts not taken into account by reason of subsection (c).

"(2) EXCESS ALLOCABLE INSTALLMENT INDEBTEDNESS.—If, after application of paragraph (1), the allocable installment indebtedness for any taxable year exceeds the amount which may be allocated to applicable installment obligations arising in (and outstanding as of the close of) such taxable year, such excess shall—

"(A) subject to the limitations of paragraph (1), be allocated to applicable installment obligations outstanding as of the close of such taxable year which arose in preceding taxable years, beginning with applicable installment obligations arising in the earliest preceding taxable year, and

"(B) be treated as a payment under subsection (a)(2).

"(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) APPLICABLE INSTALLMENT OBLIGATION.—

"(A) IN GENERAL.—The term 'applicable installment obligation' means any obligation—

"(i) which arises from the disposition—

"(I) after February 28, 1986, of personal property under the installment method by a person who regularly sells or otherwise disposes of personal property of the same type on the installment plan,

"(II) after February 28, 1986, of real property under the installment method which is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or business, or

"(III) after August 16, 1986, of real property under the installment method which is property used in the taxpayer's trade or business or property held for the production of rental income, but only if the sales price of such property exceeds $150,000 (determined after application of the rule under the last sentence of section 1274(c)(3)(A)(ii)), and

"(ii) which is held by the seller or a member of the same affiliated group (within the meaning of section 1504(a), but without regard to section 1504(b)) as the seller.

"(B) EXCEPTION FOR PERSONAL USE AND FARM PROPERTY.—The term 'applicable installment obligation' shall not include any obligation which arises from the disposition—

"(i) by an individual of personal use property (within the meaning of section 1275(b)(3)), or

"(ii) of any property used or produced in the trade or business of farming (within the meaning of section 2032A(e)(4) or (5)).

"(2) AGGREGATION RULES.—For purposes of this section, all persons treated as a single employer under section 52 shall be treated as 1 taxpayer. The Secretary shall prescribe regulations for the treatment under this section of transactions between such persons.

"(3) AGGREGATION OF OBLIGATIONS.—The Secretary may by regulations provide that all (or any portion of) applicable installment obligations of a taxpayer may be treated as 1 obligation.

"(4) EXCEPTION FOR SALES OF TIMESHARES AND RESIDENTIAL LOTS.—

"(A) IN GENERAL.—If a taxpayer elects the application of this paragraph, this section shall not apply to any installment obligation which—

"(i) arises from a sale in the ordinary course of the taxpayer's trade or business to an individual of—

"(I) a timeshare right to use or a timeshare ownership interest in residential real property for not more than 6 weeks, or a right to use specified campgrounds for recreational purposes, or

"(II) any residential lot but only if the taxpayer (or any related person) is not to make any improvements with respect to such lot, and

"(ii) which is not guaranteed by any person other than an individual.

For purposes of clause (i)(I), a timeshare right to use (or timeshare ownership interest in) property held by the spouse, children, grandchildren, or parents of an individual shall be treated as held by such individual.

"(B) INTEREST ON DEFERRED TAX.—If subparagraph (A) applies to any installment obligation, interest shall be paid on the portion of any tax for any taxable year (determined without regard to any deduction allowable for such interest) which is attributable to the receipt of payments on such obligation in such year (other than payments received in the taxable year of the sale). Such interest shall be computed for the period from the date of the sale to the date on which the payment is received using the applicable Federal rate under section 1274 (without regard to subsection (d) (2) or (3) thereof) in effect at the time of the sale, compounded semiannually.

"(C) TIME FOR PAYMENT.—Any interest payable under this paragraph with respect to a payment shall be treated as an addition to tax for the taxable year in which the payment is received, except that the amount of such interest shall be taken into account in computing the amount of any deduction allowable to the taxpayer for interest paid or accrued during such taxable year.

"(5) REGULATIONS.—The Secretary shall prescribe regulations as may be necessary to carry out the purposes of this section, including regulations—

"(A) disallowing the use of the installment method in whole or in part for transactions in which the rules of this section otherwise would be avoided through the use of related parties, pass-through entities, or intermediaries,

"(B) providing for the proper treatment of reserves (including consistent treatment with assets held in the reserves), and

"(C) providing that subsection (b)(4) shall not apply where necessary to prevent the avoidance of the application of this section."

(b) CLERICAL AMENDMENT.—The table of sections for subpart B of part II of subchapter E of chapter 1 is amended by inserting after the item relating to section 453B the following new item:

"Sec. 453C. Certain indebtedness treated as payments on installment obligations."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this section shall apply to taxable years ending after December 31, 1986, with respect to dispositions after February 28, 1986.

(2) EXCEPTION FOR CERTAIN SALES OF PROPERTY BY A MANUFACTURER TO A DEALER.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any installment obligation arising from the disposition of tangible personal property by a manufacturer (or any affiliate) to a dealer if—

(i) the dealer is obligated to pay on such obligation only when the dealer resells (or rents) the property,

(ii) the manufacturer has the right to repurchase the property at a fixed (or ascertainable) price after no later than the 9-month period beginning with the date of the sale, and

(iii) such disposition is in a taxable year with respect to which the requirements of subparagraph (B) are met.

(B) RECEIVABLES MUST BE AT LEAST 50 PERCENT OF TOTAL SALES.—

(i) IN GENERAL.—The requirements of this subparagraph are met with respect to any taxable year if for such taxable year and the preceding taxable year the aggregate face amount of installment obligations described in subparagraph (A) is at least 50 percent of the total sales to dealers giving rise to such obligations.

(ii) TAXPAYER MUST FAIL FOR 2 CONSECUTIVE YEARS.—A taxpayer shall be treated as failing to meet the requirements of clause (i) only if the taxpayer fails to meet the 50-percent test for both the taxable year and the preceding taxable year.

(C) TRANSITION RULE.—An obligation issued before the date of the enactment of this Act shall be treated as described in subparagraph (A) if, within 60 days after such date, the taxpayer modifies the terms of such obligation to conform to the requirements of subparagraph (A).

(D) APPLICATION WITH OTHER OBLIGATIONS.—In applying section 453C of the Internal Revenue Code of 1986 to any installment obligations to which the amendments made by this section apply, obligations described in subparagraph (A) shall not be treated as applicable installment obligations (within the meaning of section 453C(e)(1) of such Code).

(E) OTHER REQUIREMENTS.—This paragraph shall apply only if the taxpayer meets the requirements of subparagraphs (A) and (B) for its first taxable year beginning after the date of the enactment of this Act.

(3) EXCEPTION FOR CERTAIN OBLIGATIONS.—In applying the amendments made by this section to any installment obligation of a corporation incorporated on January 13, 1928, the following indebtedness shall not be taken into account in determining the allocable installment indebtedness of such corporation under section 453C of the Internal Revenue Code of 1986 (as added by this section):

(A) 12⅝ percent subordinated debentures with a total face amount of $175,000,000 issued pursuant to a trust indenture dated as of September 1, 1985.

(B) A revolving credit term loan in the maximum amount of $130,000,000 made pursuant to a revolving credit and security agreement dated as of September 6, 1985, payable

in various stages with final payment due on August 31, 1992.

This paragraph shall also apply to indebtedness which replaces indebtedness described in this paragraph if such indebtedness does not exceed the amount and maturity of the indebtedness it replaces.

(4) SPECIAL RULE FOR RESIDENTIAL CONDOMINIUM PROJECT.—For purposes of applying the amendments made by this section, the term applicable installment obligation (within the meaning of section 453C(e)(1) of the Internal Revenue Code of 1986) shall not include any obligation arising in connection with sales from a residential condominium project—

(A) for which a contract to purchase land for the project was entered into at least 5 years before the date of the enactment of this Act,

(B) with respect to which land for the project was purchased before September 26, 1985,

(C) with respect to which building permits for the project were obtained, and construction commenced, before September 26, 1985,

(D) in conjunction with which not less than 80 units of low-income housing are deeded to a tax-exempt organization designated by a local government, and

(E) with respect to which at least $1,000,000 of expenses were incurred before September 26, 1985.

(D) the portion of the net adjustment taken into account in the 1st taxable year of the taxpayer ending after December 31, 1986, shall not exceed 15 percent of such adjustment, and

(E) the remaining portion of such adjustment shall be taken into account ratably in the 2nd, 3rd, and 4th years ending after December 31, 1986.

(5) SPECIAL RULE FOR QUALIFIED BUYOUT.—The amendments made by this section shall apply for taxable years ending after December 31, 1991, to a corporation if—

(A) such corporation was incorporated on May 25, 1984, for the purpose of acquiring all of the stock of another corporation,

(B) such acquisition took place on October 23, 1985,

(C) in connection with such acquisition, the corporation incurred indebtedness of approximately $151,000,000, and

(D) substantially all of the stock of the corporation is owned directly or indirectly by employees of the corporation the stock of which was acquired on October 23, 1985.

(6) SPECIAL RULE FOR SALES OF REAL PROPERTY BY DEALERS.—In the case of installment obligations arising from the sale of real property in the ordinary course of the trade or business of the taxpayer, any gain attributable to allocable installment indebtedness allocated to any such installment obligations which arise (or are deemed to arise)—

(A) in the 1st taxable year of the taxpayer ending after December 31, 1986, shall be taken into account ratably over the 3 taxable years beginning with such 1st taxable year, and

(B) in the 2nd taxable year of the taxpayer ending after December 31, 1986, shall be taken into account ratably over the 2 taxable years beginning with such 2nd taxable year.

(7) SPECIAL RULE FOR SALES OF PERSONAL PROPERTY BY DEALERS.—In the case of installment obligations arising from the sale of personal property in the ordinary course of the trade or business of the taxpayer, solely for purposes of determining the time for payment of tax and interest payable with respect to such tax—

(A) any increase in tax imposed by chapter 1 of the Internal Revenue Code of 1986 for the 1st taxable year of the taxpayer ending after December 31, 1986, by reason of the amendments made by this section shall be treated as imposed ratably over the 3 taxable years beginning with such 1st taxable year, and

(B) any increase in tax imposed by such chapter 1 for the 2nd taxable year of the taxpayer ending after December 31, 1986 (determined without regard to subparagraph (A)), by reason of the amendments made by this section shall be treated as imposed ratably over the 2 taxable years beginning with such 2nd taxable year.

(8) TREATMENT OF CERTAIN INSTALLMENT OBLIGATIONS.—Notwithstanding the amendments made by subtitle B of title III, gain with respect to installment payments received pursuant to notes issued in accordance with a note agreement dated as of August 29, 1980, where—

(A) such note agreement was executed pursuant to an agreement of purchase and sale dated April 25, 1980,

(B) more than ½ of the installment payments of the aggregate principal of such notes have been received by August 29, 1986, and

(C) the last installment payment of the principal of such notes is due August 29, 1989,

shall be taxed at a rate of 28 percent.

SEC. 812. DISALLOWANCE OF USE OF INSTALLMENT METHOD FOR CERTAIN OBLIGATIONS.

(a) IN GENERAL.—Section 453 (relating to installment method) is amended by adding at the end thereof the following new subsection:

"(j) CURRENT INCLUSION IN CASE OF REVOLVING CREDIT PLANS, ETC.—In the case of—

"(1) any disposition of personal property under a revolving credit plan, or

"(2) any installment obligation arising out of a sale of—

"(A) stock or securities which are traded on an established securities market, or

"(B) to the extent provided in regulations, property (other than stock or securities) of a kind regularly traded on an established market,

subsection (a) and section 453A shall not apply, and, for purposes of this title, all payments to be received shall be treated as received in the year of disposition. The Secretary may provide for the application of this subsection in whole or in part for transactions in which the rules of this subsection otherwise would be avoided through the use of related parties, pass-thru entities, or intermediaries."

(b) CONFORMING AMENDMENTS.—

(1) Section 453A(a)(2) (relating to installment method for dealers in personal property) is amended by striking out the last sentence thereof.

(2) Section 453A is amended by adding at the end thereof the following new subsection:

"(c) CROSS REFERENCE.—

"For disallowance of use of installment method for certain obligations, see section 453(j)."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1986.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer who made sales under a revolving credit plan and was on the installment method under section 453 or 453A of the Internal Revenue Code of 1986 for such taxpayer's last taxable year beginning before January 1, 1987, the amendments made by this section shall be treated as a change in method of accounting for its 1st taxable year beginning after December 31, 1986, and—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as having been made with the consent of the Secretary, and

(C) the period for taking into account adjustments under section 481 of such Code by reason of such change shall not exceed 4 years.

Subtitle C—Other Provisions

SEC. 821. INCOME ATTRIBUTABLE TO UTILITY SERVICES.

(a) IN GENERAL.—Section 451 (relating to general rule for taxable year of inclusion) is amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULE FOR UTILITY SERVICES.—

"(1) IN GENERAL.—In the case of a taxpayer the taxable income of which is computed under an accrual method of accounting, any income attributable to the sale or furnishing of utility services to customers shall be included in gross income not later than the taxable year in which such services are provided to such customers.

"(2) DEFINITION AND SPECIAL RULE.—For purposes of this subsection—

"(A) UTILITY SERVICES.—The term 'utility services' includes—

"(i) the providing of electrical energy, water, or sewage disposal,

"(ii) the furnishing of gas or steam through a local distribution system,

"(iii) telephone or other communication services, and

"(iv) the transporting of gas or steam by pipeline.

"(B) YEAR IN WHICH SERVICES PROVIDED.—The taxable year in which services are treated as provided to customers shall not, in any manner, be determined by reference to—

"(i) the period in which the customers' meters are read, or

"(ii) the period in which the taxpayer bills (or may bill) the customers for such service."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) CHANGE IN METHOD OF ACCOUNTING.—If a taxpayer is required by the amendments made by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as having been made with the consent of the Secretary, and

(C) the adjustments under section 481 of the Internal Revenue Code of 1954 by reason of such change shall be taken into account ratably over a period no longer than the first 4 taxable years beginning after December 31, 1986.

(3) SPECIAL RULE FOR CERTAIN CYCLE BILLING.—If a taxpayer for any taxable year beginning before August 16, 1986, for purposes of chapter 1 of the Internal Revenue Code of 1986 took into account income from services described in section 451(f) of such Code (as added by subsection (a)) on the basis of the period in which the customers' meters were read, then such treatment for such year shall be deemed to be proper.

SEC. 822. REPEAL OF APPLICATION OF DISCHARGE OF INDEBTEDNESS RULES TO QUALIFIED BUSINESS INDEBTEDNESS.

(a) GENERAL RULE.—Paragraph (1) of section 108(a) (relating to exclusion from gross income of income from discharge of indebtedness) is amended by striking out subparagraph (C), by inserting "or" at the end of subparagraph (A), and by striking out "; or" at the end of subparagraph (B) and inserting in lieu thereof a period.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 108(a) is amended to read as follows:

"(2) COORDINATION OF EXCLUSIONS.—Subparagraph (B) of paragraph (1) shall not apply to a discharge which occurs in a title 11 case."

(2) Section 108 is amended by striking out subsection (c).

(3) Section 108(d) is amended—

(A) by striking out paragraph (4),

(B) by striking out "subsections (a), (b), and (c)" each place it appears in the heading thereof and in the text and heading of paragraphs (6) and (7) and inserting in lieu thereof "subsections (a) and (b)",

(C) by striking out the last sentence of paragraph (7)(B), and

(D) by striking out "under paragraph (4) of this subsection or" in paragraph (9) thereof.

(4) Section 1017(a)(2) is amended by striking out ", (b)(5), or (c)(1)(A)" and inserting in lieu thereof "or (b)(5)".

(5) Section 1017(b)(3)(A) is amended by striking out "or (c)(1)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges after December 31, 1986.

SEC. 823. REPEAL OF DEDUCTION FOR QUALIFIED DISCOUNT COUPONS.

(a) GENERAL RULE.—Section 466 (relating to qualified discount coupons redeemed after close of taxable year) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (5) of section 461(h) is amended by striking out subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(2) The table of contents for subpart C of part II of subchapter E of chapter 1 is amended by striking out the item relating to section 466.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer who elected to have section 466 of the Internal Revenue Code of 1954 apply for such taxpayer's last taxable year beginning before January 1, 1987, and is required to change its method of accounting by reason of the amendments made by this section for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as having been made with the consent of the Secretary, and

(C) the net amount of adjustments required by section 481 of the Internal Revenue Code of 1986 to be taken into account by the taxpayer shall—

(i) be reduced by the balance in the suspense account under section 466(e) of such Code as of the close of such last taxable year, and

(ii) be taken into account over a period not longer than 4 years.

SEC. 824. INCLUSION IN GROSS INCOME OF CONTRIBUTIONS IN AID OF CONSTRUCTION.

(a) GENERAL RULE.—Section 118 (relating to contributions to the capital of a corporation) is amended by striking out subsections (b) and (c), by redesignating subsection (d) as subsection (c), and by inserting after subsection (a) the following new subsection:

"(b) CONTRIBUTIONS IN AID OF CONSTRUCTION, ETC.—For purposes of subsection (a), the term 'contribution to the capital of the taxpayer' does not include any contribution in aid of construction or any other contribution as a customer or potential customer."

(b) TECHNICAL AMENDMENT.—Subsection (c) of section 362 (relating to special rules for certain contributions to capital) is amended by striking out paragraph (3).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to amounts received after December 31, 1986, in taxable years ending after such date.

(2) TREATMENT OF CERTAIN WATER SUPPLY PROJECTS.—The amendments made by this section shall not apply to amounts which are paid by the New Jersey Department of Environmental Protection for construction of alternative water supply projects in zones of drinking water contamination and which are designated by such department as being taken into account under this paragraph. Not more than $4,631,000 of such amounts may be designated under the preceding sentence.

(3) TREATMENT OF CERTAIN CONTRIBUTIONS BY TRANSPORTATION AUTHORITY.—The amendments made by this section shall not apply to contributions in aid of construction by a qualified

transportation authority which were clearly identified in a master plan in existence on September 13, 1984, and which are designated by such authority as being taken into account under this paragraph. Not more than $68,000,000 of such contributions may be designated under the preceding sentence. For purposes of this paragraph, a qualified transportation authority is an entity which was created on February 20, 1967, and which was established by an interstate compact and consented to by Congress in Public Law 89-774, 80 Stat. 1324 (1966).

(4) TREATMENT OF CERTAIN PARTNERSHIPS.—In the case of a partnership with a taxable year beginning May 1, 1986, if such partnership realized net capital gain during the period beginning on the 1st day of such taxable year and ending on May 29, 1986, pursuant to an indemnity agreement dated May 6, 1986, then such partnership may elect to treat each asset to which such net capital gain relates as having been distributed to the partners of such partnership in proportion to their distributive share of the capital gain or loss realized by the partnership with respect to such asset and to treat each such asset as having been sold by each partner on the date of the sale of the asset by the partnership. If such an election is made, the consideration received by the partnership in connection with the sale of such assets shall be treated as having been received by the partners in connection with the deemed sale of such assets. In the case of a tiered partnership, for purposes of this paragraph each partnership shall be treated as having realized net capital gain equal to its proportionate share of the net capital gain of each partnership in which it is a partner, and the election provided by this paragraph shall apply to each tier.

TITLE IX—FINANCIAL INSTITUTIONS

SEC. 901. LIMITATIONS ON BAD DEBT RESERVES.

(a) LARGE BANKS NOT ELIGIBLE FOR BAD DEBT RESERVES.—

(1) IN GENERAL.—Subsection (a) of section 585 (relating to reserves for losses on loans of banks) is amended to read as follows:

"(a) RESERVE FOR BAD DEBTS.—

"(1) IN GENERAL.—Except as provided in subsection (c), a bank shall be allowed a deduction for a reasonable addition to a reserve for bad debts. Such deduction shall be in lieu of any deduction under section 166(a).

"(2) BANK.—For purposes of this section—

"(A) IN GENERAL.—The term 'bank' means any bank (as defined in section 581) other than an organization to which section 593 applies.

"(B) BANKING BUSINESS OF UNITED STATES BRANCH OF FOREIGN CORPORATION.—The term 'bank' also includes any corporation to which subparagraph (A) would apply except for the fact that it is a foreign corporation. In the case of any such foreign corporation, this section shall apply only with respect to loans outstanding the interest on which is effectively connected with the conduct of a banking business within the United States."

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(2) RESERVE DEDUCTION NOT AVAILABLE FOR LARGE BANKS.—Section 585 is amended by adding at the end thereof the following new subsection:

"(c) SECTION NOT TO APPLY TO LARGE BANKS.—

"(1) IN GENERAL.—In the case of a large bank, this section shall not apply (and no deduction shall be allowed under any other provision of this subtitle for any addition to a reserve for bad debts).

"(2) LARGE BANKS.—For purposes of this subsection, a bank is a large bank if, for the taxable year (or for any preceding taxable year beginning after December 31, 1986)—

"(A) the average adjusted bases of all assets of such bank exceeded $500,000,000, or

"(B) such bank was a member of a parent-subsidiary controlled group and the average adjusted bases of all assets of such group exceeded $500,000,000.

"(3) 4-YEAR SPREAD OF ADJUSTMENTS.—

"(A) IN GENERAL.—Except as provided in paragraph (4), in the case of any bank which for its last taxable year before the disqualification year maintained a reserve for bad debts—

"(i) the provisions of this subsection shall be treated as a change in the method of accounting of such bank for the disqualification year,

"(ii) such change shall be treated as having been made with the consent of the Secretary, and

"(iii) the net amount of adjustments required by section 481(a) to be taken into account by the taxpayer shall be taken into account in each of the 4 taxable years beginning with the disqualification year with—

"(I) the amount taken into account for the 1st of such taxable years being the greater of 10 percent of such net amount or such greater amount as the taxpayer may designate, and

"(II) the amount taken into account in each of the 3 succeeding taxable years being equal to the applicable fraction (determined in accordance with the following table for the taxable year involved) of the portion of such net amount not taken into account under subclause (I).

If the case of the—	The applicable fraction is—
1st succeeding year	3/6
2nd succeeding year	1/3
3rd succeeding year	4/6.

"(B) SUSPENSION OF RECAPTURE FOR TAXABLE YEAR FOR WHICH BANK IS FINANCIALLY TROUBLED.—

"(i) IN GENERAL.—In the case of a bank which is a financially troubled bank for any taxable year—

"(I) no adjustment shall be taken into account under subparagraph (A) for such taxable year, and

"(II) such taxable year shall be disregarded in determining whether any other taxable year is a taxable year for which an adjustment is required to be taken into account under subparagraph (A) or the amount of such adjustment.

"(ii) EXCEPTION FOR ELECTIVE RECAPTURE FOR 1ST YEAR.—Clause (i) shall not apply to the 1st taxable year referred to in subparagraph (A)(iii)(I) if the taxpayer designates an amount in accordance with such subparagraph.

"(iii) FINANCIALLY TROUBLED BANK.—For purposes of clause (i), the term 'financially troubled bank' means any bank if, for the taxable year, the nonperforming loan percentage of such bank exceeds 75 percent.

"(iv) NONPERFORMING LOAN PERCENTAGE.—For purposes of clause (iii), the term 'nonperforming loan percentage' means the percentage determined by dividing—

"(I) the sum of the outstanding balances of nonperforming loans of the bank as of the close of each quarter of the taxable year, by

"(II) the sum of the amounts of equity of the bank as of the close of each such quarter.

In the case of a bank which is a member of a parent-subsidiary controlled group for the taxable year, the preceding sentence shall be applied with respect to such group.

"(v) OTHER DEFINITIONS.—For purposes of this subparagraph—

"(I) NONPERFORMING LOANS.—The term 'nonperforming loan' means any loan which is considered to be nonperforming by the primary Federal regulatory agency with respect to the bank.

"(II) EQUITY.—The term 'equity' means the equity of the bank as determined for Federal regulatory purposes.

"(C) COORDINATION WITH ESTIMATED TAX PAYMENTS.—For purposes of applying section 6655(d)(3) with respect to any installment, the determination under subparagraph (B) of whether an adjustment is required to be taken into account under subparagraph (A) shall be made as of the last day prescribed for payment of such installment.

"(4) ELECTIVE CUT-OFF METHOD.—If a bank makes an election under this paragraph for the disqualification year—

"(A) the provisions of this subsection shall not be treated as a change in the method of accounting of the taxpayer for purposes of section 481,

"(B) the taxpayer shall continue to maintain its reserve for loans held by the bank as of the 1st day of the disqualification year and charge against such reserve any losses resulting from loans held by the bank as of such 1st day, and

"(C) no deduction shall be allowed under this section (or any other provision of this subtitle) for any addition to such reserve for the disqualification year or any subsequent taxable year.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) PARENT-SUBSIDIARY CONTROLLED GROUP.—The term 'parent-subsidiary controlled group' means any controlled group of corporations described in section 1563(a)(1). In determining the average adjusted bases of assets held by

such a group, interests held by one member of such group in another member of such group shall be disregarded.

"(B) DISQUALIFICATION YEAR.—The term 'disqualification year' means, with respect to any bank, the 1st taxable year beginning after December 31, 1986, for which such bank was a large bank if such bank maintained a reserve for bad debts for the preceding taxable year."

(b) RESERVES OF DOMESTIC BUILDING AND LOAN ASSOCIATIONS, MUTUAL SAVINGS BANKS, AND COOPERATIVE BANKS.—

(1) IN GENERAL.—Subsection (a) of section 593 (relating to reserves for losses on loans) is amended to read as follows:

"(a) RESERVE FOR BAD DEBTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), in the case of—

"(A) any domestic building and loan association,

"(B) any mutual savings bank, or

"(C) any cooperative bank without capital stock organized and operated for mutual purposes and without profit,

there shall be allowed a deduction for a reasonable addition to a reserve for bad debts. Such deduction shall be in lieu of any deduction under section 166(a).

"(2) ORGANIZATION MUST MEET 60-PERCENT ASSET TEST OF SECTION 7701(a)(19).—This section shall apply to an association or bank referred to in paragraph (1) only if it meets the requirements of section 7701(a)(19)(C)."

(2) LIMITATION ON PERCENTAGE OF TAXABLE INCOME METHOD.—Paragraph (2) of section 593(b) (relating to percentage of taxable income method) is amended—

(A) by striking out subparagraphs (A), (B), and (C) and inserting in lieu thereof the following:

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the amount determined under this paragraph for the taxable year shall be an amount equal to 8 percent of the taxable income for such year.

"(B) REDUCTION FOR AMOUNTS REFERRED TO IN PARAGRAPH (1)(A).—The amount determined under subparagraph (A) shall be reduced (but not below 0) by the amount determined under paragraph (1)(A).", and

(B) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(3) REPEAL OF PERCENTAGE METHOD OF COMPUTING RESERVES FOR BAD DEBTS.—Subsection (b) of section 593 (relating to addition to reserves for bad debts) is amended by striking out paragraphs (3) and (5) and by redesignating paragraph (4) as paragraph (3).

(4) SECTION 593 RESERVES NOT TREATED AS PREFERENCE FOR PURPOSES OF SECTION 291.—Subparagraph (A) of section 291(e)(1) (defining financial institution preference item) is amended by striking out "or 593".

(c) REPEAL OF SECTION 586.—Section 586 (relating to reserves for losses on loans of small business investment companies, etc.) is hereby repealed.

(d) CONFORMING AMENDMENTS.—

(1) AMENDMENT TO SECTION 585.—Paragraph (1) of section 585(b) is amended by striking out "section 166(c)" and inserting in lieu thereof "subsection (a)".

(2) AMENDMENTS TO SECTION 593.—

(A) Paragraph (1) of section 593(b) is amended by striking out "section 166(c)" and inserting in lieu thereof "subsection (a)".

(B) Subparagraph (B) of section 593(b)(1) is amended—

(i) by striking out "paragraph (2), (3), or (4), whichever amount is the largest" and inserting in lieu thereof "paragraph (2) or (3), whichever is the larger", and

(ii) by striking out "paragraph (4)" in clause (i) and inserting in lieu thereof "paragraph (3)".

(B) Subparagraph (D) of section 593(b)(2) (as redesignated by subsection (b)(2)) is amended by striking out "the applicable percentage (determined under subparagraphs (A) and (B))" and inserting in lieu thereof "8 percent".

(C) Subparagraph (B) of section 593(e)(1) is amended by striking out "subsection (b)(4)" and inserting in lieu thereof "subsection (b)(3)".

(3) BONDS, ETC., LOSSES AND GAINS OF FINANCIAL INSTITUTIONS.—

(A) Paragraph (1) of section 582(c) (relating to bonds, etc., losses and gains of financial institutions) is amended by striking out "a financial institution to which section 585, 586, or 593 applies" and inserting in lieu thereof "a financial institution referred to in paragraph (5)".

(B) Subsection (c) of section 582 is amended by adding at the end thereof the following new paragraph:

"(5) FINANCIAL INSTITUTIONS TO WHICH PARAGRAPH (1) APPLIES.—

"(A) IN GENERAL.—For purposes of paragraph (1), the financial institutions referred to in this paragraph are—

"(i) any bank (and any corporation which would be a bank except for the fact it is a foreign corporation),

"(ii) any financial institution referred to in section 591,

"(iii) any small business investment company operating under the Small Business Investment Act of 1958, and

"(iv) any business development corporation.

"(B) BUSINESS DEVELOPMENT CORPORATION.—For purposes of subparagraph (A), the term 'business development corporation' means a corporation which was created by or pursuant to an act of a State legislature for purposes of promoting, maintaining, and assisting the economy and industry within such State on a regional or statewide basis by making loans to be used in trades and businesses which would generally not be made by banks within such region or State in the ordinary course of their business (except on the basis of a partial participation), and which is operated primarily for such purposes.

"(C) LIMITATIONS ON FOREIGN BANKS.—In the case of a foreign corporation referred to in subparagraph (A)(i), paragraph (1) shall only apply to gains and losses which are effectively connected with the conduct of a banking business in the United States."

(4) OTHER CONFORMING AMENDMENTS.—

(A) Subsection (g) of section 166 is amended by striking out paragraphs (3) and (4).

(B) Subparagraph (F) of section 172(b)(1) is amended by striking out "to which section 585, 586, or 593 applies" and inserting in lieu thereof "referred to in section 582(c)(5)".

(C) Clause (i) of section 291(e)(1)(B) is amended by striking out "to which section 585 or 593 applies" and inserting in lieu thereof "which is a bank (as defined in section 582(a)(2)) or to which section 593 applies".

(D) Section 596 is amended by striking out "an amount equal to" and all that follows down through the period at the end thereof and inserting in lieu thereof "an amount equal to 8 percent of such total amount."

(E) Paragraph (4) of section 856(a) is amended by striking out "to which section 585, 586, or 593 applies" and inserting in lieu thereof "referred to in section 582(c)(5)".

(F) Subsection (c) of section 1277 is amended by striking out "to which section 585 or 593 applies" and inserting in lieu thereof "which is a bank (as defined in section 585(a)(2) or to which section 593 applies".

(G) Subparagraph (B) of section 1361(b)(2) is amended by striking out "to which section 585 or 593 applies" and inserting in lieu thereof "which is a bank (as defined in section 585(a)(2)) or to which section 593 applies".

(H) The table of sections for part I of subchapter H of chapter 1 is amended by striking out the item relating to section 586.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 902. INTEREST INCURRED TO CARRY TAX-EXEMPT BONDS.

(a) GENERAL RULE.—Section 265 (relating to expenses and interest relating to tax-exempt income) is amended by adding at the end thereof the following new subsection:

"(b) PRO RATA ALLOCATION OF INTEREST EXPENSE OF FINANCIAL INSTITUTIONS TO TAX-EXEMPT INTEREST.—

"(1) IN GENERAL.—In the case of a financial institution, no deduction shall be allowed for that portion of the taxpayer's interest expense which is allocable to tax-exempt interest.

"(2) ALLOCATION.—For purposes of paragraph (1), the portion of the taxpayer's interest expense which is allocable to tax-exempt interest is an amount which bears the same ratio to such interest expense as—

"(A) the taxpayer's average adjusted bases (within the meaning of section 1016) of tax-exempt obligations acquired after August 7, 1986, bears to

"(B) such average adjusted bases for all assets of the taxpayer.

"(3) EXCEPTION FOR CERTAIN TAX-EXEMPT OBLIGATIONS.—

"(A) IN GENERAL.—Any qualified tax-exempt obligation acquired after August 7, 1986, shall be treated for purposes of paragraph (2) and section 291(e)(1)(B) as if it were acquired on August 7, 1986.

"(B) QUALIFIED TAX-EXEMPT OBLIGATION.—For purposes of subparagraph (A), the term 'qualified tax-exempt obligation' means a tax-exempt obligation which—

"(i) is not a private activity bond (as defined in section 141), and

"(ii) is designated by the issuer for purposes of this paragraph.

For purposes of the preceding sentence and subparagraph (C), a qualified 501(c)(3) bond (as defined in section 145) shall not be treated as a private activity bond.

"(C) LIMITATION ON ISSUER.—An obligation issued by an issuer during any calendar year shall not be treated as a qualified tax-exempt obligation unless the reasonably anticipated amount of qualified tax-exempt obligations (other than private activity bonds) which will be issued by such issuer during such calendar year does not exceed $10,000,000.

"(D) OVERALL $10,000,000 LIMITATION.—Not more than $10,000,000 of obligations issued by an issuer during any calendar year may be designated by such issuer for purposes of this paragraph.

"(E) AGGREGATION OF ISSUERS.—For purposes of subparagraphs (C) and (D), an issuer and all subordinate entities thereof shall be treated as 1 issuer.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) INTEREST EXPENSE.—The term 'interest expense' means the aggregate amount allowable to the taxpayer as a deduction for interest for the taxable year (determined without regard to this subsection and section 291). For purposes of the preceding sentence, the term 'interest' includes amounts (whether or not designated as interest) paid in respect of deposits, investment certificates, or withdrawable or repurchasable shares.

"(B) TAX-EXEMPT OBLIGATION.—The term 'tax-exempt obligation' means any obligation the interest on which is wholly exempt from taxes imposed by this subtitle. Such term includes shares of stock of a regulated investment company which during the taxable year of the holder thereof distributes exempt-interest dividends.

"(5) FINANCIAL INSTITUTION.—For purposes of this subsection, the term 'financial institution' means any person who—

"(A) accepts deposits from the public in the ordinary course of such person's trade or business, and is subject to Federal or State supervision as a financial institution, or

"(B) is a corporation described in section 585(a)(2).

"(6) SPECIAL RULES.—

"(A) COORDINATION WITH SUBSECTION (a).—If interest on any indebtedness is disallowed under subsection (a) with respect to any tax-exempt obligation—

"(i) such disallowed interest shall not be taken into account for purposes of applying this subsection, and

"(ii) for purposes of applying paragraph (2), the adjusted basis of such tax-exempt obligation shall be reduced (but not below zero) by the amount of such indebtedness.

"(B) COORDINATION WITH SECTION 263A.—This section shall be applied before the application of section 263A (relating to capitalization of certain expenses where taxpayer produces property)."

(b) REPEAL OF SPECIAL TREATMENT FOR CERTAIN FINANCIAL INSTITUTIONS.—Paragraph (2) of section 265 (as in effect on the day

before the date of the enactment of this Act) is amended by striking out the second sentence.

(c) TERMINATION OF REDUCTION IN DEDUCTION FOR INTEREST ALLOCABLE TO TAX-EXEMPT OBLIGATIONS UNDER SECTION 291.—

(1) IN GENERAL.—Clause (i) of section 291(e)(1)(B) (relating to interest on debt to carry tax-exempt obligations acquired after December 31, 1982) is amended by striking out "after December 31, 1982" and inserting in lieu thereof "after December 31, 1982, and before August 8, 1986".

(2) TECHNICAL AMENDMENTS.—Subparagraph (B) of section 291(e)(1) is amended—

(A) by striking out "(but for this paragraph)" in clause (i) and inserting in lieu thereof "(but for this paragraph or section 265(b))",

(B) by striking out "without regard to this section" in clause (ii) and inserting in lieu thereof "without regard to this section and section 265(b)",

(C) by striking out "AFTER DECEMBER 31, 1982" in the subparagraph heading and inserting in lieu thereof "AFTER DECEMBER 31, 1982, AND BEFORE AUGUST 8, 1986", and

(D) by adding at the end thereof the following new clause:

"(iv) APPLICATION OF SUBPARAGRAPH TO CERTAIN OBLIGATIONS ISSUED AFTER AUGUST 7, 1986.—

"For application of this subparagraph to certain obligations issued after August 7, 1986, see section 265(b)(3)."

(d) CLERICAL AMENDMENT.—Section 265 is amended by striking out "No deduction shall be allowed for—" and inserting in lieu thereof the following:

"(a) GENERAL RULE.—No deduction shall be allowed for—".

(e) CONFORMING AMENDMENTS.—

(1) Section 163(h)(12) is amended by striking out "section 265(2)" and inserting in lieu thereof "section 265(a)(2)".

(2) Section 1277(c) is amended by striking out "section 265(5)" and inserting in lieu thereof "section 265(a)(5)".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to taxable years ending after December 31, 1986.

(2) OBLIGATIONS ACQUIRED PURSUANT TO CERTAIN COMMITMENTS.—For purposes of sections 265(b) and 291(e)(1)(B) of the Internal Revenue Code of 1986, any tax-exempt obligation which is acquired after August 7, 1986, pursuant to a direct or indirect written commitment—

(A) to purchase or repurchase such obligation, and

(B) entered into on or before September 25, 1985,

shall be treated as an obligation acquired before August 8, 1986.

(3) TRANSITIONAL RULES.—For purposes of sections 265(b) and 291(e)(1)(B) of the Internal Revenue Code of 1986, obligations with respect to any of the following projects shall be treated as obligations acquired before August 8, 1986, in the hands of the first and any subsequent financial institution acquiring such obligations:

(A) Park Forest, Illinois, redevelopment project.

(B) Clinton, Tennessee, Carriage Trace project.

(C) Savannah, Georgia, Mall Terrace Warehouse project.

(D) Chattanooga, Tennessee, Warehouse Row project.

(E) Dalton, Georgia, Towne Square project.

(F) Milwaukee, Wisconsin, Standard Electric Supply Company—distribution company.

(G) Wausau, Wisconsin, urban renewal project.

(H) Cassville, Missouri, UDAG project.

(I) Outlook Envelope Company—plant expansion.

(J) Woodstock, Connecticut, Crabtree Warehouse partnership.

(K) Louisville, Kentucky, Speed Mansion renovation project.

(L) Charleston, South Carolina, waterfront project.

(M) New Orleans, Louisiana, Upper Pontabla Building renovation.

(N) Woodward Wight Building.

(O) Minneapolis, Minnesota, Miller Milling Company—flour mill project.

(P) Birmingham, Alabama, Club Apartments.

(Q) Charlotte, North Carolina—qualified mortgage bonds acquired by NCNB bank ($5,250,000).

(R) Grand Rapids, Michigan, Central Bank project.

(S) Ruppman Marketing Services, Inc.—building project.

(4) ADDITIONAL TRANSITIONAL RULE.—Obligations issued pursuant to an allocation of a State's volume limitation for private activity bonds, which allocation was made by Executive Order 25 signed by the Governor of the State on May 22, 1986 (as such order may be amended before January 1, 1987), shall be treated as acquired on or before August 7, 1986, in the hands of the first and any subsequent financial institution acquiring such obligation. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $200,000,000.

SEC. 903. TERMINATION OF SPECIAL 10-YEAR CARRYBACK RULES FOR CERTAIN FINANCIAL INSTITUTIONS; NEW SPECIAL CARRYOVER RULES FOR CERTAIN LOSSES.

(a) TERMINATION OF SPECIAL 10-YEAR CARRYBACK RULES FOR CERTAIN FINANCIAL INSTITUTIONS.—

(1) Subparagraph (F) of section 172(b)(1) (relating to years to which loss may be carried) is amended by striking out "after December 31, 1975," and inserting in lieu thereof "after December 31, 1975, and before January 1, 1987,".

(2) Subparagraph (G) of section 172(b)(1) is amended by striking out "after December 31, 1969," and inserting in lieu thereof "after December 31, 1969, and before January 1, 1987,".

(3) Subparagraph (H) of section 172(b)(1) is amended—

(A) by striking out "after December 31, 1981," and inserting in lieu thereof "after December 31, 1981, and before January 1, 1987,", and

(B) by striking out "after December 31, 1984," and inserting in lieu thereof "after December 31, 1984, and before January 1, 1987,".

(b) SPECIAL 10-YEAR CARRYBACK FOR BAD DEBT LOSSES OF COMMERCIAL BANKS; ADDITIONAL 3-YEAR CARRYFORWARD FOR LOSSES OF THRIFT INSTITUTIONS.—

(1) IN GENERAL.—Paragraph (1) of section 172(b) (relating to year to which loss may be carried) is amended by adding at the end thereof the following new subparagraphs:

"(L) BAD DEBT LOSSES OF COMMERCIAL BANKS.—In the case of any bank (as defined in section 585(a)(2)), the portion of the net operating loss for any taxable year beginning after December 31, 1986, and before January 1, 1994, which is attributable to the deduction allowed under section 166(a) shall be a net operating loss carryback to each of the 10 taxable years preceding the taxable year of the loss and a net operating loss carryover to each of the 5 taxable years following the taxable year of such loss.

"(M) LOSSES OF THRIFT INSTITUTIONS.—In the case of an organization to which section 593 applies, in lieu of applying subparagraph (F), a net operating loss for any taxable year beginning after December 31, 1981, and before January 1, 1986, shall be a net operating loss carryback to each of the 10 taxable years preceding the taxable year of such loss and shall be a net operating loss carryover to each of the 8 taxable years following the taxable year of such loss."

(2) TECHNICAL AMENDMENTS.—

(A) Subparagraph (A) of section 172(b)(1) is amended by striking out "and (K)" and inserting in lieu thereof "(K), (L), and (M)".

(B) Subparagraph (B) of section 172(b)(1) is amended by striking out "and (J)" and inserting in lieu thereof "(J), (L), and (M)".

(C) Section 172 is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) RULES RELATING TO BAD DEBT LOSSES OF COMMERCIAL BANKS.—For purposes of this section—

"(1) PORTION ATTRIBUTABLE TO DEDUCTION FOR BAD DEBTS.—The portion of the net operating loss for any taxable year which is attributable to the deduction allowed under section 166(a) shall be the excess of—

"(i) the net operating loss for such taxable year, over

"(ii) the net operating loss for such taxable year determined without regard to the amount allowed as a deduction under section 166(a) for such taxable year.

"(2) COORDINATION WITH SUBSECTION (b)(2).—In applying paragraph (2) of subsection (b), the portion of the net operating loss for any taxable year which is attributable to the deduction allowed under section 166(a) shall be treated in a manner similar to the manner in which a foreign expropriation loss is treated."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to losses incurred in taxable years beginning after December 31, 1986.

(2) ADDITIONAL CARRYFORWARD PERIOD FOR LOSSES OF THRIFT INSTITUTIONS.—Subparagraph (M) of section 172(b)(1) of the Internal Revenue Code of 1986 (as added by this section) shall apply to losses incurred in taxable years beginning after December 31, 1981.

SEC. 904. REPEAL OF SPECIAL REORGANIZATION RULES FOR FINANCIAL INSTITUTIONS.

(a) GENERAL RULE.—Subparagraph (D) of section 368(a)(3) (relating to agency receivership proceedings which involve financial institutions) is amended to read as follows:

"(D) AGENCY RECEIVERSHIP PROCEEDINGS WHICH INVOLVE FINANCIAL INSTITUTIONS.—For purposes of subparagraphs (A) and (B), in the case of a receivership, foreclosure, or similar proceeding before a Federal or State agency involving a financial institution referred to in section 581 or 591, the agency shall be treated as a court."

(b) REPEAL OF SPECIAL TREATMENT FOR FSLIC FINANCIAL ASSISTANCE.—

(1) Section 597 (relating to FSLIC financial assistance) is hereby repealed.

(2) The table of sections for part II of subchapter H of chapter 1 is amended by striking out the item relating to section 597.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to acquisitions after December 31, 1988, in taxable years ending after such date.

(2) SUBSECTION (b).—

(A) IN GENERAL.—The amendments made by subsection (b) shall apply to transfers after December 31, 1988, in taxable years ending after such date; except that such amendments shall not apply to transfers after such date pursuant to an acquisition to which the amendments made by subsection (a) do not apply.

(B) CLARIFICATION OF TREATMENT OF AMOUNTS EXCLUDED UNDER SECTION 597.—Section 265(a)(1) of the Internal Revenue Code of 1986 (as amended by this title) shall not deny any deduction by reason of such deduction being allocable to amounts excluded from gross income under section 597 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act).

SEC. 905. TREATMENT OF LOSSES ON DEPOSITS OR ACCOUNTS IN INSOLVENT FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Section 165 (relating to losses) is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) TREATMENT OF CERTAIN LOSSES IN INSOLVENT FINANCIAL INSTITUTIONS.—

"(1) IN GENERAL.—If—

"(A) as of the close of the taxable year, it can reasonably be estimated that there is a loss on a qualified individual's deposit in a qualified financial institution, and

"(B) such loss is on account of the bankruptcy or insolvency of such institution,

then the taxpayer may elect to treat the amount so estimated as a loss described in subsection (c)(3) incurred during the taxable year.

"(2) QUALIFIED INDIVIDUAL DEFINED.—For purposes of this subsection, the term 'qualified individual' means any individual, except an individual—

"(A) who owns at least 1 percent in value of the outstanding stock of the qualified financial institution,

"(B) who is an officer of the qualified financial institution,

"(C) who is a sibling (whether by the whole or half blood), spouse, aunt, uncle, nephew, niece, ancestor, or lineal descendant of an individual described in subparagraph (A) or (B), or

"(D) who otherwise is a related person (as defined in section 267(b)) with respect to an individual described in subparagraph (A) or (B).

"(3) QUALIFIED FINANCIAL INSTITUTION.—For purposes of this subsection, the term 'qualified financial institution' means—

"(A) any bank (as defined in section 581),

"(B) any institution described in section 591,

"(C) any credit union the deposits or accounts in which are insured under Federal or State law or are protected or guaranteed under State law, or

"(D) any similar institution chartered and supervised under Federal or State law.

"(4) DEPOSIT.—For purposes of this subsection, the term 'deposit' means any deposit, withdrawable account, or withdrawable or repurchasable share.

"(5) ELECTION.—Any election by the taxpayer under this subsection may be revoked only with the consent of the Secretary and shall apply to all losses of the taxpayer on deposits in the institution with respect to which such election was made.

"(6) COORDINATION WITH SECTION 166.—Section 166 shall not apply to any loss to which an election under this subsection applies."

(b) INTEREST ON FROZEN DEPOSITS.—Section 451 (relating to general rule for taxable year of inclusion) is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF INTEREST ON FROZEN DEPOSITS IN CERTAIN FINANCIAL INSTITUTIONS.—

"(1) IN GENERAL.—In the case of interest credited during any calendar year on a frozen deposit in a qualified financial institution, the amount of such interest includible in the gross income of a qualified individual shall not exceed the sum of—

"(A) the net amount withdrawn by such individual from such deposit during such calendar year, and

"(B) the amount of such deposit which is withdrawable as of the close of the taxable year (determined without regard to any penalty for premature withdrawals of a time deposit).

"(2) INTEREST TESTED EACH YEAR.—Any interest not included in gross income by reason of paragraph (1) shall be treated as credited in the next calendar year.

"(3) DEFERRAL OF INTEREST DEDUCTION.—No deduction shall be allowed to any qualified financial institution for interest not includible in gross income under paragraph (1) until such interest is includible in gross income.

"(4) FROZEN DEPOSIT.—For purposes of this subsection, the term 'frozen deposit' means any deposit if, as of the close of the calendar year, any portion of such deposit may not be withdrawn because of—

"(A) the bankruptcy or insolvency of the qualified financial institution (or threat thereof), or

"(B) any requirement imposed by the State in which such institution is located by reason of the bankruptcy or insolvency (or threat thereof) of 1 or more financial institutions in the State.

"(5) OTHER DEFINITIONS.—For purposes of this subsection, the terms 'qualified individual', 'qualified financial institution', and 'deposit' have the same respective meanings as when used in section 165(l)."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1982.

(2) SPECIAL RULES FOR SUBSECTION (b).—

(A) The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1982, and before January 1, 1987, only if the qualified individual elects to have such amendment apply for all such taxable years.

(B) In the case of interest attributable to the period beginning January 1, 1983, and ending December 31, 1987, the interest deduction of financial institutions shall be determined without regard to paragraph (3) of section 451(f) of the Internal Revenue Code of 1986 (as added by subsection (b)).

TITLE X—INSURANCE PRODUCTS AND COMPANIES

Subtitle A—Policyholder Issues

SEC. 1001. REPEAL OF EXCLUSION FOR INTEREST ON INSTALLMENT PAYMENTS OF LIFE INSURANCE PROCEEDS.

(a) IN GENERAL.—The second sentence of paragraph (1) of section 101(d) (relating to payment of life insurance proceeds at a date later than death) is amended to read as follows: "There shall be excluded from the gross income of such beneficiary in the taxable year received any amount determined by such proration."

(b) DETERMINATION OF AMOUNT HELD BY INSURER.—Clause (ii) of section 101(d)(2)(B) is amended to read as follows:

"(ii) as discounted on the basis of the interest rate used by the insurer in calculating payments under the agreement and mortality tables prescribed by the Secretary."

(c) TECHNICAL AMENDMENTS.—

(1) Subsection (d) of section 101 is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(2) Subparagraph (B) of section 101(d)(2) is amended by striking out "is equal" and inserting in lieu thereof "equal".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received with respect to deaths occurring after the date of the enactment of this section in taxable years ending after such date.

SEC. 1002. EXCLUSION FROM INCOME WITH RESPECT TO STRUCTURED SETTLEMENTS LIMITED TO CASES INVOLVING PHYSICAL INJURY.

(a) IN GENERAL.—Subsection (c) of section 130 (relating to certain personal insurance liability assignments) is amended by inserting "(in a case involving physical injury or physical sickness)" after "personal injury or sickness".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to assignments entered into after December 31, 1986, in taxable years ending after such date.

SEC. 1003. DENIAL OF DEDUCTION FOR INTEREST ON LOANS FROM CERTAIN LIFE INSURANCE CONTRACTS.

(a) IN GENERAL.—Section 264(a) (relating to disallowance of deduction for certain amounts paid in connection with insurance contracts) is amended by adding after paragraph (3) the following new paragraph:

"(4) Any interest paid or accrued on any indebtedness with respect to 1 or more life insurance policies owned by the taxpayer covering the life of any individual who—

"(A) is an officer or employee of, or

"(B) is financially interested in,

any trade or business carried on by the taxpayer to the extent that the aggregate amount of such indebtedness with respect to policies covering such individual exceeds $50,000."

(b) CONFORMING AMENDMENT.—Section 264(a) is amended by adding at the end thereof the following new sentence: "Paragraph (4) shall apply with respect to contracts purchased after June 20, 1986."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts purchased after June 20, 1986, in taxable years ending after such date.

SEC. 1004. DEDUCTION FOR NONBUSINESS CASUALTY LOSSES COVERED BY INSURANCE ALLOWABLE ONLY IF CLAIM FILED.

(a) IN GENERAL.—Paragraph (4) of section 165(h) (relating to treatment of casualty gains and losses) is amended by adding at the end thereof the following new subparagraph:

"(E) CLAIM REQUIRED TO BE FILED IN CERTAIN CASES.—Any loss of an individual described in subsection (c)(3) to the extent covered by insurance shall be taken into account under this section only if the individual files a timely insurance claim with respect to such loss."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to losses sustained in taxable years beginning after December 31, 1986.

Subtitle B—Life Insurance Companies

SEC. 1011. REPEAL OF SPECIAL LIFE INSURANCE COMPANY DEDUCTION.

(a) IN GENERAL.—Section 806 is amended by striking out subsection (a) and by redesignating subsections (b), (c), and (d), as subsections (a), (b), and (c), respectively.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Sections 453B(e)(2)(B) and 465(c)(7)(D)(v) are each amended by striking out "section 806(c)(3)" and inserting in lieu thereof "section 806(b)(3)".

(2) Section 804 is amended by adding "and" at the end of paragraph (1) and by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) the small life insurance company deduction (if any) determined under section 806(a)."

(3) Subparagraph (C) of section 801(a)(2) is amended—

(A) by striking out "the amounts allowable as deductions under paragraphs (2) and (3)" and inserting in lieu thereof "the amount allowable as a deduction under paragraph (2)", and

(B) by striking out "SPECIAL LIFE INSURANCE COMPANY DEDUCTION AND" in the heading.

(4) Clause (i) of section 805(a)(4)(B) and clause (iii) of section 805(b)(3)(A) are each amended by striking out "the special life insurance company deduction and".

(5) Paragraph (1) of section 806(b), as redesignated by subsection (a), is amended by striking out "without regard to—" and all that follows and inserting in lieu thereof "without regard to the small life insurance company deduction."

(6) Paragraph (1) of section 806(c), as redesignated by subsection (a), is amended—

(A) by striking out "subsections (a) and (b)" and inserting in lieu thereof "subsection (a)",

(B) by striking out "any special life insurance company deduction and", and

(C) by striking out "SPECIAL LIFE INSURANCE COMPANY DEDUCTION AND SMALL" in the heading and inserting in lieu thereof "SMALL".

(7) Paragraph (2) of section 806(c), as redesignated by subsection (a), is amended by striking out "subsection (b)(3)" and inserting in lieu thereof "subsection (a)(3)".

(8) Subsection (c) of section 806, as redesignated by subsection (a), is amended by striking out paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(9) Subparagraph (A) of section 813(a)(4) is amended by striking out "section 806(b)(3)(C)" and inserting in lieu thereof "section 806(a)(3)(C)".

(10) Clause (ii) of section 815(c)(2)(A) is amended by striking out "special deductions" and inserting in lieu thereof "small life insurance company deduction."

(11)(A) The section heading of section 806 is amended by striking out "SPECIAL DEDUCTIONS" and inserting in lieu thereof "SMALL LIFE INSURANCE COMPANY DEDUCTION".

(B) The table of sections for subpart C of part I of subchapter L of chapter 1 is amended by striking out "Special deductions" in the item relating to section 806 and inserting in lieu thereof "Small life insurance company deduction".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) SPECIAL RULE.—Section 217(k) of the Tax Reform Act of 1984 is amended—

(A) by striking out "the special deductions under section 806" and inserting in lieu thereof "the small life insurance company deduction under section 806(a)", and

(B) by adding at the end thereof the following: "For purposes of determining taxable income, the amount of any income, gain, loss, or deduction attributable to the ownership of such stock shall be an amount equal to 46 times the amount of such income, gain, loss, or deduction, divided by 36.8."

(d) TREATMENT OF CERTAIN MARKET DISCOUNT BONDS.—

(1) IN GENERAL.—Notwithstanding the amendments made by subtitle B of title III, any gain recognized by a qualified life insurance company on the redemption at maturity of any bond which was issued before July 19, 1984, and acquired by such company on or before September 25, 1985, shall be subject to tax at the rate of 28 percent.

(2) QUALIFIED LIFE INSURANCE COMPANY.—For purposes of paragraph (1), the term "qualified life insurance company" means any of the following companies: Aetna, Provident Life and Accident, Massachusetts Mutual, Mutual Benefit, Connecticut Mutual, Phoenix Mutual, John Hancock, New England Life, Pennsylvania Mutual, Transamerica, Northwestern, Provident Mutual, Prudential, Mutual of Omaha, and Metropolitan.

SEC. 1012. REPEAL OF TAX-EXEMPT STATUS FOR CERTAIN ORGANIZATIONS PROVIDING COMMERCIAL-TYPE INSURANCE.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CERTAIN ORGANIZATIONS PROVIDING COMMERCIAL-TYPE INSURANCE NOT EXEMPT FROM TAX.—

"(1) DENIAL OF TAX EXEMPTION WHERE PROVIDING COMMERCIAL-TYPE INSURANCE IS SUBSTANTIAL PART OF ACTIVITIES.—An organization described in paragraph (3) or (4) of subsection (c) shall be exempt from tax under subsection (a) only if no substantial part of its activities consists of providing commercial-type insurance.

"(2) OTHER ORGANIZATIONS TAXED AS INSURANCE COMPANIES ON INSURANCE BUSINESS.—In the case of an organization described in paragraph (3) or (4) of subsection (c) which is exempt from tax under subsection (a) after the application of paragraph (1) of this subsection—

"(A) the activity of providing commercial-type insurance shall be treated as an unrelated trade or business (as defined in section 513), and

"(B) in lieu of the tax imposed by section 511 with respect to such activity, such organization shall be treated as an insurance company for purposes of applying subchapter L with respect to such activity.

"(3) COMMERCIAL-TYPE INSURANCE.—For purposes of this subsection, the term 'commercial-type insurance' shall not include—

"(A) insurance provided at substantially below cost to a class of charitable recipients,

"(B) incidental health insurance provided by a health maintenance organization of a kind customarily provided by such organizations,

"(C) property or casualty insurance provided (directly or through an organization described in section 414(e)(3)(B)(ii)) by a church or convention or association of churches for such church or convention or association of churches, and

"(D) providing retirement or welfare benefits (or both) by a church or a convention or association of churches (directly or through an organization described in section 414(e)(3)(A) or 414(e)(3)(B)(ii)) for the employees (including employees described in section 414(e)(3)(B)) of such church or convention or association of churches or the beneficiaries of such employees.

"(4) INSURANCE INCLUDES ANNUITIES.—For purposes of this subsection, the issuance of annuity contracts shall be treated as providing insurance."

(b) TREATMENT OF BLUE CROSS AND BLUE SHIELD ORGANIZATIONS AND SIMILAR ORGANIZATIONS.—

(1) IN GENERAL.—Part III of subchapter L of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 833. TREATMENT OF BLUE CROSS AND BLUE SHIELD ORGANIZATIONS, ETC.

"(a) GENERAL RULE.—In the case of any organization to which this section applies—

"(1) TREATED AS STOCK COMPANY.—Such organization shall be taxable under this part in the same manner as if it were a stock insurance company.

"(2) SPECIAL DEDUCTION ALLOWED.—The deduction determined under subsection (b) for any taxable year shall be allowed.

"(3) REDUCTIONS IN UNEARNED PREMIUM RESERVES NOT TO APPLY.—Subparagraph (B) of paragraph (4) of section 832(b) shall be applied by substituting '100 percent' for '80 percent', and subparagraph (C) of such paragraph (4) shall not apply.

"(b) AMOUNT OF DEDUCTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the deduction determined under this subsection for any taxable year is the excess (if any) of—

"(A) 25 percent of the sum of—

"(i) the claims incurred during the taxable year, and

"(ii) the expenses incurred during the taxable year in connection with the administration, adjustment, or settlement of claims, over

"(B) the adjusted surplus as of the beginning of the taxable year.

"(2) LIMITATION.—The deduction determined under paragraph (1) for any taxable year shall not exceed taxable income for such taxable year (determined without regard to such deduction).

"(3) ADJUSTED SURPLUS.—For purposes of this subsection—

"(A) IN GENERAL.—The adjusted surplus as of the beginning of any taxable year is an amount equal to the adjusted surplus as of the beginning of the preceding taxable year—

"(i) increased by the amount of any adjusted taxable income for such preceding taxable year, or

"(ii) decreased by the amount of any adjusted net operating loss for such preceding taxable year.

"(B) SPECIAL RULE.—The adjusted surplus as of the beginning of the organization's 1st taxable year beginning after December 31, 1986, shall be its surplus as of such time. For purposes of the preceding sentence and subsection (c)(3)(C), the term 'surplus' means the excess of the total assets over total liabilities as shown on the annual statement.

"(C) ADJUSTED TAXABLE INCOME.—The term 'adjusted taxable income' means taxable income determined—

"(i) without regard to the deduction determined under this subsection,

"(ii) without regard to any carryforward or carryback to such taxable year, and

"(iii) by increasing gross income by an amount equal to the net exempt income for the taxable year.

"(D) ADJUSTED NET OPERATING LOSS.—The term 'adjusted net operating loss' means the net operating loss for any taxable year determined with the adjustments set forth in subparagraph (C).

"(E) NET EXEMPT INCOME.—The term 'net exempt income' means—

"(i) any tax-exempt interest received or accrued during the taxable year, reduced by any amount (not otherwise deductible) which would have been allowable as a deduction for the taxable year if such interest were not tax-exempt, and

"(ii) the aggregate amount allowed as a deduction for the taxable year under sections 243, 244, and 245.

The amount determined under clause (ii) shall be reduced by the amount of any decrease in deductions allowable for the taxable year by reason of section 832(b)(5)(B) to the extent such decrease is attributable to deductions under sections 243, 244, and 245.

"(4) ONLY HEALTH-RELATED ITEMS TAKEN INTO ACCOUNT.—Any determination under this subsection shall be made by only taking into account items attributable to the health-related business of the taxpayer.

"(c) ORGANIZATIONS TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—This section shall apply to—

"(A) any existing Blue Cross or Blue Shield organization, and

"(B) any other organization meeting the requirements of paragraph (3).

"(2) EXISTING BLUE CROSS OR BLUE SHIELD ORGANIZATION.—The term 'existing Blue Cross or Blue Shield organization' means any Blue Cross or Blue Shield organization if—

"(A) such organization was in existence on August 16, 1986,

"(B) such organization is determined to be exempt from tax for its last taxable year beginning before January 1, 1987, and

"(C) no material change has occurred in the operations of such organization or in its structure after August 16, 1986, and before the close of the taxable year.

To the extent permitted by the Secretary, any successor to an organization meeting the requirements of the preceding sentence, and any organization resulting from the merger or consolidation of organizations each of which met such require-

ments, shall be treated as an existing Blue Cross or Blue Shield organization.

"(3) OTHER ORGANIZATIONS.—

"(A) IN GENERAL.—An organization meets the requirements of this paragraph for any taxable year if—

"(i) substantially all the activities of such organization involve the providing of health insurance,

"(ii) at least 10 percent of the health insurance provided by such organization is provided to individuals and small groups (not taking into account any medicare supplemental coverage),

"(iii) such organization provides continuous full-year open enrollment (including conversions) for individuals and small groups,

"(iv) such organization's policies covering individuals provide full coverage of pre-existing conditions of high-risk individuals without a price differential (with a reasonable waiting period), and coverage is provided without regard to age, income, or employment status of individuals under age 65,

"(v) at least 35 percent of its premiums are determined on a community rated basis, and

"(vi) no part of its net earnings inures to the benefit of any private shareholder or individual.

"(B) SMALL GROUP DEFINED.—For purposes of subparagraph (A), the term 'small group' means the lesser of—

"(i) 15 individuals, or

"(ii) the number of individuals required for a small group under applicable State law.

"(C) SPECIAL RULE FOR DETERMINING ADJUSTED SURPLUS.—For purposes of subsection (b), the adjusted surplus of any organization meeting the requirements of this paragraph as of the beginning of the 1st taxable year for which it meets such requirements shall be its surplus as of such time."

(2) CLERICAL AMENDMENT.—The table of sections for such part III is amended by adding at the end thereof the following new item:

"Sec. 833. Treatment of Blue Cross and Blue Shield organizations, etc."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) STUDY OF FRATERNAL BENEFICIARY ASSOCIATIONS.—The Secretary of the Treasury or his delegate shall conduct a study of organizations described in section 501(c)(8) of the Internal Revenue Code of 1986 and which received gross annual insurance premiums in excess of $25,000,000 for the taxable years of such organizations which ended during 1984. Not later than January 1, 1988, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation the results of such study, together with such recommendations as he determines to be appropriate. The Secretary of the Treasury shall have authority to require the furnishing of such information as may be necessary to carry out the purposes of this paragraph.

(3) SPECIAL RULES FOR EXISTING BLUE CROSS OR BLUE SHIELD ORGANIZATIONS.—

(A) IN GENERAL.—In the case of any existing Blue Cross or Blue Shield organization (as defined in section 833(c)(2) of the Internal Revenue Code of 1986 as added by this section)—

(i) no adjustment shall be made under section 481 (or any other provision) of such Code on account of a change in its method of accounting for its 1st taxable year beginning after December 31, 1986, and

(ii) for purposes of determining gain or loss, the adjusted basis of any asset held on the 1st day of such taxable year shall be treated as equal to its fair market value as of such day.

(B) TREATMENT OF CERTAIN DISTRIBUTIONS.—For purposes of section 833(b)(3)(B), the surplus of any organization as of the beginning of its 1st taxable year beginning after December 31, 1986, shall be increased by the amount of any distribution (other than to policyholders) made by such organization after August 16, 1986, and before the beginning of such taxable year.

(C) RESERVE WEAKENING AFTER AUGUST 16, 1986.—Any reserve weakening after August 16, 1986, by an existing Blue Cross or Blue Shield organization shall be treated as occurring in such organization's 1st taxable year beginning after December 31, 1986.

(4) OTHER SPECIAL RULES.—

(A) The amendments made by this section shall not apply with respect to that portion of the business of Mutual of America which is attributable to pension business.

(B) The amendments made by this section shall not apply to that portion of the business of the Teachers Insurance Annuity Association-College Retirement Equities Fund which is attributable to pension business.

(C) The amendments made by this section shall not apply to—

(i) the retirement fund of the YMCA,

(ii) the Missouri Hospital Association,

(iii) administrative services performed by municipal leagues, and

(iv) dental benefit coverage provided by Delta Dental Plans Association through contracts with independent professional service providers so long as the provision of such coverage is the principal activity of such Association.

(D) For purposes of this paragraph, the term "pension business" means the administration of any plan described in section 401(a) of the Internal Revenue Code of 1954 which includes a trust exempt from tax under section 501(a), any plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b) of such Code, any individual retirement plan described in section 408 of such Code, and any eligible deferred compensation plan to which section 457(a) of such Code applies.

SEC. 1013. OPERATIONS LOSS DEDUCTION OF INSOLVENT COMPANIES MAY OFFSET DISTRIBUTIONS FROM POLICYHOLDERS SURPLUS ACCOUNT.

(a) IN GENERAL.—If—

(1) on November 15, 1985, a life insurance company was insolvent,

(2) pursuant to the order of any court of competent jurisdiction in a title 11 or similar case (as defined in section 368(a)(3) of the Internal Revenue Code of 1954), such company is liquidated, and

(3) as a result of such liquidation, the tax imposed by section 801 of such Code for any taxable year (hereinafter in this subsection referred to as the "liquidation year") would (but for this subsection) be increased under section 815(a) of such Code,

then the amount described in section 815(a)(2) of such Code shall be reduced by the loss from operations (if any) for the liquidation year, and by the unused operations loss carryovers (if any) to the liquidation year (determined after the application of section 810 of such Code for such year). No carryover of any loss from operations of such company arising during the liquidation year (or any prior taxable year) shall be allowable for any taxable year succeeding the liquidation year.

(b) DEFINITIONS.—For purposes of subsection (a)—

(1) INSOLVENT.—The term "insolvent" means the excess of liabilities over the fair market value of assets.

(2) LOSS FROM OPERATIONS.—The term "loss from operations" has the meaning given such term by section 810(c) of such Code.

(c) EFFECTIVE DATE.—This section shall apply to liquidations on or after November 15, 1985, in taxable years ending after such date.

Subtitle C—Property and Casualty Insurance Companies

SEC. 1021. INCLUSION IN INCOME OF 20 PERCENT OF UNEARNED PREMIUM RESERVE.

(a) IN GENERAL.—The first sentence of paragraph (4) of section 832(b) (defining premiums earned) is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) To the result so obtained, add 80 percent of the unearned premiums on outstanding business at the end of the preceding taxable year and deduct 80 percent of the unearned premiums on outstanding business at the end of the taxable year.

"(C) To the result so obtained, in the case of a taxable year beginning after December 31, 1986, and before January 1, 1993, add an amount equal to 3⅓ percent of unearned premiums on outstanding business at the end of the most recent taxable year beginning before January 1, 1987."

(b) SPECIAL RULES.—Subsection (b) of section 832 is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULES FOR APPLYING PARAGRAPH (4).—

"(A) REDUCTION NOT TO APPLY TO LIFE INSURANCE RESERVES.—Subparagraph (B) of paragraph (4) shall be applied with respect to amounts included in unearned premiums

under the 2nd sentence of such paragraph by substituting '100 percent' for '80 percent' each place it appears in such subparagraph (B), and subparagraph (C) of paragraph (4) shall be applied by not taking such amounts into account.

"(B) SPECIAL TREATMENT OF PREMIUMS ATTRIBUTABLE TO INSURING CERTAIN SECURITIES.—In the case of premiums attributable to insurance against default in the payment of principal or interest on securities described in section 165(g)(2)(C) with maturities of more than 5 years—

"(i) subparagraph (B) of paragraph (4) shall be applied by substituting '90 percent' for '80 percent' each place it appears, and

"(ii) subparagraph (C) of paragraph (4) shall be applied by substituting '1⅔ percent' for '3⅓ percent'.

"(C) TERMINATION AS NONLIFE INSURANCE COMPANY.—Except as provided in section 381(c)(22) (relating to carryovers in certain corporate readjustments), if, for any taxable year beginning before January 1, 1993, the taxpayer ceases to be an insurance company taxable under this part, the aggregate adjustments which would be made under paragraph (4)(C) for such taxable year and subsequent taxable years but for such cessation shall be made for the taxable year preceding such cessation year.

"(8) SPECIAL RULES FOR APPLYING PARAGRAPH (4) TO TITLE INSURANCE PREMIUMS.—

"(A) IN GENERAL.—In the case of premiums attributable to title insurance—

"(i) subparagraph (B) of paragraph (4) shall be applied by substituting 'the discounted unearned premiums' for '80 percent of the unearned premiums' each place it appears, and

"(ii) subparagraph (C) of paragraph (4) shall not apply.

"(B) METHOD OF DISCOUNTING.—For purposes of subparagraph (A), the amount of the discounted unearned premiums as of the end of any taxable year shall be the present value of such premiums (as of such time and separately with respect to premiums received in each calendar year) determined by using—

"(i) the amount of the undiscounted unearned premiums at such time,

"(ii) the applicable interest rate, and

"(iii) the applicable statutory premium recognition pattern.

"(C) DETERMINATION OF APPLICABLE FACTORS.—In determining the amount of the discounted unearned premiums as of the end of any taxable year—

"(i) UNDISCOUNTED UNEARNED PREMIUMS.—The term 'undiscounted unearned premiums' means the unearned premiums shown in the yearly statement filed by the taxpayer for the year ending with or within such taxable year.

"(ii) APPLICABLE INTEREST RATE.—The term 'applicable interest rate' means the annual rate determined under 846(c)(2) for the calendar year in which the premiums are received.

"(iii) APPLICABLE STATUTORY PREMIUM RECOGNITION PATTERN.—The term 'applicable statutory premium recognition pattern' means the statutory premium recognition pattern—

"(I) which is in effect for the calendar year in which the premiums are received, and

"(II) which is based on the statutory premium recognition pattern which applies to premiums received by the taxpayer in such calendar year.

For purposes of the preceding sentence, premiums received during any calendar year shall be treated as received in the middle of such year."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

(2) SPECIAL TRANSITIONAL RULE FOR TITLE INSURANCE COMPANIES.—For the 1st taxable year beginning after December 31, 1986, in the case of premiums attributable to title insurance—

(A) IN GENERAL.—The unearned premiums at the end of the preceding taxable year as defined in paragraph (4) of section 832(b) shall be determined as if the amendments made by this section had applied to such unearned premiums in the preceding taxable year and by using the interest rate and premium recognition pattern applicable to years ending in calendar year 1987.

(B) FRESH START.—Except as provided in subparagraph (C), any difference between—

(i) the amount determined to be unearned premiums for the year preceding the first taxable year of a title insurance company beginning after December 31, 1986, determined without regard to subparagraph (A), and

(ii) such amount determined with regard to subparagraph (A),

shall not be taken into account for purposes of the Internal Revenue Code of 1986.

(C) EFFECT ON EARNINGS AND PROFITS.—The earnings and profits of any insurance company for its 1st taxable year beginning after December 31, 1986, shall be increased by the amount of the difference determined under subparagraph (A) with respect to such company.

SEC. 1022. TREATMENT OF CERTAIN DIVIDENDS AND TAX-EXEMPT INTEREST.

(a) IN GENERAL.—Paragraph (5) of section 832(b) (defining losses incurred) is amended to read as follows:

"(5) LOSSES INCURRED.—

"(A) IN GENERAL.—The term 'losses incurred' means losses incurred during the taxable year on insurance contracts, computed as follows:

"(i) To losses paid during the taxable year, add salvage and reinsurance recoverable outstanding at the end of the preceding taxable year and deduct salvage and reinsurance recoverable outstanding at the end of the taxable year.

"(ii) To the result so obtained, add all unpaid losses outstanding at the end of the taxable year and deduct

unpaid losses outstanding at the end of the preceding taxable year.

"(B) REDUCTION OF DEDUCTION.—The amount which would (but for this subparagraph) be taken into account under subparagraph (A) shall be reduced by an amount equal to 15 percent of the sum of—

"(i) tax-exempt interest received or accrued during such taxable year, and

"(ii) the aggregate amount of deductions provided by sections 243, 244, and 245 for—

"(I) dividends (other than 100 percent dividends) received during the taxable year, and

"(II) 100 percent dividends received during the taxable year to the extent attributable to prorated amounts.

In the case of a 100 percent dividend paid by an insurance company, the portion attributable to prorated amounts shall be determined under subparagraph (E)(ii).

"(C) EXCEPTION FOR INVESTMENTS MADE BEFORE AUGUST 8, 1986.—

"(i) IN GENERAL.—Except as provided in clause (ii), subparagraph (B) shall not apply to any dividend or interest received or accrued on any stock or obligation acquired before August 8, 1986.

"(ii) SPECIAL RULE FOR 100 PERCENT DIVIDENDS.—For purposes of clause (i), the portion of any 100 percent dividend which is attributable to prorated amounts shall be treated as received with respect to stock acquired on the later of—

"(I) the date the payor acquired the stock or obligation to which the prorated amounts are attributable, or

"(II) the 1st day on which the payor and payee were members of the same affiliated group (as defined in section 243(b)(5)).

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) PRORATED AMOUNTS.—The term 'prorated amounts' means tax-exempt interest and dividends with respect to which a deduction is allowable under section 243, 244, or 245 (other than 100 percent dividends).

"(ii) 100 PERCENT DIVIDEND.—

"(I) IN GENERAL.—The term '100 percent dividend' means any dividend if the percentage used for purposes of determining the deduction allowable under section 243, 244, or 245(b) is 100 percent.

"(II) CERTAIN DIVIDENDS RECEIVED BY FOREIGN CORPORATIONS.—A dividend received by a foreign corporation from a domestic corporation which would be a 100 percent dividend if section 1504(b)(3) did not apply for purposes of applying section 243(b)(5) shall be treated as a 100 percent dividend.

"(E) SPECIAL RULES FOR DIVIDENDS SUBJECT TO PRORATION AT SUBSIDIARY LEVEL.—

"(i) IN GENERAL.—In the case of any 100 percent dividend paid to an insurance company to which this

part applies by any insurance company, the amount of the decrease in the deductions of the payee company by reason of the portion of such dividend attributable to prorated amounts shall be reduced (but not below zero) by the amount of the decrease in the deductions (or increase in income) of the payor company attributable to the application of this section or section 805(a)(4)(A) to such amounts.

"(ii) PORTION OF DIVIDEND ATTRIBUTABLE TO PRORATED AMOUNTS.—For purposes of this subparagraph, in determining the portion of any dividend attributable to prorated amounts—

"(I) any dividend by the paying corporation shall be treated as paid first out of earnings and profits attributable to prorated amounts (to the extent thereof), and

"(II) by determining the portion of earnings and profits so attributable without any reduction for the tax imposed by this chapter."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 1023. DISCOUNTING OF UNPAID LOSSES AND CERTAIN UNPAID EXPENSES.

(a) LIMITATION OF DEDUCTION IN THE CASE OF PROPERTY AND CASUALTY INSURANCE COMPANIES.—

(1) LOSSES INCURRED.—Clause (ii) of section 832(b)(5)(A) (defining losses incurred), as amended by section 1022, is amended to read as follows:

"(ii) To the result so obtained, add all unpaid losses on life insurance contracts plus all discounted unpaid losses (as defined in section 846) outstanding at the end of the taxable year and deduct unpaid losses on life insurance contracts plus all discounted unpaid losses outstanding at the end of the preceding taxable year."

(2) EXPENSES INCURRED.—Section 832(b)(6) (defining expenses incurred) is amended by inserting after the 1st sentence: "For purposes of this subchapter, the term 'expenses unpaid' shall not include any unpaid loss adjustment expenses shown on the annual statement, but such unpaid loss adjustment expenses shall be included in unpaid losses."

(b) LIMITATION OF DEDUCTION IN THE CASE OF LIFE INSURANCE COMPANIES.—Section 807(c) (relating to reserves and similar items taken into account) is amended by adding at the end thereof the following new sentence: "For purposes of paragraph (2) and section 805(a)(1), the amount of the unpaid losses (other than losses on life insurance contracts) shall be the amount of the discounted unpaid losses as defined in section 846."

(c) DISCOUNTED UNPAID LOSSES DEFINED.—Part IV of subchapter L of chapter 1 (relating to provisions of general application) is amended by adding at the end thereof the following new section:

"SEC. 846. DISCOUNTED UNPAID LOSSES DEFINED.

"(a) DISCOUNTED LOSSES DETERMINED.—

"(1) SEPARATELY COMPUTED FOR EACH ACCIDENT YEAR.—The amount of the discounted unpaid losses as of the end of any taxable year shall be the sum of the discounted unpaid losses (as

of such time) separately computed under this section with respect to unpaid losses in each line of business attributable to each accident year.

"(2) METHOD OF DISCOUNTING.—The amount of the discounted unpaid losses as of the end of any taxable year attributable to any accident year shall be the present value of such losses (as of such time) determined by using—

"(A) the amount of the undiscounted unpaid losses as of such time,

"(B) the applicable interest rate, and

"(C) the applicable loss payment pattern.

"(3) LIMITATION ON AMOUNT OF DISCOUNTED LOSSES.—In no event shall the amount of the discounted unpaid losses with respect to any line of business attributable to any accident year exceed the aggregate amount of unpaid losses with respect to such line of business for such accident year included on the annual statement filed by the taxpayer for the year ending with or within the taxable year.

"(4) DETERMINATION OF APPLICABLE FACTORS.—In determining the amount of the discounted unpaid losses attributable to any accident year—

"(A) the applicable interest rate shall be the interest rate determined under subsection (c) for the calendar year with which such accident year ends, and

"(B) the applicable loss payment pattern shall be the loss payment pattern determined under subsection (d) which is in effect for the calendar year with which such accident year ends.

"(b) DETERMINATION OF UNDISCOUNTED UNPAID LOSSES.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'undiscounted unpaid losses' means the unpaid losses shown in the annual statement filed by the taxpayer for the year ending with or within the taxable year of the taxpayer.

"(2) ADJUSTMENT IF LOSSES DISCOUNTED ON ANNUAL STATEMENT.—If—

"(A) the amount of unpaid losses shown in the annual statement is determined on a discounted basis, and

"(B) the extent to which the losses were discounted can be determined on the basis of information disclosed on or with the annual statement,

the amount of the unpaid losses shall be determined without regard to any reduction attributable to such discounting.

"(c) RATE OF INTEREST.—

"(1) IN GENERAL.—For purposes of this section, the rate of interest determined under this subsection shall be the annual rate determined by the Secretary under paragraph (2).

"(2) DETERMINATION OF ANNUAL RATE.—

"(A) IN GENERAL.—The annual rate determined by the Secretary under this paragraph for any calendar year shall be a rate equal to the average of the applicable Federal mid-term rates (as defined in section 1274(d) but based on annual compounding) effective as of the beginning of each of the calendar months in the test period.

"(B) TEST PERIOD.—For purposes of subparagraph (A), the test period is the most recent 60-calendar-month period

ending before the beginning of the calendar year for which the determination is made; except that there shall be excluded from the test period any month beginning before August 1, 1986.

"(d) LOSS PAYMENT PATTERN.—

"(1) IN GENERAL.—For each determination year, the Secretary shall determine a loss payment pattern for each line of business by reference to the historical loss payment pattern applicable to such line of business. Any loss payment pattern determined by the Secretary shall apply to the accident year ending with the determination year and to each of the 4 succeeding accident years.

"(2) METHOD OF DETERMINATION.—Determinations under paragraph (1) for any determination year shall be made by the Secretary—

"(A) by using the aggregate experience reported on the annual statements of insurance companies,

"(B) on the basis of the most recent published aggregate data from such annual statements relating to loss payment patterns available on the 1st day of the determination year,

"(C) as if all losses paid or treated as paid during any year are paid in the middle of such year, and

"(D) in accordance with the computational rules prescribed in paragraph (3).

"(3) COMPUTATIONAL RULES.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the loss payment pattern for any line of business shall be based on the assumption that all losses are paid—

"(i) during the accident year and the 3 calendar years following the accident year, or

"(ii) in the case of any line of business reported in the schedule or schedules of the annual statement relating to auto liability, other liability, medical malpractice, workers' compensation, and multiple peril lines, during the accident year and the 10 calendar years following the accident year.

"(B) TREATMENT OF CERTAIN LOSSES.—Except as otherwise provided in this paragraph—

"(i) in the case of any line of business not described in subparagraph (A)(ii), losses paid after the 1st year following the accident year shall be treated as paid equally in the 2nd and 3rd year following the accident year, and

"(ii) in the case of a line of business described in subparagraph (A)(ii), losses paid after the close of the period applicable under subparagraph (A)(ii) shall be treated as paid in the last year of such period.

"(C) SPECIAL RULE FOR CERTAIN LONG-TAIL LINES.—In the case of any long-tail line of business—

"(i) the period taken into account under subparagraph (A)(ii) shall be extended (but not by more than 5 years) to the extent required under clause (ii), and

"(ii) the amount of losses which would have been treated as paid in the 10th year after the accident year shall be treated as paid in such 10th year and each

subsequent year in an amount equal to the amount of the losses treated as paid in the 9th year after the accident year (or, if lesser, the portion of the unpaid losses not theretofore taken into account).

Notwithstanding clause (ii), to the extent such unpaid losses have not been treated as paid before the last year of the extension, they shall be treated as paid in such last year.

"(D) LONG-TAIL LINE OF BUSINESS.—For purposes of subparagraph (C), the term 'long-tail line of business' means any line of business described in subparagraph (A)(ii) if the amount of losses which (without regard to subparagraph (C)) would be treated as paid in the 10th year after the accident year exceeds the losses treated as paid in the 9th year after the accident year.

"(E) SPECIAL RULE FOR INTERNATIONAL AND REINSURANCE LINES OF BUSINESS.—Except as otherwise provided by regulations, any determination made under subsection (a) with respect to unpaid losses relating to the international or reinsurance lines of business shall be made using, in lieu of the loss payment pattern applicable to the respective lines of business, a pattern determined by the Secretary under paragraphs (1) and (2) based on the combined losses for all lines of business described in subparagraph (A)(ii).

"(F) ADJUSTMENTS IF LOSS EXPERIENCE INFORMATION AVAILABLE FOR LONGER PERIODS.—The Secretary shall make appropriate adjustments in the application of this paragraph if annual statement data with respect to payment of losses is available for longer periods after the accident year than the periods assumed under the rules of this paragraph.

"(G) SPECIAL RULE FOR 9TH YEAR IF NEGATIVE OR ZERO.—If the amount of the losses treated as paid in the 9th year after the accident year is zero or a negative amount, subparagraphs (C)(ii) and (D) shall be applied by substituting the average of the losses treated as paid in the 7th, 8th, and 9th years after the accident year for the losses treated as paid in the 9th year after the accident year.

"(4) DETERMINATION YEAR.—For purposes of this section, the term 'determination year' means calendar year 1987 and each 5th calendar year thereafter.

"(e) ELECTION TO USE COMPANY'S HISTORICAL PAYMENT PATTERN.—

"(1) IN GENERAL.—The taxpayer may elect to apply subsection (a)(2)(C) with respect to all lines of business by using a loss payment pattern determined by reference to the taxpayer's loss payment pattern for the most recent calendar year for which an annual statement was filed before the beginning of the accident year. Any such determination shall be made with the application of the rules of paragraphs (2)(C) and (3) of subsection (d).

"(2) ELECTION.—

"(A) IN GENERAL.—An election under paragraph (1) shall be made separately with respect to each determination year under subsection (d).

"(B) PERIOD FOR WHICH ELECTION IN EFFECT.—Unless revoked with the consent of the Secretary, an election under paragraph (1) with respect to any determination year shall

apply to accident years ending with the determination year and to each of the 4 succeeding accident years.

"(C) TIME FOR MAKING ELECTION.—An election under paragraph (1) with respect to any determination year shall be made on the taxpayer's return for the taxable year in which (or with which) the determination year ends.

"(3) NO ELECTION FOR INTERNATIONAL OR REINSURANCE BUSINESS.—No election under this subsection shall apply to any international or reinsurance line of business.

"(4) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection including—

"(A) regulations providing that a taxpayer may not make an election under this subsection if such taxpayer does not have sufficient historical experience for the line of business to determine a loss payment pattern, and

"(B) regulations to prevent the avoidance (through the use of separate corporations or otherwise) of the requirement of this subsection that an election under this subsection applies to all lines of business of the taxpayer.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ACCIDENT YEAR.—The term 'accident year' means the calendar year in which the incident occurs which gives rise to the related unpaid loss.

"(2) UNPAID LOSS ADJUSTMENT EXPENSES.—The term 'unpaid losses' includes any unpaid loss adjustment expenses shown on the annual statement.

"(3) ANNUAL STATEMENT.—The term 'annual statement' means the annual statement approved by the National Association of Insurance Commissioners which the taxpayer is required to file with insurance regulatory authorities of a State.

"(4) LINE OF BUSINESS.—The term 'line of business' means a category for the reporting of loss payment patterns determined on the basis of the annual statement for fire and casualty insurance companies for the calendar year ending with or within the taxable year, except that the multiple peril lines shall be treated as a single line of business.

"(5) MULTIPLE PERIL LINES.—The term 'multiple peril lines' means the lines of business relating to farmowners multiple peril, homeowners multiple peril, commercial multiple peril, ocean marine, aircraft (all perils) and boiler and machinery.

"(6) SPECIAL RULE FOR CERTAIN ACCIDENT AND HEALTH INSURANCE LINES OF BUSINESS.—Any determination under subsection (a) with respect to unpaid losses relating to accident and health insurance lines of businesses (other than credit disability insurance) shall be made—

"(A) in the case of unpaid losses relating to disability income, by using the general rules prescribed under section 807(d) applicable to noncancellable accident and health insurance contracts and using a mortality or morbidity table reflecting the taxpayer's experience; except that—

"(i) the prevailing State assumed interest rate shall be the rate in effect for the year in which the loss occurred rather than the year in which the contract was issued, and

"(ii) the limitation of subsection (a)(3) shall apply in lieu of the limitation of the last sentence of section 807(d)(1), and

"(B) in all other cases, by using an assumption (in lieu of a loss payment pattern) that unpaid losses are paid during the year following the accident year.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including—

"(1) regulations providing proper treatment of allocated reinsurance, and

"(2) regulations providing proper treatment of salvage and reinsurance recoverable attributable to unpaid losses."

(d) CLERICAL AMENDMENT.—The table of sections for such part IV is amended by adding at the end thereof the following new item:

"Sec. 846. Discounted unpaid losses defined."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) TRANSITIONAL RULE.—For the first taxable year beginning after December 31, 1986—

(A) the unpaid losses and the expenses unpaid (as defined in paragraphs (5)(B) and (6) of section 832(b) of the Internal Revenue Code of 1986) at the end of the preceding taxable year, and

(B) the unpaid losses as defined in sections 807(c)(2) and 805(a)(1) of such Code at the end of the preceding taxable year,

shall be determined as if the amendments made by this section had applied to such unpaid losses and expenses unpaid in the preceding taxable year and by using the interest rate and loss payment patterns applicable to accident years ending with calendar year 1987. For subsequent taxable years, such amendments shall be applied with respect to such unpaid losses and expenses unpaid by using the interest rate and loss payment patterns applicable to accident years ending with calendar year 1987.

(3) FRESH START.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, any difference between—

(i) the amount determined to be the unpaid losses and expenses unpaid for the year preceding the 1st taxable year of an insurance company beginning after December 31, 1986, determined without regard to paragraph (2), and

(ii) such amount determined with regard to paragraph (2),

shall not be taken into account for purposes of the Internal Revenue Code of 1986.

(B) RESERVE STRENGTHENING IN YEARS AFTER 1985.—Subparagraph (A) shall not apply to any reserve strengthening in a taxable year beginning in 1986, and such strengthening shall be treated as occurring in the taxpayer's 1st taxable year beginning after December 31, 1986.

(C) EFFECT ON EARNINGS AND PROFITS.—The earnings and profits of any insurance company for its 1st taxable year

beginning after December 31, 1986, shall be increased by the amount of the difference determined under subparagraph (A) with respect to such company.

SEC. 1024. REPEAL OF PROTECTION AGAINST LOSS ACCOUNT; REVISION OF SPECIAL TREATMENT FOR SMALL COMPANIES; COMBINATION OF PARTS II AND III.

(a) GENERAL RULE.—Subchapter L of chapter 1 is amended as follows:

(1) Part II (other than sections 822 and 826) is hereby repealed.

(2) Parts III and IV are hereby redesignated as parts II and III, respectively.

(3) Section 822 (relating to determination of taxable investment income) and section 826 (relating to election by reciprocal) are hereby redesignated as sections 834 and 835, respectively, and transferred to the end of part II (as redesignated by paragraph (2)).

(4) Section 831 is amended to read as follows:

"SEC. 831. TAX ON INSURANCE COMPANIES OTHER THAN LIFE INSURANCE COMPANIES.

"(a) GENERAL RULE.—Taxes computed as provided in section 11 shall be imposed for each taxable year on the taxable income of every insurance company other than a life insurance company.

"(b) ALTERNATIVE TAX FOR CERTAIN SMALL COMPANIES.—

"(1) IN GENERAL.—In lieu of the tax otherwise applicable under subsection (a), there is hereby imposed for each taxable year on the income of every insurance company to which this subsection applies a tax computed by multiplying the taxable investment income of such company for such taxable year by the rates provided in section 11(b).

"(2) COMPANIES TO WHICH THIS SUBSECTION APPLIES.—

"(A) IN GENERAL.—This subsection shall apply to every insurance company other than life (including interinsurers and reciprocal underwriters) if—

"(i) the net written premiums (or, if greater, direct written premiums) for the taxable year exceed $350,000 but do not exceed $1,200,000, and

"(ii) such company elects the application of this subsection for such taxable year.

"(B) CONTROLLED GROUP RULES.—

"(i) IN GENERAL.—For purposes of subparagraph (A), in determining whether any company is described in clause (i) of subparagraph (A), such company shall be treated as receiving during the taxable year amounts described in such clause (i) which are received during such year by all other companies which are members of the same controlled group as the insurance company for which the determination is being made.

"(ii) CONTROLLED GROUP.—For purposes of clause (i), the term 'controlled group' means any controlled group of corporations (as defined in section 1563(a)); except that—

"(I) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a), and

"(II) subsections (a)(4) and (b)(2)(D) of section 1563 shall not apply.

"(c) CROSS REFERENCES.—

"(1) For alternative tax in case of capital gains, see section 1201(a).

"(2) For taxation of foreign corporations carrying on an insurance business within the United States, see section 842.

"(3) For exemption from tax for certain insurance companies other than life, see section 501(c)(15)."

(b) REVISION OF EXEMPTION FROM TAX.—Paragraph (15) of section 501(c) (relating to list of exempt organizations) is amended to read as follows:

"(15)(A) Insurance companies or associations other than life (including interinsurers and reciprocal underwriters) if the net written premiums (or, if greater, direct written premiums) for the taxable year do not exceed $350,000.

"(B) For purposes of subparagraph (A), in determining whether any company or association is described in subparagraph (A), such company or association shall be treated as receiving during the taxable year amounts described in subparagraph (A) which are received during such year by all other companies or associations which are members of the same controlled group as the insurance company or association for which the determination is being made.

"(C) For purposes of subparagraph (B), the term 'controlled group' has the meaning given such term by section 831(b)(2)(B)(ii)."

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 832(b)(1) is amended by striking out "a mutual fire insurance company described in section 831(a)(3)(A)" and inserting in lieu thereof "a mutual fire insurance company exclusively issuing perpetual policies".

(2) Subparagraph (D) of section 832(b)(1) is amended to read as follows:

"(D) in the case of a mutual fire or flood insurance company whose principal business is the issuance of policies—

"(i) for which the premium deposits are the same (regardless of the length of the term for which the policies are written), and

"(ii) under which the unabsorbed portion of such premium deposits not required for losses, expenses, or establishment of reserves is returned or credited to the policyholder on cancellation or expiration of the policy,

an amount equal to 2 percent of the premiums earned on insurance contracts during the taxable year with respect to such policies after deduction of premium deposits returned or credited during the same taxable year, and".

(3) Paragraph (4) of section 832(b) is amended—

(A) by striking out "section 831(a)(3)(B)" each place it appears and inserting in lieu thereof "paragraph (1)(D)", and

(B) by striking out the last sentence and inserting in lieu thereof the following: "Premiums paid by the subscriber of a mutual flood insurance company described in paragraph (1)(D) or issuing exclusively perpetual policies shall be treated, for purposes of computing the taxable income of such subscriber, in the same manner as premiums paid by a

policyholder to a mutual fire insurance company described in subparagraph (C) or (D) of paragraph (1)."

(4) Paragraph (5) of section 832(c) is amended by striking out "section 822(b)" and inserting in lieu thereof "section 834(b)".

(5) Paragraph (11) of section 832(c) is amended—

(A) by striking out "section 831(a)(3)(A)" and inserting in lieu thereof "subsection (b)(1)(C)", and

(B) by striking out "section 831(a)(3)(B)" and inserting in lieu thereof "subsection (b)(1)(D)".

(6) Section 832 is amended by adding at the end thereof the following new subsection:

"(f) INTERINSURERS.—In the case of a mutual insurance company which is an interinsurer or reciprocal underwriter—

"(1) there shall be allowed as a deduction the increase for the taxable year in savings credited to subscriber accounts, or

"(2) there shall be included as an item of gross income the decrease for the taxable year in savings credited to subscriber accounts.

For purposes of the preceding sentence, the term 'savings credited to subscriber accounts' means such portion of the surplus as is credited to the individual accounts of subscribers before the 16th day of the 3rd month following the close of the taxable year, but only if the company would be obligated to pay such amount promptly to such subscriber if he terminated his contract at the close of the company's taxable year. For purposes of determining his taxable income, the subscriber shall treat any such savings credited to his account as a dividend paid or declared."

(7) Subsection (a) of section 834 (as redesignated by subsection (a)) is amended to read as follows:

"(a) GENERAL RULE.—For purposes of section 831(b), the term 'taxable investment income' means the gross investment income, minus the deductions provided in subsection (c)."

(8) Subsection (d) of section 834 (as so redesignated) is amended—

(A) by striking out "section 821" each place it appears and inserting in lieu thereof "section 831", and

(B) by inserting before the period at the end of the last sentence of paragraph (2) the following: "except in the case of discount which is original issue discount (as defined in section 1273)".

(9) Section 835 (as redesignated by subsection (a)) is amended—

(A) by striking out subsection (d) and by redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively, and

(B) by amending subsection (e) (as so redesignated) to read as follows:

"(e) BENEFITS OF GRADUATED RATES DENIED.—Any increase in the taxable income of a reciprocal attributable to the limits provided in subsection (b) shall be taxed at the highest rate of tax specified in section 11(b)."

(10) Section 841 is amended—

(A) by striking out "section 801, 821, or 831" and inserting in lieu thereof "section 801 or 831",

(B) by inserting "and" at the end of paragraph (1),

(C) by striking out paragraph (2), and

(D) by redesignating paragraph (3) as paragraph (2).

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(11) Section 842 is amended by striking out "part I, II, or III" and inserting in lieu thereof "part I or II".

(12) Section 844 is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) GENERAL RULE.—If an insurance company—

"(1) is subject to the tax imposed by part I or II of this subchapter for the taxable year, and

"(2) was subject to the tax imposed by a different part of this subchapter for the taxable year,

then any operations loss carryover under section 810 (or the corresponding provisions of prior law) or net operating loss carryover under section 172 (as the case may be) arising in such prior taxable year shall be included in its operations loss deduction under section 810(a) or net operating loss deduction under section 832(c)(10), as the case may be.

"(b) LIMITATION.—The amount included under section 810(a) or 832(c)(10) (as the case may be) by reason of the application of subsection (a) shall not exceed the amount that would have constituted the loss carryover under such section if for all relevant taxable years the company had been subject to the tax imposed by the part referred to in subsection (a)(1) rather than the part referred to in subsection (a)(2). For purposes of applying the preceding sentence, section 810(b)(1)(C) (relating to additional years to which losses may be carried by new life insurance companies) shall not apply."

(13) Section 891 is amended by striking out "821,".

(14) Subsection (a) of section 1201 is amended by striking out "821(a) or (c) and 831(a)" and inserting in lieu thereof "831(a) or (b)".

(15) Paragraph (2) of section 1504(b) is amended by striking out "or 821".

(16) Paragraph (2)(A) of section 1504(c) is amended by striking out "or 821".

(17) Subparagraph (D) of section 1563(b)(2) is amended by striking out "or section 821".

(18) The table of sections for part II of subchapter L of chapter 1 (as redesignated by subsection (a)) is amended by adding at the end thereof the following new items:

"Sec. 834. Determination of taxable investment income.
"Sec. 835. Election by reciprocal."

(d) TRANSITIONAL RULES.—

(1) TREATMENT OF AMOUNTS IN PROTECTION AGAINST LOSS ACCOUNT.—In the case of any insurance company which had a protection against loss account for its last taxable year beginning before January 1, 1987, there shall be included in the gross income of such company for any taxable year beginning after December 31, 1986, the amount which would have been included in gross income for such taxable year under section 824 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act). For purposes of the preceding sentence, no addition to such account shall be made for any taxable year beginning after December 31, 1986.

(2) TRANSITIONAL RULE FOR UNUSED LOSS CARRYOVER UNDER SECTION 825.—Any unused loss carryover under section 825 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) which—

(A) is from a taxable year beginning before January 1, 1987, and

(B) could have been carried under such section to a taxable year beginning after December 31, 1986, but for the repeal made by subsection (a)(1),

shall be included in the net operating loss deduction under section 832(c)(10) of such Code without regard to the limitations of section 844(b) of such Code.

(e) EFFECTIVE DATE.—The amendments made by this section (and the provisions of subsection (d)) shall apply to taxable years beginning after December 31, 1986.

SEC. 1025. STUDY OF TREATMENT OF PROPERTY AND CASUALTY INSURANCE COMPANIES.

The Secretary of the Treasury or his delegate shall conduct a study of—

(1) the treatment of policyholder dividends by mutual property and casualty insurance companies,

(2) the treatment of property and casualty insurance companies under the minimum tax, and

(3) the operation and effect of, and revenue raised by, the amendments made by this subtitle.

Not later than January 1, 1989, such Secretary shall submit to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation, the results of such study, together with such recommendations as he determines to be appropriate. The Secretary of the Treasury shall have authority to require the furnishing of such information as may be necessary to carry out the purposes of this section.

Subtitle D—Miscellaneous Provisions

SEC. 1031. PHYSICIANS' AND SURGEONS' MUTUAL PROTECTION AND INTERINDEMNITY ARRANGEMENTS OR ASSOCIATIONS.

(a) CERTAIN PHYSICIANS' AND SURGEONS' MUTUAL PROTECTION AND INTERINDEMNITY ARRANGEMENTS OR ASSOCIATIONS.—

(1) TREATMENT OF ARRANGEMENTS OR ASSOCIATIONS.—

(A) CAPITAL CONTRIBUTIONS.—There shall not be included in the gross income of any eligible physicians' and surgeons' mutual protection and interindemnity arrangement or association any initial payment made during any taxable year to such arrangement or association by a member joining such arrangement or association which—

(i) does not release such member from obligations to pay current or future dues, assessments, or premiums; and

(ii) is a condition precedent to receiving benefits of membership.

Such initial payment shall be included in the gross income of such arrangement or association for such taxable year if it is reasonable to expect that such payment will be deductible pursuant to paragraph (2) by any member of such arrangement or association.

(B) RETURN OF CONTRIBUTIONS.—

(i) IN GENERAL.—The repayment to any member of any amount of any payment excluded under subparagraph (A) shall not be treated as policyholder dividend, and is not deductible by the arrangement or association.

(ii) SOURCE OF RETURNS.—Except in the case of the termination of a member's interest in the arrangement or association, any amount distributed to any member shall be treated as paid out of surplus in excess of amounts excluded under subparagraph (A).

(2) DEDUCTION FOR MEMBERS OF ELIGIBLE ARRANGEMENTS OR ASSOCIATIONS.—

(A) PAYMENT AS TRADE OR BUSINESS EXPENSES.—To the extent not otherwise allowable under this title, any member of any eligible arrangement or association may treat any initial payment made during a taxable year to such arrangement or association as an ordinary and necessary expense incurred in connection with a trade or business for purposes of the deduction allowable under section 162, to the extent such payment does not exceed the amount which would be payable to an independent insurance company for similar annual insurance coverage (as determined by the Secretary), and further reduced by any annual dues, assessments, or premiums paid during such taxable year. Such deduction shall not be allowable as to any initial payment made to an eligible arrangement or association by any person who is a member of any other eligible arrangement or association on or after the effective date of the Tax Reform Act of 1986. Any excess amount not allowed as a deduction for the taxable year in which such payment was made pursuant to the limitation contained in the 1st sentence of this subparagraph shall, subject to such limitation, be allowable as a deduction in any of the 5 succeeding taxable years, in order of time, to the extent not previously allowed as a deduction under this sentence.

(B) REFUNDS OF INITIAL PAYMENTS.—Any amount attributable to any initial payment to such arrangement or association described in paragraph (1) which is later refunded for any reason shall be included in the gross income of the recipient in the taxable year received, to the extent a deduction for such payment was allowed. Any amount refunded in excess of such payment shall be included in gross income except to the extent otherwise excluded from income by this title.

(3) ELIGIBLE ARRANGEMENTS OR ASSOCIATIONS.—The terms "eligible physicans' and surgeons' mutual protection and interindemnity arrangement or association" and "eligible arrangement or association" mean and are limited to any mutual protection and interindemnity arrangement or association that provides only medical malpractice liability protection for its members or medical malpractice liability protection in conjunction with protection against other liability claims incurred in the course of, or related to, the professional practice of a physician or surgeon and which—

(A) was operative and was providing such protection, or had received a permit for the offer and sale of memberships, under the laws of any State before January 1, 1984,

(B) is not subject to regulation by any State insurance department,

(C) has a right to make unlimited assessments against all members to cover current claims and losses, and

(D) is not a member of, nor subject to protection by, any insurance guaranty plan or association of any State.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall apply to payments made to and receipts of physicians' and surgeons' mutual protection and interindemnity arrangements or associations, and refunds of payments by such arrangements or associations, after the date of the enactment of this Act, in taxable years ending after such date.

TITLE XI—PENSIONS AND DEFERRED COMPENSATION; EMPLOYEE BENEFITS; EMPLOYEE STOCK OWNERSHIP PLANS

Subtitle A—Pensions and Deferred Compensation

PART I—LIMITATIONS ON TAX-DEFERRED SAVINGS

Subpart A—Rules Applicable to IRAs

SEC. 1101. LIMITATIONS ON IRA DEDUCTIONS FOR ACTIVE PARTICIPANTS IN CERTAIN PENSION PLANS.

(a) LIMITATIONS ON DEDUCTIONS FOR ACTIVE PARTICIPANTS.—

(1) IN GENERAL.—Section 219 (relating to deduction for retirement savings) is amended by redesignating subsection (g) as subsection (h) and by adding after subsection (f) the following new subsection:

"(g) LIMITATION ON DEDUCTION FOR ACTIVE PARTICIPANTS IN CERTAIN PENSION PLANS.—

"(1) IN GENERAL.—If (for any part of any plan year ending with or within a taxable year) an individual or the individual's spouse is an active participant, each of the dollar limitations contained in subsections (b)(1)(A) and (c)(2) for such taxable year shall be reduced (but not below zero) by the amount determined under paragraph (2).

"(2) AMOUNT OF REDUCTION.—

"(A) IN GENERAL.—The amount determined under this paragraph with respect to any dollar limitation shall be the amount which bears the same ratio to such limitation as—

"(i) the excess of—

"(I) the taxpayer's adjusted gross income for such taxable year, over

"(II) the applicable dollar amount, bears to

"(ii) $10,000.

"(B) NO REDUCTION BELOW $200 UNTIL COMPLETE PHASE-OUT.—No dollar limitation shall be reduced below $200 under paragraph (1) unless (without regard to this subparagraph) such limitation is reduced to zero.

"(C) ROUNDING.—Any amount determined under this paragraph which is not a multiple of $10 shall be rounded to the next lowest $10.

"(3) ADJUSTED GROSS INCOME; APPLICABLE DOLLAR AMOUNT.—For purposes of this subsection—

"(A) ADJUSTED GROSS INCOME.—Adjusted gross income of any taxpayer shall be determined—

"(i) after application of sections 86 and 469, and

"(ii) without regard to section 911 or the deduction allowable under this section.

"(B) APPLICABLE DOLLAR AMOUNT.—The term 'applicable dollar amount' means—

"(i) in the case of a taxpayer filing a joint return, $40,000,

"(ii) in the case of any other taxpayer (other than a married individual filing a separate return), $25,000, and

"(iii) in the case of a married individual filing a separate return, zero.

"(4) SPECIAL RULE FOR MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of a married individual filing a separate return for any taxable year, paragraph (1) shall be applied without regard to whether such individual's spouse is an active participant for any plan year ending with or within such taxable year.

"(5) ACTIVE PARTICIPANT.—For purposes of this subsection, the term 'active participant' means, with respect to any plan year, an individual—

"(A) who is an active participant in—

"(i) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(ii) an annuity plan described in section 403(a),

"(iii) a plan established for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing,

"(iv) an annuity contract described in section 403(b), or

"(v) a simplified employee pension (within the meaning of section 408(k)), or

"(B) who makes deductible contributions to a trust described in section 501(c)(18).

The determination of whether an individual is an active participant shall be made without regard to whether or not such individual's rights under a plan, trust, or contract are nonforfeitable. An eligible deferred compensation plan (within the meaning of section 457(b)) shall not be treated as a plan described in subparagraph (A)(iii).

"(6) CERTAIN INDIVIDUALS NOT TREATED AS ACTIVE PARTICIPANTS.—For purposes of this subsection, any individual described in any of the following subparagraphs shall not be treated as an active participant for any taxable year solely because of any participation so described:

"(A) MEMBERS OF RESERVE COMPONENTS.—Participation in a plan described in subparagraph (A)(iii) of paragraph (5) by reason of service as a member of a reserve component of the Armed Forces (as defined in section 261(a) of title 10), unless

such individual has served in excess of 90 days on active duty (other than active duty for training) during the year.

"(B) VOLUNTEER FIREFIGHTERS.—A volunteer firefighter—

"(i) who is a participant in a plan described in subparagraph (A)(iii) of paragraph (5) based on his activity as a volunteer firefighter, and

"(ii) whose accrued benefit as of the beginning of the taxable year is not more than an annual benefit of $1,800 (when expressed as a single life annuity commencing at age 65)."

(2) CONFORMING AMENDMENT.—Section 219(f)(3) is amended to read as follows:

"(3) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an individual retirement plan on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof)."

(b) REPEAL OF DEDUCTION FOR QUALIFIED VOLUNTARY EMPLOYEE CONTRIBUTIONS.—

(1) IN GENERAL.—Subsection (e) of section 219 (relating to defining retirement savings contributions) is amended to read as follows:

"(e) QUALIFIED RETIREMENT CONTRIBUTION.—For purposes of this section, the term 'qualified retirement contribution' means—

"(1) any amount paid in cash for the taxable year by or on behalf of an individual to an individual retirement plan for such individual's benefit, and

"(2) any amount contributed on behalf of any individual to a plan described in section 501(c)(18)."

(2) CONFORMING AMENDMENTS.—

(A) Section 219(b) is amended by striking out paragraph (3).

(B) Paragraph (3) of section 72(p) is amended to read as follows:

"(3) QUALIFIED EMPLOYER PLAN, ETC.—For purposes of this subsection—

"(A) QUALIFIED EMPLOYER PLAN.—

"(i) IN GENERAL.—The term 'qualified employer plan' means—

"(I) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(II) an annuity plan described in section 403(a), and

"(III) a plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b).

"(ii) SPECIAL RULES.—The term 'qualified employer plan'—

"(I) shall include any plan which was (or was determined to be) a qualified employer plan or a government plan, but

"(II) shall not include a plan described in subsection (e)(7).

"(B) GOVERNMENT PLAN.—The term 'government plan' means any plan, whether or not qualified, established and maintained for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing."

(C) Paragraph (5) of section 72(o) is amended—

(i) by inserting "and made for a taxable year beginning before January 1, 1987," after "date" in subparagraph (A),

(ii) by striking out "section 219(e)(3)" in subparagraph (C) and inserting in lieu thereof "subsection (p)(3)(A)(i)", and

(iii) by striking out "section 219(e)(4)" in subparagraph (D) and inserting in lieu thereof "subsection (p)(3)(B)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions for taxable years beginning after December 31, 1986.

SEC. 1102. NONDEDUCTIBLE CONTRIBUTIONS MAY BE MADE TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Section 408 (relating to individual retirement accounts) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) DEFINITIONS AND RULES RELATING TO NONDEDUCTIBLE CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.—

"(1) IN GENERAL.—Subject to the provisions of this subsection, designated nondeductible contributions may be made on behalf of an individual to an individual retirement plan.

"(2) LIMITS ON AMOUNTS WHICH MAY BE CONTRIBUTED.—

"(A) IN GENERAL.—The amount of the designated nondeductible contributions made on behalf of any individual for any taxable year shall not exceed the nondeductible limit for such taxable year.

"(B) NONDEDUCTIBLE LIMIT.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'nondeductible limit' means the excess of—

"(I) the amount allowable as a deduction under section 219 (determined without regard to section 219(g)), over

"(II) the amount allowable as a deduction under section 219 (determined with regard to section 219(g)).

"(ii) TAXPAYER MAY ELECT TO TREAT DEDUCTIBLE CONTRIBUTIONS AS NONDEDUCTIBLE.—If a taxpayer elects not to deduct an amount which (without regard to this clause) is allowable as a deduction under section 219 for any taxable year, the nondeductible limit for such taxable year shall be increased by such amount.

"(C) DESIGNATED NONDEDUCTIBLE CONTRIBUTIONS.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'designated nondeductible contribution' means any contribution to an individual retirement plan for the taxable year which is designated (in such manner

as the Secretary may prescribe) as a contribution for which a deduction is not allowable under section 219.

"(ii) DESIGNATION.—Any designation under clause (i) shall be made on the return of tax imposed by chapter 1 for the taxable year.

"(3) TIME WHEN CONTRIBUTIONS MADE.—In determining for which taxable year a designated nondeductible contribution is made, the rule of section 219(f)(3) shall apply.

"(4) INDIVIDUAL REQUIRED TO REPORT AMOUNT OF DESIGNATED NONDEDUCTIBLE CONTRIBUTIONS.—

"(A) IN GENERAL.—Any individual who—

"(i) makes a designated nondeductible contribution to any individual retirement plan for any taxable year, or

"(ii) receives any amount from any individual retirement plan for any taxable year,

shall include on his return of the tax imposed by chapter 1 for such taxable year and any succeeding taxable year (or on such other form as the Secretary may prescribe for any such taxable year) information described in subparagraph (B).

"(B) INFORMATION REQUIRED TO BE SUPPLIED.—The following information is described in this subparagraph:

"(i) The amount of designated nondeductible contributions for the taxable year.

"(ii) The amount of distributions from individual retirement plans for the taxable year.

"(iii) The excess (if any) of—

"(I) the aggregate amount of designated nondeductible contributions for all preceding taxable years, over

"(II) the aggregate amount of distributions from individual retirement plans which was excludable from gross income for such taxable years.

"(iv) The aggregate balance of all individual retirement plans of the individual as of the close of the calendar year with or within which the taxable year ends.

"(v) Such other information as the Secretary may prescribe.

"(C) PENALTY FOR REPORTING CONTRIBUTIONS NOT MADE.—

"For penalty where individual reports designated nondeductible contributions not made, see section 6693(b)."

(b) EXCESS CONTRIBUTIONS.—

(1) APPLICATION OF TAX.—Section 4973(b) (defining excess contributions) is amended by adding at the end thereof the following new sentence: "For purposes of paragraphs (1)(B) and (2)(C), the amount allowable as a deduction under section 219 (after application of section 408(o)(2)(B)(ii)) shall be increased by the nondeductible limit under section 408(o)(2)(B).

(2) RETURN OF EXCESS CONTRIBUTIONS.—Paragraph (5) of section 408(d) (relating to tax treatment of distributions) is amended by adding at the end thereof the following new sentence: For purposes of this paragraph, the amount allowable as a deduction under section 219 (after application of section 408(o)(2)(B)(ii)) shall be increased by the nondeductible limit under section 408(o)(2)(B)."

(c) TREATMENT OF DISTRIBUTIONS.—Paragraphs (1) and (2) of section 408(d) (relating to tax treatment of distributions) are amended to read as follows:

"(1) IN GENERAL.—Except as otherwise provided in this subsection, any amount paid or distributed out of an individual retirement plan shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72.

"(2) SPECIAL RULES FOR APPLYING SECTION 72.—For purposes of applying section 72 to any amount described in paragraph (1)—

"(A) all individual retirement plans shall be treated as 1 contract,

"(B) all distributions during any taxable year shall be treated as 1 distribution, and

"(C) the value of the contract, income on the contract, and investment in the contract shall be computed as of the close of the calendar year with or within which the taxable year ends.

For purposes of subparagraph (C), the value of the contract shall be increased by the amount of any distributions during the calendar year."

(d) PENALTY FOR REPORTING NONDEDUCTIBLE CONTRIBUTIONS NOT MADE.—

(1) IN GENERAL.—Section 6693 (relating to failure to provide reports on individual retirement accounts or annuities) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) OVERSTATEMENT OF DESIGNATED NONDEDUCTIBLE CONTRIBUTIONS.—Any individual who—

"(1) is required to furnish information under section 408(o)(4) as to the amount of designated nondeductible contributions made for any taxable year, and

"(2) overstates the amount of such contributions made for such taxable year,

shall pay a penalty of $100 for each such overstatement unless it is shown that such overstatement is due to reasonable cause."

(2) CONFORMING AMENDMENTS.—

(A) Section 6693(c), as redesignated by paragraph (1), is amended by striking out "subsection (a)" and inserting in lieu thereof "this section".

(B) The heading for section 6693 is amended by inserting "; OVERSTATEMENT OF DESIGNATED NONDEDUCTIBLE CONTRIBUTIONS" after "ANNUITIES".

(C) The item relating to section 6693 in the table of sections for subchapter B of chapter 68 is amended by inserting "; overstatement of designated nondeductible contributions" after "annuities".

(e) SPECIAL RULES RELATING TO REQUIREMENTS OF TRUSTEES OF INDIVIDUAL RETIREMENT PLANS.—

(1) WITHHOLDING.—Subparagraph (B) of section 3405(d)(1) (relating to exceptions) is amended by adding at the end thereof the following new flush sentence:

"For purposes of clause (ii), any distribution or payment from or under an individual retirement plan shall be treated as includible in gross income."

(2) TIME FOR REPORTING INFORMATION WITH RESPECT TO INDIVIDUAL RETIREMENT PLANS.—The last sentence of section

408(i) (relating to reports) is amended to read as follows: "The reports required by this subsection—

"(1) shall be filed at such time and in such manner as the Secretary prescribes in such regulations, and

"(2) shall be furnished to individuals—

"(A) not later than January 31 of the calendar year following the calendar year to which such reports relate, and

"(B) in such manner as the Secretary prescribes in such regulations."

(f) CONFORMING AMENDMENT.—Section 219(f) (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(7) ELECTION NOT TO DEDUCT CONTRIBUTIONS.—

"For election not to deduct contributions to individual retirement plans, see section 408(o)(2)(B)(ii)."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions and distributions for taxable years beginning after December 31, 1986.

SEC. 1103. SPOUSAL DEDUCTION ALLOWED WHERE SPOUSE HAS SMALL AMOUNT OF EARNED INCOME.

(a) IN GENERAL.—Subparagraph (B) of section 219(c)(1) (relating to special rules for certain married individuals) is amended to read as follows:

"(B) whose spouse—

"(i) has no compensation (determined without regard to section 911) for the taxable year, or

"(ii) elects to be treated for purposes of subsection (b)(1)(B) as having no compensation for the taxable year,"

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning before, on, or after December 31, 1985.

Subpart B—Other Provisions

SEC. 1105. $7,000 LIMITATION ON ELECTIVE DEFERRALS.

(a) GENERAL RULE.—Section 402 (relating to taxability of beneficiary of employees' trust) is amended by adding at the end thereof the following new subsection:

"(g) LIMITATION ON EXCLUSION FOR ELECTIVE DEFERRALS.—

"(1) IN GENERAL.—Notwithstanding subsections (a)(8) and (h)(1)(B), the elective deferrals of any individual for any taxable year shall be included in such individual's gross income to the extent the amount of such deferrals for the taxable year exceeds $7,000.

"(2) REQUIRED DISTRIBUTION OF EXCESS DEFERRALS.—

"(A) IN GENERAL.—If any amount (hereinafter in this paragraph referred to as 'excess deferrals') is included in the gross income of an individual under paragraph (1) for any taxable year—

"(i) not later than the 1st March 1 following the close of the taxable year, the individual may allocate the amount of such excess deferrals among the plans under which the deferrals were made and may notify each such plan of the portion allocated to it, and

"(ii) not later than the 1st April 15 following the close of the taxable year, each such plan may distribute to the individual the amount allocated to it under clause (i) (and any income allocable to such amount).

The distribution described in clause (ii) may be made notwithstanding any other provision of law.

"(B) TREATMENT OF DISTRIBUTION UNDER SECTION 401(k).—Except to the extent provided under rules prescribed by the Secretary, notwithstanding the distribution of any portion of an excess deferral from a plan under subparagraph (A)(ii), such portion shall, for purposes of applying section 401(k)(3)(A)(ii), be treated as an employer contribution.

"(C) TAXATION OF DISTRIBUTION.—In the case of a distribution to which subparagraph (A) applies—

"(i) except as provided in clause (ii), such distribution shall not be included in gross income (and no tax shall be imposed under section 72(t)), and

"(ii) any income on the excess deferral shall, for purposes of this chapter, be treated as earned and received in the taxable year in which such excess deferral is made.

"(3) ELECTIVE DEFERRALS.—For purposes of this paragraph, the term 'elective deferrals' means, with respect to any taxable year, the sum of—

"(A) any employer contribution under a qualified cash or deferred arrangement (as defined in section 401(k)) to the extent not includible in gross income for the taxable year under subsection (a)(8) (determined without regard to this subsection),

"(B) any employer contribution to the extent not includible in gross income for the taxable year under subsection (h)(1)(B) (determined without regard to this subsection), and

"(C) any employer contribution to purchase an annuity contract under section 403(b) under a salary reduction agreement (within the meaning of section 3121(a)(5)(D)).

"(4) INCREASE IN LIMIT FOR AMOUNTS CONTRIBUTED UNDER SECTION 403(b) CONTRACTS.—The limitation under paragraph (1) shall be increased (but not to an amount in excess of $9,500) by the amount of any employer contributions for the taxable year described in paragraph (3)(C).

"(5) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust the $7,000 amount under paragraph (1) at the same time and in the same manner as under section 415(d).

"(6) DISREGARD OF COMMUNITY PROPERTY LAWS.—This subsection shall be applied without regard to community property laws.

"(7) COORDINATION WITH SECTION 72.—For purposes of applying section 72, any amount includible in gross income for any taxable year under this subsection but which is not distributed from the plan during such taxable year shall not be treated as investment in the contract.

"(8) SPECIAL RULE FOR CERTAIN ORGANIZATIONS.—

"(A) IN GENERAL.—In the case of a qualified employee of a qualified organization, with respect to employer contributions described in paragraph (3)(C) made by such organiza-

tion, the limitation of paragraph (1) for any taxable year shall be increased by whichever of the following is the least:

"(i) $3,000,

"(ii) $15,000 reduced by amounts not included in gross income for prior taxable years by reason of this paragraph, or

"(iii) the excess of $5,000 multiplied by the number of years of service of the employee with the qualified organization over the employer contributions described in paragraph (3) made by the organization on behalf of such employee for prior taxable years.

"(B) QUALIFIED ORGANIZATION.—For purposes of this paragraph, the term 'qualified organization' means any educational organization, hospital, home health service agency, health and welfare service agency, church, or convention or association of churches. Such term includes any organization described in section 414(e)(3)(B)(ii). Terms used in this subparagraph shall have the same meaning as when used in section 415(c)(4).

"(C) QUALIFIED EMPLOYEE.—For purposes of this paragraph, the term 'qualified employee' means any employee who has completed 15 years of service with the qualified organization."

(b) REPORTING REQUIREMENTS.—Section 6051(a) (relating to requirements of receipts for employees) is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7), and by inserting after paragraph (7) the following new paragraph:

"(8) the total amount of elective deferrals (within the meaning of section 402(g)(3)) and compensation deferred under section 457."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1986.

(2) DEFERRALS UNDER COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, the amendment made by subsection (a) shall not apply to contributions made pursuant to such an agreement for taxable years beginning before the earlier of—

(A) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after February 28, 1986), or

(B) January 1, 1989.

Such contributions shall be taken into account for purposes of applying the amendment made by this section to other plans.

(3) DISTRIBUTIONS MADE BEFORE PLAN AMENDMENT.—

(A) IN GENERAL.—If a plan amendment is required to allow the plan to make any distribution described in section 402(g)(2)(A)(ii) of the Internal Revenue Code of 1986, any such distribution which is made before the close of the 1st plan year for which such amendment is required to be in effect under section 1140 shall be treated as made in accordance with the provisions of such plan.

(B) DISTRIBUTIONS PURSUANT TO MODEL AMENDMENT.—

(i) SECRETARY TO PRESCRIBE AMENDMENT.—The Secretary of the Treasury or his delegate shall prescribe an amendment which allows a plan to make any distribution described in section 402(g)(2)(A)(ii) of such Code.

(ii) ADOPTION BY PLAN.—If a plan adopts the amendment prescribed under clause (i) and makes a distribution in accordance with such amendment, such distribution shall be treated as made in accordance with the provisions of the plan.

(4) SPECIAL RULE FOR TAXABLE YEARS OF PARTNERSHIPS WHICH INCLUDE JANUARY 1, 1987.—In the case of the taxable year of any partnership which begins before January 1, 1987, and ends after January 1, 1987, elective deferrals (within the meaning of section 402(g)(3) of the Internal Revenue Code of 1986) made on behalf of a partner for such taxable year shall, for purposes of section 402(g)(3) of such Code, be treated as having been made ratably during such taxable year.

(5) CASH OR DEFERRED ARRANGEMENTS.—The amendments made by this section shall not apply to employer contributions made during 1987 and attributable to services performed during 1986 under a qualified cash or deferred arrangement (as defined in section 401(k) of the Internal Revenue Code of 1986) if, under the terms of such arrangement as in effect on August 16, 1986—

(A) the employee makes an election with respect to such contribution before January 1, 1987, and

(B) the employer identifies the amount of such contribution before January 1, 1987.

SEC. 1106. ADJUSTMENTS TO LIMITATIONS ON CONTRIBUTIONS AND BENEFITS UNDER QUALIFIED PLANS.

(a) ADJUSTMENT OF ANNUAL CONTRIBUTION LIMITS.—Subparagraph (A) of section 415(c)(1) (relating to limitation for defined contribution plans) is amended to read as follows:

"(A) $30,000 (or, if greater, ¼ of the dollar limitation in effect under subsection (b)(1)(A)), or".

(b) ADJUSTMENT OF DEFINED BENEFIT PLAN LIMITS.—

(1) USE OF SOCIAL SECURITY RETIREMENT AGE.—

(A) IN GENERAL.—Subparagraphs (C) and (D) of section 415(b)(2) are each amended—

(i) by striking out "age 62" and "age 65" each place they appear and inserting in lieu thereof "the social security retirement age", and

(ii) by striking out the last sentence of subparagraph (C) and inserting in lieu thereof the following: "The reduction under this subparagraph shall be made in such manner as the Secretary may prescribe which is consistent with the reduction for old-age insurance benefits commencing before the social security retirement age under the Social Security Act."

(B) DEFINITION OF SOCIAL SECURITY RETIREMENT AGE.—Section 415(b) is amended by adding at the end thereof the following new paragraph:

"(8) SOCIAL SECURITY RETIREMENT AGE DEFINED.—For purposes of this subsection, the term 'social security retirement age' means the age used as the retirement age under section 216(l) of

the Social Security Act, except that such section shall be applied—

"(A) without regard to the age increase factor, and

"(B) as if the early retirement age under section 216(l)(2) of such Act were 62."

(2) SPECIAL RULES FOR GOVERNMENTAL AND TAX-EXEMPT PLANS AND QUALIFIED POLICE AND FIREFIGHTERS.—Paragraph (2) of section 415(b) (relating to annual benefit) is amended by adding at the end thereof the following new subparagraphs:

"(F) PLANS MAINTAINED BY GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.—In the case of a governmental plan (within the meaning of section 414(d)), a plan maintained by an organization (other than a governmental unit) exempt from tax under this subtitle, or a qualified merchant marine plan—

"(i) subparagraph (C) shall be applied—

"(I) by substituting 'age 62' for 'social security retirement age' each place it appears, and

"(II) as if the last sentence thereof read as follows: 'The reduction under this subparagraph shall not reduce the limitation of paragraph (1)(A) below (i) $75,000 if the benefit begins at or after age 55, or (ii) if the benefit begins before age 55, the equivalent of the $75,000 limitation for age 55.', and

"(ii) subparagraph (D) shall be applied by substituting 'age 65' for 'social security retirement age' each place it appears.

For purposes of this subparagraph, the term 'qualified merchant marine plan' means a plan in existence on January 1, 1986, the participants in which are merchant marine officers holding licenses issued by the Secretary of Transportation under title 46, United States Code.

"(G) SPECIAL LIMITATION FOR QUALIFIED POLICE OR FIREFIGHTERS.—In the case of a qualified participant—

"(i) subparagraph (C) shall not reduce the limitation of paragraph (1)(A) to an amount less than $50,000, and

"(ii) the rules of subparagraph (F) shall apply.

The Secretary shall adjust the $50,000 amount in clause (i) at the same time and in the same manner as under section 415(d).

"(H) QUALIFIED PARTICIPANT DEFINED.—For purposes of subparagraph (G), the term 'qualified participant' means a participant—

"(i) in a defined benefit plan which is maintained by a State or political subdivision thereof,

"(ii) with respect to whom the period of service taken into account in determining the amount of the benefit under such defined benefit plan includes at least 20 years of service of the participant—

"(I) as a full-time employee of any police department or fire department which is organized and operated by the State or political subdivision maintaining such defined benefit plan to provide police protection, firefighting services, or emergency medical services for any area within the jurisdiction of such State or political subdivision, or

"(II) as a member of the Armed Forces of the United States."

(3) TREATMENT OF AIRLINE PILOTS.—Subsection (b) of section 415 (relating to limitation for defined benefit plans) is amended by adding at the end thereof the following new paragraph:

"(9) SPECIAL RULE FOR COMMERCIAL AIRLINE PILOTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of any participant who is a commercial airline pilot—

"(i) the rule of paragraph (2)(F)(i)(II) shall apply, and

"(ii) if, as of the time of the participant's retirement, regulations prescribed by the Federal Aviation Administration require an individual to separate from service as a commercial airline pilot after attaining any age occurring on or after age 60 and before the social security retirement age, paragraph (2)(C) (after application of clause (i)) shall be applied by substituting such age for the social security retirement age.

"(B) INDIVIDUALS WHO SEPARATE FROM SERVICE BEFORE AGE 60.—If a participant described in subparagraph (A) separates from service before age 60, the rules of paragraph (2)(F) shall apply."

(4) SPECIAL ELECTIONS FOR SECTION 403(b) CONTRACTS.—Subparagraphs (A), (B), and (C) of section 415(c)(4) are each amended by inserting "a health and welfare service agency," after "a home health service agency,".

(c) CONTRIBUTIONS TO COST-OF-LIVING ARRANGEMENTS UNDER DEFINED BENEFIT PLANS.—

(1) IN GENERAL.—Section 415(k) (relating to special rules for limitations on benefits and contributions under qualified plans) is amended by adding at the end thereof the following new paragraph:

"(2) CONTRIBUTIONS TO PROVIDE COST-OF-LIVING PROTECTION UNDER DEFINED BENEFIT PLANS.—

"(A) IN GENERAL.—In the case of a defined benefit plan which maintains a qualified cost-of-living arrangement—

"(i) any contribution made directly by an employee under such arrangement—

"(I) shall not be treated as an annual addition for purposes of subsection (c), but

"(II) shall be so treated for purposes of subsection (e), and

"(ii) any benefit under such arrangement which is allocable to an employer contribution which was transferred from a defined contribution plan and to which the requirements of subsection (c) were applied shall, for purposes of subsection (b), be treated as a benefit derived from an employee contribution (and subsections (c) and (e) shall not again apply to such contribution by reason of such transfer).

"(B) QUALIFIED COST-OF-LIVING ARRANGEMENT DEFINED.—For purposes of this paragraph, the term 'qualified cost-of-living arrangement' means an arrangement under a defined benefit plan which—

"(i) provides a cost-of-living adjustment to a benefit provided under such plan or a separate plan subject to the requirements of section 412, and

"(ii) meets the requirements of subparagraphs (C), (D), (E), and (F) and such other requirements as the Secretary may prescribe.

"(C) DETERMINATION OF AMOUNT OF BENEFIT.—An arrangement meets the requirement of this subparagraph only if the cost-of-living adjustment of participants is based—

"(i) on increases in the cost-of-living after the annuity starting date, and

"(ii) on average cost-of-living increases determined by reference to 1 or more indexes prescribed by the Secretary, except that the arrangement may provide that the increase for any year will not be less than 3 percent of the retirement benefit (determined without regard to the arrangement).

"(D) ARRANGEMENT ELECTIVE; TIME FOR ELECTION.—An arrangement meets the requirements of this subparagraph only if it is elective, it is available under the same terms to all participants, and it provides that such election may be made in—

"(i) the year in which the participant—

"(I) attains the earliest retirement age under the defined benefit plan (determined without regard to any requirement of separation from service), or

"(II) separates from service, or

"(ii) both such years.

"(E) NONDISCRIMINATION REQUIREMENTS.—An arrangement shall not meet the requirements of this subparagraph if the Secretary finds that a pattern of discrimination exists with respect to participation.

"(F) SPECIAL RULES FOR KEY EMPLOYEES.—

"(i) IN GENERAL.—An arrangement shall not meet the requirements of this paragraph if any key employee is eligible to participate.

"(ii) KEY EMPLOYEE.—For purposes of this subparagraph, the term 'key employee' has the meaning given such term by section 416(i)(1), except that in the case of a plan other than a top-heavy plan (within the meaning of section 416(g)), such term shall not include an individual who is a key employee solely by reason of section 416(i)(1)(A)(i)."

(2) CERTAIN TRANSFERS TO DEFINED BENEFIT PLANS NOT TAKEN INTO ACCOUNT FOR PURPOSES OF LUMP SUM DISTRIBUTION.—Section 402(e)(4) (relating to special rules for lump sum distributions) is amended by adding at the end thereof the following new subparagraph:

"(N) TRANSFERS TO COST-OF-LIVING ARRANGEMENT NOT TREATED AS DISTRIBUTION.—For purposes of this subsection, the balance to the credit of an employee under a defined contribution plan shall not include any amount transferred from such defined contribution plan to a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)) under a defined benefit plan."

(d) LIMITATION ON AMOUNT OF ANNUAL COMPENSATION WHICH MAY BE TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Subsection (a) of section 401 (relating to qualified pension, profit-sharing, and stock bonus plans) is

amended by inserting after paragraph (16) the following new paragraph:

"(17) A trust shall not constitute a qualified trust under this section unless, under the plan of which such trust is a part, the annual compensation of each employee taken into account under the plan for any year does not exceed $200,000. The Secretary shall adjust the $200,000 amount at the same time and in the same manner as under section 415(d)."

(2) DEDUCTION FOR EMPLOYER CONTRIBUTIONS.—Section 404 (relating to deduction for contributions of employers to plans) is amended by adding at the end thereof the following new subsection:

"(l) LIMITATION ON AMOUNT OF ANNUAL COMPENSATION TAKEN INTO ACCOUNT.—For purposes of applying the limitations of this section, the amount of annual compensation of each employee taken into account under the plan for any year shall not exceed $200,000. The Secretary shall adjust the $200,000 amount at the same time and in the same manner as under section 415(d)."

(3) CONFORMING AMENDMENTS.—

(A) Subsection (a) of section 416 is amended by inserting "and" at the end of paragraph (1), by striking out ", and" at the end of paragraph (2) and inserting in lieu thereof a period, and by striking out paragraph (3).

(B)(i) Subsection (d) of section 416 is hereby repealed.

(ii) Section 416(c)(2)(B) is amended by striking out clause (ii) and by redesignating clause (iii) as clause (ii).

(C) Paragraph (3) of section 818(a) is amended by inserting "(17)," after "(16),".

(e) TREATMENT OF EMPLOYEE CONTRIBUTIONS FOR PURPOSES OF DETERMINING ANNUAL ADDITION.—

(1) IN GENERAL.—Subparagraph (B) of section 415(c)(2) (defining annual addition) is amended to read as follows:

"(B) the employee contributions, and".

(2) ANNUAL COMPENSATION LIMIT NOT TO APPLY TO CONTRIBUTIONS FOR POST-RETIREMENT MEDICAL BENEFITS.—Section 415(c)(2) is amended by adding at the end thereof the following new sentence: "Subparagraph (B) of paragraph (1) shall not apply to any contribution for medical benefits (within the meaning of section 419A(f)(2)) after separation from service which is treated as an annual addition."

(f) PHASE-IN OF LIMITATION FOR DEFINED BENEFIT PLANS BASED ON YEARS OF PARTICIPATION.—Paragraph (5) of section 415(b) (relating to reduction for service less than 10 years) is amended to read as follows:

"(5) REDUCTION FOR PARTICIPATION OR SERVICE OF LESS THAN 10 YEARS.—

"(A) DOLLAR LIMITATION.—In the case of an employee who has less than 10 years of participation in a defined benefit plan, the limitation referred to in paragraph (1)(A) shall be the limitation determined under such paragraph (without regard to this paragraph) multiplied by a fraction—

"(i) the numerator of which is the number of years (or part thereof) of participation in the defined benefit plan of the employer, and

"(ii) the denominator of which is 10.

"(B) COMPENSATION AND BENEFITS LIMITATIONS.—The provisions of subparagraph (A) shall apply to the limita-

tions under paragraphs (1)(B) and (4), except that such subparagraph shall be applied with respect to years of service with an employer rather than years of participation in a plan.

"(C) LIMITATION ON REDUCTION.—In no event shall subparagraph (A) or (B) reduce the limitations referred to in paragraphs (1) and (4) to an amount less than 1/10 of such limitation (determined without regard to this paragraph).

"(D) APPLICATION TO CHANGES IN BENEFIT STRUCTURE.—To the extent provided in regulations, this paragraph shall be applied separately with respect to each change in the benefit structure of a plan."

(g) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 415(d) is amended by inserting "and" at the end of subparagraph (A), by striking out subparagraph (B), and by redesignating subparagraph (C) as paragraph (B).

(2) Paragraph (2) of section 415(d) is amended—

(A) by striking out "subparagraphs (A) and (B)" and inserting in lieu thereof "subparagraph (A)", and

(B) by striking out "subparagraph (C)" and inserting in lieu thereof "subparagraph (B)".

(3) Paragraph (3) of section 415(d) is amended by striking out "subparagraph (A) or (B)" and inserting in lieu thereof "subparagraph (A)".

(h) PLANS MAY INCORPORATE SECTION 415 LIMITATIONS BY REFERENCE.—Notwithstanding any other provision of law, except as provided in regulations prescribed by the Secretary of the Treasury or his delegate, a plan may incorporate by reference the limitations under section 415 of the Internal Revenue Code of 1986.

(i) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to years beginning after December 31, 1986.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, the amendments made by this section (other than subsection (d)) shall not apply to contributions or benefits pursuant to such agreement in years beginning before the earlier of—

(A) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after February 28, 1986), or

(B) January 1, 1989.

(3) RIGHT TO HIGHER ACCRUED DEFINED BENEFIT PRESERVED.—

(A) IN GENERAL.—In the case of an individual who is a participant (as of the 1st day of the 1st year to which the amendments made by this section apply) in a defined benefit plan which is in existence on May 6, 1986, and with respect to which the requirements of section 415 of the Internal Revenue Code of 1986 have been met for all plan years, if such individual's current accrued benefit under the plan exceeds the limitation of subsection (b) of section 415 of such Code (as amended by this section), then (in the case of such plan), for purposes of subsections (b) and (e) of such section, the limitation of such subsection (b)(1)(A) with re-

spect to such individual shall be equal to such current accrued benefit.

(B) CURRENT ACCRUED BENEFIT DEFINED.—

(i) IN GENERAL.—For purposes of this paragraph, the term "current accrued benefit" means the individual's accrued benefit (at the close of the last year to which the amendments made by this section do not apply) when expressed as an annual benefit (within the meaning of section 415(b)(2) of such Code).

(ii) SPECIAL RULE.—For purposes of determining the amount of any individual's current accrued benefit—

(I) no change in the terms and conditions of the plan after May 5, 1986, and

(II) no cost-of-living adjustment occurring after May 5, 1986,

shall be taken into account. For purposes of subclause (I), any change in the terms and conditions of the plan pursuant to a collective bargaining agreement ratified before May 6, 1986, shall be treated as a change made before May 6, 1986.

(4) TRANSITION RULE WHERE THE SUM OF DEFINED CONTRIBUTION AND DEFINED BENEFIT PLAN FRACTIONS EXCEEDS 1.0.—In the case of a plan which satisfied the requirements of section 415 of the Internal Revenue Code of 1986 for its last year beginning before January 1, 1987, the Secretary of the Treasury or his delegate shall prescribe regulations under which an amount is subtracted from the numerator of the defined contribution plan fraction (not exceeding such numerator) so that the sum of the defined benefit plan fraction and the defined contribution plan fraction computed under section 415(e)(1) of such Code does not exceed 1.0 for such year.

(5) EFFECTIVE DATE FOR SUBSECTION (d).—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by subsection (d) shall apply to benefits accruing in years beginning after December 31, 1988.

(B) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan described in paragraph (2), the amendments made by subsection (d) shall apply to benefits accruing in years beginning on or after the earlier of—

(i) the later of—

(I) the date determined under paragraph (2)(A), or

(II) January 1, 1989, or

(ii) January 1, 1991.

(6) SPECIAL RULE FOR AMENDMENT MADE BY SUBSECTION (e).—The amendment made by subsection (e) shall not require the recomputation, for purposes of section 415(e) of the Internal Revenue Code of 1986, of the annual addition for any year beginning before 1987.

SEC. 1107. MODIFICATIONS OF SECTION 457.

(a) GENERAL RULE.—Section 457 (relating to deferred compensation plans with respect to service for State and local governments) is amended to read as follows:

"SEC. 457. DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.

"(a) YEAR OF INCLUSION IN GROSS INCOME.—In the case of a participant in an eligible deferred compensation plan, any amount of compensation deferred under the plan, and any income attributable to the amounts so deferred, shall be includible in gross income only for the taxable year in which such compensation or other income is paid or otherwise made available to the participant or other beneficiary.

"(b) ELIGIBLE DEFERRED COMPENSATION PLAN DEFINED.—For purposes of this section, the term 'eligible deferred compensation plan' means a plan established and maintained by an eligible employer—

"(1) in which only individuals who perform service for the employer may be participants,

"(2) which provides that (except as provided in paragraph (3)) the maximum amount which may be deferred under the plan for the taxable year shall not exceed the lesser of—

"(A) $7,500, or

"(B) 33⅓ percent of the participant's includible compensation,

"(3) which may provide that, for 1 or more of the participant's last 3 taxable years ending before he attains normal retirement age under the plan, the ceiling set forth in paragraph (2) shall be the lesser of—

"(A) $15,000, or

"(B) the sum of—

"(i) the plan ceiling established for purposes of paragraph (2) for the taxable year (determined without regard to this paragraph), plus

"(ii) so much of the plan ceiling established for purposes of paragraph (2) for taxable years before the taxable year as has not previously been used under paragraph (2) or this paragraph,

"(4) which provides that compensation will be deferred for any calendar month only if an agreement providing for such deferral has been entered into before the beginning of such month,

"(5) which meets the distribution requirements of subsection (d), and

"(6) which provides that—

"(A) all amounts of compensation deferred under the plan,

"(B) all property and rights purchased with such amounts, and

"(C) all income attributable to such amounts, property, or rights,

shall remain (until made available to the participant or other beneficiary) solely the property and rights of the employer (without being restricted to the provision of benefits under the plan), subject only to the claims of the employer's general creditors.

A plan which is established and maintained by an employer which is described in subsection (e)(1)(A) and which is administered in a manner which is inconsistent with the requirements of any of the preceding paragraphs shall be treated as not meeting the requirements of such paragraph as of the 1st plan year beginning more

than 180 days after the date of notification by the Secretary of the inconsistency unless the employer corrects the inconsistency before the 1st day of such plan year.

"(c) INDIVIDUALS WHO ARE PARTICIPANTS IN MORE THAN 1 PLAN.—

"(1) IN GENERAL.—The maximum amount of the compensation of any one individual which may be deferred under subsection (a) during any taxable year shall not exceed $7,500 (as modified by any adjustment provided under subsection (b)(3)).

"(2) COORDINATION WITH CERTAIN OTHER DEFERRALS.—In applying paragraph (1) of this subsection and paragraphs (2) and (3) of subsection (b)—

"(A) any amount excluded from gross income under section 403(b) for the taxable year, and

"(B) any amount—

"(i) excluded from gross income under section 402(a)(8) or section 402(h)(1)(B) for the taxable year, or

"(ii) with respect to which a deduction is allowable by reason of a contribution to an organization described in section 501(c)(18) for the taxable year,

shall be treated as an amount deferred under subsection (a). In applying section 402(g)(8)(A)(iii) or 403(b)(2)(A)(ii), an amount deferred under subsection (a) for any year of service shall be taken into account as if described in section 402(g)(3)(C) or 403(b)(2)(A)(ii), respectively. Subparagraph (B) shall not apply in the case of a participant in a rural electric cooperative plan (as defined in section 401(k)(7)).

"(d) DISTRIBUTION REQUIREMENTS.—

"(1) IN GENERAL.—For purposes of subsection (b)(5), a plan meets the distribution requirements of this subsection if—

"(A) the plan provides that amounts payable under the plan will be made available to participants or other beneficiaries not earlier than when the participant is separated from service with the employer or is faced with an unforeseeable emergency (determined in the manner prescribed by the Secretary by regulation), and

"(B) the plan meets the minimum distribution requirements of paragraph (2).

"(2) MINIMUM DISTRIBUTION REQUIREMENTS.—A plan meets the minimum distribution requirements of this paragraph if such plan meets the requirements of subparagraphs (A), (B), and (C):

"(A) APPLICATION OF SECTION 401(a)(9).—A plan meets the requirements of this subparagraph if the plan meets the requirements of section 401(a)(9).

"(B) ADDITIONAL DISTRIBUTION REQUIREMENTS.—A plan meets the requirements of this subparagraph if—

"(i) in the case of a distribution beginning before the death of the participant, such distribution will be made in a form under which—

"(I) at least ⅔ of the total amount payable with respect to the participant will be paid during the life expectancy of such participant (determined as of the commencement of the distribution), and

"(II) any amount not distributed to the participant during his life will be distributed after the death of the participant at least as rapidly as

under the method of distributions being used under subclause (I) as of the date of his death, or

"(ii) in the case of a distribution which does not begin before the death of the participant, the entire amount payable with respect to the participant will be paid during a period not to exceed 15 years (or the life expectancy of the surviving spouse if such spouse is the beneficiary).

"(C) NONINCREASING BENEFITS.—A plan meets the requirements of this subparagraph if any distribution payable over a period of more than 1 year can only be made in substantially nonincreasing amounts (paid not less frequently than annually).

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ELIGIBLE EMPLOYER.—The term 'eligible employer' means—

"(A) a State, political subdivision of a State, and any agency or instrumentality of a State or political subdivision of a State, and

"(B) any other organization (other than a governmental unit) exempt from tax under this subtitle.

"(2) PERFORMANCE OF SERVICE.—The performance of service includes performance of service as an independent contractor and the person (or governmental unit) for whom such services are performed shall be treated as the employer.

"(3) PARTICIPANT.—The term 'participant' means an individual who is eligible to defer compensation under the plan.

"(4) BENEFICIARY.—The term 'beneficiary' means a beneficiary of the participant, his estate, or any other person whose interest in the plan is derived from the participant.

"(5) INCLUDIBLE COMPENSATION.—The term 'includible compensation' means compensation for service performed for the employer which (taking into account the provisions of this section and other provisions of this chapter) is currently includible in gross income.

"(6) COMPENSATION TAKEN INTO ACCOUNT AT PRESENT VALUE.—Compensation shall be taken into account at its present value.

"(7) COMMUNITY PROPERTY LAWS.—The amount of includible compensation shall be determined without regard to any community property laws.

"(8) INCOME ATTRIBUTABLE.—Gains from the disposition of property shall be treated as income attributable to such property.

"(9) BENEFITS NOT TREATED AS MADE AVAILABLE BY REASON OF CERTAIN ELECTIONS.—If—

"(A) the total amount payable to a participant under the plan does not exceed $3,500, and

"(B) no additional amounts may be deferred under the plan with respect to the participant,

the amount payable to the participant under the plan shall not be treated as made available merely because such participant may elect to receive a lump sum payable within 60 days of the election.

"(10) TRANSFERS BETWEEN PLANS.—A participant shall not be required to include in gross income any portion of the entire amount payable to such participant solely by reason of the

transfer of such portion from 1 eligible deferred compensation plan to another eligible deferred compensation plan.

"(f) TAX TREATMENT OF PARTICIPANTS WHERE PLAN OR ARRANGEMENT OF EMPLOYER IS NOT ELIGIBLE.—

"(1) IN GENERAL.—In the case of a plan of an eligible employer providing for a deferral of compensation, if such plan is not an eligible deferred compensation plan, then—

"(A) the compensation shall be included in the gross income of the participant or beneficiary for the 1st taxable year in which there is no substantial risk of forfeiture of the rights to such compensation, and

"(B) the tax treatment of any amount made available under the plan to a participant or beneficiary shall be determined under section 72 (relating to annuities, etc.).

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(B) an annuity plan or contract described in section 403,

"(C) that portion of any plan which consists of a transfer of property described in section 83, and

"(D) that portion of any plan which consists of a trust to which section 402(b) applies.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) PLAN INCLUDES ARRANGEMENTS, ETC.—The term 'plan' includes any agreement or arrangement.

"(B) SUBSTANTIAL RISK OF FORFEITURE.—The rights of a person to compensation are subject to a substantial risk of forfeiture if such person's rights to such compensation are conditioned upon the future performance of substantial services by any individual."

(b) CLERICAL AMENDMENT.—The table of sections for subpart B of part II of subchapter E of chapter 1 is amended by striking out the item relating to section 457 and inserting in lieu thereof the following:

"Sec. 457. Deferred compensation plans of State and local governments and tax-exempt organizations."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1988.

(2) TRANSFERS AND CASH-OUTS.—Paragraphs (9) and (10) of section 457(e) of the Internal Revenue Code of 1986 (as amended by this section) shall apply to taxable years beginning after December 31, 1986.

(3) APPLICATION TO TAX-EXEMPT ORGANIZATIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the application of section 457 of the Internal Revenue Code of 1986 by reason of the amendments made by this section to eligible deferred compensation plans established and maintained by organizations exempt from tax shall apply to taxable years beginning after December 31, 1986.

(B) EXISTING DEFERRALS AND ARRANGEMENTS.—Section 457 of such Code shall not apply to amounts deferred under a plan described in subparagraph (A) which—

(i) were deferred from taxable years beginning before January 1, 1987, or

(ii) are deferred from taxable years beginning after December 31, 1986, pursuant to an agreement which—

(I) was in writing on August 16, 1986,

(II) on such date provides for a deferral for each taxable year covered by the agreement of a fixed amount or of an amount determined pursuant to a fixed formula.

Clause (ii) shall not apply to any taxable year ending after the date on which any modification to the amount or formula described in subclause (II) is effective. Amounts described in the first sentence shall be taken into account for applying section 457 to other amounts deferred under any eligible deferred compensation plan.

(4) DEFERRED COMPENSATION PLANS FOR STATE JUDGES.—The amendments made by this section shall not apply to any qualified State judicial plan (as defined in section 131(c)(3)(B) of the Revenue Act of 1978 as amended by section 252 of the Tax Equity and Fiscal Responsibility Act of 1982).

(5) SPECIAL RULE FOR CERTAIN DEFERRED COMPENSATION PLANS.—The amendments made by this section shall not apply to employees on August 16, 1986, of—

(A) a deferred compensation plan of a nonprofit corporation organized under the laws of the State of Alabama with respect to which the Internal Revenue Service issued a ruling dated March 17, 1976, that the plan would not affect the tax-exempt status of the corporation, or

(B) to a deferred compensation plan with respect to which a letter dated November 6, 1975, submitted the original plan to the Internal Revenue Service, an amendment was submitted on November 19, 1975, and the Internal Revenue Service responded with a letter dated December 24, 1975,

but only with respect to deferrals under such plan.

SEC. 1108. SPECIAL RULES FOR SIMPLIFIED EMPLOYEE PENSIONS.

(a) SALARY REDUCTION ARRANGEMENTS PERMITTED.—Section 408(k) (relating to simplified employee pension defined) is amended by inserting after paragraph (5) the following new paragraph:

"(6) EMPLOYEE MAY ELECT SALARY REDUCTION ARRANGEMENT.—

"(A) IN GENERAL.—A simplified employee pension shall not fail to meet the requirements of this subsection for a year merely because, under the terms of the pension—

"(i) an employee may elect to have the employer make payments—

"(I) as elective employer contributions to the simplified employee pension on behalf of the employee, or

"(II) to the employee directly in cash,

"(ii) an election described in clause (i)(I) is made or is in effect with respect to not less than 50 percent of the employees of the employer, and

"(iii) the deferral percentage for such year of each highly compensated employee eligible to participate is not more than the product derived by multiplying the average of the deferral percentages for such year of all employees (other than highly compensated employees) eligible to participate by 1.25.

"(B) EXCEPTION WHERE MORE THAN 25 EMPLOYEES.—This paragraph shall not apply with respect to any year in the case of a simplified employee pension maintained by an employer with more than 25 employees at any time during the preceding year.

"(C) DISTRIBUTIONS OF EXCESS CONTRIBUTIONS.—

"(i) IN GENERAL.—Rules similar to the rules of section 401(k)(8) shall apply to any excess contribution under this paragraph. Any excess contribution under a simplified employee pension shall be treated as an excess contribution for purposes of section 4979.

"(ii) EXCESS CONTRIBUTION.—For purposes of clause (i), the term 'excess contribution' means, with respect to a highly compensated employee, the excess of elective employer contributions under this paragraph over the maximum amount of such contributions allowable under subparagraph (A)(iii).

"(D) DEFERRAL PERCENTAGE.—For purposes of this paragraph, the deferral percentage for an employee for a year shall be the ratio of—

"(i) the amount of elective employer contributions actually paid over to the simplified employee pension on behalf of the employee for the year, to

"(ii) the employee's compensation (within the meaning of section 414(s)) for the year.

"(E) EXCEPTION FOR STATE AND LOCAL AND TAX-EXEMPT PENSIONS.—This paragraph shall not apply to a simplified employee pension maintained by—

"(i) a State or local government or political subdivision thereof, or any agency or instrumentality thereof, or

"(ii) an organization exempt from tax under this title.

"(F) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this paragraph, the term 'highly compensated employee' has the meaning given such term by section 414(q)."

(b) EXCLUSION FROM GROSS INCOME.—Section 402 (relating to taxability of beneficiary of employees' trust), as amended by section 1105(a), is amended by inserting at the end thereof the following new subsection:

"(h) SPECIAL RULES FOR SIMPLIFIED EMPLOYEE PENSIONS.—For purposes of this chapter—

"(1) IN GENERAL.—Except as provided in paragraph (2), contributions made by an employer on behalf of an employee to an individual retirement plan pursuant to a simplified employee pension (as defined in section 408(k))—

"(A) shall not be treated as distributed or made available to the employee or as contributions made by the employee, and

"(B) if such contributions are made pursuant to an arrangement under section 408(k)(6) under which an employee may elect to have the employer make contributions to the simplified employee pension on behalf of the employee, shall not be treated as distributed or made available or as contributions made by the employee merely because the simplified employee pension includes provisions for such election.

"(2) LIMITATIONS ON EMPLOYER CONTRIBUTIONS.—Contributions made by an employer to a simplified employee pension with respect to an employee for any year shall be treated as distributed or made available to such employee and as contributions made by the employee to the extent such contributions exceed the lesser of—

"(A) 15 percent of the compensation (within the meaning of section 414(s)) from such employer includible in the employee's gross income for the year (determined without regard to the employer contributions to the simplified employee pension), or

"(B) the limitation in effect under section 415(c)(1)(A), reduced in the case of any highly compensated employee (within the meaning of section 414(q)) by the amount taken into account with respect to such employee under section 408(k)(3)(D).

"(3) DISTRIBUTIONS.—Any amount paid or distributed out of an individual retirement plan pursuant to a simplified employee pension shall be included in gross income by the payee or distributee, as the case may be, in accordance with the provisions of section 408(d)."

(c) DEDUCTIBILITY OF CONTRIBUTIONS.—Subparagraphs (A) and (B) of section 404(h)(1) (relating to special rules for simplified employee pensions) are amended to read as follows:

"(A) Contributions made for a year are deductible—

"(i) in the case of a simplified employee pension maintained on a calendar year basis, for the taxable year with or within which the calendar year ends, or

"(ii) in the case of a simplified employee pension which is maintained on the basis of the taxable year of the employer, for such taxable year.

"(B) Contributions shall be treated for purposes of this subsection as if they were made for a taxable year if such contributions are made on account of such taxable year and are made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof)."

(d) PARTICIPATION REQUIREMENTS.—Paragraph (2) of section 408(k) (relating to participation requirements) is amended to read as follows:

"(2) PARTICIPATION REQUIREMENTS.—This paragraph is satisfied with respect to a simplified employee pension for a year only if for such year the employer contributes to the simplified employee pension of each employee who—

"(A) has attained age 21,

"(B) has performed service for the employer during at least 3 of the immediately preceding 5 years, and

"(C) received at least $300 in compensation (within the meaning of section 414(q)(7)) from the employer for the year.

For purposes of this paragraph, there shall be excluded from consideration employees described in subparagraph (A) or (C) of section 410(b)(3). For purposes of any arrangement described in subsection (k)(6), any employee who is eligible to have employer contributions made on the employee's behalf under such arrangement shall be treated as if such a contribution was made."

(e) COST-OF-LIVING ADJUSTMENTS.—Section 408(k) is amended by adding at the end thereof the following new paragraph:

"(8) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust the $300 amount in paragraph (2)(C) and the $200,000 amount in paragraph (3)(C) at the same time and in the same manner as under section 415(d)."

(f) COMPUTATION PERIOD.—Section 408(k)(7) is amended by adding at the end thereof the following new subparagraph:

"(C) YEAR.—The term 'year' means—

"(i) the calendar year, or

"(ii) if the employer elects, subject to such terms and conditions as the Secretary may prescribe, to maintain the simplified employee pension on the basis of the employer's taxable year."

(g) CONFORMING AMENDMENTS.—

(1) Section 408(k)(3) (relating to nondiscrimination requirements) is amended—

(A) by striking out all that follows "in favor of" in subparagraph (A) and inserting in lieu thereof "any highly compensated employee (within the meaning of section 414(q))",

(B) in subparagraph (C)—

(i) by inserting "and except as provided in subparagraph (D)," after "subparagraph (A),",

(ii) by inserting "(other than contributions under an arrangement described in paragraph (6))" after "employer contributions to simplified employee pensions", and

(iii) by striking out the last sentence thereof, and

(C) by striking out subparagraphs (D) and (E) and inserting in lieu thereof:

"(D) PERMITTED DISPARITY.—For purposes of subparagraph (C), the rules of section 401(l)(2) shall apply to contributions to simplified employee pensions (other than contributions under an arrangement described in paragraph (6))."

(2) Paragraph (2) of section 219(b) is amended to read as follows:

"(2) SPECIAL RULE FOR EMPLOYER CONTRIBUTIONS UNDER SIMPLIFIED EMPLOYEE PENSIONS.—This section shall not apply with respect to an employer contribution to a simplified employee pension."

(3) Section 219(c)(2)(B) is amended by striking out "(determined without regard to so much of the employer contributions to a simplified employee pension as is allowable by reason of paragraph (2) of subsection (b))".

(4) Section 408(k)(3)(A) is amended by striking out "calendar".

(5) Section 415(c)(2) is amended by striking out "allowable as a deduction under section 219(a), and without regard to deductible employee contributions within the meaning of section 72(o)(5)" and inserting in lieu thereof "which are excludable from gross income under section 408(k)(6)".

(6) Section 408(k), as amended by subsection (e), is amended by adding at the end thereof the following new paragraph:

"(9) CROSS REFERENCE.—

"For excise tax on certain excess contributions, see section 4979."

(7) Section 3121(a)(5) is amended by striking out subparagraph (C) and inserting in lieu thereof the following subparagraph:

"(C) under a simplified employee pension (as defined in section 408(k)(1)), other than any contributions described in section 408(k)(6),".

(8) Section 3306(b)(5) is amended by striking out subparagraph (C) and inserting in lieu thereof the following subparagraph:

"(C) under a simplified employee pension (as defined in section 408(k)(1)), other than any contributions described in section 408(k)(6),".

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1986.

SEC. 1109. DEDUCTIBLE CONTRIBUTIONS PERMITTED UNDER SECTION 501(c)(18) PLAN.

(a) IN GENERAL.—Section 501(c)(18) is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and" and by adding at the end thereof the following new subparagraph:

"(D) in the case of a plan under which an employee may designate certain contributions as deductible—

"(i) such contributions do not exceed the amount with respect to which a deduction is allowable under section 219(b)(3),

"(ii) requirements similar to the requirements of section 401(k)(3)(A)(ii) are met with respect to such elective contributions, and

"(iii) such contributions are treated as elective deferrals for purposes of section 402(g) (other than paragraph (4) thereof).

For purposes of subparagraph (D)(ii), rules similar to the rules of section 401(k)(8) shall apply. For purposes of section 4979, any excess contribution under clause (ii) shall be treated as an excess contribution under a cash or deferred arrangement."

(b) LIMITATION ON DEDUCTION.—Section 219(b), as amended by section 1101(b), is amended by adding at the end thereof the following new paragraph:

"(3) PLANS UNDER SECTION 501(C)(18).—Notwithstanding paragraph (1), the amount allowable as a deduction under subsection (a) with respect to any contributions on behalf of an employee to a plan described in section 501(c)(18) shall not exceed the lesser of—

"(A) $7,000, or

"(B) an amount equal to 25 percent of the compensation (as defined in section 415(c)(3)) includible in the individual's gross income for such taxable year."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

PART II—NONDISCRIMINATION REQUIREMENTS

SEC. 1111. APPLICATION OF NONDISCRIMINATION RULES TO INTEGRATED PLANS.

(a) IN GENERAL.—Section 401(l) (relating to nondiscriminatory coordination of defined contribution plans with OASDI) is amended to read as follows:

"(l) PERMITTED DISPARITY IN PLAN CONTRIBUTIONS OR BENEFITS.—

"(1) IN GENERAL.—The requirements of this subsection are met with respect to a plan if—

"(A) in the case of a defined contribution plan, the requirements of paragraph (2) are met, and

"(B) in the case of a defined benefit plan, the requirements of paragraph (3) are met.

"(2) DEFINED CONTRIBUTION PLAN.—

"(A) IN GENERAL.—A defined contribution plan meets the requirements of this paragraph if the excess contribution percentage does not exceed the base contribution percentage by more than the lesser of—

"(i) the base contribution percentage, or

"(ii) the greater of—

"(I) 5.7 percentage points, or

"(II) the percentage equal to the portion of the rate of tax under section 3111(a) (in effect as of the beginning of the year) which is attributable to old-age insurance.

"(B) CONTRIBUTION PERCENTAGES.—For purposes of this paragraph—

"(i) EXCESS CONTRIBUTION PERCENTAGE.—The term 'excess contribution percentage' means the percentage of compensation which is contributed under the plan with respect to that portion of each participant's compensation in excess of the integration level.

"(ii) BASE CONTRIBUTION PERCENTAGE.—The term 'base contribution percentage' means the percentage of compensation contributed under the plan with respect to that portion of each participant's compensation not in excess of the integration level.

"(3) DEFINED BENEFIT PLAN.—A defined benefit plan meets the requirements of this paragraph if—

"(A) EXCESS PLANS.—

"(i) IN GENERAL.—In the case of a plan other than an offset plan—

"(I) the excess benefit percentage does not exceed the base benefit percentage by more than the maximum excess allowance,

"(II) any optional form of benefit, preretirement benefit, actuarial factor, or other benefit or feature provided with respect to compensation in excess of the integration level is provided with respect to compensation not in excess of such level, and

"(III) benefits are based on average annual compensation.

"(ii) BENEFIT PERCENTAGES.—For purposes of this subparagraph, the excess and base benefit percentages shall be computed in the same manner as the excess and base contribution percentages under paragraph (2)(B), except that such determination shall be made on the basis of benefits rather than contributions.

"(B) OFFSET PLANS.—In the case of an offset plan, the plan provides that—

"(i) a participant's accrued benefit attributable to employer contributions (within the meaning of section 411(c)(1)) may not be reduced (by reason of the offset) by more than the maximum offset allowance, and

"(ii) benefits are based on average annual compensation.

"(4) DEFINITIONS RELATING TO PARAGRAPH (3).—For purposes of paragraph (3)—

"(A) MAXIMUM EXCESS ALLOWANCE.—The maximum excess allowance is equal to—

"(i) in the case of benefits attributable to any year of service with the employer taken into account under the plan, ¾ of a percentage point, and

"(ii) in the case of total benefits, ¾ of a percentage point, multiplied by the participant's years of service (not in excess of 35) with the employer taken into account under the plan.

In no event shall the maximum excess allowance exceed the base benefit percentage.

"(B) MAXIMUM OFFSET ALLOWANCE.—The maximum offset allowance is equal to—

"(i) in the case of benefits attributable to any year of service with the employer taken into account under the plan, ¾ percent of the participant's final average compensation, and

"(ii) in the case of total benefits, ¾ percent of the participant's final average compensation, multiplied by the participant's years of service (not in excess of 35) with the employer taken into account under the plan.

In no event shall the maximum offset allowance exceed 50 percent of the benefit which would have accrued without regard to the offset reduction.

"(C) REDUCTIONS.—

"(i) IN GENERAL.—The Secretary shall prescribe regulations requiring the reduction of the ¾ percentage factor under subparagraph (A) or (B)—

"(I) in the case of a plan other than an offset plan which has an integration level in excess of covered compensation, or

"(II) with respect to any participant in an offset plan who has final average compensation in excess of covered compensation.

"(ii) BASIS OF REDUCTIONS.—Any reductions under clause (i) shall be based on the percentages of compensation replaced by the employer-derived portions of primary insurance amounts under the Social Security Act for participants with compensation in excess of covered compensation.

"(D) OFFSET PLAN.—The term 'offset plan' means any plan with respect to which the benefit attributable to employer contributions for each participant is reduced by an amount specified in the plan.

"(5) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) INTEGRATION LEVEL.—

"(i) IN GENERAL.—The term 'integration level' means the amount of compensation specified under the plan (by dollar amount or formula) at or below which the rate at which contributions or benefits are provided (expressed as a percentage) is less than such rate above such amount.

"(ii) LIMITATION.—The integration level for any year may not exceed the contribution and benefit base in effect under section 230 of the Social Security Act for such year.

"(iii) LEVEL TO APPLY TO ALL PARTICIPANTS.—A plan's integration level shall apply with respect to all participants in the plan.

"(iv) MULTIPLE INTEGRATION LEVELS.—Under rules prescribed by the Secretary, a defined benefit plan may specify multiple integration levels.

"(B) COMPENSATION.—The term 'compensation' has the meaning given such term by section 414(s).

"(C) AVERAGE ANNUAL COMPENSATION.—The term 'average annual compensation' means the greater of—

"(i) the participant's final average compensation (determined without regard to subparagraph (D)(ii)), or

"(ii) the participant's highest average annual compensation for any other period of at least 3 consecutive years.

"(D) FINAL AVERAGE COMPENSATION.—

"(i) IN GENERAL.—The term 'final average compensation' means the participant's average annual compensation for—

"(I) the 3-consecutive year period ending with the current year, or

"(II) if shorter, the participant's full period of service.

"(ii) LIMITATION.—A participant's final average compensation shall be determined by not taking into account in any year compensation in excess of the contribution and benefit base in effect under section 230 of the Social Security Act for such year.

"(E) COVERED COMPENSATION.—

"(i) IN GENERAL.—The term 'covered compensation' means, with respect to an employee, the average of the contribution and benefit bases in effect under section 230 of the Social Security Act for each year in the 35-year period ending with the year in which the employee attains age 65.

"(ii) COMPUTATION FOR ANY YEAR.—For purposes of clause (i), the determination for any year preceding the year in which the employee attains age 65 shall be made by assuming that there is no increase in the bases described in clause (i) after the determination year and before the employee attains age 65.

"(F) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary or appropriate to carry out the purposes of this subsection, including—

"(i) in the case of a defined benefit plan which provides for unreduced benefits commencing before the social security retirement age (as defined in section 415(b)(8)), rules providing for the reduction of the maximum excess allowance and the maximum offset allowance, and

"(ii) in the case of an employee covered by 2 or more plans of the employer which fail to meet the requirements of subsection (a)(4) (without regard to this

subsection), rules preventing the multiple use of the disparity permitted under this subsection with respect to any employee.

For purposes of clause (i), unreduced benefits shall not include benefits for disability (within the meaning of section 223(d) of the Social Security Act).

"(6) SPECIAL RULE FOR PLAN MAINTAINED BY RAILROADS.—In determining whether a plan which includes employees of a railroad employer who are entitled to benefits under the Railroad Retirement Act of 1974 meets the requirements of this subsection, rules similar to the rules set forth in this subsection shall apply. Such rules shall take into account the employer-derived portion of the employees' tier 2 railroad retirement benefits and any supplemental annuity under the Railroad Retirement Act of 1974."

(b) CONFORMING AMENDMENT.—Paragraph (5) of section 401(a) is amended to read as follows:

"(5) SPECIAL RULES RELATING TO NONDISCRIMINATION REQUIREMENTS.—

"(A) SALARIED OR CLERICAL EMPLOYEES.—A classification shall not be considered discriminatory within the meaning of paragraph (4) or section 410(b)(2)(A)(i) merely because it is limited to salaried or clerical employees.

"(B) CONTRIBUTIONS AND BENEFITS MAY BEAR UNIFORM RELATIONSHIP TO COMPENSATION.—A plan shall not be considered discriminatory within the meaning of paragraph (4) merely because the contributions or benefits of, or on behalf of, the employees under the plan bear a uniform relationship to the compensation (within the meaning of section 414(s)) of such employees.

"(C) CERTAIN DISPARITY PERMITTED.—A plan shall not be considered discriminatory within the meaning of paragraph (4) merely because the contributions or benefits of, or on behalf of, the employees under the plan favor highly compensated employees (as defined in section 414(q)) in the manner permitted under subsection (l).

"(D) INTEGRATED DEFINED BENEFIT PLAN.—

"(i) IN GENERAL.—A defined benefit plan shall not be considered discriminatory within the meaning of paragraph (4) merely because the plan provides that the employer-derived accrued retirement benefit for any participant under the plan may not exceed the excess (if any) of—

"(I) the participant's final pay with the employer, over

"(II) the employer-derived retirement benefit created under Federal law attributable to service by the participant with the employer.

For purposes of this clause, the employer-derived retirement benefit created under Federal law shall be treated as accruing ratably over 35 years.

"(ii) FINAL PAY.—For purposes of this subparagraph, the participant's final pay is the compensation (as defined in section 414(q)(7)) paid to the participant by the employer for any year—

"(I) which ends during the 5-year period ending with the year in which the participant separated from service for the employer, and

"(II) for which the participant's total compensation from the employer was highest.

"(E) 2 OR MORE PLANS TREATED AS SINGLE PLAN.—For purposes of determining whether 2 or more plans of an employer satisfy the requirements of paragraph (4) when considered as a single plan—

"(i) CONTRIBUTIONS.—If the amount of contributions on behalf of the employees allowed as a deduction under section 404 for the taxable year with respect to such plans, taken together, bears a uniform relationship to the compensation (within the meaning of section 414(s)) of such employees, the plans shall not be considered discriminatory merely because the rights of employees to, or derived from, the employer contributions under the separate plans do not become nonforfeitable at the same rate.

"(ii) BENEFITS.—If the employees' rights to benefits under the separate plans do not become nonforfeitable at the same rate, but the levels of benefits provided by the separate plans satisfy the requirements of regulations prescribed by the Secretary to take account of the differences in such rates, the plans shall not be considered discriminatory merely because of the difference in such rates."

(c) EFFECTIVE DATE.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to benefits attributable to plan years beginning after December 31, 1988.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to years beginning after December 31, 1988.

(3) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, the amendments made by this section shall not apply to benefits pursuant to, and individuals covered by, any such agreement in plan years beginning before the earlier of—

(A) the later of—

(i) January 1, 1989, or

(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after February 28, 1986), or

(B) January 1, 1991.

SEC. 1112. MINIMUM COVERAGE REQUIREMENTS FOR QUALIFIED PLANS.

(a) IN GENERAL.—Subsection (b) of section 410 (relating to eligibility requirements) is amended to read as follows:

"(b) MINIMUM COVERAGE REQUIREMENTS.—

"(1) IN GENERAL.—A trust shall not constitute a qualified trust under section 401(a) unless such trust is designated by the employer as part of a plan which meets 1 of the following requirements:

"(A) The plan benefits at least 70 percent of employees who are not highly compensated employees.

"(B) The plan benefits—

"(i) a percentage of employees who are not highly compensated employees which is at least 70 percent of

"(ii) the percentage of highly compensated employees benefiting under the plan.

"(C) The plan meets the requirements of paragraph (2).

"(2) AVERAGE BENEFIT PERCENTAGE TEST.—

"(A) IN GENERAL.—A plan shall be treated as meeting the requirements of this paragraph if—

"(i) the plan benefits such employees as qualify under a classification set up by the employer and found by the Secretary not to be discriminatory in favor of highly compensated employees, and

"(ii) the average benefit percentage for employees who are not highly compensated employees is at least 70 percent of the average benefit percentage for highly compensated employees.

"(B) AVERAGE BENEFIT PERCENTAGE.—For purposes of this paragraph, the term 'average benefit percentage' means, with respect to any group, the average of the benefit percentages calculated separately with respect to each employee in such group (whether or not a participant in any plan).

"(C) BENEFIT PERCENTAGE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'benefit percentage' means the employer-provided contribution or benefit of an employee under all qualified plans maintained by the employer, expressed as a percentage of such employee's compensation (within the meaning of section 414(s)).

"(ii) PERIOD FOR COMPUTING PERCENTAGE.—At the election of an employer, the benefit percentage for any plan year shall be computed on the basis of contributions or benefits for—

"(I) such plan year, or

"(II) any consecutive plan year period (not greater than 3 years) which ends with such plan year and which is specified in such election.

An election under this clause, once made, may be revoked or modified only with the consent of the Secretary.

"(D) EMPLOYEES TAKEN INTO ACCOUNT.—For purposes of determining who is an employee for purposes of determining the average benefit percentage under subparagraph (B)—

"(i) except as provided in clause (ii), paragraph (4)(A) shall not apply, or

"(ii) if the employer elects, paragraph (4)(A) shall be applied by using the lowest age and service requirements of all qualified plans maintained by the employer.

"(E) QUALIFIED PLAN.—For purposes of this paragraph, the term 'qualified plan' means any plan which (without regard to this subsection) meets the requirements of section 401(a).

"(3) EXCLUSION OF CERTAIN EMPLOYEES.—For purposes of this subsection, there shall be excluded from consideration—

"(A) employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and one or more employers, if there is evidence that retirement benefits were the subject of good faith bargaining between such employee representatives and such employer or employers,

"(B) in the case of a trust established or maintained pursuant to an agreement which the Secretary of Labor finds to be a collective bargaining agreement between air pilots represented in accordance with title II of the Railway Labor Act and one or more employers, all employees not covered by such agreement, and

"(C) employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

Subparagraph (A) shall not apply with respect to coverage of employees under a plan pursuant to an agreement under such subparagraph. Subparagraph (B) shall not apply in the case of a plan which provides contributions or benefits for employees whose principal duties are not customarily performed aboard aircraft in flight.

"(4) EXCLUSION OF EMPLOYEES NOT MEETING AGE AND SERVICE REQUIREMENTS.—

"(A) IN GENERAL.—If a plan—

"(i) prescribes minimum age and service requirements as a condition of participation, and

"(ii) excludes all employees not meeting such requirements from participation,

then such employees shall be excluded from consideration for purposes of this subsection.

"(B) REQUIREMENTS MAY BE MET SEPARATELY WITH RESPECT TO EXCLUDED GROUP.—If employees do not meet the minimum age or service requirements of subsection (a)(1) (without regard to subparagraph (B) thereof) and are covered under a plan of the employer which meets the requirements of paragraph (1) separately with respect to such employees, such employees may be excluded from consideration in determining whether any plan of the employer meets the requirements of paragraph (1).

"(5) LINE OF BUSINESS EXCEPTION.—

"(A) IN GENERAL.—If, under section 414(r), an employer is treated as operating separate lines of business for a year, the employer may apply the requirements of this subsection for such year separately with respect to employees in each separate line of business.

"(B) PLAN MUST BE NONDISCRIMINATORY.—Subparagraph (A) shall not apply with respect to any plan maintained by an employer unless such plan benefits such employees as qualify under a classification set up by the employer and found by the Secretary not to be discriminatory in favor of highly compensated employees.

"(6) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) HIGHLY COMPENSATED EMPLOYEE.—The term 'highly compensated employee' has the meaning given such term by section 414(q).

"(B) AGGREGATION RULES.—An employer may elect to designate—

"(i) 2 or more trusts,

"(ii) 1 or more trusts and 1 or more annuity plans, or

"(iii) 2 or more annuity plans,

as part of 1 plan intended to qualify under section 401(a) to determine whether the requirements of this subsection are met with respect to such trusts or annuity plans. If an employer elects to treat any trusts or annuity plans as 1 plan under this subparagraph, such trusts or annuity plans shall be treated as 1 plan for purposes of section 401(a)(4).

"(C) SPECIAL RULES FOR CERTAIN DISPOSITIONS OR ACQUISITIONS.—

"(i) IN GENERAL.—If a person becomes, or ceases to be, a member of a group described in subsection (b), (c), (m), or (o) of section 414, then the requirements of this subsection shall be treated as having been met during the transition period with respect to any plan covering employees of such person or any other member of such group if—

"(I) such requirements were met immediately before each such change, and

"(II) the coverage under such plan is not significantly changed during the transition period (other than by reason of the change in members of a group).

"(ii) TRANSITION PERIOD.—For purposes of clause (i), the term 'transition period' means the period—

"(I) beginning on the date of the change in members of a group, and

"(II) ending on the last day of the 1st plan year beginning after the date of such change.

"(D) SPECIAL RULE FOR CERTAIN EMPLOYEE STOCK OWNERSHIP PLANS.—A trust which is part of a tax credit employee stock ownership plan which is the only plan of an employer intended to qualify under section 401(a) shall not be treated as not a qualified trust under section 401(a) solely because it fails to meet the requirements of this subsection if—

"(i) such plan benefits 50 percent or more of all the employees who are eligible under a nondiscriminatory classification under the plan, and

"(ii) the sum of the amounts allocated to each participant's account for the year does not exceed 2 percent of the compensation of that participant for the year.

"(E) ELIGIBILITY TO CONTRIBUTE.—In the case of contributions which are subject to section 401(k) or 401(m), employees who are eligible to contribute (or elect to have contributions made on their behalf) shall be treated as benefiting under the plan (other than for purposes of paragraph (2)(A)(ii)).

"(F) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection."

(b) ADDITIONAL PARTICIPATION REQUIREMENTS.—Section 401(a) (relating to qualification requirements) is amended by adding at the end thereof the following new paragraph:

"(26) ADDITIONAL PARTICIPATION REQUIREMENTS.—

"(A) IN GENERAL.—A trust shall not constitute a qualified trust under this subsection unless such trust is part of a plan which on each day of the plan year benefits the lesser of—

"(i) 50 employees of the employer, or

"(ii) 40 percent or more of all employees of the employer.

"(B) TREATMENT OF EXCLUDABLE EMPLOYEES.—

"(i) IN GENERAL.—A plan may exclude from consideration under this paragraph employees described in paragraphs (3) and (4)(A) of section 410(b).

"(ii) SEPARATE APPLICATION FOR CERTAIN EXCLUDABLE EMPLOYEES.—If employees described in section 410(b)(4)(B) are covered under a plan which meets the requirements of subparagraph (A) separately with respect to such employees, such employees may be excluded from consideration in determining whether any plan of the employer meets such requirements if—

"(I) the benefits for such employees are provided under the same plan as benefits for other employees,

"(II) the benefits provided to such employees are not greater than comparable benefits provided to other employees under the plan, and

"(III) no highly compensated employee (within the meaning of section 414(q)) is included in the group of such employees for more than 1 year.

"(C) ELIGIBILITY TO PARTICIPATE.—In the case of contributions under section 401(k) or 401(m), employees who are eligible to contribute (or may elect to have contributions made on their behalf) shall be treated as benefiting under the plan.

"(D) SPECIAL RULE FOR COLLECTIVE BARGAINING UNITS.—Except to the extent provided in regulations, a plan covering only employees described in section 410(b)(3)(A) may exclude from consideration any employees who are not included in the unit or units in which the covered employees are included.

"(E) PARAGRAPH NOT TO APPLY TO MULTIEMPLOYER PLANS.—Except to the extent provided in regulations, this paragraph shall not apply to employees in a multiemployer plan (within the meaning of section 414(f)) who are covered by collective bargaining agreements.

"(F) REGULATIONS.—The Secretary may by regulation provide that any separate benefit structure, any separate trust, or any other separate arrangement is to be treated as a separate plan for purposes of applying this paragraph."

(c) PLANS FAILING TO MEET REQUIREMENTS OF SECTION 410(b).—

(1) IN GENERAL.—Subsection (b) of section 402 (relating to taxability of beneficiary of nonexempt trust) is amended by adding at the end thereof the following new paragraph:

"(2) FAILURE TO MEET REQUIREMENTS OF SECTION 410(b).—

"(A) IN GENERAL.—In the case of a trust which is not exempt from tax under section 501(a) solely because such trust is part of a plan which fails to meet the requirements of section 410(b)—

"(i) such trust shall be treated as exempt from tax under section 501(a) for purposes of applying paragraph (1) to employees who are not highly compensated employees, and

"(ii) paragraph (1) shall be applied to the vested accrued benefit (other than employee contributions) of any highly compensated employee as of the close of the employer's taxable year described in paragraph (1) (rather than contributions made during such year).

"(B) FAILURE IN MORE THAN 1 YEAR.—If a plan fails to meet the requirements of section 410(b) for more than 1 taxable year, any portion of the vested accrued benefit to which subparagraph (A) applies shall be included in gross income only once.

"(C) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this paragraph, the term 'highly compensated employee' has the meaning given such term by section 414(q)."

(2) CONFORMING AMENDMENT.—The heading for section 402(b) is amended to read as follows:

"(b) TAXABILITY OF BENEFICIARY OF NONEXEMPT TRUST.—

"(1) IN GENERAL.—".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 401(k)(3)(A) is amended by striking out "subparagraph (A) or (B) of" before "section 410(b)(1)".

(2) Section 404(a)(2) is amended by striking out "and (22)" and inserting in lieu thereof "(22), and (26)".

(3) Sections 406(b)(1) and 407(b)(1) are each amended by striking out "(without regard to paragraph (1)(A) thereof)" after "section 410(b)".

(4) Section 818(a)(3) is amended by striking out "and (22)" and inserting in lieu thereof "(22), and (26)".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 1988.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, the amendments made by this section shall not apply to employees covered by any such agreement in plan years beginning before the earlier of—

(A) the later of—

(i) January 1, 1989, or

(ii) the date on which the last of such collective bargaining agreement terminates (determined without regard to any extension thereof after February 28, 1986), or

(B) January 1, 1991.

(3) WAIVER OF EXCISE TAX ON REVERSIONS.—

(A) IN GENERAL.—If—

(i) a plan is in existence on August 16, 1986,

(ii) such plan would fail to meet the requirements of section 401(a)(26) of the Internal Revenue Code of 1986 (as added by subsection (b)) if such section were in effect for the plan year including August 16, 1986, and

(iii) there is no transfer of assets to or liabilities from a plan or merger or spinoff or merger involving such plan after August 16, 1986,

then no tax shall be imposed under section 4980 of such Code on any employer reversion by reason of the termination or merger of such plan before the 1st year to which the amendment made by subsection (b) applies.

(B) DETERMINATION OF AMOUNT OF REVERSION.—For purposes of the Internal Revenue Code of 1986, in determining the present value of the accrued benefit of any highly compensated employee (within the meaning of section 414(q) of such Code) on the termination or merger of any plan to which subparagraph (A) applies, the plan shall use the highest interest rate which may be used for calculating present value under section 411(a)(11)(B) of such Code.

(C) SPECIAL RULE FOR PLANS WHICH MAY NOT TERMINATE.—To the extent provided in regulations prescribed by the Secretary of the Treasury or his delegate, if a plan is prohibited from terminating under title IV of the Employee Retirement Income Security Act of 1974 before the 1st year to which the amendment made by subsection (b) applies, subparagraph (A) shall be applied by substituting "the 1st year in which the plan is able to terminate" for "the 1st year to which the amendment made by subsection (b) applies".

SEC. 1113. MINIMUM VESTING STANDARDS.

(a) IN GENERAL.—Paragraph (2) of section 411(a) (relating to minimum vesting standards) is amended to read as follows:

"(2) EMPLOYER CONTRIBUTIONS.—A plan satisfies the requirements of this paragraph if it satisfies the requirements of subparagraph (A), (B), or (C).

"(A) 5-YEAR VESTING.—A plan satisfies the requirements of this subparagraph if an employee who has completed at least 5 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

"(B) 3 TO 7 YEAR VESTING.—A plan satisfies the requirements of this subparagraph if an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions determined under the following table:

"Years of service:	The nonforfeitable percentage is:
3	20
4	40
5	60
6	80
7 or more	100.

"(C) MULTIEMPLOYER PLANS.—A plan satisfies the requirements of this subparagraph if—

"(i) the plan is a multiemployer plan (within the meaning of section 414(f)), and

"(ii) under the plan—

"(I) an employee who is covered pursuant to a collective bargaining agreement described in section 414(f)(1)(B) and who has completed at least 10 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions, and

"(II) the requirements of subparagraph (A) or (B) are met with respect to employees not described in subclause (I)."

(b) REPEAL OF CLASS YEAR VESTING.—Paragraph (4) of section 411(d) (relating to class year vesting) is hereby repealed.

(c) MODIFICATION OF MINIMUM PARTICIPATION STANDARDS.—Clause (i) of section 410(a)(1)(B) (relating to special rules for certain plans) is amended by striking out "3 years" each place it appears and inserting in lieu thereof "2 years".

(d) CONFORMING AMENDMENTS.—

(A) The heading for section 410(a)(5)(B) is amended by striking out "3-year" and inserting in lieu thereof "2-year".

(B) Section 411(a)(10)(B) is amended by striking out "5 years" and inserting in lieu thereof "3 years".

(e) AMENDMENTS TO ERISA.—

(1) IN GENERAL.—Paragraph (2) of section 203(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)(2)) is amended to read as follows:

"(2) A plan satisfies the requirements of this paragraph if it satisfies the following requirements of subparagraph (A), (B), or (C).

"(A) A plan satisfies the requirements of this subparagraph if an employee who has completed at least 5 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

"(B) A plan satisfies the requirements of this subparagraph if an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions determined under the following table:

"Years of service:	The nonforfeitable percentage is:
3	20
4	40
5	60
6	80
7 or more	100.

"(C) A plan satisfies the requirements of this subparagraph if—

"(i) the plan is a multiemployer plan (within the meaning of section 3(37)), and

"(ii) under the plan—

"(I) an employee who is covered pursuant to a collective bargaining agreement described in section 414(f)(1)(B) and who has completed at least 10 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions, and

"(II) the requirements of subparagraph (A) or (B) are met with respect to employees not described in subclause (I)."

(2) REPEAL OF CLASS YEAR VESTING.—Subsection (c) of section 203 of such Act is amended by striking out paragraph (3).

(3) MINIMUM PARTICIPATION STANDARDS.—Section 202(B)(i) of such Act is amended by striking out "3 years" each place it appears and inserting in lieu thereof "2 years".

(4) CONFORMING AMENDMENTS.—

(A) MINIMUM VESTING STANDARDS.—Section 203(c)(1)(B) of such Act is amended by striking out "5 years" and inserting in lieu thereof "3 years".

(B) BENEFIT ACCRUAL REQUIREMENTS.—Subsection (i) of section 204 of such Act (29 U.S.C. 1054(i)) is amended to read as follows:

"(i) CROSS REFERENCE.—

"For special rules relating to plan provisions adopted to preclude discrimination, see section 203(c)(2).".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning after December 31, 1988.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, the amendments made by this section shall not apply to employees covered by any such agreement in plan years beginning before the earlier of—

(A) the later of—

(i) January 1, 1989, or

(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after February 28, 1986), or

(B) January 1, 1991.

(3) PARTICIPATION REQUIRED.—The amendments made by this section shall not apply to any employee who does not have 1 hour of service in any plan year to which the amendments made by this section apply.

SEC. 1114. DEFINITION OF HIGHLY COMPENSATED EMPLOYEE.

(a) GENERAL RULE.—Section 414 is amended by adding at the end thereof the following new subsection:

"(q) HIGHLY COMPENSATED EMPLOYEE.—

"(1) IN GENERAL.—The term 'highly compensated employee' means any employee who, during the year or the preceding year—

"(A) was at any time a 5-percent owner,

"(B) received compensation from the employer in excess of $75,000,

"(C) received compensation from the employer in excess of $50,000 and was in the top-paid group of employees for such year, or

"(D) was at any time an officer and received compensation greater than 150 percent of the amount in effect under section 415(c)(1)(A) for such year.

"(2) SPECIAL RULE FOR CURRENT YEAR.—In the case of the year for which the relevant determination is being made, an employee not described in subparagraph (B), (C), or (D) of paragraph (1) for the preceding year (without regard to this paragraph) shall not be treated as described in subparagraph (B), (C), or (D) of paragraph (1) unless such employee is a member of the group consisting of the 100 employees paid the greatest compensation during the year for which such determination is being made.

"(3) 5-PERCENT OWNER.—An employee shall be treated as a 5-percent owner for any year if at any time during such year such employee was a 5-percent owner (as defined in section 416(i)(1)) of the employer.

"(4) TOP-PAID GROUP.—An employee is in the top-paid group of employees for any year if such employee is in the group consisting of the top 20 percent of the employees when ranked on the basis of compensation paid during such year.

"(5) SPECIAL RULES FOR TREATMENT OF OFFICERS.—

"(A) NOT MORE THAN 50 OFFICERS TAKEN INTO ACCOUNT.—For purposes of paragraph (1)(D), no more than 50 employees (or, if lesser, the greater of 3 employees or 10 percent of the employees) shall be treated as officers.

"(B) AT LEAST 1 OFFICER TAKEN INTO ACCOUNT.—If for any year no officer of the employer is described in paragraph (1)(D), the highest paid officer of the employer for such year shall be treated as described in such paragraph.

"(6) TREATMENT OF CERTAIN FAMILY MEMBERS.—

"(A) IN GENERAL.—If any individual is a member of the family of a 5-percent owner or of a highly compensated employee in the group consisting of the 10 highly compensated employees paid the greatest compensation during the year, then—

"(i) such individual shall not be considered a separate employee, and

"(ii) any compensation paid to such individual (and any applicable contribution or benefit on behalf of such individual) shall be treated as if it were paid to (or on behalf of) the 5-percent owner or highly compensated employee.

"(B) FAMILY.—For purposes of subparagraph (A), the term 'family' means, with respect to any employee, such employee's spouse and lineal ascendants or descendants and the spouses of such lineal ascendants or descendants.

"(7) COMPENSATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'compensation' means compensation within the meaning of section 415(c)(3).

"(B) CERTAIN PROVISIONS NOT TAKEN INTO ACCOUNT.—The determination under subparagraph (A) shall be made—

"(i) without regard to sections 125, 402(a)(8), and 402(h)(1)(B), and

"(ii) in the case of employer contributions made pursuant to a salary reduction agreement, without regard to section 403(b).

"(8) EXCLUDED EMPLOYEES.—For purposes of subsection (r) and for purposes of determining the number of employees in the top-paid group under paragraph (4), the following employees shall be excluded—

"(A) employees who have not completed 6 months of service,

"(B) employees who normally work less than 17½ hours per week,

"(C) employees who normally work during not more than 6 months during any year,

"(D) employees who have not attained age 21,

"(E) except to the extent provided in regulations, employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer, and

"(F) employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

The employer may elect to apply subparagraph (A), (B), (C), or (D) by substituting a shorter period of service, smaller number of hours or months, or lower age for the period of service, number of hours or months, or age (as the case may be) than that specified in such subparagraph.

"(9) FORMER EMPLOYEES.—A former employee shall be treated as a highly compensated employee if—

"(A) such employee was a highly compensated employee when such employee separated from service, or

"(B) such employee was a highly compensated employee at any time after attaining age 55.

"(10) COORDINATION WITH OTHER PROVISIONS.—Subsections (b), (c), (m), (n), and (o) shall be applied before the application of this section."

(b) CONFORMING AMENDMENTS.—

(1) Section 106(b)(1) is amended by striking out "highly compensated individual (within the meaning of section 105(h)(5))" and inserting in lieu thereof "highly compensated employee (within the meaning of section 414(q))".

(2) Section 117(d)(3), as amended by section 123 of this Act, is amended—

(A) by striking out "officer, owner, or",

(B) by striking out "officers, owners, or", and

(C) by inserting at the end thereof the following new sentence: "For purposes of this paragraph, the term 'highly compensated employee' has the meaning given such term by section 414(q)."

(3)(A) Section 120(c)(1) is amended by striking out "officers, shareholders, self-employed individuals, or highly compensated" and inserting in lieu thereof "highly compensated employees (within the meaning of section 414(q))".

(B) Section 120(d)(1) is amended—

(i) by striking out "The term 'self-employed individual' means, and the" and inserting in lieu thereof "The", and

(ii) by striking out "SELF-EMPLOYED INDIVIDUAL;" in the heading thereof.

(4) Sections 127(b)(2) and 129(d)(2) are each amended by striking out "officers, owners, or highly compensated," and inserting in lieu thereof "highly compensated employees (within the meaning of section 414(q))".

(5)(A) Sections 132 (e)(2) and (h)(1) are each amended—

(i) by striking out "officer, owner, or", and

(ii) by striking out "officers, owners, or".

(B) Section 132(h) is amended by adding at the end thereof the following new paragraph:

"(7) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this section, the term 'highly compensated employee' has the meaning given such term by section 414(q)."

(6) Section 274(e)(5) is amended by striking out "officers, shareholders or other owners, or highly compensated employees" and inserting in lieu thereof "highly compensated employees (within the meaning of section 414(q))".

(7) Section 401(a)(4) is amended to read as follows:

"(4) if the contributions or benefits provided under the plan do not discriminate in favor of highly compensated employees (within the meaning of section 414(q)). For purposes of this paragraph, there shall be excluded from consideration employees described in section 410(b)(3) (A) and (C)."

(8) Section 404A(g)(1)(A) is amended by striking out "an officer, shareholder, or highly compensated" and inserting in lieu thereof "a highly compensated employee (within the meaning of section 414(q))".

(9)(A) Section 406(b)(1)(A) is amended by striking out "an officer, shareholder, or person whose principal duties consist of supervising the work of other employees of a foreign affiliate of such American employer" and insert in lieu thereof "a highly compensated employee (within the meaning of section 414(q))".

(B) Section 407(b)(1)(A) is amended by striking out "an officer, shareholder, or person whose principal duties consist of supervising the work of other employees of a domestic subsidiary" and insert in lieu thereof "a highly compensated employee (within the meaning of section 414(q))".

(C) Sections 406(b)(1)(B) and 407(b)(1)(B) are each amended by inserting "(as so defined)" after "employee".

(10) Subparagraphs (A) and (B) of section 411(d)(1) are each amended by striking out "officers, shareholders, or highly compensated" and inserting in lieu thereof "highly compensated employees (within the meaning of section 414(q))".

(11) Clause (ii) of section 414(m)(2)(B) is amended by striking out "officers, highly compensated employees, or owners" and inserting in lieu thereof "highly compensated employees (within the meaning of section 414(q))".

(12) Section 415(c)(3)(C)(ii) is amended by striking out "an officer, owner, or highly compensated" and inserting in lieu thereof "a highly compensated employee (within the meaning of section 414(q))".

(13) Section 423(b)(4)(D) is amended by striking out "officers, persons whose principal duties consist of supervising the work of other employees, or highly compensated employees" and inserting in lieu thereof "highly compensated employees (within the meaning of section 414(q))".

(14) Clauses (ii) and (iii) of section 501(c)(17) and subparagraphs (B) and (C) of section 501(c)(18) are each amended by striking out "officers, shareholders, persons whose principal duties consists of supervising the work of other employees, or highly compensated employees" and inserting in lieu thereof

"highly compensated employees (within the meaning of section 414(q))".

(15)(A) Section 4975(d)(1)(B) is amended by striking out "highly compensated employees, officers, or shareholders" and inserting in lieu thereof "highly compensated employees (within the meaning of section 414(q))".

(B) Section 408(b)(1)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)(1)) is amended by striking out "highly compensated employees, officers, or shareholders" and inserting in lieu thereof "highly compensated employees (within the meaning of section 414(q) of the Internal Revenue Code of 1986)".

(16) Paragraph (5) of section 505(b) is amended to read as follows:

"(5) HIGHLY COMPENSATED INDIVIDUAL.—For purposes of this subsection, the determination as to whether an individual is a highly compensated individual shall be made under rules similar to the rules for determining whether an individual is a highly compensated employee (within the meaning of section 414(q)).".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendment made by this section shall apply to years beginning after December 31, 1986.

(2) CONFORMING AMENDMENTS TO EMPLOYEE BENEFIT PROVISIONS.—The amendments made by paragraphs (2), (3), (4), (5), and (16) of subsection (b) shall apply to years beginning after December 31, 1987.

(3) CONFORMING AMENDMENTS TO PENSION PROVISIONS.—The amendments made by paragraphs (7), (8), (9), (10), (11), (12), and (15) of subsection (b) shall apply to years beginning after December 31, 1988.

(4) SPECIAL RULE FOR DETERMINING HIGHLY COMPENSATED EMPLOYEES.—For purposes of sections 401(k) and 401(m) of the Internal Revenue Code of 1986, in the case of an employer incorporated on December 15, 1924, if more than 50 percent of its employees in the top-paid group (within the meaning of section 414(q)(4) of such Code) earn less than $25,000 (indexed at the same time and in the same manner as under section 415(d) of such Code), then the highly compensated employees shall include employees described in section 414(q)(1)(C) of such Code determined without regard to the level of compensation of such employees.

SEC. 1115. SEPARATE LINES OF BUSINESS; COMPENSATION.

(a) IN GENERAL.—Section 414 is amended by adding at the end thereof the following new subsections:

"(r) SPECIAL RULES FOR SEPARATE LINE OF BUSINESS.—

(1) IN GENERAL.—For purposes of sections 89 and 410(b), an employer shall be treated as operating separate lines of business during any year if the employer for bona fide business reasons operates separate lines of business.

"(2) LINE OF BUSINESS MUST HAVE 50 EMPLOYEES, ETC.—A line of business shall not be treated as separate under paragraph (1) unless—

"(A) such line of business has at least 50 employees who are not excluded under subsection (q)(8),

"(B) the employer notifies the Secretary that such line of business is being treated as separate for purposes of paragraph (1), and

"(C) such line of business meets guidelines prescribed by the Secretary or the employer receives a determination from the Secretary that such line of business may be treated as separate for purposes of paragraph (1).

"(3) SAFE HARBOR RULE.—The requirements of subparagraph (C) of paragraph (2) shall not apply to any line of business if the highly compensated employee percentage with respect to such line of business is—

"(A) not less than one-half, and

"(B) not more than twice,

the percentage which highly compensated employees are of all employees of the employer. An employer shall be treated as meeting the requirements of subparagraph (A) if at least 10 percent of all highly compensated employees of the employer perform services solely for such line of business.

"(4) HIGHLY COMPENSATED EMPLOYEE PERCENTAGE DEFINED.—For purposes of this subsection, the term 'highly compensated employee percentage' means the percentage which highly compensated employees performing services for the line of business are of all employees performing services for the line of business.

"(5) ALLOCATION OF BENEFITS TO LINE OF BUSINESS.—For purposes of this subsection, benefits which are attributable to services provided to a line of business shall be treated as provided by such line of business.

"(6) HEADQUARTERS PERSONNEL, ETC.—The Secretary shall prescribe rules providing for—

"(A) the allocation of headquarters personnel among the lines of business of the employer, and

"(B) the treatment of other employees providing services for more than 1 line of business of the employer or not in lines of business meeting the requirements of paragraph (2).

"(7) SEPARATE OPERATING UNITS.—For purposes of this subsection, the term 'separate line of business' includes an operating unit in a separate geographic area separately operated for a bona fide business reason.

"(8) AFFILIATED SERVICE GROUPS.—This subsection shall not apply in the case of any affiliated service group (within the meaning of section 414(m)).

"(s) COMPENSATION.—For purposes of this part—

"(1) IN GENERAL.—The term 'compensation' means compensation for service performed for an employer which (taking into account the provisions of this chapter) is currently includible in gross income.

"(2) SELF-EMPLOYED INDIVIDUALS.—The Secretary shall prescribe regulations for the determination of the compensation of an employee who is a self-employed individual (within the meaning of section 401(c)(1)) which are based on the principles of paragraph (1).

"(3) EMPLOYER MAY ELECT TO TREAT CERTAIN DEFERRALS AS COMPENSATION.—An employer may elect to include as compensation any amount which is contributed by the employer pursuant to a salary reduction agreement and which is not includible in the gross income of an employee under section 125, 402(a)(8), 402(h), or 403(b).

"(4) ALTERNATIVE DETERMINATION OF COMPENSATION.—The Secretary shall by regulation provide for alternative methods of determining compensation which may be used by an employer, except that such regulations shall provide that an employer may not use an alternative method if the use of such method discriminates in favor of highly compensated employees (within the meaning of subsection (q))."

(b) EFFECTIVE DATES.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1986.

Subpart B—Other Provisions

SEC. 1116. CASH OR DEFERRED ARRANGEMENTS.

(a) GENERAL RULE.—Subparagraph (A) of section 401(k)(3) (relating to application of participation and discrimination standards) is amended—

(1) by striking out "1.5" in clause (ii)(I) and inserting in lieu thereof "1.25",

(2) by striking out "3 percentage points" in clause (ii)(II) and inserting in lieu thereof "2 percentage points", and

(3) by striking out "2.5" in clause (ii)(II) and inserting in lieu thereof "2".

(b) WITHDRAWAL AND OTHER RESTRICTIONS.—

(1) WITHDRAWALS.—Paragraph (2)(B) of section 401(k) (defining qualified cash or deferred arrangement) is amended to read as follows:

"(B) under which—

"(i) amounts held by the trust which are attributable to employer contributions made pursuant to the employee's election may not be distributable to participants or other beneficiaries earlier than—

"(I) separation from service, death, or disability,

"(II) termination of the plan without establishment of a successor plan,

"(III) the date of the sale by a corporation of substantially all of the assets (within the meaning of section 409(d)(2)) used by such corporation in a trade or business of such corporation with respect to an employee who continues employment with the corporation acquiring such assets,

"(IV) the date of the sale by a corporation of such corporation's interest in a subsidiary (within the meaning of section 409(d)(3)) with respect to an employee who continues employment with such subsidiary,

"(V) in the case of a profit-sharing or stock bonus plan, the attainment of age 59½, or

"(VI) in the case of contributions to a profit-sharing or stock bonus plan to which section 402(a)(8) applies, upon hardship of the employee, and

"(ii) amounts will not be distributable merely by reason of the completion of a stated period of participation or the lapse of a fixed number of years; and".

(2) NOT MORE THAN 1 YEAR OF SERVICE MAY BE REQUIRED.—Paragraph (2) of section 401(k) is amended by striking out "and"

at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(D) which does not require, as a condition of participation in the arrangement, that an employee complete a period of service with the employer (or employers) maintaining the plan extending beyond the period permitted under section 410(a)(1) (determined without regard to subparagraph (B)(i) thereof)."

(3) OTHER REQUIREMENTS.—Subsection (k) of section 401 is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) OTHER REQUIREMENTS.—

"(A) BENEFITS (OTHER THAN MATCHING CONTRIBUTIONS) MUST NOT BE CONTINGENT ON ELECTION TO DEFER.—A cash or deferred arrangement of any employer shall not be treated as a qualified cash or deferred arrangement if any other benefit provided by such employer is conditioned (directly or indirectly) on the employee electing to have the employer make or not make contributions under the arrangement in lieu of receiving cash. The preceding sentence shall not apply to any matching contribution (as defined in section 401(m)) made by reason of such an election.

"(B) STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS NOT ELIGIBLE.—A cash or deferred arrangement shall not be treated as a qualified cash or deferred arrangement if it is part of a plan maintained by—

"(i) a State or local government or political subdivision thereof, or any agency or instrumentality thereof, or

"(ii) any organization exempt from tax under this subtitle.

"(C) COORDINATION WITH OTHER PLANS.—Except as provided in section 401(m), any employer contribution made pursuant to an employee's election under a qualified cash or deferred arrangement shall not be taken into account for purposes of determining whether any other plan meets the requirements of section 401(a) or 410(b). This subparagraph shall not apply for purposes of determining whether a plan meets the average benefit requirement of section 410(b)(2)(A)(ii)."

(4) AGGREGATION RULE.—The last sentence of subparagraph (A) of section 401(k)(3) (relating to application of participation and discrimination standards) is amended by striking out "any employee" and inserting in lieu thereof "any highly compensated employee".

(c) PLAN NOT DISQUALIFIED IF EXCESS CONTRIBUTIONS DISTRIBUTED BEFORE THE END OF FOLLOWING PLAN YEAR.—

(1) IN GENERAL.—Subsection (k) of section 401 is amended by adding at the end thereof the following new paragraph:

"(8) ARRANGEMENT NOT DISQUALIFIED IF EXCESS CONTRIBUTIONS DISTRIBUTED.—

"(A) IN GENERAL.—A cash or deferred arrangement shall not be treated as failing to meet the requirements of clause

(ii) of paragraph (3)(A) for any plan year if, before the close of the following plan year—

"(i) the amount of the excess contributions for such plan year (and any income allocable to such contributions) is distributed, or

"(ii) to the extent provided in regulations, the employee elects to treat the amount of the excess contributions as an amount distributed to the employee and then contributed by the employee to the plan.

Any distribution of excess contributions (and income) may be made without regard to any other provision of law.

"(B) EXCESS CONTRIBUTIONS.—For purposes of subparagraph (A), the term 'excess contributions' means, with respect to any plan year, the excess of—

"(i) the aggregate amount of employer contributions actually paid over to the trust on behalf of highly compensated employees for such plan year, over

"(ii) the maximum amount of such contributions permitted under the limitations of clause (ii) of paragraph (3)(A) (determined by reducing contributions made on behalf of highly compensated employees in order of the actual deferral percentages beginning with the highest of such percentages).

"(C) METHOD OF DISTRIBUTING EXCESS CONTRIBUTIONS.—Any distribution of the excess contributions for any plan year shall be made to highly compensated employees on the basis of the respective portions of the excess contributions attributable to each of such employees.

"(D) ADDITIONAL TAX UNDER SECTION 72(t) NOT TO APPLY.—No tax shall be imposed under section 72(t) on any amount required to be distributed under this paragraph.

"(E) CROSS REFERENCE.—

"For excise tax on certain excess contributions, see section 4979."

(2) TECHNICAL AMENDMENT.—Clause (ii) of section 401(k)(3)(A) is amended by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (5)".

(d) DEFINITIONS OF HIGHLY COMPENSATED EMPLOYEE AND COMPENSATION.—

(1) HIGHLY COMPENSATED EMPLOYEE.—Paragraph (5) of section 401(k), as redesignated by this Act, is amended to read as follows:

"(5) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this subsection, the term 'highly compensated employee' has the meaning given such term by section 414(q)."

(2) COMPENSATION.—Section 401(k), as amended by this Act, is amended by adding at the end thereof the following new paragraph:

"(9) COMPENSATION.—For purposes of this subsection, the term 'compensation' has the meaning given such term by section 414(s)."

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 401(k)(3) is amended by striking out the last sentence thereof.

(e) NONDISCRIMINATION STANDARDS.—Section 401(k)(3) is amended by adding at the end thereof the following new subparagraph:

"(C) For purposes of subparagraph (B), the employer contributions on behalf of any employee—

"(i) shall include any employer contributions made pursuant to the employee's election under paragraph (2), and

"(ii) under such rules as the Secretary may prescribe, may, at the election of the employer, include—

"(I) matching contributions (as defined in 401(m)(4)(A)) which meets the requirements of paragraph (2) (B) and (C), and

"(II) qualified nonelective contributions (within the meaning of section 401(m)(4)(C))."

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to years beginning after December 31, 1988.

(2) NONDISCRIMINATION RULES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by subsections (a), (b)(4), and (d), and the provisions of section 401(k)(4)(B) of the Internal Revenue Code of 1986 (as added by this section), shall apply to years beginning after December 31, 1986.

(B) TRANSITION RULES FOR CERTAIN GOVERNMENTAL AND TAX-EXEMPT PLANS.—Subparagraph (B) of section 401(k)(4) of the Internal Revenue Code of 1986 (relating to governments and tax-exempt organizations not eligible for cash or deferred arrangements), as added by this section, shall not apply to any cash or deferred arrangement adopted by—

(i) a State or local government (or political subdivision thereof) before May 6, 1986, or

(ii) a tax-exempt organization before July 2, 1986.

In the case of an arrangement described in clause (i), the amendments made by subsections (a), (b)(4), and (d) shall apply to years beginning after December 31, 1988.

(3) AGGREGATION AND EXCESS CONTRIBUTIONS.—The amendments made by subsections (c) and (e) shall apply to years beginning after December 31, 1986.

(4) COLLECTIVE BARGAINING AGREEMENTS.—

(A) IN GENERAL.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, the amendments made by this section shall not apply to years beginning before the earlier of—

(i) the later of—

(I) January 1, 1989, or

(II) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after February 28, 1986), or

(ii) January 1, 1991.

(B) SPECIAL RULE FOR NONDISCRIMINATION RULES.—In the case of a plan described in subparagraph (A), the amendments and provisions described in paragraph (2) shall not apply to years beginning before the earlier of—

(i) the date determined under subparagraph (A)(i)(II), or

(ii) January 1, 1989.

(5) SPECIAL RULE FOR QUALIFIED OFFSET ARRANGEMENTS.—

(A) IN GENERAL.—A cash or deferred arrangement shall not be treated as failing to meet the requirements of section 401(k)(4) of the Internal Revenue Code of 1986 (as added by this section) to the extent such arrangement is part of a qualified offset arrangement consisting of such cash or deferred arrangement and a defined benefit plan.

(B) QUALIFIED OFFSET ARRANGEMENT.—For purposes of subparagraph (A), a cash or deferred arrangement is part of a qualified offset arrangement with a defined benefit plan to the extent such offset arrangement satisfies each of the following conditions with respect to the employer maintaining the arrangement on April 16, 1986, and at all times thereafter:

(i) The benefit under the defined benefit plan is directly and uniformly conditioned on the initial elective deferrals (up to 4 percent of compensation).

(ii) The benefit provided under the defined benefit plan (before the offset) is at least 60 percent of an employee's cumulative elective deferrals (up to 4 percent of compensation).

(iii) The benefit under the defined benefit plan is reduced by the benefit attributable to the employee's elective deferrals under the plan (up to 4 percent of compensation) and the income allocable thereto. The interest rate used to calculate the reduction shall not exceed the greater of the rate under section 411(a)(11)(B)(ii) of such Code or the interest rate applicable under section 411(c)(2)(C)(iii) of such Code, taking into account section 411(c)(2)(D) of such Code.

For purposes of applying section 401(k)(3) of such Code to the cash or deferred arrangement, the benefits under the defined benefit plan conditioned on initial elective deferrals may be treated as matching contributions under such rules as the Secretary of the Treasury or his delegate may prescribe. The Secretary shall provide rules for the application of this paragraph in the case of successor plans.

(C) DEFINITION OF EMPLOYER.—For purposes of this paragraph, the term "employer" includes any research and development center which is federally funded and engaged in cancer research, but only with respect to employees of contractor-operators whose salaries are reimbursed as direct costs against the operator's contract to perform work at such center.

(6) WITHDRAWALS ON SALE OF ASSETS.—Subclauses (II), (III), and (IV) of section 401(k)(2)(B)(i) of the Internal Revenue Code of 1986 (as added by subsection (b)(1)) shall apply to distributions after December 31, 1984.

(7) DISTRIBUTIONS BEFORE PLAN AMENDMENT.—

(A) IN GENERAL.—If a plan amendment is required to allow a plan to make any distribution described in section 401(k)(8) of the Internal Revenue Code of 1986, any such distribution which is made before the close of the 1st plan year for which such amendment is required to be in effect under section 1140, shall be treated as made in accordance with the provisions of such plan.

(B) DISTRIBUTIONS PURSUANT TO MODEL AMENDMENT.—

(i) SECRETARY TO PRESCRIBE AMENDMENT.—The Secretary of the Treasury or his delegate shall prescribe an amendment which allows a plan to make any distribution described in section 401(k)(8) of such Code.

(ii) ADOPTION BY PLAN.—If a plan adopts the amendment prescribed under clause (i) and makes a distribution in accordance with such amendment, such distribution shall be treated as made in accordance with the provisions of the plan.

SEC. 1117. NONDISCRIMINATION REQUIREMENTS FOR EMPLOYER MATCHING CONTRIBUTIONS AND EMPLOYEE CONTRIBUTIONS.

(a) GENERAL RULE.—Section 401 (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by redesignating subsections (m) and (n) as subsections (n) and (o), respectively, and by inserting after subsection (l) the following new subsection:

"(m) NONDISCRIMINATION TEST FOR MATCHING CONTRIBUTIONS AND EMPLOYEE CONTRIBUTIONS.—

"(1) IN GENERAL.—A plan shall be treated as meeting the requirements of subsection (a)(4) with respect to the amount of any matching contribution or employee contribution for any plan year only if the contribution percentage requirement of paragraph (2) of this subsection is met for such plan year.

"(2) REQUIREMENTS.—

"(A) CONTRIBUTION PERCENTAGE REQUIREMENT.—A plan meets the contribution percentage requirement of this paragraph for any plan year only if the contribution percentage for eligible highly compensated employees does not exceed the greater of—

"(i) 125 percent of such percentage for all other eligible employees, or

"(ii) the lesser of 200 percent of such percentage for all other eligible employees, or such percentage for all other eligible employees plus 2 percentage points.

"(B) MULTIPLE PLANS TREATED AS A SINGLE PLAN.—If two or more plans of an employer to which matching contributions, employee contributions, or elective deferrals are made are treated as one plan for purposes of section 410(b), such plans shall be treated as one plan for purposes of this subsection. If a highly compensated employee participates in two or more plans of an employer to which such contributions are made, all such contributions shall be aggregated for purposes of this subsection.

"(3) CONTRIBUTION PERCENTAGE.—For purposes of paragraph (2), the contribution percentage for a specified group of employees for a plan year shall be the average of the ratios (calculated separately for each employee in such group) of—

"(A) the sum of the matching contributions and employee contributions paid under the plan on behalf of each such employee for such plan year, to

"(B) the employee's compensation (within the meaning of section 414(s)) for such plan year.

Under regulations, an employer may elect to take into account (in computing the contribution percentage) elective deferrals and qualified nonelective contributions under the plan or any other plan of the employer.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) MATCHING CONTRIBUTION.—The term 'matching contribution' means—

"(i) any employer contribution made to the plan on behalf of an employee on account of an employee contribution made by such employee, and

"(ii) any employer contribution made to the plan on behalf of an employee on account of an employee's elective deferral.

"(B) ELECTIVE DEFERRAL.—The term 'elective deferral' means any employer contribution described in section 402(g)(3)(A).

"(C) QUALIFIED NONELECTIVE CONTRIBUTIONS.—The term 'qualified nonelective contribution' means any employer contribution (other than a matching contribution) with respect to which—

"(i) the employee may not elect to have the contribution paid to the employee in cash instead of being contributed to the plan, and

"(ii) the requirements of subparagraphs (B) and (C) of subsection (k)(2) are met.

"(5) EMPLOYEES TAKEN INTO CONSIDERATION.—

"(A) IN GENERAL.—Any employee who is eligible to make an employee contribution (or, if the employer takes elective contributions into account, elective contributions) or to receive a matching contribution under the plan being tested under paragraph (1) shall be considered an eligible employee for purposes of this subsection.

"(B) CERTAIN NONPARTICIPANTS.—If an employee contribution is required as a condition of participation in the plan, any employee who would be a participant in the plan if such employee made such a contribution shall be treated as an eligible employee on behalf of whom no employer contributions are made.

"(6) PLAN NOT DISQUALIFIED IF EXCESS AGGREGATE CONTRIBUTIONS DISTRIBUTED BEFORE END OF FOLLOWING PLAN YEAR.—

"(A) IN GENERAL.—A plan shall not be treated as failing to meet the requirements of paragraph (1) for any plan year if, before the close of the following plan year, the amount of the excess aggregate contributions for such plan year (and any income allocable to such contributions) is distributed (or, if forfeitable, is forfeited). Such contributions (and such income) may be distributed without regard to any other provision of law.

"(B) EXCESS AGGREGATE CONTRIBUTIONS.—For purposes of subparagraph (A), the term 'excess aggregate contributions' means, with respect to any plan year, the excess of—

"(i) the aggregate amount of the matching contributions and employee contributions (and any qualified nonelective contribution or elective contribution taken into account in computing the contribution percentage) actually made on behalf of highly compensated employees for such plan year, over

"(ii) the maximum amount of such contributions permitted under the limitations of paragraph (2)(A) (determined by reducing contributions made on behalf of highly compensated employees in order of their con-

tribution percentages beginning with the highest of such percentages).

"(C) METHOD OF DISTRIBUTING EXCESS CONTRIBUTIONS.—Any distribution of the excess aggregate contributions for any plan year shall be made to highly compensated employees on the basis of the respective portions of such amounts attributable to each of such employees. Forfeitures of excess aggregate contributions may not be allocated to participants whose contributions are reduced under this paragraph.

"(D) COORDINATION WITH SUBSECTION (k) AND 402(g).—The determination of the amount of excess aggregate contributions with respect to a plan shall be made after—

"(i) first determining the excess deferrals (within the meaning of section 402(g)), and

"(ii) then determining the excess contributions under subsection (k).

"(7) TREATMENT OF DISTRIBUTIONS.—

"(A) ADDITIONAL TAX OF SECTION 72(t) NOT APPLICABLE.—No tax shall be imposed under section 72(t) on any amount required to be distributed under paragraph (8).

"(B) EXCLUSION OF EMPLOYEE CONTRIBUTIONS.—Any distribution attributable to employee contributions shall not be included in gross income except to the extent attributable to income on such contributions.

"(8) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this subsection, the term 'highly compensated employee' has the meaning given to such term by section 414(q).

"(9) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection and subsection (k) including—

"(A) such regulations as may be necessary to prevent the multiple use of the alternative limitation with respect to any highly compensated employee, and

"(B) regulations permitting appropriate aggregation of plans and contributions.

For purposes of the preceding sentence, the term 'alternative limitation' means the limitation of section 401(k)(3)(A)(ii)(II) and the limitation of paragraph (2)(A)(ii) of this subsection.

"(10) CROSS REFERENCE.—

"For excise tax on certain excess contributions, see section 4979."

(b) EXCISE TAX ON EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Chapter 43 (relating to qualified pension, etc. plans) is amended by adding at the end thereof the following new section:

"SEC. 4979. TAX ON CERTAIN EXCESS CONTRIBUTIONS.

"(a) GENERAL RULE.—In the case of any plan, there is hereby imposed a tax for the taxable year equal to 10 percent of the sum of—

"(1) any excess contributions under a cash or deferred arrangement which is part of such plan for the plan year ending in such taxable year, and

"(2) any excess aggregate contributions under the plan for the plan year ending in such taxable year.

"(b) LIABILITY FOR TAX.—The tax imposed by subsection (a) shall be paid by the employer.

"(c) EXCESS CONTRIBUTIONS.—For purposes of this section, the term 'excess contributions' has the meaning given such term by sections 401(k)(8)(B), 403(b), 408(k)(8)(B), and 501(c)(18).

"(d) EXCESS AGGREGATE CONTRIBUTION.—For purposes of this section, the term 'excess aggregate contribution' has the meaning given to such term by section 401(m)(6)(B).

"(e) PLAN.—For purposes of this section, the term 'plan' means—

"(1) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(2) any annuity plan described in section 403(a),

"(3) any annuity contract described in section 403(b),

"(4) a simplified employee pension of an employer which satisfies the requirements of section 408(k), and

"(5) a plan described in section 501(c)(18).

Such term includes any plan which, at any time, has been determined by the Secretary to be such a plan.

"(f) NO TAX WHERE EXCESS DISTRIBUTED WITHIN 2½ MONTHS OF CLOSE OF YEAR.—

"(1) IN GENERAL.—No tax shall be imposed under this section on any excess contribution or excess aggregate contribution, as the case may be, to the extent such contribution (together with any income allocable thereto) is distributed (or, if forfeitable, is forfeited) before the close of the first 2½ months of the following plan year.

"(2) INCLUDED IN PRIOR YEAR.—Any amount distributed as provided in paragraph (1) shall be treated as received and earned by the recipient in his taxable year for which such contribution was made."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end thereof the following new item:

"Sec. 4979. Tax on certain excess contributions."

(c) TECHNICAL AMENDMENT.—Paragraph (2) of section 414(k) (relating to certain plans) is amended by striking out "and 415 (relating to limitations on benefits and contributions under qualified plans)" and inserting in lieu thereof ", 415 (relating to limitations on benefits and contributions under qualified plans), and 401(m) (relating to nondiscrimination tests for matching requirements and employee contributions)".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 1986.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, the amendments made by this section shall not apply to plan years beginning before the earlier of—

(A) January 1, 1989, or

(B) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after February 28, 1986).

(3) ANNUITY CONTRACTS.—In the case of an annuity contract under section 403(b) of the Internal Revenue Code of 1986—

(A) the amendments made by this section shall apply to plan years beginning after December 31, 1988, and

(B) in the case of a collective bargaining agreement described in paragraph (2), the amendments made by this section shall not apply to years beginning before the earlier of—

(i) the later of—

(I) January 1, 1989, or

(II) the date determined under paragraph (2)(B), or

(ii) January 1, 1991.

SEC. 1118. BENEFITS TREATED AS ACCRUING RATABLY FOR PURPOSES OF DETERMINING WHETHER PLAN IS TOP-HEAVY.

(a) GENERAL RULE.—Paragraph (4) of section 416(g) (defining top-heavy plan) is amended by adding at the end thereof the following new subparagraph:

"(F) ACCRUED BENEFITS TREATED AS ACCRUING RATABLY.—The accrued benefit of any employee (other than a key employee) shall be determined—

"(i) under the method which is used for accrual purposes for all plans of the employer, or

"(ii) if there is no method described in clause (i), as if such benefit accrued not more rapidly than the slowest accrual rate permitted under section 411(b)(1)(C)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years beginning after December 31, 1986.

SEC. 1119. MODIFICATION OF RULES FOR BENEFIT FORFEITURES.

(a) GENERAL RULE.—Paragraph (8) of section 401(a) (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by striking out "pension plan" and inserting in lieu thereof "defined benefit plan".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years beginning after December 31, 1985.

SEC. 1120. NONDISCRIMINATION REQUIREMENTS FOR TAX-SHELTERED ANNUITIES.

(a) GENERAL RULE.—Paragraph (1) of section 403(b) is amended by striking out "and" at the end of subparagraph (B), by inserting "and" at the end of subparagraph (C), and by inserting after subparagraph (C) the following new subparagraph:

"(D) except in the case of a contract purchased by a church, such contract is purchased under a plan which meets the nondiscrimination requirements of paragraph (10),".

(b) NONDISCRIMINATION REQUIREMENTS.—Subsection (b) of section 403 is amended by adding at the end thereof the following new paragraph:

"(10) NONDISCRIMINATION REQUIREMENTS.—

"(A) IN GENERAL.—For purposes of paragraph (1)(D), a plan meets the nondiscrimination requirements of this paragraph if—

"(i) with respect to contributions not made pursuant to a salary reduction agreement, such plan meets the requirements of paragraphs (4), (5), and (26) of section

401(a) and section 410(b) in the same manner as if such plan were described in section 401(a), and

"(ii) all employees of the organization may elect to have the employer make contributions of more than $200 pursuant to a salary reduction agreement if any employee of the organization may elect to have the organization make contributions for such contracts pursuant to such agreement.

For purposes of clause (ii), there may be excluded any employee who is a participant in an eligible deferred compensation plan (within the meaning of section 457) or a qualified cash or deferred arrangement of the organization or another annuity contract described in this subsection. Any nonresident alien described in section 410(b)(3)(C) may also be excluded. For purposes of this subparagraph, students who normally work less than 20 hours per week may (subject to the conditions applicable under section 410(b)(4)) be excluded.

"(B) CHURCH.—For purposes of paragraph (1)(D), the term 'church' has the meaning given to such term by section 3121(w)(3)(A). Such term shall include any qualified church-controlled organization (as defined in section 3121(w)(3)(B))."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1988.

PART III—TREATMENT OF DISTRIBUTIONS

SEC. 1121. MINIMUM DISTRIBUTION REQUIREMENTS.

(a) EXCISE TAX ON FAILURE TO DISTRIBUTE.—

(1) IN GENERAL.—Section 4974 is amended to read as follows:

"SEC. 4974. EXCISE TAX ON CERTAIN ACCUMULATIONS IN QUALIFIED RETIREMENT PLANS.

"(a) GENERAL RULE.—If the amount distributed during the taxable year of the payee under any qualified retirement plan or any eligible deferred compensation plan (as defined in section 457(b)) is less than the minimum required distribution for such taxable year, there is hereby imposed a tax equal to 50 percent of the amount by which such minimum required distribution exceeds the actual amount distributed during the taxable year. The tax imposed by this section shall be paid by the payee.

"(b) MINIMUM REQUIRED DISTRIBUTION.—For purposes of this section, the term 'minimum required distribution' means the minimum amount required to be distributed during a taxable year under section 401(a)(9), 403(b)(10), 408(a)(6), 408(b)(3), or 457(d)(2), as the case may be, as determined under regulations prescribed by the Secretary.

"(c) QUALIFIED RETIREMENT PLAN.—For purposes of this section, the term 'qualified retirement plan' means—

"(1) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(2) an annuity plan described in section 403(a),

"(3) an annuity contract described in section 403(b),

"(4) an individual retirement account described in section 408(a), or

"(5) an individual retirement annuity described in section 408(b).

Such term includes any plan, contract, account, or annuity which, at any time, has been determined by the Secretary to be such a plan, contract, account, or annuity.

"(d) WAIVER OF TAX IN CERTAIN CASES.—If the taxpayer establishes to the satisfaction of the Secretary that—

"(1) the shortfall described in subsection (a) in the amount distributed during any taxable year was due to reasonable error, and

"(2) reasonable steps are being taken to remedy the shortfall, the Secretary may waive the tax imposed by subsection (a) for the taxable year."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 43 is amended by striking out the item relating to section 4974 and inserting in lieu thereof the following:

"Sec. 4974. Excise tax on certain accumulations in qualified retirement plans."

(b) UNIFORM REQUIRED BEGINNING DATE.—Subparagraph (C) of section 401(a)(9) (defining required beginning date) is amended to read as follows:

"(C) REQUIRED BEGINNING DATE.—For purposes of this paragraph, the term 'required beginning date' means April 1 of the calendar year following the calendar year in which the employee attains age 70½."

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (F) of section 402(a)(5) is amended to read as follows:

"(F) TRANSFER TREATED AS ROLLOVER CONTRIBUTION UNDER SECTION 408.—For purposes of this title, a transfer described in subparagraph (A) to an eligible retirement plan described in subclause (I) or (II) of subparagraph (E)(iv) shall be treated as a rollover contribution described in section 408(d)(3)."

(2) Clause (ii) of section 408(d)(3)(A) is amended by striking out the third and fourth parenthetical phrases.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to years beginning after December 31, 1988.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall apply to years beginning after December 31, 1986.

(3) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, the amendments made by this section shall not apply to distributions to individuals covered by such agreements in plan years beginning before the earlier of—

(A) the later of—

(i) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after February 28, 1986), or

(ii) January 1, 1989, or

(B) January 1, 1991.

(4) TRANSITION RULES.—

(A) The amendments made by subsections (a) and (b) shall not apply with respect to any benefits with respect to which a designation is in effect under section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act of 1982.

(B)(i) Except as provided in clause (ii), the amendment made by subsection (b) shall not apply in the case of any individual who has attained age 70½ before January 1, 1988.

(ii) Clause (i) shall not apply to any individual who is a 5-percent owner (as defined in section 416(i) of the Internal Revenue Code of 1986), at any time during—

(I) the plan year ending with or within the calendar year in which such owner attains age 66½, and

(II) any subsequent plan year.

SEC. 1122. TAXATION OF DISTRIBUTIONS.

(a) LIMITATIONS ON SPECIAL AVERAGING PROVISIONS.—

(1) AVERAGING PROVISIONS LIMITED TO 1 LUMP SUM DISTRIBUTION AFTER AGE 59½.—Subparagraph (B) of section 402(e)(4) (relating to election of lump sum treatment) is amended to read as follows:

"(B) AVERAGING TO APPLY TO 1 LUMP SUM DISTRIBUTION AFTER AGE 59½.—Paragraph (1) shall apply to a lump sum distribution with respect to an employee under subparagraph (A) only if—

"(i) such amount is received on or after the taxpayer has attained age 59½, and

"(ii) the taxpayer elects for the taxable year to have all such amounts received during such taxable year so treated.

Not more than 1 election may be made under this subparagraph by any taxpayer with respect to any employee. No election may be made under this subparagraph by any taxpayer other than an individual, an estate, or a trust. In the case of a lump sum distribution made with respect to an employee to 2 or more trusts, the election under this subparagraph shall be made by the personal representative of the taxpayer."

(2) 5-YEAR AVERAGING IN LIEU OF 10-YEAR AVERAGING.—Subparagraph (C) of section 402(e)(1) (relating to initial separate tax) is amended—

(A) by striking out "10 times" and inserting in lieu thereof "5 times", and

(B) by striking out "one-tenth" and inserting in lieu thereof "⅕".

(b) REPEAL OF CAPITAL GAINS TREATMENT.—

(1) IN GENERAL.—The following provisions are hereby repealed:

(A) Paragraph (2) of section 402(a) (relating to capital gains treatment for portion of lump sum distribution).

(B) Paragraph (2) of section 403(a) (relating to capital gains treatment for certain distributions).

(2) TECHNICAL AMENDMENTS.—

(A) Clause (iii) of section 402(a)(5)(D) is amended to read as follows:

"(iii) DENIAL OF 10-YEAR AVERAGING FOR SUBSEQUENT DISTRIBUTIONS.—If an election under clause (i) is made with respect to any partial distribution paid to any employee, paragraphs (1) and (3) of subsection (e) shall not apply to any distribution (paid after such partial distribution) of the balance to the credit of such employee under the plan under which such partial distribution was made (or under any other plan which, under subsection (e)(4)(C), would be aggregated with such plan)."

(B) Paragraph (1) of section 402(e) is amended—

(i) by striking out subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively, and

(ii) by striking out "The initial separate tax" in subparagraph (B) (as so redesignated) and inserting in lieu thereof "The amount of tax imposed by subparagraph (A)", and

(iii) by striking out "INITIAL SEPARATE" in the heading of subparagraph (B) (as so redesignated) and inserting in lieu thereof "AMOUNT OF TAX".

(C) Paragraph (3) of section 402(e) is amended by striking out "the ordinary income portion" and inserting in lieu thereof "total taxable amount".

(D) Paragraph (4) of section 402(e) is amended by striking out subparagraph (E).

(E) Subparagraph (H) of section 402(e)(4) is amended by striking out "(but not for purposes of subsection (a)(2) or section 403(a)(2)(A))".

(c) AMENDMENTS TO SECTION 72.—

(1) REPEAL OF SPECIAL RULE FOR EMPLOYEES' ANNUITIES.—Subsection (d) of section 72 (relating to employee's annuities where employee's contributions recoverable in 3 years) is hereby repealed.

(2) AMOUNT EXCLUDED UNDER EXCLUSION RATIO LIMITED TO EMPLOYEE'S INVESTMENT IN THE CONTRACT.—Subsection (b) of section 72 (relating to exclusion ratio) is amended to read as follows:

"(b) EXCLUSION RATIO.—

"(1) IN GENERAL.—Gross income does not include that part of any amount received as an annuity under an annuity, endowment, or life insurance contract which bears the same ratio to such amount as the investment in the contract (as of the annuity starting date) bears to the expected return under the contract (as of such date).

"(2) EXCLUSION LIMITED TO INVESTMENT.—The portion of any amount received as an annuity which is excluded from gross income under paragraph (1) shall not exceed the unrecovered investment in the contract immediately before the receipt of such amount.

"(3) DEDUCTION WHERE ANNUITY PAYMENTS CEASE BEFORE ENTIRE INVESTMENT RECOVERED.—

"(A) IN GENERAL.—If—

"(i) after the annuity starting date, payments as an annuity under the contract cease by reason of the death of an annuitant, and

"(ii) as of the date of such cessation, there is unrecovered investment in the contract,

the amount of such unrecovered investment (in excess of any amount specified in subsection (e)(5) which was not included in gross income) shall be allowed as a deduction to the annuitant for his last taxable year.

"(B) PAYMENTS TO OTHER PERSONS.—In the case of any contract which provides for payments meeting the requirements of subparagraphs (B) and (C) of subsection (c)(2), the deduction under subparagraph (A) shall be allowed to the person entitled to such payments for the taxable year in which such payments are received.

"(C) NET OPERATING LOSS DEDUCTIONS PROVIDED.—For purposes of section 172, a deduction allowed under this paragraph shall be treated as if it were attributable to a trade or business of the taxpayer.

"(4) UNRECOVERED INVESTMENT.—For purposes of this subsection, the unrecovered investment in the contract as of any date is—

"(A) the investment in the contract as of the annuity starting date, reduced by

"(B) the aggregate amount received under the contract on or after such annuity starting date and before the date as of which the determination is being made, to the extent such amount was excludable from gross income under this subtitle."

(3) AMOUNTS NOT RECEIVED AS ANNUITIES ALLOCATED ON A PRO RATA BASIS.—

(A) IN GENERAL.—Subsection (e) of section 72 is amended by adding at the end thereof the following new paragraphs:

"(8) EXTENSION OF PARAGRAPH (2)(b) TO QUALIFIED PLANS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection (other than paragraph (7)), in the case of any amount received before the annuity starting date from a trust or contract described in paragraph (5)(D), paragraph (2)(B) shall apply to such amounts.

"(B) ALLOCATION OF AMOUNT RECEIVED.—For purposes of paragraph (2)(B), the amount allocated to the investment in the contract shall be the portion of the amount described in subparagraph (A) which bears the same ratio to such amount as the investment in the contract bears to the account balance. The determination under the preceding sentence shall be made as of the time of the distribution or at such other time as the Secretary may prescribe.

"(C) TREATMENT OF FORFEITABLE RIGHTS.—If an employee does not have a nonforfeitable right to any amount under any trust or contract to which subparagraph (A) applies, such amount shall not be treated as part of the account balance.

"(D) INVESTMENT IN THE CONTRACT BEFORE 1987.—In the case of a plan which on May 5, 1986, permitted withdrawal of any employee contributions before separation from service, subparagraph (A) shall apply only to the extent that amounts received before the annuity starting date (when increased by amounts previously received under the contract after December 31, 1986) exceed the investment in the contract as of December 31, 1986.

"(9) TREATMENT OF EMPLOYEE CONTRIBUTIONS AS SEPARATE CONTRACT.—Any employee contributions (and any income allocable thereto) under a defined contribution plan shall be treated as a separate contract for purposes of this subsection."

(B) CONFORMING AMENDMENT.—Subparagraph (D) of section 72(e)(5) is amended by striking out "paragraph (7)" and inserting in lieu thereof "paragraphs (7) and (8)".

(d) BENEFICIARY OF QUALIFIED ANNUITIES TAXED ONLY WHEN AMOUNTS ACTUALLY RECEIVED.—

(1) Paragraph (1) of section 403(a) (relating to taxability of beneficiary under a qualified annuity plan) is amended to read as follows:

"(1) DISTRIBUTEE TAXABLE UNDER SECTION 72.—If an annuity contract is purchased by an employer for an employee under a plan which meets the requirements of section 404(a)(2) (whether or not the employer deducts the amounts paid for the contract under such section), the amount actually distributed to any distributee under the contract shall be taxable to the distributee (in the year in which so distributed) under section 72 (relating to annuities)."

(2) The second sentence of section 403(b)(1) (relating to taxability of beneficiary under annuity purchased by section 501(c)(3) organization or public school) is amended to read as follows: "The amount actually distributed to any distributee under such contract shall be taxable to the distributee (in the year in which so distributed) under section 72 (relating to annuities)."

(3) The last sentence of section 403(c) (relating to taxability of beneficiary under nonqualified annuities or under annuities purchased by exempt organizations) is amended to read as follows: "In the case of any portion of any contract which is attributable to premiums to which this subsection applies, the amount actually paid or made available under such contract to any beneficiary which is attributable to such premiums shall be taxable to the beneficiary (in the year in which so paid or made available) under section 72 (relating to annuities)."

(e) SPECIAL RULES FOR ROLLOVER DISTRIBUTIONS.—

(1) PARTIAL ROLLOVERS.—Clause (i) of section 402(a)(5)(D) (relating to requirements for partial distributions) is amended to read as follows:

"(i) REQUIREMENTS.—Subparagraph (A) shall apply to a partial distribution only if the employee elects to have subparagraph (A) apply to such distribution and such distribution would be a lump sum distribution if subsection (e)(4)(A) were applied—

"(I) by substituting '50 percent of the balance to the credit of an employee' for 'the balance to the credit of an employee',

"(II) without regard to clause (ii) thereof, the second sentence thereof, and subparagraph (B) of subsection (e)(4).

Any distribution described in section 401(a)(28)(B)(ii) shall be treated as meeting the requirements of this clause."

(2) EXTENSION OF ROLLOVER PERIOD FOR FROZEN DEPOSITS—

(A) IN GENERAL.—Section 402(a)(6) (relating to special rollover rules) is amended by adding at the end thereof the following new subparagraph:

"(H) SPECIAL RULE FOR FROZEN DEPOSITS.—

"(i) IN GENERAL.—The 60-day period described in paragraph (5)(C) shall not—

"(I) include any period during which the amount transferred to the employee is a frozen deposit, or

"(II) end earlier than 10 days after such amount ceases to be a frozen deposit.

"(ii) FROZEN DEPOSIT.—For purposes of this subparagraph, the term 'frozen deposit' means any deposit which may not be withdrawn because of—

"(I) the bankruptcy or insolvency of any financial institution, or

"(II) any requirement imposed by the State in which such institution is located by reason of the bankruptcy or insolvency (or threat thereof) of 1 or more financial institutions in such State."

(B) INDIVIDUAL RETIREMENT PLANS.—Section 408(d)(3) (relating to rollover contribution) is amended by adding at the end thereof the following new subparagraph:

"(F) FROZEN DEPOSITS.—For purposes of this paragraph, rules similar to the rules of section 402(a)(6)(H) (relating to frozen deposits) shall apply."

(g) NET UNREALIZED APPRECIATION.—Section 402(e)(4)(J) (relating to unrealized appreciation of employer securities) is amended by adding at the end thereof the following new sentence: "To the extent provided by the Secretary, a taxpayer may elect before any distribution not to have this paragraph apply with respect to such distribution."

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to amounts distributed after December 31, 1986, in taxable years ending after such date.

(2) SUBSECTION (c).—

(A) SUBSECTION (c)(1).—The amendment made by subsection (c)(1) shall apply to individuals whose annuity starting date is after July 1, 1986.

(B) SUBSECTION (c)(2).—The amendment made by subsection (c)(2) shall apply to individuals whose annuity starting date is after December 31, 1986.

(C) SPECIAL RULE FOR AMOUNTS NOT RECEIVED AS ANNUITIES.—In the case of any plan not described in section 72(e)(8)(D) of the Internal Revenue Code of 1986 (as added by subsection (c)(3)), the amendments made by subsection (c)(3) shall apply to amounts received after July 1, 1986.

(3) SPECIAL RULE FOR INDIVIDUALS WHO ATTAINED AGE 50 BEFORE JANUARY 1, 1986.—

(A) IN GENERAL.—In the case of a lump sum distribution to which this paragraph applies—

(i) the existing capital gains provisions shall continue to apply, and

(ii) the requirement of subparagraph (B) of section 402(e)(4) of the Internal Revenue Code of 1986 (as

amended by subsection (a)) that the distribution be received after attaining age 59½ shall not apply.

(B) COMPUTATION OF TAX.—If subparagraph (A) applies to any lump sum distribution of any taxpayer for any taxable year, the tax imposed by section 1 of the Internal Revenue Code of 1986 on such taxpayer for such taxable year shall be equal to the sum of—

(i) the tax imposed by such section 1 on the taxable income of the taxpayer (reduced by the portion of such lump sum distribution to which clause (ii) applies), plus

(ii) 20 percent of the portion of such lump sum distribution to which the existing capital gains provisions continue to apply by reason of this paragraph.

(C) LUMP SUM DISTRIBUTIONS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any lump sum distribution if—

(i) such lump sum distribution is received by an individual who has attained age 50 before January 1, 1986, and

(ii) the taxpayer makes an election under this paragraph.

Not more than 1 election may be made under this paragraph with respect to an employee. An election under this subparagraph shall be treated as an election under section 402(e)(4)(B) of such Code with respect to any other lump sum distribution.

(4) 5-YEAR PHASE-OUT OF CAPITAL GAINS TREATMENT.—

(A) Notwithstanding the amendment made by subsection (b), if the taxpayer elects the application of this paragraph with respect to any distribution after December 31, 1986, and before January 1, 1992, the phase-out percentage of the amount which would have been treated, without regard to this subparagraph, as long-term capital gain under the existing capital gains provisions shall be treated as long-term capital gain.

(B) For purposes of this paragraph—

In the case of distributions during calendar year:	The phase-out percentage is:
1987	100
1988	95
1989	75
1990	50
1991	25.

(C) No more than 1 election may be made under this paragraph with respect to an employee. An election under this paragraph shall be treated as an election under section 402(e)(4)(B) of the Internal Revenue Code of 1986 with respect to any other lump sum distribution.

(5) ELECTION OF 10-YEAR AVERAGING.—An individual who has attained age 50 before January 1, 1986, and elects the application of paragraph (3) or section 402(e)(1) of the Internal Revenue Code of 1986 (as amended by this Act) may elect to have such section applied by substituting "10 times" for "5 times" and "1/10" for "1/5" in subparagraph (B) thereof. For purposes of the preceding sentence, section 402(e)(1) of such Code shall be applied by using the rate of tax in effect under section 1 of the

Internal Revenue Code of 1954 for taxable years beginning during 1986.

(6) EXISTING CAPITAL GAIN PROVISIONS.—For purposes of paragraphs (3) and (4), the term 'existing capital gains provisions' means the provisions of paragraph (2) of section 402(a) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) and paragraph (2) of section 403(a) of such Code (as so in effect).

(7) SUBSECTION (d).—The amendments made by subsection (d) shall apply to taxable years beginning after December 31, 1985.

(8) FROZEN DEPOSITS.—The amendments made by subsection (e)(2) shall apply to amounts transferred to an employee before, on, or after the date of the enactment of this Act, except that in the case of an amount transferred on or before such date, the 60-day period referred to in section 402(a)(5)(C) of the Internal Revenue Code of 1986 shall not expire before the 60th day after the date of the enactment of this Act.

SEC. 1123. UNIFORM ADDITIONAL TAX ON EARLY DISTRIBUTIONS FROM QUALIFIED RETIREMENT PLANS.

(a) IN GENERAL.—Section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (t) as subsection (u) and by inserting after subsection (s) the following new subsection:

"(t) 10-PERCENT ADDITIONAL TAX ON EARLY DISTRIBUTIONS FROM QUALIFIED RETIREMENT PLANS.—

"(1) IMPOSITION OF ADDITIONAL TAX.—If any taxpayer receives any amount from a qualified retirement plan (as defined in section 4974(c)), the taxpayer's tax under this chapter for the taxable year in which such amount is received shall be increased by an amount equal to 10 percent of the portion of such amount which is includible in gross income.

"(2) SUBSECTION NOT TO APPLY TO CERTAIN DISTRIBUTIONS.—Except as provided in paragraphs (3) and (4), paragraph (1) shall not apply to any of the following distributions:

"(A) IN GENERAL.—Distributions which are—

"(i) made on or after the date on which the employee attains age 59½,

"(ii) made to a beneficiary (or to the estate of the employee) on or after the death of the employee,

"(iii) attributable to the employee's being disabled within the meaning of subsection (m)(7),

"(iv) part of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the employee or the joint lives (or joint life expectancies) of such employee and his beneficiary,

"(v) made to an employee after separation from service on account of early retirement under the plan after attainment of age 55, or

"(vi) dividends paid with respect to stock of a corporation which are described in section 404(k).

"(B) MEDICAL EXPENSES.—Distributions made to the employee (other than distributions described in subparagraph (A) or (C)) to the extent such distributions do not exceed the amount allowable as a deduction under section 213 to the employee for amounts paid during the taxable year for

medical care (determined without regard to whether the employee itemizes deductions for such taxable year).

"(C) CERTAIN PLANS.—

"(i) IN GENERAL.—Except as provided in clause (ii), any distribution made before January 1, 1990, to an employee from an employee stock ownership plan defined in section 4975(e)(7) to the extent that, on average, a majority of assets in the plan have been invested in employer securities (as defined in section 409(l)) for the 5-plan-year period preceding the plan year in which the distribution is made.

"(ii) BENEFITS DISTRIBUTED MUST BE INVESTED IN EMPLOYER SECURITIES FOR 5 YEARS.—Clause (i) shall not apply to any distribution which is attributable to assets which have not been invested in employer securities at all times during the period referred to in clause (i).

"(D) PAYMENTS TO ALTERNATE PAYEES PURSUANT TO QUALIFIED DOMESTIC RELATIONS ORDERS.—Any distribution to an alternate payee pursuant to a qualified domestic relations order (within the meaning of section 414(p)(1)).

"(3) LIMITATIONS.—

"(A) CERTAIN EXCEPTIONS NOT TO APPLY TO INDIVIDUAL RETIREMENT PLANS.—Subparagraphs (A)(v), (B), and (C) of paragraph (2) shall not apply to distributions from an individual retirement plan.

"(B) PERIODIC PAYMENTS UNDER QUALIFIED PLANS MUST BEGIN AFTER SEPARATION.—Paragraph (2)(A)(iv) shall not apply to any amount paid from a trust described in section 401(a) which is exempt from tax under section 501(a) or from a contract described in section 72(e)(5)(D)(ii) unless the series of payments begins after the employee separates from service.

"(4) CHANGE IN SUBSTANTIALLY EQUAL PAYMENTS.—

"(A) IN GENERAL.—If—

"(i) paragraph (1) does not apply to a distribution by reason of paragraph (2)(A)(iv), and

"(ii) the series of payments under such paragraph are subsequently modified (other than by reason of death or disability)—

"(I) before the close of the 5-year period beginning with the date of the first payment and after the employee attains age 59½, or

"(II) before the employee attains age 59½,

the taxpayer's tax for the 1st taxable year in which such modification occurs shall be increased by an amount, determined under regulations, equal to the tax which (but for paragraph (2)(A)(iv)) would have been imposed, plus interest for the deferral period.

"(B) DEFERRAL PERIOD.—For purposes of this paragraph, the term 'deferral period' means the period beginning with the taxable year in which (without regard to paragraph (2)(A)(iv)) the distribution would have been includible in gross income and ending with the taxable year in which the modification described in subparagraph (A) occurs.

"(5) EMPLOYEE.—For purposes of this subsection, the term 'employee' includes any participant, and in the case of an

individual retirement plan, the individual for whose benefit such plan was established."

(b) CONFORMING CHANGES TO TAX ON PREMATURE DISTRIBUTIONS FROM ANNUITY CONTRACTS; EXCEPTION FOR QUALIFIED FUNDING ASSETS.—

(1) INCREASE IN RATE.—Section 72(q) is amended—

(A) by striking out "5 percent" in paragraph (1) thereof and inserting in lieu thereof "10 percent", and

(B) by striking out "5-PERCENT" in the heading thereof and inserting in lieu thereof "10-PERCENT".

(2) PERIODIC PAYMENTS.—Subparagraph (D) of section 72(q)(2) is amended to read as follows:

"(D) which is a part of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the taxpayer or the joint lives (or joint life expectancies) of such taxpayer and his beneficiary."

(3) ADDITIONAL TAX.—Section 72(q) is amended by adding at the end thereof the following new paragraph:

"(3) CHANGE IN SUBSTANTIALLY EQUAL PAYMENTS.—If—

"(A) paragraph (1) does not apply to a distribution by reason of paragraph (2)(D), and

"(B) the series of payments under such paragraph are subsequently modified (other than by reason of death or disability)—

"(i) before the close of the 5-year period beginning on the date of the first payment and after the employee attains age 59½, or

"(ii) before the employee attains age 59½,

the taxpayer's tax for the 1st taxable year in which such modification occurs shall be increased by an amount, determined under regulations, equal to the tax which (but for paragraph (2)(D)) would have been imposed, plus interest for the deferral period (within the meaning of subsection (t)(4)(B))."

(3) Paragraph (2) of section 72(q) is amended by striking out "This subsection" and inserting in lieu thereof "Paragraph (1)".

(4) Section 72(q)(2), as amended by this Act, is amended by striking out "or" at the end of subparagraph (G), by striking out the period at the end of subparagraph (H), and by adding at the end thereof the following new subparagraphs:

"(I) under an immediate annuity contract (within the meaning of section 72(u)(4)), or

"(J) which is purchased by an employer upon the termination of a plan described in section 401(a) or 403(a) and which is held by the employer until such time as the employee separates from service."

(c) AMENDMENTS TO SECTION 403(b).—

(1) IN GENERAL.—Subsection (b) of section 403 (relating to taxability of beneficiary under annuity purchased by section 501(c)(3) organization or public school) is amended by adding at the end thereof the following new paragraph:

"(11) REQUIREMENT THAT DISTRIBUTIONS NOT BEGIN BEFORE AGE 59½, SEPARATION FROM SERVICE, DEATH, OR DISABILITY.—This subsection shall not apply to any annuity contract unless under such contract distributions attributable to contributions made pursuant to a salary reduction agreement (within the meaning of section 402(g)(3)(C)) may be paid only—

"(A) when the employee attains age 59½, separates from service, dies, or becomes disabled (within the meaning of section 72(m)(7)), or

"(B) in the case of hardship.

Such contract may not provide for the distribution of any income attributable to such contributions in the case of hardship."

(2) CUSTODIAL ACCOUNTS.—Clause (ii) of section 403(b)(7) (relating to amounts treated as contributions) is amended by inserting "in the case of contributions made pursuant to a salary reduction agreement (within the meaning of section 3121(a)(1)(D))," before "encounters".

(d) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 72(m)(5) is amended to read as follows:

"(A) This paragraph applies to amounts which are received from a qualified trust described in section 401(a) or under a plan described in section 403(a) at any time by an individual who is, or has been, a 5-percent owner, or by a successor of such an individual, but only to the extent such amounts are determined, under regulations prescribed by the Secretary, to exceed the benefits provided for such individual under the plan formula."

(2) Subsection (f) of section 408 is hereby repealed.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) SUBSECTION (C).—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1988.

(3) EXCEPTION WHERE DISTRIBUTION COMMENCES.—The amendments made by this section shall not apply to distributions to any employee from a plan maintained by any employer if—

(A) as of March 1, 1986, the employee separated from service with the employer,

(B) as of March 1, 1986, the accrued benefit of the employee was in pay status pursuant to a written election providing a specific schedule for the distribution of the entire accrued benefit of the employee, and

(C) such distribution is made pursuant to such written election.

(4) TRANSITION RULE.—The amendments made by this section shall not apply with respect to any benefits with respect to which a designation is in effect under section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 1124. ELECTION TO TREAT CERTAIN LUMP SUM DISTRIBUTIONS RECEIVED DURING 1987 AS RECEIVED DURING 1986.

(a) IN GENERAL.—If an employee separates from service during 1986 and receives a lump sum distribution (within the meaning of section 402(e)(4)(A) of such Code) after December 31, 1986, and before March 16, 1987, on account of such separation from service, then, for purposes of the Internal Revenue Code of 1986, such employee may elect to treat such lump sum distribution as if it were received when such employee separated from service.

(b) SPECIAL RULE FOR TERMINATED PLAN.—In the case of an employee who receives a distribution from a terminated plan which

was maintained by a corporation organized under the laws of the State of Nevada, the principal place of business of which is Denver, Colorado, and which filed for relief from creditors under the United States Bankruptcy Code on August 28, 1986, the employee may treat a lump sum distribution received from such plan before June 30, 1987, as if it were received in 1986.

PART IV—MISCELLANEOUS PROVISIONS

SEC. 1131. ADJUSTMENTS TO SECTION 404 LIMITATIONS.

(a) ELIMINATION OF LIMIT CARRYFORWARD OF SECTION 404(a)(3)(A).—Subparagraph (A) of section 404(a)(3) (relating to limits on deductible contributions to stock bonus and profit-sharing trusts) is amended to read as follows:

"(A) LIMITS ON DEDUCTIBLE CONTRIBUTIONS.—

"(i) IN GENERAL.—In the taxable year when paid, if the contributions are paid into a stock bonus or profit-sharing trust, and if such taxable year ends within or with a taxable year of the trust with respect to which the trust is exempt under section 501(a), in an amount not in excess of 15 percent of the compensation otherwise paid or accrued during the taxable year to the beneficiaries under the stock bonus or profit-sharing plan.

"(ii) CARRYOVER OF EXCESS CONTRIBUTIONS.—Any amount paid into the trust in any taxable year in excess of the limitation of clause (i) (or the corresponding provision of prior law) shall be deductible in the succeeding taxable years in order of time, but the amount so deductible under this clause in any 1 such succeeding taxable year together with the amount allowable under clause (i) shall not exceed 15 percent of the compensation otherwise paid or accrued during such taxable year to the beneficiaries under the plan.

"(iii) CERTAIN RETIREMENT PLANS EXCLUDED.—For purposes of this subparagraph, the term 'stock bonus or profit-sharing trust' shall not include any trust designed to provide benefits upon retirement and covering a period of years, if under the plan the amounts to be contributed by the employer can be determined actuarially as provided in paragraph (1).

"(iv) 2 OR MORE TRUSTS TREATED AS 1 TRUST.—If the contributions are made to 2 or more stock bonus or profit-sharing trusts, such trusts shall be considered a single trust for purposes of applying the limitations in this subparagraph.

"(v) PRE-87 LIMITATION CARRYFORWARDS.—

"(I) IN GENERAL.—The limitation of clause (i) for any taxable year shall be increased by the unused pre-87 limitation carryforwards (but not to an amount in excess of 25 percent of the compensation described in clause (i)).

"(II) UNUSED PRE-87 LIMITATION CARRYFORWARDS.—For purposes of subclause (I), the term 'unused pre-87 limitation carryforwards' means the amount by which the limitation of the first

sentence of this subparagraph (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) for any taxable year beginning before January 1, 1987, exceeded the amount paid to the trust for such taxable year (to the extent such excess was not taken into account in prior taxable years)."

(b) COMBINED LIMIT TO APPLY TO COMBINATIONS OF DEFINED CONTRIBUTION PLANS AND DEFINED BENEFIT PLANS.—Paragraph (7) of section 404(a) is amended to read as follows:

"(7) LIMITATION ON DEDUCTIONS WHERE COMBINATION OF DEFINED CONTRIBUTION PLAN AND DEFINED BENEFIT PLAN.—

"(A) IN GENERAL.—If amounts are deductible under the foregoing provisions of this subsection (other than paragraph (5)) in connection with 1 or more defined contribution plans and 1 or more defined benefit plans, the total amount deductible in a taxable year under such plans shall not exceed the greater of—

"(i) 25 percent of the compensation otherwise paid or accrued during the taxable year to the beneficiaries under such plans, or

"(ii) the amount of contributions made to or under the defined benefit plans to the extent such contributions do not exceed the amount of employer contributions necessary to satisfy the minimum funding standard provided by section 412 with respect to any such defined benefit plans for the plan year which ends with or within such taxable year (or for any prior plan year).

A defined contribution plan which is a pension plan shall not be treated as failing to provide definitely determinable benefits merely by limiting employer contributions to amounts deductible under this section.

"(B) CARRYOVER OF CONTRIBUTIONS IN EXCESS OF THE DEDUCTIBLE LIMIT.—Any amount paid under the plans in any taxable year in excess of the limitation of subparagraph (A) shall be deductible in the succeeding taxable years in order of time, but the amount so deductible under this subparagraph in any 1 such succeeding taxable year together with the amount allowable under subparagraph (A) shall not exceed 25 percent of the compensation otherwise paid or accrued during such taxable year to the beneficiaries under the plans.

"(C) PARAGRAPH NOT TO APPLY IN CERTAIN CASES.—This paragraph shall not have the effect of reducing the amount otherwise deductible under paragraphs (1), (2), and (3), if no employee is a beneficiary under more than 1 trust or under a trust and an annuity plan.

"(D) SECTION 412(i) PLANS.—For purposes of this paragraph, any plan described in section 412(i) shall be treated as a defined benefit plan."

(c) EXCISE TAX ON NONDEDUCTIBLE CONTRIBUTIONS TO QUALIFIED EMPLOYER PLANS.—

(1) IN GENERAL.—Chapter 43 (relating to qualified pension, etc., plans) is amended by inserting after section 4971 the following new section:

"SEC. 4972. TAX ON NONDEDUCTIBLE CONTRIBUTIONS TO QUALIFIED EMPLOYER PLANS.

"(a) TAX IMPOSED.—In the case of any qualified employer plan, there is hereby imposed a tax equal to 10 percent of the nondeductible contributions under the plan (determined as of the close of the taxable year of the employer).

"(b) EMPLOYER LIABLE FOR TAX.—The tax imposed by this section shall be paid by the employer making the contributions.

"(c) NONDEDUCTIBLE CONTRIBUTIONS.—For purposes of this section, the term 'nondeductible contributions' means, with respect to any qualified employer plan, the sum of—

"(1) the excess (if any) of—

"(A) the amount contributed for the taxable year by the employer to or under such plan, over

"(B) the amount allowable as a deduction under section 404 for such contributions, and

"(2) the amount determined under this subsection for the preceding taxable year reduced by the sum of—

"(A) the portion of the amount so determined returned to the employer during the taxable year, and

"(B) the portion of the amount so determined deductible under section 404 for the taxable year.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED EMPLOYER PLAN.—The term 'qualified employer plan' means—

"(A) any plan meeting the requirements of section 401(a) which includes a trust exempt from the tax under section 501(a),

"(B) an annuity plan described in section 403(a), and

"(C) any simplified employee pension (within the meaning of section 408(k)).

"(2) EMPLOYER.—In the case of a plan which provides contributions or benefits for employees some or all of whom are self-employed individuals within the meaning of section 401(c)(1), the term 'employer' means the person treated as the employer under section 401(c)(4)."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 43 is amended by inserting after the item relating to section 4971 the following item:

"Sec. 4972. Tax on nondeductible contributions to qualified employer plans."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 1132. EXCISE TAX ON REVERSION OF QUALIFIED PLAN ASSETS TO EMPLOYER.

(a) GENERAL RULE.—Chapter 43 (relating to qualified pension, etc., plans) is amended by adding at the end thereof the following new section:

"SEC. 4980. TAX ON REVERSION OF QUALIFIED PLAN ASSETS TO EMPLOYER.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax of 10 percent of the amount of any employer reversion from a qualified plan.

"(b) LIABILITY FOR TAX.—The tax imposed by subsection (a) shall be paid by the employer maintaining the plan.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED PLAN.—The term 'qualified plan' means any plan meeting the requirements of section 401(a) or 403(a), other than—

"(A) a plan maintained by an employer if such employer has, at all times, been exempt from tax under this subtitle, or

"(B) a governmental plan (within the meaning of section 414(d)).

Such term shall include any plan which, at any time, has been determined by the Secretary to be a qualified plan.

"(2) EMPLOYER REVERSION.—

"(A) IN GENERAL.—The term 'employer reversion' means the amount of cash and the fair market value of other property received (directly or indirectly) by an employer from the qualified plan.

"(B) EXCEPTIONS.—The term 'employer reversion' shall not include—

"(i) except as provided in regulations, any amount distributed to or on behalf of any employee (or his beneficiaries) if such amount could have been so distributed before termination of such plan without violating any provision of section 401, or

"(ii) any distribution to the employer which is allowable under section 401(a)(2)—

"(I) in the case of a multiemployer plan, by reason of mistakes of law or fact or the return of any withdrawal liability payment,

"(II) in the case of a plan other than a multiemployer plan, by reason of mistake of fact, or

"(III) in the case of any plan, by reason of the failure of the plan to initially qualify or the failure of contributions to be deductible.

"(3) EXCEPTION FOR EMPLOYEE STOCK OWNERSHIP PLANS.—

"(A) IN GENERAL.—If, upon an employer reversion from a qualified plan, any applicable amount is transferred from such plan to an employee stock ownership plan described in section 4975(e)(7), such amount shall not be treated as an employer reversion for purposes of this section (or includible in the gross income of the employer) if—

"(i) the requirements of subparagraphs (B), (C), and (D) are met, and

"(ii) under the plan, employer securities to which subparagraph (B) applies must remain in the plan until distribution to participants in accordance with the provisions of such plan.

"(B) INVESTMENT IN EMPLOYER SECURITIES.—The requirements of this subparagraph are met if, within 90 days after the transfer (or such longer period as the Secretary may prescribe), the amount transferred is invested in employer securities (as defined in section 409(l)) or used to repay loans used to purchase such securities.

"(C) ALLOCATION REQUIREMENTS.—The requirements of this subparagraph are met if the portion of the amount

transferred which is not allocated (by reason of the limitations of section 415) under the plan to accounts of participants in the plan year in which the transfer occurs—

"(i) is credited to a suspense account and allocated from such account to accounts of participants no less rapidly than ratably over a period not to exceed 7 years, and

"(ii) when allocated to accounts of participants under the plan, is treated as an employer contribution for purposes of section 415(c), except that—

"(I) the annual addition (as determined under section 415(c)) attributable to each such allocation shall not exceed the value of such securities as of the time such securities were credited to such suspense account, and

"(II) no additional employer contributions shall be permitted to an employee stock ownership plan described in subparagraph (A) of the employer before the allocation of such amount.

"(D) PARTICIPANTS.—The requirements of this subparagraph are met if at least half of the participants in the qualified plan are participants in the employee stock ownership plan (as of the close of the 1st plan year for which an allocation of the securities is required).

"(E) APPLICABLE AMOUNT.—For purposes of this paragraph, the term 'applicable amount' means any amount which—

"(i) is transferred after March 31, 1985, and before January 1, 1989, or

"(ii) is transferred after December 31, 1988, pursuant to a termination which occurs after March 31, 1985, and before January 1, 1989."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end thereof the following new item:

"Sec. 4980. Tax on reversion of qualified plan assets to employer."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to reversions occurring after December 31, 1985.

(2) EXCEPTION WHERE TERMINATION DATE OCCURRED BEFORE JANUARY 1, 1986.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this section shall not apply to any reversion after December 31, 1985, which occurs pursuant to a plan termination where the termination date is before January 1, 1986.

(B) ELECTION TO HAVE AMENDMENTS APPLY.—A corporation may elect to have the amendments made by this section apply to any reversion after 1985 pursuant to a plan termination occurring before 1986 if such corporation was incorporated in the State of Delaware in March, 1978, and became a parent corporation of the consolidated group on September 19, 1978, pursuant to a merger agreement recorded in the State of Nevada on November 19, 1978.

(3) TERMINATION DATE.—For purposes of paragraph (2), the term "termination date" is the date of the termination (within

the meaning of section 411(d)(3) of the Internal Revenue Code of 1986) of the plan.

(4) TRANSITION RULE FOR CERTAIN TERMINATIONS.—

(A) IN GENERAL.—In the case of a taxpayer to which this paragraph applies, the amendments made by this section shall not apply to any termination occurring before the date which is 1 year after the date of the enactment of this Act.

(B) TAXPAYERS TO WHOM PARAGRAPH APPLIES.—This paragraph shall apply to—

(i) a corporation incorporated on June 13, 1917, which has its principal place of business in Bartlesville, Oklahoma,

(ii) a corporation incorporated on January 17, 1917, which is located in Coatesville, Pennsylvania,

(iii) a corporation incorporated on January 23, 1928, which has its principal place of business in New York, New York,

(iv) a corporation incorporated on April 23, 1956, which has its principal place of business in Dallas, Texas, and

(v) a corporation incorporated in the State of Nevada, the principal place of business of which is in Denver, Colorado, and which filed for relief from creditors under the United States Bankruptcy Code on August 28, 1986.

SEC. 1133. TAX ON EXCESS DISTRIBUTIONS.

(a) GENERAL RULE.—Chapter 43 (relating to tax on pension, etc., plans) is amended by adding at the end thereof the following new section:

"SEC. 4981A. TAX ON EXCESS DISTRIBUTIONS FROM QUALIFIED RETIREMENT PLANS.

"(a) GENERAL RULE.—There is hereby imposed a tax equal to 15 percent of the excess distributions with respect to any individual during any calendar year.

"(b) LIABILITY FOR TAX.—The individual with respect to whom the excess distributions are made shall be liable for the tax imposed by subsection (a). The amount of the tax imposed by subsection (a) shall be reduced by the amount (if any) of the tax imposed by section 72(t) to the extent attributable to such excess distributions.

"(c) EXCESS DISTRIBUTIONS.—For purposes of this section—

"(1) IN GENERAL.—The term 'excess distributions' means the aggregate amount of the retirement distributions with respect to any individual during any calendar year to the extent such amount exceeds $112,500 (adjusted at the same time and in the same manner as under section 415(d)).

"(2) EXCLUSION OF CERTAIN DISTRIBUTIONS.—The following distributions shall not be taken into account under paragraph (1):

"(A) Any retirement distribution with respect to an individual made after the death of such individual.

"(B) Any retirement distribution with respect to an individual payable to an alternate payee pursuant to a qualified domestic relations order (within the meaning of section 414(p)) if includible in income of the alternate payee.

"(C) Any retirement distribution with respect to an individual which is attributable to the employee's investment in the contract (as defined in section 72(f)).

"(D) Any retirement distribution to the extent not included in gross income by reason of a rollover contribution.

Any distribution described in subparagraph (B) shall be treated as a retirement distribution to the person to whom paid for purposes of this section.

"(3) AGGREGATION OF PAYMENTS.—If retirement distributions with respect to any individual during any calendar year are received by the individual and 1 or more other persons, all such distributions shall be aggregated for purposes of determining the amount of the excess distributions for the calendar year.

"(4) SPECIAL RULE WHERE TAXPAYER ELECTS INCOME AVERAGING.—If the retirement distributions with respect to any individual during any calendar year include a lump sum distribution to which an election under section 402(e)(4)(B) applies—

"(A) paragraph (1) shall be applied separately with respect to such lump sum distribution and other retirement distributions, and

"(B) the limitation under paragraph (1) with respect to such lump sum distribution shall be equal to 5 times the amount of such limitation determined without regard to this subparagraph.

"(5) SPECIAL RULE FOR ACCRUED BENEFITS AS OF AUGUST 1, 1986.—

"(A) IN GENERAL.—If the employee elects on a return filed for a taxable year ending before January 1, 1989 to have this paragraph apply, the portion of any retirement distribution which is attributable (as determined under rules prescribed by the Secretary) to the accrued benefit of an employee as of August 1, 1986, shall be taken into account for purposes of paragraph (1), but no tax shall be imposed under this section with respect to such portion of such distribution.

"(B) LIMITATION.—An employee may not make an election under subparagraph (A) unless the accrued benefit of such employee as of August 1, 1986, exceeds $562,500.

"(C) TAXPAYER NOT MAKING ELECTION.—If an employee does not elect the application of this paragraph, paragraph (1) shall be applied by substituting $150,000 for such dollar limitation unless such dollar limitation is greater than $150,000.

"(d) INCREASE IN ESTATE TAX IF INDIVIDUAL DIES WITH EXCESS ACCUMULATION.—

"(1) IN GENERAL.—The tax imposed by chapter 11 with respect to the estate of any individual shall be increased by an amount equal to 15 percent of the individual's excess retirement accumulation.

"(2) NO CREDIT ALLOWABLE.—No credit shall be allowable under section 2010 with respect to any portion of the tax imposed by chapter 11 attributable to the increase under paragraph (1).

"(3) EXCESS RETIREMENT ACCUMULATION.—For purposes of paragraph (1), the term 'excess retirement accumulation' means the excess (if any) of—

"(A) the value of the individual's interests in qualified employer plans and individual retirement plans as of the date of the decedent's death (or, in the case of an election under section 2032, the applicable valuation date prescribed by such section), over

"(B) the present value (as determined under rules prescribed by the Secretary as of the valuation date prescribed in subparagraph (A)) of an annuity for a term certain—

"(i) with annual payments equal to the limitation of subsection (c) (as in effect for the year in which the death occurs), and

"(ii) payable for a period equal to the life expectancy of the individual immediately before his death.

"(e) RETIREMENT DISTRIBUTIONS.—For purposes of this section—

"(1) IN GENERAL.—The term 'retirement distribution' means, with respect to any individual, the amount distributed during the taxable year under—

"(A) any qualified employer plan with respect to which such individual is or was the employee, and

"(B) any individual retirement plan.

"(2) QUALIFIED EMPLOYER PLAN.—The term 'qualified employer plan' means—

"(A) any plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(B) an annuity plan described in section 403(a), or

"(C) an annuity contract described in section 403(b).

Such term includes any plan or contract which, at any time, has been determined by the Secretary to be such a plan or contract."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end thereof the following new item:

"Sec. 4981A. Tax on excess distributions from qualified retirement plans."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to distributions made after December 31, 1986.

(2) ESTATE TAX.—Section 4981A(d) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply to the estates of decedents dying after December 31, 1986.

(3) PLAN TERMINATIONS BEFORE 1987.—The amendments made by this section shall not apply to distributions before January 1, 1988, which are made on account of the termination of a qualified employer plan if such termination occurred before January 1, 1987.

SEC. 1134. TREATMENT OF LOANS.

(a) $50,000 LIMITATION REDUCED BY BALANCE OF CERTAIN PRECEDING LOANS.—Clause (i) of section 72(p)(2)(A) (relating to exceptions for certain loans) is amended to read as follows:

"(i) $50,000, reduced by the excess (if any) of—

"(I) the highest outstanding balance of loans from the plan during the 1-year period ending on the day before the date on which such loan was made, over

"(II) the outstanding balance of loans from the plan on the date on which such loan was made, or".

(b) LEVEL AMORTIZATION OF LOAN REQUIRED.—Paragraph (2) of section 72(p) is amended by redesignating subparagraph (C) as subparagraph (D) and inserting after subparagraph (B) the following new subparagraph:

"(C) REQUIREMENT OF LEVEL AMORTIZATION.—Except as provided in regulations, this paragraph shall not apply to any loan unless substantially level amortization of such loan (with payments not less frequently than quarterly) is required over the term of the loan."

(c) DENIAL OF INTEREST DEDUCTION IN CERTAIN CASES.—Subsection (p) of section 72 is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively and by inserting after paragraph (2) the following new paragraph:

"(3) DENIAL OF INTEREST DEDUCTIONS IN CERTAIN CASES.—

"(A) IN GENERAL.—No deduction otherwise allowable under this chapter shall be allowed under this chapter for any interest paid or accrued on any loan described in subparagraph (B).

"(B) LOANS TO WHICH SUBPARAGRAPH (A) APPLIES.—For purposes of subparagraph (A), a loan is described in this subparagraph—

"(i) if paragraph (1) does not apply to such loan by reason of paragraph (2), and

"(ii) if—

"(I) such loan is made to a key employee (as defined in section 416(i)), or

"(II) such loan is secured by amounts attributable to elective 401(k) or 403(b) deferrals (as defined in section 402(g)(3))."

(d) EXCEPTION FOR HOME LOANS LIMITED TO ACQUISITION OF PRINCIPAL RESIDENCE.—Clause (ii) of section 72(p)(2)(B) is amended to read as follows:

"(ii) EXCEPTION FOR HOME LOANS.—Clause (i) shall not apply to any loan used to acquire any dwelling unit which within a reasonable time is to be used (determined at the time the loan is made) as the principal residence of the participant."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to loans made, renewed, renegotiated, modified, or extended after December 31, 1986.

SEC. 1135. DEFERRED ANNUITIES AVAILABLE ONLY TO NATURAL PERSONS.

(a) GENERAL RULE.—Section 72, as amended by section 1223, is amended by redesignating subsection (u) as subsection (v) and by inserting after subsection (t) the following new subsection:

"(u) TREATMENT OF ANNUITY CONTRACTS NOT HELD BY NATURAL PERSONS.—

"(1) IN GENERAL.—If any annuity contract is held by a person who is not a natural person—

"(A) such contract shall not be treated as an annuity contract for purposes of this subtitle, and

"(B) the income on the contract for any taxable year of the policyholder shall be treated as ordinary income received or accrued by the owner during such taxable year.

For purposes of this paragraph, holding by a trust or other entity as an agent for a natural person shall not be taken into account.

"(2) INCOME ON THE CONTRACT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'income on the contract' means, with respect to any taxable year of the policyholder, the excess of—

"(i) the sum of the net surrender value of the contract as of the close of the taxable year plus all distributions under the contract received during the taxable year or any prior taxable year, reduced by

"(ii) the sum of the amount of net premiums under the contract for the taxable year and prior taxable years and amounts includible in gross income for prior taxable years with respect to such contract under this subsection.

Where necessary to prevent the avoidance of this subsection, the Secretary may substitute 'fair market value of the contract' for 'net surrender value of the contract' each place it appears in the preceding sentence.

"(B) NET PREMIUMS.—For purposes of this paragraph, the term 'net premiums' means the amount of premiums paid under the contract reduced by any policyholder dividends.

"(3) EXCEPTIONS.—This subsection shall not apply to any annuity contract which—

"(A) is acquired by the estate of a decedent by reason of the death of the decedent,

"(B) is held under a plan described in section 401(a) or 403(a), under a program described in section 403(b), or under an individual retirement plan,

"(C) is a qualified funding asset (as defined in section 130(d), but without regard to whether there is a qualified assignment),

"(D) which is purchased by an employer upon the termination of a plan described in section 401(a) or 403(a) and which is held by the employer until such time as the employee separates from service, or

"(E) which is an immediate annuity.

"(4) IMMEDIATE ANNUITY.—For purposes of this subsection, the term 'immediate annuity' means an annuity—

"(A) which is purchased with a single premium or annuity consideration, and

"(B) the annuity starting date (as defined in subsection (c)(4)) of which commences no later than 1 year from the date of the purchase of the annuity."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contributions to annuity contracts after February 28, 1986.

SEC. 1136. PROFITS NOT REQUIRED FOR PROFIT-SHARING PLANS.

(a) IN GENERAL.—Subsection (a) of section 401, as amended by section 1112(b), is amended by inserting after paragraph (26) the following new paragraph:

"(27) The determination of whether the plan under which any contributions are made is a profit-sharing plan shall be made without regard to current or accumulated profits of the

employer and without regard to whether the employer is a tax-exempt organization."

(b) CONFORMING AMENDMENTS.—Section 404(a)(2) and 818(a)(3), as amended by this Act, are each amended by striking out "and (26)" and inserting in lieu thereof "(26), and (27)".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1985.

SEC. 1137. REQUIREMENT THAT COLLECTIVE BARGAINING AGREEMENTS BE BONA FIDE.

Paragraph (46) of section 7701(a) (relating to determination of whether there is a collective bargaining agreement) is amended by adding at the end thereof the following new sentence: "An agreement shall not be treated as a collective bargaining agreement unless it is a bona fide agreement between bona fide employee representatives and 1 or more employers."

SEC. 1138. PENALTY ON UNDERPAYMENTS ATTRIBUTABLE TO OVERSTATEMENT OF PENSION LIABILITIES.

(a) GENERAL RULE.—Subchapter A of chapter 68 (relating to additions to tax) is amended by inserting after section 6659 the following new section:

"SEC. 6659A. ADDITION TO TAX IN CASE OF OVERSTATEMENTS OF PENSION LIABILITIES.

"(a) ADDITION TO TAX.—In the case of an underpayment of the tax imposed by chapter 1 on any taxpayer for the taxable year which is attributable to an overstatement of pension liabilities, there shall be added to such tax an amount equal to the applicable percentage of the underpayment so attributable.

"(b) APPLICABLE PERCENTAGE DEFINED.—For purposes of subsection (a), the applicable percentage shall be determined under the following table:

"If the valuation claimed is the following percent of the correct valuation—	The applicable percentage is:
150 percent or more but not more than 200 percent	10
More than 200 percent but not more than 250 percent	20
More than 250 percent	30.

"(c) OVERSTATEMENT OF PENSION LIABILITIES.—For purposes of this section, there is an overstatement of pension liabilities if the actuarial determination of the liabilities taken into account for purposes of computing the deduction under paragraph (1) or (2) of section 404(a) exceeds the amount determined to be the correct amount of such liability.

"(d) UNDERPAYMENT MUST BE AT LEAST $1,000.—This section shall not apply if the underpayment for the taxable year attributable to valuation overstatements is less than $1,000.

"(e) AUTHORITY TO WAIVE.—The Secretary may waive all or any part of the addition to the tax provided by this section on a showing by the taxpayer that there was a reasonable basis for the valuation claimed on the return and that such claim was made in good faith."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 68 is amended by inserting after the item relating to section 6659 the following new item:

"Sec. 6659A. Addition to tax in case of overstatements of pension liabilities."

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to overstatements made after the date of the enactment of this Act.

SEC. 1139. INTEREST RATE ASSUMPTIONS.

(a) IN GENERAL.—Subparagraph (B) of section 411(a)(11) is amended to read as follows:

"(B) DETERMINATION OF PRESENT VALUE.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the present value shall be calculated—

"(I) by using an interest rate no greater than the applicable interest rate if the vested accrued benefit (using such rate) is not in excess of $25,000, and

"(II) by using an interest rate no greater than 120 percent of the applicable interest rate if the vested accrued benefit exceeds $25,000 (as determined under subclause (I)).

In no event shall the present value determined under subclause (II) be less than $25,000.

"(ii) APPLICABLE INTEREST RATE.—For purposes of clause (i), the term 'applicable interest rate' means the interest rate which would be used (as of the date of the distribution) by the Pension Benefit Guaranty Corporation for purposes of determining the present value of a lump sum distribution on plan termination."

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 417(e) (relating to determination of present value) is amended to read as follows:

"(3) DETERMINATION OF PRESENT VALUE.—

"(A) IN GENERAL.—For purposes of paragraphs (1) and (2), the present value shall be calculated—

"(i) by using an interest rate no greater than the applicable interest rate if the vested accrued benefit (using such rate) is not in excess of $25,000, and

"(ii) by using an interest rate no greater than 120 percent of the applicable interest rate if the vested accrued benefit exceeds $25,000 (as determined under clause (i)).

In no event shall the present value determined under subclause (II) be less than $25,000.

"(B) APPLICABLE INTEREST RATE.—For purposes of subparagraph (A), the term 'applicable interest rate' means the interest rate which would be used (as of the date of the distribution) by the Pension Benefit Guaranty Corporation for purposes of determining the present value of a lump sum distribution on plan termination."

(c) AMENDMENTS TO ERISA.—

(1) IN GENERAL.—Paragraph (2) of section 203(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(e)(2)) is amended to read as follows:

"(2)(A) For purposes of paragraph (1), the present value shall be calculated—

"(i) by using an interest rate no greater than the applicable interest rate if the vested accrued benefit (using such rate) is not in excess of $25,000, and

"(ii) by using an interest rate no greater than 120 percent of the applicable interest rate if the vested accrued benefit exceeds $25,000 (as determined under clause (i)).

In no event shall the present value determined under subclause (II) be less than $25,000.

"(B) APPLICABLE INTEREST RATE.—For purposes of subparagraph (A), the term 'applicable interest rate' means the interest rate which would be used (as of the date of the distribution) by the Pension Benefit Guaranty Corporation for purposes of determining the present value of a lump sum distribution on plan termination."

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 205(g) of such Act (29 U.S.C. 1055(g)(3)) is amended to read as follows:

"(3)(A) For purposes of paragraphs (1) and (2), the present value shall be calculated—

"(i) by using an interest rate no greater than the applicable interest rate if the vested accrued benefit (using such rate) is not in excess of $25,000, and

"(ii) by using an interest rate no greater than 120 percent of the applicable interest rate if the vested accrued benefit exceeds $25,000 (as determined under clause (i)).

In no event shall the present value determined under subclause (II) be less than $25,000.

"(B) For purposes of subparagraph (A), the term 'applicable interest rate' means the interest rate which would be used (as of the date of the distribution) by the Pension Benefit Guaranty Corporation for purposes of determining the present value of a lump sum distribution on plan termination.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions in plan years beginning after December 31, 1984, except that such amendments shall not apply to any distributions in plan years beginning after December 31, 1984, and before January 1, 1987, if such distributions were made in accordance with the requirements of the regulations issued under the Retirement Equity Act of 1984.

(2) REDUCTION IN ACCRUED BENEFITS.—

(A) IN GENERAL.—If a plan—

(i) adopts a plan amendment before the close of the first plan year beginning on or before January 1, 1989, which provides for the calculation of the present value of the accrued benefits in the manner provided by the amendments made by this section, and

(ii) the plan reduces the accrued benefits for any plan year to which such plan amendment applies in accordance with such plan amendment,

such reduction shall not be treated as a violation of section 411(d)(6) of the Internal Revenue Code of 1986 or section 204(g) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(g)).

(B) SPECIAL RULE.—In the case of a plan maintained by a corporation incorporated on April 11, 1934, which is headquartered in Tarrant County, Texas—

(i) such plan may be amended to remove the option of an employee to receive a lump sum distribution (within the meaning of section 402(e)(5) of such Code) if such amendment—

(I) is adopted within 1 year of the date of the enactment of this Act, and

(II) is not effective until 2 years after the employees are notified of such amendment, and

(ii) the present value of any vested accrued benefit of such plan determined during the 3-year period beginning on the date of the enactment of this Act shall be determined under the applicable interest rate (within the meaning of section 411(a)(11)(B)(ii) of such Code), except that if such value (as so determined) exceeds $50,000, then the value of any excess over $50,000 shall be determined by using the interest rate specified in the plan as of August 16, 1986.

SEC. 1140. PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989.

(a) IN GENERAL.—If any amendment made by this subtitle or subtitle C requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 1989, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment or in accordance with an amendment prescribed by the Secretary and adopted by the plan, and

(2) such plan amendment applies retroactively to the period after such amendment takes effect and such first plan year.

A pension plan shall not be treated as failing to provide definitely determinable benefits or contributions, or to be operated in accordance with the provisions of the plan, merely because it operates in accordance with this provision.

(b) MODEL AMENDMENT.—

(1) SECRETARY TO PRESCRIBE AMENDMENT.—The Secretary of the Treasury or his delegate shall prescribe an amendment or amendments which allow a plan to meet the requirements of any amendment made by this subtitle or subtitle C—

(A) which requires an amendment to such plan, and

(B) is effective before the first plan year beginning after December 31, 1988.

(2) ADOPTION BY PLAN.—If a plan adopts the amendment or amendments prescribed under paragraph (1) and operates in accordance with such amendment or amendments, such plan shall not be treated as failing to provide definitely determinable benefits or contributions or to be operated in accordance with the provisions of the plan.

(c) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, subsection (a) shall be applied by substituting for the first plan year beginning on or after January 1, 1989, the first plan year beginning after the earlier of—

(1) the later of—

(A) January 1, 1989, or

(B) the date on which the last of such collective bargaining agreements terminate (determined without regard to any extension thereof after February 28, 1986), or

(2) January 1, 1991.

SEC. 1141. ISSUANCE OF FINAL REGULATIONS.

The Secretary of the Treasury or his delegate shall issue before February 1, 1988, such final regulations as may be necessary to carry out the amendments made by—

(1) section 1111, relating to application of nondiscrimination rules to integrated plans,

(2) section 1112, relating to coverage requirements for qualified plans,

(3) section 1113, relating to minimum vesting standards,

(4) section 1114, relating to the definition of highly compensated employee,

(5) section 1115, relating to separate lines of business and the definition of compensation,

(6) section 1116, relating to rules for section 401(k) plans,

(7) section 1117, relating to nondiscrimination requirements for employer matching and employer contribution,

(8) section 1120, relating to nondiscrimination requirements for tax sheltered annuities, and

(9) section 1133, relating to tax on excess distributions.

SEC. 1142. SECRETARY TO ACCEPT APPLICATIONS WITH RESPECT TO SECTION 401(k) PLANS.

The Secretary of the Treasury or his delegate shall, not later than May 1, 1987, begin accepting applications for opinion letters with respect to master and prototype plans for qualified cash or deferred arrangements under section 401(k) of the Internal Revenue Code of 1986.

SEC. 1143. TREATMENT OF CERTAIN FISHERMEN AS SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Section 401(c) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR CERTAIN FISHERMEN.—For purposes of this subsection, the term 'self-employed individual' includes an individual described in section 3121(b)(20) (relating to certain fishermen)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1986.

SEC. 1144. ACQUISITION OF GOLD AND SILVER COINS BY INDIVIDUAL RETIREMENT ACCOUNTS.

(a) IN GENERAL.—Section 408(m) (relating to investment in collectibles treated as distributions) is amended by adding at the end thereof the following new paragraph:

"(3) EXCEPTION FOR CERTAIN COINS.—In the case of an individual retirement account, paragraph (2) shall not apply to any gold coin described in paragraph (7), (8), (9), or (10) of section 5112(a) of title 31 or any silver coin described in section 5112(e) of title 31."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to acquisitions after December 31, 1986.

SEC. 1145. REQUIREMENT OF JOINT AND SURVIVOR ANNUITIES AND PRERETIREMENT SURVIVOR ANNUITIES NOT TO APPLY TO CERTAIN PLAN.

(a) IN GENERAL.—Section 401(a)(11) (relating to requirement of joint and survivor annuity and preretirement survivor annuity) is

amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(E) EXCEPTION FOR PLANS DESCRIBED IN SECTION 404(C).—This paragraph shall not apply to a plan which the Secretary has determined is a plan described in section 404(c) (or a continuation thereof) in which participation is substantially limited to individuals who, before January 1, 1976, ceased employment covered by the plan."

(b) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 205(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(b)) is amended by adding at the end thereof the following new paragraph:

"(3) This section shall not apply to a plan which the Secretary of the Treasury or his delegate has determined is a plan described in section 404(c) of the Internal Revenue Code of 1986 (or a continuation thereof) in which participation is substantially limited to individuals who, before January 1, 1976, ceased employment covered by the plan."

(c) AMENDMENTS TO RETIREMENT EQUITY ACT.—Section 303 of the Retirement Equity Act of 1984 is amended by adding at the end thereof the following new subsection:

"(f) The amendments made by section 301 of this Act shall not apply to the termination of a defined benefit plan if such termination—

"(1) is pursuant to a resolution directing the termination of such plan which was adopted by the Board of Directors of a corporation on July 24, 1984, and

"(2) occurred on November 30, 1984."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply as if included in the amendments made by the Retirement Equity Act of 1984.

SEC. 1146. TREATMENT OF LEASED EMPLOYEES.

(a) MODIFICATIONS OF LEASED EMPLOYEE PROVISIONS.—

(1) GENERAL RULE.—Paragraph (5) of section 414(n) (relating to safe harbor exemption) is amended to read as follows:

"(5) SAFE HARBOR.—

"(A) IN GENERAL.—In the case of requirements described in subparagraphs (A) and (B) of paragraph (3), this subsection shall not apply to any leased employee with respect to services performed for a recipient if—

"(i) such employee is covered by a plan which is maintained by the leasing organization and meets the requirements of subparagraph (B), and

"(ii) leased employees (determined without regard to this paragraph) do not constitute more than 20 percent of the recipient's nonhighly compensated work force.

"(B) PLAN REQUIREMENTS.—A plan meets the requirements of this subparagraph if—

"(i) such plan is a money purchase pension plan with a nonintegrated employer contribution rate for each participant of at least 10 percent of compensation,

"(ii) such plan provides for full and immediate vesting, and

"(iii) each employee of the leasing organization (other than employees who perform substantially all of their

services for the leasing organization) immediately participates in such plan.

Clause (iii) shall not apply to any individual whose compensation from the leasing organization in each plan year during the 4-year period ending with the plan year is less than $1,000.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) HIGHLY COMPENSATED EMPLOYEE.—The term 'highly compensated employee' has the meaning given such term by section 414(q).

"(ii) NONHIGHLY COMPENSATED WORK FORCE.—The term 'nonhighly compensated work force' means the aggregate number of individuals (other than highly compensated employees)—

"(I) who are employees of the recipient (without regard to this subsection) and have performed services for the recipient (or for the recipient and related persons) on a substantially full-time basis for a period of at least 1 year, or

"(II) who are leased employees with respect to the recipient (determined without regard to this paragraph).

"(iii) COMPENSATION.—The term 'compensation' has the same meaning as when used in section 415; except that such term shall include—

"(I) any employer contribution under a qualified cash or deferred arrangement to the extent not included in gross income under section 402(a)(8) or 402(h)(1)(B),

"(II) any amount which the employee would have received in cash but for an election under a cafeteria plan (within the meaning of section 125), and

"(III) any amount contributed to an annuity contract described in section 403(b) pursuant to a salary reduction agreement (within the meaning of section 3121(a)(5)(D))."

(2) CLARIFICATION OF YEARS OF SERVICE.—Paragraph (4) of section 414(n) is amended to read as follows:

"(4) TIME WHEN FIRST CONSIDERED AS EMPLOYEE.—

"(A) IN GENERAL.—In the case of any leased employee, paragraph (1) shall apply only for purposes of determining whether the requirements listed in paragraph (3) are met for periods after the close of the period referred to in paragraph (2)(B).

"(B) YEARS OF SERVICE.—In the case of a person who is an employee of the recipient (whether by reason of this subsection or otherwise), for purposes of the requirements listed in paragraph (3), years of service for the recipient shall be determined by taking into account any period for which such employee would have been a leased employee but for the requirements of paragraph (2)(B)."

(3) CONFORMING AMENDMENT.—Paragraph (6) of section 414(n) is amended to read as follows:

"(6) OTHER RULES.—For purposes of this subsection—

"(A) RELATED PERSONS.—The term 'related persons' has the same meaning as when used in section 103(b)(6)(C).

"(B) EMPLOYEES OF ENTITIES UNDER COMMON CONTROL.—The rules of subsections (b), (c), (m), and (o) shall apply."

(b) MINIMIZING RECORDKEEPING REQUIREMENTS.—

(1) IN GENERAL.—Subsection (o) of section 414 (relating to regulations) is amended by adding at the end thereof the following new sentence:

"The regulations prescribed under subsection (n) shall include provisions to minimize the recordkeeping requirements of subsection (n) in the case of an employer which has no top-heavy plans (within the meaning of section 416(g)) and which uses the services of persons (other than employees) for an insignificant percentage of the employer's total workload."

(2) CONFORMING AMENDMENT.—Section 414(n)(1) is amended by striking out "except to the extent otherwise provided in regulations,".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1983.

(2) SUBSECTION (a)(1).—The amendment made by subsection (a)(1) shall apply to services performed after December 31, 1986.

(3) RECORDKEEPING REQUIREMENTS.—In the case of years beginning before the date of the enactment of this Act, the last sentence of section 414(o) shall be applied without regard to the requirement that an insignificant percentage of the workload be performed by persons other than employees.

SEC. 1147. TAX TREATMENT OF FEDERAL THRIFT SAVINGS FUND.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) TAX TREATMENT OF FEDERAL THRIFT SAVINGS FUND.—

"(1) IN GENERAL.—For purposes of this title—

"(A) the Thrift Savings Fund shall be treated as a trust described in section 401(a) which is exempt from taxation under section 501(a);

"(B) any contribution to, or distribution from, the Thrift Savings Fund shall be treated in the same manner as contributions to or distributions from such a trust; and

"(C) subject to the provisions of paragraph (2) and any dollar limitation on the application of section 402(a)(8), contributions to the Thrift Savings Fund shall not be treated as distributed or made available to an employee or Member nor as a contribution made to the Fund by an employee or Member merely because the employee or Member has, under the provisions of subchapter III of chapter 84 of title 5, United States Code, and section 8351 of such title 5, an election whether the contribution will be made to the Thrift Savings Fund or received by the employee or Member in cash.

"(2) NONDISCRIMINATION REQUIREMENTS.—Paragraph (1)(C) shall not apply to the Thrift Savings Fund unless the Fund meets the antidiscrimination requirements (other than any requirement relating to coverage) applicable to arrangements described in section 401(k) and to matching contributions. Rules similar to the rules of sections 401(k)(8) and 401(m)(8) (relating

to no disqualification if excess contributions distributed) shall apply for purposes of the preceding sentence.

"(3) COORDINATION WITH SOCIAL SECURITY ACT.—Paragraph (1) shall not be construed to provide that any amount of the employee's or Member's basic pay which is contributed to the Thrift Savings Fund shall not be included in the term 'wages' for the purposes of section 209 of the Social Security Act or section 3121(a) of this title.

"(4) DEFINITIONS.—For purposes of this subsection, the terms 'Member', 'employee', and 'Thrift Savings Fund' shall have the same respective meanings as when used in subchapter III of chapter 84 of title 5, United States Code.

"(5) COORDINATION WITH OTHER PROVISIONS OF LAW.—No provision of law not contained in this title shall apply for purposes of determining the treatment under this title of the Thrift Savings Fund or any contribution to, or distribution from, such Fund."

(b) CONFORMING AMENDMENT.—Section 3121(v)(3) (defining exempt governmental deferred compensation plan) is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B), and inserting in lieu thereof ", and", and by inserting after subparagraph (B) the following new subparagraph:

"(C) the Thrift Saving Fund (within the meaning of subchapter III of chapter 84 of title 5, United States Code)."

Subtitle B—Employee Benefit Provisions

PART I—NONDISCRIMINATION RULES FOR CERTAIN STATUTORY EMPLOYEE BENEFIT PLANS

SEC. 1151. NONDISCRIMINATION RULES FOR COVERAGE AND BENEFITS UNDER CERTAIN STATUTORY EMPLOYEE BENEFIT PLANS.

(a) GENERAL RULE.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

"SEC. 89. BENEFITS PROVIDED UNDER CERTAIN EMPLOYEE BENEFIT PLANS.

"(a) BENEFITS UNDER DISCRIMINATORY PLANS.—

"(1) IN GENERAL.—Notwithstanding any provision of part III of this subchapter, gross income of a highly compensated employee who is a participant in a discriminatory employee benefit plan during any plan year shall include an amount equal to such employee's excess benefit under such plan for such plan year.

"(2) YEAR OF INCLUSION.—Any amount included in gross income under paragraph (1) shall be taken into account for the taxable year of the employee with or within which the plan year ends.

"(b) EXCESS BENEFIT.—For purposes of this section—

"(1) IN GENERAL.—The excess benefit of any highly compensated employee is the excess of such employee's employer-provided benefit under the plan over the highest permitted benefit.

"(2) HIGHEST PERMITTED BENEFIT.—For purposes of paragraph (1), the highest permitted benefit under any plan shall be

determined by reducing the nontaxable benefits of highly compensated employees (beginning with the employees with the greatest nontaxable benefits) until such plan would not be treated as a discriminatory employee benefit plan if such reduced benefits were taken into account.

"(3) PLANS OF SAME TYPE.—In computing the excess benefit with respect to any benefit, there shall be taken into account all plans of the employer of the same type.

"(4) NONTAXABLE BENEFITS.—For purposes of this subsection, the term 'nontaxable benefit' means any benefit provided under a plan to which this section applies which (without regard to subsection (a)(1)) is excludable from gross income under this chapter.

"(c) DISCRIMINATORY EMPLOYEE BENEFIT PLAN.—For purposes of this section, the term 'discriminatory employee benefit plan' means any statutory employee benefit plan unless such plan meets the—

"(1) eligibility requirements of subsection (d), and

"(2) benefit requirements of subsection (e).

"(d) ELIGIBILITY REQUIREMENTS.—

"(1) IN GENERAL.—A plan meets the eligibility requirements of this subsection for any plan year if—

"(A) at least 90 percent of all employees who are not highly compensated employees—

"(i) are eligible to participate in such plan (or in any other plan of the employer of the same type), and

"(ii) would (if they participated) have available under such plans an employer-provided benefit which is at least 50 percent of the largest employer-provided benefit available under all such plans of the employer to any highly compensated employee,

"(B) at least 50 percent of the employees eligible to participate in such plan are not highly compensated employees, and

"(C) such plan does not contain any provision relating to eligibility to participate which (by its terms or otherwise) discriminates in favor of highly compensated employees.

"(2) ALTERNATIVE ELIGIBILITY PERCENTAGE TEST.—A plan shall be treated as meeting the requirements of paragraph (1)(B) if—

"(A) the percentage determined by dividing the number of highly compensated employees eligible to participate in the plan by the total number of highly compensated employees, does not exceed

"(B) the percentage similarly determined with respect to employees who are not highly compensated employees.

"(e) BENEFIT REQUIREMENTS.—

"(1) IN GENERAL.—A plan meets the benefit requirements of this subsection for any plan year if the average employer-provided benefit received by employees other than highly compensated employees under all plans of the employer of the same type is at least 75 percent of the average employer-provided benefit received by highly compensated employees under all plans of the employer of the same type.

"(2) AVERAGE EMPLOYER-PROVIDED BENEFIT.—For purposes of this subsection, the term 'average employer-provided benefit' means, with respect to highly compensated employees, an amount equal to—

"(A) the aggregate employer-provided benefits received by highly compensated employees under all plans of the type being tested, divided by

"(B) the number of highly compensated employees (whether or not covered under such plans).

The average employer-provided benefit with respect to employees other than highly compensated employees shall be determined in the same manner as the average employer-provided benefit for highly compensated employees.

"(f) SPECIAL RULE WHERE HEALTH OR GROUP-TERM PLAN MEETS 80-PERCENT COVERAGE TEST.—If at least 80 percent of the employees who are not highly compensated employees are covered under a health plan or group-term life insurance plan during the plan year, such plan shall be treated as meeting the requirements of subsections (d) and (e) for such year. The preceding sentence shall not apply if the plan does not meet the requirements of subsection (d)(1)(C) (relating to nondiscriminatory provisions).

"(g) OPERATING RULES.—

"(1) AGGREGATION OF COMPARABLE HEALTH PLANS.—In the case of health plans maintained by an employer—

"(A) IN GENERAL.—An employer may treat a group of comparable plans as 1 plan for purposes of applying subsections (d)(1)(B), (d)(2) and (f).

"(B) COMPARABLE PLANS.—For purposes of subparagraph (A), a group of comparable plans is any group (selected by the employer) of plans of the same type if the smallest employer-provided benefit available to any participant in any such plan is at least 95 percent of the largest employer-provided benefit available to any participant in any such plan.

"(2) SPECIAL RULES FOR APPLYING BENEFIT REQUIREMENTS TO HEALTH PLANS.—

"(A) ELECTION.—For purposes of determining whether the requirements of subsection (e) are met with respect to health plans, the employer may elect—

"(i) to disregard any employee if such employee and his spouse and dependents (if any) are covered by a health plan providing core benefits maintained by another employer, and

"(ii) to apply subsection (e) separately with respect to coverage of spouses or dependents by such plans and to take into account with respect to such coverage only employees with a spouse or dependents who are not covered by a health plan providing core benefits maintained by another employer.

"(B) SWORN STATEMENTS.—Any employer who elects the application of subparagraph (A) shall obtain and maintain, in such manner as the Secretary may prescribe, adequate sworn statements to demonstrate whether individuals have—

"(i) a spouse or dependents, and

"(ii) core health benefits under a plan of another employer.

The Secretary shall provide a method for meeting the requirements of this subparagraph through the use of valid sampling techniques.

"(C) PRESUMPTION WHERE NO STATEMENT.—In the absence of a statement described in subparagraph (B)—

"(i) an employee who is not a highly compensated employee shall be treated—

"(I) as not covered by another plan of another employer providing core benefits, and

"(II) as having a spouse and dependents not covered by another plan of another employer providing core benefits, and

"(ii) a highly compensated employee shall be treated—

"(I) as covered by another plan of another employer providing core benefits, and

"(II) as not having a spouse or dependents.

"(D) CERTAIN INDIVIDUALS MAY NOT BE DISREGARDED.—In the case of a highly compensated employee who receives employer-provided benefits under all health plans of the employer which are more than 133⅓ percent of the average employer-provided benefit under such plan for employees other than highly compensated employees, the employer may not disregard such employee, or his spouse or dependents for purposes of clause (i) or (ii) of subparagraph (A).

"(3) EMPLOYER-PROVIDED BENEFIT.—For purposes of this section—

"(A) IN GENERAL.—Except as provided in subsection (k), an employee's employer-provided benefit under any statutory employee benefit plan is—

"(i) in the case of any health or group-term life insurance plan, the value of the coverage, or

"(ii) in the case of any other plan, the value of the benefits,

provided during the plan year to or on behalf of such employee to the extent attributable to contributions made by the employer.

"(B) SPECIAL RULE FOR HEALTH PLANS.—The value of the coverage provided by any health plan shall be determined under procedures prescribed by the Secretary which shall—

"(i) set forth the values of various standard types of coverage involving a representative group, and

"(ii) provide for adjustments to take into account the specific coverage and group involved.

"(C) SPECIAL RULE FOR GROUP-TERM LIFE PLANS.—

"(i) IN GENERAL.—Except as provided in clause (ii), in determining the value of coverage under a group-term life insurance plan, the amount taken into account for any employee shall be based on the cost of the insurance determined under section 79(c) for an employee who is age 40.

"(ii) EXCESS BENEFIT.—For purposes of subsection (b), the excess benefit with respect to coverage under a group-term life insurance plan shall be equal to the greater of—

"(I) the cost of such excess benefit (expressed as dollars of coverage) determined without regard to section 79(c), or

"(II) such cost determined with regard to section 79(c).

"(D) SALARY REDUCTIONS.—Except for purposes of subsections (d)(1)(A)(ii) and (j)(5), any salary reduction shall be treated as an employer-provided benefit.

"(4) ELECTION TO TEST PLANS OF DIFFERENT TYPES TOGETHER.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the employer may elect to treat all plans of the types specified in such election as plans of the same type for purposes of applying subsection (e).

"(B) EXCEPTION FOR HEALTH PLANS.—Subparagraph (A) shall not apply for purposes of determining whether any health plan meets the requirements of subsection (e); except that benefits provided under health plans which meet such requirements may be taken into account in determining whether plans of other types meet the requirements of subsection (e).

"(5) SEPARATE LINE OF BUSINESS EXCEPTION.—If, under section 414(r), an employer is treated as operating separate lines of business for a year, the employer may apply the preceding provisions of this section separately with respect to employees in each such separate line of business. The preceding sentence shall not apply to any plan unless such plan is available to a group of employees as qualify under a classification set up by the employer and found by the Secretary not to be discriminatory in favor of highly compensated employees.

"(6) SPECIAL RULE FOR APPLYING ELIGIBILITY REQUIREMENTS AND 80-PERCENT TEST TO HEALTH PLANS.—For purposes of determining whether the requirements of subsection (d)(1)(A)(ii) or of subsection (f) are met with respect to health plans, the employer may elect—

"(A) to apply this section separately with respect to coverage of spouses and dependents by such plans, and

"(B) to take into account with respect to such coverage only those employees with a spouse or dependent (determined under rules similar to the rules of paragraphs (2) (B) and (C)).

"(h) EXCLUDED EMPLOYEES.—

"(1) IN GENERAL.—The following employees shall be excluded from consideration under this section:

"(A) Employees who have not completed 1 year of service (or in the case of core benefits under a health plan, 6 months of service). An employee shall be excluded from consideration until the 1st day of the 1st month beginning after completion of the period of service required under the preceding sentence.

"(B) Employees who normally work less than 17½ hours per week.

"(C) Employees who normally work during not more than 6 months during any year.

"(D) Employees who have not attained age 21.

"(E) Employees who are included in a unit of employees covered by an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and 1 or more employers if there is evidence that the type of benefits provided under the plan was the subject of good faith bargaining between the employee representatives and such employer or employers.

"(F) Employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

Subparagraphs (A), (B), (C), and (D) shall be applied by substituting a shorter period of service, smaller number of hours or months, or lower age specified in the plan for the period of service, number of hours or months, or age (as the case may be) specified in such subparagraph.

"(2) CERTAIN EXCLUSIONS NOT TO APPLY IF EXCLUDED EMPLOYEES COVERED.—Except to the extent provided in regulations, employees shall not be excluded from consideration under any subparagraph of paragraph (1) (other than subparagraph (F)) unless no employee described in such subparagraph (determined with regard to the last sentence of paragraph (1)) is eligible under the plan.

"(3) EXCLUSION MUST APPLY TO ALL PLANS.—

"(A) IN GENERAL.—An exclusion shall apply under any subparagraph of paragraph (1) (other than subparagraph (F) thereof) only if the exclusion applies to all statutory employee benefit plans of the employer of the same type. In the case of a cafeteria plan, all benefits under the cafeteria plan shall be treated as provided under plans of the same type.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any difference in waiting periods for core and noncore benefits provided by health plans.

"(4) EXCEPTION FOR SEPARATE LINE OF BUSINESS.—If any line of business is treated separately under subsection (h)(5), then paragraphs (2) and (3) shall be applied separately to such line of business.

"(5) REQUIREMENTS MAY BE MET SEPARATELY WITH RESPECT TO EXCLUDED GROUP.—Notwithstanding paragraphs (2) and (3), if employees do not meet minimum age or service requirements described in paragraph (1) (without regard to the last sentence thereof) and are covered under a plan of the employer which meets the requirements of this section separately with respect to such employees, such employees may be excluded from consideration in determining whether any plan of the employer meets the requirements of this section.

"(i) STATUTORY EMPLOYEE BENEFIT PLAN.—For purposes of this section—

"(1) IN GENERAL.—The term 'statutory employee benefit plan' means—

"(A) an accident or health plan (within the meaning of section 105(e)), and

"(B) any plan of an employer for providing group-term life insurance (within the meaning of section 79).

"(2) EMPLOYER MAY ELECT TO TREAT OTHER PLANS AS STATUTORY EMPLOYEE BENEFIT PLAN.—An employer may elect to treat any of the following plans as statutory employee benefit plans:

"(A) A qualified group legal services plan (within the meaning of section 120(b)).

"(B) An educational assistance program (within the meaning of section 127(b)).

"(C) A dependent care assistance program (within the meaning of section 129(d)).

An election under this paragraph with respect to any plan shall apply with respect to all plans of the same type as such plan.

"(3) PLANS OF THE SAME TYPE.—2 or more plans shall be treated as of the same type if such plans are described in the same subparagraph of paragraph (1) or (2).

"(j) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) HIGHLY COMPENSATED EMPLOYEE.—The term 'highly compensated employee' has the meaning given such term by section 414(q).

"(2) HEALTH PLAN.—The term 'health plan' means any plan described in paragraph (1)(A) of subsection (i).

"(3) TREATMENT OF FORMER EMPLOYEES.—Except to the extent provided in regulations, this section shall be applied separately to former employees under requirements similar to the requirements that apply to employees.

"(4) GROUP-TERM LIFE INSURANCE PLANS.—

"(A) IN GENERAL.—Any group-term life insurance plan shall not be treated as 2 or more separate plans merely because the amount of life insurance under the plan on behalf of employees bears a uniform relationship to the compensation (within the meaning of section 414(s)) of such employees.

"(B) LIMITATION ON COMPENSATION.—For purposes of subparagraph (A), compensation in excess of the amount applicable under section 401(a)(17) shall not be taken into account.

"(C) LIMITATION.—This paragraph shall not apply to any plan if such plan is combined with plans of other types pursuant to an election under subsection (g)(4).

"(5) SPECIAL RULE FOR EMPLOYEES WORKING LESS THAN 30 HOURS PER WEEK.—Any health plan shall not fail to meet the requirements of this section merely because the employer-provided benefit is proportionately reduced for employees who normally work less than 30 hours per week. The preceding sentence shall apply only where the average work week of employees who are not highly compensated employees is 30 hours or more.

"(6) TREATMENT OF SELF-EMPLOYED INDIVIDUALS.—In the case of a statutory employee benefit plan described in subparagraph (A), (B), or (C) of subsection (i)(2)—

"(A) TREATMENT AS EMPLOYEE, ETC.—The term 'employee' includes any self-employed individual (as defined in section 401(c)(1)), and the term 'compensation' includes such individual's earned income (as defined in section 401(c)(2)).

"(B) EMPLOYER.—An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own employer. A partnership shall be treated as the employer of each partner who is treated as an employee under subparagraph (A).

"(7) CERTAIN PLANS TREATED AS MEETING OTHER NONDISCRIMINATION REQUIREMENTS.—If an employer makes an election under subsection (i)(2) to have this section apply to any plan and such plan meets the requirements of this section, such plan shall be treated as meeting any other nondiscrimination

requirement imposed on such plan (other than any requirement under section 120(c)(3), 127(b)(3), or 129(d)(4)).

"(8) SPECIAL RULES FOR CERTAIN DISPOSITIONS OR ACQUISITIONS.—

"(A) IN GENERAL.—If a person becomes, or ceases to be, a member of a group described in subsection (b), (c), (m), or (o) of section 414, then the requirements of this section shall be treated as having been met during the transition period with respect to any plan covering employees of such person or any other member of such group if—

"(i) such requirements were met immediately before each such change, and

"(ii) the coverage under such plan is not significantly changed during the transition period (other than by reason of the change in members of a group).

"(B) TRANSITION PERIOD.—For purposes of subparagraph (A), the term 'transition period' means the period—

"(i) beginning on the date of the change in members of a group, and

"(ii) ending on the last day of the 1st plan year beginning after the date of such change.

"(9) COORDINATION WITH MEDICARE, ETC.—If a plan may be coordinated with health benefits provided under any Federal, State, or foreign law or under any other health plan covering the employee or family member of the employee, such plan shall not fail to meet the requirements of this section with respect to health benefits merely because the amount of such benefits provided to any employee or family member of any employee are coordinated in a manner which does not discriminate in favor of highly compensated employees.

"(10) DISABILITY BENEFITS.—

"(A) IN GENERAL.—If a plan may be coordinated with disability benefits provided under any Federal, State, or foreign law or under any other plan covering the employee, such plan shall not fail to meet the requirements of this section with respect to disability benefits merely because the amount of such benefits provided to an employee are coordinated in a manner which does not discriminate in favor of highly compensated employees.

"(B) CERTAIN DISABILITY PLANS EXEMPT FROM NONDISCRIMINATION RULES.—Subsection (a) shall not apply to any disability coverage other than disability coverage the benefits of which are excludable from gross income under section 105(b) or (c).

"(11) SEPARATE APPLICATION IN THE CASE OF OPTIONS.—Each option or different benefit shall be treated as a separate plan.

"(k) REQUIREMENT THAT PLAN BE IN WRITING, ETC.—

"(1) IN GENERAL.—Notwithstanding any provision of part III of this subchapter, gross income of an employee shall include an amount equal to such employee's employer-provided benefit for the taxable year under an employee benefit plan to which this subsection applies unless, except to the extent provided in regulations—

"(A) such plan is in writing,

"(B) the employees' rights under such plan are legally enforceable,

"(C) employees are provided reasonable notification of benefits available in the plan,

"(D) such plan is maintained for the exclusive benefit of employees, and

"(E) such plan was established with the intention of being maintained for an indefinite period of time.

Such inclusion shall be in lieu of any inclusion under subsection (a) with respect to such plan.

"(2) PLANS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to—

"(A) any statutory employee benefit plan,

"(B) a qualified tuition reduction program (within the meaning of section 117(d)),

"(C) a cafeteria plan (within the meaning of section 125),

"(D) a fringe benefit program providing no-additional-cost services, qualified employee discounts, or employer-operated eating facilities which are excludable from gross income under section 132, and

"(E) a plan to which section 505 applies.

"(3) SPECIAL RULE FOR DETERMINING INCLUSION.—For purposes of paragraph (1), an employee's employer-provided benefit shall be the value of the benefits provided to the employee.

"(4) PLANS TO WHICH CONTRIBUTIONS ARE MADE BY MORE THAN 1 EMPLOYER.—For purposes of paragraph (1)(D), in the case of a plan to which contributions are made by more than 1 employer, each employer shall be treated as employing employees of all other employers.

"(l) REPORTING REQUIREMENTS.—

"(1) IN GENERAL.—If an employee of an employer maintaining a plan is required to include any amount in gross income under this section for any plan year ending with or within a calendar year, the employer shall separately include such amount on the statement which the employer is required to provide the employee under section 6051(a) (and any statement required to be furnished under section 6051(d)).

"(2) PENALTY.—

"For penalty for failing to report, see section 6652(l).

"(m) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations providing for appropriate adjustments in case of individuals not employees of the employer throughout the plan year."

(b) PENALTY FOR FAILING TO REPORT.—Section 6652 (relating to failure to file information returns, registration statements, etc.) is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) INFORMATION WITH RESPECT TO INCLUDIBLE EMPLOYEE BENEFITS.—

"(1) IN GENERAL.—In the case of each failure to include any amount on any statement under section 6051(a) or 6051(d) which is required to be so included under section 89(l), there shall be paid, on notice and demand of the Secretary and in the same manner as tax, the amount determined under paragraph (2).

"(2) AMOUNT OF ADDITIONAL TAX.—The amount determined under this paragraph shall be equal to the product of—

"(A) the highest rate of tax imposed by section 1 for taxable years beginning in the calendar year to which the return or statement relates, multiplied by

"(B) the employer-provided benefit (within the meaning of section 89 without regard to subsection (g)(3) thereof) with respect to the employee to whom such failure relates.

"(3) REASONABLE CAUSE EXCEPTION.—Paragraph (1) shall not apply to any failure if it is shown that such failure is due to reasonable cause.

"(4) COORDINATION WITH OTHER PENALTIES.—Any penalty under this subsection shall be in addition to any other penalty under this section or section 6678 with respect to any failure.

"(5) ONLY 1 ADDITION PER EMPLOYEE PER YEAR.—Paragraph (1) shall be applied only once if there is more than 1 failure with respect to any amount."

(c) REPEAL OF CERTAIN EXISTING NONDISCRIMINATION RULES.—

(1) DISCRIMINATORY GROUP-TERM LIFE INSURANCE PLANS.—Subsection (d) of section 79 is amended to read as follows:

"(d) NONDISCRIMINATION REQUIREMENTS.—In the case of a group-term life insurance plan which is a discriminatory employee benefit plan, subsection (a)(1) shall apply only to the extent provided in section 89."

(2) DISCRIMINATORY SELF-INSURED MEDICAL EXPENSE REIMBURSEMENT PLANS.—Section 105 (relating to amounts received under accident and health plans) is amended by striking out subsection (h) and by redesignating subsection (i) as subsection (h).

(3) QUALIFIED GROUP LEGAL SERVICES PLANS.—Section 120(b) (defining qualified group legal services plan) is amended to read as follows:

"(b) QUALIFIED GROUP LEGAL SERVICES PLAN.—For purposes of this section, a qualified group legal services plan is a separate plan of an employer—

"(1) under which the employer provides specified personal legal services to employees (or their spouses or dependents) through the prepayment of, or the provision in advance for, any portion of the legal fees for such services, and

"(2) which meets the requirements of subsection (c) and section 89(k)."

(4) EDUCATIONAL ASSISTANCE PROGRAMS.—Section 127(b) (relating to educational assistance programs) is amended—

(A) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) IN GENERAL.—For purposes of this section, an educational assistance program is a plan of an employer—

"(A) under which the employer provides employees with educational assistance, and

"(B) which meets the requirements of paragraphs (2) through (5) and section 89(k).", and

(B) by striking out paragraph (6) thereof.

(5) DEPENDENT CARE ASSISTANCE PROGRAMS.—Section 129(d) (relating to dependent care assistance program) is amended—

(A) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) IN GENERAL.—For purposes of this section, a dependent care assistance program is a plan of an employer—

"(A) under which the employer provides employees with dependent care assistance, and

"(B) which meets the requirements of paragraphs (2) through (6) and section 89(k).", and

(B) by striking out paragraph (6) thereof, and redesignating paragraph (7) as paragraph (6).

(d) COORDINATION WITH CAFETERIA PLANS.—

(1) IN GENERAL.—Section 125 (relating to cafeteria plans) is amended to read as follows:

"SEC. 125. CAFETERIA PLANS.

"(a) GENERAL RULE.—In the case of a cafeteria plan—

"(1) amounts shall not be included in gross income of a participant in such plan solely because, under the plan, the participant may choose among the benefits of the plan, and

"(2) if the plan fails to meet the requirements of subsection (b) for any plan year—

"(A) paragraph (1) shall not apply, and

"(B) notwithstanding any other provision of part III of this subchapter, any qualified benefits received under such cafeteria plan by a highly compensated employee for such plan year shall be included in the gross income of such employee for the taxable year with or within which such plan year ends.

"(b) PROHIBITION AGAINST DISCRIMINATION AS TO ELIGIBILITY TO PARTICIPATE.—

"(1) HIGHLY COMPENSATED EMPLOYEES.—A plan shall be treated as failing to meet the requirements of this subsection unless the plan is available to a group of employees as qualify under a classification set up by the employer and which the Secretary find not to be discriminatory in favor of highly compensated employees.

"(2) KEY EMPLOYEES.—In the case of a key employee (within the meaning of section 416(i)(1)), a plan shall be treated as failing to meet the requirements of this subsection if the qualified benefits provided to key employees under the plan exceed 25 percent of the aggregate of such benefits provided for all employees under the plan. For purposes of the preceding sentence, qualified benefits shall be determined without regard to the last sentence of subsection (e).

"(3) EXCLUDABLE EMPLOYEES.—For purposes of this subsection, there may be excluded from consideration employees who may be excluded from consideration under section 89(h).

"(c) CAFETERIA PLAN DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'cafeteria plan' means a plan which meets the requirements of section 89(k) and under which—

"(A) all participants are employees, and

"(B) the participants may choose—

"(i) among 2 or more benefits consisting of cash and qualified benefits, or

"(ii) among 2 or more qualified benefits.

"(2) DEFERRED COMPENSATION PLANS EXCLUDED.—

"(A) IN GENERAL.—The term 'cafeteria plan' does not include any plan which provides for deferred compensation.

"(B) EXCEPTION FOR CASH AND DEFERRED ARRANGEMENTS.—Subparagraph (A) shall not apply to a profit-shar-

ing or stock bonus plan which includes a qualified cash or deferred arrangement (as defined in section 401(k)(2)) to the extent of amounts which a covered employee may elect to have the employer pay as contributions to a trust under such plan on behalf of the employee.

"(C) EXCEPTION FOR CERTAIN PLANS MAINTAINED BY EDUCATIONAL INSTITUTIONS.—Subparagraph (A) shall not apply to a plan maintained by an educational organization described in section 170(b)(1)(A)(ii) to the extent of amounts which a covered employee may elect to have the employer pay as contributions for post-retirement group life insurance if—

"(i) all contributions for such insurance must be made before retirement, and

"(ii) such life insurance does not have a cash surrender value at any time.

For purposes of section 79, any life insurance described in the preceding sentence shall be treated as group-term life insurance.

"(d) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this section, the term 'highly compensated employee' has the meaning given such term by section 414(q).

"(e) QUALIFIED BENEFITS DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified benefit' means any benefit which, with the application of subsection (a), is not includible in the gross income of the employee by reason of an express provision of this chapter (other than section 117, 124, 127, or 132).

"(2) CERTAIN BENEFITS INCLUDED.—The term 'qualified benefits' includes—

"(A) any group-term life insurance which is includible in gross income only because it exceeds the dollar limitation of section 79, and

"(B) any other benefit permitted under regulations.

"(f) COLLECTIVELY BARGAINED PLAN NOT CONSIDERED DISCRIMINATORY.—For purposes of this section, a plan shall not be treated as discriminatory if the plan is maintained under an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and one or more employers.

"(g) CROSS REFERENCES.—

"For reporting and recordkeeping requirements, see section 6039D."

(2) APPLICATION WITH EMPLOYMENT TAXES.—

(A) Section 3121(a)(5) is amended by striking out "or" at the end of subparagraph (E), by inserting "or" at the end of subparagraph (F), and by inserting after subparagraph (F) the following new subparagraph:

"(G) under a cafeteria plan (within the meaning of section 125),"

(B) Section 3306(b)(5) is amended by striking out "or" at the end of subparagraph (E), by inserting "or" at the end of subparagraph (F), and by inserting after subparagraph (F) the following new subparagraph:

"(G) under a cafeteria plan (within the meaning of section 125),"

(C) Section 209(e) of the Social Security Act is amended by inserting before the semicolon at the end thereof the follow-

ing: ", or (9) under a cafeteria plan (within the meaning of section 125 of the Internal Revenue Code of 1986)".

(e) SPECIAL RULES FOR CONTROLLED GROUPS, ETC.—

(1) IN GENERAL.—Section 414 is amended by adding at the end thereof the following new subsection:

"(t) APPLICATION OF CONTROLLED GROUP RULES TO CERTAIN EMPLOYEE BENEFITS.—

"(1) IN GENERAL.—All employees who are treated as employed by a single employer under subsection (b), (c), or (m) of section 414 shall be treated as employed by a single employer for purposes of an applicable section. The provisions of subsection (o) of section 414 shall apply with respect to the requirements of an applicable section.

"(2) APPLICABLE SECTION.—For purposes of this subsection, the term 'applicable section' means section 79, 89, 106, 117(d), 120, 125, 127, 129, 132, 274(j), or 505."

(2) CONFORMING AMENDMENTS.—

(A) Section 132(g) (relating to special rules relating to employer) is amended to read as follows:

"(g) RECIPROCAL AGREEMENTS.—For purposes of paragraph (1) of subsection (a), any service provided by an employer to an employee of another employer shall be treated as provided by the employer of such employee if—

"(1) such service is provided pursuant to a written agreement between such employers, and

"(2) neither of such employers incurs any substantial additional costs (including foregone revenue) in providing such service or pursuant to such agreement."

(B) Paragraph (4) of section 505(b) (relating to aggregation rules) is amended to read as follows:

"(4) AGGREGATION RULES.—At the election of the employer, 2 or more plans of such employer may be treated as 1 plan for purposes of this subsection."

(f) BENEFITS TEST FOR DEPENDENT CARE ASSISTANCE PROGRAMS.—Section 129(d) (relating to dependent care assistance program) is amended by adding at the end thereof the following new paragraph:

"(8) BENEFITS.—

"(A) IN GENERAL.—A plan meets the requirements of this paragraph if the average benefits provided to employees who are not highly compensated employees is at least 55 percent of the average benefits provided to highly compensated employees.

"(B) SALARY REDUCTION AGREEMENTS.—For purposes of subparagraph (A), in the case of any benefits provided through a salary reduction agreement, there shall be disregarded any employees whose compensation (within the meaning of section 415(q)(7)) is less than $25,000."

(g) DEFINITION OF EXCLUDABLE EMPLOYEE.—

(1) Section 120(c)(2) is amended by striking out the last sentence thereof and inserting in lieu thereof "For purposes of this paragraph, there may be excluded from consideration employees who may be excluded from consideration under section 89(h)."

(2) Section 117(d) is amended by adding at the end thereof the following new paragraph:

"(4) EXCLUSION OF CERTAIN EMPLOYEES.—For purposes of this subsection, there may be excluded from consideration

employees who may be excluded from consideration under section 89(h)."

(3) Section 127(b)(2) is amended by striking out the last sentence thereof and inserting in lieu thereof: "For purposes of this paragraph, there may be excluded from consideration employees who may be excluded from consideration under section 89(h)."

(4) Section 129(d)(3) is amended by striking out the last sentence thereof and inserting in lieu thereof: "For purposes of this paragraph, there may be excluded from consideration employees who may be excluded from consideration under section 89(h)."

(5) Section 132(h)(1) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph and subsection (e), there may be excluded from consideration employees who may be excluded from consideration under section 89(h)."

(6) Paragraph (2) of section 505(b) is amended to read as follows:

"(2) EXCLUSION OF CERTAIN EMPLOYEES.—For purposes of paragraph (1), there may be excluded from consideration employees who may be excluded from consideration under section 89(h)."

(h) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Section 6039D(d) is amended to read as follows:

"(d) DEFINITIONS.—For purposes of this section—

"(1) SPECIFIED FRINGE BENEFIT PLAN.—The term 'specified fringe benefit plan' means any plan under section 79, 105, 106, 120, 125, 127, or 129.

"(2) APPLICABLE EXCLUSION.—The term 'applicable exclusion' means, with respect to any specified fringe benefit plan, the section specified under paragraph (1) under which benefits under such plan are excludable from gross income."

(2) INFORMATION REQUIRED TO BE REPORTED.—Section 6039D(a) is amended by striking out "and" at the end of paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof ", and", and by inserting after paragraph (5) the following new paragraph:

"(6) the number of highly compensated employees among the employees described in paragraphs (1), (2), and (3)."

(3) ADDITIONAL INFORMATION.—Section 6039B(c) is amended by adding at the end thereof the following new sentence: "The Secretary may require returns under this subsection only from a representative group of employers."

(i) CONFORMING AMENDMENTS TO SECTION 414(n).—

(1) Paragraph (1) of section 414(n) is amended by striking out "pension requirements" and inserting in lieu thereof "requirements".

(2) Subparagraph (B) of section 414(n)(2) is amended by inserting "(6 months in the case of core health benefits)" after "1 year".

(3) Paragraph (3) of section 414(n) is amended—

(A) by striking out "Pension requirements" and inserting in lieu thereof "Requirements",

(B) by striking out "pension requirements" and inserting in lieu thereof "requirements", and

(C) by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(C) sections 79, 89, 106, 117(d), 120, 125, 127, 129, 132, 274(j), and 505."

(j) OTHER CONFORMING AMENDMENTS.—

(1) The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 89. Benefits provided under certain employee benefit plans."

(2) Subsection (a) of section 106 (relating to contributions by employer to accident and health plans) is amended to read as follows:

"(a) IN GENERAL.—Gross income of an employee does not include employer-provided coverage under an accident or health plan."

(3) Section 505(b) is amended by adding at the end thereof the following new paragraph:

"(6) COMPENSATION.—For purposes of this subsection, the term 'compensation' has the meaning given such term by section 414(s)."

(k) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after the later of —

(A) December 31, 1987, or

(B) the earlier of—

(i) the date which is 3 months after the date on which the Secretary of the Treasury or his delegate issues such regulations as are necessary to carry out the provisions of section 89 of the Internal Revenue Code of 1986 (as added by this section), or

(ii) December 31, 1988.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING PLAN.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, the amendments made by this section shall not apply to employees covered by such an agreement in years beginning before the earlier of—

(A) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after February 28, 1986), or

(B) January 1, 1991.

A plan shall not be required to take into account employees to which the preceding sentence applies for purposes of applying section 89 of the Internal Revenue Code of 1986 (as added by this section) to employees to which the preceding sentence does not apply for any year preceding the year described in the preceding sentence.

(3) EXCEPTION FOR CERTAIN GROUP-TERM INSURANCE PLANS.—In the case of a plan described in section 223(d)(2) of the Tax Reform Act of 1984, such plan shall be treated as meeting the requirements of section 89 of the Internal Revenue Code of 1986 (as added by this section) with respect to individuals described in section 223(d)(2) of such Act. An employer may elect to disregard such individuals in applying section 89 of such Code (as so added) to other employees of the employer.

(4) SPECIAL RULE FOR CHURCH PLANS.—In the case of a church plan (within the meaning of section 414(e)(3) of the Internal Revenue Code of 1986) maintaining an insured accident and health plan, the amendments made by this section shall apply to years beginning after December 31, 1988.

(5) CAFETERIA PLANS.—The amendments made by subsection (d)(2) shall apply to taxable years beginning after December 31, 1983.

PART II—OTHER PROVISIONS

SEC. 1161. DEDUCTIBILITY OF HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) GENERAL RULE.—Section 162 (relating to trade or business expenses), as amended by this Act, is amended by redesignating subsection (n) as subsection (m) and by inserting after subsection (l) the following new subsection:

"(m) SPECIAL RULES FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to 25 percent of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

"(2) LIMITATIONS.—

"(A) DOLLAR AMOUNT.—No deduction shall be allowed under paragraph (1) to the extent that the amount of such deduction exceeds the taxpayer's earned income (within the meaning of section 401(c)).

"(B) REQUIRED COVERAGE.—Paragraph (1) shall not apply to any taxpayer for any taxable year unless coverage is provided under 1 or more plans meeting the requirements of section 89, treating such coverage as an employer-provided benefit.

"(C) OTHER COVERAGE.—Paragraph (1) shall not apply to any taxpayer who is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the spouse of the taxpayer.

"(3) COORDINATION WITH MEDICAL DEDUCTION.—Any amount paid by a taxpayer for insurance to which paragraph (1) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a).

"(4) TERMINATION.—This subsection shall not apply to any taxable year beginning after December 31, 1989."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

(2) TRANSITIONAL RULE.—In the case of any year to which section 89 of the Internal Revenue Code of 1986 does not apply, section 162(m)(2)(B) of such Code shall be applied by substituting any nondiscrimination requirements otherwise applicable for the requirements of section 89 of such Code.

(3) ASSISTANCE.—The Secretary of the Treasury or his delegate shall provide guidance to self-employed individuals to assist them in meeting the requirements of section 89 of the

Internal Revenue Code of 1986 with respect to coverage required by the amendments made by this section.

SEC. 1162. 2-YEAR EXTENSION OF EXCLUSIONS FOR EDUCATIONAL ASSISTANCE PROGRAMS AND GROUP LEGAL PLANS.

(a) EDUCATIONAL ASSISTANCE PROGRAMS.—

(1) EXTENSION.—Subsection (d) of section 127 (relating to termination of exclusion for amounts received under educational assistance programs) is amended by striking out "1985" and inserting in lieu thereof "1987".

(2) INCREASE IN AMOUNT.—Paragraph (2) of section 127(a) is amended by striking out "$5,000" each place it appears in the text and the heading thereof and inserting in lieu thereof "$5,250".

(b) GROUP LEGAL PLANS.—Subsection (e) of section 120 (relating to termination of exclusion for amounts received under qualified group legal services plans) is amended by striking out "1985" and inserting in lieu thereof "1987".

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to years ending after December 31, 1985.

(3) CAFETERIA PLAN WITH GROUP LEGAL BENEFITS.—If, within 60 days after the date of the enactment of this Act, an employee elects under a cafeteria plan under section 125 of the Internal Revenue Code of 1986 coverage for group legal benefits to which section 120 of such Code applies, such election may, at the election of the taxpayer, apply to all legal services provided during 1986. The preceding sentence shall not apply to any plan which on August 16, 1986, offered such group legal benefits under such plan.

SEC. 1163. $5,000 LIMIT ON DEPENDENT CARE ASSISTANCE EXCLUSION.

(a) GENERAL RULE.—Subsection (a) of section 129 (relating to dependent care assistance programs) is amended to read as follows:

"(a) EXCLUSION.—

"(1) IN GENERAL.—Gross income of an employee does not include amounts paid or incurred by the employer for dependent care assistance provided to such employee if the assistance is furnished pursuant to a program which is described in subsection (d).

"(2) LIMITATION OF EXCLUSION.—The aggregate amount excluded from the gross income of the taxpayer under this section for any taxable year shall not exceed $5,000 ($2,500 in the case of a separate return by a married individual).

For purposes of the preceding sentence, marital status shall be determined under the rules of paragraphs (3) and (4) of section 21(e)."

(b) TREATMENT OF ONSITE FACILITIES.—Subsection (e) of section 129 is amended by adding at the end thereof the following new paragraph:

"(8) TREATMENT OF ONSITE FACILITIES.—In the case of an onsite facility, except to the extent provided in regulations, the amount excluded with respect to any dependent shall be based on—

"(A) utilization, and

"(B) the value of the services provided."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 1164. TAX TREATMENT OF FACULTY HOUSING.

(a) IN GENERAL.—Section 119 (relating to meals or lodging furnished for the convenience of the employer) is amended by adding at the end thereof the following new subsection:

"(d) LODGING FURNISHED BY CERTAIN EDUCATIONAL INSTITUTIONS TO EMPLOYEES.—

"(1) IN GENERAL.—In the case of an employee of an educational institution, gross income shall not include the value of qualified campus lodging furnished to such employee during the taxable year.

"(2) EXCEPTION IN CASES OF INADEQUATE RENT.—Paragraph (1) shall not apply to the extent of the excess of—

"(A) the lesser of—

"(i) 5 percent of the appraised value (as of the close of the calendar year in which the taxable year begins) of the qualified campus lodging, or

"(ii) the average of the rentals paid by individuals (other than employees or students of the educational institution) during such calendar year for lodging provided by the educational institution which is comparable to the qualified campus lodging provided to the employee, over

"(B) the rent paid by the employee for the qualified campus lodging during such calendar year.

"(3) QUALIFIED CAMPUS LODGING.—For purposes of this subsection, the term 'qualified campus lodging' means lodging to which subsection (a) does not apply and which is—

"(A) located on, or in the proximity of, a campus of the educational institution, and

"(B) furnished to the employee, his spouse, and any of his dependents by or on behalf of such institution for use as a residence.

"(4) EDUCATIONAL INSTITUTION.—For purposes of this paragraph, the term 'educational institution' means an institution described in section 170(b)(1)(A)(ii).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

SEC. 1165. LIMITATION ON ACCRUAL OF VACATION PAY.

(a) GENERAL RULE.—Paragraph (1) of section 463(a) (relating to accrual of vacation pay) is amended by striking out "and expected to be paid during the taxable year or within 12 months following the close of the taxable year" and inserting in lieu thereof "and paid during the taxable year or within 8½ months following the close of the taxable year".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1986.

SEC. 1166. TREATMENT OF CERTAIN FULL-TIME LIFE INSURANCE SALESMEN.

(a) GENERAL RULE.—Paragraph (20) of section 7701(a) (defining employee) is amended by striking out "and 106" and inserting in lieu thereof "106, and 125".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1985.

SEC. 1167. EXTENSION OF DUE DATE FOR STUDY OF WELFARE BENEFIT PLANS.

Section 560(b) of the Tax Reform Act of 1984 is amended by striking out "February 1, 1985" and inserting in lieu thereof "the date which is 1 year after the date of the enactment of the Tax Reform Act of 1986".

SEC. 1168. EXCLUSION FROM GROSS INCOME OF CERTAIN MILITARY BENEFITS.

(a) EXCLUSION FROM GROSS INCOME.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 134 as section 135 and by inserting after section 133 the following new section:

"SEC. 134. CERTAIN MILITARY BENEFITS.

"(a) GENERAL RULE.—Gross income shall not include any qualified military benefit.

"(b) QUALIFIED MILITARY BENEFIT.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified military benefit' means any allowance or in-kind benefit which—

"(A) is received by any member or former member of the uniformed services of the United States or any dependent of such member by reason of such member's status or service as a member of such uniformed services, and

"(B) was excludable from gross income on September 9, 1986, under any provision of law or regulation thereunder which was in effect on such date (other than a provision of this title).

"(2) NO OTHER BENEFIT TO BE EXCLUDABLE EXCEPT AS PROVIDED BY THIS TITLE.—Notwithstanding any other provision of law, no benefit shall be treated as a qualified military benefit unless such benefit—

"(A) is a benefit described in paragraph (1), or

"(B) is excludable from gross income under this title without regard to any provision of law which is not contained in this title and which is not contained in a revenue Act.

"(3) LIMITATIONS ON MODIFICATIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no modification or adjustment of any qualified military benefit after September 9, 1986, under any provision of law or regulation described in paragraph (1) shall be taken into account.

"(B) EXCEPTION FOR CERTAIN ADJUSTMENTS TO CASH BENEFITS.—Subparagraph (A) shall not apply to any adjustment to any qualified military benefit payable in cash which—

"(i) is pursuant to a provision of law or regulation (as in effect on September 9, 1986), and

"(ii) is determined by reference to any fluctuation in cost, price, currency, or other similar index."

(b) The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 134 and inserting in lieu thereof the following new items:

"Sec. 134. Certain military benefits.

"Sec. 135. Cross references to other Acts."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

Subtitle C—Changes Relating to Employee Stock Ownership Plans

SEC. 1171. REPEAL OF EMPLOYEE STOCK OWNERSHIP CREDIT.

(a) IN GENERAL.—Section 41 (relating to employee stock ownership credit) is hereby repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 38 is amended by striking out paragraph (4), by striking out ", plus" at the end of paragraph (3) and inserting in lieu thereof a period, and by inserting "plus" at the end of paragraph (2).

(2) Subsection (d) of section 38 is amended—

(A) by striking out "196(a), and 404(i)" and inserting in lieu thereof "and 196(a)", and

(B) by striking out "41(a),".

(3) Subsection (c) of section 56 is amended by striking out the last sentence.

(4) Subparagraph (B) of section 108(b)(2) is amended by striking out the last sentence.

(5) Paragraph (21) of section 401(a) is hereby repealed.

(6) Subsection (i) of section 404 (relating to deductibility of unused portions of employee stock ownership credit) is hereby repealed.

(7)(A) Section 6699 (relating to assessable penalties relating to tax credit employee stock ownership plan) is hereby repealed.

(B) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6699.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to compensation paid or accrued after December 31, 1986, in taxable years ending after such date.

(2) SECTIONS 404(i) AND 6699 TO CONTINUE TO APPLY TO PRE-1987 CREDITS.—The provisions of sections 404(i) and 6699 of the Internal Revenue Code of 1986 shall continue to apply with respect to credits under section 41 of such Code attributable to compensation paid or accrued before January 1, 1987 (or under section 38 of such Code with respect to qualified investment before January 1, 1983).

SEC. 1172. ESTATE TAX DEDUCTION FOR PROCEEDS FROM SALES OF EMPLOYER SECURITIES.

(a) IN GENERAL.—Part IV of subchapter A of chapter 11 (relating to taxable estate) is amended by adding at the end thereof the following new section:

"SEC. 2057. SALES OF EMPLOYER SECURITIES TO EMPLOYEE STOCK OWNERSHIP PLANS OR WORKER-OWNED COOPERATIVES.

"(a) GENERAL RULE.—For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deduct-

ing from the value of the gross estate an amount equal to 50 percent of the qualified proceeds of a qualified sale of employer securities.

"(b) QUALIFIED SALE.—For purposes of this section, the term 'qualified sale' means any sale of employer securities by the executor of an estate to—

"(1) an employee stock ownership plan is described in section 4975(e)(7), or

"(2) an eligible worker-owned cooperative (within the meaning of section 1042(c)).

"(c) QUALIFIED PROCEEDS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified proceeds' means the amount received by the estate from the sale of employer securities at any time before the date on which the return of the tax imposed by section 2001 is required to be filed (including any extensions).

"(2) PROCEEDS FROM CERTAIN SECURITIES NOT QUALIFIED.—The term 'qualified proceeds' shall not include the proceeds from the sale of any employer securities if such securities were received by the decedent—

"(A) in a distribution from a plan exempt from tax under section 501(a) which meets the requirements of section 401(a), or

"(B) as a transfer pursuant to an option or other right to acquire stock to which section 83, 422, 422A, 423, or 424 applies.

"(d) WRITTEN STATEMENT REQUIRED.—

"(1) IN GENERAL.—No deduction shall be allowed under subsection (a) unless the executor of the estate of the decedent files with the Secretary the statement described in paragraph (2).

"(2) STATEMENT.—A statement is described in this paragraph if it is a verified written statement of—

"(A) the employer whose employees are covered by the plan described in subsection (b)(1), or

"(B) any authorized officer of the cooperative described in subsection (b)(2),

consenting to the application of section 4979A with respect to such employer or cooperative.

"(e) EMPLOYER SECURITIES.—For purposes of this section, the term 'employer securities' has the meaning given such term by section 409(l).

"(f) TERMINATION.—This section shall not apply to any sale after December 31, 1991."

(b) CONFORMING AMENDMENTS.—

(1) Section 409(n)(1) is amended—

(A) by inserting "or section 2057" after "section 1042",

(B) by inserting "or any decedent if the executor of the estate of such decedent makes a qualified sale to which section 2057 applies," after "securities" in subparagraph (A)(i) thereof, and

(C) by inserting "or the decedent" after "taxpayer" in subparagraph (A)(ii) thereof.

(2) Section 4979A is amended—

(A) by inserting "or section 2057" after "section 1042" in subsection (b)(1) thereof, and

(B) by inserting "or section 2057(d)" after "section 1042(b)(3)(B)" in subsection (c) thereof.

(3) The table of sections for part IV of subchapter A of chapter 11 is amended by adding at the end thereof the following new item:

"Sec. 2057. Sales of employer securities to employee stock ownership plans or worker-owned cooperatives."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after the date of the enactment of this Act with respect to which an election is made by the executor of an estate who is required to file the return of the tax imposed by the Internal Revenue Code of 1986 on a date (including extensions) after the date of the enactment of this Act.

SEC. 1173. PROVISIONS RELATING TO LOANS USED TO ACQUIRE EMPLOYER SECURITIES.

(a) DEDUCTION FOR DIVIDENDS PAID TO REPAY LOANS.—

(1) IN GENERAL.—Paragraph (2) of section 404(k) (relating to dividend paid deductions) is amended by striking out "or" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", or", and by inserting at the end thereof the following new subparagraph:

"(C) the dividend with respect to employer securities is used to make payments on a loan described in section 404(a)(9)."

(2) CONFORMING AMENDMENT.—Section 404(k) is amended by adding at the end thereof the following new sentence: "Any deduction under paragraph (2)(C) shall be allowable in the taxable year of the corporation in which the dividend is used to repay the loan described in such paragraph."

(b) SECURITIES ACQUISITION LOANS.—

(1) APPLICATION TO INTEREST RECEIVED BY RIC.—

(A) IN GENERAL.—Section 133(a) (relating to exclusion for interest on certain loans used to acquire employer securities) is amended by striking out "or" at the end of paragraph (2), by inserting "or" at the end of paragraph (3), and by adding at the end thereof the following new paragraph:

"(4) a regulated investment company (as defined in section 851),".

(B) CONFORMING AMENDMENT.—Section 852(b)(5) is amended by adding at the end thereof the following new subparagraph:

"(C) INTEREST ON CERTAIN LOANS USED TO ACQUIRE EMPLOYER SECURITIES.—For purposes of this paragraph—

"(i) 50 percent of the amount of any loan of the regulated investment company which qualifies as a securities acquisition loan (as defined in section 133) shall be treated as an obligation described in section 103(a), and

"(ii) 50 percent of the interest received on such loan shall be treated as interest excludable from gross income under section 103."

(2) SECURITIES ACQUISITION LOAN.—Section 133(b)(1) (defining securities acquisition loan) is amended to read as follows:

"(1) IN GENERAL.—For purposes of this section, the term 'securities acquisition loan' means—

"(A) any loan to a corporation or to an employee stock ownership plan to the extent that the proceeds are used to

acquire employer securities for the plan, or are used to refinance such a loan, or

"(B) any loan to a corporation to the extent that, within 30 days, employer securities are transferred to the plan in an amount equal to the proceeds of such loan and such securities are allocable to accounts of plan participants within 1 year of the date of such loan, except that this subparagraph shall not apply to any loan the commitment period of which exceeds 7 years.

For purposes of this paragraph, the term 'employer securities' has the meaning given such term by section 409(l)."

(c) EFFECTIVE DATES.—

(1) DIVIDENDS.—The amendments made by subsection (a) shall apply to dividends paid in taxable years beginning after the date of the enactment of this Act.

(2) SUBSECTION (b).—

(A) The amendments made by subsection (b)(1) shall apply to loans used to acquire employer securities after the date of the enactment of this Act, including loans used to refinance loans used to acquire employer securities before such date if such loans were used to acquire employer securities after May 23, 1984.

(B)(i) Section 133(b)(1)(A) of the Internal Revenue Code of 1986, as amended by subsection (b)(2), shall apply to any loan used to refinance a loan which—

(I) met the requirements of section 133(b)(1) (as in effect when such loan was entered into), and

(II) was used to acquire securities after July 18, 1984.

(ii) If a loan described in clause (i) has a term of greater than 7 years, clause (i) shall apply only to interest accruing on such loan during the first 7 years.

(C) Section 133(b)(1)(B) of the Internal Revenue Code of 1986, as added by subsection (b)(2), shall apply to loans incurred after the date of enactment of this Act.

SEC. 1174. REQUIREMENTS FOR EMPLOYEE STOCK OWNERSHIP PLANS.

(a) DISTRIBUTIONS ON PLAN TERMINATIONS PERMITTED.—

(1) IN GENERAL.—Paragraph (1) of section 409(d) (requiring that employer securities must stay in the plan) is amended by striking out "or separation from service" and inserting in lieu thereof "separation from service, or termination of the plan".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to plan terminations after December 31, 1984.

(b) DISTRIBUTION AND PAYMENT REQUIREMENTS.—

(1) IN GENERAL.—Section 409 (relating to qualifications for employee stock ownership plans) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) DISTRIBUTION AND PAYMENT REQUIREMENTS.—A plan meets the requirements of this subsection if—

"(1) DISTRIBUTION REQUIREMENT.—

"(A) IN GENERAL.—The plan provides that, unless the participant otherwise elects, the distribution of the participant's account balance in the plan will commence not later than 1 year after the close of the plan year—

"(i) in which the participant separates from service by reason of the attainment of normal retirement age under the plan, disability, or death, or

"(ii) which is the 5th plan year following the plan year in which the participant otherwise separates from service, except that this clause shall not apply if the participant is reemployed by the employer before such year.

"(B) EXCEPTION FOR CERTAIN FINANCED SECURITIES.—For purposes of this subsection, the account balance of a participant shall not include any employer securities acquired with the proceeds of the loan described in section 404(a)(9) until the close of the plan year in which such loan is repaid in full.

"(C) LIMITED DISTRIBUTION PERIOD.—The plan provides that, unless the participant elects otherwise, the distribution of the participant's account balance will be in substantially equal periodic payments (not less frequently than annually) over a period not longer than the greater of—

"(i) 5 years, or

"(ii) in the case of a participant with an account balance in excess of $500,000, 5 years plus 1 additional year (but not more than 5 additional years) for each $100,000 or fraction thereof by which such balance exceeds $500,000.

"(2) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust the dollar amounts under paragraph (1)(C) at the same time and in the same manner as under section 415(d)."

(2) CONFORMING AMENDMENTS.—Sections 409(a)(3) is amended by striking out "and (h)" and inserting in lieu thereof "(h), and (o)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to distributions attributable to stock acquired after December 31, 1986.

(c) PUT OPTION REQUIREMENTS.—

(1) PAYMENT REQUIREMENT.—

(A) IN GENERAL.—Subsection (h) of section 409 (relating to right to demand employer securities; put option) is amended by adding at the end thereof the following new paragraphs:

"(5) PAYMENT REQUIREMENT FOR TOTAL DISTRIBUTION.—If an employer is required to repurchase employer securities which are distributed to the employee as part of a total distribution, the requirements of paragraph (1)(B) shall be treated as met if—

"(A) the amount to be paid for the employer securities is paid in substantially equal periodic payments (not less frequently than annually) over a period beginning not later than 30 days after the exercise of the put option described in paragraph (4) and not exceeding 5 years, and

"(B) there is adequate security provided and reasonable interest paid on the unpaid amounts referred to in subparagraph (A).

For purposes of this paragraph, the term 'total distribution' means the distribution within 1 taxable year to the recipient of the balance to the credit of the recipient's account.

"(6) PAYMENT REQUIREMENT FOR INSTALLMENT DISTRIBUTIONS.—If an employer is required to repurchase employer secu-

rities as part of an installment distribution, the requirements of paragraph (1)(B) shall be treated as met if the amount to be paid for the employer securities is paid not later than 30 days after the exercise of the put option described in paragraph (4)."

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall apply to distributions attributable to stock acquired after December 31, 1986, except that a plan may elect to have such amendment apply to all distributions after the date of the enactment of this Act.

(2) PUT OPTION REQUIREMENT EXTENDED TO STOCK BONUS PLANS.—

(A) IN GENERAL.—Section 401(a)(23) is amended to read as follows:

"(23) A stock bonus plan shall not be treated as meeting the requirements of this section unless such plan meets the requirements of subsections (h) and (o) of section 409, except that in applying section 409(h) for purposes of this paragraph, the term 'employer securities' shall include any securities of the employer held by the plan."

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall apply to distributions attributable to stock acquired after December 31, 1986.

(d) NONDISCRIMINATION REQUIREMENTS.—

(1) IN GENERAL.—Subparagraph (A) of section 415(c)(6) is amended by striking out "the group of employees consisting of officers, shareholders owning more than 10 percent of the employer's stock (determined under subparagraph (B)(iv)), or employees described in subparagraph (B)(iii)" and inserting in lieu thereof "highly compensated employees (within the meaning of section 414(q))".

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 415(c)(6) is amended by striking out clauses (iii) and (iv) thereof.

(B) Subparagraph (C) of section 415(c)(6) is amended by striking out "the group of employees consisting of officers, shareholders owning more than 10 percent of the employer's stock (determined under subparagraph (B)(iv)), or employees described in subparagraph (B)(iii)" and inserting in lieu thereof "highly compensated employees (within the meaning of section 414(q))".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to years beginning after December 31, 1986.

SEC. 1175. ADDITIONAL QUALIFICATION REQUIREMENTS.

(a) ADDITIONAL QUALIFICATION REQUIREMENTS FOR EMPLOYEE STOCK OWNERSHIP PLANS.—

(1) IN GENERAL.—Subsection (a) of section 401 (relating to qualified pension, profit-sharing, and stock bonus plans), as amended by this Act, is amended by inserting after paragraph (27) the following new paragraph:

"(28) ADDITIONAL REQUIREMENTS RELATING TO EMPLOYEE STOCK OWNERSHIP PLANS.—

"(A) IN GENERAL.—In the case of a trust which is part of an employee stock ownership plan (within the meaning of section 4975(e)(7)) or a plan which meets the requirements of section 409(a), such trust shall not constitute a qualified

trust under this section unless such plan meets the requirements of subparagraphs (B) and (C).

"(B) DIVERSIFICATION OF INVESTMENTS.—

"(i) IN GENERAL.—A plan meets the requirements of this subparagraph if each qualified participant in the plan may elect within 90 days after the close of each plan year in the qualified election period to direct the plan as to the investment of at least 25 percent of the participant's account in the plan (to the extent such portion exceeds the amount to which a prior election under this subparagraph applies). In the case of the election year in which the participant can make his last election, the preceding sentence shall be applied by substituting '50 percent' for '25 percent'.

"(ii) METHOD OF MEETING REQUIREMENTS.—A plan shall be treated as meeting the requirements of clause (i) if—

"(I) the portion of the participant's account covered by the election under clause (i) is distributed within 90 days after the period during which the election may be made, or

"(II) the plan offers at least 3 investment options (not inconsistent with regulations prescribed by the Secretary) to each participant making an election under clause (i).

"(iii) QUALIFIED PARTICIPANT.—For purposes of this subparagraph, the term 'qualified participant' means any employee who has completed at least 10 years of participation under the plan and has attained age 55.

"(iv) QUALIFIED ELECTION PERIOD.—For purposes of this subparagraph, the term 'qualified election period' means the 5-plan-year period beginning with the plan year after the plan year in which the participant attains age 55 (or, if later, beginning with the plan year after the 1st plan year in which the individual 1st became a qualified participant).

"(C) USE OF INDEPENDENT APPRAISER.—A plan meets the requirements of this subparagraph if all valuations of employer securities which are not readily tradable on an established securities market with respect to activities carried on by the plan are by an independent appraiser. For purposes of the preceding sentence, the term 'independent appraiser' means any appraiser meeting requirements similar to the requirements of the regulations prescribed under section 170(a)(1)."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to stock acquired after December 31, 1986.

SEC. 1176. SPECIAL ESOP REQUIREMENTS.

(a) IN GENERAL.—Section 401(a)(22) (relating to qualified pension, profit sharing and stock bonus plans) is amended by inserting at the end thereof the following new sentence: "The requirements of subsection (e) of section 409 shall not apply to any employees of an employer who are participants in any defined contribution plan established and maintained by such employer if the stock of such employer is not publicly traded and the trade or business of such

employer consists of publishing on a regular basis a newspaper for general circulation."

(b) Section 409(l) is amended by adding at the end thereof the following new paragraph:

"(4) NONVOTING COMMON STOCK MAY BE ACQUIRED IN CERTAIN CASES.—Nonvoting common stock of an employer described in the last sentence of section 401(a)(22) shall be treated as employer securities if an employer has a class of nonvoting common stock outstanding and the specific shares that the plan acquires have been issued and outstanding for at least 24 months."

(c) EFFECTIVE DATES.—The amendment made by subsection (a) shall be effective December 31, 1986. The amendment made by subsection (b) shall apply to acquisitions of securities after December 31, 1986.

SEC. 1177. TRANSITION RULES.

(a) SECTION 1171.—The amendments made by section 1171 shall not apply in the case of a tax credit employee stock ownership plan if—

(1) such plan was favorably approved on September 23, 1983, by employees, and

(2) not later than January 11, 1984, the employer of such employees was 100 percent owned by such plan.

(b) SUBTITLE NOT TO APPLY TO CERTAIN NEWSPAPER.—The amendments made by this subtitle shall not apply to any daily newspaper—

(1) which was first published on December 17, 1855, and which began publication under its current name in 1954, and

(2) which is published in a constitutional home rule city (within the meaning of section 143(d)(3)(C) of the Internal Revenue Code of 1986) which has a population of less than 2,500,000.

TITLE XII—FOREIGN TAX PROVISIONS

Subtitle A—Foreign Tax Credit Modifications

SEC. 1201. SEPARATE APPLICATION OF SECTION 904 WITH RESPECT TO CERTAIN CATEGORIES OF INCOME.

(a) GENERAL RULE.—Paragraph (1) of section 904(d) (relating to separate application of section 904 with respect to certain income) is amended by striking out subparagraph (A), by redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (F), (G), (H), and (I), respectively, and by inserting before subparagraph (F) (as so redesignated) the following new subparagraphs:

"(A) passive income,

"(B) high withholding tax interest,

"(C) financial services income,

"(D) shipping income,

"(E) dividends from each noncontrolled section 902 corporation,".

(b) CATEGORIES DEFINED.—Subsection (d) of section 904 is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraphs:

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) PASSIVE INCOME.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'passive income' means any income received or accrued by any person which is of a kind which would be foreign personal holding company income (as defined in section 954(c)).

"(ii) CERTAIN AMOUNTS INCLUDED.—The term 'passive income' includes any amount includible in gross income under section 551 or section 1293 (relating to certain passive foreign investment companies).

"(iii) EXCEPTIONS.—The term 'passive income' shall not include—

"(I) any income described in a subparagraph of paragraph (1) other than subparagraph (A),

"(II) any export financing interest,

"(III) any high-taxed income, and

"(IV) any foreign oil and gas extraction income (as defined in section 907(c)).

"(B) HIGH WITHHOLDING TAX INTEREST.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'high withholding tax interest' means any interest if—

"(I) such interest is subject to a withholding tax of a foreign country or possession of the United States (or other tax determined on a gross basis), and

"(II) the rate of such tax applicable to such interest is at least 5 percent.

"(ii) EXCEPTION FOR EXPORT FINANCING.—The term 'high withholding tax interest' shall not include any export financing interest.

"(iii) REGULATIONS.—The Secretary may by regulations provide that amounts (not otherwise high withholding tax interest) shall be treated as high withholding tax interest where necessary to prevent avoidance of the purposes of this subparagraph.

"(C) FINANCIAL SERVICES INCOME.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'financial services income' means income received or accrued by any person which is not passive income (determined without regard to subparagraph (A)(iii)(I)) and which—

"(I) is derived in the active conduct of a banking, financing, or similar business, or derived from the investment by an insurance company of its unearned premiums or reserves ordinary and necessary for the proper conduct of its insurance business, or

"(II) is of a kind which would be insurance income as defined in section 953(a) determined without regard to those provisions of paragraph (1)(A) of such section which limit insurance income to income from countries other than the country in which the corporation was created or organized.

"(ii) SPECIAL RULE IF ENTITY PREDOMINANTLY ENGAGED IN BANKING, ETC., BUSINESS.—If, for any taxable year, an entity is predominantly engaged in the active conduct of a banking, insurance, financing, or similar business, the term 'financial services income' includes any passive income (determined without regard to subparagraph (A)(iii)(I)) of such corporation for such taxable year. In the case of any entity described in the preceding sentence, the term 'shipping income' shall not include any income treated as financial services income under the preceding sentence.

"(iii) EXCEPTION FOR EXPORT FINANCING.—The term 'financial services income' does not include any export financing interest.

"(iv) HIGH WITHHOLDING TAX INTEREST.—The term 'financial services income' does not include any high withholding tax interest.

"(D) SHIPPING INCOME.—The term 'shipping income' means any income received or accrued by any person which is of a kind which would be foreign base company shipping income (as defined in section 954(f)).

"(E) NONCONTROLLED SECTION 902 CORPORATION.—

"(i) IN GENERAL.—The term 'noncontrolled section 902 corporation' means any foreign corporation with respect to which the taxpayer meets the stock ownership requirements of section 902(a) (or, for purposes of applying paragraph (3), the requirements of section 902(b)). A controlled foreign corporation shall not be treated as a noncontrolled section 902 corporation with respect to any distribution out of its earnings and profits for periods during which it was a controlled foreign corporation.

"(ii) SPECIAL RULE FOR TAXES ON HIGH-WITHHOLDING TAX INTEREST.—If a foreign corporation is a noncontrolled section 902 corporation with respect to the taxpayer, taxes on high withholding tax interest (to the extent imposed at a rate in excess of 5 percent) shall not be treated as foreign taxes for purposes of determining the amount of foreign taxes deemed paid by the taxpayer under section 902.

"(F) HIGH-TAXED INCOME.—The term 'high-taxed income' means any income which (but for this subparagraph) would be passive income if the sum of—

"(i) the foreign income taxes paid or accrued by the taxpayer with respect to such income, and

"(ii) the foreign income taxes deemed paid by the taxpayer with respect to such income under section 902 or 960,

exceeds the highest rate of tax specified in section 1 or 11 (whichever applies) multiplied by the amount of such income (determined with regard to section 78). For purposes of the preceding sentence, the term 'foreign income taxes' means any income, war profits, or excess profits tax imposed by any foreign country or possession of the United States.

"(G) EXPORT FINANCING INTEREST.—For purposes of this paragraph, the term 'export financing interest' means any

interest derived from financing the sale (or other disposition) for use or consumption outside the United States of any property—

"(i) which is manufactured, produced, grown, or extracted in the United States by the taxpayer or a related person, and

"(ii) not more than 50 percent of the fair market value of which is attributable to products imported into the United States.

For purposes of clause (ii), the fair market value of any property imported into the United States shall be its appraised value, as determined by the Secretary under section 402 of the Tariff Act of 1930 (19 U.S.C. 1401a) in connection with its importation.

"(H) RELATED PERSON.—For purposes of this paragraph, the term 'related person' has the meaning given such term by section 954(d)(3), except that such section shall be applied by substituting 'the person with respect to whom the determination is being made' for 'controlled foreign corporation' each place it appears.

"(I) TRANSITIONAL RULE.—For purposes of paragraph (1)—

"(i) taxes paid or accrued in a taxable year beginning before January 1, 1987, with respect to income which was described in subparagraph (A) of paragraph (1) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) shall be treated as taxes paid or accrued with respect to income described in subparagraph (A) of paragraph (1) (as in effect after such date),

"(ii) taxes paid or accrued in a taxable year beginning before January 1, 1987, with respect to income which was described in subparagraph (E) of paragraph (1) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) shall be treated as taxes paid or accrued with respect to income described in subparagraph (I) of paragraph (1) (as in effect after such date) except to the extent that—

"(I) the taxpayer establishes to the satisfaction of the Secretary that such taxes were paid or accrued with respect to shipping income, or

"(II) in the case of an entity meeting the requirements of subparagraph (C)(ii), the taxpayer establishes to the satisfaction of the Secretary that such taxes were paid or accrued with respect to financial services income, and

"(iii) taxes paid or accrued in a taxable year beginning before January 1, 1987, with respect to income described in any other subparagraph of paragraph (1) (as so in effect before such date) shall be treated as taxes paid or accrued with respect to income described in the corresponding subparagraph of paragraph (1) (as so in effect after such date).

"(3) LOOK-THRU IN CASE OF CONTROLLED FOREIGN CORPORATIONS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, dividends, interest, rents, and royalties received or accrued by the taxpayer from a controlled foreign

corporation in which the taxpayer is a United States shareholder shall not be treated as income in a separate category.

"(B) SUBPART F INCLUSIONS.—Any amount included in gross income under section 951(a)(1)(A) shall be treated as income in a separate category to the extent the amount so included is attributable to income in such category.

"(C) INTEREST, RENTS, AND ROYALTIES.—Any interest, rent, or royalty which is received or accrued from a controlled foreign corporation in which the taxpayer is a United States shareholder shall be treated as income in a separate category to the extent it is properly allocable (under regulations prescribed by the Secretary) to income of the controlled foreign corporation in such category.

"(D) DIVIDENDS.—Any dividend paid out of the earnings and profits of any controlled foreign corporation in which the taxpayer is a United States shareholder shall be treated as income in a separate category in proportion to the ratio of—

"(i) the portion of the earnings and profits attributable to income in such category, to

"(ii) the total amount of earnings and profits.

"(E) LOOK-THRU APPLIES ONLY WHERE SUBPART F APPLIES.—If a controlled foreign corporation meets the requirements of section 954(b)(3)(A) (relating to de minimis rule) for any taxable year, for purposes of this paragraph, none of its income for such taxable year shall be treated as income in a separate category. Solely for purposes of applying subparagraph (D), income (other than high withholding tax interest and dividends from a noncontrolled section 902 corporation) of a controlled foreign corporation shall not be treated as income in a separate category if the requirements of section 954(b)(4) are met with respect to such income.

"(F) SEPARATE CATEGORY.—For purposes of this paragraph, the term 'separate category' means any category of income described in subparagraph (A), (B), (C), (D), or (E) of paragraph (1).

"(G) DIVIDEND.—For purposes of this paragraph, the term 'dividend' includes any amount included in gross income in section 951(a)(1)(B). Any amount included in gross income under section 78 to the extent attributable to amounts included in gross income in section 951(a)(1)(A) shall not be treated as a dividend but shall be treated as included in gross income under section 951(a)(1)(A).

"(4) CONTROLLED FOREIGN CORPORATION; UNITED STATES SHAREHOLDER.—For purposes of this subsection—

"(A) CONTROLLED FOREIGN CORPORATION.—The term 'controlled foreign corporation' has the meaning given such term by section 957 (taking into account section 953(c)).

"(B) UNITED STATES SHAREHOLDER.—The term 'United States shareholder' has the meaning given such term by section 951(b) (taking into account section 953(c)).

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate for the purposes of this subsection, including regulations—

"(A) for the application of paragraph (3) and subsection (f)(5) in the case of income paid (or loans made) through 1 or more entities or between 2 or more chains of entities,

"(B) preventing the manipulation of the character of income the effect of which is to avoid the purposes of this subsection, and

"(C) providing that rules similar to the rules of paragraph (3)(C) shall apply to interest, rents, and royalties received or accrued from entities which would be controlled foreign corporations if they were foreign corporations."

(c) SOURCE RULE.—Paragraph (5) of section 954(b) (relating to deductions) is amended by adding at the end thereof the following new sentence: "Except to the extent provided in regulations prescribed by the Secretary, any interest which is paid or accrued by the controlled foreign corporation to any United States shareholder in such corporation (or any controlled foreign corporation related to such a shareholder) shall be allocated first to foreign personal holding company income which is passive income (within the meaning of section 904(d)(2)) of such corporation to the extent thereof. The Secretary may, by regulations, provide that the preceding sentence shall apply also to interest paid or accrued to other persons."

(d) TECHNICAL AMENDMENTS.—

(1) The subsection heading of section 904(d) is amended to read as follows:

"(d) SEPARATE APPLICATION OF SECTION WITH RESPECT TO CERTAIN CATEGORIES OF INCOME.—".

(2) Subparagraph (I) of section 904(d)(1) (as redesignated by subsection (a)) is amended by striking out "in subparagraph (A), (B), (C), or (D)" and inserting in lieu thereof "in any of the preceding subparagraphs".

(3) Paragraph (1) of section 904(d) is amended by inserting "and sections 902, 907, and 960" after "subsections (a), (b), and (c)".

(4) Clause (i) of section 864(d)(5)(A) is amended to read as follows:

"(i) Subparagraphs (A)(iii)(II), (B)(ii), and (C)(iii) of section 904(d)(2) (relating to exceptions for export financing interest)."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) QUALIFIED LOANS.—

(A) IN GENERAL.—The following shall not be treated as high withholding tax interest for purposes of applying section 904(d) of the Internal Revenue Code of 1986 (as amended by this section):

(i) Any interest received or accrued by any taxpayer during any taxable year beginning after December 31, 1986, and before January 1, 1990, on any pre-1990 qualified loan, and

(ii) The phase-out percentage of any interest received or accrued by any taxpayer during any taxable year beginning after December 31, 1989 on any post-1989 qualified loan.

(B) PHASE-OUT PERCENTAGE.—For purposes of subparagraph (A) the phase-out percentage is—

In the case of the following taxable years beginning after 12/31/89:	The phase out percentage is:
1st	80
2nd	60
3rd	40
4th	20
5th or succeeding	0

(C) PRE-1990 QUALIFIED LOAN.—For purposes of subparagraph (A), the term "pre-1990 qualified loan" means, with respect to any taxable year beginning before January 1, 1990, any qualified loan outstanding at any time during such taxable year to the extent that the total amount of foreign taxes which would be creditable (without regard to the limitation of section 904 of the Internal Revenue Code of 1986) with respect to all qualified loans outstanding at any time during such taxable year does not exceed the applicable credit limit for such taxable year.

(D) POST-1989 QUALIFIED LOANS.—For purposes of subparagraph (A), the term "post-1989 qualified loan" means any qualified loan outstanding as of the close of the 1st taxable year of the taxpayer beginning after December 31, 1988, to the extent that the total amount of foreign taxes which would be creditable (without regard to the limitation of section 904 of the Internal Revenue Code of 1986) with respect to all qualified loans outstanding as of the close of such taxable year does not exceed the applicable credit limit for post-1989 qualified loans.

(E) CLASSIFICATION OF QUALIFIED LOANS.—For purposes of this paragraph, if the foreign taxes creditable for any taxable year beginning before January 1, 1990, with respect to any qualified loan, when added to the aggregate amount of foreign taxes creditable for such taxable year with respect to qualified loans entered into by the taxpayer before the date on which such qualified loan was entered into, exceed the applicable credit limit, then that portion of a qualified loan which causes the taxpayer to exceed the applicable credit limit shall not be treated as a pre-1990 or post-1989 qualified loan, as the case may be.

(F) APPLICABLE CREDIT LIMIT.—

(i) IN GENERAL.—The applicable credit limit shall be equal to—

(I) except as provided in subclause (II), 110 percent of the base credit amount multiplied by the applicable interest rate adjustment for the taxable year, and

(II) in the case of post-1989 qualified loans, the amount determined under subclause (I) (without regard to the interest rate adjustment) multiplied by the interest rate adjustment for post-1989 qualified loans.

(ii) BASE CREDIT AMOUNT.—The base credit amount of a taxpayer shall be an amount equal to the principal amount of qualified loans held by such taxpayer on November 16, 1985, multiplied by the product of—

(I) the interest rate applicable to such loan on November 16, 1985, and

(II) the foreign withholding tax rate applicable to interest payable with respect to such loan on November 16, 1985.

(G) INTEREST RATE ADJUSTMENT.—

(i) IN GENERAL.—Except as provided in clause (ii), the applicable interest rate adjustment shall equal the ratio of the weighted average 6-month London Interbank Offered Rate (LIBOR) for the taxable year in question to LIBOR on November 15, 1985.

(ii) POST-1989 QUALIFIED LOANS.—The applicable interest rate adjustment for post-1989 qualified loans shall be equal to the ratio of LIBOR on the last day of the taxpayer's 1st taxable year beginning after December 31, 1988 to LIBOR on November 15, 1985.

(H) QUALIFIED LOAN.—For purposes of this subsection, the term "qualified loan" means any loan made by the taxpayer to any of the following countries or any resident thereof for use in such country:

(i) Argentina.
(ii) Bolivia.
(iii) Brazil.
(iv) Chile.
(v) Colombia.
(vi) Costa Rica.
(vii) The Dominican Republic.
(viii) Ecuador.
(ix) Guyana.
(x) Honduras.
(xi) The Ivory Coast.
(xii) Jamaica.
(xiii) Liberia.
(xiv) Madagascar.
(xv) Malawi.
(xvi) Mexico.
(xvii) Morocco.
(xviii) Mozambique.
(xix) Niger.
(xx) Nigeria.
(xxi) Panama.
(xxii) Peru.
(xxiii) The Philippines.
(xxiv) Romania.
(xxv) Senegal.
(xxvi) Sierra Leone.
(xxvii) The Sudan.
(xviii) Togo.
(xxix) Uruguay.
(xxx) Venezuela.
(xxxi) Yugoslavia.
(xxxii) Zaire.
(xxxiii) Zambia.

(I) NO BENEFIT FOR INCREASED WITHHOLDING TAXES.—No benefit shall be allowable by reason of this paragraph for any foreign withholding tax imposed on interest payable with respect to any qualified loan to the extent the rate of such tax exceeds the foreign withholding tax rate applicable to interest payable with respect to such loan on November 16, 1985.

(3) SPECIAL RULE FOR TAXPAYER WITH OVERALL FOREIGN LOSS.—

(A) IN GENERAL.—If a taxpayer incorporated on June 20, 1928, the principal headquarters of which is in Minneapolis, Minnesota, sustained an overall foreign loss (as defined in section 904(f)(2) of the Internal Revenue Code of 1954) in taxable years beginning before January 1, 1986, in connection with 2 separate trades or businesses which the taxpayer had, during 1985, substantially disposed of in tax-free transactions pursuant to section 355 of such Code, then an amount, not to exceed $40,000,000 of foreign source income, which, but for this paragraph, would not be treated as overall limitation income, shall be so treated.

(B) SUBSTANTIAL DISPOSITION.—For purposes of this paragraph, a taxpayer shall be treated as having substantially disposed of a trade or business if the retained portion of such business had sales of less than 10 percent of the annual sales of such business for taxable years ending in 1985.

SEC. 1202. DEEMED PAID CREDIT UNDER SECTIONS 902 AND 960 DETERMINED ON ACCUMULATED BASIS.

(a) GENERAL RULE.—Section 902 (relating to credit for corporate stockholder in foreign corporation) is amended to read as follows:

"SEC. 902. DEEMED PAID CREDIT WHERE DOMESTIC CORPORATION OWNS 10 PERCENT OR MORE OF VOTING STOCK OF FOREIGN CORPORATION.

"(a) TAXES PAID BY FOREIGN CORPORATION TREATED AS PAID BY DOMESTIC CORPORATION.—For purposes of this subpart, a domestic corporation which owns 10 percent or more of the voting stock of a foreign corporation from which it receives dividends in any taxable year shall be deemed to have paid the same proportion of such foreign corporation's post-1986 foreign income taxes as—

"(1) the amount of such dividends (determined without regard to section 78), bears to

"(2) such foreign corporation's post-1986 undistributed earnings.

"(b) DEEMED TAXES INCREASED IN CASE OF CERTAIN 2ND AND 3RD TIER FOREIGN CORPORATIONS.—

"(1) 2ND TIER.—If the foreign corporation described in subsection (a) (hereinafter in this section referred to as the '1st tier corporation') owns 10 percent or more of the voting stock of a 2nd foreign corporation from which it receives dividends in any taxable year, the 1st tier corporation shall be deemed to have paid the same proportion of such 2nd foreign corporation's post-1986 foreign income taxes as would be determined under subsection (a) if such 1st tier corporation were a domestic corporation.

"(2) 3RD TIER.—If such 1st tier corporation owns 10 percent or more of the voting stock of a 2nd foreign corporation which, in turn, owns 10 percent or more of the voting stock of a 3rd foreign corporation from which the 2nd corporation receives dividends in any taxable year, such 2nd foreign corporation shall be deemed to have paid the same proportion of such 3rd foreign corporation's post-1986 foreign income taxes as would be determined under subsection (a) if such 2nd foreign corporation were a domestic corporation.

"(3) 5 PERCENT STOCK REQUIREMENT.—For purposes of this subpart—

"(A) FOR 2ND TIER.—Paragraph (1) shall not apply unless the percentage of voting stock owned by the domestic corporation in the 1st tier corporation and the percentage of voting stock owned by the 1st tier corporation in the 2nd foreign corporation when multiplied together equal at least 5 percent.

"(B) FOR 3RD TIER.—Paragraph (2) shall not apply unless the percentage arrived at for purposes of applying paragraph (1) when multiplied by the percentage of voting stock owned by the 2nd foreign corporation in the 3rd foreign corporation is equal to at least 5 percent.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) POST-1986 UNDISTRIBUTED EARNINGS.—The term 'post-1986 undistributed earnings' means the amount of the earnings and profits of the foreign corporation (computed in accordance with sections 964 and 986) accumulated in taxable years beginning after December 31, 1986—

"(A) as of the close of the taxable year of the foreign corporation in which the dividend is distributed, and

"(B) without diminution by reason of dividends distributed during such taxable year.

"(2) POST-1986 FOREIGN INCOME TAXES.—The term 'post-1986 foreign income taxes' means the sum of—

"(A) the foreign income taxes with respect to the taxable year of the foreign corporation in which the dividend is distributed, and

"(B) the foreign income taxes with respect to prior taxable years beginning after December 31, 1986, to the extent such foreign taxes were not deemed paid with respect to dividends distributed by the foreign corporation in prior taxable years.

"(3) SPECIAL RULE WHERE DOMESTIC CORPORATION ACQUIRES 10 PERCENT OF FOREIGN CORPORATION AFTER DECEMBER 31, 1986.—

"(A) IN GENERAL.—If the 1st day on which the ownership requirements of subparagraph (B) are met with respect to any foreign corporation is in a taxable year of such corporation beginning after December 31, 1986, the post-1986 undistributed earnings and the post-1986 foreign income taxes of such foreign corporation shall be determined by taking into account only periods beginning on and after the 1st day of the 1st taxable year in which such ownership requirements are met.

"(B) OWNERSHIP REQUIREMENTS.—The ownership requirements of this subparagraph are met with respect to any foreign corporation if—

"(i) 10 percent or more of the voting stock of such foreign corporation is owned by a domestic corporation,

"(ii) the requirements of subsection (b)(3)(A) are met with respect to such foreign corporation and 10 percent or more of the voting stock of such foreign corporation is owned by another foreign corporation described in clause (i), or

"(iii) the requirements of subsection (b)(3)(B) are met with respect to such foreign corporation and 10 percent or more of the voting stock of such foreign corporation is owned by another foreign corporation described in clause (ii).

"(4) FOREIGN INCOME TAXES.—

"(A) IN GENERAL.—The term 'foreign income taxes' means any income, war profits, or excess profits taxes paid by the foreign corporation to any foreign country or possession of the United States.

"(B) TREATMENT OF DEEMED TAXES.—Except for purposes of determining the amount of the post-1986 foreign income taxes of a 3rd foreign corporation referred to in subsection (b)(2), the term 'foreign income taxes' includes any such

taxes deemed to be paid by the foreign corporation under this section.

"(5) ACCOUNTING PERIODS.—In the case of a foreign corporation the income, war profits, and excess profits taxes of which are determined on the basis of an accounting period of less than 1 year, the word 'year' as used in this subsection shall be construed to mean such accounting period.

"(6) TREATMENT OF DISTRIBUTIONS FROM EARNINGS BEFORE 1987.—

"(A) IN GENERAL.—In the case of any dividend paid by a foreign corporation out of accumulated profits (as defined in this section as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) for taxable years beginning before the 1st taxable year taken into account in determining the post-1986 undistributed earnings of such corporation—

"(i) this section (as amended by the Tax Reform Act of 1986) shall not apply, but

"(ii) this section (as in effect on the day before the date of the enactment of such Act) shall apply.

"(B) DIVIDENDS PAID FIRST OUT OF POST-1986 EARNINGS.—Any dividend in a taxable year beginning after December 31, 1986, shall be treated as made out of post-1986 undistributed earnings to the extent thereof.

"(7) REGULATIONS.—The Secretary shall provide such regulations as may be necessary or appropriate to carry out the provisions of this section and secton 960, including provisions which provide for the separate application of this section to reflect the separate application of section 904 to separate types of income and loss.

"(d) CROSS REFERENCES.—

"(1) For inclusion in gross income of an amount equal to taxes deemed paid under subsection (a), see section 78.

"(2) For application of subsections (a) and (b) with respect to taxes deemed paid in a prior taxable year by a United States shareholder with respect to a controlled foreign corporation, see section 960.

"(3) For reduction of credit with respect to dividends paid out of post-1986 undistributed earnings for years for which certain information is not furnished, see section 6038."

(b) SECTION 960 CREDIT DETERMINED ON ACCUMULATED BASIS.—The first sentence of section 960(a)(1) (relating to taxes paid by a foreign corporation) is amended by striking out "then" and all that follows down through the period at the end thereof and inserting in lieu thereof the following:

"then, except to the extent provided in regulations, such domestic corporation shall be deemed to have paid a portion of such foreign corporation's post-1986 foreign income taxes determined under section 902 in the same manner as if the amount so included were a dividend paid by such foreign corporation (determined by applying section 902(c) in accordance with section 904(d)(3)(B))."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (B) of section 6038(a)(1) (relating to information with respect to certain foreign corporations) is amended to read as follows:

"(B) the post-1986 undistributed earnings (as defined in section 902(c)) of such foreign corporation,".

(2) Subparagraph (C) of section 6038(c)(4) (relating to penalty of reducing foreign tax credit) is amended by striking out all that follows "the amount of" and inserting in lieu thereof "post-1986 undistributed earnings."

(d) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 902 and inserting in lieu thereof the following:

"Sec. 902. Deemed paid credit where domestic corporation owns 10 percent or more of voting stock of foreign corporation."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions by foreign corporations out of, and to inclusions under section 951(a) of the Internal Revenue Code of 1986 attributable to, earnings and profits for taxable years beginning after December 31, 1986.

SEC. 1203. CLARIFICATION OF TREATMENT OF SEPARATE LIMITATION LOSSES.

(a) GENERAL RULE.—Subsection (f) of section 904 (relating to recapture of overall foreign loss) is amended by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF SEPARATE LIMITATION LOSSES.—

"(A) IN GENERAL.—The amount of the separate limitation losses for any taxable year shall reduce income from sources within the United States for such taxable year only to the extent the aggregate amount of such losses exceeds the aggregate amount of the separate limitation incomes for such taxable year.

"(B) ALLOCATION OF LOSSES.—The separate limitation losses for any taxable year (to the extent such losses do not exceed the separate limitation incomes for such year) shall be allocated among (and operate to reduce) such incomes on a proportionate basis.

"(C) RECHARACTERIZATION OF SUBSEQUENT INCOME.—If—

"(i) a separate limitation loss from any income category (hereinafter in this subparagraph referred to as 'the loss category') was allocated to income from any other category under subparagraph (B), and

"(ii) the loss category has income for a subsequent taxable year,

such income (to the extent it does not exceed the aggregate separate limitation losses from the loss category not previously recharacterized under this subparagraph) shall be recharacterized as income from such other category in proportion to the prior reductions under subparagraph (B) in such other category not previously taken into account under this subparagraph. Nothing in the preceding sentence shall be construed as recharacterizing any tax.

"(D) SPECIAL RULES FOR LOSSES FROM SOURCES IN THE UNITED STATES.—Any loss from sources in the United States for any taxable year (to the extent such loss does not exceed the separate limitation incomes from such year) shall be allocated among (and operate to reduce) such incomes on a proportionate basis. This subparagraph shall be applied after subparagraph (B).

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) INCOME CATEGORY.—The term 'income category' means each separate category of income described in subsection (d)(1).

"(ii) SEPARATE LIMITATION INCOME.—The term 'separate limitation income' means, with respect to any income category, the taxable income from sources outside the United States, separately computed for such category.

"(iii) SEPARATE LIMITATION LOSS.—The term 'separate limitation loss' means, with respect to any income category, the loss from such category determined under the principles of section 907(c)(4)(B)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to losses incurred in taxable years beginning after December 31, 1986.

SEC. 1204. FOREIGN TAXES USED TO PROVIDE SUBSIDIES.

(a) TREATMENT OF CERTAIN SUBSIDIES.—Section 901 (relating to credit for foreign taxes) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) TAXES USED TO PROVIDE SUBSIDIES.—Any income, war profits, or excess profits tax shall not be treated as a tax for purposes of this title to the extent—

"(1) the amount of such tax is used (directly or indirectly) by the country imposing such tax to provide a subsidy by any means to the taxpayer, a related person (within the meaning of section 482), or any party to the transaction or to a related transaction, and

"(2) such subsidy is determined (directly or indirectly) by reference to the amount of such tax, or the base used to compute the amount of such tax."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to foreign taxes paid or accrued in taxable years beginning after December 31, 1986.

SEC. 1205. LIMITATION ON CARRYBACK OF FOREIGN TAX CREDITS TO TAXABLE YEARS BEGINNING BEFORE 1987.

(a) DETERMINATION OF EXCESS CREDITS.—

(1) IN GENERAL.—Any taxes paid or accrued in a taxable year beginning after 1986 may be treated under section 904(c) of the Internal Revenue Code of 1954 as paid or accrued in a taxable year beginning before 1987 only to the extent such taxes would be so treated if the tax imposed by chapter 1 of such Code for the taxable year beginning after 1986 were determined by applying section 1 or 11 of such Code (as the case may be) as in effect on the day before the date of the enactment of this Act.

(2) ADJUSTMENTS.—Under regulations prescribed by the Secretary of the Treasury or his delegate proper adjustments shall be made in the application of paragraph (1) to take into account—

(A) the repeal of the zero bracket amount, and

(B) the changes in the treatment of capital gains.

(b) COORDINATION WITH SEPARATE BASKETS.—Any taxes paid or accrued in a taxable year beginning after 1986 which (after the application of subsection (a)) are treated as paid or accrued in a taxable year beginning before 1987 shall be treated as imposed on

income described in section 904(d)(1)(E) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act). No taxes paid or accrued in a taxable year beginning after 1986 with respect to high withholding tax interest (as defined in section 904(d)(2)(B) of the Internal Revenue Code of 1986 as amended by this Act) may be treated as paid or accrued in a taxable year beginning before 1987.

Subtitle B—Source Rules

SEC. 1211. DETERMINATION OF SOURCE IN CASE OF SALES OF PERSONAL PROPERTY.

(a) PERSONAL PROPERTY SOURCE RULES.—Part I of subchapter N of chapter 1 (relating to determination of source of income) is amended by adding at the end thereof the following new section:

"SEC. 865. SOURCE RULES FOR PERSONAL PROPERTY SALES.

"(a) GENERAL RULE.—Except as otherwise provided in this section, income from the sale of personal property—

"(1) by a United States resident shall be sourced in the United States, or

"(2) by a nonresident shall be sourced outside the United States.

"(b) EXCEPTION FOR INVENTORY PROPERTY.—In the case of income derived from the sale of inventory property—

"(1) this section shall not apply, and

"(2) such income shall be sourced under the rules of sections 861(a)(6), 862(a)(6), and 863(b).

"(c) EXCEPTION FOR DEPRECIABLE PERSONAL PROPERTY.—

"(1) IN GENERAL.—Gain (not in excess of the depreciation adjustments) from the sale of depreciable personal property shall be allocated between sources in the United States and sources outside the United States—

"(A) by treating the same proportion of such gain as sourced in the United States as the United States depreciation adjustments with respect to such property bear to the total depreciation adjustments, and

"(B) by treating the remaining portion of such gain as sourced outside the United States.

"(2) GAIN IN EXCESS OF DEPRECIATION.—Gain (in excess of the depreciation adjustments) from the sale of depreciable personal property shall be sourced as if such property were inventory property.

"(3) UNITED STATES DEPRECIATION ADJUSTMENTS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'United States depreciation adjustments' means the portion of the depreciation adjustments to the adjusted basis of the property which are attributable to the depreciation deductions allowable in computing taxable income from sources in the United States.

"(B) SPECIAL RULE FOR CERTAIN PROPERTY.—Except in the case of property of a kind described in section 48(a)(2)(B), if, for any taxable year—

"(i) such property is used predominantly in the United States, or

"(ii) such property is used predominantly outside the United States,

all of the depreciation deductions allowable for such year shall be treated as having been allocated to income from sources in the United States (or, where clause (ii) applies, from sources outside the United States).

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) DEPRECIABLE PERSONAL PROPERTY.—The term 'depreciable personal property' means any personal property if the adjusted basis of such property includes depreciation adjustments.

"(B) DEPRECIATION ADJUSTMENTS.—The term 'depreciation adjustments' means adjustments reflected in the adjusted basis of any property on account of depreciation deductions (whether allowed with respect to such property or other property and whether allowed to the taxpayer or to any other person).

"(C) DEPRECIATION DEDUCTIONS.—The term 'depreciation deductions' means any deductions for depreciation or amortization or any other deduction allowable under any provision of this chapter which treats an otherwise capital expenditure as a deductible expense.

"(d) EXCEPTION FOR INTANGIBLES.—

"(1) IN GENERAL.—In the case of any sale of an intangible—

"(A) this section shall apply only to the extent the payments in consideration of such sale are not contingent on the productivity, use, or disposition of the intangible, and

"(B) to the extent such payments are so contingent, the source of such payments shall be determined under this part in the same manner as if such payments were royalties.

"(2) INTANGIBLE.—For purposes of paragraph (1), the term 'intangible' means any patent, copyright, secret process or formula, goodwill, trademark, trade brand, or other like property.

"(3) SPECIAL RULE IN THE CASE OF GOODWILL.—To the extent this section applies to the sale of goodwill, payments in consideration of such sale shall be treated as from sources in the country in which such goodwill was generated.

"(e) SPECIAL RULES FOR SALES THROUGH OFFICES OR FIXED PLACES OF BUSINESS.—

"(1) SALES BY RESIDENTS.—

"(A) IN GENERAL.—In the case of income not sourced under subsection (b), (c), (d), or (f), if a United States resident maintains an office or other fixed place of business outside the United States, income from sales of personal property attributable to such office or other fixed place of business shall be sourced outside the United States.

"(B) TAX MUST BE IMPOSED.—Subparagraph (A) shall not apply unless an income tax equal to at least 10 percent of the income from the sale is actually paid to a foreign country with respect to such income.

"(2) SALES BY NONRESIDENTS.—

"(A) IN GENERAL.—Notwithstanding any other provisions of this part, if a nonresident maintains an office or other fixed place of business in the United States, income from any sale of personal property (including inventory property) attributable to such office or other fixed place of business

shall be sourced in the United States. The preceding sentence shall not apply for purposes of section 971 (defining export trade corporation).

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply to—

"(i) any sale of inventory property which is sold for use, disposition, or consumption outside the United States if an office or other fixed place of business of the taxpayer outside the United States materially participated in the sale, or

"(ii) any amount included in gross income under section 951(a)(1)(A).

"(3) SALES ATTRIBUTABLE TO AN OFFICE OR OTHER FIXED PLACE OF BUSINESS.—The principles of section 864(c)(5) shall apply in determining whether a taxpayer has an office or other fixed place of business and whether a sale is attributable to such an office or other fixed place of business.

"(f) STOCK OF AFFILIATES.—If—

"(1) a United States resident sells stock in an affiliate which is a foreign corporation,

"(2) such affiliate is engaged in the active conduct of a trade or business, and

"(3) such sale occurs in the foreign country in which the affiliate derived more than 50 percent of its gross income for the 3-year period ending with the close of the affiliate's taxable year immediately preceding the year during which such sale occurred,

any gain from such sale shall be sourced outside the United States.

"(g) UNITED STATES RESIDENT; NONRESIDENT.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection—

"(A) UNITED STATES RESIDENT.—The term 'United States resident' means—

"(i) any individual who has a tax home (as defined in section 911(d)(3)) in the United States, and

"(ii) any corporation, partnership, trust, or estate which is a United States person (as defined in section 7701(a)(30)).

"(B) NONRESIDENT.—The term 'nonresident' means any person other than a United States resident.

"(2) SPECIAL RULES FOR UNITED STATES CITIZENS AND RESIDENT ALIENS.—For purposes of this section, a United States citizen or resident alien shall not be treated as a nonresident with respect to any sale of personal property unless an income tax equal to at least 10 percent of the gain derived from such sale is actually paid to a foreign country with respect to that gain.

"(h) OTHER DEFINITIONS.—For purposes of this section—

"(1) INVENTORY PROPERTY.—The term 'inventory property' means personal property described in paragraph (1) of section 1221.

"(2) SALE INCLUDES EXCHANGE.—The term 'sale' includes an exchange or any other disposition.

"(3) TREATMENT OF POSSESSIONS.—Any possession of the United States shall be treated as a foreign country.

"(4) AFFILIATE.—The term 'affiliate' means a member of the same affiliated group (within the meaning of section 1504(a) without regard to section 1504(b)).

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"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purpose of this section, including regulations—

"(1) relating to the treatment of losses from sales of personal property, and

"(2) applying the rules of this section to income derived from trading in futures contracts, forward contracts, options contracts, and other instruments.

"(j) CROSS REFERENCES.—

"(1) For provisions relating to the characterization as dividends for source purposes of gains from the sale of stock in certain foreign corporations, see section 1248.

"(2) For sourcing of income from certain foreign currency transactions, see section 988."

(b) CONFORMING AMENDMENTS.—

(1) Each of the following provisions are amended by striking out "personal property" and inserting in lieu thereof "inventory property (within the meaning of section 865(h)(1))":

(A) Paragraphs (2) and (3) of section 863(b).

(B) Paragraph (6) of section 861(a).

(C) Paragraph (6) of section 862(a).

(2) Subparagraph (B) of section 864(c)(4) is amended by adding "or" at the end of clause (i), by striking out "; or" at the end of clause (ii) and inserting in lieu thereof a period, and by striking out clause (iii).

(3) Paragraph (3) of section 904(b) is amended by striking out subparagraphs (C) and (D) and redesignating subparagraphs (E) and (F) as subparagraphs (C) and (D), respectively.

(4) Subparagraph (D) of section 871(a)(1) is amended by striking out "or from payments which are treated as being so contingent under subsection (e),".

(5) Subsection (e) of section 871 is hereby repealed.

(6) Paragraph (4) of section 881(a) is amended by striking out "or from payments which are treated as being so contingent under section 871(e),".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) SPECIAL RULE FOR FOREIGN PERSONS.—In the case of any foreign person other than any controlled foreign corporations (within the meaning of section 957(a) of the Internal Revenue Code of 1954), the amendments made by this section shall apply to transactions entered into after March 18, 1986.

(d) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study of the source rules for sales of inventory property. Not later than September 30, 1987, the Secretary of the Treasury or his delegate shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report of such study (together with such recommendations as he may deem advisable).

SEC. 1212. SPECIAL RULES FOR TRANSPORTATION INCOME.

(a) GENERAL RULE.—Paragraph (2) of section 863(c) (relating to special rule for certain transportation income) is amended to read as follows:

"(2) OTHER TRANSPORTATION HAVING UNITED STATES CONNECTION.—

"(A) IN GENERAL.—50 percent of all transportation income attributable to transportation which—

"(i) is not described in paragraph (1), and

"(ii) begins or ends in the United States,

shall be treated as from sources in the United States.

"(B) SPECIAL RULE FOR PERSONAL SERVICE INCOME.—Subparagraph (A) shall not apply to any transportation income which is income derived from personal services performed by the taxpayer, unless such income is attributable to transportation which—

"(i) begins in the United States and ends in a possession of the United States, or

"(ii) begins in a possession of the United States and ends in the United States."

(b) 4 PERCENT TAX ON GROSS TRANSPORTATION INCOME.—

(1) IN GENERAL.—Part II of subchapter N of chapter 1 (relating to nonresident alien individuals and foreign corporations) is amended by redesignating subpart C as subpart D and by inserting after subpart B the following new subpart:

"Subpart C—Tax on Gross Transportation Income

"Sec. 887. Imposition of tax on gross transportation income of nonresident aliens and foreign corporations.

"SEC. 887. IMPOSITION OF TAX ON GROSS TRANSPORTATION INCOME OF NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.

"(a) IMPOSITION OF TAX.—In the case of any nonresident alien individual or foreign corporation, there is hereby imposed for each taxable year a tax equal to 4 percent of such individual's or corporation's United States source gross transportation income for such taxable year.

"(b) UNITED STATES SOURCE GROSS TRANSPORTATION INCOME.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'United States source gross transportation income' means any gross income which is transportation income (as defined in section 863(c)(3)) to the extent such income is treated as from sources in the United States under section 863(c).

"(2) EXCEPTION FOR CERTAIN INCOME EFFECTIVELY CONNECTED WITH BUSINESS IN THE UNITED STATES.—The term 'United States source gross transportation income' shall not include any income taxable under section 871(b) or 882.

"(3) DETERMINATION OF EFFECTIVELY CONNECTED INCOME.—For purposes of this chapter, transportation income of any taxpayer shall not be treated as effectively connected with the conduct of a trade or business in the United States unless—

"(A) the taxpayer has a fixed place of business in the United States involved in the earning of transportation income, and

"(B) substantially all of the United States source gross transportation income (determined without regard to paragraph (2)) of the taxpayer is attributable to regularly scheduled transportation (or, in the case of income from the leasing of a vessel or aircraft, is attributable to a fixed place of business in the United States).

"(c) COORDINATION WITH OTHER PROVISIONS.—Any income taxable under this section shall not be taxable under section 871, 881, or 882."

(2) CLERICAL AMENDMENT.—The table of subparts for part II of subchapter N is amended by striking out the item relating to subpart C and inserting in lieu thereof the following:

"Subpart C. Tax on gross transportation income.
"Subpart D. Miscellaneous provisions."

(c) LIMITATION ON EXCLUSION OF TRANSPORTATION INCOME.—

(1) Subsection (b) of section 872 (relating to exclusions) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) SHIPS OPERATED BY CERTAIN NONRESIDENTS.—Gross income derived by an individual resident of a foreign country from the operation of a ship or ships if such foreign country grants an equivalent exemption to citizens of the United States and to corporations organized in the United States.

"(2) AIRCRAFT OPERATED BY CERTAIN NONRESIDENTS.—Gross income derived by an individual resident of a foreign country from the operation of aircraft if such foreign country grants an equivalent exemption to citizens of the United States and to corporations organized in the United States."

(2) Section 872(b) is amended by adding at the end thereof the following new paragraphs:

"(5) CERTAIN RENTAL INCOME.—Income to which paragraphs (1) and (2) apply shall include income which is derived from the rental on a full or bareboat basis of a ship or ships or aircraft, as the case may be.

"(6) APPLICATION TO DIFFERENT TYPES OF TRANSPORTATION.—The Secretary may provide that this subsection be applied separately with respect to income from different types of transportation."

(3) Subsection (a) of section 883 (relating to exclusions from gross income) is amended by striking out paragraphs (1) and (2) and by inserting in lieu thereof the following:

"(1) SHIPS OPERATED BY CERTAIN FOREIGN CORPORATIONS.—Gross income derived by a corporation organized in a foreign country from the operation of a ship or ships if such foreign country grants an equivalent exemption to citizens of the United States and to corporations organized in the United States.

"(2) AIRCRAFT OPERATED BY CERTAIN FOREIGN CORPORATIONS.—Gross income derived by a corporation organized in a foreign country from the operation of aircraft if such foreign country grants an equivalent exemption to citizens of the United States and to corporations organized in the United States."

(4) Section 883(a) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULES.—The rules of paragraphs (5) and (6) of section 872(b) shall apply for purposes of this subsection."

(5) Section 883 is amended by adding at the end thereof the following new subsection:

"(c) TREATMENT OF CERTAIN FOREIGN CORPORATIONS.—

"(1) IN GENERAL.—Paragraphs (1) and (2) of subsection (a) shall not apply to any foreign corporation if 50 percent or more of the value of the stock of such corporation is owned by

individuals who are not residents of such foreign country or another foreign country meeting the requirements of such paragraphs (1) and (2).

"(2) TREATMENT OF CONTROLLED FOREIGN CORPORATIONS.—Paragraph (1) shall not apply to any foreign corporation which is a controlled foreign corporation (as defined in section 957(a)).

"(3) EXCEPTION FOR PUBLICLY TRADED CORPORATIONS.—Paragraph (1) shall not apply to any foreign corporation—

"(A) the stock of which is primarily and regularly traded on an established securities market in the foreign country in which such corporation is organized, or

"(B) which is wholly owned (either directly or indirectly) by another corporation meeting the requirements of subparagraph (A) and is organized in the same foreign country as such other corporation.

"(4) STOCK OWNERSHIP THROUGH ENTITIES.—For purposes of paragraph (1), stock owned (directly or indirectly) by or for a corporation, partnership, trust, or estate shall be treated as being owned proportionately by its shareholders, partners, or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person."

(d) REPEAL OF SPECIAL TREATMENT FOR LEASED AIRCRAFT, ETC.—Section 861 is amended by striking out subsection (e) and by redesignating subsection (f) as subsection (e).

(e) CONFORMING AMENDMENT.—Section 863(b)(1) is amended by striking out "transportation or other services" and inserting in lieu thereof "services".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) SPECIAL RULE FOR CERTAIN LEASED PROPERTY.—The amendments made by subsections (a) and (d) shall not apply to any income attributable to property held by the taxpayer on January 1, 1986, if such property was first leased by the taxpayer before January 1, 1986, in a lease to which section 863(c)(2)(B) or 861(e) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) applied.

(3) SPECIAL RULE FOR CERTAIN SHIPS LEASED BY THE UNITED STATES NAVY.—

(A) IN GENERAL.—In the case of any property described in subparagraph (B), paragraph (2) shall be applied by substituting "1987" for "1986" each place it appears.

(B) PROPERTY TO WHICH PARAGRAPH APPLIES.—Property described in this subparagraph consists of 4 ships which are to be leased by the United States Navy and which are the subject of Internal Revenue Service rulings bearing the following dates and which involved the following amount of financing, respectively:

March 5, 1986	$176,844,000
February 5, 1986	64,567,000
April 22, 1986	64,598,000
May 22, 1986	175,300,000.

SEC. 1213. SOURCE RULE FOR SPACE AND CERTAIN OCEAN ACTIVITIES.

(a) GENERAL RULE.—Section 863 (relating to items not specified in section 861 or 862) is amended by adding at the end thereof the following new subsections:

"(d) SOURCE RULES FOR SPACE AND CERTAIN OCEAN ACTIVITIES.—

"(1) IN GENERAL.—Except as provided in regulations, any income derived from a space or ocean activity—

"(A) if derived by a United States person, shall be sourced in the United States, and

"(B) if derived by a person other than a United States person, shall be sourced outside the United States.

"(2) SPACE OR OCEAN ACTIVITY.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'space or ocean activity' means—

"(i) any activity conducted in space, and

"(ii) any activity conducted on or under water not within the jurisdiction (as recognized by the United States) of a foreign country, possession of the United States, or the United States.

Such term includes any activity conducted in Antarctica.

"(B) EXCEPTION FOR CERTAIN ACTIVITIES.—The term 'space or ocean activity' shall not include—

"(i) any activity giving rise to transportation income (as defined in section 863(c)),

"(ii) any activity giving rise to international communications income (as defined in subsection (e)(2)), and

"(iii) any activity with respect to mines, oil and gas wells, or other natural deposits to the extent within the United States or any foreign country or possession of the United States (as defined in section 638).

For purposes of applying section 638, the jurisdiction of any foreign country shall not include any jurisdiction not recognized by the United States.

"(e) INTERNATIONAL COMMUNICATIONS INCOME.—

"(1) SOURCE RULES.—

"(A) UNITED STATES PERSONS.—In the case of any United States person, 50 percent of any international communications income shall be sourced in the United States and 50 percent of such income shall be sourced outside the United States.

"(B) FOREIGN PERSONS.—

"(i) IN GENERAL.—Except as provided in regulations or clause (ii), in the case of any person other than a United States person, any international communications income shall be sourced outside the United States.

"(ii) SPECIAL RULE FOR INCOME ATTRIBUTABLE TO OFFICE OR FIXED PLACE OF BUSINESS IN THE UNITED STATES.—In the case of any person (other than a United States person) who maintains an office or other fixed place of business in the United States, any international communications income attributable to such office or other fixed place of business shall be sourced in the United States.

"(2) DEFINITION.—For purposes of this section, the term 'international communications income' includes all income derived

from the transmission of communications or data from the United States to any foreign country or from any foreign country to the United States."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1986.

SEC. 1214. LIMITATIONS ON SPECIAL TREATMENT OF 80-20 CORPORATIONS.

(a) INTEREST PAYMENTS.—

(1) IN GENERAL.—Subparagraph (B) of section 861(a)(1) (relating to interest) is amended to read as follows:

"(B) interest from a resident alien individual or domestic corporation, if such individual or corporation meets the 80-percent foreign business requirements of subsection (c)(1),".

(2) FOREIGN BUSINESS REQUIREMENTS.—Subsection (c) of section 861 is amended to read as follows:

"(c) FOREIGN BUSINESS REQUIREMENTS.—

"(1) FOREIGN BUSINESS REQUIREMENTS.—

"(A) IN GENERAL.—An individual or corporation meets the 80-percent foreign business requirements of this paragraph if it is shown to the satisfaction of the Secretary that at least 80 percent of the gross income from all sources of such individual or corporation for the testing period is active foreign business income.

"(B) ACTIVE FOREIGN BUSINESS INCOME.—For purposes of subparagraph (A), the term 'active foreign business income' means gross income which—

"(i) is derived from sources outside the United States (as determined under this subchapter), and

"(ii) is attributable to the active conduct of a trade or business in a foreign country or possession of the United States by the individual or corporation (or by a subsidiary or chain of subsidiaries of such corporation).

"(C) TESTING PERIOD.—For purposes of this subsection, the term 'testing period' means the 3-year period ending with the close of the taxable year of the individual or corporation preceding the payment (or such part of such period as may be applicable). If the individual or corporation has no gross income for such 3-year period (or part thereof), the testing period shall be the taxable year in which the payment is made.

"(2) LOOK-THRU WHERE RELATED PERSON RECEIVES INTEREST.—

"(A) IN GENERAL.—In the case of interest received by a related person from a resident alien individual or domestic corporation meeting the 80-percent foreign business requirements of paragraph (1), subsection (a)(1)(A) shall apply only to a percentage of such interest equal to the percentage which—

"(i) the gross income of such individual or corporation for the testing period from sources outside the United States (as determined under this subchapter), is of

"(ii) the total gross income of such individual or corporation for the testing period.

"(B) RELATED PERSON.—For purposes of this paragraph, the term 'related person' has the meaning given such term by section 954(d)(3), except that—

"(i) such section shall be applied by substituting 'the individual or corporation making the payment' for 'controlled foreign corporation' each place it appears, and

"(ii) such section shall be applied by substituting '10 percent' for '50 percent' each place it appears."

(b) TREATMENT OF DIVIDENDS.—Subparagraph (A) of section 861(a)(2) (relating to dividends) is amended to read as follows:

"(A) from a domestic corporation other than a corporation which has an election in effect under section 936, or".

(c) WITHHOLDING TAX NOT TO APPLY TO CERTAIN INTEREST AND DIVIDENDS.—

(1) NONRESIDENT ALIENS.—Section 871 (relating to tax on nonresident aliens) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) TAX NOT TO APPLY TO CERTAIN INTEREST AND DIVIDENDS.—

"(1) IN GENERAL.—No tax shall be imposed under paragraph (1)(A) or (1)(C) of subsection (a) on any amount described in paragraph (2).

"(2) AMOUNTS TO WHICH PARAGRAPH (1) APPLIES.—The amounts described in this paragraph are as follows:

"(A) Interest on deposits, if such interest is not effectively connected with the conduct of a trade or business within the United States.

"(B) A percentage of any dividend paid by a domestic corporation meeting the 80-percent foreign business requirements of section 861(c)(1) equal to the percentage determined for purposes of section 861(c)(2)(A).

"(C) Income derived by a foreign central bank of issue from bankers' acceptances.

"(3) DEPOSITS.—For purposes of paragraph (2), the term 'deposits' means amounts which are—

"(A) deposits with persons carrying on the banking business,

"(B) deposits or withdrawable accounts with savings institutions chartered and supervised as savings and loan or similar associations under Federal or State law, but only to the extent that amounts paid or credited on such deposits or accounts are deductible under section 591 (determined without regard to sections 265 and 291) in computing the taxable income of such institutions, and

"(C) amounts held by an insurance company under an agreement to pay interest thereon."

(2) FOREIGN CORPORATIONS.—Section 881 (relating to tax on foreign corporations) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) TAX NOT TO APPLY TO CERTAIN INTEREST AND DIVIDENDS.—No tax shall be imposed under paragraph (1) or (3) of subsection (a) on any amount described in section 871(i)(2)."

(3) WITHHOLDING TAX.—Subsection (c) of section 1441 (relating to exceptions) is amended by adding at the end thereof the following new paragraph:

"(10) EXCEPTION FOR CERTAIN INTEREST AND DIVIDENDS.—No tax shall be required to be deducted and withheld under subsection (a) from any amount described in section 871(i)(2)."

(4) REPORTING REQUIREMENTS.—Subparagraph (B) of section 6049(b)(5) is amended by striking out "or" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(iv) such amount is described in section 871(i)(2)."

(5) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 861(a) (as amended by subsection (a)) is amended by striking out subparagraphs (A) and (E) and by redesignating subparagraphs (B), (C), (D), (F), (G), and (H) as subparagraphs (A), (B), (C), (D), (E), and (F), respectively.

(B) Subparagraph (D) of section 861(a)(1) (as so redesignated) is amended by striking out "paragraph (2) of subsection (c)" and inserting in lieu thereof "subparagraph (B) of section 871(i)(3)".

(C) Subsection (d) of section 861 is amended to read as follows:

"(d) SPECIAL RULE FOR APPLICATION OF SUBSECTION (a)(2)(B).—For purposes of subsection (a)(2)(B), if the foreign corporation has no gross income from any source for the 3-year period (or part thereof) specified, the requirements of such subsection shall be applied with respect to the taxable year of such corporation in which the payment of the dividend is made."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to payments after December 31, 1986.

(2) TREATMENT OF CERTAIN INTEREST.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any interest paid or accrued on any obligation outstanding on December 31, 1985. The preceding sentence shall not apply to any interest paid pursuant to any extension or renewal of such an obligation agreed to after December 31, 1985.

(B) SPECIAL RULE FOR RELATED PAYEE.—If the payee of any interest to which subparagraph (A) applies is related (within the meaning of section 904(d)(2)(G) of the Internal Revenue Code of 1986) to the payor, such interest shall be treated for purposes of section 904 of such Code as if the payor were a controlled foreign corporation (within the meaning of section 957(a) of such Code).

(3) TRANSITIONAL RULE.—

(A) YEARS BEFORE 1988.—In applying the amendments made by this section to any payment made by a corporation in a taxable year of such corporation beginning before January 1, 1988, the requirements of clause (ii) of section 861(c)(1)(B) of the Internal Revenue Code of 1986 (relating to active business requirements), as amended by this section, shall not apply to gross income of such corporation for taxable years beginning before January 1, 1987.

(B) YEARS AFTER 1987.—In applying the amendments made by this section to any payment made by a corporation in a taxable year of such corporation beginning after December 31, 1987, the testing period for purposes of section 861(c) of such Code (as so amended) shall not include any taxable year beginning before January 1, 1987.

(4) CERTAIN DIVIDENDS.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any dividend paid before January 1, 1991, by a qualified corporation with respect to stock which was outstanding on May 31, 1985.

(B) QUALIFIED CORPORATION.—For purposes of subparagraph (A), the term 'qualified corporation' means any business systems corporation which—

(i) was incorporated in Delaware in February, 1979,

(ii) is headquartered in Garden City, New York, and

(iii) the parent corporation of which is a resident of Sweden.

SEC. 1215. RULES FOR ALLOCATING INTEREST, ETC., TO FOREIGN SOURCE INCOME.

(a) GENERAL RULE.—Section 864 (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(e) RULES FOR ALLOCATING INTEREST, ETC.—For purposes of this subchapter (except as provided in regulations)—

"(1) TREATMENT OF AFFILIATED GROUPS.—The taxable income of each member of an affiliated group from sources outside the United States shall be determined by allocating and apportioning interest expense of each member as if all members of such group were a single corporation.

"(2) GROSS INCOME METHOD MAY NOT BE USED FOR INTEREST.—All allocations and apportionments of interest expense shall be made on the basis of assets rather than gross income.

"(3) TAX-EXEMPT ASSETS NOT TAKEN INTO ACCOUNT.—For purposes of allocating and apportioning any deductible expense, any tax-exempt asset (and any income from such an asset) shall not be taken into account. A similar rule shall apply in the case of any dividend (other than a qualifying dividend as defined in section 243(b)) for which a deduction is allowable under section 243 or 245(a) and any stock the dividends on which would be so deductible and would not be qualifying dividends (as so defined).

"(4) BASIS OF STOCK IN CERTAIN CORPORATIONS ADJUSTED FOR EARNINGS AND PROFITS CHANGES.—For purposes of allocating and apportioning expenses on the basis of assets, the adjusted basis of any asset which is stock in a corporation which is not included in the affiliated group and in which members of the affiliated group own 10 percent or more of the total combined voting power of all classes of stock entitled to vote in such corporation shall be—

"(A) increased by the amount of the earnings and profits of such corporation attributable to such stock and accumulated during the period the taxpayer held such stock, or

"(B) reduced (but not below zero) by any deficit in earnings and profits of such corporation attributable to such stock for such period.

"(5) AFFILIATED GROUP.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'affiliated group' has the meaning given such term by section 1504 (determined without regard to paragraph (4) of section 1504(b)).

"(B) TREATMENT OF CERTAIN FINANCIAL INSTITUTIONS.—For purposes of subparagraph (A), any corporation described in subparagraph (C) shall be treated as an includible corporation for purposes of section 1504 only for purposes of

applying such section separately to corporations so described.

"(C) DESCRIPTION.—A corporation is described in this subparagraph if—

"(i) such corporation is a financial institution described in section 581 or 591,

"(ii) the business of such financial institution is predominantly with persons other than related persons (within the meaning of subsection (d)(4)) or their customers, and

"(iii) such financial institution is required by State or Federal law to be operated separately from any other entity which is not such an institution.

"(6) ALLOCATION AND APPORTIONMENT OF OTHER EXPENSES.—Expenses other than interest which are not directly allocable and apportioned to any specific income producing activity shall be allocated and apportioned as if all members of the affiliated group were a single corporation.

"(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations providing—

"(A) for the resourcing of income of any member of an affiliated group or modifications to the consolidated return regulations to the extent such resourcing or modification is necessary to carry out the purposes of this section,

"(B) for direct allocation of interest expense incurred to carry out an integrated financial transaction to any interest (or interest-type income) derived from such transaction, and

"(C) for the apportionment of expenses allocated to foreign source income among the members of the affiliated group and various categories of income described in section 904(d)(1)."

(b) CLERICAL AMENDMENTS.—

(1) The section heading for section 864 is amended to read as follows:

"SEC. 864. DEFINITIONS AND SPECIAL RULES."

(2) The table of sections for part I of subchapter N of chapter 1 is amended by striking out the item relating to section 864 and inserting in lieu thereof the following:

"Sec. 864. Definitions and special rules."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) TRANSITIONAL RULES.—

(A) GENERAL PHASE-IN.—Except as provided in subparagraph (B), in the case of the 1st 3 taxable years of the taxpayer beginning after December 31, 1986, the amendments made by this section shall apply only to the applicable percentage (determined under the following table) of the interest expenses paid or accrued by the taxpayer during the taxable year with respect to an aggregate amount of indebtedness which does not exceed the aggre-

gate amount of indebtedness outstanding on November 16, 1985:

In the case of the:	The applicable percentage is:
1st taxable year	25
2nd taxable year	50
3rd taxable year	75.

(B) CONSOLIDATION RULE NOT TO APPLY TO CERTAIN INTEREST.—

(i) INTEREST ATTRIBUTABLE TO INCREASE IN INDEBTEDNESS FROM JANUARY 1, 1984, THROUGH MAY 28, 1985.—In the case of the first 5 taxable years of the taxpayer beginning after December 31, 1986, with respect to interest expenses attributable to the excess of—

(I) the amount of the outstanding debt of the taxpayer on May 29, 1985, over

(II) the amount of the outstanding debt of the taxpayer on December 31, 1983,

paragraph (1) of section 864(e) of the Internal Revenue Code of 1986 (as added by this section) shall apply only to the applicable percentage (determined under the following table) of such interest expenses paid or accrued by the taxpayer during the taxable year:

In the case of the:	The applicable percentage is:
1st taxable year	16⅔
2nd taxable year	33⅓
3rd taxable year	50
4th taxable year	66⅔
5th taxable year	83⅓.

(ii) INTEREST ATTRIBUTABLE TO INCREASE IN INDEBTEDNESS FROM JANUARY 1, 1983, THROUGH DECEMBER 31, 1983.—In the case of the first 4 taxable years of the taxpayer beginning after December 31, 1986, with respect to interest expenses attributable to the excess of—

(I) the amount of the outstanding debt of the taxpayer on January 1, 1984, over

(II) the amount of the outstanding debt of the taxpayer on December 31, 1982,

paragraph (1) of section 864(e) of the Internal Revenue Code of 1986 (as added by this section) shall apply only to the applicable percentage (determined under the following table) of such interest expenses paid or accrued by the taxpayer during the taxable year:

In the case of the:	The applicable percentage is:
1st taxable year	20
2nd taxable year	40
3rd taxable year	60
4th taxable year	80.

(iii) ORDERING RULE.—For purposes of this subparagraph, indebtedness outstanding on November 16, 1985, shall be treated as attributable first to any excess described in clause (i), then to any excess described in clause (ii), and then to other indebtedness.

(iv) TREATMENT OF AFFILIATED GROUP.—For purposes of this subparagraph, all members of the same affili-

ated group of corporations (as defined in section 864(e)(5)(A) of the Internal Revenue Code of 1986, as added by this section) shall be treated as one taxpayer whether or not such members filed a consolidated return.

(C) SPECIAL RULE.—In the case of the first 9 taxable years beginning after December 31, 1986, the following applicable percentages shall be applied (in lieu of those set forth in subparagraph (A)) to interest expenses paid or accrued with respect to the amount of indebtedness described in subparagraph (D) or (E):

In the case of the:	The applicable percentage is:
1st taxable year	10
2nd taxable year	20
3rd taxable year	30
4th taxable year	40
5th taxable year	50
6th taxable year	60
7th taxable year	70
8th taxable year	80
9th taxable year	90.

(D) INDEBTEDNESS OUTSTANDING ON MAY 29, 1985.—Indebtedness is described in this subparagraph if it is indebtedness (which was outstanding on May 29, 1985) of a corporation incorporated on June 13, 1917, which has its principal place of business in Bartlesville, Oklahoma.

(E) INDEBTEDNESS OUTSTANDING ON MAY 29, 1985.—Indebtedness is described in this subparagraph if it is indebtedness (which was outstanding on May 29, 1985) of a member of an affiliated group (as defined in section 1504(a)), the common parent of which was incorporated on August 26, 1926, and has its principal place of business in Harrison, New York.

(3) SPECIAL RULE.—

(A) IN GENERAL.—In the case of a qualified corporation, in lieu of applying paragraph (2), the amendments made by this section shall not apply to interest expenses allocable to any indebtedness to the extent such indebtedness does not exceed $500,000,000 if—

(i) the indebtedness was incurred to develop or improve existing property that is owned by the taxpayer on November 16, 1985, and was acquired with the intent to develop or improve the property,

(ii) the loan agreement with respect to the indebtedness provides that the funds are to be utilized for purposes of developing or improving the above property, and

(iii) the debt to equity ratio of the companies that join in the filing of the consolidated return is less than 15 percent.

(B) QUALIFIED CORPORATION.—For purposes of subparagraph (A), the term "qualified corporation" means a corporation—

(i) which was incorporated in Delaware on June 29, 1964,

(ii) the principal subsidiary of which is a resident of Arkansas, and

(iii) which is a member of an affiliated group the average daily United States production of oil of which is less than 50,000 barrels and the average daily United States refining of which is less than 150,000 barrels.

(4) SPECIAL RULES FOR SUBSIDIARY.—The amendments made by this section shall not apply to interest on up to the applicable dollar amount of indebtedness of a subsidiary incorporated on February 11, 1975, the indebtedness of which on May 6, 1986, included—

(A) $100,000,000 face amount of 11¾ percent notes due in 1990,

(B) $100,000,000 of 8¾ percent notes due in 1989,

(C) 6¾ percent Japanese yen notes due in 1991, and

(D) 5⅜ percent Swiss franc bonds due in 1994.

For purposes of this paragraph, the term "applicable dollar amount" means $600,000,000 in the case of taxable years beginning in 1987 through 1991, $500,000,000 in the case of the taxable year beginning in 1992, $400,000,000 in the case of the taxable year beginning in 1993, $300,000,000 in the case of the taxable year beginning in 1994, $200,000,000 in the case of the taxable year beginning in 1995, $100,000,000 in the case of the taxable year beginning in 1996, and zero in the case of taxable years beginning after 1996.

(5) SPECIAL RULE FOR FINANCIAL CORPORATION.—For purposes of section 864(e)(5) of the Internal Revenue Code of 1986 (as added by this section), a corporation shall be treated as described in subparagraph (C) of such section for any taxable year if—

(A) such corporation is a Delaware corporation incorporated on August 20, 1959, and

(B) such corporation was primarily engaged in the financing of dealer inventory or consumer purchases on May 29, 1985, and at all times thereafter before the close of the taxable year.

(6) SPECIAL RULES FOR ALLOCATING GENERAL AND ADMINISTRATIVE EXPENSES.—

(A) IN GENERAL.—In the case of an affiliated group of domestic corporations the common parent of which has its principal office in New Brunswick, New Jersey, and has a certificate of organization which was filed with the Secretary of the State of New Jersey on November 10, 1887, the amendments made by this section shall not apply to the phase-in percentage of general and administrative expenses paid or incurred in its 1st 3 taxable years beginning after December 31, 1986.

(B) PHASE-IN PERCENTAGE.—For purposes of subparagraph (A):

In the case of taxable years beginning in:	The phase-in percentage is:
1987	75
1988	50
1989	25.

SEC. 1216. 1-YEAR MODIFICATION IN REGULATIONS PROVIDING FOR ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) GENERAL RULE.—For purposes of section 861(b), section 862(b), and section 863(b) of the Internal Revenue Code of 1954, notwithstanding section 864(e) of such Code—

(1) 50 percent of all amounts allowable as a deduction for qualified research and experimental expenditures shall be apportioned to income from sources within the United States and deducted from such income in determining the amount of taxable income from sources within the United States, and

(2) the remaining portion of such amounts shall be apportioned on the basis of gross sales or gross income.

The preceding sentence shall not apply to any expenditures described in section 1.861-8(e)(3)(i)(B) of the Income Tax Regulations.

(b) QUALIFIED RESEARCH AND EXPERIMENTAL EXPENDITURES.—For purposes of this section—

(1) IN GENERAL.—The term "qualified research and experimental expenditures" means amounts—

(A) which are research and experimental expenditures within the meaning of section 174 of such Code, and

(B) which are attributable to activities conducted in the United States.

(2) TREATMENT OF DEPRECIATION, ETC.—Rules similar to the rules of section 174(c) of such Code shall apply.

(c) EFFECTIVE DATE.—This section shall apply to taxable years beginning after August 1, 1986, and on or before August 1, 1987.

Subtitle C—Taxation of Income Earned Through Foreign Corporations

SEC. 1221. INCOME SUBJECT TO CURRENT TAXATION.

(a) DEFINITION OF FOREIGN PERSONAL HOLDING COMPANY INCOME.—

(1) IN GENERAL.—Subsection (c) of section 954 (defining foreign personal holding company income) is amended to read as follows:

"(c) FOREIGN PERSONAL HOLDING COMPANY INCOME.—

"(1) IN GENERAL.—For purposes of subsection (a)(1), the term 'foreign personal holding company income' means the portion of the gross income which consists of:

"(A) DIVIDENDS, ETC.—Dividends, interest, royalties, rents, and annuities.

"(B) CERTAIN PROPERTY TRANSACTIONS.—The excess of gains over losses from the sale or exchange of property—

"(i) which gives rise to income described in subparagraph (A) (after application of paragraph (2)(A)), or

"(ii) which does not give rise to any income.

This subparagraph shall not apply to gain from the sale or exchange of any property which, in the hands of the taxpayer, is property described in section 1221(1) or to gain from the sale or exchange of any property by a regular dealer in such property.

"(C) COMMODITIES TRANSACTIONS.—The excess of gains over losses from transactions (including futures, forward,

and similar transactions) in any commodities. This subparagraph shall not apply to gains or losses which—

"(i) arise out of bona fide hedging transactions reasonably necessary to the conduct of any business by a producer, processor, merchant, or handler of a commodity in the manner in which such business is customarily and usually conducted by others,

"(ii) are active business gains or losses from the sale of commodities, but only if substantially all of the controlled foreign corporation's business is as an active producer, processor, merchant, or handler of commodities, or

"(iii) are foreign currency gains or losses (as defined in section 988(b)) attributable to any section 988 transactions.

"(D) FOREIGN CURRENCY GAINS.—The excess of foreign currency gains over foreign currency losses (as defined in section 988(b)) attributable to any section 988 transactions. This subparagraph shall not apply in the case of any transaction directly related to the business needs of the controlled foreign corporation.

"(E) INCOME EQUIVALENT TO INTEREST.—Any income equivalent to interest, including income from commitment fees (or similar amounts) for loans actually made.

"(2) EXCEPTION FOR CERTAIN AMOUNTS.—

"(A) RENTS AND ROYALTIES DERIVED IN ACTIVE BUSINESS.—Foreign personal holding company income shall not include rents and royalties which are derived in the active conduct of a trade or business and which are received from a person other than a related person (within the meaning of subsection (d)(3)).

"(B) CERTAIN EXPORT FINANCING.—Foreign personal holding company income shall not include any interest which is derived in the conduct of a banking business and which is export financing interest (as defined in section 904(d)(2)(G)).

"(3) CERTAIN INCOME RECEIVED FROM RELATED PERSONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'foreign personal holding company income' does not include—

"(i) dividends and interest received from a related person which (I) is created or organized under the laws of the same foreign country under the laws of which the controlled foreign corporation is created or organized, and (II) has a substantial part of its assets used in its trade or business located in such same foreign country, and

"(ii) rents and royalties received from a related person for the use of, or the privilege of using, property within the country under the laws of which the controlled foreign corporation is created or organized.

"(B) EXCEPTION NOT TO APPLY TO ITEMS WHICH REDUCE SUBPART F INCOME.—Subparagraph (A) shall not apply in the case of any interest, rent, or royalty to the extent such interest, rent, or royalty reduces the payor's subpart F income."

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 864(d)(5) (relating to certain provisions not to apply) is amended

by striking out clauses (iii) and (iv) and inserting in lieu thereof the following:

"(iii) Subparagraph (B) of section 954(c)(2) (relating to certain export financing).

"(iv) Clause (i) of section 954(c)(3)(A) (relating to certain income received from related persons)."

(b) DEFINITION OF INSURANCE INCOME.—

(1) IN GENERAL.—Subsection (a) of section 953 (defining income derived from the insurance of United States risks) is amended to read as follows:

"(a) GENERAL RULE.—For purposes of section 952(a)(1), the term 'insurance income' means any income which—

"(1) is attributable to the issuing (or reinsuring) of any insurance or annuity contract—

"(A) in connection with property in, liability arising out of activity in, or in connection with the lives or health of residents of, a country other than the country under the laws of which the controlled foreign corporation is created or organized, or

"(B) in connection with risks not described in subparagraph (A) as the result of any arrangement whereby another corporation receives a substantially equal amount of premiums or other consideration in respect of issuing (or reinsuring) a contract described in subparagraph (A), and

"(2) would (subject to the modifications provided by paragraphs (1) and (2) of subsection (b)) be taxed under subchapter L of this chapter if such income were the income of a domestic insurance company."

(2) SPECIAL RULE FOR CERTAIN CAPTIVE INSURANCE COMPANIES.—Section 953 is amended by adding at the end thereof the following new subsection:

"(c) SPECIAL RULE FOR CERTAIN CAPTIVE INSURANCE COMPANIES.—

"(1) IN GENERAL.—For purposes only of taking into account related person insurance income—

"(A) the term 'United States shareholder' means, with respect to any foreign corporation, a United States person (as defined in section 957(c)) who owns (within the meaning of section 958(a)) any stock of the foreign corporation, and

"(B) the term 'controlled foreign corporation' has the meaning given to such term by section 957(a) determined by substituting '25 percent or more' for 'more than 50 percent'.

"(2) RELATED PERSON INSURANCE INCOME.—For purposes of this subsection, the term 'related person insurance income' means any insurance income attributable to a policy of insurance or reinsurance with respect to which the primary insured is a United States shareholder in the foreign corporation or a related person (within the meaning of section 954(d)(3)) to such a shareholder.

"(3) EXCEPTIONS.—

"(A) CORPORATIONS NOT HELD BY INSUREDS.—Paragraph (1) shall not apply to any foreign corporation if at all times during the taxable year of such foreign corporation—

"(i) less than 20 percent of the total combined voting power of all classes of stock of such corporation entitled to vote, and

"(ii) less than 20 percent of the total value of such corporation,

is owned (directly or indirectly under the principles of section 883(c)(4)) by persons who are the primary insured under any policy of insurance or reinsurance issued by such corporation or who are related persons (within the meaning of section 954(d)(3)) to any such primary insured.

"(B) DE MINIMIS EXCEPTION.—Paragraph (1) shall not apply to any foreign corporation for a taxable year of such corporation if the related person insurance income of such corporation for such taxable year is less than 20 percent of its insurance income for such taxable year determined without regard to those provisions of subsection (a)(1) which limit insurance income to income from countries other than the country in which the corporation was created or organized.

"(C) ELECTION TO TREAT INCOME AS EFFECTIVELY CONNECTED.—Paragraph (1) shall not apply to any foreign corporation for any taxable year if—

"(i) such corporation elects (at such time and in such manner as the Secretary may prescribe)—

"(I) to treat its related person insurance income for such taxable year as income effectively connected with the conduct of a trade or business in the United States, and

"(II) to waive all benefits with respect to related person insurance income under any income tax treaty between the United States and any foreign country, and

"(ii) such corporation meets such requirements as the Secretary shall prescribe to ensure that the tax imposed by this chapter on such income is paid.

"(D) SPECIAL RULES FOR SUBPARAGRAPH (C).—

"(i) ELECTION IRREVOCABLE.—Any election under subparagraph (C) shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

(ii) EXEMPTION FROM TAX IMPOSED BY SECTION 4371.—The tax imposed by section 4371 shall not apply with respect to any related person insurance income treated as effectively connected with the conduct of a trade or business within the United States under subparagraph (C).

"(4) TREATMENT OF MUTUAL INSURANCE COMPANIES.—In the case of a mutual insurance company—

"(A) this subsection shall apply,

"(B) policyholders of such company shall be treated as shareholders, and

"(C) appropriate adjustments in the application of this subpart shall be made under regulations prescribed by the Secretary.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations preventing the avoidance of this subsection through cross insurance arrangements or otherwise."

(3) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 952(a) (defining subpart F income) is amended to read as follows:

"(1) insurance income (as defined under section 953),".

(B) Subsection (e) of section 954 is amended by striking out the last sentence.

(C) Subsection (b) of section 957 is amended by striking out "income derived from insurance of United States risks" and inserting in lieu thereof "insurance income".

(D) The section heading for section 953 is amended to read as follows:

"SEC. 953. INSURANCE INCOME."

(E) The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 953 and inserting in lieu thereof the following:

"Sec. 953. Insurance income."

(c) REPEAL OF EXCLUSION FOR REINVESTED SHIPPING INCOME.—

(1) IN GENERAL.—Paragraph (2) of section 954(b) (relating to exclusion for reinvested shipping income) is hereby repealed.

(2) SPACE AND CERTAIN OCEAN ACTIVITIES INCLUDED.—Subsection (f) of section 954 (defining foreign base company shipping income) is amended by adding at the end thereof the following new sentence:

"Such term includes any income derived from a space or ocean activity (as defined in section 863(d)(2))."

(3) CONFORMING AMENDMENTS.—

(A)(i) Section 954 is amended by striking out subsection (g) and by redesignating subsection (h) as subsection (g).

(ii) Paragraph (5) of section 954(a) is amended by striking out "determined under subsection (h)" and inserting in lieu thereof "determined under subsection (g)".

(B) Subparagraph (A) of section 955(a)(1) is amended by striking out "all prior taxable years" and inserting in lieu thereof "all prior taxable years beginning before 1987".

(C) Subparagraph (A) of section 955(a)(2) is amended by striking out "at the close of the preceding taxable year" and inserting in lieu thereof "as of the close of the last taxable year beginning before 1987".

(d) EXCEPTION WHERE FOREIGN CORPORATION NOT AVAILED OF TO REDUCE TAX.—Paragraph (4) of section 954(b) (relating to exception for foreign corporations not availed of to reduce taxes) is amended to read as follows:

"(4) EXCEPTION FOR CERTAIN INCOME SUBJECT TO HIGH FOREIGN TAXES.—For purposes of subsection (a) and section 953, foreign base company income and insurance income shall not include any item of income received by a controlled foreign corporation if the taxpayer establishes to the satisfaction of the Secretary that such income was subject to an effective rate of income tax imposed by a foreign country greater than 90 percent of the maximum rate of tax specified in section 11. The preceding sentence shall not apply to foreign base company oil-related income described in subsection (a)(5)."

(e) DEFINITION OF RELATED PERSON.—

(1) Paragraph (3) of section 954(d) (defining related person) is amended by striking out subparagraphs (A), (B), and (C), and inserting in lieu thereof the following:

"(A) such person is an individual, corporation, partnership, trust, or estate which controls, or is controlled by, the controlled foreign corporation, or

"(B) such person is a corporation, partnership, trust, or estate which is controlled by the same person or persons which control the controlled foreign corporation."

(2) Paragraph (3) of section 954(d) is amended by striking out the last 2 sentences and inserting in lieu thereof the following: "For purposes of the preceding sentence, control means, with respect to a corporation, the ownership, directly or indirectly, of stock possessing 50 percent or more of the total voting power of all classes of stock entitled to vote or of the total value of stock of such corporation. In the case of a partnership, trust, or estate, control means the ownership, directly or indirectly, of 50 percent or more (by value) of the beneficial interests in such partnership, trust, or estate. For purposes of this paragraph, rules similar to the rules of section 958 shall apply."

(f) REPEAL OF CERTAIN LIMITATIONS ON AMOUNT OF SUBPART F INCOME.—Section 952 (defining subpart F income) is amended by striking out subsections (c) and (d) and inserting in lieu thereof the following:

"(c) LIMITATION.—

"(1) IN GENERAL.—

"(A) SUBPART F INCOME LIMITED TO CURRENT EARNINGS AND PROFITS.—For purposes of subsection (a), the subpart F income of any controlled foreign corporation for any taxable year shall not exceed the earnings and profits of such corporation for such taxable year.

"(B) CERTAIN PRIOR YEAR DEFICITS MAY BE TAKEN INTO ACCOUNT.—

"(i) IN GENERAL.—The amount included in the gross income of any United States shareholder under section 951(a)(1)(A)(i) for any taxable year and attributable to a qualified activity shall be reduced by the amount of such shareholder's pro rata share of any qualified deficit.

"(ii) QUALIFIED DEFICIT.—The term 'qualified deficit' means any deficit in earnings and profits of the controlled foreign corporation for any prior taxable year which began after December 31, 1986, and for which the controlled foreign corporation was a controlled foreign corporation; but only to the extent such deficit—

"(I) is attributable to the same qualified activity as the activity giving rise to the income being offset, and

"(II) has not previously been taken into account under this subparagraph.

"(iii) QUALIFIED ACTIVITY.—For purposes of this paragraph, the term 'qualified activity' means any activity giving rise to—

"(I) foreign base company shipping income,

"(II) foreign base company oil related income,

"(III) in the case of a qualified insurance company, insurance income or

"(IV) in the case of a qualified financial institution, foreign personal holding company income.

"(iv) PRO RATA SHARE.—For purposes of this paragraph, the shareholder's pro rata share of any deficit for any prior taxable year shall be determined under rules similar to rules under section 951(a)(2) for whichever of the following yields the smaller share:

"(I) the close of the taxable year, or

"(II) the close of the taxable year in which the deficit arose.

"(v) QUALIFIED INSURANCE COMPANY.—For purposes of this subparagraph, the term 'qualified insurance company' means any controlled foreign corporation predominantly engaged in the active conduct of an insurance business in the taxable year and in the prior taxable years in which the deficit arose.

"(vi) QUALIFIED FINANCIAL INSTITUTION.—For purposes of this paragraph, the term 'qualified financial institution' means any controlled foreign corporation predominantly engaged in the active conduct of a banking, financing, or similar business in the taxable year and in the prior taxable year in which the deficit arose.

"(2) RECHARACTERIZATION IN SUBSEQUENT TAXABLE YEARS.—If the subpart F income of any controlled foreign corporation for any taxable year was reduced by reason of paragraph (1)(A), any excess of the earnings and profits of such corporation for any subsequent taxable year over the subpart F income of such foreign corporation for such taxable year shall be recharacterized as subpart F income under rules similar to the rules applicable under section 904(f)(5)."

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1986.

(2) SPECIAL RULE FOR REPEAL OF EXCLUSION FOR REINVESTMENT SHIPPING INCOME.—

(A) IN GENERAL.—In the case of any qualified controlled foreign corporation—

(i) the amendments made by subsection (c) shall apply to taxable years ending on or after January 1, 1992, and

(ii) sections 955(a)(1)(A) and 955(a)(2)(A) of the Internal Revenue Code of 1986 (as amended by subsection (c)(3)) shall be applied by substituting "ending before 1992" for "beginning before 1987".

(B) QUALIFIED CONTROLLED FOREIGN CORPORATION.—For purposes of subparagraph (A), the term "qualified controlled foreign corporation" means any controlled foreign corporation (as defined in section 957 of such Code)—

(i) if the United States agent of such corporation is a domestic corporation incorporated on March 13, 1951, and

(ii) if—

(I) the certificate of incorporation of such corporation is dated July 23, 1963, and

(II) such corporation has a wholly owned subsidiary and its certificate of incorporation is dated November 2, 1965.

(3) EXCEPTION FOR CERTAIN REINSURANCE CONTRACTS.—

(A) IN GENERAL.—In the case of the 1st 3 taxable years of a qualified controlled foreign insurer beginning after December 31, 1986, the amendments made by this section shall not apply to the phase-in percentage of any qualified reinsurance income.

(B) PHASE-IN PERCENTAGE.—For purposes of subparagraph (A):

In the case of taxable years beginning in:	The phase-in percentage is:
1987	75
1988	50
1989	25.

(C) QUALIFIED CONTROLLED FOREIGN INSURER.—For purposes of this paragraph, the term "qualified controlled foreign insurer" means—

(i) any controlled foreign corporation which on August 16, 1986, was a member of an affiliated group (as defined in section 1504(a) of the Internal Revenue Code of 1986 without regard to subsection (b)(3) thereof) which had as its common parent a corporation incorporated in Delaware on July 9, 1967, with executive offices in New York, New York, or

(ii) any controlled foreign corporation which on August 16, 1986, was a member of an affiliated group (as so defined) which had as its common parent a corporation incorporated in Delaware on March 31, 1982, with executive offices in Philadelphia, Pennsylvania.

(D) QUALIFIED REINSURANCE INCOME.—For purposes of this paragraph, the term 'qualified reinsurance income' means any insurance income attributable to risks (other than risks described in section 953(a) or 954(e) of such Code as in effect on the day before the date of the enactment of this Act) assumed as of August 16, 1986, under a reinsurance contract in effect on such date. For purposes of the preceding sentence, insurance income shall mean the underwriting income (as defined in section 832(b)(3) of such Code) and investment income derived from an amount of assets (to be segregated and separately identified) equivalent to the ordinary and necessary insurance reserves and necessary surplus equal to ⅓ of earned premium attributable to such contracts.

SEC. 1222. TESTING CONTROLLED FOREIGN CORPORATIONS AND FOREIGN PERSONAL HOLDING COMPANIES BY VALUE AND VOTING POWER.

(a) DEFINITION OF CONTROLLED FOREIGN CORPORATION.—

(1) IN GENERAL.—Subsection (a) of section 957 (defining controlled foreign corporation) is amended to read as follows:

"(a) GENERAL RULE.—For purposes of this subpart, the term 'controlled foreign corporation' means any foreign corporation if more than 50 percent of—

"(1) the total combined voting power of all classes of stock of such corporation entitled to vote, or

"(2) the total value of the stock of such corporation,

is owned (within the meaning of section 958(a)), or is considered as owned by applying the rules of ownership of section 958(b), by United States shareholders on any day during the taxable year of such foreign corporation."

(2) SPECIAL RULE FOR INSURANCE.—Subsection (b) of section 957 is amended by striking out "all classes of stock" and inserting in lieu thereof "all classes of stock (or more than 25 percent of the total value of stock)".

(b) DEFINITION OF FOREIGN PERSONAL HOLDING COMPANY.—Paragraph (2) of section 552(a) (defining foreign personal holding company) is amended to read as follows:

"(2) STOCK OWNERSHIP REQUIREMENT.—At any time during the taxable year more than 50 percent of—

"(A) the total combined voting power of all classes of stock of such corporation entitled to vote, or

"(B) the total value of the stock of such corporation, is owned (directly or indirectly) by or for not more than 5 individuals who are citizens or residents of the United States (hereinafter in this part referred to as the 'United States group')."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1986; except that for purposes of applying sections 951(a)(1)(B) and 956 of the Internal Revenue Code of 1986, such amendments shall take effect on August 16, 1986.

(2) TRANSITIONAL RULE.—In the case of any corporation treated as a controlled foreign corporation by reason of the amendments made by this section, property acquired before August 16, 1986, shall not be taken into account under section 956(b) of the Internal Revenue Code of 1986.

(3) SPECIAL RULE FOR BENEFICIARY OF TRUST.—In the case of an individual—

(A) who is a beneficiary of a trust which was established on December 7, 1979, under the laws of a foreign jurisdiction, and

(B) who was not a citizen or resident of the United States on the date the trust was established,

amounts which are included in the gross income of such beneficiary under section 951(a) of the Internal Revenue Code of 1986 with respect to stock held by the trust (and treated as distributed to the trust) shall be treated as the first amounts which are distributed by the trust to such beneficiary and as amounts to which section 959(a) of such Code applies.

SEC. 1223. SUBPART F DE MINIMIS RULE.

(a) GENERAL RULE.—Paragraph (3) of section 954(b) (relating to special rule where foreign base company income is less than 10 percent or more than 70 percent of gross income) is amended to read as follows:

"(3) DE MINIMIS, ETC., RULES.—For purposes of subsection (a) and section 953—

"(A) DE MINIMIS RULE.—If the sum of foreign base company income (determined without regard to paragraph (5)) and the gross insurance income for the taxable year is less than the lesser of—

"(i) 5 percent of gross income, or

"(ii) $1,000,000,

no part of the gross income for the taxable year shall be treated as foreign base company income or insurance income.

"(B) FOREIGN BASE COMPANY INCOME AND INSURANCE INCOME IN EXCESS OF 70 PERCENT OF GROSS INCOME.—If the sum of the foreign base company income (determined without regard to paragraph (5)) and the gross insurance income for the taxable year exceeds 70 percent of gross income, the entire gross income for the taxable year shall, subject to the provisions of paragraphs (4) and (5), be treated as foreign base company income or insurance income (whichever is appropriate).

"(C) GROSS INSURANCE INCOME.—For purposes of subparagraphs (A) and (B), the term 'gross insurance income' means any item of gross income taken into account in determining insurance income under section 953."

(b) TECHNICAL AMENDMENTS.—

(1) Clause (ii) of section 864(d)(5)(A) is amended by striking out "less than 10 percent" and inserting in lieu thereof "less than 5 percent or $1,000,000".

(2) Clause (i) of section 881(c)(4)(A) is amended by striking out "less than 10 percent" and inserting in lieu thereof "less than 5 percent or $1,000,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 1224. REPEAL OF SPECIAL TREATMENT OF POSSESSIONS CORPORATIONS.

(a) GENERAL RULE.—Section 957 (defining controlled foreign corporations; United States persons) is amended by striking out subsection (c) and by redesignating subsection (d) as subsection (c).

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years of foreign corporations beginning after December 31, 1986; except that for purposes of applying sections 951(a)(1)(B) and 956 of the Internal Revenue Code of 1986, such amendments shall take effect on August 16, 1986.

(2) TRANSITIONAL RULE.—In the case of any corporation treated as a controlled foreign corporation by reason of the amendment made by subsection (a), property acquired before August 16, 1986, shall not be taken into account under section 956(b) of the Internal Revenue Code of 1986.

SEC. 1225. ONLY EFFECTIVELY CONNECTED CAPITAL GAINS AND LOSSES OF FOREIGN CORPORATIONS TAKEN INTO ACCOUNT FOR PURPOSES OF ACCUMULATED EARNINGS TAX AND PERSONAL HOLDING COMPANY PROVISIONS.

(a) ACCUMULATED EARNINGS TAX.—Subsection (b) of section 535 (relating to adjustments to taxable income) is amended by adding at the end thereof the following new paragraph:

"(9) SPECIAL RULE FOR CAPITAL GAINS AND LOSSES OF FOREIGN CORPORATIONS.—In the case of a foreign corporation, paragraph (6) shall be applied by taking into account only gains and losses which are effectively connected with the conduct of a trade or business within the United States and are not exempt from tax under treaty."

(b) PERSONAL HOLDING COMPANY PROVISIONS.—Subsection (b) of section 545 (relating to adjustments to taxable income) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULE FOR CAPITAL GAINS AND LOSSES OF FOREIGN CORPORATIONS.—In the case of a foreign corporation, paragraph (5) shall be applied by taking into account only gains and losses which are effectively connected with the conduct of a trade or business within the United States and are not exempt from tax under treaty."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to gains and losses realized on or after March 1, 1986.

SEC. 1226. DEDUCTIONS FOR DIVIDENDS RECEIVED FROM CERTAIN FOREIGN CORPORATIONS.

(a) GENERAL RULE.—Subsection (a) of section 245 is amended to read as follows:

"(a) DIVIDENDS FROM 10-PERCENT OWNED FOREIGN CORPORATIONS.—

"(1) IN GENERAL.—In the case of dividends received by a corporation from a qualified 10-percent owned foreign corporation, there shall be allowed as a deduction an amount equal to the percent (specified in section 243 for the taxable year) of the U.S.-source portion of such dividends.

"(2) QUALIFIED 10-PERCENT OWNED FOREIGN CORPORATION.—For purposes of this subsection, the term 'qualified 10-percent owned foreign corporation' means any foreign corporation (other than a foreign personal holding company or passive foreign investment company) if at least 10 percent of the stock of such corporation (by vote and value) is owned by the taxpayer.

"(3) U.S.-SOURCE PORTION.—For purposes of this subsection, the U.S.-source portion of any dividend is an amount which bears the same ratio to such dividend as—

"(A) the post-1986 undistributed U.S. earnings, bears to

"(B) the total post-1986 undistributed earnings.

"(4) POST-1986 UNDISTRIBUTED EARNINGS.—For purposes of this subsection, the term 'post-1986 undistributed earnings' has the meaning given to such term by section 902(c)(1).

"(5) POST-1986 UNDISTRIBUTED U.S. EARNINGS.—For purposes of this subsection, the term 'post-1986 undistributed U.S. earnings' means the portion of the post-1986 undistributed earnings which is attributable to—

"(A) income of the qualified 10-percent owned foreign corporation which is effectively connected with the conduct of a trade or business within the United States and subject to tax under this chapter, or

"(B) any dividend received (directly or through a wholly owned foreign corporation) from a domestic corporation at least 80 percent of the stock of which (by vote and value) is owned (directly or through such wholly owned foreign corporation) by the qualified 10-percent owned foreign corporation.

"(6) SPECIAL RULE.—If the 1st day on which the requirements of paragraph (2) are met with respect to any foreign corporation is in a taxable year of such corporation beginning after December 31, 1986, the post-1986 undistributed earnings and the post-1986 undistributed U.S. earnings of such corporation shall be

determined by only taking into account periods beginning on and after the 1st day of the 1st taxable year in which such requirements are met.

"(7) COORDINATION WITH SUBSECTION (b).—Earnings and profits of any qualified 10-percent owned foreign corporation for any taxable year shall not be taken into account under this subsection if the deduction provided by subsection (b) would be allowable with respect to dividends paid out of such earnings and profits.

"(8) COORDINATION WITH SECTION 902.—In the case of a dividend received by a corporation from a qualified 10-percent owned foreign corporation, no credit shall be allowed under section 901 for any taxes treated as paid under section 902 with respect to the U.S.-source portion of such dividend.

"(9) COORDINATION WITH SECTION 904.—For purposes of section 904, the U.S.-source portion of any dividend received by a corporation from a qualified 10-percent owned foreign corporation shall be treated as from sources in the United States."

(b) TECHNICAL AMENDMENT.—Subsection (d) of section 959 is amended by striking out the period at the end thereof and inserting in lieu thereof "; except that such distributions shall immediately reduce earnings and profits."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to distributions out of earnings and profits for taxable years beginning after December 31, 1986.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to distributions after the date of the enactment of this Act.

SEC. 1227. SPECIAL RULE FOR APPLICATION OF SECTION 954 TO CERTAIN DIVIDENDS.

(a) IN GENERAL.—For purposes of section 954(c)(3)(A) of the Internal Revenue Code of 1986, any dividends received by a qualified controlled foreign corporation (within the meaning of section 951 of such Code) during any of its 1st 5 taxable years beginning after December 31, 1986, with respect to its 32.7 percent interest in a Brazilian corporation shall be treated as if such Brazilian corporation were a related person to the qualified controlled foreign corporation to the extent the Brazilian corporation's income is attributable to its interest in the trade or business of mining in Brazil.

(b) QUALIFIED CONTROLLED FOREIGN CORPORATION.—For purposes of this section, a qualified controlled foreign corporation is a corporation the greater than 99 percent shareholder of which is a company originally incorporated in Montana on July 9, 1951 (the name of which was changed on August 10, 1966).

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to dividends received after December 31, 1986.

SEC. 1228. SPECIAL RULE FOR APPLYING SECTION 897.

(a) IN GENERAL.—For purposes of section 897 of the Internal Revenue Code of 1986, gain shall not be recognized on the transfer, sale, exchange, or other disposition, of shares of stock of a United States real property holding company, if—

(1) such United States real property holding company is a Delaware corporation incorporated on January 17, 1984,

(2) the transfer, sale, exchange, or other disposition is to any member of a qualified ownership group,

(3) the recipient of the share of stock elects, for purposes of such section 897, a carryover basis in the transferred shares, and

(4) an election under this section applies to such transfer, sale, exchange, or other disposition.

(b) MEMBER OF A QUALIFIED OWNERSHIP GROUP.—For purposes of this section, the term "member of a qualified ownership group" means a corporation incorporated on June 16, 1890, under the laws of the Netherlands or a corporation incorporated on October 18, 1897, under the laws of the United Kingdom or any corporation owned directly or indirectly by either or both such corporations.

(c) ELECTION.—An election under this section shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe, and an election under this section may only be made with respect to 1 transfer, sale, exchange, or other disposition.

(d) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this section.

Subtitle D—Special Tax Provisions for United States Persons

SEC. 1231. MODIFICATIONS TO SECTION 936.

(a) TREATMENT OF INTANGIBLES.—

(1) COST SHARING METHOD.—Section 936(h)(5)(C)(i)(I) is amended—

(A) by striking out "the same proportion of the cost" and inserting in lieu thereof "the same proportion of 110 percent of the cost", and

(B) by adding at the end thereof the following new sentence: "In the case of intangible property described in subsection (h)(3)(B)(i) which the electing corporation is treated as owning under subclause (II), in no event shall the payment required under this subclause be less than the inclusion or payment which would be required under section 367(d)(2)(A)(ii) or section 482 if the electing corporation were a foreign corporation."

(2) PROFIT SPLIT METHOD.—Section 936(h)(5)(C)(ii)(II) is amended by striking out "the third sentence thereof)" and inserting in lieu thereof "the third and fourth sentences thereof, but substituting '120 percent' for '110 percent' in the second sentence thereof)".

(b) MODIFICATION OF REQUIREMENT THAT AMOUNTS BE RECEIVED IN THE UNITED STATES.—Subsection (b) of section 936 is amended by adding at the end thereof the following new sentence: "This subsection shall not apply to any amount described in subsection (a)(1)(A)(i) received from a person who is not a related person (within the meaning of subsection (h)(3) but without regard to subparagraphs (D)(ii)(I) and (E)(i) thereof) with respect to the domestic corporation."

(c) TREATMENT OF CERTAIN INVESTMENT INCOME AS QUALIFIED POSSESSION SOURCE INVESTMENT INCOME.—Subsection (d) of section 936 is amended by adding at the end thereof the following new paragraph:

"(4) INVESTMENT IN QUALIFIED CARIBBEAN BASIN COUNTRIES.—

"(A) IN GENERAL.—For purposes of paragraph (2)(B), an investment in a financial institution shall, subject to such conditions as the Secretary may prescribe by regulations, be treated as for use in Puerto Rico to the extent used by such financial institution (or by the Government Development Bank for Puerto Rico or the Puerto Rico Economic Development Bank)—

"(i) for investment, consistent with the goals and purposes of the Caribbean Basin Economic Recovery Act, in—

"(I) active business assets in a qualified Caribbean Basin country, or

"(II) development projects in a qualified Caribbean Basin country, and

"(ii) in accordance with a specific authorization granted by the Government Development Bank for Puerto Rico pursuant to regulations issued by the Secretary of the Treasury of Puerto Rico.

A similar rule shall apply in the case of a direct investment in the Government Development Bank for Puerto Rico or the Puerto Rico Economic Development Bank.

"(B) QUALIFIED CARIBBEAN BASIN COUNTRY.—For purposes of this subsection, the term 'qualified Caribbean Basin country' means any beneficiary country (within the meaning of section 212(a)(1)(A) of the Caribbean Basin Economic Recovery Act) which meets the requirements of clauses (i) and (ii) of section 274(h)(6)(A).

"(C) ADDITIONAL REQUIREMENTS.—Subparagraph (A) shall not apply to any investment made by a financial institution (or by the Government Development Bank for Puerto Rico or the Puerto Rico Economic Development Bank) unless—

"(i) the person in whose trade or business such investment is made (or such other recipient of the investment) and the financial institution or such Bank certify to the Secretary and the Secretary of the Treasury of Puerto Rico that the proceeds of the loan will be promptly used to acquire active business assets or to make other authorized expenditures, and

"(ii) the financial institution (or the Government Development Bank for Puerto Rico or the Puerto Rico Economic Development Bank) and the recipient of the investment funds agree to permit the Secretary and the Secretary of the Treasury of Puerto Rico to examine such of their books and records as may be necessary to ensure that the requirements of this paragraph are met."

(d) INCREASE IN AMOUNT OF GROSS INCOME WHICH MUST BE FROM TRADE OR BUSINESS.—

(1) IN GENERAL.—Subparagraph (B) of section 936(a)(2) is amended by striking out "65 percent" and inserting in lieu thereof "75 percent".

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 936(a) is amended by striking out subparagraph (C).

(e) TREATMENT OF CERTAIN ROYALTY PAYMENTS.—

(1) IN GENERAL.—Section 482 (relating to allocation of income and deductions among taxpayers) is amended by adding at the

end thereof the following new sentence: "In the case of any transfer (or license) of intangible property (within the meaning of section 936(h)(3)(B)), the income with respect to such transfer or license shall be commensurate with the income attributable to the intangible."

(2) TECHNICAL AMENDMENT.—Subparagraph (A) of section 367(d)(2) (relating to transfers of intangibles treated as transfer pursuant to sale for contingent payments) is amended by adding at the end thereof the following new sentence:

"The amounts taken into account under clause (ii) shall be commensurate with the income attributable to the intangible."

(f) TECHNICAL CORRECTION TO PROFIT-SPLIT RULES.—The last sentence of section 936(h)(5)(C)(ii)(II) is amended by striking out "all products produced and types of service rendered" and inserting in lieu thereof "all products and types of services, within such product area, produced or rendered".

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) SPECIAL RULE FOR TRANSFER OF INTANGIBLES.—

(A) IN GENERAL.—The amendments made by subsection (e) shall apply to taxable years beginning after December 31, 1986, but only with respect to transfers after November 16, 1985, or licenses granted after such date (or before such date with respect to property not in existence or owned by the taxpayer on such date).

(B) SPECIAL RULE FOR SECTION 936.—For purposes of section 936(h)(5)(C) of the Internal Revenue Code of 1986 the amendments made by subsection (e) shall apply to taxable years beginning after December 31, 1986, without regard to when the transfer (or license) was made.

(3) SUBSECTION (f).—The amendment made by subsection (f) shall apply to taxable years beginning after December 31, 1982.

(4) TRANSITIONAL RULE.—In the case of a corporation—

(A) with respect to which an election under section 936 of the Internal Revenue Code of 1986 (relating to possessions tax credit) is in effect,

(B) which produced an end-product form in Puerto Rico on or before September 3, 1982,

(C) which began manufacturing a component of such product in Puerto Rico in its taxable year beginning in 1983, and

(D) with respect to which a Puerto Rican tax exemption was granted on June 27, 1983,

such corporation shall treat such component as a separate product for such taxable year for purposes of determining whether such corporation had a significant business presence in Puerto Rico with respect to such product and its income with respect to such product.

SEC. 1232. TREATMENT OF CERTAIN PERSONS IN PANAMA.

(a) GENERAL RULE.—Nothing in the Panama Canal Treaty (or in any agreement implementing such Treaty) shall be construed as exempting (in whole or in part) any citizen or resident of the United States from any tax under the Internal Revenue Code of 1954 or

1986. The preceding sentence shall apply to all taxable years whether beginning before, on, or after the date of the enactment of this Act (or in the case of any tax not imposed with respect to a taxable year, to taxable events after the date of enactment of this Act.)

(b) TREATMENT OF EMPLOYEES OF PANAMA CANAL COMMISSION AND DEPARTMENT OF DEFENSE FOR PURPOSES OF SECTION 912.—Employees of the Panama Canal Commission and civilian employees of the Defense Department of the United States stationed in Panama may exclude from gross income allowances which are comparable to the allowances excludable under section 912(1) of the Internal Revenue Code of 1986 by employees of the State Department of the United States stationed in Panama. The preceding sentence shall apply to taxable years beginning after December 31, 1986.

SEC. 1233. PROVISIONS RELATING TO SECTION 911 EXCLUSION.

(a) REDUCTION IN SECTION 911 EXCLUSION.—Subparagraph (A) of section 911(b)(2) (relating to limitation on foreign earned income) is amended to read as follows:

"(A) IN GENERAL.—The foreign earned income of an individual which may be excluded under subsection (a)(1) for any taxable year shall not exceed the amount of foreign earned income computed on a daily basis at an annual rate of $70,000."

(b) SECTION 911 EXCLUSION NOT AVAILABLE TO INDIVIDUALS VIOLATING FEDERAL TRAVEL AND OTHER RESTRICTIONS.—Section 911(d) (relating to definitions and special rules) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) LIMITATION ON INCOME EARNED IN RESTRICTED COUNTRY.—

"(A) IN GENERAL.—If travel (or any transaction in connection with such travel) with respect to any foreign country is subject to the regulations described in subparagraph (B) during any period—

"(i) the term 'foreign earned income' shall not include any income from sources within such country attributable to services performed during such period,

"(ii) the term 'housing expenses' shall not include any expenses allocable to such period for housing in such country or for housing of the spouse or dependents of the taxpayer in another country while the taxpayer is present in such country, and

"(iii) an individual shall not be treated as a bona fide resident of, or as present in, a foreign country for any day during which such individual was present in such country during such period.

"(B) REGULATIONS.—For purposes of this paragraph, regulations are described in this subparagraph if such regulations—

"(i) have been adopted pursuant to the Trading With the Enemy Act (50 U.S.C. App. 1 et seq.), or the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), and

"(ii) include provisions generally prohibiting citizens and residents of the United States from engaging in transactions related to travel to, from, or within a foreign country.

"(C) EXCEPTION.—Subparagraph (A) shall not apply to any individual during any period in which such individual's activities are not in violation of the regulations described in subparagraph (B)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 1234. FOREIGN COMPLIANCE PROVISIONS.

(a) INFORMATION RETURNS.—

(1) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6039D the following new section:

"SEC. 6039E. INFORMATION CONCERNING RESIDENT STATUS.

"(a) GENERAL RULE.—Notwithstanding any other provision of law, any individual who—

"(1) applies for a United States passport (or a renewal thereof), or

"(2) applies to be lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws,

shall include with any such application a statement which includes the information described in subsection (b).

"(b) INFORMATION TO BE PROVIDED.—Information required under subsection (a) shall include—

"(1) the taxpayer's TIN (if any),

"(2) in the case of a passport applicant, any foreign country in which such individual is residing,

"(3) in the case of an individual seeking permanent residence, information with respect to whether such individual is required to file a return of the tax imposed by chapter 1 for such individual's most recent 3 taxable years, and

"(4) such other information as the Secretary may prescribe.

"(c) PENALTY.—Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty equal to $500 for each such failure, unless it is shown that such failure is due to reasonable cause and not to willful neglect.

"(d) INFORMATION TO BE PROVIDED TO SECRETARY.—Notwithstanding any other provision of law, any agency of the United States which collects (or is required to collect) the statement under subsection (a) shall—

"(1) provide any such statement to the Secretary, and

"(2) provide to the Secretary the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a).

"(e) EXEMPTION.—The Secretary may by regulations exempt any class of individuals from the requirements of this section if he determines that applying this section to such individuals is not necessary to carry out the purposes of this section."

(2) CONFORMING AMENDMENT.—The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6039D the following new item:

"Sec. 6039E. Information concerning resident status."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to applications submitted after December 31, 1987 (or, if earlier, the effective date which shall not be earlier than January 1, 1987) of the initial regulations issued under section 6039E of the Internal Revenue Code of 1986 as added by this subsection).

(b) WITHHOLDING ON CERTAIN DEFERRED PAYMENTS OUTSIDE THE UNITED STATES.—

(1) IN GENERAL.—Subsection (d) of section 3405 (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(13) ELECTION MAY NOT BE MADE WITH RESPECT TO CERTAIN PAYMENTS OUTSIDE THE UNITED STATES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of any periodic payment or nonperiodic distribution which is to be delivered outside of the United States, no election may be made under subsection (a)(2) or (b)(3) with respect to such payment.

"(B) EXCEPTION.—Subparagraph (A) shall not apply if the recipient certifies to the payor, in such manner as the Secretary may prescribe, that such person is not—

"(i) a United States citizen who is a bona fide resident of a foreign country, or

"(ii) an individual to whom section 877 applies."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to payments after December 31, 1986.

SEC. 1235. TREATMENT OF CERTAIN PASSIVE FOREIGN INVESTMENT COMPANIES.

(a) GENERAL RULE.—Subchapter P of chapter 1 is amended by adding at the end thereof the following new part:

"PART VI—TREATMENT OF CERTAIN PASSIVE FOREIGN INVESTMENT COMPANIES

"Subpart A. Interest on tax deferral.
"Subpart B. Treatment of qualified electing funds.
"Subpart C. General provisions.

"Subpart A—Interest on Tax Deferral

"Sec. 1291. Interest on tax deferral.

"SEC. 1291. INTEREST ON TAX DEFERRAL.

"(a) TREATMENT OF DISTRIBUTIONS AND STOCK DISPOSITIONS.—

"(1) DISTRIBUTIONS.—If a United States person receives an excess distribution in respect of stock in a passive foreign investment company, then—

"(A) the amount of the excess distribution shall be allocated ratably to each day in the taxpayer's holding period for the stock,

"(B) with respect to such excess distribution, the taxpayer's gross income for the current year shall include (as ordinary income) only the amounts allocated under subparagraph (A) to—

"(i) the current year, or

"(ii) any period in the taxpayer's holding period before the 1st day of the 1st taxable year of the com-

pany for which it was a passive foreign investment company (or, if later, January 1, 1987), and

"(C) the tax imposed by this chapter for the current year shall be increased by the deferred tax amount (determined under subsection (c)).

"(2) DISPOSITIONS.—If the taxpayer disposes of stock in a passive foreign investment company, then the rules of paragraph (1) shall apply to any gain recognized on such disposition in the same manner as if such gain were an excess distribution.

"(3) DEFINITIONS.—For purposes of this section—

"(A) HOLDING PERIOD.—The taxpayer's holding period shall be determined under section 1223; except that, in the case of an excess distribution, such holding period shall be treated as ending on the date of such distribution.

"(B) CURRENT YEAR.—The term 'current year' means the taxable year in which the excess distribution or disposition occurs.

"(4) COORDINATION WITH SECTION 904.—Subparagraph (B) of paragraph (1) shall not apply for purposes of section 904.

"(5) SECTION 902 NOT TO APPLY.—Section 902 shall not apply to any dividend paid by a passive foreign investment company unless such company is a qualified electing fund.

"(b) EXCESS DISTRIBUTION.—

"(1) IN GENERAL.—For purposes of this section, the term 'excess distribution' means any distribution in respect of stock received during any taxable year to the extent such distribution does not exceed its ratable portion of the total excess distribution (if any) for such taxable year.

"(2) TOTAL EXCESS DISTRIBUTION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'total excess distribution' means the excess (if any) of—

"(i) the amount of the distributions in respect of the stock received by the taxpayer during the taxable year, over

"(ii) 125 percent of the average amount received in respect of such stock by the taxpayer during the 3 preceding taxable years (or, if shorter, the portion of the taxpayer's holding period before the taxable year).

"(B) NO EXCESS FOR 1ST YEAR.—The total excess distributions with respect to any stock shall be zero for the taxable year in which the taxpayer's holding period in such stock begins.

"(3) ADJUSTMENTS.—Under regulations prescribed by the Secretary—

"(A) determinations under this subsection shall be made on a share-by-share basis, except that shares with the same holding period may be aggregated,

"(B) proper adjustments shall be made for stock splits and stock dividends,

"(C) if the taxpayer does not hold the stock during the entire taxable year, distributions received during such year shall be annualized,

"(D) if the taxpayer's holding period includes periods during which the stock was held by another person, distributions received by such other person shall be taken into account as if received by the taxpayer, and

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"(E) if the distributions are received in a foreign currency, determinations under this subsection shall be made in such currency and the amount of any excess distribution determined in such currency shall be translated into dollars.

"(c) DEFERRED TAX AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'deferred tax amount' means, with respect to any distribution or disposition to which subsection (a) applies, an amount equal to the sum of—

"(A) the aggregate increases in taxes described in paragraph (2), plus

"(B) the aggregate amount of interest (determined in the manner provided under paragraph (3)) on such increases in tax.

"(2) AGGREGATE INCREASES IN TAXES.—For purposes of paragraph (1)(A), the aggregate increases in taxes shall be determined by multiplying each amount allocated under subsection (a)(1)(A) to any taxable year (other than any taxable year referred to in subsection (a)(1)(B)) by the highest rate of tax in effect for such taxable year under section 1 or 11, whichever applies.

"(3) COMPUTATION OF INTEREST.—

"(A) IN GENERAL.—The amount of interest referred to in paragraph (1)(B) on any increase determined under paragraph (2) for any taxable year shall be determined for the period—

"(i) beginning on the due date for such taxable year, and

"(ii) ending on the due date for the taxable year with or within which the distribution or disposition occurs,

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

"(B) DUE DATE.—For purposes of this subsection, the term 'due date' means the date prescribed by law (determined without regard to extensions) for filing the return of the tax imposed by this chapter for the taxable year.

"(d) COORDINATION WITH SUBPART B.—

"(1) IN GENERAL.—This section shall not apply with respect to—

"(A) any distribution paid by a passive foreign investment company during a taxable year for which such company is a qualified electing fund, and

"(B) any disposition of stock in a passive foreign investment company if such company is a qualified electing fund for each of its taxable years—

"(i) which begins after December 31, 1986, and for which such company is a passive foreign investment company, and

"(ii) which includes any portion of the taxpayer's holding period.

"(2) ELECTION TO RECOGNIZE GAIN WHERE COMPANY BECOMES QUALIFIED ELECTING FUND.—

"(A) IN GENERAL.—If—

"(i) a passive foreign investment company becomes a qualified electing fund for a taxable year which begins after December 31, 1986,

"(ii) the taxpayer holds stock in such company on the first day of such taxable year, and

"(iii) the taxpayer establishes to the satisfaction of the Secretary the fair market value of such stock on such first day,

the taxpayer may elect to recognize gain as if he sold such stock on such first day for such fair market value.

"(B) ADJUSTMENTS.—In the case of any stock to which subparagraph (A) applies—

"(i) the adjusted basis of such stock shall be increased by the gain recognized under subparagraph (A), and

"(ii) the taxpayer's holding period in such stock shall be treated as beginning on the first day referred to in subparagraph (A).

"(e) CERTAIN BASIS, ETC., RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c), (d), (e), and (f) of section 1246 shall apply for purposes of this section; except that—

"(1) the reduction under subsection (e) of such section shall be the excess of the basis determined under section 1014 over the adjusted basis of the stock immediately before the decedent's death, and

"(2) such a reduction shall not apply in the case of a decedent who was not a nonresident alien at all times during his holding period in the stock.

"(f) NONRECOGNITION PROVISIONS.—To the extent provided in regulations, gain shall be recognized on any disposition of stock in a passive foreign investment company.

"Subpart B—Treatment of Qualified Electing Funds

"Sec. 1293. Current taxation of income from qualified electing funds.
"Sec. 1294. Election to extend time for payment of tax on undistributed earnings.
"Sec. 1295. Qualified electing fund.

"SEC. 1293. CURRENT TAXATION OF INCOME FROM QUALIFIED ELECTING FUNDS.

"(a) INCLUSION.—

"(1) IN GENERAL.—Every United States person who owns (or is treated under section 1297(a) as owning) stock of a qualified electing fund at any time during the taxable year of such fund shall include in gross income—

"(A) as ordinary income, such shareholder's pro rata share of the ordinary earnings of such fund for such year, and

"(B) as long-term capital gain, such shareholder's pro rata share of the net capital gain of such fund for such year.

"(2) YEAR OF INCLUSION.—The inclusion under paragraph (1) shall be for the taxable year of the shareholder in which or with which the taxable year of the fund ends.

"(b) PRO RATA SHARE.—The pro rata share referred to in subsection (a) in the case of any shareholder is the amount which would have been distributed with respect to the shareholder's stock if, on each day during the taxable year of the fund, the fund had distributed to each shareholder a pro rata share of that day's ratable share of the fund's ordinary earnings and net capital gain for such year.

"(c) PREVIOUSLY TAXED AMOUNTS DISTRIBUTED TAX FREE.—If the taxpayer establishes to the satisfaction of the Secretary that any

amount distributed by a passive foreign investment company is paid out of earnings and profits of the company which were included under subsection (a) in the income of any United States person, such amount shall be treated as a distribution which is not a dividend.

"(d) BASIS ADJUSTMENTS.—The basis of the taxpayer's stock in a passive foreign investment company shall be—

"(1) increased by any amount which is included in the income of the taxpayer under subsection (a) with respect to such stock, and

"(2) decreased by any amount distributed with respect to such stock which is not includible in the income of the taxpayer by reason of subsection (c).

A similar rule shall apply also in the case of any property if by reason of holding such property the taxpayer is treated under section 1297(a) as owning stock in a qualified electing fund.

"(e) ORDINARY EARNINGS.—For purposes of this section—

"(1) ORDINARY EARNINGS.—The term 'ordinary earnings' means the excess of the earnings and profits of the qualified electing fund for the taxable year over its net capital gain for such taxable year.

"(2) LIMITATION ON NET CAPITAL GAIN.—A qualified electing fund's net capital gain for any taxable year shall not exceed its earnings and profits for such taxable year.

"(f) FOREIGN TAX CREDIT ALLOWED IN THE CASE OF 10-PERCENT CORPORATE SHAREHOLDER.—For purposes of section 960—

"(1) any amount included in the gross income under subsection (a) shall be treated as if it were included under section 951(a), and

"(2) any amount excluded from gross income under subsection (c) shall be treated in the same manner as amounts excluded from gross income under section 959.

"SEC. 1294. ELECTION TO EXTEND TIME FOR PAYMENT OF TAX ON UNDISTRIBUTED EARNINGS.

"(a) EXTENSION ALLOWED BY ELECTION.—

"(1) IN GENERAL.—At the election of the taxpayer, the time for payment of any undistributed PFIC earnings tax liability of the taxpayer for the taxable year shall be extended to the extent and subject to the limitations provided in this section.

"(2) ELECTION NOT PERMITTED WHERE AMOUNTS OTHERWISE INCLUDIBLE UNDER SECTION 551 OR 951.—The taxpayer may not make an election under paragraph (1) with respect to the undistributed PFIC earnings tax liability attributable to a qualified electing fund for the taxable year if—

"(A) any amount is includible in the gross income of the taxpayer under section 551 with respect to such fund for such taxable year, or

"(B) any amount is includible in the gross income of the taxpayer under section 951 with respect to such fund for such taxable year.

"(b) DEFINITIONS.—For purposes of this section—

"(1) UNDISTRIBUTED PFIC EARNINGS TAX LIABILITY.—The term 'undistributed PFIC earnings tax liability' means, in the case of any taxpayer, the excess of—

"(A) the tax imposed by this chapter for the taxable year, over

"(B) the tax which would be imposed by this chapter for such year without regard to the inclusion in gross income under section 1293 of the undistributed earnings of a qualified electing fund.

"(2) UNDISTRIBUTED EARNINGS.—The term 'undistributed earnings' means, with respect to any qualified electing fund, the excess (if any) of—

"(A) the amount includible in gross income by reason of section 1293(a) for the taxable year, over

"(B) the amount not includible in gross income by reason of section 1293(c) for such taxable year.

"(c) TERMINATION OF EXTENSION.—

"(1) DISTRIBUTIONS.—

"(A) IN GENERAL.—If a distribution is not includible in gross income for the taxable year by reason of section 1293(c), then the extension under subsection (a) for payment of the undistributed PFIC earnings tax liability with respect to the earnings to which such distribution is attributable shall expire on the last date prescribed by law (determined without regard to extensions) for filing the return of tax for such taxable year.

"(B) ORDERING RULE.—For purposes of subparagraph (A), a distribution shall be treated as made from the most recently accumulated earnings and profits.

"(2) DISPOSITIONS, ETC.—If—

"(A) stock in a passive foreign investment company is disposed of during the taxable year, or

"(B) a passive foreign investment company ceases to be a qualified electing fund,

all extensions under subsection (a) for payment of undistributed PFIC earnings tax liability attributable to such stock (or, in the case of such a cessation, attributable to any stock in such company) which had not expired before the date of such disposition or cessation shall expire on the last date prescribed by law (determined without regard to extensions) for filing the return of tax for the taxable year in which such disposition or cessation occurs.

"(3) JEOPARDY.—If the Secretary believes that collection of an amount to which an extension under this section relates is in jeopardy, the Secretary shall immediately terminate such extension with respect to such amount, and notice and demand shall be made by him for payment of such amount.

"(d) ELECTION.—The election under subsection (a) shall be made not later than the time prescribed by law (including extensions) for filing the return of tax imposed by this chapter for the taxable year.

"(e) AUTHORITY TO REQUIRE BOND.—Section 6165 shall apply to any extension under this section as though the Secretary were extending the time for payment of the tax.

"SEC. 1295. QUALIFIED ELECTING FUND.

"(a) GENERAL RULE.—For purposes of this part, the term 'qualified electing fund' means any passive foreign investment company if—

"(1) an election under subsection (b) applies to such company for the taxable year, and

"(2) such company complies for such taxable year with such requirements as the Secretary may prescribe for purposes of—

"(A) determining the ordinary earnings and net capital gain of such company for the taxable year,

"(B) ascertaining the ownership of its outstanding stock, and

"(C) otherwise carrying out the purposes of this subpart.

"(b) ELECTION.—

"(1) IN GENERAL.—A passive foreign investment company may make an election under this subsection for any taxable year. Such an election, once made, shall apply to all subsequent taxable years of such company for which such company is a passive foreign investment company unless revoked with the consent of the Secretary.

"(2) WHEN MADE.—An election under this subsection may be made for any taxable year at any time before the 15th day of the 3rd month of the following taxable year.

"Subpart C—General Provisions

"Sec. 1296. Passive foreign investment company.
"Sec. 1297. Special rules.

"SEC. 1296. PASSIVE FOREIGN INVESTMENT COMPANY.

"(a) IN GENERAL.—For purposes of this part, except as otherwise provided in this subpart the term 'passive foreign investment company' means any foreign corporation if—

"(1) 75 percent or more of the gross income of such corporation for the taxable year is passive income, or

"(2) the average percentage of assets (by value) held by such corporation during the taxable year which produce passive income or which are held for the production of passive income is at least 50 percent.

"(b) PASSIVE INCOME.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'passive income' has the meaning given such term by section 904(d)(2)(A) without regard to the exceptions contained in clause (iii) thereof.

"(2) EXCEPTION FOR CERTAIN BANKS AND INSURANCE COMPANIES.—Except as provided in regulations, the term 'passive income' does not include any income—

"(A) derived in the active conduct of a banking business by an institution licensed to do business as a bank in the United States (or, to the extent provided in regulations, by any other corporation), or

"(B) derived in the active conduct of an insurance business by a corporation which would be subject to tax under subchapter L if it were a domestic corporation.

"(c) LOOK-THRU IN THE CASE OF 25-PERCENT OWNED CORPORATIONS.—If a foreign corporation owns at least 25 percent (by value) of the stock of another corporation, for purposes of determining whether such foreign corporation is a passive foreign investment company, such foreign corporation shall be treated as if it—

"(1) held its proportionate share of the assets of such other corporation, and

"(2) received directly its proportionate share of the income of such other corporation.

"(d) SECTION 1247 CORPORATIONS.—For purposes of this part, the term 'passive foreign investment company' does not include any foreign investment company to which section 1247 applies.

"SEC. 1297. SPECIAL RULES.

"(a) ATTRIBUTION OF OWNERSHIP.—For purposes of this part—

"(1) ATTRIBUTION TO UNITED STATES PERSONS.—This subsection—

"(A) shall apply to the extent that the effect is to treat stock of a passive foreign investment company as owned by a United States person, and

"(B) except to the extent provided in regulations, shall not apply to treat stock owned (or treated as owned under this subsection) by a United States person as owned by any other person.

"(2) CORPORATIONS.—

"(A) IN GENERAL.—If 50 percent or more in value of the stock of a corporation is owned, directly or indirectly, by or for any person, such person shall be considered as owning the stock owned directly or indirectly by or for such corporation in that proportion which the value of the stock which such person so owns bears to the value of all stock in the corporation.

"(B) 50-PERCENT LIMITATION NOT TO APPLY TO PFIC.—For purposes of determining whether a shareholder of a passive foreign investment company is treated as owning stock owned directly or indirectly by or for such company, subparagraph (A) shall be applied without regard to the 50-percent limitation contained therein.

"(3) PARTNERSHIPS, ETC.—Stock owned, directly or indirectly, by or for a partnership, estate, or trust shall be considered as being owned proportionately by its partners or beneficiaries.

"(4) SUCCESSIVE APPLICATION.—Stock considered to be owned by a person by reason of the application of paragraph (2) or (3) shall, for purposes of applying such paragraphs, be considered as actually owned by such person.

"(b) OTHER SPECIAL RULES.—For purposes of this part—

"(1) TIME FOR DETERMINATION.—Stock held by a taxpayer shall be treated as stock in a passive foreign investment company if, at any time during the holding period of the taxpayer with respect to such stock, such corporation (or any predecessor) was a passive foreign investment corporation which was not a qualified electing fund. The preceding sentence shall not apply if the taxpayer elects to recognize gain (as of the last day of the last taxable year for which the company was a passive foreign investment company) under rules similar to the rules of section 1291(d)(2).

"(2) CERTAIN CORPORATIONS NOT TREATED AS PFIC'S DURING START-UP YEAR.—A corporation shall not be treated as a passive foreign investment company for the first taxable year such corporation has gross income (hereinafter in this paragraph referred to as the 'start-up year') if—

"(A) no predecessor of such corporation was a passive foreign investment company,

"(B) it is established to the satisfaction of the Secretary that such corporation will not be a passive foreign invest-

ment company for either of the 1st 2 taxable years following the start-up year, and

"(C) such corporation is not a passive foreign investment company for either of the 1st 2 taxable years following the start-up year.

"(3) CERTAIN CORPORATIONS CHANGING BUSINESSES.—A corporation shall not be treated as a passive foreign investment company for any taxable year if—

"(A) such corporation (and any predecessor) was not a passive foreign investment corporation for any prior taxable year,

"(B) it is established to the satisfaction of the Secretary that—

"(i) substantially all of the passive income of the corporation for the taxable year is attributable to proceeds from the disposition of 1 or more active trades or businesses, and

"(ii) such corporation will not be a passive foreign investment company for either of the 1st 2 taxable years following such taxable year, and

"(C) such corporation is not a passive foreign investment company for either of such 2 taxable years.

"(4) SEPARATE INTERESTS TREATED AS SEPARATE CORPORATIONS.—Under regulations prescribed by the Secretary, where necessary to carry out the purposes of this part, separate classes of stock (or other interests) in a corporation shall be treated as interests in separate corporations.

"(5) APPLICATION OF SECTION WHERE STOCK HELD BY OTHER ENTITY.—Under regulations, in any case in which a United States person is treated as holding stock in a passive foreign investment company by reason of subsection (a), any disposition by the United States person or the person holding such stock which results in the United States person being treated as no longer holding such stock, shall be treated as a disposition by the United States person with respect to stock in the passive foreign investment company.

"(6) DISPOSITIONS.—If a taxpayer uses any stock in a passive foreign investment company as security for a loan, the taxpayer shall be treated as having disposed of such stock.

"(7) COORDINATION WITH SECTION 1246.—Section 1246 shall not apply to earnings and profits of any company for any taxable year beginning after December 31, 1986, if such company is a passive foreign investment company for such taxable year.

"(c) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part."

(b) COORDINATION OF SECTION 1246 WITH SECTION 1248.—Section 1246 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) COORDINATION WITH SECTION 1248.—This section shall not apply to any gain to the extent such gain is treated as ordinary income under section 1248 (determined without regard to section 1248(g)(3))."

(c) COORDINATION WITH SUBPART F.—Section 951 (relating to amounts included in gross income of United States shareholders) is amended by adding at the end thereof the following new subsection:

"(f) COORDINATION WITH PASSIVE FOREIGN INVESTMENT COMPANY PROVISIONS.—If, but for this subsection, an amount would be in-

cluded in the gross income of a United States shareholder for any taxable year both under subsection (a)(1)(A)(i) and under section 1293 (relating to current taxation of income from certain passive foreign investment companies), such amount shall be included in the gross income of such shareholder only under subsection (a)(1)(A)."

(d) EXTENSION OF STATUTE OF LIMITATION.—Section 6503 (relating to suspension of running of period of limitation) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) EXTENSION OF TIME FOR PAYMENT OF UNDISTRIBUTED PFIC EARNINGS TAX LIABILITY.—The running of any period of limitations for collection of any amount of undistributed PFIC earnings tax liability (as defined in section 1294(b)) shall be suspended for the period of any extension of time under section 1294 for payment of such amount."

(e) COORDINATION WITH FOREIGN PERSONAL HOLDING COMPANY PROVISIONS.—Section 551 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) COORDINATION WITH PASSIVE FOREIGN INVESTMENT COMPANY PROVISIONS.—If, but for this subsection, an amount would be included in the gross income of any person under subsection (a) and under section 1293 (relating to current taxation of income from certain passive foreign investment companies), such amount shall be included in the gross income of such person only under subsection (a)."

(f) OTHER TECHNICAL AMENDMENTS.—

(1) Subsection (b) of section 532 (relating to exceptions from accumulated earnings tax) is amended by striking out "or" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", or", and by adding at the end thereof the following new paragraph:

"(4) a passive foreign investment company (as defined in section 1296)."

(2) Subsection (c) of section 542 (relating to exceptions from personal holding company provisions) is amended by striking out "and" at the end of paragraph (8), by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(10) a passive foreign investment company (as defined in section 1296)."

(3) The second sentence of section 851(b) is amended—

(A) by striking out "section 951(a)(1)(A)(i)" and inserting in lieu thereof "section 951(a)(1)(A)(i) or 1293(a)", and

(B) by striking out "section 959(a)(1)" and inserting in lieu thereof "section 959(a)(1) or 1293(c) (as the case may be)".

(4)(A) Subparagraph (A) of section 904(g)(1) is amended by striking out "or" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(iii) section 1293 (relating to current taxation of income from qualified funds)."

(B) The paragraph heading of section 904(g)(2) is amended by striking out "HOLDING COMPANY" and inserting in lieu thereof "HOLDING OR PASSIVE FOREIGN INVESTMENT COMPANY".

(g) CLERICAL AMENDMENT.—The table of parts for subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Part VI. Treatment of certain passive foreign investment companies."

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1986.

SEC. 1236. TREATMENT OF INTEREST ON OBLIGATIONS OF THE UNITED STATES RECEIVED BY BANKS ORGANIZED IN GUAM.

(a) IN GENERAL.—Subsection (e) of section 882 (relating to interest on United States obligations received by banks organized in possessions) is amended by adding at the end thereof the following sentence:

"The preceding sentence shall not apply to any Guam corporation which is treated as not being a foreign corporation by section 881(b)(1) for the taxable year."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after November 16, 1985.

Subtitle E—Treatment of Foreign Taxpayers

SEC. 1241. BRANCH PROFITS TAX.

(a) GENERAL RULE.—Subpart B of part II of subchapter N of chapter 1 (relating to foreign corporations) is amended by redesignating section 884 as section 885 and by inserting after section 883 the following new section:

"SEC. 884. BRANCH PROFITS TAX.

"(a) IMPOSITION OF TAX.—In addition to the tax imposed by section 882 for any taxable year, there is hereby imposed on any foreign corporation a tax equal to 30 percent of the dividend equivalent amount for the taxable year.

"(b) DIVIDEND EQUIVALENT AMOUNT.—For purposes of subsection (a), the term 'dividend equivalent amount' means the foreign corporation's effectively connected earnings and profits for the taxable year adjusted as provided in this subsection:

"(1) REDUCTION FOR INCREASE IN U.S. NET EQUITY.—If—

"(A) the U.S. net equity of the foreign corporation as of the close of the taxable year, exceeds

"(B) the U.S. net equity of the foreign corporation as of the close of the preceding taxable year,

the effectively connected earnings and profits for the taxable year shall be reduced (but not below zero) by the amount of such excess.

"(2) INCREASE FOR DECREASE IN NET EQUITY.—

"(A) IN GENERAL.—If—

"(i) the U.S. net equity of the foreign corporation as of the close of the preceding taxable year, exceeds

"(ii) the U.S. net equity of the foreign corporation as of the close of the taxable year,

the effectively connected earnings and profits for the taxable year shall be increased by the amount of such excess.

"(B) LIMITATION.—The increase under subparagraph (A) for any taxable year shall not exceed the aggregate reduc-

tions under paragraph (1) for prior taxable years to the extent not previously taken into account under subparagraph (A).

"(c) U.S. NET EQUITY.—For purposes of this section—

"(1) IN GENERAL.—The term 'U.S. net equity' means—

"(A) U.S. assets, reduced (including below zero) by

"(B) U.S. liabilities.

"(2) U.S. ASSETS AND U.S. LIABILITIES.—For purposes of paragraph (1)—

"(A) U.S. ASSETS.—The term 'U.S. assets' means the money and aggregate adjusted bases of property of the foreign corporation treated as connected with the conduct of a trade or business in the United States under regulations prescribed by the Secretary. For purposes of the preceding sentence, the adjusted basis of any property shall be its adjusted basis for purposes of computing earnings and profits.

"(B) U.S. LIABILITIES.—The term 'U.S. liabilities' means the liabilities of the foreign corporation treated as connected with the conduct of a trade or business in the United States under regulations prescribed by the Secretary.

"(C) REGULATIONS TO BE CONSISTENT WITH ALLOCATION OF DEDUCTIONS.—The regulations prescribed under subparagraphs (A) and (B) shall be consistent with the allocation of deductions under section 882(c)(1).

"(d) EFFECTIVELY CONNECTED EARNINGS AND PROFITS.—For purposes of this section—

"(1) IN GENERAL.—The term 'effectively connected earnings and profits' means earnings and profits (without diminution by reason of any distributions made during the taxable year) which are attributable to income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business within the United States.

"(2) EXCEPTION FOR CERTAIN INCOME.—The term 'effectively connected earnings and profits' shall not include any earnings and profits attributable to—

"(A) income not includible in gross income under paragraph (1) or (2) of section 883(a),

"(B) income treated as effectively connected with the conduct of a trade or business within the United States under section 921(d) or 926(b),

"(C) gain on the disposition of a United States real property interest described in section 897(c)(1)(A)(ii), or

"(D) income treated as effectively connected with the conduct of a trade or business within the United States under section 953(c)(3)(C).

Property and liabilities of the foreign corporation treated as connected with such income under regulations prescribed by the Secretary shall not be taken into account in determining the U.S. assets or U.S. liabilities of the foreign corporation.

"(e) COORDINATION WITH INCOME TAX TREATIES; ETC.—

"(1) LIMITATION ON TREATY EXEMPTION.—No income tax treaty between the United States and a foreign country shall exempt any foreign corporation from the tax imposed by subsection (a) (or reduce the amount thereof) unless—

"(A) such foreign corporation is a qualified resident of such foreign country, or

"(B) such foreign corporation is not a qualified resident of such foreign country but such income tax treaty permits a withholding tax on dividends described in section 861(a)(2)(B) which are paid by such foreign corporation.

"(2) TREATY MODIFICATIONS.—If a foreign corporation is a qualified resident of a foreign country with which the United States has an income tax treaty—

"(A) the rate of tax under subsection (a) shall be the rate of tax specified in such treaty—

"(i) on branch profits if so specified, or

"(ii) if not so specified, on dividends paid by a domestic corporation to a corporation resident in such country which wholly owns such domestic corporation, and

"(B) any other limitations under such treaty on the tax imposed by subsection (a) shall apply.

"(3) COORDINATION WITH 2ND TIER WITHHOLDING TAX.—

"(A) IN GENERAL.—If a foreign corporation is not exempt for any taxable year from the tax imposed by subsection (a) by reason of a treaty, no tax shall be imposed by section 871(a), 881(a), 1441, or 1442 on any dividends paid by such corporation during the taxable year.

"(B) LIMITATION ON CERTAIN TREATY BENEFITS.—No foreign corporation which is not a qualified resident of a foreign country shall be entitled to claim benefits under any income tax treaty between the United States and such foreign country with respect to dividends—

"(i) which are paid by such foreign corporation and with respect to which such foreign corporation is otherwise required to deduct and withhold tax under section 1441 or 1442, or

"(ii) which are received by such foreign corporation and are described in section 861(a)(2)(B).

"(4) QUALIFIED RESIDENT.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualified resident' means, with respect to any foreign country, any foreign corporation which is a resident of such foreign country unless—

"(i) more than 50 percent (by value) of the stock of such foreign corporation is owned (within the meaning of section 883(c)(4)) by individuals who are not residents of such foreign country and who are not United States citizens or resident aliens, or

"(ii) 50 percent or more of its income is used (directly or indirectly) to meet liabilities to persons who are not residents of such foreign country or the United States.

"(B) SPECIAL RULE FOR PUBLICLY TRADED CORPORATIONS.—A foreign corporation which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

"(i) the stock of such corporation is primarily and regularly traded on an established securities market in such foreign country, or

"(ii) such corporation is wholly owned (either directly or indirectly) by another foreign corporation which is organized in such foreign country and the stock of which is so traded.

"(C) SECRETARIAL AUTHORITY.—The Secretary may, in his sole discretion, treat a foreign corporation as being a qualified resident of a foreign country if such corporation establishes to the satisfaction of the Secretary that such corporation meets such requirements as the Secretary may establish to ensure that individuals who are not residents of such foreign country do not use the treaty between such foreign country and the United States in a manner inconsistent with the purposes of this subsection.

"(f) TREATMENT OF INTEREST ALLOCABLE TO EFFECTIVELY CONNECTED INCOME.—

"(1) IN GENERAL.—In the case of a foreign corporation engaged in a trade or business in the United States, for purposes of sections 871, 881, 1441, and 1442—

"(A) any interest paid by such trade or business in the United States shall be treated as if it were paid by a domestic corporation, and

"(B) to the extent the amount of interest allowable as a deduction under section 882 in computing the effectively connected taxable income of such foreign corporation exceeds the interest described in subparagraph (A), such foreign corporation shall be liable for tax under section 881(a) in the same manner as if such excess were interest paid to such foreign corporation by a wholly owned domestic corporation on the last day of such foreign corporation's taxable year.

Rules similar to the rules of subsection (e)(3)(B) shall apply to interest described in the preceding sentence.

"(2) EFFECTIVELY CONNECTED TAXABLE INCOME.—For purposes of this subsection, the term 'effectively connected taxable income' means taxable income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business within the United States.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations providing for appropriate adjustments in the determination of the dividend equivalent amount in connection with the distribution to shareholders or transfer to a controlled corporation of the taxpayer's U.S. assets and other adjustments in such determination as are necessary or appropriate to carry out the purposes of this section."

(b) AMENDMENTS TO INTEREST AND DIVIDEND SOURCING RULES.—

(1) INTEREST.—Paragraph (1) of section 861(a) (as amended by section 1214) is amended—

(A) by striking out "residents, corporate or otherwise," in the matter preceding subparagraph (A) and inserting in lieu thereof "noncorporate residents or domestic corporations", and

(B) by striking out subparagraphs (B) and (C) and by redesignating subparagraphs (D), (E), and (F) as subparagraphs (B), (C), and (D), respectively.

(2) DIVIDENDS.—Subparagraph (B) of section 861(a)(2) is amended—

(A) by striking out "50 percent" and inserting in lieu thereof "25 percent", and

(B) by striking out "effectively connected" each place it appears and inserting in lieu thereof "effectively connected

(or treated as effectively connected other than under section 884(d)(2))".

(c) DISALLOWANCE OF CREDIT.—Subsection (b) of section 906 is amended by adding at the end thereof the following new paragraph:

"(6) No credit shall be allowed under this section against the tax imposed by section 884."

(d) CLERICAL AMENDMENT.—The table of sections for subpart B of part II of subchapter N of chapter 1 is amended by striking out the item relating to section 884 and inserting in lieu thereof the following:

"Sec. 884. Branch profits tax.
"Sec. 885. Cross references."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 1242. TREATMENT OF DEFERRED PAYMENTS AND APPRECIATION ARISING OUT OF BUSINESS CONDUCTED WITHIN THE UNITED STATES.

(a) GENERAL RULE.—Subsection (c) of section 864 (defining effectively connected income) is amended by adding at the end thereof the following new paragraphs:

"(6) TREATMENT OF CERTAIN DEFERRED PAYMENTS, ETC.—For purposes of this title, any income or gain of a nonresident alien individual or a foreign corporation for any taxable year which is attributable to a sale or exchange of property or the performance of services (or any other transaction) in any other taxable year shall be treated as effectively connected with the conduct of a trade or business within the United States if it would have been so treated if such income or gain were taken into account in such other taxable year.

"(7) TREATMENT OF CERTAIN PROPERTY TRANSACTIONS.—For purposes of this title, if any property ceases to be used or held for use in connection with the conduct of a trade or business within the United States, the determination of whether any income or gain attributable to a sale or exchange of such property occurring within 10 years after such cessation is effectively connected with the conduct of a trade or business within the United States shall be made as if such sale or exchange occurred immediately before such cessation."

(b) CONFORMING AMENDMENTS.—Paragraph (1) of section 864(c) is amended—

(1) by striking out "and (4)" in subparagraph (A) and inserting in lieu thereof "(4), (6), and (7)", and

(2) by striking out "as provided in" in subparagraph (B) and inserting in lieu thereof "as provided in paragraph (6) or (7) or in".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 1243. TREATMENT UNDER SECTION 877 OF PROPERTY RECEIVED IN TAX-FREE EXCHANGES, ETC.

(a) GENERAL RULE.—Subsection (c) of section 877 (relating to expatriation to avoid tax) is amended by adding at the end thereof the following new sentence:

"For purposes of this section, gain on the sale or exchange of property which has a basis determined in whole or in part by

reference to property described in paragraph (1) or (2) shall be treated as gain described in paragraph (1) or (2)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales or exchanges of property received in exchanges after September 25, 1985.

SEC. 1244. STUDY OF UNITED STATES REINSURANCE INDUSTRY.

The Secretary of the Treasury or his delegate shall conduct a study to determine whether United States reinsurance corporations are placed at a significant competitive disadvantage with foreign reinsurance corporations by existing treaties between the United States and foreign countries. The Secretary shall report before January 1, 1988, the results of such study to the Committee on Finance of the United States Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 1245. INFORMATION WITH RESPECT TO CERTAIN FOREIGN-OWNED CORPORATIONS.

(a) IN GENERAL.—Paragraph (1) of section 6038A(b) (relating to certain required information) is amended—

(1) by striking out "each corporation" in the matter preceding subparagraph (A) and inserting in lieu thereof "each person", and

(2) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) is a related party to the reporting corporation, and".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6038A(b) is amended by striking out "each corporation" and inserting in lieu thereof "each person".

(2) Paragraph (3) of section 6038A(b) is amended to read as follows:

"(3) transactions between the reporting corporation and each foreign person which is a related party to the reporting corporation."

(3) Subsection (b) of section 6038A is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(4) such information as the Secretary may require for purposes of carrying out the provisions of section 453C."

(4) Paragraph (2) of section 6038A(c) is amended to read as follows:

"(2) RELATED PARTY.—The term 'related party' means—

"(A) any person who is related to the reporting corporation within the meaning of section 267(b) or 707(b)(1), and

"(B) any other person who is related (within the meaning of section 482) to the reporting corporation."

(5) Paragraph (1) of section 6038(a) is amended by striking out "and" at the end of subparagraph (D), by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", and", and by inserting after subparagraph (E) the following new subparagraph:

"(F) such information as the Secretary may require for purposes of carrying out the provisions of section 453C."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 1246. WITHHOLDING TAX ON AMOUNTS PAID BY PARTNERSHIPS TO FOREIGN PARTNERS.

(a) IN GENERAL.—Subchapter A of chapter 3 (relating to withholding of tax on nonresident) is amended by adding at the end thereof the following new section:

"SEC. 1446. WITHHOLDING TAX ON AMOUNTS PAID BY PARTNERSHIPS TO FOREIGN PARTNERS.

"(a) GENERAL RULE.—Except as provided in this section, if a partnership has any income, gain, or loss which is effectively connected or treated as effectively connected with the conduct of a trade or business within the United States, any person described in section 1441(a) shall be required to deduct and withhold a tax equal to 20 percent of any amount distributed to a partner which is not a United States person.

"(b) LIMITATION IF LESS THAN 80 PERCENT OF GROSS INCOME IS EFFECTIVELY CONNECTED WITH UNITED STATES TRADE OR BUSINESS.—

"(1) IN GENERAL.—If the effectively connected percentage is less than 80 percent, only the effectively connected percentage of any distribution shall be taken into account under subsection (a).

"(2) EFFECTIVELY CONNECTED PERCENTAGE.—For purposes of paragraph (1) the term 'effectively connected percentage' means the percentage of the gross income of the partnership for the 3 taxable years preceding the taxable year of the distribution which is effectively connected (or treated as effectively connected) with the conduct of a trade or business within the United States.

"(c) EXCEPTIONS.—

"(1) AMOUNTS ON WHICH TAX WITHHELD.—Subsection (a) shall not apply to that portion of any distribution with respect to which a tax is required to be deducted and withheld under section 1441 or 1442 (or would be required to be deducted and withheld but for a treaty).

"(2) PARTNERSHIPS WITH CERTAIN ALLOCATIONS.—Except as provided in regulations, subsection (a) shall not apply to any partnership with respect to which substantially all income from sources within the United States and substantially all income which is effectively connected with the conduct of a trade or business within the United States is properly allocated to United States persons.

"(3) COORDINATION WITH SECTION 1445.—Under regulations proper adjustments shall be made in the amount required to be deducted and withheld under subsection (a) for amounts deducted and withheld under section 1445.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) COORDINATION WITH SECTION 6401(b).—Paragraph (2) of section 6401(b) (relating to excessive credits treated as overpayments) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any amount deducted and withheld under section 1446."

(c) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 3 is amended by adding at the end thereof the following new item:

"Sec. 1446. Withholding tax on amounts paid by partnerships to foreign partners."

(d) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after December 31, 1987 (or, if earlier, the effective date (which shall not be earlier than January 1, 1987) of the initial regulations issued under section 1446 of the Internal Revenue Code of 1986 as added by this section).

SEC. 1247. INCOME OF FOREIGN GOVERNMENTS.

(a) SPECIAL RULE.—Section 892 (relating to income of foreign governments and of international organizations) is amended to read as follows:

"SEC. 892. INCOME OF FOREIGN GOVERNMENTS AND OF INTERNATIONAL ORGANIZATIONS.

"(a) FOREIGN GOVERNMENTS.—

"(1) IN GENERAL.—The income of foreign governments received from—

"(A) investments in the United States in—

"(i) stocks, bonds, or other domestic securities owned by such foreign governments, or

"(ii) financial instruments held in the execution of governmental financial or monetary policy, or

"(B) interest on deposits in banks in the United States of moneys belonging to such foreign governments,

shall not be included in gross income and shall be exempt from taxation under this subtitle.

"(2) INCOME RECEIVED DIRECTLY OR INDIRECTLY FROM COMMERCIAL ACTIVITIES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any income—

"(i) derived from the conduct of any commercial activity (whether within or outside the United States), or

"(ii) received from or by a controlled commercial entity.

"(B) CONTROLLED COMMERCIAL ENTITY.—For purposes of subparagraph (A), the term 'controlled commercial entity' means any entity engaged in commercial activities (whether within or outside the United States) if the government—

"(i) holds (directly or indirectly) any interest in such entity which (by value or voting interest) is 50 percent or more of the total of such interests in such entity, or

"(ii) holds (directly or indirectly) any other interest in such entity which provides the foreign government with effective control of such entity.

For purposes of the preceding sentence, a central bank of issue shall be treated as a controlled commercial entity only if engaged in commercial activities within the United States.

"(b) INTERNATIONAL ORGANIZATIONS.—The income of international organizations received from investments in the United States in stocks, bonds, or other domestic securities owned by such international organizations, or from interest on deposits in banks in the United States of moneys belonging to such international organizations, or from any other source within the United States, shall not

be included in gross income and shall be exempt from taxation under this subtitle.

"(c) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received on or after July 1, 1986, except that no amount shall be required to be deducted and withheld by reason of the amendment made by subsection (a) from any payment made before the date of the enactment of this Act.

SEC. 1248. LIMITATION ON COST OF PROPERTY IMPORTED FROM RELATED PERSONS.

(a) IN GENERAL.—Part IV of subchapter O of chapter 1 (relating to special rules for determination of basis) is amended by inserting after section 1059 the following new section:

"SEC. 1059A. LIMITATION ON TAXPAYER'S BASIS OR INVENTORY COST IN PROPERTY IMPORTED FROM RELATED PERSONS.

"(a) IN GENERAL.—If any property is imported into the United States in a transaction (directly or indirectly) between related persons (within the meaning of section 482), the amount of any costs—

"(1) which are taken into account in computing the basis or inventory cost of such property by the purchaser, and

"(2) which are also taken into account in computing the customs value of such property,

shall not, for purposes of computing such basis or inventory cost for purposes of this chapter, be greater than the amount of such costs taken into account in computing such customs value.

"(b) CUSTOMS VALUE; IMPORT.—For purposes of this section—

"(1) CUSTOMS VALUE.—The term 'customs value' means the value taken into account for purposes of determining the amount of any customs duties or any other duties which may be imposed on the importation of any property.

"(2) IMPORT.—Except as provided in regulations, the term 'import' means the entering, or withdrawal from warehouse, for consumption."

(b) CONFORMING AMENDMENT.—The table of sections for part IV of subchapter O of chapter 1 is amended by inserting after the item relating to section 1059 and inserting in lieu thereof the following new item:

"Sec. 1059A. Limitation on taxpayer's basis or inventory cost in property imported from related persons."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after March 18, 1986.

SEC. 1249. TREATMENT OF DUAL RESIDENCE CORPORATIONS.

(a) GENERAL RULE.—Section 1503 (relating to consolidated return) is amended by adding at the end thereof the following new subsection:

"(d) DUAL CONSOLIDATED LOSS.—

"(1) IN GENERAL.—The dual consolidated loss for any taxable year of any corporation shall not be allowed to reduce the taxable income of any other member of the affiliated group for the taxable year or any other taxable year.

"(2) DUAL CONSOLIDATED LOSS.—For purposes of this section—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'dual consolidated loss' means any net operating loss of a domestic corporation which is subject to an income tax of a foreign country on its income without regard to whether such income is from sources in or outside of such foreign country, or is subject to such a tax on a residence basis.

"(B) SPECIAL RULE WHERE LOSS NOT USED UNDER FOREIGN LAW.—To the extent provided in regulations, the term 'dual consolidated loss' shall not include any loss which, under the foreign income tax law, does not offset the income of any foreign corporation."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to net operating losses for taxable years beginning after December 31, 1986.

Subtitle F—Foreign Currency Transactions

SEC. 1261. TREATMENT OF FOREIGN CURRENCY TRANSACTIONS.

(a) GENERAL RULE.—Part III of subchapter N of chapter 1 is amended by adding at the end thereof the following new subpart:

"Subpart J—Foreign Currency Transactions

"Sec. 985. Functional currency.
"Sec. 986. Determination of foreign corporation's earnings and profits and foreign taxes.
"Sec. 987. Branch transactions.
"Sec. 988. Treatment of certain foreign currency transactions.
"Sec. 989. Other definitions and special rules.

"SEC. 985. FUNCTIONAL CURRENCY.

"(a) IN GENERAL.—Unless otherwise provided in regulations, all determinations under this subtitle shall be made in the taxpayer's functional currency.

"(b) FUNCTIONAL CURRENCY.—

"(1) IN GENERAL.—For purposes of this subtitle, the term 'functional currency' means—

"(A) except as provided in subparagraph (B), the dollar, or

"(B) in the case of a qualified business unit, the currency of the economic environment in which a significant part of such unit's activities are conducted and which is used by such unit in keeping its books and records.

"(2) FUNCTIONAL CURRENCY WHERE ACTIVITIES PRIMARILY CONDUCTED IN DOLLARS.—The functional currency of any qualified business unit shall be the dollar if activities of such unit are primarily conducted in dollars.

"(3) ELECTION.—To the extent provided in regulations, the taxpayer may elect to use the dollar as the functional currency for any qualified business unit if—

"(A) such unit keeps its books and records in dollars, or

"(B) the taxpayer uses a method of accounting that approximates a separate transactions method.

Any such election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(4) CHANGE IN FUNCTIONAL CURRENCY TREATED AS A CHANGE IN METHOD OF ACCOUNTING.—Any change in the functional currency shall be treated as a change in the taxpayer's method of accounting for purposes of section 481 under procedures to be established by the Secretary.

"SEC. 986. DETERMINATION OF FOREIGN CORPORATION'S EARNINGS AND PROFITS AND FOREIGN TAXES.

"(a) EARNINGS AND PROFITS AND DISTRIBUTIONS.—For purposes of determining the tax under this subtitle—

"(1) of any shareholder of any foreign corporation, the earnings and profits of such corporation shall be determined in the corporation's functional currency, and

"(2) in the case of any United States person, the earnings and profits determined under paragraph (1) (when distributed, deemed distributed, or otherwise taken into account under this subtitle) shall (if necessary) be translated into dollars using the appropriate exchange rate.

"(b) FOREIGN TAXES.—

"(1) IN GENERAL.—In determining the amount of foreign taxes deemed paid under section 902 or 960—

"(A) any foreign income taxes paid by a foreign corporation shall be translated into dollars using the exchange rates as of the time of payment, and

"(B) any adjustment to the amount of foreign income taxes paid by a foreign corporation shall be translated into dollars using—

"(i) except as provided in clause (ii), the appropriate exchange rate as of when such adjustment is made, and

"(ii) in the case of any refund or credit of foreign taxes, using the exchange rate as of the time of original payment of such foreign income taxes.

"(2) FOREIGN INCOME TAXES.—For purposes of paragraph (1), 'foreign income taxes' means any income, war profits, or excess profits taxes paid to any foreign country or to any possession of the United States.

"(c) PREVIOUSLY TAXED EARNINGS AND PROFITS.—

"(1) IN GENERAL.—Foreign currency gain or loss with respect to distributions of previously taxed earnings and profits (as described in section 959 or 1293(c)) attributable to movements in exchange rates between the times of deemed and actual distribution shall be recognized and treated as ordinary income or loss from the same source as the associated income inclusion.

"(2) DISTRIBUTIONS THROUGH TIERS.—The Secretary shall prescribe regulations with respect to the treatment of distributions of previously taxed earnings and profits through tiers of foreign corporations.

"SEC. 987. BRANCH TRANSACTIONS.

"In the case of any taxpayer having 1 or more qualified business units with a functional currency other than the dollar, taxable income of such taxpayer shall be determined—

"(1) by computing the taxable income or loss separately for each such unit in its functional currency,

"(2) by translating the income or loss separately computed under paragraph (1) at the appropriate exchange rate,

"(3) by making proper adjustments (as prescribed by the Secretary) for transfers of property between qualified business units of the taxpayer having different functional currencies, including—

"(A) treating post-1986 remittances from each such unit as made on a pro rata basis out of post-1986 accumulated earnings, and

"(B) treating gain or loss determined under this paragraph as ordinary income or loss, respectively, and sourcing such gain or loss by reference to the source of the income giving rise to post-1986 accumulated earnings, and

"(4) by translating foreign income taxes paid by each qualified business unit of the taxpayer in the same manner as provided under section 986(b).

"SEC. 988. TREATMENT OF CERTAIN FOREIGN CURRENCY TRANSACTIONS.

"(a) GENERAL RULE.—

"(1) TREATMENT AS ORDINARY INCOME OR LOSS.—

"(A) IN GENERAL.—Except as otherwise provided in this section, any foreign currency gain or loss attributable to a section 988 transaction shall be computed separately and treated as ordinary income or loss (as the case may be).

"(B) SPECIAL RULE FOR FORWARD CONTRACTS, ETC.—Except as provided in regulations, a taxpayer may elect to treat any foreign currency gain or loss attributable to a forward contract, a futures contract, or option described in subsection (c)(1)(B)(iii) which is a capital asset in the hands of the taxpayer and which is not a part of a straddle (within the meaning of section 1092(c), without regard to paragraph (4) thereof) as capital gain or loss (as the case may be) if the taxpayer makes such election and identifies such transaction before the close of the day on which such transaction is entered into (or such earlier time as the Secretary may prescribe).

"(2) GAIN OR LOSS TREATED AS INTEREST FOR CERTAIN PURPOSES.—To the extent provided in regulations, any amount treated as ordinary income or loss under paragraph (1) shall be treated as interest income or expense (as the case may be).

"(3) SOURCE.—

"(A) IN GENERAL.—Except as otherwise provided in regulations, in the case of any amount treated as ordinary income or loss under paragraph (1) (without regard to paragraph (1)(B)), the source of such amount shall be determined by reference to the residence of the taxpayer or the qualified business unit of the taxpayer on whose books the asset, liability, or item of income or expense is properly reflected.

"(B) RESIDENCE.—For purposes of this subpart—

"(i) IN GENERAL.—The residence of any person shall be—

"(I) in the case of an individual, the country in which such individual's tax home (as defined in section 911(d)(3)) is located,

"(II) in the case of any corporation, partnership, trust, or estate which is a United States person (as defined in section 7701(a)(30)), the United States, and

"(III) in the case of any corporation, partnership, trust, or estate which is not a United States person, a country other than the United States.

"(ii) EXCEPTION.—In the case of a qualified business unit of any taxpayer (including an individual), the residence of such unit shall be the country in which the principal place of business of such qualified business unit is located.

"(C) SPECIAL RULE FOR CERTAIN RELATED PARTY LOANS.—Except to the extent provided in regulations, in the case of a loan by a United States person or a related person to a 10-percent owned foreign corporation which is denominated in a currency other than the dollar and bears interest at a rate at least 10 percentage points higher than the Federal mid-term rate (determined under section 1274(d)) at the time such loan is entered into, the following rules shall apply:

"(i) For purposes of section 904 only, such loan shall be marked to market on an annual basis.

"(ii) Any interest income earned with respect to such loan for the taxable year shall be treated as income from sources within the United States to the extent of any loss attributable to clause (i).

For purposes of this subparagraph, the term 'related person' has the meaning given such term by section 954(d)(3), except that such section shall be applied by substituting 'United States person' for 'controlled foreign corporation' each place such term appears.

"(D) 10-PERCENT OWNED FOREIGN CORPORATION.—The term '10-percent owned foreign corporation' means any foreign corporation in which the United States person owns directly or indirectly at least 10 percent of the voting stock.

"(b) FOREIGN CURRENCY GAIN OR LOSS.—For purposes of this section—

"(1) FOREIGN CURRENCY GAIN.—The term 'foreign currency gain' means any gain from a section 988 transaction to the extent such gain does not exceed gain realized by reason of changes in exchange rates on or after the booking date and before the payment date.

"(2) FOREIGN CURRENCY LOSS.—The term 'foreign currency loss' means any loss from a section 988 transaction to the extent such loss does not exceed the loss realized by reason of changes in exchange rates on or after the booking date and before the payment date.

"(c) OTHER DEFINITIONS.—For purposes of this section—

"(1) SECTION 988 TRANSACTION.—

"(A) IN GENERAL.—The term 'section 988 transaction' means any transaction described in subparagraph (B) if the amount which the taxpayer is entitled to receive (or is required to pay) by reason of such transaction—

"(i) is denominated in terms of a nonfunctional currency, or

"(ii) is determined by reference to the value of 1 or more nonfunctional currencies.

"(B) DESCRIPTION OF TRANSACTIONS.—For purposes of subparagraph (A), the following transactions are described in this subparagraph:

"(i) The acquisition of a debt instrument or becoming the obligor under a debt instrument.

"(ii) Accruing (or otherwise taking into account) for purposes of this subtitle any item of expense or gross income or receipts which is to be paid or received after the date on which so accrued or taken into account.

"(iii) Entering into or acquiring any forward contract, futures contract, option, or similar financial instrument if such instrument is not marked to market at the close of the taxable year under section 1256.

The Secretary may prescribe regulations excluding from the application of clause (ii) any class of items the taking into account of which is not necessary to carry out the purposes of this section by reason of the small amounts or short periods involved, or otherwise.

"(C) SPECIAL RULES FOR DISPOSITION OF NONFUNCTIONAL CURRENCY.—

"(i) IN GENERAL.—In the case of any disposition of any nonfunctional currency—

"(I) such disposition shall be treated as a section 988 transaction, and

"(II) for purposes of determining the foreign currency gain or loss from such transaction, paragraphs (1) and (2) of subsection (b) shall be applied by substituting 'acquisition date' for 'booking date' and 'disposition' for 'payment date'.

"(ii) NONFUNCTIONAL CURRENCY.—For purposes of this section, the term 'nonfunctional currency' includes coin or currency, and nonfunctional currency denominated demand or time deposits or similar instruments issued by a bank or other financial institution.

"(2) BOOKING DATE.—The term 'booking date' means—

"(A) in the case of a transaction described in paragraph (1)(B)(i), the date of acquisition or on which the taxpayer becomes the obligor,

"(B) in the case of a transaction described in paragraph (1)(B)(ii), the date on which accrued or otherwise taken into account, or

"(C) in the case of a transaction described in paragraph (1)(B)(iii), the date on which the position is entered into or acquired.

"(3) PAYMENT DATE.—The term 'payment date' means—

"(A) in the case of a transaction described in paragraph (1)(B) (i) or (ii), the date on which payment is made or received, or

"(B) in the case of a transaction described in paragraph (1)(B)(iii), the date payment is made or received or the date the taxpayer's rights with respect to the position are terminated.

"(4) DEBT INSTRUMENT.—The term 'debt instrument' means a bond, debenture, note, or certificate or other evidence of indebtedness. To the extent provided in regulations, such term shall include preferred stock.

"(d) TREATMENT OF 988 HEDGING TRANSACTIONS.—

"(1) IN GENERAL.—To the extent provided in regulations, if any section 988 transaction is part of a 988 hedging transaction, all transactions which are part of such 988 hedging transaction

shall be integrated and treated as a single transaction or otherwise treated consistently for purposes of this section. For purposes of the preceding sentence, the determination of whether any transaction is a section 988 transaction shall be determined without regard to whether such transaction would otherwise be marked-to-market under section 1256 and such term shall not include any transaction with respect to which an election is made under subsection (a)(1)(B). Sections 1092 and 1256 shall not apply to a transaction covered by this subsection.

"(2) 988 HEDGING TRANSACTION.—For purposes of paragraph (1), the term '988 hedging transaction' means any transaction—

"(A) entered into by the taxpayer primarily—

"(i) to reduce risk of currency fluctuations with respect to property which is held or to be held by the taxpayer, or

"(ii) to reduce risk of currency fluctuations with respect to borrowings made or to be made, or obligations incurred or to be incurred, by the taxpayer, and

"(B) identified by the Secretary or the taxpayer as being a 988 hedging transaction.

"(e) APPLICATION TO INDIVIDUALS.—This section shall apply to section 988 transactions entered into by an individual only to the extent expenses properly allocable to such transactions meet the requirements of section 162 or 212 (other than that part of section 212 dealing with expenses incurred in connection with taxes).

"SEC. 989. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) QUALIFIED BUSINESS UNIT.—For purposes of this subpart, the term 'qualified business unit' means any separate and clearly identified unit of a trade or business of a taxpayer which maintains separate books and records.

"(b) APPROPRIATE EXCHANGE RATE.—Except as provided in regulations, for purposes of this subpart, the term 'appropriate exchange rate' means—

"(1) in the case of an actual distribution of earnings and profits, the spot rate on the date such distribution is included in income,

"(2) in the case of an actual or deemed sale or exchange of stock in a foreign corporation treated as a dividend under section 1248, the spot rate on the date the deemed dividend is included in income,

"(3) in the case of any amounts included in income under section 951(a), 551(a), or 1293(a), the weighted average exchange rate for the taxable year of the foreign corporation, or

"(4) in the case of any other qualified business unit of a taxpayer, the weighted average exchange rate for the taxable year of such qualified business unit.

"(c) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subpart, including regulations—

"(1) setting forth procedures to be followed by taxpayers with qualified business units using a net worth method of accounting before the enactment of this subpart,

"(2) limiting the recognition of foreign currency loss on certain remittances from qualified business units,

"(3) providing for the recharacterization of interest and principal payments with respect to obligations denominated in certain hyperinflationary currencies,

"(4) providing for alternative adjustments to the application of section 905(c), and

"(5) providing for the appropriate treatment of related party transactions (including transactions between qualified business units of the same taxpayer)."

(b) APPLICATION OF SECTION 1092 TO FOREIGN CURRENCY.—Section 1092(d) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULES FOR FOREIGN CURRENCY.—

"(A) POSITION TO INCLUDE INTEREST IN CERTAIN DEBT.—For purposes of paragraph (2), an obligor's interest in a nonfunctional currency denominated debt obligation is treated as a position in the nonfunctional currency.

"(B) ACTIVELY TRADED REQUIREMENT.—For purposes of paragraph (1), foreign currency for which there is an active interbank market is presumed to be actively traded."

(c) REPEAL OF SPECIAL TREATMENT OF BANKS FOR HEDGING EXCEPTION.—Subsection (e) of section 1256 (relating to mark to market not to apply to hedging transactions) is amended by striking out paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(d) CLERICAL AMENDMENT.—The table of subparts for part III of subchapter N of chapter 1 is amended by adding at the end thereof the following new item:

"Subpart J. Foreign currency transactions."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) SPECIAL RULES FOR PURPOSES OF SECTIONS 902 AND 960.—For purposes of applying sections 902 and 960 of the Internal Revenue Code of 1986, the amendments made by this section shall apply to—

(A) earnings and profits of the foreign corporation for taxable years beginning after December 31, 1986, and

(B) foreign taxes paid or accrued by the foreign corporation with respect to such earnings and profits.

Subtitle G—Tax Treatment of Possessions

PART I—TREATMENT OF GUAM, AMERICAN SAMOA, AND THE NORTHERN MARIANA ISLANDS

SEC. 1271. AUTHORITY OF GUAM, AMERICAN SAMOA, AND THE NORTHERN MARIANA ISLANDS TO ENACT REVENUE LAWS.

(a) IN GENERAL.—Except as provided in subsection (b), nothing in the laws of the United States shall prevent Guam, American Samoa, or the Northern Mariana Islands from enacting tax laws (which shall apply in lieu of the mirror system) with respect to income—

(1) from sources within, or effectively connected with the conduct of a trade or business within, any such possession, or

(2) received or accrued by any resident of such possession.

(b) AGREEMENTS TO ALLEVIATE CERTAIN PROBLEMS RELATING TO TAX ADMINISTRATION.—Subsection (a) shall apply to Guam, American Samoa, or the Northern Mariana Islands only if (and so long as) an implementing agreement is in effect between the United States and such possession with respect to—

(1) the elimination of double taxation involving taxation by such possession and taxation by the United States,

(2) the establishment of rules under which the evasion or avoidance of United States income tax shall not be permitted or facilitated by such possession,

(3) the exchange of information between such possession and the United States for purposes of tax administration, and

(4) the resolution of other problems arising in connection with the administration of the tax laws of such possession or the United States.

Any such implementing agreement shall be executed on behalf of the United States by the Secretary of the Treasury after consultation with the Secretary of the Interior.

(c) REVENUES NOT TO DECREASE.—The total amount of the revenue received by any possession referred to in subsection (a) pursuant to its tax laws during the implementation year and each of the 4 fiscal years thereafter shall not be less than the revenue (adjusted for inflation) which was received by such possession pursuant to tax laws for its last fiscal year before the implementation year.

(d) NONDISCRIMINATORY TREATMENT REQUIRED.—Nothing in any tax law of a possession referred to in subsection (a) may discriminate against any United States person or any resident (corporate or otherwise) of any other possession.

(e) ENFORCEMENT.—

(1) IN GENERAL.—If the Secretary of the Treasury (after consultation with the Secretary of the Interior) determines that any possession has failed to comply with subsection (c) or (d), the Secretary of the Treasury shall so notify the Governor of such possession in writing. If such possession does not comply with subsection (c) or (d) (as the case may be) within 90 days of such notification, the Secretary of the Treasury shall notify the Congress of such noncompliance. Unless the Congress by law provides otherwise, the mirror system of taxation shall be reinstated in such possession and shall be in full force and effect for taxable years beginning after such notification to the Congress.

(2) SPECIAL RULE FOR REVENUE REQUIREMENTS.—If the failure to comply with subsection (c) is for good cause and does not jeopardize the fiscal integrity of the possession, the Secretary may waive the requirements of subsection (c) for such period as he determines appropriate.

(f) DEFINITIONS AND SPECIAL RULES.—

(1) IMPLEMENTATION YEAR.—For purposes of this section, the term "implementation year" means the 1st fiscal year of the possession in which the tax laws authorized by subsection (a) take effect.

(2) MIRROR SYSTEM.—For purposes of this section, the mirror system of taxation consists of the provisions of law (in effect on the day before the date of the enactment of this Act) which make the provisions of the income tax laws of the United States (as in effect from time to time) in effect in a possession of the United States.

(3) SPECIAL RULE FOR NORTHERN MARIANA ISLANDS.—Notwithstanding the provisions of the last clause of section 601(a) of Public Law 94-241, the Commonwealth of the Northern Mariana Islands may elect to continue its mirror system of taxation without regard to whether Guam enacts tax laws under the authority provided in subsection (a).

SEC. 1272. EXCLUSION OF POSSESSION SOURCE INCOME FROM THE GROSS INCOME OF CERTAIN INDIVIDUALS.

(a) IN GENERAL.—Section 931 (relating to income from sources within possessions of the United States) is amended to read as follows:

"SEC. 931. INCOME FROM SOURCES WITHIN GUAM, AMERICAN SAMOA, OR THE NORTHERN MARIANA ISLANDS.

"(a) GENERAL RULE.—In the case of an individual who is a bona fide resident of a specified possession during the entire taxable year, gross income shall not include—

"(1) income derived from sources within any specified possession, and

"(2) income effectively connected with the conduct of a trade or business by such individual within any specified possession.

"(b) DEDUCTIONS, ETC. ALLOCABLE TO EXCLUDED AMOUNTS NOT ALLOWABLE.—An individual shall not be allowed—

"(1) as a deduction from gross income any deductions (other than the deduction under section 151, relating to personal exemptions), or

"(2) any credit,

properly allocable or chargeable against amounts excluded from gross income under this section.

"(c) SPECIFIED POSSESSION.—For purposes of this section, the term 'specified possession' means Guam, American Samoa, and the Northern Mariana Islands.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) EMPLOYEES OF THE UNITED STATES.—Amounts paid for services performed as an employee of the United States (or any agency thereof) shall be treated as not described in paragraph (1) or (2) of subsection (a).

"(2) DETERMINATION OF SOURCE, ETC.—The determination as to whether income is described in paragraph (1) or (2) of subsection (a) shall be made under regulations prescribed by the Secretary.

"(3) DETERMINATION OF RESIDENCY.—For purposes of this section and section 876, the determination of whether an individual is a bona fide resident of Guam, American Samoa, or the Northern Mariana Islands shall be made under regulations prescribed by the Secretary."

(b) EXEMPTION FROM WITHHOLDING TAX; TAX IMPOSED BY SECTION 1.—Section 876 (relating to alien residents of Puerto Rico) is amended to read as follows:

"SEC. 876. ALIEN RESIDENTS OF PUERTO RICO, GUAM, AMERICAN SAMOA, OR THE NORTHERN MARIANA ISLANDS.

"(a) GENERAL RULE.—This subpart shall not apply to any alien individual who is a bona fide resident of Puerto Rico, Guam, American Samoa, or the Northern Mariana Islands during the entire taxable year and such alien shall be subject to the tax imposed by section 1.

"(b) CROSS REFERENCES.—

"For exclusion from gross income of income derived from sources within—

"(1) Guam, American Samoa, and the Northern Mariana Islands, see section 931, and

"(2) Puerto Rico, see section 933."

(c) EXEMPTION FROM WAGE WITHHOLDING FOR CERTAIN SERVICES PERFORMED IN POSSESSIONS.—Paragraph (8) of section 3401(a) (defining wages) is amended by adding at the end thereof the following new subparagraph:

"(D) for services for the United States (or any agency thereof) performed by a citizen of the United States within a possession of the United States to the extent the United States (or such agency) withholds taxes on such remuneration pursuant to an agreement with such possession; or".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 932 (relating to citizens of possessions of the United States) is hereby repealed.

(2) Section 935 (relating to coordination of United States and Guam individual income taxes) is hereby repealed.

(3) Paragraphs (1) and (2) of section 933 are each amended by inserting ", or any credit," before "properly".

(4) Subparagraph (C) of section 32(c)(1) is amended to read as follows:

"(C) INDIVIDUAL WHO CLAIMS BENEFITS OF SECTION 911 NOT ELIGIBLE INDIVIDUAL.—The term 'eligible individual' does not include an individual who, for the taxable year, claims the benefits of section 911 (relating to citizens or residents of the United States living abroad)."

(5) Clause (vii) of section 48(a)(2)(B) is amended by striking out "932,".

(6) Paragraph (6) of section 63(c) (relating to certain individuals, etc., not eligible for standard deduction), as amended by title I of this Act, is amended by striking out subparagraph (C) and by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(7) Section 153 is amended by striking out paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(8) Paragraph (8) of section 1402(a) is amended by striking out "and section 931 (relating to income from sources within possessions of the United States)" and by inserting "and" after "of the employer),".

(9) Paragraph (9) of section 1402(a) is amended to read as follows:

"(9) the exclusion from gross income provided by section 931 shall not apply;".

(10) Clause (iii) of section 6091(b)(1)(B) is amended by striking out "possessions of the United States" and inserting in lieu thereof "Guam, American Samoa, or the Northern Mariana Islands".

(11) Subsection (b) of section 7655 is amended by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and by inserting before paragraph (2), as so redesignated, the following new paragraph:

"(1) Section 931, relating to income tax on residents of Guam, American Samoa, or the Northern Mariana Islands;".

(12) The table of sections for subpart D of part III of subchapter N of chapter 1 is amended by striking out the items relating to sections 932 and 935 and by striking out the item relating to section 931 and inserting in lieu thereof the following:

"Sec. 931. Income from sources within Guam, American Samoa, or the Northern Mariana Islands."

(13) The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by striking out the item relating to section 876 and inserting in lieu thereof the following:

"Sec. 876. Alien residents of Puerto Rico, Guam, American Samoa, or the Northern Mariana Islands."

SEC. 1273. TREATMENT OF CORPORATIONS ORGANIZED IN GUAM, AMERICAN SAMOA, OR THE NORTHERN MARIANA ISLANDS.

(a) TREATMENT UNDER SUBPART F.—Subsection (c) of section 957 (relating to controlled foreign corporations; United States persons), as amended by section 1224, is amended by adding "and" at the end of paragraph (1) and by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraph:

"(2) with respect to a corporation organized under the laws of Guam, American Samoa, or the Northern Mariana Islands—

"(A) 80 percent or more of the gross income of which for the 3-year period ending at the close of the taxable year (or for such part of such period as such corporation or any predecessor has been in existence) was derived from sources within such a possession or was effectively connected with the conduct of a trade or business in such a possession, and

"(B) 50 percent or more of the gross income of which for such period (or part) was derived from the conduct of an active trade or business within such a possession,

such term does not include an individual who is a bona fide resident of Guam, American Samoa, or the Northern Mariana Islands.

For purposes of subparagraphs (A) and (B) of paragraph (2), the determination as to whether income was derived from sources within a possession, was effectively connected with the conduct of a trade or business within a possession, or derived from the active conduct of a trade or business within a possession shall be made under regulations prescribed by the Secretary."

(b) EXEMPTION FROM WITHHOLDING.—

(1) IN GENERAL.—Subsection (b) of section 881 (relating to exception for certain Guam and Virgin Islands corporations) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) IN GENERAL.—For purposes of this section and section 884, a corporation created or organized in Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands or under the law of any such possession shall not be treated as a foreign corporation for any taxable year if—

"(A) at all times during such taxable year less than 25 percent in value of the stock of such corporation is beneficially owned (directly or indirectly) by foreign persons,

"(B) at least 65 percent of the gross income of such corporation is shown to the satisfaction of the Secretary to

be effectively connected with the conduct of a trade or business in such a possession or the United States for the 3-year period ending with the close of the taxable year of such corporation (or for such part of such period as the corporation or any predecessor has been in existence), and

"(C) no substantial part of the income of such corporation is used (directly or indirectly) to satisfy obligations to persons who are not bona fide residents of such a possession or the United States."

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (b) of section 881 is amended by redesignating paragraph (3) as paragraph (2) and by striking out paragraph (4).

(B) Subsection (c) of section 1442 is amended to read as follows:

"(c) EXCEPTION FOR CERTAIN POSSESSIONS CORPORATIONS.—For purposes of this section, the term 'foreign corporation' does not include a corporation created or organized in Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands or under the law of any such possession if the requirements of subparagraphs (A), (B), and (C) of section 881(b)(1) are met with respect to such corporation."

PART II—TREATMENT OF THE VIRGIN ISLANDS

SEC. 1274. COORDINATION OF UNITED STATES AND VIRGIN ISLANDS INCOME TAXES.

(a) IN GENERAL.—Subpart D of part III of subchapter N of chapter 1 is amended by inserting after section 931 the following new section:

"SEC. 932. COORDINATION OF UNITED STATES AND VIRGIN ISLANDS INCOME TAXES.

"(a) TREATMENT OF UNITED STATES RESIDENTS.—

"(1) APPLICATION OF SUBSECTION.—This subsection shall apply to an individual for the taxable year if—

"(A) such individual—

"(i) is a citizen or resident of the United States (other than a bona fide resident of the Virgin Islands at the close of the taxable year), and

"(ii) has income derived from sources within the Virgin Islands, or effectively connected with the conduct of a trade or business within such possession, for the taxable year, or

"(B) such individual files a joint return for the taxable year with an individual described in subparagraph (A).

"(2) FILING REQUIREMENT.—Each individual to whom this subsection applies for the taxable year shall file his income tax return for the taxable year with both the United States and the Virgin Islands.

"(3) EXTENT OF INCOME TAX LIABILITY.—In the case of an individual to whom this subsection applies in a taxable year for purposes of so much of this title (other than this section and section 7654) as relates to the taxes imposed by this chapter, the United States shall be treated as including the Virgin Islands.

"(b) PORTION OF UNITED STATES TAX LIABILITY PAYABLE TO THE VIRGIN ISLANDS.—

"(1) IN GENERAL.—Each individual to whom subsection (a) applies for the taxable year shall pay the applicable percentage of the taxes imposed by this chapter for such taxable year (determined without regard to paragraph (3)) to the Virgin Islands.

"(2) APPLICABLE PERCENTAGE.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable percentage' means the percentage which Virgin Islands adjusted gross income bears to adjusted gross income.

"(B) VIRGIN ISLANDS ADJUSTED GROSS INCOME.—For purposes of subparagraph (A), the term 'Virgin Islands adjusted gross income' means adjusted gross income determined by taking into account only income derived from sources within the Virgin Islands and deductions properly apportioned or allocable thereto.

"(3) AMOUNTS PAID ALLOWED AS CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the taxes required to be paid to the Virgin Islands under paragraph (1) which are so paid.

"(c) TREATMENT OF VIRGIN ISLANDS RESIDENTS.—

"(1) APPLICATION OF SUBSECTION.—This subsection shall apply to an individual for the taxable year if—

"(A) such individual is a bona fide resident of the Virgin Islands at the close of the taxable year, or

"(B) such individual files a joint return for the taxable year with an individual described in subparagraph (A).

"(2) FILING REQUIREMENT.—Each individual to whom this subsection applies for the taxable year shall file his income tax return for the taxable year with the Virgin Islands.

"(3) EXTENT OF INCOME TAX LIABILITY.—In the case of an individual to whom this subsection applies in a taxable year for purposes of so much of this title (other than this section and section 7654) as relates to the taxes imposed by this chapter, the Virgin Islands shall be treated as including the United States.

"(4) RESIDENTS OF THE VIRGIN ISLANDS.—In the case of an individual who is a bona fide resident of the Virgin Islands at the close of the taxable year and who, on his return of income tax to the Virgin Islands, reports income from all sources and identifies the source of each item shown on such return, for purposes of calculating income tax liability to the United States gross income shall not include any amount included in gross income on such return.

"(d) SPECIAL RULE FOR JOINT RETURNS.—In the case of a joint return, this section shall be applied on the basis of the residence of the spouse who has the greater adjusted gross income (determined without regard to community property laws) for the taxable year.

"(e) SECTION NOT TO APPLY TO TAX IMPOSED IN VIRGIN ISLANDS.—This section shall not apply for purposes of determining income tax liability incurred to the Virgin Islands."

(b) AUTHORITY TO IMPOSE NONDISCRIMINATORY LOCAL INCOME TAXES.—Nothing in any provision of Federal law shall prevent the Virgin Islands from imposing on any person nondiscriminatory local income taxes. Any taxes so imposed shall be treated in the same manner as State and local income taxes under section 164 of the Internal Revenue Code of 1954 and shall not be treated as taxes to which section 901 of such Code applies.

(c) REGULATIONS ON APPLICATION OF MIRROR SYSTEM.—The Secretary of the Treasury or his delegate shall prescribe such regulations as may be necessary or appropriate for applying this title for purposes of determining tax liability incurred to the Virgin Islands.

(d) CLERICAL AMENDMENT.—The table of sections for such subpart D is amended by inserting after the item relating to section 931 the following new item:

"Sec. 932. Coordination of United States and Virgin Islands income taxes."

SEC. 1275. VIRGIN ISLANDS CORPORATIONS ALLOWED POSSESSION TAX CREDIT.

(a) POSSESSION TAX CREDIT ALLOWED.—

(1) IN GENERAL.—Paragraph (1) of section 936(d) (defining possession) is amended by striking out ", but does not include the Virgin Islands of the United States" and inserting in lieu thereof "and the Virgin Islands".

(2) CONFORMING AMENDMENTS.—

(A) Section 934 is amended by striking out subsections (e) and (f).

(B) Subsection (e) of section 246 is amended by striking out "or 934(e)(3)".

(b) CLARIFICATION OF TREATMENT OF VIRGIN ISLANDS INHABITANTS.—Subparagraph (B) of section 7651(5) (relating to the Virgin Islands) is amended to read as follows:

"(B) For purposes of this title, section 28(a) of the Revised Organic Act of the Virgin Islands shall be effective as if such section 28(a) had been enacted before the enactment of this title and such section 28(a) shall have no effect on the amount of income tax liability required to be paid by any person to the United States."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 934 is amended by striking out subsections (b), (c), and (d).

(2)(A) Subsection (a) of section 934 is amended by striking out "or (c) or in section 934A".

(B) Section 934, as amended by paragraph (1), is amended by inserting after subsection (a) the following new subsection:

"(b) REDUCTIONS PERMITTED WITH RESPECT TO CERTAIN INCOME.—

"(1) IN GENERAL.—Except as provided in paragraph (2), subsection (a) shall not apply with respect to so much of the tax liability referred to in subsection (a) as is attributable to income derived from sources within the Virgin Islands or income effectively connected with the conduct of a trade or business within the Virgin Islands.

"(2) EXCEPTION FOR LIABILITY PAID BY CITIZENS OR RESIDENTS OF THE UNITED STATES.—Paragraph (1) shall not apply to any liability payable to the Virgin Islands under section 932(b).

"(3) SPECIAL RULE FOR NON-UNITED STATES INCOME OF CERTAIN FOREIGN CORPORATIONS.—

"(A) IN GENERAL.—In the case of a qualified foreign corporation, subsection (a) shall not apply with respect to so much of the tax liability referred to in subsection (a) as is attributable to income which is derived from sources outside the United States and which is not effectively connected with the conduct of a trade or business within the United States.

"(B) QUALIFIED FOREIGN CORPORATION.—For purposes of subparagraph (A), the term 'qualified foreign corporation' means any foreign corporation if less than 10 percent of—

"(i) the total voting power of the stock of such corporation, and

"(ii) the total value of the stock of such corporation, is owned or treated as owned (within the meaning of section 958) by 1 or more United States persons.

"(4) DETERMINATION OF INCOME SOURCE, ETC.—The determination as to whether income is derived from sources within the Virgin Islands or the United States or is effectively connected with the conduct of a trade or business within the Virgin Islands or the United States shall be made under regulations prescribed by the Secretary."

(3) Section 934A (relating to income tax rates on Virgin Islands source income) is hereby repealed.

(4) Subparagraph (B) of section 28(d)(3) is amended to read as follows:

"(B) SPECIAL LIMITATION FOR CORPORATIONS TO WHICH SECTION 936 APPLIES.—No credit shall be allowed under this section with respect to any clinical testing conducted by a corporation to which an election under section 936 applies."

(5) Clause (vii) of section 48(a)(2)(B) is amended by striking out "or which is entitled to the benefits of section 934(b)" and by striking out ", 933, or 934(c)" and inserting in lieu thereof "or 933".

(6) Clause (i) of section 338(h)(6)(B) is amended by striking out "a corporation described in section 934(b),".

(7) Subparagraph (B) of section 864(d)(5) is amended to read as follows:

"(B) SPECIAL RULES FOR POSSESSIONS.—An amount treated as interest under paragraph (1) shall not be treated as income described in subparagraph (A) or (B) of section 936(a)(1) unless such amount is from sources within a possession of the United States (determined after the application of paragraph (1))."

(8) The table of sections for subpart D of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 934A.

PART III—COVER OVER OF INCOME TAXES

SEC. 1276. COVER OVER OF INCOME TAXES.

(a) IN GENERAL.—Section 7654 (relating to coordination of United States and Guam individual income taxes) is amended to read as follows:

"SEC. 7654. COORDINATION OF UNITED STATES AND CERTAIN POSSESSION INDIVIDUAL INCOME TAXES.

"(a) GENERAL RULE.—The net collection of taxes imposed by chapter 1 for each taxable year with respect to an individual to which section 931 or 932(c) applies shall be covered into the Treasury of the specified possession of which such individual is a bona fide resident.

"(b) DEFINITION AND SPECIAL RULE.—For purposes of this section—

"(1) NET COLLECTIONS.—In determining net collections for a taxable year, an appropriate adjustment shall be made for

credits allowed against the tax liability and refunds made of income taxes for the taxable year.

"(2) SPECIFIED POSSESSION.—The term 'specified possession' means Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands.

"(c) TRANSFERS.—The transfers of funds between the United States and any specified possession required by this section shall be made not less frequently than annually.

"(d) FEDERAL PERSONNEL.—In addition to the amount determined under subsection (a), the United States shall pay to each specified possession at such times and in such manner as determined by the Secretary—

"(1) the amount of the taxes deducted and withheld by the United States under chapter 24 with respect to compensation paid to members of the Armed Forces who are stationed in such possession but who have no income tax liability to such possession with respect to such compensation by reason of the Soldiers' and Sailors' Civil Relief Act (50 App. U.S.C. 501 et seq.), and

"(2) the amount of the taxes deducted and withheld under chapter 24 with respect to amounts paid for services performed as an employee of the United States (or any agency thereof) in a specified possession with respect to an individual unless section 931 or 932(c) applies.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section and sections 931 and 932, including regulations prohibiting the rebate of taxes covered over which are allocable to United States source income and prescribing the information which the individuals to whom such sections may apply shall furnish to the Secretary."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter D of chapter 78 is amended by striking out the item relating to section 7654 and inserting in lieu thereof the following:

"Sec. 7654. Coordination of United States and certain possession individual income taxes."

PART IV—EFFECTIVE DATE

SEC. 1277. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to taxable years beginning after December 31, 1986.

(b) SPECIAL RULE FOR GUAM, AMERICAN SAMOA, AND THE NORTHERN MARIANA ISLANDS.—The amendments made by this subtitle shall apply with respect to Guam, American Samoa, or the Northern Mariana Islands (and to residents thereof and corporations created or organized therein) only if (and so long as) an implementing agreement under section 1271 is in effect between the United States and such possession.

(c) SPECIAL RULES FOR THE VIRGIN ISLANDS.—

(1) IN GENERAL.—The amendments made by section 1275(c) shall apply with respect to the Virgin Islands (and residents thereof and corporations created or organized therein) only if (and so long as) an implementing agreement is in effect between the United States and the Virgin Islands with respect to the

establishment of rules under which the evasion or avoidance of United States income tax shall not be permitted or facilitated by such possession. Any such implementing agreement shall be executed on behalf of the United States by the Secretary of the Treasury, after consultation with the Secretary of the Interior.

(2) SECTION 1275(b).—

(A) IN GENERAL.—The amendment made by section 1275(b) shall apply with respect to—

(i) any taxable year beginning after December 31, 1986, and

(ii) any pre-1987 open year.

(B) SPECIAL RULES.—In the case of any pre-1987 open year—

(i) the amendment made by section 1275(b) shall not apply to income from sources in the Virgin Islands or income effectively connected with the conduct of a trade or business in the Virgin Islands, and

(ii) the taxpayer shall be allowed a credit—

(I) against any additional tax imposed by subtitle A of the Internal Revenue Code of 1954 (by reason of the amendment made by section 1275(b)) on income not described in clause (i),

(II) for any tax paid to the Virgin Islands before the date of the enactment of this Act and attributable to such income.

For purposes of clause (ii)(II), any tax paid before January 1, 1987, pursuant to a process in effect before August 16, 1986, shall be treated as paid before the date of the enactment of this Act.

(C) PRE-1987 OPEN YEAR.—For purposes of this paragraph, the term "pre-1987 open year" means any taxable year beginning before January 1, 1987, if on the date of the enactment of this Act the assessment of a deficiency of income tax for such taxable year is not barred by any law or rule of law.

(D) EXCEPTION.—In the case of any pre-1987 open year, the amendment made by section 1275(b) shall not apply to any domestic corporation if—

(i) during the fiscal year which ended May 31, 1986, such corporation was actively engaged directly or through a subsidiary in the conduct of a trade or business in the Virgin Islands and such trade or business consists of business related to marine activities, and

(ii) such corporation was incorporated on March 31, 1983, in Delaware.

(E) EXCEPTION FOR CERTAIN TRANSACTIONS.—

(i) IN GENERAL.—In the case of any pre-1987 open year, the amendment made by section 1275(b) shall not apply to any income derived from transactions described in clause (ii) by 1 or more corporations which were formed in Delaware on or about March 6, 1981, and which have owned 1 or more office buildings in St. Thomas, United States Virgin Islands, for at least 5 years before the date of the enactment of this Act.

(ii) DESCRIPTION OF TRANSACTIONS.—The transactions described in this clause are—

(I) the redemptions of limited partnership interests for cash and property described in an agreement (as amended) dated March 12, 1981,

(II) the subsequent disposition of the properties distributed in such redemptions, and

(III) interest earned before January 1, 1987, on bank deposits of proceeds received from such redemptions to the extent such deposits are located in the United States Virgin Islands.

(iii) LIMITATION.—The aggregate reduction in tax by reason of this subparagraph shall not exceed $8,312,000. If the taxes which would be payable as the result of the application of the amendment made by section 1275(b) to pre-1987 open years exceeds the limitation of the preceding sentence, such excess shall be treated as attributable to income received in taxable years in reverse chronological order.

(d) REPORT ON IMPLEMENTING AGREEMENTS.—If, during the 1-year period beginning on the date of the enactment of this Act, any implementing agreement described in subsection (b) or (c) is not executed, the Secretary of the Treasury or his delegate shall report to the Committee on Finance of the United States Senate, the Committee on Ways and Means, and the Committee on Interior and Insular Affairs of the House of Representatives with respect to—

(1) the status of such negotiations, and

(2) the reason why such agreement has not been executed.

(e) TREATMENT OF CERTAIN UNITED STATES PERSONS.—Except as otherwise provided in regulations prescribed by the Secretary of the Treasury or his delegate, if a United States person becomes a resident of Guam, American Samoa, or the Northern Mariana Islands, the rules of section 877(c) of the Internal Revenue Code of 1954 shall apply to such person during the 10-year period beginning when such person became such a resident. The preceding sentence shall apply to dispositions after December 31, 1985, in taxable years ending after such date.

TITLE XIII—TAX-EXEMPT BONDS

Subtitle A—Amendments of Internal Revenue Code of 1954

SEC. 1301. STATE AND LOCAL BONDS.

(a) EXCLUSION FOR INTEREST ON BONDS WHICH MEET CERTAIN REQUIREMENTS.—Section 103 (relating to interest on certain governmental obligations) is amended to read as follows:

"SEC. 103. INTEREST ON STATE AND LOCAL BONDS.

"(a) EXCLUSION.—Except as provided in subsection (b), gross income does not include interest on any State or local bond.

"(b) EXCEPTIONS.—Subsection (a) shall not apply to—

"(1) PRIVATE ACTIVITY BOND WHICH IS NOT A QUALIFIED BOND.—Any private activity bond which is not a qualified bond (within the meaning of section 141).

"(2) ARBITRAGE BOND.—Any arbitrage bond (within the meaning of section 148).

"(3) BOND NOT IN REGISTERED FORM, ETC.—Any bond unless such bond meets the applicable requirements of section 149.

"(c) DEFINITIONS.—For purposes of this section and part IV—

"(1) STATE OR LOCAL BOND.—The term 'State or local bond' means an obligation of a State or political subdivision thereof.

"(2) STATE.—The term 'State' includes the District of Columbia and any possession of the United States."

(b) TAX EXEMPTION REQUIREMENTS FOR STATE AND LOCAL BONDS.—Part IV of subchapter B of chapter 1 (relating to determination of marital status) is amended to read as follows:

"PART IV—TAX EXEMPTION REQUIREMENTS FOR STATE AND LOCAL BONDS

"Subpart A. Private activity bonds.
"Subpart B. Requirements applicable to all State and local bonds.
"Subpart C. Definitions and special rules.

"Subpart A—Private Activity Bonds

"Sec. 141. Private activity bond; qualified bond.
"Sec. 142. Exempt facility bond.
"Sec. 143. Mortgage revenue bonds: qualified mortgage and qualified veterans' mortgage bond.
"Sec. 144. Qualified small issue bond; qualified student loan bond; qualified redevelopment bond.
"Sec. 145. Qualified 501(c)(3) bond.
"Sec. 146. Volume cap.
"Sec. 147. Other requirements applicable to certain private activity bonds.

"SEC. 141. PRIVATE ACTIVITY BOND; QUALIFIED BOND.

"(a) PRIVATE ACTIVITY BOND.—For purposes of this title, the term 'private activity bond' means any bond issued as part of an issue—

"(1) which meets—

"(A) the private business use test of paragraph (1) of subsection (b), and

"(B) the private security or payment test of paragraph (2) of subsection (b), or

"(2) which meets the private loan financing test of subsection (c).

"(b) PRIVATE BUSINESS TESTS.—

"(1) PRIVATE BUSINESS USE TEST.—Except as otherwise provided in this subsection, an issue meets the test of this paragraph if more than 10 percent of the proceeds of the issue are to be used for any private business use.

"(2) PRIVATE SECURITY OR PAYMENT TEST.—Except as otherwise provided in this subsection, an issue meets the test of this paragraph if the payment of the principal of, or the interest on, more than 10 percent of the proceeds of such issue is (under the terms of such issue or any underlying arrangement) directly or indirectly—

"(A) secured by any interest in—

"(i) property used or to be used for a private business use, or

"(ii) payments in respect of such property, or

"(B) to be derived from payments (whether or not to the issuer) in respect of property, or borrowed money, used or to be used for a private business use.

"(3) 5 PERCENT TEST FOR PRIVATE BUSINESS USE NOT RELATED O. DISPROPORTIONATE TO GOVERNMENT USE FINANCED BY THE ISSUE.—

"(A) IN GENERAL.—An issue shall be treated as meeting the tests of paragraphs (1) and (2) if such tests would be met if such paragraphs were applied—

"(i) by substituting '5 percent' for '10 percent' each place it appears, and

"(ii) by taking into account only—

"(I) the proceeds of the issue which are to be used for any private business use which is not related to any government use of such proceeds,

"(II) the disproportionate related business use proceeds of the issue, and

"(III) payments, property, and borrowed money with respect to any use of proceeds described in subclause (I) or (II).

"(B) DISPROPORTIONATE RELATED BUSINESS USE PROCEEDS.—For purposes of subparagraph (A), the disproportionate related business use proceeds of an issue is an amount equal to the aggregate of the excesses (determined under the following sentence) for each private business use of the proceeds of an issue which is related to a government use of such proceeds. The excess determined under this sentence is the excess of—

"(i) the proceeds of the issue which are to be used for the private business use, over

"(ii) the proceeds of the issue which are to be used for the government use to which such private business use relates.

"(4) LOWER LIMITATION FOR CERTAIN OUTPUT FACILITIES.—An issue 5 percent or more of the proceeds of which are to be used with respect to any output facility (other than a facility for the furnishing of water) shall be treated as meeting the tests of paragraphs (1) and (2) if the nonqualified amount with respect to such issue exceeds the excess of—

"(A) $15,000,000, over

"(B) the aggregate nonqualified amounts with respect to all prior tax-exempt issues 5 percent or more of the proceeds of which are or will be used with respect to such facility (or any other facility which is part of the same project).

There shall not be taken into account under subparagraph (B) any bond which is not outstanding at the time of the later issue or which is to be redeemed (other than in an advance refunding) from the net proceeds of the later issue.

"(5) COORDINATION WITH VOLUME CAP WHERE NONQUALIFIED AMOUNT EXCEEDS $15,000,000.—If the nonqualified amount with respect to an issue—

"(A) exceeds $15,000,000, but

"(B) does not exceed the amount which would cause bond which is part of such issue to be treated as a private activity bond without regard to this paragraph,

such bond shall nonetheless be treated as a private activity bond unless the issuer allocates a portion of its volume cap under section 146 to such issue in an amount equal to the excess of such nonqualified amount over $15,000,000.

"(6) PRIVATE BUSINESS USE DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'private business use' means use (directly or indirectly) in a trade or business carried on by any person other than a governmental unit. For purposes of the preceding sentence, use as a member of the general public shall not be taken into account.

"(B) CLARIFICATION OF TRADE OR BUSINESS.—For purposes of the 1st sentence of subparagraph (A), any activity carried on by a person other than a natural person shall be treated as a trade or business.

"(7) GOVERNMENT USE.—The term 'government use' means any use other than a private business use.

"(8) NONQUALIFIED AMOUNT.—For purposes of this subsection, the term 'nonqualified amount' means, with respect to an issue, the lesser of—

"(A) the proceeds of such issue which are to be used for any private business use, or

"(B) the proceeds of such issue with respect to which there are payments (or property or borrowed money) described in paragraph (2).

"(9) EXCEPTION FOR QUALIFIED 501(C)(3) BONDS.—There shall not be taken into account under this subsection or subsection (c) the portion of the proceeds of an issue which (if issued as a separate issue) would be treated as a qualified 501(c)(3) bond if the issuer elects to treat such portion as a qualified 501(c)(3) bond.

"(c) PRIVATE LOAN FINANCING TEST.—

"(1) IN GENERAL.—An issue meets the test of this subsection if the amount of the proceeds of the issue which are to be used (directly or indirectly) to make or finance loans (other than loans described in paragraph (2)) to persons other than governmental units exceeds the lesser of—

"(A) 5 percent of such proceeds, or

"(B) $5,000,000.

"(2) EXCEPTION FOR TAX ASSESSMENT, ETC., LOANS.—For purposes of paragraph (1), a loan is described in this paragraph if such loan—

"(A) enables the borrower to finance any governmental tax or assessment of general application for a specific essential governmental function, or

"(B) is a nonpurpose investment (within the meaning of section 148(f)(6)(A)).

"(d) QUALIFIED BOND.—For purposes of this part, the term 'qualified bond' means any private activity bond if—

"(1) IN GENERAL.—Such bond is—

"(A) an exempt facility bond,

"(B) a qualified mortgage bond,

"(C) a qualified veterans' mortgage bond,

"(D) a qualified small issue bond,

"(E) a qualified student loan bond,

"(F) a qualified redevelopment bond, or

"(G) a qualified 501(c)(3) bond.

"(2) VOLUME CAP.—Such bond is issued as part of an issue which meets the applicable requirements of section 146, and

"(3) OTHER REQUIREMENTS.—Such bond meets the applicable requirements of each subsection of section 147.

"SEC. 142. EXEMPT FACILITY BOND.

"(a) GENERAL RULE.—For purposes of this part, the term 'exempt facility bond' means any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide—

"(1) airports,

"(2) docks and wharves,

"(3) mass commuting facilities,

"(4) facilities for the furnishing of water,

"(5) sewage facilities,

"(6) solid waste disposal facilities,

"(7) qualified residential rental projects,

"(8) facilities for the local furnishing of electric energy or gas,

"(9) local district heating or cooling facilities, or

"(10) qualified hazardous waste facilities.

"(b) SPECIAL EXEMPT FACILITY BOND RULES.—For purposes of subsection (a)—

"(1) CERTAIN FACILITIES MUST BE GOVERNMENTALLY OWNED.—

"(A) IN GENERAL.—A facility shall be treated as described in paragraph (1), (2), or (3) of subsection (a) only if all of the property to be financed by the net proceeds of the issue is to be owned by a governmental unit.

"(B) SAFE HARBOR FOR LEASES AND MANAGEMENT CONTRACTS.—For purposes of subparagraph (A), property leased by a governmental unit shall be treated as owned by such governmental unit if—

"(i) the lessee makes an irrevocable election (binding on the lessee and all successors in interest under the lease) not to claim depreciation or an investment credit with respect to such property,

"(ii) the lease term (as defined in 168(i)(3)) is not more than 80 percent of the reasonably expected economic life of the property (as determined under section 147(b)), and

"(iii) the lessee has no option to purchase the property other than at fair market value (as of the time such option is exercised).

Rules similar to the rules of the preceding sentence shall apply to management contracts and similar types of operating agreements.

"(2) LIMITATION ON OFFICE SPACE.—An office shall not be treated as described in a paragraph of subsection (a) unless—

"(A) the office is located on the premises of a facility described in such a paragraph, and

"(B) not more than a de minimis amount of the functions to be performed at such office is not directly related to the day-to-day operations at such facility.

"(c) AIRPORTS, DOCKS AND WHARVES, AND MASS COMMUTING FACILITIES.—For purposes of subsection (a)—

"(1) STORAGE AND TRAINING FACILITIES.—Storage or training facilities directly related to a facility described in paragraph (1), (2), or (3) of subsection (a) shall be treated as described in the paragraph in which such facility is described.

"(2) EXCEPTION FOR CERTAIN PRIVATE FACILITIES.—Property shall not be treated as described in paragraph (1), (2), or (3) of subsection (a) if such property is described in any of the follow-

ing subparagraphs and is to be used for any private business use (as defined in section 141(b)(6)).

"(A) Any lodging facility.

"(B) Any retail facility (including food and beverage facilities) in excess of a size necessary to serve passengers and employees at the exempt facility.

"(C) Any retail facility (other than parking) for passengers or the general public located outside the exempt facility terminal.

"(D) Any office building for individuals who are not employees of a governmental unit or of the operating authority for the exempt facility.

"(E) Any industrial park or manufacturing facility.

"(d) QUALIFIED RESIDENTIAL RENTAL PROJECT.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified residential rental project' means any project for residential rental property if, at all times during the qualified project period, such project meets the requirements of subparagraph (A) or (B), whichever is elected by the issuer at the time of the issuance of the issue with respect to such project:

"(A) 20-50 TEST.—The project meets the requirements of this subparagraph if 20 percent or more of the residential units in such project are occupied by individuals whose income is 50 percent or less of area median gross income.

"(B) 40-60 TEST.—The project meets the requirements of this subparagraph if 40 percent or more of the residential units in such project are occupied by individuals whose income is 60 percent or less of area median gross income.

For purposes of this paragraph, any property shall not be treated as failing to be residential rental property merely because part of the building in which such property is located is used for purposes other than residential rental purposes.

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) QUALIFIED PROJECT PERIOD.—The term 'qualified project period' means the period beginning on the 1st day on which 10 percent of the residential units in the project are occupied and ending on the latest of—

"(i) the date which is 15 years after the date on which 50 percent of the residential units in the project are occupied,

"(ii) the 1st day on which no tax-exempt private activity bond issued with respect to the project is outstanding, or

"(iii) the date on which any assistance provided with respect to the project under section 8 of the United States Housing Act of 1937 terminates.

"(B) INCOME OF INDIVIDUALS; AREA MEDIAN GROSS INCOME.—The income of individuals and area median gross income shall be determined by the Secretary in a manner consistent with determinations of lower income families and area median gross income under section 8 of the United States Housing Act of 1937 (or, if such program is terminated, under such program as in effect immediately before such termination). Determinations under the preceding sentence shall include adjustments for family size.

"(3) CURRENT INCOME DETERMINATIONS.—For purposes of this subsection—

"(A) IN GENERAL.—The determination of whether the income of a resident of a unit in a project exceeds the applicable income limit shall be made at least annually on the basis of the current income of the resident.

"(B) CONTINUING RESIDENT'S INCOME MAY INCREASE ABOVE THE APPLICABLE LIMIT.—If the income of a resident of a unit in a project did not exceed the applicable income limit upon commencement of such resident's occupancy of such unit (or as of any prior determination under subparagraph (A)), the income of such resident shall be treated as continuing to not exceed the applicable income limit. The preceding sentence shall cease to apply to any resident whose income as of the most recent determination under subparagraph (A) exceeds 140 percent of the applicable income limit if after such determination, but before the next determination, any residential unit of comparable or smaller size in the same project is occupied by a new resident whose income exceeds the applicable income limit.

"(4) SPECIAL RULE IN CASE OF DEEP RENT SKEWING.—

"(A) IN GENERAL.—In the case of any project described in subparagraph (B), the 2d sentence of subparagraph (B) of paragraph (3) shall be applied by substituting—

"(i) '170 percent' for '140 percent', and

"(ii) 'any low-income unit in the same project is occupied by a new resident whose income exceeds 40 percent of area median gross income' for 'any residential unit of comparable or smaller size in the same project is occupied by a new resident whose income exceeds the applicable income limit'.

"(B) DEEP RENT SKEWED PROJECT.—A project is described in this subparagraph if the owner of the project elects to have this paragraph apply and, at all times during the qualified project period, such project meets the requirements of clauses (i), (ii), and (iii):

"(i) The project meets the requirements of this clause if 15 percent or more of the low-income units in the project are occupied by individuals whose income is 40 percent or less of area median gross income.

"(ii) The project meets the requirements of this clause if the gross rent with respect to each low-income unit in the project does not exceed 30 percent of the applicable income limit which applies to individuals occupying the unit.

"(iii) The project meets the requirements of this clause if the gross rent with respect to each low-income unit in the project does not exceed ⅓ of the average rent with respect to units of comparable size which are not occupied by individuals who meet the applicable income limit.

"(C) DEFINITIONS APPLICABLE TO SUBPARAGRAPH (B).—For purposes of subparagraph (B)—

"(i) LOW-INCOME UNIT.—The term 'low-income unit' means any unit which is required to be occupied by individuals who meet the applicable income limit.

"(ii) GROSS RENT.—The term 'gross rent' includes—

"(I) any payment under section 8 of the United States Housing Act of 1937, and

"(II) any utility allowance determined by the Secretary after taking into account such determinations under such section 8.

"(5) APPLICABLE INCOME LIMIT.—For purposes of paragraphs (3) and (4), the term 'applicable income limit' means—

"(A) the limitation under subparagraph (A) or (B) of paragraph (1) which applies to the project, or

"(B) in the case of a unit to which paragraph (4)(B)(i) applies, the limitation which applies to such unit.

"(6) SPECIAL RULE FOR CERTAIN HIGH COST HOUSING AREA.—In the case of a project located in a city having 5 boroughs and a population in excess of 5,000,000, subparagraph (B) of paragraph (1) shall be applied by substituting '25 percent' for '40 percent'.

"(7) CERTIFICATION TO SECRETARY.—The operator of any project with respect to which an election was made under this subsection shall submit to the Secretary (at such time and in such manner as the Secretary shall prescribe) an annual certification as to whether such project continues to meet the requirements of this subsection. Any failure to comply with the provisions of the preceding sentence shall not affect the tax-exempt status of any bond but shall subject the operator to penalty, as provided in section 6652(j).

"(e) FACILITIES FOR THE FURNISHING OF WATER.—For purposes of subsection (a)(4), the term 'facilities for the furnishing of water' means any facility for the furnishing of water if—

"(1) the water is or will be made available to members of the general public (including electric utility, industrial, agricultural, or commercial users), and

"(2) either the facility is operated by a governmental unit or the rates for the furnishing or sale of the water have been established or approved by a State or political subdivision thereof, by an agency or instrumentality of the United States, or by a public service or public utility commission or other similar body of any State or political subdivision thereof.

"(f) LOCAL FURNISHING OF ELECTRIC ENERGY OR GAS.—For purposes of subsection (a)(8), the local furnishing of electric energy or gas from a facility shall only include furnishing solely within the area consisting of—

"(1) a city and 1 contiguous county, or

"(2) 2 contiguous counties.

"(g) LOCAL DISTRICT HEATING OR COOLING FACILITY.—

"(1) IN GENERAL.—For purposes of subsection (a)(9), the term 'local district heating or cooling facility' means property used as an integral part of a local district heating or cooling system.

"(2) LOCAL DISTRICT HEATING OR COOLING SYSTEM.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'local district heating or cooling system' means any local system consisting of a pipeline or network (which may be connected to a heating or cooling source) providing hot water, chilled water, or steam to 2 or more users for—

"(i) residential, commercial, or industrial heating or cooling, or

"(ii) process steam.

"(B) LOCAL SYSTEM.—For purposes of this paragraph, a local system includes facilities furnishing heating and cooling to an area consisting of a city and 1 contiguous county.

"(h) QUALIFIED HAZARDOUS WASTE FACILITIES.—For purposes of subsection (a)(10), the term 'qualified hazardous waste facility' means any facility for the disposal of hazardous waste by incineration or entombment but only if—

"(1) the facility is subject to final permit requirements under subtitle C of title II of the Solid Waste Disposal Act (as in effect on the date of the enactment of the Tax Reform Act of 1986), and

"(2) the portion of such facility which is to be provided by the issue does not exceed the portion of the facility which is to be used by persons other than—

"(A) the owner or operator of such facility, and

"(B) any related person (within the meaning of section 144(a)(3)) to such owner or operator.

"SEC. 143. MORTGAGE REVENUE BONDS: QUALIFIED MORTGAGE BOND AND QUALIFIED VETERANS' MORTGAGE BOND.

"(a) QUALIFIED MORTGAGE BOND.—

"(1) QUALIFIED MORTGAGE BOND DEFINED.—

"(A) IN GENERAL.—For purposes of this title, the term 'qualified mortgage bond' means a bond which is issued as part of a qualified mortgage issue.

"(B) TERMINATION ON DECEMBER 31, 1988.—No bond issued after December 31, 1988, may be treated as a qualified mortgage bond.

"(2) QUALIFIED MORTGAGE ISSUE DEFINED.—

"(A) DEFINITION.—For purposes of this title, the term 'qualified mortgage issue' means an issue by a State or political subdivision thereof of 1 or more bonds, but only if—

"(i) all proceeds of such issue (exclusive of issuance costs and a reasonably required reserve) are to be used to finance owner-occupied residences,

"(ii) such issue meets the requirements of subsections (c), (d), (e), (f), (g), (h), and (i), and

"(iii) no bond which is part of such issue meets the private business tests of paragraphs (1) and (2) of section 141(b).

"(B) GOOD FAITH EFFORT TO COMPLY WITH MORTGAGE ELIGIBILITY REQUIREMENTS.—An issue which fails to meet 1 or more of the requirements of subsections (c), (d), (e), (f), and (i) shall be treated as meeting such requirements if—

"(i) the issuer in good faith attempted to meet all such requirements before the mortgages were executed,

"(ii) 95 percent or more of the proceeds devoted to owner-financing was devoted to residences with respect to which (at the time the mortgages were executed) all such requirements were met, and

"(iii) any failure to meet the requirements of such subsections is corrected within a reasonable period after such failure is first discovered.

"(C) GOOD FAITH EFFORT TO COMPLY WITH OTHER REQUIREMENTS.—An issue which fails to meet 1 or more of the

requirements of subsections (g) and (h) shall be treated as meeting such requirements if—

"(i) the issuer in good faith attempted to meet all such requirements, and

"(ii) any failure to meet such requirements is due to inadvertent error after taking reasonable steps to comply with such requirements.

"(b) QUALIFIED VETERANS' MORTGAGE BOND DEFINED.—For purposes of this part, the term 'qualified veterans' mortgage bond' means any bond—

"(1) which is issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide residences for veterans,

"(2) the payment of the principal and interest on which is secured by the general obligation of a State,

"(3) which is part of an issue which meets the requirements of subsections (c), (g), (i)(1), and (l), and

"(4) which does not meet the private business tests of paragraphs (1) and (2) of section 141(b).

Rules similar to the rules of subparagraphs (B) and (C) of subsection (a)(2) shall apply to the requirements specified in paragraph (3) of this subsection.

"(c) RESIDENCE REQUIREMENTS.—

"(1) FOR A RESIDENCE.—A residence meets the requirements of this subsection only if—

"(A) it is a single-family residence which can reasonably be expected to become the principal residence of the mortgagor within a reasonable time after the financing is provided, and

"(B) it is located within the jurisdiction of the authority issuing the bond.

"(2) FOR AN ISSUE.—An issue meets the requirements of this subsection only if all of the residences for which owner-financing is provided under the issue meet the requirements of paragraph (1).

"(d) 3-YEAR REQUIREMENT.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if 95 percent or more of the net proceeds of such issue are used to finance the residences of mortgagors who had no present ownership interest in their principal residences at any time during the 3-year period ending on the date their mortgage is executed.

"(2) EXCEPTIONS.—For purposes of paragraph (1), the proceeds of an issue which are used to provide—

"(A) financing with respect to targeted area residences, and

"(B) qualified home improvement loans and qualified rehabilitation loans,

shall be treated as used as described in paragraph (1).

"(3) MORTGAGOR'S INTEREST IN RESIDENCE BEING FINANCED.—For purposes of paragraph (1), a mortgagor's interest in the residence with respect to which the financing is being provided shall not be taken into account.

"(e) PURCHASE PRICE REQUIREMENT.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if the acquisition cost of each residence the owner-financing of which is provided under the issue does not

exceed 90 percent of the average area purchase price applicable to such residence.

"(2) AVERAGE AREA PURCHASE PRICE.—For purposes of paragraph (1), the term 'average area purchase price' means, with respect to any residence, the average purchase price of single family residences (in the statistical area in which the residence is located) which were purchased during the most recent 12-month period for which sufficient statistical information is available. The determination under the preceding sentence shall be made as of the date on which the commitment to provide the financing is made (or, if earlier, the date of the purchase of the residence).

"(3) SEPARATE APPLICATION TO NEW RESIDENCES AND OLD RESIDENCES.—For purposes of this subsection, the determination of average area purchase price shall be made separately with respect to—

"(A) residences which have not been previously occupied, and

"(B) residences which have been previously occupied.

"(4) SPECIAL RULE FOR 2 TO 4 FAMILY RESIDENCES.—For purposes of this subsection, to the extent provided in regulations, the determination of average area purchase price shall be made separately with respect to 1 family, 2 family, 3 family, and 4 family residences.

"(5) SPECIAL RULE FOR TARGETED AREA RESIDENCES.—In the case of a targeted area residence, paragraph (1) shall be applied by substituting '110 percent' for '90 percent'.

"(6) EXCEPTION FOR QUALIFIED HOME IMPROVEMENT LOANS.—Paragraph (1) shall not apply with respect to any qualified home improvement loan.

"(f) INCOME REQUIREMENTS.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if all owner-financing provided under the issue is provided for mortgagors whose family income is 115 percent or less of the applicable median family income.

"(2) DETERMINATION OF FAMILY INCOME.—For purposes of this subsection, the family income of mortgagors, and area median gross income, shall be determined by the Secretary after taking into account the regulations prescribed under section 8 of the United States Housing Act of 1937 (or, if such program is terminated, under such program as in effect immediately before such termination).

"(3) SPECIAL RULE FOR APPLYING PARAGRAPH (1) IN THE CASE OF TARGETED AREA RESIDENCES.—In the case of any financing provided under any issue for targeted area residences—

"(A) ⅓ of the amount of such financing may be provided without regard to paragraph (1), and

"(B) paragraph (1) shall be treated as satisfied with respect to the remainder of the owner financing if the family income of the mortgagor is 140 percent or less of the applicable median family income.

"(4) APPLICABLE MEDIAN FAMILY INCOME.—For purposes of this subsection, the term 'applicable median family income' means, with respect to a residence, whichever of the following is the greater:

"(A) the area median gross income for the area in which such residence is located, or

"(B) the statewide median gross income for the State in which such residence is located.

"(g) REQUIREMENTS RELATED TO ARBITRAGE.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if such issue meets the requirements of paragraphs (2) and (3) of this subsection. Such requirements shall be in addition to the requirements of section 148 (other than subsection (f) thereof).

"(2) EFFECTIVE RATE OF MORTGAGE INTEREST CANNOT EXCEED BOND YIELD BY MORE THAN 1.125 PERCENTAGE POINTS.—

"(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph only if the excess of—

"(i) the effective rate of interest on the mortgages provided under the issue, over

"(ii) the yield on the issue,

is not greater than 1.125 percentage points.

"(B) EFFECTIVE RATE OF MORTGAGE INTEREST.—

"(i) IN GENERAL.—In determining the effective rate of interest on any mortgage for purposes of this paragraph, there shall be taken into account all fees, charges, and other amounts borne by the mortgagor which are attributable to the mortgage or to the bond issue.

"(ii) SPECIFICATION OF SOME OF THE AMOUNTS TO BE TREATED AS BORNE BY THE MORTGAGOR.—For purposes of clause (i), the following items (among others) shall be treated as borne by the mortgagor:

"(I) all points or similar charges paid by the seller of the property, and

"(II) the excess of the amounts received from any person other than the mortgagor by any person in connection with the acquisition of the mortgagor's interest in the property over the usual and reasonable acquisition costs of a person acquiring like property where owner-financing is not provided through the use of qualified mortgage bonds or qualified veterans' mortgage bonds.

"(iii) SPECIFICATION OF SOME OF THE AMOUNTS TO BE TREATED AS NOT BORNE BY THE MORTGAGOR.—For purposes of clause (i), the following items shall not be taken into account:

"(I) any expected rebate of arbitrage profits, and

"(II) any application fee, survey fee, credit report fee, insurance charge, or similar amount to the extent such amount does not exceed amounts charged in such area in cases where owner-financing is not provided through the use of qualified mortgage bonds or qualified veterans' mortgage bonds.

Subclause (II) shall not apply to origination fees, points, or similar amounts.

"(iv) PREPAYMENT ASSUMPTIONS.—In determining the effective rate of interest—

"(I) it shall be assumed that the mortgage prepayment rate will be the rate set forth in the most recent applicable mortgage maturity experi-

ence table published by the Federal Housing Administration, and

"(II) prepayments of principal shall be treated as received on the last day of the month in which the issuer reasonably expects to receive such prepayments.

"(C) YIELD ON THE ISSUE.—For purposes of this subsection, the yield on an issue shall be determined on the basis of—

"(i) the issue price (within the meaning of sections 1273 and 1274), and

"(ii) an expected maturity for the bonds which is consistent with the assumptions required under subparagraph (B)(iv).

"(3) ARBITRAGE AND INVESTMENT GAINS TO BE USED TO REDUCE COSTS OF OWNER-FINANCING.—

"(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph only if an amount equal to the sum of—

"(i) the excess of—

"(I) the amount earned on all nonpurpose investments (other than investments attributable to an excess described in this clause), over

"(II) the amount which would have been earned if such investments were invested at a rate equal to the yield on the issue, plus

"(ii) any income attributable to the excess described in clause (i),

is paid or credited to the mortgagors as rapidly as may be practicable.

"(B) INVESTMENT GAINS AND LOSSES.—For purposes of subparagraph (A), in determining the amount earned on all nonpurpose investments, any gain or loss on the disposition of such investments shall be taken into account.

"(C) REDUCTION WHERE ISSUER DOES NOT USE FULL 1.125 PERCENTAGE POINTS UNDER PARAGRAPH (2).—

"(i) IN GENERAL.—The amount required to be paid or credited to mortgagors under subparagraph (A) (determined under this paragraph without regard to this subparagraph) shall be reduced by the unused paragraph (2) amount.

"(ii) UNUSED PARAGRAPH (2) AMOUNT.—For purposes of clause (i), the unused paragraph (2) amount is the amount which (if it were treated as an interest payment made by mortgagors) would result in the excess referred to in paragraph (2)(A) being equal to 1.125 percentage points. Such amount shall be fixed and determined as of the yield determination date.

"(D) ELECTION TO PAY UNITED STATES.—Subparagraph (A) shall be satisfied with respect to any issue if the issuer elects before issuing the bonds to pay over to the United States—

"(i) not less frequently than once each 5 years after the date of issue, an amount equal to 90 percent of the aggregate amount which would be required to be paid or credited to mortgagors under subparagraph (A) (and not theretofore paid to the United States), and

"(ii) not later than 60 days after the redemption of the last bond, 100 percent of such aggregate amount not theretofore paid to the United States.

"(E) SIMPLIFIED ACCOUNTING.—The Secretary shall permit any simplified system of accounting for purposes of this paragraph which the issuer establishes to the satisfaction of the Secretary will assure that the purposes of this paragraph are carried out.

"(F) NONPURPOSE INVESTMENT.—For purposes of this paragraph, the term 'nonpurpose investment' has the meaning given such term by section 148(f)(6)(A).

"(h) PORTION OF LOANS REQUIRED TO BE PLACED IN TARGETED AREAS.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if at least 20 percent of the proceeds of the issue which are devoted to providing owner-financing is made available (with reasonable diligence) for owner-financing of targeted area residences for at least 1 year after the date on which owner-financing is first made available with respect to targeted area residences.

"(2) LIMITATION.—Nothing in paragraph (1) shall be treated as requiring the making available of an amount which exceeds 40 percent of the average annual aggregate principal amount of mortgages executed during the immediately preceding 3 calendar years for single-family, owner-occupied residences located in targeted areas within the jurisdiction of the issuing authority.

"(i) OTHER REQUIREMENTS.—

"(1) MORTGAGES MUST BE NEW MORTGAGES.—

"(A) IN GENERAL.—An issue meets the requirements of this subsection only if no part of the proceeds of such issue is used to acquire or replace existing mortgages.

"(B) EXCEPTIONS.—Under regulations prescribed by the Secretary, the replacement of—

"(i) construction period loans,

"(ii) bridge loans or similar temporary initial financing, and

"(iii) in the case of a qualified rehabilitation, an existing mortgage,

shall not be treated as the acquisition or replacement of an existing mortgage for purposes of subparagraph (A).

"(2) CERTAIN REQUIREMENTS MUST BE MET WHERE MORTGAGE IS ASSUMED.—An issue meets the requirements of this subsection only if each mortgage with respect to which owner-financing has been provided under such issue may be assumed only if the requirements of subsections (c), (d), and (e), and the requirements of paragraph (1) or (3)(B) of subsection (f) (whichever applies), are met with respect to such assumption.

"(j) TARGETED AREA RESIDENCES.—

"(1) IN GENERAL.—For purposes of this section, the term 'targeted area residence' means a residence in an area which is either—

"(A) a qualified census tract, or

"(B) an area of chronic economic distress.

"(2) QUALIFIED CENSUS TRACT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualified census tract' means a census tract in which

70 percent or more of the families have income which is 80 percent or less of the statewide median family income.

"(B) DATA USED.—The determination under subparagraph (A) shall be made on the basis of the most recent decennial census for which data are available.

"(3) AREA OF CHRONIC ECONOMIC DISTRESS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'area of chronic economic distress' means an area of chronic economic distress—

"(i) designated by the State as meeting the standards established by the State for purposes of this subsection, and

"(ii) the designation of which has been approved by the Secretary and the Secretary of Housing and Urban Development.

"(B) CRITERIA TO BE USED IN APPROVING STATE DESIGNATIONS.—The criteria used by the Secretary and the Secretary of Housing and Urban Development in evaluating any proposed designation of an area for purposes of this subsection shall be—

"(i) the condition of the housing stock, including the age of the housing and the number of abandoned and substandard residential units,

"(ii) the need of area residents for owner-financing under this section, as indicated by low per capita income, a high percentage of families in poverty, a high number of welfare recipients, and high unemployment rates,

"(iii) the potential for use of owner-financing under this section to improve housing conditions in the area, and

"(iv) the existence of a housing assistance plan which provides a displacement program and a public improvements and services program.

"(k) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) MORTGAGE.—The term 'mortgage' means any owner-financing.

"(2) STATISTICAL AREA.—

"(A) IN GENERAL.—The term 'statistical area' means—

"(i) a metropolitan statistical area, and

"(ii) any county (or the portion thereof) which is not within a metropolitan statistical area.

"(B) METROPOLITAN STATISTICAL AREA.—The term 'metropolitan statistical area' includes the area defined as such by the Secretary of Commerce.

"(C) DESIGNATION WHERE ADEQUATE STATISTICAL INFORMATION NOT AVAILABLE.—For purposes of this paragraph, if there is insufficient recent statistical information with respect to a county (or portion thereof) described in subparagraph (A)(ii), the Secretary may substitute for such county (or portion thereof) another area for which there is sufficient recent statistical information.

"(D) DESIGNATION WHERE NO COUNTY.—In the case of any portion of a State which is not within a county, subparagraphs (A)(ii) and (C) shall be applied by substituting for

'county' an area designated by the Secretary which is the equivalent of a county.

"(3) ACQUISITION COST.—

"(A) IN GENERAL.—The term 'acquisition cost' means the cost of acquiring the residence as a completed residential unit.

"(B) EXCEPTIONS.—The term 'acquisition cost' does not include—

"(i) usual and reasonable settlement or financing costs,

"(ii) the value of services performed by the mortgagor or members of his family in completing the residence, and

"(iii) the cost of land which has been owned by the mortgagor for at least 2 years before the date on which construction of the residence begins.

"(C) SPECIAL RULE FOR QUALIFIED REHABILITATION LOANS.—In the case of a qualified rehabilitation loan, for purposes of subsection (e), the term 'acquisition cost' includes the cost of the rehabilitation.

"(4) QUALIFIED HOME IMPROVEMENT LOAN.—The term 'qualified home improvement loan' means the financing (in an amount which does not exceed $15,000)—

"(A) of alterations, repairs, and improvements on or in connection with an existing residence by the owner thereof, but

"(B) only of such items as substantially protect or improve the basic livability or energy efficiency of the property.

"(5) QUALIFIED REHABILITATION LOAN.—

"(A) IN GENERAL.—The term 'qualified rehabilitation loan' means any owner-financing provided in connection with—

"(i) a qualified rehabilitation, or

"(ii) the acquisition of a residence with respect to which there has been a qualified rehabilitation,

but only if the mortgagor to whom such financing is provided is the first resident of the residence after the completion of the rehabilitation.

"(B) QUALIFIED REHABILITATION.—For purposes of subparagraph (A), the term 'qualified rehabilitation' means any rehabilitation of a building if—

"(i) there is a period of at least 20 years between the date on which the building was first used and the date on which the physical work on such rehabilitation begins,

"(ii) in the rehabilitation process—

"(I) 50 percent or more of the existing external walls of such building are retained in place as external walls,

"(II) 75 percent or more of the existing external walls of such building are retained in place as internal or external walls, and

"(III) 75 percent or more of the existing internal structural framework of such building is retained in place, and

"(iii) the expenditures for such rehabilitation are 25 percent or more of the mortgagor's adjusted basis in the residence.

For purposes of clause (iii), the mortgagor's adjusted basis shall be determined as of the completion of the rehabilitation or, if later, the date on which the mortgagor acquires the residence.

"(6) DETERMINATIONS ON ACTUARIAL BASIS.—All determinations of yield, effective interest rates, and amounts required to be paid or credited to mortgagors or paid to the United States under subsection (g) shall be made on an actuarial basis taking into account the present value of money.

"(7) SINGLE-FAMILY AND OWNER-OCCUPIED RESIDENCES INCLUDE CERTAIN RESIDENCES WITH 2 TO 4 UNITS.—Except for purposes of subsection (h)(2), the terms 'single-family' and 'owner-occupied', when used with respect to residences, include 2, 3, or 4 family residences—

"(A) one unit of which is occupied by the owner of the units, and

"(B) which were first occupied at least 5 years before the mortgage is executed.

"(8) COOPERATIVE HOUSING CORPORATIONS.—

"(A) IN GENERAL.—In the case of any cooperative housing corporation—

"(i) each dwelling unit shall be treated as if it were actually owned by the person entitled to occupy such dwelling unit by reason of his ownership of stock in the corporation, and

"(ii) any indebtedness of the corporation allocable to the dwelling unit shall be treated as if it were indebtedness of the shareholder entitled to occupy the dwelling unit.

"(B) ADJUSTMENT TO TARGETED AREA REQUIREMENT.—In the case of any issue to provide financing to a cooperative housing corporation with respect to cooperative housing not located in a targeted area, to the extent provided in regulations, such issue may be combined with 1 or more other issues for purposes of determining whether the requirements of subsection (h) are met.

"(C) COOPERATIVE HOUSING CORPORATION.—The term 'cooperative housing corporation' has the meaning given to such term by section 216(b)(1).

"(9) TREATMENT OF LIMITED EQUITY COOPERATIVE HOUSING.—

"(A) TREATMENT AS RESIDENTIAL RENTAL PROPERTY.—Except as provided in subparagraph (B), for purposes of this part—

"(i) any limited equity cooperative housing shall be treated as residential rental property and not as owner-occupied housing, and

"(ii) bonds issued to provide such housing shall be subject to the same requirements and limitations as bonds the proceeds of which are to be used to provide qualified residential rental projects (as defined in section 142(d)).

"(B) BONDS SUBJECT TO QUALIFIED MORTGAGE BOND TERMINATION DATE.—Subparagraph (A) shall not apply to any bond issued after the date specified in subsection (a)(1)(B).

"(C) LIMITED EQUITY COOPERATIVE HOUSING.—For purposes of this paragraph, the term 'limited equity cooperative housing' means any dwelling unit which a person is entitled to occupy by reason of his ownership of stock in a qualified cooperative housing corporation.

"(D) QUALIFIED COOPERATIVE HOUSING CORPORATION.—For purposes of this paragraph, the term 'qualified cooperative housing corporation' means any cooperative housing corporation (as defined in section 216(b)(1)) if—

"(i) the consideration paid for stock held by any stockholder entitled to occupy any house or apartment in a building owned or leased by the corporation may not exceed the sum of—

"(I) the consideration paid for such stock by the first such stockholder, as adjusted by a cost-of-living adjustment determined by the Secretary,

"(II) payments made by any stockholder for improvements to such house or apartment, and

"(III) payments (other than amounts taken into account under subclause (I) or (II)) attributable to any stockholder to amortize the principal of the corporation's indebtedness arising from the acquisition or development of real property, including improvements thereof,

"(ii) the value of the corporation's assets (reduced by any corporate liabilities), to the extent such value exceeds the combined transfer values of the outstanding corporate stock, shall be used only for public benefit or charitable purposes, or directly to benefit the corporation itself, and shall not be used directly to benefit any stockholder, and

"(iii) at the time of issuance of the issue, such corporation makes an election under this paragraph.

"(E) EFFECT OF ELECTION.—If a cooperative housing corporation makes an election under this paragraph, section 216 shall not apply with respect to such corporation (or any successor thereof) during the qualified project period (as defined in section 142(d)(2)).

"(F) CORPORATION MUST CONTINUE TO BE QUALIFIED COOPERATIVE.—Subparagraph (A)(i) shall not apply to limited equity cooperative housing unless the cooperative housing corporation continues to be a qualified cooperative housing corporation at all times during the qualified project period (as defined in section 142(d)(2)).

"(G) ELECTION IRREVOCABLE.—Any election under this paragraph, once made, shall be irrevocable.

"(l) ADDITIONAL REQUIREMENTS FOR QUALIFIED VETERANS' MORTGAGE BONDS.—An issue meets the requirements of this subsection only if it meets the requirements of paragraphs (1), (2), and (3).

"(1) VETERANS TO WHOM FINANCING MAY BE PROVIDED.—An issue meets the requirements of this paragraph only if each mortgagor to whom financing is provided under the issue is a qualified veteran.

"(2) REQUIREMENT THAT STATE PROGRAM BE IN EFFECT BEFORE JUNE 22, 1984.—An issue meets the requirements of this paragraph only if it is a general obligation of a State which issued qualified veterans' mortgage bonds before June 22, 1984.

"(3) VOLUME LIMITATION.—

"(A) IN GENERAL.—An issue meets the requirements of this paragraph only if the aggregate amount of bonds issued pursuant thereto (when added to the aggregate amount of qualified veterans' mortgage bonds previously issued by the State during the calendar year) does not exceed the State veterans limit for such calendar year.

"(B) STATE VETERANS LIMIT.—A State veterans limit for any calendar year is the amount equal to—

"(i) the aggregate amount of qualified veterans bonds issued by such State during the period beginning on January 1, 1979, and ending on June 22, 1984 (not including the amount of any qualified veterans bond issued by such State during the calendar year (or portion thereof) in such period for which the amount of such bonds so issued was the lowest), divided by

"(ii) the number (not to exceed 5) of calendar years after 1979 and before 1985 during which the State issued qualified veterans bonds (determined by only taking into account bonds issued on or before June 22, 1984).

"(C) TREATMENT OF REFUNDING ISSUES.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the term 'qualified veterans' mortgage bond' shall not include any bond issued to refund another bond but only if the maturity date of the refunding bond is not later than the later of—

"(I) the maturity date of the bond to be refunded, or

"(II) the date 32 years after the date on which the refunded bond was issued (or in the case of a series of refundings, the date on which the original bond was issued).

The preceding sentence shall apply only to the extent that the amount of the refunding bond does not exceed the outstanding amount of the refunded bond.

"(ii) EXCEPTION FOR ADVANCE REFUNDING.—Clause (i) shall not apply to any bond issued to advance refund another bond.

"(4) QUALIFIED VETERAN.—For purposes of this subsection, the term 'qualified veteran' means any veteran—

"(A) who served on active duty at some time before January 1, 1977, and

"(B) who applied for the financing before the later of—

"(i) the date 30 years after the last date on which such veteran left active service, or

"(ii) January 31, 1985.

"(5) SPECIAL RULE FOR CERTAIN SHORT-TERM BONDS.—In the case of any bond—

"(A) which has a term of 1 year or less,

"(B) which is authorized to be issued under O.R.S. 407.435 (as in effect on the date of the enactment of this subsection), to provide financing for property taxes, and

"(C) which is redeemed at the end of such term,

the amount taken into account under this subsection with respect to such bond shall be 1/15 of its principal amount.

"SEC. 144. QUALIFIED SMALL ISSUE BOND; QUALIFIED STUDENT LOAN BOND; QUALIFIED REDEVELOPMENT BOND.

"(a) QUALIFIED SMALL ISSUE BOND.—

"(1) IN GENERAL.—For purposes of this part, the term 'qualified small issue bond' means any bond issued as part of an issue the aggregate authorized face amount of which is $1,000,000 or less and 95 percent or more of the net proceeds of which are to be used—

"(A) for the acquisition, construction, reconstruction, or improvement of land or property of a character subject to the allowance for depreciation, or

"(B) to redeem part or all of a prior issue which was issued for purposes described in subparagraph (A) or this subparagraph.

"(2) CERTAIN PRIOR ISSUES TAKEN INTO ACCOUNT.—If—

"(A) the proceeds of 2 or more issues of bonds (whether or not the issuer of each such issue is the same) are or will be used primarily with respect to facilities located in the same incorporated municipality or located in the same county (but not in any incorporated municipality),

"(B) the principal user of such facilities is or will be the same person or 2 or more related persons, and

"(C) but for this paragraph, paragraph (1) (or the corresponding provision of prior law) would apply to each such issue,

then, for purposes of paragraph (1), in determining the aggregate face amount of any later issue there shall be taken into account the aggregate face amount of tax-exempt bonds issued under all prior such issues and outstanding at the time of such later issue (not including as outstanding any bond which is to be redeemed (other than in an advance refunding) from the net proceeds of the later issue).

"(3) RELATED PERSONS.—For purposes of this subsection, a person is a related person to another person if—

"(A) the relationship between such persons would result in a disallowance of losses under section 267 or 707(b), or

"(B) such persons are members of the same controlled group of corporations (as defined in section 1563(a), except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears therein).

"(4) $10,000,000 LIMIT IN CERTAIN CASES.—

"(A) IN GENERAL.—At the election of the issuer with respect to any issue, this subsection shall be applied—

"(i) by substituting '$10,000,000' for '$1,000,000' in paragraph (1), and

"(ii) in determining the aggregate face amount of such issue, by taking into account not only the amount described in paragraph (2), but also the aggregate amount of capital expenditures with respect to facilities described in subparagraph (B) paid or incurred during the 6-year period beginning 3 years before the date of such issue and ending 3 years after such date (and financed otherwise than out of the proceeds of outstanding tax-exempt issues to which paragraph (1) (or the corresponding provision of prior law) applied), as if the aggregate amount of such capital expenditures

constituted the face amount of a prior outstanding issue described in paragraph (2).

"(B) FACILITIES TAKEN INTO ACCOUNT.—For purposes of subparagraph (A)(ii), the facilities described in this subparagraph are facilities—

"(i) located in the same incorporated municipality or located in the same county (but not in any incorporated municipality), and

"(ii) the principal user of which is or will be the same person or 2 or more related persons.

For purposes of clause (i), the determination of whether or not facilities are located in the same governmental unit shall be made as of the date of issue of the issue in question.

"(C) CERTAIN CAPITAL EXPENDITURES NOT TAKEN INTO ACCOUNT.—For purposes of subparagraph (A)(ii), any capital expenditure—

"(i) to replace property destroyed or damaged by fire, storm, or other casualty, to the extent of the fair market value of the property replaced,

"(ii) required by a change made after the date of issue of the issue in question in a Federal or State law or local ordinance of general application or required by a change made after such date in rules and regulations of general application issued under such a law or ordinance,

"(iii) required by circumstances which could not be reasonably foreseen on such date of issue or arising out of a mistake of law or fact (but the aggregate amount of expenditures not taken into account under this clause with respect to any issue shall not exceed $1,000,000), or

"(iv) described in clause (i) or (ii) of section 41(b)(2)(A) for which a deduction was allowed under section 174(a),

shall not be taken into account.

"(D) LIMITATION ON LOSS OF TAX EXEMPTION.—In applying subparagraph (A)(ii) with respect to capital expenditures made after the date of any issue, no bond issued as a part of such issue shall cease to be treated as a qualified small issue bond by reason of any such expenditure for any period before the date on which such expenditure is paid or incurred.

"(E) CERTAIN REFINANCING ISSUES.—In the case of any issue described in paragraph (1)(B), an election may be made under subparagraph (A) of this paragraph only if all of the prior issues being redeemed are issues to which paragraph (1) (or the corresponding provision of prior law) applied. In applying subparagraph (A)(ii) with respect to such a refinancing issue, capital expenditures shall be taken into account only for purposes of determining whether the prior issues being redeemed qualified (and would have continued to qualify) under paragraph (1) (or the corresponding provision of prior law).

"(F) AGGREGATE AMOUNT OF CAPITAL EXPENDITURES WHERE THERE IS URBAN DEVELOPMENT ACTION GRANT.—In the case of any issue 95 percent or more of the net proceeds of which are to be used to provide facilities with respect to which an urban development action grant has been made

under section 119 of the Housing and Community Development Act of 1974, capital expenditures of not to exceed $10,000,000 shall not be taken into account for purposes of applying subparagraph (A)(ii).

"(5) ISSUES FOR RESIDENTIAL PURPOSES.—This subsection shall not apply to any bond issued as part of an issue 5 percent or more of the net proceeds of which are to be used directly or indirectly to provide residential real property for family units.

"(6) LIMITATIONS ON TREATMENT OF BONDS AS PART OF THE SAME ISSUE.—

"(A) IN GENERAL.—For purposes of this subsection, separate lots of bonds which (but for this subparagraph) would be treated as part of the same issue shall be treated as separate issues unless the proceeds of such lots are to be used with respect to 2 or more facilities—

"(i) which are located in more than 1 State, or

"(ii) which have, or will have, as the same principal user the same person or related persons.

"(B) FRANCHISES.—For purposes of subparagraph (A), a person (other than a governmental unit) shall be considered a principal user of a facility if such person (or a group of related persons which includes such person)—

"(i) guarantees, arranges, participates in, or assists with the issuance (or pays any portion of the cost of issuance) of any bond the proceeds of which are to be used to finance or refinance such facility, and

"(ii) provides any property, or any franchise, trademark, or trade name (within the meaning of section 1253), which is to be used in connection with such facility.

"(7) SUBSECTION NOT TO APPLY IF BONDS ISSUED WITH CERTAIN OTHER TAX-EXEMPT BONDS.—This subsection shall not apply to any bond issued as part of an issue (other than an issue to which paragraph (4) applies) if the interest on any other bond which is part of such issue is excluded from gross income under any provision of law other than this subsection.

"(8) RESTRICTIONS ON FINANCING CERTAIN FACILITIES.—This subsection shall not apply to an issue if—

"(A) more than 25 percent of the net proceeds of the issue are to be used to provide a facility the primary purpose of which is one of the following: retail food and beverage services, automobile sales or service, or the provision of recreation or entertainment; or

"(B) any portion of the proceeds of the issue is to be used to provide the following: any private or commercial golf course, country club, massage parlor, tennis club, skating facility (including roller skating, skateboard, and ice skating), racquet sports facility (including any handball or racquetball court), hot tub facility, suntan facility, or racetrack.

"(9) AGGREGATION OF ISSUES WITH RESPECT TO SINGLE PROJECT.—For purposes of this subsection, 2 or more issues part or all of the net proceeds of which are to be used with respect to a single building, an enclosed shopping mall, or a strip of offices, stores, or warehouses using substantial common facilities shall be treated as 1 issue (and any person who is a principal user

with respect to any of such issues shall be treated as a principal user with respect to the aggregated issue).

"(10) AGGREGATE LIMIT PER TAXPAYER.—

"(A) IN GENERAL.—This subsection shall not apply to any issue if the aggregate authorized face amount of such issue allocated to any test-period beneficiary (when increased by the outstanding tax-exempt facility-related bonds of such beneficiary) exceeds $40,000,000.

"(B) OUTSTANDING TAX-EXEMPT FACILITY-RELATED BONDS.—

"(i) IN GENERAL.—For purposes of applying subparagraph (A) with respect to any issue, the outstanding tax-exempt facility-related bonds of any person who is a test-period beneficiary with respect to such issue is the aggregate amount of tax-exempt bonds referred to in clause (ii)—

"(I) which are allocated to such beneficiary, and

"(II) which are outstanding at the time of such later issue (not including as outstanding any bond which is to be redeemed (other than in an advance refunding) from the net proceeds of the later issue).

"(ii) BONDS TAKEN INTO ACCOUNT.—For purposes of clause (i), the bonds referred to in this clause are—

"(I) exempt facility bonds, qualified small issue bonds, and qualified redevelopment bonds, and

"(II) industrial development bonds (as defined in section 103(b)(2), as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) to which section 141(a) does not apply.

"(C) ALLOCATION OF FACE AMOUNT OF ISSUE.—

"(i) IN GENERAL.—Except as otherwise provided in regulations, the portion of the face amount of an issue allocated to any test-period beneficiary of a facility financed by the proceeds of such issue (other than an owner of such facility) is an amount which bears the same relationship to the entire face amount of such issue as the portion of such facility used by such beneficiary bears to the entire facility.

"(ii) OWNERS.—Except as otherwise provided in regulations, the portion of the face amount of an issue allocated to any test-period beneficiary who is an owner of a facility financed by the proceeds of such issue is an amount which bears the same relationship to the entire face amount of such issue as the portion of such facility owned by such beneficiary bears to the entire facility.

"(D) TEST-PERIOD BENEFICIARY.—For purposes of this paragraph, except as provided in regulations, the term 'test-period beneficiary' means any person who is an owner or a principal user of facilities being financed by the issue at any time during the 3-year period beginning on the later of—

"(i) the date such facilities were placed in service, or

"(ii) the date of issue.

"(E) TREATMENT OF RELATED PERSONS.—For purposes of this paragraph, all persons who are related (within the meaning of paragraph (3)) to each other shall be treated as 1 person.

"(11) LIMITATION ON ACQUISITION OF DEPRECIABLE FARM PROPERTY.—

"(A) IN GENERAL.—This subsection shall not apply to any issue if more than $250,000 of the net proceeds of such issue are to be used to provide depreciable farm property with respect to which the principal user is or will be the same person or 2 or more related persons.

"(B) DEPRECIABLE FARM PROPERTY.—For purposes of this paragraph, the term 'depreciable farm property' means property of a character subject to the allowance for depreciation which is to be used in a trade or business of farming.

"(C) PRIOR ISSUES TAKEN INTO ACCOUNT.—In determining the amount of proceeds of an issue to be used as described in subparagraph (A), there shall be taken into account the aggregate amount of each prior issue to which paragraph (1) (or the corresponding provisions of prior law) applied which were or will be so used.

"(12) TERMINATION DATES.—

"(A) IN GENERAL.—This subsection shall not apply to—

"(i) any bond (other than a bond described in clause (ii)) issued after December 31, 1986, or

"(ii) any bond issued to refund a bond issued on or before such date unless—

"(I) the refunding bond has a maturity date not later than the maturity date of the refunded bond,

"(II) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond,

"(III) the interest rate on the refunding bond is lower than the interest rate on the refunded bond, and

"(IV) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

"(B) BONDS ISSUED TO FINANCE MANUFACTURING FACILITIES AND FARM PROPERTY.—In the case of any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide—

"(i) any manufacturing facility, or

"(ii) any land or property in accordance with section 147(c)(2),

subparagraph (A) shall be applied by substituting '1989' for '1986'.

"(C) MANUFACTURING FACILITY.—For purposes of this paragraph, the term 'manufacturing facility' means any facility which is used in the manufacturing or production of tangible personal property (including the processing resulting in a change in the condition of such property). A rule similar to the rule of section 142(b)(2) shall apply for purposes of the preceding sentence.

"(b) QUALIFIED STUDENT LOAN BOND.—For purposes of this part—

"(1) IN GENERAL.—The term 'qualified student loan bond' means any bond issued as part of an issue the applicable percentage or more of the net proceeds of which are to be used directly or indirectly to make or finance student loans under—

"(A) a program of general application to which the Higher Education Act of 1965 applies if—

"(i) limitations are imposed under the program on—

"(I) the maximum amount of loans outstanding to any student, and

"(II) the maximum rate of interest payable on any loan,

"(ii) the loans are directly or indirectly guaranteed by the Federal Government,

"(iii) the financing of loans under the program is not limited by Federal law to the proceeds of tax-exempt bonds, and

"(iv) special allowance payments under section 438 of the Higher Education Act of 1965—

"(I) are authorized to be paid with respect to loans made under the program, or

"(II) would be authorized to be made with respect to loans under the program if such loans were not financed with the proceeds of tax-exempt bonds, or

"(B) a program of general application approved by the State to which part B of title IV of the Higher Education Act of 1965 (relating to guaranteed student loans) does not apply if no loan under such program exceeds the difference between the total cost of attendance and other forms of student assistance (not including loans pursuant to section 428B(a)(1) of such Act (relating to parent loans) or subpart I of part C of title VII of the Public Health Service Act (relating to student assistance)) for which the student borrower may be eligible. A bond issued as part of an issue shall be treated as a qualified student loan bond only if no bond which is part of such issue meets the private business tests of paragraphs (1) and (2) of section 141(b).

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means—

"(A) 90 percent in the case of the program described in paragraph (1)(A), and

"(B) 95 percent in the case of the program described in paragraph (1)(B).

"(3) STUDENT BORROWERS MUST BE RESIDENTS OF ISSUING STATE, ETC.—A student loan shall be treated as being made or financed under a program described in paragraph (1) with respect to an issue only if the student is—

"(A) a resident of the State from which the volume cap under section 146 for such loan was derived, or

"(B) enrolled at an educational institution located in such State.

"(4) DISCRIMINATION ON BASIS OF SCHOOL LOCATION NOT PERMITTED.—A program shall not be treated as described in paragraph (1)(A) if such program discriminates on the basis of the location (in the United States) of the educational institution in which the student is enrolled.

"(c) QUALIFIED REDEVELOPMENT BOND.—For purposes of this part—

"(1) IN GENERAL.—The term 'qualified redevelopment bond' means any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used for 1 or more redevelopment purposes in any designated blighted area.

"(2) ADDITIONAL REQUIREMENTS.—A bond shall not be treated as a qualified redevelopment bond unless—

"(A) the issue described in paragraph (1) is issued pursuant to—

"(i) a State law which authorizes the issuance of such bonds for redevelopment purposes in blighted areas, and

"(ii) a redevelopment plan which is adopted before such issuance by the governing body described in paragraph (4)(A) with respect to the designated blighted area,

"(B)(i) the payment of the principal and interest on such issue is primarily secured by taxes of general applicability imposed by a general purpose governmental unit, or

"(ii) any increase in real property tax revenues (attributable to increases in assessed value) by reason of the carrying out of such purposes in such area is reserved exclusively for debt service on such issue (and similar issues) to the extent such increase does not exceed such debt service,

"(C) each interest in real property located in such area—

"(i) which is acquired by a governmental unit with the proceeds of the issue, and

"(ii) which is transferred to a person other than a governmental unit,

is transferred for fair market value,

"(D) the financed area with respect to such issue meets the no additional charge requirements of paragraph (5), and

"(E) the use of the proceeds of the issue meets the requirements of paragraph (6).

"(3) REDEVELOPMENT PURPOSES.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'redevelopment purposes' means, with respect to any designated blighted area—

"(i) the acquisition (by a governmental unit having the power to exercise eminent domain) of real property located in such area,

"(ii) the clearing and preparation for redevelopment of land in such area which was acquired by such governmental unit,

"(iii) the rehabilitation of real property located in such area which was acquired by such governmental unit, and

"(iv) the relocation of occupants of such real property.

"(B) NEW CONSTRUCTION NOT PERMITTED.—The term 'redevelopment purposes' does not include the construction (other than the rehabilitation) of any property or the enlargement of an existing building.

"(4) DESIGNATED BLIGHTED AREA.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'designated blighted area' means any blighted area designated by the governing body of a local general purpose governmental unit in the jurisdiction of which such area is located.

"(B) BLIGHTED AREA.—The term 'blighted area' means any area which the governing body described in subpara-

graph (A) determines to be a blighted area on the basis of the substantial presence of factors such as excessive vacant land on which structures were previously located, abandoned or vacant buildings, substandard structures, vacancies, and delinquencies in payment of real property taxes.

"(C) DESIGNATED AREAS MAY NOT EXCEED 20 PERCENT OF TOTAL ASSESSED VALUE OF REAL PROPERTY IN GOVERNMENT'S JURISDICTION.—

"(i) IN GENERAL.—An area may be designated by a governmental unit as a blighted area only if the designation percentage with respect to such area, when added to the designation percentages of all other designated blighted areas within the jurisdiction of such governmental unit, does not exceed 20 percent.

"(ii) DESIGNATION PERCENTAGE.—For purposes of this subparagraph, the term 'designation percentage' means, with respect to any area, the percentage (determined at the time such area is designated) which the assessed value of real property located in such area is of the total assessed value of all real property located within the jurisdiction of the governmental unit which designated such area.

"(iii) EXCEPTION WHERE BONDS NOT OUTSTANDING.—The designation percentage of a previously designated blighted area shall not be taken into account under clause (i) if no qualified redevelopment bond (or similar bond) is or will be outstanding with respect to such area.

"(D) MINIMUM DESIGNATED AREA.—

"(i) IN GENERAL.—Except as provided in clause (ii), an area shall not be treated as a designated blighted area for purposes of this subsection unless such area is contiguous and compact and its area equals or exceeds 100 acres.

"(ii) 10-ACRE MINIMUM IN CERTAIN CASES.—Clause (i) shall be applied by substituting '10 acres' for '100 acres' if not more than 25 percent of the financed area is to be provided (pursuant to the issue and all other such issues) to 1 person. For purposes of the preceding sentence, all related persons (as defined in subsection (a)(3)) shall be treated as 1 person. For purposes of this clause, an area provided to a developer on a short-term interim basis shall not be treated as provided to such developer.

"(5) NO ADDITIONAL CHARGE REQUIREMENTS.—The financed area with respect to any issue meets the requirements of this paragraph if, while any bond which is part of such issue is outstanding—

"(A) no owner or user of property located in the financed area is subject to a charge or fee which similarly situated owners or users of comparable property located outside such area are not subject, and

"(B) the assessment method or rate of real property taxes with respect to property located in the financed area does not differ from the assessment method or rate of real property taxes with respect to comparable property located outside such area.

For purposes of the preceding sentence, the term 'comparable property' means property which is of the same type as the property to which it is being compared and which is located within the jurisdiction of the designating governmental unit.

"(6) USE OF PROCEEDS REQUIREMENTS.—The use of the proceeds of an issue meets the requirements of this paragraph if—

"(A) not more than 25 percent of the net proceeds of such issue are to be used to provide (including the provision of land for) facilities described in subsection (a)(8) or section 147(e), and

"(B) no portion of the proceeds of such issue is to be used to provide (including the provision of land for) any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises.

"(7) FINANCED AREA.—For purposes of this subsection, the term 'financed area' means, with respect to any issue, the portion of the designated blighted area with respect to which the proceeds of such issue are to be used.

"(8) RESTRICTION ON ACQUISITION OF LAND NOT TO APPLY.—Section 147(c) (other than paragraphs (1)(B) and (2) thereof) shall not apply to any qualified redevelopment bond.

"SEC. 145. QUALIFIED 501(c)(3) BOND.

"(a) IN GENERAL.—For purposes of this part, except as otherwise provided in this section, the term 'qualified 501(c)(3) bond' means any private activity bond issued as part of an issue if—

"(1) all property which is to be provided by the net proceeds of the issue is to be owned by a 501(c)(3) organization or a governmental unit, and

"(2) such bond would not be a private activity bond if—

"(A) 501(c)(3) organizations were treated as governmental units with respect to their activities which do not constitute unrelated trades or businesses, determined by applying section 513(a), and

"(B) paragraphs (1) and (2) of section 141(b) were applied by substituting '5 percent' for '10 percent' each place it appears and by substituting 'net proceeds' for 'proceeds' each place it appears.

"(b) $150,000,000 LIMITATION ON BONDS OTHER THAN HOSPITAL BONDS.—

"(1) IN GENERAL.—A bond (other than a qualified hospital bond) shall not be treated as a qualified 501(c)(3) bond if the aggregate authorized face amount of the issue (of which such bond is a part) allocated to any 501(c)(3) organization which is a test-period beneficiary (when increased by the outstanding tax-exempt nonhospital bonds of such organization) exceeds $150,000,000.

"(2) OUTSTANDING TAX-EXEMPT NONHOSPITAL BONDS.—

"(A) IN GENERAL.—For purposes of applying paragraph (1) with respect to any issue, the outstanding tax-exempt nonhospital bonds of any organization which is a test-period beneficiary with respect to such issue is the aggregate amount of tax-exempt bonds referred to in subparagraph (B)—

"(i) which are allocated to such organization, and

"(ii) which are outstanding at the time of such later issue (not including as outstanding any bond which is to be redeemed (other than in an advance refunding) from the net proceeds of the later issue).

"(B) BONDS TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), the bonds referred to in this subparagraph are—

"(i) any qualified 501(c)(3) bond other than a qualified hospital bond, and

"(ii) any bond to which section 141(a) does not apply if—

"(I) such bond would have been an industrial development bond (as defined in section 103(b), as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) if 501(c)(3) organizations were not exempt persons, and

"(II) such bond was not described in paragraph (4), (5), or (6) of such section 103(b) (as in effect on the date such bond was issued).

"(C) ONLY NONHOSPITAL PORTION OF BONDS TAKEN INTO ACCOUNT.—

"(i) IN GENERAL.—A bond shall be taken into account under subparagraph (B)(ii) only to the extent that the proceeds of the issue of which such bond is a part are not used with respect to a hospital.

"(ii) SPECIAL RULE.—If 90 percent or more of the net proceeds of an issue are used with respect to a hospital, no bond which is part of such issue shall be taken into account under subparagraph (B)(ii).

"(3) AGGREGATION RULE.—For purposes of this subsection, 2 or more organizations under common management or control shall be treated as 1 organization.

"(4) ALLOCATION OF FACE AMOUNT OF ISSUE; TEST-PERIOD BENEFICIARY.—Rules similar to the rules of subparagraphs (C) and (D) of section 144(a)(10) shall apply for purposes of this subsection.

"(c) QUALIFIED HOSPITAL BOND.—For purposes of this section, the term 'qualified hospital bond' means any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used with respect to a hospital.

"(d) ELECTION OUT.—This section shall not apply to an issue if—

"(1) the issuer elects not to have this section apply to such issue, and

"(2) such issue is an issue of exempt facility bonds, or qualified redevelopment bonds, to which section 146 applies.

"SEC. 146. VOLUME CAP.

"(a) GENERAL RULE.—A private activity bond issued as part of an issue meets the requirements of this section if the aggregate face amount of the private activity bonds issued pursuant to such issue, when added to the aggregate face amount of tax-exempt private activity bonds previously issued by the issuing authority during the calendar year, does not exceed such authority's volume cap for such calendar year.

"(b) VOLUME CAP FOR STATE AGENCIES.—For purposes of this section—

"(1) IN GENERAL.—The volume cap for any agency of the State authorized to issue tax-exempt private activity bonds for any calendar year shall be 50 percent of the State ceiling for such calendar year.

"(2) SPECIAL RULE WHERE STATE HAS MORE THAN 1 AGENCY.—If more than 1 agency of the State is authorized to issue tax-exempt private activity bonds, all such agencies shall be treated as a single agency.

"(c) VOLUME CAP FOR OTHER ISSUERS.—For purposes of this section—

"(1) IN GENERAL.—The volume cap for any issuing authority (other than a State agency) for any calendar year shall be an amount which bears the same ratio to 50 percent of the State ceiling for such calendar year as—

"(A) the population of the jurisdiction of such issuing authority, bears to

"(B) the population of the entire State.

"(2) OVERLAPPING JURISDICTIONS.—For purposes of paragraph (1)(A), if an area is within the jurisdiction of 2 or more governmental units, such area shall be treated as only within the jurisdiction of the unit having jurisdiction over the smallest geographical area unless such unit agrees to surrender all or part of such jurisdiction for such calendar year to the unit with overlapping jurisdiction which has the next smallest geographical area.

"(d) STATE CEILING.—For purposes of this section—

"(1) IN GENERAL.—The State ceiling applicable to any State for any calendar year shall be the greater of—

"(A) an amount equal to $75 multiplied by the State population, or

"(B) $250,000,000.

Subparagraph (B) shall not apply to any possession of the United States.

"(2) ADJUSTMENT AFTER 1987.—In the case of calendar years after 1987, paragraph (1) shall be applied by substituting—

"(A) '$50' for '$75', and

"(B) '$150,000,000' for '$250,000,000'.

"(3) SPECIAL RULE FOR STATES WITH CONSTITUTIONAL HOME RULE CITIES.—For purposes of this section—

"(A) IN GENERAL.—The volume cap for any constitutional home rule city for any calendar year shall be determined under paragraph (1) of subsection (c) by substituting '100 percent' for '50 percent'.

"(B) COORDINATION WITH OTHER ALLOCATIONS.—In the case of any State which contains 1 or more constitutional home rule cities, for purposes of applying subsections (b) and (c) with respect to issuing authorities in such State other than constitutional home rule cities, the State ceiling for any calendar year shall be reduced by the aggregate volume caps determined for such year for all constitutional home rule cities in such State.

"(C) CONSTITUTIONAL HOME RULE CITY.—For purposes of this section, the term 'constitutional home rule city' means, with respect to any calendar year, any political subdivision of a State which, under a State constitution which was adopted in 1970 and effective on July 1, 1971, had home rule powers on the 1st day of the calendar year.

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"(4) SPECIAL RULE FOR POSSESSIONS WITH POPULATIONS OF LESS THAN THE POPULATION OF THE LEAST POPULOUS STATE.—

"(A) IN GENERAL.—If the population of any possession of the United States for any calendar year is less than the population of the least populous State (other than a possession) for such calendar year, the limitation under paragraph (1)(A) shall not be less than the amount determined under subparagraph (B) for such calendar year.

"(B) LIMITATION.—The limitation determined under this subparagraph, with respect a possession, for any calendar year is an amount equal to the product of—

"(i) the fraction—

"(I) the numerator of which is the amount applicable under paragraph (1)(B) for such calendar year, and

"(II) the denominator of which is the State population of the least populous State (other than a possession) for such calendar year, and

"(ii) the population of such possession for such calendar year.

"(e) STATE MAY PROVIDE FOR DIFFERENT ALLOCATION.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (3), a State may, by law provide a different formula for allocating the State ceiling among the governmental units (or other authorities) in such State having authority to issue tax-exempt private activity bonds.

"(2) INTERIM AUTHORITY FOR GOVERNOR.—

"(A) IN GENERAL.—Except as otherwise provided in paragraph (3), the Governor of any State may proclaim a different formula for allocating the State ceiling among the governmental units (or other authorities) in such State having authority to issue private activity bonds.

"(B) TERMINATION OF AUTHORITY.—The authority provided in subparagraph (A) shall not apply to bonds issued after the earlier of—

"(i) the last day of the 1st calendar year after 1986 during which the legislature of the State met in regular session, or

"(ii) the effective date of any State legislation with respect to the allocation of the State ceiling.

"(3) STATE MAY NOT ALTER ALLOCATION TO CONSTITUTIONAL HOME RULE CITIES.—Except as otherwise provided in a State constitutional amendment (or law changing the home rule provision adopted in the manner provided by the State constitution), the authority provided in this subsection shall not apply to that portion of the State ceiling which is allocated to any constitutional home rule city in the State unless such city agrees to such different allocation.

"(f) ELECTIVE CARRYFORWARD OF UNUSED LIMITATION FOR SPECIFIED PURPOSE.—

"(1) IN GENERAL.—If—

"(A) an issuing authority's volume cap for any calendar year after 1985, exceeds

"(B) the aggregate amount of tax-exempt private activity bonds issued during such calendar year by such authority,

such authority may elect to treat all (or any portion) of such excess as a carryforward for 1 or more carryforward purposes.

"(2) ELECTION MUST IDENTIFY PURPOSE.—In any election under paragraph (1), the issuing authority shall—

"(A) identify the purpose for which the carryforward is elected, and

"(B) specify the portion of the excess described in paragraph (1) which is to be a carryforward for each such purpose.

"(3) USE OF CARRYFORWARD.—

"(A) IN GENERAL.—If any issuing authority elects a carryforward under paragraph (1) with respect to any carryforward purpose, any private activity bonds issued by such authority with respect to such purpose during the 3 calendar years following the calendar year in which the carryforward arose shall not be taken into account under subsection (a) to the extent the amount of such bonds does not exceed the amount of the carryforward elected for such purpose.

"(B) ORDER IN WHICH CARRYFORWARD USED.—Carryforwards elected with respect to any purpose shall be used in the order of the calendar years in which they arose.

"(4) ELECTION.—Any election under this paragraph (and any identification or specification contained therein), once made, shall be irrevocable.

"(5) CARRYFORWARD PURPOSE.—The term 'carryforward purpose' means—

"(A) the purpose of issuing bonds referred to in one of the clauses of section 141(d)(1)(A),

"(B) the purpose of issuing qualified mortgage bonds or mortgage credit certificates,

"(C) the purpose of issuing qualified student loan bonds, and

"(D) the purpose of issuing qualified redevelopment bonds.

"(g) EXCEPTION FOR CERTAIN BONDS.—Only for purposes of this section, the term 'private activity bond' shall not include—

"(1) any qualified veterans' mortgage bond,

"(2) any qualified 501(c)(3) bond, and

"(3) any exempt facility bond issued as part of an issue described in paragraph (1) or (2) of section 142(a) (relating to airports and docks and wharves).

"(h) EXCEPTION FOR GOVERNMENT-OWNED SOLID WASTE DISPOSAL FACILITIES.—

"(1) IN GENERAL.—Only for purposes of this section, the term 'private activity bond' shall not include any exempt facility bond described in section 142(a)(6) which is issued as part of an issue if all of the property to be financed by the net proceeds of such issue is to be owned by a governmental unit.

"(2) SAFE HARBOR FOR DETERMINATION OF GOVERNMENT OWNERSHIP.—In determining ownership for purposes of paragraph (1), section 142(b)(1)(B) shall apply, except that a lease term shall be treated as satisfying clause (ii) thereof if it is not more than 20 years.

"(i) TREATMENT OF REFUNDING ISSUES.—For purposes of the volume cap imposed by this section—

"(1) IN GENERAL.—The term 'private activity bond' shall not include any bond which is issued to refund another bond to the extent that the amount of such bond does not exceed the outstanding amount of the refunded bond.

"(2) SPECIAL RULES FOR STUDENT LOAN BONDS.—In the case of any qualified student loan bond, paragraph (1) shall apply only if the maturity date of the refunding bond is not later than the later of—

"(A) the maturity date of the bond to be refunded, or

"(B) the date 17 years after the date on which the refunded bond was issued (or in the case of a series of refundings, the date on which the original bond was issued).

"(3) SPECIAL RULES FOR QUALIFIED MORTGAGE BONDS.—In the case of any qualified mortgage bond, paragraph (1) shall apply only if the maturity date of the refunding bond is not later than the later of—

"(A) the maturity date of the bond to be refunded, or

"(B) the date 32 years after the date on which the refunded bond was issued (or in the case of a series of refundings, the date on which the original bond was issued).

"(4) EXCEPTION FOR ADVANCE REFUNDING.—This subsection shall not apply to any bond issued to advance refund another bond.

"(j) POPULATION.—For purposes of this section, determinations of the population of any State (or issuing authority) shall be made with respect to any calendar year on the basis of the most recent census estimate of the resident population of such State (or issuing authority) released by the Bureau of Census before the beginning of such calendar year.

"(k) FACILITY MUST BE LOCATED WITHIN STATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no portion of the State ceiling applicable to any State for any calendar year may be used with respect to financing for a facility located outside such State.

"(2) EXCEPTION FOR CERTAIN FACILITIES WHERE STATE WILL GET PROPORTIONATE SHARE OF BENEFITS.—Paragraph (1) shall not apply to any exempt facility bond described in paragraph (4), (5), (6), or (10) of section 142(a) if the issuer establishes that the State's share of the use of the facility (or its output) will equal or exceed the State's share of the private activity bonds issued to finance the facility.

"(l) ISSUER OF QUALIFIED SCHOLARSHIP FUNDING BONDS.—In the case of a qualified scholarship funding bond, such bond shall be treated for purposes of this section as issued by a State or local issuing authority (whichever is appropriate).

"(m) TREATMENT OF AMOUNTS ALLOCATED TO PRIVATE ACTIVITY PORTION OF GOVERNMENT USE BONDS.—

"(1) IN GENERAL.—The volume cap of an issuer shall be reduced by the amount allocated by the issuer to an issue under section 141(b)(5).

"(2) ADVANCE REFUNDINGS.—Except as otherwise provided by the Secretary, any advance refunding of any part of an issue to which an amount was allocated under section 141(b)(5) (or would have been allocated if such section applied to such issue) shall be taken into account under this section to the extent of the amount of the volume cap which was (or would have been) so allocated.

"(n) REDUCTION FOR MORTGAGE CREDIT CERTIFICATES, ETC.—The volume cap of any issuing authority for any calendar year shall be reduced by the sum of—

"(1) the amount of qualified mortgage bonds which such authority elects not to issue under section 25(c)(2)(A)(ii) during such year, plus

"(2) the amount of any reduction in such ceiling under section 25(f) applicable to such authority for such year.

"SEC. 147. OTHER REQUIREMENTS APPLICABLE TO CERTAIN PRIVATE ACTIVITY BONDS.

"(a) SUBSTANTIAL USER REQUIREMENT.—

"(1) IN GENERAL.—Except as provided in subsection (h), a private activity bond shall not be a qualified bond for any period during which it is held by a person who is a substantial user of the facilities or by a related person of such a substantial user.

"(2) RELATED PERSON.—For purposes of paragraph (1), the following shall be treated as related persons—

"(A) 2 or more persons if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b),

"(B) 2 or more persons which are members of the same controlled group of corporations (as defined in section 1563(a), except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears therein),

"(C) a partnership and each of its partners (and their spouses and minor children), and

"(D) an S corporation and each of its shareholders (and their spouses and minor children).

"(b) MATURITY MAY NOT EXCEED 120 PERCENT OF ECONOMIC LIFE.—

"(1) GENERAL RULE.—Except as provided in subsection (h), a private activity bond shall not be a qualified bond if it is issued as part of an issue and—

"(A) the average maturity of the bonds issued as part of such issue, exceeds

"(B) 120 percent of the average reasonably expected economic life of the facilities being financed with the net proceeds of such issue.

"(2) DETERMINATION OF AVERAGES.—For purposes of paragraph (1)—

"(A) the average maturity of any issue shall be determined by taking into account the respective issue prices of the bonds issued as part of such issue, and

"(B) the average reasonably expected economic life of the facilities being financed with any issue shall be determined by taking into account the respective cost of such facilities.

"(3) SPECIAL RULES.—

"(A) DETERMINATION OF ECONOMIC LIFE.—For purposes of this subsection, the reasonably expected economic life of any facility shall be determined as of the later of—

"(i) the date on which the bonds are issued, or

"(ii) the date on which the facility is placed in service (or expected to be placed in service).

"(B) TREATMENT OF LAND.—

"(i) LAND NOT TAKEN INTO ACCOUNT.—Except as provided in clause (ii), land shall not be taken into account under paragraph (1)(B).

"(ii) ISSUES WHERE 25 PERCENT OR MORE OF PROCEEDS USED TO FINANCE LAND.—If 25 percent or more of the net proceeds of any issue is to be used to finance land, such land shall be taken into account under paragraph (1)(B) and shall be treated as having an economic life of 30 years.

"(4) SPECIAL RULE FOR POOLED FINANCING OF 501(C)(3) ORGANIZATION.—

"(A) IN GENERAL.—At the election of the issuer, a qualified 501(c)(3) bond shall be treated as meeting the requirements of paragraph (1) if such bond meets the requirements of subparagraph (B).

"(B) REQUIREMENTS.—A qualified 501(c)(3) bond meets the requirements of this subparagraph if—

"(i) 95 percent or more of the net proceeds of the issue of which such bond is a part are to be used to make or finance loans to 2 or more 501(c)(3) organizations or governmental units for acquisition of property to be used by such organizations,

"(ii) each loan described in clause (i) satisfies the requirements of paragraph (1) (determined by treating each loan as a separate issue),

"(iii) before such bond is issued, a demand survey was conducted which shows a demand for financing greater than an amount equal to 120 percent of the lendable proceeds of such issue, and

"(iv) 95 percent or more of the net proceeds of such issue are to be loaned to 501(c)(3) organizations or governmental units within 1 year of issuance and, to the extent there are any unspent proceeds after such 1-year period, bonds issued as part of such issue are to be redeemed as soon as possible thereafter (and in no event later than 18 months after issuance).

A bond shall not meet the requirements of this subparagraph if the maturity date of any bond issued as part of such issue is more than 30 years after the date on which the bond was issued (or, in the case of a refunding or series of refundings, the date on which the original bond was issued).

"(5) SPECIAL RULE FOR CERTAIN FHA INSURED LOANS.—Paragraph (1) shall not apply to any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to finance mortgage loans insured under FHA 242 or under a similar Federal Housing Administration program (as in effect on the date of the enactment of the Tax Reform Act of 1986) where the loan term approved by such Administration plus the maximum maturity of debentures which could be issued by such Administration in satisfaction of its obligations exceeds the term permitted under paragraph (1).

"(c) LIMITATION ON USE FOR LAND ACQUISITION.—

"(1) IN GENERAL.—Except as provided in subsection (h), a private activity bond shall not be a qualified bond if—

"(A) it is issued as part of an issue and 25 percent or more of the net proceeds of such issue are to be used (directly or

indirectly) for the acquisition of land (or an interest therein), or

"(B) any portion of the proceeds of such issue is to be used (directly or indirectly) for the acquisition of land (or an interest therein) to be used for farming purposes.

"(2) EXCEPTION FOR FIRST-TIME FARMERS.—

"(A) IN GENERAL.—If the requirements of subparagraph (B) are met with respect to any land, paragraph (1) shall not apply to such land, and subsection (d) shall not apply to property to be used thereon for farming purposes, but only to the extent of expenditures (financed with the proceeds of the issue) not in excess of $250,000.

"(B) ACQUISITION BY FIRST-TIME FARMERS.—The requirements of this subparagraph are met with respect to any land if—

"(i) such land is to be used for farming purposes, and

"(ii) such land is to be acquired by an individual who is a first-time farmer, who will be the principal user of such land, and who will materially and substantially participate on the farm of which such land is a part in the operation of such farm.

"(C) FIRST-TIME FARMER.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'first-time farmer' means any individual if such individual—

"(I) has not at any time had any direct or indirect ownership interest in substantial farmland in the operation of which such individual materially participated, and

"(II) has not received financing under this paragraph in an amount which, when added to the financing to be provided under this paragraph, exceeds $250,000.

"(ii) AGGREGATION RULES.—Any ownership or material participation, or financing received, by an individual's spouse or minor child shall be treated as ownership and material participation, or financing received, by the individual.

"(iii) INSOLVENT FARMER.—For purposes of clause (i), farmland which was previously owned by the individual and was disposed of while such individual was insolvent shall be disregarded if section 108 applied to indebtedness with respect to such farmland.

"(D) FARM.—For purposes of this paragraph, the term 'farm' has the meaning given such term by section 6420(c)(2).

"(E) SUBSTANTIAL FARMLAND.—For purposes of this paragraph, the term 'substantial farmland' means any parcel of land unless—

"(i) such parcel is smaller than 15 percent of the median size of a farm in the county in which such parcel is located, and

"(ii) the fair market value of the land does not at any time while held by the individual exceed $125,000.

"(F) USED EQUIPMENT LIMITATION.—For purposes of this paragraph, in no event may the amount of financing pro-

vided by reason of this paragraph to a first-time farmer for personal property—

"(i) of a character subject to the allowance for depreciation,

"(ii) the original use of which does not begin with such farmer, and

"(iii) which is to be used for farming purposes,

exceed $62,500. A rule similar to the rule of subparagraph (C)(ii) shall apply for purposes of the preceding sentence.

"(3) EXCEPTION FOR CERTAIN LAND ACQUIRED FOR ENVIRONMENTAL PURPOSES, ETC.—Any land acquired by a governmental unit (or issuing authority) in connection with an airport, mass commuting facility, dock, or wharf shall not be taken into account under paragraph (1) if—

"(A) such land is acquired for noise abatement or wetland preservation, or for future use as an airport, mass commuting facility, dock, or wharf, and

"(B) there is not other significant use of such land.

"(d) ACQUISITION OF EXISTING PROPERTY NOT PERMITTED.—

"(1) IN GENERAL.—Except as provided in subsection (h), a private activity bond shall not be a qualified bond if issued as part of an issue and any portion of the net proceeds of such issue is to be used for the acquisition of any property (or an interest therein) unless the 1st use of such property is pursuant to such acquisition.

"(2) EXCEPTION FOR CERTAIN REHABILITATIONS.—Paragraph (1) shall not apply with respect to any building (and the equipment therefor) if—

"(A) the rehabilitation expenditures with respect to such building, equal or exceed

"(B) 15 percent of the portion of the cost of acquiring such building (and equipment) financed with the net proceeds of the issue.

A rule similar to the rule of the preceding sentence shall apply in the case of structures other than a building except that subparagraph (B) shall be applied by substituting '100 percent' for '15 percent'.

"(3) REHABILITATION EXPENDITURES.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in this paragraph, the term 'rehabilitation expenditures' means any amount properly chargeable to capital account which is incurred by the person acquiring the building for property (or additions or improvements to property) in connection with the rehabilitation of a building. In the case of an integrated operation contained in a building before its acquisition, such term includes rehabilitating existing equipment in such building or replacing it with equipment having substantially the same function. For purposes of this subparagraph, any amount incurred by a successor to the person acquiring the building or by the seller under a sales contract with such person shall be treated as incurred by such person.

"(B) CERTAIN EXPENDITURES NOT INCLUDED.—The term 'rehabilitation expenditures' does not include any expenditure described in section 48(g)(2)(B).

"(C) PERIOD DURING WHICH EXPENDITURES MUST BE INCURRED.—The term 'rehabilitation expenditures' shall not include any amount which is incurred after the date 2 years after the later of—

"(i) the date on which the building was acquired, or

"(ii) the date on which the bond was issued.

"(4) SPECIAL RULE FOR CERTAIN PROJECTS.—In the case of a project involving 2 or more buildings, this subsection shall be applied on a project basis.

"(e) NO PORTION OF BONDS MAY BE ISSUED FOR SKYBOXES, AIRPLANES, GAMBLING ESTABLISHMENTS, ETC.—A private activity bond shall not be treated as a qualified bond if issued as part of an issue and any portion of the proceeds of such issue is to be used to provide any airplane, skybox or other private luxury box, health club facility, facility primarily used for gambling, or store the principal business of which is the sale of alcoholic beverages for consumption off premises.

"(f) PUBLIC APPROVAL REQUIRED FOR PRIVATE ACTIVITY BONDS.—

"(1) IN GENERAL.—A private activity bond shall not be a qualified bond unless such bond satisfies the requirements of paragraph (2).

"(2) PUBLIC APPROVAL REQUIREMENT.—

"(A) IN GENERAL.—A bond shall satisfy the requirements of this paragraph if such bond is issued as a part of an issue which has been approved by—

"(i) the governmental unit—

"(I) which issued such bond, or

"(II) on behalf of which such bond was issued, and

"(ii) each governmental unit having jurisdiction over the area in which any facility, with respect to which financing is to be provided from the net proceeds of such issue, is located (except that if more than 1 governmental unit within a State has jurisdiction over the entire area within such State in which such facility is located, only 1 such unit need approve such issue).

"(B) APPROVAL BY A GOVERNMENTAL UNIT.—For purposes of subparagraph (A), an issue shall be treated as having been approved by any governmental unit if such issue is approved—

"(i) by the applicable elected representative of such governmental unit after a public hearing following reasonable public notice, or

"(ii) by voter referendum of such governmental unit.

"(C) SPECIAL RULES FOR APPROVAL OF FACILITY.—If there has been public approval under subparagraph (A) of the plan for financing a facility, such approval shall constitute approval under subparagraph (A) for any issue—

"(i) which is issued pursuant to such plan within 3 years after the date of the 1st issue pursuant to the approval, and

"(ii) all or substantially all of the proceeds of which are to be used to finance such facility or to refund previous financing under such plan.

"(D) REFUNDING BONDS.—No approval under subparagraph (A) shall be necessary with respect to any bond which is issued to refund (other than to advance refund) a bond

approved under subparagraph (A) (or treated as approved under subparagraph (C)) unless the maturity date of such bond is later than the maturity date of the bond to be refunded.

"(E) APPLICABLE ELECTED REPRESENTATIVE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable elected representative' means with respect to any governmental unit—

"(I) an elected legislative body of such unit, or

"(II) the chief elected executive officer, the chief elected State legal officer of the executive branch, or any other elected official of such unit designated for purposes of this paragraph by such chief elected executive officer or by State law.

"(ii) NO APPLICABLE ELECTED REPRESENTATIVE.—If (but for this clause) a governmental unit has no applicable elected representative, the applicable elected representative for purposes of clause (i) shall be the applicable elected representative of the governmental unit—

"(I) which is the next higher governmental unit with such a representative, and

"(II) from which the authority of the governmental unit with no such representative is derived.

"(3) SPECIAL RULE FOR APPROVAL OF AIRPORTS.—If—

"(A) the proceeds of an issue are to be used to finance a facility or facilities located at an airport, and

"(B) the governmental unit issuing such bonds is the owner or operator of such airport,

such governmental unit shall be deemed to be the only governmental unit having jurisdiction over such airport for purposes of this subsection.

"(g) RESTRICTION ON ISSUANCE COSTS FINANCED BY ISSUE.—

"(1) IN GENERAL.—A private activity bond shall not be a qualified bond if the issuance costs financed by the issue (of which such bond is a part) exceed 2 percent of the aggregate face amount of the issue.

"(2) SPECIAL RULE FOR SMALL MORTGAGE REVENUE BOND ISSUES.—In the case of an issue of qualified mortgage bonds or qualified veterans' mortgage bonds, paragraph (1) shall be applied by substituting '3.5 percent' for '2 percent' if the aggregate authorized face amount of the issue does not exceed $20,000,000.

"(h) CERTAIN RULES NOT TO APPLY TO MORTGAGE REVENUE BONDS, QUALIFIED STUDENT LOAN BONDS, AND QUALIFIED 501(c)(3) BONDS.—

"(1) MORTGAGE REVENUE BONDS AND QUALIFIED STUDENT LOAN BONDS.—Subsections (a), (b), (c), and (d) shall not apply to any qualified mortgage bond, qualified veterans' mortgage bond, or qualified student loan bond.

"(2) QUALIFIED 501(c)(3) BONDS.—Subsections (a), (c), and (d) shall not apply to any qualified 501(c)(3) bond and subsection (e) shall be applied as if it did not contain 'health club facility' with respect to such a bond.

"Subpart B—Requirements Applicable to All State and Local Bonds

"Sec. 148. Arbitrage.

"Sec. 149. Bonds must be registered to be tax exempt; other requirements.

"SEC. 148. ARBITRAGE.

"(a) ARBITRAGE BOND DEFINED.—For purposes of section 103, the term 'arbitrage bond' means any bond issued as part of an issue any portion of the proceeds of which are reasonably expected (at the time of issuance of the bond) to be used directly or indirectly—

"(1) to acquire higher yielding investments, or

"(2) to replace funds which were used directly or indirectly to acquire higher yielding investments.

For purposes of this subsection, a bond shall be treated as an arbitrage bond if the issuer intentionally uses any portion of the proceeds of the issue of which such bond is a part in a manner described in paragraph (1) or (2).

"(b) HIGHER YIELDING INVESTMENTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'higher yielding investments' means any investment property which produces a yield over the term of the issue which is materially higher than the yield on the issue.

"(2) INVESTMENT PROPERTY.—The term 'investment property' means—

"(A) any security (within the meaning of section 165(g)(2)(A) or (B)),

"(B) any obligation,

"(C) any annuity contract, or

"(D) any investment-type property.

Such term shall not include any tax-exempt bond.

"(c) TEMPORARY PERIOD EXCEPTION.—

"(1) IN GENERAL.—For purposes of subsection (a), a bond shall not be treated as an arbitrage bond solely by reason of the fact that the proceeds of the issue of which such bond is a part may be invested in higher yielding investments for a reasonable temporary period until such proceeds are needed for the purpose for which such issue was issued.

"(2) LIMITATION ON TEMPORARY PERIOD FOR POOLED FINANCINGS.—

"(A) IN GENERAL.—The temporary period referred to in paragraph (1) shall not exceed 6 months with respect to the proceeds of an issue which are to be used to make or finance loans (other than nonpurpose investments) to 2 or more persons.

"(B) SPECIAL RULE FOR CERTAIN STUDENT LOAN POOLS.—In the case of the proceeds of an issue to be used to make or finance loans under a program described in section 144(b)(1)(A), subparagraph (A) shall be applied by substituting '18 months' for '6 months'. The preceding sentence shall not apply to any bond issued after December 31, 1988.

"(C) SHORTER TEMPORARY PERIOD FOR LOAN REPAYMENTS, ETC.—Subparagraph (A) shall be applied by substituting '3 months' for '6 months' with respect to the proceeds from the sale or repayment of any loan which are to be used to make or finance any loan. For purposes of the preceding sentence, a nonpurpose investment shall not be treated as a loan.

"(D) EXCEPTION FOR MORTGAGE REVENUE BONDS.—This paragraph shall not apply to any qualified mortgage bond or qualified veterans' mortgage bond.

"(d) SPECIAL RULES FOR REASONABLY REQUIRED RESERVE OR REPLACEMENT FUND.—

"(1) IN GENERAL.—For purposes of subsection (a), a bond shall not be treated as an arbitrage bond solely by reason of the fact that an amount of the proceeds of the issue of which such bond is a part may be invested in higher yielding investments which are part of a reasonably required reserve or replacement fund. The amount referred to in the preceding sentence shall not exceed 10 percent of the proceeds of such issue unless the issuer establishes to the satisfaction of the Secretary that a higher amount is necessary.

"(2) LIMITATION ON AMOUNT IN RESERVE OR REPLACEMENT FUND WHICH MAY BE FINANCED BY ISSUE.—A bond issued as part of an issue shall be treated as an arbitrage bond if the amount of the proceeds from the sale of such issue which is part of any fund described in paragraph (1) exceeds 10 percent of the proceeds of the issue (or such higher amount which the issuer establishes is necessary to the satisfaction of the Secretary).

"(3) LIMITATION ON INVESTMENT IN NONPURPOSE INVESTMENTS.—

"(A) IN GENERAL.—A bond which is part of an issue which does not meet the requirements of subparagraph (B) shall be treated as an arbitrage bond.

"(B) REQUIREMENTS.—An issue meets the requirements of this subparagraph only if—

"(i) at no time during any bond year may the amount invested in nonpurpose investments with a yield materially higher than the yield on the issue exceed 150 percent of the debt service on the issue for the bond year, and

"(ii) the aggregate amount invested as provided in clause (i) is promptly and appropriately reduced as the amount of outstanding bonds of the issue is reduced (or, in the case of a qualified mortgage bond or a qualified veterans' mortgage bond, as the mortgages are repaid).

"(C) EXCEPTIONS FOR TEMPORARY PERIOD.—Subparagraph (B) shall not apply to—

"(i) proceeds of the issue invested for an initial temporary period until such proceeds are needed for the governmental purpose of the issue, and

"(ii) temporary investment periods related to debt service.

"(D) DEBT SERVICE DEFINED.—For purposes of this paragraph, the debt service on the issue for any bond year is the scheduled amount of interest and amortization of principal payable for such year with respect to such issue. For purposes of the preceding sentence, there shall not be taken into account amounts scheduled with respect to any bond which has been redeemed before the beginning of the bond year.

"(E) NO DISPOSITION IN CASE OF LOSS.—This paragraph shall not require the sale or disposition of any investment if such sale or disposition would result in a loss which exceeds

the amount which, but for such sale or disposition, would at the time of such sale or disposition—

"(i) be paid to the United States, or,

"(ii) in the case of a qualified mortgage bond or a qualified veterans' mortgage bond, be paid or credited mortgagors under section 143(g)(3)(A).

"(F) EXCEPTION FOR GOVERNMENTAL USE BONDS AND QUALIFIED 501(C)(3) BONDS.—This paragraph shall not apply to any bond which is not a private activity bond or which is a qualified 501(c)(3) bond.

"(e) MINOR PORTION MAY BE INVESTED IN HIGHER YIELDING INVESTMENTS.—Notwithstanding subsections (a), (c), and (d), a bond issued as part of an issue shall not be treated as an arbitrage bond solely by reason of the fact that an amount of the proceeds of such issue (in addition to the amounts under subsections (c) and (d)) is invested in higher yielding investments if such amount does not exceed the lesser of—

"(1) 5 percent of the proceeds of the issue, or

"(2) $100,000.

"(f) REQUIRED REBATE TO THE UNITED STATES.—

"(1) IN GENERAL.—A bond which is part of an issue shall be treated as an arbitrage bond if the requirements of paragraphs (2) and (3) are not met with respect to such issue. The preceding sentence shall not apply to any qualified mortgage bond or qualified veterans' mortgage bond.

"(2) REBATE TO UNITED STATES.—An issue shall be treated as meeting the requirements of this paragraph only if an amount equal to the sum of—

"(A) the excess of—

"(i) the amount earned on all nonpurpose investments (other than investments attributable to an excess described in this subparagraph), over

"(ii) the amount which would have been earned if such nonpurpose investments were invested at a rate equal to the yield on the issue, plus

"(B) any income attributable to the excess described in subparagraph (A),

is paid to the United States by the issuer in accordance with the requirements of paragraph (3).

"(3) DUE DATE OF PAYMENTS UNDER PARAGRAPH (2).—Except to the extent provided by the Secretary, the amount which is required to be paid to the United States by the issuer shall be paid in installments which are made at least once every 5 years. Each installment shall be in an amount which ensures that 90 percent of the amount described in paragraph (2) with respect to the issue at the time payment of such installment is required will have been paid to the United States. The last installment shall be made no later than 60 days after the day on which the last bond of the issue is redeemed and shall be in an amount sufficient to pay the remaining balance of the amount described in paragraph (2) with respect to such issue.

"(4) SPECIAL RULES FOR APPLYING PARAGRAPH (2).—

"(A) IN GENERAL.—In determining the aggregate amount earned on nonpurpose investments for purposes of paragraph (2)—

"(i) any gain or loss on the disposition of a nonpurpose investment shall be taken into account, and

"(ii) unless the issuer otherwise elects, any amount earned on a bona fide debt service fund shall not be taken into account if the gross earnings on such fund for the bond year is less than $100,000.

"(B) TEMPORARY INVESTMENTS.—Under regulations prescribed by the Secretary—

"(i) IN GENERAL.—An issue shall, for purposes of this subsection, be treated as meeting the requirements of paragraph (2) if the gross proceeds of such issue are expended for the governmental purpose for which the issue was issued by no later than the day which is 6 months after the date of issuance of such issue. Gross proceeds which are held in a bona fide debt service fund shall not be considered gross proceeds for purposes of this subparagraph only.

"(ii) ADDITIONAL PERIOD FOR CERTAIN BONDS.—

"(I) IN GENERAL.—In the case of an issue described in subclause (II), clause (i) shall be applied by substituting '1 year' for '6 months' with respect to the portion of the proceeds of the issue which are not expended in accordance with clause (i) if such portion does not exceed the lesser of 5 percent of the proceeds of the issue or $100,000.

"(II) ISSUES TO WHICH SUBCLAUSE (I) APPLIES.—An issue is described in this subclause if no bond which is part of such issue is a private activity bond (other than a qualified 501(c)(3) bond) or a tax or revenue anticipation bond.

"(iii) SAFE HARBOR FOR DETERMINING WHEN PROCEEDS OF TAX AND REVENUE ANTICIPATION BONDS ARE EXPENDED.—

"(I) IN GENERAL.—For purposes of clause (i), in the case of an issue of tax or revenue anticipation bonds, the net proceeds of such issue (including earnings thereon) shall be treated as expended for the governmental purpose of the issue on the 1st day after the date of issuance that the cumulative cash flow deficit to be financed by such issue exceeds 90 percent of the aggregate face amount of such issue.

"(II) CUMULATIVE CASH FLOW DEFICIT.—For purposes of subclause (I), the term 'cumulative cash flow deficit' means, as of the date of computation, the excess of the expenses paid during the period described in subclause (III) which would ordinarily be paid out of or financed by anticipated tax or other revenues over the aggregate amount available (other than from the proceeds of the issue) during such period for the payment of such expenses.

"(III) PERIOD INVOLVED.—For purposes of subclause (II), the period described in this subclause is the period beginning on the date of issuance of the issue and ending on the earliest of

the maturity date of the issue, the date 6 months after such date of issuance, or the date of the computation of cumulative cash flow deficit.

"(C) EXCEPTION FOR SMALL GOVERNMENTAL UNITS.—An issue shall, for purposes of this subsection, be treated as meeting the requirements of paragraphs (2) and (3) if—

"(i) the issue is issued by a governmental unit with general taxing powers,

"(ii) no bond which is part of such issue is a private activity bond,

"(iii) 95 percent or more of the net proceeds of such issue are to be used for local governmental activities of the issuer (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the issuer), and

"(iv) the aggregate face amount of all tax-exempt bonds (other than private activity bonds) issued by such unit (and all subordinate entities thereof) during the calendar year in which such issue is issued is not reasonably expected to exceed $5,000,000.

Clause (iv) shall not take into account any bond which is not outstanding at the time of a later issue or which is redeemed (other than in an advance refunding) from the net proceeds of the later issue.

"(D) EXCEPTION FOR CERTAIN QUALIFIED STUDENT LOAN BONDS.—

"(i) IN GENERAL.—In determining the aggregate amount earned on nonpurpose investments acquired with gross proceeds of an issue of bonds described in section 144(b)(1)(A), the amount earned from investment of net proceeds of such issue during the initial temporary period under subsection (c) shall not be taken into account to the extent that the amount so earned is used to pay the reasonable—

"(I) administrative costs of such a program attributable to such issue and the costs of carrying such issue, and

"(II) costs of issuing such issue,

but only to the extent such costs were financed with proceeds of such issue and for which the issuer was not reimbursed.

"(ii) ONLY ARBITRAGE ON AMOUNTS LOANED DURING TEMPORARY PERIOD TAKEN INTO ACCOUNT FOR ADMINISTRATIVE COSTS, ETC.—The amount earned from investment of net proceeds of an issue during the initial temporary period under subsection (c) shall be taken into account under clause (i)(I) only to the extent attributable to proceeds which were used to make or finance (not later than the close of such period) student loans under a program described in section 144(b)(1)(A).

"(iii) ELECTION.—This subparagraph shall not apply to any issue if the issuer elects not to have this subparagraph apply to such issue.

"(iv) TERMINATION.—This subparagraph shall not apply to any bond issued after December 31, 1988.

"(5) EXEMPTION FROM GROSS INCOME OF SUM REBATED.—Gross income shall not include the sum described in paragraph (2).

Notwithstanding any other provision of this title, no deduction shall be allowed for any amount paid to the United States under paragraph (2).

"(6) DEFINITIONS.—For purposes of this subsection and subsections (c) and (d)—

"(A) NONPURPOSE INVESTMENT.—The term 'nonpurpose investment' means any investment property which—

"(i) is acquired with the gross proceeds of an issue, and

"(ii) is not acquired in order to carry out the governmental purpose of the issue.

"(B) GROSS PROCEEDS.—Except as otherwise provided by the Secretary, the gross proceeds of an issue include—

"(i) amounts received (including repayments of principal) as a result of investing the original proceeds of the issue, and

"(ii) amounts to be used to pay debt service on the issue.

"(7) PENALTY IN LIEU OF LOSS OF TAX EXEMPTION.—In the case of an issue which would (but for this paragraph) fail to meet the requirements of paragraph (2) or (3), the Secretary may treat such issue as not failing to meet such requirements if—

"(A) no bond which is part of such issue is a private activity bond (other than a qualified 501(c)(3) bond),

"(B) the failure to meet such requirements is due to reasonable cause and not to willful neglect, and

"(C) the issuer pays to the United States a penalty in an amount equal to the sum of—

"(i) 50 percent of the amount which was not paid in accordance with paragraphs (2) and (3), plus

"(ii) interest (at the underpayment rate established under section 6621) on the portion of the amount which was not paid on the date required under paragraph (3) for the period beginning on such date.

The Secretary may waive all or any portion of the penalty under this paragraph.

"(g) STUDENT LOAN INCENTIVE PAYMENTS.—Except to the extent otherwise provided in regulations, payments made by the Secretary of Education pursuant to section 438 of the Higher Education Act of 1965 are not to be taken into account, for purposes of subsection (a)(1), in determining yields on student loan notes.

"(h) DETERMINATIONS OF YIELD.—For purposes of this section, the yield on an issue shall be determined on the basis of the issue price (within the meaning of sections 1273 and 1274).

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

"SEC. 149. BONDS MUST BE REGISTERED TO BE TAX EXEMPT; OTHER REQUIREMENTS.

"(a) BONDS MUST BE REGISTERED TO BE TAX EXEMPT.—

"(1) GENERAL RULE.—Nothing in section 103(a) or in any other provision of law shall be construed to provide an exemption from Federal income tax for interest on any registration-required bond unless such bond is in registered form.

"(2) REGISTRATION-REQUIRED BOND.—For purposes of paragraph (1), the term 'registration-required bond' means any bond other than a bond which—

"(A) is not of a type offered to the public,

"(B) has a maturity (at issue) of not more than 1 year, or

"(C) is described in section 163(f)(2)(B).

"(3) SPECIAL RULES.—

"(A) BOOK ENTRIES PERMITTED.—For purposes of paragraph (1), a book entry bond shall be treated as in registered form if the right to the principal of, and stated interest on, such bond may be transferred only through a book entry consistent with regulations prescribed by the Secretary.

"(B) NOMINEES.—The Secretary shall prescribe such regulations as may be necessary to carry out the purpose of paragraph (1) where there is a nominee or chain of nominees.

"(b) FEDERALLY GUARANTEED BOND IS NOT TAX EXEMPT.—

"(1) IN GENERAL.—Section 103(a) shall not apply to any State or local bond if such bond is federally guaranteed.

"(2) FEDERALLY GUARANTEED DEFINED.—For purposes of paragraph (1), a bond is federally guaranteed if—

"(A) the payment of principal or interest with respect to such bond is guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof),

"(B) such bond is issued as part of an issue and 5 percent or more of the proceeds of such issue is to be—

"(i) used in making loans the payment of principal or interest with respect to which are to be guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof), or

"(ii) invested (directly or indirectly) in federally insured deposits or accounts, or

"(C) the payment of principal or interest on such bond is otherwise indirectly guaranteed (in whole or in part) by the United States (or an agency or instrumentality thereof).

"(3) EXCEPTIONS.—

"(A) CERTAIN INSURANCE PROGRAMS.—A bond shall not be treated as federally guaranteed by reason of—

"(i) any guarantee by the Federal Housing Administration, the Veterans' Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association,

"(ii) any guarantee of student loans and any guarantee by the Student Loan Marketing Association to finance student loans, or

"(iii) any guarantee by the Bonneville Power Authority pursuant to the Northwest Power Act (16 U.S.C. 839d) as in effect on the date of the enactment of the Tax Reform Act of 1984 with respect to any bond issued before July 1, 1989.

"(B) DEBT SERVICE, ETC.—Paragraph (1) shall not apply to—

"(i) proceeds of the issue invested for an initial temporary period until such proceeds are needed for the purpose for which such issue was issued,

"(ii) investments of a bona fide debt service fund,

"(iii) investments of a reserve which meet the requirements of section 148(d),

"(iv) investments in bonds issued by the United States Treasury, or

"(v) other investments permitted under regulations.

"(C) EXCEPTION FOR HOUSING PROGRAMS.—

"(i) IN GENERAL.—Except as provided in clause (ii), paragraph (1) shall not apply to—

"(I) a private activity bond for a qualified residential rental project or a housing program obligation under section 11(b) of the United States Housing Act of 1937,

"(II) a qualified mortgage bond, or

"(III) a qualified veterans' mortgage bond.

"(ii) EXCEPTION NOT TO APPLY WHERE BOND INVESTED IN FEDERALLY INSURED DEPOSITS OR ACCOUNTS.—Clause (i) shall not apply to any bond which is federally guaranteed within the meaning of paragraph (2)(B)(ii).

"(D) LOANS TO, OR GUARANTEES BY, FINANCIAL INSTITUTIONS.—Except as provided in paragraph (2)(B)(ii), a bond which is issued as part of an issue shall not be treated as federally guaranteed merely by reason of the fact that the proceeds of such issue are used in making loans to a financial institution or there is a guarantee by a financial institution unless such guarantee constitutes a federally insured deposit or account.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) TREATMENT OF CERTAIN ENTITIES WITH AUTHORITY TO BORROW FROM UNITED STATES.—To the extent provided in regulations prescribed by the Secretary, any entity with statutory authority to borrow from the United States shall be treated as an instrumentality of the United States. Except in the case of an exempt facility bond, a qualified small issue bond, a qualified student loan bond, and a qualified redevelopment bond, nothing in the preceding sentence shall be construed as treating the District of Columbia or any possession of the United States as an instrumentality of the United States.

"(B) FEDERALLY INSURED DEPOSIT OR ACCOUNT.—The term 'federally insured deposit or account' means any deposit or account in a financial institution to the extent such deposit or account is insured under Federal law by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the National Credit Union Administration, or any similar federally chartered corporation.

"(c) TAX EXEMPTION MUST BE DERIVED FROM THIS TITLE.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), no interest on any bond shall be exempt from taxation under this title unless such interest is exempt from tax under this title without regard to any provision of law which is not contained in this title and which is not contained in a revenue Act.

"(2) CERTAIN PRIOR EXEMPTIONS.—

"(A) PRIOR EXEMPTIONS CONTINUED.—For purposes of this title, notwithstanding any provision of this part, any bond the interest on which is exempt from taxation under this

title by reason of any provision of law (other than a provision of this title) which is in effect on January 6, 1983, shall be treated as a bond described in section 103(a).

"(B) ADDITIONAL REQUIREMENTS FOR BONDS ISSUED AFTER 1983.—Subparagraph (A) shall not apply to a bond (not described in subparagraph (C)) issued after 1983 if the appropriate requirements of this part (or the corresponding provisions of prior law) are not met with respect to such bond.

"(C) DESCRIPTION OF BOND.—A bond is described in this subparagraph (and treated as described in subparagraph (A)) if—

"(i) such bond is issued pursuant to the Northwest Power Act (16 U.S.C. 839d), as in effect on July 18, 1984;

"(ii) such bond is issued pursuant to section 608(a)(6)(A) of Public Law 97-468, as in effect on the date of the enactment of the Tax Reform Act of 1986; or

"(iii) such bond is issued before June 19, 1984 under section 11(b) of the United States Housing Act of 1937.

"(d) ADVANCE REFUNDINGS.—

"(1) IN GENERAL.—Nothing in section 103(a) or in any other provision of law shall be construed to provide an exemption from Federal income tax for interest on any bond issued as part of an issue described in paragraph (2), (3), or (4).

"(2) CERTAIN PRIVATE ACTIVITY BONDS.—An issue is described in this paragraph if any bond (issued as part of such issue) is issued to advance refund a private activity bond (other than a qualified 501(c)(3) bond).

"(3) OTHER BONDS.—

"(A) IN GENERAL.—An issue is described in this paragraph if any bond (issued as part of such issue), hereinafter in this paragraph referred to as the 'refunding bond', is issued to advance refund a bond unless—

"(i) the refunding bond is only—

"(I) the 1st advance refunding of the original bond if the original bond is issued after 1985, or

"(II) the 1st or 2nd advance refunding of the original bond if the original bond was issued before 1986,

"(ii) in the case of refunded bonds issued before 1986, the refunded bond is redeemed not later than the earliest date on which such bond may be redeemed at par or at a premium of 3 percent or less,

"(iii) in the case of refunded bonds issued after 1985, the refunded bond is redeemed not later than the earliest date on which such bond may be redeemed,

"(iv) the initial temporary period under section 148(c) ends—

"(I) with respect to the proceeds of the refunding bond not later than 30 days after the date of issue of such bond, and

"(II) with respect to the proceeds of the refunded bond on the date of issue of the refunding bond, and

"(v) in the case of refunded bonds to which section 148(e) did not apply, on and after the date of issue of the refunding bond, the amount of proceeds of the

refunded bond invested in higher yielding investments (as defined in section 148(b)) which are nonpurpose investments (as defined in section 148(f)(6)(A)) does not exceed—

"(I) the amount so invested as part of a reasonably required reserve or replacement fund or during an allowable temporary period, and

"(II) the amount which is equal to the lesser of 5 percent of the proceeds of the issue of which the refunded bond is a part or $100,000 (to the extent such amount is allocable to the refunded bond).

"(B) SPECIAL RULES FOR REDEMPTIONS.—

"(i) ISSUER MUST REDEEM ONLY IF DEBT SERVICE SAVINGS.—Clause (ii) and (iii) of subparagraph (A) shall apply only if the issuer may realize present value debt service savings (determined without regard to administrative expenses) in connection with the issue of which the refunding bond is a part.

"(ii) REDEMPTIONS NOT REQUIRED BEFORE 90TH DAY.—For purposes of clauses (ii) and (iii) of subparagraph (A), the earliest date referred to in such clauses shall not be earlier than the 90th day after the date of issuance of the refunding bond.

"(4) ABUSIVE TRANSACTIONS PROHIBITED.—An issue is described in this paragraph if any bond (issued as part of such issue) is issued to advance refund another bond and a device is employed in connection with the issuance of such issue to obtain a material financial advantage (based on arbitrage) apart from savings attributable to lower interest rates.

"(5) ADVANCE REFUNDING.—For purposes of this part, a bond shall be treated as issued to advance refund another bond if it is issued more than 90 days before the redemption of the refunded bond.

"(6) SPECIAL RULES FOR PURPOSES OF PARAGRAPH (3).—For purposes of paragraph (3), bonds issued before the date of the enactment of this subsection shall be taken into account under subparagraph (A)(i) thereof except—

"(A) a refunding which occurred before 1986 shall be treated as an advance refunding only if the refunding bond was issued more than 180 days before the redemption of the refunded bond, and

"(B) a bond issued before 1986, shall be treated as advance refunded no more than once before March 15, 1986.

"(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection.

"(e) INFORMATION REPORTING.—

"(1) IN GENERAL.—Nothing in section 103(a) or any other provision of law shall be construed to provide an exemption from Federal income tax for interest on any bond unless such bond satisfies the requirements of paragraph (2).

"(2) INFORMATION REPORTING REQUIREMENTS.—A bond satisfies the requirements of this paragraph if the issuer submits to the Secretary, not later than the 15th day of the 2d calendar month after the close of the calendar quarter in which the bond is issued (or such later time as the Secretary may prescribe with

respect to any portion of the statement), a statement concerning the issue of which the bond is a part which contains—

"(A) the name and address of the issuer,

"(B) the date of issue, the amount of net proceeds of the issue, the stated interest rate, term, and face amount of each bond which is part of the issue, the amount of issuance costs of the issue, and the amount of reserves of the issue,

"(C) where required, the name of the applicable elected representative who approved the issue, or a description of the voter referendum by which the issue was approved,

"(D) the name, address, and employer identification number of—

"(i) each initial principal user of any facility provided with the proceeds of the issue,

"(ii) the common parent of any affiliated group of corporations (within the meaning of section 1504(a)) of which such initial principal user is a member, and

"(iii) if the issue is treated as a separate issue under section 144(a)(6)(A), any person treated as a principal user under section 144(a)(6)(B),

"(E) a description of any property to be financed from the proceeds of the issue,

"(F) a certification by a State official designated by State law (or, where there is no such official, the Governor) that the bond meets the requirements of section 146 (relating to cap on private activity bonds), if applicable, and

"(G) such other information as the Secretary may require.

Subparagraphs (C) and (D) shall not apply to any bond which is not a private activity bond. The Secretary may provide that certain information specified in the 1st sentence need not be included in the statement with respect to an issue where the inclusion of such information is not necessary to carry out the purposes of this subsection.

"(3) EXTENSION OF TIME.—The Secretary may grant an extension of time for the filing of any statement required under paragraph (2) if there is reasonable cause for the failure to file such statement in a timely fashion.

"Subpart C—Definitions and Special Rules

"Sec. 150. Definitions and special rules.

"SEC. 150. DEFINITIONS AND SPECIAL RULES.

"(a) GENERAL RULE.—For purposes of this part—

"(1) BOND.—The term 'bond' includes any obligation.

"(2) GOVERNMENTAL UNIT NOT TO INCLUDE FEDERAL GOVERNMENT.—The term 'governmental unit' does not include the United States or any agency or instrumentality thereof.

"(3) NET PROCEEDS.—The term 'net proceeds' means, with respect to any issue, the proceeds of such issue reduced by amounts in a reasonably required reserve or replacement fund.

"(4) 501(c)(3) ORGANIZATION.—The term '501(c)(3) organization' means any organization described in section 501(c)(3) and exempt from tax under section 501(a).

"(5) OWNERSHIP OF PROPERTY.—Property shall be treated as owned by a governmental unit if it is owned on behalf of such unit.

"(6) TAX-EXEMPT BOND.—The term 'tax-exempt' means, with respect to any bond (or issue), that the interest on such bond (or on the bonds issued as part of such issue) is excluded from gross income.

"(b) CHANGE IN USE OF FACILITIES FINANCED WITH TAX-EXEMPT PRIVATE ACTIVITY BONDS.—

"(1) MORTGAGE REVENUE BONDS.—

"(A) IN GENERAL.—In the case of any residence with respect to which financing is provided from the proceeds of a qualified mortgage bond or qualified veterans' mortgage bond, if there is a continuous period of at least 1 year during which such residence is not the principal residence of at least 1 of the mortgagors who received such financing, then no deduction shall be allowed under this chapter for interest on such financing which accrues on or after the date such period began.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to the extent the Secretary determines that its application would result in undue hardship and that the failure to meet the requirements of subparagraph (A) resulted from circumstances beyond the mortgagor's control.

"(2) QUALIFIED RESIDENTIAL RENTAL PROJECTS.—In the case of any project for residential rental property—

"(A) with respect to which financing is provided from the proceeds of any private activity bond which, when issued, purported to be a tax-exempt bond described paragraph (7) of section 142(a), and

"(B) which does not meet the requirements of section 142(d),

no deduction shall be allowed under this chapter for interest on such financing which accrues during the period beginning on the 1st day of the taxable year in which such project fails to meet such requirements and ending on the date such project meets such requirements.

"(3) QUALIFIED 501(C)(3) BONDS.—

"(A) IN GENERAL.—In the case of any facility with respect to which financing is provided from the proceeds of any private activity bond which, when issued, purported to be a tax-exempt qualified 501(c)(3) bond, if any portion of such facility—

"(i) is used in a trade or business of any person other than a 501(c)(3) organization or a governmental unit, but

"(ii) continues to be owned by a 501(c)(3) organization,

then the owner of such portion shall be treated for purposes of this title as engaged in an unrelated trade or business (as defined in section 513) with respect to such portion. The amount of gross income attributable to such portion for any period shall not be less than the fair rental value of such portion for such period.

"(B) DENIAL OF DEDUCTION FOR INTEREST.—No deduction shall be allowed under this chapter for interest on financing described in subparagraph (A) which accrues during the period beginning on the date such facility is used as de-

scribed in subparagraph (A)(i) and ending on the date such facility is not so used.

"(4) CERTAIN EXEMPT FACILITY BONDS.—

"(A) IN GENERAL.—In the case of any facility with respect to which financing is provided from the proceeds of any private activity bond to which this paragraph applies, if such facility is not used for a purpose for which a tax-exempt bond could be issued on the date of such issue, no deduction shall be allowed under this chapter for interest on such financing which accrues during the period beginning on the date such facility is not so used and ending on the date such facility is so used.

"(B) BONDS TO WHICH PARAGRAPH APPLIES.—This paragraph applies to any private activity bond which, when issued, purported to be a tax-exempt exempt facility bond described in a paragraph (other than paragraph (7)) of section 142(a).

"(5) FACILITIES REQUIRED TO BE OWNED BY GOVERNMENTAL UNITS OR 501(C)(3) ORGANIZATIONS.—If—

"(A) financing is provided with respect to any facility from the proceeds of any private activity bond which, when issued, purported to be a tax-exempt bond,

"(B) such facility is required to be owned by a governmental unit or a 501(c)(3) organization as a condition of such tax exemption, and

"(C) such facility is not so owned,

then no deduction shall be allowed under this chapter for interest on such financing which accrues during the period beginning on the date such facility is not so owned and ending on the date such facility is so owned.

"(c) EXCEPTION AND SPECIAL RULES FOR PURPOSES OF SUBSECTION (b).—For purposes of subsection (b)—

"(1) EXCEPTION.—Any use with respect to facilities financed with proceeds of an issue which are not required to be used for the exempt purpose of such issue shall not be taken into account.

"(2) TREATMENT OF AMOUNTS OTHER THAN INTEREST.—If the amounts payable for the use of a facility are not interest, subsection (b) shall apply to such amounts as if they were interest but only to the extent such amounts for any period do not exceed the amount of interest accrued on the bond financing for such period.

"(3) USE OF PORTION OF FACILITY.—In the case of any person which uses only a portion of the facility, only the interest accruing on the financing allocable to such portion shall be taken into account by such person.

"(4) CESSATION WITH RESPECT TO PORTION OF FACILITY.—In the case of any facility where part but not all of the facility is not used for an exempt purpose, only the interest accruing on the financing allocable to such part shall be taken into account.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection and subsection (b).

"(d) QUALIFIED SCHOLARSHIP FUNDING BOND.—For purposes of this part and section 103—

"(1) TREATMENT AS STATE OR LOCAL BOND.—A qualified scholarship funding bond shall be treated as a State or local bond.

"(2) QUALIFIED SCHOLARSHIP FUNDING BOND DEFINED.—The term 'qualified scholarship funding bond' means a bond issued by a corporation which—

"(A) is a corporation not for profit established and operated exclusively for the purpose of acquiring student loan notes incurred under the Higher Education Act of 1965, and

"(B) is organized at the request of the State or 1 or more political subdivisions thereof or is requested to exercise such power by 1 or more political subdivisions and required by its corporate charter and bylaws, or required by State law, to devote any income (after payment of expenses, debt service, and the creation of reserves for the same) to the purchase of additional student loan notes or to pay over any income to the United States.

"(e) BONDS OF CERTAIN VOLUNTEER FIRE DEPARTMENTS.—For purposes of this part and section 103—

"(1) IN GENERAL.—A bond of a volunteer fire department shall be treated as a bond of a political subdivision of a State if—

"(A) such department is a qualified volunteer fire department with respect to an area within the jurisdiction of such political subdivision, and

"(B) such bond is issued as part of an issue 95 percent or more of the net proceeds of which are to be used for the acquisition, construction, reconstruction, or improvement of a firehouse or firetruck used or to be used by such department.

"(2) QUALIFIED VOLUNTEER FIRE DEPARTMENT.—For purposes of this subsection, the term 'qualified volunteer fire department' means, with respect to a political subdivision of a State, any organization—

"(A) which is organized and operated to provide firefighting or emergency medical services for persons in an area (within the jurisdiction of such political subdivision) which is not provided with any other firefighting services, and

"(B) which is required (by written agreement) by the political subdivision to furnish firefighting services in such area."

(c) AMENDMENT TO ARBITRAGE REGULATIONS.—The provision in the Federal income tax regulations relating to the arbitrage requirements which permits a higher yield on acquired obligations if the issuer elects to waive the benefits of the temporary period provisions shall not apply to bonds issued after August 31, 1986.

(d) STATE AND LOCAL GOVERNMENT SERIES MODIFICATIONS.—Notwithstanding any other provision of law or any regulations promulgated thereunder (including the provisions of 31 CFR part 344) the Secretary of the Treasury shall extend by January 1, 1987, the State and Local Government Series program to provide—

(1) instruments allowing flexible investment of bond proceeds in a manner eliminating the earning of rebatable arbitrage,

(2) demand deposits under such program by eliminating advance notice and minimum maturity requirements related to the purchase of bonds,

(3) operation of such program at no net cost to the Federal Government, and

(4) deposits for a stated maturity under reasonable advance notice requirements.

(e) MANAGEMENT CONTRACTS.—The Secretary of the Treasury or his delegate shall modify the Secretary's advance ruling guidelines relating to when use of property pursuant to a management contract is not considered a trade or business use by a private person for purposes of section 141(a) of the Internal Revenue Code of 1986 to provide that use pursuant to a management contract generally shall not be treated as trade or business use as long as—

(1) the term of such contract (including renewal options) does not exceed 5 years,

(2) the exempt owner has the option to cancel such contract at the end of any 3-year period,

(3) the manager under the contract is not compensated (in whole or in part) on the basis of a share of net profits, and

(4) at least 50 percent of the annual compensation of the manager under such contract is based on a periodic fixed fee.

(f) AMENDMENTS RELATING TO MORTGAGE CREDIT CERTIFICATE PROGRAM.—

(1) TRADE-IN RATE INCREASED TO 25 PERCENT.—

(A) Subparagraph (A) of section 25(d)(2) (relating to aggregate limit of certificate credit rates) is amended by striking out "20 percent" and inserting in lieu thereof "25 percent".

(B) Subparagraph (A) of section 25(f)(2) (defining correction amount) is amended by striking out "0.20" and inserting in lieu thereof "0.25".

(2) CONFORMING AMENDMENTS.—

(A) Clause (ii) of section 25(b)(2)(A) (defining certificate indebtedness amount) is amended by striking out "section 103A(l)(6)" and inserting in lieu thereof "section 143(k)(4)".

(B) Clause (iii) of section 25(b)(2)(A) is amended by striking out "section 103A(l)(7)" and inserting in lieu thereof "section 143(k)(5)".

(C)(i) Subparagraphs (A)(iii) and (B) of section 25(c)(2) are each amended by striking out "section 103A" each place it appears and inserting in lieu thereof "section 143".

(ii) Clause (ii) of section 25(c)(2)(A) is amended by striking out "section 103A" and inserting in lieu thereof "section 103".

(D) Clause (iii) of section 25(c)(2)(A) (defining qualified mortgage credit certificate program) is amended by striking out all the subclauses thereof and inserting in lieu thereof the following:

"(I) subsection (c) (relating to residence requirements),

"(II) subsection (d) (relating to 3-year requirement),

"(III) subsection (e) (relating to purchase price requirement),

"(IV) subsection (f) (relating to income requirements),

"(V) subsection (h) (relating to portion of loans required to be placed in targeted areas), and

"(VI) paragraph (1) of subsection (i) (relating to other requirements),".

(E) The last sentence of subparagraph (A) of section 25(c)(2) is amended by striking out "section 103A(c)(2)" and inserting in lieu thereof "section 143(a)(2)".

(F) Subparagraph (B) of section 25(c)(2) is amended—

(i) by striking out "subclauses (II) and (IV)" and inserting in lieu thereof "subclauses (II), (IV), and (V)", and

(ii) by striking out clause (iii) and all that follows and inserting in lieu thereof the following:

"(iii) paragraph (1) of section 143(d) shall be applied by substituting '100 percent' for '95 percent or more'.

Clause (iii) shall not apply if the issuing authority submits a plan to the Secretary for administering the 95-percent requirement of section 143(d)(1) and the Secretary is satisfied that such requirement will be met under such plan."

(G) Subsection (d) of section 25 (relating to determination of certificate credit rate) is amended by striking out paragraph (3).

(H) Paragraph (2) of section 25(e) (relating to indebtedness not treated as certified where certain requirements in fact not met) is amended by striking out "subsection (d)(1), (e), (f), and (j) of section 103A" and inserting in lieu thereof "subsections (c)(1), (d), (e), (f), and (i) of section 143".

(I) Paragraph (6) of section 25(e) is amended by striking out "section 103(b)(6)(C)(i)" and inserting in lieu thereof "section 144(a)(3)(A)".

(J) Subparagraph (A) of section 25(e)(8) is amended by striking out "section 103A(l)(7)(B)" and inserting in lieu thereof "section 143(k)(5)(B)".

(K) Subparagraph (B) of section 25(e)(8) is amended by striking out "section 103A(l)(6)" and inserting in lieu thereof "section 143(k)(4)".

(L) Paragraph (9) of section 25(e) is amended by striking out "section 103A(c)(1)" and inserting in lieu thereof "section 143(a)(1)".

(M) Paragraph (10) of section 25(e) is amended by striking out "section 103A" and inserting in lieu thereof "section 143".

(N) Paragraph (1) of section 25(f) is amended by striking out "paragraph (4) of section 103A(g)" and inserting in lieu thereof "subsection (d) of section 146".

(O) Paragraph (3) of section 25(f) is amended by striking out "section 103A(g)(5)(C)" and inserting in lieu thereof "section 146(d)(3)(C)".

(g) PENALTY FOR FAILURE TO FILE REPORT ON COMPLIANCE WITH QUALIFIED RESIDENTIAL RENTAL PROJECT RULES.—Section 6652 (relating to failure to file certain information returns, registration statements, etc.), as amended by section 1501 of this Act, is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) FAILURE TO FILE CERTIFICATION WITH RESPECT TO CERTAIN RESIDENTIAL RENTAL PROJECTS.—In the case of each failure to provide a certification as required by section 142(d)(7) at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such certification, an amount equal to $100 for each such failure."

(h) REPEAL OF REPORT ON MORTGAGE REVENUE BOND PROGRAM.—Paragraph (7) of section 611(d) of the Tax Reform Act of 1984 is hereby repealed.

(i) AMENDMENT TO OUTPUT REGULATIONS.—The Secretary of the Treasury or his delegate shall amend the provision in the Federal income tax regulations relating to when use pursuant to certain output contracts is considered to satisfy the private business tests of paragraphs (1) and (2) of section 141(b) of the Internal Revenue Code of 1986 to eliminate the requirement of a 3 percent guaranteed minimum payment.

(j) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) REPEAL OF SECTION 103A.—Section 103A is hereby repealed.

(2) SECTION 143 REDESIGNATED AS SECTION 7703.—

(A) IN GENERAL.—Chapter 79 (relating to definitions) is amended by adding at the end thereof the following new section:

"SEC. 7703. DETERMINATION OF MARITAL STATUS.

"(a) GENERAL RULE.—For purposes of part V of subchapter B of chapter 1 and those provisions of this title which refer to this subsection—

"(1) the determination of whether an individual is married shall be made as of the close of his taxable year; except that if his spouse dies during his taxable year such determination shall be made as of the time of such death; and

"(2) an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

"(b) CERTAIN MARRIED INDIVIDUALS LIVING APART.—For purposes of those provisions of this title which refer to this subsection, if—

"(1) an individual who is married (within the meaning of subsection (a)) and who files a separate return maintains as his home a household which constitutes for more than one-half of the taxable year the principal place of abode of a child (within the meaning of section 151(e)(3)) with respect to whom such individual is entitled to a deduction for the taxable year under section 151 (or would be so entitled but for paragraph (2) or (4) of section 152(e)),

"(2) such individual furnishes over one-half of the cost of maintaining such household during the taxable year, and

"(3) during the last 6 months of the taxable year, such individual's spouse is not a member of such household,

such individual shall not be considered as married."

(B) CLERICAL AMENDMENT.—The table of sections for chapter 79 is amended by adding at the end thereof the following new item:

"Sec. 7703. Determination of marital status."

(3) Paragraph (3) of section 163(f) (relating to denial of deductions for interest on certain obligations not in registered form) is amended by striking out "section 103(j)(3)" and inserting in lieu thereof "section 149(a)(3)".

(4) Sections 269A(b)(3), 414(m)(5), 414(n)(6), and 4988(c)(2) (defining related person) are each amended by striking out "section 103(b)(6)(C)" and inserting in lieu thereof "section 144(a)(3)".

(5) Paragraph (1) of section 4701(b) (defining registration-required obligation) is amended by striking out "section 103(j)" and inserting in lieu thereof "section 149(a)".

(6) Sections 4940(c)(5), 4942(f)(2)(A), and 7871(a)(4) are each amended by striking out "(relating to interest on certain governmental obligations)" and inserting in lieu thereof "(relating to State and local bonds)".

(7) Paragraph (2) of section 7871(c) (relating to no exemption for certain private activity bonds) is amended to read as follows:

"(2) NO EXEMPTION FOR PRIVATE ACTIVITY BONDS.—Subsection (a) of section 103 shall not apply to any private activity bond (as defined in section 141(a)) issued by an Indian tribal government (or subdivision thereof)."

(8) Sections 22(e)(2), 32(c) and (d), 86(c)(3), 152(a)(9), 153(5), 194(b)(1), 1398(d)(2), 3402(f), and 6362(f)(5) are each amended by striking out "section 143" each place it appears and inserting in lieu thereof "section 7703".

(9) Sections 105(d)(5)(C) and 879(c)(3) are each amended by striking out "section 143(a)" and inserting in lieu thereof "section 7703(a)".

(10) Section 2(c) is amended by striking out "section 143(b)" and inserting in lieu thereof "section 7703(b)".

SEC. 1302. TREATMENT OF SECTION 501(c)(3) BONDS.

Nothing in the treatment of section 501(c)(3) bonds as private activity bonds under the amendments made by this title shall be construed as indicating how section 501(c)(3) bonds will be treated in future legislation, and any change in future legislation applicable to private activity bonds shall apply to section 501(c)(3) bonds only if expressly provided in such legislation.

SEC. 1303. REPEAL OF PROVISIONS RELATING TO GENERAL STOCK OWNERSHIP CORPORATIONS.

(a) IN GENERAL.—Subchapter U of chapter 1 (relating to general stock ownership corporation) is hereby repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 172(b) (relating to net operating loss carrybacks and carryovers) is amended by striking out subparagraph (J) and by redesignating subparagraph (K) as subparagraph (J).

(2) Paragraphs (2) and (4) of section 172(k) are each amended by striking out "subsection (b)(1)(K)" and inserting in lieu thereof "subsection (b)(1)(J)".

(3) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking out paragraph (22) and by redesignating paragraphs (23) through (27) as paragraphs (22) through (26), respectively.

(4) Subsection (r) of section 3402 (relating to extension of withholding to GSOC distribution) is hereby repealed.

(5) Section 6039B (relating to return of general stock ownership corporation) is hereby repealed.

(c) CLERICAL AMENDMENTS.—

(1) The table of subchapters for chapter 1 is amended by striking out the item relating to subchapter U.

(2) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking out the item relating to section 6039B.

Subtitle B—Effective Dates and Transitional Rules

SEC. 1311. GENERAL EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this subtitle, the amendments made by section 1301 shall apply to bonds issued after August 15, 1986.

(b) SECTION 1301(f).—

(1) INCREASE IN TRADE-IN RATE.—The amendments made by paragraph (1) of section 1301(f) shall apply to nonissued bond amounts elected after August 15, 1986.

(2) CERTIFICATES.—The amendments made by paragraph (2) of section 1301(f) shall apply to certificates issued after August 15, 1986.

(c) CHANGES IN USE, ETC., OF FACILITIES FINANCED WITH PRIVATE ACTIVITY BONDS.—Subsection (b) of section 150 of the 1986 Code shall apply to changes in use (and ownership) after August 15, 1986, but only with respect to financing (including refinancings) provided after such date.

(d) SECTION 1303.—The amendments made by section 1303 shall take effect on the date of the enactment of this Act.

SEC. 1312. TRANSITIONAL RULES FOR CONSTRUCTION OR BINDING AGREEMENTS AND CERTAIN GOVERNMENT BONDS ISSUED AFTER AUGUST 15, 1986.

(a) EXCEPTION FOR CONSTRUCTION OR BINDING AGREEMENTS.—

(1) IN GENERAL.—The amendments made by section 1301 shall not apply to bonds (other than a refunding bond) with respect to a facility—

(A)(i) the original use of which commences with the taxpayer, and the construction, reconstruction, or rehabilitation of which began before September 26, 1985, and was completed on or after such date,

(ii) the original use of which begins with the taxpayer and with respect to which a binding contract to incur significant expenditures for construction, reconstruction, or rehabilitation was entered into before September 26, 1985, and some of such expenditures are incurred on or after such date, or

(iii) acquired on or after September 26, 1985, pursuant to a binding contract entered into before such date, and

(B) described in an inducement resolution or other comparable preliminary approval adopted by an issuing authority (or by a voter referendum) before September 26, 1985.

(2) SIGNIFICANT EXPENDITURES.—For purposes of paragraph (1)(A), the term "significant expenditures" means expenditures greater than 10 percent of the reasonably anticipated cost of the construction, reconstruction, or rehabilitation of the facility involved.

(b) CERTAIN AMENDMENTS TO APPLY TO BONDS UNDER SUBSECTION (a) TRANSITIONAL RULE.—

(1) IN GENERAL.—In the case of a bond issued after August 15, 1986, and to which subsection (a) of this section applies, the requirements of the following provisions shall be treated as included in section 103 and section 103A (as appropriate) of the 1954 Code:

(A) The requirement that 95 percent or more of the net proceeds of an issue are to be used for a purpose described in section 103(b)(4) or (5) of such Code in order for section 103(b)(4) or (5) of such Code to apply, including the application of section 142(b)(2) of the 1986 Code (relating to limitation on office space).

(B) The requirement that 95 percent or more of the net proceeds of an issue are to be used for a purpose described in section 103(b)(6)(A) of the 1954 Code in order for section 103(b)(6)(A) of such Code to apply.

(C) The requirements of section 143 of the 1986 Code (relating to qualified mortgage bonds and qualified veterans' mortgage bonds) in order for section 103A(b)(2) of the 1954 Code to apply.

(D) The requirements of section 144(a)(11) of the 1986 Code (relating to limitation on acquisition of depreciable farm property) in order for section 103(b)(6)(A) of the 1954 Code to apply.

(E) The requirements of section 147(b) of the 1986 Code (relating to maturity may not exceed 120 percent of economic life).

(F) The requirements of section 147(f) of the 1986 Code (relating to public approval required for private activity bonds).

(G) The requirements of section 147(g) of the 1986 Code (relating to restriction on issuance costs financed by issue).

(H) The requirements of section 148 of the 1986 Code (relating to arbitrage).

(I) The requirements of section 149(e) of the 1986 Code (relating to information reporting).

(J) The provisions of section 150(b) of the 1986 Code (relating to changes in use).

(2) CERTAIN REQUIREMENTS APPLY ONLY TO BONDS ISSUED AFTER DECEMBER 31, 1986.—In the case of subparagraphs (F) and (I) of paragraphs (1), paragraph (1) shall be applied by substituting "December 31, 1986" for "August 15, 1986".

(3) APPLICATION OF VOLUME CAP.—Except as provided in section 1315, any bond to which this subsection applies shall be treated as a private activity bond for purposes of section 146 of the 1986 Code if such bond would have been taken into account under section 103(n) or 103A(g) of the 1954 Code (determined without regard to any carryforward election) were such bond issued before August 16, 1986.

(4) APPLICATION OF PROVISIONS.—For purposes of applying the requirements referred to in any subparagraph of paragraph (1) or of subsection (a)(3) or (b)(3) of section 1313 to any bond, such bond shall be treated as described in the subparagraph of section 141(d)(1) of the 1986 Code to which the use of the proceeds of such bond most closely relates.

(c) SPECIAL RULES FOR CERTAIN GOVERNMENT BONDS ISSUED AFTER AUGUST 15, 1986.—

(1) IN GENERAL.—In the case of any bond described in paragraph (2)—

(A) section 1311(a) and (c) and subsection (b) of this section shall be applied by substituting "August 31, 1986" for "August 15, 1986" each place it appears,

(B) subsection (b)(1) shall be applied without regard to subparagraphs (F), (G), and (J), and

(C) such bond shall not be treated as a private activity bond for purposes of applying the requirements referred to in subparagraphs (H) and (I) of subsection (b)(1).

(2) BOND DESCRIBED.—A bond is described in this paragraph if such bond is not—

(A) an industrial development bond, as defined in section 103(b)(2) of the 1954 Code but determined—

(i) by inserting "directly or indirectly" after "is" in the material preceding clause (i) of subparagraph (B) thereof, and

(ii) without regard to subparagraph (B) of section 103(b)(3) of such Code,

(B) a mortgage subsidy bond (as defined in section 103A(b)(1) of such Code, without regard to any exception from such definition), or

(C) a private loan bond (as defined in section 103(o)(2)(A) of such Code, without regard to any exception from such definition other than section 103(o)(2)(C) of such Code).

(d) ELECTION OUT.—This section shall not apply to any issue with respect to which the issuer elects not to have this section apply.

SEC. 1313. TRANSITIONAL RULES RELATING TO REFUNDINGS.

(a) CERTAIN CURRENT REFUNDINGS.—

(1) IN GENERAL.—Except as provided in paragraph (3), the amendments made by section 1301 shall not apply to any bond the proceeds of which are used exclusively to refund (other than to advance refund) a qualified bond (or a bond which is part of a series of refundings of a qualified bond) if—

(A) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

(B)(i) the average maturity of the issue of which the refunding bond is a part does not exceed 120 percent of the average reasonably expected economic life of the facilities being financed with the proceeds of such issue (determined under section 147(b) of the 1986 Code), or

(ii) the refunding bond has a maturity date not later than the date which is 17 years after the date on which the qualified bond was issued.

In the case of a qualified bond which was (when issued) a qualified mortgage bond or a qualified veterans' mortgage bond, subparagraph (B)(i) shall not apply and subparagraph (B)(ii) shall be applied by substituting "32 years" for "17 years".

(2) QUALIFIED BOND.—For purposes of paragraph (1), the term "qualified bond" means any bond (other than a refunding bond)—

(A) issued before August 16, 1986, or

(B) issued after August 15, 1986, if section 1312(a) applies to such bond.

(3) CERTAIN AMENDMENTS TO APPLY.—The following provisions of the 1986 Code shall be treated as included in section 103 and section 103A (as appropriate) of the 1954 Code and shall apply to refunding bonds described in paragraph (1):

(A) The requirements of section 147(f) (relating to public approval required for private activity bonds) but only if the

maturity date of the refunding bond is later than the maturity date of the refunded bond.

(B) The requirements of section 147(g) (relating to restriction on issuance costs financed by issue).

(C) The requirements of section 148 (relating to arbitrage).

(D) The requirements of section 149(e) (relating to information reporting).

(E) The provisions of section 150(b) of such Code (relating to changes in use).

Subparagraphs (A) and (D) shall apply only if the refunding bond is issued after December 31, 1986.

(4) SPECIAL RULES FOR CERTAIN GOVERNMENT BONDS ISSUED AFTER AUGUST 15, 1986.—In the case of any bond described in section 1312(c)(2)—

(A) paragraph (2) of this subsection shall be applied by substituting "August 31, 1986" for "August 15, 1986",

(B) paragraph (3) shall be applied without regard to subparagraphs (A), (B), and (E), and

(C) such bond shall not be treated as a private activity bond for purposes of applying the requirements referred to in subparagraphs (C) and (D) of paragraph (3).

(b) CERTAIN ADVANCE REFUNDINGS.—

(1) IN GENERAL.—Except as provided in paragraph (3), the amendments made by section 1301 shall not apply to any bond the proceeds of which are used exclusively to advance refund a bond if—

(A) the refunded bond is described in paragraph (2), and

(B) the requirements of subsection (a)(1)(B) are met.

(2) NON-IDB'S, ETC.—A bond is described in this paragraph if such bond is not described in subsection (b)(2) or (o)(2)(A) of section 103 of the 1954 Code and was issued (or was issued to refund a bond issued) before August 16, 1986.

(3) CERTAIN AMENDMENTS TO APPLY.—The following provisions of the 1986 Code shall be treated as included in section 103 and section 103A (as appropriate) of the 1954 Code and shall apply to refunding bonds described in paragraph (1):

(A) The requirements of section 147(f) (relating to public approval required for private activity bonds).

(B) The requirements of section 147(g) (relating to restriction on issuance costs financed by issue).

(C) The requirements of section 148 (relating to arbitrage), except that section 148(d)(3) shall not apply to proceeds of such bonds to be used to discharge the refunded bonds.

(D) The requirements of paragraphs (3) and (4) of section 149(d) (relating to advance refundings).

(E) The requirements of section 149(e) (relating to information reporting).

(F) The provisions of section 150(b) of such Code (relating to changes in use).

Subparagraphs (A) and (E) shall apply only if the refunding bond is issued after December 31, 1986.

(4) SPECIAL RULE FOR CERTAIN GOVERNMENT BONDS ISSUED AFTER AUGUST 15, 1986.—In the case of any bond described in section 1312(c)(2)—

(A) paragraph (2) of this subsection shall be applied by substituting "September 1, 1986" for "August 16, 1986",

(B) paragraph (3) shall be applied without regard to subparagraphs (A), (B), and (F), and

(C) such bond shall not be treated as a private activity bond for purposes of applying the requirements referred to in subparagraphs (C) and (E).

(5) CERTAIN REFUNDING BONDS SUBJECT TO VOLUME CAP.—Any refunding bond described in paragraph (1) the proceeds of which are used to refund a bond issued as part of an issue 5 percent or more of the net proceeds of which are to be used to provide an output facility (within the meaning of section 141(b)(4) of the 1986 Code) shall be treated as a private activity bond for purposes of section 146 of the 1986 Code (to the extent of the nongovernmental use of such issue, under rules similar to the rules of section 146(m)(2) of such Code). For purposes of the preceding sentence, use by a 501(c)(3) organization with respect to its activities which do not constitute unrelated trades or businesses (determined by applying section 513(a) of the 1986 Code) shall not be taken into account.

(c) TREATMENT OF CURRENT REFUNDINGS OF CERTAIN IDB'S AND 501(c)(3) BONDS.—

(1) $40,000,000 LIMIT FOR CERTAIN SMALL ISSUE BONDS.—Paragraph (10) of section 144(a) of the 1986 Code shall not apply to any bond the proceeds of which are used exclusively to refund a tax-exempt bond to which such paragraph and the corresponding provision of prior law do not apply if—

(A) the refunding bond has a maturity date not later than the maturity date of the refunded bond,

(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond,

(C) the interest rate on the refunding bond is lower than the interest rate on the refunded bond, and

(D) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

(2) $150,000,000 LIMITATION FOR CERTAIN 501(c)(3) BONDS.—Subsection (b) of section 145 of the 1986 Code (relating to $150,000,000 limitation for nonhospital bonds) shall not apply to any bond the proceeds of which are used exclusively to refund a tax-exempt bond to which such subsection does not apply if—

(A)(i) the average maturity of the issue of which the refunding bond is a part does not exceed 120 percent of the average reasonably expected economic life of the facilities being financed with the proceeds of such issue (determined under section 147(b) of the 1986 Code), or

(ii) the refunding bond has a maturity date not later than the later of the date which is 17 years after the date on which the qualified bond (as defined in subsection (a)(2)) was issued, and

(B) the requirements of subparagraphs (B) and (D) of paragraph (1) are met with respect to the refunding bond. Subsection (b) of section 145 of the 1986 Code shall not apply to the 1st advance refunding after March 14, 1986, of a bond issued before January 1, 1986.

(3) APPLICATION TO LATER ISSUES.—Any bond to which section 144(a)(10) or 145(b) of the 1986 Code does not apply by reason of

this section shall be taken into account in determining whether such section applies to any later issue.

SEC. 1314. SPECIAL RULES WHICH OVERRIDE OTHER RULES IN THIS SUBTITLE.

(a) ARBITRAGE RESTRICTION ON INVESTMENTS IN ANNUITIES.—In the case of a bond issued after September 25, 1985, section 103(c) of the 1954 Code shall be applied by treating the reference to securities in paragraph (2) thereof as including a reference to an annuity contract.

(b) TEMPORARY PERIOD FOR ADVANCE REFUNDINGS.—In the case of a bond issued after December 31, 1985, to advance refund a bond, the initial temporary period under section 103(c) of the 1954 Code with respect to the proceeds of the refunding bond shall end not later than 30 days after the date of issue of the refunding bond.

(c) DETERMINATION OF YIELD.—In the case of a bond issued after December 31, 1985, for purposes of section 103(c) of the 1954 Code, the yield on an issue shall be determined on the basis of the issue price (within the meaning of sections 1273 and 1274 of the 1986 Code).

(d) ARBITRAGE REBATE REQUIREMENT.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, in the case of a bond issued after December 31, 1985, section 103 of the 1954 Code shall be treated as including the requirements of section 148(f) of the 1986 Code in order for section 103(a) of the 1954 Code to apply.

(2) GOVERNMENT BONDS.—In the case of a bond described in section 1312(c)(2) (and not described in paragraph (3) of this subsection), paragraph (1) shall be applied by substituting "August 31, 1986" for "December 31, 1985".

(3) CERTAIN POOLS.—

(A) IN GENERAL.—In the case of a bond described in section 1312(c)(2) and issued as part of an issue described in subparagraph (B), (C), (D), or (E), paragraph (1) shall be applied by substituting "3 p.m. E.D.T., July 17, 1986" for "December 31, 1985". Such a bond shall not be treated as a private activity bond for purposes of applying section 148(f) of the 1986 Code.

(B) LOANS TO UNRELATED GOVERNMENTAL UNITS.—An issue is described in this subparagraph if any portion of the proceeds of the issue is to be used to make or finance loans to any governmental unit other than any governmental unit which is subordinate to the issuer and the jurisdiction of which is within—

(i) the jurisdiction of the issuer, or

(ii) the jurisdiction of the governmental unit on behalf of which such issuer issued the issue.

(C) LESS THAN 75 PERCENT OF PROJECTS IDENTIFIED.—An issue is described in this subparagraph if less than 75 percent of the proceeds of the issue is to be used to make or finance loans to initial borrowers to finance projects identified (with specificity) by the issuer, on or before the date of issuance of the issue, as projects to be financed with the proceeds of the issue.

(D) LESS THAN 25 PERCENT OF FUNDS COMMITTED TO BE BORROWED.—An issue is described in this subparagraph if, on or before the date of issuance of the issue, commitments

have not been entered into by initial borrowers to borrow at least 25 percent of the proceeds of the issue.

(E) CERTAIN LONG MATURITY ISSUES.—An issue is described in this subparagraph if—

(i) the maturity date of any bond issued as part of such issue exceeds 30 years, and

(ii) any principal payment on any loan made or financed by the proceeds of the issue is to be used to make or finance additional loans.

(F) SPECIAL RULES.—

(i) EXCEPTION FROM SUBPARAGRAPHS (C) AND (D) WHERE SIMILAR POOLS ISSUED BY ISSUER.—An issue shall not be treated as described in subparagraph (C) or (D) with respect to any issue to make or finance loans to governmental units if—

(I) the issuer, before 1986, issued 1 or more similar issues to make or finance loans to governmental units, and

(II) the aggregate face amount of such issues issued during 1986 does not exceed 250 percent of the average of the annual aggregate face amounts of such similar issues issued during 1983, 1984, or 1985.

(ii) DETERMINATION OF ISSUANCE.—For purposes of subparagraph (A), an issue shall not be treated as issued until—

(I) the bonds issued as part of such issue are offered to the public (pursuant to final offering materials), and

(II) at least 25 percent of such bonds is sold to the public.

For purposes of the preceding sentence, the sale of a bond to a securities firm, broker, or other person acting in the capacity of an underwriter or wholesaler shall not be treated as a sale to the public.

(e) INFORMATION REPORTING.—In the case of a bond issued after December 31, 1986, nothing in section 103(a) of the 1986 Code or any other provision of law shall be construed to provide an exemption from Federal income tax for interest on any bond unless such bond satisfies the requirements of section 149(e) of the 1986 Code. A bond described in section 1312(c)(2) shall not be treated as a private activity bond for purposes of applying such requirements.

(f) ABUSIVE TRANSACTION LIMITATION ON ADVANCE REFUNDINGS TO APPLY.—In the case of a bond issued after December 31, 1986, nothing in section 103(a) of the 1986 Code or any other provision of law shall be construed to provide an exemption from Federal income tax for interest on any bond if the issue of which such bond is a part is described in paragraph (4) of section 149(d) of the 1986 Code (relating to abusive transactions).

(g) SECTION TO OVERRIDE OTHER RULES.—Except as otherwise expressly provided by reference to a provision to which a subsection of this section applies, nothing in any other section of this subtitle shall be construed as exempting any bond from the application of such provision.

SEC. 1315. TRANSITIONAL RULES RELATING TO VOLUME CAP.

(a) IN GENERAL.—Except as otherwise provided in this section, section 146(f) of the 1986 Code shall not apply with respect to an issuing authority's volume cap under section 103(n) of the 1954 Code, and no carryforward under such section 103(n) shall be recognized for bonds issued after August 15, 1986.

(b) CERTAIN BONDS FOR CARRYFORWARD PROJECTS OUTSIDE OF VOLUME CAP.—Bonds issued pursuant to an election under section 103(n)(10) of the 1954 Code (relating to elective carryforward of unused limitation for specified project) made before November 1, 1985, shall not be taken into account under section 146 of the 1986 Code if the carryforward project is a facility to which the amendments made by section 1301 do not apply by reason of section 1312(a) of this Act.

(c) VOLUME CAP NOT TO APPLY WITH RESPECT TO CERTAIN FACILITIES AND PURPOSES.—Section 146 of the 1986 Code shall not apply to any bond issued with respect to any facility or purpose described in a paragraph of subsection (d) if—

(1) such bond would not have been taken into account under section 103(n) of the 1954 Code (determined without regard to any carryforward election) were such bond issued before August 16, 1986, or

(2) such bond would not have been taken into account under section 103(n) of the 1954 Code (determined with regard to any carryforward election made before January 1, 1986) were such bond issued before August 16, 1986.

(d) FACILITIES AND PURPOSES DESCRIBED.—

(1) A facility is described in this paragraph if the amendments made by section 201 of this Act (relating to depreciation) do not apply to such facility by reason of section 204(a)(8) of this Act (or, in the case of a facility which is governmentally owned, would not apply to such facility were it owned by a nongovernmental person).

(2) A facility or purpose is described in this paragraph if the facility or purpose is described in a paragraph of section 1317.

(3) A facility is described in this paragraph if the facility—

(A) serves Los Osos, California, and

(B) would be described in paragraph (1) were it a solid waste disposal facility.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $35,000,000.

(4) A facility is described in this paragraph if it is a sewage disposal facility with respect to which—

(A) on September 13, 1985, the State public facilities authority took official action authorizing the issuance of bonds for such facility, and

(B) on December 30, 1985, there was an executive order of the State Governor granting allocation of the State ceiling under section 103(n) of the 1954 Code in the amount of $250,000,000 to the Industrial Development Board of the Parish of East Baton Rouge, Louisiana.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $98,500,000.

(5) A facility is described in this paragraph if—

(A) such facility is a solid waste disposal facility in Charleston, South Carolina, and

(B) a State political subdivision took formal action on April 1, 1980, to commit development funds for such facility.

For purposes of determining whether a bond issued as part of an issue for a facility described in the preceding sentence is an exempt facility bond for purposes of part IV of subchapter B of chapter 1 of the 1986 Code, "90 percent" shall be substituted for "95 percent" in section 142(a) of the 1986 Code.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $75,000,000.

(6) A facility is described in this paragraph if—

(A) such facility is a wastewater treatment facility for which site preparation commenced before September 1985, and

(B) a parish council approved a service agreement with respect to such facility on December 4, 1985.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $120,000,000.

(e) TREATMENT OF REDEVELOPMENT BONDS.—Any bond to which section 1317(6) of this Act applies shall be treated for purposes of this section as described in subsection (c)(1).

SEC. 1316. PROVISIONS RELATING TO CERTAIN ESTABLISHED STATE PROGRAMS.

(a) CERTAIN LOANS TO VETERANS FOR THE PURCHASE OF LAND.—

(1) IN GENERAL.—A bond described in paragraph (2) shall be treated as described in section 141(d)(1) of the 1986 Code, but subsections (a), (b), (c), and (d) of section 147 of such Code shall not apply to such bond.

(2) BOND DESCRIBED.—A bond is described in this paragraph if—

(A) such bond is a private activity bond solely by reason of section 141(c) of such Code, and

(B) such bond is issued as part of an issue 95 percent or more of the net proceeds of which are to be used to carry out a program established under State law to provide loans to veterans for the purchase of land and which has been in effect in substantially the same form during the 30-year period ending on July 18, 1984, but only if such proceeds are used to make loans or to fund similar obligations—

(i) in the same manner in which,

(ii) in the same (or lesser) amount or multiple of acres per participant, and

(iii) for the same purposes for which,

such program was operated on March 15, 1984.

(b) RENEWABLE ENERGY PROPERTY.—

(1) IN GENERAL.—A bond described in paragraph (2) shall be treated as described in section 141(d)(1) of the 1986 Code.

(2) BOND DESCRIBED.—A bond is described in this paragraph if paragraph (1) of section 103(b) of the 1954 Code would not (without regard to the amendments made by this title) have applied to such bond by reason of section 243 of the Crude Oil Windfall Profit Tax Act of 1980 if—

(A) such section 243 were applied by substituting "95 percent or more of the net proceeds" for "substantially all of the proceeds" in subsection (a)(1) thereof, and

(B) subparagraph (E) of subsection (a)(1) thereof referred to section 149(b) of the 1986 Code.

(c) CERTAIN STATE PROGRAMS.—

(1) IN GENERAL.—A bond described in paragraph (2) shall be treated as described in section 141(d)(1) of the 1986 Code.

(2) BOND DESCRIBED.—A bond is described in this paragraph if such bond is issued as part of an issue 95 percent or more of the net proceeds of which are to be used to carry out a program established under sections 280A, 280B, and 280C of the Iowa Code, but only if—

(A) such program has been in effect in substantially the same form since July 1, 1983, and

(B) such proceeds are to be used to make loans or fund similar obligations for the same purposes as permitted under such program on July 1, 1986.

(3) $100,000,000 LIMITATION.—The aggregate face amount of outstanding bonds to which this subsection applies shall not exceed $100,000,000.

(d) USE BY CERTAIN FEDERAL INSTRUMENTALITIES TREATED AS USE BY GOVERNMENTAL UNITS.—Use by an instrumentality of the United States shall be treated as use by a State or local governmental unit for purposes of section 103, and part IV of subchapter B of chapter 1, of the 1986 Code with respect to a program approved by Congress before August 3, 1972, but only if—

(1) a portion of such program has been financed by bonds issued before such date, to which section 103(a) of the 1954 Code applied pursuant to a ruling issued by the Commissioner of the Internal Revenue Service, and

(2) construction of 1 or more facilities comprising a part of such program commenced before such date.

(e) REFUNDING PERMITTED OF CERTAIN BONDS INVESTED IN FEDERALLY INSURED DEPOSITS.—

(1) IN GENERAL.—Section 149(b)(2)(B)(ii) of the 1986 Code shall not apply to any bond issued to refund a bond—

(A) which, when issued, would have been treated as federally guaranteed by reason of being described in clause (ii) of section 103(h)(2)(B) of the 1954 Code if such section had applied to such bond, and

(B)(i) which was issued before April 15, 1983, or

(ii) to which such clause did not apply by reason of the except clause in section 631(c)(2) of the Tax Reform Act of 1984.

Section 147(c) of the 1986 Code shall not apply to any refunding bond permitted under the preceding sentence if section 103(b)(16) of the 1954 Code did not apply to the refunded bond when issued.

(2) REQUIREMENTS.—A refunding bond meets the requirements of this paragraph if—

(A) the refunding bond has a maturity date not later than the maturity date of the refunded bond,

(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond,

(C) the weighted average interest rate on the refunding bond is lower than the weighted average interest rate on the refunded bond, and

(D) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

(f) CERTAIN HYDROELECTRIC GENERATING PROPERTY.—

(1) IN GENERAL.—A bond described in paragraph (2) shall be treated as described in section 141(d)(1) of the 1986 Code.

(2) DESCRIPTION.—A bond is described in this paragraph if such bond is issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide a facility described in section 103(b)(4)(H) of the 1954 Code determined—

(A) by substituting "an application for a license" for "an application" in section 103(b)(8)(E)(ii) of the 1954 Code, and

(B) by applying the requirements of section 142(b)(2) of the 1986 Code.

(g) TREATMENT OF BONDS SUBJECT TO TRANSITIONAL RULES UNDER TAX REFORM ACT OF 1984.—

(1) Subsections (d)(3) and (f) of section 148 of the 1986 Code shall not apply to any bond described in section 624(c)(2) of the Tax Reform Act of 1984.

(2)(A) There shall not be taken into account under section 146 of the 1986 Code any bond described in the paragraph (3) of section 631(a) of the Tax Reform Act of 1984 relating to exception for certain bonds for a convention center and resource recovery project.

(B) If a bond issued as part of an issue substantially all of the proceeds of which are used to provide the convention center to which such paragraph (3) applies, such bond shall be treated as an exempt facility bond as defined in section 142(a) of the 1986 Code.

(C) If a bond which is issued as part of an issue substantially all of the proceeds of which are used to provide the resource recovery project to which paragraph (3) applies, such bond shall be treated as an exempt facility bond as defined in section 142(a) of the 1986 Code and section 149(b) of such Code shall not apply.

(3) The amendments made by section 1301 shall not apply to bonds issued to finance any property described in section 631(d)(4) of the Tax Reform Act of 1984.

(4) The amendments made by section 1301 shall not apply to—

(A) any bond issued to finance property described in section 631(d)(5) of the Tax Reform Act of 1984,

(B) any bond described in paragraph (2), (3), (4), (5), (6), or (7) of section 632(a), or section 632(b), of such Act, and

(C) any bond to which section 632(g)(2) of such Act applies.

In the case of bonds to which this paragraph applies, the requirements of sections 148 and 149(d) shall be treated as included in section 103 of the 1954 Code and shall apply to such bonds.

(5) The preceding provisions of this subsection shall not apply to any bond issued after December 31, 1988.

(6) The amendments made by section 1301 shall not apply to any bond issued to finance property described in section 216(b)(3) of the Tax Equity and Fiscal Responsibility Act of 1982.

(7) In the case of a bond described in section 632(d) of the Tax Reform Act of 1984—

(A) section 141 of the 1986 Code shall be applied without regard to subsection (a)(2) and subsection (b)(5) and paragraphs (1) and (2) of subsection (b) thereof shall be applied

by substituting "25 percent" for "10 percent" each place it appears, and

(B) section 149(b) of the 1986 Code shall not apply.

(8)(A) The amendments made by section 1301 shall not apply to any bond to which section 629(a)(1) of the Tax Reform Act of 1984 applies, but such bond shall be treated as a private activity bond for purposes of section 146 of the 1986 Code.

(B) Section 629 of the Tax Reform Act of 1984 is amended—

(i) in subsection (c)(2), by striking out "$625,000,000" and inserting in lieu thereof "$911,000,000",

(ii) in subsection (c)(3), by adding at the end thereof the following new subparagraphs:

"(D) Improvements to existing generating facilities.

"(E) Transmission lines.

"(F) Electric generating facilities.", and

(iii) in subsection (a), by adding at the end thereof the following new sentence: "The preceding sentence shall be applied by inserting 'and a rural electric cooperative utility' after 'regulated public utility' but only if not more than 1 percent of the load of the public power authority is sold to such rural electric cooperative utility."

(h) CERTAIN POLLUTION BONDS.—Any bond which is treated as described in section 103(b)(4)(F) of the 1954 Code by reason of section 13209 of the Consolidated Omnibus Budget Reconciliation Act of 1985 shall be treated as an exempt facility bond for purposes of part IV of subchapter B of chapter 1 of the 1986 Code, and section 147(d) of the 1986 Code shall not apply to such bond.

(i) TRANSITION RULE FOR AGGREGATE LIMIT PER TAXPAYER.—For purposes of section 144(a)(10) of the 1986 Code, tax increment bonds described in section 1869(c)(3) of this Act which are issued before August 16, 1986, shall not be taken into account under subparagraph (B)(ii) thereof.

(j) EXTENSION OF ADVANCE REFUNDING EXCEPTION FOR QUALIFIED PUBLIC FACILITY.—Paragraph (4) of section 631(c) of the Tax Reform Act of 1984 is amended—

(1) by striking out "or the Dade County, Florida, airport" in the last sentence, and

(2) by adding at the end thereof the following new sentence: "In the case of refunding obligations not to exceed $40,000,000 with respect to the Dade County, Florida, airport, the first sentence of this paragraph shall be applied by substituting 'December 31, 1987' for 'December 31, 1984' and the amendments made by section 1301 of the Tax Reform Act of 1986 shall not apply."

(k) EXPANSION OF EXCEPTION FOR RIVER PLACE PROJECT.—Section 1104 of the Mortgage Subsidy Bond Tax Act of 1980, as added by the Tax Reform Act of 1984, is amended—

(1) by striking out "December 31, 1984," in subsection (p) and inserting in lieu thereof "December 31, 1984 (other than obligations described in subsection (r)(1))," and

(2) by striking out "$55,000,000," in subsection (r)(1)(B) and inserting in lieu thereof "$110,000,000 of which $55,000,000 must be redeemed no later than November 1, 1987".

(l) CERTAIN REFUNDINGS.—Section 628(g) of the Tax Reform Act of 1984 (and the amendments made by section 1301 of this Act) shall not apply to any refunding obligation if the refunded issue was approved by a city building commission on April 29, 1982, and was

issued on May 11, 1982, and the refunding obligations were issued before January 1, 1987.

SEC. 1317. TRANSITIONAL RULES FOR SPECIFIC FACILITIES.

(1) DOCKS AND WHARVES.—A bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide any dock or wharf (within the meaning of section 103(b)(4)(D) of the 1954 Code) shall be treated as an exempt facility bond (for a facility described in section 142(a)(2) of the 1986 Code) for purposes of part IV of subchapter B of chapter 1 of the 1986 Code if such dock or wharf is described in any of the following subparagraphs:

(A) A dock or wharf is described in this subparagraph if—

(i) the issue to finance such dock or wharf was approved by official city action on September 3, 1985, and by voters on November 5, 1985, and

(ii) such dock or wharf is for a slack water harbor with respect to which a Corps of Engineers grant of approximately $2,000,000 has been made under section 107 of the Rivers and Harbors Act.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $2,500,000.

(B) A dock or wharf is described in this subparagraph if—

(i) inducement resolutions were adopted on May 23, 1985, September 18, 1985, and September 24, 1985, for the issuance of the bonds to finance such dock or wharf,

(ii) a harbor dredging contract with respect thereto was entered into on August 2, 1985, and

(iii) a construction management and joint venture agreement with respect thereto was entered into on October 1, 1984.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $625,000,000.

(C) A facility is described in this subparagraph if—

(i) the legislature first authorized on June 29, 1981, the State agency issuing the bond to issue at least $30,000,000 of bonds,

(ii) the developer of the facility was selected on April 26, 1985, and

(iii) an inducement resolution for the issuance of such issue was adopted on October 9, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $200,000,000.

(D) A facility is described in this subparagraph if—

(i) an inducement resolution was adopted on October 17, 1985, for such issue, and

(ii) the city council for the city in which the facility is to be located approved on July 30, 1985, an application for an urban development action grant with respect to such facility.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $36,500,000. A facility shall be treated as described in this subparagraph if it would be so described if "90 percent" were substituted for "95 percent" in the material preceding subparagraph (A) of this paragraph.

(2) POLLUTION CONTROL FACILITIES.—A bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide air or water pollution control facilities (within the meaning of section 103(b)(4)(C) of the 1954 Code) shall be treated as an exempt facility bond for purposes of part IV of subchapter B of chapter 1 of the 1986 Code if such facility is described in any of the following subparagraphs:

(A) A facility is described in this subparagraph if—

(i) inducement resolutions with respect to such facility were adopted on September 23, 1974, and on April 5, 1985,

(ii) a bond resolution for such facility was adopted on September 6, 1985, and

(iii) the issuance of the bonds to finance such facility was delayed by action of the Securities and Exchange Commission (file number 70-7127).

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $120,000,000.

(B) A facility is described in this subparagraph if—

(i) there was an inducement resolution for such facility on November 19, 1985, and

(ii) design and engineering studies for such facility were completed in March of 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $25,000,000.

(C) A facility is described in this subparagraph if—

(i) a resolution was adopted by the county board of supervisors pertaining to an issuance of bonds with respect to such facility on April 10, 1974, and

(ii) such facility was placed in service on June 12, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $90,000,000. For purposes of this subparagraph, a pollution control facility includes a sewage or solid waste disposal facility (within the meaning of section 103(b)(4)(E) of the 1954 Code).

(D) A facility is described in this subparagraph if—

(i) the issuance of the bonds for such facility was approved by a State agency on August 22, 1979, and

(ii) the authority to issue such bonds was scheduled to expire (under terms of the State approval) on August 22, 1989.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $198,000,000.

(E) A facility is described in this subparagraph if—

(i) such facility is 1 of 4 such facilities in 4 States with respect to which the Ball Corporation transmitted a letter of intent to purchase such facilities on February 26, 1986, and

(ii) inducement resolutions were issued on December 30, 1985, January 15, 1986, January 22, 1986, and March 17, 1986 with respect to bond issuance in the 4 respective States.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $6,000,000.

(F) A facility is described in this subparagraph if—

(i) inducement resolutions for bonds with respect to such facility were adopted on September 27, 1977, May 27, 1980, and October 8, 1981, and

(ii) such facility is located at a geothermal power complex owned and operated by a single investor-owned utility.

For purposes of this subparagraph and section 103 of the 1986 Code, all hydrogen sulfide air and water pollution control equipment, together with functionally related and subordinate equipment and structures, located or to be located at such power complex shall be treated as a single pollution control facility. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $600,000,000.

(G) A facility is described in this subparagraph if—

(i) such facility is an air pollution control facility approved by a State bureau of pollution control on July 10, 1986, and by a State board of economic development on July 17, 1986, and

(ii) on August 15, 1986, the State bond attorney gave notice to the clerk to initiate validation proceedings with respect to such issue and on August 28, 1986, the validation decree was entered.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $900,000.

(I) A facility is described in this subparagraph if—

(i) a private company met with a State air control board on November 14, 1985, to propose construction of a sulften unit, and

(ii) the sulften unit is being constructed under a letter of intent to construct which was signed on April 8, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $11,000,000.

(J) A facility is described in this subparagraph if it is part of a 250 megawatt coal-fired electric plant in northeastern Nevada on which the Sierra Pacific Power Company began construction in 1980. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $200,000,000.

(K) A facility is described in this subparagraph if—

(i) there was an inducement resolution adopted by a State industrial development authority on January 14, 1976, and

(ii) such facility is named in a resolution of such authority relating to carryforward of the State's unused 1985 private activity bond limit passed by such industrial development authority on December 18, 1985.

This subparagraph shall apply only to obligations issued at the request of the party pursuant to whose request the January 14, 1976, inducement was given. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $75,000,000.

(L) A facility is described in this subparagraph if a city council passed an ordinance (ordinance number 4626) agreeing to issue bonds for such project, December 16, 1985. The

aggregate face amount of obligations to which this subparagraph applies shall not exceed $45,000,000.

(3) SPORTS FACILITIES.—A bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide sports facilities (within the meaning of section 103(b)(4)(B) of the 1954 Code) shall be treated as an exempt facility bond for purposes of part IV of subchapter B of chapter 1 of the 1986 Code if such facilities are described in any of the following subparagraphs:

(A) A facility is described in this subparagraph if it is a domed stadium—

(i) which was the subject of a city ordinance passed on September 23, 1985,

(ii) for which a loan of approximately $4,000,000 for land acquisition was approved on October 28, 1985, by the State Controlling Board, and

(iii) a stadium operating corporation with respect to which was incorporated on March 20, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $200,000,000.

(B) A facility is described in this subparagraph if—

(i) it is a stadium with respect to which a lease agreement for the ground on which the stadium is to be built was entered into between a county and the stadium corporation for such stadium on July 3, 1984,

(ii) there was a resolution approved on November 14, 1984, by an industrial development authority setting forth the terms under which the bonds to be issued to finance such stadium would be issued, and

(iii) there was an agreement for consultant and engineering services for such stadium entered into on September 28, 1984.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $90,000,000.

(C) A facility is described in this subparagraph if—

(i) it is a stadium to be used by an American League baseball team currently using a stadium in a city having a population in excess of 2,500,000 and described in section 146(d)(3) of the 1986 Code, or by one or more professional sports teams currently using stadiums in such city (or professional sports teams which locate in such city following the relocation from such city of one or more professional sports teams currently using one or more of such stadiums), and

(ii) the obligations to be used to provide financing for such stadium are issued pursuant to an inducement resolution adopted by a State agency on November 20, 1985 (whether or not the beneficiary of such issue is the beneficiary (if any) specified in such resolution).

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $250,000,000. In the case of a carryforward of volume cap for a stadium described in the first sentence of this subparagraph, such carryforward shall be permitted whether or not there is a change in the beneficiary of the project.

(D) A facility is described in this subparagraph if—

(i) such facility is a stadium or sports arena for Memphis, Tennessee,

(ii) there was an inducement resolution adopted on November 12, 1985, for the issuance of bonds to expand or renovate an existing stadium and sports arena and/or to construct a new arena, and

(iii) the city council for such city adopted a resolution on April 19, 1983, to include funds in the capital budget of the city for such facility or facilities.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $35,000,000.

(E) A facility is described in this subparagraph if such facility is a baseball stadium located in Bergen, Essex, Union, Middlesex, or Hudson County, New Jersey with respect to which governmental action occurred on November 7, 1985. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $150,000,000.

(F) A facility is described in this subparagraph if—

(i) it is a facility with respect to which—

(I) an inducement resolution dated December 24, 1985, was adopted by the county industrial development authority,

(II) a public hearing of the county industrial development authority was held on February 6, 1986, regarding such facility, and

(III) a contract was entered into by the county, dated February 19, 1986, for engineering services for a highway improvement in connection with such project, or

(ii) it is a domed football stadium adjacent to Cervantes Convention Center in St. Louis, Missouri, with respect to which a proposal to evaluate market demand, financial operations, and economic impact was dated May 9, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $175,000,000.

(G) A project to provide a roof or dome for an existing sports facility is described in this subparagraph if—

(i) in December 1984 the county sports complex authority filed a carryforward election under section 103(n) of the 1954 Code with respect to such project,

(ii) in January 1985, the State authorized issuance of $30,000,000 in bonds in the next 3 years for such project, and

(iii) an 11-member task force was appointed by the county executive in June 1985, to further study the feasibility of the project.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $30,000,000.

(H) A sports facility renovation or expansion project is described in this subparagraph if—

(i) an amendment to the sports team's lease agreement for such facility was entered into on May 23, 1985, and

(ii) the lease agreement had previously been amended in January 1976, on July 6, 1984, on April 1, 1985, and on May 7, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $20,000,000.

(I) A facility is described in this subparagraph if—

(i) an appraisal for such facility was completed on March 6, 1985,

(ii) an inducement resolution was adopted with respect to such facility on June 7, 1985, and

(iii) a State bond commission granted preliminary approval for such project on September 3, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $3,200,000.

(J) A sports facility renovation or expansion project is described in this subparagraph if—

(i) such facility is a domed stadium which commenced operations in 1965,

(ii) such facility has been the subject of an ongoing construction, expansion, or renovation program of planned improvements,

(iii) part 1 of such improvements began in 1982 with a preliminary renovation program financed by tax-exempt bonds,

(iv) part 2 of such program was previously scheduled for a bond election on February 25, 1986, pursuant to a Commissioners Court Order of October 29, 1985, and

(v) the bond election for improvements to such facility was subsequently postponed on December 10, 1985, in order to provide for more comprehensive construction planning.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $60,000,000.

(K) A facility is described in this subparagraph if—

(i) the 1985 State legislature appropriated a maximum sum of $22,500,000 to the State urban development corporation to be made available for such project, and

(ii) a development and operation agreement was entered into among such corporation, the city, the State budget director, and the county industrial development agency, as of March 1, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $28,000,000.

(L) A facility is described in this subparagraph if—

(i) it is to consist of 1 or 2 stadiums appropriate for football games and baseball games with related structures and facilities,

(ii) governmental action was taken on August 7, 1985, by the county commission, and on December 19, 1985, by the city council, concerning such facility, and

(iii) such facility is located in a city having a National League baseball team.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $200,000,000.

(M) A facility is described in this subparagraph if—

(i) such facility consists of 1 or 2 stadium projects (1 of which may be a stadium renovation or expansion project) with related structures and facilities,

(ii) a special advisory commission commissioned a study by a national accounting firm with respect to a project for such facility, which study was released in September 1985, and recommended construction of either a new multipurpose or a new baseball-only stadium,

(iii) a nationally recognized design and architectural firm released a feasibility study with respect to such project in April 1985, and

(iv) the metropolitan area in which the facility is located is presently the home of an American League baseball team.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $200,000,000.

(N) A facility is described in this subparagraph if—

(i) it is to consist of 1 or 2 stadiums appropriate for football games and baseball games with related structures and facilities,

(ii) the site for such facility was approved by the council of the city in which such facility is to be located on July 9, 1985, and

(iii) the request for proposals process was authorized by the council of the city in which such facility is to be located on November 5, 1985, and such requests were distributed to potential developers on November 15, 1985, with responses due by February 14, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $200,000,000.

(O) A facility is described in this subparagraph if—

(i) such facility is described in a feasibility study dated September 1985, and

(ii) resolutions were adopted or other actions taken on February 21, 1985, July 18, 1985, August 8, 1985, October 17, 1985, and November 7, 1985, by the Board of Supervisors of the county in which such facility will be located with respect to such feasibility study, appropriations to obtain land for such facility, and approving the location of such facility in the county.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $20,000,000.

(P) A facility is described in this subparagraph if such facility constructed on a site acquired with the sale of revenue bonds approved by a city council on December 9, 1985, (Ordinances No. 669 and 670, series 1985). The aggregate face amount of bonds to which this subparagraph applies shall not exceed $90,000,000.

(Q) A facility is described in this subparagraph if—

(i) resolutions were adopted approving a ground lease dated June 27, 1983, by a sports authority (created by a State legislature) with respect to the land on which the facility will be erected,

(ii) such facility is described in a market study dated June 13, 1983, and

(iii) such facility was the subject of an Act of the State legislature which was signed on July 1, 1983.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $81,000,000.

(R) A facility is described in this subparagraph if such facility is a baseball stadium and adjacent parking facilities with respect to which a city made a carryforward election of $52,514,000 on February 25, 1985. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $50,000,000.

(S) A facility is described in this subparagraph if—

(i) such facility is to be used by both a National Hockey League team and a National Basketball Association team,

(ii) such facility is to be constructed on a platform using air rights over land acquired by a State authority and identified as site B in a report dated May 30, 1984, prepared for a State urban development corporation, and

(iii) such facility is eligible for real property tax (and power and energy) benefits pursuant to State legislation approved and effective as of July 7, 1982.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $225,000,000.

(T) A facility is described in this subparagraph if—

(i) a resolution authorizing the financing of the facility through an issuance of revenue bonds was adopted by the City Commission on August 5, 1986, and

(ii) the metropolitan area in which the facility is to be located is currently the spring training home of an American league baseball team located during the regular season in a city described in subparagraph (C).

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $10,000,000.

(U) A facility is described in this subparagraph if it is a football stadium located in Oakland, California, with respect to which a design was completed by a nationally recognized architectural firm for a stadium seating approximately 72,000, to be located on property adjacent to an existing coliseum complex. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $100,000,000.

(V) A facility is described in this subparagraph if it is a sports arena (and related parking facility) for Grand Rapids, Michigan. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $80,000,000.

(W) A facility is described in this subparagraph if such facility is located adjacent to the Anacostia River in the District of Columbia. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $225,000,000.

(X) A facility is described in this subparagraph if it is a spectator sports facility for the City of San Antonio, Texas. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $125,000,000.

(Y) A facility is described in this subparagraph if it will be part of, or adjacent to, an existing stadium which has been owned and operated by a State university and if—

(i) the stadium was the subject of a feasibility report by a certified public accounting firm which is dated December 28, 1984, and

(ii) a report by an independent research organization was prepared in December 1985 demonstrating support among donors and season ticket holders for the addition of a dome to the stadium.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $50,000,000.

(4) RESIDENTIAL RENTAL PROPERTY.—A bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to finance a residential rental project within the meaning of section 103(b)(4) of the 1954 Code shall be treated as an exempt facility bond within the meaning of section 142(a)(7) of the 1986 Code if the facility with respect to the bond is issued satisfies all low-income occupancy requirements applicable to such bonds before August 15, 1986. The bonds are issued pursuant to—

(A) a contract to purchase such property dated August 12, 1985; and

(B) the county housing authority approved the property and the financing thereof on September 24, 1985,

(C) there was an inducement resolution adopted on October 10, 1985, by the county industrial development authority.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $25,400,000.

(5) AIRPORTS.—A bond issued as a part of an issue 95 percent or more of the net proceeds of which are to be used to provide an airport (within the meaning of section 103(b)(4)(D) of the 1954 Code) shall be treated as an exempt facility bond (for facilities described in section 142(a)(1) of the 1986 Code) for purposes of part IV of subchapter B of chapter 1 of the 1986 Code if the facility is described in any of the following subparagraphs:

(A) A facility is described in this subparagraph if such facility is a hotel at an airport facility serving a city described in section 631(a)(3) of the Tax Reform Act of 1984 (relating to certain bonds for a convention center and resource recovery project). The aggregate face amount of bonds to which this subparagraph applies shall not exceed $40,000,000.

(B) A facility is described in this subparagraph if such facility is the primary airport for a city described in paragraph (3)(C). The aggregate face amount of bonds to which this subparagraph applies shall not exceed $500,000,000. Section 148(d)(2) of the 1986 Code shall not apply to any issue to which this subparagraph applies. A facility shall be described in this subparagraph if it would be so described if "90 percent" were substituted for "95 percent" in the material preceding subparagraph (A).

(C) A facility is described in this subparagraph if such facility is a hotel at Logan airport and such hotel is located on land leased from a State authority under a lease contemplating development of such hotel dated May 1, 1983, or under an amendment, renewal, or extension of such a lease. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $40,000,000.

(D) A facility is described in this subparagraph if such facility is the airport for the County of Sacramento, California. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $150,000,000.

(6) REDEVELOPMENT PROJECTS.—A bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to finance redevelopment activities as part of a project within a specific designated area shall be treated as a qualified redevelopment bond for purposes of part IV of subchapter B of chapter 1 of the 1986 Code if such project is described in any of the following subparagraphs:

(A) A project is described in this subparagraph if it was the subject of a city ordinance numbered 82-115 and adopted on December 2, 1982, or numbered 9590 and adopted on April 6, 1983. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $9,000,000.

(B) A project is described in this subparagraph if it is a redevelopment project for an area in a city described in paragraph (3)(C) which was designated as commercially blighted on November 14, 1975, by the city council and the redevelopment plan for which will be approved by the city council before January 31, 1987. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $20,000,000.

(C) A project is described in this subparagraph if it is a redevelopment project for an area in a city described in paragraph (3)(C) which was designated as commercially blighted on March 28, 1979, by the city council and the redevelopment plan for which was approved by the city council on June 20, 1984. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $100,000,000.

(D) A project is described in this subparagraph if it is any one of three redevelopment projects in areas in a city described in paragraph (3)(C) designated as blighted by a city council before January 31, 1987 and with respect to which the redevelopment plan is approved by the city council before January 31, 1987. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $20,000,000.

(E) A project is described in this subparagraph if such project is for public improvements (including street reconstruction and improvement of underground utilities) for Great Falls, Montana, with respect to which engineering estimates are due on October 1, 1986. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $3,000,000.

(F) A project is described in this subparagraph if—

(i) such project is located in an area designated as blighted by the governing body of the city on February 15, 1983 (Resolution No. 4573), and

(ii) such project is developed pursuant to a redevelopment plan adopted by the governing body of the city on March 1, 1983 (Ordinance No. 15073).

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $5,000,000.

(G) A project is described in this subparagraph if—

(i) such project is located in an area designated by the governing body of the city in 1983,

(ii) such project is described in a letter dated August 8, 1985, from the developer's legal counsel to the development agency of the city, and

(iii) such project consists primarily of retail facilities to be built by the developer named in a resolution of the governing body of the city on August 30, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $75,000,000.

(H) A project is described in this subparagraph if—

(i) such project is a project for research and development facilities to be used primarily to benefit a State university and related hospital, with respect to which an urban renewal district was created by the city council effective October 11, 1985, and

(ii) such project was announced by the university and the city in March 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $40,000,000.

(I) A project is described in this subparagraph if such project is a downtown redevelopment project with respect to which—

(i) an urban development action grant was made, but only if such grant was preliminarily approved on November 3, 1983, and received final approval before June 1, 1984, and

(ii) the issuer of bonds with respect to such facility adopted a resolution indicating the issuer's intent to adopt such redevelopment project on October 6, 1981, and the issuer adopted an ordinance adopting such redevelopment project on December 13, 1983.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $10,000,000.

(J) A project is described in this subparagraph if—

(i) with respect to such project the city council adopted on December 16, 1985, an ordinance directing the urban renewal authority to study blight and produce an urban renewal plan,

(ii) the blight survey was accepted and approved by the urban renewal authority on March 20, 1986, and

(iii) the city planning board approved the urban renewal plan on May 7, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $60,000,000.

(K) A project is described in this subparagraph if—

(i) the city redevelopment agency approved resolutions authorizing issuance of land acquisition and public improvements bonds with respect to such project on August 8, 1978,

(ii) such resolutions were later amended in June 1979, and

(iii) the State Supreme Court upheld a lower court decree validating the bonds on December 11, 1980.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $380,000,000.

(L) A project is described in this subparagraph if it is a mixed use redevelopment project either—

(i) in an area (known as the Near South Development Area) with respect to which the planning department of a city described in paragraph 3(C) promulgated a draft development plan dated March 1986, and which was the subject of public hearings held by a subcommittee of the plan commission of such city on May 28, 1986, and June 10, 1986, or

(ii) in an area located within the boundaries of any 1 or more census tracts which are directly adjacent to a river whose course runs through such city.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $75,000,000.

(M) A project is described in this subparagraph if it is a redevelopment project for an area in a city described in paragraph 3(C) and such area—

(i) was the subject of a report released in May 1986, prepared by the National Park Service, and

(ii) was the subject of a report released January 1986, prepared by a task force appointed by the Mayor of such city.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $75,000,000.

(N) A project is described in this subparagraph if it is a city-university redevelopment project approved by a city ordinance No. 152-0-84 and the development plan for which was adopted on January 28, 1985. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $23,760,000.

(O) A project is described in this subparagraph if—

(i) an inducement resolution was passed on March 9, 1984, for issuance of bonds with respect to such project,

(ii) such resolution was extended by resolutions passed on August 14, 1984, April 2, 1985, August 13, 1985, and July 8, 1986,

(iii) an urban development action grant was preliminarily approved for part or all of such project on July 3, 1986, and

(iv) the project is located in a district designated as the Peabody-Gayoso District.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $140,000,000.

(P) A project is described in this subparagraph if the project is a 1-block area of a central business district containing a YMCA building with respect to which—

(i) the city council adopted a resolution expressing an intent to issue bonds for the project on September 27, 1985,

(ii) the city council approved project guidelines for the project on December 20, 1985, and

(iii) the city council by resolution (adopted on July 30, 1986) directed completion of a development agreement.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $26,000,000.

(Q) A project is described in this subparagraph if the project is a 2-block area of a central business district designated as blocks E and F with respect to which—

(i) the city council adopted guidelines and criteria and authorized a request for development proposals on July 22, 1985,

(ii) the city council adopted a resolution expressing an intent to issue bonds for the project on September 27, 1985, and

(iii) the city issued requests for development proposals on March 28, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $47,000,000.

(R) A project is described in this subparagraph if the project is an urban renewal project covering approximately 5.9 acres of land in the Shaw area of the northwest section of the District of Columbia and the 1st portion of such project was the subject of a District of Columbia public hearing on June 2, 1986. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $10,000,000.

(S) A project is described in this subparagraph if such project is a hotel, commercial, and residential project on the east bank of the Grand River in Grand Rapids, Michigan, with respect to which a developer was selected by the city in June 1985 and a planning agreement was executed in August 1985. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $39,000,000.

(T) A project is described in this subparagraph if such project is the Wurzburg Block Redevelopment Project in Grand Rapids, Michigan. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $60,000,000.

(U) A project is described in this subparagraph if such project is consistent with an urban renewal plan adopted or ordered prepared before August 28, 1986, by the city council of the most populous city in a state which entered the Union on February 14, 1859. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $83,000,000.

(V) A project is described in this subparagraph if such project is consistent with an urban renewal plan which was adopted (or ordered prepared) before August 13, 1985, by an appropriate jurisdiction of a state which entered the Union on February 14, 1859. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $135,000,000 and the limitation on the period during which bonds under this section may be issued shall not apply to such bonds.

(W) A project is described in this paragraph if such project—

(i) is located on lands submerged under the waters of a Great Lake or on adjacent lands which formerly were submerged under the waters of such lake;

(ii) project lands were improved with a stadium which was demolished prior to December 31, 1983, and

(iii) legislation for the project was included in a biennium budget for such the State in which it is to be located prior to December 31, 1983.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $105,000,000.

(X) Any designated area with respect to which a project is described in any subparagraph of this paragraph shall be taken into account in applying section 144(c)(4)(C) of the 1986 Code in determining whether other areas (not so described) may be designated.

(7) CONVENTION CENTERS.—A bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide any convention or trade show facility (within the meaning of section 103(b)(4)(C) of the 1954 Code) shall be treated as an exempt facility bond for purposes of part IV of subchapter B of chapter 1 of the 1986 Code if such facility is described in any of the following subparagraphs:

(A) A facility is described in this subparagraph if—

(i) a feasibility consultant and a design consultant were hired on April 3, 1985, with respect to such facility, and

(ii) a draft feasibility report with respect to such facility was presented on November 3, 1985, to the Mayor of the city in which such facility is to be located.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $190,000,000. For purposes of this subparagraph, not more than $20,000,000 of bonds issued to advance refund existing convention facility bonds sold on May 12, 1978, shall be treated as bonds described in this subparagraph.

(B) A facility is described in this subparagraph if—

(i) an application for a State loan for such facility was approved by the city council on March 4, 1985, and

(ii) the city council of the city in which such facility is to be located approved on March 25, 1985, an application for an urban development action grant.

The aggregate face amount of bonds which this subparagraph applies shall not exceed $10,000,000.

(C) A facility is described in this subparagraph if—

(i) on November 1, 1983, a convention development tax took effect and was dedicated to financing such facility,

(ii) the State supreme court of the State in which the facility is to be located validated such tax on February 8, 1985, and

(iii) an agreement was entered into on November 14, 1985, between the city and county in which such facility is to be located on the terms of the bonds to be issued with respect to such facility.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $66,000,000.

(D) A facility is described in this subparagraph if such facility was initially approved in 1983 and is for San Jose, California. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $100,000,000.

(E) A facility is described in this subparagraph if—

(i) such facility is meeting rooms for a convention center, and

(ii) resolutions and ordinances were adopted with respect to such meeting rooms on January 17, 1983, July 11, 1983, December 17, 1984, and September 23, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $75,000,000.

(F) A facility is described in this subparagraph if it is an international trade center which is part of the 125th Street redevelopment project in New York, New York. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $165,000,000.

(G) A facility is described in this subparagraph if—

(i) such facility is located in a city which was the subject of a convention center market analysis or study dated March 1983, and prepared by a nationally recognized accounting firm,

(ii) such facility's location was approved by a task force created jointly, in December 1985, by the Governor or the State within which such facility will be located and the mayor of the capital city of such State, and

(iii) the size of such facility is not more than 200,000 square feet.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $70,000,000.

(H) A facility is described in this subparagraph if an analysis of operations and recommendations of utilization of such facility was prepared by a certified public accounting firm pursuant to an engagement authorized on March 6, 1984, and presented on June 11, 1984, to officials of the city in which such facility is located. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $75,000,000.

(I) A facility is described in this subparagraph if—

(i) voters approved a bond issue to finance the acquisition of the site for such facility on May 4, 1985,

(ii) title of the property was transferred from the Illinois Center Gulf Railroad to the city on September 30, 1985, and

(iii) a United States judge rendered a decision regarding the fair market value of the site of such facility on December 30, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $131,000,000.

(J) A facility is described in this subparagraph if—

(i) such facility is to be used for an annual civic festival,

(ii) a referendum was held in the spring of 1985 in which voters permitted the city council to lease 130 acres of dedicated parkland to such festival, and

(iii) the city council passed an inducement resolution on June 19, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $5,000,000.

(K) A facility is described in this subparagraph if—

(i) voters approved a bond issued to finance a portion of the cost of such facility on December 1, 1984, and

(ii) such facility was the subject of a market study and financial projections dated March 21, 1986, prepared by a nationally recognized accounting firm.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $5,000,000.

(L) A facility is described in this subparagraph if—

(i) on July 12, 1984, the city council passed a resolution increasing the local hotel and motel tax to 7 percent to assist in paying for such facility,

(ii) on October 25, 1984, the city council selected a consulting firm for such facility, and

(iii) with respect to such facility, the city council appropriated funds for additional work on February 7, 1985, October 3, 1985, and June 26, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $120,000,000.

(M) A facility is described in this subparagraph if—

(i) a board of county commissioners, in an action dated January 21, 1986, supported an application for official approval of the facility, and

(ii) the State economic development commission adopted a resolution dated February 25, 1986, determining the facility to be an eligible facility pursuant to State law and the rules adopted by the commission.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $7,500,000.

(8) SPORTS OR CONVENTION FACILITIES.—A bond issued as a part of an issue 95 percent or more of the net proceeds of which are to be used to provide either a sports facility (within the meaning of section 103(b)(4)(B) of the 1954 Code) or a convention facility (within the meaning of section 103(b)(4)(C) of the 1954 Code) shall be treated as an exempt facility bond for purposes of part IV of subchapter B of chapter 1 of the 1986 Code if such facility is described in any of the following subparagraphs:

(A) A combined convention and arena facility, or any part thereof (whether on the same or different sites), is described in this subparagraph if—

(i) bonds for the expansion, acquisition, or construction of such combined facility are payable from a tax and are issued under a plan initially approved by the voters of the taxing authority on April 25, 1978, and

(ii) such bonds were authorized for expanding a convention center, for acquiring an arena site, and for building an arena or any of the foregoing pursuant to a resolution adopted by the governing body of the bond issuer on March 17, 1986, and superseded by a resolution adopted by such governing body on May 27, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $160,000,000.

(B) A sports or convention facility is described in this subparagraph if—

(i) on March 4, 1986, county commissioners held public hearings on creation of a county convention facilities authority, and

(ii) on March 7, 1986, the county commissioners voted to create a county convention facilities authority and to submit to county voters a ½ cent sales and use tax to finance such facility.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $150,000,000.

(C) A sports or convention facility is described in this subparagraph if—

(i) a feasibility consultant and a design consultant were hired prior to October 1980 with respect to such facility,

(ii) a feasibility report dated October 1980 with respect to such facility was presented to a city or county in which such facility is to be located, and

(iii) on September 7, 1982, a joint city/county resolution appointed a committee which was charged with the task of independently reviewing the studies and present need for the facility.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $60,000,000.

(D) A sports or convention facility is described in this subparagraph if—

(i) such facility is a multipurpose coliseum facility for which, before January 1, 1985, a city, an auditorium district created by the State legislature within which such facility will be located, and a limited partnership executed an enforceable contract,

(ii) significant governmental action regarding such facility was taken before May 23, 1983, and

(iii) inducement resolutions were passed for issuance of bonds with respect to such facility on May 26, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $25,000,000.

(9) PARKING FACILITIES.—A bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide a parking facility (within the meaning of section 103(b)(4)(D) of the 1954 Code) shall be treated as an exempt facility bond for purposes of part IV of subchapter B of chapter 1 of the 1986 Code if such facility is described in any of the following subparagraphs:

(A) A facility is described in this subparagraph if—

(i) there was an inducement resolution on March 9, 1984, for the issuance of bonds with respect to such facility, and

(ii) such resolution was extended by resolutions passed on August 14, 1984, April 2, 1985, August 13, 1985, and July 8, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $30,000,000.

(B) A facility is described in this subparagraph if—

(i) such facility is for a university medical school,

(ii) the last parcel of land necessary for such facility was purchased on February 4, 1985, and

(iii) the amount of bonds to be issued with respect to such facility was increased by the State legislature of the State in which the facility is to be located as part of its 1983-1984 general appropriations act.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $9,000,000.

(C) A facility is described in this subparagraph if—

(i) the development agreement with respect to the project of which such facility is a part was entered into during May 1984, and

(ii) an inducement resolution was passed on October 9, 1985, for the issuance of bonds with respect to the facility.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $35,000,000.

(D) A facility is described in this subparagraph if the city council approved a resolution of intent to issue tax-exempt bonds (Resolution 34083) for such facility on April 30, 1986. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $8,000,000. Solely for purposes of this subparagraph, a heliport constructed as part of such facility shall be deemed to be functionally related and subordinate to such facility.

(E) A facility is described in this subparagraph if—

(i) resolutions were adopted by a public joint powers authority relating to such facility on March 5, 1985, May 1, 1985, October 2, 1985, December 4, 1985, and February 5, 1986; and

(ii) such facility is to be located at an exposition park which includes a coliseum and sports arena.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $150,000,000.

(F) A facility is described in this subparagraph if—

(i) it is to be constructed as part of an overall development that is the subject of a development agreement dated October 1, 1983, between a developer and an organization described in section 501(c)(3) of the 1986 Code, and

(ii) an environmental notification form with respect to the overall development was filed with a State environmental agency on February 28, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $60,000,000.

(G) A facility is described in this subparagraph if—

(i) an inducement resolution was passed by the city redevelopment agency on December 3, 1984, and a resolution to carryforward the private activity bond limit was passed by such agency on December 21, 1984, with respect to such facility, and

(ii) the owner participation agreement with respect to such facility was entered into on July 30, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $18,000,000.

(H) A facility is described in this subparagraph if—

(i) an application (dated August 28, 1986) for financial assistance was submitted to the county industrial development agency with respect to such facility, and

(ii) the inducement resolution for such facility was passed by the industrial development agency on September 10, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $8,000,000.

(I) A facility is described in this subparagraph if—

(i) it is located in a city the parking needs of which were comprehensively described in a "Downtown Parking Plan" dated January 1983, and approved by the city's City Plan Commission on June 1, 1983, and

(ii) obligations with respect to the construction of which are issued on behalf of a State or local governmental unit by a corporation empowered to issue the same which was created by the legislative body of a State by an Act introduced on May 21, 1985, and thereafter passed, which Act became effective without the governor's signature on June 26, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $50,000,000.

(J) A facility is described in this subparagraph if—

(i) such facility is located in a city which was the subject of a convention center market analysis or study dated March 1983 and prepared by a nationally recognized accounting firm,

(ii) such facility is intended for use by, among others, persons attending a convention center located within the same town or city, and

(iii) such facility's location was approved by a task force created jointly, in December 1985, by the governor of the State within which such facility will be located and the mayor of the capital city of such State.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $30,000,000.

(K) A facility is described in this subparagraph if—

(i) scale and components for the facility were determined by a city downtown plan adopted October 31, 1984 (resolution number 3882), and

(ii) the site area for the facility is approximately 51,200 square feet.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $5,000,000.

(L) A facility is described in this subparagraph if—

(i) the property for such facility was offered for development by a city renewal agency on March 19, 1986 (resolution number 920), and

(ii) the site area for the facility is approximately 25,600 square feet.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $5,000,000.

(M) A facility is described in this subparagraph if such facility was approved by official action of the city council on July 26, 1984 (resolution number 33718), and is for the Moyer Theatre. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $8,000,000.

(N) A facility is described in this subparagraph if it is part of a renovation project involving the Outlet Company building in Providence, Rhode Island. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $6,000,000.

(10) CERTAIN ADVANCE REFUNDINGS.—

(A) Section 149(d)(3) of the 1986 Code shall not apply to a bond issued by a State admitted to the Union on November 16, 1907, for the advance refunding of not more than $186,000,000 State turnpike obligations.

(B) A refunding of the Charleston, West Virginia Town Center Garage Bonds shall not be treated for purposes of part IV of subchapter A of chapter 1 of the 1986 Code as an advance refunding if it would not be so treated if "100" were substituted for "90" in section 149(d)(5) of such Code.

(11) PRINCIPAL USER PROVISIONS.—

(A) In the case of a bond issued as part of an issue the proceeds of which are to be used to provide a facility described in subparagraph (B) or (C), the determination of whether such bond is an exempt facility bond shall be made by substituting "90 percent" for "95 percent" and section 142(a) of the 1986 Code.

(B) A facility is described in this subparagraph if—

(i) it is a waste-to-energy project for which a contract for the sale of electricity was executed in September 1984, and

(ii) the design, construction, and operation contract for such project was signed in March 1985 and the order to begin construction was issued on March 31, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $29,100,000.

(C) A facility is described in this subparagraph if it is a solid waste disposal facility for Charleston, South Carolina, and a State political subdivision took formal action on April 1, 1980, to commit development funds for such facility.

(12) QUALIFIED SCHOLARSHIP FUNDING BONDS.—Subsections (d)(3) and (f) of section 148 of the 1986 Code shall not apply to any bond or series of bonds the proceeds of which are used exclusively to refund qualified scholarship funding bonds (as defined in section 150 of the 1986 Code) issued before January 1, 1986, if—

(A) the amount of the refunding bonds does not exceed the aggregate face amount of the refunded bonds,

(B) the maturity date of such refunding bond is not later than later of—

(i) the maturity date of the bond to be refunded, or

(ii) the date which is 15 years after the date on which the refunded bond was issued (or, in the case of a series of refundings, the date on which the original bond was issued),

(C) the bonds to be refunded were issued by the California Student Loan Finance Corporation, and

(D) the face amount of the refunding bonds does not exceed $175,000,000.

(13) RESIDENTIAL RENTAL PROPERTY PROJECTS.—A bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide a project for residential rental property which satisfies the requirements of section 103(b)(4)(A) of the 1954 Code shall be treated as an exempt facility bond (for projects described in section 142(a)(7) of the 1986 Code) for purposes of part IV of subchapter B of chapter 1 of the 1986

Code if the project is described in any of the following subparagraphs:

(A) A residential rental property project is described in this subparagraph if—

(i) a public building development corporation was formed on June 6, 1984, with respect to such project,

(ii) a partnership of which the corporation is a general partner was formed on June 8, 1984, and

(iii) the partnership entered into a preliminary agreement with the State public facilities authority effective as of May 4, 1984, with respect to the issuance of the bonds for such project.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $6,200,000.

(B) A residential rental property project is described in this subparagraph if—

(i) the Board of Commissioners of the city housing authority officially selected such project's developer on December 19, 1985,

(ii) the Board of the City Redevelopment Commission agreed on February 13, 1986, to conduct a public hearing with respect to the project on March 6, 1986,

(iii) an official action resolution for such project was adopted on March 6, 1986, and

(iv) an allocation of a portion of the State ceiling was made with respect to such project on July 29, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $10,000,000.

(C) A residential rental property project is described in this subparagraph if—

(i) the issuance of $1,289,882 of bonds for such project was approved by a State agency on September 11, 1985, and

(ii) the authority to issue such bonds was scheduled to expire (under the terms of the State approval) on September 9, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $1,300,000.

(D) A residential rental property project is described in this subparagraph if—

(i) the issuance of $7,020,000 of bonds for such project was approved by a State agency on October 10, 1985, and

(ii) the authority to issue such bonds was scheduled to expire (under the terms of the State approval) on October 9, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $7,020,000.

(E) A residential rental property project is described in this subparagraph if—

(i) it is to be located in a city urban renewal project area which was established pursuant to an urban renewal plan adopted by the city council on May 17, 1960,

(ii) the urban renewal plan was revised in 1972 to permit multifamily dwellings in areas of the urban renewal project designated as a central business district,

(iii) an inducement resolution was adopted for such project on December 14, 1984, and

(iv) the city council approved on November 6, 1985, an agreement which provides for conveyance to the city of fee title to such project site.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $60,000,000.

(F) A residential rental property project is described in this subparagraph if—

(i) such project is to be located in a city urban renewal project area which was established pursuant to an urban renewal plan adopted by the city council on May 17, 1960,

(ii) the urban renewal plan was revised in 1972 to permit multifamily dwellings in areas of the urban renewal project designated as a central business district,

(iii) the amended urban renewal plan adopted by the city council on May 19, 1972, also provides for the conversion of any public area site in Block J of the urban renewal project area for the development of residential facilities, and

(iv) acquisition of all of the parcels comprising the Block J project site was completed by the city on December 28, 1984.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $60,000,000.

(G) A residential rental property project is described in this subparagraph if—

(i) such project is to be located on a city-owned site which is to become available for residential development upon the relocation of a bus maintenance facility,

(ii) preliminary design studies for such project site were completed in December 1985, and

(iii) such project is located in the same State as the projects described in subparagraphs (E) and (F).

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $100,000,000.

(H) A residential rental property project is described in this subparagraph if—

(i) at least 20 percent of the residential units in such project are to be utilized to fulfill the requirements of a unilateral agreement date July 21, 1983, relating to the provision of low- and moderate-income housing,

(ii) the unilateral agreement was incorporated into ordinance numbers 83-49 and 83-50, adopted by the city council and approved by the mayor on August 24, 1983, and

(iii) an inducement resolution was adopted for such project on September 25, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $8,000,000.

(I) A residential rental property project is described in this subparagraph if—

(i) a letter of understanding was entered into on December 11, 1985, between the city and county housing and community development office and the project

developer regarding the conveyance of land for such project, and

(ii) such project is located in the same State as the projects described in subparagraphs (E), (F), (G), and (H).

The aggregate face amount of bonds to which this subparagraph applies shall not exceed an amount which, together with the amounts allowed under subparagraphs (E), (F), (G), and (H), does not exceed $250,000,000.

(J) A residential rental property project is described in this subparagraph if it is a multifamily residential development located in Arrowhead Springs, within the county of San Bernardino, California, and a portion of the site of which currently is owned by the Campus Crusade for Christ. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $350,000,000.

(K) A residential rental property project is described in this subparagraph if—

(i) it is a new residential development with approximately 309 dwelling units located in census tract No. 3202, and

(ii) there was an inducement ordinance for such project adopted by a city council on November 20, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $32,000,000.

(L) A residential rental property project is described in this subparagraph if—

(i) it is a new residential development with approximately 70 dwelling units located in census tract No. 3901, and

(ii) there was an inducement ordinance for such project adopted by a city council on August 14, 1984.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $4,000,000.

(M) A residential rental property project is described in this subparagraph if—

(i) it is a new residential development with approximately 98 dwelling units located in census tract No. 4701, and

(ii) there was an inducement ordinance for such project adopted by a city council on August 14, 1984.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $7,000,000.

(N) A project or projects are described in this subparagraph if they are part of the Willow Road residential improvement plan in Menlo Park, California. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $9,000,000.

(O) A residential rental property project is described in this subparagraph if—

(i) an inducement resolution for such project was approved on July 18, 1985, by the city council,

(ii) such project was approved by such council on August 11, 1986, and

(iii) such project consists of approximately 22 duplexes to be used for housing qualified low and moderate income tenants.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $1,500,000.

(P) A residential rental property project is described in this subparagraph if—

(i) an inducement resolution for such project was approved on April 22, 1986, by the city council,

(ii) such project was approved by such council on August 11, 1986, and

(iii) such project consists of a unit apartment complex (having approximately 60 units) to be used for housing qualified low and moderate income tenants.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $1,625,000.

(Q) A residential rental property project is described in this subparagraph if—

(i) a State housing authority granted a notice of official action for the project on May 24, 1985, and

(ii) a binding agreement was executed for such project with the State housing finance authority on May 14, 1986, and such agreement was accepted by the State housing authority on June 5, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $7,800,000.

(R) A residential rental property project is described in this subparagraph if such project is either of 2 projects (located in St. Louis, Missouri) which received commitments to provide construction and permanent financing through the issuance of bonds in principal amounts of up to $242,130 and $654,045, on July 16, 1986. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $1,000,000.

(S) A residential rental property project is described in this subparagraph if—

(i) a local housing authority approved an inducement resolution for such project on January 28, 1985, and

(ii) a suit relating to such project was dismissed without right of further appeal on April 4, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $13,200,000.

(T) A residential rental property project is described in this subparagraph if—

(i) such project is the renovation of a hotel for residents for senior citizens,

(ii) an inducement resolution for such project was adopted on November 20, 1985, by the State Development Finance Authority, and

(iii) such project is to be located in the metropolitan area of the city described in paragraph (3)(C).

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $9,500,000.

(U) A residential rental property project is described in this subparagraph if—

(i) such project is the renovation of apartment housing,

(ii) an inducement resolution for such project was adopted on December 20, 1985, by the State Housing Development Authority, and

(iii) such project is to be located in the metropolitan area of the city described in paragraph (3)(C).

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $12,000,000.

(V) A residential rental project is described in this subparagraph if it is a renovation and construction project for low-income housing in central Louisville, Kentucky, and local board approval for such project was granted April 22, 1986. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $500,000.

(W) A residential rental project is described in this subparagraph if—

(i) such project is 1 of 6 residential rental projects having in the aggregate approximately 1,010 units,

(ii) inducement resolutions for such projects were adopted by the county residential finance authority on November 21, 1985, and

(iii) a public hearing of the county residential finance authority was held by such authority on December 19, 1985, regarding such projects to be constructed by an in-commonwealth developer.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $62,000,000.

(X) A residential rental project is described in this subparagraph if—

(i) an inducement resolution with respect to such project was adopted by the State housing development authority on January 25, 1985, and

(ii) the issuance of bonds for such project was the subject of a law suit filed on October 25, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $64,000,000. In the case of bonds to which this subparagraph applies, the requirements of sections 148 and 149(d) of the 1986 Code shall not be treated as included in section 103 of the 1954 Code and shall apply to such bonds.

(Y) A project or projects are described in this subparagraph if they are financed with bonds issued by the Tulare, California, County Housing Authority. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $8,000,000.

(Z) A residential rental project is described in this subparagraph if such project is a multifamily mixed-use housing project located in a city described in paragraph (3)(C), the zoning for which was changed to residential-business planned development on November 26, 1985, and with respect to which both the city on December 4, 1985, and the state housing finance agency on December 20, 1985, adopted inducement resolutions. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $90,000,000.

(14) QUALIFIED STUDENT LOANS.—The amendments made by section 1301 shall not apply to any qualified student loan bonds (as defined in section 144 of the 1986 Code) issued by the Volunteer State Student Assistance Corporation. The aggregate face amount of bonds to which this paragraph applies shall not exceed $90,000,000. In the case of bonds to which this paragraph

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applies, the requirements of sections 148 and 149(d) of the 1986 Code shall be treated as included in section 103 of the 1954 Code and shall apply to such bonds.

(15) ANNUITY CONTRACTS.—The treatment of annuity contracts as investment property under section 148(b)(2) of the 1986 Code shall not apply to any bond described in any of the following subparagraphs:

(A) A bond is described in this subparagraph if such bond is issued by a city located in a noncontiguous State if—

(i) the authority to acquire such a contract was approved on September 24, 1985, by city ordinance A085-176, and

(ii) formal bid requests for such contracts were mailed to insurance companies on September 6, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $57,000,000.

(B) A bond is described in this subparagraph if—

(i) on or before May 12, 1985, the governing board of the city pension fund authorized an agreement with an underwriter for possible execution and delivery of tax-exempt certificates of participation by a nonprofit corporation, and

(ii) the proceeds of the sale of such certificates are to be used to purchase an annuity to fund the unfunded liability of the City of Berkeley, California's Safety Members Pension Fund.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $40,000,000.

(C) A bond is described in this subparagraph if such bond is issued by the South Dakota Building Authority if on September 18, 1985, representatives of such authority and its underwriters met with bond counsel and approved financing the purchase of an annuity contract through the sale and leaseback of State properties. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $175,000,000.

(D) A bond is described in this subparagraph if—

(i) such bond is issued by Los Angeles County, and

(ii) such county, before September 25, 1985, paid or incurred at least $50,000 of costs related to the issuance of such bonds.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $500,000,000.

(16) SOLID WASTE DISPOSAL FACILITY.—The amendments made by section 1301 shall not apply to any solid waste disposal facility if—

(A) construction of such facility was approved by State law I.C. 36-9-31,

(B) there was an inducement resolution on November 19, 1984, for the bonds with respect to such facility, and

(C) a carryforward election of unused 1984 volume cap was made for such project on February 25, 1985.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $120,000,000. In the case of bonds to which this paragraph applies, the requirements of sections 148, 149(d), and 149(g) of the 1986 Code shall be treated as included in section 103 of the 1954 Code and shall apply to such bonds.

(17) REFUNDING OF BOND ANTICIPATION NOTES.—There shall not be taken into account under section 146 of the 1986 Code any refunding of bond anticipation notes—

(A) issued in December of 1984 by the Rhode Island Housing and Mortgage Finance Corporation,

(B) which mature in December of 1986,

(C) which is not an advance refunding within the meaning of section 149(d)(5) of the 1986 Code (determined by substituting "180 days" for "90 days" therein), and

(D) the aggregate face amount of the refunding bonds does not exceed $25,500,000.

(18) CERTAIN AIRPORTS.—The amendments made by section 1301 shall not apply to a bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide any airport (within the meaning of section 103(b)(4)(D) of the 1954 Code) if such airport is a mid-field airport terminal and accompanying facilities at a major air carrier airport which during April 1980 opened a new precision instrument approach runway 10R28L. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $425,000,000.

(19) MASS COMMUTING FACILITIES.—A bond issued as a part of an issue 95 percent or more of the net proceeds of which are to be used to provide a mass commuting facility (within the meaning of section 103(b)(4)(D) of the 1954 Code) shall be treated as an exempt facility bond (for facilities described in section 142(a)(3) of the 1986 Code) for purposes of part IV of subchapter B of chapter 1 of the 1986 Code if such facility is described in 1 of the following subparagraphs:

(A) A facility is described in this subparagraph if—

(i) such facility provides access to an international airport,

(ii) a corporation was formed in connection with such project in September 1984,

(iii) the Board of Directors of such corporation authorized the hiring of various firms to conduct a feasibility study with respect to such project in April 1985, and

(iv) such feasibility study was completed in November 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $150,000,000.

(B) A facility is described in this subparagraph if—

(i) enabling legislation with respect to such project was approved by the State legislature in 1979,

(ii) a 1-percent local sales tax assessment to be dedicated to the financing of such project was approved by the voters on August 13, 1983, and

(iii) a capital fund with respect to such project was established upon the issuance of $90,000,000 of notes on October 22, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $200,000,000 and such bonds must be issued before January 1, 1996.

(C) A facility is described in this subparagraph if—

(i) bonds issued therefor are issued by or on behalf of an authority organized in 1979 pursuant to enabling

legislation originally enacted by the State legislature in 1973, and

(ii) such facility is part of a system connector described in a resolution adopted by the board of directors of the authority on March 27, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $400,000,000. Notwithstanding the last paragraph of this subsection, this subparagraph shall apply to bonds issued before January 1, 1996.

(D) A facility is described in this subparagraph if—

(i) the facility is a light rail transitway project,

(ii) enabling legislation with respect to the issuing authority was approved by the State legislature in May 1973,

(iii) on October 28, 1985, a board issued a request for consultants to conduct a feasibility study on mass transit corridor analysis in connection with the facility, and

(iv) on May 12, 1986, a board approved a further binding contract for expenditures of approximately $1,494,963, to be expended on a facility study.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $250,000,000. Notwithstanding the last paragraph of this subsection, this subparagraph shall apply to bonds issued before January 1, 1996.

(20) PRIVATE COLLEGES.—Section 148(f) of the 1986 Code shall not apply to any bond which is issued as part of an issue if such bond—

(A) is issued by a political subdivision pursuant to home rule and interlocal cooperation powers conferred by the constitution and laws of a State to provide funds to finance the costs of the purchase and construction of educational facilities for private colleges and universities, and

(B) was the subject of a resolution of official action by such political subdivision (Resolution No. 86-1039) adopted by the governing body of such political subdivision on March 18, 1986.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $100,000,000.

(21) POOLED FINANCING PROGRAMS.—

(A) Section 147(b) of the 1986 Code shall not apply to any hospital pooled financing program with respect to which—

(i) a formal presentation was made to a city hospital facilities authority on January 14, 1986, and

(ii) such authority passed a resolution approving the bond issue in principle on February 5, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $95,000,000.

(B) Subsection (c) and (f) of section 148 of the 1986 Code shall not apply to bonds for which closing occurred on July 16, 1986, and for which a State municipal league served as administrator for use in a State described in section 103A(g)(5)(C)1 of the Internal Revenue Code of 1954. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $585,000,000.

(22) DOWNTOWN REDEVELOPMENT PROJECT.—

(A) In the case of a bond described in subparagraph (B), section 141 of the 1986 Code shall be applied without regard

to subsection (a)(2), subsection (b)(3), and subsection (b)(5); and paragraphs (1) and (2) of subsection (b) shall be applied by substituting "25 percent" for "10 percent" each place it appears.

(B) A bond is described in this subparagraph if such bond is issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide a project to acquire and redevelop a downtown area if—

(i) on August 15, 1985, a downtown redevelopment authority adopted a resolution to issue bonds for such project,

(ii) before September 26, 1985, the city expended (or entered into binding contracts to expend) more than $10,000,000 in connection with such project, and

(iii) the state supreme court issued a ruling regarding the proposed finance structure for such project on December 11, 1985.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $85,000,000 and such bonds must be issued before January 1, 1992.

(23) MASS COMMUTING AND PARKING FACILITIES.—A bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide any mass commuting facility or parking facility (within the meaning of section 103(b)(4)(D) of the 1954 Code) shall be treated as an exempt facility bond for purposes of part IV of subchapter B of chapter 1 of the 1986 Code if such facility is provided in connection with the rehabilitation, renovation, or other improvement to an existing railroad station owned on the date of the enactment of this Act by the National Railroad Passenger Corporation in the Northeast Corridor and which was placed in partial service in 1934 and was placed in the National Register of Historic Places in 1978. The aggregate face amount of bonds to which this paragraph applies shall not exceed $30,000,000.

(24) TAX-EXEMPT STATUS OF BONDS OF CERTAIN EDUCATIONAL ORGANIZATIONS.—

(A) IN GENERAL.—For purposes of section 103 and part IV of subchapter B of chapter 1 of the 1986 Code, a qualified educational organization shall be treated as a governmental unit, but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business (determined by applying section 513(a) of such Code to such organization).

(B) QUALIFIED EDUCATIONAL ORGANIZATION.—For purposes of subparagraph (A), the term "qualified educational organization" means a college or university—

(i) which was reincorporated and renewed with perpetual existence as a corporation by specific act of the legislature of the State within which such college or university is located on March 19, 1913, or

(ii) which—

(I) was initially incorporated or created on February 28, 1787, on April 29, 1854, or on May 14, 1888, and

(II) as an instrumentality of the State, serves as a "State-related" university by a specific act of the

legislature of the State within which such college or university is located.

(25) TAX-EXEMPT STATUS OF BONDS OF CERTAIN PUBLIC UTILITIES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a bond shall be treated as a qualified bond for purposes of section 103 of the 1986 Code if such bond is issued after the date of the enactment of this Act with respect to a public utility facility if such facility is—

(i) located at any non-federally owned dam (or on project waters or adjacent lands) located wholly or partially in 3 counties, 2 of which are contiguous to the third, where the rated capacity of the hydroelectric generating facilities at 5 of such dams on October 18, 1979, was more than 650 megawatts each,

(ii) located at a dam (or on the project waters or adjacent lands) at which hydroelectric generating facilities were financed with the proceeds of tax-exempt obligations before December 31, 1968,

(iii) owned and operated by a State, political subdivision of a State, or any agency or instrumentality of any of the foregoing, and

(iv) located at a dam (or on project waters or adjacent lands) where the general public has access for recreational purposes to such dam or to such project waters or adjacent lands.

(B) SPECIAL RULES FOR SUBPARAGRAPH (A).—

(i) BONDS SUBJECT TO CAP.—Section 146 of the 1986 Code shall apply to any bond described in subparagraph (A) which (without regard to subparagraph (A)) is a private activity bond.

(ii) LIMITATION ON AMOUNT OF BONDS TO WHICH SUBPARAGRAPH (A) APPLIES.—The aggregate face amount of bonds to which subparagraph (A) applies shall not exceed $750,000,000, not more than $350,000,000 of which may be issued before January 1, 1992.

(iii) LIMITATION ON PURPOSES.—Subparagraph (A) shall only apply to bonds issued as part of an issue 95 percent or more of the net proceeds of which are used to provide 1 or more of the following:

(I) A fish by-pass facility or fisheries enhancement facility.

(II) A recreational facility or other improvement which is required by Federal licensing terms and conditions or other Federal, State, or local law requirements.

(III) A project of repair, maintenance, renewal, or replacement, and safety improvement.

(IV) Any reconstruction, replacement, or improvement, including any safety improvement, which increases, or allows an increase in, the capacity, efficiency, or productivity of the existing generating equipment.

(26) CONVENTION AND PARKING FACILITIES.—A bond shall not be treated as a private activity bond for purposes of section 103 and part IV of subchapter B of chapter 1 of the 1986 Code if—

(A) such bond is issued to provide a sports or convention facility described in section 103(b)(4) (B) or (C) of the 1954 Code,

(B) such bond is not described in section 103 (b)(2) or (o)(2)(A) of such Code,

(C) legislation by a State legislature in connection with such facility was enacted on July 19, 1985, and was designated Chapter 375 of the Laws of 1985, and

(D) legislation by a State legislature in connection with the appropriation of funds to a State public benefit corporation for loans in connection with the construction of such facility was enacted on April 17, 1985, and was designated Chapter 41 of the Laws of 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $35,000,000.

(27) SMALL ISSUE TERMINATION.—Section 144(a)(12) of the 1986 Code shall not apply to any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide a facility described in any of the following subparagraphs:

(A) A facility is described in this subparagraph if—

(i) the facility is a hotel and office facility located in a State capital,

(ii) the economic development corporation of the city in which the facility is located adopted an initial inducement resolution on October 30, 1985, and

(iii) a feasibility consultant was retained on February 21, 1986, with respect to such facility.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $10,000,000.

(B) A facility is described in this subparagraph if such facility is financed by bonds issued by a State finance authority which was created in April 1985 by Act 1062 of the State General Assembly, and the Bond Guarantee Act (Act 505 of 1985) allowed such authority to pledge the interest from investment of the State's general fund as a guarantee for bonds issued by such authority. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $75,000,000.

(C) A facility is described in this subparagraph if such facility is a downtown mall and parking project for Holland, Michigan, with respect to which an initial agreement was formulated with the city in May 1985 and a formal memorandum of understanding was executed on July 2, 1986. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $18,200,000.

(D) A facility is described in this subparagraph if such facility is a downtown mall and parking ramp project for Traverse City, Michigan, with respect to which a final development agreement was signed in June 1986. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $21,500,000.

(E) A facility is described in this subparagraph if such facility is the rehabilitation of the Heritage Hotel in Marquette, Michigan. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $5,000,000.

(F) A facility is described in this subparagraph if it is the Lakeland Center Hotel in Lakeland, Florida. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $10,000,000.

(G) A facility is described in this subparagraph if it is the Marble Arcade office building renovation project in Lakeland, Florida. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $5,900,000.

(H) A facility is described in this subparagraph if it is a medical office building in Bradenton, Florida, with respect to which—

(i) a memorandum of agreement was entered into on October 17, 1985, and

(ii) the city council held a public hearing and approved issuance of the bonds on November 14, 1985.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $8,500,000.

(I) A facility is described in this subparagraph if it consists of the rehabilitation of the Andover Town Hall in Andover, Massachusetts. The provisions of section 149(b) of the 1986 Code (relating to federally guaranteed obligations) shall not apply to obligations to finance such project solely as a result of the occupation of a portion of such building by a United States Post Office.

(J) A facility is described in this subparagraph if it is the Central Bank Building renovation project in Grand Rapids, Michigan. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $1,000,000.

(28) CERTAIN PRIVATE LOANS NOT TAKEN INTO ACCOUNT.—For purposes of determining whether any bond is a private activity bond, an amount of loans (but not in excess of $75,000,000) provided from the proceeds of 1 or more issues shall not be taken into account if such loans are provided in furtherance of—

(A) a city Emergency Conservation Plan as set forth in an ordinance adopted by the city council of such city on February 17, 1983, or

(B) a resolution adopted by the city council of such city on March 10, 1983, committing such city to a goal of reducing the peak load of such city's electric generation and distribution system by 553 megawatts in 15 years.

(29) CERTAIN PRIVATE BUSINESS USE NOT TAKEN INTO ACCOUNT.—

(A) The nonqualified amount of the proceeds of an issue shall not be taken into account under section 141(b)(5) of the 1986 Code or in determining whether a bond described in subparagraph (B) (which is part of such issue) is a private activity bond for purposes of section 103 and part IV of subchapter B of chapter 1 of the 1986 Code.

(B) A bond is described in this subparagraph if—

(i) such bond is issued before January 1, 1993, by a State admitted to the Union on June 14, 1776, and

(ii) such bond is issued pursuant to a resolution of the State Bond Commission adopted before September 26, 1985.

(C) The nonqualified amount to which this paragraph applies shall not exceed $150,000,000.

(D) For purposes of this paragraph, the term "nonqualified amount" has the meaning given such term by section 141(b)(8) of the 1986 Code, except that such term shall include the amount of the net proceeds of an issue which is to be used (directly or indirectly) to make or finance loans (other than loans described in section 141(c)(2) of the 1986 Code) to persons other than governmental units.

(30) VOLUME CAP NOT TO APPLY TO CERTAIN FACILITIES.—For purposes of section 146 of the 1986 Code, any exempt facility bond for the following facility shall not be taken into account: The facility is a facility for the furnishing of water which was authorized under Public Law 90-537 of the United States if—

(A) construction of such facility began on May 6, 1973, and

(B) forward funding will be provided for the remainder of the project pursuant to a negotiated agreement between State and local water users and the Secretary of the Interior signed April 15, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $391,000,000.

(31) CERTAIN HYDROELECTRIC GENERATING PROPERTY.—A bond shall be treated as described in paragraph (2) of section 1316(f) of this Act if—

(A) such bond would be so described but for the substitution specified in such paragraph,

(B) on January 7, 1983, an application for a preliminary permit was filed for the project for which such bond is issued and received docket no. 6986, and

(C) on September 20, 1983, the Federal Energy Regulatory Commission issued an order granting the preliminary permit for the project.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $12,000,000.

(32) VOLUME CAP.—The State ceiling applicable under section 146 of the 1986 Code for calendar year 1987 for the State which ratified the United States Constitution on May 29, 1790, shall be $150,000,000 higher than the State ceiling otherwise applicable under such section for such year.

(33) APPLICATION OF $150,000,000 LIMITATION FOR CERTAIN QUALIFIED 501(C)(3) BONDS.—Proceeds of an issue described in any of the following subparagraphs shall not be taken into account under section 145(b) of the 1986 Code.

(A) Proceeds of an issue are described in this subparagraph if—

(i) such proceeds are used to provide medical school facilities or medical research and clinical facilities for a university medical center,

(ii) such proceeds are of—

(I) a $21,550,000 issue on August 1, 1980,

(II) a $84,400,000 issue on September 1, 1984, and

(III) a $48,500,000 issue (Series 1985 A and 1985 B), and

(iii) the issuer of all such issues is the same.

(B) Proceeds of an issue are described in this subparagraph if such proceeds are for use by Yale University and—

(i) the bonds are issued after August 8, 1986, and before August 7, 1988, by the State of Connecticut Health and Educational Facilities Authority, or

(ii) the bonds are the 1st or 2nd refundings (including advance refundings) of the bonds described in clause (i) or of original bonds issued before August 7, 1986, by such Authority.

(C) Proceeds of an issue are described in this subparagraph if—

(i) such issue is issued on behalf of a university established by Charter granted by King George II of England on October 31, 1754, to accomplish a refunding (including an advance refunding) of bonds issued to finance 1 or more projects, and

(ii) the application or other request for the issuance of the issue to the appropriate State issuer was made by or on behalf of such university before February 26, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $250,000,000.

(D) Proceeds of an issue are described in this subparagraph if—

(i) such proceeds are to be used for finance construction of a new student recreation center,

(ii) a contract for the development phase of the project was signed by the university on May 21, 1986, with a private company for 5 percent of the costs of the project, and

(iii) a committee of the university board of administrators approved the major program elements for the center on August 11, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $25,000,000.

(E) Proceeds of an issue are described in this subparagraph if—

(i) such proceeds are to be used in the construction of new life sciences facilities for a university for medical research and education,

(ii) the president of the university authorized a faculty/administration planning committee for such facilities on September 17, 1982,

(iii) the trustees of such university authorized site and architect selection on October 30, 1984, and

(iv) the university negotiated a $2,600,000 contract with the architect on August 9, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $47,500,000.

(F) Proceeds of an issue are described in this subparagraph if such proceeds are to be used to renovate undergraduate chemistry and engineering laboratories, and to rehabilitate other basic science facilities, for an institution of higher education in Philadelphia, Pennsylvania, chartered by legislative Acts of the Commonwealth of Pennsylvania, including an Act dated September 30, 1791. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $6,500,000.

(G) Proceeds of an issue are described in this subparagraph if such proceeds are of bonds which are the first advance refunding of bonds issued during 1985 for the development of a computer network, and construction and renovation or rehabilitation of other facilities, for an institution of higher education described in subparagraph (H). The aggregate face amount of bonds to which this subparagraph applies shall not exceed $80,000,000.

(H) Proceeds of an issue are described in this subparagraph if—

(i) the issue is issued on behalf of a university founded in 1789, and

(ii) the request to issue bonds for items to be determined by the issuer was transmitted to Congress on November 7, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $200,000,000.

(I) Proceeds of an issue are described in this subparagraph if the issue is issued on behalf of a university established on August 6, 1872, for a project approved by the trustees thereof on November 11, 1985. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $100,000,000.

(J) Proceeds of an issue are described in this subparagraph if—

(i) the issue is issued on behalf of a university for which the founding grant was signed on November 11, 1885, and

(ii) such bond is issued for the purpose of providing a Near West Campus Redevelopment Project and a Student Housing Project.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $105,000,000.

(K) Proceeds of an issue are described in this subparagraph if—

(i) they are the proceeds of advance refunding obligations issued on behalf of a university established on April 21, 1831, and

(ii) the application or other request for the issuance of such obligations was made to the appropriate State issuer before July 12, 1986.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $175,000,000.

(K) Proceeds of an issue are described in this subparagraph if—

(i) the issue is for the purpose of financing or refinancing costs associated with university facilities including 900 units of housing for students, faculty, and staff in up to two buildings and an office building containing up to 2,000 square feet of space, and

(ii) a bond act authorizing the issuance of such bonds for such project was adopted on July 8, 1986, and such act under Federal law was required to be transmitted to Congress.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $150,000,000.

(L) Proceeds of an issue are described in this subparagraph if such issue is for Cornell University in an aggregate face amount of not more than $150,000,000.

(M) Proceeds of an issue are described in this subparagraph if—

(i) such issue would not (if issued before August 16, 1986) be an industrial development bond (as defined in section 103(b)(2) of the 1954 Code), and

(ii) such bonds were approved by city voters on January 19, 1985, for an art museum and 2 theaters.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $2,300,000.

(N) Proceeds of an issue are described in this subparagraph if—

(i) such issue is issued by a State dormitory authority on behalf of one or more universities described in section 501(c)(3) of the 1986 Code or a foundling hospital, and

(ii) the application by the university for the issuance of such bond was made before October 27, 1985.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $150,000,000. In the case of bonds to which this paragraph applies, the requirements of sections 148 and 149(d) of the 1986 Code shall be treated as included in section 103 of the 1954 Code and shall apply to such bonds.

(O) Any bond to which section 145(b) of the 1986 Code does not apply by reason of this section shall be taken into account in determining whether such section applies to any later issue.

(34) ARBITRAGE REBATE.—Section 148(f) of the 1986 Code shall not apply to any period before October 1, 1990, with respect to any bond the proceeds of which are to be used to provide a high-speed rail system for the State of Ohio. The aggregate face amount of bonds to which this paragraph applies shall not exceed $2,000,000,000.

(35) EXTENSION OF CARRYFORWARD PERIOD.—

(A) In the case of a carryforward under section 103(n)(10) of the 1954 Code of $170,000,000 of bond limit for calendar year 1984 for a project described in subparagraph (B), clause (i) of section 103(n)(10)(C) of the 1954 Code shall be applied by substituting "6 calendar years" for "3 calendar years", and such carryforward may be used by any authority designated by the State in which the facility is located.

(B) A project is described in this subparagraph if—

(i) such project is a facility for local furnishing of electricity described in section 645 of the Tax Reform Act of 1984, and

(ii) construction of such facility commenced within the 3-year period following the calendar year in which the carryforward arose.

(36) POWER PURCHASE BONDS.—A bond issued to finance purchase of power from a power facility at a dam being renovated pursuant to P.L. 98-381 shall not be treated as a private activity bond if it would not be such under section 141(b) (1) and (2) of the 1986 Code if 25 percent were substituted for 10 percent and the provisions of section 141(b) (3), (4), and (5) of the 1986 Code

did not apply. The aggregate face amount of bonds to which this paragraph applies shall not exceed $80,000,000.

(37) QUALIFIED MORTGAGE BONDS.—A bond issued as part of either of 2 issues no later than September 8, 1986, shall be treated as a qualified mortgage bond within the meaning of section 141(d)(1)(B) of the 1986 Code if it satisfies the requirements of section 103A of the 1954 Code and if the issues are issued by the two most populous cities in the Tar Heel State. The aggregate face amount of bonds to which this paragraph applies shall not exceed $4,000,000.

(38) EXEMPT FACILITY BONDS.—A bond shall be treated as an exempt facility bond within the meaning of section 142(a) of the 1986 Code if it is issued to fund residential, office, retail, light industrial, recreational and parking development known as Tobacco Row. Such bond shall be subject to section 146 and sections 148 and 149 of the 1986 Code. The aggregate face amount of bonds to which this paragraph applies shall not exceed $100,000,000.

(39) CERTAIN WASTEWATER TREATMENT FACILITY.—A bond shall not be subject to the provisions of section 146 of the 1986 Code if it is issued to acquire and complete a wastewater treatment facility—

(A) which was organized by an inter-local agreement dated October 17, 1978,

(B) for which $78,143,557 has been spent as of July 31, 1986, and

(C) for which the first construction contract was let on February 27, 1981.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $100,000,000.

(40) REFUNDING OF CERTAIN TAXABLE DEBT.—A bond issued to refinance taxable debt shall not be treated as a qualified 501(c)(3) bond within the meaning of section 141(d)(1)(G) of the 1986 Code if an authorizing resolution as adopted by the issuer on August 14, 1986, for St. Mary's Hospital. The aggregate face amount of bonds to which this paragraph applies shall not exceed $22,314,000.

(41) TIME TO MATURITY FOR CERTAIN OBLIGATIONS.—The requirement of section 147(b) of the 1986 Code shall apply to current refunding bonds issued with respect to two power facilities on which construction has been suspended by measuring the economic life of the facilities from the date of the refunding bonds if the facilities have not been placed in service as of the date of issuance of the refunding bonds. The aggregate face amount of bonds to which this paragraph applies shall not exceed $2,000,000,000.

(42) RESIDENTIAL RENTAL PROPERTY.—A bond issued to finance a residential rental project within the meaning of 103(b)(4) of the 1954 Code shall be treated as an exempt facility bond within the meaning of section 142(a)(7) of the 1986 Code if the county housing finance authority adopted an inducement resolution with respect to the project on May 8, 1985, and the project is located in Polk County, Florida. The aggregate face amount of bonds to which this paragraph applies shall not exceed $4,100,000.

(43) EXTENSION OF ADVANCE REFUNDING FOR CERTAIN FACILITIES.—Paragraph (4) of section 631(c) of the Tax Reform Act of 1984 is amended—

(A) by striking out the second sentence thereof,

(B) by adding at the end thereof the following new sentence: "In the case of refunding obligations not exceeding $100,000,000 issued by the Alabama State Docks Department, the first sentence of this paragraph shall be applied by substituting 'December 31, 1987' for 'December 31, 1984'."

(44) POOL BONDS.—The following amounts of pool bonds are exempt from the arbitrage rebate requirement of section 148(f) of the 1986 Code:

Pool	Maximum Bond Amount
Tennessee Utility Districts Pool	$80,000,000
New Mexico Hospitals Bond Pool	$35,000,000
Pennsylvania Local Government Investment Trust Pool	$375,000,000
Indiana Bond Bank Pool	$240,000,000
Hernando County, Florida Bond Pool	$300,000,000
Utah Municipal Finance Cooperative Pool	$262,000,000
North Carolina League of Municipalities Pool	$200,000,000
Kentucky Municipal League Bond Pool	$170,000,000
Kentucky Association of Counties Bond Pool	$100,000,000
Homewood Municipal Bond Pool	$50,000,000
Colorado Association of School Boards Pool	$300,000,000
Tennessee Municipal League Pooled Bonds	$75,000,000
Georgia Municipal Association Pool	$130,000,000

(45) CERTAIN CARRYFORWARD ELECTIONS.—Notwithstanding any other provision of this title—

(A) In the case of a metropolitan service district created pursuant to State revised statutes, chapter 268, up to $100,000,000 unused 1985 bond authority may be carried forward to any year until 1989 (regardless of the date on which such carryforward election is made).

(B) If—

(i) official action was taken by an industrial development board on September 16, 1985, with respect to the issuance of not more than $98,500,000, of waste water treatment revenue bonds, and

(ii) an executive order of the governor granted a carryforward of State bond authority for such project on December 30, 1985,

such carryforward election shall be valid for any year through 1988. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $98,500,000.

(46) TREATMENT OF CERTAIN OBLIGATIONS TO FINANCE HYDROELECTRIC GENERATING FACILITY.—If—

(A) obligations are issued in an amount not exceeding $5,000,000 to finance the construction of a hydroelectric generating facility located on the North Fork of Cache Creek in Lake County, California, which was the subject of a preliminary resolution of the issuer of the obligations on June 29, 1982, or are issued to refund any of such obligations,

(B) substantially all of the electrical power generated by such facility is to be sold to a nongovernmental person

pursuant to a long-term power sales agreement in accordance with the Public Utility Regulatory Policies Act of 1978, and

(C) the initially issued obligations are issued on or before December 31, 1986, and any of such refunding obligations are issued on or before December 31, 1996,

then the person referred to in subparagraph (B) shall not be treated as a principal user of such facilities by reason of such sales for purposes of subparagraphs (D) and (E) of section 103(b)(6) of the 1954 Code.

(47) TREATMENT OF CERTAIN OBLIGATIONS TO FINANCE STEAM AND ELECTRIC COGENERATION FACILITY.—If—

(A) obligations are issued on or before December 31, 1986, in an amount not exceeding $4,400,000 to finance a facility for the generation and transmission of steam and electricity having a maximum electrical capacity of approximately 5.3 megawatts and located within the City of San Jose, California, or are issued to refund any of such obligations,

(B) substantially all of the electrical power generated by such facility that is not sold to an institution of higher education created by statute of the State of California is to be sold to a nongovernmental person pursuant to a long-term power sales agreement in accordance with the Public Utility Regulatory Policies Act of 1978, and

(C) the initially issued obligations are issued on or before December 31, 1986, and any of such refunding obligations are issued on or before December 31, 1996,

then the nongovernmental person referred to in subparagraph (B) shall not be treated as a principal user of such facilities by reason of such sales for purposes of subparagraphs (D) and (E) of section 103(b)(6) of the Internal Revenue Code of 1954.

(48) TREATMENT OF CERTAIN OBLIGATIONS.—A bond which is not an industrial development bond under section 103(b)(2) of the Internal Revenue Code of 1954 shall not be treated as a private activity bond for purposes of part IV of subchapter B of chapter 1 of the 1986 Code if 95 percent or more of the net proceeds of the issue of which such bond is a part are used to provide facilities described in either of the following subparagraphs:

(A) A facility is described in this subparagraph if it is a governmentally-owned and operated State fair and exposition center with respect to which—

(i) the 1985 session of the State legislature authorized revenue bonds to be issued in a maximum amount of $10,000,000, and

(ii) a market feasibility study dated June 30, 1986, relating to a major capital improvemental program at the facility was prepared for the advisory board of the State fair and exposition center by a certified public accounting firm.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $10,000,000.

(B) A facility is described in this subparagraph if it is a convention, trade, or spectator facility which is to be located in the State with respect to which subparagraph (O) applies and with respect to which feasibility and preliminary design consultants were hired on May 1, 1985 and

October 31, 1985. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $175,000,000.

(49) TRANSITION RULE FOR REFUNDING CERTAIN HOUSING BONDS.—Sections 146 and 149(d) of the 1986 Code shall not apply to the refunding of any bond issued under section 11(b) of the Housing Act of 1937 before December 31, 1983, if—

(A) the bond has an original term to maturity of at least 40 years,

(B) the maturity date of the refunding bonds does not exceed the maturity date of the refunded bonds,

(C) the amount of the refunding bonds does not exceed the outstanding amount of the refunded bonds,

(D) the interest rate on the refunding bonds is lower than the interest rate of the refunded bonds, and

(E) the refunded bond is required to be redeemed not later than the earliest date on which such bond could be redeemed at par.

(50) TRANSITION BONDS SUBJECT TO CERTAIN RULES.—In the case of any bond to which any provision of this subsection applies—

(A) MINIMUM TAX TREATMENT.—Any bond which, without regard to this section, would be a private activity bond (as defined in section 141(a) of the 1986 Code) shall be so treated for purposes of section 55 of such Code unless such bond would not be described in section 103 (b)(2) or (o)(2) of the 1954 Code were such bond issued before August 16, 1986.

(B) CERTAIN RESTRICTIONS APPLY.—Except as otherwise expressly provided, sections 103 and 103A of the 1954 Code shall be applied as if the requirements of section 148 and subsections (d) and (g) of section 149 of the 1986 Code were included in each such section.

(51) CERTAIN ADDITIONAL PROJECTS.—Section 141(a) of the 1986 Code shall be applied by substituting "25" for "10" each place it appears and by not applying sections 141(a)(3) and 141(c)(1)(B) to bonds substantially all of the proceeds are used for—

(A) A project is described in this subparagraph if it consists of a capital improvements program for a metropolitan sewer district, with respect to which a proposition was submitted to voters on August 7, 1984. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $60,000,000.

(B) Facilities described in this subparagraph if it consists of additions, extensions, and improvements to the wastewater system for Lakeland, Florida. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $20,000,000.

(C) A project is described in this subparagraph if it is the Central Valley Water Reclamation Project in Utah. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $100,000,000.

(D) A project is described in this subparagraph if it is a project to construct approximately 26 miles of toll expressways, with respect to which any appeal to validation was filed July 11, 1986. The aggregate face amount of obliga-

tions to which this subparagraph applies shall not exceed $450,000,000.

(52) TERMINATION.—This section shall not apply to any bond issued after December 31, 1990.

SEC. 1318. DEFINITIONS, ETC., RELATING TO EFFECTIVE DATES AND TRANSITIONAL RULES.

For purposes of this subtitle—

(1) 1954 CODE.—The term "1954 Code" means the Internal Revenue Code of 1954 as in effect on the day before the date of the enactment of this Act.

(2) 1986 CODE.—The term "1986 Code" means the Internal Revenue Code of 1986 as amended by this Act.

(3) BOND.—The term "bond" includes any obligation.

(4) ADVANCE REFUND.—A bond shall be treated as issued to advance refund another bond if it is issued more than 90 days before the redemption of the refunded bond.

(5) NET PROCEEDS.—The term "net proceeds" has the meaning given such term by section 150(a) of the 1986 Code.

(6) CONTINUED APPLICATION OF THE 1954 CODE.—Nothing in this subtitle shall be construed to exempt any bond from any provision of the 1954 Code by reason of a delay in (or exemption from) the application of any amendment made by subtitle A.

(7) TREATMENT AS EXEMPT FACILITY.—Any bond which is treated as an exempt facility bond by section 1316 or 1317 shall not fail to be so treated by reason of subsection (b) of section 142 of the 1986 Code.

TITLE XIV—TRUSTS AND ESTATES; UNEARNED INCOME OF CERTAIN MINOR CHILDREN; GIFT AND ESTATE TAXES; GENERATION-SKIPPING TRANSFER TAX

Subtitle A—Income Taxation of Trusts and Estates

SEC. 1401. GRANTOR TREATED AS HOLDING ANY POWER OR INTEREST OF GRANTOR'S SPOUSE.

(a) IN GENERAL.—Section 672 (relating to definitions and rules) is amended by adding at the end thereof the following new subsection:

"(e) GRANTOR TREATED AS HOLDING ANY POWER OR INTEREST OF GRANTOR'S SPOUSE.—For purposes of this subpart, if a grantor's spouse is living with the grantor at the time of the creation of any power or interest held by such spouse, the grantor shall be treated as holding such power or interest."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to transfers in trust made after March 1, 1986.

SEC. 1402. LIMITATIONS TO REVERSIONARY INTEREST RULE EXCEPTIONS.

(a) IN GENERAL.—Section 673 (relating to reversionary interest) is amended to read as follows:

"SEC. 673. REVERSIONARY INTERESTS.

"(a) GENERAL RULE.—The grantor shall be treated as the owner of any portion of a trust in which he has a reversionary interest in either the corpus or the income therefrom, if, as of the inception of that portion of the trust, the value of such interest exceeds 5 percent of the value of such portion.

"(b) REVERSIONARY INTEREST TAKING EFFECT AT DEATH OF MINOR LINEAL DESCENDANT BENEFICIARY.—In the case of any beneficiary who—

"(1) is a lineal descendant of the grantor, and

"(2) holds all of the present interests in any portion of a trust, the grantor shall not be treated under subsection (a) as the owner of such portion solely by reason of a reversionary interest in such portion which takes effect upon the death of such beneficiary before such beneficiary attains age 21."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 674(b) (relating to exceptions for certain powers) is amended—

(A) by striking out "the expiration of a period" and inserting in lieu thereof "the occurrence of an event",

(B) by striking out "the expiration of the period" and inserting in lieu thereof "the occurrence of the event", and

(C) by striking out "EXPIRATION OF 10-YEAR PERIOD" in the heading thereof and inserting in lieu thereof "OCCURRENCE OF EVENT".

(2) Subsection (b) of section 676 (relating to power to revoke) is amended—

(A) by striking out "the expiration of a period" and inserting in lieu thereof "the occurrence of an event",

(B) by striking out "the expiration of such period" and inserting in lieu thereof "the occurrence of such event", and

(C) by striking out "EXPIRATION OF 10-YEAR PERIOD" in the heading thereof and inserting in lieu thereof "OCCURRENCE OF EVENT".

(3) Subsection (a) of section 677 (relating to income for benefit of grantor) is amended—

(A) by striking out "the expiration of a period" and inserting in lieu thereof "the occurrence of an event", and

(B) by striking out "the expiration of the period" and inserting in lieu thereof "the occurrence of the event".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to transfers in trust made after March 1, 1986.

(2) TRANSFERS PURSUANT TO PROPERTY SETTLEMENT AGREEMENT.—The amendments made by this section shall not apply to any transfer in trust made after March 1, 1986, pursuant to a binding property settlement agreement entered into on or before March 1, 1986, which required the taxpayer to establish a grantor trust and for the transfer of a specified sum of money or property to the trust by the taxpayer. This paragraph shall apply only to the extent of the amount required to be transferred under the agreement described in the preceding sentence.

SEC. 1403. TAXABLE YEAR OF TRUSTS TO BE CALENDAR YEAR.

(a) IN GENERAL.—Subpart A of part I of subchapter J of chapter 1 (relating to general rules for taxation of estates and trusts) is amended by adding at the end thereof the following new section:

"SEC. 645. TAXABLE YEAR OF TRUSTS.

"(a) IN GENERAL.—For purposes of this subtitle, the taxable year of any trust shall be the calendar year.

"(b) EXCEPTION FOR TRUSTS EXEMPT FROM TAX AND CHARITABLE TRUSTS.—Subsection (a) shall not apply to a trust exempt from taxation under section 501(a) or to a trust described in section 4947(a)(1)."

(b) CLERICAL AMENDMENT.—The table of sections of subpart A of part I of subchapter J of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 645. Taxable year of trusts."

(c) EFFECTIVE DATE; TRANSITION RULE.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) TRANSITION RULE.—With respect to any trust beneficiary who is required to include in gross income amounts under sections 652(a) or 662(a) of the Internal Revenue Code of 1986 in the 1st taxable year of the beneficiary beginning after December 31, 1986, by reason of any short taxable year of the trust required by the amendments made by this section, such income shall be ratably included in the income of the trust beneficiary over the 4-taxable year period beginning with such taxable year.

SEC. 1404. TRUSTS AND CERTAIN ESTATES TO MAKE ESTIMATED PAYMENTS OF INCOME TAXES.

(a) IN GENERAL.—Subsection (k) of section 6654 (relating to failure by individual to pay estimated income tax) is amended to read as follows:

"(k) TRUSTS AND CERTAIN ESTATES.—This section shall apply to—

"(1) any trust, and

"(2) any estate with respect to any taxable year ending 2 or more years after the date of the death of the decedent's death."

(b) CERTAIN PAYMENTS OF ESTIMATED TAX BY A TRUST.—Section 643 is amended by adding at the end thereof the following new subsection:

"(g) CERTAIN PAYMENTS OF ESTIMATED TAX TREATED AS PAID BY BENEFICIARY.—

"(1) IN GENERAL.—In the case of a trust—

"(A) the trustee may elect to treat any portion of a payment of estimated tax made by such trust for any taxable year of the trust as a payment made by a beneficiary of such trust,

"(B) any amount so treated shall be treated as paid or credited to the beneficiary on the last day of such taxable year, and

"(C) for purposes of subtitle F, the amount so treated—

"(i) shall not be treated as a payment of estimated tax made by the trust, but

"(ii) shall be treated as a payment of estimated tax made by such beneficiary on January 15 following the taxable year.

The preceding sentence shall apply only to the extent the payments of estimated tax made by the trust for the taxable year exceed the tax imposed by this chapter shown on its return for the taxable year.

"(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) may be made—

"(A) only on the trust's return of the tax imposed by this chapter for the taxable year, and

"(B) only if such return is filed on or before the 65th day after the close of the taxable year."

(c) CONFORMING AMENDMENTS.—

(1) Section 6152 (relating to installment payments) is repealed.

(2) Section 6215(b) (relating to cross references) is amended by striking out paragraph (7) and redesignating paragraph (8) as paragraph (7).

(3) Paragraph (2) of section 6601 (relating to last date prescribed for payment) is amended—

(A) by striking out "6152(a), 6156(a), or 6158(a)" and inserting in lieu thereof "6156(a) or 6158(a)", and

(B) by striking out "6152(b), 6156(b), or 6158(a)" in subparagraph (A) and inserting in lieu thereof "6156(b) or 6158(a)".

(4) The table of sections for subchapter A of chapter 62 is amended by striking out the item relating to section 6152.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

Subtitle B—Unearned Income of Certain Minor Children

SEC. 1411. UNEARNED INCOME OF CERTAIN MINOR CHILDREN.

(a) GENERAL RULE.—Section 1, as amended by section 101, is amended by inserting after subsection (h) the following new subsection:

"(i) CERTAIN UNEARNED INCOME OF MINOR CHILDREN TAXED AS IF PARENT'S INCOME.—

"(1) IN GENERAL.—In the case of any child to whom this subsection applies, the tax imposed by this section shall be equal to the greater of—

"(A) the tax imposed by this section without regard to this subsection, or

"(B) the sum of—

"(i) the tax which would be imposed by this section if the taxable income of such child for the taxable year were reduced by the net unearned income of such child, plus

"(ii) such child's share of the allocable parental tax.

"(2) CHILD TO WHOM SUBSECTION APPLIES.—This subsection shall apply to any child for any taxable year if—

"(A) such child has not attained age 14 before the close of the taxable year, and

"(B) either parent of such child is alive at the close of the taxable year.

"(3) ALLOCABLE PARENTAL TAX.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'allocable parental tax' means the excess of—

"(i) the tax which would be imposed by this section on the parent's taxable income if such income included the net unearned income of all children of the parent to whom this subsection applies, over

"(ii) the tax imposed by this section on the parent without regard to this subsection.

For purposes of clause (i), net unearned income of all children of the parent shall not be taken into account in computing any deduction or credit of the parent.

"(B) CHILD'S SHARE.—A child's share of any allocable parental tax of a parent shall be equal to an amount which bears the same ratio to the total allocable parental tax as the child's net unearned income bears to the aggregate net unearned income of all children of such parent to whom this subsection applies.

"(4) NET UNEARNED INCOME.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'net unearned income' means the excess of—

"(i) the portion of the gross income for the taxable year which is not earned income (as defined in section 911(d)(2)), over

"(ii) the sum of—

"(I) the amount in effect for the taxable year under section 63(c)(5)(A) (relating to limitation on standard deduction in the case of certain dependents), plus

"(II) the greater of the amount described in subclause (I) or, if the child itemizes his deduction for the taxable year, the amount of the deductions allowed by this chapter for the taxable year which are directly connected with the production of the portion of gross income referred to in clause (i).

"(B) LIMITATION BASED ON TAXABLE INCOME.—The amount of the net unearned income for any taxable year shall not exceed the individual's taxable income for such taxable year.

"(5) SPECIAL RULES FOR DETERMINING PARENT TO WHOM SUBSECTION APPLIES.—For purposes of this subsection, the parent whose taxable income shall be taken into account shall be—

"(A) in the case of parents who are not married (within the meaning of section 7703), the custodial parent of the child, and

"(B) in the case of married individuals filing separately, the individual with the greater taxable income.

"(6) PROVIDING OF PARENT'S TIN.—The parent of any child to whom this subsection applies for any taxable year shall provide the TIN of such parent to such child and such child shall include such TIN on the child's return of tax imposed by this section for such taxable year."

(b) DISCLOSURE OF INFORMATION.—Subparagraph (A) of section 6103(e)(1) (relating to disclosure to persons having material interest) is amended by striking out "or" at the end of clause (ii), by inserting

"or" at the end of clause (iii), and by adding at the end thereof the following new clause:

"(iv) the child of that individual (or such child's legal representative) to the extent necessary to comply with the provisions of section 1(j);".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

Subtitle C—Gift and Estate Taxes

SEC. 1421. INFORMATION NECESSARY FOR VALID SPECIAL USE VALUATION ELECTION.

(a) IN GENERAL.—In the case of any decedent dying before January 1, 1986, if the executor—

(1) made an election under section 2032A of the Internal Revenue Code of 1954 on the return of tax imposed by section 2001 of such Code within the time prescribed for filing such return (including extensions thereof), and

(2) provided substantially all the information with respect to such election required on such return of tax,

such election shall be a valid election for purposes of section 2032A of such Code.

(b) EXECUTOR MUST PROVIDE INFORMATION.—An election described in subsection (a) shall not be valid if the Secretary of the Treasury or his delegate after the date of the enactment of this Act requests information from the executor with respect to such election and the executor does not provide such information within 90 days of receipt of such request.

(c) EFFECTIVE DATE.—The provisions of this section shall not apply to the estate of any decedent if before the date of the enactment of this Act the statute of limitations has expired with respect to—

(1) the return of tax imposed by section 2001 of the Internal Revenue Code of 1954, and

(2) the period during which a claim for credit or refund may be timely filed.

(d) SPECIAL RULE FOR CERTAIN ESTATE.—Notwithstanding subsection (a)(2), the provisions of this section shall apply to the estate of an individual who died on January 30, 1984, and with respect to which—

(1) a Federal estate tax return was filed on October 30, 1984, electing current use valuation, and

(2) the agreement required under section 2032A was filed on November 9, 1984.

SEC. 1422. GIFT AND ESTATE TAX DEDUCTIONS FOR CERTAIN CONSERVATION EASEMENT DONATIONS.

(a) ESTATE TAX.—Section 2055 (relating to transfers for public, charitable, and religious uses) is amended—

(1) by redesignating subsection (f) as subsection (g), and

(2) by inserting after subsection (e) the following new subsection:

"(f) SPECIAL RULE FOR IRREVOCABLE TRANSFERS OF EASEMENTS IN REAL PROPERTY.—A deduction shall be allowed under subsection (a) in respect of any transfer of a qualified real property interest (as defined in section 170(h)(2)(C)) which meets the requirements of section 170(h) (without regard to paragraph (4)(A) thereof)."

(b) GIFT TAX.—Section 2522 (relating to charitable and similar gifts) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) SPECIAL RULE FOR IRREVOCABLE TRANSFERS OF EASEMENTS IN REAL PROPERTY.—A deduction shall be allowed under subsection (a) in respect of any transfer of a qualified real property interest (as defined in section 170(h)(2)(C)) which meets the requirements of section 170(h) (without regard to paragraph (4)(A) thereof)."

(c) CONFORMING AMENDMENT.—Subparagraph (F)(ii) of section 2106(a)(2) is amended by striking out "section 2055(f)" and inserting in lieu thereof "section 2055(g)".

(d) SPECIAL DONATIONS.—If the Secretary of the Interior acquires by donation after December 31, 1986, a conservation easement (within the meaning of section 2(h) of S. 720, 99th Congress, 1st Session, as in effect on August 16, 1986), such donation shall qualify for treatment under section 2055(f) or 2522(d) of the Internal Revenue Code of 1954, as added by this section.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers and contributions made after December 31, 1986.

SEC. 1423. CONVEYANCE OF CERTAIN REAL AND PERSONAL PROPERTY OF DECEDENT TO CHARITABLE FOUNDATION TREATED AS CHARITABLE CONTRIBUTION.

Notwithstanding any other law or any rule of law (including res judicata, laches, or lapse of time), in the case of any real property or personal property located in Bangkok, Thailand, which—

(1) was owned by James H.W. Thompson at the time of his death, and

(2) has been transferred to the Jim Thompson Foundation (also known as the J.H.W. Thompson Foundation), a charitable foundation established in Thailand for the purpose of operating a museum consisting of such real and personal property,

such property shall be treated, for purposes of section 2055 of the Internal Revenue Code of 1954 (relating to deductions for transfers for public, charitable, and religious uses), as having been transferred as a bequest or a devise directly from the estate of James H.W. Thompson to the Jim Thompson Foundation and the value of such property included in the gross estate shall be deducted from the gross estate of James H.W. Thompson for purposes of the tax imposed by section 2001 of such Code.

Subtitle D—Generation-Skipping Transfers

SEC. 1431. NEW TAX ON GENERATION-SKIPPING TRANSFERS.

(a) GENERAL RULE.—Chapter 13 (relating to tax on certain generation-skipping transfers) is amended to read as follows:

"CHAPTER 13—TAX ON GENERATION-SKIPPING TRANSFERS

"Subchapter A. Tax imposed.
"Subchapter B. Generation-skipping transfers.
"Subchapter C. Taxable amount.
"Subchapter D. GST exemption.
"Subchapter E. Applicable rate; inclusion ratio.
"Subchapter F. Other definitions and special rules.
"Subchapter G. Administration.

"Subchapter A—Tax Imposed

"Sec. 2601. Tax imposed.
"Sec. 2602. Amount of tax.
"Sec. 2603. Liability for tax.
"Sec. 2604. Credit for certain State taxes.

"SEC. 2601. TAX IMPOSED.

"A tax is hereby imposed on every generation-skipping transfer (within the meaning of subchapter B).

"SEC. 2602. AMOUNT OF TAX.

"The amount of the tax imposed by section 2601 is—

"(1) the taxable amount (determined under subchapter C), multiplied by

"(2) the applicable rate (determined under subchapter E).

"SEC. 2603. LIABILITY FOR TAX.

"(a) PERSONAL LIABILITY.—

"(1) TAXABLE DISTRIBUTIONS.—In the case of a taxable distribution, the tax imposed by section 2601 shall be paid by the transferee.

"(2) TAXABLE TERMINATION.—In the case of a taxable termination or a direct skip from a trust, the tax shall be paid by the trustee.

"(3) DIRECT SKIP.—In the case of a direct skip (other than a direct skip from a trust), the tax shall be paid by the transferor.

"(b) SOURCE OF TAX.—Unless otherwise directed pursuant to the governing instrument by specific reference to the tax imposed by this chapter, the tax imposed by this chapter on a generation-skipping transfer shall be charged to the property constituting such transfer.

"(c) CROSS REFERENCE.—

"For provisions making estate and gift tax provisions with respect to transferee liability, liens, and related matters applicable to the tax imposed by section 2601, see section 2661.

"SEC. 2604. CREDIT FOR CERTAIN STATE TAXES.

"(a) GENERAL RULE.—If a generation-skipping transfer (other than a direct skip) occurs at the same time as and as a result of the death of an individual, a credit against the tax imposed by section 2601 shall be allowed in an amount equal to the generation-skipping transfer tax actually paid to any State in respect to any property included in the generation-skipping transfer.

"(b) LIMITATION.—The aggregate amount allowed as a credit under this section with respect to any transfer shall not exceed 5 percent of the amount of the tax imposed by section 2601 on such transfer.

"Subchapter B—Generation-Skipping Transfers

"Sec. 2611. Generation skipping transfer defined.
"Sec. 2612. Taxable termination; taxable distribution; direct skip.
"Sec. 2613. Skip person and non-skip person defined.

"SEC. 2611. GENERATION-SKIPPING TRANSFER DEFINED.

"(a) IN GENERAL.—For purposes of this chapter, the term 'generation-skipping transfers' mean—

"(1) a taxable distribution,

"(2) a taxable termination, and

"(3) a direct skip.

"(b) CERTAIN TRANSFERS EXCLUDED.—The term 'generation-skipping transfer' does not include—

"(1) any transfer (other than a direct skip) from a trust, to the extent such transfer is subject to a tax imposed by chapter 11 or 12 with respect to a person in the 1st generation below that of the grantor, and

"(2) any transfer which, if made inter vivos by an individual, would not be treated as a taxable gift by reason of section 2503(e) (relating to exclusion of certain transfers for educational or medical expenses), and

"(3) any transfer to the extent—

"(A) the property transferred was subject to a prior tax imposed under this chapter,

"(B) the transferee in the prior transfer was assigned to the same generation as (or a lower generation than) the generation assignment of the transferee in this transfer, and

"(C) such transfers do not have the effect of avoiding tax under this chapter with respect to any transfer.

"SEC. 2612. TAXABLE TERMINATION; TAXABLE DISTRIBUTION; DIRECT SKIP.

"(a) TAXABLE TERMINATION.—

"(1) GENERAL RULE.—For purposes of this chapter, the term 'taxable termination' means the termination (by death, lapse of time, release of power, or otherwise) of an interest in property held in a trust unless—

"(A) immediately after such termination, a non-skip person has an interest in such property, or

"(B) at no time after such termination may a distribution (including distributions on termination) be made from such trust to a skip person.

"(2) CERTAIN PARTIAL TERMINATIONS TREATED AS TAXABLE.—If, upon the termination of an interest in property held in a trust, a specified portion of the trust assets are distributed to skip persons who are lineal descendants of the holder of such interest (or to 1 or more trusts for the exclusive benefit of such persons), such termination shall constitute a taxable termination with respect to such portion of the trust property.

"(b) TAXABLE DISTRIBUTION.—For purposes of this chapter, the term 'taxable distribution' means any distribution from a trust to a skip person (other than a taxable termination or a direct skip).

"(c) DIRECT SKIP.—For purposes of this chapter—

"(1) IN GENERAL.—The term 'direct skip' means a transfer subject to a tax imposed by chapter 11 or 12 of an interest in property to a skip person.

"(2) SPECIAL RULE FOR TRANSFERS TO GRANDCHILDREN.—For purposes of determining whether any transfer is a direct skip, if—

"(A) an individual is a grandchild of the transferor (or the transferor's spouse or former spouse), and

"(B) as of the time of the transfer, the parent of such individual who is a lineal descendant of the transferor (or the transferor's spouse or former spouse) is dead,

such individual shall be treated as if such individual were a child of the transferor and all of that grandchild's children shall be treated as if they were grandchildren of the transferor. In the case of lineal descendants below a grandchild, the preceding sentence may be reapplied.

"SEC. 2613. SKIP PERSON AND NON-SKIP PERSON DEFINED.

"(a) SKIP PERSON.—For purposes of this chapter, the term 'skip person' means—

"(1) a person assigned to a generation which is 2 or more generations below the generation assignment of the transferor, or

"(2) a trust—

"(A) if all interests in such trust are held by skip persons, or

"(B) if—

"(i) there is no person holding an interest in such trust, and

"(ii) at no time after such transfer may a distribution (including distributions on termination) be made from such trust to a nonskip person.

"(b) NON-SKIP PERSON.—For purposes of this chapter, the term 'non-skip person' means any person who is not a skip person.

"Subchapter C—Taxable Amount

"Sec. 2621. Taxable amount in case of taxable distribution.
"Sec. 2622. Taxable amount in case of taxable termination.
"Sec. 2623. Taxable amount in case of direct skip.
"Sec. 2624. Valuation.

"SEC. 2621. TAXABLE AMOUNT IN CASE OF TAXABLE DISTRIBUTION.

"(a) IN GENERAL.—For purposes of this chapter, the taxable amount in the case of any taxable distribution shall be—

"(1) the value of the property received by the transferee, reduced by

"(2) any expense incurred by the transferee in connection with the determination, collection, or refund of the tax imposed by this chapter with respect to such distribution.

"(b) PAYMENT OF GST TAX TREATED AS TAXABLE DISTRIBUTION.—For purposes of this chapter, if any of the tax imposed by this chapter with respect to any taxable distribution is paid out of the trust, an amount equal to the portion so paid shall be treated as a taxable distribution.

"SEC. 2622. TAXABLE AMOUNT IN CASE OF TAXABLE TERMINATION.

"(a) IN GENERAL.—For purposes of this chapter, the taxable amount in the case of a taxable termination shall be—

"(1) the value of all property with respect to which the taxable termination has occurred, reduced by

"(2) any deduction allowed under subsection (b).

"(b) DEDUCTION FOR CERTAIN EXPENSES.—For purposes of subsection (a), there shall be allowed a deduction similar to the deduction allowed by section 2053 (relating to expenses, indebtedness, and taxes) for amounts attributable to the property with respect to which the taxable termination has occurred.

"SEC. 2623. TAXABLE AMOUNT IN CASE OF DIRECT SKIP.

"For purposes of this chapter, the taxable amount in the case of a direct skip shall be the value of the property received by the transferee.

"SEC. 2624. VALUATION.

"(a) GENERAL RULE.—Except as otherwise provided in this chapter, property shall be valued as of the time of the generation-skipping transfer.

"(b) ALTERNATE VALUATION AND SPECIAL USE VALUATION ELECTIONS APPLY TO CERTAIN DIRECT SKIPS.—In the case of any direct skip of property which is included in the transferor's gross estate, the value of such property for purposes of this chapter shall be the same as its value for purposes of chapter 11 (determined with regard to sections 2032 and 2032A).

"(c) ALTERNATE VALUATION ELECTION PERMITTED IN THE CASE OF TAXABLE TERMINATIONS OCCURRING AT DEATH.—If 1 or more taxable terminations with respect to the same trust occur at the same time as and as a result of the death of an individual, an election may be made to value all of the property included in such terminations in accordance with section 2032.

"(d) REDUCTION FOR CONSIDERATION PROVIDED BY TRANSFEREE.—For purposes of this chapter, the value of the property transferred shall be reduced by the amount of any consideration provided by the transferee.

"Subchapter D—GST Exemption

"Sec. 2631. GST exemption.
"Sec. 2632. Special rules for allocation of GST exemption.

"SEC. 2631. GST EXEMPTION.

"(a) GENERAL RULE.—For purposes of determining the inclusion ratio, every individual shall be allowed a GST exemption of $1,000,000 which may be allocated by such individual (or his executor) to any property with respect to which such individual is the transferor.

"(b) ALLOCATIONS IRREVOCABLE.—Any allocation under subsection (a), once made, shall be irrevocable.

"SEC. 2632. SPECIAL RULES FOR ALLOCATION OF GST EXEMPTION.

"(a) TIME AND MANNER OF ALLOCATION.—

"(1) TIME.—Any allocation by an individual of his GST exemption under section 2631(a) may be made at any time on or before the date prescribed for filing the estate tax return for such individual's estate (determined with regard to extensions), regardless of whether such a return is required to be filed.

"(2) MANNER.—The Secretary shall prescribe by forms or regulations the manner in which any allocation referred to in paragraph (1) is to be made.

"(b) DEEMED ALLOCATION TO CERTAIN LIFETIME DIRECT SKIPS.—

"(1) IN GENERAL.—If any individual makes a direct skip during his lifetime, any unused portion of such individual's GST exemption shall be allocated to the property transferred to the extent necessary to make the inclusion ratio for such property zero. If the amount of the direct skip exceeds such unused

portion, the entire unused portion shall be allocated to the property transferred.

"(2) UNUSED PORTION.—For purposes of paragraph (1), the unused portion of an individual's GST exemption is that portion of such exemption which has not previously been allocated by such individual (or treated as allocated under paragraph (1)) with respect to a prior direct skip.

"(3) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—An individual may elect to have this subsection not apply to a transfer.

"(c) ALLOCATION OF UNUSED GST EXEMPTION.—

"(1) IN GENERAL.—Any portion of an individual's GST exemption which has not been allocated within the time prescribed by subsection (a) shall be deemed to be allocated as follows—

"(A) first, to property which is the subject of a direct skip occurring at such individual's death, and

"(B) second, to trusts with respect to which such individual is the transferor and from which a taxable distribution or a taxable termination might occur at or after such individual's death.

"(2) ALLOCATION WITHIN CATEGORIES.—

"(A) IN GENERAL.—The allocation under paragraph (1) shall be made among the properties described in subparagraph (A) thereof and the trusts described in subparagraph (B) thereof, as the case may be, in proportion to the respective amounts (at the time of allocation) of the nonexempt portions of such properties or trusts.

"(B) NONEXEMPT PORTION.—For purposes of subparagraph (A), the term 'nonexempt portion' means the value (at the time of allocation) of the property or trust, multiplied by the inclusion ratio with respect to such property or trust.

"Subchapter E—Applicable Rate; Inclusion Ratio

"Sec. 2641. Applicable rate.
"Sec. 2642. Inclusion ratio.

"SEC. 2641. APPLICABLE RATE.

"(a) GENERAL RULE.—For purposes of this chapter, the term 'applicable rate' means, with respect to any generation-skipping transfer, the product of—

"(1) the maximum Federal estate tax rate, and

"(2) the inclusion ratio with respect to the transfer.

"(b) MAXIMUM FEDERAL ESTATE TAX RATE.—For purposes of subsection (a), the term 'maximum Federal estate tax rate' means the maximum rate imposed by section 2001 on the estates of decedents dying at the time of the taxable distribution, taxable termination, or direct skip, as the case may be.

"SEC. 2642. INCLUSION RATIO.

"(a) INCLUSION RATIO DEFINED.—For purposes of this chapter—

"(1) IN GENERAL.—Except as otherwise provided in this section, the inclusion ratio with respect to any property transferred in a generation-skipping transfer shall be the excess (if any) of 1 over—

"(A) except as provided in subparagraph (B), the applicable fraction determined for the trust from which such transfer is made, or

"(B) in the case of a direct skip, the applicable fraction determined for such skip.

"(2) APPLICABLE FRACTION.—For purposes of paragraph (1), the applicable fraction is a fraction—

"(A) the numerator of which is the amount of the GST exemption allocated to the trust (or in the case of a direct skip, allocated to the property transferred in such skip), and

"(B) the denominator of which is—

"(i) the value of the property transferred to the trust (or involved in the direct skip), reduced by

"(ii) the sum of—

"(I) any Federal estate tax or State death tax actually recovered from the trust attributable to such property, and

"(II) any charitable deduction allowed under section 2055 or 2522 with respect to such property.

Except as provided in paragraphs (3) and (4) of subsection (b), the value determined under subparagraph (B)(i) shall be of the property as of the time of the transfer to the trust (or the direct skip).

"(b) VALUATION RULES, ETC.—

"(1) GIFTS FOR WHICH GIFT TAX RETURN FILED OR DEEMED ALLOCATION MADE.—If the allocation of the GST exemption to any property is made on a timely filed gift tax return required by section 6019 or is deemed to be made under section 2632(b)(1)—

"(A) the value of such property for purposes of subsection (a) shall be its value for purposes of chapter 12, and

"(B) such allocation shall be effective on and after the date of such transfer.

"(2) TRANSFERS AND ALLOCATIONS AT OR AFTER DEATH.—

"(A) TRANSFERS AT DEATH.—If property is transferred as a result of the death of the transferor, the value of such property for purposes of subsection (a) shall be its value for purposes of chapter 11.

"(B) ALLOCATIONS AT OR AFTER DEATH OF TRANSFEROR.—Any allocation at or after the death of the transferor shall be effective on and after the date of the death of the transferor.

"(3) INTER VIVOS ALLOCATIONS NOT MADE ON TIMELY FILED GIFT TAX RETURN.—If any allocation of the GST exemption to any property is made during the life of the transferor but is not made on a timely filed gift tax return required by section 6019 and is not deemed to be made under section 2632(b)(1)—

"(A) the value of such property for purposes of subsection (a) shall be determined as of the time such allocation is filed with the Secretary, and

"(B) such allocation shall be effective on and after the date on which such allocation is filed with the Secretary.

"(4) QTIP TRUSTS.—If the value of property is included in the estate of a spouse by virtue of section 2044, and if such spouse is treated as the transferor of such property under section 2652(a), the value of such property for purposes of subsection (a) shall be its value for purposes of chapter 11 in the estate of such spouse.

"(c) TREATMENT OF CERTAIN NONTAXABLE GIFTS.—

"(1) DIRECT SKIPS.—In the case of any direct skip which is a nontaxable gift, the inclusion ratio shall be zero.

"(2) TREATMENT OF NONTAXABLE GIFTS MADE TO TRUSTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any nontaxable gift which is not a direct skip and which is made to a trust shall not be taken into account under subsection (a)(2)(B).

"(B) DETERMINATION OF 1ST TRANSFER TO TRUST.—In the case of any nontaxable gift referred to in subparagraph (A) which is the 1st transfer to the trust, the inclusion ratio for such trust shall be zero.

"(3) NONTAXABLE GIFT.—For purposes of this section, the term 'nontaxable gift' means any transfer of property to the extent such transfer is not treated as a taxable gift by reason of—

"(A) section 2503(b) (taking into account the application of section 2513), or

"(B) section 2503(e).

"(d) SPECIAL RULES WHERE MORE THAN 1 TRANSFER MADE TO TRUST.—

"(1) IN GENERAL.—If a transfer of property (other than a nontaxable gift) is made to a trust in existence before such transfer, the applicable fraction for such trust shall be recomputed as of the time of such transfer in the manner provided in paragraph (2).

"(2) APPLICABLE FRACTION.—In the case of any such transfer, the recomputed applicable fraction is a fraction—

"(A) the numerator of which is the sum of—

"(i) the amount of the GST exemption allocated to property involved in such transfer, plus

"(ii) the nontax portion of such trust immediately before such transfer, and

"(B) the denominator of which is the sum of—

"(i) the value of the property involved in such transfer, reduced by any charitable deduction allowed under section 2055 or 2522 with respect to such property, and

"(ii) the value of all of the property in the trust (immediately before such transfer).

"(3) NONTAX PORTION.—For purposes of paragraph (2), the term 'nontax portion' means the product of—

"(A) the value of all of the property in the trust, and

"(B) the applicable fraction in effect for such trust.

"(4) SIMILAR RECOMPUTATION IN CASE OF CERTAIN LATE ALLOCATIONS.—If—

"(A) any allocation of the GST exemption to property transferred to a trust is not made on a timely filed gift tax return required by section 6019, and

"(B) there was a previous allocation with respect to property transferred to such trust,

the applicable fraction for such trust shall be recomputed as of the time of such allocation under rules similar to the rules of paragraph (2).

"Subchapter F—Other Definitions and Special Rules

"Sec. 2651. Generation assignment.
"Sec. 2652. Other definitions.
"Sec. 2653. Taxation of multiple skips.
"Sec. 2654. Special rules.

"SEC. 2651. GENERATION ASSIGNMENT.

"(a) IN GENERAL.—For purposes of this chapter, the generation to which any person (other than the transferor) belongs shall be determined in accordance with the rules set forth in this section.

"(b) LINEAL DESCENDANTS.—

"(1) IN GENERAL.—An individual who is a lineal descendant of a grandparent of the transferor shall be assigned to that generation which results from comparing the number of generations between the grandparent and such individual with the number of generations between the grandparent and the transferor.

"(2) ON SPOUSE'S SIDE.—An individual who is a lineal descendant of a grandparent of a spouse of the transferor (other than such spouse) shall be assigned to that generation which results from comparing the number of generations between such grandparent and such individual with the number of generations between such grandparent and such spouse.

"(3) TREATMENT OF LEGAL ADOPTIONS, ETC.—For purposes of this subsection—

"(A) LEGAL ADOPTIONS.—A relationship by legal adoption shall be treated as a relationship by blood.

"(B) RELATIONSHIPS BY HALF-BLOOD.—A relationship by the half-blood shall be treated as a relationship of the whole-blood.

"(c) MARITAL RELATIONSHIP.—

"(1) MARRIAGE TO TRANSFEROR.—An individual who has been married at any time to the transferor shall be assigned to the transferor's generation.

"(2) MARRIAGE TO OTHER LINEAL DESCENDANTS.—An individual who has been married at any time to an individual described in subsection (b) shall be assigned to the generation of the individual so described.

"(d) PERSONS WHO ARE NOT LINEAL DESCENDANTS.—An individual who is not assigned to a generation by reason of the foregoing provisions of this section shall be assigned to a generation on the basis of the date of such individual's birth with—

"(1) an individual born not more than 12½ years after the date of the birth of the transferor assigned to the transferor's generation,

"(2) an individual born more than 12½ years but not more than 37½ years after the date of the birth of the transferor assigned to the first generation younger than the transferor, and

"(3) similar rules for a new generation every 25 years.

"(e) OTHER SPECIAL RULES.—

"(1) INDIVIDUALS ASSIGNED TO MORE THAN 1 GENERATION.—Except as provided in regulations, an individual who, but for this subsection, would be assigned to more than 1 generation shall be assigned to the youngest such generation.

"(2) INTERESTS THROUGH ENTITIES.—Except as provided in paragraph (3), if an estate, trust, partnership, corporation, or other entity has an interest in property, each individual having a beneficial interest in such entity shall be treated as having an interest in such property and shall be assigned to a generation under the foregoing provisions of this subsection.

"(3) TREATMENT OF CERTAIN CHARITABLE ORGANIZATIONS.—Any organization described in section 511(a)(2) and any charitable

trust described in section 511(b)(2) shall be assigned to the transferor's generation.

"SEC. 2652. OTHER DEFINITIONS.

"(a) TRANSFEROR.—For purposes of this chapter—

"(1) IN GENERAL.—Except as provided in this subsection or section 2653(a), the term 'transferor' means—

"(A) in the case of a transfer of a kind subject to the tax imposed by chapter 11, the decedent, and

"(B) in the case of a transfer of a kind subject to the tax imposed by chapter 12, the donor.

"(2) GIFT-SPLITTING BY MARRIED COUPLES.—If, under section 2513, one-half of a gift is treated as made by an individual and one-half of such gift is treated as made by the spouse of such individual, such gift shall be so treated for purposes of this chapter.

"(3) SPECIAL ELECTION FOR QUALIFIED TERMINABLE INTEREST PROPERTY.—In the case of—

"(A) any property with respect to which a deduction is allowed to the decedent under section 2056 by reason of subsection (b)(7) thereof, and

"(B) any property with respect to which a deduction to the donor spouse is allowed under section 2523 by reason of subsection (f) thereof,

the estate of the decedent or the donor spouse, as the case may be, may elect to treat such property for purposes of this chapter as if the election to be treated as qualified terminable interest property had not been made.

"(b) TRUST AND TRUSTEE.—

"(1) TRUST.—The term 'trust' includes any arrangement (other than an estate) which, although not a trust, has substantially the same effect as a trust.

"(2) TRUSTEE.—In the case of an arrangement which is not a trust but which is treated as a trust under this subsection, the term 'trustee' shall mean the person in actual or constructive possession of the property subject to such arrangement.

"(3) EXAMPLES.—Arrangements to which this subsection applies include arrangements involving life estates and remainders, estates for years, and insurance and annuity contracts.

"(c) INTEREST.—

"(1) IN GENERAL.—A person has an interest in property held in trust if (at the time the determination is made) such person—

"(A) has a right (other than a future right) to receive income or corpus from the trust,

"(B) is a permissible current recipient of income or corpus from the trust and is not described in section 2055(a), or

"(C) is described in section 2055(a) and the trust is—

"(i) a charitable remainder annuity trust,

"(ii) a charitable remainder unitrust within the meaning of section 664, or

"(iii) a pooled income fund within the meaning of section 642(c)(5).

"(2) CERTAIN NOMINAL INTERESTS DISREGARDED.—For purposes of paragraph (1), an interest which is used primarily to postpone or avoid the tax imposed by this chapter shall be disregarded.

"SEC. 2653. TAXATION OF MULTIPLE SKIPS.

"(a) GENERAL RULE.—For purposes of this chapter, if—

"(1) there is a generation-skipping transfer of any property, and

"(2) immediately after such transfer such property is held in trust,

for purposes of applying this chapter (other than section 2651) to subsequent transfers from the portion of such trust attributable to such property, the trust will be treated as if the transferor of such property were assigned to the first generation above the highest generation of any person who has an interest in such trust immediately after the transfer.

"(b) TRUST RETAINS INCLUSION RATIO.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the provisions of subsection (a) shall not affect the inclusion ratio determined with respect to any trust. Under regulations prescribed by the Secretary, notwithstanding the preceding sentence, proper adjustment shall be made to the inclusion ratio with respect to such trust to take into account any tax under this chapter borne by such trust which is imposed by this chapter on the transfer described in subsection (a).

"(2) SPECIAL RULE FOR POUR-OVER TRUST.—

"(A) IN GENERAL.—If the generation-skipping transfer referred to in subsection (a) involves the transfer of property from 1 trust to another trust (hereinafter in this paragraph referred to as the 'pour-over trust'), the inclusion ratio for the pour-over trust shall be determined by treating the nontax portion of such distribution as if it were a part of a GST exemption allocated to such trust.

"(B) NONTAX PORTION.—For purposes of subparagraph (A), the nontax portion of any distribution is the amount of such distribution multiplied by the applicable fraction which applies to such distribution.

"SEC. 2654. SPECIAL RULES.

"(a) BASIS ADJUSTMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if property is transferred in a generation-skipping transfer, the basis of such property shall be increased (but not above the fair market value of such property) by an amount equal to that portion of the tax imposed by section 2601 (computed without regard to section 2604) with respect to the transfer which is attributable to the excess of the fair market value of such property over its adjusted basis immediately before the transfer.

"(2) CERTAIN TRANSFERS AT DEATH.—If property is transferred in a taxable termination which occurs at the same time as and as a result of the death of an individual, the basis of such property shall be adjusted in a manner similar to the manner provided under section 1014(a); except that, if the inclusion ratio with respect to such property is less than 1, any increase in basis shall be limited by multiplying such increase by the inclusion ratio.

"(b) SEPARATE SHARES TREATED AS SEPARATE TRUSTS.—Substantially separate and independent shares of different beneficiaries in a trust shall be treated as separate trusts.

"(c) DISCLAIMERS.—

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"For provisions relating to the effect of a qualified disclaimer for purposes of this chapter, see section 2518.

"(d) LIMITATION ON PERSONAL LIABILITY OF TRUSTEE.—A trustee shall not be personally liable for any increase in the tax imposed by section 2601 which is attributable to the fact that—

"(1) section 2642(c) (relating to exemption of certain nontaxable gifts) does not apply to a transfer to the trust which was made during the life of the transferor and for which a gift tax return was not filed, or

"(2) the inclusion ratio with respect to the trust is greater than the amount of such ratio as computed on the basis of the return or which was made (or was deemed made) an allocation of the GST exemption to property transferred to such trust.

The preceding sentence shall not apply if the trustee has knowledge of facts sufficient reasonably to conclude that a gift tax return was required to be filed or that the inclusion ratio was erroneous.

"Subchapter G—Administration

"Sec. 2661. Administration.
"Sec. 2662. Return requirements.
"Sec. 2663. Regulations.

"SEC. 2661. ADMINISTRATION.

"Insofar as applicable and not inconsistent with the provisions of this chapter—

"(1) except as provided in paragraph (2), all provisions of subtitle F (including penalties) applicable to the gift tax, to chapter 12, or to section 2501, are hereby made applicable in respect of the generation-skipping transfer tax, this chapter, or section 2601, as the case may be, and

"(2) in the case of a generation-skipping transfer occurring at the same time as and as a result of the death of an individual, all provisions of subtitle F (including penalties) applicable to the estate tax, to chapter 11, or to section 2001 are hereby made applicable in respect of the generation-skipping transfer tax, this chapter, or section 2601 (as the case may be).

"SEC. 2662. RETURN REQUIREMENTS.

"(a) IN GENERAL.—The Secretary shall prescribe by regulations the person who is required to make the return with respect to the tax imposed by this chapter and the time by which any such return must be filed. To the extent practicable, such regulations shall provide that—

"(1) the person who is required to make such return shall be the person liable under section 2603(a) for payment of such tax, and

"(2) the return shall be filed—

"(A) in the case of a direct skip (other than from a trust), on or before the date on which an estate or gift tax return is required to be filed with respect to the transfer, and

"(B) in all other cases, on or before the 15th day of the 4th month after the close of the taxable year of the person required to make such return in which such transfer occurs.

"(b) INFORMATION RETURNS.—The Secretary may by regulations require a return to be filed containing such information as he determines to be necessary for purposes of this chapter.

"SEC. 2663. REGULATIONS.

"The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this chapter, including—

"(1) such regulations as may be necessary to coordinate the provisions of this chapter with the recapture tax imposed under section 2032A(c), and

"(2) regulations (consistent with the principles of chapters 11 and 12) providing for the application of this chapter in the case of transferors who are nonresidents not citizens of the United States."

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle B is amended by striking out the item relating to chapter 13 and inserting in lieu thereof the following:

"CHAPTER 13. Tax on generation-skipping transfers."

SEC. 1432. RELATED AMENDMENTS.

(a) INCOME TAX DEDUCTION FOR GENERATION-SKIPPING TRANSFER TAX.—

(1) IN GENERAL.—Subsection (a) of section 164 (relating to deduction for certain taxes), as amended by section 134, is amended by inserting after paragraph (4) the following new paragraph:

"(5) the GST tax imposed on income distributions."

(2) DEFINITIONS.—Subsection (b) of section 164, as so amended, is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULES FOR GST TAX.—

"(A) IN GENERAL.—The GST tax imposed on income distributions is—

"(i) the tax imposed by section 2601, and

"(ii) any State tax described in section 2604,

but only to the extent such tax is imposed on a transfer which is included in the gross income of the distributee and to which section 666 does not apply.

"(B) SPECIAL RULE FOR TAX PAID BEFORE DUE DATE.—Any tax referred to in subparagraph (A) imposed with respect to a transfer occurring during the taxable year of the distributee (or, in the case of a taxable termination, the trust) which is paid not later than the time prescribed by law (including extensions) for filing the return with respect to such transfer shall be treated as having been paid on the last day of the taxable year in which the transfer was made."

(3) DEDUCTION FOR TAX IN CASE OF TAXABLE TERMINATIONS.—Paragraph (3) of section 691(c) (relating to deduction for estate tax) is amended to read as follows:

"(3) SPECIAL RULE FOR GENERATION-SKIPPING TRANSFERS.—In the case of any tax imposed by chapter 13 on a taxable termination or a direct skip occurring as a result of the death of the transferor, there shall be allowed a deduction (under principles similar to the principles of this subsection) for the portion of such tax attributable to items of gross income of the trust which

were not properly includible in the gross income of the trust for periods before the date of such termination."

(b) DISTRIBUTIONS IN REDEMPTION OF STOCK TO PAY GENERATION-SKIPPING TRANSFER TAXES.—Subsection (d) of section 303 is amended to read as follows:

"(d) SPECIAL RULES FOR GENERATION-SKIPPING TRANSFERS.—Where stock in a corporation is the subject of a generation-skipping transfer (within the meaning of section 2611(a)) occurring at the same time as and as a result of the death of an individual—

"(1) the stock shall be deemed to be included in the gross estate of such individual;

"(2) taxes of the kind referred to in subsection (a)(1) which are imposed because of the generation-skipping transfer shall be treated as imposed because of such individual's death (and for this purpose the tax imposed by section 2601 shall be treated as an estate tax);

"(3) the period of distribution shall be measured from the date of the generation-skipping transfer; and

"(4) the relationship of stock to the decedent's estate shall be measured with reference solely to the amount of the generation-skipping transfer."

(c) AVAILABILITY OF ALTERNATE VALUATION ELECTION.—

(1) IN GENERAL.—Paragraph (2) of section 2032(c) (relating to election must decrease gross estate and estate tax) is amended to read as follows:

"(2) the sum of the tax imposed by this chapter and the tax imposed by chapter 13 with respect to property includible in the decedent's gross estate (reduced by credits allowable against such taxes)."

(2) CONFORMING AMENDMENT.—Subsection (g) of section 2013 is hereby repealed.

(d) GENERATION-SKIPPING TAX TREATED AS TAXABLE GIFT.—

(1) IN GENERAL.—Subchapter B of chapter 12 is amended by inserting after section 2514 the following new section:

"SEC. 2515. TREATMENT OF GENERATION-SKIPPING TRANSFER TAX.

"In the case of any taxable gift which is a direct skip (within the meaning of chapter 13), the amount of such gift shall be increased by the amount of any tax imposed on the transferor under chapter 13 with respect to such gift."

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 12 is amended by inserting after the item relating to section 2514 the following new item:

"Sec. 2515. Treatment of generation-skipping transfer tax."

(e) EXTENSION OF TIME FOR PAYMENT OF TAX ON CERTAIN DIRECT SKIPS.—Section 6166 is amended by redesignating subsections (i) and (j) as subsections (j) and (k), respectively, and by inserting after subsection (h) the following new subsection:

"(i) SPECIAL RULE FOR CERTAIN DIRECT SKIPS.—To the extent that an interest in a closely held business is the subject of a direct skip (within the meaning of section 2612(c)) occurring at the same time as and as a result of the decedent's death, then for purposes of this section any tax imposed by section 2601 on the transfer of such interest shall be treated as if it were additional tax imposed by section 2001."

SEC. 1433. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as provided in subsection (b), the amendments made by this part shall apply to any generation-skipping transfer (within the meaning of section 2611 of the Internal Revenue Code of 1986) made after the date of the enactment of this Act.

(b) SPECIAL RULES.—

(1) TREATMENT OF CERTAIN INTER VIVOS TRANSFERS MADE AFTER SEPTEMBER 25, 1985.—For purposes of subsection (a) (and chapter 13 of the Internal Revenue Code of 1986 as amended by this part), any inter vivos transfer after September 25, 1985, and on or before the date of the enactment of this Act shall be treated as if it were made on the 1st day after the date of enactment of this Act.

(2) EXCEPTIONS.—The amendments made by this part shall not apply to—

(A) any generation-skipping transfer under a trust which was irrevocable on September 25, 1985, but only to the extent that such transfer is not made out of corpus added to the trust after September 25, 1985,

(B) any generation-skipping transfer under a will executed before the date of the enactment of this Act if the decedent dies before January 1, 1987, and

(C) any generation-skipping transfer—

(i) under a trust to the extent such trust consists of property included in the gross estate of a decedent (other than property transferred by the decedent during his life after the date of the enactment of this Act), or reinvestments thereof, or

(ii) which is a direct skip which occurs by reason of the death of any decedent;

but only if such decedent was, on the date of the enactment of this Act, under a mental disability to change the disposition of his property and did not regain his competence to dispose of such property before the date of his death.

(3) TREATMENT OF CERTAIN TRANSFERS TO GRANDCHILDREN.—For purposes of chapter 13 of the Internal Revenue Code of 1986, the term "direct skip" shall not include any transfer before January 1, 1990, from a transferor to a grandchild of the transferor to the extent that the aggregate transfers from such transferor to such grandchild do not exceed $2,000,000.

(c) REPEAL OF EXISTING TAX ON GENERATION-SKIPPING TRANSFERS.—

(1) IN GENERAL.—In the case of any tax imposed by chapter 13 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act), such tax (including interest, additions to tax, and additional amounts) shall not be assessed and if assessed, the assessment shall be abated, and if collected, shall be credited or refunded (with interest) as an overpayment.

(2) WAIVER OF STATUTE OF LIMITATIONS.—If on the date of the enactment of this Act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of paragraph (1) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefore is filed

before the date 1 year after the date of the enactment of this Act.

(d) ELECTION FOR CERTAIN TRANSFERS BENEFITING GRANDCHILD.—

(1) IN GENERAL.—For purposes of chapter 13 of the Internal Revenue Code of 1986 (as amended by this Act) and subsection (b) of this section, any transfer in trust for the benefit of a grandchild of a transferor shall be treated as a direct skip if—

(A) the transfer occurs before the date of enactment of this Act,

(B) the transfer would be a direct skip except for the fact that the trust instrument provides that, if the grandchild dies before vesting of the interest transferred, the interest is transferred to the grandchild's heir (rather than the grandchild's estate), and

(C) an election under this subsection applies to such transfer.

Any transfer treated as a direct skip by reason of the preceding sentence shall be subject to Federal estate tax on the grandchild's death in the same manner as if the contingent gift over had been to the grandchild's estate.

(2) ELECTION.—An election under paragraph (1) shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe.

TITLE XV—COMPLIANCE AND TAX ADMINISTRATION

Subtitle A—Revision of Certain Penalties, Etc.

SEC. 1501. PENALTY FOR FAILURE TO FILE INFORMATION RETURNS OR STATEMENTS.

(a) GENERAL RULE.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new part:

"PART II—FAILURE TO FILE CERTAIN INFORMATION RETURNS OR STATEMENTS

"Sec. 6721. Failure to file certain information returns.
"Sec. 6722. Failure to furnish certain payee statements.
"Sec. 6723. Failure to include correct information.
"Sec. 6724. Waiver; definitions and special rules.

"SEC. 6721. FAILURE TO FILE CERTAIN INFORMATION RETURNS.

"(a) GENERAL RULE.—In the case of each failure to file an information return with the Secretary on the date prescribed therefor (determined with regard to any extension of time for filing), the person failing to so file such return shall pay $50 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $100,000.

"(b) PENALTY IN CASE OF INTENTIONAL DISREGARD.—If 1 or more failures to which subsection (a) applies are due to intentional disregard of the filing requirement, then, with respect to each such failure—

"(1) the penalty imposed under subsection (a) shall be $100, or, if greater—

"(A) in the case of a return other than a return required under section 6045(a), 6041A(b), 6050H, 6050J, 6050K, or 6050L, 10 percent of the aggregate amount of the items required to be reported, or

"(B) in the case of a return required to be filed by section 6045(a), 6050K, or 6050L, 5 percent of the aggregate amount of the items required to be reported, and

"(2) in the case of any penalty determined under paragraph (1)—

"(A) the $100,000 limitation under subsection (a) shall not apply, and

"(B) such penalty shall not be taken into account in applying the $100,000 limitation to penalties not determined under paragraph (1).

"SEC. 6722. FAILURE TO FURNISH CERTAIN PAYEE STATEMENTS.

"(a) GENERAL RULE.—In the case of each failure to furnish a payee statement on the date prescribed therefor to the person to whom such statement is required to be furnished, the person failing to so furnish such statement shall pay $50 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $100,000.

"(b) FAILURE TO NOTIFY PARTNERSHIP OF EXCHANGE OF PARTNERSHIP INTEREST.—In the case of any person who fails to furnish the notice required by section 6050K(c)(1) on the date prescribed therefor, such person shall pay a penalty of $50 for each such failure.

"SEC. 6723. FAILURE TO INCLUDE CORRECT INFORMATION.

"(a) GENERAL RULE.—If—

"(1) any person files an information return or furnishes a payee statement, and

"(2) such person does not include all of the information required to be shown on such return or statement or includes incorrect information,

such person shall pay $5 for each return or statement with respect to which such failure occurs, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $20,000.

"(b) PENALTY IN CASE OF INTENTIONAL DISREGARD.—If 1 or more failures to which subsection (a) applies are due to intentional disregard of the correct information reporting requirement, then, with respect to each such failure—

"(1) the penalty imposed under subsection (a) shall be $100, or, if greater—

"(A) in the case of a return other than a return required under section 6045(a), 6041A(b), 6050H, 6050J, 6050K, or 6050L, 10 percent of the aggregate amount of the items required to be reported correctly, or

"(B) in the case of a return required to be filed by section 6045(a), 6050K, or 6050L, 5 percent of the aggregate amount of the items required to be reported correctly, and

"(2) in the case of any penalty determined under paragraph (1)—

"(A) the $20,000 limitation under subsection (a) shall not apply, and

"(B) such penalty shall not be taken into account in applying the $20,000 limitation to penalties not determined under paragraph (1).

"(c) COORDINATION WITH SECTION 6676.—No penalty shall be imposed under subsection (a) or (b) with respect to any return or statement if a penalty is imposed under section 6676 (relating to failure to supply identifying number) with respect to such return or statement.

"SEC. 6724. WAIVER; DEFINITIONS AND SPECIAL RULES.

"(a) REASONABLE CAUSE WAIVER.—No penalty shall be imposed under this part with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect.

"(b) PAYMENT OF PENALTY.—Any penalty imposed by this part shall be paid on notice and demand by the Secretary and in the same manner as tax.

"(c) SPECIAL RULES FOR FAILURE TO FILE INTEREST AND DIVIDEND RETURNS OR STATEMENTS.—

"(1) HIGHER STANDARDS FOR WAIVER.—In the case of any interest or dividend return or statement—

"(A) subsection (a) shall not apply, but

"(B) no penalty shall be imposed under this part if it is shown that the person otherwise liable for such penalty exercised due diligence in attempting to satisfy the requirement with respect to such return or statement.

"(2) LIMITATIONS NOT TO APPLY.—In the case of any interest or dividend return or statement—

"(A) the $100,000 limitations of sections 6721(a) and 6722(a) and the $20,000 limitation of section 6723(a) shall not apply (and any penalty imposed on any failure involving such a return or statement shall not be taken into account in applying such limitations to other penalties), and

"(B) penalties imposed with respect to such returns or statements shall not be taken into account for purposes of applying such limitations with respect to other returns or statements.

"(3) SELF ASSESSMENT.—Any penalty imposed under this part on any person with respect to an interest or dividend return or statement—

"(A) shall be assessed and collected in the same manner as an excise tax imposed by subtitle D, and

"(B) shall be due and payable on April 1 of the calendar year following the calendar year for which such return or statement is required.

"(4) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed under this part with respect to an interest or dividend return or statement.

"(5) INTEREST OR DIVIDEND RETURN OR STATEMENT.—For purposes of this subsection, the term 'interest or dividend return or statement' means—

"(A) any return required by section 6042(a)(1), 6044(a)(1), or 6049(a), and

"(B) any statement required under section 6042(c), 6044(e), or 6049(c).

"(d) DEFINITIONS.—For purposes of this part—

"(1) INFORMATION RETURN.—The term 'information return' means—

"(A) any statement of the amount of payments to another person required by—

"(i) section 6041 (a) or (b) (relating to certain information at source),

"(ii) section 6042(a)(1) (relating to payments of dividends),

"(iii) section 6044(a)(1) (relating to payments of patronage dividends),

"(iv) section 6049(a) (relating to payments of interest),

"(v) section 6050A(a) (relating to reporting requirements of certain fishing boat operators),

"(vi) section 6050N(a) (relating to payments of royalties), or

"(vii) section 6051(d) (relating to information returns with respect to income tax withheld), and

"(B) any return required by—

"(i) section 4997(a) (relating to information with respect to windfall profit tax on crude oil),

"(ii) section 6041A (a) or (b) (relating to returns of direct sellers),

"(iii) section 6045 (a) or (d) (relating to returns of brokers),

"(iv) section 6050H(a) (relating to mortgage interest received in trade or business from individuals),

"(v) section 6050I(a) (relating to cash received in trade or business),

"(vi) section 6050J(a) (relating to foreclosures and abandonments of security),

"(vii) section 6050K(a) (relating to exchanges of certain partnership interests),

"(viii) section 6050L(a) (relating to returns relating to certain dispositions of donated property),

"(ix) section 6052(a) (relating to reporting payment of wages in the form of group-term life insurance), or

"(x) section 6053(c)(1) (relating to reporting with respect to certain tips).

"(2) PAYEE STATEMENT.—The term 'payee statement' means any statement required to be furnished under—

"(A) section 4997(a) (relating to records and information; regulations),

"(B) section 6031(b), 6034A, or 6037(b) (relating to statements furnished by certain pass-thru entities),

"(C) section 6039(a) (relating to information required in connection with certain options),

"(D) section 6041(d) (relating to information at source),

"(E) section 6041A(e) (relating to returns regarding payments of remuneration for services and direct sales),

"(F) section 6042(c) (relating to returns regarding payments of dividends and corporate earnings and profits),

"(G) section 6044(e) (relating to returns regarding payments of patronage dividends),

"(H) section 6045 (b) or (d) (relating to returns of brokers),

"(I) section 6049(c) (relating to returns regarding payments of interest),

"(J) section 6050A(b) (relating to reporting requirements of certain fishing boat operators),

"(K) section 6050C (relating to information regarding windfall profit tax on domestic crude oil),

"(L) section 6050H(d) (relating to returns relating to mortgage interest received in trade or business from individuals),

"(M) section 6050I(e) (relating to returns relating to cash received in trade or business),

"(N) section 6050J(e) (relating to returns relating to foreclosures and abandonments of security),

"(O) section 6050K(b) (relating to returns relating to exchanges of certain partnership interests),

"(P) section 6050L(c) (relating to returns relating to certain dispositions of donated property),

"(Q) section 6050N(b) (relating to returns regarding payments of royalties),

"(R) section 6051 (relating to receipts for employees),

"(S) section 6052(b) (relating to returns regarding payment of wages in the form of group-term life insurance), or

"(T) section 6053 (b) or (c) (relating to reports of tips)."

(b) INCREASE IN MAXIMUM PENALTY FOR FAILURE TO SUPPLY IDENTIFYING NUMBERS.—Subsection (a) of section 6676 (relating to failure to supply identifying numbers) is amended by striking out "$50,000" and inserting in lieu thereof "$100,000".

(c) CLARIFICATION OF PENALTY FOR FAILURE TO FURNISH PAYEE STATEMENTS.—

(1) Subsection (d) of section 6041 is amended to read as follows:

"(d) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each person with respect to whom such a return is required a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of payments to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made. To the extent provided in regulations prescribed by the Secretary, this subsection shall also apply to persons required to make returns under subsection (b)."

(2) Subsection (c) of section 6042 is amended to read as follows:

"(c) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of payments to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished (either in person or in a statement mailing by first-class mail which includes adequate notice that the statement is enclosed) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was

required to be made and shall be in such form as the Secretary may prescribe by regulations."

(3) Subsection (e) of section 6044 is amended to read as follows:

"(e) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every cooperative required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the cooperative required to make such return, and

"(2) the aggregate amount of payments to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished (either in person or in a statement mailing by first-class mail which includes adequate notice that the statement is enclosed) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made and shall be in such form as the Secretary may prescribe by regulations."

(4) Subsection (b) of section 6045 is amended to read as follows:

"(b) STATEMENTS TO BE FURNISHED TO CUSTOMERS.—Every person required to make a return under subsection (a) shall furnish to each customer whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the information required to be shown on such return with respect to such customer.

The written statement required under the preceding sentence shall be furnished to the customer on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(5) Subsection (c) of section 6049 is amended to read as follows:

"(c) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—

"(1) IN GENERAL.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(A) the name and address of the person required to make such return, and

"(B) the aggregate amount of payments to, or the aggregate amount includible in the gross income of, the person required to be shown on the return.

"(2) TIME AND FORM OF STATEMENT.—The written statement under paragraph (1)—

"(A) shall be furnished (either in person or in a statement mailing by first-class mail which includes adequate notice that the statement is enclosed) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made, and

"(B) shall be in such form as the Secretary may prescribe by regulations."

(6) Subsection (b) of section 6050A is amended to read as follows:

"(b) WRITTEN STATEMENT.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing the information relating to such person required to be contained in such return. The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(7) Subsection (b) of section 6050B is amended to read as follows:

"(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of payments to the individual required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(8) Subsection (b) of section 6050E is amended to read as follows:

"(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name of the State or political subdivision thereof, and

"(2) the information required to be shown on the return with respect to refunds, credits, and offsets to the individual.

The written statement required under the preceding sentence shall be furnished to the individual during January of the calendar year following the calendar year for which the return under subsection (a) was required to be made. No statement shall be required under this subsection with respect to any individual if it is determined (in the manner provided by regulations) that such individual did not claim itemized deductions under chapter 1 for the taxable year giving rise to the refund, credit, or offset."

(9) Subsection (b) of section 6050F is amended to read as follows:

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name of the agency making the payments, and

"(2) the aggregate amount of payments, of repayments, and of reductions, with respect to the individual required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(10) Subsection (b) of section 6050G is amended to read as follows:

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—The Railroad Retirement Board shall furnish to each individual whose name is required to be set forth in the return under subsection (a) a written statement showing—

"(1) the aggregate amount of payments to such individual, and of employee contributions with respect thereto, required to be shown on the return, and

"(2) such other information as the Secretary may require.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(11) Subsection (d) of section 6050H is amended to read as follows:

"(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of interest described in subsection (a)(2) received by the person required to make such return from the individual to whom the statement is required to be furnished.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(12) Subsection (e) of section 6050I is amended to read as follows:

"(e) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of cash described in subsection (a) received by the person required to make such return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(13) Subsection (b) of section 6050K is amended to read as follows:

"(b) STATEMENTS TO BE FURNISHED TO TRANSFEROR AND TRANSFEREE.—Every partnership required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the partnership required to make such return, and

"(2) the information required to be shown on the return with respect to such person.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(14) Subsection (b) of section 6052 is amended to read as follows:

"(b) STATEMENTS TO BE FURNISHED TO EMPLOYEES WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every employer required to make a return under subsection (a) shall furnish to each employee whose name is required to be set forth in such return a written statement showing the cost of the group-term life insurance shown on such return. The written statement required under the preceding sentence shall be furnished to the employee on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(15) Subsection (a) of section 6034A is amended—

(A) by striking out "making the return required to be filed" and inserting in lieu thereof "required to file a return",

(B) by striking out "was filed" and inserting in lieu thereof "was required to be filed", and

(C) by striking out "shown on such return" and inserting in lieu thereof "required to be shown on such return".

(16) Subsection (b) of section 6031 (relating to return of partnership income) is amended—

(A) by striking out "was filed" and inserting in lieu thereof "was required to be filed", and

(B) by striking out "shown on such return" and inserting in lieu thereof "required to be shown on such return".

(d) CONFORMING AMENDMENTS.—

(1)(A) Section 6652 is amended—

(i) by striking out subsection (a) and by redesignating subsections (b) through (k) as subsections (a) through (j), respectively, and

(ii) by striking out "OTHER RETURNS" in the heading of subsection (a) (as so redesignated) and inserting in lieu thereof "RETURNS WITH RESPECT TO CERTAIN PAYMENTS AGGREGATING LESS THAN $10".

(B) Subsection (g) of section 219 is amended by striking out "section 6652(h)" and inserting in lieu thereof "section 6652(g)".

(C) Sections 6033(e), 6034(c), and 6043(c) are each amended by striking out "section 6652(d)" and inserting in lieu thereof "section 6652(c)".

(D) Sections 6047(e)(1) and 6058(f) are each amended by striking out "section 6652(f)" and inserting in lieu thereof "section 6652(e)".

(E) Paragraph (1) of section 6050C(d) is amended by striking out "section 6652(b)" and inserting in lieu thereof "section 6722".

(F) Subsection (g) of section 6057 is amended by striking out "section 6652(e)" and inserting in lieu thereof "section 6652(d)".

(2) Section 6678 is hereby repealed.

(3) Subchapter B of chapter 68 is amended by inserting after the subchapter heading the following:

"Part I. General provisions.

"Part II. Failure to file certain information returns or statements.

"PART I—GENERAL PROVISIONS".

(4) The table of sections for subchapter B of chapter 68 (as in effect before the amendment made by paragraph (3)) is amended by striking out the item relating to section 6678.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1986, except that the amendments made by subsections (c)(2), (c)(3), and (c)(5) shall apply to returns the due for which (determined without regard to extensions) is after the date of the enactment of this Act.

SEC. 1502. INCREASE IN PENALTY FOR FAILURE TO PAY TAX.

(a) GENERAL RULE.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) INCREASE IN PENALTY FOR FAILURE TO PAY TAX IN CERTAIN CASES.—

"(1) IN GENERAL.—In the case of each month (or fraction thereof) beginning after the day described in paragraph (2) of this subsection, paragraphs (2) and (3) of subsection (a) shall be applied by substituting '1 percent' for '0.5 percent' each place it appears.

"(2) DESCRIPTION.—For purposes of paragraph (1), the day described in this paragraph is the earlier of—

"(A) the day 10 days after the date on which notice is given under section 6331(d), or

"(B) the day on which notice and demand for immediate payment is given under the last sentence of section 6331(a)."

(b) REPEAL OF CERTAIN REDUCTION IN FAILURE TO PAY PENALTY.—Paragraph (1) of section 6651(c) is amended to read as follows:

"(1) ADDITIONS UNDER MORE THAN ONE PARAGRAPH.—With respect to any return, the amount of the addition under paragraph (1) of subsection (a) shall be reduced by the amount of the addition under paragraph (2) of subsection (a) for any month (or fraction thereof) to which an addition to tax applies under both paragraphs (1) and (2). In any case described in the last sentence of subsection (a), the amount of the addition under paragraph (1) of subsection (a) shall not be reduced under the preceding sentence below the amount provided in such last sentence."

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply—

(A) to failures to pay which begin after December 31, 1986, and

(B) to failures to pay which begin on or before December 31, 1986, if after December 31, 1986—

(i) notice (or renotice) under section 6331(d) of the Internal Revenue Code of 1954 is given with respect to such failure, or

(ii) notice and demand for immediate payment of the underpayment is made under the last sentence of section 6331(a) of such Code.

In the case of a failure to pay described in subparagraph (B), paragraph (2) of section 6651(d) of such Code (as added by

subsection (a)) shall be applied by taking into account the first notice (or renotice) after December 31, 1986.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to amounts assessed after December 31, 1986, with respect to failures to pay which begin before, on, or after such date.

SEC. 1503. AMENDMENTS TO PENALTY FOR NEGLIGENCE AND FRAUD.

(a) GENERAL RULE.—Section 6653 (relating to failure to pay tax) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) NEGLIGENCE.—

"(1) IN GENERAL.—If any part of any underpayment (as defined in subsection (c)) is due to negligence or disregard of rules or regulations, there shall be added to the tax an amount equal to the sum of—

"(A) 5 percent of the underpayment, and

"(B) an amount equal to 50 percent of the interest payable under section 6601 with respect to the portion of such underpayment which is attributable to negligence for the period beginning on the last date prescribed by law for payment of such underpayment (determined without regard to any extension) and ending on the date of the assessment of the tax (or, if earlier, the date of the payment of the tax).

"(2) UNDERPAYMENT TAKEN INTO ACCOUNT REDUCED BY PORTION ATTRIBUTABLE TO FRAUD.—There shall not be taken into account under this subsection any portion of an underpayment attributable to fraud with respect to which a penalty is imposed under subsection (b).

"(3) NEGLIGENCE.—For purposes of this subsection, the term 'negligence' includes any failure to make a reasonable attempt to comply with the provisions of this title, and the term 'disregard' includes any careless, reckless, or intentional disregard.

"(b) FRAUD.—

"(1) IN GENERAL.—If any part of any underpayment (as defined in subsection (c)) of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to the sum of—

"(A) 75 percent of the portion of the underpayment which is attributable to fraud, and

"(B) an amount equal to 50 percent of the interest payable under section 6601 with respect to such portion for the period beginning on the last day prescribed by law for payment of such underpayment (determined without regard to any extension) and ending on the date of the assessment of the tax or, if earlier, the date of the payment of the tax.

"(2) DETERMINATION OF PORTION ATTRIBUTABLE TO FRAUD.—If the Secretary establishes that any portion of an underpayment is attributable to fraud, the entire underpayment shall be treated as attributable to fraud, except with respect to any portion of the underpayment which the taxpayer establishes is not attributable to fraud.

"(3) SPECIAL RULE FOR JOINT RETURNS.—In the case of a joint return, this subsection shall not apply with respect to a spouse

unless some part of the underpayment is due to the fraud of such spouse."

(b) SPECIAL RULE FOR INTEREST OR DIVIDEND PAYMENTS EXTENDED TO OTHER AMOUNTS SHOWN ON INFORMATION RETURNS.—Subsection (g) of section 6653 (relating to special rule in the case of interest or dividend payments) is amended to read as follows:

"(g) SPECIAL RULE FOR AMOUNTS SHOWN ON INFORMATION RETURNS.—If—

"(1) any amount is shown on—

"(A) an information return (as defined in section 6724(d)(1)), or

"(B) a return filed under section 6031, section 6037, section 6012(a) by an estate or trust, section 6050B, or section 6050E, and

"(2) the payee (or other person with respect to whom the return is made) fails to properly show such amount on his return,

any portion of an underpayment attributable to such failure shall be treated, for purposes of subsection (a), as due to negligence in the absence of clear and convincing evidence to the contrary."

(c) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 6222 is amended by striking out "intentional or negligent".

(2) Subsection (d) of section 6653 is amended by striking out "same underpayment" and inserting in lieu thereof "portion of the underpayment which is attributable to fraud".

(3) Subsection (f) of section 6653 is amended by striking out "or intentional disregard of rules and regulations (but without intent to defraud)".

(d) CHANGE IN SECTION HEADING.—

(1) The heading for section 6653 (relating to failure to pay tax) is amended to read as follows:

"SEC. 6653. ADDITIONS TO TAX FOR NEGLIGENCE AND FRAUD."

(2) The item relating to section 6653 in the table of sections for subpart A of chapter 68 is amended to read as follows:

"Sec. 6653. Additions to tax for negligence and fraud."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1986.

SEC. 1504. INCREASE IN PENALTY FOR SUBSTANTIAL UNDERSTATEMENT OF LIABILITY.

(a) IN GENERAL.—Subsection (a) of section 6661 (relating to substantial understatement of liability) is amended by striking out "10 percent" and inserting in lieu thereof "20 percent".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1986.

Subtitle B—Interest Provisions

SEC. 1511. DIFFERENTIAL INTEREST RATE.

(a) GENERAL RULE.—Section 6621 (relating to determination of rate of interest) is amended by striking out subsections (a), (b), and (c) and inserting in lieu thereof the following:

"(a) GENERAL RULE.—

"(1) OVERPAYMENT RATE.—The overpayment rate established under this section shall be the sum of—

"(A) the short-term Federal rate determined under subsection (b), plus

"(B) 2 percentage points.

"(2) UNDERPAYMENT RATE.—The underpayment rate established under this section shall be the sum of—

"(A) the short-term Federal rate determined under subsection (b), plus

"(B) 3 percentage points.

"(b) SHORT-TERM FEDERAL RATE.—For purposes of this section—

"(1) GENERAL RULE.—The Secretary shall determine the short-term Federal rate for the first month in each calendar quarter.

"(2) PERIOD DURING WHICH RATE APPLIES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal short-term rate determined under paragraph (1) for any month shall apply during the first calendar quarter beginning after such month.

"(B) SPECIAL RULE FOR INDIVIDUAL ESTIMATED TAX.—In determining the addition to tax under section 6654 for failure to pay estimated tax for any taxable year, the Federal short-term rate which applies during the 3rd month following such taxable year shall also apply during the first 15 days of the 4th month following such taxable year.

"(3) FEDERAL SHORT-TERM RATE.—The Federal short-term rate for any month shall be the Federal short-term rate determined during such month by the Secretary in accordance with section 1274(d). Any such rate shall be rounded to the nearest full percent (or, if a multiple of ½ of 1 percent, such rate shall be increased to the next highest full percent)."

(b) COORDINATION BY REGULATION.—The Secretary of the Treasury or his delegate may issue regulations to coordinate section 6621 of the Internal Revenue Code of 1954 (as amended by this section) with section 6601(f) of such Code. Such regulations shall not apply to any period after the date 3 years after the date of the enactment of this Act.

(c) TECHNICAL AMENDMENTS.—

(1) Section 6621 is amended—

(A) by redesignating subsection (d) as subsection (c), and

(B) by striking out "the adjusted rate established under subsection (b)" in subsection (c)(1) (as so redesignated) and inserting in lieu thereof "the underpayment rate established under this section", and

(C) by striking out "annual" in subsection (c)(1) (as so redesignated).

(2) Subparagraph (G) of section 47(d)(3) is amended by striking out "determined under section 6621" and inserting in lieu

thereof "determined at the underpayment rate established under section 6621".

(3) The last sentence of section 48(d)(6)(C)(ii) (defining at risk percentage) is amended by striking out "the rate" and inserting in lieu thereof "the underpayment rate".

(4) Subparagraph (B) of section 167(q)(2) is amended by striking out "at the rate determined under section 6621" and inserting in lieu thereof "at the underpayment rate established under section 6621".

(5) Subparagraph (B) of section 644(a)(2) is amended by striking out "the annual rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(6) Subparagraph (A) of section 852(e)(3) is amended by striking out "the annual rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(7) Paragraph (2) of section 4497(c) is amended by striking out "at rates determined under section 6621" and inserting in lieu thereof "at the underpayment rate established under section 6621".

(8) Subsection (e) of section 6214 is amended by striking out "section 6621(d)(4)" and inserting in lieu thereof "section 6621(c)(4)".

(9) Paragraph (1) of section 6332(c) is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(10) Subsection (c) of section 6343 is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the overpayment rate established under section 6621".

(11) Subsection (a) of section 6601 is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(12) Section 6602 is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(13) Subsection (a) of section 6611 is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the overpayment rate established under section 6621".

(14) Paragraph (1) of section 6654(a) is amended by striking out "the applicable annual rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(15) Paragraph (1) of section 6655(a) is amended by striking out "the rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(16) Subsection (g) of section 7426 is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the overpayment rate established under section 6621".

(17) Section 1961(c)(1) of title 28, United States Code, is amended by striking out "a rate established under section 6621"

and inserting in lieu thereof "the underpayment rate or overpayment rate (whichever is appropriate) established under section 6621".

(18) Section 2411 of title 28, United States Code, is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the overpayment rate established under section 6621".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply for purposes of determining interest for periods after December 31, 1986.

SEC. 1512. INTEREST ON ACCUMULATED EARNINGS TAX TO ACCRUE BEGINNING ON DATE RETURN IS DUE.

(a) IN GENERAL.—Subsection (b) of section 6601 (relating to last date prescribed for payment) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) ACCUMULATED EARNINGS TAX.—In the case of the tax imposed by section 531 for any taxable year, the last date prescribed for payment shall be deemed to be the due date (without regard to extensions) for the return of tax imposed by subtitle A for such taxable year."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1985.

Subtitle C—Information Reporting Provisions

SEC. 1521. REQUIREMENT OF REPORTING FOR REAL ESTATE TRANSACTIONS.

(a) GENERAL RULE.—Section 6045 (relating to returns of brokers) is amended by adding at the end thereof the following new subsection:

"(e) RETURN REQUIRED IN THE CASE OF REAL ESTATE TRANSACTIONS.—

"(1) IN GENERAL.—In the case of a real estate transaction, the real estate broker shall file a return under subsection (a) and a statement under subsection (b) with respect to such transaction.

"(2) REAL ESTATE BROKER.—For purposes of this subsection, the term 'real estate broker' means any of the following persons involved in a real estate transaction in the following order:

"(A) the person (including any attorney or title company) responsible for closing the transaction,

"(B) the mortgage lender,

"(C) the seller's broker,

"(D) the buyer's broker, or

"(E) such other person designated in regulations prescribed by the Secretary.

Any person treated as a real estate broker under the preceding sentence shall be treated as a broker for purposes of subsection (c)(1)."

(b) BACKUP WITHHOLDING REQUIREMENTS.—Paragraph (5) of section 3406(h) (relating to other definitions and special rules) is amended by adding at the end thereof the following new subparagraph:

"(D) REAL ESTATE BROKER NOT TREATED AS A BROKER.—Except as provided by regulations, such term shall not

include any real estate broker (as defined in section 6045(e)(2))".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to real estate transactions closing after December 31, 1986.

SEC. 1522. INFORMATION REPORTING ON PERSONS RECEIVING CONTRACTS FROM CERTAIN FEDERAL AGENCIES.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050M. RETURNS RELATING TO PERSONS RECEIVING CONTRACTS FROM FEDERAL EXECUTIVE AGENCIES.

"(a) REQUIREMENT OF REPORTING.—The head of every Federal executive agency which enters into any contract shall make a return (at such time and in such form as the Secretary may by regulations prescribe) setting forth—

"(1) the name, address, and TIN of each person with which such agency entered into a contract during the calendar year, and

"(2) such other information as the Secretary may require.

"(b) FEDERAL EXECUTIVE AGENCY.—For purposes of this section, the term 'Federal executive agency' means—

"(1) any Executive agency (as defined in section 105 of title 5, United States Code) other than the General Accounting Office,

"(2) any military department (as defined in section 102 of such title), and

"(3) the United States Postal Service and the Postal Rate Commission.

"(c) AUTHORITY TO EXTEND REPORTING TO LICENSES AND SUBCONTRACTS.—To the extent provided in regulations, this section also shall apply to—

"(1) licenses granted by Federal executive agencies, and

"(2) subcontracts under contracts to which subsection (a) applies.

"(d) AUTHORITY TO PRESCRIBE MINIMUM AMOUNTS.—This section shall not apply to contracts or licenses in any class which are below a minimum amount or value which may be prescribed by the Secretary by regulations for such class."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart B is amended by adding at the end thereof the following new item:

"Sec. 6050M. Returns relating to persons receiving contracts from Federal executive agencies."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts (and subcontracts) entered into, and licenses granted, before, on, or after January 1, 1987.

SEC. 1523. RETURNS REGARDING PAYMENTS OF ROYALTIES.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050N. RETURNS REGARDING PAYMENTS OF ROYALTIES.

"(a) REQUIREMENT OF REPORTING.—Every person—

"(1) who makes payments of royalties (or similar amounts) aggregating $10 or more to any other person during any calendar year, or

"(2) who receives payments of royalties (or similar amounts) as a nominee and who makes payments aggregating $10 or more during any calendar year to any other person with respect to the royalties (or similar amounts) so received,

shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments and the name and address of the person to whom paid.

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of payments to the person required to be shown on such return.

The written statement required under the preceding sentence shall be furnished (either in person or in a statement mailing by first-class mail which includes adequate notice that the statement is enclosed) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made and shall be in such form as the Secretary may prescribe by regulations.

"(c) EXCEPTION FOR PAYMENTS TO CERTAIN PERSONS.—Except to the extent otherwise provided in regulations, this section shall not apply to any amount paid to a person described in subparagraph (A), (B), (C), (D), (E), or (F) of section 6049(b)(4)."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 3406(b) (relating to backup withholding) is amended—

(A) by striking out "or" at the end of subparagraph (C),

(B) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", or", and

(C) by adding at the end thereof the following new subparagraph:

"(E) section 6050N (relating to payments of royalties)."

(2) Subsection (a) of section 6041 (relating to information at source) is amended by striking out "or 6049(a)" and inserting in lieu thereof "6049(a), or 6050N(a)".

(3) Section 6676 (relating to failure to supply identifying numbers) is amended—

(A) by striking out "or 6049" in subsection (a)(3) and inserting in lieu thereof "6049, or 6050N",

(B) by striking out "or 6049" in subsection (b)(1)(A) and inserting in lieu thereof "6049, or 6050N", and

(C) by striking out "AND DIVIDEND" in the heading for subsection (b) and inserting in lieu thereof ", DIVIDENDS, AND ROYALTIES".

(c) CLERICAL AMENDMENT.—The table of sections of subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050N. Returns regarding payments of royalties."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to payments made after December 31, 1986.

SEC. 1524. TINS REQUIRED FOR DEPENDENTS CLAIMED ON TAX RETURNS.

(a) GENERAL RULE.—Section 6109 (relating to identifying numbers) is amended by adding at the end thereof the following new subsection:

"(e) FURNISHING NUMBER FOR CERTAIN DEPENDENTS.—If—

"(1) any taxpayer claims an exemption under section 151 for any dependent on a return for any taxable year, and

"(2) such dependent has attained the age of 5 years before the close of such taxable year,

such taxpayer shall include on such return the identifying number (for purposes of this title) of such dependent."

(b) PENALTY FOR FAILURE TO SUPPLY TIN.—Section 6676 (relating to failure to supply identifying numbers) is amended by adding at the end thereof the following new subsection:

"(e) PENALTY FOR FAILURE TO SUPPLY TIN OF DEPENDENT.—

"(1) IN GENERAL.—If any person required under section 6109(e) to include the TIN of any dependent on his return fails to include such number on such return (or includes an incorrect number), such person shall, unless it is shown that such failure is due to reasonable cause and not willful neglect, pay a penalty of $5 for each such failure.

"(2) SUBSECTION (a) NOT TO APPLY.—Subsection (a) shall not apply to any failure described in paragraph (1) of this subsection."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1987.

SEC. 1525. TAX-EXEMPT INTEREST REQUIRED TO BE SHOWN ON RETURN.

(a) IN GENERAL.—Section 6012 (relating to persons required to make returns of income) is amended by redesignating subsection (d) as subsection (e) by inserting after subsection (c) the following new subsection:

"(d) TAX-EXEMPT INTEREST REQUIRED TO BE SHOWN ON RETURN.—Every person required to file a return under this section for the taxable year shall include on such return the amount of interest received or accrued during the taxable year which is exempt from the tax imposed by chapter 1."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1986.

Subtitle D—Provisions Relating to Tax Shelters

SEC. 1531. MODIFICATION OF TAX SHELTER RATIO TEST FOR REGISTRATION OF TAX SHELTERS.

(a) IN GENERAL.—Subparagraph (A) of section 6111(c)(2) (defining tax shelter ratio) is amended by striking out "200 percent" and inserting in lieu thereof "350 percent".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any tax shelter (within the meaning of section 6111 of the

Internal Revenue Code of 1986 as amended by this section) interests in which are first offered for sale after December 31, 1986.

SEC. 1532. INCREASED PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Paragraph (2) of section 6707(a) (relating to penalty for failure to register tax shelters) is amended to read as follows:

"(2) AMOUNT OF PENALTY.—The penalty imposed under paragraph (1) with respect to any tax shelter shall be an amount equal to the greater of—

"(A) 1 percent of the aggregate amount invested in such tax shelter, or

"(B) $500."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to failures with respect to tax shelters interests in which are first offered for sale after the date of the enactment of this Act.

SEC. 1533. PENALTY FOR FAILURE TO INCLUDE TAX SHELTER IDENTIFICATION NUMBER ON RETURN INCREASED TO $250.

(a) IN GENERAL.—Paragraph (2) of section 6707(b) (relating to penalty for failure to furnish tax shelter identification number) is amended by striking out "$50" and inserting in lieu thereof "$250".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns filed after the date of the enactment of this Act.

SEC. 1534. INCREASED PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS IN POTENTIALLY ABUSIVE TAX SHELTERS.

(a) IN GENERAL.—Subsection (a) of section 6708 (relating to failure to maintain lists of investors in potentially abusive tax shelters) is amended by striking out "$50,000" and inserting in lieu thereof "$100,000".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to failures occurring or continuing after the date of the enactment of this Act.

SEC. 1535. CLARIFICATION OF TREATMENT OF SHAM OR FRAUDULENT TRANSACTIONS UNDER SECTION 6621(c).

(a) CLARIFICATION OF TREATMENT OF SHAM OR FRAUDULENT TRANSACTIONS.—Subparagraph (A) of section 6621(c)(3) (as so redesignated) is amended by striking out "and" at the end of clause (iii), by striking out the period at the end of clause (iv) and inserting in lieu thereof ", and", and by adding at the end thereof the following new clause:

"(v) any sham or fraudulent transaction."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to interest accruing after December 31, 1984; except that such amendment shall not apply in the case of any underpayment with respect to which there was a final court decision before the date of the enactment of this Act.

Subtitle E—Estimated Tax Provisions

SEC. 1541. CURRENT YEAR LIABILITY TEST INCREASED FROM 80 TO 90 PERCENT FOR ESTIMATED TAX PAYMENTS BY INDIVIDUALS.

(a) IN GENERAL.—Clause (i) of section 6654(d)(1)(B) (defining required annual payment) is amended by striking out "80 percent" each place it appears and inserting in lieu thereof "90 percent".

(b) TECHNICAL AMENDMENTS.—

(1) The table contained in clause (ii) of section 6654(d)(2)(C) (defining applicable percentage) is amended—

(A) by striking out "20" and inserting in lieu thereof "22.5",

(B) by striking out "40" and inserting in lieu thereof "45",

(C) by striking out "60" and inserting in lieu thereof "67.5", and

(D) by striking out "80" and inserting in lieu thereof "90".

(2) Subparagraph (C) of section 6654(i)(1) (relating to special rules for farmers and fishermen) is amended by striking out "80 percent" and inserting in lieu thereof "90 percent".

(3) The table contained in subparagraph (B) of section 6654(j)(3) (relating to special rules for nonresident aliens) is amended—

(A) by striking out "40" and inserting in lieu thereof "45",

(B) by striking out "60" and inserting in lieu thereof "67.5", and

(C) by striking out "80" and inserting in lieu thereof "90".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 1542. CERTAIN TAX-EXEMPT ORGANIZATIONS SUBJECT TO CORPORATE ESTIMATED TAX RULES.

(a) GENERAL RULE.—Section 6154 (relating to installment payments of estimated income tax by corporations) is amended by adding at the end thereof the following new subsection:

"(h) CERTAIN TAX-EXEMPT ORGANIZATIONS.—For purposes of this section and section 6655—

"(1) any organization subject to the tax imposed by section 511, and any private foundation subject to the tax imposed by section 4940, shall be treated as a corporation subject to tax under section 11,

"(2) any tax imposed by section 511 or 4940 shall be treated as a tax imposed by section 11, and

"(3) any reference to taxable income shall be treated as including a reference to unrelated business taxable income or net investment income (as the case may be)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1986.

SEC. 1543. WAIVER OF ESTIMATED PENALTIES FOR 1986 UNDERPAYMENTS ATTRIBUTABLE TO THIS ACT.

No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 (relating to failure to pay estimated tax) for any period before April 16, 1987 (March 16, 1987, in the case of a taxpayer subject to section 6655 of such Code), with respect to

any underpayment, to the extent such underpayment was created or increased by any provision of this Act.

Subtitle F—Provisions Regarding Judicial Proceedings

SEC. 1551. LIMITATIONS ON AWARDING OF COURT COSTS AND CERTAIN FEES MODIFIED.

(a) MAXIMUM DOLLAR LIMITATION REMOVED.—Subsection (b) of section 7430 (relating to awarding of court costs and certain fees) is amended by striking out paragraph (1) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(b) AWARDING OF COURT COSTS AND CERTAIN FEES DENIED IF PREVAILING PARTY PROTRACTS PROCEEDINGS.—Section 7430(b) (relating to limitations to awarding of court costs and certain fees) is amended by adding at the end thereof the following new paragraph:

"(4) COSTS DENIED WHERE PARTY PREVAILING PROTRACTS PROCEEDINGS.—No award for reasonable litigation costs may be made under subsection (a) with respect to any portion of the civil proceeding during which the prevailing party has unreasonably protracted such proceeding."

(c) ADDITIONAL LIMITATIONS ON FEES OF EXPERT WITNESSES AND ATTORNEYS.—Subparagraph (A) of section 7430(c)(1) (defining reasonable litigation costs) is amended to read as follows:

"(A) IN GENERAL.—The term 'reasonable litigation costs' includes—

"(i) reasonable court costs, and

"(ii) based upon prevailing market rates for the kind or quality of services furnished—

"(I) the reasonable expenses of expert witnesses in connection with the civil proceeding, except that no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the United States,

"(II) the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and

"(III) reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding, except that such fees shall not be in excess of $75 per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for such proceeding, justifies a higher rate."

(d) DEFINITION OF PREVAILING PARTY.—Subparagraph (A) of section 7430(c)(2) (defining prevailing party) is amended—

(1) by striking out "was unreasonable" in clause (i) and inserting in lieu thereof "was not substantially justified", and

(2) by striking out "and" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof ", and", and by adding at the end thereof the following new clause:

"(iii) meets the requirements of section 504(b)(1)(B) of title 5, United States Code (as in effect on the date of the enactment of the Tax Reform Act of 1986 and applied by taking into account the commencement of the proceeding described in subsection (a) in lieu of the initiation of the adjudication referred to in such section)."

(e) POSITION OF UNITED STATES INCLUDES ADMINISTRATIVE ACTION.—Section 7430(c) (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(4) POSITION OF UNITED STATES.—The term 'position of the United States' includes—

"(A) the position taken by the United States in the civil proceeding, and

"(B) any administrative action or inaction by the District Counsel of the Internal Revenue Service (and all subsequent administrative action or inaction) upon which such proceeding is based."

(f) TECHNICAL AMENDMENT.—Subsection (a) of section 7430 is amended by inserting "(payable in the case of the Tax Court in the same manner as such an award by a district court)" after "a judgment".

(g) PROVISIONS MADE PERMANENT.—Section 7430 is amended by striking out subsection (f).

(h) EFFECTIVE DATES.—

(1) GENERAL RULE.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts paid after September 30, 1986, in civil actions or proceedings, commenced after December 31, 1985.

(2) SUBSECTION (f).—The amendment made by subsection (f) shall take effect as if included in the amendments made by section 292 of the Tax Equity and Fiscal Responsibility Act of 1982.

(3) APPLICABILITY OF AMENDMENTS TO CERTAIN PRIOR CASES.—The amendments made by this section shall apply to any case commenced after December 31, 1985, and finally disposed of before the date of the enactment of this Act, except that in any such case, the 30-day period referred to in section 2412(d)(1)(B) of title 28, United States Code, or Rule 231 of the Tax Court, as the case may be, shall be deemed to commence on the date of the enactment of this Act.

SEC. 1552. FAILURE TO PURSUE ADMINISTRATIVE REMEDIES.

(a) GENERAL RULE.—Section 6673 (relating to damages assessable for instituting proceedings before the Tax Court primarily for delay, etc.) is amended by striking out "or that the taxpayer's position in such proceedings is frivolous or groundless" and inserting in lieu thereof ", that the taxpayer's position in such proceeding is frivolous or groundless, or that the taxpayer unreasonably failed to pursue available administrative remedies".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to proceedings commenced after the date of the enactment of this Act.

(c) REPORT.—The Secretary of the Treasury or his delegate and the Tax Court shall each prepare a report for 1987 and for each 2-calendar year period thereafter on the inventory of cases in the Tax Court and the measures to close cases more efficiently. Such reports

shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 1553. TAX COURT PRACTICE FEE.

(a) IN GENERAL.—Part III of Subchapter C of chapter 76 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7475. PRACTICE FEE.

"(a) IN GENERAL.—The Tax Court is authorized to impose a periodic registration fee on practitioners admitted to practice before such Court. The frequency and amount of such fee shall be determined by the Tax Court, except that such amount may not exceed $30 per year.

"(b) USE OF FEES.—The fees described in subsection (a) shall be available to the Tax Court to employ independent counsel to pursue disciplinary matters."

(b) CONFORMING AMENDMENTS.—

(1) The second sentence of section 7472 (relating to expenditures) is amended by striking out "All" and inserting in lieu thereof "Except as provided in section 7475, all".

(2) Section 7473 (relating to disposition of fees) is amended by striking out "All" and inserting in lieu thereof "Except as provided in section 7475, all".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1987.

SEC. 1554. CLARIFICATION OF JURISDICTION OVER ADDITION TO TAX FOR FAILURE TO PAY AMOUNT OF TAX SHOWN ON RETURN.

(a) IN GENERAL.—Subsection (a) of section 6214 (relating to determinations by Tax Court) is amended by striking out "addition to the tax" and inserting in lieu thereof "any addition to the tax".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any action or proceeding in the Tax Court with respect to which a decision has not become final (as determined under section 7481 of the Internal Revenue Code of 1954) before the date of the enactment of this Act.

SEC. 1555. AUTHORITY TO REQUIRE ATTENDANCE OF UNITED STATES MARSHALS AT TAX COURT SESSIONS.

(a) IN GENERAL.—Subsection (e) of section 7456 (relating to incidental powers) is amended by adding at the end thereof the following new sentence: "The United States marshal for any district in which the Tax Court is sitting shall, when requested by the chief judge of the Tax Court, attend any session of the Tax Court in such district."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 1556. CHANGES IN CERTAIN PROVISIONS RELATING TO SPECIAL TRIAL JUDGES.

(a) IN GENERAL.—Part I of subchapter C of chapter 76 (relating to judicial proceedings) is amended by inserting after section 7443 the following new section:

"SEC. 7443A. SPECIAL TRIAL JUDGES.

"(a) APPOINTMENT.—The chief judge may, from time to time, appoint special trial judges who shall proceed under such rules and regulations as may be promulgated by the Tax Court.

"(b) PROCEEDINGS WHICH MAY BE ASSIGNED TO SPECIAL TRIAL JUDGES.—The chief judge may assign—

"(1) any declaratory judgment proceeding,

"(2) any proceeding under section 7463,

"(3) any proceeding where neither the amount of the deficiency placed in dispute (within the meaning of section 7463) nor the amount of any claimed overpayment exceeds $10,000, and

"(4) any other proceeding which the chief judge may designate,

to be heard by the special trial judges of the court.

"(c) AUTHORITY TO MAKE COURT DECISION.—The court may authorize a special trial judge to make the decision of the court with respect to any proceeding described in paragraph (1), (2), or (3) of subsection (b), subject to such conditions and review as the court may provide.

"(d) SALARY.—Each special trial judge shall receive salary—

"(1) at a rate equal to 90 percent of the rate for judges of the Tax Court, and

"(2) in the same installments as such judges.

"(e) EXPENSES FOR TRAVEL AND SUBSISTENCE.—Subsection (d) of section 7443 shall apply to special trial judges subject to such rules and regulations as may be promulgated by the Tax Court."

(b) TECHNICAL AMENDMENTS.—

(1) Section 7456 (relating to administration of oaths and procurement of testimony) is amended by striking out subsections (c) and (d) and by redesignating subsection (e) as subsection (c).

(2) Subsection (c) of section 7471 is amended by striking out "section 7456(c)" and inserting in lieu thereof "subsections (d) and (e) of section 7443A".

(3) The table of sections for part I of subchapter C of chapter 76 is amended by inserting after the item relating to section 7443 the following new item:

"Sec. 7443A. Special trial judges."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) SALARY.—Subsection (d) of section 7443A of the Internal Revenue Code of 1954 (as added by this section) shall take effect on the 1st day of the 1st month beginning after the date of the enactment of this Act.

(3) NEW APPOINTMENTS NOT REQUIRED.—Nothing in the amendments made by this section shall be construed to require the reappointment of any individual serving as a special trial judge of the Tax Court on the day before the date of the enactment of this Act.

SEC. 1557. EFFECT ON RETIRED PAY BY ELECTION TO PRACTICE LAW, ETC., AFTER RETIREMENT.

(a) CHANGE IN AGE AND SERVICE REQUIREMENTS FOR RETIREMENT.—Paragraph (2) of section 7447(b) (relating to retirement) is amended to read as follows:

"(2) Any judge who meets the age and service requirements set forth in the following table may retire:

"The judge has attained age:	And the years of service as a judge are at least:
65	15
66	14
67	13
68	12
69	11
70	10."

(b) EFFECT ON RETIRED PAY OF PRACTICING LAW, ETC., AFTER RETIREMENT.—Subsection (f) of section 7447 (relating to individuals receiving retired pay to be available for recall) is amended to read as follows:

"(f) RETIRED PAY AFFECTED IN CERTAIN CASES.—In the case of an individual for whom an election to receive retired pay under subsection (d) is in effect—

"(1) 1-YEAR FORFEITURE FOR FAILURE TO PERFORM JUDICIAL DUTIES.—If such individual during any calendar year fails to perform judicial duties required of him by subsection (c), such individual shall forfeit all rights to retired pay under subsection (d) for the 1-year period which begins on the 1st day on which he so fails to perform such duties.

"(2) PERMANENT FORFEITURE OF RETIRED PAY WHERE CERTAIN NON-GOVERNMENT SERVICES PERFORMED.—If such individual performs (or supervises or directs the performance of) legal or accounting services in the field of Federal taxation for his client, his employer, or any of his employer's clients, such individual shall forfeit all rights to retired pay under subsection (d) for all periods beginning on or after the 1st day on which he engages in any such activity. The preceding sentence shall not apply to any civil office or employment under the Government of the United States.

"(3) SUSPENSION OF RETIRED PAY DURING PERIOD OF COMPENSATED GOVERNMENT SERVICE.—If such individual accepts compensation for civil office or employment under the Government of the United States (other than the performance of judicial duties pursuant to subsection (c)), such individual shall forfeit all rights to retired pay under subsection (d) for the period for which such compensation is received.

"(4) FORFEITURES OF RETIRED PAY UNDER PARAGRAPHS (1) AND (2) NOT TO APPLY WHERE INDIVIDUAL ELECTS TO FREEZE AMOUNT OF RETIRED PAY.—

"(A) IN GENERAL.—If any individual makes an election under this paragraph—

"(i) paragraphs (1) and (2) (and subsection (c)) shall not apply to such individual beginning on the date such election takes effect, and

"(ii) the retired pay under subsection (d) payable to such individual for periods beginning on or after the date such election takes effect shall be equal to the

retired pay to which such individual would be entitled without regard to this clause at the time of such election.

"(B) ELECTION.—An election under this paragraph—

"(i) may be made by an individual only if such individual meets the age and service requirements for retirement under paragraph (2) of subsection (b),

"(ii) may be made only during the period during which the individual may make an election to receive retired pay or while the individual is receiving retired pay, and

"(iii) shall be made in the same manner as the election to receive retired pay.

Such an election, once it takes effect, shall be irrevocable.

"(C) WHEN ELECTION TAKES EFFECT.—Any election under this paragraph shall take effect on the 1st day of the 1st month following the month in which the election is made."

(c) HIGH 3 YEARS OF SALARY MUST BE DURING PERIOD WHEN ELECTION TO RECEIVE RETIRED PAY IS NOT IN EFFECT.—Subsection (m) of section 7448 (relating to computation of annuities) is amended by adding at the end thereof the following new sentence: "In determining the period of 3 consecutive years referred to in the preceding sentence, there may not be taken into account any period for which an election under section 7447(f)(4) is in effect."

(d) CLERICAL AMENDMENTS.—

(1) Subsection (a) of section 7447 (relating to definitions) is amended by striking out paragraph (2) and by redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively.

(2) Subsection (e) of section 7447 is amended by striking out "Civil Service Commission" each place it appears and inserting in lieu thereof "Office of Personnel Management".

(3) Subparagraph (C) of section 7447(g)(2) (relating to coordination with civil service retirement) is amended by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) FORFEITURE OF RETIRED PAY.—The amendments made by this section shall not apply to any individual who, before the date of the enactment of this Act, forfeited his rights to retired pay under section 7447(d) of the Internal Revenue Code of 1954 by reason of the 1st sentence of section 7447(f) of such Code (as in effect on the day before such date).

SEC. 1558. AUTHORIZATION FOR APPEALS FROM INTERLOCUTORY ORDERS OF THE TAX COURT.

(a) IN GENERAL.—Subsection (a) of section 7482 (relating to courts of review) is amended by adding at the end thereof the following new paragraph:

"(2) INTERLOCUTORY ORDERS.—

"(A) IN GENERAL.—When any judge of the Tax Court includes in an interlocutory order a statement that a controlling question of law is involved with respect to which there is a substantial ground for difference of opinion and that an immediate appeal from that order may materially advance the ultimate termination of the litigation, the

United States Court of Appeals may, in its discretion, permit an appeal to be taken from such order, if application is made to it within 10 days after the entry of such order. Neither the application for nor the granting of an appeal under this paragraph shall stay proceedings in the Tax Court, unless a stay is ordered by a judge of the Tax Court or by the United States Court of Appeals which has jurisdiction of the appeal or a judge of that court.

"(B) ORDER TREATED AS TAX COURT DECISION.—For purposes of subsections (b) and (c), an order described in this paragraph shall be treated as a decision of the Tax Court.

"(C) VENUE FOR REVIEW OF SUBSEQUENT PROCEEDINGS.—If a United States Court of Appeals permits an appeal to be taken from an order described in subparagraph (A), except as provided in subsection (b)(2), any subsequent review of the decision of the Tax Court in the proceeding shall be made by such Court of Appeals."

(b) CLERICAL AMENDMENTS.—The text of subsection (a) of section 7482 (as in effect before the amendment made by subsection (a)) is moved below the subsection heading and 2 ems to the right (so that the left margin of such text is aligned with the left margin of the paragraph (2) added by subsection (a)) and amended by inserting before such text "(1) IN GENERAL.—".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any order of the Tax Court entered after the date of the enactment of this Act.

SEC. 1559. CHANGES RELATING TO ANNUITIES FOR SURVIVING SPOUSES AND DEPENDENT CHILDREN OF TAX COURT JUDGES.

(a) INCREASES IN SALARY DEDUCTIONS, AND AUTHORIZATIONS OF APPROPRIATIONS, FOR TAX COURT JUDGES SURVIVORS ANNUITY FUND.—

(1) INCREASES IN SALARY DEDUCTIONS.—

(A) Subsection (c) of section 7448 (relating to salary deductions) is amended by striking out "3 percent" and inserting in lieu thereof "3.5 percent".

(B) Subsection (d) of section 7448 (relating to deposits in survivors annuity fund) is amended by striking out "3 percent" the second place it appears and inserting in lieu thereof "3.5 percent".

(2) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—Subsection (c) of section 7448 is amended—

(i) by striking out "(c) SALARY DEDUCTIONS.—There" and inserting in lieu thereof the following:

"(c) SURVIVORS ANNUITY FUND.—

"(1) SALARY DEDUCTIONS.—There",

(ii) by moving the text of such subsection 2 ems to the right, and

(iii) by adding at the end thereof the following new paragraph:

"(2) APPROPRIATIONS WHERE UNFUNDED LIABILITY.—

"(A) IN GENERAL.—Not later than the close of each fiscal year, there shall be deposited in the Treasury of the United States to the credit of the survivors annuity fund, in accordance with such procedures as may be prescribed by the Comptroller General of the United States, amounts re-

quired to reduce to zero the unfunded liability (if any) of such fund. Subject to appropriation Acts, such deposits shall be taken from sums available for such fiscal year for the payment of amounts described in subsection (a)(4), and shall immediately become an integrated part of such fund.

"(B) EXCEPTION.—The amount required by subparagraph (A) to be deposited in any fiscal year shall not exceed an amount equal to 11 percent of the aggregate amounts described in subsection (a)(4) paid during such fiscal year.

"(C) UNFUNDED LIABILITY DEFINED.—For purposes of subparagraph (A), the term 'unfunded liability' means the amount estimated by the Secretary to be equal to the excess (as of the close of the fiscal year involved) of—

"(i) the present value of all benefits payable from the survivors annuity fund (determined on an annual basis in accordance with section 9503 of title 31, United States Code), over

"(ii) the sum of—

"(I) the present values of future deductions under subsection (c) and future deposits under subsection (d), plus

"(II) the balance in such fund as of the close of such fiscal year.

"(D) AMOUNTS NOT CREDITED TO INDIVIDUAL ACCOUNTS.—Amounts appropriated pursuant to this paragraph shall not be credited to the account of any individual for purposes of subsection (g)."

(B) CONFORMING AMENDMENT.—Subsection (h) of section 7448 is amended by striking out "subsection (c)" and inserting in lieu thereof "subsection (c)(1)".

(b) INCREASES IN ANNUITIES PAYABLE FROM SURVIVORS ANNUITY FUND.—

(1) ANNUITIES FOR SURVIVING SPOUSES.—

(A) INCREASE IN ANNUITY.—Subsection (m) of section 7448 (relating to computation of annuities) is amended—

(i) by striking out "1¼ percent" and inserting in lieu thereof "1.5 percent", and

(ii) by striking out "but such annuity shall not" and all that follows down through the end thereof and inserting in lieu thereof "except that such annuity shall not exceed an amount equal to 50 percent of such average annual salary, nor be less than an amount equal to 25 percent of such average annual salary, and shall be further reduced in accordance with subsection (d) (if applicable)."

(B) ANNUITY TO TERMINATE ON REMARRIAGE ONLY IF SPOUSE NOT 55.—The second sentence of section 7448(h) is amended by striking out "or remarriage" and inserting in lieu thereof "or such surviving spouse's remarriage before attaining age 55".

(2) ANNUITIES FOR SURVIVING DEPENDENT CHILDREN.—

(A) ANNUITY WHERE SURVIVING SPOUSE.—Paragraph (2) of section 7448(h) (relating to entitlement to annuity) is amended by striking out all that follows "equal to" and inserting in lieu thereof the following:

"the lesser of—

"(A) 10 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

"(B) 20 percent of such average annual salary, divided by the number of such children; or".

(B) ANNUITY WHERE NO SURVIVING SPOUSE.—Paragraph (3) of section 7448(h) is amended by striking out all that follows "equal to" and inserting in lieu thereof the following:

"the lesser of—

"(A) 20 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

"(B) 40 percent of such average annual salary, divided by the number of such children."

(c) AUTHORITY TO ELECT TERMINATION OF PARTICIPATION IN SURVIVOR ANNUITY PROGRAM.—

(1) IN GENERAL.—Subsection (g) of section 7448 is amended by inserting "or if any judge ceases to be married after making the election under subsection (b) and revokes (in a writing filed as provided in subsection (b)) such election" after "1939".

(2) CONFORMING AMENDMENT.—The subsection heading for such subsection (g) is amended by striking out "OF SERVICE".

(d) EFFECTIVE DATE.—

(1) SALARY DEDUCTIONS.—

(A) The amendment made by subsection (a)(1)(A) shall apply to amounts paid after November 1, 1986.

(B) The amendment made by subsection (a)(1)(B) shall apply to service after November 1, 1986.

(2) APPROPRIATIONS.—The amendments made by subsection (a)(2) shall apply to fiscal years beginning after 1986.

(3) COMPUTATION OF ANNUITIES.—The amendments made by subsection (b) shall apply to annuities the starting date of which is after November 1, 1986.

(4) OPPORTUNITY TO REVOKE SURVIVOR ANNUITY ELECTION.—

(A) IN GENERAL.—Any individual who before November 1, 1986, made an election under subsection (b) of section 7448 of the Internal Revenue Code of 1954 may revoke such election. Such a revocation shall constitute a complete withdrawal from the survivor annuity program provided for in such section and shall be filed as provided for elections under such subsection.

(B) EFFECT OF REVOCATION.—Any revocation under subparagraph (A) shall have the same effect as if there were a termination to which section 7448(g) of such Code applies on the date such revocation is filed.

(C) PERIOD REVOCATION PERMITTED.—Any revocation under subparagraph (A) may be made only during the 180-day period beginning on the date of the enactment of this Act.

(5) OPPORTUNITY TO ELECT SURVIVOR ANNUITY WHERE PRIOR REVOCATION.—Any individual who under paragraph (4) revoked an election under subsection (b) of section 7448 of such Code may thereafter make such an election only if such individual deposits to the credit of the survivors annuity fund under subsection (c) of such section the entire amount paid to such individual under paragraph (4), together with interest computed as provided in subsection (d) of such section.

Subtitle G—Tax Administration Provisions

SEC. 1561. SUSPENSION OF STATUTE OF LIMITATIONS IF THIRD-PARTY RECORDS NOT PRODUCED WITHIN 6 MONTHS AFTER SERVICE OF SUMMONS.

(a) IN GENERAL.—Subsection (e) of section 7609 (relating to special procedures for third-party summonses) is amended to read as follows:

"(e) SUSPENSION OF STATUTE OF LIMITATIONS.—

"(1) SUBSECTION (b) ACTION.—If any person takes any action as provided in subsection (b) and such person is the person with respect to whose liability the summons is issued (or is the agent, nominee, or other person acting under the direction or control of such person), then the running of any period of limitations under section 6501 (relating to the assessment and collection of tax) or under section 6531 (relating to criminal prosecutions) with respect to such person shall be suspended for the period during which a proceeding, and appeals therein, with respect to the enforcement of such summons is pending.

"(2) SUSPENSION AFTER 6 MONTHS OF SERVICE OF SUMMONS.—In the absence of the resolution of the third-party recordkeeper's response to the summons described in subsection (c), the running of any period of limitations under section 6501 or under section 6531 with respect to any person with respect to whose liability the summons is issued other (other than a person taking action as provided in subsection (b)) shall be suspended for the period—

"(A) beginning on the date which is 6 months after the service of such summons, and

"(B) ending with the final resolution of such response."

(b) NOTICE OF SUSPENSION IN THE CASE OF A JOHN DOE SUMMONS.—Section 7609(i) (relating to duty of third-party recordkeeper) is amended by adding at the end thereof the following new paragraph:

"(4) NOTICE OF SUSPENSION OF STATUTE OF LIMITATIONS IN THE CASE OF A JOHN DOE SUMMONS.—In the case of a summons described in subsection (f) with respect to which any period of limitations has been suspended under subsection (e)(2), the third-party recordkeeper shall provide notice of such suspension to any person described in subsection (f)."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1562. AUTHORITY TO RESCIND NOTICE OF DEFICIENCY WITH TAXPAYER'S CONSENT.

(a) IN GENERAL.—Section 6212 (relating to notice of deficiency) is amended by adding at the end thereof the following new subsection:

"(d) AUTHORITY TO RESCIND NOTICE OF DEFICIENCY WITH TAXPAYER'S CONSENT.—The Secretary may, with the consent of the taxpayer, rescind any notice of deficiency mailed to the taxpayer. Any notice so rescinded shall not be treated as a notice of deficiency for purposes of subsection (c)(1) (relating to further deficiency letters restricted), section 6213(a) (relating to restrictions applicable to deficiencies; petition to Tax Court), and section 6512(a) (relating to limitations in case of petition to Tax Court), and the taxpayer shall have no right to file a petition with the Tax Court based on such notice."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to notices of deficiency issued on or after January 1, 1986.

SEC. 1563. AUTHORITY TO ABATE INTEREST DUE TO ERRORS OR DELAYS BY THE INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Section 6404 (relating to abatements) is amended by adding at the end thereof the following new subsection:

"(e) ASSESSMENTS OF INTEREST ATTRIBUTABLE TO ERRORS AND DELAYS BY INTERNAL REVENUE SERVICE.—

"(1) IN GENERAL.—In the case of any assessment of interest on—

"(A) any deficiency attributable in whole or in part to any error or delay by an officer or employee of the Internal Revenue Service (acting in his official capacity) in performing a ministerial act, or

"(B) any payment of any tax described in section 6212(a) to the extent that any delay in such payment is attributable to such an officer or employee being dilatory in performing a ministerial act,

the Secretary may abate the assessment of all or any part of such interest for any period. For purposes of the preceding sentence, an error or delay shall be taken into account only if no significant aspect of such error or delay can be attributed to the taxpayer involved, and after the Internal Revenue Service has contacted the taxpayer in writing with respect to such deficiency or payment.

"(2) INTEREST ABATED WITH RESPECT TO ERRONEOUS REFUND CHECK.—The Secretary shall abate the assessment of all interest on any erroneous refund under section 6602 until the date demand for repayment is made, unless—

"(A) the taxpayer (or a related party) has in any way caused such erroneous refund, or

"(B) such erroneous refund exceeds $50,000."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after December 31, 1978.

(2) STATUTE OF LIMITATIONS.—If refund or credit of any amount resulting from the application of the amendment made by subsection (a) is prevented at any time before the close of the date which is 1 year after the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), refund or credit of such amount (to the extent attributable to the application of the amendment made by subsection (a)) may, nevertheless, be made or allowed if claim therefore is filed before the close of such 1-year period.

SEC. 1564. SUSPENSION OF COMPOUNDING WHERE INTEREST ON DEFICIENCY SUSPENDED.

(a) IN GENERAL.—Subsection (c) of section 6601 (relating to suspension of interest in certain income, estate, gift, and certain excise taxes cases) is amended by inserting before the period at the end thereof "and interest shall not be imposed during such period on any interest with respect to such deficiency for any prior period".

(b) EFFECTIVE DATE.—

(1) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to interest accruing after December 31, 1982.

(2) STATUTE OF LIMITATIONS.—If refund or credit of any amount resulting from the application of the amendment made by subsection (a) is prevented at any time before the close of the date which is 1 year after the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), refund or credit of such amount (to the extent attributable to the application of the amendment made by subsection (a)) may, nevertheless, be made or allowed if claim therefore is filed before the close of such 1-year period.

SEC. 1565. CERTAIN SERVICE-CONNECTED DISABILITY PAYMENTS EXEMPT FROM LEVY.

(a) EXEMPTION FROM LEVY.—Subsection (a) of section 6334 (relating to the enumeration of property exempt from levy) is amended by adding at the end thereof the following new paragraph:

"(10) CERTAIN SERVICE-CONNECTED DISABILITY PAYMENTS.—Any amount payable to an individual as a service-connected (within the meaning of section 101(16) of title 38, United States Code) disability benefit under—

"(A) subchapter II, IV, or VI of chapter 11 of such title 38,

"(B) subchapter I, II, or III of chapter 19 of such title 38, or

"(C) chapter 21, 31, 32, 34, 35, 37, or 39 of such title 38."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts payable after December 31, 1986.

SEC. 1566. INCREASE IN VALUE OF PERSONAL PROPERTY SUBJECT TO CERTAIN LISTING AND NOTICE PROCEDURES.

(a) IN GENERAL.—Section 7325 (relating to personal property valued at $2,500 or less) is amended by striking out "$2,500" each place it appears (including the section heading) and inserting in lieu thereof "$100,000".

(b) INCREASE IN AMOUNT OF BOND BY CLAIMANT.—Paragraph (3) of section 7325 is amended by striking out "$250" and inserting in lieu thereof "$2,500".

(c) TECHNICAL AMENDMENT.—Paragraph (4) of section 7103(b) is amended by striking out "$1,000" and inserting in lieu thereof "$100,000".

(d) CLERICAL AMENDMENT.—The item relating to section 7325 in the table of sections for part II of subchapter C of chapter 75 is amended by striking out "$2,500" and inserting in lieu thereof "$100,000".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1567. CERTAIN RECORDKEEPING REQUIREMENTS.

(a) IN GENERAL.—For purposes of sections 132 and 274 of the Internal Revenue Code of 1954, use of an automobile by a special agent of the Internal Revenue Service shall be treated in the same manner as use of an automobile by an officer of any other law enforcement agency.

(b) EFFECTIVE DATE.—The provisions of this section shall take effect on January 1, 1985.

SEC. 1568. DISCLOSURE OF RETURNS AND RETURN INFORMATION TO CERTAIN CITIES.

(a) IN GENERAL.—Subsection (b) of section 6103 (relating to definitions for confidentiality and disclosure of returns and return information) is amended—

(1) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) STATE.—The term 'State' means—

"(A) any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, and

"(B) for purposes of subsections (a)(2), (b)(4), (d)(1), (h)(4), and (p) any municipality—

"(i) with a population in excess of 2,000,000 (as determined under the most recent decennial United States census data available),

"(ii) which imposes a tax on income or wages, and

"(iii) with which the Secretary (in his sole discretion) has entered into an agreement regarding disclosure.", and

(2) by adding at the end thereof the following new paragraph:

"(10) CHIEF EXECUTIVE OFFICER.—The term 'chief executive officer' means, with respect to any municipality, any elected official and the chief official (even if not elected) of such municipality."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1569. TREATMENT OF CERTAIN FORFEITURES.

(a) IN GENERAL.—Subsection (i) of section 6323 is amended by adding at the end thereof the following new paragraph:

"(3) FORFEITURES.—For purposes of this subchapter, a forfeiture under local law of property seized by a law enforcement agency of a State, county, or other local governmental subdivision shall relate back to the time of seizure, except that this paragraph shall not apply to the extent that under local law the holder of an intervening claim or interest would have priority over the interest of the State, county, or other local governmental subdivision in the property."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 1570. PROCEDURE AT TAX SALE OF SEIZED PROPERTY WHERE NO PERSON OFFERS MINIMUM PRICE.

(a) IN GENERAL.—Paragraph (1) of section 6335(e) (relating to manner and conditions of sale of seized property) is amended to read as follows:

"(1) IN GENERAL.—

"(A) DETERMINATIONS RELATING TO MINIMUM PRICE.—Before the sale of property seized by levy, the Secretary shall determine—

"(i) a minimum price for which such property shall be sold (taking into account the expense of making the levy and conducting the sale), and

"(ii) whether, on the basis of criteria prescribed by the Secretary, the purchase of such property by the United States at such minimum price would be in the best interest of the United States.

"(B) SALE TO HIGHEST BIDDER AT OR ABOVE MINIMUM PRICE.—If, at the sale, one or more persons offer to purchase such property for not less than the amount of the minimum price, the property shall be declared sold to the highest bidder.

"(C) PROPERTY DEEMED SOLD TO UNITED STATES AT MINIMUM PRICE IN CERTAIN CASES.—If no person offers the amount of the minimum price for such property at the sale and the Secretary has determined that the purchase of such property by the United States would be in the best interest of the United States, the property shall be declared to be sold to the United States at such minimum price.

"(D) RELEASE TO OWNER IN OTHER CASES.—If, at the sale, the property is not declared sold under subparagraph (B) or (C), the property shall be released to the owner thereof and the expense of the levy and sale shall be added to the amount of tax for the collection of which the levy was made. Any property released under this subparagraph shall remain subject to any lien imposed by subchapter C."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to—

(1) property seized after the date of the enactment of this Act, and

(2) property seized on or before such date which is held by the United States on such date.

SEC. 1571. MODIFICATION OF TIPS ALLOCATION METHOD.

Effective for any payroll period beginning after December 31, 1986, an establishment may utilize the optional method of tips allocation described in the last sentence of section 31.6053-3(f)(1)(iv) of the Internal Revenue Regulations only if such establishment employs less than the equivalent of 25 full-time employees during such payroll period.

SEC. 1572. TREATMENT OF FORFEITURES OF LAND SALES CONTRACTS FOR PURPOSES OF DISCHARGE OF LIENS.

(a) AMENDMENT OF SECTION 7425(c).—Subsection (c) of section 7425 (relating to special rules for discharge of liens) is amended by adding at the end thereof the following new paragraph:

"(4) FORFEITURES OF LAND SALES CONTRACTS.—For purposes of subsection (b), a sale of property includes any forfeiture of a land sales contract."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to forfeitures after the 30th day after the date of the enactment of this Act.

Subtitle H—Miscellaneous Provisions

SEC. 1581. WITHHOLDING ALLOWANCES TO REFLECT NEW RATE SCHEDULES.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall modify the withholding schedules and withholding exemption

certificates under section 3402 of the Internal Revenue Code of 1954 to better approximate actual tax liability under the amendments made by this Act.

(b) CERTAIN DECREASES IN WITHHOLDING NOT PERMITTED.—Subsection (i) of section 3402 is amended by striking out "or decreases".

(c) EMPLOYER'S RESPONSIBILITY.—If an employee has not filed a revised withholding allowance certificate before October 1, 1987, the employer shall withhold income taxes from the employee's wages—

(1) as if the employee claimed 1 withholding allowance, if the employee checked the "single" box on the employee's previous withholding allowance certificate, or

(2) as if the employee claimed 2 withholding allowances, if the employee checked the "married" box on the employee's previous withholding allowance certificate.

SEC. 1582. REPORT ON RETURN-FREE SYSTEM.

(a) REPORT.—The Secretary of the Treasury or his delegate shall prepare a report on a return-free system for the Federal income tax of individuals. Such report shall include—

(1) the identification of classes of individuals who would be permitted to use a return-free system,

(2) how such a system would be phased in,

(3) what additional resources the Internal Revenue Service would need to carry out such a system, and

(4) the types of changes to the Internal Revenue Code of 1954 which would inhibit or enhance the use of such a system.

(b) DUE DATE.—The report under subsection (a) shall be submitted, not later than 6 months after the date of the enactment of this Act, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

TITLE XVI—EXEMPT AND NONPROFIT ORGANIZATIONS

SEC. 1601. CERTAIN DISTRIBUTIONS OF LOW COST ARTICLES AND EXCHANGES AND RENTALS OF MEMBER LISTS BY CERTAIN ORGANIZATIONS NOT TO BE TREATED AS UNRELATED TRADE OR BUSINESS.

(a) IN GENERAL.—Section 513 (defining unrelated trade or business) is amended by adding at the end thereof the following new subsection:

"(h) CERTAIN DISTRIBUTIONS OF LOW COST ARTICLES WITHOUT OBLIGATION TO PURCHASE AND EXCHANGES AND RENTALS OF MEMBER LISTS.—

"(1) IN GENERAL.—In the case of an organization which is described in section 501 and contributions to which are deductible under paragraph (2) or (3) of section 170(c), the term 'unrelated trade or business' does not include—

"(A) activities relating to the distribution of low cost articles if the distribution of such articles is incidental to the solicitation of charitable contributions, or

"(B) any trade or business which consists of—

"(i) exchanging with another such organization names and addresses of donors to (or members of) such organization, or

"(ii) renting such names and addresses to another such organization.

"(2) LOW COST ARTICLE DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'low cost article' means any article which has a cost not in excess of $5 to the organization which distributes such item (or on whose behalf such item is distributed).

"(B) AGGREGATION RULE.—If more than 1 item is distributed by or on behalf of an organization to a single distributee in any calendar year, the aggregate of the items so distributed in such calendar year to such distributee shall be treated as 1 article for purposes of subparagraph (A).

"(C) INDEXATION OF $5 AMOUNT.—In the case of any taxable year beginning in a calendar year after 1987, the $5 amount in subparagraph (A) shall be increased by an amount equal to—

"(i) $5, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins.

"(3) DISTRIBUTION WHICH IS INCIDENTAL TO THE SOLICITATION OF CHARITABLE CONTRIBUTIONS DESCRIBED.—For purposes of this subsection, any distribution of low cost articles by an organization shall be treated as a distribution incidental to the solicitation of charitable contributions only if—

"(A) such distribution is not made at the request of the distributee,

"(B) such distribution is made without the express consent of the distributee, and

"(C) the articles so distributed are accompanied by—

"(i) a request for a charitable contribution (as defined in section 170(c)) by the distributee to such organization, and

"(ii) a statement that the distributee may retain the low cost article regardless of whether such distributee makes a charitable contribution to such organization."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions of low cost articles and exchanges and rentals of member lists after the date of the enactment of this Act.

SEC. 1602. EDUCATIONAL ACTIVITIES AT CONVENTION AND TRADE SHOWS.

(a) CERTAIN EDUCATIONAL ACTIVITIES TREATED AS CONVENTION AND TRADE SHOW ACTIVITIES.—Section 513(d)(3)(B) (defining to qualified convention and trade show activity) is amended by inserting after "industry in general" the following: "or to educate persons in attendance regarding new developments or products and services related to the exempt activities of the organization".

(b) QUALIFYING ORGANIZATIONS.—Section 513(d)(3)(C) (defining qualifying organization) is amended—

(1) by striking out "501(c) (5) or (6)" and inserting in lieu thereof "501(c) (3), (4), (5), or (6)", and

(2) by inserting before the period at the end thereof the following: "or which educates persons in attendance regarding new developments or products and services related to the exempt activities of the organization".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to activities in taxable years beginning after the date of the enactment of this Act.

SEC. 1603. TAX EXEMPTION FOR CERTAIN TITLE-HOLDING COMPANIES.

(a) IN GENERAL.—Section 501(c) (relating to the list of exempt organizations) is amended by adding at the end thereof the following new paragraph:

"(25)(A) Any corporation or trust which—

"(i) has no more than 35 shareholders or beneficiaries,

"(ii) has only 1 class of stock or beneficial interest, and

"(iii) is organized for the exclusive purposes of—

"(I) acquiring real property and holding title to, and collecting income from, such property, and

"(II) remitting the entire amount of income from such property (less expenses) to 1 or more organizations described in subparagraph (C) which are shareholders of such corporation or beneficiaries of such trust.

"(B) A corporation or trust shall be described in subparagraph (A) without regard to whether the corporation or trust is organized by 1 or more organizations described in subparagraph (C).

"(C) An organization is described in this subparagraph if such organization is—

"(i) a qualified pension, profit sharing, or stock bonus plan that meets the requirements of section 401(a),

"(ii) a governmental plan (within the meaning of section 414(d)),

"(iii) the United States, any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing,

"(iv) any organization described in paragraph (3), or

"(v) any organization described in this paragraph.

"(D) A corporation or trust described in this paragraph must permit its shareholders or beneficiaries—

"(i) to dismiss the corporation's or trust's investment adviser, following reasonable notice, upon a vote of the shareholders or beneficiaries holding a majority of interest in the corporation or trust, and

"(ii) to terminate their interest in the corporation or trust by either, or both, of the following alternatives, as determined by the corporation or trust:

"(I) by selling or exchanging their stock in the corporation or interest in the trust (subject to any Federal or State securities law) to any organization described in subparagraph (C) so long as the sale or exchange does not increase the number of shareholders or beneficiaries in such corporation or trust above 35, or

"(II) by having their stock or interest redeemed by the corporation or trust after the shareholder or beneficiary has provided 90 days notice to such corporation or trust."

(b) CLERICAL AMENDMENT.—Subparagraph (C) of section 514(c)(9) (relating to real property acquired by a qualified organization) is amended—

(1) by striking out "or" at the end of clause (i),

(2) by striking out the period following clause (ii) and inserting in lieu thereof "; or", and

(3) by adding at the end thereof the following new clause:
"(iii) an organization described in section 501(c)(25)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 1604. EXCEPTION TO MEMBERSHIP ORGANIZATION DEDUCTION RULES.

(a) IN GENERAL.—Subsection (b) of section 277 (relating to deductions incurred by certain membership organizations in transactions with members) is amended—

(1) by striking out "or" at the end of paragraph (2),

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", or", and

(3) by adding at the end thereof the following new paragraph:
"(4) which is engaged primarily in the gathering and distribution of news to its members for publication."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1605. TAX-EXEMPT STATUS FOR AN ORGANIZATION INTRODUCING INTO PUBLIC USE TECHNOLOGY DEVELOPED BY QUALIFIED ORGANIZATIONS.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, an organization shall be treated as an organization organized and operated exclusively for charitable purposes if such organization—

(1) is organized and operated exclusively—

(A) to provide for (directly or by arranging for and supervising the performance by independent contractors)—

(i) reviewing technology disclosures from qualified organizations,

(ii) obtaining protection for such technology through patents, copyrights, or other means, and

(iii) licensing, sale, or other exploitation of such technology,

(B) to distribute the income therefrom, to such qualified organizations after paying expenses and other amounts as agreed with the originating qualified organizations, and

(C) to make research grants to such qualified organizations,

(2) regularly provides the services and research grants described in paragraph (1) exclusively to 1 or more qualified organizations, except that research grants may be made to such qualified organizations through an organization which is controlled by 1 or more organizations each of which—

(A) is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 or the income of which is excluded from taxation under section 115 of such Code, and

(B) may be a recipient of the services or research grants described in paragraph (1),

(3) derives at least 80 percent of its gross revenues from providing services to qualified organizations located in the same State as the State in which such organization has its principal office, and

(4) was incorporated on July 20, 1981.

(b) QUALIFIED ORGANIZATIONS.—For purposes of this section, the term "qualified organization" has the same meaning given to such term by subparagraphs (A) and (B) of section 41(e)(6) (as redesignated by section 231(d)(2)) of the Internal Revenue Code of 1986.

(c) TREATMENT OF INVESTMENT IN A TECHNOLOGY TRANSFER SERVICE ORGANIZATION.—

(1) IN GENERAL.—A qualified investment made by a private foundation in an organization described in subparagraph (C) shall be treated as an investment described in section 4944(c) of the Internal Revenue Code of 1986 and shall not result in imposition of taxes under section 4941, 4943, 4944, 4945, or 507(c) of such Code.

(2) DEFINITIONS.—For purposes of this subsection—

(A) QUALIFIED INVESTMENT.—The term "qualified investment" means a transfer by a private foundation of—

(i) all of the patents, copyrights, know-how, and other technology or rights thereto of the private foundation, and

(ii) investment assets, net receivables, and cash not exceeding $35,000,000,

to such organization in exchange for debt.

(B) PRIVATE FOUNDATION.—The term "private foundation" means—

(i) a nonprofit corporation which was incorporated before 1913 which is described in sections 501(c)(3) and 509(a) of such Code, and which is exempt from taxation under section 501(a) of such Code, and

(ii) the principal purposes of which are to support research by and to provide technology transfer services to organizations described in section 170(b)(1)(A) of such Code—

(I) which are exempt from taxation under section 501(a) of such Code, or

(II) the income of which is excluded from taxation under section 115 of such Code.

(C) TECHNOLOGY TRANSFER ORGANIZATION.—The term "technology transfer organization" means a corporation established after the date of the enactment of this Act—

(i) which is organized and operated to advance the public welfare through the provision of technology transfer services to research organizations,

(ii) no part of the net earnings of which inures to the benefit of, or is distributable to, any private shareholder, individual, or entity, other than a private foundation or research organization,

(iii) which does not participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office,

(iv) no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and

(v) upon liquidation or dissolution of which all of its net assets can be distributed only to research organizations.

(d) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 1606. DEFINITION OF GOVERNMENT OFFICIAL.

(a) IN GENERAL.—Paragraph (5) of section 4946(c) of the Internal Revenue Code of 1986 (relating to government official) is amended by striking out "$15,000" and inserting in lieu thereof "$20,000".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to compensation received after December 31, 1985.

SEC. 1607. TRANSITION RULE FOR ACQUISITION INDEBTEDNESS WITH RESPECT TO CERTAIN LAND.

For purposes of applying section 514(c) of the Internal Revenue Code of 1986, with respect to a disposition during calendar year 1986 or calendar year 1987 of land acquired during calendar year 1984, the term "acquisition indebtedness" does not include indebtedness incurred in connection with bonds issued after January 1, 1984, and before July 19, 1984, on behalf of an organization which is a community college and which is described in section 511(a)(2)(B) of such Code.

SEC. 1608. TREATMENT OF CERTAIN AMOUNTS PAID TO OR FOR THE BENEFIT OF CERTAIN INSTITUTIONS OF HIGHER EDUCATION.

(a) IN GENERAL.—Amounts paid by a taxpayer to or for the benefit of an institution of higher education described in paragraph (1) or (2) of subsection (b) (other than amounts separately paid for tickets) which would otherwise qualify as a charitable contribution within the meaning of section 170 of the Internal Revenue Code of 1986 shall not be disqualified because such taxpayer receives the right to seating or the right to purchase seating in an athletic stadium of such institution.

(b) DESCRIBED INSTITUTIONS.—

(1) An institution is described in this paragraph, if—

(A) such institution was mandated by a State constitution in 1876,

(B) such institution was established by a State legislature in March 1881, and is located in a State capital pursuant to a statewide election in September 1981,

(C) the campus of such institution formally opened on September 15, 1883, and

(D) such institution is operated under the authority of a 9-member board of regents appointed by the governor.

(2) An institution is described in this paragraph if such institution has an athletic stadium—

(A) the plans for renovation of which were approved by a board of supervisors in December 1984, and reaffirmed by such board in December 1985 and January 1986, and

(B) the plans for renovation of which were approved by a State board of ethics for public employees in February 1986.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to amounts paid in taxable years beginning on or after January 1, 1984.

TITLE XVII—MISCELLANEOUS PROVISIONS

SEC. 1701. EXTENSION AND MODIFICATION OF TARGETED JOBS CREDIT.

(a) 3-YEAR EXTENSION.—Paragraph (3) of section 51(c) (relating to termination) is amended by striking out "December 31, 1985" and inserting in lieu thereof "December 31, 1988".

(b) CREDIT FOR FIRST-YEAR WAGES ONLY.—

(1) IN GENERAL.—Section 51(a) (relating to determination of amount of credit) is amended to read as follows:

"(a) DETERMINATION OF AMOUNT.—For purposes of section 38, the amount of the targeted jobs credit determined under this section for the taxable year shall be equal to 40 percent of the qualified first-year wages for such year."

(2) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 51 (defining qualified wages) is amended—

(i) by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3), and

(ii) by striking out ", and the amount of the qualified second-year wages," in paragraph (3) (as so redesignated).

(B) Subparagraph (B) of section 51(d)(12) (relating to qualified summer youth employee) is amended—

(i) by striking out "50 percent" in clause (i) thereof and inserting in lieu thereof "40 percent",

(ii) by striking out clause (ii) and redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively, and

(iii) by striking out "subsection (b)(4)" and inserting in lieu thereof "subsection (b)(3)" in clause (iii) (as so redesignated).

(c) ELIGIBLE INDIVIDUALS—PERIOD OF EMPLOYMENT.—Subsection (i) of section 51 (relating to certain individuals ineligible) is amended by adding at the end thereof the following new paragraph:

"(3) INDIVIDUALS NOT MEETING MINIMUM EMPLOYMENT PERIOD.—No wages shall be taken into account under subsection (a) with respect to any individual unless such individual either—

"(A) is employed by the employer at least 90 days (14 days in the case of an individual described in subsection (d)(12)), or

"(B) has completed at least 120 hours (20 hours in the case of an individual described in subsection (d)(12)) of services performed for the employer."

(d) EXTENSION OF AUTHORIZATION.—Paragraph (2) of section 261(f) of the Economic Recovery Tax Act of 1981 is amended by striking out "fiscal years 1983, 1984, and 1985" and inserting in lieu thereof "fiscal years 1983, 1984, 1985, 1986, 1987, and 1988".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to individuals who begin work for the employer after December 31, 1985.

SEC. 1702. CERTAIN DIESEL FUEL TAXES MAY BE IMPOSED ON SALES TO RETAILERS.

(a) IN GENERAL.—Section 4041 (relating to imposition of tax on special fuels) is amended by adding at the end thereof the following new subsection:

"(n) TAX ON DIESEL FUEL FOR HIGHWAY VEHICLE USE MAY BE IMPOSED ON SALE TO RETAILER.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—Upon the written consent of the seller, the tax imposed by subsection (a)(1)—

"(A) shall apply to the sale of diesel fuel to a qualified retailer (and such sale shall be treated as described in subsection (a)(1)(A)), and

"(B) shall not apply to the sale of diesel fuel by such retailer or the use of diesel fuel described in subsection (a)(1)(B) if tax was imposed on such fuel under subparagraph (A) of this paragraph.

"(2) LIABILITY FOR VIOLATION OF CERTIFICATION.—Notwithstanding paragraph (1), a qualified retailer shall be liable for the tax on liquid described in paragraph (3)(C)(ii) if such liquid is used as fuel in a diesel-powered highway vehicle.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED RETAILER.—The term 'qualified retailer' means any retailer—

"(i) who elects (under such terms and conditions as may be prescribed by the Secretary) to have paragraph (1) apply to all sales of diesel fuel to such retailer by any person, and

"(ii) who agrees to provide a written notice to such person that paragraph (1) applies to all sales of diesel fuel by such person to such retailer.

Such election and notice shall be effective for such period or periods as may be prescribed by the Secretary.

"(B) RETAILER.—The term 'retailer' means any person who sells diesel fuel for use as a fuel in a diesel-powered highway vehicle. Such term does not include any person who sells diesel fuel primarily for resale.

"(C) DIESEL FUEL.—

"(i) IN GENERAL.—The term 'diesel fuel' means any liquid on which tax would be imposed by subsection (a)(1) if sold to a person, and for a use, described in subsection (a)(1)(A).

"(ii) EXCEPTION.—A liquid shall not be treated as diesel fuel for purposes of this subsection if the retailer certifies in writing to the seller of such liquid that such liquid will not be sold for use as a fuel in a diesel-powered highway vehicle.

"(4) FAILURE TO NOTIFY SELLER.—

"(A) IN GENERAL.—If a qualified retailer fails to provide the notice described in paragraph (3)(A)(ii) to any seller of diesel fuel to such retailer—

"(i) paragraph (1) shall not apply to sales of diesel fuel by such seller to such retailer during the period for which such failure continues, and

"(ii) any diesel fuel sold by such seller to such retailer during such period shall be treated as sold by such

retailer (in a sale described in subsection (a)(1)(A)) on the date such fuel was sold to such retailer.

"(B) PENALTY.—For penalty for failing to notify seller, see section 6652(j).

"(5) EXEMPTIONS NOT TO APPLY.—

"(A) IN GENERAL.—No exemption from the tax imposed by subsection (a)(1) shall apply to a sale to which paragraph (1) or (4)(A) of this subsection applies.

"(B) CROSS REFERENCE.—

"For provisions allowing a credit or refund for certain sales and uses of fuel, see sections 6416 and 6427."

(b) PENALTY.—Section 6652 (relating to failure to file certain information returns, registration statements, etc.), as amended by section 1501(d), is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) FAILURE TO GIVE WRITTEN NOTICE TO CERTAIN SELLERS OF DIESEL FUEL.—

"(1) IN GENERAL.—If any qualified retailer fails to provide the notice described in section 4041(n)(3)(A)(ii) to any seller of diesel fuel to such retailer, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by such retailer with respect to each sale of diesel fuel to such retailer by such seller to which section 4041(n)(4) applies an amount equal to 5 percent of the tax imposed by section 4041(a)(1) on such sale by reason of paragraphs (3) and (4)(A) of section 4041(n).

"(2) DEFINITIONS.—For purposes of paragraph (1), the terms 'qualified retailer' and 'diesel fuel' have the respective meanings given such terms by section 4041(n)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after the first calendar quarter beginning more than 60 days after the date of the enactment of this Act.

SEC. 1703. GASOLINE TAX GENERALLY COLLECTED AT TERMINAL LEVEL.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 32 (relating to manufacturers excise taxes) is amended to read as follows:

"Subpart A—Gasoline

"Sec. 4081. Imposition of tax.
"Sec. 4082. Definitions.
"Sec. 4083. Cross references.

"SEC. 4081. IMPOSITION OF TAX.

"(a) TAX IMPOSED.—

"(1) IN GENERAL.—There is hereby imposed a tax of 9 cents a gallon on the earlier of—

"(A) the removal, or

"(B) the sale,

of gasoline by the refiner or importer thereof or the terminal operator.

"(2) BULK TRANSFER TO TERMINAL OPERATOR.—For purposes of paragraph (1), the bulk transfer of gasoline to a terminal opera-

tor by a refiner or importer shall not be considered a removal or sale of gasoline by such refiner or importer.

"(b) TREATMENT OF REMOVAL OR SUBSEQUENT SALE BY BLENDER OR COMPOUNDER.—

"(1) IN GENERAL.—There is hereby imposed a tax of 9 cents a gallon on gasoline removed or sold by the blender or compounder thereof.

"(2) CREDIT FOR TAX PREVIOUSLY PAID.—If—

"(A) tax is imposed on the removal or sale of gasoline by reason of paragraph (1), and

"(B) the blender or compounder establishes the amount of the tax paid with respect to such gasoline by reason of subsection (a),

the amount of the tax so paid shall be allowed as a credit against the tax imposed by reason of paragraph (1).

"(c) GASOLINE MIXED WITH ALCOHOL AT REFINERY, ETC.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, subsection (a) shall be applied by substituting '3 cents' for '9 cents' in the case of the removal or sale of any gasoline for use in producing gasohol at the time of such removal or sale. For purposes of this paragraph, the term 'gasohol' means any mixture of gasoline if at least 10 percent of such mixture is alcohol.

"(2) LATER SEPARATION OF GASOLINE FROM GASOHOL.—If any person separates the gasoline from a mixture of gasoline and alcohol on which tax was imposed under subsection (a) at a rate equivalent to 3 cents a gallon by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the refiner of such gasoline. The amount of tax imposed on any sale of such gasoline by such person shall be 5⅔ cents a gallon.

"(3) ALCOHOL DEFINED.—For purposes of this subsection, the term 'alcohol' includes methanol and ethanol but does not include alcohol produced from petroleum, natural gas, or coal (including peat). Such term does not include alcohol with a proof of less than 190 (determined without regard to any added denaturants).

"(4) TERMINATION.—Paragraph (1) shall not apply to any removal or sale after December 31, 1992.

"(d) TERMINATION.—On and after October 1, 1988, the taxes imposed by this section shall not apply.

"SEC. 4082. DEFINITIONS.

"(a) GASOLINE.—For purposes of this subpart, the term 'gasoline' includes, to the extent prescribed in regulations—

"(1) gasoline blend stocks, and

"(2) products commonly used as additives in gasoline.

For purposes of paragraph (1), the term 'gasoline blend stocks' means any petroleum product component of gasoline.

"(b) CERTAIN USES DEFINED AS REMOVAL.—If a refiner, importer, terminal operator, blender, or compounder uses (other than in the production of gasoline or special fuels referred to in section 4041) gasoline refined, imported, blended, or compounded by him, such use shall for the purposes of this chapter be considered a removal.

"SEC. 4083. CROSS REFERENCES.

"(1) For provisions to relieve farmers from excise tax in the case of gasoline used on the farm for farming purposes, see section 6420.

"(2) For provisions to relieve purchasers of gasoline from excise tax in the case of gasoline used for certain nonhighway purposes, used by local transit systems, or sold for certain exempt purposes, see section 6421.

"(3) For provisions to relieve purchasers of gasoline from excise tax in the case of gasoline not used for taxable purposes, see section 6427."

(b) BOND REQUIREMENTS.—

(1) IN GENERAL.—Section 4101 is amended to read as follows:

"SEC. 4101. REGISTRATION AND BOND.

"(a) REGISTRATION.—Every person subject to tax under section 4081 shall, before incurring any liability for tax under such section, register with the Secretary.

"(b) BOND.—Under regulations prescribed by the Secretary, every person who registers under subsection (a) may be required to give a bond in such sum as the Secretary determines."

(2) CLERICAL AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by striking out the item relating to section 4101 and inserting in lieu thereof the following new item:

"Sec. 4101. Registration and bond."

(c) GASOLINE SOLD FOR CERTAIN EXEMPT PURPOSES.—

(1) IN GENERAL.—Section 6421 (relating to gasoline used for certain nonhighway purposes or by local transit systems) is amended—

(A) by redesignating subsections (c), (d), (e), (f), (g), and (h) as subsections (d), (e), (f), (g), (h), and (i), respectively, and

(B) by inserting after subsection (b), the following new subsection:

"(c) EXEMPT PURPOSES.—If gasoline is sold to any person for any purpose described in paragraph (2), (3), (4), or (5) of section 4221(a), the Secretary shall pay (without interest) to such person an amount equal to the product of the number of gallons of gasoline so sold multiplied by the rate at which tax was imposed on such gasoline by section 4081."

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 6421(d) (relating to time for filing claims; period covered), as redesignated by paragraph (1) of this subsection, is amended by striking out "and not more than one claim may be filed under subsection (b)" and inserting in lieu thereof "not more than one claim may be filed under subsection (b), and not more than one claim may be filed under subsection (c)".

(B) Section 6421(f) (relating to exempt sales; other payments or refunds available), as redesignated by paragraph (1) of this subsection, is amended by striking out paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(C) Subsection (a) of section 4221 (relating to certain tax-free sales) is amended—

(i) by inserting "or 4081" after "section 4121" in the first sentence, and

(ii) by striking out "4071, or 4081" in the last sentence and inserting in lieu thereof "or 4071".

(D) The heading for section 6421 is amended to read as follows:

"SEC. 6421. GASOLINE USED FOR CERTAIN NONHIGHWAY PURPOSES, USED BY LOCAL TRANSIT SYSTEMS, OR SOLD FOR CERTAIN EXEMPT PURPOSES."

(E) The table of contents for subchapter B of chapter 65 is amended by striking out the item relating to section 6421 and inserting in lieu thereof the following new item:

"Sec. 6421. Gasoline used for certain nonhighway purposes, used by local transit systems, or sold for certain exempt purposes."

(d) TIME FOR FILING GASOHOL CREDIT.—

(1) IN GENERAL.—Section 6427(h) (relating to time for filing claims; period covered) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR GASOHOL CREDIT.—

"(A) IN GENERAL.—A claim may be filed under subsection (f) by any person with respect to gasoline used to produce gasohol (as defined in section 4081(c)(1)) for any period—

"(i) for which $200 or more is payable under such subsection (f), and

"(ii) which is not less than 1 week.

"(B) PAYMENT OF CLAIM.—Notwithstanding subsection (f)(1), if the Secretary has not paid pursuant to a claim filed under this section within 20 days of the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621."

(B) CONFORMING AMENDMENTS.—

(i) Paragraph (1) of section 6427(h) is amended by striking out "(f)".

(ii) Paragraph (2)(A) of section 6427(h) is amended—

(I) by inserting "or" at the end of subclause (i),

(II) by striking out "or" at the end of subclause (ii), and

(III) by striking out clause (iii) and "(or clauses)".

(iii) Paragraph (2)(B) of section 6427(f) is amended by striking out "or clause (iii)".

(iv) Paragraph (2) of section 6427(j) is amended by striking out "subsection (h)(2)" and inserting in lieu thereof "subsection (h)(2) or (h)(3)".

(e) CREDIT FOR GASOLINE BLEND STOCKS OR ADDITIVES NOT USED FOR PRODUCING GASOLINE.—

(1) IN GENERAL.—Section 6427 (relating to fuels not used for taxable purposes) is amended—

(A) by redesignating subsections (h), (i), (j), (k), (l), (m), and (n) as subsections (i), (j), (k), (l), (m), (n), and (o), respectively, and

(B) by inserting after subsection (g) the following new subsection:

"(h) GASOLINE BLEND STOCKS OR ADDITIVES NOT USED FOR PRODUCING GASOLINE.—Except as provided in subsection (k), if any gasoline blend stock or additive (within the meaning of section 4082(b)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, the Secretary shall pay (without interest) to

such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive."

(2) CONFORMING AMENDMENTS.—

(A) Subsections (a), (b)(1), (c), (d), (e)(1), (f)(1), and (g)(1) of section 6427 are each amended by striking out "subsection (j)" and inserting in lieu thereof "subsection (k)".

(B) Subsection (i)(1) of section 6427 (as redesignated by subsection (d)(1)(A)) is amended by striking out "or (g)" and inserting in lieu thereof "(g), or (h)".

(C) Subsections (i)(2)(A)(i) and (n) of section 6427 (as so redesignated) are amended by striking out "and (g)" each place it appears and inserting in lieu thereof "(g), and (h)".

(D) The heading of subsection (n) of section 6427 (as so redesignated) is amended by striking out "AND (g)" and inserting in lieu thereof "(g), AND (h)".

(E) Subsection (i)(2) of section 6427 (as so redesignated) is amended by striking out "subsection (h)(2)" and inserting in lieu thereof "(i)(2)".

(F) Section 34(a)(3) is amended by striking out "section 6427(j)" and inserting in lieu thereof "section 6427(k)".

(G) Sections 7210, 7603, 7604(b), 7604(c)(2), 7605(a), 7609(c)(1), and 7610(c) are amended by striking out "section 6427(i)(2)" and inserting in lieu thereof "section 6427(j)(2)".

(f) FLOOR STOCK TAXES.—

(1) IN GENERAL.—On gasoline subject to tax under section 4081 of the Internal Revenue Code of 1986 which, on January 1, 1988, is held by a dealer for sale, and with respect to which no tax has been imposed under such section, there is hereby imposed a floor stocks tax at the rate of 9 cents a gallon.

(2) OVERPAYMENT OF FLOOR STOCKS TAXES.—Section 6416 of such Code shall apply in respect of the floor stocks taxes imposed by this section, so as to entitle, subject to all provisions of such section, any person paying such floor stocks taxes to a credit or refund thereof for any reasons specified in such section.

(3) DUE DATE OF TAXES.—The taxes imposed by this subsection shall be paid before February 16, 1988.

(4) TRANSFER OF FLOOR STOCKS TAXES TO HIGHWAY TRUST FUND.—For purposes of determining the amount transferred to the Highway Trust Fund for any period, the taxes imposed by this subsection shall be treated as if they were imposed by section 4081 of the Internal Revenue Code of 1986.

(5) DEFINITIONS AND SPECIAL RULE.—For purposes of this subsection—

(A) DEALER.—The term "dealer" includes a wholesaler, jobber, distributor, or retailer.

(B) HELD BY A DEALER.—Gasoline shall be considered as "held by a dealer" if title thereto has passed to such dealer (whether or not delivery to him has been made) and if for purposes of consumption title to such gasoline or possession thereof has not at any time been transferred to any person other than a dealer.

(C) GASOLINE.—The term "gasoline" has the same meaning given to such term by section 4082(a) of the Internal Revenue Code of 1986.

(g) STUDY OF EVASION OF GASOLINE TAX.—

(1) IN GENERAL.—The Secretary of the Treasury or his delegate shall conduct a study of the incidence of the evasion of the gasoline tax.

(2) REPORT.—The report of the study under paragraph (1) shall be submitted, not later than December 31, 1986, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to gasoline removed (as defined in section 4082 of the Internal Revenue Code of 1986, as amended by this section) after December 31, 1987.

SEC. 1704. EXEMPTION FROM SOCIAL SECURITY COVERAGE FOR CERTAIN CLERGY.

(a) CONDITIONS FOR RECEIVING EXEMPTION.—

(1) IN GENERAL.—Section 1402(e)(1) (relating to exemption from tax on self-employment income of certain ministers, members of religious orders, and Christian Science practitioners) is amended by inserting "and, in the case of an individual described in subparagraph (A), that he has informed the ordaining, commissioning, or licensing body of the church or order that he is opposed to such insurance" after "Act)".

(2) VERIFICATION OF APPLICATION.—Section 1402(e), as amended by paragraph (1) of this subsection, is further amended—

(A) by striking out "Any individual" in paragraph (1) and inserting in lieu thereof "Subject to paragraph (2), any individual",

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and

(C) by inserting after paragraph (1) the following new paragraph:

"(2) VERIFICATION OF APPLICATION.—The Secretary may approve an application for an exemption filed pursuant to paragraph (1) only if the Secretary has verified that the individual applying for the exemption is aware of the grounds on which the individual may receive an exemption pursuant to this subsection and that the individual seeks exemption on such grounds. The Secretary (or the Secretary of Health and Human Services under an agreement with the Secretary) shall make such verification by such means as prescribed in regulations."

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to applications filed after December 31, 1986.

(b) REVOCATION OF EXEMPTION.—

(1) IN GENERAL.—Notwithstanding section 1402(e)(3) of the Internal Revenue Code of 1986, as redesignated by subsection (a)(2)(B) of this section, any exemption which has been received under section 1402(e)(1) of such Code by a duly ordained, commissioned, or licensed minister of a church, a member of a religious order, or a Christian Science practitioner, and which is effective for the taxable year in which this Act is enacted, may be revoked by filing an application therefor (in such form and manner, and with such official, as may be prescribed in regulations made under chapter 2 of subtitle A of such Code), if such application is filed—

(A) before the applicant becomes entitled to benefits under section 202(a) or 223 of the Social Security Act (without regard to section 202(j)(1) or 223(b) of such Act), and

(B) no later than the due date of the Federal income tax return (including any extension thereof) for the applicant's first taxable year beginning after the date of the enactment of this Act.

Any such revocation shall be effective (for purposes of chapter 2 of subtitle A of the Internal Revenue Code of 1986 and title II of the Social Security Act), as specified in the application, either with respect to the applicant's first taxable year ending on or after the date of the enactment of this Act or with respect to the applicant's first taxable year beginning after such date, and for all succeeding taxable years; and the applicant for any such revocation may not thereafter again file application for an exemption under such section 1402(e)(1). If the application is filed on or after the due date of the Federal income tax return for the applicant's first taxable year ending on or after the date of the enactment of this Act and is effective with respect to that taxable year, it shall include or be accompanied by payment in full of an amount equal to the total of the taxes that would have been imposed by section 1401 of the Internal Revenue Code of 1986 with respect to all of the applicant's income derived in that taxable year which would have constituted net earnings from self-employment for purposes of chapter 2 of subtitle A of such Code (notwithstanding paragraph (4) or (5) of section 1402(c) of such Code) but for the exemption under section 1402(e)(1) of such Code.

(2) EFFECTIVE DATE.—Paragraph (1) of this subsection shall apply with respect to service performed (to the extent specified in such paragraph) in taxable years ending on or after the date of the enactment of this Act and with respect to monthly insurance benefits payable under title II of the Social Security Act on the basis of the wages and self-employment income of any individual for months in or after the calendar year in which such individual's application for revocation (as described in such paragraph) is effective (and lump-sum death payments payable under such title on the basis of such wages and self-employment income in the case of deaths occurring in or after such calendar year).

SEC. 1705. APPLICABILITY OF UNEMPLOYMENT COMPENSATION TAX TO CERTAIN SERVICES PERFORMED FOR CERTAIN INDIAN TRIBAL GOVERNMENTS.

(a) IN GENERAL.—For purposes of the Federal Unemployment Tax Act, service performed in the employ of a qualified Indian tribal government shall not be treated as employment (within the meaning of section 3306 of such Act) if it is service—

(1) which is performed—

(A) before, on, or after the date of the enactment of this Act, but before January 1, 1988, and

(B) during a period in which the Indian tribal government is not covered by a State unemployment compensation program, and

(2) with respect to which the tax imposed under the Federal Unemployment Tax Act has not been paid.

(b) DEFINITION.—For purposes of this section, the term "qualified Indian tribal government" means an Indian tribal government the service for which is not covered by a State unemployment compensation program on June 11, 1986

SEC. 1706. TREATMENT OF CERTAIN TECHNICAL PERSONNEL.

(a) IN GENERAL.—Section 530 of the Revenue Act of 1978 is amended by adding at the end thereof the following new subsection:

"(d) EXCEPTION.—This section shall not apply in the case of an individual who, pursuant to an arrangement between the taxpayer and another person, provides services for such other person as an engineer, designer, drafter, computer programmer, systems analyst, or other similarly skilled worker engaged in a similar line of work."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to remuneration paid and services rendered after December 31, 1986.

SEC. 1707. EXCLUSION FOR CERTAIN FOSTER CARE PAYMENTS.

(a) IN GENERAL.—Section 131 (relating to certain foster care payments) is amended to read as follows:

"SEC. 131. CERTAIN FOSTER CARE PAYMENTS.

"(a) GENERAL RULE.—Gross income shall not include amounts received by a foster care provider during the taxable year as qualified foster care payments.

"(b) QUALIFIED FOSTER CARE PAYMENT DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified foster care payment' means any amount—

"(A) which is paid by a State or political subdivision thereof or by a placement agency which is described in section 501(c)(3) and exempt from tax under section 501(a), and

"(B) which is—

"(i) paid to the foster care provider for caring for a qualified foster individual in the foster care provider's home, or

"(ii) a difficulty of care payment.

"(2) QUALIFIED FOSTER INDIVIDUAL.—The term 'qualified foster individual' means any individual who is living in a foster family home in which such individual was placed by—

"(A) an agency of a State or political subdivision thereof, or

"(B) in the case of an individual who has not attained age 19, an organization which is licensed by a State (or political subdivision thereof) as a placement agency and which is described in section 501(c)(3) and exempt from tax under section 501(a).

"(3) LIMITATION BASED ON NUMBER OF INDIVIDUALS OVER THE AGE OF 18.—In the case of any foster home in which there is a qualified foster care individual who has attained age 19, foster care payments (other than difficulty of care payments) for any period to which such payments relate shall not be excludable from gross income under subsection (a) to the extent such payments are made for more than 5 such qualified foster individuals."

"(c) DIFFICULTY OF CARE PAYMENTS.—For purposes of this section—

"(1) DIFFICULTY OF CARE PAYMENTS.—The term 'difficulty of care payments' means payments to individuals which are not described in subsection (b)(1)(B)(i), and which—

"(A) are compensation for providing the additional care of a qualified foster individual which is—

"(i) required by reason of a physical, mental, or emotional handicap of such individual with respect to which the State has determined that there is a need for additional compensation, and

"(ii) provided in the home of the foster care provider, and

"(B) are designated by the payor as compensation described in subparagraph (A).

"(2) LIMITATION BASED ON NUMBER OF INDIVIDUALS.—In the case of any foster home, difficulty of care payments for any period to which such payments relate shall not be excludable from gross income under subsection (a) to the extent such payments are made for more than—

"(A) 10 qualified foster individuals who have not attained age 19, and

"(B) 5 qualified foster individuals not described in subparagraph (A)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 1708. EXTENSION OF RULES FOR SPOUSES OF INDIVIDUALS MISSING IN ACTION.

(a) EXTENSION OF PROVISIONS.—

(1) DEFINITION OF SURVIVING SPOUSE.—Subparagraph (B) of section 2(a)(3) (relating to special rule where deceased spouse was in missing status) is amended to read as follows:

"(B) except in the case of the combat zone designated for purposes of the Vietnam conflict, the date which is 2 years after the date designated under section 112 as the date of termination of combatant activities in that zone."

(2) INCOME TAXES OF MEMBERS OF ARMED FORCES ON DEATH.—The last sentence of section 692(b) (relating to individuals in missing status) is amended to read as follows: "Except in the case of the combat zone designated for purposes of the Vietnam conflict, the preceding sentence shall not cause subsection (a)(1) to apply for any taxable year beginning more than 2 years after the date designated under section 112 as the date of termination of combatant activities in a combat zone."

(3) JOINT RETURNS.—The last sentence of section 6013(f)(1) (relating to joint returns where an individual is in missing status) is amended by striking out "no such election may be made for any taxable year beginning after December 31, 1982" and inserting in lieu thereof "such election may be made for any taxable year while an individual is in missing status".

(4) POSTPONEMENT OF TIME FOR PERFORMING CERTAIN ACTS.—The last sentence of section 7508(b) (relating to application to spouse) is amended to read as follows: "Except in the case of the combat zone designated for purposes of the Vietnam conflict, the preceding sentence shall not cause this section to apply for any spouse for any taxable year beginning more than 2 years

after the date designated under section 112 as the date of termination of combatant activities in a combat zone."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

SEC. 1709. AMENDMENT TO THE REINDEER INDUSTRY ACT OF 1937.

(a) TAX EXEMPTION FOR REINDEER-RELATED INCOME.—Before the period at the end of the first sentence of section 8 of the Act of September 1, 1937 (50 Stat. 900, chapter 897), insert the following: ": *Provided*, That during the period of the trust, income derived directly from the sale of reindeer and reindeer products as provided in this Act shall be exempt from Federal income taxation".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if originally included in the provision of the Act of September 1, 1937, to which such amendment relates.

SEC. 1710. QUALITY CONTROL STUDIES.

Section 12301 of the Consolidated Omnibus Reconciliation Act of 1985 is amended—

(1) by striking out "of the enactment of this Act" in subsection (a)(3) and inserting in lieu thereof "the Secretary and the National Academy of Sciences enter into the contract required under paragraph (2)";

(2) by striking out "18 months after the date of the enactment of this Act" in subsection (c)(1) and inserting in lieu thereof "6 months after the date on which the results of both studies required under subsection (a)(3) have been reported".

SEC. 1711. ADOPTION ASSISTANCE AGREEMENTS UNDER ADOPTION ASSISTANCE PROGRAM: PAYMENT OF NONRECURRING EXPENSES RELATED TO ADOPTIONS OF CHILDREN WITH SPECIAL NEEDS.

(a) IN GENERAL.—Section 473(a) of the Social Security Act is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and

(2) by striking out all of paragraph (1) through "adopt a child who—" and inserting in lieu thereof the following:

"(1)(A) Each State having a plan approved under this part shall enter into adoption assistance agreements (as defined in section 475(3)) with the adoptive parents of children with special needs.

"(B) Under any adoption assistance agreement entered into by a State with parents who adopt a child with special needs, the State—

"(i) shall make payments of nonrecurring adoption expenses incurred by or on behalf of such parents in connection with the adoption of such child, directly through the State agency or through another public or nonprofit private agency, in amounts determined under paragraph (3), and

"(ii) in any case where the child meets the requirements of paragraph (2), may make adoption assistance payments to such parents, directly through the State agency or through another public or nonprofit private agency, in amounts so determined.

"(2) For purposes of paragraph (1)(B)(ii), a child meets the requirements of this paragraph if such child—

(b) DEFINITION AND PAYMENT OF NONRECURRING ADOPTION EXPENSES.—Section 473(a) of the Social Security Act, as amended by

subsection (a) of this section, is further amended by adding at the end thereof the following new paragraph:

"(6)(A) For purposes of paragraph (1)(B)(i), the term 'nonrecurring adoption expenses' means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of a child with special needs and which are not incurred in violation of State or Federal law.

"(B) A State's payment of nonrecurring adoption expenses under an adoption assistance agreement shall be treated as an expenditure made for the proper and efficient administration of the State plan for purposes of section 474(a)(3)(B)."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The first sentence of section 470 of the Social Security Act is amended by striking out "foster care" and all that follows down through "title XVI)" and inserting in lieu thereof the following: "foster care and transitional independent living programs for children who otherwise would be eligible for assistance under the State's plan approved under part A and adoption assistance for children with special needs".

(2) Paragraphs (1) and (11) of section 471(a) of such Act are each amended by striking out "adoption assistance payments" and inserting in lieu thereof "adoption assistance".

(3) Section 473(a)(3) of such Act, as redesignated by subsection (a)(1) of this section, is amended—

(A) by striking out "adoption assistance payments" in the first sentence and inserting in lieu thereof "payments to be made in any case under clauses (i) and (ii) of paragraph (1)(B)", and

(B) by inserting after "the adoption assistance payment" the first place it appears in the second sentence the following: "made under clause (ii) of paragraph (1)(B)".

(4) Section 473(a)(5) of such Act, as so redesignated, is amended by striking out ", pursuant to an interlocutory decree, shall be eligible for adoption assistance payments under this subsection," and inserting in lieu thereof "in accordance with applicable State and local law shall be eligible for such payments,".

(5) Section 473(b)(1)(A) of such Act is amended by striking out "subsection (a)(1)" and inserting in lieu thereof "subsection (a)(2)".

(6) Section 475(3) of such Act is amended by striking out clause (A) and inserting in lieu thereof the following: "(A) specifies the nature and amount of any payments, services, and assistance to be provided under such agreement, and".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply only with respect to expenditures made after December 31, 1986.

TITLE XVIII—TECHNICAL CORRECTIONS

SEC. 1800. COORDINATION WITH OTHER TITLES.

For purposes of applying the amendments made by any title of this Act other than this title, the provisions of this title shall be treated as having been enacted immediately before the provisions of such other titles.

Subtitle A—Amendments Related to the Tax Reform Act of 1984

CHAPTER 1—AMENDMENTS RELATED TO TITLE I OF THE ACT

SEC. 1851. AMENDMENTS RELATED TO DEFERRAL OF CERTAIN TAX REDUCTIONS.

(a) AMENDMENTS RELATED TO SECTION 12 OF THE ACT.—

(1) ELECTION OUT OF TRANSITIONAL RULES.—Paragraph (1) of section 12(c) of the Tax Reform Act of 1984 (relating to finance lease provisions) is amended by adding at the end thereof the following new sentence:

"The preceding sentence shall not apply to any property with respect to which an election is made under this sentence at such time after the date of the enactment of the Tax Reform Act of 1986 as the Secretary of the Treasury or his delegate may prescribe."

(2) TREATMENT OF CERTAIN FARM FINANCE LEASES.—

(A) IN GENERAL.—If—

(i) any partnership or grantor trust is the lessor under a specified agreement,

(ii) such partnership or grantor trust met the requirements of section 168(f)(8)(C)(i) of the Internal Revenue Code of 1954 (relating to special rules for finance leases) when the agreement was entered into, and

(iii) a person other than a C corporation became a partner in such partnership (or a beneficiary in such trust) before September 26, 1985,

then, for purposes of applying the revenue laws of the United States in respect to such agreement, the portion of the property allocable to partners (or beneficiaries) not described in clause (iii) shall be treated as if it were subject to a separate agreement and the portion of such property allocable to the partner or beneficiary described in clause (iii) shall be treated as if it were subject to a separate agreement.

(B) SPECIFIED AGREEMENT.—For purposes of subparagraph (A), the term "specified agreement" means an agreement to which subparagraph (B) of section 209(d) of the Tax Equity and Fiscal Responsibility Act of 1982 applies which is—

(i) an agreement dated as of December 20, 1982, as amended and restated as of February 1, 1983, involving approximately $8,734,000 of property at December 31, 1983,

(ii) an agreement dated as of December 15, 1983, as amended and restated as of January 3, 1984, involving approximately $13,199,000 of property at December 31, 1984, or

(iii) an agreement dated as of October 25, 1984, as amended and restated as of December 1, 1984, involving approximately $966,000 of property at December 31, 1984.

(b) AMENDMENT RELATED TO SECTION 26 OF THE ACT.—Paragraph (2) of section 4251(b) (relating to rate of tax on communications

services) is amended by inserting "1985," after "1984," in the table contained in such section.

(c) AMENDMENTS RELATED TO SECTION 27 OF THE ACT.—

(1) Subsection (e) of section 5061 (relating to payment by electronic fund transfer of alcohol taxes) is amended by adding at the end thereof the following new paragraph:

"(3) CONTROLLED GROUPS.—

"(A) IN GENERAL.—In the case of a controlled group of corporations, all corporations which are component members of such group shall be treated as 1 taxpayer. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by subsection (a) of section 1563, except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in such subsection.

"(B) CONTROLLED GROUPS WHICH INCLUDE NONINCORPORATED PERSONS.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation."

(2) Paragraph (3) of section 5703(b) (relating to payment by electronic fund transfer of tobacco taxes) is amended by adding at the end thereof the following: "Rules similar to the rules of section 5061(e)(3) shall apply to the $5,000,000 amount specified in the preceding sentence."

(3) Paragraph (7) of section 27(b) of the Tax Reform Act of 1984 (relating to floor stocks tax on distilled spirits) is amended by adding at the end thereof the following new subparagraph:

"(F) TREATMENT OF DISTILLED SPIRITS IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) or any other provision of law, distilled spirits which are located in a foreign trade zone on October 1, 1985, shall be subject to the tax imposed by paragraph (1) and shall be treated for purposes of this subsection as held on such date for sale if—

"(i) internal revenue taxes have been determined, or customs duties liquidated, with respect to such distilled spirits before such date pursuant to a request made under the first proviso of section 3(a) of such Act, or

"(ii) such distilled spirits are held on such date under the supervision of customs pursuant to the second proviso of such section 3(a).

Under regulations prescribed by the Secretary, provisions similar to sections 5062 and 5064 of such Code shall apply to distilled spirits with respect to which tax is imposed by paragraph (1) by reason of this subparagraph."

SEC. 1802. AMENDMENTS RELATED TO TAX-EXEMPT ENTITY LEASING PROVISIONS.

(a) AMENDMENTS RELATING TO SECTION 31 OF THE ACT.—

(1) TREATMENT OF USE IN UNRELATED TRADE OR BUSINESS.—Subparagraph (D) of section 168(j)(3) (relating to exception where property used in unrelated trade or business) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (B)(iii), any portion of a property so

used shall not be treated as leased to a tax-exempt entity in a disqualified lease."

(2) TREATMENT OF CERTAIN PREVIOUSLY TAX-EXEMPT ORGANIZATIONS.—

(A) Clause (i) of section 168(j)(4)(E) (relating to treatment of certain previously tax-exempt organizations) is amended—

(i) by striking out "any property of which such organization is the lessee" and inserting in lieu thereof "any property (other than property held by such organization)", and

(ii) by striking out "first leased to" and inserting in lieu thereof "first used by".

(B) Subclause (I) of section 168(j)(4)(E)(ii) is amended by striking out "of which such organization is the lessee".

(C) Subclause (II) of section 168(j)(4)(E)(ii) is amended by striking out "is placed in service under the lease" and inserting in lieu thereof "is first used by the organization".

(D) Subparagraph (E) of section 168(j)(4) is amended by adding at the end thereof the following new clause:

"(iv) FIRST USED.—For purposes of this subparagraph, property shall be treated as first used by the organization—

"(I) when the property is first placed in service under a lease to such organization, or

"(II) in the case of property leased to (or held by) a partnership (or other pass-thru entity) in which the organization is a member, the later of when such property is first used by such partnership or pass-thru entity or when such organization is first a member of such partnership or pass-thru entity."

(E)(i) Paragraph (9) of section 168(j) is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following new subparagraph:

"(E) TREATMENT OF CERTAIN TAXABLE ENTITIES.—

"(i) IN GENERAL.—For purposes of this paragraph, except as otherwise provided in this subparagraph, any tax-exempt controlled entity shall be treated as a tax-exempt entity.

"(ii) ELECTION.—If a tax-exempt controlled entity makes an election under this clause—

"(I) such entity shall not be treated as a tax-exempt entity for purposes of this paragraph, and

"(II) any gain recognized by a tax-exempt entity on any disposition of an interest in such entity (and any dividend or interest received or accrued by a tax-exempt entity from such tax-exempt controlled entity) shall be treated as unrelated business taxable income for purposes of section 511.

Any such election shall be irrevocable and shall bind all tax-exempt entities holding interests in such tax-exempt controlled entity. For purposes of subclause (II), there shall only be taken into account dividends which are properly allocable to income of the tax-exempt controlled entity which was not subject to tax under this chapter.

"(iii) TAX-EXEMPT CONTROLLED ENTITY.—The term 'tax-exempt controlled entity' means any corporation (which is not a tax-exempt entity determined without regard to this subparagraph and paragraph (4)(E)) if 50 percent or more (by value) of the stock in such corporation is held (directly or through the application of section 318 determined without regard to the 50-percent limitation contained in subsection (a)(2)(C) thereof) by 1 or more tax-exempt entities."

(ii)(I) Except as otherwise provided in this clause, the amendment made by clause (i) shall apply to property placed in service after September 27, 1985; except that such amendment shall not apply to any property acquired pursuant to a binding written contract in effect on such date (and at all times thereafter).

(II) If an election under this subclause is made with respect to any property, the amendment made by clause (i) shall apply to such property whether or not placed in service on or before September 27, 1985.

(F) Clause (i)(I) of section 31(g)(16)(C) of the Tax Reform Act of 1984 (defining exempt arbitrage profits) is amended by striking out "section 168(j)(4)(E)(i)(I)" and inserting in lieu thereof "section 168(j)(4)(E)(i)".

(G) Clause (i) of section 168(j)(4)(E) is amended by striking out "preceding sentence" and inserting in lieu thereof "preceding sentence and subparagraph (D)(ii)".

(3) REPEAL OF OVERLAPPING SECRETARIAL AUTHORITY.—Clause (iv) of section 168(j)(5)(C) (relating to property not subject to rapid obsolescence may be excluded) is hereby repealed.

(4) PARTNERSHIP RULES.—

(A) Paragraph (8) of section 168(j) (relating to tax-exempt use of property leased to partnerships, etc., determined at partner level) is amended by striking out "and paragraphs (4) and (5) of section 48(a)" in the matter preceding subparagraph (A).

(B) Paragraph (9) of section 168(j) (relating to treatment of property owned by partnerships, etc.) is amended—

(i) by striking out "and paragraphs (4) and (5) of section 48(a)" in subparagraph (A), and

(ii) by striking out "loss deduction" in subparagraph (B)(i) and inserting in lieu thereof "loss, deduction".

(C) Paragraph (5) of section 48(a) (relating to property used by governmental units or foreign persons or entities) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) SPECIAL RULES FOR PARTNERSHIPS, ETC.—For purposes of this paragraph and paragraph (4), rules similar to the rules of paragraphs (8) and (9) of section 168(j) shall apply."

(5) TREATMENT OF CERTAIN AIRCRAFT LEASED TO FOREIGN PERSONS.—

(A) Subsection (a) of section 47 (relating to certain dispositions, etc., of section 38 property) is amended by adding at the end thereof the following new paragraph:

"(9) AIRCRAFT LEASED TO FOREIGN PERSONS OR ENTITIES.—

"(A) IN GENERAL.—Any aircraft which was new section 38 property for the taxable year in which it was placed in

service and which is used by any foreign person or entity (as defined in section 168(j)(4)(C)) under a qualified lease (as defined in paragraph (7)(C)) entered into before January 1, 1990, shall not be treated as ceasing to be section 38 property by reason of such use until such aircraft has been so used for a period or periods exceeding 3 years in total.

"(B) RECAPTURE PERIOD EXTENDED.—For purposes of paragraphs (1) and (5)(B) of this subsection, any period during which there was use described in subparagraph (A) of an aircraft shall be disregarded."

(B) Clause (iii) of section 48(a)(5)(B) is hereby repealed.

(6) TREATMENT OF CERTAIN PARTNERSHIPS HAVING SECTION 593 ORGANIZATION AS MEMBER.—Paragraph (4) of section 46(e) is amended by adding at the end thereof the following new subparagraph:

"(D) SPECIAL RULES FOR PARTNERSHIPS, ETC.—For purposes of paragraph (1)(A), rules similar to the rules of paragraphs (8) and (9) of section 168(j) shall apply."

(7) TREATMENT OF CERTAIN PROPERTY HELD BY PARTNERSHIPS.—

(A) Paragraph (9) of section 168(j) (relating to treatment of property owned by partnerships, etc.) is amended by redesignating subparagraphs (D), (E), and (F) as subparagraphs (E), (F), and (G), respectively, and by inserting after subparagraph (C) the following new subparagraph:

"(D) DETERMINATION OF WHETHER PROPERTY USED IN UNRELATED TRADE OR BUSINESS.—For purposes of this subsection, in the case of any property which is owned by a partnership which has both a tax-exempt entity and a person who is not a tax-exempt entity as partners, the determination of whether such property is used in an unrelated trade or business of such an entity shall be made without regard to section 514."

(B) Subparagraph (E) of section 168(j)(9) (as redesignated by subparagraph (A)) is amended by striking out "and (C)" and inserting in lieu thereof "(C), and (D)".

(8) EXCEPTION FOR QUALIFIED REHABILITATED BUILDINGS LEASED TO SECTION 593 ORGANIZATIONS.—Paragraph (4) of section 46(e) (relating to special rules where section 593 organization is lessee) is amended by adding at the end thereof the following new subparagraph:

"(E) EXCEPTION FOR QUALIFIED REHABILITATED BUILDINGS LEASED TO SECTION 593 ORGANIZATIONS.—Subparagraph (A) shall not apply to qualified investment attributable to qualified rehabilitation expenditures for any portion of a building if such portion of the building would not be tax-exempt use property (as defined in section 168(j)) if the section 593 organization were a tax-exempt entity (as defined in section 168(j)(4))."

(9) CLERICAL AMENDMENTS.—

(A) Paragraph (4) of section 48(a) is amended—

(i) by striking out "514(c)" and inserting in lieu thereof "514(b)", and

(ii) by striking out "514(b)" and inserting in lieu thereof "514(a)".

(B) Subclause (I) of section 48(g)(2)(B)(vi) is amended by striking out "section 168(j)(3)" and inserting in lieu thereof "section 168(j)".

(C) Subparagraph (A) of section 7701(e)(4) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, the term 'related entity' has the same meaning as when used in section 168(j)."

(10) EFFECTIVE DATE PROVISIONS.—

(A) Subparagraph (B) of section 31(g)(3) of the Tax Reform Act of 1984 is amended by striking out "The amendments made by this section" and inserting in lieu thereof "Paragraph (9) of section 168(j) of the Internal Revenue Code of 1954 (as added by this section)".

(B) Effective with respect to property placed in service by the taxpayer after July 18, 1984, clause (ii) of section 31(g)(15)(D) of the Tax Reform Act of 1984 (relating to certain aircraft) is amended to read as follows:

"(ii) such aircraft is originally placed in service by such foreign person or entity (or its successor in interest under the contract) after May 23, 1983, and before January 1, 1986."

(C) Paragraph (4) of section 31(g) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE FOR CREDIT UNIONS.—In the case of any property leased to a credit union pursuant to a written binding contract with an expiration date of December 31, 1984, which was entered into by such organization on August 23, 1984—

"(i) such credit union shall not be treated as an agency or instrumentality of the United States; and

"(ii) clause (ii) of subparagraph (A) shall be applied by substituting 'January 1, 1987' for 'January 1, 1985'."

(D)(i) Clause (ii) of section 31(g)(20)(B) of the Tax Reform Act of 1984 (defining substantial improvement) is amended by striking out subclauses (I) and (II) and inserting in lieu thereof the following:

"(I) by substituting 'property' for 'building' each place it appears therein,

"(II) by substituting '20 percent' for '25 percent' in clause (ii) thereof, and

"(III) without regard to clause (iii) thereof."

(ii) The amendment made by clause (i) shall not apply to any property if—

(I) on or before March 28, 1985, the taxpayer (or a predecessor in interest under the contract) or the tax-exempt entity entered into a written binding contract to acquire, construct, or rehabilitate the property, or

(II) the taxpayer or the tax-exempt entity began the construction, reconstruction, or rehabilitation of the property on or before March 28, 1985.

(E) Paragraph (4) of section 31(g) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new subparagraphs:

"(D) SPECIAL RULE FOR GREENVILLE AUDITORIUM BOARD.—For purposes of this paragraph, significant official governmental action taken by the Greenville County Auditorium Board of Greenville, South Carolina, before May 23, 1983, shall be treated as significant official governmental action

with respect to the coliseum facility subject to a binding contract to lease which was in effect on January 1, 1985.

"(E) TREATMENT OF CERTAIN HISTORIC STRUCTURES.—If—

"(i) on June 16, 1982, the legislative body of the local governmental unit adopted a bond ordinance to provide funds to renovate elevators in a deteriorating building owned by the local governmental unit and listed in the National Register, and

"(ii) the chief executive officer of the local governmental unit, in connection with the renovation of such building, made an application on June 1, 1983, to a State agency for a Federal historic preservation grant and made an application on June 17, 1983, to the Economic Development Administration of the United States Department of Commerce for a grant,

the requirements of clauses (i) and (ii) of subparagraph (A) shall be treated as met."

(F) Subparagraph (H) of section 31(g)(17) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new sentence: "In the case of Clemson University, the preceding sentence applies only to the Continuing Education Center and the component housing project."

(G) Subparagraph (L) of section 31(g)(17) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following:

"Property is described in this subparagraph if such property was leased to a tax-exempt entity pursuant to a lease recorded in the Registry of Deeds of Essex County, New Jersey, on May 7, 1984, and a deed of such property was recorded in the Registry of Deeds of Essex County, New Jersey, on May 7, 1985."

(b) AMENDMENTS RELATED TO SECTION 32 OF THE ACT.—

(1) Subsection (f) of section 168 (relating to special rules) is amended—

(A) by redesignating the paragraph (13) relating to motor vehicle operating leases as paragraph (14), and

(B) by redesignating paragraph (14) as paragraph (15).

(2) Subsection (c) of section 32 of the Tax Reform Act of 1984 is amended by striking out "section 168(f)(13)" and inserting in lieu thereof "section 168(f)(14)".

SEC. 1803. AMENDMENTS RELATED TO TREATMENT OF BONDS AND OTHER DEBT INSTRUMENTS.

(a) AMENDMENTS RELATED TO SECTION 41 OF THE ACT.—

(1) TREATMENT OF SHORT-TERM NONGOVERNMENT OBLIGATIONS.—

(A) Subsection (a) of section 1271 (relating to treatment of amounts received on retirement or sale or exchange of debt instruments) is amended by adding at the end thereof the following new paragraph:

"(4) CERTAIN SHORT-TERM NONGOVERNMENT OBLIGATIONS.—

"(A) IN GENERAL.—On the sale or exchange of any short-term nongovernment obligation, any gain realized which does not exceed an amount equal to the ratable share of the original issue discount shall be treated as ordinary income.

"(B) SHORT-TERM NONGOVERNMENT OBLIGATION.—For purposes of this paragraph, the term 'short-term nongovernment obligation' means any obligation which—

"(i) has a fixed maturity date not more than 1 year from the date of the issue, and

"(ii) is not a short-term Government obligation (as defined in paragraph (3)(B) without regard to the last sentence thereof).

"(C) RATABLE SHARE.—For purposes of this paragraph, except as provided in subparagraph (D), the ratable share of the original issue discount is an amount which bears the same ratio to such discount as—

"(i) the number of days which the taxpayer held the obligation, bears to

"(ii) the number of days after the date of original issue and up to (and including) the date of its maturity.

"(D) ELECTION OF ACCRUAL ON BASIS OF CONSTANT INTEREST RATE.—At the election of the taxpayer with respect to any obligation, the ratable share of the original issue discount is the portion of the original issue discount accruing while the taxpayer held the obligation determined (under regulations prescribed by the Secretary) on the basis of—

"(i) the yield to maturity based on the issue price of the obligation, and

"(ii) compounding daily.

Any election under this subparagraph, once made with respect to any obligation, shall be irrevocable."

(B) Paragraph (3) of section 1283(d) is amended by striking out "section 1271(a)(3)" and inserting in lieu thereof "paragraphs (3) and (4) of section 1271(a)".

(2) ELECTION OF ACCRUAL ON BASIS OF CONSTANT INTEREST RATE FOR SHORT-TERM GOVERNMENT OBLIGATIONS.—

(A) IN GENERAL.—Paragraph (3) of section 1271(a) (relating to certain short-term Government obligations) is amended by adding at the end thereof the following new subparagraph:

"(E) ELECTION OF ACCRUAL ON BASIS OF CONSTANT INTEREST RATE.—At the election of the taxpayer with respect to any obligation, the ratable share of the acquisition discount is the portion of the acquisition discount accruing while the taxpayer held the obligation determined (under regulations prescribed by the Secretary) on the basis of—

"(i) the taxpayer's yield to maturity based on the taxpayer's cost of acquiring the obligation, and

"(ii) compounding daily.

An election under this subparagraph, once made with respect to any obligation, shall be irrevocable."

(B) TECHNICAL AMENDMENT.—Subparagraph (D) of section 1271(a)(3) is amended by striking out "this paragraph" and inserting in lieu thereof "this paragraph, except as provided in subparagraph (E)".

(3) DEFINITION OF SHORT-TERM GOVERNMENT OBLIGATION.—Subparagraph (B) of section 1271(a)(3) (defining short-term Government obligation) is amended to read as follows:

"(B) SHORT-TERM GOVERNMENT OBLIGATION.—For purposes of this paragraph, the term 'short-term Government obliga-

tion' means any obligation of the United States or any of its possessions, or of a State or any political subdivision thereof, or of the District of Columbia, which has a fixed maturity date not more than 1 year from the date of issue. Such term does not include any tax-exempt obligation."

(4) DEDUCTION OF ORIGINAL ISSUE DISCOUNT ON SHORT-TERM OBLIGATIONS.—Paragraph (2) of section 163(e) (relating to original issue discount) is amended by adding at the end thereof the following new subparagraph:

"(C) SHORT-TERM OBLIGATIONS.—In the case of an obligor of a short-term obligation (as defined in section 1283(a)(1)(A)) who uses the cash receipts and disbursements method of accounting, the original issue discount (and any other interest payable) on such obligation shall be deductible only when paid."

(5) TREATMENT OF CERTAIN TRANSFERS OF MARKET DISCOUNT BONDS.—Paragraph (1) of section 1276(d) (relating to special rules) is amended by striking out "and" at the end of subparagraph (A) and by inserting after subparagraph (B) the following new subparagraph:

"(C) paragraph (3) of section 1245(b) shall be applied as if it did not contain a reference to section 351, and".

(6) TREATMENT OF BONDS ACQUIRED AT ORIGINAL ISSUE FOR PURPOSES OF MARKET DISCOUNT RULES.—Paragraph (1) of section 1278(a) (defining market discount bond) is amended by adding at the end thereof the following new subparagraph:

"(C) TREATMENT OF BONDS ACQUIRED AT ORIGINAL ISSUE.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph or in regulations, the term 'market discount bond' shall not include any bond acquired by the taxpayer at its original issue.

"(ii) TREATMENT OF BONDS ACQUIRED FOR LESS THAN ISSUE PRICE.—Clause (i) shall not apply to any bond if—

"(I) the basis of the taxpayer in such bond is determined under section 1012, and

"(II) such basis is less than the issue price of such bond determined under subpart A of this part.

"(iii) BONDS ACQUIRED IN CERTAIN REORGANIZATIONS.—Clause (i) shall not apply to any bond issued pursuant to a plan of reorganization (within the meaning of section 368(a)(1)) in exchange for another bond having market discount. Solely for purposes of section 1276, the preceding sentence shall not apply if such other bond was issued on or before July 18, 1984 (the date of the enactment of section 1276) and if the bond issued pursuant to such plan of reorganization has the same term and the same interest rate as such other bond had.

"(iv) TREATMENT OF CERTAIN TRANSFERRED BASIS PROPERTY.—For purposes of clause (i), if the adjusted basis of any bond in the hands of the taxpayer is determined by reference to the adjusted basis of such bond in the hands of a person who acquired such bond at its original issue, such bond shall be treated as acquired by the taxpayer at its original issue."

(7) TREATMENT OF CERTAIN STRIPPED BONDS OR STRIPPED COUPONS.—Paragraph (1) of section 1281(b) (relating to short-term

obligations to which section applies) is amended by striking out "or" at the end of subparagraph (D), by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(F) is a stripped bond or stripped coupon held by the person who stripped the bond or coupon (or by any other person whose basis is determined by reference to the basis in the hands of such person)."

(8) ACCRUAL OF INTEREST PAYMENTS ON CERTAIN SHORT-TERM OBLIGATIONS.—

(A) Effective with respect to obligations acquired after September 27, 1985, subsection (a) of section 1281 (relating to current inclusion in income of discount on certain short-term obligations) is amended to read as follows:

"(a) GENERAL RULE.—In the case of any short-term obligation to which this section applies, for purposes of this title—

"(1) there shall be included in the gross income of the holder an amount equal to the sum of the daily portions of the acquisition discount for each day during the taxable year on which such holder held such obligation, and

"(2) any interest payable on the obligation (other than interest taken into account in determining the amount of the acquisition discount) shall be included in gross income as it accrues."

(B) Subsection (a) of section 1282 (relating to deferral of interest deduction allocable to accrued discount) is amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, the net direct interest expense with respect to any short-term obligation shall be allowed as a deduction for the taxable year only to the extent such expense exceeds the sum of—

"(1) the daily portions of the acquisition discount for each day during the taxable year on which the taxpayer held such obligation, and

"(2) the amount of any interest payable on the obligation (other than interest taken into account in determining the amount of the acquisition discount) which accrues during the taxable year while the taxpayer held such obligation (and is not included in the gross income of the taxpayer for such taxable year by reason of the taxpayer's method of accounting)."

(9) TREATMENT OF TRANSFERS OF LAND BETWEEN RELATED PARTIES.—In the case of any sale or exchange before July 1, 1985, to which section 483(f) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of Public Law 99-121) applies, such section shall be treated as providing that the discount rate to be used for purposes of section 483(c)(1) of such Code shall be 6 percent, compounded semiannually.

(10) CLARIFICATION OF TREATMENT OF DEBT INSTRUMENTS ISSUED FOR PUBLICLY TRADED PROPERTY.—Subparagraph (B) of section 1273(b)(3) (relating to debt instruments issued for property where there is public trading) is amended to read as follows:

"(B)(i) is issued for stock or securities which are traded on an established securities market, or

"(ii) to the extent provided in regulations, is issued for property (other than stock or securities) of a kind regularly traded on an established market,".

(11) BOND PREMIUMS AMORTIZED AT CONSTANT RATE, ETC.—

(A) IN GENERAL.—Paragraph (3) of section 171(b) (relating to amortizable bond premiums) is amended to read as follows:

"(3) METHOD OF DETERMINATION.—

"(A) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, the determinations required under paragraphs (1) and (2) shall be made on the basis of the taxpayer's yield to maturity determined by—

"(i) using the taxpayer's basis (for purposes of determining loss on sale or exchange) of the obligation, and

"(ii) compounding at the close of each accrual period (as defined in section 1272(a)(5)).

"(B) SPECIAL RULE WHERE EARLIER CALL DATE IS USED.—For purposes of subparagraph (A), if the amount payable on an earlier call date is used under paragraph (1)(B)(ii) in determining the amortizable bond premium attributable to the period before the earlier call date, such bond shall be treated as maturing on such date for the amount so payable and then reissued on such date for the amount so payable."

(B) AMORTIZABLE BOND PREMIUM RULES TO APPLY TO OBLIGATIONS ISSUED BY INDIVIDUALS, ETC.—Subsection (d) of section 171 (defining bond) is amended by striking out "issued by any corporation and bearing interest (including any like obligation issued by a government or political subdivision thereof),".

(C) EFFECTIVE DATE.—

(i) The amendments made by this paragraph shall apply to obligations issued after September 27, 1985.

(ii) In the case of a taxpayer with respect to whom an election is in effect on the date of the enactment of this Act under section 171(c) of the Internal Revenue Code of 1954, such election shall apply to obligations issued after September 27, 1985, only if the taxpayer chooses (at such time and in such manner as may be prescribed by the Secretary of the Treasury or his delegate) to have such election apply with respect to such obligations.

(12) CLARIFICATION OF AMOUNT OF AMORTIZABLE BOND PREMIUM.—

(A) IN GENERAL.—Subsection (b) of section 171 (defining amortizable bond premium) is amended by adding at the end thereof the following new paragraph:

"(4) TREATMENT OF CERTAIN BONDS ACQUIRED IN EXCHANGE FOR THER PROPERTY.—

"(A) IN GENERAL.—If—

"(i) a bond is acquired by any person in exchange for other property, and

"(ii) the basis of such bond is determined (in whole or in part) by reference to the basis of such other property,

for purposes of applying this subsection to such bond while held by such person, the basis of such bond shall not exceed its fair market value immediately after the exchange. A

similar rule shall apply in the case of such bond while held by any other person whose basis is determined (in whole or in part) by reference to the basis in the hands of the person referred to in clause (i).

"(B) SPECIAL RULE WHERE BOND EXCHANGED IN REORGANIZATION.—Subparagraph (A) shall not apply to an exchange by the taxpayer of a bond for another bond if such exchange is a part of a reorganization (as defined in section 368). If any portion of the basis of the taxpayer in a bond transferred in such an exchange is not taken into account in determining bond premium by reason of this paragraph, such portion shall not be taken into account in determining the amount of bond premium on any bond received in the exchange."

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to exchanges after May 6, 1986.

(13) SPECIAL RULE FOR BONDS WITH PARTIAL PRINCIPAL PAYMENTS.—

(A) TREATMENT OF ACCRUED MARKET DISCOUNT.—

(i) Subsection (a) of section 1276 (relating to disposition gain representing accrued market discount treated as ordinary income) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) TREATMENT OF PARTIAL PRINCIPAL PAYMENTS.—

"(A) IN GENERAL.—Any partial principal payment on a market discount bond shall be included in gross income as ordinary income to the extent such payment does not exceed the accrued market discount on such bond.

"(B) ADJUSTMENT.—If subparagraph (A) applies to any partial principal payment on any market discount bond, for purposes of applying this section to any disposition of (or subsequent partial principal payment on) such bond, the amount of accrued market discount shall be reduced by the amount of such partial principal payment included in gross income under subparagraph (A)."

(ii) Paragraph (4) of section 1276(a) (as redesignated by subparagraph (A)) is amended by striking out "under paragraph (1)" and inserting in lieu thereof "under paragraph (1) or (3)".

(iii) Subsection (b) of section 1276 is amended by adding at the end thereof the following new paragraph:

"SPECIAL RULE WHERE PARTIAL PRINCIPAL PAYMENTS. In the case of a bond the principal of which may be paid in 2 or more payments, the amount of accrued market discount shall be determined under regulations prescribed by the Secretary."

(B) COORDINATION WITH TAX TREATMENT OF STRIPPED BONDS.—

(i) Paragraph (1) of section 1286(b) (relating to tax treatment of person stripping bond) is amended to read as follows:

"(1) such person shall include in gross income an amount equal to the sum of—

"(A) the interest accrued on such bond while held by such person and before the time such coupon or bond was disposed of (to the extent such interest has not theretofore been included in such person's gross income), and

"(B) the accrued market discount on such bond determined as of the time such coupon or bond was disposed of (to the extent such discount has not theretofore been included in such person's gross income),".

(ii) Paragraph (2) of section 1286(b) is amended by striking out "the amount of the accrued interest described in paragraph (1)" and inserting in lieu thereof "the amount included in gross income under paragraph (1)".

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to obligations acquired after the date of the enactment of this Act.

(14) CLERICAL AMENDMENTS.—

(A) Subparagraph (A) of section 1274(c)(4) is amended by striking out "FOR LESS THAN $1,000,000" in the subparagraph heading and inserting in lieu thereof "FOR $1,000,000 OR LESS".

(B) Paragraph (1) of section 483(d) is amended by striking out "any debt instrument to which section 1272 applies" and inserting in lieu thereof "any debt instrument for which an issue price is determined under section 1273(b) (other than paragraph (4) thereof) or section 1274".

(C) Clause (iii) of section 6049(b)(5)(B) is amended by striking out "section 1232(b)(1)" and inserting in lieu thereof "section 1273(a)".

(b) AMENDMENTS RELATED TO SECTION 44 OF THE ACT.—

(1) CLARIFICATION OF TRANSITIONAL RULE FOR PURPOSES OF IMPUTED INTEREST RULES.—Paragraph (4) of section 44(b) of the Tax Reform Act of 1984 (relating to special rules for sales before July 1, 1985), as added by section 2 of Public Law 98-612, is amended—

(A) by striking out "before July 1, 1985" in subparagraph (A) and inserting in lieu thereof "after December 31, 1984, and before July 1, 1985",

(B) by striking out "BEFORE JULY 1, 1985" in the paragraph heading and inserting in lieu thereof "AFTER DECEMBER 31, 1984, AND BEFORE JULY 1, 1985", and

(C) by adding at the end thereof the following new subparagraph:

"(G) CLARIFICATION OF APPLICATION OF THIS PARAGRAPH, ETC.—This paragraph and paragraphs (5), (6), and (7) shall apply only in the case of sales or exchanges to which section 1274 or 483 of the Internal Revenue Code of 1954 (as amended by section 41) applies."

(2) CLARIFICATION OF INTEREST ACCRUAL, ETC.—Subparagraph (A) of section 44(b)(3) of the Tax Reform Act of 1984 is amended by striking out "and before January 1, 1985," each place it appears.

(3) EXCEPTION FOR BINDING CONTRACTS.—Subparagraph (B) of section 44(b)(3) of the Tax Reform Act of 1984 is amended to read as follows:

"(B) EXCEPTION FOR BINDING CONTRACTS.—

"(i) Subparagraph (A)(i)(I) shall not apply to any sale or exchange pursuant to a written contract which was binding on March 1, 1984, and at all times thereafter before the sale or exchange.

"(ii) Subparagraph (A)(i)(II) shall not apply to any sale or exchange pursuant to a written contract which was binding on June 8, 1984, and at all times thereafter before the sale or exchange."

(4) CLERICAL AMENDMENT.—Clause (ii) of section 44(b)(6)(B) of the Tax Reform Act of 1984 (as added by section 2 of Public Law 98-612) is amended by striking out "greater than" and inserting in lieu thereof "not greater than".

(5) CLARIFICATION OF EFFECTIVE DATE FOR REPEAL OF CAPITAL ASSET REQUIREMENT.—Subsection (g) of section 44 of the Tax Reform Act of 1984 is amended by striking out "before December 31, 1984" and inserting in lieu thereof "on or before December 31, 1984".

SEC. 1804. AMENDMENTS RELATED TO CORPORATE PROVISIONS.

(a) AMENDMENT RELATED TO SECTION 51 OF THE ACT.—Subsection (a) of section 246A (relating to dividends received deduction reduced where portfolio stock is debt financed) is amended—

(1) by striking out "or 245" and inserting in lieu thereof "or 245(a)", and

(2) by adding at the end thereof the following new sentence: "The preceding sentence shall be applied before any determination of a ratio under paragraph (1) or (2) of section 245(a)."

(b) AMENDMENTS RELATED TO SECTION 53 AND SECTION 54 OF THE ACT.—

(1) AMENDMENTS TO SECTION 246.—

(A) Subparagraph (A) of section 246(c)(1) (relating to exclusion of certain dividends) is amended to read as follows:

"(A) Which is held by the taxpayer for 45 days or less, or".

(B) Paragraph (4) of section 246(c) (relating to holding period reduced for periods where risk of loss diminished) is amended by striking out "determined under paragraph (3)" and inserting in lieu thereof "determined for purposes of this subsection".

(C) The amendments made by this paragraph shall apply to stock acquired after March 1, 1986.

(2) EFFECTIVE DATE FOR RELATED PERSON PROVISIONS.—Paragraph (3) of section 53(e) of the Tax Reform Act of 1984 (relating to effective date for related person provisions) is amended to read as follows:

"(3) RELATED PERSON PROVISIONS.—

"(A) IN GENERAL.—Except as otherwise provided in subparagraph (B), the amendment made by subsection (c) shall take effect on July 18, 1984.

(B) SPECIAL RULE FOR PURPOSES OF SECTION 265(2).—The amendment made by subsection (c) insofar as it relates to section 265(2) of the Internal Revenue Code of 1954 shall apply to—

"(i) term loans made after July 18, 1984, and

"(ii) demand loans outstanding after July 18, 1984 (other than any loan outstanding on July 18, 1984, and repaid before September 18, 1984).

"(C) TREATMENT OF RENEGOTIATIONS, ETC.—For purposes of this paragraph, any loan renegotiated, extended, or re-

vised after July 18, 1984, shall be treated as a loan made after such date.

"(D) DEFINITION OF TERM AND DEMAND LOANS.—For purposes of this paragraph, the terms 'demand loan' and 'term loan' have the respective meanings given such terms by paragraphs (5) and (6) of section 7872(f) of the Internal Revenue Code of 1954, except that the second sentence of such paragraph (5) shall not apply."

(3) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS BEFORE JANUARY 1, 1988.—Paragraph (3) of section 54 of the Tax Reform Act of 1984 (relating to exceptions for distributions before January 1, 1985, to 80-percent corporate shareholders) is amended by adding at the end thereof the following new subparagraph:

"(D) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS BEFORE JANUARY 1, 1988.—

"(i) IN GENERAL.—In the case of a transaction to which this subparagraph applies, subparagraph (A) shall be applied by substituting '1988' for '1985' and the amendments made by subtitle D of title VI shall not apply.

"(ii) TRANSACTION TO WHICH SUBPARAGAPH APPLIES.—This subparagraph appies to a transaction in which a Delaware corporation which was incorporated on May 31, 1927, and which was acquired by the transferee on December 9, 1968, transfers to the transferee stock in a corporation—

"(I) with respect to which such Delaware corporation is a 100-percent corporate shareholder, and

"(II) which is a Tennessee corporation which was incorporated on October 5, 1981, and which is a successor to an Indiana corporation which was incorporated on June 28, 1946, and acquired by the transferee on December 9, 1968."

(c) AMENDMENTS RELATED TO SECTION 55 OF THE ACT.—

(1) Clause (ii) of section 852(b)(4)(B) (relating to losses attributable to exempt-interest dividend) is amended by striking out "for less than 31 days" and inserting in lieu thereof "for 6 months or less".

(2) Subparagraph (C) of section 852(b)(4) (relating to determination of holding periods) is amended to read as follows:

"(C) DETERMINATION OF HOLDING PERIODS.—For purposes of this paragraph, the rules of paragraphs (3) and (4) of section 246(c) shall apply in determining the period for which the taxpayer has held any share of stock; except that '6 months' shall be substituted for each number of days specified in subparagraph (B) of section 246(c)(3)."

(3) Subparagraph (D) of section 852(b)(4) (relating to losses incurred under a periodic liquidation plan) is amended by striking out "subparagraph (A)" and inserting in lieu thereof "subparagraphs (A) and (B)".

(4) Paragraph (4) of section 852(b) is amended by adding at the end thereof the following new subparagraph:

"(E) AUTHORITY TO SHORTEN REQUIRED HOLDING PERIOD.—In the case of a regulated investment company which regularly distributes at least 90 percent of its net tax-exempt interest, the Secretary may by regulations prescribe that

subparagraph (B) (and subparagraph (C) to the extent it relates to subparagraph (B)) shall be applied on the basis of a holding period requirement shorter than 6 months; except that such shorter holding period requirement shall not be shorter than the greater of 31 days or the period between regular distributions of exempt-interest dividends."

(5) The paragraph heading for paragraph (4) of section 852(b) is amended by striking out "LESS THAN 31 DAYS" and inserting in lieu thereof "6 MONTHS OR LESS".

(6) The amendments made by this subsection shall apply to stock with respect to which the taxpayer's holding period begins after March 28, 1985.

(d) AMENDMENT RELATED TO SECTION 58 OF THE ACT.—

(1) IN GENERAL.—Paragraph (1) of section 562(b) (relating to distributions in liquidation) is amended by adding at the end thereof the following new sentence: "Except to the extent provided in regulations, the preceding sentence shall not apply in the case of any mere holding or investment company which is not a regulated investment company."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to distributions after September 27, 1985.

(e) AMENDMENTS RELATED TO SECTION 60 OF THE ACT.—

(1) TREATMENT OF CERTAIN REDEMPTION AND LIQUIDATION RIGHTS.—Subparagraph (C) of section 1504(a)(4) (relating to certain preferred stock not treated as stock) is amended to read as follows:

"(C) has redemption and liquidation rights which do not exceed the issue price of such stock (except for a reasonable redemption or liquidation premium), and".

(2) TREATMENT OF CERTAIN CORPORATIONS AFFILIATED ON JUNE 22, 1984.—Paragraph (2) of section 60(b) of the Tax Reform Act of 1984 (relating to special rule for corporations affiliated on June 22, 1984) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall cease to apply as of the first day after June 22, 1984, on which such corporation does not qualify as a member of such group under section 1504(a) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act)."

(3) TREATMENT OF CERTAIN SELL-DOWNS AFTER JUNE 22, 1984.—Paragraph (3) of section 60(b) of the Tax Reform Act of 1984 (relating to special rule not to apply to certain sell-downs after June 22, 1984) is amended to read as follows:

"(3) SPECIAL RULE NOT TO APPLY TO CERTAIN SELL-DOWNS AFTER JUNE 22, 1984.—If—

"(A) the requirements of paragraph (2) are satisfied with respect to a corporation,

"(B) more than a de minimis amount of the stock of such corporation—

"(i) is sold or exchanged (including in a redemption), or

"(ii) is issued,

after June 22, 1984 (other than in the ordinary course of business), and

"(C) the requirements of the amendment made by subsection (a) are not satisfied after such sale, exchange, or issuance,

then the amendment made by subsection (a) shall apply for purposes of determining whether such corporation continues to be a member of the group. The preceding sentence shall not apply to any transaction if such transaction does not reduce the percentage of the fair market value of the stock of the corporation referred to in the preceding sentence held by members of the group determined without regard to this paragraph."

(4) TREATMENT OF CERTAIN CORPORATIONS AFFILIATED ON JUNE 22, 1984, ETC.—Subsection (b) of section 60 of the Tax Reform Act of 1984 is amended by striking out paragraph (5) and inserting in lieu thereof the following new paragraphs:

"(5) NATIVE CORPORATIONS.—

"(A) In the case of a Native Corporation established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), or a corporation all of whose stock is owned directly by such a corporation, during any taxable year (beginning after the effective date of these amendments and before 1992), or any part thereof, in which the Native Corporation is subject to the provisions of section 7(h)(1) of such Act (43 U.S.C. 1606(h)(1))—

"(i) the amendment made by subsection (a) shall not apply, and

"(ii) the requirements for affiliation under section 1504(a) of the Internal Revenue Code of 1986 before the amendment made by subsection (a) shall be applied solely according to the provisions expressly contained therein, without regard to escrow arrangements, redemption rights, or similar provisions.

"(B) Except as provided in subparagraph (C), during the period described in subparagraph (A), no provision of the Internal Revenue Code of 1986 (including sections 269 and 482) or principle of law shall apply to deny the benefit or use of losses incurred or credits earned by a corporation described in subparagraph (A) to the affiliated group of which the Native Corporation is the common parent.

"(C) Losses incurred or credits earned by a corporation described in subparagraph (A) shall be subject to the general consolidated return regulations, including the provisions relating to separate return limitation years, and to sections 382 and 383 of the Internal Revenue Code of 1986.

"(D) Losses incurred and credits earned by a corporation which is affiliated with a corporation described in subparagraph (A) shall be treated as having been incurred or earned in a separate return limitation year, unless the corporation incurring the losses or earning the credits satisfies the affiliation requirements of section 1504(a) without application of subparagraph (A).

"(6) TREATMENT OF CERTAIN CORPORATIONS AFFILIATED ON JUNE 22, 1984.—In the case of an affiliated group which—

"(A) has as its common parent a Minnesota corporation incorporated on April 23, 1940, and

"(B) has a member which is a New York corporation incorporated on November 13, 1969,

for purposes of determining whether such New York corporation continues to be a member of such group, paragraph (2) shall be applied by substituting for 'January 1, 1988,' the earlier of

January 1, 1994, or the date on which the voting power of the preferred stock in such New York corporation terminates.

"(7) ELECTION TO HAVE AMENDMENTS APPLY FOR YEARS BEGINNING AFTER 1983.—If the common parent of any group makes an election under this paragraph, notwithstanding any other provision of this subsection, the amendments made by subsection (a) shall apply to such group for taxable years beginning after December 31, 1983. Any such election, once made, shall be irrevocable.

"(8) TREATMENT OF CERTAIN AFFILIATED GROUPS.—If—

"(A) a corporation (hereinafter in this paragraph referred to as the 'parent') was incorporated in 1968 and filed consolidated returns as the parent of an affiliated group for each of its taxable years ending after 1969 and before 1985,

"(B) another corporation (hereinafter in this paragraph referred to as the 'subsidiary') became a member of the parent's affiliated group in 1978 by reason of a recapitalization pursuant to which the parent increased its voting interest in the subsidiary from not less than 56 percent to not less than 85 percent, and

"(C) such subsidiary is engaged (or was on September 27, 1985, engaged) in manufacturing and distributing a broad line of business systems and related supplies for binding, laminating, shredding, graphics, and providing secure identification,

then, for purposes of determining whether such subsidiary corporation is a member of the parent's affiliated group under section 1504(a) of the Internal Revenue Code of 1954 (as amended by subsection (a)), paragraph (2)(B) of such section 1504(a) shall be applied by substituting '55 percent' for '80 percent'.

"(9) TREATMENT OF CERTAIN CORPORATIONS AFFILIATED DURING 1971.— In the case of a group of corporations which filed a consolidated Federal income tax return for the taxable year beginning during 1971 and which—

"(A) included as a common parent on December 31, 1971, a Delaware corporation incorporated on August 26, 1969, and

"(B) included as a member thereof a Delaware corporation incorporated on November 8, 1971,

for taxable years beginning after December 31, 1970, and ending before January 1, 1988, the requirements for affiliation for each member of such group under section 1504(a) of the Internal Revenue Code of 1954 (before the amendment made by subsection (a)) shall be limited solely to the provisions expressly contained therein and by reference to stock issued under State law as common or preferred stock. During the period described in the preceding sentence, no provision of the Internal Revenue Code of 1986 (including sections 269 and 482) or principle of law, except the general consolidated return regulations (including the provisions relating to separate return limitation years) and sections 382 and 383 of such Code, shall apply to deny the benefit or use of losses incurred or credits earned by members of such group."

(5) TREATMENT OF CERTAIN SELL-DOWNS.—Paragraph (4) of section 60(b) of the Tax Reform Act of 1984 (relating to exception for certain sell-downs) is amended by adding at the end

thereof the following new sentence: "For purposes of the preceding sentence, if there is a letter of intent between a corporation and a securities underwriter entered into on or before June 22, 1984, and the subsequent issuance or sale is effected pursuant to a registration statement filed with the Securities and Exchange Commission, such stock shall be treated as issued or sold pursuant to a registration statement filed with the Securities and Exchange Commission on or before June 22, 1984."

(6) AMENDMENT OF SECTION 332.—

(A) IN GENERAL.—Paragraph (1) of section 332(b) (relating to liquidations to which section applies) is amended to read as follows:

"(1) the corporation receiving such property was, on the date of the adoption of the plan of liquidation, and has continued to be at all times until the receipt of the property, the owner of stock (in such other corporation) meeting the requirements of section 1504(a)(2); and either".

(B) EFFECTIVE DATE.—

(i) IN GENERAL.—Except as provided in clause (iii), the amendment made by subparagraph (A) shall apply with respect to plans of complete liquidation adopted after March 28, 1985.

(ii) CERTAIN DISTRIBUTIONS MADE AFTER DECEMBER 31, 1984.—Except as provided in clause (iii), the amendment made by subparagraph (A) shall also apply with respect to plans of complete liquidations adopted on or before March 28, 1985, pursuant to which any distribution is made in a taxable year beginning after December 31, 1984 (December 31, 1983, in the case of an affiliated group to which an election under section 60(b)(7) of the Tax Reform Act of 1984 applies), but only if the liquidating corporation and any corporation which receives a distribution in complete liquidation of such corporation are members of an affiliated group of corporations filing a consolidated return for the taxable year which includes the date of the distribution.

(iii) TRANSITIONAL RULE FOR AFFILIATED GROUPS.—The amendment made by subparagraph (A) shall not apply with respect to plans of complete liquidation if the liquidating corporation is a member of an affiliated group of corporations under section 60(b) (2), (5), (6), or (8) of the Tax Reform Act of 1984, for all taxable years which include the date of any distribution pursuant to such plan.

(7) AMENDMENT OF SECTION 337.—

(A) IN GENERAL.—Subparagraph (B) of section 337(c)(3) (defining distributee corporation) is amended to read as follows:

"(B) DISTRIBUTEE CORPORATION.—For purposes of subparagraph (A), the term 'distributee corporation' means any corporation which receives a distribution to which section 332 applies in a complete liquidation of the selling corporation. Such term also includes any other corporation which receives a distribution to which section 332 applies in a complete liquidation of a corporation which is a distributee corporation under the preceding sentence or prior application of this sentence."

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply in the case of plans of complete liquidation pursuant to which any distribution is made in a taxable year beginning after December 31, 1984 (December 31, 1983, in the case of an affiliated group to which an election under section 60(b)(7) of the Tax Reform Act of 1984 applies).

(8) AMENDMENT OF SECTION 338.—

(A) IN GENERAL.—Paragraph (3) of section 338(d) (defining qualified stock purchase) is amended to read as follows:

"(3) QUALIFIED STOCK PURCHASE.—The term 'qualified stock purchase' means any transaction or series of transactions in which stock (meeting the requirements of section 1504(a)(2)) of 1 corporation is acquired by another corporation by purchase during the 12-month acquisition period."

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply in cases where the 12-month acquisition period (as defined in section 338(h)(1) of the Internal Revenue Code of 1954) begins after December 31, 1985.

(9) TREATMENT OF CERTAIN CORPORATION ORGANIZED ON FEBRUARY 22, 1983.—In the case of a Rhode Island corporation which was organized on February 22, 1983, and which on February 25, 1983—

(A) purchased the stock of another corporation,

(B) filed an election under section 338(g) of the Internal Revenue Code of 1986 with respect to such purchase, and

(C) merged into the acquired corporation,

such purchase of stock shall be considered as made by the acquiring corporation, such election shall be valid, and the acquiring corporation shall be considered a purchasing corporation for purposes of section 338 of such Code without regard to the duration of the existence of the acquiring corporation.

(10) TREATMENT OF FORMER DISC'S.—Paragraph (7) of section 1504(b) (defining includible corporation) is amended to read as follows:

"(7) A DISC (as defined in section 992(a)(1)), or any other corporation which has accumulated DISC income which is derived after December 31, 1984."

(f) AMENDMENTS RELATED TO SECTION 61 OF THE ACT.—

(1) TREATMENT OF DISTRIBUTIONS OF APPRECIATED PROPERTY.—

(A) Subsection (b) of section 312 (relating to effect on earnings and profits) is amended to read as follows:

"(b) DISTRIBUTIONS OF APPRECIATED PROPERTY.—On the distribution by a corporation, with respect to its stock, of any property the fair market value of which exceeds the adjusted basis thereof—

"(1) the earnings and profits of the corporation shall be increased by the amount of such excess, and

"(2) subsection (a)(3) shall be applied by substituting 'fair market value' for 'adjusted basis'.

For purposes of this subsection and subsection (a), the adjusted basis of any property is its adjusted basis as determined for purposes of computing earnings and profits."

(B) Subsection (c) of section 312 is amended by inserting "and" at the end of paragraph (1), by striking out ", and" at the end of paragraph (2) and inserting in lieu thereof a period, and by striking out paragraph (3).

(C) The subsection heading for subsection (c) of section 312 is amended by striking out ", ETC.".

(D) Subsection (n) of section 312 is amended by striking out paragraph (4) and by redesignating paragraphs (5), (6), (7), (8), and (9) as paragraphs (4), (5), (6), (7), and (8), respectively.

(E) Paragraph (8) of section 312(n) (as redesignated by subparagraph (D)) is amended by striking out "subsection (k)(4)" and all that follows and inserting in lieu thereof the following:

"subsection (k)(4)—

"(A) paragraphs (4) and (6) shall apply only in the case of taxable years beginning after December 31, 1985, and

"(B) paragraph (5) shall apply only in the case of taxable years beginning after December 31, 1987."

(F) Any reference in subsection (e) of section 61 of the Tax Reform Act of 1984 to a paragraph of section 312(n) of the Internal Revenue Code of 1954 shall be treated as a reference to such paragraph as in effect before its redesignation by subparagraph (D).

(2) CLERICAL AMENDMENTS.—

(A) Subsection (a) of section 1275 is amended—

(i) by redesignating the paragraph added by section 61 of the Tax Reform Act of 1984 as paragraph (5), and

(ii) by striking out "TO CORPORATIONS" in the heading of such paragraph and inserting in lieu thereof "BY CORPORATIONS".

(B) Paragraph (3) of section 301(f) is amended by striking out "this section" and inserting in lieu thereof "this subsection".

(3) EFFECTIVE DATE FOR TREATMENT OF REDEMPTIONS.—Paragraph (7) of section 312(n) of the Internal Revenue Code of 1954 (as redesignated by paragraph (1)(D) of this subsection), and the amendments made by section 61(a)(2) of the Tax Reform Act of 1984, shall apply to distributions in taxable years beginning after September 30, 1984.

(g) AMENDMENTS RELATED TO SECTION 63 OF THE ACT.—

(1) IN GENERAL.—Section 361 (relating to nonrecognition of gain or loss to corporations) is amended to read as follows:

"SEC. 361. NONRECOGNITION OF GAIN OR LOSS TO TRANSFEROR CORPORATION; OTHER TREATMENT OF TRANSFEROR CORPORATION; ETC.

"(a) GENERAL RULE.—No gain or loss shall be recognized to a transferor corporation which is a party to a reorganization on any exchange of property pursuant to the plan of reorganization.

"(b) OTHER TREATMENT OF TRANSFEROR CORPORATION.—In the case of a transferor corporation which is a party to a reorganization—

"(1) sections 336 and 337 shall not apply with respect to any liquidation of such corporation pursuant to the plan of reorganization,

"(2) the basis of the property (other than stock and securities described in paragraph (3)) received by the corporation pursuant to such plan of reorganization shall be the same as it would be in the hands of the transferor of such property, adjusted by the amount of gain or loss recognized to such transferor on such transfer, and

"(3) no gain or loss shall be recognized by such corporation on any disposition (pursuant to the plan of reorganization) of stock or securities which were received pursuant to such plan and which are in another corporation which is a party to such reorganization.

For purposes of paragraph (3), if the transferor corporation is merged, consolidated, or liquidated pursuant to the plan of reorganization, or if a transaction meets the requirements of section 368(a)(1)(C) pursuant to a waiver granted by the Secretary under section 368(a)(2)(G)(ii), any distribution of such stock or securities by the transferor corporation to its creditors in connection with such transaction shall be treated as pursuant to such plan of reorganization.

"(c) TREATMENT OF DISTRIBUTIONS OF APPRECIATED PROPERTY.—Notwithstanding any other provision of this subtitle, gain shall be recognized on the distribution of property (other than property permitted by section 354, 355, or 356 to be received without the recognition of gain) pursuant to a plan of reorganization in the same manner as if such property had been sold to the distributee at its fair market value."

(2) CLARIFICATION OF TRANSFERS TO CREDITORS.—Section 368(a)(2)(G)(i) (relating to distribution requirement) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, if the acquired corporation is liquidated pursuant to the plan of reorganization, any distribution to its creditors in connection with such liquidation shall be treated as pursuant to the plan of reorganization."

(3) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter C of chapter 1 is amended by striking out the item relating to section 361 and inserting in lieu thereof the following:

"Sec. 361. Nonrecognition of gain or loss to transferor corporation; other treatment of transferor corporation; etc."

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plans of reorganizations adopted after the date of the enactment of this Act.

(h) AMENDMENTS RELATED TO SECTION 64 OF THE ACT.—

(1) Subsection (c) of section 368 (defining control) is amended to read as follows:

"(c) CONTROL DEFINED.—For purposes of part I (other than section 304), part II, this part, and part V, the term 'control' means the ownership of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of the corporation."

(2) Paragraph (2) of section 368(a) is amended by adding at the end thereof the following new subparagraph:

"(H) SPECIAL RULE FOR DETERMINING WHETHER CERTAIN TRANSACTIONS ARE QUALIFIED UNDER PARAGRAPH (1)(D).—In the case of any transaction with respect to which the requirements of subparagraphs (A) and (B) of section 354(b)(1) are met, for purposes of determining whether such transaction qualifies under subparagraph (D) of paragraph (1), the term 'control' has the meaning given to such term by section 304(c)."

(3) Section 368(a)(2) is amended by inserting "(other than for purposes of subparagraph (C))" in subparagraph (A) after "subchapter".

(i) AMENDMENTS RELATED TO SECTION 65 OF THE ACT.—

(1) IN GENERAL.—Subsection (a) of section 341 (relating to collapsible corporations) is amended by striking out "held for more than 6 months".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to sales, exchanges, and distributions after September 27, 1985.

(j) AMENDMENTS RELATED TO SECTION 67 OF THE ACT.—

(1) EXEMPTION FOR SMALL BUSINESS CORPORATIONS, ETC.—Subsection (b) of section 280G (defining excess parachute payment) is amended by adding at the end thereof the following new paragraph:

"(5) EXEMPTION FOR SMALL BUSINESS CORPORATIONS, ETC.—

"(A) IN GENERAL.—Notwithstanding paragraph (2), the term 'parachute payment' does not include—

"(i) any payment to a disqualified individual with respect to a corporation which (immediately before the change described in paragraph (2)(A)(i)) was a small business corporation (as defined in section 1361(b)), and

"(ii) any payment to a disqualified individual with respect to a corporation (other than a corporation described in clause (i)) if—

"(I) immediately before the change described in paragraph (2)(A)(i), no stock in such corporation was readily tradeable on an established securities market or otherwise, and

"(II) the shareholder approval requirements of subparagraph (B) are met with respect to such payment.

The Secretary may, by regulations, prescribe that the requirements of subclause (I) of clause (ii) are not met where a substantial portion of the assets of any entity consists (directly or indirectly) of stock in such corporation and interests in such other entity are readily tradeable on an established securities market, or otherwise.

"(B) SHAREHOLDER APPROVAL REQUIREMENTS.—The shareholder approval requirements of this subparagraph are met with respect to any payment if—

"(i) such payment was approved by a vote of the persons who owned, immediately before the change described in paragraph (2)(A)(i), more than 75 percent of the voting power of all outstanding stock of the corporation, and

"(ii) there was adequate disclosure to shareholders of all material facts concerning all payments which (but for this paragraph) would be parachute payments with respect to a disqualified individual."

(2) TREATMENT OF REASONABLE COMPENSATION.—Paragraph (4) of section 280G(b) (relating to excess parachute payments reduced to extent taxpayer establishes reasonable compensation) is a nended to read as follows:

"(4) TREATMENT OF AMOUNTS WHICH TAXPAYER ESTABLISHES AS REASONABLE COMPENSATION.—In the case of any payment described in paragraph (2)(A)—

"(A) the amount treated as a parachute payment shall not include the portion of such payment which the taxpayer establishes by clear and convincing evidence is reasonable compensation for personal services to be rendered on or after the date of the change described in paragraph (2)(A)(i), and

"(B) the amount treated as an excess parachute payment shall be reduced by the portion of such payment which the taxpayer establishes by clear and convincing evidence is reasonable compensation for personal services actually rendered before the date of the change described in paragraph (2)(A)(i).

For purposes of subparagraph (B), reasonable compensation for services actually rendered before the date of the change described in paragraph (2)(A)(i) shall be first offset against the base amount."

(3) EXEMPTION FOR PAYMENT UNDER QUALIFIED PLANS.—Subsection (b) of section 280G (defining excess parachute payment) is amended by adding at the end thereof the following new paragraph:

"(6) EXEMPTION FOR PAYMENTS UNDER QUALIFIED PLANS.—Notwithstanding paragraph (2), the term 'parachute payment' shall not include any payment to or from—

"(A) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(B) an annuity plan described in section 403(a), or

"(C) a simplified employee pension (as defined in section 408(k))."

(4) TREATMENT OF AFFILIATED GROUPS.—Subsection (d) of section 280G is amended by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF AFFILIATED GROUPS.—Except as otherwise provided in regulations, all members of the same affiliated group (as defined in section 1504, determined without regard to section 1504(b)) shall be treated as 1 corporation for purposes of this section. Any person who is an officer or any member of such group shall be treated as an officer of such 1 corporation."

(5) LIMITATION ON NUMBER OF INDIVIDUALS TREATED AS HIGHLY COMPENSATED.—Subsection (c) of section 280G (defining disqualified individual) is amended by adding at the end thereof the following new sentence: "For purposes of paragraph (2), the term 'highly-compensated individual' only includes an individual who is (or would be if the individual were an employee) a member of the group consisting of the highest paid 1 percent of the employees of the corporation or, if less, the highest paid 250 employees of the corporation."

(6) EXCLUDED AMOUNTS NOT TAKEN INTO ACCOUNT IN DETERMINING WHETHER THRESHOLD AMOUNT IS MET.—Subparagraph (A) of section 280G(b)(2) (defining parachute payment) is amended by adding at the end thereof the following new sentence:

"For purposes of clause (ii), payments not treated as parachute payments under paragraph (4)(A), (5), or (6) shall not be taken into account."

(7) LIMITATION ON TREATMENT OF PAYMENT PURSUANT TO SECURITIES LAW VIOLATION AS PARACHUTE PAYMENT.—Subparagraph (B) of section 280G(b)(2) (defining parachute payments) is amended to read as follows:

"(B) AGREEMENTS.—The term 'parachute payment' shall also include any payment in the nature of compensation to (or for the benefit of) a disqualified individual if such payment is made pursuant to an agreement which violates any generally enforced securities laws or regulations. In any proceeding involving the issue of whether any payment made to a disqualified individual is a parachute payment on account of a violation of any generally enforced securities laws or regulations, the burden of proof with respect to establishing the occurrence of a violation of such a law or regulation shall be upon the Secretary."

(8) CLERICAL AMENDMENT.—Paragraph (2) of section 280G(d) (defining base period) is amended by striking out "was an employee of the corporation" and inserting in lieu thereof "performed personal services for the corporation".

(k) AMENDMENTS RELATING TO SECTION 68 OF THE ACT.—

(1) NO DISC PREFERENCE REDUCTION FOR S CORPORATIONS.—Effective with respect to taxable years beginning after December 31, 1982, paragraph (4) of section 291(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1984) is amended by striking out "a corporation" and inserting in lieu thereof "a C corporation".

(2) CLARIFICATION OF EFFECTIVE DATES.—

(A) Paragraph (2) of section 68(e) of the Tax Reform Act of 1984 (relating to section 1250 gain) is amended by striking out "of the Internal Revenue Code of 1954" and inserting in lieu thereof "of the Internal Revenue Code of 1954, and the amendment made by subsection (c)(2) of this section,".

(B) Paragraph (3) of section 68(e) of the Tax Reform Act of 1984 (relating to pollution control facilities) is amended by striking out "of such Code" and inserting in lieu thereof "of such Code, and so much of the amendment made by subsection (c)(1) of this section as relates to pollution control facilities,".

(3) CLERICAL AMENDMENTS.—

(A) The subsection heading of section 291(a) is amended by striking out "20-PERCENT".

(B) Paragraph (2) of section 68(c) of the Tax Reform Act of 1984 is amended by striking out "section 57(h)" and inserting in lieu thereof "section 57(b)".

(C) Subparagraph (B) of section 57(b)(1) is amended to read as follows:

"(B) IRON ORE AND COAL.—In the case of any item of tax preference of a corporation described in paragraph (8) of subsection (a) (but only to the extent such item is allocable to a deduction for depletion for iron ore and coal, including lignite), only 71.6 percent of the amount of such item of tax preference (determined without regard to this subsection) shall be taken into account as an item of tax preference."

(D) Paragraph (2) of section 57(b) is amended by striking out "85 percent" and inserting in lieu thereof "80 percent".

SEC. 1805. AMENDMENTS RELATED TO PARTNERSHIP PROVISIONS.

(a) AMENDMENTS RELATED TO SECTION 72 OF THE ACT.—

(1) CLARIFICATION THAT CHANGE NEED NOT OCCUR DURING TAXABLE YEAR OF PAYMENT.—

(A) Clause (i) of section 706(d)(2)(A) is amended by striking out "each such item" and inserting in lieu thereof "such item".

(B) Subparagraph (B) of section 706(d)(2) is amended by striking out "which are described in paragraph (1) and".

(2) CLERICAL AMENDMENT.—Clause (i) of section 706(d)(2)(C) (relating to items attributable to periods not within taxable year) is amended by striking out "the first day of such taxable year" and inserting in lieu thereof "the first day of the taxable year".

(b) AMENDMENT RELATED TO SECTION 73 OF THE ACT.—Clause (iii) of section 707(a)(2)(B) (relating to treatment of certain property transfers) is amended by striking out "sale of property" and inserting in lieu thereof "sale or exchange of property".

(c) AMENDMENTS RELATED TO SECTION 75 OF THE ACT.—

(1) LIMITATION ON AMOUNT OF GAIN.—Section 386 (relating to transfers of partnership and trust interests by a corporation) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) LIMITATION ON AMOUNT OF GAIN RECOGNIZED IN CASE OF NON-LIQUIDATING DISTRIBUTIONS.—In the case of any distribution by a corporation to which section 311 applies, the amount of any gain recognized by reason of subsection (a) shall not exceed the amount of the gain which would have been recognized if the partnership interest had been sold. The Secretary may by regulations provide that the amount of such gain shall be computed without regard to any loss attributable to property contributed to the partnership for the principal purpose of recognizing such loss on the distribution."

(2) CLARIFICATION OF SECTION 761(e).—Subsection (e) of section 761 (relating to distributions treated as exchanges) is amended—

(A) by striking out "For purposes of" and inserting in lieu thereof "Except as otherwise provided in regulations, for purposes of",

(B) by striking out "any distribution (not otherwise treated as an exchange)" and inserting in lieu thereof "any distribution of an interest in a partnership (not otherwise treated as an exchange)", and

(C) by striking out "DISTRIBUTIONS" in the subsection heading and inserting in lieu thereof "DISTRIBUTIONS OF PARTNERSHIP INTERESTS".

(d) AMENDMENT RELATED TO SECTION 77 OF THE ACT.—Subparagraph (A) of section 1031(a)(3) (relating to requirement that property be identified) is amended by striking out "before the day" and inserting in lieu thereof "on or before the day".

SEC. 1806. AMENDMENTS RELATED TO TRUST PROVISIONS.

(a) AMENDMENT RELATED TO SECTION 81 OF THE ACT.—Subparagraph (B) of section 643(e)(3), as redesignated by subsection (c) (relating to election to recognize gain), is amended to read as follows:

"(B) ELECTION.—Any election under this paragraph shall apply to all distributions made by the estate or trust during

a taxable year and shall be made on the return of such estate or trust for such taxable year."

(b) TREATMENT OF MULTIPLE TRUSTS.—Subsection (b) of section 82 of the Tax Reform Act of 1984 (relating to treatment of multiple trusts) is amended by inserting before the period at the end thereof the following: "; except that, in the case of a trust which was irrevocable on March 1, 1984, such amendment shall so apply only to that portion of the trust which is attributable to contributions to corpus after March 1, 1984".

(c) CLERICAL AMENDMENTS.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended—

(1) by redesignating the subsection added by section 81 of the Tax Reform Act of 1984 as subsection (e), and

(2) by redesignating the subsection added by section 82 of such Act as subsection (f).

SEC. 1807. AMENDMENTS RELATED TO ACCOUNTING CHANGES.

(a) AMENDMENTS RELATED TO SECTION 91 OF THE ACT.—

(1) CLARIFICATION OF CASH BASIS EXCEPTION TO TAX SHELTER RULE.—

(A) Subparagraph (A) of section 461(i)(2) is amended by striking out "within 90 days after the close of the taxable year" and inserting in lieu thereof "before the close of the 90th day after the close of the taxable year".

(B) The heading for paragraph (2) of section 461(i) is amended by striking out "WITHIN 90 DAYS" and inserting in lieu thereof "ON OR BEFORE THE 90TH DAY".

(2) CLARIFICATION OF COORDINATION WITH SECTION 464.—Subparagraph (A) of section 461(i)(4) (relating to special rules for farming) is amended to read as follows:

"(A) any tax shelter described in paragraph (3)(C) shall be treated as a farming syndicate for purposes of section 464; except that this subparagraph shall not apply for purposes of determining the income of an individual meeting the requirements of section 464(c)(2),".

(3) TREATMENT OF MINING AND SOLID WASTE RECLAMATION AND CLOSING COSTS.—

(A) RESERVE INCREASED BY AMOUNT DEDUCTED.—Paragraph (2) of section 468(a) (relating to establishment of reserves for reclamation and closing costs) is amended by adding at the end thereof the following new subparagraph:

"(D) RESERVE INCREASED BY AMOUNT DEDUCTED.—A reserve shall be increased each taxable year by the amount allowable as a deduction under paragraph (1) for such taxable year which is allocable to such reserve."

(B) EFFECTIVE DATE.—Subsection (g) of section 91 of the Tax Reform Act of 1984 (relating to effective dates) is amended by adding at the end thereof the following new paragraph:

"(4) EFFECTIVE DATE FOR TREATMENT OF MINING AND SOLID WASTE RECLAMATION AND CLOSING COSTS.—Except as otherwise provided in subsection (h), the amendments made by subsection (b) shall take effect on the date of the enactment of this Act with respect to taxable years ending after such date."

(C) CLERICAL AMENDMENT.—Paragraph (1) of section 468(a) is amended by striking out "this subsection" and inserting in lieu thereof "this section".

(4) TREATMENT OF DECOMMISSIONING OF NUCLEAR POWER-PLANT.—

(A) TIME WHEN PAYMENTS DEEMED MADE.—

(i) IN GENERAL.—Section 468A is amended by adding at the end thereof the following new subsection:

"(g) TIME WHEN PAYMENTS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a payment to the Fund on the last day of a taxable year if such payment is made on account of such taxable year and is made within 2½ months after the close of such taxable year."

(ii) TRANSITIONAL RULE.—To the extent provided in regulations prescribed by the Secretary of the Treasury or his delegate, subsection (g) of section 468A of the Internal Revenue Code of 1954 (as added by clause (i)) shall be applied with respect to any payment on account of a taxable year beginning before January 1, 1987, as if it did not contain the requirement that the payment be made within 2½ months after the close of the taxable year. Such regulations may provide that, to the extent such payment to the Fund is made more than 2½ months after the close of the taxable year, any adjustment to the tax attributable to such payment shall not affect the amount of interest payable with respect to periods before the payment is made. Such regulations may provide appropriate adjustments to the deduction allowed under such section 468A for any such taxable year to take into account the fact that the payment to the Fund is made more than 2½ months after the close of the taxable year.

(B) TREATMENT OF AMOUNTS DISTRIBUTED.—Subparagraph (A) of section 468A(c)(1) (relating to inclusion of amount distributed) is amended by striking out "subsection (e)(2)(B)" and inserting in lieu thereof "subsection (e)(4)(B)".

(C) CLARIFICATION OF TAXATION OF FUND.—Paragraph (2) of section 468A(e) (relating to taxation of Fund) is amended to read as follows:

"(2) TAXATION OF FUND.—

"(A) IN GENERAL.—There is hereby imposed on the gross income of the Fund for any taxable year a tax at a rate equal to the highest rate of tax specified in section 11(b), except that—

"(i) there shall not be included in the gross income of the Fund any payment to the Fund with respect to which a deduction is allowable under subsection (a), and

"(ii) there shall be allowed as a deduction to the Fund any amount paid by the Fund which is described in paragraph (4)(B) (other than an amount paid to the taxpayer) and which would be deductible under this chapter for purposes of determining the taxable income of a corporation.

"(B) TAX IN LIEU OF OTHER TAXATION.—The tax imposed by subparagraph (A) shall be in lieu of any other taxation under this subtitle of the income from assets in the Fund.

"(C) FUND TREATED AS CORPORATION.—For purposes of subtitle F—

"(i) the Fund shall be treated as if it were a corporation, and

"(ii) any tax imposed by this paragraph shall be treated as a tax imposed by section 11."

(D) LIMITATION ON INVESTMENTS.—Paragraph (4) of section 468A(e) is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(C) to the extent that a portion of the Fund is not currently needed for purposes described in subparagraph (A) or (B), making investments described in section 501(c)(21)(B)(ii)."

(E) CLERICAL AMENDMENTS.—

(i) Subsection (a) of section 468A is amended by striking out "this subsection" and inserting in lieu thereof "this section".

(ii) Subsection (d) of section 468A is amended by striking out "this subsection" in the material preceding paragraph (1) and inserting in lieu thereof "this section".

(iii) The subsection heading for subsection (e) of section 468A is amended by striking out "TRUST FUND" and inserting in lieu thereof "RESERVE FUND".

(iv) Paragraph (1) of section 468A(e) is amended—

(I) by striking out "this subsection" and inserting in lieu thereof "this section", and

(II) by striking out "Trust Fund" and inserting in lieu thereof "Reserve Fund".

(v) Paragraph (6) of section 468A(e) is amended—

(I) by striking out "this subsection" each place it appears and inserting in lieu thereof "this section", and

(II) by striking out "this subparagraph" and inserting in lieu thereof "this paragraph".

(vi) Subsection (f) of section 468A is amended by striking out "The term" and inserting in lieu thereof "For purposes of this section, the term".

(vii) Section 88 is amended by striking out "of ratemaking purposes" and inserting in lieu thereof "for ratemaking purposes".

(F) EFFECTIVE DATE.—Subsection (g) of section 91 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new paragraph:

"(5) RULES FOR NUCLEAR DECOMMISSIONING COSTS.—The amendments made by subsections (c) and (f) shall take effect on the date of the enactment of this Act with respect to taxable years ending after such date."

(5) EFFECTIVE DATE FOR NET OPERATING LOSS PROVISIONS.—Subsection (g) of section 91 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new paragraph:

"(6) MODIFICATION OF NET OPERATING LOSS CARRYBACK PERIOD.—The amendments made by subsection (d) shall apply to losses for taxable years beginning after December 31, 1983."

(6) CLARIFICATION OF ELECTION FOR EARLIER EFFECTIVE DATE.—Subparagraph (A) of section 91(g)(2) of the Tax Reform Act of 1984 (relating to taxpayer may elect earlier application) is amended—

(A) by striking out "incurred before" and inserting in lieu thereof "incurred on or before",

(B) by striking out "incurred on or after" and inserting in lieu thereof "incurred after", and

(C) by adding at the end thereof the following new sentence:

"The Secretary of the Treasury or his delegate may by regulations provide that (in lieu of an election under the preceding sentence) a taxpayer may (subject to such conditions as such regulations may provide) elect to have subsection (h) of section 461 of such Code apply to the taxpayer's entire taxable year in which occurs July 19, 1984."

(7) SPECIAL RULES FOR DESIGNATED SETTLEMENT FUNDS.—

(A) IN GENERAL.—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deduction taken) is amended by adding at the end thereof the following new section:

"SEC. 468B. SPECIAL RULES FOR DESIGNATED SETTLEMENT FUNDS.

"(a) IN GENERAL.—For purposes of section 461(h), economic performance shall be deemed to occur as qualified payments are made by the taxpayer to a designated settlement fund.

"(b) TAXATION OF DESIGNATED SETTLEMENT FUND.—

"(1) IN GENERAL.—There is imposed on the gross income of any designated settlement fund for any taxable year a tax at a rate equal to the maximum rate in effect for such taxable year under section 1(e).

"(2) CERTAIN EXPENSES ALLOWED.—For purposes of paragraph (1), gross income for any taxable year shall be reduced by the amount of any administrative costs (including State and local taxes) and other incidental expenses of the designated settlement fund (including legal, accounting, and actuarial expenses)—

"(A) which are incurred in connection with the operation of the fund, and

"(B) which would be deductible under this chapter for purposes of determining the taxable income of the corporation,

no other deduction shall be allowed to the fund.

"(3) TRANSFERS TO THE FUND.—In the case of any qualified payment made to the fund—

"(A) the amount of such payment shall not be treated as income of the designated settlement fund,

"(B) the basis of the fund in any property which constitutes a qualified payment shall be equal to the fair market value of such property at the time of payment, and

"(C) the fund shall be treated as the owner of the property in the fund (and any earnings thereon).

"(4) TAX IN LIEU OF OTHER TAXATION.—The tax imposed by paragraph (1) shall be in lieu of any other taxation under this subtitle of income from assets in the designated settlement fund.

"(5) COORDINATION WITH SUBTITLE F.—For purposes of subtitle F—

"(A) a designated settlement fund shall be treated as a corporation, and

"(B) any tax imposed by this subsection shall be treated as a tax imposed by section 11.

"(c) DEDUCTIONS NOT ALLOWED FOR TRANSFER OF INSURANCE AMOUNTS.—No deduction shall be allowable for any qualified payment by the taxpayer of any amounts received from the settlement of any insurance claim to the extent such amounts are excluded from the gross income of the taxpayer.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED PAYMENT.—The term 'qualified payment' means any money or property which is transferred to any designated settlement fund pursuant to a court order, other than—

"(A) any amount which may be transferred from the fund to the taxpayer, or

"(B) the transfer of any stock or indebtedness of the taxpayer (or any related person).

"(2) DESIGNATED SETTLEMENT FUND.—The term 'designated settlement fund' means any fund—

"(A) which is established pursuant to a court order,

"(B) with respect to which no amounts may be transferred other than in the form of qualified payments,

"(C) which is administered by persons a majority of whom are independent of the taxpayer,

"(D) which is established for the principal purpose of resolving and satisfying present and future claims against the taxpayer (or any related person or formerly related person) arising out of personal injury, death, or property damage,

"(E) under the terms of which the taxpayer may not hold any beneficial interest in the income or corpus of the fund, and

"(F) with respect to which an election is made under this section by the taxpayer.

An election under this section shall be made at such time and in such manner as the Secretary shall by regulation prescribe. Such an election, once made, may be revoked only with the consent of the Secretary.

"(3) RELATED PERSON.—The term 'related person' means a person related to the taxpayer within the meaning of section 267(b).

"(e) NONAPPLICABILITY OF SECTION.—This section shall not apply with respect to any liability of the taxpayer arising under any workers' compensation Act or any contested liability of the taxpayer within the meaning of section 461(f).

"(f) OTHER FUNDS.—Except as provided in regulations, any payment in respect of a liability described in subsection (d)(2)(D) (and not described in subsection (e)) to a trust fund or escrow fund which is not a designated settlement fund shall not be treated as constituting economic performance."

(B) CLERICAL AMENDMENT.—The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by adding after the item relating to section 468A the following new item:

"Sec. 468B. Special rules for designated settlement funds."

(C) SPECIAL RULE FOR TAXPAYER IN BANKRUPTCY REORGANIZATION.—In the case of any settlement fund which is established for claimants against a corporation which filed a petition for reorganization under chapter 11 of title 11, United States Code, on August 26, 1982, and which filed with a United States district court a first amended and restated plan of reorganization before March 1, 1986—

(i) any portion of such fund which meets the requirements of subparagraphs (A), (C), (D), and (F) of section 468B(d)(2) of the Internal Revenue Code of 1954 (as added by this paragraph) shall be treated as a designated settlement fund for purposes of section 468B of such Code,

(ii) such corporation (or any successor thereof) shall be liable for the tax imposed by section 468B of such Code on such portion of the fund (and the fund shall not be liable for such tax), such tax shall be deductible by the corporation, and the rate of tax under section 468B of such Code for any taxable year shall be equal to 15 percent, and

(iii) any transaction by any portion of the fund not described in clause (i) shall be treated as a transaction made by the corporation.

(D) CLARIFICATION OF LAW WITH RESPECT TO CERTAIN FUNDS.—

(i) IN GENERAL.—Nothing in any provision of law shall be construed as providing that an escrow account, settlement fund, or similar fund is not subject to current income tax. If contributions to such an account or fund are not deductible, then the account or fund shall be taxed as a grantor trust.

(ii) EFFECTIVE DATE.—The provisions of clause (i) shall apply to accounts or funds established after August 16, 1986.

(8) TRANSITIONAL RULE FOR CERTAIN AMOUNTS.—For purposes of section 461(h) of the Internal Revenue Code of 1954, economic performance shall be treated as occurring on the date of a payment to an insurance company if—

(A) such payment was made before November 23, 1985, for indemnification against a tort liability relating to personal injury or death caused by inhalation or ingestion of dust from asbestos-containing insulation products,

(B) such insurance company is unrelated to taxpayer,

(C) such payment is not refundable, and

(D) the taxpayer is not engaged in the mining of asbestos nor is any member of any affiliated group which includes the taxpayer so engaged.

(b) AMENDMENTS RELATED TO SECTION 92 OF THE ACT.—

(1) TREATMENT OF SERVICES.—Subsection (g) of section 467 (relating to comparable rules for services) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any amount to which section 404 or 404A (or any other provision specified in regulations) applies."

(2) CLERICAL AMENDMENTS.—

(A) Subparagraph (A) of section 467(b)(4) is amended by striking out "statutory recover period" and inserting in lieu thereof "statutory recovery period".

(B) Paragraph (4) of section 467(c) is amended by striking out "subsection (b)(3)(A)" and inserting in lieu thereof "subsection (b)(4)(A)".

(C) The last sentence of section 467(d)(2) is amended by striking out "section 1274(c)(2)(C)" and inserting in lieu thereof "section 1274(c)(4)(C)".

(D) Paragraph (5) of section 467(e) is amended by striking out "section 168(d)(4)(D)" and inserting in lieu thereof "section 168(e)(4)(D)".

(c) TRANSITION RULE.—A taxpayer shall be allowed to use the cash receipts and disbursements method of accounting for taxable years ending after January 1, 1982, if such taxpayer—

(1) is a partnership which was founded in 1936,

(2) has over 1,000 professional employees,

(3) used a long-term contract method of accounting for a substantial part of its income from the performance of architectural and engineering services, and

(4) is headquartered in Chicago, Illinois.

SEC. 1808. AMENDMENTS RELATED TO TAX STRADDLE PROVISIONS.

(a) TREATMENT OF SUBCHAPTER S CORPORATIONS.—

(1) Section 102 of the Tax Reform Act of 1984 (relating to section 1256 extended to certain options) is amended by adding at the end thereof the following new subsection:

"(j) COORDINATION OF ELECTION UNDER SUBSECTION (d)(3) WITH ELECTIONS UNDER SUBSECTIONS (g) AND (h).—The Secretary of the Treasury or his delegate shall prescribe such regulations as may be necessary to coordinate the election provided by subsection (d)(3) with the elections provided by subsections (g) and (h)."

(2) Paragraph (3) of section 102(d) of the Tax Reform Act of 1984 (relating to subchapter S election) is amended by striking out "(as so defined)" and inserting in lieu thereof "(as so defined) or such other day as may be permitted under regulations".

(b) TREATMENT OF AMOUNTS RECEIVED FOR LOANING SECURITIES.—Subparagraph (B) of section 263(g)(2) (defining interest and carrying charges) is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and by inserting after clause (iii) the following new clause:

"(iv) any amount which is a payment with respect to a security loan (within the meaning of section 512(a)(5)) includible in gross income with respect to such property for the taxable year."

(c) TREATMENT OF OPTION STRADDLES.—Subparagraph (A) of section 1092(d)(3) (relating to special rules for stocks) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any interest in stock."

(d) SECTION 108.—Section 108 of the Tax Reform Act of 1984 is amended—

(1) by striking out "if such position is part of a transaction entered into for profit" and inserting in lieu thereof "if such loss is incurred in a trade or business, or if such loss is incurred

in a transaction entered into for profit though not connected with a trade or business",

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) LOSS INCURRED IN A TRADE OR BUSINESS.—For purposes of subsection (a), any loss incurred by a commodities dealer in the trading of commodities shall be treated as a loss incurred in a trade or business.",

(3) by striking out the heading for subsection (c) and inserting in lieu thereof the following:

"(c) NET LOSS ALLOWED.—",

(4) by striking out subsection (f) and inserting in lieu thereof the following:

"(f) COMMODITIES DEALER.—For purposes of this section, the term 'commodities dealer' means any taxpayer who—

"(1) at any time before January 1, 1982, was an individual described in section 1402(i)(2)(B) of the Internal Revenue Code of 1954 (as added by this subtitle), or

"(2) was a member of the family (within the meaning of section 704(e)(3) of such Code) of an individual described in paragraph (1) to the extent such member engaged in commodities trading through an organization the members of which consisted solely of—

"(A) 1 or more individuals described in paragraph (1), and

"(B) 1 or more members of the families (as so defined) of such individuals.", and

(4) by striking out subsection (h) and inserting in lieu thereof the following:

"(h) SYNDICATES.—For purposes of this section, any loss incurred by a person (other than a commodities dealer) with respect to an interest in a syndicate (within the meaning of section 1256(e)(3)(B) of the Internal Revenue Code of 1954) shall not be considered to be a loss incurred in a trade or business."

SEC. 1809. AMENDMENTS RELATED TO DEPRECIATION PROVISIONS.

(a) AMENDMENTS RELATED TO SECTION 111 OF THE ACT.—

(1) 15-YEAR STRAIGHT LINE ELECTION FOR LOW-INCOME HOUSING.—The table contained in subparagraph (A) of section 168(b)(3) (relating to election of different recovery percentage) is amended—

(A) by striking out "and low-income housing" in the last item, and

(B) by adding at the end thereof the following new item:

"Low-income housing ..... 15, 35, or 45 years."

(2) USE OF CONVENTIONS.—

(A) MID-MONTH CONVENTION FOR 19-YEAR REAL PROPERTY.—

(i) Paragraph (2) of section 168(b) (relating to 19-year real property) is amended—

(I) by striking out the last sentence of subparagraph (A), and

(II) by amending subparagraph (B) to read as follows:

"(B) MID-MONTH CONVENTION FOR 19-YEAR REAL PROPERTY.—In the case of 19-year real property, the amount of the deduction determined under any provision of this section (or for purposes of section 57(a)(12)(B) or 312(k)) for any taxable year shall be determined on the basis of the number of months (using a mid-month convention) in which the property is in service."

(ii) Subparagraph (B) of section 168(f)(2) (relating to recovery property used predominantly outside the United States) is amended to read as follows:

"(B) REAL PROPERTY.—Except as provided in subparagraph (C), in the case of 19-year real property or low-income housing which, during the taxable year, is predominantly used outside the United States, the recovery deduction for the taxable year shall be, in lieu of the amount determined under subsection (b), the amount determined by applying to the unadjusted basis of such property the applicable percentage determined under tables prescribed by the Secretary. For purposes of the preceding sentence, in prescribing such tables, the Secretary shall—

"(i) assign to the property described in this subparagraph a 35-year recovery period, and

"(ii) assign percentages determined in accordance with the use of the method of depreciation described in section 167(j)(1)(B), switching to the method described in section 167(b)(1) at a time to maximize the deduction allowable under subsection (a)."

(B) MONTHLY CONVENTION FOR LOW-INCOME HOUSING.—Subparagraph (B) of section 168(b)(4) (relating to low-income housing) is amended to read as follows:

"(B) MONTHLY CONVENTION.—In the case of low-income housing, the amount of the deduction determined under any provision of this section (or for purposes of section 57(a)(12)(B) or 312(k)) for any taxable year shall be determined on the basis of the number of months (treating all property placed in service or disposed of during any month as placed in service or disposed of on the first day of such month) in which the property is in service."

(C) CONFORMING AMENDMENTS.—

(i) Effective on and after the date of the enactment of this Act, clause (ii) of section 168(j)(2)(B) (relating to conventions) is amended to read as follows:

"(ii) CROSS REFERENCE.—

"For other applicable conventions, see paragraphs (2)(B) and (4)(B) of subsection (b)."

(ii) Subparagraph (A) of section 312(k)(3) is amended by striking out ", and rules similar to the rules under the next to the last sentence of section 168(b)(2)(A) and section 168(b)(2)(B) shall apply".

(3) MINIMUM TAX TREATMENT.—Subparagraph (B) of section 57(a)(12) (relating to 19-year real property and low-income housing) is amended by striking out so much of such subparagraph as precedes clause (i) thereof and inserting in lieu thereof the following:

"(B) 19-YEAR REAL PROPERTY AND LOW-INCOME HOUSING.—With respect to each recovery property which is 19-year

real property or low-income housing, the amount (if any) by which the deduction allowed under section 168(a) (or, in the case of property described in section 167(k), under section 167) for the taxable year exceeds the deduction which would have been allowable for the taxable year had the property been depreciated using a straight-line method (without regard to salvage value) over a recovery period of—".

(4) TREATMENT OF PROPERTY FINANCED WITH TAX-EXEMPT BONDS.—

(A) Clause (ii) of section 168(f)(12)(B) (relating to recovery method) is amended to read as follows:

"(ii) 19-YEAR REAL PROPERTY.—In the case of 19-year real property, the amount of the deduction allowed shall be determined by using the straight-line method (without regard to salvage value) and a recovery period of 19 years."

(B) Subparagraph (C) of section 168(f)(12) (relating to exception for projects for residential rental property) is amended to read as follows:

"(C) EXCEPTION FOR LOW- AND MODERATE-INCOME HOUSING.—Subparagraph (A) shall not apply to—

"(i) any low-income housing, and

"(ii) any other recovery property which is placed in service in connection with projects for residential rental property financed by the proceeds of obligations described in section 103(b)(4)(A)."

(C) Any property described in paragraph (3) of section 631(d) of the Tax Reform Act of 1984 shall be treated as property described in clause (ii) of section 168(f)(12)(C) of the Internal Revenue Code of 1954 as amended by subparagraph (B).

(5) COORDINATION WITH IMPUTED INTEREST CHANGES.—In the case of any property placed in service before May 9, 1985 (or treated as placed in service before such date by section 105(b)(3) of Public Law 99-121)—

(A) any reference in any amendment made by this subsection to 19-year real property shall be treated as a reference to 18-year real property, and

(B) section 168(f)(12)(B)(ii) of the Internal Revenue Code of 1954 (as amended by paragraph (4)(A)) shall be applied by substituting "18 years" for "19 years".

(b) TREATMENT OF TRANSFEREE IN CERTAIN TRANSACTIONS.—

(1) IN GENERAL.—Subparagraph (A) of section 168(f)(10) (relating to transferee bound by transferor's period and method in certain cases) is amended to read as follows:

"(A) IN GENERAL.—In the case of recovery property transferred in a transaction described in subparagraph (B), for purposes of computing the deduction allowable under subsection (a) with respect to so much of the basis in the hands of the transferee as does not exceed the adjusted basis in the hands of the transferor—

"(i) if the transaction is described in subparagraph (B)(i), the transferee shall be treated in the same manner as the transferor, or

"(ii) if the transaction is described in clause (ii) or (iii) of subparagraph (B) and the transferor made an election with respect to such property under subsection

(b)(3) or (f)(2)(C), the transferee shall be treated as having made the same election (or its equivalent)."

(2) TREATMENT OF TERMINATIONS OF PARTNERSHIPS.—Subparagraph (B) of section 168(f)(10) is amended by adding at the end thereof the following new sentence:

"Clause (i) shall not apply in the case of the termination of a partnership under section 708(b)(1)(B)."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service by the transferee after December 31, 1985, in taxable years ending after such date.

(c) AMENDMENT RELATED TO SECTION 112 OF THE ACT.—Paragraph (2) of section 453(i) (defining recapture income) is amended by striking out "section 1245 or 1250" and inserting in lieu thereof "section 1245 or 1250 (or so much of section 751 as relates to section 1245 or 1250)".

(d) AMENDMENTS RELATED TO SECTION 113 OF THE ACT.—

(1) TREATMENT OF FILMS, VIDEO TAPES, AND SOUND RECORDINGS.—Except with respect to property placed in service by the taxpayer on or before March 28, 1985, subsection (c) of section 167 (relating to limitations on use of certain methods and rates) is amended by adding at the end thereof the following new sentence:

"Paragraphs (2), (3), and (4) of subsection (b) shall not apply to any motion picture film, video tape, or sound recording."

(2) CLERICAL AMENDMENT.—Subsection (q) of section 48 is amended by redesignating the paragraph relating to special rule for qualified films as paragraph (7).

(e) AMENDMENTS RELATED TO SECTION 114 OF THE ACT.—

(1) Paragraph (1) of section 48(b) (defining new section 38 property) is amended by adding at the end thereof the following new sentence: "Such term includes any section 38 property the reconstruction of which is completed by the taxpayer, but only with respect to that portion of the basis which is properly attributable to such reconstruction."

(2) Paragraph (2) of section 48(b) (relating to special rule for sale-leasebacks) is amended—

(A) by striking out "paragraph (1)" and inserting in lieu thereof "the first sentence of paragraph (1)",

(B) by striking out "used under the lease" and inserting in lieu thereof "used under the leaseback (or lease) referred to in subparagraph (B)",

(C) by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any property if the lessee and lessor of such property make an election under this sentence. Such an election, once made, may be revoked only with the consent of the Secretary.", and

(D) by striking out "3 months of" in subparagraph (B) and inserting in lieu thereof "3 months after".

SEC. 1810. AMENDMENTS RELATED TO FOREIGN PROVISIONS.

(a) AMENDMENTS RELATED TO SECTION 121 OF THE ACT.—

(1) TREATMENT OF CERTAIN DOMESTIC CORPORATIONS.—

(A) IN GENERAL.—Subsection (g) of section 904 (relating to source rules in the case of United States-owned foreign corporations) is amended by redesignating paragraph (9) as

paragraph (10), and by inserting after paragraph (8) the following new paragraph:

"(9) TREATMENT OF CERTAIN DOMESTIC CORPORATIONS.—For purposes of this subsection—

"(A) in the case of interest treated as not from sources within the United States under section 861(a)(1)(B), the corporation paying such interest shall be treated as a United States-owned foreign corporation, and

"(B) in the case of any dividend treated as not from sources within the United States under section 861(a)(2)(A), the corporation paying such dividend shall be treated as a United States-owned foreign corporation."

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect on March 28, 1985. In the case of any taxable year ending after such date of any corporation treated as a United States-owned foreign corporation by reason of the amendment made by subparagraph (A)—

(i) only income received or accrued by such corporation after such date shall be taken into account under section 904(g) of the Internal Revenue Code of 1954; except that

(ii) paragraph (5) of such section 904(g) shall be applied by taking into account all income received or accrued by such corporation during such taxable year.

(2) TREATMENT OF CERTAIN FOREIGN CORPORATIONS ENGAGED IN TRADE OR BUSINESSES WITHIN THE UNITED STATES.—Subparagraph (E) of section 121(b)(2) of the Tax Reform Act of 1984 (relating to special rules for applicable CFC) is amended by adding at the end thereof the following new clause:

"(iii) TREATMENT OF CERTAIN FOREIGN CORPORATIONS ENGAGED IN BUSINESS IN UNITED STATES.—For purposes of clause (ii), a foreign corporation shall be treated as a United States person with respect to any interest payment made by such corporation if—

"(I) at least 50 percent of the gross income from all sources of such corporation for the 3-year period ending with the close of its last taxable year ending on or before March 31, 1984, was effectively connected with the conduct of a trade or business within the United States, and

"(II) at least 50 percent of the gross income from all sources of such corporation for the 3-year period ending with the close of its taxable year preceding the payment of such interest was effectively connected with the conduct of a trade or business within the United States."

(3) TREATMENT OF CERTAIN SHORT-TERM BORROWING.—Clause (ii) of section 121(b)(2)(D) of the Tax Reform Act of 1984 (defining applicable CFC) is amended by striking out "or the holding of short-term obligations" and all that follows and inserting in lieu thereof "(or short-term borrowing from nonaffiliated persons) and lending the proceeds of such obligations (or such borrowing) to affiliates."

(4) COORDINATION WITH TREATY OBLIGATIONS.—Section 904(g) of the Internal Revenue Code of 1954 shall apply notwithstanding any treaty obligation of the United States to the contrary (whether entered into on, before, or after the date of the enact-

ment of this Act) unless (in the case of a treaty entered into after the date of the enactment of this Act) such treaty by specific reference to such section 904(g) clearly expresses the intent to override the provisions of such section.

(5) TRANSITIONAL RULE RELATED TO SECTION 125(b)(5) OF THE ACT.—For purposes of section 125(b)(5) of the Tax Reform Act of 1984 (relating to separate application of section 904 in case of income covered by transitional rules), any carryover under section 904(c) of the Internal Revenue Code of 1954 allowed to a taxpayer which was incorporated on August 31, 1962, attributable to taxes paid or accrued in taxable years beginning in 1981, 1982, 1983, or 1984, with respect to amounts included in gross income under section 951 of such Code in respect of a controlled foreign corporation which was incorporated on May 27, 1977, shall be treated as taxes paid or accrued on income separately treated under such section 125(b)(5).

(b) AMENDMENTS RELATED TO SECTION 122 OF THE ACT.—

(1) TREATMENT OF SUBPART F AND FOREIGN PERSONAL HOLDING COMPANY INCLUSIONS.—Subparagraph (C) of section 904(d)(3) (relating to exception where designated corporation has small amount of separate limitation interest) is amended by adding at the end thereof the following new sentence:

"The preceding sentence shall not apply to any amount includible in gross income under section 551 or 951."

(2) TREATMENT OF INTEREST AND DIVIDENDS FROM MEMBERS OF SAME AFFILIATED GROUP.—Paragraph (3) of section 904(d) (relating to certain amounts attributable to United States-owned foreign corporations, etc., treated as interest) is amended by striking out subparagraph (J), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

"(I) INTEREST AND DIVIDENDS FROM MEMBERS OF SAME AFFILIATED GROUP.—For purposes of this paragraph, dividends and interest received or accrued by the designated payor corporation from another member of the same affiliated group (determined under section 1504 without regard to subsection (b)(3) thereof) shall be treated as separate limitation interest if (and only if) such amounts are attributable (directly or indirectly) to separate limitation interest of any other member of such group."

(3) TREATMENT OF INTEREST FROM DESIGNATED PAYOR CORPORATION.—Paragraph (2) of section 904(d) is amended by inserting at the end thereof the following: "For purposes of this subsection, interest (after the operation of section 904(d)(3)) received from a designated payor corporation described in section 904(d)(3)(E)(iii) by a taxpayer which owns directly or indirectly less than 10 percent of the voting stock of such designated payor corporation shall be treated as interest described in subparagraph (A) to the extent such interest would have been so treated had such taxpayer received it from other than a designated payor corporation."

(4) DEFINITION OF DESIGNATED PAYOR CORPORATION.—

(A) IN GENERAL.—Subparagraph (E) of section 904(d)(3) (defining designated payor corporation) is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and by adding at the end thereof the following:

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"(iv) any other corporation formed or availed of for purposes of avoiding the provisions of this paragraph.

For purposes of this paragraph, the rules of paragraph (9) of subsection (g) shall apply."

(B) EFFECTIVE DATES.—

(i) The amendment made by subparagraph (A) insofar as it adds the last sentence to subparagraph (E) of section 905(d)(3) shall take effect on March 28, 1985. In the case of any taxable year ending after such date of any corporation treated as a designated payor corporation by reason of the amendment made by subparagraph (A)—

(I) only income received or accrued by such corporation after such date shall be taken into account under section 904(d)(3) of the Internal Revenue Code of 1954; except that

(II) subparagraph (C) of such section 904(d)(3) shall be applied by taking into account all income received or accrued by such corporation during such taxable year.

(ii) The amendment made by subparagraph (A) insofar as it adds clause (iv) to subparagraph (E) of section 904(d)(3) shall take effect on December 31, 1985. For purposes of such amendment, the rule of the second sentence of clause (i) shall be applied by taking into account December 31, 1985, in lieu of March 28, 1985.

(c) AMENDMENTS RELATED TO SECTION 123 OF THE ACT.—

(1) Subparagraph (A) of section 956(b)(3) (relating to certain trade or service receivables acquired from related United States persons) is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (2) (other than subparagraph (H) thereof)".

(2) Subsection (d) of section 864 (relating to treatment of related person factoring income) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) EXCEPTION FOR CERTAIN RELATED PERSONS DOING BUSINESS IN SAME FOREIGN COUNTRY.—Paragraph (1) shall not apply to any trade or service receivable acquired by any person from a related person if—

"(A) the person acquiring such receivable and such related person are created or organized under the laws of the same foreign country and such related person has a substantial part of its assets used in its trade or business located in such same foreign country, and

"(B) such related person would not have derived any foreign base company income (as defined in section 954(a), determined without regard to section 954(b)(3)(A)), or any income effectively connected with the conduct of a trade or business within the United States, from such receivable if it had been collected by such related person."

(3) Clause (i) of section 864(d)(5)(A) (relating to certain provisions not to apply) is amended by inserting before the period at the end thereof the following: "and subparagraph (J) of section 904(d)(3) (relating to interest from members of same affiliated group)".

(d) AMENDMENTS RELATED TO SECTION 127 OF THE ACT.—

(1) DEFINITION OF PORTFOLIO INTEREST.—

(A) Paragraph (2) of section 871(h) (defining portfolio interest) is amended by striking out "which is described in" in the matter preceding subparagraph (A) and inserting in lieu thereof "which would be subject to tax under subsection (a) but for this subsection and which is described in".

(B) Paragraph (2) of section 881(c) (defining portfolio interest) is amended by striking out "which is described in" in the matter preceding subparagraph (A) and inserting in lieu thereof "which would be subject to tax under subsection (a) but for this subsection and which is described in".

(2) ATTRIBUTION OF SHAREHOLDER STOCK TO CORPORATION.—Subparagraph (C) of section 871(h)(3) (relating to portfolio interest not to include interest received by 10-percent shareholders) is amended by striking out "and" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) section 318(a)(3)(C) shall be applied—

"(I) without regard to the 50-percent limitation therein; and

"(II) in any case where such section would not apply but for subclause (I), by considering a corporation as owning the stock (other than stock in such corporation) which is owned by or for any shareholder of such corporation in that proportion which the value of the stock which such shareholder owns in such corporation bears to the value of all stock in such corporation, and".

(3) CLERICAL AMENDMENTS.—

(A) Paragraph (1) of section 871(a) is amended by striking out "provided in subsection (i)" in the matter preceding subparagraph (A), and inserting in lieu thereof "provided in subsection (h)".

(B) Clause (ii) of section 871(h)(2)(B) is amended by striking out "has received" and inserting in lieu thereof "receives".

(C) Clause (ii) of section 881(c)(2)(B) is amended by striking out "has received" and inserting in lieu thereof "receives".

(D) Paragraph (9) of section 1441(c) is amended by striking out "871(h)(2)" and inserting in lieu thereof "section 871(h)".

(E) Subsection (a) of section 1442 is amended—

(i) by striking out "sections 871(h)(2)" and inserting in lieu thereof "sections 871(h)",

(ii) by striking out "sections 881(c)(2)" and inserting in lieu thereof "sections 881(c)", and

(iii) by striking out "section 1449(c)(9)" and inserting in lieu thereof "section 1441(c)(9)".

(e) AMENDMENTS RELATED TO SECTION 128 OF THE ACT.—

(1) DEDUCTION FOR ORIGINAL ISSUE DISCOUNT.—

(A) Subparagraph (A) of section 163(e)(3) (relating to special rule for original issue discount on obligation held by related foreign person) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to the extent that the original issue

discount is effectively connected with the conduct by such foreign related person of a trade or business within the United States unless such original issue discount is exempt from taxation (or is subject to a reduced rate of tax) pursuant to a treaty obligation of the United States."

(B) Subsection (e) of section 163 is amended by redesignating the paragraph relating to cross references as paragraph (5).

(2) TAXATION OF ORIGINAL ISSUE DISCOUNT.—

(A) Subparagraph (C) of section 871(a)(1) (relating to income not connected with United States business) is amended to read as follows:

"(C) in the case of—

"(i) a sale or exchange of an original issue discount obligation, the amount of the original issue discount accruing while such obligation was held by the nonresident alien individual (to the extent such discount was not theretofore taken into account under clause (ii)), and

"(ii) a payment on an original issue discount obligation, an amount equal to the original issue discount accruing while such obligation was held by the nonresident alien individual (except that such original issue discount shall be taken into account under this clause only to the extent such discount was not theretofore taken into account under this clause and only to the extent that the tax thereon does not exceed the payment less the tax imposed by subparagraph (A) thereon), and".

(B) Paragraph (3) of section 881(a) (relating to tax on income of foreign corporations not connected with United States business) is amended to read as follows:

"(3) in the case of—

"(A) a sale or exchange of an original issue discount obligation, the amount of the original issue discount accruing while such obligation was held by the foreign corporation (to the extent such discount was not theretofore taken into account under subparagraph (B)), and

"(B) a payment on an original issue discount obligation, an amount equal to the original issue discount accruing while such obligation was held by the foreign corporation (except that such original issue discount shall be taken into account under this subparagraph only to the extent such discount was not theretofore taken into account under this subparagraph and only to the extent that the tax thereon does not exceed the payment less the tax imposed by paragraph (1) thereon), and".

(f) AMENDMENTS RELATED TO SECTION 129 OF THE ACT.—

(1) TREATMENT OF ELECTIONS UNDER SECTION 897(i).—

(A) Paragraph (1) of section 897(i) (relating to election by foreign corporation to be treated as domestic corporation) is amended by striking out "and section 6039C" and inserting in lieu thereof ", section 1445, and section 6039C".

(B) Paragraph (4) of section 897(i) is amended by striking out "this section and section 6039C" and inserting in lieu thereof "this section, section 1445, and section 6039C".

(2) EXEMPTION FOR INTERESTS IN CERTAIN CORPORATIONS.—Paragraph (3) of section 1445(b) (relating to nonpublicly traded domestic corporation furnishing affidavit that it is not a United States real property holding corporation) is amended to read as follows:

"(3) NONPUBLICLY TRADED DOMESTIC CORPORATION FURNISHES AFFIDAVIT THAT INTERESTS IN CORPORATION NOT UNITED STATES REAL PROPERTY INTERESTS.—Except as provided in paragraph (7), this paragraph applies in the case of a disposition of any interest in any domestic corporation if the domestic corporation furnishes to the transferee an affidavit by the domestic corporation stating, under penalty of perjury, that—

"(A) the domestic corporation is not and has not been a United States real property holding corporation (as defined in section 897(c)(2)) during the applicable period specified in section 897(c)(1)(A)(ii), or

"(B) as of the date of the disposition, interests in such corporation are not United States real property interests by reason of section 897(c)(1)(B)."

(3) NOTICE OF FALSE AFFIDAVIT.—

(A) Clause (i) of section 1445(d)(1)(B) (relating to notice of false affidavit; foreign corporations) is amended to read as follows:

"(i) any transferor's agent—

"(I) such agent has actual knowledge that such affidavit is false, or

"(II) in the case of an affidavit described in subsection (b)(2) furnished by a corporation, such corporation is a foreign corporation, or".

(B) Paragraph (1) of section 1445(d) is amended by striking out "described in paragraph (2)(A)" and inserting in lieu thereof "described in paragraph (2)".

(4) TREATMENT OF CERTAIN DOMESTIC PARTNERSHIPS, TRUSTS, AND ESTATES.—

(A) IN GENERAL.—Paragraph (1) of section 1445(e) (relating to certain domestic partnerships, trusts, and estates) is amended to read as follows:

"(1) CERTAIN DOMESTIC PARTNERSHIPS, TRUSTS, AND ESTATES.—In the case of any disposition of a United States real property interest as defined in section 897(c) (other than a disposition described in paragraph (4) or (5)) by a domestic partnership, domestic trust, or domestic estate, such partnership, the trustee of such trust, or the executor of such estate (as the case may be) shall be required to deduct and withhold under subsection (a) a tax equal to 28 percent of the gain realized to the extent such gain—

"(A) is allocable to a foreign person who is a partner or beneficiary of such partnership, trust, or estate, or

"(B) is allocable to a portion of the trust treated as owned by a foreign person under subpart E of part I of subchapter J."

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to dispositions after the day 30 days after the date of the enactment of this Act.

(5) DISTRIBUTIONS BY DOMESTIC CORPORATIONS TO FOREIGN SHAREHOLDER.—Paragraph (3) of section 1445(e) (relating to distributions by certain domestic corporations to foreign share-

holders) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply if, as of the date of the distribution, interests in such corporation are not United States real property interests by reason of section 897(c)(1)(B)."

(6) CERTAIN TAXABLE DISTRIBUTIONS.—Paragraph (4) of section 1445(e) (relating to taxable distributions by domestic or foreign partnerships, trusts, or estates) is amended by striking out "section 897(g)" and inserting in lieu thereof "section 897".

(7) PAYMENT OF TAX.—Subsection (d) of section 6039C (relating to special rule for United States interests and Virgin Islands interests) is amended by striking out "subject to tax under section 897(a)" and inserting in lieu thereof "subject to tax under section 897(a) (and any person required to withhold tax under section 1445)".

(8) PAYMENTS THROUGH 1 OR MORE ENTITIES.—Paragraph (6) of section 1445(e) (relating to regulations) is amended by inserting before the period at the end thereof the following: "and regulations for the application of this subsection in the case of payments through 1 or more entities".

(9) CONFORMING AMENDMENTS TO SECTION 6652(g).—

(A) Paragraph (1) of section 6652(g) (relating to returns, etc., required under section 6039C) is amended to read as follows:

"(1) IN GENERAL.—In the case of each failure to make a return required by section 6039C which contains the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, the amount determined under paragraph (2) shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to make such return."

(B) Paragraph (3) of section 6652(g) is amended to read as follows:

"(3) LIMITATION.—The amount determined under paragraph (2) with respect to any person for failing to meet the requirements of section 6039C for any calendar year shall not exceed the lesser of—

"(A) $25,000, or

"(B) 5 percent of the aggregate of the fair market value of the United States real property interests owned by such person at any time during such year.

For purposes of the preceding sentence, fair market value shall be determined as of the end of the calendar year (or, in the case of any property disposed of during the calendar year, as of the date of such disposition)."

(C) The subsection heading for subsection (g) of section 6652 is amended by striking out ", ETC.,".

(g) AMENDMENTS RELATED TO SECTION 131 OF THE ACT.—

(1) Subsection (f) of section 367 (relating to transitional rule) is hereby repealed.

(2) Paragraph (1) of section 7482(b) (relating to venue) is amended by striking out "section 7428, 7476, or 7477" and inserting in lieu thereof "section 7428 or 7476".

(3) Paragraph (8) of section 6501(c) (relating to failure to notify the Secretary under section 6038B) is amended—

(A) by striking out "subsection (a) or (d)" and inserting in lieu thereof "subsection (a), (d), or (e)", and

(B) by striking out "exchange" each place it appears and inserting in lieu thereof "exchange or distribution".

(4)(A) Subsection (a)(1) of section 367 (relating to foreign corporations) is amended by striking out "355,".

(B) Subsection (e) of section 367 (relating to treatment of liquidations under section 336) is amended—

(i) by striking out "described in section 336" and inserting in lieu thereof "described in section 336 or 355 (or so much of section 356 as relates to section 355)", and

(ii) by striking out "LIQUIDATIONS UNDER SECTION 366" in the subsection heading and inserting in lieu thereof "DISTRIBUTIONS DESCRIBED IN SECTION 336 OR 355".

(h) AMENDMENTS RELATED TO SECTION 132 OF THE ACT.—

(1) Subsection (c) of section 552 (relating to certain dividends and interest not taken into account) is amended by adding at the end thereof the following new sentence:

"For purposes of the preceding sentence, the term 'related person' has the meaning given such term by section 954(d)(3) (determined by substituting 'foreign personal holding company' for 'controlled foreign corporation' each place it appears)."

(2) Paragraph (1) of section 551(f) (relating to stock held through foreign entity) is amended by striking out "United States shareholder" and inserting in lieu thereof "United States shareholder or an estate or trust which is a foreign estate or trust".

(i) AMENDMENTS RELATED TO SECTION 133 OF THE ACT.—

(1) Subparagraph (B) of section 1248(i)(1) (relating to treatment of certain indirect transfers) is amended by striking out "in redemption of his stock" and inserting in lieu thereof "in redemption or liquidation (whichever is appropriate)".

(2) Clause (iii) of section 133(d)(3)(B) of the Tax Reform Act of 1984 (relating to amendments related to section 1248) is amended by striking out "180 days after the date of the enactment of this Act" and inserting in lieu thereof "the date which is 1 year after the date of the enactment of the Tax Reform Act of 1985".

(j) AMENDMENTS RELATED TO SECTION 136 OF THE ACT.—

(1) COLLECTION OF TAX.—Subsection (b) of section 269B (relating to stapled entities) is amended by inserting before the period at the end thereof the following: "and regulations providing that any tax imposed on the foreign corporation referred to in subsection (a)(1) may, if not paid by such corporation, be collected from the domestic corporation referred to in such subsection or the shareholders of such foreign corporation".

(2) EXCEPTION WHERE CORPORATIONS OWNED BY FOREIGN PERSONS.—Section 269B is amended by adding at the end thereof the following new subsection:

"(e) SUBSECTION (a)(1) NOT TO APPLY IN CERTAIN CASES.—

"(1) IN GENERAL.—Subsection (a)(1) shall not apply if it is established to the satisfaction of the Secretary that the domestic corporation and the foreign corporation referred to in such subsection are foreign owned.

"(2) FOREIGN OWNED.—For purposes of paragraph (1), a corporation is foreign owned if less than 50 percent of—

"(A) the total combined voting power of all classes of stock of such corporation entitled to vote, and

"(B) the total value of the stock of the corporation,

is held directly (or indirectly through applying paragraphs (2) and (3) of section 958(a) and paragraph (4) of section 318(a)) by United States persons (as defined in section 7701(a)(30))."

(k) AMENDMENT RELATED TO SECTION 137 OF THE ACT.—Subsection (e) of section 954 (defining foreign base company services income) is amended to read as follows:

"(e) FOREIGN BASE COMPANY SERVICES INCOME.—

"(1) IN GENERAL.—For purposes of subsection (a)(3), the term 'foreign base company services income' means income (whether in the form of compensation, commissions, fees, or otherwise) derived in connection with the performance of technical, managerial, engineering, architectural, scientific, skilled, industrial, commercial, or like services which—

"(A) are performed for or on behalf of any related person (within the meaning of subsection (d)(3)), and

"(B) are performed outside the country under the laws of which the controlled foreign corporation is created or organized.

"(2) EXCEPTION.—Paragraph (1) shall not apply to income derived in connection with the performance of services which are directly related to—

"(A) the sale or exchange by the controlled foreign corporation of property manufactured, produced, grown, or extracted by it and which are performed before the time of the sale or exchange, or

"(B) an offer or effort to sell or exchange such property.

"(3) TREATMENT OF CERTAIN INSURANCE CONTRACTS.—For purposes of paragraph (1), in the case of any services performed with respect to any policy of insurance or reinsurance with respect to which the primary insured is a related person (within the meaning of section 864(d)(4))—

"(A) such primary insured shall be treated as a related person for purposes of paragraph (1)(A) (whether or not the requirements of subsection (d)(3) are met),

"(B) such services shall be treated as performed in the country within which the insured hazards, risks, losses, or liabilities occur, and

"(C) except as otherwise provided in regulations by the Secretary, rules similar to the rules of section 953(b) shall be applied in determining the income from such services."

(l) AMENDMENTS RELATED TO SECTION 138 OF THE ACT.—

(1) Clause (i) of section 7701(b)(4)(E) (relating to limitation of teachers and trainees) is amended by adding at the end thereof the following new sentence: "In the case of an individual all of whose compensation is described in section 872(b)(3), the preceding sentence shall be applied by substituting '4 calendar years' for '2 calendar years'."

(2) Subparagraph (A) of section 7701(b)(1) is amended—

(A) by striking out "the requirements of clause (i) or (ii)" and inserting in lieu thereof "the requirements of clause (i), (ii), or (iii)", and

(B) by adding at the end thereof the following new clause:

"(iii) FIRST YEAR ELECTION.—Such individual makes the election provided in paragraph (4)."

(3) Subparagraph (A) of section 7701(b)(2) is amended by adding at the end thereof the following new clause:

"(iv) RESIDENCY STARTING DATE FOR INDIVIDUALS MAKING FIRST YEAR ELECTION.—In the case of an individual who makes the election provided by paragraph (4) with respect to any calendar year, the residency starting date shall be the 1st day during such calendar year on which the individual is treated as a resident of the United States under that paragraph."

(4) Subsection (b) of section 7701 is amended by redesignating paragraphs (4), (5), (6), (7), (8), (9), and (10) as paragraphs (5), (6), (7), (8), (9), (10), and (11), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) FIRST-YEAR ELECTION.—

"(A) An alien individual shall be deemed to meet the requirements of this subparagraph if such individual—

"(i) is not a resident of the United States under clause (i) or (ii) of paragraph (1)(A) with respect to a calendar year (hereinafter referred to as the 'election year'),

"(ii) was not a resident of the United States under paragraph (1)(A) with respect to the calendar year immediately preceding the election year,

"(iii) is a resident of the United States under clause (ii) of paragraph (1)(A) with respect to the calendar year immediately following the election year, and

"(iv) is both—

"(I) present in the United States for a period of at least 31 consecutive days in the election year, and

"(II) present in the United States during the period beginning with the first day of such 31-day period and ending with the last day of the election year (hereinafter referred to as the 'testing period') for a number of days equal to or exceeding 75 percent of the number of days in the testing period (provided that an individual shall be treated for purposes of this subclause as present in the United States for a number of days during the testing period not exceeding 5 days in the aggregate, notwithstanding his absence from the United States on such days).

"(B) An alien individual who meets the requirements of subparagraph (A) shall, if he so elects, be treated as a resident of the United States with respect to the election year.

"(C) An alien individual who makes the election provided by subparagraph (B) shall be treated as a resident of the United States for the portion of the election year which begins on the 1st day of the earliest testing period during such year with respect to which the individual meets the requirements of clause (iv) of subparagraph (A).

"(D) The rules of subparagraph (D)(i) of paragraph (3) shall apply for purposes of determining an individual's presence in the United States under this paragraph.

"(E) An election under subparagraph (B) shall be made on the individual's tax return for the election year, provided

that such election may not be made before the individual has met the substantial presence test of paragraph (3) with respect to the calendar year immediately following the election year.

"(F) An election once made under subparagraph (B) remains in effect for the election year, unless revoked with the consent of the Secretary."

(5)(A) Section 7701(b)(4)(A) (defining exempt individual) is amended by striking "or" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", or" and by adding after clause (iii) the following new clause:

"(iv) a professional athlete who is temporarily in the United States to compete in a charitable sports event described in section 274(k)(2)."

(B) The amendments made by this paragraph shall apply to periods after the date of the enactment of this Act.

SEC. 1811. AMENDMENTS RELATED TO REPORTING, PENALTY, AND OTHER PROVISIONS.

(a) AMENDMENTS RELATED TO SECTION 145 OF THE ACT.—

(1) Section 6050H (relating to returns relating to mortgage interest received in trade or business from individuals) is amended by adding at the end thereof the following new subsection:

"(g) SPECIAL RULES FOR COOPERATIVE HOUSING CORPORATIONS.—For purposes of subsection (a), an amount received by a cooperative housing corporation from a tenant-stockholder shall be deemed to be interest received on a mortgage in the course of a trade or business engaged in by such corporation, to the extent of the tenant-stockholder's proportionate share of interest described in section 216(a)(2). Terms used in the preceding sentence shall have the same meanings as when used in section 216."

(2) Paragraph (2) of section 145(d) of the Tax Reform Act of 1984 is amended by striking out "section 6652" and inserting in lieu thereof "section 6676".

(b) AMENDMENTS RELATED TO SECTION 149 OF THE ACT.—

(1) RETURN OF PARTNERSHIP INCOME.—

(A) IN GENERAL.—Section 6031 (relating to return of partnership income) is amended—

(i) by inserting "or who holds an interest in such partnership as a nominee for another person" in subsection (b) after "who is a partner", and

(ii) by adding at the end thereof, the following new subsection:

"(c) NOMINEE REPORTING.—Any person who holds an interest in a partnership as a nominee for another person—

"(1) shall furnish to the partnership, in the manner prescribed by the Secretary, the name and address of such other person, and any other information for such taxable year as the Secretary may by form and regulation prescribe, and

"(2) shall furnish in the manner prescribed by the Secretary such other person the information provided by such partnership under subsection (b)."

(B) EFFECTIVE DATE.—The amendments made by this subsection shall apply to partnership taxable years beginning after the date of the enactment of this Act.

(2) RETURNS RELATING TO CERTAIN PARTNERSHIP INTERESTS.—Paragraph (2) of section 6050K(c) (relating to requirement that transferor notify partnership) is amended by striking out "this subsection" and inserting in lieu thereof "this section".

(c) AMENDMENTS RELATED TO SECTION 150 OF THE ACT.—

(1) Paragraph (3) of section 6678(a) (relating to failure to furnish certain statements) is amended by striking out "or" at the end of subparagraph (E), by adding "or" at the end of subparagraph (F), and by inserting after subparagraph (F) the following new subparagraph:

"(G) section 6045(d) (relating to statements required in the case of certain substitute payments),".

(2) Clause (ii) of section 6652(a)(3)(A) (relating to penalty in the case of intentional disregard) is amended by inserting "(other than by subsection (d) of such section)" after "section 6045".

(d) AMENDMENT RELATED TO SECTION 155 OF THE ACT.—Section 6660 (relating to addition of tax in the case of valuation understatement for purposes of estate or gift taxes) is amended by adding at the end thereof the following new subsection:

"(f) UNDERPAYMENT DEFINED.—For purposes of this section, the term 'underpayment' has the meaning given to such term by section 6653(c)(1)."

(e) AMENDMENT RELATED TO SECTION 157 OF THE ACT.—Paragraph (3) of section 7502(e) is amended by striking out "the tax" and inserting in lieu thereof "any tax".

SEC. 1812. AMENDMENTS RELATED TO MISCELLANEOUS PROVISIONS.

(a) AMENDMENTS RELATED TO SECTION 171 OF THE ACT.—

(1) Subsection (a) of section 111 (relating to recovery of tax benefit items) is amended by striking out "did not reduce income subject to tax" and inserting in lieu thereof "did not reduce the amount of tax imposed by this chapter".

(2) Subsection (c) of section 111 (relating to treatment of carryovers) is amended by striking out "reducing income subject to tax or reducing tax imposed by this chapter, as the case may be" and inserting in lieu thereof "reducing tax imposed by this chapter".

(3) Paragraph (12) of section 381(c) (relating to recovery of bad debts, prior taxes, or delinquency amounts) is amended to read as follows:

"(12) RECOVERY OF TAX BENEFIT ITEMS.—If the acquiring corporation is entitled to the recovery of any amounts previously deducted by (or allowable as credits to) the distributor or transferor corporation, the acquiring corporation shall succeed to the treatment under section 111 which would apply to such amounts in the hands of the distributor or transferor corporation."

(4) Paragraph (2) of section 1351(d) is amended by striking out "relating to recovery of bad debts, etc." and inserting in lieu thereof "relating to recovery of tax benefit items".

(5) Paragraph (3) of section 1398(g) is amended to read as follows:

"(3) RECOVERY OF TAX BENEFIT ITEMS.—Any amount to which section 111 (relating to recovery of tax benefit items) applies."

(b) AMENDMENTS RELATED TO SECTION 172 OF THE ACT.—

(1) COORDINATION OF SECTION 7872 WITH TAXES ON PRIVATE FOUNDATIONS.—Subparagraph (B) of section 4941(d)(2) (defining

self-dealing) is amended by striking out "without interest or other charge" and inserting in lieu thereof "without interest or other charge (determined without regard to section 7872)".

(2) COORDINATION WITH WITHHOLDING.—Paragraph (9) of section 7872(f) (relating to no withholding) is amended to read as follows:

"(9) NO WITHHOLDING.—No amount shall be withheld under chapter 24 with respect to—

"(A) any amount treated as transferred or retransferred under subsection (a), and

"(B) any amount treated as received under subsection (b)."

(3) DEFINITION OF DEMAND LOAN.—Paragraph (5) of section 7872(f) (defining demand loan) is amended to read as follows:

"(5) DEMAND LOAN.—The term 'demand loan' means any loan which is payable in full at any time on the demand of the lender. Such term also includes (for purposes other than determining the applicable Federal rate under paragraph (2)) any loan if the benefits of the interest arrangements of such loan are not transferable and are conditioned on the future performance of substantial services by an individual. To the extent provided in regulations, such term also includes any loan with an indefinite maturity."

(4) CLARIFICATION OF APPLICABLE FEDERAL RATE.—Subparagraph (B) of section 7872(f)(2) (defining applicable Federal rate) is amended by inserting ", compounded semiannually" immediately before the period at the end thereof.

(5) CERTAIN ISRAEL BONDS NOT SUBJECT TO RULES RELATING TO BELOW-MARKET LOANS.—Section 7872 of the Internal Revenue Code of 1954 (relating to treatment of loans with below-market interest rates) shall not apply to any obligation issued by Israel if—

(A) the obligation is payable in United States dollars, and

(B) the obligation bears interest at an annual rate of not less than 4 percent.

(c) AMENDMENTS RELATED TO SECTION 174 OF THE ACT.—

(1) TREATMENT OF FOREIGN PERSONS.—Subsection (a) of section 267 is amended by adding at the end thereof the following new paragraph:

"(3) PAYMENTS TO FOREIGN PERSONS.—The Secretary shall by regulations apply the matching principle of paragraph (2) in cases in which the person to whom the payment is to be made is not a United States person."

(2) TREATMENT OF CERTAIN SALES OF INVENTORY EXPANDED.—Subparagraph (B) of section 267(f)(3) (relating to loss deferral rules not to apply in certain cases) is amended by inserting "(or persons described in subsection (b)(10))" after "same controlled group".

(3) TREATMENT OF CERTAIN RELATED PARTNERSHIPS.—

(A) Effective with respect to sales or exchanges after September 27, 1985, paragraphs (1)(A) and (2)(A) of section 707(b) (relating to certain sales or exchanges of property with respect to controlled partnerships) are each amended by striking out "a partner" and inserting in lieu thereof "a person".

(B) Paragraph (1) of section 707(b) is amended by adding at the end thereof the following new sentence: "For pur-

poses of section 267(a)(2), partnerships described in subparagraph (B) of this paragraph shall be treated as persons specified in section 267(b)."

(C) Subsection (e) of section 267 is amended by adding at the end thereof the following new paragraph:

"(6) CROSS REFERENCE.—

"For additional rules relating to partnerships, see section 707(b)."

(4) CLERICAL AMENDMENTS.—

(A) Paragraph (12) of section 267(b) (defining related persons) is amended by striking out "same persons owns" and inserting in lieu thereof "same persons own".

(B) Subparagraph (B) of section 178(b)(2) (defining related persons) is amended by inserting before the period "and subsection (f)(1)(A) of such section shall not apply".

(C) Clause (ii) of section 936(h)(3)(D) (defining related person) is amended to read as follows:

"(ii) SPECIAL RULE.—For purposes of clause (i), section 267(b) and section 707(b)(1) shall be applied by substituting '10 percent' for '50 percent'."

(5) EXCEPTION FOR CERTAIN INDEBTEDNESS.—Clause (i) of section 174(c)(3)(A) of the Tax Reform Act of 1984 shall be applied by substituting "December 31, 1983" for "September 29, 1983" in the case of indebtedness which matures on January 1, 1999, the payments on which from January 1989 through November 1993 equal U/L plus $77,600, the payments on which from December 1993 to maturity equal U/L plus $50,100, and which accrued interest at 13.75 percent through December 31, 1989.

(d) AMENDMENTS RELATED TO SECTION 177 OF THE ACT.—

(1) CLARIFICATION OF TREATMENT OF DIVIDENDS PAID BY FEDERAL HOME LOAN BANKS.—

(A) Subparagraph (B) of section 246(a)(2) (relating to certain dividends of Federal home loan banks) is amended—

(i) by striking out "For purposes of subparagraph (A), in" and inserting in lieu thereof "In", and

(ii) by striking out subclause (II) of clause (i) and inserting in lieu thereof the following:

"(II) which were not previously treated as distributed under subparagraph (A) or this subparagraph, bears to".

(B) Paragraph (2) of section 246(a) (relating to subsection not to apply to certain dividends of Federal Home Loan Banks) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) COORDINATION WITH SECTION 243.—To the extent that paragraph (1) does not apply to any dividend by reason of subparagraph (A) or (B) of this paragraph, the requirement contained in section 243(a) that the corporation paying the dividend be subject to taxation under this chapter shall not apply."

(C) Subparagraph (D) of section 246(a)(2) (as redesignated by subparagraph (B)) is amended by adding at the end thereof the following new clause:

"(iv) EARNINGS AND PROFITS.—The earnings and profits of any FHLB for any taxable year shall be treated as equal to the sum of—

"(I) any dividends received by the FHLB from the FHLMC during such taxable year, and

"(II) the total earnings and profits (determined without regard to dividends described in subclause (I)) of the FHLB as reported in its annual financial statement prepared in accordance with section 20 of the Federal Home Loan Bank Act (12 U.S.C. 1440)."

(2) CLARIFICATION OF EFFECTIVE DATE.—Paragraph (4) of section 177(d) of the Tax Reform Act of 1984 (relating to effective dates) is amended to read as follows:

"(4) CLARIFICATION OF EARNINGS AND PROFITS OF FEDERAL HOME LOAN MORTGAGE CORPORATION.—

"(A) TREATMENT OF DISTRIBUTION OF PREFERRED STOCK, ETC.—For purposes of the Internal Revenue Code of 1954, the distribution of preferred stock by the Federal Home Loan Mortgage Corporation during December of 1984, and the other distributions of such stock by Federal Home Loan Banks during January of 1985, shall be treated as if they were distributions of money equal to the fair market value of the stock on the date of the distribution by the Federal Home Loan Banks (and such stock shall be treated as if it were purchased with the money treated as so distributed). No deduction shall be allowed under section 243 of the Internal Revenue Code of 1954 with respect to any dividend paid by the Federal Home Loan Mortgage Corporation out of earnings and profits accumulated before January 1, 1985.

"(B) SECTION 246(a) NOT TO APPLY TO DISTRIBUTIONS OUT OF EARNINGS AND PROFITS ACCUMULATED DURING 1985.—Subsection (a) of section 246 of the Internal Revenue Code of 1954 shall not apply to any dividend paid by the Federal Home Loan Mortgage Corporation during 1985 out of earnings and profits accumulated after December 31, 1984."

(e) AMENDMENTS RELATED TO SECTION 179 OF THE ACT.—

(1) CLARIFICATION OF DEFINITION OF PASSENGER AUTOMOBILE.—

(A) SECTION 280F.—Clause (ii) of section 280F(d)(5)(A) (defining passenger automobile) is amended by striking out "gross vehicle weight" and inserting in lieu thereof "unloaded gross vehicle weight".

(B) GAS GUZZLER TAX.—

(i) Clause (ii) of section 4064(b)(1)(A) (defining passenger automobile) is amended by striking out "gross vehicle weight" and inserting in lieu thereof "unloaded gross vehicle weight".

(ii) Paragraph (5) of section 4064(b) (defining manufacturer) is amended to read as follows:

"(5) MANUFACTURER.—

"(A) IN GENERAL.—The term 'manufacturer' includes a producer or importer.

"(B) EXCEPTION FOR CERTAIN SMALL MANUFACTURERS.—A person shall not be treated as the manufacturer of any automobile if—

"(i) such person would (but for this subparagraph) be so treated solely by reason of lengthening an existing automobile, and

"(ii) such person is a small manufacturer (as defined in subsection (d)(4)) for the model year in which such lengthening occurs."

(iii) The amendments made by clauses (i) and (ii) shall take effect as if included in the amendments made by section 201 of Public Law 95-618; except that the amendment made by clause (i) shall not apply to any station wagon if—

(I) such station wagon is originally equipped with more than 6 seat belts,

(II) such station wagon was manufactured before November 1, 1985, and

(III) such station wagon is of the 1985 or 1986 model year.

(C) TRUCKS AND VANS.—Subparagraph (A) of section 280F(d)(5) is amended by adding at the end thereof the following new sentence:

"In the case of a truck or van, clause (ii) shall be applied by substituting 'gross vehicle weight' for 'unloaded gross vehicle weight'."

(2) DEDUCTIONS OF EMPLOYEE FOR USE OF LISTED PROPERTY.—Subparagraph (A) of section 280F(d)(3) (relating to deductions of employee) is amended by striking out "recovery deduction allowable to the employee" and inserting in lieu thereof "recovery deduction allowable to the employee (or the amount of any deduction allowable to the employee for rentals or other payments under a lease of listed property)".

(3) TREATMENT OF CERTAIN COMPUTERS.—Subparagraph (B) of section 280F(d)(4) (relating to exception for certain computers) is amended by striking out "at a regular business establishment" and inserting in lieu thereof "at a regular business establishment and owned or leased by the person operating such establishment".

(4) EXCEPTION FOR PROPERTY USED IN BUSINESS OF TRANSPORTING PERSONS OR PROPERTY.—Paragraph (4) of section 280F(d) (defining listed property) is amended by adding at the end thereof the following new subparagraph:

"(C) EXCEPTION FOR PROPERTY USED IN BUSINESS OF TRANSPORTING PERSONS OR PROPERTY.—Except to the extent provided in regulations, clause (ii) of subparagraph (A) shall not apply to any property substantially all of the use of which is in a trade or business of providing to unrelated persons services consisting of the transportation of persons or property for compensation or hire."

(5) CLERICAL AMENDMENT.—Paragraph (2) of section 280F(d) (relating to subsequent depreciation deductions reduced for deductions allocable to personal use) is amended by striking out "is not use described in" and inserting in lieu thereof "is use described in".

CHAPTER 2—AMENDMENTS RELATED TO TITLE II OF THE ACT

SEC. 1821. AMENDMENTS RELATED TO SECTION 211 OF THE ACT.

(a) CERTAIN AMOUNTS NOT LESS THAN SURRENDER VALUE OF CONTRACT.—Subsection (c) of section 807 (relating to rules for certain

reserves) is amended by adding at the end thereof the following new sentence: "In no case shall the amount determined under paragraph (3) for any contract be less than the net surrender value of such contract."

(b) CLARIFICATION OF DEFINITION OF EXCESS INTEREST.—Subparagraph (B) of section 808(d)(1) (defining excess interest) is amended to read as follows:

"(B) in excess of interest determined at the prevailing State assumed rate for such contract."

(c) COORDINATION OF 1984 FRESH-START ADJUSTMENT WITH CERTAIN ACCELERATIONS OF POLICYHOLDER DIVIDENDS DEDUCTIONS.—Section 808 (relating to policyholder dividends deduction) is amended by adding at the end thereof the following new subsection:

"(f) COORDINATION OF 1984 FRESH-START ADJUSTMENT WITH ACCELERATION OF POLICYHOLDER DIVIDENDS DEDUCTION THROUGH CHANGE IN BUSINESS PRACTICE.—

"(1) IN GENERAL.—The amount determined under paragraph (1) of subsection (c) for the year of change shall (before any reduction under paragraph (2) of subsection (c)) be reduced by so much of the accelerated policyholder dividends deduction for such year as does not exceed the 1984 fresh-start adjustment for policyholder dividends (to the extent such adjustment was not previously taken into account under this subsection).

"(2) YEAR OF CHANGE.—For purposes of this subsection, the term 'year of change' means the taxable year in which the change in business practices which results in the accelerated policyholder dividends deduction takes effect.

"(3) ACCELERATED POLICYHOLDER DIVIDENDS DEDUCTION DEFINED.—For purposes of this subsection, the term 'accelerated policyholder dividends deduction' means the amount which (but for this subsection) would be determined for the taxable year under paragraph (1) of subsection (c) but which would have been determined (under such paragraph) for a later taxable year under the business practices of the taxpayer as in effect at the close of the preceding taxable year.

"(4) 1984 FRESH-START ADJUSTMENT FOR POLICYHOLDER DIVIDENDS.—For purposes of this subsection, the term '1984 fresh-start adjustment for policyholder dividends' means the amounts held as of December 31, 1983, by the taxpayer as reserves for dividends to policyholders under section 811(b) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1984) other than for dividends which accrued before January 1, 1984. Such amounts shall be properly reduced to reflect the amount of previously nondeductible policyholder dividends (as determined under section 809(f) as in effect on the day before the date of the enactment of the Tax Reform Act of 1984).

"(5) SEPARATE APPLICATION WITH RESPECT TO LINES OF BUSINESS.—This subsection shall be applied separately with respect to each line of business of the taxpayer.

"(6) SUBSECTION NOT TO APPLY TO MERE CHANGE IN DIVIDEND AMOUNT.—This subsection shall not apply to a mere change in the amount of policyholder dividends.

"(7) SUBSECTION NOT TO APPLY TO POLICIES ISSUED AFTER DECEMBER 31, 1983.—

"(A) IN GENERAL.—This subsection shall not apply to any policyholder dividend paid or accrued with respect to a policy issued after December 31, 1983.

"(B) EXCHANGES OF SUBSTANTIALLY SIMILAR POLICIES.—For purposes of subparagraph (A), any policy issued after December 31, 1983, in exchange for a substantially similar policy issued on or before such date shall be treated as issued before January 1, 1984. A similar rule shall apply in the case of a series of exchanges.

"(8) SUBSECTION TO APPLY TO POLICIES PROVIDED UNDER EMPLOYEE BENEFIT PLANS.—This subsection shall not apply to any policyholder dividend paid or accrued with respect to a group policy issued in connection with a plan to provide welfare benefits to employees (within the meaning of section 419(e)(2))."

(d) CLARIFICATION OF EQUITY BASE.—Paragraph (2) of section 809(b) (defining equity base) is amended by adding at the end thereof the following new sentence: "No item shall be taken into account more than once in determining equity base."

(e) DEFINITION OF 50 LARGEST STOCK COMPANIES.—

(1) IN GENERAL.—Subparagraph (C) of section 809(d)(4) (defining 50 largest stock companies) is amended by striking out the last sentence and inserting in lieu thereof the following:

"the Secretary—

"(i) shall, for purposes of determining the base period stock earnings rate, exclude from the group determined under the preceding sentence any company which had a negative equity base at any time during 1981, 1982, or 1983,

"(ii) shall exclude from such group for any calendar year any company which has a negative equity base, and

"(iii) may by regulations exclude any other company which otherwise would have been included in such group if the inclusion of the excluded company or companies would, by reason of the small equity base of such company, seriously distort the stock earnings rate.

The aggregate number of companies excluded by the Secretary under clause (iii) shall not exceed the excess of 2 over the number of companies excluded under clause (ii)."

(2) ONLY DOMESTIC COMPANIES TAKEN INTO ACCOUNT.—Section 809 is amended—

(A) by striking out "largest stock life insurance companies" in subsection (d)(4)(C) and inserting in lieu thereof "largest domestic stock life insurance companies", and

(B) by striking out "mutual life insurance companies" in subsection (e)(1) and inserting in lieu thereof "domestic mutual life insurance companies".

(f) CLARIFICATION OF STATEMENT GAIN OR LOSS FROM OPERATIONS.—Paragraph (1) of section 809(g) (defining statement gain or loss from operations) is amended by striking out so much of such paragraph as precedes subparagraph (B) and inserting in lieu thereof the following:

"(1) STATEMENT GAIN OR LOSS FROM OPERATIONS.—The term 'statement gain or loss from operations' means the net gain or loss from operations required to be set forth in the annual statement, determined without regard to Federal income taxes, and—

"(A) determined by substituting for the amount shown for policyholder dividends the amount of deduction for policy-

holder dividends determined under section 808 (without regard to section 808(c)(2)),".

(g) DIFFERENTIAL EARNINGS RATE WHICH MAY BE USED FOR PURPOSES OF ESTIMATED TAX PAYMENTS.—Subsection (c) of section 809 (defining differential earnings rate) is amended by adding at the end thereof the following new paragraph:

"(3) COORDINATION WITH ESTIMATED TAX PAYMENTS.—For purposes of applying section 6655 with respect to any installment of estimated tax, the amount of tax shall be determined by using the lesser of—

"(A) the differential earnings rate of the second tax year preceding the taxable year for which the installment is made, or

"(B) the differential earnings rate for the taxable year for which the installment is made."

(h) RECOMPUTATION OF DIFFERENTIAL EARNINGS AMOUNT NOT TAKEN INTO ACCOUNT FOR PURPOSES OF ESTIMATED TAX.—Subsection (f) of section 809 (relating to recomputation in subsequent year) is amended by adding at the end thereof the following new paragraph:

"(5) SUBSECTION NOT TO APPLY FOR PURPOSES OF ESTIMATED TAX.—Section 6655 shall be applied to any taxable year without regard to any adjustments under this subsection for such year."

(i) AMENDMENTS RELATED TO PRORATION FORMULAS.—

(1) Paragraph (2) of section 812(b) is amended—

(A) by striking out "the prevailing State assumed rate" in subparagraph (A) and inserting in lieu thereof "the prevailing State assumed rate or, where such rate is not used, another appropriate rate",

(B) by striking out "and" at the end of subparagraph (B),

(C) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and

(D) by adding at the end thereof the following new subparagraph:

"(D) interest on amounts left on deposit with the company."

(2) Subparagraph (B) of section 812(b)(3) (relating to gross investment income's proportionate share of policyholder dividends) is amended—

(A) by striking out "(including tax-exempt interest)" in clause (ii), and

(B) by adding at the end thereof the following new sentence:

"For purposes of subparagraph (B)(ii), life insurance gross income shall be determined by including tax-exempt interest and by applying section 807(a)(2)(B) as if it did not contain clause (i) thereof."

(3) Subsection (c) of section 812 (defining net investment income) is amended to read as follows:

"(c) NET INVESTMENT INCOME.—For purposes of this section, the term 'net investment income' means—

"(1) except as provided in paragraph (2), 90 percent of gross investment income; or

"(2) in the case of gross investment income attributable to assets held in segregated asset accounts under variable contracts, 95 percent of gross investment income."

(4) Section 812 is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF INTEREST PARTIALLY TAX-EXEMPT UNDER SECTION 133.—For purposes of this section and subsections (a) and (b) of section 807, the terms 'gross investment income' and 'tax-exempt interest' shall not include any interest received with respect to a securities acquisition loan (as defined in section 133(b)). Such interest shall not be included in life insurance gross income for purposes of subsection (b)(3)."

(j) TREATMENT OF FOREIGN LIFE INSURANCE COMPANIES.—Paragraph (1) of section 813(a) (relating to adjustment where surplus held in United States is less than specified minimum) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall be applied before computing the amount of the special life insurance company deduction and the small life insurance company deduction, and any increase under the preceding sentence shall be treated as gross investment income."

(k) TREATMENT OF CERTAIN DISTRIBUTIONS TO SHAREHOLDERS FROM PRE-1984 POLICYHOLDERS SURPLUS ACCOUNT.—

(1) Subsection (f) of section 815 (relating to other rules applicable to policyholders surplus account continued) is amended by striking out "sections 6501(c)(6)" and inserting in lieu thereof "sections 819(b), 6501(c)(6)".

(2) Subsection (a) of section 815 is amended by adding at the end thereof the following new sentence:

"For purposes of the preceding sentence, the term 'indirect distribution' shall not include any bona fide loan with arms-length terms and conditions."

(3) In the case of any loan made before March 1, 1986 (other than a loan which is renegotiated, extended, renewed, or revised after February 28, 1986), which does not meet the requirements of the last sentence of section 815(a) of the Internal Revenue Code of 1954 (as added by paragraph (2)), the amount of the indirect distribution for purposes of such section 815(a) shall be the foregone interest on the loan (determined by using the lowest rate which would have met the arms-length requirements of such sentence for such a loan).

(l) TREATMENT OF DEFICIENCY RESERVES.—Section 816 (defining life insurance company) is amended by adding at the end thereof the following new subsection:

"(h) TREATMENT OF DEFICIENCY RESERVES.—For purposes of this section and section 813(a)(4)(B), the terms 'life insurance reserves' and 'total reserves' shall not include deficiency reserves."

(m) TREATMENT OF CERTAIN NONDIVERSIFIED CONTRACTS.—

(1) Subsection (h) of section 817 (relating to treatment of certain nondiversified contracts) is amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3) SPECIAL RULE FOR INVESTMENTS IN UNITED STATES OBLIGATIONS.—To the extent that any segregated asset account with respect to a variable life insurance contract is invested in securities issued by the United States Treasury, the investments made by such account shall be treated as adequately diversified for purposes of paragraph (1).

"(4) LOOK-THROUGH IN CERTAIN CASES.—For purposes of this subsection, if all of the beneficial interests in a regulated investment company or in a trust are held by 1 or more—

"(A) insurance companies (or affiliated companies) in their general account or in segregated asset accounts, or

"(B) fund managers (or affiliated companies) in connection with the creation or management of the regulated investment company or trust,

the diversification requirements of paragraph (1) shall be applied by taking into account the assets held by such regulated investment company or trust.

"(5) INDEPENDENT INVESTMENT ADVISORS PERMITTED.—Nothing in this subsection shall be construed as prohibiting the use of independent investment advisors."

(2) Paragraph (1) of section 817(h) is amended by striking out the last sentence.

(n) TREATMENT OF CERTAIN DEFERRED COMPENSATION PLANS.—Subparagraph (A) of section 818(a)(6) (defining pension plan contract) is amended to read as follows:

"(A) a governmental plan (within the meaning of section 414(d)) or an eligible State deferred compensation plan (within the meaning of section 457(b)), or".

(o) DIVIDENDS WITHIN AFFILIATED GROUP.—Subsection (e) of section 818 (relating to special rule for consolidated returns) is amended to read as follows:

"(e) SPECIAL RULES FOR CONSOLIDATED RETURNS.—

"(1) ITEMS OF COMPANIES OTHER THAN LIFE INSURANCE COMPANIES.—If an election under section 1504(c)(2) is in effect with respect to an affiliated group for the taxable year, all items of the members of such group which are not life insurance companies shall not be taken into account in determining the amount of the tentative LICTI of members of such group which are life insurance companies.

"(2) DIVIDENDS WITHIN GROUP.—In the case of a life insurance company filing or required to file a consolidated return under section 1501 with respect to any affiliated group for any taxable year, any determination under this part with respect to any dividend paid by one member of such group to another member of such group shall be made as if such

group was not filing a consolidated return."

(p) TREATMENT OF DIVIDENDS FROM SUBSIDIARIES, ETC.—Paragraph (4) of section 805(a) (relating to dividends received by company) is amended by redesignating subparagraph (D) as subparagraph (E) and by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraphs:

"(C) 100 PERCENT DIVIDEND.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—Except as provided in clause (ii), the term '100 percent dividend' means any dividend if the percentage used for purposes of determining the deduction allowable under section 243, 244, or 245(b) is 100 percent.

"(ii) TREATMENT OF DIVIDENDS FROM NONINSURANCE COMPANIES.—The term '100 percent dividend' does not include any distribution by a corporation which is not an insurance company to the extent such distribution is out of tax-exempt interest or out of dividends which are not 100 percent dividends (determined with the application of this clause as if it applies to distributions by all corporations including insurance companies).

"(D) SPECIAL RULES FOR CERTAIN DIVIDENDS FROM INSURANCE COMPANIES.—

"(i) IN GENERAL.—In the case of any 100 percent dividend paid to any life insurance company out of the earnings and profits for any taxable year beginning after December 31, 1983, of another life insurance company if—

"(I) the paying company's share determined under section 812 for such taxable year, exceeds

"(II) the receiving company's share determined under section 812 for its taxable year in which the dividend is received or accrued,

the deduction allowed under section 243, 244, or 245(b) (as the case may be) shall be reduced as provided in clause (ii).

"(ii) AMOUNT OF REDUCTION.—The reduction under this clause for a dividend is an amount equal to—

"(I) the portion of such dividend attributable to prorated amounts, multiplied by

"(II) the percentage obtained by subtracting the share described in subclause (II) of clause (i) from the share described in subclause (I) of such clause.

"(iii) PRORATED AMOUNTS.—For purposes of this subparagraph, the term 'prorated amounts' means tax-exempt interest and dividends other than 100 percent dividends.

"(iv) PORTION OF DIVIDEND ATTRIBUTABLE TO PRORATED AMOUNTS.—For purposes of this subparagraph, in determining the portion of any dividend attributable to prorated amounts—

"(I) any dividend by the paying corporation shall be treated as paid first out of earnings and profits for taxable years beginning after December 31, 1983, attributable to prorated amounts (to the extent thereof), and

"(II) by determining the portion of earnings and profits so attributable without any reduction for the tax imposed by this chapter.

"(v) SUBPARAGRAPH TO APPLY TO DIVIDENDS FROM OTHER INSURANCE COMPANIES.—Rules similar to the rules of this subsection shall apply in the case of 100 percent dividends paid by an insurance company which is not a life insurance company."

(q) SPECIAL RULE FOR APPLICATION OF HIGH SURPLUS MUTUAL RULES.—In the case of any mutual life insurance company—

(1) which was incorporated on February 23, 1888, and

(2) which acquired a stock subsidiary during 1982,

the amount of such company's excess equity base for purposes of section 809(i) of such Code shall, notwithstanding the last sentence of section 809(i)(2)(D), equal $175,000,000.

(r) CLERICAL AMENDMENT.—Paragraph (3) of section 809(f) is amended by striking out "subsection (c)(2)" and inserting in lieu thereof "subsection (c)(1)(B)".

(s) AMENDMENTS RELATED TO SECTION 807.—Subparagraph (C) of section 807(d)(5) is amended by adding at the end thereof the following: "When the Secretary by regulation changes the table applicable to a type of contract, the new table shall be treated (for purposes of subparagraph (B) and for purposes of determining the issue dates of contracts for which it shall be used) as if it were a new prevailing

commissioner's standard table adopted by the twenty-sixth State as of a date (no earlier than the date the regulation is issued) specified by the Secretary."

(t) AMENDMENT RELATED TO SECTION 817.—

(1) Subsection (d) of section 817 is amended by adding at the end thereof the following new sentence: "Paragraph (3) shall be applied without regard to whether there is a guarantee, and obligations under such guarantee which exceed obligations under the contract without regard to such guarantee shall be accounted for as part of the company's general account."

(2) The amendment made by paragraph (1) shall apply—

(A) to contracts issued after December 31, 1986, and

(B) to contracts issued before January 1, 1987, if such contract was treated as a variable contract on the taxpayer's return.

SEC. 1822. AMENDMENTS RELATED TO SECTION 216 OF THE ACT.

(a) CLARIFICATION OF APPLICATION OF 10-YEAR SPREAD.—Subparagraph (C) of section 216(b)(3) of the Tax Reform Act of 1984 (relating to 10-year spread inapplicable where no 10-year spread under prior law) is amended by striking out "was required to have been taken into account" and inserting in lieu thereof "would have been required to be taken into account".

(b) TREATMENT OF CERTAIN ELECTIONS UNDER SECTION 818(c).—Subparagraph (B) of section 216(b)(4) of the Tax Reform Act of 1984 (relating to the elections under section 818(c) after September 27, 1983, not taken into account) is amended by striking out "Subparagraph (A)" and inserting in lieu thereof "Paragraph (3) and subparagraph (A) of this paragraph".

(c) ELECTION NOT TO HAVE RESERVES RECOMPUTED.—

(1) Clause (ii) of section 216(c)(2)(A) of the Tax Reform Act of 1984 (relating to election with respect to contracts issued after 1983 and before 1989) is amended by striking out "$3,000,000" and inserting in lieu thereof "$3,000,000 (determined with regard to this paragraph)".

(2) Subparagraph (A) of section 216(c)(2) of the Tax Reform Act of 1984 is amended by striking out "be equal to" and all that follows down through the period at the end thereof and inserting in lieu thereof the following: "be equal to the greater of the statutory reserve for such contract (adjusted as provided in subparagraph (B)) or the net surrender value of such contract (as defined in section 807(e)(1) of the Internal Revenue Code of 1954)."

(3) Subparagraph (B) of section 216(c)(2) of the Tax Reform Act of 1984 is amended—

(A) by striking out "statutory reserves" and inserting in lieu thereof "opening and closing statutory reserves", and

(B) by striking out "under section 805(c)(1) of such Code" and inserting in lieu thereof "under the principles of section 805(c)(1) of such Code".

(d) SPECIAL RULE WHERE REINSURER NOT USING CALENDAR YEAR AS TAXABLE YEAR.—Subparagraph (A) of section 216(b)(3) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following: "For purposes of this subparagraph, if the reinsurer's taxable year is not a calendar year, the first day of the reinsurer's first taxable year beginning after December 31, 1983, shall be substituted for 'January 1, 1984' each place it appears."

(e) CLARIFICATION OF EFFECT OF FRESH START ON EARNINGS AND PROFITS.—Paragraph (1) of section 216(b) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new sentences: "The preceding sentence shall apply for purposes of computing the earnings and profits of any insurance company for its 1st taxable year beginning in 1984. The preceding sentence shall be applied by substituting '1985' for '1984' in the case of an insurance company which is a member of a controlled group (as defined in section 806(d)(3)), the common parent of which is

"(A) a company having its principal place of business in Alabama and incorporated in Delaware on November 29, 1979, or

"(B) a company having its principal place of business in Houston, Texas, and incorporated in Delaware on June 9, 1947."

(f) TREATMENT OF SECTION 818(c) ELECTIONS MADE BY CERTAIN ACQUIRED COMPANIES.—Paragraph (4) of section 216(b) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new subparagraph:

"(C) SECTION 818(c) ELECTIONS MADE BY CERTAIN ACQUIRED COMPANIES.—

"(i) IN GENERAL.—If the case of any corporation—

"(I) which made an election under such section 818(c) before September 28, 1983, and

"(II) which was acquired in a qualified stock purchase (as defined in section 338(c) of the Internal Revenue Code of 1954) before December 31, 1983,

the fact that such corporation is treated as a new corporation under section 338 of such Code shall not result in the election described in clause (i) not applying to such new corporation.

"(ii) TIME FOR MAKING SECTION 818(c) OR 338 ELECTION.—In the case of any corporation described in clause (i), the time for making an election under section 818(c) of such Code (with respect to the first taxable year of the corporation beginning in 1983 and ending after September 28, 1983), or making an election under section 338 of such Code with respect to the qualified stock purchase described in clause (i)(II), shall not expire before the close of the 60th day after the date of the enactment of the Tax Reform Act of 1986.

"(iii) STATUTE OF LIMITATIONS.—In the case of any such election under section 818(c) or 338 of such Code which would not have been timely made but for clause (ii), the period for assessing any deficiency attributable to such election (or for filing claim for credit or refund of any overpayment attributable to such election) shall not expire before the date 2 years after the date of the enactment of this Act.

SEC. 1823. AMENDMENT RELATED TO SECTION 217 OF THE ACT.

Subsection (n) of section 217 of the Tax Reform Act of 1984 (relating to special rule for companies using net level reserve method for noncancellable accident and health insurance contracts) is amended to read as follows:

"(n) SPECIAL RULE FOR COMPANIES USING NET LEVEL RESERVE METHOD FOR NONCANCELLABLE ACCIDENT AND HEALTH INSURANCE

CONTRACTS.—A company shall be treated as meeting the requirements of section 807(d)(3)(A)(iii) of the Internal Revenue Code of 1954, as amended by this Act, with respect to any directly-written noncancellable accident and health insurance contract (whether under existing or new plans of insurance) for any taxable year if—

"(1) such company—

"(A) was using the net level reserve method to compute at least 99 percent of its statutory reserves on such contracts as of December 31, 1982, and

"(B) received more than half its total direct premiums in 1982 from directly-written noncancellable accident and health insurance,

"(2) after December 31, 1983, and through such taxable year, such company has continuously used the net level reserve method for computing at least 99 percent of its tax and statutory reserves on such contracts, and

"(3) for any such contract for which the company does not use the net level reserve method, such company uses the same method for computing tax reserves as such company uses for computing its statutory reserves."

SEC. 1824. AMENDMENT RELATED TO SECTION 218 OF THE ACT.

Section 218 of the Tax Reform Act of 1984 is hereby repealed.

SEC. 1825. AMENDMENTS RELATED TO SECTION 221 OF THE ACT.

(a) COMPUTATIONAL RULES.—

(1) Paragraph (1) of section 7702(e) (relating to computational rules) is amended—

(A) by striking out "shall be no earlier than" in subparagraph (B) and inserting in lieu thereof "shall be deemed to be no earlier than",

(B) by striking out "and" at the end of subparagraph (B),

(C) by redesignating subparagraph (C) as subparagraph (D) and inserting after subparagraph (B) the following new subparagraph:

"(C) the death benefits shall be deemed to be provided until the maturity date determined by taking into account subparagraph (B), and", and

(D) by striking out "the maturity date described in subparagraph (B)" in subparagraph (D) (as so redesignated) and inserting in lieu thereof "the maturity date determined by taking into account subparagraph (B)".

(2) Subparagraph (C) of section 7702(b)(2) is amended by striking out "subparagraphs (A) and (C)" and inserting in lieu thereof "subparagraphs (A) and (D)".

(3) Section 7702(e)(1) is amended by inserting "(other than subsection (d))" after "section".

(4) Section 7702(e)(2) is amended—

(A) by striking out "and" at the end of subparagraph (A),

(B) by striking out the period at the end of subparagraph (B), and inserting in lieu thereof a comma and "and", and

(C) by adding at the end thereof the following new subparagraph:

"(C) for purposes of the cash value accumulation test, the death benefit increases may be taken into account if the contract—

"(i) has an initial death benefit of $5,000 or less and a maximum death benefit of $25,000 or less,

"(ii) provides for a fixed predetermined annual increase not to exceed 10 percent of the initial death benefit or 8 percent of the death benefit at the end of the preceding year, and

"(iii) was purchased to cover payment of burial expenses or in connection with prearranged funeral expenses.

For purposes of subparagraph (C), the initial death benefit of a contract shall be determined by treating all contracts issued to the same contract owner as 1 contract."

(b) CLARIFICATION OF SECTION 7702(f)(7).—

(1) Paragraph (7) of section 7702(f) (relating to adjustments) is amended to read as follows:

"(7) ADJUSTMENTS.—

"(A) IN GENERAL.—If there is a change in the benefits under (or in other terms of) the contract which was not reflected in any previous determination or adjustment made under this section, there shall be proper adjustments in future determinations made under this section.

"(B) RULE FOR CERTAIN CHANGES DURING FIRST 15 YEARS.—If—

"(i) a change described in subparagraph (A) reduces benefits under the contract,

"(ii) the change occurs during the 15-year period beginning on the issue date of the contract, and

"(iii) a cash distribution is made to the policyholder as a result of such change,

section 72 (other than subsection (e)(5) thereof) shall apply to such cash distribution to the extent it does not exceed the recapture ceiling determined under subparagraph (C) or (D) (whichever applies).

"(C) RECAPTURE CEILING WHERE CHANGE OCCURS DURING FIRST 5 YEARS.—If the change referred to in subparagraph (B)(ii) occurs during the 5-year period beginning on the issue date of the contract, the recapture ceiling is—

"(i) in the case of a contract to which subsection (a)(1) applies, the excess of—

"(I) the cash surrender value of the contract, immediately before the reduction, over

"(II) the net single premium (determined under subsection (b)), immediately after the reduction, or

"(ii) in the case of a contract to which subsection (a)(2) applies, the greater of—

"(I) the excess of the aggregate premiums paid under the contract, immediately before the reduction, over the guideline premium limitation for the contract (determined under subsection (c)(2), taking into account the adjustment described in subparagraph (A)), or

"(II) the excess of the cash surrender value of the contract, immediately before the reduction, over the cash value corridor of subsection (d) (determined immediately after the reduction).

"(D) RECAPTURE CEILING WHERE CHANGE OCCURS AFTER 5TH YEAR AND BEFORE 16TH YEAR.—If the change referred to

in subparagraph (B) occurs after the 5-year period referred to under subparagraph (C), the recapture ceiling is the excess of the cash surrender value of the contract, immediately before the reduction, over the cash value corridor of subsection (d) (determined immediately after the reduction and whether or not subsection (d) applies to the contract).

"(E) TREATMENT OF CERTAIN DISTRIBUTIONS MADE IN ANTICIPATION OF BENEFIT REDUCTIONS.—Under regulations prescribed by the Secretary, subparagraph (B) shall apply also to any distribution made in anticipation of a reduction in benefits under the contract. For purposes of the preceding sentence, appropriate adjustments shall be made in the provisions of subparagraphs (C) and (D); and any distribution which reduces the cash surrender value of a contract and which is made within 2 years before a reduction in benefits under the contract shall be treated as made in anticipation of such reduction."

(2) Subparagraph (A) of section 7702(f)(1) (defining premiums paid) is amended by striking out "less any other amounts received" and inserting in lieu thereof "less any excess premiums with respect to which there is a distribution described in subparagraph (B) or (E) of paragraph (7) and any other amounts received".

(c) CLARIFICATION OF TREATMENT OF CONTRACTS WHICH DO NOT MEET TEST.—Clause (ii) of section 7702(g)(1)(B) (defining income on the contract) is amended to read as follows:

"(ii) the premiums paid (as defined in subsection (f)(1)) under the contract during the taxable year."

(d) TREATMENT OF FLEXIBLE PREMIUM CONTRACTS ISSUED DURING 1984 WHICH MEET NEW REQUIREMENTS.—Subsection (b) of section 221 of the Tax Reform Act of 1984 (relating to 1-year extension of flexible premium contract provisions) is amended by adding at the end thereof the following new paragraph:

"(3) TRANSITIONAL RULE.—Any flexible premium contract issued during 1984 which meets the requirements of section 7702 of the Internal Revenue Code of 1954 (as added by this section) shall be treated as meeting the requirements of section 101(f) of such Code."

(e) TREATMENT OF CERTAIN CONTRACTS ISSUED BEFORE OCTOBER 1, 1984.—Clause (i) of section 221(d)(2)(C) of the Tax Reform Act of 1984 (relating to certain contracts issued before October 1, 1984) is amended—

(1) by striking out "in clause (i) thereof" in the material preceding subclause (I), and

(2) by striking out "any mortality charges" in subclause (I) and inserting in lieu thereof "any mortality charges and any initial excess interest guarantees".

SEC. 1826. AMENDMENTS RELATED TO SECTION 222 OF THE ACT.

(a) EXCEPTION FOR ANNUITY CONTRACTS WHICH ARE PART OF QUALIFIED PLANS.—Subsection (s) of section 72 (relating to required distributions where holder dies before entire interest is distributed) is amended by adding at the end thereof the following new paragraph:

"(5) EXCEPTION FOR ANNUITY CONTRACTS WHICH ARE PART OF QUALIFIED PLANS.—This subsection shall not apply to any annuity contract—

"(A) which is provided—

"(i) under a plan described in section 401(a) which includes a trust exempt from tax under section 501, or

"(ii) under a plan described in section 403(a),

"(B) which is described in section 403(b), or

"(C) which is an individual retirement annuity or provided under an individual retirement account or annuity."

(b) SPECIAL RULES WHERE HOLDER IS NOT INDIVIDUAL, ETC.—

(1) Subsection (s) of section 72 (relating to required distributions where holder dies before entire interest is distributed) is amended by adding at the end thereof the following new paragraphs:

"(6) SPECIAL RULE WHERE HOLDER IS CORPORATION OR OTHER NON-INDIVIDUAL.—

"(A) IN GENERAL.—For purposes of this subsection, if the holder of the contract is not an individual, the primary annuitant shall be treated as the holder of the contract.

"(B) PRIMARY ANNUITANT.—For purposes of subparagraph (A), the term 'primary annuitant' means the individual, the events in the life of whom are of primary importance in affecting the timing or amount of the payout under the contract.

"(7) TREATMENT OF CHANGES IN PRIMARY ANNUITANT WHERE HOLDER OF CONTRACT IS NOT AN INDIVIDUAL.—For purposes of this subsection, in the case of a holder of an annuity contract which is not an individual, if there is a change in a primary annuity (as defined in paragraph (6)(B)), such change shall be treated as the death of the holder."

(2) Paragraph (1) of section 72(s) is amended by striking out "the holder of such contract" each place it appears and inserting in lieu thereof "any holder of such contract".

(3) Paragraph (4) of section 72(e) (relating to amounts not received as annuities) is amended by adding at the end thereof the following new subparagraph:

"(C) TREATMENT OF TRANSFERS WITHOUT ADEQUATE CONSIDERATION.—

"(i) IN GENERAL.—If an individual who holds an annuity contract transfers it without full and adequate consideration, such individual shall be treated as receiving an amount equal to the excess of—

"(I) the cash surrender value of such contract at the time of transfer, over

"(II) the investment in such contract at such time,

under the contract as an amount not received as an annuity.

"(ii) EXCEPTION FOR CERTAIN TRANSFERS BETWEEN SPOUSES OR FORMER SPOUSES.—Clause (i) shall not apply to any transfer to which section 1041(a) (relating to transfers of property between spouses or incident to divorce) applies.

"(iii) ADJUSTMENT TO INVESTMENT IN CONTRACT OF TRANSFEREE.—If under clause (i) an amount is included in the gross income of the transferor of an annuity contract, the investment in the contract of the transferee in such contract shall be increased by the amount so included."

(4) The amendments made by this subsection shall apply to contracts issued after the date which is 6 months after the date of the enactment of this Act in taxable years ending after such date.

(c) CLARIFICATION OF EXCEPTION FOR DISTRIBUTION AFTER DEATH.—Effective with respect to distributions made after the date 6 months after the date of the enactment of this Act, subparagraph (B) of section 72(q)(2) (relating to 5-percent penalty for premature distributions from annuity contracts) is amended to read as follows:

"(B) made on or after the death of the holder (or, where the holder is not an individual, the death of the primary annuitant (as defined in subsection (s)(6)(B))),".

(d) EXCEPTION FOR ANNUITIES WHICH ARE QUALIFIED FUNDING ASSETS.—Paragraph (2) of section 72(q) (relating to 5-percent penalty for premature distributions from annuity contracts) is amended by striking out "or" at the end of subparagraph (E), by striking out the period at the end of subparagraph (F) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(G) under a qualified funding asset (within the meaning of section 130(d), but without regard to whether there is a qualified assignment)."

SEC. 1827. AMENDMENTS RELATED TO SECTION 223 OF THE ACT.

(a) DETERMINATION OF COSTS IN THE CASE OF DISCRIMINATORY PLANS.—

(1) IN GENERAL.—Subparagraph (B) of section 79(d)(1) (relating to nondiscrimination requirements) is amended to read as follows:

"(B) the cost of group-term life insurance on the life of any key employee shall be the greater of—

"(i) such cost determined without regard to subsection (c), or

"(ii) such cost determined with regard to subsection (c)."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years ending after the date of the enactment of this Act.

(b) CLARIFICATION OF EFFECTIVE DATE.—

(1) Subparagraph (A) of section 223(d)(2) of the Tax Reform Act of 1984 (relating to treatment of former employees in case of existing group-term insurance plans) is amended by striking out the material following clause (ii) and inserting in lieu thereof the following:

"but only with respect to an individual who attained age 55 on or before January 1, 1984, and was employed by such employer (or a predecessor employer) at any time during 1983. Such amendments also shall not apply to any employee who retired from employment on or before January 1, 1984, and who, when he retired, was covered by the plan (or a predecessor plan)."

(2) Subparagraph (C) of section 223(d)(2) of the Tax Reform Act of 1984 is amended by striking out "after December 31, 1986," and by striking out "shall not be taken into account" and inserting in lieu thereof "may, at the employer's election, be disregarded".

(3) COMPARABLE SUCCESSOR PLANS.—Paragraph (2) of section 223(d) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new subparagraph:

"(D) COMPARABLE SUCCESSOR PLANS.—For purposes of subparagraph (A), a plan shall not fail to be treated as a comparable successor to a plan described in subparagraph (A)(i) with respect to any employee whose benefits do not increase under the successor plan."

(c) DEFINITION OF KEY EMPLOYEE.—Paragraph (6) of section 79(d) (defining key employee) is amended—

(1) by striking out all that follows "section 416(i)" and inserting in lieu thereof a period, and

(2) by adding at the end thereof the following new sentence: "Such term also includes any retired employee if such employee when he retired or separated from service was a key employee."

(d) SEPARATE TREATMENT OF FORMER EMPLOYEES.—Subsection (d) of section 79 (relating to nondiscrimination requirements) is amended by adding at the end thereof the following new paragraph:

"(8) TREATMENT OF FORMER EMPLOYEES.—To the extent provided in regulations, this subsection shall be applied separately with respect to former employees."

(e) COORDINATION WITH SECTION 83.—Paragraph (5) of section 83(e) is amended by striking out "the cost of".

SEC. 1828. AMENDMENT RELATED TO SECTION 224 OF THE ACT.

Paragraph (1) of section 1035(b) (defining endowment contract) is amended by striking out "subject to tax under subchapter L".

SEC. 1829. WAIVER OF INTEREST ON CERTAIN UNDERPAYMENTS OF TAX.

No interest shall be payable for any period before July 19, 1984, on any underpayment of a tax imposed by the Internal Revenue Code of 1954, to the extent such underpayment was created or increased by any provision of subtitle A of title II of the Tax Reform Act of 1984 (relating to taxation of life insurance companies).

SEC. 1830. SCOPE OF SECTION 255 OF THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982.

In the case of any taxable year beginning before January 1, 1982, in applying the provisions of section 255(c)(2) of the Tax Equity and Fiscal Responsibility Act of 1982, the Internal Revenue Service shall give full and complete effect to the terms of any modified coinsurance contract. The terms to be given effect within the meaning of this provision shall include, but are not limited to, the effective date and investment income rate as stated in such contract.

CHAPTER 3—AMENDMENTS RELATED TO TITLE III OF THE ACT

SEC. 1831. AMENDMENT RELATED TO SECTION 301 OF THE ACT.

Clause (iv) of section 170(b)(1)(C) (defining capital gain property) is amended by striking out "this subparagraph" and inserting in lieu thereof "this paragraph".

SEC. 1832. AMENDMENT RELATED TO SECTION 303 OF THE ACT.

Paragraph (2) of section 4940(e) (relating to requirements) is amended by striking out subparagraph (B) and the material following such subparagraph and inserting in lieu thereof the following:

"(B) such private foundation was not liable for tax under section 4942 with respect to any year in the base period."

SEC. 1833. AMENDMENT RELATED TO SECTION 305 OF THE ACT.

Section 6214(c) is amended by striking out "section 4962(b)" and inserting in lieu thereof "section 4963(b)".

SEC. 1834. AMENDMENT RELATED TO SECTION 311 OF THE ACT.

Subparagraph (A) of section 311(a)(3) of the Tax Reform Act of 1984 is amended by striking out "a State law" and inserting in lieu thereof "a State law (originally enacted on April 22, 1977)".

CHAPTER 4—AMENDMENTS RELATED TO TITLE IV OF THE ACT

SEC. 1841. AMENDMENT RELATED TO SECTION 411 OF THE ACT.

Section 6654 (relating to failure by individual to pay estimated income tax) is amended by redesignating subsections (j), (k), and (l) as subsections (k), (l), and (m), respectively, and by inserting after subsection (i) the following new subsection:

"(j) SPECIAL RULES FOR NONRESIDENT ALIENS.—In the case of a nonresident alien described in section 6072(c):

"(1) PAYABLE IN 3 INSTALLMENTS.—There shall be 3 required installments for the taxable year.

"(2) TIME FOR PAYMENT OF INSTALLMENTS.—The due dates for required installments under this subsection shall be determined under the following table:

"In the case of the following required installments:	The due date is:
1st	June 15
2nd	September 15
3rd	January 15 of the following taxable year.

"(3) AMOUNT OF REQUIRED INSTALLMENTS.—

"(A) FIRST REQUIRED INSTALLMENT.—In the case of the first required installment, subsection (d) shall be applied by substituting '50 percent' for '25 percent' in subsection (d)(1)(A).

"(B) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage for purposes of subsection (d)(2) shall be determined under the following table:

"In the case of the following required installments:	The applicable percentage is:
1st	45
2nd	67.5
3rd	90."

SEC. 1842. AMENDMENTS RELATED TO SECTION 421 OF THE ACT.

(a) COORDINATION WITH SECTION 1041.—Section 267 (relating to losses, expenses, and interest with respect to transactions between related taxpayers) is amended by adding at the end thereof the following new subsection:

"(g) COORDINATION WITH SECTION 1041.—Subsection (a)(1) shall not apply to any transfer described in section 1041(a) (relating to transfers of property between spouses or incident to divorce)."

(b) TREATMENT OF TRANSFERS IN TRUST WHERE LIABILITY EXCEEDS BASIS.—Section 1041 (relating to transfers of property between spouses or incident to divorce) is amended by adding at the end thereof the following new subsection:

"(e) TRANSFERS IN TRUST WHERE LIABILITY EXCEEDS BASIS.—Subsection (a) shall not apply to the transfer of property in trust to the extent that—

"(1) the sum of the amount of the liabilities assumed, plus the amount of the liabilities to which the property is subject, exceeds

"(2) the total of the adjusted basis of the property transferred.

Proper adjustment shall be made under subsection (b) in the basis of the transferee in such property to take into account gain recognized by reason of the preceding sentence."

(c) TREATMENT OF CERTAIN TRANSFERS IN TRUST.—Subsection (g) of section 453B (relating to transfers between spouses, or incident to divorce) is amended by striking out "section 1041" and inserting in lieu thereof "section 1041 (other than a transfer in trust)".

(d) CLERICAL AMENDMENT.—Paragraph (17) of section 7701(a) (defining husband and wife as including former husband and wife) is amended by striking out "and 682" and inserting in lieu thereof ", 682, and 2516".

SEC. 1843. AMENDMENTS RELATED TO SECTION 422 OF THE ACT.

(a) CROSS REFERENCE.—Section 71 (relating to alimony and separate maintenance payments) is amended by adding at the end thereof the following new subsection:

"(g) CROSS REFERENCES.—

"(1) For deduction of alimony or separate maintenance payments, see section 215.

"(2) For taxable status of income of an estate or trust in the case of divorce, etc., see section 682."

(b) INSTRUMENT NOT REQUIRED TO SPECIFY ABSENCE OF LIABILITY TO MAKE PAYMENTS AFTER DEATH.—Subparagraph (D) of section 71(b)(1) (defining alimony or separate maintenance payments) is amended by striking out "(and the divorce or separation instrument states that there is no such liability)".

(c) RECOMPUTATION WHERE EXCESS FRONT-LOADING OF ALIMONY PAYMENTS.—

(1) IN GENERAL.—Subsection (f) of section 71 is amended to read as follows:

"(f) RECOMPUTATION WHERE EXCESS FRONT-LOADING OF ALIMONY PAYMENTS—

"(1) IN GENERAL.—If there are excess alimony payments—

"(A) the payor spouse shall include the amount of such excess payments in gross income for the payor spouse's taxable year beginning in the 3rd post-separation year, and

"(B) the payee spouse shall be allowed a deduction in computing adjusted gross income for the amount of such excess payments for the payee's taxable year beginning in the 3rd post-separation year.

"(2) EXCESS ALIMONY PAYMENTS.—For purposes of this subsection, the term 'excess alimony payments' mean the sum of—

"(A) the excess payments for the 1st post-separation year, and

"(B) the excess payments for the 2nd post-separation year.

"(3) EXCESS PAYMENTS FOR 1ST POST-SEPARATION YEAR.—For purposes of this subsection, the amount of the excess payments for the 1st post-separation year is the excess (if any) of—

"(A) the amount of the alimony or separate maintenance payments paid by the payor spouse during the 1st post-separation year, over

"(B) the sum of—

"(i) the average of—

"(I) the alimony or separate maintenance payments paid by the payor spouse during the 2nd post-separation year, reduced by the excess payments for the 2nd post-separation year, and

"(II) the alimony or separate maintenance payments paid by the payor spouse during the 3rd post-separation year, plus

"(ii) $15,000.

"(4) EXCESS PAYMENTS FOR 2ND POST-SEPARATION YEAR.—For purposes of this subsection, the amount of the excess payments for the 2nd post-separation year is the excess (if any) of—

"(A) the amount of the alimony or separate maintenance payments paid by the payor spouse during the 2nd post-separation year, over

"(B) the sum of—

"(i) the amount of the alimony or separate maintenance payments paid by the payor spouse during the 3rd post-separation year, plus

"(ii) $15,000.

"(5) EXCEPTIONS.—

"(A) WHERE PAYMENT CEASES BY REASON OF DEATH OR REMARRIAGE.—Paragraph (1) shall not apply if—

"(i) either spouse dies before the close of the 3rd post-separation year, or the payee spouse remarries before the close of the 3rd post-separation year, and

"(ii) the alimony or separate maintenance payments cease by reason of such death or remarriage.

"(B) SUPPORT PAYMENTS.—For purposes of this subsection, the term 'alimony or separate maintenance payment' shall not include any payment received under a decree described in subsection (b)(2)(C).

"(C) FLUCTUATING PAYMENTS NOT WITHIN CONTROL OF PAYOR SPOUSE.—For purposes of this subsection, the term 'alimony or separate maintenance payment' shall not include any payment to the extent it is made pursuant to a continuing liability (over a period of not less than 3 years) to pay a fixed portion or portions of the income from a business or property or from compensation for employment or self-employment.

"(6) POST-SEPARATION YEARS.—For purposes of this subsection, the term '1st post-separation years' means the 1st calendar year in which the payor spouse paid to the payee spouse alimony or separate maintenance payments to which this section applies. The 2nd and 3rd post-separation years shall be the 1st and 2nd succeeding calendar years, respectively."

(2) EFFECTIVE DATES.—

"(A) IN GENERAL.—The amendment made by paragraph (1) shall apply with respect to divorce or separation in-

struments (as defined in section 71(b)(2)) of the Internal Revenue Code of 1986 executed after December 31, 1986.

"(B) MODIFICATIONS OF INSTRUMENTS EXECUTED BEFORE JANUARY 1, 1987.—The amendments made by paragraph (1) shall also apply to any divorce or separation instrument (as so defined) executed before January 1, 1987, but modified on or after such date if the modification expressly provides that the amendments made by paragraph (1) shall apply to such modification.

(3) TRANSITIONAL RULE.—In the case of any instrument to which the amendment made by paragraph (1) does not apply, paragraph (2) of section 71(f) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) shall apply only with respect to the first 3 post-separation years.

(d) CLERICAL AMENDMENT.—Subparagraph (B) of section 71(c)(2) (relating to treatment of certain reductions related to contingency involving child) is amended by striking out "specified in paragraph (1)" and inserting in lieu thereof "specified in subparagraph (A)".

SEC. 1844. AMENDMENTS RELATED TO SECTION 431 OF THE ACT.

(a) DEFINITION OF RELATED PERSON.—Clause (v) of section 46(c)(8)(D) is amended by striking out "clause (i)" and inserting in lieu thereof "this subparagraph".

(b) CLARIFICATION OF RECAPTURE.—

(1) Paragraph (1) of section 47(d) (relating to increases in nonqualified nonrecourse financing) is amended—

(A) by striking out "reducing the qualified investment" and inserting in lieu thereof "reducing the credit base (as defined in section 48(c)(8)(C))", and

(B) by adding at the end thereof the following new sentence: "For purposes of determining the amount of credit subject to the early disposition or cessation rules of subsection (a), the net increase in the amount of the nonqualified nonrecourse financing with respect to the property shall be treated as reducing the property's credit base (and correspondingly reducing the qualified investment in the property) in the year in which the property was first placed in service."

(2) Subparagraph (F) of section 47(d)(3) is hereby repealed.

(3) Subparagraph (A) of section 46(c)(9) (relating to subsequent decreases in nonqualified nonrecourse financing with respect to property) is amended by striking out "additional qualified investment in" and inserting in lieu thereof "an increase in the credit base for".

(4) Clause (i) of section 47(d)(3)(E) is amended by inserting before the semicolon at the end thereof the following: "reduced by the sum of the credit recapture amounts with respect to such property for all preceding taxable years".

(5) Clause (i) of section 46(c)(9)(C) is amended by striking out "any increase in a taxpayer's qualified investment" and all that follows down through the period at the end thereof and inserting in lieu thereof the following: "any increase in a taxpayer's credit base for any property by reason of this paragraph shall be taken into account as if it were property placed in service by the taxpayer in the taxable year in which the property referred to in subparagraph (A) was first placed in service."

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SEC. 1845. AMENDMENT RELATED TO SECTION 452 OF THE ACT.

Section 456 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new subsection:

"(d) SECTION 452.—The amendment made by section 452 shall apply to products manufactured or produced after October 31, 1984."

SEC. 1846. AMENDMENTS RELATED TO SECTION 473 OF THE ACT.

Subsection (d) of section 39 (relating to transitional rules) is amended—

(1) by striking out "or 44G" in paragraph (1)(A) and inserting in lieu thereof "or 44G (as in effect before the enactment of the Tax Reform Act of 1984)", and

(2) by striking out "as so defined in section 25(b)" in paragraph (2)(B) and inserting in lieu thereof "as defined in section 26(b)".

SEC. 1847. AMENDMENTS RELATED TO SECTION 474 OF THE ACT.

(a) MINIMUM TAX AMENDMENTS.—

(1) Subparagraph (A) of section 55(c)(3) (relating to carryover and carryback of certain credits) is amended by striking out "of such limitation" and inserting in lieu thereof "of such credit allowable".

(2) Effective with respect to taxable years beginning after December 31, 1982, clause (i) of section 55(c)(2)(E) (relating to special rule for applying section 904(c)) is amended to read as follows:

"(i) the limitation of section 904(a) shall be deemed to be the amount of foreign tax credit allowable under section 27(a) in computing the regular tax for the taxable year increased by the amount of the limitation determined under subparagraph (C), and".

(b) CLERICAL AMENDMENTS.—

(1) The clause heading for clause (iii) of section 30(b)(2)(D) is amended by striking out "NEW JOBS OR WIN CREDIT" and inserting in lieu thereof "TARGETED JOBS CREDIT".

(2) Paragraph (1) of section 86(f) is amended by striking out "section 37(c)(3)(A)" and inserting in lieu thereof "section 22(c)(3)(A)".

(3) Subparagraph (C) of section 151(e)(5) is amended by striking out "section 37(e)" and inserting in lieu thereof "section 22(e)".

(4) Clause (i) of section 415(c)(3)(C) is amended by striking out "section 37(e)(3)" and inserting in lieu thereof "section 22(e)(3)".

(5) Paragraph (9) of section 422A(c) is amended by striking out "section 37(e)(3)" and inserting in lieu thereof "section 22(e)(3)".

(6) Paragraph (5) of section 48(l) is amended—

(A) by striking out "section 44C(c)" and inserting in lieu thereof "section 23(c)", and

(B) by striking out "section 44C(c)(4)(A)(viii)" and inserting in lieu thereof "section 23(c)(4)(A)(viii)".

(7) Subparagraph (E) of section 108(b)(2) is amended by striking out "section 33" and inserting in lieu thereof "section 27".

(8) Subsection (b) of section 280C is amended—

(A) by striking out "section 29" each place it appears and inserting in lieu thereof "section 28", and

(B) by striking out "section 29(b)" and inserting in lieu thereof "section 28(b)".

(9) Section 6699 is amended—

(A) by striking out "section 44G" each place it appears in subsections (a) and (c)(2)(B) and inserting in lieu thereof "section 41", and

(B) by striking out "section 44G(c)(1)(B)" in subsection (a)(4) and inserting in lieu thereof "section 41(c)(1)(B)".

(10) Subsection (a) of section 6411 is amended by striking out "or unused business credit" in the second sentence thereof and inserting in lieu thereof "unused research credit, or unused business credit".

(11) Subparagraph (A) of section 46(b)(2) is amended by striking out "48(l)(3)(A)(vii)" in the table contained in such subparagraph and inserting in lieu thereof "48(l)(3)(A)(viii)".

(12) Paragraph (1) of section 163(b) of the Tax Reform Act of 1984 is amended by inserting "(as amended by sections 211, 314, and 474 of this Act)" after "Section 6501".

(13) Section 6501 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) DEFICIENCIES ATTRIBUTABLE TO ELECTION OF CERTAIN CREDITS.—The period for assessing a deficiency attributable to any election under section 40(f) or 51(j) (or any revocation thereof) shall not expire before the date 1 year after the date on which the Secretary is notified of such election (or revocation)."

(14) Subsection (k) of section 6501 is amended by striking out "an investment credit carryback, or a work incentive program carryback, or a new employee credit carryback" and inserting in lieu thereof "or a credit carryback (as defined in section 6511(d)(4)(C))".

(15) Subsection (h) of section 6511 (relating to limitations on credit or refund) is amended—

(A) by striking out "section 6501(q)(1)(B)" in paragraph (1) and inserting in lieu thereof "section 6501(m)(1)(B)", and

(B) by striking out "section 6501(q)(2)(B)" in paragraph (2) and inserting in lieu thereof "section 6501(m)(2)(B)".

(16) Paragraph (1) of section 665(d) is amended by striking out "subpart A of part IV" and inserting in lieu thereof "part IV"

SEC. 1848. AMENDMENTS RELATED TO SECTION 491 OF THE ACT.

(a) Paragraph (9) of section 46(f) (relating to special rule for additional credit) is hereby repealed.

(b) Subparagraph (A) of section 401(c)(2) (defining earned income) is amended by striking out "sections 404 and 405(c)" and inserting in lieu thereof "section 404".

(c) Subparagraph (D) of section 404(a)(8) is amended by striking out "the deductions allowed by this section and section 405(c)" and inserting in lieu thereof "the deduction allowed by this section".

(d) The second sentence of section 2039(e) is amended by striking out "or a bond described in paragraph (3)".

(e)(1) Section 6704 is amended—

(A) by striking out "section 6047(e)" each place it appears in subsection (a) and inserting in lieu thereof "section 6047(d)", and

(B) by striking out "**section 6047(e)**" in the section heading and inserting in lieu thereof "**section 6047(d)**".

(2) Subsection (e) of section 6047 is amended by adding at the end thereof the following new paragraph:

"(3) For provisions relating to penalty for failure to comply with the provisions of subsection (d), see section 6704."

(3) The table of sections for subchapter B of chapter 68 is amended by striking out "section 6047(e)" in the item relating to section 6704 and inserting in lieu thereof "section 6047(d)".

(f) Subsection (b) of section 4973 (defining excess contributions) is amended—

(1) by striking out ", individual retirement annuities, or bonds" in the material preceding paragraph (1) and inserting in lieu thereof "or individual retirement annuities",

(2) by striking out subparagraph (A) of paragraph (1) and inserting in lieu thereof the following:

"(A) the amount contributed for the taxable year to the accounts or for the annuities (other than a rollover contribution described in section 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8), or 408(d)(3)), over", and

(3) by striking out "or bonds" in paragraph (2)(C) thereof.

CHAPTER 5—AMENDMENTS RELATED TO TITLE V OF THE ACT

SEC. 1851. AMENDMENTS RELATED TO WELFARE BENEFIT PLAN PROVISIONS.

(a) AMENDMENTS RELATED TO SECTION 511 OF THE ACT.—

(1) TREATMENT OF PLANS FOR INDEPENDENT CONTRACTORS.—Paragraph (1) of section 419(g) (relating to extension to plans for independent contractors) is amended by striking out "such a plan" and inserting in lieu thereof "such a relationship".

(2) AMENDMENTS TO SECTION 419A(d).—

(A) COORDINATION WITH SECTION 415.—Paragraph (2) of section 419A(d) (relating to coordination with section 415) is amended by adding at the end thereof the following new sentence: "Subparagraph (B) of section 415(c)(1) shall not apply to any amount treated as an annual addition under the preceding sentence."

(B) SEPARATE ACCOUNT REQUIREMENTS APPLY ONLY WHERE THERE IS PRE-FUNDING.—Paragraph (1) of section 419A(d) is amended by adding at the end thereof the following new sentence:

"The requirements of this paragraph shall apply to the first taxable year for which a reserve is taken into account under subsection (c)(2) and to all subsequent taxable years."

(3) CLARIFICATION OF SECTION 419A(e).—

(A) Subsection (e) of section 419A is amended to read as follows:

"(e) SPECIAL LIMITATIONS ON RESERVES FOR MEDICAL BENEFITS OR LIFE INSURANCE BENEFITS PROVIDED TO RETIRED EMPLOYEES.—

"(1) RESERVE MUST BE NONDISCRIMINATORY.—No reserve may be taken into account under subsection (c)(2) for post-retirement medical benefits or life insurance benefits to be provided to covered employees unless the plan meets the requirements of section 505(b) with respect to such benefits (whether or not such requirements apply to such plan). The preceding sentence shall not apply to any plan maintained pursuant to an agreement between employee representatives and 1 or more employers if the Secretary finds that such agreement is a collective bargain-

ing agreement and that post-retirement medical benefits or life insurance benefits were the subject of good faith bargaining between such employee representatives and such employer or employers.

"(2) LIMITATION ON AMOUNT OF LIFE INSURANCE BENEFITS.—Life insurance benefits shall not be taken into account under subsection (c)(2) to the extent the aggregate amount of such benefits to be provided with respect to the employee exceeds $50,000."

(B) Subsection (e) of section 419A of the Internal Revenue Code of 1954 (as amended by subparagraph (A)) shall not apply to any group-term life insurance to the extent that the amendments made by section 223(a) of the Tax Reform Act of 1984 do not apply to such insurance by reason of paragraph (2) of section 223(d) of such Act.

(4) TREATMENT OF COLLECTIVELY BARGAINED PLANS.—Paragraph (5) of section 419A(f) (relating to higher limit in case of collectively bargained plans) is amended by striking out "welfare benefit fund established under" and inserting in lieu thereof "welfare benefit fund maintained pursuant to".

(5) CLARIFICATION OF ACTUARIAL CERTIFICATION REQUIREMENT.—Subparagraph (A) of section 419A(c)(5) (relating to special limitation where no actuarial certification) is amended by striking out "under paragraph (1)" and inserting in lieu thereof "under this subsection".

(6) AGGREGATION RULES.—

(A) Paragraph (1) of section 419A(h) (relating to aggregation rules) is amended to read as follows:

"(1) AGGREGATION OF FUNDS.—

"(A) MANDATORY AGGREGATION.—For purposes of subsections (c)(4), (d)(2), and (e)(2), all welfare benefit funds of an employer shall be treated as 1 fund.

"(B) PERMISSIVE AGGREGATION FOR PURPOSES NOT SPECIFIED IN SUBPARAGRAPH (A).—For purposes of this section (other than the provisions specified in subparagraph (A)), at the election of the employer, 2 or more welfare benefit funds of such employer may (to the extent not inconsistent with the purposes of this subpart and section 512) be treated as 1 fund."

(B) Subsection (b) of section 419A is amended by striking out "this subpart" and inserting in lieu thereof "this subpart and section 512".

(7) CLARIFICATION OF ADJUSTMENTS FOR EXISTING RESERVES.—Paragraph (7) of section 419A(f) (relating to adjustments for existing excess reserves) is amended by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraphs:

"(C) EXISTING EXCESS RESERVE.—For purposes of computing the increase under subparagraph (A) for any taxable year, the term 'existing excess reserve' means the excess (if any) of—

"(i) the amount of assets set aside at the close of the first taxable year ending after July 18, 1984, for purposes described in subsection (a), over

"(ii) the account limit determined under this section (without regard to this paragraph) for the taxable year for which such increase is being computed.

"(D) FUNDS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply only to a welfare benefit fund which, as of July 18, 1984, had assets set aside for purposes described in subsection (a)."

(8)(A) CLARIFICATION OF FUND.—Subsection (e) of section 419 (defining welfare benefit funds) is amended by adding at the end thereof the following new paragraph:

"(4) TREATMENT OF AMOUNTS HELD PURSUANT TO CERTAIN INSURANCE CONTRACTS.—

"(A) IN GENERAL.—Notwithstanding paragraph (3)(C), the term 'fund' shall not include amounts held by an insurance company pursuant to an insurance contract if—

"(i) such contract is a life insurance contract described in section 264(a)(1), or

"(ii) such contract is a qualified nonguaranteed contract.

"(B) QUALIFIED NONGUARANTEED CONTRACT.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'qualified nonguaranteed contract' means any insurance contract (including a reasonable premium stabilization reserve held thereunder) if—

"(I) there is no guarantee of a renewal of such contract, and

"(II) other than insurance protection, the only payments to which the employer or employees are entitled are experience rated refunds or policy dividends which are not guaranteed and which are determined by factors other than the amount of welfare benefits paid to (or on behalf of) the employees of the employer or their beneficiaries.

"(ii) LIMITATION.—In the case of any qualified nonguaranteed contract, subparagraph (A) shall not apply unless the amount of any experience rated refund or policy dividend payable to an employer with respect to a policy year is treated by the employer as received or accrued in the taxable year in which the policy year ends."

(B) EFFECTIVE DATE OF REGULATIONS.—Except in the case of a reserve for post-retirement medical or life insurance benefits and any other arrangement between an insurance company and an employer under which the employer has a contractual right to a refund or dividend based solely on the experience of such employer, any account held for an employer by any person and defined as a fund in regulations issued pursuant to section 419(e)(3)(C) of the Internal Revenue Code of 1954 shall be considered a "fund" no earlier than 6 months following the date such regulations are published in final form.

(9) CLARIFICATION OF TAXES PAID BY EMPLOYER ON INCOME OF CERTAIN WELFARE BENEFIT FUNDS.—Subsection (g) of section 419A (relating to employer taxed on income of welfare benefit funds in certain cases) is amended by adding at the end thereof the following new paragraph:

"(3) COORDINATION WITH SECTION 419.—If any amount is included in the gross income of an employer for any taxable year under paragraph (1) with respect to any welfare benefit fund—

"(A) the amount of the tax imposed by this chapter which is attributable to the amount so included shall be treated as

a contribution paid to such welfare benefit fund on the last day of such taxable year, and

"(B) the tax so attributable shall be treated as imposed on the fund for purposes of section 419(c)(4)(A)."

(10) AMENDMENTS TO TAX ON UNRELATED BUSINESS INCOME.—

(A) Clause (i) of section 512(a)(3)(E) is amended by striking out "determined under section 419A(c)" and inserting in lieu thereof "determined under section 419A (without regard to subsection (f)(6) thereof)".

(B) Subparagraph (E) of section 512(a)(3) is amended by striking out clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(C) Clause (ii) of section 512(a)(3)(E) (as redesignated by subparagraph (B)) is amended—

(i) by striking out "a existing reserve" in subclause (I) and inserting in lieu thereof "an existing reserve", and

(ii) by striking out subclause (II) and inserting in lieu thereof the following:

"(II) For purposes of subclause (II), the term 'reserve for post-retirement medical or life insurance benefits' means the greater of the amount of assets set aside for purposes of post-retirement medical or life insurance benefits to be provided to covered employees as of the close of the last plan year ending before the date of the enactment of the Tax Reform Act of 1984 or on July 18, 1984,".

(D) Clause (iii) of section 512(a)(3)(E) (as redesignated by subparagraph (B)) is amended by striking out "paragraph shall not" and inserting in lieu thereof "subparagraph shall not".

(11) AMENDMENTS RELATED TO TAX ON CERTAIN FUNDED WELFARE BENEFIT PLANS.—Subsection (b) of section 4976 (defining disqualified benefit) is amended to read as follows:

"(b) DISQUALIFIED BENEFIT.—For purposes of subsection (a)—

"(1) IN GENERAL.—The term 'disqualified benefit' means—

"(A) any post-retirement medical benefit or life insurance benefit provided with respect to a key employee if a separate account is required to be established for such employee under section 419A(d) and such payment is not from such account,

"(B) any post-retirement medical benefit or life insurance benefit provided with respect to an individual in whose favor discrimination is prohibited unless the plan meets the requirements of section 505(b) with respect to such benefit (whether or not such requirements apply to such plan), and

"(C) any portion of a welfare benefit fund reverting to the benefit of the employer.

"(2) EXCEPTION FOR COLLECTIVE BARGAINING PLANS.—Paragraph (1)(B) shall not apply to any plan maintained pursuant to an agreement between employee representatives and 1 or more employers if the Secretary finds that such agreement is a collective bargaining agreement and that the benefits referred to in paragraph (1)(B) were the subject of good faith bargaining between such employee representatives and such employer or employers.

"(3) EXCEPTION FOR NONDEDUCTIBLE CONTRIBUTIONS.—Paragraph (1)(C) shall not apply to any amount attributable to a

contribution to the fund which is not allowable as a deduction under section 419 for the taxable year or any prior taxable year (and such contribution shall not be included in any carryover under section 419(d)).

"(4) EXCEPTION FOR CERTAIN AMOUNTS CHARGED AGAINST EXISTING RESERVE.—Subparagraphs (A) and (B) of paragraph (1) shall not apply to post-retirement benefits charged against an existing reserve for post-retirement medical or life insurance benefits (as defined in section 512(a)(3)(E)) or charged against the income on such reserve."

(12) CLARIFICATION OF EFFECTIVE DATE.—Subsection (e) of section 511 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new paragraphs:

"(6) AMENDMENTS RELATED TO TAX ON UNRELATED BUSINESS INCOME.—The amendments made by subsection (b) shall apply with respect to taxable years ending after December 31, 1985. For purposes of section 15 of the Internal Revenue Code of 1954, such amendments shall be treated as a change in the rate of a tax imposed by chapter 1 of such Code.

"(7) AMENDMENTS RELATED TO EXCISE TAXES ON CERTAIN WELFARE BENEFIT PLANS.—The amendments made by subsection (c) shall apply to benefits provided after December 31, 1985."

(13) Section 419A(f)(5) is amended to read as follows:

"(5) SPECIAL RULE FOR COLLECTIVE BARGAINED AND EMPLOYEE PAY-ALL PLANS.—No accounts limits shall apply in the case of any qualified asset account under a separate welfare benefit fund—

"(A) under a collective bargaining agreement, or

"(B) an employee pay-all plan under section 501(c)(9) if—

"(i) such plan has at least 50 employees (determined without regard to subsection (h)(1)), and

"(ii) no employee is entitled to a refund with respect to amounts in the fund, other than a refund based on the experience of the entire fund."

(14) CLERICAL AMENDMENT.—Paragraph (2) of section 511(e) of the Tax Reform Act of 1984 is amended by striking out "and section 514".

(b) AMENDMENTS RELATED TO SECTION 512 OF THE ACT.—

(1) TRANSITIONAL RULE FOR CERTAIN TAXPAYERS WITH FULLY VESTED VACATION PAY PLANS.—

(A) IN GENERAL.—In the case of any taxpayer—

(i) who maintained a fully vested vacation pay plan where payments are expected to be paid (or are in fact paid) within 1 year after the accrual of the vacation pay, and

(ii) who makes an election under section 463 of the Internal Revenue Code of 1954 for such taxpayer's 1st taxable year ending after the date of the enactment of the Tax Reform Act of 1984,

in lieu of establishing a suspense account under such section 463, such election shall be treated as a change in the taxpayer's method of accounting and the adjustments required as a result of such change shall be taken into account under section 481 of such Code.

(B) EXTENSION OF TIME FOR MAKING ELECTION.—In the case of any taxpayer who meets the requirements of subparagraph (A)(i), the time for making an election under

section 463 of such Code for such taxpayer's 1st taxable year ending after the date of the enactment of the Tax Reform Act of 1984 shall not expire before the date 6 months after the date of the enactment of this Act.

(2) CLERICAL AMENDMENTS.—

(A) Clause (ii) of section 404(b)(2)(B) (relating to exceptions for certain benefits) is amended by striking out "to any benefit" and inserting in lieu thereof "any benefit".

(B) Subsection (b) of section 404 is amended—

(i) by striking out "UNFUNDED" in the subsection heading and inserting in lieu thereof "CERTAIN", and

(ii) by striking out "UNFUNDED" in the heading of paragraph (2) and inserting in lieu thereof "CERTAIN".

(C)(i) Section 404(a) is amended by striking out "section 162 (relating to trade or business expenses) or section 212 (relating to expenses for the production of income); but, if they satisfy the conditions of either of such sections," and inserting in lieu thereof "this chapter; but, if they would otherwise be deductible,".

(ii) Subsection (d) of section 404 is amended by striking out "under section 162 or 212" each place it appears and inserting in lieu thereof "under this chapter".

(iii) Subsection (a) of section 404A is amended—

(I) by striking out "under section 162, 212, or 404" and inserting in lieu thereof "under this chapter", and

(II) by striking out "they satisfy the conditions of section 162" and inserting in lieu thereof "they would otherwise be deductible".

(iv) Subsection (a) of section 419 is amended—

(I) by striking out "under section 162 or 212" and inserting in lieu thereof "under this subchapter", and

(II) by striking out "they satisfy the requirements of either of such sections" and inserting in lieu thereof "they would otherwise be deductible".

(c) AMENDMENTS RELATED TO SECTION 513 OF THE ACT.—

(1) Paragraph (1) of section 505(a) (relating to certain requirements must be met in case of organizations described in paragraph (9) or (20) of section 501(c)) is amended by striking out "of an employer".

(2) Paragraph (1) of section 505(b) (relating to nondiscrimination requirements) is amended by striking out "as provided in paragraph (2)" and inserting in lieu thereof "as otherwise provided in this subsection".

(3) Subparagraph (B) of section 505(b)(1) is amended by striking out "highly compensated employees" and inserting in lieu thereof "highly compensated individuals".

(4) Paragraph (2) of section 505(a) (relating to exception for collective bargaining agreements) is amended to read as follows:

"(2) EXCEPTION FOR COLLECTIVE BARGAINING AGREEMENTS.—Paragraph (1) shall not apply to any organization which is part of a plan maintained pursuant to an agreement between employee representatives and 1 or more employers if the Secretary finds that such agreement is a collective bargaining agreement and that such plan was the subject of good faith bargaining between such employee representatives and such employer or employers."

SEC. 1852. AMENDMENTS RELATED TO PENSION PLAN PROVISIONS.

(a) AMENDMENTS RELATED TO SECTION 521 OF THE ACT.—

(1) CLARIFICATION THAT DISTRIBUTION FROM INDIVIDUAL RETIREMENT ACCOUNTS OR ANNUITIES MUST BEGIN AT 70½.—

(A) Paragraph (6) of section 408(a) (defining individual retirement account) is amended by striking out "(relating to required distributions)" and inserting in lieu thereof "(without regard to subparagraph (C)(ii) thereof) and the incidental death benefit requirements of section 401(a)".

(B) Paragraph (3) of section 408(b) (defining individual retirement annuity) is amended by striking out "(relating to required distributions)" and inserting in lieu thereof "(without regard to subparagraph (C)(ii) thereof) and the incidental death benefit requirements of section 401(a)".

(2) EXEMPTION OF PRE-1985 ACCUMULATIONS FROM PENALTY ON PREMATURE DISTRIBUTIONS.—

(A) Subparagraph (A) of section 72(m)(5) (relating to penalties applicable to certain amounts received by 5-percent owners) is amended to read as follows:

"(A) This subparagraph shall apply—

"(i) to amounts which—

"(I) are received from a qualified trust described in section 401(a) or under a plan described in section 403(a), and

"(II) are received by a 5-percent owner before such owner attains the age of 59½ years, for any reason other than such owner becoming disabled (within the meaning of paragraph (7) of this section), and

"(ii) to amounts which are received from a qualified trust described in section 401(a) or under a plan described in section 403(a) at any time by a 5-percent owner, or by the successor of such owner, but only to the extent that such amounts are determined (under regulations prescribed by the Secretary) to exceed the benefits provided for such individual under the plan formula.

Clause (i) shall not apply to any amount received by an individual in his capacity as a policyholder of an annuity, endowment, or life insurance contract which is in the nature of a dividend or similar distribution and clause (i) shall not apply to amounts attributable to benefits accrued before January 1, 1985."

(B) Subparagraph (C) of section 72(m)(5) is amended to read as follows:

"(C) For purposes of this paragraph, the term '5-percent owner' means any individual who, at any time during the 5 plan years preceding the plan year ending in the taxable year in which the amount is received, is a 5-percent owner (as defined in section 416(i)(1)(B))."

(C) Paragraph (5) of section 72(m) is amended by striking out "OWNER-EMPLOYEES" in the paragraph heading and inserting in lieu thereof "5-PERCENT OWNERS".

(3) EXTENSION OF DISTRIBUTION REQUIREMENTS TO SECTION 403(b) ANNUITIES.—

(A) Subsection (b) of section 403 (relating to taxability of beneficiary under annuity purchased by section 501(c)(3) organization or public school) is amended by adding at the end thereof the following new paragraph:

"(10) DISTRIBUTION REQUIREMENTS.—Under regulations prescribed by the Secretary, this subsection shall not apply to any annuity contract (or to any custodial account described in paragraph (7) or retirement income account described in paragraph (9)) unless requirements similar to the requirements of section 401(a)(9) are met (and requirements similar to the incidental death benefit requirements of section 401(a) are met) with respect to such annuity contract (or custodial account or retirement income account)."

(B) Paragraph (7) of section 403(b) is amended by striking out subparagraph (D).

(C) The amendments made by this paragraph shall apply to benefits accruing after December 31, 1986, in taxable years ending after such date.

(4) CLARIFICATION OF REQUIRED BEGINNING DATE.—

(A) Subparagraph (C) of section 401(a)(9) (defining required beginning date) is amended by striking out the last sentence and inserting in lieu thereof the following:

"Clause (ii) shall not apply in the case of an employee who is a 5-percent owner (as defined in section 416(i)(1)(B)) at any time during the 5-plan-year period ending in the calendar year in which the employee attains age 70½. If the employee becomes a 5-percent owner during any subsequent plan year, the required beginning date shall be April 1 of the calendar year following the calendar year in which such subsequent plan year ends."

(B) Subsection (d) of section 409 (relating to employer securities must stay in the plan) is amended by adding at the end thereof the following new sentence:

"This subsection shall not apply to any distribution required under section 401(a)(9)."

(5) REQUIRED DISTRIBUTIONS NOT ELIGIBLE FOR ROLLOVER TREATMENT.—

(A) Paragraph (5) of section 402(a) (relating to rollover amounts) is amended by adding at the end thereof the following new subparagraph:

"(G) REQUIRED DISTRIBUTIONS NOT ELIGIBLE FOR ROLLOVER TREATMENT.—Subparagraph (A) shall not apply to any distribution to the extent such distribution is required under section 401(a)(9)."

(B)(i) Subparagraph (B) of section 403(a)(4) is amended by striking out "through (F)" and inserting in lieu thereof "through (G)".

(ii) Paragraph (8) of section 403(b) is amended by adding at the end thereof the following new subparagraph:

"(D) REQUIRED DISTRIBUTIONS NOT ELIGIBLE FOR ROLLOVER TREATMENT.—Subparagraph (A) shall not apply to any distribution to the extent such distribution is required under paragraph (10)."

(C) Paragraph (3) of section 408(d) (relating to rollover contributions) is amended by adding at the end thereof the following new subparagraph:

"(E) DENIAL OF ROLLOVER TREATMENT FOR REQUIRED DISTRIBUTIONS.—This subparagraph shall not apply to any amount to the extent such amount is required to be distributed under subsection (a)(6) or (b)(3)."

(6) TREATMENT OF DISTRIBUTIONS REQUIRED UNDER INCIDENTAL DEATH BENEFIT RULES.—Paragraph (9) of section 401(a) (relating to required distributions) is amended by adding at the end thereof the following new subparagraph:

"(G) TREATMENT OF INCIDENTAL DEATH BENEFIT DISTRIBUTIONS.—For purposes of this title, any distribution required under the incidental death benefit requirements of this subsection shall be treated as a distribution required under this paragraph."

(7) CLERICAL AMENDMENTS.—

(A) Paragraph (1) of section 408(c) is amended by striking out "paragraphs (1) through (7)" and inserting in lieu thereof "paragraphs (1) through (6)".

(B) Subsection (a) of section 4974 (relating to excise tax on certain accumulations in individual retirement accounts or annuities) is amended by striking out "section 408(a) (6) or (7), or 408(b) (3) or (4)" and inserting in lieu thereof "section 408(a)(6) or 408(b)(3)".

(C) Subsection (b) of section 4974 is amended by striking out "section 408(a) (6) or (7) or 408(b) (3) or (4)" and inserting in lieu thereof "section 408(a)(6) or 408(b)(3)".

(b) AMENDMENTS RELATED TO SECTION 522 OF THE ACT.—

(1) Clause (v) of section 402(a)(5)(E) (defining partial distribution) is amended by striking out "of any portion of" and inserting in lieu thereof "of all or any portion of".

(2) Clause (i) of section 402(a)(5)(D) (relating to special rules for partial distributions) is amended by adding at the end thereof the following new sentence:

"For purposes of subclause (I), the balance to the credit of the employee shall not include any accumulated deductible employee contributions (within the meaning of section 72(o)(5))."

(3)(A) Section 402 is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF SELF-EMPLOYED INDIVIDUALS.—For purposes of this section, except as otherwise provided in subparagraph (A) of subsection (e)(4), the term 'employee' includes a self-employed individual (as defined in section 401(c)(1)(B)) and the employer of such individual shall be the person treated as his employer under section 401(c)(4)."

(B) Paragraph (4) of section 402(e) is amended by striking out subparagraph (F).

(4) Paragraph (7) of section 402(a) (relating to rollover where spouse received distributions after death of employee) is amended by striking out "the spouse were the employee" and inserting in lieu thereof "the spouse were the employee; except that a trust or plan described in subclause (III) or (IV) of paragraph (5)(E)(iv) shall not be treated as an eligible retirement plan with respect to such distribution".

(5) Clause (ii) of section 402(a)(5)(D) is amended by striking out "a plan described in subclause (IV) or (V)" and inserting in lieu thereof "a trust or plan described in subclause (III) or (IV)".

(6) Clause (i) of section 402(a)(5)(F) is amended by striking out "a transfer described in subparagraph (A)" and inserting in lieu thereof "a transfer resulting in any portion of a distribution being excluded from gross income under subparagraph (A)".

(7) Clause (v) of section 402(a)(6)(D) is amended by striking out "(7)(B)" and inserting in lieu thereof "(7)".

(8) Paragraph (20) of section 401(a) is amended by striking out "qualifying rollover distribution (determined as if section 402(a)(5)(D)(i) did not contain subclause (II) thereof) described in section 402(a)(5)(A)(i) or 403(a)(4)(A)(i)" and inserting in lieu thereof "qualified total distribution described in section 402(a)(5)(E)(i)(I)".

(9) Subsection (e) of section 522 of the Tax Reform Act of 1984 is amended by striking out "the date of the amendment" and inserting in lieu thereof "the date of the enactment".

(10) Subparagraph (C) of section 403(b)(8) is amended by striking out "(F)(i)" and inserting in lieu thereof "and (F)(i)".

(c) AMENDMENTS RELATED TO SECTION 523 OF THE ACT.—

(1) Subparagraph (B) of section 72(e)(7) (relating to plans substantially all the contributions of which are employee contributions) is amended—

(A) by striking out "any trust or contract" and inserting in lieu thereof "any plan or contract",

(B) by striking out "85 percent of" and inserting in lieu thereof "85 percent or more of", and

(C) by adding at the end thereof the following new sentence:

"For purposes of clause (ii), deductible employee contributions (as defined in subsection (o)(5)(A)) shall not be taken into account."

(2) Subparagraph (E) of section 72(q)(2) (relating to 5-percent penalty for premature distributions from annuity contracts) is amended by striking out "subsection (e)(5)(D)" and inserting in lieu thereof "subsection (e)(5)(D) (determined without regard to subsection (e)(7))".

(3) Subsection (f) of section 72 is amended—

(A) by striking out "subsection (d)(1)" and inserting in lieu thereof "subsections (d)(1) and (e)(7)", and

(B) by striking out "subsection (e)(1)(B)" and inserting in lieu thereof "subsection (e)(6)".

(4) Paragraph (2) of section 72(m) is amended—

(A) by striking out "3 years)" in subparagraph (B) and inserting in lieu thereof "3 years) and subsection (e)(7) (relating to plans where substantially all contributions are employee contributions)", and

(B) by striking out "subsection (e)(1)(B)" in subparagraph (C) and inserting in lieu thereof "subsection (e)(6)".

(5) Subsection (b) of section 402 is amended by striking out "section 72(e)(1)" and inserting in lieu thereof "section 72(e)(5)".

(d) AMENDMENTS RELATED TO SECTION 524 OF THE ACT.—

(1) Subparagraph (A) of section 416(i)(1) (defining key employee) is amended by adding at the end thereof the following new sentence: "Such term shall not include any officer or employee of an entity referred to in section 414(d) (relating to governmental plans)."

(2) Subparagraph (E) of section 416(g)(4) (relating to benefits not taken into account if employee not employed for last 5 years) is amended to read as follows:

"(E) BENEFITS NOT TAKEN INTO ACCOUNT IF EMPLOYEE NOT EMPLOYED FOR LAST 5 YEARS.—If any individual has not performed services for the employer maintaining the plan at any time during the 5-year period ending on the determination date, any accrued benefit for such individual (and the account of such individual) shall not be taken into account."

(e) AMENDMENTS RELATED TO SECTION 525 OF THE ACT.—

(1)(A) Subsection (c) of section 2039 (relating to exception of certain annuity interests created by community property laws) is hereby repealed.

(B) The amendment made by subparagraph (A) shall apply to estates of decedents dying after the date of the enactment of this Act.

(2)(A) Section 2517 (relating to certain annuities under qualified plans) is hereby repealed.

(B) The table of sections for subchapter B of chapter 12 is amended by striking out the item relating to section 2517.

(C) Subsection (e) of section 406 is amended by striking out paragraph (5).

(D) Subsection (e) of section 407 is amended by striking out paragraph (5).

(E) The amendments made by this paragraph shall apply to transfers after the date of the enactment of this Act.

(3) Section 525(b) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new paragraph:

"(4) IRREVOCABLE ELECTION.—For purposes of paragraph (2) and section 245(c) of the Tax Equity and Fiscal Responsibility Act of 1982, an individual who—

"(A) separated from service before January 1, 1985, with respect to paragraph (2), or January 1, 1983, with respect to section 245(c) of the Tax Equity and Fiscal Responsibility Act of 1982, and

"(B) meets the requirements of such paragraph or such section other than the requirement that there be an irrevocable election, and that the individual be in pay status,

shall be treated as having made an irrevocable election and as being in pay status within the time prescribed with respect to a form of benefit if such individual does not change such form of benefit before death."

(f) AMENDMENT RELATED TO SECTION 526 OF THE ACT.—Paragraph (2) of section 526(d) of the Tax Reform Act of 1984 is amended by striking out "paragraph (6)" and inserting in lieu thereof "paragraph (7)".

(g) AMENDMENTS RELATED TO SECTION 527 OF THE ACT.—

(1) Paragraph (3) of section 401(k) (relating to application of participation and discrimination standards) is amended by adding at the end thereof the following new subparagraph:

"(C) A cash or deferred arrangement shall be treated as meeting the requirements of subsection (a)(4) with respect to contributions if the requirements of subparagraph (A)(ii) are met."

(2) Subparagraph (A) of section 401(k)(3) is amended by striking out the last sentence and inserting in lieu thereof the

following: "If an employee is a participant under 2 or more cash or deferred arrangements of the employer, for purposes of determining the deferral percentage with respect to such employee, all such cash or deferred arrangements shall be treated as 1 cash or deferred arrangement."

(3) Subparagraph (C) of section 401(k)(2) is amended by striking out "are nonforfeitable" and inserting in lieu thereof "is nonforfeitable".

(h) AMENDMENTS RELATED TO SECTION 528 OF THE ACT.—

(1) Subsection (h) of section 401 (relating to medical, etc., benefits for retired employees and their spouses and dependents) is amended—

(A) by striking out "5-percent owner" each place it appears in paragraph (6) and inserting in lieu thereof "key employee", and

(B) by striking out the last sentence and inserting in lieu thereof the following:

"For purposes of paragraph (6), the term 'key employee' means any employee, who at any time during the plan year or any preceding plan year during which contributions were made on behalf of such employee, is or was a key employee as defined in section 416(i)."

(2) Paragraph (1) of section 416(l) (relating to treatment of certain medical benefits) is amended by adding at the end thereof the following new sentence: "Subparagraph (B) of subsection (c)(1) shall not apply to any amount treated as an annual addition under the preceding sentence."

(3) Subsection (l) of section 415 is amended by striking out "a defined benefit plan" each place it appears and inserting in lieu thereof "a pension or annuity plan".

(i) AMENDMENT RELATED TO SECTION 4402 OF ERISA.—Section 4402 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1461) is amended by adding at the end thereof the following new subsection:

"(h)(1) In the case of an employer who entered into a collective bargaining agreement—

"(A) which was effective on January 12, 1979, and which remained in effect through May 15, 1982, and

"(B) under which contributions to a multiemployer plan were to cease on January 12, 1982,

any withdrawal liability incurred by the employer pursuant to part 1 of subtitle E as a result of the complete or partial withdrawal of the employer from the multiemployer plan before January 12, 1982, shall be void.

"(2) In any case in which—

"(A) an employer engaged in the grocery wholesaling business—

"(i) had ceased all covered operations under a multiemployer plan before June 30, 1981, and had relocated its operations to a new facility in another State, and

"(ii) had notified a local union representative on May 14, 1980, that the employer had tentatively decided to discontinue operations and relocate to a new facility in another State, and

"(B) all State and local approvals with respect to construction of and commencement of operations at the new facility had been obtained, a contract for construction had been entered

into, and construction of the new facility had begun before September 26, 1980,

any withdrawal liability incurred by the employer pursuant to part 1 of subtitle E as a result of the complete or partial withdrawal of the employer from the multiemployer plan before June 30, 1981, shall be void.".

SEC. 1853. AMENDMENTS RELATED TO FRINGE BENEFIT PROVISIONS.

(a) AMENDMENTS TO SECTION 132.—

(1) Clause (ii) of section 132(f)(2)(B) (defining dependent children) is amended by striking out "are deceased" and inserting in lieu thereof "are deceased and who has not attained age 25".

(2) Subparagraph (A) of section 132(c)(3) (defining employee discount) is amended by striking out "are provided to the employee by the employer" and inserting in lieu thereof "are provided by the employer to an employee for use by such employee".

(3) Subsection (i) of section 132 (relating to customers not to include employees) is amended by striking out "subsection (c)(2)(B)" and inserting in lieu thereof "subsection (c)(2)".

(b) AMENDMENTS TO SECTION 125.—

(1) CLARIFICATION OF BENEFITS WHICH MAY BE PROVIDED UNDER CAFETERIA PLANS.—

(A) Subsections (c) and (d)(1)(B) of section 125 are each amended by striking out "statutory nontaxable benefits" each place it appears and inserting in lieu thereof "qualified benefits".

(B) Subsection (f) of section 125 is amended to read as follows:

"(f) QUALIFIED BENEFITS DEFINED.—For purposes of this section, the term 'qualified benefit' means any benefit which, with the application of subsection (a), is not includible in the gross income of the employee by reason of an express provision of this chapter (other than section 117, 124, 127, or 132). Such term includes any group term life insurance which is includible in gross income only because it exceeds the dollar limitation of section 79 and such term includes any other benefit permitted under regulations."

(2) TRANSITIONAL RULE.—Paragraph (5) of section 531(b) of the Tax Reform Act of 1984 (relating to exception for certain cafeteria plans and benefits) is amended by adding at the end thereof the following new subparagraph:

"(D) COLLECTIVE BARGAINING AGREEMENTS.—In the case of any cafeteria plan in existence on February 10, 1984, and maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers, the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof agreed to after July 18, 1984) shall be substituted for 'January 1, 1985' in subparagraph (A) and for 'July 1, 1985' in subparagraph (B). For purposes of the preceding sentence, any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section (or any requirement in the regulations under section 125 of the Internal Revenue Code of 1954 proposed on May 6, 1984) shall not be

treated as a termination of such collective bargaining agreement."

(3) SPECIAL RULE WHERE CONTRIBUTIONS OR REIMBURSEMENTS SUSPENDED.—Paragraph (5) of section 531(b) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE WHERE CONTRIBUTIONS OR REIMBURSEMENTS SUSPENDED.—For purposes of subparagraphs (A) and (B), a plan shall not be treated as not continuing to fail to satisfy the rules referred to in such subparagraphs with respect to any benefit provided in the form of a flexible spending arrangement merely because contributions or reimbursements (or both) with respect to such plan were suspended before January 1, 1985."

(c) AMENDMENTS TO SECTION 4977.—

(1) Paragraph (2) of section 4977(c) is amended to read as follows:

"(2) at all times on or after January 1, 1984, and before the close of the calendar year involved, substantially all of the employees of the employer were entitled to employee discounts on goods or services provided by the employer in 1 line of business,".

(2) Section 4977 (relating to tax on certain fringe benefits provided by an employer) is amended by adding at the end thereof the following new subsection:

"(f) SECTION TO APPLY ONLY TO EMPLOYMENT WITHIN THE UNITED STATES.—Except as otherwise provided in regulations, this section shall apply only with respect to employment within the United States."

(3) For purposes of determining whether the requirements of section 4977(c) of the Internal Revenue Code of 1954 are met in the case of an agricultural cooperative incorporated in 1964, there shall not be taken into account employees of a member of the same controlled group as such cooperative which became a member during July 1980.

(d) TREATMENT OF TELEPHONE CONCESSION SERVICE FOR CERTAIN RETIREES.—Section 559 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following subsection:

"(e) TELEPHONE SERVICE FOR PRE-DIVESTITURE RETIREES.—In the case of an employee who, by reason of retirement or disability, separated before January 1, 1984, from the service of an entity subject to the modified final judgment—

"(1) all entities subject to the modified final judgment shall be treated as a single employer in the same line of business for purposes of determining whether telephone service provided to the employee is a no-additional-cost service as defined in section 132 of the Internal Revenue Code of 1954; and

"(2) payment by an entity subject to the modified final judgment of all or part of the cost of local telephone service provided to the employee by a person other than an entity subject to the modified final judgment (including rebate of the amount paid by the employee for the service and payment to the person providing the service) shall be treated as telephone service provided to the employee by such single employer for purposes of determining whether the telephone service is a no-additional-cost service as defined in section 132 of the Internal Revenue Code of 1954.

For purposes of this subsection, the term 'employee' has the meaning given to such term by section 132(f) of the Internal Revenue Code of 1954."

(e) TREATMENT OF CERTAIN LEASED OPERATIONS OF DEPARTMENT STORES.—For purposes of section 132(h)(2)(B) of the Internal Revenue Code of 1954, a leased section of a department store which, in connection with the offering of beautician services, customarily makes sales of beauty aids in the ordinary course of business shall be treated as engaged in over-the-counter sales of property.

(f) TRANSITIONAL RULES FOR TREATMENT OF CERTAIN REDUCTIONS IN TUITION.—

(1) A tuition reduction plan shall be treated as meeting the requirements of section 117(d)(3) of the Internal Revenue Code of 1954 if—

(A) such plan would have met the requirements of such section (as amended by this section but without regard to the lack of evidence that benefits under such plan were the subject of good faith bargaining) on the day on which eligibility to participate in the plan was closed,

(B) at all times thereafter, the tuition reductions available under such plan are available on substantially the same terms to all employees eligible to participate in such plan, and

(C) the eligibility to participate in such plan closed on June 30, 1972, June 30, 1974, or December 31, 1975.

(2) For purposes of applying section 117(d)(3) of the Internal Revenue Code of 1954 to all tuition reduction plans of an employer with at least 1 such plan described in paragraph (1) of this subsection, there shall be excluded from consideration employees not included in the plan who are included in a unit of employees covered by an agreement that the Secretary of the Treasury or his delegate finds to be a collective bargaining agreement between employee representatives and 1 or more employers, if, with respect to plans other than plans described in paragraph (1), there is evidence that such benefits were the subject of good faith bargaining.

(3) Any reduction in tuition provided with respect to a full-time course of education furnished at the graduate level before July 1, 1988, shall not be included in gross income if—

(A) such reduction would not be included in gross income under the Internal Revenue Service regulations in effect on the date of the enactment of the Tax Reform Act of 1984, and

(B) such reduction is provided with respect to a student who was accepted for admission to such course of education before July 1, 1984, and began such course of education before June 30, 1985.

SEC. 1854. AMENDMENTS RELATED TO EMPLOYEE STOCK OWNERSHIP PLANS.

(a) AMENDMENTS RELATED TO SECTION 541.—

(1) Section 1042(a) (relating to nonrecognition of gain) is amended—

(A) by striking out "gain (if any) on such sale" and inserting in lieu thereof "gain (if any) on such sale which would be recognized as long-term capital gain", and

(B) by striking out "the taxpayer elects" in paragraph (1) and inserting in lieu thereof "the taxpayer or executor elects in such form as the Secretary may prescribe".

(2)(A) Section 1042(b)(2) (relating to requirement that employees must own 30 percent of stock) is amended to read as follows:

"(2) PLAN MUST HOLD 30 PERCENT OF STOCK AFTER SALE.—The plan or cooperative referred to in paragraph (1) owns (after application of section 318(a)(4)), immediately after the sale, at least 30 percent of—

"(A) each class of outstanding stock of the corporation (other than stock described in section 1504(a)(4)) which issued the qualified securities, or

"(B) the total value of all outstanding stock of the corporation (other than stock described in section 1504(a)(4)).

(B)(i) The requirement that section 1042(b) of the Internal Revenue Code of 1954 shall be applied with regard to section 318(a)(4) of such Code shall apply to sales after May 6, 1986.

(ii) In the case of sales after July 18, 1984, and before the date of the enactment of this Act, paragraph (2) of section 1042(b) of such Code shall apply as if it read as follows:

"(2) EMPLOYEES MUST OWN 30 PERCENT OF STOCK AFTER SALE.—The plan or cooperative referred to in paragraph (1) owns, immediately after the sale, at least 30 percent of the employer securities or 30 percent of the value of employer securities (within the meaning of section 409(1)) outstanding at the time of sale."

(3)(A) Section 409 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) SECURITIES RECEIVED IN CERTAIN TRANSACTIONS.—

"(1) IN GENERAL.—A plan to which section 1042 applies and an eligible worker-owned cooperative (within the meaning of section 1042(c)) shall provide that no portion of the assets of the plan or cooperative attributable to (or allocable in lieu of) employer securities acquired by the plan or cooperative in a sale to which section 1042 applies may accrue (or be allocated directly or indirectly under any plan of the employer meeting the requirements of section 401(a))—

"(A) during the nonallocation period, for the benefit of—

"(i) any taxpayer who makes an election under section 1042(a) with respect to employer securities,

"(ii) any individual who is related to the taxpayer (within the meaning of section 267(b)), or

"(B) for the benefit of any other person who owns (after application of section 318(a)) more than 25 percent of—

"(i) any class of outstanding stock of the corporation which issued such employer securities or of any corporation which is a member of the same controlled group of corporations (within the meaning of subsection (l)(4)) as such corporation, or

"(ii) the total value of any class of outstanding stock of any such corporation.

For purposes of subparagraph (B), section 318(a) shall be applied without regard to the employee trust exception in paragraph (2)(B)(i).

"(2) FAILURE TO MEET REQUIREMENTS.—If a plan fails to meet the requirements of paragraph (1)—

"(A) the plan shall be treated as having distributed to the person described in paragraph (1) the amount allocated to the account of such person in violation of paragraph (1) at the time of such allocation,

"(B) the provisions of section 4979A shall apply, and

"(C) the statutory period for the assessment of any tax imposed by section 4979A shall not expire before the date which is 3 years from the later of—

"(i) the 1st allocation of employer securities in connection with a sale to the plan to which section 1042 applies, or

"(ii) the date on which the Secretary is notified of such failure.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) LINEAL DESCENDANTS.—Paragraph (1)(A)(ii) shall not apply to any individual if—

"(i) such individual is a lineal descendant of the taxpayer, and

"(ii) the aggregate amount allocated to the benefit of all such lineal descendants during the nonallocation period does not exceed more than 5 percent of the employer securities (or amounts allocated in lieu thereof) held by the plan which are attributable to a sale to the plan by any person related to such descendants (within the meaning of section 267(c)(4)) in a transaction to which section 1042 applied.

"(B) 25-PERCENT SHAREHOLDERS.—A person shall be treated as failing to meet the stock ownership limitation under paragraph (1)(B) if such person fails such limitation—

"(i) at any time during the 1-year period ending on the date of sale of qualified securities to the plan or cooperative, or

"(ii) on the date as of which qualified securities are allocated to participants in the plan or cooperative.

"(C) NONALLOCATION PERIOD.—The term 'nonallocation period' means the 10-year period beginning on the later of—

"(i) the date of the sale of the qualified securities, or

"(ii) the date of the plan allocation attributable to the final payment of acquisition indebtedness incurred in connection with such sale."

(B) Section 1042(b)(3) is amended by striking out paragraph (3) and redesignating paragraph (4) as paragraph (3).

(C) The amendments made by this paragraph apply to sales of securities after the date of the enactment of this Act.

(4) Section 1042(c)(1) (defining qualified securities) is amended—

(A) by striking out "securities outstanding that are" in subparagraph (A) and inserting in lieu thereof "stock outstanding that is",

(B) by inserting "and" at the end of subparagraph (A), and

(C) by striking out subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(5)(A) Paragraph (4) of section 1042(c) (defining qualified replacement property) is amended to read as follows:

"(4) QUALIFIED REPLACEMENT PROPERTY.—

"(A) IN GENERAL.—The term 'qualified replacement property' means any security issued by a domestic operating corporation which—

"(i) did not, for the taxable year preceding the taxable year in which such security was purchased, have passive investment income (as defined in section 1362(d)(3)(D)) in excess of 25 percent of the gross receipts of such corporation for such preceding taxable year, and

"(ii) is not the corporation which issued the qualified securities which such security is replacing or a member of the same controlled group of corporations (within the meaning of section 1563(a)(1)) as such corporation.

For purposes of clause (i), income which is described in section 954(c)(3) shall not be treated as passive investment income.

"(B) OPERATING CORPORATION.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'operating corporation' means a corporation more than 50 percent of the assets of which were, at the time the security was purchased or before the close of the placement period, used in the active conduct of the trade or business.

"(ii) FINANCIAL INSTITUTIONS AND INSURANCE COMPANIES.—The term 'operating corporation' shall include—

"(I) any financial institution described in section 581 or 593, and

"(II) an insurance company subject to tax under subchapter L.

"(C) CONTROLLING AND CONTROLLED CORPORATIONS TREATED AS 1 CORPORATION.—

"(i) IN GENERAL.—For purposes of applying this paragraph, if—

"(I) the corporation issuing the security owns stock representing control of 1 or more other corporations,

"(II) 1 or more other corporations own stock representing control of the corporation issuing the security, or

"(III) both,

then all such corporations shall be treated as 1 corporation.

"(ii) CONTROL.—For purposes of clause (i), the term 'control' has the meaning given such term by section 304(c). In determining control, there shall be disregarded any qualified replacement property of the taxpayer with respect to the section 1042 sale being tested.

"(D) SECURITY DEFINED.—For purposes of this paragraph, the term 'security' has the meaning given such term by section 165(g)(2), except that such term shall not include any security issued by a government or political subdivision thereof."

(B) If—

(i) before January 1, 1987, the taxpayer acquired any security (as defined in section 165(g)(2) of the Internal Revenue Code of 1954) issued by a domestic corporation or by any State or political subdivision thereof,

(ii) the taxpayer treated such security as qualified replacement property for purposes of section 1042 of such Code, and

(iii) such property does not meet the requirements of section 1042(c)(4) of such Code (as amended by subparagraph (A)),

then, with respect to so much of any gain which the taxpayer treated as not recognized under section 1042(a) by reason of the acquisition of such property, the replacement period for purposes of such section shall not expire before January 1, 1987.

(6)(A) Section 1042(c) (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(7) SECTION NOT TO APPLY TO GAIN OF C CORPORATION.—Subsection (a) shall not apply to any gain on the sale of any qualified securities which is includible in the gross income of any C corporation."

(B) The amendment made by subparagraph (A) shall apply to sales after March 28, 1985, except that such amendment shall not apply to sales made before July 1, 1985, if made pursuant to a binding contract in effect on March 28, 1985, and at all times thereafter.

(C) The amendment made by subparagraph (A) shall not apply to any sale occurring on December 20, 1985, with respect to which—

(i) a commitment letter was issued by a bank on October 31, 1984, and

(ii) a final purchase agreement was entered into on November 5, 1985.

(D) In the case of a sale on September 27, 1985, with respect to which a preliminary commitment letter was issued by a bank on April 10, 1985, and with respect to which a commitment letter was issued by a bank on June 28, 1985, the amendment made by subparagraph (A) shall apply but such sale shall be treated as having occurred on September 27, 1986.

(7) Section 1042(d) (relating to basis of qualified replacement property) is amended by adding at the end thereof the following new flush sentence:

"Any reduction in basis under this subsection shall not be taken into account for purposes of section 1278(a)(2)(A)(ii) (relating to definition of market discount)."

(8)(A) Section 1042 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) RECAPTURE OF GAIN ON DISPOSITION OF QUALIFIED REPLACEMENT PROPERTY.—

"(1) IN GENERAL.—If a taxpayer disposes of any qualified replacement property, then, notwithstanding any other provision of this title, gain (if any) shall be recognized to the extent of the gain which was not recognized under subsection (a) by reason of the acquisition by such taxpayer of such qualified replacement property.

"(2) SPECIAL RULE FOR CORPORATIONS CONTROLLED BY THE TAXPAYER.—If—

"(A) a corporation issuing qualified replacement property disposes of a substantial portion of its assets other than in the ordinary course of its trade or business, and

"(B) any taxpayer owning stock representing control (within the meaning of section 304(c)) of such corporation at the time of such disposition holds any qualified replacement property of such corporation at such time,

then the taxpayer shall be treated as having disposed of such qualified replacement property at such time.

"(3) RECAPTURE NOT TO APPLY IN CERTAIN CASES.—Paragraph (1) shall not apply to any transfer of qualified replacement property—

"(A) in any reorganization (within the meaning of section 368) unless the person making the election under subsection (a)(1) owns stock representing control in the acquiring or acquired corporation and such property is substituted basis property in the hands of the transferee,

"(B) by reason of the death of the person making such election,

"(C) by gift, or

"(D) in any transaction to which section 1042(a) applies."

(B) The amendment made by subparagraph (A) shall apply to dispositions after the date of the enactment of this Act, in taxable years ending after such date.

(9)(A) Chapter 43 (relating to qualified pension, etc. plans) is amended by adding at the end thereof the following new section:

"SEC. 4979A. TAX ON CERTAIN PROHIBITED ALLOCATIONS OF QUALIFIED SECURITIES.

"(a) IMPOSITION OF TAX.—If there is a prohibited allocation of qualified securities by any employee stock ownership plan or eligible worker-owned cooperative, there is hereby imposed a tax on such allocation equal to 50 percent of the amount involved.

"(b) PROHIBITED ALLOCATION.—For purposes of this section, the term 'prohibited allocation' means—

"(1) any allocation of qualified securities acquired in a sale to which section 1042 applies which violates the provisions of section 409(n), and

"(2) any benefit which accrues to any person in violation of the provisions of section 409(n).

"(c) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by—

"(1) the employer sponsoring such plan, or

"(2) the eligible worker-owned cooperative,

which made the written statement described in section 1042(b)(3)(B).

"(d) DEFINITIONS.—Terms used in this section have the same respective meaning as when used in section 4978."

(B) Subparagraph (B) of section 1042(b)(3) is amended by striking out "section 4978(a)" and inserting in lieu thereof "sections 4978 and 4979A".

(C) The table of sections for chapter 43 is amended by adding at the end thereof the following new item:

"Sec. 4979A. Tax on certain prohibited allocations of qualified securities."

(D) The amendments made by this paragraph shall apply to sales of securities after the date of the enactment of this Act.

(10) Paragraph (5) of section 1042(c) (relating to securities acquired by underwriter) is amended—

(A) by striking out "acquisition" and inserting in lieu thereof "sale",

(B) by inserting "to an employee stock ownership plan or eligible worker-owned cooperative" before "in", and

(C) by striking out "ACQUIRED" in the heading thereof and inserting in lieu thereof "SOLD".

(11) The heading for section 1042 is amended by inserting "EMPLOYEE" before "STOCK".

(12) The table of sections for part III of subchapter O of chapter 1 is amended by striking out the item relating to section 1042 and inserting in lieu thereof the following new item:

"Sec. 1042. Sales of stock to employee stock ownership plans or certain cooperatives."

(b) AMENDMENTS RELATED TO SECTION 542.—

(1) Paragraph (5) of section 72(e) is amended by adding at the end of subparagraph (D) the following new flush sentence: "Any dividend described in section 404(k) which is received by a participant or beneficiary shall, for purposes of this subparagraph, be treated as paid under a separate contract to which clause (ii)(I) applies."

(2) Section 404(k) is amended—

(A) by adding at the end thereof the following new flush sentence:

"Any deduction under subparagraph (A) or (B) of paragraph (2) shall be allowed in the taxable year of the corporation in which the dividend is paid or distributed to the participant under paragraph (2).", and

(B) by striking out "during the taxable year" in the matter preceding paragraph (1).

(3) Section 404(k), as amended by paragraph (2), is amended by adding at the end thereof the following new sentence: "A plan to which this subsection applies shall not be treated as violating the requirements of section 401, 409, or 4975(e)(7) merely by reason of any distribution described in paragraph (2)."

(4) Subsection (k) of section 404 is amended by adding at the end thereof the following new sentence:

"The Secretary may disallow the deduction under this subsection for any dividend if the Secretary determines that such dividend constitutes, in substance, an avoidance of taxation."

(5) Paragraph (2) of section 404(k) is amended by striking out "participants in the plan" each place it appears and inserting in lieu thereof "participants in the plan or their beneficiaries".

(6) The amendments made by paragraphs (1) and (2) shall not apply to dividends paid before January 1, 1986, if the taxpayer treated such dividends in a manner inconsistent with such amendments on a return filed with the Secretary before the date of the enactment of this Act.

(c) AMENDMENTS RELATED TO SECTION 543.—

(1) Subparagraph (B) of section 291(e)(1) (defining financial institution preference item) is amended by adding at the end thereof the following new clause:

"(iv) SPECIAL RULES FOR OBLIGATIONS TO WHICH SECTION 133 APPLIES.—In the case of an obligation to which section 133 applies, interest on such obligation shall not be treated as exempt from taxes for purposes of this subparagraph."

(2)(A) Section 133 (relating to exemption for interest on certain loans used to acquire employer securities) is amended by adding at the end thereof the following new subsection:

"(d) APPLICATION WITH SECTION 483 AND ORIGINAL ISSUE DISCOUNT RULES.—In applying section 483 and subpart A of part V of subchapter P to any obligation to which this section applies, appropriate adjustments shall be made to the applicable Federal rate to take into account the exclusion under subsection (a)."

(B) Section 7872(f) is amended by adding at the end thereof the following new paragraph:

"(11) SPECIAL RULE FOR CERTAIN EMPLOYER SECURITY LOANS.—This section shall not apply to any loan between a corporation (or any member of the controlled group of corporations which includes such corporation) and an employee stock ownership plan described in section 4975(e)(7) to the extent that the interest rate on such loan is equal to the interest rate paid on a related securities acquisition loan (as described in section 133(b)) to such corporation."

(C) Section 133(b)(2) is amended by adding at the end thereof the following new flush sentence:

"For purposes of this paragraph, subparagraphs (A) and (B) shall not apply to any loan which, but for such subparagraphs, would be a securities acquisition loan if such loan was not originated by the employer of any employees who are covered by the plan or by any member of the controlled group of corporations which includes such employer, except that this section shall not apply to any interest received on such loan during such time as such loan is held by such employer (or any member of such controlled group)."

(D) Section 133(b) is amended by redesignating paragraph (3) as paragraph (4) and by adding after paragraph (2) the following new paragraph:

"(3) TERMS APPLICABLE TO CERTAIN SECURITIES ACQUISITION LOANS.—A loan to a corporation shall not fail to be treated as a securities acquisition loan merely because the proceeds of such loan are lent to an employee stock ownership plan sponsored by such corporation (or by any member of the controlled group of corporations which includes such corporation) if such loan includes—

"(A) repayment terms which are substantially similar to the terms of the loan of such corporation from a lender described in subsection (a), or

"(B) repayment terms providing for more rapid repayment of principal or interest on such loan but only if—

"(i) allocations under the plan attributable to such repayment do not discriminate in favor of highly compensated employees (within the meaning of sectio 414(q)), and

"(ii) the total commitment period of such loan to the corporation does not exceed 7 years."

(d) AMENDMENTS RELATED TO SECTION 544.—

(1)(A) Section 2210(a) (relating to liability for payment of estate tax in case of transfer of employer securities to an ESOP or worker cooperative) is amended by striking out "and" at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

"(2) the executor of the estate of the decedent may (without regard to this section) make an election under section 6166 with respect to that portion of the tax imposed by section 2001 which is attributable to employer securities, and".

(B) The amendment made by subparagraph (A) shall apply to the estates of decedents dying after September 27, 1985.

(2) Section 2210(c) (relating to installment payments) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULES FOR APPLICATION OF SECTION 6166(g).—In the case of any transfer of employer securities to an employee stock ownership plan or eligible worker-owned cooperative to which this section applies—

"(A) TRANSFER DOES NOT TRIGGER ACCELERATION.—Such transfer shall not be treated as a disposition or withdrawal to which section 6166(g) applies.

"(B) SEPARATE APPLICATION TO ESTATE AND PLAN INTERESTS.—Section 6166(g) shall be applied separately to the interests held after such transfer by the estate and such plan or cooperative.

"(C) REQUIRED DISTRIBUTION NOT TAKEN INTO ACCOUNT.—In the case of any distribution of such securities by such plan which is described in section 4978(d)(1)—

"(i) such distribution shall not be treated as a disposition or withdrawal for purposes of section 6166(g), and

"(ii) such securities shall not be taken into account in applying section 6166(g) to any subsequent disposition or withdrawal."

(3) Section 2210(g) (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(5) TAX IMPOSED BY SECTION 2001.—The term 'tax imposed by section 2001' includes any interest, penalty, addition to tax, or additional amount relating to any tax imposed by section 2001."

(4) Section 2210(c)(1) is amended by inserting "any authorized officer of" before "the cooperative" in the matter following subparagraph (B).

(5) Section 2210(d) (relating to guarantee of payments) is amended—

(A) by inserting "and any eligible worker-owned cooperative" before "shall guarantee" in the matter following paragraph (2),

(B) by striking out "such plan" and inserting in lieu thereof "such plan or cooperative, respectively,", and

(C) by striking out ", including any interest payable under section 6601 which is attributable to such amount".

(6) Section 2210(g)(3) is amended by striking out "section 1041(b)(2)" and inserting in lieu thereof "section 1042(c)(2)".

(e) AMENDMENTS RELATED TO SECTION 545.—

(1) Section 4978(a)(1) (relating to tax on disposition of securities to which section 1042 applies before close of minimum

holding period) is amended by striking out "then" and inserting in lieu thereof "than".

(2) Section 4978(b)(1) is amended by striking out "paragraph (1)" and inserting in lieu thereof "subsection (a)".

(3) Section 4978(c) is amended by striking out "section 1042(a)(2)(B)" and inserting in lieu thereof "section 1042(b)(3)".

(4) Section 4978(d)(1)(C) is amended by striking out "section 72(m)(5)" and inserting in lieu thereof "section 72(m)(7)".

(5) Section 4978(e)(2) is amended by striking out "section 1042(b)(1)" and inserting in lieu thereof "section 1042(c)(1)".

(6) Section 4978(e)(3) is amended by striking out "section 1042(b)(1)" and inserting in lieu thereof "section 1042(c)(2)".

(7) Section 4978(d) (relating to dispositions to which section does not apply) is amended by adding at the end thereof the following new paragraph:

"(3) LIQUIDATION OF CORPORATION INTO COOPERATIVE.—In the case of any exchange of qualified securities pursuant to the liquidation of the corporation issuing qualified securities into the eligible worker-owned cooperative in a transaction which meets the requirements of section 332 (determined by substituting '100 percent' for '80 percent' each place it appears in section 332(b)(1)), such exchange shall not be treated as a disposition for purposes of this section."

(f) OTHER AMENDMENTS.—

(1)(A) Section 409(e) (relating to voting rights) is amended by adding at the end thereof the following new paragraph:

"(5) 1 VOTE PER PARTICIPANT.—A plan meets the requirements of paragraph (2) or (3) with respect to an issue if—

"(A) the plan permits each participant 1 vote with respect to such issue, and

"(B) the trustee votes the shares held by the plan in the proportion determined after application of subparagraph (A)."

(B) Paragraph (3) of section 409(e) (relating to requirement for other employers) is amended by striking out all that follows "with respect to" and inserting in lieu thereof the following: "any corporate matter which involves the voting of such shares with respect to the approval or disapproval of any corporate merger or consolidation, recapitalization, reclassification, liquidation, dissolution, sale of substantially all assets of a trade or business, or such similar transaction as the Secretary may prescribe in regulations."

(C) Paragraphs (2) and (3) of section 409(e) are amended by striking out "employer securities" and inserting in lieu thereof "securities of the employer".

(D) Paragraphs (2) and (3) of section 409(e) are amended by inserting "or beneficiary" after "participant" each place it appears.

(2) Section 402 is amended by adding at the end thereof the following new section:

"(g) EFFECT OF DISPOSITION OF STOCK BY PLAN ON NET UNREALIZED APPRECIATION.—

"(1) IN GENERAL.—For purposes of subsection (a)(1) or (e)(4)(J), in the case of any transaction to which this subsection applies, the determination of net unrealized appreciation shall be made without regard to such transaction.

"(2) TRANSACTION TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any transaction in which—

"(A) the plan trustee exchanges the plan's securities of the employer corporation for other such securities, or

"(B) the plan trustee disposes of securities of the employer corporation and uses the proceeds of such disposition to acquire securities of the employer corporation within 90 days (or such longer period as the Secretary may prescribe), except that this subparagraph shall not apply to any employee with respect to whom a distribution of money was made during the period after such disposition and before such acquisition."

(3)(A) Section 4975(e)(7) is amended by inserting ", section 409(o), and, if applicable, section 409(n)" after "section 409(h)".

(B) Section 1042(b)(3)(B) is amended by inserting "and 4979A" after "section 4978(a)".

(C) Section 409(h)(2) is amended by striking out "in cash" in the second sentence thereof and inserting in lieu thereof "in cash, except that such plan may distribute employer securities subject to a requirement that such securities may be resold to the employer under terms which meet the requirements of section 409(o)".

(4)(A) The amendments made by paragraph (1)(A) and (3) shall take effect on the date of the enactment of this Act.

(B) The amendments made by subparagraphs (B), (C), and (D) of paragraph (1) shall apply after December 31, 1986, to stock acquired after December 31, 1979.

(C) The amendments made by paragraph (2) shall apply to any transaction occurring after December 31, 1984, except that in the case of any transaction occurring before the date of the enactment of this Act, the period under which proceeds are required to be invested under section 402(g) of the Internal Revenue Code of 1954 (as added by paragraph (2)) shall not end before the earlier of 1 year after the date of such transaction or 180 days after the date of the enactment of this Act.

SEC. 1855. AMENDMENTS RELATED TO MISCELLANEOUS EMPLOYEE BENEFIT PROVISIONS.

(a) AMENDMENT RELATED TO SECTION 555 OF THE ACT.—Subsection (c) of section 555 of the Tax Reform Act of 1984 (relating to technical amendments to the incentive stock option provisions) is amended—

(1) by striking out "subsection (a)" in paragraph (1) and inserting in lieu thereof "subsection (a)(1)",

(2) by striking out "subsection (b)" in paragraph (2) and inserting in lieu thereof "subsection (a)(2)",

(3) by striking out "after March 20, 1984," in paragraph (2), and

(4) by striking out "subsection (c)" in paragraph (3) and inserting in lieu thereof "subsection (b)".

(b) AMENDMENT RELATED TO SECTION 556 OF THE ACT.—Section 556 of the Tax Reform Act of 1984 is amended by striking out so much of such section as precedes paragraph (1) thereof and inserting in lieu thereof the following:

"SEC. 556. TIME FOR MAKING CERTAIN SECTION 83(b) ELECTIONS.

"In the case of any transfer of property in connection with the performance of services on or before November 18, 1982, the election

permitted by section 83(b) of the Internal Revenue Code of 1954 may be made, notwithstanding paragraph (2) of such section 83(b), with the income tax return for any taxable year ending after July 18, 1984, and beginning before the date of the enactment of the Tax Reform Act of 1986 if—".

CHAPTER 6—AMENDMENTS RELATED TO TITLE VI OF THE ACT

SEC. 1861. AMENDMENTS RELATED TO SECTION 611 OF THE ACT.

(a) EXTENSION OF TIME FOR SUBMITTING POLICY STATEMENT.—Paragraph (5) of section 103A(j) is amended by adding at the end thereof the following new subparagraph:

"(C) EXTENSION OF TIME.—The Secretary may grant an extension of time for the publishing of a report described in subparagraph (B) or the submittal of such report to the Secretary if there is reasonable cause for the failure to publish or submit such report in a timely fashion."

(b) DEFINITION OF QUALIFIED VETERAN.—Subparagraph (B) of section 103A(o)(4) (defining qualified veteran) is amended by striking out "January 1, 1985" and inserting in lieu thereof "January 31, 1985".

(c) CLARIFICATION OF GOOD FAITH EFFORT PROVISIONS.—

(1) Subparagraph (B) of section 103A(c)(2) (defining qualified mortgage issue) is amended by striking out "and (j)" and inserting in lieu thereof "and (j) (1) and (2)".

(2) Subparagraph (C) of section 103A(c)(2) is amended by striking out "and (i)" and inserting in lieu thereof "(i), and (j) (3), (4), and (5)".

SEC. 1862. AMENDMENT RELATED TO SECTION 612 OF THE ACT.

(a) REQUIREMENTS FOR QUALIFIED MORTGAGE CREDIT CERTIFICATE PROGRAM.—Subclause (V) of section 25(c)(2)(A)(iii) (defining qualified mortgage credit certificate program) is amended by striking out "paragraph (1) of subsection (j)" and inserting in lieu thereof "subsection (j), other than paragraph (2) thereof".

(b) GOOD FAITH EFFORT RULES MADE APPLICABLE.—Subparagraph (A) of section 25(c)(2) (defining qualified mortgage credit certificate program) is amended by adding at the end thereof the following new sentence:

"Under regulations, rules similar to the rules of subparagraphs (B) and (C) of section 103A(c)(2) shall apply to the requirements of this subparagraph."

(c) CARRYFORWARD OF EXCESS CREDIT.—Subparagraph (B) of section 25(e)(1) (relating to carryforward of unused credit) is amended to read as follows:

"(B) LIMITATION.—The amount of the unused credit which may be taken into account under subparagraph (A) for any taxable year shall not exceed the amount (if any) by which the applicable tax limit for such taxable year exceeds the sum of—

"(i) the credit allowable under subsection (a) for such taxable year determined without regard to this paragraph, and

"(ii) the amounts which, by reason of this paragraph, are carried to such taxable year and are attributable to taxable years before the unused credit year."

(d) CLERICAL AMENDMENTS.—

(1) Subparagraph (B) of section 25(a)(1) is amended by striking out "paid or incurred" and inserting in lieu thereof "paid or accrued".

(2) Subchapter B of chapter 68 is amended by redesignating the section 6708 which relates to penalties with respect to mortgage credit certificates as section 6709.

(3) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to the section 6708 which relates to penalties with respect to mortgage credit certificates and inserting in lieu thereof the following:

"Sec. 6709. Penalties with respect to mortgage credit certificates."

SEC. 1863. AMENDMENT RELATED TO SECTION 613 OF THE ACT.

(a) GENERAL RULE.—Section 613 of the Tax Reform Act of 1984 (relating to authority to borrow from Federal Financing Bank) is amended to read as follows:

"SEC. 613. ADVANCE REFUNDING OF CERTAIN VETERANS' MORTGAGE BONDS PERMITTED.

"(a) IN GENERAL.—Notwithstanding section 103A(n) of the Internal Revenue Code of 1954, an issuer of applicable mortgage bonds may issue advance refunding bonds with respect to such applicable mortgage bonds.

"(b) LIMITATION ON AMOUNT OF ADVANCED REFUNDING.—

"(1) IN GENERAL.—The amount of advanced refunding bonds which may be issued under subsection (a) shall not exceed the lesser of—

"(A) $300,000,000, or

"(B) the excess of—

"(i) the projected aggregate payments of principal on the applicable mortgage bonds during the 15-fiscal year period beginning with fiscal year 1984, over

"(ii) the projected aggregate payments during such period of principal on mortgages financed by the applicable mortgage bonds.

"(2) ASSUMPTIONS USED IN MAKING PROJECTION.—The computation under paragraph (1)(B) shall be made by using the following percentages of the prepayment experience of the Federal Housing Administration in the State or region in which the issuer of the advance refunding bonds is located:

"Fiscal Year:	Percentage:
1984	15
1985	20
1986	25
1987 and thereafter	30.

"(c) DEFINITIONS.—For purposes of this section.—

"(1) APPLICABLE MORTGAGE BONDS.—The term 'applicable mortgage bonds' means any qualified veterans' mortgage bonds issued as part of an issue—

"(A) which was outstanding on December 31, 1981,

"(B) with respect to which the excess determined under subsection (b)(1)(B) exceeds 12 percent of the aggregate principal amount of such bonds outstanding on July 1, 1983,

"(C) with respect to which the amount of the average annual prepayments during fiscal years 1981, 1982, and 1983 was less than 2 percent of the average of the loan

balances as of the beginning of each of such fiscal years, and

"(D) which, for fiscal year 1983, had a prepayment experience rate that did not exceed 20 percent of the prepayment experience rate of the Federal Housing Administration in the State or region in which the issuer is located.

"(2) QUALIFIED VETERANS' MORTGAGE BONDS.—The term 'qualified veterans' mortgage bonds' has the meaning given to such term by section 103A(c)(3) of the Internal Revenue Code of 1954.

"(3) FISCAL YEAR.—The term 'fiscal year' means the fiscal year of the State."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act; except that such amendment shall not apply with respect to any loan made by the Federal Financing Bank to the State of Oregon pursuant to a credit agreement entered into on April 16, 1985 (as such agreement was in effect on such date). The Secretary of the Treasury shall guarantee any loan made by the Federal Financing Bank to the State of Oregon pursuant to such agreement.

SEC. 1864. AMENDMENTS RELATED TO SECTION 621 OF THE ACT.

(a) SPECIAL RULE FOR FACILITIES LOCATED OUTSIDE THE STATE.—

(1) IN GENERAL.—Subsection (n) of section 103 (relating to limitation on aggregate amount of private activity bonds issued during any calendar year) is amended by adding at the end thereof the following new paragraph:

"(13) FACILITY MUST BE LOCATED WITHIN STATE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no portion of the State ceiling applicable to any State for any calendar year may be used with respect to financing for a facility located outside such State.

"(B) EXCEPTION FOR CERTAIN FACILITIES WHERE STATE WILL GET PROPORTIONATE SHARE OF BENEFITS.—Subparagraph (A) shall not apply to any issue described in subparagraph (E), (G), or (H) of subsection (b)(4) if the issuer establishes that the State's share of the use of the facility (or its output) will equal or exceed the State's share of the private activity bonds issued to finance the facility."

(2) EFFECTIVE DATE.—

(A) Except as provided in subparagraph (B), the amendment made by paragraph (1) shall apply to obligations issued after the date of the enactment of this Act in taxable years ending after such date.

(B) At the election of the issuer (made at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe), the amendment made by paragraph (1) shall apply to any obligation issued on or before the date of the enactment of this Act.

(b) CLARIFICATION OF AUTHORITY FOR DIFFERENT ALLOCATION.—Subparagraphs (A) and (B)(i) of section 103(n)(6) (relating to State may provide for different allocation) are each amended by striking out "governmental units" and inserting in lieu thereof "governmental units or other authorities".

(c) CLARIFICATION OF EXCEPTION FOR CERTAIN FACILITIES.—Clause (i) of section 103(n)(7)(C) (relating to exception for certain facilities described in section 103(b)(4) (C) or (D)) is amended by striking out

"the property described in such subparagraph" and inserting in lieu thereof "all of the property to be financed by the obligation".

(d) INFORMATION REPORTING ON ALLOCATION OF PRIVATE ACTIVITY BOND LIMIT.—Paragraph (2) of section 103(l) (relating to information reporting requirements for certain bonds) is amended by striking out "and" at the end of subparagraph (D), by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(F) if such obligation is a private activity bond (as defined in subsection (n)(7)), such information as the Secretary may require for purposes of determining whether the requirements of subsection (n) are met with respect to such obligation."

(e) CLARIFICATION OF CARRYFORWARD OF UNUSED BOND AUTHORITY.—

(1) Subparagraph (B) of section 103(n)(10) (relating to election must specify project) is amended—

(A) by striking out "specify the project" in clause (i) and inserting in lieu thereof "identify (with reasonable specificity) the project", and

(B) by striking out "SPECIFY PROJECT" in the subparagraph heading and insert in lieu thereof "IDENTIFY PROJECT".

(2) Subparagraph (D) of section 103(n)(10) is amended by striking out "any specification" and inserting in lieu thereof "any identification or specification".

SEC. 1865. AMENDMENT RELATED TO SECTION 622 OF THE ACT.

(a) CLERICAL AMENDMENT.—Subparagraph (A) of section 103(h)(5) (relating to certain obligations subsidized under energy program) is amended by striking out "the United States,".

(b) TREATMENT OF CERTAIN GUARANTEES BY FARMERS HOME ADMINISTRATION.—An obligation shall not be treated as federally guaranteed for purposes of section 103(h) of the Internal Revenue Code of 1954 by reason of a guarantee by the Farmers Home Administration if—

(1) such guarantee is pursuant to a commitment made by the Farmers Home Administration before July 1, 1984, and

(2) such obligation is issued to finance a convention center project in Carbondale, Illinois.

(c) TREATMENT OF CERTAIN OBLIGATIONS USED TO FINANCE SOLID WASTE DISPOSAL FACILITY.—

(1) IN GENERAL.—Any obligation which is part of an issue a substantial portion of the proceeds of which is to be used to finance a solid waste disposal facility described in paragraph (2) shall not, for purposes of section 103(h) of the Internal Revenue Code of 1954, be treated as an obligation which is federally guaranteed by reason of the sale of fuel, steam, electricity, or other forms of usable energy to the Federal Government or any agency or instrumentality thereof.

(2) SOLID WASTE DISPOSAL FACILITY.—A solid waste disposal facility is described in this paragraph if such facility is described in section 103(b)(4)(E) of such Code and—

(A) if—

(i) a public State authority created pursuant to State legislation which took effect on July 1, 1980, took formal action before October 19, 1983, to commit development funds for such facility,

(ii) such authority issues obligations for such facility before January 1, 1988, and

(iii) expenditures have been made for the development of such facility before October 19, 1983,

(B) if—

(i) such facility is operated by the South Eastern Public Service Authority of Virginia, and

(ii) on December 20, 1984, the Internal Revenue Service issued a ruling concluding that a portion of the obligations with respect to such facility would not be treated as federally guaranteed under section 103(h) of such Code by reason of the transitional rule contained in section 631(c)(3)(A)(i) of the Tax Reform Act of 1984,

(C) if—

(i) a political subdivision of a State took formal action on April 1, 1980, to commit development funds for such facility,

(ii) such facility has a contract to sell steam to a naval base,

(iii) such political subdivision issues obligations for such facility before January 1, 1988, and

(iv) expenditures have been made for the development of such facility before October 19, 1983, or

(D) if—

(i) such facility is a thermal transfer facility,

(ii) is to be built and operated by the Elk Regional Resource Authority, and

(iii) is to be on land leased from the United States Air Force at Arnold Engineering Development Center near Tullahoma, Tennessee.

(3) LIMITATIONS.—

(A) In the case of a solid waste disposal facility described in paragraph (2)(A), the aggregate face amount of obligations to which paragraph (1) applies shall not exceed $65,000,000.

(B) In the case of a solid waste disposal facility described in paragraph (2)(B), the aggregate face amount of obligations to which paragraph (1) applies shall not exceed $20,000,000. Such amount shall be in addition to the amount permitted under the Internal Revenue Service ruling referred to in paragraph (2)(B)(ii).

(C) In the case of a solid waste disposal facility described in paragraph (2)(C), the aggregate face amount of obligations to which paragraph (1) applies shall not exceed $75,000,000.

(D) In the case of a solid waste disposal facility described in paragraph (2)(D), the aggregate face amount of obligations to which paragraph (1) applies shall not exceed $25,000,000.

SEC. 1866. TRANSITIONAL RULE FOR LIMIT ON SMALL ISSUE EXCEPTION.

The amendment made by section 623 of the Tax Reform Act of 1984 shall not apply to any obligation issued to refund another tax-exempt IDB to which the amendment made by such section 623 did not apply if—

(1) the refunding obligation has a maturity date not later than the maturity date of the refunded obligation,

(2) the amount of the refunding obligation does not exceed the amount of the refunded obligation,

(3) the interest rate on the refunding obligation is lower than the interest rate on the refunded issue, and

(4) the proceeds of the refunding obligation are used to redeem the refunded obligation not later than 30 days after the date of the issuance of the refunding obligation.

For purposes of the preceding sentence, the term "tax-exempt IDB" means any industrial development bond (as defined in section 103(b) of the Internal Revenue Code of 1954) the interest on which is exempt from tax under section 103(a) of such Code.

SEC. 1867. AMENDMENTS RELATED TO SECTION 624 OF THE ACT.

(a) Paragraph (2) of section 624(c) of the Tax Reform Act of 1984 (relating to effective date for limitations on arbitrage on nonpurpose obligations) is amended by striking out "by the Essex County Port Authority of New York and New Jersey as part of an issue approved" and inserting in lieu thereof "for the Essex County New Jersey Resource Recovery Project authorized by the Port Authority of New York and New Jersey on November 10, 1983, as part of an agreement approved".

(b) The amendment made by section 624 of the Tax Reform Act of 1984 shall not apply to obligations issued with respect to the Downtown Muskogee Revitalization Project for which a UDAG grant was preliminarily approved on May 5, 1981, if—

(1) such obligation is issued before January 1, 1986, or

(2) such obligation is issued after such date to provide additional financing for such project except that the aggregate amount of obligations to which this subsection applies shall not exceed $10,000,000.

SEC. 1868. AMENDMENT RELATED TO SECTION 625 OF THE ACT.

Subparagraph (C) of section 625(a)(3) of the Tax Reform Act of 1984 (relating to arbitrage regulations) is amended by striking out "obligation issued exclusively" and inserting in lieu thereof "obligation (or series of refunding obligations) issued exclusively".

SEC. 1869. AMENDMENTS RELATED TO SECTION 626 OF THE ACT.

(a) CHANGE IN DEFINED TERM.—Subsection (o) of section 103 (relating to denial of tax exemption for consumer loan bonds) is amended—

(1) by striking out "consumer loan bond" each place it appears and inserting in lieu thereof "private loan bond",

(2) by striking out "CONSUMER LOAN BONDS" in the subsection heading and inserting in lieu thereof "PRIVATE LOAN BONDS", and

(3) by striking out "CONSUMER LOAN BONDS" in the heading for paragraph (2) and inserting in lieu thereof "PRIVATE LOAN BONDS".

(b) CLERICAL AMENDMENTS.—

(1) Clause (ii) of section 103(o)(2)(C) (relating to excluded loans) is amended by striking out "subsection (c)(6)(G)(i)" and inserting in lieu thereof "subsection (c)(6)(H)(i)".

(2) Section 103 is amended by redesignating the subsection (o) (relating to cross references) as subsection (p).

(c) TRANSITIONAL RULES.—

(1) TREATMENT OF CERTAIN OBLIGATIONS ISSUED BY THE CITY OF BALTIMORE.—Obligations issued by the city of Baltimore, Maryland, after June 30, 1985, shall not be treated as private loan bonds for purposes of section 103(o) of the Internal Revenue Code of 1954 (or as private activity bonds for purposes of section 103 and part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986, as amended by title XIII of this Act) by reason of the use of a portion of the proceeds of such obligations to finance or refinance temporary advances made by the city of Baltimore in connection with loans to persons who are not exempt persons (within the meaning of section 103(b)(3) of such Code) if—

(A) such obligations are not industrial development bonds (within the meaning of section 103(b)(2) of the Internal Revenue Code of 1954),

(B) the portion of the proceeds of such obligations so used is attributable to debt approved by voter referendum on or before November 2, 1982,

(C) the loans to such nonexempt persons were approved by the Board of Estimates of the city of Baltimore on or before October 19, 1983, and

(D) the aggregate amount of such temporary advances financed or refinanced by such obligations does not exceed $27,000,000.

(2) WHITE PINE POWER PROJECT.—The amendment made by section 626(a) of the Tax Reform Act of 1984 shall not apply to any obligation issued during 1984 to provide financing for the White Pine Power Project in Nevada.

(3) TAX INCREMENT BONDS.—The amendment made by section 626(a) of the Tax Reform Act of 1984 shall not apply to any tax increment financing obligation issued before August 16, 1986, if—

(A) substantially all of the proceeds of the issue are to be used to finance—

(i) sewer, street, lighting, or other governmental improvements to real property,

(ii) the acquisition of any interest in real property pursuant to the exercise of eminent domain, the preparation of such property for new use, or the transfer of such interest to a private developer, or

(iii) payments of reasonable relocation costs of prior users of such real property,

(B) all of the activities described in subparagraph (A) are pursuant to a redevelopment plan adopted by the issuing authority before the issuance of such issue,

(C) repayment of such issue is secured exclusively by pledges of that portion of any increase in real property tax revenues (or their equivalent) attributable to the redevelopment resulting from the issue, and

(D) none of the property described in subparagraph (A) is subject to a real property or other tax based on a rate or valuation method which differs from the rate and valuation method applicable to any other similar property located within the jurisdiction of the issuing authority.

(4) EASTERN MAINE ELECTRIC COOPERATIVE.—The amendment made by section 626(a) of the Tax Reform Act of 1984 shall not

apply to obligations issued by Massachusetts Municipal Wholesale Electric Company Project No. 6 if—

(A) such obligation is issued before January 1, 1986,

(B) such obligation is issued after such date to refund a prior obligation for such project, except that the aggregate amount of obligations to which this subparagraph applies shall not exceed $100,000,000, or

(C) such obligation is issued after such date to provide additional financing for such project except that the aggregate amount of obligations to which this subparagraph applies shall not exceed $45,000,000.

Subparagraph (B) shall not apply to any obligation issued for the advance refunding of any obligation.

(5) CLARIFICATION OF TRANSITIONAL RULE FOR CERTAIN STUDENT LOAN PROGRAMS.—Subparagraph (A) of section 626(b)(2) of the Tax Reform Act of 1984 is amended by striking out "$11 million" in the table contained in such subparagraph and inserting in lieu thereof "$70 million".

(6) TREATMENT OF OBLIGATIONS TO FINANCE ST. JOHNS RIVER POWER PARK.—

(A) IN GENERAL.—The amendment made by section 626(a) of the Tax Reform Act of 1984 shall not apply to any obligation issued to finance the project described in subparagraph (B) if—

(i) such obligation is issued before September 27, 1985,

(ii) such obligation is issued after such date to refund a prior tax exemption obligation for such project, the amount of such obligation does not exceed the outstanding amount of the refunded obligation, and such prior tax exempt obligation is retired not later than the date 30 days after the issuance of the refunding obligation, or

(iii) such obligation is issued after such date to provide additional financing for such project except that the aggregate amount of obligations to which this clause applies shall not exceed $150,000,000.

Clause (ii) shall not apply to any obligation issued for the advance refunding of any obligation.

(B) DESCRIPTION OF PROJECT.—The project described in this subparagraph in the St. Johns River Power Park system in Florida which was authorized by legislation enacted by the Florida Legislature in February of 1982.

SEC. 1870. AMENDMENT RELATED TO SECTION 627 OF THE ACT.

Subparagraph (A) of section 103(b)(16) (relating to limitation on use for land acquisition) is amended by striking out "clause (i)" in the last sentence and inserting in lieu thereof "clause (ii)".

SEC. 1871. AMENDMENTS RELATED TO SECTION 628 OF THE ACT.

(a) CERTAIN RESTRICTIONS APPLY TO EXEMPTIONS NOT CONTAINED IN INTERNAL REVENUE CODE OF 1954.—

(1) IN GENERAL.—Paragraph (1) of section 103(m) (relating to obligations exempt other than under this title) is amended by striking out "(k), (l), and (n)" and inserting in lieu thereof "(j), (k), (l), (n), and (o)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to obligations issued after March 28, 1985, in taxable years ending after such date.

(b) CONFORMING AMENDMENTS TO REPEAL OF ADVANCE REFUNDING OF QUALIFIED PUBLIC FACILITIES.—Paragraphs (13), (14)(A), and (17)(A) of section 103(b) are each amended by striking out "(6), and (7)" and inserting in lieu thereof "and (6)".

SEC. 1872. AMENDMENTS RELATED TO SECTION 631 OF THE ACT.

(a) CLARIFICATION OF GENERAL EFFECTIVE DATE.—

(1) Paragraph (1) of section 631(c) of the Tax Reform Act of 1984 (relating to effective date for other provisions relating to tax-exempt bonds) is amended by striking out "made by this subtitle" and inserting in lieu thereof "made by sections 622, 623, 627, and 628 (c), (d), and (e) (and the provisions of sections 625(c), 628(f), and 629(b))".

(2)(A) Subparagraph (A) of section 631(c)(3) of the Tax Reform Act of 1984 is amended by striking out "amendments made by this subtitle (other than section 621)" and inserting in lieu thereof "amendments (and provisions) referred to in paragraph (1)".

(B) Effective with respect to obligations issued after March 28, 1985, subparagraph (A) of section 631(c)(3) of the Tax Reform Act of 1984 is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) the original use of which commences with the taxpayer and the construction, reconstruction, or rehabilitation of which began before October 19, 1983, and was completed on or after such date,

"(ii) the original use of which commences with the taxpayer and with respect to which a binding contract to incur significant expenditures for construction, reconstruction, or rehabilitation was entered into before October 19, 1983, and some of such expenditures are incurred on or after such date, or

"(iii) acquired after October 19, 1983, pursuant to a binding contract entered into on or before such date."

(3) Paragraph (3) of section 631(c) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new subparagraph:

"(C) EXCEPTION.—Subparagraph (A) shall not apply with respect to the amendment made by section 628(e) and the provisions of sections 628(f) and 629(b)."

(4) Subparagraph (B) of section 631(c)(3) of the Tax Reform Act of 1984 is amended by striking out "subsection (b)(2)(A)" and inserting in lieu thereof "subsection (b)(2)".

(b) SPECIAL RULE FOR HEALTH CLUB FACILITIES.—Subsection (c) of section 631 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE FOR HEALTH CLUB FACILITIES.—In the case of any health club facility, with respect to the amendment made by section 627(c)—

"(A) paragraph (1) shall be applied by substituting 'April 12, 1984' for 'December 31, 1983', and

"(B) paragraph (3) shall be applied by substituting 'April 13, 1984' for 'October 19, 1983' each place it appears."

(c) TREATMENT OF CERTAIN SOLID WASTE DISPOSAL FACILITIES.—

(1) IN GENERAL.—Subsection (d) of section 631 of the Tax Reform Act of 1984 (relating to provisions of subtitle not to apply to certain property) is amended by adding at the end thereof the following:

"(5) Any solid waste disposal facility described in section 103(b)(4)(E) of the Internal Revenue Code of 1954 if—

"(A) a city government, by resolutions adopted on April 10, 1980, and December 27, 1982, took formal action to authorize the submission of a proposal for a feasibility study for such facility and to authorize the presentation to the Department of the Army (U.S. Army Missile Command) of a proposed agreement to jointly pursue construction and operation of such facility,

"(B) such city government (or a public authority on its behalf) issues obligations for such facility before January 1, 1988, and

"(C) expenditures have been made for the development of such facility before October 19, 1983. Notwithstanding the foregoing provisions of this subsection, the amendments made by section 624 (relating to arbitrage) shall apply to obligations issued to finance property described in paragraph (5)."

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 632(a) of the Tax Reform Act of 1984 is hereby repealed.

SEC. 1873. AMENDMENTS RELATED TO SECTION 632 OF THE ACT.

(a) CLERICAL AMENDMENT.—Subsection (a) of section 632 of the Tax Reform Act of 1984 is amended by striking out "section 623" in the matter preceding paragraph (1) thereof and inserting in lieu thereof "section 624".

(b) CERTAIN OBLIGATIONS NOT TREATED AS PRIVATE LOAN BONDS.—Subsection (d) of section 632 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new sentence: "The amendment made by section 626 shall not apply to any obligations described in the preceding sentence."

(c) TREATMENT OF CERTAIN OBLIGATIONS TO FINANCE HYDROELECTRIC GENERATING FACILITY.—If—

(1) obligations are to be issued in an amount not to exceed $9,500,000 to finance the construction of an approximately 4 megawatt hydroelectric generating facility owned and operated by the city of Hastings, Minnesota, and located on United States Army Corps of Engineers lock and dam No. 2 or are issued to refund any of such obligations,

(2) substantially all of the electrical power generated by such facility is to be sold to a nongovernmental person pursuant to a long-term power sales agreement in accordance with the Public Utilities Regulatory Policies Act of 1978, and

(3) the initially issued obligations are issued on or before December 31, 1986, and any of such refunding obligations are issued on or before December 31, 1996,

then the person referred to in paragraph (2) shall not be treated as the principal user of such facilities by reason of such sales for purposes of subparagraphs (D) and (E) of section 103(b)(6) of the Internal Revenue Code of 1954.

(d) TREATMENT OF CERTAIN OBLIGATIONS TO FINANCE HYDROELECTRIC GENERATING FACILITY.—If—

(1) obligations are to be issued in an amount not to exceed $6,500,000 to finance the construction of an approximately 2.6 megawatt hydroelectric generating facility located on the Schroon River in Warren County, New York, near Warrensburg, New York,

(2) such facility has a Federal Energy Regulatory Commission project number 8719-0000 under a preliminary permit issued on November 8, 1985, and

(3) substantially all of the electrical power generated by such facility is to be sold to a nongovernmental person pursuant to a long-term power sales agreement in accordance with the Public Utilities Regulatory Policies Act of 1978,

then the person referred to in paragraph (3) shall not be treated as the principal user of such facilities by reason of such sales for purposes of subparagraphs (D) and (E) of section 103(b)(6) of the Internal Revenue Code of 1954.

(e) TREATMENT OF CERTAIN OBLIGATIONS TO FINANCE HYDROELECTRIC GENERATING FACILITIES.—If—

(1) obligations in the amount of $6,000,000 issued on November 30, 1984, to finance the construction of an approximately 1.0 megawatt hydroelectric generating facility and an approximately .6 megawatt hydroelectric generating facility, both of which are located near Los Banos, California,

(2) such facilities have Federal Energy Regulatory Commission project numbers 5129-001 and 5128-001, respectively, under license exemptions issued on December 6, 1983, and

(3) substantially all of the electrical power generated by such facility is to be sold to a nongovernmental person pursuant to a long-term power sales agreement in accordance with the Public Utilities Regulatory Policies Act of 1978,

then the person referred to in paragraph (3) shall not be treated as the principal user of such facilities by reason of such sales for purposes of subparagraphs (D) and (E) of section 103(b)(6) of the Internal Revenue Code of 1954.

(f) TREATMENT OF CERTAIN OBLIGATIONS TO FINANCE METHANE RECOVERY ELECTRIC GENERATING FACILITIES.—If—

(1) obligations are to be issued in an amount not to exceed $3,000,000 to finance the construction of a methane recovery electric generating facility located on a sanitary landfill near Richmond, California, and

(2) substantially all of the electrical power generated by such facility is to be sold to a nongovernmental person pursuant to a long-term power sales agreement entered into on April 16, 1985, in accordance with the Public Utilities Regulatory Policies Act of 1978,

then the person referred to in paragraph (2) shall not be treated as the principal user of such facilities by reason of such sales for purposes of subparagraphs (D) and (E) of section 103(b)(6) of the Internal Revenue Code of 1954.

(g) TREATMENT OF CERTAIN OBLIGATIONS TO FINANCE HYDROELECTRIC GENERATING FACILITIES.—If—

(1) obligations are to be issued in an amount not to exceed $6,000,000 to finance the construction of a hydroelectric generating facility having a Federal Energy Regulatory Commission license number 3189, and located near Placerville, California,

(2) an inducement resolution for such project was adopted in March 1985, and

(3) substantially all of the electrical power generated by such facility is to be sold to a nongovernmental person pursuant to a long-term power sales agreement in accordance with the Public Utilities Regulatory Policies Act of 1978,

then the person referred to in paragraph (3) shall not be treated as the principal user of such facilities by reason of such sales for purposes of subparagraphs (D) and (E) of section 103(b)(6) of the Internal Revenue Code of 1954.

CHAPTER 7—MISCELLANEOUS PROVISIONS

SEC. 1875. AMENDMENTS RELATED TO TITLE VII OF THE ACT.

(a) AMENDMENT RELATED TO SECTION 711(a).—Subsection (c) of section 58 (relating to estates and trusts) is amended by striking out "of tax preference" and inserting in lieu thereof "of tax preference (and any itemized deductions)".

(b) AMENDMENT RELATED TO SECTION 712(1).—Paragraph (1) of section 304(a) (relating to treatment of certain stock purchases) is amended by striking out "In any such case" and inserting in lieu thereof "To the extent that such distribution is treated as a distribution to which section 301 applies".

(c) AMENDMENTS RELATED TO SECTION 713.—

(1)(A) Section 402(a)(5)(F)(ii) (relating to special rules for key employees) is amended to read as follows:

"(ii) 5-PERCENT OWNERS.—An eligible retirement plan described in subclause (III) or (IV) of subparagraph (E)(iv) shall not be treated as an eligible retirement plan for the transfer of a distribution if the employee is a 5-percent owner at the time such distribution is made. For purposes of the preceding sentence, the term '5-percent owner' means any individual who is a 5-percent owner (as defined in section 416(i)(1)(B)) at any time during the 5 plan years preceding the plan year in which the distribution is made."

(B) The amendments made by subparagraph (A) shall apply to distributions after the date of the enactment of this Act. Such amendments shall apply also to distributions after 1983 and on or before the date of the enactment of this Act to individuals who are not 5-percent owners (as defined in section 402(a)(5)(F)(ii) of the Internal Revenue Code of 1954 (as amended by this paragraph)).

(2) Section 713(c) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new paragraph:

"(4) EFFECTIVE DATE FOR PARAGRAPH (3).—The amendment made by paragraph (3) shall apply to distributions after July 18, 1984."

(3) Section 62(7) (relating to pension, profit-sharing, and annuity plans of self-employed individuals) is amended by striking out "to the extent attributable to contributions made on behalf of such individual".

(4) Section 219(f)(1) (defining compensation) is amended by striking out "reduced by any amount allowable as a deduction to the individual in computing adjusted gross income under paragraph (7) of section 62".

(5) Section 713(d)(1) of the Tax Reform Act of 1984 is amended by striking out "Paragraph" and inserting in lieu thereof "Effective with respect to contributions made in taxable years beginning after December 31, 1983, paragraph".

(6)(A) Section 408(d)(5) (relating to certain distributions of excess contributions after due date) is amended by striking out "$15,000" and inserting in lieu thereof "the dollar limitation in effect under section 415(c)(1)(A) for such taxable year".

(B) Subparagraph (C) of section 219(b)(2) is amended by striking out "the $15,000 amount specified in subparagraph (A)(ii)" and inserting in lieu thereof "the dollar limitation in effect under section 415(c)(1)(A)".

(7)(A) Subparagraph (C) of section 404(a)(8) is amended by striking out "the earned income of such individual" and inserting in lieu thereof "the earned income of such individual (determined without regard to the deductions allowed by this section)".

(B) Effective with respect to taxable years beginning after December 31, 1984, subparagraph (D) of section 404(a)(8) is amended by striking out "(determined without regard to the deductions allowed by this section and section 405(c))".

(8) Subparagraph (A) of section 408(d)(3) is amended—

(A) by striking out "(other than a trust forming part of a plan under which the individual was an employee within the meaning of section 401(c)(1) at the time contributions were made on his behalf under the plan)" in clause (ii),

(B) by striking out "(other than a plan under which the individual was an employee within the meaning of section 401(c)(1) at the time contributions were made on his behalf under the plan)" in clause (ii), and

(C) by adding at the end thereof the following new sentence:

"Clause (ii) shall not apply during the 5-year period beginning on the date of the qualified total distribution referred to in such clause if the individual was treated as a 5-percent owner with respect to such distribution under section 402(a)(5)(F)(ii)."

(9) Clause (iii) of section 415(b)(2)(E) is amended by striking out "adjusting any benefit or limitation under subparagraph (B), (C), or (D)" and inserting in lieu thereof "this subsection".

(10) Subparagraph (B) of section 3405(d)(1) is amended by striking out "or" at the end of clause (ii), and by striking out the material following clause (ii) and inserting in lieu thereof the following:

"(iii) any amount which is subject to withholding under subchapter A of chapter 3 (relating to withholding of tax on nonresident aliens and foreign corporations) by the person paying such amount or which would be so subject but for a tax treaty, or

"(iv) any distribution described in section 404(k)(2)."

(11) Subparagraph (C) of section 415(c)(3) is amended by striking out "a profit-sharing or stock bonus plan" and inserting in lieu thereof "any defined contribution plan".

(12) The amendments made by paragraphs (3), (4), and (6) shall take effect as if included in the amendments made by section 238 of the Tax Equity and Fiscal Responsibility Act of 1982.

(d) AMENDMENTS RELATING TO SECTION 714 OF THE ACT.—

(1) PERIOD OF LIMITATIONS.—Section 6229 is amended by adding at the end thereof the following new subsection:

"(g) PERIOD OF LIMITATIONS FOR PENALTIES.—The provisions of this section shall apply also in the case of any addition to tax or an additional amount imposed under subchapter A of chapter 68 which arises with respect to any tax imposed under subtitle A in the same manner as if such addition or additional amount were a tax imposed by subtitle A."

(2) COORDINATION WITH DEFICIENCY PROCEEDINGS.—

(A) IN GENERAL.—Subsection (a) of section 6230 is amended to read as follows:

"(a) COORDINATION WITH DEFICIENCY PROCEEDINGS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), subchapter B of this chapter shall not apply to the assessment or collection of any computational adjustment.

"(2) DEFICIENCY PROCEEDINGS TO APPLY IN CERTAIN CASES.—

"(A) Subchapter B shall apply to any deficiency attributable to—

"(i) affected items which require partner level determinations, or

"(ii) items which have become nonpartnership items and are described in section 6231(e)(1)(B).

"(B) Subchapter B shall be applied separately with respect to each deficiency described in subparagraph (A) attributable to each partnership.

"(C) Notwithstanding any other law or rule of law, any notice or proceeding under subchapter B with respect to a deficiency described in this paragraph shall not preclude or be precluded by any other notice, proceeding, or determination with respect to a partner's tax liability for a taxable year."

(B) TECHNICAL AMENDMENTS.—

(i) Paragraph (4) of section 6213(h) is amended to read as follows:

"(4) For provisions relating to application of this subchapter in the case of certain partnership items, etc., see section 6230(a)."

(ii) Paragraph (1) of section 6503(a) is amended by striking out "section 6501 or 6502" and inserting in lieu thereof "section 6501 or 6502 (or section 6229, but only with respect to a deficiency described in section 6230(a)(2)(A))."

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall take effect as if included in the Tax Equity and Fiscal Responsibility Act of 1982.

(3) EFFECTIVE DATE PROVISION.—Notwithstanding section 715 of the Tax Reform Act of 1984, the amendments made by section 714(n)(2) of such Act shall apply only to applications filed after July 18, 1984.

(3) ESTATE AND TRUST INTERESTS HELD BY NOMINEES.—

(A) IN GENERAL.—Section 6034A is amended—

(i) by striking out "The fiduciary" and inserting in lieu thereof "(a) GENERAL RULE.—The fiduciary",

(ii) by striking out "each beneficiary" and inserting in lieu thereof "each beneficiary (or nominee thereof)", and

(iii) by adding at the end thereof the following new subsection:

"(b) NOMINEE REPORTING.—Any person who holds an interest in an estate or trust as a nominee for another person—

"(1) shall furnish to the estate or trust, in the manner prescribed by the Secretary, the name and address of such other person, and any other information for the taxable year as the Secretary may by form and regulations prescribe, and

"(2) shall furnish in the manner prescribed by the Secretary to such other person the information provided by the estate or trust under subsection (a)."

(B) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to taxable years of estates and trusts beginning after the date of the enactment of this Act.

(e) AMENDMENT RELATED TO SECTION 734 OF THE ACT.—Subsection (a) of section 201 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-11) is amended by striking out "section 209(f)(5) of the Highway Revenue Act of 1956" and inserting in lieu thereof "section 9503(c)(4)(B) of the Internal Revenue Code of 1954".

(f) AMENDMENT RELATED TO SECTION 735 OF THE ACT.—The table of sections for part I of subchapter A of chapter 32 is amended by striking out "guzzlers" and inserting in lieu thereof "guzzler".

(g) AMENDMENT OF SECTION 1248.—

(1) IN GENERAL.—Subsection (g) of section 1248 (relating to exceptions) is amended by inserting "or" at the end of paragraph (1), by striking out paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to exchanges after March 1, 1986.

(3) TRANSITIONAL RULE.—An exchange shall be treated as occurring on or before March 1, 1986, if—

(A) on or before such date, the taxpayer adopts a plan of reorganization to which section 356 applies, and

(B) such plan or reorganization is implemented and distributions pursuant to such plan are completed on or before the date of enactment of this Act.

SEC. 1876. AMENDMENTS RELATED TO TITLE VIII OF THE ACT.

(a) TREATMENT OF SECTION 923(a)(2) NON-EXEMPT INCOME.—

(1) Paragraph (6) of section 927(d) (defining section 923(a)(2) non-exempt income) is amended by adding at the end thereof the following new sentence: "Such term shall not include any income which is effectively connected with the conduct of a trade or business within the United States (determined without regard to this subpart)."

(2) Paragraph (6) of section 1248(d) (relating to foreign trade income) is amended to read as follows:

"(6) FOREIGN TRADE INCOME.—Earnings and profits of the foreign corporation attributable to foreign trade income of a FSC other than foreign trade income which—

"(A) is section 923(a)(2) non-exempt income (within the meaning of section 927(d)(6)), or

"(B) would not (but for section 923(a)(4)) be treated as exempt foreign trade income.

For purposes of the preceding sentence, the terms 'foreign trade income' and 'exempt foreign trade income' have the respective meanings given such terms by section 923."

(b) CLARIFICATION OF PREFERENCE CUTBACKS.—

(1) Paragraph (4) of section 291(a) (relating to 20-percent reduction in certain preference items, etc.) is amended to read as follows:

"(4) CERTAIN FSC INCOME.—In the case of taxable years beginning after December 31, 1984, section 923(a) shall be applied with respect to any FSC by substituting—

"(A) '30 percent' for '32 percent' in paragraph (2), and

"(B) '15/23' for '16/23' in paragraph (3).

If all of the stock in the FSC is not held by 1 or more C corporations throughout the taxable year, under regulations, proper adjustments shall be made in the application of the preceding sentence to take into account stock held by persons other than C corporations."

(2) Subparagraph (F) of section 995(b)(1) (relating to deemed distributions from a DISC) is amended—

(A) by inserting "in the case of a shareholder which is a C corporation," before "one-seventeenth" in clause (i), and

(B) by striking out "the amount determined under clause (i)" in clause (ii) and inserting in lieu thereof "16/17 of the excess referred to in clause (i),".

(3) Subsection (a) of section 923 (defining exempt foreign trade income) is amended by adding at the end thereof the following new paragraph:

"(6) CROSS REFERENCE.—

"For reduction in amount of exempt foreign trade income, see section 291(a)(4)."

(c) TREATMENT OF FOREIGN TRADE INCOME UNDER SUBPART F.—

(1) Subsection (b) of section 952 (relating to exclusion of United States income) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, income described in paragraph (2) or (3) of section 921(d) shall be treated as derived from sources within the United States."

(2) Paragraph (1) of section 951(e) is amended by striking out the last sentence.

(d) DIVIDENDS RECEIVED DEDUCTION FOR CERTAIN DISTRIBUTIONS FROM A FSC.—

(1) DEDUCTION FOR CERTAIN DIVIDENDS.—

(A) Paragraph (1) of section 245(c) (relating to certain dividends received from FSC) is amended to read as follows:

"(1) IN GENERAL.—In the case of a domestic corporation, there shall be allowed as a deduction an amount equal to—

"(A) 100 percent of any dividend received by such corporation from another corporation which is distributed out of earnings and profits attributable to foreign trade income for a period during which such other corporation was a FSC, and

"(B) 85 percent of any dividend received by such corporation from another corporation which is distributed out of earnings and profits attributable to qualified interest and carrying charges received or accrued by such other corporation while such other corporation was a FSC.

The deduction allowable under the preceding sentence with respect to any dividend shall be in lieu of any deduction allowable under subsection (a) or (b) with respect to such dividend."

(B) Paragraph (3) of section 245(c) (relating to definitions) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, the term 'qualified interest and carrying charges' means any interest or carrying charges (as defined in section 927(d)(1)) derived from a transaction which results in foreign trade income."

(2) SEPARATE APPLICATION OF SECTION 904.—Subparagraph (D) of section 904(d)(1) is amended to read as follows:

"(D) distributions from a FSC (or a former FSC) out of earnings and profits attributable to foreign trade income (within the meaning of section 923(b)) or qualified interest and carrying charges (as defined in section 245(c)), and".

(3) COORDINATION OF SECTIONS 906 AND 902.—Subsection (b) of section 906 (relating to nonresident alien individuals and foreign corporations) is amended by adding at the end thereof the following new paragraph:

"(6) For purposes of section 902, any income, war profits, and excess profits taxes paid or accrued (or deemed paid or accrued) to any foreign country or possession of the United States with respect to income effectively connected with the conduct of a trade or business within the United States shall not be taken into account, and any accumulated profits attributable to such income shall not be taken into account."

(e) EXCHANGE OF INFORMATION REQUIREMENTS.—

(1) Paragraph (3) of section 927(e) (relating to exchange of information requirements) is amended—

(A) by striking out "unless, at the same time such corporation was created or organized, there was" and inserting in lieu thereof "unless there is",

(B) by striking out "section 274(h)(6)(C)" in subparagraph (A) and inserting in lieu thereof "section 274(h)(6)(C) (determined by treating any reference to a beneficiary country as being a reference to any foreign country and by applying such section without regard to clause (ii) thereof)", and

(C) by amending subparagraph (B) to read as follows:

"(B) an income tax treaty which contains an exchange of information program—

"(i) which the Secretary certifies (and has not revoked such certification) is satisfactory in practice for purposes of this title, and

"(ii) to which the FSC is subject."

(2) Effective for periods after March 28, 1985, paragraph (2) of section 924(c) (relating to requirement that FSC be managed outside the United States) is amended to read as follows:

"(2) the principal bank account of the corporation is maintained in a foreign country which meets the requirements of section 927(e)(3) or in a possession of the United States at all times during the taxable year, and".

(f) COORDINATION WITH POSSESSIONS TAXATION.—

(1) Paragraph (5) of section 927(e) (relating to exemption from certain other taxes) is amended to read as follows:

"(5) COORDINATION WITH POSSESSIONS TAXATION.—

"(A) EXEMPTION.—No tax shall be imposed by any possession of the United States on any foreign trade income derived before January 1, 1987. The preceding sentence shall not apply to any income attributable to the sale of

property or the performance of services for ultimate use, consumption, or disposition within the possession.

"(B) CLARIFICATION THAT POSSESSION MAY EXEMPT CERTAIN INCOME FROM TAX.—Nothing in any provision of law shall be construed as prohibiting any possession of the United States from exempting from tax any foreign trade income of a FSC or any other income of a FSC described in paragraph (2) or (3) of section 921(d).

"(C) NO COVER OVER OF TAXES IMPOSED ON FSC.—Nothing in any provision of law shall be construed as requiring any tax imposed by this title on a FSC to be covered over (or otherwise transferred) to any possession of the United States."

(2) CLERICAL AMENDMENT.—Section 934 is amended by striking out the subsection (f) added by section 801(d)(7) of the Tax Reform Act of 1984.

(g) CLARIFICATION OF INTEREST ON DISC-RELATED DEFERRED TAX LIABILITY.—Subsection (f) of section 995 (relating to interest on DISC-related deferred tax liability) is amended by adding at the end thereof the following new paragraph:

"(7) DISC INCLUDES FORMER DISC.—For purposes of this subsection, the term 'DISC' includes a former DISC."

(h) CLARIFICATION OF EXEMPTION OF ACCUMULATED DISC INCOME.—Subparagraph (A) of section 805(b)(2) of the Tax Reform Act of 1984 (relating to exemption of accumulated DISC income from tax) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the term 'actual distribution' includes a distribution in liquidation, and the earnings and profits of any corporation receiving a distribution not included in gross income by reason of the preceding sentence shall be increased by the amount of such distribution."

(i) CLARIFICATION OF EFFECTIVE DATE FOR REQUIREMENT THAT TAXABLE YEAR OF DISC AND FSC CONFORM TO TAXABLE YEAR OF MAJORITY SHAREHOLDER.—Paragraph (4) of section 805(a) of the Tax Reform Act of 1984 is amended to read as follows:

"(4) SECTION 803.—The amendments made by section 803 shall apply to taxable years beginning after December 31, 1984."

(j) APPLICATION OF DIVIDENDS RECEIVED DEDUCTION WITH RESPECT TO CERTAIN DIVIDENDS.—Subsection (c) of section 245 (relating to dividends received from certain foreign corporations) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) COORDINATION WITH SUBSECTIONS (a) AND (b).—The gross income giving rise to the earnings and profits described in subparagraph (A) or (B) of paragraph (1) (and not described in paragraph (2)) shall not be taken into account under subsections (a) and (b)."

(k) TREATMENT OF CERTAIN QUALIFYING DISTRIBUTIONS FROM DISC.—Paragraph (2) of section 996(a) (relating to qualifying distributions) is amended by striking out the last sentence and inserting in lieu thereof the following: "In the case of any amount of any actual distribution to a C corporation made pursuant to section 992(c) which is required to satisfy the condition of section 992(a)(1)(A), the preceding sentence shall apply to 16/17ths of such amount and paragraph (1) shall apply to the remaining 1/17th of such amount."

(l) TREATMENT OF CERTAIN RECEIPTS FROM OTHER FSC.—Paragraph (1) of section 924(f) (relating to certain receipts not included in foreign trade gross receipts) is amended by adding at the end thereof the following new sentence:

"In the case of gross receipts of a FSC from a transaction involving any property, subparagraph (C) shall not apply if such FSC (and all other FSC's which are members of the same controlled group and which receive gross receipts from a transaction involving such property) do not use the pricing rules under paragraph (1) of section 925(a) (or the corresponding provisions of the regulations prescribed under section 925(b)) with respect to any transaction involving such property."

(m) TREATMENT OF CERTAIN FORMER EXPORT TRADE CORPORATIONS.—If—

(1) a corporation which is not an export trading corporation for its most recent taxable year ending before the date of the enactment of the Tax Reform Act of 1984 but was an export trading corporation for any prior taxable year, and

(2)(A) such corporation may not qualify as an export trade corporation for any taxable year beginning after December 31, 1984, by reason of section 971(a)(3) of the Internal Revenue Code of 1954, or (B) such corporation makes an election, before the date 6 months after the date of the enactment of this Act, not to be treated as an export trade corporation with respect to taxable years beginning after December 31, 1984,

rules similar to the rules of paragraphs (2) and (4) of section 805(b) of the Tax Reform Act of 1984 shall apply to such corporation. For purposes of the preceding sentence, the term "export trade corporation" has the meaning given such term by section 971 of such Code.

(n) TREATMENT OF DISTRIBUTION OF ACCUMULATED DISC INCOME RECEIVED BY COOPERATIVES.—Paragraph (2) of section 805(b) of the Tax Reform Act of 1984 (relating to transition rules for DISC's) is amended by adding at the end thereof the following new subparagraph:

"(C) TREATMENT OF DISTRIBUTION OF ACCUMULATED DISC INCOME RECEIVED BY COOPERATIVES.—In the case of any actual distribution received by an organization described in section 1381 of such Code and excluded from the gross income of such corporation by reason of subparagraph (A)—

"(i) such amount shall not be included in the gross income of any member of such organization when distributed in the form of a patronage dividend or otherwise, and

"(ii) no deduction shall be allowed to such organization by reason of any such distribution."

(o) TREATMENT OF CERTAIN CONTRACTS.—Paragraph (2) of section 805(a) of the Tax Reform Act of 1984 (relating to transitional rule for certain contracts) is amended to read as follows:

"(2) SPECIAL RULE FOR CERTAIN CONTRACTS.—To the extent provided in regulations prescribed by the Secretary of the Treasury or his delegate, any event or activity required to occur or required to be performed, before January 1, 1985, by section 924 (c) or (d) or 925(c) of the Internal Revenue Code of 1954 shall be treated as meeting the requirements of such section if such event or activity is with respect to—

"(A) any lease of more than 3 years duration which was entered into before January 1, 1985,

"(B) any contract with respect to which the taxpayer uses the completed contract method of accounting which was entered into before January 1, 1985, or

"(C) in the case of any contract other than a lease or contract described in subparagraph (A) or (B), any contract which was entered into before January 1, 1985; except that this subparagraph shall only apply to the first 3 taxable years of the FSC ending after January 1, 1985, or such later taxable years as the Secretary of the Treasury or his delegate may prescribe."

(p) CLERICAL AMENDMENTS.—

(1) Subsection (f) of section 995 is amended by redesignating the paragraphs following the paragraph (3) relating to deferred DISC income as paragraphs (4), (5), and (6).

(2) Subsection (h) of section 901 is amended by striking out "section 927(d)(6)" and inserting in lieu thereof "section 927(d)(6))".

(3) Paragraph (3) of section 802(c) of the Tax Reform Act of 1984 is hereby repealed.

(4) Subparagraph (A) of section 805(a)(2) of the Tax Reform Act of 1984 is amended by striking out "the taxpayer" and inserting in lieu thereof "the DISC or a related party".

(5) Paragraph (2) of section 927(e) is amended by striking out "clauses (i) and (ii)" and inserting in lieu thereof "clauses (ii) and (iii)".

SEC. 1877. AMENDMENTS RELATED TO TITLE IX OF THE ACT.

(a) AMENDMENT RELATED TO SECTION 911 OF THE ACT.—Paragraph (3) of section 34(a) (relating to credit for certain uses of gasoline and special fuels) is amended to read as follows:

"(3) under section 6427—

"(A) with respect to fuels used for nontaxable purposes or resold, or

"(B) with respect to any qualified diesel-powered highway vehicle purchased (or deemed purchased under section 6427(g)(6)),

during the taxable year (determined without regard to section 6427(j))."

(b) AMENDMENTS RELATED TO SECTION 915 OF THE ACT.—

(1) Paragraph (2) of section 6427(b) (relating to intercity, local, or school buses) is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by inserting after subparagraph (A) the following new subparagraph:

"(B) EXCEPTION FOR SCHOOL BUS TRANSPORTATION.—Subparagraph (A) shall not apply to fuel used in an automobile bus while engaged in the transportation described in paragraph (1)(B)."

(2) Subparagraph (A) of section 6427(b)(2) is amended by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B) and (C)".

(3) The heading for subparagraph (C) of section 6427(b)(2), as redesignated by paragraph (1), is amended by striking out "EXCEPTION" and inserting in lieu thereof "EXCEPTION FOR CERTAIN INTRACITY TRANSPORTATION".

(c) AMENDMENT RELATED TO SECTION 921 OF THE ACT.—Paragraph (3) of section 4051(d) (relating to temporary reduction in tax on

certain piggyback trailers) is amended by adding at the end thereof the following new sentence:

"No tax shall be imposed by reason of this paragraph on any use or resale which occurs more than 6 years after the date of the first retail sale."

SEC. 1878. AMENDMENTS RELATED TO TITLE X OF THE ACT.

(a) AMENDMENT RELATED TO SECTION 1001 OF THE ACT.—Subsection (b) of section 1001 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new paragraph:

"(24) Clause (i) of section 1278(a)(1)(B) (relating to short-term obligations)."

(b) AMENDMENT RELATED TO SECTION 1015 OF THE ACT.—Subparagraph (I) of section 4162(a)(6) (defining sport fishing equipment) is amended to read as follows:

"(I) fishing hook disgorgers, and".

(c) AMENDMENTS RELATED TO SECTION 1018 OF THE ACT.—

(1) Paragraph (1) of section 4041(l) (relating to exemption for certain helicopter uses) is amended to read as follows:

"(1) transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or".

(2) Paragraph (1) of section 4261(e) (relating to exemption for certain helicopter uses) is amended to read as follows:

"(1) transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or".

(d) AMENDMENTS RELATED TO SECTION 1028 OF THE ACT.—Subsection (b) of section 1028 of the Tax Reform Act of 1984 (relating to credit against estate tax for transfers to Toiyabe National Forest) is amended to read as follows:

"(b) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—The amount allowed as a credit under subsection (a) shall be equal to the lesser of—

"(A) the fair market value of the real property transferred by each estate as of the valuation date used for purposes of the tax imposed by chapter 11 of such Code, or

"(B) the Federal estate tax liability (and interest thereon) of each estate.

"(2) SPECIAL RULE FOR RABE ESTATE.—In the case of the estate described in paragraph (2) of subsection (a), the amount allowed as a credit under subsection (a) shall be equal to the Federal estate tax liability (and interest accruing thereon through the date of a transfer described in paragraph (1) of subsection (c)) of such estate."

(e) AMENDMENTS RELATED TO SECTION 1034 OF THE ACT.—

(1) The last sentence of section 514(c)(9)(B) (relating to exceptions) is amended by striking out "would be unrelated business taxable income (determined without regard to this paragraph)" and inserting in lieu thereof "is unrelated business taxable income".

(2) Clause (i) of section 514(c)(9)(C) is amended by striking out "section 509(a)" and inserting in lieu thereof "section 509(a)(3)".

(3) Clause (vi) of section 514(c)(9)(B) is amended to read as follows:

"(vi) the real property is held by a partnership (which does not fail to meet the requirements of clauses (i) through (v)), and—

"(I) any partner of the partnership is not a qualified organization, and

"(II) the principal purpose of any allocation to any partner of the partnership which is a qualified organization which is not a qualified allocation (within the meaning of section 168(j)(9)) is the avoidance of income tax.

For purposes of subclause (I) of clause (vi), an organization shall not be treated as a qualified organization if any income of such organization would be unrelated business taxable income (determined without regard to this paragraph. For purposes of clause (vi), an interest in a mortgage shall in no event be treated as real property."

(f) AMENDMENTS RELATED TO SECTION 1041 OF THE ACT.—

(1) The subsection (j) of section 51 (relating to targeted jobs credit) added by section 1041 of the Tax Reform Act of 1984 is hereby redesignated as subsection (k).

(2) Subparagraph (B) of section 1041(c)(5) of the Tax Reform Act of 1984 is amended by striking out "section 51(j)" and inserting in lieu thereof "section 51(k)".

(g) AMENDMENT RELATED TO SECTION 1053 OF THE ACT.—Paragraph (2) of section 1034(h) (relating to members of armed forces) is amended by striking out "before the last day described" and inserting in lieu thereof "before the day which is 1 year after the last day described".

(h) AMENDMENT RELATED TO SECTION 1063 OF THE ACT.—Subsection (c) of section 1063 of the Tax Reform Act of 1984 (relating to permanent disallowance of deduction for expenses of demolition of certain structures) is amended to read as follows:

"(c) EFFECTIVE DATES.—

"(1) The amendments made by this section shall apply to taxable years ending after December 31, 1983, but shall not apply to any demolition (other than of a certified historic structure) commencing before July 19, 1984.

"(2) For purposes of paragraph (1), if a demolition is delayed until the completion of the replacement structure on the same site, the demolition shall be treated as commencing when construction of the replacement structure commences.

"(3) The amendments made by this section shall not apply to any demolition commencing before September 1, 1984, pursuant to a bank headquarters building project if—

"(A) on April 1, 1984, a corporation was retained to advise the bank on the final completion of the project, and

"(B) on June 12, 1984, the Comptroller of the Currency approved the project.

"(4) The amendments made by this section shall not apply to the remaining adjusted basis at the time of demolition of any structure if—

"(A) such structure was used in the manufacture, storage, or distribution of lead alkyl antiknock products and intermediate and related products at facilities located in or near Baton Rouge, Louisiana, and Houston, Texas, owned by the same corporation, and

"(B) demolition of at least one such structure at the Baton Rouge facility commenced before January 1, 1984."

(i) AMENDMENT RELATED TO SECTION 1065 OF THE ACT.—Subsection (b) of section 1065 of the Tax Reform Act of 1984 (relating to rules treating Indian tribal governments as States) is amended by striking out "section 7871" and inserting in lieu thereof "section 7871(a)".

(j) AMENDMENTS RELATED TO SECTION 1071 OF THE ACT.—

(1) Subsection (a) of section 852 (relating to taxation of regulated investment companies and their shareholders) is amended by adding "and" at the end of paragraph (1), by striking out paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(2) Paragraph (1) of section 852(b) (relating to imposition of tax on regulated investment companies) is amended by striking out the last sentence and inserting in lieu thereof the following: "In the case of a regulated investment company which is a personal holding company (as defined in section 542) or which fails to comply for the taxable year with regulations prescribed by the Secretary for the purpose of ascertaining the actual ownership of its stock, such tax shall be computed at the highest rate of tax specified in section 11(b)."

SEC. 1879. MISCELLANEOUS PROVISIONS.

(a) WAIVER OF ESTIMATED TAX PENALTIES.—No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1954 (relating to failure to pay estimated income tax) for any period before April 16, 1985 (March 16, 1985 in the case of a taxpayer subject to section 6655 of such Code), with respect to any underpayment, to the extent that such underpayment was created or increased by any provision of the Tax Reform Act of 1984.

(b) AMENDMENTS RELATED TO ORPHAN DRUG CREDIT.—

(1) Clause (ii) of section 28(b)(2)(A) (defining clinical testing) is amended—

(A) by striking out "the date of such drug" in subclause (I) and inserting in lieu thereof "the date such drug", and

(B) by striking out "of such Act" in subclause (II) and inserting in lieu thereof "of such Act or, if the drug is a biological product, before the date on which a license for such drug is issued under section 351 of the Public Health Services Act".

(2) Paragraph (1) of section 28(d) (defining rare disease or condition) is amended to read as follows:

"(1) RARE DISEASE OR CONDITION.—For purposes of this section, the term 'rare disease or condition' means any disease or condition which—

"(A) affects less than 200,000 persons in the United States, or

"(B) affects more than 200,000 persons in the United States but for which there is no reasonable expectation that the cost of developing and making available in the United States a drug for such disease or condition will be recovered from sales in the United States of such drug.

Determinations under the preceding sentence with respect to any drug shall be made on the basis of the facts and circumstances as of the date such drug is designated under section 526 of the Federal Food, Drug, and Cosmetic Act."

(3) The amendments made by this subsection shall apply to amounts paid or incurred after December 31, 1982, in taxable years ending after such date.

(c) TREATMENT OF SALES WITHIN AFFILIATED GROUP FOR PURPOSES OF SECTION 29.—

(1) Paragraph (8) of section 29(d) (relating to related persons) is amended by adding at the end thereof the following new sentence: "In the case of a corporation which is a member of an affiliated group of corporations filing a consolidated return, such corporation shall be treated as selling qualified fuels to an unrelated person if such fuels are sold to such a person by another member of such group."

(2) The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 231 of Public Law 96-223.

(d) RETURNS AND RECORDS WITH RESPECT TO CERTAIN FRINGE BENEFITS.—

(1) Subsection (d) of section 6039D (added by section 1 of Public Law 98-611) is amended to read as follows:

"(d) DEFINITIONS.—For purposes of this section—

"(1) SPECIFIED FRINGE BENEFIT PLAN.—The term 'specified fringe benefit plan' means—

"(A) any qualified group legal services plan (as defined in section 120),

"(B) any cafeteria plan (as defined in section 125), and

"(C) any educational assistance plan (as defined in section 127).

"(2) APPLICABLE EXCLUSION.—The term 'applicable exclusion' means—

"(A) section 120 in the case of a qualified group legal services plan,

"(B) section 125 in the case of a cafeteria plan, and

"(C) section 127 in the case of an educational assistance plan."

(2) The section 6039D added by section 1 of Public Law 98-612 is hereby repealed.

(e) REPEAL OF JOINT COMMITTEE REPORT REQUIREMENT.—Section 6405 (relating to reports of refunds and credits) is amended by striking out subsection (b) and redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

(f) AMENDMENTS RELATED TO PUBLIC LAW 99-121.—

(1) The table contained in section 467(e)(3)(A) is amended—

(A) by striking out "18-year real property" and inserting in lieu thereof "19-year real property", and

(B) by striking out "18 years" and inserting in lieu thereof "19 years".

(2) The amendments made by paragraph (1) shall take effect as if included in the amendments made by section 103 of Public Law 99-121.

(g) DEFINED CONTRIBUTION PLAN OF RURAL ELECTRIC COOPERATIVE MAY INCLUDE QUALIFIED CASH OR DEFERRED ARRANGEMENT.—

(1) IN GENERAL.—Paragraphs (1) and (2) of section 401(k) (relating to cash or deferred arrangements) are each amended by striking out "(or a pre-ERISA money purchase plan)" and inserting in lieu thereof ", a pre-ERISA money purchase plan, or a rural electric cooperative plan".

(2) RURAL ELECTRIC COOPERATIVE PLAN DEFINED.—Subsection (k) of section 401 is amended by adding at the end thereof the following new paragraph:

"(6) RURAL ELECTRIC COOPERATIVE PLAN.—For purposes of this subsection, the term 'rural electric cooperative plan' means any pension plan—

"(A) which is a defined contribution plan (as defined in section 414(i)), and

"(B) which is established and maintained by a rural electric cooperative (as defined in section 457(d)(9)(B)) or a national association of such rural electric cooperatives."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1984.

(h) CLARIFICATION OF DEFINITION OF NEWLY DISCOVERED OIL.—

(1) IN GENERAL.—Paragraph (2) of section 4991(e) (defining newly discovered oil) is amended by adding at the end thereof the following new sentences: "Such term includes any production from a property which did not produce oil in commercial quantities during calendar year 1978. For purposes of the preceding sentence, a property shall not be treated as producing oil in commercial quantities during calendar year 1978 if, during calendar year 1978 (A) the aggregate amount of oil produced from such property did not exceed 2,200 barrels (whether or not such oil was sold), and (B) no well on such property was in production for a total of more than 72 hours."

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to oil removed after February 29, 1980.

(i) MEDICINAL ALCOHOL, ETC. BROUGHT INTO THE UNITED STATES FROM PUERTO RICO OR THE VIRGIN ISLANDS ELIGIBLE FOR DRAWBACK.—

(1) Section 7652 (relating to shipments to the United States) is amended by adding at the end thereof the following new subsection:

"(g) DRAWBACK FOR MEDICINAL ALCOHOL, ETC.—In the case of medicines, medicinal preparations, food products, flavors, or flavoring extracts containing distilled spirits, which are unfit for beverage purposes and which are brought into the United States from Puerto Rico or the Virgin Islands—

"(1) subpart F of part II of subchapter A of chapter 51 shall be applied as if—

"(A) the use and tax determination described in section 5131(a) had occurred in the United States by a United States person at the time the article is brought into the United States, and

"(B) the rate of tax were the rate applicable under subsection (f) of this section, and

"(2) no amount shall be covered into the treasuries of Puerto Rico or the Virgin Islands."

(2) The amendment made by paragraph (1) shall apply to articles brought into the United States after the date of the enactment of this Act.

(3)(A) Section 7652 of the Internal Revenue Code of 1954 (other than subsection (f) thereof) shall not prevent the payment to Puerto Rico or the Virgin Islands of amounts with respect to medicines, medicinal preparations, food products, flavors, or flavoring extracts containing distilled spirits, which are unfit

for beverage purposes and which are brought into the United States from Puerto Rico or the Virgin Islands on or before the date of the enactment of this Act.

(B) With respect to articles brought into the United States after September 27, 1985, subparagraph (A) shall apply only if the Secretary of the Treasury or his delegate is satisfied that the amounts paid to Puerto Rico or the Virgin Islands under subparagraph (A) are being repaid to the proper persons who used the distilled spirits in such articles.

(j) ALLOWANCE OF INVESTMENT CREDIT TO ELIGIBLE SECTION 501(d) ORGANIZATIONS.—

(1) IN GENERAL.—Section 48 (relating to definitions and special rules) is amended by redesignating subsection (r) as subsection (s) and by inserting after subsection (q) the following new subsection:

"(r) CERTAIN SECTION 501(d) ORGANIZATIONS.—

"(1) IN GENERAL.—In the case of eligible section 501(d) organizations—

"(A) any business engaged in by such organization for the common benefit of its members and the taxable income from which is included in the gross income of its members shall be treated as an unrelated business for purposes of paragraph (4) of subsection (a),

"(B) the qualified investment for each taxable year with respect to such business shall be apportioned pro rata among such members in the same manner as the taxable income of such organization, and

"(C) any individual to whom any investment has been apportioned under subparagraph (B) shall be treated for purposes of this subpart (other than section 47) as the taxpayer with respect to such investment, and such investment shall not (by reason of such apportionment) lose its character as an investment in new section 38 property or used section 38 property, as the case may be.

"(2) LIMITATION ON USED SECTION 38 PROPERTY APPLIED AT ORGANIZATION LEVEL.—The limitation under subparagraph (A) of subsection (c)(2) shall apply with respect to the section 501(d) organization.

"(3) RECAPTURE.—For purposes of applying section 47 to any property for which credit was allowed under section 38 by reason of this subsection—

"(A) the section 501(d) organization shall be treated as the taxpayer to which the credit under section 38 was allowed,

"(B) the amount of such credit allowed with respect to the property shall be treated as the amount which would have been allowed to the section 501(d) organization were such credit allowable to such organization,

"(C) subparagraph (D) of section 47(a)(5) shall not apply, and

"(D) the amount of the increase in tax under section 47 for any taxable year with respect to property to which this subsection applies shall be allocated pro rata among the members of such organization in the same manner as such organization's taxable income for such year is allocated among such members.

"(4) NO INVESTMENT CREDIT ALLOWED TO MEMBER IF MEMBER CLAIMS OTHER INVESTMENT CREDIT.—No credit shall be allowed

to an individual by reason of this subsection if such individual claims a credit under section 38 without regard to this subsection. The amount of the credit not allowed by reason of the preceding sentence shall not be allowed to any other person.

"(5) ELIGIBLE SECTION 501(d) ORGANIZATION.—For purposes of this subsection, the term 'eligible section 501(d) organization' means any organization—

"(A) which elects to be treated as an organization described in section 501(d) and which is exempt from tax under section 501(a), and

"(B) which does not provide a substantially higher standard of living for any person or persons than it does for the majority of the members of the community."

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to periods after December 31, 1978 (under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954), in taxable years ending after such date.

(3) SPECIAL RULE.—If refund or credit of any overpayment of tax resulting from the application of this subsection is prevented at any time before the close of the date which is 1 year after the date of the enactment of this Act by operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the application of the amendments made by this subsection) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.

(k) AMENDMENT RELATED TO MUTUAL SAVINGS BANKS DESCRIBED IN SECTION 591(b).—

(1) IN GENERAL.—Subparagraph (B) of section 501(c)(14) (relating to list of tax-exempt organizations) is amended—

(A) by striking out "or" at the end of clause (ii),

(B) by striking out the period at the end of clause (iii) and inserting in lieu thereof a comma and "or", and

(C) by inserting at the end thereof the following new clause:

"(iv) mutual savings banks described in section 591(b)".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after August 13, 1981.

(l) AMENDMENT TO SECTION 368(a)(2)(F).—

(1) IN GENERAL.—Clause (ii) of section 368(a)(2)(F) (relating to certain transactions involving 2 or more investment companies) is amended to read as follows:

"(ii) A corporation meets the requirements of this clause if not more than 25 percent of the value of its total assets is invested in the stock and securities of any one issuer (other than stock in a regulated investment company, a real estate investment trust, or an investment company which meets the requirements of this clause (ii)), and not more than 50 percent of the value of its total assets is invested in the stock and securities of 5 or fewer issuers (other than stock in a regulated investment company, a real estate investment trust, or an investment company which meets the requirements of this clause (ii)). For purposes of this clause, all members of a controlled group of corpora-

tions (within the meaning of section 1563(a)) shall be treated as one issuer."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply as if included in section 2131 of the Tax Reform Act of 1976.

(m) AMENDMENTS RELATING TO SUBCHAPTER S CORPORATIONS.—

(1) IN GENERAL.—

(A) Section 1361(d)(3) (relating to qualified subchapter S trusts) is amended by adding at the end thereof the following new sentence: "A substantially separate and independent share of a trust treated as a separate trust under section 663(c) shall be treated as a separate trust for purposes of this subsection and subsection (c)."

(B) Section 1368(e)(1) (relating to definitions and special rules) is amended by striking out the period at the end of subparagraph (A) and inserting in lieu thereof "and no adjustment shall be made for Federal taxes attributable to any taxable year in which the corporation was a C corporation."

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1982.

(n) AMENDMENT RELATING TO SECTION 2523.—

(1) IN GENERAL.—Subparagraph (A) of section 2523(f)(4) (relating to election with respect to life estate for donee spouse) is amended to read as follows:

"(A) TIME AND MANNER.—An election under this subsection with respect to any property shall be made on or before the date prescribed by section 6075(b) for filing a gift tax return with respect to the transfer (determined without regard to section 6019(2)) and shall be made in such manner as the Secretary shall by regulations prescribe."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to transfers made after December 31, 1985.

(3) SPECIAL RULE FOR CERTAIN TRANSFERS IN OCTOBER 1984.—An election under section 2523(f) of the Internal Revenue Code of 1954 with respect to an interest in property which—

(A) was transferred during October 1984, and

(B) was transferred pursuant to a trust instrument stating that the grantor's intention was that the property of the trust would constitute qualified terminable interest property as to which a Federal gift tax marital deduction would be allowed upon the grantor's election,

shall be made on the return of tax imposed by section 2501 of such Code for the calendar year 1984 which is filed on or before the due date of such return or, if a timely return is not filed, on the first such return filed after the due date of such return and before December 31, 1986.

(o) AMENDMENTS RELATING TO SECTION 4994.—

(1) For purposes of section 4991(b), a "qualified charitable interest" shall include an economic interest in crude oil held by the Episcopal Royalty Company, an entity created in 1961 as a subsidiary of the Protestant Episcopal Church Foundation of the Diocese of Oklahoma.

(2) The amendment made by this subsection shall apply to oil removed after February 29, 1980.

(p) AMENDMENT RELATED TO SECTION 252 OF THE ECONOMIC RECOVERY TAX ACT OF 1981.—

(1) Notwithstanding subsection (c) of section 252 of the Economic Recovery Tax Act of 1981, the amendment made by subsection (a) of such section 252 (and the provisions of subsection (b) of such section 252) shall apply to any transfer of stock to any person if—

(A) such transfer occurred in November or December of 1973 and was pursuant to the exercise of an option granted in November or December of 1971,

(B) in December 1973 the corporation granting the option was acquired by another corporation in a transaction qualifying as a reorganization under section 368 of the Internal Revenue Code of 1954,

(C) the fair market value (as of July 1, 1974) of the stock received by such person in the reorganization in exchange for the stock transferred to him pursuant to the exercise of such option was less than 50 percent of the fair market value of the stock so received (as of December 4, 1973),

(D) in 1975 or 1976 such person sold substantially all of the stock received in such reorganization, and

(E) such person makes an election under this section at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe.

(2) LIMITATION ON AMOUNT OF BENEFIT.—Subsection (a) shall not apply to transfers with respect to any employee to the extent that the application of subsection (a) with respect to such employee would (but for this paragraph) result in a reduction in liability for income tax with respect to such employee for all taxable years in excess of $100,000 (determined without regard to any interest).

(3) STATUTE OF LIMITATIONS.—

(A) OVERPAYMENTS.—If refund or credit of any overpayment of tax resulting from the application of subsection (a) is prevented on the date of the enactment of this Act (or at any time within 6 months after such date of enactment) by the operation of any law or rule of law, refund or credit of such overpayment (to the extent attributable to the application of subsection (a)) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 6-month period.

(B) DEFICIENCIES.—If the assessment of any deficiency of tax resulting from the application of subsection (a) is prevented on the date of the enactment of this Act (or at any time within 6 months after such date of enactment) by the operation of any law or rule of law, assessment of such deficiency (to the extent attributable to the application of subsection (a)) may, nevertheless, be made within such 6-month period.

(q) TREATMENT OF CERTAIN SELF-INSURED WORKERS' COMPENSATION FUNDS.—

(1) MORATORIUM ON COLLECTION ACTIVITIES.—During the period beginning on the date of the enactment of this Act and ending on August 16, 1987, the Secretary of the Treasury or his delegate—

(A) shall suspend any pending audit of any self-insured workers' compensation fund where the audit involves the issue of whether such fund is a mutual insurance company,

(B) shall not initiate any audit of any such fund involving such issue, and

(C) shall take no steps to collect from such fund any underpayment, interest, or penalty involving such issue.

(2) SUSPENSION OF RUNNING OF INTEREST.—No interest shall be payable under chapter 67 of the Internal Revenue Code of 1986 on any underpayment by a self-insured workers' compensation fund involving such issue for the period beginning on August 16, 1986, and ending on August 16, 1987.

(3) ADDITIONAL TIME TO FILE TAX COURT PROCEEDING.—If the period during which a petition involving such issue could have been filed with the Tax Court by any self-insured workers' compensation fund had not expired before August 16, 1986, such period shall not expire before August 16, 1987.

(4) SELF-INSURED WORKERS' COMPENSATION FUND.—For purposes of this subsection, the term "self-insured workers' compensation fund" means any self-insured workers' compensation fund established pursuant to applicable State law regulating self-insured workers' compensation funds.

(r) RETURNS OF ALCOHOL, TOBACCO, AND FIREARMS TAXES.—

(1) IN GENERAL.—Subsection (b) of section 6091 of such Code (relating to place for filing returns or other documents) is amended by adding at the end thereof the following new paragraph:

"(6) ALCOHOL, TOBACCO, AND FIREARMS RETURNS, ETC.—In the case of any return of tax imposed by subtitle E (relating to taxes on alcohol, tobacco, and firearms), subsection (a) shall apply (and this subsection shall not apply)."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act.

(s) TREATMENT OF STRIPPING TAX-EXEMPT BONDS.

(1) IN GENERAL.—Subsection (d) of section 1286 is amended to read as follows:

"(d) SPECIAL RULES FOR TAX-EXEMPT OBLIGATIONS.—In the case of any tax-exempt obligation (as defined in section 1275(a)(3)) from which 1 or more coupons have been stripped—

"(1) the amount of original issue discount determined under subsection (a) with respect to any stripped bond or stripped coupon from such obligation shall be the amount which produces a yield to maturity (as of the purchase date) equal to the lower of—

"(A) the coupon rate of interest on such obligation before the separation of coupons, or

"(B) the yield to maturity (on the basis of purchase price) of the stripped obligation or coupon,

"(2) the amount of original issue discount determined under paragraph (1) shall be taken into account in determining the adjusted basis of the holder under section 1288,

"(3) subsection (b)(1) shall not apply, and

"(4) subsection (b)(2) shall be applied by increasing the basis of the bond or coupon by the interest accrued but not paid before

the time such bond or coupon was disposed of (and not previously reflected in basis)."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to any purchase or sale of any stripped tax-exempt obligation or stripped coupon from such an obligation after the date of the enactment of this Act.

(t) DISPOSITION OF CERTAIN SUBSIDIARY.—If for a taxable year of an affiliated group filing a consolidated return ending on or before December 31, 1987, there is 1 disposition of stock of a subsidiary incorporated in Delaware on December 24, 1969, and whose principal place of business is in New Orleans, Louisiana (within the meaning of Treasury Regulation section 1.1502-19), the amount required to be included in income with respect to such disposition under Treasury Regulation section 1.1502-19(a) shall, notwithstanding such section, be included in income ratably over the 15-year period beginning with the taxable year in which the disposition occurs and ending with the 14th succeeding taxable year.

(u) AMENDMENTS RELATED TO SINGLE EMPLOYER PENSION PLAN AMENDMENTS ACT OF 1986.—

(1) CLARIFICATION OF APPLICABILITY OF NOTICE REQUIREMENT FOR SIGNIFICANT REDUCTIONS IN BENEFIT ACCRUALS.—Section 206(h) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(h); 100 Stat. 243) is amended—

(A) by striking out "single-employer plan" and inserting in lieu thereof "plan described in paragraph (2)";

(B) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(C) by striking out "paragraph (1), (2), or (3)" and inserting in lieu thereof "subparagraph (A), (B), or (C)";

(D) by inserting "(1)" after "(h)"; and

(E) by adding at the end the following new paragraph:

"(2) A plan is described in this paragraph if such plan is—

"(A) a defined benefit plan, or

"(B) an individual account plan which is subject to the funding standards of section 302."

(2) TREATMENT OF SECTION 4049 TRUSTS ESTABLISHED PURSUANT TO SECTION 4042(i).—Section 4049(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1349(a); 100 Stat. 258) is amended by inserting "or 4042(i)" after "section 4041(c)(3)(B) (ii) or (iii)".

(3) CORRECTION OF DEFINITION OF MULTIEMPLOYER PLAN FOR PURPOSES OF TITLE I.—Section 11016(c)(1) of the Single-Employer Pension Plan Amendments Act of 1986 (100 Stat. 273) and the amendment made thereby are repealed.

(4) EFFECTIVE DATE.—

(A) GENERAL RULE.—Except as provided in subparagraph (B), the preceding provisions of this subsection shall be effective as if such provisions were included in the enactment of the Single-Employer Pension Plan Amendments Act of 1986.

(B) SPECIAL RULE.—Subparagraph (B) of section 206(h)(2) of the Employee Retirement Income Security Act of 1974 (as amended by paragraph (1)) shall apply only with respect to plan amendments adopted on or after the date of the enactment of this Act.

CHAPTER 8—EFFECTIVE DATE

SEC. 1881. EFFECTIVE DATE.

Except as otherwise provided in this subtitle, any amendment made by this subtitle shall take effect as if included in the provision of the Tax Reform Act of 1984 to which such amendment relates.

Subtitle B—Related to Other Programs Affected by the Deficit Reduction Act of 1984

CHAPTER 1—AMENDMENTS RELATED TO SOCIAL SECURITY ACT PROGRAMS

SEC. 1882. AMENDMENTS RELATED TO COVERAGE OF CHURCH EMPLOYEES (SECTION 2603 OF THE DEFICIT REDUCTION ACT).

(a) CLARIFICATION OF EXCEPTION FOR MEMBERS OF CERTAIN RELIGIOUS FAITHS.—Subsection (g) of section 1402 of the Internal Revenue Code of 1954 (relating to members of certain religious faiths) is amended by adding at the end thereof the following new paragraph:

"(5) SUBSECTION NOT TO APPLY TO CERTAIN CHURCH EMPLOYEES.—This subsection shall not apply with respect to services which are described in subparagraph (B) of section 3121(b)(8) (and are not described in subparagraph (A) of such section)."

(b) TREATMENT OF INCOME OF CERTAIN CHURCH, ETC., EMPLOYEES.—

(1) AMENDMENTS OF INTERNAL REVENUE CODE OF 1954.—

(A) IN GENERAL.—Section 1402 of such Code (relating to definitions for purposes of the tax on self-employment income) is amended by adding at the end thereof the following new subsection:

"(j) SPECIAL RULES FOR CERTAIN CHURCH EMPLOYEE INCOME.—

"(1) COMPUTATION OF NET EARNINGS.—In applying subsection (a)—

"(A) church employee income shall not be reduced by any deduction;

"(B) church employee income and deductions attributable to such income shall not be taken into account in determining the amount of other net earnings from self-employment.

"(2) COMPUTATION OF SELF-EMPLOYMENT INCOME.—

"(A) SEPARATE APPLICATION OF SUBSECTION (b)(2).—Paragraph (2) of subsection (b) shall be applied separately—

"(i) to church employee income, and

"(ii) to other net earnings from self-employment.

"(B) $100 FLOOR.—In applying paragraph (2) of subsection (b) to church employee income, '$100' shall be substituted for '$400'.

"(3) COORDINATION WITH SUBSECTION (a)(12).—Paragraph (1) shall not apply to any amount allowable as a deduction under subsection (a)(12), and paragraph (1) shall be applied before determining the amount so allowable.

"(4) CHURCH EMPLOYEE INCOME DEFINED.—For purposes of this section, the term 'church employee income' means gross income

for services which are described in section 3121(b)(8)(B) (and are not described in section 3121(b)(8)(A))."

(B) TECHNICAL AND CONFORMING AMENDMENTS.—

(i) NET EARNINGS.—Paragraph (14) of section 1402(a) of such Code (defining net earnings from self-employment) is amended to read as follows:

"(14) in the case of church employee income, the special rules of subsection (j)(1) shall apply."

(ii) SELF-EMPLOYMENT INCOME.—Subsection (b) of section 1402 of such Code is amended by adding at the end thereof the following new sentence: "In the case of church employee income, the special rules of subsection (j)(2) shall apply for purposes of paragraph (2)."

(iii) CONFORMING AMENDMENT.—The second sentence of section 1402(b) of such Code is amended by striking out "clause (1)" and inserting in lieu thereof "paragraph (1)".

(2) AMENDMENTS OF SOCIAL SECURITY ACT.—

(A) IN GENERAL.—Section 211 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(i)(1) In applying subsection (a)—

"(A) church employee income shall not be reduced by any deduction;

"(B) church employee income and deductions attributable to such income shall not be taken into account in determining the amount of other net earnings from self-employment.

"(2)(A) Subsection (b)(2) shall be applied separately—

"(i) to church employee income, and

"(ii) to other net earnings from self-employment.

"(B) In applying subsection (b)(2) to church employee income, '$100' shall be substituted for '$400'.

"(3) Paragraph (1) shall not apply to any amount allowable as a deduction under subsection (a)(11), and paragraph (1) shall be applied before determining the amount so allowable.

"(4) For purposes of this section, the term 'church employee income' means gross income for services which are described in section 210(a)(8)(B) (and are not described in section 210(a)(8)(A))."

(B) TECHNICAL AND CONFORMING AMENDMENTS.—

(i) NET EARNINGS.—Section 211(a)(13) of such Act is amended to read as follows:

"(13) In the case of church employee income, the special rules of subsection (i)(1) shall apply."

(ii) SELF-EMPLOYMENT INCOME.—Section 211(b) of such Act is amended by adding at the end thereof the following new sentence: "In the case of church employee income, the special rules of subsection (i)(2) shall apply for purposes of paragraph (2)."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to remuneration paid or derived in taxable years beginning after December 31, 1985.

(c) REVOCATION OF ELECTION UNDER SECTION 3121(w).—Paragraph (2) of section 3121(w) of the Internal Revenue Code of 1954 (relating to timing and duration of election) is amended by striking out the last 2 sentences and inserting in lieu thereof the following: "The election may be revoked by the church or organization under regulations prescribed by the Secretary. The election shall be revoked by

the Secretary if such church or organization fails to furnish the information required under section 6051 to the Secretary for a period of 2 years or more with respect to remuneration paid for such services by such church or organization, and, upon request by the Secretary, fails to furnish all such previously unfurnished information for the period covered by the election. Any revocation under the preceding sentence shall apply retroactively to the beginning of the 2-year period for which the information was not furnished."

SEC. 1883. TECHNICAL CORRECTIONS IN OTHER PROVISIONS RELATED TO SOCIAL SECURITY ACT PROGRAMS.

(a) AMENDMENTS RELATING TO OASDI PROGRAM.—

(1) Section 202(c)(5)(B) of the Social Security Act is amended by striking out "or (I)" and inserting in lieu thereof "or (J)".

(2) Section 202(q)(5)(A)(i) of such Act is amended by striking out "prescribed by him" and inserting in lieu thereof "prescribed by the Secretary".

(3) Section 202(q)(5)(C) of such Act is amended by striking out "she shall be deemed" and inserting in lieu thereof "he or she shall be deemed".

(4) Section 210(a)(5)(G) of such Act is amended by striking out "Any other service" and inserting in lieu thereof "any other service".

(5) Effective on the date of the enactment of the Deficit Reduction Act of 1984—

(A) section 2601(d)(1)(B)(ii) of that Act is amended by striking out "210(a)(5)(g)(iii)" and inserting in lieu thereof "210(a)(5)(G)(iii)"; and

(B) section 2663(c)(1) of that Act is amended by striking out subparagraph (B).

(6) Section 211(c)(2) of the Social Security Act is amended by indenting subparagraph (G) two additional ems (for a total indentation of four ems) so as to align its left margin with the margins of the other subparagraphs in such section.

(7) Section 215(i)(5)(B) of such Act is amended—

(A) by striking out "subdivision (I)" in clause (ii) and inserting in lieu thereof "clause (i)(I)"; and

(B) by striking out "subdivisions (I) and (II)" in the matter between clauses (iii) and (iv) and inserting in lieu thereof "clause (i)".

(8) The heading of section 218(m) of such Act is amended to read as follows:

"Wisconsin Retirement Fund".

(9) Section 221(e) of such Act is amended by striking out "under this section" in the first sentence.

(10) Section 223(g)(1) of such Act is amended by striking out the second comma after the term "benefits" where such term first appears in the matter following subparagraph (C).

(11)(A) Section 1402(c)(2) of the Internal Revenue Code of 1954 is amended by indenting subparagraph (G) two additional ems (for a total indentation of four ems) so as to align its left margin with the margins of the other subparagraphs in such section.

(B) Section 3121(a)(8) of such Code is amended by moving subparagraph (B) two ems to the left, so that its left margin is in

flush alignment with the margin of subparagraph (A) of such section.

(b) AMENDMENTS RELATING TO AFDC AND CHILD SUPPORT PROGRAMS.—

(1)(A) Section 402(a)(31)(A) of the Social Security Act is amended by striking out "(or such lesser amount as the Secretary may prescribe in the case of an individual not engaged in fulltime employment or not employed throughout the month)".

(B) The amendment made by this paragraph shall be effective beginning October 1, 1984.

(2)(A) Section 402(a)(38)(B) of such Act is amended by striking out "section 406(a)," and inserting in lieu thereof "section 406(a) or in section 407(a) (if such section is applicable to the State),".

(B) Section 402(a)(38) of such Act (as amended by subparagraph (A) of this paragraph) is further amended by relocating so much of subparagraph (B) as follows "section 407(a) (if such section is applicable to the State)," and placing it after and below subparagraph (B), beginning flush, and indenting it two ems so that its left margin is aligned with the left margin of that portion of section 402(a)(38) that precedes subparagraph (A) thereof.

(C) The amendments made by this paragraph shall be effective beginning October 1, 1984.

(3)(A) Section 402(a)(39) of such Act is amended by striking out "under the age selected by the State pursuant to section 406(a)(2)" and inserting in lieu thereof "under the age of 18".

(B) The amendment made by subparagraph (A) shall be effective beginning October 1, 1984.

(4)(A) Section 402(a) of such Act is amended by striking out "and" after the semicolon at the end of paragraph (37), and by making any additional changes which may be necessary to assure that paragraphs (34) through (37) each end with a semicolon, paragraph (38) ends with "; and", and paragraph (39) ends with a period.

(B) Effective on the date of the enactment of the Deficit Reduction Act of 1984, section 2639(a) of that Act is amended by striking out the period immediately following "utility providing home energy" (in the quoted matter) and inserting in lieu thereof a semicolon.

(5) The placement of the last sentence of section 402(a) of the Social Security Act is modified to the extent necessary to assure that it begins flush to the full left margin without any indentation, immediately after and below the last of the numbered paragraphs.

(6) Section 457(c) of such Act is amended by striking out "subsection (b)(3) (A) and (B)" in the matter following paragraph (2) and inserting in lieu thereof "subsection (b)(4) (A) and (B)".

(7) Section 458(d) of such Act is amended by striking out "on behalf of individuals residing in another State" and inserting in lieu thereof "at the request of another State".

(8) Section 464(b)(2)(A) of such Act is amended by striking out "threshhold" and inserting in lieu thereof "threshold".

(9) Section 474(a) of such Act is amended by moving paragraph (4) two ems to the left, so that its left margin is in flush alignment with the margins of the preceding paragraphs.

(10)(A) Part E of title IV of such Act is amended by adding at the end thereof the following new section:

"EXCLUSION FROM AFDC UNIT OF CHILD FOR WHOM FOSTER CARE MAINTENANCE PAYMENTS ARE MADE

"SEC. 478. Notwithstanding any other provision of this title, a child with respect to whom foster care maintenance payments are made under this part shall not, for the period for which such payments are made, be regarded as a member of a family for purposes of determining the amount of the benefits of the family under part A, and the income and resources of such child shall not be counted as the income and resources of a family under such part.".

(B) The amendment made by subparagraph (A) shall become effective October 1, 1984.

(11)(A) The failure by a State to comply with the provisions of any amendment made by paragraph (1), (2), (3), or (10) or the imposition by a State of any requirement inconsistent with such provisions, in the administration of its plan approved under section 402(a) of the Social Security Act during the period beginning October 1, 1984, and ending on the day preceding the date of the enactment of this Act, shall not be considered to be failure to comply substantially with a provision required to be included in the State's plan, or to constitute (solely by reason of such inconsistency) the imposition of a prohibited requirement in the administration of the plan, for purposes of section 404(a) of such Act.

(B) No State shall be considered to have made any overpayment or underpayment of aid, under its plan approved under section 402(a) of the Social Security Act, by reason of its compliance or noncompliance with the provisions of any amendment made by paragraph (1), (2), (3), or (10) (or solely because of the extent to which its requirements are consistent or inconsistent with such provisions) in the administration of the plan during the period specified in subparagraph (A).

(c) AMENDMENTS TO GENERAL PROVISIONS.—

(1) Section 1101(a) of such Act is amended by shifting paragraphs (3), (4), and (5) to the right to the extent necessary to assure that their left margins are aligned with the left margins of the other numbered paragraphs.

(2) Section 1136(b)(7) of such Act is amended by striking out "nongovermental" and inserting in lieu thereof "nongovernmental".

(d) AMENDMENTS RELATING TO SSI PROGRAM.—

(1) The heading of section 1631(g) of such Act is amended to read as follows:

"Reimbursement to States for Interim Assistance Payments".

(2) Section 1612(a)(1)(C) of such Act is amended by striking out "section 43" and inserting in lieu thereof "section 32".

(3) Section 1612(b) of such Act is amended—

(A) by striking out the semicolon at the end of paragraph (2)(A) and inserting in lieu thereof ", and";

(B) by striking out the period at the end of paragraph (2)(B) and inserting in lieu thereof a semicolon; and

(C) by making any changes which may be necessary to assure that paragraph (11) ends with a semicolon, para-

graph (12) ends with "; and", and paragraph (13) ends with a period.

(e) AMENDMENTS RELATING TO SOCIAL SERVICES PROGRAM.—

(1)(A) Section 2003(d) of such Act is repealed.

(B) Section 2003(b) of such Act is amended by striking out "(subject to subsection (d))".

(2) Section 2007 of such Act is repealed.

(f) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect on the date of the enactment of this Act.

CHAPTER 2—AMENDMENTS RELATED TO UNEMPLOYMENT COMPENSATION PROGRAM

SEC. 1884. TECHNICAL CORRECTIONS IN FEDERAL UNEMPLOYMENT TAX ACT.

The Federal Unemployment Tax Act is amended as follows:

(1) Subparagraph (B) of section 3302(c)(2) (relating to a limit on the credit against the unemployment tax) is amended—

(A) by striking out "determination" the second place it appears in the material preceding clause (i) and inserting in lieu thereof "denominator", and

(B) in clause (i)—

(i) by striking out "percent" immediately preceding the comma at the end thereof, and

(ii) by inserting "percent" after "2.7".

(2) Subparagraph (A) of section 3302(f)(8) (relating to a partial limitation on the reduction of the credit against the unemployment tax) is amended by striking out "1987" and inserting in lieu thereof "1986".

(3) Clause (i) of section 3306(o)(1)(A) (relating to crew leaders who are registered or provide specialized agricultural labor) is amended by striking out "Farm Labor Contractor Registration Act of 1963" and inserting in lieu thereof "Migrant and Seasonal Agricultural Worker Protection Act".

CHAPTER 3—AMENDMENTS RELATED TO TRADE AND TARIFF PROGRAMS

SEC. 1885. AMENDMENTS TO THE TARIFF SCHEDULES.

(a) IN GENERAL.—The Tariff Schedules of the United States are amended as follows:

(1) TELECOMMUNICATIONS PRODUCT CLASSIFICATION CORRECTIONS.—

(A) Schedule 6 is amended as follows:

(i) Headnote 1 to subpart C of part 4 is amended by striking out "688.43" and inserting in lieu thereof "688.42".

(ii) Headnote 3 of part 5 of schedule 6 is amended by striking out "items 685.11 through 685.19, inclusive," and inserting in lieu thereof "items 684.92, 684.98, 685.00, and 685.08".

(iii) Item 685.34 is amended by inserting "35% ad val." in Column No. 2.

(iv) Item 685.55 is amended by striking out "685.11 to 685.50" and inserting in lieu thereof "684.92 to 685.49".

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(B) Headnote 2(ii) to part 7 of schedule 8 is amended by striking out "688.43" and inserting in lieu thereof "688.42".

(C) Subpart B of part 2 of schedule 6 is amended by inserting before the superior heading to items 608.26 and 608.29, and at the same indention level as that heading, the following new item:

"	608.25	Silicon electrical steel	5.6% ad val. + additional duties (see headnote 4)	5.1% ad val. + additional duties (see headnote 4)(D) Free (E, I)	33% ad val. additional duties (see headnote 4)	"

(2) CORRECTIONS TO THE APPENDIX.—Subpart B of part 1 to the Appendix is amended as follows:

(A) The article description for item 906.38 is amended to read as follows: "N-Acetylsulfanilyl chloride (provided for in item 405.31, part 1B, schedule 4)".

(B) Item 907.38 is amended by striking out "411.87" and inserting in lieu thereof "411.82".

(C) Item 912.13 is amended by striking out "670.20" and inserting in lieu thereof "670.21".

(D) Item 907.63 is amended by striking out "(provided for in item 437.13" and inserting in lieu thereof "put up in measured doses in chewing gum form (provided for in item 438.02".

(3) MISCELLANEOUS CORRECTIONS.—The Schedules are further amended as follows:

(A) Headnote 1 of subpart D of part 4 of schedule 1 is amended by striking out "(casein plus albumin)" and inserting in lieu thereof "(casein plus lactalbumin)".

(B) Headnote 1 of subpart C of part 4 of schedule 3 is amended—

(i) by inserting "or" after the semicolon at the end of clause (v); and

(ii) by striking out "; or" at the end of clause (vi) and inserting in lieu thereof a period.

(b) EFFECTIVE DATE.—

(1) The amendments made by this section shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date that is 15 days after the date of enactment of this Act.

(2) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the customs officer concerned on or before the date that is 90 days after the date of enactment of this Act, the entry of any article—

(A) which was made on or after November 14, 1984, and before the date that is 15 days after the date of enactment of this Act; and

(B) with respect to which there would have been no duty, or a lesser duty, by reason of any amendment made by subsection (a) if such entry were made on or after the date that is 15 days after the date of enactment of this Act,

shall be liquidated or reliquidated as though such entry had been made on the date that is 15 days after the date of enactment of this Act.

(3) The rate of duty in column number 1 for item 608.25 of the Tariff Schedules of the United States shall be subject to all staged rate reductions for item 608.38 of such Schedules that—

(A) take effect after the date of enactment of this Act, and

(B) were proclaimed by the President before the date of enactment of this Act.

SEC. 1886. TECHNICAL CORRECTIONS TO COUNTERVAILING AND ANTI-DUMPING DUTY PROVISIONS.

(a) IN GENERAL.—Title VII of the Tariff Act of 1930 is amended as follows:

(1)(A) Subsection (c) of section 701 (19 U.S.C. 1671(c)) is redesignated as subsection (d).

(B) Subsection (g) of such section 701 (as added by section 613(b) of the Trade and Tariff Act of 1984) is—

(i) amended by striking out "(g) Whenever" and inserting in lieu thereof "(c) UPSTREAM SUBSIDY.—Whenever"; and

(ii) inserted immediately after subsection (b) of that section.

(2) Sections 702(b)(1), 732(b)(1), and 733(b)(2) (19 U.S.C. 1671a(b)(1); 1673a(b)(1); 1673b(b)(2)) are each amended by striking out "(C), (D), or (E)" each place it appears and inserting in lieu thereof "(C), (D), (E), or (F)".

(3) Subsection (h) of section 703 (19 U.S.C. 1671b(h)) is redesignated as subsection (g), and—

(A) paragraph (2)(A) of that subsection (as so redesignated) is amended by striking out "days under section 705(a)(1) or 225 days under section 705(a)(2), as appropriate" and inserting in lieu thereof "or 225 days, as appropriate, under section 705(a)(1)"; and

(B) paragraph (2)(B)(ii) of that subsection (as so redesignated) is amended by striking out "days under section 705(a)(2)" and inserting in lieu thereof "or 225 days, as appropriate, under section 705(a)(1)".

(4) Section 704 is amended—

(A) by amending subsection (d)—

(i) by redesignating paragraph (2) as paragraph (3); and

(ii) by inserting after paragraph (1) the following new paragraph:

"(2) EXPORTS OF MERCHANDISE TO UNITED STATES NOT TO INCREASE DURING INTERIM PERIOD.—The administering authority may not accept any agreement under subsection (b) unless that agreement provides a means of ensuring that the quantity of the merchandise covered by that agreement exported to the United States during the period provided for elimination or offset of the subsidy or cessation of exports does not exceed the quantity of such merchandise exported to the United States during the most recent representative period determined by the administering authority."; and

(B) by amending subsection (i)(1)(D) by striking out "international" and inserting in lieu thereof "intentional".

(5) Paragraph (2) of section 706(a) is amended by aligning the margin of the matter appearing after subparagraph (B) with the margin of the matter appearing before subparagraph (A).

(6)(A) Section 708 is amended by striking out "SEC. 708." and inserting in lieu thereof the following flush section heading:

"SEC. 708. EFFECT OF DEROGATION OF EXPORT-IMPORT BANK FINANCING.".

(B) The table of contents for such title VII is amended by inserting in numerical sequence the following:

"Sec. 708. Effect of derogation of Export-Import Bank financing."

(7) Paragraph (1) of section 736(c) (19 U.S.C. 1673e(c)(1)) is amended by inserting ", and was sold to any person that is not related to such manufacturer, producer, or exporter," immediately before "on or after the date of publication of—".

(8) The last sentence of section 751(b)(1) (19 U.S.C. 1675(b)(1)) is amended by inserting "or countervailing duty" after "antidumping" each place it appears.

(9) Clause (i) of section 771(7)(F) (19 U.S.C. 1677(7)(F)(i)) is amended—

(A) by striking "any merchandise" in that part which precedes subclause (I) and inserting in lieu thereof "the merchandise"; and

(B) by striking out "find orders" in subclause (VIII) and inserting in lieu thereof "final orders".

(10) Subsection (a) of section 771A (19 U.S.C. 1677-1(a)) is amended by striking out "(ii), or (iii)" and inserting in lieu thereof "(ii), (iii), or (iv)".

(11) Subsection (g) of section 773 (19 U.S.C. 1677b(g)) is redesignated as subsection (f).

(12) Section 775 (19 U.S.C. 1677d) is amended by striking out "an proceeding" each place it appears in the text and in the heading and inserting in lieu thereof "a proceeding".

(13) Section 777 (19 U.S.C. 1677f) is amended—

(A) by striking out "confidential", "nonconfidential", and "confidentiality" each place they appear in the text and in the side headings and inserting in lieu thereof "proprietary", "non-proprietary", and "proprietary status", respectively; and

(B) by inserting "or the Commission" after "administering authority" in subsection (b)(1)(B)(i).

(b) AMENDMENTS TO EFFECTIVE DATE PROVISIONS.—Section 626(b) of the Trade and Tariff Act of 1984 (relating to the effective dates of the amendments made therein to title VII of the Tariff Act of 1930) is amended—

(1) by amending paragraph (1) by inserting ", and to reviews begun under section 751 of that Act," after "1930"; and

(2) by adding at the end thereof the following new paragraphs:

"(3) The administering authority may delay implementation of any of the amendments referred to in subsections (a) and (b)(1) with respect to any investigation in progress on the date of enactment of this Act if the administering authority determines that immediate implementation would prevent compliance with a statutory deadline in title VII of the Tariff Act of 1930 that is applicable to that investigation.

"(4) The amendment made by section 621 shall apply with respect to merchandise that is unliquidated on or after November 4, 1984.".

SEC. 1887. AMENDMENTS TO THE TRADE ACT OF 1974.

(a) IN GENERAL.—The Trade Act of 1974 is amended as follows:

(1) Subclause (II) of section 102(b)(4)(B)(ii) of the Trade Act of 1974 (19 U.S.C. 2112(b)(4)(B)(ii)(II)) is amended by striking out "subsection (A)(ii)(I)" and inserting in lieu thereof "subparagraph (A)(ii)(I)".

(2) Subsection (n) of section 135 (as added by section 306(c)(2)(B)(v) of the Trade and Tariff Act of 1984) is redesignated as subsection (m).

(3) Section 141(d)(6) is amended by striking out "3679(b) of the Revised Statutes (31 U.S.C. 665(b))" and inserting in lieu thereof "1342 of title 31, United States Code".

(4) Subsection (d) of section 141 (19 U.S.C. 2171(d)) is amended—

(A) by striking out "and" at the end of paragraph (9),

(B) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and", and

(C) by redesignating the paragraph added by section 304(d)(2)(A)(iii) of the Trade and Tariff Act of 1984 as paragraph (11).

(5) Subparagraphs (A), (B), and (C) of section 502(b)(4) (19 U.S.C. 2462(b)(4)) are amended to read as follows:

"(A) has nationalized, expropriated, or otherwise seized ownership or control of property, including patents, trademarks, or copyrights, owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

"(B) has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property, including patents, trademarks, or copyrights, so owned, or

"(C) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property, including patents, trademarks, or copyrights, so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property,".

(6) That part of section 504(c)(3)(D)(ii) (19 U.S.C. 2464(c)(3)(D)(ii)) that precedes subclause (I) is amended—

(A) by striking out "from any beneficiary developing country";

(B) by striking out "1984 which exceeds 15" and inserting in lieu thereof "1986 the aggregate value of which exceeds 15"; and

(C) by striking out "if for the preceding calendar year such beneficiary developing country—" and inserting in lieu thereof "from those beneficiary developing countries which for the preceding calendar year—".

(b) TRANSISTORS.—

(1) Section 128(b) of the Trade Act of 1974 (19 U.S.C. 2138) is amended by striking out "587.70" in paragraph (1) and inserting in lieu thereof "687.70".

(2)(A) Item 687.70 of the Tariff Schedules of the United States is amended by striking out "4.2% ad val." and inserting in lieu thereof "Free".

(B) The amendment made by subparagraph (A) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date that is 15 days after the date of enactment of this Act.

(C) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the customs officer concerned on or before the date that is 90 days after the date of enactment of this Act, the entry of any article described in item 687.70 of the Tariff Schedules of the United States which was made on or after March 1, 1985, and before the date that is 15 days after the date of enactment of this Act shall be liquidated or reliquidated as though such entry had been made on the date that is 15 days after the date of enactment of this Act.

SEC. 1888. AMENDMENTS TO THE TARIFF ACT OF 1930.

The Tariff Act of 1930 is amended as follows:

(1) Subsection (c) of section 304 (19 U.S.C. 1304(c)) is amended—

(A) by striking out "No" and inserting in lieu thereof the following: "(1) Except as provided in paragraph (2), no"; and

(B) by adding at the end thereof the following new paragraph:

"(2) If, because of the nature of an article, it is technically or commercially infeasible to mark it by one of the four methods specified in paragraph (1), the article may be marked by an equally permanent method of marking such as paint stenciling or, in the case of small diameter pipe, tube, and fittings, by tagging the containers or bundles.".

(2) Subsection (j) of section 313 (19 U.S.C. 1313(j)) is amended—

(A) by redesignating the paragraphs (3) and (4) inserted by section 202(1)(B) of the Trade and Tariff Act of 1984 as paragraphs (2) and (3), respectively; and

(B) by amending the paragraph redesignated as paragraph (4) by section 202(1)(A) of the Trade and Tariff Act of 1984 to read as follows:

"(4) The performing of incidental operations (including, but not limited to, testing, cleaning, repacking, and inspecting) on—

"(A) the imported merchandise itself in cases to which paragraph (1) applies, or

"(B) the merchandise of the same kind and quality in cases to which paragraph (2) applies,

that does not amount to manufacture or production for drawback purposes under the preceding provisions of this section shall not be treated as a use of that merchandise for purposes of applying paragraph (1)(B) or (2)(C).".

(3) Section 339(c)(2)(A) (19 U.S.C. 1339) is amended by striking out "relief" and inserting in lieu thereof "injury".

(4) Section 514(a) (19 U.S.C. 1514(a)) is amended by striking out "as defined in section 771(9) (C), (D), (E), and (F) of this Act".

(5) Section 516(a)(2) (19 U.S.C. 1516(a)(2)) is amended by adding at the end thereof the following new sentence:

"Such term includes an association, a majority of whose members is composed of persons described in subparagraph (A), (B), or (C).".

(6) Section 516A(a)(3) (19 U.S.C. 1516a(a)(3)) is amended by striking out "(2)(A)(ii)" and inserting in lieu thereof "(2)(A)(i)(II)".

(7) Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613a), as added by section 317 of the Joint Resolution entitled "A Joint Resolution making appropriations for fiscal year 1985, and for other purposes.", approved October 12, 1984 (98 Stat. 2054, Public Law 98-473), is repealed.

(8) Section 641 (19 U.S.C. 1641) is amended by adding at the end thereof the following new subsection:

"(i) COMPENSATION OF OCEAN FREIGHT FORWARDERS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, no conference or group of two or more ocean common carriers in the foreign commerce of the United States that is authorized to agree upon the level of compensation paid to ocean freight forwarders may—

"(A) deny to any member of such conference or group the right, upon notice of not more than 10 calendar days, to take independent action on any level of compensation paid to an ocean freight forwarder who is also a customs broker, and

"(B) agree to limit the payment of compensation to an ocean freight forwarder who is also a customs broker to less than 1.25 percent of the aggregate of all rates and charges applicable under the tariff assessed against the cargo on which the forwarding services are provided.

"(2) ADMINISTRATION.—The provisions of this subsection shall be enforced by the agency responsible for administration of the Shipping Act of 1984 (46 U.S.C. 1701, et seq.).

"(3) REMEDIES.—Any person injured by reason of a violation of paragraph (1) may, in addition to any other remedy, file a complaint for reparation as provided in section 11 of the Shipping Act of 1984 (46 U.S.C. 1710), which may be enforced pursuant to section 14 of such Act (46 U.S.C. 1713).

"(4) DEFINITIONS.—For purposes of this subsection, the terms 'conference', 'ocean common carrier', and 'ocean freight forwarder' have the respective meaning given to such terms by section 3 of the Shipping Act of 1984 (46 U.S.C. 1702)."

SEC. 1889. AMENDMENTS TO THE TRADE AND TARIFF ACT OF 1984.

The Trade and Tariff Act of 1984 (Public Law 98-573) is amended as follows:

(1) Section 126 is amended by striking out the following: "(3) Paragraphs (1) and (2) of section 126 of the bill are amended to read as follows:".

(2) Section 174(b) is amended by adding at the end of the table appearing therein the following:

"January 1, 1987 ..... 4.9% ad val.".

(3) Paragraph (7) of subsection (b) of section 212 is redesignated as subsection (c) of that section.

(4) The table in section 234(a) is amended by striking out "711.49" and inserting in lieu thereof "712.49".

(5) Paragraph (3) of section 307(b) is amended by striking out "or paragraph (3)".

(6) Paragraph (4) of section 404(e) is amended by striking out "147.44" and inserting in lieu thereof "147.33".

(7) Section 504 is amended by striking out "Tariff Act of 1930" and inserting in lieu thereof "Trade Act of 1974".

(8) Paragraph (3) of section 619 is amended by striking out "subsection (b)" and inserting in lieu thereof "subsection (b)(1)".

SEC. 1890. AMENDMENTS TO THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT.

Section 213 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703) is amended—

(1) by amending paragraph (3) of subsection (a) (as added by section 235 of the Trade and Tariff Act of 1984)—

(A) by redesignating that paragraph as paragraph (4), and aligning its margin with that of paragraph (3), and

(B) by striking out "such" the first time it appears therein and inserting in lieu thereof "any beneficiary"; and

(2) by striking out "138.42" in subsection (f)(5)(B) and inserting in lieu thereof "138.46".

SEC. 1891. CONFORMING AMENDMENTS REGARDING CUSTOMS BROKERS.

Title 28 of the United States Code is amended—

(1) by striking out "(3) or (c)" in section 1581(g)(1) and inserting in lieu thereof "(3)"; and

(2) by striking out "641(a)(1)(C)" in section 1582(1) and inserting in lieu thereof "641(b)(6)".

SEC. 1892. SPECIAL EFFECTIVE DATE PROVISIONS FOR CERTAIN ARTICLES GIVEN DUTY-FREE TREATMENT UNDER THE TRADE AND TARIFF ACT OF 1984.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer on or before the date that is 90 days after the date of enactment of this Act, any entry—

(1) which was made after the applicable date and before November 14, 1984, and

(2) with respect to which there would have been no duty or a lesser duty by reason of any amendment made by section 112, 115, 118, 167, or 179 of the Trade and Tariff Act of 1984 if such entry were made on November 14, 1984,

shall be liquidated or reliquidated as though such entry had been made on November 14, 1984.

(b) APPLICABLE DATE.—For purposes of this section—

(1) The term "applicable date" means—

(A) with respect to any entry for which the amendment described in subsection (a)(2) is any amendment made by section 118 of the Trade and Tariff Act of 1984, June 1, 1982;

(B) with respect to any entry for which the amendment described in subsection (a)(2) is any amendment made by section 112, 115, or 179 of the Trade and Tariff Act of 1984, June 30, 1983; and

(C) with respect to any entry for which the amendment described in subsection (a)(2) is the amendment made by section 167 of the Trade and Tariff Act of 1984, October 30, 1983.

(2) The term "entry" includes any withdrawal from warehouse.

SEC. 1893. TECHNICAL AMENDMENTS RELATING TO CUSTOMS USER FEES.

(a) SCHEDULE OF FEES.—

(1) Subsection (a) of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)) is amended—

(A) by striking out "Subject to the limitation in subsection (b)(2), for" in paragraph (2) and inserting in lieu thereof "For",

(B) by adding at the end thereof the following new paragraph:

"(8) For the arrival of a barge or other bulk carrier from Canada or Mexico, $100."

(2) Paragraph (3) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(3)) is amended to read as follows:

"(3) For the arrival of each railroad car carrying passengers or commercial freight, $7.50."

(b) LIMITATIONS ON FEES.—

(1) Subsection (b) of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)) is amended by adding at the end thereof the following new paragraphs:

"(4) No fee may be charged under subsection (a)(5) with respect to the arrival of any passenger—

"(A) who is in transit to a destination outside the customs territory of the United States, and

"(B) for whom customs inspectional services are not provided.

"(5) No fee may be charged under subsection (a)(1) for the arrival of—

"(A) a vessel during a calendar year after a total of $5,955 in fees charged under paragraph (1) or (8) of subsection (a) has beem paid to the Secretary of the Treasury for the provision of customs services for all arrivals of such vessel during such calendar year,

"(B) any vessel which, at the time of the arrival, is being used solely as a tugboat, or

"(C) any barge or other bulk carrier from Canada or Mexico.

"(6) No fee may be charged under subsection (a)(8) for the arrival of a barge or other bulk carrier during a calendar year after a total of $1,500 in fees charged under paragraph (1) or (8) of subsection (a) has been paid to the Secretary of the Treasury for the provision of customs services for all arrivals of such barge or other bulk carrier during such calendar year.

"(7) No fee may be charged under paragraphs (2), (3), or (4) of subsection (a) for the arrival of any—

"(A) commercial truck,

"(B) railroad car, or

"(C) private vessel,

that is being transported, at the time of the arrival, by any vessel that is not a ferry."

(2) Subparagraph (A) of section 13031(b)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(1)(A)) is amended to read as follows:

"(A) the arrival of any passenger whose journey—

"(i) originated in—

"(I) Canada,

"(II) Mexico,

"(III) a territory or possession of the United States, or

"(IV) any adjacent island (within the meaning of section 101(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(5)), or

"(ii) originated in the United States and was limited to—

"(I) Canada,

"(II) Mexico,

"(III) territories and possessions of the United States, and

"(IV) such adjacent islands;".

(3) Paragraph (1) of section 13031(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(1)) is amended—

(A) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or ", and

(B) by adding at the end thereof the following new subparagraph:

"(C) the arrival of any ferry."

(4) Subsection (c) of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(c)) is amended—

(A) by amending paragraph (1) to read as follows:

"(1) The term 'ferry' means any vessel which is being used—

"(A) to provide transportation only between places that are no more than 300 miles apart, and

"(B) to transport only—

"(i) passengers, or

"(ii) vehicles, or railroad cars, which are being used, or have been used, in transporting passengers or goods.", and

(B) by adding at the end thereof the following new paragraph:

"(5) The term 'barge or other bulk carrier' means any vessel which—

"(A) is not self-propelled, or

"(B) transports fungible goods that are not packaged in any form."

(c) SPECIAL PROVISIONS RELATING TO CUSTOMS BROKER PERMITS.—

(1) Subsection (d) of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(d)) is amended by adding at the end thereof the following new paragraph:

"(4)(A) Notice of the date on which payment of the fee imposed by subsection (a)(7) is due shall be published by the Secretary of the Treasury in the Federal Register by no later than the date that is 60 days before such due date.

"(B) A customs broker permit may be revoked or suspended for nonpayment of the fee imposed by subsection (a)(7) only if notice of the date on which payment of such fee is due was published in the Federal Register at least 60 days before such due date.

"(C) The customs broker's license issued under section 641(b) of the Tariff Act of 1930 (19 U.S.C. 1641(b)) may not be revoked or suspended merely by reason of nonpayment of the fee imposed under subsection (a)(7)."

(2) Notwithstanding section 13031(a)(7) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(7)), the fee imposed by section 13031(a) of such Act with respect to each customs broker permit held by an individual, partnership, association, or corporate customs broker for calendar year 1986 is $62.50.

(3)(A) The Secretary of the Treasury shall reinstate any customs broker's license or customs broker permit issued under subsection (b) or (c) of section 641 of the Tariff Act of 1930 (19 U.S.C. 1641) that was suspended or revoked on or before the date of enactment of this Act solely by reason of nonpayment of the fee imposed by section 13031(a)(7) of the Consolidated Omnibus Budget Reconciliation Act of 1985.

(B) Notwithstanding any other provision of law, the Secretary of the Treasury may not suspend or revoke any customs broker permit issued under section 641(c) of the Tariff Act of 1930 (19 U.S.C. 1641(c)) solely by reason of nonpayment of the fee imposed by section 13031(a)(7) of the Consolidated Omnibus Budget Reconciliation Act of 1985 before the date that is 60 days after the date of enactment of this Act.

(d) PROVISION OF FOREIGN PRE-CLEARANCE SERVICES.—

(1) Paragraph (1) of section 13031(e) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)(1)) is amended to read as follows:

"(1) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law (other than paragraph (2)), the customs services required to be provided to passengers upon arrival in the United States shall be adequately provided in connection with scheduled airline flights at customs serviced airports when needed and at no cost (other than the fees imposed under subsection (a)) to airlines and airline passengers."

(2) Subsection (e) of section 13031 of such Act is amended by—

(A) striking out "This subsection" in paragraph (2) and inserting in lieu thereof "Paragraph (1)", and

(B) by adding at the end thereof the following new paragraph:

"(3) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law—

"(A) the customs services required to be provided to passengers upon arrival in the United States shall be adequately provided in connection with scheduled airline flights when needed at places located outside the customs territory of the United States at which a customs officer is stationed for the purpose of providing such customs services, and

"(B) other than the fees imposed under subsection (a), the airlines and airline passengers shall not be required to

reimburse the Secretary of the Treasury for the costs of providing overtime customs inspectional services at such places."

(e) REGULATIONS ON REMITTANCE OF FEES.—Subsection (g) of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(g)) is amended by adding at the end thereof the following new sentence: "Regulations issued by the Secretary of the Treasury under this subsection with respect to the collection of the fees charged under subsection (a)(5) and the remittance of such fees to the Treasury of the United States shall be consistent with the regulations issued by the Secretary of the Treasury for the collection and remittance of the taxes imposed by subchapter C of chapter 33 of the Internal Revenue Code of 1954, but only to the extent the regulations issued with respect to such taxes do not conflict with the provisions of this section."

(f) REINSTATING LIMIT ON CHARGES FOR OTHER INSPECTION SERVICES.—Section 53 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1741), as amended by section 13031(h)(2) of the Consolidated Omnibus Budget Reconciliation Act of 1985, is further amended by adding at the end thereof the following new subsection:

"(e)(1) The cost of any inspection or quarantine service which is required to be performed by the Federal Government or any agency thereof at airports of entry or other places of inspection as a consequence of the operation of aircraft, and which is performed during regularly established hours of service on Sundays or holidays shall be reimbursed by the owners or operators of such aircraft only to the same extent as if such service had been performed during regularly established hours of service on weekdays. Notwithstanding any other provision of law, administrative overhead costs associated with any inspection or quarantine service required to be performed by the United States Government, or any agency thereof, at airports of entry as a result of the operation of aircraft, shall not be assessed against the owners or operators thereof.

"(2) Nothing in this subsection may be construed as requiring reimbursement for costs incurred by the Secretary of the Treasury in providing customs services described in section 13031(e)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985."

(g) EFFECTIVE DATE; REFUNDS.—

(1) The amendments made by this section shall apply with respect to services rendered after the date that is 15 days after the date of enactment of this Act.

(2) Upon written request filed by any person with the Secretary of the Treasury (hereafter in this subsection referred to as the "Secretary") before the date that is 90 days after the date of enactment of this Act which is accompanied by such documentation establishing proof of payment as the Secretary may require, the Secretary shall refund (out of funds in the Treasury of the United States not otherwise appropriated) to such person an amount equal to the excess of—

(A) the amount of fees imposed by section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 that were paid by such person to the Secretary with respect to customs services provided—

(i) after July 6, 1986, and

(ii) on or before the date that is 15 days after the date of enactment of this Act, over

(B) the amount of fees such person would have been required to pay to the Secretary by reason of such section with respect to such services if the amendments made by subsections (a)(1) and (b) applied with respect to such services.

(3) If the customs broker permit fee paid by any person for calendar year 1986 under section 13031(a)(7) of the Consolidated Omnibus Budget Reconciliation Act of 1985 exceeds $62.50, the Secretary shall either—

(A) refund (out of funds in the Treasury of the United States not otherwise appropriated) to such person the amount of the excess, or

(B) if requested by such person, credit the amount of the excess to the fee due under such section 13031(a)(7) with respect to such permit for calendar year 1987.

SEC. 1894. FOREIGN TRADE ZONES.

Section 3 of the Act of June 18, 1934 (48 Stat. 999, chapter 590; 19 U.S.C. 81c) is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding the provisions of the fifth proviso of subsection (a), any article (within the meaning of section 5002(a)(14) of the Internal Revenue Code of 1986) may be manufactured or produced from domestic denatured distilled spirits, and articles thereof, in a zone."

Subtitle C—Miscellaneous

CHAPTER 1—AMENDMENTS RELATED TO THE CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT OF 1985

SEC. 1895. COBRA TECHNICAL CORRECTIONS RELATING TO SOCIAL SECURITY ACT PROGRAMS.

(a) AMENDMENT RELATING TO THE OASDI PROGRAM.—Section 12108(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking out "1985" and inserting in lieu thereof "1986".

(b) AMENDMENTS RELATING TO THE MEDICARE PROGRAM.—

(1) INDIRECT MEDICAL EDUCATION.—(A) Paragraph (2)(C)(i) of subsection (d) of section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended by striking out "(taking into account, for discharges occurring after September 30, 1986, the amendments made by section 9104(a) of the Medicare and Medicaid Budget Reconciliation Amendments of 1985)".

(B) Paragraph (3)(A) of such subsection is amended by adding at the end the following: "If the formula under paragraph (5)(B) for determining payments for the indirect costs of medical education is changed for any fiscal year, the Secretary shall readjust the standardized amounts previously determined for each hospital to take into account the changes in that formula.".

(C) Clause (ii) of paragraph (3)(C) of such subsection is amended to read as follows:

"(ii) REDUCING FOR SAVINGS FROM AMENDMENT TO INDIRECT TEACHING ADJUSTMENT FOR DISCHARGES AFTER SEPTEMBER 30, 1986.—The Secretary shall further reduce each of the average standardized amounts by a proportion equal to the proportion (estimated by the Secretary) of the amount of payments under this subsection based on DRG prospective payment amounts which is the difference between—

"(I) the sum of the additional payment amounts under paragraph (5)(B) (relating to indirect costs of medical education) if the indirect teaching adjustment factor were equal to 1.159r (as 'r' is defined in paragraph (5)(B)(ii)), and

"(II) that sum using the factor specified in paragraph (5)(B)(ii)(II).".

(D)(i) Except as provided in clause (ii), the amendments made by this paragraph apply to discharges occurring on or after October 1, 1986.

(ii) The amendments made by this paragraph shall not be first applied to discharges occurring as of a date unless, for discharges occurring on that date, the amendments made by section 9105(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (incorporating the amendments made by paragraph (2) of this subsection) are also being applied.

(2) DISPROPORTIONATE SHARE.—(A) Paragraph (2)(C) of subsection (d) of section 1886 of the Social Security Act (42 U.S.C. 1395ww), as amended by section 9105(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (in this section referred to as "COBRA") is amended—

(i) by adding "and" at the end of clause (ii),

(ii) by striking out ", and" at the end of clause (iii) and inserting in lieu thereof a period, and

(iii) by striking out clause (iv).

(B) Paragraph (3)(C) of such subsection is amended by adding at the end the following:

"(iii) REDUCING FOR DISPROPORTIONATE SHARE PAYMENTS.—The Secretary shall further reduce each of the average standardized amounts by reducing the standardized amount for each hospital (as previously determined without regard to this clause) by a proportion equal to the proportion (established by the Secretary) of the amount of payments under this subsection based on DRG prospective payment amounts which are additional payments described in paragraph (5)(F) (relating to disproportionate share payments) for subsection (d) hospitals.".

(C) Paragraph (5)(F)(vi)(I) of such subsection is amended—

(i) by striking out "supplementary" and inserting in lieu thereof "supplemental", and

(ii) by striking out "fiscal year" and inserting in lieu thereof "period".

(D) The amendments made by subparagraph (C) apply to discharges occurring on or after May 1, 1986, and the amendments made by subparagraphs (A) and (B) apply to discharges occurring on or after October 1, 1986.

(3) ALIGNMENT CORRECTION.—Subparagraph (B) of section 1886(g)(2) of the Social Security Act (as added by section 9107(a)(1)(C) of the Consolidated Omnibus Budget Reconciliation Act of 1985) is amended by moving its alignment (and the alignment of each of its clauses) two additional ems to the left.

(4) EMERGENCY CARE REQUIREMENT.—Section 1867(e)(3) of the Social Security Act (42 U.S.C. 1395dd(e)(3)), as inserted by section 9121(b) of COBRA, is amended by striking out "and has, under the agreement, obligated itself to comply with the requirements of this section".

(5) REDESIGNATING OVERLAPPING PROVISIONS.—Paragraph (1) of section 1866(a) of the Social Security Act (42 U.S.C. 1395cc(a)) is amended—

(A) by striking out "and" inserted at the end of subparagraph (I) by section 9122(a)(2) of COBRA,

(B) by striking out the period at the end of subparagraph (J) and inserting in lieu thereof ", and", and

(C) by redesignating the subparagraph (I) inserted by section 9403(b) of COBRA as subparagraph (K) and transferring and inserting such subparagraph after subparagraph (J).

(6) CHAMPUS.—Section 9122(b) of COBRA is amended by striking out "to agreements entered into or renewed on or after the date of the enactment of this Act, but shall apply only".

(7) SKILLED NURSING FACILITY PAYMENTS.—(A) Section 1888(d)(1) of the Social Security Act (42 U.S.C. 1395yy(d)(1)), as added by section 9126(a) of COBRA, is amended by striking out "fiscal year" each place it appears and inserting in lieu thereof "cost reporting period".

(B) Section 1888(d)(4) of the Social Security Act is amended—

(i) in the first sentence, by striking out "each fiscal year" and inserting in lieu thereof "cost reporting periods beginning in a fiscal year", and

(ii) in the second sentence, by striking out "fiscal year" and all that follows up to the period and inserting in lieu thereof "cost reporting period no later than 30 days before the beginning of that period".

(C) Section 9126(d)(1) of COBRA is amended by striking out "fiscal years" and inserting in lieu thereof "cost reporting periods".

(D) The amendments made by subparagraphs (A) and (B) apply to cost reporting periods beginning on or after October 1, 1986.

(8) PROPAC.—Section 9127(b) of COBRA is amended by inserting ", except that the Director may provide initially for such terms as will insure that (on a continuing basis) the terms of no more than eight members will expire in any one year" after "years".

(9) DIRECT MEDICAL EDUCATION.—Section 1886(h) of the Social Security Act (42 U.S.C. 1395ww(h)), added by 9202(a) of COBRA, is amended—

(A) in paragraph (2)(C), by striking out "paragraph (B)" and inserting in lieu thereof "subparagraph (B)",

(B) in the matter preceding subclause (I) of paragraph (4)(E)(ii), by inserting "but before July 1, 1987," after "1986,",

(C) by redesignating subparagraph (E) of paragraph (4) as subparagraph (D), and

(D) in paragraph (5)(B), by striking out "As used in this paragraph, the" and inserting in lieu thereof "The".

(10) CITATION CORRECTION.—Section 9202(j) of COBRA is amended by inserting "or section 402 of the Social Security

Amendments of 1967" after "section 1886(c) of the Social Security Act".

(11) HMO/CMP RATES.—(A) The matter in section 1876(a)(1)(A) of the Social Security Act (42 U.S.C. 1395mm(a)(1)(A)) preceding clause (i), as amended by section 9211(d) of COBRA, is amended by striking out "publish" and inserting in lieu thereof "announce (in a manner intended to provide notice to interested parties)".

(B) The amendment made by subparagraph (A) shall apply to determinations of per capita payment rates for 1987 and subsequent years.

(12) INDENTATION.—Section 1837(i)(1) of the Social Security Act (42 U.S.C. 1395p(i)(1)), as amended by section 9219(a)(2)(A) of COBRA, is amended by moving the alignment of subparagraph (A) two additional ems to the left so as to align its left margin with the left margins of subparagraphs (B) and (C) of such section.

(13) ACCESS DEMONSTRATION PROJECT.—Section 9221(a) of COBRA is amended by striking out "September 30, 1986" and inserting in lieu thereof "July 31, 1987".

(14) PHYSICIAN PAYMENT.—(A) Section 1842(b)(4)(C) of the Social Security Act (42 U.S.C. 1395u(b)(4)(C)), as amended by section 9301(b)(1)(C) of COBRA, is amended—

(i) by striking out clause (ii), and

(ii) by striking out "(i)" in clause (i).

(B) Section 9301(c)(5) of COBRA is amended by striking out "1842(b)(7)" and inserting in lieu thereof "1842(h)(7)".

(15) REDUNDANT WORDS.—Section 1842(h) of the Social Security Act (42 U.S.C. 1395u(h)), as amended by section 9301(c) of COBRA, is amended—

(A) in paragraph (5), as redesignated by section 9301(c)(3)(D) of COBRA, by striking out "such" each place it appears, and

(B) in paragraph (6), as so redesignated, by striking out "the the" and inserting in lieu thereof "the".

(16) ASSISTANTS AT SURGERY.—(A) Section 1842(k) of the Social Security Act (42 U.S.C. 1395u(k)), added by section 9307(c) of COBRA, is amended by inserting "presents or causes to be presented a claim or" after "willfully" each place it appears.

(B) The amendment made by subparagraph (A) shall apply to claims presented after the date of the enactment of this Act.

(C) For purposes of section 1862(a)(15) of the Social Security Act (42 U.S.C. 1395y(a)(15)), added by section 9307(a)(3) of COBRA, and for surgical procedures performed during the period beginning on April 1, 1986, and ending on December 15, 1986, a carrier is deemed to have approved the use of an assistant in a surgical procedure, before the surgery is performed, based on the existence of a complicating medical condition if the carrier determines after the surgery is performed that the use of the assistant in the procedure was appropriate based on the existence of a complicating medical condition before or during the surgery.

(17) CITATION.—Section 1164(b)(4)(B) of the Social Security Act (42 U.S.C. 1320c-13(b)(4)(B)), as added by section 9401(b) of COBRA, is amended by striking out "paragraphs" and inserting in lieu thereof "subparagraphs".

(18) MEDICARE TAX ON STATE AND LOCAL EMPLOYEES.—(A) Section 3121(u)(2)(B)(ii) of the Internal Revenue Code of 1954, as added by section 13205(a)(1) of COBRA, is amended—

(i) by striking out "or" at the end of subclause (III),

(ii) by striking out the period at the end of subclause (IV) and inserting in lieu thereof ", or", and

(iii) by adding at the end the following:

"(V) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $100."

(B) Section 210(p)(2) of the Social Security Act (42 U.S.C. 410(p)(2)), as added by section 13205(b)(1) of COBRA, is amended—

(i) by striking out "or" at the end of subparagraph (C),

(ii) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", or", and

(iii) by adding at the end the following:

"(E) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $100."

(C) The amendments made by this paragraph shall apply to services performed after March 31, 1986.

(19) PUNCTUATION.—Section 210(p)(4)(B) of the Social Security Act (42 U.S.C. 410(p)(4)(B)), as amended by section 13205(b)(1) of COBRA, is amended by striking out any quotation marks that appear before "(A)".

(c) AMENDMENTS RELATING TO THE MEDICAID PROGRAM.—

(1) EXTRA WORD.—Section 1902(a)(13)(D) of the Social Security Act (42 U.S.C. 1396a(a)(13)(D)), as inserted by section 9505(c)(1)(C) of COBRA and as amended and redesignated by paragraphs (2) and (3) of section 9509(a) of COBRA, is amended by adding "and" at the end.

(2) CAPITALIZATION.—Section 1903(m)(2)(F) of the Social Security Act (42 U.S.C. 1396b(m)(2)(F)), as amended by section 9517(a)(2)(A) of COBRA, is amended by striking out "in the case" and inserting in lieu thereof "In the case".

(3) CASE-MANAGEMENT SERVICES.—(A) Section 1905(a) of the Social Security Act (42 U.S.C. 1395d(a)) is amended—

(i) by striking out "and" at the end of paragraph (18),

(ii) by redesignating paragraph (19) as paragraph (20), and

(iii) by inserting after paragraph (18) the following new paragraph:

"(19) case-management services (as defined in section 1915(g)(2)); and".

(B) Section 1902(j) of the Social Security Act (42 U.S.C. 1396a(j)), as amended by section 9505(d)(1) of COBRA, is amended by striking out "(19)" and inserting in lieu thereof "(20)".

(C) Section 1902(a)(10)(C)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(C)(iv)), as amended by section 9505(d)(2) of COBRA, is amended by striking out "through (18)" and inserting in lieu thereof "through (19)".

(4) HEALTH INSURING ORGANIZATIONS.—Section 9517(c)(2) of COBRA is amended—

(A) in subparagraph (A), by adding at the end the following: "For purposes of this paragraph, a health insuring organization is not considered to be operational until the date on which it first enrolls patients.";

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(B) in subparagraph (B), by striking out "(iv)" and inserting in lieu thereof "(vi)"; and

(C) by adding at the end the following new subparagraph:

"(C) In the case of the Hartford Health Network, Inc., clauses (ii) and (vi) of section 1903(m)(2)(A) of the Social Security Act shall not apply during the period for which a waiver by the Secretary of Health and Human Services, under section 1915(b) of such Act, of certain requirements of section 1902 of such Act is in effect (pursuant to a request for a waiver under section 1915(b) of such Act submitted before January 1, 1986)."

(5) REFERENCES TO OTHER PROVISIONS.—Section 1920(a) of the Social Security Act (42 U.S.C. 1396s(a)), as added by section 9526 of COBRA, is amended—

(A) in paragraph (1)—

(i) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and

(ii) by inserting after "—(A)" the following: "Section 402(a)(32) of this Act (relating to individuals who are deemed recipients of aid but for whom a payment is not made).

(B) in paragraph (2)—

(i) by inserting "(A)" after the dash, and

(ii) by adding at the end the following new subparagraph:

"(B) Section 1634(b) of this Act (relating to preservation of benefit status for disabled widows and widowers who lost SSI benefits because of 1983 changes in actuarial reduction formula)."; and

(C) in paragraph (3), by striking out "Section 473(b)" and inserting in lieu thereof "Sections 472(h) and 473(b)".

(6) REFERENCE CORRECTION.—Section 9528(a) of COBRA is amended by striking out "1101(a)(8)(P)" and inserting in lieu thereof "1101(a)(8)(B)".

(7) INDENTATION.—Section 1902(a)(10)(A)(ii)), of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)), as amended by sections 9505(b)(2) and 9529(b)(1) of COBRA, is amended—

(A) by indenting subclause (VII) two additional ems so as to align its left margin with the left margins of subclauses (I) through (VI) of such section, and

(B) by indenting subclause (VIII) (and each of its subdivisions) four additional ems so as to align its left margin with the left margins of subclauses (I) through (VI) of such section.

(d) AMENDMENTS RELATING TO CONTINUATION OF EMPLOYER-BASED HEALTH INSURANCE COVERAGE.—

(1) EFFECT OF MODIFICATIONS TO PLAN COVERAGE PROVISIONS.—

(A) IRC AMENDMENT.—Subparagraph (A) of section 162(k)(2) (relating to type of benefit coverage) is amended by adding at the end the following: "If coverage under the plan is modified for any group of similarly situated beneficiaries, the coverage shall also be modified in the same manner for all individuals who are qualified beneficiaries under the plan pursuant to this subsection in connection with such group.".

(B) ERISA AMENDMENT.—Paragraph (1) of section 602 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(1); 100 Stat. 228) is amended by adding at the

end the following: "If coverage is modified under the plan for any group of similarly situated beneficiaries, such coverage shall also be modified in the same manner for all individuals who are qualified beneficiaries under the plan pursuant to this part in connection with such group."

(C) PHSA AMENDMENT.—Paragraph (1) of section 2202 of the Public Health Service Act is amended by adding at the end the following: "If coverage is modified under the plan for any group of similarly situated beneficiaries, such coverage shall also be modified in the same manner for all individuals who are qualified beneficiaries under the plan pursuant to this part in connection with such group."

(2) MAXIMUM REQUIRED PERIOD OF CONTINUATION COVERAGE.—

(A) IRC AMENDMENT.—Clause (i) of section 162(k)(2)(B) (relating to maximum period of coverage) is amended to read as follows:

"(i) MAXIMUM REQUIRED PERIOD—

"(I) GENERAL RULE FOR TERMINATIONS AND REDUCED HOURS.—In the case of a qualifying event described in paragraph (3)(B), except as provided in subclause (II), the date which is 18 months after the date of the qualifying event.

"(II) SPECIAL RULE FOR MULTIPLE QUALIFYING EVENTS.—If a qualifying event occurs during the 18 months after the date of a qualifying event described in paragraph (3)(B), the date which is 36 months after the date of the qualifying event described in paragraph (3)(B).

"(III) GENERAL RULE FOR OTHER QUALIFYING EVENTS.—In the case of a qualifying event not described in paragraph (3)(B), the date which is 36 months after the date of the qualifying event."

(B) ERISA AMENDMENT.—Subparagraph (A) of section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2); 100 Stat. 228) is amended to read as follows:

"(A) MAXIMUM REQUIRED PERIOD.—

"(i) GENERAL RULE FOR TERMINATIONS AND REDUCED HOURS.—In the case of a qualifying event described in section 603(2), except as provided in clause (ii), the date which is 18 months after the date of the qualifying event.

"(ii) SPECIAL RULE FOR MULTIPLE QUALIFYING EVENTS.—If a qualifying event occurs during the 18 months after the date of a qualifying event described in section 603(2), the date which is 36 months after the date of the qualifying event described in section 603(2).

"(iii) GENERAL RULE FOR OTHER QUALIFYING EVENTS.—In the case of a qualifying event not described in section 603(2), the date which is 36 months after the date of the qualifying event."

(C) PHSA AMENDMENT.—Subparagraph (A) of section 2202(2) of the Public Health Service Act is amended to read as follows:

"(A) MAXIMUM REQUIRED PERIOD.—

"(i) GENERAL RULE FOR TERMINATIONS AND REDUCED HOURS.—In the case of a qualifying event described in

section 2203(2), except as provided in clause (ii), the date which is 18 months after the date of the qualifying event.

"(ii) SPECIAL RULE FOR MULTIPLE QUALIFYING EVENTS.—If a qualifying event occurs during the 18 months after the date of a qualifying event described in section 2203(2), the date which is 36 months after the date of the qualifying event described in section 2203(2).

"(iii) GENERAL RULE FOR OTHER QUALIFYING EVENTS.—In the case of a qualifying event not described in section 2203(2), the date which is 36 months after the date of the qualifying event."

(3) GRACE PERIOD FOR PAYMENT OF PREMIUMS.—

(A) IRC AMENDMENT.—Clause (iii) of section 162(k)(2)(B) (relating to failure to pay premium) is amended by adding at the end the following: "The payment of any premium (other than any payment referred to in the last sentence of subparagraph (C)) shall be considered to be timely if made within 30 days after the date due or within such longer period as applies to or under the plan.".

(B) ERISA AMENDMENT.—Subparagraph (C) of section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(C); 100 Stat. 228) is amended by adding at the end the following: "The payment of any premium (other than any payment referred to in the last sentence of paragraph (3)) shall be considered to be timely if made within 30 days after the date due or within such longer period as applies to or under the plan."

(C) PHSA AMENDMENT.—Subparagraph (C) of section 2202(2) of the Public Health Service Act is amended by adding at the end the following: "The payment of any premium (other than any payment referred to in the last sentence of paragraph (3)) shall be considered to be timely if made within 30 days after the date due or within such longer period as applies to or under the plan."

(4) TERMINATION OF CONTINUATION COVERAGE UPON COVERAGE BY OTHER GROUP HEALTH PLAN RATHER THAN UPON REEMPLOYMENT OR REMARRIAGE.—

(A) IRC AMENDMENT.—Su aragraph (B) of section 162(k)(2) (relating to period of coverage) is amended—

(i) by striking out clause (v); and

(ii) by striking out subclause (I) of clause (iv) and inserting in lieu thereof the following:

"(I) covered under any other group health plan (as an employee or otherwise), or";

and

(iii) by striking out the heading for clause (iv) and inserting in lieu thereof the following: "GROUP HEALTH PLAN COVERAGE OR MEDICARE ELIGIBILITY.—".

(B) ERISA AMENDMENT.—Section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2); 100 Stat. 228) is amended—

(i) by striking out subparagraph (E);

(ii) by striking out clause (i) of subparagraph (D) and inserting in lieu thereof the following:

"(i) covered under any other group health plan (as an employee or otherwise), or"; and

(iii) by striking out the heading for subparagraph (D) and inserting in lieu thereof the following: "GROUP HEALTH PLAN COVERAGE OR MEDICARE ELIGIBILITY.—".

(C) PHSA AMENDMENT.—Section 2202(2) of the Public Health Service Act is amended—

(i) by striking out subparagraph (E);

(ii) by striking out clause (i) of subparagraph (D) and inserting in lieu thereof the following:

"(i) covered under any other group health plan (as an employee or otherwise), or"; and

(iii) by striking out the heading for subparagraph (D) and inserting in lieu thereof the following: "GROUP HEALTH PLAN COVERAGE OR MEDICARE ELIGIBILITY.—".

(5) CLARIFICATION RELATING TO ELECTION BY BENEFICIARIES.—

(A) IRC AMENDMENT.—Subparagraph (B) of section 162(k)(2) (relating to effect of election on other beneficiaries) is amended—

(i) by inserting "of continuation coverage" after "any election"; and

(ii) by adding at the end the following: "If there is a choice among types of coverage under the plan, each qualified beneficiary is entitled to make a separate selection among such types of coverage.".

(B) ERISA AMENDMENT.—Section 605(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1165(2); 100 Stat. 230) is amended—

(i) by inserting "of continuation coverage" after "any election"; and

(ii) by adding at the end the following: "If there is a choice among types of coverage under the plan, each qualified beneficiary is entitled to make a separate selection among such types of coverage.".

(C) PHSA AMENDMENT.—Section 2205(2) of the Public Health Service Act is amended—

(i) by inserting "of continuation coverage" after "any election"; and

(ii) by adding at the end the following: "If there is a choice among types of coverage under the plan, each qualified beneficiary is entitled to make a separate selection among such types of coverage.".

(6) NOTICE REQUIREMENT.—

(A) IRC AMENDMENT.—Subparagraph (C) of section 162(k)(6) (relating to notice requirements) is amended by inserting "within 60 days after the date of the qualifying event" after "paragraph (3)".

(B) ERISA AMENDMENT.—Paragraph (3) of section 606 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166(3); 100 Stat. 230) is amended by inserting "within 60 days after the date of the qualifying event" after "section 603".

(C) PHSA AMENDMENT.—Paragraph (3) of section 2206 of the Public Health Service Act is amended by inserting "within 60 days after the date of the qualifying event" after "section 603".

(D) EFFECTIVE DATE.—The amendments made by this paragraph shall only apply with respect to qualifying events occurring after the date of the enactment of this Act.

(7) NONRESIDENT ALIENS.—Subparagraph (B) of section 162(k)(7) (relating to qualified beneficiaries) is amended by adding at the end thereof the following new clause:

"(iii) EXCEPTION FOR NONRESIDENT ALIENS.—Notwithstanding clauses (i) and (ii), the term 'qualified beneficiary' does not include an individual whose status as a covered employee is attributable to a period in which such individual was a nonresident alien who received no earned income (within the meaning of section 911(d)(2)) from the employer which constituted income from sources within the United States (within the meaning of section 861(a)(3)). If an individual is not a qualified beneficiary pursuant to the previous sentence, a spouse or dependent child of such individual shall not be considered a qualified beneficiary by virtue of the relationship to the individual.".

(8) DEFINITION OF GROUP HEALTH PLAN FOR ERISA.—Paragraph (1) of section 607 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(1); 100 Stat. 231) is amended to read as follows:

"(1) GROUP HEALTH PLAN.—The term 'group health plan' means an employee welfare benefit plan providing medical care (as defined in section 213(d) of the Internal Revenue Code of 1954) to participants or beneficiaries directly or through insurance, reimbursement, or otherwise.".

(9) AGGREGATION RULES FOR EMPLOYER FOR ERISA.—

(A) IN GENERAL.—Section 607 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167; 100 Stat. 231) is amended by adding at the end the following new paragraph:

"(4) EMPLOYER.—Subsection (n) (relating to leased employees) and subsection (t) (relating to application of controlled group rules to certain employee benefits) of section 414 of the Internal Revenue Code of 1986 shall apply for purposes of this part in the same manner and to the same extent as such subsections apply for purposes of section 106 of such Code. Any regulations prescribed by the Secretary pursuant to the preceding sentence shall be consistent and coextensive with any regulations prescribed for similar purposes by the Secretary of the Treasury (or such Secretary's delegate) under such subsections.".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect in the same manner and to the same extent as the amendments made by subsections (e) and (i) of section 1151 of this Act.

(e) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall be effective as if included in the enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985.

SEC. 1896. EXTENSION OF TIME FOR FILING FOR CREDIT OR REFUND WITH RESPECT TO CERTAIN CHANGES INVOLVING INSOLVENT FARMERS.

Section 13208 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (relating to certain insolvent taxpayers allowed to reduce capital gains preference item for purposes of the individual minimum tax) is amended by adding at the end thereof the following new subsection:

"(c) STATUTE OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the application of the amendment made by subsection (a) is prevented at any time before the close of the date which is 1 year after the date of the enactment of this Act, by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the application of such amendment) may, nevertheless, be made or allowed if claim therefor is filed on or before the close of such 1-year period."

SEC. 1897. CORRECTION OF CLERICAL ERROR IN AMENDMENTS TO COAL TAX.

(a) IN GENERAL.—Subsection (b) of section 4121 (relating to excise tax on coal) is amended by striking out ", in the case of sales during any calendar year beginning after December 31, 1985".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendment made by section 13203 of the Consolidated Omnibus Budget Reconciliation Act of 1985.

CHAPTER 2—AMENDMENTS RELATED TO THE RETIREMENT EQUITY ACT OF 1984

SEC. 1898. TECHNICAL CORRECTIONS TO THE RETIREMENT EQUITY ACT OF 1984.

(a) AMENDMENTS RELATED TO SECTIONS 102 AND 202 OF THE ACT.—

(1) TREATMENT OF CLASS-YEAR PLANS.—

(A) AMENDMENT OF INTERNAL REVENUE CODE.—Paragraph (4) of section 411(d) (relating to class-year plans) is amended to read as follows:

"(4) CLASS-YEAR PLANS.—

"(A) IN GENERAL.—The requirements of subsection (a)(2) shall be treated as satisfied in the case of a class-year plan if such plan provides that 100 percent of each employee's right to or derived from the contributions of the employer on the employee's behalf with respect to any plan year is nonforfeitable not later than when such participant was performing services for the employer as of the close of each of 5 plan years (whether or not consecutive) after the plan year for which the contributions were made.

"(B) 5-YEAR BREAK IN SERVICE.—For purposes of subparagraph (A) if—

"(i) any contributions are made on behalf of a participant with respect to any plan year, and

"(ii) before such participant meets the requirements of subparagraph (A), such participant was not performing services for the employer as of the close of each of any 5 consecutive plan years after such plan year,

then the plan may provide that the participant forfeits any right to or derived from the contributions made with respect to such plan year.

"(C) CLASS-YEAR PLAN.—For purposes of this section, the term 'class-year plan' means a profit-sharing, stock bonus, or money purchase plan which provides for the separate nonforfeitability of employees' rights to or derived from the contributions for each plan year."

(B) AMENDMENT OF ERISA.—Paragraph (3) of section 203(c) of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

"(3)(A) The requirements of subsection (a)(2) shall be treated as satisfied in the case of a class-year plan if such plan provides that 100 percent of each employee's right to or derived from the contributions of the employer on the employee's behalf with respect to any plan year is nonforfeitable not later than when such participant was performing services for the employer as of the close of each of 5 plan years (whether or not consecutive) after the plan year for which the contributions were made.

"(B) For purposes of subparagraph (A) if—

"(i) any contributions are made on behalf of a participant with respect to any plan year, and

"(ii) before such participant meets the requirements of subparagraph (A), such participant was not performing services for the employer as of the close of each of any 5 consecutive plan years after such plan year,

then the plan may provide that the participant forfeits any right to or derived from the contributions made with respect to such plan year.

"(C) For purposes of this part, the term 'class year plan' means a profit-sharing, stock bonus, or money purchase plan which provides for the separate nonforfeitability of employees' rights to or derived from the contributions for each plan year."

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to contributions made for plan years beginning after the date of the enactment of this Act; except that, in the case of a plan described in section 302(b) of the Retirement Equity Act of 1984, such amendments shall not apply to any plan year to which the amendments made by such Act do not apply by reason of such section 302(b).

(2) RULES RELATING TO LUMP SUM TREATMENT.—Subsection (e) of section 402 (relating to tax on lump sum distributions) is amended by adding at the end thereof the following new paragraph:

"(6) TREATMENT OF POTENTIAL FUTURE VESTING.—

"(A) IN GENERAL.—For purposes of determining whether any distribution which becomes payable to the recipient on account of the employee's separation from service is a lump sum distribution, the balance to the credit of the employee shall be determined without regard to any increase in vesting which may occur if the employee is re-employed by the employer.

"(B) RECAPTURE IN CERTAIN CASES.—If—

"(i) an amount is treated as a lump sum distribution by reason of subparagraph (A),

"(ii) special lump sum treatment applies to such distribution,

"(iii) the employee is subsequently re-employed by the employer; and

"(iv) as a result of services performed after being so re-employed, there is an increase in the employee's vesting for benefits accrued before the separation referred to in subparagraph (A),

under regulations prescribed by the Secretary, the tax imposed by this chapter for the taxable year (in which the increase in vesting first occurs) shall be increased by the reduction in tax which resulted from the special lump sum treatment (and any election under paragraph (4)(B) shall not be taken into account for purposes of determining whether the employee may make another election under paragraph (4)(B)).

"(C) SPECIAL LUMP SUM TREATMENT.—For purposes of this paragraph, special lump sum treatment applies to any distribution if any portion of such distribution—

"(i) is taxed under this subsection by reason of an election under paragraph (4)(B), or

"(ii) is treated as long-term capital gain under subsection (a)(2) of this section or section 403(a)(2).

"(D) VESTING.—For purposes of this paragraph the term 'vesting' means the portion of the accrued benefits derived from employer contributions to which the participant has a nonforfeitable right."

(3) RULES RELATING TO ROLLOVERS.—Paragraph (6) of section 402(a) (relating to special rollover rules) is amended by adding at the end thereof the following new subparagraph:

"(G) TREATMENT OF POTENTIAL FUTURE VESTING.—

"(i) IN GENERAL.—For purposes of paragraph (5), in determining whether any portion of a distribution on account of the employee's separation from service may be transferred in a transfer to which paragraph (5)(A) applies, the balance to the credit of the employee shall be determined without regard to any increase in vesting which may occur if the employee is re-employed by the employer.

"(ii) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—If—

"(I) any portion of a distribution is transferred in a transfer to which paragraph (5)(A) applies by reason of clause (i),

"(II) the employee is subsequently re-employed by the employer, and

"(III) as a result of service performed after being so re-employed, there is an increase in the employee's vesting for benefits accrued before the separation referred to in clause (i),

then the provisions of paragraph (5)(D)(iii) shall apply to any distribution from the plan after the distribution referred to in clause (i). The preceding sentence shall not apply if the distribution referred to in subclause (I) is made without the consent of the participant."

(4) TREATMENT OF WITHDRAWAL OF MANDATORY CONTRIBUTIONS.—

(A) AMENDMENTS OF INTERNAL REVENUE CODE.—

(i) Clause (ii) of section 411(a)(3)(D) is amended by striking out the last sentence and inserting in lieu thereof the following: "The plan provision required under this clause may provide that such repayment must be made (I) in the case of a withdrawal on account of separation from service, before the earlier of 5 years after the first date on which the participant is subsequently re-employed by the employer, or the close of

the first period of 5 consecutive 1-year breaks in service commencing after the withdrawal; or (II) in the case of any other withdrawal, 5 years after the date of the withdrawal."

(ii) Subparagraph (C) of section 411(a)(7) is amended by striking out the last sentence and inserting in lieu thereof the following:

"The plan provision required under this subparagraph may provide that such repayment must be made (I) in the case of a withdrawal on account of separation from service, before the earlier of 5 years after the first date on which the participant is subsequently re-employed by the employer, or the close of the first period of 5 consecutive 1-year breaks in service commencing after the withdrawal; or (II) in the case of any other withdrawal, 5 years after the date of the withdrawal."

(B) AMENDMENTS OF ERISA.—

(i) Clause (ii) of section 203(a)(3)(D) of the Employee Retirement Income Security Act of 1974 is amended by striking out the last sentence and inserting in lieu thereof the following: "The plan provision required under this clause may provide that such repayment must be made (I) in the case of a withdrawal on account of separation from service, before the earlier of 5 years after the first date on which the participant is subsequently re-employed by the employer, or the close of the first period of 5 consecutive 1-year breaks in service commencing after the withdrawal; or (II) in the case of any other withdrawal, 5 years after the date of the withdrawal."

(ii) Subsection (e) of section 204 of the Employee Retirement Income Security Act of 1974 is amended by striking out the last sentence and inserting in lieu thereof the following:

"The plan provision required under this subsection may provide that such repayment must be made (A) in the case of a withdrawal on account of separation from service, before the earlier of 5 years after the first date on which the participant is subsequently re-employed by the employer, or the close of the first period of 5 consecutive 1-year breaks in service commencing after the withdrawal; or (B) in the case of any other withdrawal, 5 years after the date of the withdrawal."

(5) PARTICIPATION REQUIREMENTS UNDER SIMPLIFIED EMPLOYEE PENSIONS.—Effective with respect to plan years beginning after the date of the enactment of this Act, subparagraph (A) of section 408(k)(2) (relating to participation requirements) is amended by striking out "age 25" and inserting in lieu thereof "age 21".

(b) AMENDMENTS RELATED TO SECTIONS 103 AND 203 OF THE ACT.—

(1) CLARIFICATION OF QUALIFIED PRERETIREMENT SURVIVOR ANNUITY IN CASE OF TERMINATED VESTED PARTICIPANT.—

(A) AMENDMENT OF INTERNAL REVENUE CODE.—Paragraph (1) of section 417(c) (defining qualified preretirement survivor annuity) is amended by adding at the end thereof the following new sentence:

"In the case of an individual who separated from service before the date of such individual's death, subparagraph (A)(ii)(I) shall not apply."

(B) AMENDMENT OF ERISA.—Paragraph (1) of section 205(e) of the Employee Retirement Income Security Act of 1974 (defining qualified preretirement survivor annuity) is amended by adding at the end thereof the following new sentence:

"In the case of an individual who separated from service before the date of such individual's death, subparagraph (A)(ii)(I) shall not apply."

(2) CLARIFICATION OF TRANSFEREE PLAN RULES.—

(A) AMENDMENTS OF INTERNAL REVENUE CODE.—

(i) Subclause (III) of section 401(a)(11)(B)(iii) (relating to plans to which requirements of joint and survivor annuity and preretirement survivor annuity apply) is amended by striking out "indirect transferee" and inserting in lieu thereof "indirect transferee (in a transfer after December 31, 1984)".

(ii) Subparagraph (B) of section 401(a)(11) is amended by adding at the end thereof the following new sentence:

"Clause (iii)(III) shall apply only with respect to the transferred assets (and income therefrom) if the plan separately accounts for such assets and any income therefrom."

(B) AMENDMENTS OF ERISA.—

(i) Clause (iii) of section 205(b)(1)(C) of the Employee Retirement Income Security Act of 1974 is amended by striking out "a transferee" and inserting in lieu thereof "a direct or indirect transferee (in a transfer after December 31, 1984)".

(ii) Paragraph (1) of section 205(b) of such Act is amended by adding at the end thereof the following new sentence:

"Clause (iii) of subparagraph (C) shall apply only with respect to the transferred assets (and income therefrom) if the plan separately accounts for such assets and any income therefrom."

(3) CLARIFICATION OF COORDINATION BETWEEN QUALIFIED JOINT AND SURVIVOR ANNUITY AND QUALIFIED PRERETIREMENT SURVIVOR ANNUITY.—

(A) AMENDMENT OF INTERNAL REVENUE CODE.—Clause (i) of section 401(a)(11)(A) is amended by striking out "who retires under the plan" and inserting in lieu thereof "who does not die before the annuity starting date".

(B) AMENDMENT OF ERISA.—Paragraph (1) of section 205(a) of the Employee Retirement Income Security Act of 1974 is amended by striking out "who retires under the plan" and inserting in lieu thereof "who does not die before the annuity starting date".

(4) REQUIREMENT OF SPOUSAL CONSENT FOR USING PLAN ASSETS AS SECURITY FOR LOANS.—

(A) AMENDMENTS OF INTERNAL REVENUE CODE.—

(i) Subparagraph (B) of section 417(a)(1) is amended by striking out "paragraphs (2) and (3)" and inserting in lieu thereof "paragraphs (2), (3), and (4)".

(ii) Subsection (a) of section 417 is amended by redesignating paragraphs (4) and (5) as paragraphs (5)

and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) REQUIREMENT OF SPOUSAL CONSENT FOR USING PLAN ASSETS AS SECURITY FOR LOANS.—Each plan shall provide that, if section 401(a)(11) applies to a participant when part or all of the participant's accrued benefit is to be used as security for a loan, no portion of the participant's accrued benefit may be used as security for such loan unless—

"(A) the spouse of the participant (if any) consents in writing to such use during the 90-day period ending on the date on which the loan is to be so secured, and

"(B) requirements comparable to the requirements of paragraph (2) are met with respect to such consent."

(iii) Subsection (f) of section 417 is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) DISTRIBUTIONS BY REASON OF SECURITY INTERESTS.—If the use of any participant's accrued benefit (or any portion thereof) as security for a loan meets the requirements of subsection (a)(4), nothing in this section or section 411(a)(11) shall prevent any distribution required by reason of a failure to comply with the terms of such loan."

(B) AMENDMENT OF ERISA.—

(i) Subparagraph (B) of section 205(c)(1) of the Employee Retirement Income Security Act of 1974 is amended by striking out "paragraphs (2) and (3)" and inserting in lieu thereof "paragraphs (2), (3), and (4)".

(ii) Subsection (c) of section 205 of such Act is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) Each plan shall provide that, if this section applies to a participant when part or all of the participant's accrued benefit is to be used as security for a loan, no portion of the participant's accrued benefit may be used as security for such loan unless—

"(A) the spouse of the participant (if any) consents in writing to such use during the 90-day period ending on the date on which the loan is to be so secured, and

"(B) requirements comparable to the requirements of paragraph (2) are met with respect to such consent."

(iii) Section 205 of such Act is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) If the use of any participant's accrued benefit (or any portion thereof) as security for a loan meets the requirements of subsection (c)(4), nothing in this section shall prevent any distribution required by reason of a failure to comply with the terms of such loan."

(C) EFFECTIVE DATES.—

(i) The amendments made by this paragraph shall apply with respect to loans made after August 18, 1985.

(ii) In the case of any loan which was made on or before August 18, 1985, and which is secured by a portion of the participant's accrued benefit, nothing in the amendments made by sections 103 and 203 of the Retirement Equity Act of 1984 shall prevent any dis-

tribution required by reason of a failure to comply with the terms of such loan.

(iii) For purposes of this subparagraph, any loan which is revised, extended, renewed, or renegotiated after August 18, 1985, shall be treated as made after August 18, 1985.

(5) CLARIFICATION OF NOTICE REQUIREMENT FOR INDIVIDUALS WHO BECOME PARTICIPANTS AFTER AGE 35, ETC.—

(A) AMENDMENT OF INTERNAL REVENUE CODE.—Subparagraph (B) of section 417(a)(3) (relating to plan to provide written explanations) is amended to read as follows:

"(B) EXPLANATION OF QUALIFIED PRERETIREMENT SURVIVOR ANNUITY.—

"(i) IN GENERAL.—Each plan shall provide to each participant, within the applicable period with respect to such participant (and consistent with such regulations as the Secretary may prescribe), a written explanation with respect to the qualified preretirement survivor annuity comparable to that required under subparagraph (A).

"(ii) APPLICABLE PERIOD.—For purposes of clause (i), the term 'applicable period' means, with respect to a participant, whichever of the following periods ends last:

"(I) The period beginning with the first day of the plan year in which the participant attains age 32 and ending with the close of the plan year preceding the plan year in which the participant attains age 35.

"(II) A reasonable period after the individual becomes a participant.

"(III) A reasonable period ending after paragraph (5) ceases to apply to the participant.

"(IV) A reasonable period ending after section 401(a)(11) applies to the participant.

"(V) A reasonable period after separation from service in case of a participant who separates before attaining age 35."

(B) AMENDMENT OF ERISA.—Subparagraph (B) of section 205(c)(3) of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

"(B)(i) Each plan shall provide to each participant, within the applicable period with respect to such participant (and consistent with such regulations as the Secretary may prescribe), a written explanation with respect to the qualified preretirement survivor annuity comparable to that required under subparagraph (A).

"(ii) For purposes of clause (i), the term 'applicable period' means, with respect to a participant, whichever of the following periods ends last:

"(I) The period beginning with the first day of the plan year in which the participant attains age 32 and ending with the close of the plan year preceding the plan year in which the participant attains age 35.

"(II) A reasonable period after the individual becomes a participant.

"(III) A reasonable period ending after paragraph (5) ceases to apply to the participant.

"(IV) A reasonable period ending after section 401(a)(11) applies to the participant.

"(V) A reasonable period after separation from service in case of a participant who separates before attaining age 35."

(6) SPOUSAL CONSENT FOR CHANGES IN DESIGNATIONS.—

(A) AMENDMENT OF INTERNAL REVENUE CODE.—Subparagraph (A) of section 417(a)(2) (relating to requirement that spouse consent to election) is amended to read as follows:

"(A)(i) the spouse of the participant consents in writing to such election, (ii) such election designates a beneficiary (or a form of benefits) which may not be changed without spousal consent (or the consent of the spouse expressly permits designations by the participant without any requirement of further consent by the spouse), and (iii) the spouse's consent acknowledges the effect of such election and is witnessed by a plan representative or a notary public, or".

(B) AMENDMENT OF ERISA.—Subparagraph (A) of section 205(c)(2) of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

"(A)(i) the spouse of the participant consents in writing to such election, (ii) such election designates a beneficiary (or a form of benefits) which may not be changed without spousal consent (or the consent of the spouse expressly permits designations by the participant without any requirement of further consent by the spouse), and (iii) the spouse's consent acknowledges the effect of such election and is witnessed by a plan representative or a notary public, or".

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to plan years beginning after the date of the enactment of this Act.

(7) CLARIFICATION OF NONFORFEITABLE ACCRUED BENEFIT.—

(A) AMENDMENT OF INTERNAL REVENUE CODE.—Subclause (I) of section 401(a)(11)(B)(iii) is amended by striking out "the participant's nonforfeitable accrued benefit" and inserting in lieu thereof "the participant's nonforfeitable accrued benefit (reduced by any security interest held by the plan by reason of a loan outstanding to such participant)".

(B) AMENDMENT OF ERISA.—Subparagraph (C) of section 205(b)(1) of the Employee Retirement Income Security Act of 1974 is amended by striking out "the participant's nonforfeitable accrued benefit" and inserting in lieu thereof "the participant's nonforfeitable accrued benefit (reduced by any security interest held by the plan by reason of a loan outstanding to such participant)".

(8) CLARIFICATION OF DEFINITION OF VESTED PARTICIPANT.—

(A) AMENDMENT OF INTERNAL REVENUE CODE.—Paragraph (1) of section 417(f) (defining vested participant) is amended by striking out "the accrued benefit derived from employer contributions" and inserting in lieu thereof "such participant's accrued benefit".

(B) AMENDMENT OF ERISA.—Paragraph (1) of section 205(h) of the Employee Retirement Income Security Act of 1974 is amended by striking out "the accrued benefit derived from employer contributions" and inserting in lieu thereof "such participant's accrued benefit".

(9) CLARIFICATION OF QUALIFIED PRERETIREMENT SURVIVOR ANNUITY.—

(A) AMENDMENTS OF INTERNAL REVENUE CODE.—

(i) Paragraph (2) of section 417(c) (defining qualified preretirement survivor annuity) is amended by striking out "the account balance of the participant as of the date of death" and inserting in lieu thereof "the portion of the account balance of the participant (as of the date of death) to which the participant had a nonforfeitable right (within the meaning of section 411(a))".

(ii) Subsection (c) of section 417 (defining qualified preretirement survivor annuity) is amended by adding at the end thereof the following new paragraph:

"(3) SECURITY INTERESTS TAKEN INTO ACCOUNT.—For purposes of paragraphs (1) and (2), any security interest held by the plan by reason of a loan outstanding to the participant shall be taken into account in determining the amount of the qualified preretirement survivor annuity."

(B) AMENDMENTS OF ERISA.—

(i) Paragraph (2) of section 205(e) of the Employee Retirement Income Security Act of 1974 is amended by striking out "the account balance of the participant as of the date of death" and inserting in lieu thereof "the portion of the account balance of the participant (as of the date of death) to which the participant had a nonforfeitable accrued benefit".

(ii) Subsection (e) of section 205 of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following new paragraph:

"(3) For purposes of paragraphs (1) and (2), any security interest held by the plan by reason of a loan outstanding to the participant shall be taken into account in determining the amount of the qualified preretirement survivor annuity."

(10) CLARIFICATION OF REQUIREMENTS FOR SPOUSAL CONSENT.—

(A) AMENDMENT OF INTERNAL REVENUE CODE.—Subsection (f) of section 417 (as amended by paragraph (4)) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) REQUIREMENTS FOR CERTAIN SPOUSAL CONSENTS.—No consent of a spouse shall be effective for purposes of subsection (e)(1) or (e)(2) (as the case may be) unless requirements comparable to the requirements for spousal consent to an election under subsection (a)(1)(A) are met."

(B) AMENDMENT TO ERISA.—Section 205 of the Employee Retirement Income Security Act of 1974 (as amended by paragraph (4)) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) No consent of a spouse shall be effective for purposes of subsection (g)(1) or (g)(2) (as the case may be) unless requirements comparable to the requirements for spousal consent to an election under subsection (c)(1)(A) are met."

(11) CLARIFICATION OF RULE FOR SUBSIDIZED PLANS.—

(A) AMENDMENT OF INTERNAL REVENUE CODE.—Subparagraph (A) of section 417(a)(5) (as redesignated by paragraph (4)(A)) is amended by striking out "if the plan" and insert-

ing in lieu thereof "if such benefit may not be waived (or another beneficiary selected) and if the plan".

(B) AMENDMENT TO ERISA.—Subparagraph (A) of section 205(c)(5) of the Employee Retirement Income Security Act of 1974 (as redesignated by paragraph (4)(B)) is amended by striking out "if the plan" and inserting in lieu thereof "if such benefit may not be waived (or another beneficiary selected) and if the plan".

(12) CLARIFICATION OF ANNUITY STARTING DATE.—

(A) AMENDMENT OF INTERNAL REVENUE CODE.—Paragraph (2) of section 417(f) (defining annuity starting date) is amended to read as follows:

"(2) ANNUITY STARTING DATE.—

"(A) IN GENERAL.—The term 'annuity starting date' means—

"(i) the first day of the first period for which an amount is payable as an annuity, or

"(ii) in the case of a benefit not payable in the form of an annuity, the first day on which all events have occurred which entitle the participant to such benefit.

"(B) SPECIAL RULE FOR DISABILITY BENEFITS.—For purposes of subparagraph (A), the first day of the first period for which a benefit is to be received by reason of disability shall be treated as the annuity starting date only if such benefit is not an auxiliary benefit."

(B) AMENDMENT TO ERISA.—Paragraph (2) of section 205(h) of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

"(2)(A) The term 'annuity starting date' means—

"(i) the first day of the first period for which an amount is payable as an annuity, or

"(ii) in the case of a benefit not payable in the form of an annuity, the first day on which all events have occurred which entitle the participant to such benefit.

"(B) For purposes of subparagraph (A), the first day of the first period for which a benefit is to be received by reason of disability shall be treated as the annuity starting date only if such benefit is not an auxiliary benefit."

(13) CLARIFICATION OF PLANS TO WHICH REQUIREMENTS APPLY.—

(A) AMENDMENT TO INTERNAL REVENUE CODE.—Subclause (I) of section 401(a)(11)(B)(iii) is amended by striking out "section 417(a)(2)(A)" and inserting in lieu thereof "section 417(a)(2)".

(B) AMENDMENT TO ERISA.—Clause (i) of section 205(b)(1)(C) of the Employee Retirement Income Security Act of 1974 is amended by striking out "subsection (c)(2)(A)" and inserting in lieu thereof "subsection (c)(2)".

(14) CERTAIN PLANS DO NOT NEED TO PROVIDE CERTAIN SURVIVOR BENEFITS.—

(A) AMENDMENT TO INTERNAL REVENUE CODE.—Paragraph (11) of section 401(a) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) SPECIAL RULE WHERE PARTICIPANT AND SPOUSE MARRIED LESS THAN 1 YEAR.—A plan shall not be treated as failing to meet the requirements of subparagraphs (B)(iii) or

(C) merely because the plan provides that benefits will not be payable to the surviving spouse of the participant unless the participant and such spouse had been married throughout the 1-year period ending on the earlier of the participant's annuity starting date or the date of the participant's death."

(B) AMENDMENT TO ERISA.—Section 205(b) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following new paragraph:

"(3) A plan shall not be treated as failing to meet the requirements of paragraph (1)(C) or (2) merely because the plan provides that benefits will not be payable to the surviving spouse of the participant unless the participant and such spouse had been married throughout the 1-year period ending on the earlier of the participant's annuity starting date or the date of the participant's death."

(15) CLERICAL AMENDMENTS.—

(A) Paragraph (1) of section 417(a) is amended by striking out "section 401(a)(ii)" and inserting in lieu thereof "section 401(a)(11)".

(B) Paragraph (1) of section 417(c) is amended by striking out "survivor annuity or the life of" in the matter preceding subparagraph (A) and inserting in lieu thereof "survivor annuity for the life of".

(C) Subparagraph (B) of section 415(b)(2) is amended by striking out "as defined in section 401(a)(11)(G)(iii)" and inserting in lieu thereof "as defined in section 417".

(c) AMENDMENTS RELATED TO SECTIONS 104 AND 204 OF THE ACT.—

(1) TREATMENT OF QUALIFIED DOMESTIC RELATIONS ORDERS FOR INDIVIDUALS OTHER THAN SPOUSE OR FORMER SPOUSE.—

(A) IN GENERAL.—Paragraph (9) of section 402(a) (relating to alternate payee under qualified domestic relations order treated as distributee) is amended by striking out "the alternate payee shall be treated" and inserting in lieu thereof "any alternate payee who is the spouse or former spouse of the participant shall be treated".

(B) CONFORMING AMENDMENT.—Section 72(m)(10) (relating to determination of investment in the contract in the case of qualified domestic relations orders) is amended by inserting "who is the spouse or former spouse of the participant" after "alternate payee".

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to payments made after the date of the enactment of this Act.

(2) PROCEDURES FOR PERIOD DURING WHICH DETERMINATION IS BEING MADE.—

(A) AMENDMENTS OF THE INTERNAL REVENUE CODE.—

(i) Subparagraph (A) of section 414(p)(7) (relating to procedures for period during which determination is being made) is amended by striking out "shall segregate in a separate account in the plan or in an escrow account the amounts" and inserting in lieu thereof "shall separately account for the amounts (hereinafter in this paragraph referred to as the 'segregated amounts')".

(ii) Subparagraph (B) of section 414(p)(7) (relating to payment to alternate payee if order is determined to be qualified domestic relations order) is amended—

(I) by striking out "18 months" and inserting in lieu thereof "the 18-month period described in subparagraph (E)", and

(II) by striking out "plus any interest" and inserting in lieu thereof "including any interest".

(iii) Subparagraph (C) of section 414(p)(7) is amended—

(I) by striking out "18 months" and inserting in lieu thereof "the 18-month period described in subparagraph (E)", and

(II) by striking out "plus any interest" and inserting in lieu thereof "including any interest".

(iv) Subparagraph (D) of section 414(p)(7) is amended by striking out "the 18-month period" and inserting in lieu thereof "the 18-month period described in subparagraph (E)".

(v) Paragraph (7) of section 414(p) is amended by adding at the end thereof the following new subparagraph:

"(E) DETERMINATION OF 18-MONTH PERIOD.—For purposes of this paragraph, the 18-month period described in this subparagraph is the 18-month period beginning with the date on which the first payment would be required to be made under the domestic relations order."

(B) AMENDMENTS OF ERISA.—

(i) Clause (i) of section 206(d)(3)(H) of the Employee Retirement Income Security Act of 1974 is amended by striking out "shall segregate in a separate account in the plan or in an escrow account the amounts" and inserting in lieu thereof "shall separately account for the amounts (hereinafter in this subparagraph referred to as the 'segregated amounts')".

(ii) Clause (ii) of section 206(d)(3)(H) of such Act is amended—

(I) by striking out "18 months" and inserting in lieu thereof "the 18-month period described in clause (v)", and

(II) by striking out "plus any interest" and inserting in lieu thereof "including any interest".

(iii) Clause (iii) of section 206(d)(3)(H) of such Act is amended—

(I) by striking out "18 months" and inserting in lieu thereof "the 18-month period described in clause (v)", and

(II) by striking out "plus any interest" and inserting in lieu thereof "including any interest".

(iv) Clause (iv) of section 206(d)(3)(H) of such Act is amended by striking out "the 18-month period" and inserting in lieu thereof "the 18-month period described in clause (v)".

(v) Subparagraph (H) of section 206(d)(3) of such Act is amended by adding at the end thereof the following new clause:

"(v) For purposes of this subparagraph, the 18-month period described in this clause is the 18-month period beginning with the date on which the first payment would be required to be made under the domestic relations order."

(3) COORDINATION WITH QUALIFIED PLAN REQUIREMENTS.—Section 401 is amended by redesignating the subsection relating to cross references as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) COORDINATION WITH QUALIFIED DOMESTIC RELATIONS ORDERS.—The Secretary shall prescribe such rules or regulations as may be necessary to coordinate the requirements of subsection (a)(13)(B) and section 414(p) (and the regulations issued by the Secretary of Labor thereunder) with the other provisions of this chapter."

(4) CLARIFICATION OF APPLICATION OF DOMESTIC RELATION PROVISIONS.—

(A) AMENDMENT OF INTERNAL REVENUE CODE.—Subsection (p) of section 414 is amended by redesignating paragraph (9) as paragraph (11) and by inserting after paragraph (8) the following new paragraph:

"(9) SUBSECTION NOT TO APPLY TO PLANS TO WHICH SECTION 401(a)(13) DOES NOT APPLY.—This subsection shall not apply to any plan to which section 401(a)(13) does not apply."

(B) AMENDMENT OF ERISA.—Paragraph (3) of section 206(d) of the Employee Retirement Income Security Act of 1974 is amended by redesignating subparagraph (L) as subparagraph (N) and by inserting after subparagraph (K) the following new subparagraph:

"(L) This paragraph shall not apply to any plan to which paragraph (1) does not apply."

(5) BENEFIT PAYMENTS MADE IN ACCORDANCE WITH QUALIFIED DOMESTIC RELATIONS ORDERS NOT TREATED AS GARNISHMENTS FOR PURPOSES OF CONSUMER CREDIT PROTECTION ACT.—Paragraph (3) of section 206(d) of the Employee Retirement Income Security Act of 1974 (as amended by paragraph (4)(B)) is further amended by inserting after subparagraph (L) the following new subparagraph:

"(M) Payment of benefits by a pension plan in accordance with the applicable requirements of a qualified domestic relations order shall not be treated as garnishment for purposes of section 303(a) of the Consumer Credit Protection Act.".

(6) TREATMENT OF CERTAIN SPOUSES.—

(A) AMENDMENT OF THE INTERNAL REVENUE CODE.—Subparagraph (A) of section 414(p)(5) (relating to treatment of former spouse as surviving spouse for purposes of determining survivor benefits) is amended by striking out "sections 401(a)(11) and 417" and inserting in lieu thereof "sections 401(a)(11) and 417 (and any spouse of the participant shall not be treated as a spouse of the participant for such purposes)".

(B) AMENDMENT OF ERISA.—Clause (i) of section 206(d)(3)(F) of the Employee Retirement Income Security Act of 1974 is amended by striking out "section 205" and inserting in lieu thereof "section 205 (and any spouse of the participant shall not be treated as a spouse of the participant for such purposes)".

(7) CLERICAL AMENDMENTS.—

(A) AMENDMENTS OF INTERNAL REVENUE CODE.—

(i) Subparagraph (F) of section 402(a)(6) is amended by striking out "paragraph (5)(A)" and inserting in lieu thereof "paragraph (5)".

(ii) Clause (i) of section 414(p)(1)(B) is amended by striking out "to a spouse," and inserting in lieu thereof "to a spouse, former spouse,".

(iii) Clause (i) of section 414(p)(6)(A) is amended by striking out "any other alternate payee" and inserting in lieu thereof "each alternate payee".

(iv) Subparagraph (B) of section 414(p)(5) is amended by striking out "the surviving spouse" and inserting in lieu thereof "the surviving former spouse".

(v) Subsection (p) of section 414 is amended by striking out the last sentence of paragraph (5) and by inserting after paragraph (9) the following new paragraph:

"(10) WAIVER OF CERTAIN DISTRIBUTION REQUIREMENTS.—With respect to the requirements of subsections (a) and (k) of section 401 and section 409(d), a plan shall not be treated as failing to meet such requirements solely by reason of payments to an alternative payee pursuant to a qualified domestic relations order."

(vi) Paragraph (4)(A) of section 414(p) is amended—

(I) by striking out "In the case of any payment before a participant has separated from service, a" and inserting in lieu thereof "A", and

(II) by inserting "in the case of any payment before a participant has separated from service," before "on or" in clause (i).

(vii) Subparagraph (B) of section 414(p)(4) is amended to read as follows:

"(B) EARLIEST RETIREMENT AGE.—For purposes of this paragraph, the term 'earliest retirement age' means earlier of—

"(i) in the date on which the participant is entitled to a distribution under the plan, or

"(ii) in the later of—

"(I) the date the participant attains age 50, or

"(II) the earliest date on which the participant could begin receiving benefits under the plan if the participant separated from service."

(B) AMENDMENTS OF ERISA.—

(i) Clause (ii) of section 206(d)(3)(F) of the Employee Retirement Income Security Act of 1974 is amended by striking out "the former spouse" and inserting in lieu thereof "the surviving former spouse".

(ii) Subclause (I) of section 206(d)(3)(G)(i) of such Act is amended by striking out "any other alternate payee" and inserting in lieu thereof "each alternate payee".

(iii) Subparagraph (E) of section 206(d)(3) of such Act is amended—

(I) by striking out "In the case of any payment before a participant has separated from service, a" in clause (i) and inserting in lieu thereof "A", and

(II) by inserting "in the case of any payment before a participant has separated from service," before "on or" in subclause (I).

(iv) Clause (ii) of section 206(d)(3)(E) of such Act is amended to read as follows:

"(ii) For purposes of this subparagraph, the term 'earliest retirement age' means the earlier of—

"(I) the date on which the participant is entitled to a distribution under the plan, or

"(II) the later of the date of the participant attains age 50 or the earliest date on which the participant could begin receiving benefits under the plan if the participant separated from service."

(d) AMENDMENTS RELATED TO SECTIONS 105 AND 205 OF THE ACT.—

(1) VESTED ACCRUED BENEFIT.—

(A) AMENDMENTS TO THE INTERNAL REVENUE CODE.—

(i) Subparagraph (A) of section 411(a)(11) (relating to restrictions on certain mandatory distributions) is amended to read as follows:

"(A) IN GENERAL.—If the present value of any vested accrued benefit exceeds $3,500, a plan meets the requirements of this paragraph only if such plan provides that such benefit may not be immediately distributed without the consent of the participant."

(ii) Subsection (a) of section 411 is amended by striking out "paragraphs (1) and (2)" in the matter preceding paragraph (1) and inserting in lieu thereof "paragraphs (1), (2), and (11)".

(B) AMENDMENTS TO ERISA.—Paragraph (1) of section 203 of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

"(1) If the present value of any vested accrued benefit exceeds $3,500, a pension plan shall provide that such benefit may not be immediately distributed without the consent of the participant."

(2) DISTRIBUTIONS UNDER SECTION 404(k).—

(A) AMENDMENT TO THE INTERNAL REVENUE CODE.—Section 411(a)(11) is amended by adding at the end thereof the following new subparagraph:

"(C) DIVIDEND DISTRIBUTIONS OF ESOPS ARRANGEMENT.—This paragraph shall not apply to any distribution of dividends to which section 404(k) applies."

(B) AMENDMENT TO ERISA.—Section 203(e) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following new paragraph:

"(3) This subsection shall not apply to any distribution of dividends to which section 404(k) of the Internal Revenue Code of 1954 applies."

(e) AMENDMENTS RELATED TO SECTION 207 OF THE ACT.—

(1) Paragraph (1) of section 402(f) (relating to written explanation to recipients of distributions eligible for rollover treatment) is amended by striking out "qualifying rollover distribution" and inserting in lieu thereof "eligible rollover distribution".

(2) Paragraph (2) of section 402(f) is amended to read as follows:

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) ELIGIBLE ROLLOVER DISTRIBUTION.—The term 'eligible rollover distribution' means any distribution any portion of which may be excluded from gross income under subsection (a)(5) of this section or subsection (a)(4) of section 403 if

transferred to an eligible retirement plan in accordance with the requirements of such subsection.

"(B) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' has the meaning given such term by subsection (a)(5)(E)(iv)."

(f) AMENDMENT RELATED TO SECTION 301 OF THE ACT.—

(1) SPECIAL RULE FOR ESOPS.—

(A) AMENDMENT TO THE INTERNAL REVENUE CODE.—Section 411(d)(6) is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE FOR ESOPS.—For purposes of this paragraph, any—

"(i) tax credit employee stock ownership plan (as defined in section 409(a)), or

"(ii) employee stock ownership plan (as defined in section 4975(e)(7)),

shall not be treated as failing to meet the requirements of this paragraph merely because it modifies distribution options in a nondiscriminatory manner."

(B) AMENDMENT TO ERISA.—Section 204(g) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following new paragraph:

"(3) For purposes of this subsection, any—

"(A) tax credit employee stock ownership plan (as defined in section 409(a) of the Internal Revenue Code of 1954), or

"(B) employee stock ownership plan (as defined in section 4975(e)(7) of such Code),

shall not be treated as failing to meet the requirements of this subsection merely because it modifies distribution options in a nondiscriminatory manner."

(2) CLERICAL AMENDMENT.—Paragraph (1) of section 204(g) of the Employee Retirement Income Security Act of 1974 is amended by striking out "section 302(c)(8)" and inserting in lieu thereof "section 302(c)(8) or 4281".

(g) AMENDMENT RELATED TO SECTION 302 OF THE ACT.—Paragraph (2) of section 302(b) of the Retirement Equity Act of 1984 is amended by striking out "January 1, 1987" and inserting in lieu thereof "July 1, 1988".

(h) AMENDMENTS RELATED TO SECTION 303 OF THE ACT.—

(1)(A) Subsection (c) of section 303 of the Retirement Equity Act of 1984 (relating to transitional rule for requirement of joint and survivor annuity and preretirement survivor annuity) is amended by adding at the end thereof the following new paragraph:

"(4) ELIMINATION OF DOUBLE DEATH BENEFITS.—

"(A) IN GENERAL.—In the case of a participant described in paragraph (2), death benefits (other than a qualified joint and survivor annuity or a qualified preretirement survivor annuity) payable to any beneficiary shall be reduced by the amount payable to the surviving spouse of such participant by reason of paragraph (2). The reduction under the preceding sentence shall be made on the basis of the respective present values (as of the date of the participant's death) of such death benefits and the amount so payable to the surviving spouse.

"(B) SPOUSE MAY WAIVE PROVISIONS OF PARAGRAPH (2).—In the case of any participant described in paragraph (2), the surviving spouse of such participant may waive the provisions of paragraph (2). Such waiver shall be made on or before the close of the second plan year to which the amendments made by section 103 of this Act apply. Such a waiver shall not be treated as a transfer of property for purposes of chapter 12 of the Internal Revenue Code of 1954 and shall not be treated as an assignment or alienation for purposes of section 401(a)(13) of the Internal Revenue Code of 1954 or section 206(d) of the Employee Retirement Income Security Act of 1974."

(B) Section 2503 is amended by adding at the end thereof the following new subsection:

"(f) WAIVER OF CERTAIN PENSION RIGHTS.—If any individual waives, before the death of a participant, any survivor benefit, or right to such benefit, under section 401(a)(11) or 417, such waiver shall not be treated as a transfer of property by gift for purposes of this chapter."

(2) Subparagraph (A) of section 303(e)(2) of the Retirement Equity Act of 1984 (relating to treatment of certain participants who perform services on or after January 1, 1976) is amended by striking out "in the first plan year" and inserting in lieu thereof "in any plan year".

(3) Paragraph (2) of section 303(c) of the Retirement Equity Act is amended by adding at the end thereof the following new sentence: "In the case of a profit-sharing or stock bonus plan to which this paragraph applies, the plan shall be treated as meeting the requirements of the amendments made by sections 103 and 203 with respect to any participant if the plan made a distribution in a form other than a life annuity to the surviving spouse of the participant of such participant's nonforfeitable benefit."

(i) TECHNICAL AMENDMENT TO SECTION 408(d) OF ERISA.—

(1) Subsection (d) of section 408 of the Employee Retirement Income Security Act of 1974 is amended by striking out "(a),".

(2) The amendment made by paragraph (1) shall apply to transactions after the date of the enactment of this Act.

(j) EFFECTIVE DATE.—Except as otherwise provided in this section, any amendment made by this section shall take effect as if included in the provision of the Retirement Equity Act of 1984 to which such amendment relates.

CHAPTER 3—AMENDMENT RELATED TO THE CHILD SUPPORT ENFORCEMENT AMENDMENTS OF 1984

SEC. 1899. AMENDMENT RELATED TO THE CHILD SUPPORT ENFORCEMENT AMENDMENTS OF 1984.

(a) IN GENERAL.—Section 457(b)(3) of the Social Security Act is amended by inserting "or administrative" after "court".

(b) EFFECTIVE DATE.—The amendment made by this section shall become effective on the date of the enactment of this Act

CHAPTER 4—MISCELLANEOUS AMENDMENTS CORRECTING ERRORS OF SPELLING, PUNCTUATION, ETC.

SEC. 1899A. MISCELLANEOUS AMENDMENTS CORRECTING ERRORS OF SPELLING, PUNCTUATION, ETC.

(1) Paragraph (4) of section 25(f) is amended by striking out "insure" and inserting in lieu thereof "ensure".

(2) Subparagraph (A) of section 103(h)(2) (relating to prohibition of discrimination) is amended by striking out "guaranted" and inserting in lieu thereof "guaranteed".

(3) Subparagraph (B) of section 103(m)(3) (relating to exceptions) is amended by striking out "section 608(6)(A)" and inserting in lieu thereof "section 608(a)(6)(A)".

(4) Paragraph (4) of section 103(p) is amended by striking out "October" and all that follows and inserting in lieu thereof "October 27, 1949 (48 U.S.C. 1403)."

(5) Clause (i) of section 132(h)(3)(B) (defining qualified automobile demonstration use) is amended by striking out "such use in" and inserting in lieu thereof "such use is".

(6) Paragraph (6) of section 172(d) is amended by inserting "MODIFICATIONS RELATED TO REAL ESTATE INVESTMENT TRUSTS.—" after "(6)".

(7) Clause (i) of section 338(h)(3)(C) is amended by striking out "subparagraph (A) and (B)" and inserting in lieu thereof "subparagraphs (A) and (B)".

(8) Paragraph (12) of section 341(e) is amended by striking out "1245(a).—" in the heading and inserting in lieu thereof "1245(a), ETC.—".

(9) Clause (iii) of section 374(e)(1)(A) is amended by striking out "Court of Claims" and inserting in lieu thereof "United States Claims Court".

(10) Paragraph (22) of section 401(a) is amended by striking out "if" and inserting in lieu thereof "If".

(11) Subsection (d) of section 409 is amended by striking out "participants's" and inserting in lieu thereof "participant's".

(12) Subparagraph (B) of section 414(p)(3) is amended by striking out the comma after "benefits".

(13) Subsection (k) of section 415 is amended to read as follows:

"(k) DEFINITIONS OF DEFINED CONTRIBUTION PLAN AND DEFINED BENEFIT PLAN.—For purposes of this title, the term 'defined contribution plan' or 'defined benefit plan' means a defined contribution plan (within the meaning of section 414(i)) or a defined benefit plan (within the meaning of section 414(j)), whichever applies, which is—

"(1) a plan described in section 401(a) which includes a trust which is exempt from tax under section 501(a),

"(2) an annuity plan described in section 403(a),

"(3) an annuity contract described in section 403(b),

"(4) an individual retirement account described in section 408(a),

"(5) an individual retirement annuity described in section 408(b), or

"(6) a simplified employee pension."

(14) Clause (ii) of section 468(d)(2)(B) is amended by striking out "Comprehensive Environmental, Compensation, and Liability Act of 1980" and inserting in lieu thereof "Comprehensive Environmental Response, Compensation, and Liability Act of 1980".

(15) Clause (i) of section 501(c)(1)(A) is amended by striking out "the date of the enactment of the Tax Reform Act of 1984" and inserting in lieu thereof "July 18, 1984".

(16) Paragraph (2) of section 505(c) is amended by striking out "the date of the enactment of the Tax Reform Act of 1984" and inserting in lieu thereof "July 18, 1984".

(17) Clause (i) of section 535(b)(5)(C) and subparagraph (C) of section 535(b)(8) are each amended by striking out "the date of the enactment of the Tax Reform Act of 1984" and inserting in lieu thereof "July 18, 1984".

(18) Subparagraph (B) of section 543(a)(1) is amended by striking out "46 U.S.C." and inserting in lieu thereof "46 U.S.C. App.".

(19) The second sentence of section 751(c) is amended by striking out "section 617(f)(2), stock" and inserting in lieu thereof "section 617(f)(2)), stock".

(20) Subsection (a) of section 844 is amended by striking our "prior law),, unused loss" and inserting in lieu thereof "prior law), unused loss".

(21) Paragraph (2) of section 864(c) is amended by striking out "section 871(h) section 881(a)" and inserting in lieu thereof "section 871(h), section 881(a)".

(22) Subparagraph (A) of section 881(b)(2) is amended by striking out "Paragraph" and inserting in lieu thereof "paragraph".

(23) Subparagraph (C) of section 881(c)(3) is amended by striking out "section 864(d)(4)." and inserting in lieu thereof "section 864(d)(4))."

(24) The paragraph heading of section 904(d)(1) is amended to read as follows:

"(1) IN GENERAL.—".

(25) Paragraphs (23), (24), (25), and (26) of section 1016(a) are each amended by striking out the comma at the end thereof and inserting in lieu thereof a semicolon.

(26) Subsection (c) of section 1042 is amended by striking out "this section.—" in the material preceding paragraph (1) and inserting in lieu thereof "this section—"

(27) Paragraphs (1) and (2) of section 1060 are each amended by striking out "46 U.S.C." and inserting in lieu thereof "46 U.S.C. App.".

(28) Subsection (e) of section 1276 is amended by striking out "the date of the enactment of this section" and inserting in lieu thereof "July 18, 1984".

(29) Subparagraph (C) of section 1277(b)(1) is amended by striking out "this paragaph" and inserting in lieu thereof "this paragraph".

(30) The heading for subparagraph (C) of section 1277(b)(2) is amended by striking out "PARAGRAPH 1.—" and inserting in lieu thereof "PARAGRAPH (1).—".

(31) Subsection (d) of section 1277 is amended by striking out "the date of the enactment of this section" and inserting in lieu thereof "July 18, 1984".

(32) Paragraph (4) of section 1278(a) is amended by striking out "means of" and inserting in lieu thereof "means".

(33) Paragraph (1) of section 1371(e) is amended by inserting "(within the meaning of section 1368(e))" after "accumulated adjustments account".

(34) Paragraph (2) of section 1371(e) is amended by striking out "(within the meaning of section 1368(e))".

(35) Paragraph (2)(A) of section 1504(c) is amended by striking out "subsection (b)(2) includes" and inserting in lieu thereof "subsection (b)(2)) includes".

(36) Subsection (c) of section 1551 is amended by striking out "section 269(b)" and inserting in lieu thereof "section 269(c)".

(37) Subsection (d) of section 2210 is amended by striking out "may prescibe" and inserting in lieu thereof "may prescribe".

(38) Clause (ii) of section 3121(v)(2)(A) is amended by striking out "forefeiture" and inserting in lieu thereof "forfeiture".

(39) The first sentence of paragraph (1) of section 3121(w) is amended by striking out "chapter 21 of this Code" and inserting in lieu thereof "this chapter".

(40) Paragraph (2) of section 3121(w) is amended by striking out "the date of the enactment of this subsection" and inserting in lieu thereof "July 18, 1984".

(41) Subsection (e) of section 3231 is amended by redesignating the paragraph (6) added by Public Law 98-612 as paragraph (7).

(42) Paragraph (1) of section 3301 is amended by striking out "unemployed" and inserting in lieu thereof "unemployment".

(43) Clause (iii) of section 3304(a)(6)(A) is amended by striking out "and" at the end thereof.

(44) Subparagraph (A) of section 3306(b)(2) is amended by striking out "workman's compensation" and inserting in lieu thereof "workmen's compensation".

(45) Paragraph (13) of section 3306(b) is amended by striking out the comma at the end thereof and inserting in lieu thereof a semicolon.

(46) The heading for paragraph (6) of section 3406(b) is amended by striking out "6041(A)(a)" and inserting in lieu thereof "6041A(a)".

(47) Paragraph (1) of section 4051(d) is amended by striking out "the date of the enactment of the Tax Reform Act of 1984" and inserting in lieu thereof "July 18, 1984".

(48) Clause (ii) of section 4161(b)(1)(B) is amended by striking out the period at the end thereof and inserting in lieu thereof a comma.

(49) Section 4227 is amended to read as follows:

"SEC. 4227. CROSS REFERENCE.

"For exception for a sale to an Indian tribal government (or its subdivision) for the exclusive use of an Indian tribal government (or its subdivision), see section 7871."

(50) The heading for paragraph (1) of section 4961(c) is amended by striking out "COURT OF CLAIMS" and inserting in lieu thereof "UNITED STATES CLAIMS COURT".

(51) The second sentence of subsection (d) of section 4975 is amended by striking out "and (12) shall not" and inserting in lieu thereof "and (12)) shall not".

(52) Subsection (f) of section 6011 is amended by striking out "sections 6012 to 6019, inclusive" and inserting in lieu thereof "subparts B and C".

(53) Clause (v) of section 6103(1)(7)(D) is amended by striking out "this Code" and inserting in lieu thereof "this title".

(54) Subparagraph (B) of section 6111(d)(1) is amended by striking out "subpargraph" and inserting in lieu thereof "subparagraph".

(55) Paragraph (1) of section 6427(b) is amended by striking out "provided in paragraph (2)" and inserting in lieu thereof "otherwise provided in this subsection".

(56) Paragraph (1) of section 6427(g) is amended by striking out "anount" and inserting in lieu thereof "amount".

(57) The heading for section 6660 is amended by striking out "THE ESTATE" and inserting in lieu thereof "ESTATE".

(58) Subparagraph (B) of section 7422(g)(1) is amended by striking out "section 4962" and inserting in lieu thereof "section 4963".

(59) Paragraph (1) of section 7476(c) is amended by striking out "plan,, or" and inserting in lieu thereof "plan, or".

(60) Subparagraph (E) of section 7482(b)(1) is amended by striking out "partnership," and inserting in lieu thereof "partnership.".

(61) Subsection (i) of section 7611 is amended—

(A) by redesignating subparagraphs (A), (B), (C), (D), and (E) as paragraphs (1), (2), (3), (4), and (5), respectively.

(B) by striking out "etc)," in paragraph (3) (as so redesignated) and inserting in lieu thereof "etc.),", and

(C) by striking out "the title" in paragraph (5) (as so redesignated) and inserting in lieu thereof "the title".

(62) Paragraph (1) of section 7611(a) is amended by striking out all that follows subparagraph (A) and inserting in lieu thereof the following:

"(B) the notice requirements of paragraph (3), have been met."

(63) Clause (i) of section 7701(b)(4)(E) is amended by striking out "preceeding" and inserting in lieu thereof "preceding".

(64) Paragraph (5) of section 7701(e) is amended by striking out "section 168(C)(2)(F))" and inserting in lieu thereof "section 168(c)(2)(F))".

(65) Subparagraph (F) of section 7871(a)(6) is amended by striking out the period at the end thereof and inserting in lieu thereof "; and".

(66) Paragraph (2) of section 101(b) of the Tax Reform Act of 1984 is amended by inserting "(as such paragraphs (4) and (5) are amended by this section and section 102)" after "(4), and (5)".

(67) Subparagraph (C) of section 102(e)(3) of the Tax Reform Act of 1984 is amended by striking out "paragraph (7)(A) (including the heading)" and inserting in lieu thereof "paragraphs (6)(B) and (7)(A) (including any headings)".

(68) Paragraph (1) of section 127(b) of the Tax Reform Act of 1984 is amended by inserting "(as amended by section 128)" after "subsection (c)".

(69) Subparagraph (A) of section 221(d)(2) of the Tax Reform Act of 1984 is amended by striking out "rapid that" and inserting in lieu thereof "rapid than".

(70) The item relating to tax credit employee stock ownership plans in the table of sections for subpart A of part I of subchapter D of chapter 1 is amended to read as follows:

"Sec 409. Qualifications for tax credit employee stock ownership plans."

(71) The table of sections for subpart C of part II of subchapter E of chapter 1 is amended in the item relating to section 467 by inserting "the" before "use".

(72) The table of subparts for part V of subchapter P of chapter 1 is amended by inserting "on bonds" after "discount" in the item relating to subpart B.

(73) The table of sections for subchapter B of chapter 3 is amended by striking out the item relating to section 1461 and inserting in lieu thereof the following:

"Sec. 1461. Liability for withheld tax."

(74) The table of sections for subchapter G of chapter 32 is amended by striking out "references" in the item relating to section 4227 and inserting in lieu thereof "reference".

(75) The table of sections for chapter 43 is amended by—

(A) inserting "section" before "403(b)" in the item relating to section 4973, and

(B) striking out "and allocations" in the item relating to section 4978.

Approved October 22, 1986.

LEGISLATIVE HISTORY—H.R. 3838:

HOUSE REPORTS: No. 99-426 (Comm. on Ways and Means) and No. 99-841 (Comm. of Conference).
SENATE REPORTS: No. 99-313 (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 17, considered and passed House.
Vol. 132 (1986): June 4, 9-13, 16-24, considered and passed Senate, amended.
Sept. 25, House agreed to conference report.
Sept 26, 27, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Oct. 22, Presidential remarks.

O

Public Law 99-515
99th Congress

An Act

Oct. 22, 1986
[H.R. 1593]

To direct the Secretary of the Interior to release on behalf of the United States certain restrictions in a previous conveyance of land to the town of Jerome, Arizona.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Interior shall release, by quit-claim deed or other good and sufficient instrument, on behalf of the United States, with respect to the land described in subsection (b) which was conveyed by the United States to the town of Jerome, Arizona, by a patent numbered 497894, all conditions on such patent which required that such land be used for cemetery or park purposes.

(b) The land referred to in subsection (a) which was conveyed to the town of Jerome, Arizona, on November 8, 1915, by a patent numbered 497894, is all of the southeast quarter of the southeast quarter of section 30, township 16 north, range 3 east of the Gila and Salt River meridian, Arizona, containing forty acres.

Approved October 22, 1986.

LEGISLATIVE HISTORY—H.R. 1593:

HOUSE REPORTS: No. 99-345 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 99-342 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Nov. 4, considered and passed House.
Vol. 132 (1986): Oct. 8, considered and passed Senate, amended.
Oct. 10, House concurred in Senate amendment.

91-139 O -- 87 (534)

Public Law 99-516
99th Congress

An Act

To amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations for fiscal year 1987, and for other purposes.

Oct. 22, 1986
[H.R. 2092]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATURAL GAS PIPELINE SAFETY AUTHORIZATION.

(a) IN GENERAL.—Section 17(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(a)) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(5) $3,200,000 for the fiscal year ending September 30, 1987.".

(b) GRANTS.—Section 17(c) of such Act (49 U.S.C. App. 1684(c)) is amended by inserting ", and $5,200,000 for the fiscal year ending September 30, 1987" after "September 30, 1986".

SEC. 2. HAZARDOUS LIQUID PIPELINE SAFETY AUTHORIZATION.

Section 214(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2013(a)) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(5) $800,000 for the fiscal year ending September 30, 1987.".

SEC. 3. REPORTING OF SAFETY-RELATED CONDITIONS.

(a) AMENDMENTS TO NATURAL GAS PIPELINE SAFETY ACT OF 1968.—

(1) REPORTING REQUIREMENT.—Section 3(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672(a)) is amended by adding at the end the following new paragraph:

"(3) Not later than 12 months after the date of the enactment of this paragraph, the Secretary shall issue regulations requiring each person who operates pipeline facilities, not including master meters, to report to the Secretary—

Regulations.

"(A) any condition that constitutes a hazard to life or property, and

"(B) any safety-related condition that causes or has caused a significant change or restriction in the operation of pipeline facilities.

Reports submitted under this paragraph shall be in writing and shall be received by the Secretary within 5 working days after any representative of a person subject to the reporting requirements of this paragraph first determines that such condition exists. Notice of any such condition shall concurrently be supplied to appropriate State authorities.".

State and local governments.

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(2) INSPECTION AND MAINTENANCE PLANS.—Section 13 of such Act (49 U.S.C. App. 1680) is amended by inserting after the fourth sentence the following: "Such plan shall include terms designed to enhance the ability to discover safety-related conditions described in section 3(a)(3)."

(b) AMENDMENTS TO HAZARDOUS LIQUID PIPELINE SAFETY ACT OF 1979.—

(1) REPORTING REQUIREMENT.—Section 203(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002(a)) is amended—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end the following new paragraph:

Regulations.

"(2) Not later than 12 months after the date of the enactment of this paragraph, the Secretary shall issue regulations requiring each person who operates pipeline facilities to report to the Secretary—

"(A) any condition that constitutes a hazard to life or property, and

"(B) any safety-related condition that causes or has caused a significant change or restriction in the operation of pipeline facilities.

State and local governments.

Reports submitted under this paragraph shall be in writing and shall be received by the Secretary within 5 working days after any representative of a person subject to the reporting requirements of this paragraph first determines that such condition exists. Notice of any such condition shall concurrently be supplied to appropriate State authorities.".

(2) INSPECTION AND MAINTENANCE PLANS.—Section 210 of such Act (49 U.S.C. App. 2009) is amended by inserting after the last sentence the following: "Such plans shall include terms designed to enhance the ability to discover safety-related conditions described in section 203(a)(2)."

49 USC app. 2002.

Approved October 22, 1986.

LEGISLATIVE HISTORY—H.R. 2092:

HOUSE REPORTS: No. 99-121, Pt. 1 (Comm. on Public Works and Transportation), Pt. 2 (Comm. on Energy and Commerce), Pt. 3 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 16, considered and passed House.
Oct. 8, considered and passed Senate.

O

Public Law 99-517
99th Congress

An Act

To direct the Secretary of the Interior to convey certain lands, withdrawn by the Bureau of Reclamation for townsite purposes, to the Huntley Project Irrigation District, Ballantine, Montana.

Oct. 22, 1986
[H.R. 3005]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF CERTAIN LANDS.

Minerals.

Notwithstanding the provisions of the Act of April 16, 1906 (34 Stat. 116; 43 U.S.C. 566), and the preliminary injunction issued in National Wildlife Federation v. Burford, Civ. No. 85-2238 (D.D.C. 1985), the Secretary of the Interior shall convey all right, title, and interest of the United States in and to the lands described in section 2 of this Act, to the Huntley Irrigation District, a recognized municipal corporation of the State of Montana, located in Ballantine, Montana; except that nothing in this Act is intended to affect the ownership of minerals located under the lands described in section 2 of this Act. Such conveyance shall be made without compensation from the Huntley Irrigation District, except for administrative costs not to exceed $750 associated with the preparation of title to, and legal description of, such land.

SEC. 2. DESCRIPTION OF LANDS.

Public lands.

The lands to be conveyed in section 1 are more completely defined as those reserved public lands withdrawn for Bureau of Reclamation purposes and further withdrawn for townsite and public purposes and are described as follows:

(1) Osborn Public Park comprised of lot 19 of section 16, Township 2 North, Range 28 East, town of Osborn, County of Yellowstone, State of Montana;

(2) Ballantine Public Park in Lots 1, 2, 3, 4, 5, 6, 7, 8, 13, and 14, Block 8, Southwest ¼ of Section 5, Township 2 North, Range 29 East, town of Ballantine, County of Yellowstone, State of Montana;

(3) Riverside Park located in tract 123 Southeast ¼ of the Southwest ¼ of Section 24, Township 2 North, Range 27 East, town of Huntley, County of Yellowstone, State of Montana;

(4) Worden Town Park Reserve in Blocks 46, 49, and 51 of the Townsite located in the Southwest ¼ of the Southeast ¼ of Section 31, Township 3 North, Range 29 East, town of Worden, County of Yellowstone, State of Montana; and

(5) Pompeys Pillar Park consisting of all of blocks 17, 19, 26, and those portions of block 15 south of the main canal right-of-way and block 21 north of the main canal right-of-way as shown on the Pompeys Pillar Township plat, approved by the Assistant Secretary of the Department of the Interior on September 22, 1916, and located in the west half of the southeast quarter of section 23, Township 3 North, Range 30 East, town of Pompeys Pillar, County of Yellowstone, State of Montana.

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SEC. 3. RESTRICTION ON USE OF LANDS.

Public lands.

The lands conveyed under this Act shall continue to be reserved, maintained, and utilized for public park (including museums) and recreational purposes. If any of such lands is used for any other purpose, the title to such land, together with all improvements thereon, shall revert to the United States.

Approved October 22, 1986.

LEGISLATIVE HISTORY—H.R. 3005:

HOUSE REPORTS: No. 99-657 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 99-386 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
June 26, considered and passed House.
Oct. 8, considered and passed Senate.

O

Public Law 99-518
99th Congress

An Act

To permit the transfer of certain airport property in Algona, Iowa.

Oct. 22, 1986
[H.R. 4492]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Algona, Iowa, for airport purposes" (Public Law 94-243; 90 Stat. 281), is amended—

(1) in the first section, by striking out ", subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of section 2 of this Act,";

50 USC app. 1622a.

(2) in section 2, by striking out "Any" and inserting in lieu thereof "Except as provided in section 3, any"; and

50 USC app. 1622b.

(3) by adding at the end the following new section:

Real property. National Guard.

"SEC. 3. The authority of the Secretary of Transportation under the first section of this Act shall be subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c) and the provisions of section 2 of this Act, except with respect to the conveyance of any interest in real property to the Iowa Air National Guard for the construction of a National Guard armory.".

Approved October 22, 1986.

LEGISLATIVE HISTORY—H.R. 4492:

HOUSE REPORTS: No. 99-821 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 16, considered and passed House.
Oct. 8, considered and passed Senate.

O

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PUBLIC LAW 99-519—OCT. 22, 1986

ASBESTOS HAZARD EMERGENCY RESPONSE ACT OF 1986

91-139 O - 87 (538)

Public Law 99-519
99th Congress

An Act

Oct. 22, 1986
[H.R. 5073]

To amend the Toxic Substances Control Act to require the Environmental Protection Agency to promulgate regulations requiring inspection for asbestos-containing material in the Nation's schools, development of asbestos management plans for such schools, response actions with respect to friable asbestos-containing material in such schools, and for other purposes.

Asbestos Hazard Emergency Response Act of 1986. Environmental protection. 15 USC 2601 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Asbestos Hazard Emergency Response Act of 1986".

15 USC 2601 note.

SEC. 2. AMENDMENT TO TOXIC SUBSTANCES CONTROL ACT.

The Toxic Substances Control Act is amended by adding at the end the following new title:

"TITLE II—ASBESTOS HAZARD EMERGENCY RESPONSE

15 USC 2641.

"SEC. 201. CONGRESSIONAL FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds the following:

"(1) The Environmental Protection Agency's rule on local educational agency inspection for, and notification of, the presence of friable asbestos-containing material in school buildings includes neither standards for the proper identification of asbestos-containing material and appropriate response actions with respect to friable asbestos-containing material, nor a requirement that response actions with respect to friable asbestos-containing material be carried out in a safe and complete manner once actions are found to be necessary. As a result of the lack of regulatory guidance from the Environmental Protection Agency, some schools have not undertaken response action while many others have undertaken expensive projects without knowing if their action is necessary, adequate, or safe. Thus, the danger of exposure to asbestos continues to exist in schools, and some exposure actually may have increased due to the lack of Federal standards and improper response action.

"(2) There is no uniform program for accrediting persons involved in asbestos identification and abatement, nor are local educational agencies required to use accredited contractors for asbestos work.

"(3) The guidance provided by the Environmental Protection Agency in its 'Guidance for Controlling Asbestos-Containing Material in Buildings' is insufficient in detail to ensure adequate responses. Such guidance is intended to be used only until the regulations required by this title become effective.

"(4) Because there are no Federal standards whatsoever regulating daily exposure to asbestos in other public and commercial

buildings, persons in addition to those comprising the Nation's school population may be exposed daily to asbestos.

"(b) PURPOSE.—The purpose of this title is—

"(1) to provide for the establishment of Federal regulations which require inspection for asbestos-containing material and implementation of appropriate response actions with respect to asbestos-containing material in the Nation's schools in a safe and complete manner;

"(2) to mandate safe and complete periodic reinspection of school buildings following response actions, where appropriate; and

"(3) to require the Administrator to conduct a study to find out the extent of the danger to human health posed by asbestos in public and commercial buildings and the means to respond to any such danger.

"SEC. 202. DEFINITIONS. 15 USC 2642.

"For purposes of this title—

"(1) ACCREDITED ASBESTOS CONTRACTOR.—The term 'accredited asbestos contractor' means a person accredited pursuant to the provisions of section 206.

"(2) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(3) ASBESTOS.—The term 'asbestos' means asbestiform varieties of—

"(A) chrysotile (serpentine),

"(B) crocidolite (riebeckite),

"(C) amosite (cummingtonite-grunerite),

"(D) anthophyllite,

"(E) tremolite, or

"(F) actinolite.

"(4) ASBESTOS-CONTAINING MATERIAL.—The term 'asbestos-containing material' means any material which contains more than 1 percent asbestos by weight.

"(5) EPA GUIDANCE DOCUMENT.—The term 'Guidance for Controlling Asbestos-Containing Material in Buildings', means the Environmental Protection Agency document with such title as in effect on March 31, 1986.

"(6) FRIABLE ASBESTOS-CONTAINING MATERIAL.—The term 'friable asbestos-containing material' means any asbestos-containing material applied on ceilings, walls, structural members, piping, duct work, or any other part of a building which when dry may be crumbled, pulverized, or reduced to powder by hand pressure. The term includes non-friable asbestos-containing material after such previously non-friable material becomes damaged to the extent that when dry it may be crumbled, pulverized, or reduced to powder by hand pressure.

"(7) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' means—

"(A) any local educational agency as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381), 20 USC 2854.

"(B) the owner of any private, nonprofit elementary or secondary school building, and

"(C) the governing authority of any school operated under the defense dependents' education system provided for

under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.).

"(8) MOST CURRENT GUIDANCE DOCUMENT.—The term 'most current guidance document' means the Environmental Protection Agency's 'Guidance for Controlling Asbestos-Containing Material in Buildings' as modified by the Environmental Protection Agency after March 31, 1986.

"(9) NON-PROFIT ELEMENTARY OR SECONDARY SCHOOL.—The term 'non-profit elementary or secondary school' means any elementary or secondary school (as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854)) owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(10) PUBLIC AND COMMERCIAL BUILDING.—The term 'public and commercial building' means any building which is not a school building, except that the term does not include any residential apartment building of fewer than 10 units.

"(11) RESPONSE ACTION.—The term 'response action' means methods that protect human health and the environment from asbestos-containing material. Such methods include methods described in chapters 3 and 5 of the Environmental Protection Agency's 'Guidance for Controlling Asbestos-Containing Materials in Buildings'.

"(12) SCHOOL.—The term 'school' means any elementary or secondary school as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854).

"(13) SCHOOL BUILDING.—The term 'school building' means—

"(A) any structure suitable for use as a classroom, including a school facility such as a laboratory, library, school eating facility, or facility used for the preparation of food,

"(B) any gymnasium or other facility which is specially designed for athletic or recreational activities for an academic course in physical education,

"(C) any other facility used for the instruction of students or for the administration of educational or research programs, and

"(D) any maintenance, storage, or utility facility, including any hallway, essential to the operation of any facility described in subparagraphs (A), (B), or (C).

"(14) STATE.—The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Marianas, the Trust Territory of the Pacific Islands, and the Virgin Islands.

15 USC 2643. Health and medical care.

"SEC. 203. EPA REGULATIONS.

"(a) IN GENERAL.—Within 360 days after the date of the enactment of this title, the Administrator shall promulgate regulations as described in subsections (b) through (i). With respect to regulations described in subsections (b), (c), (d), (e), (f), (g), and (i), the Administrator shall issue an advanced notice of proposed rulemaking within 60 days after the date of the enactment of this title, and shall propose regulations within 180 days after such date. Any regulation promulgated under this section must protect human health and the environment.

"(b) INSPECTION.—The Administrator shall promulgate regulations which prescribe procedures, including the use of personnel accredited under section 206(b) or 206(c) and laboratories accredited under section 206(d), for determining whether asbestos-containing material is present in a school building under the authority of a local educational agency. The regulations shall provide for the exclusion of any school building, or portion of a school building, if (1) an inspection of such school building (or portion) was completed before the effective date of the regulations, and (2) the inspection meets the procedures and other requirements of the regulations under this title or of the 'Guidance for Controlling Asbestos-Containing Materials in Buildings' (unless the Administrator determines that an inspection in accordance with the guidance document is inadequate). The regulations shall require inspection of any school building (or portion of a school building) that is not excluded by the preceding sentence.

"(c) CIRCUMSTANCES REQUIRING RESPONSE ACTIONS.—(1) The Administrator shall promulgate regulations which define the appropriate response action in a school building under the authority of a local educational agency in at least the following circumstances:

"(A) DAMAGE.—Circumstances in which friable asbestos-containing material or its covering is damaged, deteriorated, or delaminated.

"(B) SIGNIFICANT DAMAGE.—Circumstances in which friable asbestos-containing material or its covering is significantly damaged, deteriorated, or delaminated.

"(C) POTENTIAL DAMAGE.—Circumstances in which—

"(i) friable asbestos-containing material is in an area regularly used by building occupants, including maintenance personnel, in the course of their normal activities, and

"(ii) there is a reasonable likelihood that the material or its covering will become damaged, deteriorated, or delaminated.

"(D) POTENTIAL SIGNIFICANT DAMAGE.—Circumstances in which—

"(i) friable asbestos-containing material is in an area regularly used by building occupants, including maintenance personnel, in the course of their normal activities, and

"(ii) there is a reasonable likelihood that the material or its covering will become significantly damaged, deteriorated, or delaminated.

"(2) In promulgating such regulations, the Administrator shall consider and assess the value of various technologies intended to improve the decisionmaking process regarding response actions and the quality of any work that is deemed necessary, including air monitoring and chemical encapsulants.

"(d) RESPONSE ACTIONS.—

Health and medical care.

"(1) IN GENERAL.—The Administrator shall promulgate regulations describing a response action in a school building under the authority of a local educational agency, using the least burdensome methods which protect human health and the environment. In determining the least burdensome methods, the Administrator shall take into account local circumstances, including occupancy and use patterns within the school building and short- and long-term costs.

"(2) RESPONSE ACTION FOR DAMAGED ASBESTOS.—In the case of a response action for the circumstances described in subsection (c)(1)(A), methods for responding shall include methods identified in chapters 3 and 5 of the 'Guidance for Controlling Asbestos-Containing Material in Buildings'.

"(3) RESPONSE ACTION FOR SIGNIFICANTLY DAMAGED ASBESTOS.—In the case of a response action for the circumstances described in subsection (c)(1)(B), methods for responding shall include methods identified in chapter 5 of the 'Guidance for Controlling Asbestos-Containing Material in Buildings'.

"(4) RESPONSE ACTION FOR POTENTIALLY DAMAGED ASBESTOS.—In the case of a response action for the circumstances described in subsection (c)(1)(C), methods for responding shall include methods identified in chapters 3 and 5 of the 'Guidance for Controlling Asbestos-Containing Material in Buildings', unless preventive measures will eliminate the reasonable likelihood that the asbestos-containing material will become damaged, deteriorated, or delaminated.

"(5) RESPONSE ACTION FOR POTENTIALLY SIGNIFICANTLY DAMAGED ASBESTOS.—In the case of a response action for the circumstances described in subsection (c)(1)(D), methods for responding shall include methods identified in chapter 5 of the 'Guidance for Controlling Asbestos-Containing Material in Buildings', unless preventive measures will eliminate the reasonable likelihood that the asbestos-containing material will become significantly damaged, deteriorated, or delaminated.

"(6) PREVENTIVE MEASURES DEFINED.—For purposes of this section, the term 'preventive measures' means actions which eliminate the reasonable likelihood of asbestos-containing material becoming damaged, deteriorated, or delaminated, or significantly damaged deteriorated, or delaminated (as the case may be) or which protect human health and the environment.

"(e) IMPLEMENTATION.—The Administrator shall promulgate regulations requiring the implementation of response actions in school buildings under the authority of a local educational agency and, where appropriate, for the determination of when a response action is completed. Such regulations shall include standards for the education and protection of both workers and building occupants for the following phases of activity:

"(1) Inspection.

"(2) Response Action.

"(3) Post-response action, including any periodic reinspection of asbestos-containing material and long-term surveillance activity.

"(f) OPERATIONS AND MAINTENANCE.—The Administrator shall promulgate regulations to require implementation of an operations and maintenance and repair program as described in chapter 3 of the 'Guidance for Controlling Asbestos-Containing Materials in Buildings' for all friable asbestos-containing material in a school building under the authority of a local educational agency.

"(g) PERIODIC SURVEILLANCE.—The Administrator shall promulgate regulations to require the following:

"(1) An identification of the location of friable and non-friable asbestos in a school building under the authority of a local educational agency.

"(2) Provisions for surveillance and periodic reinspection of such friable and non-friable asbestos.

"(3) Provisions for education of school employees, including school service and maintenance personnel, about the location of and safety procedures with respect to such friable and nonfriable asbestos.

Education. Safety.

"(h) TRANSPORTATION AND DISPOSAL.—The Administrator shall promulgate regulations which prescribe standards for transportation and disposal of asbestos-containing waste material to protect human health and the environment. Such regulations shall include such provisions related to the manner in which transportation vehicles are loaded and unloaded as will assure the physical integrity of containers of asbestos-containing waste material.

Health and medical care.

"(i) MANAGEMENT PLANS.—

"(1) IN GENERAL.—The Administrator shall promulgate regulations which require each local educational agency to develop an asbestos management plan for school buildings under its authority, to begin implementation of such plan within 990 days after the date of the enactment of this title, and to complete implementation of such plan in a timely fashion. The regulations shall require that each plan include the following elements, wherever relevant to the school building:

"(A) An inspection statement describing inspection and response action activities carried out before the date of the enactment of this title.

"(B) A description of the results of the inspection conducted pursuant to regulations under subsection (b), including a description of the specific areas inspected.

"(C) A detailed description of measures to be taken to respond to any friable asbestos-containing material pursuant to the regulations promulgated under subsections (c), (d), and (e), including the location or locations at which a response action will be taken, the method or methods of response action to be used, and a schedule for beginning and completing response actions.

"(D) A detailed description of any asbestos-containing material which remains in the school building once response actions are undertaken pursuant to the regulations promulgated under subsections (c), (d), and (e).

"(E) A plan for periodic reinspection and long-term surveillance activities developed pursuant to regulations promulgated under subsection (g), and a plan for operations and maintenance activities developed pursuant to regulations promulgated under subsection (f).

"(F) With respect to the person or persons who inspected for asbestos-containing material and who will design or carry out response actions with respect to the friable asbestos-containing material, one of the following statements:

"(i) If the State has adopted a contractor accreditation plan under section 206(b), a statement that the person (or persons) is accredited under such plan.

"(ii) A statement that the local educational agency used (or will use) persons who have been accredited by another State which has adopted a contractor accreditation plan under section 206(b) or is accredited pursuant to an Administrator-approved course under section 206(c).

"(G) A list of the laboratories that analyzed any bulk samples of asbestos-containing material found in the school

building or air samples taken to detect asbestos in the school building and a statement that each laboratory has been accredited pursuant to the accreditation program under section 206(d).

"(H) With respect to each consultant who contributed to the management plan, the name of the consultant and one of the following statements:

"(i) If the State has adopted a contractor accreditation plan under section 206(b), a statement that the consultant is accredited under such plan.

"(ii) A statement that the contractor is accredited by another State which has adopted a contractor accreditation plan under section 206(b) or is accredited pursuant to an Administrator-approved course under section 206(c).

"(I) An evaluation of resources needed to successfully complete response actions and carry out reinspection, surveillance, and operation and maintenance activities.

"(2) STATEMENT BY CONTRACTOR.—A local educational agency may require each management plan to contain a statement signed by an accredited asbestos contractor that such contractor has prepared or assisted in the preparation of such plan, or has reviewed such plan, and that such plan is in compliance with the applicable regulations and standards promulgated or adopted pursuant to this section and other applicable provisions of law. Such a statement may not be signed by a contractor who, in addition to preparing or assisting in preparing the management plan, also implements (or will implement) the management plan.

"(3) WARNING LABELS.—(A) The regulations shall require that each local educational agency which has inspected for and discovered any asbestos-containing material with respect to a school building shall attach a warning label to any asbestos-containing material still in routine maintenance areas (such as boiler rooms) of the school building, including—

"(i) friable asbestos-containing material which was responded to by a means other than removal, and

"(ii) asbestos-containing material for which no response action was carried out.

"(B) The warning label shall read, in print which is readily visible because of large size or bright color, as follows: **'CAUTION: ASBESTOS. HAZARDOUS. DO NOT DISTURB WITHOUT PROPER TRAINING AND EQUIPMENT.'**

"(4) PLAN MAY BE SUBMITTED IN STAGES.—A local educational agency may submit a management plan in stages, with each submission of the agency covering only a portion of the school buildings under the agency's authority, if the agency determines that such action would expedite the identification and abatement of hazardous asbestos-containing material in the school buildings under the authority of the agency.

"(5) PUBLIC AVAILABILITY.—A copy of the management plan developed under the regulations shall be available in the administrative offices of the local educational agency for inspection by the public, including teachers, other school personnel, and parents. The local educational agency shall notify parent, teacher, and employee organizations of the availability of such plan.

"(6) SUBMISSION TO STATE GOVERNOR.—Each plan developed under this subsection shall be submitted to the State Governor under section 205.

"(j) CHANGES IN REGULATIONS.—Changes may be made in the regulations promulgated under this section only by rule in accordance with section 553 of title 5, United States Code. Any such change must protect human health and the environment.

Health and medical care.

"(k) CHANGES IN GUIDANCE DOCUMENT.—Any change made in the 'Guidance for Controlling Asbestos-Containing Material in Buildings' shall be made only by rule in accordance with section 553 of title 5, United States Code, unless a regulation described in this section dealing with the same subject matter is in effect. Any such change must protect human health and the environment.

Health and medical care.

"(l) TREATMENT OF DEPARTMENT OF DEFENSE SCHOOLS.—

"(1) SECRETARY TO ACT IN LIEU OF GOVERNOR.—In the administration of this title, any function, duty, or other responsibility imposed on a Governor of a State shall be carried out by the Secretary of Defense with respect to any school operated under the defense dependents' education system provided for under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.).

"(2) REGULATIONS.—The Secretary of Defense, in cooperation with the Administrator, shall, to the extent feasible and consistent with the national security, take such action as may be necessary to provide for the identification, inspection, and management (including abatement) of asbestos in any building used by the Department of Defense as an overseas school for dependents of members of the Armed Forces. Such identification, inspection, and management (including abatement) shall, subject to the preceding sentence, be carried out in a manner comparable to the manner in which a local educational agency is required to carry out such activities with respect to a school building under this title.

Defense and national security.

"(m) WAIVER.—The Administrator, upon request by a Governor and after notice and comment and opportunity for a public hearing in the affected State, may waive some or all of the requirements of this section and section 204 with respect to such State if it has established and is implementing a program of asbestos inspection and management that contains requirements that are at least as stringent as the requirements of this section and section 204.

"SEC. 204. REQUIREMENTS IF EPA FAILS TO PROMULGATE REGULATIONS. 15 USC 2644.

"(a) IN GENERAL.—

"(1) FAILURE TO PROMULGATE.—If the Administrator fails to promulgate within the prescribed period—

"(A) regulations described in section 203(b) (relating to inspection);

"(B) regulations described in section 203 (c), (d), (e), (f), (g), and (i) (relating to responding to asbestos); or

"(C) regulations described in section 203(h) (relating to transportation and disposal);

each local educational agency shall carry out the requirements described in this section in subsection (b); subsections (c), (d), and (e); or subsection (f); respectively, in accordance with the Environmental Protection Agency's most current guidance document.

"(2) STAY BY COURT.— If the Administrator has promulgated regulations described in paragraph (1) (A), (B), or (C) within the prescribed period, but the effective date of such regulations has been stayed by a court for a period of more than 30 days, a local educational agency shall carry out the pertinent requirements described in this subsection in accordance with the Environmental Protection Agency's most current guidance document.

"(3) EFFECTIVE PERIOD.—The requirements of this section shall be in effect until such time as the Administrator promulgates the pertinent regulations or until the stay is lifted (as the case may be).

"(b) INSPECTION.—(1) Except as provided in paragraph (2), the local educational agency, within 540 days after the date of the enactment of this title, shall conduct an inspection for asbestos-containing material, using personnel accredited under section 206(b) or 206(c) and laboratories accredited under section 206(d), in each school building under its authority.

"(2) The local educational agency may exclude from the inspection requirement in paragraph (1) any school building, or portion of a school building, if (A) an inspection of such school building (or portion) was completed before the date on which this section goes into effect, and (B) the inspection meets the inspection requirements of this section.

Education. Safety.

"(c) OPERATION AND MAINTENANCE.—The local educational agency shall, within 720 days after the date of the enactment of this title, develop and begin implementation of an operation and maintenance plan with respect to friable asbestos-containing material in a school building under its authority. Such plan shall provide for the education of school service and maintenance personnel about safety procedures with respect to asbestos-containing material, including friable asbestos-containing material.

"(d) MANAGEMENT PLAN.—

"(1) IN GENERAL.—The local educational agency shall—

"(A) develop a management plan for responding to asbestos-containing material in each school building under its authority and submit such plan to the Governor under section 205 within 810 days after the date of the enactment of this title,

"(B) begin implementation of such plan within 990 days after the date of the enactment of this title, and

"(C) complete implementation of such plan in a timely fashion.

"(2) PLAN REQUIREMENTS.—The management plan shall—

"(A) include the elements listed in section 203(i)(1), including an inspection statement as described in paragraph (3) of this section,

Labeling.

"(B) provide for the attachment of warning labels as described in section 203(i)(3),

"(C) be prepared in accordance with the most current guidance document,

"(D) meet the standard described in paragraph (4) for actions described in that paragraph, and

"(E) be submitted to the State Governor under section 205.

"(3) INSPECTION STATEMENT.—The local educational agency shall complete an inspection statement, covering activities car-

ried out before the date of the enactment of this title, which meets the following requirements:

"(A) The statement shall include the following information:

"(i) The dates of inspection.

"(ii) The name, address, and qualifications of each inspector.

"(iii) A description of the specific areas inspected.

"(iv) A list of the laboratories that analyzed any bulk samples of asbestos-containing material or air samples of asbestos found in any school building and a statement describing the qualifications of each laboratory.

"(v) The results of the inspection.

"(B) The statement shall state whether any actions were taken with respect to any asbestos-containing material found to be present, including a specific reference to whether any actions were taken in the boiler room of the building. If any such action was taken, the following items of information shall be included in the statement:

"(i) The location or locations at which the action was taken.

"(ii) A description of the method of action.

"(iii) The qualifications of the persons who conducted the action.

"(4) STANDARD.—The ambient interior concentration of asbestos after the completion of actions described in the most current guidance document, other than the type of action described in sections 203(f) and subsection (c) of this section, shall not exceed the ambient exterior concentration, discounting any contribution from any local stationary source. Either a scanning electron microscope or a transmission electron microscope shall be used to determine the ambient interior concentration. In the absence of reliable measurements, the ambient exterior concentration shall be deemed to be—

"(A) less than 0.003 fibers per cubic centimeter if a scanning electron microscope is used, and

"(B) less than 0.005 fibers per cubic centimeter if a transmission electron microscope is used.

"(5) PUBLIC AVAILABILITY.—A copy of the management plan shall be available in the administrative offices of the local educational agency for inspection by the public, including teachers, other school personnel, and parents. The local educational agency shall notify parent, teacher, and employee organizations of the availability of such plan.

"(e) BUILDING OCCUPANT PROTECTION.—The local educational agency shall provide for the protection of building occupants during each phase of activity described in this section.

"(f) TRANSPORTATION AND DISPOSAL.—The local educational agency shall provide for the transportation and disposal of asbestos in accordance with the most recent version of the Environmental Protection Agency's 'Asbestos Waste Management Guidance' (or any successor to such document).

"SEC. 205. SUBMISSION TO STATE GOVERNOR. 15 USC 2645.

"(a) SUBMISSION.—Within 720 days after the date of the enactment of this title (or within 810 days if there are no regulations under section 203(i)), a local educational agency shall submit a manage-

ment plan developed pursuant to regulations promulgated under section 203(i) (or under section 204(d) if there are no regulations) to the Governor of the State in which the local educational agency is located.

"(b) GOVERNOR REQUIREMENTS.—Within 360 days after the date of the enactment of this title, the Governor of each State—

"(1) shall notify local educational agencies in the State of where to submit their management plans under this section, and

"(2) may establish administrative procedures for reviewing management plans submitted under this section.

If the Governor establishes procedures under paragraph (2), the Governor shall designate to carry out the reviews those State officials who are responsible for implementing environmental protection or other public health programs, or with authority over asbestos programs, in the State.

"(c) MANAGEMENT PLAN REVIEW.—

"(1) REVIEW OF PLAN.—The Governor may disapprove a management plan within 90 days after the date of receipt of the plan if the plan—

"(A) does not conform with the regulations under section 203(i) (or with section 204(d) if there are no regulations),

"(B) does not assure that contractors who are accredited pursuant to this title will be used to carry out the plan, or

"(C) does not contain a response action schedule which is reasonable and timely, taking into account circumstances relevant to the speed at which the friable asbestos-containing material in the school buildings under the local educational agency's authority should be responded to, including human exposure to the asbestos while the friable asbestos-containing material remains in the school building, and the ability of the local educational agency to continue to provide educational services to the community.

"(2) REVISION OF PLAN.—If the State Governor disapproves a plan, the State Governor shall explain in writing to the local educational agency the reasons why the plan was disapproved and the changes that need to be made in the plan. Within 30 days after the date on which notice is received of disapproval of its plan, the local educational agency shall revise the plan to conform with the State Governor's suggested changes. The Governor may extend the 30-day period for not more than 90 days.

15 USC 2646.

"SEC. 206. CONTRACTOR AND LABORATORY ACCREDITATION.

"(a) CONTRACTOR ACCREDITATION.—A person may not—

"(1) inspect for asbestos-containing material in a school building under the authority of a local educational agency,

"(2) prepare a management plan for such a school, or

"(3) design or conduct response actions, other than the type of action described in sections 203(f) and 204(c), with respect to friable asbestos-containing material in such a school,

unless such person is accredited by a State under subsection (b) or is accredited pursuant to an Administrator-approved course under subsection (c).

"(b) ACCREDITATION BY STATE.—

"(1) MODEL PLAN.—

"(A) PERSONS TO BE ACCREDITED.—Within 180 days after the date of the enactment of this title, the Administrator, in

consultation with affected organizations, shall develop a model contractor accreditation plan for States to give accreditation to persons in the following categories:

"(i) Persons who inspect for asbestos-containing material in school buildings under the authority of a local educational agency.

"(ii) Persons who prepare management plans for such schools.

"(iii) Persons who design or carry out response actions, other than the type of action described in sections 203(f) and 204(c), with respect to friable asbestos-containing material in such schools.

"(B) PLAN REQUIREMENTS.—The plan shall include a requirement that any person in a category listed in paragraph (1) achieve a passing grade on an examination and participate in continuing education to stay informed about current asbestos inspection and response action technology. The examination shall demonstrate the knowledge of the person in areas that the Administrator prescribes as necessary and appropriate in each of the categories. Such examinations may include requirements for knowledge in the following areas: Education.

"(i) Recognition of asbestos-containing material and its physical characteristics.

"(ii) Health hazards of asbestos and the relationship between asbestos exposure and disease.

"(iii) Assessing the risk of asbestos exposure through a knowledge of percentage weight of asbestos-containing material, friability, age, deterioration, location and accessibility of materials, and advantages and disadvantages of dry and wet response action methods.

"(iv) Respirators and their use, care, selection, degree of protection afforded, fitting, testing, and maintenance and cleaning procedures.

"(v) Appropriate work practices and control methods, including the use of high efficiency particle absolute vacuums, the use of amended water, and principles of negative air pressure equipment use and procedures.

"(vi) Preparing a work area for response action work, including isolating work areas to prevent bystander or public exposure to asbestos, decontamination procedures, and procedures for dismantling work areas after completion of work.

"(vii) Establishing emergency procedures to respond to sudden releases.

"(viii) Air monitoring requirements and procedures.

"(ix) Medical surveillance program requirements.

"(x) Proper asbestos waste transportation and disposal procedures.

"(xi) Housekeeping and personal hygiene practices, including the necessity of showers, and procedures to prevent asbestos exposure to an employee's family.

"(2) STATE ADOPTION OF PLAN.—Each State shall adopt a contractor accreditation plan at least as stringent as the model plan developed by the Administrator under paragraph (1), within 180 days after the commencement of the first regular session of the legislature of such State which is convened follow-

ing the date on which the Administrator completes development of the model plan. In the case of a school operated under the defense dependents' education system provided for under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.), the Secretary of Defense shall adopt a contractor accreditation plan at least as stringent as that model.

"(c) ACCREDITATION BY ADMINISTRATOR-APPROVED COURSE.—

"(1) COURSE APPROVAL.—Within 180 days after the date of the enactment of this title, the Administrator shall ensure that any Environmental Protection Agency-approved asbestos training course is consistent with the model plan (including testing requirements) developed under subsection (b). A contractor may be accredited by taking and passing such a course.

"(2) TREATMENT OF PERSONS WITH PREVIOUS EPA ASBESTOS TRAINING.—A person who—

"(A) completed an Environmental Protection Agency-approved asbestos training course before the date of the enactment of this title, and

"(B) passed (or passes) an asbestos test either before or after the date of the enactment of this title,

may be accredited under paragraph (1) if the Administrator determines that the course and test are equivalent to the requirements of the model plan developed under subsection (b). If the Administrator so determines, the person shall be considered accredited for the purposes of this title until a date that is one year after the date on which the State in which such person is employed establishes an accreditation program pursuant to subsection (b).

"(3) LISTS OF COURSES.—The Administrator, in consultation with affected organizations, shall publish (and revise as necessary)—

"(A) a list of asbestos courses and tests in effect before the date of the enactment of this title which qualify for equivalency treatment under paragraph (2), and

"(B) a list of asbestos courses and tests which the Administrator determines under paragraph (1) are consistent with the model plan and which will qualify a contractor for accreditation under such paragraph.

"(d) LABORATORY ACCREDITATION.—(1) The Administrator shall provide for the development of an accreditation program for laboratories by the National Bureau of Standards in accordance with paragraph (2). The Administrator shall transfer such funds as are necessary to the National Bureau of Standards to carry out such program.

"(2) The National Bureau of Standards, upon request by the Administrator, shall, in consultation with affected organizations—

"(A) within 360 days after the date of the enactment of this title, develop an accreditation program for laboratories which conduct qualitative and semi-quantitative analyses of bulk samples of asbestos-containing material, and

"(B) within 720 days after the date of the enactment of this title, develop an accreditation program for laboratories which conduct analyses of air samples of asbestos from school buildings under the authority of a local educational agency.

"(3) A laboratory which plans to carry out any such analysis shall comply with the requirements of the accreditation program.

"(e) FINANCIAL ASSISTANCE CONTINGENT ON USE OF ACCREDITED PERSONS.—(1) A school which is an applicant for financial assistance under section 505 of the Asbestos School Hazard Abatement Act of 1984 (Public Law 98-377; 20 U.S.C. 4011 et seq.) is not eligible for such assistance unless the school, in carrying out the requirements of this title— 20 USC 4014.

"(A) uses a person (or persons)—

"(i) who is accredited by a State which has adopted an accreditation plan based on the model plan developed under subsection (b), or

"(ii) who is accredited pursuant to an Administrator-approved course under subsection (c), and

"(B) uses a laboratory (or laboratories) which is accredited under the program developed under subsection (d).

"(2) This subsection shall apply to any financial assistance provided under the Asbestos School Hazard Abatement Act of 1984 for activities performed after the following dates:

"(A) In the case of activities performed by persons, after the date which is one year after the date of the enactment of this title.

"(B) In the case of activities performed by laboratories, after the date which is 180 days after the date on which a laboratory accreditation program is completed under subsection (d).

"SEC. 207. ENFORCEMENT. 15 USC 2647.

"(a) PENALTIES.—Any local educational agency—

"(1) which fails to conduct an inspection pursuant to regulations under section 203(b) or under section 204(b),

"(2) which knowingly submits false information to the Governor regarding any inspection pursuant to regulations under section 203(i) or knowingly includes false information in any inspection statement under section 204(d)(3), or

"(3) which fails to develop a management plan pursuant to regulations under section 203(i) or under section 204(d),

is liable for a civil penalty of not more than $5,000 for each day during which the violation continues. Any civil penalty under this subsection shall be assessed and collected in the same manner, and subject to the same provisions, as in the case of civil penalties assessed and collected under section 16. For purposes of this subsection, a 'violation' means a failure to comply with respect to a single school building. The court shall order that any civil penalty collected under this subsection be used by the local educational agency for purposes of complying with this title. Any portion of a civil penalty remaining unspent after compliance by a local educational agency is completed shall be deposited into the Asbestos Trust Fund established by section 5 of the Asbestos Hazard Emergency Response Act of 1986. 15 USC 2615. *Post*, p. 2990.

"(b) RELATIONSHIP TO TITLE I.—A local educational agency is not liable for any civil penalty under title I of this Act for failing or refusing to comply with any rule promulgated or order issued under this title. *Post*, p. 2989.

"(c) ENFORCEMENT CONSIDERATIONS.—

"(1) In determining the amount of a civil penalty to be assessed under subsection (a) against a local educational agency, the Administrator shall consider—

"(A) the significance of the violation;

"(B) the culpability of the violator, including any history of previous violations under this Act;

"(C) the ability of the violator to pay the penalty; and

"(D) the ability of the violator to continue to provide educational services to the community.

"(2) Any action ordered by a court in fashioning relief under section 20 shall be consistent with regulations promulgated under section 203 (or with the requirements of section 204 if there are no regulations).

Post, p. 2989.

"(d) CITIZEN COMPLAINTS.—Any person may file a complaint with the Administrator or with the Governor of the State in which the school building is located with respect to asbestos-containing material in a school building. If the Administrator or Governor receives a complaint under this subsection containing allegations which provide a reasonable basis to believe that a violation of this Act has occurred, the Administrator or Governor shall investigate and respond (including taking enforcement action where appropriate) to the complaint within a reasonable period of time.

"(e) CITIZEN PETITIONS.—(1) Any person may petition the Administrator to initiate a proceeding for the issuance, amendment, or repeal of a regulation or order under this title.

"(2) Such petition shall be filed in the principal office of the Administrator and shall set forth the facts which it is claimed establish that it is necessary to issue, amend, or repeal a regulation or order under this title.

"(3) The Administrator may hold a public hearing or may conduct such investigation or proceeding as the Administrator deems appropriate in order to determine whether or not such petition should be granted.

Federal Register, publication.

"(4) Within 90 days after filing of a petition described in paragraph (1), the Administrator shall either grant or deny the petition. If the Administrator grants such petition, the Administrator shall promptly commence an appropriate proceeding in accordance with this title. If the Administrator denies such petition, the Administrator shall publish in the Federal Register the Administrator's reasons for such denial. The granting or denial of a petition under this subsection shall not affect any deadline or other requirement of this title.

Courts, U.S. District of Columbia.

"(f) CITIZEN CIVIL ACTIONS WITH RESPECT TO EPA REGULATIONS.—(1) Any person may commence a civil action without prior notice against the Administrator to compel the Administrator to meet the deadlines in section 203 for issuing advanced notices of proposed rulemaking, proposing regulations, and promulgating regulations. Any such action shall be brought in the district court of the United States for the District of Columbia.

"(2) In any action brought under paragraph (1) in which the court finds the Administrator to be in violation of any deadline in section 203, the court shall set forth a schedule for promulgating the regulations required by section 203 and shall order the Administrator to comply with such schedule. The court may extend any deadline (which has not already occurred) in section 204(b), 204(c), or 204(d) for a period of not more than 6 months, if the court-ordered schedule will result in final promulgation of the pertinent regulations within the extended period. Such deadline extensions may not be granted by the court beginning 720 days after the date of enactment of this title.

"(3) Section 20 of this Act shall apply to civil actions described in this subsection, except to the extent inconsistent with this subsection.

Post, p. 2989.

Health and medical care. 5 USC 2648.

"SEC. 208. EMERGENCY AUTHORITY.

"(a) EMERGENCY ACTION.—

"(1) AUTHORITY.—Whenever—

"(A) the presence of airborne asbestos or the condition of friable asbestos-containing material in a school building governed by a local educational agency poses an imminent and substantial endangerment to human health or the environment, and

"(B) the local educational agency is not taking sufficient action (as determined by the Administrator or the Governor) to respond to the airborne asbestos or friable asbestos-containing material,

the Administrator or the Governor of a State is authorized to act to protect human health or the environment.

"(2) LIMITATIONS ON GOVERNOR ACTION.—The Governor of a State shall notify the Administrator within a reasonable period of time before the Governor plans to take an emergency action under this subsection. After such notification, if the Administrator takes an emergency action with respect to the same hazard, the Governor may not carry out (or continue to carry out, if the action has been started) the emergency action.

"(3) NOTIFICATION.—The following notification shall be provided before an emergency action is taken under this subsection:

"(A) In the case of a Governor taking the action, the Governor shall notify the local educational agency concerned.

"(B) In the case of the Administrator taking the action, the Administrator shall notify both the local educational agency concerned and the Governor of the State in which such agency is located.

"(4) COST RECOVERY.—The Administrator or the Governor of a State may seek reimbursement for all costs of an emergency action taken under this subsection in the United States District Court for the District of Columbia or for the district in which the emergency action occurred. In any action seeking reimbursement from a local educational agency, the action shall be brought in the United States District Court for the district in which the local educational agency is located.

Courts, U.S. District of Columbia.

"(b) INJUNCTIVE RELIEF.—Upon receipt of evidence that the presence of airborne asbestos or the condition of friable asbestos-containing material in a school building governed by a local educational agency poses an imminent and substantial endangerment to human health or the environment—

"(1) the Administrator may request the Attorney General to bring suit, or

"(2) the Governor of a State may bring suit,

to secure such relief as may be necessary to respond to the hazard. The district court of the United States in the district in which the response will be carried out shall have jurisdiction to grant such relief, including injunctive relief.

Courts, U.S.

15 USC 2649.

"SEC. 209. STATE AND FEDERAL LAW.

"(a) NO PREEMPTION.—Nothing in this title shall be construed, interpreted, or applied to preempt, displace, or supplant any other State or Federal law, whether statutory or common.

"(b) COST AND DAMAGE AWARDS.—Nothing in this title or any standard, regulation, or requirement promulgated pursuant to this title shall be construed or interpreted to preclude any court from awarding costs and damages associated with the abatement, including the removal, of asbestos-containing material, or a portion of such costs, at any time prior to the actual date on which such material is removed.

"(c) STATE MAY ESTABLISH MORE REQUIREMENTS.—Nothing in this title shall be construed or interpreted as preempting a State from establishing any additional liability or more stringent requirements with respect to asbestos in school buildings within such State.

"(d) NO FEDERAL CAUSE OF ACTION.—Nothing in this title creates a cause of action or in any other way increases or diminishes the liability of any person under any other law.

"(e) INTENT OF CONGRESS.—It is not the intent of Congress that this title or rules, regulations, or orders issued pursuant to this title be interpreted as influencing, in either the plaintiff's or defendant's favor, the disposition of any civil action for damages relating to asbestos. This subsection does not affect the authority of any court to make a determination in an adjudicatory proceeding under applicable State law with respect to the admission into evidence or any other use of this title or rules, regulations, or orders issued pursuant to this title.

Courts, U.S.

15 USC 2650.

"SEC. 210. ASBESTOS CONTRACTORS AND LOCAL EDUCATIONAL AGENCIES.

"(a) STUDY.—

Insurance.

"(1) GENERAL REQUIREMENT.—The Administrator shall conduct a study on the availability of liability insurance and other forms of assurance against financial loss which are available to local educational agencies and asbestos contractors with respect to actions required under this title. Such study shall examine the following:

"(A) The extent to which liability insurance and other forms of assurance against financial loss are available to local educational agencies and asbestos contractors.

"(B) The extent to which the cost of insurance or other forms of assurance against financial loss has increased and the extent to which coverage has become less complete.

"(C) The extent to which any limitation in the availability of insurance or other forms of assurance against financial loss is the result of factors other than standards of liability in applicable law.

"(D) The extent to which the existence of the regulations required by subsections (c) and (d) of section 203 and the accreditation of contractors under section 206 has affected the availability or cost of insurance or other forms of assurance against financial loss.

"(E) The extent to which any limitation on the availability of insurance or other forms of assurance against financial loss is inhibiting inspections for asbestos-containing material or the development or implementation of management plans under this title.

"(F) Identification of any other impediments to the timely completion of inspections or the development and implementation of management plans under this title.

"(2) INTERIM REPORT.—Not later than April 1, 1988, the Administrator shall submit to the Congress an interim report on the progress of the study required by this subsection, along with preliminary findings based on information collected to that date.

"(3) FINAL REPORT.—Not later than October 1, 1990, the Administrator shall submit to the Congress a final report on the study required by this subsection, including final findings based on the information collected.

"(b) STATE ACTION.—On the basis of the interim report or the final report of the study required by subsection (a), a State may enact or amend State law to establish or modify a standard of liability for local educational agencies or asbestos contractors with respect to actions required under this title.

"SEC. 211. PUBLIC PROTECTION.

Discrimination, prohibition.
15 USC 2651.

"(a) PUBLIC PROTECTION.—No State or local educational agency may discriminate against a person in any way, including firing a person who is an employee, because the person provided information relating to a potential violation of this title to any other person, including a State or the Federal Government.

"(b) LABOR DEPARTMENT REVIEW.—Any public or private employee or representative of employees who believes he or she has been fired or otherwise discriminated against in violation of subsection (a) may within 90 days after the alleged violation occurs apply to the Secretary of Labor for a review of the firing or alleged discrimination. The review shall be conducted in accordance with section 11(c) of the Occupational Safety and Health Act.

29 USC 660.

"SEC. 212. ASBESTOS OMBUDSMAN.

15 USC 2652.

"(a) APPOINTMENT.—The Administrator shall appoint an Asbestos Ombudsman, who shall carry out the duties described in subsection (b).

"(b) DUTIES.—The duties of the Asbestos Ombudsman are—

"(1) to receive complaints, grievances, and requests for information submitted by any person with respect to any aspect of this title,

"(2) to render assistance with respect to the complaints, grievances, and requests received, and

"(3) to make such recommendations to the Administrator as the Ombudsman considers appropriate.

"SEC. 213. EPA STUDY OF ASBESTOS-CONTAINING MATERIAL IN PUBLIC BUILDINGS.

15 USC 2653.

"Within 360 days after the date of the enactment of this title, the Administrator shall conduct and submit to the Congress the results of a study which shall—

"(1) assess the extent to which asbestos-containing materials are present in public and commercial buildings;

"(2) assess the condition of asbestos-containing material in commercial buildings and the likelihood that persons occupying such buildings, including service and maintenance personnel, are, or may be, exposed to asbestos fibers;

"(3) consider and report on whether public and commercial buildings should be subject to the same inspection and response action requirements that apply to school buildings;

"(4) assess whether existing Federal regulations adequately protect the general public, particularly abatement personnel, from exposure to asbestos during renovation and demolition of such buildings; and

"(5) include recommendations that explicitly address whether there is a need to establish standards for, and regulate asbestos exposure in, public and commercial buildings.

15 USC 2654.

"SEC. 214. TRANSITION RULES.

Post, p. 2989.

"Any regulation of the Environmental Protection Agency under title I which is inconsistent with this title shall not be in effect after the date of the enactment of this title. Any advanced notice of proposed rulemaking, any proposed rule, and any regulation of the Environmental Protection Agency in effect before the date of the enactment of this title which is consistent with the regulations required under section 203 shall remain in effect and may be used to meet the requirements of section 203, except that any such regulation shall be enforced under this Act.".

20 USC 4014.

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENT TO ASBESTOS SCHOOL HAZARD ABATEMENT ACT.—Section 505(g) of the Asbestos School Hazard Abatement Act of 1984 (Public Law 98-377; 20 U.S.C. 4011 et seq.) is amended by adding at the end the following new paragraph:

"(4)(A) No financial assistance may be provided under this section to any school—

Ante, p. 2980.

"(i) which uses any person who has not been accredited pursuant to section 206(b) or 206(c) of the Toxic Substances Control Act, to carry out activities described in section 206(a) of that Act, or

"(ii) which uses any laboratory which has not been accredited pursuant to section 206(d) of the Toxic Substances Control Act, to carry out activities described in such section.

"(B) This paragraph shall apply to any financial assistance provided under this section after the date of the enactment of the Asbestos Hazard Emergency Response Act of 1986, for activities performed after the following dates:

"(i) In the case of activities performed by persons, after the date which is one year after the date of the enactment of this title.

"(ii) In the case of activities performed by laboratories, after the date which is 180 days after the date on which a laboratory accreditation program is completed under subsection (d).".

(b) CONFORMING AMENDMENTS TO TOXIC SUBSTANCES CONTROL ACT.—

(1) Section 15 of the Toxic Substances Control Act (15 U.S.C 2614) is amended in paragraph (1)—

(A) by striking out "or" before "(C)",

(B) by striking out the semicolon and inserting in lieu thereof a comma, and

Ante, p. 2970.

(C) by adding at the end of such paragraph the following: "or (D) any requirement of title II or any rule promulgated or order issued under title II;".

(2) Section 19 of such Act (15 U.S.C. 2618) is amended in subsection (a)(1)(A) by inserting after "or 8," the following: "or under title II,".

(3) Section 20 of such Act (15 U.S.C. 2619) is amended in subsection (a)(1) by striking out "4, 5, or 6 or order issued under section 5" and inserting in lieu thereof the following: "4, 5, or 6, or title II, or order issued under section 5 or title II"

(c) TECHNICAL AMENDMENTS.—The Toxic Substances Control Act (15 U.S.C. 2601 et seq.) is amended—

(1) by inserting immediately before section 1 the following:

"TITLE I—CONTROL OF TOXIC SUBSTANCES";

(2) by inserting in the table of contents in section 1, immediately before the item relating to section 1, the following:

"TITLE I—CONTROL OF TOXIC SUBSTANCES";

and

(3) by adding at the end of the table of contents in section 1 the following:

"TITLE II—ASBESTOS HAZARD EMERGENCY RESPONSE

"Sec. 201. Congressional findings and purpose.
"Sec. 202. Definitions.
"Sec. 203. EPA Regulations.
"Sec. 204. Requirements if EPA fails to promulgate regulations.
"Sec. 205. Submission to State Governor.
"Sec. 206. Contractor and laboratory accreditation.
"Sec. 207. Enforcement.
"Sec. 208. Emergency authority.
"Sec. 209. State and Federal law.
"Sec. 210. Asbestos contractors and local educational agencies.
"Sec. 211. Public protection.
"Sec. 212. Asbestos ombudsman.
"Sec. 213. EPA study of asbestos-containing material in public buildings.
"Sec. 214. Transition rules.".

SEC. 4. AUTHORIZATION. 20 USC 4021.

(a) Section 512 of the Asbestos School Hazard Abatement Act of 1984 (Public Law 98-377; 20 U.S.C. 4011 et seq.) is amended by adding at the end the following: "In addition, for such purposes there are authorized to be appropriated out of the Asbestos Trust Fund established by section 5 of the Asbestos Hazard Emergency Response Act of 1986 $25,000,000 for each of fiscal years 1987, 1988, 1989, and 1990.".

Grants. 20 USC 4014. 20 USC 4014 note.

(b)(1) Notwithstanding section 505(c) of the Asbestos School Hazard Abatement Act of 1984, for fiscal years 1988 and 1989 the Administrator shall provide financial assistance under section 505 of such Act in the form of grants to States or local educational agencies to carry out inspections for asbestos-containing material in school buildings and preparation of management plans for school buildings under this title.

(2) Not more than 2 percent of any grant awarded to a State pursuant to paragraph (1) may be used by the State for administrative purposes. For purposes of the preceding sentence, administrative purposes do not include salaries of persons who inspect for asbestos-containing material or assist in the preparation of management plans.

Wages.

(3) In determining which local educational agencies to approve grants for, the Administrator shall take into account the financial need of the agency. Of the amount available under the Asbestos School Hazard Abatement Act of 1984 for fiscal years 1988 and 1989, not more than 10 percent may be obligated for the purposes described in this subsection.

20 USC 4011.

20 USC 4022.

SEC. 5. ASBESTOS TRUST FUND.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Asbestos Trust Fund", consisting of such amounts as may be transferred or credited to such Trust Fund as provided in this section.

(b) TRANSFERS TO TRUST FUND.—

(1) TRANSFER.—There are hereby transferred to the Asbestos Trust Fund amounts equivalent to—

(A) amounts received in the Treasury on or after January 1, 1987, as repayments of loans made under section 505 of the Asbestos School Hazard Abatement Act of 1984 (Public Law 98-377; 20 U.S.C. 4011 et seq.) as in effect on the date of the enactment of this Act, and

20 USC 4014.

(B) amounts received as deposits from local educational agencies under section 207(a) of the Toxic Substances Control Act (as added by section 2 of this Act).

(2) MONTHLY TRANSFERS.—The amounts transferred by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Asbestos Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in such paragraph. Adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were more or less than the amounts required to be transferred.

(c) MANAGEMENT OF TRUST FUND.—

(1) INVESTMENT.—

(A) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Asbestos Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States and may be acquired—

(i) on original issue at the issue price, or

(ii) by purchase of outstanding obligations at the market price.

(B) SALE OF OBLIGATIONS.—Any obligation acquired by the Asbestos Trust Fund may be sold by the Secretary of the Treasury at the market price.

(C) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Asbestos Trust Fund shall be credited to and form a part of the Trust Fund.

(2) REPORT.—It shall be the duty of the Secretary of the Treasury to hold the Asbestos Trust Fund and to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next 5 fiscal years.

(d) EXPENDITURES FROM ASBESTOS TRUST FUND.—Amounts in the Asbestos Trust Fund shall be available, as provided by appropriation Acts, only for purposes of carrying out the Asbestos Hazards Abatement Assistance Program under section 505 of the Asbestos School

Hazard Abatement Act of 1984 as in effect on the date of the enactment of this Act. 20 USC 4014.

(e) AUTHORITY TO BORROW.—

(1) IN GENERAL.—There are authorized to be appropriated to the Asbestos Trust Fund, as repayable advances, $25,000,000 for each of fiscal years 1987, 1988, 1989, and 1990. Appropriation authorization.

(2) REPAYMENT OF ADVANCES.—

(A) IN GENERAL.—Advances made under this subsection shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Asbestos Trust Fund.

(B) RATE OF INTEREST.—Interest on advances made under this subsection shall be at a rate determined by the Secretary (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding and shall be compounded annually.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1986.

Approved October 22, 1986.

LEGISLATIVE HISTORY—H.R. 5073 (S. 2083):

HOUSE REPORTS: No. 99-763 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 99-427 accompanying S. 2083 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 12, considered and passed House.
Sept. 10, considered and passed Senate, amended.
Oct. 1, House concurred in Senate amendment with an amendment.
Oct. 3, Senate concurred in House amendment.

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Public Law 99-520
99th Congress

Joint Resolution

Oct. 22, 1986
[H.J. Res. 438]

To designate October 31, 1986, as "National Child Identification and Safety Information Day".

Whereas the American people are becoming increasingly aware of the high incidence of abduction and exploitation of the children of the United States;

Whereas it is estimated that more than 50,000 children will be kidnapped during 1985;

Whereas many organizations have dedicated themselves to teaching safety measures to children;

Whereas, to further protect the children of the United States, parents should maintain fingerprint and other identification records that will aid in locating missing children;

Whereas the evening of October 31, which is known as Halloween, is a night when children are especially vulnerable to abduction or attack;

Whereas there is a need on Halloween for parents to take extra precautions to ensure the safety of their children; and

Whereas October 31, 1986, is an appropriate day on which to commemorate the need for educating the public regarding child identification techniques and other child safety measures: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 31, 1986, is designated as "National Child Identification and Safety Information Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved October 22, 1986.

LEGISLATIVE HISTORY—H.J. Res. 438 (S.J. Res. 424):

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 1, considered and passed House.
Oct. 8, considered and passed Senate.

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Public Law 99-521
99th Congress

An Act

To amend title 49, United States Code, to reduce regulation of surface freight forwarders, and for other purposes.

Oct. 22, 1986
[S. 1124]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Surface Freight Forwarder Deregulation Act of 1986.
Transportation.
Commerce and trade.
49 USC 10101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Surface Freight Forwarder Deregulation Act of 1986".

SEC. 2. PURPOSE.

49 USC 10101 note.

This Act is part of the continuing effort by Congress to reduce burdensome and unnecessary government regulations and to ensure the competitiveness and efficacy of transportation services of surface freight forwarders in the United States.

SEC. 3. FINDINGS.

49 USC 10101 note.

The Congress finds that—

(1) a safe, sound, and competitive surface freight forwarder industry is important to the national transportation system;

(2) the statutes governing Federal regulation of the freight forwarder industry are outdated and must be revised to reflect present and future transportation needs and realities;

(3) protective regulation has resulted in anticompetitive pricing and has restricted the range of price and service options available to shippers;

(4) in order to reduce the uncertainty experienced by the Nation's transportation industries, the Interstate Commerce Commission's remaining responsibilities for the regulation of surface freight forwarders should be eliminated in accordance with this Act; and

(5) legislative and resulting changes should be implemented with the least amount of disruption consistent with achieving the reforms enacted.

SEC. 4. DEFINITIONS.

Section 10102 of title 49, United States Code, is amended as follows:

(1) COMMON CARRIER.—In paragraph (4), insert "household goods" before "freight forwarder".

(2) FREIGHT FORWARDER.—In paragraph (9), after and below subparagraph (C), insert the following new sentence:

"Such term does not include a person using transportation of an air carrier subject to the Federal Aviation Act of 1958.".

49 USC app. 1301 note.

(3) HOUSEHOLD GOODS FREIGHT FORWARDER.—Redesignate paragraphs (12) through (30), and any references thereto, as paragraphs (13) through (31), respectively, and insert after paragraph (11) the following new paragraph:

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"(12) 'household goods freight forwarder' means a freight forwarder of one or more of the following items: household goods, unaccompanied baggage, or used automobiles.".

SEC. 5. INTERSTATE COMMERCE COMMISSION ADMINISTRATION.

(a) NOTICE OF REMOVAL OF OPERATING RESTRICTIONS.—Section 10328(b)(2) of title 49, United States Code, is amended by inserting "household goods" before "freight forwarder".

(b) SERVICE OF NOTICE IN COMMISSION PROCEEDINGS.—Section 10329 of title 49, United States Code, is amended—

(1) in subsection (a)(2) by inserting "household goods" before "freight forwarder";

(2) in subsection (c)(3) by inserting "household goods" before "freight forwarder" each place it appears; and

(3) in subsection (d) by inserting "household goods" before "freight forwarder".

SEC. 6. JURISDICTION.

(a) LIMITATION ON JURISDICTION OVER PROCUREMENT OF MOTOR VEHICLE TRANSPORTATION.—Section 10521(a) of title 49, United States Code, is amended by inserting after "transportation" the second place it appears ", except by a freight forwarder (other than a household goods freight forwarder),".

(b) EXEMPT MOTOR VEHICLE TRANSPORTATION.—Section 10523 of title 49, United States Code, is amended—

(1) in subsection (a)(1)(B)(iii) by inserting "household goods" before "freight forwarder";

(2) in subsection (a)(1)(C) by inserting "household goods" before "freight forwarder";

(3) in subsection (a)(2) by inserting "household goods" before "freight forwarder";

(4) in subsection (b)(1)(B)(iv) by inserting "household goods" before "freight forwarder"; and

(5) in subsection (b)(2) by inserting "household goods" before "freight forwarder" each place it appears.

(c) LIMITATION ON GENERAL JURISDICTION OVER FREIGHT FORWARDERS.—Section 10561 of title 49, United States Code, is amended by inserting "household goods" before "freight forwarder" each place it appears.

(d) EXEMPT FREIGHT FORWARDER SERVICE.—(1) Section 10562 of title 49, United States Code, is repealed.

(2) The section analysis of chapter 105 of title 49, United States Code, is amended by striking

"10562. Exempt freight forwarder service."

and inserting in lieu thereof

"10562. Repealed.".

SEC. 7. RATES, TARIFFS, AND VALUATIONS.

(a) AUTHORITY TO ENTER INTO CONTRACTS WITH CERTAIN CARRIERS.—Section 10703(a)(4)(E) of title 49, United States Code, is amended by inserting "household goods" before "freight forwarder".

(b) AUTHORITY OF COMMISSION.—Section 10704 of title 49, United States Code, is amended—

(1) in subsection (b)(1)(C) by inserting "household goods" before "freight forwarder";

(2) in subsection (b)(3) by inserting "household goods" before "freight forwarder"; and

(3) in subsection (b)(4) by inserting "household goods" before "freight forwarder" and "freight forwarding, respectively".

(c) RATE AGREEMENTS; ANTI-TRUST LAWS.—Section 10706 of title 49, United States Code, is amended—

(1) in subsection (a)(2)(A) by striking "(c)(1)(B)-(E)" and inserting in lieu thereof "(d)(1)(B)-(E)"; and

(2) in subsection (d)(1)(E) by striking "Freight" and inserting in lieu thereof "Household goods freight".

(d) INVESTIGATION AND SUSPENSION OF RATES.—Section 10708 of title 49, United States Code, is amended—

(1) in subsection (d)(1) by inserting "household goods" before "freight forwarder"; and

(2) in subsection (d)(2) by inserting "household goods" before "freight forwarders" each place it appears.

(e) SPECIAL PASSENGER RATES.—Section 10722(d)(2) of title 49, United States Code, is amended by inserting "household goods" before "freight forwarder".

(f) SPECIAL RATES.—Section 10725 of title 49, United States Code, is amended—

(1) in subsection (b) by inserting "household goods" before "freight forwarders"; and

(2) in subsection (c) by inserting "household goods" before "freight forwarder".

(g) RATES AND LIABILITY BASED ON VALUE.—Section 10730 of title 49, United States Code, is amended—

(1) in the last sentence of subsection (a) by inserting "by a household goods freight forwarder" after "Commission" the first place it appears; and

(2) in subsection (b)—

(A) by inserting "or a freight forwarder" after "title" the first place it appears,

(B) by inserting ", with respect to a motor carrier," after "including", and

(C) by inserting "or freight forwarder" after "carrier" the last 5 places it appears.

(h) PROHIBITION AGAINST DISCRIMINATION.—Section 10741(c) of title 49, United States Code, is amended by inserting "household goods" before "freight forwarder" each place it appears.

(i) PAYMENT OF RATES.—Section 10743(b)(2) of title 49, United States Code, is amended by inserting "household goods" before "freight forwarder".

(j) LIMITATION ON USE OF COMMON CARRIERS.—(1) Section 10749(b) of title 49, United States Code, is amended by inserting "household goods" before "freight forwarder" each place it appears.

(2) The heading of section 10749 of title 49, United States Code, is amended by inserting "**household goods**" before "**freight forwarders**".

(3) The item relating to section 10749 in the section analysis of chapter 107 of title 49, United States Code, is amended by inserting "household goods" before "freight forwarders".

(k) GENERAL TARIFF REQUIREMENTS.—Section 10762(a)(2) of title 49, United States Code, is amended by inserting "household goods" before "freight forwarder".

(l) TRAFFIC AGREEMENTS.—

(1) HOUSEHOLD GOODS FREIGHT FORWARDERS.—Section 10766 of title 49, United States Code, is amended by inserting "household goods" before "freight forwarder" each place it appears.

(2) CONTINUING AUTHORITY OF DEREGULATED FREIGHT FORWARDERS TO CONTRACT.—Section 10766 of title 49, United States Code, is further amended by redesignating subsection (c), and any reference thereto, as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) AUTHORITY OF FREIGHT FORWARDERS TO ENTER INTO CONTRACTS.—A freight forwarder (other than a household goods freight forwarder) providing service which, on the day before the date of the enactment of the Surface Freight Forwarder Deregulation Act of 1986, would have been service subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title may contract with—

49 USC 10561.

"(1) a rail carrier,

"(2) a water common carrier providing transportation subject to the Shipping Act, 1916 (46 U.S.C. App. 801-842) or the Intercoastal Shipping Act, 1933 (46 U.S.C. App. 843-848),

"(3) a motor common carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of such chapter,

49 USC 10521.

"(4) a motor contract carrier of property providing transportation subject to the jurisdiction of the Commission under such subchapter II, and

"(5) a shipper.".

SEC. 8. LICENSING.

(a) PERMITS.—(1) Section 10923 of title 49, United States Code, is amended by inserting "households goods" before "freight forwarder" each place it appears.

(2) The heading of section 10923 of title 49, United States Code, is amended by inserting "**household goods**" before "**freight forwarders**".

(3) The item relating to section 10923 in the section analysis of chapter 109 of title 49, United States Code, is amended by inserting "household goods" before "freight forwarders".

(b) EFFECTIVE PERIOD OF PERMITS.—Section 10925 of title 49, United States Code, is amended by inserting "household goods" before "freight forwarder" each place it appears.

(c) TRANSFERS OF PERMITS.—Section 10926 of title 49, United States Code, is amended by inserting "household goods" before "freight forwarder" each place it appears.

(d) SECURITY.—(1) Section 10927(c)(1) of title 49, United States Code, is amended by inserting "household goods" before "freight forwarder" each place it appears.

(2) Section 10927(c)(2) of title 49, United States Code, is amended—

(A) by inserting "household goods" before "freight forwarder" the first place it appears,

(B) by inserting "or a freight forwarder" after "permit", and

(C) by striking "under this subtitle".

(e) LIMITATIONS ON PERMITS.—Section 10930(b) of title 49, United States Code, is amended by inserting "household goods" before "freight forwarder" each place it appears.

(f) AUTHORIZING ABANDONMENT OF SERVICE.—(1) Section 10933 of title 49, United States Code, is amended by inserting "household goods" before "freight forwarder" each place it appears.

(2) The heading of section 10933 of title 49, United States Code, is amended by inserting "**household goods**" before "**freight forwarder**".

(3) The item relating to section 10933 in the section analysis of chapter 109 of title 49, United States Code, is amended by inserting "household goods" before "freight forwarder".

SEC. 9. OPERATIONS OF CARRIERS.

(a) PROVIDING TRANSPORTATION AND SERVICE.—Section 11101(b) of title 49, United States Code, is amended by inserting "household goods" before "freight forwarders".

(b) SERVICE.—(1) Section 11127 of title 49, United States Code, is amended by inserting "household goods" before "freight forwarder" and "freight forwarders" each place they appear.

(2) The heading of section 11127 of title 49, United States Code, is amended by inserting "**household goods**" before "**freight forwarders**".

(3) The item relating to section 11127 in the section analysis of chapter 111 of title 49, United States Code, is amended by inserting "household goods" before "freight forwarders".

(c) REPORTS AND RECORDS.—Section 11141(1) of title 49, United States Code, is amended by inserting "household goods" before "freight forwarder".

SEC. 10. FINANCE.

(a) LIMITATION ON OWNERSHIP OF OTHER CARRIERS.—Section 11323 of title 49, United States Code, is amended by inserting "household goods" before "freight forwarder" each place it appears.

(b) CONFORMING AMENDMENTS.—(1) The heading of section 11323 of title 49, United States Code, is amended by inserting "**household goods**" before "**freight forwarders**".

(2) The item relating to section 11323 in the section analysis of chapter 113 of title 49, United States Code, is amended by inserting "household goods" before "freight forwarders".

SEC. 11. FEDERAL-STATE RELATIONS.

(a) ICC AUTHORITY OVER INTERSTATE TRANSPORTATION.—Section 11501 of title 49, United States Code, is amended—

(1) in subsection (a) by striking "carrier" and inserting in lieu thereof "household goods freight forwarder"; and

(2) by adding at the end thereof the following new subsection:

"(g) PREEMPTION OF STATE REGULATION OF FREIGHT FORWARDERS.—

"(1) GENERAL RULE.—Subject to paragraph (2) of this subsection, no State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to interstate rates, interstate routes, or interstate services of any freight forwarder.

"(2) CONTINUATION OF HAWAII'S AUTHORITY.—Nothing in this subsection and the amendments made by the Surface Freight Forwarder Deregulation Act of 1986 shall be construed to affect the authority of the State of Hawaii to continue to regulate a motor carrier operating within the State of Hawaii.". Hawaii.

(b) STATE AUTHORITY TO ENJOIN ABANDONMENTS.—Section 11505(b) of title 49, United States Code, is amended by inserting "household goods" before "freight forwarder".

SEC. 12. ENFORCEMENT: INVESTIGATIONS, RIGHTS, AND REMEDIES.

(a) GENERAL AUTHORITY.—(1) Section 11701(a) of title 49, United States Code, is amended by striking "or broker" each place it appears and inserting in lieu thereof ", broker or freight forwarder".

(2) Section 11701(b) of title 49, United States Code, is amended by inserting ", or freight forwarder" before the period at the end of the first sentence.

(b) RIGHTS AND REMEDIES OF INJURED PERSONS.—Section 11705 of title 49, United States Code, is amended—

(1) in subsection (a) by inserting "or a freight forwarder" after "title";

(2) in subsection (b)(1)—

(A) by inserting "or a freight forwarder" after "title" the first place it appears, and

(B) by inserting "or the applicable freight forwarder rate, as the case may be" after "title" the second place it appears; and

(3) in subsection (b)(3) by inserting "or a freight forwarder" after "title".

(c) LIMITATION ON COURT ACTIONS.—Section 11706(a) of title 49, United States Code, is amended—

(1) by inserting "or a freight forwarder" after "title"; and

(2) by inserting "or freight forwarder" after "carrier" the second place it appears.

(d) LIABILITY UNDER RECEIPTS AND BILLS OF LADING.—Section 11707(a) of title 49, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting "and a freight forwarder" after "title" the first place it appears,

(B) by inserting "or freight forwarder" after "carrier" the first place it appears in the second sentence,

(C) by inserting ", except in the case of a freight forwarder," after "and" in the third sentence, and

(D) by inserting "or freight forwarder" after "carrier" in the fourth sentence; and

(2) in paragraph (2) by striking "subject to this subtitle".

(e) PRIVATE ENFORCEMENT OF LICENSES.—(1) Section 11708(a) of title 49, United States Code, is amended by inserting "household goods" before "freight forwarder".

(2) The heading of section 11708 of title 49, United States Code, is amended by inserting "**household goods**" before "**freight forwarder**".

(3) The item relating to section 11708 in the section analysis of chapter 117 of title 49, United States Code, is amended by inserting "household goods" before "freight forwarder".

SEC. 13. CIVIL AND CRIMINAL PENALTIES.

(a) ADDITIONAL RATE AND DISCRIMINATION VIOLATIONS.—Section 11904(d)(1) of title 49, United States Code, is amended by inserting "household goods" before "freight forwarder" each place it appears.

(b) ABANDONMENT OF SERVICE.—(1) Section 11908 of title 49, United States Code, is amended by inserting "household goods" before "freight forwarder" each place it appears.

(2) The heading of section 11908 of title 49, United States Code, is amended by inserting "**household goods**" before "**freight forwarder**".

(3) The item relating to section 11908 in the section analysis of chapter 119 of title 49, United States Code, is amended by inserting "household goods" before "freight forwarder".

(c) RECORDKEEPING AND REPORTING VIOLATIONS.—Section 11909(d) of title 49, United States Code, is amended by inserting "household goods" before "freight forwarder" each place it appears.

(d) UNLAWFUL DISCLOSURE OF INFORMATION.—Section 11910(a)(4) of title 49, United States Code, is amended by inserting "household goods" before "freight forwarder" each place it appears.

SEC. 14. LIMITATION ON STATUTORY CONSTRUCTION.

49 USC 10101 note.

Nothing in this Act (including any amendment made by this Act) shall be construed to limit or otherwise affect the authority of the Secretary of Transportation to regulate a freight forwarder and the transportation the freight forwarder uses (whether or not such transportation is provided by a carrier subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of title 49, United States Code).

49 USC 10501 *et seq.*

SEC. 15. EFFECTIVE DATE.

49 USC 10102 note.

This Act shall take effect sixty days after the date of the enactment of this Act.

Approved October 22, 1986.

LEGISLATIVE HISTORY—S. 1124:

SENATE REPORTS: No. 99-120 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Nov. 4, considered and passed Senate.
Vol. 132 (1986): Sept. 30, considered and passed House, amended.
Oct. 8, Senate concurred in House amendment.

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Public Law 99-522
99th Congress

An Act

Oct. 22, 1986
[S. 2266]

To establish a ski area permit system on national forest lands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Forest Ski Area Permit Act of 1986.
16 USC 497b note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Forest Ski Area Permit Act of 1986".

16 USC 497b note.
National Forest System.

SEC. 2. PURPOSES.

The purposes of this Act are to—

(a) provide a unified and modern permitting process for nordic and alpine ski areas on national forest lands;

(b) provide for ski area permits which more closely reflect the acreage and other physical requirements of modern ski area development; and

(c) provide a permit system which will be more commensurate with the long-term construction, financing, and operation needs of ski areas on national forest lands.

16 USC 497b.

SEC. 3. SKI AREA PERMITS.

(a) LAW APPLICABLE TO PERMITS.—The provisions of the Act of March 4, 1915 (16 U.S.C. 497) notwithstanding, the term and acreage of permits for the operation of nordic and alpine ski areas and facilities on National Forest System lands shall henceforth be governed by this Act and other applicable law.

(b) AUTHORITY.—The Secretary of Agriculture (hereinafter referred to as "the Secretary") is authorized to issue permits (hereinafter referred to as "ski area permits") for the use and occupancy of suitable lands within the National Forest System for nordic and alpine skiing operations and purposes. A ski area permit—

(1) may be issued for a term not to exceed 40 years;

(2) shall ordinarily be issued for a term of 40 years (unless the Secretary determines that the facilities or operations are of a scale or nature as are not likely to require long-term financing or operation), or that there are public policy reasons specific to a particular permit for a shorter term;

(3) shall encompass such acreage as the Secretary determines sufficient and appropriate to accommodate the permittee's needs for ski operations and appropriate ancillary facilities;

(4) may be renewed at the discretion of the Secretary;

(5) may be cancelled by the Secretary in whole or in part for any violation of the permit terms or conditions, for nonpayment of permit fees, or upon the determination by the Secretary in his planning for the uses of the national forests that the permitted area is needed for higher public purposes;

(6) may be modified from time to time by the Secretary to accommodate changes in plans or operations in accordance with the provisions of applicable law;

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(7) shall be subject to such reasonable terms and conditions as the Secretary deems appropriate; and

(8) shall be subject to a permit fee based on fair market value in accordance with applicable law.

(c) RULES AND REGULATIONS.—Within one year after the date of enactment of this Act, the Secretary shall promulgate rules and regulations to implement the provisions of this Act, and shall, to the extent practicable and with the consent of existing permit holders, convert all existing ski area permits or leases on National Forest System lands into ski area permits which conform to the provisions of this Act within 3 years of the date of enactment of this Act.

(d) Nothing in this Act shall be deemed to amend, modify or otherwise affect the Secretary's duties under the National Environmental Policy Act, or the Forest and Rangelands Renewable Resources Planning Act as amended by the National Forest Management Act, including his duties to involve the public in his decisionmaking and planning for the national forests.

42 USC 4321 note.

16 USC 1600 note.

Approved October 22, 1986.

LEGISLATIVE HISTORY—S. 2266:

SENATE REPORTS: No. 99-449 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 9, considered and passed Senate.
Oct. 10, considered and passed House.

O

Public Law 99-523
99th Congress

Joint Resolution

Oct. 22, 1986
[S.J. Res. 169]

To commemorate the bicentennial anniversary of the first patent and the first copyright laws.

Whereas the Constitution empowers Congress "To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries";

Whereas the enforcement of this constitutional principle through specific patent and copyright laws merits special recognition;

Whereas the first patent bill signed into law on April 10, 1790, and the first copyright bill was signed into law on May 31, 1790, and we will recognize the bicentennial anniversary of these laws in 1990: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That special recognition be given during 1990, the bicentennial year of the first patent and the first copyright laws, and the President is authorized and requested to issue a proclamation upon the enactment of this joint resolution calling upon the people of the United States to foster such recognition through appropriate educational and cultural programs and activities.

Approved October 22, 1986.

LEGISLATIVE HISTORY—S.J. Res. 169:

CONGRESSIONAL RECORD, Vol. 132 (1986):
June 10, considered and passed Senate.
Oct. 10, considered and passed House.

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91-139 O -- 87 (542)

Public Law 99-524
99th Congress

Joint Resolution

To designate the week of December 7, 1986, through December 13, 1986, as "National Alopecia Areata Awareness Week".

Oct. 22, 1986
[S.J. Res. 299]

Whereas alopecia areata is a serious disease affecting approximately two million people;

Whereas alopecia areata, which usually afflicts children and young adults, causes severe and often permanent hair loss;

Whereas the coordinated efforts of support groups in forty-two States have helped thousands of people cope with the physical and emotional problems caused by alopecia areata;

Whereas much of the trauma associated with alopecia areata could be reduced through greater public awareness, understanding, and education; and

Whereas the cause of alopecia areata is unknown, and promising research efforts to find a cure for the disease should be promoted: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of December 7, 1986, through December 13, 1986, is designated as "National Alopecia Areata Awareness Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved October 22, 1986.

LEGISLATIVE HISTORY—S.J. Res. 299:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 12, considered and passed Senate.
Oct. 10, considered and passed House.

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Public Law 99-525
99th Congress

Joint Resolution

Oct. 22, 1986
[S.J. Res. 304]

To designate the week of November 16, 1986, through November 22, 1986, as "National Arts Week".

Whereas the performing arts, the visual arts, and literature are central to human expression;

Whereas our identity as a people and as a Nation is expressed through the arts;

Whereas support of the arts has been a partnership of Federal, State, and local government entities, business, and individuals;

Whereas a congressionally declared National Arts Week provides a focal point to celebrate the diverse cultural heritage of the United States and the vitality of contemporary writers, artists, and performers; and

Whereas a congressionally proclaimed National Arts Week brings together the public and private sectors to restate support of the arts: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 16, 1986, through November 22, 1986, is designated as "National Arts Week" and the President is authorized and requested to issue a proclamation calling upon the citizens of the United States to observe such week with appropriate programs and activities.

Approved October 22, 1986.

LEGISLATIVE HISTORY—S.J. Res. 304:

CONGRESSIONAL RECORD, Vol. 132 (1986):
June 10, considered and passed Senate.
Oct. 10, considered and passed House.

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Public Law 99-526
99th Congress

Joint Resolution

To designate the week beginning November 23, 1986, as "National Adoption Week".

Oct. 22, 1986
[S.J. Res. 306]

Whereas the week of November 23 has been commemorated as "National Adoption Week" for the past ten years;

Whereas we in Congress recognize the essential value of belonging to a secure, loving permanent family as every child's basic right;

Whereas approximately fifty thousand children who have special needs—school age, in sibling groups, members of minorities, or children with physical, mental, and emotional handicaps—are now in foster care or institutions financed at public expense and are legally free for adoption;

Whereas the adoption by capable parents of these institutionalized or foster care children into permanent, adoptive homes would insure the opportunity for their continued happiness and long-range well-being;

Whereas public and private barriers inhibiting the placement of these special needs children must be reviewed and removed where possible to assure these children's adoption;

Whereas the public and prospective parents must be informed of the availability of adoptive children;

Whereas a variety of media, agencies, adoptive parent and advocacy groups, civic and church groups, businesses, and industries will feature publicity and information to heighten community awareness of the crucial needs of waiting children; and

Whereas the recognition of Thanksgiving week as "National Adoption Week" is in the best interest of adoptable children and the public in general: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 23 through November 29, 1986, hereby is designated "National Adoption Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the

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people of the United States to observe such week with appropriate ceremonies and activities.

Approved October 22, 1986.

LEGISLATIVE HISTORY—S.J. Res. 306:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 11, considered and passed Senate.
Oct. 10, considered and passed House.

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Public Law 99-527
99th Congress

Joint Resolution

Designating the week beginning November 9, 1986, as "National Women Veterans Recognition Week".

Oct. 22, 1986
[S.J. Res. 311]

Whereas there are more than one million one hundred and eighty thousand women veterans in this country, representing 4.2 per centum of the total veteran population;

Whereas the number and proportion of women veterans will continue to grow as the number and proportion of women serving in the Armed Forces continue to increase;

Whereas women veterans through honorable military service often involving hardship and danger have contributed greatly to our national security;

Whereas the contributions and sacrifices of women veterans on behalf of this Nation deserve greater public recognition and appreciation;

Whereas the special needs of women veterans, especially in the area of health care, have often been overlooked or inadequately addressed by the Federal Government;

Whereas this lack of attention to the special needs of women veterans has discouraged or prevented women veterans from taking full advantage of the benefits and services to which they are entitled as veterans of the United States Armed Forces; and

Whereas recognition of women veterans by the Congress and the President through enactment of legislation declaring the week beginning on November 9, 1986, as "National Women Veterans Recognition Week" would serve to create greater public awareness and recognition of the contributions of women veterans, to express the Nation's appreciation for their service, to inspire more responsive care and services for women veterans and to continue and reinforce important gains made in this regard in the last two years as a result of the designation of the first and second National Women Veterans Recognition Weeks in November of 1984 and 1985: Now, therefore, be it

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Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on November 9, 1986, is designated "National Women Veterans Recognition Week". The President is requested to issue a proclamation calling upon all citizens, community leaders, interested organizations, and Government officials to observe that week with appropriate programs, ceremonies, and activities.

Approved October 22, 1986.

LEGISLATIVE HISTORY—S.J. Res. 311:

CONGRESSIONAL RECORD, Vol. 132 (1986):
June 13, considered and passed Senate.
Oct. 10, considered and passed House.

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Public Law 99-528
99th Congress

Joint Resolution

To designate the week of October 26, 1986, through November 1, 1986, as "National Adult Immunization Awareness Week".

Oct. 22, 1986
[S.J. Res. 396]

Whereas influenza and pneumonia are among the top killers of American adults, especially elderly Americans;

Whereas fewer than 12 percent of the adult population is adequately protected against these diseases or against other highly infectious diseases including measles, rubella, diphtheria, and hepatitis B;

Whereas less than half of Americans over 60 are inoculated against the deadly tetanus toxoid;

Whereas the lives of tens of thousands of American adults could be spared this year simply by taking vaccines that are approved as safe and effective by the United States Food and Drug Administration and are readily available to the public; and

Whereas the Surgeon General of the Public Health Service has repeatedly called on this Nation to prevent the massive costs of health care through a program of preventive health care, of which a major role is played by inoculation against infectious diseases: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 26, 1986, through November 1, 1986, is designated as "National Adult Immunization Awareness Week". The President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved October 22, 1986.

LEGISLATIVE HISTORY—S.J. Res. 396:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 24, considered and passed Senate.
Oct. 10, considered and passed House.

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SPECIAL FOREIGN ASSISTANCE ACT OF 1986

Public Law 99-529
99th Congress

An Act

Oct. 24, 1986
[S. 1917]

To promote immunization and oral rehydration in developing countries, to promote democracy in Haiti, to protect tropical forests and biological diversity in developing countries, to authorize increased funding for the Child Survival Fund and for international narcotics control assistance, and for other purposes.

Special Foreign Assistance Act of 1986.
22 USC 2151 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Special Foreign Assistance Act of 1986".

TITLE I—PROMOTING IMMUNIZATION AND ORAL REHYDRATION IN DEVELOPING COUNTRIES

SEC. 101. FINDINGS.

The Congress finds that—

(1) the United Nations Children's Fund (UNICEF) reports that 3.5 million children die annually because they have not been immunized against the six major childhood diseases: polio, measles, whooping cough, diphtheria, tetanus, and tuberculosis;

(2) at present less than 20 percent of children in the developing world are fully immunized against these diseases;

(3) each year more than five million additional children are permanently disabled and suffer diminished capacities to contribute to the economic, social, and political development of their countries because they have not been immunized;

(4) ten million additional childhood deaths from immunizable and potentially immunizable diseases could be averted annually by the development of techniques in biotechnology for new and cost-effective vaccines;

(5) the World Health Assembly, the Executive Board of the United Nations Children's Fund, and the United Nations General Assembly are calling upon the nations of the world to commit the resources necessary to meet the challenge of universal access to childhood immunization by 1990;

(6) at the 1984 "Bellagio Conference" it was determined that the goal of universal childhood immunization by 1990 is indeed achievable; and

(7) the Congress has expressed its expectation that the Agency for International Development will set as a goal the immunization by 1990 of at least 80 percent of all the children in those countries in which the Agency has a program.

SEC. 102. UNITED STATES PARTICIPATION IN GLOBAL EFFORT.

President of U.S.

(a) UNITED STATES GOVERNMENT SUPPORT.—The Congress calls upon the President to direct the Agency for International Development, working through the Centers for Disease Control and other appropriate Federal agencies, to work in a global effort to provide enhanced support toward achieving the goal of universal access to childhood immunization by 1990 by—

(1) assisting in the delivery, distribution, and use of vaccines, including—

(A) the building of locally sustainable systems and technical capacities in developing countries to reach, by the appropriate age, not less than 80 percent of their annually projected target population with the full schedule of required immunizations; and

(B) the development of a sufficient network of indigenous professionals and institutions with responsibility for developing, monitoring, and assessing immunization programs and continually adapting strategies to reach the goal of preventing immunizable diseases; and

(2) performing, supporting, and encouraging research and development activities, both in the public and private sector, that will be targeted at developing new vaccines and at modifying and improving existing vaccines to make them more appropriate for use in developing countries.

(b) PRIVATE SECTOR SUPPORT.—In support of this global effort, the President should appeal to the people of the United States and the United States private sector to support public and private efforts to provide the resources necessary to achieve universal access to childhood immunization by 1990.

President of U.S.

SEC. 103. FUNDING LEVELS.

22 USC 2151b.

(a) EARMARKING.—Section 104(c)(3) of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following: "Of the aggregate amounts made available for fiscal year 1987 to carry out paragraph (2) of this subsection (relating to the Child Survival Fund) and to carry out subsection (c) (relating to development assistance for health), $50,000,000 shall be used to carry out this paragraph.".

(b) AUTHORIZATION LEVEL FOR CHILD SURVIVAL FUND.—Section 104(c)(2)(B) of that Act is amended by striking out "$25,000,000 for fiscal year 1987" and inserting in lieu thereof "$75,000,000 for fiscal year 1987".

TITLE II—PROMOTING DEMOCRACY IN HAITI

SEC. 201. FINDINGS CONCERNING HAITI.

The Congress finds that—

(1) the establishment of an interim government in Haiti committed to a restoration of democracy provides Haiti with an opportunity to build the political, social, and economic institutions necessary to promote Haiti's development, to provide a better future for the people of Haiti, and to provide the framework for more effective mutual cooperation with the United States, Haiti's neighbor in the Caribbean, and the other nations of the Hemisphere;

(2) the magnitude of the political, economic, and social tasks facing the people of Haiti will make the achievement of a better future a difficult task which will require a determined and sustained effort by the Haitian people over a long period of time and will require significant external assistance from the United States and other donors; and

(3) it is in the interest of the United States to provide appropriate support for the development of Haiti, a close neighbor

which is one of the world's poorest nations and which is committed to the establishment of a democratic government.

SEC. 202. ECONOMIC ASSISTANCE FOR HAITI.

(a) EARMARKING OF FUNDS.—Not less than $108,000,000 of the aggregate amounts available for fiscal year 1987 to carry out sections 103 through 106 of the Foreign Assistance Act of 1961 (relating to development assistance), chapter 4 of part II of that Act (relating to the Economic Support Fund), and titles I and II of the Agricultural Trade Development and Assistance Act of 1954 (relating to the Food for Peace Program) shall be available only for Haiti.

22 USC 2151a, 2151d.
22 USC 2346.
7 USC 1701, 1721.

(b) USE OF DEVELOPMENT ASSISTANCE.—Assistance under sections 103 through 106 of the Foreign Assistance Act of 1961 which is provided for Haiti pursuant to subsection (a) shall be used to support a transition to democracy in Haiti, emphasizing foreign investment, job creation (especially in the private sector), rural development, health care and sanitation, small-scale irrigation, reforestation and land conservation, and literacy education. Such assistance should reflect the need to distribute development assistance resources more equitably among the various regions in Haiti in order to support sustainable development in all of Haiti.

22 USC 2151a-2151d.

(c) REQUIREMENT FOR SEGREGATED ACCOUNT FOR ECONOMIC SUPPORT ASSISTANCE FUNDS PAID TO GOVERNMENT OF HAITI.—Funds under chapter 4 of part II of the Foreign Assistance Act of 1961 which are made available for Haiti pursuant to subsection (a) may be paid to the Government of Haiti only if the Government of Haiti will maintain those funds in a separate account and not commingle them with other funds.

(d) CONDITIONS ON ECONOMIC SUPPORT AND DEVELOPMENT ASSISTANCE.—Funds may be obligated for assistance for Haiti under sections 103 through 106 of chapter 4 of part II of the Foreign Assistance Act of 1961 pursuant to subsection (a) only if the President determines that the interim Government of Haiti—

(1) is improving the human rights situation in Haiti;

(2) is implementing its timetable for completion of a new constitution that promotes genuine democratic reforms and guarantees the fundamental principles of democracy;

(3) is establishing a framework for free and open elections leading to a democratically-elected civilian government, which would include free and functioning political parties and associations, free labor unions, and freedom of the press;

(4) is cooperating fully in implementing United States development, food, and other economic assistance programs in Haiti (including programs for prior fiscal years);

(5) is maintaining a system of fiscal accountability to ensure that all resources allocated to the development of Haiti are used in the most effective and efficient manner;

Human rights.

(6) is continuing its investigation of alleged human rights abuses and corruption by the Duvalier government and is prosecuting, in accordance with due process, those responsible for human rights abuses and corruption;

(7) is maintaining a free and independent judiciary system;

(8) is continuing to cooperate with the United States in halting illegal emigration to the United States from Haiti; and

(9) is encouraging private sector development.

22 USC 290f.

(e) INTER-AMERICAN FOUNDATION.—Section 401(s)(2) of the Foreign Assistance Act of 1969 is amended by striking out "$11,969,000 for

fiscal year 1987" and inserting in lieu thereof "$12,969,000 for fiscal year 1987 (not less than $1,000,000 of which shall be for Haiti)".

(f) ADDITIONAL ASSISTANCE FOR ECONOMIC DEVELOPMENT IN HAITI.—In order to assist economic development in Haiti, a Foreign Commercial Service officer should be assigned to the United States Embassy in Haiti.

SEC. 203. MILITARY TRAINING AND OTHER NONLETHAL ASSISTANCE FOR HAITI.

(a) AUTHORIZATION OF ASSISTANCE.—Up to $4,000,000 of the aggregate amounts available for fiscal year 1987 to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to grant military assistance), chapter 5 of part II of that Act (relating to international military education and training), and the Arms Export Control Act (relating to FMS assistance) may be made available for Haiti for education, training, and other nonlethal assistance (such as transportation equipment, communications equipment, and uniforms).

22 USC 2347.

22 USC 2751.

(b) CONDITIONS ON MILITARY ASSISTANCE.—Funds made available pursuant to subsection (a) may be obligated only if the President certifies to the Congress the following:

Human rights.

(1) The Government of Haiti has submitted a formal request to the United States specifying a comprehensive plan for the reform and reorganization of the mission, command, and control structures of the Haitian armed forces consistent with a transition to democracy, the rule of law, constitutional government, and an elected civilian government. Such a plan should include a publicly announced commitment by the armed forces of Haiti to abide by international human rights standards and adoption of a code of conduct to assure adherence to these standards.

(2) The Government of Haiti is making substantial efforts—

(A) to prevent the involvement of the Haitian armed forces in human rights abuses and corruption by removing from those forces and prosecuting, in accordance with due process, those military personnel responsible for the human rights abuses and corruption;

(B) to ensure that freedom of speech and assembly are respected;

(C) to conduct investigations into the killings of unarmed civilians in Gonaives, Martissant, and Fort Dimanche, to prosecute, in accordance with due process, those responsible for those killings, and to prevent any similar occurrences in the future;

(D) to provide education and training to the Haitian armed forces with respect to internationally recognized human rights and the civil and political rights essential to democracy, in order to enable those forces to function consistent with those rights; and

Education.

(E) to take steps to implement the policy of the Government of Haiti requiring former members of the Volunteers for National Security (VSN) to turn in their weapons and to take the necessary actions to enforce this requirement.

(c) REPORTS.—Not later than three months after the President submits his certification under subsection (b) and every three months thereafter, the President shall report to the Congress on the extent to which the actions of the Government of Haiti are consist-

President of U.S.

ent with each of the objectives specified in subsection (b). Half of the assistance provided pursuant to subsection (a) shall be withheld from delivery until the President submits the first such report.

(d) NOTIFICATION TO CONGRESS.—Funds made available pursuant to subsection (a) may be obligated only if the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate are notified fifteen days in advance.

(e) RELATION TO EXISTING PROVISION.—Assistance under subsection (a) may be provided notwithstanding the limitations contained in section 705(e) of the International Security and Development Cooperation Act of 1985 and is in addition to the assistance allowed under that section.

99 Stat. 241.

SEC. 204. RECOVERY BY HAITI OF ASSETS STOLEN BY DUVALIER REGIME.

(a) FINDINGS.—The Congress finds that—

(1) the Government of Haiti believes that former president-for-life Jean Claude Duvalier and other individuals associated with the Duvalier regime illegally diverted to their own use substantial amounts of the assets of the Government of Haiti;

(2) the Government of Haiti is attempting to locate and recover those assets through legal means;

(3) virtually every relevant jurisdiction, both in the United States and abroad, requires the posting of some form of security to secure the issuance of orders of attachment or other judicial seizures of property;

(4) the Government of Haiti is unable, without outside assistance, to post the necessary security because of its lack of assets;

(5) Haiti's economic situation could be significantly improved, and the need for external resources reduced, if the Government of Haiti is able to pursue its legal remedies against those who are in large part responsible for the economic crisis in Haiti; and

(6) the United States has a substantial foreign policy interest in helping the Government of Haiti recover any assets which were illegally diverted by those associated with the Duvalier regime.

(b) ACTIONS TO ASSIST HAITI.—The President shall exercise the authorities granted by section 203 of the International Emergency Economic Powers Act (50 U.S.C. App. 1702) to assist the Government of Haiti in its efforts to recover, through legal proceedings, assets which the Government of Haiti alleges were stolen by former president-for-life Jean Claude Duvalier and other individuals associated with the Duvalier regime. This subsection shall be deemed to satisfy the requirements of section 202 of that Act.

50 USC 1702.

50 USC 1701.

TITLE III—PROTECTING TROPICAL FORESTS AND BIOLOGICAL DIVERSITY IN DEVELOPING COUNTRIES

SEC. 301. PROTECTING TROPICAL FORESTS.

Chapter 1 of part I of the Foreign Assistance Act of 1961 is amended—

22 USC 2151p.

(1) by redesignating section 118 as section 117;

(2) by striking out subsection (d) of that section; and

(3) by inserting after that section the following new section 118:

"SEC. 118. TROPICAL FORESTS. 22 USC 2151p-1.

"(a) IMPORTANCE OF FORESTS AND TREE COVER.—In enacting section 103(b)(3) of this Act the Congress recognized the importance of forests and tree cover to the developing countries. The Congress is particularly concerned about the continuing and accelerating alteration, destruction, and loss of tropical forests in developing countries, which pose a serious threat to development and the environment. Tropical forest destruction and loss—

"(1) result in shortages of wood, especially wood for fuel; loss of biologically productive wetlands; siltation of lakes, reservoirs, and irrigation systems; floods; destruction of indigenous peoples; extinction of plant and animal species; reduced capacity for food production; and loss of genetic resources; and

"(2) can result in desertification and destabilization of the earth's climate.

Properly managed tropical forests provide a sustained flow of resources essential to the economic growth of developing countries, as well as genetic resources of value to developed and developing countries alike.

"(b) PRIORITIES.—The concerns expressed in subsection (a) and the recommendations of the United States Interagency Task Force on Tropical Forests shall be given high priority by the President—

"(1) in formulating and carrying out programs and policies with respect to developing countries, including those relating to bilateral and multilateral assistance and those relating to private sector activities; and

"(2) in seeking opportunities to coordinate public and private development and investment activities which affect forests in developing countries.

"(c) ASSISTANCE TO DEVELOPING COUNTRIES.—In providing assistance to developing countries, the President shall do the following: President of U.S.

"(1) Place a high priority on conservation and sustainable management of tropical forests.

"(2) To the fullest extent feasible, engage in dialogues and exchanges of information with recipient countries—

"(A) which stress the importance of conserving and sustainably managing forest resources for the long-term economic benefit of those countries, as well as the irreversible losses associated with forest destruction, and

"(B) which identify and focus on policies of those countries which directly or indirectly contribute to deforestation.

"(3) To the fullest extent feasible, support projects and activities—

"(A) which offer employment and income alternatives to those who otherwise would cause destruction and loss of forests, and

"(B) which help developing countries identify and implement alternatives to colonizing forested areas.

"(4) To the fullest extent feasible, support training programs, educational efforts, and the establishment or strengthening of institutions which increase the capacity of developing countries to formulate forest policies, engage in relevant land-use planning, and otherwise improve the management of their forests.

"(5) To the fullest extent feasible, help end destructive slash-and-burn agriculture by supporting stable and productive farm-

ing practices in areas already cleared or degraded and on lands which inevitably will be settled, with special emphasis on demonstrating the feasibility of agroforestry and other techniques which use technologies and methods suited to the local environment and traditional agricultural techniques and feature close consultation with and involvement of local people.

"(6) To the fullest extent feasible, help conserve forests which have not yet been degraded, by helping to increase production on lands already cleared or degraded through support of reforestation, fuelwood, and other sustainable forestry projects and practices, making sure that local people are involved at all stages of project design and implementation.

"(7) To the fullest extent feasible, support projects and other activities to conserve forested watersheds and rehabilitate those which have been deforested, making sure that local people are involved at all stages of project design and implementation.

"(8) To the fullest extent feasible, support training, research, and other actions which lead to sustainable and more environmentally sound practices for timber harvesting, removal, and processing, including reforestation, soil conservation, and other activities to rehabilitate degraded forest lands.

Research.

"(9) To the fullest extent feasible, support research to expand knowledge of tropical forests and identify alternatives which will prevent forest destruction, loss, or degradation, including research in agroforestry, sustainable management of natural forests, small-scale farms and gardens, small-scale animal husbandry, wider application of adopted traditional practices, and suitable crops and crop combinations.

"(10) To the fullest extent feasible, conserve biological diversity in forest areas by—

"(A) supporting and cooperating with United States Government agencies, other donors (both bilateral and multilateral), and other appropriate governmental, intergovernmental, and nongovernmental organizations in efforts to identify, establish, and maintain a representative network of protected tropical forest ecosystems on a worldwide basis;

"(B) whenever appropriate, making the establishment of protected areas a condition of support for activities involving forest clearance or degradation; and

"(C) helping developing countries identify tropical forest ecosystems and species in need of protection and establish and maintain appropriate protected areas.

"(11) To the fullest extent feasible, engage in efforts to increase the awareness of United States Government agencies and other donors, both bilateral and multilateral, of the immediate and long-term value of tropical forests.

"(12) To the fullest extent feasible, utilize the resources and abilities of all relevant United States Government agencies.

"(13) Require that any program or project under this chapter significantly affecting tropical forests (including projects involving the planting of exotic plant species)—

"(A) be based upon careful analysis of the alternatives available to achieve the best sustainable use of the land, and

"(B) take full account of the environmental impacts of the proposed activities on biological diversity,

as provided for in the environmental procedures of the Agency for International Development.

"(14) Deny assistance under this chapter for—

"(A) the procurement or use of logging equipment, unless an environmental assessment indicates that all timber harvesting operations involved will be conducted in an environmentally sound manner which minimizes forest destruction and that the proposed activity will produce positive economic benefits and sustainable forest management systems; and

"(B) actions which significantly degrade national parks or similar protected areas which contain tropical forests or introduce exotic plants or animals into such areas.

"(15) Deny assistance under this chapter for the following activities unless an environmental assessment indicates that the proposed activity will contribute significantly and directly to improving the livelihood of the rural poor and will be conducted in an environmentally sound manner which supports sustainable development:

"(A) Activities which would result in the conversion of forest lands to the rearing of livestock.

"(B) The construction, upgrading, or maintenance of roads (including temporary haul roads for logging or other extractive industries) which pass through relatively undegraded forest lands.

"(C) The colonization of forest lands.

"(D) The construction of dams or other water control structures which flood relatively undegraded forest lands.

"(d) PVOs AND OTHER NONGOVERNMENTAL ORGANIZATIONS.—Whenever feasible, the President shall accomplish the objectives of this section through projects managed by private and voluntary organizations or international, regional, or national nongovernmental organizations which are active in the region or country where the project is located.

"(e) COUNTRY ANALYSIS REQUIREMENTS.—Each country development strategy statement or other country plan prepared by the Agency for International Development shall include an analysis of—

"(1) the actions necessary in that country to achieve conservation and sustainable management of tropical forests, and

"(2) the extent to which the actions proposed for support by the Agency meet the needs thus identified.

"(f) ANNUAL REPORT.—Each annual report required by section 634(a) of this Act shall include a report on the implementation of this section.". 22 USC 2394.

SEC. 302. PROTECTING BIOLOGICAL DIVERSITY. 22 USC 2151q.

Section 119 of the Foreign Assistance Act of 1961 is amended by striking out subsections (c) and (d) and inserting in lieu thereof the following:

"(c) FUNDING LEVEL.—For fiscal year 1987, not less than $2,500,000 of the funds available to carry out this part (excluding funds made available to carry out section 104(c)(2), relating to the Child Survival Fund) shall be allocated for assistance pursuant to subsection (b) for activities which were not funded prior to fiscal year 1987. In addition, the Agency for International Development shall, to the fullest extent possible, continue and increase assistance 22 USC 2151b.

pursuant to subsection (b) for activities for which assistance was provided in fiscal years prior to fiscal year 1987.

"(d) COUNTRY ANALYSIS REQUIREMENTS.—Each country development strategy statement or other country plan prepared by the Agency for International Development shall include an analysis of—

"(1) the actions necessary in that country to conserve biological diversity, and

"(2) the extent to which the actions proposed for support by the Agency meet the needs thus identified.

"(e) LOCAL INVOLVEMENT.—To the fullest extent possible, projects supported under this section shall include close consultation with and involvement of local people at all stages of design and implementation.

"(f) PVOs AND OTHER NONGOVERNMENTAL ORGANIZATIONS.—Whenever feasible, the objectives of this section shall be accomplished through projects managed by appropriate private and voluntary organizations, or international, regional, or national nongovernmental organizations, which are active in the region or country where the project is located.

"(g) ACTIONS BY AID.—The Administrator of the Agency for International Development shall—

"(1) cooperate with appropriate international organizations, both governmental and nongovernmental;

"(2) look to the World Conservation Strategy as an overall guide for actions to conserve biological diversity;

"(3) engage in dialogues and exchanges of information with recipient countries which stress the importance of conserving biological diversity for the long-term economic benefit of those countries and which identify and focus on policies of those countries which directly or indirectly contribute to loss of biological diversity;

"(4) support training and education efforts which improve the capacity of recipient countries to prevent loss of biological diversity;

"(5) whenever possible, enter into long-term agreements in which the recipient country agrees to protect ecosystems or other wildlife habitats recommended for protection by relevant governmental or nongovernmental organizations or as a result of activities undertaken pursuant to paragraph (6), and the United States agrees to provide, subject to obtaining the necessary appropriations, additional assistance necessary for the establishment and maintenance of such protected areas;

"(6) support, as necessary and in cooperation with the appropriate governmental and nongovernmental organizations, efforts to identify and survey ecosystems in recipient countries worthy of protection;

"(7) cooperate with and support the relevant efforts of other agencies of the United States Government, including the United States Fish and Wildlife Service, the National Park Service, the Forest Service, and the Peace Corps;

"(8) review the Agency's environmental regulations and revise them as necessary to ensure that ongoing and proposed actions by the Agency do not inadvertently endanger wildlife species or their critical habitats, harm protected areas, or have other adverse impacts on biological diversity (and shall report to the Congress within a year after the date of enactment of this paragraph on the actions taken pursuant to this paragraph);

"(9) ensure that environmental profiles sponsored by the Agency include information needed for conservation of biological diversity; and

"(10) deny any direct or indirect assistance under this chapter for actions which significantly degrade national parks or similar protected areas or introduce exotic plants or animals into such areas.

"(h) ANNUAL REPORTS.—Each annual report required by section 634(a) of this Act shall include, in a separate volume, a report on the implementation of this section.".

TITLE IV—MISCELLANEOUS PROVISIONS RELATING TO CERTAIN FOREIGN ASSISTANCE PROGRAMS

SEC. 401. INCREASE AUTHORIZATION FOR INTERNATIONAL NARCOTICS CONTROL PROGRAMS. 22 USC 2291a.

Section 482(a)(1) of the Foreign Assistance Act of 1961 is amended by striking out "$57,529,000 for the fiscal year 1987" and inserting in lieu thereof "$65,445,000 for the fiscal year 1987".

SEC. 402. AUTHORIZING A SEPARATE LINE ITEM APPROPRIATION FOR THE INSPECTOR GENERAL OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT. 22 USC 2427.

Section 667(a)(1) of the Foreign Assistance Act of 1961 is amended by inserting after "Act" the following: ", of which $21,750,000 for the fiscal year 1987 is authorized for the necessary operating expenses of the Office of the Inspector General of the Agency for International Development and the remaining amount for the fiscal year is authorized for other necessary operating expenses of that agency".

SEC. 403. ADDITIONAL PROVISIONS.

(a) BOARD OF THE INTER-AMERICAN FOUNDATION.—Section 401(g) of the Foreign Assistance Act of 1969 (22 U.S.C. 290f.(g)) is amended by striking out "seven" in the first sentence and "Four" in the second sentence and inserting in lieu thereof "nine" and "Six", respectively.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 120 days after the date of enactment of this Act. 22 USC 290f note.

SEC. 404. OFFSETTING REDUCTIONS IN CERTAIN FOREIGN ASSISTANCE PROGRAMS.

In order to provide the increased authorizations of appropriations contained in section 103(b), section 202(e), and section 401 without increasing the overall amount authorized to be appropriated for foreign assistance programs for fiscal year 1987—

(1) section 104(g)(1)(B) of the Foreign Assistance Act of 1961 (relating to development assistance for health programs) is amended by striking out "$205,000,000 for fiscal year 1987" and inserting in lieu thereof "$180,000,000 for fiscal year 1987"; and 22 USC 2151f.

(2) section 302(a)(1) of that Act (relating to international organizations and programs) is amended by striking out "$270,000,000 for fiscal year 1987" and insert in lieu thereof "$236,084,000 for fiscal year 1987". 22 USC 2222.

22 USC 3929.

SEC. 405. CONFORMING AMENDMENT.

Paragraph (6) of section 413(a) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99-399) is repealed; and the sentence of section 209(a)(1) of the Foreign Service Act of 1980 which was repealed by that paragraph is hereby re-enacted.

Ante, p. 867.

22 USC 3929.

Approved October 24, 1986.

LEGISLATIVE HISTORY—S. 1917:

SENATE REPORTS: No. 99-385 (Comm. on Foreign Relations).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 15, considered and passed Senate.
Sept. 25, considered and passed House, amended.
Oct. 3, Senate concurred in House amendments with an amendment.
Oct. 6, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Oct. 24, Presidential statement.

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Public Law 99-530
99th Congress

An Act

To amend the Wild and Scenic Rivers Act by designating a segment of the Horsepasture River in the State of North Carolina as a component of the National Wild and Scenic Rivers System.

Oct. 27, 1986
[H.R. 2826]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Conservation.

SECTION 1. DESIGNATION OF HORSEPASTURE RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by redesignating the paragraphs relating to the Au Sable River, the Tuolumne River, the Illinois River, and the Owyhee River as paragraphs (52) through (55) and by inserting the following new paragraph after paragraph (55) as so redesignated:

(56) HORSEPASTURE, NORTH CAROLINA.—The segment from Bohaynee Road (N.C. 281) downstream approximately 4.25 miles to where the segment ends at Lake Jocassee, to be administered by the Secretary of Agriculture. Notwithstanding any limitation of section 6 of this Act, the Secretary is authorized to utilize the authority of this Act and those pertaining to the National Forests to acquire by purchase with donated or appropriated funds, donation, exchange or otherwise, such non-Federal lands or interests in lands within, near, or adjacent to the designated segments of the river which the Secretary determines will protect or enhance the scenic and natural values of the river.

Gifts and property.
National Forest System.
16 USC 1277.

Approved October 27, 1986.

LEGISLATIVE HISTORY—H.R. 2826:

HOUSE REPORTS: No. 99-671 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 132 (1986):
July 28, considered and passed House.
Oct. 15, considered and passed Senate.

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91-139 O -- 87 (549)

Public Law 99-531
99th Congress

An Act

Oct. 27, 1986
[S. 2370]

To authorize the Francis Scott Key Park Foundation, Inc. to erect a memorial in the District of Columbia.

Public buildings and grounds. 40 USC 1003 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That the Francis Scott Key Park Foundation, Inc. is authorized to erect a memorial on public grounds in the District of Columbia in honor and in commemoration of Francis Scott Key, the author of the words to "The Star Spangled Banner", our National Anthem, who lived and practiced law in Washington, District of Columbia at the time he penned those immortal words.

SEC. 2. (a) The Secretary of the Interior is authorized and directed to select, with the approval of the Commission of Fine Arts and the National Capital Planning Commission, a suitable site on public grounds in the District of Columbia upon which may be erected the memorial authorized in the first section of this Act.

(b) The design and plans for such memorial shall be subject to the approval of the Secretary of the Interior, the Commission of Fine Arts, and the National Capital Planning Commission.

(c) Neither the United States nor the District of Columbia shall be put to any expense in the establishment of the memorial.

SEC. 3. The authority conferred by this Act shall lapse unless (1) the erection of the memorial is commenced within five years from the date of enactment of this Act, and (2) prior to groundbreaking for the actual construction on the site funds are determined available in an amount sufficient, in the judgment of the Secretary of the Interior, to insure completion of the memorial.

SEC. 4. If the site for the memorial authorized herein shall be on public grounds belonging to or under the jurisdiction of the District of Columbia, the words "Mayor of the District of Columbia" shall be substituted for the words "Secretary of the Interior" at each place in sections 2 and 3 of this Act where the words "Secretary of the Interior" appear.

91-139 O -- 87 (550)

SEC. 5. In the event that the memorial authorized herein is erected on Federal lands in the District of Columbia and its environs as defined in H.R. 4378, as approved by the House of Representatives on September 29, 1986, such memorial shall be required to comply with the provisions of that Act.

SEC. 6. If the memorial erected under the provisions of this Act is on public grounds belonging to or under the jurisdiction of the District of Columbia, the Mayor of the District of Columbia shall be responsible for the care and maintenance of the memorial.

Approved October 27, 1986.

LEGISLATIVE HISTORY—S. 2370:

SENATE REPORTS: No. 99-457 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 9, considered and passed Senate.
Oct. 14, considered and passed House.

O

Public Law 99-532
99th Congress

Joint Resolution

Oct. 27, 1986
[S.J. Res. 308]

To designate March 25, 1987, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy".

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was vested in the people;

Whereas the Founding Fathers of the United States of America drew heavily upon the political and philosophical experience of ancient Greece in forming our representative democracy;

Whereas March 25, 1987, marks the 166th anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire;

Whereas these and other ideals have forged a close bond between our two nations and their peoples; and

Whereas it is proper and desirable to celebrate with the Greek people, and to reaffirm the democratic principles from which our two great nations sprang: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 25, 1987, is designated as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy", and that the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the designated day with appropriate ceremonies and activities.

Approved October 27, 1986.

LEGISLATIVE HISTORY—S.J. Res. 308:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Mar. 25, considered and passed Senate.
Oct. 1, considered and passed House, amended.
Oct. 8, Senate concurred in House amendment.

O

91-139 O -- 87 (551)

Public Law 99-533
99th Congress

Joint Resolution

To designate October 6, 1986, through October 10, 1986, as "National Social Studies Week".

Oct. 27, 1986
[S.J. Res. 232]

Whereas national attention should be focused on the exemplary efforts of social studies teachers in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 6, 1986, through October 10, 1986, is designated as "National Social Studies Week", and that the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies, programs, and activities.

Approved October 27, 1986.

LEGISLATIVE HISTORY—S.J. Res. 232:

CONGRESSIONAL RECORD:
Vol. 131 (1985): Nov. 18, considered and passed Senate.
Vol. 132 (1986): Oct. 10, considered and passed House.

O

91-139 O -- 87 (552)

Public Law 99-534
99th Congress

Joint Resolution

Oct. 27, 1986
[S.J. Res. 322]

To designate December 7, 1986, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor.

Whereas on the morning of December 7, 1941, the Imperial Japanese Navy and Air Force launched an unprovoked surprise attack upon units of the Armed Forces of the United States stationed at Pearl Harbor, Hawaii;

Whereas over two thousand four hundred citizens of the United States were killed in action and one thousand one hundred and seventy-eight were wounded in this attack;

Whereas President Franklin Delano Roosevelt referred to the date of the attack as "a date that will live in infamy";

Whereas the attack on Pearl Harbor marked the entry of this Nation into World War II;

Whereas the people of the United States owe a tremendous debt of gratitude to all members of our Armed Forces who served at Pearl Harbor, in the Pacific Theater of World War II, and in all other theaters of action of that war; and

Whereas the veterans of World War II and all other people of the United States will commemorate December 7, 1986, in remembrance of this tragic attack on Pearl Harbor: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 7, 1986, the anniversary of the attack on Pearl Harbor, is designated as "National Pearl Harbor Remembrance Day" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States—

(1) to observe this solemn occasion with appropriate ceremonies and activities; and

(2) to pledge eternal vigilance and strong resolve to defend this Nation and its allies from all future aggression.

Approved October 27, 1986.

LEGISLATIVE HISTORY—S.J. Res. 322:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 9, considered and passed Senate.
Oct. 10, considered and passed House.

O

91-139 O -- 87 (553)

Public Law 99-535
99th Congress

Joint Resolution

To designate the week of November 30, 1986, through December 6, 1986, as "National Home Care Week".

Oct. 27, 1986
[S.J. Res. 339]

Whereas organized home health care services to the elderly and disabled have existed in this country since the last quarter of the eighteenth century;

Whereas home health care (including skilled nursing services, physical therapy, speech therapy, social services, occupational therapy, health counseling and education, and homemaker-home health aide services), is recognized as an effective and economical alternative to unnecessary institutionalization;

Whereas caring for the ill and disabled at home emphasizes the dignity and independence of the individual;

Whereas the Federal Government has supported home health services since the enactment of the medicare program, with the number of home health agencies providing services increasing from less than five hundred to more than five thousand; and

Whereas many private, public, and charitable organizations provide these and similar services to millions of patients each year preventing, postponing, and limiting the need for institutionalization and enabling such patients to remain independent: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 30, 1986, through December 6, 1986, is designated as "National Home Care Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Approved October 27, 1986.

LEGISLATIVE HISTORY—S.J. Res. 339:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 24, considered and passed Senate.
Oct. 10, considered and passed House.

O

91-139 O -- 87 (554)

Public Law 99-536
99th Congress

Joint Resolution

Oct. 27, 1986
[S.J. Res. 352]

To designate the week beginning October 19, 1986, as "Gaucher's Disease Awareness Week".

Whereas Gaucher's disease is caused by the failure of the body to produce an essential enzyme;

Whereas the absence of such enzyme causes the body to store abnormal quantities of lipids in the liver and spleen and frequently has an adverse effect on tissues in the body, particularly bone tissue;

Whereas among Jewish persons, Gaucher's disease is the most common inherited disorder affecting the metabolism of lipids, which are one of the principal structural components of living cells;

Whereas there is no known cure for Gaucher's disease and no successful treatment of the symptoms of the disease;

Whereas the increased awareness and understanding of Gaucher's disease by the people of the United States can aid in the development of a treatment and cure for the disease;

Whereas the National Gaucher's Disease Foundation provides funds for research in the United States with respect to the disease; and

Whereas research and clinical programs with respect to Gaucher's disease should be increased: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning October 19, 1986, is designated "Gaucher's Disease Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved October 27, 1986.

LEGISLATIVE HISTORY—S.J. Res. 352:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 3, considered and passed Senate.
Oct. 10, considered and passed House.

91-139 O -- 87 (555)

Public Law 99-537
99th Congress

Joint Resolution

Designating November 12, 1986, as "Salute to School Volunteers Day".

Oct. 27, 1986
[S.J. Res. 407]

Whereas the success of America's schools stems from the competence and dedication of their instructional staffs, combined with the commitment of students, parents, and other community members;

Whereas citizen volunteers are a vital component of an effective educational experience, assisting professional educators to deliver quality instructional services;

Whereas many States and communities have demonstrated that citizen volunteers in the classroom enhance, extend, and enrich student learning as they contribute to the work of dedicated professional educators;

Whereas numerous communities encourage groups, such as business and civic groups, to create mutually beneficial working partnerships with their schools, thus offering positive support from the community which, in turn, both encourages staff and benefits the students;

Whereas the Congress recognizes that four million unpaid citizen volunteers in thousands of classrooms coast to coast contribute daily to the enhancement of the quality of instruction in our schools and thus, to the development of an educated citizenry; and

Whereas the magnitude, quality, and selflessness of these contributions of America's citizen school volunteers merit the highest appreciation and gratitude: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 12, 1986, is designated as "Salute to School Volunteers Day", and the President is authorized and requested to issue a proclamation calling on the

91-139 O - 87 (556)

people of the United States to observe such day with appropriate ceremonies and activities.

Approved October 27, 1986.

LEGISLATIVE HISTORY—S.J. Res. 407:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 9, considered and passed Senate.
Oct. 10, considered and passed House.

O

Public Law 99-538
99th Congress

Joint Resolution

To designate the period commencing February 9, 1987, and ending February 15, 1987, as "National Burn Awareness Week".

Oct. 27, 1986
[S.J. Res. 410]

Whereas the burn problem in the United States is the worst of any industrialized nation in the world;
Whereas burn injuries are one of the leading causes of accidental death in the United States;
Whereas every year approximately two million people are victims of burn injury in the United States;
Whereas of these injuries, seventy thousand are hospitalized and account for nine million disability days annually;
Whereas approximately twelve thousand people die from burn injuries;
Whereas deaths resulting from burn injuries increased in 1985;
Whereas the rehabilitative and psychological impact of burns are devastating;
Whereas children, the elderly, and the disabled are most likely to suffer serious burns;
Whereas it is estimated that approximately 75 percent of all burns could be prevented by proper education of children and adults; and
Whereas there is a need for an effective national program that deals with all aspects of burn prevention: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing February 9, 1987, and ending February 15, 1987, is designated as "National Burn Awareness Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States and all Federal, State, and local government officials to observe such week with appropriate programs and activities.

Approved October 27, 1986.

LEGISLATIVE HISTORY—S.J. Res. 410:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 3, considered and passed Senate.
Oct. 10, considered and passed House.

91-139 O - 87 (557)

Public Law 99-539
99th Congress

Joint Resolution

Oct. 27, 1986
[S.J. Res. 414]

To designate March 16, 1987, as "Freedom of Information Day".

Whereas a fundamental principle of our Government is that a well-informed citizenry can reach the important decisions that determine the present and future of the Nation;

Whereas the freedoms we cherish as Americans are fostered by free access to information;

Whereas many Americans, because they have never known any other way of life, take for granted the guarantee of free access to information that derives from the First Amendment to the Constitution of the United States;

Whereas the guarantee of free access to information should be emphasized and celebrated annually; and

Whereas March 16 is the anniversary of the birth of James Madison, one of the Founding Fathers, who recognized and supported the need to guarantee individual rights through the Bill of Rights: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 16, 1987, is designated as "Freedom of Information Day", and the President is authorized and requested to issue a proclamation calling upon Federal, State, and local government agencies and the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

Approved October 27, 1986.

LEGISLATIVE HISTORY—S.J. Res. 414:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 3, considered and passed Senate.
Oct. 10, considered and passed House.

91-139 O - 87 (558)

Public Law 99-540
99th Congress

Joint Resolution

To designate February 4, 1987, as "National Women in Sports Day".

Oct. 27, 1986
[S.J. Res. 418]

Whereas women's athletics is one of the most effective avenues available through which women of America may develop self-discipline, initiative, confidence, and leadership skills;

Whereas support and fitness activity contributes to emotional and physical well-being and women need strong bodies as well as strong minds;

Whereas the history of women in sports is rich and long, but there has been little national recognition of the significance of women's athletic achievements;

Whereas the number of women in leadership positions of coaches, officials, and administrators has declined drastically over the last decade and there is a need to restore women to these positions to ensure a fair representation of women's abilities and to provide role models for young female athletes;

Whereas the bonds built between women through athletics help to break down the social barriers of racism and prejudice;

Whereas the communication and cooperation skills learned through athletic experience play a key role in the athlete's contributions at home, at work, and to society;

Whereas women's athletics has produced such winners as Flo Hyman, whose spirit, talent, and accomplishments distinguished her above others and exhibited for all of us the true meaning of fairness, determination, and team play;

Whereas early motor-skill training and enjoyable experiences of physical activity strongly influence life-long habits of physical fitness;

Whereas the athletic opportunities for male students at the collegiate and high school level remain significantly greater than those for female students; and

Whereas the number of funded research projects focusing on the specific needs of women athletes is limited and the information provided by these projects is imperative to the health and performance of future women athletes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That February 4, 1987, is hereby designated as "National Women in Sports Day", and the President is authorized and requested to issue a proclamation calling upon local and State jurisdictions, appropriate Federal agencies,

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and the people of the United States to observe the day with appropriate ceremonies and activities.

Approved October 27, 1986.

LEGISLATIVE HISTORY—S.J. Res. 418:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 3, considered and passed Senate.
Oct. 10, considered and passed House.

O

Public Law 99-541
99th Congress

Joint Resolution

Commemorating the 100th anniversary of the birth of the first Prime Minister of the State of Israel, David Ben-Gurion.

Oct. 27, 1986
[S.J. Res. 422]

Whereas David Ben-Gurion is a man of great historical importance, not only to the Jewish people but also to all people striving for freedom;

Whereas his leadership made realizable in-gathering of the exiles that brought millions of homeless Jews scattered throughout the world to Israel where they were united both with each other and with their ancient homeland;

Whereas the Declaration of Independence of the State of Israel, a milestone in the life of David Ben-Gurion, echoes the American Declaration of Independence in its recognition of the universal equality of man;

Whereas as Israel's first Prime Minister and Minister of Defense, Ben-Gurion led the newly formed state through its most difficult period, directing the desperate efforts to secure Israel's survival and independence;

Whereas his pragmatic solutions to Israel's overwhelming problems, paralleled with his desire to create a society based on justice and peace, guided the fledging state and formed the values on which Israel rests today and the basis for what Israel strives for in the future;

Whereas Ben-Gurion's vision of the Greening of the Desert through the application of science and technology continues to be an important aspect of Israel, as well as a factor that can help solve food production problems in arid regions all over the world;

Whereas 1986 marks the hundredth anniversary of the birth of David Ben-Gurion, leader of his people for two generations; and

Whereas the United States and Israel share many of the same fundamental values of democracy and freedom, and a common history of accepting immigrants from all over the globe: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress, in this the centennial of David Ben-Gurion's birth joins in the celebration of this great statesman, urges all Americans to take note of this commemoration, and applauds the David Ben-Gurion Centennial Committee of the United States of America in its work promoting the yearlong national celebration of David Ben-Gurion and his achievements.

91-139 O - 87 (560)

(b) The President is authorized and requested to issue a proclamation in honor of this celebration.

Approved October 27, 1986.

LEGISLATIVE HISTORY—S.J. Res. 422:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 1, considered and passed Senate.
Oct. 10, considered and passed House.

O

Public Law 99-542
99th Congress

An Act

To authorize additional long-term leases in the El Portal administrative site adjacent to Yosemite National Park, California, and for other purposes.

Oct. 27, 1986
[H.R. 1390]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to authorize the Secretary of the Interior to grant long-term leases with respect to lands in the El Portal administrative site adjacent to Yosemite National Park, California, and for other purposes", approved July 21, 1968 (82 Stat. 393; 16 U.S.C. 47-2), is amended—

Contracts.

(1) by striking out "fifty-five years to any operator of concession facilities in the park, or its successor for purposes of providing employee housing.", in the first sentence of the first section and inserting in lieu thereof "not to exceed ninety-nine years to any individual, including an employee of the United States Government, to any operator of concession facilities in the park, or the administrative site, or its successor, or to any public or private corporation or organization (including a nonprofit corporation) for purposes of providing employee housing, community facilities, administrative offices, maintenance facilities, and commercial services.";

(2) by striking out "the concessioner may sublease the property to its employees" in the second sentence of the first section and inserting in lieu thereof "if the lessee is a concessioner, corporation, or other organization (including a nonprofit corporation) such lessee may sublease the property to its employees, employees of the United States Government, or other individuals whose residence on the leased premises is solely in support of Yosemite National Park or the El Portal administrative site;

(3) in the proviso to the first section by striking out "an annual", inserting a period after "him", and deleting the remainder of the sentence; and

(4) by redesignating "SEC. 2." as "SEC. 3." and inserting the following new section after the first section:

16 USC 47-2, 47-4.

"SEC. 2. (a) Notwithstanding any other provision of law, the proceeds from any leases issued by the Secretary pursuant to the first section of this Act may be credited to the appropriation bearing the cost of administering (directly or by contract) the leases and of constructing, improving, and maintaining roads, utilities, buildings, and other facilities within the El Portal administrative site. In the administration of the leases, the Secretary may contract for the management of the leases and of the leased premises, subject to such terms and conditions, including the right of the Secretary to purchase and sell the unexpired terms of leases and subleases, as will protect the interests of the United States. The Secretary may also contract for the use by him of any improvements to leased property for purposes of the El Portal administrative site or for purposes of

16 USC 47-3.

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Yosemite National Park, and he may use the proceeds from any leases for the purpose of making payments under any such contract.

"(b) The Secretary may at any time acquire the unexpired term of any lease or sublease issued or entered into pursuant to this Act by purchase with funds available from the proceeds of leases, or with donated or appropriated funds, or by donation or exchange."; and

Housing.

(5) by adding at the end thereof the following new sections:

Regulations.
16 USC 47-5.

"SEC. 4. After the date of enactment of this section, no lease may be issued for the purpose of providing housing or other facilities in the El Portal administrative site except in accordance with regulations promulgated by the Secretary of the Interior. Such regulations shall establish the qualifications of natural persons and corporations who may be eligible to acquire a lease and a sublease, the process to be used in establishing fees for such leases and subleases, and they shall set forth the circumstances under which the Secretary may elect to acquire any unexpired lease or sublease. Such regulations shall become effective only after sixty calendar days from the day on which they have been submitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.".

Natural persons.
Corporations.

Effective date.

Fraud.
16 USC 47-6.

"SEC. 5. In carrying out the provisions of this Act, the Secretary shall take care that there be no opportunity for any personal influence by an employee of the Department of the Interior upon the availability of housing for other such employees or employees of persons in a contractual relationship with the Department. In the selection of lessees and sublessees, the issuance of leases and subleases, the establishment or rental values, and the acquisition of any unexpired term of any lease or sublease, the Secretary shall act through an agent or agents appointed by the Secretary from among associations, corporations, or natural persons having no material, financial, legal, or equitable interest in the action proposed, other than a reasonable fee for their services.".

16 USC 47-2 note.

2 USC 651.

SEC. 2. Any new spending authority (within the meaning of section 401 of the Congressional Budget and Impoundment Control Act of 1974) which is provided under this Act shall be effective for any fiscal year only to the extent or in such amounts as provided in appropriation Acts or to the extent that proceeds are available from any leases issued by the Secretary pursuant to the first section of this Act.

SEC. 3. Notwithstanding any other provision of law, the Secretary of the Interior shall, within six months of the enactment of this Act,

complete the exchange of all lands in four isolated Federal parcels within the boundaries of Inks Creek Ranch, Tehama County, California, as described in exhibit A of the July 25, 1986, letter of intent to exchange issued by the District Manager, Ukiah District Office, Bureau of Land Management.

Approved October 27, 1986.

LEGISLATIVE HISTORY—H.R. 1390:

HOUSE REPORTS: No. 99-182 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 99-362 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 131 (1985): July 15, considered and passed House.
Vol. 132 (1986): Oct. 9, considered and passed Senate, amended.
Oct. 14, House concurred in Senate amendments.

O

PUBLIC LAW 99-543—OCT. 27, 1986

RAILROAD RIGHT-OF-WAY CONVEYANCE VALIDATION ACT OF 1985

91-139 O - 87 (562)

Public Law 99-543
99th Congress

An Act

Oct. 27, 1986
[H.R. 2067]

To validate conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to the Central Pacific Railway Company.

Railroad Right-of-Way Conveyance Validation Act of 1985.
Railroads.
Individuals.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Railroad Right-of-Way Conveyance Validation Act of 1985".

SEC. 2. VALIDATION OF CONVEYANCES.

Except as provided in section 7, the conveyances described in section 3 (involving certain lands in San Joaquin County, State of California), section 4 (involving certain lands in Sacramento County, State of California), section 5 (involving certain land in Kings County, State of California), and section 6 (involving certain lands in Nevada County, State of California) concerning lands that form parts of the right-of-way granted by the United States to the Central Pacific Railway Company in the Act entitled "An Act to aid in the Construction of a Railroad and Telegraph Line from the Missouri River to the Pacific Ocean, and to secure to the Government the Use of the same for Postal, Military, and Other Purposes", approved July 1, 1862 (12 Stat. 489), hereby are legalized, validated, and confirmed, as far as any interest of the United States in such lands is concerned, with the same force and effect as if the land involved in each such conveyance had been held, on the date of such conveyance, under absolute fee simple title by the grantor of such land.

SEC. 3. CONVEYANCES OF LANDS IN SAN JOAQUIN COUNTY, STATE OF CALIFORNIA.

The conveyances of lands in San Joaquin County, State of California, referred to in section 2 are as follows:

(1) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Harvey Davies and Mary E. Davies, grantees, on January 13, 1981, and recorded as instrument numbered 81013684 on March 6, 1981, in the official records of San Joaquin County, State of California;

(2) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Gloria Martinez, Tina Marie Aldaco, and Yolanda Martinez, grantees, on January 13, 1981, and recorded as instrument numbered 81013685 on March 6, 1981, in the official records of San Joaquin County, State of California;

(3) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Gregorio Estrada Blanco and Antonio Miranda Blanco, grantees, on January 13, 1981, and recorded as instrument numbered 81013686 on March 6,

1981, in the official records of San Joaquin County, State of California;

(4) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Iris Fong, grantee, on January 13, 1981, and recorded as instrument numbered 81013687 on March 6, 1981, in the official records of San Joaquin County, State of California;

(5) the conveyance entered into between the Central Pacific Railway Company and the Southern Pacific Company, grantors, and Margaret Gieseke, grantee, on October 31, 1939, and recorded on February 13, 1940, in volume 669, page 473, of the book of official records of San Joaquin County, State of California;

(6) the conveyance entered into between the Central Pacific Railway Company and the Southern Pacific Company, grantors, and Henry Meiburg and Erna Meiburg, grantees, on October 31, 1939, and recorded on February 13, 1940, in volume 669, page 476, of the book of official records of San Joaquin County, State of California;

(7) the conveyance entered into between the Central Pacific Railway Company and the Southern Pacific Company, grantors, and Frank Ward, grantee, on October 31, 1939, and recorded on February 13, 1940, in volume 669, page 474, of the book of official records of San Joaquin County, State of California;

(8) the conveyance entered into between the Central Pacific Railway Company and the Southern Pacific Company, grantors, and Frank Penny, grantee, on October 31, 1939, and recorded on February 13, 1940, in volume 676, page 275, of the book of official records of San Joaquin County, State of California;

(9) the conveyance entered into between the Central Pacific Railway Company and the Southern Pacific Company, grantors, and John B. Coughlan, grantee, on October 31, 1939, and recorded on February 13, 1940, in volume 676, page 277, of the book of official records of San Joaquin County, State of California;

(10) the conveyance entered into between the Central Pacific Railway Company and the Southern Pacific Company, grantors, and the Fabian-Grunauer Company, grantee, on January 7, 1930, and recorded on February 7, 1930, in volume 1, page 86, of the book of official records of San Joaquin County, State of California;

(11) the conveyance entered into between the Central Pacific Railway Company and the Southern Pacific Company, grantors, and Libby McNeill and Libby, grantee, on October 31, 1928, and recorded on November 30, 1928, in volume 255, page 383, of the book of official records of San Joaquin County, State of California;

(12) the conveyance entered into between the Central Pacific Railway Company and the Southern Pacific Company, grantors, and A. J. Hussell, grantee, on January 7, 1930, and recorded on February 13, 1930, in volume 314, page 138, of the book of official records of San Joaquin County, State of California;

(13) the conveyance entered into between Charles Crocker, grantor, and Frank Curran, grantee, on January 8, 1880, and recorded on January 31, 1883, in book A, volume 49, page 600, of the deeds of San Joaquin County, State of California;

(14) the conveyance entered into between the Pacific Improvement Company, grantor, and Edward Curran, grantee, on May 24, 1901, and recorded on June 26, 1901, in book A, volume 116, page 118, of the deeds of San Joaquin County, State of California, excluding that portion of such conveyance concerning lots 14 and 15 in block 15 as designated on the map entitled "Map of the Town of Tracy San Joaquin California", filed at the request of the Southern Pacific Railroad on June 29, 1892, in volume 2, page 63, of the maps and plats of San Joaquin County, State of California;

(15) the conveyance entered into between the Pacific Improvement Company, grantor, and Sarah Idelia Duffy, grantee, on December 9, 1891, and recorded on December 31, 1891, in book A, volume 75, page 59, of the deeds of San Joaquin County, State of California;

(16) the conveyance entered into between the Pacific Improvement Company, grantor, and C. A. Slack, grantee, on May 29, 1909, and recorded on November 10, 1909, in book A, volume 182, page 304, of the deeds of San Joaquin County, State of California;

(17) the conveyance entered into between the Pacific Improvement Company, grantor, and Frank Brusso, grantee, on August 23, 1911, and recorded on October 11, 1911, in book A, volume 205, page 448, of the deeds of San Joaquin County, State of California;

(18) the conveyance entered into between the Pacific Improvement Company, grantor, and Lee Chong, grantee, on September 30, 1911, and recorded on October 23, 1911, in book A, volume 205, page 471, of the deeds of San Joaquin County, State of California;

(19) the conveyance entered into between the Pacific Improvement Company, grantor, and Lee Jung, grantee, on September 30, 1911, and recorded on October 23, 1911, in book A, volume 205, page 470, of the deeds of San Joaquin County, State of California;

(20) the conveyance entered into between the Pacific Improvement Company, grantor, and Ju Wing, grantee, on January 25, 1911, and recorded on February 14, 1911, in book A, volume 201, page 105, of the deeds of San Joaquin County, State of California;

(21) the conveyance entered into between the Pacific Improvement Company, grantor, and A. Grunauer, grantee, on June 8, 1910, and recorded on June 17, 1910, in book A, volume 187, page 520, of the deeds of San Joaquin County, State of California, excluding that portion of such conveyance concerning lots 12 and 13 in block 36 as designated on the map entitled "Map of the Town of Tracy San Joaquin California", filed at the request of the Southern Pacific Railroad on June 29, 1892, in volume 2, page 63, of the maps and plats of San Joaquin County, State of California;

(22) the conveyance entered into between the Pacific Improvement Company, grantor, and Josie Batten, grantee, on October 10, 1910, and recorded on December 5, 1910, in book A, volume 193, page 477, of the deeds of San Joaquin County, State of California;

(23) the conveyance entered into between the Pacific Improvement Company, grantor, and Frank Brusso, grantee, on

March 18, 1912, and recorded on September 5, 1912, in book A, volume 211, page 459, of the deeds of San Joaquin County, State of California;

(24) the conveyance entered into between the Pacific Improvement Company, grantor, and George Leonard, grantee, on October 16, 1911, and recorded on December 7, 1911, in book A, volume 207, page 205, of the deeds of San Joaquin County, State of California;

(25) the conveyance entered into between the Pacific Improvement Company, grantor, and George Leonard, grantee, on December 12, 1911, and recorded on December 20, 1911, in book A, volume 205, page 587, of the deeds of San Joaquin County, State of California;

(26) the conveyance entered into between the Pacific Improvement Company, grantor, and Jacob Stritzinger, grantee, on February 10, 1912, and recorded on December 29, 1914, in book A, volume 250, page 377, of the deeds of San Joaquin County, State of California;

(27) the conveyance entered into between the Pacific Improvement Company, grantor, and M. R. Fothergill, grantee, on July 13, 1917, and recorded on July 29, 1917, in book A, volume 315, page 34, of the deeds of San Joaquin County, State of California;

(28) the conveyance entered into between the Pacific Improvement Company, grantor, and Miles J. Brown, J. C. Droge, and W. F. Sattler, grantees, on March 29, 1916, and recorded on April 1, 1916, in book A, volume 273, page 375, of the deeds of San Joaquin County, State of California, excluding that portion of such conveyance concerning—

(A) lots 1 through 9, and lots 12 and 13, in block 37;

(B) lots 1 through 5 in block 38;

(C) lots 11, 12, 19, and 20 in block 45;

(D) lots 11 through 18 in block 48; and

(E) lots 15 through 18, and lots 20 through 23, in block 51;

as designated on the map entitled "Map of the Town of Tracy San Joaquin California", filed at the request of the Southern Pacific Railroad on June 29, 1892, in volume 2, page 63, of the maps and plats of San Joaquin County, State of California;

(29) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Manuel Joseph Silva, Mary Ann Gloria Silva, and Anna I. Silva, grantees, on January 13, 1981, and recorded as instrument numbered 81013675 on March 6, 1981, in the official records of San Joaquin County, State of California;

(30) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Ada Lotierzo, grantee, on January 13, 1981, and recorded as instrument numbered 81013677 on March 6, 1981, in the official records of San Joaquin County, State of California;

(31) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Marie E. Wilson, grantee, on January 13, 1981, and recorded as instrument numbered 81013678 on March 6, 1981, in the official records of San Joaquin County, State of California;

(32) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and the Home Mission Board of the Southern Baptist Convention, grantee, on January 13,

1981, and recorded as instrument numbered 81013676 on March 6, 1981, in the official records of San Joaquin County, State of California;

(33) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Jose Gutierrez and Maria Gutierrez, grantees, on January 13, 1981, and recorded as instrument numbered 81013674 on March 6, 1981, in the official records of San Joaquin County, State of California;

(34) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Odessa Jones Manley, grantee, on January 13, 1981, and recorded as instrument numbered 81013679 on March 6, 1981, in the official records of San Joaquin County, State of California;

(35) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and William Assad, grantee, on January 13, 1981, and recorded as instrument numbered 81013680 on March 6, 1981, in the official records of San Joaquin County, State of California;

(36) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Larry C. Fragoso, grantee, on January 13, 1981, and recorded as instrument numbered 81013681 on March 6, 1981, in the official records of San Joaquin County, State of California; and

(37) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and the Housing Authority of the County of San Joaquin, grantee, on January 13, 1981, and recorded as instrument numbered 81013682 on March 6, 1981, in the official records of San Joaquin County, State of California.

SEC. 4. CONVEYANCES OF LANDS IN SACRAMENTO COUNTY, STATE OF CALIFORNIA.

The conveyances of lands in Sacramento County, State of California, referred to in section 2 are as follows:

(1) the conveyance entered into between the Southern Pacific Company, grantor, and Walker & Donant, grantee, on February 24, 1967, and recorded as instrument numbered 13155 on March 1, 1967, in book 67-03-01, page 284, of the official records of Sacramento County, State of California;

(2) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Walker and Donant, grantee, on September 20, 1976, and recorded as instrument numbered 125515 on October 19, 1976, in book 7610-19, page 567, of the official records of Sacramento County, State of California; and

(3) the conveyance entered into between Central Pacific Railway Company, grantor, and James Keymer, grantee, on June 13, 1931, and recorded as instrument numbered 10705 on July 13, 1931, in book 359, page 1, of the official records of Sacramento County, State of California.

SEC. 5. CONVEYANCE OF LAND IN KINGS COUNTY, STATE OF CALIFORNIA.

The conveyance of land in Kings County, State of California, referred to in section 2 is as follows: the conveyance entered into between the Southern Pacific Company, grantor, and the Continental Grain Company, grantee, on August 7, 1968, and recorded as instrument numbered 11974 on September 30, 1968, in book 927, page 898, of the official records of Kings County, State of California.

SEC. 6. CONVEYANCE OF LANDS IN NEVADA COUNTY, STATE OF CALIFORNIA.

The conveyance of lands in Nevada County, State of California, referred to in section 2 are as follows: the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Soda Springs Station, grantee, on March 19, 1981, and recorded as instrument numbered 8107969 on March 31, 1981 in the official records of Nevada County, State of California.

SEC. 7. LIMITATIONS ON VALIDATION OF CONVEYANCES.

(a) SAVINGS CLAUSE.—Nothing in this Act shall be construed to—

(1) diminish the right-of-way referred to in section 2 to a width of less than fifty feet on each side of the center of the main track or tracks maintained by the Southern Pacific Transportation Company on the date of the enactment of this Act; or

(2) legalize, validate, or confirm, with respect to any land that is the subject of a conveyance referred to in section 3, 4, 5, or 6, any right or title to, or interest in, such land arising out of adverse possession, prescription, or abandonment, and not confirmed by such conveyance.

Petroleum and petroleum products.
Coal.
Mines and mining.

(b) RESERVATION.—There is reserved to the United States all oil, coal, or other minerals in any land that forms a part of the right-of-way referred to in section 2 and is the subject of a conveyance referred to in section 3, 4, 5, or 6, together with the right to prospect for, mine, and remove such oil, coal, or other minerals under such rules and regulations as the Secretary of the Interior may prescribe.

Approved October 27, 1986.

LEGISLATIVE HISTORY—H.R. 2067:

HOUSE REPORTS: No. 99-388 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 99-455 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 3, considered and passed House.
Vol. 132 (1986): Oct. 9, considered and passed Senate.

O

Public Law 99-544
99th Congress

An Act

Oct. 27, 1986
[H.R. 2722]

To amend title 13, United States Code, to eliminate the requirement relating to decennial censuses of drainage.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 142 of title 13, United States Code, is amended—

(1) in subsection (b), by striking out "drainage"; and

(2) by amending the section heading to read as follows.

"§ 142. Agriculture and irrigation".

(b) The heading of subchapter II of chapter 5 of title 13, United States Code, is amended by striking out "DRAINAGE".

13 USC 131 *et seq.*

13 USC 141 *et seq.*

(c) The analysis for chapter 5 of title 13, United States Code, is amended—

(1) in the item relating to subchapter II, by striking out "DRAINAGE,"; and

(2) by striking out the item relating to section 142 and inserting in lieu thereof the following:

"142. Agriculture and irrigation.".

Approved October 27, 1986.

LEGISLATIVE HISTORY—H.R. 2722:

HOUSE REPORTS: No. 99-254 (Comm. on Post Office and Civil Service).
SENATE REPORTS: No. 99-451 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Nov. 12, considered and passed House.
Vol. 132 (1986): Sept. 29, considered and passed Senate, amended.
Oct. 10, House concurred in Senate amendments.

91-139 O - 87 - (563)

Public Law 99-545
99th Congress

An Act

To authorize the Secretary of Agriculture to issue permanent easements for water conveyance systems in order to resolve title claims arising under Acts repealed by the Federal Land Policy and Management Act of 1976, and for other purposes.

Oct. 27, 1986
[H.R. 2921]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Public lands.

SECTION 1. (a) For purposes of this Act, the term "the Act" means the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761).

43 USC 1701 note.
43 USC 1761.

(b) Section 501 of the Act is amended by adding at the end thereof the following new subsection:

National Forest System.

"(c)(1) Upon receipt of a written application pursuant to paragraph (2) of this subsection from an applicant meeting the requirements of this subsection, the Secretary of Agriculture shall issue a permanent easement, without a requirement for reimbursement, for a water system as described in subsection (a)(1) of this section, traversing Federal lands within the National Forest System ('National Forest Lands'), constructed and in operation or placed into operation prior to October 21, 1976, if—

"(A) the traversed National Forest lands are in a State where the appropriation doctrine governs the ownership of water rights;

"(B) at the time of submission of the application the water system is used solely for agricultural irrigation or livestock watering purposes;

Agriculture and agricultural commodities.
Animals.

"(C) the use served by the water system is not located solely on Federal lands;

"(D) the originally constructed facilities comprising such system have been in substantially continuous operation without abandonment;

"(E) the applicant has a valid existing right, established under applicable State law, for water to be conveyed by the water system;

"(F) a recordable survey and other information concerning the location and characteristics of the system as necessary for proper management of National Forest lands is provided to the Secretary of Agriculture by the applicant for the easement; and

"(G) the applicant submits such application on or before December 31, 1996.

Grants.

"(2)(A) Nothing in this subsection shall be construed as affecting any grants made by any previous Act. To the extent any such previous grant of right-of-way is a valid existing right, it shall remain in full force and effect unless an owner thereof notifies the Secretary of Agriculture that such owner elects to have a water system on such right-of-way governed by the provisions of this subsection and submits a written application for issuance of an easement pursuant to this subsection, in which case upon the issu-

91-139 O - 87 (564)

ance of an easement pursuant to this subsection such previous grant shall be deemed to have been relinquished and shall terminate.

"(B) Easements issued under the authority of this subsection shall be fully transferable with all existing conditions and without the imposition of fees or new conditions or stipulations at the time of transfer. The holder shall notify the Secretary of Agriculture within sixty days of any address change of the holder or change in ownership of the facilities.

"(C) Easements issued under the authority of this subsection shall include all changes or modifications to the original facilities in existence as of October 21, 1976, the date of enactment of this Act.

"(D) Any future extension or enlargement of facilities after October 21, 1976, shall require the issuance of a separate authorization, not authorized under this subsection.

Agriculture and agricultural commodities. Animals. 43 USC 1766.

"(3)(A) Except as otherwise provided in this subsection, the Secretary of Agriculture may terminate or suspend an easement issued pursuant to this subsection in accordance with the procedural and other provisions of section 506 of this Act. An easement issued pursuant to this subsection shall terminate if the water system for which such easement was issued is used for any purpose other than agricultural irrigation or livestock watering use. For purposes of subparagraph (D) of paragraph (1) of this subsection, non-use of a water system for agricultural irrigation or livestock watering purposes for any continuous five-year period shall constitute a rebuttable presumption of abandonment of the facilities comprising such system.

"(B) Nothing in this subsection shall be deemed to be an assertion by the United States of any right or claim with regard to the reservation, acquisition, or use of water. Nothing in this subsection shall be deemed to confer on the Secretary of Agriculture any power or authority to regulate or control in any manner the appropriation, diversion, or use of water for any purpose (nor to diminish any such power or authority of such Secretary under applicable law) or to require the conveyance or transfer to the United States of any right or claim to the appropriation, diversion, or use of water.

"(C) Except as otherwise provided in this subsection, all rights-of-way issued pursuant to this subsection are subject to all conditions and requirements of this Act.

Safety.

"(D) In the event a right-of-way issued pursuant to this subsection is allowed to deteriorate to the point of threatening persons or property and the holder of the right-of-way, after consultation with the Secretary of Agriculture, refuses to perform the repair and maintenance necessary to remove the threat to persons or property, the Secretary shall have the right to undertake such repair and maintenance on the right-of-way and to assess the holder for the costs of such repair and maintenance, regardless of whether the Secretary had required the holder to furnish a bond or other security pursuant to subsection (i) of this section.".

(c) Section 501 of the Act is amended by adding at the end of subsection (b) the following paragraph:

"(3) The Secretary of Agriculture shall have the authority to administer all rights-of-way granted or issued under authority of previous Acts with respect to lands under the jurisdiction of the Secretary of Agriculture, including rights-of-way granted or issued pursuant to authority given to the Secretary of the Interior by such previous Acts.".

43 USC 1764.

SEC. 2. Section 504 of the Act is amended by—

(1) inserting before the end of subsection (f) "or for emergency repair work necessary for those rights-of-way authorized under section 501(c) of this Act."; and

Ante, p. 3047.

(2) striking out the first sentence of subsection (g) and by inserting in lieu thereof the following: "The holder of a right-of-way shall pay in advance the fair market value thereof, as determined by the Secretary granting, issuing, or renewing such right-of-way. The Secretary concerned may require either annual payment or a payment covering more than one year at a time except that private individuals may make at their option either annual payments or payments covering more than one year if the annual fee is greater than one hundred dollars. The Secretary concerned may waive rentals where a right-of-way is granted, issued or renewed in consideration of a right-of-way conveyed to the United States in connection with a cooperative cost share program between the United States and the holder.".

Approved October 27, 1986.

LEGISLATIVE HISTORY—H.R. 2921:

HOUSE REPORTS: No. 99-554, Pt. 1 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 132 (1986):
May 7, considered and passed House.
Oct. 9, considered and passed Senate.

O

PUBLIC LAW 99-546—OCT. 27, 1986

COORDINATED OPERATIONS AGREEMENT, SUISON MARSH PRESERVATION AGREEMENT, AND SMALL RECLAMATION PROJECTS ACT OF 1956; IMPLEMENTATION

91-139 O - 87 (565)

Public Law 99-546
99th Congress

An Act

Oct. 27, 1986
[H.R. 3113]

To implement the Coordinated Operations Agreement, the Suisun Marsh Preservation Agreement, and to amend the Small Reclamation Projects Act of 1956, as amended, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Conservation.
California.
Water.

TITLE I—COORDINATED OPERATIONS

PROJECT OPERATION POLICY

SEC. 101. Section 2 of the Act of August 26, 1937 (50 Stat. 850) is amended by—

(a) inserting at the beginning "(a)"; and

(b) inserting the following new subsection:

California.

"(b)(1) Unless the Secretary of the Interior determines that operation of the Central Valley project in conformity with State water quality standards for the San Francisco Bay/Sacramento-San Joaquin Delta and Estuary is not consistent with the congressional directives applicable to the project, the Secretary is authorized and directed to operate the project, in conjunction with the State of California water project, in conformity with such standards. Should the Secretary of the Interior so determine, then the Secretary shall promptly request the Attorney General to bring an action in the court of proper jurisdiction for the purposes of determining the applicability of such standards to the project.

"(2) The Secretary is further directed to operate the Central Valley project, in conjunction with the State water project, so that water supplied at the intake of the Contra Costa Canal is of a quality equal to the water quality standards contained in the Water Right Decision 1485 of the State of California Water Resources Control Board, dated August 16, 1978, except under drought emergency water conditions pursuant to a declaration by the Governor of California. Nothing in the previous sentence shall authorize or require the relocation of the Contra Costa Canal intake.".

REIMBURSABLE COSTS

SEC. 102. Section 2 of the Act of August 26, 1937 (50 Stat. 850) is amended by inserting the following new subsection:

"(c)(1) The costs associated with providing Central Valley project water supplies for the purpose of salinity control and for complying with State water quality standards identified in exhibit A of the 'Agreement Between the United States of America and the Department of Water Resources of the State of California for Coordinated Operation of the Central Valley Project and the State Water Project' dated May 20, 1985, shall be allocated among the project purposes and shall be reimbursed in accordance with existing Reclamation law and policy. The costs of providing water for salinity

control and for complying with State water quality standards above those standards identified in the previous sentence shall be nonreimbursable.

"(2) The Secretary of the Interior is authorized and directed to undertake a cost allocation study of the Central Valley project, including the provisions of this Act, and to implement such allocations no later than January 1, 1988.".

COORDINATED OPERATIONS AGREEMENT

SEC. 103. Section 2 of the Act of August 26, 1937 (50 Stat. 850) is amended by inserting the following new subsection:

"(d) The Secretary of the Interior is authorized and directed to execute and implement the 'Agreement Between the United States of America and the Department of Water Resources of the State of California for Coordinated Operation of the Central Valley Project and the State Water Project' dated May 20, 1985: *Provided*, That—

"(1) the contract with the State of California referred to in subarticle 10(h)(1) of the agreement referred to in this subsection for the conveyance and purchase of Central Valley project water shall become final only after an Act of Congress approving the execution of the contract by the Secretary of the Interior; and,

"(2) the termination provisions of the agreement referred to in this subsection may only be exercised if the Secretary of the Interior or the State of California submits a report to Congress and sixty calendar days have elapsed (which sixty days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three days to a day certain) from the date on which said report has been submitted to the Speaker of the House of Representatives and the President of the Senate for reference to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The report must outline the reasons for terminating the agreement and, in the case of the report by the Secretary of the Interior, include the views of the Administrator of the Environmental Protection Agency and the Governor of the State of California on the Secretary's decision.". Reports.

REFUGE WATER SUPPLY INVESTIGATION

SEC. 104. The Secretary of the Interior shall not contract for the delivery of more than 75 percent of the firm annual yield of the Central Valley project not currently committed under long-term contracts until one year after the Secretary has transmitted to the Congress a feasibility report, together with his recommendations, on the "Refuge Water Supply Investigations, Central Valley Basin, California.". Reports. Contracts.

ADJUSTMENT OF RATES AND ABILITY TO PAY

SEC. 105. The Secretary of the Interior shall include in all new or amended contracts for the delivery of water from the Central Valley project a provision providing for the automatic adjustment of rates by the Secretary of the Interior if it is found that the rate in effect Contracts. Securities.

may not be adequate to recover the appropriate share of the existing Federal investment in the project by the year 2030. The contracts shall also include a provision authorizing the Secretary of the Interior to adjust determinations of ability to pay every five years.

OPERATION AND MAINTENANCE DEFICITS

Contracts.

SEC. 106. The Secretary of the Interior shall include in each new or amended contract for the delivery of water from the Central Valley project provisions ensuring that any annual deficit (outstanding or hereafter arising) incurred by a Central Valley project water contractor in the payment of operation and maintenance costs of the Central Valley project is repaid by such contractor under the terms of such new or amended contract, together with interest on any such deficit which arises on or after October 1, 1985, at a rate equal to the average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the applicable reimbursement period of the project, adjusted to the nearest one-eighth of 1 percent.

TITLE II—SUISUN MARSH PRESERVATION AGREEMENT

AUTHORITY TO ENTER AGREEMENT

SEC. 201. The Secretary of the Interior is authorized to execute and implement the agreement between the Department of the Interior, the State of California and the Suisun Resources Conservation District (dated November 1, 1985).

COST-SHARING PROVISIONS

SEC. 202. The costs of implementing the agreement provided in section 201 of this title shall be shared by the Bureau of Reclamation and the California Department of Water Resources in strict accordance with article 12 of that agreement: *Provided*, That—

(a) payments made by the Secretary of the Interior shall not exceed 40 percent of the construction costs incurred under articles 6, 7, and 8 of the agreement, or $50,000,000, whichever is less, plus or minus such amounts as are justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved therein;

(b) the Federal share of continuing annual operation and maintenance costs, including monitoring, shall not exceed 40 percent of the actual operation and maintenance costs; and,

(c) the costs incurred by the United States for construction and for annual operation and maintenance in connection with the implementation of said agreement shall constitute an integral part of the cost of the Central Valley project. The Secretary shall allocate such costs to the reimbursable and nonreimbursable purposes served by the project.

COSTS INCURRED

SEC. 203. Costs incurred both before and after the date of execution of the agreement herein authorized are to be included in the

total for determining the Federal share of construction, operation, and maintenance costs.

AUTHORIZATION OF APPROPRIATIONS

SEC. 204. There are authorized to be appropriated for the implementation of the agreement referred to in Section 201 of this title $50,000,000 plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved therein and, in addition thereto, in accordance with subsection 201(b) of this title, such sums as may be required for operation and maintenance: *Provided,* That no Federal funds may be expended pursuant to this title in advance of appropriations therefor: *Provided further,* That appropriations pursuant to this title shall remain available until expended without any fiscal year limitation.

TITLE III—SMALL RECLAMATION PROJECTS ACT

REFERENCE TO SMALL PROJECTS ACT

SEC. 301. As used in this title, the term "the Act" means the Small Reclamation Projects Act of 1956, as amended (43 U.S.C. 422a et seq.).

REHABILITATION AND BETTERMENT

SEC. 302. Section 1 of the Act is amended by inserting after the word "laws" ", with emphasis on rehabilitation and betterment of existing projects for purposes of significant conservation of water, energy and the environment and for purpose of water quality control,". Energy. Environmental protection. 43 USC 422a.

FILING FEE

SEC. 303. The second sentence of section 3 of the Act is amended by striking "$1,000" and inserting in lieu thereof "$5,000". 43 USC 422c.

COST SHARING

SEC. 304. (a) Section 4(b) of the Act is amended by inserting "(1)" after (b) and by striking "by loan and grant under this Act" and inserting in lieu thereof "by loan and grant of Federal funds". Loans. Grants. 43 USC 422d.

(b) Section 4(b) of the Act is amended by adding the following new paragraph at the end thereof: Gifts and property.

"(2) The Secretary shall require each organization to contribute toward the cost of the project (other than by loan and/or grant of Federal funds) an amount equal to 25 percent or more of the allowable estimated cost of the project: *Provided,* That the Secretary, at his discretion, may reduce the amount of such contribution to the extent that he determines that the organization is unable to secure financing from other sources under reasonable terms and conditions, and shall include letters from lenders or other written evidence in support of any funding of an applicant's inability to secure such financing in any project proposal transmitted to the Congress: *Provided further,* That under no circumstances shall the Secretary reduce the amount of such contribution to less than 10 percent of the allowable estimated total project costs. In determining the amount of the contribution as required by this paragraph, the

Secretary shall credit toward that amount the cost of investigations, surveys, engineering, and other services necessary to the preparation of proposals and plans for the project as required by the Secretary, and the costs of lands and rights-of-way required for the project, and the $5,000 fee described in section 3 of this Act. In determining the allowable estimated cost of the project, the Secretary shall not include the amount of grants accorded to the organization under section 5(b).".

Ante, p. 3053.

Infra.

SOIL SURVEY

Agriculture and agricultural commodities.
43 USC 422d.

SEC. 305. Section 4(c) of the Act is amended by inserting the following after the first sentence: "Each project proposal transmitted by the Secretary to the Congress shall include a certification by the Secretary that an adequate soil survey and land classification has been made, or that the successful irrigability of those lands and their susceptibility to sustained production of agricultural crops by means of irrigation has been demonstrated in practice. Such proposal shall also include an investigation of soil characteristics which might result in toxic or hazardous irrigation return flows.".

COMPATIBILITY WITH CROPS PROJECTS

Fish and fishing.
Wildlife.
Flood control.
43 USC 422e.

SEC. 306. Section 5(b) of the Act is amended by striking everything after the words "joint use facilities properly allocable to fish and wildlife enhancement or public recreation;" and substituting the following in lieu thereof:

"(5) that portion of the estimated cost of constructing the project which, if it were constructed as a Federal reclamation project, would be properly allocable to functions, other than recreation and fish and wildlife enhancement and flood control, which are nonreimbursable under general provisions of law applicable to such projects; and (6) that portion of the estimated cost of constructing the project which is allocable to flood control and which would be nonreimbursable under general provisions of law applicable to projects constructed by the Secretary of the Army.".

REPAYMENT AND INTEREST

43 USC 422e.

SEC. 307. (a) Section 5(c)(1) of the Act is amended by striking "fifty" and inserting in lieu thereof "forty".

Loans.
Contracts.

(b) Section 5(c)(2) of the Act is amended to read as follows: "interest, as determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which the contract is executed, on the basis of the average market yields on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the applicable reimbursement period of the project, adjusted to the nearest one-eighth of 1 percent on the unamortized balance of any portion of the loan—

"(A) which is attributable to furnishing irrigation benefits in each particular year to land held in private ownership by a qualified recipient or by a limited recipient, as such terms are defined in section 202 of the Reclamation Reform Act of 1982, in excess of three hundred and twenty irrigable acres; or,

43 USC 390bb.
Energy.
Fish and fishing.
Wildlife.

"(B) which is allocated to domestic, industrial, or municipal water supply, commercial power, fish and wildlife enhance-

ment, or public recreation except that portion of such allocation attributable to furnishing benefits to a facility operated by an agency of the United States, which portion shall bear no interest.".

(c) The remainder of section 5(c) of the Act is stricken in its entirety.

FISH AND WILDLIFE FUNDING

SEC. 308. Section 8 of the Act is amended by adding at the end thereof the following sentence: "The Secretary shall transfer to the Fish and Wildlife Service or to the National Marine Fisheries Service, out of appropriations or other funds made available under this Act, such funds as may be necessary to conduct the investigations required to carry out the purposes of this section.". 43 USC 422h.

AUTHORIZATION AND LIMITATION

SEC. 309. (a) Section 10 of the Act is amended in the first sentence by inserting before ": *Provided*" "and, effective October 1, 1986, not to exceed an additional $600,000,000". Effective date. 43 USC 422j.

(b) Section 10 of the Act is further amended by adding at the end thereof the following: "Not more than 20 percent of the total amount of additional funds authorized to be appropriated effective October 1, 1986, for loans and grants pursuant to this Act shall be for projects in any single State: *Provided*, That beginning five years after the date of enactment of this Act, the Secretary is authorized to waive the 20 percent limitation for loans and grants which meet the purposes set forth in section 1 of this Act: *Provided further*, That the decision of the Secretary to waive the limitation shall be submitted to the Congress together with the project proposal pursuant to section 4(c) of this Act and shall become effective only if the Congress has not, within 60 legislative days, passed a joint resolution of disapproval for such a waiver.". Loans. Grants. *Ante*, p. 3053. *Ante*, p. 3054.

TRANSITION RULES

SEC. 310. The provisions of Sections 303 and 308 of this title shall take effect upon enactment of this title. The provisions of sections 304(a) and 305 of this title shall be applicable to all proposals for which final applications are received by the Secretary after January 1, 1986. The provisions of Sections 302, 304(b), 306, and 307 shall be applicable to all proposals for which draft applications are received by the Secretary after Auguest 15, 1986. Effective date. 43 USC 422a note.

SURPLUS CROPS REPORT

SEC. 311. The Secretary of the Interior and the Secretary of Agriculture shall review the effect of the Small Reclamation Projects Act of 1956, as amended, on the operation and objectives of the programs of the Department of Agriculture dealing with the production of surplus commodities as determined by the Secretary of Agriculture pursuant to the Agriculture Act of 1949, as amended, and shall jointly submit a report of their findings to the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition and Forestry of the Senate and the Committee on Interior and Insular Affairs and the Committee on Agriculture of the House of Representatives no later than 120 days from the date of Reports. 43 USC 422a *et seq.* 7 USC 1421 note.

enactment of this Act together with their recommendations, if any, for any changes to either or both programs to better achieve the objectives of such programs.

TITLE IV—VALIDATION OF CONTRACTS

Dams.

SEC. 401. The Federal Power Act (Act of June 10, 1920, 41 Stat. 1063; 16 U.S.C. 791a et seq., and Acts amendatory thereof and supplementary thereto) is amended in section 10(e) (16 U.S.C. 803(e)) by deleting "Commission." and inserting in lieu thereof: "Commission: *Provided however,* That no charge shall be assessed for the use of any Government dam or structure by any licensee if, before January 1, 1985, the Secretary of the Interior has entered into a contract with such licensee that meets each of the following requirements:

"(A) The contract covers one or more projects for which a license was issued by the Commission before January 1, 1985.

Energy.

"(B) The contract contains provisions specifically providing each of the following:

"(i) A powerplant may be built by the licensee utilizing irrigation facilities constructed by the United States.

"(ii) The powerplant shall remain in the exclusive control, possession, and ownership of the licensee concerned.

"(iii) All revenue from the powerplant and from the use, sale, or disposal of electric energy from the powerplant shall be, and remain, the property of such licensee.

"(C) The contract is an amendatory, supplemental and replacement contract between the United States and: (i) the Quincy-Columbia Basin Irrigation District (Contract No. 14-06-100-6418); (ii) the East Columbia Basin Irrigation District (Contract No. 14-06-100-6419); or, (iii) the South Columbia Basin Irrigation District (Contract No. 14-06-100-6420).

This paragraph shall apply to any project covered by a contract referred to in this paragraph only during the term of such contract unless otherwise provided by subsequent Act of Congress.".

Approved October 27, 1986.

LEGISLATIVE HISTORY—H.R. 3113:

HOUSE REPORTS: No. 99-257 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 99-265 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Sept. 9, considered and passed House.
Vol. 132 (1986): July 16, considered and passed Senate, amended.
Oct. 14, House agreed to conference report.
Oct. 15, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Oct. 27, Presidential statement.

O

Public Law 99-547
99th Congress

An Act

To require the Director of the Office of Management and Budget to prepare an annual report consolidating the available data on the geographic distribution of Federal funds, and for other purposes.

Oct. 27, 1986
[H.R. 3168]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Consolidated Federal Funds Report Amendments of 1985".

Consolidated Federal Funds Report Amendments of 1985.

SEC. 2. (a) Title 31, United States Code, is amended by inserting after chapter 61 the following new chapter:

31 USC 6201 note.
31 USC 6101 *et seq.*

"CHAPTER 62—CONSOLIDATED FEDERAL FUNDS REPORT

"Sec.
"6201. Definitions.
"6202. Content, form, and data for report.
"6203. Printing and distribution of reports and machine-readable records.
"6204. Delegation.
"6205. Availability of information.
"6206. Data consistency and uniformity of data elements.
"6207. Authorization of appropriations.

31 USC 6201.

"§ 6201. Definitions

"As used in this chapter, the term—

"(1) 'Director' means the Director of the Office of Management and Budget;

"(2) 'State' means any State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Government of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands; and

"(3) 'municipality' means any subcounty unit of general local government that received Federal assistance in the fiscal year that is the subject of the report.

"§ 6202. Content, form and data for report

"(a) For fiscal years 1986, 1987, 1988, 1989, and 1990, not later than 180 days after the end of each fiscal year, the Director shall prepare a Consolidated Federal Funds Report presenting the total amount of Federal funds that were obligated for expenditure or expended in each State, county or parish, congressional district, and municipality of the United States in appropriate general categories of Federal funds during the preceding fiscal year. To the extent practicable, such categories shall be consistently constituted from year to year. The report shall be in the form described in subsection (b) and shall be based on the data referred to in subsection (c).

"(b) The Director shall include in each report required by subsection (a)—

"(1) the total amount of Federal funds that were reported obligated for expenditure in each State, county or parish,

congressional district, and municipality of the United States in appropriate general categories of Federal funds in the fiscal year preceding the fiscal year in which the report is made; or

"(2) the total amount of Federal funds that were reported actually expended in each State, county or parish, congressional district, and municipality of the United States in appropriate categories in the fiscal year preceding the fiscal year in which the report is made.

Grants. Loans.

"(c) The report required by subsection (a) shall be based on the data included in—

"(1) the Federal assistance awards data system established pursuant to section 6102a of this title;

Post, p. 3060.

"(2) the Federal procurement data system established pursuant to section 6(d)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(5));

"(3) the appropriate data files of the Office of Personnel Management;

"(4) the payroll, pension, and grants files of the Office of the Secretary of Defense;

"(5) the appropriate data files of the United States Postal Service and the Postal Rate Commission;

"(6) the data system used by the Bureau of the Census to prepare the annual Federal aid to States report;

Uniformed services.

"(7) the retirement and disability files of the United States Coast Guard, the Tennessee Valley Authority, the Commissioned Corps of the Public Health Service, the Commissioned Corps of the National Oceanic and Atmospheric Administration, and the Foreign Service;

Insurance.

"(8) the insurance claims files of the Federal Emergency Management Agency and the Department of Agriculture;

"(9) the grants files of the Legal Services Corporation;

Taxes.

"(10) the excess earned income tax credit file of the Internal Revenue Service;

"(11) the appropriate data files of the National Railroad Passenger Corporation; and

"(12) the payroll file of the Federal Bureau of Investigation.

Grants. Loans. Contracts. Government organization and employees. Retirement.

"(d) For the purposes of subsection (b), the general categories of Federal funds presented in each report required by subsection (a) shall include data with respect to grants, loans, purchases and contracts, cooperative agreements, direct Federal payments to individuals, pay of civilian employees of the Government, military pay, annuities, retirement pay, pensions, and disability compensation.

31 USC 6203.

"§ 6203. Printing and distribution of reports and machine-readable records

"(a)(1) The Director shall—

"(A) prepare—

"(i) printed copies of each of the reports required by this chapter; and

"(ii) machine-readable records of such reports; and

Public information.

"(B) make the printed copies of the reports and the machine-readable records available to the public for purchase at a price fixed under subsection (b).

"(2) The Director shall transmit free of charge one of each of the printed copies of the reports required by this chapter to—

Libraries.

"(A) each Federal regional depository library;

"(B) the Committees on Government Operations, the Budget, and Appropriations of the House of Representatives; and

"(C) the Committees on Governmental Affairs, the Budget, and Appropriations of the Senate.

"(3) The Director shall also transmit promptly after the end of each calendar year, free of charge, one machine-readable record of the report required by section 6202 to the Committee on Rules and Administration of the Senate and to the Committee on House Administration of the House of Representatives.

"(4) Subject to subsection (b), the Director may, at his discretion, waive all or part of the fee required by subsection (a)(1)(B) of this section.

Public information.

"(b) In carrying out subsection (a)(1)(B), the Director shall, based on the estimates made under paragraphs (1) and (2) of this subsection, fix the price of each printed copy and each machine-readable record of the report so that the aggregate revenues obtained in each fiscal year under subsection (a) will cover as much as is feasible of the incremental costs incurred in making these reports and machine-readable records available for purchase by the public. In computing these costs the Director shall not consider the costs of the activities set forth in sections 6102a and 6205 of this title but shall consider—

Post, p. 3060.

"(1) the cost of compiling the reports required by this chapter; preparing the printed copies and machine-readable records under subsection (a); and distributing the printed copies and the machine-readable records of the report for each fiscal year; and

"(2) the number of printed copies and the number of machine-readable records of the report that will be purchased.

"§ 6204. Delegation

31 USC 6204.

"In order to carry out sections 6202 and 6203 of this chapter, the Director may delegate to any authority of the executive branch of the Federal Government the responsibility for carrying out such sections. The Director shall oversee the activities of any authority to which responsibilities are delegated under this section and shall monitor the compliance of each authority with respect to the requirements set forth in section 6205.

"§ 6205. Availability of information

"Each head of any authority of the Government having custody of the data files and systems referred to in section 6202(c)—

"(1) shall make available to the Director (or other authority to which the Director has delegated the responsibility to carry out such section) the information requested in the form designated; and

"(2) is authorized to make available to the Director (or such other authority) such administrative services, equipment, personnel, and facilities (and funds appropriated therefor) as the Director or such authority requires to carry out such section.

"§ 6206. Data consistency and uniformity of data elements

"The Director shall designate a single organizational unit to provide for data consistency and uniform reporting of data elements.

31 USC 6207.

"§ 6207. Authorization of appropriations

"There are authorized to be appropriated to carry out this chapter such sums as may be necessary for each of the fiscal years 1986, 1987, 1988, 1989, and 1990.".

(b)(1) Section 6102a of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) The Director shall transmit promptly after the end of each calendar quarter, free of charge, the data in the system required by subsection (a) to the Committee on Rules and Administration of the Senate and to the Committee on House Administration of the House of Representatives.".

(2) Section 6101(4)(B) of such title is amended by striking out everything after "does not include" and inserting "assistance from an agency for an agency".

(c) The table of chapters for subtitle V of title 31, United States Code, is amended by inserting after the item pertaining to chapter 61 the following new item:

"62. Consolidated Federal Funds Report ..... 6201".

Effective date.
31 USC 6102 note.

(d) Effective on May 1, 1986, the Consolidated Federal Funds Report Act of 1982 is repealed.

Approved October 27, 1986.

LEGISLATIVE HISTORY—H.R. 3168:

HOUSE REPORTS: No. 99-452 (Comm. on Government Operations).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Mar. 4, considered and passed House.
Oct. 8, considered and passed Senate.

O

Public Law 99-548
99th Congress

An Act

To transfer certain real property to the City of Mesquite, Nevada.

Oct. 27, 1986
[H.R. 3352]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Public lands.

SECTION 1. DEFINITIONS AND MAPS.

(a) DEFINITIONS.—As used in this Act:

(1) The term "public lands" has the same meaning as such term has in the Federal Land Policy and Management Act of 1976.

43 USC 1701 note.

(2) The term "city limits" means the corporate limits of the City of Mesquite, in Clark County, Nevada, as such limits were established on September 15, 1986.

(3) The term "the Secretary" means the Secretary of the Interior.

(4) The term "the map" means the map entitled "Mesquite, Nevada Lands Transfer Plan" dated September 1986.

(b) MAPS.—All maps referred to in this Act shall be on file with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate and also on file and available for inspection in the offices of the Director and Nevada State Director of the Bureau of Land Management.

Public information.

SEC. 2. WITHDRAWAL.

Subject to valid existing rights, all public lands within the city limits are hereby withdrawn from all forms of entry and appropriation under the public land laws, including the mining laws, and from operation of the mineral leasing and geothermal leasing laws. This withdrawal will terminate on the date ten years after the date of enactment of this Act, except with regard to those lands identified on the map as "Public Lands Retention Area". The withdrawal of the lands so identified shall continue in effect until otherwise provided by law.

Termination date.

SEC. 3. NOTIFICATION AND SALE PERIODS.

(a) FIRST AREA.—(1) No later than 180 days after the date of enactment of this Act, the City of Mesquite shall notify the Secretary as to which if any of the public lands within the area specified in paragraph (2) of this subsection the city wishes to purchase.

(2) For the period of one year after the date of enactment of this Act, the city shall have the exclusive right to purchase public lands within the area identified on the map as "Area One".

(b) SECOND AREA.—(1) No later than three years after the date of enactment of this Act, the City of Mesquite shall notify the Secretary as to which if any of the public lands within the area specified in paragraph (2) of this subsection the city wishes to purchase.

91-139 O - 87 (567)

(2) For a period of four years after the date of enactment of this Act, the city shall have the exclusive right to purchase public lands within the area identified on the map as "Area Two".

(c) THIRD AREA.—(1) No later than five years after the date of enactment of this Act, the City of Mesquite shall notify the Secretary as to which if any of the public lands within the area specified in paragraph (2) of this subsection the city wishes to purchase.

(2) For a period of six years after the date of enactment of this Act, the city shall have the exclusive right to purchase public lands within the area identified on the map as "Area Three".

SEC. 4. TERMS AND CONDITIONS OF SALES.

(a) The City of Mesquite shall seek lands in compact and contiguous parcels and shall be subject to a determination by the Secretary that disposition of the lands sought is compatible with proper management by the Bureau of Land Management of public lands within the city limits which will remain in Federal ownership. Subject to such determination, and to the provisions of this Act, the Secretary shall provide to the city the opportunity to purchase public lands within the city limits.

(b) After the expiration of the time of the exclusive right provided for in section 3, the Secretary may offer the public lands within the city limits (except within the Public Lands Retention Area) for sale under appropriate provisions of the Federal Land Policy and Management Act of 1976. The City of Mesquite will be given an opportunity to meet the high bid. If the City of Mesquite matches the highest bid at the sale, it shall be declared the high bidder and allowed to purchase the property.

43 USC 1701 note.

(c) The Secretary shall retain in Federal ownership the public lands in the Public Lands Retention Area, and is authorized to retain such other public lands within the city limits as which the Secretary determines it would best serve the public interest to retain in Federal ownership.

(d) The Secretary is hereby authorized to attach such conditions to any sale under this Act and patent issued pursuant to it, as the Secretary of the Interior determines to be reasonable and appropriate.

(e) All disposals of public lands within the city limits shall be subject to valid existing rights and for fair market value.

Approved October 27, 1986.

LEGISLATIVE HISTORY—H.R. 3352:

HOUSE REPORTS: No. 99-897 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 30, considered and passed House.
Oct. 9, considered and passed Senate.

O

Public Law 99-549
99th Congress

An Act

To amend the Act establishing a Commission on the Bicentennial of the Constitution of the United States to clarify the status of employees of the Commission, to raise the limits on private contributions, and for other purposes.

Oct. 27, 1986
[H.R. 3559]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OFFICIAL SEAL.

The first section of the Act entitled "An Act to provide for the establishment of a Commission on the Bicentennial of the Constitution", enacted September 29, 1983 (Public Law 98-101; 97 Stat. 719), hereinafter in this Act referred to as "Public Law 98-101", is amended by adding at the end thereof the following: "The Commission shall have an official seal, which shall be judicially noticed.".

SEC. 2. COMMEMORATIONS BY STATE AND LOCAL GOVERNMENTS.

Section 3 of Public Law 98-101 is amended— 97 Stat. 719.

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following:

"(b) It is not the purpose of this Act to preempt any unit of State or local government from celebrating the bicentennial of the Constitution, and nothing in this Act shall prevent any such unit from establishing its own logo, symbol, or mark in connection therewith.".

SEC. 3. AMENDMENTS RELATING TO CERTAIN ADMINISTRATIVE PROVISIONS AND POWERS.

Section 5 of Public Law 98-101 is amended— 97 Stat. 720.

(1) in subsection (h)(2)(A), by striking out "$25,000" and inserting in lieu thereof "$250,000";

(2) in subsection (h)(2)(B), by striking out "$100,000" and inserting in lieu thereof "$1,000,000"; and

(3) by adding at the end thereof the following:

"(k) The Commission may transfer funds received by it to another Federal department or agency if the Commission determines that the use of such funds by such department or agency would promote the commemoration of the bicentennial of the Constitution. This subsection is effective only to the extent and in such amounts as are provided in advance in appropriation Acts.

"(l) The Commission may issue rules and regulations to carry out the purposes of this Act.". Regulations.

SEC. 4. BICENTENNIAL LOGO.

(a) IN GENERAL.—Section 5(j) of Public Law 98-101 is amended to read as follows:

"(j)(1) For the purpose of this Act, the term 'Bicentennial logo' means the symbol or mark designated by the Commission for use in connection with the commemoration of the bicentennial of the Constitution.

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Regulations.

"(2) The Commission may, in accordance with rules and regulations which the Commission shall prescribe, authorize the manufacture, reproduction, use, sale, or distribution of the Bicentennial logo. Such rules and regulations shall provide, among other things, that all projects, goods, and services as to which use of the logo is authorized shall be educational or commemorative, and shall relate to the bicentennial of the United States Constitution, the establishment of the Federal Government, or the Bill of Rights, and none of such projects, goods or services shall exploit the United States Constitution or the Bill of Rights. The purpose of the Commission in authorizing use of the logo shall not be primarily or exclusively to raise funds.

Regulations.

"(3) Rules and regulations referred to in paragraph (2) shall include provisions under which—

"(A) fees may be charged for any authorization under this subsection (including circumstances under which any such fee may be waived);

"(B) any authorization granted under this subsection shall not be subject to reassignment or transfer without approval by the Commission; and

"(C) any authorization granted under this subsection may be revoked or otherwise terminated.

Law enforcement and crime.

"(4)(A) Whoever, except as authorized under this subsection, manufactures, reproduces, uses, sells, or distributes the Bicentennial logo—

"(i) shall be fined not more than $250 or imprisoned not more than 6 months, or both; and

"(ii) shall be subject to a civil penalty in an amount equal to the amount of the fee which would have been payable by that person under paragraph (3)(A).

"(B) Section 701 of title 18, United States Code, shall not apply with respect to the Bicentennial logo.

"(5) Amounts charged under paragraph (3)(A) shall be available to the Commission.

Federal Register, publication.

"(6) Notice of designation under paragraph (1) shall be published in the Federal Register.".

Regulations.

97 Stat. 720.

(b) SAVINGS PROVISIONS.—(1) All rules and regulations issued by the Commission on the Bicentennial of the United States Constitution in connection with section 5(j) of Public Law 98-101 (as in effect before the enactment of this Act) shall continue in effect, according to their terms, until modified, terminated, superseded, or repealed by such Commission.

(2) No suit, action, or other proceeding lawfully commenced before the amendment made by subsection (a) becomes effective shall abate by reason of the enactment of this Act. Determinations with respect to any such suit, action, or other proceeding shall be made as if this Act had not been enacted.

SEC. 5. AMENDMENTS RELATING TO PERSONNEL.

Section 5 of Public Law 98-101 is amended—

(1) in subsection (b)—

(A) by striking out "(b) The" and inserting in lieu thereof "(b)(1) The";

(B) by striking out "compensation, without" and all that follows thereafter through "rates," and inserting in lieu thereof "compensation"; and

(C) by adding at the end thereof the following: "The Chairman or the staff director or both may, if so authorized by the Commission, take any action which the Commission is authorized to take under the preceding provisions of this paragraph.";

(2) in subsection (c)—

(A) by striking out "(c) Subject to the provisions of this subsection, the" and inserting in lieu thereof "(2) The"; and

(B) by striking out the last sentence and inserting in lieu thereof the following: "The Chairman or the staff director or both may, if so authorized by the Commission, take any action which the Commission is authorized to take under the preceding provisions of this paragraph.";

(3) by inserting before subsection (d) the following:

"(c) Appointments and compensation under subsection (b)(1) or (2) of this section may be made without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates."; and

5 USC 5101.
5 USC 5331.
5 USC 5332.

(4) in subsection (e)—

(A) by striking out paragraph (2); and

(B) by redesignating subsection (e)(1) as subsection (e).

SEC. 6. AGENCY COOPERATION.

Section 6(c) of Public Law 98-101 is amended by adding at the end thereof the following: "All such governmental agencies and organizations shall cooperate with the Commission, to the extent allowed by law, in providing advice and assistance requested by the Commission.".

97 Stat. 721.

SEC. 7. TWO-YEAR EXTENSION.

Section 7 of Public Law 98-101 is amended by striking out "1989" and inserting in lieu thereof "1991".

97 Stat. 722.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS FOR TWO ADDITIONAL YEARS.

Section 8 of Public Law 98-101 is amended by striking out "1989" and inserting in lieu thereof "1991".

97 Stat. 723.

SEC. 9. TECHNICAL AMENDMENTS.

5 USC 8341 note.

(a) AMENDMENTS.—(1) Subsections (a)(4)(B), (a)(5)(B)(iii), and (f) of section 4 of Public Law 98-615 (98 Stat. 3204), as amended by section 201 of Public Law 99-251 (100 Stat. 20), are each amended by striking out "Federal Employees Benefits Improvement Act of 1985" and inserting in lieu thereof "Federal Employees Benefits Improvement Act of 1986".

Ante, p. 14.

(2) Section 4(a)(5)(A) of Public Law 98-615, as so amended, is amended—

(A) by striking out "Paragraphs (2)," and inserting in lieu thereof "Paragraphs"; and

(B) by adding at the end thereof the following: "The paragraphs referred to in the preceding sentence shall so apply only insofar as they relate to an election to provide a survivor annuity for a former spouse.".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective as of May 7, 1985.

Approved October 27, 1986.

LEGISLATIVE HISTORY—H.R. 3559 (S. 1779):

HOUSE REPORTS: No. 99-530, Pt. 1 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 132 (1986):
June 24, considered and passed House.
Oct. 3, S. 1779, considered in Senate; H.R. 3559, considered and passed Senate, amended, in lieu of S. 1779.
Oct. 6, proceedings of Oct. 3, vitiated; considered and passed Senate, amended.
Oct. 10, House concurred in Senate amendment.

O

Public Law 99-550
99th Congress

An Act

To restrict the use of government vehicles for transportation of officers and employees of the Federal Government between their residences and places of employment, and for other purposes.

Oct. 27, 1986
[H.R. 3614]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1344 of title 31, United States Code, is amended to read as follows:

"§ 1344. Passenger carrier use

"(a)(1) Funds available to a Federal agency, by appropriation or otherwise, may be expended by the Federal agency for the maintenance, operation, or repair of any passenger carrier only to the extent that such carrier is used to provide transportation for official purposes. Notwithstanding any other provision of law, transporting any individual other than the individuals listed in subsections (b) and (c) of this section between such individual's residence and such individual's place of employment is not transportation for an official purpose.

"(2) For purposes of paragraph (1), transportation between the residence of an officer or employee and various locations that is—

"(A) required for the performance of field work, in accordance with regulations prescribed pursuant to subsection (e) of this section, or

"(B) essential for the safe and efficient performance of intelligence, counterintelligence, protective services, or criminal law enforcement duties,

is transportation for an official purpose, when approved in writing by the head of the Federal agency.

"(b) A passenger carrier may be used to transport between residence and place of employment the following officers and employees of Federal agencies:

"(1)(A) the President and the Vice President;

"(B) no more than 6 officers or employees in the Executive Office of the President, as designated by the President; and

"(C) no more than 10 additional officers or employees of Federal agencies, as designated by the President;

"(2)(A) officers compensated at Level I of the Executive Schedule pursuant to section 5312 of title 5; and

"(B) a single principal deputy to an officer described in subparagraph (A) of this paragraph, when a determination is made by such officer that such transportation is appropriate;

"(3) principal diplomatic and consular officials abroad, and the United States Ambassador to the United Nations;

"(4) the Deputy Secretary of Defense and Under Secretaries of Defense, the Secretary of the Air Force, the Secretary of the Army, the Secretary of the Navy, the Joint Chiefs of Staff, and the Commandant of the Coast Guard;

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"(5) the Director of the Central Intelligence Agency and the Director of the Federal Bureau of Investigation;

"(6) the Chairman of the Board of Governors of the Federal Reserve System;

"(7) the Comptroller General of the United States and the Postmaster General of the United States; and

"(8) an officer or employee with regard to whom the head of a Federal agency makes a determination, in accordance with subsection (d) of this section and with regulations prescribed pursuant to paragraph (1) of subsection (e), that highly unusual circumstances present a clear and present danger, that an emergency exists, or that other compelling operational considerations make such transportation essential to the conduct of official business.

Except as provided in paragraph (2) of subsection (d), any authorization made pursuant to paragraph (8) of this subsection to permit the use of a passenger carrier to transport an officer or employee between residence and place of employment shall be effective for not more than 15 calendar days.

"(c) A passenger carrier may be used to transport between residence and place of employment any person for whom protection is specifically authorized pursuant to section 3056(a) of title 18 or for whom transportation is authorized pursuant to section 28 of the State Department Basic Authorities Act of 1956 or section 8(a)(1) of the Central Intelligence Agency Act of 1949.

22 USC 2700.
50 USC 403j.

"(d)(1) Any determination made under paragraph (8) of subsection (b) shall be in writing and shall include the name and title of the officer or employee affected, the reason for such determination, and the duration of the authorization for such officer or employee to use a passenger carrier for transportation between residence and place of employment.

"(2) If a clear and present danger, an emergency, or a compelling operational consideration described in paragraph (8) of subsection (b) extends or may extend for a period in excess of 15 calendar days, the head of the Federal agency shall determine whether an authorization under such paragraph shall be extended in excess of 15 calendar days for a period of not more than 90 additional calendar days. Determinations made under this paragraph may be reviewed by the head of such agency at the end of each such period, and, where appropriate, a subsequent determination may be made whether such danger, emergency, or consideration continues to exist and whether an additional extension, not to exceed 90 calendar days, may be authorized. Determinations made under this paragraph shall be in accordance with regulations prescribed pursuant to paragraph (1) of subsection (e).

"(3) The authority to make designations under subsection (b)(1) of this section and to make determinations pursuant to subsections (a)(2), (b)(2)(B), and (b)(8) of this section and pursuant to paragraph (2) of this subsection may not be delegated, except that, with respect to the Executive Office of the President, the President may delegate the authority of the President under subsection (b)(8) of this section to an officer in the Executive Office of the President. No designation or determination under this section may be made solely or principally for the comfort or convenience of the officer or employee.

"(4) Notification of each designation or determination made under paragraphs (1), (2)(B), and (8) of subsection (b) and under paragraph (2) of this subsection, including the name and title of the officer or

employee affected, the reason for any determination under paragraph (8) of subsection (b), and the expected duration of any authorization under such paragraph, shall be transmitted promptly to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate.

"(e)(1) Not later than March 15, 1987, the Administrator of General Services, after consultation with the Comptroller General, the Director of the Office of Management and Budget, and the Director of the Administrative Office of the United States Courts, shall promulgate regulations governing the heads of all Federal agencies in making the determinations authorized by subsections (a)(2)(A), (b)(8), and (d)(2) of this section. Such regulations shall specify that the comfort and convenience of an officer or employee is not sufficient justification for authorizations of transportation under this section. Regulations.

"(2) In promulgating regulations under paragraph (1) of this subsection, the Administrator of General Services shall provide criteria defining the term 'field work' for purposes of subsection (a)(2)(A) of this section. Such criteria shall ensure that transportation between an employee's residence and the location of the field work will be authorized only to the extent that such transportation will substantially increase the efficiency and economy of the Government.

"(f) Each Federal agency shall maintain logs or other records necessary to establish the official purpose for Government transportation provided between an individual's residence and such individual's place of employment pursuant to this section. Records.

"(g) As used in this section—

"(1) the term 'passenger carrier' means a passenger motor vehicle, aircraft, boat, ship, or other similar means of transportation that is owned or leased by the United States Government; and

"(2) the term 'Federal agency' means—

"(A) a department (as such term is defined in section 18 of the Act of August 2, 1946 (41 U.S.C. 5a));

"(B) an Executive department (as such term is defined in section 101 of title 5);

"(C) a military department (as such term is defined in section 102 of title 5);

"(D) a Government corporation (as such term is defined in section 103(1) of title 5);

"(E) a Government controlled corporation (as such term is defined in section 103(2) of title 5);

"(F) a mixed-ownership Government corporation (as such term is defined in section 9101(2) of this title);

"(G) any establishment in the executive branch of the Government (including the Executive Office of the President);

"(H) any independent regulatory agency (including an independent regulatory agency specified in section 3502(10) of title 44);

"(I) the Smithsonian Institution; and

"(J) any nonappropriated fund instrumentality of the United States,

except that such term does not include the government of the District of Columbia. District of Columbia.

"(h) Notwithstanding section 410(a) of title 39, this section applies to the United States Postal Service.".

(b) The table of sections for chapter 13 of such title is amended by striking out the item relating to section 1344 and inserting in lieu thereof the following:

"1344. Passenger carrier use.".

SEC. 2. (a) Title 10, United States Code, is amended—

(1) by striking out section 2637 thereof; and

(2) in the table of contents of chapter 157 thereof, by striking out the item pertaining to section 2637.

(b) Section 636(a)(5) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(a)(5)) is amended by striking out "(without regard to the limitations contained in section 5 of Public Law 63-127, as amended (31 U.S.C. 638a(c)(2)), and section 201 of Public Law 85-468 (31 U.S.C. 638c))".

(c) Section 48 of the Arms Control and Disarmament Act (22 U.S.C. 2588) is amended by striking out "without regard to the limitations contained in section 78(c) of title 5 of the United States Code".

(d) Section 11 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2678) is repealed.

(e) Section 660 of title 14, United States Code, is amended by striking out subsection (e).

28 USC 456 note.

SEC. 3. Within one year after the date of enactment of this Act, the Director of the Administrative Office of the United States Courts shall prepare, in consultation with the Marshal of the Supreme Court of the United States, the Clerk of the United States Court of Military Appeals and the Court Administrator of the United States Tax Court, and transmit to the Congress, appropriate recommendations concerning the transportation needs of the judicial branch and of courts established pursuant to Article I of the Constitution.

Approved October 27, 1986.

LEGISLATIVE HISTORY—H.R. 3614:

HOUSE REPORTS: No. 99-451 (Comm. on Government Operations).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Mar. 4, considered and passed House.
Oct. 10, considered and passed Senate, amended.
Oct. 15, House concurred in Senate amendments.

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Public Law 99-551
99th Congress

An Act

To extend and improve the Domestic Volunteer Service Act of 1973.

Oct. 27, 1986
[H.R. 4116]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Domestic Volunteer Service Act Amendments of 1986.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Domestic Volunteer Service Act Amendments of 1986".

SEC. 2. VOLUNTEERISM POLICY.

42 USC 4950 note.
42 USC 4951 note.

(a) VOLUNTEERISM POLICY.—The Domestic Volunteer Service Act of 1973 (hereinafter in this Act referred to as "the Act") is amended by inserting immediately after the table of contents the following new section:

"VOLUNTEERISM POLICY

42 USC 4950.

"SEC. 2. (a) Because of the long-standing importance of volunteerism throughout American history, it is the policy of the Congress to foster the tradition of volunteerism through greater involvement on the part of both young and older citizens.

Disadvantaged persons.
Aged persons.
State and local governments.

"(b) The purpose of ACTION, the Federal domestic volunteer agency, is to foster and expand voluntary citizen service in communities throughout the Nation in activities designed to help the poor, the disadvantaged, the vulnerable, and the elderly. In carrying out this purpose, ACTION shall utilize to the fullest extent the programs authorized under this Act, coordinate with other Federal, State, and local agencies and utilize the energy, innovative spirit, experience, and skills of all Americans.".

(b) CONFORMING AMENDMENT.—The table of contents of the Act is amended by inserting before the item relating to title I the following:

"Sec. 2. Volunteerism policy.".

SEC. 3. ASSIGNMENT OF VOLUNTEERS.

42 USC 4953.

(a) RECRUITMENT AND ASSIGNMENT.—Section 103(b) of the Act is amended to read as follows:

"(b) The Director shall establish, at a cost not to exceed $250,000, procedures to recruit and place individuals from all walks of life, age groups, economic levels, and geographic areas to serve as VISTA volunteers. The procedures shall include an information system to ensure that potential applicants are made aware of the broad range of VISTA volunteer opportunities and a system to identify and place qualified volunteers where their skills are most needed. The Director shall also establish procedures for national and local recruitment, media and public awareness efforts, and specialized campaigns designed to recruit recent college graduates, special skilled volunteers, and individuals 55 years of age and older. The Director, wherever feasible and appropriate, shall assign low-income community volunteers to serve in their home communities in teams

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with nationally recruited specialist volunteers. The Director shall make efforts to assign volunteers to serve in their home or nearby communities and shall make national efforts to attract other volunteers to serve in the VISTA program. The Director shall also, in the assignment of volunteers, recognize that the community identified needs which cannot be met in the local area, and the individual desires of VISTA volunteers in regard to placement in various geographic areas of the Nation, should be taken into consideration.".

42 USC 5047.

(b) REPORTS.—Section 407 of the Act is amended—

(1) by inserting "(a)" after "407."; and

(2) by adding the following subsection:

"(b) Not later than 120 days after the end of each fiscal year, the Director shall prepare and submit to the appropriate committees of the Congress a report describing activities under section 103(b).".

42 USC 4953.

SEC. 4. ESTABLISHMENT OF VISTA LITERACY CORPS.

(a) ESTABLISHMENT OF LITERACY CORPS.—The Act is amended by inserting after section 108 the following new section:

42 USC 4958.

"VISTA LITERACY CORPS

State and local governments. Education. Disadvantaged persons. 42 USC 4959.

"SEC. 109. (a) As part of the Volunteers in Service to America program established under this part, the Director shall establish a VISTA Literacy Corps for the purpose of developing, strengthening, supplementing, and expanding efforts of both public and nonprofit organizations at the local, State, and Federal level to mobilize local, State, Federal, and private sector financial and volunteer resources to address the problem of illiteracy throughout the United States.

"(b) The Director shall assign volunteers to projects and programs that meet the antipoverty criteria of part A that provide assistance to functionally illiterate and illiterate individuals who are unserved or underserved by literacy education programs, with special emphasis upon disadvantaged individuals having the highest risk of illiteracy, and individuals with the lowest reading and educational level of competence.

"(c)(1) The Director shall assign volunteers under this subsection to projects and programs that utilize volunteers to address the needs of illiterate individuals.

Libraries. Employment and unemployment.

"(2) Programs and projects under this subsection may be administered by public or private nonprofit agencies and organizations including local, State, and national literacy councils and organizations; community-based nonprofit organizations; local and State education agencies; local and State agencies administering adult basic education programs; educational institutions; libraries; antipoverty organizations; local, municipal, and State governmental entities, and administrative entities designated to administer job training plans under the Job Training Partnership Act.

29 USC 1501 note.

"(3) In the assignment of volunteers under this subsection the Director shall give priority consideration to—

"(A) programs and projects that assist illiterate individuals in greatest need of assistance residing in unserved or underserved areas with the highest concentrations of illiteracy and of low income individuals and families;

"(B) projects and programs serving individuals reading at the zero to fourth grade levels;

"(C) projects and programs focusing on providing literacy services to high risk populations;

"(D) projects and programs operating in areas with the highest concentration of individuals and families living at or below the poverty level;

"(E) projects and programs providing literacy services to parents of disadvantaged children between the ages of two and eight, who may be educationally at risk; and

Children and youth.

"(F) Statewide programs and projects that encourage the creation of new literacy efforts, encourage the coordination of intrastate literacy efforts and provide technical assistance to local literacy efforts.

"(d)(1) The Director shall assign volunteers under this subsection to projects and programs that primarily utilize volunteers to tutor illiterate individuals.

"(2) Programs and projects under this subsection may be administered by local public or private nonprofit agencies and organizations including local literacy councils and organizations, community-based nonprofit organizations, local educational agencies, local agencies administering adult basic education programs, local educational institutions, libraries, antipoverty organizations, local and municipal governmental entities, and administrative entities designated to administer job training plans under the Job Training Partnership Act.

Libraries. Employment and unemployment.

29 USC 1501 note.

"(3) In the assignment of volunteers under this subsection the Director shall give priority consideration to local programs and projects that assist illiterate individuals in greatest need of assistance residing in unserved or underserved areas with the highest concentrations of illiteracy and of low income individuals and families.

"(e) The Director shall ensure an equitable distribution of volunteers under this section in accordance with the equitable distribution requirement of section 414 of this Act.

42 USC 5054.

"(f) The VISTA Literacy Corps shall consist of all volunteers serving under part A working on literacy projects and programs.

"(g)(1) Funds made available under section 501(a) for the purposes of this section shall be used to supplement and not supplant the level of services provided under part A in fiscal year 1986 to address the problem of illiteracy.

42 USC 5081.

"(2) In any fiscal year in which the services provided under part A are reduced, the services provided under this section shall be proportionately reduced.".

(b) CONFORMING AMENDMENT.—The table of contents of the Act is amended by inserting after the item relating to section 108 the following:

42 USC 4958.

"Sec. 109. VISTA Literacy Corps.".

SEC. 5. SERVICE LEARNING PROGRAMS.

Section 111 of the Act is amended—

42 USC 4971.

(1) by inserting "(a)" after the section designation;

(2) by striking out the second and third sentences of such section; and

(3) by adding the following new subsection:

"(b) This part provides for the University Year for ACTION (UYA) program of full-time volunteer service by students enrolled in institutions of higher education. The purpose of the UYA program is to strengthen and supplement efforts to eliminate poverty and poverty-related human, social, and environmental problems by enabling students at cooperating institutions to perform meaningful

Education. Schools and colleges.

and constructive volunteer service in connection with the satisfaction of course-work while attending such institutions. Volunteer service under this part is conducted in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by individuals experiencing such problems.".

SEC. 6. SERVICES TO INDIANS.

42 USC 4992.

(a) SPECIAL VOLUNTEER PROGRAMS.—Section 122(a)(1) of the Act is amended by inserting "(including Indian reservations)" after "rural areas".

42 USC 5061.

(b) DEFINITIONS.—Section 421 of the Act is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding the following paragraph:

State and local governments. Alaska.

"(5) the terms 'public agencies or organizations' and 'Federal, State, or local agencies' shall include any Indian tribe, band, nation, or other organized group or community (including any Alaskan native village or regional village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act) which is recognized by the United States or the State in which it resides as eligible for special programs and services provided to Indians because of their status as Indians.".

43 USC 1601 note.

SEC. 7. VOLUNTEERS SERVING WITHOUT STIPEND.

42 USC 5011.

(a) VOLUNTEER SERVICE PROJECTS.—(1) Section 211 of the Act is amended—

(A) in the first sentence of subsection (d) by inserting "low-income" after "provide to", and

(B) by adding at the end thereof the following:

Regulations.

"(f)(1)(A) Except as provided in subparagraphs (B) and (C), individuals who are not low-income persons may serve as volunteers under this part, in accordance with such regulations as the Director shall issue, if such individuals serve without receiving any allowance, stipend, or other financial support under this part except reimbursement for transportation, meals, and out-of-pocket expenses incident to serving under this part.

Regulations.

"(B) The regulations issued by the Director to carry out this part (other than any regulations relating to allowances, stipends, and other financial support authorized by subsection (d) to be paid under this part to low-income persons) shall apply to all volunteers under this part, without regard to whether such volunteers are eligible to receive a stipend under subsection (d).

"(C) Individuals who are not low-income persons may not serve as volunteers under this part in any community in which there are volunteers serving under part A of this title.

Grants. Contracts.

"(2)(A) Except as provided in subparagraph (B), each recipient of a grant or contract to carry out a project under this part shall give equal treatment to all volunteers who participate in such project, without regard to whether such volunteers are eligible to receive a stipend under subsection (d).

"(B) An individual who is not a low-income person may not become a volunteer under this part if allowing such individual to become a volunteer under this part would prevent a low-income

individual from becoming a volunteer under this part or would displace a low-income person from being such a volunteer.

"(3) The Director may not require as a condition of receiving a grant or contract to carry out a project under this part, any applicant for such grant or contract— Grants. Contracts.

"(A) to accept individuals who are not low-income persons to serve as volunteers under this part; or

"(B) to solicit locally generated contributions, in cash or in kind, to support such individuals.

"(4) Funds appropriated to carry out this part may not be used to pay any cost, including any administrative cost, incurred in connection with volunteers under this part who do not receive a stipend under subsection (d). Such cost incurred with respect to a volunteer may be paid with—

"(A) funds received by the Director as unrestricted gifts; Gifts and property.

"(B) funds received by the Director as gifts to pay such cost;

"(C) funds contributed by such volunteer; or

"(D) locally generated contributions in excess of the amount required to be contributed under subsection (a), in the discretion of the recipient of a grant or contract under such subsection.". Grants. Contracts.

(2) Section 211(f)(3) of the Domestic Volunteer Service Act of 1973, as added by paragraph (1), shall apply with respect to grants and contracts made under section 211(a) of such Act before the date of the enactment of this Act. Grants. Contracts. *Ante*, p. 3074. 42 USC 5011 note.

(b) SENIOR COMPANION PROGRAM.—Section 213(b) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5013(b)) is amended to read as follows:

"(b) Subsections (d), (e), and (f) of section 211, and such other provisions of part B as the Director determines to be necessary, shall apply to this part, except that for purposes of this part any reference in such subsections and such provisions to part B shall be deemed to be a reference to this part.".

SEC. 8. EVALUATION.

(a) GENERAL AUTHORITY.—Section 416(a) of the Act is amended to read as follows: 42 USC 5056.

"(a) The Director shall measure and evaluate the impact of all programs authorized by this Act, their effectiveness in achieving stated goals, in general, and in relation to their cost, their impact on related programs, and their structure and mechanism for delivery of services. Each program shall be evaluated at least once every three years. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated. Such evaluation shall also measure and evaluate compliance with the equitable distribution requirement of section 414 of this Act.". 42 USC 5054.

(b) TITLE II EVALUATION AND REPORT TO CONGRESS.—Section 416 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5056) is amended—

(1) by redesignating subsection (f) as subsection (g), and

(2) by inserting after subsection (e) the following:

"(f) Not later than December 31, 1988, the Director shall—

"(1) evaluate the impact of ACTION Agency programs carried out under title II that relate to services that assist families caring for frail and disabled adult family members and shall include in such evaluation information on— 42 USC 5001 *et seq.*

"(A) the range and extent of service needs of, and the services provided to, family caregivers assisted by volunteers;

"(B) the characteristics of volunteers and the skills, training, and supervision necessary to provide various types of volunteer assistance to family caregivers;

"(C) administrative costs, including recruitment, training, and supervision costs, associated with volunteer assistance to family caregivers; and

"(D) such other issues as may be relevant to provide services to assist family caregivers;

42 USC 5011, 5013.

"(2) evaluate the impact that volunteers who participate in programs under parts B and C of title II without receiving a stipend have on such programs and shall include in such evaluation—

"(A) information on adminstrative costs associated with such volunteers;

"(B) a comparison of the quality of services provided by such volunteers and the quality of services provided by volunteers who receive a stipend under such parts, including the rate of absenteeism and turnover; and

"(C) a review of the effect that participation by volunteers who do not receive such stipend have on the administration of such programs; and

Reports.

"(3) submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report summarizing in detail the results of the evaluations made under paragraphs (1) and (2).".

SEC. 9. AUTHORIZATIONS OF APPROPRIATIONS.

42 USC 5081.

(a) NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS.—Section 501 of the Act is amended by striking subsections (a), (b), (c), and (d)(1) and inserting the following:

42 USC 4951.
Ante, p. 3072.

"SEC. 501. (a)(1) There is authorized to be appropriated to carry out part A of title I (except section 109) $25,000,000 for fiscal year 1987, $26,000,000 for fiscal year 1988, and $27,040,000 for fiscal year 1989.

"(2) There is authorized to be appropriated to carry out section 109(c) and to expand the number of VISTA Literacy Corps volunteers in literacy programs and projects under part A of title I of this Act $2,000,000 for fiscal year 1987, $3,000,000 for fiscal year 1988, and $5,000,000 for fiscal year 1989.

"(3) There is authorized to be appropriated to carry out section 109(d) and to expand the number of VISTA Literacy Corps volunteers in literacy programs and projects under part A of title I of this Act $1,000,000 for each of the fiscal years 1987, 1988, and 1989.

42 USC 4971.

"(b) There is authorized to be appropriated to carry out part B of title I of this Act $1,800,000 for each of the fiscal years 1987, 1988, and 1989.

42 USC 4991.

"(c) There is authorized to be appropriated to carry out part C of title I of this Act $1,984,000 for each of the fiscal years 1987, 1988, and 1989.

"(d)(1) Of the amounts appropriated under this section for parts A, B, and C of title I and for sections 109(c) and 109(d), there shall first be available for part A of title I (other than section 109), an amount not less than the amount necessary to provide—

"(A) 2,400 years of volunteer service in fiscal year 1987;
"(B) 2,500 years of volunteer service in fiscal year 1988; and
"(C) 2,600 years of volunteer service in fiscal year 1989.".

(b) RETIRED SENIOR VOLUNTEER PROGRAM.—Section 502(a) of the Act is amended— 42 USC 5082.

(1) by striking out "$30,412,000" and all that follows through "1985, and", and

(2) by inserting after "1986" the following: ", $32,000,000 for fiscal year 1987, $33,280,000 for fiscal year 1988, and $34,610,000 for fiscal year 1989".

(c) FOSTER GRANDPARENTS AND OLDER AMERICAN COMMUNITY SERVICE PROGRAMS.—Section 502(b) of the Act is amended—

(1) by striking out "$52,650,000" and all that follows through "1985, and", and

(2) by inserting after "1986" the following: ", $60,000,000 for fiscal year 1987, $62,400,000 for fiscal year 1988, and $64,900,000 for fiscal year 1989".

(d) SENIOR COMPANIONS PROGRAM.—Section 502(c) of the Act is amended—

(1) by striking out "$17,607,000" and all that follows through "1985, and", and

(2) inserting after "1986" the following: ", $29,740,000 for fiscal year 1987, $30,930,000 for fiscal year 1988, and $32,170,000 for fiscal year 1989".

(e) ADMINISTRATION AND COORDINATION.—Section 504 of the Act is amended by striking out "$25,800,000" and all that follows and inserting "$25,312,000 for each of the fiscal years 1987, 1988, and 1989.". 42 USC 5084.

SEC. 10. TECHNICAL AMENDMENTS.

(a) PART HEADING CORRECTION.—

(1) The heading of part C of title II of the Act is amended to read as follows: 42 USC 5013.

"PART C—SENIOR COMPANION PROGRAM".

(2) The item for part C of title II in the table of contents of the Act is amended to read as follows:

"PART C—SENIOR COMPANION PROGRAM".

(b) CONFORMING AMENDMENT.—

(1) Section 16(a) of the Domestic Volunteer Service Act Amendments of 1984 is amended by striking out "Part C" and inserting in lieu thereof "Part D". 42 USC 5024. 98 Stat. 194.

(2) Section 16(b) of such Act is amended by striking out "part C" and inserting in lieu thereof "part D".

(c) SECTION HEADING CORRECTION.—

(1) The heading of section 213 of the Act is amended by striking out "THE PROGRAM" and inserting in lieu thereof "VOLUNTEER SERVICE PROJECTS". 42 USC 5013.

(2) The item for section 213 in the table of contents of the Act is amended by striking out "the program" and inserting in lieu thereof "volunteer service projects".

(d) PUNCTUATION.—Section 122(a)(1) of the Act is amended by striking out a semicolon each place it appears and inserting in lieu thereof a comma. 42 USC 4992.

(e) REFERENCE.—The fifth sentence of section 401 of the Act is amended by striking out "level 5" and inserting in lieu thereof "level V".

42 USC 5041.

(f) PUNCTUATION.—Section 402(a)(1) of the Act (as redesignated by section 5(1) of this Act) is amended by inserting a comma immediately before "except" the second time it appears.

42 USC 5042.

(g) PUNCTUATION.—Section 419 of the Act is amended by striking out "to this Act" and inserting in lieu thereof "to this Act)".

42 USC 5059.

(h) REFERENCE.—Section 421(1) of the Act is amended by striking out "agency" and inserting in lieu thereof "Agency".

42 USC 5061.

(i) USE OF GENDER NEUTRAL TERMINOLOGY.—

(1) Section 105(b) of the Act is amended by striking out "he" and inserting in lieu thereof "the Director".

42 USC 4955.

(2) Section 112 of the Act is amended by striking out "he" and inserting in lieu thereof "the Director".

42 USC 4972.

(3) Section 114(c) of the Act is amended by striking out "he" each time it appears and inserting in lieu thereof "the Director".

42 USC 4974.

(4) Section 122(b) of the Act is amended by striking out "he" and inserting in lieu thereof "the Director".

42 USC 4992.

(5)(A) Section 402(a) of the Act (as redesignated by section 5(1) of this Act) is amended by striking out "him" and inserting in lieu thereof "the Director".

42 USC 5042.

(B) Section 402(a)(3) of the Act is amended by striking out "his functions" and inserting in lieu thereof "the functions of the Director".

(C) Section 402(a)(7) of the Act is amended by striking out "he" and inserting in lieu thereof "the Director".

(D) Section 402(a)(8) of the Act is amended by striking out "he" and inserting in lieu thereof "the Director".

(E) Section 402(a)(10) of the Act is amended by striking out "him" each time it appears and inserting in lieu thereof "the Director".

(F)(i) Section 402(a)(11)(B) of the Act is amended by striking out "him" and inserting in lieu thereof "the Director".

(ii) Section 402(a)(11)(B)(ii) of the Act is amended by striking out "his intention" and inserting in lieu thereof "the intention of the Director".

(G) Section 402(a)(14) is amended by striking out "he" and inserting in lieu thereof "the Director".

(6) Section 403(a) of the Act is amended by striking out "his official capacity" and inserting in lieu thereof "an official capacity".

42 USC 5043.

(7) Section 404(e) of the Act is amended by striking out "he" and inserting in lieu thereof "the Director".

42 USC 5044.

(8) Section 412(a) of the Act is amended by striking out "he" and inserting in lieu thereof "the Director".

42 USC 5052.

(9) Section 415(d) of the Act is amended by striking out "he" and inserting in lieu thereof "the Director".

42 USC 5055.

(10)(A) Section 601(c) of the Act is amended by striking out "his designee" and inserting in lieu thereof "the designee of the Director".

42 USC 5041 note.

(B) Section 601(e) of the Act is amended by striking out "his official capacity" and inserting in lieu thereof "an official capacity". 42 USC 5041 note.

SEC. 11. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this Act shall take effect October 1, 1986. 42 USC 4950 note.

Approved October 27, 1986.

LEGISLATIVE HISTORY—H.R. 4116 (S. 2324):

HOUSE REPORTS: No. 99-588 (Comm. on Education and Labor) and No. 99-954 (Comm. of Conference).
SENATE REPORTS: No. 99-332 accompanying S. 2324 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
June 10, considered and passed House.
July 14, considered and passed Senate, amended, in lieu of S. 2324.
Oct. 2, House agreed to conference report.
Oct. 8, Senate agreed to conference report.

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PUBLIC LAW 99-552—OCT. 27, 1986

KLAMATH RIVER BASIN FISHERY RESOURES PROVISIONS

91-139 O - 87 (571)

Public Law 99-552
99th Congress

An Act

Oct. 27, 1986
[H.R. 4712]

To provide for the restoration of the fishery resources in the Klamath River Basin, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

16 USC 460ss.

SECTION 1. FINDINGS.

The Congress finds that—

(1) the Klamath and Trinity Rivers have been placed under the California and National Wild and Scenic Rivers Systems to protect their outstanding anadromous fishery values;

(2) the Klamath and Trinity Rivers provide fishery resources necessary for Indian subsistence and ceremonial purposes, ocean commercial harvest, recreational fishing, and the economic health of many local communities;

(3) floods, the construction and operation of dams, diversions and hydroelectric projects, past mining, timber harvest practices, and roadbuilding have all contributed to sedimentation, reduced flows, and degraded water quality which has significantly reduced the anadromous fish habitat in the Klamath-Trinity River System;

(4) overlapping Federal, State, and local jurisdictions, inadequate enforcement of fishery harvest regulations, and ineffective fishery management have historically hampered fishery conservation efforts and prevented the Federal Government and the State of California from fulfilling their responsibilities to protect the rivers' anadromous fishery values;

(5) the Klamath-Trinity fall chinook salmon populations have declined by 80 percent from historic levels and steelhead trout have also undergone significant reductions;

(6) Klamath River Basin Fisheries Resource Plan has been developed by the Secretary acting through the Bureau of Indian Affairs;

(7) the Klamath Salmon Management Group, a group of agencies with fishery management responsibility, has established, in cooperation with the users of the Klamath-Trinity River Basin fishery resources, a sound framework for the future coordination of fishery harvest management;

(8) a new Klamath-Trinity River Basin Management authority, composed of the Klamath Salmon Management Group and representatives of users of the fishery resources of the Klamath-Trinity River Basin, is needed to ensure more effective long-term coordination of the Klamath-Trinity River fisheries under sound conservation and management principles that ensure adequate spawning escapement; and

(9) the Secretary has the authority to implement a restoration program only in the Trinity River Basin and needs additional authority to implement a restoration program in cooperation with State and local governments to restore anadromous fish

populations to optimum levels in both the Klamath and Trinity River Basins;

SEC. 2. KLAMATH RIVER BASIN CONSERVATION AREA; FISHERY RESOURCES RESTORATION PROGRAM. 16 USC 460ss-1.

(a) ESTABLISHMENT OF KLAMATH RIVER BASIN CONSERVATION AREA.—The Secretary shall designate the anadromous fish habitats and resources of the Klamath River basin as the Klamath River Basin Conservation Area (hereafter in this Act referred to as the "Area").

(b) KLAMATH RIVER BASIN CONSERVATION AREA RESTORATION PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall, in consultation with the task force established under section 4, formulate, establish, and implement a 20-year program to restore the anadromous fish populations of the Area to optimum levels and to maintain such levels. The program shall be based on the Klamath River Basin Fisheries Resource Plan referred to in section 1(6) and shall be known as the Klamath River Basin Conservation Area Restoration Program.

(2) PROGRAM ACTIVITIES.—In carrying out the objectives of the program, the Secretary, in cooperation with the task force established under section 4, shall—

(A) monitor and coordinate research evaluating the Area anadromous fish populations and administer and evaluate the success of activities described in subparagraph (B); and Research and development.

(B) take such actions as are necessary to—

(i) improve and restore Area habitats, and to promote access to blocked Area habitats, to support increased run sizes;

(ii) rehabilitate problem watersheds in the Area to reduce negative impacts on fish and fish habitats;

(iii) improve existing Area hatcheries and rearing ponds to assist in rebuilding the natural populations;

(iv) implement an intensive, short-term stocking program to rebuild run sizes while maintaining the genetic integrity and diversity of Area subbasin stocks; and

(v) improve upstream and downstream migration by removal of obstacles to fish passage and the provision of facilities for avoiding obstacles.

(3) RESTORATION WORK.—To the extent practicable, any restoration work performed under paragraph (2)(B) shall be performed by unemployed— Indians.

(A) commercial fishermen;

(B) Indians; and

(C) other persons whose livelihood depends upon Area fishery resources.

(4) MEMORANDUM OF AGREEMENT.—In order to facilitate the implementation of any activity described in paragraph (2) over which the Secretary does not have jurisdiction, the Secretary shall enter into a memorandum of agreement with the Federal, State, and local agencies having jurisdiction over such activities, and the Area Indian tribes. The memorandum of agreement shall specify the program activities for which the respective signatories to the agreement are responsible and shall contain such provisions as are necessary to ensure the coordinated implementation of the program. Contracts. State and local governments. Indians.

16 USC 460ss-2.

SEC. 3. KLAMATH FISHERY MANAGEMENT COUNCIL.

(a) ESTABLISHMENT.—There is established a Klamath Fishery Management Council (hereafter in this Act referred to as the "Council").

(b) FUNCTIONS.—

(1) The Council shall—

(A) establish a comprehensive long-term plan and policy, that must be consistent with the goals of the program, for the management of the in-river and ocean harvesting that affects or may affect Klamath and Trinity River basin anadromous fish populations;

(B) make recommendations, that must be consistent with the plan and policy established under subparagraph (A) and with the standards in paragraph (2)—

(i) to the California Fish and Game Commission regarding in-river and offshore recreational harvesting regulations,

(ii) to the Oregon Department of Fish and Wildlife regarding offshore recreational harvesting regulations,

(iii) to the Pacific Fishery Management Council regarding ocean harvesting regulations,

(iv) to the Bureau of Indian Affairs regarding regulations for harvesting in the Area by non-Hoopa Indians, and

(v) to the Hoopa Valley Business Council regarding regulations for harvesting in the Area by members of the Hoopa Indian Tribe; and

(C) conduct public hearings on any regulation referred to in subparagraph (B) (i) through (v).

(2) Any recommendation made by the Council under paragraph (1)(B) regarding harvesting regulations shall—

(A) be based upon the best scientific information available;

(B) minimize costs where practicable, and avoid unnecessary duplication of regulations;

(C) take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches; and

(D) be designed to achieve an escapement that preserves and strengthens the viability of the Area's natural anadromous fish populations.

(c) MEMBERSHIP AND APPOINTMENT.—The Council is composed of 11 members as follows:

(1) A representative, who shall be appointed by the Governor of California, of each of the following:

(A) The commercial salmon fishing industry.

(B) The in-river sportfishing community.

(C) The offshore recreational fishing industry.

(D) The California Department of Fish and Game.

(2) A representative of the Hoopa Indian Tribe who shall be appointed by Hoopa Valley Business Council.

(3) A representative, who shall be appointed by the Secretary, of each of the following:

(A) The non-Hoopa Indians residing in the Area.

(B) The Department of the Interior.

(4) A representative, who shall be appointed by the Secretary of Commerce, of each of the following—

(A) The National Marine Fisheries Service.

(B) The Pacific Fishery Management Council.

(5) A representative, who shall be appointed by the Governor of Oregon, of each of the following:

(A) The commercial salmon fishing industry.

(B) The Oregon Department of Fish and Wildlife.

(d) CONSULTATION REQUIREMENT.—The appointments required under subsection (c) shall be made in consultation with the appropriate users of Area anadromous fish resources.

(e) QUALIFICATIONS.—Council members shall be individuals who are knowledgable and experienced in the management and conservation, or the recreational or commercial harvest, of the anadromous fish resources in Northern California.

(f) TERMS.—

(1) IN GENERAL.—The term of a member is 4 years.

(2) SERVICE.—Members of the Council serve at the pleasure of the appointing authority.

(3) VACANCIES.—Any vacancy on the Council shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(g) TRANSACTION OF BUSINESS.—

(1) DECISIONS OF COUNCIL.—All decisions of the Council must be by unanimous vote of all of the members.

(2) CHAIRMAN.—The Council shall elect a Chairman from among its members.

(3) MEETINGS.—The Council shall meet at the call of the Chairman or upon the request of a majority of its members.

(h) STAFF AND ADMINISTRATION.—

(1) ADMINISTRATIVE SUPPORT.—The Secretary and the Director of the California Department of Fish and Game shall provide the Council with such administrative and technical support services as are necessary for the effective functioning of the Council.

(2) INFORMATION.—The Secretary and the Director of the California Department of Fish and Game shall furnish the Council with relevant information concerning the Area.

(3) ORGANIZATION.—The Council shall determine its organization, and prescribe the practices and procedures for carrying out its functions under subsection (b).

(i) FEDERAL OR STATE EMPLOYEES.—Any Council member who is an officer or employee of the United States or the State of California at the time of appointment to the Council shall cease to be a Council member within 14 days after the date on which he ceases to be so employed.

(j) EXPENSES.—

(1) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Council, Council members shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in the

Government service are allowed travel expenses under section 5703 of title 5 of the United States Code.

(2) LIMITATION ON SPENDING AUTHORITY.—No money authorized to be appropriated under section 6 may be used to reimburse any agency or governmental unit (whose employees are Council members) for time spent by any such employee performing Council duties.

16 USC 460ss-3.

SEC. 4. KLAMATH RIVER BASIN FISHERIES TASK FORCE.

(a) ESTABLISHMENT.—There is established a Klamath River Basin Fisheries Task Force (hereafter in this Act referred to as the "Task Force").

(b) FUNCTIONS.—The Task Force—

(1) shall assist the Secretary in the formulation, coordination, and implementation of the program;

(2) shall assist, and coordinate its activities with, Federal, State, and local governmental or private anadromous fish restoration projects within the Area;

(3) shall conduct any other activity that is necessary to accomplish the objectives of the program; and

(4) may act as an advisor to the Council.

(c) MEMBERSHIP AND APPOINTMENT.—The Task Force is composed of 12 members as follows:

(1) A representative, who shall be appointed by the Governor of California, of each of the following:

(A) The commercial salmon fishing industry.

(B) The in-river sport fishing community.

(C) The California Department of Fish and Game.

(2) A representative of the Hoopa Indian Tribe who shall be appointed by the Hoopa Valley Business Council.

(3) A representative of the Department of the Interior who shall be appointed by the Secretary.

(4) A representative of the National Marine Fisheries Service who shall be appointed by the Secretary of Commerce.

(5) A representative of the Department of Agriculture who shall be appointed by the Secretary of Agriculture.

(6) A representative of the Oregon Department of Fish and Wildlife who shall be appointed by the Governor of Oregon.

(7) One individual who shall be appointed by the Board of Supervisors of Del Norte County, California.

(8) One individual who shall be appointed by the Board of Supervisors of Siskiyou County, California.

(9) One individual who shall be appointed by the Board of Supervisors of Humboldt County, California.

(10) One individual who shall be appointed by the Board of Supervisors of Trinity County, California.

(d) COUNCIL MEMBERSHIP NOT A BAR TO TASK FORCE APPOINTMENT.—An individual who is a member of the Council is not ineligible for appointment as a member of the Task Force.

(e) TERMS.—

(1) IN GENERAL.—The term of a member of the Task Force is 4 years.

(2) SERVICE.—Members of the Task Force serve at the pleasure of the appointing authorities.

(3) VACANCIES.—Any vacancy on the Task Force shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the

expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(f) TRANSACTION OF BUSINESS.—

(1) DECISIONS OF TASK FORCE.—All decisions of the Task Force must be by unanimous vote of all the members.

(2) CHAIRMAN.—The members of the Task Force shall select a Chairman from among its members.

(3) MEETINGS.—The Task Force shall meet at the call of the Chairman or upon the request of a majority of its members.

(g) STAFF AND ADMINISTRATION.—

(1) ADMINISTRATIVE SUPPORT.—The Secretary and the Director of the California Department of Fish and Game shall provide the Task Force with the administrative and technical support services necessary for the effective functioning of the Task Force.

(2) INFORMATION.—The Secretary and the Director of the California Department of Fish and Game shall furnish the members of the Task Force with relevant information concerning the Area.

(3) ORGANIZATION.—The Task Force shall determine its organization, and prescribe the practices and procedures for carrying out its functions under subsection (b).

(h) MEMBERS WHO ARE FEDERAL OR STATE EMPLOYEES.—Any Task Force member who is an officer or employee of the United States or the State of California at the time of appointment to the Task Force shall cease to be a member of the Task Force within 14 days of the date on which he ceases to be so employed.

(i) LIMITATION ON SPENDING AUTHORITY.—No money authorized to be appropriated under section 6 may be used to reimburse any Task Force member or agency or governmental unit (whose employees are Task Force members) for time spent by any such employee preforming Task Force duties.

SEC. 5. ENFORCEMENT.

Contracts. California. State and local governments. 16 USC 460ss-4.

(a) MEMORANDUM OF AGREEMENT.—In order to strengthen and facilitate the enforcement of Area fishery harvesting regulations, the Secretary shall enter into a memorandum of agreement with the California Department of Fish and Game. Such agreement shall specify the enforcement activities within the Area for which the respective agencies of the Department of Interior and the California Department of Fish and Game are responsible and shall contain such provisions as are necessary to ensure the coordinated implementation of Federal and State enforcement activities.

SEC. 6. APPROPRIATIONS.

16 USC 460ss-5.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Department of the Interior during the period beginning October 1, 1986, and ending on September 30, 2006, $21,000,000 for the design, construction, operation, and maintenance of the program. Monies appropriated under this subsection shall remain available until expended or October 1, 2006, whichever first occurs.

(b) COST-SHARING.—

(1) 50 percent of the cost of the development and implementation of the program must be provided by one or more non-Federal sources on a basis considered by the Secretary to be

timely and appropriate. For purposes of this subsection, the term "non-Federal source" includes a State or local government, any private entity, and any individual.

Gifts and property.
Real property.

(2) In addition to cash outlays, the Secretary shall consider as financial contributions by a non-Federal source the value of in kind contributions and real and personal property provided by the source for purposes of implementing the program. Valuations made by the Secretary under this paragraph are final and not subject to judicial review.

Voluntarism.

(3) For purposes of paragraph (2), in kind contributions may be in the form of, but are not limited to, personal services rendered by volunteers in carrying out surveys, censuses, and other scientific studies.

Regulations.

(4) The Secretary shall by regulation establish—

(A) the training, experience, and other qualifications which such volunteers must have in order for their services to be considered as in kind contributions; and

(B) the standards under which the Secretary will determine the value of in kind contributions and real and personal property for purposes of paragraph (2).

State and local governments.

(5) The Secretary may not consider the expenditure, either directly or indirectly, with respect to the program of Federal moneys received by a State or local government to be a financial contribution by a non-Federal source to carry out the program.

16 USC 460ss-6.

SEC. 7. DEFINITIONS.

As used in this Act—

(1) The term "program" means the Klamath River Basin Conservation Area Restoration Program established under section 2(b).

(2) The term "Secretary" means the Secretary of the Interior.

Approved October 27, 1986.

LEGISLATIVE HISTORY—H.R. 4712:

HOUSE REPORTS: No. 99-894, Pt. 1 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 30, considered and passed House.
Oct. 3, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Oct. 27, Presidential statement.

O

Public Law 99-553
99th Congress

An Act

To permit registered public utility holding companies to own certain interests in qualifying cogeneration facilities.

Oct. 27, 1986
[H.R. 5056]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 99-186, 99th Congress, 99 Stat. 1180, be amended to read as follows:

Securities.
15 USC 79k note.

"SECTION 1. Notwithstanding section 11(b)(1) of the Public Utility Holding Company Act of 1935, a company registered under said Act, or a subsidiary company of such registered company, may acquire or retain, in any geographic area, an interest in any qualifying cogeneration facilities as defined pursuant to the Public Utility Regulatory Policies Act of 1978, and shall qualify for any exemption relating to the Public Utility Holding Company Act prescribed pursuant to section 210 of the Public Utility Regulatory Policies Act.

15 USC 79k.

16 USC 2601 note.

16 USC 824a-3.

"SEC. 2. Nothing herein shall be construed to affect the applicability of section 3(17)(C) or section 3(18)(B) of the Federal Power Act or any provision of the Public Utility Holding Company Act, other than section 11(b)(1), to the acquisition or retention of any such interest by any such company.".

16 USC 796.

Approved October 27, 1986.

LEGISLATIVE HISTORY—H.R. 5056:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 22, considered and passed House.
Oct. 15, considered and passed Senate, amended; House concurred in Senate amendment.

O

91-139 O -- 87 (572)

PUBLIC LAW 99-554—OCT. 27, 1986

BANKRUPTCY JUDGES, UNITED STATES TRUSTEES, AND FAMILY FARMER BANKRUPTCY ACT OF 1986

91-139 O - 87 - 1 (573)

Public Law 99-554
99th Congress

An Act

Oct. 27, 1986
[H.R. 5316]

To amend title 28 of the United States Code to provide for the appointment of additional bankruptcy judges, to provide for the appointment of United States trustees to serve in bankruptcy cases in judicial districts throughout the United States, to make certain changes with respect to the role of United States trustees in such cases, and for other purposes.

Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986.
28 USC 581 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986".

TITLE I—AMENDMENTS TO TITLE 28 OF THE UNITED STATES CODE

Subtitle A—Appointment of Bankruptcy Judges

State listing.

SEC. 101. ADDITIONAL BANKRUPTCY JUDGES.

Section 152(a)(2) of title 28, United States Code, is amended—

(1) in the item relating to the eastern district and the western district of Arkansas by striking out "2" and inserting in lieu thereof "3",

(2) in the item relating to the northern district of California by striking out "7" and inserting in lieu thereof "9",

(3) in the item relating to the eastern district of California by striking out "4" and inserting in lieu thereof "6",

(4) in the item relating to the central district of California by striking out "12" and inserting in lieu thereof "19",

(5) in the item relating to the southern district of California by striking out "3" and inserting in lieu thereof "4",

(6) in the item relating to the middle district of Florida by striking out "2" and inserting in lieu thereof "4",

(7) in the item relating to the northern district of Georgia by striking out "4" and inserting in lieu thereof "6",

(8) in the item relating to the southern district of Georgia by striking out "1" and inserting in lieu thereof "2",

(9) in the item relating to the district of Idaho by striking out "1" and inserting in lieu thereof "2",

(10) in the item relating to the northern district of Illinois by striking out "8" and inserting in lieu thereof "10",

(11) in the item relating to the central district of Illinois by striking out "2" and inserting in lieu thereof "3",

(12) in the item relating to the northern district of Indiana by striking out "2" and inserting in lieu thereof "3",

(13) in the item relating to the northern district of Iowa by striking out "1" and inserting in lieu thereof "2",

(14) in the item relating to the southern district of Iowa by striking out "1" and inserting in lieu thereof "2",

(15) in the item relating to the western district of Kentucky by striking out "2" and inserting in lieu thereof "3",

(16) in the item relating to the western district of Louisiana by striking out "2" and inserting in lieu thereof "3",

(17) in the item relating to the district of Maryland by striking out "2" and inserting in lieu thereof "3",

(18) in the item relating to the western district of Michigan by striking out "2" and inserting in lieu thereof "3",

(19) in the item relating to the district of Nebraska by striking out "1" and inserting in lieu thereof "2",

(20) in the item relating to the district of Nevada by striking out "2" and inserting in lieu thereof "3",

(21) in the item relating to the district of New Jersey by striking out "5" and inserting in lieu thereof "7",

(22) in the item relating to the western district of North Carolina by striking out "1" and inserting in lieu thereof "2",

(23) in the item relating to the northern district of Oklahoma by striking out "1" and inserting in lieu thereof "2",

(24) in the item relating to the western district of Oklahoma by striking out "2" and inserting in lieu thereof "3",

(25) in the item relating to the district of Oregon by striking out "4" and inserting in lieu thereof "5",

(26) in the item relating to the western district of Pennsylvania by striking out "3" and inserting in lieu thereof "4",

(27) in the item relating to the district of South Carolina by striking out "1" and inserting in lieu thereof "2",

(28) in the item relating to the district of South Dakota by striking out "1" and inserting in lieu thereof "2".

(29) in the item relating to the eastern district of Tennessee by striking out "2" and inserting in lieu thereof "3",

(30) in the item relating to the western district of Tennessee by striking out "2" and inserting in lieu thereof "3",

(31) in the item relating to the northern district of Texas by striking out "4" and inserting in lieu thereof "5",

(32) in the item relating to the southern district of Texas by striking out "3" and inserting in lieu thereof "6",

(33) in the item relating to the western district of Texas by striking out "2" and inserting in lieu thereof "3",

(34) in the item relating to the district of Utah by striking out "2" and inserting in lieu thereof "3",

(35) in the item relating to the eastern district of Virginia by striking out "3" and inserting in lieu thereof "4",

(36) in the item relating to the eastern district of Washington by striking out "1" and inserting in lieu thereof "2",

(37) in the item relating to the western district of Washington by striking out "4" and inserting in lieu thereof "5", and

(38) in the item relating to the eastern district of Wisconsin by striking out "3" and inserting in lieu thereof "4".

SEC. 102. QUALIFICATIONS FOR APPOINTMENT OF BANKRUPTCY JUDGES. 28 USC 152 note.

Section 120(c)(2) of the Bankruptcy Amendments and Federal Judgeship Act of 1984 (Public Law 98-353; 98 Stat. 345) is amended by striking out "or the District of Columbia bar," and inserting in lieu thereof "the District of Columbia bar, or the bar of the Commonwealth of Puerto Rico,".

SEC. 103. DIVISION OF BUSINESS AMONG BANKRUPTCY JUDGES.

Section 156 of title 28, United States Code, is amended by adding at the end thereof the following:

"(d) No office of the bankruptcy clerk of court may be consolidated with the district clerk of court office without the prior approval of the Judicial Conference and the Congress.".

Subtitle B—Appointment of United States Trustees and Related Matters

State listing.

SEC. 111. APPOINTMENT OF UNITED STATES TRUSTEES.

(a) APPOINTMENT NATIONWIDE OF UNITED STATES TRUSTEES.—Section 581(a) of title 28, United States Code, is amended to read as follows:

"(a) The Attorney General shall appoint one United States trustee for each of the following regions composed of Federal judicial districts (without regard to section 451):

"(1) The judicial districts established for the States of Maine, Massachusetts, New Hampshire, and Rhode Island.

"(2) The judicial districts established for the States of Connecticut, New York, and Vermont.

"(3) The judicial districts established for the States of Delaware, New Jersey, and Pennsylvania.

"(4) The judicial districts established for the States of Maryland, North Carolina, South Carolina, Virginia, and West Virginia and for the District of Columbia.

"(5) The judicial districts established for the States of Louisiana and Mississippi.

"(6) The Northern District of Texas and the Eastern District of Texas.

"(7) The Southern District of Texas and the Western District of Texas.

"(8) The judicial districts established for the States of Kentucky and Tennessee.

"(9) The judicial districts established for the States of Michigan and Ohio.

"(10) The Central District of Illinois and the Southern District of Illinois; and the judicial districts established for the State of Indiana.

"(11) The Northern District of Illinois; and the judicial districts established for the State of Wisconsin.

"(12) The judicial districts established for the States of Minnesota, Iowa, North Dakota, and South Dakota.

"(13) The judicial districts established for the States of Arkansas, Nebraska, and Missouri.

"(14) The District of Arizona.

Guam. Northern Mariana Islands.

"(15) The Southern District of California; and the judicial districts established for the State of Hawaii, and for Guam and the Commonwealth of the Northern Mariana Islands.

"(16) The Central District of California.

"(17) The Eastern District of California and the Northern District of California; and the judicial district established for the State of Nevada.

"(18) The judicial districts established for the States of Alaska, Idaho (exclusive of Yellowstone National Park), Mon-

tana (exclusive of Yellowstone National Park), Oregon, and Washington.

"(19) The judicial districts established for the States of Colorado, Utah, and Wyoming (including those portions of Yellowstone National Park situated in the States of Montana and Idaho).

"(20) The judicial districts established for the States of Kansas, New Mexico, and Oklahoma.

"(21) The judicial districts established for the States of Alabama, Florida, and Georgia and for the Commonwealth of Puerto Rico and the Virgin Islands of the United States.". Puerto Rico. Virgin Islands.

(b) TERM OF OFFICE.—Section 581(b) of title 28, United States Code, is amended—

(1) by striking out "seven years" and inserting in lieu thereof "five years", and

(2) by striking out "Office" and inserting in lieu thereof "office".

(c) REMOVAL OF UNITED STATES TRUSTEES.—Section 581(c) of title 28, United States Code, is amended by striking out "for cause".

(d) REMOVAL OF ASSISTANT UNITED STATES TRUSTEES.—Section 582 of title 28, United States Code, is amended—

(1) in subsection (a) by striking out "district" and inserting in lieu thereof "region", and

(2) in subsection (b) by striking out "for cause".

SEC. 112. VACANCIES IN OFFICE OF UNITED STATES TRUSTEE.

Section 585 of title 28, United States Code, is amended to read as follows:

"§ 585. Vacancies

"(a) The Attorney General may appoint an acting United States trustee for a region in which the office of the United States trustee is vacant. The individual so appointed may serve until the date on which the vacancy is filled by appointment under section 581 of this title or by designation under subsection (b) of this section.

"(b) The Attorney General may designate a United States trustee to serve in not more than two regions for such time as the public interest requires.".

SEC. 113. DUTIES OF UNITED STATES TRUSTEES.

(a) SUPERVISION AND ADMINISTRATION.—Section 586(a) of title 28, United States Code, is amended—

(1) by striking out "his district" and inserting in lieu thereof "the region for which such United States trustee is appointed",

(2) in paragraph (3)—

(A) by striking out the semicolon and inserting in lieu thereof "by, whenever the United States trustee considers it to be appropriate—", and

(B) by adding at the end of such paragraph the following:

"(A) monitoring applications for compensation and reimbursement filed under section 330 of title 11 and, whenever the United States trustee deems it to be appropriate, filing with the court comments with respect to any of such applications;

"(B) monitoring plans and disclosure statements filed in cases under chapter 11 of title 11 and filing with the court, in connection with hearings under sections 1125 and 1128 of 11 USC 1101 *et seq.*

such title, comments with respect to such plans and disclosure statements;

"(C) monitoring plans filed under chapters 12 and 13 of title 11 and filing with the court, in connection with hearings under sections 1224, 1229, 1324, and 1329 of such title, comments with respect to such plans;

Post, p. 3105, 11 USC 1301 *et seq.*

"(D) taking such action as the United States trustee deems to be appropriate to ensure that all reports, schedules, and fees required to be filed under title 11 and this title by the debtor are properly and timely filed;

"(E) monitoring creditors' committees appointed under title 11;

"(F) notifying the appropriate United States attorney of matters which relate to the occurrence of any action which may constitute a crime under the laws of the United States and, on the request of the United States attorney, assisting the United States attorney in carrying out prosecutions based on such action;

"(G) monitoring the progress of cases under title 11 and taking such actions as the United States trustee deems to be appropriate to prevent undue delay in such progress; and

"(H) monitoring applications filed under section 327 of title 11 and, whenever the United States trustee deems it to be appropriate, filing with the court comments with respect to the approval of such applications;", and

(3) in paragraph (5) by inserting before the semicolon the following: "and this title, and such duties consistent with title 11 and this title as the Attorney General may prescribe".

(b) QUALIFICATIONS OF TRUSTEES.—Section 586(b) of title 28, United States Code, is amended to read as follows:

"(b) If the number of cases under chapter 12 or 13 of title 11 commenced in a particular region so warrants, the United States trustee for such region may, subject to the approval of the Attorney General, appoint one or more individuals to serve as standing trustee, or designate one or more assistant United States trustees to serve in cases under such chapter. The United States trustee for such region shall supervise any such individual appointed as standing trustee in the performance of the duties of standing trustee.".

(c) APPOINTMENT AND COMPENSATION OF TRUSTEES.—Subsections (d) and (e) of section 586 of title 28, United States Code, are amended to read as follows:

"(d) The Attorney General shall prescribe by rule qualifications for membership on the panels established by United States trustees under paragraph (a)(1) of this section, and qualifications for appointment under subsection (b) of this section to serve as standing trustee in cases under chapter 12 or 13 of title 11. The Attorney General may not require that an individual be an attorney in order to qualify for appointment under subsection (b) of this section to serve as standing trustee in cases under chapter 12 or 13 of title 11.

"(e)(1) The Attorney General, after consultation with a United States trustee that has appointed an individual under subsection (b) of this section to serve as standing trustee in cases under chapter 12 or 13 of title 11, shall fix—

"(A) a maximum annual compensation for such individual, not to exceed the annual rate of basic pay in effect for step 1 of grade GS-16 of the General Schedule prescribed under section 5332 of title 5; and

"(B) a percentage fee not to exceed—

"(i) in the case of a debtor who is not a family farmer, ten percent; or

"(ii) in the case of a debtor who is a family farmer, the sum of—

"(I) not to exceed ten percent of the payments made under the plan of such debtor, with respect to payments in an aggregate amount not to exceed $450,000; and

"(II) three percent of payments made under the plan of such debtor, with respect to payments made after the aggregate amount of payments made under the plan exceeds $450,000;

based on such maximum annual compensation and the actual, necessary expenses incurred by such individual as standing trustee.

"(2) Such individual shall collect such percentage fee from all payments received by such individual under plans in the cases under chapter 12 or 13 of title 11 for which such individual serves as standing trustee. Such individual shall pay to the United States trustee, and the United States trustee shall deposit in the United States Trustee System Fund—

Post, p. 3105, 11 USC 1301 *et seq.*

"(A) any amount by which the actual compensation of such individual exceeds 5 per centum upon all payments received under plans in cases under chapter 12 or 13 of title 11 for which such individual serves as standing trustee; and

"(B) any amount by which the percentage for all such cases exceeds—

"(i) such individual's actual compensation for such cases, as adjusted under subparagraph (A) of paragraph (1); plus

"(ii) the actual, necessary expenses incurred by such individual as standing trustee in such cases. Subject to the approval of the Attorney General, any or all of the interest earned from the deposit of payments under plans by such individual may be utilized to pay actual, necessary expenses without regard to the percentage limitation contained in subparagraph (d)(1)(B) of this section.".

SEC. 114. SALARIES OF UNITED STATES TRUSTEES AND ASSISTANT UNITED STATES TRUSTEES.

(a) FIXING OF SALARIES.—Section 587 of title 28, United States Code, is amended to read as follows:

"§ 587. Salaries

"Subject to sections 5315 through 5317 of title 5, the Attorney General shall fix the annual salaries of United States trustees and assistant United States trustees at rates of compensation not in excess of the rate of basic compensation provided for Executive Level IV of the Executive Schedule set forth in section 5315 of title 5, United States Code.".

(b) TEMPORARY SUSPENSION OF LIMITATION ON APPOINTMENTS.—During the period beginning on the effective date of this Act and ending on October 1, 1989, the provisions of title 5 of the United States Code governing appointments in the competitive service shall not apply with respect to appointments under section 589 of title 28, United States Code.

28 USC 589 note.

SEC. 115. UNITED STATES TRUSTEE SYSTEM FUND.

(a) AMENDMENT TO TITLE 28 OF THE UNITED STATES CODE.—Chapter 39 of title 28, United States Code, as added by section 224 of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2662), is amended by adding at the end thereof the following:

28 USC 581.

28 USC 589a.

"§ 589a. United States Trustee System Fund

"(a) There is hereby established in the Treasury of the United States a special fund to be known as the 'United States Trustee System Fund' (hereinafter in this section referred to as the 'Fund'). Monies in the Fund shall be available to the Attorney General without fiscal year limitation in such amounts as may be specified in appropriations Acts for the following purposes in connection with the operations of United States trustees—

"(1) salaries and related employee benefits;

"(2) travel and transportation;

"(3) rental of space;

"(4) communication, utilities, and miscellaneous computer charges;

"(5) security investigations and audits;

"(6) supplies, books, and other materials for legal research;

"(7) furniture and equipment;

"(8) miscellaneous services, including those obtained by contract; and

"(9) printing.

"(b) There shall be deposited in the Fund—

"(1) one-third of the fees collected under section 1930(a)(1) of this title;

"(2) three-fifths of the fees collected under section 1930(a)(3) of this title;

"(3) one-half of the fees collected under section 1930(a)(4) of this title;

"(4) one-half of the fees collected under section 1930(a)(5);

"(5) all of the fees collected under section 1930(a)(6) of this title;

"(6) three-fourths of the fees collected under the last sentence of section 1930(a) of this title; and

"(7) the compensation of trustees received under section 330(d) of title 11 by the clerks of the bankruptcy courts.

"(c)(1) Except as provided in paragraph (2), amounts in the Fund which are not currently needed for the purposes specified in subsection (a) shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"(2) On November 1, 1989, and on November 1 of each year thereafter, the Secretary of the Treasury shall transfer into the general fund of the Treasury the amount, if any, in the Fund that exceeds 110 percent of—

"(A) the amount appropriated for the entire current fiscal year for the purposes specified in subsection (a), or

"(B) if no appropriation has been made for the entire current fiscal year, the annual equivalent of the aggregate amount appropriated to date for the current fiscal year for the purposes specified in subsection (a).

Report.

"(d)(1) The Attorney General shall transmit to the Congress, not later than 120 days after the end of each fiscal year, a detailed

report on the amounts deposited in the Fund and a description of the expenditures made under this section.

"(2) If for each fiscal year in any period of 2 successive fiscal years—

"(A) the aggregate amount deposited under subsection (b) in the Fund exceeds 110 percent of expenditures for the purposes specified in subsection (a), or

"(B) the costs incurred for the purposes specified in subsection (a) exceed the aggregate amount deposited under subsection (b) in the Fund,

then the Attorney General shall include in such report a recommendation regarding the manner in which the fees payable under section 1930(a) of title 28, United States Code, may be modified to cause the annual amount deposited in the Fund to more closely approximate the annual amount expended from the Fund.

"(e) There are authorized to be appropriated to the Fund for any fiscal year such sums as may be necessary to supplement amounts deposited under subsection (b) for the purposes specified in subsection (a).".

(b) TECHNICAL AMENDMENT.—The table of sections for chapter 39 of title 28, United States Code, as added by section 224 of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2662), is amended by adding at the end thereof the following new item:

28 USC 591 *et seq.*

"589a. United States Trustee System Fund.".

SEC. 116. PANEL OF TRUSTEES.

Subsection (f) of section 604 of title 28, United States Code, as added by the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2549), is repealed.

SEC. 117. FEES.

Section 1930(a) of title 28, United States Code, is amended—

(1) in paragraph (1) by striking out "$60" and inserting in lieu thereof "$90",

(2) in paragraph (3) by striking out "$200" and inserting in lieu thereof "$500",

(3) in paragraph (4) by striking out "$500" and inserting in lieu thereof "$1,000",

(4) by inserting after paragraph (4) the following:

"(5) For a case commenced under chapter 12 of title 11, $200.

Post, p. 3105.

"(6) In addition to the filing fee paid to the clerk, a quarterly fee shall be paid to the United States trustee, for deposit in the Treasury, in each case under chapter 11 of title 11 for each quarter (including any fraction thereof) until a plan is confirmed or the case is converted or dismissed, whichever occurs first. The fee shall be $150 for each quarter in which disbursements total less than $15,000; $300 for each quarter in which disbursements total $15,000 or more but less than $150,000; $750 for each quarter in which disbursements total $150,000 or more but less than $300,000; $2,250 for each quarter in which disbursements total $300,000 or more but less than $3,000,000; $3,000 for each quarter in which disbursements total $3,000,000 or more. The fee shall be payable on the last day of the calendar month following the calendar quarter for which the fee is owed.", and

11 USC 1101 *et seq.*

(5) by adding at the end thereof the following: "For converting, on request of the debtor, a case under chapter 7, or 13 of

11 USC 701, 1301, 1101 *et seq.*

title 11, to a case under chapter 11 of title 11, the debtor shall pay to the clerk of the court a fee of $400.".

Subtitle C—Miscellaneous Amendments and Technical Corrections to Title 28

SEC. 141. COURT IN LAWRENCE, KANSAS.

Section 96 of title 28, United States Code, is amended by inserting "Lawrence," after "Kansas City,".

SEC. 142. CUSTODY OF BANKRUPTCY COURT RECORDS AND DOCKETS.

Section 156 of title 28, United States Code, as amended by section 103 of this Act, is amended by adding at the end thereof the following:

"(e) In a judicial district where a bankruptcy clerk has been appointed pursuant to subsection (b), the bankruptcy clerk shall be the official custodian of the records and dockets of the bankruptcy court.".

SEC. 143. CONFORMING AMENDMENT.

Section 157(b)(2)(B) of title 28, United States Code, is amended by inserting ", 12," after "chapter 11".

SEC. 144. TECHNICAL CORRECTIONS.

(a) Section 156 of title 28, United States Code, as amended by sections 103 and 142 of this Act, is amended by adding at the end thereof the following:

"(f) For purposes of financial accountability in a district where a bankruptcy clerk has been certified, such clerk shall be accountable for and pay into the Treasury all fees, costs, and other monies collected by such clerk except uncollected fees not required by an Act of Congress to be prepaid. Such clerk shall make returns thereof to the Director of the Administrative Office of the United States Courts and the Director of the Executive Office For United States Trustees, under regulations prescribed by such Directors.".

(b)(1) Section 157(b)(2)(B) of title 28, United States Code, is amended by striking out "interest" and inserting in lieu thereof "interests".

(2) Section 157(b)(2)(G) of title 28, United States Code, is amended by inserting a comma after "annul".

(c) Section 526 of title 28, United States Code, is amended—

(1) in the heading by striking out "trustee" and inserting in lieu thereof "trustees",

(2) in subsection (a)—

(A) by striking out "and trustees" and inserting in lieu thereof ", trustees, including trustees in cases under title 11" in paragraph (1), and

(B) by striking out "courts of the Canal Zone and the Virgin Islands, probation officers, trustees in cases under title 11," and inserting in lieu thereof "court of the Virgin Islands, probation officers," in paragraph (2).

(d) Section 584 of title 28, United States Code, is amended by striking out "districts" and inserting in lieu thereof "regions".

(e) Section 1334(d) of title 28, United States Code, is amended by striking out "and of the estate" and inserting in lieu thereof "and of property of the estate".

(f) Section 1930(a) of title 28, United States Code, is amended by striking out "of the court" and inserting in lieu thereof "of the district court or the clerk of the bankruptcy court, if one has been certified pursuant to section 156(b) of this title,".

(g)(1) The heading for chapter 39 of title 28, United States Code, as added by the Ethics in Government Act, is amended by striking out **"CHAPTER 39"** and inserting in lieu thereof **"CHAPTER 40"**.

28 USC 591 *et seq.*
2 USC 701 note.

(2) The table of chapters for part II of title 28, United States Code, is amended by striking out the item relating to Independent Counsel and inserting in lieu thereof the following:

"40. Independent Counsel ..... **591".**

(3) Section 49(f) of title 28, United States Code, is amended by striking out "chapter 39" each place it appears and inserting in lieu thereof "chapter 40".

TITLE II—AMENDMENTS TO TITLE 11 OF THE UNITED STATES CODE

Subtitle A—Activities of United States Trustees

SEC. 201. DEFINITIONS.

Section 101 of title 11, United States Code, is amended—

(1) in paragraph (14) by striking out "and governmental unit" and inserting in lieu thereof "governmental unit, and United States trustee" before the semicolon at the end thereof, and

(2) in paragraph (24) by inserting "(but not a United States trustee while serving as a trustee in a case under this title)" after "United States" the second place it appears.

SEC. 202. RULES OF CONSTRUCTION.

Section 102 of title 11, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (7) thereof,

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof "; and", and

(3) by inserting at the end thereof the following:

"(9) 'United States trustee' includes a designee of the United States trustee.".

SEC. 203. POWER OF COURT.

Section 105(a) of title 11, United States Code, is amended by adding at the end thereof the following new sentence: "No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, sua sponte, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process.".

SEC. 204. INVOLUNTARY CASES.

Section 303 of title 11, United States Code, is amended—

(1) in subsection (g), by inserting "order the United States trustee to" after "may", the first time it appears, and

(2) in subsection (i)(1)—

(A) by inserting "or" at the end of subparagraph (A), and

(B) by striking out subparagraph (C).

SEC. 205. AUTHORITY OF UNITED STATES TRUSTEE IN CASES UNDER TITLE 11.

11 USC 301 *et seq.*

(a) AUTHORITY.—Subchapter I of chapter 3 of title 11, United States Code, is amended by adding at the end thereof the following:

11 USC 307.

"§ 307. United States trustee

"The United States trustee may raise and may appear and be heard on any issue in any case or proceeding under this title but may not file a plan pursuant to section 1121(c) of this title.".

(b) TECHNICAL AMENDMENT.—The table of sections for subchapter I of chapter 3 of title 11, United States Code, is amended by adding at the end thereof the following new item:

"307. United States trustee.".

SEC. 206. ELIGIBILITY OF UNITED STATES TRUSTEE TO SERVE AS TRUSTEE.

Section 321 of title 11, United States Code, is amended by adding at the end thereof the following:

"(c) The United States trustee for the judicial district in which the case is pending is eligible to serve as trustee in the case if necessary.".

SEC. 207. QUALIFICATION OF TRUSTEE.

Section 322 of title 11, United States Code, is amended—

(1) in subsection (a) by striking out "A person" and inserting in lieu thereof "Except as provided in subsection (b)(1), a person", and

(2) by amending subsection (b) to read as follows:

"(b)(1) The United States trustee qualifies wherever such trustee serves as trustee in a case under this title.

"(2) The United States trustee shall determine—

"(A) the amount of a bond required to be filed under subsection (a) of this section; and

"(B) the sufficiency of the surety on such bond.".

SEC. 208. REMOVAL OF TRUSTEE OR EXAMINER.

Section 324 of title 11, United States Code, is amended to read as follows:

"§ 324. Removal of trustee or examiner

Courts, U.S.

"(a) The court, after notice and a hearing, may remove a trustee, other than the United States trustee, or an examiner, for cause.

"(b) Whenever the court removes a trustee or examiner under subsection (a) in a case under this title, such trustee or examiner shall thereby be removed in all other cases under this title in which such trustee or examiner is then serving unless the court orders otherwise.".

SEC. 209. LIMITATION ON COMPENSATION OF TRUSTEE.

Section 326(b) of title 11, United States Code, is amended to read as follows:

Post, p. 3105, 11 USC 1301 *et seq.*

"(b) In a case under chapter 12 or 13 of this title, the court may not allow compensation for services or reimbursement of expenses of the United States trustee or of a standing trustee appointed under section 586(b) of title 28, but may allow reasonable compensation under section 330 of this title of a trustee appointed under section 1202(a) or 1302(a) of this title for the trustee's services, payable after

the trustee renders such services, not to exceed five percent upon all payments under the plan.".

SEC. 210. EMPLOYMENT OF PROFESSIONAL PERSONS.

Section 327(c) of title 11, United States Code, is amended by inserting "or the United States trustee" after "another creditor".

SEC. 211. COMPENSATION OF OFFICERS.

Section 330 of title 11, United States Code, is amended—

(1) in subsection (a) by inserting "to any parties in interest and to the United States trustee" after "notice", and

(2) by inserting at the end thereof the following:

"(d) In a case in which the United States trustee serves as trustee, the compensation of the trustee under this section shall be paid to the clerk of the bankruptcy court and deposited by the clerk into the United States Trustee System Fund established by section 589a of title 28.".

SEC. 212. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended—

(1) in subsection (a) by striking out "there shall be a meeting of creditors" and inserting in lieu thereof "the United States trustee shall convene and preside at a meeting of creditors",

(2) in subsection (b) by striking out "court may order" and inserting in lieu thereof "United States trustee may convene", and

(3) in subsection (c) by inserting "including any final meeting of creditors" before the period at the end thereof.

SEC. 213. EXAMINATION OF THE DEBTOR.

Section 343 of title 11, United States Code, is amended to read as follows:

"§ 343. Examination of the debtor

"The debtor shall appear and submit to examination under oath at the meeting of creditors under section 341(a) of this title. Creditors, any indenture trustee, any trustee or examiner in the case, or the United States trustee may examine the debtor. The United States trustee may administer the oath required under this section.".

SEC. 214. MONIES OF ESTATES.

Section 345(b) of title 11, United States Code, is amended to read as follows:

"(b) Except with respect to a deposit or investment that is insured or guaranteed by the United States or by a department, agency, or instrumentality of the United States or backed by the full faith and credit of the United States, the trustee shall require from an entity with which such money is deposited or invested—

"(1) a bond—

"(A) in favor of the United States;

"(B) secured by the undertaking of a corporate surety approved by the United States trustee for the district in which the case is pending; and

"(C) conditioned on—

"(i) a proper accounting for all money so deposited or invested and for any return on such money;

"(ii) prompt repayment of such money and return; and

"(iii) faithful performance of duties as a depository; or

"(2) the deposit of securities of the kind specified in section 9303 of title 31.".

SEC. 215. INTERIM TRUSTEE.

Section 701(a) of title 11, United States Code, is amended to read as follows:

"(a)(1) Promptly after the order for relief under this chapter, the United States trustee shall appoint one disinterested person that is a member of the panel of private trustees established under section 586(a)(1) of title 28 or that is serving as trustee in the case immediately before the order for relief under this chapter to serve as interim trustee in the case.

"(2) If none of the members of such panel is willing to serve as interim trustee in the case, then the United States trustee may serve as interim trustee in the case.".

SEC. 216. SUCCESSOR TRUSTEE.

Subsections (b) and (c) of section 703 of title 11, United States Code, are amended to read as follows:

"(b) Pending election of a trustee under subsection (a) of this section, if necessary to preserve or prevent loss to the estate, the United States trustee may appoint an interim trustee in the manner specified in section 701(a).

"(c) If creditors do not elect a successor trustee under subsection (a) of this section or if a trustee is needed in a case reopened under section 350 of this title, then the United States trustee—

"(1) shall appoint one disinterested person that is a member of the panel of private trustees established under section 586(a)(1) of title 28 to serve as trustee in the case; or

"(2) may, if none of the disinterested members of such panel is willing to serve as trustee, serve as trustee in the case.

SEC. 217. DUTIES OF TRUSTEE.

Section 704 of title 11, United States Code, is amended—

(1) in paragraph (8) by—

(A) inserting ", with the United States trustee," after "court" the first place it appears, and

(B) inserting "the United States trustee or" after "information as", and

(2) in paragraph (9) by inserting "and with the United States trustee" before the period at the end thereof.

SEC. 218. CREDITORS' COMMITTEE.

Section 705(b) of title 11, United States Code, is amended—

(1) by inserting "or the United States trustee" after "trustee" each place it appears, and

(2) by inserting "or the United States trustee" immediately after "court".

SEC. 219. DISMISSAL.

(a) GROUND FOR DISMISSAL.—Section 707(a) of title 11, United States Code, is amended—

(1) by striking out "or" at the end of paragraph (1),

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof the following: "; and", and

(3) by adding at the end thereof the following:

"(3) failure of the debtor in a voluntary case to file, within fifteen days or such additional time as the court may allow after the filing of the petition commencing such case, the information required by paragraph (1) of section 521, but only on a motion by the United States trustee.".

(b) PROCEDURE.—Section 707(b) of title 11, United States Code, is amended by striking out "motion and" and inserting in lieu thereof "motion or on a motion by the United States trustee, but".

SEC. 220. DISCHARGE.

Subsections (c), (d), and (e) of section 727 of title 11, United States Code, are amended to read as follows:

"(c)(1) The trustee, a creditor, or the United States trustee may object to the granting of a discharge under subsection (a) of this section.

"(2) On request of a party in interest, the court may order the trustee to examine the acts and conduct of the debtor to determine whether a ground exists for denial of discharge.

"(d) On request of the trustee, a creditor, or the United States trustee, and after notice and a hearing, the court shall revoke a discharge granted under subsection (a) of this section if—

"(1) such discharge was obtained through the fraud of the debtor, and the requesting party did not know of such fraud until after the granting of such discharge;

"(2) the debtor acquired property that is property of the estate, or became entitled to acquire property that would be property of the estate, and knowingly and fraudulently failed to report the acquisition of or entitlement to such property, or to deliver or surrender such property to the trustee; or

"(3) the debtor committed an act specified in subsection (a)(6) of this section.

"(e) The trustee, a creditor, or the United States trustee may request a revocation of a discharge—

"(1) under subsection (d)(1) of this section within one year after such discharge is granted; or

"(2) under subsection (d)(2) or (d)(3) of this section before the later of—

"(A) one year after the granting of such discharge; and

"(B) the date the case is closed.".

SEC. 221. CREDITORS' AND EQUITY SECURITY HOLDERS' COMMITTEES.

Section 1102 of title 11, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a)(1) As soon as practicable after the order for relief under chapter 11 of this title, the United States trustee shall appoint a committee of creditors holding unsecured claims and may appoint additional committees of creditors or of equity security holders as the United States trustee deems appropriate.

11 USC 1101 *et seq.*

"(2) On request of a party in interest, the court may order the appointment of additional committees of creditors or of equity security holders if necessary to assure adequate representation of creditors or of equity security holders. The United States trustee shall appoint any such committee.", and

(2) by repealing subsection (c).

SEC. 222. APPOINTMENT OF TRUSTEE OR EXAMINER.

Section 1104 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting "or the United States trustee" after "party in interest",

(2) in subsection (b), by inserting "or the United States trustee" after "party in interest", and

(3) in subsection (c)—

(A) by striking out "court" the second place it appears and inserting in lieu thereof "United States trustee, after consultation with parties in interest", and

(B) by striking out "one disinterested person" and inserting in lieu thereof ", subject to the court's approval, one disinterested person other than the United States trustee".

SEC. 223. TERMINATION OF TRUSTEE APPOINTMENT.

Section 1105 of title 11, United States Code, is amended by inserting "or the United States trustee" after "party in interest".

SEC. 224. CONVERSION OR DISMISSAL.

Section 1112 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) by inserting "or the United States trustee" after "party in interest",

(B) by striking out "or" in paragraph (8),

(C) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; or", and

(D) by adding at the end thereof the following:

"(10) nonpayment of any fees or charges required under chapter 123 of title 28.",

(2) by redesignating subsection (e) as subsection (f), and

(3) by inserting after subsection (d) the following:

Claims.

11 USC 701 *et seq.*

"(e) Except as provided in subsections (c) and (f), the court, on request of the United States trustee, may convert a case under this chapter to a case under chapter 7 of this title or may dismiss a case under this chapter, whichever is in the best interest of creditors and the estate if the debtor in a voluntary case fails to file, within fifteen days after the filing of the petition commencing such case or such additional time as the court may allow, the information required by paragraph (1) of section 521, including a list containing the names and addresses of the holders of the twenty largest unsecured claims (or of all unsecured claims if there are fewer than twenty unsecured claims), and the approximate dollar amounts of each of such claims.".

SEC. 225. PREREQUISITE TO CONFIRMATION OF PLAN UNDER CHAPTER 11.

Section 1129(a) of title 11, United States Code, is amended by adding at the end thereof the following:

"(12) All fees payable under section 1930, as determined by the court at the hearing on confirmation of the plan, have been paid or the plan provides for the payment of all such fees on the effective date of the plan.".

SEC. 226. AUTHORITY TO APPOINT TRUSTEE.

Section 1163 of title 11, United States Code, is amended to read as follows:

"§ 1163. Appointment of trustee

"As soon as practicable after the order for relief the Secretary of Transportation shall submit a list of five disinterested persons that are qualified and willing to serve as trustees in the case. The United States trustee shall appoint one of such persons to serve as trustee in the case.".

SEC. 227. REPEALER.

Section 1202 of title 11, United States Code, as added by section 255 of this Act, is amended by striking out subsections (c) and (d).

SEC. 228. TRUSTEE.

Section 1302 of title 11, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) If the United States trustee appoints an individual under section 586(b) of title 28 to serve as standing trustee in cases under this chapter and if such individual qualifies under section 322 of this title, then such individual shall serve as trustee in the case. Otherwise, the United States trustee shall appoint one disinterested person to serve as trustee in the case or the United States trustee may serve as a trustee in the case.", and

(2) by striking out subsections (d) and (e).

SEC. 229. CONVERSION OR DISMISSAL.

Section 1307 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) by inserting "or the United States trustee" after "party in interest",

(B) by striking out "or" at the end of paragraph (7) and inserting a semicolon in lieu thereof,

(C) by striking out the period at the end of paragraph (8) and inserting in lieu thereof a semicolon, and

(D) by adding at the end thereof the following:

"(9) only on request of the United States trustee, failure of the debtor to file, within fifteen days, or such additional time as the court may allow, after the filing of the petition commencing such case, the information required by paragraph (1) of section 521; or

"(10) only on request of the United States trustee, failure to timely file the information required by paragraph (2) of section 521.", and

(2) in subsection (d) by inserting "or the United States trustee" after "party in interest".

SEC. 230. PAYMENTS.

Section 1326(b) of title 11, United States Code, is amended to read as follows:

"(b) Before or at the time of each payment to creditors under the plan, there shall be paid—

"(1) any unpaid claim of the kind specified in section 507(a)(1) of this title; and

"(2) if a standing trustee appointed under section 586(b) of title 28 is serving in the case, the percentage fee fixed for such standing trustee under section 586(e)(1)(B) of title 28.".

SEC. 231. REPEAL OF CHAPTER 15.

Chapter 15 of title 11, United States Code, is repealed. 11 USC 1501 *et seq.*

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Subtitle B—Debtors Who Are Family Farmers

SEC. 251. DEFINITIONS.

Section 101 of title 11, United States Code, as amended by section 201 of this Act, is amended—

(1) in paragraph (17) by inserting "(except when such term appears in the term 'family farmer')" after "means",

(2) by redesignating paragraphs (17) through (49) as paragraphs (19) through (51), respectively, and

(3) by inserting after paragraph (16) the following new paragraphs:

"(17) 'family farmer' means—

"(A) individual or individual and spouse engaged in a farming operation whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse unless such debt arises out of a farming operation), on the date the case is filed, arise out of a farming operation owned or operated by such individual or such individual and spouse, and such individual or such individual and spouse receive from such farming operation more than 50 percent of such individual's or such individual and spouse's gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or

"(B) corporation or partnership in which more than 50 percent of the outstanding stock or equity is held by one family, or by one family and the relatives of the members of such family, and such family or such relatives conduct the farming operation, and

"(i) more than 80 percent of the value of its assets consists of assets related to the farming operation;

"(ii) its aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for one dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a farming operation), on the date the case is filed, arise out of the farming operation owned or operated by such corporation or such partnership; and

"(iii) if such corporation issues stock, such stock is not publicly traded;

"(18) 'family farmer with regular annual income' means family farmer whose annual income is sufficiently stable and regular to enable such family farmer to make payments under a plan under chapter 12 of this title;".

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SEC. 252. APPLICABILITY OF CHAPTERS.

Section 103 of title 11, United States Code, is amended—

(1) in subsection (a) by striking out "or 13" and inserting in lieu thereof "12, or 13",

(2) by adding at the end thereof the following:

"(i) Chapter 12 of this title applies only in a case under such chapter.".

SEC. 253. WHO MAY BE A DEBTOR.

Section 109 of title 11, United States Code, is amended—

(1) in subsection (f)—

(A) by inserting "or family farmer" after "individual", and

(B) by redesignating such subsection as subsection (g), and

(2) by inserting after subsection (e) the following:

"(f) Only a family farmer with regular annual income may be a debtor under chapter 12 of this title.".

SEC. 254. INVOLUNTARY CASES.

Section 303(a) of title 11, United States Code, is amended by inserting ", family farmer," after "farmer".

SEC. 255. FAMILY FARMERS.

Title 11 of the United States Code is amended by inserting after chapter 11 the following new chapter:

"CHAPTER 12—ADJUSTMENT OF DEBTS OF A FAMILY FARMER WITH REGULAR ANNUAL INCOME

"SUBCHAPTER I—OFFICERS, ADMINISTRATION, AND THE ESTATE

"Sec.
"1201. Stay of action against codebtor.
"1202. Trustee.
"1203. Rights and powers of debtor.
"1204. Removal of debtor as debtor in possession.
"1205. Adequate protection.
"1206. Sales free of interests.
"1207. Property of the estate.
"1208. Conversion or dismissal.

"SUBCHAPTER II—THE PLAN

"1221. Filing of plan.
"1222. Contents of plan.
"1223. Modification of plan before confirmation.
"1224. Confirmation hearing.
"1225. Confirmation of plan.
"1226. Payments.
"1227. Effect of confirmation.
"1228. Discharge.
"1229. Modification of plan after confirmation.
"1230. Revocation of an order of confirmation.
"1231. Special tax provisions.

"SUBCHAPTER I—OFFICERS, ADMINISTRATION, AND THE ESTATE

"§ 1201. Stay of action against codebtor

11 USC 1201.

"(a) Except as provided in subsections (b) and (c) of this section, after the order for relief under this chapter, a creditor may not act, or commence or continue any civil action, to collect all or any part of a consumer debt of the debtor from any individual that is liable on such debt with the debtor, or that secured such debt, unless—

"(1) such individual became liable on or secured such debt in the ordinary course of such individual's business; or

"(2) the case is closed, dismissed, or converted to a case under chapter 7 of this title.

11 USC 701 *et seq.*

"(b) A creditor may present a negotiable instrument, and may give notice of dishonor of such an instrument.

"(c) On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided by subsection (a) of this section with respect to a creditor, to the extent that—

"(1) as between the debtor and the individual protected under subsection (a) of this section, such individual received the consideration for the claim held by such creditor;

"(2) the plan filed by the debtor proposes not to pay such claim; or

"(3) such creditor's interest would be irreparably harmed by continuation of such stay.

"(d) Twenty days after the filing of a request under subsection (c)(2) of this section for relief from the stay provided by subsection (a) of this section, such stay is terminated with respect to the party in interest making such request, unless the debtor or any individual that is liable on such debt with the debtor files and serves upon such party in interest a written objection to the taking of the proposed action.

11 USC 1202.

"§ 1202. Trustee

"(a) If the United States trustee has appointed an individual under section 586(b) of title 28 to serve as standing trustee in cases under this chapter and if such individual qualifies as a trustee under section 322 of this title, then such individual shall serve as trustee in any case filed under this chapter. Otherwise, the United States trustee shall appoint one disinterested person to serve as trustee in the case or the United States trustee may serve as trustee in the case if necessary.

"(b) The trustee shall—

"(1) perform the duties specified in sections 704(2), 704(3), 704(5), 704(6), 704(7), and 704(9) of this title;

"(2) perform the duties specified in section 1106(a)(3) and 1106(a)(4) of this title if the court, for cause and on request of a party in interest, the trustee, or the United States trustee, so orders;

"(3) appear and be heard at any hearing that concerns—

"(A) the value of property subject to a lien;

"(B) confirmation of a plan;

"(C) modification of the plan after confirmation; or

"(D) the sale of property of the estate;

"(4) ensure that the debtor commences making timely payments required by a confirmed plan; and

"(5) if the debtor ceases to be a debtor in possession, perform the duties specified in sections 704(8), 1106(a)(1), 1106(a)(2), 1106(a)(6), 1106(a)(7), and 1203.

"(c) If the number of cases under this chapter commenced in a particular judicial district so warrants, the court may appoint one or more individuals to serve as standing trustee for such district in cases under this chapter.

"(d)(1) A court that has appointed an individual under subsection (a) of this section to serve as standing trustee in cases under this chapter shall set for such individual—

"(A) a maximum annual compensation not to exceed the lowest annual rate of basic pay in effect for grade GS-16 of the General Schedule prescribed under section 5332 of title 5; and

"(B) a percentage fee not to exceed the sum of—

"(i) not to exceed ten percent of the payments made under the plan of such debtor, with respect to payments in an aggregate amount not to exceed $450,000; and

"(ii) three percent of payments made under the plan of such debtor, with respect to payments made after the aggregate amount of payments made under the plan exceeds $450,000;

based on such maximum annual compensation and the actual, necessary expenses incurred by such individual as standing trustee.

"(2) Such individual shall collect such percentage fee from all payments under plans in the cases under this chapter for which such individual serves as standing trustee. Such individual shall pay annually to the Treasury—

"(A) any amount by which the actual compensation received by such individual exceeds five percent of all such payments made under plans in cases under this chapter for which such individual serves as standing trustee; and

"(B) any amount by which the percentage fee fixed under paragraph (1)(B) of this subsection for all such cases exceeds—

"(i) such individual's actual compensation for such cases, as adjusted under subparagraph (A) of this paragraph; plus

"(ii) the actual, necessary expenses incurred by such individual as standing trustee in such cases.

"§ 1203. Rights and powers of debtor 11 USC 1203.

"Subject to such limitations as the court may prescribe, a debtor in possession shall have all the rights, other than the right to compensation under section 330, and powers, and shall perform all the functions and duties, except the duties specified in paragraphs (3) and (4) of section 1106(a), of a trustee serving in a case under chapter 11, including operating the debtor's farm.

"§ 1204. Removal of debtor as debtor in possession 11 USC 1204.

"(a) On request of a party in interest, and after notice and a hearing, the court shall order that the debtor shall not be a debtor in possession for cause, including fraud, dishonesty, incompetence, or gross mismanagement of the affairs of the debtor, either before or after the commencement of the case.

"(b) On request of a party in interest, and after notice and a hearing, the court may reinstate the debtor in possession.

"§ 1205. Adequate protection 11 USC 1205.

"(a) Section 361 does not apply in a case under this chapter.

"(b) In a case under this chapter, when adequate protection is required under section 362, 363, or 364 of this title of an interest of an entity in property, such adequate protection may be provided by—

"(1) requiring the trustee to make a cash payment or periodic cash payments to such entity, to the extent that the stay under section 362 of this title, use, sale, or lease under section 363 of this title, or any grant of a lien under section 364 of this title results in a decrease in the value of property securing a claim or of an entity's ownership interest in property;

"(2) providing to such entity an additional or replacement lien to the extent that such stay, use, sale, lease, or grant results in a decrease in the value of property securing a claim or of an entity's ownership interest in property;

"(3) paying to such entity for the use of farmland the reasonable rent customary in the community where the property is located, based upon the rental value, net income, and earning capacity of the property; or

"(4) granting such other relief, other than entitling such entity to compensation allowable under section 503(b)(1) of this title as an administrative expense, as will adequately protect the value of property securing a claim or of such entity's ownership interest in property.

11 USC 1206.

"§ 1206. Sales free of interests

"After notice and a hearing, in addition to the authorization contained in section 363(f), the trustee in a case under this chapter may sell property under section 363 (b) and (c) free and clear of any interest in such property of an entity other than the estate if the property is farmland or farm equipment, except that the proceeds of such sale shall be subject to such interest.

11 USC 1207.

"§ 1207. Property of the estate

"(a) Property of the estate includes, in addition to the property specified in section 541 of this title—

"(1) all property of the kind specified in such section that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7 of this title, whichever occurs first; and

11 USC 701 *et seq.*

"(2) earnings from services performed by the debtor after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7 of this title, whichever occurs first.

"(b) Except as provided in section 1204, a confirmed plan, or an order confirming a plan, the debtor shall remain in possession of all property of the estate.

11 USC 1208.

"§ 1208. Conversion or dismissal

"(a) The debtor may convert a case under this chapter to a case under chapter 7 of this title at any time. Any waiver of the right to convert under this subsection is unenforceable.

"(b) On request of the debtor at any time, if the case has not been converted under section 706 or 1112 of this title, the court shall dismiss a case under this chapter. Any waiver of the right to dismiss under this subsection is unenforceable.

"(c) On request of a party in interest, and after notice and a hearing, the court may dismiss a case under this chapter for cause, including—

"(1) unreasonable delay, or gross mismanagement, by the debtor that is prejudicial to creditors;

"(2) nonpayment of any fees and charges required under chapter 123 of title 28;

28 USC 1911 *et seq.*

"(3) failure to file a plan timely under section 1221 of this title;

"(4) failure to commence making timely payments required by a confirmed plan;

"(5) denial of confirmation of a plan under section 1225 of this title and denial of a request made for additional time for filing another plan or a modification of a plan;

"(6) material default by the debtor with respect to a term of a confirmed plan;

"(7) revocation of the order of confirmation under section 1230 of this title, and denial of confirmation of a modified plan under section 1229 of this title;

"(8) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan; or

"(9) continuing loss to or diminution of the estate and absence of a reasonable likelihood of rehabilitation.

"(d) On request of a party in interest, and after notice and a hearing, the court may dismiss a case under this chapter or convert a case under this chapter to a case under chapter 7 of this title upon a showing that the debtor has committed fraud in connection with the case.

11 USC 701 *et seq.*

"(e) Notwithstanding any other provision of this section, a case may not be converted to a case under another chapter of this title unless the debtor may be a debtor under such chapter.

"SUBCHAPTER II—THE PLAN

"§ 1221. Filing of plan

11 USC 1221.

"The debtor shall file a plan not later than 90 days after the order for relief under this chapter, except that the court may extend such period if an extension is substantially justified.

"§ 1222. Contents of plan

Claims.
11 USC 1222.

"(a) The plan shall—

"(1) provide for the submission of all or such portion of future earnings or other future income of the debtor to the supervision and control of the trustee as is necessary for the execution of the plan;

"(2) provide for the full payment, in deferred cash payments, of all claims entitled to priority under section 507 of this title, unless the holder of a particular claim agrees to a different treatment of such claim; and

"(3) if the plan classifies claims and interests, provide the same treatment for each claim or interest within a particular class unless the holder of a particular claim or interest agrees to less favorable treatment.

"(b) Subject to subsections (a) and (c) of this section, the plan may—

"(1) designate a class or classes of unsecured claims, as provided in section 1122 of this title, but may not discriminate unfairly against any class so designated; however, such plan may treat claims for a consumer debt of the debtor if an individual is liable on such consumer debt with the debtor differently than other unsecured claims;

"(2) modify the rights of holders of secured claims, or of holders of unsecured claims, or leave unaffected the rights of holders of any class of claims;

"(3) provide for the curing or waiving of any default;

"(4) provide for payments on any unsecured claim to be made concurrently with payments on any secured claim or any other unsecured claim;

"(5) provide for the curing of any default within a reasonable time and maintenance of payments while the case is pending on any unsecured claim or secured claim on which the last payment is due after the date on which the final payment under the plan is due;

"(6) subject to section 365 of this title, provide for the assumption, rejection, or assignment of any executory contract or unexpired lease of the debtor not previously rejected under such section;

"(7) provide for the payment of all or part of a claim against the debtor from property of the estate or property of the debtor;

"(8) provide for the sale of all or any part of the property of the estate or the distribution of all or any part of the property of the estate among those having an interest in such property;

"(9) provide for payment of allowed secured claims consistent with section 1225(a)(5) of this title, over a period exceeding the period permitted under section 1222(c);

"(10) provide for the vesting of property of the estate, on confirmation of the plan or at a later time, in the debtor or in any other entity; and

"(11) include any other appropriate provision not inconsistent with this title.

"(c) Except as provided in subsections (b)(5) and (b)(9), the plan may not provide for payments over a period that is longer than three years unless the court for cause approves a longer period, but the court may not approve a period that is longer than five years.

11 USC 1223.

"§ 1223. Modification of plan before confirmation

"(a) The debtor may modify the plan at any time before confirmation, but may not modify the plan so that the plan as modified fails to meet the requirements of section 1222 of this title.

"(b) After the debtor files a modification under this section, the plan as modified becomes the plan.

"(c) Any holder of a secured claim that has accepted or rejected the plan is deemed to have accepted or rejected, as the case may be, the plan as modified, unless the modification provides for a change in the rights of such holder from what such rights were under the plan before modification, and such holder changes such holder's previous acceptance or rejection.

11 USC 1224.

"§ 1224. Confirmation hearing

"After expedited notice, the court shall hold a hearing on confirmation of the plan. A party in interest, the trustee, or the United States trustee may object to the confirmation of the plan. Except for cause, the hearing shall be concluded not later than 45 days after the filing of the plan.

Courts, U.S.
11 USC 1225.

"§ 1225. Confirmation of plan

"(a) Except as provided in subsection (b), the court shall confirm a plan if—

"(1) the plan complies with the provisions of this chapter and with the other applicable provisions of this title;

"(2) any fee, charge, or amount required under chapter 123 of title 28, or by the plan, to be paid before confirmation, has been paid; 28 USC 1911 *et seq.*

"(3) the plan has been proposed in good faith and not by any means forbidden by law;

"(4) the value, as of the effective date of the plan, of property to be distributed under the plan on account of each allowed unsecured claim is not less than the amount that would be paid on such claim if the estate of the debtor were liquidated under chapter 7 of this title on such date; 11 USC 701 *et seq.*

"(5) with respect to each allowed secured claim provided for by the plan—

"(A) the holder of such claim has accepted the plan;

"(B)(i) the plan provides that the holder of such claim retain the lien securing such claim; and

"(ii) the value, as of the effective date of the plan, of property to be distributed by the trustee or the debtor under the plan on account of such claim is not less than the allowed amount of such claim; or

"(C) the debtor surrenders the property securing such claim to such holder; and

"(6) the debtor will be able to make all payments under the plan and to comply with the plan.

"(b)(1) If the trustee or the holder of an allowed unsecured claim objects to the confirmation of the plan, then the court may not approve the plan unless, as of the effective date of the plan—

"(A) the value of the property to be distributed under the plan on account of such claim is not less than the amount of such claim; or

"(B) the plan provides that all of the debtor's projected disposable income to be received in the three-year period, or such longer period as the court may approve under section 1222(c), beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.

"(2) For purposes of this subsection, 'disposable income' means income which is received by the debtor and which is not reasonably necessary to be expended—

"(A) for the maintenance or support of the debtor or a dependent of the debtor; or

"(B) for the payment of expenditures necessary for the continuation, preservation, and operation of the debtor's business.

"(c) After confirmation of a plan, the court may order any entity from whom the debtor receives income to pay all or any part of such income to the trustee.

"§ 1226. Payments 11 USC 1226.

"(a) Payments and funds received by the trustee shall be retained by the trustee until confirmation or denial of confirmation of a plan. If a plan is confirmed, the trustee shall distribute any such payment in accordance with the plan. If a plan is not confirmed, the trustee shall return any such payments to the debtor, after deducting—

"(1) any unpaid claim allowed under section 503(b) of this title; and

"(2) if a standing trustee is serving in the case, the percentage fee fixed for such standing trustee.

"(b) Before or at the time of each payment to creditors under the plan, there shall be paid—

"(1) any unpaid claim of the kind specified in section 507(a)(1) of this title; and

"(2) if a standing trustee appointed under section 1202(d) of this title is serving in the case, the percentage fee fixed for such standing trustee under section 1202(e) of this title.

"(c) Except as otherwise provided in the plan or in the order confirming the plan, the trustee shall make payments to creditors under the plan.

11 USC 1227.

"§ 1227. Effect of confirmation

"(a) Except as provided in section 1228(a) of this title, the provisions of a confirmed plan bind the debtor, each creditor, each equity security holder, and each general partner in the debtor, whether or not the claim of such creditor, such equity security holder, or such general partner in the debtor is provided for by the plan, and whether or not such creditor, such equity security holder, or such general partner in the debtor has objected to, has accepted, or has rejected the plan.

"(b) Except as otherwise provided in the plan or the order confirming the plan, the confirmation of a plan vests all of the property of the estate in the debtor.

"(c) Except as provided in section 1228(a) of this title and except as otherwise provided in the plan or in the order confirming the plan, the property vesting in the debtor under subsection (b) of this section is free and clear of any claim or interest of any creditor provided for by the plan.

11 USC 1228.

"§ 1228. Discharge

"(a) As soon as practicable after completion by the debtor of all payments under the plan, other than payments to holders of allowed claims provided for under section 1222(b)(5) or 1222(b)(10) of this title, unless the court approves a written waiver of discharge executed by the debtor after the order for relief under this chapter, the court shall grant the debtor a discharge of all debts provided for by the plan allowed under section 503 of this title or disallowed under section 502 of this title, except any debt—

"(1) provided for under section 1222(b)(5) or 1222(b)(10) of this title; or

"(2) of the kind specified in section 523(a) of this title.

"(b) At any time after the confirmation of the plan and after notice and a hearing, the court may grant a discharge to a debtor that has not completed payments under the plan only if—

"(1) the debtor's failure to complete such payments is due to circumstances for which the debtor should not justly be held accountable;

"(2) the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed unsecured claim is not less than the amount that would have been paid on such claim if the estate of the debtor had been liquidated under chapter 7 of this title on such date; and

11 USC 701 *et seq.*

"(3) modification of the plan under section 1229 of this title is not practicable.

"(c) A discharge granted under subsection (b) of this section discharges the debtor from all unsecured debts provided for by the plan or disallowed under section 502 of this title, except any debt—

"(1) provided for under section 1222(b)(5) or 1222(b)(10) of this title; or

"(2) of a kind specified in section 523(a) of this title.

"(d) On request of a party in interest before one year after a discharge under this section is granted, and after notice and a hearing, the court may revoke such discharge only if—

"(1) such discharge was obtained by the debtor through fraud; and

"(2) the requesting party did not know of such fraud until after such discharge was granted.

"(e) After the debtor is granted a discharge, the court shall terminate the services of any trustee serving in the case.

"§ 1229. Modification of plan after confirmation 11 USC 1229.

"(a) At any time after confirmation of the plan but before the completion of payments under such plan, the plan may be modified, on request of the debtor, the trustee, or the holder of an allowed unsecured claim, to—

"(1) increase or reduce the amount of payments on claims of a particular class provided for by the plan;

"(2) extend or reduce the time for such payments; or

"(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of such claim other than under the plan.

"(b)(1) Sections 1222(a), 1222(b), and 1223(c) of this title and the requirements of section 1225(a) of this title apply to any modification under subsection (a) of this section.

"(2) The plan as modified becomes the plan unless, after notice and a hearing, such modification is disapproved.

"(c) A plan modified under this section may not provide for payments over a period that expires after three years after the time that the first payment under the original confirmed plan was due, unless the court, for cause, approves a longer period, but the court may not approve a period that expires after five years after such time.

"§ 1230. Revocation of an order of confirmation 11 USC 1230.

"(a) On request of a party in interest at any time within 180 days after the date of the entry of an order of confirmation under section 1225 of this title, and after notice and a hearing, the court may revoke such order if such order was procured by fraud.

"(b) If the court revokes an order of confirmation under subsection (a) of this section, the court shall dispose of the case under section 1207 of this title, unless, within the time fixed by the court, the debtor proposes and the court confirms a modification of the plan under section 1229 of this title.

"§ 1231. Special tax provisions 11 USC 1231.

"(a) For the purpose of any State or local law imposing a tax on or measured by income, the taxable period of a debtor that is an individual shall terminate on the date of the order for relief under this chapter, unless the case was converted under section 706 of this title. State and local governments.

"(b) The trustee shall make a State or local tax return of income for the estate of an individual debtor in a case under this chapter for

each taxable period after the order for relief under this chapter during which the case is pending.

"(c) The issuance, transfer, or exchange of a security, or the making or delivery of an instrument of transfer under a plan confirmed under section 1225 of this title, may not be taxed under any law imposing a stamp tax or similar tax.

"(d) The court may authorize the proponent of a plan to request a determination, limited to questions of law, by a State or local governmental unit charged with responsibility for collection or determination of a tax on or measured by income, of the tax effects, under section 346 of this title and under the law imposing such tax, of the plan. In the event of an actual controversy, the court may declare such effects after the earlier of—

"(1) the date on which such governmental unit responds to the request under this subsection; or

"(2) 270 days after such request.".

SEC. 256. CONVERSION FROM CHAPTER 11 TO CHAPTER 12.

Section 1112(d) of title 11, United States Code, is amended—

(1) by inserting "12 or" before "13",

(2) in paragraph (1) by striking out "and" at the end thereof,

(3) in paragraph (2) by striking out the period at the end thereof and inserting "; and", and

(4) by inserting after paragraph (2) the following:

"(3) if the debtor requests conversion to chapter 12 of this title, such conversion is equitable.".

SEC. 257. CONFORMING AMENDMENTS.

(a) Title 11 of the United States Code is amended in the table of chapters by inserting after the item relating to chapter 11 the following new item:

"12. Adjustment of Debts of Family Farmers with Regular Annual Income .. 1201".

(b) Section 108 of title 11, United States Code, is amended—

(1) in subsection (b) by inserting "1201 or" before "1301", and

(2) in subsection (c)—

(A) by striking out "section 1301" and inserting in lieu thereof "section 1201 or 1301", and

(B) by inserting "1201," after "722,".

(c) Sections 321(a), 329(b)(1)(B), and 1106(a)(5) of title 11, United States Code, are each amended by striking out "or 13" each place it appears and inserting in lieu thereof ", 12, or 13".

(d) Sections 322(a) and 546(a)(1) of title 11, United States Code, are each amended by striking out "or 1302" each place it appears and inserting in lieu thereof "1302, or 1202".

(e) Section 327 of title 11, United States Code, is amended—

(1) in subsection (b) by inserting ", 1202," after "section 721,", and

(2) in subsection (c) by inserting ", 12," after "section 7".

(f) Section 330(c) of title 11, United States Code, is amended by inserting "12 or" before "13".

(g) Section 346 of title 11, United States Code, is amended—

(1) in subsection (b) by inserting ", 12," after "chapter 7",

(2) in subsection (g)(1)(C) by inserting "or 12" after "chapter 11", and

(3) in subsection (i)(1) by inserting ", 12," after "chapter 7".

(h) Section 347 of title 11, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting ", 1226," after "section 726", and

(B) by inserting ", 12," after "chapter 7", and

(2) in subsection (b)—

(A) by striking out "or 11" and inserting in lieu thereof ", 11, or 12", and

(B) by striking out "or 1173" and inserting in lieu thereof "1173, or 1225".

(i) Section 348 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) by striking out "and 1328(a)" and inserting in lieu thereof "1201(a), 1221, and 1228(a)", and

(B) by striking out "or 1307" and inserting in lieu thereof "1307, or 1208",

(2) in subsections (c) and (e) by striking out "or 1307" each place it appears and inserting in lieu thereof "1307, or 1208", and

(3) in subsection (d) by striking out "or 1307" and inserting in lieu thereof ", 1307, or 1208".

(j) Sections 362(c)(2)(C), 365(d)(2), and 502(g) of title 11, United States Code, are each amended by striking out "or 13" each place it appears and inserting in lieu thereof "12, or 13".

(k) Section 363 of title 11, United States Code, is amended—

(1) in subsection (c)(1) by striking out "or 1304" and inserting in lieu thereof "1304, 1203, or 1204", and

(2) in subsection (l) by striking out "or 13" and inserting in lieu thereof ", 12, or 13".

(l) Section 364(a) of title 11, United States Code, is amended by striking out "or 1304" and inserting in lieu thereof "1304, 1203, or 1204".

(m) Section 365(g) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking out "or 13" and inserting in lieu thereof "12, or 13", and

(2) in paragraph (2)—

(A) by striking out "or 13" and inserting in lieu thereof "12, or 13", and

(B) by striking out "or 1307" each place it appears and inserting in lieu thereof ", 1307, or 1208".

(n) Section 523(a) of title 11, United States Code, is amended by striking out "or 1328(b)" and inserting in lieu thereof ", 1228(a), 1228(b), or 1328(b)".

(o) Section 524 of title 11, United States Code, is amended—

(1) in subsections (a)(1), (c)(1), and (d) by striking out "or 1328" each place it appears and inserting in lieu thereof "1228, or 1328", and

(2) in subsection (a)(3) by striking out "or 1328(a)(1)" and inserting in lieu thereof ", 1228(a)(1), or 1328(a)(1)".

(p) Section 557(d)(3) of title 11, United States Code, is amended by inserting "1202," after "1104,".

(q) Section 706 of title 11, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "or 1307" and inserting in lieu thereof ", 1307, or 1208", and

(B) by striking out "or 13" and inserting in lieu thereof ", 12, or 13", and

(2) in subsection (c) by inserting "12 or" before "13".

(r) Section 726(b) of title 11, United States Code, is amended by inserting "1208," after "section 1112".

(s) Section 727(a)(9) of title 11, United States Code, is amended by inserting "1228 or" before "1328".

(t) Section 728(a) of title 11, United States Code, is amended by inserting "or 1208" after "section 1112".

(u) Section 1306(a) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking out "or 11" and inserting in lieu thereof ", 11, or 12", and

(2) in paragraph (2) by striking out "or 11" and inserting in lieu thereof ", 11, or 12".

(v) Section 1307 of title 11, United States Code, is amended—

(1) in subsection (b) by striking out "or 1112" and inserting in lieu thereof ", 1112, or 1208",

(2) in subsection (d) by inserting "or 12" after "chapter 11", and

(3) in subsection (e) by striking out "or 11" and inserting in lieu thereof ", 11, or 12".

Subtitle C—Miscellaneous Amendments and Technical Corrections to Title 11

SEC. 281. SUPPORT OBLIGATIONS.

Section 523(a)(5) of title 11, United States Code, is amended—

(1) by striking out "decree," and inserting in lieu thereof "decree", and

(2) by inserting ", determination made in accordance with State or territorial law by a governmental unit," after "record".

SEC. 282. DISCHARGE.

Section 524(d) of title 11, United States Code is amended—

(1) in the first sentence by striking out "shall" the first place it appears and inserting in lieu thereof "may",

(2) in the second sentence by inserting "any" after "At", and

(3) in the third sentence by inserting "the court shall hold a hearing at which the debtor shall appear in person and" after "then".

SEC. 283. TECHNICAL CORRECTIONS.

(a)(1) Section 101(43)(A)(xv) of title 11, United States Code, as amended by section 251, is amended by striking out "secuity" and inserting in lieu thereof "security".

(2) Section 101(51) of title 11, United States Code, as amended by section 251, is amended by striking out the semicolon at the end thereof and inserting in lieu thereof a period.

(b)(1) Section 303(b) of title 11, United States Code, is amended by striking out "subject on" and inserting in lieu thereof "subject of".

(2) Section 303(h)(1) of title 11, United States Code, is amended by striking out "that".

(c) Section 346(j)(7) of title 11, United States Code, is amended by striking out "owned" and inserting in lieu thereof "owed".

(d) Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (6) by striking out "financial institution," each place it appears and inserting in lieu thereof ", financial institutions",

(2) striking "or" after the semicolon in the first paragraph (9),

(3) striking out "(9)" in the second paragraph (9), and "(10)" in paragraph (10) and inserting in lieu thereof "(10)" and "(11)", respectively, and

(4) in paragraph (10), as so redesignated, by striking out the period at the end thereof and inserting in lieu thereof "; or".

(e)(1) Section 365(c) of title 11, United States Code, is amended by—

(1) striking "or and assignee of such contract or lease" in subparagraph (1)(A), and

(2) in paragraph (3) by—

(A) inserting "is" after "lease", and

(B) inserting "and" after "property".

(2) Paragraph (1) of section 365(h) of title 11, United States Code, is amended by inserting "or timeshare plan" after "lease" the fourth place it appears.

(3) Section 365(m) of title 11, United States Code, is amended by striking out "362(b)(9)" and inserting in lieu thereof "362(b)(10)".

(f)(1) Section 502(b)(6)(A)(ii) of title 11, United States Code, is amended by striking out "reposessed" and inserting in lieu thereof "repossessed".

(2) Section 502(i) of title 11, United States Code, is amended by striking out "507(a)(6)" and inserting in lieu thereof "507(a)(7)".

(g) Section 503(b) of title 11, United States Code, is amended—

(1) in subparagraph (1)(B) by striking out "507(a)(6)" and inserting in lieu thereof "507(a)(7)".

(2) in paragraph (5) by inserting "and" after the semicolon, and

(3) in paragraph (6) by striking out "; and" and inserting in lieu thereof a period.

(h) Section 521(4) of title 11, United States Code, is amended by inserting ", whether or not immunity is granted under section 344 of this title" after "estate" the second place it appears.

(i)(1) Section 522(h)(1) of title 11, United States Code, is amended by striking out "tittle" and inserting in lieu thereof "title".

(2) Section 522(i)(2) of title 11, United States Code, is amended by striking out "his" and inserting in lieu thereof "this".

(j)(1) Section 523(a) of title 11, United States Code, is amended—

(A) in subparagraph (1)(A) by striking out "507(a)(6)" and inserting in lieu thereof "507(a)(7)", and

(B) by redesignating the second paragraph (9) as paragraph (10).

(2) Section 523(b) of title 11, United States Code, is amended by striking out "Services" and inserting in lieu thereof "Service".

(k) Section 524(d)(2) of title 11, United States Code, is amended by striking out "subsection" the second place it appears and inserting in lieu thereof "section".

(l) Section 546(e) of title 11, United States Code, is amended by inserting a comma after "stockbroker".

(m) Section 547(b)(4)(B) of title 11, United States Code, is amended by inserting "and" after the semicolon.

(n) Section 548(d)(2)(B) of title 11, United States Code, is amended by striking out "financial institution," and inserting in lieu thereof ", financial institution".

(o) Section 549(b) of title 11, United States Code, is amended—

(1) by striking out "that occurs" and inserting in lieu thereof "made",

(2) by striking out "is valid against the trustee to the extent of" and inserting in lieu thereof "to the extent", and

(3) by inserting "is" before "given".

(p) Section 554(c) of title 11, United States Code, is amended by striking out "521(a)(1)" and inserting in lieu thereof "521(1)".

11 USC 541 *et seq.*

(q) The items relating to sections 557, 558, and 559 in the table of sections for subchapter III of chapter 5 of title 11, United States Code, are amended to read as follows:

"557. Expedited determination of interests in, and abandonment or other disposition of grain assets.

"558. Defenses of the estate.

"559. Contractual right to liquidate a repurchase agreement.".

(r) Section 724(b)(2) of title 11, United States Code, is amended by—

(1) striking out "or", and

(2) inserting ", or 507(a)(6)" after "507(a)(5)".

(s) Section 726(b) of title 11, United States Code, is amended by striking out "or (6)" and inserting in lieu thereof "(6) or (7)".

(t) Section 743 of title 11, United States Code, is amended by striking out "(d)".

(u) Section 1121(d) of title 11, United States Code, is amended by striking out "subsection" and inserting in lieu thereof "subsections (b) and".

(v) Section 1129(a) of title 11, United States Code, is amended—

(1) in paragraph (7) by striking out "of" the first time it appears,

(2) in subparagraph (9)(B) by striking out "or 507(a)(5)" the first time it appears and inserting in lieu thereof "507(a)(5) or 507(a)(6)", and

(3) in paragraph (9)(C) by striking out "(6)" and inserting in lieu thereof "(7)".

(w) Section 1302(e)(1) of title 11, United States Code, is amended by striking out "fix" and inserting in lieu thereof "set for such individual".

(x) Section 1324 of title 11, United States Code, is amended in the second sentence by striking out "the" the first place it appears.

(y) Section 1325(b)(2)(A) of title 11, United States Code, is amended by striking out "or" after the semicolon and inserting in lieu thereof "and".

(z) Section 1326(a)(2) of title 11, United States Code, is amended by striking out "payments" and inserting in lieu thereof "payment".

11 USC app.

(aa) Official Bankruptcy Form No. 1, referred to in Rule 1002 of the Bankruptcy Rules, is amended—

(1) in paragraph (6) by striking out "7 or 13" and inserting in lieu thereof "7, 11, 12, or 13", and

(2) by striking out "7 or 13" and inserting in lieu thereof "7, 11, 12, or 13" in the statement to be made by the attorney in "Exhibit 'B'".

TITLE III—TRANSITION AND ADMINISTRATIVE PROVISIONS

28 USC 581 note.

SEC. 301. INCUMBENT UNITED STATES TRUSTEES.

(a) AREA FOR WHICH APPOINTED.—Notwithstanding any paragraph of section 581(a) of title 28, United States Code, as in effect

before the effective date of this Act, a United States trustee serving in such office on the effective date of this Act shall serve the remaining term of such office as United States trustee for the region specified in a paragraph of such section, as amended by this Act, that includes the site at which the primary official station of the United States trustee is located immediately before the effective date of this Act.

(b) TERM OF OFFICE.—Notwithstanding section 581(b) of title 28, United States Code, as in effect before the effective date of this Act, the term of office of any United States trustee serving in such office on the date of the enactment of this Act shall expire—

(1) 2 years after the expiration date of such term of office under such section, as so in effect, or

(2) 4 years after the date of the enactment of this Act, whichever occurs first.

SEC. 302. EFFECTIVE DATES; APPLICATION OF AMENDMENTS. 28 USC 581 note.

(a) GENERAL EFFECTIVE DATE.—Except as provided in subsections (b), (c), (d), (e), and (f), this Act and the amendments made by this Act shall take effect 30 days after the date of the enactment of this Act.

(b) AMENDMENTS RELATING TO BANKRUPTCY JUDGES AND INCUMBENT UNITED STATES TRUSTEES.—Subtitle A of title I, and sections 301 and 307(a), shall take effect on the date of the enactment of this Act.

(c) AMENDMENTS RELATING TO FAMILY FARMERS.—(1) The amendments made by subtitle B of title II shall not apply with respect to cases commenced under title 11 of the United States Code before the effective date of this Act.

(2) Section 1202 of title 11 of the United States Code (as added by the amendment made by section 255 of this Act) shall take effect on the effective date of this Act and before the amendment made by section 227 of this Act.

(3) Until the amendments made by subtitle A of title II of this Act become effective in a district and apply to a case, for purposes of such case—

(A)(i) any reference in section 326(b) of title 11 of the United States Code to chapter 13 of title 11 of the United States Code shall be deemed to be a reference to chapter 12 or chapter 13 of title 11 of the United States Code, 11 USC 1301 *et seq.* *Ante*, p. 3105.

(ii) any reference in such section 326(b) to section 1302(d) of title 11 of the United States Code shall be deemed to be a reference to section 1302(d) of title 11 of the United States Code or section 586(b) of title 28 of the United States Code, and

(iii) any reference in such section 326(b) to section 1302(a) of title 11 of the United States Code shall be deemed to be a reference to section 1202(a) or section 1302(a) of title 11 of the United States Code, and

(B)(i) the first two references in section 1202(a) of title 11 of the United States Code (as added by the amendment made by section 255 of this Act) to the United States trustee shall be deemed to be a reference to the court, and

(ii) any reference in such section 1202(a) to section 586(b) of title 28 of the United States Code shall be deemed to be a reference to section 1202(c) of title 11 of the United States Code (as so added).

(d) APPLICATION OF AMENDMENTS TO JUDICIAL DISTRICTS.—

(1) CERTAIN REGIONS NOT CURRENTLY SERVED BY UNITED STATES TRUSTEES.—(A) The amendments made by subtitle A of title II of this Act, and section 1930(a)(6) of title 28 of the United States Code (as added by section 117(4) of this Act), shall not—

(i) become effective in or with respect to a judicial district specified in subparagraph (B) until, or

(ii) apply to cases while pending in such district before, the expiration of the 270-day period beginning on the effective date of this Act or of the 30-day period beginning on the date the Attorney General certifies under section 303 of this Act the region specified in a paragraph of section 581(a) of title 28, United States Code, as amended by section 111(a) of this Act, that includes such district, whichever occurs first.

Puerto Rico. State listing.

(B) Subparagraph (A) applies to the following:

(i) The judicial district established for the Commonwealth of Puerto Rico.

(ii) The District of Connecticut.

(iii) The judicial districts established for the State of New York (other than the Southern District of New York).

(iv) The District of Vermont.

(v) The judicial districts established for the State of Pennsylvania.

(vi) The judicial district established for the Virgin Islands of the United States.

(vii) The District of Maryland.

(viii) The judicial districts established for the State of North Carolina.

(ix) The District of South Carolina.

(x) The judicial districts established for the State of West Virginia.

(xi) The Western District of Virginia.

(xii) The Eastern District of Texas.

(xiii) The judicial districts established for the State of Wisconsin.

(xiv) The judicial districts established for the State of Iowa.

(xv) The judicial districts established for the State of New Mexico.

(xvi) The judicial districts established for the State of Oklahoma.

(xvii) The District of Utah.

(xviii) The District of Wyoming (including those portions of Yellowstone National Park situated in the States of Montana and Idaho).

(xix) The judicial districts established for the State of Alabama.

(xx) The judicial districts established for the State of Florida.

(xxi) The judicial districts established for the State of Georgia.

(2) CERTAIN REMAINING JUDICIAL DISTRICTS NOT CURRENTLY SERVED BY UNITED STATES TRUSTEES.—(A) The amendments made by subtitle A of title II of this Act, and section 1930(a)(6) of title 28 of the United States Code (as added by section 117(4) of this Act), shall not—

(i) become effective in or with respect to a judicial district specified in subparagraph (B) until, or

(ii) apply to cases while pending in such district before, the expiration of the 2-year period beginning on the effective date of this Act or of the 30-day period beginning on the date the Attorney General certifies under section 303 of this Act the region specified in a paragraph of section 581(a) of title 28, United States Code, as amended by section 111(a) of this Act, that includes such district, whichever occurs first.

(B) Subparagraph (A) applies to the following:

State listing.

(i) The judicial districts established for the State of Louisiana.

(ii) The judicial districts established for the State of Mississippi.

(iii) The Southern District of Texas and the Western District of Texas.

(iv) The judicial districts established for the State of Kentucky.

(v) The judicial districts established for the State of Tennessee.

(vi) The judicial districts established for the State of Michigan.

(vii) The judicial districts established for the State of Ohio.

(viii) The judicial districts established for the State of Illinois (other than the Northern District of Illinois).

(ix) The judicial districts established for the State of Indiana.

(x) The judicial districts established for the State of Arkansas.

(xi) The judicial districts established for the State of Nebraska.

(xii) The judicial districts established for the State of Missouri.

(xiii) The District of Arizona.

(xiv) The District of Hawaii.

(xv) The judicial district established for Guam.

Guam.

(xvi) The judicial district established for the Commonwealth of the Northern Mariana Islands.

Northern Mariana Islands.

(xvii) The judicial districts established for the State of California (other than the Central District of California).

(xviii) The District of Nevada.

(xix) The District of Alaska.

(xx) The District of Idaho.

(xxi) The District of Montana.

(xxii) The District of Oregon.

(xxiii) The judicial districts established for the State of Washington.

(3) JUDICIAL DISTRICTS FOR THE STATES OF ALABAMA AND NORTH CAROLINA.—(A) Notwithstanding paragraphs (1) and (2), and any other provision of law, the amendments made by subtitle A of title II of this Act, and section 1930(a)(6) of title 28 of the United States Code (as added by section 117(4) of this Act), shall not—

(i) become effective in or with respect to a judicial district specified in subparagraph (E) until, or

(ii) apply to cases while pending in such district before, such district elects to be included in a bankruptcy region established in section 581(a) of title 28, United States Code, as

amended by section 111(a) of this Act, or October 1, 1992, whichever occurs first.

(B) Any election under subparagraph (A) shall be made upon a majority vote of the chief judge of such district and each bankruptcy judge in such judicial district in favor of such election.

(C) Notice that an election has been made under subparagraph (A) shall be given, not later than 10 days after such election, to the Attorney General and the appropriate Federal Circuit Court of Appeals for such district.

(D) Any election made under subparagraph (A) shall become effective on the date the amendments made by subtitle A of title II of this Act become effective in the region that includes such district or 30 days after the Attorney General receives the notice required under subparagraph (C), whichever occurs later.

(E) Subparagraph (A) applies to the following:

(i) The judicial districts established for the State of Alabama.

(ii) The judicial districts established for the State of North Carolina.

(F)(i) Subject to clause (ii), with respect to cases under chapters 7, 11, 12, and 13 of title 11, United States Code—

(I) commenced before the effective date of this Act, and

(II) pending in a judicial district in the State of Alabama or the State of North Carolina before any election made under subparagraph (A) by such district becomes effective or October 1, 1992, whichever occurs first,

the amendments made by section 113 and subtitle A of title II of this Act, and section 1930(a)(6) of title 28 of the United States Code (as added by section 117(4) of this Act), shall not apply until October 1, 1993, or the expiration of the 1-year period beginning on the date such election becomes effective, whichever occurs first.

(ii) For purposes of clause (i), the amendments made by section 113 and subtitle A of title II of this Act, and section 1930(a)(6) of title 28 of the United States Code (as added by section 117(4) of this Act), shall not apply with respect to a case under chapter 7, 11, 12, or 13 of title 11, United States Code, if—

(I) the trustee in the case files the final report and account of administration of the estate, required under section 704 of such title, or

(II) a plan is confirmed under section 1129, 1225, or 1325 of such title,

before October 1, 1993, or the expiration of the 1-year period beginning on the date such election becomes effective, whichever occurs first.

(G) Notwithstanding section 589a of title 28, United States Code, as added by section 115 of this Act, funds collected as a result of the amendments made by section 117 of this Act in a judicial district in the State of Alabama or the State of North Carolina under section 1930(a) of title 28, United States Code, before the date the amendments made by subtitle A of title II of this Act take effect in such district shall be deposited in the general receipts of the Treasury.

(H) The repeal made by section 231 of this Act shall not apply in or with respect to the Northern District of Alabama until

March 1, 1987, or the effective date of any election made under subparagraph (A) by such district, whichever occurs first.

(I) In any judicial district in the State of Alabama or the State of North Carolina that has not made the election described in subparagraph (A), any person who is appointed under regulations issued by the Judicial Conference of the United States to administer estates in cases under title 11 of the United States Code may—

(i) establish, maintain, and supervise a panel of private trustees that are eligible and available to serve as trustees in cases under title 11, United States Code, and

(ii) supervise the administration of cases and trustees in cases under chapters 7, 11, 12, and 13 of title 11, United States Code,

until the amendments made by subtitle A of title II take effect in such district.

(e) APPLICATION OF UNITED STATES TRUSTEE SYSTEM AND QUARTERLY FEES TO CERTAIN CASES.—

(1) IN GENERAL.—Subject to paragraph (2), with respect to cases under chapters 7, 11, 12, and 13 of title 11, United States Code—

(A) commenced before the effective date of this Act, and

(B) pending in a judicial district referred to in section 581(a) of title 28, United States Code, as amended by section 111(a) of this Act, for which a United States trustee is not authorized before the effective date of this Act to be appointed,

11 USC 701 *et seq.*, 1101 *et seq.*, *Ante*, p. 3105, 1301 *et seq.*

the amendments made by section 113 and subtitle A of title II of this Act, and section 1930(a)(6) of title 28 of the United States Code (as added by section 117(4) of this Act), shall not apply until the expiration of the 3-year period beginning on the effective date of this Act, or of the 1-year period beginning on the date the Attorney General certifies under section 303 of this Act the region specified in a paragraph of such section 581(a), as so amended, that includes such district, whichever occurs first.

(2) AMENDMENTS INAPPLICABLE.—For purposes of paragraph (1), the amendments made by section 113 and subtitle A of title II of this Act, and section 1930(a)(6) of title 28 of the United States Code (as added by section 117(4) of this Act), shall not apply with respect to a case under chapter 7, 11, 12, or 13 of title 11, United States Code, if—

(A) the trustee in the case files the final report and account of administration of the estate, required under section 704 of such title, or

(B) a plan is confirmed under section 1129, 1225, or 1325 of such title,

before the expiration of the 3-year period, or the expiration of the 1-year period, specified in paragraph (1), whichever occurs first.

(3) RULE OF CONSTRUCTION REGARDING FEES FOR CASES.—This Act and the amendments made by section 117(4) of this Act shall not be construed to require the payment of a fee under paragraph (6) of section 1930(a) of title 28, United States Code, in a case under title 11 of the United States Code for any conduct or period occurring before such paragraph becomes effective in the district in which such case is pending.

(f) REPEAL OF CHAPTER 12 OF TITLE 11.— Chapter 12 of title 11 of the United States Code is repealed on October 1, 1993. All cases commenced or pending under chapter 12 of title 11, United States Code, and all matters and proceedings in or relating to such cases, shall be conducted and determined under such chapter as if such chapter had not been repealed. The substantive rights of parties in connection with such cases, matters, and proceedings shall continue to be governed under the laws applicable to such cases, matters, and proceedings as if such chapter had not been repealed.

28 USC 581 note.

SEC. 303. CERTIFICATION OF JUDICIAL DISTRICTS; NOTICE AND PUBLICATION OF CERTIFICATION.

(a) CERTIFICATION BY ATTORNEY GENERAL.—The Attorney General may certify in writing a region specified in a paragraph of section 581(a) of title 28, United States Code (other than paragraph (16)), as amended by section 111(a) of this Act, to the appropriate court of appeals of the United States, for the purpose of informing such court that certain amendments made by this Act will become effective in accordance with section 302 of this Act.

Federal Register, publication.

(b) NOTICE AND PUBLICATION OF CERTIFICATION.—Whenever the Attorney General transmits a certification under subsection (a), the Attorney General shall simultaneously—

(1) transmit a copy of such certification to the Speaker of the House of Representatives and to the President pro tempore of the Senate, and

(2) publish such certification in the Federal Register.

28 USC 581 note.

SEC. 304. ADMINISTRATIVE PROVISIONS.

(a) COOPERATIVE ARRANGEMENTS.—The Attorney General and the Director of the Administrative Office of the United States Courts may enter into agreements under which United States trustees may—

(1) use—

(A) the services, equipment, personnel, records, reports, and data compilations, in any form, of the courts of the United States, and

(B) the facilities of such courts, and

(2) cooperate in the use by the courts of the United States of—

(A) the services, equipment, personnel, records, reports, and data compilations, in any form, of United States trustees, and

(B) the facilities of such trustees,

to prevent duplication during the 2-year period beginning on the effective date of this Act.

(b) INFORMATION AND DOCUMENTS RELATING TO BANKRUPTCY CASES AND UNITED STATES TRUSTEES.—The Director of the Administrative Office of the United States Courts shall make available to United States trustees, at the request of the Attorney General and on a continuing basis, all records, reports, and data compilations relating to—

(1) cases and proceedings under title 11 of the United States Code, and

(2) the duties of United States trustees under titles 11 and 28 of the United States Code.

SEC. 305. APPLICATION OF CERTAIN BANKRUPTCY RULES. 28 USC 581 note.

(a) RULES RELATING TO THE UNITED STATES TRUSTEE SYSTEM.—If a United States trustee is not authorized, before the effective date of this Act, to be appointed for a judicial district referred to in section 581(a) of title 28, United States Code, as amended by section 111(a) of this Act, then part X of the Bankruptcy Rules shall not apply to cases in such district until the amendments made by subtitle A of title II of this Act become effective under section 302 of this Act in such district.

(b) RULES RELATING TO CHAPTER 12 OF TITLE 11.—The rules prescribed under section 2075 of title 28, United States Code, and in effect on the date of the enactment of this Act shall apply to cases filed under chapter 12 of title 11, United States Code, to the extent practicable and not inconsistent with the amendments made by title II of this Act.

SEC. 306. SALARY OF INCUMBENT UNITED STATES TRUSTEES. 28 USC 581 note.

For service as a United States trustee in the period beginning on the effective date of this Act and ending on the expiration under section 301 of this Act of their respective terms of office, the salary payable to United States trustees serving in such offices on the effective date of this Act shall be fixed in accordance with section 587 of title 28, United States Code, as amended by section 114(a) of this Act.

SEC. 307. PRESERVATION OF UNITED STATES TRUSTEE SYSTEM DURING PENDENCY OF LEGISLATION; REPEALER. 28 USC 581 note.

(a) TEMPORARY DELAY OF REPEAL OF UNITED STATES TRUSTEE SYSTEM.—Effective immediately before November 10, 1986, section 408(c) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2687), is amended by striking out "November 10, 1986" and inserting in lieu thereof "30 days after the effective date of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986".

(b) CONFORMING AMENDMENT.—Section 408 of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2687), is repealed.

SEC. 308. CONSIDERATION OF CURRENT PRIVATE TRUSTEES FOR APPOINTMENT BY UNITED STATES TRUSTEES. 28 USC 581 note.

(a) TRUSTEES IN BANKRUPTCY CASES UNDER CHAPTER 7.—It is the sense of the Congress that individuals who are serving before the effective date of this Act, as trustees in cases under chapter 7 of title 11, United States Code, should be considered by United States trustees for appointment under section 586(a)(1) of title 28, United States Code, to the panels of private trustees that are established as a result of the amendments made by this Act. 11 USC 701 *et seq.*

(b) STANDING TRUSTEES IN BANKRUPTCY CASES UNDER CHAPTER 13.—It is the sense of the Congress that individuals who are serving before the effective date of this Act, as standing trustees in cases under chapter 13 of title 11, United States Code, should be considered by the United States trustees for appointment under section 586(b) of title 28, United States Code, as standing trustees who are appointed as a result of the amendments made by this Act. 11 USC 1301 *et seq.*

28 USC 581 note.

SEC. 309. APPOINTMENT OF UNITED STATES TRUSTEES BY THE ATTORNEY GENERAL.

It is the sense of the Congress that individuals otherwise qualified who are serving, before the effective date of this Act, as estate administrators under title 11 of the United States Code should be considered by the Attorney General for appointment under sections 581 and 582 of title 28, United States Code, to new positions of United States trustee and assistant United States trustee resulting from the amendments made by this Act.

28 USC 581 note.

SEC. 310. ELECTRONIC CASE MANAGEMENT DEMONSTRATION PROJECT.

(a) ESTABLISHMENT OF PROJECT.—Not later than 1 year after the effective date of this Act, the Director of the Executive Office for United States Trustees, in consultation with the Director of the Administrative Office of the United States Courts, shall establish an electronic case management demonstration project to be carried out in 3 Federal judicial districts that have a sufficiently large and varied bankruptcy caseload so as to provide a meaningful evaluation of the cost and effectiveness of such system. A contract for such project shall be awarded—

Contracts.

(1) on the basis of competitive bids submitted by qualified nongovernmental entities that are able to design an automated joint information system for use by the United States courts and by United States trustees, and

(2) in accordance with the Federal Property and Administrative Services Act of 1949, the Office of Federal Procurement Policy Act, and title 31 of the United States Code.

40 USC 471 note.
41 USC 401 note.

(b) STUDY BY GENERAL ACCOUNTING OFFICE.—Not later than 1 year after the electronic case management system begins to operate in all of the judicial districts participating in the demonstration project carried out under subsection (a), the General Accounting Office shall conduct a study to compare the cost and effectiveness of such system with the cost and effectiveness of case management systems used in Federal judicial districts that are not participating in such project.

(c) TERM OF PROJECT.—The demonstration project required by subsection (a) shall be carried out until—

(1) the expiration of the 2-year period beginning on the date the electronic case management system begins to operate in all of the judicial districts participating in such project, or

(2) legislation is enacted to extend, expand, modify, or terminate the operation of such project,

whichever occurs first.

(d) USE BY CLERKS OF THE COURTS.—The electronic case management system demonstrated under the project required by subsection (a) shall provide the clerk of court in each district in which such system is operated, with a means of—

(1) maintaining a complete electronic case file of all relevant information contained in petitions and schedules (and any amendments thereto) relating to debtors in cases under title 11 of the United States Code, including—

(A) a complete list of creditors in each such case, as listed by the debtor,

(B) a complete list of assets scheduled by the debtor, the value of such asset, and any action taken by the trustee or debtor in possession with regard to such asset during the pendency of such case,

(C) a complete list of debts and, with respect to each debt—

(i) any priority of such debt under title 11 of the United States Code,

(ii) whether such debt is secured or unsecured, and

(iii) whether such debt is contingent or noncontingent, and

(D) the debtor's statements of current expenses and income, and

(2) maintaining all calendars and dockets and producing all notices required to be sent in cases under title 11 of the United States Code.

(e) USE BY UNITED STATES TRUSTEES.—The electronic case management system demonstrated under the project required by subsection (a) shall provide, at a minimum, the United States trustee in each district in which such system is operated with—

(1) complete electronic case files which contain, in addition to the information listed in subsection (d), records of case openings, case closings, hearings, and the filing of all motions, trustee appointments, pleadings, and responses, as well as a record of the responses by the United States trustee to those motions, trustee appointments, and pleadings,

(2) a means to generate standardized forms for motions, appointments, pleadings, and responses,

(3) a means to generate standard management reports and letters on an exception basis,

(4) a means to maintain accounting records, reports, and information required to be maintained by debtors in possession and trustees in cases under title 11 of the United States Code,

(5) a means to calculate and record distribution to creditors, final applications and orders for distribution, and final case closing reports, and

(6) a means to monitor the payment of filing and other required fees.

(f) AVAILABILITY TO CERTAIN GOVERNMENTAL ENTITIES.—Unlimited access to information maintained in the electronic case management system demonstrated under the project required by subsection (a) shall be provided at no charge to the following:

(1) The Congress.

(2) The Executive Office for the United States Trustees.

(3) The Administrative Office of the United States Courts.

(4) The clerks of the courts in judicial districts in which such system is operated and persons who review case information, in accordance with section 107(a) of title 11, United States Code, in the offices of the clerks.

(5) The judges on the bankruptcy and district courts in districts in which such system is operated.

(6) Trustees in cases pending in districts in which such system is operated.

(g) FEES FOR OTHER USERS.—(1) The entity which is awarded a contract to provide the electronic case management system demonstrated under this project may, under guidelines established by the Director of the Executive Office for the United States Trustees in the provisions of such contract, collect reasonable fees from assets of the estate of the debtor in bankruptcy for providing notices and services to the court and trustees under the demonstration project. Contracts.

Public information. Contracts.

(2) Access to information maintained in electronic case files pursuant to the demonstration project may be provided to persons other than those specified in subsection (f), but such access shall be limited to viewing such information only. A reasonable charge for such access may be collected by the entity which is awarded a contract under this section, in accordance with the guidelines established by the Director of the Executive Office for the United States Trustees in such contract. A reasonable portion of any charge so collected may be required by the Director to be remitted to the Executive Office for United States Trustees and deposited in the United States Trustee System Fund established in section 589a of title 28, United States Code.

(h) SECURITY.—Access provided under subsection (f) to an entity or an individual shall be subject to such security limitations as may be imposed by the Congress or the head of the affected entity.

28 USC 581 note.

SEC. 311. CASES PENDING UNDER THE BANKRUPTCY ACT.

At the end of one calendar year following the date the amendments made by subtitle A of title II of this Act take effect in a district in which any case is still pending under the Bankruptcy Act, the district court shall withdraw the reference of any such case and, after notice and a hearing, determine the status of the case. Such case shall be remanded to the bankruptcy judge with such instructions as are necessary for the prompt closing of the case and with a requirement that a progress report on the case be provided by the bankruptcy judge after such interval as the district court deems appropriate.

Approved October 27, 1986.

LEGISLATIVE HISTORY—H.R. 5316:

HOUSE REPORTS: No. 99-764 (Comm. on the Judiciary) and No. 99-958 (Comm. of Conference).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 12, considered and passed House.
Aug. 15, considered and passed Senate, amended.
Oct. 2, House agreed to conference report.
Oct. 3, Senate agreed to conference report.

O

Public Law 99-555
99th Congress

An Act

To designate certain National Forest System lands in the State of Georgia to the National Wilderness Preservation System, and for other purposes.

Oct. 27, 1986
[H.R. 5496]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Georgia Wilderness Act of 1986".

Georgia Wilderness Act of 1986.

SEC. 2. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131), the following lands in the State of Georgia are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Chattahoochee National Forest, Georgia, which comprise approximately 8,562 acres, as generally depicted on a map entitled "Raven Cliffs Wilderness—Proposed", dated September 1986, and which shall be known as the Raven Cliffs Wilderness;

16 USC 1132 note.

(2) certain lands in the Chattahoochee National Forest, Georgia, which comprise approximately 11,405 acres, as generally depicted on a map entitled "Brasstown Wilderness—Proposed", dated September, 1986, and which shall be known as the Brasstown Wilderness;

16 USC 1132 note.

(3) certain lands in the Chattahoochee National Forest, Georgia, which comprise approximately 9,702 acres, generally depicted on a map entitled "Tray Mountain Wilderness—Proposed", dated September, 1986, and which shall be known as the Tray Mountain Wilderness;

16 USC 1132 note.

(4) certain lands in the Chattahoochee National Forest, Georgia, which comprise approximately 9,649 acres, generally depicted on a map entitled "Rich Mountain Wilderness—Proposed", dated September, 1986, and which shall be known as the Rich Mountain Wilderness; and

16 USC 1132 note.

(5) certain lands in the Chattahoochee National Forest, Georgia, which comprise approximately 2,940 acres, as generally depicted on a map entitled "Cohutta Wilderness addition—Proposed", dated September, 1986, and which is hereby incorporated in and shall be part of the Cohutta Wilderness as designated by Public Law 93-622.

16 USC 1132 note.

SEC. 3. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such maps and legal descriptions may be made. A copy of each such map and description shall be on file and available for public inspection in the Office of the

Public information.

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Chief of the Forest Service, Department of Agriculture, and in the Office of the Supervisor of the Chattahoochee National Forest.

16 USC 1131 note.

SEC. 4. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

Approved October 27, 1986.

LEGISLATIVE HISTORY—H.R. 5496:

HOUSE REPORTS: No. 99-898 Pt. I (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 30, considered and passed House.
Oct. 9, considered and passed Senate.

O

Public Law 99-556
99th Congress

An Act

To make technical corrections in the Federal Employees Retirement System Act of 1986, and for other purposes.

Oct. 27, 1986
[H.R. 5626]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees' Retirement System Technical Corrections Act of 1986".

Federal Employees' Retirement System Technical Corrections Act of 1986.
5 USC 8401 note.

TITLE I—PROVISIONS RELATING TO TITLE I OF THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM ACT OF 1986

SEC. 101. REFERENCES.

Except as otherwise expressly provided, whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of chapter 84 of title 5, United States Code, as added by section 101 of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 516).

SEC. 102. OPM AUDIT AUTHORITY.

Section 8461(m)(2) is amended by striking out ", and from the Thrift Savings Fund,".

SEC. 103. DEPOSIT FOR CERTAIN SERVICE.

Section 8411 is amended—

(1) in subsection (b)(2), by inserting "except as provided in subsection (f)," before "service"; and

(2) in subsection (f)(1), by inserting "(b)(2) or" before "(b)(3)".

SEC. 104. CLARIFICATION RELATING TO THE MINIMUM AMOUNT OF A DISABILITY ANNUITY.

Section 8452(d) is amended by inserting "(after the reduction under subsection (a)(2), if applicable, has been made)" after "this section".

SEC. 105. ELECTION TO DEFER ANNUITY COMMENCEMENT DATE.

(a) IN GENERAL.—Subsection (g) of section 8412 is amended—

(1) by redesignating such subsection as subsection (g)(1); and

(2) by adding at the end thereof the following:

"(2) An employee or Member entitled to an annuity under this subsection may defer the commencement of such annuity by written election. The date to which the commencement of the annuity is deferred may not precede the 31st day after the date of filing the

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election, and must precede the date on which the employee or Member becomes 62 years of age.

Regulations.

"(3) The Office shall prescribe regulations under which an election under paragraph (2) shall be made.".

(b) CONFORMING AMENDMENTS.—(1) Section 8413(b)(1) is amended—

(A) in the first sentence, by inserting "but before attaining the applicable minimum retirement age under section 8412(h)" before "is entitled"; and

(B) in the second sentence, by striking out "the applicable minimum retirement age under section 8412(h)" and inserting in lieu thereof "such minimum retirement age".

(2) Subparagraphs (A) and (B) of section 8415(f)(2) are amended by inserting "8412(g) or" before "8413(b)".

SEC. 106. AMENDMENT TO SECTION 8452.

The second sentence of section 8452(b)(3) is amended by striking out "(a)(1)(A)," and inserting in lieu thereof "(a)(1)(A)(i),".

SEC. 107. LUMP-SUM CREDIT.

Section 8401(19) is amended—

(1) in subparagraph (B), by striking out "and";

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following:

"(C) amounts deposited by an employee, Member, or survivor under section 8411(f); and".

SEC. 108. CLARIFICATION RELATING TO FIDUCIARIES.

Section 8478(a)(1) is amended by striking out "(other" and all that follows thereafter through "member)".

SEC. 109. DEFINITION OF A "LOSS".

Section 8401(18) is amended to read as follows:

"(18) the term 'loss', as used with respect to the Thrift Savings Fund, includes the amount of any loss resulting from the investment of sums in such Fund, or from the breach of any responsibility, duty, or obligation under section 8477.".

SEC. 110. INVESTIGATIVE AUTHORITY.

(a) IN GENERAL.—Title 5, United States Code, is amended by inserting after section 8478 the following:

"§ 8478a. Investigative authority

29 USC 1134.

"Any authority available to the Secretary of Labor under section 504 of the Employee Retirement Income Security Act of 1974 is hereby made available to the Secretary of Labor, and any officer designated by the Secretary of Labor, to determine whether any person has violated, or is about to violate, any provision of section 8477 or 8478.".

(b) CHAPTER ANALYSIS.—The analysis for chapter 84 is amended by inserting after the item relating to section 8478 the following:

"8478a. Investigative authority.".

SEC. 111. INTERIM EXEMPTION PROCEDURES.

(a) IN GENERAL.—Subject to subsection (b), until such time as final regulations under subparagraph (A) of section 8477(c)(3) of title 5, United States Code, become effective, the Secretary of Labor may, in accordance with procedures under section 408(a) of the Employee Retirement Income Security Act of 1974, grant any exemption allowable under such section 8477(c)(3). 5 USC 8477 note. 29 USC 1108.

(b) TERMINATION OF INTERIM AUTHORITY.—The authority to grant an exemption under section 8477(c)(3) of title 5, United States Code, using the procedures under section 408(a) of the Employee Retirement Income Security Act of 1974 shall expire not later than December 31, 1988.

SEC. 112. ADOPTION OF ERISA ADMINISTRATIVE EXEMPTIONS.

Section 8477(c)(3) is amended by adding at the end thereof the following: Federal Register, publication.

"(E) Notwithstanding subparagraph (D), the Secretary of Labor may determine that an exemption granted for any class of fiduciaries or transactions under section 408(a) of the Employee Retirement Income Security Act of 1974 shall, upon publication of notice in the Federal Register under this subparagraph, constitute an exemption for purposes of the provisions of paragraph (2).". 29 USC 1108.

SEC. 113. INTERIM BONDING REGULATIONS.

(a) IN GENERAL.—Subject to subsection (b), until such time as the Secretary of Labor promulgates final regulations under section 8478 of title 5, United States Code, the Secretary of Labor may, with respect to the Thrift Savings Fund, apply the temporary regulations under section 412 of the Employee Retirement Income Security Act of 1974 that are set forth in section 2550.412-1, and subchapter I of chapter XXV, of title 29 of the Code of Federal Regulations, as in effect on September 23, 1986. 5 USC 8478 note. 29 USC 1112. 50 FR 26706.

(b) TERMINATION OF INTERIM AUTHORITY.—The authority to apply the temporary regulations referred to in subsection (a) with respect to the Thrift Savings Fund shall expire not later than December 31, 1989.

SEC. 114. ALLOCATION OF FIDUCIARY RESPONSIBILITIES.

(a) INTERIM PROCEDURES.—(1) Subject to paragraph (2), until such time as final regulations under subparagraph (E) of section 8477(e)(1) of title 5, United States Code, become effective, a fiduciary (as defined by section 8477(a)(3) of title 5, United States Code) may, in accordance with procedures established by the Federal Retirement Thrift Investment Board, make any allocation of fiduciary responsibilities. 5 USC 8477 note.

(2) The authority to make any allocation under section 8477(e)(1)(E) using the procedures referred to in paragraph (1), and any allocation so made using such procedures, shall expire not later than December 31, 1988.

(b) CONFORMING AMENDMENT.—Section 8477(e) (1)(E)(i) is amended by striking "Board" and inserting "Secretary of Labor (or the Board under section 114 of the Federal Employees' Retirement System Technical Corrections Act of 1986)".

SEC. 115. SURETY CORPORATIONS.

Section 8478(c)(2) is amended by striking out "sections 6 through 13 of title 6" and inserting in lieu thereof "sections 9304 through 9308 of title 31".

SEC. 116. AUTHORITY TO EXCLUDE CERTAIN EMPLOYEES SERVING ON A TEMPORARY OR INTERMITTENT BASIS.

Section 8402(c) is amended by adding at the end thereof the following:

"(5) The Clerk of the House of Representatives and the Secretary of the Senate each may exclude from the operation of this chapter a Congressional employee—

"(A) whose employment is temporary or intermittent; and

"(B) who is paid by such Clerk or Secretary, as the case may be.

"(6) The Director of the Office of Technology Assessment may exclude from the operation of this chapter an employee under the Office of Technology Assessment whose employment is temporary or intermittent.".

SEC. 117. CLARIFICATIONS RELATING TO COMPUTATION OF SURVIVOR'S BENEFITS FOR A CHILD.

(a) AMOUNT REFLECTS CSRS ADJUSTMENTS.—Section 8443(a)(2) is amended by inserting "(including any adjustment based on section 8340)" after "83".

(b) AMOUNT DOES NOT REFLECT FERS ADJUSTMENTS.—Section 8462(b)(3) is amended by adding at the end thereof the following: "Nothing in the preceding sentence shall affect the computation of any amount under section 8443(a)(2).".

SEC. 118. AMENDMENT RELATING TO SECTION 8457.

Section 8457(a) is amended by striking out "subsection (c)" each place it appears and inserting in lieu thereof "subsection (b)".

SEC. 119. AMENDMENT RELATING TO SECTION 8401(11).

Section 8401(11) is amended by striking out "any of" each place it appears.

SEC. 120. COMMENCEMENT DATE OF ANNUITY FOR THE WIDOW OR WIDOWER OF AN EMPLOYEE OR MEMBER WHO DIES ENTITLED TO A DEFERRED ANNUITY.

Section 8442(c)(2)(b)(i)(I) is amended to read as follows:

"(I) on the day after the date on which the former employee or Member would have attained age 62 (or, if applicable, either age 60 if the former employee or Member completed at least 20 years of service, or the applicable minimum retirement age (under section 8412(h)) if the former employee or Member completed at least 30 years of service); or".

SEC. 121. REDUCTIONS BASED ON EARNINGS TO TERMINATE AFTER ENTITLEMENT TO ANNUITY SUPPLEMENT ENDS.

Section 8421a is amended by striking out subsection (c), and redesignating subsection (d) as subsection (c).

TITLE II—AMENDMENTS RELATING TO TITLE II OF THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM ACT OF 1986

SEC. 201. EMPLOYEES OF THE GOVERNMENT OF THE DISTRICT OF COLUMBIA.

Subsection (c) of section 207 of the Federal Employees' Retirement System Act of 1986 is amended—

(1) by redesignating such subsection as subsection (c)(1); and 5 USC 6301.

(2) by adding at the end thereof the following:

"(2) The amendment made by paragraph (1) shall not result in the coverage, under subchapter I of chapter 63 of title 5, United States Code, of any individual (or class of individuals) employed by the government of the District of Columbia who would not have been covered under such subchapter if such amendment had not been made.". 5 USC 6301 note.

SEC. 202. AMENDMENT RELATING TO RETIREMENT COUNSELING.

Section 8350(c)(1) of title 5, United States Code, as added by section 205 of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 592), is amended by striking out "(b)(1)" and inserting in lieu thereof "(b)".

TITLE III—AMENDMENTS RELATING TO TITLE III OF THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM ACT OF 1986

SEC. 301. ELECTIONS FOR CERTAIN INDIVIDUALS NOT COVERED AS OF DECEMBER 31, 1986.

Section 301(b)(3) of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 599) is amended to read as follows: 5 USC 8331 note.

"(3)(A) If, as of December 31, 1986, the individual is not subject to subchapter III of chapter 83 of title 5, United States Code, such individual may, during the 6-month period described in subsection (a)(1)(B)—

"(i) elect to become subject to chapter 84 of such title; or

"(ii) if such individual has not since made an election described in subparagraph (B), elect to become subject to subchapter III of chapter 83 of such title under the same terms and conditions as apply in the case of an individual described in section 8402(b)(2) of such title who is subject to such subchapter.

"(B) Nothing in this paragraph shall be considered to preclude the individual from electing to become subject to subchapter III of chapter 83 of such title pursuant to notification under section 8331(2) of such title—

"(i) during the period after December 31, 1986, and before July 1, 1987; or

"(ii) after December 31, 1987, if such individual has not since become subject to subchapter III of chapter 83, or chapter 84, of such title.

"(C) Any individual who becomes subject to subchapter III of chapter 83 of such title pursuant to notification under section 8331(2) of such title after December 31, 1986, shall become subject to such subchapter under the same terms and conditions as apply in the case of an individual described in section 8402(b)(2) of such title who is subject to such subchapter.".

SEC. 302. INTEREST ON REFUNDS.

5 USC 8331 note.

(a) REFUND BASED ON AN ELECTION TO BECOME SUBJECT TO THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Subparagraph (A) of section 302(c)(2) of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 605) is amended to read as follows:

"(A) shall be payable with interest, computed in accordance with paragraphs (2) and (3) of section 8334(e) of title 5, United States Code, and regulations prescribed by the Office of Personnel Management.".

5 USC 8331 note.

(b) REFUND BASED ON AN ELECTION UNDER SECTION 301(b)(1)(A) OF FERSA.—Section 303(a) of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 605) is amended by adding at the end thereof the following:

"A refund under this subsection shall be computed with interest in accordance with paragraphs (2) and (3) of section 8334(e) of title 5, United States Code, and regulations prescribed by the Office of Personnel Management.".

TITLE IV—FOREIGN SERVICE RETIREMENT

SEC. 401. REFERENCES.

Except as otherwise expressly provided, whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of chapter 8 of the Foreign Service Act of 1980 (22 U.S.C. 4041 et seq.).

SEC. 402. ANNUITY OFFSET BY AMOUNT OF SOCIAL SECURITY BENEFITS.

Subsection (m) of section 806 (22 U.S.C. 4046) is amended to read as follows:

"(m) The retirement, disability, or survivor annuity payable to any person based on the service of an individual subject to section 805(h) beginning with the first day of the month for which such person first becomes—

"(1) eligible for an annuity under this subchapter based on the service of such individual, and

"(2) entitled, or would, upon proper application, be entitled to old age, disability, or survivor benefits under title II of the Social Security Act based on the service of such individual under this subchapter,

42 USC 401.

shall be computed as if section 8349 of title 5, United States Code, were applicable.".

SEC. 403. INCREASE IN CEILING ON ANNUAL RATE OF PAY FOR RE-EMPLOYED ANNUITANTS.

Paragraph (3) of section 824(b) (22 U.S.C. 4064(b)) is amended to read as follows:

"(3)(A) The sum of—

"(i) the total annuity payable under this chapter to an annuitant making an election under paragraph (1), and

"(ii) the annual rate of pay payable to the annuitant during the part-time, intermittent, or temporary employment referred to in paragraph (1),

may not exceed, in any calendar year, the amount described in subparagraph (B).

"(B) The amount referred to in subparagraph (A) is the greater of—

"(i) the highest annual rate of basic pay which is payable during such year for full-time employment in the position in which the annuitant is employed, or

"(ii) the basic pay the annuitant was entitled to receive under this Act on the date of retirement from the Service.

"(C) For purposes of this section, the term 'annuity' means the annuity earned by the reemployed member based on his or her service irrespective of whether or not the amount payable is reduced by the amount of an annuity payable under section 814 or 820(b).".

SEC. 404. THRIFT SAVINGS FUND PARTICIPATION BY FSRDS PARTICIPANTS.

(a) PARTICIPATION BY FSRDS PARTICIPANTS.—Subchapter I of chapter 8 is amended by adding after section 828 the following new section:

"SEC. 829. THRIFT SAVINGS FUND PARTICIPATION.—Participants in this System shall be deemed to be employees for the purposes of section 8351 of title 5, United States Code. Any reference in such section 8351 or in subchapter III of chapter 84 of such title 5 to retirement or separation under subchapter III of chapter 83 or chapter 84 of such title 5 shall be deemed to be references to retirement or separation under subchapter I or II of this chapter with similar benefits or entitlements with respect to participants under such subchapter I or II, respectively.".

22 USC 4069.

5 USC 8431 *et seq.*

5 USC 8331 *et seq.*

(b) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The table of contents in section 2 of such Act is amended by inserting after the item relating to section 828 the following:

"Sec. 829. Thrift Savings Fund participation.".

SEC. 405. CREDITABLE SERVICE.

(a) TREATMENT OF CONTRIBUTION FOR PRIOR SERVICE.—Subsection (d) of section 854 (22 U.S.C. 4071c) is amended by striking out "which would have been deducted from pay under section 854(a) had the individual been a participant" and inserting in lieu thereof "which was deducted and withheld from the individual's basic pay under the other retirement system".

(b) EMPLOYEE OF A MEMBER OR OFFICE OF THE CONGRESS.—Section 854 (22 U.S.C. 4071c) is amended by adding at the end thereof the following new subsection:

"(e) A participant who, while on approved leave without pay, serves as a full-time paid employee of a Member or office of the Congress shall continue to make contributions to the Fund based upon the Foreign Service salary rate that would be in effect if the participant were in a pay status. The participant's employing Member or office in the Congress shall make a matching contribu-

tion (from the appropriation or fund which is used for payment of the salary of the participant) to the Treasury of the United States to the credit of the Fund. All periods of service for which full contributions to the Fund are made under this subsection shall be counted as creditable service for purposes of this subchapter and shall not, unless all retirement credit is transferred, be counted as creditable service under any other Government retirement system.".

SEC. 406. ENTITLEMENT TO ANNUITY.

(a) SERVICE AS A NONCAREER MEMBER OF THE FOREIGN SERVICE.—Paragraph (1) of section 855(b) (22 U.S.C. 4071d) is amended by striking out "of service subject to this chapter" and inserting in lieu thereof "as a member of the Foreign Service".

(b) CLARIFICATION OF RATES APPLICABLE TO ANNUITY COMPUTATION.—Paragraph (2) of section 855(b) (22 U.S.C. 4071d(b)) is amended by striking out subparagraphs (A), (B), and (C) and inserting in lieu thereof the following:

"(A) in accordance with section 8415(d)(1) of title 5, United States Code, for all service while a participant in this System and for prior service creditable under this subchapter not otherwise counted as—

"(i) a member of the Service,

"(ii) an employee of the Central Intelligence Agency entitled to retirement credit under title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees or under section 302(a) or 303(b) of that Act, or

50 USC 403 note.

"(iii) a participant as a Member of Congress, a congressional employee, law enforcement officer, firefighter, or air traffic controller in the Civil Service Retirement System under subchapter III of chapter 83, title 5, United States Code, or in the Federal Employees' Retirement System under chapter 84 of title 5, United States Code; and

50 USC 8331 *et seq.*

"(B) at the rate stated in section 8415(a) of title 5, United States Code, for all other service creditable under this System including service in excess of 20 years otherwise creditable under paragraph (A).".

(c) CLARIFICATION OF OTHER ANNUITY COMPUTATIONS RELATING TO INVOLUNTARY SEPARATION, DISABILITY, DEFERRED ANNUITY, AND SURVIVOR ANNUITY.—Subsection (b) of section 855 (22 U.S.C. 4071d) is amended by adding at the end thereof the following:

"(3) Any participant who is involuntarily retired or separated under section 607, 608, or 610 and who would if a participant under subchapter I, become eligible for a refund of contributions or a deferred annuity under subchapter I, shall, in lieu thereof, receive benefits for an involuntary separation under this subchapter.

"(4) A disability annuity under this subchapter required to be redetermined under section 8452(b) of title 5, United States Code, or computed under section 8452 (c) or (d) of such title 5, shall be recomputed or computed using the formula in subsection (b)(2)(A) of this section rather than section 8415 of such title 5 (as stated in section 8452(b)(2)(A) and 8452 (c) and (d) of such title). Such annuity shall also be computed in accordance with the preceding sentence if, as of the day on which such annuity commences or is restored, the annuitant satisfies the age and service requirements for entitlement to an immediate annuity under section 811 of this Act.

"(5) A former participant entitled to a deferred annuity under section 8413(b) of title 5, United States Code, shall not be subject to section 8415(f)(1) of such title 5 if the former participant has 20 years of service creditable under this subchapter and is at least 50 years of age as of the date on which the annuity is to commence.

"(6)(A) The amount of a survivor annuity for a widow or widower of a participant or former participant shall be 50 percent of an annuity computed for the deceased under this subchapter rather than under section 8415 of such title 5 (as stated in sections 8442(a)(1), (b)(1)(B), and (c)(2) of such title).

"(B) Any calculation for a widow or widower of a participant or former participant under section 8442(f)(2)(A) shall be based on an 'assumed FSRDS annuity' rather than an 'assumed CSRS annuity' as stated in such section. For the purpose of this subparagraph, the term 'assumed FSRDS annuity' means the amount of the survivor annuity to which the widow or widower would be entitled under subchapter I based on the service of the deceased annuitant determined under section 8442(f)(5) of such title 5.".

SEC. 407. CLARIFICATION OF DISQUALIFICATION OF FORMER SPOUSES FOR SURVIVOR BENEFIT IF REMARRIAGE BEFORE AGE 55.

Subsection (b) of section 861 (22 U.S.C. 4071j) is amended by adding at the end thereof the following:

"(3) A former spouse shall not be qualified for any benefit under this subsection if, before the commencement of any benefit, the former spouse remarries before becoming 55 years of age.".

SEC. 408. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on January 1, 1987. The amendment made by section 403 shall apply to any individual in a reemployed status on or after January 1, 1987. 22 USC 4046 note.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. TECHNICAL AMENDMENTS TO PUBLIC LAW 98-615.

(a) AMENDMENTS.—(1) Subsections (a)(4)(B), (a)(5)(B)(iii), and (f) of section 4 of Public Law 98-615 (98 Stat. 3204), as amended by section 201 of Public Law 99-251 (100 Stat. 20), are amended by striking out "Federal Employees Benefits Improvement Act of 1985" and inserting in lieu thereof "Federal Employees Benefits Improvement Act of 1986". 5 USC 8341 note.

(2) Section 4(a)(5)(A) of Public Law 98-615, as so amended, is amended—

(A) by striking out "Paragraphs (2)," and inserting in lieu thereof "Paragraphs"; and

(B) by adding at the end thereof the following: "The paragraphs referred to in the preceding sentence shall so apply only insofar as they relate to an election to provide a survivor annuity for a former spouse.".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective as of May 7, 1985. 5 USC 8341 note.

SEC. 502. CREDITABILITY OF CERTAIN MILITARY SERVICE IN COMPUTING AN ANNUITY FOR THE SURVIVOR OF AN EMPLOYEE OR MEMBER WHO DIES IN SERVICE.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8332(c) of title 5, United States Code, is amended by adding at the end thereof the following:

"(3)(A) Notwithstanding paragraph (2) of this subsection, for purposes of computing a survivor annuity for a survivor of an employee or Member—

"(i) who was awarded retired pay based on any period of military service, and

"(ii) whose death occurs before separation from the service, creditable service of the deceased employee or Member shall include each period of military service includable under subparagraph (A) or (B) of paragraph (1) of this subsection, as applicable. In carrying out this subparagraph, any amount deposited under section 8334(h) of this title shall be taken into account.

"(B) A survivor annuity computed based on an amount which, under authority of subparagraph (A), takes into consideration any period of military service shall be reduced by the amount of any survivor's benefits—

"(i) payable to a survivor (other than a child) under a retirement system for members of the uniformed services;

"(ii) if, or to the extent that, such benefits are based on such period of military service.

Regulations.

"(C) The Office of Personnel Management shall prescribe regulations to carry out this paragraph, including regulations under which—

"(i) a survivor may elect not to be covered by this paragraph; and

"(ii) this paragraph shall be carried out in any case which involves a former spouse.".

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8411(c) of title 5, United States Code, is amended by adding at the end thereof the following:

"(4)(A) Notwithstanding paragraph (2), for purposes of computing a survivor annuity for a survivor of an employee or Member—

"(i) who was awarded retired pay based on any period of military service, and

"(ii) whose death occurs before separation from the service, creditable service of the deceased employee or Member shall include each period of military service includable under subparagraph (A) or (B) of paragraph (1) or under paragraph (3). In carrying out this subparagraph, any amount deposited under subsection (f)(4) shall be taken into account.

"(B) A survivor annuity computed based on an amount which, under authority of subparagraph (A), takes into consideration any period of military service shall be reduced by the amount of any survivor's benefits—

"(i) payable to a survivor (other than a child) under a retirement system for members of the uniformed services;

"(ii) if, or to the extent that, such benefits are based on such period of military service.

"(C) The Office of Personnel Management shall prescribe regulations to carry out this paragraph, including regulations under which—

"(i) a survivor may elect not to be covered by this paragraph; and

"(ii) this paragraph shall be carried out in any case which involves a former spouse.".

(c) APPLICABILITY.—(1) The amendments made by this section shall apply to a survivor of an employee or Member who dies on or after the 180th day after the date of the enactment of this Act. 5 USC 8332 note.

(2) Upon application to the Office of Personnel Management, such amendments shall also apply to a survivor of an employee or Member whose date of death precedes such 180th day, except that any resulting recomputation shall not be effective for any period beginning before the 60th day after the date on which the application is received.

SEC. 503. CLARIFICATION RELATING TO ELIGIBILITY OF CERTAIN SURVIVOR ANNUITANTS TO PARTICIPATE IN FEHBP.

Section 8901(3)(B) of title 5, United States Code, is amended by inserting after "of an employee" the following: "(including a family member entitled to an amount under section 8442(b)(1)(A), whether or not such family member is entitled to an annuity under section 8442(b)(1)(B))".

SEC. 504. MANDATORY SEPARATION PROVISION NOT TO BE APPLIED RETROACTIVELY.

(a) IN GENERAL.—Section 8335(a) of title 5, United States Code, shall not apply to any air traffic controller appointed before January 1, 1987. Air traffic controller. 5 USC 8335 note.

(b) DEFINITION.—For purposes of this section, the term "air traffic controller" means any individual who—

(1) is an air traffic controller within the meaning of section 2109(1) of title 5, United States Code, as in effect on January 1, 1987; but

(2) is not an air traffic controller within the meaning of section 2109(1) of title 5, United States Code, as in effect on December 31, 1986.

SEC. 505. COORDINATION WITH PAY PERIODS.

Under regulations prescribed by the Office of Personnel Management, any reference to a specific date in section 302, 303, 305, or 702(a) of the Federal Employees' Retirement System Act of 1986 5 USC 8331 note.

(Public Law 99-335; 100 Stat. 514) shall, for purposes of individual contributions (including deductions from basic pay), Government contributions, and refunds, be deemed to be a reference to the first day of the first applicable pay period beginning on or after such date, or to the day before such first day, as appropriate.

Approved October 27, 1986.

LEGISLATIVE HISTORY—H.R. 5626:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 6, considered and passed House.
Oct. 8, considered and passed Senate.

O

Public Law 99-557
99th Congress

Joint Resolution

To consent to an amendment enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920.

Oct. 27, 1986
[H.J. Res. 17]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, as required by section 4 of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 4), the United States hereby consents to all amendments to the Hawaiian Homes Commission Act, 1920, as amended, adopted between August 21, 1959, and June 30, 1985, by the State of Hawaii, either in the Constitution of the State of Hawaii or in the manner required for State legislation, except for Act 112 of 1981.

48 USC note prec. 491.
48 USC 691 note.

Approved October 27, 1986.

LEGISLATIVE HISTORY—H.J. Res. 17:

HOUSE REPORTS: No. 99-473 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 99-478 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 8, considered and passed House.
Oct. 8, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Oct. 27, Presidential statement.

O

91-139 O - 87 (576)

Public Law 99-558
99th Congress

Joint Resolution

Oct. 27, 1986
[H.J. Res. 142]

To authorize the erection of a memorial on Federal land in the District of Columbia and its environs to honor the estimated five thousand courageous slaves and free black persons who served as soldiers and sailors or provided civilian assistance during the American Revolution and to honor the countless black men, women, and children who ran away from slavery or filed petitions with courts and legislatures seeking their freedom.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

AUTHORIZATION OF MEMORIAL

40 USC 1003 note.

SECTION 1. The Black Revolutionary War Patriots Foundation is authorized to establish a memorial on Federal land in the District of Columbia and its environs to honor the estimated five thousand courageous slaves and free black persons who served as soldiers and sailors or provided civilian assistance during the American Revolution and to honor the countless black men, women, and children who ran away from slavery or filed petitions with courts and legislatures seeking their freedom. Such memorial shall be established in accordance with the provisions of H.R. 4378, as approved by the House of Representative on September 29, 1986.

FUNDING

SEC. 2. The Black Revolutionary War Patriots Foundation shall establish the memorial with non-Federal funds.

Approved October 27, 1986.

LEGISLATIVE HISTORY—H.J. Res. 142:

HOUSE REPORTS: No. 99-340 (Comm. on House Administration).
SENATE REPORTS: No. 99-462 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Nov. 4, 6, considered and passed House.
Vol. 132 (1986): Oct. 16, considered and passed Senate, amended.
Oct. 17, House concurred in Senate amendments.

O

91-139 O - 87 (577)

Public Law 99-559
99th Congress

An Act

Providing for furloughed employees compensation.

Oct. 27, 1986
[H.J. Res. 754]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, Federal employees furloughed as a result of the lapse in appropriations from midnight October 16, 1986, until the enactment of House Joint Resolution 738 shall be compensated at their standard rate of compensation for the period during which there was a lapse in appropriations.

Ante, pp. 1783, 3341.

All obligations incurred in anticipation of the appropriations made and authority granted by that Act for the purposes of maintaining the essential level of activity to protect life and property and bring about orderly termination of government functions are hereby ratified and approved if otherwise in accord with the provisions of that Act.

Approved October 27, 1986.

LEGISLATIVE HISTORY—H.J. Res. 754:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 17, considered and passed House and Senate.

91-139 O - 87 (578)

ARKANSAS-MISSISSIPPI GREAT RIVER BRIDGE CONSTRUCTION COMPACT

91-139 O - 87 (580)

Public Law 99-560
99th Congress

An Act

Oct. 27, 1986
[S. 1082]

Granting the consent of Congress to the Arkansas-Mississippi Great River Bridge Construction Compact.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSENT OF CONGRESS TO COMPACT.

The Congress consents to the Arkansas-Mississippi Great River Bridge Construction Compact, which was entered into between the States of Arkansas and Mississippi and was approved by law in the State of Arkansas on February 7, 1985, and in the State of Mississippi on March 19, 1985. The compact is substantially as follows:

"ARKANSAS-MISSISSIPPI GREAT RIVER BRIDGE CONSTRUCTION COMPACT

"ARTICLE I

"The purpose of this compact is to promote the construction of a highway bridge or a combined highway-railroad bridge connecting the States of Mississippi and Arkansas at, near or between Rosedale, Mississippi, and McGehee and Dumas, Arkansas, and to establish a joint interstate authority to assist in these efforts.

"ARTICLE II

Effective date.

"This compact shall become effective immediately as to the States ratifying it whenever the States of Arkansas and Mississippi have ratified it and Congress has given consent thereto.

"ARTICLE III

"(a) The states which are parties to this compact (hereinafter referred to as 'Party States') do hereby establish and create a joint agency which shall be known as the Arkansas-Mississippi Great River Bridge Authority (hereinafter referred to as 'The Authority'). The membership of The Authority shall consist of five (5) members from the State of Mississippi, to be selected in such manner as may be provided by laws enacted by the Legislature of the State of Mississippi, and five (5) members from the State of Arkansas, to be selected in such manner as may be provided by laws enacted by the Arkansas General Assembly. The terms of the members of such Authority from each of the Party States, the method of appointing successor members, and the method of filling vacancies on The Authority, shall be determined by the laws of Mississippi and Arkansas.

"(b) The members of The Authority shall not be compensated for services on The Authority, but each member shall be entitled to actual and reasonable expenses incurred in attending meetings or

incurred otherwise in the performance of his/her duties as a member of The Authority.

"(c) The members of The Authority shall meet upon the call of the chairman and hold such other meetings as its business may require. Special meetings of The Authority may be called by the chairman or upon written request of a majority of the members of The Authority from each of the Party States. The Authority shall choose annually a chairman and vice chairman from its members, and the chairmanship shall rotate each year among the Party States, in order of their acceptance of this compact.

"(d) The Secretary of The Authority (hereinafter provided for) shall notify each member in writing of all meetings of The Authority in such a manner and under such rules and regulations as The Authority may prescribe.

"(e) The Authority shall adopt rules and regulations for the transaction of its business; and the secretary shall keep a record of all its business and shall furnish a copy thereof to each member of The Authority.

"(f) It shall be the duty of The Authority, in general, to promote, encourage, and coordinate the efforts of the Party States to secure the development of the Arkansas-Mississippi Great River Bridge at, near or between Rosedale, Mississippi, and McGehee-Dumas, Arkansas. Toward this end, The Authority shall have power to:

"(i) Hold hearings;

"(ii) Conduct studies and surveys of all problems, benefits, and other matters associated with the construction of the Arkansas-Mississippi Great River Bridge, and to make reports thereon;

"(iii) Acquire by gift, grant or otherwise, from local, federal, or private sources, such money or property as may be provided for the proper performance of their function, and to hold and dispose of the same and to expend such monies as is necessary to defray the costs of establishing and operating The Authority;

"(iv) Cooperate with other public or private groups, whether local, state, regional, or national, having an interest in the bridge construction;

"(v) Formulate and execute plans and policies for emphasizing the purpose of this compact before the Congress of the United States and other appropriate officers and agencies of the United States;

"(vi) Negotiate with one or more railroads in the State of Mississippi and the State of Arkansas, and with the appropriate Federal authorities for the construction of the Arkansas-Mississippi Great River Bridge as a combined highway-railroad bridge. If necessary, The Authority may enter into a contract with one or more railroads and/or the appropriate agencies of the United States to borrow funds for the construction of the railroad portion of the bridge, to be reimbursed, including all costs of principal, interest and other costs in connection with such indebtedness, by revenues derived from rental fees, grants, or other charges, with such indebtedness to be secured solely by a pledge of such revenues; and

"(vii) Exercise such other powers as may be appropriate to enable it to accomplish its functions and duties in connection with the construction of the Arkansas-Mississippi Great River Bridge as a highway bridge or a combined highway-railroad bridge, and to carry out the purposes of this compact.

"ARTICLE IV

"The Authority shall appoint a secretary, who shall be a person familiar with the nature, procedures, and significance of the bridge construction and the informational, educational, and publicity methods of stimulating general interest in such developments, and who shall be the compact administrator. The term of office of the secretary shall be at the pleasure of The Authority and such officer shall receive such compensation as The Authority shall prescribe from monies provided to The Authority under Article III(f)(iii). The secretary shall maintain custody of The Authority's books, records, and papers, which shall be kept by the secretary at the office of The Authority, and shall perform all functions and duties and exercise all powers and authorities which may be delegated to the secretary of The Authority.

"ARTICLE V

"Nothing in this compact shall be construed so as to conflict with any existing statute, or to limit the powers of any Party State, or to repeal or prevent legislation, or to authorize or permit curtailment or diminution of any other bridge project, or to affect any existing or future cooperative arrangement or relationship between any federal agency and a Party State.

"ARTICLE VI

"This compact shall continue in force and remain binding upon each Party State until the Legislature or Governor of each or either state takes action to withdraw therefrom; provided that such withdrawal shall not become effective until six (6) months after the date of the action taken by the Legislature or Governor. Notice of such action shall be given to the other Party State by the secretary of state of the Party State which takes such action.".

SEC. 2. FEDERAL JURISDICTION RETAINED.

Nothing in the compact approved by section 1 shall be construed as impairing or in any manner affecting any right or jurisdiction of the United States.

SEC. 3. RESERVATION.

The right to alter, amend, or repeal this Act is expressly reserved.

Approved October 27, 1986.

LEGISLATIVE HISTORY—S. 1082 (H.R. 5390):

HOUSE REPORTS: No. 99-911 accompanying H.R. 5390 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 3, considered and passed Senate.
Vol. 132 (1986): Sept. 29, H.R. 5390 considered and passed House; proceedings vacated and S. 1082, amended, passed in lieu.
Oct. 9, Senate concurred in House amendments.

O

Public Law 99-561
99th Congress

An Act

To enhance the carrying out of fish and wildlife conservation and natural resource management programs on military reservations, and for other purposes.

Oct. 27, 1986
[S. 1352]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.—(a) Subsections (b) and (c) of section 106 of the Sikes Act (16 U.S.C. 670f (b) and (c)) are each amended by striking out "and 1985," and inserting in lieu thereof "1985, 1986, 1987, and 1988,".

(b) Subsections (a) and (b) of section 209 of the Sikes Act (16 U.S.C. 670o (a) and (b)) are each amended by striking out "and 1985," and inserting in lieu thereof "1985, 1986, 1987, and 1988,". 16 USC 670o.

SEC. 2. NATURAL RESOURCES AND FISH AND WILDLIFE MANAGEMENT ON MILITARY RESERVATIONS; REPORT ON MILITARY EXPENDITURES FOR FISH AND WILDLIFE MANAGEMENT. 16 USC 670a-1.

(a) NATURAL RESOURCES MANAGEMENT.—The Secretary of each military department shall manage the natural resources of each military reservation within the United States that is under the jurisdiction of the Secretary—

(1) so as to provide for sustained multipurpose uses of those resources; and

(2) to provide the public access that is necessary or appropriate for those uses;

to the extent that those uses and that access are not inconsistent with the military mission of the reservation.

(b) FISH AND WILDLIFE MANAGEMENT SERVICES.—The Secretary of each military department shall ensure, to the extent feasible, that the services necessary for the development, implementation, and enforcement of fish and wildlife management on each military reservation within the United States under the jurisdiction of the Secretary are provided by the Department of Defense personnel who have professional training in those services.

(c) FISH AND WILDLIFE MANAGEMENT REPORT.—The Secretary of each military department shall submit to each House of the Congress, before the close of the 180-day period occurring after the close of fiscal year 1986, a detailed report setting forth the amount and purpose of all expenditures made during fiscal year 1986 for fish and wildlife management on each military reservation in the United States under the jurisdiction of the Secretary.

(d) DEFINITIONS.—As used in this section—

(1) The term "military department" means the Department of the Army, the Department of the Navy, and the Department of the Air Force.

(2) The term "United States" means the States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States. District of Columbia. Puerto Rico.

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SEC. 3. SIKES ACT AMENDMENTS.

(a) COOPERATIVE PLANS.—(1) Section 101 of the Act of September 15, 1960 (commonly referred to as the "Sikes Act"; 16 U.S.C. 670a) is amended to read as follows:

State and local governments.

"SEC. 101. (a) The Secretary of Defense is authorized to carry out a program of planning for, and the development, maintenance, and coordination of, wildlife, fish, and game conservation and rehabilitation in each military reservation in accordance with a cooperative plan mutually agreed upon by the Secretary of Defense, the Secretary of the Interior, and the appropriate State agency designated by the State in which the reservation is located.

"(b) Each cooperative plan entered into under subsection (a)—

"(1) shall provide for—

"(A) fish and wildlife habitat improvements or modifications,

"(B) range rehabilitation where necessary for support of wildlife,

"(C) control of off-road vehicle traffic, and

"(D) specific habitat improvement projects and related activities and adequate protection for species of fish, wildlife, and plants considered threatened or endangered;

"(2) must be reviewed as to operation and effect by the parties thereto on a regular basis, but not less often than every 5 years;

"(3) shall, if a multiuse natural resources management plan is applicable to the military reservation, be treated as the exclusive component of that management plan with respect to wildlife, fish, and game conservation and rehabilitation; and

"(4) may stipulate the issuance of special State hunting and fishing permits to individuals and require payment of nominal fees therefor, which fees shall be utilized for the protection, conservation, and management of fish and wildlife, including habitat improvement and related activities in accordance with the cooperative plan; except that—

"(A) the Commanding Officer of the reservation or persons designated by that Officer are authorized to enforce such special hunting and fishing permits and to collect the fees therefor, acting as agent or agents for the State if the cooperative plan so provides, and

"(B) the fees collected under this paragraph may not be expended with respect to other than the military reservation on which collected.

"(c) After a cooperative plan is agreed to under subsection (a)—

"(1) no sale of land, or forest products from land, that is within a military reservation covered by that plan may be made under section 2665 (a) or (b) of title 10, United States Code; and

"(2) no leasing of land that is within the reservation may be made under section 2667 of such title 10;

unless the effects of that sale or leasing are compatible with the purposes of the plan.

"(d) With regard to the implementation and enforcement of cooperative plans agreed to under subsection (a)—

"(1) neither Office of Management and Budget Circular A-76 nor any successor circular thereto applies to the procurement of services that are necessary for that implementation and enforcement; and

"(2) priority shall be given to the entering into of contracts for the procurement of such implementation and enforcement services with Federal and State agencies having responsibility for the conservation or management of fish or wildlife.

Contracts.

"(e) Cooperative plans agreed to under the authority of this section and section 102 shall not be deemed to be, nor treated as, cooperative agreements to which the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.) applies.".

16 USC 670b.

(2) Subsection (d)(1) of such section 101 (as added by paragraph (1)) shall not affect any contract entered into before the date of the enactment of this Act for the provision of services to implement or enforce a cooperative plan under this Act on any military installation; but shall apply to the renewal, after such date of enactment, of any such contract.

Contracts. 16 USC 670a note.

(b) FUNDS COLLECTED UNDER PLANS.—Subsection (a) of section 106 of the Sikes Act (16 U.S.C. 670f(a)) is amended by adding at the end thereof the following new sentence: "All funds that are so collected shall remain available until expended.".

SEC. 4. FOREST PRODUCTS ON MILITARY RESERVATIONS.

Section 2665 of title 10, United States Code, is amended as follows:

(1) Subsection (d) is amended—

(A) by striking out "available for operation and maintenance during a fiscal year";

(B) by striking out "expenses" and inserting in lieu thereof "costs"; and

(C) by striking out "during such fiscal year".

(2) Subsection (e)(1) is amended by striking out "for all expenses of production of forest products".

(3) Subsection (f) is amended—

(A) by striking out "expenses" in the matter preceding subparagraph (A) in paragraph (1) and inserting in lieu thereof "costs",

(B) by amending paragraph (1)(C) to read as follows: "(C) for natural resources management that implements approved plans and agreements.", and

(C) by amending paragraphs (2) and (3) to read as follows:

"(2) There shall be deposited into the reserve account the total amount received by the United States as proceeds from the sale of forest products sold under subsections (a) and (b) less—

Forests and forest products.

"(A) reimbursements of appropriations made under subsection (d), and

"(B) payments made to States under subsection (e).

"(3) The reserve account may not exceed $4,000,000 on December 31 of any calendar year. Unobligated balances exceeding $4,000,000 on that date shall be deposited into the United States Treasury.".

Approved October 27, 1986.

LEGISLATIVE HISTORY—S. 1352 (H.R. 1202):

HOUSE REPORTS: No. 99-129, Pt. 1 (Comm. on Merchant Marine and Fisheries) and Pt. 2 (Comm. on Armed Services), both accompanying H.R. 1202.
CONGRESSIONAL RECORD:
Vol. 131 (1985): July 29, H.R. 1202 considered and passed House.
Vol. 132 (1986): Oct 3, S. 1352 considered and passed Senate.
Oct. 14, considered and passed House.

O

Public Law 99-562
99th Congress

An Act

To amend title 31, United States Code, with respect to the fraudulent use of public property or money.

Oct. 27, 1986
[S. 1562]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "False Claims Amendments Act of 1986".

False Claims Amendments Act of 1986.
Courts, U.S.
31 USC 3701 note.

SEC. 2. FALSE CLAIMS.

Section 3729 of title 31, United States Code, is amended—

Armed Forces.

(1) by striking the matter preceding paragraph (1) and inserting the following:

"(a) LIABILITY FOR CERTAIN ACTS.—Any person who—";

(2) in paragraph (1) by striking "Government or a member of an armed force" and inserting "United States Government or a member of the Armed Forces of the United States";

(3) in paragraph (2) by inserting "by the Government" after "approved";

(4) in paragraph (4)—

(A) by striking "public"; and

(B) by striking "in an armed force" and inserting "by the Government";

(5) in paragraph (5)—

(A) by striking "in an armed force" and inserting "by the Government"; and

(B) by striking "or" after the semicolon;

(6) in paragraph (6)—

(A) by striking "a member of an armed force" and inserting "an officer or employee of the Government, or a member of the Armed Forces,"; and

(B) by striking the period at the end of the paragraph and inserting "; or"; and

(7) by adding at the end of the subsection the following:

"(7) knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government,

is liable to the United States Government for a civil penalty of not less than $5,000 and not more than $10,000, plus 3 times the amount of damages which the Government sustains because of the act of that person, except that if the court finds that—

"(A) the person committing the violation of this subsection furnished officials of the United States responsible for investigating false claims violations with all information known to such person about the violation within 30 days after the date on which the defendant first obtained the information;

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"(B) such person fully cooperated with any Government investigation of such violation; and

"(C) at the time such person furnished the United States with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this title with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation;

the court may assess not less than 2 times the amount of damages which the Government sustains because of the act of the person. A person violating this subsection shall also be liable to the United States Government for the costs of a civil action brought to recover any such penalty or damages.

"(b) KNOWING AND KNOWINGLY DEFINED.—For purposes of this section, the terms 'knowing' and 'knowingly' mean that a person, with respect to information—

"(1) has actual knowledge of the information;

"(2) acts in deliberate ignorance of the truth or falsity of the information; or

"(3) acts in reckless disregard of the truth or falsity of the information,

and no proof of specific intent to defraud is required.

"(c) CLAIM DEFINED.—For purposes of this section, 'claim' includes any request or demand, whether under a contract or otherwise, for money or property which is made to a contractor, grantee, or other recipient if the United States Government provides any portion of the money or property which is requested or demanded, or if the Government will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded.

"(d) EXEMPTION FROM DISCLOSURE.—Any information furnished pursuant to subparagraphs (A) through (C) of subsection (a) shall be exempt from disclosure under section 552 of title 5.

"(e) EXCLUSION.—This section does not apply to claims, records, or statements made under the Internal Revenue Code of 1954.". 26 USC 1 *et seq.*

SEC. 3. CIVIL ACTIONS FOR FALSE CLAIMS.

Section 3730 of title 31, United States Code, is amended to read as follows:

"§ 3730. Civil actions for false claims

"(a) RESPONSIBILITIES OF THE ATTORNEY GENERAL.—The Attorney General diligently shall investigate a violation under section 3729. If the Attorney General finds that a person has violated or is violating section 3729, the Attorney General may bring a civil action under this section against the person.

"(b) ACTIONS BY PRIVATE PERSONS.—(1) A person may bring a civil action for a violation of section 3729 for the person and for the United States Government. The action shall be brought in the name of the Government. The action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.

"(2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Government pursuant to Rule 4(d)(4) of the Federal Rules of Civil Procedure. The complaint shall be filed in camera, shall remain under seal for at least 60 days, and shall not 28 USC app.

be served on the defendant until the court so orders. The Government may elect to intervene and proceed with the action within 60 days after it receives both the complaint and the material evidence and information.

"(3) The Government may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under paragraph (2). Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this section until 20 days after the complaint is unsealed and served upon the defendant pursuant to Rule 4 of the Federal Rules of Civil Procedure.

28 USC app.

"(4) Before the expiration of the 60-day period or any extensions obtained under paragraph (3), the Government shall—

"(A) proceed with the action, in which case the action shall be conducted by the Government; or

"(B) notify the court that it declines to take over the action, in which case the person bringing the action shall have the right to conduct the action.

"(5) When a person brings an action under this subsection, no person other than the Government may intervene or bring a related action based on the facts underlying the pending action.

"(c) RIGHTS OF THE PARTIES TO QUI TAM ACTIONS.—(1) If the Government proceeds with the action, it shall have the primary responsibility for prosecuting the action, and shall not be bound by an act of the person bringing the action. Such person shall have the right to continue as a party to the action, subject to the limitations set forth in paragraph (2).

"(2)(A) The Government may dismiss the action notwithstanding the objections of the person initiating the action if the person has been notified by the Government of the filing of the motion and the court has provided the person with an opportunity for a hearing on the motion.

"(B) The Government may settle the action with the defendant notwithstanding the objections of the person initiating the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, such hearing may be held in camera.

"(C) Upon a showing by the Government that unrestricted participation during the course of the litigation by the person initiating the action would interfere with or unduly delay the Government's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, such as—

"(i) limiting the number of witnesses the person may call;

"(ii) limiting the length of the testimony of such witnesses;

"(iii) limiting the person's cross-examination of witnesses; or

"(iv) otherwise limiting the participation by the person in the litigation.

"(D) Upon a showing by the defendant that unrestricted participation during the course of the litigation by the person initiating the action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the person in the litigation.

"(3) If the Government elects not to proceed with the action, the person who initiated the action shall have the right to conduct the action. If the Government so requests, it shall be served with copies

of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts (at the Government's expense). When a person proceeds with the action, the court, without limiting the status and rights of the person initiating the action, may nevertheless permit the Government to intervene at a later date upon a showing of good cause.

"(4) Whether or not the Government proceeds with action, upon a showing by the Government that certain actions of discovery by the person initiating the action would interfere with the Government's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than 60 days. Such a showing shall be conducted in camera. The court may extend the 60-day period upon a further showing in camera that the Government has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings.

"(5) Notwithstanding subsection (b), the Government may elect to pursue its claim through any alternate remedy available to the Government, including any administrative proceeding to determine a civil money penalty. If any such alternate remedy is pursued in another proceeding, the person initiating the action shall have the same rights in such proceeding as such person would have had if the action had continued under this section. Any finding of fact or conclusion of law made in such other proceeding that has become final shall be conclusive on all parties to an action under this section. For purposes of the preceding sentence, a finding or conclusion is final if it has been finally determined on appeal to the appropriate court of the United States, if all time for filing such an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review.

"(d) AWARD TO QUI TAM PLAINTIFF.—(1) If the Government proceeds with an action brought by a person under subsection (b), such person shall, subject to the second sentence of this paragraph, receive at least 15 percent but not more than 25 percent of the proceeds of the action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the action. Where the action is one which the court finds to be based primarily on disclosures of specific information (other than information provided by the person bringing the action) relating to allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or Government Accounting Office report, hearing, audit, or investigation, or from the news media, the court may award such sums as it considers appropriate, but in no case more than 10 percent of the proceeds, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation. Any payment to a person under the first or second sentence of this paragraph shall be made from the proceeds. Any such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

"(2) If the Government does not proceed with an action under this section, the person bringing the action or settling the claim shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less

than 25 percent and not more than 30 percent of the proceeds of the action or settlement and shall be paid out of such proceeds. Such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

"(3) If the Government does not proceed with the action and the person bringing the action conducts the action, the court may award to the defendant its reasonable attorneys' fees and expenses if the defendant prevails in the action and the court finds that the claim of the person bringing the actions was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.

"(e) CERTAIN ACTIONS BARRED.—(1) No court shall have jurisdiction over an action brought by a former or present member of the armed forces under subsection (b) of this section against a member of the armed forces arising out of such person's service in the armed forces. Armed Forces.

"(2)(A) No court shall have jurisdiction over an action brought under subsection (b) against a Member of Congress, a member of the judiciary, or a senior executive branch official if the action is based on evidence or information known to the Government when the action was brought.

"(B) For purposes of this paragraph, 'senior executive branch official' means any officer or employee listed in section 201(f) of the Ethics in Government Act of 1978 (5 U.S.C. App.).

"(3) In no event may a person bring an action under subsection (b) which is based upon allegations or transactions which are the subject of a civil suit or an administrative civil money penalty proceeding in which the Government is already a party.

"(4)(A) No court shall have jurisdiction over an action under this section based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or Government Accounting Office report, hearing, audit, or investigation, or from the news media, unless the action is brought by the Attorney General or the person bringing the action is an original source of the information.

"(B) For purposes of this paragraph, 'original source' means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Government before filing an action under this section which is based on the information.

"(f) GOVERNMENT NOT LIABLE FOR CERTAIN EXPENSES.—The Government is not liable for expenses which a person incurs in bringing an action under this section.

"(g) FEES AND EXPENSES TO PREVAILING DEFENDANT.—In civil actions brought under this section by the United States, the provisions of section 2412(d) of title 28 shall apply.".

SEC. 4. ENTITLEMENT TO RELIEF FOR DISCRIMINATION BY EMPLOYERS AGAINST EMPLOYEES WHO REPORT VIOLATIONS.

Section 3730 of title 31, United States Code, as amended by section 3 of this Act, is further amended by adding at the end the following new subsection:

"(h) Any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee on behalf of the

employee or others in furtherance of an action under this section, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this section, shall be entitled to all relief necessary to make the employee whole. Such relief shall include reinstatement with the same seniority status such employee would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An employee may bring an action in the appropriate district court of the United States for the relief provided in this subsection.".

SEC. 5. FALSE CLAIMS PROCEDURE.

Section 3731 of title 31, United States Code, is amended by striking subsection (b) and inserting the following:

"(b) A civil action under section 3730 may not be brought—

"(1) more than 6 years after the date on which the violation of section 3729 is committed, or

"(2) more than 3 years after the date when facts material to the right of action are known or reasonably should have been known by the official of the United States charged with responsibility to act in the circumstances, but in no event more than 10 years after the date on which the violation is committed,

whichever occurs last.

"(c) In any action brought under section 3730, the United States shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

"(d) Notwithstanding any other provision of law, the Federal Rules of Criminal Procedure, or the Federal Rules of Evidence, a final judgment rendered in favor of the United States in any criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements of the offense in any action which involves the same transaction as in the criminal proceeding and which is brought under subsection (a) or (b) of section 3730.".

28 USC app.

SEC. 6. FALSE CLAIMS JURISDICTION; CIVIL INVESTIGATIVE DEMANDS.

31 USC 3721

(a) IN GENERAL.—Subchapter III of chapter 37 of title 31, United States Code, is amended by adding at the end the following new sections:

31 USC 3732.

"§ 3732. False claims jurisdiction

"(a) ACTIONS UNDER SECTION 3730.—Any action under section 3730 may be brought in any judicial district in which the defendant or, in the case of multiple defendants, any one defendant can be found, resides, transacts business, or in which any act proscribed by section 3729 occurred. A summons as required by the Federal Rules of Civil Procedure shall be issued by the appropriate district court and served at any place within or outside the United States.

"(b) CLAIMS UNDER STATE LAW.—The district courts shall have jurisdiction over any action brought under the laws of any State for the recovery of funds paid by a State or local government if the action arises from the same transaction or occurrence as an action brought under section 3730.

"§ 3733. Civil investigative demands 31 USC 3733.

"(a) IN GENERAL.—

"(1) ISSUANCE AND SERVICE.—Whenever the Attorney General has reason to believe that any person may be in possession, custody, or control of any documentary material or information relevant to a false claims law investigation, the Attorney General may, before commencing a civil proceeding under section 3730 or other false claims law, issue in writing and cause to be served upon such person, a civil investigative demand requiring such person—

"(A) to produce such documentary material for inspection and copying,

"(B) to answer in writing written interrogatories with respect to such documentary material or information,

"(C) to give oral testimony concerning such documentary material or information, or

"(D) to furnish any combination of such material, answers, or testimony.

The Attorney General may not delegate the authority to issue civil investigative demands under this subsection. Whenever a civil investigative demand is an express demand for any product of discovery, the Attorney General, the Deputy Attorney General, or an Assistant Attorney General shall cause to be served, in any manner authorized by this section, a copy of such demand upon the person from whom the discovery was obtained and shall notify the person to whom such demand is issued of the date on which such copy was served.

"(2) CONTENTS AND DEADLINES.—

"(A) Each civil investigative demand issued under paragraph (1) shall state the nature of the conduct constituting the alleged violation of a false claims law which is under investigation, and the applicable provision of law alleged to be violated.

"(B) If such demand is for the production of documentary material, the demand shall—

"(i) describe each class of documentary material to be produced with such definiteness and certainty as to permit such material to be fairly identified;

"(ii) prescribe a return date for each such class which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying; and

"(iii) identify the false claims law investigator to whom such material shall be made available.

"(C) If such demand is for answers to written interrogatories, the demand shall—

"(i) set forth with specificity the written interrogatories to be answered;

"(ii) prescribe dates at which time answers to written interrogatories shall be submitted; and

"(iii) identify the false claims law investigator to whom such answers shall be submitted.

"(D) If such demand is for the giving of oral testimony, the demand shall—

"(i) prescribe a date, time, and place at which oral testimony shall be commenced;

"(ii) identify a false claims law investigator who shall conduct the examination and the custodian to whom the transcript of such examination shall be submitted;

"(iii) specify that such attendance and testimony are necessary to the conduct of the investigation;

"(iv) notify the person receiving the demand of the right to be accompanied by an attorney and any other representative; and

"(v) describe the general purpose for which the demand is being issued and the general nature of the testimony, including the primary areas of inquiry, which will be taken pursuant to the demand.

"(E) Any civil investigative demand issued under this section which is an express demand for any product of discovery shall not be returned or returnable until 20 days after a copy of such demand has been served upon the person from whom the discovery was obtained.

"(F) The date prescribed for the commencement of oral testimony pursuant to a civil investigative demand issued under this section shall be a date which is not less than seven days after the date on which demand is received, unless the Attorney General or an Assistant Attorney General designated by the Attorney General determines that exceptional circumstances are present which warrant the commencement of such testimony within a lesser period of time.

"(G) The Attorney General shall not authorize the issuance under this section of more than one civil investigative demand for oral testimony by the same person unless the person requests otherwise or unless the Attorney General, after investigation, notifies that person in writing that an additional demand for oral testimony is necessary. The Attorney General may not, notwithstanding section 510 of title 28, authorize the performance, by any other officer, employee, or agency, of any function vested in the Attorney General under this subparagraph.

"(b) PROTECTED MATERIAL OR INFORMATION.—

"(1) IN GENERAL.—A civil investigative demand issued under subsection (a) may not require the production of any documentary material, the submission of any answers to written interrogatories, or the giving of any oral testimony if such material, answers, or testimony would be protected from disclosure under—

"(A) the standards applicable to subpoenas or subpoenas duces tecum issued by a court of the United States to aid in a grand jury investigation; or

"(B) the standards applicable to discovery requests under the Federal Rules of Civil Procedure, to the extent that the application of such standards to any such demand is appropriate and consistent with the provisions and purposes of this section.

28 USC app.

"(2) EFFECT ON OTHER ORDERS, RULES, AND LAWS.—Any such demand which is an express demand for any product of discovery supersedes any inconsistent order, rule, or provision of law (other than this section) preventing or restraining disclosure of such product of discovery to any person. Disclosure of any product of discovery pursuant to any such express demand does

not constitute a waiver of any right or privilege which the person making such disclosure may be entitled to invoke to resist discovery of trial preparation materials.

"(c) SERVICE; JURISDICTION.—

"(1) BY WHOM SERVED.—Any civil investigative demand issued under subsection (a) may be served by a false claims law investigator, or by a United States marshal or a deputy marshal, at any place within the territorial jurisdiction of any court of the United States.

"(2) SERVICE IN FOREIGN COUNTRIES.—Any such demand or any petition filed under subsection (j) may be served upon any person who is not found within the territorial jurisdiction of any court of the United States in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign country. To the extent that the courts of the United States can assert jurisdiction over any such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this section by any such person that such court would have if such person were personally within the jurisdiction of such court.

28 USC app. District of Columbia.

"(d) SERVICE UPON LEGAL ENTITIES AND NATURAL PERSONS.—

"(1) LEGAL ENTITIES.—Service of any civil investigative demand issued under subsection (a) or of any petition filed under subsection (j) may be made upon a partnership, corporation, association, or other legal entity by—

"(A) delivering an executed copy of such demand or petition to any partner, executive officer, managing agent, or general agent of the partnership, corporation, association, or entity, or to any agent authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

"(B) delivering an executed copy of such demand or petition to the principal office or place of business of the partnership, corporation, association, or entity; or

"(C) depositing an executed copy of such demand or petition in the United States mails by registered or certified mail, with a return receipt requested, addressed to such partnership, corporation, association, or entity at its principal office or place of business.

Mail.

"(2) NATURAL PERSONS.—Service of any such demand or petition may be made upon any natural person by—

"(A) delivering an executed copy of such demand or petition to the person; or

"(B) depositing an executed copy of such demand or petition in the United States mails by registered or certified mail, with a return receipt requested, addressed to the person at the person's residence or principal office or place of business.

Mail.

"(e) PROOF OF SERVICE.—A verified return by the individual serving any civil investigative demand issued under subsection (a) or any petition filed under subsection (j) setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

Mail.

"(f) DOCUMENTARY MATERIAL.—

"(1) SWORN CERTIFICATES.—The production of documentary material in response to a civil investigative demand served under this section shall be made under a sworn certificate, in such form as the demand designates, by—

"(A) in the case of a natural person, the person to whom the demand is directed, or

"(B) in the case of a person other than a natural person, a person having knowledge of the facts and circumstances relating to such production and authorized to act on behalf of such person.

The certificate shall state that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the false claims law investigator identified in the demand.

"(2) PRODUCTION OF MATERIALS.—Any person upon whom any civil investigative demand for the production of documentary material has been served under this section shall make such material available for inspection and copying to the false claims law investigator identified in such demand at the principal place of business of such person, or at such other place as the false claims law investigator and the person thereafter may agree and prescribe in writing, or as the court may direct under subsection (j)(1). Such material shall be made so available on the return date specified in such demand, or on such later date as the false claims law investigator may prescribe in writing. Such person may, upon written agreement between the person and the false claims law investigator, substitute copies for originals of all or any part of such material.

Contracts.

"(g) INTERROGATORIES.—Each interrogatory in a civil investigative demand served under this section shall be answered separately and fully in writing under oath and shall be submitted under a sworn certificate, in such form as the demand designates, by—

Natural persons.

"(1) in the case of a natural person, the person to whom the demand is directed, or

"(2) in the case of a person other than a natural person, the person or persons responsible for answering each interrogatory.

If any interrogatory is objected to, the reasons for the objection shall be stated in the certificate instead of an answer. The certificate shall state that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted. To the extent that any information is not furnished, the information shall be identified and reasons set forth with particularity regarding the reasons why the information was not furnished.

"(h) ORAL EXAMINATIONS.—

"(1) PROCEDURES.—The examination of any person pursuant to a civil investigative demand for oral testimony served under this section shall be taken before an officer authorized to administer oaths and affirmations by the laws of the United States or of the place where the examination is held. The officer before whom the testimony is to be taken shall put the witness on oath or affirmation and shall, personally or by someone acting under the direction of the officer and in the officer's presence, record the testimony of the witness. The testimony shall be taken stenographically and shall be transcribed. When the testimony is fully transcribed, the officer before whom the testimony is

Records.

taken shall promptly transmit a copy of the transcript of the testimony to the custodian. This subsection shall not preclude the taking of testimony by any means authorized by, and in a manner consistent with, the Federal Rules of Civil Procedure. 28 USC app.

"(2) PERSONS PRESENT.—The false claims law investigator conducting the examination shall exclude from the place where the examination is held all persons except the person giving the testimony, the attorney for and any other representative of the person giving the testimony, the attorney for the Government, any person who may be agreed upon by the attorney for the Government and the person giving the testimony, the officer before whom the testimony is to be taken, and any stenographer taking such testimony.

"(3) WHERE TESTIMONY TAKEN.—The oral testimony of any person taken pursuant to a civil investigative demand served under this section shall be taken in the judicial district of the United States within which such person resides, is found, or transacts business, or in such other place as may be agreed upon by the false claims law investigator conducting the examination and such person.

"(4) TRANSCRIPT OF TESTIMONY.—When the testimony is fully transcribed, the false claims law investigator or the officer before whom the testimony is taken shall afford the witness, who may be accompanied by counsel, a reasonable opportunity to examine and read the transcript, unless such examination and reading are waived by the witness. Any changes in form or substance which the witness desires to make shall be entered and identified upon the transcript by the officer or the false claims law investigator, with a statement of the reasons given by the witness for making such changes. The transcript shall then be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign. If Records. the transcript is not signed by the witness within 30 days after being afforded a reasonable opportunity to examine it, the officer or the false claims law investigator shall sign it and state on the record the fact of the waiver, illness, absence of the witness, or the refusal to sign, together with the reasons, if any, given therefor.

"(5) CERTIFICATION AND DELIVERY TO CUSTODIAN.—The officer Mail. before whom the testimony is taken shall certify on the transcript that the witness was sworn by the officer and that the transcript is a true record of the testimony given by the witness, and the officer or false claims law investigator shall promptly deliver the transcript, or send the transcript by registered or certified mail, to the custodian.

"(6) FURNISHING OR INSPECTION OF TRANSCRIPT BY WITNESS.—Upon payment of reasonable charges therefor, the false claims law investigator shall furnish a copy of the transcript to the witness only, except that the Attorney General, the Deputy Attorney General, or an Assistant Attorney General may, for good cause, limit such witness to inspection of the official transcript of the witness' testimony.

"(7) CONDUCT OF ORAL TESTIMONY.—(A) Any person compelled to appear for oral testimony under a civil investigative demand issued under subsection (a) may be accompanied, represented, and advised by counsel. Counsel may advise such person, in confidence, with respect to any question asked of such person. Classified information.

Records.

Such person or counsel may object on the record to any question, in whole or in part, and shall briefly state for the record the reason for the objection. An objection may be made, received, and entered upon the record when it is claimed that such person is entitled to refuse to answer the question on the grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination. Such person may not otherwise object to or refuse to answer any question, and may not directly or through counsel otherwise interrupt the oral examination. If such person refuses to answer any question, a petition may be filed in the district court of the United States under subsection (j)(1) for an order compelling such person to answer such question.

"(B) If such person refuses to answer any question on the grounds of the privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of part V of title 18.

18 USC 6001.

"(8) WITNESS FEES AND ALLOWANCES.—Any person appearing for oral testimony under a civil investigative demand issued under subsection (a) shall be entitled to the same fees and allowances which are paid to witnesses in the district courts of the United States.

"(i) CUSTODIANS OF DOCUMENTS, ANSWERS, AND TRANSCRIPTS.—

"(1) DESIGNATION.—The Attorney General shall designate a false claims law investigator to serve as custodian of documentary material, answers to interrogatories, and transcripts of oral testimony received under this section, and shall designate such additional false claims law investigators as the Attorney General determines from time to time to be necessary to serve as deputies to the custodian.

"(2) RESPONSIBILITY FOR MATERIALS; DISCLOSURE.—(A) A false claims law investigator who receives any documentary material, answers to interrogatories, or transcripts of oral testimony under this section shall transmit them to the custodian. The custodian shall take physical possession of such material, answers, or transcripts and shall be responsible for the use made of them and for the return of documentary material under paragraph (4).

Regulations.

"(B) The custodian may cause the preparation of such copies of such documentary material, answers to interrogatories, or transcripts of oral testimony as may be required for official use by any false claims law investigator, or other officer or employee of the Department of Justice, who is authorized for such use under regulations which the Attorney General shall issue. Such material, answers, and transcripts may be used by any such authorized false claims law investigator or other officer or employee in connection with the taking of oral testimony under this section.

"(C) Except as otherwise provided in this subsection, no documentary material, answers to interrogatories, or transcripts of oral testimony, or copies thereof, while in the possession of the custodian, shall be available for examination by any individual other than a false claims law investigator or other officer or employee of the Department of Justice authorized under subparagraph (B). The prohibition in the preceding sentence on the availability of material, answers, or transcripts shall not apply if consent is given by the person who produced such

material, answers, or transcripts, or, in the case of any product of discovery produced pursuant to an express demand for such material, consent is given by the person from whom the discovery was obtained. Nothing in this subparagraph is intended to prevent disclosure to the Congress, including any committee or subcommittee of the Congress, or to any other agency of the United States for use by such agency in furtherance of its statutory responsibilities. Disclosure of information to any such other agency shall be allowed only upon application, made by the Attorney General to a United States district court, showing substantial need for the use of the information by such agency in furtherance of its statutory responsibilities.

"(D) While in the possession of the custodian and under such reasonable terms and conditions as the Attorney General shall prescribe—

"(i) documentary material and answers to interrogatories shall be available for examination by the person who produced such material or answers, or by a representative of that person authorized by that person to examine such material and answers; and

"(ii) transcripts of oral testimony shall be available for examination by the person who produced such testimony, or by a representative of that person authorized by that person to examine such transcripts.

"(3) USE OF MATERIAL, ANSWERS, OR TRANSCRIPTS IN OTHER PROCEEDINGS.—Whenever any attorney of the Department of Justice has been designated to appear before any court, grand jury, or Federal agency in any case or proceeding, the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony received under this section may deliver to such attorney such material, answers, or transcripts for official use in connection with any such case or proceeding as such attorney determines to be required. Upon the completion of any such case or proceeding, such attorney shall return to the custodian any such material, answers, or transcripts so delivered which have not passed into the control of such court, grand jury, or agency through introduction into the record of such case or proceeding.

"(4) CONDITIONS FOR RETURN OF MATERIAL.—If any documentary material has been produced by any person in the course of any false claims law investigation pursuant to a civil investigative demand under this section, and—

"(A) any case or proceeding before the court or grand jury arising out of such investigation, or any proceeding before any Federal agency involving such material, has been completed, or

"(B) no case or proceeding in which such material may be used has been commenced within a reasonable time after completion of the examination and analysis of all documentary material and other information assembled in the course of such investigation,

the custodian shall, upon written request of the person who produced such material, return to such person any such material (other than copies furnished to the false claims law investigator under subsection (f)(2) or made for the Department of Justice under paragraph (2)(B)) which has not passed into the

control of any court, grand jury, or agency through introduction into the record of such case or proceeding.

"(5) APPOINTMENT OF SUCCESSOR CUSTODIANS.—In the event of the death, disability, or separation from service in the Department of Justice of the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony produced pursuant to a civil investigative demand under this section, or in the event of the official relief of such custodian from responsibility for the custody and control of such material, answers, or transcripts, the Attorney General shall promptly—

"(A) designate another false claims law investigator to serve as custodian of such material, answers, or transcripts, and

"(B) transmit in writing to the person who produced such material, answers, or testimony notice of the identity and address of the successor so designated.

Any person who is designated to be a successor under this paragraph shall have, with regard to such material, answers, or transcripts, the same duties and responsibilities as were imposed by this section upon that person's predecessor in office, except that the successor shall not be held responsible for any default or dereliction which occurred before that designation.

"(j) JUDICIAL PROCEEDINGS.—

"(1) PETITION FOR ENFORCEMENT.—Whenever any person fails to comply with any civil investigative demand issued under subsection (a), or whenever satisfactory copying or reproduction of any material requested in such demand cannot be done and such person refuses to surrender such material, the Attorney General may file, in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of the civil investigative demand.

"(2) PETITION TO MODIFY OR SET ASIDE DEMAND.—(A) Any person who has received a civil investigative demand issued under subsection (a) may file, in the district court of the United States for the judicial district within which such person resides, is found, or transacts business, and serve upon the false claims law investigator identified in such demand a petition for an order of the court to modify or set aside such demand. In the case of a petition addressed to an express demand for any product of discovery, a petition to modify or set aside such demand may be brought only in the district court of the United States for the judicial district in which the proceeding in which such discovery was obtained is or was last pending. Any petition under this subparagraph must be filed—

"(i) within 20 days after the date of service of the civil investigative demand, or at any time before the return date specified in the demand, whichever date is earlier, or

"(ii) within such longer period as may be prescribed in writing by any false claims law investigator identified in the demand.

"(B) The petition shall specify each ground upon which the petitioner relies in seeking relief under subparagraph (A), and may be based upon any failure of the demand to comply with the provisions of this section or upon any constitutional or other legal right or privilege of such person. During the pendency of

the petition in the court, the court may stay, as it deems proper, the running of the time allowed for compliance with the demand, in whole or in part, except that the person filing the petition shall comply with any portions of the demand not sought to be modified or set aside.

"(3) PETITION TO MODIFY OR SET ASIDE DEMAND FOR PRODUCT OF DISCOVERY.—(A) In the case of any civil investigative demand issued under subsection (a) which is an express demand for any product of discovery, the person from whom such discovery was obtained may file, in the district court of the United States for the judicial district in which the proceeding in which such discovery was obtained is or was last pending, and serve upon any false claims law investigator identified in the demand and upon the recipient of the demand, a petition for an order of such court to modify or set aside those portions of the demand requiring production of any such product of discovery. Any petition under this subparagraph must be filed—

"(i) within 20 days after the date of service of the civil investigative demand, or at any time before the return date specified in the demand, whichever date is earlier, or

"(ii) within such longer period as may be prescribed in writing by any false claims law investigator identified in the demand.

"(B) The petition shall specify each ground upon which the petitioner relies in seeking relief under subparagraph (A), and may be based upon any failure of the portions of the demand from which relief is sought to comply with the provisions of this section, or upon any constitutional or other legal right or privilege of the petitioner. During the pendency of the petition, the court may stay, as it deems proper, compliance with the demand and the running of the time allowed for compliance with the demand.

"(4) PETITION TO REQUIRE PERFORMANCE BY CUSTODIAN OF DUTIES.—At any time during which any custodian is in custody or control of any documentary material or answers to interrogatories produced, or transcripts of oral testimony given, by any person in compliance with any civil investigative demand issued under subsection (a), such person, and in the case of an express demand for any product of discovery, the person from whom such discovery was obtained, may file, in the district court of the United States for the judicial district within which the office of such custodian is situated, and serve upon such custodian, a petition for an order of such court to require the performance by the custodian of any duty imposed upon the custodian by this section.

"(5) JURISDICTION.—Whenever any petition is filed in any district court of the United States under this subsection, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry out the provisions of this section. Any final order so entered shall be subject to appeal under section 1291 of title 28. Any disobedience of any final order entered under this section by any court shall be punished as a contempt of the court.

"(6) APPLICABILITY OF FEDERAL RULES OF CIVIL PROCEDURE.—The Federal Rules of Civil Procedure shall apply to any petition 28 USC app.

under this subsection, to the extent that such rules are not inconsistent with the provisions of this section.

"(k) DISCLOSURE EXEMPTION.—Any documentary material, answers to written interrogatories, or oral testimony provided under any civil investigative demand issued under subsection (a) shall be exempt from disclosure under section 552 of title 5.

"(l) DEFINITIONS.—For purposes of this section—

"(1) the term 'false claims law' means—

Ante, p. 3153.

"(A) this section and sections 3729 through 3732; and

"(B) any Act of Congress enacted after the date of the enactment of this section which prohibits, or makes available to the United States in any court of the United States any civil remedy with respect to, any false claim against, bribery of, or corruption of any officer or employee of the United States;

"(2) the term 'false claims law investigation' means any inquiry conducted by any false claims law investigator for the purpose of ascertaining whether any person is or has been engaged in any violation of a false claims law;

"(3) the term 'false claims law investigator' means any attorney or investigator employed by the Department of Justice who is charged with the duty of enforcing or carrying into effect any false claims law, or any officer or employee of the United States acting under the direction and supervision of such attorney or investigator in connection with a false claims law investigation;

"(4) the term 'person' means any natural person, partnership, corporation, association, or other legal entity, including any State or political subdivision of a State;

"(5) the term 'documentary material' includes the original or any copy of any book, record, report, memorandum, paper, communication, tabulation, chart, or other document, or data compilations stored in or accessible through computer or other information retrieval systems, together with instructions and all other materials necessary to use or interpret such data compilations, and any product of discovery;

"(6) the term 'custodian' means the custodian, or any deputy custodian, designated by the Attorney General under subsection (i)(1); and

"(7) the term 'product of discovery' includes—

"(A) the original or duplicate of any deposition, interrogatory, document, thing, result of the inspection of land or other property, examination, or admission, which is obtained by any method of discovery in any judicial or administrative proceeding of an adversarial nature;

"(B) any digest, analysis, selection, compilation, or derivation of any item listed in subparagraph (A); and

"(C) any index or other manner of access to any item listed in subparagraph (A).".

(b) CLERICAL AMENDMENT.—The table of contents for chapter 37 of title 31, United States Code, is amended by adding after the item relating to section 3731 the following:

"3732. False claims jurisdiction.
"3733. Civil investigative demands.".

SEC. 7. CRIMINAL PENALTIES.

Section 287 of title 18, United States Code, is amended by striking "fined" and all that follows through "both" and inserting "imprisoned not more than five years and shall be subject to a fine in the amount provided in this title".

Approved October 27, 1986.

LEGISLATIVE HISTORY—S. 1562 (H.R. 4827):

HOUSE REPORTS: No. 99-660 accompanying H.R. 4827 (Comm. on the Judiciary).
SENATE REPORTS: No. 99-345 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 11, considered and passed Senate.
Sept. 9, H.R. 4827 considered and passed House; proceedings vacated and S. 1562, amended, passed in lieu.
Oct. 3, Senate concurred in House amendment with an amendment.
Oct. 7, House concurred in Senate amendment.

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RISK RETENTION AMENDMENTS OF 1986

Public Law 99-563
99th Congress

An Act

Oct. 27, 1986
[S. 2129]

Risk Retention Amendments of 1986.
State and local governments.
15 USC 3901 note.

To amend the Product Liability Risk Retention Act of 1981 to include coverage of other lines of liability insurance, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Risk Retention Amendments of 1986".

SEC. 2. REFERENCES IN THE ACT.

Whenever in this Act an amendment is expressed in terms of an amendment to a section, the reference shall be deemed to be a reference to the Product Liability Risk Retention Act of 1981 (15 U.S.C. 3901 et seq.), unless otherwise provided.

SEC. 3. COVERAGE OFFERED BY RISK RETENTION GROUPS.

(a) EXPANSION OF COVERAGE.—Section 2(a) (15 U.S.C. 3901(a)) is amended—

(1) by striking paragraphs (1) and (3);

(2) by redesignating paragraph (2) as paragraph (1); and

(3) by inserting after paragraph (1), as so redesignated, the following new paragraphs:

"(2) 'liability'—

"(A) means legal liability for damages (including costs of defense, legal costs and fees, and other claims expenses) because of injuries to other persons, damage to their property, or other damage or loss to such other persons resulting from or arising out of—

"(i) any business (whether profit or nonprofit), trade, product, services (including professional services), premises, or operations, or

"(ii) any activity of any State or local government, or any agency or political subdivision thereof; and

"(B) does not include personal risk liability and an employer's liability with respect to its employees other than legal liability under the Federal Employers' Liability Act (45 U.S.C. 51 et seq.);

"(3) 'personal risk liability' means liability for damages because of injury to any person, damage to property, or other loss or damage resulting from any personal, familial, or household responsibilities or activities, rather than from responsibilities or activities referred to in paragraphs (2)(A) and (2)(B);".

(b) DEFINITIONS.—Such section is further amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(7) 'hazardous financial condition' means that, based on its present or reasonably anticipated financial condition, a risk retention group is unlikely to be able—

"(A) to meet obligations to policyholders with respect to known claims and reasonably anticipated claims; or

"(B) to pay other obligations in the normal course of business.".

SEC. 4. REQUIREMENTS RELATING TO RISK RETENTION GROUPS AND PURCHASING GROUPS.

Corporations. Business and industry. Bermuda. Cayman Islands.

(a) CHARACTERISTICS OF RISK RETENTION GROUPS AND THEIR MEMBERS.—(1) Section 2(a)(4) (15 U.S.C. 3901(a)(4)) is amended by striking "taxable as a corporation, or as an insurance company, formed under the laws of any State, Bermuda, or the Cayman Islands".

(2) Subparagraph (A) of such section is amended by striking "product liability or completed operations liability risk exposure" and inserting "liability exposure".

(3) Subparagraph (C) of such section is amended to read as follows:

"(C) which—

"(i) is chartered or licensed as a liability insurance company under the laws of a State and authorized to engage in the business of insurance under the laws of such State; or

"(ii) before January 1, 1985, was chartered or licensed and authorized to engage in the business of insurance under the laws of Bermuda or the Cayman Islands and, before such date, had certified to the insurance commissioner of at least one State that it satisfied the capitalization requirements of such State, except that any such group shall be considered to be a risk retention group only if it has been engaged in business continuously since such date and only for the purpose of continuing to provide insurance to cover product liability or completed operations liability (as such terms were defined in this section before the date of the enactment of the Risk Retention Act of 1986);".

(4) Such section is further amended—

(A) by striking "and" at the end of subparagraph (D); and

(B) by striking subparagraph (E) and inserting the following new subparagraphs:

"(E) which—

"(i) has as its owners only persons who comprise the membership of the risk retention group and who are provided insurance by such group; or

"(ii) has as its sole owner an organization which has as—

"(I) its members only persons who comprise the membership of the risk retention group; and

"(II) its owners only persons who comprise the membership of the risk retention group and who are provided insurance by such group;

"(F) whose members are engaged in businesses or activities similar or related with respect to the liability to which such members are exposed by virtue of any related, similar, or common business, trade, product, services, premises, or operations;

"(G) whose activities do not include the provision of insurance other than—

"(i) liability insurance for assuming and spreading all or any portion of the similar or related liability exposure of its group members; and

"(ii) reinsurance with respect to the similar or related liability exposure of any other risk retention group (or any member of such other group) which is engaged in businesses or activities so that such group (or member) meets the requirement described in subparagraph (F) for membership in the risk retention group which provides such reinsurance; and

"(H) the name of which includes the phrase 'Risk Retention Group'.".

(b) CHARACTERISTICS OF PURCHASING GROUPS.—Section 2(a)(5) (15 U.S.C. 3901(a)(5)) is amended to read as follows:

"(5) 'purchasing group' means any group which—

"(A) has as one of its purposes the purchase of liability insurance on a group basis;

"(B) purchases such insurance only for its group members and only to cover their similar or related liability exposure, as described in subparagraph (C);

"(C) is composed of members whose businesses or activities are similar or related with respect to the liability to which members are exposed by virtue of any related, similar, or common business, trade, product, services, premises, or operations; and

"(D) is domiciled in any State;".

SEC. 5. CONCERNING SCOPE OF EXEMPTIONS RELATING TO RISK RETENTION GROUPS.

(a) IN GENERAL.—Section 3(b) (15 U.S.C. 3902(b)) is amended to read as follows:

Business and industry.

"(b) The exemptions specified in subsection (a) apply to laws governing the insurance business pertaining to—

"(1) liability insurance coverage provided by a risk retention group for—

"(A) such group; or

"(B) any person who is a member of such group;

"(2) the sale of liability insurance coverage for a risk retention group; and

"(3) the provision of—

"(A) insurance related services;

Securities.

"(B) management, operations, and investment activities; or

Claims.

"(C) loss control and claims administration (including loss control and claims administration services for uninsured risks retained by any member of such group);

for a risk retention group or any member of such group with respect to liability for which the group provides insurance.".

(b) PLANS OF OPERATION, FEASIBILITY STUDIES, AND FINANCIAL STATEMENTS.—Section 3 (15 U.S.C. 3902) is further amended—

(1) in subsection (a)(1)—

(A) by striking subparagraph (D) and redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), accordingly; and

(B) by striking all that follows after "documents or process" in subparagraph (D) (as redesignated) and inserting a semicolon; and

(2) by adding at the end of such section the following new subsection:

"(d) Each risk retention group shall submit—

"(1) to the insurance commissioner of the State in which it is chartered—

"(A) before it may offer insurance in any State, a plan of operation or a feasibility study which includes the coverages, deductibles, coverage limits, rates, and rating classification systems for each line of insurance the group intends to offer; and

"(B) revisions of such plan or study if the group intends to offer any additional lines of liability insurance;

"(2) to the insurance commissioner of each State in which it intends to do business, before it may offer insurance in such State—

"(A) a copy of such plan or study (which shall include the name of the State in which it is chartered and its principal place of business); and

"(B) a copy of any revisions to such plan or study, as provided in paragraph (1)(B) (which shall include any change in the designation of the State in which it is chartered); and

"(3) to the insurance commissioner of each State in which it is doing business, a copy of the group's annual financial statement submitted to the State in which the group is chartered as an insurance company, which statement shall be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves made by—

"(A) a member of the American Academy of Actuaries, or

"(B) a qualified loss reserve specialist.".

(c) EXAMINATION OF FINANCIAL CONDITION.—Section 3(a)(1)(E) (as redesignated by subsection (b)) is amended— 15 USC 3902.

(1) by striking clause (i);

(2) by redesignating clause (ii) as clause (i); and

(3) by adding at the end the following new clause:

"(ii) any such examination shall be coordinated to avoid unjustified duplication and unjustified repetition;".

(d) COMPLIANCE WITH DELINQUENCY PROCEEDING ORDERS.—Section 3(a)(1)(F) (as redesignated by subsection (b)) is amended to read as follows:

"(F) comply with a lawful order issued—

"(i) in a delinquency proceeding commenced by the State insurance commissioner if there has been a finding of financial impairment under subparagraph (E); or

"(ii) in a voluntary dissolution proceeding;".

(e) ADDITIONAL STATE LAW REQUIREMENTS.—Section 3(a)(1) (15 U.S.C. 3902(a)(1)) is further amended by adding at the end the following new subparagraphs:

"(G) comply with any State law regarding deceptive, false, or fraudulent acts or practices, except that if the State seeks an injunction regarding the conduct described in this subparagraph, such injunction must be obtained from a court of competent jurisdiction; Fraud.

"(H) comply with an injunction issued by a court of competent jurisdiction, upon a petition by the State insurance commissioner alleging that the group is in hazardous financial condition or is financially impaired; and

"(I) provide the following notice, in 10-point type, in any insurance policy issued by such group:

" 'NOTICE

" 'This policy is issued by your risk retention group. Your risk retention group may not be subject to all of the insurance laws and regulations of your State. State insurance insolvency guaranty funds are not available for your risk retention group.' ".

SEC. 6. ADDITIONAL REQUIREMENTS RELATING TO PURCHASING GROUPS.

Post, p. 3175.

Section 4 (15 U.S.C. 3903) is amended by adding at the end the following new subsections:

"(d)(1) A purchasing group which intends to do business in any State shall furnish notice of such intention to the insurance commissioner of such State. Such notice—

"(A) shall identify the State in which such group is domiciled;

"(B) shall specify the lines and classifications of liability insurance which the purchasing group intends to purchase;

"(C) shall identify the insurance company from which the group intends to purchase insurance and the domicile of such company; and

"(D) shall identify the principal place of business of the group.

"(2) Such purchasing group shall notify the commissioner of any such State as to any subsequent changes in any of the items provided in such notice.

"(e) A purchasing group shall register with and designate the State insurance commissioner of each State in which it does business as its agent solely for the purpose of receiving service of legal documents or process, except that such requirement shall not apply in the case of a purchasing group—

"(1) which—

"(A) was domiciled before April 1, 1986; and

"(B) is domiciled on and after the date of the enactment of this Act;

in any State of the United States;

"(2) which—

"(A) before the date of the enactment of this Act, purchased insurance from an insurance carrier licensed in any State; and

"(B) since such date of enactment, purchases its insurance from an insurance carrier licensed in any State;

"(3) which was a purchasing group under the requirements of this Act before the date of the enactment of the Risk Retention Amendments of 1986; and

"(4) as long as such group does not purchase insurance that was not authorized for purposes of an exemption under this Act as in effect before the date of the enactment of the Risk Retention Amendments of 1986.

"(f) A purchasing group may not purchase insurance from a risk retention group that is not chartered in a State or from an insurer not admitted in the State in which the purchasing group is located, unless the purchase is effected through a licensed agent or broker

acting pursuant to the surplus lines laws and regulations of such State.".

SEC. 7. CONCERNING AUTHORITY OF STATES TO ENJOIN CERTAIN CONDUCT.

Section 3 (15 U.S.C. 3902), as amended by section 5(b) of this Act, is further amended by adding at the end the following new subsection:

"(e) Nothing in this section shall be construed to affect the authority of any Federal or State court to enjoin—

"(1) the solicitation or sale of insurance by a risk retention group to any person who is not eligible for membership in such group; or

"(2) the solicitation or sale of insurance by, or operation of, a risk retention group that is in hazardous financial condition or is financially impaired.".

SEC. 8. ADDITIONAL CLARIFICATION OF PERMISSIBLE STATE AUTHORITY.

(a) CLARIFICATION OF STATE AUTHORITY RESPECTING RISK RETENTION GROUPS.—Section 3 (15 U.S.C. 3902), as amended by sections 5(b) and 7 of this Act, is further amended by adding at the end the following new subsections:

"(f)(1) Subject to the provisions of subsection (a)(1)(G) (relating to injunctions) and paragraph (2), nothing in this Act shall be construed to affect the authority of any State to make use of any of its powers to enforce the laws of such State with respect to which a risk retention group is not exempt under this Act.

"(2) If a State seeks an injunction regarding the conduct described in paragraphs (1) and (2) of subsection (e), such injunction must be obtained from a Federal or State court of competent jurisdiction.

"(g) Nothing in this Act shall affect the authority of any State to bring an action in any Federal or State court.

"(h) Nothing in this Act shall be construed to affect the authority of any State to regulate or prohibit the ownership interest in a risk retention group by an insurance company in that State, other than in the case of ownership interest in a risk retention group whose members are insurance companies.".

(b) CLARIFICATION OF STATE AUTHORITY RESPECTING PURCHASING GROUPS.—Section 4 (15 U.S.C. 3903), as amended by section 6 of this Act, is further amended—

(1) in subsection (a), by inserting "and section 6" after "section"; and

(2) by adding at the end the following new subsections:

"(g) Nothing in this Act shall be construed to affect the authority of any State to make use of any of its powers to enforce the laws of such State with respect to which a purchasing group is not exempt under this Act.

"(h) Nothing in this Act shall affect the authority of any State to bring an action in any Federal or State court.".

(c) OTHER CLARIFICATION.—The Act is further amended by adding at the end the following new section:

Motor vehicles.

"CLARIFICATION CONCERNING PERMISSIBLE STATE AUTHORITY

"SEC. 6. (a) Nothing in this Act shall be construed to exempt a risk retention group or purchasing group authorized under this Act from

15 USC 3905.

the policy form or coverage requirements of any State motor vehicle no-fault or motor vehicle financial responsibility insurance law.

"(b) The exemptions provided under this Act shall apply only to the provision of liability insurance by a risk retention group or the purchase of liability insurance by a purchasing group, and nothing in this Act shall be construed to permit the provision or purchase of any other line of insurance by any such group.

"(c) The terms of any insurance policy provided by a risk retention group or purchased by a purchasing group shall not provide or be construed to provide insurance policy coverage prohibited generally by State statute or declared unlawful by the highest court of the State whose law applies to such policy.

15 USC 3902.

"(d) Subject to the provisions of section 3(a)(4) relating to discrimination, nothing in this Act shall be construed to preempt the authority of a State to specify acceptable means of demonstrating financial responsibility where the State has required a demonstration of financial responsibility as a condition for obtaining a license or permit to undertake specified activities. Such means may include or exclude insurance coverage obtained from an admitted insurance company, an excess lines company, a risk retention group, or any other source regardless of whether coverage is obtained directly from an insurance company or through a broker, agent, purchasing group, or any other person.".

SEC. 9. INJUNCTIVE POWERS OF FEDERAL COURTS.

The Act, as amended by section 8(c) of this Act, is further amended by adding at the end the following new section:

"INJUNCTIVE ORDERS ISSUED BY UNITED STATES DISTRICT COURTS

15 USC 3906.

"SEC. 7. Any district court of the United States may issue an order enjoining a risk retention group from soliciting or selling insurance, or operating, in any State (or in all States) or in any territory or possession of the United States upon a finding of such court that such group is in hazardous financial condition. Such order shall be binding on such group, its officers, agents, and employees, and on any other person acting in active concert with any such officer, agent, or employee, if such other person has actual notice of such order.".

SEC. 10. OVERSIGHT OF IMPLEMENTATION; REPORT TO CONGRESS.

15 USC 3901 note.

(a) IN GENERAL.—(1) Not later than September 1, 1987, and not later than September 1, 1989, the Secretary of Commerce shall submit reports to the Congress concerning implementation of this Act.

(2) Such report shall be based on—

(A) the Secretary's consultation with State insurance commissioners, risk retention groups, purchasing groups, and other interested parties; and

(B) the Secretary's analysis of other information available to the Secretary.

(b) CONTENTS OF THE REPORT.—The report shall describe the Secretary's views concerning—

(1) the contribution of this Act toward resolution of problems relating to the unavailability and unaffordability of liability insurance;

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(2) the extent to which the structure of regulation and preemption established by this Act is satisfactory;

(3) the extent to which, in the implementation of this Act, the public is protected from unsound financial practices and other commercial abuses involving risk retention groups and purchasing groups;

(4) the causes of any financial difficulties of risk retention groups and purchasing groups;

(5) the extent to which risk retention groups and purchasing groups have been discriminated against under State laws, practices, and procedures contrary to the provisions and underlying policy of this Act and the Product Liability Risk Retention Act (as amended by this Act); and

(6) such other comments and conclusions as the Secretary deems relevant to assessment of the implementation of this Act.

SEC. 11. EFFECTIVE DATE; APPLICABILITY.

(a) GENERAL RULE.—Subject to subsection (b), this Act shall take effect on the date of its enactment. 15 USC 3901 note.

(b) SPECIAL RULE REGARDING FEASIBILITY STUDY.—The provisions of section 3(d) of the Liability Risk Retention Act of 1986 (as added by section 5(b) of this Act), relating to the submission of a feasibility study, shall not apply with respect to any line or classification of liability insurance which— 15 USC 3901 note.

(1) was defined in the Product Liability Risk Retention Act of 1981 before the date of the enactment of this Act; and 15 USC 3901 note.

(2) was offered before such date of enactment by any risk retention group which has been chartered and operating for not less than 3 years before such date of enactment.

(c) RULE REGARDING POLLUTION LIABILITY.—

(1) Section 210 of the Superfund Amendments and Reauthorization Act of 1986 is amended by inserting "(a)" following "Pollution Liability Insurance" and adding at the end thereof the following: *Ante*, p. 1716.

"(b) For purposes of subsection (a) of this section, the powers and authorities of States addressed by the Risk Retention Amendments of 1986 are in addition to those of this Act.". 42 USC 9671 note.

(2) Nothing in this Act shall be construed, interpreted or applied to diminish the obligations of any person to establish or maintain evidence of financial responsibility or otherwise comply with any of the requirements of Federal environmental laws, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and the Solid Waste Disposal Act. 15 USC 3901 note. 42 USC 9601 note. 42 USC 6901 note.

SEC. 12. TECHNICAL AND CONFORMING AMENDMENTS.

(a) IN THE SHORT TITLE.—Section 1 (15 U.S.C. 3901, note) is amended to read as follows: *Ante*, p. 3170.

"SHORT TITLE

"SECTION 1. This Act may be cited as the 'Liability Risk Retention Act of 1986'."

(b) IN SECTION 2(b).—Section 2(b) (15 U.S.C. 3901(b)) is amended by striking "product liability and product liability insurance" and inserting "liability, personal risk liability, and insurance".

(c) IN SECTION 3(a)(1)(C).—Section 3(a)(1)(C) (15 U.S.C. 3902(a)(1)(C)) is amended by striking "product liability or completed operations".

(d) IN SECTION 4(b).—Section 4(b) (15 U.S.C. 3903(b)) is amended—

(1) in paragraph (1), by striking "product liability or completed operations liability insurance, and comprehensive general liability insurance which includes either of these coverages," and inserting "liability insurance"; and

(2) in paragraph (2), by striking "product liability or completed operations insurance, and comprehensive general".

Approved October 27, 1986.

LEGISLATIVE HISTORY—S. 2129 (H.R. 5225):

HOUSE REPORTS: No. 99-865 accompanying H.R. 5225 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 99-294 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 132 (1986):
July 17, considered and passed Senate.
Sept. 23, H.R. 5225 considered and passed House; proceedings vacated and S. 2129, amended, passed in lieu.
Oct. 6, Senate concurred in House amendments with an amendment.
Oct. 9, House concurred in Senate amendment.

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Public Law 99-564
99th Congress

An Act

To amend an Act to add certain lands on the Island of Hawaii to Hawaii Volcanoes National Park, and for other purposes.

Oct. 27, 1986
[S. 2320]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Real property.

SECTION 1. ADDITION TO HAWAII VOLCANOES NATIONAL PARK.

The Act entitled "An Act to add certain lands on the Island of Hawaii to the Hawaii National Park, and for other purposes" (52 Stat. 781; 16 U.S.C. 391b) is amended by adding at the end the following new section:

"SEC. 5. (a) Notwithstanding any other provision of this Act, the Secretary of the Interior (hereinafter referred to as the 'Secretary') is authorized to acquire by donation or exchange the land and interests therein comprising approximately 5,650 acres and identified as tract number 118/22 on the map entitled 'Recommended Land Acquisition', in the Hawaii Volcanoes National Park Land Protection Plan as recommended May 17, 1985, which plan shall be on file and available for public inspection in the Office of the Director, National Park Service, Department of the Interior, Washington, D.C. and the Office of the Superintendent, Hawaii Volcanoes National Park, Hawaii.

Public information.
16 USC 392c.

"(b) In exercising his authority to acquire the real property referred to in subsection (a) by exchange, the Secretary may accept title thereto and in exchange therefor he may convey to the grantor of such real property title to any United States Government real property under his administrative jurisdiction, other than real property within or administered as a part of the National Park System, in the State of Hawaii which he determines is suitable for such exchange. The values of the properties exchanged shall be approximately equal, or if they are not approximately equal, the values shall be equalized by the payment of money to the grantor or to the Secretary as the circumstances require. In no circumstance shall an equalization payment exceed one fourth (25 percent) the appraised value of the real property referred to in subsection (a). Any money paid to the Secretary shall be deposited as miscellaneous receipts in the Treasury of the United States.

"(c) Real property owned by the State of Hawaii or any political subdivision thereof may be acquired only by donation or exchange.

"(d)(1) In order to facilitate the acquisition of the real property referred to in subsection (a) by exchange, notwithstanding any other provision of law, upon request of the Secretary, the Administrator of General Services shall transfer to the Secretary, without reimbursement, administrative jurisdiction over any excess or surplus United States Government real property in the State of Hawaii for purposes of such an exchange.

"(2) For the purposes of a land exchange with the State of Hawaii, the Secretary shall consult with the State of Hawaii in the process

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of identifying suitable exchange lands belonging to the United States Government.

"(3) For the purposes of a land exchange with the State of Hawaii, real property owned by the United States Government and selected for use in a land exchange shall not be from among those lands ceded to the United States Government.

"(e) The real property acquired by the Secretary pursuant to this section shall be administered by the Secretary as part of Hawaii Volcanoes National Park, subject to the laws and regulations applicable to the Park.

Appropriation authorization.

"(f) There is hereby authorized to be appropriated up to $700,000 to carry out the purpose of this section.".

Approved October 27, 1986.

LEGISLATIVE HISTORY—S. 2320:

HOUSE REPORTS: No. 99-971 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 99-418 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 10, considered and passed Senate.
Oct. 10, considered and passed House.

Public Law 99-565
99th Congress

An Act

To establish a Great Basin National Park in the State of Nevada, and for other purposes.

Oct. 27, 1986
[S. 2506]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Great Basin National Park Act of 1986.

SHORT TITLE

SECTION 1. This Act may be known as the "Great Basin National Park Act of 1986".

16 USC 410mm note.

ESTABLISHMENT

SEC. 2. (a) In order to preserve for the benefit and inspiration of the people a representative segment of the Great Basin of the Western United States possessing outstanding resources and significant geological and scenic values, there is hereby established the Great Basin National Park (hereinafter in this Act referred to as the "park").

16 USC 410mm.

(b) The park shall consist of approximately seventy-six thousand acres, as depicted on the map entitled "Boundary Map, Great Basin National Park, Nevada," numbered NA-GB 20,017, and dated October 1986. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, and the Office of the Superintendent, Great Basin National Park, Nevada.

Public information.

(c) Within 6 months after the enactment of this Act, the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall file a legal description of the park designated under this section with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description and in the map referred to in subsection (a). The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

Public information.

(d)(1) The Lehman Caves National Monument, designated on January 24, 1922, by Presidential proclamation under the authority contained in the Act of June 8, 1906 (34 Stat. 225) is hereby abolished and the lands incorporated within the Great Basin National Park. Any reference in any law, map, regulation, document, record, or other paper of the United States to such national monument shall be deemed to be a reference to Great Basin National Park.

(2) Any funds available for purposes of the national monument shall be available for purposes of the park.

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ADMINISTRATION

Conservation.
Fish and fishing.
Wildlife.
16 USC
410mm-1.

SEC. 3. (a) The Secretary shall administer the park in accordance with this Act and with the provisions of law generally applicable to units of the national park system, including the Act entitled "An Act to establish a National Park Service, and for other purposes," approved August 26, 1916 (39 Stat. 535; 16 U.S.C. 1-4). The Secretary shall protect, manage, and administer the park in such manner as to conserve and protect the scenery, the natural, geologic, historic, and archaeological resources of the park, including fish and wildlife and to provide for the public use and enjoyment of the same in such a manner as to perpetuate these qualities for future generations.

(b) The Secretary shall permit fishing on lands and waters under his jurisdiction within the park in accordance with the applicable laws of the United States and the State of Nevada, except that he may designate zones where, and periods when, no fishing may be permitted for reasons of public safety. Except in emergencies, any regulations prescribing such restrictions relating to fishing, shall be put into effect only after consultation with the appropriate State agency having jurisdiction over fishing activities.

(c) After notice and opportunity for public hearing, the Secretary shall prepare a management plan for the park. The Secretary shall submit such plan to the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate within three years after the enactment of this Act. Such plan may be amended from time to time. The plan shall include, but not be limited to, provisions related to grazing within the park to the extent permitted under subsection (e) and provisions providing for the appropriate management of fish and wildlife and fishing within the park in accordance with subsection (b). Such provisions shall be adopted only after consultation with the appropriate State agency having jurisdiction over fish and wildlife.

(d) Subject to valid existing rights, Federal lands and interests therein, within the park, are withdrawn from disposition under the public lands laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970, as amended.

30 USC 1001
note.

(e) Subject to such limitations, conditions, or regulations as he may prescribe, the Secretary shall permit grazing on lands within the park to the same extent as was permitted on such lands as of July 1, 1985. Grazing within the park shall be administered by the National Park Service.

(f) At the request of the permittee, or at the initiative of the Secretary, negotiations may take place at any time with holders of valid existing grazing permits on land within the park, for an exchange of all or part of their grazing allotments for allotments outside the park. No such exchange shall take place if, in the opinion of the affected Federal land management agency, the exchange would result in overgrazing of Federal lands.

(g) Existing water-related range improvements inside the park may be maintained by the Secretary or the persons benefitting from them, subject to reasonable regulation by the Secretary.

(h) Nothing in this Act shall be construed to establish a new express or implied reservation to the United States of any water or water-related right with respect to the land described in section 2 of

this Act: *Provided*, That the United States shall be entitled to only that express or implied reserved water right which may have been associated with the initial establishment and withdrawal of Humboldt National Forest and the Lehman Caves National Monument from the public domain with respect to the land described in section 2 of this Act. No provision of this Act shall be construed as authorizing the appropriation of water, except in accordance with the substantive and procedural law of the State of Nevada.

State and local governments.

(i) In order to encourage unified and cost-effective interpretation of the Great Basin physiographic region, the Secretary is authorized and encouraged to enter into cooperative agreements with other Federal, State, and local public departments and agencies providing for the interpretation of the Great Basin physiographic region. Such agreements shall include, but not be limited to, authority for the Secretary to develop and operate interpretive facilities and programs on lands and waters outside of the boundaries of such park, with the concurrence of the owner or administrator thereof.

ACQUISITION OF LAND

16 USC 410mm-2.

SEC. 4. (a) The Secretary may acquire land or interests in land within the boundaries of the park by donation, purchase with donated or appropriated funds, or exchange, but no such lands or interests therein may be acquired without the consent of the owner thereof. Lands owned by the State of Nevada or any political subdivision thereof may be acquired only by donation or exchange.

(b) Lands and waters, and interests therein, within the boundaries of the park which were administered by the Forest Service, United States Department of Agriculture prior to the date of enactment of this Act are hereby transferred to the administrative jurisdiction of the Secretary to be administered in accordance with this Act. The boundaries of the Humboldt National Forest shall be adjusted accordingly.

AUTHORIZATION OF APPROPRIATIONS

16 USC 410mm-3.

SEC. 5. (a) Not more than $800,000 are authorized to be appropriated for development of the park.

(b) Not more than $200,000 are authorized to be appropriated for acquisition of lands and interests in land within the park.

Approved October 27, 1986.

LEGISLATIVE HISTORY—S. 2506:

SENATE REPORTS: No. 99-458 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 30, considered and passed Senate.
Oct. 6, considered and passed House, amended.
Oct. 9, Senate concurred in House amendments.

O

HOULTON BAND OF MALISEET INDIANS SUPPLEMENTARY CLAIMS SETTLEMENT ACT OF 1986

Public Law 99-566
99th Congress

An Act

Oct. 27, 1986
[S. 2750]

To establish a property tax fund for the Houlton Band of Maliseet Indians in furtherance of the Maine Indian Claims Settlement Act of 1980, and for other purposes.

Houlton Band of Maliseet Indians Supplementary Claims Settlement Act of 1986.
25 USC 1724 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Houlton Band of Maliseet Indians Supplementary Claims Settlement Act of 1986".

DEFINITIONS

25 USC 1724 note.

SEC. 2. For purposes of this Act—

(1) The term "Houlton Band Tax Fund" means the fund established under section 3.

(2) The term "Houlton Band trust land" means land or natural resources acquired by the Secretary of the Interior and held in trust by the United States for the benefit of the Houlton Band of Maliseet Indians in accordance with section 5(d) of the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1724(d); 94 Stat. 1789).

(3) The term "amended Maine Implementing Act" means the Maine Implementing Act (defined in section 3(e) of the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1722(e); 94 Stat. 1787)) as amended by—

(A) the "Act to amend the Maine Implementing Act with respect to the Houlton Band of Maliseet Indians", enacted by the State of Maine in chapter 675 of the Public Laws of 1981, and

(B) the State of Maine in chapter 672 of the Public Laws of 1985.

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "Houlton Band of Maliseet Indians" has the meaning given to such term by section 3(a) of the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1722(a)).

HOULTON BAND TAX FUND

SEC. 3. (a) There is hereby established in the United States Treasury a fund to be known as the Houlton Band Tax Fund in which shall be deposited $200,000 in accordance with the provisions of this Act.

(b)(1) Income accrued on the land acquisition fund established for the Houlton Band of Maliseet Indians pursuant to subsections (c) and (d)(1) of section 5 of the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1724; 94 Stat. 1789) shall be transferred to the Houlton Band Tax Fund. No transfer shall be made under this subsection if such transfer would diminish such land acquisition fund to a balance of less than $900,000.

(2) Whenever funds are transferred to the Houlton Band Tax Fund pursuant to paragraph (1), the Secretary shall publish notice of such transfer in the Federal Register. Such notice shall specify when the full amount of $200,000 has been transferred to the Houlton Band Tax Fund.

Federal Register, publication.

(c) The Secretary shall manage the Houlton Band Tax Fund in accordance with the first section of the Act of June 24, 1938 (25 U.S.C. 162a), and shall utilize the principal and interest of such Fund only as provided in subsection (d) and for no other purpose.

(d) Notwithstanding the provisions of section 3727 of title 31, United States Code, the Secretary shall pay out of the Houlton Band Tax Fund all valid claims for taxes, payments in lieu of property taxes, and fees, together with any interest and penalties thereon—

Claims.

(1) for which the Houlton Band of Maliseet Indians are determined to be liable under the terms of section 6208-A(2) of the amended Maine Implementing Act,

(2) which are final and not subject to further administrative or judicial review, and

(3) which have been certified by the Commissioner of Finance and Administration of the State of Maine as valid claims (within the meaning of section 6208-A(2) of the amended Maine Implementing Act) that meet the requirements of this subsection.

(e) Notwithstanding any other provision of law, if—

(1) the Houlton Band of Maliseet Indians is liable to the State of Maine or any county, district, municipality, city, town, village, plantation, or any other political subdivision thereof for any tax, payment in lieu of property tax, or fees, together with any interest or penalties thereon, and

(2) there are insufficient funds in the Houlton Band Tax Fund to pay such tax, payment, or fee (together with any interest or penalties thereon) in full,

the deficiency shall be paid by the Houlton Band of Maliseet Indians only from income-producing property owned by such Band which is not held in trust for such Band by the United States, and such Band shall not be required to pay such tax, payment, or fee (or any interest or penalty thereon) from any other source.

(f) The Secretary shall, after consultation with the Commissioner of Finance and Administration of the State of Maine and the Houlton Band of Maliseet Indians, prescribe written procedures governing the filing and payment of claims under this section and section 6208-A of the amended Maine Implementing Act.

Maine.

HOULTON BAND TRUST LAND

SEC. 4. (a) Subject to the provisions of section 3 of this Act, the Secretary is authorized and directed to expend, at the request of the Houlton Band of Maliseet Indians, the principal of, and income accruing on, the land acquisition fund established for such Band under subsections (c) and (d)(1) of section 5 of the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1724; 94 Stat. 1789) for the purposes of acquiring land or natural resources for such Band and for no other purpose. Land or natural resources so acquired within the State of Maine for such Band shall be held in trust by the United States for the benefit of such Band.

Maine. Natural resources. 25 USC 1724 note.

(b)(1) Land or natural resources acquired with funds expended under the authority of subsection (a) and held in trust for the benefit of the Houlton Band of Maliseet Indians may be alienated only by—

(A) takings for public use pursuant to the laws of the State of Maine as provided in subsection (c),

(B) takings for public use pursuant to the laws of the United States,

(C) transfers authorized by section 5(g)(3) of the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1724(g)(3); 94 Stat. 1791), or

(D) transfers made pursuant to an Act or joint resolution of Congress.

All other transfers of land or natural resources acquired with funds expended under the authority of subsection (a) and held in trust for the benefit of such Band shall be void ab initio and without any validity in law or equity.

(2) The provisions of paragraph (1) shall not prohibit or limit transfers of individual use assignments of land or natural resources from one member of the Houlton Band of Maliseet Indians to another member of such Band.

(c)(1) Land or natural resources acquired with funds expended under the authority of subsection (a) and held in trust for the benefit of the Houlton Band of Maliseet Indians may be condemned for public purposes by the State of Maine, or any political subdivision thereof, only upon such terms and conditions as shall be agreed upon in writing between the State and such Band after the date of enactment of this Act.

(2) The consent of the United States is hereby given to the State of Maine to further amend the amended Maine Implementing Act for the purpose of embodying the agreement described in paragraph (1).

(d)(1) Lands and natural resources may be acquired by the Secretary for the Houlton Band of Maliseet Indians only if the Secretary has, at any time prior to such acquisition—

(A) transmitted a letter to the Secretary of State of the State of Maine stating that the Houlton Band Tax Fund contains $200,000, and

(B) provided the Secretary of State of the State of Maine with a copy of the procedures for filing and payment of claims prescribed under section 3(f).

(2)(A) No land or natural resources may be acquired by the Secretary for the Houlton Band of Maliseet Indians until the Secretary—

(i) files with the Secretary of State of the State of Maine a certified copy of the deed, contract, or other conveyance setting forth the location and boundaries of the land or natural resources to be acquired by the Secretary, or

(ii) files with the Secretary of State of the State of Maine a certified copy of any instrument setting forth the location and boundaries of the land or natural resources to be acquired.

(B) For purposes of subparagraph (A), filing with the Secretary of State of the State of Maine may be made by mail and, if such method of filing is used, shall be considered to be completed on the date on which the document is properly mailed to the Secretary of State of the State of Maine.

Approved October 27, 1986.

LEGISLATIVE HISTORY—S. 2750:

SENATE REPORTS: No. 99-469 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 24, considered and passed Senate.
Oct. 10, considered and passed House.

O

Public Law 99-567
99th Congress

An Act

Oct. 27, 1986
[S. 2914]

To extend through fiscal year 1988 SBA Pilot Programs under section 8 of the Small Business Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

15 USC 637.

SECTION 1. (a) Subparagraph (B) of section 8(a)(1) of the Small Business Act is amended by striking out "(other than the Department of Defense or any component thereof)".

15 USC 637 note.

(b) The designation of an agency pursuant to the amendment made by subsection (a) shall be made not later than sixty days after the date of enactment of this Act.

Contracts.

SEC. 2. The last sentence of section 8(a)(1) of the Small Business Act is amended to read as follows: "No contract may be entered into under subparagraph (B) after September 30, 1988.".

Securities.

SEC. 3. The last sentence of section 8(a)(2) is amended to read as follows: "The authority to waive bonds provided in this paragraph (2) may not be exercised after September 30, 1988.".

Approved October 27, 1986.

LEGISLATIVE HISTORY—S. 2914:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 9, considered and passed Senate.
Oct. 14, considered and passed House.

91-139 O - 87 (588)

Public Law 99-568
99th Congress

Joint Resolution

To designate the month of December 1986 as "Made in America Month".

Oct. 27, 1986
[S.J. Res. 392]

Whereas the trade deficit in our country in 1985 reached a record level of $148,500,000,000;

Whereas the 1986 trade deficit is predicted to increase still further;

Whereas over 1,661,000 jobs have been lost in the manufacturing sector since 1972 as a direct result of imports;

Whereas imports now account for more than 20 per centum of all manufactured products sold in the United States;

Whereas imports continue to grow at an increasing rate and constitute a larger and larger percentage of all manufactured goods sold in this Nation;

Whereas the manufacturing sector of the United States economy is shrinking dramatically as a result of imports;

Whereas a continuing flood of imports of manufactured goods could permanently reduce the manufacturing capacity of our Nation and, as a direct result, threaten our ability to respond to a national emergency and make the United States highly vulnerable to embargoes of a wide range of products necessary for the national defense and the smooth functioning of the national economy;

Whereas there is little awareness of the country of origin of most products sold in the United States; and

Whereas United States consumers should be aware of the impact that their purchase decisions could have on their own jobs and the economy as a whole: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the month of December 1986, "Made in America Month" and to call upon Federal, State, and local government agencies, and the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

Approved October 27, 1986.

LEGISLATIVE HISTORY—S.J. Res. 392:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 12, considered and passed Senate.
Oct. 10, considered and passed House.

O

91-139 O - 87 (589)

PUBLIC LAW 99-569—OCT. 27, 1986

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1987

91-139 O - 87 (590)

Public Law 99-569
99th Congress

An Act

Oct. 27, 1986
[H.R. 4759]

To authorize appropriations for fiscal year 1987 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Intelligence Authorization Act for Fiscal Year 1987.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1987".

TITLE I—INTELLIGENCE ACTIVITIES

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1987 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of the Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The Drug Enforcement Administration.

CLASSIFIED SCHEDULE OF AUTHORIZATIONS

SEC. 102. (a) The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1987, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the Committee of Conference to accompany H.R. 4759 of the Ninety-ninth Congress. That Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

(b) Funds appropriated to the Department of Defense for fiscal year 1987 for intelligence and intelligence-related activities and listed under the heading "ADDITIONAL SPECIFICALLY AUTHORIZED ACTIVITIES" in the Schedule of Authorizations to which subsection (a) refers, shall be considered to be specifically authorized by the Congress for such activities for purposes of section 502 of the

National Security Act of 1947, notwithstanding the absence of authorizations of appropriations for such activities in this Act. 50 USC 414.

PERSONNEL CEILING ADJUSTMENTS

SEC. 103. The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal year 1987 under sections 102 and 202 of this Act when he determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed 2 per centum of the number of civilian personnel authorized under such sections for such element. The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

AUTHORITY FOR THE CONDUCT OF INTELLIGENCE ACTIVITIES

SEC. 104. The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

INCREASES IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW

SEC. 105. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

RESTRICTION ON SUPPORT FOR MILITARY OR PARAMILITARY OPERATIONS IN NICARAGUA

SEC. 106. Funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated and expended during fiscal year 1987 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance to support military or paramilitary operations in Nicaragua only as authorized in section 101 and as specified in the classified Schedule of Authorizations referred to in section 102, or pursuant to section 502 of the National Security Act of 1947, or pursuant to any provision of law specifically providing such funds, materiel, or assistance. 50 USC 414.

RESTRICTION ON INTELLIGENCE AGENCY COOPERATION WITH SOUTH AFRICA

SEC. 107. No agency or entity of the United States involved in intelligence activities may engage in any form of cooperation, direct or indirect, with the Government of South Africa, except activities which are reasonably designed to facilitate the collection of necessary intelligence. It is the policy of the United States that no agency or entity of the United States involved in intelligence activities may provide any intelligence information to the Government of South Africa which pertains to a South African internal opposition 22 USC 5072a.

group, movement, organization, or individual. Any change in such policy, or the provision of intelligence information contrary to such policy, shall be considered a significant anticipated intelligence activity for purposes of section 501 of the National Security Act of 1947.

50 USC 413.

TITLE II—INTELLIGENCE COMMUNITY STAFF

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1987 the sum of $22,000,000.

AUTHORIZATION OF PERSONNEL END-STRENGTH

SEC. 202. (a) The Intelligence Community Staff is authorized two hundred thirty seven full-time personnel as of September 30, 1987. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1987, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(c) During fiscal year 1987, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY

SEC. 203. During fiscal year 1987, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND RELATED MATTERS

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1987 the sum of $125,800,000.

SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES OF CIA EMPLOYEES

50 USC 403 note.

SEC. 302. (a) Part C of title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended by adding at the end thereof the following new section:

"SURVIVOR BENEFITS FOR CERTAIN OTHER FORMER SPOUSES

"SEC. 224. (a)(1) Any individual who was a former spouse of a participant or former participant on November 15, 1982, shall be entitled, to the extent of available appropriations, and except to the extent such former spouse is disqualified under subsection (b), to a survivor annuity equal to 55 per centum of the greater of— 50 USC 403 note.

"(A) the full amount of the participant's or former participant's annuity, as computed under section 221(a); or

"(B) the full amount of what such annuity as so computed would be if the participant or former participant had not withdrawn a lump-sum portion of contributions made with respect to such annuity.

"(2) A survivor annuity payable under this section shall be reduced by an amount equal to the amount of retirement benefits, not including benefits under title II of the Social Security Act, received by the former spouse which are attributable to previous employment of such former spouse by the United States. 42 USC 401.

"(b) A former spouse shall not be entitled to a survivor annuity under this section if—

"(1) an election has been made with respect to such former spouse under section 223;

"(2) the former spouse remarries before age fifty-five; or

"(3) the former spouse is less than fifty years of age.

"(c)(1) The entitlement of a former spouse to a survivor annuity under this section—

"(A) shall commence—

"(i) in the case of a former spouse of a participant or former participant who is deceased as of the effective date of this section, beginning on the later of—

"(I) the sixtieth day after such date; or

"(II) the date such former spouse reaches age fifty; and

"(ii) in the case of any other former spouse, beginning on the lastest of—

"(I) the date that the participant or former participant to whom the former spouse was married dies;

"(II) the sixtieth day after the effective date of this section; or

"(III) the date such former spouse reaches age fifty; and

"(B) shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age fifty-five.

"(2)(A) A survivor annuity under this section shall not be payable unless appropriate written application is provided to the Director, complete with any supporting documentation which the Director may by regulation require, within thirty months after the effective date of this section.

"(B) Upon approval of an application provided under subparagraph (A), the appropriate survivor annuity shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such annuity under this section, but in no event shall a survivor annuity be payable under this section with respect to any period before the effective date of this section.

"(d) The Director shall—

"(1) as soon as possible, but not later than sixty days after the effective date of this section, issue such regulations as may be necessary to carry out this section; and

"(2) to the maximum extent practicable, and as soon as possible, inform each individual who was a former spouse of a participant or former participant on November 15, 1982, of any rights which such individual may have under this section.".

(b) Section 14(a) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403n(a)) is amended by inserting "224," after "222, 223,".

(c) For fiscal year 1987, not to exceed $500,000 shall be available from amounts appropriated under the authority of section 101(1) of this Act for survivor annuities under section 224 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees and under the amendment made by subsection (b) of this section.

Ante, p. 3193.

(d) The amendments made by this section shall take effect on October 1, 1986.

50 USC 403n note.

HEALTH BENEFITS FOR CERTAIN FORMER SPOUSES OF CENTRAL INTELLIGENCE AGENCY EMPLOYEES

SEC. 303. (a) The Central Intelligence Agency Act of 1949 is amended by adding at the end a new section as follows:

"HEALTH BENEFITS FOR CERTAIN FORMER SPOUSES OF CENTRAL INTELLIGENCE AGENCY EMPLOYEES

50 USC 403p.

"SEC. 16. (a) Except as provided in subsection (c)(1), any individual—

"(1) formerly married to an employee or former employee of the Agency, whose marriage was dissolved by divorce or annulment before May 7, 1985;

"(2) who, at any time during the eighteen-month period before the divorce or annulment became final, was covered under a health benefits plan as a member of the family of such employee or former employee; and

"(3) who was married to such employee for not less than ten years during periods of service by such employee with the Agency, at least five years of which were spent outside the United States by both the employee and the former spouse,

is eligible for coverage under a health benefits plan in accordance with the provisions of this section.

"(b)(1) Any individual eligible for coverage under subsection (a) may enroll in a health benefits plan for self alone or for self and family if, before the expiration of the six-month period beginning on the effective date of this section, and in accordance with such procedures as the Director of the Office of Personnel Management shall by regulation prescribe, such individual—

"(A) files an election for such enrollment; and

"(B) arranges to pay currently into the Employees Health Benefits Fund under section 8909 of title 5, United States Code, an amount equal to the sum of the employee and agency contributions payable in the case of an employee enrolled under chapter 89 of such title in the same health benefits plan and with the same level of benefits.

5 USC 8901 *et seq.*

"(2) The Director of Central Intelligence shall, as soon as possible, take all steps practicable—

"(A) to determine the identity and current address of each former spouse eligible for coverage under subsection (a); and

"(B) to notify each such former spouse of that individual's rights under this section.

"(3) The Director of the Office of Personnel Management, upon notification by the Director of Central Intelligence, shall waive the six-month limitation set forth in paragraph (1) in any case in which the Director of Central Intelligence determines that the circumstances so warrant.

"(c)(1) Any former spouse who remarries before age fifty-five is not eligible to make an election under subsection (b)(1).

"(2) Any former spouse enrolled in a health benefits plan pursuant to an election under subsection (b)(1) may continue the enrollment under the conditions of eligibility which the Director of the Office of Personnel Management shall by regulation prescribe, except that any former spouse who remarries before age fifty-five shall not be eligible for continued enrollment under this section after the end of the thirty-one-day period beginning on the date of remarriage.

"(d) No individual may be covered by a health benefits plan under this section during any period in which such individual is enrolled in a health benefits plan under any other authority, nor may any individual be covered under more than one enrollment under this section.

"(e) For purposes of this section the term 'health benefits plan' means an approved health benefits plan under chapter 89 of title 5, United States Code.". 5 USC 8901 *et seq.*

(b) The amendment made by this section shall take effect on October 1, 1986. 50 USC 403p note.

TITLE IV—COUNTERINTELLIGENCE AND SECURITY

COUNTERINTELLIGENCE OFFICIAL VISITOR EXCHANGES

SEC. 401. (a) Chapter 33 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 539. Counterintelligence official reception and representation expenses 28 USC 539.

"The Director of the Federal Bureau of Investigation may use funds available to the Federal Bureau of Investigation for counterintelligence programs to pay the expenses of hosting foreign officials in the United States under the auspices of the Federal Bureau of Investigation for consultation on counterintelligence matters.".

(b) The table of contents for chapter 33 of title 28, United States Code, is amended by adding at the end thereof the following:

"539. Counterintelligence official reception and representation expenses.".

(c) Chapter 4 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 140a. Counterintelligence official reception and representation expenses 10 USC 140a.

"The Secretary of Defense may use funds available to the Department of Defense for counterintelligence programs to pay the expenses of hosting foreign officials in the United States under the

auspices of the Department of Defense for consultation on counterintelligence matters.".

(d) The table of contents for chapter 4 of title 10, United States Code, is amended by adding at the end thereof the following:

"140a. Counterintelligence official reception and representation expenses.".

FBI ACCESS TO STATE AND LOCAL CRIMINAL RECORDS FOR SECURITY CLEARANCES

SEC. 402. (a) Section 9101 of title 5, United States Code, is amended as follows:

(1) in paragraph (1) of subsection (b) by striking "or" after "Office of Personnel Management,", by inserting "or the Federal Bureau of Investigation," after "the Central Intelligence Agency,", and by striking "department, office or agency" and inserting in lieu thereof "department, office, agency or bureau";

(2) in subparagraph (3)(A) of subsection (b) by striking "or" after "Office of Personnel Management," by inserting ", or the Federal Bureau of Investigation" after "the Central Intelligence Agency", by striking "department, office or agency" and inserting in lieu thereof "department, office, agency, or bureau", and by striking "department, office, or agency." and inserting in lieu thereof "department, office, agency, or bureau.";

(3) in subparagraph (3)(B) of subsection (b) by striking "or" after "Office of Personnel Management," and by inserting ", or the Federal Bureau of Investigation" after "the Central Intelligence Agency"; and

(4) in subsection (c) by striking "or" after "Office of Personnel Management," and by inserting ", or the Federal Bureau of Investigation" after "the Central Intelligence Agency".

5 USC 9101 note.

(b) Section 803(a) of the Intelligence Authorization Act for fiscal year 1986 (Public Law 99-169) is amended by striking "and" after "Office of Personnel Management," and by inserting "and the Federal Bureau of Investigation," after "the Central Intelligence Agency,".

5 USC 9101 note.

(c) The amendments made by this section shall become effective with respect to any inquiry which begins after the date of enactment of this Act conducted by the Federal Bureau of Investigation for purposes specified in paragraph (b)(1) of section 9101 of title 5, United States Code.

PERMANENT EXTENSION OF DOD AUTHORITY TO USE PROCEEDS FROM COUNTERINTELLIGENCE OPERATIONS

SEC. 403. (a) Chapter 4 of title 10, United States Code, as amended by section 401(c) of this Act, is further amended by adding at the end thereof the following new section:

10 USC 140b.

"§ 140b. Authority to use proceeds from counterintelligence operations of the military departments

"(a) The Secretary of Defense may authorize, without regard to the provisions of section 3302 of title 31, United States Code, use of proceeds from counterintelligence operations conducted by components of the military departments to offset necessary and reasonable expenses, not otherwise prohibited by law, incurred in such operations, and to make exceptional performance awards to personnel

involved in such operations, if use of appropriated funds to meet such expenses or to make such awards would not be practicable.

"(b) As soon as the net proceeds from such counterintelligence operations are no longer necessary for the conduct of those operations, such proceeds shall be deposited into the Treasury as miscellaneous receipts.

"(c) The Secretary of Defense shall establish policies and procedures to govern acquisition, use, management, and disposition of proceeds from counterintelligence operations conducted by components of the military departments, including effective internal systems of accounting and administrative controls.".

(b) The table of contents for chapter 4 of title 10, United States Code, as amended by section 401(d) of this Act, is further amended by adding at the end thereof the following:

"140b. Authority to use proceeds from counterintelligence operations of the military departments.".

FEDERAL BUREAU OF INVESTIGATION COUNTERINTELLIGENCE ACCESS TO FINANCIAL RECORDS OF AGENTS OF FOREIGN POWERS

SEC. 404. Section 1114(a) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)) is amended by adding at the end thereof the following new paragraph:

"(5)(A) Financial institutions, and officers, employees, and agents thereof, shall comply with a request for a customer's or entity's financial records made pursuant to this subsection by the Federal Bureau of Investigation when the Director of the Federal Bureau of Investigation (or the Director's designee) certifies in writing to the financial institution that such records are sought for foreign counterintelligence purposes and that there are specific and articulable facts giving reason to believe that the customer or entity whose records are sought is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

"(B) The Federal Bureau of Investigation may disseminate information obtained pursuant to this paragraph only as provided in guidelines approved by the Attorney General for foreign intelligence collection and foreign counterintelligence investigations conducted by the Federal Bureau of Investigation, and, with respect to dissemination to an agency of the United States, only if such information is clearly relevant to the authorized responsibilities of such agency.

"(C) On a semiannual basis the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all requests made pursuant to this paragraph.

"(D) No financial institution, or officer, employee, or agent of such institution, shall disclose to any person that the Federal Bureau of Investigation has sought or obtained access to a customer's or entity's financial records under this paragraph.".

TITLE V—ADMINISTRATIVE AUTHORITIES RELATING TO INTELLIGENCE PERSONNEL

DEFENSE INTELLIGENCE AGENCY CIVILIAN MEDICAL EVACUATION BENEFIT

Ante, p. 628.

SEC. 501. Subsection 1605(a) of title 10, United States Code, is amended by inserting ", (5)" after "paragraphs (2), (3), (4)" and after "(22 U.S.C. 4081 (2), (3), (4)".

ONE YEAR EXTENSION OF DEFENSE INTELLIGENCE AGENCY SPECIAL TERMINATION AUTHORITY

50 USC 403e-1.

SEC. 502. Paragraph 1604(e)(1) of title 10, United States Code, is amended by striking "fiscal years 1985 and 1986" and inserting in lieu thereof "fiscal years 1986 and 1987".

ACCEPTANCE OF DIRECTOR OF CENTRAL INTELLIGENCE AWARDS BY MILITARY INTELLIGENCE PERSONNEL

SEC. 503. Section 402 of the Intelligence Authorization Act for Fiscal Year 1984 (Public Law 98-215) is amended by adding at the end thereof the following:

"(c) During fiscal year 1987, the Director of Central Intelligence may exercise the authority granted in section 4503(2) of title 5, United States Code, with respect to members of the Armed Forces who are assigned to foreign intelligence duties at the time of the conduct which gives rise to the exercise of such authority.

"(d) An award made by the Director of Central Intelligence to an employee or member of the Armed Forces under the authority of section 4503 of title 5, United States Code, or this section may be paid and accepted notwithstanding—

"(1) section 5536 of title 5, United States Code; and

"(2) the death, separation, or retirement of the employee or the member of the Armed Forces whose conduct gave rise to the award, or the assignment of such member to duties other than foreign intelligence duties.".

MANAGEMENT OF CIVILIAN INTELLIGENCE PERSONNEL OF THE MILITARY DEPARTMENTS

SEC. 504. (a) Chapter 81 of title 10, United States Code, is amended by adding at the end thereof the following new section:

10 USC 1590.

"§ 1590. Management of civilian intelligence personnel of the military departments

"(a) The Secretary of Defense may, without regard to the provisions of any other law relating to the number, classification, or compensation of employees—

"(1) establish such positions for civilian intelligence officers and employees of the military departments as may be necessary to carry out the intelligence functions of such departments;

"(2) appoint individuals to such positions; and

"(3) fix the compensation of such individuals for service in such positions.

"(b) The Secretary of Defense shall, subject to subsection (c), fix the rates of basic pay for positions established under subsection (a) in relation to the rates of basic pay provided in the General Sched-

ule under section 5332 of title 5 for positions subject to such Schedule which have corresponding levels of duties and responsibilities. Except in the case of a civilian intelligence officer or employee of a military department serving as a member of the Senior Executive Service of a military department, no civilian intelligence officer or employee of a military department may be paid basic pay at a rate in excess of the highest rate of basic pay payable under such General Schedule.

"(c) The Secretary of Defense is authorized, consistent with section 5341 of title 5, to adopt such provisions of such title as provide for prevailing rate systems of basic pay and to apply such provisions to positions for civilian intelligence officers or employees in or under which the military departments may employ individuals described by section 5342(a)(2)(A) of such title.

"(d) In addition to the basic pay payable under subsection (b), civilian intelligence officers and employees of the military departments who are citizens or nationals of the United States and who are stationed outside the continental United States or in Alaska may be paid allowances, in accordance with regulations prescribed by the Secretary of Defense, not in excess of an allowance authorized to be paid by section 5941(a) of title 5 for employees whose rates of basic pay are fixed by statute. Such allowances shall be based on—

"(1) living costs substantially higher than in the District of Columbia;

"(2) conditions of environment which differ substantially from conditions of environment in the continental United States and warrant an allowance as a recruitment incentive; or

"(3) both of the factors described in paragraphs (1) and (2).

"(e)(1) Notwithstanding any other provision of law, the Secretary of Defense may, during fiscal year 1987, terminate the employment of any civilian intelligence officer or employee of a military department whenever he considers that action to be in the interests of the United States and he determines that the procedures prescribed in other provisions of law that authorize the termination of the employment of such officer or employee cannot be invoked in a manner consistent with the national security. The decisions of the Secretary under this paragraph are final and may not be appealed or reviewed outside the Department of Defense. The Secretary of Defense shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever this termination authority is exercised.

"(2) Any termination of employment under this subsection shall not affect the right of the officer or employee involved to seek or accept employment with any other department or agency of the United States if he is declared eligible for such employment by the Director of the Office of Personnel Management.

"(3) The Secretary of Defense may delegate authority under this subsection only to the Deputy Secretary of Defense or the Secretary concerned or both. An action to terminate any civilian intelligence officer or employee of a military department by either such officer shall be appealable to the Secretary of Defense.".

(b) The table of sections at the beginning of chapter 81 of title 10, United States Code is amended by adding at the end thereof the following new item:

"1590. Management of civilian intelligence personnel of the military departments.".

10 USC 1590 note.

(c) The Secretary of Defense shall conduct a comprehensive review and evaluation of the implementation of section 1590 of title 10, United States Code and shall report thereon to the Congress no later than March 1, 1989. Such report shall—

(1) describe the extent to which the civilian intelligence personnel management systems established under section 1590 of title 10 have improved acquisition and retention of civilian intelligence personnel by the military departments;

(2) describe the elements of uniformity among the civilian intelligence personnel management systems established under section 1590 of title 10;

(3) describe the elements of diversity among the civilian intelligence personnel management systems established under section 1590 of title 10, and explain the need for such diversity based on differences in the intelligence needs or missions of the military departments;

(4) describe the means for oversight within the Office of the Secretary of Defense and each of the military departments for ensuring consistent application of regulations, directives, and guidelines which implement the authority granted under section 1590 of title 10;

(5) contain recommendations for any legislative changes the Secretary of Defense may deem appropriate; and

(6) include such other matters as the Secretary of Defense may deem appropriate.

NATIONAL SECURITY AGENCY ACQUISITION OF CRITICAL SKILLS

SEC. 505. The National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by adding at the end thereof the following section:

Minorities. Education.

"SEC. 16. (a) The purpose of this section is to establish an undergraduate training program, which may lead to the baccalaureate degree, to facilitate the recruitment of individuals, particularly minority high school students, with a demonstrated capability to develop skills critical to the mission of the National Security Agency, including mathematics, computer science, engineering, and foreign languages.

"(b) The Secretary of Defense is authorized, in his discretion, to assign civilian employees of the National Security Agency as students at accredited professional, technical, and other institutions of higher learning for training at the undergraduate level in skills critical to effective performance of the mission of the Agency.

"(c) The National Security Agency may pay, directly or by reimbursement to employees, expenses incident to assignments under subsection (b), in any fiscal year only to the extent that appropriated funds are available for such purpose.

"(d)(1) To be eligible for assignment under subsection (b), an employee of the Agency must agree in writing—

"(A) to continue in the service of the Agency for the period of the assignment and to complete the educational course of training for which the employee is assigned;

"(B) to continue in the service of the Agency following completion of the assignment for a period of one-and-a-half years for each year of the assignment or part thereof;

"(C) to reimburse the United States for the total cost of education (excluding the employee's pay and allowances)

provided under this section to the employee if, prior to the employee's completing the educational course of training for which the employee is assigned, the assignment or the employee's employment with the Agency is terminated either by the Agency due to misconduct by the employee or by the employee voluntarily; and

"(D) to reimburse the United States if, after completing the educational course of training for which the employee is assigned, the employee's employment with the Agency is terminated either by the Agency due to misconduct by the employee or by the employee voluntarily, prior to the employee's completion of the service obligation period described in subparagraph (B), in an amount that bears the same ratio to the total cost of the education (excluding the employee's pay and allowances) provided to the employee as the unserved portion of the service obligation period described in subparagraph (B) bears to the total period of the service obligation described in subparagraph (B).

"(2) Subject to paragraph (3), the obligation to reimburse the United States under an agreement described in paragraph (1), including interest due on such obligation, is for all purposes a debt owing the United States.

"(3)(A) A discharge in bankruptcy under title 11, United States Code, shall not release a person from an obligation to reimburse the United States required under an agreement described in paragraph (1) if the final decree of the discharge in bankruptcy is issued within five years after the last day of the combined period of service obligation described in subparagraphs (A) and (B) of paragraph (1).

"(B) The Secretary of Defense may release a person, in whole or in part, from the obligation to reimburse the United States under an agreement described in paragraph (1) when, in his discretion, the Secretary determines that equity or the interests of the United States so require.

"(C) The Secretary of Defense shall permit an employee assigned under this section who, prior to commencing a second academic year of such assignment, voluntarily terminates the assignment or the employee's employment with the Agency, to satisfy his obligation under an agreement described in paragraph (1) to reimburse the United States by reimbursement according to a schedule of monthly payments which results in completion of reimbursement by a date five years after the date of termination of the assignment or employment or earlier at the option of the employee.

"(e)(1) When an employee is assigned under this section to an institution, the Agency shall disclose to the institution to which the employee is assigned that the Agency employs the employee and that the Agency funds the employee's education.

"(2) Agency efforts to recruit individuals at educational institutions for participation in the undergraduate training program established by this section shall be made openly and according to the common practices of universities and employers recruiting at such institutions.

"(f) Chapter 41 of title 5 and subsections (a) and (b) of section 3324 of title 31, United States Code, shall not apply with respect to this section.

5 USC 4101 *et seq.*

"(g) The Secretary of Defense may issue such regulations as may be necessary to implement this section.".

CENTRAL INTELLIGENCE AGENCY ACQUISITION OF CRITICAL SKILLS

SEC. 506. Pursuant to the authority granted in section 8 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j), the Director of Central Intelligence shall establish an undergraduate training program with respect to civilian employees of the Central Intelligence Agency similar in purpose, conditions, content, and administration to the program which the Secretary of Defense is authorized to establish under section 16 of the National Security Act of 1959 (50 U.S.C. 402 note) for civilian employees of the National Security Agency.

Ante, p. 3200.

REPORT ON INTELLIGENCE PERSONNEL SYSTEMS

SEC. 507. Not later than January 3, 1987, the Secretary of Defense and the Director of Central Intelligence shall submit jointly to the Congress an unclassified report describing the civilian personnel systems for officers and employees of the Central Intelligence Agency, the National Security Agency, and the Defense Intelligence Agency, and the personnel systems for officers and employees established under section 1590 of title 10, United States Code, as added by section 504, for civilian intelligence personnel of the military departments. The report shall include descriptions of—

(1) how each such intelligence personnel system differs from the competitive service and from each other such system;

(2) the specific features of each such personnel system to ensure compliance with the merit system principles set forth in section 2301 of title 5, United States Code;

(3) any features of compensation (including bonuses and awards) unique to such personnel system;

(4) authorities to take actions (including the number of such actions) through employment termination provisions which do not permit appeals outside the agency; and

(5) any recruitment or retention problems existing within such system.

TITLE VI—MISCELLANEOUS

DEFENSE MAPPING AGENCY EXCHANGE AGREEMENTS

SEC. 601. (a) Chapter 167 of title 10, United States Code, is amended by adding at the end thereof the following new section:

10 USC 2795.

"§ 2795. Exchange of mapping, charting, and geodetic data with foreign countries and international organizations

"The Secretary of Defense may authorize the Defense Mapping Agency to exchange or furnish mapping, charting, and geodetic data, supplies and services to a foreign country or international organization pursuant to an agreement for the production or exchange of such data.".

(b) The table of contents of chapter 167 of title 10, United States Code, is amended by adding at the end thereof:

"2795. Exchange of mapping, charting, and geodetic data with foreign countries and international organizations.".

NOTICE TO CONGRESS OF CERTAIN TRANSFERS OF DEFENSE ARTICLES AND DEFENSE SERVICES

SEC. 602. (a) Title V of the National Security Act of 1947, relating to accountability for intelligence activities, is amended by adding at the end thereof the following:

"NOTICE TO CONGRESS OF CERTAIN TRANSFERS OF DEFENSE ARTICLES AND DEFENSE SERVICES

"SEC. 503. (a)(1) The transfer of a defense article or defense service exceeding $1,000,000 in value by an intelligence agency to a recipient outside that agency shall be considered a significant anticipated intelligence activity for the purpose of section 501 of this Act. 50 USC 415. 50 USC 413.

"(2) Paragraph (1) does not apply if—

"(A) the transfer is being made to a department, agency, or other entity of the United States (so long as there will not be a subsequent retransfer of the defense articles or defense services outside the United States Government in conjunction with an intelligence or intelligence-related activity); or

"(B) the transfer—

"(i) is being made pursuant to authorities contained in part II of the Foreign Assistance Act of 1961, the Arms Export Control Act, title 10 of the United States Code (including a law enacted pursuant to section 7307(b)(1) of that title), or the Federal Property and Administrative Services Act of 1949, and 22 USC 2301. 22 USC 2751 note. 40 USC 471 note.

"(ii) is not being made in conjunction with an intelligence or intelligence-related activity.

"(3) An intelligence agency may not transfer any defense articles or defense services outside the agency in conjunction with any intelligence or intelligence-related activity for which funds were denied by the Congress.

"(b) As used in this section—

"(1) the term 'intelligence agency' means any department, agency, or other entity of the United States involved in intelligence or intelligence-related activities;

"(2) the terms 'defense articles' and 'defense services' mean the items on the United States Munitions List pursuant to section 38 of the Arms Export Control Act (22 CFR part 121); 22 USC 2778.

"(3) the term 'transfer' means—

"(A) in the case of defense articles, the transfer of possession of those articles; and

"(B) in the case of defense services, the provision of those services; and

"(4) the term 'value' means—

"(A) in the case of defense articles, the greater of—

"(i) the original acquisition cost to the United States Government, plus the cost of improvements or other modifications made by or on behalf of the Government; or

"(ii) the replacement cost; and

"(B) in the case of defense services, the full cost to the Government of providing the services.".

(b) The table of contents at the end of the first section of such Act is amended by inserting the following after the item relating to section 502:

"503. Notice to Congress of certain transfers of defense articles and defense services.".

COVERT AGENT DISCLOSURE FEDERAL PENSION FORFEITURE

SEC. 603. Section 8312(c)(1)(C) of title 5, United States Code is amended by striking the period at the end thereof and inserting in lieu thereof "or section 601 of the National Security Act of 1947 (50 U.S.C. 421) (relating to intelligence identities).".

TITLE VII—PROTECTION OF UNITED STATES INTERESTS

FOREIGN MISSIONS ACT AMENDMENT

SEC. 701. Section 202(a)(4) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4302(a)(4)) is amended to read as follows:

"(4) 'foreign mission' means any mission to or agency or entity in the United States which is involved in the diplomatic, consular, or other activities of, or which is substantially owned or effectively controlled by—

"(A) a foreign government, or

"(B) an organization (other than an international organization, as defined in section 209(b) of this title) representing a territory or political entity which has been granted diplomatic or other official privileges and immunities under the laws of the United States or which engages in some aspect of the conduct of the international affairs of such territory or political entity,

including any real property of such a mission and including the personnel of such a mission;".

SOVIET MISSION AT THE UNITED NATIONS

22 USC 287 note.

SEC. 702. (a)(1) It is the policy of the Congress that the number of nationals of the Soviet Union admitted to the United States to serve as members of the Soviet mission at the United Nations headquarters shall not substantially exceed the number of United States nationals who serve as members of the United States mission at the United Nations headquarters, unless the President determines that the admission to the United States of additional Soviet nationals to serve as members of the Soviet mission at the United Nations headquarters would be in the interest of the United States.

(2) Beginning six months after the date of enactment of this section, and every six months thereafter, the Secretary of State shall prepare and transmit to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives a report setting forth the number of Soviet nationals admitted during the preceding six-month period to the United States pursuant to a determination of the President under paragraph (1) and their duties with the Soviet mission at the United Nations headquarters.

(3) Nothing in this subsection may be construed as including any dependent or spouse who is not a member of a mission at the United Nations headquarters in the calculation of the number of members of a mission at the United Nations headquarters.

(b) It is the sense of the Congress that the Secretary of State and the Attorney General should, not later than six months after the date of enactment of this section, prepare and transmit to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives a report setting forth a plan for ensuring that the number of Soviet nationals described in paragraph (a)(1) does not exceed the limitation described in that paragraph.

(c) For purposes of this section—

(1) the term "members of the Soviet mission" and "members of the United States mission" are used within the meaning of the term "members of the mission", as defined by article 1(b) of the Vienna Convention on Diplomatic Relations, done April 18, 1961; and

(2) the term "mission at the United Nations headquarters" of a country includes all the missions of such country to the United Nations in New York City and includes missions in New York City to specialized agencies of the United Nations, as defined in article 57 of the charter of the United Nations.

New York.

REGISTRATION OF AGENTS OF CERTAIN FOREIGN GOVERNMENTS

SEC. 703. Section 951 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding paragraph (d)(4), any person engaged in a legal commercial transaction shall be considered to be an agent of a foreign government for purposes of this section if—

"(1) such person agrees to operate within the United States subject to the direction or control of a foreign government or official; and

"(2) such person—

"(A) is an agent of the Soviet Union, the German Democratic Republic, Hungary, Czechoslovakia, Poland, Bulgaria, Romania, or Cuba, unless the Attorney General, after consultation with the Secretary of State, determines and so reports to the Congress that the national security or foreign policy interests of the United States require that the provisions of this section do not apply in specific circumstances to agents of such country; or

Soviet Union.
German Democratic Republic.
Hungary.
Czechoslovakia.
Poland.
Bulgaria.
Romania.
Cuba.

18 USC 792-799, 831, 2381. 50 USC app. 2410.

"(B) has been convicted of, or has entered a plea of nolo contendere with respect to, any offense under section 792 through 799, 831, or 2381 of this title or under section 11 of the Export Administration Act of 1979, except that the provisions of this subsection shall not apply to a person described in this clause for a period of more than five years beginning on the date of the conviction or the date of entry of the plea of nolo contendere, as the case may be.".

Approved October 27, 1986.

LEGISLATIVE HISTORY—H.R. 4759 (S. 2477):

HOUSE REPORTS: No. 99-690, Pt. 1 (Permanent Select Comm. on Intelligence), Pt. 2 (Comm. on Post Office and Civil Service), Pt. 3 (Comm. on Armed Services), and No. 99-952 (Comm. of Conference).
SENATE REPORTS: No. 99-307 accompanying S. 2477 (Select Comm. on Intelligence).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 16, 17, considered and passed House.
Sept. 24, considered and passed Senate, amended, in lieu of S. 2477.
Oct. 2, House agreed to conference report.
Oct. 6, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Oct. 27, Presidential statement.

O

*Public Law 99-570
99th Congress

An Act

To strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes.

Oct. 27, 1986
[H.R. 5484]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Anti-Drug Abuse Act of 1986.
21 USC 801 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-Drug Abuse Act of 1986".

SEC. 2. ORGANIZATION OF ACT.

This Act is organized as follows:

TITLE I—ANTI-DRUG ENFORCEMENT

Subtitle A—Narcotics Penalties and Enforcement Act of 1986

Subtitle B—Drug Possession Penalty Act of 1986

Subtitle C—Juvenile Drug Trafficking Act of 1986

Subtitle D—Assets Forfeiture Amendments Act of 1986

Subtitle E—Controlled Substance Analogue Enforcement Act of 1986

Subtitle F—Continuing Drug Enterprise Act of 1986

Subtitle G—Controlled Substances Import and Export Act Penalties Enhancement Act of 1986

Subtitle H—Money Laundering Control Act of 1986

Subtitle I—Armed Career Criminals

Subtitle J—Authorization of Appropriations for Drug Law Enforcement

Subtitle K—State and Local Narcotics Control Assistance

Subtitle L—Study on the Use of Existing Federal Buildings as Prisons

Subtitle M—Narcotics Traffickers Deportation Act

Subtitle N—Freedom of Information Act

Subtitle O—Prohibition on the Interstate Sale and Transportation of Drug Paraphernalia

Subtitle P—Manufacturing Operations

Subtitle Q—Controlled Substances Technical Amendments

Subtitle R—Precursor and Essential Chemical Review

Subtitle S—White House Conference for a Drug Free America

Subtitle T—Common Carrier Operation Under the Influence of Alcohol or Drugs

Subtitle U—Federal Drug Law Enforcement Agent Protection Act of 1986

*Note: This is a subsequently typeset print of the hand enrollment which was signed by the President on October 27, 1986.

TITLE II—INTERNATIONAL NARCOTICS CONTROL

TITLE III—INTERDICTION

Subtitle A—Department of Defense Drug Interdiction Assistance

Subtitle B—Customs Enforcement

Subtitle C—Maritime Drug Law Enforcement Prosecution Improvements Act of 1986

Subtitle D—Coast Guard

Subtitle E—United States Bahamas Drug Interdiction Task Force

Subtitle F—Command, Control, Communications, and Intelligence Centers

Subtitle G—Transportation Safety

Subtitle H—Department of Justice Funds for Drug Interdiction Operation in Hawaii

Subtitle I—Federal Communications Commission

TITLE IV—DEMAND REDUCTION

Subtitle A—Treatment and Rehabilitation

Subtitle B—Drug-Free Schools and Communities Act of 1986

Subtitle C—Indians and Alaska Natives

Subtitle D—Miscellaneous Provisions

TITLE V—UNITED STATES INSULAR AREAS AND NATIONAL PARKS

Subtitle A—Programs in United States Insular Areas

Subtitle B—National Park Service Program

TITLE VI—FEDERAL EMPLOYEE SUBSTANCE ABUSE EDUCATION AND TREATMENT

TITLE VII—NATIONAL ANTIDRUG REORGANIZATION AND COORDINATION

TITLE VIII—PRESIDENT'S MEDIA COMMISSION ON ALCOHOL AND DRUG ABUSE PREVENTION

TITLE IX—DENIAL OF TRADE BENEFITS TO UNCOOPERATIVE MAJOR DRUG PRODUCING OR DRUG-TRANSIT COUNTRIES

TITLE X—BALLISTIC KNIFE PROHIBITION

TITLE XI—HOMELESS ELIGIBILITY CLARIFICATION ACT

Subtitle A—Emergency Food for the Homeless

Subtitle B—Job Training for the Homeless

Subtitle C—Entitlements Eligibility

TITLE XII—COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1986

TITLE XIII—CYANIDE WRONGFUL USE

TITLE XIV—SENATE POLICY CONCERNING FUNDING

TITLE XV—NATIONAL FOREST SYSTEM DRUG CONTROL

21 USC 801 note.

SEC. 3. COMPLIANCE WITH BUDGET ACT.

Notwithstanding any other provision of this Act, any spending authority and any credit authority provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts. For purposes of this Act, the

term "spending authority" has the meaning provided in section 401(c)(2) of the Congressional Budget Act of 1974 and the term "credit authority" has the meaning provided in section 3(10) of the Congresssional Budget Act of 1974.

2 USC 651.

2 USC 622.

TITLE I—ANTI-DRUG ENFORCEMENT

Subtitle A—Narcotics Penalties and Enforcement Act of 1986

Narcotics Penalties and Enforcement Act of 1986.

SEC. 1001. SHORT TITLE.

This subtitle may be cited as the "Narcotics Penalties and Enforcement Act of 1986".

21 USC 801 note.

SEC. 1002. CONTROLLED SUBSTANCES ACT PENALTIES.

Section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by striking out subparagraphs (A) and (B) and inserting the following in lieu thereof:

"(1)(A) In the case of a violation of subsection (a) of this section involving—

"(i) 1 kilogram or more of a mixture or substance containing a detectable amount of heroin;

"(ii) 5 kilograms or more of a mixture or substance containing a detectable amount of—

"(I) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

"(II) cocaine, its salts, optical and geometric isomers, and salts of isomers;

"(III) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

"(IV) any compound, mixture, or preparation which contains any quantity of any of the substance referred to in subclauses (I) through (III);";

"(iii) 50 grams or more of a mixture or substance described in clause (ii) which contains cocaine base;

"(iv) 100 grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

"(v) 10 grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

"(vi) 400 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide; or

"(vii) 1000 kilograms or more of a mixture or substance containing a detectable amount of marihuana;

such person shall be sentenced to a term of imprisonment which may not be less than 10 years or more than life and if death or serious bodily injury results from the use of such substance shall be not less than 20 years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or

both. If any person commits such a violation after one or more prior convictions for an offense punishable under this paragraph, or for a felony under any other provision of this title or title III or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment which may not be less than 20 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $8,000,000 if the defendant is an individual or $20,000,000 if the defendant is other than an individual, or both. Any sentence under this subparagraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 5 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 10 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph. No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.

"(B) In the case of a violation of subsection (a) of this section involving—

"(i) 100 grams or more of a mixture or substance containing a detectable amount of heroin;

"(ii) 500 grams or more of a mixture or substance containing a detectable amount of—

"(I) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

"(II) cocaine, its salts, optical and geometric isomers, and salts of isomers;

"(III) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

"(IV) any compound, mixture, or preparation which contains any quantity of any of the substance referred to in subclauses (I) through (III);";

"(iii) 5 grams or more of a mixture or substance described in clause (ii) which contains cocaine base;

"(iv) 10 grams or more of phencyclidine (PCP) or 100 grams or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

"(v) 1 gram or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

"(vi) 40 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 10 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide; or

"(vii) 100 kilograms or more of a mixture or substance containing a detectable amount of marihuana;

such person shall be sentenced to a term of imprisonment which may not be less than 5 years and not more than 40 years and if death or serious bodily injury results from the use of such substance shall be not less than 20 years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of

title 18, United States Code, or $2,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions for an offense punishable under this paragraph, or for a felony under any other provision of this title or title III or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment which may not be less than 10 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. Any sentence imposed under this subparagraph shall, in the absence of such a prior conviction, include a term of supervised release of at least 4 years in addition to such term of imprisonment and shall, if there was such a prior conviction, include a term of supervised release of at least 8 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph. No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.

21 USC 951.

"(C) In the case of a controlled substance in schedule I or II except as provided in subparagraphs (A), (B), and (D), such person shall be sentenced to a term of imprisonment of not more than 20 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $1,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions for an offense punishable under this paragraph, or for a felony under any other provision of this title or title III or other law of a State, the United States or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 30 years and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $2,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 6 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the provisions of this subparagraph which provide for a mandatory term of imprisonment if death or serious bodily injury results, nor shall a person so sentenced be eligible for parole during the term of such a sentence.".

SEC. 1003. OTHER AMENDMENTS TO THE CONTROLLED SUBSTANCES ACT.

(a) Section 401 of the Controlled Substances Act (21 U.S.C. 841) is further amended as follows:

(1) In subsection (b), paragraph (1)(D), as redesignated, is amended by—

(A) striking out "a fine of not more than $50,000" and inserting in lieu thereof "a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual";

(B) striking out "a fine of not more than $100,000" and inserting in lieu thereof "a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $500,000 if the defendant is an individual or $2,000,000 if the defendant is other than an individual"; and

(C) inserting "except in the case of 100 or more marihuana plants regardless of weight," after "marihuana," the first place it appears.

(2) In subsection (b), paragraph (2) is amended by striking out "a fine of not more than $25,000" and inserting in lieu thereof "a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual", and by striking out "a fine of not more than $50,000" and inserting in lieu thereof "a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $500,000 if the defendant is an individual or $2,000,000 if the defendant is other than an individual".

(3) In subsection (b), paragraph (3) is amended by striking out "a fine of not more than $10,000" and inserting in lieu thereof "a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $100,000 if the defendant is an individual or $250,000 if the defendant is other than an individual", and by striking out "a fine of not more than $20,000" and inserting in lieu thereof "a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $200,000 if the defendant is an individual or $500,000 if the defendant is other than an individual".

(4) In subsection (b), paragraph (4) is amended by striking out "1(C)" and inserting "1(D)" in lieu thereof.

(5) In subsection (b), paragraph (5) is amended to read as follows:

"(5) Any person who violates subsection (a) of this section by cultivating a controlled substance on Federal property shall be imprisoned as provided in this subsection and shall be fined any amount not to exceed—

"(A) the amount authorized in accordance with this section;

"(B) the amount authorized in accordance with the provisions of title 18, United States Code;

"(C) $500,000 if the defendant is an individual; or

"(D) $1,000,000 if the defendant is other than an individual; or both.".

(6) Subsection (d) is amended by striking out "a fine of not more than $15,000" and inserting in lieu thereof "a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual".

(b) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) by inserting the following new paragraph after paragraph (24):

"(25) The term 'serious bodily injury' means bodily injury which involves—

"(A) a substantial risk of death;

"(B) protracted and obvious disfigurement; or

"(C) protracted loss or impairment of the function of a bodily member, organ, or mental faculty."; and

(2) by renumbering the following paragraphs accordingly.

SEC. 1004. ELIMINATION OF SPECIAL PAROLE TERMS.

(a) The Controlled Substances Act and the Controlled Substances Import and Export Act are amended by striking out "special parole term" each place it appears and inserting "term of supervised release" in lieu thereof. 21 USC 801 note. 21 USC 951 note.

(b) The amendments made by this section shall take effect on the date of the taking effect of section 3583 of title 18, United States Code. 21 USC 841 note.

SEC. 1005. AMENDMENT TO THE COMPREHENSIVE CRIME CONTROL ACT OF 1984.

(a) Subsection (a) of section 224 of the Comprehensive Crime Control Act of 1984 is amended— 21 USC 841.

(1) by inserting "and" after the semicolon in paragraph (4); and

(2) by striking out paragraphs (1), (2), (3), and (5) and redesignating the other paragraphs accordingly.

(b) Section 224 of the Comprehensive Crime Control Act of 1984 is amended—

(1) by striking out subsection (b); and 21 USC 845, 848.

(2) by redesignating subsection (c) as subsection (b).

(c) Section 225 of the Comprehensive Crime Control Act of 1984 is amended to read as follows: 21 USC 960, 962.

"SEC. 225. Section 1515 of the Controlled Substances Import and Export Act (21 U.S.C. 960) is amended by repealing subsection (c).".

SEC. 1006. MISCELLANEOUS TECHNICAL AMENDMENTS.

(a)(1) Subsection (a) of section 3583 of title 18, United States Code, is amended by inserting ", except that the court shall include as a part of the sentence a requirement that the defendant be placed on a term of supervised release if such a term is required by statute" after "imprisonment" the second place it appears.

(2) Subsection (b) of section 3583 of title 18, United States Code, is amended by striking out "The" and inserting in lieu thereof "Except as otherwise provided, the".

(3) Subsection (e) of section 3583 of title 18, United States Code, is amended—

(A) so that the catchline reads as follows: "Modification of conditions or revocation.";

(B) in paragraph (2) by striking out "or" after the semicolon;

(C) in paragraph (3) by striking out "title." and inserting "title; or" in lieu thereof; and

(D) by inserting the following new paragraph after paragraph (3):

"(4) revoke a term of supervised release, and require the person to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision, if it finds by a preponderance of the evidence that the person violated a condition of supervised release, pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation and to the provisions of applicable policy statements issued by the Sentencing Commission.".

18 USC app.

18 USC 3583 note.

(4) The amendments made by this subsection shall take effect on the date of the taking effect of section 3583 of title 18, United States Code.

(b) Paragraph (3) of section 994(a) of title 28, United States Code, is amended by inserting "and revocation of supervised release" after "supervised release".

(c) Section 511 of title II of the Comprehensive Drug Abuse Prevention Act of 1978 (21 U.S.C. 881) is amended—

(1) in subsection (f) by inserting "or II" after "I" each place it appears;

(2) by redesignating subsection (f) as subsection (f)(1); and

(3) by inserting the following new paragraph after subsection (f)(1) as so redesignated:

"(2) The Attorney General may direct the destruction of all controlled substances in schedule I or II seized for violation of this title under such circumstances as the Attorney General may deem necessary.".

SEC. 1007. AMENDMENT TO TITLE 18 OF THE UNITED STATES CODE.

(a) Section 3553 of title 18, United States Code, is amended by adding the following at the end thereof:

"(e) LIMITED AUTHORITY TO IMPOSE A SENTENCE BELOW A STATUTORY MINIMUM.—Upon motion of the Government, the court shall have the authority to impose a sentence below a level established by statute as minimum sentence so as to reflect a defendant's substantial assistance in the investigation or prosecution of another person who has committed an offense. Such sentence shall be imposed in accordance with the guidelines and policy statements issued by the Sentencing Commission pursuant to section 994 of title 28, United States Code.".

Effective date. 18 USC 3553 note.

(b) The amendment made by this section shall take effect on the date of the taking effect of section 3553 of title 18, United States Code.

SEC. 1008. AMENDMENT TO TITLE 28 OF THE UNITED STATES CODE.

Section 994 of title 28 of the United States Code is amended by—

(1) inserting the following after subsection (m):

"(n) The Commission shall assure that the guidelines reflect the general appropriateness of imposing a lower sentence than would otherwise be imposed, including a sentence that is lower than that established by statute as minimum sentence, to take into account a defendant's substantial assistance in the investigation or prosecution of another person who has committed an offense."; and

(2) redesignating subsections (n), (o), (p), (q), (r), (s), (t), (u), (v), and (w) as subsections (o), (p), (q), (r), (s), (t), (u), (v), (w), and (x), respectively.

SEC. 1009. AMENDMENT TO THE FEDERAL RULES OF CRIMINAL PROCEDURE.

(a) Rule 35(b) of the Federal Rules of Criminal Procedure is amended by striking out "to the extent" and all that follows through the end and inserting in lieu thereof the following: "in accordance with the guidelines and policy statements issued by the Sentencing Commission pursuant to section 994 of title 28, United States Code. The court's authority to lower a sentence under this subdivision includes the authority to lower such sentence to a level below that established by statute as a minimum sentence. 18 USC app.

(b) The amendment made by this section shall take effect on the date of the taking effect of rule 35(b) of the Federal Rules of Criminal Procedure, as amended by section 215(b) of the Comprehensive Crime Control Act of 1984. Effective date. 18 USC app.

Subtitle B—Drug Possession Penalty Act of 1986

Drug Possession Penalty Act of 1986. 21 USC 801 note.

SEC. 1051. SHORT TITLE.

This subtitle may be cited as the "Drug Possession Penalty Act of 1986".

SEC. 1052. PENALTY FOR SIMPLE POSSESSION.

Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended to read as follows:

"PENALTY FOR SIMPLE POSSESSION

"SEC. 404. (a) It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by this title or title III. 21 USC 951. Any person who violates this subsection may be sentenced to a term of imprisonment of not more than 1 year, and shall be fined a minimum of $1,000 but not more than $5,000, or both, except that if he commits such offense after a prior conviction under this title or title III, or a prior conviction for any drug or narcotic offense chargeable under the law of any State, has become final, he shall be sentenced to a term of imprisonment for not less than 15 days but not more than 2 years, and shall be fined a minimum of $2,500 but not more than $10,000, except, further, that if he commits such offense after two or more prior convictions under this title or title III, or two or more prior convictions for any drug or narcotic offense chargeable under the law of any State, or a combination of two or more such offenses have become final, he shall be sentenced to a term of imprisonment for not less than 90 days but not more than 3 years, and shall be fined a minimum of $5,000 but not more than $25,000. The imposition or execution of a minimum sentence required to be imposed under this subsection shall not be suspended or deferred. Further, upon conviction, a person who violates this subsection shall be fined the reasonable costs of the investigation and prosecution of the offense, including the costs of prosecution of an offense as defined in sections 1918 and 1920 of title 28, United

States Code, except that this sentence shall not apply and a fine under this section need not be imposed if the court determines under the provision of title 18 that the defendant lacks the ability to pay.

"(b)(1) If any person who has not previously been convicted of violating subsection (a) of this section, any other provision of this subchapter or subchapter II of this chapter, or any other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, is found guilty of a violation of subsection (a) of this section after trial or upon a plea of guilty, the court may, without entering a judgment of guilty and with the consent of such person, defer further proceedings and place him on probation upon such reasonable conditions as it may require and for such period, not to exceed one year, as the court may prescribe. Upon violation of a condition of the probation, the court may enter an adjudication of guilt and proceed as otherwise provided. The court may, in its discretion, dismiss the proceedings against such person and discharge him from probation before the expiration of the maximum period prescribed for such person's probation. If during the period of his probation such person does not violate any of the conditions of the probation, then upon expiration of such period the court shall discharge such person and dismiss the proceedings against him. Discharge and dismissal under this subsection shall be without court adjudication of guilt, but a nonpublic record thereof shall be retained by the Department of Justice solely for the purpose of use by the courts in determining whether or not, in subsequent proceedings, such person qualifies under this subsection. Such discharge or dismissal shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime (including the penalties prescribed under this part for second or subsequent convictions) or for any other purpose. Discharge and dismissal under this section may occur only once with respect to any person.

"(2) Upon the discharge of such person and dismissal of the proceedings against him under paragraph (1) of this subsection, such person, if he was not over twenty-one years of age at the time of the offense, may apply to the court for an order to expunge from all official records (other than the nonpublic records to be retained by the Department of Justice under paragraph (1)) all recordation relating to his arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. If the court determines, after hearing, that such person was dismissed and the proceedings against him discharged and that he was not over twenty-one years of age at the time of the offense, it shall enter such order. The effect of such order shall be to restore such person, in the contemplation of the law, to the status he occupied before such arrest or indictment or information. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failures to recite or acknowledge such arrest, or indictment or information, or trial in response to any inquiry made of him for any purpose.

"(c) As used in this section, the term 'drug or narcotic offense' means any offense which proscribes the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell or transfer

any substance the possession of which is prohibited under this title.".

Subtitle C—Juvenile Drug Trafficking Act of 1986

Juvenile Drug Trafficking Act of 1986.
21 USC 801 note.

SEC. 1101. SHORT TITLE.

This subtitle may be cited as the "Juvenile Drug Trafficking Act of 1986".

SEC. 1102. OFFENSE.

Part D of the Controlled Substances Act is amended by adding after section 405A a new section as follows:

Post, p. 3207-11.

"EMPLOYMENT OR USE OF PERSONS UNDER 18 YEARS OF AGE IN DRUG OPERATIONS

"SEC. 405B. (a) It shall be unlawful for any person at least eighteen years of age to knowingly and intentionally— 21 USC 845b.

"(1) employ, hire, use, persuade, induce, entice, or coerce, a person under eighteen years of age to violate any provision of this title or title III; or 21 USC 951.

"(2) employ, hire, use, persuade, induce, entice, or coerce, a person under eighteen years of age to assist in avoiding detection or apprehension for any offense of this title or title III by any Federal, State, or local law enforcement official.

"(b) Any person who violates subsection (a) is punishable by a term of imprisonment up to twice that otherwise authorized, or up to twice the fine otherwise authorized, or both, and at least twice any term of supervised release otherwise authorized for a first offense. Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall not be less than one year. Penalties.

"(c) Any person who violates subsection (a) after a prior conviction or convictions under subsection (a) of this section have become final, is punishable by a term of imprisonment up to three times that otherwise authorized, or up to three times the fine otherwise authorized, or both, and at least three times any term of supervised release otherwise authorized for a first offense. Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall not be less than one year.

"(d) Any person who violates section 405B(a) (1) or (2)

"(1) by knowingly providing or distributing a controlled substance or a controlled substance analogue to any person under eighteen years of age; or

"(2) if the person employed, hired, or used is fourteen years of age or younger,

shall be subject to a term of imprisonment for not more than five years or a fine of not more than $50,000, or both, in addition to any other punishment authorized by this section.

"(e) In any case of any sentence imposed under this section, imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under this section of an offense for which a mandatory minimum term of imprisonment is applicable shall not be eligible for parole under section 4202 of title 18, United States Code, until the individual has served the mandatory term of imprisonment required by section 401(b) as enhanced by this section.

"(f) Except as authorized by this title, it shall be unlawful for any person to knowingly or intentionally provide or distribute any controlled substance to a pregnant individual in violation of any provision of this title. Any person who violates this subsection shall be subject to the provisions of subsections (b), (c), and (e).".

SEC. 1103. TECHNICAL AMENDMENTS.

(a) Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by striking out "or 405A" and inserting in lieu thereof ", 405A, or 405B".

Infra; ante, p. 3207-10.

(b) Section 401(c) of the Controlled Substances Act (21 U.S.C. 841(c)) is amended by striking out "405A" each place it appears and inserting in lieu thereof ", 405A, or 405B".

SEC. 1104. MANUFACTURING A CONTROLLED SUBSTANCE WITHIN 1,000 FEET OF A COLLEGE.

(a) Section 405A of the Controlled Substances Act (21 U.S.C. 845a) is amended by inserting "or manufacturing" after "distributing" wherever it appears and by striking out "a public or private elementary or secondary school" wherever it appears and inserting in lieu thereof "a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university".

(b) Section 405A(a) of the Controlled Substances Act (21 U.S.C. 845a(a)) is amended by striking out "involving the same controlled substance and schedule".

(c) Section 405A(b) of the Controlled Substances Act (21 U.S.C. 845a(b)) is amended by striking out "(1) by" and all that follows through the end and inserting the following in lieu thereof:

"(1) by the greater of (A) a term of imprisonment of not less than three years and not more than life imprisonment or (B) a term of imprisonment of up to three times that authorized by section 401(b) of this title for a first offense, or a fine up to three times that authorized by section 401(b) of this title for a first offense, or both, and (2) at least three times any term of supervised release authorized by section 401(b) of this title for a first offense.".

Supra.

SEC. 1105. IMPRISONMENTS.

(a) Section 405(a) of the Controlled Substances Act (21 U.S.C. 845(a)) is amended by adding the following at the end thereof: "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year.".

(b) Section 405(b) of the Controlled Substances Act (21 U.S.C. 845(b)) is amended by adding the following at the end thereof: "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.".

(c) Section 405A(a) of the Controlled Substances Act (21 U.S.C. 845a(a)) is amended by adding the following at the end thereof: "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum

sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.".

Subtitle D—Assets Forfeiture Amendments Act of 1986

Department of Justice Assets Forfeiture Fund Amendments Act of 1986. 28 USC 1 note.

SEC. 1151. SHORT TITLE.

This subtitle may be cited as the "Department of Justice Assets Forfeiture Fund Amendments Act of 1986".

SEC. 1152. ASSET FORFEITURE FUNDS.

(a)(1) DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.—Subsection (c) of section 524 of title 28, United States Code, is amended—

(2) by inserting at the end of subparagraph (A) of paragraph (1) the following: "such payments may also include those, made pursuant to regulations promulgated by the Attorney General, that are necessary and direct program-related expenses for the purchase or lease of automatic data processing equipment (not less than 90 percent of which use will be program related), training, printing, contracting for services directly related to the processing of and accounting for forfeitures, and the storage, protection, and destruction of controlled substances;"; Contracts.

(3) by inserting after subparagraph (A) of paragraph (1) the following new subparagraph and renumbering the subsequent subparagraphs appropriately;

"(B) the payment of awards for information or assistance directly relating to violations of the criminal drug laws of the United States;";

(4) by amending newly designated subparagraph (F) of paragraph (1) to read as follows:

"(F) for equipping for drug law enforcement functions any government-owned or leased vessels, vehicles, and aircraft available for official use by the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, or the United States Marshals Service; and"; Transportation.

(5) by striking out in paragraph (4) "remaining after payment of expenses for forfeiture and sale authorized by law" and inserting in lieu thereof ", except all proceeds of forfeitures available for use by the Secretary of the Treasury or the Secretary of the Interior pursuant to section 11(d)) of the Endangered Species Act (16 U.S.C 1540(d)) or section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d))"; and

(6) by striking out paragraph (8) and renumbering paragraph (9) as paragraph (8).

(b) CUSTOMS FORFEITURE FUND.—

(1) Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613a) as added by Public Law 98-473, is amended— 98 Stat. 1837.

(B) by amending paragraph (3) of subsection (a) to read as follows:

"(3) for equipping for law enforcement functions any government-owned or leased vessels, vehicles, and aircraft available for official use by the United States Customs Service; and"; and Transportation.

(C) by striking out subsection (h).

(2) Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613b) as added by Public Law 98-573, is repealed. 19 USC 1654 note.

SEC. 1153. SUBSTITUTE ASSETS.

(a) Section 1963 of title 18 is amended by adding at the end thereof a new subsection, as follows:

"(n) If any of the property described in subsection (a), as a result of any act of omission of the defendant—

"(1) cannot be located upon the exercise of due diligence;

"(2) has been transferred or sold to, or deposited with, a third party;

"(3) has been placed beyond the jurisdiction of the court;

"(4) has been substantially diminished in value; or

"(5) has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).".

21 USC 853.

(b) Section 413 of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1975 is amended—

(1) by redesignating subsection "(p)" as subsection "(q)"; and

(2) by adding a new subsection (p) as follows:

"(p) If any of the property described in subsection (a), as a result of any act or omission of the defendant—

"(1) cannot be located upon the exercise of due diligence;

"(2) has been transferred or sold to, or deposited with, a third party;

"(3) has been placed beyond the jurisdiction of the court;

"(4) has been substantially diminished in value; or

"(5) has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).".

Controlled Substance Analogue Enforcement Act of 1986.
21 USC 801 note.

Subtitle E—Controlled Substance Analogue Enforcement Act of 1986

SEC. 1201. SHORT TITLE.

This subtitle may be cited as the "Controlled Substance Analogue Enforcement Act of 1986".

SEC. 1202. TREATMENT OF CONTROLLED SUBSTANCE ANALOGUES.

Part B of the Controlled Substances Act is amended by adding at the end the following new section:

"TREATMENT OF CONTROLLED SUBSTANCE ANALOGUES

21 USC 813.
21 USC 951.

"SEC. 203. A controlled substance analogue shall, to the extent intended for human consumption, be treated, for the purposes of this title and title III as a controlled substance in schedule I.".

SEC. 1203. DEFINITION.

Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end thereof the following:

"(32)(A) Except as provided in subparagraph (B), the term 'controlled substance analogue' means a substance—

"(i) the chemical structure of which is substantially similar to the chemical structure of a controlled substance in schedule I or II;

"(ii) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulent, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II; or

"(iii) with respect to a particular person, which such person represents or intends to have a stimulent, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II.

"(B) Such term does not include—

"(i) a controlled substance;

"(ii) any substance for which there is an approved new drug application;

"(iii) with respect to a particular person any substance, if an exemption is in effect for investigational use, for that person, under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) to the extent conduct with respect to such substance is pursuant to such exemption; or

"(iv) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.".

SEC. 1204. CLERICAL AMENDMENT.

The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 202 the following new item:

"Sec. 203. Treatment of controlled substance analogues.".

Subtitle F—Continuing Drug Enterprise Act of 1986

Continuing Drug Enterprises Act of 1986.
21 USC 801 note.

SEC. 1251. SHORT TITLE.

This subtitle may be cited as the "Continuing Drug Enterprises Act of 1986".

SEC. 1252. INCREASED PENALTIES.

Section 408(a) of the Controlled Substances Act (21 U.S.C. 848(a)) is amended—

(1) by striking out "to a fine of not more than $100,000," and inserting in lieu thereof "to a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $2,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual,"; and

(2) by striking out "to a fine of not more than $200,000," and inserting in lieu thereof "to a fine not to exceed the greater of twice the amount authorized in accordance with the provisions of title 18, United States Code, or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual,".

SEC. 1253. CONTINUING CRIMINAL ENTERPRISE ENHANCED PENALTIES.

Section 408 of the Controlled Substances Act (21 U.S.C. 848) is further amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively; and

(2) by inserting the following new subsection after subsection (a);

"(b) Any person who engages in a continuing criminal enterprise shall be imprisoned for life and fined in accordance with subsection (a), if—

"(1) such person is the principal administrator, organizer, or leader of the enterprise or is one of several such principal administrators, organizers, or leaders; and

"(2)(A) the violation referred to in subsection (d)(1) involved at least 300 times the quantity of a substance described in subsection 401(b)(1)(B) of this Act, or

21 USC 841.

"(B) the enterprise, or any other enterprise in which the defendant was the principal or one of several principal administrators, organizers, or leaders, received $10 million dollars in gross receipts during any twelve-month period of its existence for the manufacture, importation, or distribution of a substance described in section 401(b)(1)(B) of this Act."

Subtitle G—Controlled Substances Import and Export Act Penalties Enhancement Act of 1986

Controlled Substances Import and Export Penalties Enhancement Act of 1986. 21 USC 801 note.

SEC. 1301. SHORT TITLE.

This subtitle may be cited as the "Controlled Substances Import and Export Penalties Enhancement Act of 1986.".

SEC. 1302. ENHANCED PENALTIES.

(a) Section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by striking out paragraphs (1) and (2) and inserting the following in lieu thereof:

"(1) In the case of a violation of subsection (a) of this section involving—

"(A) 1 kilogram or more of a mixture or substance containing a detectable amount of heroin;

"(B) 5 kilograms or more of a mixture or substance containing a detectable amount of—

"(i) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

"(ii) cocaine, its salts, optical and geometric isomers, and salts or isomers;

"(iii) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

"(iv) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in clauses (i) through (iii);

"(C) 50 grams or more of a mixture or substance described in subparagraph (B) which contains cocaine base;

"(D) 100 grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

"(E) 10 grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

"(F) 400 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 100 grams or more of a mixture or

substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide; or

"(G) 1000 kilograms or more of a mixture or substance containing a detectable amount of marihuana;

the person committing such violation shall be sentenced to a term of imprisonment of not less than 10 years and not more than life and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than 20 years and not more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions for an offense punishable under this subsection, or for a felony under any other provision of this title or title II or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not less than 20 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $8,000,000 if the defendant is an individual or $20,000,000 if the defendant is other than an individual, or both. Any sentence under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 5 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 10 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.

"(2) In the case of a violation of subsection (a) of this section involving—

"(A) 100 grams or more of a mixture or substance containing a detectable amount of heroin;

"(B) 500 grams or more of a mixture or substance containing a detectable amount of—

"(i) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

"(ii) cocaine, its salts, optical and geometric isomers, and salts or isomers;

"(iii) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

"(iv) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in clauses (i) through (iii);

"(C) 5 grams or more of a mixture or substance described in subparagraph (B) which contains cocaine base;

"(D) 10 grams or more of phencyclidine (PCP) or 100 grams or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

"(E) 1 gram or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

"(F) 40 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 10 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide; or

"(G) 100 kilograms or more of a mixture or substance containing a detectable amount of marihuana;

the person committing such violation shall be sentenced to a term of imprisonment of not less than 5 years and not more than 40 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years and not more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $2,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions for an offense punishable under this subsection, or for a felony under any other provision of this title or title II or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not less than 10 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. Any sentence imposed under this paragraph shall, in the absence of such a prior conviction, include a term of suspervised release of at least 4 years in addition to such term of imprisonment and shall, if there was such a prior conviction, include a term of suspervised release of at least 8 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.

"(3) In the case of a violation under subsection (a) of this section involving a controlled substance in schedule I or II, the person committing such violation shall, except as provided in paragraphs (1), (2), and (4), be sentenced to a term of imprisonment of not more than 20 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years and not more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $1,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions for an offense punishable under this subsection, or for a felony under any other provision of this title or title II or other law of a State, the United States or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 30 years and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18,

United States Code, or $2,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 6 years in addition to such term of imprisonment. Notwithstanding the prior sentence, and notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the provisions of this paragraph which provide for a mandatory term of imprisonment if death or serious bodily injury results, nor shall a person so sentenced be eligible for parole during the term of such a sentence.".

(b) Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)), as redesignated, is amended— *Ante*, p. 3207-15.

(1) by striking out ", except as provided in paragraph (4)";

(2) by striking out "fined not more than $50,000" and inserting in lieu thereof "fined not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual"; and

(3) by inserting "except in the case of 100 or more marihuana plants regardless of weight," after "marihuana,".

Subtitle H—Money Laundering Control Act of 1986

Money Laundering Control Act of 1986.

SEC. 1351. SHORT TITLE.

18 USC 981 note.

This subtitle may be cited as the "Money Laundering Control Act of 1986".

SEC. 1352. NEW OFFENSE FOR LAUNDERING OF MONETARY INSTRUMENTS.

(a) Chapter 95 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1956. Laundering of monetary instruments 18 USC 1956.

"(a)(1) Whoever, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of specified unlawful activity—

"(A) with the intent to promote the carrying on of specified unlawful activity; or

"(B) knowing that the transaction is designed in whole or in part—

"(i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or

"(ii) to avoid a transaction reporting requirement under State or Federal law,

shall be sentenced to a fine of not more than $500,000 or twice the value of the property involved in the transaction, whichever is greater, or imprisonment for not more than twenty years, or both.

"(2) Whoever transports or attempts to transport a monetary instrument or funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States—

"(A) with the intent to promote the carrying on of specified unlawful activity; or

"(B) knowing that the monetary instrument or funds involved in the transportation represent the proceeds of some form of unlawful activity and knowing that such transportation is designed in whole or in part—

"(i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or

"(ii) to avoid a transaction reporting requirement under State or Federal law,

shall be sentenced to a fine of $500,000 or twice the value of the monetary instrument or funds involved in the transportation, whichever is greater, or imprisonment for not more than twenty years, or both.

"(b) Whoever conducts or attempts to conduct a transaction described in subsection (a)(1), or a transportation described in subsection (a)(2), is liable to the United States for a civil penalty of not more than the greater of—

"(1) the value of the property, funds, or monetary instruments involved in the transaction; or

"(2) $10,000.

"(c) As used in this section—

"(1) the term 'knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity' means that the person knew the property involved in the transaction represented proceeds from some form, though not necessarily which form, of activity that constitutes a felony under State or Federal law, regardless of whether or not such activity is specified in paragraph (7);

"(2) the term 'conducts' includes initiating, concluding, or participating in initiating, or concluding a transaction;

"(3) the term 'transaction' includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected;

"(4) the term 'financial transaction' means a transaction involving the movement of funds by wire or other means or involving one or more monetary instruments, which in any way or degree affects interstate or foreign commerce, or a transaction involving the use of a financial institution which is engaged in, or the activities of which affect, interstate or foreign commerce in any way or degree;

"(5) the term 'monetary instruments' means coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, money orders, investment securities in bearer form or otherwise in such form that title thereto passes upon delivery, and negotiable instruments in bearer form or otherwise in such form that title thereto passes upon delivery;

"(6) the term 'financial institution' has the definition given that term in section 5312(a)(2) of title 31, United States Code, and the regulations promulgated thereunder;

"(7) the term 'specified unlawful activity' means—

"(A) any act or activity constituting an offense listed in section 1961(1) of this title except an act which is indictable under the Currency and Foreign Transactions Reporting Act; 18 USC 1961. 84 Stat. 1118. 31 USC 5311 note.

"(B) with respect to a financial transaction occurring in whole or in part in the United States, an offense against a foreign nation involving the manufacture, importation, sale, or distribution of a controlled substance (as such term is defined for the purposes of the Controlled Substances Act); 21 USC 801 note.

"(C) any act or acts constituting a continuing criminal enterprise, as that term is defined in section 408 of the Controlled Substances Act (21 U.S.C. 848); or

"(D) an offense under section 152 (relating to concealment of assets; false oaths and claims; bribery), section 215 (relating to commissions or gifts for procuring loans), any of sections 500 through 503 (relating to certain counterfeiting offenses), section 511 (relating to securities of States and private entities), section 543 (relating to smuggling goods into the United States), section 641 (relating to public money, property, or records), section 656 (relating to theft, embezzlement, or misapplication by bank officer or employee), section 666 (relating to theft or bribery concerning programs receiving Federal funds), section 793, 794, or 798 (relating to espionage), section 875 (relating to interstate communications), section 1201 (relating to kidnaping), section 1203 (relating to hostage taking), section 1344 (relating to bank fraud), or section 2113 or 2114 (relating to bank and postal robbery and theft) of this title, section 38 of the Arms Export Control Act (22 U.S.C. 2778), section 2 (relating to criminal penalties) of the Export Administration Act of 1979 (50 U.S.C. App. 2401), section 203 (relating to criminal sanctions) of the International Emergency Economic Powers Act (50 U.S.C. 1702), or section 3 (relating to criminal violations) of the Trading with the Enemy Act (50 U.S.C. App. 3). 18 USC 152.

"(d) Nothing in this section shall supersede any provision of Federal, State, or other law imposing criminal penalties or affording civil remedies in addition to those provided for in this section.

"(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate. Such authority of the Secretary of the Treasury shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.

"(f) There is extraterritorial jurisdiction over the conduct prohibited by this section if—

"(1) the conduct is by a United States citizen or, in the case of a non-United States citizen, the conduct occurs in part in the United States; and

"(2) the transaction or series of related transactions involves funds or monetary instruments of a value exceeding $10,000.

18 USC 1957.

"§ 1957. Engaging in monetary transactions in property derived from specified unlawful activity

"(a) Whoever, in any of the circumstances set forth in subsection (d), knowingly engages or attempts to engage in a monetary transaction in criminally derived property of a value greater than $10,000 and is derived from specified unlawful activity, shall be punished as provided in subsection (b).

"(b)(1) Except as provided in paragraph (2), the punishment for an offense under this section is a fine under title 18, United States Code, or imprisonment for not more than ten years, or both.

"(2) The court may impose an alternate fine to that imposable under paragraph (1) of not more than twice the amount of the criminally derived property involved in the transaction.

"(c) In a prosecution for an offense under this section, the Government is not required to prove the defendant knew that the offense from which the criminally derived property was derived was specified unlawful activity.

"(d) The circumstances referred to in subsection (a) are—

"(1) that the offense under this section takes place in the United States or in the special maritime and territorial jurisdiction of the United States; or

"(2) that the offense under this section takes place outside the United States and such special jurisdiction, but the defendant is a United States person (as defined in section 3077 of this title, but excluding the class described in paragraph (2)(D) of such section).

18 USC 3077.

"(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate. Such authority of the Secretary of the Treasury shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.

"(f) As used in this section—

"(1) the term 'monetary transaction' means the deposit, withdrawal, transfer, or exchange, in or affecting interstate or foreign commerce, of funds or a monetary instrument (as defined for the purposes of subchapter II of chapter 53 of title 31) by, through, or to a financial institution (as defined in section 5312 of title 31);

31 USC 5311 *et seq.*

"(2) the term 'criminally derived property' means any property constituting, or derived from, proceeds obtained from a criminal offense; and

"(3) the term 'specified unlawful activity' has the meaning given that term in section 1956 of this title.".

18 USC 1956.

(b) The table of sections at the beginning of chapter 95 of title 18 is amended by adding at the end the following new items:

"1956. Laundering of monetary instruments.
"1957. Engaging in monetary transactions in property derived from specified unlawful activity.".

SEC. 1353. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT.

(a) CLARIFICATION OF RIGHT OF FINANCIAL INSTITUTIONS TO REPORT SUSPECTED VIOLATIONS.—Section 1103(c) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3403(c)) is amended by adding at the end thereof the following new sentences: "Such information may

include only the name or other identifying information concerning any individual or account involved in and the nature of any suspected illegal activity. Such information may be disclosed notwithstanding any constitution, law, or regulation of any State or political subdivision thereof to the contrary. Any financial institution, or officer, employee, or agent thereof, making a disclosure of information pursuant to this subsection, shall not be liable to the customer under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure or for any failure to notify the customer of such disclosure.".

(b) Section 1113(i) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(i)) is amended by inserting immediately before the period at the end thereof a comma and the following: "except that a court shall have authority to order a financial institution, on which a grand jury subpoena for customer records has been served, not to notify the customer of the existence of the subpoena or information that has been furnished to the grand jury, under the circumstances and for the period specified and pursuant to the procedures established in section 1109 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3409)".

SEC. 1354. STRUCTURING TRANSACTIONS TO EVADE REPORTING REQUIREMENTS PROHIBITED.

(a) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code (relating to records and reports on monetary instruments transactions) is amended by adding at the end thereof the following new section:

"§ 5324. Structuring transactions to evade reporting requirement prohibited 31 USC 5324.

"No person shall for the purpose of evading the reporting requirements of section 5313(a) with respect to such transaction— 31 USC 5313.

"(1) cause or attempt to cause a domestic financial institution to fail to file a report required under section 5313(a);

"(2) cause or attempt to cause a domestic financial institution to file a report required under section 5313(a) that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any transaction with one or more domestic financial institutions.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by adding at the end thereof the following new item:

"5324. Structuring transactions to evade reporting requirement prohibited.".

SEC. 1355. SEIZURE AND CIVIL FORFEITURE OF MONETARY INSTRUMENTS AND RELATED PROVISIONS.

(a) CUSTOMS AUTHORITY TO CONDUCT SEARCHES AT BORDER.—Section 5317(b) of title 31, United States Code, is amended to read as follows:

"(b) SEARCHES AT BORDER.—For purposes of ensuring compliance with the requirements of section 5316, a customs officer may stop and search, at the border and without a search warrant, any vehicle, vessel, aircraft, or other conveyance, any envelope or other container, and any person entering or departing from the United States.". 31 USC 5316.

(b) FAILURE TO REPORT EXPORT OR IMPORT OF MONETARY INSTRUMENT.—The first sentence of section 5317(c) of title 31, United States Code (relating to seizure and forfeiture of monetary instruments in foreign commerce) is amended to read as follows: "If a report required under section 5316 with respect to any monetary instrument is not filed (or if filed, contains a material omission or misstatement of fact), the instrument and any interest in property, including a deposit in a financial institution, traceable to such instrument may be seized and forfeited to the United States Government.".

31 USC 5316.

SEC. 1356. COMPLIANCE AUTHORITY FOR SECRETARY OF THE TREASURY AND RELATED MATTERS.

(a) SUMMONS POWER.—Section 5318 of title 31, United States Code, is amended—

(1) by inserting "(a) GENERAL POWERS OF SECRETARY.—" before "The Secretary of the Treasury";

(2) in paragraph (1), by inserting "except as provided in subsection (b)(2)," before "delegate";

(3) by striking out "and" at the end of paragraph (2);

(4) by inserting after paragraph (2) the following new paragraphs:

"(3) examine any books, papers, records, or other data of domestic financial institutions relevant to the recordkeeping or reporting requirements of this subchapter;

"(4) summon a financial institution, an officer or employee of a financial institution (including a former officer or employee), or any person having possession, custody, or care of the reports and records required under this subchapter, to appear before the Secretary of the Treasury or his delegate at a time and place named in the summons and to produce such books, papers, records, or other data, and to give testimony, under oath, as may be relevant or material to an investigation described in subsection (b); and";

(5) by redesignating paragraph (3) as paragraph (5); and

(6) by adding at the end the following new subsections:

"(b) LIMITATIONS ON SUMMONS POWER.—

"(1) SCOPE OF POWER.—The Secretary of the Treasury may take any action described in paragraph (3) or (4) of subsection (a) only in connection with investigations for the purpose of civil enforcement of violations of this subchapter, section 21 of the Federal Deposit Insurance Act, section 411 of the National Housing Act, or chapter 2 of Public Law 91-508 (12 U.S.C. 1951 et seq.) or any regulation under any such provision.

12 USC 1829b.
12 USC 1730d.

"(2) AUTHORITY TO ISSUE.—A summons may be issued under subsection (a)(4) only by, or with the approval of, the Secretary of the Treasury or a supervisory level delegate of the Secretary of the Treasury.

"(c) ADMINISTRATIVE ASPECTS OF SUMMONS.—

"(1) PRODUCTION AT DESIGNATED SITE.—A summons issued pursuant to this section may require that books, papers, records, or other data stored or maintained at any place be produced at any designated location in any State or in any territory or other place subject to the jurisdiction of the United States not more than 500 miles distant from any place where the financial institution operates or conducts business in the United States.

"(2) FEES AND TRAVEL EXPENSES.—Persons summoned under this section shall be paid the same fees and mileage for travel in the United States that are paid witnesses in the courts of the United States.

"(3) NO LIABILITY FOR EXPENSES.—The United States shall not be liable for any expense, other than an expense described in paragraph (2), incurred in connection with the production of books, papers, records, or other data under this section.

"(d) SERVICE OF SUMMONS.—Service of a summons issued under this section may be by registered mail or in such other manner calculated to give actual notice as the Secretary may prescribe by regulation.

"(e) CONTUMACY OR REFUSAL.—

"(1) REFERRAL TO ATTORNEY GENERAL.—In case of contumacy by a person issued a summons under paragraph (3) or (4) of subsection (a) or a refusal by such person to obey such summons, the Secretary of the Treasury shall refer the matter to the Attorney General.

"(2) JURISDICTION OF COURT.—The Attorney General may invoke the aid of any court of the United States within the jurisdiction of which—

"(A) the investigation which gave rise to the summons is being or has been carried on;

"(B) the person summoned is an inhabitant; or

"(C) the person summoned carries on business or may be found,

to compel compliance with the summons.

"(3) COURT ORDER.—The court may issue an order requiring the person summoned to appear before the Secretary or his delegate to produce books, papers, records, and other data, to give testimony as may be necessary to explain how such material was compiled and maintained, and to pay the costs of the proceeding.

"(4) FAILURE TO COMPLY WITH ORDER.—Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(5) SERVICE OF PROCESS.—All process in any case under this subsection may be served in any judicial district in which such person may be found.".

(b) AMENDMENT RELATING TO EXEMPTIONS GRANTED FOR MONETARY TRANSACTION REPORTING REQUIREMENTS.—Section 5318 of title 31, United States Code, is amended by adding after subsection (e) (as added by subsection (a) of this section) the following new subsection:

"(f) WRITTEN AND SIGNED STATEMENT REQUIRED.—No person shall qualify for an exemption under subsection (a)(5) unless the relevant financial institution prepares and maintains a statement which—

"(1) describes in detail the reasons why such person is qualified for such exemption; and

"(2) contains the signature of such person.".

(c) CONFORMING AMENDMENTS.—

(1) Sections 5321 and 5322 of title 31, United States Code, are each amended by striking out "5318(2)" each place such term appears and inserting in lieu thereof "5318(a)(2)".

Ante, p. 3207-23.

(2) The heading of section 5318 of title 31, United States Code, is amended to read as follows:

"§ 5318. Compliance, exemptions, and summons authority".

(d) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by striking out the item relating to section 5318 and inserting in lieu thereof the following:

"5318. Compliance, exemptions, and summons authority.".

SEC. 1357. PENALTY PROVISIONS.

(a) CIVIL MONEY PENALTY FOR STRUCTURED TRANSACTION VIOLATION.—Section 5321(a) of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) STRUCTURED TRANSACTION VIOLATION.—

"(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who willfully violates any provision of section 5324.

31 USC 5324.

"(B) MAXIMUM AMOUNT LIMITATION.—The amount of any civil money penalty imposed under subparagraph (A) shall not exceed the amount of the coins and currency (or such other monetary instruments as the Secretary may prescribe) involved in the transaction with respect to which such penalty is imposed.

"(C) COORDINATION WITH FORFEITURE PROVISION.—The amount of any civil money penalty imposed by the Secretary under subparagraph (A) shall be reduced by the amount of any forfeiture to the United States under section 5317(d) in connection with the transaction with respect to which such penalty is imposed.".

(b) INCREASE IN AMOUNT OF PENALTY FOR FINANCIAL INSTITUTIONS.—Section 5321(a)(1) of title 31, United States Code, is amended—

(1) by striking out "$10,000" and inserting in lieu thereof "the greater of the amount (not to exceed $100,000) involved in the transaction or $25,000"; and

(2) by striking out "section 5315" each place such term appears and inserting in lieu thereof "sections 5314 and 5315".

(c) SEPARATE CIVIL MONEY PENALTY FOR VIOLATION OF SECTION 5314.—Section 5321(a) of title 31, United States Code, is amended by inserting after paragraph (4) (as added by subsection (a) of this section) the following new paragraph:

"(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

"(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who willfully violates any provision of section 5314.

"(B) MAXIMUM AMOUNT LIMITATION.—The amount of any civil money penalty imposed under subparagraph (A) shall not exceed—

"(i) in the case of violation of such section involving a transaction, the greater of—

"(I) the amount (not to exceed $100,000) of the transaction; or

"(II) $25,000; and

(ii) in the case of violation of such section involving a failure to report the existence of an account or any identifying information required to be provided with respect to such account, the greater of—

"(I) an amount (not to exceed $100,000) equal to the balance in the account at the time of the violation; or

"(II) $25,000.".

(d) SEPARATE CIVIL MONEY PENALTY FOR NEGLIGENT VIOLATION OF SUBCHAPTER.—Section 5321(a) of title 31, United States Code, is amended by inserting after paragraph (5) (as added by subsection (d) of this section) the following new paragraph:

"(6) NEGLIGENCE.—The Secretary of the Treasury may impose a civil money penalty of not more than $500 on any financial institution which negligently violates any provision of this subchapter or any regulation prescribed under this subchapter.".

(e) EXTENSION OF TIME LIMITATIONS FOR ASSESSMENT OF CIVIL PENALTY.—Section 5321(b) of title 31, United States Code, is amended to read as follows:

"(b) TIME LIMITATIONS FOR ASSESSMENTS AND COMMENCEMENT OF CIVIL ACTIONS.—

"(1) ASSESSMENTS.—The Secretary of the Treasury may assess a civil penalty under subsection (a) at any time before the end of the 6-year period beginning on the date of the transaction with respect to which the penalty is assessed.

"(2) CIVIL ACTIONS.—The Secretary may commence a civil action to recover a civil penalty assessed under subsection (a) at any time before the end of the 2-year period beginning on the later of—

"(A) the date the penalty was assessed; or

"(B) the date any judgment becomes final in any criminal action under section 5322 in connection with the same transaction with respect to which the penalty is assessed.".

(f) CLARIFICATION OF RELATIONSHIP BETWEEN CIVIL PENALTY AND CRIMINAL PENALTY.—Section 5321 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) CRIMINAL PENALTY NOT EXCLUSIVE OF CIVIL PENALTY.—A civil money penalty may be imposed under subsection (a) with respect to any violation of this subchapter notwithstanding the fact that a criminal penalty is imposed with respect to the same violation.".

(g) AMENDMENTS TO CRIMINAL PENALTY FOR CERTAIN OFFENSES.—Section 5322(b) of title 31, United States Code, is amended—

(1) by striking out "illegal activity involving transactions of" and inserting in lieu thereof "any illegal activity involving"; and

(2) by striking out "5 years" and inserting in lieu thereof "10 years".

(h) CONFORMING AMENDMENT.—Section 5321(c) of title 31, United States Code, is amended by striking out "section 5317(b)" and inserting in lieu thereof "subsection (c) or (d) of section 5317". 31 USC 5316.

SEC. 1358. MONETARY TRANSACTION REPORTING AMENDMENTS.

(a) CLOSELY RELATED EVENTS.—Section 5316 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(d) CUMULATION OF CLOSELY RELATED EVENTS.—The Secretary of the Treasury may prescribe regulations under this section defining the term 'at one time' for purposes of subsection (a). Such regulations may permit the cumulation of closely related events in order that such events may collectively be considered to occur at one time for the purposes of subsection (a).".

(b) INCHOATE OFFENSE.—Section 5316(a)(1) of title 31, United States Code, is amended—

(1) by striking out "or attempts to transport or have transported,", and

(2) by inserting ", is about to transport," after "transports".

(c) TECHNICAL AND CONFORMING AMENDMENT.—Section 5316(a)(2) of title 31, United States Code, is amended by striking out "$5,000" and inserting in lieu thereof "$10,000".

SEC. 1359. BANKING REGULATORY AGENCY SUPERVISION OF RECORDKEEPING SYSTEMS.

(a) INSURED BANKS.—

(1) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end thereof the following new subsection:

"(s) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

"(1) COMPLIANCE PROCEDURES REQUIRED.—Each appropriate Federal banking agency shall prescribe regulations requiring insured banks to establish and maintain procedures reasonably designed to assure and monitor the compliance of such banks with the requirements of subchapter II of chapter 53 of title 31, United States Code.

31 USC 5311 *et seq.*

"(2) EXAMINATIONS OF BANK TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(A) IN GENERAL.—Each examination of an insured bank by the appropriate Federal banking agency shall include a review of the procedures required to be established and maintained under paragraph (1).

"(B) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the insured bank.

"(3) ORDER TO COMPLY WITH REQUIREMENTS.—If the appropriate Federal banking agency determines that an insured bank—

"(A) has failed to establish and maintain the procedures described in paragraph (1); or

"(B) has failed to correct any problem with the procedures maintained by such bank which was previously reported to the bank by such agency,

the agency shall issue an order in the manner prescribed in subsection (b) or (c) requiring such bank to cease and desist from its violation of this subsection or regulations prescribed under this subsection.".

(2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN COMPLIANCE PROCEDURES.—Section 8(i)(2)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(2)(i)) is amended by striking out "subsection (b) or (c)" and inserting in lieu thereof "subsection (b), (c), or (s)".

(b) INSTITUTIONS REGULATED BY THE BANK BOARD.—

(1) IN GENERAL.—Section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)) is amended by adding at the end thereof the following new paragraph:

"(16) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

Regulations.

"(A) COMPLIANCE PROCEDURES REQUIRED.—The Board shall prescribe regulations requiring associations to establish and maintain procedures reasonably designed to assure and monitor the compliance of such associations with the requirements of subchapter II of chapter 53 of title 31, United States Code.

31 USC 5311 *et seq.*

"(B) EXAMINATIONS OF ASSOCIATIONS TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(i) IN GENERAL.—Each examination of an association by the Board shall include a review of the procedures required to be established and maintained under subparagraph (A).

"(ii) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the association.

"(C) ORDER TO COMPLY WITH REQUIREMENTS.—If the Board determines that an association—

"(i) has failed to establish and maintain the procedures described in subparagraph (A); or

"(ii) has failed to correct any problem with the procedures maintained by such association which was previously reported to the association by the Board,

the Board shall issue an order in the manner prescribed in paragraph (2) or (3) requiring such association to cease and desist from its violation of this paragraph or regulations prescribed under this paragraph.".

(2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN COMPLIANCE PROCEDURES.—Section 5(d)(8)(B)(i) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(8)(B)(i)) is amended by striking out "paragraph (2) or (3)" and inserting in lieu thereof "paragraph (2), (3), or (16)".

(c) INSURED THRIFT INSTITUTIONS.—

(1) IN GENERAL.—Section 407 of the National Housing Act (12 U.S.C. 1730) is amended by adding at the end thereof the following new subsection:

"(s) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

"(1) COMPLIANCE PROCEDURES REQUIRED.—The Corporation shall prescribe regulations requiring insured institutions to establish and maintain procedures reasonably designed to assure and monitor the compliance of such institutions with the requirements of subchapter II of chapter 53 of title 31, United States Code.

Regulations.

31 USC 5311 *et seq.*

"(2) EXAMINATIONS OF INSTITUTIONS TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(A) IN GENERAL.—Each examination of an insured institution by the Corporation shall include a review of the procedures required to be established and maintained under paragraph (1).

"(B) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the insured institution.

"(3) ORDER TO COMPLY WITH REQUIREMENTS.—If the Corporation determines that an insured institution—

"(A) has failed to establish and maintain the procedures described in paragraph (1); or

"(B) has failed to correct any problem with the procedures maintained by such institution which was previously reported to the institution by the Corporation,

the Corporation shall issue an order in the manner prescribed in subsection (e) or (f) requiring such institution to cease and desist from its violation of this subsection or regulations prescribed under this subsection.".

(2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN COMPLIANCE PROCEDURES.—Section 407(k)(3)(A) of the National Housing Act (12 U.S.C. 1730(k)(3)(A)) is amended by striking out "subsection (e) or (f) of this section shall forefit" and inserting in lieu thereof "subsection (e), (f), or (s) of this section shall forfeit".

(d) INSURED CREDIT UNIONS.—

(1) IN GENERAL.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end thereof the following new subsection:

"(q) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

Regulations.

"(1) COMPLIANCE PROCEDURES REQUIRED.—The Board shall prescribe regulations requiring insured credit unions to establish and maintain procedures reasonably designed to assure and monitor the compliance of such credit unions with the requirements of subchapter II of chapter 53 of title 31, United States Code.

31 USC 5331 *et seq.*

"(2) EXAMINATIONS OF CREDIT UNIONS TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(A) IN GENERAL.—Each examination of an insured credit union by the Board shall include a review of the procedures required to be established and maintained under paragraph (1).

"(B) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the credit union.

"(3) ORDER TO COMPLY WITH REQUIREMENTS.—If the Board determines that an insured credit union—

"(A) has failed to establish and maintain the procedures described in paragraph (1); or

"(B) has failed to correct any problem with the procedures maintained by such credit union which was previously reported to the credit union by the Board,

the Board shall issue an order in the manner prescribed in subsection (e) or (f) requiring such credit union to cease and desist from its violation of this subsection or regulations prescribed under this subsection.".

(2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN COMPLIANCE PROCEDURES.—Section 206(k)(2)(A) of the Federal Credit Union Act (12 U.S.C. 1786(k)(2)(A)) (as in effect on September 1, 1986) is amended by striking out "subsection (e) or (f)" and inserting in lieu thereof "subsection (e), (f), or (q)".

SEC. 1360. CHANGE IN BANK CONTROL ACT AMENDMENTS.

(a) ADDITIONAL REVIEW TIME.—

(1) INITIAL EXTENSION AT DISCRETION OF AGENCY.—The first sentence of section 7(j)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(1)) is amended by striking out "or extending up to another thirty days" and inserting in lieu thereof "or, in the discretion of the agency, extending for an additional 30 days".

(2) ADDITIONAL EXTENSIONS IN CASE OF INCOMPLETE OR INACCURATE NOTICE OR TO CONTINUE INVESTIGATION.—The second sentence of section 7(j)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(1)) is amended to read as follows: "The period for disapproval under the preceding sentence may be extended

not to exceed 2 additional times for not more than 45 days each time if—

"(A) the agency determines that any acquiring party has not furnished all the information required under paragraph (6);

"(B) in the agency's judgment, any material information submitted is substantially inaccurate;

"(C) the agency has been unable to complete the investigation of an acquiring party under paragraph (2)(B) because of any delay caused by, or the inadequate cooperation of, such acquiring party; or

"(D) the agency determines that additional time is needed to investigate and determine that no acquiring party has a record of failing to comply with the requirements of subchapter II of chapter 53 of title 31, United States Code.". 31 USC 5331 *et seq.*

(b) DUTY TO INVESTIGATE APPLICANTS FOR CHANGE IN CONTROL APPROVAL.—Section 7(j)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(2)) is amended—

(1) by striking out "(2)" and inserting in lieu thereof "(2)(A) NOTICE TO STATE AGENCY.—"; and

(2) by adding at the end thereof the following new subparagraphs:

"(B) INVESTIGATION OF PRINCIPALS REQUIRED.—Upon receiving any notice under this subsection, the appropriate Federal banking agency shall—

"(i) conduct an investigation of the competence, experience, integrity, and financial ability of each person named in a notice of a proposed acquisition as a person by whom or for whom such acquisition is to be made; and

"(ii) make an independent determination of the accuracy and completeness of any information described in paragraph (6) with respect to such person.

"(C) REPORT.—The appropriate Federal banking agency shall prepare a written report of any investigation under subparagraph (B) which shall contain, at a minimum, a summary of the results of such investigation. The agency shall retain such written report as a record of the agency.".

(c) PUBLIC COMMENT ON CHANGE OF CONTROL NOTICES.—Section 7(j)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(2)) is amended by adding after subparagraph (C) (as added by subsection (b) of this section) the following new subparagraph:

"(D) PUBLIC COMMENT.—Upon receiving notice of a proposed acquisition, the appropriate Federal banking agency shall, within a reasonable period of time—

"(i) publish the name of the insured bank proposed to be acquired and the name of each person identified in such notice as a person by whom or for whom such acquisition is to be made; and

"(ii) solicit public comment on such proposed acquisition, particularly from persons in the geographic area where the bank proposed to be acquired is located, before final consideration of such notice by the agency,

unless the agency determines in writing that such disclosure or solicitation would seriously threaten the safety or soundness of such bank.".

(d) INVESTIGATIONS AND ENFORCEMENT.—Section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)) is amended—

(1) by redesignating paragraphs (15) and (16) as paragraphs (16) and (17), respectively; and

(2) by inserting after paragraph (14) the following new paragraph:

"(15) INVESTIGATIVE AND ENFORCEMENT AUTHORITY.—

"(A) INVESTIGATIONS.—The appropriate Federal banking agency may exercise any authority vested in such agency under section 8(n) in the course of conducting any investigation under paragraph (2)(B) or any other investigation which the agency, in its discretion, determines is necessary to determine whether any person has filed inaccurate, incomplete, or misleading information under this subsection or otherwise is violating, has violated, or is about to violate any provision of this subsection or any regulation prescribed under this subsection.

12 USC 1818.

"(B) ENFORCEMENT.—Whenever it appears to the appropriate Federal banking agency that any person is violating, has violated, or is about to violate any provision of this subsection or any regulation prescribed under this subsection, the agency may, in its discretion, apply to the appropriate district court of the United States or the United States court of any territory for—

"(i) a temporary or permanent injunction or restraining order enjoining such person from violating this subsection or any regulation prescribed under this subsection; or

"(ii) such other equitable relief as may be necessary to prevent any such violation (including divestiture).

"(C) JURISDICTION.—

"(i) The district courts of the United States and the United States courts in any territory shall have the same jurisdiction and power in connection with any exercise of any authority by the appropriate Federal banking agency under subparagraph (A) as such courts have under section 8(n).

"(ii) The district courts of the United States and the United States courts of any territory shall have jurisdiction and power to issue any injunction or restraining order or grant any equitable relief described in subparagraph (B). When appropriate, any injunction, order, or other equitable relief granted under this paragraph shall be granted without requiring the posting of any bond.".

SEC. 1361. CHANGE IN SAVINGS AND LOAN CONTROL ACT AMENDMENTS.

(a) ADDITIONAL REVIEW TIME.—

(1) INITIAL EXTENSION AT DISCRETION OF AGENCY.—The first sentence of section 407(q)(1) of the National Housing Act (12 U.S.C. 1730(q)(1)) is amended by striking out "or extending up to another thirty days" and inserting in lieu thereof "or, in the discretion of the Corporation, extending for an additional 30 days".

(2) ADDITIONAL EXTENSIONS IN CASE OF INCOMPLETE OR INACCURATE NOTICE OR TO CONTINUE INVESTIGATION.—The second sentence of section 407(q)(1) of the National Housing Act (12 U.S.C. 1730(q)(1)) is amended to read as follows: "The period for disapproval under the preceding sentence may be extended not to exceed 2 additional times for not more than 45 days each time if—

"(A) the Corporation determines that any acquiring party has not furnished all the information required under paragraph (6);

"(B) in the Corporation's judgment, any material information submitted is substantially inaccurate;

"(C) the Corporation has been unable to complete the investigation of an acquiring party under paragraph (2)(B) because of any delay caused by, or the inadequate cooperation of, such acquiring party; or

"(D) the Corporation determines that additional time is needed to investigate and determine that no acquiring party has a record of failing to comply with the requirements of subchapter II of chapter 53 of title 31, United States Code.". 31 USC 5331 *et seq.*

(b) DUTY TO INVESTIGATE APPLICANTS FOR CHANGE IN CONTROL APPROVAL.—Section 407(q)(2) of the National Housing Act (12 U.S.C. 1730(q)(2)) is amended—

(1) by striking out "(2)" and inserting in lieu thereof "(2)(A) NOTICE TO STATE AGENCY.—"; and

(2) by adding at the end thereof the following new subparagraphs:

"(B) INVESTIGATION OF PRINCIPALS REQUIRED.—Upon receiving any notice under this subsection, the Corporation shall—

"(i) conduct an investigation of the competence, experience, integrity, and financial ability of each person named in a notice of a proposed acquisition as a person by whom or for whom such acquisition is to be made; and

"(ii) make an independent determination of the accuracy and completeness of any information described in paragraph (6) with respect to such person.

"(C) REPORT.—The Corporation shall prepare a written report of any investigation under subparagraph (B) which shall contain, at a minimum, a summary of the results of such investigation. The Corporation shall retain such written report as a record of the Corporation.".

(c) PUBLIC COMMENT ON CHANGE OF CONTROL NOTICES.—Section 407(q)(2) of the National Housing Act (12 U.S.C. 1730(q)(2)) is amended by adding after subparagraph (C) (as added by subsection (b) of this section) the following new subparagraph:

"(D) PUBLIC COMMENT.—Upon receiving notice of a proposed acquisition, the Corporation shall, within a reasonable period of time—

"(i) publish the name of the insured institution proposed to be acquired and the name of each person identified in such notice as a person by whom or for whom such acquisition is to be made; and

"(ii) solicit public comment on such proposed acquisition, particularly from persons in the geographic area where the institution proposed to be acquired is located, before final consideration of such notice by the Corporation,

unless the Corporation determines in writing that such disclosure or solicitation would seriously threaten the safety or soundness of such institution.".

(d) INVESTIGATIONS AND ENFORCEMENT.—Section 407(q) of the National Housing Act (12 U.S.C. 1730(q)) is amended—

(1) by redesignating paragraphs (16) and (17) as paragraphs (17) and (18), respectively; and

(2) by inserting after paragraph (15) the following new paragraph:

"(16) INVESTIGATIVE AND ENFORCEMENT AUTHORITY.—

"(A) INVESTIGATIONS.—The Corporation may exercise any authority vested in the Corporation under paragraph (2) or (3) of subsection (m) in the course of conducting any investigation under paragraph (2)(B) or any other investigation which the Corporation, in its discretion, determines is necessary to determine whether any person has filed inaccurate, incomplete, or misleading information under this subsection or otherwise is violating, has violated, or is about to violate any provision of this subsection or any regulation prescribed under this subsection.

"(B) ENFORCEMENT.—Whenever it appears to the Corporation that any person is violating, has violated, or is about to violate any provision of this subsection or any regulation prescribed under this subsection, the agency may, in its discretion, apply to the appropriate district court of the United States or the United States court of any territory for—

"(i) a temporary or permanent injunction or restraining order enjoining such person from violating this subsection or any regulation prescribed under this subsection; or

"(ii) such other equitable relief as may be necessary to prevent any such violation (including divestiture).

"(C) JURISDICTION.—

"(i) The district courts of the United States and the United States courts in any territory shall have the same jurisdiction and power in connection with any exercise of any authority by the Corporation under subparagraph (A) as such courts have under paragraph (2) or (3) of subsection (m).

"(ii) The district courts of the United States and the United States courts of any territory shall have jurisdiction and power to issue any injunction or restraining order or grant any equitable relief described in subparagraph (B). When appropriate, any injunction, order, or other equitable relief under this paragraph shall be granted without requiring the posting of any bond.".

SEC. 1362. AMENDMENTS TO DEFINITIONS.

(a) UNITED STATES AGENCIES INCLUDES THE POSTAL SERVICE.—Section 5312(a)(2)(U) of title 31, United States Code (defining financial institutions) (as redesignated by subsection (a)) is amended by inserting before the semicolon at the end the following: ", including the United States Postal Service".

(b) UNITED STATES INCLUDES CERTAIN TERRITORIES AND POSSESSIONS.—Section 5312(a)(5) of title 31, United States Code, is amended by inserting "the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, the Trust Territory of the Pacific Islands," after "Puerto Rico".

31 USC 5315 note.

SEC. 1363. INTERNATIONAL INFORMATION EXCHANGE SYSTEM; STUDY OF FOREIGN BRANCHES OF DOMESTIC INSTITUTIONS.

Banks and banking.

(a) DISCUSSIONS ON INTERNATIONAL INFORMATION EXCHANGE SYSTEM.—The Secretary of the Treasury, in consultation with the Board of Governors of the Federal Reserve System, shall initiate discussions with the central banks or other appropriate governmental authorities of other countries and propose that an information exchange system be established to assist the efforts of each

participating country to eliminate the international flow of money derived from illicit drug operations and other criminal activities.

(b) REPORT ON DISCUSSIONS REQUIRED.—Before the end of the 9-month period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall prepare and transmit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the results of discussions initiated pursuant to subsection (a).

(c) STUDY OF MONEY LAUNDERING THROUGH FOREIGN BRANCHES OF DOMESTIC FINANCIAL INSTITUTIONS REQUIRED.—The Secretary of the Treasury, in consultation with the Attorney General and the Board of Governors of the Federal Reserve System, shall conduct a study of—

(1) the extent to which foreign branches of domestic institutions are used—

(A) to facilitate illicit transfers of coins, currency, and other monetary instruments (as such term is defined in section 5312(a)(3) of title 31, United States Code) into and out of the United States; and

(B) to evade reporting requirements with respect to any transfer of coins, currency, and other monetary instruments (as so defined) into and out of the United States;

(2) the extent to which the law of the United States is applicable to the activities of such foreign branches; and

(3) methods for obtaining the cooperation of the country in which any such foreign branch is located for purposes of enforcing the law of the United States with respect to transfers, and reports on transfers, of such monetary instruments into and out of the United States.

(d) REPORT ON STUDY OF FOREIGN BRANCHES REQUIRED.—Before the end of the 9-month period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall prepare and transmit a report to the Committee on Banking, Finance and Urban Affairs and the Committee on the Judiciary of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on the Judiciary of the Senate on the results of the study conducted pursuant to subsection (c).

SEC. 1364. EFFECTIVE DATES.

(a) The amendment made by section 1354 shall apply with respect to transactions for the payment, receipt, or transfer of United States coins or currency or other monetary instruments completed after the end of the 3-month period beginning on the date of the enactment of this Act. 31 USC 5324 note.

(b) The amendments made by sections 1355(b) and 1357(a) shall apply with respect to violations committed after the end of the 3-month period beginning on the date of the enactment of this Act. 31 USC 5317 note.

(c) The amendments made by section 1357 (other than subsection (a) of such section) shall apply with respect to violations committed after the date of the enactment of this Act. 31 USC 5321 note.

(d) Any regulation prescribed under the amendments made by section 1358 shall apply with respect to transactions completed after the effective date of such regulation. 31 USC 5316 note.

(e) The regulations required to be prescribed under the amendments made by section 1359 shall take effect at the end of the 3-month period beginning on the date of the enactment of this Act. 12 USC 1464 note.

12 USC 1730 note.

(f) The amendments made by sections 1360 and 1361 shall apply with respect to notices of proposed acquisitions filed after the date of the enactment of this Act.

SEC. 1365. PREDICATE OFFENSES.

(a) Subsection (b) of section 1952 of title 18, United States Code, is amended by striking out "or" before "(2)", and by striking out the period at the end thereof and inserting in lieu thereof the following: ", or (3) any act which is indictable under subchapter II of chapter 53 of title 31, United States Code, or under section 1956 or 1957 of this title.".

31 USC 5331 *et seq.*

(b) Subsection (l) of section 1961 of title 18, United States Code, is amended by inserting "section 1956 (relating to the laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity)," after "section 1955 (relating to the prohibition of illegal gambling businesses),".

(c) Subsection (l) of section 2516 of title 18, United States Code, is amended in paragraph (c) by inserting "section 1956 (laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity)," after "section 1955 (prohibition of relating to business enterprises of gambling),".

SEC. 1366. FORFEITURE.

(a) Title 18 of the United States Code is amended by adding after chapter 45 a new chapter 46 as follows:

"CHAPTER 46—FORFEITURE

"Sec.
"981. Civil Forfeiture.
"982. Criminal Forfeiture.

18 USC 981.

"§ 981. Civil forfeiture

"(a)(1) Except as provided in paragraph (2), the following property is subject to forfeiture to the United States:

"(A) Any property, real or personal, which represents the gross receipts a person obtains, directly or indirectly, as a result of a violation of section 1956 or 1957 of this title, or which is traceable to such gross receipts.

"(B) Any property within the jurisdiction of the United States, which represents the proceeds of an offense against a foreign nation involving the manufacture, importation, sale, or distribution of a controlled substance (as such term is defined for the purposes of the Controlled Substances Act), within whose jurisdiction such offense or activity would be punishable by death or imprisonment for a term exceeding one year and which would be punishable by imprisonment for a term exceeding one year if such act or activity had occurred within the jurisdiction of the United States.

21 USC 801 note.

"(C) Any coin and currency (or other monetary instrument as the Secretary of the Treasury may prescribe) or any interest in other property, including any deposit in a financial institution, traceable to such coin or currency involved in a transaction or attempted transaction in violation of section 5313(a) or 5324 of title 31 may be seized and forfeited to the United States Government. No property or interest in property shall be seized or

forfeited if the violation is by a domestic financial institution examined by a Federal bank supervisory agency or a financial institution regulated by the Securities and Exchange Commission or a partner, director, officer, or employee thereof.

"(2) No property shall be forfeited under this section to the extent of the interest of an owner or lienholder by reason of any act or emission established by that owner or lienholder to have been committed without the knowledge of that owner or lienholder.

"(b) Any property subject to forfeiture to the United States under subsection (a)(1)(A) or (a)(1)(B) of this section may be seized by the Attorney General or, with respect to property involved in a violation of section 1956 or 1957 of this title investigated by the Secretary of the Treasury, may be seized by the Secretary of the Treasury, and any property subject to forfeiture under subsection (a)(1)(C) of this section may be seized by the Secretary of the Treasury, in each case upon process issued pursuant to the Supplemental Rules for certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when—

"(1) the seizure is pursuant to a lawful arrest or search; or

"(2) the Attorney General or the Secretary of the Treasury, as the case may be, has obtained a warrant for such seizure pursuant to the Federal Rules of Criminal Procedure, in which event proceedings under subsection (d) of this section shall be instituted promptly. 18 USC app.

"(c) Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General or the Secretary of the Treasury, as the case may be, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under this subsection, the Attorney General or the Secretary of the Treasury, as the case may be, may—

"(1) place the property under seal;

"(2) remove the property to a place designated by him; or

"(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

"(d) For purposes of this section, the provisions of the customs laws relating to the seizure, summary and judicial forfeiture, condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale of this section, the remission or mitigation of such forfeitures, and the compromise of claims (19 U.S.C. 1602 et seq.), insofar as they are applicable and not inconsistent with the provisions of this section, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this section, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General or the Secretary of the Treasury, as the case may be.

"(e) Notwithstanding any other provision of the law, except section 3 of the Anti Drug Abuse Act of 1986, the Attorney General or the Secretary of the Treasury, as the case may be, is authorized to retain property forfeited pursuant to this section, or to transfer such property on such terms and conditions as he may determine to—

"(1) any other Federal agency; or

"(2) any State or local law enforcement agency which participated directly in any of the acts which led to the seizure or forfeiture of the property.

State and local governments.

The Attorney General or the Secretary of the Treasury, as the case may be, shall ensure the equitable transfer pursuant to paragraph (2) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Attorney General or the Secretary of the Treasury pursuant to paragraph (2) shall not be subject to review. The United States shall not be liable in any action arising out of the use of any property the custody of which was transferred pursuant to this section to any non-Federal agency. The Attorney General or the Secretary of the Treasury may order the discontinuance of any forfeiture proceedings under this section in favor of the institution of forfeiture proceedings by State or local authorities under an appropriate State or local statute. After the filing of a complaint for forfeiture under this section, the Attorney General may seek dismissal of the complaint in favor of forfeiture proceedings under State or local law. Whenever forfeiture proceedings are discontinued by the United States in favor of State or local proceedings, the United States may transfer custody and possession of the seized property to the appropriate State or local official immediately upon the initiation of the proper actions by such officials. Whenever forfeiture proceedings are discontinued by the United States in favor of State or local proceedings, notice shall be sent to all known interested parties advising them of the discontinuance or dismissal. The United States shall not be liable in any action arising out of the seizure, detention, and transfer of seized property to State or local officials.

"(f) All right, title, and interest in property described in subsection (a) of this section shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

"(g) The filing of an indictment or information alleging a violation of law which is also related to a forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the forfeiture proceeding.

"(h) In addition to the venue provided for in section 1395 of title 28 or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.

"(i) In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:

"(1) Notwithstanding any other provision of law, except section 3 of the Anti Drug Abuse Act of 1986, whenever property is civilly or criminally forfeited under the Controlled Substances Act, the Attorney General may, with the concurrence of the Secretary of State, equitably transfer any conveyance, currency, and any other type of personal property which the Attorney General may designate by regulation for equitable transfer, or any amounts realized by the United States from the sale of any real or personal property forfeited under the Controlled

21 USC 801 note.

Substances Act to an appropriate foreign country to reflect generally the contribution of any such foreign country participating directly or indirectly in any acts which led to the seizure or forfeiture of such property. Such property when forfeited pursuant to subsection (a)(1)(B) of this section may also be transferred to a foreign country pursuant to a treaty providing for the transfer of forfeited property to such foreign country. A decision by the Attorney General pursuant to this paragraph shall not be subject to review. The foreign country shall, in the event of a transfer of property or proceeds of sale of property under this subchapter, bear all expenses incurred by the United States in the seizure, maintenance, inventory, storage, forfeiture, and disposition of the property, and all transfer costs. The payment of all such expenses, and the transfer of assets pursuant to this paragraph, shall be upon such terms and conditions as the Attorney General may, in his discretion, set. Transfers may be made under this subsection during a fiscal year to a country that is subject to paragraph (1)(A) of section 481(h) of the Foreign Assistance Act of 1961 (relating to restrictions on United States assistance) only if there is a certification in effect with respect to that country for that fiscal year under paragraph (2) of that section.

21 USC 801 note.

22 USC 2291.

"(2) The provisions of this section shall not be construed as limiting or superseding any other authority of the United States to provide assistance to a foreign country in obtaining property related to a crime committed in the foreign country, including property which is sought as evidence of a crime committed in the foreign country.

"(3) A certified order or judgment of forfeiture by a court of competent jurisdiction of a foreign country concerning property which is the subject of forfeiture under this section and was determined by such court to be the type of property described in subsection (a)(1)(B) of this section, and any certified recordings or transcripts of testimony taken in a foreign judicial proceeding concerning such order or judgment of forfeiture, shall be admissible in evidence in a proceeding brought pursuant to this section. Such certified order or judgment of forfeiture, when admitted into evidence, shall constitute probable cause that the property forfeited by such order or judgment of forfeiture is subject to forfeiture under this section and creates a rebuttable presumption of the forfeitability of such property under this section.

"(4) A certified order or judgment of conviction by a court of competent jurisdiction of a foreign country concerning an unlawful drug activity which gives rise to forfeiture under this section and any certified recordings or transcripts of testimony taken in a foreign judicial proceeding concerning such order or judgment of conviction shall be admissible in evidence in a proceeding brought pursuant to this section. Such certified order or judgment of conviction, when admitted into evidence, creates a rebuttable presumption that the unlawful drug activity giving rise to forfeiture under this section has occurred.

"(5) The provisions of paragraphs (3) and (4) of this subsection shall not be construed as limiting the admissibility of any evidence otherwise admissible, nor shall they limit the ability of the United States to establish probable cause that property is subject to forfeiture by any evidence otherwise admissible.

"(j) For purposes of this section—

"(1) the term 'Attorney General' means the Attorney General or his delegate; and

"(2) the term 'Secretary of the Treasury' means the Secretary of the Treasury or his delegate.

18 USC 982.

"§ 982. Criminal forfeiture

Real property.

"(a) The court, in imposing sentence on a person convicted of an offense under section 1956 or 1957 of this title shall order that the person forfeit to the United States any property, real or personal, which represents the gross receipts the person obtained, directly or indirectly, as a result of such offense, or which is traceable to such gross receipts.

"(b) The provisions of subsections 413 (c) and (e) through (o) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853 (c) and (e)—(o)) shall apply to property subject to forfeiture under this section, to any seizure or disposition thereof, and to any administrative or judicial proceeding in relation thereto, if not inconsistent with this section.".

(b) The chapter analysis of part I of title 18, United States Code, is amended by inserting after the item for chapter 45 the following:

"46. Forfeiture ..... 981".

18 USC 981 note.

SEC. 1367. SEVERABILITY CLAUSE.

If any provision of this subtitle or any amendment made by this Act, or the application thereof to any person or circumstances is held invalid, the provisions of every other part, and their application, shall not be affected thereby.

Subtitle I—Armed Career Criminals

Career Criminals Amendment Act of 1986.
18 USC 921 note.

SEC. 1401. SHORT TITLE.

This subtitle may be cited as the "Career Criminals Amendment Act of 1986".

SEC. 1402. EXPANSION OF PREDICATE OFFENSES FOR ARMED CAREER CRIMINAL PENALTIES.

(a) IN GENERAL.—Section 924(e)(1) of title 18, United States Code, is amended by striking out "for robbery or burglary, or both," and inserting in lieu thereof "for a violent felony or a serious drug offense, or both,".

(b) DEFINITIONS.—Section 924(e)(2) of title 18, United States Code, is amended by striking out subparagraph (A) and all that follows through subparagraph (B) and inserting in lieu thereof the following:

"(A) the term 'serious drug offense' means—

"(i) an offense under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the first section or section 3 of Public Law 96-350 (21 U.S.C. 955a et seq.), for which a maximum term of imprisonment of ten years or more is prescribed by law; or

"(ii) an offense under State law, involving manufacturing, distributing, or possessing with intent to manufacture or distribute, a controlled substance (as defined in section 102 of the Controlled Substances Act (21

U.S.C. 802)), for which a maximum term of imprisonment of ten years or more is prescribed by law; and

"(B) the term 'violent felony' means any crime punishable by imprisonment for a term exceeding one year that—

"(i) has as an element the use, attempted use, or threatened use of physical force against the person of another; or

"(ii) is burglary, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another.".

Subtitle J—Authorization of Appropriation for Drug Law Enforcement

Drug Enforcement Enhancement Act of 1986.

SEC. 1451. AUTHORIZATION OF APPROPRIATIONS.

(a) There is authorized to be appropriated for fiscal year 1987 for the Department of Justice for the Drug Enforcement Administration, $60,000,000; except, that notwithstanding section 1345 of title 31, United States Code, funds made available to the Department of Justice for the Drug Enforcement Administration in any fiscal year may be used for travel, transportation, and subsistence expenses of State, county, and local officers attending conferences, meetings, and training courses at the FBI Academy, Quantico, Virginia.

(b) The Drug Enforcement Administration of the Department of Justice is hereby authorized to plan, construct, renovate, maintain, remodel and repair buildings and purchase equipment incident thereto for an All Source Intelligence Center, but the existing El Paso Intelligence Center shall remain in Texas."

(c) There is authorized to be appropriated for fiscal year 1987 for the Department of Justice for the Federal Prison System, $124,500,000, of which $96,500,000 shall be for the construction of Federal penal and correctional institutions and $28,000,000 shall be for salaries and expenses.

(d) There is authorized to be appropriated for fiscal year 1987 for the Judiciary for Defender Services, $18,000,000.

(e) There is authorized to be appropriated for fiscal year 1987 for the Judiciary for Fees and Expenses of Jurors and Commissioners, $7,500,000.

(f) There is authorized to be appropriated for fiscal year 1987 for the Department of Justice for the Office of Justice Assistance, $2,000,000 to carry out a pilot prison capacity program.

(g) There is authorized to be appropriated for fiscal year 1987 for the Department of Justice for support of United States prisoners in non-Federal Institutions, $5,000,000.

(h) There is authorized to be appropriated for fiscal year 1987 for the Department of Justice for the Offices of the United States Attorneys, $31,000,000.

(i) There is authorized to be appropriated for fiscal year 1987 for the Department of Justice for the United States Marshals Service, $17,000,000.

"(j) Authorizations of appropriations for fiscal year 1987 contained in this section are in addition to those amounts agreed to in the conference agreement reached on Title I of H.J. Res. 738."

Ante, p. 1783; *post*, p. 3341.

(k) In addition to any other amounts that may be authorized to be appropriated for fiscal year 1987, the following sums are authorized to be appropriated to procure secure voice radios:

Federal Bureau of Investigation	$2,000,000
Secret Service	$5,000,000.

(l) This section may be cited as the "Drug Enforcement Enhancement Act of 1986".

State and Local Law Enforcement Assistance Act of 1986. 42 USC 3711 note.

Subtitle K—State and Local Narcotics Control Assistance

SEC. 1551. SHORT TITLE.

This subtitle may be cited as the "State and Local Law Enforcement Assistance Act of 1986".

SEC. 1552. BUREAU OF JUSTICE ASSISTANCE DRUG GRANT PROGRAMS.

(a) Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712 et seq.) is amended—

(1) by redesignating part M as part N,

42 USC 3797.

(2) by redesignating section 1301 as section 1401, and

(3) by inserting after part L the following new part:

"PART M—GRANTS FOR DRUG LAW ENFORCEMENT PROGRAMS

"FUNCTION OF THE DIRECTOR

State and local governments. 42 USC 3796h.

"SEC. 1301. The Director shall provide funds to eligible States and units of local government pursuant to this part.

"DESCRIPTION OF DRUG LAW ENFORCEMENT GRANT PROGRAM

State and local governments. 42 USC 3796i.

"SEC. 1302. The Director is authorized to make grants to States, for the use of States and units of local government in the States, for the purpose of enforcing State and local laws that establish offenses similar to offenses established in the Controlled Substances Act (21 U.S.C. 801 et seq.), and to—

"(1) provide additional personnel, equipment, facilities, personnel training, and supplies for more widespread apprehension of persons who violate State and local laws relating to the production, possession, and transfer of controlled substances and to pay operating expenses (including the purchase of evidence and information) incurred as a result of apprehending such persons;

"(2) provide additional personnel, equipment, facilities (including upgraded and additional law enforcement crime laboratories), personnel training, and supplies for more widespread prosecution of persons accused of violating such State and local laws and to pay operating expenses in connection with such prosecution;

"(3) provide additional personnel (including judges), equipment, personnel training, and supplies for more widespread adjudication of cases involving persons accused of violating such State and local laws, to pay operating expenses in connection with such adjudication, and to provide quickly temporary facilities in which to conduct adjudications of such cases;

"(4) provide additional public correctional resources for the detention of persons convicted of violating State and local laws relating to the production, possession, or transfer of controlled substances, and to establish and improve treatment and re-

habilitative counseling provided to drug dependent persons convicted of violating State and local laws;

"(5) conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted;

"(6) provide programs which identify and meet the needs of drug-dependent offenders; and

"(7) conduct demonstration programs, in conjunction with local law enforcement officials, in areas in which there is a high incidence of drug abuse and drug trafficking to expedite the prosecution of major drug offenders by providing additional resources, such as investigators and prosecutors, to identify major drug offenders and move these offenders expeditiously through the judicial system.

"APPLICATIONS TO RECEIVE GRANTS

State and local governments.
42 USC 3796j.

"SEC. 1303. To request a grant under section 1302, the chief executive officer of a State shall submit to the Director an application at such time and in such form as the Director may require. Such application shall include—

"(1) a statewide strategy for the enforcement of State and local laws relating to the production, possession, and transfer of controlled substances;

"(2) a certification that Federal funds made available under section 1302 of this title will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for drug law enforcement activities;

"(3) a certification that funds required to pay the non-Federal portion of the cost of each program and project for which such grant is made shall be in addition to funds that would otherwise be made available for drug law enforcement by the recipients of grant funds;

"(4) an assurance that the State application described in this section, and any amendment to such application, has been submitted for review to the State legislature or its designated body (for purposes of this section, such application or amendment shall be deemed to be reviewed if the State legislature or such body does not review such application or amendment within the 60-day period beginning on the date such application or amendment is so submitted); and

"(5) an assurance that the State application and any amendment thereto was made public before submission to the Bureau and, to the extent provided under State law or established procedure, an opportunity to comment thereon was provided to citizens and to neighborhood and community groups.

Report.

Such strategy shall be prepared after consultation with State and local officials whose duty it is to enforce such laws. Such strategy shall include an assurance that following the first fiscal year covered by an application and each fiscal year thereafter, the applicant shall submit to the Director or to the State, as the case may be, a performance report concerning the activities carried out pursuant to section 1302 of this title.

"REVIEW OF APPLICATIONS

42 USC 3796k.

"SEC. 1304. (a) The Bureau shall provide financial assistance to each State applicant under section 1302 of this title to carry out the programs or projects submitted by such applicant upon determining that—

"(1) the application or amendment thereto is consistent with the requirements of this title; and

"(2) before the approval of the application and any amendment thereto the Bureau has made an affirmative finding in writing that the program or project has been reviewed in accordance with section 1303 of this title.

Each application or amendment made and submitted for approval to the Bureau pursuant to section 1303 shall be deemed approved, in whole or in part, by the Bureau not later than sixty days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

Grants.

"(b) Grant funds awarded under section 1302 of this title shall not be used for land acquisition or construction projects, other than penal and correctional institutions.

"(c) The Bureau shall not finally disapprove any application, or any amendment thereto, submitted to the Director under this section without first affording the applicant reasonable notice and opportunity for reconsideration.

"ALLOCATION AND DISTRIBUTION OF FUNDS UNDER FORMULA GRANTS

State and local governments.
42 USC 3796l.

"SEC. 1305. (a) Of the total amount appropriated for this part in any fiscal year, 80 per centum shall be set aside for section 1302 and allocated to States as follows:

"(1) $500,000 shall be allocated to each of the participating States.

"(2) Of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State bears to the population of all the States.

"(b)(1) Each State which receives funds under subsection (a) in a fiscal year shall distribute among units of local government, or combinations of units of local government, in such State for the purposes specified in section 1302 of this title that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for criminal justice in such preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State involved.

"(3) For purposes of determining the distribution of funds under paragraph (1), the most accurate and complete data available for the fiscal year involved shall be used. If data for such fiscal year are not available, then the most accurate and complete data available for the most recent fiscal year preceding such fiscal year shall be used.

"(c) No funds allocated to a State under subsection (a) or received by a State for distribution under subsection (b) may be distributed

by the Director or by the State involved for any program other than a program contained in an approved application.

"(d) If the Director determines, on the basis of information available to it during any fiscal year, that a portion of the funds allocated to a State for that fiscal year will not be required or that a State will be unable to qualify or receive funds under section 1302 of this title, or that a State chooses not to participate in the program established under such section, then such portion shall be awarded by the Director to urban, rural, and suburban units of local government or combinations thereof within such State giving priority to those jurisdictions with greatest need. Urban areas. Rural areas.

"(e) Any funds allocated under subsection (a) that are not distributed under this section shall be available for obligation under section 1309 of this title.

"REPORTS

"SEC. 1306. (a) Each State which receives a grant under section 1302 of this title shall submit to the Director, for each year in which any part of such grant is expended by a State or unit of local government, a report which contains— 42 USC 3796m.

"(1) a summary of the activities carried out with such grant and an assessment of the impact of such activities on meeting the needs identified in the State strategy submitted under section 1303 of this title;

"(2) a summary of the activities carried out in such year with any grant received under section 1309 of this title by such State; and

"(3) such other information as the Director may require by rule.

Such report shall be submitted in such form and by such time as the Director may require by rule.

"(b) Not later than ninety days after the end of each fiscal year for which grants are made under section 1302 of this title, the Director shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report that includes with respect to each State—

"(1) the aggregate amount of grants made under sections 1302 and 1309 of this title to such State for such fiscal year;

"(2) the amount of such grants expended for each of the purposes specified in section 1302; and

"(3) a summary of the information provided in compliance with paragraphs (1) and (2) of subsection (a).

"EXPENDITURE OF GRANTS; RECORDS

"SEC. 1307. (a) A grant made under section 1302 of this title may not be expended for more than 75 per centum of the cost of the identified uses, in the aggregate, for which such grant is received to carry out any purpose specified in section 1302, except that in the case of funds distributed to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) for any such program or project, the amount of such grant shall be equal to 100 per centum of such cost. The non-Federal portion of the expenditures for such uses shall be paid in cash. Indians. 42 USC 3796n.

"(b) Not more than 10 per centum of a grant made under section 1302 of this title may be used for costs incurred to administer such grant.

"(c)(1) Each State which receives a grant under section 1302 of this title shall keep, and shall require units of local government which receive any part of such grant to keep, such records as the Director may require by rule to facilitate an effective audit.

State and local governments.

"(2) The Director and the Comptroller General of the United States shall have access, for the purpose of audit and examination, to any books, documents, and records of States which receive grants, and of units of local government which receive any part of a grant made under section 1302, if in the opinion of the Director or the Comptroller General, such books, documents, and records are related to the receipt or use of any such grant.

"STATE OFFICE

42 USC 3796o.

"SEC. 1308. (a) The chief executive of each participating State shall designate a State office for purposes of—

"(1) preparing an application to obtain funds under section 1302 of this title; and

"(2) administering funds received under such section from the Director, including receipt, review, processing, monitoring, progress and financial report review, technical assistance, grant adjustments, accounting, auditing, and fund disbursements.

"(b) An office or agency performing other functions within the executive branch of a State may be designated to carry out the functions specified in subsection (a).

"DISCRETIONARY GRANTS

42 USC 3796p.

"SEC. 1309. The Director is authorized to make grants to public agencies and private nonprofit organizations for any purpose specified in section 1302 of this title. The Director shall have final authority over all grants awarded under this section.

"APPLICATION REQUIREMENTS

42 USC 3796q.

"SEC. 1310. (a) No grant may be made under section 1309 of this title unless an application has been submitted to the Director in which the applicant—

"(1) sets forth a program or project which is eligible for funding pursuant to section 1309 of this title; and

"(2) describes the services to be provided, performance goals, and the manner in which the program is to be carried out.

"(b) Each applicant for funds under section 1309 of this title shall certify that its program or project meets all the requirements of this section, that all the information contained in the application is correct, and that the applicant will comply with all the provisions of this title and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Director.

"ALLOCATION OF FUNDS FOR DISCRETIONARY GRANTS

42 USC 3796r.

"SEC. 1311. Of the total amount appropriated for this part in any fiscal year, 20 per centum shall be reserved and set aside for section 1309 of this title in a special discretionary fund for use by the Director in carrying out the purposes specified in section 1302 of this

title. Grants under section 1309 may be made for amounts up to 100 per centum of the costs of the programs or projects contained in the approved application.

"LIMITATION ON USE OF DISCRETIONARY GRANT FUNDS

"SEC. 1312. Grant funds awarded under section 1309 of this title shall not be used for land acquisition or construction projects.". 42 USC 3796s.

(b)(1) Subsections (a) and (b) of section 401 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3741) are each amended by striking out "part E" and inserting in lieu thereof "parts E and M".

(2) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782(b)) is amended by striking out "parts D and E" and inserting in lieu thereof "parts D, E, and M".

(3) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is amended by inserting "or M" after "part D".

(4) Section 808 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789) is amended by inserting "or 1308, as the case may be," after "section 408".

(5) The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking out the items relating to part M and section 1301, and inserting in lieu thereof the following new items:

"PART M—GRANTS FOR DRUG LAW ENFORCEMENT PROGRAMS

"Sec. 1301. Function of the Director.
"Sec. 1302. Description of drug law enforcement grant program.
"Sec. 1303. Applications to receive grants.
"Sec. 1304. Review of applications.
"Sec. 1305. Allocation and distribution of funds under formula grants.
"Sec. 1306. Reports.
"Sec. 1307. Expenditure of grants; records.
"Sec. 1308. State office.
"Sec. 1309. Discretionary grants.
"Sec. 1310. Application requirements.
"Sec. 1311. Allocation of funds for discretionary grants.
"Sec. 1312. Limitation on use of discretionary grant funds.

"PART N—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1401. Continuation of rules, authorities, and proceedings.".

(c) Section 1001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

(1) in subsection (a)—

(A) in paragraph (3) by striking out "and L" and inserting in lieu thereof "L, and M",

(B) by redesignating paragraph (6) as paragraph (7), and

(C) by inserting after paragraph (5) the following new paragraph:

"(6) There are authorized to be appropriated $230,000,000 for fiscal year 1987, $230,000,000 for fiscal year 1988, and $230,000,000 for fiscal year 1989, to carry out the programs under part M of this title."; and

(2) in subsection (b) by striking out "and E" and inserting in lieu thereof ", E, and M".

Subtitle L—Study on the Use of Existing Federal Buildings as Prisons

SEC. 1601. STUDY REQUIRED.

(a) Within 90 days of the date of enactment of this Act, the Secretary of Defense shall provide to the Attorney General—

(1) a list of all sites under the jurisdiction of the Department of Defense including facilities beyond the excess and surplus property inventories whose facilities or a portion thereof could be used, or are being used, as detention facilities for felons, especially those who are a Federal responsibility such as illegal alien felons and major narcotics traffickers;

(2) a statement of fact on how such facilities could be used as detention facilities with detailed descriptions on their actual daily percentage of use; their capacities or rated capacities; the time periods they could be utilized as detention facilities; the cost of converting such facilities to detention facilities; and, the cost of maintaining them as such; and

(3) in consultation with the Attorney General, a statement showing how the Department of Defense and the Department of Justice would administer and provide staffing responsibilities to convert and maintain such detention facilities.

Report.

(b) Copies of the report and analysis required by subsection (a) shall be provided to the Congress.

Subtitle M—Narcotics Traffickers Deportation Act

SEC. 1751. AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.

(a) Section 212(a)(23) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(23)) is amended—

(1) by striking out "any law or regulation relating to" and all that follows through "addiction-sustaining opiate" and inserting in lieu thereof "any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))"; and

(2) by striking out "any of the aforementioned drugs" and inserting in lieu thereof "any such controlled substance".

(b) Section 241(a)(11) of such Act (8 U.S.C. 1251(a)(11)) is amended by striking out "any law or regulation relating to" and all that follows through "addiction-sustaining opiate" and inserting in lieu thereof "any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))".

8 USC 1182 note.

(c) The amendments made by the subsections (a) and (b) of this section shall apply to convictions occurring before, on, or after the date of the enactment of this section, and the amendments made by subsection (a) shall apply to aliens entering the United States after the date of the enactment of this section.

(d) Section 287 of the Immigration and Nationality Act (8 U.S.C. 1357) is amended by adding at the end the following new subsection:

"(d) In the case of an alien who is arrested by a Federal, State, or local law enforcement official for a violation of any law relating to controlled substances, if the official (or another official)—

"(1) has reason to believe that the alien may not have been lawfully admitted to the United States or otherwise is not lawfully present in the United States,

"(2) expeditiously informs an appropriate officer or employee of the Service authorized and designated by the Attorney General of the arrest and of facts concerning the status of the alien, and

"(3) requests the Service to determine promptly whether or not to issue a detainer to detain the alien, the officer or employee of the Service shall promptly determine whether or not to issue such a detainer. If such a detainer is issued and the alien is not otherwise detained by Federal, State, or local officials, the Attorney General shall effectively and expeditiously take custody of the alien.".

(e)(1) From the sums appropriated to carry out this Act, the Attorney General, through the Investigative Division of the Immigration and Naturalization Service, shall provide a pilot program in 4 cities to establish or improve the computer capabilities of the local offices of the Service and of local law enforcement agencies to respond to inquiries concerning aliens who have been arrested or convicted for, or are the subject to criminal investigation relating to, a violation of any law relating to controlled substances. The Attorney General shall select cities in a manner that provides special consideration for cities located near the land borders of the United States and for large cities which have major concentrations of aliens. Some of the sums made available under the pilot program shall be used to increase the personnel level of the Investigative Division. 8 USC 1103 note.

(2) At the end of the first year of the pilot program, the Attorney General shall provide for an evaluation of the effectiveness of the program and shall report to Congress on such evaluation and on whether the pilot program should be extended or expanded. Report.

Subtitle N—Freedom of Information Act

Freedom of Information Reform Act of 1986.

SEC. 1801. SHORT TITLE.

This subtitle may be cited as the "Freedom of Information Reform Act of 1986". 5 USC 552 note.

SEC. 1802. LAW ENFORCEMENT.

(a) EXEMPTION.—Section 552(b)(7) of title 5, United States Code, is amended to read as follows:

"(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and proce- State and local governments.

dures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;".

(b) EXCLUSIONS.—Section 552 of title 5, United States Code, is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f) respectively, and by inserting after subsection (b) the following new subsection:

"(c)(1) Whenever a request is made which involves access to records described in subsection (b)(7)(A) and—

"(A) the investigation or proceeding involves a possible violation of criminal law; and

"(B) there is reason to believe that (i) the subject of the investigation or proceeding is not aware of its pendency, and (ii) disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings,

the agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of this section.

"(2) Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the agency may treat the records as not subject to the requirements of this section unless the informant's status as an informant has been officially confirmed.

"(3) Whenever a request is made which involves access to records maintained by the Federal Bureau of Investigation pertaining to foreign intelligence or counterintelligence, or international terrorism, and the existence of the records is classified information as provided in subsection (b)(1), the Bureau may, as long as the existence of the records remains classified information, treat the records as not subject to the requirements of this section.".

SEC. 1803. FEES AND FEE WAIVERS.

Paragraph (4)(A) of section 552(a) of title 5, United States Code, is amended to read as follows:

Regulations.

"(4)(A)(i) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to the processing of requests under this section and establishing procedures and guidelines for determining when such fees should be waived or reduced. Such schedule shall conform to the guidelines which shall be promulgated, pursuant to notice and receipt of public comment, by the Director of the Office of Management and Budget and which shall provide for a uniform schedule of fees for all agencies.

"(ii) Such agency regulations shall provide that—

"(I) fees shall be limited to reasonable standard charges for document search, duplication, and review, when records are requested for commercial use;

Research and development.

"(II) fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research; or a representative of the news media; and

"(III) for any request not described in (I) or (II), fees shall be limited to reasonable standard charges for document search and duplication.

"(iii) Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

"(iv) Fee schedules shall provide for the recovery of only the direct costs of search, duplication, or review. Review costs shall include only the direct costs incurred during the initial examination of a document for the purposes of determining whether the documents must be disclosed under this section and for the purposes of withholding any portions exempt from disclosure under this section. Review costs may not include any costs incurred in resolving issues of law or policy that may be raised in the course of processing a request under this section. No fee may be charged by any agency under this section—

"(I) if the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee; or

"(II) for any request described in clause (ii) (II) or (III) of this subparagraph for the first two hours of search time or for the first one hundred pages of duplication.

"(v) No agency may require advance payment of any fee unless the requester has previously failed to pay fees in a timely fashion, or the agency has determined that the fee will exceed $250.

"(vi) Nothing in this subparagraph shall supersede fees chargeable under a statute specifically providing for setting the level of fees for particular types of records.

"(vii) In any action by a requester regarding the waiver of fees under this section, the court shall determine the matter de novo: *Provided,* That the court's review of the matter shall be limited to the record before the agency.".

SEC. 1804. EFFECTIVE DATES. 5 USC 552 note.

(a) The amendments made by section 1802 shall be effective on the date of enactment of this Act, and shall apply with respect to any requests for records, whether or not the request was made prior to such date, and shall apply to any civil action pending on such date.

(b)(1) The amendments made by section 1803 shall be effective 180 days after the date of enactment of this Act, except that regulations to implement such amendments shall be promulgated by such 180th day.

(2) The amendments made by section 1803 shall apply with respect to any requests for records, whether or not the request was made prior to such date, and shall apply to any civil action pending on such date, except that review charges applicable to records requested for commercial use shall not be applied by an agency to requests made before the effective date specified in paragraph (1) of this subsection or before the agency has finally issued its regulations.

Mail Order Drug Paraphernalia Control Act.

Subtitle O—Prohibition on the Interstate Sale and Transportation of Drug Paraphernalia

21 USC 801 note.

SEC. 1821. SHORT TITLE.

This subtitle may be cited as the "Mail Order Drug Paraphernalia Control Act".

21 USC 857.

SEC. 1822. OFFENSE.

(a) It is unlawful for any person—

(1) to make use of the services of the Postal Service or other interstate conveyance as part of a scheme to sell drug paraphernalia;

(2) to offer for sale and transportation in interstate or foreign commerce drug paraphernalia; or

(3) to import or export drug paraphernalia.

(b) Anyone convicted of an offense under subsection (a) of this section shall be imprisoned for not more than three years and fined not more than $100,000.

(c) Any drug paraphernalia involved in any violation of subsection (a) of this section shall be subject to seizure and forfeiture upon the conviction of a person for such violation. Any such paraphernalia shall be delivered to the Administrator of General Services, General Services Administration, who may order such paraphernalia destroyed or may authorize its use for law enforcement or educational purposes by Federal, State, or local authorities.

(d) The term "drug paraphernalia" means any equipment, product, or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Controlled Substances Act (title II of Public Law 91-513). It includes items primarily intended or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, hashish oil, PCP, or amphetamines into the human body, such as—

21 USC 802.

(1) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(2) water pipes;

(3) carburetion tubes and devices;

(4) smoking and carburetion masks;

(5) roach clips: meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;

(6) miniature spoons with level capacities of one-tenth cubic centimeter or less;

(7) chamber pipes;

(8) carburetor pipes;

(9) electric pipes;

(10) air-driven pipes;

(11) chillums;

(12) bongs;

(13) ice pipes or chillers;

(14) wired cigarette papers; or

(15) cocaine freebase kits.

(e) In determining whether an item constitutes drug paraphernalia, in addition to all other logically relevant factors, the following may be considered:

(1) instructions, oral or written, provided with the item concerning its use;

(2) descriptive materials accompanying the item which explain or depict its use;

(3) national and local advertising concerning its use;

(4) the manner in which the item is displayed for sale;

(5) whether the owner, or anyone in control of the item, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

(6) direct or circumstantial evidence of the ratio of sales of the item(s) to the total sales of the business enterprise;

(7) the existence and scope of legitimate uses of the item in the community; and

(8) expert testimony concerning its use.

(f) This subtitle shall not apply to—

(1) any person authorized by local, State, or Federal law to manufacture, possess, or distribute such items; or

(2) any item that, in the normal lawful course of business, is imported, exported, transported, or sold through the mail or by any other means, and primarily intended for use with tobacco products, including any pipe, paper, or accessory.

SEC. 1823. EFFECTIVE DATE. 21 USC 857 note.

This subtitle shall become effective 90 days after the date of enactment of this Act.

Subtitle P—Manufacturing Operations

SEC. 1841. MANUFACTURING OPERATION.

(a) Part D of the Controlled Substances Act is amended by adding at the end thereof the following new section:

"ESTABLISHMENT OF MANUFACTURING OPERATIONS

"SEC. 416. (a) Except as authorized by this title, it shall be unlawful to— 21 USC 856.

"(1) knowingly open or maintain any place for the purpose of manufacturing, distributing, or using any controlled substance;

"(2) manage or control any building, room, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, and knowingly and intentionally rent, lease, or make available for use, with or without compensation, the building, room, or enclosure for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance.

"(b) Any person who violates subsection (a) of this section shall be sentenced to a term of imprisonment of not more than 20 years or a fine of not more than $500,000, or both, or a fine of $2,000,000 for a person other than an individual.".

(b) Section 405A of the Controlled Substances Act is amended— *Ante*, p. 3207-11.

(1) in subsection (a) by inserting after "section 401(a)(1)" the following: "or section 416"; and

(2) in subsection (b) by inserting after "section 401(a)(1)" the following: "or section 416".

Subtitle Q—Controlled Substances Technical Amendments

Drug and Alcohol Dependent Offenders Treatment Act of 1986.
18 USC 3661 note.

SEC. 1861. DUTIES OF DIRECTOR OF ADMINISTRATIVE OFFICE AND AUTHORIZATIONS.

(a) SHORT TITLE.—This section may be cited as the "Drug and Alcohol Dependent Offenders Treatment Act of 1986".

98 Stat. 1987.

(b) PERMANENT AMENDMENT RELATING TO DUTIES OF DIRECTOR OF ADMINISTRATIVE OFFICE.—(1) The section of title 18, United States Code, that is redesignated section 3672 by section 212(a) of the Comprehensive Crime Control Act of 1984 is amended by adding at the end thereof:

Contracts.

"He shall have the authority to contract with any appropriate public or private agency or person for the detection of and care in the community of an offender who is an alcohol-dependent person, or an addict or a drug-dependent person within the meaning of section 2 of the Public Health Service Act (42 U.S.C. 201). This authority shall include the authority to provide equipment and supplies; testing; medical, educational, social, psychological, and vocational services; corrective and preventive guidance and training; and other rehabilitative services designed to protect the public and benefit the alcohol dependent person, addict, or drug dependent person by eliminating his dependence on alcohol or addicting drugs, or by controlling his dependence and his susceptibility to addiction. He may negotiate and award such contracts without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

"He shall pay for presentence studies and reports by qualified consultants and presentence examinations and reports by psychiatric or psychological examiners ordered by the court under subsection (b) or (c) of section 3552, except for studies conducted by the Bureau of Prisons.".

18 USC 3552.

Effective date.
18 USC 3672 note.

(2) The amendment made by this section shall take effect on the date of the taking effect of such redesignation.

(c) INTERIM AMENDMENT RELATING TO DUTIES OF DIRECTOR OF ADMINISTRATIVE OFFICE.—The second paragraph of section 4255 of title 18, United States Code, is amended to read as follows:

Contracts.

"The Director of the Administrative Office of the United States Courts shall have the authority to contract with any appropriate public or private agency or person for the detection of and care in the community of an offender who is an alcohol-dependent person, or an addict or a drug-dependent person within the meaning of section 2 of the Public Health Service Act (42 U.S.C. 201). Such authority includes the authority to provide equipment and supplies; testing; medical, educational, social, psychological, and vocational services; corrective and preventive guidance and training; and other rehabilitative services designed to protect the public and benefit the alcohol dependent person, addict, or drug dependent person by eliminating that person's or addict's dependence on alcohol or addicting drugs, or by controlling that person's or addict's dependence and susceptibility to addiction. Such Director may negotiate and award such contracts without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5).".

18 USC 4255 note.

(d) REAUTHORIZATION OF CONTRACT SERVICES.—Section 4(a) of the Contract Services for Drug Dependent Federal Offenders Act of 1978 is amended—

(1) by striking out "and $6,000,000" and inserting "$6,500,000" in lieu thereof; and

(2) by striking out the two periods at the end and inserting in lieu thereof "; $12,000,000 for the fiscal year ending September 30, 1987; $14,000,000 for the fiscal year ending September 30, 1988; and $16,000,000 for the fiscal year ending September 30, 1989.".

SEC. 1862. AMENDMENT TO SECTION 608 OF THE TARIFF ACT.

(a) Section 608 of the Tariff Act of 1930 (19 U.S.C. 1608) is amended by striking out "$2,500" and inserting in lieu thereof "$5,000".

(b) Section 608 of such Act, as enacted by Public Law 98-473, is repealed.

SEC. 1863. AMENDMENTS TO SECTION 616 OF THE TARIFF ACT.

(a) Subsection (c) of section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a(c)) as enacted by Public Law 98-573 is amended by inserting "any other Federal agency or to" after "property forfeited under this Act to".

(b) Section 616 of such Act, as enacted by Public Law 98-473, is repealed. 19 USC 1616.

SEC. 1864. CROSS REFERENCE CORRECTIONS.

Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended—

(1) in subsection (c) and in the second subsection (h), by striking out "subsection (o)" and inserting "subsection (n)" in lieu thereof;

(2) in subsection (f) by striking out "subsection (f)" and inserting "subsection (e)" in lieu thereof;

(3) in subsection (i)(1), by striking out "this chapter" and inserting "this title" in lieu thereof; and

(4) by redesignating the second subsection (h) as subsection (k).

SEC. 1865. WARRANTS RELATING TO SEIZURE.

Subsection (b) of section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(b)) is amended—

(1) by striking out "or criminal" after "Any property subject to civil";

(2) in paragraph (4), by striking out "or criminal" after "is subject to civil"; and

(3) by adding the following at the end thereof:

"The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.". 18 USC app.

(b) Subsection (i) of section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(i)) is amended by inserting ", or a violation of State or local law that could have been charged under this title or title III," after "title III".

SEC. 1866. MINOR TECHNICAL AMENDMENTS.

(a) Section 403(a)(2) of the Controlled Substances Act (21 U.S.C. 843(a)(2)) is amended by striking out the period at the end and inserting a semicolon in lieu thereof.

(b) Section 405A(b) of the Controlled Substances Act (21 U.S.C. 845a(b)) is amended by striking out "special term" and inserting "term of supervised release" in lieu thereof.

(c) Section 405A(c) of the Controlled Substances Act (21 U.S.C. 845a(c)) is amended by striking out "section 4202" and inserting "chapter 311" in lieu thereof.

(d) Section 1008(e) of the Controlled Substances Import and Export Act (21 U.S.C. 958(e)) is amended by striking out "section" the first place it appears and inserting "sections" in lieu thereof.

(e) Section 1010(b)(3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(3)) is amended by striking out ", except as provided in paragraph (4)".

(f) The table of contents for the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended—

(1) by inserting after the item relating to section 405 the following:

"Sec. 405A. Manufacture or distribution in or near schools.
"Sec. 405B. Employment of minors in controlled substance trafficking.";

and

(2) by inserting after the item relating to section 414 the following:

"Sec. 415. Alternative fine.".

SEC. 1867. MODIFICATION OF COCAINE DEFINITION FOR PURPOSES OF SCHEDULE II.

Subsection (a)(4) of schedule II of section 202(c) the Controlled Substances Act (21 U.S.C. 812) is amended to read as follows:

"(4) Coca leaves (except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed); cocaine, its salts, optical and geometric isomers, and salts of isomers; and ecgonine, its derivatives, their salts, isomers, and salts of isomers.".

SEC. 1868. AUTHORITY OF ATTORNEY GENERAL TO ENTER INTO CONTRACTS WITH STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

Section 503(a) of the Controlled Substances Act (21 U.S.C. 873(a)) is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(7) notwithstanding any other provision of law, enter into contractual agreements with State and local law enforcement agencies to provide for cooperative enforcement and regulatory activities under this title.".

SEC. 1869. AUTHORITY OF ATTORNEY GENERAL TO DEPUTIZE STATE AND LOCAL LAW ENFORCEMENT OFFICERS FOR CONTROLLED SUBSTANCES ENFORCEMENT.

Section 508 of the Controlled Substances Act (21 U.S.C. 878) is amended—

(1) by inserting "(a)" before "Any officer or employee";

(2) by inserting after "Drug Enforcement Administration" the following: "or (with respect to offenses under this title or title III) any State or local law enforcement officer"; and

21 USC 802.
21 USC 951.

(3) by adding at the end thereof the following new subsection:

"(b) State and local law enforcement officers performing functions under this section shall not be deemed Federal employees and shall not be subject to provisions of law relating to Federal employees, except that such officers shall be subject to section 3374(c) of title 5, United States Code.".

SEC. 1870. CLARIFICATION OF ISOMER DEFINITION.

The second and third sentences of section 102(14) of the Controlled Substances Act (21 U.S.C. 802(14)) are each amended by striking out "the" after "the term 'isomer' means" and inserting in lieu thereof "any".

Subtitle R—Precursor and Essential Chemical Review

SEC. 1901. PRECURSOR AND ESSENTIAL CHEMICAL REVIEW.

(a) STUDY AND REPORT.—The Attorney General shall—

(1) conduct a study of the need for legislation, regulation, or alternative methods to control the diversion of legitimate precursor and essential chemicals to the illegal production of drugs of abuse; and

(2) report all findings of such study to Congress not later than the end of the 90th day after the date of enactment of this subtitle.

(b) CONSIDERATIONS.—In conducting such study the Attorney General shall take into consideration that—

(1) clandestine manufacture continues to be a major source of narcotic and dangerous drugs on the illegal drug market;

(2) these drugs are produced using a variety of chemicals which are found in commercial channels and which are diverted to illegal uses;

(3) steps have been taken to deny drug traffickers access to key precursor chemicals, including that—

(A) P2P, a precursor chemical used in the production of amphetamines and methamphetamines was administratively controlled in schedule II of the Controlled Substances by the Drug Enforcement Administration;

(B) a variety of controls were placed on piperidine, the precursor for phencyclidine, by the Psychotropic Substance Act of 1978; and

(C) the Drug Enforcement Administration has maintained a voluntary system in cooperation with chemical industry to report suspicious purchases of precursors and essential chemicals; and

(4) despite the formal and voluntary systems that currently exist, clandestine production of synthetic narcotics and dangerous drugs continue to contribute to drug trafficking and abuse problems in the United States.

21 USC 801 note.

Subtitle S—White House Conference for a Drug Free America

White House Conference for a Drug Free America.

SEC. 1931. SHORT TITLE.

This subtitle may be cited as the "White House Conference for a Drug Free America"

20 USC 4601 note.

20 USC 4601 note.

SEC. 1932. ESTABLISHMENT OF THE CONFERENCE.

There is established a conference to be known as "The White House Conference for a Drug Free America". The members of the Conference shall be appointed by the President.

20 USC 4601 note.

SEC. 1933. PURPOSE.

The purposes of the Conference are—

(1) to share information and experiences in order to vigorously and directly attack drug abuse at all levels, local, State, Federal, and international;

(2) to bring public attention to those approaches to drug abuse education and prevention which have been successful in curbing drug abuse and those methods of treatment which have enabled drug abusers to become drug free;

(3) to highlight the dimensions of the drug abuse crisis, to examine the progress made in dealing with such crisis, and to assist in formulating a national strategy to thwart sale and solicitation of illicit drugs and to prevent and treat drug abuse; and

(4) to examine the essential role of parents and family members in preventing the basic causes of drug abuse and in successful treatment efforts.

20 USC 4601 note.

SEC. 1934. RESPONSIBILITIES OF THE CONFERENCE.

The Conference shall specifically review—

(1) the effectiveness of law enforcement at the local, State, and Federal levels to prevent the sale and solicitation of illicit drugs and the need to provide greater coordination among such programs;

(2) the impact of drug abuse upon American education, examining in particular—

(A) the effectiveness of drug education programs in our schools with particular attention to those schools, both public and private, which have maintained a drug free learning environment;

(B) the role of colleges and universities in discouraging the illegal use of drugs by student-athletes; and

(C) the relationship between drug abuse by student-athletes and college athletic policies, including eligibility and academic requirements, recruiting policies, athletic department financing policies, the establishment of separate campus facilities for athletes, and the demands of practice and lengthy playing seasons;

(3) the extent to which Federal, State, and local programs of drug abuse education, prevention, and treatment require reorganization or reform in order to better use available resources and to ensure greater coordination among such programs;

(4) the impact of current laws on efforts to control international and domestic trafficking of illicit drugs;

(5) the extent to which the sanctions in section 481 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291) have been, or should be, used in encouraging foreign states to comply with their international responsibilities respecting controlling substances; and

(6) the circumstances contributing to the initiation of illicit drug usage, with particular emphasis on the onset of drug use by youth.

SEC. 1935. CONFERENCE PARTICIPANTS.

20 USC 4601 note.

In order to carry out the purposes and responsibilities specified in sections 1933 and 1934, the Conference shall bring together individuals concerned with issues relating to drug abuse education, prevention, and treatment, and the production, trafficking, and distribution of illicit drugs. The President shall—

President of U.S.

(1) ensure the active participation in the Conference of the heads of appropriate executive and military departments, and agencies, including the Attorney General, the Secretary of Education, the Secretary of Health and Human Services, Secretary of Transportation, and the Director of ACTION;

(2) provide for the involvement in the Conference of other appropriate public officials, including Members of Congress, Governors of States, and Mayors of Cities;

(3) provide for the involvement in the Conference of private entities, especially parents' organizations, which have been active in the fight against drug abuse; and

(4) provide for the involvement in the Conference of individuals distinguished in medicine, law, drug abuse treatment and prevention, primary, secondary, and postsecondary education, and law enforcement.

SEC. 1936. ADMINISTRATIVE PROVISIONS.

20 USC 4601 note.

(a) All Federal departments, agencies, and instrumentalities shall provide such support and assistance as may be necessary to facilitate the planning and administration of the Conference.

(b) The President is authorized to appoint and compensate an executive director and such other directors and personnel for the Conference as the President may consider advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 52 of such title relating to classification and General Schedule pay rates.

5 USC 5101 *et seq.*

(c) Upon request by the executive director, the heads of the executive and military departments are authorized to detail employees to work with the executive director in planning and administering the Conference without regard to the provisions of section 3341 of title 5, United States Code.

(d) Each participant in the Conference shall be responsible for the expenses of such participant in attending the Conference, and shall not be reimbursed for such expenses from amounts appropriated to carry out this subtitle.

SEC. 1937. FINAL REPORT AND FOLLOW-UP ACTIONS.

20 USC 4601 note.

(a) FINAL REPORT.—No later than six months after the effective date of this Act, the Conference shall prepare and transmit a final report to the President and to Congress, pursuant to sections 1933 and 1934. The report shall include the findings and recommendations of the Conference as well as proposals for any legislative action necessary to implement such recommendations.

(b) FOLLOW-UP ACTIONS.—The President shall report to the Congress annually, during the 3-year period following the submission of the final report of the Conference, on the status and implementation of the findings and recommendations of the Conference.

20 USC 4601 note.

SEC. 1938. AUTHORIZATION.

There are hereby authorized to be appropriated $2,000,000 for fiscal year 1988 for purposes of this subtitle.

Subtitle T—Common Carrier Operation Under the Influence of Alcohol or Drugs

SEC. 1971. OFFENSE.

(a) Part I of title 18, United States Code, is amended by inserting after chapter 17, the following:

"CHAPTER 17A—COMMON CARRIER OPERATION UNDER THE INFLUENCE OF ALCOHOL OR DRUGS

"Sec.
"341. Definitions.
"342. Operation of a common carrier under the influence of alcohol or drugs.
"343. Presumptions.

18 USC 341.

"§ 341. Definitions

"As used in this chapter, the term 'common carrier' means a rail carrier, a sleeping car carrier, a bus transporting passengers in interstate commerce, a water common carrier, and an air common carrier.

18 USC 342.

"§ 342. Operation of a common carrier under the influence of alcohol or drugs

"Whoever operates or directs the operation of a common carrier while under the influence of alcohol or drugs, shall be imprisoned not more than five years or fined not more than $10,000, or both.

18 USC 343.

"§ 343. Presumptions

"For purposes of this chapter—

"(1) an individual with a blood alcohol content of .10 or more shall be conclusively presumed to be under the influence of alcohol; and

"(2) an individual shall be conclusively presumed to be under the influence of drugs if the quantity of the drug in the system of the individual would be sufficient to impair the perception, mental processes, or motor functions of the average individual.".

(b) The table of chapters for part I of title 18, United States Code, is amended by adding after the item for chapter 17 the following:

"17A. Common Carrier Operation Under the Influence of Alcohol or Drugs

Federal Drug Law Enforcement Agent Protection Act of 1986.

Subtitle U—Federal Drug Law Enforcement Agent Protection Act of 1986

21 USC 801 note.

SEC. 1991. SHORT TITLE.

This subtitle may be cited as the "Federal Drug Law Enforcement Agent Protection Act of 1986".

SEC. 1992. AMENDMENT TO THE CONTROLLED SUBSTANCES ACT.

Subsection (e) of section 511 of the Controlled Substances Act (21 U.S.C. 881(e)) is amended by—

(1) inserting after "(e)" the following: "(1)";

(2) redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively; and

(3) striking out the matter of following subparagraph (D), as redesignated, and inserting in lieu thereof the following:

"(2)(A) The proceeds from any sale under subparagraph (B) of paragraph (1) and any moneys forfeited under this title shall be used to pay—

"(i) all property expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising, and court costs; and

"(ii) awards of up to $100,000 to any individual who provides original information which leads to the arrest and conviction of a person who kills or kidnaps a Federal drug law enforcement agent.

Any award paid for information concerning the killing or kidnapping of a Federal drug law enforcement agent, as provided in clause (ii), shall be paid at the discretion of the Attorney General.

"(B) The Attorney General shall forward to the Treasurer of the United States for deposit in accordance with section 524(c) of title 28, United States Code, any amounts of such moneys and proceeds remaining after payment of the expenses provided in subparagraph (A).".

TITLE II—INTERNATIONAL NARCOTICS CONTROL

International Narcotics Control Act of 1986.
22 USC 2151 note.

SEC. 2001. SHORT TITLE.

This title may be cited as the "International Narcotics Control Act of 1986".

SEC. 2002. ADDITIONAL FUNDING FOR INTERNATIONAL NARCOTICS CONTROL ASSISTANCE AND REGIONAL COOPERATION.

Section 482(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291a(a)(1); authorizing appropriations for assistance for international narcotics control) is amended—

(1) by striking out "$57,529,000 for the fiscal year 1987" and inserting in lieu thereof "$75,445,000 for the fiscal year 1987"; and

(2) by adding at the end the following: "In addition to the amounts authorized by the preceding sentence, there are authorized to be appropriated to the President $45,000,000 for the fiscal year 1987 to carry out the purposes of section 481, except that funds may be appropriated pursuant to this additional authorization only if the President has submitted to the Congress a detailed plan for the expenditure of those funds, including a description of how regional cooperation on narcotics control matters would be promoted by the use of those funds. Of the funds authorized to be appropriated by the preceding sentence, not less that $10,000,000 shall be available only to provide helicopters or other aircraft to countries receiving assistance for fiscal year 1987 under this chapter. These funds shall be used primarily for aircraft which will be based in Latin America for use for narcotics control eradication and interdiction efforts throughout the region. These aircraft shall be used solely for narcotics control, eradication, and interdiction efforts.".

22 USC 2291.

SEC. 2003. AIRCRAFT PROVIDED TO FOREIGN COUNTRIES FOR NARCOTICS CONTROL PURPOSES: RETENTION OF TITLE AND RECORDS OF USE.

Chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to the international narcotics control assistance program) is amended by adding at the end the following new sections:

22 USC 2291c.

"SEC. 484. RETENTION OF TITLE TO AIRCRAFT.

"Any aircraft which, at any time after the enactment of this section, are made available to a foreign country under this chapter, or are made available to a foreign country primarily for narcotics-related purposes under any other provision of law, shall be provided only on a lease or loan basis.

22 USC 2291d.

"SEC. 485. RECORDS OF AIRCRAFT USE.

"(a) REQUIREMENT TO MAINTAIN RECORDS.—The Secretary of State shall maintain detailed records on the use of any aircraft made available to a foreign country under this chapter, including aircraft made available before the enactment of this section.

"(b) CONGRESSIONAL ACCESS TO RECORDS.—The Secretary of State shall make the records maintained pursuant to subsection (a) available to the Congress upon a request of the Chairman of the Committee on Foreign Affairs of the House of Representatives or the Chairman of the Committee on Foreign Relations of the Senate.".

SEC. 2004. PILOT AND AIRCRAFT MAINTENANCE TRAINING FOR NARCOTICS CONTROL ACTIVITIES.

(a) EARMARKING OF FUNDS.—Not less than $2,000,000 of the funds made available for fiscal year 1987 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.; relating to international military education and training) shall be available only for education and training in the operation and maintenance of aircraft used in narcotics control interdiction and eradication efforts.

(b) RELATIONSHIP TO INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance under this section shall be coordinated with assistance provided under chapter 8 of part I of that Act (22 U.S.C. 2291 et seq.; relating to international narcotics control).

(c) WAIVER OF SECTION 660.—Assistance may be provided pursuant to this section notwithstanding the prohibition contained in section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to police training).

SEC. 2005. RESTRICTIONS ON THE PROVISION OF UNITED STATES ASSISTANCE.

(a) RESTRICTIONS.—Section 481(h) of the Foreign Assistance Act of 1961 is amended to read as follows:

22 USC 2291.

"(h)(1) Subject to paragraph (2), for every major illicit drug producing country or major drug-transit country—

"(A) 50 percent of United States assistance allocated for such country notified to Congress in the report required under section 653(a) of this Act shall be withheld from obligation and expenditure; and

22 USC 2413.

"(B) on or after March 1, 1987, and on March 1 of each succeeding year, the Secretary of the Treasury shall instruct the United States Executive Director of the International Bank

for Reconstruction and Development, the United States Executive Director of the International Development Association, the United States Executive Director of the Inter-American Development Bank, and the United States Executive Director of the Asian Development Bank to vote against any loan or other utilization of the funds of their respective institution to or for such country.

"(2)(A) The assistance withheld by paragraph (1)(A) may be obligated and expended and the provisions of paragraph (1)(B) shall not apply if the President determines, and so certifies to the Congress, at the time of the submission of the report required by subsection (e), that—

"(i) during the previous year the country has cooperated fully with the United States, or has taken adequate steps on its own, in preventing narcotic and psychotropic drugs and other controlled substances produced or processed, in whole or in part, in such country or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States and in preventing and punishing the laundering in that country of drug-related profits or drug-related monies; or

"(ii) for a country that would not otherwise qualify for certification under subclause (i), the vital national interests of the United States require the provision of such assistance, or financing.

"(B) If the President makes a certification pursuant to clause (A)(ii), he shall include in such certification—

"(i) a full and complete description of the vital national interests placed at risk should assistance, or financing not be provided such country; and

"(ii) a statement weighing the risk described in subclause (i) against the risks posed to the vital national interests of the United States by the failure of such country to cooperate fully with the United States in combatting narcotics or to take adequate steps to combat narcotics on its own.

"(3) In making the certification required by paragraph (2) of this subsection, the President shall give foremost consideration to whether the actions of the government of the country have resulted in the maximum reductions in illicit drug production which were determined to be achievable pursuant to subsection (e)(4). The President shall also consider whether such government—

"(A) has taken the legal and law enforcement measures to enforce in its territory, to the maximum extent possible, the elimination of illicit cultivation and the suppression of illicit manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances, as evidenced by seizures of such drugs and substances and of illicit laboratories and the arrest and prosecution of violators involved in the traffic in such drugs and substances significantly affecting the United States; and

"(B) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, the laundering in that country of drug-related profits or drug-related monies, as evidence by—

"(i) the enactment and enforcement of laws prohibiting such conduct, and

"(ii) the willingness of such government to enter into mutual legal assistance agreements with the United States governing (but not limited to) money laundering, and

"(iii) the degree to which such government otherwise cooperates with United States law enforcement authorities on anti-money laundering efforts.

"(4)(A) The provisions of paragraph (1) shall apply without regard to paragraph (2) if the Congress enacts, within 30 days of continuous session after receipt of a certification under paragraph (2), a joint resolution disapproving the determination of the President contained in such certification.

"(B)(i) Any such joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

90 Stat. 765.

"(ii) For the purpose of expediting the consideration and enactment of joint resolution under this subsection, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"(5) Any country for which the President has not made a certification under paragraph (2) or with respect to which the Congress has enacted a joint resolution disapproving such certification may not receive United States assistance as defined by subsection (i)(4) of this section or the financing described in paragraph (1)(B) of this subsection unless—

"(A) the President makes a certification under paragraph (2) and the Congress does not enact a joint resolution of disapproval; or

"(B) the President submits at any other time a certification of the matters described in paragraph (2) with respect to such country and the Congress enacts, in accordance with the procedures of paragraph (4), a joint resolution approving such certification.".

22 USC 2291.

(b) REPORTING DATE.—Section 481(e) of such Act is amended by striking out "February" and inserting in lieu thereof "March".

(c) DEFINITION.—Section 481(i) of such Act is amended—

"(1) by striking out "and" at the end of paragraph (3);

"(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

"(3) by adding at the end thereof the following new paragraph:

"(5) the term 'major drug-transit country' means a country—

"(A) that is a significant direct source of illicit narcotic or psychotropic drugs or other controlled substances significantly affecting the United States;

"(B) through which are transported such drugs or substances; or

"(C) through which significant sums of drug-related profits or monies are laundered with the knowledge or complicity of the government.".

(d) CHILD SURVIVAL FUND.—Section 481(i)(4) of such Act is amended by striking out "or (vi)" and inserting in lieu thereof "(vi) assistance from the Child Survival Fund under section 1049(c)(2) of this Act, or (vii)".

SEC. 2006. DEVELOPMENT OF HERBICIDES FOR AERIAL COCA ERADICATION.

The Secretary of State shall use not less than $1,000,000 of the funds made available for fiscal year 1987 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to international narcotics control) to finance research on and the development and testing of safe and effective herbicides for use in the aerial eradication of coca.

SEC. 2007. REVIEW OF EFFECTIVENESS OF INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.

22 USC 2291 note.

(a) REQUIREMENT FOR INVESTIGATION.—The Comptroller General shall conduct a thorough and complete investigation to determine the effectiveness of the assistance provided pursuant to chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to international narcotics control).

(b) REPORTS TO CONGRESS.—

(1) PERIODIC REPORTS.—The Comptroller General shall report to the Congress periodically as the various portions of the investigation conducted pursuant to subsection (a) are completed.

(2) FINAL REPORT.—Not later than March 1, 1988, the Comptroller General shall submit a final report to the Congress on the results of the investigation. This report shall include such recommendations for administrative or legislative action as the Comptroller General finds appropriate based on the investigation.

SEC. 2008. EXTRADITION TO THE UNITED STATES FOR NARCOTICS-RELATED OFFENSES.

Section 481(e)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(3); relating to the annual international narcotics control report) is amended by inserting after subparagraph (C) the following new subparagraph:

"(D) A discussion of the extent to which such country has cooperated with the United States narcotics control efforts through the extradition or prosecution of drug traffickers, and, where appropriate, a description of the status of negotiations with such country to negotiate a new or updated extradition treaty relating to narcotics offenses.".

SEC. 2009. FOREIGN POLICE ARREST ACTIONS.

Section 481(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(c); commonly known as the Mansfield amendment) is amended to read as follows:

"(c)(1) No officer or employee of the United States may directly effect an arrest in any foreign country as part of any foreign police action with respect to narcotics control efforts, notwithstanding any other provision of law. This paragraph does not prohibit an officer or employee from assisting foreign officers who are effecting an arrest.

"(2) Unless the Secretary of State, in consultation with the Attorney General, has determined that the application of this paragraph with respect to that foreign country would be harmful to the national interests of the United States, no officer or employee of the United States may engage or participate in any direct police arrest action in a foreign country with respect to narcotics control efforts, notwithstanding any other provision of law. Nothing in paragraph

(1) shall be construed to allow United States officers or employees to engage or participate in activities prohibited by this paragraph in a country with respect to which this paragraph applies.

"(3) Paragraphs (1) and (2) do not prohibit an officer or employee from taking direct action to protect life or safety if exigent circumstances arise which are unanticipated and which pose an immediate threat to United States officers or employees, officers or employees of a foreign government, or members of the public.

"(4) With the agreement of a foreign country, paragraphs (1) and (2) shall not apply with respect to maritime law enforcement operations in the territorial sea of that country.

"(5) No officer or employee of the United States may interrogate or be present during the interrogation of any United States person arrested in any foreign country with respect to narcotics control efforts without the written consent of such person.

"(6) This subsection shall not apply to the activities of the United States Armed Forces in carrying out their responsibilities under applicable Status of Forces arrangements.".

SEC. 2010. ISSUANCE OF DIPLOMATIC PASSPORTS FOR DRUG ENFORCEMENT ADMINISTRATION AGENTS ABROAD.

Report.

The Congress commends the decision of the Secretary of State to issue diplomatic passports, rather than official passports, to officials and employees of the Drug Enforcement Administration who are assigned abroad. The Secretary shall report to the Congress before making any change in this policy.

SEC. 2011. INFORMATION-SHARING SO THAT VISAS ARE DENIED TO DRUG TRAFFICKERS.

(a) NEED FOR COMPREHENSIVE INFORMATION SYSTEM.—The Congress is concerned that the executive branch has not established a comprehensive information system on all drug arrests of foreign nationals in the United States so that information may be communicated to the appropriate United States embassies, even though the establishment of such a system is required by section 132 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987.

8 USC 1182 note.
Report.

(b) ESTABLISHMENT OF SYSTEM.—The executive branch shall act expeditiously to establish the comprehensive information system required by section 132 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, and submit to the Congress a report that the system has been established.

SEC. 2012. CONDITIONS ON ASSISTANCE FOR BOLIVIA.

(a) OPERATION BLAST FURNACE.—(1) It is the sense of the Congress that—

(A) the Government of Bolivia's recent drug interdiction operations in cooperation with the United States (Operation Blast Furnace) evinced a determination to combat the growing power of the narcotics trade and narcotics traffickers;

(B) the operation has had a dramatic effect on the coca trade in that country by dropping the price of coca below the cost of production;

(C) as a result of this operation the coca trade has in the short term been sharply constricted;

(D) the restoration of non-coca dependent economic growth in Bolivia is crucial to the achievement of long-term progress in controlling illicit narcotics production; and

(E) control of illicit drug production is crucial to the survival of democratic institutions and democratic government in Bolivia.

(2) The Congress, therefore, applauds the demonstrated willingness of the Paz Estenssoro government, despite the risks of severe domestic criticism and disruptive economic consequences, to cooperate with the United States in Operation Blast Furnace.

(b) CONDITIONS ON ASSISTANCE.—Paragraph (2) of section 611 of the International Security and Development Cooperation Act of 1985 is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

99 Stat. 230.

"(A) up to 50 percent of the aggregate amount of such assistance allocated for Bolivia may be provided at any time after the President certifies to the Congress that Bolivia has engaged in narcotics interdiction operations which have significantly disrupted the illicit coca industry in Bolivia or has cooperated with the United States in such operations; and

"(B) the remaining amount of such assistance may be provided at any time after the President certifies to the Congress that Bolivia has either met in calendar year 1986 the eradication targets for the calendar year 1985 contained in its 1983 narcotics agreements with the United States or has entered into an agreement of cooperation with the United States for implementing that plan for 1987 and beyond (including numerical eradication targets) and is making substantial progress toward the plan's objectives, including substantial eradication of illicit coca crops and effective use of United States assistance.

In the certification required by subparagraph (B), the President shall explain why the terms of the 1983 agreement proved unattainable and the reasons why a new agreement was necessary.".

(c) RELATION TO OTHER PROVISIONS.—Nothing in the amendment made by subsection (b) shall be construed as superseding any provision of section 481 of the Foreign Assistance Act of 1961.

Ante, pp. 3207-61—3207-64.

SEC. 2013. REPORTS AND RESTRICTIONS CONCERNING CERTAIN COUNTRIES.

22 USC 2291-1.

President of U.S.

(a) REPORTS.—Not later than 6 months after the date of enactment of this Act and every 6 months thereafter, the President shall prepare and transmit to the Congress a report—

(1) listing each major illicit drug producing country and each major drug-transit country—

(A) which, as a matter of government policy, encourages or facilitates the production or distribution of illegal drugs;

(B) in which any senior official of the government of such country engages in, encourages, or facilitates the production or distribution of illegal drugs;

(C) in which any member of an agency of the United States Government engaged in drug enforcement activities since January 1, 1985, has suffered or been threatened with violence, inflicted by or with the complicity of any law enforcement or other officer of such country or any political subdivision thereof; or

(D) which, having been requested to do so by the United States Government, fails to provide reasonable cooperation to lawful activities of United States drug enforcement

agents, including the refusal of permission to such agents engaged in interdiction of aerial smuggling into the United States to pursue suspected aerial smugglers a reasonable distance into the airspace of the requested country; and

(2) describing for each country listed under paragraph (1) the activities and identities of officials whose activities caused such country to be so listed.

Banks and banking.

(b) RESTRICTIONS.—No United States assistance may be furnished to any country listed under subsection (a)(1), and the United States representative to any multilateral development bank shall vote to oppose any loan or other use of the funds of such bank for the benefit of any country listed under subsection (a)(1), unless the President certifies to the Congress that—

(1) overriding vital national interests require the provision of such assistance;

(2) such assistance would improve the prospects for cooperation with such country in halting the flow of illegal drugs; and

(3) the government of such country has made bona fide efforts to investigate and prosecute appropriate charges for any crime described in subsection (a)(1)(C) which may have been committed in such country.

(c) RELATION TO OTHER PROVISIONS.—The restrictions contained in subsection (b) are in addition to the restrictions contained in section 481(h) of the Foreign Assistance Act of 1961 or any other provision of law.

Ante, p. 3207-61.

(d) DEFINITIONS.—For purposes of this section, the terms "major illicit drug producing country", "major drug-transit country", and "United States assistance" have the same meaning as is given to those terms by section 481(i) of the Foreign Assistance Act of 1961.

Ante, p. 3207-63.

SEC. 2014. COMBATING NARCOTERRORISM.

(a) FINDING.—The Congress finds that the increased cooperation and collaboration between narcotics traffickers and terrorist groups constitutes a serious threat to United States national security interests and to the political stability of numerous other countries, particularly in Latin America.

(b) IMPROVED CAPABILITY FOR RESPONDING TO NARCOTERRORISM.—The President shall take concrete steps to improve the capability of the executive branch—

(1) to collect information concerning the links between narcotics traffickers and the acts of terrorism abroad, and

(2) to develop an effective and coordinated means for responding to the threat which those links pose.

President of U.S. Report.

Not later than 90 days after the date of enactment of this Act, the President shall report to the Congress on the steps taken pursuant to this subsection.

(c) ADMINISTRATION OF JUSTICE PROGRAM.—Of the amounts made available for fiscal year 1987 to carry out section 534 of the Foreign Assistance Act of 1961 (22 U.S.C. 2346c; relating to the administration of justice program), funds may be used to provide to Colombia or other countries in the region such assistance as they may request for protection of judicial or other officials who are targets of narcoterrorist attacks.

(d) REWARD CONCERNING JORGE LUIS OCHOA VASQUEZ.—It is the sense of the Congress that the authority of section 36(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(b)), as amended by section 502(a) of the Omnibus Diplomatic Security and

Antiterrorism Act of 1986 (Public Law 99-399; enacted August 27, 1986), should be used expeditiously to establish a reward of up to $500,000 for information leading to the arrest or conviction of Jorge Luis Ochoa Vasquez for narcotics-related offenses.

SEC. 2015. INTERDICTION PROCEDURES FOR VESSELS OF FOREIGN REGISTRY. 46 USC app. 1902 note.

(a) FINDINGS.—The Congress finds that—

(1) the interdiction by the United States Coast Guard of vessels suspected for carrying illicit narcotics can be a difficult procedure when the vessel is of foreign registry and is located beyond the customs waters of the United States;

(2) before boarding and inspecting such a vessel, the Coast Guard must obtain consent from either the master of the vessel or the country of registry; and

(3) this process, and obtaining the consent of the country of registry to further law enforcement action, may delay the interdiction of the vessel by 3 or 4 days.

(b) NEGOTIATIONS CONCERNING INTERDICTION PROCEDURES.—

(1) The Congress urges the Secretary of State, in consultation with the Secretary of the department in which the Coast Guard is operating, to increase effects to negotiate with relevant countries procedures which will facilitate interdiction of vessels suspected of carrying illicit narcotics.

(2) If a country refuses to negotiate with respect to interdiction procedures, the President shall take appropriate actions directed against that country, which may include the denial of access to United States ports to vessels registered in that country.

(3) The Secretary of State shall submit reports to the Congress semiannually identifying those countries which have failed to negotiate with respect to interdiction procedures. Reports.

SEC. 2016. ASSESSMENT OF NARCOTICS TRAFFICKING FROM AFRICA.

The President shall direct that an updated threat assessment of narcotics trafficking from Africa be prepared. If it is determined that an increased threat exists, the assessment shall examine the need for the United States to provide increased narcotics control training for African countries.

SEC. 2017. POLICY TOWARD MULTILATERAL DEVELOPMENT BANKS.

Section 481(a) of the Foreign Assistance Act of 1961 is amended— 22 USC 2291.

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

"(3) In order to promote international cooperation in combatting international trafficking in illicit narcotics, it shall be the policy of the United States to use its voice and vote in multilateral development banks to promote the development and implementation in the major illicit drug producing countries of programs for the reduction and eventual eradication of narcotic drugs and other controlled substances, including appropriate assistance in conjunction with effective programs of illicit crop eradication.".

SEC. 2018. MULTILATERAL DEVELOPMENT BANK ASSISTANCE FOR DRUG ERADICATION AND CROP SUBSTITUTION PROGRAMS. 22 USC 2291 note.

(a) MDB ASSISTANCE FOR DEVELOPMENT AND IMPLEMENTATION OF DRUG ERADICATION PROGRAM.—The Secretary of the Treasury shall Mexico.

instruct the United States Executive Directors of the multilateral development banks to initiate discussions with other Directors of their respective banks and to propose that all possible assistance be provided to each major illicit drug producing country for the development and implementation of a drug eradication program, including technical assistance, assistance in conducting feasibility studies and economic analyses, and assistance for alternate economic activities.

(b) INCREASES IN MULTILATERAL DEVELOPMENT BANK LENDING FOR CROP SUBSTITUTION PROJECTS.—The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks to initiate discussions with other Directors of their respective banks and to propose that each such bank increase the amount of lending by such bank for crop substitution programs which will provide an economic alternative for the cultivation or production of illicit narcotic drugs or other controlled substances in major illicit drug producing countries, to the extent such countries develop and maintain adequate drug eradication programs.

(c) NATIONAL ADVISORY COUNCIL REPORT.—The Secretary of the Treasury shall include in the annual report to the Congress by the National Advisory Council on International Monetary and Financial Policies a detailed accounting of the manner in which and the extent to which the provisions of this section have been carried out.

(d) DEFINITIONS.—For purposes of this section—

(1) MULTILATERAL DEVELOPMENT BANK.—The term "multilateral development bank" means the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the African Development Bank, and the Asian Development Bank.

(2) MAJOR ILLICIT DRUG PRODUCING COUNTRY.—The term "major illicit drug producing country" has the meaning provided in section 481(i)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(i)(2)).

(3) NARCOTIC DRUG AND CONTROLLED SUBSTANCE.—The terms "narcotic drug" and "controlled substance" have the meanings given to such terms in section 102 of the Controlled Substances Act (21 U.S.C. 802).

SEC. 2019. DRUGS AS A NATIONAL SECURITY PROBLEM.

President of U.S.

The Congress hereby declares that drugs are a national security problem and urges the President to explore the possibility of engaging such essentially security-oriented organizations as the North Atlantic Treaty Organization in cooperative drug programs.

SEC. 2020. FINDINGS CONCERNING GREATER INTERNATIONAL EFFORT TO ADDRESS DRUG THREAT.

The Congress finds that—

(1) in response to the growing narcotics threat to the international community—

(A) the Single Convention on Narcotic Drugs, 1961, the 1972 Protocol amending that Convention, and the Convention on Psychotropic Substances were adopted under United Nations auspices, and

(B) the United Nations has created various entities to deal with drug abuse control and prevention; and

(2) a greater international effort is required to address this threat, such as additional or increased contributions by other

countries to the United Nations Fund for Drug Abuse and Control and greater coordination of enforcement and eradication efforts.

SEC. 2021. INTERNATIONAL CONFERENCE ON DRUG ABUSE AND ILLICIT TRAFFICKING.

(a) CONGRESSIONAL SUPPORT.—The Congress hereby declares its support for United Nations General Assembly Resolution 40/122 adopted on December 13, 1985, in which the General Assembly decided to convene in 1987, an International Conference on Drug Abuse and Illicit Trafficking in order to generate universal action to combat the drug problem in all its forms at the national, regional, and international levels, and to adopt a comprehensive outline of future activities.

(b) UNITED STATES PARTICIPATION.—With respect to United States participation in the International Conference on Drug Abuse and Illicit Trafficking, the Congress calls on the President—

(1) to appoint the head of the United States delegation well in advance of the conference; and

(2) to ensure that necessary resources are available for United States preparation and participation.

(c) REPORT TO CONGRESS.—Not later than April 30, 1987, the President shall report to the Congress on the status of United States preparations for the International Conference on Drug Abuse and Illicit Trafficking, incuding the status of naming the delegation, the issues expected to arise, and United States policy initiatives to be taken at the conference. President of U.S.

SEC. 2022. EFFECTIVENESS OF INTERNATIONAL DRUG PREVENTION AND CONTROL SYSTEM.

(a) STUDY.—The United States should seek to improve the program and budget effectiveness of United Nations entities related to narcotics prevention and control by studying the capability of existing United Nations drug-related declarations, conventions, and entities to heighten international awareness and promote the necessary strategies for international action, to strengthen international cooperation, and to make effective use of available United Nations funds.

(b) REPORT TO CONGRESS.—Not later than April 30, 1987, the President shall report to the Congress any recommendations that may result from this study. President of U.S.

SEC. 2023. NARCOTICS CONTROL CONVENTIONS.

The Congress—

(1) urges that the United Nations Commission on Narcotic Drugs complete work as quickly as possible, consistent with the objective of obtaining an effective agreement, on a new draft convention against illicit traffic in narcotic drugs and psychotropic substances, in accordance with the mandate given the Commission by United Nations General Assembly Resolution 39/141; and

(2) calls for more effective implementation of existing conventions relating to narcotics.

SEC. 2024. MEXICO-UNITED STATES INTERGOVERNMENTAL COMMISSION.

(a) NEGOTIATIONS TO ESTABLISH.—In accordance with the resolution adopted by the 26th Mexico-United Interparliamentary President of U.S.

Conference which recommended that the Government of Mexico and the Government of the United States establish a Mexico-United States Intergovernmental Commission on Narcotics and Psychotropic Drug Abuse and Control, the President should direct the Secretary of State, in conjunction with the National Drug Enforcement Policy Board, to enter into negotiations with the Government of Mexico to create such a joint intergovernmental commission.

(b) MEMBERSHIP.—The commission, which should meet semiannually, should include members of the Mexican Senate and Chamber of Deputies and the United States House of Representatives and Senate, together with members of the Executive departments of each Government responsible for drug abuse, education, prevention, treatment, and law enforcement.

(c) REPORT TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Secretary of State shall report to the Congress on the progress being made in establishing a commission in accordance with subsection (a).

SEC. 2025. OPIUM PRODUCTION IN PAKISTAN.

(a) FINDINGS.—The Congress finds that—

(1) the production of opium in Pakistan is expected to more than double in the 1985-1986 growing season, posing an increased threat to the health and welfare of the people of Pakistan and the people of the United States; and

(2) despite past achievements, the current eradication program in Pakistan, which employs manual eradication of opium poppies, has proven inadequate to meet this new challenge.

(b) NEED FOR MORE EFFECTIVE DRUG CONTROL PROGRAM.—The Congress urges that the Government of Pakistan adopt and implement a comprehensive narcotics control program which would provide for more effective prosecution of drug traffickers, increased interdiction, and aerial eradication of opium poppies.

(c) REPORT TO CONGRESS.—The Secretary of State shall report to the Congress not later than 60 days after the date of enactment of this Act with Respect to the adoption and implementation by the Government of Pakistan of a comprehensive narcotics control program in accordance with subsection (b).

SEC. 2026. OPIUM PRODUCTION IN IRAN, AFGHANISTAN, AND LAOS.

President of U.S.

The Congress calls on the President to instruct the United States Ambassador to the United Nations to request that the United Nations Secretary General raise with delegations to the International Conference on Drug Abuse and Illicit Trafficking the problem of illicit drug production in Iran, Afghanistan, and Laos, the largest opium poppy producing countries which do not have narcotics control programs.

SEC. 2027. INCREASED FUNDING FOR USIA DRUG EDUCATION PROGRAMS.

In addition to amounts otherwise authorized to be appropriated, there is authorized to be appropriated for the United States Information Agency for fiscal year 1987 $2,000,000 which shall be available only for increasing drug education programs abroad. These programs may include—

(1) the distribution of films and publications which demonstrate the impact of drugs on crime and health; and

(2) exchange of persons programs and international visitor programs involving students, educators, and scientists.

SEC. 2028. INCREASED FUNDING FOR AID DRUG EDUCATION PROGRAMS.

In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated to the President for fiscal year 1987 $3,000,000 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, which amount shall be used pursuant to section 126(b)(2) of that Act for additional activities aimed at increasing awareness of the effects of production and trafficking of illicit narcotics on source and transit countries.

22 USC 2151.
22 USC 2151x.

SEC. 2029. REPORTS TO CONGRESS ON DRUG EDUCATION PROGRAMS ABROAD.

22 USC 2291 note.

The Director of the United States Information Agency and the Administrator of the Agency for International Development shall include in their annual reports to the Congress a description of the drug education programs carried out by their respective agencies.

SEC. 2030. NARCOTICS CONTROL EFFORTS IN MEXICO.

(a) CONGRESSIONAL FINDINGS.—The Congress finds—

(1) in their meeting in August 1986, President de la Madrid Hurtado and President Reagan recognized the unique relationship between our two countries and the importance and the desire to respect the sovereignty of each nation;

(2) further, the United States Government has actively worked to support the Mexican Government in easing its international debt burden;

(3) both Presidents pledged their cooperation in drug eradication, enforcement and education; and

(4) this pledge of cooperation has not been realized fully because of the inadequate response of the Mexican Government in—

(A) fully investigating the 1985 murders of U.S. Drug Enforcement Administration agent Enrique Camarena Salazar and his pilot, Alfredo Zavala Avelar;

(B) fully investigating the 1986 detention and torture of U.S. Drug Enforcement Administration agent Victor Cortez, Junior;

(C) bringing to trial and effectively prosecuting those responsible for the Camarena and Zavala murders and those responsible for the detention and torture of Cortez;

(D) using effectively and efficiently the fleet of aircraft provided by the United States government for drug eradication and interdiction; and

(E) preventing drug trafficking and drug-related violence on the United States-Mexican border.

(b) MEASURES TO BE CONSIDERED.—Therefore, it is the sense of Congress that unless substantial progress is demonstrated in the near future on the issues described in subsection (A)(4), the President should consider taking one or more of the following measures:

President of U.S.

(1) imposition of a mandatory travel advisory for all of Mexico;

(2) restrictions on foreign assistance (including further disbursements from the Exchange Stabilization Fund and Federal Reserve Bank);

(3) denial of favorable tariff treatment for Mexican products;

(4) denial of favorable U.S. votes in multilateral development banks.

(c) PROSECUTION OF THOSE RESPONSIBLE FOR THE TORTURE AND MURDER OF DEA AGENTS.—Of the funds allocated for assistance for Mexico for fiscal year 1987 under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to international narcotics control), $1,000,000 shall be withheld from expenditure until the President reports to the Congress that the Government of Mexico—

(1) has fully investigated the 1985 murders of Drug Enforcement Administration agent Enrique Camarena Salazar and his pilot Alfredo Zavala Avelar;

(2) has fully investigated the 1986 detention and torture of Drug Enforcement Administration agent Victor Cortez, Junior; and

(3) has brought to trial and is effectively prosecuting those responsible for those murders and those responsible for that detention and torture.

TITLE III—INTERDICTION

National Drug Interdiction Improvement Act of 1986.
21 USC 801 note.

SEC. 3001. SHORT TITLE.

This title may be cited as the "National Drug Interdiction Improvement Act of 1986".

21 USC 801 note.

SEC. 3002. FINDINGS.

The Congress hereby finds that—

(1) a balanced, coordinated, multifaceted strategy for combating the growing drug abuse and drug trafficking problem in the United States is essential in order to stop the flow and abuse of drugs within our borders;

(2) a balanced, coordinated, multifaceted strategy for combating the narcotics drug abuse and trafficking in the United States should include—

(A) increased investigations of large networks of drug smuggler organizations;

(B) source country drug eradication;

(C) increased emphasis on stopping narcotics traffickers in countries through which drugs are transshipped;

(D) increased emphasis on drug education programs in the schools and workplace;

(E) increased Federal Government assistance to State and local agencies, civic groups, school systems, and officials in their efforts to combat the drug abuse and trafficking problem at the local level; and

(F) increased emphasis on the interdiction of drugs and drug smugglers at the borders of the United States, in the air, at sea, and on the land;

(3) funds to support the interdiction of narcotics smugglers who threaten the transport of drugs through the air, on the sea, and across the land borders of the United States should be emphasized in the Federal Government budget process to the same extent as the other elements of a comprehensive antidrug effort are emphasized;

(4) the Department of Defense and the use of its resources should be an integral part of a comprehensive, natonal drug interdiction program;

(5) the Federal Government civilian agencies engaged in drug interdiction, particularly the United States Customs Service

and the Coast Guard, currently lack the aircraft, ships, radar, command, control, communications, and intelligence (C3I) system, and manpower resources necessary to mount a comprehensive attack on the narcotics traffickers who threaten the United States;

(6) the civilian drug interdiction agencies of the United States are currently interdicting only a small percentage of the illegal, drug smuggler penetrations in the United States every year;

(7) the budgets for our civilian drug interdiction agencies, primarily the United States Customs Service and the Coast Guard, have not kept pace with those of the traditional investigative law enforcement agencies of the Department of Justice; and

(8) since the amendment of the Posse Comitatus Act (18 U.S.C. 1385) in 1981, the Department of Defense has assisted in the effort to interdict drugs, but they can do more.

SEC. 3003. PURPOSES.

21 USC 801 note.

It is the purpose of this title—

(1) to increase the level of funding and resources available to civilian drug interdiction agencies of the Federal Government;

(2) to increase the level of support from the Department of Defense as consistent with the Posse Comitatus Act, for interdiction of the narcotics traffickers before such traffickers penetrate the borders of the United States; and

(3) to improve other drug interdiction programs of the Federal Government.

Subtitle A—Department of Defense Drug Interdiction Assistance

Defense Drug Interdiction Assistance Act.
10 USC 371 note.

SEC. 3051. SHORT TITLE.

This subtitle may be cited as the "Defense Drug Interdiction Assistance Act".

SEC. 3052. AUTHORIZATION.

(a) AUTHORIZATION OF APPROPRIATIONS FOR ENHANCED DRUG INTERDICTION ACTIVITIES.—Funds are hereby authorized to be appropriated to the Department of Defense for fiscal year 1987 for enhancement of drug interdiction assistance activities of the Department as follows:

(1) For procurement of aircraft for the Navy, $138,000,000, to be available for (A) the refurbishment and upgrading, for drug interdiction purposes, of four existing E-2C Hawkeye surveillance aircraft or any other aircraft of the Navy which the Secretary considers better suited than E-2C Hawkeye surveillance aircraft to perform the drug interdiction mission, and (B) the procurement of four replacement aircraft (of the same type of aircraft refurbished and upgraded under the authorization in this paragraph) and related spares for the Navy.

(2) For procurement of seven radar aerostats, $99,500,000.

(3) For procurement of eight Blackhawk helicopters, $40,000,000.

(b) LOAN OF EQUIPMENT TO LAW ENFORCEMENT AGENCIES.—(1)(A) The Secretary of Defense shall make two of the existing aircraft refurbished and upgraded under subsection (a)(1) available to the Customs Service and the other two of such existing aircraft available to the Coast Guard.

(B) The Customs Service and the Coast Guard shall each have the responsibility for operation and maintenance costs attributable to the aircraft made available to the Customs Service and the Coast Guard, respectively, under subparagraph (A).

(2) The Secretary of Defense shall make the radar aerostats acquired under subsection (a)(2) and the helicopters acquired under subsection (a)(3) available to agencies of the United States designated by the National Drug Enforcement Policy Board established by the National Narcotics Act of 1984.

21 USC 1201 note.

(3) Aircraft and radar aerostats shall be made available to agencies under this subsection subject to the provisions of chapter 18 of title 10, United States Code.

10 USC 371 *et seq.*

(c) LIMITATION ON PROCUREMENT.—Amounts appropriated or otherwise made available to the Department of Defense for procurement for fiscal year 1987 or any prior fiscal year may be obligated for equipment for enhancement of authorized drug enforcement activities of the Department of Defense under subsection (a) or any other provision of law only if the equipment—

(1) is fully supportable within the existing service support system of the Department of Defense; and

(2) reasonably relates to an existing military, war reserve, or mobilization requirement.

SEC. 3053. COAST GUARD ACTIVITIES.

(a) FUNDING FOR PERSONNEL ON NAVAL VESSELS.—(1) Of the funds appropriated for operation and maintenance for the Navy for fiscal year 1987, the sum of $15,000,000 shall be transferred to the Secretary of Transportation and shall be available only for members of the Coast Guard assigned to duty as provided in section 379 of title 10, United States Code (as added by subsection (b)).

(2) The active duty military strength level for the Coast Guard for fiscal year 1987 is hereby increased by 500 above any number otherwise provided by law.

(b) ENHANCED DRUG INTERDICTION ASSISTANCE.—(1) Chapter 18 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 379.

"§ 379. Assignment of Coast Guard personnel to naval vessels for law enforcement purposes

"(a) The Secretary of Defense and the Secretary of Transportation shall provide that there be assigned on board appropriate surface naval vessels at sea in a drug-interdiction area members of the Coast Guard who are trained in law enforcement and have powers of the Coast Guard under title 14, including the power to make arrests and to carry out searches and seizures.

"(b) Members of the Coast Guard assigned to duty on board naval vessels under this section shall perform such law enforcement functions (including drug-interdiction functions)—

"(1) as may be agreed upon by the Secretary of Defense and the Secretary of Transportation; and

"(2) as are otherwise within the jurisdiction of the Coast Guard.

"(c) No fewer than 500 active duty personnel of the Coast Guard shall be assigned each fiscal year to duty under this section. However, if at any time the Secretary of Transportation, after consultation with the Secretary of Defense, determines that there are insufficient naval vessels available for purposes of this section, such

personnel may be assigned other duty involving enforcement of laws listed in section 374(a)(1) of this title.

"(d) In this section, the term 'drug-interdiction area' means an area outside the land area of the United States in which the Secretary of Defense (in consultation with the Attorney General) determines that activities involving smuggling of drugs into the United States are ongoing.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"Sec. 379. Assignment of Coast Guard personnel to naval vessels for law enforcement purposes.".

(3) Effective on the date of the enactment of this Act, section 1421 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 750), is repealed. 14 USC 89 note.

(c) COAST GUARD RESERVE.—The Selected Reserve of the Coast Guard Reserve shall be programmed to attain a strength as of September 30, 1987, of not less than 14,400. Of such number, not less than 1,400 shall be used to augment units of the Coast Guard assigned to drug interdiction missions.

(d) USE OF DEPARTMENT OF DEFENSE FUNDS FOR THE COAST GUARD.—In addition to any other amounts authorized to be appropriated to the Department of Defense in fiscal year 1987, $45,000,000 shall be authorized to be appropriated for the installation of 360-degree radar systems on Coast Guard long-range surveillance aircraft. Any modifications of existing aircraft pursuant to this subsection shall comply with validated requirements and specifications developed by the Coast Guard. The limitations contained in paragraphs (1) and (2) of section 3052(c) shall apply with respect to activities carried out under this subsection.

SEC. 3054. REPORT ON DEFENSE DRUG EDUCATION ACTIVITIES.

Not later than December 1, 1986, the Secretary of Defense, in consultation with the National Drug Enforcement Policy Board and the Department of Education, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a discussion of— Children and youth.

(1) the extent to which youth enrolled in schools operated by the Department of Defense for dependent members of the Armed Forces are receiving education on drug and substance abuse,

(2) the types of drug education programs that are currently being provided in such schools,

(3) whether additional drug education programs are needed in such schools, and

(4) the extent to which drug education for youth in grades kindergarten through 12 include or should include preventive peer counseling classes.

SEC. 3055. DRIVING WHILE IMPAIRED.

Section 911 of title 10, United States Code, is amended by inserting "or while impaired by a substance described in section 912a(b) of this title (article 112a(b))," after "manner,".

SEC. 3056. ASSISTANCE TO CIVILIAN LAW ENFORCEMENT AND EMERGENCY ASSISTANCE BY DEPARTMENT OF DEFENSE PERSONNEL

(a) ASSISTANCE TO CIVILIAN LAW ENFORCEMENT.—Section 374(a) of title 10, United States Code, is amended by striking out the period at the end and inserting in lieu thereof "or with respect to assistance that such agency is authorized to furnish to any foreign government which is involved in the enforcement of similar laws".

(b) EMERGENCY ASSISTANCE.—Section 374(c) of such title is amended to read as follows:

"(c)(1) In an emergency circumstance, equipment operated by or with the assistance of personnel assigned under subsection (a) may be used as a base of operations outside the land area of the United States (or any territory, commonwealth, or possession of the United States) by Federal law enforcement officials—

"(A) to facilitate the enforcement of a law listed in subsection (a); and

"(B) to transport such law enforcement officials in connection with such operations;

if the Secretary of Defense, the Attorney General, and the Secretary of State jointly determine that an emergency circumstance exists.

"(2)(A) Subject to subparagraph (B), equipment operated by or with the assistance of personnel assigned under subsection (a) may not be used to interdict or interrupt the passage of vessels and aircraft.

"(B) In an emergency circumstance, equipment operated by or with the assistance of personnel assigned under subsection (a) may be used to intercept vessels and aircraft outside the land area of the United States (or any territory, commonwealth, or possession of the United States) for the purposes of communicating with such vessels and aircraft to direct such vessels and aircraft to go to a location designated by appropriate civilian officials if the Secretary of Defense, the Attorney General, and the Secretary of State jointly determine that an emergency circumstance exists and that enforcement of a law listed in subsection (a) would be seriously impaired if such use of equipment were not permitted. Such use of equipment may continue into the land area of the United States (or any territory or possession of the United States) in cases involving the hot pursuit of vessels or aircraft where such pursuit began outside such land area.

"(3) For purposes of this subsection, an emergency circumstance exists when—

"(A) the size or scope of the suspected criminal activity in a given situation poses a serious threat to the interest of the United States; and

"(B) the assistance described in this subsection would significantly enhance the enforcement of a law listed in subsection (a).".

10 USC 374 note.

SEC. 3057. ADDITIONAL DEPARTMENT OF DEFENSE DRUG LAW ENFORCEMENT ASSISTANCE.

(a) GENERAL REQUIREMENT.—(1) Within 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Congress the following:

(A) A detailed list of all forms of assistance that shall be made available by the Department of Defense to civilian drug law enforcement and drug interdiction agencies, including the

United States Customs Service, the Coast Guard, the Drug Enforcement Administration, and the Immigration and Naturalization Service.

(B) A detailed plan for promptly lending equipment and rendering drug interdiction-related assistance included on such list.

(2) The list required by paragraph (1)(A) shall include, but not be limited to, a description of the following matters:

(A) Surveillance equipment suitable for detecting air, land, and marine drug transportation activities.

(B) Communications equipment, including secure communications.

(C) Support available from the reserve components of the Armed Forces for drug interdiction operations of civilian drug law enforcement agencies.

(D) Intelligence on the growing, processing, and transshipment of drugs in drug source countries and the transshipment of drugs between such countries and the United States.

(E) Support from the Southern Command and other unified and specified commands that is available to assist in drug interdiction.

(F) Aircraft suitable for use in air-to-air detection, interception, tracking, and seizure by civilian drug interdiction agencies, including the Customs Service and the Coast Guard.

(G) Marine vessels suitable for use in maritime detection, interception, tracking, and seizure by civilian drug interdiction agencies, including the Customs Service and the Coast Guard.

(H) Such land vehicles as may be appropriate for support activities relating to drug interdiction operations by civilian drug law enforcement agencies, including the Customs Service, the Immigration and Naturalization Service, and other Federal agencies having drug interdiction or drug eradication responsibilities.

(b) COMMITTEE APPROVAL AND FINAL IMPLEMENTATION.—Within 30 days after the date on which the Congress receives the list and plan submitted under such subsection, the Committees on Armed Services of the Senate and the House of Representatives shall submit their approval or disapproval of such list and plan to the Secretary of Defense. Upon receipt of such approval or disapproval, the Secretary shall immediately convene a conference of the heads of the Federal Government agencies with jurisdiction over drug law enforcement, including the Customs Service, the Coast Guard, and the Drug Enforcement Administration, to determine the appropriate distribution of the assets, items of support, or other assistance to be made available by the Department of Defense to such agencies. Not later than 60 days after the date on which such conference convenes, the Secretary of Defense and the heads of such agencies shall enter into appropriate memoranda of agreement specifying the distribution of such assistance.

(c) EQUIPMENT SUBJECT TO SECTION 3052(c).—Equipment identified in this section is subject to the provisions of section 3052(c).

(d) APPLICABILITY.—Subsections (a) and (b) shall not apply to any assets, equipment, items of support, or other assistance provided or authorized in any other provision of this title.

(e) REVIEW BY GENERAL ACCOUNTING OFFICE.—The Comptroller General of the United States shall monitor the compliance of the

Report.

Department of Defense with subsections (a) and (b). Not later than 90 days after the date on which the conference is convened under subsection (b), the Comptroller General shall transmit to the Congress a written report containing the Comptroller General's findings regarding the compliance of the Department of Defense with such subsections. The report shall include a review of the memoranda of agreement entered into under subsection (b).

10 USC 525 note.

SEC. 3058. GRADE OF DIRECTOR OF DEPARTMENT OF DEFENSE TASK FORCE ON DRUG ENFORCEMENT.

During fiscal year 1987, the number of officers of the Marine Corps authorized under section 525(b) of title 10, United States Codes, to be on active duty in grades above major general is increased by one during any period that an officer of the Marine Corps is serving as the Director of the Department of Defense Task Force on Drug Enforcement. An additional officer in a grade above major general by reason of this section may not be in the grade of general.

10 USC 9441 note.

SEC. 3059. CIVIL AIR PATROL.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Civil Air Patrol, the all-volunteer civilian auxiliary of the Air force, can increase its participation in and make significant contributions to the drug interdiction efforts of the Federal Government, and

(2) the Secretary of the Air Force should fully support that participation.

(b) AUTHORIZATION.—In addition to any other amounts appropriated for the Civil Air Patrol for fiscal year 1987, there are authorized to be appropriated for the Civil Air Patrol, out of any unobligated and uncommitted balances of appropriations for the Department of Defense for fiscal year 1986 which are carried forward into fiscal year 1987, $7,000,000 for the acquisition of the major items of equipment needed by the Civil Air Patrol for drug interdiction surveillance and reporting missions.

(c) REPORTS.—(1) The Secretary of the Air Force shall submit to the Committees on Appropriations and on Armed Services of the Senate and the House of Representatives quarterly reports which contain the following information:

(A) A description of the manner in which any funds are used under subsection (b).

(B) A detailed description of the activities of the Civil Air Patrol in support of the Federal Government's drug interdiction program.

(2) The first report under paragraph (1) shall be submitted on the last day of the first quarter ending not less than 90 days after the date of the enactment of this Act.

Subtitle B—Customs Enforcement

Customs Enforcement Act of 1986.
19 USC 1654 note.

SEC. 3101. SHORT TITLE.

This subtitle may be cited as the "Customs Enforcement Act of 1986".

PART 1—AMENDMENTS TO THE TARIFF ACT OF 1930

SEC. 3111. DEFINITIONS.

Section 401 of the Tariff Act of 1930 (19 U.S.C. 1401) is amended—

(1) by inserting ", and monetary instruments as defined in section 5312 of title 31, United States Code" before the period in subsection (c);

(2) by striking out "The term" in subsection (k) and inserting in lieu thereof "(1) The term";

(3) by adding at the end of subsection (k) the following new paragraph:

"(2) For the purposes of sections 432, 433, 434, 448, 585, and 586, any vessel which—

19 USC 1432; *infra;* 19 USC 1434, 1448; *post,* pp. 3207-82, 3207-84.

"(A) has visited any hovering vessel;

"(B) has received merchandise while in the customs waters beyond the territorial sea; or

"(C) has received merchandise while on the high seas;

shall be deemed to arrive or have arrived, as the case may be, from a foreign port or place."; and

(4) by adding at the end thereof the following:

"(m) CONTROLLED SUBSTANCE.—The term 'controlled substance' has the meaning given that term in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)). For purposes of this Act, a controlled substance shall be treated as merchandise the importation of which into the United States is prohibited, unless the importation is authorized under—

"(1) an appropriate license or permit; or

"(2) the Controlled Substances Import and Export Act.". 21 USC 801 note.

SEC. 3112. REPORT OF ARRIVAL OF VESSELS, VEHICLES, AND AIRCRAFT.

Section 433 of the Tariff Act of 1930 (19 U.S.C. 1433) is amended to read as follows:

"SEC. 433. REPORT OF ARRIVAL OF VESSELS, VEHICLES, AND AIRCRAFT. Virgin Islands.

"(a) VESSEL ARRIVAL.—(1) Immediately upon the arrival at any port or place within the United States or the Virgin Islands of—

"(A) any vessel from a foreign port or place;

"(B) any foreign vessel from a domestic port; or

"(C) any vessel of the United States carrying bonded merchandise, or foreign merchandise for which entry has not been made;

the master of the vessel shall report the arrival at the nearest customs facility or such other place as the Secretary may prescribe by regulations.

"(2) The Secretary may by regulation—

"(A) prescribe the manner in which arrivals are to be reported under paragraph (1); and

"(B) extend the time in which reports of arrival must be made, but not later than 24 hours after arrival.

"(b) VEHICLE ARRIVAL.—(1) Vehicles may arrive in the United States only at border crossing points designated by the Secretary.

"(2) Except as otherwise authorized by the Secretary, immediately upon the arrival of any vehicle in the United States at a border crossing point, the person in charge of the vehicle shall—

"(A) report the arrival; and

"(B) present the vehicle, and all persons and merchandise (including baggage) on board, for inspection;

to the customs officer at the customs facility designated for that crossing point.

"(c) AIRCRAFT ARRIVAL.—The pilot of any aircraft arriving in the United States or the Virgin Islands from any foreign airport or place shall comply with such advance notification, arrival reporting, and landing requirements as the Secretary may by regulation prescribe.

"(d) PRESENTATION OF DOCUMENTATION.—The master, person in charge of a vehicle, or aircraft pilot shall present to customs officers such documents, papers, or manifests as the Secretary may by regulation prescribe.

"(e) PROHIBITION ON DEPARTURES AND DISCHARGE.—Unless otherwise authorized by law, a vessel, aircraft, or vehicle may, after arriving in the United States or the Virgin Islands—

"(1) depart from the port, place, or airport of arrival; or

"(2) discharge any passenger or merchandise (including baggage);

only in accordance with regulations prescribed by the Secretary.".

SEC. 3113. PENALTIES FOR ARRIVAL, REPORTING, ENTRY, AND DEPARTURE VIOLATIONS.

(a) FOR VIOLATIONS OF ARRIVAL, REPORTING, AND ENTRY REQUIREMENTS.—Section 436 of the Tariff Act of 1930 (19 U.S.C. 1436) is amended to read as follows:

"SEC. 436. PENALTIES FOR VIOLATIONS OF THE ARRIVAL, REPORTING, AND ENTRY REQUIREMENTS.

"(a) UNLAWFUL ACTS.—It is unlawful—

Ante, p. 3207-80.

"(1) to fail to comply with section 433;

"(2) to present any forged, altered, or false document, paper, or manifest to a customs officer under section 433(d) without revealing the facts;

19 USC 1434, 1435.
19 USC 1644.

"(3) to fail to make entry as required by section 434, 435, or 644 of this Act or section 1109 of the Federal Aviation Act (49 U.S.C. App. 1509); or

"(4) to fail to comply with, or violate, any regulation prescribed under any section referred to in any of paragraphs (1) through (3).

"(b) CIVIL PENALTY.—Any master, person in charge of a vehicle, or aircraft pilot who commits any violation listed in subsection (a) is liable for a civil penalty of $5,000 for the first violation, and $10,000 for each subsequent violation, and any conveyance used in connection with any such violation is subject to seizure and forfeiture

"(c) CRIMINAL PENALTY.—In addition to being liable for a civil penalty under subsection (b), any master, person in charge of a vehicle, or aircraft pilot who intentionally commits any violation listed in subsection (a) is, upon conviction, liable for a fine of not more than $2,000 or imprisonment for 1 year, or both; except that if the conveyance has, or is discovered to have had, on board any merchandise (other than sea stores or the equivalent for conveyances other than vessels) the importation of which into the United States is prohibited, such individual is liable for an additional fine of not more than $10,000 or imprisonment for not more than 5 years, or both.

"(d) ADDITIONAL CIVIL PENALTY.—If any merchandise (other than sea stores or the equivalent for conveyances other than a vessel) is imported or brought into the United States in or aboard a conveyance which was not properly reported or entered, the master, person in charge of a vehicle, or aircraft pilot shall be liable for a civil penalty equal to the value of the merchandise and the merchandise may be seized and forfeited unless properly entered by the importer or consignee. If the merchandise consists of any controlled substance listed in section 584, the master, individual in charge of a vehicle, or pilot shall be liable to the penalties prescribed in that section.". 19 USC 1584.

(b) INCREASE IN PENALTIES FOR DEPARTURE BEFORE REPORT OR ENTRY.—Section 585 of the Tariff Act of 1930 (19 U.S.C. 1585) is amended—

(1) by striking out "shall be liable to a penalty of $5,000," after "vessel"; and

(2) by striking out "$500" and inserting "$5,000 for the first violation, and $10,000 for each subsequent violation,".

SEC. 3114. PENALTIES FOR UNAUTHORIZED UNLOADING OF PASSENGERS.

Section 454 (19 U.S.C. 1454), is amended by striking out "$500 for each" and inserting "$1,000 for the first passenger and $500 for each additional".

SEC. 3115. REPORTING REQUIREMENTS FOR INDIVIDUALS.

(a) AMENDMENT.—Section 459 of the Tariff Act of 1930 (19 U.S.C. 1459) is amended to read as follows:

"SEC. 459. REPORTING REQUIREMENTS FOR INDIVIDUALS.

"(a) INDIVIDUALS ARRIVING OTHER THAN BY CONVEYANCE.—Except as otherwise authorized by the Secretary, individuals arriving in the United States other than by vessel, vehicle, or aircraft shall—

"(1) enter the United States only at a border crossing point designated by the Secretary; and

"(2) immediately—

"(A) report the arrival, and

"(B) present themselves, and all articles accompanying them for inspection;

to the customs officer at the customs facility designated for that crossing point.

"(b) INDIVIDUALS ARRIVING BY REPORTED CONVEYANCE.—Except as otherwise authorized by the Secretary, passengers and crew members aboard a conveyance the arrival in the United States of which was made or reported in accordance with section 433 or 644 of this Act or section 1109 of the Federal Aviation Act of 1958, or in accordance with applicable regulations, shall remain aboard the conveyance until authorized to depart the conveyance by the appropriate customs officer. Upon departing the conveyance, the passengers and crew members shall immediately report to the designated customs facility with all articles accompanying them. *Ante*, p. 3207-80; 19 USC 1644; 49 USC app. 1509.

"(c) INDIVIDUALS ARRIVING BY UNREPORTED CONVEYANCE.—Except as otherwise authorized by the Secretary, individuals aboard a conveyance the arrival in the United States of which was not made or reported in accordance with the laws or regulations referred to in subsection (b) shall immediately notify a customs officer and report their arrival, together with appropriate information concerning the conveyance on or in which they arrived, and present their property for customs examination and inspection.

"(d) DEPARTURE FROM DESIGNATED CUSTOMS FACILITIES.—Except as otherwise authorized by the Secretary, any person required to report to a designated customs facility under subsection (a), (b), or (c) may not depart that facility until authorized to do so by the appropriate customs officer.

"(e) UNLAWFUL ACTS.—It is unlawful—

"(1) to fail to comply with subsection (a), (b), or (c);

"(2) to present any forged, altered, or false document or paper to a customs officer under subsection (a), (b), or (c) without revealing the facts;

"(3) to violate subsection (d); or

"(4) to fail to comply with, or violate, any regulation prescribed to carry out subsection (a), (b), (c), or (d).

"(f) CIVIL PENALTY.—Any individual who violates any provision of subsection (e) is liable for a civil penalty of $5,000 for the first violation, and $10,000 for each subsequent violation.

"(g) CRIMINAL PENALTY.—In addition to being liable for a civil penalty under subsection (f), any individual who intentionally violates any provision of subsection (e) is, upon conviction, liable for a fine of not more than $5,000, or imprisonment for not more than 1 year, or both.".

19 USC 1460.

(b) REPEAL.—Section 460 is repealed.

SEC. 3116. PENALTIES FOR FAILURE TO DECLARE.

Section 497 of the Tariff Act of 1930 (19 U.S.C. 1497) is amended to read as follows:

"SEC. 497. PENALTIES FOR FAILURE TO DECLARE.

"(a) IN GENERAL.—(1) Any article which—

"(A) is not included in the declaration and entry as made; and

"(B) is not mentioned before examination of the baggage begins—

"(i) in writing by such person, if written declaration and entry was required, or

"(ii) orally, if written declaration and entry was not required;

shall be subject to forfeiture and such person shall be liable for a penalty determined under paragraph (2) with respect to such article.

"(2) The amount of the penalty imposed under paragraph (1) with respect to any article is equal to—

"(A) if the article is a controlled substance, 200 percent of the value of the article; and

"(B) if the article is not a controlled substance, the value of the article.

"(b) VALUE OF CONTROLLED SUBSTANCES.—(1) Notwithstanding any other provision of this Act, the value of any controlled substance shall, for purposes of this section, be equal to the amount determined by the Secretary in consultation with the Attorney General of the United States, to be equal to the price at which such controlled substance is likely to be illegally sold to the consumer of such controlled substance.

"(2) The Secretary and the Attorney General of the United States shall establish a method of determining the price at which each controlled substance is likely to be illegally sold to the consumer of such controlled substance.".

SEC. 3117. EXAMINATION OF BOOKS AND WITNESSES.

Section 509 of the Tariff Act of 1930 (19 U.S.C. 1509) is amended—

(1) by striking out ", required to be kept under section 508 of this Act," in subsection (a)(2) and inserting ", as defined in subsection (c)(1)(A),"; and

(2) by amending subsection (c)(1)(A) to read as follows:

"(A) The term 'records' includes statements, declarations, or documents—

"(i) required to be kept under section 508; or 19 USC 1508.

"(ii) regarding which there is probable cause to believe that they pertain to merchandise the importation of which into the United States is prohibited.".

SEC. 3118. FALSE MANIFESTS; LACK OF MANIFEST.

Section 584 of the Tariff Act of 1930 (19 U.S.C. 1584) is amended—

(1) by striking out "$500" each place it appears and inserting in lieu thereof "$1,000";

(2) by striking out "$50" in subsection (a)(2) and inserting in lieu thereof "$1,000";

(3) by striking out "$25" in subsection (a)(2) and inserting in lieu thereof "$500"; and

(4) by striking out "$10" in subsection (a)(2) and inserting in lieu thereof "$200".

SEC. 3119. UNLAWFUL UNLOADING OF MERCHANDISE.

Section 586 of the Tariff Act of 1930 (19 U.S.C. 1586) is amended—

(1) by striking out "$1,000" wherever it appears and inserting "$10,000"; and

(2) by amending subsection (e)—

(A) by striking out "one league of the coast of the United States" and inserting "customs waters"; and

(B) by striking out "2 years" and inserting "15 years".

SEC. 3120. AVIATION SMUGGLING.

Part V of title IV of the Tariff Act of 1930 is amended by adding after section 589 the following new section: 19 USC 1589, 1589a.

"SEC. 590. AVIATION SMUGGLING. 19 USC 1590.

"(a) IN GENERAL.—It is unlawful for the pilot of any aircraft to transport, or for any individual on board any aircraft to possess, merchandise knowing, or intending, that the merchandise will be introduced into the United States contrary to law.

"(b) SEA TRANSFERS.—It is unlawful for any person to transfer merchandise between an aircraft and a vessel on the high seas or in the customs waters of the United States if such person has not been authorized by the Secretary to make such transfer and—

"(1) either—

"(A) the aircraft is owned by a citizen of the United States or is registered in the United States, or

"(B) the vessel is a vessel of the United States (within the meaning of section 3(b) of the Anti-Smuggling Act) (19 U.S.C. 1703(b)), or

"(2) regardless of the nationality of the vessel or aircraft, such transfer is made under circumstances indicating the intent to make it possible for such merchandise, or any part thereof, to be introduced into the United States unlawfully.

"(c) CIVIL PENALTIES.—Any person who violates any provision of this section is liable for a civil penalty equal to twice the value of the merchandise involved in the violation, but not less than $10,000. The value of any controlled substance included in the merchandise shall be determined in accordance with section 497(b).

Ante, p. 3207-83.

"(d) CRIMINAL PENALTIES.—In addition to being liable for a civil penalty under subsection (c), any person who intentionally commits a violation of any provision of this section is, upon conviction—

"(1) liable for a fine of not more than $10,000 or imprisonment for not more than 5 years, or both, if none of the merchandise involved was a controlled substance; or

"(2) liable for a fine of not more than $250,000 or imprisonment for not more than 20 years, or both, if any of the merchandise involved was a controlled substance.

"(e) SEIZURE AND FORFEITURE.—

"(1) Except as provided in paragraph (2), a vessel or aircraft used in connection with, or in aiding or facilitating, any violation of this section, whether or not any person is charged in connection with such violation, may be seized and forfeited in accordance with the customs laws.

"(2) Paragraph (1) does not apply to a vessel or aircraft operated as a common carrier.

"(f) DEFINITION OF MERCHANDISE.—As used in this section, the term 'merchandise' means only merchandise the importation of which into the United States is prohibited or restricted.

"(g) INTENT OF TRANSFER OF MERCHANDISE.—For purposes of imposing civil penalties under this section, any of the following acts, when performed within 250 miles of the territorial sea of the United States, shall be prima facie evidence that the transportation or possession of merchandise was unlawful and shall be presumed to constitute circumstances indicating that the purpose of the transfer is to make it possible for such merchandise, or any part thereof, to be introduced into the United States unlawfully, and for purposes of subsection (e) or section 596, shall be prima facie evidence that an aircraft or vessel was used in connection with, or to aid or facilitate, a violation of this section:

Post, p. 3207-87.

"(1) The operation of an aircraft or a vessel without lights during such times as lights are required to be displayed under applicable law.

"(2) The presence on an aircraft of an auxiliary fuel tank which is not installed in accordance with applicable law.

"(3) The failure to identify correctly—

"(A) the vessel by name or country of registration, or

"(B) the aircraft by registration number and country of registration,

when requested to do so by a customs officer or other government authority.

"(4) The external display of false registration numbers, false country of registration, or, in the case of a vessel, false vessel name.

"(5) The presence on board of unmanifested merchandise, the importation of which is prohibited or restricted.

"(6) The presence on board of controlled substances which are not manifested or which are not accompanied by the permits or licenses required under Single Convention on Narcotic Drugs or other international treaty.

"(7) The presence of any compartment or equipment which is built or fitted out for smuggling.

"(8) The failure of a vessel to stop when hailed by a customs officer or other government authority.".

SEC. 3121. SEIZURES.

Section 594 of the Tariff Act of 1930 (19 U.S.C. 1594) is amended to read as follows:

"SEC. 594. SEIZURE OF CONVEYANCES.

Vessels.
Aircraft and air carriers.
Motor vehicles.

"(a) IN GENERAL.—Whenever—

"(1) any vessel, vehicle, or aircraft; or

"(2) the owner or operator, or the master, pilot, conductor, driver, or other person in charge of a vessel, vehicle, or aircraft;

is subject to a penalty for violation of the customs laws, the conveyance involved shall be held for the payment of such penalty and may be seized and forfeited and sold in accordance with the customs laws. The proceeds of sale, if any, in excess of the assessed penalty and expenses of seizing, maintaining, and selling the property shall be held for the account of any interested party.

"(b) EXCEPTIONS.—No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to seizure and forfeiture under the customs laws for violations relating to merchandise contained—

"(1) on the person;

"(2) in baggage belonging to and accompanying a passenger being lawfully transported on such conveyance; or

"(3) in the cargo of the conveyance if the cargo is listed on the manifest and marks, numbers, weights and quantities of the outer packages or containers agree with the manifest;

unless the owner or operator, or the master, pilot, conductor, driver or other person in charge participated in, or had knowledge of, the violation, or was grossly negligent in preventing or discovering the violation.

"(c) PROHIBITED MERCHANDISE ON CONVEYANCE.—If any merchandise the importation of which is prohibited is found to be, or to have been—

"(1) on board a conveyance used as a common carrier in the transaction of business as a common carrier in one or more packages or containers—

"(A) that are not manifested (or not shown on bills of lading or airway bills); or

"(B) whose marks, numbers, weight or quantities disagree with the manifest (or with the bills of lading or airway bills); or

"(2) concealed in or on such a conveyance, but not in the cargo;

the conveyance may be seized, and after investigation, forfeited unless it is established that neither the owner or operator, master, pilot, nor any other employee responsible for maintaining and insuring the accuracy of the cargo manifest knew, or by the exercise of the highest degree of care and diligence could have known, that such merchandise was on board.

"(d) DEFINITIONS.—For purposes of this section—

"(1) The term 'owner or operator' includes—

"(A) a lessee or person operating a conveyance under a rental agreement or charter party; and

"(B) the officers and directors of a corporation;

"(C) station managers and similar supervisory ground personnel employed by airlines;

"(D) one or more partners of a partnership;

"(E) representatives of the owner or operator in charge of the passenger or cargo operations at a particular location; and

"(F) and other persons with similar responsibilities.

"(2) The term 'master' and similar terms relating to the person in charge of a conveyance includes the purser or other person on the conveyance who is responsible for maintaining records relating to the cargo transported in the conveyance.

"(e) COSTS AND EXPENSES OF SEIZURE.—When a common carrier has been seized in accordance with the provisions of subsection (c) and it is subsequently determined that a violation of such subsection occurred but that the vessel will be released, the conveyance is liable for the costs and expenses of the seizure and detention.".

SEC. 3122. SEARCHES AND SEIZURES.

Section 595(a) of the Tariff Act of 1930 (19 U.S.C. 1595(a)) is amended to read as follows:

"(a) WARRANT.—(1) If any officer or person authorized to make searches and seizures has probable cause to believe that—

"(A) any merchandise upon which the duties have not been paid, or which has been otherwise brought into the United States unlawfully;

"(B) any property which is subject to forfeiture under any provision of law enforced or administered by the United States Customs Service; or

19 USC 1592.

"(C) any document, container, wrapping, or other article which is evidence of a violation of section 592 involving fraud or of any other law enforced or administered by the United States Customs Service,

is in any dwelling house, store, or other building or place, he may make application, under oath, to any justice of the peace, to any municipal, county, State, or Federal judge, or to any Federal magistrate, and shall thereupon be entitled to a warrant to enter such dwelling house in the daytime only, or such store or other place at night or by day, and to search for and seize such merchandise or other article described in the warrant.

"(2) If any house, store, or other building or place, in which any merchandise or other article subject to forfeiture is found, is upon or within 10 feet of the boundary line between the United States and a foreign country, such portion thereof that is within the United States may be taken down or removed.".

SEC. 3123. FORFEITURES.

Section 596 of the Tariff Act of 1930 (19 U.S.C. 1595a) is amended—

(1) by striking out "the proviso to" in subsection (a) and inserting "subsection (b) or (c) of";

(2) by striking out "shall" in subsection (a) and inserting "may"; and

(3) by adding at the end thereof the following new subsection.

"(c) Any merchandise that is introduced or attempted to be introduced into the United States contrary to law (other than in violation of section 592) may be seized and forfeited.".

19 USC 1592.

SEC. 3124. PROCEEDS OF FORFEITED PROPERTY.

Section 613 of the Tariff Act of 1930 (19 U.S.C. 1613) is amended by adding at the end thereof the following new subsections:

"(c) TREATMENT OF DEPOSITS.—If property is seized by the Secretary under law enforced or administered by the Customs Service, or otherwise acquired under section 605, and relief from the forfeiture is granted by the Secretary, or his designee, upon terms requiring the deposit or retention of a monetary amount in lieu of the forfeiture, the amount recovered shall be treated in the same manner as the proceeds of sale of a forfeited item. 19 USC 1605.

"(d) EXPENSES.—In any judicial or administrative proceeding to forfeit property under any law enforced or administered by the Customs Service or the Coast Guard, the seizure, storage, and other expenses related to the forfeiture that are incurred by the Customs Service or the Coast Guard after the seizure, but before the institution of, or during, the proceedings, shall be a priority claim in the same manner as the court costs and the expenses of the Federal marshal.".

SEC. 3125. COMPENSATION TO INFORMERS.

Section 619 of the Tariff Act of 1930 (19 U.S.C. 1619) is amended to read as follows:

"(a) IN GENERAL.—If—

"(1) any person who is not an employee or officer of the United States—

"(A) detects and seizes any vessel, vehicle, aircraft, merchandise, or baggage subject to seizure and forfeiture under the customs laws or the navigation laws and reports such detection and seizure to a customs officer, or

"(B) furnishes to a United States attorney, the Secretary of the Treasury, or any customs officer original information concerning—

"(i) any fraud upon the customs revenue, or

"(ii) any violation of the customs laws or the navigation laws which is being, or has been, perpetrated or contemplated by any other person; and

"(2) such detection and seizure or such information leads to a recovery of—

"(A) any duties withheld, or

"(B) any fine, penalty, or forfeiture of property incurred;

the Secretary may award and pay such person an amount that does not exceed 25 percent of the net amount so recovered.

"(b) FORFEITED PROPERTY NOT SOLD.—If—

"(1) any vessel, vehicle, aircraft, merchandise, or baggage is forfeited to the United States and is thereafter, in lieu of sale—

"(A) destroyed under the customs or navigation laws, or

"(B) delivered to any governmental agency for official use, and

"(2) any person would be eligible to receive an award under subsection (a) but for the lack of sale of such forfeited property,

the Secretary may award and pay such person an amount that does not exceed 25 percent of the appraised value of such forfeited property.

"(c) DOLLAR LIMITATION.—The amount awarded and paid to any person under this section may not exceed $250,000 for any case.

"(d) SOURCE OF PAYMENT.—Unless otherwise provided by law, any amount paid under this section shall be paid out of appropriations available for the collection of the customs revenue.

"(e) RECOVERY OF BAIL BOND.—For purposes of this section, an amount recovered under a bail bond shall be deemed a recovery of a fine incurred.".

SEC. 3126. FOREIGN LANDING CERTIFICATES.

Section 622 of the Tariff Act of 1930 (19 U.S.C. 1622) is amended by inserting before the period at the end thereof the following: ", or to comply with international obligations".

SEC. 3127. EXCHANGE OF INFORMATION WITH FOREIGN AGENCIES.

Part V of title IV of the Tariff Act of 1930 is amended by adding at the end thereof the following new section:

19 USC 1628.

"SEC. 628. EXCHANGE OF INFORMATION.

"(a) IN GENERAL.—The Secretary may by regulation authorize customs officers to exchange information or documents with foreign customs and law enforcement agencies if the Secretary reasonably believes the exchange of information is necessary to—

"(1) insure compliance with any law or regulation enforced or administered by the Customs Service;

"(2) administer or enforce multilateral or bilateral agreements to which the United States is a party;

"(3) assist in investigative, judicial and quasi-judicial proceedings in the United States; and

"(4) an action comparable to any of those described in paragraphs (1) through (4) undertaken by a foreign customs or law enforcement agency, or in relation to a proceeding in a foreign country.".

"(b) NONDISCLOSURE AND USES OF INFORMATION PROVIDED.—

"(1) Information may be provided to foreign customs and law enforcement agencies under subsection (a) only if the Secretary obtains assurances from such agencies that such information will be held in confidence and used only for the law enforcement purposes for which such information is provided to such agencies by the Secretary.

"(2) No information may be provided under subsection (a) to any foreign customs or law enforcement agency that has violated any assurances described in paragraph (1).".

SEC. 3128. INSPECTIONS AND PRECLEARANCE IN FOREIGN COUNTRIES.

Part V of title IV of the Tariff Act of 1930 is further amended by adding at the end thereof the following new section:

19 USC 1629.

"SEC. 629. INSPECTIONS AND PRECLEARANCE IN FOREIGN COUNTRIES.

"(a) IN GENERAL.—When authorized by treaty or executive agreement, the Secretary may station customs officers in foreign countries for the purpose of examining persons and merchandise prior to their arrival in the United States.

"(b) FUNCTIONS AND DUTIES.—Customs officers stationed in a foreign country under subsection (a) may exercise such functions and perform such duties (including inspections, searches, seizures and arrests) as may be permitted by the treaty, agreement or law of the country in which they are stationed.

"(c) COMPLIANCE.—The Secretary may by regulation require compliance with the customs laws of the United States in a foreign

country and, in such a case the customs laws and other civil and criminal laws of the United States relating to the importation of merchandise, filing of false statements, and the unlawful removal of merchandise from customs custody shall apply in the same manner as if the foreign station is a port of entry within the customs territory of the United States.

"(d) SEIZURES.—When authorized by treaty, agreement or foreign law, merchandise which is subject to seizure or forfeiture under United States law may be seized in a foreign country and transported under customs custody to the customs territory to the United States to be proceeded against under the customs law.

International agreements.

"(e) STATIONING OF FOREIGN CUSTOMS OFFICERS IN THE UNITED STATES.—The Secretary of State, in coordination with the Secretary, may enter into agreements with any foreign country authorizing the stationing in the United States of customs officials of that country (if similar privileges are extended by that country to United States officials) for the purpose of insuring that persons and merchandise going directly to that country from the United States comply with the customs and other laws of that country governing the importation of merchandise. Any foreign customs official stationed in the United States under this subsection may exercise such functions and perform such duties as United States officials may be authorized to perform in that foreign country under reciprocal agreement.

International agreements.

"(f) APPLICATION OF CERTAIN LAWS.—When customs officials of a foreign country are stationed in the United States in accordance with subsection (e), and if similar provisions are applied to United States officials stationed in that country—

"(1) sections 111 and 1114 of title 18, United States Code, shall apply as if the officials were designated in those sections; and

"(2) any person who in any matter before a foreign customs official stationed in the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, is liable for a fine of not more than $10,000 or imprisonment for not more than 5 years, or both.".

PART 2—UNDERCOVER CUSTOMS OPERATIONS

SEC. 3131. UNDERCOVER INVESTIGATIVE OPERATIONS OF THE CUSTOMS SERVICE.

19 USC 2081.

(a) CERTIFICATION REQUIRED FOR EXEMPTION OF UNDERCOVER OPERATIONS FROM CERTAIN LAWS.—With respect to any undercover investigative operation of the United States Customs Service (hereinafter in this section referred to as the "Service") which is necessary for the detection and prosecution of offenses against the United States which are within the jurisdiction of the Secretary of the Treasury—

(1) sums authorized to be appropriated for the Service may be used—

(A) to purchase property, buildings, and other facilities, and to lease space, within the United States, the District of Columbia, and the territories and possessions of the United States without regard to—

(i) sections 1341 and 3324 of title 31, United States Code,

(ii) sections 3732(a) and 3741 of the Revised Statutes of the United States (41 U.S.C. 11(a) and 22),

(iii) section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255),

(iv) the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), and

(v) section 304(a) and (c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a) and (c)), and

(B) to establish or to acquire proprietary corporations or business entities as part of the undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to sections 9102 and 9103 of title 31, United States Code;

(2) sums authorized to be appropriated for the Service and the proceeds from the undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3302 of title 31, United States Code; and

(3) the proceeds from the undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3302 of title 31, United States Code;

only upon the written certification of the Commissioner of Customs (or, if designated by the Commissioner the Deputy or an Assistant Commissioner of Customs) that any action authorized by paragraph (1), (2), or (3) of this subsection is necessary for the conduct of such undercover operation.

(b) LIQUIDATION OF CORPORATIONS AND BUSINESS ENTITIES.—If a corporation or business entity established or acquired as part of an undercover operation under paragraph (1)(B) of subsection (a) with a net value over $50,000 is to be liquidated, sold, or otherwise disposed of, the Service, as much in advance as the Commissioner or his designee determines is practicable, shall report the circumstances to the Secretary of the Treasury and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(c) DEPOSIT OF PROCEEDS.—As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under paragraphs (2) and (3) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

(d) AUDITS.—(1) The Service shall conduct a detailed financial audit of each undercover investigative operation which is closed in each fiscal year, and

(A) submit the results of the audit in writing to the Secretary of the Treasury; and

Report. (B) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

Report. (2) The Service shall also submit a report annually to the Congress specifying as to its undercover investigative operations—

(A) the number, by programs, of undercover investigative operations pending as of the end of the 1-year period for which such report is submitted;

(B) the number, by programs, of undercover investigative operations commenced in the 1-year period preceding the period for which such report is submitted; and

(C) the number, by programs, of undercover investigative operations closed in the 1-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained and any civil claims made with respect thereto.

(e) DEFINITIONS.—For purposes of subsection (d)—

(1) The term "closed" refers to the earliest point in time at which—

(A) all criminal proceedings (other than appeals) are concluded, or

(B) covert activities are concluded, whichever occurs later.

(2) The term "employees" means employees, as defined in section 2105 of title 5 of the United States Code, of the Service.

(3) The terms "undercover investigative operation" and "undercover operation" mean any undercover investigative operation of the Service—

(A) in which—

(i) the gross receipts (excluding interest earned) exceed $50,000, or

(ii) expenditures (other than expenditures for salaries of employees) exceed $150,000; and

(B) which is exempt from section 3302 or 9102 of title 31, United States Code;

except that subparagraphs (A) and (B) shall not apply with respect to the report required under paragraph (2) of sub section (d).

PART 3—CUSTOMS SERVICE AUTHORIZATIONS AND FORFEITURE FUND

SEC. 3141. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1987 FOR THE UNITED STATES CUSTOMS SERVICE.

(a) AUTHORIZATIONS.—Section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)) is amended as follows:

"(b)(1) There are authorized to be appropriated to the Department of the Treasury not to exceed $1,001,180,000 for the salaries and expenses of the United States Customs Service for fiscal year 1987; of which—

"(A) $749,131,000 is for salaries and expenses to maintain current operating levels, and includes such sums as may be necessary to complete the testing of the prototype of the automatic license plate reader program and to implement that program;

"(B) $80,999,000 is for the salaries and expenses of additional personnel to be used in carrying out drug enforcement activities; and

"(C) $171,050,000 is for the operation and maintenance of the air interdiction program of the Service, of which—

"(i) $93,500,000 is for additional aircraft, communications enhancements, and command, control, communications, and intelligence centers, and

"(ii) $350,000 is for a feasibility and application study for a low-level radar detection system in collaboration with the Los Alamos National Laboratory.

"(2) No part of any sum that is appropriated under the authority of paragraph (1) may be used to close any port of entry at which, during fiscal year 1986—

"(A) not less than 2,500 merchandise entries (including informal entries) were made; and

"(B) not less than $1,500,000 in customs revenues were assessed.".

Ante, p. 1874.

(b) SPECIAL EFFECTIVE DATE RULE.—If the bill H.R. 5300 (providing for reconciliation of the budget for fiscal year 1987) is enacted and includes an amendment to section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 which is identical to the amendment made by subsection (a) of this section, then the amendment made by subsection (a) shall have no effect.

SEC. 3142. CUSTOMS FORFEITURE FUND.

(a) AMENDMENT.—Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended—

(1) by amending subsection (a)—

(A) by striking out "1987" in the first sentence and inserting "1991";

(B) by inserting "(including investigative costs leading to seizures)" after "seizure" in paragraph (1);

(C) by inserting "and" after the semicolon at the end of paragraph (4);

(D) by striking out paragraph (5);

(E) by redesignating paragraph (6) as paragraph (5); and

(F) by amending the last sentence to read as follows: "In addition to the purposes described in paragraphs (1) through (5), the fund is available for—

"(i) purchases by the Customs Service of evidence of—

"(I) smuggling of controlled substances, and

"(II) violations of the currency and foreign transaction reporting requirements of chapter 51 of title 31, United States Code, if there is a substantial probability that the violations of these requirements are related to the smuggling of controlled substances;

31 USC 5101 *et seq.*

"(ii) the equipping for law enforcement functions of any vessel, vehicle, or aircraft available for official use by the Customs Service;

"(iii) the reimbursement, at the discretion of the Secretary, of private citizens for expenses incurred by them in cooperating with the Customs Service in investigations and undercover law enforcement operations; and

"(iv) the publicizing of the availability of rewards under section 619."; and

Ante, p. 3207-88.

(2) by amending subsection (f) to read as follows:

"(f)(1) There are authorized to be appropriated from the fund for each of the fiscal years beginning with fiscal year 1987 not more than $20,000,000.

"(2) At the end of each of fiscal years 1987, 1988, 1989, and 1990, any amount in the fund in excess of $20,000,000 shall be deposited in

the general fund of the Treasury. At the end of fiscal year 1991, any amount remaining in the fund shall be deposited in the general fund of the Treasury, and the fund shall cease to exist.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect October 1, 1986. 19 USC 1613b note.

PART 4—MISCELLANEOUS CUSTOMS AMENDMENTS

SEC. 3151. RECREATIONAL VESSELS.

Section 12109(b) of title 46, United States Code, is amended by adding at the end the following: "Such vessel must, however, comply with all customs requirements for reporting arrival under section 433 of the Tariff Act of 1930 (19 U.S.C. 1433) and all persons aboard such a pleasure vessel shall be subject to all applicable customs regulations.".

SEC. 3152. ASSISTANCE FOR CUSTOMS OFFICERS.

Section 3071 of the Revised Statutes of the United States (19 U.S.C. 507) is amended to read as follows:

"SEC. 3071. (a) Every customs officer shall—

"(1) upon being questioned at the time of executing any of the powers conferred upon him, make known his character as an officer of the Federal Government; and

"(2) have the authority to demand the assistance of any person in making any arrest, search, or seizure authorized by any law enforced or administered by customs officers, if such assistance may be necessary.

If a person, without reasonable excuse, neglects or refuses to assist a customs officer upon proper demand under paragraph (2), such person is guilty of a misdemeanor and subject to a fine of not more than $1,000.

"(b) Any person other than an officer or employee of the United States who renders assistance in good faith upon the request of a customs officer shall not be held liable for any civil damages as a result of the rendering of such assistance if the assisting person acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances.". Claims.

SEC. 3153. REPORTS ON EXPORTS AND IMPORTS OF MONETARY INSTRUMENTS.

Section 5316(a)(2) of title 31, United States Code, is amended by striking out "$5,000" and inserting in lieu thereof "$10,000".

PART 5—AMENDMENTS TO THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT

SEC. 3161. POSSESSION, MANUFACTURE, OR DISTRIBUTION FOR PURPOSES OF UNLAWFUL IMPORTATION.

(a) AMENDMENT TO ACT.—Section 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 959) is amended—

(1) by inserting "POSSESSION," in the heading;

(2) by striking out "It shall" and inserting in lieu thereof "(a) It shall";

(3) by striking out "This section" and inserting in lieu thereof "(c) This section";

(4) by inserting "or into waters within a distance of 12 miles of the coast of the United States" after "United States" each place it appears in subsection (a); and

(5) by inserting after subsection (a) the following new subsection:

Aircraft and air carriers.

"(b) It shall be unlawful for any United States citizen on board any aircraft, or any person on board an aircraft owned by a United States citizen or registered in the United States, to—

"(1) manufacture or distribute a controlled substance; or

"(2) possess a controlled substance with intent to distribute.".

(b) CONFORMING AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking out "Manufacture" in the item relating to section 1009 and inserting in lieu thereof "Possession, manufacture".

Subtitle C—Maritime Drug Law Enforcement Prosecution Improvements Act of 1986

Maritime Drug Law Enforcement Prosecution Improvements Act of 1986. 46 USC app. 1901 note.

SEC. 3201. SHORT TITLE.

This subtitle may be cited as the "Maritime Drug Law Enforcement Prosecution Improvements Act of 1986".

SEC. 3202. IMPROVEMENT OF PUBLIC LAW 96-350.

The Act entitled "An Act to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes", approved September 15, 1980 (Public Law 96-350; 94 Stat. 1159) is amended by striking all after the enacting clause and inserting in lieu thereof the following:

46 USC app. 1901.

"That this Act may be cited as the 'Maritime Drug Law Enforcement Act'.

46 USC app. 1902.

"SEC. 2. The Congress finds and declares that trafficking in controlled substances aboard vessels is a serious international problem and is universally condemned. Moreover, such trafficking presents a specific threat to the security and societal well-being of the United States.

46 USC app. 1903.

"SEC. 3. (a) It is unlawful for any person on board a vessel of the United States, or on board a vessel subject to the jurisdiction of the United States, to knowingly or intentionally manufacture or distribute, or to possess with intent to manufacture or distribute, a controlled substance.

"(b) For purposes of this section, a 'vessel of the United States' means—

46 USC 12101 *et seq.*

46 USC 12301 *et seq.*

"(1) a vessel documented under chapter 121 of title 46, United States Code, or a vessel numbered as provided in chapter 123 of that title;

"(2) a vessel owned in whole or part by—

"(A) the United States or a territory, commonwealth, or possession of the United States;

"(B) a State or political subdivision thereof;

"(C) a citizen or national of the United States; or

"(D) a corporation created under the laws of the United States or any State, the District of Columbia, or any territory, commonwealth, or possession of the United States;

International agreements.

13 UST 2312.

unless the vessel has been granted the nationality of a foreign nation in accordance with article 5 of the 1958 Convention on the High Seas; and

"(3) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was either sold to a person not a citizen of the United States or placed under foreign registry or a foreign flag, whether or not the vessel has been granted the nationality of a foreign nation.

"(c)(1) For purposes of this section, a 'vessel subject to the jurisdiction of the United States' includes—

"(A) a vessel without nationality;

"(B) a vessel assimilated to a vessel without nationality, in accordance with paragraph (2) of article 6 of the 1958 Convention on the High Seas; 13 UST 2312.

"(C) a vessel registered in a foreign nation where the flag nation has consented or waived objection to the enforcement of United States law by the United States;

"(D) a vessel located within the customs waters of the United States; and

"(E) a vessel located in the territorial waters of another nation, where the nation consents to the enforcement of United States law by the United States.

Consent or waiver of objection by a foreign nation to the enforcement of United States law by the United States under paragraph (C) or (E) of this paragraph may be obtained by radio, telephone, or similar oral or electronic means, and may be proved by certification of the Secretary of State or the Secretary's designee.

"(2) For purposes of this section, a 'vessel without nationality' includes—

"(A) a vessel aboard which the master or person in charge makes a claim of registry, which claim is denied by the flag nation whose registry is claimed; and

"(B) any vessel aboard which the master or person in charge fails, upon request of an officer of the United States empowered to enforce applicable provisions of United States law, to make a claim of nationality or registry for that vessel.

A claim of registry under subparagraph (A) may be verified or denied by radio, telephone, or similar oral or electronic means. The denial of such claim of registry by the claimed flag nation may be proved by certification of the Secretary of State or the Secretary's designee.

"(3) For purposes of this section, a claim of nationality or registry only includes:

"(A) possession on board the vessel and production of documents evidencing the vessel's nationality in accordance with article 5 of the 1958 Convention on the High Seas;

"(B) flying its flag nation's ensign or flag; or

"(C) a verbal claim of nationality or registry by the master or person in charge of the vessel.

"(d) A claim of failure to comply with international law in the enforcement of this Act may be invoked solely by a foreign state, and a failure to comply with international law shall not divest a court of jurisdiction or otherwise constitute a defense to any proceeding under this Act. Claims. International agreements.

"(e) This section does not apply to a common or contract carrier, or an employee thereof, who possesses or distributes a controlled substance in the lawful and usual course of the carrier's business or to a public vessel of the United States, or any person on board such a vessel who possesses or distributes a controlled substance in the lawful course of such person's duties, if the controlled substance is a

part of the cargo entered in the vessel's manifest and is intended to be lawfully imported into the country of destination for scientific, medical, or other legitimate purposes. It shall not be necessary for the United States to negative the exception set forth in this subsection in any complaint, information, indictment, or other pleading or in any trial or other proceeding. The burden of going forward with the evidence with respect to this exception is upon the person claiming its benefit.

Courts, U.S.

"(f) Any person who violates this section shall be tried in the United States district court at the point of entry where that person enters the United States, or in the United States District Court of the District of Columbia.

"(g)(1) Any person who commits an offense defined in this section shall be punished in accordance with the penalties set forth in section 1010 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 960).

"(2) Notwithstanding paragraph (1) of this subsection, any person convicted of an offense under this Act shall be punished in accordance with the penalties set forth in section 1012 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 962) if such offense is a second or subsequent offense as defined in section 1012(b) of that Act.

"(h) This section is intended to reach acts of possession, manufacture, or distribution committed outside the territorial jurisdiction of the United States.

"(i) The definitions in the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) apply to terms used in this Act.

"(j) Any person who attempts or conspires to commit any offense defined in this Act is punishable by imprisonment or fine, or both, which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

46 USC app. 1904.

"SEC. 3. Any property described in section 511(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(a)) that is used or intended for use to commit, or to facilitate the commission of, an offense under this Act shall be subject to seizure and forfeiture in the same manner as similar property seized or forfeited under section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881).".

Subtitle D—Coast Guard

SEC. 3251. COAST GUARD DRUG INTERDICTION ENHANCEMENT.

(a) ADDITIONAL AUTHORIZATIONS FOR THE COAST GUARD.—

(1) There are authorized to be appropriated for Acquisition, Construction, and Improvements of the Coast Guard, $89,000,000.

(2) There are hereby authorized to be appropriated for Operating Expenses of the Coast Guard, $39,000,000. This amount shall be used to increase the full-time equivalent strength level for the Coast Guard for active duty personnel for fiscal year 1987 to 39,220, and to increase the utilization rate of Coast Guard equipment.

(b) AMOUNTS IN ADDITION TO OTHER AMOUNTS.—The amounts authorized to be appropriated for the Coast Guard by this section are in addition to any amounts otherwise authorized by law.

(c) AUTHORIZATION ENHANCEMENT.—Nothing in this Act shall require the Coast Guard to recruit, compensate, train, purchase, or deploy any personnel or equipment except to the extent that—

(1) additional appropriations are made available in appropriations Acts for that purpose; or

(2) funds are transferred to the Secretary of Transportation for that purpose pursuant to this Act.

Subtitle E—United States-Bahamas Drug Interdiction Task Force

SEC. 3301. ESTABLISHMENT OF A UNITED STATES-BAHAMAS DRUG INTERDICTION TASK FORCE.

21 USC 801 note.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) ESTABLISHMENT OF A UNITED STATES-BAHAMAS DRUG INTERDICTION TASK FORCE.—(A) There is authorized to be established a United States-Bahamas Drug Interdiction Task Force to be operated jointly by the United States Government and the Government of the Bahamas.

(B) The Secretary of State, the Commandant of the Coast Guard, the Commissioner of Customs, the Attorney General, and the head of the National Narcotics Border Interdiction System (NNBIS), shall upon enactment of this Act, immediately commence negotiations with the Government of the Bahamas to enter into a detailed agreement for the establishment and operation of a new drug interdiction task force, including plans for (i) the joint operation and maintenance of any drug interdiction assets authorized for the task force in this section and section 3141, and (ii) any training and personnel enhancements authorized in this section and section 3141.

(C) The Attorney General shall report to the appropriate committees of Congress on a quarterly basis regarding the progress of the United States-Bahamas Drug Interdiction Task Force.

Report.

(2) AMOUNTS AUTHORIZED.—There are authorized to be appropriated, in addition to any other amounts authorized to be appropriated in this title, $10,000,000 for the following:

(A) $9,000,000 for 3 drug interdiction pursuit helicopters for use primarily for operations of the United States-Bahamas Drug Interdiction Task Force established under this section; and

(B) $1,000,000 to enhance communications capabilities for the operation of a United States-Bahamas Drug Interdiction Task Force established under this section.

(3) COAST GUARD-BAHAMAS DRUG INTERDICTION DOCKING FACILITY.—(A) There is authorized to be appropriated for acquisition, construction, and improvements for the Coast Guard for fiscal year 1987, $5,000,000, to be used for initial design engineering, and other activities for construction of a drug interdiction docking facility in the Bahamas to facilitate Coast Guard and Bahamian drug interdiction operations in and through the Bahama Islands. Of the amounts authorized to be appropriated in this subsection, such sums as may be necessary shall be available for necessary communication and air support.

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(B) The Commandant of the Coast Guard shall use such amounts appropriated pursuant to the authorization in this paragraph as may be necessary to establish a repair, maintenance, and boat lift facility to provide repair and maintenance services for both Coast Guard and Bahamian marine drug interdiction equipment, vessels, and related assets.

(b) CONCURRENCE BY SECRETARY OF STATE.—Programs authorized by this section may be carried out only with the concurrence of the Secretary of State.

Subtitle F—Command, Control, Communications, and Intelligence Centers

SEC. 3351. ESTABLISHMENT OF COMMAND, CONTROL, COMMUNICATIONS, AND INTELLIGENCE CENTERS (C-3I).

There are authorized to be appropriated $25,000,000 to the United States Customs Service for the establishment of command, control, communications, and intelligence (C-3I) centers, including sector operations centers and a national command, control, communications, and intelligence (C-3I) center, in locations within the United States. The coordination of the establishment and location of such C-3I centers shall be conducted by the Commissioner of Customs; together with the Commandant of the Coast Guard; the Attorney General of the United States; and the National Narcotics Border Interdiction System (NNBIS).

Subtitle G—Transportation Safety

SEC. 3401. AIR SAFETY.

(a)(1) Section 902(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(b)) is amended by adding at the end the following:

"(3) Nothing in this subsection or in any other provision of this Act shall preclude a State from establishing criminal penalties, including providing for forfeiture or seizure of aircraft, for a person who—

"(A) knowingly and willfully forges, counterfeits, alters, or falsely makes an aircraft registration certificate;

"(B) knowingly sells, uses, attempts to use, or possesses with intent to use a fraudulent aircraft registration certificate;

"(C) knowingly and willfully displays or causes to be displayed on any aircraft any marks that are false or misleading as to the nationality or registration of the aircraft; or

"(D) obtains an aircraft registration certificate from the administrator by knowingly and willfully falsifying, concealing or covering up a material fact, or making a false, fictitious, or fraudulent statement or representation, or making or using any false writing or document knowing the writing or document to contain any false, fictitious, or fraudulent statement or entry.".

(2) Section 501 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401) is amended by adding at the end the following new subsection:

"INSPECTION BY LAW ENFORCEMENT OFFICERS

"(g) The operator of an aircraft shall make available for inspection an aircraft's certificate of registration upon request by a Federal, State, or local law enforcement officer.".

(3) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 501. Registration of aircraft nationality."

is amended by adding at the end the following:

"(g) Inspection by law enforcement officers.".

(b)(1) Subsection (q) of section 902 of the Federal Aviation Act of 1958 (49 U.S.C. 1472(q)) is amended to read as follows: 49 USC app. 1472.

"VIOLATIONS IN CONNECTION WITH TRANSPORTATION OF CONTROLLED SUBSTANCES

"(q)(1) It shall be unlawful, in connection with an act described in paragraph (2) and with knowledge of such act, for any person—

"(A) who is the owner of an aircraft eligible for registration under section 501, to knowingly and willfully operate, attempt to operate, or permit any other person to operate such aircraft if the aircraft is not registered under section 501 or the certificate of registration of the aircraft is suspended or revoked, or if such person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership; 49 USC app. 1401.

"(B) to operate or attempt to operate an aircraft eligible for registration under section 501 knowing that such aircraft is not registered under section 501, that the certificate of registration is suspended or revoked, or that such person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

"(C) to knowingly and willfully serve, or attempt to serve, in any capacity as an airman without a valid airman certificate authorizing such person to serve in such a capacity;

"(D) to knowingly and willfully employ for service or utilize any airman who does not possess a valid airman certificate authorizing such person to serve in such capacity;

"(E) to knowingly and willfully operate an aircraft in violation of any rule, regulation, or requirement issued by the Administrator of the Federal Aviation Administration with respect to the display of navigation or anticollision lights; and

"(F) to knowingly operate an aircraft with a fuel tank or fuel system that has been installed or modified on the aircraft, unless such tank or system and the installation or modification of such tank or system is in accordance with all applicable rules, regulations, and requirements of the Administrator.

"(2) The act referred to in paragraph (1) is the transportation by aircraft of any controlled substance or the aiding or facilitating of a controlled substance offense where such act is punishable by death or imprisonment for a term exceeding one year under a State or Federal law or is provided in connection with any act that is punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than a law relating to simple possession of a controlled substance).

"(3) A person violating this subsection shall be subject to a fine not exceeding $25,000, or imprisonment not exceeding 5 years, or both.

"(4) A person who, in connection with transportation described in paragraph (2), operates an aircraft on which a fuel tank or fuel system has been installed or modified and does not carry aboard the aircraft any certificate required to be issued by the Administrator for such installation or modification shall be presumed to have violated subparagraph (F) of paragraph (1).

"(5) In the case of a violation of subparagraph (F) of paragraph (1), the fuel tank or fuel system and the aircraft involved shall be subject to seizure and forfeiture. The provisions of law relating to—

"(A) the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws;

"(B) the disposition of such property or the proceeds from the sale thereof;

"(C) the remission or mitigation of such forfeitures; and

"(D) the compromise of claims and the award of compensation to informers in respect of such forfeitures;

shall apply to seizures and forfeitures under this paragraph. The Secretary may authorize such officers and agents as are necessary to carry out seizures and forfeitures under this paragraph and such officers and agents shall have the powers and duties given to customs officers with respect to the seizure and forfeiture of property under the customs laws.

"(6) For purposes of this subsection, the term 'controlled substance' has the meaning given to such term by section 102 of the Controlled Substances Act (21 U.S.C. 802).".

(2) That portion of the table of contents of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 902. Criminal penalties."

is amended by striking the item relating to subsection (q) and inserting the following:

"(q) Violations in connection with transportation of controlled substances.".

(c) Section 904(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1474(a)) is amended—

49 USC app. 1474.

(1) by striking "$500" each place it appears and inserting in lieu thereof "$5,000";

(2) by inserting after the second sentence the following: "In addition to any other penalty, if any controlled substance described in section 584 of the Tariff Act of 1930 (19 U.S.C. 1584) is found on board of, or to have been unladen from, an aircraft subject to section 1109 (b) and (c) of this Act, the owner or person in charge of such aircraft shall be subject to the penalties provided for in section 584 of the Tariff Act of 1930 (19 U.S.C. 1584), unless such owner or person is able to demonstrate, by a preponderance of the evidenced, that such owner or person did not know, and could not, by the exercise of the highest degree of care and diligence, have known, that any such controlled substance was on board."; and

(3) by amending the third sentence to read as follows: "In the case the violation is by the owner, operator, or person in command of the aircraft, any penalty imposed by this section shall be a lien against the aircraft.".

(d)(1) Section 1109 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1509) is amended by adding at the end thereof the following:

"REPORTING TRANSFER OF OWNERSHIP

"(f) Any person having an ownership interest in any aircraft for which a certificate of registration has been issued under this Act shall, upon the sale, conditional sale, transfer, or conveyance of such ownership interest, file with the Secretary of the Treasury within 15 days after such sale, conditional sale, transfer or conveyance such notice as the Secretary of the Treasury may by regulation require. The filing of a notice under this subsection shall not relieve any person from the filing requirements under section 501 or 503 of this Act.".

(2) Within 30 days after the date of enactment of subsection (f) of section 1109 of the Federal Aviation Act of 1958 as added by this subsection, the Secretary of the Treasury shall promulgate regulations establishing guidelines by which persons or classes of persons may apply for exemptions from the filing requirements of subsection (f) of section 1109. The Secretary of the Treasury may exempt such persons or classes of persons pursuant to such regulations.

49 USC app. 1401, 1403. Regulations. 49 USC app. 1509 note.

(3) That portion of the table of contents of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 1109. Application of existing laws relating to foreign commerce."

is amended by adding at the end thereof the following:

"(f) Reporting transfer of ownership.".

SEC. 3402. DRUG AND HIGHWAY SAFETY.

23 USC 403 note.

(a) STUDY.—The Secretary of Transportation shall conduct a study to determine the relationship between the usage of controlled substances and highway safety. Such study shall include a simulation of driving conditions, emergency situations, and driver performance under various drug and dosage conditions. Such study shall determine the incidence of controlled substance usage in highway accidents resultng in fatalities and the dosage levels for controlled substances which are most likely to result in impairment of driver performance.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report on the results of the study conducted under subsection (a).

SEC. 3403. SAVINGS PROVISION.

49 USC 11344 note. Railroad.

In any proceeding under section 11344 of title 49, United States Code, involving an application by a rail carrier (or a person controlled by or affiliated with a rail carrier) to acquire a motor carrier, the Interstate Commerce Commission, and any Federal court reviewing action of the Commission, shall follow the standards set forth in the Commission decision in Ex Parte No. 438 if the applicant rail carrier, between July 20, 1984, and September 30, 1986 (1) filed an application with the Commission to acquire a motor carrier, (2) entered into a contract or signed a letter of intent to acquire a motor carrier, or (3) made a public tender offer to acquire a motor carrier.

Contract.

Subtitle H—Department of Justice Funds for Drug Interdiction Operations in Hawaii

SEC. 3421. ADDITIONAL FUNDS FOR THE DEPARTMENT OF JUSTICE.

There are authorized to be appropriated to the Department of Justice for fiscal year 1987, in addition to any other amounts authorized to be appropriated to the Department for such fiscal year, $7,000,000 for helicopters with forward looking infrared radiation detection devices for drug interdiction operations in Hawaii.

Subtitle I—Federal Communications Commission

47 USC 312a.

SEC. 3451. COMMUNICATIONS.

The Federal Communications Commission may revoke any private operator's license issued to any person under the Communications Act of 1934 (47 U.S.C. 151 et seq.) who is found to have willfully used said license for the purpose of distributing, or assisting in the distribution of, any controlled substance in violation of any provision of Federal law. In addition, the Federal Communications Commission may, upon the request of an appropriate Federal law enforcement agency, assist in the enforcement of Federal law prohibiting the use or distribution of any controlled substance where communications equipment within the jurisdiction of the Federal Communications Commission under the Communications Act of 1934 is willfully being used for purposes of distributing, or assisting in the distribution of, any such substance.

TITLE IV—DEMAND REDUCTION

Subtitle A—Treatment and Rehabilitation

Alcohol and Drug Abuse Amendments of 1986.
42 USC 201 note.

SEC. 4001. SHORT TITLE; REFERENCE.

(a) This subtitle may be cited as the "Alcohol and Drug Abuse Amendments of 1986".

(b) Except as otherwise specifically provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be a reference to a section or other provision of the Public Health Service Act.

42 USC 201 note.

SEC. 4002. SPECIAL ALCOHOL ABUSE AND DRUG ABUSE PROGRAMS.

Title XIX is amended by inserting after part B the following new part:

PART C—EMERGENCY SUBSTANCE ABUSE TREATMENT AND PREVENTION REHABILITATION

"SPECIAL ALCOHOL ABUSE AND DRUG ABUSE PROGRAMS

State and local governments.
42 USC 300y.
Post, pp. 3207-112, 3207-113.
42 USC 300x-2.

"SEC. 1921. (a) To carry out this section and sections 1922, 1923, 508, and 509A there are authorized to be appropriated $241,000,000 for fiscal year 1987. Of the total amount appropriated under the preceding sentence for fiscal year 1987, 6 percent shall be added to and included with the amounts otherwise available under this part for allotments to States under section 1913 for such fiscal year, 70.5 percent shall be available for allotments to States under this section

for such fiscal year, 4.5 percent shall be available for transfer to the Administrator of Veterans' Affairs under section 1922 for such fiscal year, 1 percent shall be available to carry out section 1923 for such fiscal year, and 18 percent shall be available to carry out sections 508 and 509A for such fiscal year.

"(b)(1) The allotment of a State under this section for a fiscal year shall be the sum of the amounts allotted to such State under paragraphs (2) and (3).

"(2) Forty-five percent of the amount available for allotment under this section for a fiscal year shall be allotted in accordance with this paragraph. The allotment of a State under this paragraph for a fiscal year shall be an amount which bears the same ratio to the total amount required pursuant to the preceding sentence to be allotted under this paragraph for such fiscal year as the population of such State bears to the population of all States, except that no such allotment shall be less than $50,000.

"(3) Fifty-five percent of the amount available for allotment under this section for a fiscal year shall be allotted by the Secretary to States on the basis of the need of each State for amounts for programs and activities for the treatment and rehabilitation of the alcohol abuse and drug abuse. In determining such need for each State under this paragraph, the Secretary shall consider—

"(A) the nature and extent, in the State and in particular areas of the State, of the demand for effective programs and activities for the treatment and rehabilitation of alcohol abuse and drug abuse;

"(B) the number of individuals in the State who abuse alcohol or drugs and the capacity of the State to provide treatment and rehabilitation for such individuals (as determined by the Secretary on the basis of the number of individuals who requested treatment for alcohol abuse and drug abuse in the State during the most recent calendar year ending prior to the date on which a statement is submitted by the State under subsection (d)); and

"(C) the ability of the State to provide additional services for the treatment and rehabilitation of alcohol abuse and drug abuse.

"(4) The Secretary shall make allotments to States under paragraph (2) for fiscal year 1987, and shall make payments to States under subsection (c) from such allotments, at the same time that the Secretary makes allotments and payments under sections 1913 and 1914, respectively, for such fiscal year. The Secretary shall make allotments to States under paragraph (3) for fiscal year 1987, and shall make payments to States under subsection (c) from such allotments, within four months after the date of enactment of the Alcohol and Drug Abuse Amendments of 1986.

42 USC 300x-2.
42 USC 300x-3.

"(c)(1) For each fiscal year, the Secretary shall make payments, as provided by section 6503 of title 31, United States Code, to each State from its allotment under paragraphs (2) and (3) of subsection (b) from amounts which are appropriated for that fiscal year and available for such allotments.

"(2) Any amount paid to a State under paragraph (1) for a fiscal year and remaining unobligated at the end of such fiscal year shall remain available to such State for the purposes for which it was made for the next fiscal year.

"(3) A State may not use amounts paid to it under its allotment under this section to—

"(A) provide inpatient hospital services,

"(B) make cash payments to intended recipients of health services,

"(C) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment,

"(D) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds, or

"(E) provide financial assistance to any entity other than a public or nonprofit private entity.

42 USC 300x.

"(4) The provisions of part B which are not inconsistent with this part shall apply with respect to allotments made under this section.

"(d) In order to receive an allotment for a fiscal year under subsection (b), each State shall submit an application to the Secretary requesting an allotment under subsection (b)(2) or (b)(3) or both. Each such application shall contain—

"(1) such information as the Secretary may prescribe, including information necessary for the Secretary to consider the matters specified in subparagraphs (A) through (D) of subsection (b)(3);

"(2) a description of the manner in which programs and activities conducted with payments under subsection (c) will be coordinated with other public and private programs and activities directed toward individuals who abuse alcohol and drugs;

"(3) assurances that, in the preparation of any statement under this section, the State will consult with local governments and public and private entities, including community based organizations, involved in the provision of services for the treatment and rehabilitation of alcohol abuse and drug abuse;

"(4) a description of the manner in which the State will evaluate programs and activities conducted with payments made to the State under subsection (c) and assurances that the State will report periodically to the Secretary on the results of such evaluations; and

"(5) assurances that payments made to the State under subsection (c) will supplement and not supplant any State or local expenditures for the treatment and rehabilitation of alcohol abuse and drug abuse that would have been made in the absence of such payments.

"(e) Except as provided in subsections (f) and (i), amounts paid to a State under subsection (c) may be used by the State for alcohol abuse and drug abuse treatment and rehabilitation programs and activities, including—

"(1) activities to increase the availability and outreach of programs provided by major treatment centers and regional branches of such centers which provide services in a State in order to reach the greatest number of people;

"(2) activities to expand the capacity of alcohol abuse and drug abuse treatment and rehabilitation programs and facilities to provide treatment and rehabilitation services for alcohol abusers and drug abusers who have been refused treatment due to lack of facilities or personnel;

"(3) activities to provide access to vocational training, job counseling, and education equivalency programs to alcohol abusers and drug abusers in need of such services in order to enable such abusers to become productive members of society; and

"(f) Of the total amount paid to any State under subsection (c) for a fiscal year, not more than 2 percent may be used for administering the funds made available under such subsection. The State will pay

from non-Federal sources the remaining costs of administering such funds.

"(g) The Secretary may provide training and technical assistance to States in planning and operating activities to be carried out under this section.

"(h) The Secretary may conduct data collection activities to enable the Secretary to carry out this section.

"TRANSFER TO THE ADMINISTRATOR OF VETERANS' AFFAIRS

"SEC. 1922. The Secretary shall transfer to the Administrator of Veterans' Affairs the amount which, under the second sentence of section 1921(a), is available for such transfer. The amount transferred pursuant to the preceding sentence shall be used for outpatient treatment, rehabilitation, and counseling under section 612 of title 38, United States Code, of veterans for their alcohol or drug abuse dependence or abuse disabilities and for contract care and services under section 620A of such title for veterans for such disabilities. 42 USC 300y-1.

"TREATMENT PROGRAM EVALUATIONS

"SEC. 1923. One percent of the total amount appropriated under section 1921(a) for any fiscal year shall be used by the Secretary, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, to develop and evaluate alcohol and drug abuse treatment programs to determine the most effective forms of treatment. Such programs may be developed and evaluated through grants, contracts, and cooperative agreements provided to nonprofit private entities. In carrying out this section, the Secretary shall assess the comparative effectiveness of various treatment forms for specific patient groups.". 42 USC 300y-2. Grants. Contracts.

SEC. 4003. TECHNICAL REVISION OF ADAMHA.

Section 501 (42 U.C.S. 290aa) is amended to read as follows:

"ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

"SEC. 501. (a) The Alcohol, Drug Abuse, and Mental Health Administration is an agency of the Service.

"(b) The following entities are agencies of the Alcohol, Drug Abuse, and Mental Health Administration:

"(1) The National Institute on Alcohol Abuse and Alcoholism.

"(2) The National Institute on Drug Abuse.

"(3) The National Institute of Mental Health.

"(c)(1) The Alcohol, Drug Abuse, and Mental Health Administration shall be headed by an Administrator (hereinafter in this title referred to as the 'Administrator') who shall be appointed by the President by and with the advice and consent of the Senate.

(2) The Administrator, with the approval of the Secretary, may appoint a Deputy Administrator and may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the activities to be carried out through the Administration.

"(d) The Secretary, acting through the Administrator—

"(1) shall supervise the functions of the agencies of the Administration in order to assure that the programs carried out through each such agency recieve appropriate and equitable

support and that there is cooperation among the agencies in the implementation of such programs;

"(2) shall assure that research at or supported by the Administration and each of its agencies is subject to review in accordance with section 507 and is in compliance with section 509A; and

Post, p. 3207-109.
Post, p. 3207-113.

"(3) shall assure that research on neuronal receptors and their role in mental health and substance abuse is provided adequate support.

"(e)(1) There shall be in the Administration an Associate Administrator for Prevention to whom the Administrator shall delegate the function of promoting the prevention research programs of the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse and coordinating such programs between the Institutes and between the Institutes and other public and private entities.

Report.

"(2) The Administrator, acting through the Associate Administrator for Prevention, shall annually submit to the Congress a report describing the prevention activities (including preventive medicine and health promotion) undertaken by the Administration and its agencies. The report shall include a detailed statement of the expenditures made for the activities reported on and the personnel used in connection with such activities.

Fraud.

"(f) The Administrator shall establish a process for the prompt and appropriate response to information provided the Administrator respecting (1) scientific fraud in connection with projects for which funds have been made available under this title, and (2) incidences of violations of the rights of human subjects of research for which funds have been made available under this title. The process shall include procedures for the receiving of reports of such information from recipients of funds under this title and taking appropriate action with respect to such fraud and violations.

Grants.

"(g) The Secretary, acting through the Administrator, shall make grants to schools of the health professions and schools of social work to support the training of students in such schools in the identification and treatment of alcohol and drug abuse. Grants under this subsection shall be made from funds available under this title and section 303.

42 USC 242a.

"(h) To educate the public with respect to the health hazards of alcoholism, alcohol abuse, and drug abuse, the Administrator shall use the clearinghouse established under section 508(c) to take such actions as may be necessary to ensure the widespread dissemination of current publications of the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse relating to the most recent research findings with respect to such health hazards.

Post, p. 3207-112.

"(i)(1) The Administrator may obtain (in accordance with section 3109 of title 5, United States Code, but without regard to the limitation in such section on the number of days or the period of service) the services of not more than 20 experts or consultants who have scientific or professional qualifications. Such experts and consultants shall be obtained for the Administration and for each of its agencies.

"(2)(A) Experts and consultants whose services are obtained under paragraph (1) shall be paid or reimbursed for their expenses associated with traveling to and from their assignment location in accord-

ance with sections 5724, 5724a(a)(1), 5724a(a)(3), and 5726(c) of title 5, United States Code.

"(B) Expenses specified in subparagraph (A) may not be allowed in connection with the assignment of an expert or consultant whose services are obtained under paragraph (1), unless and until the expert or consultant agrees in writing to complete the entire period of assignment or one year, whichever is shorter, unless separated or reassigned for reasons beyond the control of the expert or consultant that are acceptable to the Secretary. If the expert or consultant violates the agreement, the money spent by the United States for the expenses specified in subparagraph (A) is recoverable from the expert or consultant as a debt of the United States. The Secretary may waive in whole or in part a right of recovery under this subparagraph.

"(j) The Administrator shall, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, establish such technical and scientific peer review groups as are needed to carry out the requirements of section 507 and appoint and pay members of such groups, except that officers and employees of the United States shall not receive additional compensation for services as members of such groups. The Federal Advisory Committee Act shall not apply to the duration of a peer review group appointed under this subsection.

5 USC 5101.
5 USC 5331.
Post, p. 3207-109.
5 USC app.

"(k)(1) The Alcohol, Drug Abuse, and Mental Health Advisory Board (hereinafter in this subsection referred to as the 'Board') shall—

"(A) periodically assess the national needs for alcoholism, alcohol abuse, drug abuse, and mental health services and the extent to which those needs are being met by State, local, and private programs and programs receiving funds under this title and parts B and C of title XIX, and

"(B) provide advice to the Secretary and the Administrator respecting activities carried out under this title and parts B and C of title XIX.

42 USC 300x;
ante, p. 3207-103.

"(2)(A) The Board shall consist of 15 members appointed by the Secretary and such ex officio members from the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health as the Secretary may designate. Of the members appointed to the Board, at least 6 members shall represent State and private, nonprofit providers of prevention and treatment services for alcoholism, alcohol abuse, drug abuse, and mental illness, at least 6 members shall be individuals with expertise in public education and prevention services for alcoholism, alcohol abuse, drug abuse, and mental illness, and at least 3 members shall be appointed from members of the general public who are knowledgeable about alcoholism, alcohol abuse, drug abuse, and mental illness.

"(B) The term of office of a member appointed to the Board is 4 years, except that of the members first appointed to the Board—

"(i) 5 shall serve for terms of 1 year,

"(ii) 5 shall serve for terms of 2 years,

"(iii) 5 shall serve for terms of 3 years,

as designated by the Secretary at the time of appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of such member was appointed

shall be appointed only for the remainder of such term. A member may serve after the expiration of the member's term until the successor of the member has taken office.

"(3)(A) Except as provided in subparagraph (B), members of the Board shall (i) be paid not more than the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Board, and (ii) while away from their homes or regular places of business and while serving in the business of the Board, be entitled to receive transportation expenses as prescribed by section 5703 of title 5, United States Code.

5 USC 5331.

"(B) Members of the Board who are full-time officers or employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Board.

"(4) The Board may appoint such staff personnel as the Board considers appropriate.

"(5) The Secretary shall designate the chairman of the Board.

"(6) The Board shall meet at least 3 times each calendar year.

Report.

"(7) The Board shall report annually to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on its activities during the prior year and shall include in such report such recommendations for legislation and administrative action as it deems appropriate.".

SEC. 4004. ADVISORY COUNCILS.

42 USC 290aa-4, 290aa-5.

(a) Part A of title V is amended by redesignating sections 505 and 506 as sections 506 and 507, respectively, and by inserting after section 504 the following new section:

"ADVISORY COUNCILS

42 USC 290aa-3a.

"SEC. 505. (a)(1) The Secretary shall appoint an advisory council for the National Institute on Alcohol Abuse and Alcoholism, for the National Institute on Drug Abuse, and for the National Institute of Mental Health. Each such advisory council shall advise, consult with, and make recommendations to the Secretary and the Director of the Institute for which it was appointed on matters relating to the activities carried out by and through the Institute and the policies respecting such activities.

"(2) Each advisory council for an Institute may recommend to the Secretary acceptance, in accordance with section 2101, of conditional gifts for—

42 USC 300aa.

"(A) study, investigation, or research respecting the diseases, disorders, or other aspect of human health with respect to which the Institute was established;

"(B) the acquisition of grounds for the Institute; or

"(C) the construction, equipping, or maintenance of facilities for the Institute.

"(3) Each advisory council for an Institute—

"(A)(i) may on the basis of the materials provided under section 507(d)(2) respecting research conducted at the Institute, make recommendations to the Director of the Institute respecting such research;

Supra.

"(ii) shall review applications for grants and cooperative agreements for research or training and for which advisory

council approval is required under section 507(e)(2), and recommend for approval applications for projects which show promise of making valuable contributions to human knowledge; and

"(iii) may review any grant, contract, or cooperative agreement proposed to be made or entered into by the Institute;

"(B) may collect, by correspondence or by personal investigation, information as to studies which are being carried on in the United States or any other country as to the diseases, disorders, or other aspect of human health with respect to which the Institute was established and with the approval of the Director of the Institute make available such information through appropriate publications for the benefit of public and private health entities and health professions personnel and scientists and for the information of the general public; and

"(C) may appoint subcommittees and convene workshops and conferences.

"(b)(1) Each advisory council shall consist of nonvoting ex officio members and not more than 12 members appointed by the Secretary.

"(2) The ex officio members of an advisory council shall consist of—

"(A) the Secretary, the Administrator, the Director of the Institute for which the advisory council is established, the Chief Medical Director of the Veterans' Administration, and the Assistant Secretary of Defense for Health Affairs (or the designees of such officers), and

"(B) such additional officers or employees of the United States as the Secretary determines necessary for the advisory council to effectively carry out its functions.

"(3) The members of an advisory council who are not ex officio members shall be appointed as follows:

"(A) Nine of the members shall be appointed by the Secretary from among the leading representatives of the health and scientific disciplines (including public health and the behavioral or social sciences) relevant to the activities of the Institute for which the advisory council is established.

"(B) Three of the members shall be appointed by the Secretary from the general public and shall include leaders in fields of public policy, public relations, law, health policy, economics, and management.

"(4) Members of an advisory council who are officers or employees of the United States shall not receive any compensation for service on the advisory council. The other members of an advisory council shall receive, for each day (including travel time) they are engaged in the performance of the functions of the advisory council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule. 5 USC 5331.

"(c) The term of office of an appointed member of an advisory council is 4 years, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term and the Secretary shall make appointments to an advisory council in such manner as to ensure that the terms of the members do not all expire in the same year. A member may serve after the expiration of the member's term until a successor has taken office. A member who has been appointed for a term of 4 years may not be reappointed to an advisory council before 2 years

from the date of expiration of such term of office. If a vacancy occurs in the advisory council among the appointed members, the Secretary shall make an appointment to fill the vacancy within 90 days from the date the vacancy occurs.

"(d) The chairman of an advisory council shall be selected by the Secretary from among the appointed members, except that the Secretary may select the Director of the Institute for which the advisory council is established to be the chairman of the advisory council. The term of office of chairman shall be 2 years.

"(e) The advisory council shall meet at the call of the chairman or upon the request of the Director of the Institute for which it was established, but at least 3 times each fiscal year. The location of the meetings of each advisory council is subject to the approval of the Director of the Institute for which the advisory council was established.

"(f) The Director of the Institute for which an advisory council is established shall designate a member of the staff of the Institute to serve as the executive secretary of the advisory council. The Director of the Institute shall make available to the advisory council such staff, information, and other assistance as it may require to carry out its functions. The Director of the Institute shall provide orientation and training for new members of the advisory council to provide them with such information and training as may be appropriate for their effective participation in the functions of the advisory council.".

42 USC 290aa-3a note.

(b) The amendment made by subsection (a) does not terminate the membership of any advisory council for the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, or the National Institute of Mental Health which was in existence on the date of enactment of this Act. After such date—

(1) the Secretary of Health and Human Services shall make appointments to each such advisory council in such a manner as to bring about as soon as practicable the composition for such council prescribed by section 505 of the Public Health Service Act;

(2) each advisory council shall organize itself in accordance with such section and exercise the functions prescribed by such section; and

(3) the Director of each such institute shall perform for such advisory council the functions prescribed by such section.

42 USC 218.

(c) Section 217 is amended—

(1) by striking out subsections (a), (b), (c), and (d);

(2) by striking out "(e)(1)" and inserting in lieu thereof "(a)";

(3) by striking out "(2)" and inserting in lieu thereof "(b)";

(4) by striking out "(3)" and inserting in lieu thereof "(c)";

(5) by striking out "(4)" and inserting in lieu thereof "(d)"; and

(6) by redesignating clauses (A) and (B) of subsection (c) (as redesignated by the amendment made by paragraph (1) of this subsection) as clauses (1) and (2), respectively.

SEC. 4005. OFFICE FOR SUBSTANCE ABUSE PREVENTION.

(a) Part A of title V (as amended by section 4004 of this Act) is further amended by adding at the end thereof the following new sections:

"OFFICE FOR SUBSTANCE ABUSE PREVENTION

"SEC. 508. (a) There is established in the Administration an Office for Substance Abuse Prevention (hereafter in this part referred to as the 'Office'). The Office shall be headed by a Director appointed by the Secretary from individuals with extensive experience or academic qualifications in the prevention of drug or alcohol abuse. 42 USC 290aa-6.

"(b) The Director of the Office shall—

"(1) sponsor regional workshops on the prevention of drug and alcohol abuse;

"(2) coordinate the findings of research sponsored by agencies of the Service on the prevention of drug and alcohol abuse;

"(3) develop effective drug and alcohol abuse prevention literature (including literature on the adverse effects of cocaine free base (known as 'crack'));

"(4) in cooperation with the Secretary of Education, assure the widespread dissemination of prevention materials among States, political subdivisions, and school systems;

"(5) support programs of clinical training of substance abuse counselors and other health professionals;

"(6) in cooperation with the Director of the Centers for Disease Control, develop educational materials to reduce the risks of acquired immune deficiency syndrome among intravenous drug abusers;

"(7) conduct training, technical assistance, data collection, and evaluation activities of programs supported under the Drug Free Schools and Communities Act of 1986; *Post*, p. 3207-125.

"(8) support the development of model, innovative, community-based programs to discourage alcohol and drug abuse among young people; and

"(9) prepare for distribution documentary films and public service announcements for television and radio to educate the public concerning the dangers to health resulting from the consumption of alcohol and drugs and, to the extent feasible, use appropriate private organizations and business concerns in the preparation of such announcements.

"(c) The Director may make grants and enter into contracts and cooperative agreements in carrying out subsection (b). Grants. Contracts.

"(d) Of the amounts available under the second sentence of section 1921(a) to carry out this section and section 509A, $20,000,000 shall be available to carry out section 509A. *Post*, p. 3207-113.

"ALCOHOL AND DRUG ABUSE INFORMATION CLEARINGHOUSE

"SEC. 509. The Secretary, through the Director of the Office, shall establish a clearinghouse for alcohol and drug abuse information to assure the widespread dissemination of such information to States, political subdivisions, educational agencies and institutions, health and drug treatment and rehabilitation networks, and the general public. The clearinghouse shall— State and local governments. 42 USC 290aa-7.

"(1) disseminate publications by the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the Department of Education concerning alcohol abuse and drug abuse;

"(2) disseminate accurate information concerning the health effects of alcohol abuse and drug abuse;

"(3) collect and disseminate information concerning successful alcohol abuse and drug abuse education and prevention curricula; and

"(4) collect and disseminate information on effective and ineffective school-based alcohol abuse and drug abuse education and prevention programs, particularly effective programs which stress that the use of illegal drugs and the abuse of alcohol is wrong and harmful.

"PREVENTION, TREATMENT, AND REHABILITATION MODEL PROJECTS FOR HIGH RISK YOUTH

Grants.
42 USC 290aa-8.

"SEC. 509A. (a) The Secretary, through the Director of the Office, shall make grants to public and nonprofit private entities for projects to demonstrate effective models for the prevention, treatment, and rehabilitation of drug abuse and alcohol abuse among high risk youth.

"(b)(1) In making grants for drug abuse and alcohol abuse prevention projects under this section, the Secretary shall give priority to applications for projects directed at children of substance abusers, latchkey children, children at risk of abuse or neglect, preschool children eligible for services under the Head Start Act, children at risk of dropping out of school, children at risk of becoming adolescent parents, and children who do not attend school and who are at risk of being unemployed.

42 USC 9801 note.

"(2) In making grants for drug abuse and alcohol abuse treatment and rehabilitation projects under this section, the Secretary shall give priority to projects which address the relationship between drug abuse or alcohol abuse and physical child abuse, sexual child abuse, emotional child abuse, dropping out of school, unemployment, delinquency, pregnancy, violence, suicide, or mental health problems.

"(3) In making grants under this section, the Secretary shall give priority to applications from community based organizations for projects to develop innovative models with multiple, coordinated services for the prevention or for the treatment and rehabilitation of drug abuse or alcohol abuse by high risk youth.

"(4) In making grants under this section, the Secretary shall give priority to applications for projects to demonstrate effective models with multiple, coordinated services which may be replicated and which are for the prevention or for the treatment and rehabilitation of drug abuse or alcohol abuse by high risk youth.

"(c) To the extent feasible, the Secretary shall make grants under this section in all regions of the United States, and shall ensure the distribution of grants under this section among urban and rural areas.

State and local governments.

"(d) In order to receive a grant for a project under this section for a fiscal year, a public or nonprofit private entity shall submit an application to the Secretary, acting through the Office. The Secretary may provide to the Governor of the State the opportunity to review and comment on such application. Such application shall be in such form, shall contain such information, and shall be submitted at such time as the Secretary may by regulation prescribe.

"(e) The Director of the Office shall evaluate projects conducted with grants under this section.

"(f) For purposes of this section, the term 'high risk youth' means an individual who has not attained the age of 21 years, who is at

high risk of becoming, or who has become, a drug abuser or an alcohol abuser, and who—

"(1) is identified as a child of a substance abuser;

"(2) is a victim of physical, sexual, or psychological abuse;

"(3) has dropped out of school;

"(4) has become pregnant;

"(5) is economically disadvantaged;

"(6) has committed a violent or delinquent act;

"(7) has experienced mental health problems;

"(8) has attempted suicide; or

"(9) is disabled by injuries.".

(b)(1) Section 502(e) is repealed. 42 USC 290aa-1.

(2) Section 503(d) is amended— 42 USC 290aa-2.

(A) by inserting "and" at the end of paragraph (2);

(B) by striking out "; and" at the end of paragraph (3) and inserting in lieu thereof a period; and

(C) by striking out paragraph (4).

SEC. 4006. PUBLIC HEALTH EMERGENCIES.

Part A of title V (as amended by sections 4004 and 4005 of this Act) is further amended by adding at the end thereof the following:

"RESEARCH ON PUBLIC HEALTH EMERGENCIES

"SEC. 509B. (a) If the Secretary determines, after consultation with the Administrator, the Commissioner of Food and Drugs, or the Director of the Centers for Disease Control, that a disease or disorder within the jurisdiction of an Institute of the Administration constitutes a public health emergency, the Secretary, acting through the Administrator— Grants. 42 USC 290aa-9.

"(1) shall expedite the review by advisory councils and by peer review groups of applications for grants for research on such disease or disorder or proposals for contracts for such research; Contracts.

"(2) shall exercise the authority in section 3709 of the Revised Statutes (41 U.S.C. 5) respecting public exigencies to waive the advertising requirements of such section in the case of proposals for contracts for such research;

"(3) may provide administrative supplemental increases in existing grants and contracts to support new research relevant to such disease or disorder; and

"(4) shall disseminate, to health professionals and the public, information on the cause, prevention, and treatment of such disease or disorder that has been developed in research assisted under this section.

The amount of an increase in a grant or contract provided under paragraph (3) may not exceed one-half the original amount of the grant or contract.

"(b) Not later than 90 days after the end of a fiscal year, the Secretary shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on actions taken under subsection (a) in such fiscal year if any actions were taken under such subsection in such fiscal year.". Report.

SEC. 4007. PEER REVIEW.

42 USC 290aa-5.

Subsection (b) of section 507 (as redesignated by section 4004(a) of this Act) is amended by inserting "applications made for" after "review of" in the matter preceding paragraph (1).

SEC. 4008. NATIONAL ALCOHOL RESEARCH CENTERS.

42 USC 290bb-1.

Section 511(b) is amended—

(1) by striking out "or rental" before "any land"; and

(2) by striking out "rental," before "purchase".

SEC. 4009. EXPANSION OF DRUG ABUSE RESEARCH.

42 USC 290cc.

Section 515(a) is amended—

(1) by striking out "and" after the semicolon in paragraph (4);

(2) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) effective methods of drug abuse prevention, treatment, and rehabilitation, particularly methods of intervention to treat abuse of specific drugs; and"; and

(3) by adding at the end thereof the following:

"(6) the development of chemical antidotes and narcotic antagonists for use in the treatment of cocaine and heroin addiction.".

SEC. 4010. RESEARCH AUTHORIZATION.

42 USC 290bb-2.

(a) Section 513 is amended to read as follows:

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 513. There are authorized to be appropriated to carry out this subpart $69,000,000 for fiscal year 1987.".

42 USC 290cc-2.

(b) Section 517 is amended to read as follows:

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 517. There are authorized to be appropriated to carry out this subpart $129,000,000 for fiscal year 1987.".

SEC. 4011. SUICIDE.

42 USC 290aa-3.

(a) Section 504 is amended by adding at the end thereof the following new subsection:

"(h) The Director shall—

"(1) develop and publish information respecting the causes of suicide and the means of preventing suicide; and

"(2) make such information generally available to the public and health professionals.

Information developed, published, and distributed under this subsection shall especially relate to suicide among individuals under the age of 21.".

Report.
42 USC 290aa-3 note.

(b) Not later than one year after the date of enactment of this Act, the Director of the National Institute of Mental Health shall report to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives on the activities undertaken under section 504(h) of the Public Health Service Act and shall include in such report an assessment of the effectiveness of such activities.

SEC. 4012. MENTAL HEALTH NEEDS OF THE ELDERLY.

Section 504(c) is amended by adding at the end thereof the following: "Special consideration shall be given to programs for training and research on the mental health needs of the elderly.". 42 USC 290aa-3.

SEC. 4013. TECHNICAL AMENDMENT.

Section 504(e) is amended by striking out the period at the end of paragraph (2)(A) and inserting in lieu thereof a semicolon. 42 USC 290aa-3.

SEC. 4014. INFANT FORMULAS.

(a) Section 412 of the Federal Food, Drug, and Cosmetic Act is amended— 21 USC 350a.

(1) by redesignating subsections (e), (f), and (g) as subsections (g), (h), and (i), respectively,

(2) by amending the last sentence of paragraph (1) of subsection (g) (as so redesignated) to read as follows: "Such records shall be retained for at least one year after the expiration of the shelf life of the infant formula.",

(3) by striking out "(a) and (b)" in the first sentence of subsection (h)(1) (as so redesignated) and inserting in lieu thereof "(a), (b), and (c)",

(4) by striking out "(c)(1)" in the second sentence of such subsection and inserting in lieu thereof "(e)(1)",

(5) by striking out "(e)(1)(B)" in such sentence and inserting in lieu thereof "(d)(1)(B)",

(6) by striking out "(a) and (b)" in subsection (h)(2) (as so redesignated) and inserting in lieu thereof "(a), (b), and (c)", and

(7) by striking out subsections (a) through (d) and inserting in lieu thereof the following:

"(a) An infant formula, including an infant formula powder, shall be deemed to be adulterated if—

"(1) such infant formula does not provide nutrients as required by subsection (i),

"(2) such infant formula does not meet the quality factor requirements prescribed by the Secretary under subsection (b)(1), or

"(3) the processing of such infant formula is not in compliance with the good manufacturing practices and the quality control procedures prescribed by the Secretary under subsection (b)(2).

"(b)(1) The Secretary shall by regulation establish requirements for quality factors for infant formulas to the extent possible consistent with current scientific knowledge, including quality factor requirements for the nutrients required by subsection (i).

"(2)(A) The Secretary shall by regulation establish good manufacturing practices for infant formulas, including quality control procedures that the Secretary determines are necessary to assure that an infant formula provides nutrients in accordance with this subsection and subsection (i) and is manufactured in a manner designed to prevent adulteration of the infant formula.

"(B) The good manufacturing practices and quality control procedures prescribed by the Secretary under subparagraph (A) shall include requirements for—

"(i) the testing, in accordance with paragraph (3) and by the manufacturer of an infant formula or an agent of such manufacturer, of each batch of infant formula for each nutrient required by subsection (i) before the distribution of such batch,

"(ii) regularly scheduled testing, by the manufacturer of an infant formula or an agent of such manufacturer, of samples of infant formulas during the shelf life of such formulas to ensure that such formulas are in compliance with this section,

"(iii) in-process controls including, where necessary, testing required by good manufacturing practices designed to prevent adulteration of each batch of infant formula, and

"(iv) the conduct by the manufacturer of an infant formula or an agent of such manufacturer of regularly scheduled audits to determine that such manufacturer has complied with the regulations prescribed under subparagraph (A).

In prescribing requirements for audits under clause (iv), the Secretary shall provide that such audits be conducted by appropriately trained individuals who do not have any direct responsibility for the manufacture or production of infant formula.

"(3)(A) At the final product stage, each batch of infant formula shall be tested for vitamin A, vitamin B1, vitamin C, and vitamin E to ensure that such infant formula is in compliance with the requirements of this subsection and subsection (i) relating to such vitamins.

"(B) Each nutrient premix used in the manufacture of an infant formula shall be tested for each relied upon nutrient required by subsection (i) which is contained in such premix to ensure that such premix is in compliance with its specifications or certifications by a premix supplier.

"(C) During the manufacturing process or at the final product stage and before distribution of an infant formula, an infant formula shall be tested for all nutrients required to be included in such formula by subsection (i) for which testing has not been conducted pursuant to subparagraph (A) or (B). Testing under this subparagraph shall be conducted to—

"(i) ensure that each batch of such infant formula is in compliance with the requirements of subsection (i) relating to such nutrients, and

"(ii) confirm that nutrients contained in any nutrient premix used in such infant formula are present in each batch of such infant formula in the proper concentration.

"(D) If the Secretary adds a nutrient to the list of nutrients in the table in subsection (i), the Secretary shall by regulation require that the manufacturer of an infant formula test each batch of such formula for such new nutrient in accordance with subparagraph (A), (B), or (C).

"(E) For purposes of this paragraph, the term 'final product stage' means the point in the manufacturing process, before distribution of an infant formula, at which an infant formula is homogenous and is not subject to further degradation.

Regulations.

"(4)(A) The Secretary shall by regulation establish requirements respecting the retention of records. Such requirements shall provide for—

"(i) the retention of all records necessary to demonstrate compliance with the good manufacturing practices and quality control procedures prescribed by the Secretary under paragraph (2), including records containing the results of all testing required under paragraph (2)(B),

"(ii) the retention of all certifications or guarantees of analysis by premix suppliers.

"(iii) the retention by a premix supplier of all records necessary to confirm the accuracy of all premix certifications and guarantees of analysis,

"(iv) the retention of—

"(I) all records pertaining to the microbiological quality and purity of raw materials used in infant formula powder and in finished infant formula, and

"(II) all records pertaining to food packaging materials which show that such materials do not cause an infant formula to be adulterated within the meaning of section 402(a)(2)(C),

"(v) the retention of all records of the results of regularly scheduled audits conducted pursuant to the requirements prescribed by the Secretary under paragraph (2)(B)(iv), and

"(vi) the retention of all complaints and the maintenance of files with respect to, and the review of, complaints concerning infant formulas which may reveal the possible existence of a hazard to health.

"(B)(i) Records required under subparagraph (A) with respect to an infant formula shall be retained for at least one year after the expiration of the shelf life of such infant formula. Except as provided in clause (ii), such records shall be made available to the Secretary for review and duplication upon request of the Secretary.

"(ii) A manufacturer need only provide written assurances to the Secretary that the regularly scheduled audits required by paragraph (2)(B)(iv) are being conducted by the manufacturer, and need not make available to the Secretary the actual written reports of such audits.

"(c)(1) No person shall introduce or deliver for introduction into interstate commerce any new infant formula unless—

"(A) such person has, before introducing such new infant formula, or delivering such new infant formula for introduction, into interstate commerce, registered with the Secretary the name of such person, the place of business of such person, and all establishments at which such person intends to manufacture such new infant formula, and

"(B) such person has at least 90 days before marketing such new infant formula, made the submission to the Secretary required by subsection (c)(1).

"(2) For purposes of paragraph (1), the term 'new infant formula' includes—

"(A) an infant formula manufactured by a person which has not previously manufactured an infant formula, and

"(B) an infant formula manufactured by a person which has previously manufactured infant formula and in which there is a major change, in processing or formulation, from a current or any previous formulation produced by such manufacturer.

For purposes of this paragraph, the term 'major change' has the meaning given to such term in section 106.30(c)(2) of title 21, Code of Federal Regulations (as in effect on August 1, 1986), and guidelines issued thereunder.

"(d)(1) A person shall, with respect to any infant formula subject to subsection (c), make a submission to the Secretary which shall include—

"(A) the quantitative formulation of the infant formula,

"(B) a description of any reformulation of the formula or change in processing of the infant formula,

"(C) assurances that the infant formula will not be marketed unless it meets the requirements of subsections (b)(1) and (i), as demonstrated by the testing required under subsection (b)(3), and

"(D) assurances that the processing of the infant formula complies with subsection (b)(2).

"(2) After the first production of an infant formula subject to subsection (c), and before the introduction into interstate commerce of such formula, the manufacturer of such formula shall submit to the Secretary, in such form as may be prescribed by the Secretary, a written verification which summarizes test results and records demonstrating that such formula complies with the requirements of subsections (b)(1), (b)(2)(A), (b)(2)(B)(i), (b)(2)(B)(iii), (b)(3)(A), (b)(3)(C), and (i).

"(3) If the manufacturer of an infant formula for commercial or charitable distribution for human consumption determines that a change in the formulation of the formula or a change in the processing of the formula may affect whether the formula is adulterated under subsection (a), the manufacturer shall, before the first processing of such formula, make the submission to the Secretary required by paragraph (1).

"(e)(1) If the manufacturer of an infant formula has knowledge which reasonably supports the conclusion that an infant formula which has been processed by the manufacturer and which has left an establishment subject to the control of the manufacturer—

"(A) may not provide the nutrients required by subsection (i), or

"(B) may be otherwise adulterated or misbranded,

the manufacturer shall promptly notify the Secretary of such knowledge. If the Secretary determines that the infant formula presents a risk to human health, the manufacturer shall immediately take all actions necessary to recall shipments of such infant formula from all wholesale and retail establishments, consistent with recall regulations and guidelines issued by the Secretary.

"(2) For purposes of paragraph (1), the term 'knowledge' as applied to a manufacturer means (A) the actual knowledge that the manufacturer had, or (B) the knowledge which a reasonable person would have had under like circumstances or which would have been obtained upon the exercise of due care.

"(f)(1) If a recall of infant formula is begun by a manufacturer, the recall shall be carried out in accordance with such requirements as the Secretary shall prescribe under paragraph (2) and—

"(A) the Secretary shall, not later than the 15th day after the beginning of such recall and at least once every 15 days thereafter until the recall is terminated, review the actions taken under the recall to determine whether the recall meets the requirements prescribed under paragraph (2), and

"(B) the manufacturer shall, not later than the 14th day after the beginning of such recall and at least once every 14 days thereafter until the recall is terminated, report to the Secretary the actions taken to implement the recall.

Regulations.

"(2) The Secretary shall by regulation prescribe the scope and extent of recalls of infant formulas necessary and appropriate for the degree of risks to human health presented by the formula subject to the recall.

"(3) The Secretary shall by regulation require each manufacturer of an infant formula who begins a recall of such formula because of

a risk to human health to request each retail establishment at which such formula is sold or available for sale to post at the point of purchase of such formula a notice of such recall at such establishment for such time that the Secretary determines necessary to inform the public of such recall.".

(b)(1) Subsection (i) of such section (as so redesignated) is amended— 21 USC 350a.

(A) by inserting "(1)" after "(i)",

(B) by striking out "subsection (a)" and inserting in lieu thereof "paragraph",

(C) by striking out the colon and inserting in lieu thereof a period, and

(D) by adding at the end the following:

"(2) The Secretary may by regulation—

"(A) revise the list of nutrients in the table in this subsection, and

"(B) revise the required level for any nutrient required by the table.".

(2) Section 301(s) of the Federal Food, Drug, and Cosmetic Act is amended to read as follows: 21 USC 331.

"(s) The failure to provide the notice required by section 412(c) or 412(d), the failure to make the reports required by section 412(f)(1)(B), the failure to retain the records required by section 412(b)(4), or the failure to meet the requirements prescribed under section 412(f)(3).". *Ante*, 3207-116.

SEC. 4015. STUDY ON ALKYL NITRITES.

The Secretary of Health and Human Services, through the Commissioner of Food and Drugs and the Director of the National Institute on Drug Abuse, shall, within 180 days of the date of the enactment of this Act, conduct a study on alkyl nitrites to determine—

(1) the extent and nature of the use of alkyl nitrites products by the public,

(2) the extent to which the use of such products conform to the advertised uses of the products, and

(3) the extent to which the sale of such products to the public presents a health risk and the nature of such risk.

The Secretary shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on such study and shall include in the report recommendations concerning whether alkyl nitrites should be treated as a drug under the Federal Food, Drug, and Cosmetic Act. Report. 21 USC 301.

SEC. 4016. SENSE OF THE SENATE WITH RESPECT TO POSSESSION OR DISTRIBUTION OF DRUGS UNDER STATE LAW.

It is the sense of the Senate that, if the possession or distribution of a drug is an offense under the Controlled Substances Act, the laws of the States should not be amended or revised to provide that the possession or distribution, respectively, of such drug is not a criminal offense. 21 USC 801 note.

SEC. 4017. STUDIES ON HEALTH WARNING LABELS FOR ALCOHOLIC BEVERAGES.

(a) The Senate finds that—

(1) the most abused drug in America is alcohol;

(2) alcohol abuse costs the American economy nearly $120,000,000,000 per year, including increased medical expenses and decreased productivity;

(3) in 1984, 53 percent of the traffic fatalities in the United States, accounting for more than 23,500 deaths, were related to the consumption of alcohol;

(4) over 12,000,000 American adults have one or more symptoms of alcoholism, and this represents an 8.2 percent increase in problem drinking since 1980;

(5) in 1984, almost 3,300,000 individuals between the ages of 14 and 17 experienced serious problems at home, in school, or with the law because of alcohol consumption;

(6) fetal alcohol syndrome is the third leading cause of birth defects, and is the only preventable cause of birth defects among the top three causes;

(7) nearly 5,000 babies per year are born with birth defects related to fetal alcohol syndrome;

(8) the statistics cited in the preceding paragraphs of this subsection indicate that many Americans are not aware of the adverse effects that the abuse of alcoholic beverages may have on health;

(9) it is necessary to undertake a serious national effort to educate the American people of the serious consequences of alcohol abuse; and

(10) carefully drafted warning labels on the containers of alcoholic beverages concerning serious health consequences resulting from the abuse of alcohol may assist in providing such education.

(b) Therefore, it is the sense of the Senate that—

(1) the Public Health Service should focus attention on the problem of educating the American people on the serious health consequences of alcohol abuse;

(2) the Public Health Service should review available knowledge and conduct studies to assess the most effective means of providing such education, including an assessment of the potential educational impact of health warning labels on the containers of alcoholic beverages; and

Report.

(3) the Public Health Service should transmit a report to the Congress within 6 months after the date of enactment of this Act concerning any activities described in paragraph (2) which have been undertaken, and should include in such report any findings respecting the impact and potential benefits of displaying health warnings on the containers of alcoholic beverages and recommendations for specific language for such labels.

SEC. 4018. EFFORTS OF THE ENTERTAINMENT AND WRITTEN MEDIA INDUSTRY.

It is the sense of Congress that—

(1) whereas illegal drug and alcohol consumption and the trafficking in those illegal drugs and alcohol is a major problem in the United States,

(2) whereas the problem of alcohol abuse is particularly prevalent among and harmful to the Nation's young people, and

(3) whereas the values and mores portrayed in various forms of commercially produced entertainment have a profound effect on the attitudes of young people in this country,

the entertainment and written media industry should refrain from producing material meant for general entertainment which in any way glamorizes or encourages the use of illegal drugs and alcohol and the entertainment and written media industry should develop films, television programs, records, videos, and advertising which discourage the use of illegal drugs and alcohol.

SEC. 4019. SENSE OF THE CONGRESS URGING THE CATEGORIZATION OF FILMS WHICH PROMOTE ALCOHOL ABUSE AND DRUG USE.

(a) The Congress finds that—

(1) the abuse of alcohol and the use of drugs has become a societal problem of epidemic proportions,

(2) it is in the interest of all citizens to contribute to the reduction of alcohol abuse and drug use, particularly among youth,

(3) the entertainment industry, particularly the motion picture industry's production of youth-oriented films, often depicts alcohol abuse and drug use in a benign, even glamorous way,

(4) the motion picture industry has a profound impact on societal norms and is a powerful medium which exerts great influence on the values of youth, and

(5) the motion picture industry has recognized the need to inform parents about the contents of movies regarding violence, sex, language, and nudity and therefore currently employs a voluntary rating system.

(b) It is the sense of the Congress that the Motion Picture Association of America should incorporate a new rating in its voluntary movie rating system to clearly identify films which depict alcohol abuse and drug use.

SEC. 420. ANIMALS IN RESEARCH.

Part A of title V, as amended by sections 4004 and 4005, is amended by adding at the end the following:

"ANIMALS IN RESEARCH

"SEC. 509C. (a) The Secretary, acting through the Administrator, shall establish guidelines for the following: 42 USC 290aa-10.

"(1) The proper care of animals to be used in research conducted by and through agencies of the Administration.

"(2) The proper treatment of animals while being used in such research. Guidelines under this paragraph shall require—

"(A) the appropriate use of tranquilizers, analgesics, anesthetics, paralytics, and euthanasia for animals in such research; and

"(B) appropriate pre-surgical and post-surgical veterinary medical and nursing care for animals in such research.

Such guidelines shall not be construed to prescribe methods of research.

"(3) The organization and operation of animal care committee in accordance with subsection (b).

"(b)(1) Guidelines of the Secretary under subsection (a)(3) shall require animal care committees at each entity which conducts research with funds provided under this title to assure compliance with the guidelines established under subsection (a).

"(2) Each animal care committee shall be appointed by the chief executive officer of the entity for which the committee is estab-

lished, shall be composed of not fewer than three members, and shall include at least one individual who has no association with such entity and at least one doctor of veterinary medicine.

"(c) Each animal care committee of a research entity shall—

"(1) review the care and treatment of animals in all animal study areas and facilities of the research entity at least semi-annually to evaluate compliance with applicable guidelines established under subsection (a) for appropriate animal care and treatment;

"(2) keep appropriate records of reviews conducted under paragraph (1); and

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"(3) for each review conducted under paragraph (1), file with the Administrator at least annually (A) a certification that the review has been conducted, and (B) report of any violations of guidelines established under subsection (a) or of assurances required under subsection (d) which were observed in such review and which have continued after notice by the committee to the research entity involved of the violations.

Reports filed under paragraph (3) shall include any minority views filed by members of the committee.

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"(d) The Administrator shall require each applicant for a grant, contract, or cooperative agreement involving research on animals which is administered by the Administrator or any agency of the Administration to include in its application or contract proposal, submitted after the expiration of the 12-month period beginning on the date of enactment of this section—

"(1) assurances satisfactory to the Administrator that—

"(A) the applicant meets the requirements of the guidelines established under paragraph (1) and (2) of subsection (a) and has an animal care committee which meets the requirements of subsection (b); and

"(B) scientists, animal technicians, and other personnel involved with animal care, treatment, and use by the applicant have available to them instruction or training in the humane practice of animal maintenance and experimentation, and the concept, availability, and use of research or testing methods that limit the use of animals or limit animal distress; and

"(2) a statement of the reasons for the use of animals in the research to be conducted with funds provided under such grant or contract.

Notwithstanding subsection (a)(2) of section 553 of title 5, United States Code, regulations under this subsection shall be promulgated in accordance with the notice and comment requirements of such section.

"(e) If the Administrator determines that—

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"(1) the conditions of animal care, treatment, or use in an entity which is receiving a grant, contract, or cooperative agreement involving research on animals under this title do not meet applicable guidelines established under subsection (a);

"(2) the entity has been notified by the Administrator of such determination and has been given a reasonable opportunity to take corrective action; and

"(3) no action has been taken by the entity to correct such conditions;

the Administrator shall suspend or revoke such grant or contract under such conditions as the Administrator determines appropriate.

"(f) No guideline or regulation promulgated under subsection (a) or (c) may require a research entity to disclose publicly trade secrets or commercial or financial information which is privileged or confidential.

SEC. 4021. TECHNICAL AMENDMENTS.

(a) SECTION 504 (e).—Subsection (e) of section 504 (42 U.S.C. 290aa-3) is amended by striking out the period at the end of paragraph (2)(A) and inserting in lieu thereof a semicolon.

SECTION 504 (g).—Subsection (g) of such section is amended by striking out "section 1915 (e)" and inserting in lieu thereof "1916 (e)".

(b) GENERAL AUTHORITY.—

(1) Section 504 (as amended by section 4019) is amended by adding at the end the following:

"(i) The Secretary, acting through the Director, may make grants to and enter into cooperative agreements and contracts with public and nonprofit private entities for research on mental illness.". Grants. Contracts.

(2) Section 301(a)(3) (42 U.S.C. 241(a)(3)) is amended by striking out "or, in the case of mental health" and all that follows through "Council;" and by striking out "or the National Advisory Mental Health Council".

SEC. 4022. ALCOHOLISM AND ALCOHOL ABUSE TREATMENT STUDY. 42 USC 290bb note.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the National Institute on Alcohol Abuse and Alcoholism and in accordance with subsection (b), shall arrange for the conduct of a study to—

(1) critically review available research knowledge and experience in the United States and other countries regarding alternative approaches and mechanisms (including statutory and voluntary mechanisms) for the provision of alcoholism and alcohol abuse treatment and rehabilitative services,

(2) assess available evidence concerning comparative costs, quality, effectiveness, and appropriateness of alcoholism and alcohol abuse treatment and rehabilitative service alternatives,

(3) review the state of financing alternatives available to the public, including an analysis of policies and experiences of third party insurers and State and municipal governments, and

(4) consider and make recommendations for policies and programs of research, planning, administration, and reimbursement for the treatment and rehabilitation of individuals suffering from alcoholism and alcohol abuse.

(b) ARRANGEMENTS.—

(1) The Secretary shall request the National Academy of Sciences to conduct the study described in subsection (a) under an arrangement under which the actual expenses incurred by the Academy in conducting the study will be paid by the Secretary and with the consent of the Academy the Secretary shall enter into such arrangement.

(2) Under the arrangement entered into under paragraph (1), the National Academy of Sciences shall agree to—

(A) conduct the study in consultation with the Director of the National Institute on Alcohol Abuse and Alcoholism, and

(B) submit to the Secretary not later than 24 months after the date the arrangement is entered into a final report on the study. Report.

The Secretary shall transmit the final report of the Academy to Congress not later than 30 days after the date the Secretary receives the report.

Drug-Free Schools and Communities Act of 1986.
20 USC 4601 note.

Subtitle B—Drug-Free Schools and Communities Act of 1986

SEC. 4101. SHORT TITLE.

This subtitle may be cited as the "Drug-Free Schools and Communities Act of 1986".

20 USC 4601.

SEC. 4102. FINDINGS.

The Congress finds that:

(1) Drug abuse education and prevention programs are essential components of a comprehensive strategy to reduce the demand for and use of drugs throughout the Nation.

(2) Drug use and alcohol abuse are widespread among the Nation's students, not only in secondary schools, but increasingly in elementary schools as well.

(3) The use of drugs and the abuse of alcohol by students constitute a grave threat to their physical and mental well-being and significantly impede the learning process.

(4) The tragic consequences of drug use and alcohol abuse by students are felt not only by students and their families, but also by their communities and the Nation, which can ill afford to lose their skills, talents, and vitality.

(5) Schools and local organizations in communities throughout the Nation have special responsibilities to work together to combat the scourge of drug use and alcohol abuse.

(6) Prompt action by our Nation's schools, families, and communities can bring significantly closer the goal of a drug-free generation and a drug-free society.

20 USC 4602.

State and local governments.
Grants.
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SEC. 4103. PURPOSE.

It is the purpose of this subtitle to establish programs of drug abuse education and prevention (coordinated with related community efforts and resources) through the provision of Federal financial assistance—

(1) to States for grants to local and intermediate educational agencies and consortia to establish, operate, and improve local programs of drug abuse prevention, early intervention, rehabilitation referral, and education in elementary and secondary schools (including intermediate and junior high schools);

(2) to States for grants to and contracts with community-based organizations for programs of drug abuse prevention, early intervention, rehabilitation referral, and education for school dropouts and other high-risk youth;

(3) to States for development, training, technical assistance, and coordination activities;

(4) to institutions of higher education to establish, implement, and expand programs of drug abuse education and prevention (including rehabilitation referral) for students enrolled in colleges and universities; and

(5) to institutions of higher education in cooperation with State and local educational agencies for teacher training programs in drug abuse education and prevention.

PART 1—FINANCIAL ASSISTANCE FOR DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS

SEC. 4111. AUTHORIZATION OF APPROPRIATIONS. 20 USC 4611.

(a) For the purpose of carrying out this subtitle, there are authorized to be appropriated $200,000,000 for fiscal year 1987 and $250,000,000 for each of the fiscal years 1988 and 1989.

(b) Appropriations for any fiscal year for payments made under this subtitle in accordance with regulations of the Secretary may be made available for obligation or expenditure by the agency or institution concerned on the basis of an academic or school year differing from such fiscal year.

(c) Funds appropriated for any fiscal year under this subtitle shall remain available for obligation and expenditure until the end of the fiscal year succeeding the fiscal year for which such funds were appropriated.

(d) Notwithstanding any other provision of this subtitle, no authority to enter into contracts or financial assistance agreements under this subtitle shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts. Contracts.

SEC. 4112. RESERVATIONS AND STATE ALLOTMENTS. 20 USC 4612.

(a) From the sums appropriated or otherwise made available to carry out this subtitle for any fiscal year, the Secretary shall reserve—

(1) 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs;

(2) 1 percent for programs for Indian youth under section 4133;

(3) 0.2 percent for programs for Hawiian natives under section 4134;

(4) 8 percent for programs with institutions of higher education under section 4131;

(5) 3.5 percent for Federal activities under section 4132; and

(6) 4.5 percent for regional centers under section 4135.

(b)(1) From the remainder of the sums not reserved under subsection (a), the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall be allotted less than an amount equal to 0.5 percent of such remainder.

(2) The Secretary may reallot any amount of any allotment to a State to the extent that the Secretary determines that the State will not be able to obligate such amount within two years of allotment. Any such reallotment shall be made on the same basis as an allotment under paragraph (1).

(3) For purposes of this subsection, the term "State" means any of the fifty States, the District of Columbia, and Puerto Rico.

(4) For each fiscal year, the Secretary shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State from its allotment under this subsection from amounts appropriated for that fiscal year.

PART 2—STATE AND LOCAL PROGRAMS

20 USC 4621.

SEC. 4121. USE OF ALLOTMENTS BY STATES.

(a) An amount equal to 30 percent of the total amount paid to a State from its allotment under section 4112 for any fiscal year shall be used by the chief executive officer of such State for State program in accordance with section 4122.

(b) An amount equal to 70 percent of the total amount paid to a State from its allotment under section 4112 for any fiscal year shall be used by the State educational agency to carry out its responsibilities in accordance with section 4124 and for grants to local and intermediate educational agencies and consortia for programs and activities in accordance with section 4125.

20 USC 4622.
Grants.
Contracts.

SEC. 4122. STATE PROGRAMS.

(a) Not more than 50 percent of the funds available for each fiscal year under section 4121(a) to the chief executive officer of a State shall be used for grants to and contracts with local governments and other public or private nonprofit entities (including parent groups, community action agencies, and other community-based organizations) for the development and implementation of programs and activities such as—

(1) local broadly-based programs for drug and alcohol abuse prevention, early intervention, rehabilitation referral, and education for all age groups;

(2) training programs concerning drug abuse education and prevention for teachers, counselors, other educational personnel, parents, local law enforcement officials, judicial officials, other public service personnel, and community leaders;

(3) the development and distribution of educational and informational materials to provide public information (through the media and otherwise) for the purpose of achieving a drug-free society;

(4) technical assistance to help community-based organizations and local and intermediate educational agencies and consortia in the planning and implementation of drug abuse prevention, early intervention, rehabilitation referral, and education programs;

(5) activities to encourage the coordination of drug abuse education and prevention programs with related community efforts and resources, which may involve the use of a broadly representative State advisory council including members of the State board of education, members of local boards of education, parents, teachers, counselors, health and social service professionals, and others having special interest or expertise; and

(6) other drug abuse education and prevention activities, consistent with the purposes of this subtitle.

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(b)(1) Not less than 50 percent of the funds available for each fiscal year under section 4121(a) to the chief executive officer of a State shall be used for innovative community-based programs of coordinated services for high-risk youth. The chief executive officer of such State shall make grants to or contracts with local governments and other public and private nonprofit entities (including parent groups community action agencies, and other community-based organizations) to carry out such services.

(2) For purposes of this subsection, the term "high risk youth" means an individual who has not attained the age of 21 years, who is at high risk of becoming or who has been a drug or alcohol abuser, and who—

(A) is a school dropout;
(B) has become pregnant;
(C) is economically disadvantaged;
(D) is the child of a drug or alcohol abuser;
(E) is a victim of physical, sexual, or psychological abuse;
(F) has committed a violent or delinquent act;
(G) has experienced mental health problems;
(H) has attempted suicide; or
(I) has experienced long-term physical pain due to injury.

SEC. 4123. STATE APPLICATIONS. 20 USC 4623.

(a) In order to receive an allotment under section 4112(b), a State shall submit an application to the Secretary. As part of such application, the chief executive officer of the State shall agree to use the funds made available under section 4121(a) in accordance with the requirements of this part. As part of such application, the State educational agency of the State shall agree to use the funds made available under section 4121(b) in accordance with the requirements of this part.

(b) The application submitted by each State under subsection (a) shall—

(1) cover a period of three fiscal years;

(2) be submitted at such time and in such manner, and contain such information, as the Secretary may require;

(3) contain assurances that the Federal funds made available under this part for any period will be so used as to supplement and increase the level of State, local, and non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under this part and will in no event supplant such State, local, and other non-Federal funds;

(4) provide that the State will keep such records and provide such information as may be required by the Secretary for fiscal audit and program evaluation;

(5) contain assurances that there is compliance with the specific requirements of this part;

(6) describe the manner in which the State educational agency will coordinate its efforts with appropriate State health, law enforcement, and drug abuse prevention agencies, including the State agency which administers the Alcohol, Drug Abuse, and Mental Health block grant under part B of title XIX of the Public Health Service Act; 42 USC 300x.

(7) provide assurances that the State educational agency will provide financial assistance under this part only to local and intermediate educational agencies and consortia which establish and implement drug abuse education and prevention programs in elementary and secondary schools; and

(8) provide for an annual evaluation of the effectiveness of programs assisted under this part.

SEC. 4124. RESPONSIBILITIES OF STATE EDUCATIONAL AGENCIES. 20 USC 4624.

(a) Each State educational agency shall use a sum which shall be not less than 90 percent of the amounts available under section Grants.

4121(b) for each fiscal year for grants to local and intermediate educational agencies and consortia in the State, in accordance with applications approved under section 4126. From such sum, the State educational agency shall distribute funds for use among areas served by local or intermediate educational agencies or consortia on the basis of the relative numbers of children in the school-age population within such areas. Any amount of the funds made available for use in any area remaining unobligated for more than one year after the funds were made available may be provided by the State educational agency to local or intermediate educational agencies or consortia having plans for programs or activities capable of using such amount on a timely basis.

(b) Each State educational agency shall use not more than 10 percent of the amounts available under section 4121(b) for each fiscal year for such activities as—

(1) training and technical assistance programs concerning drug abuse education and prevention for local and intermediate educational agencies, including teachers, administrators, athletic directors, other educational personnel, parents, local law enforcement officials, and judicial officials;

(2) the development, dissemination, implementation, and evaluation of drug abuse education curricular and teaching materials for elementary and secondary schools throughout the State;

(3) demonstration projects in drug abuse education and prevention;

(4) special financial assistance to enhance resources available for drug abuse education and prevention in areas serving large numbers of economically disadvantaged children or sparsely populated areas, or to meet special needs; and

(5) administrative costs of the State educational agency in carrying out its responsibilities under this part, not in excess of 2.5 percent of the amount available under section 4121(b).

20 USC 4625.

SEC. 4125. LOCAL DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS.

(a) Any amounts made available to local or intermediate educational agencies or consortia under section 4124(a) shall be used for drug and alcohol abuse prevention and education programs and activities, including—

(1) the development, acquisition, and implementation of elementary and secondary school drug abuse education and prevention curricula which clearly and consistently teach that illicit drug use is wrong and harmful;

(2) school-based programs of drug abuse prevention and early intervention (other than treatment);

(3) family drug abuse prevention programs, including education for parents to increase awareness about the symptoms and effects of drug use through the development and dissemination of appropriate educational materials;

(4) drug abuse prevention counseling programs (which counsel that illicit drug use is wrong and harmful) for students and parents, including professional and peer counselors and involving the participation (where appropriate) of parent or other adult counselors and reformed abusers;

(5) programs of drug abuse treatment and rehabilitation referral;

(6) programs of inservice and preservice training in drug and alcohol abuse prevention for teachers, counselors, other educational personnel, athletic directors, public service personnel, law enforcement officials, judicial officials, and community leaders;

(7) programs in primary prevention and early intervention, such as the interdisciplinary school-team approach;

(8) community education programs and other activities to involve parents and communities in the fight against drug and alcohol abuse;

(9) public education programs on drug and alcohol abuse, including programs utilizing professionals and former drug and alcohol abusers;

(10) on-site efforts in schools to enhance identification and discipline of drug and alcohol abusers, and to enable law enforcement officials to take necessary action in cases of drug possession and supplying of drugs and alcohol to the student population;

(11) special programs and activities to prevent drug and alcohol abuse among student athletes, involving their parents and family in such drug and alcohol abuse prevention efforts and using athletic programs and personnel in preventing drug and alcohol abuse among all students; and

(12) other programs of drug and alcohol abuse education and prevention, consistent with the purposes of this part.

(b) A local or intermediate educational agency or consortium may receive funds under this part for any fiscal year covered by an application under section 4126 approved by the State educational agency.

SEC. 4126. LOCAL APPLICATIONS.

20 USC 4626. Grants.

(a)(1) In order to be eligible to receive a grant under this part for any fiscal year, a local or intermediate educational agency or consortium shall submit an application to the State educational agency for approval.

(2) An application under this section shall be for a period not to exceed 3 fiscal years and may be amended annually as may be necessary to reflect changes without filing a new application. Such application shall—

(A) set forth a comprehensive plan for programs to be carried out by the applicant under this part;

(B) contain an estimate of the cost for the establishment and operation of such programs;

(C) establish or designate a local or substate regional advisory council on drug abuse education and prevention composed of individuals who are parents, teachers, officers of State and local government, medical professionals, representatives of the law enforcement community, community-based organizations, and other groups with interest and expertise in the field of drug abuse education and prevention;

(D) describe the manner in which the applicant will establish, implement, or augment mandatory age-appropriate, developmentally-based, drug abuse education and prevention programs for students throughout all grades of the schools operated or served by the applicant (from the early childhood level through grade 12), and provide assurances that the applicant enforces related rules and regulations of student conduct;

(E) describe the manner in which the applicant will coordinate its efforts under this part with other programs in the community related to drug abuse education, prevention, treatment, and rehabilitation;

(F) provides assurances that the applicant will coordinate its efforts with appropriate State and local drug and alcohol abuse, health, and law enforcement agencies, in order to effectively conduct drug and alcohol abuse education, intervention, and referral for treatment and rehabilitation for the student population;

(G) provide assurances that the Federal funds made available under this part shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in this part, and in no case supplant such funds;

(H) provide assurances of compliance with the provisions of this part;

(I) agree to keep such records and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this part; and

(J) include such other information and assurances as the State educational agency reasonably determines to be necessary.

PART 3—NATIONAL PROGRAMS

20 USC 4641. Contracts.

SEC. 4131. GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.

(a)(1) From sums reserved by the Secretary under section 4112(a)(4) for the purposes of this section, the Secretary shall make grants to or enter into contracts with institutions of higher education or consortia of such institutions for drug abuse education and prevention programs under this section.

(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education (including community and junior colleges) and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give appropriate consideration to colleges and universities of limited enrollment.

(4) Not less than 50 percent of sums available for the purposes of this section shall be used to make grants under subsection (d).

(b) Training grants shall be available for—

(1) preservice and inservice training and instruction of teachers and other personnel in the field of drug abuse education and prevention in elementary and secondary schools;

(2) summer institutes and workshops in instruction in the field of drug abuse education and prevention;

(3) research and demonstration programs for teacher training and retraining in drug abuse education and prevention;

(4) training programs for law enforcement officials, judicial officials, community leaders, parents, and government officials.

(c) Grants shall be available for model demonstration programs to be coordinated with local elementary and secondary schools for the development and implementation of quality drug abuse education curricula. In the award of grants under this subsection, the Secretary shall give priority consideration to joint projects involving faculty of institutions of higher education and teachers in elementary and secondary schools in the practical application of the findings of educational research and evaluation and the integration of such research into drug abuse education and prevention programs.

(d) Grants shall be available under this subsection to develop, implement, operate, and improve programs of drug abuse education and prevention (including rehabilitation referral) for students enrolled in institutions of higher education.

(e) In making grants under paragraphs (1) and (2) of subsection (b), the Secretary shall encourage projects which provide for coordinated and collaborative efforts between State educational agencies, local educational agencies, and regional centers established under section 4135.

SEC. 4132. FEDERAL ACTIVITIES. 20 USC 4642.

(a) From sums reserved by the Secretary under section 4112(a)(5), the Secretary shall carry out the purposes of this section.

(b) The Secretary of Education in conjunction with the Secretary of Health and Human Services shall carry out Federal education and prevention activities on drug abuse. The Secretary shall coordinate such drug abuse education and prevention activities with other appropriate Federal activities related to drug abuse. The Secretary shall—

(1) provide information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by the clearinghouse for alcohol and drug abuse information established under section 509 of the Public Health Service Act (as amended by this Act); *Ante*, p. 3207-112.

(2) facilitate the utilization of appropriate means of communicating to students at all educational levels about the dangers of drug use and alcohol abuse, especially involving the participating of entertainment personalities and athletes who are recognizable role models for many young people;

(3) develop, publicize the availability of, and widely disseminate audio-visual and other curricular materials for drug abuse education and prevention programs in elementary and secondary schools throughout the Nation;

(4) provide technical assistance to State, local, and intermediate education agencies and consortia in the selection and implementation of drug abuse education and prevention curricula, approaches, and programs to address most effectively the needs of the elementary and secondary schools served by such agencies; and

(5) identify research and development priorities with regard to school-based drug abuse education and prevention, particularly age-appropriate programs focusing on kindergarten through grade 4.

(c) From the funds available to carry out this section, the Secretary shall make available $500,000 to the Secretary of Health and Human Services for the clearinghouse established under section 509 of the Public Health Service Act (as amended by this Act).

Ante, p. 3207-112. Contracts. Reports.

(d) The Secretary of Education in conjunction with the Secretary of Health and Human Services shall conduct, directly or by contract, a study of the nature and effectiveness of existing Federal, State, and local programs of drug abuse education and prevention and shall submit a report of the findings of such study to the President and to the appropriate committees of the Congress not later than one year after the date of the enactment of this Act.

20 USC 4643. Grants.

SEC. 4133. PROGRAMS FOR INDIAN YOUTH.

(a)(1) From the funds reserved pursuant to section 4112(a)(2), the Secretary shall make payments and grants and enter into other financial arrangements for Indian programs in accordance with this subsection.

(2) The Secretary of Education shall enter into such financial arrangements as the Secretary determines will best carry out the purposes of this title to meet the needs of Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such arrangements shall be made pursuant to an agreement between the Secretary of Education and the Secretary of the Interior containing such assurances and terms as they determine will best achieve the purposes of this title.

Contracts.

(3) The Secretary of Education may, upon request of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934, enter into grants or contracts with any tribal organization of any such Indian tribe to plan, conduct, and administer programs which are authorized and consistent with the purposes of this title (particularly programs for Indian children who are school dropouts), except that such grants or contracts shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this paragraph.

25 USC 450 note.

25 USC 450f.

(4) Programs funded under this subsection shall be in addition to such other programs, services, and activities as are made available to eligible Indians under other provisions of this subtitle.

(b)(1) Section 304 of the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241cc) is amended by—

(A) striking out "and" at the end of paragraph (1);

(B) striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) adding at the end the following new paragraph:

"(3) the training of counselors at schools eligible for funding under this title in counseling techniques relevant to the treatment of alcohol and substance abuse.".

(2) Section 423 of the Indian Education Act (20 U.S.C. 3385b) is amended—

(A) in subsection (a), by inserting "clinical psychology," after "medicine,"; and

(B) by adding at the end of the section the following new subsection:

"(e) Not more than 10 percent of the fellowships awarded under subsection (a) shall be awarded, on a priority basis, to persons receiving training in guidance counseling with a specialty in the area of alcohol and substance abuse counseling and education.".

(3) Section 1121 of the Education Amendments of 1978 is amended by adding at the end the following new subsection: 25 USC 2001.

"(i)(1) All schools funded by the Bureau of Indian Affairs shall include within their curriculum a program of instruction relating to alcohol and substance abuse prevention and treatment. The Assistant Secretary shall provide the technical assistance necessary to develop and implement such a program for students in kindergarten and grades 1 through 12, at the request of—

"(A) any Bureau of Indian Affairs school (subject to the approval of the school board of such school); or

"(B) any school board of a school operating under a contract entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(2) In schools operated directly by the Bureau of Indian Affairs, the Secretary shall, not later than 120 days after the date of the enactment of this subsection, provide for—

"(A) accurate reporting of all incidents relating to alcohol and substance abuse; and

"(B) individual student crisis intervention.

"(3) The programs requested under paragraph (1) shall be developed in consultation with the Indian tribe that is to be served by such program and health personnel in the local community of such tribe.

"(4) Schools requesting program assistance under this subsection are encouraged to involve family units and, where appropriate, tribal elders and Native healers in such instructions."

(4) Section 1129 of the Educational Amendments of 1978 is amended by adding at the end the following new subsection: 25 USC 2009.

"(e)(1) A financial plan under subsection (b) for a school may include, at the discretion of the local administrator and the school board of such school, a provision for a summer program of academic and support services for students of the school. Any such program may include activities related to the prevention of alcohol and substance abuse. The Assistant Secretary of Indian Affairs shall provide for the utilization of any such school facility during any summer in which such utilization is requested.

"(2) Notwithstanding any other provision of law, funds authorized under the Act of April 16, 1934 (25 U.S.C. 452 et seq.) and the Indian Education Act may be used to augment the services provided in each summer program at the option, and under the control, of the tribe or Indian controlled school receiving such funds. 20 USC 241aa note.

"(3) The Assistant Secretary of Indian Affairs, acting through the Director of the Office of Indian Education Programs, shall provide technical assistance and coordination for any program described in paragraph (1) and shall, to the extent possible, encourage the coordination of such programs with any other summer programs that might benefit Indian youth, regardless of the funding source or administrative entity of any such program.".

SEC. 4134. PROGRAMS FOR HAWAIIAN NATIVES.

(a) From the funds reserved pursuant to section 4112(a)(3), the Secretary shall enter into contracts with organizations primarily serving and representing Hawaiian natives which are recognized by 20 USC 4644. Contracts.

the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this subtitle for the benefit of Hawaiian natives.

(b) For the purposes of this section, the term "Hawaiian native" means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

20 USC 4645.

SEC. 4135. REGIONAL CENTERS.

The Secretary shall use the amounts made available to carry out this section for each fiscal year to maintain 5 regional centers to—

(1) train school teams to assess the scope and nature of their drug abuse and alcohol abuse problems, mobilize the community to address such problems, design appropriate curricula, identify students at highest risk and refer them to appropriate treatment, and institutionalize long term effective drug and alcohol abuse programs, including long range technical assistance, evaluation, and followup on such training;

(2) assist State educational agencies in coordinating and strengthening drug abuse and alcohol abuse education and prevention programs;

(3) assist local educational agencies and institutions of higher education in developing appropriate pre-service and in-service training programs for educational personnel; and

(4) evaluate and disseminate information on effective drug abuse and alcohol abuse education and prevention programs and strategies.

PART 4—GENERAL PROVISIONS

20 USC 4661.

SEC. 4141. DEFINITIONS.

(a) Except as otherwise provided, the terms used in this subtitle shall have the meaning provided under section 595 of the Education Consolidation and Improvement Act of 1981.

20 USC 3875.

(b) For the purposes of this subtitle, the following terms have the following meanings:

(1) The term "drug abuse education and prevention" means prevention, early intervention, rehabilitation referral, and education related to the abuse of alcohol and the use and abuse of controlled, illegal, addictive, or harmful substances.

(2) The term "illicit drug use" means the use of illegal drugs and the abuse of other drugs and alcohol.

(3) The term "Secretary" means the Secretary of Education.

(4) The term "school-age population" means the population aged five through seventeen (inclusive), as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

(5) The term "school dropout" means an individual aged five through eighteen who is not attending any school and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

(6) The term "State" means a State, the District of Columbia, Puerto Rico, Guam, American Samoa, the Northern Marina Islands, the Trust Territory of the Pacific Islands, or the Virgin Islands.

(7) The terms "institution of higher education", "secondary school", and "nonprofit" have the meanings provided in section

1001 of the Elementary and Secondary Education Act of 1965 in effect prior to October 1, 1981.

(8) The term "consortium" (except in section 4131) means a consortium of local educational agencies or of one or more intermediate educational agencies and one or more local educational agencies.

SEC. 4142. FUNCTIONS OF THE SECRETARY OF EDUCATION. 20 USC 4662.

(a) The Secretary shall be responsible for the administration of the programs authorized by this subtitle.

(b) Except as otherwise provided, the General Education Provisions Act shall apply to programs authorized by this subtitle. 20 USC 1221.

SEC. 4143. PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE NONPROFIT SCHOOLS. 20 USC 4663.

(a) To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under part 2 who are enrolled in private nonprofit elementary and secondary schools, such State, agency, or consortium shall, after consultation with appropriate private school representatives, make provision for including services and arrangements for the benefit of such children as will assure the equitable participation of such children in the purposes and benefits of this subtitle. State and local governments.

(b) To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under part 2 who are enrolled in private nonprofit elementary and secondary schools, such State, State educational agency, or State agency for higher education shall, after consultation with appropriate private school representatives, make provision, for the benefit of such teachers in such schools, for such teacher training as will assure equitable participation of such teachers in the purposes and benefits of this subtitle.

(c) If by reason of any provision of law a State, local, or intermediate educational agency or consortium is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsections (a) and (b) or, if the Secretary determines that a State, local, or intermediate educational agency or consortium has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers which shall be subject to the requirements of this section. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with paragraphs (3) and (4) of section 557(b) of the Education Consolidation and Improvement Act of 1981. 20 USC 3806.

SEC. 4144. MATERIALS. 20 USC 4664.

Any materials produced or distributed with funds made available under this subtitle shall reflect the message that illicit drug use is wrong and harmful. The Secretary shall not review curricula and shall not promulgate regulations to carry out this subsection or subparagraph (1) or (4) of section 4125(a).

Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986.
25 USC 2401 note.

Subtitle C—Indians and Alaska Natives

SEC. 4201. SHORT TITLE.

This subtitle may be cited as the "Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986".

PART I—GENERAL PROVISIONS

25 USC prec. 2401.

SEC. 4202. FINDINGS.

The Congress finds and declares that—

(1) the Federal Government has a historical relationship and unique legal and moral responsibility to Indian tribes and their members,

(2) included in this responsibility is the treaty, statutory, and historical obligation to assist the Indian tribes in meeting the health and social needs of their members,

(3) alcoholism and alcohol and substance abuse is the most severe health and social problem facing Indian tribes and people today and nothing is more costly to Indian people than the consequences of alcohol and substance abuse measured in physical, mental, social, and economic terms,

(4) alcohol and substance abuse is the leading generic risk factor among Indians, and Indians die from alcoholism at over 4 times the age-adjusted rates for the United States population and alcohol and substance misuse results in a rate of years of potential life lost nearly 5 times that of the United States,

(5) 4 of the top 10 causes of death among Indians are alcohol and drug related injuries (18 percent of all deaths), chronic liver disease and cirrhosis (5 percent), suicide (3 percent), and homicide (3 percent),

(6) primarily because deaths from unintentional injuries and violence occur disproportionately among young people, the age-specific death rate for Indians is approximately double the United States rate for the 15 to 45 age group,

(7) Indians between the ages of 15 and 24 years of age are more than 2 times as likely to commit suicide as the general population and approximately 80 percent of those suicides are alcohol-related,

(8) Indians between the ages of 15 and 24 years of age are twice as likely as the general population to die in automobile accidents, 75 percent of which are alcohol-related,

(9) the Indian Health Service, which is charged with treatment and rehabilitation efforts, has directed only 1 percent of its budget for alcohol and substance abuse problems,

(10) the Bureau of Indian Affairs, which has responsibility for programs in education, social services, law enforcement, and other areas, has assumed little responsibility for coordinating its various efforts to focus on the epidemic of alcohol and substance abuse among Indian people,

(11) this lack of emphasis and priority continues despite the fact that Bureau of Indian Affairs and Indian Health Service officials publicly acknowledge that alcohol and substance abuse among Indians is the most serious health and social problem facing the Indian people, and

(12) the Indian tribes have the primary responsibility for protecting and ensuring the well-being of their members and

the resources made available under this subtitle will assist Indian tribes in meeting that responsibility.

SEC. 4203. PURPOSE. 25 USC 2402.

It is the purpose of this subtitle to—

(1) authorize and develop a comprehensive, coordinated attack upon the illegal narcotics traffic in Indian country and the deleterious impact of alcohol and substance abuse upon Indian tribes and their members,

(2) provide needed direction and guidance to those Federal agencies responsible for Indian programs to identify and focus existing programs and resources, including those made available by this subtitle, upon this problem,

(3) provide authority and opportunities for Indian tribes to develop and implement a coordinated program for the prevention and treatment of alcohol and substance abuse at the local level, and

(4) to modify or supplement existing programs and authorities in the areas of education, family and social services, law enforcement and judicial services, and health services to further the purposes of this subtitle.

SEC. 4204. DEFINITIONS. 25 USC 2403.

For purposes of this subtitle—

(1) The term "agency" means the local administrative entity of the Bureau of Indian Affairs serving one or more Indian tribes within a defined geographic area.

(2) The term "youth" shall have the meaning given it in any particular Tribal Action Plan adopted pursuant to section 4205, except that, for purposes of statistical reporting under this subtitle, it shall mean a person who is 19 years or younger or who is in attendance at a secondary school.

(3) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians (including any Alaska Native village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)) which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(4) The term "prevention and treatment" includes, as appropriate—

(A) efforts to identify, and the identification of, Indians who are at risk with respect to, or who are abusers of, alcohol or controlled substances,

(B) intervention into cases of on-going alcohol and substance abuse to halt a further progression of such abuse,

(C) prevention through education and the provision of alternative activities,

(D) treatment for alcohol and substance abusers to help abstain from, and alleviate the effects of, abuse,

(E) rehabilitation to provide on-going assistance, either on an inpatient or outpatient basis, to help Indians reform or abstain from alcohol or substance abuse,

(F) follow-up or after-care to provide the appropriate counseling and assistance on an outpatient basis, and

(G) referral to other sources of assistance or resources.

(5) The term "service unit" means an administrative entity within the Indian Health Service or a tribe or tribal organization operating health care programs or facilities with funds from the Indian Health Service under the Indian Self-Determination Act through which the services are provided, directly or by contract, to the eligible Indian population within a defined geographic area.

25 USC 450 note.

PART II—COORDINATION OF RESOURCES AND PROGRAMS

25 USC 2411.

SEC. 4205. INTER-DEPARTMENTAL MEMORANDUM OF AGREEMENT.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this subtitle, the Secretary of the Interior and the Secretary of Health and Human Services shall develop and enter into a Memorandum of Agreement which shall, among other things—

(1) determine and define the scope of the problem of alcohol and substance abuse for Indian tribes and their members and its financial and human costs, and specifically identify such problems affecting Indian youth,

(2) identify—

(A) the resources and programs of the Bureau of Indian Affairs and Indian Health Service, and

(B) other Federal, tribal, State and local, and private resources and programs,

which would be relevant to a coordinated effort to combat alcohol and substance abuse among Indian people, including those programs and resources made available by this subtitle,

(3) develop and establish appropriate minimum standards for each agency's program responsibilities under the Memorandum of Agreement which may be—

(A) the existing Federal or State standards in effect, or

(B) in the absence of such standards, new standards which will be developed and established in consultation with Indian tribes,

(4) coordinate the Bureau of Indian Affairs and Indian Health Service alcohol and substance abuse programs existing on the date of the enactment of this subtitle with programs or efforts established by this subtitle,

(5) delineate the responsibilities of the Bureau of Indian Affairs and the Indian Health Service to coordinate alcohol and substance abuse-related services at the central, area, agency, and service unit levels,

(6) direct Bureau of Indian Affairs agency and education superintendents, where appropriate, and the Indian Health Service service unit directors to cooperate fully with tribal requests made pursuant to section 4206, and

(7) provide for an annual review of such agreements by the Secretary of the Interior and the Secretary of Health and Human Services.

(b) CHARACTER OF ACTIVITIES.—To the extent that there are new activities undertaken pursuant to this subtitle, those activities shall supplement, not supplant, activities, programs, and local actions that are ongoing on the date of the enactment of this subtitle. Such activities shall be undertaken in the manner least disruptive to tribal control, in accordance with the Indian Self-Determination and

Education Assistance Act (25 U.S.C. 450 et seq.), and local control, in accordance with section 1130 of the Education Amendments of 1978 (25 U.S.C. 2010).

(c) CONSULTATION.—The Secretary of the Interior and the Secretary of Health and Human Services shall, in developing the Memorandum of Agreement under subsection (a), consult with and solicit the comments of—

(1) interested Indian tribes,

(2) Indian individuals,

(3) Indian organizations, and

(4) professionals in the treatment of alcohol and substance abuse.

Federal Register, publication.

(d) PUBLICATION.—The Memorandum of Agreement under subsection (a) shall be submitted to Congress and published in the Federal Register not later than 130 days after the date of enactment of this subtitle. At the same time as publication in the Federal Register, the Secretary of the Interior shall provide a copy of this subtitle and the Memorandum of Agreement under subsection (a) to each Indian tribe.

SEC. 4206. TRIBAL ACTION PLANS.

25 USC 2412.

(a) IN GENERAL.—The governing body of any Indian tribe may, at its discretion, adopt a resolution for the establishment of a Tribal Action Plan to coordinate available resources and programs, including programs and resources made available by this subtitle, in an effort to combat alcohol and substance abuse among its members. Such resolution shall be the basis for the implementation of this subtitle and of the Memorandum of Agreement under section 4205.

(b) COOPERATION.—At the request of any Indian tribe pursuant to a resolution adopted under subsection (a), the Bureau of Indian Affairs agency and education superintendents, where appropriate, and the Indian Health Service service unit director providing services to such tribe shall cooperate with the tribe in the development of a Tribal Action Plan to coordinate resources and programs relevant to alcohol and substance abuse prevention and treatment. Upon the development of such a plan, such superintendents and director, as directed by the Memorandum of Agreement established under section 4205, shall enter into an agreement with the tribe for the implementation of the Tribal Action Plan under subsection (a).

(c) PROVISIONS.—

(1) Any Tribal Action Plan entered into under subsection (b) shall provide for—

(A) the establishment of a Tribal Coordinating Committee which shall—

(i) at a minimum, have as members a tribal representative who shall serve as Chairman and the Bureau of Indian Affairs agency and education superintendents, where appropriate, and the Indian Health Service service unit director, or their representatives,

(ii) have primary responsibility for the implementation of the Tribal Action Plan,

(iii) have the responsibility for on-going review and evaluation of, and the making of recommendations to the tribe relating to, the Tribal Action Plan, and

(iv) have the responsibility for scheduling Federal, tribal or other personnel for training in the prevention

and treatment of alcohol and substance abuse among Indians as provided under section 4228, and

(B) the incorporation of the minimum standards for those programs and services which it encompasses which shall be—

(i) the Federal or State standards as provided in section 4205(a)(3), or

(ii) applicable tribal standards, if such standards are no less stringent than the Federal or State standards.

(2) Any Tribal Action Plan may, among other things, provide for—

(A) an assessment of the scope of the problem of alcohol and substance abuse for the Indian tribe which adopted the resolution for the Plan,

(2) the identification and coordination of available resources and programs relevant to a program of alcohol and substance abuse prevention and treatment,

(3) the establishment and prioritization of goals and the efforts needed to meet those goals, and

(4) the identification of the community and family roles in any of the efforts undertaken as part of the Tribal Action Plan.

(d) GRANTS.—(1) The Secretary of the Interior may make grants to Indian tribes adopting a resolution pursuant to subsection (a) to provide technical assistance in the development of a Tribal Action Plan. The Secretary shall allocate funds based on need.

(2) There is authorized to be appropriated not to exceed $1,000,000 for each of the fiscal year 1987, 1988, and 1989 for grants under this subsection.

(e) FEDERAL ACTION.—If any Indian tribe does not adopt a resolution as provided in subsection (a) within 90 days after the publication of the Memorandum of Agreement in the Federal Register as provided in section 4205, the Secretary of the Interior and the Secretary of Health and Human Services shall require the Bureau of Indian Affairs agency and education superintendents, where appropriate, and the Indian Health Service service unit director serving such tribe to enter into an agreement to identify and coordinate available programs and resources to carry out the purposes of this subtitle for such tribe. After such an agreement has been entered into for a tribe such tribe may adopt a resolution under subsection (a).

25 USC 2413.

SEC. 4207. DEPARTMENTAL RESPONSIBILITY.

(a) IMPLEMENTATION.—The Secretary of the Interior, acting through the Bureau of Indian Affairs, and the Secretary of Health and Human Services, acting through the Indian Health Service, shall bear equal responsibility for the implementation of this subtitle in cooperation with Indian tribes.

(b) OFFICE OF ALCOHOL AND SUBSTANCE ABUSE.—

(1) In order to better coordinate the various programs of the Bureau of Indian Affairs in carrying out this subtitle, there is established within the Office of the Assistant Secretary of Indian Affairs an Office of Alcohol and Substance Abuse. The director of such office shall be appointed by the Assistant Secretary on a permanent basis at no less than a grade GS-15 of the General Schedule.

5 USC 5331.

(2) In addition to other responsibilities which may be assigned to such Office, it shall be responsible for—

(A) monitoring the performance and compliance of programs of the Bureau of Indian Affairs in meeting the goals and purposes of this subtitle and the Memorandum of Agreement entered into under section 4205, and

(B) serving as a point of contact within the Bureau of Indian Affairs for Indian tribes and the Tribal Coordinating Committees regarding the implementation of this subtitle, the Memorandum of Agreement, and any Tribal Action Plan established under section 4206.

(c) INDIAN YOUTH PROGRAMS OFFICER.—

(1) There is established in the Office of Alcohol and Substance Abuse the position to be known as the Indian Youth Programs Officer.

(2) The position of Indian Youth Programs Officer shall be established on a permanent basis at no less than the grade of GS-14 of the General Schedule. 5 USC 5331.

(3) In addition to other responsibilities which may be assigned to the Indian Youth Programs Officer relating to Indian Youth, such Officer shall be responsible for—

(A) monitoring the performance and compliance of programs of the Bureau of Indian Affairs in meeting the goals and purposes of this subtitle and the Memorandum of Agreement entered into under section 4205 as they relate to Indian youth efforts, and

(B) providing advice and recommendations, including recommendations submitted by Indian tribes and Tribal Coordinating Committees, to the Director of the Office of Alcohol and Substance Abuse as they relate to Indian youth.

SEC. 4208. CONGRESSIONAL INTENT. 25 USC 2414.

It is the intent of Congress that—

(1) specific Federal laws, and administrative regulations promulgated thereunder, establishing programs of the Bureau of Indian Affairs, the Indian Health Service, and other Federal agencies, and

(2) general Federal laws, including laws limiting augmentation of Federal appropriations or encouraging joint or cooperative funding,

shall be liberally construed and administered to achieve the purposes of this subtitle.

SEC. 4209. FEDERAL FACILITIES, PROPERTY, AND EQUIPMENT. 25 USC 2415.

(a) FACILITY AVAILABILITY.—In the furtherance of the purposes and goals of this subtitle, the Secretary of the Interior and the Secretary of Health and Human Services shall make available for community use, to the extent permitted by law and as may be provided in a Tribal Action Plan, local Federal facilities, property, and equipment, including school facilities. Such facility availability shall include school facilities under the Secretary of the Interior's jurisdiction: *Provided*, That the use of any school facilities shall be conditioned upon approval of the local school board with jurisdiction over such school.

(b) COSTS.—Any additional cost associated with the use of Federal facilities, property, or equipment under subsection (a) may be borne

by the Secretary of the Interior and the Secretary of Health and Human Services out of available Federal, tribal, State, local, or private funds, if not otherwise prohibited by law. This subsection does not require the Secretary of the Interior nor the Secretary of Health and Human Services to expend additional funds to meet the additional costs which may be associated with the provision of such facilities, property, or equipment for community use. Where the use of Federal facilities, property, or equipment under subsection (a) furthers the purposes and goals of this subtitle, the use of funds other than those funds appropriated to the Department of the Interior or the Department of Health and Human Services to meet the additional costs associated with such use shall not constitute an augmentation of Federal appropriations.

25 USC 2416.

SEC. 4210. NEWSLETTER.

The Secretary of the Interior shall, not later than 120 days after the date of the enactment of this subtitle, publish an alcohol and substance abuse newsletter in cooperation with the Secretary of Health and Human Services and the Secretary of Education to report on Indian alcohol and substance abuse projects and programs. The newsletter shall—

(1) be published once in each calendar quarter,

(2) include reviews of programs determined by the Secretary of the Interior to be exemplary and provide sufficient information to enable interested persons to obtain further information about such programs, and

(3) be circulated without charge to—

(A) schools,

(B) tribal offices,

(C) Bureau of Indian Affairs' agency and area offices,

(D) Indian Health Service area and service unit offices,

(E) Indian Health Service alcohol programs, and

(F) other entities providing alcohol and substance abuse related services or resources to Indian people.

PART III—INDIAN YOUTH PROGRAMS

25 USC 2431.

SEC. 4211. REVIEW OF PROGRAMS.

State and local governments.

(a) REVIEW.—In the development of the Memorandum of Agreement required by section 4205, the Secretary of the Interior and the Secretary of Health and Human Services, in cooperation with the Secretary of Education shall review and consider—

(1) Federal programs providing education services or benefits to Indian children,

(2) tribal, State, local, and private educational resources and programs,

(3) Federal programs providing family and social services and benefits for Indian families and children,

(4) Federal programs relating to youth employment, recreation, cultural, and community activities, and

(5) tribal, State, local, and private resources for programs similar to those cited in paragraphs (3) and (4),

to determine their applicability and relevance in carrying out the purposes of this subtitle.

(b) PUBLICATION.—The results of the review conducted under subsection (a) shall be provided to each Indian tribe as soon as

possible for their consideration and use in the development or modification of a Tribal Action Plan under section 4206.

SEC. 4212. INDIAN EDUCATION PROGRAMS. 25 USC 2432.

(a) PILOT PROGRAMS.—The Assistant Secretary of Indian Affairs shall develop and implement pilot programs in selected schools funded by the Bureau of Indian Affairs (subject to the approval of the local school board or contract school board) to determine the effectiveness of summer youth programs in furthering the purposes and goals of the Indian Alcohol and Substance Abuse Prevention Act of 1986. The Assistant Secretary shall defray all costs associated with the actual operation and support of the pilot programs in the school from funds appropriated for this section. For the pilot programs there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1987, 1988, and 1989.

(b) USE OF FUNDS.—Federal financial assistance made available to public or private schools because of the enrollment of Indian children pursuant to—

(1) the Act of April 16, 1934, as amended by the Indian Education Assistance Act (25 U.S.C. 452 et seq.),

(2) the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241aa et seq.), and

(3) the Indian Education Act (20 U.S.C. 3385),

may be used to support a program of instruction relating to alcohol and substance abuse prevention and treatment.

SEC. 4213. EMERGENCY SHELTERS. 25 USC 2433.

(a) IN GENERAL.—A Tribal Action Plan adopted pursuant to section 4206 may make such provisions as may be necessary and practical for the establishment, funding, licensing, and operation of emergency shelters or half-way houses for Indian youth who are alcohol or substance abusers, including youth who have been arrested for offenses directly or indirectly related to alcohol or substance abuse.

(b) REFERRALS.—

(1) In any case where an Indian youth is arrested or detained by the Bureau of Indian Affairs or tribal law enforcement personnel for an offense relating to alcohol or substance abuse, other than for a status offense as defined by the Juvenile Justice and Delinquency Prevention Act of 1974, under circumstances where such youth may not be immediately restored to the custody of his parents or guardians and where there is space available in an appropriately licensed and supervised emergency shelter or half-way house, such youth shall be referred to such facility in lieu of incarceration in a secured facility unless such youth is deemed a danger to himself or to other persons. 42 USC 5601 note.

(2) In any case where there is a space available in an appropriately licensed and supervised emergency shelter or half-way house, the Bureau of Indian Affairs and tribal courts are encouraged to refer Indian youth convicted of offenses directly or indirectly related to alcohol and substance abuse to such facilities in lieu of sentencing to incarceration in a secured juvenile facility.

(c) DIRECTION TO STATES.—In the case of any State that exercises criminal jurisdiction over any part of Indian country under section 1162 of title 18 of the United States Code or section 401 of the Act of

April 11, 1968 (25 U.S.C. 1321), such State is urged to require its law enforcement officers to—

(1) place any Indian youth arrested for any offense related to alcohol or substance abuse in a temporary emergency shelter described in subsection (d) or a community-based alcohol or substance abuse treatment facility in lieu of incarceration to the extent such facilities are available, and

(2) observe the standards promulgated under subsection (d).

(d) STANDARDS.—The Assistant Secretary of Indian Affairs shall, as part of the development of the Memorandum of Agreement set out in section 4205, promulgate standards by which the emergency shelters established under a program pursuant to subsection (a) shall be established and operated.

(e) AUTHORIZATION.—For the planning and design, construction, and renovation of emergency shelters or half-way houses to provide emergency care for Indian youth, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1987, 1988, and 1989. For the operation of emergency shelters or half-way houses there is authorized to be appropriated $3,000,000 for each of the fiscal years 1987, 1988, and 1989. The Secretary of the Interior shall allocate funds appropriated pursuant to this subsection on the basis of priority of need of the various Indian tribes and such funds, when allocated, shall be subject to contracting pursuant to the Indian Self-Determination Act.

25 USC 450 note.

25 USC 2434.

SEC. 4214. SOCIAL SERVICES REPORTS.

(a) DATA.—The Secretary of the Interior, with respect to the administration of any family or social services program by the Bureau of Indian Affairs directly or through contracts under the Indian Self-Determination Act, shall require the compilation of data relating to the number and types of child abuse and neglect cases seen and the type of assistance provided. Additionally, such data should also be categorized to reflect those cases that involve, or appear to involve, alcohol and substance abuse, those cases which are recurring, and those cases which involve other minor siblings.

(b) REFERRAL OF DATA.—The data compiled pursuant to subsection (a) shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan and shall also be submitted to the Indian Health Service service unit director who will have responsibility for compiling a tribal comprehensive report as provided in section 4230.

(c) CONFIDENTIALITY.—In carrying out the requirements of subsections (a) and (b), the Secretary shall insure that the data is compiled and reported in a manner which will preserve the confidentiality of the families and individuals.

PART IV—LAW ENFORCEMENT AND JUDICIAL SERVICES

25 USC 2441.

SEC. 4215. REVIEW OF PROGRAMS.

(a) LAW ENFORCEMENT AND JUDICIAL SERVICES.—In the development of the Memorandum of Agreement required by section 4205, the Secretary of the Interior and the Secretary of Health and Human Services, in cooperation with the Attorney General of the United States, shall review and consider—

(1) the various programs established by Federal law providing law enforcement or judicial services for Indian tribes, and

(2) tribal and State and local law enforcement and judicial programs and systems

to determine their applicability and relevance in carrying out the purposes of this subtitle.

(b) DISSEMINATION OF REVIEW.—The results of the review conducted pursuant to subsection (a) shall be made available to every Indian tribe as soon as possible for their consideration and use in the development and modification of a Tribal Action Plan.

SEC. 4216. ILLEGAL NARCOTICS TRAFFIC ON THE PAPAGO RESERVATION: SOURCE ERADICATION 25 USC 2442.

(a)(1) INVESTIGATION AND CONTROL.—The Secretary of the Interior shall provide assistance to the Papago Indian Tribe (Tohono O'odham) of Arizona for the investigation and control of illegal narcotics traffic on the Papago Reservation along the border with Mexico. The Secretary shall ensure that tribal efforts are coordinated with appropriate Federal law enforcement agencies, including the United States Customs Service.

(2) AUTHORIZATIONS.—For the purpose of providing the assistance required by subsection (a), there is authorized to be appropriated $500,000 for each of the fiscal years 1987, 1988, and 1989.

(b)(1) MARIJUANA ERADICATION.—The Secretary of the Interior, in cooperation with appropriate Federal, tribal, and State and local law enforcement agencies, shall establish and implement a program for the eradication of marijuana cultivation within Indian country as defined in section 1152 of title 18, United States Code. The Secretary shall establish a priority for the use of funds appropriated under subsection (b) for those Indian reservations where the scope of the problem is most critical, and such funds shall be available for contracting by Indian tribes pursuant to the Indian Self-Determination Act. 25 USC 450 note.

(2) AUTHORIZATIONS.—To carry out subsection (a), there is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1987, 1988, and 1989.

PART V—BUREAU OF INDIAN AFFAIRS LAW ENFORCEMENT

SEC. 4217. TRIBAL COURTS, SENTENCING AND FINES.

To enhance the ability of tribal governments to prevent and penalize the traffic of illegal narcotics on Indian reservations, paragraph (7) of section 202 of the Act of April 11, 1969 (25 U.S.C. 1302) is amended by striking out "for a term of six months and a fine of $500, or both" and inserting in lieu thereof "for a term of one year and a fine of $5,000, or both".

SEC. 4218. BUREAU OF INDIAN AFFAIRS LAW ENFORCEMENT AND JUDICIAL TRAINING. 25 USC 2451.

(a) IN GENERAL.—The Secretary of the Interior shall ensure, through the establishment of a new training program or through the supplement of existing training programs, that all Bureau of Indian Affairs and tribal law enforcement and judicial personnel shall have available training in the investigation and prosecution of offenses relating to illegal narcotics and in alcohol and substance

abuse prevention and treatment. Any training provided to Bureau of Indian Affairs and tribal law enforcement and judicial personnel as provided in subsection (a) shall specifically include training in the problems of youth alcohol and substance abuse prevention and treatment. Such training shall be coordinated with the Indian Health Service in the carrying out of its responsibilities under section 4228.

(b) AUTHORIZATION.—For the purpose of providing the training required by subsection (a), there are authorized to be appropriated $1,500,000 for each of the fiscal years 1987, 1988, and 1989.

25 USC 2452.

SEC. 4219. MEDICAL ASSESSMENT AND TREATMENT OF JUVENILE OFFENDERS.

The Memorandum of Agreement entered into pursuant to section 4205 shall include a specific provision for the development and implementation at each Bureau of Indian Affair agency and Indian Health Service unit of a procedure for the emergency medical assessment and treatment of every Indian youth arrested or detained by Bureau of Indian Affairs or tribal law enforcement personnel for an offense relating to or involving alcohol or substance abuse. The medical assessment required by this subsection—

(1) shall be conducted to determine the mental or physical state of the individual assessed so that appropriate steps can be taken to protect the individual's health and well-being,

(2) shall occur as soon as possible after the arrest or detention of an Indian youth, and

(3) shall be provided by the Indian Health Service, either through its direct or contract health service.

25 USC 2453.

SEC. 4220. JUVENILE DETENTION CENTERS.

(a) PLAN.—The Secretary of the Interior shall construct or renovate and staff new or existing juvenile detention centers. The Secretary shall ensure that the construction and operation of the centers is consistent with the Juvenile Justice and Delinquency Prevention Act of 1974.

42 USC 5601 note.

(b) AUTHORIZATION.—For the purpose of subsection (a), there is authorized to be appropriated $10,000,000 for construction and renovation for each of the fiscal years 1987, 1988, and 1989, and $5,000,000 for staffing and operation for each of the fiscal years 1987, 1988, and 1989.

25 USC 2454.

SEC. 4221. MODEL INDIAN JUVENILE CODE.

Contracts.

The Secretary of the Interior, either directly or by contract, shall provide for the development of a Model Indian Juvenile Code which shall be consistent with the Juvenile Justice and Delinquency Prevention Act of 1974 and which shall include provisions relating to the disposition of cases involving Indian youth arrested or detained by Bureau of Indian Affairs or tribal law enforcement personnel for alcohol or drug related offenses. The development of such model code shall be accomplished in cooperation with Indian organizations having an expertise or knowledge in the field of law enforcement and judicial procedure and in consultation with Indian tribes. Upon completion of the Model Code, the Secretary shall make copies available to each Indian tribe.

42 USC 5601 note.

SEC. 4222. LAW ENFORCEMENT AND JUDICIAL REPORT. 25 USC 2455.

(a) COMPILATION OF LAW ENFORCEMENT DATA.—The Secretary of the Interior, with respect to the administration of any law enforcement or judicial services program by the Bureau of Indian Affairs, either directly or through contracts under the Indian Self-Determination Act, shall require the compilation of data relating to calls and encounters, arrests and detentions, and disposition of cases by Bureau of Indian Affairs or tribal law enforcement or judicial personnel involving Indians where it is determined that alcohol or substance abuse is a contributing factor. Contracts. 25 USC 450 note.

(b) REFERRAL OF DATA.—The data compiled pursuant to subsection (a) shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan and shall also be submitted to the Indian Health Service unit director who will have the responsibility for compiling a tribal comprehensive report as provided in section 4230.

(c) CONFIDENTIALITY.—In carrying out this section, the Secretary shall insure that the data is compiled and reported in a manner which will preserve the confidentiality of the families and individuals involved.

PART VI—INDIAN ALCOHOL AND SUBSTANCE ABUSE TREATMENT AND REHABILITATION

SEC. 4224. REVIEW OF PROGRAMS. 25 USC 2471.

(a) IN GENERAL.—In the development of the Memorandum of Agreement required by section 4205, the Secretary of the Interior and the Secretary of Health and Human Services shall review and consider—

(1) the various programs established by Federal law providing health services and benefits to Indian tribes, including those relating to mental health and alcohol and substance abuse prevention and treatment, and

(2) tribal, State and local, and private health resources and programs,

(3) where facilities to provide such treatment are or should be located, and

(4) the effectiveness of public and private alcohol and substance abuse treatment programs in operation on the date of the enactment of this subtitle,

to determine their applicability and relevance in carrying out the purposes of this subtitle.

(b) DISSEMINATION.—The results of the review conducted under subsection (a) shall be provided to every Indian tribe as soon as possible for their consideration and use in the development or modification of a Tribal Action Plan.

SEC. 4225. INDIAN HEALTH SERVICE RESPONSIBILITIES. 25 USC 2472.

The Memorandum of Agreement entered into pursuant to section 4205 shall include specific provisions pursuant to which the Indian Health Service shall assume responsibility for—

(1) the determination of the scope of the problem of alcohol and substance abuse among Indian people, including the number of Indians within the jurisdiction of the Indian Health Service who are directly or indirectly affected by alcohol and substance abuse and the financial and human cost,

(2) an assessment of the existing and needed resources necessary for the prevention of alcohol and substance abuse and the treatment of Indians affected by alcohol and substance abuse, and

(3) an estimate of the funding necessary to adequately support a program of prevention of alcohol and substance abuse and treatment of Indians affected by alcohol and substance abuse.

25 USC 2473.

SEC. 4226. INDIAN HEALTH SERVICE PROGRAM.

The Secretary of Health and Human Services, acting through the Indian Health Service, shall provide a program of comprehensive alcohol and substance abuse prevention and treatment which shall include—

(1) prevention, through educational intervention, in Indian communities,

(2) acute detoxification and treatment,

(3) community-based rehabilitation, and

(4) community education and involvement, including extensive training of health care, educational, and community-based personnel.

The target population of such a program shall be the members of Indian tribes. Additionally, efforts to train and educate key members of the Indian community shall target employees of health, education, judicial, law enforcement, legal, and social service programs.

25 USC 2474.

SEC. 4227. INDIAN HEALTH SERVICE YOUTH PROGRAM.

(a) DETOXIFICATION AND REHABILITATION.—The Secretary shall develop and implement a program for acute detoxification and treatment for Indian youth who are alcohol and substance abusers. The program shall include regional treatment centers designed to include detoxification and rehabilitation for both sexes on a referral basis. These regional centers shall be integrated with the intake and rehabilitation programs based in the referring Indian community.

(b) CENTERS.—The Secretary shall construct or renovate a youth regional treatment center in each area under the jurisdiction of an Indian Health Service area office. For purposes of the preceding sentence, the area offices of the Indian Health Service in Tucson and Phoenix, Arizona, shall be considered one area office. The regional treatment centers shall be appropriately staffed with health professionals. There are authorized to be appropriated $6,000,000 for the construction and renovation of the regional youth treatment centers, and $3,000,000 for the staffing of such centers, for each of the fiscal years 1987, 1988, and 1989.

(c) FEDERALLY OWNED STRUCTURES.—

(1) The Secretary of Health and Human Services, acting through the Indian Health Service, shall, in consultation with Indian tribes—

(A) identify and use, where appropriate, federally owned structures, suitable as local residential or regional alcohol and substance abuse treatment centers for Indian youth, and

(B) establish guidelines for determining the suitability of any such federally owned structure to be used as a local residential or regional alcohol and substance abuse treatment center for Indian youth.

(2) Any structure described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary of Health and Human Services and the agency having responsibility for the structure.

(3) There are authorized to be appropriated $3,000,000 for each of the fiscal years 1987, 1988, and 1989.

(d) REHABILITATION AND FOLLOW-UP SERVICES.—

(1) The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement within each Indian Health Service service unit community-based rehabilitation and follow-up services for Indian youth who are alcohol or substance abusers which are designed to integrate long-term treatment and to monitor and support the Indian youth after their return to their home community.

(2) Services under paragraph (1) shall be administered within each service unit by trained staff within the community who can assist the Indian youth in continuing development of self-image, positive problem-solving skills, and nonalcohol or substance abusing behaviors. Such staff shall include alcohol and substance abuse counselors, mental health professionals, and other health professionals and paraprofessionals, including community health representatives.

(3) For the purpose of providing the services authorized by paragraph (1), there are authorized to be appropriated $9,000,000 for each of the fiscal years 1987, 1988, and 1989.

SEC. 4228. TRAINING AND COMMUNITY EDUCATION. 25 USC 2475.

(a) COMMUNITY EDUCATION.—The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement within each service unit a program of community education and involvement which shall be designed to provide concise and timely information to the community leadership of each tribal community. Such program shall include education in alcohol and substance abuse to the critical core of each tribal community, including political leaders, tribal judges, law enforcement personnel, members of tribal health and education boards, and other critical parties.

(b) TRAINING.—The Secretary of Health and Human Services shall, either directly or through contract, provide instruction in the area of alcohol and substance abuse, including instruction in crisis intervention and family relations in the context of alcohol and substance abuse, youth alcohol and substance abuse, and the causes and effects of fetal alcohol syndrome to appropriate employees of the Bureau of Indian Affairs and the Indian Health Services, and personnel in schools or programs operated under any contract with the Bureau of Indian Affairs or the Indian Health Service, including supervisors of emergency shelters and half-way houses described in section 4213. Contracts.

(c)(1) DEMONSTRATION PROGRAM.—The Secretary of Health and Human Services shall establish at least one demonstration project to determine the most effective and cost-efficient means of—

(A) providing health promotion and disease prevention services,

(B) encouraging Indians to adopt good health habits,

(C) reducing health risks to Indians, particularly the risks of heart disease, cancer, stroke, diabetes, depression, and lifestyle-related accidents,

(D) reducing medical expenses of Indians through health promotion and disease prevention activities,

(E) establishing a program—

(i) which trains Indians in the provision of health promotion and disease prevention services to members of their tribe, and

Contracts.

(ii) under which such Indians are available on a contract basis to provide such services to other tribes, and

(F) providing training and continuing education to employees of the service, and to paraprofessionals participating in the Community Health Representative Program, in the delivery of health promotion and disease prevention services.

(2) The demonstration project described in paragraph (1) shall include an analysis of the cost effectiveness of organizational structures and of social and educational programs that may be useful in achieving the objectives described in paragraph (1).

(3)(A) The demonstration project described in paragraph (1) shall be conducted in association with at least one—

(i) health profession school,

(ii) allied health profession or nurse training institution, or

(iii) public or private entity that provides health care.

Contracts.
Grants.

(B) The Secretary is authorized to enter into contracts with, or make grants to, any school of medicine or school of osteopathy for the purpose of carrying out the demonstration project described in paragraph (1).

(C) For purposes of this paragraph, the term "school of medicine" and "school of osteopathy" have the respective meaning given to such terms by section 701(4) of the Public Health Service Act (42 U.S.C. 292a(4)).

Report.

(4) The Secretary shall submit to Congress a final report on the demonstration project described in paragraph (1) within 60 days after the termination of such project.

(5) For purposes of this paragraph, the term "health promotion" shall include:

(A) reduction in the misuse of alcohol and drugs,

(B) cessation of tobacco smoking,

(C) improvement of nutrition,

(D) improvement in physical fitness,

(E) family planning, and

(F) control of stress.

(6) For purposes of this paragraph, the term "disease prevention" shall include:

(A) immunizations,

(B) control of high blood pressure,

(C) control of sexually transmittable diseases,

(D) prevention and control of diabetes,

(E) pregnancy and infant care (including prevention of fetal alcohol syndrome),

(F) control of toxic agents,

(G) occupational safety and health,

(H) accident prevention,

(I) fluoridation of water, and

(J) control of infectious agents.

(7) Section 4228 is amended by adding at the end the following: "*Provided*, That $500,000 shall be made available for activities described under section 4228(c)(1)".

(d) AUTHORIZATION.—There are authorized to be appropriated $4,000,000 for the fiscal year 1987 and such sums as are necessary to carry out the purposes of this section for the fiscal years 1988 and 1989.

SEC. 4229. NAVAJO ALCOHOL REHABILITATION DEMONSTRATION PROGRAM. 25 USC 2476.

(a) DEMONSTRATION PROGRAM.—The Secretary of Health and Human Services shall make grants to the Navajo tribe to establish a demonstration program in the city of Gallup, New Mexico, to rehabilitate adult Navajo Indians suffering from alcoholism or alcohol abuse. Grants.

(b) EVALUATION AND REPORT.—The Secretary, acting through the National Institute on Alcohol Abuse and Alcoholism, shall evaluate the program established under subsection (a) and submit a report on such evaluation to the appropriate committees of Congress by January 1, 1990.

(c) AUTHORIZATION.—There are authorized to be appropriated for the purposes of grants under subsection (a) $300,000 for each of the fiscal years 1988, 1989, and 1990. Not more than 10 percent of the funds appropriated for any fiscal year may be used for administrative purposes.

SEC. 4230. INDIAN HEALTH SERVICE REPORTS. 25 USC 2477. Contracts.

(a) COMPILATION OF DATA.—The Secretary of Health and Human Services, with respect to the administration of any health program by an Indian Health Service service unit, directly or through contract, including a contract under the Indian Self-Determination Act, shall require the compilation of data relating to the number of cases or incidents which any of the Indian Health Service personnel or services were involved and which were related, either directly or indirectly, to alcohol or substance abuse. Such report shall include the type of assistance provided and the disposition of these cases. 25 USC 450 note.

(b) REFERRAL OF DATA.—The data compiled under subsection (a) shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan.

(c) COMPREHENSIVE REPORT.—Each Indian Health Service service unit director shall be responsible for assembling the data compiled under this section and section 4204 into an annual tribal comprehensive report which shall be provided to the affected tribe and to the Director of the Indian Health Service who shall develop and publish a biennial national report on such tribal comprehensive reports.

Subtitle D—Miscellaneous Provisions

SEC. 4301. ACTION GRANTS.

The Domestic Volunteer Service Act of 1973 (as amended by the Domestic Volunteer Service Act Amendments of 1986) is amended— 42 USC 4951 note.

(1) in title I by adding after section 123 the following new section: 42 USC 4950 note.

"SPECIAL INITIATIVES

"SEC. 124. The Director is authorized to engage in activities that mobilize and initiate private sector efforts to increase voluntarism in preventing drug abuse through public awareness and education (including grants, contracts, conferences, public service announce- Voluntarism. 42 USC 4994.

ments, speakers bureau, public-private partnerships and technical assistance to nonprofit and for-profit organizations).";

42 USC 5081.

(2) by amending subsection (c) of section 501 by adding at the end thereof the following new sentence: "In addition to the amounts authorized to be appropriated by the preceding sentence, there is authorized to be appropriated the aggregate sum of $5,500,000 for fiscal years 1987 and 1988 to be made available for drug abuse prevention."; and

42 USC 5084.

(3) by amending section 504 by adding at the end thereof the following new sentence: "In addition to the amounts authorized to be appropriated for the administration of this Act by the preceding sentence, there is authorized to be appropriated the aggregate sum of $500,000 for fiscal years 1987 and 1988 to be available for support of drug abuse prevention.".

20 USC 4665.

SEC. 4302. ESTABLISHMENT OF NATIONAL TRUST FOR DRUG-FREE YOUTH.

(a) In order to encourage private gifts of real and personal property to assist the Secretary of Education in carrying out the national programs of drug abuse research, education, and prevention under subtitle B, there is hereby established a charitable, nonprofit, and nonpartisan corporation to be known as the National Trust for Drug-Free Youth.

(b) The National Trust for Drug-Free Youth (hereinafter in this section referred to as the "National Trust") shall be under the general direction of a Board of Directors. The overall priorities, policies, and goals of the National Trust shall be determined by the Board in consultation with the Secretary. The Board shall coordinate the activities of the National Trust for Drug-Free Youth with the Secretary. The Board shall be composed of three members appointed as follows:

(1) one member shall be appointed by the President;

(2) one member shall be appointed by the Speaker of the House of Representatives; and

(3) one member shall be appointed by the Majority Leader of the Senate.

(c) The National Trust shall have its principal office in the District of Columbia and for the purposes of venue in civil actions shall be considered an inhabitant and resident of the District.

(d) The National Trust shall have the following general powers:

(1) to have succession until dissolved by Act of Congress, in which event title to the properties of the National Trust, both real and personal shall, insofar as consistent with existing contractual obligations and subject to all other legally enforceable claims or demands by or against the National Trust, pass to and become vested in the United States of America;

(2) to adopt, alter, and use a corporate seal which shall be judicially noticed;

(3) to sue and be sued, complain and defend in any court of competent jurisdiction;

(4) to adopt and establish such bylaws, rules, and regulations, not inconsistent with the laws of the United States or of any State, as the Board considers necessary for the administration of its functions, including among other matter, bylaws, rules, and regulations governing administration of corporate funds;

(5) to accept, hold, and administer gifts and bequests of money, securities, or other personal property of whatsoever

character, absolutely or on trust, for the purposes for which the National Trust is created;

(6) to sell, exchange, or otherwise dispose of as it may determine from time to time the moneys, securities, or other gifts given or bequeathed to it;

(7) to appoint and prescribe the duties of such officers, agents, and employees as may be necessary to carry out its functions, and to fix and pay such compensation to them for their services as the National Trust is created; and

(8) to audit the financial records of the corporation.

(e) The National Trust shall not have authority—

(1) to issue shares or stock or declare or pay dividends; or

(2) to loan funds to its officers or directors.

(f) The Board shall submit an annual report and independent audit to the Congress and the President concerning the expenditure of funds under the National Trust. Report.

SEC. 4303. INFORMATION ON DRUG ABUSE AT THE WORKPLACE. 21 USC 801 note.

(a) The Secretary of Labor shall collect such information as is available on the incidence of drug abuse in the workplace and efforts to assist workers, including counseling, rehabilitation and employee assistance programs. The Secretary shall conduct such additional research as is necessary to assess the impact and extent of drug abuse and remediation efforts. The Secretary shall submit the findings of such collection and research to the House Committee on Education and Labor and the Senate Committee on Labor and Human Services no later than two years from the date of enactment of this Act.

(b) There is authorized to be appropriated the aggregate sum of $3,000,000 for fiscal years 1987 and 1988, to remain available until expended, to enable the Secretary of Labor to carry out the purposes of this section.

SEC. 4304. INTERAGENCY COORDINATION. 21 USC 801 note.

(a) The Secretary of Education, the Secretary of Health and Human Services, and the Secretary of Labor shall each designate an officer or employee of the Departments of Education, Health and Human Services, and Labor, respectively, to coordinate interagency drug abuse prevention activities to prevent duplication of effort.

(b) Within one year after enactment of this Act, a report shall be jointly submitted to the Congress by such Secretaries concerning the extent to which States and localities have been able to implement non-duplicative drug abuse prevention activities. Report.

TITLE V—UNITED STATES INSULAR AREAS AND NATIONAL PARKS

Subtitle A—Programs in United States Insular Areas

SEC. 5001. SHORT TITLE. United States Insular Areas Drug Abuse Act of 1986. 48 USC 1494 note.

This subtitle may be cited as the "United States Insular Areas Drug Abuse Act of 1986".

SEC. 5002. PURPOSES. 48 USC 1494.

The purposes of this subtitle are to improve enforcement of drug laws and enhance interdiction of illicit drug shipments in the Caribbean and Pacific territories and commonwealths of the United

States and to assist public and private sector drug abuse prevention and treatment programs in United States insular areas.

48 USC 1494a.

SEC. 5003. ANNUAL REPORTS TO CONGRESS.

President of U.S.

The President shall report annually to the Congress as to—

(1) the efforts and success of Federal agencies in preventing the illegal entry into the United States of controlled substances from the insular areas of the United States outside the customs territory of the United States and states freely associated with the United States and the nature and extent of such illegal entry, and

(2) the efforts and success of Federal agencies in preventing the illegal entry from other nations, including states freely associated with the United States, of controlled substances into the United States territories and the commonwealths for use in the territories and commonwealths or for transshipment to the United States and the nature and extent of such illegal entry and use.

48 USC 1494b.

SEC. 5004. ENFORCEMENT AND ADMINISTRATION IN INSULAR AREAS.

(a) AMERICAN SAMOA.—(1) With the approval of the Attorney General of the United States or his designee, law enforcement officers of the Government of American Samoa are authorized to—

(A) execute and serve warrants, subpoenas, and summons issued under the authority of the United States;

(B) make arrests without warrant; and

(C) make seizures of property to carry out the purposes of this subtitle, the Controlled Substances Import and Export Act (21 U.S.C. 951-970), and any other applicable narcotics laws of the United States.

(2) The Attorney General and the Secretary of Health and Human Services of the United States are authorized to—

(A) train law enforcement officers of the Government of American Samoa, and

(B) provide by purchase or lease law enforcement equipment and technical assistance to the Government of American Samoa to carry out the purposes of this subtitle and any other Federal or territorial drug abuse laws.

(3) There are authorized to be appropriated $700,000 to carry out the purposes of this subsection, to remain available until expended.

(b) GUAM.—(1) The Attorney General and the Secretary of Health and Human Services of the United States may provide technical assistance and equipment to the Government of Guam to carry out the purposes of this subtitle and any other Federal or territorial drug abuse law.

(2) There are authorized to be appropriated $1,000,000 to carry out paragraph (1). Funds appropriated under this paragraph shall remain available until expended.

(c) THE NORTHERN MARIANA ISLANDS.—(1) With the approval of the Attorney General of the United States or his designee, law enforcement officers of the Government of the Northern Mariana Islands are authorized to—

(A) execute and serve warrants, subpoenas, and summons issued under the authority of the United States;

(B) make arrests without warrant; and

(C) make seizures of property to carry out the purposes of this subtitle, the Controlled Substances Import and Export Act (21

U.S.C. 951-970), and any other applicable narcotics laws of the United States.

(2) The Attorney General of the United States and the Secretary of Health and Human Services, as appropriate, are authorized to— Northern Mariana Islands.

(A) train law enforcement officers of the Government of the Northern Mariana Islands, and

(B) provide, by purchase or lease, law enforcement equipment and technical assistance to the Government of the Northern Mariana Islands to carry out the purposes of this subtitle and any other Federal or commonwealth drug abuse law.

(3) There are authorized to be appropriated $250,000 to carry out the purposes of this subsection, to remain available until expended.

(4) Federal personnel and equipment assigned to Guam pursuant to subsection (b) of this section shall also be available to carry out the purposes of this subtitle in the Northern Mariana Islands.

(d) PUERTO RICO.—(1) There are authorized to be appropriated for grants to the Government of Puerto Rico— Grants.

(A) $3,300,000 for the purchase of 2 helicopters;

(B) $3,500,000 for the purchase of an aircraft; and

(C) $1,000,000 for the purchase and maintenance of 5 high-speed vessels.

Sums appropriated under this paragraph shall remain available until expended.

(2) The United States Customs Service should station an aerostat in Puerto Rico.

(3) Equipment provided to the Government of Puerto Rico pursuant to paragraph (1) of this subsection shall be made available upon request to the Federal agencies involved in drug interdiction in Puerto Rico.

(4)(A) The Attorney General and the Secretary of Health and Human Services of the United States may provide technical assistance and equipment to the Government of Puerto Rico to carry out the purposes of this subtitle and any other Federal or commonwealth drug abuse law.

(B) There are authorized to be appropriated such sums as may be necessary to carry out subparagraph (A). Funds appropriated under this subparagraph shall remain available until expended.

(e) THE VIRGIN ISLANDS.—(1) There are authorized to be appropriated for grants to the Government of the Virgin Islands— Grants.

(A) $3,000,000 for 2 patrol vessels, tracking equipment, supplies, and agents, and

(B) $1,000,000 for programs to prevent and treat narcotics abuse, such sums to remain available until expended.

(2) The United States Coast Guard should station a patrol vessel in St. Croix, Virgin Islands.

(3)(A) The Attorney General and the Secretary of Health and Human Services of the United States may provide technical assistance and equipment to the Government of the United States Virgin Islands to carry out the purposes of this subtitle and any other Federal or territorial drug abuse law.

(B) There are authorized to be appropriated such sums as may be necessary to carry out subparagraph (A). Funds appropriated under this subparagraph shall remain available until expended.

Subtitle B—National Park Service Program

SEC. 5051. SHORT TITLE. National Park Police Drug Enforcement Supplemental Authority Act. 16 USC 1 note.

This subtitle may be cited as the "National Park Police Drug Enforcement Supplemental Authority Act".

16 USC 1 note.

SEC. 5052. NATIONAL PARK POLICE AUTHORIZATION.

In order to improve Federal law enforcement activities relating to the use of narcotics and prohibited substances in National Park System units there are made available to the Secretary of the Interior, in addition to sums made available under other authority of law, $1,000,000 for the fiscal year 1987, and for each fiscal year thereafter, to be used for the employment and training of additional Park Police, for equipment and facilities to be used by Park Police, and for expenses related to such employment, training, equipment, and facilities.

Federal Employee Substance Abuse Education and Treatment Act of 1986.
5 USC 7301 note.

TITLE VI—FEDERAL EMPLOYEE SUBSTANCE ABUSE EDUCATION AND TREATMENT

SEC. 6001. SHORT TITLE.

This title may be cited as the "Federal Employee Substance Abuse Education and Treatment Act of 1986".

SEC. 6002. PROGRAMS TO PROVIDE PREVENTION, TREATMENT, AND REHABILITATION SERVICES TO FEDERAL EMPLOYEES WITH RESPECT TO DRUG AND ALCOHOL ABUSE.

(a) IN GENERAL.—(1) Chapter 73 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER VI—DRUG ABUSE, ALCOHOL ABUSE, AND ALCOHOLISM

5 USC 7361.

"§ 7361. Drug abuse

"(a) The Office of Personnel Management shall be responsible for developing, in cooperation with the President, with the Secretary of Health and Human Services (acting through the National Institute on Drug Abuse), and with other agencies, and in accordance with applicable provisions of this subchapter, appropriate prevention, treatment, and rehabilitation programs and services for drug abuse among employees. Such agencies are encouraged to extend, to the extent feasible, such programs and services to the families of employees and to employees who have family members who are drug abusers. Such programs and services shall make optimal use of existing governmental facilities, services, and skills.

"(b) Section 527 of the Public Health Service Act (42 U.S.C. 290ee-3), relating to confidentiality of records, and any regulations prescribed thereunder, shall apply with respect to records maintained for the purpose of carrying out this section.

Reports.

"(c) Each agency shall, with respect to any programs or services provided by such agency, submit such written reports as the Office may require in connection with any report required under section 7363 of this title.

"(d) For the purpose of this section, the term 'agency' means an Executive agency.

5 USC 7362.

"§ 7362. Alcohol abuse and alcoholism

"(a) The Office of Personnel Management shall be responsible for developing, in cooperation with the Secretary of Health and Human Services and with other agencies, and in accordance with applicable provisions of this subpart, appropriate prevention, treatment, and rehabilitation programs and services for alcohol abuse and alcohol-

ism among employees. Such agencies are encouraged to extend, to the extent feasible, such programs and services to the families of alcoholic employees and to employees who have family members who are alcoholics. Such programs and services shall make optimal use of existing governmental facilities, services, and skills.

"(b) Section 523 of the Public Health Service Act (42 U.S.C. 290dd-3), relating to confidentiality of records, and any regulations prescribed thereunder, shall apply with respect to records maintained for the purpose of carrying out this section.

"(c) Each agency shall, with respect to any programs or services provided by such agency, submit such written reports as the Office may require in connection with any report required under section 7363 of this title.

"(d) For the purpose of this section, the term 'agency' means an Executive agency.

"§ 7363. Reports to Congress 5 USC 7363.

"(a) The Office of Personnel Management shall, within 6 months after the date of the enactment of the Federal Employee Substance Abuse Education and Treatment Act of 1986 and annually thereafter, submit to each House of Congress a report containing the matters described in subsection (b).

"(b) Each report under this section shall include—

"(1) a description of any programs or services provided under section 7361 or 7362 of this title, including the costs associated with each such program or service and the source and adequacy of any funding such program or service;

"(2) a description of the levels of participation in each program and service provided under section 7361 or 7362 of this title, and the effectiveness of such programs and services;

"(3) a description of the training and qualifications required of the personnel providing any program or service under section 7361 or 7362 of this title;

"(4) a description of the training given to supervisory personnel in connection with recognizing the symptoms of drug or alcohol abuse and the procedures (including those relating to confidentiality) under which individuals are referred for treatment, rehabilitation, or other assistance;

"(5) any recommendations for legislation considered appropriate by the Office and any proposed administrative actions; and

"(6) information describing any other related activities under section 7904 of this title, and any other matter which the Office considers appropriate.".

(2) The analysis for chapter 73 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER VI—DRUG ABUSE, ALCOHOL ABUSE, AND ALCOHOLISM

"Sec.
"7361. Drug abuse.
"7362. Alcohol abuse and alcoholism.
"7363. Reports to Congress.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.— The Public Health Service Act is amended—

(1) in section 521 (42 U.S.C. 290dd-1)—

(A) by striking out subsection (a);

(B) by striking out "similar" in subsection (b)(1); and

(C) by redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively; and

(2) in section 525 (42 U.S.C. 290ee-1)—

(A) by striking out subsection (a);

(B) by striking out "similar" in subsection (b)(1); and

(C) by redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively.

5 USC 7361 note.

SEC. 6003. EDUCATIONAL PROGRAM FOR FEDERAL EMPLOYEES RELATING TO DRUG AND ALCOHOL ABUSE.

(a) ESTABLISHMENT.—The Director of the Office of Personnel Management shall, in consultation with the Secretary of Health and Human Services, establish a Government-wide education program, using seminars and such other methods as the Director considers appropriate, to carry out the purposes prescribed in subsection (b).

(b) PURPOSES.—The program established under this section shall be designed to provide information to Federal Government employees with respect to—

(1) the short-term and long-term health hazards associated with alcohol abuse and drug abuse;

(2) the symptoms of alcohol abuse and drug abuse;

(3) the availability of any prevention, treatment, or rehabilitation programs or services relating to alcohol abuse or drug abuse, whether provided by the Federal Government or otherwise;

(4) confidentiality protections afforded in connection with any prevention, treatment, or rehabilitation programs or services;

(5) any penalties provided under law or regulation, and any administrative action (permissive or mandatory), relating to the use of alcohol or drugs by a Federal Government employee or the failure to seek or receive appropriate treatment or rehabilitation services; and

(6) any other matter which the Director considers appropriate.

SEC. 6004. EMPLOYEE ASSISTANCE PROGRAMS RELATING TO DRUG ABUSE AND ALCOHOL ABUSE.

(a) IN GENERAL.—Chapter 79 of title 5, United States Code, is amended by adding at the end the following:

5 USC 7904.

"§ 7904. Employee assistance programs relating to drug abuse and alcohol abuse

"(a) The head of each Executive agency shall, in a manner consistent with guidelines prescribed under subsection (b) of this section and applicable provisions of law, establish appropriate prevention, treatment, and rehabilitation programs and services for drug abuse and alcohol abuse for employees in or under such agency.

"(b) The Office of Personnel Management shall, after such consultations as the Office considers appropriate, prescribe guidelines for programs and services under this section.

"(c) The Secretary of Health and Human Services, on request of the head of an Executive agency, shall review any program or service provided under this section and shall submit comments and recommendations to the head of the agency concerned.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 79 of title 5, United States Code, is amended by adding at the end the following:

"7904. Employee assistance programs relating to drug abuse and alcohol abuse.".

SEC. 6005. SUBSTANCE ABUSE COVERAGE STUDY. 21 USC 801 note.

(a) STUDY.—The Secretary of Health and Human Services shall contract with the Institute of Medicine of the National Academy of Sciences to conduct a study of (1) the extent to which the cost of drug abuse treatment is covered by private insurance, public programs, and other sources of payment, and (2) the adequacy of such coverage for the rehabilitation of drug abusers. Contracts.

(b) REPORT.—Not later than one year after the date of the enactment of this Act the Secretary of Health and Human Services shall transmit to the Congress a report of the results of the study conducted under subsection (a). The report shall include recommendations of means to meet the needs identified in such study.

SEC. 6006. HEALTH INSURANCE COVERAGE FOR DRUG AND ALCOHOL TREATMENT. 21 USC 801 note.

(a) FINDINGS.—The Congress finds that—

(1) drug and alcohol abuse are problems of grave concern and consequence in American society;

(2) over 500,000 individuals are known heroin addicts; 5 million individuals use cocaine; and at least 7 million individuals regularly use prescription drugs, mostly addictive ones, without medical supervision;

(3) 10 million adults and 3 million children and adolescents abuse alcohol, and an additional 30 to 40 million people are adversely affected because of close family ties to alcoholics;

(4) the total cost of drug abuse to the Nation in 1983 was over $60,000,000,000; and

(5) the vast majority of health benefits plans provide only limited coverage for treatment of drug and alcohol addiction, which is a fact that can discourage the abuser from seeking treatment or, if the abuser does seek treatment, can cause the abuser to face significant out of pocket expenses for the treatment.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) all employers providing health insurance policies should ensure that the policies provide adequate coverage for treatment of drug and alcohol addiction in recognition that the health consequences and costs for individuals and society can be as formidable as those resulting from other diseases and illnesses for which insurance coverage is much more adequate; and

(2) State insurance commissioners should encourage employers providing health benefits plans to ensure that the policies provide more adequate coverage for treatment of drug and alcohol addiction. State and local governments.

TITLE VII—NATIONAL ANTIDRUG REORGANIZATION AND COORDINATION

National Antidrug Reorganization and Coordination Act.

SEC. 7001. SHORT TITLE.

This title may be cited as the "National Antidrug Reorganization and Coordination Act".

SEC. 7002. FINDINGS.

The Congress finds that—

(1) the Federal Government's response to drug trafficking and drug abuse is divided among several dozen agencies and bureaus of the Government, ranging from the Department of Defense to the Department of Health and Human Services;

(2) numerous recent congressional hearings and reports, reports by the Comptroller General, and studies by Executive branch agencies have documented the waste and inefficiency caused by this division of responsibilities;

(3) interagency competition for credit and budget dollars imposes critical obstacles to efficient application of national resources in combating drug trafficking and drug abuse; and

(4) successfully combating such trafficking and drug abuse requires coherent planning that includes intelligent organization and operations of Executive branch agencies.

President of U.S. State and local governments.

SEC. 7003. SUBMISSION OF LEGISLATION.

Not later than 6 months after the date of enactment of this title, the President shall submit to each House of Congress recommendations for legislation to reorganize the Executive branch of the Government to more effectively combat drug traffic and drug abuse. In the preparation of such recommendations, the President shall consult with the Comptroller General, State and local law enforcement authorities, relevant committees of the Congress, and the Attorney General and the Secretaries of State, the Treasury, Transportation, Health and Human Services, Defense, and Education.

President's Media Commission on Alcohol and Drug Abuse Prevention Act. 21 USC 1301 note.

TITLE VIII—PRESIDENT'S MEDIA COMMISSION ON ALCOHOL AND DRUG ABUSE PREVENTION

SEC. 8001. SHORT TITLE.

This title may be cited as the "President's Media Commission on Alcohol and Drug Abuse Prevention Act".

21 USC 1301.

SEC. 8002. ESTABLISHMENT.

There is established a commission to be known as the President's Media Commission on Alcohol and Drug Abuse Prevention (hereinafter in this title referred to as the "Commission").

21 USC 1302.

SEC. 8003. DUTIES OF COMMISSION.

The Commission shall—

(1) examine public education programs in effect on the date of the enactment of this title which are—

(A) implemented through various segments of mass media; and

(B) intended to prevent alcohol and drug abuse;

(2) act as an administrative and coordinating body for the voluntary donation of resources from—

(A) television, radio, motion picture, cable communications, and print media;

(B) the recording industry;

(C) the advertising industry;

(D) the business sector of the United States; and

(E) professional sports organizations and associations;

to assist the implementation of new programs and national strategies for dissemination of information intended to prevent alcohol and drug abuse;

(3) encourage media outlets throughout the country to provide information aimed at preventing alcohol and drug abuse, including public service announcements, documentary films, and advertisements; and

(4) evaluate the effectiveness and assist in the update of programs and national strategies formulated with the assistance of the Commission.

SEC. 8004. MEMBERSHIP. 21 USC 1303.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 12 members appointed by the President within 30 days after the date of the enactment of this title, and should include representatives of—

(1) advertising agencies;

(2) motion picture, television, radio, cable communications, and print media;

(3) the recording industry;

(4) other segments of the business sector of the United States;

(5) experts in the prevention of alcohol and drug abuse;

(6) professional sports organizations and associations; and

(7) other Federal agencies, as designated by the President, including the Director of the Agency for Substance Abuse Prevention of the Department of Health and Human Services.

(b) TERMS.—(1) Except as provided in paragraphs (2) and (3), members shall be appointed for terms of 3 years.

(2) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(3) A member may serve after the expiration of his term until his successor has taken office.

(c) BASIC PAY AND EXPENSES.—(1) Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons serving intermittently in the Government service are allowed travel expenses under section 5703 of title 5, United States Code.

SEC. 8005. MEETINGS. 21 USC 1304.

(a) IN GENERAL.—(1) The Commission shall meet at the call of the Moderator.

(2) The Moderator shall convene the 1st meeting of the Commission within 30 days after the date of the completion of appointments under section 8004(a).

(b) MODERATOR.—One member of the Commission shall be designated by the President to serve as Moderator of the Commission.

(c) QUORUM AND PROCEDURE.—The Commission shall adopt rules regarding quorum requirements and meeting procedures as the Commission deems appropriate at the 1st meeting of the Commission.

(d) VOTING.—Decisions and official acts of the Commission shall be according to the vote of a majority of members at a properly called meeting.

91-139 O - 87 - 6 (591)

21 USC 1305.

SEC. 8006. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

(a) DIRECTOR AND STAFF.—(1) Subject to paragraph (2), the Moderator, with the approval of the Commission, may employ and set the rate of pay for a Director and such staff as the Moderator deems necessary.

(2) Rates of pay set under paragraph (1) shall be less than the rate of basic pay payable under section 5316 of title 5, United States Code.

(b) EXPERTS AND CONSULTANTS.—The Moderator, with the approval of the Commission, may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(c) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this title.

21 USC 1306.

SEC. 8007. POWERS OF COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this title, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(b) OBTAINING OFFICIAL DATA.—Upon the request of the Moderator of the Commission, the Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this title.

(c) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

21 USC 1307.

SEC. 8008. REPORT.

The Commission shall transmit to the President and to each House of Congress a report not later than July 31 of each year which contains a detailed statement of the activities of the Commission during the preceding year, including a summary of the number of public service announcements produced by the Commission and published or broadcast.

21 USC 1308.

SEC. 8009. TERMINATION.

The Commission shall terminate on a date which is three years after the date on which members of the Commission are first appointed, unless the President, by Executive order, extends the authority of the Commission.

TITLE IX—DENIAL OF TRADE BENEFITS TO UNCOOPERATIVE MAJOR DRUG PRODUCING OR DRUG-TRANSIT COUNTRIES

SEC. 9001. TARIFF TREATMENT OF PRODUCTS OF UNCOOPERATIVE MAJOR DRUG PRODUCING OR DRUG-TRANSIT COUNTRIES.

The Trade Act of 1974 is amended by adding at the end thereof the following: 19 USC 2101.

"TITLE VIII—TARIFF TREATMENT OF PRODUCTS OF UNCOOPERATIVE MAJOR DRUG PRODUCING OR DRUG-TRANSIT COUNTRIES

Narcotics Control Trade Act.

"SEC. 801. SHORT TITLE.

19 USC 2491.

"This title may be cited as the 'Narcotics Control Trade Act'.

"SEC. 802. TARIFF TREATMENT OF PRODUCTS OF UNCOOPERATIVE MAJOR DRUG PRODUCING OR DRUG-TRANSIT COUNTRIES.

19 USC 2492.

"(a) REQUIRED ACTION BY PRESIDENT.—Subject to subsection (b), for every major drug producing country and every major drug-transit country, the President shall, on or after March 1, 1987, and March 1 of each succeeding year, to the extent considered necessary by the President to achieve the purposes of this title—

"(1) deny to any or all of the products of that country tariff treatment under the Generalized System of Preferences, the Caribbean Basin Economic Recovery Act, or any other law providing preferential tariff treatment; 19 USC 2701 note.

"(2) apply to any or all of the dutiable products of that country an additional duty at a rate not to exceed 50 percent ad valorem or the specific rate equivalent;

"(3) apply to one or more duty-free products of that country a duty at a rate not to exceed 50 percent ad valorem; or

"(4) take any combination of the actions described in paragraphs (1), (2), and (3).

"(b) CERTIFICATIONS; CONGRESSIONAL ACTION.—(1) Subsection (a) shall not apply with respect to a country if the President determines and so certifies to the Congress, at the time of the submission of the report required by section 481(e) of the Foreign Assistance Act of 1961, that during the previous year that country has cooperated fully with the United States, or has taken adequate steps on its own, in preventing narcotic and psychotropic drugs and other controlled substances produced or processed, in whole or in part, in such country or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States and in preventing and punishing the laundering in that country of drug-related profits or drug-related monies. *Ante*, p. 3207-63.

"(2) In making the certification required by paragraph (1), the President shall give foremost consideration to whether the actions of the government of the country have resulted in the maximum reductions in illicit drug production which were determined to be achievable pursuant to section 481(e)(4) of the Foreign Assistance Act of 1961. The President shall also consider whether such government—

"(A) has taken the legal and law enforcement measures to enforce in its territory, to the maximum extent possible, the elimination of illicit cultivation and the suppression of illicit manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances, as evidenced by seizures of such drugs and substances and of illicit laboratories and the arrest and prosecution of violators involved in the traffic in such drugs and substances significantly affecting the United States; and

"(B) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, the laundering in that country of drug-related profits or drug-related monies, as evidence by—

"(i) the enactment and enforcement of laws prohibiting such conduct,

"(ii) the willingness of such government to enter into mutual legal assistance agreements with the United States governing (but not limited to) money laundering, and

"(iii) the degree to which such government otherwise cooperates with United States law enforcement authorities on anti-money laundering efforts.

Congress.

"(3) Subsection (a) shall apply to a country without regard to paragraph (1) of this subsection if the Congress enacts, within 30 days of continuous session after receipt of a certification under paragraph (1), a joint resolution disapproving the determination of the President contained in that certification.

President of U.S.

"(4) If the President takes action under subsection (a), that action shall remain in effect until—

"(A) the President makes the certification under paragraph (1), a period of 30 days of continuous session of Congress elapses, and during that period the Congress does not enact a joint resolution of disapproval; or

"(B) the President submits at any other time a certification of the matters described in paragraph (1) with respect to that country, a period of 30 days of continuous session of Congress elapses, and during that period the Congress does not enact a joint resolution of disapproving the determination contained in that certification.

"(5) For the purpose of expediting the consideration and enactment of joint resolutions under paragraphs (3) and (4)—

"(A) a motion to proceed to the consideration of any such joint resolution after it has been reported by the Committee on Ways and Means shall be treated as highly privileged in the House of Representatives; and

"(B) a motion to proceed to the consideration of any such joint resolution after it has been reported by the Committee on Finance shall be treated as privileged in the Senate.

"(c) DURATION OF ACTION.—The action taken by the President under subsection (a) shall apply to the products of a foreign country that are entered, or withdrawn from warehouse for consumption, during the period that such action is in effect.

19 USC 2493.

"SEC. 803. SUGAR QUOTA.

"Notwithstanding any other provision of law, the President may not allocate any limitation imposed on the quantity of sugar to any country which has a Government involved in the trade of illicit narcotics or is failing to cooperate with the United States in narcot-

ics enforcement activities as defined in section 802(b) as determined by the President.

"SEC. 804. PROGRESS REPORTS. 19 USC 2494.

"The President shall include as a part of the annual report required under section 481(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(1)) an evaluation of progress that each major drug producing country and each major drug-transit country has made during the reporting period in achieving the objectives set forth in section 802(b).

"SEC. 805. DEFINITIONS. 19 USC 2495.

"For purposes of this title—

"(1) continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period indicated;

"(2) the term 'major drug producing country' means a country producing five metric tons or more of opium or opium derivative during a fiscal year or producing five hundred metric tons or more of coca or marijuana (as the case may be) during a fiscal year; and

"(3) the term 'major drug-transit country' means a country—

"(A) that is a significant direct source of illicit narcotic or psychotropic drugs or other controlled substances significantly affecting the United States;

"(B) through which are transported such drugs or substances; or

"(C) through which significant sums of drug-related profits or monies are laundered with the knowledge or complicity of the government; and

"(4) the term 'narcotic and psychotropic drugs and other controlled substances' has the same meaning as is given by any applicable international narcotics control agreement or domestic law of the country or countries concerned.".

SEC. 9002. CONFORMING AMENDMENTS.

(a) GENERALIZED SYSTEM OF PREFERENCES.—Section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended—

(1) by striking out paragraph (5);

(2) by redesignating paragraphs (6), (7), and (8) as paragraphs (5), (6), and (7); and

(3) by striking out "(5)," in the last sentence.

(b) CARIBBEAN BASIN ECONOMIC RECOVERY.—Section 212(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(b)) is amended—

(1) by inserting "and" after the semicolon at the end of paragraph (5);

(2) by striking out paragraph (6); and

(3) by redesignating paragraph (7) as paragraph (6).

TITLE X—BALLISTIC KNIFE PROHIBITION

Ballistic Knife Prohibition Act of 1986.

SEC. 10001. SHORT TITLE.

15 USC 1241 note.

This title may be cited as the "Ballistic Knife Prohibition Act of 1986".

SEC. 10002. PROHIBITION OF POSSESSION, MANUFACTURE, SALE, AND IMPORTATION OF BALLISTIC KNIVES.

The Act entitled "An Act to prohibit the introduction, or manufacture for introduction, into interstate commerce of switchblade knives, and for other purposes" (15 U.S.C. 1232 et seq.) is amended by adding at the end the following:

15 USC 1241.

15 USC 1245.

"SEC. 7. (a) Whoever knowingly possesses, manufactures, sells, or imports a ballistic knife shall be fined as provided in title 18, United States Code, or imprisoned not more than ten years, or both.

"(b) Whoever possesses or uses a ballistic knife in the commission of a Federal or State crime of violence shall be fined as provided in title 18, United States Code, or imprisoned not less than five years and not more than ten years, or both.

"(c) The exceptions provided in paragraphs (1), (2), and (3) of section 4 with respect to switchblade knives shall apply to ballistic knives under subsection (a) of this section.

"(d) As used in this section, the term 'ballistic knife' means a knife with a detachable blade that is propelled by a spring-operated mechanism.".

SEC. 10003. NONMAILABILITY OF BALLISTIC KNIVES.

Section 1716 of title 18, United States Code, is amended by inserting after subsection (h) and before the first undesignated paragraph after such subsection the following:

"(i)(1) Any ballistic knife shall be subject to the same restrictions and penalties provided under subsection (g) for knives described in the first sentence of that subsection.

"(2) As used in this subsection, the term 'ballistic knife' means a knife with a detachable blade that is propelled by a spring-operated mechanism.".

15 USC 1245 note.

SEC. 10004. EFFECTIVE DATE.

The amendments made by this title shall take effect 30 days after the date of enactment of this title.

Homeless Eligibility Clarification Act.

TITLE XI—HOMELESS ELIGIBILITY CLARIFICATION ACT

SEC. 11001. SHORT TITLE.

7 USC 2011 note.

This title may be cited as the "Homeless Eligibility Clarification Act".

Subtitle A—Emergency Food for the Homeless

SEC. 11002. MEALS SERVED TO HOMELESS INDIVIDUALS.

(a) DEFINITION OF FOOD.—Section 3(g) of the Food Stamp Act of 1977 (7 U.S.C. 2012(g)) is amended—

(1) in clause (1), by striking out "and (8)" and inserting in lieu thereof "(8), and (9)";

(2) by striking out "and" at the end of clause (7); and

(3) by inserting before the period at the end thereof the following: ", and (9) in the case of households that do not reside in permanent dwellings and households that have no fixed mailing addresses, meals prepared for and served by a public or private nonprofit establishment (approved by an appropriate State or local agency) that feeds such individuals and by a public or private nonprofit shelter (approved by an appropriate State or local agency) in which such households temporarily

reside (except that such establishments and shelters may only request voluntary use of food stamps by such individuals and may not request such households to pay more than the average cost of the food contained in a meal served by the establishment or shelter)".

(b) DEFINITION OF HOUSEHOLD.—The last sentence of section 3(i) of such Act (7 U.S.C. 2012(i)) is amended by inserting after "battered women and children," the following: "residents of public or private nonprofit shelters for individuals who do not reside in permanent dwellings or have no fixed mailing addresses, who are otherwise eligible for coupons,".

(c) DEFINITION OF RETAIL FOOD STORE.—Section 3(k)(2) of such Act (7 U.S.C. 2012(k)(2)) is amended by striking "and (8)" and inserting in lieu thereof "(8), and (9)".

(d) PARTICIPATION OF ESTABLISHMENTS AND SHELTERS.—Section 9 of such Act (7 U.S.C. 2018) is amended by adding at the end thereof the following new subsection:

"(g) In an area in which the Secretary, in consultation with the Inspector General of the Department of Agriculture, finds evidence that the participation of an establishment or shelter described in section 3(g)(9) damages the program's integrity, the Secretary shall limit the participation of such establishment or shelter in the food stamp program, unless the establishment or shelter is the only establishment or shelter serving the area.".

(e) REDEMPTION OF COUPONS.—The first sentence of section 10 of such Act (7 U.S.C. 2019) is amended—

(1) by striking out "and" after "battered women and children,"; and

(2) by inserting after "blind residents" the following: ", and public or private nonprofit establishments, or public or private nonprofit shelters that feed individuals who do not reside in permanent dwellings and individuals who have no fixed mailing addresses".

(f)(1) The amendments made by this section shall become effective, and be implemented by issuance of final regulations, not later than April 1, 1987.

Effective date. Regulations. 7 USC 2012 note.

(2) Not later than September 30, 1988, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that evaluates the program established by the amendments made by this section, including any proposed legislative recommendations.

Report.

(3) The amendments made by this section shall cease to be effective after September 30, 1990.

Subtitle B—Job Training for the Homeless

SEC. 11004. JOB TRAINING FOR THE HOMELESS.

(a) GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN TO INCLUDE HOMELESS.—(1) Section 121(b)(1) of the Job Training Partnership Act (20 U.S.C. 1531(b)(1)) is amended by inserting after "rehabilitation agencies" a comma and the following: "programs for the homeless".

29 USC 1531.

(2) Section 121(c)(3) of the Job Training Partnership Act is amended by inserting after "offenders" a comma and the following: "homeless individuals".

(b) BARRIERS TO EMPLOYMENT RULE.—Section 203(a)(2) of the Job Training Partnership Act (29 U.S.C. 1603(a)(2)) is amended by striking out "or addicts" and inserting in lieu thereof "addicts, or homeless".

Subtitle C—Entitlements Eligibility

SEC. 11005. TREATMENT OF HOMELESS INDIVIDUALS ELIGIBLE UNDER SSI AND MEDICAID PROGRAMS.

(a) SSI PROGRAM.—Section 1631(e) of the Social Security Act (42 U.S.C. 1383(e)) is amended by adding at the end the following new paragraph:

"(3) The Secretary shall provide a method of making payments under this title to an eligible individual who does not reside in a permanent dwelling or does not have a fixed home or mailing address.".

(b) MEDICAID PROGRAM.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (45),

(2) by striking the period at the end of paragraph (46) and inserting in lieu thereof "; and", and

(3) by adding at the end the following new paragraph:

"(47) provide a method of making cards evidencing eligibility for medical assistance available to an eligible individual who does not reside in a permanent dwelling or does not have a fixed home or mailing address.".

42 USC 1383 note.

(c) EFFECTIVE DATE.—(1) The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

42 USC 1396aa note.

(2) The amendments made by subsection (b) shall become effective on January 1, 1987, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

State and local governments.
42 USC 602 note.
42 USC 601.

(d) AFDC.—No later than six months after the date of enactment of this act and after consultation with the States administering plans under Title IV of the Social Security Act, the Secretary of Health and Human Services shall issue guidelines to the States for providing benefits under Title IV to a dependent child who does not reside in a permanent dwelling or does not have a fixed home or mailing address

SEC. 11006. APPLICATION FOR SSI AND FOOD STAMP BENEFITS BY SSI PRE-RELEASE INDIVIDUALS.

Section 1631 of the Social Security Act (42 U.S.C. 1383) is amended by adding at the end thereof the following new subsection:

"PRE-RELEASE PROCEDURES FOR INSTITUTIONALIZED PERSONS

"(j) The Secretary shall develop a system under which an individual can apply for supplemental security income benefits under this title prior to the discharge or release of the individual from a public institution. The Secretary and the Secretary of Agriculture shall develop a procedure under which an individual who applies for supplemental security income benefits under this title shall also be permitted to apply for participation in the food stamp program by executing a single application.".

SEC. 11007. DELIVERY OF VETERANS' BENEFITS PAYMENTS.

(a) IN GENERAL.—(1) Section 3003 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) Benefits under laws administered by the Veterans' Administration may not be denied an applicant on the basis that the applicant does not have a mailing address.".

(2) Section 3020 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(f)(1) In the case of a payee who does not have a mailing address, payments of monetary benefits under laws administered by the Veterans' Administration shall be delivered under an appropriate method prescribed pursuant to paragraph (2) of this subsection.

"(2) The Administrator shall prescribe an appropriate method or methods for the delivery of payments of monetary benefits under laws administered by the Veterans' Administration in cases described in paragraph (1) of this subsection. To the maximum extent practicable, such method or methods shall be designed to ensure the delivery of payments in such cases.".

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a)(1) shall take effect on the date of enactment of this Act.

38 USC 3003 note.

(2) The amendment made by subsection (a)(2) shall take effect with respect to payments made on or after October 1, 1986.

38 USC 3020 note.

TITLE XII—COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1986

Commercial Motor Vehicle Safety Act of 1986.
49 USC app. 2701 note.

SECTION 12001. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Commercial Motor Vehicle Safety Act of 1986".

(b) TABLE OF CONTENTS.—

Sec. 12001. Short title.
Sec. 12002. Limitation on number of driver's licenses.
Sec. 12003. Notification requirements.
Sec. 12004. Employer responsibilities.
Sec. 12005. Testing of operators.
Sec. 12006. Commercial driver's license.
Sec. 12007. Commercial driver's license information system.
Sec. 12008. Federal disqualifications.
Sec. 12009. Requirements for State participation.
Sec. 12010. Grant program.
Sec. 12011. Withholding of highway funds for State noncompliance.
Sec. 12012. Penalties.
Sec. 12013. Waiver authority.
Sec. 12014. Commercial motor vehicle safety grants.
Sec. 12015. Truck brake regulations.
Sec. 12016. Radar demonstration project.
Sec. 12017. Limitation on statutory construction.
Sec. 12018. Regulations.
Sec. 12019. Definitions.

SEC. 12002. LIMITATION ON NUMBER OF DRIVER'S LICENSES.

Effective date. State and local governments. 49 USC app. 2701.

Effective July 1, 1987, no person who operates a commercial motor vehicle shall at any time have more than one driver's license, except during the 10-day period beginning on the date such person is issued a driver's license and except whenever a State law enacted on or before June 1, 1986, requires such person to have more than one driver's license. The second exception in the preceding sentence shall not be effective after December 31, 1989.

Effective dates.

49 USC app. 2702.

SEC. 12003. NOTIFICATION REQUIREMENTS.

(a) NOTIFICATION OF VIOLATIONS.—

(1) TO STATES.—Effective July 1, 1987, each person who operates a commercial vehicle, who has a driver's license issued by a State, and who violates a State or local law relating to motor vehicle traffic control (other than a parking violation) in any other State shall notify a State official designated by the State which issued such license of such violation, within 30 days after the date such person is found to have committed such violation.

(2) TO EMPLOYERS.—Effective July 1, 1987, each person who operates a commercial vehicle, who has a driver's license issued by a State, and who violates a State or local law relating to motor vehicle traffic control (other than a parking violation) shall notify his or her employer of such violation, within 30 days after the date such person is found to have committed such violation.

(b) NOTIFICATION OF SUSPENSIONS.—Effective July 1, 1987, each employee who has a driver's license suspended, revoked, or cancelled by a State, who loses the right to operate a commercial motor vehicle in a State for any period, or who is disqualified from operating a commercial motor vehicle for any period shall notify his or her employer of such suspension, revocation, cancellation, lost right, or disqualification, within 30 days after the date of such suspension, revocation, cancellation, lost right, or disqualification.

(c) NOTIFICATION OF PREVIOUS EMPLOYMENT.—

(1) GENERAL RULE.—Effective July 1, 1987, subject to paragraph (2) of this subsection, each person who operates a commercial motor vehicle and applies for employment as an operator of a commercial motor vehicle with an employer shall notify at the time of such application the employer of his or her previous employment as an operator of a commercial motor vehicle.

Regulations.

(2) PERIOD OF PREVIOUS EMPLOYMENT.—The Secretary shall establish by regulation the period for which previous employment must be notified under paragraph (1), except that such period shall not be less than a 10-year period ending on the date of application for employment.

Effective date. State and local governments. 49 USC app. 2703.

SEC. 12004. EMPLOYER RESPONSIBILITIES.

Effective July 1, 1987, no employer shall knowingly allow, permit, or authorize an employee to operate a commercial motor vehicle in the United States during any period—

(1) in which such employee has a driver's license suspended, revoked, or cancelled by a State, has lost the right to operate a commercial motor vehicle in a State, or has been disqualified from operating a commercial motor vehicle; or

(2) in which such employee has more than 1 driver's license, except during the 10-day period beginning on the date such employee is issued a driver's license and except whenever a State law enacted on or before June 1, 1986, requires such employee to have more than one driver's license.

The second exception in paragraph (2) shall not be effective after December 31, 1989.

49 USC app. 2704. Regulations.

SEC. 12005. TESTING OF OPERATORS.

(a) ESTABLISHMENT OF MINIMUM FEDERAL STANDARDS.—Not later than July 15, 1988, the Secretary shall issue regulations to establish

minimum Federal standards for testing and ensuring the fitness of persons who operate commercial motor vehicles. Such regulations—

(1) shall establish minimum Federal standards for written tests and driving tests of persons who operate such vehicles;

(2) shall require a driving test of each person who operates or will operate a commercial motor vehicle in a vehicle which is representative of the type of vehicle such person operates or will operate;

(3) shall establish minimum Federal testing standards for operation of commercial motor vehicles and, if the Secretary considers appropriate to carry out the objectives of this title, may establish different minimum testing standards for different classes of commercial motor vehicles;

(4) shall ensure that each person taking such tests has a working knowledge of (A) regulations pertaining to safe operation of a commercial motor vehicle issued by the Secretary and contained in title 49 of the Code of Federal Regulations, and (B) any safety system of such vehicle;

(5) in the case of a person who operates or will operate a commercial motor vehicle carrying a hazardous material, shall ensure—

(A) that such person is qualified to operate a commercial motor vehicle in accordance with all regulations pertaining to motor vehicle transportation of such material issued by the Secretary under the Hazardous Materials Transportation Act; and

(B) that such person has a working knowledge of—

(i) such regulations,

(ii) handling of such material,

(iii) the operation of emergency equipment used in response to emergencies arising out of the transportation of such material, and

(iv) appropriate response procedures to be followed in such emergencies;

(6) shall establish minimum scores for passing such tests;

(7) shall ensure that each person taking such tests is qualified to operate a commercial motor vehicle under the regulations issued by the Secretary and contained in title 49 of the Code of Federal Regulations to the extent such regulations are applicable to such person; and

(8) may require—

(A) issuance of a certification of fitness to operate a commercial motor vehicle to each person who passes such tests; and

(B) such person to have a copy of such certification in his or her possession whenever such person is operating a commercial motor vehicle.

(b) REQUIREMENT FOR OPERATION OF CMV.—

(1) GENERAL RULE.—Except as provided under paragraph (2), no person may operate a commercial motor vehicle unless such person has taken and passed a written and driving test to operate such vehicle which meets the minimum Federal standards established by the Secretary under subsection (a).

(2) EXCEPTION.—The Secretary may issue regulations which provide that a person— Regulations.

(A) who passes a driving test for operation of a commercial motor vehicle in accordance with the minimum standards established under subsection (a), and

(B) who has a driver's license which is not suspended, revoked, or cancelled,

may operate such a vehicle for a period not to exceed 90 days.

(3) EFFECTIVE DATE.—Paragraph (1) shall take effect on such date as the Secretary shall establish by regulation. Such date shall be as soon as practicable after the date of the enactment of this title but not later than April 1, 1992.

State and local governments.

(c) BASIC GRANT PROGRAM.—

(1) ELIGIBILITY FOR FISCAL YEARS 1987, 1988, AND 1989.—The Secretary may make a grant to a State in any of fiscal years 1987, 1988, and 1989—

(A) if the State enters into an agreement with the Secretary to develop a program for testing and ensuring the fitness of persons who operate commercial motor vehicles; and

(B) if the State has in effect and enforces in such fiscal year a law which provides that any person with a blood alcohol concentration of 0.10 percent or greater when operating a commercial motor vehicle is deemed to be driving while under the influence of alcohol.

(2) ELIGIBILITY AFTER FISCAL YEAR 1989.—The Secretary may make a grant to a State in a fiscal year beginning after September 30, 1989—

(A) if the State enters into an agreement with the Secretary—

(i) to adopt and administer in such fiscal year a program for testing and ensuring the fitness of persons who operate commercial motor vehicles in accordance with all of the minimum Federal standards established by the Secretary under subsection (a); and

(ii) to require that operators of commercial motor vehicles have passed written and driving tests which comply with such minimum standards; and

(B) if the State has in effect and enforces in such fiscal year a law which provides that any person with a blood alcohol concentration of 0.10 percent or greater when operating a commercial motor vehicle is deemed to be driving while under the influence of alcohol.

(3) ADMINISTRATION OF DRIVING TEST.—A State—

(A) may administer driving tests referred to in paragraph (2) and section 12009(a); or

(B) may enter into an agreement, approved by the Secretary, to administer such tests with a person (including a department, agency or instrumentality of a local government) which meets such minimum standards as the Secretary shall establish by regulation—

(i) if the agreement allows the Secretary and the State each to conduct random examinations, inspections, and audits of such testing without prior notification; and

(ii) if the State conducts at least annually one onsite inspection of such testing.

(4) MINIMUM AMOUNT OF GRANT.—The Secretary shall determine the amount of grants in a fiscal year to be made under this

subsection to a State eligible to receive such grants in the fiscal year; except that—

(A) such State shall not be granted less than $100,000 under this subsection in the fiscal year; and

(B) to the extent that any States are granted more than $100,000 per State in the fiscal year under this subsection, the Secretary shall ensure that such States are treated equitably.

(5) LIMITATION ON USE OF FUNDS.—

(A) IN FISCAL YEARS 1987, 1988, AND 1989.—A State receiving a grant under this subsection in fiscal year 1987, 1988, or 1989 may only use the funds provided under such grant for developing a program for testing and ensuring the fitness of persons who operate commercial motor vehicles.

(B) THEREAFTER.—A State receiving a grant under this subsection in any fiscal year beginning after September 30, 1989, may only use the funds provided under such grant for testing operators of commercial motor vehicles.

(6) DEVELOPMENT OF TESTING PROGRAM DESCRIBED.—For purposes of this subsection and subsection (d), development of a program for testing and ensuring the fitness of persons who operate commercial motor vehicles includes but is not limited to studies of the number of vehicles which will need to be tested under such program in a calendar year, studies of facilities at which testing of such persons could be conducted, and studies of additional resources (including personnel) which will be necessary to conduct such testing.

(7) FUNDING.—There shall be available to the Secretary to carry out this subsection $5,000,000 from funds made available to carry out section 404 of the Surface Transportation Assistance Act of 1982 for each of fiscal years 1987, 1988, 1989, 1990, and 1991.

Post, p. 3207-186.

(d) SUPPLEMENTAL GRANT PROGRAM.—

State and local governments.

(1) ELIGIBILITY AND PURPOSES.—The Secretary may make in a fiscal year grants to States eligible to receive grants under subsection (c) in such fiscal year. A grant made under this subsection in fiscal year 1987, 1988, or 1989 shall be used for developing a program for testing and ensuring the fitness of persons who operate commercial motor vehicles. A grant made under this subsection in any fiscal year beginning after September 30, 1989, shall be used for testing operators of commercial motor vehicles.

(2) DISTRIBUTION.—Funds granted under this subsection in a fiscal year beginning after September 30, 1989, shall be distributed among the States eligible to receive grants under subsection (c) in such fiscal year on the basis of the number of written and driving tests administered, and the number of drivers' licenses for operation of commercial motor vehicles, issued in the preceding fiscal year.

(3) FUNDING.—There shall be available to the Secretary to carry out this subsection—

(A) $3,000,000 from funds made available to carry out section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration for each of fiscal years 1987, and 1988;

(B) $3,000,000 from funds made available to carry out section 404 of the Surface Transportation Assistance Act of 1982 for each of fiscal years 1989, 1990, and 1991.

49 USC app. 2304. State and local governments.

(e) LIMITATIONS ON GRANT PROGRAMS.—

(1) MAINTENANCE OF EFFORT.—The Secretary may not make a grant to any State under this section unless such State agrees that the aggregate expenditure of funds of the State and political subdivisions thereof, exclusive of Federal funds, for testing of operators of commercial motor vehicles will be maintained at a level which does not fall below the average level of such expenditure for its last two fiscal years preceding the date of the enactment of this title.

(2) PERIOD OF AVAILABILITY.—Funds made available to carry out this subsection shall remain available for obligation by the State for the fiscal year for which such funds are made available. Any of such funds not obligated before the last day of such period shall no longer be available for obligation by such State and shall be available to the Secretary for carrying out the purposes of this title. Funds made available pursuant to this section shall remain available until expended.

(3) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, approval by the Secretary of a grant to a State under this section shall be deemed to be a contractual obligation of the United States for payment of the amount of the grant.

49 USC app. 2705. State and local governments. Regulations.

SEC. 12006. COMMERCIAL DRIVER'S LICENSE.

Not later than July 15, 1988, the Secretary, after consultation with the States, shall issue regulations establishing minimum uniform standards for the issuance of commercial drivers' licenses by the States and for information to be contained on such licenses. Such standards shall, at a minimum, require that—

(1) each person who is issued a commercial driver's license passes a written and driving test for the operation of a commercial motor vehicle which complies with the minimum Federal standards established by the Secretary under section 12005(a);

(2) the commercial drivers' licenses are, to the maximum extent practicable, tamper proof; and

(3) each commercial driver's license contain the following information:

(A) the name and address of the person to whom such license is issued and a physical description of such person;

(B) the social security number or such other number or information as the Secretary determines appropriate to identify such person;

(C) the class or type of commercial motor vehicle or vehicles which such person is authorized to operate under such license;

(D) the name of the State which issued such license; and

(E) the dates between which such license is valid.

49 USC app 2706.

SEC. 12007. COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM.

(a) DEADLINE.—Not later than January 1, 1989, the Secretary shall either enter into an agreement under subsection (b) for operation of, or establish under subsection (c), an information system which will serve as a clearinghouse and depository of information pertaining to the licensing and identification of operators of commercial motor vehicles and the disqualification of such operators from operating

commercial motor vehicles. In carrying out this section, the Secretary consult the States.

(b) AGREEMENT FOR USE OF NON-FEDERAL SYSTEM.— State and local governments.

(1) REVIEW.—Not later than January 1, 1988, the Secretary shall conduct a review of information systems utilized by 1 or more States pertaining to the driving status of operators of motor vehicles and other State-operated information systems for the purpose of determining whether or not any of such systems could be utilized to carry out this section.

(2) AGREEMENT.—If the Secretary determines that one of the information systems reviewed under paragraph (1) could be utilized to carry out this section and the State or States utilizing such system agree to the use of such system for carrying out this section, the Secretary may enter into an agreement with such State or States for the use of such system in accordance with the provisions of this section and section 12009(c).

(3) TERMS OF AGREEMENT.—Any agreement entered into under this subsection shall contain such terms and conditions as the Secretary considers necessary to carry out the objectives of this title.

(c) ESTABLISHMENT.—If the Secretary does not enter into an agreement under subsection (b), the Secretary shall establish an information system pertaining to the driving status and licensing of operators of commercial motor vehicles in accordance with the provisions of this section.

(d) MINIMUM INFORMATION.—The information system under this section shall, at a minimum, include the following information concerning each operator of a commercial motor vehicle:

(1) Such information as the Secretary considers appropriate to ensure identification of such operator.

(2) The name and address of such operator and a physical description of such operator.

(3) The social security number of such operator or such other number or information as the Secretary determines appropriate to identify such operator.

(4) The name of the State which issued the driver's license to such operator.

(5) The dates between which such license is valid.

(6) Whether or not such operator has or has had a driver's license which authorized such person to operate a commercial motor vehicle suspended, revoked, or cancelled by a State, has lost the right to operate a commercial motor vehicle in a State for any period, or has been disqualified from operating a commercial motor vehicle.

(e) AVAILABILITY OF INFORMATION.—

(1) TO STATE.—Upon request of a State, the Secretary or the operator of the information system, as the case may be, may make available to such State information in the information system under this section.

(2) TO THE EMPLOYEE.—Upon request of an employee, the Secretary or the operator of the information system, as the case may be, may make available to such employee information in the information system relating to such employee.

(3) TO EMPLOYER.—Upon request of an employer or prospective employer of an employee and after notification of such employee, the Secretary or the operator of the information system, as the case may be, may make available to such em-

ployer or prospective employer information in the information system relating to such employee.

(4) TO THE SECRETARY.—Upon the request of the Secretary, the operator of the information system shall make available to the Secretary such information pertaining to the driving status and licensing of operators of commercial motor vehicles (including the information required by subsection (d)) as the Secretary may request.

(f) COLLECTION OF FEES.—If the Secretary establishes an information system under this section, the Secretary shall establish a fee system for utilization of the information system. The amount of fees collected pursuant to this subsection in any fiscal year shall as nearly as possible equal the costs of operating the information system in such fiscal year. The Secretary shall deposit fees collected under this subsection in the Highway Trust Fund (other than the Mass Transit Account).

(g) FUNDING.—There shall be available to the Secretary to carry out this section not to exceed $2,000,000 from funds made available to carry out section 402 of title 23, United States Code, by the National Highway Safety Traffic Administration for each of fiscal years 1987, 1988, and 1989. Such funds shall remain available until expended.

49 USC app. 2707.

SEC. 12008. FEDERAL DISQUALIFICATIONS.

(a) DRUNK DRIVING; LEAVING THE SCENE OF AN ACCIDENT; FELONIES.—

(1) FIRST OFFENSE.—

(A) GENERAL RULE.—Except as provided in subparagraph (B) and paragraph (2), the Secretary shall disqualify from operating a commercial motor vehicle for a period of not less than 1 year each person—

(i) who is found to have committed a first violation—

(I) of driving a commercial motor vehicle while under the influence of alcohol or a controlled substance, or

(II) of leaving the scene of an accident involving a commercial motor vehicle operated by such person; or

(ii) who uses a commercial motor vehicle in the commission of a felony (other than a felony described in subsection (b)).

(B) SPECIAL RULE.—If the vehicle operated or used in connection with the violation or the commission of the felony referred to in subparagraph (A) is transporting a hazardous material required by the Secretary to be placarded under section 105 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1804), the Secretary shall disqualify the person for a period of not less than 3 years.

(2) SECOND OFFENSE.—

(A) GENERAL RULE.—Subject to subparagraph (B), the Secretary shall disqualify from operating a commercial motor vehicle for life each person—

(i) who is found to have committed more than one violation of driving a commercial motor vehicle while under the influence of alcohol or a controlled substance;

(ii) who is found to have committed more than one violation of leaving the scene of an accident involving a commercial motor vehicle operated by such person;

(iii) who uses a commercial motor vehicle in the commission of more than one felony arising out of different criminal episodes; or

(iv)(I) who is found to have committed a violation described in clause (i) or (ii), and

(II) who is found to have committed a violation described in the other of such clauses or uses a commercial motor vehicle in the commission of a felony.

(B) SPECIAL RULE.—The Secretary may issue regulations which establish guidelines (including conditions) under which a disqualification for life under subparagraph (A) may be reduced to a period of not less than 10 years.

(b) CONTROLLED SUBSTANCE FELONIES.—The Secretary shall disqualify from operating a commercial motor vehicle for life each person who uses a commercial motor vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.

(c) SERIOUS TRAFFIC VIOLATIONS.—

(1) SECOND VIOLATION.—The Secretary shall disqualify from operating a commercial motor vehicle for a period of not less than 60 days each person who, in a 3-year period, is found to have committed 2 serious traffic violations involving a commercial motor vehicle operated by such person.

(2) THIRD VIOLATION.—The Secretary shall disqualify from operating a commercial motor vehicle for a period of not less than 120 days each person who, in a 3-year period, is found to have committed 3 serious traffic violations involving a commercial motor vehicle operated by such person.

(d) ENFORCEMENT OF DRINKING AND DRIVING REGULATIONS.—

(1) OUT OF SERVICE.—Not later than 1 year after the date of enactment of this title, the Secretary, for purposes of enforcing section 392.5 of the Code of Federal Regulations, shall issue regulations which establish and enforce an out of service period of 24 hours for any person who violates such section.

(2) VIOLATIONS OF OUT-OF-SERVICE ORDERS.—No person shall violate an out-of-service order issued under paragraph (1) of this subsection.

(3) REPORTING REQUIREMENTS.—Not later than 1 year after the date of the enactment of this title, the Secretary shall issue regulations establishing and enforcing requirements for reporting of out-of-service orders issued pursuant to regulations issued under paragraph (1). Regulations issued under this paragraph shall, at a minimum, require an operator of a commercial motor vehicle who is issued such an order to report such issuance to his or her employer and to the State which issued such operator his or her driver's license.

(e) LIMITATION ON APPLICABILITY.—

(1) GENERAL RULE.—Notwithstanding any requirement of subsections (a), (b), and (c) of this section, the Secretary does not have to disqualify from operating a commercial motor vehicle any person who has been disqualified from operating a commercial motor vehicle in accordance with such requirement by the

State and local governments.

State which issued the driver's license which authorized such person to operate such vehicle.

(2) SATISFACTION OF STATE DISQUALIFICATION.—For purposes of paragraph (1), suspension, revocation, or cancellation of a driver's license which authorizes a person to operate a commercial motor vehicle by a State shall be treated as disqualification of such person from operating such vehicle.

(f) BLOOD ALCOHOL CONCENTRATION LEVEL.—

(1) STUDY.—

(A) NATIONAL ACADEMY OF SCIENCES.—Not later than 30 days after the date of the enactment of this title, the Secretary shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the appropriateness of reducing the blood alcohol concentration level at or above which a person when operating a commercial motor vehicle is deemed to be driving while under the influence of alcohol from 0.10 to 0.04 percent.

(B) REPORT.—In entering into any arrangements with the National Academy of Sciences for conducting the study under this subsection, the Secretary shall request the National Academy of Sciences to submit, not later than 1 year after the date of the enactment of this title, to the Secretary a report on the results of such study.

(2) RULEMAKING.—Not later than 1 year after the date of the enactment of this title, the Secretary shall commence a rulemaking to determine whether or not, for purposes of this section and section 12009 of this Act, the blood alcohol concentration level at or above which a person when operating a commercial motor vehicle is deemed to be driving while under the influence of alcohol should be reduced from 0.10 to 0.04 percent (or some other percentage less than 0.10).

(3) ISSUANCE OF RULE.—Not later than 2 years after the date of the enactment of this title, the Secretary shall issue a rule which establishes, for purposes of this section and section 12009 of this Act, the blood alcohol concentration level at or above which a person when operating a commercial motor vehicle shall be deemed to be driving while under the influence of alcohol at 0.10 percent or such lesser percentage as the Secretary determines appropriate.

(4) FAILURE OF THE SECRETARY TO ISSUE RULE.—If the Secretary does not issue a rule described in paragraph (3) in the 2-year period beginning on the date of the enactment of this title, for purposes of this section and section 12009 of this Act, the blood alcohol concentration level at or above which a person operating a commercial motor vehicle shall be deemed to be driving while under the influence of alcohol shall be 0.04 percent.

49 USC app. 2708.

SEC. 12009. REQUIREMENTS FOR STATE PARTICIPATION.

(a) IN GENERAL.—In order not to have funds withheld under section 12011 from apportionment, each State shall comply with the following requirements:

(1) TESTING PROGRAM.—The State shall adopt and administer a program for testing and ensuring the fitness of persons to operate commercial motor vehicles in accordance with all of the minimum Federal standards established by the Secretary under section 12005(a).

(2) TEST STANDARDS.—The State shall not issue a commercial driver's license to a person unless such person passes a written and driving test for the operation of a commercial motor vehicle which complies with such minimum standards.

(3) DRIVING WHILE UNDER THE INFLUENCE.—The State shall have in effect and enforce a law which provides that any person with a blood alcohol concentration level at or above the level established by or under section 12008(f) when operating a commercial motor vehicle is deemed to be driving while under the influence of alcohol.

(4) CDL ISSUANCE AND INFORMATION.—The State shall authorize a person to operate a commercial motor vehicle only by issuance of a commercial driver's license which contains the information described in section 12006(a)(3).

(5) ADVANCE NOTIFICATION OF LICENSING.—At least 60 days before issuance of a commercial driver's license or such shorter period as the Secretary may establish by regulation, the State shall notify the Secretary or the operator of the information system under section 12007, as the case may be, of the proposed issuance of such license and such other information as the Secretary may require to ensure identification of the person applying for such license.

(6) INFORMATION REQUEST.—Before issuance of a commercial driver's license to a person, the State shall request from any other State which has issued a commercial driver's license to such person all information pertaining to the driving record of such person.

(7) NOTIFICATION OF LICENSING.—Within 30 days after issuance of a commercial driver's license, the State shall notify the Secretary or the operator of the information system under section 12007, as the case may be, of the issuance.

(8) NOTIFICATION OF DISQUALIFICATIONS.—Within 10 days after disqualification of the holder of a commercial driver's license from operating a commercial motor vehicle (or after suspension, revocation, or cancellation of such license) for a period of 60 days or more, the State shall notify—

(A) the Secretary or the operator of the information system under section 12007, as the case may be, and

(B) the State which issued the license,

of such disqualification, suspension, revocation, or cancellation.

(9) NOTIFICATION OF TRAFFIC VIOLATIONS.—Within 10 days after a person who operates a commercial motor vehicle, who has a driver's license issued by any other State, and who violates a State or local law relating to motor vehicle traffic control (other than a parking violation) in the State, shall notify a State official designated by the State which issued such license of such violation, within 10 days after the date such person is found to have committed such violation.

(10) LIMITATION ON LICENSING.—The State shall not issue a commercial driver's license to a person during a period in which such person is disqualified from operating a commercial motor vehicle or the driver's license of such person is suspended, revoked, or cancelled.

(11) RETURN OF OLD LICENSES.—The State shall not issue a commercial driver's license to a person who has a commercial driver's license issued by any other State unless such person first returns the driver's license issued by such other State.

(12) DOMICILE REQUIREMENT.—The State shall issue commercial drivers' licenses only to those persons who operate or will operate commercial motor vehicles and are domiciled in the State; except that the State, in accordance with such regulations as the Secretary shall issue, may issue a commercial driver's license to a person who operates or will operate a commercial motor vehicle and who is not domiciled in a State which does issue commercial drivers' licenses.

(13) PENALTY APPROVAL.—The State shall impose such penalties as the State determines appropriate and the Secretary approves for operating a commercial motor vehicle while not having a commercial driver's license, while having a driver's license suspended, revoked, or cancelled, or while being disqualified from operating a commercial motor vehicle.

(14) RECIPROCITY.—The States shall allow any person—

(A) who has a commercial driver's license—

(i) which is issued by any other State in accordance with the minimum Federal standards for the issuance of such licenses, and

(ii) which is not suspended, revoked, or cancelled; and

(B) who is not disqualified from operating a commercial motor vehicle;

to operate a commercial motor vehicle in the State.

(15) FIRST OFFENSES.—The State shall disqualify from operating a commercial motor vehicle for a period of not less than 1 year each person—

(A) who is found to have committed a first violation—

(i) of driving a commercial motor vehicle while under the influence of alcohol or a controlled substance, or

(ii) of leaving the scene of an accident involving a commercial motor vehicle operated by such person; or

(B) who uses a commercial motor vehicle in the commission of a felony (other than a felony described in paragraph (17));

except that if the vehicle being operated or used in connection with such violation or the commission of such felony is transporting a hazardous material required by the Secretary to be placarded under section 105 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1804), the State shall disqualify such person from operating a commercial motor vehicle for a period of not less than 3 years.

(16) SECOND OFFENSES.—

(A) GENERAL RULE.—Subject to subparagraph (B), the State shall disqualify from operating a commercial motor vehicle for life each person—

(i) who is found to have committed more than one violation of driving a commercial motor vehicle while under the influence of alcohol or a controlled substance;

(ii) who is found to have committed more than one violation of leaving the scene of an accident involving a commercial motor vehicle operated by such person;

(iii) who uses a commercial motor vehicle in the commission of more than one felony arising out of different criminal episodes; or

(iv)(I) who is found to have committed a violation described in clause (i) or (ii), and

(II) who is found to have committed a violation described in the other of such clauses or uses a commercial motor vehicle in the commission of a felony.

(B) SPECIAL RULE.—The State, in accordance with such guidelines (including conditions) as the Secretary may establish by regulation, may reduce a disqualification for life in accordance with subparagraph (A) to a period of not less than 10 years.

(17) DRUG OFFENSES.—The State shall disqualify from operating a commercial motor vehicle for life each person who uses a commercial motor vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.

(18) SECOND SERIOUS TRAFFIC VIOLATION.—The State shall disqualify from operating a commercial motor vehicle for a period of not less than 60 days each person who, in a 3-year period, is found to have committed 2 serious traffic violations involving a commercial motor vehicle operated by such person.

(19) THIRD SERIOUS TRAFFIC VIOLATION.—The State shall disqualify from operating a commercial motor vehicle for a period of not less than 120 days each person who, in a 3-year period, is found to have committed 3 serious traffic violations involving a commercial motor vehicle operated by such person.

(20) NATIONAL DRIVER REGISTER INFORMATION.—Before issuing a commercial driver's license to operate a commercial motor vehicle to any person, the State shall request the Secretary for information from the National Driver Register established pursuant to the National Driver Register Act of 1982 (23 U.S.C. 401 note) (after such Register is determined by the Secretary to be operational)—

(A) on whether such person has been disqualified from operating a motor vehicle (other than a commercial motor vehicle);

(B) on whether such person has had a license (other than a license authorizing such person to operate a commercial motor vehicle) suspended, revoked, or cancelled for cause in the 3-year period ending on the date of application for such commercial driver's license; and

(C) on whether such person has been convicted of any of the offenses specified in section 205(a)(3) of such Act.

The State shall give full weight and consideration to such information in deciding whether to issue a commercial driver's license to such person.

(21) OUT OF SERVICE REGULATIONS.—The State shall adopt and enforce any regulations issued by the Secretary under section 12008(d)(1).

(b) SATISFACTION OF STATE DISQUALIFICATION REQUIREMENT.—A State may satisfy the requirements of subsection (a) that the State disqualify a person who operates a commercial motor vehicle if the State suspends, revokes, or cancels the driver's license issued to such person in accordance with the requirements of such subsection.

(c) NOTIFICATION.—Not later than 30 days after being notified by a State of the proposed issuance of a commercial driver's license to any person, the Secretary or the operator of the information system under section 12007, as the case may be, shall notify such State of whether or not such person has a commercial driver's license issued

by any other State or has been disqualified from operating a commercial motor vehicle by any other State or the Secretary.

State and local governments.
49 USC app. 2709.

SEC. 12010. GRANT PROGRAM.

(a) ESTABLISHMENT.—The Secretary may make a grant to a State in a fiscal year if the State enters into an agreement with the Secretary to participate in such fiscal year in the commercial driver's license program established by this title and the information system required by this title and to comply with the requirements of section 12009.

(b) MINIMUM AMOUNT OF GRANT.—The Secretary shall determine the amount of grants in a fiscal year to be made under this section to a State eligible to receive such grants in the fiscal year; except that—

(1) such State shall not be granted less than $100,000 under this section in the fiscal year; and

(2) to the extent that any States are granted more than $100,000 per State in the fiscal year under this section, the Secretary shall ensure that such States are treated equitably.

(c) LIMITATION ON USE OF FUNDS.—A State receiving a grant under this section may only use the funds provided under such grant for issuing commercial driver's licenses and complying with the requirements of section 12009.

(d) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, approval by the Secretary of a grant to a State under this section shall be deemed to be a contractual obligation of the United States for payment of the amount of the grant.

(e) PERIOD OF AVAILABILITY.—Funds made available to carry out this section shall remain available for obligation by the State for the fiscal year for which such funds are made available. Any of such funds not obligated before the last day of such period shall no longer be available to such State and shall be available to the Secretary for carrying out the purposes of this title. Funds made available pursuant to this section shall remain available until expended.

(f) FUNDING.—There shall be available to the Secretary to carry out this section $5,000,000 from funds made available to carry out section 404 of the Surface Transportation Assistance Act of 1982 for each of fiscal years 1989, 1990, and 1991.

Post, p. 3207-186.

49 USC app. 2710.

SEC. 12011. WITHHOLDING OF HIGHWAY FUNDS FOR STATE NONCOMPLIANCE.

(a) FIRST YEAR.—The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of title 23, United States Code, on the first day of the fiscal year succeeding the first fiscal year beginning after September 30, 1992, throughout which the State does not substantially comply with any requirement of section 12009(a) of this Act.

(b) AFTER THE FIRST YEAR.—The Secretary shall withhold 10 percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of such title on the first day of each fiscal year after the second fiscal year beginning after September 30, 1992, throughout which the State does not substantially comply with any requirement of section 12009(a) of this Act.

(c) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLIANCE.—

(1) FUNDS WITHHELD ON OR BEFORE SEPTEMBER 30, 1995.—

(A) PERIOD OF AVAILABILITY.—Any funds withheld under this section from apportionment to any State on or before September 30, 1995, shall remain available for apportionment to such State as follows:

(i) If such funds would have been apportioned under section 104(b)(5)(B) of such title but for this section, such funds shall remain available until the end of the second fiscal year following the fiscal year for which such funds are authorized to be appropriated. 23 USC 104.

(ii) If such funds would have been apportioned under section 104(b)(1), 104(b)(2), or 104(b)(6) of such title but for this section, such funds shall remain available until the end of the third fiscal year following the fiscal year for which such funds are authorized to be appropriated.

(B) FUNDS WITHHELD AFTER SEPTEMBER 30, 1995.—No funds withheld under this subsection from apportionment to any State after September 30, 1995, shall be available for apportionment to such State.

(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under this section from apportionment are to remain available for apportionment to a State under paragraph (1), the State substantially complies with all of the requirements of section 12009(a) of this Act for a period of 365 days, the Secretary shall on the day following the last day of such period apportion to such State the withheld funds remaining available for apportionment to such State.

(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure until the end of the third fiscal year succeeding the fiscal year in which such funds are apportioned. Sums not obligated at the end of such period shall lapse or, in the case of funds apportioned under section 104(b)(5) of such title, shall lapse and be made available by the Secretary for projects in accordance with section 118(b) of such title. 23 USC 104. 23 USC 118.

(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under this section from apportionment are available for apportionment to a State under paragraph (1), the State has not substantially complied with all of the requirements of section 12009(a) of this Act for a 365-day period, such funds shall lapse or, in the case of funds withheld from apportionment under section 104(b)(5) of such title, such funds shall lapse and be made available by the Secretary for projects in accordance with section 118(b) of such title.

SEC. 12012. PENALTIES.

(a) NOTICE OF VIOLATION.—Paragraph (1) of section 521(b) of title 49, United States Code, is amended by inserting "or section 12002, 12003, 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986" after "the Motor Carrier Safety Act of 1984" and by striking out "section" the second place it appears and inserting in lieu thereof "sections".

(b) CIVIL PENALTIES.—Paragraph (2) of such section is amended, by inserting "(A) IN GENERAL.—" before "Except as", by inserting "(other than subparagraph (B))" before ", except for recordkeeping

violations", and by striking out the last two sentences and inserting in lieu thereof the following:

Claims.

"(B) VIOLATIONS PERTAINING TO CDLS.—Any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act which is a violation of section 12002, 12003, 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986 shall be liable to the United States for a civil penalty not to exceed $2,500 for each offense.

"(C) DETERMINATION OF AMOUNT.—The amount of any civil penalty, and a reasonable time for abatement of the violation, shall by written order be determined by the Secretary, taking into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and public safety may require. In each case, the assessment shall be calculated to induce further compliance.".

(c) POSTING OF NOTICE.—Paragraph (3) of such section is amended by inserting "or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986" after "the Motor Carrier Safety Act of 1984".

(d) OUT OF SERVICE ORDERS.—Paragraph (5)(A) of such section is amended by inserting "or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986" after "the Motor Carrier Safety Act of 1984" and by striking out "section" the second place it appears and inserting in lieu thereof "sections".

(e) CRIMINAL PENALTIES.—Paragraph (6) of such section is amended by inserting "(A) IN GENERAL.—" before "Any person" and by adding at the end thereof the following:

"(B) VIOLATIONS PERTAINING TO CDLS.—Any person who knowingly and willfully violates—

"(i) any provision of section 12002, 12003(b), 12003(c), 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986 or a regulation issued under such section, or

"(ii) with respect to notification of a serious traffic violation as defined under section 12019 of such Act, any provision of section 12003(a) of such Act or a regulation issued under such section 12003(a),

shall, upon conviction, be subject for each offense to a fine not to exceed $5,000 or imprisonment for a term not to exceed 90 days, or both.".

(f) CONFORMING AMENDMENTS.—(1) Paragraph (2) of such section is amended by inserting "CIVIL PENALTY.—" after "(2)", by indenting subparagraph (A), as designated by subsection (b) of this section, and aligning such subparagraph with subparagraph (B), as added by such subsection (b).

(2) Paragraph (6) of such section is amended by inserting "CRIMINAL PENALTIES.—" after "(6)" and by indenting subparagraph (A), as designated by subsection (e) of this section, and aligning such subparagraph with subparagraph (B), as added by such subsection (e).

(g) TECHNICAL AMENDMENTS.—(1) Paragraph (6) of such section is further amended by striking out "for a fine" and inserting in lieu thereof "to a fine".

(2) Paragraph (13) of such section is amended by striking out "section 4" and inserting in lieu thereof "section 204".

SEC. 12013. WAIVER AUTHORITY.

Notwithstanding any other provision of this title, after notice and an opportunity for comment, the Secretary may waive, in whole or in part, application of any provision of this title or any regulation issued under this title with respect to class of persons or class of commercial motor vehicles if the Secretary determines that such waiver is not contrary to the public interest and does not diminish the safe operation of commercial motor vehicles. Any waiver under this section shall be published in the Federal Register, together with reasons for such waiver.

49 USC app. 2711.

Federal Register, publication.

SEC. 12014. COMMERCIAL MOTOR VEHICLE SAFETY GRANTS.

Section 404 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2304) is amended to read as follows:

"AUTHORIZATIONS

"SEC. 404. (a)(1) To carry out the purposes of section 402 of this title, there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $10,000,000 for fiscal year 1984, $20,000,000 for fiscal year 1985, and $30,000,000 for fiscal year 1986.

49 USC app. 2304.

49 USC app. 2302.

"(2) Subject to section 9503(c)(1) of the Internal Revenue Code of 1986, there shall be available to the Secretary to incur obligations to carry out section 402 of this title, out of the Highway Trust Fund (other than the Mass Transit Account), $50,000,000 per fiscal year for each of fiscal years 1987 and 1988 and $60,000,000 per fiscal year for each of fiscal years 1989, 1990, and 1991.

"(b) Funds authorized to be appropriated, and funds made available, by this section shall be used to reimburse States pro rata for the Federal share of the costs incurred.

State and local governments.

"(c) Grants made pursuant to the authority of this part shall be for periods not to exceed one year.

"(d) Notwithstanding any other provision of law, beginning after September 30, 1986, approval by the Secretary of a grant to a State under section 402 shall be deemed a contractual obligation of the United States for payment of the Federal share of the costs incurred by such State in development or implementation or both of programs to enforce commercial motor vehicle rules, regulations, standards, and orders.

Grants.

"(e) Funds authorized to be appropriated, and funds made available, to carry out this section shall remain available for obligation by the Secretary for the fiscal year for which such funds are authorized or made available, as the case may be, and the three succeeding fiscal years.

"(f) On October 1 of each fiscal year beginning after September 30, 1986, the Secretary may deduct, from funds made available for such fiscal year by subsection (a)(2), an amount not to exceed one-half of one percent of the amount of such funds for administering section 402 of this title in such fiscal year.".

SEC. 12015. TRUCK BRAKE REGULATIONS.

49 USC app. 2712.

Not late than the 90th day after the date of the enactment of this title, the Secretary shall revise the regulations of the Administrator of the Federal Highway Administration contained in section

393.42(c) of title 49 of the Code of Federal Regulations to require trucks and truck tractors manufactured after July 24, 1980, to have brakes operating on all wheels. The Secretary may provide for a delayed effective date (not exceeding 1 year) for trucks and truck tractors manufactured after July 24, 1980, and before such date of enactment.

49 USC app. 2713.

State and local governments.

SEC. 12016. RADAR DEMONSTRATION PROJECT.

(a) PROJECT DESCRIPTION.—Notwithstanding any other provision of law, the Secretary, in cooperation with State and local law enforcement officials, shall conduct a demonstration project to assess the benefits of continuous use of unmanned radar equipment on highway safety on a section of highway with a high rate of motor vehicle accidents. Such project shall be conducted in northern Kentucky on a hilly section of Interstate Route I-75 between Fort Mitchell and the Brent Spence Bridge over the Ohio River during the 24-month period beginning on the date of the enactment of this title.

(b) REPORTS.—

(1) INTERIM REPORT.—Not later than 18 months after the date of the enactment of this title, the Secretary shall transmit to Congress an interim report on the results of the demonstration project conducted under subsection (a), together with any recommendations on whether or not to extend the duration of such demonstration project and whether or not to expand the scope of such project.

(2) FINAL REPORT.—Not later than 60 days after completion of the demonstration project conducted under subsection (a), the Secretary shall transmit to Congress a final report on the results of such project, together with any such recommendations.

49 USC app. 2714.

SEC. 12017. LIMITATION ON STATUTORY CONSTRUCTION.

Nothing in this title shall be construed to diminish, limit, or otherwise affect the authority of the Secretary to regulate commercial motor vehicle safety involving motor vehicles with a gross vehicle weight rating of less than 26,001 pounds or such lesser gross vehicle weight rating as determined appropriate by the Secretary under section 12019(6)(A) of this Act.

49 USC app. 2715.

SEC. 12018. REGULATIONS.

(a) AUTHORITY TO ISSUE.—The Secretary may issue such regulations as may be necessary to carry out this title.

(b) COMPLIANCE WITH TITLE 5.—All regulations under this title shall be issued in accordance with section 553 of title 5, United States Code (without regard to sections 556 and 557 of such title).

49 USC app. 2716.

SEC. 12019. DEFINITIONS.

For purposes of this title—

(1) ALCOHOL.—The term "alcohol" has the meaning the term alcoholic beverage has under section 158(c) of title 23, United States Code.

(2) DRIVER'S LICENSE.—The term "driver's license" means a license issued by a State to an individual which authorizes the individual to operate a motor vehicle on highways.

(3) COMMERCE.—The term "commerce" means—

(A) trade, traffic, and transportation within the jurisdiction of the United States between a place in a State and a place outside of such State (including a place outside the United States); and

(B) trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in subparagraph (A).

(4) COMMERCIAL DRIVER'S LICENSE.—The term "commercial driver's license" means a license issued by a State to an individual which authorizes the individual to operate a class of commercial motor vehicle.

(5) MOTOR VEHICLE.—The term "motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used and on highways, except that such term does not include a vehicle, machine, tractor, trailer, semitrailer operated exclusively on a rail.

(6) COMMERCIAL MOTOR VEHICLE.—The term "commercial motor vehicle" means a motor vehicle used in commerce to transport passengers or property—

(A) if the vehicle has a gross vehicle weight rating of 26,001 or more pounds or such a lesser gross vehicle weight rating as the Secretary determines appropriate by regulation but not less than a gross vehicle weight rating of 10,001 pounds;

(B) if the vehicle is designed to transport more than 15 passengers, including the driver; or

(C) if such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act.

49 USC app. 1801 note.

A motor vehicle which is used in the transportation of hazardous materials and which has a gross vehicle weight rating of less than 26,001 pounds (or such gross vehicle weight rating as determined appropriate by the Secretary under subparagraph (A)) shall not be included as a commercial motor vehicle pursuant to subparagraph (C) if such hazardous material is listed as hazardous pursuant to section 306(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9656(a)) and is not otherwise regulated by the Department of Transportation or if such hazardous material is a consumer commodity or limited quantity hazardous material as defined under section 171.8 of title 49 of the Code of Federal Regulations. The Secretary may waive the application of the preceding sentence to any motor vehicle or class of motor vehicles if the Secretary determines that such waiver is in the interest of safety.

(7) CONTROLLED SUBSTANCE.—The term "controlled substance" has the meaning such term has under section 102 of the Controlled Substances Act (21 U.S.C. 802).

(8) EMPLOYEE.—The term "employee" means an operator of a commercial motor vehicle (including an independent contractor while in the course of operating a commercial motor vehicle) who is employed by an employer.

(9) EMPLOYER.—The term "employer" means any person (including the United States, a State, or a political subdivision of a State) who owns or leases a commercial motor vehicle or assigns employees to operate such a vehicle.

(10) FELONY.—The term "felony" means an offense under State or Federal law that is punishable by death or imprisonment for a term exceeding 1 year.

(11) HAZARDOUS MATERIAL.—The term "hazardous material" has the meaning such term has under section 103 of the Hazardous Materials Transportation Act.

49 USC app. 1802.

(12) SERIOUS TRAFFIC VIOLATION.—The term "serious traffic violation" means—

(A) excessive speeding, as defined by the Secretary by regulation;

(B) reckless driving, as defined under State or local law;

(C) a violation of a State or local law relating to motor vehicle traffic control (other than a parking violation) arising in connection with a fatal traffic accident; and

(D) any other similar violation of a State or local law relating to motor vehicle traffic control (other than a parking violation) which the Secretary determines by regulation is serious.

(13) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(14) STATE.—The term "State" means a State of the United States and the District of Columbia.

(15) UNITED STATES.—The term "United States" means the 50 States and the District of Columbia.

TITLE XIII—CYANIDE WRONGFUL USE

SEC. 13001. STUDY AND REPORT.

(a) STUDY.—The Administrator of the Environmental Protection Agency shall conduct a study of the manufacturing and distribution process of cyanide with a view to determining methods, procedures, or other actions which might be taken, employed, or otherwise carried out in connection with such manufacturing and distribution in order to safeguard the public from the wrongful use of cyanide.

(b) MATTERS TO BE INCLUDED.—Such study shall include, among other matters, the following:

(1) a determination of the sources of cyanide, including the name and location of each manufacturer thereof;

(2) an evaluation of the means and methods utilized by the manufacturer and others in the distribution of cyanide, including the name and location of each such distributor;

(3) an evaluation of the procedures employed in connection with the selling, at the wholesale and retail level, of cyanide, including a determination as to whether or not persons selling cyanide require the intended purchaser to identify himself or herself;

(4) a determination as to the extent to which recordkeeping requirements are imposed on, or carried out by, manufacturers of cyanide with respect to the specifications of each lot of cyanide produced by such manufacturer;

(5) a determination as to the feasibility and desirability of establishing a central registry of all lot specifications of cyanide for the purpose of providing quick access to investigative and law enforcement agencies;

(6) a consideration and review of all aspects of the matter of interstate versus intrastate to the extent that it involves the manufacturing, distribution, or use of cyanide;

(7) a determination as to the feasibility and desirability of requiring manufacturers of cyanide to color all such cyanide with a distinctive color so that the consuming public can more readily identify products laced with cyanide;

(8) a determination as to the feasibility and desirability of requiring limited-access storage for cyanide at universities, laboratories, and other institutions that use cyanide for research or other purposes; and

(9) a determination as to the feasibility and desirability of issuing regulations to require any person who sells or otherwise transfers, at a retail level, any cyanide to record such sale or transfer, including the identity of the person purchasing or otherwise receiving such cyanide, the address of such person, and the intended use of such cyanide. Such records shall be available for such use, and retained for such period, as the aforementioned Administrator shall by regulation require.

(c) REPORT.—On or before the expiration of the 180-day period following the date of the enactment of this section, the Administrator of the Environmental Protection Agency shall report the results of such study to the Congress, together with his or her recommendations with respect thereto.

(d) DEFINITIONS.—As used in this section, the term—

(1) "person" means any individual, corporation, partnership, or other entity; and

(2) "cyanide" means sodium cyanide, potassium cyanide or any other toxic cyanide compound.

(e) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

TITLE XIV—SENATE POLICY REGARDING FUNDING

SEC. 14001. STATEMENT OF POLICY.

(a) The Senate finds that—

(1) there is an urgent critical need for funds to carry out the programs and activities authorized by the preceding provisions of this Act in order to ensure a drug free America;

(2) this Act is the result of a bipartisan effort to combat our national drug abuse problem; and

(3) only the exceptional nature of the drug abuse problem warrants the expenditure of funds in excess of otherwise applicable budget limitations.

(b) Therefore, it is the sense of the Senate that—

(1) amounts authorized to carry out the preceding provisions of this Act should be provided as new budget authority for fiscal year 1987 in H.J. Res. 738 (99th Congress, 2d Session); and

Ante., p. 1783; *post*, p. 3341.

(2) such amounts should not be provided through transfers from, or reductions in, any amount appropriated by such joint resolution for any other program, project, or activity for such fiscal year.

National Forest System Drug Control Act of 1986. 16 USC 559b note.

TITLE XV—NATIONAL FOREST SYSTEM DRUG CONTROL

SEC. 15001. SHORT TITLE.

This title may be cited as the "National Forest System Drug Control Act of 1986".

16 USC 559b.

SEC. 15002. PURPOSE.

(a) The purpose of this title is to authorize the Secretary of Agriculture (hereinafter in this title referred to as the "Secretary") to take actions necessary, in connection with the administration and use of the National Forest System, to prevent the manufacture, distribution, or dispensing of marijuana and other controlled substances.

(b) Nothing in this title shall diminish in any way the law enforcement authority of the Forest Service.

(c) As used in this title, the terms "manufacture", "dispense", and "distribute" shall have the same meaning given such terms in section 102 of the Controlled Substances Act (21 U.S.C. 802).

16 USC 559c.

SEC. 15003. POWERS.

For the purposes of this title, if specifically designated by the Secretary and specially trained, not to exceed 500 officers and employees of the Forest Service when in the performance of their duties shall have authority within the boundaries of the National Forest System to—

(1) carry firearms;

(2) conduct investigations of violations of and enforce section 401 of Controlled Substances Act (21 U.S.C. 841) and other criminal violations relating to marijuana and other controlled substances that are manufactured, distributed, or dispensed on National Forest System lands;

Post, p. 3207-192.

(3) make arrests with a warrant or process for misdemeanor violations, or without a warrant or process for violations of such misdemeanors that any such officer or employee has probable cause to believe are being committed in his presence or view, or for a felony with a warrant or without a warrant if he has probable cause to believe that the person to be arrested has committed or is committing such felony;

(4) serve warrants and other process issued by a court or officer of competent jurisdiction;

(5) search with or without warrant or process any person, place, or conveyance according to Federal law or rule of law; and

(6) seize with or without warrant or process any evidentiary item according to Federal law or rule of law.

16 USC 559d.

SEC. 15004. COOPERATION.

For the purposes of this title, in exercising the authority provided by section 15003—

(1) the Forest Service shall cooperate with any other Federal law enforcement agency having primary investigative jurisdiction over the offense committed; and

State and local governments.

(2) the Secretary may authorize the Forest Service to cooperate with the law enforcement officials of any Federal agency, State, or political subdivision in the investigation of violations of and enforcement of section 401 of the Controlled Substances Act (21 U.S.C. 841), other laws and regulations

Post, p. 3207-192.

relating to marijuana and other controlled substances, and State drug control laws or ordinances, within the boundaries of the National Forest System.

SEC. 15005. PENALTY.

Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended by adding at the end thereof the following subsection:

"(e)(1) Any person who assembles, maintains, places, or causes to be placed a boobytrap on Federal property where a controlled substance is being manufactured, distributed, or dispensed shall be sentenced to a term of imprisonment for not more than 10 years and shall be fined not more than $10,000.

"(2) If any person commits such a violation after 1 or more prior convictions for an offense punishable under this subsection, such person shall be sentenced to a term of imprisonment of not more than 20 years and shall be fined not more than $20,000.

"(3) For the purposes of this subsection, the term 'boobytrap' means any concealed or camouflaged device designed to cause bodily injury when triggered by any action of any unsuspecting person making contact with the device. Such term includes guns, ammunition, or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, and lines or wires with hooks attached.".

SEC. 15006. AUTHORIZATION OF APPROPRIATIONS. 16 USC 559e.

There is authorized to be appropriated $10,000,000 for each fiscal year to carry out this title.

SEC. 15007. APPROVAL OF SECRETARY OF AGRICULTURE AND ATTORNEY GENERAL. 16 USC 559f.

The authorities conferred herein shall be exercised pursuant to an agreement approved by the Secretary of Agriculture and the Attorney General.

Approved October 27, 1986.

LEGISLATIVE HISTORY—H.R. 5484 (S. 1903):

SENATE REPORTS: No. 99-411 accompanying S. 1903 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 132 (1986):
- Sept. 10, 11, considered and passed House.
- Sept. 26, 27, 30, considered and pased Senate, amended.
- Oct. 8, House concurred in Senate amendments with an amendment.
- Oct. 10, 14, 15, Senate concurred in House amendments with amendments.
- Oct. 17, House concurred in Senate amendments with an amendment; Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
- Oct. 27, Presidential statement and remarks.

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PUBLIC LAW 99-571—OCT. 28, 1986

GOVERNMENT SECURITIES ACT OF 1986

Public Law 99-571
99th Congress

An Act

Oct. 28, 1986
[H.R. 2032]

An Act Entitled the Government Securities Act of 1986.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Government Securities Act of 1986.

SECTION 1. SHORT TITLE AND FINDINGS.

15 USC 78a note.

(a) SHORT TITLE.—This Act may be cited as the "Government Securities Act of 1986".

15 USC 78o-5 note.

(b) FINDINGS.—The Congress finds that transactions in government securities are affected with a public interest which makes it necessary—

(1) to provide for the integrity, stability, and efficiency of such transactions and of matters and practices related thereto;

(2) to impose adequate regulation of government securities brokers and government securities dealers generally; and

(3) to require appropriate financial responsibility, recordkeeping, reporting, and related regulatory requirements;

in order to protect investors and to insure the maintenance of fair, honest, and liquid markets in such securities.

TITLE I—GOVERNMENT SECURITIES BROKERS AND DEALERS

SEC. 101. ESTABLISHMENT OF GOVERNMENT SECURITIES REGULATORY AUTHORITY.

15 USC 78a.

The Securities Exchange Act of 1934 (hereinafter in this title referred to as "the Act") is amended by inserting after section 15B (15 U.S.C. 78o-4) the following new section:

"GOVERNMENT SECURITIES BROKERS AND DEALERS

Mail. Commerce and trade. 15 USC 78o-5.

"SEC. 15C. (a)(1)(A) It shall be unlawful for any government securities broker or government securities dealer (other than a registered broker or dealer or a financial institution) to make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any government security unless such government securities broker or government securities dealer is registered in accordance with paragraph (2) of this subsection.

Banks and banking.

"(B)(i) It shall be unlawful for any government securities broker or government securities dealer that is a registered broker or dealer or a financial institution to make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any government security unless such government securities broker or government securities dealer has filed with the appropriate regulatory agency written notice that it is a government securities broker or government securities dealer. When a government securities broker or government securities dealer ceases to act as such it

shall file with the appropriate regulatory agency a written notice that it is no longer acting as a government securities broker or government securities dealer.

"(ii) Such notices shall be in such form and contain such information concerning a government securities broker or government securities dealer that is a financial institution and any persons associated with such government securities broker or government securities dealer as the Board of Governors of the Federal Reserve System shall, by rule, after consultation with each appropriate regulatory agency (including the Commission), prescribe as necessary or appropriate in the public interest or for the protection of investors. Such notices shall be in such form and contain such information concerning a government securities broker or government securities dealer that is a registered broker or dealer and any persons associated with such government securities broker or government securities dealer as the Commission shall, by rule, prescribe as necessary or appropriate in the public interest or for the protection of investors. Regulations.

"(iii) Each appropriate regulatory agency (other than the Commission) shall make available to the Commission the notices which have been filed with it under this subparagraph, and the Commission shall maintain and make available to the public such notices and the notices it receives under this subparagraph. Public information.

"(2) A government securities broker or a government securities dealer subject to the registration requirement of paragraph (1)(A) of this subsection may be registered by filing with the Commission an application for registration in such form and containing such information and documents concerning such government securities broker or government securities dealer and any persons associated with such government securities broker or government securities dealer as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors. Within 45 days of the date of filing of such application (or within such longer period as to which the applicant consents), the Commission shall— Regulations.

"(i) by order grant registration, or

"(ii) institute proceedings to determine whether registration should be denied. Such proceedings shall include notice of the grounds for denial under consideration and opportunity for hearing and shall be concluded within 120 days of the date of the filing of the application for registration. At the conclusion of such proceedings, the Commission, by order, shall grant or deny such registration. The Commission may extend the time for the conclusion of such proceedings for up to 90 days if it finds good cause for such extension and publishes its reasons for so finding or for such longer period as to which the applicant consents.

The Commission shall grant the registration of a government securities broker or a government securities dealer if the Commission finds that the requirements of this section are satisfied. The Commission shall deny such registration if it does not make such a finding or if it finds that if the applicant were so registered, its registration would be subject to suspension or revocation under subsection (c) of this section.

"(3) Any provision of this title (other than section 5 or paragraph (1) of this subsection) which prohibits any act, practice, or course of business if the mails or any means or instrumentality of interstate commerce is used in connection therewith shall also prohibit any Mail. Commerce and trade.

such act, practice, or course of business by any government securities broker or government securities dealer registered or having filed notice under paragraph (1) of this subsection or any person acting on behalf of such government securities broker or government securities dealer, irrespective of any use of the mails or any means or instrumentality of interstate commerce in connection therewith.

"(4) The Secretary of the Treasury (hereinafter in this section referred to as the 'Secretary'), by rule or order, upon the Secretary's own motion or upon application, may conditionally or unconditionally exempt any government securities broker or government securities dealer, or class of government securities brokers or government securities dealers, from any provision of subsection (a), (b), or (d) of this section or the rules thereunder, if the Secretary finds that such exemption is consistent with the public interest, the protection of investors, and the purposes of this title.

Regulations.

"(b)(1) The Secretary shall propose and adopt rules to effect the purposes of this title with respect to transactions in government securities effected by government securities brokers and government securities dealers as follows:

"(A) Such rules shall provide safeguards with respect to the financial responsibility and related practices of government securities brokers and government securities dealers including, but not limited to, capital adequacy standards, the acceptance of custody and use of customers' securities, the carrying and use of customers' deposits or credit balances, and the transfer and control of government securities subject to repurchase agreements and in similar transactions.

Reports.
Records.

"(B) Such rules shall require every government securities broker and government securities dealer to make reports to and furnish copies of records to the appropriate regulatory agency, and to file with the appropriate regulatory agency, annually or more frequently, a balance sheet and income statement certified by an independent public accountant, prepared on a calendar or fiscal year basis, and such other financial statements (which shall, as the Secretary specifies, be certified) and information concerning its financial condition as required by such rules.

Records.

"(C) Such rules shall require records to be made and kept by government securities brokers and government securities dealers and shall specify the periods for which such records shall be preserved.

"(2) Rules promulgated and orders issued under this section shall—

Fraud.

"(A) be designed to prevent fraudulent and manipulative acts and practices and to protect the integrity, liquidity, and efficiency of the market for government securities, investors, and the public interest; and

Discrimination, prohibition.

"(B) not be designed to permit unfair discrimination between customers, issuers, government securities brokers, or government securities dealers, or to impose any burden on competition not necessary or appropriate in furtherance of the purposes of this title.

"(3) In promulgating rules and issuing orders under this section, the Secretary—

"(A) may appropriately classify government securities brokers and government securities dealers (taking into account relevant matters, including types of business done, nature of securities

other than government securities purchased or sold, and character of business organization) and persons associated with government securities brokers and government securities dealers;

"(B) may determine, to the extent consistent with paragraph (2) of this subsection and with the public interest, the protection of investors, and the purposes of this title, not to apply, in whole or in part, certain rules under this section, or to apply greater, lesser, or different standards, to certain classes of government securities brokers, government securities dealers, or persons associated with government securities brokers or government securities dealers;

"(C) shall consider the sufficiency and appropriateness of then existing laws and rules applicable to government securities brokers, government securities dealers, and persons associated with government securities brokers and government securities dealers; and

"(D) shall consult with and consider the views of the Commission and the Board of Governors of the Federal Reserve System, except where the Secretary determines that an emergency exists requiring expeditious or summary action and publishes its reasons for such determination.

"(4) If the Commission or the Board of Governors of the Federal Reserve System comments in writing on a proposed rule of the Secretary that has been published for comment, the Secretary shall respond in writing to such written comment before approving the proposed rule.

"(5) No government securities broker or government securities dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any government security in contravention of any rule under this section.

Mail.
Commerce and trade.

"(c)(1) With respect to any government securities broker or government securities dealer registered or required to register under subsection (a)(1)(A) of this section—

"(A) The Commission, by order, shall censure, place limitations on the activities, functions, or operations of, suspend for a period not exceeding 12 months, or revoke the registration of such government securities broker or government securities dealer, if it finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or revocation is in the public interest and that such government securities broker or government securities dealer, or any person associated with such government securities broker or government securities dealer (whether prior or subsequent to becoming so associated), has committed or omitted any act or omission enumerated in subparagraph (A), (D), or (E) of paragraph (4) of section 15(b) of this title, has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this paragraph, or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4).

15 USC 78o.

"(B) Pending final determination whether registration of any government securities broker or government securities dealer shall be revoked, the Commission, by order, may suspend such registration, if such suspension appears to the Commission, after notice and opportunity for hearing, to be necessary or

appropriate in the public interest or for the protection of investors. Any registered government securities broker or registered government securities dealer may, upon such terms and conditions as the Commission may deem necessary in the public interest or for the protection of investors, withdraw from registration by filing a written notice of withdrawal with the Commission. If the Commission finds that any registered government securities broker or registered government securities dealer is no longer in existence or has ceased to do business as a government securities broker or government securities dealer, the Commission, by order, shall cancel the registration of such government securities broker or government securities dealer.

"(C) The Commission, by order, shall censure or place limitations on the activities or functions of any person associated, or seeking to become associated, with a government securities broker or government securities dealer registered or required to register under subsection (a)(1)(A) of this section or suspend for a period not exceeding 12 months or bar any such person from being associated with such a government securities broker or government securities dealer, if the Commission finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person has committed or omitted any act or omission enumerated in subparagraph (A), (D), or (E) of paragraph (4) of section 15(b) of this title, has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this paragraph, or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4).

15 USC 78o.

"(2)(A) With respect to any government securities broker or government securities dealer which is not registered or required to register under subsection (a)(1)(A) of this section, the appropriate regulatory agency for such government securities broker or government securities dealer may, in the manner and for the reasons specified in paragraph (1)(A) of this subsection, censure, place limitations on the activities, functions, or operations of, suspend for a period not exceeding 12 months, or bar from acting as a government securities broker or government securities dealer any such government securities broker or government securities dealer, and may sanction any person associated with such government securities broker or government securities dealer in the manner and for the reasons specified in paragraph (1)(C) of this subsection.

"(B) In addition, where applicable, such appropriate regulatory agency may, in accordance with section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464), or section 407 of the National Housing Act (12 U.S.C. 1730), enforce compliance by such government securities broker or government securities dealer or any person associated with such government securities broker or government securities dealer with the provisions of this section and the rules thereunder.

"(C) For purposes of subparagraph (B) of this paragraph, any violation of any such provision shall constitute adequate basis for the issuance of any order under section 8(b) or 8(c) of the Federal Deposit Insurance Act, section 5(d)(2) or 5(d)(3) of the Home Owners' Loan Act of 1933, or section 407(e) or 407(f) of the National Housing Act, and the customers of any such government securities broker or

government securities dealer shall be deemed, respectively, 'depositors' as that term is used in section 8(c) of the Federal Deposit Insurance Act, 'savings account holders' as that term is used in section 5(d)(3) of the Home Owners' Loan Act of 1933, or 'insured members' as that term is used in section 407(f) of the National Housing Act.

12 USC 1818.
12 USC 1464.
12 USC 1730.

"(D) Nothing in this paragraph shall be construed to affect in any way the powers of such appropriate regulatory agency to proceed against such government securities broker or government securities dealer under any other provision of law.

"(E) Each appropriate regulatory agency (other than the Commission) shall promptly notify the Commission after it has imposed any sanction under this paragraph on a government securities broker or government securities dealer, or a person associated with a government securities broker or government securities dealer, and the Commission shall maintain, and make available to the public, a record of such sanctions and any sanctions imposed by it under this subsection.

Public information. Records.

"(3) It shall be unlawful for any person as to whom an order entered pursuant to paragraph (1) or (2) of this subsection suspending or barring him from being associated with a government securities broker or government securities dealer is in effect willfully to become, or to be, associated with a government securities broker or government securities dealer without the consent of the appropriate regulatory agency, and it shall be unlawful for any government securities broker or government securities dealer to permit such a person to become, or remain, a person associated with it without the consent of the appropriate regulatory agency, if such government securities broker or government securities dealer knew, or, in the exercise of reasonable care should have known, of such order.

"(d)(1) All records of a government securities broker or government securities dealer are subject at any time, or from time to time, to such reasonable periodic, special, or other examinations by representatives of the appropriate regulatory agency for such government securities broker or government securities dealer as such appropriate regulatory agency deems necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title.

"(2) Information received by any appropriate regulatory agency or the Secretary from or with respect to any government securities broker or government securities dealer or with respect to any person associated therewith may be made available by the Secretary or the recipient agency to the Commission, the Secretary, any appropriate regulatory agency, and any self-regulatory organization.

"(e)(1) It shall be unlawful for any government securities broker or government securities dealer registered or required to register with the Commission under subsection (a)(1)(A) to effect any transaction in, or induce or attempt to induce the purchase or sale of, any government security, unless such government securities broker or government securities dealer is a member of a national securities exchange registered under section 6 of this title or a securities association registered under section 15A of this title.

Law enforcement and crime.
15 USC 78f.
15 USC 78o-3.

"(2) The Commission, after consultation with the Secretary, by rule or order, as it deems consistent with the public interest and the protection of investors, may conditionally or unconditionally exempt from paragraph (1) of this subsection any government securities broker or government securities dealer or class of government

securities brokers or government securities dealers specified in such rule or order.

"(f)(1) Nothing in this section except paragraph (2) of this subsection shall be construed to impair or limit the authority under any other provision of law of the Commission, the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, the Secretary of Housing and Urban Development, and the Government National Mortgage Association.

"(2) Notwithstanding any other provision of this title, the Commission shall not have any authority to make investigations of, require the filing of a statement by, or take any other action under this title against a government securities broker or government securities dealer, or any person associated with a government securities broker or government securities dealer, for any violation or threatened violation of the provisions of this section or the rules or regulations thereunder, unless the Commission is the appropriate regulatory agency for such government securities broker or government securities dealer. Nothing in the preceding sentence shall be construed to limit the authority of the Commission with respect to violations or threatened violations of any provision of this title other than this section, or the rules or regulations under any such other provision.

Termination date.

"(g)(1) The authority of the Secretary to issue orders and to propose and adopt rules under this section shall terminate on October 1, 1991.

"(2) All orders and rules—

"(A) which have been issued or adopted by the Secretary, and

"(B) which are in effect on the date specified in paragraph (1), shall continue in effect according to their terms.".

SEC. 102. CONFORMING AMENDMENTS.

(a) DEFINITION OF EXEMPTED SECURITY.—Paragraph (12) of section 3(a) of the Act (15 U.S.C. 78c(a)(12)) is amended to read as follows:

"(12)(A) The term 'exempted security' or 'exempted securities' includes—

"(i) government securities, as defined in paragraph (42) of this subsection;

"(ii) municipal securities, as defined in paragraph (29) of this subsection;

"(iii) any interest or participation in any common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of assets contributed thereto by such bank in its capacity as trustee, executor, administrator, or guardian;

"(iv) any interest or participation in a single trust fund, or a collective trust fund maintained by a bank, or any security arising out of a contract issued by an insurance company, which interest, participation, or security is issued in connection with a qualified plan as defined in subparagraph (C) of this paragraph; and

"(v) such other securities (which may include, among others, unregistered securities, the market in which is predominantly intrastate) as the Commission may, by such rules and regulations as it deems consistent with the public

interest and the protection of investors, either unconditionally or upon specified terms and conditions or for stated periods, exempt from the operation of any one or more provisions of this title which by their terms do not apply to an 'exempted security' or to 'exempted securities'.

"(B)(i) Notwithstanding subparagraph (A)(i) of this paragraph, government securities shall not be deemed to be 'exempted securities' for the purposes of section 17A of this title. 15 USC 78q-1.

"(ii) Notwithstanding subparagraph (A)(ii) of this paragraph, municipal securities shall not be deemed to be 'exempted securities' for the purposes of sections 15, 15A (other than subsection (g)(3)), and 17A of this title. 5 USC 78o, 78o-3, 78q-1.

"(C) For purposes of subparagraph (A)(iv) of this paragraph, the term 'qualified plan' means (i) a stock bonus, pension, or profit-sharing plan which meets the requirements for qualification under section 401 of the Internal Revenue Code of 1954, (ii) an annuity plan which meets the requirements for the deduction of the employer's contribution under section 404(a)(2) of such Code, or (iii) a governmental plan as defined in section 414(d) of such Code which has been established by an employer for the exclusive benefit of its employees or their beneficiaries for the purpose of distributing to such employees or their beneficiaries the corpus and income of the funds accumulated under such plan, if under such plan it is impossible, prior to the satisfaction of all liabilities with respect to such employees and their beneficiaries, for any part of the corpus or income to be used for, or diverted to, purposes other than the exclusive benefit of such employees or their beneficiaries, other than any plan described in clause (i), (ii), or (iii) of this subparagraph which (I) covers employees some or all of whom are employees within the meaning of section 401(c) of such Code, or (II) is a plan funded by an annuity contract described in section 403(b) of such Code.". 26 USC 401. 26 USC 404. 26 USC 414. 26 USC 401.

(b) DEFINITION OF APPROPRIATE REGULATORY AGENCY.—Section 3(a)(34) of the Act is amended— 15 USC 78c.

(1) by inserting after paragraph (F) thereof the following new paragraph:

"(G) When used with respect to a government securities broker or government securities dealer, or person associated with a government securities broker or government securities dealer:

"(i) the Comptroller of the Currency, in the case of a national bank, a bank in the District of Columbia examined by the Comptroller of the Currency, or a Federal branch or Federal agency of a foreign bank (as such terms are used in the International Banking Act of 1978); 12 USC 3101 note.

"(ii) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System, a foreign bank, a State branch or a State agency of a foreign bank, or a commercial lending company owned or controlled by a foreign bank (as such terms are used in the International Banking Act of 1978);

"(iii) the Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System or a Federal savings bank);

"(iv) the Federal Home Loan Bank Board, in the case of a Federal savings and loan association, Federal savings bank, or District of Columbia savings and loan association;

"(v) the Federal Savings and Loan Insurance Corporation, in the case of an institution insured by the Federal Savings and Loan Insurance Corporation (other than a Federal savings and loan association, Federal savings bank, or District of Columbia savings and loan association);

"(vi) the Commission, in the case of all other government securities brokers and government securities dealers."; and

(2) by inserting ", and the term 'District of Columbia savings and loan association' means any association subject to examination and supervision by the Federal Home Loan Bank Board under section 8 of the Home Owners' Loan Act of 1933" before the period ending the last sentence thereof.

12 USC 1466a.

(c) DEFINITION OF STATUTORY DISQUALIFICATION.—Section 3(a)(39) of such Act (15 U.S.C. 78c(a)(39)) is amended—

(1) in subparagraph (B)—

(A) by inserting "or other appropriate regulatory agency" after "Commission"; and

(B) by striking out "or municipal securities dealer" and inserting in lieu thereof "municipal securities dealer, government securities broker, or government securities dealer"; and

(2) in subparagraph (C)—

(A) by striking out "or municipal securities dealer" and inserting in lieu thereof "municipal securities dealer, government securities broker, or government securities dealer"; and

(B) by inserting ", an appropriate regulatory agency," after "Commission".

(d) ADDITIONAL DEFINITIONS.—Section 3(a) of such Act (15 U.S.C. 78c(a)) is further amended by adding at the end thereof the following new paragraphs:

"(42) The term 'government securities' means—

"(A) securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States;

"(B) securities which are issued or guaranteed by corporations in which the United States has a direct or indirect interest and which are designated by the Secretary of the Treasury for exemption as necessary or appropriate in the public interest or for the protection of investors;

"(C) securities issued or guaranteed as to principal or interest by any corporation the securities of which are designated, by statute specifically naming such corporation, to constitute exempt securities within the meaning of the laws administered by the Commission; or

Ante, p. 3208; 15 USC 76q-1.

"(D) for purposes of sections 15C and 17A, any put, call, straddle, option, or privilege on a security described in subparagraph (A), (B), or (C) other than a put, call, straddle, option, or privilege—

"(i) that is traded on one or more national securities exchanges; or

"(ii) for which quotations are disseminated through an automated quotation system operated by a registered securities association.

"(43) The term 'government securities broker' means any person regularly engaged in the business of effecting transactions in government securities for the account of others, but does not include—

"(A) any corporation the securities of which are government securities under subparagraph (B) or (C) of paragraph (42) of this subsection; or

"(B) any person registered with the Commodity Futures Trading Commission, any contract market designated by the Commodity Futures Trading Commission, such contract market's affiliated clearing organization, or any floor trader on such contract market, solely because such person effects transactions in government securities that the Commission, after consultation with the Commodity Futures Trading Commission, has determined by rule or order to be incidental to such person's futures-related business.

"(44) The term 'government securities dealer' means any person engaged in the business of buying and selling government securities for his own account, through a broker or otherwise, but does not include—

"(A) any person insofar as he buys or sells such securities for his own account, either individually or in some fiduciary capacity, but not as a part of a regular business;

"(B) any corporation the securities of which are government securities under subparagraph (B) or (C) of paragraph (42) of this subsection;

"(C) any bank, unless the bank is engaged in the business of buying and selling government securities for its own account other than in a fiduciary capacity, through a broker or otherwise; or

"(D) any person registered with the Commodity Futures Trading Commission, any contract market designated by the Commodity Futures Trading Commission, such contract market's affiliated clearing organization, or any floor trader on such contract market, solely because such person effects transactions in government securities that the Commission, after consultation with the Commodity Futures Trading Commission, has determined by rule or order to be incidental to such person's futures-related business.

"(45) The term 'person associated with a government securities broker or government securities dealer' means any partner, officer, director, or branch manager of such government securities broker or government securities dealer (or any person occupying a similar status or performing similar functions), and any other employee of such government securities broker or government securities dealer who is engaged in the management, direction, supervision, or performance of any activities relating to government securities, and any person directly or indirectly controlling, controlled by, or under common control with such government securities broker or government securities dealer.

"(46) The term 'financial institution' means (A) a bank (as such term is defined in paragraph (6) of this subsection), (B) a foreign bank, and (C) an insured institution (as such term is defined in section 401 of the National Housing Act).

12 USC 1724.

"(48) The term 'registered broker or dealer' means a broker or dealer registered or required to register pursuant to section 15

15 USC 78o, 78o-4. 15 USC 78f, 78o-3.

Ante, p. 3208.

or 15B of this title, except that in paragraph (3) of this subsection and sections 6 and 15A the term means such a broker or dealer and a government securities broker or government securities dealer registered or required to register pursuant to section 15C(a)(1)(A) of this title.".

15 USC 78o.

(e) ENFORCEMENT AND DISCIPLINE.—Section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) is amended—

(1) in paragraph (4)(A), by inserting "or with any other appropriate regulatory agency" after "Commission" the first time it appears therein;

(2) in paragraph (4)(B), by inserting in clause (ii) thereof "government securities broker, government securities dealer," after "municipal securities dealer,";

(3) in paragraph (4)(C), by striking out "or municipal securities dealer," and inserting in lieu thereof "municipal securities dealer, government securities broker, or government securities dealer,"; and

(4) in paragraph (8)—

(A) by striking out "any broker or dealer required to register pursuant to this title" and inserting in lieu thereof "any registered broker or dealer"; and

(B) by striking out "an exempted security".

(f) NET CAPITAL.—Section 15(c)(3) of such Act (15 U.S.C. 78o(c)(3)) is amended—

(1) by inserting "(other than a government securities broker or government securities dealer, except a registered broker or dealer)" after "dealer"; and

(2) by inserting "(except a government security)" after "exempted security".

(g) REGISTERED SECURITIES ASSOCIATIONS.—(1) Section 15A(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(f)) is amended to read as follows:

"(f)(1) Except as provided in paragraph (2) of this subsection, nothing in this section shall be construed to apply with respect to any transaction by a registered broker or dealer in any exempted security.

"(2) A registered securities association may adopt and implement rules applicable to members of such association (A) to enforce compliance by registered brokers and dealers with applicable provisions of this title and the rules and regulations thereunder, (B) to provide that its members and persons associated with its members shall be appropriately disciplined, in accordance with subsections (b)(7), (b)(8), and (h) of this section, for violation of applicable provisions of this title and the rules and regulations thereunder, (C) to provide for reasonable inspection and examination of the books and records of registered brokers and dealers, (D) to provide for the matters described in paragraphs (b)(3), (b)(4), and (b)(5) of this section, (E) to implement the provisions of subsection (g) of this section, and (F) to prohibit fraudulent, misleading, deceptive, and false advertising.

"(3) Nothing in subsection (b)(6) or (b)(11) of this section shall be construed to permit a registered securities association to make rules concerning any transaction by a registered broker or dealer in a municipal security.".

(2) Section 15A(g) of such Act (15 U.S.C. 78o-3(g)) is amended—

(A) by inserting after paragraph (3)(C) the following:

"(D) Nothing in subparagraph (A), (B), or (C) of this paragraph shall be construed to permit a registered securities association to deny membership to or condition the membership of, or bar any person from becoming associated with or condition the association of any person with, a broker or dealer that engages exclusively in transactions in exempted securities.";

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following new paragraph:

"(4)(A) A registered securities association may deny membership to, or condition the membership of, a government securities broker or government securities dealer if such government securities broker or government securities dealer (i) does not meet standards of financial responsibility under rules adopted pursuant to section 15C(b)(1)(A) of this title, or (ii) has engaged and there is a reasonable likelihood that it will again engage in any conduct or practice which would subject such government securities broker or government securities dealer to sanctions under section 15C(c) of this title. A registered securities association may establish procedures including examination of the books and records of government securities brokers and government securities dealers to verify compliance with the provisions of this title and the rules thereunder.

Ante, p. 3208.

"(B) A registered securities association may bar any person from becoming associated with a member or condition the association of a person with a member (i) if such person has engaged in any conduct or practice and there is a reasonable likelihood that such person will again engage in any conduct or practice which would subject such person to sanctions under section 15C(c) of this title, or (ii) if such person does not agree to supply such association with such information with respect to its relationship and dealings with the member as may be specified in the rules of the association and to permit examination of its books and records to verify the accuracy thereof.".

(h) FILING OF AND ACCESS TO DOCUMENTS.—Section 17(c) of the Act (15 U.S.C. 78q(c)) is amended by adding at the end thereof the following new paragraph:

"(4) The Commission or the appropriate regulatory agency may specify that documents required to be filed pursuant to this subsection with the Commission or such agency, respectively, may be retained by the originating clearing agency, transfer agent, or municipal securities dealer, or filed with another appropriate regulatory agency. The Commission or the appropriate regulatory agency (as the case may be) making such a specification shall continue to have access to the document on request.".

(i) LOST AND STOLEN SECURITIES.—Section 17(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(f)) is amended—

(1) in paragraph (1) by inserting "government securities broker, government securities dealer," after "municipal securities dealer,";

(2) in paragraph (1)(A), by inserting "and, in the case of government securities, to the Secretary of the Treasury" after "Commission" the second time it appears; and

(3) in paragraph (3)—

(A) by inserting "(A)" after "(3)"; and

(B) by adding the following new subparagraph:

"(B) In order to carry out the authority under paragraph (1) of this subsection, the Commission or its designee and the Secretary of the

Contracts.

Treasury shall enter into an agreement whereby the Commission or its designee will receive, store, and disseminate information in the possession, and which comes into the possession, of the Department of the Treasury in regard to missing, lost, counterfeit, or stolen securities.".

(j) BURDEN ON COMPETITION; PUBLIC RULEMAKING REQUIREMENTS.—Section 23(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78w(a)) is amended—

(1) by inserting "and the Secretary of the Treasury" after "Commission" each place it appears in paragraph (2);

(2) by inserting "or the Secretary's" after "Commission's" in paragraph (2);

(3) by inserting "and the Secretary" after "Commission" the first, second, and fourth places it appears in paragraph (3); and

(4) by inserting "or the Secretary" after "Commission" the third place it appears in paragraph (3).

(k) JUDICIAL REVIEW OF ORDERS AND RULES.—Section 25(d)(1) of the Act (15 U.S.C. 78y(d)(1)) is amended by inserting before the period at the end thereof the following: "and the Secretary of the Treasury insofar as he is acting pursuant to section 15C of this title".

Ante, p. 3208.
Banks and banking.

(l) INVESTMENT COMPANIES: DISQUALIFICATIONS.—Section 9 of the Investment Company Act of 1940 (15 U.S.C. 80a-9) is amended—

(1) by striking out paragraphs (1) and (2) of subsection (a) and inserting in lieu thereof the following:

"(1) any person who within 10 years has been convicted of any felony or misdemeanor involving the purchase or sale of any security or arising out of such person's conduct as an underwriter, broker, dealer, investment adviser, municipal securities dealer, government securities broker, government securities dealer, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person, salesman, or employee of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act;

7 USC 1.

"(2) any person who, by reason of any misconduct, is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an underwriter, broker, dealer, investment adviser, municipal securities dealer, government securities broker, government securities dealer, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person, salesman, or employee of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security; or";

(2) by inserting "or of the Commodity Exchange Act," after "this title," in subsection (b)(2); and

(3) by inserting "or of the Commodity Exchange Act," after "this title," in subsection (b)(3).

(m) INVESTMENT ADVISERS: DISQUALIFICATIONS.—Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3) is amended—

(1) by striking out "or fiduciary" in subsection (e)(2)(B) and inserting in lieu thereof "government securities broker, government securities dealer, fiduciary, or entity or person required to be registered under the Commodity Exchange Act";

(2) by striking out paragraph (3) of subsection (e) and inserting in lieu thereof the following:

"(3) is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person or employee of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security."; and

7 USC 1.

(3) by inserting "the Commodity Exchange Act," after "this title," in paragraph (4) of subsection (e).

SEC. 103. STUDIES AND RECOMMENDATIONS WITH RESPECT TO EXTENSION OF TREASURY AUTHORITY.

(a) TASK FORCE RECOMMENDATION.—The Secretary of the Treasury, together with the Securities and Exchange Commission and the Board of Governors of the Federal Reserve System, shall evaluate the effectiveness of the rules promulgated pursuant to section 15C of the Securities Exchange Act of 1934 in effecting the purposes of such Act, and shall submit to the Congress, not later than October 1, 1990, their recommendation with respect to the extension of the Secretary's authority under such section and such other recommendations as they may consider appropriate.

15 USC 78o-5 note.

Ante, p. 3208.

(b) COMPTROLLER GENERAL STUDY AND RECOMMENDATIONS.—The Comptroller General shall conduct a study of the regulation of government securities brokers and government securities dealers pursuant to section 15C of the Securities Exchange Act of 1934 and the effectiveness of the amendments made by this Act in protecting investors and in effecting the purposes described in section 15C(b)(2), and shall submit to the Congress, not later than March 31, 1990, his recommendations with respect to the extension of the Secretary's authority under such section and such other recommendations as he may consider appropriate.

SEC. 104. STUDY OF TRADING SYSTEM FOR GOVERNMENT SECURITIES.

(a) REQUIREMENTS FOR STUDY.—The Comptroller General, in coordination and consultation with the Board of Governors of the Federal Reserve, the Secretary of the Treasury, and the Commission, shall study the nature of the current trading system in the secondary market for government securities, including—

(1) the extent and form of availability of bids and asks for government securities transactions on a real time basis;

(2) the extent and form of the availability of government securities brokers' services in the secondary market; and

(3) whether quotations for government securities and the services of government securities brokers are available on terms which are consistent with the public interest, the protection of investors, and the purposes of this title.

(b) PUBLIC HEARINGS.—In addition to the collection of information through surveys, public document review, interviews, and other information-gathering methods, at least one joint public hearing shall be held during the course of conducting the study.

(c) REPORT AND RECOMMENDATIONS.—The report of the Comptroller General shall be submitted to the Congress no later than 6 months after the date of enactment of this Act.

SEC. 105. SECURITIES AND EXCHANGE COMMISSION LEGISLATION STUDY.

Banks and banking. Insurance.

(a) GENERAL REQUIREMENTS.—The Securities and Exchange Commission is authorized and directed to make a study of the use of the exemption contained in section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) for securities guaranteed by banks, and of the use of insurance policies to guarantee securities. Such study shall include an analysis of—

(1) the impact of the guarantee provision of such section 3(a)(2) on investor protection and the public interest;

(2) the impact of the guarantee provision of such section 3(a)(2) on competition between banks and insurance companies and between domestic and foreign guarantors;

(3) whether, and under what circumstances, debt securities guaranteed by insurance policies should be exempt from registration under the Securities Act of 1933;

15 USC 77a.

(4) an analysis of the impact of such an exemption on investor protection and the public interest; and

(5) such other issues as the Commission deems relevant.

Banks and banking.

(b) CONSULTATION.—In conducting the study required by subsection (a), the Commission shall consult with and solicit comment from the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, and other Federal bank regulatory agencies.

(c) REPORT.—The Securities and Exchange Commission shall, on or before 6 months after the date of enactment of this Act, submit a report to the Congress containing—

(1) the results of its study under this section;

(2) the actions it proposes to take on the basis of its study; and

(3) recommendations for legislation.

Banks and banking.

TITLE II—DEPOSITORY INSTITUTIONS

SEC. 201. DEPOSITORY INSTITUTIONS.

(a) AMENDMENT TO CHAPTER 31 OF TITLE 31, UNITED STATES CODE.—Section 3121 of title 31, United States Code, is amended by adding at the end thereof the following:

Regulations.

"(h)(1) The Secretary shall prescribe by regulation standards for the safeguarding and use of obligations issued under this chapter, and obligations otherwise issued or guaranteed as to principal or interest by the United States. Such regulations shall apply only to a depository institution that is not a government securities broker or a government securities dealer and that holds such obligations as fiduciary, custodian, or otherwise for the account of a customer and not for its own account. Such regulations shall provide for the adequate segregation of obligations so held, including obligations which are purchased or sold subject to resale or repurchase.

"(2) Violation of a regulation prescribed under paragraph (1) shall constitute adequate basis for the issuance of an order under section 5239(a) or (b) of the Revised Statutes (12 U.S.C. 93(a) or (b)), section 8(b) or 8(c) of the Federal Deposit Insurance Act, section 5(d)(2) or 5(d)(3) of the Home Owners' Loan Act of 1933, section 407(e) or 407(f) of the National Housing Act, or section 206(e) or 206(f) of the Federal Credit Union Act. Such an order may be issued with respect to a depository institution by its appropriate regulatory agency and with

12 USC 1818.
12 USC 1464.
12 USC 1730.
12 USC 1786.

respect to a federally insured credit union by the National Credit Union Administration Board.

"(3) Nothing in this subsection shall be construed to affect in any way the powers of such agencies under any other provision of law.

"(4) The Secretary shall, prior to adopting regulations under this subsection, determine with respect to each appropriate regulatory agency and the National Credit Union Administration Board, whether its rules and standards adequately meet the purposes of regulations to be promulgated under this subsection, and if the Secretary so determines, shall exempt any depository institution subject to such rules or standards from the regulations promulgated under this subsection.

"(5) As used in this subsection—

"(A) 'depository institution' has the meaning stated in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act and also includes a foreign bank, an agency or branch of a foreign bank, and a commercial lending company owned or controlled by a foreign bank (as such terms are defined in the International Banking Act of 1978). 12 USC 461.

"(B) 'government securities broker' has the meaning prescribed in section 3(a)(43) of the Securities Exchange Act of 1934. 15 USC 78c.

"(C) 'government securities dealer' has the meaning prescribed in section 3(a)(44) of the Securities Exchange Act of 1934.

"(D) 'appropriate regulatory agency' has the meaning prescribed in section 3(a)(34)(G) of the Securities Exchange Act of 1934.".

(b) AMENDMENTS TO CHAPTER 91 OF TITLE 31, UNITED STATES CODE.—Chapter 91 of title 31, United States Code, is amended—

(1) by adding at the end thereof the following:

"§ 9110. Standards for depository institutions holding securities of a Government-sponsored corporation for customers Regulations. 31 USC 9110.

"(a) The Secretary shall prescribe by regulation standards for the safeguarding and use of obligations that are government securities described in subparagraph (B) or (C) of section 3(a)(42) of the Securities Exchange Act of 1934. Such regulations shall apply only to a depository institution that is not a government securities broker or a government securities dealer and that holds such obligations as fiduciary, custodian, or otherwise for the account of a customer and not for its own account. Such regulations shall provide for the adequate segregation of obligations so held, including obligations which are purchased or sold subject to resale or repurchase.

"(b) Violation of a regulation prescribed under subsection (a) shall constitute adequate basis for the issuance of an order under section 5239(a) or (b) of the Revised Statutes (12 U.S.C. 93(a) or (b)), section 8(b) or 8(c) of the Federal Deposit Insurance Act, section 5(d)(2) or 5(d)(3) of the Home Owners' Loan Act of 1933, section 407(e) or 407(f) of the National Housing Act, or section 206(e) or 206(f) of the Federal Credit Union Act. Such an order may be issued with respect to a depository institution by its appropriate regulatory agency and with respect to a federally insured credit union by the National Credit Union Administration. 12 USC 1818. 12 USC 1464. 12 USC 1730. 12 USC 1786.

"(c) Nothing in this section shall be construed to affect in any way the powers of such agencies under any other provision of law.

"(d) The Secretary shall, prior to adopting regulations under this section, determine with respect to each appropriate regulatory agency and the National Credit Union Administration Board,

whether its rules and standards adequately meet the purposes of regulations to be promulgated under this section, and if the Secretary so determines, shall exempt any depository institution subject to such rules or standards from the regulations promulgated under this section.

"(e) As used in this subsection—

"(1) 'depository institution' has the meaning stated in clauses (i) through (vi) of subparagraph 19(b)(1)(A) of the Federal Reserve Act and also includes a foreign bank, an agency or branch of a foreign bank, and a commercial lending company owned or controlled by a foreign bank (as such terms are defined in the International Banking Act of 1978).

12 USC 461.

12 USC 3101 note.

"(2) 'government securities broker' has the meaning prescribed in section 3(a)(43) of the Securities Exchange Act of 1934.

"(3) 'government securities dealer' has the meaning prescribed in section 3(a)(44) of the Securities Exchange Act of 1934.

"(4) 'appropriate regulatory agency' has the meaning prescribed in section 3(a)(34)(G) of the Securities Exchange Act of 1934."; and

(2) by adding at the end of the chapter analysis the following:

"9110. Standards for depository institutions holding securities of a Government-sponsored corporation for customers.".

TITLE III—TRANSITIONAL AND SAVINGS PROVISIONS

SEC. 301. TRANSITIONAL AND SAVINGS PROVISIONS.

15 USC 78o-5 note.

(a) EFFECT ON PENDING ADMINISTRATIVE PROCEEDINGS.—The provisions of this Act shall not affect any proceedings pending on the effective date of this Act.

(b) EFFECT ON PENDING JUDICIAL PROCEEDINGS.—The provisions of this Act shall not affect suits commenced prior to the effective date of this Act, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(c) DISCRETION OF THE FEDERAL RESERVE BANK OF NEW YORK.—Nothing in this Act shall be construed to limit or impair the discretion or authority of the Federal Reserve Bank of New York to require reports or establish terms and conditions in connection with the Bank's relationship with any government securities broker or government securities dealer, including a primary dealer.

(d) JURISDICTION OF THE COMMODITY FUTURES TRADING COMMISSION.—Nothing in this Act affects the jurisdiction of the Commodity Futures Trading Commission as set forth in the Commodity Exchange Act over trading of commodity futures contracts and options on such contracts involving government securities.

7 USC 1.

TITLE IV—EFFECTIVE DATES

SEC. 401. GENERAL EFFECTIVE DATES.

15 USC 78o-5 note.

Except as provided in section 402, this Act and the amendments made by this Act shall take effect 270 days after the date of enactment of this Act.

SEC. 402. EFFECTIVE DATE AND REQUIREMENTS FOR REGULATIONS.

15 USC 78o-5 note.

Notwithstanding section 401, the Secretary of the Treasury and each appropriate regulatory agency shall, within 120 days after the

date of enactment of this Act, publish for notice and public comment such regulations as are initially required to implement this Act, which regulations shall become effective as temporary regulations 210 days after the date of enactment of this Act and as final regulations not later than 270 days after the date of enactment of this Act.

SEC. 403. REGISTRATION DATE.

15 USC 78o-5 note.

No person may continue to act as a government securities broker or government securities dealer after 270 days after the date of enactment of this Act unless such person has been registered or has provided notice to the Commission or the appropriate regulatory agency as required by the amendment made by section 101 of this Act.

Approved October 28, 1986.

LEGISLATIVE HISTORY—H.R. 2032 (S. 1416):

HOUSE REPORTS: No. 99-258 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 99-426 accompanying S. 1416 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Sept. 17, considered and passed House.
Vol. 132 (1986): Sept. 16, considered and passed Senate, amended, in lieu of S. 1416.
Oct. 6, House concurred in Senate amendments with an amendment.
Oct. 9, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Oct. 28, Presidential statement.

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91-139 O - 87 (592)

Public Law 99-572
99th Congress

An Act

Oct. 28, 1986
[H.R. 2205]

To authorize the erection of a memorial on Federal land in the District of Columbia and its environs to honor members of the Armed Forces of the United States who served in the Korean war.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

AUTHORIZATION OF MEMORIAL

40 USC 1003 note.

SECTION 1. The American Battle Monuments Commission is authorized to establish a memorial on Federal land in the District of Columbia and its environs to honor members of the Armed Forces of the United States who served in the Korean war, particularly those who were killed in action, are still listed as missing in action, or were held as prisoners of war. Such memorial shall be established in accordance with the provisions of H.R. 4378, as approved by the House of Representatives on September 29, 1986.

ESTABLISHMENT OF KOREAN WAR VETERANS MEMORIAL ADVISORY BOARD

40 USC 1003 note.

SEC. 2. (a) There is hereby established a Korean War Veterans Memorial Advisory Board which shall consist of twelve veterans who served in the Korean war. The members of the Board shall be appointed by the President within one hundred and twenty calendar days of enactment of this Act.

(b) The Korean War Veterans Memorial Advisory Board shall be responsible for:

(1) recommending the site and selecting the design for the memorial, subject to the approval of the American Battle Monuments Commission and in accordance with section 7(a) of H.R. 4378, as approved by the House of Representatives on September 29, 1986; and

(2) promoting the establishment of the memorial and encouraging the donation of private funds for the construction and maintenance of the memorial.

FEDERAL AUTHORIZATION AND PRIVATE FUNDING

40 USC 1003 note.

SEC. 3. (a) The American Battle Monuments Commission shall establish the memorial with private funds except as provided in subsection (b) of this section. For the purpose of carrying out this Act, the American Battle Monuments Commission is authorized to solicit and accept private contributions. The Commission is directed to establish an account into which these private funds shall be deposited and to maintain documentation of such contributions.

Appropriation authorization.

(b) There are hereby authorized to be appropriated:

(1) $500,000 for site preparation, design, planning, and associated administrative costs for the establishment of the memorial; and

(2) $500,000 for construction of the memorial, to be available only after a construction permit has been issued for the memorial.

(c) Private funds donated in excess of the cost of construction and maintenance of the memorial shall be deposited in the Treasury as miscellaneous receipts to reimburse the United States for funds appropriated pursuant to subsection (b) of this section.

Approved October 28, 1986.

LEGISLATIVE HISTORY—H.R. 2205:

HOUSE REPORTS: No. 99-341 (Comm. on House Administration).
SENATE REPORTS: No. 99-459 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Nov. 4, 6, considered and passed House.
Vol. 132 (1986): Oct. 9, considered and passed Senate, amended.
Oct. 14, House concurred in Senate amendment.

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PUBLIC LAW 99-573—OCT. 28, 1986

DISTRICT OF COLUMBIA JUDICIAL EFFICIENCY AND IMPROVEMENT ACT OF 1986

Public Law 99-573
99th Congress

An Act

Oct. 28, 1986
[H.R. 3578]

To provide permanent authority for hearing commissioners in the District of Columbia courts, to modify certain procedures of the District of Columbia Judicial Nomination Commission and the District of Columbia Commission on Judicial Disabilities and Tenure, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

District of Columbia Judicial Efficiency and Improvement Act of 1986.

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Judicial Efficiency and Improvement Act of 1986".

SEC. 2. HEARING COMMISSIONERS.

(a) Section 1732 of title 11 of the District of Columbia Code is amended to read as follows:

"§ 11-1732. Hearing commissioners.

"(a) With the approval of a majority of the judges of the Superior Court of the District of Columbia in active service and subject to standards and procedures established by the rules of the Superior Court, the chief judge of the Superior Court may appoint Hearing Commissioners, who shall serve in the Superior Court and perform the duties enumerated in subsection (j) of this section and such other functions incidental to these duties as are consistent with the rules of the Superior Court and the Constitution and laws of the United States and of the District of Columbia.

"(b) Hearing commissioners shall be selected pursuant to standards and procedures adopted by the Board of Judges. Such procedures shall contain provisions for public notice of all vacancies in hearing commissioner positions and for the establishment by the Court of an advisory merit selection panel, composed of lawyer and nonlawyer residents of the District of Columbia who are not employees of the District of Columbia Courts, to assist the Board of Judges in identifying and recommending persons who are best qualified to fill such positions.

"(c) No individual shall be appointed as a hearing commissioner unless that individual—

"(1) is a citizen of the United States;

"(2) is an active member of the unified District of Columbia Bar and has been engaged in the active practice of law in the District for the five years immediately preceding the appointment or for such five years has been on the faculty of a law school in the District, or has been employed as a lawyer by the United States or District government; and

"(3) is a bona fide resident of the District of Columbia and has maintained an actual place of abode in the District for at least ninety days immediately prior to appointment, and retains such residency during service as a hearing commissioner, except that Hearing Commissioners appointed prior to the effective date of

this section shall not be required to be residents of the District to be eligible to be appointed to one of the initial terms under this section or to be reappointed.

"(d) Hearing commissioners shall be appointed for terms of four years and may be reappointed for terms of four years. Those individuals serving as hearing commissioners on the effective date of this Act shall be automatically appointed for a four year term.

"(e) Upon the expiration of a hearing commissioner's term, the hearing commissioner may continue to perform the duties of office until a successor is appointed, or for 90 days after the date of the expiration of the hearing commissioner's term, whichever is earlier.

"(f) No individual may serve as a hearing commissioner under this section after having attained the age of seventy-four.

"(g) The Board of Judges may suspend, involuntarily retire, or remove a hearing commissioner, during the term for which the hearing commissioner is appointed, only for incompetence, misconduct, neglect of duty, or physical or mental disability. Suspension, involuntary retirement, or removal requires the concurrence of a majority of the judges in active service. Before any order of suspension, involuntary retirement, or removal shall be entered, a full specification of the charges and the opportunity to be heard shall be furnished to the hearing commissioner pursuant to procedures established by rules of the Superior Court.

"(h) If the Board of Judges determines that a hearing commissioner position is not needed, the Board of Judges may terminate the position.

"(i)(1) Hearing commissioners may not engage in the practice of law, or in any other business, occupation, or employment inconsistent with the expeditious, proper, and impartial performance of their duties as officers of the court.

"(2) Hearing commissioners shall abide by the Canons of Judicial Ethics.

"(j) A hearing commissioner, when specifically designated by the chief judge of the Superior Court, and subject to the rules of the Superior Court and the right of review under subsection (k), may perform the following functions:

"(1) Administer oaths and affirmations and take acknowledgements;

"(2) Determine conditions of release pursuant to the provisions of title 23 of the District of Columbia Code (relating to criminal procedure);

"(3) Conduct preliminary examinations and initial probation revocation hearings in all criminal cases to determine if there is probable cause to believe that an offense has been committed and that the accused committed it;

"(4)(A) In any case brought under sections 11-1101(1), (3), (10), or (11) of the District of Columbia Code involving the establishment or enforcement of child support, or in any case seeking to modify an existing child support order, where a hearing commissioner in the Family Division of the Superior Court finds that there is an existing duty of support, the hearing commissioner shall conduct a hearing on support, make findings, and enter judgment as provided by law, and in accordance with guidelines established by rule of the Superior Court, which judgment shall constitute a final order of the Superior Court.

Children and youth.

"(B) If in a case under paragraphs (A), the hearing commissioner finds that a duty of support exists and makes a finding

that the case involves complex issues requiring judicial resolution, the hearing commissioner shall establish a temporary support obligation and refer unresolved issues to a judge of the Superior Court.

"(C) In cases under subparagraphs (A) and (B) in which the hearing commissioner finds that there is a duty of support and the individual owing that duty has been served or given notice of the proceeding under any applicable statute or court rule, if that individual fails to appear or otherwise respond, the hearing commissioner shall enter a default order, which shall constitute a final order of the Superior Court;

"(5) Subject to the rules of the Superior Court and with the consent of the parties involved, make findings and enter final orders or judgments in other uncontested or contested proceedings, in the Civil, Criminal, and Family Divisions of the Superior Court, excluding jury trials and trials of felony cases.

"(k) With respect to proceedings and hearings under paragraphs (2), (3), (4), and (5) of subsection (j), a review of the hearing commissioner's order or judgment, in whole or in part, may be made by a judge of the appropriate division sua sponte and must be made upon a motion of one of the parties made pursuant to procedures established by rules of the Superior Court. The reviewing judge shall conduct such proceedings as required by the rules of the Superior Court. An appeal to the District of Columbia Court of Appeals may be made only after a judge of the Superior Court has reviewed the order or judgment.

"(l) The Superior Court shall ensure that all hearing commissioners receive training to enable them to fulfill their responsibilities.

"(m)(1) The chief judge of the Superior Court, in consultation with the District of Columbia Bar, the City Council of the District of Columbia, and other interested parties, shall within one year of the effective date of this section, make a careful study of conditions in the Superior Court to determine—

"(A) the number of appointments required to provide for the effective administration of justice;

"(B) the divisions in which hearing commissioners shall serve;

"(C) the appropriate functions of hearing commissioners; and

"(D) the compensation of, and other personnel matters pertaining to, hearing commissioners.

Reports.

Upon completion of the study, the chief judge shall report the findings of such study to the appropriate committees of the Congress.

"(2) After the study required by paragraph (1), the chief judge shall, from time to time, make such studies as the Board of Judges shall deem expedient, giving consideration to suggestions of the District of Columbia Bar and other interested parties.

"(n) With the concurrence of the District of Columbia Court of Appeals, the Board of Judges of the Superior Court may, promulgate rules, not inconsistent with the terms of this section, which are necessary for the fair and effective utilization of hearing commissioners in the Superior Court.

"(o) For purposes of this section, the term 'Board of Judges' means the judges of the Superior Court of the District of Columbia. Any action of the Board of Judges shall require a majority vote of the sitting judges.".

SEC. 3. APPOINTMENT OF EXECUTIVE OFFICER OF THE DISTRICT OF COLUMBIA COURTS.

Section 1703 of title 11 of the District of Columbia Code is amended—

(1) by striking out subsection (b);

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (a) the following new subsections:

"(b) The Executive Officer shall be appointed, and subject to removal, by the Joint Committee on Judicial Administration with the approval of the chief judges of the District of Columbia Courts. In making such appointment the Joint Committee shall consider experience and special training in administrative and executive positions and familiarity with court procedures.

"(c) The Executive Officer shall be a bona fide resident of the District of Columbia or become a resident not more than 180 days after the date of appointment except that the Executive Officer in office at the effective date of this Act shall not be required to be or to become a resident of the District of Columbia.".

SEC. 4. MANDATORY RETIREMENT AGE OF JUDGES.

Section 431(c) of the District of Columbia Self-Government and Governmental Reorganization Act is amended by striking out "seventy" and inserting in lieu thereof "seventy-four". 87 Stat. 792.

SEC. 5. REORGANIZATION OF AUDIT RESPONSIBILITY.

(a) AUDITOR-MASTER.—Section 11-1724 of title 11 of the District of Columbia Code is amended—

(1) by striking out "(1) audit and state fiduciary accounts,"; and

(2) by respectively designating clauses (2) and (3) as clauses "(1)" and "(2)".

(b) REGISTER OF WILLS.—Section 11-2104(a) of title 11 of the District of Columbia Code is amended—

(1) in paragraph (2) by striking out "and" after the semicolon;

(2) in paragraph (3) by striking out the period and inserting in lieu thereof "; and"; and

(3) by inserting at the end thereof the following new paragraph:

"(4) audit and state fiduciary accounts.".

SEC. 6. ELIMINATION OF DUPLICATE JUDICIAL FINANCIAL REPORTING REQUIREMENT.

(a) TERMINATION OF FEDERAL DISCLOSURE REQUIREMENTS.—Section 303 of the Ethics in Government Act of 1978 (28 U.S.C. App. 301) is amended by inserting at the end thereof the following new subsection:

"(h) The provisions of this Act shall not apply to any judicial officer or employee of the Superior Court of the District of Columbia or the District of Columbia Court of Appeals or any other employee of the District of Columbia court system.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 308(9) of such Act (28 U.S.C. App. 308(9)) is amended by striking out "courts of the District of Columbia".

SEC. 7. CERTIFICATION OF QUESTIONS OF LAW.

Subchapter II of Chapter 7, title 11, District of Columbia Code, is amended by inserting after section 11-722 the following new section:

"§ 11-723. Certification of Questions of Law.

"(a) The District of Columbia Court of Appeals may answer questions of law certified to it by the Supreme Court of the United States, a Court of Appeals of the United States, or the highest appellate court of any State, if there are involved in any proceeding before any such certifying court questions of law of the District of Columbia which may be determinative of the cause pending in such certifying court and as to which it appears to the certifying court there is no controlling precedent in the decisions of the District of Columbia Court of Appeals.

"(b) This section may be invoked by an order of any of the courts referred to in subsection (a) upon the court's motion or upon motion of any party to the cause.

"(c) A certification order shall set forth (1) the question of law to be answered; and (2) a statement of all facts relevant to the questions certified and the nature of the controversy in which the questions arose.

"(d) A certification order shall be prepared by the certifying court and forwarded to the District of Columbia Court of Appeals. The District of Columbia Court of Appeals may require the original or copies of all or such portion of the record before the certifying court as are considered necessary to a determination of the questions certified to it.

"(e) Fees and costs shall be the same as in appeals docketed before the District of Columbia Court of Appeals and shall be equally divided between the parties unless precluded by statute or by order of the certifying court.

"(f) The District of Columbia Court of Appeals may prescribe the rules of procedure concerning the answering and certification of questions of law, under this section.

"(g) The written opinion of the District of Columbia Court of Appeals stating the law governing any questions certified under subsection (a) shall be sent by the clerk to the certifying court and to the parties.

State and local governments.

"(h)(1) The District of Columbia Court of Appeals, on its own motion or the motion of any party, may order certification of questions of law to the highest court of any State under the conditions described in subsection (a).

"(2) The procedures for certification from the District of Columbia to a State shall be those provided in the laws of that State.".

SEC. 8. PUBLIC ACCESS TO MATERIALS OF JUDICIAL NOMINATION COMMISSION.

Records. Classified information. 87 Stat. 796.

Section 434(c)(3) of the District of Columbia Self-Government and Governmental Reorganization Act is amended by striking out the last sentence and inserting in lieu thereof: "Information, records, and other materials furnished to or developed by the Commission in the performance of its duties under this section shall be privileged and confidential. Section 552 of title 5, United States Code (known as the Freedom of Information Act), shall not apply to any such materials.".

SEC. 9. MEETINGS OF THE JUDICIAL NOMINATION COMMISSION.

Section 434(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act is amended by inserting at the end thereof "Meetings of the Commission may be closed to the public. Section 742 of this Act shall not apply to meetings of the Commission.". 87 Stat. 796. 87 Stat. 831.

SEC. 10. PUBLIC ANNOUNCEMENT OF JUDICIAL RECOMMENDATIONS.

Section 434(d) of the District of Columbia Self-Government and Governmental Reorganization Act is amended by inserting at the end thereof the following new paragraph:

"(4) Upon submission to the President, the name of any individual recommended under this subsection shall be made public by the Judicial Nomination Commission.". Public information.

SEC. 11. DISCLOSURE OF CERTAIN INFORMATION TO THE JUDICIAL NOMINATION COMMISSION.

Section 11-1528 of title 11, District of Columbia Code, is amended by striking out all of subsection (a) and inserting in lieu thereof the following:

"(a)(1) Subject to paragraph (2), the filing of papers with, and the giving of testimony before, the Commission shall be privileged. Subject to paragraph (2), hearings before the Commission, the record thereof, and materials and papers filed in connection with such hearings shall be confidential. Records. Classified information.

"(2)(A) The judge whose conduct or health is the subject of any proceedings under this chapter may disclose or authorize the disclosure of any information under paragraph (1).

"(B) With respect to a prosecution of a witness for perjury or on review of a decision of the Commission, the record of hearings before the Commission and all papers filed in connection with such hearing shall be disclosed to the extent required for such prosecution or review.

"(C) Upon request, the Commission shall disclose, on a privileged and confidential basis, to the District of Columbia Judicial Nomination Commission any information under paragraph (1) concerning any judge being considered by such nomination commission for elevation to the District of Columbia Court of Appeals or for chief judge of a District of Columbia court.".

SEC. 12. REAPPOINTMENT TO JUDICIAL OFFICE.

Section 433(c) of the District of Columbia Self-Government and Governmental Reorganization Act is amended— 87 Stat. 795.

(1) in the first sentence by striking out "three months" and inserting in lieu thereof "six months"; and

(2) in the second sentence, by striking out "thirty" and inserting in lieu thereof "sixty".

SEC. 13. MODIFICATION OF JUDICIAL REAPPOINTMENT EVALUATION CATEGORIES.

Section 433(c) of the District of Columbia Self-Government and Governmental Reorganization Act is amended in the third sentence by striking out "exceptionally well-qualified or".

SEC. 14. SERVICES OF RETIRED JUDGES.

(a) SENIOR JUDGES.—The second sentence of section 1504(a)(1) of title 11, District of Columbia Code, is amended by striking "every

two years" and inserting "every four years, unless the Senior Judge has reached his or her seventy-fourth birthday, whereupon review shall be at least every two years,".

(b) REQUEST FOR SENIOR JUDGESHIP.—Section 1504(a) of title 11, District of Columbia Code, is further amended by striking out paragraphs (2) and (3) and inserting after paragraph (1) the following new paragraph:

"(2) At any time prior to or not later than one year after retirement, a judge may request recommendation from the District of Columbia Commission on Judicial Disabilities and Tenure (hereinafter in this section referred to as the 'Commission') to be appointed as a senior judge in accordance with this section; except that any retired judge shall have not less than 180 days from the effective date of this Act to file a request for an initial recommendation from the Commission."

(c) SERVICE BY RETIRED JUDGES.—Section 1565 of title 11, District of Columbia Code, is amended to read as follows:

"§ 11-1565. Service by Retired Judges.

Wages.

"Any retired judge performing judicial duties as a senior judge on the District of Columbia Court of Appeals or the Superior Court shall be entitled, during the period for which he or she serves, to receive the same daily rate of pay as a judge on the court in which he or she performs such duties. The cumulative daily earnings of a senior judge, in any single year, when added to the annual retirement salary, may not exceed the current annual salary of a judge of the court in which he or she performs such duties. No deduction shall be withheld for health benefits, Federal employee's life insurance, or retirement purposes from the salary paid to a judge during judicial service. The performance of such judicial service shall not create an additional retirement, change retirement, or create, or in any manner affect a survivor annuity.".

Health and medical care. Insurance.

SEC. 15. EXTENSION OF PERIOD FOR SUBMITTING JUDICIAL NOMINATIONS.

87 Stat. 796.

Section 434(d)(1) of the District of Columbia Self-Government and Governmental Reorganization Act is amended by striking out "thirty days" each place it appears and inserting in lieu thereof "sixty days".

SEC. 16. JUDICIAL COMPENSATION.

(a) COURT OF APPEALS.—Section 703(b) of title 11 of the District of Columbia Code is amended by striking out "90 per centum of".

(b) SUPERIOR COURT.—Section 904(b) of title 11 of the District of Columbia Code is amended by striking out "90 per centum of".

SEC. 17. CHIEF JUDGE OF THE DISTRICT OF COLUMBIA COURT OF APPEALS AS PRESIDING OFFICER OF THE PUBLIC DEFENDER SERVICE.

Section 330 of the District of Columbia Court Reform and Criminal Procedure Act of 1970 (Public Law 91-358; 1-2703, D.C. Code) is amended—

(1) by striking out clause (A) of subsection (b)(1) and redesignating clauses (B), (C), (D), and (E) as clauses (A), (B), (C), and (D), respectively; and

(2) in paragraph (2) of subsection (b) by striking out "Chief Judge of the United States Court of Appeals for the District of Columbia Circuit" and inserting in lieu thereof "Chief Judge of the District of Columbia Court of Appeals".

SEC. 18. EFFECTIVE DATE.

28 USC app. 301 note.

The amendments made by this Act shall take effect on the date of the enactment of this Act.

Approved October 28, 1986.

LEGISLATIVE HISTORY—H.R. 3578:

HOUSE REPORTS: No. 99-326 (Comm. on the District of Columbia).
SENATE REPORTS: No. 99-477 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Oct. 28, considered and passed House.
Vol. 132 (1986): Oct. 3, considered and passed Senate, amended.
Oct. 10, House concurred in Senate amendment.

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PUBLIC LAW 99-574—OCT. 28, 1986

NATIONAL BUREAU OF STANDARDS AUTHORIZATION ACT FOR FISCAL YEAR 1987

91-139 O - 87 (595)

Public Law 99-574
99th Congress

An Act

Oct. 28, 1986
[H.R. 4354]

To authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1987, and for other purposes.

National Bureau of Standards Authorization Act for Fiscal Year 1987.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Bureau of Standards Authorization Act for Fiscal Year 1987".

AUTHORIZATION FOR FOREIGN ACTIVITIES

SEC. 2. (a) There are authorized to be appropriated to the Secretary of Commerce (hereinafter referred to as the "Secretary") for fiscal year 1987, to carry out the activities performed by the National Bureau of Standards, the sums set forth in the following line items:

(1) Measurement Research and Standards, $36,582,000;
(2) Materials Science and Engineering, $21,228,000;
(3) Engineering Measurements and Standards, $35,875,000;
(4) Computer Science and Technology, $7,500,000; and
(5) Research Support Activities, $22,768,000.

(b) Notwithstanding any other provision of this or any other Act—

(1) of the amounts authorized under subsection (a), $1,900,000 is authorized only for steel technology;

(2) of the amount authorized under paragraph (3) of subsection (a), $3,470,000 is authorized only for the Center for Building Technology and $5,402,000 is authorized only for the Center for Fire Research;

(3) of the amount authorized under paragraph (4) of subsection (a), $1,000,000 is authorized only for Computer Security Activities;

(4) of the amount under paragraph (5) of subsection (a), $6,763,000 is authorized only for the Technical Competence Fund; and

(5) of the amount authorized under paragraph (5) of subsection (a), $6,500,000 is authorized only for the design, equipment, and construction of the Cold Neutron Research Facility.

(c)(1) Funds may be transferred among the line items listed in subsection (a) so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in each subsection.

(2) In addition, the Secretary may propose transfers to or from any line item exceeding 10 percent of the amount authorized for that line item in subsection (a); but a full and complete explanation of any such proposed transfer and the reason therefor must be transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing committees of the House of Representatives and the Senate, and the proposed transfer may be made only when thirty calendar days have passed after the transmission of such written explanation.

(d) The National Bureau of Standards shall seek reimbursements of not less than $500,000 from other Federal agencies to expand its efforts in support of basic scientific research on the atmospheric, climatic, and environmental consequences of nuclear explosions and nuclear exchanges.

Research and development.

OFFICE OF PRODUCTIVITY, TECHNOLOGY, AND INNOVATION

SEC. 3. In addition to the sums authorized by section 2, there is authorized to be appropriated to the Secretary for fiscal year 1987 the sum of $2,248,000 for the activities of the Office of Productivity, Technology, and Innovation.

NATIONAL TECHNICAL INFORMATION SERVICE

SEC. 4. In addition to the sums authorized by sections 2 and 3, there is authorized to be appropriated to the Secretary for fiscal year 1987 the sum of $500,000 for the patent licensing activities of the National Technical Information Service.

AVAILABILITY OF APPROPRIATIONS

SEC. 5. Appropriations made under the authority provided in this Act shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

FINANCIAL ASSISTANCE TO CURRENT AND PROSPECTIVE EMPLOYEES

SEC. 6. (a) In order to secure the services of the broadest possible range of talent in carrying out the programs of the National Bureau of Standards, the Act of March 3, 1901 (15 U.S.C. 271-278h) is amended by redesignating section 18 as section 19 and by inserting after section 17 the following new section:

15 USC 278h.

"SEC. 18. The Director is authorized to expend up to 1 per centum of the funds appropriated for activities of the National Bureau of Standards in any fiscal year, as the Director may deem desirable, for awards of research fellowships and other forms of financial assistance to students at institutions of higher learning within the United States who show promise as present or future contributors to the mission of the Bureau. The selection of persons to receive such fellowships and assistance shall be made on the basis of ability and of the relevance of the proposed work to the mission and programs of the Bureau.".

Fellowships. Loans. Grants. Education. 15 USC 278g-1.

(b) The amendments made by subsection (a) shall be effective October 1, 1986.

Effective date. 15 USC 278g-1 note.

ASSESSMENT OF EMERGING TECHNOLOGIES REQUIRING RESEARCH IN METROLOGY

SEC. 7. The Board of Assessment of the National Bureau of Standards programs shall include, as part of its annual review, an assessment of emerging technologies which are expected to require research in metrology to keep the Bureau abreast of its mission, including (but not limited to) Process and Quality Control, Technology Transfer, Engineering Databases, High-Performance Composites, Advanced Ceramics, Fiber Optics, Microwave Metrology, Bioprocess Engineering, and Advanced Computing Concepts. Such review shall include estimates of the cost of the required effort,

15 USC 282a.

the required staffing level, and the period over which the research will be required.

POST-DOCTORAL FELLOWSHIP PROGRAM

15 USC 278h.

15 USC 271h.

SEC. 8. (a) The Act of March 3, 1901 (15 U.S.C. 271-271h), as amended by section 6 of this Act, is further amended by redesignating section 19 as section 20 and by inserting after section 18 the following new section:

Fellowships.
15 USC 278g-2.

"SEC. 19. The National Bureau of Standards, in conjunction with the National Academy of Sciences, shall establish and conduct a post-doctoral fellowship program which shall be organized and carried out in substantially the same manner as the National Academy of Sciences/National Research Council Post-Doctoral Research Associate Program that was in effect prior to 1986, and which shall include not less than twenty nor more than forty new fellows per fiscal year.".

Effective date.
15 USC 278g-2 note.

(b) The amendments made by subsection (a) shall be effective October 1, 1987.

PROCESS AND QUALITY CONTROL AND CALIBRATION PROGRAMS

Research and development.

SEC. 9. (a) The Director of the National Bureau of Standards shall hold discussions with representatives of Federal agencies, including the Department of Defense, the Department of Energy, the National Aeronautics and Space Administration, the Federal Aviation Administration, the National Institutes of Health, the Nuclear Regulatory Commission, and the Federal Communications Commission, which use (or the contractors of which depend on) the process and quality control and calibration programs of the Bureau, and with companies, organizations, and major engineering societies from the private sector, in order to determine the extent of the demand for research and services under such programs, the appropriate methods of paying for research and services under such programs, and the willingness of Federal agencies and the private sector to pay for such research and services.

Reports.

(b) Within six months after the date of the enactment of this Act, the Director shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report of the Director's findings based on the discussions held under subsection (a), together with recommendations for such legislative actions as may be needed to implement a comprehensive Federal process and quality control and calibration program.

DEMONSTRATION PROJECT RELATING TO PERSONNEL MANAGEMENT

15 USC 275 note.

SEC. 10. (a)(1) The Office of Personnel Management and the National Bureau of Standards shall jointly design a demonstration project which shall be conducted by the Director of the National Bureau of Standards.

(2) The demonstration project shall, except as otherwise provided in this section, be conducted in accordance with section 4703 of title 5, United States Code, and shall be counted as a single project for purposes of subsection (d)(2) of such section.

(3) Subject to subsections (f) and (g) of section 4703 of title 5, United States Code, the demonstration project shall cover any posi-

tion within the National Bureau of Standards which would otherwise be subject to—

(A) subchapter III of chapter 53 of title 5, United States Code, relating to the General Schedule; 5 USC 5331.

(B) subchapter VIII of chapter 53 of title 5, United States Code, relating to the Senior Executive Service; or 5 USC 5381.

(C) chapter 54 of title 5, United States Code, relating to the Performance Management and Recognition System. 5 USC 5401 *et seq.*

(b) Under the demonstration project, the Director of the National Bureau of Standards shall provide that—

(1) the rate of basic pay for a position may not be less than the minimum rate of basic pay, nor more than the maximum rate of basic pay, payable for the pay band (as referred to in paragraph (3)) within which such position has been placed;

(2) the minimum and maximum rates of basic pay for each pay band shall be adjusted at the times, and by the amounts, provided for under subsection (c);

(3) positions shall be classified under a system using pay bands which shall be established by combining or otherwise modifying the classes, grades, or other units which would otherwise be used in classifying the positions involved;

(4) employees shall be evaluated under a performance appraisal system which—

(A) uses peer comparison and ranking wherever appropriate; and

(B) affords appeal rights comparable to those afforded under chapter 43 of title 5, United States Code; 5 USC 4301 *et seq.*

(5)(A) the rate of basic pay of each participating employee will be reviewed annually, and shall be adjusted on the basis of the appraised performance of the employee; and

(B) subject to subsection (c)(4)(A)(i), the adjustment under subparagraph (A) in any year in the case of any employee whose performance is rated at the fully successful level or higher shall be at least the percentage adjustment taking effect under subsection (c)(3) in such year;

(6) appropriate supervisory and managerial pay differentials (which shall be considered a part of basic pay) shall be provided;

(7) performance-recognition bonuses, and recruitment and retention allowances, shall be awarded in appropriate circumstances (but shall not be considered a part of basic pay);

(8) there shall be an employee development program which includes provisions under which employees may, in appropriate circumstances, be granted sabbaticals, the terms and conditions of which shall be consistent with those applicable for members of the Senior Executive Service under section 3396(c) of title 5, United States Code (excluding paragraph (2)(B) thereof);

(9) payment of travel expenses shall be provided for personnel to their first post of duty in the same manner as is authorized for members of the Senior Executive Service under section 5723 of title 5, United States Code, at the discretion of the Director; and

(10) the methods of establishing qualification requirements for, recruitment for, and appointment to positions shall, at the discretion of the Director, include methods involving direct examination and hiring.

(c)(1) For the purpose of this subsection, the term "compensation" means the total value of the various forms of compensation provided, including—

(A) basic pay;

(B) bonuses;

(C) allowances;

(D) retirement benefits;

(E) health insurance benefits;

(F) life insurance benefits; and

(G) leave benefits.

Contracts. Reports.

(2) The Director of the National Bureau of Standards shall, by contract or otherwise, provide for the preparation of reports which, based on appropriate surveys—

(A) shall include findings as to—

(i) the extent to which, as of the commencement of the demonstration project, the overall average level of compensation provided with respect to positions under the demonstration project is deficient in comparison to the overall average level of compensation generally provided with respect to positions involving the same types and levels of work in the private sector; and

(ii) with respect to each year thereafter, any net increase occurring during such year in the extent of the deficiency in the overall average level of compensation provided with respect to positions under the demonstration project, as compared to the overall average level of compensation generally provided with respect to positions involving the same types and levels of work in the private sector; and

(B) shall recommend a single percentage by which basic pay for all positions under the demonstration project must be increased so that, when considered in conjunction with the other forms of compensation generally provided, any net increase determined under subparagraph (A)(ii) will be eliminated.

(3) Whenever the Director of the National Bureau of Standards receives a recommendation under paragraph (2)(B), the Director—

(A) shall increase the minimum and maximum rates of basic pay for each such pay band by the lesser of—

(i) the percentage recommended; or

(ii) the overall average percentage of the adjustment in the rates of pay under the General Schedule under section 5305 of title 5, United States Code, for the period involved; and

(B) if and to the extent that funds are available for that purpose, may further increase those minimum and maximum rates—

(i) to make up for any part of the difference between the respective percentages under subparagraph (A), if the percentage under subparagraph (A)(ii) is the lesser; and

(ii) after making up for the entirety of any difference determined under clause (i) (including from any previous year), to eliminate any part of any remaining deficiency as originally determined under paragraph (2)(A)(i).

(4)(A) Notwithstanding any other provision of this section—

(i) the maximum rate of basic pay payable under any pay band may not exceed the rate of basic pay payable for level IV of the Executive Schedule; and

(ii) the amount of basic pay, bonuses, and allowances paid during any fiscal year to any employee participating in the demonstration project may not, in the aggregate, exceed the annual rate of basic pay payable for level I of the Executive Schedule.

(B)(i) Any amount which is not paid to an employee during a fiscal year because of the limitation under subparagraph (A)(ii) shall be paid in a lump sum at the beginning of the following fiscal year.

(ii) Any amount paid under this subparagraph during a fiscal year shall be taken into account for purposes of applying the limitation under subparagraph (A)(ii) with respect to such fiscal year.

(5) Notwithstanding any other provision of this section, the demonstration project shall be conducted in such a way so that, with respect to the 12-month period beginning on October 1, 1986, the total cost to the Government relating to providing compensation to participating employees shall not exceed the total cost which would have resulted if this section had not been enacted.

(6)(A) If the minimum rate of basic pay for a pay band, after an increase under paragraph (3)(A), exceeds the rate of basic pay payable to an employee whose position would otherwise be within such pay band, the employee's position may, notwithstanding subsection (b)(1), be placed in the next lower pay band.

(B) Placement of a position in a lower pay band under subparagraph (A) shall not be considered a reduction in grade or pay for purposes of subchapter II of chapter 75 of title 5, United States Code, or a comparable provision under the project. 5 USC 7511.

(d)(1) The rate of basic pay for an employee serving in a position at the time it is converted to a position covered by the demonstration project may not be reduced by reason of the establishment of such project.

(2)(A) Each employee referred to in paragraph (1) shall be paid—

(i) in the case of an employee serving in a position under the General Schedule on the date the position becomes covered by the demonstration project, a lump-sum pro rata share of the equivalent of any within-grade increase which would have been due the employee under section 5335 of title 5, United States Code, computed as provided in subparagraph (B), and

(ii) in the case of an employee serving in a position subject to chapter 54 of title 5, United States Code, on such date, a lump-sum pro rata share of the equivalent of the employee's merit increase which would have been due under such chapter, computed as provided in subparagraph (B), taking into account the performance requirements applicable to such increase. 5 USC 5401 *et seq.*

(B) For purposes of subparagraph (A), the pro rata share of an equivalent increase referred to in such subparagraph shall be computed through the day before the date referred to in such subparagraph.

(e)(1)(A) In carrying out section 4703(h) of title 5, United States Code, with respect to the demonstration project, the Office of Personnel Management shall provide that such project will be evaluated on an annual basis by a contractor. Such contractor shall be especially qualified to perform the evaluation based on its expertise in matters relating to personnel management and compensation.

(B) The contractor shall report its findings to the Office in writing. After considering the report, the Office shall transmit a copy of the Reports.

report, together with any comments of the Office and any comments submitted by the National Bureau of Standards, to—

(i) the Committee on Post Office and Civil Service, and the Committee on Science and Technology, of the House of Representatives; and

(ii) the Committee on Governmental Affairs, and the Committee on Commerce, Science, and Transportation, of the Senate.

Reports.

(2) The Comptroller General shall, not later than 4 years after the date on which the demonstration project commences, submit to each of the committees referred to in paragraph (1)(B) a final report concerning such project. Such report shall include any recommendations for legislation or other action which the Comptroller General considers appropriate.

Contracts.

(f) The authority to enter into any contract under this section may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.

(g) The demonstration project shall commence not later than January 1, 1988.

Approved October 28, 1986.

LEGISLATIVE HISTORY—H.R. 4354 (S. 2664):

HOUSE REPORTS: No. 99-617 (Comm. on Science and Technology) and Pt. 2 (Comm. on Post Office and Civil Service).
SENATE REPORTS: No. 99-399 accompanying S. 2664 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 12, considered and passed House.
Oct. 3, considered and passed Senate, amended.
Oct. 10, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Oct. 28, Presidential statement.

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Public Law 99-575
99th Congress

An Act

To authorize certain transfers affecting the Pueblo of Santa Ana in New Mexico, and for other purposes.

Oct. 28, 1986
[H.R. 4873]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Real property.

MINERAL RIGHTS HELD IN TRUST

SECTION 1. (a) All rights, title, and interests of the United States in the mineral estate of Section 19, Township 13 North, Range 4 East, New Mexico Principal Meridian, are hereby declared to be held by the United States in trust for the benefit of the Pueblo of Santa Ana.

(b) The United States hereby waives any claims or charges the United States may have or have assessed against the Pueblo of Santa Ana, including any claims for trespass, arising out of, or related to, the removal or exploitation by the Pueblo of Santa Ana of any minerals underlying Section 19, Township 13 North, Range 4 East, New Mexico Principal Meridian.

Claims.

(c) The Pueblo of Santa Ana and anyone acting on behalf of, or under the authority of, the Pueblo of Santa Ana may enter upon any lands within Section 19, Township 13 North, Range 4 East, New Mexico Principal Meridian, for the purposes of mining or otherwise removing or exploiting any minerals in such lands only if—

(1) the Pueblo of Santa Ana holds legal title to the surface estate of such lands,

(2) legal title to the surface estate of such lands is held by any person for the benefit of the Pueblo of Santa Ana, or

(3) the person holding legal title to the surface estate of such lands provides written consent for such entry.

ADDITIONAL LANDS HELD IN TRUST; TECHNICAL AMENDMENTS

SEC. 2. (a) Public Law 95-498 is amended by striking out "That all right" after the enacting clause and inserting in lieu thereof "That (a) all right".

92 Stat. 1672.

(b) Subsection (a) of the first section of Public Law 95-498 is amended—

(1) by striking out the comma after "northwest quarter" in the nineteenth line of the paragraph relating to Section 23, Township 13 North, Range 3 East, New Mexico Principal Meridian (92 Stat. 1673),

(2) by striking out "Rec. PP CL 10/10/62 and" in the paragraph relating to such Section 23,

(3) by striking out "northeast quarter, northeast quarter" in the fourth line of the paragraph relating to Section 25, Township 13 North, Range 3 East, New Mexico Principal Meridian (92 Stat. 1673) and inserting in lieu thereof "northeast quarter, southeast quarter",

91-139 O - 87 (596)

(4) by striking out "7, 8 and bed" in the paragraph relating to Section 9, Township 13 North, Range 4 East, New Mexico Principal Meridian (92 Stat. 1674) and inserting in lieu thereof "7 and bed",

(5) by inserting the following new paragraph after the paragraph relating to Section 6, Township 14 North, Range 3 East, New Mexico Principal Meridian (92 Stat. 1674):

"Section 36:

Lots 1, 4, 8, 9,

Northeast quarter northeast quarter,", and

(6) by inserting the following new paragraph after the paragraph relating to section 31 of Township 14 North, Range 4 East (92 Stat. 1675)":

"Section 32:

Southwest quarter, southwest quarter southeast quarter,".

92 Stat. 1676.

(c) Section 4 of Public Law 95-498 is amended—

(1) by striking out "Nothing in this" in subsection (a) and inserting in lieu thereof "(1) Nothing in this", and

(2) by adding at the end of subsection (a) the following new paragraph:

"(2) The United States retains an easement of access for the purpose of operating and maintaining the Jemez Canyon Dam upon existing rights-of-way over the lands that are declared to be held in trust of the benefit of the Pueblo of Santa Ana under this Act. The Pueblo of Santa Ana shall enjoy full use of such rights-of-way to the extent such use does not interfere with the reasonable operation and maintenance of the Jemez Canyon Dam.".

92 Stat. 1677.

(d) Subsection (a) of section 7 of Public Law 95-498 is amended by striking out "2004.05 acres" and inserting in lieu thereof "1678.05".

(e) Lots 7 and 8, section 5, Township 14 North, Range 3 East, N.M.P.M. containing 18.04 acres more or less, are hereby declared to be held in trust by the United States for the exclusive benefit of the Pueblo of Zia.

EXCHANGE OF LANDS

SEC. 3. (a)(1) Notwithstanding the provisions of the Act of August 19, 1935 (49 Stat. 659, chapter 559), or of the patent issued thereunder (Patent No. 1079219), the Regents of the University of New Mexico are hereby authorized to convey to the United States, and the United States shall accept in trust for the benefit of the Pueblo of Santa Ana, all or any part of the following tracts of land, which were patented to such Regents under authority of the Act of August 19, 1935 (49 Stat. 659, chapter 559): Lots 7, 8, and 9 and the Northwest quarter of Section 30, Township 13 North, Range 4 East, New Mexico Principal Meridian, New Mexico, containing 218.3 acres, more or less.

(2) Upon the conveyance of any portion of the lands described in paragraph (1) to the United States in trust for the benefit of the Pueblo of Santa Ana, the restriction that the lands described in paragraph (1) be used for archeological purposes only, which is contained in the patent conveying the lands described in paragraph (1) to the Regents of the University of New Mexico pursuant to the Act of August 19, 1935 (49 Stat. 659, chapter 559), shall cease to be applicable to the portion of the lands described in paragraph (1) that is conveyed to the United States in trust for the benefit of the Pueblo of Santa Ana.

(3) If the Pueblo of Santa Ana determines to develop those lands conveyed under paragraph (1) that are located within 100 yards of the boundary of the Coronado State Monument archeological site, the Pueblo of Santa Ana shall—

(A) meet, and confer in good faith, with representatives of the Museum of New Mexico with respect to the potential adverse impacts of such proposed development on the Coronado State Monument archeological site, in order to try to insure that any development of that portion of such lands is consistent with the existing use of such Monument;

(B) consider all mitigation measures proposed by the Museum of New Mexico that lessen the adverse impact of the proposed development and preserve the aesthetic and related values associated with such Monument's archeological resources; and

(C) to the maximum extent practicable and consistent with the development plan of the Pueblo of Santa Ana, take all reasonable measures that will mitigate any adverse impacts of the proposed development on that portion of such lands.

(b) The Pueblo of Santa Ana is hereby authorized to convey to the Regents of the University of New Mexico, and the Regents of the University of New Mexico are hereby authorized to accept from the Pueblo of Santa Ana, a parcel of land within the El Ranchito Grant owned by the Pueblo of Santa Ana pursuant to Patent No. 84386, dated October 18, 1909, in exchange for the lands conveyed to the Pueblo of Santa Ana under subsection (a).

(c)(1) By no later than the date that is 60 days after the date of enactment of this Act, the Secretary of the Interior shall publish in the Federal Register the exact legal descriptions of the parcels to be conveyed under subsections (a) and (b), as such parcels are described by the terms of the Settlement Agreement agreed to by the Pueblo of Santa Ana, the Regents of the University of New Mexico, the United States of America, the State of New Mexico, the Museum of New Mexico, and the Park and Recreation Division of the New Mexico State Natural Resources Division on November 12, 1985.

Federal Register, publication.

(2) The conveyances authorized under subsections (a) and (b)—

(A) shall be made in accordance with the Settlement Agreement described in paragraph (1), and

(B) shall be made only after the legal descriptions of all lands to be conveyed under such subsections have been published in accordance with the requirements of paragraph (1).

(d) Upon the completion of the conveyances authorized herein, the south boundary of the Santa Ana Pueblo Reservation shall be extended to the south so as to include the land conveyed to the Pueblo of Santa Ana.

GENERAL PROVISIONS

SEC. 4. (a)(1) Nothing in this Act shall deprive any person (other than the United States) of—

(A) any existing right of use, possession, contract right, interest, or title which that person may have in any of the trust lands within the purview of this Act, or

(B) any existing right of access to public domain lands over and across such trust lands.

Public lands.

Mines and mining. Petroleum and petroleum products.

(2) All existing mineral leases involving lands declared to be held in trust by this Act, including oil and gas leases, which may have been issued or approved pursuant to any other Federal law prior to the date of enactment of this Act shall remain in force and effect in accordance with the provisions of such other law.

Mines and mining. Petroleum and petroleum products.

(3) Notwithstanding any other provisions of law, all applications for mineral leases involving lands declared to be held in trust by this Act, including oil and gas leases, pending on the date of enactment of this Act shall be rejected and the advance rental payments returned to the applicants.

(b) Subject to the provisions of subsection (a), any property held in trust by reason of this Act for the benefit of the Pueblo of Santa Ana shall be administered in accordance with the laws and regulations applicable to other property held in trust by the United States for the Indian tribe of the Pueblo of Santa Ana.

25 USC 415.

SEC. 5. The second sentence of subsection (a) of section 1 of the Act approved August 9, 1955 (69 Stat. 539) is amended by inserting the term "the Pueblo of Santa Ana (with the exception of the lands known as the 'Santa Ana Pueblo Spanish Grant')" after the words "the Dania Reservation,".

Effective date. 25 USC 415 note.

SEC. 6. (a) Except as otherwise provided in this section, the provisions of this Act, and the amendments made by this Act, shall take effect on the date of enactment of this Act.

Effective date. Federal Register, publication.

(b)(1) The provisions of subsections (a) and (b) of section 1 shall take effect on the day on which the Secretary of the Interior publishes in the Federal Register notice of a determination made by the Secretary of the Interior that the Pueblo of Santa Ana has consented to private easements of access over lands held by, or on behalf of, the Pueblo of Santa Ana, as recommended by the Secretary of the Interior, in accordance with the provisions of part 169 of title 25, Code of Federal Regulations, to each person—

(A) who without such an easement has no practical surface ingress or egress to property owned in fee simple by such person, and

(B) who has submitted to the Pueblo of Santa Ana and to the Secretary of the Interior an application for such an easement, in accordance with part 169 of such title, before the date that is 90 days after the date of enactment of this Act.

(2) The Secretary of the Interior may make a determination under paragraph (1) at any time after the date of enactment of this Act, but the Secretary of the Interior shall make a determination of whether the Pueblo of Santa Ana has consented to easements of access to each person described in paragraph (1) by no later than the date that is 30 days after the date on which the Pueblo of Santa Ana requests the Secretary of the Interior to make such a determination.

Approved October 28, 1986.

LEGISLATIVE HISTORY—H.R. 4873:

HOUSE REPORTS: No. 99-818 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 16, considered and passed House.
Oct. 6, considered and passed Senate, amended.
Oct. 15, House concurred in Senate amendment.

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VETERANS' BENEFITS IMPROVEMENT AND HEALTH-CARE AUTHORIZATION ACT OF 1986

Public Law 99-576
99th Congress

An Act

Oct. 28, 1986
[H.R. 5299]

To amend title 38, United States Code, to increase the rates of compensation and dependency and indemnity compensation for veterans and survivors, and to improve veterans' health-care, education, employment, housing, and national cemetery programs, and for other purposes.

Veterans' Benefits Improvement and Health-Care Authorization Act of 1986.
38 USC 101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Benefits Improvement and Health-Care Authorization Act of 1986".

(b) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

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TITLE I—COMPENSATION INCREASES AND OTHER COMPENSATION MATTERS

SEC. 101. DISABILITY COMPENSATION.

(a) IN GENERAL.—Section 314 is amended—

(1) by striking out "$68" in subsection (a) and inserting in lieu thereof "$69";

(2) by striking out "$126" in subsection (b) and inserting in lieu thereof "$128";

(3) by striking out "$191" in subsection (c) and inserting in lieu thereof "$194";

(4) by striking out "$274" in subsection (d) and inserting in lieu thereof "$278";

(5) by striking out "$388" in subsection (e) and inserting in lieu thereof "$394";

(6) by striking out "$489" in subsection (f) and inserting in lieu thereof "$496";

(7) by striking out "$617" in subsection (g) and inserting in lieu thereof "$626";

(8) by striking out "$713" in subsection (h) and inserting in lieu thereof "$724";

(9) by striking out "$803" in subsection (i) and inserting in lieu thereof "$815";

(10) by striking out "$1,335" in subsection (j) and inserting in lieu thereof "$1,355";

(11) by striking out "$62", "$1,659", and "$2,325" in subsection (k) and inserting in lieu thereof "$63", "$1,684", and "$2,360", respectively;

(12) by striking out "$1,659" in subsection (l) and inserting in lieu thereof "$1,684";

(13) by striking out "$1,829" in subsection (m) and inserting in lieu thereof "$1,856";

(14) by striking out "$2,080" in subsection (n) and inserting in lieu thereof "$2,111";

(15) by striking out "$2,325" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,360";

(16) by striking out "$998" and "$1,487" in subsection (r) and inserting in lieu thereof "$1,013" and "$1,509", respectively; and

(17) by striking out "$1,494" in subsection (s) and inserting in lieu thereof "$1,516".

(b) SPECIAL RULE.—The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

38 USC 314 note.

38 USC note prec. 101.

38 USC 301 *et seq.*

SEC. 102. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 315(1) is amended—

(1) by striking out "$81" in clause (A) and inserting in lieu thereof "$82";

(2) by striking out "$136" and "$43" in clause (B) and inserting in lieu thereof "$138" and "$44", respectively;

(3) by striking out "$56" and "$43" in clause (C) and inserting in lieu thereof "$57" and "$44", respectively;

(4) by striking out "$66" in clause (D) and inserting in lieu thereof "$67";

(5) by striking out "$147" in clause (E) and inserting in lieu thereof "$149"; and

(6) by striking out "$124" in clause (F) and inserting in lieu thereof "$126".

SEC. 103. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 362 is amended by striking out "$360" and inserting in lieu thereof "$365".

SEC. 104. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 411 is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	$498	W-4	$714
E-2	513	O-1	630
E-3	526	O-2	650
E-4	560	O-3	696
E-5	574	O-4	736
E-6	587	O-5	811
E-7	616	O-6	914
E-8	650	O-7	988
E-9	[1] 679	O-8	1,083

"Pay grade	Monthly rate	Pay grade	Monthly rate
W-1	630	O-9	1,162
W-2	655	O-10	[2] 1,274
W-3	674		

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $733.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,365.";

(2) by striking out "$57" in subsection (b) and inserting in lieu thereof "$58";

(3) by striking out "$147" in subsection (c) and inserting in lieu thereof "$149"; and

(4) by striking out "$72" in subsection (d) and inserting in lieu thereof "$73".

SEC. 105. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

38 USC 413.

Section 413 is amended—

(1) by striking out "$247" in clause (1) and inserting in lieu thereof "$251";

(2) by striking out "$356" in clause (2) and inserting in lieu thereof "$361";

(3) by striking out "$460" in clause (3) and inserting in lieu thereof "$467"; and

(4) by striking out "$460" and "$93" in clause (4) and inserting in lieu thereof "$467" and "$94", respectively.

SEC. 106. SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 414 is amended—

(1) by striking out "$147" in subsection (a) and inserting in lieu thereof "$149";

(2) by striking out "$247" in subsection (b) and inserting in lieu thereof "$251"; and

(3) by striking out "$126" in subsection (c) and inserting in lieu thereof "$128".

SEC. 107. EFFECTIVE DATE FOR RATE INCREASES.

38 USC 314 note.

The amendments made by sections 101 through 106 shall take effect on December 1, 1986, except that such amendments shall not take effect unless benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1986, as a result of a determination under section 215(i) of such Act (42 U.S.C 415(i)).

SEC. 108. IMPROVED BENEFITS FOR FORMER PRISONERS OF WAR.

(a) PRESUMPTION OF SERVICE CONNECTION FOR CERTAIN DISABILITIES.—Section 312(b) is amended—

(1) by striking out "or" at the end of clause (9); and

(2) by inserting after clause (10) the following new clauses:

"(11) organic residuals of frostbite, if the Administrator determines that the veteran was interned in climatic conditions consistent with the occurrence of frostbite, or

"(12) post-traumatic osteoarthritis,".

38 USC 312 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as of October 1, 1986.

SEC. 109. SPECIAL CONSIDERATION FOR LOSS OF PAIRED ORGANS OR EXTREMITIES.

(a) REVISION OF SECTION 360.—(1) Section 360 is amended to read as follows:

"§ 360. Special consideration for certain cases of loss of paired organs or extremities

"(a) Where a veteran has suffered—

"(1) blindness in one eye as a result of service-connected disability and blindness in the other eye as a result of non-service-connected disability not the result of the veteran's own willful misconduct;

"(2) the loss or loss of use of one kidney as a result of service-connected disability and involvement of the other kidney as a result of non-service-connected disability not the result of the veteran's own willful misconduct;

"(3) total deafness in one ear as a result of service-connected disability and total deafness in the other ear as the result of non-service-connected disability not the result of the veteran's own willful misconduct;

"(4) the loss or loss of use of one hand or one foot as a result of service-connected disability and the loss or loss of use of the other hand or foot as a result of non-service-connected disability not the result of the veteran's own willful misconduct; or

"(5) permanent service-connected disability of one lung, rated 50 percent or more disabling, in combination with a non-service-connected disability of the other lung that is not the result of the veteran's own willful misconduct,

the Administrator shall assign and pay to the veteran the applicable rate of compensation under this chapter as if the combination of disabilities were the result of service-connected disability.

Gifts and property.

"(b) If a veteran described in subsection (a) of this section receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the non-service-connected disability described in such subsection, the increase in the rate of compensation otherwise payable under this section shall not be paid for any month following a month in which any such money or property is received until such time as the total of the amount of such increase that would otherwise have been payable equals the total of the amount of any such money received and the fair market value of any such property received.".

(2) The item relating to such section in the table of sections at the beginning of chapter 11 is amended to read as follows:

"360. Special consideration for certain cases of loss of paired organs or extremities.".

(b) CONFORMING AMENDMENT.—Subsection (t) of section 314 is repealed.

38 USC 360 note.

(c) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) In the case of an award of compensation for a disability described in clause (1), (2), (3), or (5) of subsection (a) of section 360 of title 38, United States Code, as amended by subsection (a) of this section, subsection (b) of such section shall apply only to awards of compensation made on or after the date of the enactment of this Act.

TITLE II—HEALTH CARE AND MEDICAL FACILITIES

PART A—HEALTH-CARE PROGRAMS

SEC. 201. RESPITE CARE.

(a) AUTHORITY FOR RESPITE CARE PROGRAM.—(1) Subchapter II of chapter 17 is amended by adding at the end the following new section:

38 USC 620B.

"§ 620B. Respite care

"(a) The Administrator may furnish respite care services to a veteran who is eligible to receive care under section 610 of this title.

"(b) For the purpose of this section, the term 'respite care' means hospital or nursing home care which—

"(1) is of limited duration;

"(2) is furnished in a Veterans' Administration facility on an intermittent basis to a veteran who is suffering from a chronic illness and who resides primarily at home; and

"(3) is furnished for the purpose of helping the veteran to continue residing primarily at home.

"(c) The authority provided by this section terminates on September 30, 1989.".

Termination date.

(2) The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 620A the following new item:

"620B. Respite care.".

38 USC 620B note.

(b) REPORT.—If the Administrator of Veterans' Affairs furnishes respite care under section 620B of title 38, United States Code (as added by subsection (a))—

(1) the Administrator shall conduct an evaluation of the health efficacy and cost-effectiveness of furnishing such care; and

(2) not later than February 1, 1989, shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing—

(A) the results of such evaluation; and

(B) any plan for administrative action, and any recommendation for legislation, that the Administrator considers appropriate to include in the report.

SEC. 202. HOME HEALTH SERVICES.

Section 612 is amended—

(1) by striking out "As" in subsections (a)(2) and (f)(2) and inserting in lieu thereof "Subject to subsection (k) of this section, as"; and

(2) by adding at the end the following new subsection:

"(k) The Administrator may furnish home health services to a veteran in any setting in which the veteran is residing. The Administrator may not furnish such services in such a manner as to relieve any other person or entity of a contractual obligation to furnish services to the veteran. When home health services are furnished in a setting other than the veteran's home, such services may not include any structural improvement or alteration.".

SEC. 203. CONTINUATION OF CERTAIN COUNSELING SERVICES FOR A DECEASED VETERAN'S FAMILY MEMBERS.

Clause (B) of section 601(6) is amended to read as follows: 38 USC 601.

"(B)(i) such consultation, professional counseling, training, and mental health services as are necessary in connection with the treatment—

"(I) of the service-connected disability of a veteran pursuant to section 612(a) of this title, and

"(II) in the discretion of the Administrator, of the non-service-connected disability of a veteran eligible for treatment under section 612(f)(1)(A)(ii) of this title where such services were initiated during the veteran's hospitalization and the provision of such services on an outpatient basis is essential to permit the discharge of the veteran from the hospital,

for the members of the immediate family or legal guardian of a veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of the veteran (including, under the terms and conditions set forth in section 111 of this title, travel and incidental expenses of such family member or individual in the case of a veteran who is receiving care for a service-connected disability, or in the case of a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title); and

"(ii) in the case of an individual who was a recipient of services under subclause (i) of this clause at the time of—

"(I) the unexpected death of the veteran; or

"(II) the death of the veteran while the veteran was participating in a hospice program (or a similar program) conducted by the Administrator,

such counseling services, for a limited period, as the Administrator determines to be reasonable and necessary to assist such individual with the emotional and psychological stress accompanying the veteran's death.

For the purposes of this paragraph, a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title shall be eligible for the same medical services as a veteran.".

SEC. 204. TRANSITION PERIOD FOR READJUSTMENT COUNSELING CENTERS.

(a) EXTENSION OF TRANSITION PERIOD.—Paragraph (1) of section 612A(g) is amended—

(1) by striking out "the twelve-month period ending on September 30, 1988" and inserting in lieu thereof "the 24-month period ending on September 30, 1989"; and

(2) by striking out "orderly transition, by October 1, 1988" in clause (A) and inserting in lieu thereof "orderly, gradual transition by October 1, 1989".

(b) CONTENT OF REPORTS.—(1) Paragraph (2)(A) of such section is amended by inserting "(Public Law 98-160) (or, if the study is not then completed, whatever information from it is then available)" in the second sentence after "the Veterans' Health Care Amendments of 1983". 38 USC 101 note. 38 USC 101 note.

(2) Paragraph (3) of such section is amended by adding at the end the following new sentence: "Such report shall be prepared taking

into consideration the results of the study referred to in paragraph (2)(A) of this subsection (or, if the study is not then completed, whatever information from it is then available).".

(c) REPORT ON TRANSITION.—Such section is further amended by adding at the end the following new paragraph:

"(4) Not later than February 1, 1989, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience under as much of the transition as was carried out pursuant to paragraph (1) of this subsection before September 30, 1988, including such recommendations for legislative and administrative action as the Administrator considers appropriate in light of such experience.".

SEC. 205. THERAPEUTIC AND REHABILITATIVE ACTIVITIES.

Section 618 is amended—

(1) in subsection (a)—

(A) by striking out "may utilize" and inserting in lieu thereof "may use";

(B) by striking out "purposes, at nominal remuneration, and such" and inserting in lieu thereof "purposes. Such"; and

(C) by striking out "utilization" and inserting in lieu thereof "use";

(2) in subsection (b)(1), by striking out "for remuneration";

(3) in subsection (c)—

(A) by striking out "pay" in paragraph (2) and inserting in lieu thereof "distribute"; and

(B) by striking out "and wage rates" in paragraph (3) and inserting in lieu thereof "rates of distribution"; and

(4) in subsection (f)—

(A) by inserting "(1)" after "(f)";

(B) by striking out "remuneration" and inserting in lieu thereof "a distribution"; and

(C) by adding at the end the following new paragraph:

"(2) A distribution of funds made under this section shall be considered for purposes of chapter 15 of this title to be a donation from a public or private relief or welfare organization.".

38 USC 501 *et seq.*

SEC. 206. CONTRACTS AND GRANTS FOR MEDICAL CARE FOR UNITED STATES VETERANS IN THE REPUBLIC OF THE PHILIPPINES.

(a) EXTENSIONS OF AUTHORITIES.—(1) Section 632 is amended by striking out "September 30, 1986" in subsections (a) and (b)(1) and inserting in lieu thereof "September 30, 1989".

38 USC 632 note.

(2) Any action by the Administrator of Veterans' Affairs in contracting under the provisions of section 632(a) of title 38, United States Code, with respect to the period beginning on October 1, 1986, and ending on the date of the enactment of this Act is hereby ratified.

38 USC 632 note.

(b) REPORTS ON USE OF FUNDS.—Not later than February 1, 1987, 1988, and 1989, the Administrator of Veterans' Affairs shall submit to Congress a report describing the use of funds provided to the Republic of the Philippines under section 632(b) of title 38, United States Code, during the preceding fiscal year.

PART B—HEALTH-CARE ADMINISTRATION

SEC. 211. ENFORCEMENT OF STATE AND LOCAL TRAFFIC LAWS BY VETERANS' ADMINISTRATION POLICE OFFICERS.

Paragraph (1) of section 218(b) is amended to read as follows: 38 USC 218.

"(1)(A) Veterans' Administration employees who are Veterans' Administration police officers shall, with respect to acts occurring on Veterans' Administration property, enforce—

"(i) Federal laws;

"(ii) the rules prescribed under subsection (a)(2)(A) of this section; and

"(iii) subject to subparagraph (B) of this paragraph, traffic and motor vehicle laws of a State or local government within the jurisdiction of which such Veterans' Administration property is located.

"(B) A law described in clause (iii) of subparagraph (A) of this paragraph may be enforced under such clause only as authorized by an express grant of authority under applicable State or local law. Any such enforcement shall be by the issuance of a citation for violation of such law.

"(C) Subject to regulations prescribed under paragraph (2) of this subsection, a Veterans' Administration police officer may make arrests on Veterans' Administration property for a violation of a Federal law or any rule prescribed under subsection (a)(2)(A) of this section.".

SEC. 212. REGIONAL MEDICAL EDUCATION CENTERS.

(a) STATUS OF PROGRAM.—Section 4121(a) is amended—

(1) by striking out "pilot"; and

(2) by striking out "in geographically dispersed areas of the United States".

(b) PROGRAM FLEXIBILITY.—Section 4121(b) is amended—

(1) by striking out "in-residence"; and

(2) by striking out "medical and health".

(c) SHARING OF TRAINING PROGRAMS.—Section 4123 is amended—

(1) by inserting "(a)" before "The Chief Medical Director";

(2) by striking out the third and fourth sentences; and

(3) by adding at the end the following:

"(b) To the extent that facilities are available, medical and health personnel from outside the Department of Medicine and Surgery may, on a reimbursable basis, be provided training in the Centers. Such reimbursement may include reciprocal training of personnel of the Department of Medicine and Surgery provided under sharing arrangements entered into by the Chief Medical Director and the heads of the entities providing such reciprocal training. Any amounts received by the United States as reimbursement under this subsection shall be credited to the applicable Veterans' Administration medical appropriation account.".

SEC. 213. PERIOD OF OBLIGATED SERVICE UNDER SCHOLARSHIP PROGRAM.

Section 4142(e)(1)(B)(iv)(I) is amended by striking out the parenthetical phrase and inserting in lieu thereof "(or, in the case of a participant who is a part-time student, six months for each calendar year, or part of a calendar year, for which the participant was provided a scholarship, with an academic semester or quarter to be counted in only one calendar year)."

SEC. 214. PERIOD OF APPOINTMENT OF CERTAIN TEMPORARY AND PART-TIME HEALTH-CARE PERSONNEL.

38 USC 4114.

(a) TEMPORARY AND PART-TIME APPOINTMENTS.—(1) Paragraph (1) of section 4114(a) is amended—

(A) by inserting "certified or registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses," after "dental auxiliaries," in clause (A); and

(B) by inserting ", certified or registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses" after "dental auxiliaries" in clause (B).

(2) Paragraph (2) of such section is amended by striking out "paragraph (1) of section 4104" and inserting in lieu thereof "paragraphs (1) and (3) of section 4104".

(3) Paragraph (3) of such section is amended—

(A) by inserting "except as authorized in subparagraph (D) of this paragraph" in subparagraph (A) after "year";

(B) by inserting "and except as authorized in subparagraph (D) of this paragraph" in subparagraph (B) after "programs"; and

(C) by adding at the end the following new subparagraph:

"(D) During any period during which the Administrator is exercising the authority of only section 4106 (a) and (g)(1) of this title in connection with the appointment, under section 4104(3) of this title, of personnel in the category of certified or registered respiratory therapists, licensed physical therapists, or licensed practical or vocational nurses—

"(i) the Administrator may make temporary full-time appointments of personnel in such category for periods exceeding 90 days if the Chief Medical Director finds that circumstances render it impractical to obtain the necessary services through appointments under paragraph (3) of section 4104 of this title; and

"(ii) part-time appointments of personnel in such category may be for periods of more than one year.".

(b) LICENSURE OF PSYCHOLOGISTS.—Section 4114(d) is amended by inserting "psychologist," after "podiatrist," both places it appears.

SEC. 215. REPORT ON A NATIONAL DRUG FILE.

Not later than 90 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the plans of the Department of Medicine and Surgery for the development, establishment, and administration of a national drug file, including an agency-wide reclassification and inventory system for all drugs used by the Veterans' Administration. The report shall also include—

(1) the timetable for the establishment of such a drug file;

(2) an estimate (and the underlying criteria therefor) of the number of employees, all computer equipment (including any additional computer equipment), and total expenditures necessary to develop, establish, and administer such a drug file; and

(3) any other matters the Administrator considers appropriate to include in the report.

SEC. 216. STIPEND FOR PARTICIPATION IN STUDY OF VIETNAM-ERA VETERANS' PSYCHOLOGICAL PROBLEMS.

Section 102 of the Veterans' Health Care Amendments of 1983 (Public Law 98-160; 97 Stat. 994) is amended by adding at the end the following new subsection: 38 USC 612A note.

"(d) In order to promote the participation in the study required by subsection (a) of a number of study subjects sufficient to yield scientifically valid results from such study, the Administrator shall pay an appropriate stipend to each individual participating in the study as a subject. In determining the amount of such stipend, the Administrator shall take into account—

"(1) the amount of time that the individual is expected to devote to participation in the study,

"(2) the extent to which the individual's normal routine is disrupted as a result of such participation,

"(3) any travel by the individual in connection with such participation, and

"(4) such other factors as the Administrator considers appropriate."

PART C—FACILITY CONSTRUCTION AND PLANNING

SEC. 221. CONSIDERATION OF SHARING DEPARTMENT OF DEFENSE FACILITIES.

(a) IN GENERAL.—Section 5002 is amended by adding at the end the following new subsection: 38 USC 5002.

"(d) In considering the need for any project for the construction, alteration, or acquisition (other than by exchange) of a medical facility which is expected to involve a total expenditure of more than $2,000,000, the Administrator shall give consideration to the sharing of health-care resources with the Department of Defense under section 5001 of this title as an alternative to all or part of such project.".

(b) REQUIREMENT FOR DESCRIPTION IN PROSPECTUS.—Section 5004(b)(1) is amended by inserting "and to the sharing of health-care resources with the Department of Defense under section 5011 of this title" after "purchase".

SEC. 222. ANNUAL REPORT ON FACILITIES CONSTRUCTION.

Section 5007(a) is amended by inserting ", after considering the analysis and recommendations of the Chief Medical Director," after "Administrator" both places it appears.

SEC. 223. PARKING FACILITIES.

(a) REVISION OF AUTHORITIES.—(1) Section 5009 of title 38, United States Code, is amended to read as follows:

"§ 5009. Parking facilities

"(a) For the purpose of this section—

"(1) The term 'garage' means a structure (or part of a structure) in which vehicles may be parked.

"(2) The term 'parking facility' includes—

"(A) a surface parking lot; and

"(B) a garage.

"(3) The term 'eligible person' means an individual to whom the Administrator is authorized to furnish medical examination or treatment.

Motor vehicles.

"(b) In order to accommodate the vehicles of employees of medical facilities, vehicles used to transport veterans and eligible persons to or from such facilities for the purpose of examination or treatment, and the vehicles of visitors and other individuals having business at such facilities, the Administrator—

"(1) may construct or alter parking facilities, and may acquire, by purchase, lease, condemnation, donation, exchange, or otherwise, such land or interests in land as the Administrator considers necessary for use as the site for any such construction or alteration;

"(2) may acquire, by purchase, lease, condemnation, donation, exchange, or otherwise, any facility that the Administrator considers necessary for use as a parking facility; and

"(3) may operate and maintain parking facilities.

"(c)(1) Except as provided in paragraph (2) of this subsection, each employee, visitor, and other individual having business at a medical facility for which parking fees have been established under subsection (d) or (e) of this section shall be charged the applicable parking fee for the use of a parking facility at such medical facility.

Motor vehicles.

"(2) A parking fee shall not be charged under this subsection for the accommodation of any vehicle used to transport to or from a medical facility—

"(A) a veteran or eligible person in connection with such veteran or eligible person seeking examination or treatment; or

Voluntarism.

"(B) a volunteer worker (as determined in accordance with regulations which the Administrator shall prescribe) in connection with such worker performing services for the benefit of veterans receiving care at a medical facility.

"(3) The Administrator shall collect (or provide for the collection of) parking fees charged under this subsection.

"(d)(1) For each medical facility where funds from the revolving fund described in subsection (h) of this section are expended for—

"(A) a garage constructed or acquired by the Veterans' Administration at a cost exceeding $500,000 (or, in the case of acquisition by lease, $100,000 per year); or

"(B) a project for the alteration of a garage at a cost exceeding $500,000,

the Administrator shall prescribe a schedule of parking fees to be charged at all parking facilities used in connection with such medical facility.

"(2) The parking fee schedule prescribed for a medical facility referred to in paragraph (1) of this subsection shall be designed to establish fees which the Administrator determines are reasonable under the circumstances.

"(e) The Administrator may prescribe a schedule of parking fees for the parking facilities at any medical facility not referred to in subsection (d) of this section. Any such schedule shall be designed to establish fees which the Administrator determines to be reasonable under the circumstances and shall cover all parking facilities used in connection with such medical facility.

"(f) The Administrator may contract (by lease or otherwise) for the operation of parking facilities at medical facilities under such terms and conditions as the Administrator prescribes and may do so without regard to laws requiring full and open competition.

"(g) Subject to subsections (h) and (i) of this section, there are authorized to be appropriated such amounts as are necessary to finance (in whole or in part) the construction, alteration, and ac-

quisition (including site acquisition) of parking facilities at medical facilities.

"(h)(1) Amounts appropriated pursuant to subsection (g) of this section and parking fees collected under subsection (c) of this section shall be administered as a revolving fund and shall be available without fiscal year limitation.

"(2) The revolving fund shall be deposited in a checking account with the Treasurer of the United States.

"(3)(A) Except as provided in subparagraph (B) of this paragraph, no funds other than funds from the revolving fund may be expended for the construction, alteration, or acquisition (including site acquisition) of a garage at a medical facility after September 30, 1986.

"(B) Subparagraph (A) of this paragraph does not apply to the use of funds for investigations and studies, surveys, designs, plans, working drawings, specifications, and similar actions not directly involved in the physical construction of a structure.

"(i)(1) The expenditure of funds from the revolving fund may be made only for the construction, alteration, and acquisition (including site acquisition) of parking facilities at medical facilities and may be made only as provided for in appropriation Acts.

"(2) For the purpose of section 5004(a)(2) of this title, a bill, resolution, or amendment which provides that funds in the revolving fund (including any funds proposed in such bill, resolution, or amendment to be appropriated to the revolving fund) may be expended for a project involving a total expenditure of more than $2,000,000 for the construction, alteration, or acquisition (including site acquisition) of a parking facility or facilities at a medical facility shall be considered to be a bill, resolution, or amendment making an appropriation which may be expended for a major medical facility project.". 38 USC 5004.

(2) The item relating to such section in the table of sections at the beginning of chapter 81 of such title is amended to read as follows:

"5009. Parking facilities.".

(b) EFFECTIVE DATES.—(1) Except as provided in paragraphs (2) and (3), the amendments made by this section shall take effect on the date of the enactment of this Act. 38 USC 5009 note.

(2)(A) The amendments made by this section shall not abrogate the provisions of a collective bargaining agreement which, on the date of the enactment of this Act, is in effect and includes a provision which specifies a termination date for such agreement.

(B) After the date of the enactment of this Act, if a collective bargaining agreement described in subparagraph (A) is modified, extended, or renewed, such subparagraph shall no longer, as of the date of the modification, extension, or renewal, apply to such agreement.

(C) In the case of a collective bargaining agreement which on such date of enactment is in effect but has no provision which specifies a termination date, the authorities and requirements in section 5009 of title 38, United States Code, as amended by subsection (a)(1) of this section, to establish and collect parking fees shall take effect on January 1, 1988.

(3) Section 5009 of title 38, United States Code, as amended by subsection (a)(1) of this section, shall not apply to the expenditure of funds appropriated for a fiscal year prior to fiscal year 1987 for the construction, alteration, or acquisition (including site acquisition) of a parking facility at a Veterans' Administration medical facility.

SEC. 224. REVISION OF STATE HOME CONSTRUCTION GRANT PROGRAM.

38 USC 5033.

(a) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 5033(a) is amended to read as follows: "There are hereby authorized to be appropriated such sums as are necessary to carry out this subchapter through September 30, 1989.".

(b) PRIORITY FOR CERTAIN PROJECT APPLICATIONS.—Subsection (b) of section 5035 is amended to read as follows:

"(b)(1) Upon receipt of an application for a grant under subsection (a) of this section, the Administrator—

"(A) shall determine whether the application meets the requirements of this section and of the regulations prescribed under section 5034 of this title;

"(B) shall notify the State submitting the application whether the application conforms with those requirements and, if it does not, of the actions necessary to bring the application into conformance with those requirements; and

"(C) shall determine the priority of the project described in the application in accordance with the provisions of this subsection.

"(2) Subject to paragraphs (3) and (5)(C) of this subsection, the Administrator shall accord priority to applications in the following order:

"(A) An application from a State that has made sufficient funds available for the construction or acquisition of the project for which the grant is requested so that such project may proceed upon approval of the grant without further action required by the State to make such funds available for such purpose.

"(B) An application from a State that does not have a State home facility constructed or acquired with assistance under this subchapter (or for which such a grant has been made).

"(C) An application from a State which the Administrator determines, in accordance with criteria and procedures specified in regulations which the Administrator shall prescribe, has a greater need for nursing home or domiciliary beds than other States from which applications are received.

"(D) An application that meets such other criteria as the Administrator determines are appropriate and has established in regulations.

"(3) In according priorities to projects under paragraph (2) of this subsection, the Administrator—

"(A) shall accord priority only to projects which would involve construction or acquisition of either nursing home or domiciliary buildings; and

"(B) may not accord any priority to a project which would expand a State's capacity to furnish hospital care in a State home.

"(4) The Administrator shall establish a list of approved projects, in the order of their priority, as of July 1 of each year. The Administrator shall award grants in the order of their priority on the list during the fiscal year beginning on October 1 of the calendar year in which the list was made.

"(5)(A) The Administrator shall defer approval of an application that otherwise meets the requirements of this section if the State submitting the application does not, by the July 1 deadline (as defined in subparagraph (D) of this paragraph), demonstrate to the

satisfaction of the Administrator that the State has provided adequate financial support for construction of the project.

"(B) In a case in which approval of an application is deferred under subparagraph (A) of this paragraph, the Administrator shall select for award of a grant or grants under this subsection an application or applications which would not have been approved during the fiscal year but for the deferral and to which the Administrator accords the highest priority under paragraph (2) of this subsection.

"(C) An application deferred in accordance with the requirements of this paragraph shall be accorded priority in any subsequent fiscal year ahead of applications that had not been approved before the first day of the fiscal year in which the deferred application was first approved.

"(D) For the purposes of this paragraph, the term 'July 1 deadline' means July 1 of the fiscal year in which the State is notified by the Administrator of the availability of funding for a grant for such project.".

(c) REPEAL OF LIMIT ON GRANTS TO ANY STATE.—Section 5035(d) is amended— 38 USC 5035.

(1) by striking out "(1)" and all that follows through "shall provide for payment" and inserting in lieu thereof "The amount of a grant under this subchapter shall be paid"; and

(2) by striking out paragraph (2).

(d) TECHNICAL AMENDMENT.—Section 5031 is amended by redesignating paragraphs (a), (b), (c), and (d) as paragraphs (1), (2), (3), and (4), respectively.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1987. 38 USC 5031 note.

(f) DEADLINE FOR REGULATIONS.—The Administrator of Veterans' Affairs shall prescribe regulations not later than April 1, 1987, to implement the amendments made by this section. 38 USC 5035 note.

PART D—MISCELLANEOUS

SEC. 231. MODIFICATION OF CERTAIN REPORTING REQUIREMENTS.

(a) REPORTING PERIOD FOR REPORTS ON SPECIAL PAY FOR VETERANS' ADMINISTRATION PHYSICIANS AND DENTISTS.—Section 4118(g)(2)(C) is amended by striking out "December 31, 1982, and once every two years" and inserting in lieu thereof "December 31, 1988, and once every four years".

(b) CONDITIONAL ELIMINATION OF REQUIREMENT FOR REPORT ON CONTRACT DENTAL CARE.—Paragraph (4) of section 612(b) is amended—

(1) by striking out "In" after "(4)" and inserting in lieu thereof "(A) Except as provided in subparagraph (B) of this paragraph, in"; and

(2) by adding at the end the following new subparagraph:

"(B) A report under subparagraph (A) of this paragraph with respect to a fiscal year is not required if, in the documents submitted by the Administrator to the Congress in justification for the amounts included for Veterans' Administration programs in the President's Budget, the Administrator specifies with respect to contract dental care described in such subparagraph—

"(i) the actual level of expenditures for such care in the fiscal year preceding the fiscal year in which such Budget is submitted;

"(ii) a current estimate of the level of expenditures for such care in the fiscal year in which such Budget is submitted; and

"(iii) the amount included in such Budget for such care.".

38 USC 5053.

(c) REPEAL OF REQUIREMENT FOR REPORT OF EXCHANGE OF MEDICAL INFORMATION PROGRAM.—(1) Section 5053 is amended by adding at the end the following new subsection:

"(e) The Administrator shall submit to the Congress not more than 60 days after the end of each fiscal year a report on the activities carried out under this section. Each report shall include—

"(1) an appraisal of the effectiveness of the activities authorized in this section and the degree of cooperation from other sources, financial and otherwise; and

"(2) recommendations for the improvement or more effective administration of such activities.".

(2)(A) Section 5057 is repealed.

(B) The table of sections at the beginning of chapter 81 is amended by striking out the item relating to section 5057.

SEC. 232. IONIZING RADIATION REGISTRY.

38 USC 354 note.

(a) ESTABLISHMENT OF REGISTRY.—The Administrator of Veterans' Affairs shall establish and maintain a special record to be known as the "Ionizing Radiation Registry" (hereinafter in this section referred to as the "Registry").

(b) CONTENT OF REGISTRY.—Except as provided in subsection (c), the Registry shall include the following information:

(1) A list containing the name of each veteran who was exposed to ionizing radiation under the conditions described in section 610(e)(1)(B) of title 38, United States Code, and who—

38 USC 601 *et seq.*

(A) applies for hospital or nursing home care from the Veterans' Administration under chapter 17 of such title;

38 USC 301 *et seq.*

(B) files a claim for compensation under chapter 11 of such title on the basis of a disability which may be associated with the exposure to ionizing radiation; or

38 USC 401 *et seq.*

(C) dies and is survived by a spouse, child, or parent who files a claim for dependency and indemnity compensation under chapter 13 of such title on the basis of the exposure of such veteran to ionizing radiation.

(2) Medical data relating to each veteran listed in the Registry, including—

(A) the veteran's medical history, latest health status recorded by the Veterans' Administration, physical examinations, and clinical findings; and

(B) a statement describing birth defects, if any, in the natural children of the veteran.

(3) Data on claims for the compensation referred to in paragraph (1), including decisions and determinations of the Veterans' Administration relating to such claims.

(4) An estimate of the dose of radiation to which each veteran listed in the Registry was exposed under the conditions described in section 610(e)(1)(B) of such title.

(c) VETERANS SUBMITTING CLAIMS BEFORE DATE OF ENACTMENT.—If in the case of a veteran described in subsection (b)(1) the application or claim referred to in such subsection was submitted or filed before the date of the enactment of this Act, the Administrator shall

include in the Registry, to the extent feasible, such veteran's name and the data and information described in subsection (b) relating to the veteran.

(d) CONSOLIDATION OF EXISTING INFORMATION.—(1) For the purpose of establishing and maintaining the Registry, the Administrator shall compile and consolidate—

(A) relevant information maintained by the Department of Veterans' Benefits and the Department of Medicine and Surgery of the Veterans' Administration;

(B) relevant information maintained by the Defense Nuclear Agency of the Department of Defense; and

(C) any relevant information maintained by any other element of the Veterans' Administration or the Department of Defense.

(2) With respect to a veteran whose name is included in the Registry and for whom the information in the Registry is not complete, the Administrator shall include information described in paragraph (1) with respect to that veteran (A) to the extent that such information is reasonably available in records of the Veterans' Administration or Department of Defense, or (B) if such information is submitted by the veteran after the enactment of this Act.

(e) DEPARTMENT OF DEFENSE INFORMATION.—The Secretary of Defense shall furnish to the Administrator such information maintained by the Department of Defense as the Administrator considers necessary to establish and maintain the Registry.

(f) DEFINITION.—For the purpose of this section, the term "veteran" has the meaning given that term in section 101(2) of title 38, United States Code, and includes a person who died in the active military, naval, or air service. 38 USC 101.

(g) EFFECTIVE DATE.—The Registry shall be established not later than 180 days after the date of the enactment of this Act.

SEC. 233. REQUIREMENT FOR MEDICARE HOSPITALS TO PARTICIPATE IN VETERANS' ADMINISTRATION CONTRACT HEALTH-CARE PROGRAM.

(a) IN GENERAL.—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)), as amended by section 1895(b) of the Tax Reform Act of 1986, is amended— *Ante*, p. 2931.

(1) by striking out "and" at the end of subparagraph (J);

(2) by striking out the period at the end of subparagraph (K) and inserting in lieu thereof ", and"; and

(3) by inserting after subparagraph (K) the following new subparagraph:

"(L) in the case of hospitals which provide inpatient hospital services for which payment may be made under this title, to be a participating provider of medical care under section 603 of title 38, United States Code, in accordance with such admission practices, and such payment methodology and amounts, as are prescribed under joint regulations issued by the Secretary and by the Administrator of Veterans' Affairs in implementation of such section.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to inpatient hospital services provided pursuant to admissions to hospitals occurring after June 30, 1987. 42 USC 1395cc note.

(c) REPORT.—(1) The Secretary of Health and Human Services shall periodically submit to the Congress a report on the number of hospitals that have terminated or failed to renew an agreement 42 USC 1395cc note.

42 USC 1395cc.

under section 1866 of the Social Security Act as a result of the additional conditions imposed under the amendments made by subsection (a).

(2) Not later than October 1, 1987, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding implementation of this section. Thereafter, the Administrator shall notify such committees if any hospital terminates or fails to renew an agreement described in paragraph (1) for the reasons described in that paragraph.

SEC. 234. PROHIBITION AGAINST EXCESSING OF CERTAIN VETERANS' ADMINISTRATION PROPERTIES.

Real property.

(a) IN GENERAL.—The Administrator of Veterans' Affairs may not take any action before January 1, 1988, in connection with declaring as excess to the needs of the Veterans' Administration, transferring to another Federal agency, or otherwise relinquishing any Veterans' Administration interest in or disposing of any portion of the real property described in subsection (b). Any such action taken before the date of the enactment of this Act shall be without effect. If on the date of the enactment of this Act, such property (or any portion thereof) is under the jurisdiction of an agency of the United States other than the Veterans' Administration, such property shall revert back to the jurisdiction of the Veterans' Administration.

California.

(b) DESCRIPTION OF PROPERTY.—The property referred to in subsection (a) is certain land and improvements at the Veterans' Administration Medical Center, West Los Angeles, California (consisting of approximately 109 acres), and at the Veterans' Administration Medical Center, Sepulveda, California (consisting of approximately 46 acres), described in letters dated February 5, 1986 (and enclosed maps), submitted by the Administrator to the Committees on Veterans' Affairs of the Senate and House of Representatives pursuant to section 5022(a)(2) of title 38, United States Code.

38 USC 612 note.

SEC. 235. REPORT ON TREATMENT AND SERVICES FOR CHRONICALLY MENTALLY ILL VETERANS.

(a) REPORT REQUIREMENT.—The Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the Administrator's current use of authority—

(1) to contract for care and treatment, and for rehabilitative services, for chronically mentally ill veterans through—

(A) halfway houses;

(B) therapeutic communities;

(C) psychiatric residential treatment centers;

(D) other community-based treatment facilities; and

(2) to furnish home health services to such veterans in such veterans' homes or in other settings in which they reside (as provided for in section 612 of title 38, United States Code, as amended by section 202).

(b) DEFINITION.—For purposes of subsection (a), the term "chronically mentally ill veterans" means veterans who are eligible for health care from the Veterans' Administration and who are suffering from chronic mental illness disabilities.

(c) DEADLINE FOR SUBMISSION.—The report under subsection (a) shall be submitted not later than December 15, 1987.

SEC. 236. DESIGNATION OF VETERANS' ADMINISTRATION MEDICAL CENTER IN PHOENIX, ARIZONA.

The Veterans' Administration Medical Center in Phoenix, Arizona, shall after the date of the enactment of this Act be known and designated as the "Carl T. Hayden Veterans' Administration Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed to be a reference to the Carl T. Hayden Veterans' Administration Medical Center.

SEC. 237. TECHNICAL AMENDMENTS.

(a) Section 610(a)(1)(C) is amended by inserting "who is in receipt of, or" after "veteran". 38 USC 610.

(b)(1) Section 610(f)(3) is amended by adding at the end the following new subparagraph:

"(F) A veteran may not be required to make a payment under this subsection or section 612(f) of this title for any days of care in excess of 360 days of care during any 365-calendar-day period.".

(2) Section 612(f)(4) is amended—

(A) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (E), (F), and (G), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph (D):

"(D) A veteran may not be required to make a payment under this subsection if such payment would result in the veteran paying, under this subsection and section 610(f) of this title, a total amount greater than four times the amount of the inpatient Medicare deductible for care or services, or any combination thereof, furnished under this chapter during any 365-calendar-day period.".

(c) The amendments made by this section shall take effect as of April 7, 1986. Effective date. 38 USC 610 note.

TITLE III—EDUCATION AND EMPLOYMENT

PART A—EDUCATION

SEC. 301. APPRENTICESHIP OR OTHER ON-JOB TRAINING UNDER THE NEW GI BILL.

(a) IN GENERAL.—Section 1402(3) is amended to read as follows:

"(3) The term 'program of education'—

"(A) has the meaning given such term in section 1652(b) of this title, and

"(B) includes a full-time program of apprenticeship or of other on-job training approved as provided in clause (1) or (2), as appropriate, of section 1787(a) of this title.".

(b) AMOUNT OF ASSISTANCE.—Section 1432 is amended by adding at the end the following new subsection:

"(c)(1) Except as provided in paragraph (2) of this subsection, the amount of the monthly educational assistance allowance payable to an individual pursuing a full-time program of apprenticeship or other on-job training under this chapter is—

"(A) for each of the first six months of the individual's pursuit of such program, 75 percent of the monthly educational assistance allowance otherwise payable to such individual under this chapter;

"(B) for each of the second six months of the individual's pursuit of such program, 55 percent of such monthly educational assistance allowance; and

"(C) for each of the months following the first 12 months of the individual's pursuit of such program, 35 percent of such monthly educational assistance allowance.

"(2) In any month in which an individual pursuing a program of education consisting of a program of apprenticeship or other on-job training fails to complete 120 hours of training, the amount of monthly educational assistance allowance payable under this chapter to the individual shall be limited to the same proportion of the applicable rate determined under paragraph (1) of this subsection as the number of hours worked during such month, rounded to the nearest eight hours, bears to 120 hours.

"(3) For each month that an individual is paid a monthly educational assistance allowance under this chapter, the individual's entitlement under this chapter shall be charged at the rate of—

"(A) 75 percent of a month in the case of payments made in accordance with paragraph (1)(A) of this subsection;

"(B) 55 percent of a month in the case of payments made in accordance with paragraph (1)(B) of this subsection; and

"(C) 35 percent of a month in the case of payments made in accordance with paragraph (1)(C) of this subsection.".

38 USC 1434.

(c) CONFORMING AMENDMENT.—Section 1434(a) is amended by striking out the parenthetical matter in the first sentence and inserting in lieu thereof "(with the exception of sections 1780(c), 1780(g), and 1787)".

(d) CLERICAL AMENDMENTS.—(1) The heading of section 1432 is amended to read as follows:

"§ 1432. Limitations on educational assistance for certain individuals".

(2) The item relating to such section in the table of sections at the beginning of chapter 30 of such title is amended to read as follows:

"1432. Limitations on educational assistance for certain individuals.".

SEC. 302. EDUCATIONAL ASSISTANCE FOR CORRESPONDENCE COURSES UNDER THE NEW GI BILL.

Section 1434 is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

"(c) When an eligible individual is pursuing a program of education under this chapter by correspondence, the individual's entitlement under this chapter shall be charged at the rate of one month's entitlement for each month of benefits paid to the individual.".

SEC. 303. PROVISIONS RELATING TO REDUCTION OF PAY IN THE NEW GI BILL.

(a) IN GENERAL.—(1) Section 1411(b) is amended by striking out the second sentence and inserting in lieu thereof the following: "Any amount by which the basic pay of an individual is reduced under this subsection shall revert to the Treasury and shall not, for purposes of any Federal law, be considered to have been received by or to be within the control of such individual."

(2) Section 1412(c) is amended by striking out the second sentence and inserting in lieu thereof the following: "Any amount by which the basic pay of an individual is reduced under this subsection shall revert to the Treasury and shall not, for purposes of any Federal law, be considered to have been received by or to be within the control of such individual.". 38 USC 1412.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to any reduction in basic pay made under section 1411(b) or 1412(c) of title 38, United States Code, after December 31, 1985. 38 USC 1411 note.

SEC. 304. ADVISORY COMMITTEE AMENDMENTS.

Section 1792 is amended—

(1) in the first sentence of subsection (a)—

(A) by striking out "an advisory committee" and inserting in lieu thereof "a Veterans' Advisory Committee on Education"; and

(B) by inserting "30," after "chapter"; and

(2) in the first sentence of subsection (b), by inserting "30," after "chapters".

SEC. 305. CERTIFICATION UNDER NEW GI BILL.

Section 1434(b) is amended to read as follows:

"(b) The Administrator may, pursuant to regulations which the Administrator shall prescribe, determine and define enrollment in, pursuit of, and attendance at, any program of education by an individual enrolled in or pursuing a program of education under this chapter for any period for which the individual receives educational assistance under this chapter. Subject to such reports and proof as the Administrator may require to show an individual's enrollment in and satisfactory pursuit of such individual's program, the Administrator may withhold payment of benefits to such individual until the required proof is received and the amount of the payment is appropriately adjusted.". Regulations.

SEC. 306. BAR TO DUPLICATION OF BENEFITS.

(a) IN GENERAL.—Section 1433(a)(1) is amended by striking out "chapter 31" and all that follows through "both programs" and inserting in lieu thereof "chapter 31, 32, or 35 of this title, under chapter 106 or 107 of title 10, or under the Hostage Relief Act of 1980 (Public Law 96-449; 5 U.S.C. 5561 note) may not receive assistance under two or more of such programs".

(b) SELECTED RESERVE SERVICE.—Section 1433(c) is amended to read as follows:

"(c) An individual who serves in the Selected Reserve may not receive credit for such service under both the program established by this chapter and the program established by chapter 106 of title 10 but shall elect (in such form and manner as the Administrator may prescribe) the program to which such service is to be credited.". 10 USC 2131 *et seq.*

SEC. 307. ADJUSTMENT OF DELIMITING PERIOD FOR INDIVIDUALS ENTITLED TO CERTAIN COMBINED BENEFITS.

(a) IN GENERAL.—(1) Section 1411(a)(1)(B) is amended by inserting "and was on active duty on October 19, 1984, and without a break in service since October 19, 1984," after "title".

(2) Section 1412(a)(1)(B) is amended by inserting "and was on active duty on October 19, 1984, and without a break in service since October 19, 1984," after "title".

(b) CONFORMING AMENDMENT.—Section 1431 is amended—

(1) by striking out "(d)" in subsection (a) and inserting in lieu thereof "(e)";

(2) by redesignating subsection (e) as subsection (f); and

(3) by inserting after subsection (d) the following new subsection;

"(e) In the case of an individual described in section 1411(a)(1)(B) or 1412(a)(1)(B) of this title who is entitled to basic educational assistance under this chapter, the 10-year period prescribed in subsection (a) of this section shall be reduced by an amount of time equal to the amount of time that such individual was not serving on active duty during the period beginning on January 1, 1977, and ending on October 18, 1984.".

38 USC 1411, 1412.

SEC. 308. WORK-STUDY ALLOWANCE UNDER THE NEW GI BILL AND THE POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM.

(a) NEW GI BILL.—The first sentence of section 1434(a) is amended by striking out "and 1683" and inserting in lieu thereof "1683, and 1685".

(b) POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM.—Section 1641 is amended by inserting "1685," after "1683,".

(c) CONFORMING AMENDMENT.—The first sentence of section 1685(b) is amended by striking out "education or training under chapters 31 and 34" and inserting in lieu thereof "rehabilitation, education, or training under chapter 30, 31, 32, or 34".

SEC. 309. TERMINATION OF ENROLLMENTS IN POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—(1) Section 1601(1) is amended by inserting "and before July 1, 1985," after "December 31, 1976,".

(2) Section 1602(1)(A) is amended—

(1) by inserting "and before July 1, 1985," after "January 1, 1977," both places it appears; and

(2) by striking out "such date" both places it appears and inserting in lieu thereof "January 1, 1977".

(3) Section 1621(a) is amended—

(A) by inserting "and before July 1, 1985," after "January 1, 1977,"; and

(B) by inserting "before July 1, 1985" before the period at the end of the first sentence.

38 USC 1621 note.

(b) CONFORMING REPEAL.—Section 704 of the Veterans' Educational Assistance Act of 1984 (title VII of Public Law 98-525; 98 Stat. 2564) is repealed.

38 USC 1601 note.

38 USC 1601 *et seq.*

(c) EXCEPTION.—Notwithstanding the amendments made by subsection (a), any individual on active duty in the Armed Forces who was eligible on June 30, 1985, to enroll in the program established by chapter 32 of title 38, United States Code, may enroll, before April 1, 1987, in such program.

Uniformed services.

(d) NOTICE REQUIREMENT.—The Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, shall carry out activities for the purpose of notifying, to the maximum extent feasible, individuals described in subsection (c) of the opportunity provided by such subsection.

SEC. 310. ON-JOB TRAINING UNDER THE POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 1602 is amended— 38 USC 1602.

(1) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) The term 'program of education'—

"(A) has the meaning given such term in section 1652(b) of this title, and

"(B) includes a full-time program of apprenticeship or other on-job training approved as provided in clause (1) or (2), as appropriate, of section 1787(a) of this title."; and

(2) by adding at the end the following new paragraphs:

"(4) The term 'educational institution' has the meaning given such term in section 1652(c) of this title.

"(5) The term 'training establishment' has the meaning given such term in section 1652(e) of this title.".

(b) AMOUNT OF PAYMENT.—(1) Section 1631(a)(2) is amended by striking out "The" and inserting in lieu thereof "Except as provided in section 1633 of this title and subject to section 1641 of this title, the".

(2) Subchapter III of chapter 32 is amended by adding at the end the following new section:

"§ 1633. Apprenticeship or other on-job training 38 USC 1633.

"(a) Except as provided in subsection (b) of this section, the amount of the monthly benefit payment to an individual pursuing a full-time program of apprenticeship or other on-job training under this chapter is—

"(1) for each of the first six months of the individual's pursuit of such program, 75 percent of the monthly benefit payment otherwise payable to such individual under this chapter;

"(2) for each of the second six months of the individual's pursuit of such program, 55 percent of such monthly benefit payment; and

"(3) for each of the months following the first 12 months of the individual's pursuit of such program, 35 percent of such monthly benefit payment.

"(b) In any month in which an individual pursuing a program of education consisting of a program of apprenticeship or other on-job training fails to complete 120 hours of training, the amount of the monthly benefit payment payable under this chapter to the individual shall be limited to the same proportion of the applicable rate determined under subsection (a) of this section as the number of hours worked during such month, rounded to the nearest eight hours, bears to 120 hours.

"(c) For each month that an individual is paid a monthly benefit payment under this chapter, the individual's entitlement under this chapter shall be charged at the rate of—

"(1) 75 percent of a month in the case of payments made in accordance with subsection (a)(1) of this section;

"(2) 55 percent of a month in the case of payments made in accordance with subsection (a)(2) of this section; and

"(3) 35 percent of a month in the case of payments made in accordance with subsection (a)(3) of this section.".

(3) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1632 the following new item:

"1633. Apprenticeship or other on-job training.".

38 USC 1641.

(c) ADMINISTRATION.—Section 1641 is amended—

(1) by inserting "(a)" before "The";

(2) by striking out "sections 1777, 1780(c), and 1787) shall be applicable to the program." and inserting in lieu thereof "section 1787) shall be applicable with respect to individuals who are pursuing programs of education while serving on active duty."; and

(3) by adding at the end the following new subsection:

"(b) The provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, 1683, and 1691(a)(1) of this title and the provisions of chapter 36 of this title (with the exception of section 1787) shall be applicable with respect to individuals who are pursuing programs of education following discharge or release from active duty.".

38 USC 1770.

SEC. 311. DURATION OF AND LIMITATIONS ON ENTITLEMENT TO POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE.

The text of section 1632 is amended to read as follows:

"(a)(1) Except as provided in paragraphs (2) and (3) of this subsection, educational assistance benefits shall not be afforded an eligible veteran under this chapter more than 10 years after the date of such veteran's last discharge or release from active duty.

"(2)(A) If any eligible veteran was prevented from initiating or completing such veteran's chosen program of education during the delimiting period determined under paragraph (1) of this subsection because of a physical or mental disability which was not the result of such veteran's own willful misconduct, such veteran shall, upon application made in accordance with subparagraph (B) of this paragraph, be granted an extension of the applicable delimiting period for such length of time as the Administrator determines, from the evidence, that such veteran was so prevented from initiating or completing such program of education.

"(B) An extension of the delimiting period applicable to an eligible veteran may be granted under subparagraph (A) of this paragraph by reason of the veteran's mental or physical disability only if the veteran submits an application for such extension to the Administrator within one year after (i) the last date of the delimiting period otherwise applicable to the veteran under paragraph (1) of this subsection, or (ii) the termination date of the period of the veteran's mental or physical disability, whichever is later.

"(3) When an extension of the applicable delimiting period is granted an eligible veteran under paragraph (2) of this subsection, the delimiting period with respect to such veteran shall again begin to run on the first day after such veteran's recovery from such disability on which it is reasonably feasible, as determined in accordance with regulations prescribed by the Administrator, for such veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter.

"(b)(1) In the event that an eligible veteran has not utilized any or all of such veteran's entitlement by the end of the delimiting period applicable to the veteran under subsection (a) of this section, such eligible veteran is automatically disenrolled

"(2)(A) Any contributions which were made by a veteran disenrolled under paragraph (1) of this subsection and remain in the fund shall be refunded to the veteran after notice of disenrollment is transmitted to the veteran and the veteran applies for such refund.

"(B) If no application for refund of contributions under subparagraph (A) of this paragraph is received from a disenrolled veteran within one year after the date the notice referred to in such subparagraph is transmitted to the veteran, it shall be presumed, for the purposes of section 1322(a) of title 31, that the veteran's whereabouts is unknown and the funds shall be transferred as provided in such section.".

SEC. 312. EDUCATIONAL AND VOCATIONAL COUNSELING.

Section 1663 is amended by inserting after the first sentence the following: "In any case in which the Administrator has rated the veteran as being incompetent, such counseling shall be required to be provided to the veteran prior to the selection of a program of education or training.". 38 USC 1663.

SEC. 313. DELIMITING PERIOD UNDER THE SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE PROGRAM.

Section 1712(b) is amended by adding at the end the following:

"(3)(A) Notwithstanding the provisions of paragraph (1) of this subsection, any eligible person (as defined in clause (B) or (D) of section 1701(a)(1) of this title) may, subject to the approval of the Administrator, be permitted to elect a date referred to in subparagraph (B) of this paragraph to commence receiving educational assistance benefits under this chapter. The date so elected shall be the beginning date of the delimiting period applicable to such person under this section.

"(B) The date which an eligible person may elect under subparagraph (A) of this paragraph is any date during the period beginning on the date the person became an eligible person within the meaning of clause (B) or (D) of section 1701(a)(1) of this title and ending on the date determined under subparagraph (A), (B), or (C) of paragraph (1) of this subsection to be applicable to such person.".

SEC. 314. ELIMINATION OF THE REQUIREMENT FOR AN EDUCATION PLAN FOR SURVIVORS AND DEPENDENTS.

(a) IN GENERAL.—Section 1720 is amended to read as follows:

"§ 1720. Educational and vocational counseling

"The Administrator may, upon request, arrange for educational or vocational counseling for persons eligible for benefits under this chapter to assist such persons in selecting their educational, vocational, or professional objectives and in developing their programs of education.".

(b) CONFORMING AMENDMENTS.—(1) Section 1721 is amended—

(A) by striking out "finally";

(B) by striking out clause (1); and

(C) by redesignating clauses (2), (3), (4), and (5) as clauses (1), (2), (3), and (4), respectively.

(2) The heading of such section is amended to read as follows:

"§ 1721. Approval of application".

(3) The items relating to sections 1720 and 1721 in the table of sections at the beginning of chapter 35 are amended to read as follows:

"1720. Educational and vocational counseling.
"1721. Approval of application.".

SEC. 315. MEASUREMENT OF CERTAIN NONCOLLEGE DEGREE COURSES.

38 USC 1780.

(a) IN GENERAL.—(1) Section 1780(a) is amended—

(A) in clause (1), by inserting ", or a course that meets the requirements of section 1788(a)(7) of this title," after "degree"; and

(B) in clause (2), by inserting "courses that meet the requirements of section 1788(a)(7) of this title and" after "excluding".

(2) Section 1788 is amended—

(A) in subsection (a)—

(i) by striking out "and" at the end of clause (5);

(ii) by striking out the period at the end of clause (6) and inserting in lieu thereof "; and"; and

(iii) by inserting after clause (6) the following new clause:

"(7) an institutional course not leading to a standard college degree, offered by a fully accredited institution of higher learning in residence on a standard quarter- or semester-hour basis, shall be measured as full time on the same basis as provided in clause (4) of this subsection if (A) such course is approved pursuant to section 1775 of this title, and (B) a majority of the total credits required for the course is derived from unit courses or subjects offered by the institution as part of a course, so approved, leading to a standard college degree."; and

(B) in subsection (c), by striking out "(4)".

(b) DETERMINATION IN CERTAIN CASES.—Section 1788 is amended by inserting at the end the following new subsection:

"(e) For the purpose of determining whether a course—

"(1) which is offered by an institution of higher learning, and

"(2) for which such institution requires one or more unit courses or subjects for which credit is granted toward a standard college degree

will, during the semester (or quarter or other applicable portion of the academic year) when such unit course or subject is being pursued, be considered full time under clause (1) or (2) of subsection (a) of this section, each of the numbers of hours specified in such clause shall be deemed to be reduced, during such semester (or other portion of the academic year), by the percentage described in the following sentence and rounded as the Administrator may prescribe. Such percentage is the percentage that the number of semester hours (or the equivalent thereof) represented by such unit course or subject is of the number of semester hours (or the equivalent thereof) which, under clause (4) of such subsection, constitutes a full-time institutional undergraduate course at such institution.".

SEC. 316. PAYMENT OF EDUCATIONAL ASSISTANCE FOR CERTAIN LESS-THAN-HALF-TIME TRAINING.

The first sentence of section 1780(f) is amended by striking out "during" and inserting in lieu thereof "not later than the last day of".

SEC. 317. PROHIBITION ON BENEFITS UNDER MORE THAN ONE EDUCATIONAL ASSISTANCE PROGRAM.

Section 1781(b) is amended by striking out "for the pursuit of the same program of education". 38 USC 1781.

SEC. 318. REPORTING REQUIREMENTS FOR EDUCATIONAL INSTITUTIONS.

Section 1784(a) is amended—

(1) by striking out "(a) The" and inserting in lieu thereof "(a)(1) Except as provided in paragraph (2) of this subsection, the"; and

(2) by adding at the end the following new paragraph:

"(2)(A) In the case of a program of independent study pursued on less than a half-time basis in an educational institution, the Administrator may approve a delay by the educational institution in reporting the enrollment or reenrollment of an eligible veteran or eligible person until the end of the term, quarter, or semester if the educational institution requests the delay and the Administrator determines that it is not feasible for the educational institution to monitor interruption or termination of the veteran's or eligible person's pursuit of such program.

"(B) An educational institution which, pursuant to subparagraph (A) of this paragraph, is delaying the reporting of the enrollment or reenrollment of a veteran shall provide the veteran with notice of the delay at the time that the veteran enrolls or reenrolls.".

SEC. 319. PROHIBITION OF A TERM-BY-TERM CERTIFICATION REQUIREMENT.

Section 1784(a), as amended by section 318 of this Act, is further amended by adding at the end the following new paragraph:

"(3)(A) Subject to subparagraph (B) of this paragraph, an educational institution offering courses on a term, quarter, or semester basis may certify the enrollment of a veteran who is not on active duty, or of an eligible person, in such courses for more than one term, quarter, or semester at a time, but not for a period extending beyond the end of a school year (including the summer enrollment period).

"(B) Subparagraph (A) of this paragraph shall not apply with respect to any term, quarter, or semester for which the veteran or eligible person is enrolled on a less than half-time basis and shall not be construed as restricting the Administrator from requiring that an educational institution, in reporting an enrollment for more than one term, quarter, or semester, specify the dates of any intervals within or between any such terms, quarters, or semesters.".

SEC. 320. COMMISSION TO ASSESS VETERANS' EDUCATION POLICY. 38 USC 1792 note.

(a) ESTABLISHMENT AND MEMBERS.—(1) There is established a Commission on Veterans' Education Policy (hereafter in this section referred to as the "Commission").

(2)(A) The Commission shall consist of 11 members, 10 of whom shall be appointed, not later than March 1, 1987, by the Administrator of Veterans' Affairs in consultation with the chairmen and the ranking minority members of the Committees on Veterans' Affairs of the Senate and of the House of Representatives (hereafter in this section referred to as "the Committees"), and one of whom shall be the chairman of the Advisory Committee on Education established under section 1792 of title 38, United States Code (as amended by section 304).

(B) The members of the Commission—

(i) shall be broadly representative of entities engaged in providing education and training and of veterans' service organizations; and

(ii) shall be selected on the basis of their knowledge of and experience in education and training policy and the implementation of such policy with respect to programs of assistance administered by the Veterans' Administration.

(3) The Administrator of Veterans' Affairs, the ex officio members of the Advisory Committee on Education referred to in paragraph (2)(A), and the chairmen and ranking minority members of the Committees (or, in the case of any such individual, a designee of any such individual) shall be ex officio, nonvoting members of the Commission.

(4)(A) The Administrator shall designate a member from among the voting members of the Commission to chair the Commission.

(B) The chairman of the Commission, with the concurrence of the Commission, shall appoint an executive director, who shall be the chief executive officer of the Commission and shall perform such duties as are prescribed by the Commission.

(C) The Administrator shall furnish the Commission with such professional, technical, and clerical staff and services and administrative support as the Commission determines necessary for the Commission to carry out the provisions of this section effectively.

(b) FIRST REPORT.—(1) Not later than 18 months after the date on which at least 8 members of the Commission have been appointed, the Commission shall submit a report on the Commission's findings and recommendations on the matters described in paragraph (2) of this subsection to the Administrator and the Committees.

(2) The report required by paragraph (1) shall include the Commission's findings, views, and recommendations on the following matters:

(A) The need for distinctions between certificate-granting courses and degree-granting courses.

(B) The measurement of courses for the purposes of payment of educational assistance benefits.

(C) The vocational value of courses offered through home study.

(D) The role of innovative and nontraditional programs of education and the manner in which such programs should be treated for purposes of payment of educational assistance benefits by the Veterans' Administration, including courses that result in the achievement of continuing education units.

38 USC 1401 *et seq.*, 1500 *et seq.*, 1601 *et seq.*, 1651 *et seq.*, 1700 *et seq.*, 1770 *et seq.*

(E) Such other matters relating to administration of chapters 30, 31, 32, 34, 35, and 36 of title 38, United States Code, by the Veterans' Administration as (i) the Commission considers appropriate or necessary, or (ii) are suggested by the Administrator or, concurrently, by the chairmen and ranking minority members of the Committees.

(c) INTERIM AND FINAL REPORTS.—(1) Not later than 6 months after the date on which the report is submitted under subsection (b), the Administrator shall submit an interim report to the Committees. The interim report shall contain—

(A) the Administrator's views on the desirability, feasibility, and cost of implementing each of the Commission's recommendations, and the actions taken or planned with respect to the implementation of such recommendations;

(B)(i) the Administrator's views on any legislation or regulations proposed by the Commission, (ii) the Administrator's views on the need for any alternative or additional legislation or regulations to implement the Commission's recommendations, (iii) the Administrator's recommendations for any such alternative or additional legislation, (iv) the proposed text of any regulations referred to in subclause (i) or (ii) which the Administrator considers necessary and the proposed text of any legislation referred to in such subclause which is recommended by the Administrator, and (v) a cost estimate for the implementation of any regulations and legislation referred to in such subclause; and

(C) any other proposals that the Administrator considers appropriate in light of the Commission's report.

(2) Not later than 90 days after the date on which the Administrator's interim report is submitted under paragraph (1), the Commission shall submit a report to the Administrator and the Committees containing the Commission's views on the Administrator's interim report.

(3) Not later than two years after the date on which the Commission's report is submitted under subsection (b), the Administrator shall submit a final report to the Committees. The final report shall include the actions taken with respect to the recommendations of the Commission and any further recommendations the Administrator considers appropriate.

(d) TERMINATION.—The Commission shall terminate 90 days after the date on which the Administrator submits the final report required by subsection (c)(3).

SEC. 321. TECHNICAL AND CLERICAL AMENDMENTS.

Title 38 is amended as follows:

(1) Section 1411(a) is amended—

(A) in clause (1)(A)(ii)(II), by inserting "continuous" after "months of" both places it appears; and

(B) in clause (1)(B)(ii)(II), by inserting "continuous" after "months of".

(2) Section 1412 is amended—

(A) in subsection (a), by striking out "subsection (c)" and inserting in lieu thereof "subsection (d)"; and

(B) in subsection (b)(1), by inserting "such" after "three and one-half years of".

(3) Section 1413 is amended—

(A) in subsection (a)(2), by inserting the following before the period at the end: "after the date of the beginning of the period for which the individual's basic pay is reduced under section 1411(b) of this title, in the case of an individual described in section 1411(a)(1)(A)(ii)(I) of this title, or after June 30, 1985, in the case of an individual described in section 1411(a)(1)(B)(ii)(I) of this title"; and

(B) in subsection (b)—

(i) by inserting in clause (1) after "individual" the following: "after the date of the beginning of the period for which such individual's basic pay is reduced under section 1412(c) of this title, in the case of an individual described in section 1412(a)(1)(A), or after June 30, 1985, in the case of an individual described in section 1412(a)(1)(B) of this title"; and

(ii) by inserting "after the applicable date specified in clause (1) of this subsection" after "Selected Reserve" in clause (2).

38 USC 1416.

(4) The text of section 1416 is amended to read as follows:

"(a) A member of the Armed Forces who—

"(1) first becomes a member or first enters on active duty as a member of the Armed Forces after June 30, 1985, and does not make an election under section 1411(c)(1) or section 1412(d)(1);

"(2) completes at least two years of service on active duty after such date;

"(3) after such service, continues on active duty or in the Selected Reserve without a break in service (except as described in section 1412(b)(2) of this title); and

"(4) but for section 1411(a)(1)(A)(i)(I) or 1412(a)(1)(A)(ii) of this title would be eligible for basic educational assistance,

may receive educational assistance under this chapter for enrollment in an approved program of education while continuing to perform the duty described in section 1411(a)(1)(A)(i)(I) or 1412(a)(1)(A)(ii) of this title.

"(b) A member of the Armed Forces who—

38 USC 1651 *et seq.*

"(1) as of December 31, 1989, is eligible for educational assistance benefits under chapter 34 of this title;

"(2) after June 30, 1985, has served the two years required by section 1412(a)(1)(B)(i); and

"(3) but for section 1412(a)(1)(B)(ii) of this title would be eligible for basic educational assistance,

may, after December 31, 1989, receive educational assistance under this chapter for enrollment in an approved program of education while continuing to perform the duty described in section 1412(a)(1)(B)(ii) of this title.".

(5) Section 1421 is amended by striking out "in addition to" each place it appears in subsections (a)(1) and (b)(1) and inserting in lieu thereof "after".

(6) Section 1421(c)(1) is amended by striking out "his" and inserting in lieu thereof "the member's".

(7)(A) Subsection (a) of section 1431 is amended by striking out "(d)" and inserting in lieu thereof "(e)".

(B) Subsection (b) of such section is amended—

(i) by striking out "subchapter II or III of";

(ii) by striking out "of such subchapter" and inserting in lieu thereof "of this chapter";

(iii) by striking out "(1)" after "before"; and

(iv) by striking out "or (2)" and all that follows through "1412(a)(3) of this title,".

(C) Subsection (e)(2) of such section is amended by inserting "not" after "educational institution".

(8) Section 1435(b)(2) is amended by striking out "section 1415(a)" and inserting in lieu thereof "subsection (a) or (b) of section 1415".

(9) Section 1781(b) is amended by striking out "Chapter 107" in clause (2) and inserting in lieu thereof "Chapters 106 and 107".

(10) Section 3013 is amended by inserting "30," after "chapters".

(11) Section 3103A(b)(3) is amended—

(A) by striking out "or" at the end of clause (D);

(B) by striking out the period at the end of clause (E) and inserting in lieu thereof "; or"; and

(C) by adding at the end the following new clause:

"(F) to benefits under chapter 30 of this title in the case of a person entitled to benefits under such chapter by reason of section 1411(a)(1)(A)(ii)(II) of this title.". 38 USC 1401 *et seq.*

PART B—EMPLOYMENT AND OTHER PROGRAMS

SEC. 331. EMPLOYMENT RIGHTS OF CERTAIN INDIVIDUALS.

Section 2021(b)(3) is amended—

(1) by inserting "seeks or" after "who";

(2) by inserting "hiring," after "shall not be denied"; and

(3) by inserting a comma after "employment" the first place it appears.

SEC. 332. VETERANS' READJUSTMENT APPOINTMENTS.

Section 2014(b)(2) is amended by striking out "September 30, 1986" and inserting in lieu thereof "December 31, 1989".

SEC. 333. EXTENSION OF PROGRAM OF INDEPENDENT LIVING SERVICES AND ASSISTANCE.

(a) EXTENSION OF AUTHORITY AND CLARIFYING AMENDMENT.—(1) Section 1520(a) is amended—

(A) in paragraphs (1), (5), and (6), by striking out "1985" each place it appears and inserting in lieu thereof "1989"; and

(B) in paragraph (2), by inserting "currently" after "goal".

(b) CONFORMING AMENDMENTS.—(1) Paragraphs (6)(B) and (9)(A)(i) of section 1501 are amended by inserting "currently" after "be".

(2) Section 1503(d) is amended by inserting "currently" after "goal".

(3) Section 1505 is amended—

(A) in subsection (a), by inserting "currently" after "whether it";

(B) in subsection (b), by inserting "current" after "of the"; and

(C) in subsection (d), by inserting "currently" after "goal".

(4) Section 1506 is amended—

(A) in subsection (a)(2)(B), by inserting "currently" after "goal";

(B) in subsection (b), by inserting "currently" after "goal";

(C) in subsection (c), by inserting "currently" after "goal" the first place it appears; and

(D) in subsection (d)—

(i) in the first sentence, by inserting "currently" after "veteran"; and

(ii) in the third sentence, by inserting "currently" after "goal" and after "achievement" the second place it appears.

(5) Section 1509 is amended by inserting "currently" after "veteran" the first place it appears.

(6) The heading for section 1520 is amended by striking out "**Pilot Program**" and inserting in lieu thereof "**Program**".

(7) The item relating to section 1520 in the table of sections at the beginning of chapter 31 is amended by striking out "Pilot program" and inserting in lieu thereof "Program".

(c) REPORT.—Section 1520(b) is amended to read as follows:

"(b) Not later than February 1, 1989, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the

House of Representatives statistical data regarding veterans' participation in the program conducted under subsection (a) of this section during fiscal years 1987 and 1988 and any recommendations of the Administrator for administrative or legislative action or both regarding the program.".

TITLE IV—HOUSING PROGRAMS AND NATIONAL CEMETERIES

PART A—HOUSING

SEC. 401. SPECIALLY ADAPTED HOUSING.

38 USC 801

(a) IN GENERAL.—Section 801(b)(1) is amended by inserting before the period the following: "or in acquiring a residence already adapted with special features determined by the Administrator to be reasonably necessary for the veteran because of such disability".

(b) CONFORMING AMENDMENT.—Section 802(b)(1) is amended by striking out "cost" and inserting in lieu thereof "cost, or, in the case of a veteran acquiring a residence already adapted with special features, the fair market value,".

SEC. 402. CREDIT UNDERWRITING AND LOAN PROCESSING STANDARDS.

(a) IN GENERAL.—Section 1810(b)(3) is amended by inserting before the semicolon at the end the following: ", as determined in accordance with the credit underwriting standards established pursuant to subsection (g) of this section".

(b) DEFINITION AND STANDARDS.—Section 1810 is amended by adding at the end the following new subsection:

"(g)(1) For the purposes of this subsection, the term 'veteran', when used with respect to a loan guaranteed or to be guaranteed under this chapter, includes the veteran's spouse if the spouse is jointly liable with the veteran under the loan.

Regulations.

"(2) For the purpose of determining whether a veteran meets the standards referred to in subsection (b)(3) of this section and section 1819(e)(2) of this title, the Administrator shall prescribe regulations which establish—

"(A) credit underwriting standards to be used in evaluating loans to be guaranteed under this chapter; and

"(B) standards to be used by lenders in obtaining credit information and processing loans to be guaranteed under this chapter.

"(3) In the regulations prescribed under paragraph (2) of this subsection, the Administrator shall establish standards that include—

"(A) debt-to-income ratios to apply in the case of the veteran applying for the loan;

"(B) criteria for evaluating the reliability and stability of the income of the veteran applying for the loan; and

"(C) procedures for ascertaining the monthly income required by the veteran to meet the anticipated loan payment terms.

"(4)(A) Any lender making a loan under this chapter shall certify, in such form as the Administrator shall prescribe, that the lender has complied with the credit information and loan processing standards established under paragraph (2)(B) of this subsection, and that, to the best of the lender's knowledge and belief, the loan meets the underwriting standards established under paragraph (2)(A) of this subsection.

"(B) Any lender who knowingly and willfully makes a false certification under subparagraph (A) of this paragraph shall be liable to the United States Government for a civil penalty equal to two times the amount of the Administrator's loss on the loan involved or to another appropriate amount, not to exceed $10,000, whichever is greater. All determinations necessary to carry out this subparagraph shall be made by the Administrator.

Law enforcement and crime.

"(5) Pursuant to regulations prescribed to carry out this paragraph, the Administrator may, in extraordinary situations, waive the application of the credit underwriting standards established under paragraph (2) of this subsection when the Administrator determines, considering the totality of circumstances, that the veteran is a satisfactory credit risk.".

(c) CONFORMING AMENDMENTS.—(1) Section 1816 is amended by adding at the end the following new subsection:

38 USC 1816.

"(e) The Administrator may not make a loan to finance a purchase of property acquired by the Administrator as a result of a default on a loan guaranteed under this chapter unless the purchaser meets the credit underwriting standards established under section 1810(g)(2)(A) of this title.".

Real property.

(2) Section 1819(e)(2) is amended by inserting "as determined in accordance with the regulations prescribed under section 1810(g) of this title and" after "credit risk,".

SEC. 403. FORECLOSURE INFORMATION.

Section 1816, as amended by section 402(c)(1) of this Act, is amended by adding at the end the following new subsection:

"(f)(1) The Administrator shall identify and compile information on common factors which the Administrator finds contribute to foreclosures on loans guaranteed under this chapter.

"(2) The Administrator shall include a summary of the information compiled, and the Administrator's findings, under paragraph (1) of this subsection in the annual report submitted to the Congress under section 214 of this title. As part of such summary and findings, the Administrator shall provide a separate analysis of the factors which contribute to foreclosures of loans which have been assumed.".

Reports.

SEC. 404. COMPETITIVE CONTRACTING REQUIREMENTS.

Section 1820(b) is amended by striking out "$1,000" and inserting in lieu thereof "the amount prescribed in clause (1) of the first sentence of such section".

SEC. 405. AUTHORITY TO TRANSFER FUNDS.

Section 1823 is amended by adding at the end the following new subsection:

"(d)(1) The Secretary of the Treasury shall transfer from the direct loan revolving fund to the loan guaranty revolving fund established by section 1824(a) of this title such amounts as the Administrator determines are not needed in the direct loan revolving fund.

"(2) Not later than 30 days after the date on which the Secretary makes a transfer under paragraph (1) of this subsection, the Administrator shall submit a notice of such transfer to the appropriate committees of the Congress.".

SEC. 406. USE OF ATTORNEYS IN HOME LOAN FORECLOSURES.

The second sentence of section 1830(a) is amended by striking out "With the concurrence of the Attorney General of the United States, the" and inserting in lieu thereof "The".

SEC. 407. APPRAISALS.

(a) IN GENERAL.—Subchapter III of chapter 37 is amended by adding at the end the following new section 1831:

"§ 1831. Appraisals

Loans.
Real property.
38 USC 1834.

"(a) The Administrator shall—

"(1) in consultation with appropriate representatives of institutions which are regularly engaged in making housing loans, prescribe uniform qualifications for appraisers;

"(2) use such qualifications in determining whether to approve an appraiser to make appraisals of the reasonable value of any property, construction, repairs, or alterations for the purposes of this chapter; and

"(3) in consultation with local representatives of institutions described in clause (1) of this subsection, develop and maintain lists of appraisers who are approved under clause (2) of this subsection to make appraisals for the purposes of this chapter.

"(b) The Administrator shall select appraisers from a list required by subsection (a)(3) of this section on a rotating basis to make appraisals for the purposes of this chapter.

"(c) The Administrator shall, upon request, furnish a copy of the appraisal made of property for the purposes of this chapter to the lender proposing to make the loan which is to be secured by such property and is to be guaranteed under this chapter.

"(d) If a lender—

"(1) has proposed to make a loan to be guaranteed under this chapter,

"(2) has been furnished a certificate of reasonable value of any property or of any construction, repairs, or alterations of property which is to be the security for such loan, and

"(3) within a reasonable period prescribed by the Administrator, has furnished to the Administrator an additional appraisal of the reasonable value of such property, construction, repairs, or alterations which was made by an appraiser selected by the lender from the list required by subsection (a)(3) of this section,

the Administrator shall consider both the initial appraisal and the additional appraisal and shall, if appropriate, issue a revised certificate of reasonable value of such property, construction, repairs, or alterations.

"(e)(1) In no case may a veteran be required to pay all or any portion of the cost of the additional appraisal described in subsection (d)(3) of this section.

"(2) If a veteran, within a reasonable period prescribed by the Administrator, has furnished to the Administrator an additional appraisal of the reasonable value of such property, construction, repairs, or alterations which was made by an appraiser selected by the veteran from the list required by subsection (a)(3) of this section, the Administrator shall consider such appraisal, along with other appraisals furnished to the Administrator, and shall, if appropriate, issue a revised certificate of reasonable value of such property, construction, repairs, or alterations.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1830 the following new item:

"1831. Appraisals.".

SEC. 408. FURNISHING INFORMATION TO REAL ESTATE PROFESSIONALS TO FACILITATE THE DISPOSITION OF PROPERTIES.

(a) IN GENERAL.—Subchapter III of chapter 37, as amended by section 407(a) of this Act, is further amended by adding at the end the following new section:

"§ 1832. Furnishing information to real estate professionals to facilitate the disposition of properties 38 USC 1832.

"The Administrator shall furnish to real estate brokers and other real estate sales professionals information on the availability of real property for disposition under this chapter and the procedures used by the Veterans' Administration to dispose of such property.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1831, as added by section 407(b) of this Act, the following new item:

"1832. Furnishing information to real estate professionals to facilitate the disposition of properties.".

SEC. 409. HOME LOAN ORIGINATION FEE. 38 USC 1829 note.

It is the sense of the Congress that the Veterans' Administration loan origination fee should not be increased above its present level of one percent of the amount of the loan guaranteed.

PART B—NATIONAL CEMETERIES

SEC. 411. NATIONAL CEMETERY GRAVE MARKERS.

Section 1004(c) is amended—

(1) by striking out "Each" and inserting in lieu thereof "(1) Subject to paragraph (2), each"; and

(2) by adding at the end the following:

"(2) The grave markers referred to in paragraph (1) shall be upright for interments that occur on or after January 1, 1987, except that—

"(A) in the case of any cemetery scheduled to be closed by September 30, 1991, as indicated in the documents submitted by the Administrator to the Congress in justification for the amounts included for Veterans' Administration programs in the President's Budget for fiscal year 1987, the Administrator may provide for flat grave markers; and

"(B) in the case of any cemetery with a section which has flat markers on the date of the enactment of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986, the Administrator may continue to provide for flat grave markers in such section.".

SEC. 412. REPORTS ON THE NATIONAL CEMETERY SYSTEM. 38 USC 1000 note.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the National Cemetery System established by section 1000 of title 38, United States Code. The

Administrator shall submit a second such report not later than 60 months after such date.

(b) CONTENTS.—Each report required by subsection (a) shall include—

(1) a plan for the operation of the National Cemetery System through the year 2000, including a description of anticipated general trends relating to the operation of the National Cemetery System between the years 2000 and 2020 and a discussion of the provisions of the plan which were developed in response to those trends;

(2) a list, in order of priority, of the 10 geographic areas in the United States in which the need for additional burial space for veterans is greatest;

(3) assessments of the desirability and feasibility of acquiring existing State veterans' cemeteries in the geographic areas identified on the list described in clause (2) and of the role of State veterans' cemeteries in such areas and generally in meeting the needs for burial space for veterans; and

(4) general plans (including projected costs, site location, and, if appropriate, necessary land acquisition) for any anticipated expansion of the National Cemetery System, including plans for meeting (A) the need for burial space for veterans in each geographic area identified on the list described in clause (2), and (B) the need for burial space for veterans in cemeteries other than cemeteries in the National Cemetery System in those areas.

SEC. 413. MEMORIAL AREAS IN ARLINGTON NATIONAL CEMETERY.

(a) IN GENERAL.—Chapter 24 is amended by adding at the end the following new section:

Virginia.
38 USC 1009.

"§ 1009. Memorial areas in Arlington National Cemetery

"(a) The Secretary of the Army may set aside, when available, a suitable area or areas in Arlington National Cemetery, Virginia, to honor the memory of members of the Armed Forces and veterans—

"(1) who are missing in action;

"(2) whose remains have not been recovered or identified;

"(3) whose remains were buried at sea, whether by the member's or veteran's own choice or otherwise;

"(4) whose remains were donated to science; or

"(5) whose remains were cremated and whose ashes were scattered without interment of any portion of the ashes.

"(b) Under regulations prescribed by the Secretary, appropriate memorials or markers may be erected in Arlington National Cemetery to honor the memory of those individuals, or group of individuals, referred to in subsection (a) of this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1009. Memorial areas in Arlington National Cemetery.".

38 USC 1000 note.

SEC. 414. AUTHORITY TO ESTABLISH NATIONAL CEMETERIES.

38 USC 1000 *et seq.*

(a) AUTHORITY.—The authority of the Administrator of Veterans' Affairs under chapter 24 of title 38, United States Code, to develop and acquire cemeteries as part of the National Cemetery System includes, but is not limited to, the authority to establish additional

national cemeteries to serve the needs of veterans and their families in—

(1) San Francisco, California; California.
(2) Chicago, Illinois; Illinois.
(3) Cleveland, Ohio; Ohio.
(4) Pittsburgh, Pennsylvania; Pennsylvania.
(5) Dallas/Fort Worth, Texas; Texas.
(6) Miami, Florida; Florida.
(7) Seattle, Washington; Washington.
(8) Atlanta, Georgia; Georgia.
(9) Phoenix/Tucson, Arizona; Arizona.
(10) Birmingham, Alabama; and Alabama.
(11) any other State in which a national cemetery is not available for the burial of veterans.

(b) LAND ACQUISITION.—The Administrator may acquire land necessary for a cemetery authorized by subsection (a) of this section by donation, purchase, condemnation, exchange of lands in the United States public domain, or otherwise.

TITLE V—ADMINISTRATIVE PROVISIONS

SEC. 501. CLARIFICATION OF REQUIREMENT FOR A DETAILED PLAN AND JUSTIFICATION FOR ADMINISTRATIVE REORGANIZATION.

Section 210(b)(2)(C) is amended by inserting at the end the following:

"(iii) The term 'detailed plan and justification' means, with respect to an administrative reorganization, a written report which, at a minimum—

"(I) specifies the number of employees by which each covered office or facility affected is to be reduced, the responsibilities of those employees, and the means by which the reduction is to be accomplished;

"(II) identifies any existing or planned office or facility at which the number of employees is to be increased and specifies the number and responsibilities of the additional employees at each such office or facility;

"(III) describes the changes in the functions carried out at any existing office or facility and the functions to be assigned to an office or facility not in existence on the date that the plan and justification are submitted pursuant to subparagraph (A) of this paragraph;

"(IV) explains the reasons for the determination that the reorganization is appropriate and advisable in terms of the statutory missions and long-term goals of the Veterans' Administration;

"(V) describes the effects that the reorganization may have on the provision of benefits and services to veterans and dependents of veterans (including the provision of benefits and services through offices and facilities of the Veterans' Administration not directly affected by the reorganization); and

"(VI) provides estimates of the costs of the reorganization and of the cost impact of the reorganization, together with analyses supporting those estimates.".

SEC. 502. COLLOCATION OF REGIONAL OFFICES AND MEDICAL CENTERS.

(a) IN GENERAL.—(1) Not later than March 1, 1987, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a plan, including a schedule, for collocating at least seven regional offices of the Veterans' Administration described in paragraph (3) with Veterans' Administration medical centers on the grounds of such medical centers. The plan and schedule shall provide for the collocations to be commenced and completed as soon as practicable.

(2) The plan required by paragraph (1) shall include—

(A) an analysis of the estimated costs and savings which would result from the collocations;

(B) the advantages and costs of furnishing personnel, supply, administration, and finance services and other supporting services jointly to regional offices of the Veterans' Administration and Veterans' Administration medical centers; and

(C) any other advantages and any disadvantages of such collocations relating to costs and the provision of benefits and services to veterans.

(3) The regional offices referred to in paragraphs (1) and (2) are regional offices of the Veterans' Administration which are not located at Veterans' Administration medical centers on the date of the enactment of this Act.

(b) LIMITATION.—The plan submitted pursuant to subsection (a) shall provide for the collocation of only a regional office and a medical center which are located, on the date of the enactment of this Act, in the same metropolitan area.

SEC. 503. EFFECTIVE DATE OF DISCONTINUANCE OF CERTAIN BENEFITS PAID TO INCOMPETENT INDIVIDUALS.

38 USC 3012.

Section 3012 is amended by adding at the end the following new subsection:

"(c) The effective date of a discontinuance under section 3203(b)(1)(A) of this title of pension, compensation, or emergency officers' retirement pay by reason of hospital treatment or institutional or domiciliary care shall be the last day of the first month of such treatment or care during which the value of the veteran's estate, as determined under such section, equals or exceeds $1,500.".

SEC. 504. ADMINISTRATIVE DEBT COLLECTION BY OFFSET OF BENEFITS.

Section 3101 is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

"(c)(1) Notwithstanding any other provision of this section, the Administrator may, after receiving a request under paragraph (2) of this subsection relating to a veteran, collect by offset of any compensation or pension payable to the veteran under laws administered by the Veterans' Administration the uncollected portion of the amount of any indebtedness associated with the veteran's participation in a plan prescribed in subchapter I or II of chapter 73 of title 10.

10 USC 1431 *et seq.*, 1447 *et seq.*

"(2) If the Secretary concerned (as defined in section 101(5) of title 37) has tried under section 3711(a) of title 31 to collect an amount described in paragraph (1) of this subsection in the case of any veteran, has been unable to collect such amount, and has deter-

mined that the uncollected portion of such amount is not collectible from amounts payable by the Secretary to the veteran or that the veteran is not receiving any payment from the Secretary, the Secretary may request the Administrator to make collections in the case of such veteran as authorized in paragraph (1) of this subsection.

"(3)(A) A collection authorized by paragraph (1) of this subsection shall be conducted in accordance with the procedures prescribed in section 3716 of title 31 for administrative offset collections made after attempts to collect claims under section 3711(a) of such title.

"(B) For the purposes of subparagraph (A) of this paragraph, as used in the second sentence of section 3716(a) of title 31—

"(i) the term 'records of the agency' shall be considered to refer to the records of the department of the Secretary concerned; and

"(ii) the term 'agency' in clauses (3) and (4) shall be considered to refer to such department.

"(4) Funds collected under this subsection shall be credited to the Department of Defense Military Retirement Fund under chapter 74 of title 10.". 10 USC 1461 *et seq.*

SEC. 505. DISCLOSURE OF FINANCIAL INFORMATION BY FIDUCIARIES.

Section 3202(b) is amended by inserting after the second sentence the following: "The Administrator may require the fiduciary, as part of such account, to disclose any additional financial information concerning the beneficiary (except for information that is not available to the fiduciary).".

TITLE VI—EXEMPTION OF CERTAIN PROGRAMS FROM BUDGET REDUCTION

SEC. 601. TREATMENT OF CERTAIN VETERANS' PROGRAMS UNDER BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.

(a) IN GENERAL.—(1) Chapter 1 is amended by adding at the end the following new section:

"§ 113. Treatment of certain programs under sequestration procedures 38 USC 113.

"(a) The following programs shall be exempt from sequestration or reduction under part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) or any other sequestration law and shall not be included in any report specifying reductions in Federal spending:

"(1) Benefits under chapter 21 of this title, relating to specially adapted housing and mortgage-protection life insurance for certain veterans with service-connected disabilities. Insurance. 38 USC 801 *et seq.*

"(2) Benefits under section 907 of this title, relating to burial benefits for veterans who die as the result of a service-connected disability.

"(3) Benefits under chapter 39 of this title, relating to automobiles and adaptive equipment for certain disabled veterans and members of the Armed Forces. Motor vehicles. Handicapped persons. 38 USC 671 *et seq.*

"(4) Assistance and services under chapter 31 of this title, relating to training and rehabilitation for certain veterans with service-connected disabilities (but only with respect to fiscal year 1987). 38 USC 1500 *et seq.*

38 USC 1700 *et seq.*

"(5) Benefits under chapter 35 of this title, relating to educational assistance for survivors and dependents of certain veterans with service-connected disabilities (but only with respect to fiscal year 1987).

"(b) The following accounts of the Veterans' Administration shall be exempt from sequestration or reduction under part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) or any other sequestration law and shall not be included in any report specifying reductions in Federal spending:

Insurance.

"(1) The following life insurance accounts:

"(A) The National Service Life Insurance Fund authorized by section 720 of this title.

"(B) The Service-Disabled Veterans Insurance Fund authorized by section 722 of tnis title.

"(C) The Veterans Special Life Insurance Fund authorized by section 723 of this title.

"(D) The Veterans Reopened Insurance Fund authorized by section 725 of this title.

"(E) The United States Government Life Insurance Fund authorized by section 755 of this title.

"(F) The Veterans Insurance and Indemnity appropriation authorized by section 719 of this title.

"(2) The following revolving fund accounts:

"(A) The Veterans' Administration Special Therapeutic and Rehabilitation Activities Fund established by section 618(c) of this title.

"(B) The Veterans' Canteen Service revolving fund authorized by section 4204 of this title.

"(c)(1) A benefit under section 901, 902, 903, 906, or 908 of this title that is subject to reduction under a sequestration order or sequestration law shall be paid in accordance with the rates determined under the sequestration order or law (if any) in effect on the date of the death of the veteran concerned.

"(2) A benefit paid to, or on behalf of, an eligible veteran for pursuit of a program of education or training under chapter 30, 34, or 36 of this title that is subject to a sequestration order or a sequestration law shall be paid in accordance with the rates determined under the sequestration order or law (if any) in effect during the period of education or training for which the benefit is paid.

38 USC 1401 *et seq.*, 1651 *et seq.*, 1770 *et seq.*

"(3) In implementation of a sequestration order or law with respect to each account from which a benefit described in paragraph (1) or (2) of this subsection is paid (including the making of determinations of the amounts by which such benefits are to be reduced), the total of the amounts (as estimated by the Administrator after consultation with the Director of the Congressional Budget Office) by which payments of such benefit will be reduced by reason of such paragraph after the last day of the period during which such order or law is in effect shall be deemed to be additional reductions in the payments of such benefit made, and in new budget authority for such payments, during such period.

"(d) In computing the amount of new budget authority by which a budget account of the Veterans' Administration is to be reduced for a fiscal year under a joint report of the Directors of the Office of Management and Budget and the Congressional Budget Office, or under an order of the President under part C of the Balanced Budget and Emergency Deficit Control Act of 1985, the base from which the amount of the reduction for such account is determined

shall be established without regard to any amount of new budget authority in such account (determined under section 251(a)(6) of such Act) for any of the programs listed in subsection (a) of this section. 2 USC 901.

"(e) If a final order issued by the President pursuant to a law providing for the cancellation of loan guarantee commitments imposes a limitation on the total amount of loans that may be guaranteed under chapter 37 of this title in any fiscal year, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a monthly report (not later than the 10th day of each month during the remainder of such fiscal year following the issuance of such final order) providing the following information: Reports. 38 USC 1801 *et seq.*

"(1) The total amount of the loans for which commitments of guarantees were made under such chapter during the preceding month.

"(2) The total amount of the loans for which commitments were made during the fiscal year through the end of such preceding month.

"(3) The Administrator's estimates as to the total amounts of the loans for which commitments would, in the absence of any limits on such commitments or guarantees, be made during (A) the month in which the report is required to be submitted, and (B) the succeeding months of the fiscal year.

"(f) This section applies without regard to any other provision of law (whether enacted before, on, or after the date of the enactment of this section) unless such Act expressly provides that it is enacted as a limitation to this section.

"(g) For the purposes of this section:

"(1) The term 'sequestration' means a reduction in spending authority and loan guarantee commitments generally throughout the Government under the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) or any other law.

"(2) The term 'sequestration law' means a law enacted with respect to a sequestration under the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) or any other law (under the procedures specified in that Act or otherwise).

"(3) The term 'sequestration order' means an order of the President issued under part C of such Act.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"113. Treatment of certain programs under sequestration procedures.".

(b) EFFECTIVE DATE.—Section 113 of title 38, United States Code (as added by subsection (a)), shall apply with respect to a sequestration order issued, or a sequestration law enacted, for a fiscal year after fiscal year 1986. 38 USC 113 note.

TITLE VII—TECHNICAL AMENDMENTS

SEC. 701. ELIMINATION OF GENDER-BASED LANGUAGE DISTINCTIONS IN TITLE 38.

Title 38 is amended as follows:

(1)(A) Section 102 is amended—

(i) by striking out subsection (b);

(ii) by striking out "(1)" after "(a)";

(iii) by striking out "(2)" before "Dependency" and inserting in lieu thereof "(b)";

(iv) by striking out "(A)" and "(B)" and inserting in lieu thereof "(1)" and "(2)", respectively; and

(v) by striking out "(3) For the purposes of this subsection" and inserting in lieu thereof "(C) For the purposes of this section,".

(B) The heading of section 102 and the item relating to that section in the table of sections at the beginning of chapter 1 are amended by striking out the semicolon and the last word.

(2) Section 103 is amended—

38 USC 103.

(A) in subsection (a)—

(i) by striking out "woman as the widow" and inserting in lieu thereof "person as the widow or widower";

(ii) by striking out "she" and inserting in lieu thereof "such person";

(iii) by striking out "him" and inserting in lieu thereof "the veteran";

(iv) by striking out "his" and inserting in lieu thereof "the veteran's"; and

(v) by striking out "legal widow" and inserting in lieu thereof "legal widow or widower";

(B) in subsection (b), by striking out "widow" and inserting in lieu thereof "surviving spouse";

(C) in subsection (c), by striking out "woman is or was the wife" and inserting in lieu thereof "person is or was the spouse";

(D) in subsection (d)(1), by striking out "widow of a veteran shall not bar the furnishing of benefits to her as the widow" and inserting in lieu thereof "surviving spouse of a veteran shall not bar the furnishing of benefits to such person as the surviving spouse";

(E) in subsection (d)(2)—

(i) by striking out "widow" each place it appears and inserting in lieu thereof "surviving spouse"; and

(ii) by striking out "her" and inserting in lieu thereof "such person"; and

(F) in subsection (d)(3)—

(i) by striking out "widow" each place it appears and inserting in lieu thereof "surviving spouse";

(ii) by striking out "man" and inserting in lieu thereof "person";

(iii) by striking out "herself" and inserting in lieu thereof "himself or herself";

(iv) by striking out "his wife" and inserting in lieu thereof "that person's spouse"; and

(v) by striking out "her" and inserting in lieu thereof "that person".

(3) Section 104(b) is amended by striking out "him" and inserting in lieu thereof "the Administrator".

(4) Section 105 is amended—

(A) in subsection (a)—

(i) by striking out "his" in the first sentence and inserting in lieu thereof "the person's"; and

(ii) by striking out "him" in the second sentence and inserting in lieu thereof "the person"; and

(B) in subsection (b), by striking out "service, or by absenting himself" in clause (1) and inserting in lieu thereof "service or by absenting himself or herself".

(5) Section 106 is amended— 38 USC 106.

(A) in subsection (b)(2), by striking out "his" and inserting in lieu thereof "the person's";

(B) in subsection (c)—

(i) by striking out "him" and inserting in lieu thereof "that individual";

(ii) by striking out "his" and inserting in lieu thereof "that individual's"; and

(iii) by striking out "he" and inserting in lieu thereof "that individual"; and

(C) in subsection (d)—

(i) by striking out "by him" in clause (2);

(ii) by striking out "he" each place it appears in the second sentence and inserting in lieu thereof "such individual"; and

(iii) by striking out "his" in the second sentence and inserting in lieu thereof "the".

(6) Section 107(a) is amended by striking out "his" in the last sentence and inserting in lieu thereof "such member's".

(7) Section 108(b) is amended by striking out "his" both places it appears and inserting in lieu thereof "that individual's".

(8) Section 109(b) is amended by striking out "he" in the second sentence and inserting in lieu thereof "such person".

(9) Section 210 is amended—

(A) by striking out "he" each place it appears and inserting in lieu thereof "the Administrator";

(B) in subsection (a), by striking out "He" and inserting in lieu thereof "The Administrator";

(C) in subsection (c)(3)(A), by striking out "widow" and inserting in lieu thereof "surviving spouse"; and

(D) in subsection (c)(3)(B), by striking out "him" and inserting in lieu thereof "the Administrator".

(10) Sections 212(a), 215, and 217(b) are amended by striking out "he" and inserting in lieu thereof "the Administrator".

(11) Section 213 is amended—

(A) by striking out "he" in the first sentence and inserting in lieu thereof "the Administrator"; and

(B) by striking out "his" in the second sentence and inserting in lieu thereof "the Administrator's".

(12) Section 219(a) is amended—

(A) by striking out "he" and inserting in lieu thereof "the Administrator"; and

(B) by striking out "him" and inserting in lieu thereof "the Administrator".

(13) Section 230(a) is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(14) Section 233 is amended—

(A) by striking out "he" in subsection (a) and inserting in lieu thereof "the Administrator"; and

(B) in subsection (b), by striking out "when he determines" and inserting in lieu thereof "upon determining"

(15) Section 235 is amended by striking out "his" and inserting in lieu thereof "the President's".

38 USC 236.

(16) Section 236 is amended by striking out "his" and inserting in lieu thereof "the Administrator's".

(17) Section 241 is amended—

(A) by striking out "his" in paragraph (1) and inserting in lieu thereof "the veteran's"; and

(B) by striking out "he" in paragraph (2) and inserting in lieu thereof "the Administrator".

(18) Section 242(a) is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(19) Section 244(5) is amended by striking out "his" and inserting in lieu thereof "the Administrator's".

(20) Section 602 is amended by striking out "his".

(21) Section 704 is amended—

(A) in subsection (d)—

(i) by striking out "his" each place it appears and inserting in lieu thereof "the insured's"; and

(ii) by striking out "he" each place it appears and inserting in lieu thereof "the insured"; and

(B) in subsection (e)—

(i) by striking out "his" and inserting in lieu thereof "the insured's"; and

(ii) by striking out "he" and inserting in lieu thereof "the Administrator".

(22) Section 705 is amended—

(A) by striking out "his" each place it appears and inserting in lieu thereof "the"; and

(B) by striking out "him" and inserting in lieu thereof "the insured".

(23) Section 707 is amended by striking out "his" in subsections (a) and (c) and inserting in lieu thereof "the insured's".

(24) Section 708 is amended by striking out "his" and inserting in lieu thereof "the insured's".

(25) Section 712 is amended—

(A) by striking out "his" each place it appears and inserting in lieu thereof "the insured's"; and

(B) by striking out "he" in the first sentence of subsection (d) and inserting in lieu thereof "the insured".

(26) Section 713 is amended by striking out "his" each place it appears and inserting in lieu thereof "the".

(27) Section 716(e) is amended by striking out "his" and inserting in lieu thereof "the insured's".

(28) Section 725 is amended—

(A) by striking out "he" each place it appears and inserting in lieu thereof "such person";

(B) by striking out "him" each place it appears and inserting in lieu thereof "the applicant"; and

(C) by striking out "his" in subsection (d)(3) and inserting in lieu thereof "the Administrator's".

(29) Section 742 is amended—

(A) in subsection (b)—

(i) by striking out "his" and inserting in lieu thereof "the insured's"; and

(ii) by striking out "he" and inserting in lieu thereof "the insured"; and

(B) in subsection (c)—

(i) by striking out "he" and inserting in lieu thereof "the insured";

(ii) by striking out "his term" and inserting in lieu thereof "the term";

(iii) by striking out "his failure"; and

(iv) by striking out "his control" and inserting in lieu thereof "the insured's control".

(30) Sections 743, 744(b), 745, 746, 747, and 748 are amended by striking out "his" and inserting in lieu thereof "the insured's".

(31) Section 750 is amended by striking out "in his lifetime or by his last will and testament" and inserting in lieu thereof "while alive or by last will".

(32) Section 752 is amended by striking out "his" each place it appears and inserting in lieu thereof "the".

(33) Section 759(a) is amended—

(A) by striking out "his" and inserting in lieu thereof "the applicant's"; and

(B) by striking out "he" and inserting in lieu thereof "the applicant".

(34) Section 760(a) is amended by striking out "his" and inserting in lieu thereof "the guardian's".

(35) Section 765 is amended—

(A) in paragraph (5)(B), by striking out "he" and inserting in lieu thereof "such person"; and

(B) in paragraph (9)—

(i) by striking out "his minority" and inserting in lieu thereof "the child's minority"; and

(ii) by striking out "his adoption" and inserting in lieu thereof "the child's adoption".

(36) Section 766 is amended—

(A) in subsection (c), by striking out "him" and inserting in lieu thereof "the Administrator"; and

(B) in subsection (d), by striking out "he" and inserting in lieu thereof "the Administrator".

(37) Section 767 is amended—

(A) in subsection (b)—

(i) by striking out "him" and inserting in lieu thereof "such member";

(ii) by striking out "he" each place it appears and inserting in lieu thereof "such member"; and

(iii) by striking out "his" and inserting in lieu thereof "such member's"; and

(B) in subsection (c)—

(i) by striking out "his" and inserting in lieu thereof "such member's"; and

(ii) by striking out "he" and inserting in lieu thereof "such member".

(38) Section 768 is amended—

(A) in subsection (a)(2)—

(i) by striking out "his"; and

(ii) by striking out "him" and inserting in lieu thereof "the member";

(B) in subsection (a)(3)—

(i) by striking out "his"; and

(ii) by striking out "him" and inserting in lieu thereof "the member"; and

(C) in subsection (b), by striking out "his" and inserting in lieu thereof "the".

(39) Section 769 is amended—

(A) in subsection (a)(1), by striking out "his" and inserting in lieu thereof "the member's";

(B) in subsection (a)(3), by striking out "him" and inserting in lieu thereof "the member";

(C) in subsection (a)(4)—

(i) by striking out "him" both places it appears and inserting in lieu thereof "the member"; and

(ii) by striking out "his" and inserting in lieu thereof "the member's";

(D) in subsection (b), by striking out "he" and inserting in lieu thereof "the Administrator";

(E) in subsection (d)(3), by striking out "his" and inserting in lieu thereof "the Administrator's"; and

(F) in subsection (e), by striking out "he" and inserting in lieu thereof "the Administrator".

38 USC 770.

(40) Section 770 is amended—

(A) by striking out "his" each place it appears in subsection (a) and inserting in lieu thereof "the insured's"; and

(B) by striking out "his" in subsection (e) and inserting in lieu thereof "the member's".

(41) Section 774 is amended by striking out "his" and inserting in lieu thereof "the Administrator".

(42) Section 776 is amended by striking out "him" and inserting in lieu thereof "the Administrator".

(43) Section 777 is amended—

(A) in subsection (a)—

(i) by striking out "his" both places it appears and inserting in lieu thereof "such person's"; and

(ii) by striking out "he" and inserting in lieu thereof "such person";

(B) in subsection (c)—

(i) by striking out "he" the first place it appears and inserting in lieu thereof "the Administrator"; and

(ii) by striking out "he" the second place it appears and inserting in lieu thereof "such member or former member";

(C) in subsection (d), by striking out "his" and inserting in lieu thereof "such person's";

(D) in subsection (e), by striking out "he" and inserting in lieu thereof "the insured"; and

(E) in subsection (g)—

(i) by striking out "his" and inserting in lieu thereof "the insured's"; and

(ii) by striking out "he" and inserting in lieu thereof "the Administrator".

(44) Section 781(b) is amended—

(A) by striking out "he" and inserting in lieu thereof "such person"; and

(B) by striking out "his" and inserting in lieu thereof "such person's".

(45) Section 783 is amended by striking out "his" and inserting in lieu thereof "such beneficiary's".

(46) Section 784(g) is amended by striking out "his" both places it appears and inserting in lieu thereof "the insured's".

(47) Section 787 is amended by striking out "himself or any other" and inserting in lieu thereof "any".

38 USC 801.

(48) Section 801(a) is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(49) Section 806 is amended—

(A) by striking out "his" in subsection (b) and inserting in lieu thereof "the veteran's";

(B) by striking out "he" in subsection (c) and inserting in lieu thereof "the veteran";

(C) by striking out "his" in subsection (d) and inserting in lieu thereof "the veteran's";

(D) in subsection (g)—

(i) in paragraph (2)—

(I) by striking out "he" each place it appears and inserting in lieu thereof "the Administrator";

(II) by striking out "his" and inserting in lieu thereof "the Administrator's"; and

(III) by striking out "him" each place it appears and inserting in lieu thereof "the Administrator";

(ii) in paragraph (3), by striking out "he" and inserting in lieu thereof "the veteran"; and

(iii) in paragraph (5), by striking out "him" each place it appears and inserting in lieu thereof "the Administrator"; and

(E) in subsection (h)—

(i) by striking out "his" in the first sentence and inserting in lieu thereof "the Administrator's"; and

(ii) by striking out "his" in the second sentence and inserting in lieu thereof "the veteran's".

(50) Section 901(b) is amended by striking out "his" and inserting in lieu thereof "the veteran's".

(51) Section 904 is amended by striking out "his" each place it appears and inserting in lieu thereof "the veteran's".

(52) Section 1000(a) is amended—

(A) by striking out "servicemen" and inserting in lieu thereof "servicemembers"; and

(B) by striking out "To assist" and all that follows through "the Administrator" in the second sentence and inserting in lieu thereof "The Administrator".

(53) Section 1001 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(54) Section 1002 is amended—

(A) by striking out "he" each place it appears and inserting in lieu thereof "such member"; and

(B) by striking out "wife, husband," in paragraph (5).

(55) Section 1004 is amended—

(A) in subsection (d), by striking out "he" each place it appears and inserting in lieu thereof "the veteran";

(B) in subsections (b), (e), and (g), by striking out "he" and inserting in lieu thereof "the Administrator"; and

(C) by striking out "his" each place it appears and inserting in lieu thereof "the Administrator's".

(56) Section 1005 is amended—

(A) by striking out "his" in subsection (a) and inserting in lieu thereof "the Administrator's"; and

(B) by striking out "He" in subsection (c) and inserting in lieu thereof "The Administrator".

(57) Section 1006 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

38 USC 1007.

(58) Section 1007 is amended—

(A) by striking out "he" both places it appears and inserting in lieu thereof "the Administrator"; and

(B) by striking out "He" at the beginning of the second sentence and inserting in lieu thereof "The Administrator".

(59) The third sentence of section 1780(d)(2) is amended by striking out "serviceman" and inserting in lieu thereof "person".

(60) Section 2024(g) is amended by striking out "his" and inserting in lieu thereof "the".

(61) Section 3001(b)(1) is amended by striking out "widow or" each place it appears and inserting in lieu thereof "surviving spouse or".

(62) Section 3006 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(63) Section 3010(b)(1) is amended by striking out "his" and inserting in lieu thereof "the veteran's".

(64) Section 3012(b)(6) is amended by striking out "his" and inserting in lieu thereof "the payee's".

(65) Section 3020 is amended—

(A) in the third sentence of subsection (a)—

(i) by striking out "his" and inserting in lieu thereof "the payee's";

(ii) by striking out "he" and inserting in lieu thereof "the payee"; and

(iii) by striking out "him" and inserting in lieu thereof "the payee"; and

(B) in the first sentence of subsection (b)—

(i) by striking out "he" and inserting in lieu thereof "such person";

(ii) by striking out "widow" and inserting in lieu thereof "surviving spouse";

(iii) by striking out "she" both places it appears and inserting in lieu thereof "the surviving spouse";

(iv) by striking out "to her" and inserting in lieu thereof "to the surviving spouse"; and

(v) by striking out "by her" and inserting in lieu thereof "by the".

(66) Section 3021(a) is amended—

(A) by striking out "his"; and

(B) by striking out "His" in subparagraphs (A), (B), and (C) of paragraph (2) and inserting in lieu thereof "The veteran's".

(67) Section 3022 is amended by striking out "his" and inserting in lieu thereof "the payee's".

(68) Section 3101 is amended—

(A) by striking out "his or her" in the last sentence of subsection (a) and inserting in lieu thereof "a"; and

(B) by striking out "his" each place it appears in subsection (b) and inserting in lieu thereof "the beneficiary's".

(69) Section 3102 is amended—

(A) by striking out "his" in subsection (b) and inserting in lieu thereof "the veteran's"; and

(B) by striking out "his" both places it appears in subsection (c) and inserting in lieu thereof "the Administrator's".

(70) Section 3103 is amended—

(A) in subsection (a)—

(i) by striking out "he" and inserting in lieu thereof "such person"; and

(ii) by striking out "his" and inserting in lieu thereof "such officer's";

(B) in subsection (b)—

(i) by striking out "his" and inserting in lieu thereof "a person's";

(ii) by striking out "any person" and inserting in lieu thereof "that person"; and

(iii) by striking out "he" and inserting in lieu thereof "such person";

(C) in subsection (c)—

(i) by striking out "his" both places it appears and inserting in lieu thereof "the individual's"; and

(ii) by striking out "he" and inserting in lieu thereof "the individual"; and

(D) in the second sentence of subsection (e)(2), by striking out "his or her" and inserting in lieu thereof "the".

(71) Section 3104 is amended— 38 USC 3104.

(A) in subsection (a)(1), by striking out "his" and inserting in lieu thereof "such person's";

(B) in subsection (b)—

(i) by striking out "widow" in paragraph (1) and inserting in lieu thereof "surviving spouse";

(ii) by striking out "his" in paragraph (1) and inserting in lieu thereof "such person's"; and

(iii) by striking out "he or she" in paragraph (3) and inserting in lieu thereof "such person"; and

(C) in subsection (c)—

(i) by striking out "his" and inserting in lieu thereof "any person's";

(ii) by striking out "to any person" and inserting in lieu thereof "to such person"; and

(iii) by striking out "he" and inserting in lieu thereof "such person".

(72) Section 3105 is amended—

(A) by striking out "he" and inserting in lieu thereof "such person"; and

(B) by striking out "his" and inserting in lieu thereof "such person's".

(73) Section 3106 is amended by striking out "his" and inserting in lieu thereof "the".

(74) Section 3108(c) is amended—

(A) by striking out "his" and inserting in lieu thereof "the Administrator's"; and

(B) by striking out "he" and inserting in lieu thereof "the dependent".

(75) Section 3109 is amended—

(A) by striking out "his" each place it appears in subsection (a) and inserting in lieu thereof "such person's"; and

(B) by striking out "he" in subsection (b) and inserting in lieu thereof "such person".

(76) Section 3202 is amended—

(A) in subsection (a), by striking out "he" and inserting in lieu thereof "the Administrator";

(B) in subsection (b)—

(i) by striking out "his trust" in the first sentence and inserting in lieu thereof "the trust of such guardian, curator, conservator, or other person";

(ii) by striking out "his duly" in the first sentence and inserting in lieu thereof "the Administrator's";

(iii) by striking out "his" in the second and third sentences and inserting in lieu thereof "the Administrator's"; and

(iv) by striking out "himself" in the third sentence and inserting in lieu thereof "the Administrator";

(C) in subsection (d)—

(i) by striking out "his" in the second sentence and inserting in lieu thereof "the veteran's";

(ii) by striking out "his" in the third sentence and inserting in lieu thereof "the beneficiary's"; and

(iii) in the fourth sentence—

(I) by striking out "him" and inserting in lieu thereof "the beneficiary";

(II) by striking out "he" and inserting in lieu thereof "the beneficiary"; and

(III) by striking out "his" each place it appears and inserting in lieu thereof "the beneficiary's"; and

(D) in subsection (e), by striking out "his".

38 USC 3203.

(77) Section 3203(e) is amended by striking out "his" and inserting in lieu thereof "the veteran's".

(78) Section 3303 is amended by striking out "his" and inserting in lieu thereof "the veteran's".

(79) Section 3401 is amended by striking out "he" and inserting in lieu thereof "such individual".

(80) Section 3404(b) is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(81) Section 3405 is amended by striking out "him" and inserting in lieu thereof "to the claimant or beneficiary".

(82) Section 3501 is amended—

(A) by striking out "his" the first place it appears and inserting in lieu thereof "a claimant's"; and

(B) by striking out "his" the second, third, and fourth places it appears and inserting in lieu thereof "such fiduciary's".

(83) Section 3503 is amended—

(A) by striking out "his" in subsection (c) and inserting in lieu thereof "the veteran's"; and

(B) by striking out "he" each place it appears in subsection (d)(2) and inserting in lieu thereof "the Administrator".

(84) Section 3504(b) is amended—

(A) by striking out "his" and inserting in lieu thereof "the Administrator's"; and

(B) by striking out "he" and inserting in lieu thereof "the dependent".

(85) Section 4005 is amended—

(A) by striking out "his" each place it appears and inserting in lieu thereof "the claimant's"; and

(B) by striking out "him" and inserting in lieu thereof "the claimant or legal guardian".

(86) Section 4106(b) is amended—

(A) by striking out "him" and inserting in lieu thereof "such person"; and

(B) by striking out "he" and inserting in lieu thereof "such person".

(87) Section 4107(e)(5) is amended by striking out "her" and inserting in lieu thereof "the nurse's". 38 USC 4107.

(88) Section 4110 is amended—

(A) by striking out "of his own choosing" in subsection (c) and inserting in lieu thereof "chosen by such person";

(B) in subsection (d)—

(i) by striking out "He" and inserting in lieu thereof "The Administrator"; and

(ii) by striking out "he" and inserting in lieu thereof "the Administrator"; and

(C) in subsection (e)—

(i) by striking out "he" and inserting in lieu thereof "the Administrator"; and

(ii) by striking out "him" and inserting in lieu thereof "the Administrator".

(89) Section 5101 is amended by striking out "his" each place it appears and inserting in lieu thereof "the".

(90) Section 5102 is amended—

(A) by striking out "he" each place it appears and inserting in lieu thereof "the Administrator";

(B) by striking out "his" and inserting in lieu thereof "the Administrator's"; and

(C) by striking out "He" and inserting in lieu thereof "The Administrator".

(91) Section 5103 is amended by striking out "his" each place it appears and inserting in lieu thereof "the".

(92) Section 5104 is amended—

(A) by striking out "he" each place it appears and inserting in lieu thereof "the Administrator"; and

(B) by striking out "his" each place it appears and inserting in lieu thereof "the Administrator's".

(93) Section 5201(a)(1) is amended by striking out "his" and inserting in lieu thereof "such person's".

(94) Section 5202 is amended—

(A) in the first sentence of subsection (b)—

(i) by striking out "his last" each place it appears and inserting in lieu thereof "such person's last";

(ii) by inserting "has personal property situated on such facility and" before "shall have designated";

(iii) by striking out "to whom he desires his personal property situated upon such facility to be delivered, upon the death of such veteran" and inserting in lieu thereof "to receive such property when such veteran, dependent or survivor dies,"; and

(iv) by striking out "him" and inserting in lieu thereof "the Administrator";

(B) in the second sentence of subsection (b)—

(i) by striking out "by the veteran" and inserting in lieu thereof "by such veteran, dependent, or survivor";

(ii) by striking out "if he has";

(iii) by striking out "his" and inserting in lieu thereof "the Administrator's";

(iv) by striking out "as provided in this subchapter," and inserting in lieu thereof "in writing delivered to the Veterans' Administration"; and

(v) by striking out "child, grandchild, mother, father, grandmother, grandfather, brother or sister" and inserting in lieu thereof "children, grandchildren, parents, grandparents, siblings";

(C) by striking out the third sentence of subsection (b);

(D) in the fourth sentence of subsection (b)—

(i) by striking out "his designee may in such case select the one to receive such possession," and inserting in lieu thereof "the Administrator's designee may in such case deliver the property either jointly or separately in equal values, to those equally entitled thereto"; and

(ii) by striking out "in his discretion" and inserting in lieu thereof "in the discretion of the Administrator or the Administrator's designee"; and

(E) in subsection (c), by striking out "his" and inserting in lieu thereof "the Administrator's".

38 USC 5203.

(95) Section 5203 is amended by striking out "his" and inserting in lieu thereof "such person's".

(96) Section 5204 is amended by striking out "his" each place it appears and inserting in lieu thereof "such person's".

(97) Section 5206 is amended by striking out "his" and inserting in lieu thereof "the owner's".

(98) Section 5207 is amended—

(A) by striking out "his" and inserting in lieu thereof "the Administrator's"; and

(B) by striking out "by him promulgated" and inserting in lieu thereof "prescribed by the Administrator".

(99) Section 5220 is amended—

(A) in subsection (a)—

(i) by striking out "surviving him any" and inserting in lieu thereof "any surviving";

(ii) by striking out "his" each place it appears and inserting in lieu thereof "the decedent's";

(iii) by striking out "he" and inserting in lieu thereof "such person"; and

(iv) by striking out "owned by him" and inserting in lieu thereof "owned by such person"; and

(B) in subsection (b), by striking out "his" and inserting in lieu thereof "such person's".

(100) Section 5221 is amended by striking out "he" and inserting in lieu thereof "such person".

(101) Section 5222 is amended—

(A) by striking out "he" and inserting in lieu thereof "the Administrator"; and

(B) by striking out "his" and inserting in lieu thereof "the Administrator's".

(102) Section 5223 is amended by striking out "his" each place it appears and inserting in lieu thereof "the decedent's".

(103) Section 5224 is amended—

(A) by striking out "his" each place it appears and inserting in lieu thereof "the Administrator's"; and

(B) by striking out "him" and inserting in lieu thereof "the Administrator".

(104) Section 5225 is amended by striking out "his" and inserting in lieu thereof "the Administrator's". 38 USC 5225.

(105) Section 5226 is amended—

(A) by striking out "himself" and inserting in lieu thereof "such person";

(B) by striking out "his" in the second sentence and inserting in lieu thereof "the veteran's";

(C) by striking out "he" and inserting in lieu thereof "the Administrator"; and

(D) by striking out "his authorized" each place it appears, and inserting in lieu thereof "the Administrator's authorized".

SEC. 702. GENERAL TECHNICAL AMENDMENTS.

Title 38 is amended as follows:

(1) Section 101 is amended—

(A) by inserting "Army" before "National Guard" in paragraphs (22)(C), (23), and (27)(F); and

(B) by striking out "and the" in paragraph (31) and all that follows through "widower".

(2) Section 233(a) is amended by striking out "subparagraph (4)" and inserting in lieu thereof "paragraph (4) of this subsection".

(3) Section 235 is amended—

(A) by inserting "(a)" before "The Administrator";

(B) by indenting paragraphs (1) through (7) two ems;

(C) by inserting "Service" in paragraph (5) after "Foreign";

(D) by striking out "The foregoing authority" and inserting in lieu thereof "(b) The authority in subsection (a) of this section"; and

(E) by striking out "titles 5 and 22" and inserting in lieu thereof "title 5 and the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.)".

(4) Section 241 is amended—

(A) by inserting "The Administrator shall" after "(1)";

(B) by striking out "eligible and, in carrying" and inserting in lieu thereof "eligible. In carrying";

(C) by striking out "release;" and inserting in lieu thereof "release.";

(D) by inserting "The Administrator shall" after "(2)";

(E) by striking out "veterans; and" and inserting in lieu thereof "veterans.";

(F) by inserting "The Administrator shall" after "(3)"; and

(G) by striking out "clauses (1) and (2) above" and inserting in lieu thereof "paragraphs (1) and (2) of this section".

(5) Section 612(j) is amended—

(A) by striking out "pursuant to" and inserting in lieu thereof "under";

(B) by striking out "(voluntarily requesting" and inserting in lieu thereof "who voluntarily request";

(C) by striking out the parenthesis after "immunizations";

(D) by striking out "facility, utilizing" and inserting in lieu thereof "facility. Any such immunization shall be made using";

(E) by striking out "Administration," and all that follows through "to provide" and inserting in lieu thereof "Administration. For such purpose, notwithstanding any other provision of law, the Secretary may provide"; and

(F) by striking out "cost and the provisions of section" and inserting in lieu thereof "cost. Section".

38 USC 612A.

(6) Section 612A(h)(3)(A)(i) is amended by striking out "the date of the enactment of this section" and inserting in lieu thereof "December 3, 1985,".

(7) Section 801(a) is amended—

(A) by striking out the comma after "veteran" the first place it appears; and

(B) by striking out "title, based on service after "April 20, 1898," and inserting in lieu thereof "title".

(8) Section 1411(a) is amended by inserting a comma after "of this section" in the matter preceding clause (1).

(9) Section 1841 is amended—

(A) by striking out "per centum" in paragraph (1) and inserting in lieu thereof "percent"; and

(B) by striking out "one hundred and eighty days" in paragraph (2) and inserting in lieu thereof "180 days".

(10) Section 1842 is amended by striking out "per centum" each place it appears and inserting in lieu thereof "percent".

(11) Section 1849 is amended by striking out "Effective for fiscal year 1982 and fiscal years thereafter, there" and inserting in lieu thereof "There".

(12) The item relating to section 4106 in the table of sections at the beginning of chapter 73 is amended to read as follows:

"4106. Period of appointments; promotions.".

(13) Section 4202(11) is amended by striking out "and without regard" and all that follows through "(7 U.S.C. 2240),".

(14) Section 4204 is amended by striking out ", amounts heretofore appropriated to carry out Public Law 636, Seventy-ninth Congress,".

60 Stat. 887.

(15) Section 5010(a)(1) is amended—

(A) by striking out "one hundred and twenty-five thousand and not less than one hundred thousand" and inserting in lieu thereof "125,000 and not less than 100,000"; and

(B) by striking out "ninety thousand" both places it appears and inserting in lieu thereof "90,000".

(16) Section 5073(a)(2) is amended—

(A) by striking out "twelve-month" each place it appears and inserting in lieu thereof "12-month"; and

(B) by striking out "per centum" each place it appears and inserting in lieu thereof "percent".

(17) Each subchapter heading is amended so as to be printed in all capital letters and in light-face type.

(18) The table of parts at the beginning of title 38 is amended by striking out "1501" in the item relating to part III and inserting in lieu thereof "1401".

SEC. 703. TECHNICAL AMENDMENTS TO PROVISIONS ENACTED BY VETERANS' BENEFITS IMPROVEMENT ACT OF 1984.

38 USC 413.

(a) AMENDMENTS TO PUBLIC LAW 98-543.—(1) Section 105 of the Veterans' Benefits Improvement Act of 1984 (Public Law 543) is

amended by striking out "413" and inserting in lieu thereof "413(a)".

(2) Section 111(c)(1)(B) of such Act is amended by striking out "subsection (b)" and inserting in lieu thereof "subsection (c)(1)(B)" 38 USC 363 note.

(b) AMENDMENTS TO TITLE 38.—(1) Section 524 of title 38, United States Code, is amended—

(A) by striking out "subsection (d)" in subsection (a)(2) and inserting in lieu thereof "subsection (b)";

(B) by striking out "subsection (a)(1)" in subsection (b)(4) and inserting in lieu thereof "subsection (a)"; and

(C) in subsection (c)—

(i) by striking out "Notwithstanding subsection (c) of section 525 of this title, a veteran" and inserting in lieu thereof "A veteran";

(ii) by striking out "subsection (b)" the second place it appears and inserting in lieu thereof "subsection (b)(1)"; and

(iii) by striking out the period and inserting in lieu thereof "without regard to the date on which the veteran's entitlement to pension is terminated.".

(2) Section 525(a) of such title is amended by striking out "under section 521 of this title".

(3) The item relating to section 524 in the table of sections at the beginning of chapter 15 of such title is amended by inserting "program of" after "Temporary".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the Veterans' Benefits Improvement Act of 1984 (Public Law 98-543). 38 USC 413 note. 38 USC 101 note.

Approved October 28, 1986.

LEGISLATIVE HISTORY—H.R. 5299 (S. 2422):

HOUSE REPORTS: No. 99-730 (Comm. on Veterans' Affairs).
SENATE REPORTS: No. 99-444 accompanying S. 2422 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 4, considered and passed House.
Sept. 30, considered and passed Senate, amended, in lieu of S. 2422.
Oct. 7, House concurred in Senate amendments with amendments.
Oct. 8, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Oct. 28, Presidential remarks.

O

Public Law 99-577
99th Congress

An Act

Oct. 28, 1986
[H.R. 5598]

To provide for the transfer of the Coast Guard cutter "Taney" to the city of Baltimore, Maryland, for use as a maritime museum and display.

Vessels.
Uniformed services.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the department in which the Coast Guard is operating shall transfer the Coast Guard cutter "Taney" to the city of Baltimore, Maryland, for use as a maritime museum and display, appropriate with the character of the long military service and history of the "Taney". The Secretary shall transfer the "Taney" along with such equipment and in such condition as the Secretary considers appropriate. The Secretary shall make the transfer upon the decommissioning of the "Taney" or at a later time as determined appropriate by the Secretary.

Approved October 28, 1986.

LEGISLATIVE HISTORY—H.R. 5598:

HOUSE REPORTS: No. 99-969 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 6, considered and passed House.
Oct. 15, considered and passed Senate.

O

91-139 O - 87 (598)

Public Law 99-578
99th Congress

An Act

To amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States.

Oct. 28, 1986
[S. 209]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONTRACTS FOR CERTAIN LEGAL SERVICES.

Section 3718 of title 31, United States Code, is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (d), (e), and (f), respectively;

(2) in subsection (d), as redesignated by paragraph (1), by inserting "or (b)" after "subsection (a)";

(3) in subsection (e), as redesignated by paragraph (1)—

(A) by striking out "(b)" and inserting in lieu thereof "(d)"; and

(B) by inserting "or (b)" after "(a)"; and

(4) by inserting after subsection (a) the following new subsections:

"(b)(1)(A) The Attorney General may make contracts retaining private counsel to furnish legal services, including representation in negotiation, compromise, settlement, and litigation, in the case of any claim of indebtedness owed the United States. Each such contract shall include such terms and conditions as the Attorney General considers necessary and appropriate, including a provision specifying the amount of the fee to be paid to the private counsel under such contract or the method for calculating that fee. The amount of the fee payable for legal services furnished under any such contract may not exceed the fee that counsel engaged in the private practice of law in the area or areas where the legal services are furnished typically charge clients for furnishing legal services in the collection of claims of indebtedness, as determined by the Attorney General, considering the amount, age, and nature of the indebtedness and whether the debtor is an individual or a business entity. If the Attorney General makes a contract for legal services to be furnished in any judicial district of the United States under the first sentence of this paragraph, the Attorney General shall use his best efforts to obtain, from among attorneys regularly engaged in the private practice of law in such district, at least four such contracts for legal services with private individuals or firms in such district. Nothing in this subparagraph shall relieve the Attorney General of the competition requirements set forth in title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 and following).

Claims.

"(B) The Attorney General shall use his best efforts to enter into contracts under this paragraph with law firms owned and controlled by socially and economically disadvantaged individuals, so as to enable each agency to comply with paragraph (3).

Disadvantaged persons.

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Claims.

"(2) The head of an executive or legislative agency may, subject to the approval of the Attorney General, refer to a private counsel retained under paragraph (1) of this subsection claims of indebtedness owed the United States arising out of activities of that agency.

Claims. Disadvantaged persons.

"(3) Each agency shall use its best efforts to assure that not less than 10 percent of the amounts of all claims referred to private counsel by that agency under paragraph (2) are referred to law firms owned and controlled by socially and economically disadvantaged individuals. For purposes of this paragraph—

"(A) the term 'law firm owned and controlled by socially and economically disadvantaged individuals' means a law firm that meets the requirements set forth in clauses (i) and (ii) of section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 6376(d)(3)(C) (i) and (ii)) and regulations issued under those clauses; and

15 USC 637.

"(B) 'socially and economically disadvantaged individuals' shall be presumed to include these groups and individuals described in the last paragraph of section 8(d)(3)(C) of the Small Business Act.

"(4) Notwithstanding sections 516, 518(b), 519, and 547(2) of title 28, a private counsel retained under paragraph (1) of this subsection may represent the United States in litigation in connection with legal services furnished pursuant to the contract entered into with that counsel under paragraph (1) of this subsection.

"(5) A contract made with a private counsel under paragraph (1) of this subsection shall include—

"(A) a provision permitting the Attorney General to terminate either the contract or the private counsel's representation of the United States in particular cases if the Attorney General finds that such action is for the convenience of the Government;

Claims.

"(B) a provision stating that the head of the executive or legislative agency which refers a claim under the contract retains the authority to resolve a dispute regarding the claim, to compromise the claim, or to terminate a collection action on the claim; and

Reports. Claims.

"(C) a provision requiring the private counsel to transmit monthly to the Attorney General and the head of the executive or legislative agency referring a claim under the contract a report on the services relating to the claim rendered under the contract during the month and the progress made during the month in collecting the claim under the contract.

"(6) Notwithstanding the fourth sentence of section 803(6) of the Fair Debt Collection Practices Act (15 U.S.C. 1692a(6)), a private counsel performing legal services pursuant to a contract made under paragraph (1) of this subsection shall be considered to be a debt collector for the purposes of such Act.

Ante, p. 768.

Claims.

"(7) Any counterclaim filed in any action to recover indebtedness owed the United States which is brought on behalf of the United States by private counsel retained under this subsection may not be asserted unless the counterclaim is served directly on the Attorney General or the United States Attorney for the judicial district in which, or embracing the place in which, the action is brought. Such service shall be made in accordance with the rules of procedure of the court in which the action is brought.

Reports. Claims.

"(c) The Attorney General shall transmit to the Congress an annual report on the activities of the Department of Justice to recover indebtedness owed the United States which was referred to

the Department of Justice for collection. Each such report shall include a list, by agency, of—

"(1) the total number and amounts of claims which were referred for legal services to the Department of Justice and to private counsel under subsection (b) during the 1-year period covered by the report;

"(2) the total number and amount of those claims referred for legal services to the Department of Justice which were collected or were not collected or otherwise resolved during the 1-year period covered by the report; and

"(3) the total number and amount of those claims referred for legal services to private counsel under subsection (b)—

"(A) which were collected or were not collected or otherwise resolved during the 1-year period covered by the report;

"(B) which were not collected or otherwise resolved under a contract terminated by the Attorney General during the 1-year period covered by the report; and

"(C) on which the Attorney General terminated the private counsel's representation during the 1-year period covered by the report without terminating the contract with the private counsel under which the claims were referred.".

SEC. 2. REPORT BY ATTORNEY GENERAL. 31 USC 3718 note.

Not later than 180 days after the date of the enactment of this Act, the Attorney General of the United States shall transmit to the Congress a report on the actions taken under section 3718(b) of title 31, United States Code (as added by section 1 of this Act).

SEC. 3. PILOT PROGRAM. 31 USC 3718 note.

The Attorney General shall carry out subsections (b) and (c) of section 3718 of title 31, United States Code (as added by section 1 of this Act), through a pilot program in each of at least 5 and not more thn 10 judicial districts selected by the Attorney General.

SEC. 4. REGULATIONS. 31 USC 3718 note.

The Attorney General shall issue regulations to carry out this Act and the amendments made by section 1 of this Act. The Attorney General shall submit the regulations to the Congress at least 60 days before they become effective.

SEC. 5. TERMINATION. 31 USC 3718 note.

This Act and the amendments made by section 1 of this Act shall be in effect for a period of three years, beginning on the date on which regulations become effective under section 4.

SEC. 6. AUDIT BY COMPTROLLER GENERAL. 31 USC 3718 note.

(a) CONTENTS OF AUDIT.—The Comptroller General of the United States shall, at the end of the 3-year period referred to in section 5, conduct an audit of the actions of the Attorney General under subsection (b) of section 3718 of title 31, United States Code (as added by section 1 of this Act), under the pilot program referred to in section 3. The Comptroller General shall determine the extent of the competition among private counsel to obtain contracts awarded under such subsection, the reasonableness of the fees provided in such contracts, the diligence and efforts of the Attorney General to retain private counsel in accordance with the provisions of such

subsection, and the results of the debt collection efforts of private counsel retained under such contracts.

(b) REPORT TO CONGRESS.—After completing the audit under subsection (a), the Comptroller General shall transmit to the Congress a report on the findings and conclusions resulting from the audit.

Approved October 28, 1986.

LEGISLATIVE HISTORY—S. 209 (H.R. 5541):

HOUSE REPORTS: No. 99-909 accompanying H.R. 5541 (Comm. on the Judiciary).
SENATE REPORTS: No. 99-256 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Mar. 19, considered and passed Senate.
Sept. 29, H.R. 5541 considered and passed House; proceedings vacated and S. 209, amended, passed in lieu.
Oct. 8, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Oct. 28, Presidential statement.

○

Public Law 99-579
99th Congress

An Act

To amend section 408 of the Motor Vehicle Information and Cost Savings Act to strengthen, for the protection of consumers, the provisions respecting disclosure of motor vehicle mileage when motor vehicles are transferred.

Oct. 28, 1986
[S. 475]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Truth in Mileage Act of 1986.
State and local governments.
15 USC 1901 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Truth in Mileage Act of 1986".

SEC. 2. MOTOR VEHICLE ODOMETER MODIFICATIONS.

(a) TRANSFERS OF MOTOR VEHICLES.—Section 408 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1988) is amended by adding at the end the following:

"(d)(1)(A) Any motor vehicle the ownership of which is transferred may not be licensed for use in any State unless the transferee, in submitting an application to a State for the title upon which such license will be issued, includes with such application the transferor's title and, if that title contains the space referred to in paragraph (2)(A)(iii), a statement, signed and dated by the transferor, of the mileage disclosure required under subsection (a).

"(B) This paragraph shall not apply to any transfer of ownership of a motor vehicle which has not been licensed before the transfer.

"(2)(A) Any motor vehicle the ownership of which is transferred may not be licensed for use in any State unless the title which is issued by the State to the transferee following such transfer—

"(i) is set forth by means of a secure printing process (or other secure process);

"(ii) indicates the mileage disclosure required to be made under subsection (a); and

"(iii) contains a space for the transferee to disclose (in the event of a future transfer) the mileage at the time of such future transfer and to sign and date such disclosure.

"(B) The requirements of subparagraph (A) shall not be construed to require a State to verify, or preclude the State from verifying, the mileage information contained in the title.

"(e)(1) In the case of any leased motor vehicle, the rules under subsection (a) shall require written disclosure regarding mileage to be made by the lessee to the lessor upon the lessor's transfer of ownership of the leased motor vehicle.

"(2) Under such rules, the lessor of a leased motor vehicle shall provide written notice to the lessee regarding—

"(A) such mileage disclosure requirements, and

"(B) the penalties for failure to comply with them.

"(3) The lessor shall retain the disclosures made by any lessee with respect to any motor vehicle under paragraph (1) for a period of at least 4 years following the date the lessor transfers that vehicle.

"(4) For purposes of this section, if the lessor transfers ownership of any leased motor vehicle without obtaining possession of such

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vehicle, the lessor may, in making the disclosure required by subsection (a), indicate on the title the mileage disclosed by the lessee under paragraph (1) unless the lessor has reason to believe that such disclosure by the lessee does not reflect the actual mileage of the vehicle.

"(f)(1) The requirements of subsections (d) and (e)(1) respecting the disclosure of motor vehicle mileage when motor vehicles are transferred or leased shall apply in a State unless the State has in effect alternate motor vehicle mileage disclosure requirements approved by the Secretary. The Secretary may promulgate regulations establishing procedures for the consideration and approval of such alternate requirements.

Regulations.

"(2) The Secretary shall approve alternate motor vehicle mileage disclosure requirements submitted by a State unless the Secretary determines that such requirements are not consistent with the purpose of the disclosure required by subsection (d) or (e), as the case may be.

Records.

"(g) If any motor vehicle is sold at an auction, the auction company which conducts such auction shall establish and maintain for a period of at least 4 years following the date of such sale the following records:

"(1) The name of the most recent owner of the motor vehicle (other than the auction company) and the name of the buyer of the motor vehicle.

"(2) The vehicle identification number of the motor vehicle required under title VI of this Act or the National Traffic and Motor Vehicle Safety Act of 1966.

15 USC 2021.
15 USC 1381 note.

"(3) The odometer reading on the date of which the auction company took possession of the motor vehicle.".

(b) DEFINITIONS.—Section 402 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1982) is amended by adding at the end the following:

"(6) The term 'title' means the certificate of title or other document issued by the State indicating ownership.

"(7) The term 'leased motor vehicle' means any motor vehicle which is leased to a person for a term of at least 4 months by a lessor who has leased 5 or more vehicles in the past 12 months.

"(8) The term 'auction company' means any person who takes possession (whether through consignment or bailment or through any other arrangement) of a motor vehicle owned by another person for purposes of selling such motor vehicle at an auction.".

15 USC 1988 note.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), subsections (d), (e), (f), and (g) of section 408 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1988), as added by subsection (a) of this section, shall apply with respect to motor vehicles which are transferred after the date 30 months after the date of the enactment of this Act.

(2) REVISION OF STATE LAWS TO CONFORM TO AMENDMENTS.—

(A) TECHNICAL ASSISTANCE.—The Secretary of Transportation shall, upon application, assist a State in revising its laws to comply with the requirements of section 408(d) (1) and (2) of the Motor Vehicle Information and Cost Savings Act.

Ante, p. 3309.

Federal Register, publication.

(B) EXTENSION OF TIME.—If any State requires time, in addition to the period prescribed by paragraph (1) of this

subsection, to revise its laws to achieve such compliance, the Secretary may, upon the request of such State, grant, by notice published in the Federal Register, the State such reasonable additional time as the Secretary determines is necessary to achieve such compliance. The Secretary shall include in the Federal Register notice the reasons for granting additional time. In granting additional time, the Secretary shall ensure that the State is making reasonable efforts to achieve such compliance.

(3) MOTOR VEHICLE DEFINED.—For purposes of this subsection, the term "motor vehicle" has the same meaning as when used in the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 and following).

SEC. 3. VIOLATION OF ODOMETER REQUIREMENTS.

(a) CIVIL PENALTY.—Section 412(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1990b) is amended by striking out "$1,000" and inserting in lieu thereof "$2,000".

(b) CRIMINAL PENALTY.—Section 413(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1990c) is amended by striking out "not more than one year," and inserting in lieu thereof "not more than three years,".

Approved October 28, 1986.

LEGISLATIVE HISTORY—S. 475 (H.R. 780):

SENATE REPORTS: No. 99-47 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 13, considered and passed Senate.
Vol. 132 (1986): Oct. 6, H.R. 780 considered and passed House; proceedings vacated and S. 475, amended, passed in lieu.
Oct. 8, Senate concurred in House amendments.

O

Public Law 99-580
99th Congress

Joint Resolution

Oct. 28, 1986
[S.J. Res. 367]

To designate October 23, 1986, as "National Kidney Program Day".

Whereas, the tens of thousands of Americans suffering from irreversible kidney disease are treated by Medicare's End Stage Renal Disease (ESRD) Program;

Whereas, this program has assured that every American suffering from otherwise fatal kidney failure has access to lifesaving dialysis or transplantation therapy;

Whereas, ESRD beneficiaries may remain economically productive and are able to continue to make irreplaceable contributions to family, community and country;

Whereas, this extraordinarily successful program has a special significance as an example of the power of partnership between Government and the healthcare industry in dealing with catastrophic illness; and

Whereas, this partnership has achieved economy in health services without compromising quality of care or social responsibility: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to designate the day of October 23, 1986, as National Kidney Program Day and call upon the Federal, State, and local government agencies and the people of the United States to observe such day with the appropriate programs, ceremonies, and activities.

Approved October 28, 1986.

LEGISLATIVE HISTORY—S.J. Res. 367:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 9, considered and passed Senate.
Oct. 10, considered and passed House, amended.
Oct. 15, Senate concurred in House amendment.

91-139 O - 87 (601)

Public Law 99-581
99th Congress

An Act

To amend the District of Columbia Stadium Act of 1957 to direct the Secretary of the Interior to convey title to the Robert F. Kennedy Memorial Stadium to the District of Columbia.

Oct. 29, 1986
[H.R. 2776]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Public buildings and grounds.

SECTION 1. CONVEYANCE OF STADIUM.

Section 7 of the District of Columbia Stadium Act of 1957 (D.C. Code, sec. 2-326) is amended—

(1) by inserting "(a)" after "SEC. 7."; and

(2) by inserting after subsection (a) the following new subsections:

"(b)(1) Not later than 180 days after the date of enactment of this subsection, the Secretary of the Interior shall—

"(A) convey without consideration to the government of the District of Columbia all right, title, and interest of the United States in and to the building comprising the stadium constructed under this Act; and

"(B) lease without consideration to the government of the District of Columbia—

"(i) the ground under; and

"(ii) the parking facilities associated with the stadium constructed under this Act.

"(2) The lease authorized by paragraph (1)(B) shall be for a period of 50 years.

"(c) The conveyance and lease of real property under subsection (b) shall be subject to such terms and conditions (which shall be set forth in the instrument of conveyance) as will ensure that title to the property shall not be transferred by the District to any person or entity other than the United States or any political subdivision or agency of the District of Columbia or the United States and that the property will be used only for—

Real property.

"(1) stadium purposes;

"(2) providing recreational facilities, open space, or public outdoor recreation opportunities;

"(3) such other public purposes for which the property was used prior to June 1, 1985; and

"(4) such other public purposes for which the property was approved for use by the Secretary with the concurrence of the National Capital Planning Commission prior to June 1, 1985.

"(d)(1) The instrument of conveyance and the lease referred to in subsection (c) shall provide that all right, title, and interest conveyed to the District of Columbia pursuant to such instrument of conveyance shall revert to the United States and the lease shall terminate if—

"(A) the terms and conditions referred to in subsection (c) have not been complied with, as determined by the Secretary, and

91-139 O - 87 (603)

"(B) such noncompliance has not been corrected within ninety days after written notice of such noncompliance has been received by the Mayor of the District of Columbia.

Such noncompliance shall be treated as corrected if the District of Columbia and the Secretary enter into an agreement, with the concurrence of the National Capital Planning Commission, which the Secretary considers adequate to ensure that the property will be used in a manner consistent with the purposes referred to in subsection (c).

"(2) No person may bring an action respecting a violation of any term or condition referred to in subsection (c) before the expiration of ninety days after the date on which such person has notified the Mayor of the District of Columbia of the alleged violation. The notice shall include notice of such person's intention to bring an action to declare a reversion and termination of the lease under paragraph (1) of this subsection.

Real property.

"(3) The conveyance of real property under subsection (b) shall be made subject to the condition that the District of Columbia shall bear the cost of removing structures or rehabilitating the land or stadium should the stadium revert to the United States pursuant to this subsection.

"(4) Any property which reverts to the Secretary under this subsection shall be administered by the Secretary as part of the Park System of the Nation's Capital in accordance with the provisions of the Act of August 25, 1916 (16 U.S.C. 1, 2-4), and other provisions of the law generally applicable to units of the national park system.".

SEC. 2. TECHNICAL AMENDMENT.

Section 11 of the District of Columbia Stadium Act of 1957 (D.C. Code, sec. 2-330) is amended by inserting "(including any area designated A, B, C, D, or E on the revised map entitled 'Map to Designate Transfer of Stadium and Lease of Parking Lots to the District', prepared jointly by the National Park Service (National Capital Region) and the District of Columbia Department of Public Works for site development and dated October 1986 (NPS drawing number 831/87284-A))," after "property of any kind".

Approved October 29, 1986.

LEGISLATIVE HISTORY—H.R. 2776:

HOUSE REPORTS: No. 99-176, Pt. 1 (Comm. on the District of Columbia).
CONGRESSIONAL RECORD:
Vol. 131 (1985): June 24, considered and passed House.
Vol. 132 (1986): Oct. 16, considered and passed Senate, amended; House concurred in Senate amendment.

O

Public Law 99-582
99th Congress

An Act

To authorize the minting of coins in commemoration of the bicentennial of the United States Constitution.

Oct. 29, 1986
[H.R. 3415]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Bicentennial of the Constitution Coins Act.

SHORT TITLE

SECTION 1. This Act may be cited as the "Bicentennial of the Constitution Coins Act".

31 USC 5112 note.

DEFINITIONS

SEC. 2. For purposes of this Act—

31 USC 5112 note.

(1) the term "Commission" means the Commission on the Bicentennial of the United States Constitution; and

(2) the term "Secretary" means the Secretary of the Treasury.

TITLE I—BICENTENNIAL OF THE UNITED STATES CONSTITUTION COMMEMORATIVE COINS

COIN SPECIFICATIONS

SEC. 101. (a)(1) The Secretary shall issue not more than 1,000,000 five dollar coins which shall weigh 8.359 grams, have a diameter of 0.850 inches, and shall contain 90 percent gold and 10 percent alloy.

31 USC 5112 note.

(2) The design of such five dollar coins shall be emblematic of the bicentennial of the United States Constitution. On each such five dollar coin there shall be a designation of the value of the coin, an inscription of the year "1987", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b)(1) The Secretary shall issue not more than 10,000,000 one dollar coins which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(2) The design of such dollar coins shall be emblematic of the bicentennial of the United States Constitution. On each such dollar coin there shall be a designation of the value of the coin, an inscription of the year "1987", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code.

(d) For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this title shall be considered to be numismatic items.

91-139 O - 87 (604)

SOURCES OF BULLION

31 USC 5112 note.

SEC. 102. (a) The Secretary shall obtain gold for the coins minted under this title pursuant to the authority of the Secretary under existing law.

(b) The Secretary shall obtain silver for the coins minted under this title only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

DESIGN OF THE COINS

31 USC 5112 note.

SEC. 103. The design for each coin authorized by this title shall be selected by the Secretary after consultation with the Commission and the Commission of Fine Arts.

SALE OF THE COINS

31 USC 5112 note.

SEC. 104. (a) Notwithstanding any other provision of law, the coins issued under this title shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) The Secretary shall make bulk sales at a reasonable discount to reflect the lower costs of such sales.

(c) The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

(d) All sales shall include a surcharge of $35 per coin for the five dollar coins and $7 per coin for the one dollar coins.

ISSUANCE OF COINS

31 USC 5112 note.

SEC. 105. (a) The gold coins authorized under this title shall be issued in uncirculated and proof qualities and shall be struck at the United States Bullion Depository at West Point.

(b) The silver coins authorized under this title may be issued in uncirculated and proof qualities, except that not more than one facility of the United States Mint may be used to strike each such quality.

(c) The Secretary may issue the coins minted under this title beginning January 1, 1987.

(d) No coins shall be minted under this title after June 30, 1988.

FINANCIAL ASSURANCES

31 USC 5112 note.

SEC. 106. (a) The Secretary shall take all actions necessary to ensure that the issuance of the coins authorized by this title shall result in no net cost to the United States Government.

(b) No coin shall be issued under this title unless the Secretary has received—

(1) full payment therefor;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board.

NATIONAL DEBT REDUCTION

SEC. 107. An amount equal to the amount of all surcharges which are received by the Secretary from the sale of coins issued under this title shall be deposited in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt. 31 USC 5112 note.

PROCUREMENT OF GOODS AND SERVICES

SEC. 108. No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this title. Nothing in this section shall relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity. 31 USC 5112 note.

Approved October 29, 1986.

LEGISLATIVE HISTORY—H.R. 3415:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 1, considered and passed House.
Oct. 16, considered and passed Senate, amended; House concurred in Senate amendments.

O

PUBLIC LAW 99-583—OCT. 29, 1986

INDIANA DUNES NATIONAL LAKESHORE

91-139 O - 87 (605)

Public Law 99-583
99th Congress

An Act

Oct. 29, 1986
[H.R. 4037]

Relating to the Indiana Dunes National Lakeshore, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National parks, monuments, etc.
Housing.
Real property.

SECTION 1. INDIANA DUNES NATIONAL LAKESHORE.

(a) BOUNDARY CHANGES.—The first section of the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u), is amended by striking out "December 1980, and bearing the number 626-91014" and inserting in lieu thereof "October 1986, and numbered 626-80,033-B".

16 USC 460u-3.

(b) DEFINITION OF IMPROVED PROPERTY.—Section 4 of such Act is amended by striking out the first sentence and substituting "As used in this Act, the term 'improved property' means a detached, one-family dwelling which meets each of the following criteria:

"(1) The construction of the dwelling began before the date (shown in the table contained in this section) corresponding to the appropriate map.

"(2) The property is located within the boundaries delineated on the map described in such table which corresponds to such date.

"(3) The property is not located within the boundaries of any other map referred to in such table which bears an earlier date.

The term 'appropriate map', means a map identified as 'Boundary Map—Indiana Dunes National Lakeshore' (or 'A Proposed Indiana Dunes National Lakeshore' in the case of a dwelling the construction of which was begun before January 4, 1965) which is dated and numbered as provided in the following table.

Property Within Boundaries of Map	Construction Began Before
Dated October 1986, #626-80,033-B	February 1, 1986
Dated December 1980, #626-91014	January 1, 1981
Dated September 1976, #626-91007	February 1, 1973
Dated September 1966, #LNPNE-1008-ID	January 4, 1965

The term 'improved property' also includes the lands on which the dwelling is situated which meets both of the following criteria:

"(A) The land is in the same ownership as the dwelling.

"(B) The Secretary has designated the lands as reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use.

Public information.

Such term also includes any structures accessory to the dwelling which are situated on the lands so designated. The maps referred to in this section shall be on file and available for public inspection in the Office of the Director of the National Park Service, Department

of the Interior. The Secretary shall designate the land referred to in subparagraph (B).".

(c) RETAINED RIGHTS.—Section 5(a) of such Act (16 U.S.C. 460u-5a) is amended as follows: 16 USC 460u-5.

(1) Strike out "the first section" and insert in lieu thereof "section 4, dated December 1980, and numbered 626-91014." *Ante*, p. 3318.

(2) Strike out ": *Provided*, That" and substitute a period followed by "In the case of improved property within the boundaries of the map dated December 1980 and numbered 626-91014".

(3) After "(a)" strike "Except for" and insert "(1) Except for owners described in paragraph (2) and".

(4) Strike "(1)" in each place it appears and substitute "(A)" and strike "(2)" and substitute "(B)".

(5) Add the following at the end thereof:

"(2)(A) In the case of property included within the boundaries of the lakeshore after 1980, any owner or owners of record of improved property may retain a right of use and occupancy for noncommercial residential purposes for a term ending at either of the following:

"(i) A fixed term not to extend beyond September 30, 2010, or such lesser fixed term as the owner or owners may elect at the time of acquisition.

"(ii) A term ending at the death of any owner or of a spouse of any owner, whichever occurs last.

The owner shall elect the term to be reserved.

"(B) The retention of rights under subparagraph (A) shall be available only to individuals who are homeowners of record as of July 1, 1986, who have attained the age of majority as of that date and who make a bona fide written offer not later than July 1, 1991, to sell to the Secretary.".

(d) AUTHORIZATION.—Section 9 of such Act (16 U.S.C. 460u-9) is amended as follows:

(1) In the first sentence strike "$11,000,000" and insert in lieu thereof "$20,000,000".

(2) Add after the last paragraph "In addition to any other sums authorized for the acquisition of lands and interests in lands pursuant to the provisions of this Act there are authorized to be appropriated an additional $3,500,000 to be used for such purposes. The Secretary shall conduct a feasibility study of establishing United States Highway 12 as the 'Indiana Dunes Parkway' under the jurisdiction of the National Park Service. The Secretary shall submit the results of such study to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within two years after the enactment of this sentence. Effective October 1, 1986, there is authorized to be appropriated such sums as may be necessary for the purposes of conducting the feasibility study.". Highways.

(e) EXISTING PROPERTY RIGHTS.—Section 10 of such Act (16 U.S.C. 460u-16) is amended by inserting at the end thereof: "Nothing in this Act shall be construed to diminish the existing property rights of Northern Indiana Public Service Company (as of October 1, 1986) with respect to— Energy. 16 USC 460u-16.

"(1) a parcel of land owned in fee by the Northern Indiana Public Service Company and used for high voltage electrical transmission lines, pipelines, and utility purposes, beginning at said Company's Dune Acres substation and extending east to

said Company's Michigan City Generating Station, which parcel by this Act is included within the boundaries of the Indiana Dunes National Lakeshore and herein designated as area II-I on National Park Service Boundary Map No. 626-80,033-B, dated October 1986, excluding that certain parcel of approximately 6.0 acres adjacent Mineral Springs Road in areas II-I, and

(2) land owned in fee by the Northern Indiana Public Service Company and used for high voltage electrical transmission lines, pipelines, and utility purposes as has by this Act been included within the boundaries of the Indiana Dunes National Lakeshore and herein designated as area II-H on said National Park Service Boundary Map No. 626-80,033-B."

(f) OWNER CONSENT REQUIRED.—Section 13 of such Act (16 U.S.C. 460u-13) is amended by changing "SEC. 13." to "SEC. 13. (a)", by striking out "the first section" and inserting in lieu thereof "section 4, dated December 1980 and numbered 626-91014", and by adding a new subsection (b) as follows:

Ante, p. 3318.

"(b) The Secretary may acquire that portion of area IV-B in private ownership on the map referred to in section 1 of this Act only with the consent of the owner: *Provided*, That the Secretary may acquire an agricultural easement should the owner change the use in existence as of September 19, 1986, through eminent domain.".

Ante, p. 3318.

(g) MAP REFERENCE.—Section 16 of such Act (16 U.S.C. 460u-16) is amended by inserting at the end of the first sentence "on the map referred to in section 4, dated October 1976, and numbered 626-9100".

16 USC 460u-15.

(h) RIGHTS-OF-WAY.—Section 15 of such Act is amended by adding the following at the end thereof: "The Secretary may acquire only such interest in the rights-of-way designated 'Crossing B' and 'Crossing C' on the map dated October 1986 and numbered 626-80,033-B as he determines to be necessary to assure public access to the banks of the Little Calumet River and the banks of Salt Creek within fifty feet on either side of the centerline of said river and creek.".

(i) COOPERATIVE AGREEMENT AND STUDY.—Add the following new section at the end of such Act:

16 USC 460u-24.
Contracts.

"SEC. 24. LITTLE CALUMET RIVER AND BURNS/PORTAGE WATERWAY.

"(a) COOPERATIVE AGREEMENT.—The Secretary may enter into a cooperative agreement with the Little Calumet River Basin Development Commission, the State of Indiana or any political subdivision thereof for the planning, management, and interpretation of recreational facilities on the tract within the boundaries of Indiana Dunes National Lakeshore identified as tract numbered 09-177 or on lands under the jurisdiction of the State of Indiana or political subdivision thereof along the Little Calumet River and Burns Waterway. The cooperative agreement may include provision for the planning of public facilities for boating, canoeing, fishing, hiking, bicycling, and other compatible recreational activities. Any recreational developments on lands under the jurisdiction of the National Park Service planned pursuant to this cooperative agreement shall be in a manner consistent with the purposes of this Act, including section 6(b).

Boating.
Canoeing.
Fish and fishing.
Hiking.
Bicycling.

16 USC 460u-6.

"(b) STUDY.—The Secretary shall conduct a study regarding the options available for linking the portions of the lakeshore which are divided by the Little Calumet River and Burns/Portage Waterway

so as to coordinate the management and recreational use of the lakeshore. The Secretary shall submit the results of the study to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within two years after the enactment of this section. Effective October 1, 1986, there is authorized to be appropriated such sums as may be necessary for the purposes of conducting the study.".

Effective date.
Appropriation authorization.

Approved October 29, 1986.

LEGISLATIVE HISTORY—H.R. 4037:

HOUSE REPORTS: No. 99-762 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 11, considered and passed House.
Oct. 16, considered and passed Senate, amended.
Oct. 17, House concurred in Senate amendment.

O

Public Law 99-584
99th Congress

An Act

Oct. 29, 1986
[H.R. 4685]

To adjust the boundaries of areas of the National Wilderness Preservation System in the State of Texas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Texas Wilderness Act Amendments of 1986.

SECTION 1. SHORT TITLE.

This Act shall be known as the "Texas Wilderness Act Amendments of 1986".

SEC. 2. BOUNDARY ADJUSTMENT.

16 USC 1132 note.

(a) BOUNDARIES.—The boundaries of the wilderness areas designated by the Texas Wilderness Act are modified as shown on the maps entitled "Texas Wilderness Boundary Changes", numbered 1-5, dated October 1986.

National Forest System.

(b) ADMINISTRATION OF WILDERNESS AREAS.—Subject to valid existing rights, lands designated as wilderness by subsection (a) shall be included within the national forest system and administered in accordance with the laws and regulations applicable to national forest wilderness areas, including the provisions of the Wilderness Act (16 U.S.C. 1131-1136) and the Texas Wilderness Act of 1984 (Public Law 98-574). In areas added to the national wilderness system by this Act, the grazing of livestock, where established prior to the date of enactment of this Act, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture.

SEC. 3. MAPS AND BOUNDARIES.

Public information.

As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and legal descriptions of each wilderness area affected by this Act, incorporating the boundary modifications referred to in section 2(a) of this Act, with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate.

91-139 O - 87 (606)

Each such map shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

Approved October 29, 1986.

LEGISLATIVE HISTORY—H.R. 4685:

HOUSE REPORTS: No. 99-674, Pt. 1 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 132 (1986):
July 21, considered and passed House.
Oct. 16, considered and passed Senate, amended.
Oct. 17, House concurred in Senate amendment.

O

Public Law 99-585
99th Congress

An Act

Oct. 29, 1986
[H.R. 5181]

To designate the United States Courthouse at 68 Court Street, Buffalo, New York, as the "Michael J. Dillon Memorial United States Courthouse".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. DESIGNATION OF BUILDING.

The United States Courthouse located at 68 Court Street, Buffalo, New York, shall be known and designated as the "Michael J. Dillon Memorial United States Courthouse".

SEC. 2. LEGAL REFERENCES.

Each reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "Michael J. Dillon Memorial United States Courthouse".

Approved October 29, 1986.

LEGISLATIVE HISTORY—H.R. 5181:

HOUSE REPORTS: No. 99-880 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 6, considered and passed House.
Oct. 18, considered and passed Senate.

O

91-139 O - 87 (607)

Public Law 99-586
99th Congress

An Act

To amend title 5, United States Code, to provide that certain individuals be accorded competitive status for purposes of transferring to the competitive service.

Oct. 29, 1986
[H.R. 5218]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3304 of title 5, United States Code, is amended by redesignating subsection (d) as subsection (e), and by inserting after subsection (c) the following:

"(d)(1) For the purpose of this subsection, the term 'technician' has the meaning given such term by section 8337(h)(1) of this title.

5 USC 8337.

"(2) Notwithstanding a contrary provision of this title or of the rules and regulations prescribed under this title for the administration of the competitive service, an individual who served for at least 3 years as a technician acquires a competitive status for transfer to the competitive service if such individual—

"(A) is involuntarily separated from service as a technician other than by removal for cause on charges of misconduct or delinquency;

"(B) passes a suitable noncompetitive examination; and

"(C) transfers to the competitive service within 1 year after separating from service as a technician.".

Approved October 29, 1986.

LEGISLATIVE HISTORY—H.R. 5218:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 6, considered and passed House.
Oct. 16, considered and passed Senate.

91-139 O - 87 (608)

Public Law 99-587
99th Congress

An Act

Oct. 29, 1986
[H.R. 5459]

To direct the release, on behalf of the United States, of certain conditions and reservations contained in a conveyance of land to the State of Utah, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELEASE OF CONDITIONS AND RESERVATIONS.

Petroleum and petroleum products.
Natural gas.

(a) Subject to subsection (b), the United States hereby releases all conditions and reservations, except those which reserve all oil, gas, geothermal and other mineral rights to the United States, which apply to the lands generally depicted on a map entitled "Utah Land Exchange—Proposed", dated September 1986 comprising approximately 150 acres, to the extent such conditions and reservations are enforceable by the United States.

(b) The release under subsection (a) shall be effective upon determination by the Administrator of General Services that all necessary steps have been taken to complete—

(1) acquisition by the State of Utah, through an exchange of the lands specified in subsection (a), of the surface estate in other lands with a monetary value equal to the value of the surface estate of the lands specified in subsection (a) and each portion of which the Secretary of the Interior has determined to have value for wildlife, and which in the aggregate have at least equal value for wildlife (including habitat) as does the surface estate in the lands described in subsection (a); and

(2) the attachment to the title of the lands so acquired by the State of Utah of the condition and reservation that such land be used only as and for wildlife conservation purposes and that in the event such land or any part thereof is no longer used for such purposes, the title and immediate right to possession of the surface estate of such land shall pass to the United States.

SEC. 2. DOCUMENTATION.

The United States shall provide to the State of Utah, and shall require the State of Utah to provide to the United States, such documents as may be required to adequately record the implementation of section 1 of this Act. The lands referred to in section 1 are approximately 150 acres in Salt Lake County, Utah, which comprise a portion of approximately 1,280 acres of land conveyed by the United States to the State of Utah by quitclaim deed dated July 26, 1950, and recorded on August 1, 1950 in book 786, page 48, of the official land records of Salt Lake County, Utah.

91-139 O - 87 (609)

SEC. 3. ACCEPTANCE AUTHORITY.

If all right, title, and interest in and to the lands designated as "Cuyahoga Valley Line" on the map numbered 644-80,054 and dated July, 1986 is offered to the Secretary of the Interior, the Secretary shall accept such lands. Upon such acceptance of such lands, the Secretary shall pay an amount which, as determined by the Secretary, reflects the value of the right, title, and interest accepted by the Secretary.

Approved October 29, 1986.

LEGISLATIVE HISTORY—H.R. 5459 (S. 1911):

HOUSE REPORTS: No. 99-919 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 99-356 accompanying S. 1911 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 11, S. 1911 considered and passed Senate.
Sept. 30, H.R. 5459 considered and passed House.

O

Public Law 99-588
99th Congress

An Act

Oct. 29, 1986
[H.R. 5470]

To designate the United States Courthouse for the Eastern District of Virginia in Alexandria, Virginia, as the "Albert V. Bryan United States Courthouse".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Courthouse for the Eastern District of Virginia, located on South Washington Street in Alexandria, Virginia, shall hereafter be known and designated as the "Albert V. Bryan United States Courthouse". Each reference to such building in a law, map, regulation, document, record, or other paper of the United States shall be deemed to be a reference to the "Albert V. Bryan United States Courthouse".

Approved October 29, 1986.

LEGISLATIVE HISTORY—H.R. 5470 (S. 2890):

HOUSE REPORTS: No. 99-879 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 6, considered and passed House.
Oct. 18, considered and passed Senate.

O

91-139 O - 87 (610)

Public Law 99-589
99th Congress

Joint Resolution

Designating the week beginning January 4, 1987, as "National Bowling Week".

Oct. 29, 1986
[H.J. Res. 620]

Whereas bowling is one of the oldest and most popular indoor family sports in the world and is played in more than 79 nations;
Whereas people have competed in some form of bowling for thousands of years;
Whereas many immigrants brought a form of bowling from their homeland during the birth of America;
Whereas bowling has contributed to the social fabric of the United States with 8,000,000 people participating as members of local bowling organizations in more than 2,800 cities and towns across our land;
Whereas bowling is played in 8,300 bowling centers, virtually in every community in the Nation, and has emerged as the longest running, most highly rated individual sport television series on Saturday;
Whereas bowling is the largest indoor participation sport in the United States with over 69,000,000 Americans bowling each year; and
Whereas bowling is an excellent form of exercise and recreation for all people regardless of age: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning January 4, 1987, is designated "National Bowling Week". The President is requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

Approved October 29, 1986.

LEGISLATIVE HISTORY—H.J. Res. 620:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 10, considered and passed House.
Oct. 18, considered and passed Senate.

91-139 O - 87 (611)

PUBLIC LAW 99-590—OCT. 30, 1986

WILD AND SCENIC RIVERS ACT, AMENDMENTS

91-139 O - 87 (612)

Public Law 99-590
99th Congress

An Act

Oct. 30, 1986
[H.R. 4350]

To amend the Wild and Scenic Rivers Act, and for other purposes.

Conservation. National parks, monuments, etc.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—CACHE LA POUDRE, COLORADO

Wild and Scenic Rivers System.

SEC. 101. Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274) is amended by adding at the end the following new paragraph:

"(56) CACHE LA POUDRE, COLORADO.—The following segments as generally depicted on the proposed boundary map numbered FS-56 and dated March 1986, published by the United States Department of Agriculture, each to be administered by the Secretary of Agriculture; except that those portions of the segments so designated which are within the boundary of Rocky Mountain National Park shall continue to be administered by the Secretary of the Interior:

"(A) Beginning at Poudre Lake downstream to the confluence of Joe Wright Creek, as a wild river. This segment to be designated the 'Peter H. Dominick Wild River Area'.

"(B) Downstream from the confluence of Joe Wright Creek to a point where the river intersects the easterly north-south line of the west half southwest quarter of section 1, township 8 north, range 71 west of the sixth principal meridian, as a recreational river.

"(C) South Fork of the Cache la Poudre River from its source to the Commanche Peak Wilderness Boundary, approximately four miles, as a wild river.

"(D) Beginning at the Commanche Peak Wilderness Boundary to a point on the South Fork of the Cache la Poudre River in section 1, township 7 north, range 73 west of the sixth principal meridian, at elevation 8050 mean sea level, as a recreational river.

"(E) South Fork of the Cache la Poudre River from its intersection with the easterly section line of section 30, township 8 north, range 72 west of the sixth principal meridian, to confluence of the main stem of the Cache la Poudre River, as a wild river.

With respect to the portions of the river segments designated by this paragraph which are within the boundaries of Rocky Mountain National Park, the requirements of subsection (b) of this section shall be fulfilled by the Secretary of the Interior through appropriate revisions to the general management plan for the park, and the boundaries, classification, and development plans for such portions need not be published in the Federal Register. Such revisions to the general management plan for the park shall assure that no development or use of parklands shall be undertaken that is inconsistent with the designation of such river segments as a wild river. For the purposes of the segments designated by this paragraph, there are authorized to be appropriated $500,000 for development and $2,500,000 for land acquisition.".

Appropriation authorization. Real property.

SEC. 102. Inclusion of the designated portions of the Cache la Poudre River and the Wild and Scenic Rivers System under section 101 of this title shall not interfere with the exercise of existing decreed water rights to water which has heretofore been stored or diverted by means of the present capacity of storage, conveyance, or diversion structures that exist as of the date of enactment of this title, or operation and maintenance of such structures. Nor shall inclusion of the designated portions of the Cache la Poudre River in the Wild and Scenic Rivers System be utilized in any Federal proceeding, whether concerning a license, permit, right-of-way, or other Federal action, as a reason or basis to prohibit the development or operation of any water impoundments, diversion facilities, and hydroelectric power and transmission facilities below Poudre Park located entirely downstream from and potentially affecting designated portions of the Cache la Poudre River, or relocation of highway 14 to any point east of the north-south half section line of section 2, township 8 north, range 71 west of the sixth principal meridian, as necessary to provide access to Poudre Park around such facilities: *Provided*, That due consideration shall be given to reasonable measures for minimizing the impact of such facilities and road relocation on the designated segments. Congress finds that development of water impoundments, diversion facilities, and hydroelectric power and transmission facilities located entirely downstream from the designated portions of the Cache la Poudre River below Poudre Park, in accordance with the provisions of this section, is not incompatible with the designation of portions of the Cache la Poudre River in the Wild and Scenic Rivers System under section 101 of this title. The reservation of water established by the inclusion of portions of the Cache la Poudre River in the Wild and Scenic Rivers System shall be subject to the provisions of this title, shall be adjudicated in Colorado Water Court, and shall have a priority date as of the date of enactment of this title.

Water.
16 USC 1274 note.

Energy.

Energy.

SEC. 103. (a) GRANTS AND ASSISTANCE.—The Secretary of Agriculture, acting through the Chief of the Forest Service, shall provide grants and technical assistance to the city of Fort Collins, Colorado, to carry out a study regarding the designation of the following area as a national recreation area: the 18.5-mile segment of the Cache la Poudre River Corridor from the northwest boundary of the city of Fort Collins urban growth area to the Weld-Larimer County line.

(b) STUDY.—The study under this section shall include each of the following:

(A) a comprehensive evaluation of the public recreation opportunities and flood plain management options which are available with respect to the river corridor involved;

(B) an evaluation of the natural, historical, and recreational values of such corridor;

(C) patterns for possible land acquisition within the corridor which are deemed necessary for the purpose of resource protection, scenic and integrity, or management and administration of the corridor area;

(D) cooperative management proposals for the administration of the corridor area;

(E) the number of visitors and types of public use within the corridor area that can be accommodated in accordance with the full protection of its resources; and

(F) the facilities deemed necessary to accommodate and provide access for such visitors and uses, including the location and estimated costs of such facilities.

(c) REPORT TO CONGRESS.—Within three years of the date of enactment of this title, the Secretary of Agriculture shall transmit to the Congress a comprehensive report containing the results of the study conducted pursuant to this section.

Appropriation authorization.

(d) FUNDING.—There are hereby authorized to be appropriated up to $150,000 to carry out the provisions of this section.

(e) COST SHARING.—Not more than 75 per centum of the cost of the study carried out under this section shall be paid by the United States: *Provided*, That in no event shall the contribution of the United States exceed $150,000. The remaining portion of such costs shall be contributed by interested parties. The portion contributed by such interested parties may consist of appropriated funds or contributed services.

SEC. 104. Notwithstanding any other provision of law, the Secretaries of Agriculture and the Interior shall, within 30 days of the enactment of this title, complete the exchange as described in the Decision Notice and Finding of No Significant Impact, Trust For Public Land Proposed Land-for-Land Exchange, signed by the Rocky Mountain Regional Forester, on August 22, 1985, to acquire certain private lands in the portion of the Cache la Poudre River designated in section 3(a)(56)(B) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(56)(B)).

TITLE II—FARMINGTON, WEST BRANCH, CONNECTICUT AND MASSACHUSETTS

Farmington Wild and Scenic River Study Act. 16 USC 1271 note.

SEC. 201. This title may be cited as the "Farmington Wild and Scenic River Study Act".

SEC. 202. (a) The Congress finds that—

Fish and fishing.

(1) the West Branch of the Farmington River and related land areas possess resource values of national significance, such as significant white water rapids, undeveloped lands, scenic and cultural areas, important sport fisheries, and prime agricultural lands;

(2) based on the National Rivers Inventory by the National Park Service, published in January 1982, this portion of the Farmington River is eligible for study for inclusion in the wild and scenic rivers system;

State and local governments.

(3) there is strong support among local, State, and Federal officials, area residents, and river users for a concerted cooperative effort to manage the river in a productive and meaningful way; and

State and local governments.

(4) in view of the longstanding Federal practice of assisting States and local governments in protecting, conserving, and enhancing rivers of national significance, the United States has an interest in assisting the States of Connecticut and the Commonwealth of Massachusetts and the appropriate local governments in managing the river.

(b) Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding the following new paragraph:

"(92) FARMINGTON, WEST BRANCH, CONNECTICUT AND MASSACHUSETTS.—The segment from the intersection of the New Hartford-Canton, Connecticut, town line upstream to the base of the West Branch Reservoir in Hartland, Connecticut; and the segment from

the confluence with Thorp Brook in Sandisfield, Massachusetts, to Hayden Pond in Otis, Massachusetts.".

(c) Section 5(b) of such Act (16 U.S.C. 1276(b)) is amended by adding at the end thereof the following new paragraph:

"(7) The study of the West Branch of the Farmington River identified in paragraph (92) of subsection (a) shall be completed and the report submitted thereon not later than the end of the third fiscal year beginning after the enactment of this paragraph. Such report shall include a discussion of management alternatives for the river if it were to be included in the national wild and scenic river system.". Reports.

(d)(1) At the earliest practicable date following the enactment of this title, but not later than forty-five days after enactment, the Secretary of the Interior (hereinafter in this title referred to as the "Secretary") shall establish the Farmington River Study Committee (hereinafter in this title referred to as the "Committee"). The Secretary shall consult with the Committee on a regular basis during the conduct of the study. Membership on the Committee shall consist of seventeen members appointed by the Secretary as follows:

(A) One member shall be appointed by the Secretary.

(B) Two members shall be appointed by the Secretary from a list of candidates supplied to the Secretary by the Governor of the State of Connecticut.

(C) Two members shall be appointed by the Secretary from a list of candidates supplied to the Secretary by the Governor of the Commonwealth of Massachusetts.

(D) Two members shall be appointed by the Secretary from a list of candidates supplied to the Secretary by the Farmington River Watershed Association.

(E) One member shall be appointed by the Secretary from each of the eight towns located along the West Branch of the river. The governing body of each of the eight towns shall provide a list of candidates to the Secretary from which the eight appointments under this paragraph shall be made.

(F) Two members shall be appointed by the Secretary from a list of candidates supplied to the Secretary by the Metropolitan District Commission of Hartford, Connecticut.

(2) The members of the Committee shall elect a chairman, vice chairman, and recording secretary from the membership at the first official meeting of the Committee. Official minutes shall be kept of each regular and special meeting of the Committee and shall be open for public inspection.

(3) Any vacancy on the Committee shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Vacancies in the membership of the Committee shall not affect its power to function if there remain sufficient members to constitute a quorum under paragraph (4) of this subsection.

(4) A majority of the members of the Committee shall constitute a quorum for all meetings.

(5) The Committee shall advise the Secretary in conducting the study of the Farmington River segment specified in section 5(a)(92) of the Wild and Scenic Rivers Act. The Committee also shall advise 16 USC 1276.

the Secretary concerning management alternatives should the river be included in the wild and scenic rivers system.

(6) Members of the Committee shall serve without compensation but may be compensated for reasonable and necessary expenses incurred by them in the performance of their duties as members of the Committee.

(7) The Committee may accept and utilize the services of voluntary, uncompensated personnel.

(8) The Committee shall terminate on the later of the following:

16 USC 1276.

(A) the completion of the river study of the Farmington River described in section 5(a)(92) of the Wild and Scenic Rivers Act; or

(B) the publication of management alternatives should the river be included in the wild and scenic rivers system.

(e) As used in this title (other than in subsection (b)) the term "River" means the segments of the Farmington River described in paragraph (92) of section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1275(a)).

Appropriation authorization.

(f) There are authorized to be appropriated up to $150,000 to carry out the purposes of this title.

TITLE III—GREAT EGG HARBOR, NEW JERSEY

16 USC 1276.

SEC. 301. (a) STUDY.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271-1287) is amended by adding at the end thereof the following new paragraph:

"(93) Great Egg Harbor River, New Jersey: The entire river.".

(b) COMPLETION DATE.—Section 5(b)(3) of such Act is amended by adding at the end thereof the following: "The study of the river named in paragraph (93) of subsection (a) shall be completed not later than three years after the date of the enactment of this sentence.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Paragraph (4) of section 5(b) of such Act is amended by adding at the end thereof the following: "Effective October 1, 1986, there are authorized to be appropriated for the purpose of conducting the study of the river named in paragraph (93) not to exceed $150,000.".

TITLE IV—SALINE BAYOU, LOUISIANA

SEC. 401. Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph:

"(57) SALINE BAYOU, LOUISIANA.—The segment from Saline Lake upstream to the Kisatchie National Forest, as generally depicted on the Proposed Boundary Map, numbered FS-57, and dated March 1986; to be administered by the Secretary of Agriculture. For the purposes of the segment designated by this paragraph, there are authorized to be appropriated for fiscal years commencing after September 30, 1986, not to exceed $1,000,000 for the acquisition of lands and interests in lands and for development.".

Appropriation authorization.

TITLE V—GENERIC AMENDMENTS

SEC. 501. (a) Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by redesignating the paragraphs relating to the Au Sable River, the Tuolumne River, the Illinois River, and the Owyhee River as paragraphs (52) through (55) respectively.

(b)(1) The first sentence of section 3(b) of the Wild and Scenic Rivers Act is amended as follows: 16 USC 1274.

(A) Strike out "one year from the date of this Act" and substitute "one year from the date of designation of such component under subsection (a)".

(B) Strike out the second parenthetical statement, "(which boundaries shall include an average of not more than 320 acres of land per mile measured from the ordinary high water mark on both sides of the river)".

(C) Strike out the semicolon and the remainder of the sentence after the words "its various segments" and substitute a period.

(2) The second sentence of section 3(b) of such Act is amended by striking out "Said boundaries, classification, and development plans" and substituting the words "Notice of the availability of the boundaries and classification, and of subsequent boundary amendments".

(3) Section 3 of such Act is amended by adding the following new subsections at the end:

"(c) Maps of all boundaries and descriptions of the classifications of designated river segments, and subsequent amendments to such boundaries, shall be available for public inspection in the offices of the administering agency in the District of Columbia and in locations convenient to the designated river. District of Columbia. Public information.

"(d)(1) For rivers designated on or after January 1, 1986, the Federal agency charged with the administration of each component of the National Wild and Scenic Rivers System shall prepare a comprehensive management plan for such river segment to provide for the protection of the river values. The plan shall address resource protection, development of lands and facilities, user capacities, and other management practices necessary or desirable to achieve the purposes of this Act. The plan shall be coordinated with and may be incorporated into resource management planning for affected adjacent Federal lands. The plan shall be prepared, after consultation with State and local governments and the interested public within 3 full fiscal years after the date of designation. Notice of the completion and availability of such plans shall be published in the Federal Register. State and local governments. Federal Register, publication.

"(2) For rivers designated before January 1, 1986, all boundaries, classifications, and plans shall be reviewed for conformity within the requirements of this subsection within 10 years through regular agency planning processes.".

SEC. 502. Section 4 of the Wild and Scenic Rivers Act is amended by adding a new subsection (d) after subsection (c): 16 USC 1275.

"(d) The boundaries of any river proposed in section 5(a) of this Act for potential addition to the National Wild and Scenic Rivers System shall generally comprise that area measured within one-quarter mile from the ordinary high water mark on each side of the river. In the case of any designated river, prior to publication of boundaries pursuant to section 3(b) of this Act, the boundaries also shall comprise the same area. This subsection shall not be construed to limit the possible scope of the study report to address areas which may lie more than one-quarter mile from the ordinary high water mark on each side of the river.".

SEC. 503. Section 5 of the Wild and Scenic Rivers Act is amended as follows: 16 USC 1276.

(a) In subsection (a) paragraph (90) relating to the North Umpqua is redesignated as paragraph (91).

Reports.

(b) At the end of subsection (b)(1) add: "Studies of the river named in paragraphs (38), (55), (83), and (87) shall be completed and the reports transmitted to the Congress not later than January 1, 1987.".

(c) Amend paragraph (4) of subsection (b) to read as follows:

Appropriation authorization.

"(4) For the purposes of conducting the studies of rivers named in subsection (a), there are authorized to be appropriated such sums as necessary.".

16 USC 1277.

SEC. 504. (a) Section 6(e) of the Wild and Scenic Rivers Act is amended by striking out "Congress in authorized" and substituting "Congress is authorized".

(b) Section 6(a) of the Wild and Scenic Rivers Act is amended by striking out "donation, and lands" in the second sentence and substituting "donation or by exchange in accordance with subsection (d) of this section. Lands".

(c) Section 6(a) of the Wild and Scenic Rivers Act is amended by inserting "(1)" after "(a)" and by adding the following at the end:

16 USC 1278.

"(2) When a tract of land lies partially within and partially outside the boundaries of a component of the National Wild and Scenic Rivers System, the appropriate Secretary may, with the consent of the landowners for the portion outside the boundaries, acquire the entire tract. The land or interest therein so acquired outside the boundaries shall not be counted against the average one-hundred-acre-per-mile fee title limitation of subsection (a)(1). The lands or interests therein outside such boundaries, shall be disposed of, consistent with existing authorities of law, by sale, lease, or exchange.".

(d) Section 6(b) of the Wild and Scenic Rivers Act is amended as follows:

(1) Insert in the first sentence "outside the ordinary high water mark on both sides of the river" after the word "acreage".

(2) Insert "in fee title" after the word "owned".

SEC. 505. (a) The second sentence of section 7(a) of the Wild and Scenic Rivers Act is amended by deleting "approval of this Act" and substituting "designation of a river as a component of the National Wild and Scenic Rivers System".

(b) Section 7(b) of the Wild and Scenic Rivers Act is amended as follows:

(1) In the first sentence after clause (i) insert a new clause (ii) as follows:

"(ii) during such interim period from the date a report is due and the time a report is actually submitted to the Congress; and".

(2) Redesignate existing clause (ii) as clause (iii).

(3) At the end of the second sentence, delete "approval of this Act" and insert in lieu thereof the words, "designation of a river for study as provided for in section 5 of this Act".

Ante, p. 3335.

16 USC 1279.

SEC. 506. Section 8(a) of the Wild and Scenic Rivers Act is amended by adding the following at the end thereof: "This subsection shall not be construed to limit the authorities granted in section 6(d) or section 14A of this Act.".

16 USC 1277, 1285a.

16 USC 1280.

SEC. 507. Section 9(b) of the Wild and Scenic Rivers Act is amended by striking out "issuance or leases" in the second sentence and substituting "issuance of leases".

SEC. 508. Section 11 of the Wild and Scenic Rivers Act is amended by deleting the second sentence in subsection (a) and by amending subsection (b) to read as follows: 16 USC 1282.

"(b)(1) The Secretary of the Interior, the Secretary of Agriculture, or the head of any other Federal agency, shall assist, advise, and cooperate with States or their political subdivisions, landowners, private organizations, or individuals to plan, protect, and manage river resources. Such assistance, advice, and cooperation may be through written agreements or otherwise. This authority applies within or outside a federally administered area and applies to rivers which are components of the National Wild and Scenic Rivers System and to other rivers. Any agreement under this subsection may include provisions for limited financial or other assistance to encourage participation in the acquisition, protection, and management of river resources. State and local governments. Contracts.

"(2) Wherever appropriate in furtherance of this Act, the Secretary of Agriculture and the Secretary of the Interior are authorized and encouraged to utilize the following:

"(A) For activities on federally owned land, the Volunteers in the Parks Act of 1969 (16 U.S.C. 18g-j) and the Volunteers in the Forest Act of 1972 (16 U.S.C. 558a-558d).

"(B) For activities on all other lands, section 6 of the Land and Water Conservation Fund Act of 1965 (relating to the development of statewide comprehensive outdoor recreation plans). 16 USC 460*l*-8. Voluntarism.

"(3) For purposes of this subsection, the appropriate Secretary or the head of any Federal agency may utilize and make available Federal facilities, equipment, tools and technical assistance to volunteers and volunteer organizations, subject to such limitations and restrictions as the appropriate Secretary or the head of any Federal agency deems necessary or desirable.

"(4) No permit or other authorization provided for under provision of any other Federal law shall be conditioned on the existence of any agreement provided for in this section.".

SEC. 509. Section 12(c) of the Wild and Scenic Rivers Act is amended by deleting the words "Secretary of the Interior" and inserting in lieu thereof the words "Administrator, Environmental Protection Agency". 16 USC 1283.

SEC. 510. Section 16(c) of the Wild and Scenic Rivers Act is amended by adding at the end thereof: "For any designated wild and scenic river, the appropriate Secretary shall treat the acquisition of fee title with the reservation of regular existing uses to the owner as a scenic easement for purposes of this Act. Such an acquisition shall not constitute fee title ownership for purposes of section 6(b).". 16 USC 1286. *Ante*, p. 3336.

TITLE VI

SEC. 601. Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end thereof the following new paragraph:

"(58) BLACK CREEK, MISSISSIPPI.—The segment from Fairley Bridge Landing upstream to Moody's Landing as generally depicted on a map entitled 'Black Creek Wild and Scenic River', numbered FS-58 and dated March 1986, to be administered by the Secretary of Agriculture as a scenic river area under section 2(b)(2). For the purposes of the segment designated by this paragraph, there are authorized to be appropriated up to $300,000 for the acquisition of lands and interests in lands and for development.".

TITLE VII—TO PROVIDE RELIEF FOR CERTAIN DESERT LAND ENTRYMEN IN IDAHO

SEC. 701. The Congress finds that—

(1) certain developed and productive desert land entries in Idaho, identified in section 702 of this title, made pursuant to the Act entitled "An Act to provide for the sale of desert lands in certain States and Territories", approved March 3, 1877 (43 U.S.C. 321, et seq.), commonly known and hereinafter referred to as the "Desert Land Act", have been cancelled by the Secretary of the Interior pursuant to holding limitation regulations promulgated pursuant to section 7 of the Act (43 U.S.C. 329);

(2) such regulations were retroactively applied to such desert land entries several years after the entries were allowed and more than two years after final development, proof and final payment for such entries were made, without giving the entrymen any opportunity to comply with the new interpretation of such regulations;

(3) cancellation of such desert land entries was harsh and unfair, and resulted in forfeiture to the Government of the developed entries and the monies paid for the land;

43 USC 321.

(4) such entrymen have fulfilled the requirements of the Desert Land Act in all respects other than such holding limitation regulations; and

Patents and trademarks.

(5) such entrymen, or their heirs or devisees, should have the entries reinstated and qualify for issuance of patents to carry out the objectives of the Desert Land Act.

SEC. 702. The names of the entrymen, and the serial numbers of the desert land entries generally known as the "Sailor Creek Project", to which this title applies, are as follows:

Entryman	Bureau of Land Management Serial Number
G. Patrick Morris	Idaho 013820
John E. Roth	Idaho 013905
Elise L. Neeley	Idaho 013906
Lyle D. Roth	Idaho 013907
Vera M. Noble (Now Baltzor)	Idaho 014126
Charlene S. Baltzor	Idaho 014128
George R. Baltzor	Idaho 014129
John E. Morris (deceased)	Idaho 014130
Juanita M. Morris	Idaho 014249
Nellie Mac Morris (deceased)	Idaho 014250
Milo Axelsen	Idaho 014251
Peggy Axelsen	Idaho 014252

SEC. 703. (a) The desert land entries identified in section 702 of this title are hereby reinstated. The entrymen, or the heirs or devisees of any deceased entryman, may—

(1) rescind any agreement which is prohibited by the Secretary of the Interior pursuant to regulations under section 7 of the Act (43 U.S.C. 329) within six months after the date of enactment of this title; and

(2) resubmit final proof of reclamation and cultivation of the land in accordance with the provisions of section 7 of the Act (43 U.S.C. 329) before December 31, 1988.

Patents and trademarks.

(b) The Secretary of the Interior shall issue patents to the entrymen named in section 702, or their heirs or devisees upon compliance with the provisions of subsection (a) and the submission of satisfactory final proof.

SEC. 704. Notwithstanding any other provision of law, the property right prior to issuance of a patent to the land of any entryman identified in section 702 of this title, or the heirs, or devisees of any such entryman whose entry is reinstated in accordance with section 703 of this title, shall be a personal right, inheritable but not assignable. Any such entry may be mortgaged in the manner permitted by regulations promulgated by the Secretary of the Interior for the purpose of securing repayment of monies borrowed for development of the entry or for farm operating or crop production expenses.

Patents and trademarks.

TITLE VIII—BLACK REVOLUTIONARY WAR PATRIOTS MEMORIAL

AUTHORIZATION OF MEMORIAL

SEC. 801. The Black Revolutionary War Patriots Foundation is authorized to establish a memorial on Federal land in the District of Columbia and its environs to honor the estimated five thousand courageous slaves and free black persons who served as soldiers and sailors or provided civilian assistance during the American Revolution and to honor the countless black men, women, and children who ran away from slavery or filed petitions with courts and legislatures seeking their freedom. Such memorial shall be established in accordance with the provisions of H.R. 4378, as approved by the House of Representatives on September 29, 1986.

40 USC 1003 note.

Ante, p. 3650.

FUNDING

SEC. 802. The Black Revolutionary War Patriots Foundation shall establish the memorial with non-Federal funds.

TITLE IX—WOMEN IN THE ARMED FORCES MEMORIAL

AUTHORIZATION OF MEMORIAL

SEC. 901. The Women in Military Service for America Memorial Foundation is authorized to establish a memorial on Federal land in the District of Columbia and its environs to honor women who have served in the Armed Forces of the United States. Such memorial shall be established in accordance with the provisions of H.R. 4378, as approved by the House of Representatives on September 29, 1986.

40 USC 1003 note.

FUNDING

SEC. 902. The Women in Military Service for America Memorial Foundation shall establish the memorial with non-Federal funds.

TITLE X—NEW RIVER GORGE ADMINISTRATIVE SITE

SEC. 1001. Section 1102(a) of the National Parks and Recreation Act of 1978 (Public Law 95-625) is amended by inserting the following after the second sentence: "In addition, the Secretary may acquire by any of the foregoing methods not to exceed ten acres outside the boundaries of the national river for an administrative headquarters site, and funds appropriated for land acquisition shall be available for the acquisition of the administrative headquarters site.".

16 USC 460m-16.

16 USC 460m-25.

SEC. 1002. Section 1112 of the same act is amended by striking "$500,000" and inserting "$3,000,000".

Approved October 30, 1986.

LEGISLATIVE HISTORY—H.R. 4350:

HOUSE REPORTS: No. 99-503 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 8, considered and passed House.
Sept. 12, considered and passed Senate, amended.
Oct. 8, House concurred in Senate amendment with amendments.
Oct. 15, Senate concurred in House amendments with an amendment.
Oct. 16, House concurred in Senate amendment.

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Public Law 99-591
99th Congress

Joint Resolution

Making continuing appropriations for the fiscal year 1987, and for other purposes.

Oct. 30, 1986
[H.J. Res. 738]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1987, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary for programs, projects or activities provided for in the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1987, and for other purposes.

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, including not to exceed $75,000 for employment under 5 U.S.C. 3109, $1,623,000: *Provided,* That not to exceed $8,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration to carry out the programs funded in this Act, $455,000.

RENTAL PAYMENTS (USDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Department of Agriculture which are included in this Act, $48,728,000: *Provided,* That in the event an agency within the Department of Agriculture should require modification of space needs, the Secretary of Agriculture may transfer a share of that agency's appropriation made available

by this Act to this appropriation, or may transfer a share of this appropriation to that agency's appropriation, but such transfers shall not exceed 10 per centum of the funds made available for space rental and related costs to or from this account.

BUILDING OPERATIONS AND MAINTENANCE

For the operation, maintenance, and repair of the Washington, D.C. Agriculture building complex pursuant to the delegation of authority from the Administrator of General Services authorized by 40 U.S.C. 486, $18,039,000.

ADVISORY COMMITTEES (USDA)

For necessary expenses for activities of Advisory Committees of the Department of Agriculture which are included in this Act, $1,308,000: *Provided,* That no other funds in this Act shall be available to the Department of Agriculture for support of activities of Advisory Committees.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Budget and Program Analysis, $3,611,000; for Personnel, Finance and Management, Operations, Information Resources Management, Advocacy and Enterprise, and Administrative Law Judges and Judicial Officer, $17,616,000; making a total of $21,227,000 for Departmental Administration to provide for necessary expenses for management support services to offices of the Department of Agriculture and for general administration and emergency preparedness of the Department of Agriculture, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department of Agriculture, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109: *Provided,* That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551-558.

WORKING CAPITAL FUND

An amount of $5,708,000 is hereby appropriated to the Departmental Working Capital Fund to increase the Government's equity in this fund and to provide for the purchase of automated data processing, data communication, and other related equipment necessary for the provision of Departmental centralized services to the agencies.

OFFICE OF THE ASSISTANT SECRETARY FOR GOVERNMENTAL AND PUBLIC AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Governmental and Public Affairs to carry out the programs funded in this Act, $318,000.

Office of Governmental and Public Affairs

For necessary expenses to carry on services relating to the coordination of programs involving public affairs, and for the dissemination of agricultural information and the coordination of information, work and programs authorized by Congress in the Department, $7,293,000, of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed $2,000,000 may be used for farmers' bulletins and not fewer than two hundred thirty-two thousand two hundred and fifty copies for the use of the Senate and House of Representatives of part 2 of the annual report of the Secretary (known as the Yearbook of Agriculture) as authorized by 44 U.S.C. 1301: *Provided,* That in the preparation of motion pictures or exhibits by the Department, this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

For necessary expenses for liaison with the Congress on legislative matters, $465,000.

For necessary expenses for programs involving intergovernmental affairs and liaison within the executive branch, $440,000.

Office of the Inspector General

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), $44,461,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(8) of the Inspector General Act of 1978 (Public Law 95-452), and including a sum not to exceed $50,000 for employment under 5 U.S.C. 3109; and including a sum not to exceed $75,000 for certain confidential operational expenses including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95-452 and section 1337 of Public Law 97-98.

Office of the General Counsel

For necessary expenses of the Office of the General Counsel, $17,131,000.

Office of the Assistant Secretary for Economics

For necessary expenses of the Office of the Assistant Secretary for Economics to carry out the programs funded in this Act, $448,000.

Economic Research Service

For necessary expenses of the Economic Research Service in conducting economic research and service relating to agricultural production, marketing, and distribution, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and other laws, including economics of marketing; analyses relating to farm prices, income and population, and demand for farm products, use of resources in agriculture, adjustments, costs and returns in farming, and farm finance; research relating to the economic and marketing aspects of farmer cooperatives; and for analyses of supply and

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demand for farm products in foreign countries and their effect on prospects for United States exports, progress in economic development and its relation to sales of farm products, assembly and analysis of agricultural trade statistics and analysis of international financial and monetary programs and policies as they affect the competitive position of United States farm products, $43,982,000; of which not less than $200,000 shall be available for investigation, determination and finding as to the effect upon the production of food and upon the agricultural economy of any proposed action affecting such subject matter pending before the Administrator of the Environmental Protection Agency for presentation, in the public interest, before said Administrator, other agencies or before the courts: *Provided,* That not less than $350,000 of the funds contained in this appropriation shall be available to continue to gather statistics and conduct a special study on the price spread between the farmer and the consumer: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225): *Provided further,* That not less than $145,000 of the funds contained in this appropriation shall be available for analysis of statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

National Agricultural Statistics Service

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, and marketing surveys, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627) and other laws, $56,787,000: *Provided,* That, hereafter, no funds available to the Department of Agriculture shall be available to publish estimates of apple production for other than the commercial crop: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109.

World Agricultural Outlook Board

For necessary expenses of the World Agricultural Outlook Board to coordinate and review all commodity and aggregate agricultural and food data used to develop outlook and situation material within the Department of Agriculture, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), $1,608,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

Office of the Assistant Secretary for Science and Education

For necessary salaries and expenses of the Office of the Assistant Secretary for Science and Education to administer the laws enacted by the Congress for the Agricultural Research Service, Cooperative State Research Service, Extension Service, and National Agricultural Library, $350,000.

AGRICULTURAL RESEARCH SERVICE

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for), home economics or nutrition and consumer use, and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, $497,664,000: *Provided*, That appropriations hereunder shall be available for temporary employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $115,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That funds appropriated herein can be used to provide financial assistance to the organizers of national and international conferences, if such conferences are in support of agency programs: *Provided further*, That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further*, That uniform allowances for each uniformed employee of the Agricultural Research Service shall not be in excess of $400 annually: *Provided further*, That of the appropriations hereunder not less than $10,526,600 shall be available to conduct marketing research: *Provided further*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided the cost of constructing any one building shall not exceed $150,000, except for headhouses connecting greenhouses which shall each be limited to $500,000, and except for ten buildings to be constructed or improved at a cost not to exceed $275,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building or $150,000 whichever is greater: *Provided further*, That the limitations on alterations contained in this Act shall not apply to a total of $250,000 for facilities at Beltsville, Maryland: *Provided further*, That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further*, That the limitation on purchase of land shall not apply to the purchase of land at Fresno, California, or to an option to purchase land at Florence, South Carolina, for a term of not to exceed one year: *Provided further*, That not to exceed $190,000 of this appropriation may be transferred to and merged with the appropriation for the Office of the Assistant Secretary for Science and Education for the scientific review of international issues involving agricultural chemicals and food additives: *Provided further*, That this appropriation shall be available for transfer of all necessary equipment and germplasm to fully equip the National Small Grains Germplasm Facility in Aberdeen, Idaho.

Special fund: To provide for additional labor, subprofessional, and junior scientific help to be employed under contracts and cooperative agreements to strengthen the work at Federal research installations in the field, $2,000,000.

BUILDINGS AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities and for grants to States and other eligible recipients for such purposes, as necessary to carry out the agricultural research, extension and teaching programs of the Department of Agriculture, where not otherwise provided, $37,400,000: *Provided,* That these funds may be transferred to such other accounts in this Act as may be appropriate to carry out these purposes: *Provided further,* That facilities to house Bonsai collections at the National Arboretum may be constructed with funds accepted under the provisions of Public Law 94-129 (20 U.S.C. 195) and the limitation on construction contained in the Act of August 24, 1912 (40 U.S.C. 68) shall not apply to the construction of such facilities.

COOPERATIVE STATE RESEARCH SERVICE

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, including $148,792,000 to carry into effect the provisions of the Hatch Act approved March 2, 1887, as amended by the Act approved August 11, 1955 (7 U.S.C. 361a-361i), and further amended by Public Law 92-318 approved June 23, 1972, and further amended by Public Law 93-471 approved October 26, 1974, including administration by the United States Department of Agriculture, and penalty mail costs of agricultural experiment stations under section 6 of the Hatch Act of 1887, as amended, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $12,412,000 for grants for cooperative forestry research under the Act approved October 10, 1962 (16 U.S.C. 582a—582a-7), as amended by Public Law 92-318 approved June 23, 1972, including administrative expenses, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $22,320,000 for payments to the 1890 land-grant colleges, including Tuskegee University, for research under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (Public Law 95-113), as amended, including administration by the United States Department of Agriculture, and penalty mail costs of the 1890 land-grant colleges, including Tuskegee University; $28,037,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i); $40,651,000 for competitive research grants, including administrative expenses; $5,476,000 for the support of animal health and disease programs authorized by section 1433 of Public Law 95-113, including administrative expenses; $20,368,000 for grants for research and for construction of facilities to conduct research pursuant to the Critical Agricultural Materials Act of 1984 (7 U.S.C. 178) and section 1472 of the Food and Agriculture Act of 1977, as amended (7 U.S.C. 3318), to remain available until expended; $475,000 for rangeland research grants as authorized by subtitle M of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended; $9,508,000 for grants to upgrade 1890 land-grant college research facilities as authorized by section 1433 of Public Law 97-98, as amended, to remain available until expended; $4,754,000 for higher education strengthening grants

under section 1417(a) of Public Law 95-113, as amended (7 U.S.C. 3152(a)); $3,000,000 for grants as authorized by section 1475 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977; $2,000,000 for grants as authorized by section 1411 of Public Law 99-198, to remain available until expended; and $2,630,000 for necessary expenses of Cooperative State Research Service activities, including coordination and program leadership for higher education work of the Department, administration of payments to State agricultural experiment stations, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; in all, $300,573,000.

EXTENSION SERVICE

(INCLUDING TRANSFERS OF FUNDS)

Payments to States, Puerto Rico, Guam, the Virgin Islands, Micronesia, and American Samoa: For payments for cooperative agricultural extension work under the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962 (7 U.S.C. 341-349), section 506 of the Act of June 23, 1972, and the Act of September 29, 1977 (7 U.S.C. 341-349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), to be distributed under sections 3(b) and 3(c) of said Act, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $229,713,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $57,635,000, of which $38,627,000 shall be derived by transfer from the appropriation "Food Stamp Program" and merged with this appropriation; payments for the urban gardening program under section 3(d) of the Act, $3,329,000; payments for the pest management program under section 3(d) of the Act, $7,164,000; payments for the farm safety program under section 3(d) of the Act, $970,000; payments for the pesticide impact assessment program under section 3(d) of the Act, $1,633,000; payments for a financial management assistance program under section 3(d) of the Act and section 1440 of Public Law 99-198, $3,277,000; payments for an integrated reproductive management program under section 3(d) of the Act, $47,000; payments for the rural development centers under section 3(d) of the Act, $689,000; payments for extension work under section 209(c) of Public Law 93-471, $935,000; payments for carrying out the provisions of the Renewable Resource Extension Act of 1978, $2,378,000; for special grants for financially stressed farmers and dislocated farmers as authorized by section 1440 of Public Law 99-198, $1,500,000; payments for extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321-326, 328) and Tuskegee University, $16,877,000; in all, $326,147,000; of which not less than $79,400,000 is for Home Economics: *Provided,* That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, as amended, shall not be paid to any State, Puerto Rico, Guam, or the Virgin Islands, Micronesia, and American Samoa prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

Federal administration and coordination: For administration of the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962, section 506 of the Act of June 23, 1972, section 209(d) of Public Law 93-471, and the Act of September 29, 1977 (7 U.S.C. 341-349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, $6,025,000; of which not less than $2,300,000 is for Home Economics.

NATIONAL AGRICULTURAL LIBRARY

For necessary expenses of the National Agricultural Library, $10,936,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $35,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That not to exceed $575,000 shall be available pursuant to 7 U.S.C. 2250 for the alteration and repair of buildings and improvements.

OFFICE OF THE ASSISTANT SECRETARY FOR MARKETING AND INSPECTION SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Marketing and Inspection Services to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service, Food Safety and Inspection Service, Federal Grain Inspection Service, Agricultural Cooperative Service, Agricultural Marketing Service (including Office of Transportation) and Packers and Stockyards Administration, $327,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b-c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to discharge the authorities of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426-426b); and to protect the environment, as authorized by law, $300,967,000; of which $10,000,000 shall be available for the control of outbreaks of insects, plant diseases and animal diseases to the extent necessary to meet emergency conditions: *Provided,* That $1,000,000 of the funds for control of the fire ant shall be placed in reserve for matching purposes with States which may come into the program: *Provided further,* That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 per centum: *Provided further,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be

available for the operation and maintenance of aircraft and the purchase of not to exceed two, of which one shall be for replacement only: *Provided further,* That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious diseases or pests of animals, poultry, or plants, and for expenses in accordance with the Act of February 28, 1947, as amended, and section 102 of the Act of September 21, 1944, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $2,246,000.

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, and the Poultry Products Inspection Act, as amended, $361,400,000: *Provided,* That this appropriation shall be available for field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

FEDERAL GRAIN INSPECTION SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, as amended, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, as amended, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $6,697,000: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further,* That none of the funds provided by this Act may be used to pay the salaries of any person or persons who require, or who authorize payments from fee-supported funds to any person or persons who require, nonexport, nonterminal interior elevators to maintain records not involving official inspection or official weighing in the United States under Public Law 94-582 other than those necessary to fulfill the purposes of such Act.

INSPECTION AND WEIGHING SERVICES

LIMITATION ON INSPECTION AND WEIGHING SERVICE EXPENSES

Not to exceed $36,829,000 (from fees collected) shall be obligated during the current fiscal year for Inspection and Weighing Services.

AGRICULTURAL COOPERATIVE SERVICE

For necessary expenses to carry out the Cooperative Marketing Act of July 2, 1926 (7 U.S.C. 451-457), and for activities relating to the marketing aspects of cooperatives, including economic research and analysis and the application of economic research findings, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and for activities with institutions or organizations throughout the world concerning the development and operation of agricultural cooperatives (7 U.S.C. 3291), $4,469,000; of which $99,000 shall be available for a field office in Hawaii: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $15,000 shall be available for employment under 5 U.S.C. 3109.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry on services related to consumer protection, agricultural marketing and distribution and regulatory programs as authorized by law, and for administration and coordination of payments to States; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $70,000 for employment under 5 U.S.C. 3109, $30,945,000; of which not less than $1,501,000 shall be available for the Wholesale Market Development Program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $28,164,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY

(SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise

provided in this Act; and (3) not more than $7,147,000 for formulation and administration of Marketing Agreements and Orders pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $942,000.

OFFICE OF TRANSPORTATION

For necessary expenses to carry on services related to agricultural transportation programs as authorized by law; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $2,340,000: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

PACKERS AND STOCKYARDS ADMINISTRATION

For necessary expenses for administration of the Packers and Stockyards Act, as authorized by law, and for certifying procedures used to protect purchasers of farm products, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $5,000 for employment under 5 U.S.C. 3109, $8,945,000.

FARM INCOME STABILIZATION

OFFICE OF THE UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

For necessary salaries and expenses of the Office of the Under Secretary for International Affairs and Commodity Programs to administer the laws enacted by Congress for the Agricultural Stabilization and Conservation Service, Office of International Cooperation and Development, Foreign Agricultural Service, and the Commodity Credit Corporation, $473,000.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary administrative expenses of the Agricultural Stabilization and Conservation Service, including expenses to formulate and carry out programs authorized by title III of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301-1393); the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.); sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act, as amended and supplemented (16 U.S.C. 590g-590o,

590p(a), 590p(f), and 590q); sections 1001 to 1004, 1006 to 1008, and 1010 of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501 to 1504, 1506 to 1508, and 1510); the Water Bank Act, as amended (16 U.S.C. 1301-1311); the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101); sections 202 and 205 of title II of the Colorado River Basin Salinity Control Act of 1974, as amended; sections 401, 402, and 404 to 406 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 to 2205); the United States Warehouse Act, as amended (7 U.S.C. 241-273); and laws pertaining to the Commodity Credit Corporation, not to exceed $491,856,000, to be derived by transfer from the Commodity Credit Corporation fund: *Provided,* That other funds made available to the Agricultural Stabilization and Conservation Service for authorized activities may be advanced to and merged with this account: *Provided further,* That these funds shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That no part of the funds made available under this Act shall be used (1) to influence the vote in any referendum; (2) to influence agricultural legislation, except as permitted in 18 U.S.C. 1913; or (3) for salaries or other expenses of members of county and community committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for engaging in any activities other than advisory and supervisory duties and delegated program functions prescribed in administrative regulations.

DAIRY INDEMNITY PROGRAM

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of August 13, 1968, as amended (7 U.S.C. 450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, $95,000: *Provided,* That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of his willful failure to follow procedures prescribed by the Federal Government.

CORPORATIONS

The following corporations and agencies are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the

Government Corporation Control Act, as amended as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided:

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATING EXPENSES

For administrative and operating expenses, as authorized by the Federal Crop Insurance Act, as amended (7 U.S.C. 1516), $209,568,000: *Provided,* That not to exceed $700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 508(b) of the Federal Crop Insurance Act, as amended, $135,743,000.

COMMODITY CREDIT CORPORATION

REIMBURSEMENT FOR NET REALIZED LOSSES

To reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed, pursuant to the Act of August 17, 1961 (15 U.S.C. 713a-11, 713a-12), $16,808,806,000, and in addition $3,000,000,000 which shall be available only to the extent an official budget request is transmitted to the Congress, such funds to be available, together with other resources available to the Corporation, to finance the Corporation's programs and activities during fiscal year 1987: *Provided,* That of the foregoing amount, not to exceed the following amounts shall be available for the following programs: export guaranteed loan claims, $683,350,000; conservation reserve program, $700,000,000; export enhancement program, $667,000,000; Federal crop insurance program, $375,000,000; targeted export assistance program, $325,000,000; storage facility loan program under section 4(h) of the Commodity Credit Corporation Charter Act, $100,000,000; and interest payments to the United States Treasury, $1,932,000,000.

SHORT-TERM EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $5,000,000,000 in credit guarantees under its export credit guarantee program for short-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1125(b) of the Food Security Act of 1985 (Public Law 99-198).

INTERMEDIATE EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $500,000,000 in credit guarantees under its export guarantee program for intermediate-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1131(3)(B) of the Food Security Act of 1985 (Public Law 99-198).

GENERAL SALES MANAGER

(INCLUDING TRANSFERS OF FUNDS)

Not to exceed $6,027,000 may be transferred from the Commodity Credit Corporation funds to support the General Sales Manager who shall work to expand and strengthen sales of United States commodities (including those of the Corporation) in world markets pursuant to existing authority (including that contained in the Corporation's charter), and that such funds shall be used by the General Sales Manager to carry out the above activities. The General Sales Manager shall report directly to the Board of Directors of the Corporation of which the Secretary of Agriculture is a member. The General Sales Manager shall obtain, assimilate, and analyze all available information on developments related to private sales, as well as those funded by the Corporation, including grade and quality as sold and as delivered, including information relating to the effectiveness of greater reliance by the General Sales Manager upon loan guarantees as contrasted to direct loans for financing commercial export sales of agricultural commodities out of private stocks on credit terms, as provided in titles I and II of the Agricultural Trade Act of 1978, Public Law 95-501, and shall submit quarterly reports to the appropriate committees of Congress concerning such developments.

TITLE II—RURAL DEVELOPMENT PROGRAMS

RURAL DEVELOPMENT ASSISTANCE

OFFICE OF THE UNDER SECRETARY FOR SMALL COMMUNITY AND RURAL DEVELOPMENT

For necessary salaries and expenses of the Office of the Under Secretary for Small Community and Rural Development to administer programs under the laws enacted by the Congress for the Farmers Home Administration, Rural Electrification Administration, Federal Crop Insurance Corporation, and rural development activities of the Department of Agriculture, $394,000.

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND

From funds in the Rural Housing Insurance Fund, and for insured loans as authorized by title V of the Housing Act of 1949, as amended, $2,033,093,000, of which not less than $2,032,519,000 shall be for subsidized interest loans to low-income borrowers, as determined by the Secretary, and for subsequent loans to existing borrowers or to purchasers under assumption agreements or credit sales; and not to exceed $10,000,000 to enter into collection and servicing contracts pursuant to the provisions of section 3(f)(3) of the Federal Claims Act of 1966 (31 U.S.C. 3718).

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) of the Housing Act of 1949, as amended, total new obligations shall not exceed $160,310,000 to be added to and merged with the authority provided for this purpose in prior fiscal years: *Provided*, That of this amount, not to exceed $28,413,000 is available for additional units financed by section 515 of the Housing Act of 1949, as amended, and not less

than $5,082,000 is for additional units financed under sections 514 and 516 of the Housing Act of 1949: *Provided further,* That agreements entered into or renewed during fiscal year 1987 shall be funded for a five-year period, although the life of any such agreement may be extended to fully utilize amounts obligated: *Provided further,* That agreements entered into or renewed during fiscal years 1984, 1985, and 1986, may also be extended beyond five years to fully utilize amounts obligated.

For an additional amount to reimburse the Rural Housing Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of title V of the Housing Act of 1949, as amended (42 U.S.C. 1483, 1487(e), and 1490a(c)), including $2,247,000 as authorized by section 521(c) of the Act, $2,296,283,000. For an additional amount as authorized by section 521(c) of the Act such sums as may be necessary to reimburse the fund to carry out a rental assistance program under section 521(a)(2) of the Housing Act of 1949, as amended.

SELF-HELP HOUSING LAND DEVELOPMENT FUND

For direct loans pursuant to section 523(b)(1)(B) of the Housing Act of 1949, as amended (42 U.S.C. 1490c), $500,000 shall be available from funds in the Self-Help Housing Land Development Fund.

AGRICULTURAL CREDIT INSURANCE FUND

For direct and guaranteed loans as authorized by 7 U.S.C. 1928-1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $400,000,000 of which $325,000,000 shall be guaranteed loans; $14,000,000 for water development, use, and conservation loans of which $3,000,000 shall be guaranteed loans; operating loans, $3,595,000,000 of which $2,170,000,000 shall be guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $2,000,000; and for emergency insured and guaranteed loans, $695,000,000 to meet the needs resulting from natural disasters.

For an additional amount to reimburse the Agricultural Credit Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $1,723,403,000.

RURAL DEVELOPMENT INSURANCE FUND

For direct and guaranteed loans as authorized by 7 U.S.C. 1928 and 86 Stat. 661-664, to be available from funds in the Rural Development Insurance Fund, as follows: insured water and sewer facility loans, $330,380,000; guaranteed industrial development loans, $95,700,000; and insured community facility loans, $95,700,000.

For an additional amount to reimburse the Rural Development Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $656,645,000.

RURAL WATER AND WASTE DISPOSAL GRANTS

For grants pursuant to sections 306(a)(2) and 306(a)(6) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926), $109,395,000, to remain available until expended, pursuant to section 306(d) of the above Act.

VERY LOW-INCOME HOUSING REPAIR GRANTS

For grants to the very low-income elderly for essential repairs to dwellings pursuant to section 504 of the Housing Act of 1949, as amended, $12,500,000.

RURAL HOUSING FOR DOMESTIC FARM LABOR

For financial assistance to eligible nonprofit organizations for housing for domestic farm labor, pursuant to section 516 of the Housing Act of 1949, as amended (42 U.S.C. 1486), $9,513,000.

MUTUAL AND SELF-HELP HOUSING

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $8,000,000.

RURAL COMMUNITY FIRE PROTECTION GRANTS

For grants pursuant to section 7 of the Cooperative Forestry Assistance Act of 1978 (Public Law 95-313), $3,091,000 to fund up to 50 per centum of the cost of organizing, training, and equipping rural volunteer fire departments.

COMPENSATION FOR CONSTRUCTION DEFECTS

For compensation for construction defects as authorized by section 509(c) of the Housing Act of 1949, as amended, $713,000.

RURAL HOUSING PRESERVATION GRANTS

For grants for rural housing preservation as authorized by section 552 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181), $19,140,000.

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Farmers Home Administration, not otherwise provided for, in administering the programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-1995), as amended; title V of the Housing Act of 1949, as amended (42 U.S.C. 1471-1490h); the Rural Rehabilitation Corporation Trust Liquidation Act, approved May 3, 1950 (40 U.S.C. 440-444), for administering the loan program authorized by title III A of the Economic Opportunity Act of 1964 (Public Law 88-452 approved August 20, 1964), as amended, and such other programs which Farmers Home Administration has the responsibility for administering, $386,867,000, together with not more than $3,000,000 of the charges collected in connection with the insurance of loans as authorized by section 309(e) of the Consolidated Farm and Rural Development Act, as amended, and section 517(i) of the Housing Act

of 1949, as amended, or in connection with charges made on borrowers under section 502(a) of the Housing Act of 1949, as amended: *Provided,* That, in addition, not to exceed $1,000,000 of the funds available for the various programs administered by this agency may be transferred to this appropriation for temporary field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), to meet unusual or heavy workload increases: *Provided further,* That not to exceed $500,000 of this appropriation may be used for employment under 5 U.S.C. 3109: *Provided further,* That not to exceed $2,047,000 of this appropriation shall be available for contracting with the National Rural Water Association or other equally qualified national organization for a circuit rider program to provide technical assistance for rural water systems: *Provided further,* That, in addition to any other authority that the Secretary may have to defer principal and interest and forego foreclosure, the Secretary may permit, at the request of the borrower, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary under this title, or under the provisions of any other law administered by the Farmers Home Administration, and may forego foreclosure of any such loan, for such period as the Secretary deems necessary upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower. The Secretary may permit interest that accrues during the deferral period on any loan deferred under this section to bear no interest during or after such period: *Provided further,* That, if the security instrument securing such loan is foreclosed, such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.

RURAL ELECTRIFICATION ADMINISTRATION

To carry into effect the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), as follows:

RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND LOAN AUTHORIZATIONS

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), shall be made as follows: rural electrification loans, not less than $622,050,000 nor more than $933,075,000; and rural telephone loans, not less than $239,250,000 nor more than $311,025,000; to remain available until expended: *Provided,* That loans made pursuant to section 306 of that Act are in addition to these amounts but during 1987 total commitments to guarantee loans pursuant to section 306 shall be not less than $933,075,000 nor more than $2,100,615,000 of contingent liability for total loan principal: *Provided further,* That as a condition of approval of insured electric loans during fiscal year 1987, borrowers shall obtain concurrent supplemental financing in accordance with the applicable criteria and ratios in effect as of July 15, 1982: *Provided further,* That no funds appropriated in this Act may be used to deny or reduce loans or loan advances based upon a borrower's level of general funds.

REIMBURSEMENT TO THE RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND

For an additional amount to reimburse the rural electrification and telephone revolving fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), $20,000,000.

RURAL TELEPHONE BANK

For the purchase of Class A stock of the Rural Telephone Bank, $28,710,000, to remain available until expended (7 U.S.C. 901-950(b)).

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out its authorized programs for the current fiscal year. During 1987, and within the resources and authority available, gross obligations for the principal amount of direct loans shall be not less than $177,045,000 nor more than $210,540,000.

RURAL COMMUNICATION DEVELOPMENT FUND

To reimburse the Rural Communication Development Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in making Community Antenna Television loans and loan guarantees under sections 306 and 310B of the Consolidated Farm and Rural Development Act, as amended, $1,591,000.

SALARIES AND EXPENSES

For administrative expenses to carry out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), and to administer the loan and loan guarantee programs for Community Antenna Television facilities as authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-1995), and for which commitments were made prior to fiscal year 1987, including not to exceed $7,000 for financial and credit reports, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $103,000 for employment under 5 U.S.C. 3109, $29,447,000.

CONSERVATION

OFFICE OF THE ASSISTANT SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses of the Office of the Assistant Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Soil Conservation Service, $363,000.

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-590f) including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100; purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $367,043,000 of which not less than $4,870,000 is for snow survey and water forecasting and not less than $4,408,000 is for operation and establishment of the plant materials centers: *Provided,* That of the foregoing amounts not less than $293,400,000 is for personnel compensation and benefits: *Provided further,* That the cost of any permanent building, purchased, erected, or as improved, exclusive of the cost of constructing a water supply or sanitary system and connecting the same to any such building and with the exception of buildings acquired in conjunction with land being purchased for other purposes, shall not exceed $10,000, except for one building to be constructed at a cost not to exceed $100,000 and eight buildings to be constructed or improved at a cost not to exceed $50,000 per building and except that alterations or improvements to other existing permanent buildings costing $5,000 or more may be made in any fiscal year in an amount not to exceed $2,000 per building: *Provided further,* That when buildings or other structures are erected on non-Federal land that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further,* That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C. 590a-590f) in demonstration projects: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service: *Provided further,* That none of the funds in this Act shall be used for the purpose of consolidating equipment, personnel, or services of the Soil Conservation Service's national technical centers in Portland, Oregon; Lincoln, Nebraska; Chester, Pennsylvania; and Fort Worth, Texas, into a single national technical center.

RIVER BASIN SURVEYS AND INVESTIGATIONS

For necessary expenses to conduct research, investigations, and surveys of the watersheds of rivers and other waterways, in accordance with section 6 of the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1006-1009), $11,819,000: *Provided,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a)

of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $60,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED PLANNING

For necessary expenses for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001-1008), $8,480,000: *Provided,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1001-1005, 1007-1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), and in accordance with the provisions of laws relating to the activities of the Department, $165,885,000 (of which $26,271,000 shall be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented): *Provided,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $4,755,000 shall be available for emergency measures as provided by sections 403-405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203-2205), and not to exceed $200,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That $7,949,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further,* That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93-205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010-1011; 76 Stat. 607), and the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), and the provisions of the Agriculture and Food Act of 1981 (16 U.S.C. 3451-3461), $25,020,000: *Provided,* That $1,207,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

GREAT PLAINS CONSERVATION PROGRAM

For necessary expenses to carry into effect a program of conservation in the Great Plains area, pursuant to section 16(b) of the Soil Conservation and Domestic Allotment Act, as added by the Act of August 7, 1956, as amended (16 U.S.C. 590p(b)), $20,474,000, to remain available until expended.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act approved February 29, 1936, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), 590p(f), and 590q), and sections 1001-1004, 1006-1008, and 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501-1504, 1506-1508, and 1510), and including not to exceed $15,000 for the preparation and display of exhibits, including such displays at State, interstate, and international fairs within the United States, $176,935,000, to remain available until expended for agreements, excluding administration but including technical assistance and related expenses, except that no participant in the Agricultural Conservation Program shall receive more than $3,500 per year, except where the participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agricultural resources of the community, or where a participant has a long-term agreement, in which case the total payment shall not exceed the annual payment limitation multiplied by the number of years of the agreement: *Provided,* That no portion of the funds for the current year's program may be utilized to provide financial or technical assistance for drainage on wetlands now designated as Wetlands Types 3 (III) through 20 (XX) in United States Department of the Interior, Fish and Wildlife Circular 39, Wetlands of the United States, 1956: *Provided further,* That such amounts shall be available for the purchase of seeds, fertilizers, lime, trees, or any other conservation materials, or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out approved farming practices as authorized by the Soil Conservation and Domestic Allotment Act, as amended, as determined and recommended by the county committees, approved by the State committees and the Secretary, under programs provided for herein: *Provided further,* That such assistance will not be used for carrying out measures and practices that are primarily production-oriented or that have little or no conservation or pollution abatement benefits: *Provided further,* That not to exceed 5 per centum of the allocation for the current year's program for any county may, on the recommendation of such county committee and approval of the State committee, be withheld and allotted to the Soil Conservation Service for services of its technicians in formulating and carrying out the Agricultural Conservation Program in the participating counties, and shall not be utilized by the Soil Conservation Service for any purpose other than technical and other assistance in such counties, and in addition, on the recommendation of such county committee and approval of the State committee, not to exceed 1 per

centum may be made available to any other Federal, State, or local public agency for the same purpose and under the same conditions: *Provided further,* That for the current year's program $2,500,000 shall be available for technical assistance in formulating and carrying out rural environmental practices: *Provided further,* That no part of any funds available to the Department, or any bureau, office, corporation, or other agency constituting a part of such Department, shall be used in the current fiscal year for the payment of salary or travel expenses of any person who has been convicted of violating the Act entitled "An Act to prevent pernicious political activities" approved August 2, 1939, as amended, or who has been found in accordance with the provisions of title 18 U.S.C. 1913 to have violated or attempted to violate such section which prohibits the use of Federal appropriations for the payment of personal services or other expenses designed to influence in any manner a Member of Congress to favor or oppose any legislation or appropriation by Congress except upon request of any Member or through the proper official channels.

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101), including technical assistance and related expenses, $11,891,000, to remain available until expended, as authorized by that Act.

WATER BANK PROGRAM

For necessary expenses to carry into effect the provisions of the Water Bank Act (16 U.S.C. 1301-1311), $8,371,000, to remain available until expended.

COLORADO RIVER BASIN SALINITY CONTROL PROGRAM

For necessary expenses for carrying out the purposes of section 202 of title II of the Colorado River Basin Salinity Control Act, as amended (43 U.S.C. 1592), to be used to reduce salinity in the Colorado River and to enhance the supply and quality of water available for use in the United States and the Republic of Mexico, $3,804,000, for investigations and surveys, for technical assistance in developing conservation practices and in the preparation of salinity control plans, for the establishment of on-farm irrigation management systems, including related lateral improvement measures, for making cost-share payments to agricultural landowners and operators, Indian tribes, irrigation districts and associations, local governmental and nongovernmental entities, and other landowners to aid them in carrying out approved conservation practices as determined and recommended by the county committees, approved by the State committees and the Secretary, and for associated costs of program planning, information and education, and program monitoring and evaluation: *Provided,* That the Soil Conservation Service shall provide technical assistance and the Agricultural Stabilization and Conservation Service shall provide administrative services for the program, including but not limited to, the negotiation and administration of agreements and the disbursement of payments: *Provided further,* That such program shall be coordinated with the regular

Agricultural Conservation Program and with research programs of other agencies.

TITLE III—DOMESTIC FOOD PROGRAMS

Office of the Assistant Secretary for Food and Consumer Services

For necessary salaries and expenses of the Office of the Assistant Secretary for Food and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service and the Human Nutrition Information Service, $330,000.

Food and Nutrition Service

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751-1761, 1766 and 1769b) and the applicable provisions other than sections 3 and 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1773-1785, and 1788-1789); $4,233,617,000, to remain available through September 30, 1988, of which $937,680,000 is hereby appropriated and $3,295,937,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided,* That, of funds provided herein, $775,281,000 shall be available only to the extent an official budget request is transmitted to the Congress: *Provided further,* That funds appropriated for the purpose of section 7 of the Child Nutrition Act of 1966 shall be allocated among the States but the distribution of such funds to an individual State is contingent upon that State's agreement to participate in studies and surveys of programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966, when such studies and surveys have been directed by the Congress and requested by the Secretary of Agriculture: *Provided further,* That if the Secretary of Agriculture determines that a State's administration of any program under the National School Lunch Act or the Child Nutrition Act of 1966 (other than section 17), or the regulations issued pursuant to these Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under section 7 of the Child Nutrition Act of 1966 and under section 13(k)(1) of the National School Lunch Act; upon a subsequent determination by the Secretary that the programs are operated in an acceptable manner some or all of the funds withheld may be allocated: *Provided further,* That if the funds available for nutrition education and training grants authorized under section 19 of the Child Nutrition Act of 1966, as amended, require a ratable reduction in those grants, the minimum grant for each State shall be $50,000: *Provided further,* That only final reimbursement claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, institutions, and service institutions within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appro-

priated under this Act for meals, supplements, and milk served during any month only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary.

SPECIAL MILK PROGRAM

For necessary expenses, to carry out the special milk program, as authorized by section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772), $14,869,000, to remain available through September 30, 1988: *Provided,* That only final reimbursement claims for milk submitted to State agencies within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary.

FEEDING PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $1,663,497,000, to remain available through September 30, 1988: *Provided,* That none of the funds provided herein shall be used to issue interim or final regulations before May 1, 1987, to modify the formula used during fiscal year 1986 to divide funds among State agencies under section 17(i) of such Act to carry out such program, or to implement such regulations before October 1, 1987.

COMMODITY SUPPLEMENTAL FOOD PROGRAM

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), including not less than $2,950,000 for the projects in Detroit, New Orleans, and Des Moines, $41,497,000: *Provided,* That funds provided herein shall remain available through September 30, 1988: *Provided further,* That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program.

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011-2027, 2029), $12,684,665,000: *Provided,* That funds provided herein shall remain available through September 30, 1987, in accordance with section 18(a) of the Food Stamp Act: *Provided further,* That up to 5 per centum of the foregoing amount may be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further,* That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further,* That this appropriation shall be subject to any work registration or workfare requirements as may be required by

law: *Provided further,* That $345,000,000 of the funds provided herein shall be available only to the extent necessary after the Secretary has employed the regulatory and administrative methods available to him under the law to curtail fraud, waste and abuse in the program: *Provided further,* That $852,750,000 of the foregoing amount shall be available for Nutrition Assistance for Puerto Rico as authorized by 7 U.S.C. 2028.

FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)) and section 4(b) of the Food Stamp Act (7 U.S.C. 2013), $193,589,000.

TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM

For necessary expenses to carry out the Temporary Emergency Food Assistance Act of 1983, as amended, $50,000,000: *Provided,* That, in accordance with section 202 of Public Law 98-92, these funds shall be available only if the Secretary determines the existence of excess commodities.

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the Domestic Food Programs funded under this Act, $82,578,000; of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification and prosecution of fraud and other violations of law: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109.

HUMAN NUTRITION INFORMATION SERVICE

For necessary expenses to enable the Human Nutrition Information Service to perform applied research and demonstrations relating to human nutrition and consumer use and economics of food utilization, $6,876,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

TITLE IV—INTERNATIONAL PROGRAMS

FOREIGN AGRICULTURAL SERVICE

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954, as amended (7 U.S.C. 1761-1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $110,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $81,109,000: *Provided,* That not less than $255,000 of this appropriation shall be available to obtain statistics and related facts on foreign production and full and complete

information on methods used by other countries to move farm commodities in world trade on a competitive basis.

PUBLIC LAW 480

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, 1701-1715, 1721-1726, 1727-1727f, 1731-1736g), as follows: (1) financing the sale of agricultural commodities for convertible foreign currencies and for dollars on credit terms pursuant to titles I and III of said Act, or for convertible foreign currency for use under 7 U.S.C. 1708, and for furnishing commodities to carry out the Food for Progress Act of 1985, not more than $834,727,000, of which $454,727,000 is hereby appropriated and the balance derived from proceeds from sales of foreign currencies and dollar loan repayments, repayments on long-term credit sales and carryover balances, and (2) commodities supplied in connection with dispositions abroad, pursuant to title II of said Act, not more than $628,344,000, of which $628,344,000 is hereby appropriated: *Provided,* That not to exceed 15 per centum of the funds made available to carry out any title of this paragraph may be used to carry out any other title of this paragraph.

OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT

For necessary expenses of the Office of International Cooperation and Development to coordinate, plan, and direct activities involving international development, technical assistance and training, and international scientific and technical cooperation in the Department of Agriculture, including those authorized by the Food and Agriculture Act of 1977 (7 U.S.C. 3291), $5,035,000; and the Office may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

SCIENTIFIC ACTIVITIES OVERSEAS

(FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies owed to or owned by the United States for market development research authorized by section 104(b)(1) and for agricultural and forestry research and other functions related thereto authorized by section 104(b)(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704 (b)(1), (3)), $2,500,000: *Provided,* That this appropriation shall be available, in addition to other appropriations for these purposes, for payments in the foregoing currencies: *Provided further,* That funds appropriated herein shall be used for payments in such foreign currencies as the Department determines are needed and can be used most effectively to carry out the purposes of this paragraph: *Provided further,* That not to exceed $25,000 of this appropriation shall be available for payments in foreign currencies

for expenses of employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), as amended by 5 U.S.C. 3109.

TITLE V—RELATED AGENCIES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $411,803,000: *Provided,* That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701: *Provided further,* That of the sums provided herein, not to exceed $1,000,000 shall remain available until expended, and shall become available only to the extent necessary to meet unanticipated costs of emergency activities not provided for in budget estimates and after maximum absorption of such costs within the remainder of the account has been achieved.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $1,879,000.

RENTAL PAYMENTS (FDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Food and Drug Administration which are included in this Act, $24,627,000: *Provided,* That in the event the Food and Drug Administration should require modification of space needs, a share of the salaries and expenses appropriation may be transferred to this appropriation, or a share of this appropriation may be transferred to the salaries and expenses appropriation, but such transfers shall not exceed 10 per centum of the funds made available for Rental Payments (FDA) to or from this account.

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109; $29,761,000; including not to exceed $700 for official reception and representation expenses.

FARM CREDIT ADMINISTRATION

LIMITATION ON REVOLVING FUND FOR ADMINISTRATIVE EXPENSES

Not to exceed $39,420,000 (from assessments collected from farm credit system banks) shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249.

TITLE VI—GENERAL PROVISIONS

SEC. 601. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 602. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1987 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed seven hundred thirty-four (734) passenger motor vehicles, of which seven hundred twenty-six (726) shall be for replacement only, and for the hire of such vehicles.

SEC. 603. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances as authorized by law (5 U.S.C. 5901-5902).

SEC. 604. Not less than $1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by the Acts of August 14, 1946, July 28, 1954, and September 6, 1958 (7 U.S.C. 427, 1621-1629; 42 U.S.C. 1891-1893), shall be available for contracting in accordance with said Acts.

SEC. 605. No part of the funds contained in this Act may be used to make production or other payments to a person, persons, or corporations upon a final finding by court of competent jurisdiction that such party is guilty of growing, cultivating, harvesting, processing or storing marihuana, or other such prohibited drug-producing plants on any part of lands owned or controlled by such persons or corporations.

SEC. 606. Advances of money to chiefs of field parties from any appropriation in this Act for the Department of Agriculture may be made by authority of the Secretary of Agriculture.

SEC. 607. The cumulative total of transfers to the Working Capital Fund for the purpose of accumulating growth capital for data services and National Finance Center operations shall not exceed $2,000,000: *Provided,* That no funds in this Act appropriated to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator.

SEC. 608. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Public Law 480; Mutual and Self-Help Housing; Watershed and Flood Prevention Operations; Resource Conservation and Development; Colorado River Basin Salinity Control Program; Animal and Plant Health Inspection Service, Buildings and Facilities; Agricultural Stabilization and Conservation Service Salaries and Expenses funds made available to county committees; the Federal Crop Insurance Corporation Fund; Rural Housing for Domestic Farm Labor; Agricultural Research Service, Buildings and Facili-

ties; Scientific Activities Overseas (Foreign Currency Program); Dairy Indemnity Program; $5,000,000 for the grasshopper and Mormon cricket control program, Animal and Plant Health Inspection Service; $2,852,000 for higher education training grants under section 1417(a)(3)(B) of Public Law 95-113, as amended (7 U.S.C. 3152(a)(3)(B)); and Buildings and Facilities, Food and Drug Administration.

SEC. 609. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 610. Not to exceed $50,000 of the appropriation available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to Public Law 94-449.

SEC. 611. Notwithstanding any other provision of law, employees of the agencies of the Department of Agriculture, including employees of the Agricultural Stabilization and Conservation county committees, may be utilized to provide part-time and intermittent assistance to other agencies of the Department, without reimbursement, during periods when they are not otherwise fully utilized, and ceilings on full-time equivalent staff years established for or by the Department of Agriculture shall exclude overtime as well as staff years expended as a result of carrying out programs associated with natural disasters, such as forest fires, droughts, floods, and other acts of God.

SEC. 612. Funds provided by this Act for personnel compensation and benefits shall be available for obligation for that purpose only.

Sec. 613. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract as provided by law.

SEC. 614. None of the funds appropriated or otherwise made available by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 615. Certificates of beneficial ownership sold by the Farmers Home Administration in connection with the Agricultural Credit Insurance Fund, Rural Housing Insurance Fund, and the Rural Development Insurance Fund shall be not less than 65 per centum of the value of the loans closed during the fiscal year.

SEC. 616. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 per centum of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 617. None of the funds in this Act shall be used to carry out any activity related to phasing out the Resource Conservation and Development Program.

SEC. 618. None of the funds in this Act shall be used to prevent or interfere with the right and obligation of the Commodity Credit

Corporation to sell surplus agricultural commodities in world trade at competitive prices as authorized by law.

SEC. 619. Notwithstanding any other provision of this Act, commodities acquired by the Department in connection with Commodity Credit Corporation and section 32 price support operations may be used, as authorized by law (15 U.S.C. 714c and 7 U.S.C. 612c), to provide commodities to individuals in cases of hardship as determined by the Secretary of Agriculture.

SEC. 620. During fiscal year 1987, notwithstanding any other provision of law, no funds may be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual or corporation in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, unless the Polish People's Republic has been declared to be in default of its debt to such individual or corporation or unless the President has provided a monthly written report to the Speaker of the House of Representatives and the President of the Senate explaining the manner in which the national interest of the United States has been served by any payments during the previous month under loan guarantee or credit assurance agreement with respect to loans made or credits extended to the Polish People's Republic in the absence of a declaration of default.

SEC. 621. None of the funds in this Act shall be available to reimburse the General Services Administration for payment of space rental and related costs in excess of the amounts specified in this Act.

SEC. 622. In fiscal year 1987, the Secretary of Agriculture shall initiate construction on not less than twenty new projects under the Watershed Protection and Flood Prevention Act (Public Law 566) and not less than five new projects under the Flood Control Act (Public Law 534).

SEC. 623. Funds provided by this Act may be used for translation of publications of the Department of Agriculture into foreign languages when determined by the Secretary to be in the public interest.

SEC. 624. None of the funds appropriated by this or any other Act may be used to relocate the Hawaii State Office of the Farmers Home Administration from Hilo, Hawaii, to Honolulu, Hawaii.

SEC. 625. Provisions of law prohibiting or restricting personal services contracts shall not apply to veterinarians employed by the Department to take animal blood samples, test and vaccinate animals, and perform branding and tagging activities on a fee-for-service basis.

SEC. 626. None of the funds provided in this Act may be used to reduce programs by establishing an end-of-year employment ceiling on full-time equivalent staff years below the level set herein for the following agencies: Farmers Home Administration, 12,675; Agricultural Stabilization and Conservation Service, 2,550; and Soil Conservation Service, 14,177.

SEC. 627. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 628. Funds appropriated by this Act shall be applied only to the objects for which appropriations were made except as otherwise provided by law, as required by 31 U.S.C. 1301.

SEC. 629. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 630. All funds appropriated for this fiscal year and all funds appropriated hereafter by this or any other Act that are determined to be part of the "extramural budget" of the Department of Agriculture for any fiscal year for purposes of meeting the requirements of section 9 of the Small Business Act (15 U.S.C. 638), as amended by the Small Business Innovation Development Act of 1982, Public Law 97-219, shall be available for contracts, grants or cooperative agreements with small business concerns for any purpose in furtherance of the small business innovation research program. Such funds may be transferred for such purpose from one appropriation to another or to a single account.

SEC. 631. None of the funds provided in this Act may be expended to release information acquired from any handler under the Agricultural Marketing Agreement Act of 1937, as amended: *Provided,* That this provision shall not prohibit the release of information to other Federal agencies for enforcement purposes: *Provided further,* That this provision shall not prohibit the release of aggregate statistical data used in formulating regulations pursuant to the Agricultural Marketing Agreement Act of 1937, as amended: *Provided further,* That this provision shall not prohibit the release of information submitted by milk handlers.

SEC. 632. Unless otherwise provided in this Act, none of the funds appropriated in this Act may be used by the Farmers Home Administration to employ or otherwise contract with private debt collection agencies to collect delinquent payments from Farmers Home Administration borrowers.

SEC. 633. (A) Disaster Assistance to meet needs resulting from drought in the southeastern states, floods and excessive moisture in Michigan and Oklahoma and other natural disasters in such other states as may be determined by the President.

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount, for emergency measures under title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201-2205), $10,000,000 to remain available until expended.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

EMERGENCY CONSERVATION PROGRAM

For an additional amount, for necessary expenses to carry out the program authorized under title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201-2205), $10,000,000 to remain available until expended.

EMERGENCY ASSISTANCE TO AGRICULTURAL PRODUCERS

As authorized by existing law, and within the funding levels provided by this Act, for disasters occurring in 1986, the Secretary of Agriculture shall, in the case of any farmer or rancher suffering a major loss from such disaster, direct the Administrator of the Farmers Home Administration to, under such rules and regulations as the Secretary may determine as long as the objective of enabling farmers to stay in business is carried out:

(1) Refinance existing debt at the lowest allowable interest rate and such term as will give the borrower a reasonable chance to repay;

(2) Provide loans for financing 1987 crop production;

(3) Stretch out loan payments over a period of years, and base such payments on regaining our normal fair share of world markets; and

(4) Coordinate disaster assistance programs with the Administrator of the Small Business Administration to assure that all individuals affected by natural disaster are provided with the appropriate financial assistance.

(B) Within the funds made available by this section, the Secretary of Agriculture shall:

(a)(1) As soon as practicable, but not later than forty-five days after the date of application by an eligible producer, make available to eligible producers for losses of production due to drought, excessive heat, floods, hail or excessive moisture in 1986 payments determined in accordance with this subsection.

(2) An eligible producer shall be a producer of the 1986 crop of wheat, feed grains, upland cotton, rice, soybeans, sugar beets, sugar cane or peanuts who—

(A) is eligible to receive price support under section 107D, 105C, 103A, 101A, 201 or 108B of the Agricultural Act of 1949 (7 U.S.C. 1445b-3, 1444e, 1444-1, 1446, or 1445c-2); and

(B) is in a county in which producers are eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as the result of drought, excessive heat, floods, hail or excessive moisture which occurred in 1986.

(3) Payments made available to each eligible producer shall not exceed $100,000 for all crops (without regard to other limitations in farm program payments) and shall be determined for each crop of such commodities by multiplying—

(A) the payment rate; by

(B) the loss of production of the eligible producer.

(4)(A) Except for sugar beets and sugar cane, the payment rate shall be equal to the level of price support established for the crop of the commodity for the farm.

(B) For purposes of determining the payment rate for sugar beets and sugar cane, the Secretary shall establish a payment rate which is fair and reasonable in relation to the level of price support which is established for the 1986 crop of sugar beets and sugar cane.

(5)(A) The loss of production of the eligible producer shall be the quantity of wheat, feed grains, cotton, rice, soybeans, sugar beets and sugar cane or peanuts that eligible producers on a farm are unable to harvest due to reduced yields or are prevented from planting to such commodity or other nonconserving crops due to drought, excessive heat, floods, hail or excessive moisture in 1986.

Such loss of production of the eligible producer for each such crop shall be the difference between—

(i) The result determined by multiplying (I) 50 per centum of the farm program payment yield established for the crop of the commodity, by (II) the sum of the acreage of such crop planted to harvest and the acreage for which prevented planted credit is approved by the Secretary; and

(ii) The actual production on the farm of such crop of the commodity if such quantity is less than the quantity determined in accordance with clause (i).

(B) The sum of the acreage determined in accordance with paragraph (5)(A)(i)(II) shall not exceed—

(i) with respect to wheat, feed grains, upland cotton, or rice, the 1986 permitted acreage determined for such crop of the commodity; and

(ii) with respect to soybeans, peanuts, sugar beets and sugar cane, the acreage so affected but not to exceed the acreage planted in the immediately preceding year to soybeans or peanuts, respectively, for harvest including any acreage that the producer was prevented from planting to such commodity or to other nonconserving crops in lieu of soybeans or peanuts because of drought, excessive moisture, flood, hail, or other natural disaster, or other condition beyond the control of the producer.

(6) Payments determined in accordance with paragraph (3) with respect to any producer with crop insurance shall be reduced to the extent the amount determined by adding the total amount of crop insurance indemnity payments (gross indemnity less premium paid) received by the producer for the loss of production of each crop of such commodities on the farm and the payment determined in accordance with paragraphs (3) through (5) exceeds the amount determined by multiplying—

(A)(i) the quantity determined by multiplying 100 percent of the farm program payment yield established for each crop of such commodities by (ii) the sum of the acreage of each such crop planted to harvest and the acreage for which prevented planted credit is approved by the Secretary (the total not to exceed the quantity determined in accordance with subparagraph (5)(B)); by

(B) the payment rate for each crop of the commodity.

(7) The total amount of payments made under paragraph (3) to producers on a farm with respect to each crop of such commodities and the total amount of price support loans and purchases (and program benefits for sugar beets and sugar cane) made with respect to such crop on such farm may not exceed the amount determined by multiplying—

(A) The farm program payment yield for the crop of the commodity; by

(B) The sum of (i) the acreage of the crop of the commodity planted for harvest and (ii) the acreage for which prevented planted credit is approved by the Secretary, but for each such crop such sum shall not exceed the quantity determined in accordance with subparagraph (5)(B); by

(C) The payment rate for each crop of the commodity.

(8)(A) For purposes of determining the farm program payment yield, the Secretary shall use the 1986 farm program payment yield established for the crop of the commodity or, if such data is not

available, a yield determined by the Secretary to be fair and equitable.

(B) Notwithstanding any other provision of this subsection—

(i) a loss of production of quota peanuts from a farm as otherwise determined under paragraph (5) shall be reduced by the quantity of peanut poundage quota which was the basis of such anticipated production which has been transferred from the farm; and

(ii) payments made under this subsection shall be taken into account whether the lost production for which the loss of production is claimed was a loss of production of quota or additional peanuts and the payment rate shall be established accordingly. Further, notwithstanding any other provision of law, the amount of undermarketings of quota peanuts from a farm for the 1986 crop that may otherwise be claimed under section 358 of the Agricultural Adjustment Act of 1938 for purposes of future quota increases shall be reduced by the quantity of lost production of such peanuts for which payment has been received under this subsection.

(9) The disaster payments required by this section shall be made in the form of generic, negotiable commodity certificates redeemable from stocks of commodities held by the Commodity Credit Corporation.

(b)(1) notwithstanding any other provision of this section for the 1986 crop year, the Secretary of Agriculture shall utilize certificates redeemable from stocks of commodities held by the Commodity Credit Corporation, for the purpose of making disaster payments to producers of nonprogram crops, in counties in which producers became eligible subsequent to July 1, 1986, to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as the result of drought, excessive heat, flood, hail, or excessive moisture, and

(2) the Secretary of Agriculture shall make such payments (not to exceed $100,000 to any individual producer) if the Secretary determines that—

(A) the producer has suffered a substantial loss of production due to drought, excessive heat, flood, hail, or excessive moisture, and

(B) such loss has created an economic emergency for the producer to the extent that additional assistance must be made available to alleviate such economic emergency, and

(c) Within 30 days following the enactment of this Act the Secretary of Agriculture shall issue such rules and regulations as the Secretary determines necessary to carry out the program authorized by subsections (a) and (b) of this section. Such regulations shall provide that the term "nonprogram crops" shall include all crops insured directly or indirectly by the Federal Crop Insurance Corporation for crop year 1986, and in addition—

(1) the term shall include other commercial crops for which such insurance was not available for purchase or, if available, was not purchased by such by producers for crop year 1986, if—

(A) in accordance with rules and regulations issued by the Secretary of Agriculture, the producer of such crop(s) provides satisfactory evidence of actual crop yield for at least one of the immediately preceding 3 crop years: *Provided*, That in the event such data does not exist for any of the

three preceding crop years the Secretary shall use county average crop yield data; and

(B) that the producer of such crop(s) also provides satisfactory evidence of 1986 crop year losses resulting from dought, excessive heat, flood, excessive moisture, or hail exceeding 50 per centum of the crop yield established in subparagraph (A) of this paragraph, and

(2) that payments made available to producers of such crops shall be based upon the average market prices received by producers of such crops, as determined by the Secretary.

(d)(1) The Secretary shall carry out the program authorized by this proviso through the Commodity Credit Corporation.

(2) Applications for payments made in accordance with this proviso must be filed by January 31, 1987.

(3) Payments made by the Secretary of Agriculture to eligible producers under this section shall be made as soon as practicable but not later than 45 days following the producer's application.

(e)(1) The Secretary of Agriculture shall reduce the amount of funds available for emergency insured and guaranteed loans to meet the needs resulting from natural disasters from funds in the Agricultural Credit Insurance Fund by $400,000,000.

(2) For purposes of making payments in accordance with this proviso, there is transferred to the Commodity Credit Corporation $400,000,000 from funds in the Agricultural Credit Insurance Fund.

SEC. 634. Notwithstanding any other provision of law, including section 502(c)(2) of the Housing Act of 1949 (42 U.S.C. 1471 et seq.), none of the funds appropriated under this or any other Act shall be used prior to June 30, 1987 to accept prepayment of any loan made under section 515 of the Housing Act of 1949, unless such loan was made at least twenty years prior to the date of prepayment or, for loans made before December 21, 1979, the Secretary makes a determination that a supply of adequate, comparable housing is available in the community, or that prepayment of such loans will not result in a substantial increase in rents to tenants in residence upon date of prepayment or displacement of such tenants.

SEC. 635. The Secretary of Agriculture may transfer surplus agricultural commodities from inventory to the Department of Defense for use in complementing support provided by the Department of Defense to the Tenth International Pan American Games to be held in Indianapolis, Indiana.

SEC. 636. The Food Security Act of 1985 is amended by inserting at the end thereof the following new sentence: "Effective for each of the 1987 through 1990 crops, the Secretary may not deny a person status as a separate person solely on the ground that a family member cosigns for, or makes a loan to, such person and leases, loans, or gives such person equipment, land or labor, if such family members were organized as separate units prior to December 31, 1985.".

SEC. 637. Section 106A(d)(1)(A) of the Agricultural Act of 1949 is amended by—

(1) striking out the parenthetical phrase in clause (i);

(2) inserting "and" at the end of clause (i);

(3) striking out clause (ii); and,

(4) redesignating clause (iii) as clause (ii).

SEC. 638. (a) Clause (B) of the last sentence of section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by striking out

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"for the excess shelter expense deduction contained in clause (2)" and inserting in lieu thereof "contained in clause (1)".

(b)(1) Except as provided in paragraphs (2) and (3), the amendment made by subsection (a) shall become effective 30 days after the date of enactment of this Act.

(2) Except as provided in paragraph (3), the amendment made by subsection (a) shall not apply to an allotment issued to any eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) for any month beginning before the effective date of this subsection.

(3) If a State elected before the date of enactment of this Act to compute household income in accordance with section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) (as amended by subsection (a)), the amendment made by subsection (a) shall become effective on May 1, 1986.

SEC. 639. Section 108B(4)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445c-2(4)(A)) is amended by inserting after "additional peanuts" the following: "(other than net gain on additional peanuts in separate type pools established under paragraph (3)(B)(i) for Valencia peanuts produced in New Mexico)".

SEC. 640. Section 623B(b)(2) of the Community Economic Development Act of 1981 is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of law, any Utah or Ohio local public body to which a loan was made after December 31, 1982, from the Rural Development Loan Fund may, at the discretion of such local public body and with the approval of the Secretary of Health and Human Services, transfer such loan to a nonprofit corporation designated by such body to serve as an intermediate borrower and to carry out the purposes of the loan."

SEC. 641. (a) Section 1323(a)(1) of the Food Security Act of 1985 is amended by striking out "September 30, 1986," and inserting in lieu thereof "September 30, 1987,", and

(b) Section 1323(a) is further amended by adding at the end thereof a new subsection—

> "(5) Notwithstanding any provision to the contrary of subsection (4) above, the $20,000,000 which was available pursuant to subsection (4) shall continue to be available and shall be used by the Secretary prior to September 30, 1987, to guarantee loans for the national rural development and finance program, and shall remain available until expended.".

and,

(c) Section 1323(b)(1) of such Act is amended by striking out "September 30, 1986," and inserting in lieu thereof "September 30, 1987,", and inserting the words "made or to be" after the word "guarantees". *Provided further,* That such grant funds may be used by such corporation to provide technical assistance and financial assistance, including capitalizing revolving loan programs, pursuant to the Act.

SEC. 642. During fiscal year 1987, the Commodity Credit Corporation shall use $500,000 worth of surplus agricultural commodities owned by the Corporation in establishing and carrying out a research and development program on external combustion engines under section 4(m) of the Commodity Credit Corporation Charter Act. In addition to any sales required under any other Act, the Secretary of Agriculture, under such terms as the Secretary may prescribe, shall sell notes and other obligations held in the Rural Development Insurance Fund established under section 309A of the

Consolidated Farm and Rural Development Act in such amounts as to realize net proceeds to the Government of not less than $500,000.

SEC. 643. Section 1231 of the Food Security Act of 1985 is amended by adding at the end thereof the following new subsection:

"(f) For purposes of this subtitle, alfalfa and other multi-year grasses and legumes in a rotation practice, as approved by the Secretary, shall be considered agricultural commodities.".

SEC. 644. Paragraph (16) of section 103(h) of the Agricultural Act of 1949 (7 U.S.C. 1444(h)(16)) is amended to read as follows:

"(16)(A) Notwithstanding any other provision of law, except as provided in subparagraph (B), compliance on a farm with the terms and conditions of any other commodity program may not be required as a condition of eligibility for loans or payments under this subsection.

"(B) In the case of each of the 1989 and 1990 crops of extra long staple cotton, the Secretary may require that, as a condition of eligibility of producers for loans or payments under this subsection, the acreage planted for harvest on the farm to any other commodity for which an acreage limitation program is in effect shall not exceed the crop acreage base established for the farm for that commodity.

"(C) Notwithstanding any other provision of law, in the case of each of the 1987 and 1988 crops of extra long staple cotton, compliance with the terms and conditions of the program authorized by this subsection may not be required as a condition of eligibility for loans, purchases, or payments under any other commodity program.".

SEC. 645. The fifth paragraph of section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) (as amended by section 3 of Public Law 99-253 (100 Stat. 36)) is amended—

(1) by inserting after the third sentence the following new sentence: "Notwithstanding the preceding sentence, there may be 1 local administrative area in any county for which there had been established less than 3 local administrative areas as of December 23, 1985."; and

(2) in the sixth sentence (as it existed before the amendment made by paragraph (1)), by striking out ": *Provided,*" and all that follows through the period and inserting in lieu thereof a period.

SEC. 646. (1) It is the sense of the Senate that the Secretary of Agriculture should make available not less than $10,000,000 worth of flour and cornmeal using the wheat and cornstocks of the Commodity Credit Corporation. Such flour and cornmeal shall be in addition to the traditional level of assistance made available under section 1114 of the Agriculture and Food Act of 1981, section 416(a) of the Agricultural Act of 1949, section 4 of the Agriculture and Consumer Protection Act of 1973, and any other provision of law administered by the Secretary.

(2)(a) During the three-year period beginning with the fiscal year ending September 30, 1987, through the fiscal year ending September 30, 1989, the Secretary of Agriculture shall make available to PVO's and cooperatives and to governments a total of at least 500,000 metric tons of wheat, 500,000 metric tons of soybeans, and 50 million pounds of dairy products under paragraph (11)(B) of section 416(b) of the Agricultural Act of 1949, notwithstanding paragraph (11)(c) of section 416(b) of such Act.

(b) Commodities made available under this section during any fiscal year shall be—

(1) subject to the agreement of recipient nations—

(A) to acquire through commercial arrangements agricultural commodities directly or by private purchases during the fiscal year in an amount equal to 105 percent of the average amount of such agricultural commodities acquired through commercial arrangements during the 3 preceding years.

(B) to permit the sale of commodities furnished under this section in the recipient nation and to use the local currency generated from such sales—

(i) by PVO's and cooperatives to carry out approved programs of assistance in the recipient nation;

(ii) to operate lending programs in the manner provided for in section 108 of Public Law 480; and

(iii) to reimburse the United States in dollars for costs incurred in furnishing such commodities, including transportation and processing, during the same fiscal year in which such costs were incurred. Reimbursements under this paragraph may be made in local currencies generated from the sale of the commodities under this paragraph if they are used to pay expenses of the United States in the recipient nation.

(2) No greater than such amounts as is requested by recipient nations.

(c) To the extent practicable, commodities made available under this section shall be furnished in equal quantities during each of these fiscal years.

(d) It is the sense of Congress that commodities provided for in this subsection be made available to PVO's and cooperatives operating in the Republic of the Philippines, and the government of the Philippines.

(3)(a) During the three-year period beginning with the fiscal year ending September 30, 1987, through the fiscal year ending September 30, 1989, the Secretary of Agriculture shall make available to the friendly countries, under paragraph (b)(11)(A) of section 416 of the Agricultural Act of 1949, at least 500,000 metric tons of wheat and 45 million pounds of dairy products, notwithstanding paragraph (11)(c) of section 416(b) of such Act.

(b) Commodities made available to a nation under this section during any fiscal year shall be—

(1) subject to the agreement of the Nation—

(A) to acquire through commercial arrangements agricultural commodities directly or by private purchases during the fiscal year in an amount equal to 105 percent of the average amount of such agricultural commodities acquired through commercial arrangements during the preceding three years.

(B) to sell any commodities furnished under this section within the nation and to use the local currencies generated from such sales to (i) establish and carry out lending programs in such nations in the manner provided for in section 108 of the Agricultural Trade Development and Assistance Act of 1954 and (ii) reimburse the United States in dollars for costs incurred in furnishing such commodities, including transportation and processing, in the same fiscal year in which such costs were incurred. Reimbursements under

this paragraph may be made in local currencies generated from the sale of the commodities under paragraph (2) if they are used to pay expenses of the United States in the recipient Nation.

(2) No greater than such amounts as is requested by such governments.

(c) To the extent practicable, commodities made available under this section shall be furnished in equal quantities during each of the three fiscal years.

(d) For purchases of this section, the term "friendly countries" shall have the same meaning as that term has under the Agricultural Trade Development and Assistance Act of 1954.

(e) It is the sense of Congress that commodities provided for in this subsection be made available to the Philippines and friendly countries of Africa.

(4)(a) During the three-year period beginning with the fiscal year ending September 30, 1987, through the fiscal year ending September 30, 1989, the Secretary of Agriculture shall make available to PVO's cooperatives and governments, 460,000 metric tons of wheat, 137 million pounds of dairy products, and 180,000 metric tons of soybeans; under paragraph (11)(B) of section 416(b) of the Agricultural Act of 1949, notwithstanding paragraph (11)(C) of section 416(b) of such Act.

(b) Commodities made available to a nation, or PVO's and cooperatives operating in such nation, under this section during any fiscal year shall be—

(1) subject to the agreement of the nation—

(A) to acquire through commercial arrangements agricultural commodities directly or by private purchases during the fiscal year in an amount equal to 105 percent of the average amount of such agricultural commodities acquired through commercial arrangements during the preceding three years;

(B) to permit the sale of commodities furnished under this section within the nation and to use the local currencies generated from such sales (i) by PVO's and cooperatives to carry out approved programs of assistance in the country and (ii) to operate lending programs in the manner provided for in section 108 of Public Law 480; and

(C) to reimburse the United States in dollars for costs incurred in furnishing such commodities, including transportation and processing, in the same fiscal year in which such costs were incurred. Reimbursements under this paragraph may be made in local currencies generated from the sale of the commodities under paragraph (2) if they are used to pay expenses of the United States in the recipient nation.

(2) No greater than such amounts as is requested by such government.

(c) To the extent practicable, commodities made available under this section shall be furnished in equal quantities during each of the three fiscal years.

(d) For purposes of this section, the term "friendly countries" shall have the same meaning as that term has under the Agricultural Trade Development and Assistance Act of 1954.

(e) It is the sense of Congress that of the commodities made available under this subsection—

(1) 400,000 metric tons of wheat, 80 million pounds of dairy products and 180,000 metric tons of soybeans be made available to Nigeria;

(2) 1 million metric tons of wheat be made available to friendly countries in Africa, other than Nigeria;

(3) 30,000 metric tons of soybeans, and 50 million pounds of dairy products be made available to India; and

(4) 60,000 metric tons of wheat and 7 million pounds of dairy products be made available to Bangladesh.

This Act may be cited as the "Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987".

(b) Such amounts as may be necessary for programs, projects or activities provided for in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1987, and for other purposes.

TITLE I—DEPARTMENT OF COMMERCE

General Administration

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce, including not to exceed $2,000 for official entertainment, $36,300,000.

Bureau of the Census

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $90,780,000.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, $172,000,000, to remain available until expended.

Economic and Statistical Analysis

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs, $30,000,000.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, $180,443,000 of which $250,000 shall be obligated for the Center for International Trade Development at Oklahoma State University: *Provided,* That during fiscal year 1987 total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: *Provided further,* That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: *Provided further,* That notwithstanding any provision of title I of the Local Public Works Capital Development and Investment Act of 1976, as amended (Public Law 94-369), or any other provision of law to the contrary, any funds authorized and appropriated under title I of such Act, as amended, in any fiscal year for projects in New York, New York, but obligated as of December 19, 1985 and not disbursed, shall remain available for obligation and expenditure through March 31, 1988 for any authorized project in New York, New York, until title I of such Act, as amended, or for any project in New York, New York, determined to be eligible under title I of the Public Works and Economic Develcpment Act of 1965, as amended, if the total amount of such funds is not finally determined by October 15, 1986: *Provided further,* That notwithstanding any other provision of law or a contract to the contrary, the SEDA-COG Joint Rail Authority, Lewisburg, Pennsylvania, may sell any portion of the real property that was acquired in part with proceeds of a grant from the Economic Development Administration (grant number 01-19-02563) and may retain all of the proceeds of any such sale so long as the proceeds are used for purposes which meet the criteria of and are approved by the Economic Development Administration: *Provided further,* That notwithstanding any other provision of law or regulation, including title I of the Public Works and Economic Development Act of 1965, as amended, and OMB Circular A-102 Attachment N, the Administrator of the Economic Development Administration is hereby directed to release, without any further requirement or delay, the funds previously appropriated in Public Law 99-190 to Lexington County, South Carolina, as a direct grant: *Provided further,* That in addition to funds made available pursuant to Public Law 99-190 for infrastructure projects and economic development activities at the site of the General Motors plant in the city of South Gate, California, such amounts as may be necessary shall be available for this purpose such that the total amount of funds available shall not exceed $431,012: *Provided further,* That in addition to funds made available pursuant to Public Law 99-190 for infrastructure projects and related economic development activities at the Jasper Industrial Park in Jasper, Alabama, such amounts as may be necessary shall be available for this purpose such that the total amount of funds available shall not exceed $470,224.

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $25,000,000: *Provided,* That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977. Notwithstanding any other provision of this Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-nine permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1987.

REGIONAL DEVELOPMENT PROGRAM

REGIONAL DEVELOPMENT PROGRAMS

(RESCISSION)

Of the funds available for Regional Development Program, "Regional Development Programs", $1,576,000 are rescinded.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

(INCLUDING RESCISSION)

For necessary expenses for international trade activities of the Department of Commerce, including trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $253,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use abroad and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $197,500,000, to remain available until expended, of which $6,785,000 is for the Office of Textiles and Apparels, including $3,349,000 for a grant to the Tailored Clothing Technology Corporation and, of which $3,500,000 is for a grant for support costs for a new materials center in Ames, Iowa: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities: *Provided further,* That none of the funds appropriated herein may be used for activities associated with conferences, trade shows, expositions, and/or seminars which feature or convey the advan-

tages of relocating U.S. industries, manufacturing and/or assembly plants, or companies, in a foreign country.

Of available funds under this head provided for direct loans in Public Law 98-411 and Public Law 99-180, $8,100,000 are rescinded.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $39,675,000, of which $26,080,000 shall remain available until expended: *Provided,* That not to exceed $13,595,000 shall be available for program management for fiscal year 1987: *Provided further,* That none of the funds appropriated in this paragraph or in this title for the Department of Commerce shall be available to reimburse the fund established by 15 U.S.C. 1521 on account of the performance of a program, project, or activity, nor shall such fund be available for the performance of a program, project, or activity, which had not been performed as a central service pursuant to 15 U.S.C. 1521 before July 1, 1982, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such action in accordance with the Committees' reprogramming procedures.

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration including travel and tourism promotional activities abroad for travel to the United States and its possessions without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; and carrying out the provisions of the 1981 Tourism Policy Act; and including employment of American citizens and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $8,000 for representation expenses abroad $11,500,000.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; 399 commissioned officers on the active list; construction of facilities, including initial equipment; alteration, modernization, and relocation of facilities; and acquisition of land for facilities; $1,038,588,000, to remain available until expended, of which $27,500,000 shall be available only for commercialization of the land remote sensing

satellite system subject to the approval of the House and Senate Committees on Appropriations pursuant to section 607 of this Act; and in addition, $29,000,000 shall be derived from the Airport and Airways Trust Fund; and in addition, $51,800,000 shall be derived by transfer from the Fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries"; and in addition, $9,673,000 shall be derived by transfer from the Coastal Energy Impact Fund; and in addition, $1,800,000 shall be derived by transfer from the Fisheries Loan Fund: *Provided,* That grants to States pursuant to section 306 and section 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $450,000: *Provided further,* That of the funds appropriated in this paragraph, necessary funds shall be used to fill and maintain a staff of three persons, as National Oceanic and Atmospheric Administration personnel, to work on contracts and purchase orders at the National Data Buoy Center in Bay St. Louis, Mississippi, and report to the Director of the National Data Buoy Center in the same manner and extent that such procurement functions were performed at Bay St. Louis prior to June 26, 1983, except that they may provide procurement assistance to other Department of Commerce activities pursuant to ordinary interagency agreements. Where practicable, these positions shall be filled by the employees who performed such functions prior to June 26, 1983.

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95-372, not to exceed $750,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96-339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 94-265), and the American Fisheries Promotion Act (Public Law 96-561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $2,000,000, to remain available until expended.

FISHERMEN'S GUARANTY FUND

For expenses necessary to carry out the provisions of the Fishermen's Protective Act of 1967, as amended, $1,800,000 to be derived from the receipts collected pursuant to that Act, to remain available until expended.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office, including defense of suits instituted against the Commissioner of Patents and Trademarks, $98,000,000 and, in addition, such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, to remain available until expended.

NATIONAL BUREAU OF STANDARDS

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Bureau of Standards, $122,000,000 to remain available until expended, of which not to exceed $2,144,000 may be transferred to the "Working Capital Fund".

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law of the National Telecommunications and Information Administration, $13,000,000 of which $700,000 shall remain available until expended.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, $20,500,000 to remain available until expended: *Provided,* That not to exceed $1,200,000 shall be available for program management as authorized by section 391 of the Communications Act of 1934, as amended: *Provided further,* That notwithstanding the provisions of section 391 of the Communications Act of 1934, as amended, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 101. During the current fiscal year, applicable appropriations and funds available to the Department of Commerce shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act, and, notwithstanding 31 U.S.C. 3324, may be used for advance payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.

SEC. 102. During the current fiscal year, appropriations to the Department of Commerce which are available for salaries and expenses shall be available for hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 103. No funds in this title shall be used to sell to private interests, except with the consent of the borrower, or contract with private interests to sell or administer, any loans made under the Public Works and Economic Development Act of 1965 or any loans made under section 254 of the Trade Act of 1974.

SEC. 104. During the current fiscal year, the National Bureau of Standards is authorized to accept contributions of funds, to remain available until expended, from any public or private source to construct a facility for cold neutron research on materials, notwithstanding the limitations contained in 15 U.S.C. 278d.

This title may be cited as the "Department of Commerce Appropriation Act, 1987".

TITLE II—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $67,000,000: *Provided,* That none of the funds in this Act shall be used for positions for the Departmental Leadership offices of the Department of Justice in excess of 56.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission, as authorized by law, $10,300,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and rent of private or Government-owned space in the District of Columbia; $208,934,000, of which not to exceed $6,000,000 for litigation support contracts shall remain available until September 30, 1988: *Provided,* That of the funds available in this appropriation, $1,537,000 shall be available for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys and the Antitrust Division, to remain available until expended: *Provided further,* That of the funds appropriated to the Department of Justice in title II of this Act, not to exceed $1,000,000, may be transferred to this appropriation to pay expenses related to the activities of any Independent Counsel appointed pursuant to 28 U.S.C. 591, et seq., upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate and approval under said Committees' policies concerning the reprogramming of funds contained in section 607 of this Act.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $43,000,000

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Offices of the United States Attorneys, $320,000,000.

SALARIES AND EXPENSES, OVERSIGHT OF BANKRUPTCY CASES

For necessary expenses of the bankruptcy trustees, $11,500,000. Effective immediately before November 10, 1986, section 408(c) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2687), is

amended by striking out "November 10, 1986" and inserting in lieu thereof "September 30, 1987".

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109; allowances and benefits similar to those allowed under the Foreign Service Act of 1980 as determined by the Commission; expenses of packing, shipping, and storing personal effects of personnel assigned abroad; rental or lease, for such periods as may be necessary, of office space and living quarters of personnel assigned abroad; maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties; insurance on official motor vehicles abroad; advances of funds abroad; advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission; hire of motor vehicles for field use only; and employment of aliens; $564,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including acquisition, lease, maintenance, and operation of vehicles and aircraft, $142,000,000.

SUPPORT OF UNITED STATES PRISONERS

For support of United States prisoners in non-Federal institutions, $50,000,000; and in addition, $5,000,000 shall be available under the Cooperative Agreement Program until expended for the purposes of renovating, constructing, and equipping State and local correctional facilities: *Provided,* That amounts made available for constructing any local correctional facility shall not exceed the cost of constructing space for the average Federal prisoner population to be housed in the facility, or in other facilities in the same correctional system, as projected by the Attorney General: *Provided further,* That following agreement on or completion of any Federally assisted correctional facility construction, the availability of the space acquired for Federal prisoners with these Federal funds shall be assured and the per diem rate charged for housing Federal prisoners in the assured space shall not exceed operating costs for the period of time specified in the cooperative agreement: *Provided further,* That funds earmarked for the support of United States prisoners in non-Federal institutions in the Department of Justice Appropriations Acts, 1984 and 1985, that remain unobligated at the end of fiscal year 1986, are restored effective immediately before September 30, 1986, for the purpose of liquidating any 1986 obligations for that activity that cannot be funded from 1986 appropriations.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses and for per diems in lieu of subsistence, as authorized by law, including advances; $52,187,000, to remain available until expended, of which not to exceed $1,350,000 may be made available for planning, construction, renovation, maintenance, remodeling, and repair

of buildings and the purchase of equipment incident thereto for protected witness safesites.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $29,637,000 of which $23,266,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1809) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants: *Provided,* That notwithstanding section 501(e)(2)(B) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1810), funds may be expended for assistance with respect to Cuban and Haitian entrants as authorized under section 501(c) of such Act.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed one thousand five hundred seventy-nine passenger motor vehicles of which one thousand four hundred fifty will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $1,260,000,000, of which not to exceed $10,000,000 for automated data processing and telecommunications and $1,000,000 for undercover operations shall remain available until September 30, 1988; of which $3,000,000 for research related to investigative activities shall remain available until expended; and of which not to exceed $500,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism: *Provided,* That notwithstanding the provisions of title 31 U.S.C. 3302, the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records for noncriminal employment and licensing purposes, and credit not more than $15,500,000 of such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: *Provided further,* That not to exceed $45,000 shall be available for official reception and representation expenses: *Provided further,* That $13,800,000 for the expansion and renovation of the New York field office shall remain available until expended.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; purchase of not to exceed five hundred seventy-five passenger motor vehicles of which four hundred eighty-nine are for replacement only for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $412,000,000 of which not to exceed $1,200,000 for research shall remain available until expended and not to exceed $1,700,000 for purchase of evidence and payments for information shall remain available until September 30, 1988: *Provided,* That $140,000 shall only be available for the establishment and operation of an office in Hilo, Hawaii: *Provided further,* That notwithstanding section 1345 of title 31, United States Code, funds made available to the Drug Enforcement Administration in any fiscal year may be used for travel, transportation, and subsistence expenses of State, county, and local law enforcement officers attending conferences, meetings, and training courses at the FBI Academy, Quantico, Virginia.

CONSTRUCTION

For necessary expenses of the Drug Enforcement Administration for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for an all source intelligence center, $7,500,000, to remain available until expended: *Provided,* That such funds shall be available for obligation upon submission by the Attorney General to the Committees on Appropriations no later than July 1, 1987, of a reprogramming request in accordance with section 607 of this Act which sets forth specific details for the use of such funds.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use (not to exceed four hundred ninety, all of which shall be for replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; $593,000,000, of which not to exceed $400,000 for research shall remain available until expended: *Provided,* That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000 except in such instances when the Commissioner makes a determination that this restriction is impossible to implement: *Provided further,* That uniforms may be purchased without regard to

the general purchase price limitation for the current fiscal year: *Provided further,* That no funds appropriated in this Act may be used to implement Immigration and Naturalization Service reorganization proposals which would have the purpose of or would result in the closing of the Northern Regional Office of the Immigration and Naturalization Service at Fort Snelling, Minnesota: *Provided further,* That effective immediately before September 30, 1986, $3,385,000 made available for "Construction" for the Immigration and Naturalization Service in Public Law 99-88 shall be available for the Immigration and Naturalization Service, "Salaries and Expenses".

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed forty of which thirty are for replacement only) and hire of law enforcement and passenger motor vehicles; $598,807,000: *Provided,* That there may be transferred to the Health Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year.

NATIONAL INSTITUTE OF CORRECTIONS

For carrying out the provisions of sections 4351-4353 of title 18, United States Code, which established a National Institute of Corrections, $9,000,000, to remain available until expended.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $122,511,000, to remain available until expended: *Provided,* That labor of United States prisoners may be used for work performed under this appropriation.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of not to exceed five (for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE AND VOCATIONAL EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $2,157,000 of the funds of the corporation shall be available for its administrative expenses, and not to exceed $7,208,000 for the expenses of vocational training of prisoners, both amounts to be available for services as authorized by 5 U.S.C. 3109, and to be computed on an accrual basis to be determined in accordance with the corporation's prescribed accounting system in effect on July 1, 1946, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by the Justice Assistance Act of 1984, Runaway Youth and Missing Children Act Amendments of 1984, and the Missing Children Assistance Act including salaries and expenses in connection therewith, $115,368,000 and of the unobligated funds previously appropriated for the Juvenile Justice and Delinquency Prevention Act, other than funds subject to provisions of sections 222(b), 223(d), and 228(e) of title II of such Act, $3,500,000 shall be made available for programs authorized under parts D and E of the Justice Assistance Act of 1984, all funds appropriated herein to remain available until expended; and for grants, contracts, cooperative agreements, and other assistance authorized by title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith, $70,282,000 to remain available until expended. In addition, $5,000,000 for the purpose of making grants to States for their expenses by reason of Mariel Cubans having to be incarcerated in State facilities for terms requiring incarceration for the full period October 1, 1986 through September 30, 1987, following their conviction of a felony committed after having been paroled into the United States by the Attorney General: *Provided,* That within thirty days of enactment of this Act the Attorney General shall announce in the Federal Register that this appropriation will be made available to the States whose Governors certify by February 1, 1987, a listing of names of such Mariel Cubans incarcerated in their respective facilities: *Provided further,* That the Attorney General, not later than April 1, 1987, will complete his review of the certified listings of such incarcerated Mariel Cubans, and make grants to the States on the basis that the certified number of such incarcerated persons in a State bears to the total certified number of such incarcerated persons: *Provided further,* That the amount of reimbursements per prisoner per annum shall not exceed $12,000. Not to exceed $64,000,000 shall be obligated during fiscal year 1987 for victim compensation and assistance programs, notwithstanding section 1402, 1403, or 1404 of the Victims of Crime Act of 1984 (Public Law 98-473).

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 201. A total of not to exceed $75,000 from funds appropriated to the Department of Justice in this title shall be available for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 202. Notwithstanding any other provision of law or this Act, materials produced by convict labor may be used in the construction of any highways or portion of highways located on Federal-aid systems, as described in section 103 of title 23, United States Code.

SEC. 203. Appropriations for "Salaries and expenses, General Administration", "Salaries and expenses, United States Marshals Service", "Salaries and expenses, Federal Bureau of Investigation", "Salaries and expenses, Drug Enforcement Administration", "Salaries and expenses, Immigration and Naturalization Service", and "Salaries and expenses, Federal Prison System", shall be available for uniforms and allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 204. (a) Subject to subsection (b) of this section, authorities contained in Public Law 96-132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

(b)(1) With respect to any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counter-intelligence—

(A) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1987, may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to section 1341 of title 31 of the United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31 of the United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Service Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c)),

(B) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1987, may be used to establish or to acquire proprietary corporations or business entities as part of an undercover investigative operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31 of the United States Code,

(C) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1987, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18 of the

United States Code and section 3302 of title 31 of the United States Code, and

(D) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31 of the United States Code,

only, in operations designed to detect and prosecute crimes against the United States, upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, a member of the Undercover Operations Review Committee established by the Attorney General in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, as in effect on July 1, 1983) or the Administrator of the Drug Enforcement Administration, as the case may be, and the Attorney General (or, with respect to Federal Bureau of Investigation undercover operations, if designated by the Attorney General, a member of such Review Committee), that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation. If the undercover operation is designed to collect foreign intelligence or counterintelligence, the certification that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation shall be by the Director of the Federal Bureau of Investigation (or, if designated by the Director, the Assistant Director, Intelligence Division) and the Attorney General (or, if designated by the Attorney General, the Counsel for Intelligence Policy). Such certification shall continue in effect for the duration of such undercover operation, without regard to fiscal years.

(2) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (C) and (D) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

(3) If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation or the Drug Enforcement Administration, as much in advance as the Director or the Administrator, or the designee of the Director or the Administrator, determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(4)(A) The Federal Bureau of Investigation or the Drug Enforcement Administration, as the case may be, shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal year 1987—

(i) submit the results of such audit in writing to the Attorney General, and

(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(B) The Federal Bureau of Investigation and the Drug Enforcement Administration shall each also submit a report annually to the Congress specifying as to their respective undercover investigative operations—

(i) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,

(ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and

(iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to—

(I) the results,

(II) any civil claims, and

(III) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.

(5) For purposes of paragraph (4)—

(A) the term "closed" refers to the earliest point in time at which—

(i) all criminal proceedings (other than appeals) are concluded, or

(ii) covert activities are concluded, whichever, occurs later,

(B) the term "employees" means employees, as defined in section 2105 of title 5 of the United States Code, of the Federal Bureau of Investigation, and

(C) the terms "undercover investigative operation" and "undercover operation" means any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration (other than a foreign counterintelligence undercover investigative operation)—

(i) in which—

(I) the gross receipts (excluding interest earned) exceed $50,000, or

(II) expenditures (other than expenditures for salaries of employees) exceed $150,000, and

(ii) which is exempt from section 3302 or 9102 of title 31 of the United States Code,

except that clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of such paragraph.

SEC. 205. Section 286 of the Immigration and Nationality Act of 1952 (8 U.S.C. 1356) is amended by inserting after subsection (c) the following new subsections:

"(d) SCHEDULE OF FEES.—In addition to any other fee authorized by law, the Attorney General shall charge and collect $5 per individual for the immigration inspection of each passenger arriving at a port of entry in the United States, or for the preinspection of a passenger in a place outside of the United States prior to such arrival, aboard a commercial aircraft or commercial vessel.

"(e) LIMITATIONS ON FEES.—(1) No fee shall be charged under subsection (d) for immigration inspection or preinspection provided

in connection with the arrival of any passenger whose journey originated in the following:

"(A) Canada,

"(B) Mexico,

"(C) a territory or possession of the United States, or

"(D) any adjacent island (within the meaning of section 101(b)(5) of this title).

"(2) No fee may be charged under subsection (d) with respect to the arrival of any passenger—

"(A) who is in transit to a destination outside the United States, and

"(B) for whom immigration inspection services are not provided.

"(f) COLLECTION.—(1) Each person that issues a document or ticket to an individual for transportation by a commercial vessel or commercial aircraft into the United States shall—

"(A) collect from that individual the fee charged under subsection (d) at the time the document or ticket is issued; and

"(B) identify on that document or ticket the fee charged under subsection (d) as a Federal inspection fee.

"(2) If—

"(A) a document or ticket for transportation of a passenger into the United States is issued in a foreign country; and

"(B) the fee charged under subsection (d) is not collected at the time such document or ticket is issued;

the person providing transportation to such passenger shall collect such fee at the time such passenger departs from the United States and shall provide such passenger a receipt for the payment of such fee.

"(3) The person who collects fees under paragraph (1) or (2) shall remit those fees to the Attorney General at any time before the date that is thirty-one days after the close of the calendar quarter in which the fees are collected. Regulations issued by the Attorney General under this subsection with respect to the collection of the fees charged under subsection (d) and the remittance of such fees to the Treasury of the United States shall be consistent with the regulations issued by the Secretary of the Treasury for the collection and remittance of the taxes imposed by subchapter C of chapter 33 of the Internal Revenue Code of 1954, but only to the extent the regulations issued with respect to such taxes do not conflict with the provisions of this section.

"(g) PROVISION OF IMMIGRATION INSPECTION AND PREINSPECTION SERVICES.—Notwithstanding section 1353(a) of this title, or any other provision of law, the immigration services required to be provided to passengers upon arrival in the United States on scheduled airline flights shall be adequately provided when needed and at no cost (other than the fees imposed under subsection (d)) to airlines and airline passengers at:

"(1) immigration serviced airports, and

"(2) places located outside of the United States at which an immigration officer is stationed for the purpose of providing such immigration services.

"(h) DISPOSITION OF RECEIPTS.—(1)(A) All of the fees collected under subsection (d) shall be deposited in a separate account within the general fund of the Treasury of the United States. Such account shall be known as the 'Immigration User Fee Account.' At the end of each 2-year period, beginning with the creation of this account,

the Attorney General, following a public rulemaking with opportunity for notice and comment, shall submit a report to the Congress concerning the status of the account, including any balances therein, and recommend any adjustment in the prescribed fee that may be required to ensure that the receipts collected from the fee charged for the succeeding two years equal, as closely as possible, the cost of providing these services.

"(B) Notwithstanding any other provisions of law, all fines, penalties, liquidated damages or expenses collected pursuant to sections 271 and 273 of this title shall be deposited in the 'Immigration User Fee Account.'

"(2)(A) The Secretary of the Treasury shall refund out of the Immigration User Fee Account to any appropriation the amount paid out of such appropriation for expenses incurred by the Attorney General in providing immigration inspection and preinspection services for commercial aircraft or vessels and:

"(i) providing overtime immigration inspection services for commercial aircraft or vessels;

"(ii) administration of debt recovery, including the establishment and operation of a national collections office;

"(iii) expansion, operation and maintenance of information systems for nonimmigrant control and debt collection;

"(iv) detection of fraudulent documents used by passengers traveling to the United States;

"(v) providing detention and deportation services for excludable aliens arriving on commercial aircraft and vessels.

"(B) The amounts which are required to be refunded under subparagraph (A) shall be refunded at least quarterly on the basis of estimates made by the Attorney General of the expenses referred to in subparagraph (A). Proper adjustments shall be made in the amounts subsequently refunded under subparagraph (A) to the extent prior estimates were in excess of, or less than, the amount required to be refunded under subparagraph (A).

"(i) Notwithstanding any other provision of law, the Attorney General is authorized to receive reimbursement from the owner, operator, or agent of a private or commercial aircraft or vessel, or from any airport or seaport authority for expenses incurred by the Attorney General in providing immigration inspection services which are rendered at the request of such person or authority (including the salary and expenses of individuals employed by the Attorney General to provide such immigration inspection services). The Attorney General's authority to receive such reimbursement shall terminate immediately upon the provision for such services by appropriation.

"(j) REGULATIONS.—The Attorney General may prescribe such rules and regulations as may be necessary to carry out the provisions of this section.

"(k) ADVISORY COMMITTEE.—In accordance with the provisions of the Federal Advisory Committee Act, the Attorney General shall establish an advisory committee, whose membership shall consist of representatives from the airline and other transportation industries who may be subject to any fee or charge authorized by law or proposed by the Immigration and Naturalization Service for the purpose of covering expenses incurred by the Immigration and Naturalization Service. The advisory committee shall meet on a periodic basis and shall advise the Attorney General on issues related to the performance of the inspectional services of the

Immigration and Naturalization Service. This advice shall include, but not be limited to, such issues as the time periods during which such services should be performed, the proper number and deployment of inspection officers, the level of fees, and the appropriateness of any proposed fee. The Attorney General shall give substantial consideration to the views of the advisory committee in the exercise of his duties.

"(l) EFFECTIVE DATES.—(1) The provisions of this section and the amendments made by this section, shall apply with respect to immigration inspection services rendered after November 30, 1986.

"(2) Fees may be charged under subsection (d) only with respect to immigration inspection services rendered in regard to arriving passengers using transportation for which documents or tickets were issued after November 30, 1986.".

SEC. 206. Section 232 (8 U.S.C. 1222) is amended by striking "on board the vessel or at the airport" and all that follows through "as circumstances may require or justify," and inserting in lieu thereof "by the Attorney General", and section 233 (8 U.S.C. 1223) is repealed.

SEC. 207. Section 1203 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796(b)) is amended—

(1) in subsection (3) by striking the semicolon at the end thereof and inserting in lieu thereof "and an officially recognized or designated public employee member of a rescue squad or ambulance crew who was responding to a fire, rescue or police emergency;"; and

(2) in subsection (7) by striking all after the words "law enforcement officer" and inserting ", a firefighter, or rescue squad or ambulance crew"

SEC. 208. (a) None of the funds appropriated or otherwise made available in this title may be available for the performance of any pre-inspection activities by the Immigration and Naturalization Service (1) at Shannon International Airport in Ireland or (2) at Gander Airport in Newfoundland.

(b) The General Accounting Office shall conduct a comprehensive analysis of the trial pre-inspection program conducted by the Immigration and Naturalization Service at Shannon International Airport from July 1, 1986 to October 31, 1986, and shall issue a report to Congress by April 30, 1987. The report shall include an evaluation of the economic impact on American airports and of whether pre-inspection is a cost-effective means of facilitating international air travel and enhancing law enforcement.

SEC. 209. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term or in the case of rape: *Provided*, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

SEC. 210. The Director of the Federal Bureau of Investigation and the Administrator of the Drug Enforcement Administration shall not establish and collect fees to provide training to State and local law enforcement officers at the FBI National Academy. Any fees collected for training of State and local law enforcement officers, which occurred at the National Academy on or after October 1, 1986, shall be reimbursed to the appropriate official or agency. In addition, the Director of the National Institute of Corrections shall not establish and collect fees to provide training to State and local

officers which was not provided on a reimbursable basis prior to October 1, 1986.

This title may be cited as the "Department of Justice Appropriation Act, 1987".

TITLE III—DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

For necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including obligations of the United States abroad pursuant to treaties, international agreements, and binational contracts (including obligations assumed in Germany on or after June 5, 1945), expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and section 2 of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2669); telecommunications; not to exceed $4,000,000 for expenses necessary for the Inspector General of the Department of State, pursuant to the Inspector General Act of 1978; expenses necessary to provide maximum physical security in Government-owned and leased properties and vehicles abroad; permanent representation to certain international organizations in which the United States participates pursuant to treaties, conventions, or specific Acts of Congress; acquisition by exchange or purchase of vehicles as authorized by law, except that special requirement vehicles may be purchased without regard to any price limitation otherwise established by law; $1,527,000,000.

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), and for representation by United States missions to the United Nations and the Organization of American States, $4,460,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314), and to provide for the protection of foreign missions in accordance with the provisions of 3 U.S.C. 208, $9,100,000.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292-300), $440,000,000, of which $15,000,000 shall become available for expenditure on October 1, 1987, to remain available until expended: *Provided,* That the funds appropriated in this paragraph shall be available subject to the approval of the House and Senate Committees on Appropriations under said Committees' policies concerning the reprogramming of funds contained in House Report 99-669: *Provided further,* That balances of previous appropriations for "Acquisition, operation, and maintenance of buildings abroad" shall be

transferred to and merged with this appropriation: *Provided further,* That up to $1,000,000 shall be available for transfer under the Economy Act to the Director of the National Bureau of Standards for the purpose of conducting an independent analysis of the new United States embassy office building being constructed in Moscow: *Provided further,* That a report including this analysis, an assessment of the current structure and recommendations and cost estimates for correcting any structural flaws or construction defects shall be transmitted by the Director of the National Bureau of Standards to the Speaker of the House of Representatives and the President of the Senate no later than April 15, 1987: *Provided further,* That beginning on February 1, 1987, the Secretary of State shall report every six months to the Speaker of the House of Representatives and the President of the Senate on any failures during the past six months by Soviet agencies to perform obligations to United States diplomats or United States missions to the Soviet Union and the actions undertaken by the Department of State to redress these failures.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service to be expended pursuant to the requirement of 31 U.S.C. 3526(e), $4,000,000.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96-8 (93 Stat. 14), $9,379,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $127,398,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties, conventions, or specific Acts of Congress, $385,000,000, of which $130,000,000, to remain available until expended, shall become available for expenditure on October 1, 1987: *Provided,* That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States for expenses of the United Nations peacekeeping forces, $29,400,000.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, contributions for the United States share of general expenses of international organizations and representation to such organizations, and personal services without regard to civil service and classification laws, $5,460,000, to remain available until expended, of which not to exceed $200,000 may be expended for representation as authorized by law.

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, conventions, or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the United States and Mexico International Boundary and Water Commission, and to comply with laws applicable to the United States Section; and leasing of private property to remove therefrom sand, gravel, stone, and other materials, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, including preliminary surveys, $10,800,000: *Provided,* That expenditures for the Rio Grande bank protection project shall be subject to the provisions and conditions contained in the appropriation for said project as provided by the Act approved April 25, 1945 (59 Stat. 89): *Provided further,* That the Anzalduas diversion dam shall not be operated for irrigation or water supply purposes in the United States unless suitable arrangements have been made with the prospective water users for repayment to the Government of such portions of the cost of said dam as shall have been allocated to such purposes by the Secretary of State: *Provided further,* That not to exceed $500,000 of the amount appropriated in this paragraph shall be available to reimburse the city of San Diego, in the State of California, for expenses incurred in treating domestic sewage received from the city of Tijuana, in the State of Baja California, Mexico.

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

For detailed plan preparation and construction of authorized projects, to remain available until expended, $3,900,000: *Provided,* That activities for the New River Project may be financed from these funds or from carry over balances under the heading, "International Boundary and Water Commission, United States and Mexico, Construction".

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, including not to exceed $6,000 for representation, $3,700,000; for the International Joint Commission, including salaries and expenses of the Commissioners on the part of the United States who shall serve at the pleasure of the President; salaries of employees appointed by the Commissioners on the part of the United States with the approval solely of the Secretary of State; travel expenses and compensation of witnesses; and the International Boundary Commission, for necessary expenses, not otherwise provided for, including expenses required by awards to the Alaskan Boundary Tribunal and existing treaties between the United States and Canada or Great Britain.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, $10,800,000: *Provided,* That the United States share of such expenses may be advanced to the respective commissions.

OTHER

UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

For expenses, not otherwise provided for, to enable the United States to participate in programs of scientific and technological cooperation with Yugoslavia, $1,900,000, to remain available until expended.

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, $8,800,000, to remain available until expended.

SOVIET-EAST EUROPEAN RESEARCH AND TRAINING

For expenses not otherwise provided to enable the Secretary of State to reimburse private firms and American institutions of higher education for research contracts and graduate training for development and maintenance of knowledge about the Soviet Union and Eastern European countries, $4,600,000.

GENERAL PROVISIONS—DEPARTMENT OF STATE

SEC. 301. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger or freight transportation.

SEC. 302. The Secretary of State shall report to the appropriate Committees of the Congress on the obligation of funds provided for diplomatic security and related expenses every thirty days from the date of enactment of this Act.

This title may be cited as the "Department of State Appropriation Act, 1987".

TITLE IV—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase, or hire, driving, maintenance and operation of an automobile for the Chief Justice and not to exceed $10,000 for the purpose of transporting Associate Justices, hire of passenger motor vehicles; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve; $14,600,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a-13b), including improvements, maintenance, repairs, equipment, supplies, materials, and appurtenances; special clothing for workmen; and personal and other services (including temporary labor without regard to the Classification and Retirement Acts, as amended), and for snow removal by hire of men and equipment or under contract, and for security installations both without compliance with section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); $2,279,000, of which $375,000 shall remain available until expended.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for all necessary expenses of the court, $6,800,000.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges; salaries of the officers and employees of the court; services as authorized by 5 U.S.C. 3109; and necessary expenses of the court, including exchange of books and traveling expenses, as may be approved by the court; $7,000,000: *Provided,* That travel expenses of judges of the Court of International Trade shall be paid upon written certificate of the judge.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the Claims Court, bankruptcy judges, magistrates, and all other officers and employees of the Federal Judiciary not otherwise specifically

provided for, and all necessary expenses of the courts, including the purchase of firearms and ammunition, $929,500,000, of which not to exceed $160,000,000 shall be available for payment of charges for space and facilities: *Provided,* That the number of staff attorneys to be appointed in each of the courts of appeals shall not exceed the ratio of one attorney for each authorized judgeship, exclusive of the seven attorneys assigned preargument conference duties.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by law; $68,378,000, to remain available until expended.

FEES OF JURORS AND COMMISSIONERS

For fees and expenses and refreshments of jurors; compensation of jury commissioners; and compensation of commissioners appointed in condemnation cases pursuant to Rule 71A(h) of the Federal Rules of Civil Procedure; $44,635,000, to remain available until expended: *Provided,* That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities; $36,000,000, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts, including travel, advertising, hire of a passenger motor vehicle, and rent in the District of Columbia and elsewhere, $29,500,000, of which an amount not to exceed $5,000 is authorized for official reception and representation expenses.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90-219, $9,600,000.

BICENTENNIAL EXPENSES, THE JUDICIARY

BICENTENNIAL ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For expenses to be incurred by the Judiciary for the observance of the Bicentennial of the Constitution of the United States, $1,000,000, to remain available until expended. Funds appropriated under this heading in The Judiciary Appropriation Act, 1976, shall also be available for this purpose.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $5,800,000.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 401. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 402. Appropriations made in this title shall be available for salaries and expenses of the Temporary Emergency Court of Appeals authorized by Public Law 92-210 and the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 93-236.

SEC. 403. The position of Trustee Coordinator in the Bankruptcy Courts of the United States shall not be limited to persons with formal legal training.

SEC. 404. Notwithstanding any other provision of law, the Administrative Office of the United States Courts, or any other agency or instrumentality of the United States, is prohibited from restricting solely to staff of the Clerks of the United States Bankruptcy Courts the issuance of notices to creditors and other interested parties. The Administrative Office shall permit and encourage the preparation and mailing of such notices to be performed by or at the expense of the debtors, trustees or such other interested parties as the Court may direct and approve. The Administrator of the United States Courts shall make appropriate provisions for the use of and accounting for any postage required pursuant to such directives. The provisions of this paragraph shall terminate on October 1, 1987.

SEC. 405. Such fees as shall be collected for the preparation and mailing of notices in bankruptcy cases as prescribed by the Judicial Conference of the United States pursuant to 28 U.S.C. 1930(b) shall be deposited to the "Courts of Appeals, District Courts, and Other Judicial Services, Salaries and Expenses" appropriation to be used for salaries and other expenses incurred in providing these services.

SEC. 406. Pursuant to section 140 of Public Law 97-92, during fiscal year 1987, justices and judges of the United States shall receive the same percentage increase in salary accorded to employees paid under the General Schedule (pursuant to 5 U.S.C. 5305).

SEC. 407. (a) Section 1914(a) of title 28, United States Code, is amended by striking out "$60" and inserting in lieu thereof "$120".

(b) Section 1930(a)(1) of title 28, United States Code, is amended by striking out "$60" and inserting in lieu thereof "$90".

(c) Chapter 123 of title 28, United States Code, is amended by adding at the end thereof the following:

"§ 1931. Disposition of filing fees

"The following portion of moneys paid to the clerk of court as filing fees under this chapter shall be deposited into a special fund of the Treasury to be available to offset funds appropriated for the operation and maintenance of the courts of the United States as provided in annual appropriation Acts:

"Under section 1914(a), $60.".

(d) The table of section headings preceding chapter 123 of title 28, United States Code, is amended by adding at the end thereof the following:

"1931. Disposition of filing fees.".

This title may be cited as "The Judiciary Appropriation Act, 1987".

TITLE V—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES (LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $320,000,000, to remain available until expended.

RESEARCH AND DEVELOPMENT

For necessary expenses for research and development activities, as authorized by law, $3,500,000, to remain available until expended.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $64,000,000, to remain available until expended: *Provided*, That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program.

GENERAL PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration and payments received by the Maritime

Administration for utilities, services, and repairs so furnished or made shall be credited to the appropriation charged with the cost thereof: *Provided,* That rental payments under any such lease, contract, or occupancy on account of items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act, or in any prior appropriation Act and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses, not otherwise provided for, for arms control and disarmament activities, including not to exceed $48,000 for official reception and representation expenses, authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.), $29,000,000.

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For expenses of the Board for International Broadcasting, including grants to RFE/RL, Inc., $140,000,000, of which not to exceed $52,000 may be made available for official reception and representation expenses, and of which $15,000,000, to remain available until expended, shall become available for expenditure on October 1, 1987.

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

SALARIES AND EXPENSES

For the necessary expenses of the Christopher Columbus Quincentenary Jubilee Commission, $220,000, to remain available until November 15, 1992.

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Commission on the Bicentennial of the United States Constitution authorized by Public Law 98-101 (97 Stat. 719-723), $13,200,000, to remain available until expended, of which $3,700,000 is for carrying out the provisions of Public Law 99-194, including $2,700,000 for implementation of the National Bicentennial Competition on the Constitution and the Bill of Rights and $1,000,000 for educational programs about the Constitution and the Bill of Rights below the university level as authorized by such Act.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, $7,500,000, of which $2,000,000 is for regional offices and $700,000 is for civil rights monitoring activities: *Provided,* That not to exceed $20,000 may be used to employ consultants: *Provided further,* That not to exceed $185,000 may be used to employ temporary or special needs appointees: *Provided further,* That none of the funds shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service, exclusive of one special assistant for each Commissioner whose compensation shall not exceed the equivalent of 150 billable days at the daily rate of a level 11 salary under the General Schedule: *Provided further,* That not to exceed $40,000 shall be available for new, continuing or modifications of contracts for performance of mission-related external services: *Provided further,* That none of the funds shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairman who is permitted 125 billable days.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, $526,000 to remain available until expended: *Provided,* That not to exceed $6,000 of such amount shall be available for official reception and representation expenses.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621-634), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $20,000,000 for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act, as amended, and sections 6 and 14 of the Age Discrimination in Employment Act; $165,000,000.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by law (5 U.S.C. 5901-02); not to exceed $700,000 for land and structures; not to exceed $200,000 for improvement and care of grounds and repair to buildings; not to exceed $3,000 for official reception and representation expenses; purchase (not to exceed ten) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $95,000,000, of which not to exceed $300,000 of the foregoing amount shall remain available

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until September 30, 1988, for research and policy studies: *Provided,* That notwithstanding any other provision of law, the Federal Communications Commission, during fiscal year 1987, may recover the costs incurred to assess and collect charges authorized by section 5002 of Public Law 99-272 from receipts generated by such charges: *Provided further,* That none of the funds appropriated to the Federal Communications Commission by this Act may be used to diminish the number of VHF channel assignments reserved for noncommercial educational television stations in the Television Table of Assignments (section 73.606 of title 47, Code of Federal Regulations): *Provided further,* That funds appropriated to the Federal Communications Commission by this Act shall be used to consider alternative means of administration and enforcement of the Fairness Doctrine and to report to the Congress by September 30, 1987

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-02; $11,600,000: *Provided,* That not to exceed $1,500 shall be available for official reception and representation expenses.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; the sum of $65,000,000: *Provided,* That the funds appropriated in this paragraph are subject to the limitations and provisions of sections 10(a) and 10(c) (notwithstanding section 10(e)), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252; 94 Stat. 374): *Provided further,* That (a) The Federal Trade Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate, to the Committee on Energy and Commerce of the House of Representatives and to the Appropriations Committees of the Senate and House of Representatives the information specified in subsection (b) of this section every 6 months during fiscal year 1987. A report containing such information shall be submitted when the Commission submits its annual report to the Congress during such fiscal year, and such report may be included in the annual report. A separate report containing such information shall be submitted 6 months after the date of submission of any such annual report. Each such report shall contain such information for the period since the last submission under this section.

(b) Each such report shall list and describe, with respect to instances in which predatory pricing practices have been suspected or alleged—

(1) each complaint made, orally or in writing, to the offices of the Commission;

(2) each preliminary investigation opened or closed at the Commission;

(3) each formal investigation opened or closed at the Commission;

(4) each recommendation for the issuance of a complaint forwarded by the staff to the Commission;

(5) each complaint issued by the Commission;

(6) each opinion and order entered by the Commission;

(7) each consent agreement accepted provisionally or finally by the Commission;

(8) each request for modification of an outstanding Commission order filed with the Commission;

(9) each recommendation by staff pertaining to a request for modification of an outstanding Commission order; and

(10) each disposition by the Commission of a request for modification of an outstanding Commission order.

Such report shall include copies of all such consent agreements and complaints executed by the Commission referred to in such report. Where a matter has been closed or terminated, the report shall include a statement of the reasons for that disposition. The descriptions required under this subsection shall be as complete as possible but shall not reveal the identity of persons or companies complained about or those subject to investigation that have not otherwise been made public. The report shall include any evaluation by the Commission of the potential impacts of predatory pricing upon businesses (including small businesses.)

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $33,900,000 of which $4,000,000 shall remain available until expended for expenses related to relocation of the Commission.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94-118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,408,000, to remain available until expended; and an amount of Japanese currency not to exceed the equivalent of $1,200,000 based on exchange rates at the time of payment of such amounts, to remain available until expended: *Provided,* That not to exceed a total of $2,500 of such amounts shall be available for official reception and representation expenses.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $305,500,000 of which $261,293,672 is for basic field programs, $7,022,000 is for Native American programs, $9,698,000 is for migrant programs, $1,339,800 is for program development and law school clinics, $1,000,000 is for supplemental field programs, $623,964 is for regional training centers, $376,036 is for training development and technical assistance, $7,528,218 is for national support, $7,842,866 is for state support, $865,000 is for the Clearinghouse, $510,444 is for computer assisted legal research grants, and $7,400,000 is for Corporation management and administration: *Provided,* That none of the funds appropriated in this paragraph shall be expended for any purpose prohibited or limited by or contrary to any of the provisions of Public Law 99-180 and section 112 of Public Law 99-190: *Provided further,* That the funds distributed to each grantee funded in fiscal year 1987 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area shall be distributed in the following order:

(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) shall be maintained in fiscal year 1987 at not less than 1 percent more than the annual level at which each grantee and contractor was funded in fiscal year 1986 or $8.30 per poor person within its geographical area under the 1980 Census, whichever is greater; and

(2) each such grantee shall be increased by an equal percentage of the amount by which such grantee's funding, including the increase under the first priority above, falls below $14.56 per poor person within its geographical area under the 1980 census:

Provided further, That if a Presidential Order pursuant to section 252 of Public Law 99-177 is issued for fiscal year 1987, funds provided to each grantee covered by the second proviso shall be reduced by the percentage specified in the Presidential Order: *Provided further,* That if funds become available because a national support center has been defunded or denied refunding pursuant to section 1011(2) of the Legal Services Corporation Act, as amended by this Act, such funds may be transferred to basic field programs, to be distributed in the manner specified by this paragraph, if the Appropriations Committees of both Houses of Congress have been notified pursuant to section 607 of this Act: *Provided further,* That none of the funds appropriated by this Act may be used to implement or enforce the regulations issued by the Legal Services Corporation regarding legislative and administrative advocacy (45 CFR part 1612) printed for final publication in the "Federal Register" on May 31, 1984, (49 FR 22651) and on August 1, 1986 (51 FR 27539).

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, as amended, $900,000.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $13,300,000: *Provided,* That not to exceed $59,000 shall be available for official reception and representation expenses.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $3,000 for official reception and representation expenses, $110,500,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Association of Securities Commissioners.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, of the Small Business Administration, including purchase of one motor vehicle for replacement only, and hire of passenger motor vehicles and not to exceed $2,500 for official reception and representation expenses, $162,000,000; and for grants for Small Business Development Centers as authorized by section 21(a) of the Small Business Act, as amended, $35,000,000: *Provided,* That notwithstanding any other provision of law, the Small Business Administration is authorized to recognize all costs incurred prior to December 16, 1980, by a small business development center at the University of Georgia in pursuit of the purposes of the small business development center program as allowable costs chargeable to a fiscal year 1981 cooperative agreement, provided such costs were incurred subsequent to October 1, 1979, and have not been reimbursed from non-Federal sources. In addition, $92,000,000 for disaster loan-making activities, including loan servicing, shall be transferred to this appropriation from the "Disaster Loan Fund".

REVOLVING FUNDS

The Small Business Administration is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to its revolving funds, and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for the "Disaster Loan Fund", the "Business Loan and Investment Fund", the "Lease Guarantees Revolving Fund", the "Pollution Control Equipment Contract Guarantees Revolving Fund", and the "Surety Bond Guarantees Revolving Fund".

BUSINESS LOAN AND INVESTMENT FUND

For additional capital for the "Business Loan and Investment Fund", $164,000,000, to remain available without fiscal year limitation; and for additional capital for new direct loan obligations to be incurred by the "Business Loan and Investment Fund", $97,000,000, to remain available without fiscal year limitation.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $9,497,000, to remain available without fiscal year limitation.

POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEE REVOLVING FUND

For additional capital for the "Pollution control equipment contract guarantee revolving fund" authorized by the Small Business Investment Act, as amended, $14,245,000, to remain available without fiscal year limitation.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by Public Law 98-620, $7,200,000 to remain available until expended.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by Reorganization Plan No. 2 of 1977, the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), to carry out international communication, educational and cultural activities, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $270,000, of which $250,000 is to facilitate United States participation in international expositions abroad); expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), living quarters as authorized by 5 U.S.C. 5912, and allowances as authorized by 5 U.S.C. 5921-5928 and 22 U.S.C. 287e-1; and entertainment, including official receptions, within the United States, not to exceed $20,000; $570,000,000, none of which shall be restricted from use for the purposes appropriated herein: *Provided,* That not to exceed $1,000,000 may be used for representation abroad: *Provided further,* That not to exceed $15,558,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended: *Provided further,* That receipts not to exceed $1,000,000 may be credited to this appropriation from fees or other

payments received from or in connection with English-teaching programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended: *Provided further,* That not to exceed $2,750,000 shall be available for the Office of Inspector General.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of Fulbright, International Visitor, Humphrey Fellowship and Congress-Bundestag Exchange Programs, as authorized by Reorganization Plan No. 2 of 1977 and the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), $135,270,000, of which $24,270,000, to remain available until expended, shall be available for expenditure on October 1, 1987. For the Private Sector Exchange Programs, $9,730,000 of which $730,000, to remain available until expended, shall be available for expenditure on October 1, 1987, and of which $1,500,000, to remain available until expended, is for the Eisenhower Exchange Fellowship Program notwithstanding section 209 of Public Law 99-93.

RADIO CONSTRUCTION

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception, $46,000,000, to remain available until expended: *Provided,* That not to exceed $12,000,000 of these funds shall be available for construction of facilities for Radio In the American Sector: *Provided further,* That such amounts as may be necessary shall be available until expended for contingent termination or cancellation costs: *Provided further,* That the Funds appropriated in this paragraph shall be available for expenditure on October 1, 1987.

RADIO BROADCASTING TO CUBA

For an additional amount, necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act (providing for the Radio Marti program or Cuba Service of the Voice of America), including the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception, $11,250,000, to remain available until expended.

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to any appropriate recipient in the State of Hawaii, $20,000,000: *Provided,* That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing for the payment thereof, in excess of the highest rate authorized in the General Schedule of the Classification Act of 1949, as amended.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $15,000,000.

ADMINISTRATIVE PROVISION—UNITED STATES INFORMATION AGENCY

Funds appropriated under this title to the United States Information Agency shall be available notwithstanding the provisions of sections 203, 204, 205, and 210(c) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93).

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. None of the funds appropriated in titles II and V of this Act may be used for any activity to alter the per se prohibition on resale price maintenance in effect under Federal antitrust laws: *Provided,* That nothing in this provision shall prohibit any employee of a department or agency for which funds are provided in titles II and V of this Act from presenting testimony on this matter before appropriate committees of the House and Senate.

SEC. 606. None of the funds appropriated by this Act to the Legal Services Corporation may be used by the Corporation or any recipient to participate in any litigation with respect to abortion, except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 607. (a) None of the funds provided under this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $250,000 or 10 per

centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 608. (a) Notwithstanding any provision of chapter 11 of title 11, United States Code, the trustee shall pay benefits until May 15, 1987 to retired former employees under a plan, fund, or program maintained or established by the debtor prior to filing a petition (through the purchase of insurance or otherwise) for the purpose of providing medical, surgical, or hospital care benefits, or benefits in the event of sickness, accident, disability, or death.

(b) This section is effective with respect to cases commenced under chapter 11, of title 11, United States Code, in which a plan for reorganization has not been confirmed by the court and in which any such benefit is still being paid on October 2, 1986, and in cases that become subject to chapter 11, title 11, United States Code, after October 2, 1986.

(c) This section shall not apply during any period in which a case is subject to chapter 7, title 11, United States Code.

TITLE VII—CHILD ABUSE VICTIMS' RIGHTS ACT OF 1986

SHORT TITLE

SEC. 701. This title may be cited as the "Child Abuse Victims' Rights Act of 1986".

FINDINGS

SEC. 702. The Congress finds that—

(1) child exploitation has become a multi-million dollar industry, infiltrated and operated by elements of organized crime, and by a nationwide network of individuals openly advertising their desire to exploit children;

(2) Congress has recognized the physiological, psychological, and emotional harm caused by the production, distribution, and display of child pornography by strengthening laws prescribing such activity;

(3) the Federal Government lacks sufficient enforcement tools to combat concerted efforts to exploit children prescribed by Federal law, and exploitation victims lack effective remedies under Federal law; and

(4) current rules of evidence, criminal procedure, and civil procedure and other courtroom and investigative procedures inhibit the participation of child victims as witnesses and damage their credibility when they do testify, impairing the prosecution of child exploitation offenses.

CIVIL REMEDY FOR PERSONAL INJURY

SEC. 703. (a) Chapter 110 of part I of title 18, United States Code, is amended by redesignating section 2255 as section 2256, and by inserting after section 2254 the following:

"§ 2255. Civil remedy for personal injuries

"(a) Any minor who is a victim of a violation of section 2251 or 2252 of this title and who suffers personal injury as a result of such violation may sue in any appropriate United States District Court and shall recover the actual damages such minor sustains and the cost of the suit, including a reasonable attorney's fee. Any minor as described in the preceding sentence shall be deemed to have sustained damages of no less than $50,000 in value.

"(b) Any action commenced under this section shall be barred unless the complaint is filed within six years after the right of action first accrues or in the case of a person under a legal disability, not later than three years after the disability ".

(b) The table of sections for chapter 110 of part I of title 18, United States Code, is amended by striking out the item relating to section 2255 and inserting in lieu thereof the following:

"2255. Civil remedy for personal injuries.
"2256. Definitions for chapter.".

MINIMUM SENTENCE FOR REPEAT OFFENDERS

SEC. 704. (a) Section 2251(c) of title 18, United States Code, is amended by striking out "or imprisoned not less than two years" and inserting in lieu thereof "or imprisoned not less than five years".

(b) Section 2252(b) of title 18, United States Code, is amended by striking out "or imprisoned not less than two years" and inserting in lieu thereof "or imprisoned not less than five years".

ATTORNEY GENERAL REPORT

SEC. 705. (a) Within one year after the date of enactment of this title, the Attorney General shall submit a report to Congress detailing possible changes in the Federal Rules of Evidence, the Federal Rules of Criminal Procedure, the Federal Rules of Civil Procedure, and other Federal courtroom, prosecutorial, and investigative procedures which would facilitate the participation of child witnesses in cases involving child abuse and sexual exploitation.

(b) In preparing the report, the Attorney General shall consider, but not be limited to, such changes as—

(1) use of closed-circuit cameras, two-way mirrors, and other out-of-court statements;

(2) judicial discretion to circumscribe use of harassing, overly complex, and confusing questions against child witnesses;

(3) use of videotape in investigations to reduce repetitions of interviews;

(4) streamlining investigative procedures; and

(5) improved training of prosecutorial and investigative staff in special problems of child witnesses, including handicapped children.

TITLE VIII

JAMES MADISON MEMORIAL FELLOWSHIP

SHORT TITLE

SEC. 801. This title may be cited as the "James Madison Memorial Fellowship Act".

PURPOSE

SEC. 802. It is the purpose of this title to establish the James Madison Fellowship Program which is designed to encourage graduate study of the American Constitution, its roots, its formation, its principles, and its development.

FOUNDATION

SEC. 803. (a) In order to commemorate the bicentennial of the Constitution, there is established, as an independent establishment of the executive branch, the James Madison Memorial Fellowship Foundation.

(b)(1) The Foundation shall be subject to the supervision and direction of a Board of Trustees. The Board shall be composed of thirteen members, as follows:

(A) Two Members of the Senate, of different political parties, shall be appointed by the President upon the recommendation of the President pro tempore of the Senate, in consultation with the Majority Leader and Minority Leader of the Senate.

(B) Two Members of the House of Representatives, of different political parties, shall be appointed by the President upon the recommendation of the Speaker of the House, in consultation with the Minority Leader of the House of Representatives.

(C) Two members of the Federal judiciary shall be appointed by the President upon the recommendation of the Chief Justice of the United States.

(D) Six members, not more than three of whom shall be of the same political party, shall be appointed by the President with the advice and consent of the Senate, of whom one shall be a chief executive officer of a State, two shall be members of the general public, and three shall be members of the academic community, appointed upon the recommendation of the Librarian of Congress.

(E) The Secretary of Education or his designate shall serve ex officio as a member of the Board, but shall not be eligible to serve as Chairman.

(2) The term of office of each member of the Board shall be six years; except that (A) the members first taking office shall serve as designated by the President, four for terms of two years, five for terms of four years, and four for terms of six years, and (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed, and shall be appointed in the same manner as the original appointment for that vacancy was made. This provision shall not apply to members ex officio.

(c) Members of the Board shall elect from the members of the Board a Chairman and such other officers as may be necessary to carry out the duties of the Foundation.

(d) Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

FELLOWSHIP RECIPIENTS

SEC. 804. (a) The Foundation is authorized to award fellowships to outstanding students and teachers who will pursue graduate study leading to the degree of Master of Arts in teaching or other appropriate masters degree for teachers, with a major in social studies or American history. Each recipient must take at least twelve semester hours, or its equivalent in topics directly related to the Constitution of the United States, as determined by the Board.

(b)(1) James Madison fellowships shall be awarded to individuals who are, or who desire to become, social studies and American history teachers in accordance with paragraphs (2) and (3).

(2) Junior fellowships shall be awarded to graduate students who are about to complete or have recently completed their undergraduate course of study, and plan to begin graduate work on a relatively full-time basis.

(3) Senior fellowships shall be awarded to experienced teachers who wish to undertake work for a graduate degree on a part-time basis during summers or in evening programs.

PERIOD FOR AWARD

SEC. 805. Junior fellowships shall be granted for such periods as the Foundation may prescribe but not to exceed two academic years. Senior fellowship shall be granted for such periods as the Foundation may prescribe, but not to exceed five calendar years.

RECIPIENT'S CHOICE OF INSTITUTION

SEC. 806. Fellowship recipients may attend any institution of higher education in the United States with an accredited graduate program which offers courses of study or training which emphasize the origins of the Constitution of the United States, its principles, its development, and its comparison with other forms of government, as determined according to criteria established by the Foundation.

RECIPIENT'S ELIGIBILITY

SEC. 807. Each student awarded a fellowship under this title shall demonstrate the potential, and a serious intention, to follow a career of educating students in secondary schools. Each institution of higher education at which such a student is in attendance shall make reasonable efforts to encourage such a student to meet the objectives of this section.

Each student receiving a Fellowship under this Act shall enter into an agreement under which the recipient shall:

(a) within a 5-year period after completing the education for which the fellowship was awarded, teach on a full-time basis students in secondary school for a period of not less than one year for each year for which asistance was received;

(b) repay all of the Fellowship assistance received plus interest at the rate of 6% per annum and, if applicable, reasonable collection fees for each school year for which assistance was

received for which such recipient failed to teach as provided in paragraph (a); and

(c) not be considered to be in violation of the agreement entered into during any period during which the recipient:

(1) is pursuing a full-time course of study related to the field of teaching at an eligible institution;

(2) is serving, not in excess of 3 years, as a member of the armed services of the United States;

(3) is temporarily totally disabled for a period of time not to exceed 3 years as established by sworn affidavit of a qualified physician;

(4) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

(5) is seeking and unable to find full-time employment for a single period not to exceed 12 months; or

(6) is seeking and unable to find full-time employment as a teacher.

SELECTION OF FELLOWSHIP RECIPIENTS

SEC. 808. (a) Madison Fellows shall be selected for their academic achievements and their potential to become secondary school teachers of social studies and American history.

(b)(1) The Foundation is authorized, either directly or by contract, to provide for the conduct of a nationwide competition for the selection of fellowship recipients. Each applicant must have a demonstrated interest in pursuing a course of study which emphasizes the Constitution, its principles, and its history, and have a demonstrated record of willingness to devote themselves to civil responsibility.

(2) Each application shall be accompanied by an essay explaining the importance of the study of the Constitution both to the applicant's career aspirations and contributions to public service, and to citizenship generally in a constitutional regime.

(3)(A) Each application shall include a description of a program of study for the graduate program, designating the courses to be taken, and the proposed Master's thesis, where appropriate.

(B) For the purpose of this paragraph, the Board of Trustees of the Foundation shall establish general criteria for programs in constitutional studies.

(c) The Foundation shall adopt selection procedures which shall assure that at least one Madison Fellow shall be selected each year from each State, the District of Columbia, and the Commonwealth of Puerto Rico, and considered as a single entity, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific Islands, and the Commonwealth of the Northern Marianas in which there are at least two resident applicants who meet the minimum criteria established by the Foundation; and, if sufficient funding is available, to invite applications from scholars overseas for study in the United States.

AMOUNT OF FELLOWSHIPS

SEC. 809. Each student awarded a fellowship shall receive a stipend which shall not exceed the cost to the student for tuition, fees, books, room and board, or $12,000, whichever is less, for each academic year of study.

FELLOWSHIP CONDITIONS

SEC. 810. (a) A student awarded a Madison Fellowship shall continue to receive payments only during such periods as the Foundation finds that the student is maintaining satisfactory progress in an approved program of study or research. Recipients of junior fellowships shall devote essentially full time to their program of study.

(b) The Foundation is authorized to require reports from any fellowship recipient containing such information, in such form, and to be filed at such times as the Foundation determines to be necessary. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such student is making satisfactory progress in a program of study or research, with such exceptions as the Foundation may establish.

JAMES MADISON MEMORIAL FELLOWSHIP TRUST FUND

SEC. 811. (a)(1) There shall be established in the Treasury of the United States a trust fund consisting of appropriations and amounts contributed by the Foundation for the Commemoration of the Constitution an other private sources to be available, in accordance with the provisions of this title, to carry out the provisions of this title.

(2) No funds in the Trust Fund may be available for fellowships until the contributions from private sources are equal to $10,000,000.

(b) It shall be the duty of the Secretary of the Treasury to invest in full the amounts appropriated and contributed to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue at the market price, is not in the public interest.

(c) Any obligations acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) The interest on, and the proceeds from, the sale or redemption of any obligations held in the fund shall be credited to and form a part of the fund.

EXPENDITURES AND AUDIT

SEC. 812. (a) The Secretary of the Treasury is authorized to pay to the Foundation from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provisions of this title.

(b) The activities of the Foundation under this title may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Foundation, pertaining to such activities and necessary to facilitate the audit.

EXECUTIVE SECRETARY OF FOUNDATION

SEC. 813. (a) There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board.

(b) The Executive Secretary of the Foundation shall be compensated at the rate specified for employees placed in grade GS-18 of the General Schedule set forth in section 5332 of title 5.

ADMINISTRATIVE PROVISIONS

SEC. 814. (a) The Foundation is authorized—

(1) to appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter, except that in no case shall employees other than the Executive Secretary be compensated at a rate to exceed the rate provided for employees in grade GS-15 of the General Schedule set forth in section 5332 of title 5;

(2) to procure temporary and intermittent services of such experts and consultants as are necessary to the extent authorized by section 3109 of title 5, but at rates not to exceed the rate specified at the time of such service for grade GS-18 in section 5332 of such title;

(3) to prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(4) to receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) to accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5;

(6) to enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this chapter, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 5 of title 41;

(7) to make advances, progress, and other payments which the Board deems necessary under this chapter without regard to the provisions of section 529 of title 31;

(8) to rent office space;

(9) to conduct programs in addition to or in conjunction with the Fellowship program which shall further the Foundation's purpose of encouraging research and study of constitutionalism in America; and

(10) to make other necessary expenditures.

(b) The foundation shall submit to the President and to the Congress an annual report of its operations under this chapter.

DEFINITIONS

SEC. 815. As used in this title—

(1) the term "Board" means the Board of Trustees of the James Madison Memorial Fellowship Foundation;

(2) the term "Foundation" means the James Madison Memorial Fellowship Foundation;

(3) the term "institution of higher education" has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965; and

(4) the term "secondary school" has the same meaning given that term by section 1201(d) of the Higher Education Act of 1965.

APPROPRIATIONS

SEC. 816. There are appropriated to the James Madison Memorial Trust Fund $20,000,000 to carry out the provisions of this title, $10,000,000 of which shall be available on November 1, 1987, and to remain available until expended; and $10,000,000 of which shall be available on November 1, 1988, and to remain available until expended.

CONSTITUTIONAL LAW RESOURCE CENTERS

SEC. 817. (a) It is the purpose of this section to establish four centers where nationally recognized distinguished experts in Constitutional law will produce, on a periodic basis, articles of current interest relating to the Constitution of the United States which are suitable for use by James Madison scholars, educational institutions, law school reviews, bar associations, and the news media.

(b) In order to encourage recipient universities to provide such a continuing service, four endowments shall be established with funds from appropriations provided herein and such other amounts as may be contributed from other sources.

(c) The income from each endowment shall be used to help support a chair for a Professor of Constitutional law. Each endowment shall be held in trust with the income from the portion provided herein used exclusively to contribute toward the salary and related costs of the professor filling the chair and for services directly related to the support of such professor such as secretarial and research services. The recipient university shall from sources other than that portion of the endowment funded herein furnish the office, classroom and related services suitable to such a member of the faculty.

The professor holding each chair shall file a copy of such articles with the Library of Congress, which shall make them available to libraries in the usual manner and the recipient of the endowment

shall also make a copy available upon request by accredited educational institutions, bar associations, and general news media without royalty or charge other than the costs associated with printing or reprinting, handling and distribution.

(d) That portion of each endowment provided by this Act and any accumulations attributable to such grant shall be invested by the recipient university in interest bearing obligations of the United States or in obligations guaranteed both as to principal and interest by the United States and shall be subject to audit by the General Accounting Office for the sole purpose of determining that such funds are accounted for or have been used as provided herein. If a grantee university elects to discontinue such chair and support services, the corpus of the endowment attributable to the Federal grant shall revert to the Treasury of the United States.

(e) The application for the grant for an endowment shall require only such information and supporting material as is reasonably necessary to assure that the funds will be used for the purposes described herein. Acceptance of the grant by each university shall constitute an agreement and obligation of that university to fulfill the obligations set forth in this section.

(f) The grants for each endowment shall be for $800,000 and shall be offered to Howard University School of Law in Washington, D.C., Drake University School of Law in Des Moines, Iowa, the University of Akron School of Law in Akron, Ohio, and the University of South Carolina School of Law at Columbia, South Carolina.

SEC. 818. There is hereby appropriated to each recipient University named above or to the trustee of the fund designated by the President of the University the sum of $800,000 to carry out the provisions of section 817, to be available on November 1, 1987, and to remain available until expended.

This Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1987".

(c) Such amounts as may be necessary for programs, projects or activities provided for in the Department of Defense Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for the Department of Defense for the fiscal year ending September 30, 1987, and for other purposes

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; $22,353,990,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; $17,104,850,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; $5,266,053,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; $18,940,731,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3019, and 3033 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $2,323,210,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,464,453,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $303,968,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 8019, and 8033 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $629,200,000.

National Guard Personnel, Army

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 265, 3033, or 3496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $3,323,145,000.

National Guard Personnel, Air Force

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 265, 8033, or 8496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,027,778,000.

TITLE II

OPERATION AND MAINTENANCE

Operation and Maintenance, Army

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $15,664,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; $20,022,399,000, of which not less than $1,705,000,000 shall be available only for the maintenance of real property facilities.

Operation and Maintenance, Navy

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $3,919,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; $22,939,674,000, of which not less than $795,000,000 shall be available only for the maintenance of real property facilities, and of which $75,000,000 shall be available only to reimburse United States Coast Guard Operating Expenses for operations and training relating to the Coast Guard defense, military readiness and drug enforcement missions: *Provided*, That of the total amount of this appropriation made available for the alteration, overhaul, and

repair of naval vessels, not more than $3,415,000,000 shall be available for the performance of such work in Navy shipyards: *Provided further,* That from the amounts of this appropriation for the alteration, overhaul and repair of naval vessels and aircraft, funds shall be available to acquire the alteration, overhaul and repair by competition between public and private shipyards and air rework facilities. The Navy shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private shipyards and air rework facilities. Competitions shall not be subject to section 502 of the Department of Defense Authorization Act, 1981, as amended, section 307 of the fiscal year 1985 Department of Defense Authorization Act, or Office of Management and Budget Circular A-76: *Provided further,* That funds herein provided shall be available for payments in support of the LEASAT program in accordance with the terms of the Aide Memoire, dated January 5, 1981: *Provided further,* That of the funds appropriated herein, not to exceed $5,080,000 shall be available for a grant to the Battleship Texas Advisory Board of the State of Texas for the restoration of the Battleship Texas.

Operation and Maintenance, Marine Corps

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; $1,793,750,000, of which not less than $280,000,000 shall be available only for the maintenance of real property facilities.

Operation and Maintenance, Air Force

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law, including the lease and associated maintenance of replacement aircraft for the CT-39 aircraft to the same extent and manner as authorized for service contracts by section 2306(g), title 10, United States Code; and not to exceed $6,171,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; $18,636,816,000, of which not less than $1,650,000,000 shall be available only for the maintenance of real property facilities.

Operation and Maintenance, Defense Agencies

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; $7,978,674,000: *Provided,* That not to exceed $10,904,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided further,* That $372,000 is available to the Office of Economic Adjustment for making community planning assistance grants pursuant to section 2391 of title 10, United States Code, and joint community/military planning assistance grants for mitigation of operational impacts from encroachment: *Provided further,* That not less than $116,465,000 shall be available only for the maintenance of real property facilities: *Provided further,* That $1,500,000

shall be transferred to the Department of Commerce, International Trade Administration, "Operations and administration", for export administration activities.

Operation and Maintenance, Army Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $769,966,000, of which not less than $38,336,000 shall be available only for the maintenance of real property facilities.

Operation and Maintenance, Navy Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $884,097,000, of which not less than $37,248,000 shall be available only for the maintenance of real property facilities.

Operation and Maintenance, Marine Corps Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $63,875,000, of which not less than $3,146,000 shall be available only for the maintenance of real property facilities.

Operation and Maintenance, Air Force Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $911,200,000, of which not less than $22,969,000 shall be available only for the maintenance of real property facilities.

Operation and Maintenance, Army National Guard

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compli-

ance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); $1,734,447,000, of which not less than $56,300,000 shall be available only for the maintenance of real property facilities.

Operation and Maintenance, Air National Guard

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; $1,755,658,000, of which not less than $41,000,000 shall be available only for the maintenance of real property facilities.

National Board for the Promotion of Rifle Practice, Army

For the necessary expenses and personnel services (other than pay and non-travel related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the national matches) in accordance with law, for construction, equipment, and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; the conduct of the national matches; the issuance of ammunition under the authority of title 10, United States Code, sections 4308 and 4311; and the travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions; not to exceed $4,316,000, of which not to exceed $7,500 shall be available for incidental expenses of the National Board: *Provided*, That competitors at national matches under title 10, United States Code, section 4312, may be paid subsistence and travel allowances in excess of the amounts provided under title 10, United States Code, section 4313.

Claims, Defense

For payment, not otherwise provided for, of claims authorized by law to be paid by the Department of Defense (except for civil functions), including claims for damages arising under training contracts with carriers, and repayment of amounts determined by the Secretary concerned, or officers designated by him, to have been erroneously collected from military and civilian personnel of the Department of Defense, or from States, territories, or the District of

Columbia, or members of the National Guard units thereof; $144,400,000: *Provided,* That section 4 of chapter III of Public Law 99-349 is amended by adding before the period at the end thereof the following: "without a determination of legal liability based on an act or omission of an agent or employee of the Federal Government": *Provided further,* That the Secretary of the Navy is authorized and directed to pay from previously authorized and appropriated funds not to exceed $10,000,000 to reimburse upon verification, the business entity responsible for performance of construction of the Norfolk Navy Steam Plant for losses incurred by said entity arising out of construction according to drawings reviewed and approved by the Navy and issued or released for construction in said performance.

COURT OF MILITARY APPEALS, DEFENSE

For salaries and expenses necessary for the United States Court of Military Appeals; $3,200,000, and not to exceed $1,500 can be used for official representation purposes.

TENTH INTERNATIONAL PAN AMERICAN GAMES

For logistical support and personnel services (other than pay and non-travel related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the Tenth International Pan American Games) provided by any component of the Department of Defense to the Tenth International Pan American Games; $15,000,000.

ENVIRONMENTAL RESTORATION, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense; $375,900,000, to remain available until transferred: *Provided,* That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, research and development associated with hazardous wastes and removal of unsafe buildings and debris of the Department of Defense, or for similar purposes (including programs and operations at sites formerly used by the Department of Defense), transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense as the Secretary may designate, to be merged with and to be available for the same purposes and for the same time period as the appropriations of funds to which transferred: *Provided further,* That upon a determination that all or part of the funds transferred pursuant to this provision are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

HUMANITARIAN ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For transportation for humanitarian relief for refugees of Afghanistan, acquisition of transportation assets to assist in the distribution of such relief, and distribution of excess nonlethal

supplies for worldwide humanitarian relief, as authorized by law; $10,000,000: *Provided,* That not more than $2,500,000 may be transferred to the Secretary of State to provide for necessary expenses related to the transportation of humanitarian relief: *Provided further,* That of the funds provided under "Operation and Maintenance, Air Force" in Public Law 99-190, $7,000,000 shall remain available for obligation until September 30, 1987, for nonlethal aid to Afghanistan.

TITLE III

PROCUREMENT

Aircraft Procurement, Army

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,762,750,000, to remain available for obligation until September 30, 1989.

Missile Procurement, Army

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,206,800,000, to remain available for obligation until September 30, 1989.

Procurement of Weapons and Tracked Combat Vehicles, Army

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $3,804,300,000, to remain available for obligation until September 30, 1989: *Provided,* That none of these funds may be

used for the noncompetitive procurement of the M249 Squad Automatic Weapon.

Procurement of Ammunition, Army

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized in military construction authorization Acts or authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,087,150,000, to remain available for obligation until September 30, 1989.

Other Procurement, Army

For construction, procurement, production, and modification of vehicles, including tactical, support, and nontracked combat vehicles; the purchase of not to exceed two hundred and ninety passenger motor vehicles for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $5,118,752,000, to remain available for obligation until September 30, 1989.

Aircraft Procurement, Navy

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $9,794,262,000, to remain available for obligation until September 30, 1989: *Provided,* That four P-3C aircraft shall be for the Navy Reserve.

Weapons Procurement, Navy

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary

therefor, and such lands and interest therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, as follows:

Poseidon, $3,974,000;
TRIDENT I, $4,739,000;
TRIDENT II, $1,362,439,000;
UGM-73A Poseidon Modifications, $95,000;
Support equipment and facilities, $3,790,000;
Tomahawk, $723,800,000;
AIM/RIM-7 F/M Sparrow, $269,394,000;
AIM-9L/M Sidewinder, $35,800,000;
AIM-54A/C Phoenix, $267,272,000;
AIM-54A/C Phoenix advance procurement, $20,000,000;
AGM-84A Harpoon, $123,000,000;
AGM-88A HARM, $256,682,000;
SM-2 MR, $478,611,000;
SM-2 ER, $217,017,000;
RAM, $40,000,000;
Stinger, $39,740,000;
Sidearm, $22,858,000;
Laser Maverick, $165,691,000;
IIR Maverick, $35,200,000;
Aerial targets, $96,000,000;
Drones and decoys, $36,136,000;
Other missile support, $22,017,000;
Modification of missiles, $13,692,000;
Support equipment and facilities, $74,803,000;
Ordnance support equipment, $79,192,000;
MK-48 ADCAP torpedo program, $254,770,000;
MK-46 torpedo program, $97,861,000;
MK-50 torpedo program, $68,137,000;
Antisubmarine rocket (ASROC) program, $13,597,000;
Vertical launched ASROC, $74,289,000;
Modification of torpedoes, $97,705,000;
Torpedo support equipment program, $52,610,000;
MK-15 close-in weapons system program, $105,606,000;
MK-75 gun mount program, $14,875,000;
MK-19 machine gun program, $632,000;
25mm gun mount, $3,919,000;
Small arms and weapons, $10,082,000;
Modification of guns and gun mounts, $57,215,000;
Guns and gun mounts support equipment program, $873,000;
Spares and repair parts, $150,734,000;

In all: $5,290,847,000, to remain available for obligation until September 30, 1989: *Provided*, That within the total amount appropriated, the subdivisions within this appropriation shall be reduced by $104,000,000.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway;

procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

TRIDENT ballistic missile submarine program, $1,446,400,000;

SSN-688 attack submarine program, $2,250,800,000;

SSN-21 attack submarine program, $375,000,000;

Aircraft carrier service life extension program, $83,500,000;

CG-47 cruiser program, $2,725,500,000;

DDG-51 destroyer program, $1,750,100,000;

LHD-1 amphibious assault ship program, $35,000,000;

T-AO fleet oiler program, $259,000,000;

AO conversion program, $40,000,000;

T-AGOS ocean surveillance ship program, $228,000,000;

AOE fast combat support ship program, $499,000,000;

Oceanographic research ship program, $33,000,000;

Strategic sealift program, $77,800,000;

T-ACS auxiliary crane ship program, $61,100,000;

For craft, outfitting, and post delivery, $470,789,000;

In all: $10,210,989,000, to remain available for obligation until September 30, 1991: *Provided,* That within the total amount appropriated, the subdivisions within this appropriation shall be reduced by $124,000,000: *Provided further,* That additional obligations may be incurred after September 30, 1991, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction; and each Shipbuilding and Conversion, Navy, appropriation that is currently available for such obligations may also hereafter be so obligated after the date of its expiration: *Provided further,* That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: *Provided further,* That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards.

Other Procurement, Navy

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance and ammunition (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed five hundred and ninety-nine passenger motor vehicles of which five hundred and seventy-four shall be for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, as follows:

Ship support equipment, $1,037,619,000;

Communications and electronics equipment, $2,006,277,000;

Aviation support equipment, $788,366,000;

Ordnance support equipment, $1,245,355,000;

Civil engineering support equipment, $209,041,000;

Supply support equipment, $71,823,000;
Personnel and command support equipment, $502,498,000;
Spares and repair parts, $293,692,000;

In all: $6,033,371,000, to remain available for obligation until September 30, 1989: *Provided,* That within the total amount appropriated, the subdivisions within this appropriation shall be reduced by $121,300,000.

Coastal Defense Augmentation

For the augmentation of United States Coast Guard inventories to meet national security requirements; $200,000,000, to remain available until expended: *Provided,* That these funds shall be for the procurement by the Department of Defense of vessels, aircraft, and equipment and for modernization of existing Coast Guard assets, which assets are to be made available to the Coast Guard for operation and maintenance.

Procurement, Marine Corps

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including purchase of not to exceed sixty-four passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands, and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; $1,465,215,000, to remain available for obligation until September 30, 1989.

Aircraft Procurement, Air Force

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $17,131,281,000, to remain available for obligation until September 30, 1989: *Provided,* That none of the funds in this Act may be obligated on B-1B bomber production contracts if such contracts would cause the production portion of the Air Force's $20,500,000,000 estimate for the B-1B bomber baseline costs expressed in fiscal year 1981 constant dollars to be exceeded: *Provided further,* That notwithstanding the provisions of section 9032 of this Act (A) the Secretary of the Air Force may award a multiyear contract that employs economic order quantity procurement for the purchase of Air Defense Aircraft in accordance with section 2306(h) of title 10, United States Code, without prior notice to Congress if the results of the competitive

source selection demonstrate that (1) a multiyear contract will yield significant savings over the amount that would have resulted under an annual contract with the selected offeror; and (2) those savings have a positive present value; (B) the cancellation ceiling associated with the first year of a multiyear contract under subsection (A) may be carried as an unfunded contingent liability subject to section 2306(h)(5) of title 10, United States Code: *Provided further,* That $151,000,000 is available only for production of T-46A aircraft and related costs: *Provided further,* That $170,100,000 provided in fiscal year 1986 under this heading is available only for the production of T-46A aircraft and related costs: *Provided further,* That none of the funds provided in this or any prior Act may be used for the T-46A airframe production contract which existed on October 1, 1986 for other than lot one production: *Provided further,* That (1) the maximum program production cost for the T-46A aircraft program is $3,100,000,000 (in fiscal year 1986 dollars), based upon procurement of 650 aircraft. The maximum production unit cost for such program is $4,800,000 (in fiscal year 1986 dollars). The program production cost and production unit cost for such program determined for the purposes of this proviso shall be determined without regard to amounts for initial spares. (2) If during any fiscal year, after fiscal year 1987, the maximum program production cost or production unit cost for procurement of 650 aircraft is exceeded, the Secretary of the Air Force may not procure any T-46A aircraft during a later fiscal year no earlier than fiscal year 1989 until the Secretary has conducted a competition for procurement of that aircraft.

Missile Procurement, Air Force

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $7,446,718,000, to remain available for obligation until September 30, 1989: *Provided,* That no funds may be obligated or expended for Lot 1 low-rate production of the Advanced Medium Range Air-to-Air Missile, with the exception of long-lead procurement, until this missile has demonstrated, in flight test, the capability to successfully engage a minimum of two targets with two missiles on the same intercept in an electronic countermeasure environment after the missiles have been launched: *Provided further,* That funds made available for a portion of the MX missile program by the appropriation "Missile Procurement, Air Force, 1985/1987" and prior year funds referred to in that appropriation, shall remain available for the period originally appropriated for the purchase of the first 33 MX missiles of the MX missile program.

Other Procurement, Air Force

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground

electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; for the purchase of not to exceed seven hundred and forty-seven passenger motor vehicles of which six hundred and fifty-nine shall be for replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $9,254,941,000, to remain available for obligation until September 30, 1989.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, as follows:

Army Reserve, $90,000,000;
Army National Guard, $146,000,000;
Air National Guard, $50,000,000;
Navy Reserve, $61,000,000;
Marine Corps Reserve, $60,000,000;
Air Force Reserve, $150,000,000;

In all: $557,000,000, to remain available for obligation until September 30, 1989.

PROCUREMENT, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed seven hundred and seventy-nine passenger motor vehicles of which two hundred and fifty-nine shall be for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $1,498,256,000, to remain available for obligation until September 30, 1989.

DEFENSE PRODUCTION ACT PURCHASES

For purchases or commitments to purchase metals, minerals, or other materials by the Department of Defense pursuant to section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093); $13,000,000, to remain available for obligation until September 30, 1989.

TITLE IV

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $4,556,076,000, to remain available for obligation until September 30, 1988.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $9,326,418,000, to remain available for obligation until September 30, 1988; of the total amount available for obligation $173,525,000 is available only for full-scale development of the MK-50 Advanced Lightweight Torpedo Program, $39,704,000 is available only for the Low Cost Anti-Radiation Seeker Program, and $3,000,000 is available only for the Aircrew Impact Injury Prevention Project: *Provided,* That the funds available for the V-22 Osprey Program shall not be subject to obligational limitations set forth in a National Defense Authorization Act for fiscal year 1987: *Provided further,* That funds made available for the Surface ASW Systems Improvement Program shall not be obligated or expended until a Joint Resources Management Board Milestone II decision and a Secretary of Defense Decision Memorandum have approved the initiation of full-scale engineering development: *Provided further,* That $1,800,000 shall be made available for research and development and related equipment for the Institute for Technology Development, as a grant, for the National Center for Physical Acoustics.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $15,062,783,000, to remain available for obligation until September 30, 1988; of the total amount available for obligation $17,375,000 is available only for the Low Cost Seeker Program.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test, and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $6,742,091,000, to remain available for obligation until

September 30, 1988: *Provided,* That such amounts as may be determined by the Secretary of Defense to have been made available in other appropriations available to the Department of Defense during the current fiscal year for programs related to advanced research may be transferred to and merged with this appropriation to be available for the same purposes and time period: *Provided further,* That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to carry out the purposes of advanced research to those appropriations for military functions under the Department of Defense which are being utilized for related programs to be merged with and to be available for the same time period as the appropriation to which transferred: *Provided further,* That $200,000,000 is available to the Secretary of Defense only for the Conventional Defense Initiatives (CDI) program, which shall include conventional defense initiatives and conventional applications of the technologies developed under the Strategic Defense Initiative (SDI): *Provided further,* That such funds shall be under the control and management of the Secretary of Defense, who, with the concurrence of the Joint Chiefs of Staff, shall develop a plan for the utilization of emerging technologies for conventional applications including such technologies applicable from the Strategic Defense Initative: *Provided further,* That not more than $100,000,000 of these funds shall be obligated or expended until the Secretary of Defense identifies the specific technology development efforts to be drawn from SDI, and the conventional defense applications for which they will be utilized. None of the restricted funds shall be obligated or expended until 15 days after the Secretary of Defense provides such notification to Congress, but not earlier than July 1, 1987: *Provided further,* That no portion of the $200,000,000 made available to the Secretary of Defense be applied to any program, project, or activity in support of the Strategic Defense Initiative: *Provided further,* That $55,000,000 of funds made available for the National Aerospace Plane (NASP) Program may not be obligated or expended until the Secretary of Defense certifies that the Department of Defense and the National Aeronautics and Space Administration (NASA) have negotiated revised funding arrangements for NASP development which significantly increase NASA investment as a percentage of total NASP research, development, test and evaluation costs and which incorporate mandatory industry investment out of private capital.

Developmental Test and Evaluation, Defense

For expenses, not otherwise provided for, of independent activities of the Deputy Under Secretary of Defense, Developmental Test and Evaluation in the direction and supervision of developmental test and evaluation, including performance of joint developmental testing and evaluation; and administrative expenses in connection therewith; $105,546,000, to remain available for obligation until September 30, 1988.

Operational Test and Evaluation, Defense

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is

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conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith; $11,300,000, to remain available for obligation until September 30, 1988.

TITLE V

SPECIAL FOREIGN CURRENCY PROGRAM

For payment in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States for expenses in carrying out programs of the Department of Defense, as authorized by law; $3,500,000, to remain available for obligation until September 30, 1988: *Provided,* That this appropriation shall be available in addition to other appropriations to such Department, for payments in the foregoing currencies.

TITLE VI

REVOLVING AND MANAGEMENT FUNDS

ARMY STOCK FUND

For the Army stock fund; $110,100,000.

NAVY STOCK FUND

For the Navy stock fund; $352,570,000.

MARINE CORPS STOCK FUND

For the Marine Corps stock fund; $822,000.

AIR FORCE STOCK FUND

For the Air Force stock fund; $139,980,000.

DEFENSE STOCK FUND

For the Defense stock fund; $47,200,000.

TITLE VII

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986; $118,700,000, of which $59,900,000 shall remain available for obligation until September 30, 1987, $9,600,000 shall remain available for obligation until September 30, 1988, and $49,200,000 shall remain available for obligation until September 30, 1989.

TITLE VIII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $125,800,000.

INTELLIGENCE COMMUNITY STAFF

For necessary expenses of the Intelligence Community Staff, $21,738,000.

THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FUND

For payment to the Barry Goldwater Scholarship and Excellence in Education Fund in the Department of the Treasury, pursuant to section 5104 of the National Defense Authorization Act for Fiscal Year 1987 (S. 2638) as passed the Senate on August 9, 1986, as if said section had been enacted into law; $40,000,000, to remain available until expended.

THE HENRY M. JACKSON FOUNDATION

For payment to the Henry M. Jackson Foundation, a direct and unrestricted grant, including any interest or earnings therefrom, to support the purposes of the Foundation, its on-going educational and public services programs and to serve as a memorial to the late Senator Henry M. Jackson; $10,000,000: *Provided,* That, notwithstanding any other provision of law or of this Act, the Secretary of Defense is hereby authorized and directed to make the grant authorized by this section to the Henry M. Jackson Foundation, and such grant shall be transferred to the Foundation by January 1, 1987.

TITLE IX

GENERAL PROVISIONS

SEC. 9001. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 9002. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 9003. During the current fiscal year, the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force, respectively, if they should deem it advantageous to the national defense, and if in their opinions the existing facilities of the Department of Defense

are inadequate, are authorized to procure services in accordance with section 3109 of title 5, United States Code, under regulations prescribed by the Secretary of Defense, and to pay in connection therewith travel expenses of individuals, including actual transportation and per diem in lieu of subsistence while traveling from their homes or places of business to official duty stations and return as may be authorized by law: *Provided,* That such contracts may be renewed annually.

SEC. 9004. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense.

SEC. 9005. The Secretary of Defense and each purchasing and contracting agency of the Department of Defense shall assist American small and minority-owned business to participate equitably in the furnishing of commodities and services financed with funds appropriated under this Act by increasing, to an optimum level, the resources and number of personnel jointly assigned to promoting both small and minority business involvement in purchases financed with funds appropriated herein, and by making available or causing to be made available to such businesses, information, as far in advance as possible, with respect to purchases proposed to be financed with funds appropriated under this Act, and by assisting small and minority business concerns to participate equitably as subcontractors on contracts financed with funds appropriated herein, and by otherwise advocating and providing small and minority business opportunities to participate in the furnishing of commodities and services financed with funds appropriated by this Act.

SEC. 9006. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 9007. No part of the appropriations in this Act shall be available for any expense of operating aircraft under the jurisdiction of the armed forces for the purpose of proficiency flying, as defined in Department of Defense Directive 1340.4, except in accordance with regulations prescribed by the Secretary of Defense. Such regulations (1) may not require such flying except that required to maintain proficiency in anticipation of a member's assignment to combat operations and (2) such flying may not be permitted in cases of members who have been assigned to a course of instruction of ninety days or more.

SEC. 9008. No part of any appropriation contained in this Act shall be available for expense of transportation, packing, crating, temporary storage, drayage, and unpacking of household goods and personal effects in any one shipment having a net weight in excess of eighteen thousand pounds.

SEC. 9009. No more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: *Provided,* That this section shall not apply to obligations for support of active duty training of civilian components or summer camp training of the Reserve Officers' Training Corps, or the National Board for the Promotion of Rifle Practice, Army, or to the appropriations provided in this Act for Claims, Defense.

SEC. 9010. During the current fiscal year the agencies of the Department of Defense may accept the use of real property from

foreign countries for the United States in accordance with mutual defense agreements or occupational arrangements and may accept services furnished by foreign countries as reciprocal international courtesies or as services customarily made available without charge; and such agencies may use the same for the support of the United States forces in such areas without specific appropriation therefor.

In addition to the foregoing, agencies of the Department of Defense may accept real property, services, and commodities from foreign countries for the use of the United States in accordance with mutual defense agreements or occupational arrangements and such agencies may use the same for the support of the United States forces in such areas, without specific appropriations therefor: *Provided,* That the foregoing authority shall not be available for the conversion of heating plants from coal to oil at defense facilities in Europe: *Provided further,* That within thirty days after the end of each quarter the Secretary of Defense shall render to Congress and to the Office of Management and Budget a full report of such property, supplies, and commodities received during such quarter.

SEC. 9011. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding $10,000 shall be available for the procurement of any article of food, clothing, cotton, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or specialty metals including stainless steel flatware, or hand or measuring tools, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that satisfactory quality and sufficient quantity of any articles of food or clothing or any form of cotton, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided,* That nothing herein shall preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of the standardization and interoperability of equipment requirements within NATO so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 2457 of title 10, United States Code: *Provided further,* That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions: *Provided further,* That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations: *Provided further,* That none of the funds

appropriated in this Act shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

SEC. 9012. During the current fiscal year, appropriations available to the Department of Defense for pay of civilian employees shall be available for uniforms, or allowances therefor, as authorized by section 5901 of title 5, United States Code.

SEC. 9013. Funds provided in this Act for legislative liaison activities of the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense shall not exceed $13,900,000 for the current fiscal year: *Provided,* That this amount shall be available for apportionment to the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense as determined by the Secretary of Defense: *Provided further,* That costs for military retired pay accrual shall be included within this limitation.

SEC. 9014. Of the funds made available by this Act for the services of the Military Airlift Command, $100,000,000 shall be available only for procurement of commercial transportation service from carriers participating in the civil reserve air fleet program; and the Secretary of Defense shall utilize the services of such carriers which qualify as small businesses to the fullest extent found practicable: *Provided,* That the Secretary of Defense shall specify in such procurement, performance characteristics for aircraft to be used based upon modern aircraft operated by the civil reserve air fleet.

(TRANSFER OF FUNDS)

SEC. 9015. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $1,100,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided,* That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: *Provided further,* That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

(TRANSFER OF FUNDS)

SEC. 9016. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided,* That transfers may be made between such funds in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that transfers between a stock fund account and an industrial fund account may not be made unless the Secretary of Defense has notified the Congress of the proposed

transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 9017. None of the funds available to the Department of Defense shall be utilized for the conversion of heating plants from coal to oil at defense facilities in Europe.

SEC. 9018. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

SEC. 9019. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions of section 1079(a) of title 10, United States Code, shall be available for reimbursement of any physician or other authorized individual provider of medical care in excess of the eightieth percentile of the customary charges made for similar services in the same locality where the medical care was furnished, as determined for physicians in accordance with section 1079(h) of title 10, United States Code.

SEC. 9020. No appropriation contained in this Act may be used to pay for the cost of public affairs activities of the Department of Defense in excess of $43,900,000: *Provided*, That costs for military retired pay accrual shall be included within this limitation.

SEC. 9021. None of the funds provided in this Act shall be available for the planning or execution of programs which utilize amounts credited to Department of Defense appropriations or funds pursuant to the provisions of section 37(a) of the Arms Export Control Act representing payment for the actual value of defense articles specified in section 21(a)(1)(A) of that Act: *Provided*, That such amounts shall be credited to the Special Defense Acquisition Fund, as authorized by law, or, to the extent not so credited shall be deposited in the Treasury as miscellaneous receipts as provided in section 3302(b) of title 31, United States Code.

SEC. 9022. No appropriation contained in this Act shall be available to fund any costs of a Senior Reserve Officers' Training Corps unit—except to complete training of personnel enrolled in Military Science 4—which in its junior year class (Military Science 3) has for the four preceding academic years, and as of September 30, 1983, enrolled less than (a) seventeen students where the institution prescribes a four-year or a combination four- and two-year program; or (b) twelve students where the institution prescribes a two-year program: *Provided*, That, notwithstanding the foregoing limitation, funds shall be available to maintain one Senior Reserve Officers' Training Corps unit in each State and at each State-operated maritime academy: *Provided further*, That units under the consortium system shall be considered as a single unit for purposes of evaluation of productivity under this provision: *Provided further*, That enrollment standards contained in Department of Defense Directive 1215.8 for Senior Reserve Officers' Training Corps units, as revised during fiscal year 1981, may be used to determine compliance with this provision, in lieu of the standards cited above.

SEC. 9023. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for

obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 1988.

SEC. 9024. None of the funds appropriated by this Act may be used to support more than 9,901 full-time and 2,603 part-time military personnel assigned to or used in the support of Morale, Welfare, and Recreation activities as described in Department of Defense Instruction 7000.12 and its enclosures, dated September 4, 1980.

SEC. 9025. All obligations incurred in anticipation of the appropriations and authority provided in this Act are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.

SEC. 9026. None of the funds appropriated by this Act or heretofore appropriated by any other Act shall be obligated or expended for the payment of anticipatory possession compensation claims to the Federal Republic of Germany other than claims listed in the 1973 agreement (commonly referred to as the Global Agreement) between the United States and the Federal Republic of Germany.

SEC. 9027. During the current fiscal year the Department of Defense may enter into contracts to recover indebtedness to the United States pursuant to section 3718 of title 31, United States Code.

SEC. 9028. None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines:

(a) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(b) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(c) where the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 9029. None of the funds appropriated by this Act shall be available to provide medical care in the United States on an inpatient basis to foreign military and diplomatic personnel or their dependents unless the Department of Defense is reimbursed for the costs of providing such care: *Provided,* That reimbursements for medical care covered by this section shall be credited to the appropriations against which charges have been made for providing such care, except that inpatient medical care may be provided in the United States without cost to military personnel and their dependents from a foreign country if comparable care is made available to a comparable number of United States military personnel in that foreign country.

SEC. 9030. None of the funds appropriated by this Act shall be obligated for the second career training program authorized by Public Law 96-347

SEC. 9031. None of the funds appropriated or otherwise made available in this Act shall be obligated or expended for salaries or expenses during the current fiscal year for the purposes of demilitarization of surplus nonautomatic firearms less than .50 caliber.

SEC. 9032. None of the funds provided in this Act shall be available to initiate (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000, or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the Committees on Appropriations and Armed Services of the Senate and House of Representatives have been notified at least thirty days in advance of the proposed contract award: *Provided,* That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further,* That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further,* That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement. Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

UH-60/EH-60 airframe;
Patriot missile system;
Stinger missile system; and
Defense support program.

SEC. 9033. None of the funds appropriated by this Act which are available for payment of travel allowances for per diem in lieu of subsistence to enlisted personnel shall be used to pay such an allowance to any enlisted member in an amount that is more than the amount of per diem in lieu of subsistence that the enlisted member is otherwise entitled to receive minus the basic allowance for subsistence, or pro rata portion of such allowance, that the enlisted member is entitled to receive during any day, or portion of a day, that the enlisted member is also entitled to be paid a per diem in lieu of subsistence.

SEC. 9034. None of the funds appropriated by this Act shall be available to approve a request for waiver of the costs otherwise required to be recovered under the provisions of section 21(e)(1)(C) of the Arms Export Control Act unless the Committees on Appropriations have been notified in advance of the proposed waiver.

SEC. 9035. In the administration of the provisions of chapter 13 of title 38, United States Code, Michael J. Smith, pilot of the space shuttle, Challenger, shall be deemed to have held the grade of captain, United States Navy, at the time of his death on January 28, 1986, while so serving as pilot of such space shuttle.

SEC. 9036. (a) None of the funds in this Act may be used to transfer any article of military equipment or data related to the manufacture of such equipment to a foreign country prior to the approval in writing of such transfer by the Secretary of the military service involved.

(b) TECHNICAL DATA PACKAGES FOR PRODUCTION OF LARGE-CALIBER CANNON.—(1) Chapter 433 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4542. Technical data packages for large-caliber cannon: prohibition on transfers to foreign countries; exception

"(a) GENERAL RULE.—Funds appropriated to the Department of Defense may not be used—

"(1) to transfer to a foreign country a technical data package for a defense item being manufactured or developed in an arsenal; or

"(2) to assist a foreign country in producing such a defense item.

"(b) EXCEPTION.—The Secretary of the Army may use funds appropriated to the Department of Defense to transfer a technical data package, or to provide assistance, described in subsection (a) if—

"(1) the transfer or provision of assistance is to a friendly foreign country (as determined by the Secretary of Defense in consultation with the Secretary of State);

"(2) the Secretary of the Army determines that such action—

"(A) would have a clear benefit to the preservation of the production base for the production of cannon at the arsenal concerned; and

"(B) would not transfer technology (including production techniques) considered unique to the arsenal concerned; and

"(3) the Secretary of Defense enters into an agreement with the country concerned described in subsection (c).

"(c) COPRODUCTION AGREEMENTS.—An agreement under this subsection shall be in the form of a Government-to-Government Memorandum of Understanding and shall include provisions that—

"(1) prescribe the content of the technical data package or assistance to be transferred to the foreign country participating in the agreement;

"(2) require that production by the participating foreign country of the defense item to which the technical data package or assistance relates be shared with the arsenal concerned;

"(3) subject to such exceptions as may be approved under subsection (d), prohibit transfer by the participating foreign country to a third party or country of—

"(A) any defense article, technical data package, technology, or assistance provided by the United States under the agreement; and

"(B) any defense article produced by the participating foreign country under the agreement; and

"(4) require the Secretary of Defense to monitor compliance with the agreement and the participating foreign country to report periodically to the Secretary of Defense concerning the agreement.

"(d) TRANSFERS TO THIRD PARTIES.—A transfer described in subsection (b)(3) may be made if—

"(1) the defense article, technical data package, or technology to be transferred is a product of a cooperative research and development program in which the United States and the participating foreign country were partners; or

"(2) the President—

"(A) complies with all requirements of section 3(d) of the Arms Export Control Act (22 U.S.C. 2753(d)) with respect to such transfer; and

"(B) certifies to Congress, before the transfer, that the transfer would provide a clear benefit to the production base of the United States for large-caliber cannon.

"(e) NOTICE AND REPORTS TO CONGRESS.—(1) The Secretary of the Army shall submit to Congress a notice of each agreement entered into under this section.

"(2) The Secretary shall submit to Congress a semiannual report on the operation of this section and of agreements entered into under this section.

"(f) ARSENAL DEFINED.—In this section, the term 'arsenal' means a Government-owned, Government-operated defense plant that manufactures large-caliber cannon.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4542. Technical data packages for large-caliber cannon: prohibition on transfers to foreign countries; exception.".

(c) EFFECTIVE DATE.—Section 4542 of title 10, United States Code, as added by subsection (b), shall apply with respect to funds appropriated for fiscal years after fiscal year 1986.

(TRANSFER OF FUNDS)

SEC. 9037. None of the funds appropriated in this Act may be made available through transfer, reprogramming, or other means for any intelligence or special activity different from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense has notified the House and Senate Appropriations Committees of the intent to make such funds available for such activity.

SEC. 9038. None of the funds available to the Department of Defense during the current fiscal year shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.

SEC. 9039. None of the funds available to the Department of Defense shall be available for the procurement of manual typewriters which were manufactured by facilities located within states which are Signatories to the Warsaw Pact.

SEC. 9040. None of the funds appropriated by this Act may be used to appoint or compensate more than 39 individuals in the Department of Defense in positions in the Executive Schedule (as provided in sections 5312-5316 of title 5, United States Code).

SEC. 9041. None of the funds appropriated by this Act shall be available to convert a position in support of the Army Reserve, Air Force Reserve, Army National Guard, and Air National Guard occupied by, or programmed to be occupied by, a (civilian) military technician to a position to be held by a person in an active Guard or Reserve status if that conversion would reduce the total number of positions occupied by, or programmed to be occupied by, (civilian) military technicians of the component concerned, below 67,557: *Provided,* That none of the funds appropriated by this Act shall be available to support more than 45,098 positions in support of the Army Reserve, Army National Guard or Air National Guard occupied by, or programmed to be occupied by, persons in an active

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Guard or Reserve status: *Provided further,* That none of the funds appropriated by this Act may be used to include (civilian) military technicians in computing civilian personnel ceilings, including statutory or administratively imposed ceilings, on activities in support of the Army Reserve, Air Force Reserve, Army National Guard or Air National Guard.

SEC. 9042. (a) The provisions of section 138(c)(2) of title 10, United States Code, shall not apply with respect to fiscal year 1987 or with respect to the appropriation of funds for that year.

(b) During fiscal year 1987, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(c) The fiscal year 1988 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 1988 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 1988.

SEC. 9043. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department to exceed, outside the fifty States of the United States and the District of Columbia, the aggregate civilian workyear totals in fiscal year 1986 for both direct hire and indirect hire employees including foreign national employees: *Provided,* That workyears shall be applied as defined in the Federal Personnel Manual Supplement 298-2, Book IV.

(TRANSFER OF FUNDS)

SEC. 9044. Appropriations or funds available to the Department of Defense during the current fiscal year may be transferred to appropriations provided in this Act for research, development, test, and evaluation to the extent necessary to meet increased pay costs authorized by or pursuant to law, to be merged with and to be available for the same purposes, and the same time period, as the appropriation to which transferred.

SEC. 9045. None of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended during fiscal year 1987 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance unless in accordance with the terms and conditions specified by section 106 of the Intelligence Authorization Act for fiscal year 1987.

(RESCISSION)

SEC. 9046. The following funds are hereby rescinded from the following accounts in the specified amounts:

Aircraft procurement, Army, 1985/1987	$15,600,000
Aircraft procurement, Army, 1986/1988	$78,800,000
Missile procurement, Army, 1985/1987	$32,800,000
Missile procurement, Army, 1986/1988	$66,800,000
Procurement of weapons and tracked combat vehicles, Army, 1985/1987	$25,100,000
Procurement of weapons and tracked combat vehicles, Army, 1986/1988	$188,200,000
Procurement of ammunition, Army, 1985/1987	$33,000,000

Procurement of ammunition, Army, 1986/1988	$39,562,000
Other procurement, Army, 1985/1987	$45,400,000
Other procurement, Army, 1986/1988	$133,300,000
Aircraft procurement, Navy, 1985/1987	$170,700,000
Aircraft procurement, Navy, 1986/1988	$408,200,000
Weapons procurement, Navy, 1985/1987	$59,500,000
Weapons procurement, Navy, 1986/1988	$185,100,000
Shipbuilding and conversion, Navy, 1983/19	$338,500,000
Shipbuilding and conversion, Navy, 1984/1988	$53,000,000
Shipbuilding and conversion, Navy, 1985/1989	$141,100,000
Shipbuilding and conversion, Navy, 1986/1990	$737,900,000
Other procurement, Navy, 1985/1987	$18,434,000
Other procurement, Navy, 1986/1988	$214,769,000
Procurement, Marine Corps, 1985/1987	$7,100,000
Procurement, Marine Corps, 1986/1988	$19,400,000
Aircraft procurement, Air Force, 1985/1987	$513,300,000
Aircraft procurement, Air Force, 1986/1988	$619,500,000
Missile procurement, Air Force, 1985/1987	$41,600,000
Missile procurement, Air Force, 1986/1988	$629,700,000
Other procurement, Air Force, 1985/1987	$68,611,000
Other procurement, Air Force, 1986/1988	$122,900,000
Research, development, test and evaluation, Army, 1986/1987	$45,523,000
Research, development, test and evaluation, Navy, 1986/1987	$54,878,000
Research, development, test and evaluation, Air Force, 1986/1987	$167,000,000
Research, development, test and evaluation, Defense Agencies, 1986/1987	$48,400,000
Director of developmental test and evaluation, Defense, 1986/1987	$200,000

(TRANSFER OF FUNDS)

SEC. 9047. In addition to any other transfer authority contained in this Act, amounts from working capital funds may be transferred to the Operation and Maintenance appropriations contained in this Act to be merged with and to be available for the same purposes and for the same time period as the appropriation to which transferred: *Provided,* That such transfers shall not exceed $755,300,000 for Operation and Maintenance, Army; $2,341,400,000 for Operation and Maintenance, Navy; $29,200,000 for Operation and Maintenance, Marine Corps; $1,864,100,000 for Operation and Maintenance, Air Force; $40,600,000 for Operation and Maintenance, Defense Agencies; $14,526,000 for Operation and Maintenance, Army Reserve; $66,500,000 for Operation and Maintenance, Navy Reserve; $800,000 for Operation and Maintenance, Marine Corps Reserve; $63,000,000 for Operation and Maintenance, Air Force Reserve; $31,874,000 for Operation and Maintenance, Army National Guard; and $176,700,000 for Operation and Maintenance, Air National Guard.

SEC. 9048. None of the funds made available by this Act shall be used in any way for the leasing to non-Federal agencies in the United States aircraft or vehicles owned or operated by the Department of Defense when suitable aircraft or vehicles are commercially available in the private sector: *Provided,* That nothing in this section shall affect authorized and established procedures for the sale of surplus aircraft or vehicles: *Provided further,* That nothing in this section shall prohibit the leasing of helicopters authorized by section 1463 of the Department of Defense Authorization Act of 1986.

SEC. 9049. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 9050. No funds available to the Department of Defense during the current fiscal year may be used to enter into any contract with a term of eighteen months or more or to extend or renew any contract for a term of eighteen months or more, for any vessel, aircraft or vehicles, through a lease, charter, or similar agreement without previously having been submitted to the Committees on Appropriations of the House of Representatives and the Senate in the budgetary process. Further, any contractual agreement which imposes an estimated termination liability (excluding the estimated value of the leased item at the time of termination) on the Government exceeding 50 per centum of the original purchase value of the vessel, aircraft, or vehicle must have specific authority in an appropriation Act for the obligation of 10 per centum of such termination liability.

SEC. 9051. None of the funds made available by this Act shall be available to operate in excess of 247 commissaries in the contiguous United States.

SEC. 9052. None of the funds provided in this Act shall be used to procure aircraft ejection seats manufactured in any foreign nation that does not permit United States manufacturers to compete for ejection seat procurement requirements in that foreign nation. This limitation shall apply only to ejection seats procured for installation on aircraft produced or assembled in the United States.

SEC. 9053. No more than $174,598,000 of the funds appropriated by this Act shall be available for the payment of unemployment compensation benefits.

SEC. 9054. None of the funds appropriated by this Act shall be obligated for the pay of any individual who is initially employed after the date of enactment of this Act as a technician in the administration and training of the Army Reserve and the maintenance and repair of supplies issued to the Army Reserve unless such individual is also a military member of the Army Reserve troop program unit that he or she is employed to support. Those technicians employed by the Army Reserve in areas other than Army Reserve troop program units need only be members of the Selected Reserve.

SEC. 9055. None of the funds appropriated by this Act shall be used to purchase dogs or cats or otherwise fund the use of dogs or cats for the purpose of training Department of Defense students or other personnel in surgical or other medical treatment of wounds produced by any type of weapon: *Provided,* That the standards of such training with respect to the treatment of animals shall adhere to the Federal Animal Welfare Law and to those prevailing in the civilian medical community.

SEC. 9056. None of the funds made available by this Act shall be used to initiate full-scale engineering development of any major defense acquisition program until the Secretary of Defense has provided to the Committees on Appropriations of the House and Senate—

(a) a certification that the system or subsystem being developed will be procured in quantities that are not sufficient to warrant development of two or more production sources, or

(b) a plan for the development of two or more sources for the production of the system or subsystem being developed.

SEC. 9057. None of the funds available to the Department of Defense may be used for the floating storage of petroleum or

petroleum products except in vessels of or belonging to the United States.

SEC. 9058. Of the funds made available to the Department of the Air Force in this Act, not less than $5,000,000 shall be available for the Civil Air Patrol.

SEC. 9059. Funds available to the Department of Defense may be used by the Department of Defense for the use of helicopters and motorized equipment at Defense installations for removal of feral burros and horses.

(TRANSFER OF FUNDS)

SEC. 9060. Not to exceed $100,000,000 may be transferred from the appropriation "Operation and Maintenance, Defense Agencies" to operation and maintenance appropriations under the military departments in connection with demonstration projects authorized by section 1092 of title 10, United States Code: *Provided,* That the Secretary of Defense shall promptly notify the Congress of any such transfer of funds under this provision: *Provided further,* That the authority to make transfers pursuant to this section is in addition to the authority to make transfers under other provisions of this Act.

SEC. 9061. None of the funds appropriated by this Act shall be available to compensate foreign selling costs as described in Federal Acquisition Regulation 31.205-38(b) as in effect on April 1, 1984.

SEC. 9062. Of the funds appropriated for the operation and maintenance of the Armed Forces, obligations may be incurred for humanitarian and civic assistance costs incidental to authorized operations, and these obligations shall be reported to Congress on September 30, 1987: *Provided,* That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239.

SEC. 9063. Notwithstanding any other provision of law, the Secretaries of the Army and Air Force may authorize the retention in an active status until age sixty of any officer who would otherwise be removed from an active status and who is employed as a National Guard or Reserve technician in a position in which active status in a reserve component of the Army or Air Force is required as a condition of that employment.

SEC. 9064. None of the funds appropriated by this Act may be obligated or expended for the purposes delineated in section 1002(e)(2) of the Department of Defense Authorization Act, 1985, without the prior notification to the Committees on Appropriations of the House of Representatives and the Senate.

SEC. 9065. It is the sense of the Congress that the Secretary of Defense should formulate and carry out a program under which contracts awarded by the Department of Defense in fiscal year 1987 would, to the maximum extent practicable and consistent with existing law, be awarded to contractors who agree to carry out such contracts in labor surplus areas (as defined and identified by the Department of Labor).

SEC. 9066. It is the sense of the Congress that competition, which is necessary to enhance innovation, effectiveness, and efficiency, and which has served our Nation so well in other spheres of political and economic endeavor, should be expanded and increased in the provision of our national defense.

SEC. 9067. None of the funds appropriated by this Act shall be available to pay a dislocation allowance pursuant to section 407 of title 37, United States Code, in excess of one month's basic allowance for quarters.

SEC. 9068. None of the funds available to the Department of Defense shall be obligated or expended to contract out any activity currently performed by the Defense Personnel Support Center in Philadelphia, Pennsylvania: *Provided,* That this provision shall not apply after notification to the Committees on Appropriations of the House of Representatives and the Senate of the results of the cost analysis of contracting out any such activity.

SEC. 9069. Notwithstanding any other provision of law, each contract awarded by the Department of Defense in fiscal year 1987 for construction or services to be performed in whole or in part in a State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: *Provided,* That the Secretary of Defense may waive the requirements of this section in the interest of national security.

SEC. 9070. None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of enactment of this Act, receives an enlistment bonus under section 308a or 308f of title 37, United States Code; nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Administrator of Veterans' Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Administrator pay such benefits to any such member.

SEC. 9071. Notwithstanding any other provision of this Act, no funds appropriated by this Act shall be expended for the research, development, test, evaluation or procurement for integration of a nuclear warhead into the Joint Tactical Missile System (JTACMS).

SEC. 9072. So far as may be practicable, Indian labor shall be employed, and purchases of the products of Indian industry may be made in open market in the discretion of the Secretary of Defense: *Provided,* That the products must meet pre-set contract specifications.

SEC. 9073. Section 615 of S. 2638, as passed by the Senate on August 9, 1986, shall be deemed to be enacted into law as fully as if set forth herein: *Provided,* That the test authority provided for in section 618 of Public Law 99-145 and section 8083 of Public Law 99-190 shall remain in effect until such time as the system provided for in this section is implemented for both Department of Defense military and civilian employees.

SEC. 9074. Notwithstanding any other provision of law, during fiscal year 1987, the Department of Defense is to conduct a pilot test project of providing home health care to dependents entitled to health care under section 1076 of title 10, United States Code: *Provided,* That such care is medically necessary or appropriate,

more cost effective than to continue paying for otherwise authorized CHAMPUS benefits in medical facilities, and the beneficiary is not covered for such care under any other public or private health insurance plan.

SEC. 9075. Not more than $2,506,389,000 of the funds appropriated by this Act may be expended for permanent change of station travel (including all expenses of such travel for organizational movements): *Provided,* That assignments for temporary duty may not be increased in order to circumvent this limitation: *Provided further,* That this limitation may be exceeded only upon a determination and notification to the Congress by the Secretary of Defense that such action is necessary to meet national security requirements.

SEC. 9076. Funds appropriated in this Act shall be available for the payment of not more than 75 percent of the charges of a postsecondary educational institution for the tuition or expenses of an officer in the Ready Reserve of the Army National Guard or Army Reserve for education or training during his off-duty periods, except that no part of the charges may be paid unless the officer agrees to remain a member of the Ready Reserve for at least four years after completion of such training or education.

SEC. 9077. Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be available to pay more than 50 percent of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

SEC. 9078. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of enactment of this Act, is performed by more than ten Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate.

(TRANSFER OF FUNDS)

SEC. 9079. Upon a determination by the Secretary of Defense that such action will result in a more economical acquisition of automatic data processing equipment, funds provided in this Act under one appropriation account for the lease or purchase of such equipment may be transferred through the Automatic Data Processing Equipment Management Fund to another appropriation account in this Act for the lease or purchase of automatic data processing equipment to be merged with and to be available for the same purposes, and for the same time period, as the appropriation to which transferred: *Provided,* That within thirty days after the end of each quarter the Secretary of Defense shall report transfers made under this section to the Committees on Appropriations of the Senate and the House of Representatives: *Provided further,* That the authority to transfer funds under this section shall be in addition to any other transfer authority contained in this Act.

SEC. 9080. Appropriations available to the Department of Defense during the current fiscal year shall be available, under such regulations as the Secretary of Defense may deem appropriate, to exchange or furnish mapping, charting, and geodetic data, supplies or services to a foreign country pursuant to an agreement for the production or exchange of mapping, charting, and geodetic data.

SEC. 9081. None of the funds appropriated in this Act may be obligated or expended for procurement of C-12 aircraft unless such aircraft are procured through competitive procedures (as defined in section 2302(2) of title 10, United States Code), which shall be restricted to turboprop aircraft.

SEC. 9082. None of the funds in this Act may be obligated for procurement of 120mm mortars or 120mm mortar ammunition manufactured outside of the United States: *Provided*, That this limitation shall not apply to procurement of such mortars or ammunition required for testing, evaluation, type classification or equipping the Army's Ninth Infantry Division (Motorized).

SEC. 9083. Appropriations made available to the Department of Defense by this Act may be used at sites formerly used by the Department of Defense for removal of unsafe buildings or debris of the Department of Defense: *Provided*, That such removal must be completed before the property is released from Federal Government control, other than property conveyed to State or local government entities or native corporations.

SEC. 9084. Within the funds made available under title II of this Act, the military departments may use such funds as necessary, but not to exceed $4,700,000, to carry out the provisions of section 430 of title 37, United States Code.

SEC. 9085. None of the funds available to the Department of the Navy may be used to enter into any contract for the overhaul, repair, or maintenance of any naval vessel on the West Coast of the United States which includes charges for interport differential as an evaluation factor for award.

SEC. 9086. Notwithstanding section 213(b) of the Joint Chiefs of Staff Reorganization Act of 1985 or any other provision of law, none of the funds in this or any other Act may be used to alter the command structure for military forces in Alaska.

SEC. 9087. None of the funds appropriated in this Act may be obligated or expended to carry out a program to paint any naval vessel with paint known as organotin or with any other paint containing the chemical compound tributyltin until such time as the Environmental Protection Agency certifies to the Department of Defense that whatever toxicity as generated by organotin paints as included in Navy specifications does not pose an unacceptable hazard to the marine environment: *Provided*, That the Navy may use these funds to paint aluminum-hulled craft as necessary, and, in addition, the Navy may paint no more than fifteen steel-hulled ships to conduct research as described in the "Navy Organotin Program Plan for Two Case Study Harbors".

SEC. 9088. No funds appropriated under this Act for the Strategic Defense Initiative Program shall be earmarked by any agency of the United States Government or any contractor exclusively for contracts with non-United States contractors, subcontractors, or vendors, or exclusively for consortia containing non-United States contractors, subcontractors, or vendors, prior to source selection in order to meet a specific quota or allocation of funds to any allied nation. Furthermore, it is the sense of the Congress that, whenever possible, the Secretary of Defense and others should attempt to award Strategic Defense Initiative contracts to United States contractors, subcontractors, and vendors unless such awards would degrade the likely results obtained from such contracts: *Provided*, That allied nations should be encouraged to participate in the

Strategic Defense Initiative research effort on a competitive basis and be awarded contracts on the basis of technical merit.

SEC. 9089. The Secretary of Defense may only procure ammunition containing a depleted uranium penetrator component if the procurement of such component is done competitively and procured from at least two sources in the existing production base for such component.

SEC. 9090. None of the funds appropriated by this Act shall be used for the support of any nonappropriated fund activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States, unless such malt beverages and wine are procured in that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: *Provided,* That in a case in which a military installation is located in more than one State, purchases may be made in any State in which the installation is located: *Provided further,* That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages for military installations in states which are not contiguous with another state: *Provided further,* That alcoholic beverages other than wine and malt beverages in contiguous states and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

SEC. 9091. Notwithstanding any other provision of law, funds available in this Act shall be available to the Defense Logistics Agency to grant civilian employees participating in productivity-based incentive award programs paid administrative time off in lieu of cash payment as compensation for increased productivity.

(TRANSFER OF FUNDS)

SEC. 9092. No later than September 30, 1987, unobligated balances and appropriations made available to the Department of Defense for fiscal year 1983 that expired for obligation on September 30, 1985, may be transferred into the appropriation "Foreign Currency Fluctuations, Defense" to be merged with and available for the same time period and the same purposes as the appropriation to which transferred: *Provided,* That any transfer made pursuant to any use of the authority provided by this provision shall be limited so that the amount in the appropriation "Foreign Currency Fluctuations, Defense" does not exceed $970,000,000 at the time such a transfer is made.

SEC. 9093. None of the funds appropriated in this Act to the Department of the Army may be obligated for depot maintenance of equipment unless such funds provide for civilian personnel strengths at the Army depots performing communications—electronics depot maintenance at an amount above the strengths assigned to those depots on September 30, 1985: *Provided,* That the foregoing limitations shall not apply to civilian personnel who perform caretaker-type functions at these installations: *Provided further,* That nothing in this provision shall cause undue reductions of other Army depots, as determined by the Secretary of the Army.

(TRANSFER OF FUNDS)

SEC. 9094. In addition to the amounts appropriated or otherwise made available in this Act, $1,911,000,000 shall be available for military and civilian pay raises as authorized by law: *Provided,* That such amounts shall be transferred and merged with "Military Personnel" and "Operation and Maintenance" appropriations accounts as applicable and that such transfer authority shall be in addition to that provided elsewhere in this Act: *Provided further,* That such sums as may be necessary for authorized pay raise costs in excess of this appropriation shall be accommodated within the levels appropriated in this Act.

SEC. 9095. None of the funds appropriated by this Act shall be available to pay a variable housing allowance under section 403a of title 37, United States Code, with respect to an area at rates that are greater than the rates in effect for that area on August 1, 1986.

SEC. 9096. (a) None of the funds appropriated or made available by this Act shall be used to enter into a contract for the performance by contractor personnel of functions that on the date of enactment of this Act are performed by employees of the Department of Defense at the Crane Army Ammunition Activity, Crane, Indiana, or the McAlester Army Ammunition Plant, McAlester, Oklahoma.

(b) The prohibition in subsection (a) does not apply to a contract (or the renewal of a contract) for the performance of a function that on the date of the enactment of this Act is already under contract for performance by contractor personnel.

SEC. 9097. None of the funds appropriated by this Act shall be available to pay temporary lodging expenses pursuant to section 404a(a) of title 37, United States Code: *Provided,* That during fiscal year 1987, this provision shall not apply to those military personnel with dependents in grades E-4 and below.

SEC. 9098. None of the funds appropriated or made available by this Act may be obligated for acquisition of major automated information systems which have not successfully completed oversight reviews required by Defense Department regulations: *Provided,* That none of the funds appropriated or made available by this Act may be obligated on Composite Health Care System acquisition contracts if such contracts would cause the total life cycle cost estimate of $1,100,000,000 expressed in fiscal year 1986 constant dollars to be exceeded.

SEC. 9099. The Secretary of Defense shall take such action as may be necessary to implement at the earliest practicable date and with funds provided for such purpose by section 8110 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190; 99 Stat. 1222), the program proposed by the Department of Defense in a letter dated August 30, 1985, from the Assistant Secretary of Defense for Acquisition and Logistics to rehabilitate and convert current steam generating plants at defense facilities in the United States to coal burning facilities in order to achieve a coal consumption target of 1,600,000 short tons of coal per year (including at least 300,000 short tons of anthracite coal) above current consumption levels at Department of Defense facilities in the United States by fiscal year 1994: *Provided,* That such action shall be subject to the use of only the most cost effective fuel system in the construction of new plants or the conversion of existing plants: *Provided further,* That during fiscal year 1987, the amount of anthracite coal purchased by the Department shall be at least

300,000 short tons: *Provided further*, That the funds identified in section 8110 of Public Law 99-190 shall continue to be made available until expended to be used on a non-reimbursable basis for the administrative costs of this program.

SEC. 9100. Notwithstanding any other provision of law, the Department of Defense or the General Services Administration, whichever agency has jurisdiction, custody, and control shall convey at no cost real property described in "Department of the Army Final Report of Excess, NAN-85-3A, Hancock Field, New York," to Onondaga County, New York, for aviation and related industrial activities. This conveyance should be accomplished as soon as possible, but no later than ninety days after enactment of this Act.

SEC. 9101. No naval vessel or any vessel owned and operated by the Department of Defense homeported in the United States may be overhauled, repaired, or maintained in a foreign owned and operated shipyard located outside of the United States, except for voyage repairs.

SEC. 9102. After September 30, 1987, no appropriated funds may be used to support revenue generating Morale, Welfare and Recreation activities located in large metropolitan areas, as defined by Department of Defense regulation, of the fifty United States.

SEC. 9103. (1) Chapter 19 of title 37, United States Code, is amended by adding at the end the following new section:

"§ 1013. Payment date for pay and allowances

"(a) Amounts of basic pay, basic allowance for quarters, basic allowance for subsistence, and other payments of military compensation (other than travel and transportation allowances and separation allowances) shall be paid on the first day of the month beginning after the month during which the right to such compensation accrues.

"(b) Subsection (a) does not preclude one payment in midmonth for any element of compensation and does not affect any authority to make advance payments of pay and allowances.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1013. Payment date for pay and allowances.".

(3) Section 1466(a)(2) of title 10, United States Code, is amended by striking out "paid" and inserting in lieu thereof "accrued".

(4) Section 1013 of title 37, United States Code, as added by subsection (a), and the amendment made by subsection (b) shall take effect on September 1, 1987.

SEC. 9104. For the current fiscal year, the minimum requirement for the amount of payments received in a fiscal year by working capital funds for industrial-type activities to be used for the acquisition of capital equipment for such activities shall be equal to the minimum required percentage for fiscal year 1986.

SEC. 9105. None of the funds appropriated under this or any other Act for the Department of Defense shall be available to make progress payments at a percentage higher than 5 percentage points below the rate in use on the effective date of this Act (except for contracts under solicitation before the effective date of this Act and except for shipbuilding, military construction and architect-engineering contracts if the Secretary of Defense certifies to Congress that an exclusion is justified for these activities) for (a) contracts which provide for progress payments based either on the

percentage of work accomplished or on the contractors' costs under fixed-price type contracts and (b) modifications to existing contracts for additional supplies or services not contemplated by the existing contracts, unless a higher percentage is approved by the head of the contracting activity or designee based on demonstrated financial need: *Provided,* That for solicitations issued after the effective date of this Act, which require price negotiation, contracts may only be awarded if such negotiation is based on new profit calculation procedures which provide for increased emphasis on facilities capital employed and contractor risk and which procedures do not provide an explicit fixed rate for working capital and which do not include profit based on specific individual elements of contract costs: *Provided further,* That no contractor may be reimbursed directly under a contract awarded 90 days after the effective date of this Act, where the purchase of additional quantities of like items is contemplated in subsequent years, for more than 50 percent of the full acquisition cost of production special tooling and production special test equipment as a direct cost unless (a) such special equipment is to be used solely for final production acceptance test or (b) additional reimbursement that is in the best interest of the Government is approved in advance by the Service Secretary for programs reported on Selected Acquisition Reports or approved by an Assistant Service Secretary for all other programs: *Provided further,* That the contract may provide that if such a contract is terminated for any reason that does not reflect a failure of the contractor to perform, the contractor shall be entitled to be paid by the United States for the cost of any special tooling and special test equipment which has not been fully amortized and the United States may elect to take title to such special tooling and special test equipment.

SEC. 9106. (a) The Secretary of the Navy (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Philadelphia Municipal Authority, a State authority, (hereinafter in this section referred to as the "PMA"), all right, title, and interest of the United States in and to approximately 29 acres of land located in the United States Naval Base, Philadelphia, Pennsylvania, together with any improvements thereon.

(b) The exact acreage and legal description of the lands to be conveyed under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the PMA.

(c) In consideration for any conveyance authorized under subsection (a), the PMA shall pay to the United States an amount equal to the fair market value of the property to be conveyed (as determined by the Secretary).

(d) The Secretary may require such additional terms and conditions with respect to the conveyance under this section as he considers appropriate to protect the interests of the United States.

(e) In addition to the authority provided in subsection (a) and pursuant to section 2394 of title 10, United States Code, the Secretary, upon his determination that there is an economic advantage to the Navy, is authorized to enter into a long-term contract with the PMA for the purchase of steam generated from a facility to be constructed upon the land authorized to be conveyed herein.

SEC. 9107. Authority for reimbursement provided pursuant to section 3 of Public Law 96-357 (10 U.S.C. 7572 note) is hereby extended through September 30, 1987, at an amount not to exceed $1,657,000.

SEC. 9108. Notwithstanding any other provision of law, appropriations available in this Act may be used for the procurement, product improvement and modification of the Copperhead and five-inch guided projectiles, without regard to whether or not a second production source program or contract has been established for those programs, provided that the Secretary of Defense determines that such expenditures are in the interest of the Government of the United States.

SEC. 9109. (a) IN GENERAL.—The Administrator of General Services shall release to the Virginia Port Authority, an instrumentality of the Commonwealth of Virginia, all residuary rights of use held by the United States in three warehouses located in the city of Norfolk, Virginia, within the area operated as a public port facility and known as the Norfolk International Terminals.

(b) TIME LIMITATION; COMPENSATION.—The Administrator of General Services shall execute such documents and take such other actions as may be necessary to release, within one hundred and eighty days after the date of the enactment of this Act, the rights referred to in subsection (a). The release shall be made without any compensation in addition to compensation paid to the United States for such warehouses and other facilities by the city of Norfolk, Virginia, in 1968.

SEC. 9110. (a) IN GENERAL.—During fiscal year 1987 and during each of the six succeeding fiscal years, the Administrator of General Services shall obtain bids from domestic producers of high carbon ferrochromium and of high carbon ferromanganese and award contracts for the conversion of chromium and manganese ores held in the National Defense Stockpile into high carbon ferrochromium and high carbon ferromanganese, respectively.

(b) STOCKPILE GOALS.—(1) Contracts awarded under subsection (a) shall provide for the addition of not less than 53,500 short tons of high carbon ferrochromium and 67,500 short tons of high carbon ferromanganese to the National Defense Stockpile in each of the fiscal years referred to in the preceding sentence.

(2) If, in any fiscal year referred to in subsection (a), the minimum quantity of high carbon ferrochromium or high carbon ferromanganese to be added to the National Defense Stockpile, as prescribed in paragraph (1), is not met, the quantity of such material to be added to such stockpile in the succeeding fiscal year shall be increased by the quantity of the deficiency.

(c) SEVEN-YEAR MINIMUM QUANTITIES.—The total quantities of high carbon ferrochromium and high carbon ferromanganese to be added to the National Defense Stockpile over the seven fiscal years referred to in subsection (a) shall be as follows:

(1) High carbon ferrochromium, 374,000 short tons.

(2) High carbon ferromanganese, 472,000 short tons.

(d) In this section, the term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stockpiling Act (50 U.S.C. 98c).

SEC. 9111. None of the funds appropriated or made available by this Act shall be used to implement or enforce the rule proposed on May 7, 1986 (51 Fed. Reg. 16988-16991), or section 8.304-91 of the Air Force FAR Supplement issued on June 24, 1985.

SEC. 9112. (a) It is the sense of Congress that—

(1) the capabilities inherent in the technologies associated with the Advanced Technology Bomber Program and the Advanced Cruise Missile Program are a critical national security

asset for maintaining an adequate and credible deterrent posture;

(2) such technologies and programs should be developed as rapidly as feasible in order to produce and deploy advanced systems which will complicate the military planning of the Soviet Union and as a consequence enhance the deterrent posture of the United States;

(3) such technologies and programs should be funded at the levels authorized in this Act; and

(4) all the funds appropriated for such programs should be fully used for such programs.

(b) None of the funds appropriated in this Act to carry out the Advanced Technology Bomber Program or the Advanced Cruise Missile Program may be used for any other purpose.

(c) None of the funds appropriated in this or any other Act may be used for research, development, demonstration, procurement or any other purpose related to B-1B bombers beyond the 100 such bombers previously authorized.

SEC. 9113. (a) Not later than October 14, 1986, the Chairman of the Joint Chiefs of Staff of the Armed Forces of the United States shall submit to Congress a report, in both classified and unclassified versions, containing a detailed assessment, including the individual views of each of the Chiefs, of the military impacts on the national security of the United States, of the possible military responses of the Soviet Union to an American decision to no longer comply with major provisions of existing strategic offensive arms limitation agreements, including the central numerical sublimits on strategic nuclear delivery vehicles contained in the SALT II accord. This assessment shall concentrate on possible Soviet military responses during the period between fiscal year 1987 and fiscal year 1996, inclusive, and shall address, among other considerations, the following:

(1) the impact on the ability of United States strategic forces to accomplish their nuclear deterrent mission, including the impacts on the survivability of United States strategic forces and on the ability of United States strategic forces to achieve required damage expectancies against Soviet targets, of any expansion of Soviet military capabilities undertaken in response to a United States decision to abandon compliance with existing strategic offensive arms agreements;

(2) the additional cost to the United States, above currently projected military expenditures for those periods for which such budget projections are available, of research, development, production, deployment, and annual operations and support for any additional strategic forces required to counter any expansion in Soviet military capabilities undertaken in response to a United States decision to abandon compliance with existing strategic offensive arms agreements;

(3) under average annual real growth projections in defense spending of 0 percent, 1 percent, 2 percent, and 3 percent, the percent of the annual defense budget in each year between fiscal year 1987 and fiscal year 1996 which would be consumed by increased United States strategic forces needed to counter the Soviet force expansions;

(4) the military impacts on United States national security of the diversion of the funds identified in subsection (a)(2) away from nonstrategic defense programs and to strategic programs

to counter expanded Soviet strategic capabilities, including the military impacts of such a diversion on the ability of United States conventional forces to meet the Nation's specific nonnuclear defense commitments as a member of the North Atlantic Treaty Organization, and under the 1960 Treaty of Mutual Cooperation and Security with Japan;

(5) in addition, this report shall address the military implications for the United States of determined Soviet violations of offensive arms control agreements.

(b) Notwithstanding any other provision of law, none of the funds authorized or appropriated by this or any other Act may be obligated or expended, directly or indirectly, by the Organization of the Joint Chiefs of Staff for prospective studies and analyses to be accomplished by individual civilian contractors or civilian contractor entities, after October 14, 1986, if the report mandated in subsection (a) has not been received by the Congress; and

(c) The prohibition contained in subsection (b) on the obligation or expenditure of funds after October 14, 1986, shall cease to have effect upon the receipt by Congress of the report mandated in subsection (a).

SEC. 9114. Subsection (b) of section 223 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 613) is amended—

(1) by designating the matter after the subsection caption as paragraph (1); and

(2) by adding at the end the following:

"(2) The report required by paragraph (1) shall include the following information:

"(A) The cost goals or cost objectives—

"(i) for the production and deployment of a Strategic Defense Initiative System; and

"(ii) for the individual components of such system,

determined on the basis of capabilities expected to be developed in the future.

"(B) The estimated costs of—

"(i) the production and deployment of the Strategic Defense Initiative System; and

"(ii) the production and deployment of the individual components of such system,

determined on the basis of prices in effect and capabilities in existence at the time of the preparation of the report.".

SEC. 9115. (a) ASSISTANT SECRETARY OF DEFENSE.—Section 136(b) of title 10, United States Code (as amended by section 106 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986), is amended by adding at the end the following new paragraph:

"(4) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict. He shall have as his principal duty the overall supervision (including oversight of policy and resources) of special operations activities (as defined in section 167(j) of this title) and low intensity conflict activities of the Department of Defense.".

(b) UNIFIED COMBATANT COMMAND.—(1) Chapter 6 of such title (as added by section 211 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986) is amended by adding at the end the following new section:

"§ 167. Unified combatant command for special operations forces

"(a) ESTABLISHMENT.—With the advice and assistance of the Chairman of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall establish under section 161 of this title a unified combatant command for special operations forces (hereinafter in this section referred to as the 'special operations command'). The principal function of the command is to prepare special operations forces to carry out assigned missions.

"(b) ASSIGNMENT OF FORCES.—Unless otherwise directed by the Secretary of Defense, all active and reserve special operations forces of the armed forces stationed in the United States shall be assigned to the special operations command.

"(c) GRADE OF COMMANDER.—The commander of the special operations command shall hold the grade of general or, in the case of an officer of the Navy, admiral while serving in that position, without vacating his permanent grade. The commander of such command shall be appointed to that grade by the President, by and with the advice and consent of the Senate, for service in that position.

"(d) COMMAND OF ACTIVITY OR MISSION.—(1) Unless otherwise directed by the President or the Secretary of Defense, a special operations activity or mission shall be conducted under the command of the commander of the unified combatant command in whose geographic area the activity or mission is to be conducted.

"(2) The commander of the special operations command shall exercise command of a selected special operations mission if directed to do so by the President or the Secretary of Defense.

"(e) AUTHORITY OF COMBATANT COMMANDER.—(1) In addition to the authority prescribed in section 164(c) of this title, the commander of the special operations command shall be responsible for, and shall have the authority to conduct, all affairs of such command relating to special operations activities, including the following functions:

"(A) Developing strategy, doctrine, and tactics.

"(B) Training assigned forces.

"(C) Conducting specialized courses of instruction for commissioned and noncommissioned officers.

"(D) Validating requirements.

"(E) Establishing priorities for requirements.

"(F) Ensuring combat readiness.

"(G) Developing and acquiring special operations-peculiar equipment and acquiring special operations-peculiar material, supplies, and services.

"(H) Ensuring the interoperability of equipment and forces.

"(I) Formulating and submitting requirements for intelligence support.

"(J) Monitoring the promotions, assignments, retention, training, and professional military education of special operations forces officers.

"(2) The commander of such command shall be responsible for monitoring the preparedness of special operations forces assigned to other unified combatant commands to carry out assigned missions.

"(f) BUDGET.—In addition to the activities of a combatant command for which funding may be requested under section 166(b) of this title, the budget proposal of the special operations command shall include requests for funding for—

"(1) development and acquisition of special operations-peculiar equipment; and

"(2) acquisition of other material, supplies, or services that are peculiar to special operations activities.

"(g) INTELLIGENCE AND SPECIAL ACTIVITIES.—This section does not constitute authority to conduct any activity which, if carried out as an intelligence activity by the Department of Defense, would require—

"(1) a finding under section 662 of the Foreign Assistance Act of 1961 (22 U.S.C. 2422); or

"(2) a notice to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives under section 501(a)(1) of the National Security Act of 1947 (50 U.S.C. 413).

"(h) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the activities of the special operations command. Such regulations shall include authorization for the commander of such command to provide for operational security of special operations forces and activities.

"(i) IDENTIFICATION OF SPECIAL OPERATIONS FORCES.—(1) Subject to paragraph (2), for the purposes of this section special operations forces are those forces of the armed forces that—

"(A) are identified as core forces or as augmenting forces in the Joint Chiefs of Staff Joint Strategic Capabilities Plan, Annex E, dated December 17, 1985;

"(B) are described in the Terms of Reference and Conceptual Operations Plan for the Joint Special Operations Command, as in effect on April 1, 1986; or

"(C) are designated as special operations forces by the Secretary of Defense.

"(2) The Secretary of Defense, after consulting with the Chairman of the Joint Chiefs of Staff and the commander of the special operations command, may direct that any force included within the description in paragraph (1)(A) or (1)(B) shall not be considered as a special operations force for the purposes of this section.

"(j) SPECIAL OPERATIONS ACTIVITIES.—For purposes of this section, special operations activities include each of the following insofar as it relates to special operations:

"(1) Direct action.

"(2) Strategic reconnaissance.

"(3) Unconventional warfare.

"(4) Foreign internal defense.

"(5) Civil affairs.

"(6) Psychological operations.

"(7) Counterterrorism.

"(8) Humanitarian assistance.

"(9) Theater search and rescue.

"(10) Such other activities as may be specified by the President or the Secretary of Defense.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"167. Unified combatant command for special operations forces.".

(c) MAJOR FORCE PROGRAM CATEGORY.—The Secretary of Defense shall create for the special operations forces a major force program category for the Five-Year Defense Plan of the Department of Defense. The Assistant Secretary of Defense for Special Operations

and Low Intensity Conflict, with the advice and assistance of the commander of the special operations command, shall provide overall supervision of the preparation and justification of program recommendations and budget proposals to be included in such major force program category.

(d) PROGRAM AND BUDGET EXECUTION.—To the extent that there is authority to revise programs and budgets approved by Congress for special operations forces, such authority may be exercised only by the Secretary of Defense, after consulting with the commander of the special operations command.

(e) GRADE FOR COMMANDERS OF CERTAIN AREA SPECIAL OPERATIONS COMMANDS.—The commander of the special operations command of the United States European Command, the United States Pacific Command, and any other unified combatant command that the Secretary of Defense may designate for the purposes of this section shall be of general or flag officer grade.

(f) BOARD FOR LOW INTENSITY CONFLICT.—Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended by adding at the end the following new subsection:

"(f) The President shall establish within the National Security Council a board to be known as the 'Board for Low Intensity Conflict'. The principal function of the board shall be to coordinate the policies of the United States for low intensity conflict.".

(g) DEPUTY ASSISTANT TO THE PRESIDENT FOR NATIONAL SECURITY AFFAIRS FOR LOW INTENSITY CONFLICT.—It is the sense of Congress that the President should designate within the Executive Office of the President a Deputy Assistant to the President for National Security Affairs to be the Deputy Assistant for Low Intensity Conflict.

(h) REPORTS.—(1) Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the plans of the Secretary for implementation of this section, including a description of the progress made on such implementation.

(2) Not later than one year after the date of the enactment of this Act, the President shall transmit to Congress a report on the capabilities of the United States to conduct special operations and low intensity conflicts. The report shall include a description of the following:

(A) Deficiencies in such capabilities.

(B) Actions being taken throughout the executive branch to correct such deficiencies.

(C) The principal low intensity conflict threats to the interests of the United States.

(D) The actions taken and to be taken to implement this section.

(i) EFFECTIVE DATE.—Section 167 of title 10, United States Code (as added by subsection (b)), shall be implemented not later than 180 days after the date of the enactment of this Act.

(j) FUNDING FOR FISCAL YEAR 1987.—The Secretary of Defense may spend unobligated funds appropriated to the Department of Defense for fiscal years before fiscal year 1987 in such sums as necessary in order to carry out this section and section 167 of title 10, United States Code (as added by subsection (b)), during fiscal year 1987.

SEC. 9116. (a) The Secretary of Defense shall award to a United States firm a contract pursuant to a solicitation issued on or after

the date of enactment of this Act under the Department of Defense overseas fuel procurement programs that would otherwise be awarded to a foreign firm if such United States firm—

(1) has a crude oil refining capacity of not more than 75,000 barrels a day;

(2) participates in the Department of Defense overseas fuel procurement program;

(3) agrees to the contract on the terms proposed by the foreign firm to which the contract would otherwise be awarded; and

(4) does not use processing agreements in order to fulfill the contract.

(b) This provision shall not apply if the total cost of supplies offered by the United States firm, including transportation as specified in the solicitation, would exceed the total evaluated cost to the government if the contract were awarded to the foreign firm.

(c) This provision shall not supersede any status of forces agreement and shall not apply to acquisitions subject to the Agreement on Government Procurement of 1979 and the Trade Agreements Act of 1979 (19 U.S.C. 2501-2582) and including acquisitions from countries designated under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701, et seq.).

(d) For purposes of this section, the term "United States firm" means a corporation, partnership, association, joint stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States, or which is organized under the laws of a State of the United States or a territory, possession, or commonwealth of the United States.

SEC. 9117. (a) None of the funds appropriated in this Act may be available for any country if the President determines that the government of such country is failing to take adequate measures to prevent narcotic drugs or other controlled substances cultivated or produced or processed illicitly, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to United States personnel or their dependents, or from being smuggled into the United States. Such prohibition shall continue in force until the President determines and reports to the Congress in writing that—

(1) the government of such country has prepared and committed itself to a plan presented to the Secretary of State that would eliminate the cause or basis for the application to such country of the prohibition contained in the first sentence; and

(2) the government of such country has taken appropriate law enforcement measures to implement the plan presented to the Secretary of State.

(b) The provisions of subsection (a) shall not apply in the case of any country with respect to which the President determines that the application of the provisions of such subsection would be inconsistent with the national security interests of the United States.

SEC. 9118. (a) None of the funds made available by this Act to the Department of Defense may be used to procure the Federal Supply Classes of machine tools set forth in subsection (b) of this section, for use in any government-owned facility or property under control of the Department of Defense, which machine tools were not manufactured in the United States or Canada.

(b) The procurement restrictions contained in subsection (a) shall apply to Federal Supply Classes of metalworking machinery in

categories numbered 3408, 3410-3419, 3426, 3433, 3441-3443, 3446, 3448, 3449, 3460, and 3461.

(c) When adequate domestic supplies of the classifications of machine tools identified in subsection (b) are not available to meet Department of Defense requirements on a timely basis, the procurement restrictions contained in subsection (a) may be waived on a case by case basis by the Secretary of the Service Branch responsible for the procurement.

(d) Subsection (a) shall not apply to contracts which are binding as of the date of enactment of this Act.

SEC. 9119. (a) Notwithstanding sections 2394(b) and 2690 of title 10, United States Code, the Secretary of the Army may use funds appropriated for the construction and operation of the Louisiana Army Ammunition Plant for the provision and operation of energy production facilities at such plant.

(b) Funds available to the Secretary of the Army under subsection (a) may be obligated without seeking third party contracts for the financing and construction of heating and power plants.

SEC. 9120. Of the funds appropriated by this Act, $8,100,000 shall be made available to the Department of Defense in order to implement the recommendations of its Security Review Commission concerning personnel and industrial security programs: *Provided,* That the Department shall submit a reprogramming notification identifying funds for this purpose.

SEC. 9121. No funds shall be expended for implementation of the Department of Defense Federal Acquisition Regulation Supplement; Cargo Preference, published as proposed regulations on July 28, 1986, at page 27016 of volume 51, numbered 144 of the Federal Register.

SEC. 9122. Section 672 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) The consent of a Governor described in subsections (b) and (d) may not be withheld (in whole or in part) with regard to active duty outside the United States, its territories, and its possessions, because of any objection to the location, purpose, type, or schedule of such active duty.".

SEC. 9123. (a)(1) Notwithstanding any other provision of law, except as provided in paragraph (1) or (2), the Secretary of the Navy shall reimburse Valerie S. Ford of Richmond, Virginia, for the expenses she incurred for her travel and the travel of her two dependent children and the transportation of her household goods in moving herself and her children from Makakilo, Hawaii, to Richmond, Virginia, in May, 1984.

(2) The Secretary of the Navy may not make the reimbursement authorized in paragraph (1) unless, within one year after the date of enactment of this Act, the Secretary receives from Valerie S. Ford such application for reimbursement and documentation of expenses as the Secretary considers appropriate.

(3) The amount paid to Valerie S. Ford pursuant to paragraph (1) may not exceed the amount that would have been payable for the travel and transportation referred to in such paragraph if the travel and transportation had been timely and a proper and timely application had been submitted in the case of the said Valerie S. Ford as provided by law or applicable regulations.

(b) No part of any amount reimbursed pursuant to subsection (a) of this section in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of

services rendered in connection with such reimbursement, and the same shall be unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.

SEC. 9124. From existing funds the Secretary of Defense shall take additional steps for further development of planning, research, and facilities for physical acoustics and related matters and shall develop facilities for advanced microelectronics design research and development including but not restricted to military components replacement and the Mapped Array Differential Equation Machine.

SEC. 9125. Notwithstanding any other provision of law, appropriations available to the Department of Defense during the current fiscal year shall be available to make payments to a hospital that obtains 12 percent or more of its operating funds from contributions and that limits the care it provides to the treatment of heart and lung conditions: *Provided,* That payment may not be denied for a claim for otherwise reimbursable services submitted under a plan contracted for under sections 1079(a) and 1086(a) of title 10, United States Code, solely on the basis that such hospital does not impose a legal obligation, including a patient cost share or deductible, on its patients to pay for such services.

SEC. 9126. Notwithstanding the provisions of subsection 502(a)(1) of the National Security Act of 1947, funds appropriated by this Act may be obligated and expended for particular intelligence activities contained in this Act: *Provided,* That the funds appropriated or made available by this Act may be obligated and expended for the particular activities contained in this Act should the enactment of a National Defense Authorization Act for fiscal year 1987 fail to occur and this Act shall then be considered to provide the authorization and appropriation authority necessary to obligate and expend the funds provided herein.

SEC. 9127. Notwithstanding any other provision of law, where an error of the magnitude of four or greater in a financial ratio is made in the evaluation of an application for extension made by any firm in accordance with C.F.R. Section 124.1—(1)(f)(4)(i) (effective January 1, 1986), the maximum extension shall be granted.

SEC. 9128. None of the funds provided by this Act may be used to pay the salaries of any person or persons who authorize the transfer of unobligated and deobligated appropriations into the Reserve for Contingencies of the Central Intelligence Agency.

SEC. 9129. Of the funds appropriated in this Act for the procurement of P-3C aircraft, the Secretary of the Navy may carry out Navy obligations under the classified Maritime Surveillance Agreement of 1986: *Provided,* That two of the P-3C aircraft to be procured may be used to implement United States obligations under such classified agreement.

SEC. 9130. Funds appropriated by this Act for construction projects of the Central Intelligence Agency, which are transferred to another Agency for execution, shall remain available until expended.

SEC. 9131. Section 642 of S. 2638, as passed by the Senate on August 9, 1986, shall be deemed to be enacted into law as fully as if set forth herein: *Provided,* That the total amount herein appropriated for "Military Personnel" appropriations accounts shall be reduced by $350,000,000.

SEC. 9132. During the current fiscal year, the Department of Defense shall conduct a new competition for 9mm handguns, with

procurement starting in fiscal year 1988 in parallel with the current contract.

SEC. 9133. Funds appropriated to the Department of Defense during fiscal year 1987, or otherwise available for obligation during fiscal year 1987, shall be available for obligation notwithstanding any provisions contained in any Act authorizing appropriations for the Department of Defense for fiscal year 1987, heretofore or hereafter enacted, that would otherwise limit obligations of the aggregate amount that may be obligated at the appropriation account level, appropriations subdivision level, or appropriation budget activity level, unless a subsequently enacted provision expressly and specifically references this provision and directly amends or repeals this provision.

SEC. 9134. (a) Notwithstanding any other provision of this Joint Resolution, none of the funds appropriated in this or any other Act shall be used to sell, lease, transfer, or otherwise dispose of any portion of the approximately twenty-six acres of Fort DeRussy, Hawaii, lying southwest of Kalia Road, which includes the Hale Koa Hotel, the Armed Forces Recreation Center, and beachfront area.

(b) Notwithstanding any other provision of this Joint Resolution, to include section 509 of the Department of the Treasury, Postal Service, and General Government Appropriations Act as contained in this Joint Resolution, or any other provision of the law, including section 809 of the Military Construction Authorization Act, 1968, section 807(d) of the Military Construction Authorization Act, 1984, or any other provision of an annual Appropriation Act restricting use of funds for the sale, lease, rental, or excessing of Fort DeRussy, Hawaii, any right or interest of the United States in the remaining forty-five acres of Fort DeRussy, Hawaii, lying northeast of Kalia Road, which comprises the three United States Army Reserve Centers and miscellaneous facilities, may not be sold, leased, or transferred in accordance with Federal laws and Department of Defense regulations governing the disposal of Defense installations prior to August 1, 1987: *Provided*, That no such sale, lease, transfer, or other disposition proposed by the Secretary of the Army after August 1, 1987 shall occur until 60 legislative days after notification of the proposed action to the Committees on Armed Services and Appropriations of the House of Representatives and Senate.

(c) The exact acreage and legal descriptions of the property addressed by this section shall be determined by surveys which are satisfactory to the Secretary of the Army.

SEC. 9135. None of the funds appropriated or otherwise made available by this or any other Act may be obligated or expended during fiscal year 1987 for, or in connection with, a Strategic Defense Initiative Institute unless—

(1) obligation or expenditure of funds for such purpose is specifically authorized by law in an Act other than this Act; and

(2) funds are specifically appropriated for such purpose in an Act other than this Act.

For purposes of this section, a Strategic Defense Initiative Institute is a Federally Funded Research and Development Center intended to lend technical support to the Strategic Defense Initiative Organization, as described in the Federal Register on March 18, 1986, April 24, 1986, and May 21, 1986.

SEC. 9136. (a) The Secretary of Defense shall conduct through the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) a demonstration project on the treatment of alcohol-

ism designed to compare the use of chemical aversion therapy with the use of other treatments. The Secretary shall submit to the Committees on Appropriations and Armed Services of the Senate and House of Representatives a report describing the proposed conduct of the demonstration project not later than November 1, 1986. The Secretary shall implement the demonstration project not later than February 1, 1987. At the conclusion of the demonstration project, the Secretary shall submit to such committees a report on the results of the project: *Provided,* That the demonstration project shall be conducted at only one location: *Provided further,* That coverage for chemical aversion therapy under this demonstration project is extended to those beneficiaries referred for such treatment by a physician, psychiatrist or psychologist recognized as an authorized provider under CHAMPUS.

(b) Until the report required by subsection (a) on the results of the demonstration project is submitted, the Secretary of Defense shall ensure that coverage of beneficiaries under section 1079(a) or 1086(a) of title 10, United States Code, shall continue under the provisions of subsection (a).

TITLE X—DEFENSE ACQUISITION IMPROVEMENT

SEC. 900. SHORT TITLE

This title may be cited as the "Defense Acquisition Improvement Act of 1986".

PART A—MANAGEMENT OF THE ACQUISITION PROCESS

SEC. 901. DUTIES AND PRECEDENCE OF UNDER SECRETARY OF DEFENSE FOR ACQUISITION.

Section 133 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended to read as follows:

"§ 133. Under Secretary of Defense for Acquisition

"(a) There is an Under Secretary of Defense for Acquisition, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Under Secretary shall be appointed from among persons who have an extensive management background in the private sector.

"(b) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition shall perform such duties and exercise such powers relating to acquisition as the Secretary of Defense may prescribe, including—

"(1) supervising Department of Defense acquisition;

"(2) establishing policies for acquisition (including procurement, research and development, logistics, developmental testing, and contract administration) for all elements of the Department of Defense;

"(3) establishing policies of the Department of Defense for maintenance of the defense industrial base of the United States; and

"(4) the authority to direct the Secretaries of the military departments and the heads of all other elements of the Depart-

ment of Defense with regard to matters for which the Under Secretary has responsibility.

"(c) The Under Secretary—

"(1) is the senior procurement executive for the Department of Defense for the purposes of section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3));

"(2) is the Defense Acquisition Executive for purposes of regulations and procedures of the Department providing for a Defense Acquisition Executive; and

"(3) to the extent directed by the Secretary, exercises overall supervision of all personnel (civilian and military) in the Office of the Secretary of Defense with regard to matters for which the Under Secretary has responsibility, unless otherwise provided by law.

"(d)(1) The Under Secretary shall prescribe policies to ensure that audit and oversight of contractor activities are coordinated and carried out in a manner to prevent duplication by different elements of the Department.

"(2) In carrying out this subsection, the Under Secretary shall consult with the Inspector General of the Department of Defense.

"(3) Nothing in this subsection shall affect the authority of the Inspector General of the Department of Defense to establish audit policy for the Department of Defense under the Inspector General Act of 1978 and otherwise to carry out the functions of the Inspector General under that Act.

"(e)(1) With regard to all matters for which he has responsibility by law or by direction of the Secretary of Defense, the Under Secretary of Defense for Acquisition takes precedence in the Department of Defense after the Secretary of Defense and the Deputy Secretary of Defense.

"(2) With regard to all matters other than matters for which he has responsibility by law or by direction of the Secretary of Defense, the Under Secretary takes precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, and the Secretaries of the military departments.".

SEC. 902. ESTABLISHMENT OF POSITION OF DEPUTY UNDER SECRETARY OF DEFENSE FOR ACQUISITION.

(a) ESTABLISHMENT OF POSITION.—(1) Chapter 4 of title 10, United States Code (as amended by title I of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended by inserting after section 133 the following new section:

"§ 133a. Deputy Under Secretary of Defense for Acquisition

"(a) There is a Deputy Under Secretary of Defense for Acquisition, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Deputy Under Secretary of Defense for Acquisition shall assist the Under Secretary of Defense for Acquisition in the performance of his duties. The Deputy Under Secretary shall act for, and exercise the powers of, the Under Secretary when the Under Secretary is absent or disabled.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 133 the following new item:

"133a. Deputy Under Secretary of Defense for Acquisition.".

(b) PAY GRADE.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Deputy Under Secretary of Defense for Acquisition.".

SEC. 903. OTHER SENIOR CIVILIAN ACQUISITION OFFICIALS.

(a) PRECEDENCE OF UNDER SECRETARY FOR POLICY.—Section 134 of title 10, United States Code (as designated by section 105 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended by inserting "the Under Secretary of Defense for Acquisition," in subsection (c) after "Deputy Secretary of Defense,".

(b) FUNCTIONS AND GRADE OF DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING.—(1) Section 135 of title 10, United States Code (as amended by section 105 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended—

(A) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) Except as otherwise prescribed by the Secretary of Defense, the Director of Defense Research and Engineering shall perform such duties relating to research and engineering as the Under Secretary of Defense for Acquisition may prescribe."; and

(B) by striking out subsection (c).

(2)(A) Section 5314 of title 5, United States Code, is amended by striking out "Director of Defense Research and Engineering.".

(B) Section 5315 of such title is amended by adding at the end the following:

"Director of Defense Research and Engineering.".

(c) INDEPENDENCE AND STAFF OF DIRECTOR OF OPERATIONAL TEST AND EVALUATION.—Section 138 of title 10, United States Code (as redesignated by section 101(a), of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)) is amended—

(1) by inserting "and the Under Secretary of Defense for Acquisition" after "Secretary of Defense" in the first sentence of subsection (b);

(2) by inserting "and the Under Secretary of Defense for Acquisition" after "Secretary of Defense" in subsection (b)(2);

(3) by inserting ", to the Under Secretary of Defense for Acquisition," in subsection (b)(5) after "Secretary of Defense";

(4) by inserting ", to the Under Secretary of Defense for Acquisition," in subsection (c) after "Secretary of Defense" the first place such term appears;

(5) by inserting "personally" in the first sentence of subsection (d) after "Secretary of Defense";

(6) by inserting ", the Under Secretary of Defense for Acquisition," in the second sentence of subsection (g)(1) after "Secretary of Defense"; and

(7) by adding at the end the following new subsection:

"(i) The Director shall have sufficient professional staff of military and civilian personnel to enable the Director to carry out the duties and responsibilities of the Director prescribed by law.".

(d) DIRECTOR OF OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION.—Section 15(k)(3) of the Small Business Act (15 U.S.C. 644(k)(3)) is amended by inserting ", except that in the case of the Department of Defense the Director of the Office of Small and

Disadvantaged Business Utilization shall be responsible to, and report directly to, the Under Secretary of Defense for Acquisition".

(e) CONFORMING AMENDMENT FOR ARMED FORCES POLICY COUNCIL MEMBERSHIP.—Section 171(a) of title 10, United States Code is amended—

(1) by redesignating paragraphs (3) through (11) as paragraphs (4), (5), (6), (7), (9), (10), (11), (12), and (13), respectively;

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) the Under Secretary of Defense for Acquisition;"; and

(3) by striking out paragraph (7) (as so redesignated) and inserting in lieu thereof the following:

"(7) the Under Secretary of Defense for Policy;

"(8) the Deputy Under Secretary of Defense for Acquisition;".

SEC. 904. ENHANCED PROGRAM STABILITY FOR MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) PROGRAM STABILITY.—(1) Chapter 144 of title 10, United States Code, is amended by adding after section 2434 (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)) the following new section:

"§ 2435. Enhanced program stability

"(a) BASELINE DESCRIPTION REQUIREMENT.—(1) The Secretary of a military department shall establish a baseline description for a major defense acquisition program under the jurisdiction of such Secretary—

"(A) before such program enters full-scale engineering development; and

"(B) before such program enters full-rate production.

"(2) A baseline description required under paragraph (1) shall include the following:

"(A) In the case of the full-scale development stage—

"(i) a description of the performance goals for the weapons system to be acquired under the program;

"(ii) a description of the technical characteristics and configuration of such system;

"(iii) total development costs for such stage by fiscal year; and

"(iv) the schedule of development milestones.

"(B) In the case of the production stage—

"(i) a description of the performance of the weapons system to be acquired under the program;

"(ii) a description of the technical characteristics and configuration of such system;

"(iii) number of end items by fiscal year;

"(iv) the schedule of development milestones;

"(v) testing;

"(vi) initial training;

"(vii) initial provisioning; and

"(viii) total procurement costs for such stage (including the cost of all elements included in the baseline description) by fiscal year, which may not exceed the amount of the independent cost estimate for that program submitted to the Secretary of Defense under section 2434 of this title.

"(b) PROGRAM DEVIATION REPORTS.—(1) The program manager of a major defense acquisition program shall immediately submit a program deviation report for such program to the Secretary of the military department concerned and to the senior procurement executive of such military department (designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3))) if such manager determines at any time during the full-scale engineering development stage or the production stage that there is reasonable cause to believe that—

"(A) the total cost of completion of the program will be more than the amount specified in the baseline description established under subsection (a) for such stage;

"(B) any milestone specified in such baseline description will not be completed as scheduled; or

"(C) the system to be acquired under the program will not fulfill the description of performance, technical characteristics, or configuration specified in such baseline description.

"(2) The Secretary of the military department concerned shall, with respect to any major defense acquisition program for which a program deviation report is received under paragraph (1)—

"(A) establish a review panel to review such program; and

"(B) submit a report containing the program deviation report and the results of such review to the Under Secretary of Defense for Acquisition before the end of the 45-day period beginning on the date that the program deviation report is submitted under paragraph (1).

"(c) DEFINITION.—In this section, the term 'major defense acquisition program' has the meaning given that term in section 2432(a)(1) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2434 the following new item:

"2435. Enhanced program stability.".

(b) EFFECTIVE DATE.—Section 2435 of title 10, United States Code (as added by subsection (a)(1)), shall apply to major defense acquisition programs that enter full-scale engineering development or full-rate production after the date of the enactment of this Act.

SEC. 905. DEFENSE ENTERPRISE PROGRAMS.

(a) IN GENERAL.—(1) Chapter 144 of title 10, United States Code, is amended by adding after section 2435 (as added by section 904) the following new section:

"§ 2436. Defense enterprise programs

"(a) IN GENERAL.—The Secretary of Defense shall conduct, through the Secretaries of the military departments, a program with respect to increasing the efficiency of the management structure of defense acquisition programs by reducing the number of officials through whom a program manager reports to the senior procurement executive of the military department concerned.

"(b) DESIGNATION OF PARTICIPATING PROGRAMS.—The Secretary of a military department may designate any defense acquisition program under the jurisdiction of the Secretary to participate in the program described in subsection (a). A program designated under this subsection shall be known as a 'defense enterprise program'.

"(c) GUIDELINES.—The Secretary of Defense shall issue guidelines governing the management of defense enterprise programs. Such guidelines shall include the following requirements:

"(1) The Secretary concerned shall designate a program executive officer for each program.

"(2) The program manager for each program shall report with respect to such program directly, without intervening review or approval, to the program executive officer for the program.

"(3) The program executive officer for a program shall report with respect to such program directly, without intervening review or approval, to the senior procurement executive of the military department concerned designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)).

"(4) The program executive officer to whom a defense enterprise program manager reports shall evaluate the job performance of such manager on an annual basis. In conducting an evaluation under this paragraph, a program executive officer shall consider the extent to which the manager has achieved the objectives of the program for which the manager is responsible, including quality, timeliness, and cost objectives.

"(5) The manager of a defense enterprise program shall be authorized staff positions for a technical staff, including experts in business management, contracting, auditing, engineering, testing, and logistics.

"(d) APPLICABLE RULES AND REGULATIONS.—(1) Except as specified by the senior procurement executive of the military department concerned, a defense enterprise program shall not be subject to any regulation, policy, directive, or administrative rule or guideline relating to the acquisition activities of the Department of Defense other than the Federal Acquisition Regulation and the Department of Defense supplement to the Federal Acquisition Regulation.

"(2) Paragraph (1) shall not be construed to limit or modify the application of Federal legislation relating to the acquisition activities of the Department of Defense.

"(3) In this subsection the term 'Federal Acquisition Regulation' has the meaning given such term in section 2320(a)(4) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2435 (as added by section 904) the following new item:

"2436. Defense enterprise programs.".

(b) The Secretary of each military department shall designate for fiscal year 1988 not less than three defense acquisition programs under the jurisdiction of the Secretary to participate in the program described in section 2436(a) of title 10, United States Code (as added by subsection (a)(1)).

SEC. 906. MILESTONE AUTHORIZATION OF DEFENSE ENTERPRISE PROGRAMS.

(a) IN GENERAL.—(1) Chapter 144 of title 10, United States Code, is amended by adding after section 2436 (as inserted by section 905) the following new section:

"§ 2437. Defense enterprise programs: milestone authorization

"(a) DESIGNATION OF PARTICIPATING PROGRAMS.—(1) The Secretary of Defense may designate defense enterprise programs in each

military department (as designated by the Secretary of the military department under section 2436 of this title) to be considered for milestone authorization under subsection (b).

"(2) The Secretary may designate a defense enterprise program under paragraph (1) only if the program—

"(A) is ready to proceed into the full-scale engineering development stage or the full-rate production stage; or

"(B) is in either of such stages.

"(b) SUBMISSION OF BASELINE DESCRIPTIONS.—Not later than the end of the 90-day period beginning on the date that a defense enterprise program is designated under subsection (a), the Secretary of Defense shall—

"(1) in the case of a program that is subject to section 2435(a) of this title, submit to the Committees on Armed Services of the Senate and House of Representatives the baseline description for the program required to be submitted under such section;

"(2) in the case of a program that is not subject to such section—

"(A) establish a baseline description that meets the requirements of such section; and

"(B) submit the baseline description to such committees; and

"(3) request from Congress the authority to obligate funds in a single amount sufficient to carry out the stage for which the baseline description is submitted.

"(c) MILESTONE AUTHORIZATION.—Congress shall authorize funds for the full-scale engineering development stage or the full-rate production stage of a program designated by the Secretary of Defense under subsection (a) in a single amount sufficient to carry out that stage, but not for a period in excess of five years, if such program is approved by Congress to—

"(1) proceed into or complete the full-scale engineering development stage; or

"(2) proceed into or complete the full-rate production stage.

"(d) PROGRAM DEVIATIONS.—(1) If the Secretary of Defense receives a program deviation report under section 2435(b) of this title with respect to a defense enterprise program for which funds are authorized under subsection (b)—

"(A) the Secretary of Defense shall notify the Committees on Armed Services of the Senate and House of Representatives of the receipt of such report before the end of the 15-day period beginning on the date on which the Secretary receives such report; and

"(B) except as provided in paragraph (2), after the end of the 45-day period beginning on the date on which the Secretary of Defense receives such report, the Secretary concerned may not obligate amounts appropriated or otherwise made available to the Department of Defense for purposes of carrying out the program.

"(2) Paragraph (1)(B) does not apply if the Secretary of Defense notifies Congress that the Secretary intends to—

"(A) convene a board to formally review the program; and

"(B) submit to Congress a revised baseline description for the program and the recommendations of the board convened under subparagraph (A) concurrent with the submission by the President of the budget for the next fiscal year under section 1105(a) of title 31.

"(3) The Secretary concerned may not obligate, for the purpose of carrying out a program described in paragraph (1) for which a program deviation report is received, amounts appropriated or otherwise made available to the Department of Defense for the fiscal year following the fiscal year during which the program deviation report was received unless such amounts are authorized to be appropriated after the date on which such report was received.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2436 (as inserted by section 905) the following new item:

"2437. Defense enterprise programs: milestone authorization.".

(b) INITIAL DESIGNATION OF PARTICIPATING PROGRAMS.—The Secretary of Defense shall designate for fiscal year 1988 not less than three defense enterprise programs to be considered for milestone authorization under subsection (b). The Secretary shall make such designations as part of the budget submission of the Department of Defense for such fiscal year.

SEC. 907. PREFERENCE FOR NONDEVELOPMENTAL ITEMS.

(a) IN GENERAL.—(1) Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2325. Preference for nondevelopmental items

"(a) PREFERENCE.—The Secretary of Defense shall ensure that, to the maximum extent practicable—

"(1) requirements of the Department of Defense with respect to a procurement of supplies are stated in terms of—

"(A) functions to be performed;

"(B) performance required; or

"(C) essential physical characteristics;

"(2) such requirements are defined so that nondevelopmental items may be procured to fulfill such requirements; and

"(3) such requirements are fulfilled through the procurement of nondevelopmental items.

"(b) IMPLEMENTATION.—The Secretary of Defense shall carry out this section through the Under Secretary of Defense for Acquisition, who shall have responsibility for its effective implementation.

"(c) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

"(d) DEFINITION.—In this section, the term 'nondevelopmental item' means—

"(1) any item of supply that is available in the commercial marketplace;

"(2) any previously-developed item of supply that is in use by a department or agency of the United States, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

"(3) any item of supply described in paragraph (1) or (2) that requires only minor modification in order to meet the requirements of the procuring agency; or

"(4) any item of supply that is currently being produced that does not meet the requirements of paragraph (1), (2), or (3) solely because the item—

"(A) is not yet in use; or

"(B) is not yet available in the commercial marketplace.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2325. Preference for nondevelopmental items.".

(3) The Secretary of Defense shall prescribe regulations as required by section 2325(c) of title 10, United States Code (as added by subsection (a)(1)), before the end of the 180-day period beginning on the date of the enactment of this Act.

(b) REMOVAL OF IMPEDIMENTS TO ACQUISITION OF NONDEVELOPMENTAL ITEMS.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report—

(A) identifying actions taken, including training of personnel and changes in regulations and procurement procedures, to implement the requirements of section 2325 of title 10, United States Code (as added by subsection (a)(1));

(B) identifying all statutes and regulations that are determined by the Secretary to impede the acquisition of nondevelopmental items by the Department of Defense; and

(C) recommending any legislation that the Secretary considers necessary or appropriate to promote maximum procurement of nondevelopmental items to fulfill the supply requirements of the Department of Defense.

(2) The Secretary shall take appropriate steps to remove any impediments identified by the Secretary under paragraph (1)(A) that are under the jurisdiction of the Secretary.

(3) The report required by paragraph (1) shall be submitted before the end of the one-year period beginning on the date of the enactment of this Act.

(c) EVALUATION BY COMPTROLLER GENERAL.—(1) The Comptroller General shall conduct an independent evaluation of the actions taken by the Secretary of Defense to carry out the requirements of section 2325 of title 10, United States Code (as added by subsection (a)(1)).

(2) The Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the evaluation required by paragraph (1). Such report shall include—

(A) an analysis of the effectiveness of the actions taken by the Secretary to carry out the requirements of section 2325 of title 10, United States Code (as added by subsection (a)(1));

(B) a description of any programs conducted to notify acquisition personnel of the Department of Defense of the requirements of such section and to train such personnel in the appropriate procedures for carrying out such section;

(C) a description of each law, regulation, and procedure which prevents or restricts maximum practicable use of nondevelopmental items to fulfill the supply requirements of the Department of Defense; and

(D) such recommendations for additional legislation as the Comptroller General considers necessary or appropriate to promote maximum procurement of nondevelopmental items to fulfill the supply requirements of the Department of Defense.

(3) The report required by paragraph (2) shall be submitted before the end of the two-year period beginning on the date of the enactment of this Act.

(d) DEFINITION.—For the purposes of subsections (b) and (c), the term "nondevelopmental items" has the meaning given such term in section 2325(d) of title 10, United States Code (as added by subsection (a)(1)).

SEC. 908. REQUIREMENTS RELATING TO UNDEFINITIZED CONTRACTUAL ACTIONS.

(a) LIMITATION ON USE OF FUNDS FOR UNDEFINITIZED CONTRACTUAL ACTIONS.—(1) On the last day of each six-month period described in paragraph (4), the Secretary of Defense (with respect to the Defense Logistics Agency) and the Secretary of each military department shall determine—

(A) the total amount of funds obligated for contractual actions during the six-month period;

(B) the total amount of funds obligated during the six-month period for undefinitized contractual actions; and

(C) the total amount of funds obligated during the six-month period for undefinitized contractual actions that are not definitized on or before the last day of such period.

(2) On the last day of each six-month period described in paragraph (4), the amount of funds obligated for undefinitized contractual actions entered into by the Secretary of Defense (with respect to the Defense Logistics Agency) or the Secretary of a military department during the six-month period that are not definitized on or before such day may not exceed 10 percent of the amount of funds obligated for all contractual actions entered into by the Secretary during the six-month period.

(3) If on the last day of a six-month period described in paragraph (4) the total amount of funds obligated for undefinitized contractual actions under the jurisdiction of a Secretary that were entered into during the six-month period exceeds the limit established in paragraph (2), the Secretary—

(A) shall, not later than the end of the 45-day period beginning on the first day following the six-month period, submit to the defense committees an unclassified report concerning—

(i) the amount of funds obligated for contractual actions under the jurisdiction of the Secretary that were entered into during the six-month period with respect to which the report is submitted; and

(ii) the amount of such funds obligated for undefinitized contractual actions; and

(B) except with respect to the six-month period described in paragraph (4)(A), may not enter into any additional undefinitized contractual actions until the date on which the Secretary certifies to Congress that such limit is not exceeded by the cumulative amount of funds obligated for undefinitized contractual actions under the jurisdiction of the Secretary that are not definitized on or before such date and were entered into—

(i) during the six-month period for which such limit was exceeded; or

(ii) after the end of such six-month period.

(4) This subsection applies to the following six-month periods:

(A) The period beginning on October 1, 1986, and ending on March 31, 1987.

(B) The period beginning on April 1, 1987, and ending on September 30, 1987.

(C) The period beginning on October 1, 1987, and ending on March 31, 1988.

(D) The period beginning on April 1, 1988, and ending on September 30, 1988.

(E) The period beginning on October 1, 1988, and ending on March 31, 1989.

(b) OVERSIGHT BY INSPECTOR GENERAL.—The Inspector General of the Department of Defense shall—

(1) periodically conduct an audit of contractual actions under the jurisdiction of the Secretary of Defense (with respect to the Defense Logistics Agency) and the Secretaries of the military departments; and

(2) after each audit, submit to Congress a report on the management of undefinitized contractual actions by each Secretary, including the amount of contractual actions under the jurisdiction of each Secretary that is represented by undefinitized contractual actions.

(c) WAIVER AUTHORITY.—The Secretary of Defense may waive the application of this section for urgent and compelling considerations relating to national security or public safety if the Secretary notifies the Committees on Armed Services of the Senate and House of Representatives of such waiver before the end of the 30-day period beginning on the date that the waiver is made.

(d) ESTABLISHMENT OF REQUIREMENTS WITH RESPECT TO UNDEFINITIZED CONTRACTUAL ACTIONS.—(1)(A) Chapter 137 of title 10, United States Code, is amended by adding after section 2325 (as added by section 907) the following new section:

"§ 2326. Undefinitized contractual actions: restrictions

"(a) IN GENERAL.—The head of an agency may not enter into an undefinitized contractual action unless the request to the head of the agency for authorization of the contractual action includes a description of the anticipated effect on requirements of the military department concerned if a delay is incurred for purposes of determining contractual terms, specifications, and price before performance is begun under the contractual action.

"(b) LIMITATIONS ON OBLIGATION AND EXPENDITURE OF FUNDS.—(1) A contracting officer of the Department of Defense may not enter into an undefinitized contractual action unless the contractual action provides for agreement upon contractual terms, specifications, and price by the earlier of—

"(A) the end of the 180-day period beginning on the date on which the contractor submits a qualifying proposal to definitize the contractual terms, specifications, and price; or

"(B) the date on which the amount of funds obligated or expended under the contractual action is equal to more than 50 percent of the negotiated overall ceiling price for the contractual action.

"(2) Except as provid 1 in paragraph (3), the contracting officer for an undefinitized contractual action may not expend with respect to such contractual action an amount that is equal to more than 50 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

"(3) If a contractor submits a qualifying proposal (as defined in subsection (g)) to definitize an undefinitized contractual action before an amount equal to more than 50 percent of the negotiated

overall ceiling price is expended on such action, the contracting officer for such action may not expend with respect to such contractual action an amount that is equal to more than 75 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

"(4) This subsection does not apply to an undefinitized contractual action for the purchase of initial spares.

"(c) INCLUSION OF NON-URGENT REQUIREMENTS.—Requirements for spare parts and support equipment that are not needed on an urgent basis may not be included in an undefinitized contractual action for spare parts and support equipment that are needed on an urgent basis unless the head of the agency approves such inclusion as being—

"(1) good business practice; and

"(2) in the best interests of the United States.

"(d) MODIFICATION OF SCOPE.—The scope of an undefinitized contractual action under which performance has begun may not be modified unless the head of the agency approves such modification as being—

"(1) good business practice; and

"(2) in the best interests of the United States.

"(e) ALLOWABLE PROFIT.—The head of an agency shall ensure that the profit allowed on an undefinitized contractual action for which the final price is negotiated after a substantial portion of the performance required is completed reflects—

"(1) the possible reduced cost risk of the contractor with respect to costs incurred during performance of the contract before the final price is negotiated; and

"(2) the reduced cost risk of the contractor with respect to costs incurred during performance of the remaining portion of the contract.

"(f) APPLICABILITY.—This section does not apply to the Coast Guard or the National Aeronautics and Space Administration.

"(g) DEFINITIONS.—In this section:

"(1) The term 'undefinitized contractual action' means a new procurement action entered into by the head of an agency for which the contractual terms, specifications, or price are not agreed upon before performance is begun under the action. Such term does not include contractual actions with respect to the following

"(A) Foreign military sales.

"(B) Purchases of less than $25,000.

"(C) Special access programs.

"(D) Congressionally-mandated long-lead procurement contracts.

"(2) The term 'qualifying proposal' means a proposal that contains sufficient information to enable the Department of Defense to conduct complete and meaningful audits of the information contained in the proposal and of any other information that the Department is entitled to review in connection with the contract, as determined by the contracting officer.".

(B) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2325 (as added by section 907) the following new item:

"2326. Undefinitized contractual actions: restrictions.".

(2) Section 2326 of title 10, United States Code (as added by subsection (d)(1)), applies to undefinitized contractual actions that are entered into after the end of the 180-day period beginning on the date of the enactment of this Act.

(e) DEFINITION.—For purposes of this section, the term "undefinitized contractual action" has the meaning given such term in section 2325(g) of title 10, United States Code (as added by subsection (d)(1)).

SEC. 909. COMPETITIVE PROTOTYPE STRATEGY REQUIREMENT FOR MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) ESTABLISHMENT OF REQUIREMENT.—Chapter 139 of title 10, United States Code, is amended by adding after section 2364 (as added by section 234) the following new section:

"§ 2365. Competitive prototype strategy requirement: major defense acquisition programs

"(a) COMPETITIVE PROTOTYPE STRATEGY REQUIREMENT.—Except as provided in subsection (c), the Secretary of Defense shall require the use of a competitive prototype program strategy in the development of a major weapons system (or a subsystem of such system).

"(b) QUALIFYING STRATEGIES.—An acquisition strategy qualifies as a competitive prototype strategy if it—

"(1) requires that contracts be entered into with not less than two contractors, using the same combat performance requirements, for the competitive design and manufacture of a prototype system or subsystem for developmental test and evaluation;

"(2) requires that all systems or subsystems developed under contracts described in paragraph (1) be tested in a comparative side-by-side test that is designed to—

"(A) reproduce combat conditions to the extent practicable; and

"(B) determine which system or subsystem is most effective under such conditions; and

"(3) requires that each contractor that develops a prototype system or subsystem, before the testing described in subparagraph (B) is begun, submit—

"(A) cost estimates for full-scale engineering development and the basis for such estimates; and

"(B) production estimates, whenever practicable.

"(c) EXCEPTION.—Subsection (a) shall not apply to the development of a major weapons system (or subsystem of such system) after—

"(1) the Secretary submits to Congress—

"(A) written notification that use of a competitive prototype program strategy is not practicable with respect to such system or subsystem; and

"(B) a report that fully explains why use of such a strategy is not practicable, including cost estimates (and the bases for such estimates) comparing the total program cost of the competitive prototype strategy with the total program cost of the alternative acquisition strategy; and

"(2) 30 days elapse after the Secretary submits the notification and report required by paragraph (1).

"(d) DEFINITIONS.—In this section:

"(1) The term 'major weapons system' means a major weapons system that is acquired under a program that is a major defense acquisition program.

"(2) The term 'major defense acquisition program' means a Department of Defense acquisition program that—

"(A) is not a highly sensitive classified program (as determined by the Secretary of Defense); and

"(B) that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than $200,000,000 (based on fiscal year 1980 constant dollars).

"(3) The term 'subsystem of such system' means a collection of components (such as the propulsion system, avionics, or weapon controls) for which the prime contractors, major subcontractors, or government entities have responsibility for system integration.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2364 (as added by section 234) the following new item:

"2365. Competitive prototype strategy requirement: major defense acquisition programs.".

(b) EFFECTIVE DATE.—Section 2365 of title 10, United States Code (as added by subsection (a)(1)), shall apply to major weapons systems (as defined in subsection (c)(1) of such section) that enter the advanced development stage after September 30, 1986.

SEC. 910. TESTING OF CERTAIN WEAPON SYSTEMS AND MUNITIONS.

(a) SURVIVABILITY AND LETHALITY TESTING AND OPERATIONAL TESTING.—(1) Chapter 139 of title 10, United States Code, is amended by adding after section 2365 (as added by section 909) the following new section:

"§ 2366. Major systems and munitions programs: survivability and lethality testing; operational testing

"(a) REQUIREMENTS.—The Secretary of Defense shall provide that—

"(1) a covered system may not proceed beyond low-rate initial production until realistic survivability testing of the system is completed in accordance with this section;

"(2) a major munition program or a missile program may not proceed beyond low-rate initial production until realistic lethality testing of the program is completed in accordance with this section; and

"(3) a major defense acquisition program may not proceed beyond low-rate initial production until initial operational test and evaluation of the program is completed in accordance with this section.

"(b) TEST GUIDELINES.—(1) Survivability and lethality tests required under subsection (a) shall be carried out sufficiently early in the development phase of the system or program to allow any design deficiency demonstrated by the testing to be corrected in the design of the system, munition, or missile before proceeding beyond low-rate initial production.

"(2) In the case of a major defense acquisition program, no person employed by the contractor for the system being tested may be

involved in the conduct of the operational test and evaluation required under subsection (a).

"(3) The costs of all tests required under that subsection shall be paid from funds available for the system being tested.

"(c) WAIVER AUTHORITY.—The Secretary of Defense may waive the application of the survivability and lethality tests of this section to a covered system, munitions program, or missile program if the Secretary, before the system or program enters full-scale engineering development, certifies to Congress that live-fire testing of such system or program would be unreasonably expensive and impractical.

"(d) WAIVER IN TIME OF WAR OR MOBILIZATION.—In time of war or mobilization, the President may suspend the operation of any provision of this section.

"(e) DEFINITIONS.—In this section:

"(1) The term 'covered system' means a vehicle, weapon platform, or conventional weapon system—

"(A) that includes features designed to provide some degree of protection to users in combat; and

"(B) that is a major system within the meaning of that term in section 2303(5) of this title.

"(2) The term 'major munitions program' means—

"(A) a munition program for which more than 1,000,000 rounds are planned to be acquired; or

"(B) a conventional munitions program that is a major system within the meaning of that term in section 2302(5) of this title.

"(3) The term 'major defense acquisition program' means—

"(A) a conventional weapons system that is a major system within the meaning of that term in section 2302(5) of this title; and

"(B) is designed for use in combat.

"(4) The term 'realistic survivability testing' means, in the case of a covered system, testing for vulnerability and survivability of the system in combat by firing munitions likely to be encountered in combat (or munitions with a capability similar to such munitions) at the system configured for combat, with the primary emphasis on testing vulnerability with respect to potential user casualties and taking into equal consideration the operational requirements and combat performance of the system.

"(5) The term 'realistic lethality testing' means, in the case of a major munitions program or a missile program, testing for lethality by firing the munition or missile concerned at appropriate targets configured for combat.

"(6) The term 'configured for combat', with respect to a weapon system, platform, or vehicle, means loaded or equipped with all dangerous materials (including all flammables and explosives) that would normally be on board in combat.

"(7) The term 'operational test and evaluation' has the meaning given that term in section 138(a)(2)(A) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2365 (as added by section 909) the following new item:

"2366. Major systems and munitions programs: survivability and lethality testing; operational testing.".

(b) EFFECTIVE DATE.—Section 2366 of title 10, United States Code (as added by subsection (a)), shall apply with respect to any decision to proceed with a program beyond low-rate initial production that is made—

(1) after May 31, 1987, in the case of a decision referred to in subsection (a)(1) or (a)(2) of such section; or

(2) after the date of the enactment of this Act, in the case of a decision referred to in subsection (a)(3) of such section.

(c) TIME FOR SUBMISSION OF ANNUAL REPORT OF DIRECTOR (OT&E).—Subsection (g)(1) of section 138 of such title (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)) is amended by striking out "January 15" in the second sentence and all that follows through 'is prepared' and inserting in lieu thereof "10 days after the transmission of the budget for the next fiscal year under section 1105 of title 31".

SEC. 911. GOALS FOR INCREASED USE OF MULTIYEAR CONTRACTING AUTHORITY IN FISCAL YEAR 1988.

(a) IN GENERAL.—The Secretary of Defense shall take appropriate actions to ensure that the Department of Defense increases the use of multiyear contracting authority in fiscal year 1988.

(b) MULTIYEAR PROCUREMENT GOAL.—The total amount obligated under multiyear contracts (authorized by section 2306(h) of title 10, United States Code) for Department of Defense procurement program eligible for multiyear contracting during fiscal year 1988 should be an amount that is not less than 10 percent of the total obligational authority used by the Department of Defense for procurement programs of the Department during such fiscal year.

(c) APPORTIONMENT OF GOAL.—The Secretary of Defense shall specify the percentage of obligational authority of each military department and Defense Agency that is to be used for multiyear contracts to achieve the goal prescribed in subsection (b).

(d) BASELINE REPORT.—Not later than January 1, 1987, the Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a written report which contains—

(1) a list of all procurement programs which the Secretary determines to be procurement programs eligible for multiyear contracting that are subject to the requirements of section 2432 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433));

(2) the Secretary's assessment of the feasibility and desirability of the multiyear procurement goal prescribed in subsection (b); and

(3) whether the Secretary expects to achieve the goal prescribed in subsection (b) for fiscal year 1988 and, if the Secretary does not expect to achieve such goal, the reasons why such goal will not be achieved.

(e) DEFINITIONS.—As used in this section the term "procurement program eligible for multiyear contracting" means a procurement program of the Department of Defense—

(1) which satisfies the conditions of clauses (A) through (F) of section 2306(h)(1) of title 10, United States Code; and

(2) under which production of fully configured end items is planned for a period exceeding three fiscal years.

SEC. 912. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

(a) IN GENERAL.—(1) Chapter 139 of title 10, United States Code, is amended by adding after section 2366 (as added by section 910) the following new section:

"§ 2367. Use of federally funded research and development centers

"(a) LIMITATION ON USE OF CENTERS.—Except as provided in subsection (b), the Secretary of Defense may not place work with a federally funded research and development center unless such work is within the purpose, mission, and general scope of effort of such center as established in the sponsoring agreement of the Department of Defense with such center.

"(b) EXCEPTION FOR APPLIED SCIENTIFIC RESEARCH.—This section does not apply to a federally funded research and development center that performs applied scientific research under laboratory conditions.

"(c) LIMITATION ON CREATION OF NEW CENTERS.—(1) The head of an agency may not obligate or expend amounts appropriated to the Department of Defense for purposes of operating a federally funded research center that was not in existence before June 2, 1986, until—

"(A) the head of the agency submits to Congress a report with respect to such center that describes the purpose, mission, and general scope of effort of the center; and

"(B) a period of 60 days beginning on the date such report is received by Congress has elapsed.

"(2) In this subsection, the term 'head of an agency' has the meaning given such term in section 2302(1) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2366 (as added by section 910) the following new item:

"2367. Use of federally funded research and development centers.".

(b) GAO STUDY.—The Comptroller General shall conduct a study of the national defense role of federally funded research and development centers. Such study shall consider the following:

(1) The effectiveness of procedures in effect on the date of the enactment of this Act in ensuring that such centers are established on the basis of the criteria set forth in Office of Federal Procurement Policy Circular 84-1.

(2) The effectiveness of such procedures in ensuring that work placed with such centers is within the purpose, mission, and general scope of effort of such center as established in the sponsoring agreement with such center.

(3) The growth in the size of such centers during fiscal years 1982 through 1986, measured—

(A) in dollar value of work placed with such centers; and

(B) in man-years of effort required to complete work placed with such centers.

(4) The effect of the exemption of contracts with such centers from the competitive procedures required by section 2304 of title 10, United States Code.

(5) The relationship of such centers to their sponsors.

(c) GAO REPORT.—(1) The Comptroller General shall submit to Congress a report on the study required by subsection (b). Such report shall include a discussion of each of the matters listed in subsection (b).

(2) The report required by paragraph (1) shall be submitted not later than one year after the date of the enactment of this Act.

PART B—REQUIREMENTS RELATING TO THE ACQUISITION PROCESS

SEC. 921. SMALL BUSINESS SET-ASIDES.

(a) PROPORTION OF CONTRACTS SET ASIDE DETERMINED ON INDUSTRY CATEGORY BASIS.—Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended—

(1) by inserting "in each industry category" in paragraph (3) after "Government", and

(2) by adding at the end the following new sentences: "For purposes of clause (3) of the first sentence of this subsection, an industry category is a discrete group of similar goods and services. Such groups shall be determined by the Administration in accordance with the four-digit standard industrial classification codes contained in the Standard Industrial Classification Manual published by the Office of Management and Budget, except that the Administration shall limit such an industry category to a greater extent than provided under such classification codes if the Administration receives evidence indicating that further segmentation for purposes of this paragraph is warranted due to special capital equipment needs or special labor or geographic requirements or to recognize a new industry. A market for goods or services may not be segmented under the preceding sentence due to geographic requirements unless the Government typically designates the area where work for contracts for such goods or services is to be performed and Government purchases comprise the major portion of the entire domestic market for such goods or services and, due to the fixed location of facilities, high mobilization costs, or similar economic factors, it is unreasonable to expect competition from business concerns located outside of the general areas where such concerns are located.".

(b) AWARDING OF CONTRACTS AT FAIR MARKET PRICES.—(1) Section 15(a) of such Act (15 U.S.C. 644(a)) is further amended by adding at the end the following new sentence: "A contract may not be awarded under this subsection if the award of the contract would result in a cost to the awarding agency which exceeds a fair market price.".

(2) Section 8(a)(1)(A) of such Act (15 U.S.C. 637(a)(1)(A)) is amended by striking out the semicolon at the end and adding in lieu thereof the following: ". A contract may not be awarded under this subsection if the award of the contract would result in a cost to the awarding agency which exceeds a fair market price;".

(c) ASSURANCE AS TO COMPOSITION OF LABOR FORCE.—(1) Section 8(a) of such Act (15 U.S.C. 637(a)) is amended by adding at the end the following new paragraph:

"(14)(A) A concern may not be awarded a contract under this subsection as a small business concern unless the concern agrees that—

"(i) in the case of a contract for services (except construction), at least 50 percent of the cost of contract performance incurred for personnel shall be expended for employees of the concern; and

"(ii) in the case of a contract for procurement of supplies (other than procurement from a regular dealer in such supplies), the concern will perform work for at least 50 percent of the cost of manufacturing the supplies (not including the cost of materials).

"(B) The Administrator may change the percentage under clause (i) or (ii) of subparagraph (A) if the Administrator determines that such change is necessary to reflect conventional industry practices among business concerns that are below the numerical size standard for businesses in that industry category. A percentage established under the preceding sentence may not differ from a percentage established under section 15(n).

"(C) The Administration shall establish, through public rulemaking, requirements similar to those specified in subparagraph (A) to be applicable to contracts for general and specialty construction and to contracts for any other industry category not otherwise subject to the requirements of such subparagraph. The percentage applicable to any such requirement shall be determined in accordance with subparagraph (B), except that such a percentage may not differ from a percentage established under section 15(n) for the same industry category.".

(2) Section 15 of such Act (15 U.S.C 644) is amended by adding at the end the following new subsection:

"(o)(1) A concern may not be awarded a contract under this subsection as a small business concern unless the concern agrees that—

"(A) in the case of a contract for services (except construction), the concern will perform at least 50 percent of the cost of the contract with its own employees; and

"(B) in the case of a contract for procurement of supplies (other than procurement from a regular dealer in such supplies), the concern will perform work for at least 50 percent of the cost of manufacturing the supplies (not including the cost of materials).

"(2) The Administrator may change the percentage under subparagraph (A) or (B) of paragraph (1) if the Administrator determines that such change is necessary to reflect conventional industry practices among business concerns that are below the numerical size standard for businesses in that industry category.

"(3) The Administration shall establish, through public rulemaking, requirements similar to those specified in paragraph (1) to be applicable to contracts for general and specialty construction and to contracts for any other industry category not otherwise subject to the requirements of such subparagraph.".

(d) EXPANSION OF ANNUAL PARTICIPATION GOALS.—Section 15(g) of such Act is amended—

(1) by striking out "having values of $10,000 or more" in the first sentence; and

(2) by adding at the end the following: "For the purpose of establishing goals under this subsection, the head of each Federal agency shall make consistent efforts to annually expand participation by small business concerns from each industry category in procurement contracts of the agency, including participation by small business concerns owned and controlled by socially and economically disadvantaged individuals. The head of each Federal agency, in attempting to attain such participation, shall consider—

"(1) contracts awarded as the result of unrestricted competition; and

"(2) contracts awarded after competition restricted to eligible small business concerns under this section and under the program established under section 8(a).".

(e) DISCLOSURE OF INFORMATION CONCERNING APPLICANTS FOR PROCUREMENT SET-ASIDES.—Section 15 of such Act is further amended by adding at the end the following new subsection:

"(p)(1) Except as provided in paragraphs (2) and (3), the head of any Federal agency shall, within five days of the agency's decision to set aside a procurement for small business concerns under this section, provide the names and addresses of the small business concerns expected to respond to the procurement to any person who requests such information.

"(2) The Secretary of Defense may decline to provide information under paragraph (1) in order to protect national security interests.

"(3) The head of a Federal agency is not required to release any information under paragraph (1) that is not required to be released under section 552 of title 5, United States Code.".

(f) REVIEW OF SIZE STANDARDS.—Section 3 of the Small Business Act is amended—

(1) by inserting "(1)" after "SEC. 3. (a)"; and

(2) by adding at the end of subsection (a) the following:

"(2)(A) The Small Business Administration shall establish a program for the review of the size standards for eligibility of business concerns in the industry categories described in subparagraph (B) for a procurement restricted to small business concerns under section 8(a) or 15(a).

"(B) Subparagraph (A) shall apply only to business concerns in the following industry categories:

"(i) Construction.

"(ii) Architectural and engineering services (including surveying and mapping services).

"(iii) Ship building and ship repair.

"(iv) Refuse systems and related services.

"(3) If the Administrator determines, on the basis of any such review, that contracts awarded under the set-aside programs under such sections exceed 30 percent of the dollar value of the total contract awards for that industry category, as determined under the last sentence of section 15(a)(3), the Administrator shall adjust the size standards for such industry category establishing eligibility for a set-aside program to a size that will likely reduce the number of contracts which may be set aside to approximately 30 percent of the value of contracts to be awarded under such sections.

"(4)(A) An interested person may petition the Administrator at any time to review an adjustment to a size standard made under paragraph (3) or any designation of an industry category made under section 15(a)(3) if the petitioner presents credible evidence that any such adjustment or designation—

"(i) is not likely to further the purposes of paragraph (3)(A) or section 15(a); and

"(ii) has caused the petitioner to suffer severe financial loss.

"(B) The Administrator shall render a final determination on any petition filed under subparagraph (A) before the end of the 30-day period beginning on the date that such petition is received by the Administration. Such determination shall be reviewable in the manner prescribed in chapter 7 of title 5, United States Code.

"(C) The Administrator shall prescribe regulations to carry out the provisions of this subsection.

"(5) The Administrator shall conduct a review under the program established under paragraph (2) at least once during every three years. Such review shall be completed and appropriate size standard adjustments made with the expiration of 180 days after each three-year review period.".

(g) EFFECTIVE DATE.—Except as otherwise provided in subsection (h), the amendments made by this section shall take effect on October 1, 1987.

(h) INITIAL REVIEW OF SIZE STANDARDS.—(1) Paragraph (2) of section 3(a) of the Small Business Act (as added by subsection (f)) shall take effect on the date of the enactment of this Act.

(2) The first review conducted by the Administrator under such paragraph shall review the periods beginning on October 1, 1983, and ending on September 30, 1986, and shall be completed not later than 180 days after the date of the enactment of this Act.

(3) If the Administrator of the Small Business Administration determines, on the basis of the review referred to in paragraph (2), that contracts awarded under the set-aside programs under sections 8(a) and 15(a) of the Small Business Act in any industry category subject to that review exceed 30 percent of the dollar value of the total contract awards for that industry category, as determined in accordance with the last sentence of section 15(a)(3) of such Act, the Administrator shall propose adjustments to the size standards for such industry category establishing eligibility for a set-aside program to a size that will likely reduce the number of contracts which may be set aside to approximately 30 percent of the value of contracts to be awarded under such sections. The Administrator shall publish such proposed adjustments in the Federal Register for public comment. The Administrator may not issue final regulations implementing revised size standards for an industry category under section 3(a)(3) of such Act (as added by subsection (f)) until October 1, 1987.

(i) REPORT ON EFFECT OF AMENDMENTS MADE BY THIS SECTION.—(1) The Administrator of the Small Business Administration shall submit to the Committees on Armed Services and the Committees on Small Business of the Senate and House of Representatives a report on the amendments made by this section. The report shall include the Administrator's views on the advisability and feasibility of implementing such amendments.

(2) The report shall also include—

(A) the Administrator's findings and determinations under the review of size standards for businesses that qualify as small businesses carried out pursuant to section 3(a)(2)(B) of the Small Business Act (as amended by subsection (f));

(B) a determination of whether or not the amendments made by subsection (f) will further the interests of the set-aside program; and

(C) recommendations for furthering the interests described in subparagraphs (A) and (B) in a more efficient or more effective manner than provided in such amendments.

(3) In preparing the report required by paragraph (1), the Administrator of the Small Business Administration shall seek the views of all affected agencies of the Government and the views of the public, including the views of business concerns of all sizes and of trade, business, and professional organizations. The views of such

agencies, and a summary of the views of the public, shall be included in the report.

(4) The report shall be submitted not later than July 15, 1987.

(j) LIMITATION RESPECTING GREAT LAKES NAS.—Of the total dollar amount of the contracts awarded for fiscal year 1987 for construction and of refuse systems and related services at Great Lakes Naval Training Station, Illinois, not more than 30 percent of such dollar amount may be under contracts awarded through the so-called small business set-aside programs under sections 8 and 15 of the Small Business Act.

SEC. 922. THRESHOLDS FOR CERTAIN REQUIREMENTS RELATING TO SMALL PURCHASES.

(a) SMALL BUSINESS ACT NOTICE THRESHOLDS.—Section 8(e)(1) of the Small Business Act (15 U.S.C. 637(e)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking out "$10,000" both places such term appears and inserting in lieu thereof "$25,000";

(B) by striking out "or" at the end of clause (i);

(C) by striking out the comma at the end of clause (ii) and inserting in lieu thereof "; or";

(D) by inserting after clause (ii) the following new clause:

"(iii) solicit bids or proposals for a contract for property or services for a price expected to exceed $10,000, if there is not a reasonable expectation that at least two offers will be received from responsive and responsible offerors,"; and

(E) by striking out "subsection (b); and" and inserting in lieu thereof "subsection (f);";

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) an executive agency intending to solicit bids or proposals for a contract for property or services shall post, for a period of not less than ten days, in a public place at the contracting office issuing the solicitation a notice of solicitation described in subsection (f)—

"(i) in the case of an executive agency other than the Department of Defense, if the contract is for a price expected to exceed $10,000, but not to exceed $25,000; and

"(ii) in the case of the Department of Defense, if the contract is for a price expected to exceed $5,000, but not to exceed $25,000; and".

(b) OFFICE OF FEDERAL PROCUREMENT POLICY ACT NOTICE THRESHOLDS.—Section 18(a)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)(1)(A)) is amended—

(1) in subparagraph (A)—

(A) by striking out "$10,000" both places such term appears in and inserting in lieu thereof "$25,000";

(B) by striking out "or" at the end of clause (i);

(C) by striking out the comma at the end of clause (ii) and inserting in lieu thereof "; or";

(D) by inserting after clause (ii) the following new clause:

"(iii) solicit bids or proposals for a contract for property or services for a price expected to exceed $10,000, if there is not a reasonable expectation that at least two offers will be received from responsive and responsible offerors,"; and

(E) by striking out "and" at the end;

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) an executive agency intending to solicit bids or proposals for a contract for property or services shall post, for a period of not less than ten days, in a public place at the contracting office issuing the solicitation a notice of solicitation described in subsection (f)—

"(i) in the case of an executive agency other than the Department of Defense, if the contract is for a price expected to exceed $10,000, but not to exceed $25,000; and

"(ii) in the case of the Department of Defense, if the contract is for a price expected to exceed $5,000, but not to exceed $25,000; and".

(c) SMALL BUSINESS SET-ASIDES.—The first sentence of section 15(j) of the Small Business Act (15 U.S.C. 644(j)) is amended by striking out "$10,000" and inserting in lieu thereof "$25,000".

(d) CONFORMING AMENDMENTS.—(1) Section 8(f) of the Small Business Act is amended by striking out "subsection (e)(1)(A)" and inserting in lieu thereof "subparagraph (A) or (B) of subsection (e)(1)".

(2) Section 18(b) of the Office of Federal Procurement Policy Act is amended by striking out "subsection (a)(1)(A)" and inserting in lieu thereof "subparagraph (A) or (B) of subsection (a)(1)".

SEC. 923. REQUIREMENTS RELATING TO PROCEDURES OTHER THAN COMPETITIVE PROCEDURES.

(a) LIMITED SOURCES.—Section 2304(c)(1) of title 10, United States Code, is amended by inserting "or only from a limited number of responsible sources" after "only one responsible source".

(b) UNSOLICITED PROPOSALS FOR SERVICE.—Subparagraph (A) of section 2304(d)(1) of such title is amended by striking out "a unique and innovative concept" and all that follows and inserting in lieu thereof "a concept—

"(i) that is unique and innovative or, in the case of a service, for which the source demonstrates a unique capability of the source to provide the service; and

"(ii) the substance of which is not otherwise available to the United States, and does not resemble the substance of a pending competitive procurement; and".

(c) FOLLOW-ON CONTRACTS.—Subparagraph (B) of such section is amended—

(1) by inserting ", or the continued provision of highly specialized services, such property or services may be deemed to be available only from the original source and may be procured through procedures other than competitive procedures" after "highly specialized equipment";

(2) by inserting a one-em dash after "would result in";

(3) by paragraphing clauses (i) and (ii) and aligning their margins so as to be cut in four ems;

(4) by striking out the comma after "competition" at the end of clause (i) and inserting in lieu thereof a semicolon; and

(5) by striking out ", such property" and all that follows and inserting in lieu thereof a period.

(d) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall apply with respect to contracts for which solicitations are issued after the end of the 180-day period beginning on the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply with respect to contracts awarded on the basis of unsolicited research proposals after the end of the 180-day period beginning on the date of the enactment of this Act.

(3) The amendments made by subsection (c) shall apply with respect to follow-on contracts awarded after the end of the 180-day period beginning on the date of the enactment of this Act.

SEC. 924. EVALUATION FACTORS IN AWARD OF CONTRACTS.

(a) EVALUATION FACTORS.—Subsection (a) of section 2305 of title 10, United States Code, is amended—

(1) in paragraph (2)(A)(i)—

(A) by striking out "(including price)";

(B) by inserting "(including price)" after "sealed bids"; and

(C) by inserting "(including cost or price)" after "competitive proposals"; and

(2) by adding at the end the following new paragraph:

"(3) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, the head of an agency shall clearly establish the relative importance assigned to the quality of the services to be provided (including technical capability, management capability, and prior experience of the offeror).".

(b) CONFORMING AMENDMENT.—Subsection (b) of such section is amended by inserting "cost or" in paragraph (4)(B) before "price".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to solicitations for sealed bids or competitive proposals issued after the end of the 180-day period beginning on the date of the enactment of this Act.

SEC. 925. COMPUTATION OF CONTRACT BID PRICES.

(a) IN GENERAL.—Section 2301(a) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(7) the head of an agency, in issuing a solicitation for a contract to be awarded using sealed-bid procedures, not included in such solicitation a clause providing for the evaluation of prices under the contract for options to purchase additional supplies or services under the contract unless the head of the agency has determined that there is a reasonable likelihood that the options will be exercised.".

(b) EFFECTIVE DATE.—Section 2301(a)(7) of title 10, United States Code (as added by subsection (a)), shall not apply to solicitations for sealed bids issued before the end of the 180-day period beginning on the date of the enactment of this Act.

SEC. 926. PRICES FOR SPARE OR REPAIR PARTS SOLD COMMERCIALLY.

(a) ESTABLISHMENT OF COMMERCIAL PRICING REQUIREMENT.—(1) Section 2323 of title 10, United States Code, is amended to read as follows:

"§ 2323. Commercial pricing for spare or repair parts

"(a) LIMITATION ON PRICE OF COMMERCIALLY AVAILABLE PARTS.—Except in the case of an offer submitted with a written statement under subsection (b)(2) and except as provided in subsection (c), if the head of an agency, using procedures other than competitive procedures, enters into a contract with a contractor for the purchase of spare or repair parts which the contractor also offers for sale to the general public, the price charged the United States for such parts under the contract may not exceed the lowest commercial price charged by the contractor in sales of such parts during a period described in subsection (b)(1).

"(b) REQUIREMENTS FOR INCLUSION IN OFFER.—The head of an agency, with respect to an offeror who submits an offer to the head of an agency to enter into a contract for the supply of spare or repair parts under a contract awarded using procedures other than competitive procedures, and who also offers such parts for sale to the general public, shall require that the offeror—

"(1) certify in such offer that, to the best of the knowledge and belief of the offeror, the price proposed in the offer does not exceed the lowest commercial price at which such offeror sold such parts during the most recent regular monthly, quarterly, or other period for which sales data are reasonably available; or

"(2) submit with such offer a written statement—

"(A) specifying the amount of the difference between the price proposed in the offer and the lowest commercial price at which such offeror sold such parts during a period described in paragraph (1); and

"(B) providing a justification for that difference.

"(c) EXCEPTION TO LIMITATION.—Subsections (a) and (b) do not apply in the case of a contract with respect to which the contracting officer includes in the file on the contract a written determination by such officer that the use of the lowest commercial price with respect to such contract is not appropriate because of—

"(1) national security considerations; or

"(2) significant differences between the terms of the commercial sales of the parts to be acquired under such contract and the terms of such contract, including differences in—

"(A) quantity;

"(B) quality;

"(C) delivery requirements; or

"(D) other terms and conditions.

"(d) AUDITING.—(1) In order to verify any certification or statement made under subsection (b) with respect to a contract, the contracting officer who awards such contract (or any representative of the contracting officer who is an employee of the United States or a member of the armed forces), during the time period specified in paragraph (2), may examine and audit all records of sales (including contract terms and conditions) maintained by or for the contractor that are directly pertinent to sales by the contractor of spare or repair parts identical to those covered by the contract during the period covered by such certification or statement.

"(2) The head of an agency shall require an offeror who submits a certification or written statement under subsection (b) to make available the records, books, data, and documents described in paragraph (1) for examination, audit, or reproduction for the purposes of such paragraph during the three-year period beginning on

the date that the offeror submits such certification or statement to such head of an agency.

"(3) The authority provided by this subsection is in addition to the authority of the head of an agency under section 2306a of this title.

"(e) REGULATIONS.—The Secretary of Defense, after consultation with the Secretary of Transportation and the Administrator of the National Aeronautics and Space Administration, shall prescribe regulations to carry out this section. Such regulations may not require the disclosure or submission of any data related to any element underlying the price of a commercial product not otherwise required by law.

"(f) DEFINITIONS.—In this section:

"(1) The term 'spare or repair part' means any individual piece, part, subassembly, or component which is furnished for the logistic support or repair of an end item and not as an end item itself.

"(2) The term 'lowest commercial price' means the lowest price at which a sale was made to the general public of a particular part Such term does not include the price at which a sale was made-

"(A) to any agency of the United States;

"(B) to any person for resale by such person after such person performs a service or function in connection with such part that increases the cost of the part, unless the agency procuring the part can demonstrate that the agency is procuring the part before such service or function has been performed by any such person,

"(C) to a subsidiary, affiliate, or parent business organization of the contractor, or any other branch of the same business entity;

"(D) to any person at a price that, for the purpose of making a donation, has been substantially discounted below the fair market value or regular price of such part; or

"(E) to a customer located outside the United States.

"(g) APPLICABILITY.—This section does not apply to a contract entered into using simplified small purchase procedures established under section 2304(g) of this title.".

(2) The item relating to section 2323 at the beginning of chapter 137 is amended to read as follows:

"2323. Commercial pricing for spare or repair parts.".

(b) EFFECTIVE DATE.—Regulations prescribed under section 2323(e) of title 10, United States Code (as amended by subsection (a)(1)), shall take effect on the date of the enactment of this Act.

SEC. 927. ALLOCATION OF OVERHEAD TO PARTS TO WHICH CONTRACTOR HAS ADDED LITTLE VALUE.

(a) IN GENERAL.—Section 2304 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) The Secretary of Defense shall prescribe by regulation the manner in which the Department of Defense negotiates prices for supplies to be obtained through the use of procedures other than competitive procedures, as defined in section 2302(2) of this title.

"(2) The regulations required by paragraph (1) shall—

"(A) specify the incurred overhead a contractor may appropriately allocate to supplies referred to in that paragraph; and

"(B) require the contractor to identify those supplies which it did not manufacture or to which it did not contribute significant value.

"(3) Such regulations shall not apply to an item of supply included in a contract or subcontract for which the price is based on established catalog or market prices of commercial items sold in substantial quantities to the general public.".

(b) DEADLINE.—The Secretary of Defense shall prescribe the regulations required by section 2304(i) of such title (as added by subsection (a)) not later than 180 days after the date of the enactment of this Act.

(c) REPEAL.—Section 1245 of the Department of Defense Authorization Act, 1985 (Public Law 98-525, 98 Stat. 2609), is repealed.

SEC. 928. CLARIFICATION OF REQUIREMENTS TO MARK SUPPLIES TO IDENTIFY SUPPLIERS AND SOURCES.

(a) EXCEPTION FOR CERTAIN COMMERCIAL ITEMS.—Section 2384(b) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by inserting "(1)" after "(b)";

(3) by inserting "(other than a contract described in paragraph (2))" after "delivery of supplies"; and

(4) by adding at the end the following new paragraph:

"(2) Paragraph (1) does not apply to a contract that requires the delivery of supplies that are commercial items sold in substantial quantities to the general public if the contract—

"(A) provides for the acquisition of such supplies by the Department of Defense at established catalog or market prices; or

"(B) is awarded through the use of competitive procedures.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to contracts entered into after the end of the 180-day period beginning on the date of the enactment of this Act.

PART C—PROCUREMENT PERSONNEL POLICY

SEC. 931. CONFLICT-OF-INTEREST IN DEFENSE PROCUREMENT.

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2397a the following new sections:

"§ 2397b. Certain former Department of Defense procurement officials: limitations on employment by contractors

"(a)(1) Subject to subsections (c) and (d), a person who is a former officer or employee of the Department of Defense or a former or retired member of the armed forces may not accept compensation from a contractor during the two-year period beginning on the date of such person's separation from service in the Department of Defense if—

"(A) on a majority of the person's working days during the two-year period ending on the date of such person's separation from service in the Department of Defense, the person performed a procurement function (relating to a contract of the Department of Defense) at a site or plant that is owned or

operated by the contractor and that was the principal location of such person's performance of that procurement function;

"(B) the person performed, on a majority of the person's working days during such two-year period, procurement functions relating to a major defense system and, in the performance of such functions, participated personally and substantially, and in a manner involving decisionmaking responsibilities, with respect to a contract for that system through contact with the contractor; or

"(C) during such two-year period the person acted as a primary representative of the United States—

"(i) in the negotiation of a Department of Defense contract in an amount in excess of $10,000,000 with the contractor; or

"(ii) in the negotiation of a settlement of an unresolved claim of the contractor in an amount in excess of $10,000,000 under a Department of Defense contract.

"(2) In the application of paragraph (1) to a former officer or employee of the Department of Defense or a former or retired member of the armed forces, a person's status as a contractor shall be determined as of the date of the separation from service in the Department of Defense of the officer or employee or member or former member involved.

"(b)(1) Any person who knowingly violates subsection (a)(1) shall be subject to a civil fine, in an amount not to exceed $250,000, in a civil action brought by the United States in the appropriate district court of the United States.

"(2) Any person who knowingly offers or provides any compensation to another person, and who knew or should have known that the acceptance of such compensation is or would be in violation of subsection (a)(1), shall be subject to a civil fine, in an amount not to exceed $500,000, in a civil action brought by the United States in the appropriate district court of the United States.

"(c) This section does not apply to any person with respect to—

"(1) duties described in clause (A) or (B) of subsection (a)(1) which were performed while such person was serving—

"(A) in a civilian position for which the rate of pay is less than the minimum rate of pay payable for grade GS-13 of the General Schedule; or

"(B) as a member of the armed forces in a pay grade below pay grade O-4; or

"(2) duties described in clause (C) of subsection (a)(1) which were performed while such person was serving—

"(A) in a civilian position for which the rate of pay is less than the minimum rate of pay payable for a Senior Executive Service position; or

"(B) as a member of the armed forces in a pay grade below pay grade O-7.

"(d) This section does not prohibit any person from accepting compensation from any contractor that, during the fiscal year preceding the fiscal year in which such compensation is accepted, was not a Department of Defense contractor or was a contractor under Department of Defense contracts in a total amount less than $10,000,000.

"(e)(1) Any person may, before accepting any compensation, request the appropriate designated agency ethics official to advise such person on the applicability of this section to the acceptance of

such compensation. For purposes of the preceding sentence, the appropriate designated agency ethics official is the designated agency ethics official of the agency in which such person was serving at the time such person separated from service in the Department of Defense.

"(2) A request for advice under paragraph (1) shall contain all information that is relevant to a determination by the designated agency ethics official on such request.

"(3) Not later than 30 days after the date on which a designated agency ethics official receives a request for advice under paragraph (1), such official shall issue a written opinion on the applicability of this section to the acceptance of compensation covered by the request.

"(4) If a designated agency ethics official, on the basis of a complete disclosure as required by paragraph (2), states in a written opinion furnished to any person under this subsection that this section is inapplicable to the acceptance of compensation by such person from a contractor in a particular case, there shall be a conclusive presumption in favor of such person, for the purposes of this section, that the person's acceptance of such compensation in such case is not a violation of subsection (a)(1).

"(f) In this section:

"(1) The term 'compensation' includes any payment, gift, benefit, reward, favor, or gratuity—

"(A) which is provided, directly or indirectly, for services rendered by the person accepting such payment, gift, benefit, reward, favor, or gratuity; and

"(B) which is valued in excess of $250 at the prevailing market price.

"(2)(A) The term 'contractor' means a person—

"(i) that contracts to supply the Department of Defense with goods or services;

"(ii) that controls or is controlled by a person described in clause (i); or

"(iii) that is under common control with a person described in clause (i).

"(B) Such term does not include—

"(i) an affiliate or subsidiary of a person described in subparagraph (A) that is clearly not engaged in the performance of a Department of Defense contract; or

"(ii) a State or local government.

"(3) The term 'procurement function' includes, with respect to a contract, any function relating to—

"(A) the negotiation, award, administration, or approval of the contract;

"(B) the selection of a contractor;

"(C) the approval of changes in the contract;

"(D) quality assurance, operational and developmental testing, the approval of payment, or auditing under the contract; or

"(E) the management of the procurement program.

"(4) The term 'armed forces' does not include the Coast Guard.

"(5) The term 'major defense system' has the meaning given the term 'major system' in section 2302(5) of this title.

"(g) For the purposes of this section, a person who is a retired member or a former member of the armed forces shall be considered

to have been separated from service in the Department of Defense upon the date of the person's discharge or release from active duty.

"§ 2397c. Defense contractors: requirements concerning former Department of Defense officials

"(a)(1) Each contract for the procurement of goods or services in excess of $100,000 entered into by the Department of Defense shall include a provision under which the contractor agrees not to provide compensation to a person if the acceptance of such compensation by such person would violate section 2397b(a)(1) of this title.

"(2) Such a contract shall also provide that if the contractor knowingly violates a contract provision required by paragraph (1) the contractor shall pay to the United States, as liquidated damages under the contract, an amount equal to the greater of—

"(A) $100,000; or

"(B) three times the amount of the compensation paid by the contractor to the person in violation of such contract provision.

"(b)(1)(A) Any contractor that was awarded one or more contracts by the Department of Defense during the preceding fiscal year in an aggregate amount of at least $10,000,000 that is subject during a calendar year to a contract provision described in subsection (a) shall submit to the Secretary of Defense, not later than April 1 of the next year, a written report covering the preceding calendar year. Each such report shall list the name of each person (together with other information adequate for the Government to identify the person) who—

"(i) is a former officer or employee of the Department of Defense or a former or retired member of the armed forces; and

"(ii) during the preceding calendar year was provided compensation by that contractor, if such compensation was provided within two years after such officer, employee, or member left service in the Department of Defense.

"(B) In the case of each person named in a report submitted under subparagraph (A), the report shall—

"(i) identify the agency in which the person was employed or served on active duty during the last two years of the person's service with the Department of Defense;

"(ii) state the person's job title and identify each major defense system, if any, on which the person performed any work with the Department of Defense during the last two years of the person's service with the Department;

"(iii) contain a complete description of any work that the person is performing on behalf of the contractor; and

"(iv) identify each major defense system on which the person has performed any work on behalf of the contractor.

"(2) A person who knowingly fails to file a report required by paragraph (1) shall be subject to an administrative penalty, not to exceed $10,000, imposed by the Secretary of Defense after an opportunity for an agency hearing on the record pursuant to regulations prescribed by the Secretary of Defense. The determinations of the Secretary shall be included in such record. The determinations of the Secretary shall be subject to judicial review under chapter 7 of title 5.

"(3) The Secretary of Defense shall review each report under paragraph (1) for the purposes of (A) assessing the accuracy and completeness of the report, and (B) identifying possible violations of section 2397b(a)(1) of this title or of a contract provision required by

subsection (a). The Secretary shall report any such possible violation to the Attorney General.

"(4) The Secretary shall make reports submitted under this subsection available to any Member of Congress upon request.

"(d) Subsection (g) of section 2397b of this title, and the definitions prescribed in subsection (f) of such section, apply to this section.".

(2) The table of sections at the beginning of chapter 141 of title 10, United States Code, is amended by inserting after the item relating to section 2397a the following new items:

"2397b. Certain former Department of Defense procurement officials: limitations on employment by contractors.

"2397c. Defense contractors: requirements concerning former Department of Defense officials.".

(b) REPEAL.—Section 921 of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99-145; 10 U.S.C. 2397a note) is repealed.

(c) EFFECTIVE DATES.—(1) Subject to paragraph (2), this section and the amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

(2)(A) The amendments made by this section—

(i) do not preclude the continuation of employment that began before the effective date of this section or the acceptance of compensation for such employment; and

(ii) do not, except as provided in subparagraph (B), apply to a person whose service in the Department of Defense terminates before the effective date of this section.

(B) Subparagraph (A)(ii) does not preclude the application of the amendments made by this section to a person with respect to service in the Department of Defense by such person on or after the effective date of this section.

SEC. 932. PLAN FOR ENHANCEMENT OF PROFESSIONALISM OF ACQUISITION PERSONNEL.

(a) DEVELOPMENT OF PLAN.—The Secretary of Defense shall develop a plan for a personnel initiative designed to enhance the professionalism of, and career opportunities available to, acquisition personnel of the Department of Defense.

(b) REQUIREMENTS FOR PLAN.—The plan required to be developed under subsection (a) shall—

(1) include standards for the examination, appointment, classification, training, and assignment of acquisition personnel; and

(2) assess the feasibility and desirability of—

(A) the designation of certain acquisition positions of the Department of Defense as professional positions; and

(B) the establishment of an alternative personnel system that would—

(i) include acquisition positions that are designated as professional positions; and

(ii) include quality of performance as a factor in promotions for persons in such positions.

(c) REPORT.—(1) The Secretary shall submit to Congress a report—

(A) describing the plan developed under subsection (a); and

(B) recommending any changes in existing law that would facilitate the enhancement of the professionalism of, and career opportunities available to, acquisition personnel of the Department of Defense.

(2) The report required by subparagraph (A) shall be submitted not later than April 15, 1987.

(d) EFFECTIVE DATE.—The report required by subsection (c) shall be submitted not later than the end of the one-year period beginning on the date of the enactment of this Act.

SEC. 933. EDUCATIONAL REQUIREMENTS FOR ACQUISITION PERSONNEL.

Section 1622(b)(1) of title 10, United States Code, is amended by striking out "attended" and inserting in lieu thereof "completed".

SEC. 934. PLAN FOR COORDINATION OF DEFENSE ACQUISITION EDUCATIONAL PROGRAMS.

(a) COORDINATION PLAN.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing a plan for the coordination of educational programs managed by the Department of Defense for acquisition personnel of the Department.

(b) REQUIREMENTS FOR PLAN.—The plan required by subsection (a) shall provide for—

(1) the education of acquisition personnel of the Department of Defense through programs offered by the Department or through educational courses offered by organizations other than the Department;

(2) the education of acquisition personnel of the Department in various acquisition specialties, including contracting, logistics, quality, program management, systems engineering, production, and manufacturing; and

(3) the elimination of duplication of functions and courses by schools of the Department that provide educational courses for acquisition personnel of the Department.

(c) EFFECTIVE DATE.—The report required by subsection (a) shall be submitted not later than the end of the one-year period beginning on the date of the enactment of this Act.

PART D—REQUIREMENTS RELATING TO DEFENSE CONTRACTORS

SEC. 941. CODIFICATION AND EXTENSION OF PROHIBITION ON PERSONS CONVICTED OF DEFENSE-CONTRACT RELATED FELONIES AND RELATED CRIMINAL PENALTY ON DEFENSE CONTRACTORS.

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2408. Prohibition on persons convicted of defense-contract related felonies and related criminal penalty on defense contractors

"(a) PROHIBITION.—A person who is convicted of fraud or any other felony arising out of a contract with the Department of Defense shall be prohibited from working in a management or supervisory capacity on any defense contract, or serving on the board of directors of any defense contractor, for a period, as determined by the Secretary of Defense, of not less than one year from the date of the conviction.

"(b) CRIMINAL PENALTY.—A defense contractor shall be subject to a criminal penalty of not more than $500,000 if such contractor is convicted of knowingly—

"(1) employing a person under a prohibition under subsection (a); or

"(2) allowing such a person to serve on the board of directors of such contractor.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2408. Prohibition on persons convicted of defense-contract related felonies and related criminal penalty on defense contractors.".

(b) CONFORMING AMENDMENT.—Section 932 of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99-145; 99 Stat. 699) is repealed.

(c) EFFECTIVE DATE.—Section 2408 of title 10, United States Code (as added by subsection (a)(1)), shall apply with respect to employment or service on a board of directors after the date of the enactment of this Act.

SEC. 942. PROTECTION OF CONTRACTOR EMPLOYEES FROM REPRISAL FOR DISCLOSURE OF CERTAIN INFORMATION.

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by adding after section 2408 (as added by section 941) the following new section:

"§ 2409. Contractor employees: protection from reprisal for disclosure of certain information

"(a) PROHIBITION OF REPRISALS.—An employee of a defense contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a Member of Congress or an authorized official of the Department of Defense or the Department of Justice information relating to a substantial violation of law related to a defense contract (including the competition for or negotiation of a defense contract).

"(b) INVESTIGATION OF COMPLAINTS.—A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint to the Inspector General of the Department of Defense. Unless the Inspector General determines that the complaint is frivolous, the Inspector General shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the contractor concerned, and the Secretary of Defense.

"(c) CONSTRUCTION.—Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2408 (as added by section 941) the following new item:

"2409. Contractor employees: protection from reprisal for disclosure of certain information.".

(b) EFFECTIVE DATE.—Section 2409 of title 10, United States Code (as added by subsection (a)(1)), shall apply with respect to any reprisal action taken on or after the date of the enactment of this Act.

SEC. 943. REVISION OF WORK MEASUREMENT PROVISIONS.

(a) IN GENERAL.—(1) Section 2406 of title 10, United States Code, is amended to read as follows:

"§ 2406. Availability of cost and pricing records

"(a) REQUIREMENT.—(1) The head of an agency shall require a contractor under a covered contract with that agency to make available in a timely manner to any authorized representative of the head of the agency records of the contractor's cost and pricing data described in subsection (b) with respect to work under the covered contract.

"(2) The head of the agency (or the representative of the head of the agency) shall be entitled to have access to records in the form and manner maintained by the contractor.

"(b) COVERED RECORDS.—Records covered by subsection (a) include (for a covered contract and end items under such a contract) the following:

"(1) Work measurement system data (and any revision to such data), including records of labor content expressed in standard hours of work content for—

"(A) the contractor's proposal for the contract; and

"(B) the contract as negotiated.

"(2) The costs described in subsection (c)—

"(A) as proposed by the contractor;

"(B) as negotiated by the contractor with the head of the agency; and

"(C) as incurred by the contractor.

"(3) Bills of material.

"(c) COVERED COSTS.—Costs referred to in subsection (b)(2) are—

"(1) labor costs;

"(2) material costs;

"(3) subcontract costs;

"(4) overhead costs;

"(5) general and administrative costs; and

"(6) fee or profit.

"(d) NATURE OF RECORDS TO BE MAINTAINED.—Nothing in this section shall require a contractor under a covered contract to—

"(1) collect or maintain additional data not otherwise collected or maintained by the contractor, or

"(2) maintain data in a form or manner different from that in which the contractor maintains such data.

"(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section. Such regulations shall specify the period for which records shall be covered by this section, which shall not be less than three years after final payment under the contract to which the records pertain.

"(f) DEFINITIONS.—In this section:

"(1) The term 'head of an agency' means the Secretary of Defense or the Secretary of a military department.

"(2) The term 'covered contract' means a manufacturing contract—

"(A) that is awarded under a major defense acquisition program (as such term is defined in 2432(a) of this title); and

"(B) that is subject to the provisions of section 2306a of this title.

"(3) The term 'work measurement system data' means—

"(A) data generated from time standard setting, time monitoring, and variance analysis; and

"(B) such data described in subparagraph (A) as included in planning, cost estimating, and productivity improvement.

"(4) The term 'authorized representative' means a representative of the head of an agency who is an employee of the United States or a member of the armed forces.".

(2) The item relating to such section in the table of sections at the beginning of chapter 141 of such title is amended to read as follows:

"2406. Availability of cost and pricing records.".

(b) APPLICABILITY OF SECTION.—Section 2406 of title 10, United States Code, as amended by subsection (a), shall apply with respect to—

(1) contracts entered into on or after the date of the enactment of this Act; and

(2) contracts entered into before such date that are not completed before such date.

(c) DEADLINE FOR REGULATIONS.—The Secretary of Defense shall prescribe regulations as required by section 2406(e) of title 10, United States Code (as amended by subsection (a)(1)), not later than the end of the 180-day period beginning on the date of the enactment of this Act.

PART E—MISCELLANEOUS

SEC. 951. CONTRACTING WITH FIRMS OWNED OR CONTROLLED BY GOVERNMENTS THAT SUPPORT TERRORISM.

(a) CONSIDERATION OF NATIONAL INTERESTS WITH RESPECT TO DEFENSE CONTRACTS.—(1) Chapter 137 of title 10, United States Code, is amended by adding after the item relating to section 2326 (as added by section 908) the following new section:

"§ 2327. Contracts: consideration of national security objectives

"(a) DISCLOSURE OF OWNERSHIP OR CONTROL BY A FOREIGN GOVERNMENT.—The head of an agency shall require a firm or a subsidiary of a firm that submits a bid or proposal in response to a solicitation issued by the Department of Defense to disclose in that bid or proposal any significant interest in such firm or subsidiary (or, in the case of a subsidiary, in the firm that owns the subsidiary) that is owned or controlled (whether directly or indirectly) by a foreign government or an agent or instrumentality of a foreign government, if such foreign government is the government of a country that the Secretary of State determines under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. 2405(j)(1)(A)) has repeatedly provided support for acts of international terrorism.

"(b) PROHIBITION ON ENTERING INTO CONTRACTS AGAINST THE INTERESTS OF THE UNITED STATES.—Except as provided in subsection (c), the head of an agency may not enter into a contract with a firm or a subsidiary of a firm if—

"(1) a foreign government owns or controls (whether directly or indirectly) a significant interest in such firm or subsidiary (or, in the case of a subsidiary, in the firm that owns the subsidiary); and

"(2) such foreign government is the government of a country that the Secretary of State determines under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. 2405(j)(1)(A)) has repeatedly provided support for acts of international terrorism.

"(c) WAIVER.—(1)(A) If the Secretary of Defense determines under paragraph (2) that entering into a contract with a firm or a subsidiary of a firm described in subsection (b) is not inconsistent with the national security objectives of the United States, the head of an agency may enter into a contract with such firm or subsidiary after the date on which such head of an agency submits to Congress a report on the contract.

"(B) A report under subparagraph (A) shall include the following:

"(i) The identity of the foreign government concerned.

"(ii) The nature of the contract.

"(iii) The extent of ownership or control of the firm or subsidiary concerned (or, if appropriate in the case of a subsidiary, of the firm that owns the subsidiary) by the foreign government concerned or the agency or instrumentality of such foreign government.

"(iv) The reasons for entering into the contract.

"(C) After the head of an agency submits a report to Congress under subparagraph (A) with respect to a firm or a subsidiary, such head of an agency is not required to submit a report before entering into any subsequent contract with such firm or subsidiary unless the information required to be included in such report under subparagraph (B) has materially changed since the submission of the previous report.

"(2) Upon the request of the head of an agency, the Secretary of Defense shall determine whether entering into a contract with a firm or subsidiary described in subsection (b) is inconsistent with the national security objectives of the United States. In making such a determination, the Secretary of Defense shall consider the following:

"(A) The relationship of the United States with the foreign government concerned.

"(B) The obligations of the United States under international agreements.

"(C) The extent of the ownership or control of the firm or subsidiary (or, if appropriate in the case of a subsidiary, of the firm that owns the subsidiary) by the foreign government or an agent or instrumentality of the foreign government.

"(D) Whether payments made, or information made available, to the firm or subsidiary under the contract could be used for purposes hostile to the interests of the United States.

"(d) APPLICABILITY.—This section does not apply to a contract for an amount less than $100,000.

"(2) This section does not apply to the Coast Guard or the National Aeronautics and Space Administration.

"(e) REGULATIONS.—The Secretary of Defense, after consultation with the Secretary of State, shall prescribe regulations to carry out this section. Such regulations shall include a definition of the term 'significant interest'.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2326 (as added by section 908) the following new item:

"2327. Contracts: consideration of national security objectives.".

(b) CONFORMING AMENDMENT.—Section 503 of the Military Retirement Reform Act of 1986 (Public Law 99-348; 100 Stat. 708) is repealed.

(c) EFFECTIVE DATE.—Section 2327 of title 10, United States Code (as added by subsection (a)(1)), shall apply to contracts entered into

by the Secretary of Defense after the end of the 90-day period beginning on the date of the enactment of this Act.

SEC. 952. TRUTH-IN-NEGOTIATIONS ACT AMENDMENTS.

(a) STRENGTHENING OF PREVENTION OF UNEARNED AND EXCESSIVE CONTRACTOR PROFITS.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2306 the following new section:

"§ 2306a. Cost or pricing data: truth in negotiations

"(a) REQUIRED COST OR PRICING DATA AND CERTIFICATION.—(1) The head of an agency shall require offerors, contractors, and subcontractors to make cost or pricing data available as follows:

"(A) An offeror for a prime contract under this chapter to be entered into using procedures other than sealed-bid procedures shall be required to submit cost or pricing data before the award of the contract if the price of the contract to the United States is expected to exceed $100,000.

"(B) The contractor for a contract under this chapter shall be required to submit cost or pricing data before the pricing of a change or modification to the contract if the price adjustment is expected to exceed $100,000 (or such lesser amount as may be prescribed by the head of the agency).

"(C) An offeror for a subcontract (at any tier) of a contract under this chapter shall be required to submit cost or pricing data before the award of the subcontract if—

"(i) the price of the subcontract is expected to exceed $100,000; and

"(ii) the prime contractor and each higher-tier subcontractor have been required to make available cost or pricing data under this section.

"(D) The subcontractor for a subcontract covered by subparagraph (C) shall be required to submit cost or pricing data before the pricing of a change or modification to the subcontract if the price adjustment is expected to exceed $100,000 (or such lesser amount as may be prescribed by the head of the agency).

"(2) A person required, as an offeror, contractor, or subcontractor, to submit cost or pricing data under paragraph (1) (or required by the head of the agency concerned to submit such data under subsection (c)) shall be required to certify that, to the best of the person's knowledge and belief, the cost or pricing data submitted are accurate, complete, and current.

"(3) Cost or pricing data required to be submitted under paragraph (1) (or under subsection (c)), and a certification required to be submitted under paragraph (2), shall be submitted—

"(A) in the case of a submission by a prime contractor (or an offeror for a prime contract), to the contracting officer for the contract (or to a designated representative of the contracting officer); or

"(B) in the case of a submission by a subcontractor (or an offeror for a subcontract), to the prime contractor.

"(4) Except as provided under subsection (b), this section applies to contracts entered into by the head of an agency on behalf of a foreign government.

"(5) The head of the agency may waive the requirement under this subsection for a contractor, subcontractor, or offeror to submit cost or pricing data. For purposes of paragraph (1)(C)(ii), a contractor or subcontractor granted such a waiver shall be considered as having

been required to make available cost or pricing data under this section.

"(b) EXCEPTIONS —This section need not be applied to a contract or subcontract—

"(1) for which the price agreed upon is based on—

"(A) adequate price competition;

"(B) established catalog or market prices of commercial items sold in substantial quantities to the general public; or

"(C) prices set by law or regulation; or

"(2) in an exceptional case when the head of the agency determines that the requirements of this section may be waived and states in writing his reasons for such determination.

"(c) AUTHORITY TO REQUIRE COST OR PRICING DATA.—When cost or pricing data are not required to be submitted by subsection (a), such data may nevertheless be required to be submitted by the head of the agency if the head of the agency determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract.

"(d) PRICE REDUCTIONS FOR DEFECTIVE COST OR PRICING DATA.—(1)(A) A prime contract (or change or modification to a prime contract) under which a certificate under subsection (a)(2) is required shall contain a provision that the price of the contract to the United States, including profit or fee, shall be adjusted to exclude any significant amount by which it may be determined by the head of the agency that such price was increased because the contractor (or any subcontractor required to make available such a certificate) submitted defective cost or pricing data.

"(B) For the purposes of this section, defective cost or pricing data are cost or pricing data which, as of the date of agreement on the price of the contract (or another date agreed upon between the parties), were inaccurate, incomplete, or noncurrent. If for purposes of the preceding sentence the parties agree upon a date other than the date of agreement on the price of the contract, the date agreed upon by the parties shall be as close to the date of agreement on the price of the contract as is practicable.

"(2) In determining for purposes of a contract price adjustment under a contract provision required by paragraph (1) whether, and to what extent, a contract price was increased because the contractor (or a subcontractor) submitted defective cost or pricing data, it shall be a defense that the United States did not rely on the defective data submitted by the contractor or subcontractor.

"(3) It is not a defense to an adjustment of the price of a contract under a contract provision required by paragraph (1) that—

"(A) the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted by the contractor or subcontractor because the contractor or subcontractor—

"(i) was the sole source of the property or services procured; or

"(ii) otherwise was in a superior bargaining position with respect to the property or services procured;

"(B) the contracting officer should have known that the cost and pricing data in issue were defective even though the contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the contracting officer;

"(C) the contract was based on an agreement between the contractor and the United States about the total cost of the

contract and there was no agreement about the cost of each item procured under such contract; or

"(D) the prime contractor or subcontractor did not submit a certification of cost and pricing data relating to the contract as required under subsection (a)(2).

"(4)(A) A contractor shall be allowed to offset an amount against the amount of a contract price adjustment under a contract provision required by paragraph (1) if—

"(i) the contractor certifies to the contracting officer (or to a designated representative of the contracting officer) that, to the best of the contractor's knowledge and belief, the contractor is entitled to the offset; and

"(ii) the contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification) and that the data were not submitted as specified in subsection (a)(3) before such date.

"(B) A contractor shall not be allowed to offset an amount otherwise authorized to be offset under subparagraph (A) if—

(i) the certification under subsection (a)(2) with respect to the cost or pricing data involved was known to be false when signed; or

(ii) the United States proves that, had the cost or pricing data referred to in subparagraph (A)(ii) been submitted to the United States before the date of agreement on the price of the contract (or price of the modification), the submission of such cost or pricing data would not have resulted in an increase in that price in the amount to be offset.

"(e) INTEREST AND PENALTIES FOR CERTAIN OVERPAYMENTS.—(1) If the United States makes an overpayment to a contractor under a contract with the Department of Defense subject to this section and the overpayment was due to the submission by the contractor of defective cost or pricing data, the contractor shall be liable to the United States—

"(A) for interest on the amount of such overpayment, to be computed—

"(i) for the period beginning on the date the overpayment was made to the contractor and ending on the date the contractor repays the amount of such overpayment to the United States; and

"(ii) at the current rate prescribed by the Secretary of the Treasury under section 6621 of the Internal Revenue Code of 1954; and

"(B) if the submission of such defective data was a knowing submission, for an additional amount equal to the amount of the overpayment.

"(2) Except as provided under subsection (d), the liability of a contractor under this subsection shall not be affected by the contractor's refusal to submit a certification under subsection (a)(2) with respect to the cost or pricing data involved.

"(f) RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.—(1) For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this section with respect to a contract or subcontract, the head of the agency, acting through any authorized representative of the head of the agency who is an employee of the United States or a member of the armed forces, shall have the right to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;
"(B) the discussions conducted on the proposal;
"(C) pricing of the contract or subcontract; or
"(D) performance of the contract or subcontract.

"(2) The right of the head of an agency under paragraph (1) shall expire three years after final payment under the contract or subcontract.

"(3) In this subsection, the term 'records' includes books, documents, and other data.

"(g) COST OR PRICING DATA DEFINED.—In this section, the term 'cost or pricing data' means all information that is verifiable and that, as of the date of agreement on the price of a contract (or the price of a contract modification), a prudent buyer or seller would reasonably expect to affect price negotiations significantly. Such term does not include information that is judgmental, but does include the factual information from which a judgment was derived.".

(b) CONFORMING AMENDMENTS.—(1) Subsection (f) of section 2306 of such title is amended to read as follows:

"(f) So-called 'truth-in-negotiations' provisions relating to cost or pricing data to be submitted by certain contractors and subcontractors are provided in section 2306a of this title.".

(2) Section 934(a) of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99-145; 99 Stat. 700) is repealed.

(c) CLERICAL AMENDMENTS.—(1) The heading of section 2306 of title 10, United States Code, is amended to read as follows:

"§ 2306. Kinds of contracts".

(2) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2306 and inserting in lieu thereof the following:

"2306. Kinds of contracts.
"2306a. Cost or pricing data: truth in negotiations.".

(d) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), section 2306a of title 10, United States Code (as added by subsection (a)), and the amendment and repeal made by subsection (b), shall apply with respect to contracts or modifications on contracts entered into after the end of the 120-day period beginning on the date of the enactment of this Act.

(2) Subsection (e) of such section shall apply with respect to contracts or modifications on contracts entered into after November 7, 1985.

SEC. 953. RIGHTS IN TECHNICAL DATA.

(a) RIGHTS IN TECHNICAL DATA.—Subsection (a) of section 2320 of title 10, United States Code, is amended to read as follows:

"(a)(1) The Secretary of Defense shall prescribe regulations to define the legitimate interest of the United States and of a contractor or subcontractor in technical data pertaining to an item or process. Such regulations shall be included in regulations of the Department of Defense prescribed as part of the Federal Acquisition Regulation. Such regulations may not impair any right of the United States or of any contractor or subcontractor with respect to patents or copyrights or any other right in technical data otherwise established by law.

"(2) Such regulations shall include the following provisions:

"(A) In the case of an item or process that is developed by a contractor or subcontractor exclusively with Federal funds, the United States shall have the unlimited right to—

"(i) use technical data pertaining to the item or process; or

"(ii) release or disclose the technical data to persons outside the Government or permit the use of the technical data by such persons.

"(B) Except as provided in subparagraphs (C) and (D), in the case of an item or process that is developed by a contractor or subcontractor exclusively at private expense, the contractor or subcontractor may restrict the right of the United States to release or disclose technical data pertaining to the item or process to persons outside the Government, or permit the use of the technical data by such persons.

"(C) Subparagraph (B) does not apply to technical data that—

"(i) constitutes a correction or change to data furnished by the United States;

"(ii) relates to form, fit, or function;

"(iii) is necessary for operation, maintenance, installation, or training (other than detailed manufacturing or process data); or

"(iv) is otherwise publicly available or has been released or disclosed by the contractor or subcontractor without restriction on further release or disclosure.

"(D) Notwithstanding subparagraph (B), the United States may release or disclose technical data to persons outside the Government, or permit the use of technical data by such persons, if—

"(i) such release, disclosure, or use—

"(I) is necessary for emergency repair and overhaul; or

"(II) is a release or disclosure of technical data (other than detailed manufacturing or process data) to, or use of such data by, a foreign government that is in the interest of the United States and is required for evaluational or informational purposes;

"(ii) such release, disclosure, or use is made subject to a prohibition that the person to whom the data is released or disclosed may not further release, disclose, or use such data; and

"(iii) the contractor or subcontractor asserting the restriction is notified of such release, disclosure, or use.

"(E) In the case of an item or process that is developed in part with Federal funds and in part at private expense, the respective rights of the United States and of the contractor or subcontractor in technical data pertaining to such item or process shall be agreed upon as early in the acquisition process as practicable (preferably during contract negotiations), based upon consideration of all of the following factors:

"(i) The statement of congressional policy and objectives in section 200 of title 35, the statement of purposes in section 2(b) of the Small Business Innovation Development Act of 1982 (15 U.S.C. 638 note), and the declaration of policy in section 2 of the Small Business Act (15 U.S.C. 631).

"(ii) The interest of the United States in increasing competition and lowering costs by developing and locating alternative sources of supply and manufacture.

"(iii) The interest of the United States in encouraging contractors to develop at private expense items for use by the Government.

"(F) A contractor or subcontractor (or a prospective contractor or subcontractor) may not be required, as a condition of being responsive to a solicitation or as a condition for the award of a contract, to sell or otherwise relinquish to the United States any rights in technical data except—

"(i) rights in technical data described in subparagraph (C); or

"(ii) under the conditions described in subparagraph (D).

"(G) The Secretary of Defense may—

"(i) negotiate and enter into a contract with a contractor or subcontractor for the acquisition of rights in technical data pertaining to an item or process developed by such contractor or subcontractor exclusively at private expense if necessary to develop alternative sources of supply and manufacture; or

"(ii) agree to restrict rights of the United States in technical data pertaining to an item or process developed entirely or in part with Federal funds if the United States receives a royalty-free license to use, release, or disclose the data for purposes of the United States (including purposes of competitive procurement).

"(3) The Secretary of Defense shall define the terms 'developed' and 'private expense' in regulations prescribed under paragraph (1).

"(4) For purposes of this subsection, the term 'Federal Acquisition Regulation' means the single system of Government-wide procurement regulations as defined in section 4(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4))."

(b) VALIDATION OF PROPRIETARY DATA RESTRICTIONS.—Subsections (a) and (b) of section 2321 of title 10, United States Code, are amended to read as follows:

"(a) A contract for supplies or services entered into by the Department of Defense which provides for the delivery of technical data shall provide that a contractor or subcontractor at any tier shall be prepared to furnish to the contracting officer a written justification for any restriction asserted by the contractor or subcontractor on the right of the United States to use such technical data.

"(b)(1) The Secretary of Defense shall ensure that there is a thorough review of the appropriateness of any restriction on the right of the United States to release or disclose technical data delivered under a contract to persons outside the Government, or to permit the use of such technical data by such persons. Such review shall be conducted before the end of the three-year period beginning on the date on which final payment is made on a contract under which technical data is required to be delivered, or the date on which the technical data is delivered under such contract, whichever is later.

"(2)(A) If the Secretary determines, at any time before the end of the three-year period beginning on the date on which final payment is made on a contract under which technical data is required to be delivered, or the date on which the technical data is delivered under such contract, whichever is later, that a challenge to a restriction is

warranted, the Secretary shall provide written notice to the contractor or subcontractor asserting the restriction. Such a determination shall be based on a finding by the Secretary that reasonable grounds exist to question the current validity of the asserted restriction and that the continued adherence to the asserted restriction by the United States would make it impracticable to procure the item competitively at a later time. Such notice shall—

"(i) state the specific grounds for challenging the asserted restriction;

"(ii) require a response within 60 days justifying the current validity of the asserted restriction; and

"(iii) state that evidence of a validation by the Department of Defense of a restriction identical to the asserted restriction within the three-year period preceding the challenge shall serve as justification for the asserted restriction if—

"(I) the validation occurred after a review of the validated restriction under this subsection; and

"(II) the validated restriction was asserted by the same contractor or subcontractor (or any licensee of such contractor or subcontractor) to which such notice is being provided.

"(B) Notwithstanding subparagraph (A), the United States may challenge a restriction on the release, disclosure, or use of technical data delivered under a contract at any time if such technical data—

"(i) is publicly available;

"(ii) has been furnished to the United States without restriction; or

"(iii) has been otherwise made available without restriction."

(c) CONFORMING AMENDMENTS.—Section 1202 of the Department of Defense Authorization Act, 1985 (10 U.S.C. 2301 note), is amended—

(1) by inserting "and" at the end of paragraph (4);

(2) by striking out "; and" at the end of paragraph (5) and inserting in lieu thereof a period; and

(3) by striking out paragraph (6).

(d) DEADLINE FOR REVISION OF REGULATIONS.—(1) Proposed regulations under section 2320(a)(1) of title 10, United States Code (as amended by subsection (a)), shall be published in the Federal Register for comment not later than 90 days after the date of the enactment of this Act.

(2) Proposed final regulations under such section shall be published in the Federal Register not later than 180 days after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to contracts for which solicitations are issued after the end of the 210-day period beginning on the date of the enactment of this Act.

SEC. 954. RECOVERY OF COSTS TO PROVIDE TECHNICAL DATA.

(a) IN GENERAL.—(1) Chapter 137 of title 10, United States Code, is amended by adding after section 2327 (as added by section 951) the following new section:

"§ 2328. Release of technical data

"(a) IN GENERAL.—(1) The Secretary of Defense shall, if required to release technical data under section 552 of title 5 (relating to the Freedom of Information Act), release technical data to a person

requesting such a release if the person pays all reasonable costs attributable to search and duplication.

"(2) The Secretary of Defense shall prescribe regulations, pursuant to notice and receipt of public comment, specifying a uniform schedule of fees under this section.

"(b) DISPOSITION OF COSTS.—An amount received under this section—

"(1) shall be retained by the Department of Defense or the element of the Department of Defense receiving the amount; and

"(2) shall be merged with and available for the same purpose and the same time period as the appropriation from which the costs incurred in complying with requests for technical data were paid.

"(c) WAIVER.—The Secretary of Defense shall waive the payment of costs required by subsection (a) which are in an amount greater than the costs that would be required for such a release of information under section 552 of title 5 if—

"(1) the request is made by a citizen of the United States or a United States corporation, and such citizen or corporation certifies that the technical data requested is required to enable such citizen or corporation to submit an offer or determine whether it is capable of submitting an offer to provide the product to which the technical data relates to the United States or a contractor with the United States (except that the Secretary may require the citizen or corporation to pay a deposit in an amount equal to not more than the cost of complying with the request, to be refunded upon submission of an offer by the citizen or corporation);

"(2) the release of technical data is requested in order to comply with the terms of an international agreement; or

"(3) the Secretary determines, in accordance with section 552(a)(4)(A) of title 5, that such a waiver is in the interests of the United States.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2327 (as added by section 971) the following new item:

"2328. Release of technical data."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act.

SEC. 955. COMPARABLE BUDGETING FOR SIMILAR SYSTEMS.

(a) MATTERS TO BE INCLUDED IN ANNUAL DEFENSE BUDGETS.—In preparing the defense budget for any fiscal year, the Secretary of Defense shall—

(1) specifically identify each common procurement weapon system included in the budget;

(2) take all feasible steps to minimize variations in procurement unit costs for any such system as shown in the budget requests of the different armed forces requesting procurement funds for the system; and

(3) identify and justify in the budget all such variations in procurement unit costs for common procurement weapon systems.

(b) ASSISTANT SECRETARY (COMPTROLLER).—The Secretary of Defense shall carry out this section through the Assistant Secretary of Defense (Comptroller).

(c) DEFINITIONS.—In this section:

(1) The term "defense budget" means the budget of the Department of Defense included in the President's budget submitted to Congress under section 1105 of title 31 United States Code, for a fiscal year.

(2) The term "common procurement weapon system" means a weapon system for which two or more of the Army, Navy, Air Force, and Marine Corps request procurement funds in a defense budget.

SEC. 956. FUNDING OF PROCUREMENT TECHNICAL ASSISTANCE PROGRAMS SERVING DISTRESSED AREAS.

(a) DEFINITIONS.—Section 2411 of title 10, United States Code, is amended to read as follows:

"§ 2411. Definitions

"In this chapter:

"(1) The term 'eligible entity' means any of the following:

"(A) A State.

"(B) A local government.

"(C) A private, nonprofit organization.

"(2) The term 'distressed area' means the area of a unit of local government (or such area excluding the area of any defined political jurisdiction within the area of such unit of local government) that—

"(A) has a per capita income of 80 percent or less of the State average; or

"(B) has an unemployment rate that is one percent greater than the national average for the most recent 24-month period for which statistics are available.

"(3) The term 'Secretary' means the Secretary of Defense acting through the Director of the Defense Logistics Agency.

"(4) The terms 'State' and 'local government' have the meaning given those terms in section 6302 of title 31.".

(b) SERVICE AREAS.—Section 2413(b) of such title is amended—

(1) by inserting "sponsor programs to" after "agree to";

(2) by inserting "under such programs" after "cost of furnishing such assistance";

(3) by striking out "an eligible entity that is a distressed entity" and inserting in lieu thereof "a program sponsored by such an entity that provides services solely in a distressed area"; and

(3) by inserting "with respect to such program" before the period.

SEC. 957. SUBCONTRACTOR INFORMATION TO BE PROVIDED TO PROCUREMENT OUTREACH CENTERS.

(a) CONTRACTORS TO FURNISH INFORMATION.—(1) Chapter 142 of title 10, United States Code, is amended—

(A) by redesignating section 2416 as section 2417; and

(B) by inserting after section 2415 the following new section:

"§ 2416. Subcontractor information

"(a) The Secretary of Defense shall require that any defense contractor in any year shall provide to an eligible entity with which the Secretary has entered into a cooperative agreement under this chapter, on the request of such entity, the information specified in subsection (b).

"(b) Information to be provided under subsection (a) is a listing of the name of each appropriate employee of the contractor who has responsibilities with respect to entering into contracts on behalf of such contractor that constitute subcontracts of contracts being performed by such contractor, together with the business address and telephone number and area of responsibility of each such employee.

"(c) A defense contractor need not provide information under this section to a particular eligible entity more frequently than once a year.

"(d) In this section, the term 'defense contractor', for any year, means a person awarded a contract with the Department of Defense in that year for an amount in excess of $500,000.".

(2) The table of sections at the beginning of such chapter is amended by striking out the item relating to section 2416 and inserting in lieu thereof the following new items:

"2416. Subcontractor information.
"2417. Regulations.".

(b) EFFECTIVE DATE.—Section 2416 of title 10, United States Code, as added by subsection (a), shall take effect on January 1, 1987.

SEC. 961. SELECTED ACQUISITION REPORTS.

(a) REVISION OF REPORTING REQUIREMENTS.—Section 2432 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended—

(1) by adding at the end of subsection (a)(3) the following new sentence: "If for any fiscal year the funds appropriated, or the number of fully-configured end items to be purchased, differ from those programmed, the procurement unit cost shall be revised to reflect the appropriated amounts and quantities.";

(2) by striking out "$2,000,000" in subsection (a)(4) and inserting in lieu thereof "$40,000,000";

(3) by striking out "three-month" in subsection (b)(2)(B) and inserting in lieu thereof "six-month";

(4) by striking out paragraph (2) of subsection (c) and inserting in lieu thereof the following:

"(2) Each Selected Acquisition Report for the first quarter of a fiscal year shall be designed to provide to the Committees on Armed Services of the Senate and House of Representatives the information such Committees need to perform their oversight functions. A change in the content of the Selected Acquisition Report for the first quarter of a fiscal year from the content as reported for the first quarter of the previous fiscal year may not be made until appropriate officials of the Department of Defense consult with such Committees regarding the proposed changes.";

(5) by inserting "that is produced at a rate of six units or more per year" in subsection (c)(3)(C) after "report" in the matter preceding clause (i); and

(6) by adding at the end the following new subsection:

"(h)(1) Total program reporting under this section shall apply to a major defense acquisition program when funds have been appropriated for such and the Secretary of Defense has decided to proceed to full-scale engineering development of such program. Reporting may be limited to the development program as provided in paragraph (2) before a decision is made by the Secretary of Defense to proceed to full-scale engineering development if the Secretary notifies the Committees on Armed Services of the Senate and House of Representatives of the intention to submit a limited report under this subsection not less than 15 days before a report is due under this section.

"(2) A limited report under this subsection shall include the following:

"(A) The same information, in detail and summarized form, as is provided in reports submitted under subsections (c)(1) and (c)(3) of section 2431 of this title.

"(B) Reasons for any change in the development cost and schedule.

"(C) The major contracts under the development program and the reasons for any cost or schedule variances under those contracts since the last Selected Acquisition Report.

"(D) The completion status of the development program expressed—

"(i) as the percentage that the number of years for which funds have been appropriated for the development program is of the number of years for which it is planned that funds will be appropriated for the program; and

"(ii) as the percentage that the amount of funds that have been appropriated for the development program is of the total amount of funds which it is planned will be appropriated for the program.

"(E) Program highlights since the last Selected Acquisition Report.

"(F) Other information as the Secretary of Defense considers appropriate.

"(3) The submission requirements for a limited report under this subsection shall be the same as for quarterly Selected Acquisition Reports for total program reporting.".

(b) UNIT COST REPORTS.—Section 2433 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended—

(1) in subsection (b), by inserting "(excluding Saturdays, Sundays, and legal public holidays)" after "days" both places such term appears in the second sentence; and

(2) by adding at the end the following new subsection:

"(h) Reporting under this section shall not apply if a program has received a limited reporting waiver under section 2432(h) of this title.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on January 1, 1987.

SEC. 962. REPORT ON EFFORTS TO INCREASE DEFENSE CONTRACT AWARDS TO INDIAN-OWNED BUSINESSES.

(a) REPORT.—The Secretary of Defense shall submit to Congress a report on the efforts by the Department of Defense during fiscal years 1986 and 1987 to increase awards of defense contracts to

Indian-owned businesses in accordance with the memorandum of understanding between the Department of Defense and the Small Business Administration of September 29, 1983. Such report shall include, to the maximum extent practicable, any data regarding the number and value of prime contracts awarded by the Department of Defense during such fiscal years to such businesses.

(b) DEADLINE.—The report required by subsection (a) shall be submitted no later than March 31, 1988.

(c) INDIAN-OWNED BUSINESS DEFINED.—For purposes of this section, the term "Indian-owned business" means a firm owned and controlled by American Indians, including a tribally owned for-profit entity.

SEC. 963. REPORT ON INCREASED GEOGRAPHIC DISTRIBUTION OF DEFENSE CONTRACTORS.

(a) IN GENERAL.—(1) The Secretary of Defense shall submit to Congress a report on the actions taken by the Department of Defense during fiscal years 1985 and 1986 to increase contract competition and the national defense industrial base by increasing the participation in defense contracts of contractors in all geographic areas of the United States.

(2) Such report shall be submitted not later than March 31, 1987.

(b) CONTENTS OF REPORTS.—The report required by subsection (a)(1)—

(1) shall include a description of the use of procurement technical assistance centers, procurement conferences sponsored or supported by the Department of Defense, and any other Department of Defense programs conducted for the purpose of expanding the base of defense contractors; and

(2) shall categorize, by State and other appropriate geographic region, the actions described in the report.

TITLE XI

ARMS CONTROL

SEC. 1101. (a) LIMITATION ON TESTING OF ANTI-SATELLITE WEAPONS.—The Secretary of Defense may not carry out a test of the Space Defense System (anti-satellite weapon) against an object in space until the President certifies to Congress that the Soviet Union has conducted, after the date of the enactment of this Act, a test against an object in space of a dedicated anti-satellite weapon.

(b) EXPIRATION OF MORATORIUM.—The prohibition in subsection (a) expires on October 1, 1987.

SEC. 1102. (a) REPORT BY THE SECRETARY OF DEFENSE ON ICBM MODERNIZATION.—At the same time the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives the report on the intercontinental ballistic missile (ICBM) modernization program required by section 1231(c) of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 614), the Secretary shall submit to such Committees a statement containing the basis of the Secretary's recommendation to the President, and any decisions of the President, regarding the following matters:

(1) The configuration of a small intercontinental ballistic missile in terms of weight, number of warheads, and production schedule.

(2) The selected options for more survivable follow-on basing modes and basing locations for MX (Peacekeeper) missiles.

(3) The advisability of going forward with one or more selected basing modes to a full-scale engineering development decision.

(b) LIMITATION ON DEPLOYMENT OF PEACEKEEPER (MX) MISSILE; DEVELOPMENT OF SMALL ICBM.—The limitations contained in sections 206 and 1231 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 614), on the deployment of the MX missile and the development of a small intercontinental ballistic missile shall cease to apply when full-scale engineering development of a small mobile intercontinental ballistic missile begins.

(c) LIMITATIONS ON FUNDING.—Of the amounts appropriated herein for fiscal year 1987 for the ICBM Modernization Program—

(1) $120,000,000 shall be available for research and development on follow-on basing options;

(2) $290,000,000 shall be available for research and development of the Peacekeeper (MX) missile; and

(3) $1,200,000,000 shall be available for research and development of a small mobile intercontinental ballistic missile and basing for such missile.

SEC. 1103. Of the amount appropriated by this Act for research, development, test, and evaluation for the Defense Agencies, not more than $3,213,000,000 is available for the Strategic Defense Initiative (SDI) program.

SEC. 1104. Of the amounts appropriated in the Energy and Water Development Appropriations Act for fiscal year 1987 for national security programs for the Department of Energy, $317,000,000 is available for programs, projects, and activities of the Department of Energy relating to the Strategic Defense Initiative.

SEC. 1105. (a) SENSE OF CONGRESS RELATING TO CONTINUED ADHERENCE TO SALT II NUMERICAL SUBLIMITS.—It is the sense of the Congress that it is in the national security interests of the United States to continue voluntary compliance with the central numerical sublimits of the SALT II Treaty as long as the Soviet Union complies with such sublimits.

(b) DEFINITION.—For purposes of this section, the central numerical sublimits of the SALT II Treaty include prohibitions on the deployment of the following:

(1) Launchers for more than 820 intercontinental ballistic missiles carrying multiple independently-targetable reentry vehicles.

(2) Launchers for an aggregate of more than 1,200 intercontinental ballistic missiles carrying multiple independently-targetable reentry vehicles and submarine-launched ballistic missiles carrying multiple independently-targetable reentry vehicles.

(3) An aggregate of more than 1,320 launchers described in paragraph (2) and heavy bombers equipped for air-launched cruise missiles capable of a range in excess of 600 kilometers.

SEC. 1106. (a) SENSE OF CONGRESS ON NUCLEAR TESTING.—The Congress makes the following findings:

(1) The United States is committed in the Limited Test Ban Treaty of 1963 and in the Non-Proliferation Treaty of 1968 to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time.

(2) A comprehensive test ban treaty would promote the security of the United States by constraining the United States-

Soviet nuclear arms competition and by strengthening efforts to prevent the proliferation of nuclear weapons.

(3) The Threshold Test Ban Treaty was signed in 1974 and the Peaceful Nuclear Explosions Treaty was signed in 1976, and both have yet to be considered by the full Senate for its advice and consent to ratification.

(4) The entry into force of the Peaceful Nuclear Explosions Treaty and the Threshold Test Ban Treaty will ensure full implementation of significant new verification procedures and so make completion of a comprehensive test ban treaty more probable.

(5) A comprehensive test ban treaty must be adequately verifiable, and significant progress has been made in methods for detection of underground nuclear explosions by seismological and other means.

(6) At present, negotiations are not being pursued by the United States and the Soviet Union toward completion of a comprehensive test ban treaty.

(7) The past five administrations have supported the achievement of a comprehensive test ban treaty.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, at the earliest possible date, the President should—

(1) request the advice and consent of the Senate to ratification (with a report containing any plans the President may have to negotiate supplemental verification procedures, or if the President believes it necessary, any understanding or reservation on the subject of verification which should be attached to the treaty) of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties, signed in 1974 and 1976, respectively; and

(2) propose to the Soviet Union the immediate resumption of negotiations toward conclusion of a verifiable comprehensive test ban treaty.

In accordance with international law, the United States shall have no obligation to comply with any bilateral arms control agreement with the Soviet Union that the Soviet Union is violating.

SEC. 1107. (a) LIMITATION ON FISCAL YEAR 1987 FUNDS FOR THE BIGEYE BINARY CHEMICAL BOMB.—Before October 1, 1987, funds appropriated for fiscal year 1987 for procurement of the BIGEYE binary chemical bomb may not be obligated—

(1) for procurement (including procurement of components) of such bomb; or

(2) for assembly of such bomb.

(b) LIMITATION ON FINAL ASSEMBLY.—Before October 1, 1988, funds appropriated or otherwise made available to the Department of Defense may not be obligated or expended for the final assembly of complete BIGEYE binary chemical bombs.

(c) LIMITATION ON FISCAL YEAR 1986 FUNDS FOR PRODUCTION FACILITIES.—(1) Of the funds appropriated for fiscal year 1986 for production facilities for the BIGEYE binary chemical bomb, not more than $90,000,000 may be obligated or expended. None of such amount may be obligated or expended until the President certifies to Congress that—

(1) production of the BIGEYE binary chemical bomb is in the national security interests of the United States; and

(2) the design, planning, and environmental requirements for such facilities have been satisfied.

(d) GAO MONITORING AND REPORT.—(1) The Secretary of Defense shall provide for the involvement of the Comptroller General in monitoring the operational testing of the BIGEYE bomb.

(2) After any such testing is completed, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on such testing. The report shall include an assessment of such testing and any comments the Comptroller General considers appropriate.

(e) REPORT ON LONG-RANGE STANDOFF CHEMICAL MUNITIONS.—(1) The Secretary of Defense shall submit to Congress a report on the military requirements for long-range standoff chemical weapons. The report shall address the military advantages and disadvantages of such weapons and the potential of such weapons to complement the currently planned binary chemical weapon systems.

(2) Such report shall be submitted not later than March 15, 1987.

SEC. 1108. Of the amount appropriated by this Act for research, development, test, and evaluation for the Air Force, not more than $200,000,000 is available for the Space Defense System. None of such amount may be used for the production verification of the Miniature Homing Vehicle.

This Act may be cited as the "Department of Defense Appropriations Act, 1987".;

(d) Such amounts as may be necessary for programs, projects, or activities provided for in the District of Columbia Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1987, and for other purposes.

TITLE I

FISCAL YEAR 1987 APPROPRIATIONS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1987, $444,500,000: *Provided,* That none of these funds shall be made available to the District of Columbia until the number of full-time uniformed officers in permanent positions in the Metropolitan Police Department is at least 3,880, excluding any such officer appointed after August 19, 1982, under qualification standards other than those in effect on such date.

FEDERAL PAYMENT FOR WATER AND SEWER SERVICES

For payment to the District of Columbia for the fiscal year ending September 30, 1987, in lieu of reimbursement for charges for water and water services and sanitary sewer services furnished to facilities of the United States Government, $28,810,000, as authorized by the Act of May 18, 1954, as amended (D.C. Code, secs. 43-1552 and 43-1612).

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96-122), $52,070,000.

TRANSITIONAL PAYMENT FOR SAINT ELIZABETHS HOSPITAL

For a Federal contribution to the District of Columbia, as authorized by the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, approved November 8, 1984 (98 Stat. 3369; Public Law 98-621), $35,000,000.

CRIMINAL JUSTICE INITIATIVE

For the design and construction of a prison within the District of Columbia, $20,000,000, to become available October 1, 1987 together with funds previously appropriated under this head for the fiscal years ending September 30, 1986 and September 30, 1987: *Provided,* That the District of Columbia shall award a design and construction contract on or before October 15, 1986: *Provided further,* That the District of Columbia is directed to proceed with the design and construction of a prison facility within the District of Columbia without respect to the availability of Federal funds: *Provided further,* That a plan that includes the construction of not less than a 700 bed, medium security facility on the South part of Square E-1112 as recorded in Subdivision Book 140, Page 199 in the Office of the Surveyor of the District of Columbia is hereby approved: *Provided further,* That this approval shall satisfy the provisions as set forth in the first proviso under the heading "Criminal Justice Initiative" in H.R. 3067 as enacted by reference in section 101(c) of Public Law 99-190, approved December 19, 1985: *Provided further,* That the $50,000,000 herein and heretofore made available for the prison project shall remain in the United States Treasury and shall be transferred to the District of Columbia government only to the extent that outstanding obligations are due and payable to entities other than agencies and organizations of the District of Columbia government, and payments to such agencies and organizations may be made only in reimbursement for amounts actually expended in furtherance of the design and construction of the prison.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $108,407,000: *Provided,* That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: *Provided further,* That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further,* That not less than $320,000 shall be used by

the Office of Personnel exclusively for the administration of programs for the training of District of Columbia government employees: *Provided further,* That notwithstanding any other provision of law, there is hereby appropriated $3,772,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board, of which $754,000 shall be derived from the general fund and not to exceed $3,018,000 shall be derived from the earnings of the applicable retirement funds: *Provided further,* That the District of Columbia Retirement Board shall provide to the Congress and the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further,* That the District of Columbia Retirement Board shall provide the Mayor for transmittal to the Council of the District of Columbia an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report: *Provided further,* That of the $100,000 appropriated for fiscal year 1987 for Admission to Statehood, $50,000 shall be for the Statehood Commission and $50,000 shall be for the Statehood Compact Commission: *Provided further,* That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission.

Economic Development and Regulation

Economic development and regulation, $128,960,000, of which $2,000,000 shall be for non-recurring pay-as-you-go capital projects of the Department of Housing and Community Development: *Provided,* That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Code, sec. 45-2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: *Provided further,* That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the holders of any bonds or notes issued by the Agency and shall be repaid to the District of Columbia only from available operating revenues of the Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: *Provided further,* That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia.

Public Safety and Justice

Public safety and justice, including purchase of not to exceed 135 passenger-carrying vehicles for replacement only (including 130 for police-type use and five for fire-type use) and 14 replacement passenger-carrying vehicles for fire-type use without regard to the

general purchase price limitation for the current fiscal year, $600,165,000: *Provided,* That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further,* That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further,* That, notwithstanding any other provision of law, in the case of the 23 employees who retired from the Fire Department of the District of Columbia between November 24, 1984, and April 13, 1985 (both dates inclusive), and who on the date of the enactment of this Act are receiving annuities based on service in the Fire Department, the District of Columbia Retirement Board shall cause to be paid not later than October 15, 1986, to each such employee a lump-sum payment equal to three percent of his or her annuity: *Provided further,* That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93-412; D.C. Code, sec. 11-2601 et seq.), for the fiscal year ending September 30, 1987, shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1975: *Provided further,* That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5-129; D.C. Code, sec. 16-2304), for the fiscal year ending September 30, 1987, shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1985: *Provided further,* That $50,000 of any appropriation available to the District of Columbia may be used to match financial contributions from the Department of Defense to the District of Columbia Office of Emergency Preparedness for the purchase of civil defense equipment and supplies approved by the Department of Defense, when authorized by the Mayor: *Provided further,* That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further,* That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County and Prince William County, Virginia, for expenses incurred by the counties during fiscal year 1987 in relation to the Lorton prison complex. Such reimbursement shall be paid in all instances in which the District requests that the counties provide police, fire, rescue, and related services to help deal with escapes, riots, and similar disturbances involving the prison. The District shall make a quarterly report to the House and Senate Subcommittees on District of Columbia Appropriations regarding the amount and purpose of reimbursements made to the counties, and the amount of the authorization remaining for such reimbursements: *Provided further,* That within 30 days after the date of enactment of this Act, the District of Columbia shall establish a free, 24-hour telephone information service, whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further,* That the District of Columbia shall also take steps to publicize the availability of that service among the

residents of the area surrounding the Lorton prison: *Provided further,* That none of the funds appropriated by this Act may be used to implement any plan that includes the closing of Engine Company 3, located at 439 New Jersey Avenue, Northwest: *Provided further,* That none of the funds provided by this Act may be used to implement District of Columbia Board of Parole notice of emergency and proposed rulemaking as filed with the District of Columbia Register July 25, 1986: *Provided further,* That the District of Columbia shall not renovate or construct prison bed space at the Occoquan facilities of Lorton prison beyond the number of prison bed spaces which were damaged or destroyed there during the fire that occurred on July 25, 1986.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $541,318,000, to be allocated as follows: $394,406,000 for the public schools of the District of Columbia, of which $8,000,000 shall be for non-recurring pay-as-you-go capital projects of the public schools of the District of Columbia; $58,800,000 for the District of Columbia Teachers' Retirement Fund; $68,861,000 for the University of the District of Columbia; $16,646,000 for the Public Library; $2,368,000 for the Commission on the Arts and Humanities; and $237,000 for the Educational Institution Licensure Commission: *Provided,* That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further,* That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: *Provided further,* That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1987, a tuition rate schedule which will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area: *Provided further,* That of the amount made available to the University of the District of Columbia, $1,146,000 shall be used solely for the operation of the Antioch School of Law: *Provided further,* That acquisition or merger of the Antioch School of Law shall have been previously approved by both the Board of Trustees of the University of the District of Columbia and the Council of the District of Columbia, and that the Council shall have issued its approval by resolution: *Provided further,* That if the Council of the District of Columbia or the Board of Trustees of the University of the District of Columbia fails to approve the acquisition or merger of the Antioch School of Law, the $1,146,000 shall be used solely for the repayment of the general fund deficit.

HUMAN SUPPORT SERVICES

Human support services, $654,315,000, of which $298,000 shall be for non-recurring pay-as-you-go capital projects of the Department of Human Services: *Provided,* That the inpatient rate (excluding the

proportionate share for repairs and construction) for services rendered by Saint Elizabeths Hospital for patient care shall be at the per diem rate established pursuant to section 2 of an Act to authorize certain expenditures from the appropriation of Saint Elizabeths Hospital, and for other purposes, approved August 4, 1947 (61 Stat. 751; Public Law 80-353; 24 U.S.C. 168(a)): *Provided further,* That total funds paid by the District of Columbia as reimbursements for operating costs of Saint Elizabeths Hospital, including any District of Columbia payments (but excluding the Federal matching share of payments) associated with title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 343; Public Law 89-97; 42 U.S.C. 1396 et seq.), shall not exceed $71,200,000: *Provided further,* That $13,800,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation.

Public Works

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $204,748,000, of which not to exceed $4,150,000 shall be available for the School Transit Subsidy: *Provided,* That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business or from apartment houses with four or more apartments, or from any building or connected group of buildings operating as a rooming or boarding house as defined in the housing regulations of the District of Columbia.

Washington Convention Center Fund

For the Washington Convention Center Fund, $6,261,000: *Provided,* That the Convention Center Board of Directors, established by section 3 of the Washington Convention Center Management Act of 1979, effective November 3, 1979 (D.C. Law 3-36; D.C. Code, sec. 9-602), shall reimburse the Auditor of the District of Columbia for all reasonable costs for performance of the annual convention center audit.

Repayment of Loans and Interest

For reimbursement to the United States of funds loaned in compliance with an Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79-648); the Departments of Labor, and Health, Education and Welfare Appropriation Act of 1955, approved July 2, 1954 (68 Stat. 443; Public Law 83-472); section 1 of an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, sec. 9-219); section 4 of an Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86-515); and section 723 of

the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 821; Public Law 93-198; D.C. Code, sec. 47-321, note); and section 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act, approved October 13, 1977 (91 Stat. 1156; Public Law 95-131; D.C. Code, sec. 9-219, note), including interest as required thereby, $204,514,000.

REPAYMENT OF GENERAL FUND DEFICIT

For the purpose of reducing the $244,934,000 general fund accumulated deficit as of September 30, 1985, $20,000,000, of which not less than $11,325,000 shall be funded and apportioned by the Mayor from amounts otherwise available to the District of Columbia government (including amounts appropriated by this Act or revenues otherwise available, or both): *Provided,* That if the Federal payment to the District of Columbia for fiscal year 1987 is reduced pursuant to an order issued by the President under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177, approved December 12, 1985), the percentage (if any) by which the $20,000,000 set aside for repayment of the general fund accumulated deficit under this appropriation title is reduced as a consequence shall not exceed the percentage by which the Federal payment is reduced pursuant to such order.

SHORT-TERM BORROWINGS

For the purpose of funding interest related to borrowing funds for short-term cash needs, $3,750,000.

CAPITAL OUTLAY

For construction projects, $361,860,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, secs. 43-1512 to 43-1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83-364); an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, secs. 9-219 and 47-3402); section 3(g) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved August 20, 1958 (72 Stat. 686; Public Law 85-692; D.C. Code, sec. 40-805(7)); and the National Capital Transportation Act of 1969, approved December 9, 1969 (83 Stat. 320; Public Law 91-143; D.C. Code, secs. 1-2451, 1-2452, 1-2454, 1-2456, and 1-2457); including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided,* That $17,425,000 shall be available for project management and $24,139,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor, and that the funds for use of each capital project implement-

ing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further,* That $10,298,000 of the $361,860,000, shall be financed from general fund operating revenues to be allocated as follows: $8,000,000 for pay-as-you-go capital projects for public schools of the District of Columbia; $2,000,000 for pay-as-you-go capital projects for the Department of Housing and Community Development; and $298,000 for pay-as-you-go capital projects for the Department of Human Services: *Provided further,* That $19,218,000 of the $361,860,000, shall be available to the Board of Education of the District of Columbia for pay-as-you-go capital projects (maintenance improvements), for the construction of new roofs for various school buildings, and for school safety and building improvements projects, with $15,999,000 of these funds available for construction, $1,881,000 available for architectural design, and $1,338,000 available for project management: *Provided further,* That notwithstanding the last sentence of section 405(b) of the District of Columbia Public Postsecondary Education Reorganization Act, approved October 26, 1974 (88 Stat. 1423; D.C. Code, sec. 31-1535(b)), the Board of Education of the District of Columbia may procure contracts for its pay-as-you-go capital projects, for the construction of new roofs for various school buildings, and for school safety and building improvements projects: *Provided further,* That all such funds shall be available only for the specific projects and purposes intended: *Provided further,* That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 7-134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1988, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1988: *Provided further,* That upon expiration of any such project authorization the funds provided herein for the project shall lapse: *Provided further,* That $50,000,000 of the $361,860,000 is for the construction of a prison facility in the District of Columbia which is financed with Federal funds appropriated to the District of Columbia; namely, $10,000,000, appropriated in fiscal year 1986; $20,000,000 appropriated for fiscal year 1987, and $20,000,000 appropriated for fiscal year 1988.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $176,876,000, of which $32,834,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

For construction projects, $54,850,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; D.C. Code, sec. 43-1512 et seq.): *Provided,* That the requirements and restrictions which are applicable to general fund capital improvement projects and which are set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title.

Lottery and Charitable Games Enterprise Fund

For the Lottery and Charitable Games Enterprise Fund established by the District of Columbia Appropriation Act for fiscal year 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97-91, as amended), for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Code, secs. 2-2501 et seq. and 22-1516 et seq.), $5,458,000, to be derived from non-Federal District of Columbia revenues: *Provided,* That the District of Columbia shall identify the sources of funding for this appropriation title from its own locally-generated revenues: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

Cable Television Enterprise Fund

For the Cable Television Enterprise Fund established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5-36; D.C. Code, sec. 43-1801 et seq.), $250,000.

General Provisions

Sec. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Sec. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

Sec. 103. Whenever in this Act an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount which may be expended for said purpose or object rather than an amount set apart exclusively therefor, except for those funds and programs for the Metropolitan Police Department under the heading "Public Safety and Justice" which shall be considered as the amounts set apart exclusively for and shall be expended solely by that Department; and the appropriation under the heading "Repayment of General Fund Deficit" which shall be considered as the amount set apart exclusively for and shall be expended solely for that purpose.

Sec. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided,* That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101-7 (Federal Travel Regulations).

Sec. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government,

when authorized by the Mayor: *Provided,* That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided,* That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84-460; D.C. Code, sec. 47-1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Code, sec. 3-205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90-445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. Not to exceed 4½ per centum of the total of all funds appropriated by this Act for personal compensation may be used to pay the cost of overtime or temporary positions.

SEC. 110. Appropriations in this Act shall not be available, during the fiscal year ending September 30, 1987, for the compensation of any person appointed to a permanent position in the District of Columbia government during any month in which the number of employees exceeds 33,549, the number of positions authorized by this Act.

SEC. 111. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 112. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1988, shall be transmitted to the Congress by no later than April 15, 1987.

SEC. 113. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, the Subcommittee on Governmental Efficiency and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative.

SEC. 114. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2-20; D.C. Code, sec. 47-421 et seq.).

SEC. 115. None of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 116. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 117. None of the Federal funds provided in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

SEC. 118. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided,* That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowing and spending progress compared with projections.

SEC. 119. The Mayor shall not borrow any funds for capital projects unless he has obtained prior approval from the Council of the District of Columbia by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 120. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 121. None of the funds appropriated in this Act may be used for the implementation of a personnel lottery with respect to the hiring of fire fighters or police officers.

SEC. 122. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96-443) which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96-93), as modified in House Report No. 98-265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3-100; D.C. Code, sec. 47-361 et seq.).

SEC. 123. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 124. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96-425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided,* That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 125. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C.

Code, sec. 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) for any position for any period during the last quarter of calendar year 1986 shall be deemed to be the rate of pay payable for that position for September 30, 1986.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79-592; D.C. Code, sec. 5-803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, a per diem compensation at a rate established by the Mayor.

SEC. 126. Notwithstanding any other provision of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided*, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

SEC. 127. None of the funds appropriated by this Act may be used to transport any output of the municipal waste system of the District of Columbia for disposal at any public or private landfill located in any State, excepting currently utilized landfills in Maryland and Virginia, until the appropriate State agency has issued the required permits.

SEC. 128. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72-212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency and the District's best interest.

SEC. 129. (a) Section 131 of the District of Columbia Appropriation Act, 1986 (H.R. 3067 as enacted by reference in section 101(c) of Public Law 99-190), is amended—

(1) by inserting "or leased" after "owned" in subsection (a); and

(2) by inserting before the period at the end of subsection (b)(3) the following: ", and includes any tax imposed with respect to the use or rental of a motor vehicle and levied on, with respect to, or measured by the sales price or market value of the vehicle or the gross proceeds from the rental".

(b) The amendments made by subsection (a) shall apply to all taxable periods described in section 131(c) of such Act.

SEC. 130. No later than 30 days after the end of the first quarter of fiscal year 1987, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1987

revenue estimate as of the end of the first quarter of fiscal year 1987: *Provided,* That these estimates shall be used in the fiscal year 1988 annual budget request: *Provided further,* That the officially revised estimates at midyear shall be used for the midyear report.

SEC. 131. Section 466(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 806; Public Law 93-198; D.C. Code, sec. 47-326), is amended by striking out "sold before October 1, 1986" and inserting in lieu thereof "sold before October 1, 1987".

SEC. 132. The District of Columbia shall construct three signs which contain the words, "Sakharov Plaza". These signs shall be placed immediately above existing signs on the corners of 16th and L and 16th and M Streets, Northwest. These should be similar to signs used by the city to designate the location of Metro stations. In addition, a sign shall be placed on city property directly adjacent to, or directly in front of, 1125 16th Street designating the actual location of Andrei Sakharov Plaza. Hereafter the proper address of the Soviet Embassy in Washington, District of Columbia, shall be No. 1 Andrei Sakharov Plaza.

SEC. 133. The Congress of the United States reaffirms the authority of the Council of the District of Columbia, as authorized by the Street and Alley Closing and Acquisition Procedures Act of 1982 (D.C. Code, sec. 7-421), to enact the Closing of a Portion of 8th Street, Northwest, and Public Alleys in Square 403 Act of 1984 (D.C. Law 5-148), and the Closing of a Portion of 8th Street, Northwest, and Public Alleys and Square 403 Emergency Act of 1984 (D.C. Act 5-206).

SEC. 134. (a) Section 906 of the Leadership in Educational Administration Development Act of 1984 (20 U.S.C. 4206) is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph: "(6) the term 'State' includes the 50 States and the District of Columbia.".

(b) The amendments made by subsection (a) shall be effective as though they had been included in section 906 of the Leadership in Educational Administration Development Act of 1984 at the time of its enactment.

TITLE II

FISCAL YEAR 1986 SUPPLEMENTAL

DISTRICT OF COLUMBIA FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

For an additional amount for "Governmental Direction and Support", $1,738,000.

ECONOMIC DEVELOPMENT AND REGULATION

For an additional amount for "Economic Development and Regulation", $5,658,000.

PUBLIC SAFETY AND JUSTICE

(INCLUDING RESCISSION)

For an additional amount for "Public Safety and Justice", $47,093,000: *Provided,* That of the funds appropriated under this heading for the Police and Fire Retirement System for fiscal year 1986 in H.R. 3067 as enacted by reference in section 101(c) of Public Law 99-190, $12,735,000 are rescinded.

PUBLIC EDUCATION SYSTEM

For an additional amount for "Public Education System", $92,000, for the Commission on the Arts and Humanities: *Provided,* That of the amount available for the District of Columbia Teachers' Retirement Fund for the fiscal year ending September 30, 1986, $3,423,000 shall be used solely for the purpose of reducing the fund's unfunded liabilities.

HUMAN SUPPORT SERVICES

(INCLUDING RESCISSION)

For an additional amount for "Human Support Services", $3,545,000: *Provided,* That of the funds appropriated under this heading for the Unemployment Compensation Fund for fiscal year 1986 in H.R. 3067 as enacted by reference in section 101(c) of Public Law 99-190, $1,982,000 are rescinded: *Provided further,* That of the amount available from the revenue sharing trust fund for the fiscal year ending September 30, 1986, $2,463,000 are rescinded.

PUBLIC WORKS

For an additional amount for "Public Works", $4,216,000.

WASHINGTON CONVENTION CENTER FUND

For an additional amount for "Washington Convention Center Fund", $150,000.

REPAYMENT OF LOANS AND INTEREST

(RESCISSION)

Of the funds appropriated under this heading for fiscal year 1986 in H.R. 3067 as enacted by reference in section 101(c) of Public Law 99-190, $16,316,000 are rescinded.

PERSONAL SERVICES

(INCLUDING RESCISSION)

For "Personal services", $1,000,000, to be apportioned by the Mayor to the various appropriation titles for optical and dental costs for nonunion employees: *Provided,* That of the funds appropriated under the various headings for the fiscal year 1986 in H.R. 3067 as enacted by reference in section 101(c) of Public Law 99-190, $3,423,000 in personal services costs are rescinded.

ADJUSTMENTS

(RESCISSION)

The Mayor shall reduce authorized appropriations and expenditures within Object Class 30A (energy) in the amount of $1,000,000 within the various appropriation titles of H.R. 3067 as enacted by reference in section 101(c) of Public Law 99-190, approved December 19, 1985 (99 Stat. 1224).

CAPITAL OUTLAY

For an additional amount for "Capital Outlay", $126,791,000: *Provided*, That $5,165,000 shall be for project management and $836,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor, and that the funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System.

WATER AND SEWER ENTERPRISE FUND

For an additional amount for "Water and Sewer Enterprise Fund", $300,000.

GENERAL PROVISIONS

SEC. 201. Notwithstanding any other provision of law, appropriations made and authority granted pursuant to this title shall be deemed to be available for the fiscal year ending September 30, 1986.

This Act may be cited as the "District of Columbia Appropriations Act, 1987".

(e) Such amounts as may be necessary for programs, projects or activities provided for in the Energy and Water Development Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

91-139 O - 87 - 7 (613)

AN ACT

Making appropriations for energy and water development for the fiscal year ending September 30, 1987, and for other purposes.

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, $135,517,000, to remain available until expended, and in addition, $250,000, to remain available until expended, for the Bolsa Chica/Sunset Harbor, California, study; and in addition, $520,000 to remain available until expended, for the Red River Waterway, Shreveport, Louisiana, to Index, Arkansas, project for continuation of preconstruction planning: *Provided,* That not to exceed $18,000,000 shall be available for obligation for research and development activities.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $1,065,950,000, of which $26,000,000 shall be derived from the Inland Waterway Trust Fund, to remain available until expended, and in addition, to remain available until expended, $2,300,000 for that increment of the project for beach erosion control, Sandy Hook to Barnegat Inlet, New Jersey, of which $1,300,000 shall be made available for the Sea Bright to Ocean Township reach and of which $1,000,000 for the Asbury Park to Manasquan reach; and in addition, $6,800,000 to remain available until expended for the construction of the Yatesville, Kentucky, construction project; and in addition, $1,600,000, to remain available until expended for construction of the Sturgeon Point Marina, New York, project authorized by section 107 of the Rivers and Harbors Act of 1960, as amended; and in addition, $1,600,000 to remain available until expended, for construction of recreation facilities at New Melones Lake, Califor-

nia; and in addition, $1,200,000 to remain available until expended to be equally divided between the Crossett Harbor Public Access/Recreation Site and the Grand Marais Lake Public Access/Recreation Site at the Felsenthal National Wildlife Refuge, Arkansas (Ouachita and Black Rivers, Arkansas and Louisiana); and in addition, $1,100,000 to remain available until expended, for construction, at a standard project level of protection, for the Barbourville, Kentucky, project as authorized by section 202 of Public Law 96-367; and in addition, $3,600,000, to remain available until expended, for construction at a standard project flood level of protection, for the Harlan, Kentucky, project as authorized by section 202 of Public Law 96-367 (Levisa/Tug Forks of Big Sandy River and Upper Cumberland River, West Virginia, Virginia, and Kentucky); and in addition, $68,000,000, to remain available until expended, for construction of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project, $38,000,000 for Locks and Dams 1 and 2, and $30,000,000 with which the Secretary of the Army is directed, as a minimum, to award continuing contracts in fiscal year 1987 for construction and completion of each of the following features of the Red River Waterway: Lock and Dam No. 3 Phase III (consisting of the main lock and dam and connecting channels), realignment and bank stabilization measures in Pools 3, 4, and 5, including but not limited to Saint Maurice, Kadesh, Socot, Powhattan, Ile Au Vaches, Campti, Smith Island, Carroll, and Wilkerson Point Realignments, and Cognac and Lumbra Revetments. The Secretary is further directed to initiate and complete both the Lock and Dam No. 3 Phase IIB (consisting of the initial excavation for the lock and dam, the north cofferdam, the reservation mound and disposal area) and Phase IIC (consisting of the remaining access roads) contracts in fiscal year 1987. None of these contracts are to be considered fully funded. Contracts are to be initiated, or initiated and completed, with funds herein provided: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, shall provide funds for design and construction of a storage facility including necessary conveyances, to resolve a water quality problem associated with Dam Site 18 of the Papillion Creek and Tributaries Lakes, Nebraska. The funds are to be provided from available funds: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is authorized to construct flood control structures in accordance with the plan contained in the reevaluation report of the Chief of Engineers for Papillion Creek and Tributaries Lakes, Nebraska, dated March 1985 (revised October 1985). Features of such project authorized by the Flood Control Act of 1968 but eliminated by or otherwise not in accordance with the reevaluation report are not authorized after the date of enactment of this Act: *Provided further,* That section 123 of Public Law 99-190 is amended by striking out "at an estimated cost of $1,000,000" and inserting in lieu thereof "a cost of $2,300,000".

Flood Control and Coastal Emergencies

For expenses necessary for emergency flood control, hurricane, and shore protection activities, as authorized by section 5 of the Flood Control Act, approved August 18, 1941, as amended, $10,000,000, to remain available until expended.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g-1), $310,797,000, to remain available until expended: *Provided,* That not less than $250,000 shall be available for bank stabilization measures as determined by the Chief of Engineers to be advisable for the control of bank erosion of streams in the Yazoo Basin, including the foothill area, and where necessary such measures shall complement similar works planned and constructed by the Soil Conservation Service and be limited to the areas of responsibility mutually agreeable to the District Engineer and the State Conservationist. The Secretary of the Army, acting through the Chief of Engineers, is hereby directed to repair the Pumping Station and Gravity Outlets at the City of DeValls Bluff, Arkansas, authorized by the Flood Control Act of August 18, 1941, as amended by the Flood Control Act of July 24, 1946, at an estimated cost of $250,000.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; administration of laws pertaining to preservation of navigable waters; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, $1,389,846,000, to remain available until expended, of which $12,500,000 shall be for construction, operation, and maintenance of outdoor recreation facilities, to be derived from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l), and of which $7,400,000 shall be for construction of recreation facilities (including a recreation lake) at Sepulveda Dam, California: *Provided,* That not to exceed $8,000,000 shall be available for obligation for mobilization planning activities.

REVOLVING FUND

For construction of a dustpan dredge and for the Corps of Engineers Automation Plan, $12,000,000, to remain available until expended (33 U.S.C. 576).

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the office of the Chief of Engineers and offices of the Division Engineers; activities of the Board of Engineers for Rivers and Harbors, the Coastal Engineering Research Board, the Engineer Automation Support Activity, and the Water Resources Support Center, $115,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations in this title shall be available for expenses of attendance by military personnel at meetings in the manner authorized by section 4110 of title 5, United States Code, uniforms, and allowances therefor, as authorized by law (5 U.S.C. 5901-5902), and for printing, either during a recess or session of Congress, of survey reports authorized by law, and such survey reports as may be printed during a recess of Congress shall be printed, with illustrations, as documents of the next succeeding session of Congress; not to exceed $2,000 for official reception and representation expenses; and during the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed 250 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS, CORPS OF ENGINEERS

SEC. 101. None of the funds appropriated in this title, except as specifically contained herein, shall be used to alter, modify, dismantle, or otherwise change any project which is partially constructed but not funded for construction in this title.

SEC. 102. The Secretary of the Army, acting through the Chief of Engineers, is directed to continue with planning, design, engineering, construction and the operation and maintenance of the Des Moines Recreational River and Greenbelt project as described in Conference Report 99-236 using funds heretofore, herein and hereafter appropriated. Notwithstanding the language contained in the 1985 Supplemental Appropriations Act, Public Law 99-88, the Corps of Engineers shall continue their work on the General Design Memorandum, which shall be completed by October 1987 to serve as a master plan for the overall project. The design memorandum must address all enhancements contained in the list prepared by the Des Moines Recreational River and Greenbelt Advisory Committee. The project after construction will be operated and maintained at full Federal expense.

SEC. 103. Notwithstanding any conditions to the contrary in executed local cooperation agreements, where such agreements exist, initiation of construction of new Department of the Army water resource projects funded and authorized by Public Law 99-88 shall not be contingent upon enactment of legislation imposing a Federal port use charge or increasing the tax imposed by section 4042 of the Internal Revenue Code of 1954. Upon fulfillment of all other conditions and subject to such other terms as might appear in a local cooperation agreement, where required, for such a project, the Secretary shall initiate and complete construction of the project. Once construction has been initiated, no work in connection with such project shall be considered a "new start" for budgetary or funding purposes.

SEC. 104. None of the funds provided in this act, or any other act, may be used by the Corps of Engineers to lease, contract or otherwise transfer to a non-government entity any parks or recreation resources, or the management or operation thereof, located at Greers Ferry Lake or Little Red River in the State of Arkansas, for which such arrangements did not exist on or before September 1, 1986, until the Corps has studied the economic, environmental and public use impact of leasing to private enterprise the parks and other recreation resources at lakes, reservoirs and reaches of river

under its jurisdiction and such study has been reviewed by the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works in the Senate.

SEC. 105. None of the funds made available by this Act or any other Act for any fiscal year may be used hereafter to study, to plan, to implement, to construct, or to issue any permit for the Northfield Mountain Water Supply Project, Massachusetts or the Millers and Tully Rivers Water Supply Project, Massachusetts: *Provided,* That this section shall not apply to environmental studies undertaken by the United States Fish and Wildlife Service: *Provided further,* That this shall not be construed as a precedent for any other Corps permit in any other State or region.

SEC. 106. Within available funds, the Secretary of the Army acting through the Chief of Engineers is authorized and directed to modify the Black Warrior and Tombigbee Rivers, Alabama, project, to provide a safe channel and general navigation facilities in the vicinity of Jackson, Alabama, at an estimated cost of $8,200,000. Necessary training works to provide a safe channel shall be constructed at full Federal expense as part of the Operation and Maintenance, General program. Development of general navigation facilities to provide a spur canal for a port facility at Jackson, at an estimated cost of $2,300,000, shall be part of the Construction, General program and shall be cost shared under terms and conditions acceptable to the Secretary of the Army as set forth in a binding agreement with a non-Federal sponsor desiring to participate in project construction.

TITLE II

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

GENERAL INVESTIGATIONS

For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects, to remain available until expended, $29,409,000: *Provided,* That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That all costs of an advance planning study of a proposed project shall be considered to be construction costs and to be reimbursable in accordance with the allocation of construction costs if the project is authorized for construction: *Provided further,* That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as

though specifically appropriated for said purposes, and such amounts shall remain available until expended.

CONSTRUCTION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For construction and rehabilitation of projects and parts thereof (including power transmission facilities for Bureau of Reclamation use) and for other related activities as authorized by law, to remain available until expended, $602,158,000, of which $110,929,000 shall be available for transfers to the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (43 U.S.C. 620d), and $145,596,000 shall be available for transfers to the Lower Colorado River Basin Development Fund authorized by section 403 of the Act of September 30, 1968 (43 U.S.C. 1543), and such amounts as may be necessary shall be considered as though advanced to the Colorado River Dam Fund for the Boulder Canyon Project as authorized by the Act of December 21, 1928, as amended: *Provided,* That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That transfers to the Upper Colorado River Basin Fund and Lower Colorado River Basin Development Fund may be increased or decreased by transfers within the overall appropriation to the heading: *Provided further,* That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such funds shall remain available until expended: *Provided further,* That the final point of discharge for the interceptor drain for the San Luis Unit shall not be determined until development by the Secretary of the Interior and the State of California of a plan, which shall conform with the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters: *Provided further,* That no part of the funds herein approved shall be available for construction or operation of facilities to prevent waters of Lake Powell from entering any national monument: *Provided further,* That of the amount herein appropriated, such amounts as may be necessary shall be available to enable the Secretary of the Interior to continue work on rehabilitating the Velarde Community Ditch Project, New Mexico, in accordance with the Federal Reclamation Laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) for the purposes of diverting and conveying water to irrigated project lands. The cost of the rehabilitation will be nonreimbursable and constructed features will be turned over to the appropriate entity for operation and maintenance: *Provided further,* That of the amount herein appropriated, such amounts as may be required shall be available to continue improvement activities for the Lower Colorado Regional Complex: *Provided further,* That section 507 of Public Law 92-514 (86 Stat. 970) is amended by striking out "$79,500,000 (based upon January 1972 prices)" and inserting in lieu thereof "$333,865,000 (based upon July 1984 prices)": *Provided further,* That of the total herein appropriated in this account, the Secretary of the Interior is authorized to obligate no more than $8,800,000 by August 1, 1987, for the San Joaquin Valley Drainage

Program: *Provided further,* That Section 8 of the Act of June 3, 1960 (74 Stat. 156; Public Law 86-488), is amended by inserting "(a)" after "SEC. 8." and by inserting at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of law, none of the costs associated with, or resulting from, the following which have been or will be incurred shall be recovered by the Secretary, directly or indirectly, from power contractors of the Central Valley project:

"(1) the construction of such distribution systems and drains as are not constructed by local interests;

"(2) the construction of the San Luis interceptor drain; or

"(3) the construction of acquisition of any facilities by the United States or the Westlands Water District as partial or full alternatives to the San Luis interceptor drain.".

OPERATION AND MAINTENANCE

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Bureau of Reclamation, pursuant to law, to remain available until expended, $140,000,000: *Provided,* That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That of the total appropriated, such amounts as may be required for replacement work on the Boulder Canyon Project which would require readvances to the Colorado River Dam Fund shall be readvanced to the Colorado River Dam Fund pursuant to section 5 of the Boulder Canyon Project Adjustment Act of July 19, 1940 (43 U.S.C. 618d), and such readvances since October 1, 1984, and in the future shall bear interest at the rate determined pursuant to section 104(a)(5) of Public Law 98-381: *Provided further,* That fund advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same objects and in the same manner as sums appropriated herein may be expended, and such advances shall remain available until expended: *Provided further,* That nonreimbursable funds will be available from revenues for performing examination of existing structures on participating projects of the Colorado River Storage Project.

LOAN PROGRAM

For loans to irrigation districts and other public agencies for construction of distribution systems on authorized Federal reclamation projects, and for loans and grants to non-Federal agencies for construction of projects, as authorized by the Acts of July 4, 1955, as amended (43 U.S.C. 421a-421d), and August 6, 1956, as amended (43 U.S.C. 422a-422l), including expenses necessary for carrying out the program, $37,480,000, to remain available until expended: *Provided,* That of the total sums appropriated, the amount of program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That during fiscal year 1987 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $43,806,000: *Provided further,* That any contract under the Act of July 4, 1955 (69 Stat. 244), as amended, not yet executed by the Secretary, which

calls for the making of loans beyond the fiscal year in which the contract is entered into shall be made only on the same conditions as those prescribed in section 12 of the Act of August 4, 1939 (53 Stat. 1187, 1197).

GENERAL ADMINISTRATIVE EXPENSES

For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver Engineering and Research Center, and offices in the six regions of the Bureau of Reclamation, $51,200,000, of which $2,000,000, shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377): *Provided*, That no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

EMERGENCY FUND

For an additional amount for the "Emergency fund", as authorized by the Act of June 26, 1948 (43 U.S.C. 502), as amended, to remain available until expended for the purposes specified in said Act, $1,000,000, to be derived from the reclamation fund.

WORKING CAPITAL FUND

For acquisition of the Bureau's computer aided design and drafting system, $6,400,000, to remain available until expended, as authorized in section 1472 of title 43, United States Code (99 Stat. 571), the total amount to be derived from the reclamation fund.

SPECIAL FUNDS

(TRANSFER OF FUNDS)

Sums herein referred to as being derived from the reclamation fund or the Colorado River development fund are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391) and the Act of July 19, 1940 (43 U.S.C. 618a), respectively. Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the heads herein specified; and the unexpended balances of sums transferred for expenditure under the head "General Administrative Expenses" shall revert and be credited to the special fund from which derived.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 12 passenger motor vehicles of which 10 shall be for replacement only; payment of claims for damages to or loss of property, personal injury, or death arising out of activities of the Bureau of Reclamation; payment, except as otherwise provided for, of compensation and expenses of persons on the rolls of the Bureau of Reclamation appointed as authorized by law to represent the United States in the negotiations and administration of interstate compacts without reimbursement or return under the reclamation laws; for service as authorized by section 3109 of title 5, United States Code, in total not to exceed $500,000; rewards for

information or evidence concerning violations of law involving property under the jurisdiction of the Bureau of Reclamation; performance of the functions specified under the head "Operation and Maintenance Administration", Bureau of Reclamation, in the Interior Department Appropriations Act, 1945; preparation and dissemination of useful information including recordings, photographs, and photographic prints; and studies of recreational uses of reservoir areas, and investigation and recovery of archeological and paleontological remains in such areas in the same manner as provided for in the Acts of August 21, 1935 (16 U.S.C. 461-467) and June 27, 1960 (16 U.S.C. 469): *Provided,* That no part of any appropriation made herein shall be available pursuant to the Act of April 19, 1945 (43 U.S.C. 377), for expenses other than those incurred on behalf of specific reclamation projects except "General Administrative Expenses" and amounts provided for plan formulation and advance planning investigations, and general engineering and research under the head "General Investigations".

Sums appropriated herein which are expended in the performance of reimbursable functions of the Bureau of Reclamation shall be returnable to the extent and in the manner provided by law.

The costs of the Seedskadee Project may be reallocated in order to reflect revised project beneficial purposes.

No part of any appropriation for the Bureau of Reclamation, contained in this Act or in any prior Act, which represents amounts earned under the terms of a contract but remaining unpaid, shall be obligated for any other purpose, regardless of when such amounts are to be paid: *Provided,* That the incurring of any obligation prohibited by this paragraph shall be deemed a violation of section 3679 of the Revised Statutes, as amended (31 U.S.C. 1341).

No funds appropriated to the Bureau of Reclamation for operation and maintenance, except those derived from advances by water users, shall be used for the particular benefits of lands (a) within the boundaries of an irrigation district, (b) of any member of a water users' organization, or (c) of any individual when such district, organization, or individual is in arrears for more than twelve months in the payment of charges due under a contract entered into with the United States pursuant to laws administered by the Bureau of Reclamation

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 201. Appropriations in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided,* That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

SEC. 202. The Secretary may authorize the expenditure or transfer (within each bureau or office) of any appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior.

SEC. 203. Appropriations in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency, or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by the Act of June 30, 1932 (31 U.S.C. 1535 and 1536): *Provided,* That reimbursements for costs of supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 204. Appropriations in this title shall be available for hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchases of reprints; payment for telephone services in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 205. Of the appropriations provided for the Central Utah Project, in this or any other Act, not more than 20 percent of the total in any one fiscal year may be expended by the Secretary for all administrative expenses: *Provided,* That the Inspector General of the Department of the Interior shall annually audit expenditures by the Bureau of Reclamation to determine compliance with this section: *Provided further,* That the Bureau of Reclamation's General Administrative Expenses appropriation shall be used to fund the audit: *Provided further,* That the Bureau of Reclamation shall not delay or stop construction of the project due to this limitation and shall apply all the remaining appropriations to completion of the project.

SEC. 206. The Central Utah Water Conservancy District shall pay principal and interest on those features of the Central Utah Project which develop 60,000 acre-feet of municipal and industrial water supply for which deferral was invoked in 1981, without the benefit of exceptions (1) and (2) of the last proviso of the first sentence of section 301(b) of the Water Supply Act of 1958, 43 U.S.C. 390(b)(2): *Provided,* That in the event that the Bonneville Unit is not substantially complete, as determined by the Secretary, at the end of fiscal year 1995, the Central Utah Water Conservancy District will be credited with $2,000,000 to be applied to its repayment obligation for the Bonneville Unit each year that the project is not substantially complete, as determined by the Secretary, but in no case beyond fiscal year 2000.

TITLE III

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for energy supply, research and development activities, and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility

acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 18 for replacement only), $1,347,048,000, to remain available until expended; in addition $684,158,000 shall be derived by transfer from Uranium Supply and Enrichment Activities provided in prior years and shall be available until expended; and of which $84,100,000 which shall be available only for the Center for New Industrial Materials; the Center for Nuclear Imaging Research; the Energy Research Complex; Saint Christopher's Hospital for Children—Energy Demonstration Project; Center for Excellence in Education—Energy Utilization Performance Project; the Institute of Nuclear Medicine; the Advanced Science Center; the Center for Science and Engineering; and funds provided for by-products utilization activities shall be available only for the following regional projects: Florida Department of Agriculture and Consumer Services; Hawaii Department of Planning and Economic Development; Iowa State University; Oklahoma, Red-Ark Development Authority; Washington, Port of Pasco; State of Alaska.

Uranium Supply and Enrichment Activities

For expenses of the Department of Energy in connection with operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses incidental thereto necessary for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 33 for replacement only); $1,210,400,000, to remain available until expended; *Provided,* That revenues received by the Department for the enrichment of uranimum and estimated to total $1,286,400,000 in fiscal year 1987, shall be retained and used for the specific purpose of offsetting costs incurred by the Department in providing uranium enrichment service activities as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302(b) of section 484, of title 31, United States Code: *Provided further,* That the sum herein appropriated shall be reduced as uranium enrichment revenues are received during fiscal year 1987 so as to result in a final fiscal year 1987 appropriation estimated at not more than $0.

General Science and Research Activities

For expenses of the Department of Energy, activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for general science and research activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 12 for replacement only); $708,400,000 to remain available until expended.

Nuclear Waste Disposal Fund

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, including the acquisition of real property or

facility construction or expansion, $499,000,000, to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise his authority pursuant to section 302(e)(5) to issue obligations to the Secretary of the Treasury: *Provided,* That of the funds available, $2,500,000 shall be provided to the State of Oregon for the purpose of researching, with respect to nuclear activities carried out at the Hanford Federal Reservation in Richland, Washington, the effects of such nuclear activities on the health of the people of Oregon and on the environment of Oregon.

ATOMIC ENERGY DEFENSE ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for atomic energy defense activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 344 of which 320 are for replacement only) including 36 police-type vehicles; and purchase of five aircraft, three of which are for replacement only, $7,477,750,000, to remain available until expended: *Provided,* That the Department is directed to provide the Committees on Appropriations within 120 days of enactment of this Act with a plan and schedule to discontinue disposal of contaminated liquids into the soil at the Hanford Reservation: *Provided further,* That (a) To provide for a security buffer zone for the United States Department of Energy's Savannah River Plant near Aiken, South Carolina, title, control, and custody to six thousand twenty-one acres, more or less, of United States Department of Agriculture, Forest Service, lands shown on a map entitled "Forest Service Property Transfer, Savannah River Plant, Aiken, South Carolina", dated June 1984, are transferred without cost or reimbursement to the United States Department of Energy. The map and legal description of the boundaries of these lands shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture, the Director of Real Property and Facilities Management, United States Department of Energy, and appropriate field offices of those agencies. (b) This joint resolution does not affect valid existing rights, or interests in existing land use authorizations, except that any right or authorization shall be administered by the Department of Energy after the enactment of this joint resolution. Reissuance of any authorization shall be in accordance with applicable law and the regulations of the Department of Energy, except that the change of administrative jurisdiction shall not in itself constitute a ground to deny the renewal or reissuance of any authorization: *Provided further,* That if the Department of Defense Authorization Act, 1987, is enacted into law by December 31, 1986, the funds provided in this paragraph for the Strategic Defense Initiative shall be limited to the amount and in the manner provided for in that legislation.

Departmental Administration

For salaries and expenses of the Department of Energy necessary for Departmental Administration and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $17,500) $395,558,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided,* That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further,* That moneys received by the Department for miscellaneous revenues estimated to total $251,947,000 in fiscal year 1987 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302 of title 31, United States Code: *Provided further,* That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1987 so as to result in a final year 1987 appropriation estimated at not more than $143,611,000.

POWER MARKETING ADMINISTRATIONS

Operation and Maintenance, Alaska Power Administration

For necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, $2,881,000, to remain available until expended.

Bonneville Power Administration Fund

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for Enloe Dam Fish Passage Facilities. Expenditures are also approved for official reception and representation expenses in an amount not to exceed $2,500.

During fiscal year 1987, and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $10,000,000.

Operation and Maintenance, Southeastern Power Administration

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $19,647,000, to remain available until expended.

Operation and Maintenance, Southwestern Power Administration

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, sub-

stations and appurtenant facilities, and for administrative expenses connected therewith, in carrying out the provisions of section of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $25,337,000, to remain available until expended.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (Public Law 95-91), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, the purchase of passenger motor vehicles (not to exceed 4 for replacement only), $236,846,000, to remain available until expended, of which $214,835,000, shall be derived from the Department of the Interior Reclamation fund: *Provided,* That the Secretary of the Treasury is authorized to transfer from the Colorado River Dam Fund to the Western Area Power Administration $3,463,000, to carry out the power marketing and transmission activities of the Boulder Canyon project as provided in section 104(a)(4) of the Hoover Power Plant Act of 1984.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (Public Law 95-91), including services as authorized by 5 U.S.C. 3109, including the hire of passenger motor vehicles; official reception and representation expenses (not to exceed $1,500); $99,079,000, of which $3,000,000 shall remain available until expended and be available only for contractual activities: *Provided,* That hereafter and notwithstanding any other provision of law revenues from licensing fees, inspection services, and other services and collections, estimated at $78,754,000 in fiscal year 1987, may be retained and used for necessary expenses in this account, and may remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1987, so as to result in a final fiscal year 1987 appropriation estimated at not more than $20,325,000.

GEOTHERMAL RESOURCES DEVELOPMENT FUND

For carrying out the Loan Guarantee and Interest Assistance Program as authorized by the Geothermal Energy Research, Development and Demonstration Act of 1974, as amended, $72,000, to remain available until expended: *Provided,* That the indebtedness guaranteed or committed to be guaranteed through funds provided by this or any other appropriation Act shall not exceed the aggregate of $500,000,000.

GENERAL PROVISIONS—DEPARTMENT OF ENERGY

SEC. 301. Appropriations for the Department of Energy under this title for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance and operation of aircraft; purchase, repair and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services. From these appropriations, transfers of sums may be made to other agencies of the United States Government for the performance of work for which this appropriation is made. None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriation Act. The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 302. Not to exceed 5 per centum of any appropriation made available for the current fiscal year for Department of Energy activities funded in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise provided, shall be increased or decreased by more than 5 per centum by any such transfers, and any such proposed transfers shall be submitted promptly to the Committees on Appropriations of the House and Senate.

SEC. 303. The unexpended balances of prior appropriations provided for activities covered in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 305. None of the funds provided in this joint resolution or in any other law may be used to implement the following provisions of the uranium enrichment criteria submitted to Congress on July 24, 1986:

(i) section 762.3, which specifies the permitted enrichment of source material of foreign origin for use in domestic utilization facilities;

(ii) the third sentence of section 762.11, to the extent that it provides limitations on free choice of transaction tails assays from 0.2 percent to 0.3 percent U-235 or imposition of an additional charge for selections in that range;

(iii) section 762.15, to the extent it might be construed to validate contract provisions permitting unrestricted delivery and enrichment of foreign-origin feed material after a final court decision requiring restriction of enrichment of foreign-origin source material for domestic use or permitting imposition

of additional charges for customer selections of transaction tails assays within the range of 0.2 percent to 0.3 percent U-235;

(iv) any portion of the criteria or provision in any contract which permits or results in reduction of the amount of feed material otherwise required to be delivered to DOE by commercial customers as a result of use of source material or special nuclear material from the government stockpiles in providing toll enrichment services for commercial customers;

(v) section 762.6 hereafter, insofar as it may convey a determination of the level of unrecouped costs that must be returned to the Treasury by the enrichment program, which determination shall be made by the Congress in future legislation.

The funds provided in this joint resolution shall be used to operate the enrichment program, consistent with the spending limitations imposed by this section, on the basis that the uranium enrichment criteria submitted to Congress on July 24, 1986 (except section 762.3 thereof) are in force and effect as modified above: *Provided,* That notwithstanding the effectiveness of the criteria as described above until amended or superseded in accordance with the Atomic Energy Act, except as is otherwise specifically provided by law, foreign-origin uranium may be enriched for domestic use only until a final judgment or dismissal in the pending litigation that determines whether section 161(v) of the Atomic Energy Act requires restriction of enrichment of foreign-origin source material, in which case the criteria shall be amended to impose such restrictions, or such unrestricted enrichment may continue, whichever is consistent with the decision of this question in the pending litigation: *Provided further,* That in expending funds hereunder, the Department shall be required to offer each customer, free of additional charge and irrespective of percentage of requirements contracted for, a transaction tails assays from 0.2 percent to 0.3 percent U-235: *Provided further,* That no provision of this joint resolution or the July 24, 1986, criteria shall affect the merits of the legal position of any of the parties concerning the questions whether section 161(v) of the Atomic Energy Act requires restriction of enrichment of foreign-origin source material destined for use in domestic utilization facilities, and whether distribution may be made of source material or special nuclear material from the government stockpile for commercial customers, in the pending litigation in the United States Court of Appeals for the Tenth Circuit and in the United States District Court for the District of Colorado.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, except expenses authorized by section 105 of said Act, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, and for necessary expenses for the Federal Cochairman and the alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by section 3109 of title

5, United States Code, and hire of passenger motor vehicles, to remain available until expended, $105,000,000.

DELAWARE RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Delaware River Basin Commission, as authorized by law (75 Stat. 716), $185,000.

CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Delaware River Basin Commission, as authorized by law (75 Stat. 706, 707), $200,000.

INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

CONTRIBUTION TO INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

To enable the Secretary of the Treasury to pay in advance to the Interstate Commission on the Potomac River Basin the Federal contribution toward the expenses of the Commission during the current fiscal year in the administration of its business in the conservancy district established pursuant to the Act of July 11, 1940 (54 Stat. 748), as amended by the Act of September 25, 1970 (Public Law 91-407), $79,000.

NATIONAL COUNCIL ON PUBLIC WORKS IMPROVEMENT

SALARIES AND EXPENSES

For expenses necessary to carry out provisions of the Public Works Improvement Act of 1984, section 3121 of title 42, United States Code, $1,750,000.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act, as amended, including the employment of aliens; services authorized by section 3109 of title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms, official representation expenses (not to exceed $8,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $401,000,000, to remain available until expended: *Provided,* That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further,* That moneys received by the Commission for the cooperative nuclear safety research program and the material and information access authoriza-

tion programs including criminal history checks under Section 149 of the Atomic Energy Act, as amended, may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended.

SUSQUEHANNA RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission as authorized by law (84 Stat. 1541), $179,000.

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

For payment of the United States share of the current expense of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1530, 1531), $240,000.

TENNESSEE VALLEY AUTHORITY

TENNESSEE VALLEY AUTHORITY FUND

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. ch. 12A), including purchase, hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, and for entering into contracts and making payments under section 11 of the National Trails System Act, as amended, $100,000,000 to remain available until expended: *Provided,* That this appropriation and other moneys available to the Tennessee Valley Authority may be used hereafter for payment of the allowances authorized by section 5948A of title 5, United States Code: *Provided further,* That the official of the Tennessee Valley Authority referred to as the "inspector general of the Tennessee Valley Authority" is authorized, during the fiscal year ending September 30, 1987, to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and other documentary evidence necessary in the performance of the audit and investigation functions of that official, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court: *Provided further,* That procedures other than subpoenas shall be used by the inspector general to obtain documents and evidence from Federal agencies.

TITLE V

GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 503. None of the programs, projects or activities as defined in the report accompanying this Act, may be eliminated or dispropor-

tionately reduced due to the application of "Savings and Slippage", "general reductions", or the provisions of Public Law 99-177.

SEC. 504. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 505. None of the funds appropriated in this Act shall be used to implement a program of retention contracts for senior employees of the Tennessee Valley Authority.

SEC. 506. Notwithstanding any other provision of this Act or any other provision of law, none of the funds made available under this Act or any other law shall be used for the purposes of conducting any studies relating or leading to the possibility of changing from the currently required "at cost" to a "market rate" or any other noncost-based method for the pricing of hydroelectric power by the six Federal public power authorities, or other agencies or authorities of the Federal Government, except as may be specifically authorized by Act of Congress hereafter enacted.

SEC. 507. None of the funds appropriated in this Act shall be used to pay the salary of the Administrator of a Power Marketing Administration or the Board of Directors of the Tennessee Valley Authority, and none of the funds authorized to be expended by this or any previous Act from the Bonneville Power Administration Fund, extablished pursuant to Public Law 93-454, may be used to pay the salary of the Administrator of the Bonneville Power Administration, unless such Administrators or Directors award contracts for the procurement of extra high voltage (EHV) power equipment manufactured in the United States when such agencies determine that there are one or more manufacturers of domestic end product offering a product that meets the technical requirements of such agencies at a price not exceeding 130 per centum of the bid or offering price of the most competitive foreign bidder: *Provided,* That such agencies shall determine the incremental costs associated with implementing this section and defer or offset such incremental costs against otherwise existing repayment obligations: *Provided further,* That this section shall not apply to any procurement initiated prior to October 1, 1985, or to the acquisition of spare parts or accessory equipment necessary for the efficient operation and maintenance of existing equipment and available only from the manufacturer of the original equipment: *Provided further,* That this section shall not apply to procurement of domestic end product as defined in 48 C.F.R. sec. 25.101: *Provided further,* That this section shall not apply to EHV power equipment produced or manufactured in a country whose government has completed negotiations with the United States to extend the GATT Government Procurement Code, or a bilateral equivalent, to EHV power equipment, or which otherwise offers fair competitive opportunities in public procurements to United States manufacturers of such equipment.

SEC. 508. None of the funds in this Act may be used to construct or enter into an agreement to construct additional hydropower units at Denison Dam—Lake Texoma.

This Act may be cited as the "Energy and Water Development Appropriations Act, 1987".

(f) such amounts as may be necessary for projects or activities provided for in the Foreign Assistance and Related Programs Appropriations Act, 1987, at a rate for operations and to the extent and in the manner provided for in the following Act; this subsection shall be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1987, and for other purposes, namely:

TITLE I—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increase in capital stock, $55,805,000 for the General and Selective Capital Increase, to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in capital stock in an amount not to exceed $688,261,667.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $622,623,251, for the United States contribution to the seventh replenishment, to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director to the International Bank for Reconstruction and Development is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE SPECIAL FACILITY FOR SUB-SAHARAN AFRICA

For payment to the Special Facility for Sub-Saharan Africa by the Secretary of the Treasury, $64,805,000, to remain available until expended: *Provided,* That funds made available under this heading shall be obligated to the Special Facility for Sub-Saharan Africa no later than March 1, 1987.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury for the United States share of the increase in the resources of the Fund for Special Operations, $17,263,000, to remain available until expended; and $16,417,000, for the United States share of the increase in paid-in capital stock to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director for the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director for the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Inter-American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such increase in capital stock in an amount not to exceed $1,111,561,128.

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK

For payment to the Asian Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $13,232,676 to remain available until expended; and for the United States contribution to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89-369), $91,406,000 to remain available until expended: *Provided,* That no such payment may be made while the United States Director of the Bank is compensated by the Bank at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to the Bank is compensated by the Bank in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Asian Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such increase in capital stock in an amount not to exceed $251,367,220.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For payment to the African Development Fund by the Secretary of the Treasury, $53,788,000, for the United States contribution to the fourth replenishment of the African Development Fund, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $13,988,000, to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $41,980,980.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of sections 301 and 103(g) of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1983, $237,264,000: *Provided,* That no funds shall be available for the United Nations Fund for Science and Technology: *Provided further,* That the total amount of funds made available by this paragraph shall be available only as follows: $107,500,000 for the United Nations Development Program; $51,080,000 for the United Nations Children's Fund; $1,818,000 for the World Food Program; $861,000 for the United Nations Capital Development Fund; $219,000 for the United Nations Voluntary Fund for the Decade for Women; $2,000,000 for the International Convention and Scientific Organization Contributions; $2,000,000 for the World Meteorological Organization Voluntary Cooperation Program; $20,500,000 for the International Atomic Energy Agency; $6,800,000 for the United Nations Environment Program; $789,000 for the United Nations Educational and Training Program for Southern Africa; $250,000 for the United Nations Trust Fund for South Africa; $110,000 for the United Nations Institute for Namibia; $172,000 for the Convention on International Trade in Endangered Species; $219,000 for the World Heritage Fund; $86,000 for the United Nations Voluntary Fund for Victims of Torture; $100,000 for the United Nations Fellowship Program; $150,000 for the UNIDO Investment Promotion Service; $400,000 for the Center on Human Settlements; $13,500,000 for the Organization of American States; and $28,710,000 for the International Fund for Agricultural Development, of which

$10,000,000 shall be made available for the Special Program for Sub-Saharan African Countries Affected by Drought and Desertification.

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 1987, unless otherwise specified herein, as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Agriculture, rural development and nutrition, Development Assistance: For necessary expenses to carry out the provisions of section 103, $639,613,000: *Provided,* That up to $5,000,000 shall be provided for new development projects of private entities and cooperatives utilizing surplus dairy products: *Provided further,* That not less than $6,000,000 shall be provided for the Vitamin A Deficiency Program: *Provided further,* That, notwithstanding any other provision of law, up to $10,000,000 of the funds appropriated under this paragraph may be available for agricultural activities in Poland which are managed by the Polish Catholic Church or other non-governmental organizations.

Population, Development Assistance: For necessary expenses to carry out the provisions of section 104(b), $234,625,000: *Provided,* That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further,* That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services: *Provided further,* That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further,* That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act.

Health, Development Assistance: For necessary expenses to carry out the provisions of section 104(c), $166,762,500.

Child Survival Fund: For necessary expenses to carry out the provisions of section 104(c)(2), $75,000,000, notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956.

Education and human resources development, Development Assistance: For necessary expenses to carry out the provisions of section 105, $155,000,000: *Provided,* That of this amount not less

than $6,000,000 shall be made available only for the International Student Exchange Program.

Energy and selected development activities, Development Assistance: For necessary expenses to carry out the provisions of section 106, $140,328,500: *Provided,* That not less than $5,000,000 shall be made available only for cooperative projects among the United States, Israel and developing countries: *Provided further,* That not less than $5,000,000 shall be made available only for the Central American Rural Electrification Support project.

Science and technology, Development Assistance: For necessary expenses to carry out the provisions of section 106, $9,661,500.

Limitation on Development Assistance: None of the funds made available by this Act in order to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, as amended, may be expended to provide an amount which would result in the percentage of funds expended for centrally funded, country, or regional programs for areas other than sub-Saharan Africa exceeding the percentage of total funds designated for centrally funded, country, or regional programs for areas other than sub-Saharan Africa in fiscal year 1986, as shown in the fiscal year 1987 congressional presentation materials.

Limitation on Development Assistance: None of the funds made available by this Act in order to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, as amended, may be expended to provide an amount which would result in the percentage of funds expended for centrally funded, country, or regional programs for areas other than Central America exceeding the percentage of total funds designated for centrally funded, country, or regional programs for areas other than Central America in fiscal year 1986, as shown in the fiscal year 1987 congressional presentation materials.

Haiti, Development Assistance: Of the funds made available to carry out sections 103 through 106 of the Foreign Assistance Act of 1961, as amended, not less than $37,000,000 shall be available to support a transition to democracy through activities emphasizing job creation, rural development, health care, sanitation, small scale irrigation projects, reforestation, land conservation, and literacy education projects: *Provided,* That funds made available pursuant to this paragraph for Haiti shall be used to provide assistance, to the maximum extent practicable, equitably among the various regions of Haiti.

Private and Voluntary Organizations: None of the funds appropriated or otherwise made available in this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 per centum of its total annual funding for international activities from sources other than the United States Government: *Provided,* That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in title II of the "Foreign Assistance and Related Programs Appropriations Act, 1985" (as enacted in Public Law 98-473) shall be superseded by the provisions of this section.

Private sector revolving fund: For necessary expenses to carry out the provisions of section 108 of the Foreign Assistance Act of 1961, as amended, not to exceed $15,553,000 to be derived by transfer from funds appropriated to carry out the provisions of chapter 1 of part I of such Act, to remain available until expended. During fiscal year

1987, obligations for assistance from amounts in the revolving fund account under section 108 shall not exceed $15,553,000.

Loan allocation, Development Assistance: In order to carry out the provisions of part I, the Administrator of the agency responsible for administering such part may furnish loan assistance pursuant to existing law and on such terms and conditions as he may determine: *Provided,* That to the maximum extent practicable, loans to private sector institutions, from funds made available to carry out the provisions of sections 103 through 106, shall be provided at or near the prevailing interest rate paid on Treasury obligations of similar maturity at the time of obligating such funds: *Provided further,* That amounts appropriated to carry out the provisions of chapter 1 of part I which are provided in the form of loans shall remain available until September 30, 1988.

American schools and hospitals abroad: For necessary expenses to carry out the provisions of section 214, $35,000,000.

International disaster assistance: For necessary expenses to carry out the provisions of section 491, $70,000,000, to remain available until expended: *Provided,* That not less than $50,000,000 shall be available only for earthquake relief, reconstruction, and rehabilitation in El Salvador, notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956.

Sahel development program: For necessary expenses to carry out the provisions of section 121, $70,000,000, to remain available until expended: *Provided,* That no part of such appropriation may be available to make any contribution of the United States to the Sahel development program in excess of 10 percent of the total contributions to such program.

Payment to the Foreign Service Retirement and Disability Fund: For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $45,492,000.

Operating expenses of the Agency for International Development: For necessary expenses to carry out the provisions of section 667, $340,600,000: *Provided,* That not more than $15,000,000 of this amount shall be for Foreign Affairs Administrative Support: *Provided further,* That the Agency for International Development may use amounts appropriated to carry out the provisions of chapter 1 of part I (with the exception of the "Child Survival Fund") and chapter 4 of part II of the Foreign Assistance Act of 1961, for the overseas local support costs of its economic assistance programs and for the operating expenses of the Agency for International Development Office of Inspector General: *Provided further,* That except to the extent that the Administrator of the Agency for International Development determines otherwise, not less than 10 per centum of the aggregate of the funds made available for the fiscal year 1987 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be made available only for activities of economically and socially disadvantaged enterprises (within the meaning of section 133(c)(5) of the International Development and Food Assistance Act of 1977), historically black colleges and universities, and private and voluntary organizations which are controlled by individuals who are black Americans, Hispanic Americans, or Native Americans, or who are economically and socially disadvantaged (within the meaning of section 133(c)(5) (B) and (C) of the International Development and Food Assistance Act of 1977). For purposes of this proviso, economi-

cally and socially disadvantaged individuals shall be deemed to include women.

Operating expenses of the Agency for International Development Office of Inspector General: For necessary expenses to carry out the provisions of section 667, $21,000,000, which sum shall be available only for the operating expenses of the Office of the Inspector General notwithstanding sections 451 or 614 of the Foreign Assistance Act of 1961 or any other provision of law: *Provided,* That up to three percent of the amount made available under the paragraph "Operating expenses of the Agency for International Development" may be transferred to and merged and consolidated with amounts made available under this paragraph: *Provided further,* That the full-time equivalent staff years for the Office of the Inspector General for the fiscal year 1987 shall not be less than one hundred and ninety-three: *Provided further,* That except as may be required by an emergency evacuation affecting the United States diplomatic missions of which they are a component element, none of the funds in this Act, or any other Act, may be used to relocate the overseas Regional Offices of the Inspector General to another country.

Housing and other credit guaranty programs: During the fiscal year 1987, total commitments to guarantee loans shall not exceed $145,464,000 of contingent liability for loan principal: *Provided,* That the President shall enter into commitments to guarantee such loans in the full amount provided by this paragraph, subject only to the availability of qualified applicants for such guarantees: *Provided further,* That pursuant to section 223(e)(2) of the Foreign Assistance Act of 1961, as amended, borrowing authority provided therein may be exercised in such amounts as may be necessary to retain an adequate level of contingency reserves for the fiscal year 1987.

Economic support fund: For necessary expenses to carry out the provisions of chapter 4 of part II, $3,550,000,000 including such funds as may be made available in fiscal year 1987 for Economic support funds for Central American countries through final enactment of section 205 of H.R. 5052: *Provided,* That of the funds appropriated under this paragraph, not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within 30 days of enactment of this Act or by October 31, 1986, whichever is later: *Provided further,* That not less than $815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, of which not less than $115,000,000 shall be provided as a cash transfer in accordance with the provisions of section 202(b) of Public Law 99-83, and not less than $200,000,000 shall be provided as a Commodity Import Program: *Provided further,* That notwithstanding any other provision of law, the Agency for International Development is authorized to obligate such funds as it deems necessary in excess of $115,000,000 from the funds appropriated for assistance to Egypt for the fiscal year 1987 as direct cash transfer for Egypt: *Provided further,* That such obligations in excess of $115,000,000 shall only be made in support of the implementation of a comprehensive structural economic reform program by the Government of Egypt: *Provided further,* That all such cash transfers in excess of $115,000,000 shall be subject to the regular notification procedures of the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Appropriations Committees of the House and Senate: *Provided further,* That such notifications for the provision of cash transfers in excess of

$115,000,000 shall include detailed descriptions of the comprehensive structural economic reform program of the Government of Egypt: *Provided further,* That if the Agency for International Development obligates cash transfer assistance for Egypt exceeding $115,000,000, as permitted above, then such increased funding shall be derived through proportionate reductions in both the Commodity Import Program and project assistance: *Provided further,* That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty; and that Egypt and Israel are urged to continue their efforts to restore a full diplomatic relationship, including ambassadors, and achieve realization of the Camp David Accords: *Provided further,* That not less than $250,000,000 of the funds appropriated under this paragraph shall be available only for Pakistan: *Provided further,* That not less than $35,000,000 of the funds appropriated under this paragraph shall be available for a United States contribution to the International Fund for Northern Ireland and Ireland: *Provided further,* That not less than an additional sum of $200,000,000 shall be available only for the Philippines: *Provided further,* That not less than $15,000,000 of the funds appropriated under this paragraph shall be available for Cyprus: *Provided further,* That up to $15,000,000 shall be made available for Jordan in addition to funds otherwise made available by this paragraph and allocated to Jordan: *Provided further,* That any of the funds appropriated under this paragraph for El Salvador which are placed in the Central Reserve Bank of El Salvador shall be maintained in a separate account and not commingled with any other funds, except that such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the cash transfer nature of this assistance or which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Rept. No. 98-1159): *Provided further,* That pursuant to section 660(d) of the Foreign Assistance Act of 1961 up to $1,000,000 of the funds appropriated under this paragraph shall be made available to assist the Government of El Salvador's Special Investigative Unit for the purpose of bringing to justice those responsible for the murders of United States citizens in El Salvador: *Provided further,* That a report of the investigation shall be provided to the Congress: *Provided further,* That up to $20,000,000 of the funds appropriated under this paragraph may be made available to carry out the Administration of Justice program pursuant to section 534 of the Foreign Assistance Act of 1961: *Provided further,* That up to $20,000,000 of the funds made available by this paragraph may be provided to countries that are receiving "International Narcotics Control" assistance and that have made substantial progress in illicit drug control efforts: *Provided further,* That all funds made available pursuant to the previous proviso shall be subject to the regular notification procedures of the Committees on Appropriations and that such notifications shall contain an explanation of the progress in illicit drug control that has been made by the recipient country: *Provided further,* That all of the funds provided under this paragraph which are made available for disadvantaged persons in South Africa shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That after February 1, 1987, any country which receives in excess of a total of $5,000,000 as cash transfer

assistance shall maintain such funds in a separate account and shall not commingle such funds with any other funds, except that such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the cash transfer nature of this assistance or which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Rept. No. 98-1159): *Provided further,* That all local currencies that may be generated with funds provided as a cash transfer in accordance with the previous proviso shall be deposited in a special account to be used in accordance with section 609 of the Foreign Assistance Act of 1961: *Provided further,* That not more than $5,000,000 of the funds made available under this paragraph may be available to finance tied aid credits, unless the President determines it is in the national interest to provide in excess of $5,000,000 and so notifies the Committees on Appropriations through the regular notification procedures: *Provided further,* That funds made available under this paragraph shall remain available until September 30, 1988.

INDEPENDENT AGENCIES

AFRICAN DEVELOPMENT FOUNDATION

For necessary expenses to carry out the provisions of title V of the International Security and Development Cooperation Act of 1980, Public Law 96-533, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $6,500,000, notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956.

INTER-AMERICAN FOUNDATION

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $11,800,000.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation is authorized to make such expenditures within the limits of funds available to it and in accordance with law (including not to exceed $35,000 for official reception and representation expenses), and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year.

During the fiscal year 1987 and within the resources and authority available, gross obligations for the amount of direct loans shall not exceed $23,000,000.

During the fiscal year 1987, total commitments to guarantee loans shall not exceed $200,000,000 of contingent liability for loan principal.

PEACE CORPS

For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), $130,000,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided,* That none of the funds appropriated in this paragraph shall be used to pay for abortions.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For necessary expenses to carry out the provisions of section 481, $65,445,000, notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980, allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code; $346,856,000: *Provided,* That not less than $25,000,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel: *Provided further,* That these funds shall be administered in a manner that ensures equity in the treatment of all refugees receiving Federal assistance: *Provided further,* That no funds herein appropriated shall be used to assist directly in the migration to any nation in the Western Hemisphere of any person not having a security clearance based on reasonable standards to ensure against Communist infiltration in the Western Hemisphere: *Provided further,* That not more than $8,500,000 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State: *Provided further,* That amounts appropriated under this heading shall be available notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), $14,000,000, to remain available until expended

ANTI-TERRORISM ASSISTANCE

For necessary expenses to carry out the provisions of chapter 8 of part II, $9,840,000.

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551, $31,689,000: *Provided,* That, notwithstanding sections 451, 492(b), or 614 of the Foreign Assistance Act of 1961, or any other provision of law, these funds may be used only as justified in the Congressional Presentation Document for fiscal year 1987: *Provided further,* That, to the extent that these funds cannot be used to provide for such assistance, they shall revert to the Treasury as miscellaneous receipts: *Provided further,* That not more than half of the funds which are appropriated under this paragraph and which are allocated for the United Nations Force in Cyprus may be obligated for the United States contribution to that Force until the Secretary of State submits a report to the Congress detailing how the United States and other contributing countries plan to eliminate the financial deficit of that Force.

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

MILITARY ASSISTANCE

For necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, including administrative expenses and purchase of passenger motor vehicles for replacement only for use outside of the United States, $900,000,000: *Provided,* That none of the funds under this heading shall be obligated for law enforcement agencies in El Salvador and Honduras until the notification required under Section 660(d) of the Foreign Assistance Act of 1961, as amended, is provided to the Committees on Appropriations: *Provided further,* That of the funds provided under this paragraph not more than $37,000,000 shall be used for "Overseas Military Program Management": *Provided further,* That the reports required by section 702 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83) shall also be provided to the Committees on Appropriations: *Provided further,* That funds appropriated under this paragraph shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That amounts appropriated under this heading shall be available notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541, $56,000,000.

FOREIGN MILITARY CREDIT SALES

For expenses necessary to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $4,040,441,284 of which not less than $1,800,000,000 shall be available only for Israel, not less than $1,300,000,000 shall be available only for Egypt, and not less than $312,500,000 shall be available only for Pakistan: *Provided,* That if the Government of Israel requests that funds be used for such purposes, up to $150,000,000 of the

amount of credits made available for Israel pursuant to this paragraph shall be available for research and development in the United States for the Lavi program, and not less than $300,000,000 shall be for the procurement in Israel of defense articles and services, including research and development, for the Lavi program and other activities if requested by Israel: *Provided further,* That funds for the Lavi program shall be expended upon the Department of Defense's determination that the proposed contracts meet applicable technical standards: *Provided further,* That during fiscal year 1987, gross obligations for the principal amount of direct loans, exclusive of loan guarantee defaults, shall not exceed $4,040,441,284: *Provided further,* That any funds made available by this paragraph, other than funds made available for Israel and Egypt, may be made available at concessional rates of interest, notwithstanding section 31(b)(2) of the Arms Export Control Act: *Provided further,* That the concessional rate of interest on foreign military credit sales loans for countries other than Israel and Egypt shall be not less than 5 percent per year: *Provided further,* That all country and funding level changes in requested concessional financing allocations shall be submitted through the regular notification procedures of the Committees on Appropriations: *Provided further,* That funds appropriated under this paragraph shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That of the funds made available by this Act to carry out the provisions of section 503 of the Foreign Assistance Act of 1961 and section 23 of the Arms Export Control Act, a total of $490,000,000 shall be available only for Turkey and, of the funds made available by this paragraph, only $343,000,000 shall be available for Greece, notwithstanding sections 101 (e)(1) and (f) of Public Law 99-83.

SPECIAL DEFENSE ACQUISITION FUND

(LIMITATION ON OBLIGATIONS)

Not to exceed $315,820,000 may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act for the purposes of the Special Defense Acquisition Fund during fiscal year 1987.

TITLE IV—EXPORT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided,* That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

LIMITATION ON PROGRAM ACTIVITY

During the fiscal year 1987 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $900,000,000, including such resources and authority as are made available in Public Law 99-349 for fiscal year 1987: *Provided,* That, if the Chairman of the Export-Import Bank certifies that such budget authority will not be fully utilized during the fiscal year 1987, up to $100,000,000 of that amount may be available, subject to the regular notification procedures of the Appropriations Committees of the Senate and House of Representatives, as tied aid credits in accordance with the provisions of the Export-Import Bank Act Amendments of 1986: *Provided further,* That there is appropriated to the Export-Import Bank of the United States an amount equal to the grant amount of tied aid credits which are made available from time to time, but not to exceed $100,000,000, which shall be subject to the limitation on gross obligations for the principal amount of direct loans specified under this heading: *Provided further,* That during the fiscal year 1987, total commitments to guarantee loans shall not exceed $11,355,000,000 of contingent liability for loan principal: *Provided further,* That the direct loan and guaranty authority provided in this paragraph shall remain available until September 30, 1988.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $18,371,500 (to be computed on an accrual basis) shall be available during fiscal year 1987 for administrative expenses, including hire of passenger motor vehicles and services as authorized by section 3109 of title 5, United States Code, and not to exceed $16,000 for official reception and representation expenses for members of the Board of Directors: *Provided,* That (1) fees or dues to international organizations of credit institutions engaged in financing foreign trade, (2) necessary expenses (including special services performed on a contract or a fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Export-Import Bank or in which it has an interest, including expenses of collections of pledged collateral, or the investigation or appraisal of any property in respect to which an application for a loan has been made, and (3) expenses (other than internal expenses of the Export-Import Bank) incurred in connection with the issuance and servicing of guarantees, insurance, and reinsurance, shall be considered as nonadministrative expenses for the purposes of this heading.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT PROGRAM

For necessary expenses to carry out the provisions of section 661, $20,000,000.

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AGENCY FOR INTERNATIONAL DEVELOPMENT

TRADE CREDIT INSURANCE PROGRAM

During fiscal year 1987, total commitments to guarantee or insure loans for the "Trade Credit Insurance Program" shall not exceed $275,000,000 of contingent liability for loan principal.

TITLE V—GENERAL PROVISIONS

SEC. 501. None of the funds appropriated in this Act (other than funds appropriated for "International organizations and programs") shall be used to finance the construction of any new flood control, reclamation, or other water or related land resource project or program which has not met the standards and criteria used in determining the feasibility of flood control, reclamation, and other water and related land resource programs and projects proposed for construction within the United States of America under the principles, standards and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.) or Acts amendatory or supplementary thereto.

SEC. 502. Except for the appropriations entitled "International disaster assistance", and "United States emergency refugee and migration assistance fund" not more than 15 per centum of any appropriation item made available by this Act shall be obligated during the last month of availability.

SEC. 503. None of the funds appropriated in this Act nor any of the counterpart funds generated as a result of assistance hereunder or any prior Act shall be used to pay pensions, annuities, retirement pay, or adjusted service compensation for any person heretofore or hereafter serving in the armed forces of any recipient country.

SEC. 504. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States.

SEC. 505. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

SEC. 506. None of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961.

SEC. 507. Of the funds appropriated or made available pursuant to this Act, not to exceed $110,000 shall be for official residence expenses of the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

SEC. 508. Of the funds appropriated or made available pursuant to this Act, not to exceed $10,000 shall be for entertainment expenses of the Agency for International Development during the current fiscal year.

SEC. 509. Of the funds appropriated or made available pursuant to this Act, not to exceed $100,000 shall be for representation allow-

ances for the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further,* That of the total funds made available by this Act under the headings "Military assistance" and "Foreign military credit sales", not to exceed $2,500 shall be available for entertainment expenses and not to exceed $70,000 shall be available for representation allowances: *Provided further,* That of the funds made available by this Act under the heading "International military education and training", not to exceed $125,000 shall be available for entertainment allowances: *Provided further,* That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,500 shall be available for entertainment and representation allowances: *Provided further,* That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,000 shall be available for entertainment expenses: *Provided further,* That of the funds made available by this Act under the heading "Trade and Development Program", not to exceed $2,000 shall be available for representation and entertainment allowances.

SEC. 510. None of the funds appropriated or made available (other than funds for "International organizations and programs") pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used to finance the export of nuclear equipment, fuel, or technology.

SEC. 511. Funds appropriated by this Act may not be obligated or expended to provide assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights.

SEC. 512. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, South Yemen, or Syria.

SEC. 513. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected Head of Government is deposed by military coup or decree.

SEC. 514. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated without the written prior approval of the Appropriations Committees of both Houses of the Congress.

SEC. 515. Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961 for the same general purpose as any of the paragraphs under the heading "Agency for International Development" are, if deobligated, hereby continued available for the same period as the respective appropriations in such paragraphs or until September 30, 1987 whichever is later, and for the same general purpose, and for countries within the same region as originally obligated: *Provided,* That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation and reobligation of such funds.

SEC. 516. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United

States not authorized before the date of enactment of this Act by the Congress.

SEC. 517. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided*, That funds appropriated for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, shall remain available until expended if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act.

SEC. 518. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act.

SEC. 519. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain the amounts and the names of borrowers for all loans of the international financial institution, including loans to employees of the institution, or the compensation and related benefits of employees of the institution.

SEC. 520. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain any document developed by the management of the international financial institution.

SEC. 521. None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided*, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity.

SEC. 522. The Secretary of the Treasury shall instruct the United States executive directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production of any commodity for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

SEC. 523. None of the funds made available under this Act for "Agriculture, rural development and nutrition, Development Assistance", "Population, Development Assistance", "Child Survival Fund", "Health, Development Assistance", "Education and human resources development, Development Assistance", "Energy and selected development activities, Development Assistance", "Science and technology, Development Assistance", "International organizations and programs", "American schools and hospitals abroad", "Sahel development program", "Trade and development program", "International narcotics control", "Economic support fund", "Peacekeeping operations", "Operating expenses of the Agency for International Development", "Operating expenses of the Agency for International Development Office of Inspector General", "Antiterrorism assistance", "Military assistance", "International military education and training", "Foreign military credit sales", "Inter-American Foundation", "African Development Foundation", "Peace Corps", or "Migration and refugee assistance", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operation not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for the current fiscal year unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance.

SEC. 524. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order pursuant to existing law.

SEC. 525. None of the funds appropriated under this Act may be used to lobby for abortion.

SEC. 526. None of the funds appropriated or otherwise made available under this Act may be available for any country during any three-month period beginning on or after October 1, 1986, immediately following a certification by the President to the Congress that the government of such country is failing to take adequate measures to prevent narcotic drugs or other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are cultivated, produced, or processed illicitly, in whole or in part, in such country, or transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from entering the United States unlawfully.

SEC. 527. Notwithstanding any other provision of law or this Act, none of the funds provided for "International organizations and programs" shall be available for the United States proportionate share for any programs for the Palestine Liberation Organization, the Southwest African Peoples Organization, Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended.

SEC. 528. (a) Not later than January 31 of each year, or at the time of the transmittal by the President to the Congress of the annual presentation materials on foreign assistance, whichever is earlier, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate a full and complete report which assesses, with respect to each foreign country, the

degree of support by the government of each such country during the preceding twelve-month period for the foreign policy of the United States. Such report shall include, with respect to each such country which is a member of the United Nations, information to be compiled and supplied by the Permanent Representative of the United States to the United Nations, consisting of a comparison of the overall voting practices in the principal bodies of the United Nations during the preceding twelve-month period of such country and the United States, with special note of the voting and speaking records of such country on issues of major importance to the United States in the General Assembly and the Security Council, and shall also include a report on actions with regard to the United States in important related documents such as the Non-Aligned Communique. A full compilation of the information supplied by the Permanent Representative of the United States to the United Nations for inclusion in such report shall be provided as an addendum to such report.

(b) None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to a country which the President finds, based on the contents of the report required to be transmitted under subsection (a), is engaged in a consistent pattern of opposition to the foreign policy of the United States.

(c) The report required by subsection (a) of this section shall be in the identical format as the "Report to Congress on Voting Practices in the United Nations" which was submitted pursuant to Public Law 99-190 and Public Law 98-164 on June 6, 1986.

SEC. 529. Notwithstanding any other provision of law, Israel may utilize any loan which is or was made available under the Arms Export Control Act and for which repayment is or was forgiven before utilizing any other loan made available under the Arms Export Control Act.

SEC. 530. In reaffirmation of the 1975 memorandum of agreement between the United States and Israel, and in accordance with section 1302 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83), no employee of or individual acting on behalf of the United States Government shall recognize or negotiate with the Palestine Liberation Organization or representatives thereof, so long as the Palestine Liberation Organization does not recognize Israel's right to exist, does not accept Security Council Resolutions 242 and 338, and does not renounce the use of terrorism.

SEC. 531. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic support fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United

States Government in recognition that such a principle serves United States interests in the region.

SEC. 532. None of the funds made available in this Act shall be restricted for obligation or disbursement solely as a result of the policies of any multilateral institution.

SEC. 533. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent act unless such act specifically so directs.

SEC. 534. The Secretary of the Treasury and the Secretary of State are directed to submit to the Committees on Appropriations by February 1, 1987, a report on the domestic economic policies of those nations receiving economic assistance, either directly or indirectly from the United States including, where appropriate, an analysis of the foreign assistance programs conducted by these recipient nations.

SEC. 535. None of the funds appropriated or otherwise made available pursuant to this Act for "Economic support fund" or for "Foreign military credit sales" shall be obligated or expended for Lebanon except as provided through the regular notification procedures of the Committees on Appropriations.

SEC. 536. Of the funds made available by this Act for Jamaica and Peru, not more than 50 per centum of the funds made available for each country shall be obligated unless the President determines and reports to the Congress that the Governments of these countries are sufficiently responsive to the United States Government concerns on drug control and that the added expenditures of the funds for that country are in the national interest of the United States: *Provided,* That this provision shall not be applicable to funds made available to carry out section 481 of the Foreign Assistance Act of 1961: *Provided further,* That assistance may be provided to Bolivia for fiscal year 1987, under chapter 2 (relating to grant military assistance), chapter 4 (relating to the economic support fund), and chapter 5 (relating to international military education and training) of part II of the Foreign Assistance Act of 1961, and under chapter 2 of the Arms Export Control Act (relating to foreign military sales financing), only in accordance with the provisions of section 611 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83) as amended by section 2011 of H.R. 5484 as passed by the Senate on September 30, 1986.

SEC. 537. None of the funds available in this Act may be used to make available to El Salvador any helicopters or other aircraft, and licenses may not be issued under section 38 of the Arms Export Control Act for the export to El Salvador of any such aircraft, unless the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate are notified at least fifteen days in advance in accordance with the procedures applicable to notifications.

SEC. 538. Funds provided in this Act for Guatemala may not be provided to the Government of Guatemala for use in its rural resettlement program, except through the regular notification procedures of the Committees on Appropriations.

SEC. 539. (a) The Secretary of the Treasury shall instruct the United States Executive Directors of the Multilateral Development Banks to—

(1) vigorously promote a commitment of these institutions to—

(A) add professionally trained staff with experience in ecology and related areas to undertake environmental review of projects, and strengthen existing staff exercising environmental responsibilities;

(B) develop and implement management plans to ensure systematic and thorough environmental review of all projects and activities affecting the ecology and natural resources of borrowing countries, including—

(i) creation of a line unit to carry out such reviews as part of the normal project cycle,

(ii) appointment of an environmental advisor to the Presidents of the Multilateral Development Banks,

(iii) institution of a regular program of monitoring all ongoing projects to ensure that contract conditions and general bank policies to protect the environment and indigenous peoples are fully complied with;

(C) create career and other institutional incentives for all professionally trained bank staff to incorporate environmental and natural resources concerns into project planning and country programming activities;

(2) vigorously promote changes in these institutions in their preparation of projects and country programs that will prompt staff and encourage borrower countries to—

(A) actively and regularly involve environmental and health ministers, or comparable representatives, at the national, regional and local level, in the preparation of environmentally sensitive projects and in bank-supported country program planning and strategy sessions;

(B) actively and regularly seek the participation of non-governmental indigenous peoples and conservation organizations in the host countries at all stages of project planning and strategy sessions;

(C) fully inform local communities and appropriate non-governmental organizations with interests in local development projects of all project planning sufficiently in advance of project appraisal to allow informed participation of local communities and non-governmental organizations that may be adversely affected by them;

(3) establish a regular integrated multidisciplinary planning process to conduct land use capability analyses in reviewing potential loans. Such plans shall include, but not be limited to, a review of ongoing or other potential resource utilization efforts in and adjacent to the project area;

(4) vigorously promote a commitment of these institutions to develop and implement plans for the rehabilitation and management of the ecological resources of borrower nations on a sustained basis. Special attention shall be paid to soil conservation, wildlife, wetlands, estuaries, croplands, grasslands, forests, and fisheries, including—

(A) long-term programs of research designed to manage ecosystems properly;

(B) provision of adequate extension workers, park rangers, social forestry experts, and other appropriate personnel; and

(C) improved programs of training in environmental science and land-use planning;

(5) vigorously promote a commitment of these institutions to increase the proportion of their programs supporting environmentally beneficial projects and project components, such as technical assistance for environmental ministries and institutions, resource rehabilitation projects and project components, protection of indigenous peoples, and appropriate light capital technology projects. Other examples of such projects include small scale mixed farming and multiple cropping, agroforestry, programs to promote kitchen gardens, watershed management and rehabilitation, high yield wood lots, integrated pest management systems, dune stabilization programs, programs to improve energy efficiency, energy efficient technologies such as small scale hydro projects, rural solar energy systems, and rural and mobile telecommunications systems, and improved efficiency and management of irrigation systems.

(6) place an increased emphasis on upgrading the efficient use of energy and other resources by borrower nations. Such efforts shall include, but not be limited to—

(A) significantly increasing the proportion of energy project lending for energy efficiency improvements, and decentralized small scale facilities such as solar, wind, or biomass generating facilities; and

(B) conducting an analysis of the comparative costs of any new energy generating facilities with the cost of increasing the energy efficiency in the project service area;

(7) seek a commitment of these institutions to fund projects to protect and preserve crucial wetland systems and to avoid expenditures for projects designed to convert major wetland systems. Development proposals which may affect these areas should be the subject of detailed impact assessments so as to avoid detrimental impacts to fisheries, wildlife and other important resources;

(8) vigorously promote the establishment within the Economic Development Institute of the World Bank of a component which provides training in environmental and natural resource planning and program development;

(9) regularly raise, at meetings of the Boards of Directors of these institutions, the issue of their progress in improving their environmental performance, with specific focus on the measures set forth above; and

(10) require at least a four week project review period between the time when staff recommendations are presented to the board and board action on any projects.

(b) The Secretaries of Treasury and State, and the Administrator of the Agency for International Development, shall ensure and coordinate a thorough evaluation within the United States Government of the potential environmental problems, and the adequacy of measures to address these problems, associated with all proposed loans for projects involving large impoundments of rivers in tropical countries; penetration roads into relatively undeveloped areas; and agricultural and rural development programs. The potential environmental problems to be addressed in such evaluations shall include those relating to deterioration of water quality; siltation; spread of waterborne diseases; forced resettlement; deforestation; threats to the land, health and culture of indigenous peoples; wetlands disruption; topsoil management, water logging and

salinization in irrigation projects; and pesticide misuse and resistance.

(c) The Secretary of the Treasury and the Secretary of State shall regularly undertake and continue diplomatic and other initiatives, in addition to those mentioned in subsection (a)(5), to discuss measures to improve the environmental performance of the Multilateral Development Banks with the representatives to these institutions, and with ministries from which they receive their instructions, of borrower and donor nations. In particular, joint efforts shall be undertaken with borrowers and donors to ensure cooperative implementation of the reforms described above.

(d) The Secretary of the Treasury and the Secretary of State shall propose formally that the Boards of Governors of each Multilateral Development Bank hold a special meeting within the next twelve months, focused specifically on environmental performance and better implementation of multilateral development policies designed to protect the environment and indigenous peoples.

(e) The Secretary of the Treasury shall prepare and submit to the Committees on Appropriations by January 15, 1987, and annually thereafter, a report documenting the progress the Multilateral Development Banks have made in implementing the environmental reform measures described in paragraphs one through eight of subsection (a).

(f) In the report of the Secretary of the Treasury required by subsection (e), regarding the implementation of staffing measures suggested in subsection (a)(1)(A), the Secretary of the Treasury shall specifically discuss the progress of the International Bank for Reconstruction and Development in upgrading and adding environmentally trained professionals to each of its six regional offices to review projects for their prospective ecological impacts.

(g) The Administrator of the Agency for International Development in conjunction with the Secretaries of Treasury and State shall—

(1) instruct overseas missions of the Agency for International Development and embassies of the United States to analyze the impacts of Multilateral Development Bank projects proposed to be undertaken in the host country well in advance of a project's approval by the relevant institution. Such reviews shall address the economic viability of the project; adverse impacts on the environment, natural resources, and indigenous peoples; and recommendations as to measures, including alternatives, that could eliminate or mitigate adverse impacts. If not classified under the national security system of classification, such information shall be made available to the public;

(2) in preparation of reviews required by subsection (g)(1), compile a list of categories of projects likely to have adverse impacts on the environment, natural resources, or indigenous peoples. The list shall be developed in consultation with interested members of the public and made available to the Committee on Appropriations by December 31, 1986 and semiannually thereafter; and

(3) study the feasibility of creating a cooperative "early warning system" for projects of concern with other interested donors.

(h) If a review required by subsection (g)(1) identifies adverse impacts to the environment, natural resources, or indigenous peoples, the Secretary of the Treasury shall instruct the United States Executive Director of the Multilateral Development Bank to seek

changes to the project necessary to eliminate or mitigate those impacts.

(i) The Administrator of the Agency for International Development shall appoint a Committee on Health and the Environment to examine opportunities for assisting countries in the proper use of agricultural and industrial chemicals and processes and alternatives such as integrated pest management. The committee shall be broadly representative of industry, agriculture, labor, health and environmental interests and shall report its preliminary findings to Congress before hearings on the fiscal year 1988 budget.

SEC. 540. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations. The Congress reaffirms its commitments to Population, Development Assistance and to the need for informed voluntary family planning.

SEC. 541. Not less than $30,000,000 of the aggregate amount of funds appropriated by this Act to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961 and chapter 4 of part II of that Act, shall be available for the provision of food, medicine, or other humanitarian assistance to the Afghan people, notwithstanding any other provision of law.

SEC. 542. None of the funds provided in this Act shall be available for the Sudan if the President determines that the Sudan is acting in a manner that would endanger the stability of the region, or the Camp David peace process.

SEC. 543. The President shall make available to the Cambodian non-Communist resistance forces not less than $1,500,000 nor more than $5,000,000 of the funds appropriated by this Act for "Military assistance" and for the "Economic support fund", notwithstanding any other provision of law: *Provided*, That funds appropriated by this Act for this purpose shall be obligated in accordance with the provisions of section 906 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83).

SEC. 544. None of the funds appropriated or made available pursuant to this Act shall be available to a private voluntary organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the Agency for International Development.

SEC. 545. Of the amounts made available by this Act for military assistance and financing for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act, $5,000,000 may not be expended until the

President reports, following the conclusion of the Appeals process in the case of Captain Avila, to the Committees on Appropriations that the Government of El Salvador has (1) substantially concluded all investigative action with respect to those responsible for the January 1981 deaths of the two United States land reform consultants Michael Hammer and Mark Pearlman and the Salvadoran Land Reform Institute Director Jose Rodolfo Viera, and (2) pursued all legal avenues to bring to trial and obtain a verdict of those who ordered and carried out the January 1981 murders.

SEC. 546. It is the sense of the Congress that all countries receiving United States foreign assistance under the "Economic support fund", "Foreign Military Credit Sales", "Military Assistance" program, "International military education and training", Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), development assistance programs, or trade promotion programs should fully cooperate with the international refugee assistance organizations, the United States, and other governments in facilitating lasting solutions to refugee situations. Further, where resettlement to other countries is the appropriate solution, such resettlement should be expedited in cooperation with the country of asylum without respect to race, sex, religion, or national origin.

SEC. 547. (a) The Congress finds that—

(1) the United Nations Children's Fund (UNICEF) reports that four million children die annually because they have not been immunized against the six major childhood diseases: polio, measles, whooping cough, diphtheria, tetanus, and tuberculosis;

(2) at present less than 20 percent of children in the developing world are fully immunized against these diseases;

(3) each year more than five million additional children are permanently disabled and suffer diminished capacities to contribute to the economic, social and political development of their countries because they have not been immunized;

(4) ten million additional childhood deaths from immunizable and potentially immunizable diseases could be averted annually by the development of techniques in biotechnology for new and cost-effective vaccines;

(5) the World Health Assembly, the Executive Board of the United Nations Children's Fund, and the United Nations General Assembly are calling upon the nations of the world to commit the resources necessary to meet the challenge of universal access to childhood immunization by 1990;

(6) the United States, through the Centers for Disease Control and the Agency for International Development, joined in a global effort by providing political and technical leadership that made possible the eradication of smallpox during the 1970's;

(7) the development of national immunization systems that can both be sustained and also serve as a model for a wide range of primary health care actions is a desired outcome of our foreign assistance policy;

(8) the United States Centers for Disease Control headquartered in Atlanta is uniquely qualified to provide technical assistance for a worldwide immunization and eradication effort and is universally respected;

(9) at the 1984 Bellagio Conference it was determined that the goal of universal childhood immunization by 1990 is indeed achievable;

(10) the Congress, through authorizations and appropriations for international health research and primary health care activities and the establishment of the Child Survival Fund, has played a vital role in providing for the well-being of the world's children;

(11) the Congress has expressed its expectation that the Agency for International Development will set as a goal the immunization by 1990 of at least 80 percent of all the children in those countries in which the Agency has a program; and

(12) the United States private sector and public at large have responded generously to appeals for support for national immunization campaigns in developing countries.

(b)(1) The Congress calls upon the President to direct the Agency for International Development, working through the Centers for Disease Control and other appropriate Federal agencies, to work in a global effort to provide enhanced support toward achieving the goal of universal access to childhood immunization by 1990 by—

(A) assisting in the delivery, distribution, and use of vaccines, including—

(i) the building of locally sustainable systems and technical capacities in developing countries to reach, by the appropriate age, not less than 80 per centum of their annually projected target population with the full schedule of required immunizations, and

(ii) the development of a sufficient network of indigenous professionals and institutions with responsibility for developing, monitoring, and assessing immunization programs and continually adapting strategies to reach the goal of preventing immunizable diseases; and

(B) performing, supporting, and encouraging research and development activities, both in the public and private sector, that will be targeted at developing new vaccines and at modifying and improving existing vaccines to make them more appropriate for use in developing countries.

(2) In support of this global effort, the President should appeal to the people of the United States and the United States private sector to support public and private efforts to provide the resources necessary to achieve universal access to childhood immunization by 1990.

SEC. 548. None of the funds appropriated in this Act shall be made available for any costs associated with the Government of Ethiopia's forced resettlement or villagization programs.

SEC. 549. None of the funds appropriated in this Act shall be obligated or expended for Sudan or Liberia except as provided through the regular notification procedures of the Committees on Appropriations.

SEC. 550. For the purpose of this Act, "program, project, and activity" shall be defined at the Appropriations Act account level and shall include all Appropriations and Authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic support fund; Military Assistance; and Foreign military credit sales, "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account; for the functional development assistance accounts of the Agency for International Development "program, project, and activity" shall also be considered to include central program level funding, either as (1) justified to the

Congress, or (2) allocated by the Executive Branch in accordance with a report, to be provided to the Committees on Appropriations within thirty days of enactment of a Foreign Assistance and Related Programs Appropriations Act or of enactment of a continuing resolution containing funding for these programs for the balance of the fiscal year 1987, as required by Section 653(a) of the Foreign Assistance Act of 1961, as amended, whichever is the more recent action.

SEC. 551. Of the funds made available by this Act and appropriated for the "Child Survival Fund" and "Health, Development Assistance", up to an additional $4,150,000 may be used to reimburse the U.S. Public Health Service or the Centers for Disease Control for the full cost of up to an additional thirty Public Health Service employees specifically for the purpose of carrying out immunization activities of the Child Survival Fund.

SEC. 552. Earmarks, limitations, and ceilings on programs, projects, and activities for fiscal year 1987 shall be treated as follows: (1) earmarks, limitations, and ceilings shall be as designated in this Act; (2) earmarks, limitations, and ceilings, in other legislation which pertain to foreign assistance programs funded by this Act, shall be reduced proportionately by a percentage equal to the percentage decrease in funds available in each account for countries other than Israel, Egypt, and Pakistan from fiscal year 1986 post sequestration funding levels to fiscal year 1987 appropriation levels; and (3) nothing in this section shall preclude the application of sequestration action in fiscal year 1987, if it occurs, from applying to all earmarks, limitations, and ceilings in this Act and in applying to earmarks, limitations, and ceilings in corresponding authorizations legislation.

SEC. 553. If any funds appropriated by this Act for "Economic support fund", "Military assistance", "International military education and training", or "Foreign military credit sales" are not used for assistance for the country for which those funds were allocated because that country has not taken adequate steps to halt illicit drug production or trafficking (including any funds withheld pursuant to section 481(h) of the Foreign Assistance Act of 1961 or section 611 or 612 of the International Security and Development Cooperation Act of 1985), those funds shall be used for additional assistance for those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking, as follows:

(1) Except as provided in paragraph (2), those funds shall be transferred to the "International Narcotics Control" account in order to provide additional narcotics control assistance to those countries. Such transfers may be made without regard to the 20-percent increase limitation contained in section 610(a) of the Foreign Assistance Act of 1961. Such transfers shall be subject to the regular notification procedures of the Committees on Appropriations.

(2) Any of those funds—

(A) which the President determines (and reports to the Congress) should not be used for additional narcotics control assistance for those countries because the additional assistance could not be used effectively in halting illicit drug production or trafficking,

(B) whose transfer pursuant to paragraph (1) is not approved by the Appropriations Committees, or

(C) which are appropriated for "Foreign military credit sales",

shall be reprogrammed within the account for which they were appropriated (subject to regular reprogramming procedures of the Committees on Appropriations) in order to provide additional economic or military assistance (as the case may be) to those countries.

SEC. 554. The Secretary of the Treasury shall instruct the United States Executive Director of the Inter-American Development Bank to work with the representatives, and with the ministries from which they receive their instructions, of other donor nations to the Inter-American Development Bank, to develop a coordinated economic development program for the assistance activities of the Bank for Haiti. Such program should be developed in cooperation with the Department of State and the Agency for International Development to ensure that the bilateral economic assistance programs of the United States for Haiti are effectively coordinated with the activities of the Inter-American Development Bank.

SEC. 555. (a) Section 49 of the Bretton Woods Agreements Act (22 U.S.C. 286gg) is amended by adding at the end the following new subsection:

"(d) For purposes of this section, the term 'multilateral development banks' means the International Bank for Reconstruction and Development, the Inter-American Development Bank, the African Development Bank, and the Asian Development Bank.".

(b) Section 49(a)(1) of the Bretton Woods Agreements Act (22 U.S.C. 286gg(a)(1)) is amended—

(1) by inserting before "the Fund" the first place it appears the following: "each of the multilateral development banks (in this section referred to as the 'banks') and of";

(2) by inserting "each of the banks and of" before "the Fund" the second place it appears;

(3) by inserting "banks and of the" before "Fund" the third place it appears; and

(4) by striking "Fund" the fourth place it appears.

(c) Section 49(a)(3) of the Bretton Woods Agreements Act (22 U.S.C. 286gg(a)(3)) is amended—

(1) by inserting "each of the banks and of" before "the Fund" the first place it appears; and

(2) by striking "Fund" the second place it appears and inserting "their".

(d) Section 49(b)(1) of the Bretton Woods Agreements Act (22 U.S.C. 286gg(b)(1)) is amended—

(1) by inserting "each of the banks and of" before "the Fund" the first place it appears;

(2) by inserting "the banks and by" before "the Fund" the second place it appears; and

(3) by inserting "the banks and" before "the Fund" the third place it appears.

(e) Section 49(c) of the Bretton Woods Agreements Act (22 U.S.C. 286gg(c)) is amended by inserting "bank and" before "Fund" each place it appears.

(f) Sections 49(c) (1) and (2) of the Bretton Woods Agreements Act (22 U.S.C. 286gg(c)) is amended by inserting after the word "for" the first time it appears "loans or".

SEC. 556. Section 901(d) of the International Security and Development Cooperation Act of 1985 is hereby repealed.

SEC. 557. (a) It is the sense of Congress that pursuant to Section 701 of the International Institutions Act of 1977, the United States Government should oppose all loans to Chile from multilateral development institutions, except for those for basic human needs, until—

(1) the Government of Chile has ended its practice and pattern of gross abuse of internationally recognized human rights;

(2) significant steps have been taken by the Government of Chile to restore democracy, including—

(A) the implementation of political reforms which are essential to the development of democracy, such as the legalization of political parties, the enactment of election laws, the establishment of freedom of speech and the press, and the fair and prompt administration of justice; and

(B) a precise and reasonable timetable has been established for the transition to democracy.

(b) None of the funds made available by this Act for the "Economic support fund" or for Title III shall be obligated or expended for Chile.

SEC. 558. None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided,* That this section shall not prohibit:

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact in the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

SEC. 559. None of the funds provided in this Act to the Agency for International Development, other than funds made available to carry out Caribbean Basin Initiative programs under the Tariff Schedules of the United States, 19 U.S.C. 1202, Schedule 8, Part I, Subpart B, Item 807.00, shall be obligated or expended—

(1) to procure directly feasibility studies or prefeasibility studies for, or project profiles of potential investment in, the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined by section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)); or

(2) to assist directly in the establishment of facilities specifically designed for the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined in section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)).

SEC. 560. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, South Yemen, or Syria unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the United States.

This Act may be cited as the "Foreign Assistance and Related Programs Appropriations Act, 1987".

(g) Such amounts as may be necessary are hereby appropriated for programs, projects, or activities provided for in H.R. 5313, the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1987, to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-977) as filed in the House of Representatives on October 7, 1986, as if enacted into law: *Provided,* That, notwithstanding any other provision of this joint resolution, including section 102, in addition to the funds otherwise made available in this subsection, the following amounts are made available: (1) an additional $36,000,000, to remain available until September 30, 1988, is hereby appropriated for the National Aeronautics and Space Administration, "Research and development"; and (2) an additional $2,398,000,000, to remain available until expended, is hereby appropriated for the National Aeronautics and Space Administration, "Space flight, control and data communications", including (a) $2,100,000,000 for orbiter production only, which amount shall not become available for obligation until August 1, 1987, and (b) $265,000,000 for space shuttle operations, which amount, together with $266,000,000 otherwise made available for this account by this subsection (or by enactment into law of the above named Act) shall not become available for obligation until January 15, 1987.

(h) Such amounts as may be necessary for programs, projects or activities provided for in the Department of the Interior and Related Agencies Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act.

AN ACT

Making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1987, and for other purposes.

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau of Land Management, $483,610,000, of which $83,000,000 for firefighting and repayment to other appropriations from which funds were transferred under the authority of section 102 of the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190, and $5,000,000 for insect and disease control projects, including grasshoppers, shall remain available until expended: *Provided,* That regulations pertaining to mining operations on public lands conducted under the Mining Law of 1872 (30 U.S.C. 22, et seq.) and sections 302, 303, and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732, 1733, and 1782) shall be modified to include a requirement for the posting of reclamation bonds by operators for all operations which involve significant surface disturbance, (a) at the discretion of the authorized officer for operators who have a record of compliance with pertinent regulations concerning mining on public lands, and (b) on a mandatory basis only for operators with a history of noncompliance with the aforesaid regulations: *Provided further,* That surety bonds, third party surety bonds, or irrevocable letters of credit shall qualify as bond instruments: *Provided further,* That evidence of an equivalent bond posted with a State agency shall be accepted in lieu of a separate bond: *Provided further,* That the amount of such bonds shall be sufficient to cover the costs of reclamation as estimated by the Bureau of Land Management.

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $2,800,000, to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976 (31 U.S.C. 6901-07), $105,000,000, of which not to exceed $400,000 shall be available for administrative expenses.

LAND ACQUISITION

(INCLUDING RESCISSION)

For expenses necessary to carry out the provisions of sections 205, 206, and 318(d) of Public Law 94-579 including administrative

expenses and acquisition of lands or waters, or interest therein, $6,220,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

Of the funds appropriated under this head in Public Law 98-396 to carry out the provisions of Public Law 93-531, as amended, $3,200,000 are rescinded.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; $54,524,000, to remain available until expended: *Provided*, That the amount appropriated herein for road construction shall be transferred to the Federal Highway Administration, Department of Transportation: *Provided further*, That 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land grant fund and shall be transferred to the General Fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315, et seq.), but not less than $9,253,000 (43 U.S.C. 1901), and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, to remain available until expended: *Provided*, That not to exceed $600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93-153, to be immediately available until expended.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contrib-

uted under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $10,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: *Provided*, That appropriations herein made for Bureau of Land Management expenditures in connection with the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands (other than expenditures made under the appropriation "Oregon and California grant lands") shall be reimbursed to the General Fund of the Treasury from the 25 per centum referred to in subsection (c), title II, of the Act approved August 28, 1937 (50 Stat. 876), of the special fund designated the "Oregon and California land grant fund" and section 4 of the Act approved May 24, 1939 (53 Stat. 754), of the special fund designated the "Coos Bay Wagon Road grant fund": *Provided further*, That appropriations herein made may be expended for surveys of Federal lands of the United States and on a reimbursable basis for surveys of Federal lands of the United States and for protection of lands for the State of Alaska: *Provided further*, That an appeal of any reductions in grazing allotments on public rangelands must be taken within thirty days after receipt of a final grazing allotment decision. Reductions of up to 10 per centum in grazing allotments shall become effective when so designated by the Secretary of the Interior. Upon appeal any proposed reduction in excess of 10 per centum shall be suspended pending final action on the appeal, which shall be completed within two years after the appeal is filed: *Provided further*, That appropriations herein made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Bureau.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the United States Fish and Wildlife Service; and for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge; and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $314,692,000 of which $4,300,000, to

carry out the purposes of 16 U.S.C. 1535, shall remain available until expended; and of which $6,411,000 shall be for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976 (90 Stat. 2921), to compensate for loss of fishery resources from water development projects on the Lower Snake River, and shall remain available until expended.

CONSTRUCTION AND ANADROMOUS FISH

For construction and acquisition of buildings and other facilities required in the conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, and the acquisition of lands and interests therein; $26,513,000, to remain available until expended, of which $2,000,000 shall be available for expenses to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a-757g).

MIGRATORY BIRD CONSERVATION ACCOUNT

For an advance to the migratory bird conservation account, as authorized by the Act of October 4, 1971, as amended (16 U.S.C. 715k-3, 5), $7,000,000, to remain available until expended.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $42,425,000, to be derived from the Land and Water Conservation Fund, to remain available until expended: *Provided*, That $3,000,000 for Bayou Sauvage NWR shall be available subject to authorization.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $5,645,000.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 72 passenger motor vehicles for replacement only (including 72 for police-type use); purchase of 1 new aircraft for replacement only; not to exceed $300,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife Service, and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; construction of permanent improvements for use as a forensics laboratory, and structures appurtenant thereto, on a

site leased by the Service; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed $408,000 for the Roosevelt Campobello International Park Commission and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $649,613,000, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451) and $15,158,000 to be derived from unappropriated balances in the National Park Service "Planning, development and operation of recreation facilities" account: *Provided,* That the Park Service shall not enter into future concessionaire contracts, including renewals, that do not include a termination for cause clause that provides for possible extinguishment of possessory interests excluding depreciated book value of concessionaire investments without compensation: *Provided further,* That none of these funds may be used to compensate a quantity of staff greater than existed as of May 1, 1986, in the Office of Legislative and Congressional Affairs of the National Park Service or to compensate individual staff members assigned subsequent to May 1, 1986, at grade levels greater than the staff replaced: *Provided further,* That $85,000 shall be available to assist the town of Harpers Ferry, West Virginia, for police force use: *Provided further,* That to advance the mission of the National Park Service, for a period of time not to extend beyond fiscal year 1987, the Secretary of the Interior is authorized to charge park entrance fees for all units of the National Park System, except as provided herein, of an amount not to exceed $3 for a single visit permit as defined in 36 CFR 71.7(b)(2) and of an amount not to exceed $5 for a single visit permit as defined in 36 CFR 71.7(b)(1): *Provided further,* That the cost of a Golden Eagle Passport as defined in 36 CFR 71.5 is increased to a reasonable fee but not to exceed $25 until September 30, 1987: *Provided further,* That for units of the National Park System where entrance fees are charged the Secretary shall establish an annual admission permit for each individual park unit for a reasonable fee but not to exceed $15, and that purchase of such annual admission permit for a unit of the National Park System shall relieve the requirement for payment of single visit permits as defined in 36 CFR 71.7(b): *Provided further,* That all funds derived from National Park Service entrance fees during fiscal year 1987 and all funds collected during fiscal year 1987 under subsections (a), (b), and (c) of section 4 of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-6a), shall be transferred to

the General Fund of the Treasury of the United States: *Provided further,* That notwithstanding any other provision of this Act, no admission fee may be charged at any unit of the National Park System which provides significant outdoor recreation opportunities in an urban environment and to which access is publicly available at multiple locations, nor shall an admission fee be charged at any unit of the National Park System which has a current, specific statutory exemption: *Provided further,* That where entrance fees are established on a per person basis, children 12 and under shall be exempt from the fees: *Provided further,* That if permanent statutory language is enacted during fiscal year 1987 establishing National Park System entrance fees, the provisions of that language shall supersede the fee provisions contained in this Act: *Provided further,* That of the funds provided under this head, $15,000,000 shall be distributed to units of the National Park System, to be available for resource protection, research, interpretation, and maintenance activities related to resource protection, to be distributed in the following manner: 50 percent shall be provided to all units of the System based on each unit's proportion of park operating expenses, and 50 percent shall be provided to units with entrance fees based on each collecting unit's proportion of total entrance fee collections: *Provided further,* That the following may be cited as the "Steamtown National Historic Site Act of 1986":

SECTION 1. DESIGNATION AS NATIONAL HISTORIC SITE.

The property known as Steamtown, consisting of the land, historic roundhouse, switchyard, and associated buildings, track and equipment, and located on approximately 40 acres in Scranton, Pennsylvania, is hereby designated as the Steamtown National Historic Site (hereafter in this Act referred to as "the Site"). The Site is generally depicted on the map entitled "Steamtown National Historic Site", numbered STTO-80,000 and dated September 1986. A copy of the map shall be on file and available for inspection in the offices of the National Park Service in Washington, D.C., and in appropriate regional and local offices.

SEC. 2. MANAGEMENT OF SITE.

(a) PREPARATION OF MANAGEMENT PLAN.—The Secretary shall prepare a comprehensive management plan for the Site, which shall include all of the elements required for general management plans under section 12 of the Act entitled "An Act to improve the administration of the National Park System by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes" approved August 18, 1970 (U.S.C. 1a-7), and shall be submitted to the Congress no later than September 30, 1987.

(b) ADMINISTRATION OF SITE.—(1) The Secretary shall administer the Site through cooperative agreements and grant agreements, as appropriate, with the owner or owners of the property. The Secretary may provide financial and technical assistance in planning interpretation, maintenance, preservation, and appropriate public use of the Site and associated rolling stock in order to further public understanding and appreciation of the development of steam locomotives in the region.

(2) The Secretary of the Interior may acquire the Site, and all or part of the associated rolling stock, by donation or with donated funds and may begin to take such actions as are called for in the management plan. Upon acquisition pursuant to this paragraph, the

Site and any acquired associated rolling stock shall thereafter be administered by the Secretary in accordance with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.), and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects and antiquities of national significance, and for other purposes" approved August 21, 1935 (16 U.S.C. 461 et seq.).

SEC. 3. ADVISORY COMMITTEE.

The Secretary is authorized to establish a Steamtown Advisory Committee and appoint up to ten members, who shall serve at no cost to the United States.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $20,000,000 for the administration of the Steamtown National Historic Site and for assistance to the owner thereof pursuant to the agreements referred to in section 2(b).

SEC. 5. APPROPRIATIONS.

For expenses necessary to carry out the provisions of this Act, $8,000,000, to remain available until expended.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental compliance and review, and grant administration, not otherwise provided for, $10,628,000.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), $24,250,000 to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1988: *Provided,* That the Trust Territory of the Pacific Islands is a State eligible for Historic Preservation Fund matching grant assistance as authorized under 16 U.S.C. 470w(2): *Provided further,* That pursuant to section 105(1) of the Compact of Free Association, Public Law 99-239, the Federated States of Micronesia and the Republic of the Marshall Islands shall also be considered States for purposes of this appropriation.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), $88,095,000, to remain available until expended, of which $8,500,000 shall be derived by transfer from the National Park System Visitor Facilities Fund, including $2,700,000 to carry out the provisions of sections 302, 303, and 304 of Public Law 95-290: *Provided,* That for payment of obligations incurred for continued construction of the Cumberland Gap Tunnel, as authorized by section 160 of Public Law 93-87, $10,000,000 to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under section 104(a)(8) of

Public Law 95-599, as amended, such contract authority to remain available until expended: *Provided further,* That for payments of obligations incurred for improvements to the George Washington Memorial Parkway, $2,500,000 to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under section 104(a)(8) of Public Law 95-599, as amended, subject to the availability of funds for an additional lane on the Theodore Roosevelt Bridge.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, $87,220,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, including $2,270,000 to administer the State Assistance program: *Provided,* That of the amounts previously appropriated to the Secretary's contingency fund for grants to States, $893,000 shall be available in 1987 for administrative expenses of the State grant program.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

For expenses necessary for operating and maintaining the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, $4,771,000.

ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR COMMISSION

For operation of the Illinois and Michigan Canal National Heritage Corridor Commission, $250,000.

JEFFERSON NATIONAL EXPANSION MEMORIAL COMMISSION

For operation of the Jefferson National Expansion Memorial Commission, $75,000.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 400 passenger motor vehicles, of which 348 shall be for replacement only, including not to exceed 300 for police-type use and 20 buses; to provide, notwithstanding any other provision of law, at a cost not exceeding $100,000, transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service; options for the purchase of land at not to exceed $1 for each option; and for the procurement and delivery of medical services within the jurisdiction of units of the National Park System: *Provided,* That no funds available to the National Park Service may be used, unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 99-714, to maintain law and order in emergency and other unforeseen law enforcement situations and conduct emergency search and rescue

operations in the National Park System: *Provided further,* That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided further,* That none of the funds appropriated to the National Park Service may be used to add industrial facilities to the list of National Historic Landmarks without the consent of the owner: *Provided further,* That the National Park Service may use helicopters and motorized equipment at Death Valley National Monument for removal of feral burros and horses: *Provided further,* That notwithstanding any other provision of law, the National Park Service may recover unbudgeted costs of providing necessary services associated with special use permits, such reimbursements to be credited to the appropriation current at that time: *Provided further,* That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project: *Provided further,* That the Secretary of the Interior shall begin processing claims of the licensees of the American Revolution Bicentennial Administration within 30 days of enactment of this Act, and that licensees who filed claims with the Department between July 1984, and January 1985, or who filed for relief from the Department under the Federal Tort Claims Act on December 31, 1979, or who were mentioned in the December 30, 1985, Opinion of the Comptroller General shall be eligible claimants: *Provided further,* That the Secretary shall process such claims consistent with the process employed in the Amerecord, Inc. test case which was settled on August 20, 1983, and other applicable legal principles to determine whether any or all of such claimants ought to be awarded equitable compensation by the Congress, and, if so, in what amount: *Provided further,* That these claims will be processed to completion in a judicious and expedient manner not to exceed one year from the date of enactment of this Act: *Provided further,* That none of the funds made available by this Act may be used to plan or implement the closure of the Pacific Northwest Regional Office in Seattle, Washington: *Provided further,* That notwithstanding any other provision of law, hereafter funds received by the National Park Service as reimbursement for the cost of providing security, law enforcement, interpretive, and other services with respect to the operation of facilities at the Jefferson National Expansion Memorial National Historic Site shall be credited to the appropriation bearing the cost of providing such services.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, and the mineral and water resources of the United

States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; $418,665,000: *Provided,* That $52,835,000 shall be available only for cooperation with States or municipalities for water resources investigations: *Provided further,* That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality: *Provided further,* That in fiscal year 1987 and thereafter the Geological Survey is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided further,* That, heretofore and hereafter, in carrying out work involving cooperation with any State, Territory, possession, or political subdivision thereof, the Geological Survey may, notwithstanding any other provision of law, record obligations against accounts receivable from any such entities and shall credit amounts received from such entities to this appropriation.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the Geological Survey shall be available for purchase of not to exceed 14 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts: *Provided,* That appropriations herein made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Geological Survey, and that within appropriations herein provided, Geological Survey officials may authorize either direct procurement of or reimbursement for expenses incidental to the effective use of volunteers such as, but not limited to, training, transportation, lodging, subsistence, equipment, and supplies: *Provided further,* That provision for such expenses or services is in accord with volunteer or cooperative agreements made with such individuals, private organizations, educational institutions, or State or local government: *Provided further,* That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in Public Law 95-224.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; $160,697,000, of which not less than $44,904,000 shall be available for royalty management activities including general administration: *Provided,* That not less than $11,059,000 is to be used for the mineral revenue compliance audit program: *Provided further,* That notwithstanding any other provision of law, funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721 (b) and (d): *Provided further,* That in fiscal year 1987 and thereafter, the Minerals Management Service is authorized to accept land, buildings, equipment and other contributions, from public and private sources, which shall be available for the purposes provided for in this account.

BUREAU OF MINES

MINES AND MINERALS

For expenses necessary for conducting inquiries, technological investigations, and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the development of mineral resources and the prevention of waste in the mining, minerals, metal, and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, $138,162,000, of which $83,130,000 shall remain available until expended.

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided,* That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral product that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not to exceed 14 passenger motor vehicles, of which 9 shall be for replacement only; and uniform allowances of not to exceed $400 for each uniformed employee of the Office

Surface Mining Reclamation and Enforcement; $100,003,000, and notwithstanding 31 U.S.C. 3302, an additional amount, to remain available until expended, equal to receipts to the General Fund of the Treasury from performance bond forfeitures in fiscal year 1987.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 21 passenger motor vehicles, of which 15 shall be for replacement only, to remain available until expended, $203,720,000, to be derived from receipts of the Abandoned Mine Reclamation Fund: *Provided,* That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further,* That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 per centum: *Provided further,* That none of these funds shall be used for a reclamation grant to any State if the State has not agreed to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement through which all permit applications are reviewed and approvals withheld if the applicants (or those who control the applicants) applying for or receiving such permits have outstanding State or Federal air or water quality violations in accordance with section 510(c) of the Act of August 3, 1977 (30 U.S.C. 1260(c)), or failure to abate cessation orders, outstanding civil penalties associated with such failure to abate cessation orders, or uncontested past due Abandoned Mine Land fees: *Provided further,* That notwithstanding any legislative or judicial requirement, the Office of Surface Mining Reclamation and Enforcement may delay the finalization of the proposed rulemaking amending Parts 773 and 778 of the Code of Federal Regulations as published in the Federal Register on April 5, 1985 (50 FR 13724) until March 31, 1987: *Provided further,* That the Secretary of the Interior may deny fifty percent of an Abandoned Mine Reclamation fund grant, available to a State pursuant to title IV of Public Law 95-87, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines that a State is systematically failing to administer adequately the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and the Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement: *Provided further,* That expenditure of moneys as authorized in section 402(g)(3) of Public Law 95-87 shall be on a priority basis with the first priority being protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices, as stated in section 403 of Public Law 95-87.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements, and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices, $911,182,000, of which not to exceed $55,668,000 for higher education scholarships and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall remain available for obligation until September 30, 1988, and $25,000,000 for firefighting and repayment to other appropriations from which funds were transferred under the authority of section 102 of the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190 shall remain available until expended, and the funds made available to tribes and tribal organizations through contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1988: *Provided,* That this carryover authority does not extend to programs directly operated by the Bureau of Indian Affairs unless the tribe(s) and the Bureau of Indian Affairs enter into a cooperative agreement for consolidated services; and for expenses necessary to carry out the provisions of section 19(a) of Public Law 93-531 (25 U.S.C. 640d-18(a)), $2,431,000, to remain available until expended: *Provided further,* That none of the funds appropriated to the Bureau of Indian Affairs shall be expended as matching funds for programs funded under section 103(b)(2) of the Carl D. Perkins Vocational Education Act: *Provided further,* That notwithstanding any provision of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act, the amounts appropriated for fiscal year 1987 for the Bureau of Indian Affairs for the Institute of American Indian Arts shall be available for use under part A of that Act and—

(1) that Act shall be implemented in a reasonable period of time and shall be fully implemented by no later than October 1, 1987,

(2) until the earlier of—

(A) October 1, 1987, or

(B) the appointment and confirmation of a majority of the members of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development under section 1505(a)(1)(A) of that Act,

the Secretary of the Interior shall have the authority conferred upon such members under that Act, and

(3) until the earlier of—

(A) October 1, 1987, or

(B) the appointment of a President of such Institute under section 1508 of that Act,

the Secretary of the Interior shall have the authority conferred upon such members under that Act, and

(3) until the earlier of—

(A) October 1, 1987, or

(B) the appointment of a President of such Institute under section 1508 of that Act,

the Secretary of the Interior shall have the authority conferred upon the President of such Institute under this Act: *Provided further,* That no part of any appropriations to the Bureau of Indian Affairs shall be available to provide general assistance payments for Alaska Natives in the State of Alaska unless and until otherwise specifically provided for by Congress: *Provided further,* That none of the funds contained in this Act shall be available for any payment to any school to which such school would otherwise be entitled pursuant to section 1128(b) of Public Law 95-561, as amended: *Provided further,* That the amounts available for assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.) shall be distributed on the same basis as such funds were distributed in fiscal year 1986: *Provided further,* That before initiating any action to close the Phoenix Indian School but no later than February 1, 1987, the Secretary shall submit to the Congress a report (1) on the school as required under section 1121(g)(3) of Public Law 95-561, as amended, including any warranted recommendations for the establishment of special programs at existing schools or the establishment of a new school or schools to be operated either by the Bureau of Indian Affairs or by a public school district to meet the needs of students from Arizona who are attending or might otherwise have attended the Phoenix Indian School; (2) on the Secretary's recommendation for the disposition of the property (including real property, supplies, and equipment) used for the school which recommendations may include the donation (with any restrictions on use and subject to a reverter for specified reasons the Secretary deems necessary or desirable) of some or all of the property to the State of Arizona, one or more local or tribal governments, or another Federal agency or the sale or exchange of some or all of the property at fair market value and a recommendation for the use of any cash received for a sale or to equalize values in an exchange; and (3) documentation of the Secretary's efforts to consult with the affected tribes and to offer assistance to the tribes in planning for future educational requirements for those currently eligible to attend the Phoenix Indian School, including those students from the Phoenix area attending school in California: *Provided further,* That the Secretary shall take no action to close the school or dispose of the property of the Phoenix Indian School until action by the Congress affirming or modifying the recommendations of the Secretary.

CONSTRUCTION

For construction, major repair, and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of

lands and interests in lands; preparation of lands for farming; and construction, repair, and improvement of Indian housing, $76,101,000, to remain available until expended: *Provided,* That $1,225,000 of the funds appropriated for use by the Secretary to construct homes and related facilities for the Navajo and Hopi Indian Relocation Commission in lieu of construction by the Commission under section 15(d)(3) of the Act of December 22, 1974 (88 Stat. 1719; 25 U.S.C. 640d-14(d)(3)), may be used for counseling, water production and administration related to the relocation of Navajo families.

ROAD CONSTRUCTION

Of the funds otherwise available to the State of Oklahoma from the Federal Highway Trust Fund, $10,000,000 shall be available for construction of the Honobia Indian Road: *Provided,* That the matching requirement is hereby waived with respect to funds spent on the Honobia Road: *Provided further,* That not to exceed 5 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover roads program management costs and construction supervision costs of the Bureau of Indian Affairs.

WHITE EARTH TRUST FUND

For deposit into the White Earth Economic Development and Tribal Government Fund established pursuant to section 12 of Public Law 99-264, to be held in trust for the benefit of the White Earth Band of Chippewa Indians, $6,600,000.

MISCELLANEOUS TRUST FUNDS

TRIBAL TRUST FUNDS

In addition to the tribal funds authorized to be expended by existing law, there is hereby appropriated not to exceed $1,000,000 from tribal funds not otherwise available for expenditure.

REVOLVING FUND FOR LOANS

During fiscal year 1987, and within the resources and authority available, gross obligations for the principal amount of direct loans pursuant to the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451 et seq.), shall not exceed $16,320,000.

INDIAN LOAN GUARANTY AND INSURANCE FUND

For payment of interest subsidies on new and outstanding guaranteed loans and for necessary expenses of management and technical assistance in carrying out the provisions of the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), $2,452,000, to remain available until expended: *Provided,* That during fiscal year 1987, total commitments to guarantee loans pursuant to the Indian Financing Act of 1974 may be made only to the extent that the total loan principal, any part of which is to be guaranteed, shall not exceed resources and authority available.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans and the Indian loan guarantee and insurance fund) shall be available for expenses of exhibits; and purchase of not to exceed 150 passenger carrying motor vehicles, of which 100 shall be for replacement only.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of territories under the jurisdiction of the Department of the Interior, $78,224,000, of which (1) $75,501,000 shall be available until expended for technical assistance; late charges and payments of the annual interest rate differential required by the Federal Financing Bank, under terms of the second refinancing of an existing loan to the Guam Power Authority, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for support of governmental functions; construction grants to the Government of the Virgin Islands as authorized by Public Law 97-357 (96 Stat. 1709); construction grants to the Government of Guam, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94-241; 90 Stat. 272); and (2) $2,723,000 for salaries and expenses of the Office of Territorial and International Affairs: *Provided*, That the territorial and local governments herein provided for are authorized to make purchases through the General Services Administration: *Provided further*, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, shall be audited by the General Accounting Office, in accordance with chapter 35 of title 31, United States Code: *Provided further*, That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 99-396, except that should the Secretary of the Interior believe that the performance standards of such agreement are not being met, operations funds may be withheld, but only by Act of Congress as required by Public Law 99-396.

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (90 Stat. 299; 91 Stat. 1159; 92 Stat. 495); grants for the expenses of the High Commissioner of the Trust Territory of the Pacific Islands; grants for the compensation and expenses of the Judiciary of the Trust Territory of the Pacific Islands; grants to the Trust Territory of the Pacific Islands, in addition to local revenues, for support of governmental functions; $67,387,000, to remain avail-

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able until expended: *Provided*, That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with chapter 35 of title 31, United States Code: *Provided further*, That the government of the Trust Territory of the Pacific Islands is authorized to make purchases through the General Services Administration: *Provided further*, That notwithstanding the proviso under "Trust Territory of the Pacific Islands" in Public Law 97-257 making funds available for the relocation and resettlement of the Bikini people in the Marshall Islands, such funds shall be available for relocation and resettlement of the Bikini people to any location.

COMPACT OF FREE ASSOCIATION

For the Enjebi Community Trust Fund, as authorized by Public Law 99-239, $2,250,000: *Provided*, That notwithstanding any other provision of law, the funds made available under this head in Public Law 99-349 shall remain available for obligation until expended: *Provided further*, That notwithstanding any other provision of law, for purposes of economic assistance as provided pursuant to the Compacts of Free Association, the effective date of the Compacts shall be October 1, 1986, except that the effective date for commencing the Kwajalein use and impact payments pursuant to sections 211(a)(1) and 213(a) of Public Law 99-239 shall be October 1, 1985: *Provided further*, That the $60,719,000 made available in fiscal year 1986 for the Compacts pursuant to Public Law 99-349 from the "Trust Territory of the Pacific Islands" appropriation shall remain available until expended for the Trust Territory of the Pacific Islands: *Provided further*, That upon the effective date determined by the President for implementing the Compacts, $60,719,000 of the amount made available for fiscal year 1987 under the "Trust Territory of the Pacific Islands" appropriation pursuant to this Act shall be considered to have been made available and expended for the "Compact of Free Association" appropriation as of October 1, 1986.

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of the Interior, including $1,586,000 for the Immediate Office of the Secretary, $42,816,000, of which not to exceed $10,000 may be for official reception and representation expenses.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $20,880,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, $16,300,000.

CONSTRUCTION MANAGEMENT

For necessary expenses of the Office of Construction Management, $684,000.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 12 additional aircraft, 10 of which shall be for replacement only: *Provided*, That no programs funded with appropriated funds in the "Office of the Secretary", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: *Provided further*, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods or volcanoes; for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided*, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further*, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, U.S.C.: *Provided*, That reimbursements for costs and supplies, materials, equipment, and for services

rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $300,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members: *Provided*, That no funds available to the Department of the Interior are available for any expenses of the Great Hall of Commerce.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902 and D.C. Code 4-204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued by the General Services Administration for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

SEC. 107. No funds provided in this title may be expended by the Department of the Interior for the preparation for, or conduct of, pre-leasing and leasing activities (including but not limited to: calls for information, tract selection, notices of sale, receipt of bids and award of leases) of lands described in, and under the same terms and conditions set forth in section 107 of the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190.

SEC. 108. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance changing the name of the mountain located 63 degrees, 04 minutes, 15 seconds west, presently named and referred to as Mount McKinley.

SEC. 109. Notwithstanding any other provision of law, appropriations in this title shall be available to provide insurance on official motor vehicles, aircraft, and boats operated by the Department of the Interior in Canada and Mexico.

SEC. 110. No funds provided in this title may be used to detail any employee to an organization unless such detail is in accordance with Office of Personnel Management regulations.

SEC. 111. (a) The Secretary of the Interior may consider and accept, as part of the Outer Continental Shelf oil and gas leasing program for 1987 to 1992, any recommendation included in any proposal submitted to him with respect to lease sales on the California Outer Continental Shelf by the co-chairmen of the Congressional panel established pursuant to Public Law 99-190 or by the Governor of California on May 7, 1986. The major components of those proposals shall be examined in the final environmental impact statement for the program. Consideration or acceptance of any such recommendation shall not require the preparation of a revised or supplemental draft environmental impact statement.

(b) The Secretary shall submit a copy of the draft proposed final leasing program for offshore California to the cochairmen of the negotiating group referred to in subsection (a) who shall have a

period of 30 days in which to review such program and provide their comments and the comments of the negotiating group on it to the Secretary prior to its submission to the President and the Congress. When submitting the proposed final leasing program to the President and the Congress in accordance with section 18(d) of the Outer Continental Shelf Lands Act (43 U.S.C. 1344(d)), such submission shall indicate in detail why any specific portion of the proposals referred to in subsection (a) of this section was not accepted.

(c) Prior to the approval of the Final Program, referenced in subsection (a), the Secretary may conduct prelease activities for proposed California OCS Lease Sales 95, 91, and 119 and may make changes in those sales on the basis of comments submitted by the Congressional negotiating group or others, except that the Secretary may not issue a: (1) call for information and nominations for Sale 95 prior to March 1, 1987, and no draft environmental impact statement shall be published for Sale 91 sooner than 90 days after the Secretary's submission of the draft of the proposed Final Five Year Program to the members of the Congressional panel, and (2) final notice of lease sale for Lease Sale 91 prior to January 1, 1989.

(d) The members of Congress designated under Sec. 111 of Public Law 99-190 (99 Stat. 1243) are hereby authorized to continue as the Congressional negotiating group and to negotiate with the Department of the Interior, to provide the Secretary of the Interior with the appropriate range of advice, including proposals, and to review and comment on proposals by the Department of the Interior with respect to future oil and gas leasing and protection of lands on the California Outer Continental Shelf.

SEC. 112. Notwithstanding any other law, the Secretary of the Interior shall convey without reimbursement to the State of Montana no later than December 31, 1986, all of the right, including all water rights, title, and interest of the United States in and to the fish hatchery property located south of Miles City, Montana, and known as the Miles City National Fish Hatchery, consisting of 168.22 acres, more or less, of land, together with any improvements and related personal property thereon.

SEC. 113. The Secretary of the Interior is directed to designate the Laurel Highlands National Recreational Trail, as designated by the Secretary of the Interior pursuant to section 4 of the National Trails System Act, as part of the Potomac Heritage Trail, as requested by the State of Pennsylvania in its April 1984 application, subject to the provisions of paragraph (11) of section 5(a) of the National Trails System Act, as amended.

SEC. 114. (a) In order to provide for needed facilities for visitors to Fort Sumter National Monument, including a tour boat dock and associated facilities, and an interpretive and museum facility in cooperation with the State of South Carolina and the city of Charleston, the Secretary of the Interior (in this section referred to as the "Secretary"), is authorized to acquire by purchase with donated or appropriated funds, donation, or exchange, not to exceed 8.91 acres of lands, including submerged lands, and interests in lands, within the area generally depicted on the map entitled "Dockside II, Proposed Site, Tourboat Facility", which map shall be on file and available for public inspection in the office of the National Park Service. When acquired, lands, including submerged lands and interests in lands, depicted on such map shall be administered by the Secretary as a part of Fort Sumter National Monument, subject to

the laws and regulations applicable to such monument, and subject to the provisions of this section.

(b)(1) With respect to the lands, including submerged lands, and interests in lands acquired pursuant to section (a), the Secretary is authorized—

(A) to convey, notwithstanding the provisions of section 5 of Public Law 90-400 (82 Stat. 356) and subject to the provisions of subsection (2), a leasehold interest in not to exceed one and a half acres to the State of South Carolina or the city of Charleston or either of them for development by either of them or their agents or lessees of a marine museum and associated administrative facilities;

(B) to grant covenants or easements for ingress and egress to the State of South Carolina, the city of Charleston, and to other parties as the Secretary may deem necessary to facilitate public use; and

(C) to enter into cooperative agreements with the State of South Carolina, the city of Charleston, and other parties as the Secretary may deem necessary, pursuant to which construction, maintenance, and use of buildings, utilities, parking facilities, and other improvements may be shared among the parties to the agreement.

(2) Any conveyance made pursuant to subsection (b)(1)(A) and any renewal thereof may be for a period of up to 50 years, and may include the option to purchase the property in fee by the lessee within the first 10 years, upon payment by the lessee of the cost of the property to the United States plus interest based on the average yield of United States Treasury notes with maturities of one year. The Secretary may convey title to the property in fee in the event such option to purchase is exercised, subject to the condition that the property is used for a public marine museum and associated administrative facilities. Notwithstanding any other provision of law, any leasehold interest conveyed pursuant to subsection (b)(1)(A) shall be conveyed without monetary consideration. The proceeds from any conveyance of property in fee pursuant to subsection (b)(1)(A) shall be deposited in the Land and Water Conservation Fund in the Treasury of the United States.

(c) Section 117 of Public Law 96-199 (94 Stat. 71) is hereby repealed.

(d)(1) Notwithstanding any other provision of law, sums heretofore appropriated but not, on the date of enactment of this joint resolution, obligated for construction of a tourboat facility at the Broad Street site, and for the acquisition and construction of the Fleet landing site for Fort Sumter National Monument, which was authorized by section 117 of Public Law 96-199 (94 Stat. 71) are hereby made available for obligation for the acquisition of the lands including submerged lands, and interests in lands identified in section (a) and for construction of necessary facilities thereon, and to the extent that sums heretofore appropriated for land acquisition of the Fleet landing site are not sufficient to cover the cost of acquisition of the properties identified in section (a), sums heretofore appropriated for construction of facilities at the Broad Street site and the Fleet landing site may be obligated for the purposes of acquisition as authorized in section (a).

(2) In addition to the sums made available under subsection (d)(1), there is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(e) The Secretary of the Interior shall transfer administrative jurisdiction over the Federal property, consisting of approximately 1 acre, known as the Broad Street site, to the Secretary of the Department in which the Coast Guard is operating, who shall transfer to the Secretary of the Interior, subject to such reservations, terms, and conditions as may be necessary for Coast Guard purposes, administrative jurisdiction over the Federal property, consisting of approximately 1 acre located near Fort Moultrie on Sullivan's Island for purposes of a maintenance workshop, storage, and seasonal housing in connection with the administration and protection of the Fort Sumter National Monument.

SEC. 115. (1) The primary term of any geothermal lease in effect as of July 27, 1984, issued pursuant to the Geothermal Act of 1970 (Public Law 91-581, 84 Stat. 1566, 30 U.S.C. 1001-1025) is hereby extended to December 31, 1988, if the Secretary of the Interior finds that—

(a) a bona fide sale of the geothermal resource, from a well capable of production, for delivery to or utilization by a facility or facilities, has not been completed (1) due to administrative delays by government entities, beyond the control of the lessee, or (2) such sale would be uneconomic;

(b) substantial investment in the development of or for the benefit of the lease has been made; and

(c) the lease would otherwise expire prior to December 31, 1988.

(2)(a) The Secretary of the Interior (hereinafter in this section referred to as "the Secretary" shall publish for public comment in the Federal Register within 120 days after the date of enactment of this section a proposed list of significant thermal features within the following units of the Nat~~ional Park System~~:

Mount Rainier National Park;
Lassen Volcanic National Park;
Yellowstone National Park;
Bering Land Bridge National Preserve;
Gates of the Arctic National Park and Preserve;
Yukon-Charley Rivers National Preserve;
Katmai National Park;
Aniakchak National Monument and Preserve;
Wrangell-St. Elias National Park and Preserve;
Glacier Bay National Park and Preserve;
Denali National Park and Preserve;
Lake Clark National Park and Preserve;
Hot Springs National Park;
Sequoia National Park;
Hawaii Volcanoes National Park;
Lake Mead National Recreation Area;
Big Bend National Park;
Olympic National Park;
Grand Teton National Park;
John D. Rockefeller, Jr. Memorial Parkway;
Haleakala National Park; and
Crater Lake National Park.

The Secretary shall include with such list the basis for his determination with respect to each thermal feature on the list. Based on public comment on such list, the Secretary is authorized to make additions to or deletions from the list. Not later than the 60th day from the date on which the proposed list was published in the

Federal Register, the Secretary shall transmit the list to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives together with copies of all public comments which he has received and indicating any additions to or deletions from the list with a statement of the reasons therefor and the basis for inclusion of each thermal feature on the list. The Secretary shall consider the following criteria in determining the significance of thermal features:

(1) size, extent, and uniqueness;

(2) scientific and geologic significance;

(3) the extent to which such features remain in a natural, undisturbed condition; and

(4) significance of thermal features to the authorized purposes for which the National Park System unit was created.

The Secretary shall not issue any geothermal lease pursuant to the Geothermal Steam Act of 1970 (Public Law 91-581, 84 Stat. 1566), as amended, until such time as the Secretary has transmitted the list to the Committees of Congress as provided in this section.

(b) The Secretary shall maintain a monitoring program for those significant thermal features listed pursuant to subsection (a) of this section.

(c) Upon receipt of an application for a geothermal lease the Secretary shall determine on the basis of scientific evidence if exploration, development, or utilization of the lands subject to the geothermal lease application is reasonably likely to result in a significant adverse effect on a significant thermal feature listed pursuant to subsection (a) of this section. Such determination shall be subject to notice and public comment. If the Secretary determines on the basis of scientific evidence that the exploration, development, or utilization of the land subject to the geothermal lease application is reasonably likely to result in a significant adverse effect on a significant thermal feature listed pursuant to subsection (a) of this section, the Secretary shall not issue such geothermal lease. In addition, the Secretary shall withdraw from leasing under the Geothermal Steam Act of 1970, as amended, those lands, or portion thereof, subject to the application for geothermal lease, the exploration, development, or utilization of which is reasonably likely to result, based on the Secretary's determination, in a significant adverse effect on a significant thermal feature listed pursuant to subsection (a) of this section.

(d) With respect to all geothermal leases issued after the date of enactment of this section the Secretary shall include stipulations in leases necessary to protect significant thermal features listed pursuant to subsection (a) of this section where a determination is made based on scientific evidence that the exploration, development, or utilization of the lands subject to the lease is reasonably likely to adversely affect such significant features. Such stipulations shall include, but are not limited to:

(1) requiring the lessee to reinject geothermal fluids into the rock formations from which they originate;

(2) requiring the lessee to report annually to the Secretary on its activities;

(3) requiring the lessee to continuously monitor geothermal production and injection wells; and

(4) requiring the lessee to suspend activity, temporarily or permanently, on the lease if the Secretary determines that

ongoing exploration, development, or utilization activities are having a significant adverse effect on significant thermal features listed pursuant to subsection (a) of this section until such time as the significant adverse effect is eliminated.

(e) The Secretary of Agriculture shall consider the effects on significant thermal features of those units of the National Park System identified in subsection (a) of this section in determining whether to consent to leasing under the Geothermal Steam Act of 1970, as amended, on national forest or other lands administered by the Department of Agriculture available for leasing under the Geothermal Steam Act of 1970, as amended, including public, withdrawn, and acquired lands.

(f) Nothing contained in this section shall affect the ban on leasing under the Geothermal Steam Act of 1970, as amended, with respect to the Island Park Known Geothermal Resources Area, as provided for in Public Law 98-473 (98 Stat. 1837) and Public Law 99-190 (99 Stat. 1267).

(g) Except as provided herein, nothing contained in this section shall affect or modify the authorities or responsibilities of the Secretary under the Geothermal Steam Act of 1970, as amended, or any other provision of law.

(h) The provisions of this section shall remain in effect until Congress determines otherwise.

SEC. 116. (a) Section 1102(a) of the National Parks and Recreation Act of 1978 (Public Law 95-625) is amended by inserting the following after the second sentence: "In addition, the Secretary may acquire by any of the foregoing methods not to exceed ten acres outside the boundaries of the national river for an administrative headquarters site, and funds appropriated for land acquisition shall be available for the acquisition of the administrative headquarters site.".

(b) Section 1112 of Public Law 95-625 is amended by striking "$500,000" and inserting "$3,000,000".

SEC. 117. (1) The Women in Military Service for America Memorial Foundation is authorized to establish a memorial on Federal land in the District of Columbia and its environs to honor women who have served in the Armed Forces of the United States. Such memorial shall be established in accordance with the provisions of H.R. 4378, as approved by the Senate on September 10, 1986 (S. Rpt. 99-421).

(2) The organization or organizations approved by the Secretary shall establish the memorial with non-Federal funds.

SEC. 118. (1) The Black Revolutionary War Patriots Foundation is authorized to establish a memorial on Federal land in the District of Columbia and its environs to honor the estimated five thousand courageous slaves and free black persons who served as soldiers and sailors or provided civilian assistance during the American Revolution and to honor the countless black men, women, and children who ran away from slavery or filed petitions with courts and legislatures seeking their freedom. Such memorial shall be established in accordance with the provisions of H.R. 4378, as approved by the House of Representatives on September 29, 1986.

(2) The Black Revolutionary War Patriots Foundation shall establish the memorial with non-Federal funds.

SEC. 119. The Secretary of the Interior shall designate the visitor center to be associated with the headquarters of the Illinois and Michigan Canal National Heritage Corridor as the "George M.

O'Brien Visitor Center" in recognition of the leadership and contributions of Representative George M. O'Brien with respect to the creation and establishment of this national heritage corridor.

SEC. 120. Notwithstanding any other provisions of the Land and Water Conservation Fund Act of 1965, Public Law 88-578, as amended, or other law, Land and Water Conservation Fund assisted land in Berkeley, Illinois, assisted under project No. 17-00180, may be exchanged for existing public lands if Land and Water Conservation Fund conversion criteria regarding equal fair market value and reasonably equivalent use and location are met.

SEC. 121. None of the funds provided by this Act shall be expended by the Secretary of the Interior to promulgate final regulations concerning paleontological research on Federal lands until the Secretary has received the National Academy of Sciences' report concerning the permitting and post-permitting regulations concerning paleontological research and until the Secretary has, within 30 days, submitted a report to the appropriate committees of the Congress comparing the National Academy of Sciences' report with the proposed regulations of the Department of the Interior.

SEC. 122. Subsection (b) of the first section of the Act of August 9, 1955, as amended (25 U.S.C. 415(b)) is further amended—

(1) by striking "or" immediately before "(2)"; and

(2) by inserting immediately before the period at the end thereof the following: ", or (3) if the term does not exceed seventy-five years (including options to renew), and the lease is executed under tribal regulations approved by the Secretary under this clause (3)".

SEC. 123. Section 515(b)(10)(B)(ii) of the Surface Mining Control and Reclamation Act of 1977 is amended by inserting after "qualified registered engineer" the following: "or a qualified registered professional land surveyor in any State which authorizes land surveyors to prepare and certify such maps or plans".

SEC. 124. Notwithstanding any other provision of law, no funds appropriated by this Act shall be available for the implementation, by the Secretary of the Interior or the Attorney General or any other officer acting on behalf of the United States, of the "Agreement to Settle Pending Litigation Between the United States and the Owners of Certain Oil Shale Mining Claims in Colorado", dated August 4, 1986, or for the patenting of any other oil shale placer claims located prior to passage of the 1920 Mineral Leasing Act, for a period of 180 days from the date of enactment of this provision, in order to provide a period for Congressional review of this agreement: *Provided*, That the provisions of this section affecting the aforesaid settlement agreement shall be effective only if the United States Court of Appeals for the Tenth Circuit and the United States District Court for the District of Colorado approve a stay in the cases affected by such settlement agreement for 180 days and the parties to such agreement agree to continue to be bound by such agreement for the 180-day period: *Provided further*, That the Attorney General of the United States and the Secretary of the Interior are directed to immediately and in good faith seek concurrence of all parties to the agreement to continue such agreement for 180 days and to request such courts to issue stays for such period.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, $128,882,000, of which $6,000,000 shall remain available until expended for competitive research grants, as authorized by section 5 of Public Law 95-307.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others; and for forest pest management activities, $58,946,000, to remain available until expended, to carry out activities authorized in Public Law 95-313: *Provided*, That a grant of $2,800,000 shall be made to the State of Minnesota for the purposes authorized by section 6 of Public Law 95-495.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, and for repayment of advances made in the preceding fiscal year pursuant to 16 U.S.C. 556d for forest fire protection and emergency rehabilitation of National Forest System lands, and including administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", and "Land Acquisition", $1,158,294,000, of which $263,323,000 for reforestation and timber stand improvement, cooperative law enforcement, firefighting, and maintenance of forest development roads and trails shall remain available for obligation until September 30, 1988.

The Forest Service is to continue to complete as expeditiously as possible development of land and resource management plans to meet the requirements of the National Forest Management Act of 1976 (NFMA). Notwithstanding the date in section 6(c) of the NFMA (16 U.S.C. 1600), the Forest Service may continue the management of units of the National Forest System under existing land and resource management plans pending the completion of plans developed in accordance with the Act. Nothing shall limit judicial review of particular activities on management units of the National Forest System: *Provided*, however, That there shall be no challenges to any existing plan on the sole basis that the plan in its entirety is outdated: *Provided further*, That any and all particular activities to be carried out under existing plans may nevertheless be challenged.

CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, for construction, $261,436,000, to remain available until expended, of which $25,632,000 is for construction and acquisition of buildings and other facilities; and $236,104,000 is for construction of

forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532-538 and 23 U.S.C. 101 and 205: *Provided*, That funds becoming available in fiscal year 1987 under the Act of March 4, 1913 (16 U.S.C. 501), shall be transferred to the General Fund of the Treasury of the United States: *Provided further*, That the Forest Service shall achieve a 5 per centum reduction in the average cost per timber road mile as compared to the adjusted fiscal year 1985 average cost by a combination of the following two actions: (1) the application of road construction standards used to construct or reconstruct Forest Service timber roads, purchaser credit roads, or purchaser elect roads, and (2) reducing the direct personnel cost of designing and constructing timber roads to these standards: *Provided further*, That the Forest Service shall take administrative cost saving actions, including reductions in indirect personnel, overhead charges, and productivity improvements, in fiscal year 1987 in a manner so as to achieve a 5 per centum reduction in the average cost per timber road mile as compared to the adjusted fiscal year 1985 average cost: *Provided further*, That such actions shall be taken so as to achieve these 5 per centum reductions in each Forest Service region.

Pursuant to section (b)(2), the Act of December 23, 1980, Public Law 96-581 (94 Stat. 3372), not to exceed $300,000 from the sale of 18.13 acres to the Flagstaff Medical Regional Center, Flagstaff, Arizona, are hereby appropriated and made available, until expended, to the Forest Service for the specific purpose of contract administration and overruns resulting from the construction of administrative improvements at the Mt. Elden Work Center, Flagstaff, Arizona: *Provided*, That the Secretary of Agriculture shall ensure that outlays associated with such action shall not cause the total outlays during fiscal year 1987 from Forest Service land acquisition and construction activities and construction activities in region 3 (including Arizona and New Mexico) to exceed the total that otherwise would have occurred as a result of enactment of this or previous appropriations Acts.

There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account), $9,915,000 to be transferred to the Forest Service for road construction to serve the Mount St. Helens National Volcanic Monument, Washington: *Provided*, That the funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except the Federal share of the cost of this project shall be 100 per centum, and such funds shall remain available until expended: *Provided further*, That the foregoing shall not alter the amount of funds or contract authority that would otherwise be available for road construction to serve any State other than the State of Washington.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $49,236,000, to be derived from the Land and Water Conservation Fund, and $3,000,000 for acquisition of land and interests therein in the Columbia River Gorge, Oregon and Washington, as depicted on a map entitled

"Columbia Gorge Acquisitions—1986" on file with the Forest Service, pursuant to the Department of Agriculture Organic Act of 1956 (7 U.S.C. 428(a)), to remain available until expended.

ACQUISITION OF LANDS FOR NATIONAL FORESTS

SPECIAL ACTS

For acquisition of land within the exterior boundaries of the Cache and Uinta National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, and Cleveland National Forests, California, as authorized by law, $966,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, pursuant to section 401(b)(1) of Public Law 94-579, as amended, to remain available until expended.

MISCELLANEOUS TRUST FUNDS

For expenses authorized by 16 U.S.C. 1643(b), $90,000 to remain available until expended, to be derived from the fund established pursuant to the above Act.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 245 passenger motor vehicles of which eight will be used primarily for law enforcement purposes and of which 235 shall be for replacement only, of which acquisition of 148 passenger motor vehicles shall be from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed two for replacement only, and acquisition of 58 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) uniform allowances for each uniformed employee of the Forest Service, not in excess of $400 annually; (d) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (e) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (f) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note); and (g) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate and the Committee on Agriculture in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be advanced to the National Forest System appropriation for the emergency rehabilitation of burned-over lands under its jurisdiction.

Appropriations and funds available to the Forest Service shall be available to comply with the requirements of section 313(a) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1323(a)).

The appropriation structure for the Forest Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to reimburse employees for the cost of State licenses and certification fees pursuant to their Forest Service position and that are necessary to comply with State laws, regulations, and requirements.

Notwithstanding any other provision of law, the Secretary of Agriculture is hereafter authorized to use from any receipts from the sale of timber a sum equal to the cost of construction of roads under the purchaser election program as described and authorized in section 14(i) of the National Forest Management Act of 1976.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Office of International Cooperation and Development in connection with forest and rangeland research, and technical information and assistance in foreign countries.

Funds previously appropriated for timber salvage sales may be recovered from receipts deposited for use by the applicable national forest and credited to the Forest Service Permanent Appropriations to be expended for timber salvage sales from any national forest: *Provided*, That no less than $26,000,000 shall be made available to the Forest Service for obligation in fiscal year 1987 from the Timber Salvage Sales Fund appropriation.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprograming procedures contained in House Report 99-714.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Funds available to the Forest Service shall be available to conduct a program of not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408.

The Forest Service is authorized and directed to negotiate, within 90 days after the enactment of this Act, settlement of claims against

the United States resulting from a forest fire in the Black Hills National Forest: *Provided*, That notwithstanding any other provision of law, the Secretary of the Treasury is authorized and directed to pay the amount of the settlement from the Claims, Judgments, and Relief Act Fund (Public Law 95-26).

In order to provide for more comprehensive and effective management, the exterior boundary of the Gifford Pinchot National Forest in the State of Washington is hereby modified as generally depicted on a map entitled "Boundary Modification, Gifford Pinchot National Forest", dated August 1986. Such map and legal description of the boundary modification of said National Forest shall be on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture and in appropriate field offices of that agency. This boundary modification shall not affect valid existing rights or interests in existing land use authorizations.

No more than $500,000 made available to the Forest Service for obligation in fiscal year 1987 shall be expended to support Washington office staff in the development of the RPA: *Provided*, That this shall not reduce funds available for the development of forest plans pursuant to the National Forest Management Act of 1976.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

The Secretary of Energy pursuant to the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577), shall—

(1) no later than thirty days after the date of the enactment of this Act, publish in the Federal Register a notice soliciting statements of interest in, and informational proposals for, projects meeting the cost-sharing criteria contained under this head in Public Law 99-190 and employing emerging clean coal technologies which are capable of retrofitting, repowering, or modernizing existing facilities, which statements and informational proposals are to be submitted to the Secretary within sixty days after the publication of such notice; and

(2) no later than March 6, 1987, submit to Congress a summary report of statements of interest and informational proposals received and no later than one hundred and twenty days after the receipt of such statements and proposals submit to Congress a report that analyzes the information contained in such statements of interest and informational proposals and assesses the potential usefulness and commercial viability of each emerging clean coal technology for which a statement of interest or informational proposal has been received.

Notwithstanding guidance provided by the Department in the February 17, 1986 Clean Coal Technology Program Opportunity Notice, funds expended by a private sector participant during the period of Congressional review or approval of the projects selected by the Department for agreements may be eligible for cost-sharing, as appropriate, commencing immediately after a full and comprehensive report on the project in question is submitted to the Congress for a 30-day review pursuant to the Administrative Provisions of the Department of Energy in this Act: *Provided*, That such cost-sharing may only be reimbursed after the Congress has approved the project or the 30-day review period has elapsed and the

agreement executed by the Department: *Provided further*, That in no case shall funds expended by the private sector during the review period be eligible for cost-sharing reimbursement of any project disapproved by the Congress.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, $295,866,000, to remain available until expended, of which $221,000 is for the functions of the Office of the Federal Inspector for the Alaska Natural Gas Transportation System established pursuant to the authority of Public Law 94-586 (90 Stat. 2908-2909), $411,000 to be derived by transfer from unobligated balances in the "Permitting and enforcement" account of the Federal Inspector for the Alaska Gas Pipeline, and $2,074,000 to be derived by transfer from unobligated balances in the "Fossil energy construction" account, and in addition, $437,000 to be derived by transfer from amounts derived from fees for guarantees of obligations collected pursuant to section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5919), and deposited in the "Energy security reserve" established by Public Law 96-126: *Provided*, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas.

Of the funds herein provided, $26,500,000 is for implementation of the June 1984 multiyear, cost-shared magnetohydrodynamics program targeted on proof-of-concept testing: *Provided further*, That 20 per centum private sector cash or in-kind contributions shall be required for obligations in fiscal year 1987, and for each subsequent fiscal year's obligations private sector contributions shall increase by 5 per centum over the life of the proof-of-concept plan: *Provided further*, That existing facilities, equipment, and supplies, or previously expended research or development funds are not cost-sharing for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further*, That cost-sharing shall not be required for the costs of constructing or operating government-owned facilities or for the costs of Government organizations, National Laboratories, or universities and such costs shall not be used in calculating the required percentage for private sector contributions: *Provided further*, That private sector contribution percentages need not be met on each contract but must be met in total for each fiscal year.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserves activities, including the purchase of not to exceed 1 passenger motor vehicle, for replacement only, $122,177,000, to remain available until expended.

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $280,129,000, to remain available until expended, of which $10,000,000 shall be available for a grant for an energy demonstration and research facility at Tufts University when authorized by an Act of Congress: *Provided*, That award of such grant may be made only upon approval of an appropriate technical review panel convened by the Department of Energy for the specific purpose of reviewing such grant application and subject to conditions, if any, contained in legislation authorizing such project, and of which $112,450,000 for the Weatherization Assistance Program authorized by Part A of the Energy Conservation in Existing Buildings Act of 1976 (42 U.S.C. 6861 et seq.) and the Institutional Conservation Program authorized by Part G of title III of the Energy Policy and Conservation Act (42 U.S.C. 6371 et seq.) shall be available effective March 1, 1987, only in such sums (up to a total of $112,450,000) as are equal to the difference between $200,000,000 and the excess amount for fiscal year 1987 disbursed by the Secretary of Energy for use in energy conservation programs under the provisions of section 3003(d) of subtitle A of title III of the conference agreement on H.R. 5300, the Omnibus Budget Reconciliation Act of 1986, or equivalent legislation enacted into law by March 1, 1987: *Provided further*, That if no such legislation is enacted into law by March 1, 1987, effective such date, such sums ($112,450,000) shall be immediately available to be derived from amounts held administratively in escrow by the Secretary of Energy pending restitution for actual or alleged petroleum product violations under the Emergency Petroleum Allocation Act of 1973 or the Economic Stabilization Act of 1970 (and the regulations issued thereunder): *Provided further*, That $2,000,000 of the amount provided under this heading shall be available for continuing a research and development initiative with the National Laboratories for new technologies up to proof-of-concept testing to increase significantly the energy efficiency of processes that produce steel: *Provided further*, That obligation of funds for these activities shall be contingent on an agreement to provide cash or in-kind contributions to the initiative or to other collaborative research and development activities related to the purpose of the initiative equal to 30 percent of the amount of Federal Government obligations: *Provided further*, That existing facilities, equipment, and supplies, or previously expended research or development funds are not acceptable as contributions for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further*, That the total Federal expenditure under this proviso shall be repaid up to one and one-half times from the proceeds of the commercial sale, lease, manufacture, or use of technologies developed under this proviso, at a rate of one-fourth of all net proceeds.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, $23,400,000.

EMERGENCY PREPAREDNESS

For necessary expenses in carrying out emergency preparedness activities, $6,044,000.

STRATEGIC PETROLEUM RESERVE

For expenses necessary to carry out the provisions of sections 151 through 166 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), $147,433,000, to remain available until expended.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $60,301,000.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: *Provided*, That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further*, That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further*, That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

The Secretary of Energy may transfer to the Emergency Preparedness appropriation such funds as are necessary to meet any unforeseen emergency needs from any funds available to the Department of Energy from this Act.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and XXI and section 338G of the Public Health Service Act with respect to the Indian Health Service, including hire of passenger motor vehicles and aircraft; purchase of reprints; purchase and erection of portable buildings; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; $841,809,000: *Provided*, That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall remain available until September 30, 1988; and $10,000,000 shall remain available until expended, for the establishment of an Indian Catastrophic Health Emergency Fund (hereinafter referred to as the "Fund"). Hereafter, the Fund is to cover the Indian Health Service portion of the medical expenses of catastrophic illness falling within the responsibility of the Service and shall be administered by the Secretary of Health and Human Services, acting through the central office of the Indian Health Service. No part of the Fund or its administration shall be subject to contract or grant under the Indian Self-Determination and Education Assistance Act (Public Law 93-638). There shall be deposited into the Fund all amounts recovered under the authority of the Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.), which shall become available for obligation upon receipt and which shall remain available for obligation until expended. The Fund shall not be used to pay for health services provided to eligible Indians to the extent that alternate Federal, State, local, or private insurance resources for payment: (1) are available and accessible to the beneficiary; or (2) would be available and accessible if the beneficiary were to apply for them; or (3) would be available and accessible to other citizens similarly situated under Federal, State, or local law or regulation or private insurance program notwithstanding Indian Health Service eligibility or residency on or off a Federal Indian reservation. Funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further*, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available until September 30, 1988, for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, construction of new facilities, or major renovation of existing Indian Health Service facilities): *Provided further*, That funding contained herein, and in any earlier appropriations Acts for scholarship programs under section 103 of the Indian Health Care Improvement Act and section 338G of the Public Health Service Act with respect to the Indian Health Service shall remain available for expenditure until September 30, 1988.

INDIAN HEALTH FACILITIES

For construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of portable buildings, purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, $65,555,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem equivalent to the rate for GS-18, and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902), and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: *Provided,* That none of the funds appropriated under this Act to the Indian Health Service shall be available for the initial lease of permanent structures without advance provision therefor in appropriations Acts: *Provided further,* That non-Indian patients may be extended health care at all Indian Health Service facilities, if such care can be extended without impairing the ability of the Indian Health Service to fulfill its responsibility to provide health care to Indians served by such facilities and subject to such reasonable charges as the Secretary of Health and Human Services shall prescribe, the proceeds of which, together with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651-53), shall be deposited in the fund established by sections 401 and 402 of the Indian Health Care Improvement Act: *Provided further,* That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: *Provided further,* That with the exception of service units which currently have a billing policy, the Indian Health Service shall not initiate any further action to bill Indians in order to collect from third-party payers nor to charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy: *Provided further,* That the Secretary of Health and Human Services may authorize special retention pay under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve officer for the period during which the officer is obligated under section 338B of the Public Health Service Act and assigned and providing direct health services or serving the officer's obligation as a specialist: *Provided further,* That hereafter the Indian Health Service may seek subrogation of claims including but not limited to auto accident claims, including no-fault claims, personal injury, disease, or disability claims, and worker's compensation claims, the proceeds of which shall be credited to the funds established by sections 401 and 402 of the Indian Health Care Improve-

ment Act: *Provided further,* That notwithstanding any other provision of law or regulation, for purposes of acquiring sites for new hospital facilities in Anchorage, Alaska, and in Kotzebue, Alaska, the Secretary of Health and Human Services may exchange any or all interests in any land administered by the Secretary in Alaska for any or all interests in any land of the State of Alaska, any political subdivision of the State, or any corporation, including the University of Alaska and may receive money if necessary to equalize the exchange: *Provided further,* That any such receipts shall be credited to the Indian Health facilities appropriation and be used to offset the cost of construction of these two facilities.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, the Indian Education Act, $64,036,000 of which $47,200,000 shall be for part A and $14,568,000 shall be for parts B and C: *Provided,* That the amounts available pursuant to section 423 of the Act shall remain available for obligation until September 30, 1988: *Provided further,* That funds appropriated for fiscal year 1987 under this or any other Act to carry out part A of title IV of Public Law 92-318 (Indian Education Act) shall be distributed under the same proof of eligibility requirements as applied in fiscal year 1986.

OTHER RELATED AGENCIES

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Navajo and Hopi Indian Relocation Commission as authorized by Public Law 93-531, $22,335,000, to remain available until expended, for operating expenses of the Commission: *Provided,* That none of the funds contained in this or any other Act may be used to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further,* That no relocatee will be provided with more than one new or replacement home: *Provided further,* That the Commission shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d-10: *Provided further,* That for certified eligible households for whom a benefit level has not been determined, such level shall hereafter be determined consistent with the interpretation of 25 U.S.C. 640d-14 issued by the Solicitor of the Department of the Interior on August 25, 1986.

The Commission shall review the eligibility of all households certified as eligible who have not received relocation benefits and shall decertify any household which was certified contrary to law or regulation: *Provided,* That those who are decertified are to be

provided the opportunity to appeal that decision in accordance with 25 CFR 700.305.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed ten years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; $183,920,000, including such funds as may be necessary to support American overseas research centers: *Provided,* That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, $2,500,000, to remain available until expended.

RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of restoration and renovation of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $12,975,000, to remain available until expended: *Provided,* That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price: *Provided further,* That notwithstanding any other provisions of law, the Secretary of the Smithsonian Institution is authorized to expend and/or transfer to the State of Arizona, the counties of Santa Cruz and/or Pima, a sum not to exceed $100,000 within available funds for the purpose of assisting in the construction or maintenance of an access to the Whipple Observatory.

CONSTRUCTION

For necessary expenses to construct, equip, and furnish the Center for African, Near Eastern, and Asian Cultures in the area south of the original Smithsonian Institution Building, and a research laboratory and conference facility at the Smithsonian Tropical Research Institute in Panama, $6,095,000, to remain available until expended.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901-5902); purchase, or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $34,607,000, of which not to exceed $2,420,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds, and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, $2,400,000, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price: *Provided further*, That unexpended balances of amounts previously appropriated for this purpose under the heading "Salaries and expenses, National Gallery of Art" may be transferred to and merged with this appropriation and accounted for as one appropriation for the same time period as originally enacted.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356), including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $3,322,000.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $136,661,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $28,420,000, to remain available until September 30, 1988, to the National Endowment for the Arts, of which $20,000,000 shall be available for purposes of section 5(l): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $109,990,000 shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $28,500,000 to remain available until September 30, 1988, of which $16,500,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99-190 (99 Stat. 1261; 20 U.S.C. 956a), as amended, $4,000,000: *Provided*, That Public Law 99-190 (99 Stat. 1261) is amended under this heading as follows:

(1) in the first paragraph, strike the words "which are engaged primarily in" and insert in lieu thereof "whose primary purpose is",

(2) in the second paragraph, strike the words "an annual operating budget" and insert in lieu thereof "annual income, exclusive of Federal funds,",

(3) in the fourth paragraph, strike the words "operating budget" and insert in lieu thereof "annual income, exclusive of Federal funds,", and

(4) in the fourth paragraph, strike the words "operating budgets" and insert in lieu thereof "annual income, exclusive of Federal funds,".

INSTITUTE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, $21,250,000: *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions: *Provided further*, That the Museum Services Board shall not meet more than three times during fiscal year 1987.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided*, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $450,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing an Advisory Council on Historic Preservation, Public Law 89-665, as amended, $1,533,000: *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71-71i), including services as authorized by 5 U.S.C. 3109, $2,684,000.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92-332 (86 Stat. 401), $5,000, to remain available until September 30, 1988.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17(a) of Public Law 92-578, as amended, $2,397,000 for operating and administrative expenses of the Corporation.

PUBLIC DEVELOPMENT

For public development activities and projects in accordance with the development plan as authorized by section 17(b) of Public Law 92-578, as amended, $3,924,000, to remain available until expended.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96-388, $2,040,000: *Provided*, That persons other than members of the United States Holocaust Memorial Council may be designated as members of committees associated with the United States Holocaust Memorial Council subject to appointment by the Chairman of the Council: *Provided further*, That any persons so designated shall serve without cost to the Federal Government: *Provided further*, That none of these funds shall be available for the compensation of Executive Level V or higher positions: *Provided further*, That the Chairman of the Council may waive any Council bylaw when the Chairman determines such waiver will be in the best interest of the Council: *Provided further*, That immediately after taking such action the Chairman shall send written notice to every voting member of the Council and such waiver shall become final if 30 days after the Chairman has sent such notice, a majority of Council members do not disagree in writing with the action taken.

TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law

SEC. 302. No part of any appropriation under this Act shall be available to the Secretaries of the Interior and Agriculture for use for any sale hereafter made of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the

purchaser: *Provided*, That this limitation shall not apply to specific quantities of grades and species of timber which said Secretaries determine are surplus to domestic lumber and plywood manufacturing needs.

SEC. 303. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided*, That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 304. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 305. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 306. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 307. Except for lands described by sections 105 and 106 of Public Law 96-560, section 103 of Public Law 96-550, section 5(d)(1) of Public Law 96-312, and except for land in the State of Alaska, and lands in the national forest system released to management for any use the Secretary of Agriculture deems appropriate through the land management planning process by any statement or other Act of Congress designating components of the National Wilderness Preservation System now in effect or hereinafter enacted, and except to carry out the obligations and responsibilities of the Secretary of the Interior under section 17(k)(1) (A) and (B) of the Mineral Leasing Act of 1920 (30 U.S.C. 226), none of the funds provided in this Act shall be obligated for any aspect of the processing or issuance of permits or leases pertaining to exploration for or development of coal, oil, gas, oil shale, phosphate, potassium, sulphur, gilsonite, or geothermal resources on Federal lands within any component of the National Wilderness Preservation System or within any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning in Executive Communication 1504, Ninety-sixth Congress (House Document numbered 96-119); or within any lands designated by Congress as wilderness study areas or within Bureau of Land Management wilderness study areas: *Provided*, That nothing in this section shall prohibit the expenditure of funds for any aspect of the processing or issuance of permits pertaining to exploration for or development of the mineral resources described in this section, within any component of the National Wilderness Preservation System now in effect or hereinafter enacted, any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning, within any lands designated by Congress as wilderness study areas, or Bureau of Land Management wilderness study areas, under valid existing rights, or leases validly issued in accordance with all applicable Federal, State, and local laws or valid mineral rights in existence prior to October 1, 1982: *Provided further*, That funds provided in this Act may be used by the Secretary of Agriculture in any area of

National Forest lands or the Secretary of the Interior to issue under their existing authority in any area of National Forest or public lands withdrawn pursuant to this Act such permits as may be necessary to conduct prospecting, seismic surveys, and core sampling conducted by helicopter or other means not requiring construction of roads or improvement of existing roads or ways, for the purpose of gathering information about and inventorying energy, mineral, and other resource values of such area, if such activity is carried out in a manner compatible with the preservation of the wilderness environment: *Provided further*, That seismic activities involving the use of explosives shall not be permitted in designated wilderness areas: *Provided further*, That funds provided in this Act may be used by the Secretary of the Interior to augment recurring surveys of the mineral values of wilderness areas pursuant to section 4(d)(2) of the Wilderness Act and acquire information on other national forest and public land areas withdrawn pursuant to this Act, by conducting in conjunction with the Secretary of Energy, the National Laboratories, or other Federal agencies, as appropriate, such mineral inventories of areas withdrawn pursuant to this Act as he deems appropriate. These inventories shall be conducted in a manner compatible with the preservation of the wilderness environment through the use of methods including core sampling conducted by helicopter; geophysical techniques such as induced polarization, synthetic aperture radar, magnetic and gravity surveys; geochemical techniques including stream sediment reconnaissance and x-ray diffraction analysis; land satellites; or any other methods he deems appropriate. The Secretary of the Interior is hereby authorized to conduct inventories or segments of inventories, such as data analysis activities, by contract with private entities deemed by him to be qualified to engage in such activities whenever he has determined that such contracts would decrease Federal expenditures and would produce comparable or superior results: *Provided further*, That in carrying out any such inventory or surveys, where National Forest System lands are involved, the Secretary of the Interior shall consult with the Secretary of Agriculture concerning any activities affecting surface resources: *Provided further*, That funds provided in this Act may be used by the Secretary of the Interior to issue oil and gas leases for the subsurface of any lands designated by Congress as wilderness study areas, that are immediately adjacent to producing oil and gas fields or areas that are prospectively valuable. Such leases shall allow no surface occupancy and may be entered only by directional drilling from outside the wilderness study area or other nonsurface disturbing methods.

SEC. 308. None of the funds provided in this Act shall be used to evaluate, consider, process, or award oil, gas, or geothermal leases on Federal lands in the Mount Baker-Snoqualmie National Forest, State of Washington, within the hydrographic boundaries of the Cedar River municipal watershed upstream of river mile 21.6, the Green River municipal watershed upstream of river mile 61.0, the North Fork of the Tolt River proposed municipal watershed upstream of river mile 11.7, and the South Fork Tolt River municipal watershed upstream of river mile 8.4.

SEC. 309. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless such assessments and the basis therefor are presented to the

Committees on Appropriations and are approved by such committees.

SEC. 310. Employment funded by this Act shall not be subject to any personnel ceiling or other personnel restriction for permanent or other than permanent employment except as provided by law.

SEC. 311. Notwithstanding any other provisions of law, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Energy, and the Secretary of the Smithsonian Institution are authorized to enter into contracts with State and local governmental entities, including local fire districts, for procurement of services in the presuppression, detection, and suppression of fires on any units within their jurisdiction.

SEC. 312. None of the funds provided by this Act to the United States Fish and Wildlife Service may be obligated or expended to plan for, conduct, or supervise deer hunting on the Loxahatchee National Wildlife Refuge.

SEC. 313. None of the funds made available to the Department of the Interior or the Forest Service during fiscal year 1987 by this or any other Act may be used to implement the proposed jurisdictional interchange program until enactment of legislation which authorizes the jurisdictional interchange.

SEC. 314. Not to exceed $500,000 appropriated or made available under this or any other Act may be used by the executive branch for soliciting proposals, preparing or reviewing studies or drafting proposals designed to aid in or achieve the transfer out of Federal ownership, management or control in whole or in part the facilities and functions of Naval Petroleum Reserve Numbered 1 (Elk Hills), located in Kern County, California, established by Executive order of the President, dated September 2, 1912, and Naval Petroleum Reserve Numbered 3 (Teapot Dome), located in Wyoming, established by Executive order of the President, dated April 30, 1915: *Provided*, That a report on any such studies shall be submitted to the Speaker of the House of Representatives and the President of the Senate no later than June 30, 1987.

SEC. 315. Notwithstanding any other provision of law, funds appropriated by this or any other Act shall be available to the Trust Territory of the Pacific Islands on the same basis as such funds were available during fiscal year 1986 until alternative funding is available under the terms of the Compact of Free Association Act of 1985 (Public Law 99-239).

SEC. 316. Notwithstanding any other provision of law, any lease for those Federal lands within the Gallatin and Flathead National Forests which were affected by case CV-82-42-BU of the United States District Court for the District of Montana, Butte Division, for which the Secretary of the Interior or the Secretary of Agriculture has directed or assented to the suspension of operations and production pursuant to section 39 of the Act of February 25, 1920 (30 U.S.C. 184) shall be excepted from the limits on aggregate acreage set out in that Act: *Provided*, That any person, association or corporation receiving relief under this section shall bring its aggregate acreage into compliance with the provisions of the Act of February 25, 1920 (30 U.S.C. 184) within six months from the date the suspension of operation and production ends.

SEC. 317. No funds appropriated by this Act shall be available for the implementation or enforcement of any rule or regulation of the United States Fish and Wildlife Service, Department of the Interior, requiring the use of steel shot in connection with the hunting of

waterfowl in any State of the United States unless the appropriate State regulatory authority approves such implementation.

SEC. 318. Section 221 of the Biomass Energy and Alcohol Fuels Act of 1980 (Public Law 96-294; 42 U.S.C. 8821) is amended by striking out "June 30, 1986" and inserting in lieu thereof "June 30, 1987".

SEC. 319. Section 12(b)(7)(iv) of the Act of January 2, 1976 (Public Law 94-204), as amended, is amended by striking the word "ten" and inserting in lieu thereof the word "seven".

SEC. 320. To assure that National Forest and Bureau of Land Management timber included in sales defaulted by the purchaser, or returned under the Federal Timber Contract Payment Modification Act (Public Law 98-478), is available for resale in a timely manner, such sales shall be subject only to one level of administrative appeal. This limitation shall not abridge the right of judicial review. Actions on such administrative appeals should be completed within 90 days of receipt of the notice of appeal. Sales that are reoffered shall be modified, including minor additions or deletions, as appropriate, to reduce adverse environmental impacts, pursuant to current land management plans and guidelines, and such modifications in themselves should not be construed to require the preparation of new or supplemental environmental assessments. This section shall not apply to any decision on the determination of damages due to the Government for defaulted or canceled contracts.

This Act may be cited as the "Department of the Interior and Related Agencies Appropriations Act, 1987".

(i) Such amounts as may be necessary for programs, projects, or activities provided for in H.R. 5233, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1987, to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-960) as filed in the House of Representatives on October 2, 1986, as if enacted into law: *Provided,* That funds made available under such Act, and the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1986 (Public Law 99-178; 99 Stat. 1103), under the paragraph of each Act entitled "STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS" that are authorized under section 6 of the Wagner-Peyser Act (29 U.S.C. 49e) may be used to carry out the targeted jobs tax credit program under section 51 of the Internal Revenue Code of 1986.

(j) Such amounts as may be necessary for programs, projects, or activities provided for in H.R. 5203, the Legislative Branch Appropriations Act, 1987, to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-805) as filed in the House of Representatives on August 15, 1986, as if enacted into law.

(k) Such amounts as may be necessary for programs, projects or activities provided for in the Military Construction Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriation Act:

AN ACT

Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1987, and for other purposes.

TITLE I—MILITARY CONSTRUCTION

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1987, for military construction functions administered by the Department of Defense, and for other purposes, namely:

MILITARY CONSTRUCTION, ARMY

(INCLUDING RESCISSION)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, and for construction and operation of facilities in support of the functions of the Commander-in-Chief, $1,260,110,000, to remain available until September 30, 1991: *Provided*, That of this amount, not to exceed $131,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the amount available for study, planning, design, architect and engineer services, $1,000,000 shall be available for the design of facilities at Fort Benning, Georgia necessary due to the establishment of the United States Army School of the Americas at Fort Benning: *Provided further*. That of the funds available for obligation for "Military Construction, Army" under Public Law 99-173, $36,400,000 is hereby rescinded. In addition, for construction at Fort Drum, New York, there is appropriated in advance to be available for obligation in fiscal year 1988, $221,000,000, to remain available until September 30, 1992, and to be available for obligation in fiscal year 1989, $214,000,000. to remain available until September 30, 1993

MILITARY CONSTRUCTION, NAVY

(INCLUDING RESCISSION)

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $1,376,715,000, to remain available until September 30. 1991: *Provided*, That of this amount, not to exceed $143,770,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds available for obligation for "Military

Construction, Navy" under Public Law 99-173, $25,800,000 is hereby rescinded.

MILITARY CONSTRUCTION, AIR FORCE

(INCLUDING RESCISSION)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $1,242,530,000, to remain available until September 30, 1991: *Provided*, That of this amount, not to exceed $117,260,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds available for obligation for "Military Construction, Air Force" under Public Law 99-173, $24,700,000 is hereby rescinded.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $534,170,000, to remain available until September 30, 1991: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further*, That of the amount appropriated, not to exceed $83,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

For the United States share of the cost of North Atlantic Treaty Organization Infrastructure programs for the acquisition of personal property, for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts and section 2806 of title 10, United States Code, $232,000,000, to remain available until expended.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construc-

tion authorization Acts, $140,879,000, to remain available until September 30, 1991.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $148,925,000, to remain available until September 30, 1991. In addition, notwithstanding any other provision of law, $5,000,000 shall be available only for transfer in fiscal year 1988 to the Federal Highway Administration of the Department of Transportation as the first increment of a four year program for construction of a defense access road under title 23, United States Code, section 210 at Greater Pittsburgh ANG base; and, notwithstanding any other provision of law, the Secretary of the Air Force may assure the Secretary of Transportation that funds will be provided for the remaining three annual increments of $5,000,000 each.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $86,700,000, to remain available until September 30, 1991.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $44,500,000, to remain available until September 30, 1991.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization acts, $58,900,000, to remain available until September 30, 1991.

FAMILY HOUSING, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $379,680,000; for Operation and maintenance, $1,209,914,000; for debt payment, $8,063,000; in all $1,597,657,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1991.

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Family Housing, Navy and Marine Corps

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $171,392,000; for Operation and maintenance, $528,230,000; for debt payment, $9,071,000; in all $708,693,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1991.

Family Housing, Air Force

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $104,840,000; for Operation and maintenance, $703,215,000; for debt payment, $7,365,000; in all $815,420,000: *Provided*, That the amount provided for construction shall remain available until September 30,1991.

Family Housing, Defense Agencies

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, leasing, and minor construction, as authorized by law, as follows: for Construction, $240,000; for Operation and maintenance, $16,403,000; in all $16,643,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1991.

Homeowners Assistance Fund, Defense

For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, as amended) $2,000,000

GENERAL PROVISIONS

Sec. 101. None of the funds appropriated in this title shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

Sec. 102. Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

Sec. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States

Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this title may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in this title shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Corps of Engineers or the Naval Facilities Engineering Command, except; (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than $25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in this title shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual military construction appropriation Acts.

SEC. 107. None of the funds appropriated in this title for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in this title may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. No part of the funds appropriated in this title for dredging in the Indian Ocean may be used for the performance of the work by foreign contractors: *Provided*, That the low responsive and responsible bid of a United States contractor does not exceed the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 110. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 111. No part of the funds appropriated in this title may be used to pay the compensation of an officer of the Government of the United States or to reimburse a contractor for the employment of a person for work in the continental United States by any such person if such person is an alien who has not been lawfully admitted to the United States.

SEC. 112. The expenditure of any appropriation under this title for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 113. None of the funds appropriated by this title may be obligated and expended in any way for the express purpose of sale, lease, or rental of any portion of land currently identified as Fort DeRussy, Honolulu, Hawaii.

SEC. 114. None of the funds in this title may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 115. None of the funds appropriated in this title may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan or in any NATO member country, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 116. None of the funds appropriated in this title for military construction in the United States, territories and possessions in the Pacific and on Kwajalein Island may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 117. The Secretary of Defense is to inform the Committees on Appropriations and Committees and Armed Services of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

(TRANSFER OF FUNDS)

SEC. 118. Unexpended balances in the Military Family Housing Management Account established pursuant to section 2831 of title 10, United States Code, as well as any additional amounts which would otherwise be transferred to the Military Family Housing Management Account during fiscal year 1987, shall be transferred to the appropriations for Family Housing provided in this title, as determined by the Secretary of Defense, based on the sources from which the funds were derived, and shall be available for the same purposes, and for the same time period, as the appropriation to which they have been transferred.

SEC. 119. Not more than 20 per centum of the appropriations in this title which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 120. Funds appropriated to the Department of Defense for construction in prior years are hereby made available for construction authorized for each such military department by the authorizations enacted into law during the second session of the Ninety-ninth Congress.

SEC. 121. For Transfer by the Secretary of Defense to and from appropriations and funds not merged pursuant to subsection 1552(a)(1) of title 31 of the United States Code and available for obligation or expenditure during fiscal year 1987 or thereafter, for military construction or expenses of family housing for the military departments and Defense agencies, in order to maintain the budgeted level of operations for such appropriations and thereby eliminate substantial gains and losses to such appropriations caused by fluctuations in foreign currency exchange rates that vary substantially from those used in preparing budget submissions, an appropriation, to remain available until expended: *Provided*, That funds transferred from this appropriation shall be merged with and be available for the same purpose, and for the same time period, as the

appropriation or fund to which transferred, and funds transferred to this appropriation shall be merged with, and available for the purpose of this appropriation until expended: *Provided further*, That transfers may be made from time to time from this appropriation to the extent the Secretary of Defense determines it may be necessary to do so to reflect downward fluctuations in the currency exchange rates from those used in preparing the budget submissions for such appropriations, but transfers shall be made from such appropriations to this appropriation to reflect upward fluctuations in currency exchange rates to prevent substantial net gains in such appropriations: *Provided further*, That authorizations or limitations now or hereafter contained within appropriations or other provisions of law limiting the amounts that may be obligated or expended for military construction and family housing expenses are hereby increased to the extent necessary to reflect downward fluctuations in foreign currency exchange rates from those used in preparing the applicable budget submission: *Provided further*, That for the purposes of the appropriation "Foreign Currency Fluctuations, Construction, Defense" the foreign currency rates used in preparing budget submissions shall be the foreign currency exchange rates as adjusted or modified, as reflected in applicable Committee reports on the Acts making appropriations for military construction for the Department of Defense: *Provided further*, That the Secretary of Defense shall provide an annual report to the Congress on all transfers made to or made from this appropriation: *Provided further*, That contracts or other obligations entered into payable in foreign currencies may be recorded as obligations based on the currency exchange rates used in preparing budget submissions and adjustments to reflect fluctuations in such rates may be recorded as disbursements are made: *Provided further*, That no later than the end of the second fiscal year following the fiscal year for which appropriations for Family Housing Operation and Maintenance have been made available to the Department of Defense, and no later than the end of the sixth fiscal year following the fiscal year for which the appropriations for Military Construction and Family Housing Construction have been made available to the Department of Defense, unobligated balances of such appropriations may be transferred into the appropriation "Foreign Currency Fluctuations, Construction, Defense": *Provided further*, That, at the discretion of the Secretary of Defense, any savings generated in the military construction and family housing programs may be transferred to this appropriation.

SEC. 122. The Secretary of the Navy shall enter into negotiations with shipyards located on Sampson Street, San Diego, California, and on Fort George Island, Jacksonville, Florida, to determine what liability (if any) the United States has for damages suffered by such a shipyard resulting from facility improvements made by such shipyard during 1982 in good faith reliance on representations and assurances provided to officials of such shipyard by representatives of the Department of the Navy in 1981 and 1982 with respect to furture work of the Department of the Navy at such shipyard.

SEC. 123. For Military Construction for the strategic homeporting initiative, no more than $799,000,000 shall be appropriated or obligated through fiscal year 1991.

SEC. 124. Of the total amount of budget authority provided for fiscal year 1987 by this Act that would otherwise be available for consulting services, management and professional services, and spe-

cial studies and analyses, 10 per centum of the amount intended for such purposes in the President's budget for 1987, as amended, for any agency, department or entity subject to apportionment by the Executive shall be placed in reserve and not made available for obligation or expenditure: *Provided,* That this section shall not apply to any agency, department or entity whose budget request for 1987 for the purposes stated above did not amount to $5,000,000.

SEC. 125. (a) None of the funds appropriated in this Act may be available for any country if the President determines that the government of such country is failing to take adequate measures to prevent narcotic drugs or other controlled substances cultivated or produced or processed illicitly, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country of United States personnel or their dependents, or from being smuggled into the United States. Such prohibition shall continue in force until the President determines and reports to the Congress in writing that—

(1) the government of such country has prepared and committed itself to a plan presented to the Secretary of State that would eliminate the cause or basis for the application of such country of the prohibition contained in the first sentence; and

(2) the government of such country has taken appropriate law enforcement measures to implement the plan presented to the Secretary of State.

(b) The provisions of subsection (a) shall not apply in the case of any country with respect to which the President determines that the application of the provisions of such subsection would be inconsistent with the national security interests of the United States.

SEC. 126. Section 4, chapter III of Public Law 99-349, dated July 2, 1986, is amended to read as follows: Of the amounts available to the Department of Defense, not to exceed $5,000,000 shall be available for such claims arising from property losses caused by the explosion of Army munitions near Checotah, Oklahoma on August 4, 1985, and claims determined by the Department to be bona fide shall be paid from the funds made available by this section without a determination of legal liability based on an act or omission of an agent or employee of the Federal Government.

SEC. 127. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with a report by February 15, 1987, containing details of the specific actions proposed to be taken by the Department of Defense during fiscal year 1987 to encourage other member nations of the North Atlantic Treaty Organization and Japan to assume a greater share of the common defense burden of such nations and the United States.

This title may be cited as the "Military Construction Appropriations Act, 1987".

TITLE II

CENTRAL AMERICA

PURPOSES

SEC. 201. The purposes of this title are to promote economic and political development, peace, stability and democracy in Central America, to encourage a negotiated resolution of the conflict in the region, and towards these ends, to enable the President to provide

additional economic assistance for the Central American democracies as well as assistance for the Nicaraguan democratic resistance, subject to the terms and conditions of title.

POLICY TOWARD CENTRAL AMERICA

SEC. 202. (a) It is the policy of the United States that—

(1) the building of democracy, the restoration of peace, economic development, the improvement of living conditions, and the application of equal justice under law in Central America are important to the interests of the United States and the community of American States;

(2) the interrelated issues of social and human progress, economic growth, political reform, and regional security must be effectively dealt with to assure a democratic and economically and politically secure Central America; and

(3) the September 1983 Contadora Document of Objectives, which sets forth a framework for negotiating a peaceful settlement to the conflict and turmoil in the region, is to be encouraged and supported.

(b) The United States strongly supports as essential to the objectives set forth in subsection (a)—

(1) a long-term commitment of economic assistance to the Central American democracies in amounts recommended by the National Bipartisan Commission on Central America;

(2) national reconciliation in Nicaragua and the creation of a framework for negotiating a peaceful, democratic settlement to the Nicaraguan conflict; and

(3) efforts to reach a comprehensive and verifiable final agreement based on the Contadora Document of Objectives, including efforts to encourage the Government of Nicaragua to pursue a dialogue with the representatives of all elements of the Nicaraguan democratic opposition for the purpose of achieving a democratic political settlement of the conflict, including free and fair elections

POLICY TOWARD THE GOVERNMENT OF NICARAGUA

SEC. 203. (a) United States policy toward the Government of Nicaragua shall be based upon that government's responsiveness to continuing concerns affecting the national security of the United States and Nicaragua's neighbors about—

(1) Nicaragua's close military and security ties to Cuba and the Soviet Union and its Warsaw Pact allies including the presence in Nicaragua of military and security personnel from those countries and allies;

(2) Nicaragua's buildup of military forces in numbers disproportionate to those of its neighbors and equipped with sophisticated weapons systems and facilities designed to accommodate even more advanced equipment;

(3) Nicaragua's unlawful support for armed subversion and terrorism directed against the democratically elected governments of other countries;

(4) Nicaragua's internal repression and lack of opportunity for the exercise of civil and political rights which would allow the people of Nicaragua to have a meaningful voice in determining the policies of their government through participation in

regularly scheduled free and fair elections and the establishment of democratic institutions; and

(5) Nicaragua's refusal to negotiate in good faith for a peaceful resolution of the conflict in Central America based upon the comprehensive implementation of the September 1983 Contadora Document of Objectives and, in particular, its refusal to engage in a serious national dialogue with all elements of the Nicaraguan democratic opposition.

(b) The United States will address the concerns described in subsection (a) through economic, political, and diplomatic measures (including efforts to secure the cooperation of other democratic nations in such measures), as well as through support for the Nicaraguan democratic resistance. In order to assure every opportunity for a peaceful resolution of the conflict in Central America, the United States will—

(1) engage in bilateral discussions with the Government of Nicaragua with a view toward facilitating progress in achieving a peaceful resolution of the conflict, if the Government of Nicaragua simultaneously engages in a serious dialogue with representatives of all elements of the Nicaraguan democratic opposition; and

(2) limit the types and amounts of assistance provided to the Nicaraguan democratic resistance and take other positive action in response to steps taken by the Government of Nicaragua toward meeting the concerns described in subsection (a).

(c) The duration of bilateral discussions with the Government of Nicaragua and the implementation of additional measures under subsection (b) shall be determined, after consultation with the Congress, by reference to Nicaragua's actions in response to the concerns described in subsection (a). Particular regard will be paid to whether—

(1) freedom of speech, assembly, religion, and political activity are being respected in Nicaragua and progress is being made toward the holding of regularly scheduled free and fair elections;

(2) there has been a halt to the flow of arms and the introduction of foreign military personnel into Nicaragua, and a withdrawal of all foreign military personnel has begun;

(3) a cease-fire with the Nicaraguan democratic resistance is being respected; and

(4) Nicaragua is refraining from acts of aggression, including support for insurgency and terrorism in other countries.

(d) The actions by the United States under this title in response to the concerns described in subsection (a) are consistent with the right of the United States to defend itself and to assist its allies in accordance with international law and treaties in force. Such actions are directed, not to determine the form or composition of any government of Nicaragua, but to achieve a comprehensive and verifiable agreement among Central American countries, based upon the 1983 Contadora Document of Objectives, including internal reconciliation within Nicaragua based upon democratic principles, without the use of force by the United States.

(e) Notwithstanding any other provision of this title, no member of the United States Armed Forces or employee of any department, agency, or other component of the United States Government may enter Nicaragua to provide military advice, training, or logistical support to paramilitary groups operating inside that country. Noth-

ing in this title shall be construed as authorizing any member or unit of the Armed Forces of the United States to engage in combat against the Government of Nicaragua.

POLICY TOWARD THE NICARAGUAN DEMOCRATIC RESISTANCE

SEC. 204. (a) It is the policy of the United States to assist all groups within the Nicaraguan democratic resistance which—

(1) are committed to work together for democratic national reconciliation in Nicaragua based on the document issued by the six Nicaraguan opposition parties on February 7, 1986, entitled "Proposal to the Nicaraguan Government for a Solution to the Crisis in Our Country"; and

(2) respect international standards of conduct and refrain from violations of human rights or from other criminal acts.

(b) No assistance under this title may be provided to any group that retains in its ranks any individual who has been found to engage in—

(1) gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961); or

(2) drug smuggling or significant misuse of public or private funds.

(c)(1) It is recognized that the Nicaraguan democratic resistance has been broadening its representative base, through the forging of cooperative relationships between the United Nicaraguan Opposition (UNO) and other democratic resistance elements, and has been increasing the responsiveness of military forces to civilian leadership.

(2) The President shall use the authority provided by this title to further the developments described in paragraph (1) and to encourage the Nicaraguan democratic resistance to take additional steps to strengthen its unity, pursue a defined and coordinated program for representative democracy in Nicaragua, and otherwise increase its appeal to the Nicaraguan people.

(d) In furtherance of the policy set out in this section, not less than $10,000,000 of the funds transferred by section 6(a) shall be available only for assistance to resistance forces otherwise eligible and not currently included within UNO, of which amount $5,000,000 shall be available only for the Southern Opposition Bloc (BOS) and $5,000,000 shall be available only for the Indian resistance force known as Misurasata.

ASSISTANCE FOR THE CENTRAL AMERICAN DEMOCRACIES

SEC. 205. (a) There are hereby transferred to the President for assistance to the Central American democracies (Costa Rica, El Salvador, Guatemala, and Honduras) in accordance with the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961; $300,000,000 of unobligated funds from the accounts specified in subsection (b). Amounts transferred under this section shall be administered in accordance with the terms and conditions of chapter 6 of part I of the Foreign Assistance Act of 1961. Notwithstanding any other provision of law, funds made available by this section—

(1) shall be in addition to amounts previously appropriated for the fiscal year 1986 and allocated for assistance to Central American countries, and

(2) shall remain available for obligation until September 30, 1987, except that not less than $100,000,000 shall be obligated on or before September 30, 1986.

(b) Amounts made available by this section shall be transferred from such accounts as the President may designate for which appropriations were made by title II of the Foreign Assistance and Related Programs Appropriations Act, 1986, title IV of the Agriculture, Rural Development and Related Agencies Appropriations Act, 1986, (as contained in Public Law 99-190), and title II of the Urgent Supplemental Appropriations Act, 1985 (Public Law 99-10).

(c)(1) The Secretary of State, the Administrator of the Agency for International Development, and the Director of the Office of Management and Budget, shall—

(A) develop a plan for fully funding the assistance to the Central American democracies (Costa Rica, El Salvador, Guatemala, and Honduras) proposed in the January 1984 report of the National Bipartisan Commission on Central America; and

(B) provide a report describing this plan to the President and the Congress no later than March 1, 1987.

(2) The report required by paragraph (1) shall include an analysis and recommendations, prepared in consultation with the Secretary of Agriculture, on how more effective use can be made of agricultural commodities from the United States in alleviating hunger in Central America and contributing to the economic development of the Central American democracies.

(d)(1) There are hereby transferred to the President out of funds appropriated by the Supplemental Appropriations Act, 1985 (Public Law 99-88), under the heading "Assistance For Implementation of a Contadora Agreement" such sums as the President may require but not more than $2,000,000, to facilitate the participation of Costa Rica, El Salvador, Guatemala, and Honduras in regional meetings and negotiations to promote peace, stability, and security in Central America.

(2) Funds transferred under paragraph (1) shall remain available for the same period of time as such funds would have been available under the Supplemental Appropriations Act, 1985 (Public Law 99-88), but for the enactment of this title.

(e) The Congress reaffirms its support for the establishment of a Central American Development Organization, authorized by section 464 of the Foreign Assistance Act of 1961, as an effective forum for dialogue on, and the continuous review and advancement of, Central America's political, economic, and social development, including the strengthening of democratic pluralism and respect for internationally recognized human rights. Toward this end, not less than $750,000 of the funds transferred by this section should be used to establish the Central American Development Organization and its administrative apparatus so as to ensure that Central American development objectives are encouraged.

ASSISTANCE FOR THE NICARAGUAN DEMOCRATIC RESISTANCE

SEC. 206. (a)(1) The Congress hereby approves the provision o. assistance for the Nicaraguan democratic resistance in accordance with the provisions of this title.

(2) There are hereby tansferred to the President for the purposes of this section $100,000,000 of unobligated funds from such accounts for which appropriations were made by the Department of Defense Appropriations Act, 1986 (as contained in Public Law 99-190), as the President shall designate.

(b) Notwithstanding the Impoundment Control Act of 1974, not more than 40 percent of the funds transferred under subsection (a) may be available for obligation or expenditure in accordance with this title upon the date of its enactment; not more than an additional 20 percent of such funds may be so available no earlier than October 15, 1986, and 15 days after the transmittal to the Congress of the determination required by section 11(c); and not more than the remaining 40 percent may be so available no earlier than February 15, 1987, and 15 days after the transmittal to the Congress of the determination required by section 11(e).

(c) Funds transferred under subsection (a) shall remain available for the same periods of time, but not to exceed September 30, 1987, as such funds would have been available under the Department of Defense Appropriations Act, 1986 (as contained in Public Law 99-190), but for the enactment of this title.

COORDINATION OF AND ACCOUNTABILITY FOR ASSISTANCE TO THE NICARAGUAN DEMOCRATIC RESISTANCE

SEC. 207. (a) The Secretary of State (or his designee) shall be responsible for policy guidance, coordination, and supervision of United States Government activities under this title.

(b) Any agency to which funds transferred under section 6(a) are allocated shall establish standards, procedures and controls necessary to assure that such funds are fully accounted for and are used exclusively for the purposes authorized by this title. Such standards, procedures and controls shall be developed in consultation with the Comptroller General and the appropriate committees of the Congress, and shall include such safeguards as segregation of accounts, monitoring of deliveries, and requirements for the keeping of complete records available for audit by authorized representatives of the United States Government.

FUNDS FOR HUMANITARIAN ASSISTANCE

SEC. 208. (a) Of the amounts transferred under section 6(a), $30,000,000 shall be available only for the provision of humanitarian assistance to the Nicaraguan democratic resistance.

(b) Of the $30,000,000 made available only for purposes of subsection (a), $3,000,000 shall be available only for strengthening programs and activities of the Nicaraguan democratic resistance for the observance and advancement of human rights.

APPLICATION OF EXISTING LAWS

SEC. 209. (a) Except as otherwise provided in this title, funds transferred under section 6(a) shall be available for the purposes described in section 105(a) of the Intelligence Authorization Act for Fiscal Year 1986, and all the requirements, terms, and conditions of such section and sections 101 and 102 of such Act, section 502 of the National Security Act of 1947, and section 106 of the Supplemental Appropriations Act, 1985 (Public Law 99-88), shall be deemed to have been met for such use of such funds.

(b) The use of funds made available under this title is subject to all applicable provisions of law and established procedures relating to the oversight by the Congress of operations of departments and agencies.

(c) Nothing in this title shall be construed as permitting the President to furnish additional assistance to the Nicaraguan democratic resistance from funds other than the funds transferred under section 6(a) or otherwise specifically authorized by the Congress for assistance to the Nicaraguan democratic resistance.

(d) No limitation or restriction contained in section 10 of Public Law 91-672, section 8109 of the Department of Defense Appropriations Act, 1986, section 502 of the National Security Act of 1947, or any other provision of law shall apply to the transfer or use of funds transferred to the President under this title.

USE OF FUNDS AFTER A PEACEFUL SETTLEMENT

SEC. 210. If the President determines and so reports to the Congress that a peaceful settlement of the conflict in Central America has been reached, then—

(1) the unobligated balance, if any, of funds transferred under section 6(a) shall be available for the purposes of relief, rehabilitation, and reconstruction in Central American countries in accordance with the authorities contained in chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to economic support fund assistance);

(2) the President shall terminate any economic embargo of Nicaragua then in effect; and

(3) the President shall take such further actions as appropriate to carry out the policy described in section 2(a)(1) of this title with respect to all Central American countries, including Nicaragua.

INCENTIVES FOR A NEGOTIATED SETTLEMENT

SEC. 211. (a) Assistance to the Nicaraguan democratic resistance under this title shall be provided in a manner designed to encourage the Government of Nicaragua to respond favorably to the many opportunities available for achieving a negotiated settlement of the conflict in Central America. These opportunities include the following proposals:

(1) Six opposition Nicaraguan political parties on February 7, 1986, called for an immediate cease-fire, an effective general amnesty, abolition of the state of emergency agreement on a new electoral process and general elections, effective fulfillment of international commitments for democratization, and observance of implementation of these actions and commitments by appropriate international groups and organizations;

(2) President Reagan on February 10, 1986, offered simultaneous talks between the Government of Nicaragua and all elements of the Nicaraguan democratic opposition in Nicaragua and between the Government of Nicaragua and the United States Government;

(3) President Jose Napoleon Duarte of El Salvador on March 5, 1986, offered an additional dialogue between the Government of El Salvador and the insurgents in El Salvador if the Govern-

ment of Nicaragua would simultaneously engage in a dialogue with all elements of the Nicaraguan democratic opposition; and

(4) The United Nicaraguan Opposition on May 29, 1986, reiterated its support for the six-party proposal described in paragraph (1) as a means to achieve national reconciliation and democratization.

(b)(1) In furtherance of the objectives set forth in subsection (a), and except as provided in subsection (e), assistance to the Nicaraguan democratic resistance under this title shall be limited to the following:

(A) humanitarian assistance (as defined in section 722(g)(5) of the International Security and Development Cooperation Act of 1985);

(B) logistics advice and assistance;

(C) support for democratic political and diplomatic activities;

(D) training, services, equipment and supplies for radio communications, collection, and utilization of intelligence, logistics, and small-unit skills, tactics and operations; and

(E) equipment and supplies necessary for defense against air attacks.

(2) The assistance described in paragraph (1) shall be limited, by type and value, to the matters specified in the classified annex to the communication from the President to the Speaker of the House of Representatives and the President of the Senate dated June 24, 1986.

(3) No weapons or ammunition shall be delivered under this title to the Nicaraguan democratic resistance prior to September 1, 1986.

(c) On and after October 15, 1986, an additional $20,000,000 of the funds transferred under section 6(a) may be made available for obligation and expenditure for assistance to the Nicaraguan democratic resistance 15 days after the President determines and reports to the Congress that—

(1) the Central American countries have not concluded a comprehensive and effective agreement based on the Contadora Document of Objectives;

(2) the Government of Nicaragua is not engaged in a serious dialogue with representatives of all elements of the Nicaraguan democratic opposition, accompanied by a cease-fire and an effective end to the existing constraints on freedom of speech, assembly, religion, and political activity, leading to regularly scheduled free and fair elections and the establishment of democratic institutions; and

(3) there is no reasonable prospect of achieving such agreement, dialogue, cease-fire, and end to constraints described in paragraphs (1) and (2) through further diplomatic measures, multilateral or bilateral, without additional assistance to the Nicaraguan democratic resistance.

(d)(1) Notwithstanding any other provision of this title, on or after October 15, 1986, funds transferred under section 6(a) may be obligated or expended only if the President determines and reports to the Congress that the Nicaraguan democratic resistance groups receiving assistance under this title have agreed to and are beginning to implement—

(A) confederation and reform measures to broaden their leadership base;

(B) the coordination of their efforts;

(C) the elimination of human rights abuses;

(D) the pursuit of a defined and coordinated program for achieving representative democracy in Nicaragua; and

(E) the subordination of military forces to civilian leadership; and

(F) the application of rigorous standards, procedures and controls to assure that funds transferred under section 6(a) are fully accounted for and are used exclusively for the purposes authorized by this title.

(2) In making his determination under paragraph (1), the President shall take into account the effectiveness and legitimacy of the political leadership of those Nicaraguan democratic resistance groups receiving assistance under this title, including the ability of that political leadership—

(A) to reflect the views and objectives of the internal and external Nicaraguan democratic opposition;

(B) to function as the spokesman for the Nicaraguan democratic opposition with Central Americans, international organizations, and the United States Government;

(C) to represent the Nicaraguan democratic opposition in dealing with the Government of Nicaragua;

(D) to provide command and control for the military forces of all resistance groups receiving assistance under this title and to establish the goals for their military operations;

(E) to determine the distribution of and maintain accountability for assistance provided under this title; and

(F) to provide the legal mechanisms necessary for the enforcement of standards of conduct applicable to all members of the resistance groups receiving assistance under the title.

(e) On and after February 15, 1987, the restrictions in subsection (b) shall cease to apply and the remaining funds transferred under section 6(a) may be made available for obligation and expenditure for assistance to the Nicaraguan democratic resistance 15 days after the President determines and reports to the Congress that—

(1) the Central American countries have not concluded a comprehensive and effective agreement based on the Contadora Document of Objectives;

(2) the Government of Nicaragua is not engaged in a serious dialog with representatives of all elements of the Nicaraguan democratic opposition, accompanied by a cease-fire and an effective end to the existing constraints on freedom of speech, assembly, religion, and political activity leading to regularly scheduled free and fair elections and the establishment of democratic institutions; and

(3) there is no reasonable prospect of achieving such agreement, dialog, cease-fire, and end to constraints described in paragraphs (1) and (2) through further diplomatic measures, multilateral or bilateral, without additional assistance to the Nicaraguan democratic resistance,

unless the Congress has enacted a joint resolution under section 12 disapproving the provision of additional assistance (other than assistance described in subsection (b)(1) within the limits of funds previously made available).

(f)(1) Notwithstanding subsection (e), no assistance (other than the assistance described in subparagraphs (A) through (C) of subsection (b)(1) shall be provided at any time to the Nicaraguan democratic resistance under this title if—

(A) the President determines that—

(i) the Central American countries have concluded a comprehensive and effective agreement based on the Contadora Document of Objectives; or

(ii) the Government of Nicaragua is engaging in a serious dialog with representatives of all elements of the Nicaraguan democratic opposition, accompanied by a cease-fire and an effective end to the existing constraints on freedom of speech, assembly, religion, and political activity leading to regularly scheduled free and fair elections and the establishment of democratic institutions; or

(B) the Congress enacts a joint resolution under section 12 disapproving the provision of additional assistance (other than assistance described in subparagraphs (A) through (C) of subsection (b)(1)).

(2) The prohibition contained in paragraph (1) shall not apply—

(A) with respect to assistance described in subparagraph (D) of subsection (b)(1) if the Government of Nicaragua fails to observe an applicable cease-fire; or

(B) with respect to assistance described in subparagraph (E) of subsection (b)(1) if the Government of Nicaragua acquires additional equipment or materiel to carry out air attacks.

CONGRESSIONAL PRIORITY PROCEDURES

SEC. 212. (a)(1) A joint resolution described in subsection (e) of section 11 shall be one without a preamble, the matter after the resolving clause of which is as follows: "That the Congress disapproves the provision of additional assistance to the Nicaraguan democratic resistance pursuant to title of the Military Construction Appropriations Act, 1987, except as provided in section 11(b) thereof within the limits of funds previously made available.".

(2) A joint resolution described in subsection (f)(1)(B) of section 11 shall be one without a preamble, the matter after the resolving clause of which is as follows: "That the Congress disapproves the provision of additional assistance to the Nicaraguan democratic resistance pursuant to title of the Military Construction Appropriations Act, 1987, except as provided in subparagraphs (A) through (C) of section 11(b)(1) and paragraph (2) of section 11(f) thereof.".

(b) A joint resolution described in subsection (a)(1) or (a)(2) shall be considered in the House of Representatives and in the Senate in accordance with the provisions of paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98-473), except that—

(1) references in such paragraphs to a joint resolution shall be deemed to be references to the respective joint resolution set forth in subsection (a)(1) or subsection (a)(2);

(2) references in such paragraphs to Committee on Appropriations shall be deemed to be references to the appropriate committee or committees of the respective House of Congress; and

(3) references in such paragraphs to the eighth day and to fifteen calendar days shall be deemed to be references to the fifth day and to five calendar days, respectively.

(c) The provisions of this section are enacted—

(1) as exercises of the rulemaking powers of the House of Representatives and Senate, and as such they are deemed a part

of the Rules of the House and the Rules of the Senate, respectively, but applicable only with respect to the procedure to be followed in the House and the Senate in the case of joint resolutions under section 11; and they supersede other rules only to the extent that they are inconsistent with such rules; and

(2) with full recognition of the constitutional right of the House and the Senate to change their rules at any time, in the same manner, and to the same extent as in the case of any other rule of the House or Senate, and of the right of the Committee on Rules of the House of Representatives to report a resolution for the consideration of any measure.

COMMISSION ON CENTRAL AMERICAN NEGOTIATIONS

SEC. 213. (a)(1) There is established the Commission on Central American Negotiations (hereafter in this section referred to as the "Commission"), which shall be composed of five members appointed as follows:

(A) One individual appointed by the Speaker of the House of Representatives;

(B) One individual appointed by the Minority Leader of the House of Representatives;

(C) One individual appointed by the Majority Leader of the Senate;

(D) One individual appointed by the Minority Leader of the Senate; and

(E) One individual who shall serve as Chairman of the Commission, selected by majority vote of the other members of the Commission.

(2) No officer or employee of the United States may be appointed as a member of the Commission.

(3) The appointments referred to in subparagraphs (A), (B), (C), and (D) of paragraph (1) shall be made within 5 calendar days following enactment of this title, and the selection of a chairman referred to in subparagraph (E) of paragraph (1) shall be made within 10 days following enactment of this title.

(b) The purpose of the Commission is to monitor and report on the efforts of the Nicaraguan democratic resistance to coordinate and reform and on the status of any negotiations on the peace, stability, and security of Central America, including negotiations conducted between or among—

(1) the Government of Nicaragua and all elements of the Nicaraguan democratic opposition, including the Nicaraguan democratic resistance;

(2) the governments of Central American countries;

(3) the Government of the United States and the Government of Nicaragua;

(4) the governments of the Contadora and Support Group countries and the governments of the Central American countries; and

(5) the Government of El Salvador and the insurgents in El Salvador.

(c)(1) The Commission may appoint and fix the pay of not more than seven staff personnel, but at such rates not in excess of the rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(2)(A) Each member of the Commission shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day during which such member is engaged in the performance of duties as a member of the Commission.

(B) While away from his home or regular place of business in the performance of duties for the Commission, a member or staff personnel of the Commission shall be allowed travel expenses, including a per diem in lieu of subsistence, not to exceed the expenses allowed persons employed intermittently in Government service under section 5703 of title 5, United States Code.

(3) For purposes of pay and other employment benefits, rights, and privileges and for all other purposes, any employee of the Commission shall be considered to be a congressional employee as defined in section 2107 of title 5, United States Code.

(d)(1) A majority of the members of the Commission shall constitute a quorum.

(2) All decisions of the Commission shall be by majority vote.

(e) The Commission may make such reports in connection with its duties as it deems necessary to the Speaker of the House of Representative and the chairman of the Committee on Foreign Relations of the Senate, except that—

(1) not later than 5 days after receipt by the Congress or a report by the President under section 14 the Commission shall prepare and transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report addressing all the matters which are required to be included in reports of the President by paragraphs (1), (3), and (4) of section 14; and

(2) not later than September 30, 1986, the Commission shall prepare and transmit to the Congress a report on whether the Nicaraguan democratic resistance groups receiving assistance under this title have agreed to and are beginning to implement measures described in subparagraphs (A) through (F) of section 11(d)(1) and an evaluation of the factors described in section 11(d)(2).

(f)(1) Salaries and expenses of the Commission, but not more than $400,000, shall be paid from the contingent fund of the Senate out of the Account for Miscellaneous Items, in accordance with the provisions of this section.

(2) Funds made available to the Commission by paragraph (1) shall be disbursed on vouchers approved by the Chairman, except that no voucher shall be required for the disbursement of the salary of an individual appointed under subsection (c).

(3) For purposes of section 502(b) of the Mutual Security Act of 1954, the Commission shall be deemed to be a standing committee of the Congress and shall be entitled to use of funds in accordance with such section.

(g) The Commission shall terminate not later than 90 days after transmittal of the reports required by subsection (e).

PRESIDENTIAL REPORTING REQUIREMENT

SEC. 214. The President shall prepare and transmit to the Congress with each determination required by section 11 a report on actions taken to achieve a resolution of the conflict in Central

America in a manner that meets the concerns described in section 3(a). Each such report shall include—

(1) a detailed statement of the status of negotiations toward a negotiated settlement of the conflict in Central America, including the willingness of the Nicaraguan democratic resistance and the Government of Nicaragua to negotiate a settlement;

(2) a detailed accounting of the disbursements made to provide assistance with the funds transferred under section 6(a) and a detailed statement of how the accountability standards, procedures and controls established under section 7(b) and 11(d)(1)(F) are being implemented so as to assure that all such funds are fully accounted for and are being used exclusively for the purposes authorized by this title;

(3) a discussion of alleged human rights violations by the Nicaraguan democratic resistance and the Government of Nicaragua, including a statement of the steps taken by the Nicaraguan democratic resistance to remove from their ranks any individuals who have engaged in human rights abuses; and

(4) an evaluation of the progress made by the Nicaraguan democratic resistance in broadening its political base and defining a unified and coordinated program for achieving representative democracy in Nicaragua.

REQUESTS FOR ADDITIONAL ASSISTANCE

SEC. 215. The provisions of subsections (s) and (t) of section 722 of the International Security and Development Cooperation Act of 1985 shall apply—

(1) with respect to any request described in section 722(p) of such Act submitted by the President to the Congress on or after the date of enactment of this title, and

(2) with respect to any request by the President for additional economic assistance for the Central American democracies to carry out recommendations contained in the report required by section 5(c)(1)(B) (in which case references to a joint resolution in subsections (s) and (t) of section 722 of such Act shall be deemed to be references to a joint resolution without a preamble, the matter after the resolving clause of which is as follows: "That the Congress approves the additional economic assistance for the Central American democracies that the President requested pursuant to title of the Military Construction Appropriation Act, 1987."),

except that, for purposes of consideration in a House of Congress of a joint resolution under subsection (s) or (t) of such section, amendments to such a joint resolution may be in order but only if such amendments are germane.

LIMITATION ON PARTICIPATION OF UNITED STATES GOVERNMENT PERSONNEL IN DELIVERY OF ASSISTANCE

SEC. 216. (a) United States Government personnel may not provide any training or other service, or otherwise participate directly or indirectly in the provision of any assistance, to the Nicaraguan democratic resistance pursuant to this title within those land areas of Honduras and Costa Rica which are within 20 miles of the border with Nicaragua.

(b) As used in this section, the term "United States Government personnel" means—

(1) any member of the United States Armed Forces who is on active duty or is performing inactive duty training; and

(2) any employee of any department, agency, or other component of the executive branch of the United States Government;

but does not include any officer or employee of the United States General Accounting Office of any employee of the Inspector General of the Department of State and the Foreign Service who is carrying out inspections, investigations, or audits with respect to assistance for the Nicaraguan democratic resistance pursuant to this title.

TITLE III—EMERGENCY RESERVE FOR AFRICAN FAMINE RELIEF

SEC. 301. Title II of Public Law 99-10 is amended, under the heading "Emergency Reserve for African Famine Relief", by striking out "$225,000,000" and inserting in lieu thereof "$525,000,000".

SEC. 302. Of the funds appropriated under title II of Public Law 99-10, as amended by this Act, $300,000,000 shall remain available for obligation until September 30, 1987, notwithstanding any other provision of law or this Act.

(l) Such amounts as may be necessary are hereby appropriated for programs, projects, or activities provided for in H.R. 5205, the Department of Transportation and Related Agencies Appropriations Act, 1987, to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-976) as filed in the House of Representatives on October 7, 1986, as if enacted into law, except that such conference agreement shall be considered as including the following language in lieu of section 331 of H.R. 5205 as passed by the House of Representatives on July 30, 1986:

"SEC. 331. AIR TRAFFIC CONTROLLER WORK FORCE REQUIREMENTS.—The Federal Aviation Administration shall satisfy the following criteria by September 30, 1987:

"(a) total air traffic controller work force level of 15,000;

"(b) with respect to the air traffic controller work force, of those individuals eligible to be Full Performance Level controllers, 70 percent shall have achieved Full Peformance Level status;

"(c) with respect to staffing at particular air traffic control facilities, of those individuals eligible to be Full Performance Level controllers, at least 60 percent at all centers and level 3 and above terminals shall have achieved Full Performance Level status.".

(m) Such amounts as may be necessary for programs, projects or activities provided for in the Treasury, Postal Service and General Government Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1987, and for other purposes.

TITLE I—TREASURY DEPARTMENT

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; not to exceed $22,000 for official reception and representation expenses; not to exceed $200,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; not to exceed $650,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex, $52,642,000.

INTERNATIONAL AFFAIRS

For necessary expenses of the international affairs function of the Office of the Secretary, hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $2,000,000 for official travel expenses; and not to exceed $73,000 for official reception and representation expenses; $22,442,000.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including purchase (not to exceed eight for police-type use) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; not to exceed $3,000,000 for repair, alteration, minor construction, and related equipment for the Federal Law Enforcement Training Center facility to remain available until expended; not to exceed $2,000 for official reception and representation expenses; and services as authorized by 5 U.S.C. 3109: *Provided*, That funds appropriated in this account shall be available for State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; acceptance of gifts; training of private sector security officials on a space-available basis with reimbursement of actual costs to this appropriation; travel expenses of non-Federal personnel to attend State and local course development meetings at the Center; $29,499,000.

FINANCIAL MANAGEMENT SERVICE

Salaries and Expenses

For necessary expenses of the Financial Management Service, $240,117,000, of which not to exceed $2,137,000 shall remain available until expended for systems modernization initiatives.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

Salaries and Expenses

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms, including purchase of three hundred vehicles for police-type use for replacement only; and hire of passenger motor vehicles; hire of aircraft; and services of expert witnesses at such rates as may be determined by the Director; not to exceed $5,000 for official reception and representation expenses; $193,463,000, of which $15,000,000 shall be available solely for the enforcement of the Federal Alcohol Administration Act during fiscal year 1987, and of which $1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2): *Provided*, That no funds appropriated herein shall be available for administrative expenses in connection with consolidating or centralizing within the Department of the Treasury the records of receipts and disposition of firearms maintained by Federal firearms licensees or for issuing or carrying out any provisions of the proposed rules of the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, on Firearms Regulations, as published in the Federal Register, volume 43, number 55, of March 21, 1978: *Provided further*, That none of the funds appropriated herein shall be available for explosive identification or detection tagging research, development, or implementation: *Provided further*, That not to exceed $300,000 shall be available for research and development of an explosive identification and detection device.

UNITED STATES CUSTOMS SERVICE

Salaries and Expenses

For necessary expenses of the United States Customs Service, including purchase of up to five hundred motor vehicles for replacement only, including four hundred and ninety for police-type use; hire of passenger motor vehicles; not to exceed $10,000 for official reception and representation expenses; and awards of compensatio to informers, as authorized by any Act enforced by the United States Customs Service; $786,000,000, of which not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations, and not to exceed $1,000,000, to remain available until expended, for research: *Provided*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That none of the funds made available by this Act shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: *Provided further*, That the Commissioner or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Service: *Provided further*, That none of the funds made available by

this Act may be used for administrative expenses in connection with the proposed redirection of the Equal Employment Opportunity Program: *Provided further*, That none of the funds made available by this Act shall be available for administrative expenses to reduce the number of Customs Service regions below seven during fiscal year 1987: *Provided further*, That the United States Customs Service shall hire and maintain an average of 14,891 full-time equivalent positions in fiscal year 1987: *Provided further*, That none of the funds made available in this or any other Act may be used to fund more than nine hundred and fifty positions in the Headquarters staff of the United States Customs Service in the fiscal year ending September 30, 1986 and the Customs Service shall begin planning to reduce headquarters staff to no more than nine hundred positions by September 30, 1987: *Provided further*, That no funds appropriated by this Act may be used to implement single eight hour shifts at airports and that all current services as provided by the Customs Service shall continue through September 30, 1987.

Operation and Maintenance, Air Interdiction Program

For expenses, not otherwise provided for, necessary for the hire, lease, acquisition (transfer or acquisition from any other agency), operation and maintenance of aircraft, and other related equipment of the Air Program; $77,819,000.

Customs Forfeiture Fund

(LIMITATION ON AVAILABILITY OF DEPOSITS)

For necessary expenses of the Customs Forfeiture Fund, not to exceed $8,000,000, as authorized by Public Law 98-473 and Public Law 98-573; to be derived from deposits in the Fund.

Customs Services at Small Airports

(TO BE DERIVED FROM FEES COLLECTED)

Such sums as may be necessary, not to exceed $365,000, for expenses for the provision of Customs services at certain small airports designated by the Secretary of the Treasury, including expenditures for the salaries and expenses of individuals employed to provide such services, to be derived from fees collected by the Secretary of the Treasury pursuant to section 236 of Public Law 98-573 for each of these airports, and to remain available until expended.

UNITED STATES MINT

Salaries and Expenses

For necessary expenses of the United States Mint; $42,508,000, of which $1,325,000 shall remain available until expended for research and development projects.

Expansion and Improvements

For expansion and improvements to existing Mint facilities, $694,000, to remain available until expended.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For necessary expenses connected with any public-debt issues of the United States; $198,564,000.

INTERNAL REVENUE SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Internal Revenue Service, not otherwise provided; for executive direction and management services, and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services, as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $95,147,000, of which not to exceed $25,000 for official reception and representation expenses and of which not to exceed $500,000 shall remain available until expended, for research.

PROCESSING TAX RETURNS

For necessary expenses of the Internal Revenue Service not otherwise provided for; including processing tax returns; revenue accounting; computer services; and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,332,902,000, of which not to exceed $50,000,000 shall remain available until expended for systems modernization initiatives.

EXAMINATIONS AND APPEALS

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; employee plans and exempt organizations; tax litigation; hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,623,162,000.

INVESTIGATION, COLLECTION, AND TAXPAYER SERVICE

For necessary expenses of the Internal Revenue Service for investigation and enforcement activities; including purchase (not to exceed four hundred and fifty-one for replacement only, for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); securing unfiled tax returns; collecting unpaid accounts; examining selected employment and excise tax returns; technical rulings; enforcement litigation; providing assistance to taxpayers; and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner: *Provided*, That notwithstanding any other provision of this Act, none of the funds made available by this Act shall be used to reduce the number of positions allocated to taxpayer service activities below fiscal year 1984 levels, or to reduce the number of positions allocated to any other direct taxpayer assistance functions below fiscal year 1984 levels, including, but not limited to Internal Revenue Service toll-free telephone tax law assistance and walk-in assistance available at Internal Revenue Service field offices: *Provided further*, That the Internal Revenue Service shall fund the Tax Counseling for the Elderly Program at

$2,400,000. The Internal Revenue Service shall absorb within existing funds the administrative costs of the program in order that the full $2,400,000 can be devoted to program requirements; $1,196,581,000.

ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

SECTION 1. Not to exceed 1 per centum of any appropriation made available to the Internal Revenue Service for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation.

SEC. 2. Not to exceed 15 per centum, or $15,000,000, whichever is greater, of any appropriation made available to the Internal Revenue Service for document matching for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation for document matching.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase (not to exceed three hundred and forty-three vehicles for police-type use for replacement only) and hire of passenger motor vehicles; hire of aircraft; training and assistance requested by State and local governments, which may be provided without reimbursement; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; the conducting of and participating in firearms matches and presentation of awards and for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act: *Provided*, That approval is obtained in advance from the House and Senate Committees on Appropriations; including $6,000,000 for continued construction at the James J. Rowley Secret Service Training Center; for research and development; not to exceed $7,500 for official reception and representation expenses; and for uniforms without regard to the general purchase price limitation for the current fiscal year; $318,000,000, of which $500,000 shall remain available until expended for research.

DEPARTMENT OF THE TREASURY—GENERAL PROVISIONS

SECTION 101. Appropriations to the Treasury Department in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services as authorized by 5 U.S.C. 3109.

SEC. 102. None of the funds appropriated by this title shall be used in connection with the collection of any underpayment of any tax imposed by the Internal Revenue Code of 1954 unless the conduct of

officers and employees of the Internal Revenue Service in connection with such collection complies with subsection (a) of section 805 (relating to communication in connection with debt collection), and section 806 (relating to harassment or abuse), of the Fair Debt Collection Practices Act (15 U.S.C. 1692).

SEC. 103. Not to exceed 1 per centum of any appropriations in this Act for the Department of the Treasury may be transferred between such appropriations. However, no such appropriation shall be increased or decreased by more than 1 per centum and any such proposed transfers shall be approved in advance by the Committees on Appropriations of the House and Senate.

SEC. 104. None of the funds made available by this Act may be used to place the United States Secret Service, the United States Customs Service, or the Bureau of Alcohol, Tobacco and Firearms under the operation, oversight, or jurisdiction of the Inspector General of the Department of the Treasury.

This title may be cited as the "Treasury Department Appropriations Act, 1987".

TITLE II—POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsections (b) and (c) of section 2401 of title 39, United States Code; $650,000,000: *Provided*, That mail for overseas voting and mail for the blind shall continue to be free: *Provided further*, That six-day delivery and rural delivery of mail shall continue at the 1983 level: *Provided further*, That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further*, That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in the fiscal year ending on September 30, 1987: *Provided further*, That

(a) Section 2254 of title 18, United States Code, is amended by adding after subsection (b) the following:

"(c) The Postal Service may carry out a forfeiture under this section if the violation involves the mails. The Postal Service shall exercise the authority of the Attorney General under subsection (b) of this section with respect to such forfeiture.".

(b) Section 2003 of title 39, United States Code, is amended—

(1) in subsection (b)(5), by striking out "and";

(2) in subsection (b)(6), by striking out the period at the end and inserting "; and" in lieu thereof;

(3) by inserting at the end of subsection (b) the following:

"(7) amounts (including proceeds from the sale of forfeited items) from any civil administrative forfeiture conducted by the Postal Service under title 18."; and

(4) in the first sentence of subsection (e)(1), by striking out "under this title" and inserting in lieu thereof "as provided by law".

(c) Section 2254 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting before the period at the end of paragraph (1) ", and any property, real or personal, tangible or intangible, which was used or intended to be used, in any manner or part, to facilitate a violation of this chapter";

(2) in subsection (b) by striking "Attorney General," and inserting "Attorney General or the Postal Service,"; and

(3) by adding at the end the following new subsection:

"(d) The authority of the Postal Service under subsection (b) shall be exercised only where the conduct with respect to which such seizure or forfeiture occurs includes use of the mails in violation of this chapter.".

This title may be cited as the "Postal Service Appropriations Act, 1987".

TITLE III

EXECUTIVE OFFICE OF THE PRESIDENT

Compensation of the President

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102; $250,000: *Provided*, That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31 of the United States Code: *Provided further*, That none of the funds made available for official expenses shall be considered as taxable to the President.

OFFICE OF ADMINISTRATION

Salaries and Expenses

For necessary expenses of the Office of Administration; $15,700,000 including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles.

THE WHITE HOUSE OFFICE

Salaries and Expenses

For necessary expenses for the White House as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; including subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be expended and accounted for as provided by 3 U.S.C. 103); not to exceed $20,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President; $24,450,000.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

Operating Expenses

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and

fixtures, of the Executive Residence at the White House and official entertainment expenses of the President; $4,700,000, to be expended and accounted for as provided by 3 U.S.C. 105, 109-110, 112-114.

OFFICIAL RESIDENCE OF THE VICE PRESIDENT

Operating Expenses

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President, and not to exceed $60,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate; $211,000: *Provided*, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

SPECIAL ASSISTANCE TO THE PRESIDENT

Salaries and Expenses

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions, services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles; $1,790,000.

COUNCIL OF ECONOMIC ADVISERS

Salaries and Expenses

For necessary expenses of the council in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021); $2,275,000.

OFFICE OF POLICY DEVELOPMENT

Salaries and Expenses

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109, and 3 U.S.C. 107; $2,600,000.

NATIONAL CRITICAL MATERIALS COUNCIL

Salaries and Expenses

For necessary expenses of the National Critical Materials Council, including activities as authorized by Public Law 98-373; $175,000.

NATIONAL SECURITY COUNCIL

Salaries and Expenses

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109; $4,550,000.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109; $37,000,000 of which not to exceed $5,408,000 shall be available for the Office of Information and Regulatory Affairs: *Provided*, That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): *Provided further*, That none of the funds made available for the Office of Management and Budget by this Act may be expended for the review of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committee on Appropriations or the Committee on Veterans' Affairs or their subcommittees: *Provided further*, That this proviso shall not apply to printed hearings released by the Committee on Appropriations or the Committee on Veterans' Affairs: *Provided further*, That none of the funds made available by this Act or any other Act shall be used to reduce the scope or publication frequency of statistical data relative to the operations and production of the alcoholic beverage and tobacco industries below fiscal year 1985 levels: *Provided further*, That none of the funds appropriated by this Act shall be available to the Office of Management and Budget for revising, curtailing or otherwise amending the administrative and/or regulatory methodology employed by the Bureau of Alcohol, Tobacco and Firearms to assure compliance with section 205, title 27 of the United States Code (Federal Alcohol Administration Act) or with regulations, rulings or forms promulgated thereunder.

OFFICE OF FEDERAL PROCUREMENT POLICY

SALARIES AND EXPENSES

For expenses of the Office of Federal Procurement Policy, including services as authorized by 5 U.S.C. 3109; $1,600,000.

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year; $1,000,000.

This title may be cited as the "Executive Office Appropriations Act, 1987".

TITLE IV—INDEPENDENT AGENCIES

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

SALARIES AND EXPENSES

For necessary expenses of the Administrative Conference of the United States, established by the Administrative Conference Act, as

amended (5 U.S.C. 571 et seq.) including not to exceed $1,000 for official reception and representation expenses; $1,469,000.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Advisory Commission on Intergovernmental Relations Act of 1959, as amended, 42 U.S.C. 4271-79; $1,750,000, and additional amounts collected from the sale of publications shall be credited to and used for the purposes of this appropriation.

ADVISORY COMMITTEE ON FEDERAL PAY

SALARIES AND EXPENSES

For necessary expenses of the Advisory Committee on Federal Pay, established by 5 U.S.C. 5306; $201,000.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

SALARIES AND EXPENSES

For necessary expenses of the Committee for Purchase From the Blind and Other Severely Handicapped established by the Act of June 23, 1971, Public Law 92-28, including hire of passenger motor vehicles; $778,000.

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended; $12,800,000.

GENERAL SERVICES ADMINISTRATION

FEDERAL SUPPLY SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for supply distribution (including contractual services incident to receiving, handling and shipping supply items), procurement (including royalty payments), inspection, standardization, property management, and other supply management activities, transportation activities, transportation audits by in-house personnel; utilization of excess and disposal of surplus personal property, and the rehabilitation of personal property including services as authorized by 5 U.S.C. 3109; $160,944,000: *Provided*, That in addition to this appropriation, the annual limitation of $5,200,000 through September 30, 1989, in the Supplemental Appropriations Act, 1985, Public Law 99-88 payable from overcharges collected, for expenses of transportation audit contracts and contract administration is increased to $10,500,000 for fiscal year 1987.

FEDERAL PROPERTY RESOURCES SERVICE

OPERATING EXPENSES

(Including transfer of funds)

For expenses, not otherwise provided for, necessary for carrying out the functions of the Administrator with respect to utilization of excess real property; the disposal of surplus real property; the utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property; the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98, et seq.) the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061, et seq.) including services as authorized by 5 U.S.C. 3109 and reimbursement for recurring security guard service; $39,108,000, of which $11,000,000 shall be derived from proceeds from transfers of excess real property and disposal of surplus real property and related personal property, subject to the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-5), and of which $28,108,000 for the transportation, processing, refining, storage, security, maintenance, rotation, and disposal of materials contained in or acquired for the stockpile shall remain available through fiscal year 1988.

NATIONAL DEFENSE STOCKPILE TRANSACTION FUND

For the year ending September 30, 1987, in addition to the funds previously appropriated for the National Defense Stockpile Transaction Fund, pursuant to 50 U.S.C. 98a and g(a), (2)(c), and 50 U.S.C. 100a, notwithstanding the provisions of 50 U.S.C. 98h, an additional $5,000,000 is appropriated, to be available until expended, for a grant for construction of a strategic materials research facility at the University of Massachusetts at Amherst. For the year ending September 30, 1987, in addition to the funds previously appropriated for the National Defense Stockpile Transaction Fund, pursuant to 50 U.S.C. 98a and g(a), (2)(c), and 50 U.S.C. 100a, notwithstanding the provisions of 50 U.S.C. 98h, an additional $5,000,000 is appropriated, to be available until expended, for a grant for construction of a strategic materials research facility at the University of Nevada at Reno. Notwithstanding any other provision of law, funds previously made available to the fund before January 1, 1985, may be used for evaluating, testing, relocating, and upgrading stockpile materials to meet current stockpile goals and specifications.

GENERAL MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of agency management of activities under the control of the General Services Administration, and general administrative and staff support services not otherwise provided for; for providing accounting, records management, and other support incident to adjudication of Indian Tribal Claims by the United States Court of Claims, and services authorized by 5 U.S.C. 3109; $120,289,000, of which $800,000 shall be available only for, and is hereby specifically earmarked for personnel and associated costs in

support of Congressional District and Senate State offices: *Provided*, That this appropriation shall be available, subject to reimbursement by the applicable agency, for services performed for other agencies pursuant to subsections (a) and (b) of section 1535 of title 31, United States Code.

INFORMATION RESOURCES MANAGEMENT SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for carrying out Government-wide and internal responsibilities relating to automated data management, telecommunications, information resources management, and related activities, including services as authorized by 5 U.S.C. 3109; and for the Information Security Oversight Office established pursuant to Executive Order 12356; $29,000,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General; $21,108,000: *Provided*, That not to exceed $10,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95-138; $1,171,800: *Provided*, That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

GENERAL SERVICES ADMINISTRATION—GENERAL PROVISIONS

SECTION 1. The appropriate appropriation or fund available to the General Services Administration shall be credited with (1) cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129); and (2) appropriations or funds available to other agencies, and transferred to the General Services Administration, in connection with property transferred to the General Services Administration pursuant to the Act of July 2, 1948 (50 U.S.C. 451ff) and such appropriations or funds may be so transferred, with the approval of the Office of Management and Budget.

SEC. 2. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 3. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements, performed in accordance with the Public Buildings Act of 1959 (73 Stat.

749), the Public Buildings Amendments of 1972 (86 Stat. 216), or other applicable law.

SEC. 4. Not to exceed 1 per centum of funds made available in appropriations for operating expenses and salaries and expenses, during the current fiscal year, may be transferred between such appropriations for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. 5. Funds in the Federal Buildings Fund made available for fiscal year 1987 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. 6. Funds hereafter made available to the General Services Administration for the payment of rent shall be available for the purpose of leasing, for periods not to exceed thirty years, space in buildings erected on land owned by the United States.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with National Archives and Records Administration and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, $100,321,000 of which $4,000,000 for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, shall remain available until expended.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, medical examinations performed for veterans by private physicians on a fee basis, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, not to exceed $2,500 for official reception and representation expenses, and advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order 10422 of January 9, 1953, as amended; $99,000,000 in addition to $60,900,000 for administrative expenses for the retirement and insurance programs to be transferred from the appropriate trust funds of the Office of Personnel Management in the amounts determined by the Office of Personnel Management without regard to other statutes: *Provided*, That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by section 8348(a)(1)(B) of title 5, U.S.C.: *Provided further*, That funds made available by this appropriation may be used, at the discretion of the Director of the Office of Personnel

Management, to provide salaries, administrative support and for other expenses of the Commission on Executive, Legislative, and Judicial Salaries. No part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive order 9358 of July 1, 1943, or any successor unit of like purpose.

REVOLVING FUND

Pursuant to section 1304(e)(1) of title 5, United States Code, costs for entertainment expenses of the President's Commission on Executive Exchange shall not exceed $12,000.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, $1,459,000,000, to remain available until expended.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, $4,557,000,000: *Provided*, That annuities authorized by the Act of May 29, 1944, as amended (22 U.S.C. 3682(e)), August 19, 1950, as amended (33 U.S.C. 771-775), may hereafter be paid out of the Civil Service Retirement and Disability Fund.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Retirement Thrift Investment Board as authorized by the Federal Employees' Retirement System Act of 1986 (Public Law 99-335); $5,250,000: *Provided*, That section 701(a) of Public Law 99-335, the Federal Employees' Retirement System Act of 1986, is amended by striking "shall" after "1987" and inserting in lieu thereof, "may".

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles; $19,140,000, together with not to exceed $1,200,000 for administrative expenses to adjudicate retirement appeals to be

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transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of the Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978 (Public Law 95-454), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; $4.396,000.

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, rental of conference rooms in the District of Columbia and elsewhere; $16,330,000: *Provided,* That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistance as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government Service, and compensation as authorized by 5 U.S.C. 3109.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109; $25,538,000: *Provided,* That travel expenses of the judges shall be paid upon the written certificate of the judge.

This title may be cited as the "Independent Agencies Appropriations Act, 1987".

TITLE V—GENERAL PROVISIONS

THIS ACT

SEC. 501. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amount set forth therefor in the budget estimates submitted for the appropriations: *Provided,* That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans' Administration; to travel of the Office of Personnel Management in carrying out its observation respon-

sibilities of the Voting Rights Act; or to payments to interagency motor pools where separately set forth in the budget schedules.

SEC. 502. No part of any appropriation contained in this Act shall be available to pay the salary of any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service and has within ninety days after his release from such service or from hospitalization continuing after discharge for a period of not more than one year made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 503. No part of any appropriation made available in this Act shall be used for the purchase or sale of real estate or for the purpose of establishing new offices inside or outside the District of Columbia: *Provided*, That this limitation shall not apply to programs which have been approved by the Congress and appropriations made therefor.

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 506. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of any hand or measuring tool(s) not produced in the United States or its possessions except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of hand or measuring tools produced in the United States or its possessions cannot be procured as and when needed from sources in the United States and its possessions, or except in accordance with procedures prescribed by section 6-104.4(b) of Armed Services Procurement Regulation dated January 1, 1969, as such regulation existed on June 15, 1970: *Provided*, That a factor of 75 per centum in lieu of 50 per centum shall be used for evaluating foreign source end products against a domestic source end product. This section shall be applicable to all solicitations for bids opened after its enactment.

SEC. 507. None of the funds made available to the General Services Administration pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be obligated or expended after the date of enactment of this Act for the procurement by contract of any service which, before such date, was performed by individuals in their capacity as employees of the General Services Administration in any position of guards, elevator operators, messengers, and custodians, except that such funds may be obligated or expended for the procurement by contract of the covered services with sheltered workshops employing the severely handicapped under Public Law 92-28.

SEC. 508. No funds appropriated in this Act shall be available for administrative expenses in connection with implementing or enforc-

ing any provisions of the rule TD ATF-66 issued June 13, 1980, by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms on labeling and advertising of wine, distilled spirits and malt beverages, except if the expenditure of such funds is necessary to comply with a final order of the Federal court system.

SEC. 509. (a) The General Services Administration shall not sell, lease, transfer, or otherwise dispose of any portion of the approximately twenty-six acres of Fort DeRussy, Hawaii, lying southwest of Kalia Road, which includes the Hale Koa Hotel, the Armed Forces Recreation Center, and beachfront area.

(b) However, notwithstanding any other provision of law, including any limitation on appropriations in this or any other Act which, but for this provision, limit the obligation or expenditure of funds for the sale, lease, rental, or excessing of Fort DeRussy, Honolulu, Hawaii, the Secretary of the Army (hereinafter referred to as the "Secretary") is directed to sell and convey to the State of Hawaii or the city and county of Honolulu through the General Services Administration, at the fair market value as determined by, and upon such terms and conditions as are acceptable to the Administrator of General Services, the remaining approximately forty-five acres of Fort DeRussy lying northeast of Kalia Road, which comprises the three United States Army Reserves Centers and miscellaneous facilities. The exact acreages and legal descriptions shall be determined by the Secretary.

(c) The Secretary is authorized to acquire land and design and construct such facilities as are necessary to replace those on the land to be sold pursuant to subsection (b). The Secretary is also authorized to relocate activities currently located at Fort DeRussy to such replacement facilities.

(d) Notwithstanding any other provision of law, the General Services Administration is authorized to make funds available for the acquisition of land and replace facilities authorized to be acquired or constructed pursuant to subsection (c) and to pay associated relocation costs, and funds are hereby made available for this purpose

(e) The proceeds of the sale authorized in subsection (b) shall be covered by the Administrator of General Services into the Treasury as miscellaneous receipts.

(f) A conveyance under subsection (b) shall provide that all of the land conveyed shall remain the property of the State of Hawaii, or the City and County of Honolulu, Hawaii, as the case may be.

SEC. 510. None of the funds appropriated in this Act may be used for administrative expenses to close the Information Resources Management Office of the General Services Administration located in Sacramento, California.

SEC. 511. None of the funds made available by this Act for the Department of the Treasury may be used for the purpose of eliminating any existing requirement for sureties on customs bonds.

SEC. 512. None of the funds made available by this Act shall be available for any activity or for paying the salary of any government employee where funding an activity or paying a salary to a government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the 1930 Tariff Act.

SEC. 513. None of the funds made available by this Act shall be available for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynco, Georgia, out of the Treasury Department.

SEC. 514. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 515. No part of any appropriation contained in this Act shall be available for the payment of the salary of any officer or employee of the United States Postal Service, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any officer or employee of the United States Postal Service from having any direct oral or written communication or contact with any member or committee of Congress in connection with any matter pertaining to the employment of such officer or employee or pertaining to the United States Postal Service in any way, irrespective of whether such communication or contact is at the initiative of such officer or employee or in response to the request or inquiry of such member or committee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any officer or employee of the United States Postal Service, or attempts or threatens to commit any of the foregoing actions with respect to such officer or employee, by reason of any communication or contact of such officer or employee with any member or committee of Congress as described in paragraph (1) of this subsection.

SEC. 516. Except for vehicles provided to the President, Vice President and their families, or to the United States Secret Service, none of the funds provided in this Act to any Department or Agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than twenty-two miles per gallon. The requirements of this section may be waived by the Administrator of the General Services Administration for special purpose or special mission automobiles.

SEC. 517. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverages for abortions.

SEC. 518. The provision of section 517 shall not apply where the life of the mother would be endangered if the fetus were carried to term.

SEC. 519. Effective September 30, 1987, none of the funds made available by this Act or any other Act with respect to fiscal year 1987 and any other fiscal year may be used to store, to maintain or to protect more than 128,000,000 troy ounces of silver deposited in the National Defense Stockpile. The Administrator of General Services, or any Federal officer assuming the Administrator's responsibilities with respect to management of the stockpile, shall use all proceeds generated from the disposal of silver to purchase, no later than October 1, 1988, stockpile materials to meet National Defense Stockpile goals and specifications in effect on October 1, 1984.

SEC. 520. No later than October 1, 1988, the Administrator of General Services, or ny Federal officer assuming the Administrator's responsibilities with respect to management of the stockpile, shall use all funds authorized and appropriated before January 1,

1985 from the National Defense Stockpile Transaction Fund to evaluate, test, relocate, upgrade or purchase stockpile materials to meet National Defense Stockpile goals and specifications in effect on October 1, 1984.

SEC. 521. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States or its possessions or except in accordance with procedures provided by section 6-104.4(b) of Armed Services Procurement Regulations, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment.

SEC. 522. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, lease, rental, excessing, surplusing or disposal of any portion of land on which the Phoenix Indian School is located at Phoenix, Arizona without the specific approval of Congress.

SEC. 523. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing or disposal of lands in the vicinity of Bull Shoals Lake, Arkansas administered by the Corps of Engineers, Department of the Army without the specific approval of Congress.

SEC. 524. The Administrator of the General Services Administration, under section 210(h) of the Federal Property and Administrative Services Act of 1949, as amended, shall acquire, by means of a lease of up to 30 years duration, space for the United States Courts in Tacoma, Washington, at the site of Union Station, Tacoma, Washington.

SEC. 525. The United States Courthouse located at 223 Park Avenue Southwest in Aiken, South Carolina, shall be known and designated as the "Charles E. Simons, Jr., Federal Courthouse". Any reference in any law, regulation, document, record, map, or other paper of the United States to such courthouse is deemed to be a reference to the "Charles E. Simons, Jr., Federal Courthouse".

SEC. 526. The Director of the Office of Management and Budget shall include in the area designated as the Wichita Metropolitan Statistical Area the County of Harvey, Kansas.

SEC. 527. (a) The Director of the Office of Personnel Management (hereafter in this section referred to as the "Director") shall pay out of the Civil Service Retirement and Disability Fund, an annuity of $1,500 per month to Gladys Pyle of Huron, South Dakota, who served as a United States Senator from November, 1938, to January, 1939, and is not otherwise eligible to receive an annuity on the basis of her services as a Senator.

(b) The annuity provided under subsection (a)—

(1) shall commence on the first day of the month in which this joint resolution is enacted; and

(2) shall terminate on the date of the death of the said Gladys Pyle.

(c)(1) The Director shall administer the provisions of this section.

(2) Sections 8340, 8346, 8348(a), and 8348(f) of title 5, United States Code, shall apply with respect to the annuity provided under the subsection (a).

SEC. 528. In the administration of the provisions of section 603 of this Act, during fiscal year 1987, Erna Avari Patrick of Columbia, South Carolina shall be considered to have satisfied the requirement of clause (3) of such section.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SEC. 601. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses and ambulances), is hereby fixed at $6,600 except station wagons for which the maximum shall be $7,600: *Provided,* That these limits may be exceeded by not to exceed $2,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: *Provided further,* That the limits set forth in this section shall not apply to electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976.

SEC. 602. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922-5924.

SEC. 603. Unless otherwise specified during the current fiscal year no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, South Vietnam, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese, Cambodian and Laotian refugees paroled in the United States after January 1, 1975: *Provided,* That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further,* That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than one year, or both: *Provided further,* That the above penal clause shall be in addition to, and not in substitution for any other provisions of existing law: *Provided further,* That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

SEC. 604. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (86 Stat. 216), or other applicable law.

SEC. 605. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided,* That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 606. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 607. Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662), foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: *Provided,* That such credits received as exchanged allowances or proceeds of sales of personal property may be used in whole or part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.

SEC. 608. No part of any appropriation contained in this or any other Act, shall be available for interagency financing of boards, commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 609. Funds made available by this or any other Act to (1) the General Services Administration, including the fund created by the Public Building Amendments of 1972 (86 Stat. 216), and (2) the "Postal Service Fund" (39 U.S.C. 2003), shall be available for employment of guards for all buildings and areas owned or occupied by the United States or the Postal Service and under the charge and control of the General Services Administration or the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318), but shall not be restricted to certain Federal property as otherwise required by the proviso contained in said section and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948 (62

Stat. 281; 40 U.S.C. 318a, 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318c): *Provided*, That when the Administrator of General Services delegates responsibility to protect property under his charge and control to the head of another Federal agency, that agency may employ guards to protect the property who shall have the same powers of special policemen in same manner as the foregoing.

SEC. 610. None of the funds available under this or any other Act shall be available for administrative expenses in connection with the designation for construction, arranging for financing, or execution of contracts or agreements for financing or construction of any additional purchase contract projects pursuant to section 5 of the Public Building Amendments of 1972 (Public Law 92-313) during the period beginning October 1, 1976, and ending September 30, 1987

SEC. 611. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 612. No part of any appropriation contained in, or funds made available by this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the current fiscal year and for which appropriations were granted.

SEC. 613. (a)(1) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for the fiscal years ending September 30, 1987, or September 30, 1988, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or any employee covered by section 5348 of that title—

(1) during the period from the date of expiration of the limitation imposed by section 613 of H.R. 3036, incorporated by reference in section 101(h) of Public Law 99-190, until the first day of the first applicable pay period that begins not less than ninety days after that date, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section 613; and

(2) during the period consisting of the remainder, if any, of fiscal year 1987 and that portion of fiscal year 1988 that precedes the normal effective date of the applicable wage survey adjustment that is to be effective in fiscal year 1988, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) of this subsection by more than the overall average percentage adjustment in the General Schedule during fiscal year 1987.

(b) Notwithstanding the provisions of section 9(b) of Public Law 92-392 or section 704(b) of Public Law 95-454, the provisions of subsection (a) of this section shall apply (in such manner as the Office of Personnel Management shall prescribe) to any prevailing rate employee to whom such section 9(b) applies, except that the provisions of subsection (a) may not apply to any increase in a wage

schedule or rate that is required by the terms of a contract entered into before the date of enactment of this Act.

(c) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, may be paid during the periods for which subsection (a) of this section is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(d) For the purpose of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule that was not in existence on September 30, 1986, shall be determined under regulations prescribed by the Office of Personnel Management.

(e) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1986, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(f) The provisions of this section shall apply with respect to pay for services performed by any affected employee on or after October 1, 1986.

(g) For the purpose of administering any provision of law, rule, or regulation that provides premium pay, retirement, life insurance, or any other employee benefit, that requires any deduction or contribution, or that imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(h) Nothing in this section may be construed to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(i) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 614. None of the funds made available in this Act may be used to plan, implement, or administer (1) any reduction in the number of regions, districts or entry processing locations of the United States Customs Service; or (2) any consolidation or centralization of duty assessment or appraisement functions of any offices in the United States Customs Service.

SEC. 615. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to renovate, remodel, furnish, or redecorate the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless such renovation, remodeling, furnishing, or redecoration is expressly approved by the Committees on Appropriations of the House and Senate.

SEC. 616. (a) If any individual or entity which provides or proposes to provide child care services for Federal employees applies to the officer or agency of the United States charged with the allotment of space in the Federal buildings in the community or district in which such individual or entity provides or proposes to provide such

service, such officer or agency may allot space in such a building to such individual or entity if—

(1) such space is available;

(2) such officer or agency determines that such space will be used to provide child care services to a group of individuals of whom at least 50 percent are Federal employees; and

(3) such officer or agency determines that such individual or entity will give priority for available child care services in such space to Federal employees.

(b)(1) If an officer or agency allots space to an individual or entity under subsection (a), such space may be provided to such individual or entity without charge for rent or services.

(2) If there is an agreement for the payment of costs associated with the provision of space allotted under subsection (a) or services provided in connection with such space, nothing in title 31, United States Code, or any other provision of law, shall be construed to prohibit or restrict payment by reimbursement to the miscellaneous receipts or other appropriate account of the Treasury.

(3) For the purpose of this section, the term "services" includes the providing of lighting, heating, cooling, electricity, office furniture, office machines and equipment, telephone service (including installation of lines and equipment and other expenses associated with telephone service), and security systems (including installation and other expenses associated with security systems).

SEC. 617. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

SEC. 618. (a) ELIGIBILITY TO PARTICIPATE IN 1986.—(1) Notwithstanding any other provision of law, and any regulations prescribed thereunder, any application by the Federal Employee Education and Assistance Fund (a nonprofit corporation incorporated in the District of Columbia) for admission to the Combined Federal Campaign, whether in a particular community or otherwise, shall be considered without regard to any eligibility requirements, to the extent that such requirements relate to any period before the date on which such Fund became incorporated.

(2) The eligibility of the Fund to be admitted to the Combined Federal Campaign in a particular community shall also be determined without regard to any criteria relating to having a "direct and substantial presence" in the community involved.

(3) This subsection shall be effective only with respect to the Combined Federal Campaign as conducted during calendar year 1986.

(b) DEFINITIONS.—For the purpose of this section, the term "Combined Federal Campaign" and the term "community" each has the meaning given such term by section 950.101 of title 5 of the Code of Federal Regulations (as in effect on the date of the enactment of this Act).

SEC. 619. None of the funds appropriated by this Act or any other Act shall be used for preparing, promulgating or implementing any regulations dealing with organization participation in the 1986 and 1987 Combined Federal Campaign other than repromulgating and implementing the 1984 and 1985 Combined Federal Campaign regulations, unless such regulations provide that any charitable organization which participated in any prior campaign shall be allowed to participate in 1986 and 1987 campaign: *Provided further,*

That none of the funds appropriated by this Act or any other Act shall be used for preparing, promulgating or implementing new regulations dealing with the Combined Federal Campaign ("CFC") which require or allow the Office of Personnel Management to directly or indirectly determine the eligibility of any agency to participate in the CFC (other than the local service of those agencies which perform a substantial preponderance of their services in the United States) if that agency is a member of a qualified federated group.

SEC. 620. None of the funds appropriated or made available by this Act shall be used to implement or enforce the rule proposed on May 7, 1986 (51 Federal Register 16988-16991), or any other regulation issued pursuant to statute requiring competitive bidding for electricity, gas, or steam utility services acquired by the Federal Government.

SEC. 621. None of the funds appropriated by this or any other Act may be used prior to July 15, 1987, to repeal, amend, or modify any policy, procedure, or practice contained in subpart 19.5 of title 48 of the Code of Federal Reglations (as such subpart was in effect on July 31, 1986) except if such subpart requires modification to implement the amendments made by section 911 (relating to small business set-asides) of H.R. 4438 (99th Congress, 2d Session), or the amendments made by any successor provision to such section, if such bill is enacted into law.

SEC. 622. Section 202 of title 3, United States Code, is amended by inserting a new clause (3) to read "(3) the Treasury Building and grounds;" and by renumbering previously existing clauses (3) through (8) as clauses (4) through (9). The word "immediately" in prior clause (6) (renumbered clause (7)) is stricken and the word "immediate" is inserted in its place.

SEC. 623. The Rural Electrification Act of 1936 is amended by inserting after section 310 (7 U.S.C. 940) the following new section:

"SEC. 311. PRIVATIZATION PROGRAM.—The Administrator shall establish a privatization demonstration program which shall permit borrowers to prepay loans made by the Federal Financing Bank and guaranteed under section 306 of this Act by paying the outstanding principal balance due on the loans. No sums in addition to the payment of the outstanding principal balance due on the Federal Financing Bank loans may be charged as the result of such prepayment against the borrower, the fund, or the Rural Electrification Administration. Federal Financing Bank loans shall be refinanced using the existing section 306 loan guarantee, with private capital, in an amount not to exceed the outstanding principal amount prepaid: *Provided,* That such guarantee of private capital shall be 90% of the principal amount of the loan or any portion thereof plus accrued interest outstanding at any time during the maturity period of the loan and shall be fully transferable and assignable. Notwithstanding any other provision of law, borrowers may prepay Federal Financing Bank loans under this section, except that such borrowers shall be required to prepay all of their outstanding loans made or guaranteed under this Act within one year of prepayment of the first loan. A direct or insured loan prepaid under this section shall be prepaid by the borrower at the lesser of the outstanding principal balance due on the loan or the loan's present value discounted from the face value at maturity at the rate set by the Administrator. A Rural Telephone Bank loan shall be prepaid by paying the outstanding principal balance on the loan. No guarantee or other financial

assistance shall be available to the borrowers to refinance outstanding loans prepaid hereunder. In the case of an electric borrower prepaying under this section or otherwise prepaying a loan at less than the outstanding principal balance due on the loan, after the date of prepayment, no loans, loan guarantees or other financial assistance shall be provided pursuant to this Act to the borrower or its successors or for the purpose of financing the construction or operation of generating plants or bulk transmission lines for the purpose of furnishing electric energy in the area served on a retail or wholesale basis by such borrower. In the case of a telephone borrower prepaying under this section, or otherwise prepaying a loan at less than the outstanding principal balance due on the loan, after the date of prepayment, no loans, loan guarantees or other financial assistance shall be provided pursuant to this Act to the borrower or its successors or for the purpose of furnishing or improving telephone service in the area served by such borrower. In determining the service area of electric borrowers, the Administrator shall make allowances and adjustments to avoid adversely affecting the eligibility of other borrowers for financial assistance under this Act where such borrowers are currently providing electric supply services for retail loads in the same area and which are reasonably expected to continue providing electric supply services for retail loads in such areas. In the event that the borrower prepaying under this section shall be using a majority of its generating capacity to directly serve its retail consumers, other borrowers which are purchasing power from such borrower as of September 30, 1986, shall continue to remain eligible for financing under this Act for needs in their service area. Nothing in this section shall prohibit a borrower which has prepaid pursuant to this section from participating in generation and transmission projects with borrowers which have not prepaid, so long as the borrower which has prepaid utilizes private capital financing without financial assistance under this Act: *Provided further,* That nothing in this section shall prohibit short-term power purchases by borrowers which have prepaid under this section from borrowers which have not prepaid. The Administrator shall issue regulations to implement this section within 60 days."

TITLE VII—TRANSFER OF ANNUAL LEAVE AND SICK LEAVE

SEC. 701. (a) IN GENERAL.—(1) Notwithstanding any provision of chapter 63 of title 5, United States Code, and with the approval of the director of the Fort Lauderdale district of the Internal Revenue Service, an employee of the Internal Revenue Service whose official station is the Fort Lauderdale district may transfer accumulated annual leave accrued under section 6303 of title 5, United States Code, and accumulated sick leave accrued under section 6307 of such title to the account of either Shannon Chiles or Joe Chiles, Jr., employees of the Internal Revenue Service in the Fort Lauderdale district.

(2) For purposes of chapter 63 of title 5, United States Code, annual leave and sick leave transferred under paragraph (1) shall be treated as the annual leave and sick leave accrued by the individual to whose account the leave is transferred, except that such annual leave accumulates without regard to the limitation imposed by section 6304(a) of title 5, United States Code.

(3) The transfer of annual leave or sick leave under paragraph (1) by an employee reduces the account of such employee by the amount of the leave so transferred.

(b) AUTHORITY TO RESTORE TRANSFERRED LEAVE.—With the approval of the director of the Fort Lauderdale district, Shannon Chiles or Joe Chiles, Jr., may, by transfer, restore unused leave to an employee from whom leave was received, except that the amount of leave so restored by each of them may not exceed the amount of leave received by them, respectively, from such employee.

(c) EXPIRATION OF AUTHORITY.—The authority to transfer leave under subsection (a)(1) and the authority to restore unused leave under subsection (b) shall terminate 180 days after the disease of Shannon Chiles no longer exists.

(d) TEMPORARY AUTHORITY TO TRANSFER LEAVE.—(1) Notwithstanding any other provision of law, under regulations prescribed by the President, the unused accrued leave of one officer or employee of the Federal Government may be transferred for use by another officer or employee of the Federal Government in not more than three cases of personal emergencies defined for the purposes of this paragraph in such regulations.

(2) The authority prescribed in paragraph (1) shall terminate upon the issuance of a report to Congress which contains the findings of the President on voluntary leave policy.

TITLE VIII—PAPERWORK REDUCTION REAUTHORIZATION

SHORT TITLE

SEC. 801. This title may be cited as the "Paperwork Reduction Reauthorization Act of 1986".

PART A—AMENDMENTS TO THE PAPERWORK REDUCTION ACT OF 1980

PURPOSE

SEC. 811. (a) Section 3501(3) of title 44, United States Code, is amended to read as follows:

"(3) to maximize the usefulness of information collected, maintained, and disseminated by the Federal Government;".

(b) Section 3501(5) of such title is amended to read as follows:

"(5) to ensure that automatic data processing, telecommunications, and other information technologies are acquired and used by the Federal Government in a manner which improves service delivery and program management, increases productivity, improves the quality of decisionmaking, reduces waste and fraud, and wherever practicable and appropriate, reduces the information processing burden for the Federal Government and for persons who provide information to and for the Federal Government; and".

DEFINITIONS

SEC. 812. Section 3502 of title 44, United States Code, is amended—

(1) by inserting "collection of information requirement," after "reporting or recordkeeping requirement," in paragraph (11);

(2) by redesignating paragraphs (13) through (16) as paragraphs (14) through (17), respectively; and

(3) by inserting after paragraph (12) the following new paragraph:

"(13) the term 'information resources management' means the planning, budgeting, organizing, directing, training, promoting, controlling, and management activities associated with the burden, collection, creation, use, and dissemination of information by agencies, and includes the management of information and related resources such as automatic data processing equipment (as such term is defined in section 111(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a));".

OFFICE OF INFORMATION AND REGULATORY AFFAIRS

SEC. 813. (a) Section 3503(b) of title 44, United States Code, is amended to read as follows:

"(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall delegate to the Administrator the authority to administer all functions under this chapter, except that any such delegation shall not relieve the Director of responsibility for the administration of such functions. The Administrator shall serve as principal adviser to the Director on Federal information policy and shall report directly to the Director.".

(b) The amendment made by this section, insofar as it relates to appointment of the Administrator of the Office of Information and Regulatory Affairs, shall take effect on the earlier of—

(1) January 20, 1989; or

(2) the date on which a vacancy in that Office first occurs after the date of enactment of this Act.

AUTHORITY AND FUNCTIONS OF DIRECTOR

SEC. 814. (a) Section 3504(a) of title 44, United States Code, is amended to read as follows:

"(a) The Director shall develop and implement Federal information policies, principles, standards, and guidelines and shall provide direction and oversee the review and approval of information collection requests, the reduction of the paperwork burden, Federal statistical activities, records management activities, privacy and security of records, agency sharing and dissemination of information, and acquisition and use of automatic data processing, telecommunications, and other information technology for managing information resources. The authority of the Director under this section shall be exercised consistent with applicable law.".

(b) Section 3504(d) of such title is amended to read as follows:

"(d) The statistical policy and coordination functions of the Director shall include—

"(1) developing and periodically reviewing and, as necessary, revising long-range plans for the improved coordination and performance of the statistical activities and programs of the Federal Government;

"(2) reviewing budget proposals of agencies to assure that the proposals are consistent with such long-range plans;

"(3) coordinating, through the review of budget proposals and as otherwise provided in this chapter, the functions of the

Federal Government with respect to gathering, interpreting, and disseminating statistics and statistical information;

"(4) developing and implementing Government-wide policies, principles, standards, and guidelines concerning statistical collection procedures and methods, statistical data classification, statistical information presentation and dissemination, and such statistical data sources as may be required for the administration of Federal programs;

"(5) evaluating statistical program performance and agency compliance with Government-wide policies, principles, standards, and guidelines;

"(6) integrating the functions described in paragraphs (1) through (5) of this subsection with the other information resources management functions specified in this chapter; and

"(7) appointing a chief statistician who is a trained and experienced professional statistician to carry out the functions described in paragraphs (1) through (6) of this subsection.".

(c) Section 3504(g) of such title is amended by striking out "and telecommunications" each place it appears and inserting in lieu thereof "(including telecommunications)".

ASSIGNMENT OF TASKS AND DEADLINES

SEC. 815. Section 3505 of title 44, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (2)(E);

(2) by striking out paragraph (3)(E) and inserting in lieu thereof the following:

"(E) develop and annually revise, in consultation with the Administrator of General Services, a 5-year plan for meeting the automatic data processing equipment (including telecommunications) and other information technology needs of the Federal Government in accordance with the requirements of sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757, 759) and the purposes of this chapter; and";

(3) by striking out the period at the end of paragraph (3)(F) and inserting in lieu thereof a semicolon; and

(4) by inserting after paragraph (3) the following new paragraphs:

"(4) upon the enactment of the Paperwork Reduction Reauthorization Act of 1986—

"(A) set a goal to reduce, by September 30, 1987, the burden of Federal collections of information existing on September 30, 1986, by at least 5 percent; and

"(B) for the fiscal year beginning on October 1, 1987, and each of the next two fiscal years, set a goal to reduce the burden of Federal collections of information existing at the end of the immediately preceding fiscal year by at least 5 percent;

"(5) maintain a comprehensive set of information resources management policies; and

"(6) within one year after the date of enactment of the Paperwork Reduction Reauthorization Act of 1986—

"(A) issue, in consultation with the Administrator of General Services, principles, standards, and guidelines to implement the policies described in paragraph (5);

"(B) report to the Congress on the feasibility and means of enhancing public access, including access by electronic media, to information relating to information collection requests required by this chapter to be made available to the public; and

"(C) identify further initiatives to reduce the burden of Federal collections of information associated with the administration of Federal grant programs.".

FEDERAL AGENCY RESPONSIBILITIES

SEC. 816. Section 3506(c) of title 44, United States Code, is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) systematically inventory its major information systems and periodically review its information resources management activities;";

(2) by striking out "and" at the end of paragraph (4);

(3) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon and "and"; and

(4) by adding at the end thereof the following new paragraphs:

"(6) implement applicable Government-wide and agency information policies, principles, standards, and guidelines with respect to information collection, paperwork reduction, statistical activities, records management activities, privacy and security of records, sharing and dissemination of information, acquisition and use of information technology, and other information resource management functions;

"(7) periodically evaluate and, as needed, improve, the accuracy, completeness, and reliability of data and records contained within Federal information systems; and

"(8) develop and annually revise a 5-year plan, in accordance with appropriate guidance provided by the Director, for meeting the agency's information technology needs.".

PUBLIC INFORMATION COLLECTION ACTIVITIES

SEC. 817. (a) Section 3507(a)(2)(B) of title 44, United States Code, is amended by inserting before the semicolon the following: "and setting forth a title for the information collection request, a brief description of the need for the information and its proposed use, a description of the likely respondents and proposed frequency of response to the information collection request, and an estimate of the burden that will result from the information collection request".

(b) Section 3507(b) of such title is amended by inserting ", including an explanation thereof," after "decisions" in the first sentence.

(c) Section 3507 of such title is further amended by adding at the end thereof the following new subsection:

"(h) Any written communication to the Administrator of the Office of Information and Regulatory Affairs or to any employee thereof from any person not employed by the Federal Government or from an agency concerning a proposed information collection request, and any written communication from the Administrator or employee of the Office to such person or agency concerning such proposal, shall be made available to the public. This subsection shall not require the disclosure of any information which is protected at

all times by procedures established for information which has been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept secret in the interest of national defense or foreign policy.".

FEDERAL INFORMATION LOCATOR SYSTEM

SEC. 818. Section 3511(a) of title 44, United States Code, is amended to read as follows:

"(a) There is established in the Office of Information and Regulatory Affairs a Federal Information Locator System (hereafter in this section referred to as the 'system') which shall be composed of a directory of information resources, a data element dictionary, and an information referral service. The system shall serve as the authoritative register of all information collection requests, and shall be designed so as to assist agencies and the public in locating existing Government information derived from information collection requests.".

RESPONSIVENESS TO CONGRESS

SEC. 819. Subsection (a) of section 3514 of title 44, United States Code, is amended—

(1) by striking out "and" after the semicolon in paragraph (7);

(2) by striking out the period at the end of paragraph (8)(C) and inserting in lieu thereof a semicolon; and

(3) by inserting after paragraph (8) the following new paragraph:

"(9)(A) a summary of accomplishments in the improvement of, and planned initiatives to improve, Federal information resources management within agencies;

"(B) a detailed statement with respect to each agency of new initiatives to acquire information technology to improve such management; and

"(C) an analysis of the extent to which the policies, principles, standards, and guidelines issued and maintained pursuant to paragraphs (5) and (6) of section 3505 of this title promote or deter such new initiatives; and

"(10) with respect to the statistical policy and coordination functions described in section 3504(d) of this title—

"(A) a description of the specific actions taken, or planned to be taken, to carry out each such function;

"(B) a description of the status of each major statistical program, including information on—

"(i) any improvements in each such program;

"(ii) any program which has been reduced or eliminated; and

"(iii) the budget for each such program for the previous fiscal year and the fiscal year in progress and the budget proposed for each such program for the next fiscal year; and

"(C) a description and summary of the long-range plans currently in effect for the major Federal statistical activities and programs.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 820. Section 3520 of title 44, United States Code, is amended to read as follows:

"§ 3520. Authorization of appropriations

"(a) Subject to subsection (b), there are authorized to be appropriated to the Office of Information and Regulatory Affairs to carry out the provisions of this chapter, and for no other purpose, $5,500,000 for each of the fiscal years 1987, 1988, and 1989.

"(b) No funds may be appropriated pursuant to subsection (a) unless such funds are appropriated in an appropriation Act (or continuing resolution) which separately and expressly states the amount appropriated pursuant to subsection (a) of this section. No funds are authorized to be appropriated to the Office of Information and Regulatory Affairs, or to any other officer or administrative unit of the Office of Management and Budget, to carry out the provisions of this chapter, or to carry out any function under this chapter, for any fiscal year pursuant to any provision of law other than subsection (a) of this section.

"(c) Funds appropriated pursuant to subsection (a) may not be used to carry out any function or activity which is not specifically authorized or required by this chapter, but funds so appropriated may be used for necessary expenses of a function or activity which is so authorized or required, such as hire of passenger motor vehicles and services authorized by section 3109 of title 5, United States Code. For the purposes of this subsection, the review of a rule or regulation is specifically authorized or required by this chapter only to the extent that such review is for the sole purpose of reviewing an information collection request contained in, or derived from, such rule or regulation.".

PART B—AMENDMENTS TO THE BROOKS ACT

INFORMATION TECHNOLOGY FUND

SEC. 821. (a)(1) Section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757) is amended to read as follows:

"INFORMATION TECHNOLOGY FUND

"SEC. 110. (a)(1) There is established on the books of the Treasury and Information Technology Fund (hereinafter referred to as the 'Fund'), which shall be available without fiscal year limitation. There are authorized to be appropriated to the Fund such sums as may be required. For purposes of subsection (b), the Fund shall consist of—

"(A) the capital and assets of the Federal telecommunications fund established under this section (as in effect on December 31, 1986), which are in such fund on January 1, 1987;

"(B) the capital and assets which are in the automatic data processing fund established under section 111 of this Act (as in effect on December 31, 1986) which are in such fund on January 1, 1987; and

"(C) the supplies and equipment transferred to the Administrator under sections 111 and 205(f) of this Act, subject to any liabilities assumed with respect to such supplies and equipment.

"(2) The Administrator shall determine the cost and capital requirements of the Fund for each fiscal year and shall submit plans concerning such requirements and such other information as may be requested for the review and approval of the Director of the Office of Management and Budget. Any change to the cost and capital requirements of the Fund for a fiscal year shall be made in the same manner as provided by this section for the initial fiscal year determination. If approved by the Director, the Administrator shall establish rates to be charged agencies provided, or to be provided, information technology resources through the Fund consistent with such approvals. Such cost and capital requirements may include funds—

"(A) needed for the purchase (if the Administrator has determined that purchase is the least costly alternative of information processing and transmission equipment, software, systems, and operating facilities necessary for the provision of such services;

"(B) resulting from operations of the Fund, including the net proceeds of disposal of excess or surplus personal property and receipts from carriers and others for loss or damage to property; and

"(C) which are appropriated, authorized to be transferred, or otherwise made available to the Fund.

"(b) The Fund shall—

"(1) assume all of the liabilities, obligations, and commitments of the funds described in subparagraphs (A) and (B) of subsection (a)(1); and

"(2) be available for expenses, including personal services and other costs, and for procurement (by lease, purchase, transfer, or otherwise) for efficiently providing information technology resources to Federal agencies and for the efficient management, coordination, operation, and utilization of such resources.

"(c)(1) In the operation of the Fund, the Administrator is authorized to enter into multiyear contracts for the provision of information technology hardware, software, or services for periods not in excess of five years, if—

"(A) funds are available and adequate for payment of the costs of such contract for the first fiscal year and any costs of cancellation or termination;

"(B) such contract is awarded on a fully competitive basis; and

"(C) the Administrator determines that—

"(i) the need for the information technology hardware, software, or services being provided will continue over the period of the contract;

"(ii) the use of the multiyear contract will yield substantial cost savings when compared with other methods of providing the necessary resources; and

"(iii) such a method of contracting will not exclude small business participation.

"(2) Any cancellation costs incurred with respect to a contract entered into under this subsection shall be paid from currently available funds in the Fund.

"(3) This subsection shall not be construed to limit the authority of the Administrator to procure equipment and services under section 201 of this Act.

"(d) Following the close of each fiscal year, the uncommitted balance of any funds remaining in the Fund, after making provision

for anticipated operating needs as determined by the Office of Management and Budget, shall be transferred to the general fund of the Treasury as miscellaneous receipts.

"(e) A report on the operation of the Fund shall be made annually by the Administrator to the Director of the Office of Management and Budget. Such report shall identify any proposed increases to the capital of the Fund and shall include a report on information processing equipment inventory, utilization, and acquisition.

"(f) For purposes of this section, the term 'information technology resources' includes any service or equipment which had been acquired or provided under this section or section 111 of this Act, including other information processing and transmission equipment, software, systems, operating facilities, supplies, and services related thereto, and maintenance and repair thereof.".

(2) The table of contents of the Federal Property and Administrative Services Act of 1949 is amended by striking out the item pertaining to section 110 and inserting in lieu thereof the following:

"Sec. 110. Information Technology Fund.".

(b)(1) Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is amended—

(A) by striking out subsections (c) and (d); and

(B) by redesignating subsections (e), (f), (g), (h), and (i) as subsections (c), (d), (e), (f), and (g), respectively.

(2) Section 3504(g) of title 44, United States Code, is amended—

(A) by striking out "section 111(f)" in paragraph (1) and inserting in lieu thereof "section 111(d)"; and

(B) by striking out "section 111(g)" in paragraph (2) and inserting in lieu thereof "section 111(e)".

(3) Section 3(b) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3503 note) is amended by striking out "section 111" and inserting in lieu thereof "sections 110 and 111".

APPLICATION OF ACT

SEC. 822. (a) Section 111(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)) is amended—

(1) by inserting "(1)" after "SEC. 111. (a)"; and

(2) by adding at the end thereof the following:

"(2)(A) For purposes of this section, the term 'automatic data processing equipment' means any equipment or interconnected system or subsystems of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching interchange, transmission, or reception, of data or information—

"(i) by a Federal agency, or

"(ii) under a contract with a Federal agency which—

"(I) requires the use of such equipment, or

"(II) requires the performance of a service or the furnishing of a product which is performed or produced making significant use of such equipment.

"(B) Such term includes—

"(i) computers;

"(ii) ancillary equipment;

"(iii) software, firmware, and similar procedures;

"(iv) services, including support services; and

"(v) related resources as defined by regulations issued by the Administrator for General Services.

"(3) This section does not apply to—

"(A) automatic data processing equipment acquired by a Federal contractor which is incidental to the performance of a Federal contract;

"(B) radar, sonar, radio, or television equipment;

"(C) the procurement by the Department of Defense of automatic data processing equipment or services if the function, operation, or use of which—

"(i) involves intelligence activities;

"(ii) involves cryptologic activities related to national security;

"(iii) involves the command and control of military forces;

"(iv) involves equipment which is an integral part of a weapon or weapons system; or

"(v) is critical to the direct fulfillment of military or intelligence missions, provided that this exclusion shall not include automatic data processing equipment used for routine administrative and business applications such as payroll, finance, logistics, and personnel management; or

"(D) the procurement of automatic data processing equipment or services by the Central Intelligence Agency.".

(b) Section 111(b) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) If the Administrator finds that a senior official of an agency designated pursuant to section 3506(b) of title 44, United States Code, is sufficiently independent of program responsibility and has sufficient experience, resources, and ability to carry out fairly and effectively procurements under this section, the Administrator may delegate to such official the authority to lease, purchase, or maintain automatic data processing equipment pursuant to paragraph (2) of this subsection, except that any such delegation shall not relieve the Administrator of the responsibilities assigned to the Administrator under this section. A delegation by the Administrator under this subsection shall not preclude the Administrator from reviewing individual procurement requests if the Administrator determines that circumstances warrant such a review. The Administrator shall retain authority to revoke such delegations, both in general and with regard to any specific matter. In acting for the Administrator, any official to whom approval authority has been delegated under this subsection shall comply fully with the rules and regulations promulgated by the Administrator .".

REVIEW OF DELEGATION DETERMINATIONS

SEC. 823. Section 111(e) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(e)) (as redesignated by section 821(b)(1) of this Act) is amended—

(1) by striking out "specifically affecting them or the automatic data processing equipment or components used by them" and inserting in lieu thereof "whether or not the automatic data processing equipment will be provided by the Administrator or whether or not the authority to lease, purchase, or maintain the equipment will be delegated"; and

(2) by striking out the last sentence and inserting in lieu thereof the following: "If the Administrator denies an agency

procurement request such denial shall be subject to review and decision by the Director of the Office of Management and Budget, unless the President otherwise directs. Such review and decision shall be made only on the basis of a written appeal, and such written appeal, together with any written communications to the Administrator or any officer or employee of the Office of Management and Budget concerning such denial shall be made available to the public.".

BOARD OF CONTRACT APPEALS PROCEEDINGS

SEC. 824. Section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)) (as redesignated by section 821(b)(1) of this Act) is amended—

(1) in the first sentence of paragraph (1) thereof, by striking out "in connection with any procurement conducted under the authority of this section" and inserting in lieu thereof "in connection with any procurement which is subject to this section";

(2) in such sentence, by striking out "conducted under delegations" and inserting in lieu thereof "subject to delegation"; and

(3) by inserting before the last sentence of such paragraph the following new sentences: "The authority of the board to conduct such review shall include the authority to determine whether any procurement is subject to this section and the authority to review regulations to determine their consistency with applicable statutes.

A proceeding, decision, or order of the board pursuant to this subsection shall not be subject to interlocutory appeal or review."; and

(4) in paragraph (5) thereof, by adding at the end of subparagraph (A) the following: "The board may consider any decision, determination, opinion, or statement made by the Director of the Office of Management and Budget or any officer of any other Federal agency regarding applicability of this section to a particular procurement, and may request the advice of the Director or such officer with regard to such applicability, but shall not be bound by any such decision, determination, opinion, or statement when determining whether a procurement is subject to this section.".

CONFORMING AMENDMENT

SEC. 825. Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is further amended by striking out "Bureau of the Budget" each place it appears and inserting in lieu thereof "Office of Management and Budget".

PART C—MISCELLANEOUS PROVISIONS

EXTENSION OF AUTHORITY OF GENERAL SERVICES BOARD OF CONTRACT APPEALS

SEC. 831. Section 2713 of the Deficit Reduction Act of 1984 (98 Stat. 1184) is amended by striking out subsection (b).

CLARIFICATION OF AUTHORITY OF GENERAL SERVICES ADMINISTRATOR

SEC. 832. Section 101 of Federal Property and Administrative Services Act of 1949 (40 U.S.C. 751) is amended by adding at the end thereof the following:

"(f) The Administrator shall have authority to prescribe regulations to carry out this Act.".

EFFECTIVE DATE

SEC. 833. This title and the amendments made by this title shall take effect on the date of enactment of this Act, except as provided in section 813(b) and except that the provisions of section 821 and the amendments made by such section shall take effect on January 1, 1987.

(n) Such amounts as may be necessary for continuing the following activities, not otherwise provided for in this joint resolution, which were conducted in the fiscal year 1986, under the terms and conditions provided in applicable appropriations Acts for the fiscal year 1986, at the current rate or as otherwise provided herein: *Provided,* That no appropriation or fund made available or authority granted pursuant to this subsection shall be used to initiate or resume any project or activity for which appropriations, funds, or authority were not available during fiscal year 1986 unless otherwise provided for herein:

Refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act, part B of title III of the Refugee Act of 1980, and section 501 of the Refugee Education Assistance Act of 1980, except that the amount necessary for continuing such activities at the current rate shall be reduced, on an activity by activity basis, by the total of amounts of prior appropriations remaining available to the States for conducting any such activities, other than education assistance for children and social services, in fiscal year 1987 or thereafter, and shall not be available for conducting any such activities other than education assistance for children and social services in any fiscal year after 1987;

ACTIVITIES AUTHORIZED BY THE FOLLOW THROUGH ACT

SEC. 101. Economic Development Administration, notwithstanding any other provision of this Joint Resolution, for additional amounts for "Economic development assistance programs", $1,000,000, to remain available until expended, for a grant to the City of Portland, Oregon, for preliminary engineering, design and other related activities associated with expansion of the Orgeon Museum of Science and Industry; and $1,000,000, to remain available until expended, for a grant to improve the existing County Road in Sumter County, Alabama, from the Mississippi State line to Alabama Highway No. 17 (also known as Scooba Road); and $7,500,000, to remain available until expended, for a grant to continue economic development facilities and related infrastructure activities of the Fort Worth Stockyards Project at full Federal expense: *Provided,* That in addition, the Secretary of the Army, acting through the Chief of Engineers, using any funds heretofore, herein, and hereafter available to the Corps of Engineers, is authorized and directed to develop at full Federal expense detailed plans and specifications and to

construct measures in Tarrant County, Texas, to eliminate flood damage in the historical stockyards area along Tony's Creek and Marine Creek.

SEC. 102. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1986, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) September 30, 1987, whichever first occurs.

SEC. 103. Appropriations made and authority granted pursuant to this joint resolution for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 108. (a) AMENDMENTS TO FOOD SECURITY ACT OF 1985.—Effective with respect to each of the 1987 through 1990 crops, section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by—

(1) striking out paragraphs (1), (2), and (3), and inserting in lieu thereof the following:

"(1) For each of the 1987 through 1990 crops, the total amount of deficiency payments (excluding any deficiency payments described in paragraph (2)(B)(I)(iv) of this section) and land diversion payments that a person shall be entitled to receive under one or more of the annual programs established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for wheat, feed grains, upland cotton, extra long staple cotton, and rice may not exceed $50,000.

"(2)(A) For each of the 1987 through 1990 crops, the total amount of payments set forth in subparagraph (B) that a person shall be entitled to receive under one or more of the annual programs established under the Agricultural Act of 1949 for wheat, feed grains, upland cotton, extra long staple cotton, rice, honey, and (with respect to clause (iii)(II) of subparagraph (B)) other commodities, when combined with payments for such crop described in paragraph (1), shall not exceed $250,000.

"(B) As used in subparagraph (A), the term 'payments' means—

"(i) any part of any payment that is determined by the Secretary of Agriculture to represent compensation for resource adjustment (excluding land diversion payments) or public access for recreation;

"(ii) any disaster payments under one or more of the annual programs for a commodity established under the Agricultural Act of 1949;

"(iii)(I) any gain realized by a producer from repaying a loan for a crop of wheat, feed grains, upland cotton, rice, or honey at the rate permitted under section 107D(a)(5), 105C(a)(4), 103A(a)(5), 101A(a)(5), or 201(b)(2), respectively, of the Agricultural Act of 1949, or (II) any gain realized by a producer from repaying a loan for a crop of any other commodity at a lower level than the original loan level established under the Agricultural Act of 1949;

"(iv) any deficiency payment received for a crop of wheat or feed grains under section 107D(c)(1) or 105C(c)(1), respectively, of the Agricultural Act of 1949 as the result of a reduction of the loan level for such crop under section 107D(a)(4) or 105C(a)(3) of such Act;

"(v) any loan deficiency payment received for a crop of wheat, feed grains, upland cotton, or rice under section 107D(b), 105C(b), 103A(b), or 101A(b), respectively, of the Agricultural Act of 1949; and

"(vi) any inventory reduction payment received for a crop of wheat, feed grains, upland cotton, or rice under section 107D(g), 105C(g), 103A(g), or 101A(g), respectively, of the Agricultural Act of 1949.

Such terms shall not include loans or purchases, except as specifically provided for in this paragraph.

"(C) The total amount of loans on a crop of honey that a person may have outstanding at any one time under the annual program established for such crop under the Agricultural Act of 1949 may not exceed $250,000 less the amount of payments, as described in paragraph (1) and subparagraphs (A) and (B) of this paragraph, received by such person for the crop year involved.

"(3) Notwithstanding the foregoing provisions of this section, if the Secretary of Agriculture determines that any of the limitations provided for in paragraph (2) will result in a substantial increase in the number or dollar amount of loan forfeitures for a crop of a commodity, will substantially reduce the acreage taken out of production under an acreage reduction program for a crop of a commodity, or will cause the market prices for a crop of a commodity to fall substantially below the effective loan rate for the crop, the Secretary shall adjust upward such limitation, under such terms and conditions as the Secretary determines appropriate, as necessary to eliminate such adverse effect on the program involved.";

(2) adding at the end of subparagraph (A) of paragraph (5) the following: "Such regulations shall provide that the term 'person' does not include any cooperative association of producers that markets commodities for producers with respect to the commodities so marketed for producers."; and

(3) in paragraph (6), striking out "lands owned" and inserting in lieu thereof "lands or animals owned", and inserting after "lands are farmed" the following: "or animals are husbanded".

(b) APPLICATION OF AMENDMENTS.—The amendments made by subsection (a) shall not apply with respect to any payment or loan received under any agreement or contract made before the date of enactment of this Act.

(c) REVISION OF REGULATIONS.—

(1)(A) The Secretary of Agriculture shall review the regulations in effect on the date of enactment of this Act that define "person" under section 1001 of the Food Security Act of 1985 and related regulations in effect on such date otherwise affecting the payment limitations under such section, to determine ways in which such regulations can be revised to better ensure the fair and reasonable application of limitations and eliminate fraud and abuse in the application of such payment limitations.

(B) The Secretary also shall review the amendments to section 1001 of the Food Security Act of 1985 made by this section.

(2) Based on the reviews conducted under paragaph (1), the Secretary of Agriculture shall submit to the Committee on Agriculture,

Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives, not later than March 1, 1987, a report on such reviews and—

(A) with respect to the matters reviewed under paragraph (1)(A), proposed regulations or amendments to regulations, to take effect not earlier than October 1, 1987, that will meet the object with respect to limitations specified in paragraph (1)(A); and

(B) with respect to the matters reviewed under paragraph (1)(B), recommendations on legislative changes to section 1001 of the Food Security Act of 1985 that the Secretary determines are necessary or appropriate.

SEC. 110. The Interagency Committee on Cigarette and Little Cigar Fire Safety, established pursuant to Public Law 98-567, shall have an additional six months to complete its final technical report and submit policy recommendations to the Congress.

SEC. 111. (a) Any individual who—

(1) on the day before the date on which food services operations for the House of Representatives are transferred by contract to a corporation or other person—

(A) is a congressional employee (as defined in section 2107 of title 5, United States Code), other than an employee of the Architect of the Capitol, engaged in providing such food services under the administrative control of the Architect of the Capitol; and

(B) is subject to subchapter III of chapter 83 of title 5, United States Code, or chapter 84 of such title;

(2) as a result of such contract, ceases to be an employee described in paragraph (1); and

(3) becomes employed to provide such food services under contract, including a successor contract;

may, for purposes of the provisions of law specified in subsection (b), elect to be treated, for so long as such individual continues to be employed (without a break in service) as described in paragraph (3), as if such individual had not ceased to be an employee described in paragraph (1). Such election shall be made on or before the day referred to in paragraph (1) and shall be available only to an individual whose transition from the employment described in paragraph (1) to the employment described in paragraph (3) takes place without a break in service.

(b) The provisions of law referred to in subsection (a) are—

(1) subchapter III of chapter 83 of title 5, United States Code (including section 8339(m) of such title (which shall be applied, when an employee retires on an immediate annuity or dies, as if the employment at the time of retirement or death were under a formal leave system), with respect to unused sick leave to the credit of an employee on the day referred to in subsection (a)(1));

(2) chapter 84 of title 5, United States Code; and

(3) title III of the Federal Employees' Retirement System Act of 1986.

(c)(1) At the earliest practicable opportunity, the Director of the Office of Personnel Management shall, in consultation with the Architect of the Capitol, prescribe regulations to carry out this section with respect to matters within the jurisdiction of the Office, including regulations under which—

(A) an individual who makes an election under subsection (a) shall pay into the Civil Service Retirement and Disability Fund

any employee contributions which would be required if such individual were a Congressional employee; and

(B) the employer furnishing food services under a contract referred to in subsection (a) shall pay into the Civil Service Retirement and Disability Fund amounts equal to any agency contributions which would be required if the individual were a Congressional employee.

(2) At the earliest practicable opportunity, the Executive Director of the Federal Retirement Thrift Investment Board shall, in consultation with the Architect of the Capitol, prescribe regulations to carry out this section with respect to matters within the jurisdiction of the Board.

SEC. 112. Notwithstanding any other provision of law, none of the funds in this or any other Act shall be used by the Coast Guard to participate in any demonstration project or to implement in any way the extension of the navigation season on the Great Lakes or the St. Lawrence River without written notification to and prior approval of the House and Senate Committees on Appropriations: *Provided*, That nothing in this section shall preclude the Coast Guard from performing routine search and rescue operations.

SEC. 113. Within 30 days of enactment, the Federal Aviation Administration shall initiate rulemaking action to consider the question of requiring the installation and carriage of operating transponders with automatic altitude reporting capability for all aircraft operating in terminal airspace where Federal Aviation Administration provides radar service, and in all controlled airspace above a minimum altitude to be determined by the Federal Aviation Administration. This regulation shall be effective on the earliest feasible date.

SEC. 114. (a) The Secretary of Transportation shall approve the construction of Interstate Highway H-3 between the Halawa interchange to, and including the Halekou interchange (a distance of approximately 10.7 miles), and such construction shall proceed to completion notwithstanding section 138 of title 23 and section 303 of title 49, United States Code.

(b) Notwithstanding section 102 of this joint resolution the provisions of subsection (a) shall constitute permanent law.

SEC. 115. GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

The revenues and collections deposited into the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f), shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving Government agencies (including space adjustments) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings and moving; repair and alteration of federally owned buildings, including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition,

and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by purchase contract, in the aggregate amount of $2,385,856,000 of which (1) not to exceed $125,548,000 shall remain available until expended for construction of additional projects as authorized by law at locations and at maximum construction improvement costs (including funds for sites and expenses) as follows:

New Construction:

Alabama:

Jasper, Federal Building, $3,376,000

New Jersey:

Paterson, Federal Building (site and design), $1,500,000

New Mexico:

Columbus, Border Station, $2,680,000

Pennsylvania:

Wilkes-Barre, Federal Building (Social Security Administration), $20,672,000

South Carolina:

Columbia, Federal Building, Courthouse, Claim, $1,057,000

Construction Projects, less than $500,000, $1,000,000:

Purchase:

New York:

Wellesley Island, Border Station, $1,925,000

Other Selected Purchases, including options to purchase, $93,338,000:

Provided, That each of the immediately foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but by not to exceed 10 per centum: *Provided further,* That all funds for direct construction projects shall expire on September 30, 1988, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further,* That claims against the Government of less than $50,000 arising from direct construction projects, acquisitions of buildings and purchase contract projects pursuant to Public Law 92-313, be liquidated with prior notification to the Committees on Appropriations of the House and Senate to the extent savings are effected in other such projects; (2) not to exceed $270,222,000, which shall remain available until expended, for repairs and alterations: *Provided further,* That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project as follows, except each project may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate for a greater amount:

Repairs and Alterations:

Arizona:

Phoenix, Federal Building, $762,000

California:

San Diego, Old Federal Building, $1,576,000

San Diego, Federal Building, Courthouse, $1,178,000

San Francisco, Post Office, Courthouse, $1,683,000
San Francisco, Burton Federal Building, $20,000,000
Colorado:
Denver, Federal Building, Courthouse, $8,540,000
District of Columbia:
Federal Building, New Post Office, $1,700,000
Federal Building #6, $1,213,000
Federal Building #8, $1,886,500
Federal Building #9, $1,712,500
Federal Building #10A, $1,121,000
General Accounting Office, $3,552,000
Justice, $599,000
State, $2,765,000
Steam Distribution System, $8,796,000
Hawaii:
Honolulu, Kalanianaole Federal Building, Courthouse, $1,850,000
Illinois:
Chicago, Railroad Retirement Board, $5,200,000
Kentucky:
Louisville, Post Office, Courthouse, $1,500,000
Missouri:
Kansas City, Federal Building, $4,408,000
St. Louis, Federal Building (Mart), Phase I, $20,000,000
Kansas City, 601 E. 12th, $997,000
Kansas City, 1500 Bannister, $2,560,000
St. Louis, 4300 Goodfellow, $2,176,000
Nevada:
Las Vegas, Federal Building, Courthouse, $2,197,000
Oregon:
Portland, Federal Building, $12,069,000
Texas:
Dallas, Federal Building, $1,600,000
Dallas, Terminal Annex, $4,600,000
Utah:
Salt Lake City, Post Office, Courthouse, $675,000
Virginia:
Arlington, Pentagon, $7,000,000
Wisconsin:
Milwaukee, Federal Building, Courthouse, $2,799,000
Wyoming:
Casper, Federal Building, Courthouse, $1,923,000
Minor Repairs and Alterations, $141,584,000:

Provided further, That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That all funds for repairs and alterations prospectus projects shall expire on September 30, 1988, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date; (3) not to exceed $131,442,000 for payment on purchase contracts entered into prior to July 1, 1975; (4) not to exceed $985,000,000 for rental of space; (5) not to exceed $753,219,000 for real property operations; (6) not to exceed $57,090,000 for program direction and centralized services; and (7) not to exceed $63,335,000 for design and construction services which shall remain available until expended: *Provided further,* That for

the purposes of this authorization, buildings constructed pursuant to the Public Buildings Purchase Contract Act of 1954 (40 U.S.C. 356), the Public Buildings Amendments of 1972 (40 U.S.C. 490), and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: *Provided further*, That none of the funds available to the General Services Administration shall be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus: *Provided further*, That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further*, That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056 as amended, shall be available from such revenues and collections: *Provided further*, That the Administrator of General Services is authorized, under section 210(h) of the Federal Property and Administrative Services Act of 1949, to acquire a building not to exceed 250,000 sq. ft., constructed or acquired by or on behalf of the State of Florida or a political subdivision thereof, by lease not to exceed 30 years, in Miami, Florida, on such terms and conditions as he deems appropriate. These terms and conditions may include an option to permit the Federal Government, if the Administrator deems that it is in the best interest of the Federal Government, to execute a succeeding lease: *Provided further*, That the Administrator of General Services is authorized, under section 210(h) of the Federal Property and Administrative Services Act of 1949, to acquire a building not to exceed 600,000 sq. ft., constructed or acquired by or on behalf of the State of Illinois or a political subdivision thereof, by lease not to exceed 30 years, in Chicago Illinois, on such terms and conditions as he deems appropriate. These terms and conditions may include an option to permit the Federal Government, if the Administrator deems that it is in the best interest of the Federal Government, to execute a succeeding lease: *Provided further*, That revenues and collections and any other sums accruing to this fund during fiscal year 1987 excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6) in excess of $2,385,856,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriation Acts: *Provided further*, That notwithstanding this or any other provision of this Act, Section 623 of the Treasury, Postal Service, and General Government Appropriations Act as contained in this Act shall apply only to the rural electrification program in the State of Alaska.

Notwithstanding any other provisions of this joint resolution, no funds shall be appropriated for the procurement of T-46 aircraft in fiscal year 1987. Funds appropriated in fiscal year 1986 for the procurement of T-46 aircraft shall be available to conduct the competitive fly-off set forth in section 145 of the fiscal year 1987 Defense Authorization Act: *Provided*, That such funds shall not be available for the modification or development of any candidate aircraft for the purposes of that competition. Such competition shall be completed by January 1, 1988. The Air Force shall proceed immediately to prepare for the required competition mandated by section 145: *Provided further*, That section 2304 of said Act (S. 2638) shall not be interpreted to apply to any funds provided for operation and maintenance, design funds, or military construction funds for other than major military construction projects at any military installation or facility.

SEC. 144. (a) CIVILIAN PAY RAISE.—(1) Notwithstanding any other provision of law, in the case of fiscal year 1987, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems, shall be an increase of 3 percent.

(2) Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period commencing on or after January 1, 1987.

(3)(A) Notwithstanding any other provision of law, determinations relating to amounts to be appropriated in order to provide for the adjustment described in paragraph (1) shall be made based on the assumption that the various departments and agencies of the Government will, in the aggregate, absorb 50 percent of the increase in total pay for fiscal year 1987.

(B) Subparagraph (A) does not apply with respect to the Department of Defense or pay for employees of the Department of Defense.

(4) For purposes of this subsection—

(A) the term "total pay" means, with respect to a fiscal year, the total amount of basic pay which will be payable to employees covered by statutory pay systems for service performed during such fiscal year;

(B) the term "increase in total pay" means, with respect to a fiscal year, that part of total pay for such year which is attributable to the adjustment taking effect under this section during such year; and

(C) the term "statutory pay system" has the meaning given such term by section 5301(c) of title 5, United States Code.

(b) MILITARY PAY RAISE.—(1) Any adjustment required by section 1009 of title 37, United States Code, in elements of the compensation of members of the uniformed services to become effective during fiscal year 1987 shall not be made.

(2) The rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 3 percent effective on January 1, 1987.

SEC. 145. (a)(1)(A) Since the Department of State has determined that "In the area of human rights, major discrepancies persist between Romania's Constitution, law, public pronouncements and international commitments on the one hand, and the civil liberties and human rights allowed by the regime on the other";

(B) Since it is apparent from numerous accounts by the State Department, congressional delegations, and human rights organizations that Romanian citizens are being arbitrarily harassed, interrogated, and arrested by government authorities for exercising their civil and religious liberties;

(C) Since Romania's harassment of religious believers extends to the arrest of persons for distributing Bibles and the destruction of places of worship, including most recently the country's largest Seventh Day Adventist Church and the Sephardic synagogue in Bucharest;

(D) Since the Romanian government has imposed severe limits on the freedom of Hungarians and other ethnic minorities to express and maintain their cultural heritage, and has attempted to systematically eliminate Hungarian churches, schools, traditions, and even the Hungarian language from Romanian society;

(E) Since the United States' extension of Most-Favored-Nation trade status to Romania, although linked in the Jackson-Vanik Amendment to freedom of emigration from that country, might be misconstrued as an endorsement of that nation's abusive internal practices:

(2) Now, therefore be it declared by the Senate—

The Congress strongly condemns Romania's continued hostility to the exercise of religious, political and cultural rights, and calls upon Romania to cease such persecution, to halt its destruction of places of worship, and to lift its ban on the production and distribution of Bibles and other religious literature.

(c) It is the sense of the Congress that the President should consider the following factors in shaping our bilateral relations with Romania:

(1) whether Romania is making substantial progress in halting its persecution of Romanian citizens on religious and political grounds and its repression of Hungarians and other ethnic minorities; and

(2) whether Romania is fulfilling its commitments to permit the printing of several thousand Bibles in Romania and to provide for and preserve places of worship.

(d) The Secretary of State shall transmit a copy of this resolution to the head of the diplomatic mission of Romania to the United States and to Romania's permanent representative to the United Nations.

SEC. 146. Such amounts as may be necessary of the Polish currencies held by the United States which have been generated by the sale to Poland of surplus United States dairy products shall be available for construction and renovation projects to be undertaken in Poland under the auspices of the Charitable Commission of the Polish Catholic Episcopate for the benefit of handicapped and orphaned children. Such currencies may be utilized without regard to the requirements of section 1306 of title 31, United States Code, or any other provision of law.

SEC. 147. Section 61(a) of the Arms Export Control Act is amended by adding at the end thereof the following: "The President may waive the requirement of paragraph (3) with respect to a lease which is made in exchange with the lessee for a lease on substantially reciprocal terms of defense articles for the Department of Defense, except that this waiver authority—

"(A) may be exercised only if the President submits to the Committee on Foreign Affairs and the Committee on Appropria-

tions of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate, in accordance with the regular notification procedures of those Committees, a detailed notification for each lease with respect to which the authority is exercised; and

"(B) may be exercised only during the fiscal year 1987 and only with respect to one country, unless the Congress hereafter provides otherwise.

The preceding sentence does not constitute authorization of appropriations for payments by the United States for leased articles.".

SEC. 148. Notwithstanding any other provisions of title 23, the Secretary of Transportation shall carry out the following project:

I-75 corridor in Kenton County, Kentucky, to examine the feasibility of unmanned radar units for safety purposes.

SEC. 149. Notwithstanding any other provision of law or this joint resolution, assistance to Bolivia shall be provided in accordance with the provisions of the Anti-Drug Abuse Act of 1986, as passed by the Senate on September 30, 1986.

SEC. 150. (a) Section 445(b)(1) of the Social Security Act is amended by striking out "June 30, 1985," and inserting in lieu thereof "June 30, 1987,".

(b) Section 445(d) of such Act is amended by striking out "June 30, 1984," and inserting in lieu thereof "June 30, 1987," and by striking out "June 30, 1987" and inserting in lieu thereof "June 30, 1988".

SEC. 151. (a) Notwithstanding any other provision of law, the Administrator of General Services is authorized during fiscal year 1987 to accept periodic reimbursement from the Senate and from the House of Representatives for the cost of any equipment purchased for the Senate or the House of Representatives, respectively, with funds from the General Supply Fund established under section 109 of the Federal Property and Administrative Services Act of 1949. The amount of each such periodic reimbursement shall be computed by amortizing the total cost of each item of equipment over the useful life of the equipment, as determined by the Administrator, in consultation with the Sergeant at Arms and Doorkeeper of the Senate or the Clerk of the House of Representatives, as appropriate.

(b) Subsection (a) applies to reimbursements to the General Supply Fund for any equipment purchased for the Senate or the House of Representatives before, on, or after the date of enactment of this section.

SEC. 152. Section 107D(c)(1)(E)(ii) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1)(E)(ii)) is amended by striking out "marketing year for such crop" and inserting in lieu thereof "first 5 months of the marketing year for the 1986 crop and the marketing year for each of the 1987 through 1990 crops".

SEC. 153. (a) The Congress finds that the activities conducted under the authorities of the Foreign Assistance Act of 1961 have contributed greatly to the alleviation of human suffering and the promotion of economic development in the recipient countries. The Congress finds further that changing circumstances in the developing countries and changing availability of resources from the United States require that a comprehensive review of the activities under that Act be undertaken.

(b) It is, therefore, the sense of the Congress that the President should undertake a comprehensive review of the activities authorized by the Foreign Assistance Act of 1961 and should send to the Committees on Appropriations and to the Senate Foreign Rela-

tions Committee and the House Foreign Affairs Committee by February 1, 1987, his recommendations for amending the Act or otherwise modifying those activities.

SEC. 154. (a) Section 502(a) of title 21 of the District of Columbia Code is amended by striking out the last sentence and inserting in lieu thereof "Eight of the members of the Commission shall be health care professionals who are psychiatrists, or doctoral level psychologists, practicing in the District of Columbia who have had not less than five years' experience in the treatment of mental illnesses.".

(b) Section 502(c) of title 21 of the District of Columbia Code is amended to read as follows:

"(c) Members of the Commission who are health care professionals shall serve on a part-time basis and shall be rotated by assignment of the Chief Judge of the court, so that at any one time the Commission shall consist of the chairman and two members who are health care professionals. Members of the Commission who are health care professionals may practice their profession during their tenure of office, but may not participate in the disposition of a case in which they have rendered professional service or advice.".

(c) The members of the District of Columbia Commission on Mental Health on the date of the enactment of this joint resolution shall serve the unexpired portions of their terms as members of such commission.

(d) The provisions of this joint resolution shall take effect on the date of enactment.

SEC. 163. Notwithstanding any legislative or judicial requirement, the Office of Surface Mining Reclamation and Enforcement may delay the finalization of the proposed rulemaking amending Parts 773 and 778 of the Code of Federal Regulations as published in the Federal Register on April 5, 1985 (50 FR 13724) until March 31, 1987.

TITLE II

OMNIBUS DRUG SUPPLEMENTAL APPROPRIATIONS ACT OF 1987

CHAPTER I

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For an additional amount for "Salaries and expenses, United States Attorneys", $31,000,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For an additional amount for "Salaries and expenses, United States Marshals Service", $17,000,000.

SUPPORT OF UNITED STATES PRISONERS

For an additional amount for "Support of United States prisoners", $5,000,000.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524, as amended by the Comprehensive Forefeiture Act of 1984 and the Anti-Drug Abuse Act of 1986 as passed the House of Representatives on October 8, 1986 or similar legislation if enacted into law, such sums as may be necessary to be derived from the Department of Justice Assets Forefeiture Fund

FEDEREAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $2,000,000.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $60,000,000.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $28,000,000.

BUILDINGS AND FACILITIES

For an additional amount for "Buildings and facilities", $96,500,000, to remain available until expended

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For an additional amount for "Justice assistance", $225,000,000, to remain available until expended, for grants for drug law enforcement programs, to be used only to carry out provisions of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by H.R. 5484 as passed the House of Representatives on October 8, 1986 or similar legislation if enacted into law: *Provided*, That $2,000,000 shall be available only to carry out a pilot prison capacity program.

THE JUDICIARY

COURTS OF APPEALS DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $12,000,000, to carry out the provisions of the Drug and Alcohol Dependent Offenders Treatment Act of 1986 as passed the House of Representatives on October 8, 1986 or similar legislation if enacted into law.

DEFENDER SERVICES

For an additional amount for "Defender services", $18,000,000, to remain available until expended.

FEES OF JURORS AND COMMISSIONERS

For an additional amount for "Fees of jurors and commissioners", $7,500,000, to remain available until expended.

RELATED AGENCY

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $2,000,000, to be available only for drug education programs abroad.

CHAPTER II

FOREIGN ASSISTANCE

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

AGENCY FOR INTERNATIONAL DEVELOPMENT

Education and Human Resources Development, Development Assistance:

For an additional amount to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, $3,000,000: *Provided*, That these funds shall be used pursuant to section 126(b)(2) of the Foreign Assistance Act of 1961 for additional activities aimed at increasing awareness of the effects of production and trafficking of illicit narcotics on source and transit countries: *Provided further*, That funds made available by this paragraph shall be available through the regular notification procedures of the Committee on Appropriations.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For an additional amount to carry out the provisions of section 481 of the Foreign Assistance Act of 1961, $53,000,000: *Provided*, That of this amount $45,000,000 shall be made available only in accordance with the provisions of section 2001(2) of H.R. 5484, as passed in the Senate on September 30, 1986: *Provided further*, That funds made available by this paragraph shall be available through the regular notification procedures of the Committee on Appropriations.

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CHAPTER III

DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For an additional amount for "Operation of the National Park System", $1,000,000.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For an additional amount for "Operation of Indian programs", $10,000,000: *Provided*, That funds made available to tribes and tribal organizations through grants or contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1988.

CONSTRUCTION

For an additional amount for "Construction", $12,500,000, to remain available until expended.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

INDIAN HEALTH SERVICES

For an additional amount for "Indian health services", $16,200,000: *Provided*, That funds made available to tribes and tribal organizations through grants or contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1988.

INDIAN HEALTH FACILITIES

For an additional amount for "Indian health facilities", $5,500,000, to remain available until expended.

CHAPTER IV

DEPARTMENT OF LABOR

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For an additional amount for the development of information on drug abuse in the workplace, $3,000,000 to remain available until September 30, 1988.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For an additional amount for substance abuse prevention and treatment activities as authorized by titles III, V and XIX of the Public Health Service Act, $262,000,000 to remain available until September 30, 1988.

DEPARTMENT OF EDUCATION

SPECIAL PROGRAMS

For an additional amount for carrying out drug abuse education and prevention activities, $200,000,000 to remain available until September 30, 1988, of which $5,500,000 shall be used for the development of audio-visual materials for distribution to local educational authorities.

RELATED AGENCY

ACTION

OPERATING EXPENSES

For an additional amount for substance abuse prevention and education activities as authorized by the Domestic Volunteer Service Act of 1973, $3,000,000.

CHAPTER V

DEPARTMENT OF TRANSPORTATION

COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating expenses", $39,000,000.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for "Acquisition, construction, and improvements", $89,000,000, to remain available until September 30, 1991.

CHAPTER VI

DEPARTMENT OF TREASURY

U.S. CUSTOMS SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $44,120,000.

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

For an additional amount for "Operation and Maintenance, Air Interdiction Program", $93,131,000, of which up to $10,000,000 is available for the U.S.—Bahamas Task Force; $25,000,000 is available for establishment of command, control, communications, and intelligence (C-31) centers under the exclusive control of the U.S. Customs Service; and $9,131,000 for additional modification of Customs P-3 aircraft with 360 degree radar, such sums to remain available until expended.

CUSTOMS FORFEITURE FUND

For an additional amount for the "Customs Forfeiture Fund", $10,000,000, to be derived from deposits in the Fund.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $5,000,000.

PAYMENT TO THE GOVERNMENT OF PUERTO RICO

For payment of a grant to the Government of Puerto Rico, $7,800,000, to remain available until expended.

EXECUTIVE OFFICE OF THE PRESIDENT

WHITE HOUSE CONFERENCE ON DRUG ABUSE AND CONTROL

SALARIES AND EXPENSES

For necessary expenses of the White House Conference on Drug Abuse and Control, $5,000,000.

CHAPTER VII

DEPARTMENT OF DEFENSE

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and maintenance, Navy", $15,000,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and maintenance, Air Force", $12,615,000.

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for "Aircraft procurement, Army", $18,000,000.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for "Aircraft procurement, Navy", $183,000,000.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other procurement, Air Force", $71,385,000.

ADMINISTRATIVE PROVISION

Notwithstanding any other provision of law, all purchases, leases, or other uses of military type equipment acquired from appropriations provided in this chapter shall be procured under existing procedures established by the Department of Defense.

This title may be cited as the "Omnibus Drug Supplemental Appropriations Act of 1987".

TITLE III

SCHOOL LUNCH AND CHILD NUTRITION AMENDMENTS

SEC. 301. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "School Lunch and Child Nutrition Amendments of 1986".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

TABLE OF CONTENTS

Sec. 301. Short title; table of contents.

Subtitle A—Reauthorization of Child Nutrition Programs

Sec. 311. Summer food service program for children.
Sec. 312. Commodity distribution program.
Sec. 313. State administrative expenses.
Sec. 314. Special supplemental food program for women, infants, and children.
Sec. 315. Nutrition education and training program.

Subtitle B—School Lunch and Breakfast Programs

Sec. 321. Basis of commodity assistance.
Sec. 322. Inclusion of whole milk as a school lunch beverage.
Sec. 323. Automatic eligibility for certain programs.
Sec. 324. Limitation on meal contracting.
Sec. 325. Change in tuition limitation for private schools.
Sec. 326. Use of school lunch facilities for elderly programs.
Sec. 327. Pilot projects for administration of child nutrition programs by contract or direct disbursement.
Sec. 328. Department of Defense overseas dependents' schools.
Sec. 329. Restoration of certain kindergartens to the special milk program.
Sec. 330. Improvement of breakfast program meal pattern.
Sec. 331. Extension of offer versus serve provision to the school breakfast program.
Sec. 332. Staffing standards.

Subtitle C—Special Supplemental Food Program for Women, Infants, and Children

Sec. 341. Costs for nutrition services and administration.
Sec. 342. State eligibility for WIC funds.
Sec. 343. Participation report.
Sec. 344. Plan of operation and administration.
Sec. 345. Public comment.
Sec. 346. Availability of program benefits.
Sec. 347. Repayment of certain benefits by recipients.
Sec. 348. Priority funds for WIC migrant programs.
Sec. 349. Improving State agency administrative systems.
Sec. 350. Paperwork reduction.
Sec. 351. Allocation standards.
Sec. 352. Advance payments.
Sec. 353. Availability of funds.

Subtitle D—Other Nutrition Programs

Sec. 361. Hearings on Federal audit actions under the child care food program.
Sec. 362. Basis for nutrition education grants.
Sec. 363. Extension of alternative means of assistance.
Sec. 364. National donated commodity processing programs.

Subtitle E—Technical Corrections

Sec. 371. Obsolete provisions.
Sec. 372. Obsolete references to Health, Education, and Welfare.
Sec. 373. Conforming amendments.

Subtitle F—Sale of Agricultural Notes and Other Obligations

Sec. 381. Sale of agricultural notes and other obligations.

Subtitle A—Reauthorization of Child Nutrition Programs

SEC. 311. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

Section 13(p) of the National School Lunch Act (42 U.S.C. 1761(p)) is amended by striking out "1984" and inserting in lieu thereof "1989".

SEC. 312. COMMODITY DISTRIBUTION PROGRAM.

Section 14(a) of the National School Lunch Act (42 U.S.C. 1762a(a)) is amended by striking out "1984" and inserting in lieu thereof "1989".

SEC. 313. STATE ADMINISTRATIVE EXPENSES.

Section 7(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(i)) is amended by striking out "1984" and inserting in lieu thereof "1989".

SEC. 314. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.

Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended—

(1) in subsection (c)(2), by striking out "Subject to" and all that follows through "1984" and inserting in lieu thereof "Subject to amounts appropriated to carry out this section under subsection (g)";

(2) in subsection (g)—

(A) by designating the first and second sentences as paragraphs (1) and (3), respectively; and

(B) by amending paragraph (1) (as so designated) to read as follows:

"(1) There are authorized to be appropriated to carry out this section $1,580,494,000 for the fiscal year ending September 30, 1986, such sums as may be necessary for each of the fiscal years ending September 30, 1987, and September 30, 1988, and $1,782,000,000 for the fiscal year ending September 30, 1989."; and

(3) in subsection (h)(2), by striking out "1984" and inserting in lieu thereof "1989".

SEC. 315. NUTRITION EDUCATION AND TRAINING PROGRAM.

The first sentence of section 19(j)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(j)(2)) is amended by striking out "1984" and inserting in lieu thereof "1989".

Subtitle B—School Lunch and Breakfast Programs

SEC. 321. BASIS OF COMMODITY ASSISTANCE.

Section 6(b) of the National School Lunch Act (42 U.S.C. 1755(b)) is amended—

(1) in the first sentence, by striking out "May 15" and inserting in lieu thereof "June 1"; and

(2) in the second sentence, by striking out "June 15" and inserting in lieu thereof "July 1".

SEC. 322. INCLUSION OF WHOLE MILK AS A SCHOOL LUNCH BEVERAGE.

Effective July 1, 1986, section 9(a) of the National School Lunch Act (42 U.S.C. 1758(a)) is amended—

(1) by designating the first, second, and third sentences as paragraphs (1), (3), and (4), respectively; and

(2) by inserting after paragraph (1) (as so designated) the following new paragraph:

"(2) In addition to such other forms of milk as the Secretary may determine, the lunches shall offer whole milk as a beverage.".

SEC. 323. AUTOMATIC ELIGIBILITY FOR CERTAIN PROGRAMS.

Effective July 1, 1986, section 9(b) of the National School Lunch Act (42 U.S.C. 1758(b)) is amended by adding at the end thereof the following new paragraph:

"(6)(A) A child shall be considered automatically eligible for a free lunch and breakfast under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), respectively, without further application or eligibility determination, if the child is a member of—

"(i) a household receiving assistance under the food stamp program authorized under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

"(ii) an AFDC assistance unit (under the aid to families with dependent children program authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)), in a State where the standard of eligibility for the assistance does not exceed 130 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))).

"(B) Proof of receipt of food stamps or aid to families with dependent children shall be sufficient to satisfy any verification requirement imposed under paragraph (2)(C).".

SEC. 324. LIMITATION ON MEAL CONTRACTING.

Effective July 1, 1986, section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended by adding at the end thereof the following new subsection:

"(e) A school or school food authority participating in a program under this Act may not contract with a food service company to provide a la carte food service unless the company agrees to offer free, reduced-price, and full-price reimbursable meals to all eligible children.".

SEC. 325. CHANGE IN TUITION LIMITATION FOR PRIVATE SCHOOLS.

(a) SCHOOL LUNCH PROGRAMS.—Section 12(d)(5) of the National School Lunch Act (42 U.S.C. 1760(d)(5)) is amended in the first sentence by striking "except private schools whose average yearly tuition exceeds $1,500 per child,".

(b) SCHOOL BREAKFAST PROGRAMS.—Section 15(c) of the Child Nutrition Act of 1966 (42 U.S.C. 1784(c)) is amended in subparagraph (A) of the first sentence by striking "except private schools whose average yearly tuition exceeds $1,500 per child,".

(c) The amendments made by this section shall take effect July 1, 1987.

SEC. 326. USE OF SCHOOL LUNCH FACILITIES FOR ELDERLY PROGRAMS.

Section 12 of the National School Lunch Act (42 U.S.C. 1760) is amended by adding at the end thereof the following new subsection:

"(i) Facilities, equipment, and personnel provided to a school food authority for a program authorized under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) may be used, as determined by a local educational agency, to support a nonprofit nutrition program for the elderly, including a program funded under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).".

SEC. 327. PILOT PROJECTS FOR ADMINISTRATION OF CHILD NUTRITION PROGRAMS BY CONTRACT OR DIRECT DISBURSEMENT.

(a) PILOT PROJECTS.—Section 20 of the National School Lunch Act (42 U.S.C. 1769) is amended by striking out subsection (d) and inserting in lieu thereof the following new subsection:

"(d) The Secretary may conduct pilot projects in not more than three States in which the Secretary is currently administering programs to evaluate the effects of the Secretary contracting with private profit and nonprofit organizations to act as a State agency under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) for schools, institutions, or service institutions referred to in section 10 of this Act and section 5 of the Child Nutrition Act of 1966 (42 U.S.C. 1774).".

(b) CONFORMING AMENDMENT.—The first sentence of section 20(c) of the National School Lunch Act is amended by striking out "except for the pilot projects conducted under subsection (d) of this section,".

SEC. 328. DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS' SCHOOLS.

(a) SCHOOL LUNCHES.—Section 22(d) of the National School Lunch Act (42 U.S.C. 1769b(d)) (as added by section 1408(a) of the Education Amendments of 1978 (92 Stat. 2368)) is amended by striking out "and for" and all that follows through "reduced-price lunch".

(b) SCHOOL BREAKFASTS.—Section 20(d) of the Child Nutrition Act of 1966 (42 U.S.C. 1789) is amended by striking out "and for" and all that follows through "reduced-price breakfast".

SEC. 329. RESTORATION OF CERTAIN KINDERGARTENS TO THE SPECIAL MILK PROGRAM.

Effective July 1, 1987, section 3(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)) is amended—

(1) in the first sentence—

(A) by inserting "(1)" after the subsection designation;

(B) by redesignating clauses (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) in subparagraph (A) (as so redesignated), by inserting "except as provided in paragraph (2)," after "and under,";

(2) by designating the second through eighth sentences as paragraphs (3) through (9), respectively; and

(3) by inserting after paragraph (1) (as so designated) the following new paragraph:

"(2) The limitation imposed under paragraph (1)(A) for participation of nonprofit schools in the special milk program shall not apply to split-session kindergarten programs conducted in schools in which children do not have access to the meal service program operating in schools the children attend as authorized under this Act or the National School Lunch Act (42 U.S.C. 1751 et seq.).".

SEC. 330. IMPROVEMENT OF BREAKFAST PROGRAM MEAL PATTERN.

(a) ADDITIONAL ASSISTANCE.—Effective July 1, 1987, section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)) is amended by adding at the end thereof the following new paragraphs:

"(3) The Secretary shall increase by 3 cents the annually adjusted payment for each breakfast served under this Act and section 17 of the National School Lunch Act (42 U.S.C. 1766). These funds shall be used to assist States, to the extent feasible, in improving the nutritional quality of the breakfasts.

"(4) Notwithstanding any other provision of law, whenever stocks of agricultural commodities are acquired by the Secretary or the Commodity Credit Corporation and are not likely to be sold by the Secretary or the Commodity Credit Corporation or otherwise used in programs of commodity sale or distribution, the Secretary shall make such commodities available to school food authorities and eligible institutions serving breakfasts under this Act in a quantity equal in value to not less than 3 cents for each breakfast served under this Act and section 17 of the National School Lunch Act.

"(5) Expenditures of funds from State and local sources for the maintenance of the breakfast program shall not be diminished as a result of funds or commodities received under paragraph (3) or (4).".

(b) NUTRITION REQUIREMENTS.—(1) The Secretary of Agriculture shall review and revise the nutrition requirements for meals served under the breakfast program authorized under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) and section 17 of the National School Lunch Act (42 U.S.C. 1766) to improve the nutritional quality of the meals, taking into consideration both the findings of the National Evaluation of School Nutrition Programs and the need to provide increased flexibility in meal planning to local food authorities.

(2) Not later than 180 days after the date of enactment of this title, the Secretary of Agriculture shall promulgate regulations to implement the revisions.

SEC. 331. EXTENSION OF OFFER VERSUS SERVE PROVISION TO THE SCHOOL BREAKFAST PROGRAM.

Section 4(e) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) At the option of a local school food authority, a student in a school under the authority that participates in the school breakfast program under this Act may be allowed to refuse not more than one item of a breakfast that the student does not intend to consume. A refusal of an offered food item shall not affect the full charge to the student for a breakfast meeting the requirements of this section or the amount of payments made under this Act to a school for the breakfast.".

SEC. 332. STAFFING STANDARDS.

Section 7 of the Child Nutrition Act of 1966 (42 U.S.C. 1776) (as amended by section 313) is further amended—

(1) by striking out subsection (b); and

(2) by redesignating subsections (c) through (i) as subsections (b) through (h), respectively.

Subtitle C—Special Supplemental Food Program for Women, Infants, and Children

SEC. 341. COSTS FOR NUTRITION SERVICES AND ADMINISTRATION.

(a) DEFINITIONS.—Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) is amended—

(1) by striking out paragraph (1);

(2) by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively; and

(3) by inserting after paragraph (3) (as so redesignated) the following new paragraph:

"(4) 'Costs for nutrition services and administration' means costs that shall include, but not be limited to, costs for certification of eligibility of persons for participation in the program (including centrifuges, measuring boards, spectrophotometers, and scales used for the certification), food delivery, monitoring, nutrition education, outreach, startup costs, and general administration applicable to implementation of the program under this section, such as the cost of staff, transportation, insurance, developing and printing food instruments, and administration of State and local agency offices.".

(b) CONFORMING AMENDMENTS.—Section 17 of such Act is amended—

(1) by striking out "administrative funds" each place it appears in subsections (f)(11), (h)(2), (h)(3), and (h)(4) and inserting in lieu thereof "funds for nutrition services and administration"; and

(2) by striking out "administrative costs" each place it appears in subsection (h) and inserting in lieu thereof "costs for nutrition services and administration".

SEC. 342. STATE ELIGIBILITY FOR WIC FUNDS.

(a) ELIGIBILITY.—Section 17(c) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(c)) is amended by adding at the end thereof the following new paragraph:

"(4) A State shall be ineligible to participate in programs authorized under this section if the Secretary determines that State or local sales taxes are collected within the State on purchases of food made to carry out this section.".

(b) APPLICATION.—The amendment made by subsection (a) shall apply to a State beginning with the fiscal year that commences after the end of the first regular session of the State legislature following the date of the enactment of this title.

SEC. 343. PARTICIPATION REPORT.

(a) BIENNIAL REPORT.—Section 17(d) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)) is amended by adding at the end thereof the following new paragraph:

"(4) The Secretary shall report biennially to Congress on—

"(A) the income and nutritional risk characteristics of participants in the program;

"(B) participation in the program by members of families of migrant farmworkers; and

"(C) such other matters relating to participation in the program as the Secretary considers appropriate.".

(b) USE OF EVALUATION FUNDS FOR REPORT.—Section 17(g)(3) of such Act (as amended by section 314(2)(A)) is further amended by inserting "preparing the report required under subsection (d)(4)," after "health benefits,".

SEC. 344. PLAN OF OPERATION AND ADMINISTRATION.

(a) PLAN.—Paragraph (1) of section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(1)) is amended to read as follows:

"(1)(A) Each State agency shall submit annually to the Secretary, by a date specified by the Secretary, a plan of operation and administration for a fiscal year.

"(B) To be eligible to receive funds under this section for a fiscal year, a State agency must receive the approval of the Secretary for the plan submitted for the fiscal year.

"(C) The plan shall include—

"(i) a description of the food delivery system of the State agency and the method of enabling participants to receive supplemental foods under the program, to be administered in accordance with standards developed by the Secretary;

"(ii) a description of the financial management system of the State agency;

"(iii) a plan to coordinate operations under the program with special counseling services, such as the expanded food and nutrition education program, immunization programs, prenatal care, well-child care, family planning, alcohol and drug abuse counseling, child abuse counseling, and with the aid to families with dependent children, food stamp, and maternal and child health care programs;

"(iv) a plan to provide program benefits under this section to, and to meet the special nutrition education needs of, eligible migrants and Indians;

"(v) a plan to expend funds to carry out the program during the relevant fiscal year;

"(vi) a plan to provide program benefits under this section to unserved and underserved areas in the State, if sufficient funds are available to carry out this clause;

"(vii) a plan to provide program benefits under this section to eligible persons most in need of the benefits and to enroll eligible women in the early months of pregnancy, to the maximum extent practicable; and

"(viii) such other information as the Secretary may require.

"(D) The Secretary may permit a State agency to submit only those parts of a plan that differ from plans submitted for previous fiscal years.

"(E) The Secretary may not approve any plan that permits a person to participate simultaneously in both the program authorized under this section and the commodity supplemental food program authorized under sections 4 and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note).".

(b) APPLICATION.—The amendment made by subsection (a) shall apply to a plan submitted by a State agency under section 17(f)(1) of

the Child Nutrition Act of 1966 for the fiscal year ending September 30, 1987, and each fiscal year thereafter.

SEC. 345. PUBLIC COMMENT.

Paragraph (2) of section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(2)) is amended to read as follows:

"(2) A State agency shall establish a procedure under which members of the general public are provided an opportunity to comment on the development of the State agency plan.".

SEC. 346. AVAILABILITY OF PROGRAM BENEFITS.

Paragraph (8) of section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(8)) is amended to read as follows:

"(8)(A) The State agency shall, in cooperation with participating local agencies, publicly announce and distribute information on the availability of program benefits (including the eligibility criteria for participation and the location of local agencies operating the program) to offices and organizations that deal with significant numbers of potentially eligible persons (including health and medical organizations, hospitals and clinics, welfare and unemployment offices, social service agencies, farmworker organizations, Indian tribal organizations, and religious and community organizations in low income areas).

"(B) The information shall be publicly announced by the State agency and by local agencies at least annually.

"(C) The State agency and local agencies shall distribute the information in a manner designed to provide the information to potentially eligible persons who are most in need of the benefits, including pregnant women in the early months of pregnancy.".

SEC. 347. REPAYMENT OF CERTAIN BENEFITS BY RECIPIENTS.

Effective October 1, 1986, section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end thereof the following new paragraph:

"(15) If a State agency determines that a member of a family has received an overissuance of food benefits under the program authorized by this section as the result of such member intentionally making a false or misleading statement or intentionally misrepresenting, concealing, or withholding facts, the State agency shall recover, in cash, from such member an amount that the State agency determines is equal to the value of the overissued food benefits, unless the State agency determines that the recovery of the benefits would not be cost effective.".

SEC. 348. PRIORITY FUNDS FOR WIC MIGRANT PROGRAMS.

(a) PRIORITY FUNDING.—Effective October 1, 1986, section 17(g) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)) (as amended by section 314(2)(A)) is further amended by inserting after paragraph (1) the following new paragraph:

"(2) Of the sums appropriated for any fiscal year for programs authorized under this section, not less than nine-tenths of 1 percent shall be available first for services to eligible members of migrant populations. The migrant services shall be provided in a manner consistent with the priority system of a State for program participation.".

(b) ACCOUNTABILITY.—To the extent possible, accountability for migrant services under section 17(g)(2) of the Child Nutrition Act of

1966 (as added by subsection (a)) shall be conducted under regulations in effect on the date of the enactment of this Act.

SEC. 349. IMPROVING STATE AGENCY ADMINISTRATIVE SYSTEMS.

Section 17(g)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)(3)) (as amended by sections 314(2)(A) and 343(b)) is further amended by inserting "providing technical assistance to improve State agency administrative systems," after "subsection (d)(4),".

SEC. 350. PAPERWORK REDUCTION.

Section 17(h)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(1)) is amended by adding at the end thereof the following new sentence: "The Secretary shall limit to a minimal level any documentation required under the preceding sentence.".

SEC. 351. ALLOCATION STANDARDS.

Section 17(h)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(3)) is amended—

(1) in the second sentence, by striking out ", which satisfy allocation guidelines established by the Secretary"; and

(2) by striking out the last sentence.

SEC. 352. ADVANCE PAYMENTS.

Effective October 1, 1986, section 17(h)(4) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(4)) is amended by striking out "shall" and inserting in lieu thereof "may".

SEC. 353. AVAILABILITY OF FUNDS.

(a) AVAILABILITY.—Section 17(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(i)) is amended—

(1) by designating the first, second, third, fourth, and fifth sentences as paragraphs (1), (2), (4), (5), and (6), respectively; and

(2) by inserting after paragraph (2) (as so designated) the following new paragraph:

"(3)(A) Notwithstanding paragraph (2)—

"(i) not more than 1 percent of the amount of funds allocated to a State agency under this section for supplemental foods for a fiscal year may be expended by the State agency for expenses incurred under this section for supplemental foods during the preceding fiscal year; or

"(ii) not more than 1 percent of the amount of funds allocated to a State agency for a fiscal year under this section may be expended by the State agency during the subsequent fiscal year.

"(B) Any funds made available to a State agency in accordance with subparagraph (A)(ii) for a fiscal year shall not affect the amount of funds allocated to the State agency for such year.".

(b) APPLICATION.—Section 17(i)(3)(A)(i) of the Child Nutrition Act of 1966 (as amended by subsection (a)) shall not apply to appropriations made before the date of enactment of this title.

Subtitle D—Other Nutrition Programs

SEC. 361. HEARINGS ON FEDERAL AUDIT ACTIONS UNDER THE CHILD CARE FOOD PROGRAM.

Section 17(e) of the National School Lunch Act (42 U.S.C. 1766(e)) is amended—

(1) by striking out "The" and inserting in lieu thereof "(1) Except as provided in paragraph (2), the"; and

(2) by adding at the end thereof the following new paragraphs.

"(2) A State is not required to provide a hearing to an institution concerning a State action taken on the basis of a Federal audit determination.

"(3) If a State does not provide a hearing to an institution concerning a State action taken on the basis of a Federal audit determination, the Secretary, on request, shall afford a hearing to the institution concerning the action.".

SEC. 362. BASIS FOR NUTRITION EDUCATION GRANTS.

Section 19(j)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(j)(2)) is amended by striking out "$75,000" each place it appears and inserting in lieu thereof "$50,000".

SEC. 363. EXTENSION OF ALTERNATIVE MEANS OF ASSISTANCE.

Section 14 of the National School Lunch Act (42 U.S.C. 1762a) is amended by adding at the end thereof the following new subsection:

"(g)(1) As used in this subsection, the term 'eligible school district' has the same meaning given such term in section 1581(a) of the Food Security Act of 1985.

"(2) In accordance with the terms and conditions of section 1581 of such Act, the Secretary shall permit an eligible school district to continue to receive assistance in the form of cash or commodity letters of credit assistance, in lieu of commodities, to carry out the school lunch program operated in the district.

"(3)(A) On request of a participating school district (and after consultation with the Comptroller General of the United States with respect to accounting procedures used to determine any losses) and subject to the availability of funds, the Secretary shall provide cash compensation to an eligible school district for losses sustained by the district as a result of the alteration of the methodology used to conduct the study referred to in section 1581(a) of such Act during the school year ending June 30, 1983.

"(B) There are authorized to be appropriated $50,000 to carry out this paragraph, to be available without fiscal year limitation.".

SEC. 364. NATIONAL DONATED COMMODITY PROCESSING PROGRAMS.

In accordance with the terms and conditions of section 1114(a)(2) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(a)(2)), whenever a commodity is made available without charge or credit under any nutrition program administered by the Secretary of Agriculture, the Secretary shall encourage consumption of the commodity through agreements with private companies under which the commodity is reprocessed into end-food products for use by eligible recipient agencies.

Subtitle E—Technical Corrections

SEC. 371. OBSOLETE PROVISIONS.

(a) NUTRITION PROGRAM STAFF STUDY; TRUST TERRITORY APPROPRIATIONS.—(1) Sections 18 and 19 of the National School Lunch Act (42 U.S.C. 1767 and 1768) are repealed.

(2) The first sentence of section 3 of such Act (42 U.S.C. 1752) is amended by striking out "sections 13, 17, and 19" and inserting in lieu thereof "sections 13 and 17".

(b) STUDY OF MENU CHOICE.—Section 22 of such Act (42 U.S.C. 1769c) (as added by section 9 of the Child Nutrition Amendments of 1978 (92 Stat. 3623)) is repealed.

(c) CONFORMING AMENDMENTS.—(1) The National School Lunch Act (as amended by sections 327 and 328(a) and subsection (b)) is further amended by redesignating sections 20, 21, and 22 (42 U.S.C. 1769, 1769a, and 1769b) as sections 18, 19, and 20, respectively.

(2) Clause (3) of the first sentence of section 6(a) of such Act (42 U.S.C. 1755(a)) is amended by striking out "section 20" and inserting in lieu thereof "section 18".

SEC. 372. OBSOLETE REFERENCES TO HEALTH, EDUCATION, AND WELFARE.

(a) REFERENCES IN NATIONAL SCHOOL LUNCH ACT.—Clause (1) of the sixth sentence of section 17(a) of the National School Lunch Act (42 U.S.C. 1766(a)) is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(b) REFERENCES IN CHILD NUTRITION ACT OF 1966.—(1) The Child Nutrition Act of 1966 is amended by striking out "Health, Education, and Welfare" each place it appears in section 4(a) (42 U.S.C. 1773(a)), subsections (b)(6), (b)(13), (e)(2), (k)(1), and (k)(2) of section 17 (42 U.S.C. 1786), and subsections (d)(2) and (d)(3) of section 19 (42 U.S.C. 1788) and inserting in lieu thereof "Health and Human Services".

(2) Section 19(j)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(j)(3)) is amended by striking out "Office of Education of the Department of Health, Education, and Welfare" and inserting in lieu thereof "Department of Education".

SEC. 373. CONFORMING AMENDMENTS.

(a) DEFINITION OF SECRETARY.—Section 12(d) of the National School Lunch Act (42 U.S.C. 1760(d)) is amended by adding at the end thereof the following new paragraph:

"(8) 'Secretary' means the Secretary of Agriculture.".

(b) REDESIGNATION OF SUBSECTION.—Section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) (as amended by sections 315, 362, and 372(b)(2)) is further amended by redesignating subsection (j) as subsection (i).

Subtitle F—Sale of Agricultural Notes and Other Obligations

SEC. 381. SALE OF AGRICULTURAL NOTES AND OTHER OBLIGATIONS.

(a) IN GENERAL.—The Secretary of Agriculture shall, under such terms as the Secretary may prescribe, sell notes and other obligations held in the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a) in such amounts as to realize net proceeds of not less than—

(1) $25,000,000 from such sales during fiscal year 1987;

(2) $36,000,000 from such sales during fiscal year 1988; and

(3) $37,000,000 from such sales during fiscal year 1989.

(b) COLLECTION AND SALE OF NOTES.—The second sentence of section 309A(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a(e)) is amended—

(1) by inserting "and other obligations" after "Notes"; and

(2) by striking out the period at the end thereof and inserting the following: ", including sale on a nonrecourse basis. The Secretary and any subsequent purchaser of such notes and other obligations sold by the Secretary on a nonrecourse basis shall be relieved of any responsibilities that might have been imposed had the borrower remained indebted to the Secretary.".

(c) FARM CREDIT SYSTEM INSTITUTIONS.—Notwithstanding any other provision of law, institutions of the Farm Credit System operating under the Farm Credit Act of 1971 (12 U.S.C. 2001) shall be eligible to purchase notes and other obligations held in the Rural Development Insurance Fund and to service (including the extension of additional credit and all other actions necessary to preserve, conserve, or protect the institutions' interests in such notes and other obligations), collect, and dispose of such notes and other obligations, subject only to such terms and conditions as may be agreed to by the Secretary of Agriculture and such purchasing institutions and as are approved by the Farm Credit Administration.

TITLE V—AVIATION SAFETY

SHORT TITLE

SEC. 501. This title may be cited as the "Aviation Safety Commission Act of 1986".

COMMISSION ESTABLISHED

SEC. 502. (a) There is established a commission to be known as the Aviation Safety Commission (hereinafter referred to as the "Commission").

(b)(1) The Commission shall be composed of seven members appointed by the President no later than 30 days after the date of enactment of this Act.

(2) Appointees to the Commission shall possess extensive experience and expertise at the highest executive levels of public or corporate management.

(3) No member of the Commission shall, at the time of such member's appointment, be an employee or officer of the Federal Government, nor shall any member have been an employee of the Federal Government for at least 3 years before such member's appointment to the Commission.

(4)(A) At least four members of the Commission, including the Chairman, shall not have performed any service or have been involved in any way in any business concern in air commerce or any aviation-related industry for at least 3 years before their appointment to the Commission.

(B) For the purposes of this paragraph, the term "air commerce" has the meaning given to such term in section 101(4) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301(4)).

(c) The President shall appoint one of the members to serve as Chairman of the Commission.

(d) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(e) Four members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f)(1) The Commission shall hold its first meeting within 30 days after the appointment of all members.

(2) The Commission shall meet at the call of the Chairman or a majority of the members.

(g) Members of the Commission shall serve until the expiration of the Commission.

(h) The Commission shall cease to exist 18 months after the date of enactment of this Act.

FUNCTIONS OF THE COMMISSION

SEC. 503. The Commission shall make a complete study of the organization and functions of the Federal Aviation Administration (hereinafter referred to as the "Administration") and the means by which the Administration may most efficiently and effectively perform the responsibilities assigned to it by law and increase aviation safety.

(a)(1) In conducting such study, the Commission shall consider whether—

(A) the dual responsibilities of the Administration of promoting commercial aviation and ensuring aviation safety are in conflict, and whether such conflict impedes the effective maintenance and enhancement of aviation safety;

(B) the Administration should be reorganized as an independent Federal agency with the promotion, maintenance, and enhancement of aviation safety as the sole responsibility of such agency;

(C) the promotion of commercial aviation should be assigned as a responsibility to another agency of the Federal Government;

(D) airline deregulation has an adverse effect on the margin of aviation safety, including a review of whether the practice of airline self-compliance with respect to aviation maintenance standards is an outmoded approach in an environment designed to maximize cost-savings;

(E) it is feasible to make mandatory certain or all of the safety recommendations issued by the National Transportation Safety Board; and

(F) the Administration has adequately used its resources to ensure aviation safety.

(2) The study conducted under this subsection shall include findings and recommendations, including any recommendations for legislative action, regarding—

(A) the most appropriate and effective organizational approach to ensuring aviation safety; and

(B) measures to improve the enforcement of Federal regulations relating to aviation safety.

(3) In conducting such study, the Commission shall consult with the National Transportation Safety Board and a broad spectrum of representatives of the aviation industry, including—

(A) air traffic controllers;

(B) representatives of the commercial aviation industry;

(C) representatives of airways facilities technicians;

(D) independent experts on aviation safety;

(E) former Administrators of the Administration; and

(F) representatives of civil aviation.

(4) Within 9 months after the date of enactment of this Act, the Commission shall submit a report on the study conducted pursuant to this subsection to the President and to each House of Congress. Such report shall contain a detailed statement of the findings and conclusions of the Commission, together with recommendations for legislative and administrative actions.

(b) The Commission shall also make a complete investigation of management and employee relationships within the Administration, particularly the air traffic control system, and recommend actions for improvements.

(1) In conducting such investigation, the Commission shall:

(A) consider the findings and recommendations of the March 17, 1982, report of the "Task Force for the Study of Management-Employee Relationships in the FAA" (Jones Report) and document the progress made in implementing the recommendations of that report;

(B) assess the safety impact of rehiring former air traffic controllers who were dismissed as a result of the 1981 air traffic controller strike;

(C) assess the adequacy of the Administration's air traffic controller staffing standards, especially as they relate to the number of "full performance level" controllers, and review the Administration's experience in meeting those standards in each year since 1981; and

(D) formulate cost-effective recommendations to improve aviation safety based on the findings and conclusions of its investigation.

(2) Within 18 months after the date of enactment of this Act, the Commission shall submit a report on the investigation conducted pursuant to this subsection to the President and to each House of Congress. Such report shall contain a detailed statement of the findings and conclusions of the Commission, together with recommendations for legislative and administrative actions.

POWERS AND ADMINISTRATIVE PROVISIONS

SEC. 504. (a) The Commission may, for the purpose of carrying out the provisions of this Act, hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and publish such reports as the Commission considers appropriate.

(b)(1) Subject to such rules as may be adopted by the Commission, the Chairman, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 of such title relating to classification or chapter 53 of such title relating to General Schedule pay rates, may—

(A) appoint and fix the compensation of such staff personnel as the Chairman considers necessary, including an executive director who may be compensated at a rate not in excess of that provided for level V of the Executive Schedule in title 5, United States Code; and

(B) procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(2) Any person appointed as executive director pursuant to paragraph (1)(A) of this subsection shall meet the same qualification required of members pursuant to section 502(b) of this Act.

(c) Each department, agency, and instrumentality of the executive branch of the Federal Government, including independent agencies, shall furnish to the Commission, upon request made by the Chairman, such information as the Commission considers necessary to carry out its functions.

(d) Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties.

(e) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(f) The Commission may use the United States mail in the same manner and under the same conditions as departments and agencies of the United States.

(g) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission may take under this section.

COMPENSATION OF MEMBERS

SEC. 505. Members of the Commission shall serve without compensation, but shall be reimbursed for travel or transportation expenses under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business and engaged in the actual performance of duties of the Commission.

AUTHORIZATION

SEC. 506. There is hereby authorized to be appropriated such sums as may be necessary in fiscal years 1987 and 1988 to carry out the provisions of this Act.

APPROPRIATIONS

SEC. 507. There is hereby appropriated for fiscal year 1987, $2,000,000 to carry out the provisions of this Act, to remain available until expended.

TITLE VI—METROPOLITAN WASHINGTON AIRPORTS

SEC. 6001. SHORT TITLE.

This title may be cited as the "Metropolitan Washington Airports Act of 1986".

SEC. 6002. FINDINGS.

The Congress finds that—

(1) the two federally owned airports in the metropolitan area of Washington, District of Columbia, constitute an important and growing part of the commerce, transportation, and economic patterns of the Commonwealth of Virginia, the District of Columbia, and the surrounding region;

(2) Baltimore/Washington International Airport, owned and operated by the State of Maryland, is an air transportation facility that provides service to the greater Metropolitan Washington region together with the two federally owned airports, and timely Federal-aid grants to Baltimore/Washington International Airport will provide additional capacity to meet

the growing air traffic needs and to compete with other airports on a fair basis;

(3) the Federal Government has a continuing but limited interest in the operation of the two federally owned airports, which serve the travel and cargo needs of the entire Metropolitan Washington region as well as the District of Columbia as the national seat of government;

(4) operation of the Metropolitan Washington Airports by an independent local agency will facilitate timely improvements at both airports to meet the growing demand of interstate air transportation occasioned by the Airline Deregulation Act of 1978 (Public Law 95-504; 92 Stat. 1705);

(5) all other major air carrier airports in the United States are operated by public entities at the State, regional, or local level;

(6) any change in status of the two airports must take into account the interest of nearby communities, the traveling public, air carriers, general aviation, airport employees, and other interested groups, as well as the interests of the Federal Government and State governments involved;

(7) in recognition of a perceived limited need for a Federal role in the management of these airports and the growing local interest, the Secretary has recommended a transfer of authority from the Federal to the local/State level that is consistent with the management of major airports elsewhere in the Nation;

(8) an operating authority with representation from local jurisdictions, similar to authorities at all major airports in the United States, will improve communications with local officials and concerned residents regarding noise at the Metropolitan Washington Airports;

(9) a commission of congressional, State, and local officials and aviation representatives has recommended to the Secretary that transfer of the federally owned airports be as a unit to an independent authority to be created by the Commonwealth of Virginia and the District of Columbia; and

(10) the Federal interest in these airports can be provided through a lease mechanism which provides for local control and operation.

SEC. 6003. PURPOSE.

(a) IN GENERAL.—It is therefore declared to be the purpose of the Congress in this title to authorize the transfer of operating responsibility under long-term lease of the two Metropolitan Washington Airport properties as a unit, including access highways and other related facilities, to a properly constituted independent airport authority created by the Commonwealth of Virginia and the District of Columbia, in order to achieve local control, management, operation, and development of these important transportation assets.

(b) INCLUSION OF BWI NOT PRECLUDED.—Nothing in this title shall be construed to prohibit the Airports Authority and the State of Maryland from entering into an agreement whereby Baltimore/Washington International Airport may be made part of a regional airports authority, subject to terms and conditions agreed to by the Airports Authority, the Secretary, the Commonwealth of Virginia, the District of Columbia, and the State of Maryland.

SEC. 6004. DEFINITIONS.

In this title—

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(2) AIRPORTS AUTHORITY.—The term "Airports Authority" means the Metropolitan Washington Airports Authority, a public body to be created by the Commonwealth of Virginia and the District of Columbia consistent with the requirements of section 6007.

(3) EMPLOYEES.—The term "employees" means all permanent Federal Aviation Administration personnel employed on the date the lease under section 6005 takes effect by the Metropolitan Washington Airports, an organization within the Federal Aviation Administration.

(4) METROPOLITAN WASHINGTON AIRPORTS.—The term "Metropolitan Washington Airports" means Washington National Airport and Washington Dulles International Airport.

(5) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(6) WASHINGTON DULLES INTERNATIONAL AIRPORT.—The term "Washington Dulles International Airport" means the airport constructed under the Act entitled "An Act to authorize the construction, protection, operation, and maintenance of a public airport on or in the vicinity of the District of Columbia", approved September 7, 1950 (64 Stat. 770), and includes the Dulles Airport Access Highway and Right-of-way, including the extension between the Interstate Routes I-495 and I-66.

(7) WASHINGTON NATIONAL AIRPORT.—The term "Washington National Airport" means the airport described in the Act entitled "An Act to provide for the administration of the Washington National Airport, and for other purposes", approved June 29, 1940 (54 Stat. 686).

SEC. 6005. LEASE OF METROPOLITAN WASHINGTON AIRPORTS.

(a) AUTHORITY TO ENTER INTO LEASE.—The Secretary is authorized to enter into a lease of the Metropolitan Washington Airports with the Airports Authority for a 50-year term and to enter into any related agreement necessary for the transfer of authority and property to the Airports Authority. Authority to enter into a lease and agreement under this section shall lapse two years after the date of the enactment of this title.

(b) PAYMENTS.—

(1) LEASE PAYMENTS.—The lease shall provide for the Airports Authority to pay to the general fund of the Treasury annually an amount, computed using the GNP Price Deflator, to equal $3,000,000 in 1987 dollars. The Secretary and the Airports Authority may renegotiate the level of lease payments attributable to inflation costs every ten years.

(2) RETIREMENT OBLIGATIONS.—

(A) DISCONTINUED SERVICE.—Not later than one year after the lease takes effect, the Airports Authority shall pay to the Treasury of the United States, to be deposited to the credit of the Civil Service Retirement and Disability Fund, an amount determined by the Office of Personnel Management to represent the actual added costs incurred by the Fund due to discontinued service retirement under section

8336(d)(1) of title 5, United States Code, of employees who elect not to transfer to the Airports Authority.

(B) UNFUNDED LIABILITY.—Not later than one year after the lease takes effect, the Airports Authority shall pay to the Treasury of the United States, to be deposited to the credit of the Civil Service Retirement and Disability Fund, an amount determined by the Office of Personnel Management to represent the present value of the difference between (i) the future cost of benefits payable from the Fund and due the employees covered under section 6008(e) of this title that are attributable to the period of employment following the date the lease takes effect, and (ii) the contributions made by the employees and the Airports Authority under section 6008(e). In determining the amount due, the Office of Personnel Management shall take into consideration the actual interest such amount can be expected to earn when invested in the Treasury of the United States.

(c) MINIMUM TERMS AND CONDITIONS.—The Airports Authority shall agree, at a minimum, to the following conditions and requirements in the lease:

(1) OPERATION OF AIRPORTS AS A UNIT.—The Airports Authority shall operate, maintain, protect, promote, and develop the Metropolitan Washington Airports as a unit and as primary airports serving the Metropolitan Washington area.

(2) AIRPORT PURPOSES.—The real property constituting the Metropolitan Washington Airports shall, during the period of the lease, be used only for airport purposes. For the purposes of this paragraph, the term "airport purposes" means a use of property interests (other than a sale) for aviation business or activities, or for activities necessary or appropriate to serve passengers or cargo in air commerce, or for nonprofit, public use facilities. If the Secretary determines that any portion of the real property leased to the Airports Authority pursuant to this Act is used for other than airport purposes, the Secretary shall (A) direct that appropriate measures be taken by the Airports Authority to bring the use of such portion of real property in conformity with airport purposes, and (B) retake possession of such portion of real property if the Airports Authority fails to bring the use of such portion into a conforming use within a reasonable period of time, as determined by the Secretary.

(3) AIP REQUIREMENTS.—The Airports Authority shall be subject to the requirements of section 511(a) of the Airport and Airway Improvement Act of 1982 and the assurances and conditions required of grant recipients under such Act as of the date the lease takes effect. Notwithstanding section 511(a)(12) of such Act, all revenues generated by the Metropolitan Washington Airports shall be expended for the capital and operating costs of such airports.

(4) CONTRACTS.—In acquiring by contract supplies or services for an amount estimated to be in excess of $200,000, or awarding concession contracts, the Airports Authority shall obtain, to the maximum extent practicable, full and open competition through the use of published competitive procedures. By a vote of seven members, the Airports Authority may grant exceptions to the requirements of this paragraph.

(5) CONTINUATION OF REGULATIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), all regulations of the Metropolitan Washington Airports (14 C.F.R. part 159) shall become regulations of the Airports Authority on the date the lease takes effect and shall remain in effect until modified or revoked by the Airports Authority in accordance with procedures of the Airports Authority.

(B) EXCEPTIONS.—The following regulations shall cease to be in effect on the date the lease takes effect:

(i) section 159.59(a) of title 14, Code of Federal Regulations (relating to new-technology aircraft); and

(ii) section 159.191 of title 14, Code of Federal Regulations (relating to violations of Federal Aviation Administration regulations as Federal misdemeanors).

(C) OPERATIONS.—The Airports Authority may not increase or decrease the number of instrument flight rule takeoffs and landings authorized by the High Density Rule (14 C.F.R. 93.121 et seq.) at Washington National Airport on the date of the enactment of this Act and may not impose a limitation after the date the lease takes effect on the number of passengers taking off or landing at Washington National Airport.

(6) TRANSFER OF RIGHTS, LIABILITIES, AND OBLIGATIONS.—

(A) IN GENERAL.—Except as specified in subparagraph (B) of this paragraph, the Airports Authority shall assume all rights, liabilities, and obligations (tangible and incorporeal, present and executory) of the Metropolitan Washington Airports on the date the lease takes effect, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, accounts payable, and litigation relating to such rights and obligations, regardless whether judgment has been entered, damages awarded, or appeal taken. Before the date the lease takes effect, the Secretary shall also assure that the Airports Authority has agreed to cooperate in allowing representatives of the Attorney General and the Secretary adequate access to employees and records when needed for the performance of functions related to the period before the effectiveness of the lease. The Airports Authority shall assume responsibility for the Federal Aviation Administration's Master Plans for the Metropolitan Washington Airports.

(B) EXCEPTIONS.—The procedure for disputes resolution contained in any contract entered into on behalf of the United States before the date the lease takes effect shall continue to govern the performance of the contract unless otherwise agreed to by the parties to the contract. Claims for monetary damages founded in tort, by or against the United States as the owner and operator of the Metropolitan Washington Airports, arising before the date the lease takes effect shall be adjudicated as if the lease had not been entered into.

(C) PAYMENTS INTO EMPLOYEES' COMPENSATION FUND.—The Federal Aviation Administration shall remain responsible for reimbursing the Employees' Compensation Fund, pursuant to section 8147 of title 5, United States Code, for compensation paid or payable after the date the lease takes effect in accordance with chapter 81 of title 5, United States

Code, with regard to any injury, disability, or death due to events arising before such date, whether or not a claim has been filed or is final on such date.

(D) COLLECTIVE BARGAINING RIGHTS.—The Airports Authority shall continue all collective bargaining rights enjoyed before the date the lease takes effect by employees of the Metropolitan Washington Airports.

(7) AUDITS.—The Comptroller General of the United States may conduct periodic audits of the activities and transactions of the Airports Authority in accordance with generally accepted management principles, and under such rules and regulations as may be prescribed by the Comptroller General. Any such audit shall be conducted at such place or places as the Comptroller General may deem appropriate. All books, accounts, records, reports, files, papers, and property of the Airports Authority shall remain in possession and custody of the Airports Authority.

(8) CODE OF ETHICS.—The Airports Authority shall develop a code of ethics and financial disclosure in order to assure the integrity of all decisions made by its board of directors and employees.

(9) RESTRICTION ON USE OF CERTAIN REVENUES.—Notwithstanding any other provision of law, no landing fee imposed for operating an aircraft or revenues derived from parking automobiles—

(A) at Washington Dulles International Airport may be used for maintenance or operating expenses (excluding debt service, depreciation, and amortization) at Washington National Airport; or

(B) at Washington National Airport may be used for maintenance or operating expenses (excluding debt service, depreciation, and amortization) at Washington Dulles International Airport.

(10) GENERAL AVIATION FEES.—The Airports Authority shall compute the fees and charges for landing general aviation aircraft at the Metropolitan Washington Airports on the same basis as the landing fees for air carrier aircraft, except that the Airports Authority may require a minimum landing fee not in excess of the landing fee for aircraft weighing 12,500 pounds.

(11) OTHER TERMS.—The Secretary shall include such other terms and conditions applicable to the parties to the lease as are consistent with and carry out the provisions of this title.

(d) SUBMISSION TO CONGRESS.—The Secretary shall submit the lease entered into under this section to Congress. The lease may not take effect before the passage of (1) 30 days, or (2) 10 days in which either House of Congress is in session, whichever occurs later.

(e) ENFORCEMENT OF LEASE PROVISIONS.—The district courts of the United States shall have jurisdiction to compel the Airports Authority and its officers and employees to comply with the terms of the lease. An action may be brought on behalf of the United States by the Attorney General, or by any aggrieved party.

SEC. 6006. CAPITAL IMPROVEMENTS, CONSTRUCTION, AND REHABILITATION.

(a) IMPROVEMENTS.—It is the sense of the Congress that the Airports Authority should—

(1) pursue the improvement, construction, and rehabilitation of the facilities at Washington Dulles International Airport and Washington National Airport simultaneously; and

(2) to the extent practicable, cause the improvement, construction, and rehabilitation proposed by the Secretary to be completed at both of such Airports within 5 years after the earliest date on which the Airports Authority issues bonds under the authority required by section 6007 of this title for any such improvement, construction, or rehabilitation.

(b) SECRETARY'S ASSISTANCE.—The Secretary shall assist the three airports serving the Washington, D.C. metropolitan area in planning for operational and capital improvements at those airports and shall accelerate consideration of applications for Federal financial assistance by whichever of the three airports is most in need of increasing airside capacity.

SEC. 6007. AIRPORTS AUTHORITY.

(a) POWERS CONFERRED BY VIRGINIA AND THE DISTRICT OF COLUMBIA.—The Airports Authority shall be a public body corporate and politic, having the powers and jurisdiction as are conferred upon it jointly by the legislative authority of the Commonwealth of Virginia and the District of Columbia ~~or by~~ either of the jurisdictions and concurred in by the legislative authority of the other jurisdiction, but at a minimum meeting the requirements of this section.

(b) PURPOSE.—The Airports Authority shall be—

(1) independent of the Commonwealth of Virginia and its local governments, the District of Columbia, and the Federal Government; and

(2) a political subdivision constituted solely to operate and improve both Metropolitan Washington Airports as primary airports serving the Metropolitan Washington area.

(c) GENERAL AUTHORITIES.—The Airports Authority shall be authorized—

(1) to acquire, maintain, improve, operate, protect, and promote the Metropolitan Washington Airports for public purposes;

(2) to issue bonds from time to time in its discretion for public purposes, including the purposes of paying all or any part of the cost of airport improvements, construction, and rehabilitation, and the acquisition of real and personal property, including operating equipment for the airports, which bonds—

(A) shall not constitute a debt of either jurisdiction or a political subdivision thereof; and

(B) may be secured by the Airports Authority's revenues generally, or exclusively from the income and revenues of certain designated projects whether or not they are financed in whole or part from the proceeds of such bonds;

(3) to acquire real and personal property by purchase, lease, transfer, or exchange, and to exercise such powers of eminent domain within the Commonwealth of Virginia as are conferred upon it by the Commonwealth of Virginia;

(4) to levy fees or other charges; and

(5) to make and maintain agreements with employee organizations to the extent that the Federal Aviation Administration is so authorized on the date of enactment of this title.

(d) CONFLICT-OF-INTEREST PROVISIONS.—The Airports Authority shall be subject to a conflict-of-interest provision providing that

members of the board and their immediate families may not be employed by or otherwise hold a substantial financial interest in any enterprise that has or is seeking a contract or agreement with the Airports Authority or is an aeronautical, aviation services, or airport services enterprise that otherwise has interests that can be directly affected by the Airports Authority. Exceptions to requirements of the preceding sentence may be made by the official appointing a member at the time the member is appointed, if the financial interest is fully disclosed and so long as the member does not participate in board decisions that directly affect such interest. The Airports Authority shall include in its code developed under section 6005(c)(8) of this title the standards by which members will determine what constitutes a substantial financial interest and the circumstances under which an exception may be granted.

(e) BOARD OF DIRECTORS.—

(1) APPOINTMENT.—The Airports Authority shall be governed by a board of directors of 11 members, as follows:

(A) five members shall be appointed by the Governor of Virginia;

(B) three members shall be appointed by the Mayor of the District of Columbia;

(C) two members shall be appointed by the Governor of Maryland; and

(D) one member shall be appointed by the President with the advice and consent of the Senate.

The Chairman shall be appointed from among the members by majority vote of the members and shall serve until replaced by majority vote of the members.

(2) RESTRICTIONS.—Members shall (A) not hold elective or appointive political office, (B) serve without compensation other than for reasonable expenses incident to board functions, and (C) reside within the Washington Standard Metropolitan Statistical Area, except that the member appointed by the President shall not be required to reside in that area.

(3) TERMS.—Members shall be appointed to the board for a term of 6 years, except that of members first appointed—

(A) by the Governor of Virginia, 2 shall be appointed for 4 years and 2 shall be appointed for 2 years;

(B) by the Mayor of the District of Columbia, 1 shall be appointed for 4 years and 1 shall be appointed for 2 years; and

(C) by the Governor of Maryland, 1 shall be appointed for 4 years.

(4) REMOVAL OF PRESIDENTIAL APPOINTEES.—A member of the board appointed by the President shall be subject to removal by the President for cause.

(5) REQUIRED NUMBER OF VOTES.—Seven votes shall be required to approve bond issues and the annual budget.

(f) BOARD OF REVIEW.—

(1) COMPOSITION.—The board of directors shall be subject to review of its actions and to requests, in accordance with this subsection, by a Board of Review of the Airports Authority. Such Board of Review shall be established by the board of directors and shall consist of the following, in their individual capacities, as representatives of users of the Metropolitan Washington Airports:

(A) two members of the Public Works and Transportation Committee and two members of the Appropriations Committee of the House of Representatives from a list provided by the Speaker of the House;

(B) two members of the Commerce, Science, and Transportation Committee and two members of the Appropriations Committee of the Senate from a list provided by the President pro tempore of the Senate; and

(C) one member chosen alternately from members of the House of Representatives and members of the Senate, from a list provided by the Speaker of the House or the President pro tempore of the Senate, respectively.

The members of the Board of Review shall elect a chairman. A member of the House of Representatives or the Senate from Maryland or Virginia and the Delegate from the District of Columbia may not serve on the Board of Review.

(2) TERMS.—Members of the Board of Review appointed under subparagraphs (A) and (B) of paragraph (1) shall be appointed for terms of six years, except that of the members first appointed, one member under each of subparagraphs (A) and (B) shall be appointed for a term of two years and one member under each of subparagraphs (A) and (B) shall be appointed for a term of four years. Members of the Board of Review appointed under subparagraph (C) shall be appointed for terms of two years. A vacancy in the Board shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term.

(3) PROCEDURES.—The Board of Review shall establish procedures for conducting its business. The procedures may include requirements for a quorum at meetings and for proxy voting. The Board shall meet at least once each year and shall meet at the call of the chairman or 3 members of the Board. Any decision of the Board of Review under paragraph (4) or (5) shall be by a vote of 5 members of the Board.

(4) DISAPPROVAL PROCEDURE.—

(A) SUBMISSION REQUIRED.—An action of the Airports Authority described in subparagraph (B) shall be submitted to the Board of Review at least 30 days (or at least 60 days in the case of the annual budget) before it is to become effective.

(B) ACTIONS AFFECTED.—The following are the actions referred to in subparagraph (A):

(i) the adoption of an annual budget;

(ii) the authorization for the issuance of bonds;

(iii) the adoption, amendment, or repeal of a regulation;

(iv) the adoption or revision of a master plan, including any proposal for land acquisition; and

(v) the appointment of the chief executive officer.

(C) 30-DAY DISAPPROVAL PERIOD.—If the Board of Review does not disapprove an action within 30 days of its submission under this paragraph, the action may take effect. If the Board of Review disapproves any such action, it shall notify the Airports Authority and shall give reasons for the disapproval.

(D) EFFECT OF DISAPPROVAL.—An action disapproved under this paragraph shall not take effect. Unless an annual budget for a fiscal year has taken effect in accordance with this paragraph, the Airports Authority may not obligate or expend any money in such fiscal year, except for (i) debt service on previously authorized obligations, and (ii) obligations and expenditures for previously authorized capital expenditures and routine operating expenses.

(5) REQUEST FOR CONSIDERATION OF OTHER MATTERS.—The Board of Review may request the Airports Authority to consider and vote, or to report, on any matter related to the Metropolitan Washington Airports. Upon receipt of such a request the Airports Authority shall consider and vote, or report, on the matter as promptly as feasible.

(6) PARTICIPATION IN MEETINGS OF AIRPORTS AUTHORITY.—Members of the Board of Review may participate as nonvoting members in meetings of the board of the Airports Authority.

(7) STAFF.—The Board of Review may hire two staff persons to be paid by the Airports Authority. The Airports Authority shall provide such clerical and support staff as the Board may require.

(8) LIABILITY.—A member of the Board of Review shall not be liable in connection with any claim, action, suit, or proceeding arising from service on the Board.

(g) CERTAIN ACTIONS TO BE TAKEN BY REGULATION.—Any action of the Airports Authority changing, or having the effect of changing, the hours of operation of or the type of aircraft serving either of the Metropolitan Washington Airports may be taken only by regulation of the Airports Authority.

(h) LIMITATION ON AUTHORITY.—If the Board of Review established under subsection (f) is unable to carry out its functions under this title by reason of a judicial order, the Airports Authority shall have no authority to perform any of the actions that are required by paragraph (f)(4) to be submitted to the Board of Review.

SEC. 6008. FEDERAL EMPLOYEES AT THE METROPOLITAN WASHINGTON AIRPORTS.

(a) EMPLOYEE PROTECTION.—Not later than the date the lease under section 6005 takes effect, the Secretary shall ensure that the Airports Authority has established arrangements to protect the employment interests of employees during the 5-year period beginning on such date. These arrangements shall include provisions—

(1) which ensure that the Airports Authority will adopt labor agreements in accordance with the provisions of subsection (b) of this section;

(2) for the transfer and retention of all employees who agree to transfer to the Airports Authority in their same positions for the 5-year period commencing on the date the lease under section 6005 takes effect except in cases of reassignment, separation for cause, resignation, or retirement;

(3) for the payment by the Airports Authority of basic and premium pay to transferred employees, except in cases of separation for cause, resignation, or retirement, for 5 years commencing on the date the lease takes effect at or above the rates of pay in effect for such employees on such date;

(4) for credit during the 5-year period commencing on the date the lease takes effect for accrued annual and sick leave and

seniority rights which have been accrued during the period of Federal employment by transferred employees retained by the Airports Authority; and

(5) for an offering of not less than one life insurance and three health insurance programs for transferred employees retained by the Airports Authority during the 5-year period beginning on the date the lease takes effect which are reasonably comparable with respect to employee premium cost and coverage to the Federal health and life insurance programs available to employees on the day before such date.

(b) LABOR AGREEMENTS.—

(1) ADOPTION.—The Airports Authority shall adopt all labor agreements which are in effect on the date the lease under section 6005 takes effect. Such agreements shall continue in effect for the 5-year period commencing on such date, unless the agreement provides for a shorter duration or the parties agree to the contrary before the expiration of that 5-year period. Such agreements shall be renegotiated during the 5-year period, unless the parties agree otherwise. Any labor-management negotiation impasse declared before the date the lease takes effect shall be settled in accordance with chapter 71 of title 5, United States Code.

(2) CONTINUATION.—The arrangements made pursuant to this section shall assure, during the 50-year lease term, the continuation of all collective bargaining rights enjoyed by transferred employees retained by the Airports Authority.

(c) RIGHTS OF TERMINATED EMPLOYEES.—Any transferred employee whose employment with the Airports Authority is terminated during the 5-year period beginning on the date the lease under section 6005 takes effect shall be entitled, as a condition of any lease entered into in accordance with section 6005 of this title, to rights and benefits to be provided by the Airports Authority that are similar to those such employee would have had under Federal law if termination had occurred immediately before such date.

(d) ANNUAL AND SICK LEAVE.—Any employee who transfers to the Airports Authority under this section shall not be entitled to lump-sum payment for unused annual leave under section 5551 of title 5, United States Code, but shall be credited by the Airports Authority with the unused annual leave balance on the date the lease under section 6005 takes effect, along with any unused sick leave balance on such date. During the 5-year period beginning on such date, annual and sick leave shall be earned at the same rates permitted on the day before such date, and observed official holidays shall be the same as those specified in section 6103 of title 5, United States Code.

(e) CIVIL SERVICE RETIREMENT.—Any Federal employee who transfers to the Airports Authority and who on the day before the date the lease under section 6005 takes effect is subject to subchapter III of chapter 83 of title 5, United States Code, or chapter 84 of such title shall, so long as continually employed by the Airports Authority without a break in service, continue to be subject to such subchapter or chapter, as the case may be. Employment by the Airports Authority without a break in continuity of service shall be considered to be employment by the United States Government for purposes of such subchapter and chapter. The Airports Authority shall be the employing agency for purposes of such subchapter and chapter and shall contribute to the Civil Service Retirement and

Disability Fund such sums as are required by such subchapter and chapter.

(f) SEPARATED EMPLOYEES.—An employee who does not transfer to the Airports Authority and who does not otherwise remain a Federal employee shall be entitled to all of the rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to an employee who does not accept an offer of employment from the Airports Authority of work substantially similar to that performed for the Federal Government.

(g) ACCESS TO RECORDS.—The Airports Authority shall allow representatives of the Secretary adequate access to employees and employee records of the Airports Authority when needed for the performance of functions related to the period before the date the lease under section 6005 takes effect. The Secretary shall provide the Airports Authority access to employee records of transferring employees for appropriate purposes.

SEC. 6009. RELATIONSHIP TO AND EFFECT OF OTHER LAWS.

(a) OTHER LAWS.—In order to assure that the Airports Authority has the same proprietary powers and is subject to the same restrictions with respect to Federal law as any other airport except as otherwise provided in this title, during the period that the lease authorized by section 6005 of this title is in effect—

(1) the Metropolitan Washington Airports shall be considered public airports for purposes of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2201 et seq.); and

(2) the Acts entitled "An Act to provide for the administration of the Washington National Airport, and for other purposes", approved June 29, 1940 (54 Stat. 686), "An Act to authorize the construction, protection, operation, and maintenance of a public airport in or in the vicinity of the District of Columbia", approved September 7, 1950 (64 Stat. 770), and "An act making supplemental appropriations for the support of the Government for the fiscal year ending June 30, 1941, and for other purposes", approved October 9, 1940 (54 Stat. 1030), shall not apply to the operation of the Metropolitan Washington Airports, and the Secretary shall be relieved of all responsibility under those Acts.

(b) INAPPLICABILITY OF CERTAIN LAWS.—The Metropolitan Washington Airports and the Airports Authority shall not be subject to the requirements of any law solely by reason of the retention by the United States of the fee simple title to such airports or by reason of the authority of the Board of Review under subsection 6007(f).

(c) POLICE POWER.—The Commonwealth of Virginia shall have concurrent police power authority over the Metropolitan Washington Airports, and the courts of the Commonwealth of Virginia may exercise jurisdiction over Washington National Airport.

(d) PLANNING.—

(1) IN GENERAL.—The authority of the National Capital Planning Commission under section 5 of the Act of June 6, 1924 (40 U.S.C. 71d) shall not apply to the Airports Authority.

(2) CONSULTATION.—The Airports Authority shall consult—

(A) with the National Capital Planning Commission and the Advisory Council on Historic Preservation before undertaking any major alterations to the exterior of the

main terminal at Washington Dulles International Airport, and

(B) with the National Capital Planning Commission before undertaking development that would alter the skyline of Washington National Airport when viewed from the opposing shoreline of the Potomac River or from the George Washington Parkway.

(e) OPERATION LIMITATIONS.—

(1) HIGH DENSITY RULE.—The Administrator may not increase the number of instrument flight rule takeoffs and landings authorized for air carriers by the High Density Rule (14 C.F.R. 93.121 et seq.) at Washington National Airport on the date of the enactment of this title and may not decrease the number of such takeoffs and landings except for reasons of safety.

(2) ANNUAL PASSENGER LIMITATIONS.—The Federal Aviation Administration air traffic regulation entitled "Modification of Allocation: Washington National Airport" (14 C.F.R. 93.124) shall cease to be in effect on the date of the enactment of this title.

SEC. 6010. AUTHORITY TO NEGOTIATE EXTENSION OF LEASE.

The Secretary and the Airports Authority may at any time negotiate an extension of the lease entered into under section 6005(a).

SEC. 6011. SEPARABILITY.

Except as provided in section 6007(h), if any provision of this title or the application thereof to any person or circumstance, is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 6012. NONSTOP FLIGHTS.

PERIMETER RULE.—An air carrier may not operate an aircraft nonstop in air transportation between Washington National Airport and another airport that is more than 1,250 statute miles away from Washington National Airport.

Approved October 30, 1986.

Note: When the President signed H.J. Res. 738 on October 18, 1986, it was assigned Public Law No. 99-500. The following statement was issued by the President in conjunction with his signing of Public Law 99-591:

On October 17, 1986, I was presented by the Congress with an enrolled resolution designated H.J. Res. 738, a joint resolution making continuing appropriations for the

fiscal year 1987, and for other purposes. I signed this measure into law on October 18, 1986. I have since learned that H.J. Res. 738 was not properly enrolled, in that a small number of paragraphs of text were omitted due to clerical error.

The provisions I signed into law on October 18 remain the law of the land. The Supreme Court has held that transmission errors of this sort do not in any way vitiate the legal effect of a President's signature. Accordingly, that which was signed became law.

H.J. Res. 738 has since been properly enrolled and has been presented to me for signature. My signing of H.J. Res. 738 today will enable the provisions previously omitted to become law as well.

LEGISLATIVE HISTORY—H.J. Res. 738 (H.R. 5052) (H.R. 5161) (H.R. 5162) (H.R. 5175) (H.R. 5177) (H.R. 5203) (H.R. 5205) (H.R. 5233) (H.R. 5234) (H.R. 5294) (H.R. 5313) (H.R. 5339) (H.R. 5438):

HOUSE REPORTS: No. 99-1005 (Comm. of Conference).
SENATE REPORTS: No. 99-500 (Comm. on Appropriations).

LEGISLATIVE HISTORY—H.J. Res. 738—Continued

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 25, considered and passed House.
Sept. 29, 30, Oct. 1-3, considered and passed Senate, amended.
Oct. 15, House agreed to conference report, receded and concurred in certain Senate amendment, in others with amendments.
Oct. 16, Senate agreed to conference report, concurred in certain House amendment and receded from another.
Oct. 17, Senate concurred in certain House amendment with an amendment; House receded from certain Senate amendments and concurred in another.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Oct. 30, Presidential statement.

O

PUBLIC LAW 99-592—OCT. 31, 1986

AGE DISCRIMINATION IN EMPLOYMENT AMENDMENTS OF 1986

91-139 O - 87 (614)

Public Law 99-592
99th Congress

An Act

Oct. 31, 1986
[H.R. 4154]

To amend the Age Discrimination in Employment Act of 1967 to remove the maximum age limitation applicable to employees who are protected under such Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Age Discrimination in Employment Amendments of 1986.
29 USC 621 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Age Discrimination in Employment Amendments of 1986".

SEC. 2. AMENDMENTS RELATING TO MAXIMUM AGE.

(a) COVERAGE UNDER GROUP HEALTH PLANS.—Subsection (g)(1) of section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(g)(1)), as added by section 116(a) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "through 69" each place it appears and inserting in lieu thereof "or older".

Ante, p. 171.

(b) TECHNICAL AMENDMENT.—Subsection (g) of section 4 of the Age Discrimination in Employment Act of 1967, as added by section 802(b)(2) of the Older Americans Act Amendments of 1984, is amended by striking out "(g)(1)" and inserting in lieu thereof "(h)(1)".

Ante, p. 171.

(c) REMOVAL OF MAXIMUM AGE LIMITATION.—Section 12 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631) is amended—

(1) in subsection (a) by striking out "but less than seventy years of age", and

(2) in subsection (c)(1) by striking out "but not seventy years of age,".

SEC. 3. EMPLOYMENT AS FIREFIGHTER OR LAW ENFORCEMENT OFFICER.

State and local governments.

(a) GENERAL RULE.—Section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623) is amended by adding at the end thereof the following new subsection:

"(i) It shall not be unlawful for an employer which is a State, a political subdivision of a State, an agency or instrumentality of a State or a political subdivision of a State, or an interstate agency to fail or refuse to hire or to discharge any individual because of such individual's age if such action is taken—

"(1) with respect to the employment of an individual as a firefighter or as a law enforcement officer and the individual has attained the age of hiring or retirement in effect under applicable State or local law on March 3, 1983, and

"(2) pursuant to a bona fide hiring or retirement plan that is not a subterfuge to evade the purposes of this Act.".

29 USC 623 and note.

(b) TERMINATION PROVISION.—The amendment made by subsection (a) of this section is repealed December 31, 1993.

SEC. 4. DEFINITIONS.

Section 11 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 630) is amended by adding at the end thereof the following new subsections:

"(j) The term 'firefighter' means an employee, the duties of whose position are primarily to perform work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment, including an employee engaged in this activity who is transferred to a supervisory or administrative position.

"(k) The term 'law enforcement officer' means an employee, the duties of whose position are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of a State, including an employee engaged in this activity who is transferred to a supervisory or administrative position. For the purpose of this subsection, 'detention' includes the duties of employees assigned to guard individuals incarcerated in any penal institution.".

SEC. 5. STUDY AND PROPOSED GUIDELINES RELATING TO POLICE OFFICERS AND FIREFIGHTERS. 29 USC 622 note.

(a) STUDY.—Not later than 4 years after the date of enactment of this Act, the Secretary of Labor and the Equal Employment Opportunity Commission, jointly, shall—

(1) conduct a study—

(A) to determine whether physical and mental fitness tests are valid measurements of the ability and competency of police officers and firefighters to perform the requirements of their jobs,

(B) if such tests are found to be valid measurements of such ability and competency, to determine which particular types of tests most effectively measure such ability and competency, and

(C) to develop recommendations with respect to specific standards that such tests, and the administration of such tests should satisfy, and

(2) submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate that includes— Reports.

(A) a description of the results of such study, and

(B) a statement of the recommendations developed under paragraph (1)(C).

(b) CONSULTATION REQUIREMENT.—The Secretary of Labor and the Equal Employment Opportunity Commission shall, during the conduct of the study required under subsection (a) and prior to the development of recommendations under paragraph (1)(C), consult with the United States Fire Administration, the Federal Emergency Management Agency, organizations representing law enforcement officers, firefighters, and their employers, and organizations representing older Americans.

(c) PROPOSED GUIDELINES.—Not later than 5 years after the date of the enactment of this Act, the Equal Employment Opportunity Commission shall propose, in accordance with subchapter II of chapter 5 of title 5 of the United States Code, guidelines for the administration and use of physical and mental fitness tests to measure the ability and competency of police officers and firefighters to perform the requirements of their jobs. 5 USC 551.

SEC. 6. SPECIAL RULE FOR TENURED FACULTY.

(a) SPECIAL RULE.—Section 12 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631) is amended by adding at the end thereof the following new subsection:

"(d) Nothing in this Act shall be construed to prohibit compulsory retirement of any employee who has attained 70 years of age, and who is serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure) at an institution of higher education (as defined by section 1201(a) of the Higher Education Act of 1965).".

20 USC 1141.

29 USC 631 and note.

(b) TERMINATION PROVISION.—The amendment made by subsection (a) of this section is repealed December 31, 1993.

Contracts.
29 USC 624 note.

(c) STUDY REQUIRED.—(1) The Equal Employment Opportunity Commission shall, not later than 12 months after the date of enactment of this Act, enter into an agreement with the National Academy of Sciences for the conduct of a study to analyze the potential consequences of the elimination of mandatory retirement on institutions of higher education.

(2) The study required by paragraph (1) of this subsection shall be conducted under the general supervision of the National Academy of Sciences by a study panel composed of 9 members. The study panel shall consist of—

(A) 4 members who shall be administrators at institutions of higher education selected by the National Academy of Sciences after consultation with the American Council of Education, the Association of American Universities, and the National Association of State Universities and Land Grant Colleges;

(B) 4 members who shall be teachers or retired teachers at institutions of higher education (who do not serve in an administrative capacity at such institutions), selected by the National Academy of Sciences after consultation with the American Federation of Teachers, the National Education Association, the American Association of University Professors, and the American Association of Retired Persons; and

(C) one member selected by the National Academy of Sciences.

Reports.

(3) The results of the study shall be reported, with recommendations, to the President and to the Congress not later than 5 years after the date of enactment of this Act.

(4) The expenses of the study required by this subsection shall be paid from funds available to the Equal Employment Opportunity Commission.

29 USC 623 note.

SEC. 7. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on January 1, 1987, except that with respect to any employee who is subject to a collective-bargaining agreement—

(1) which is in effect on June 30, 1986,

(2) which terminates after January 1, 1987,

(3) any provision of which was entered into by a labor organization (as defined by section 6(d)(4) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(4)), and

(4) which contains any provision that would be superseded by such amendments, but for the operation of this section,

such amendments shall not apply until the termination of such collective bargaining agreement or January 1, 1990, whichever occurs first.

(b) EFFECT ON EXISTING CAUSES OF ACTION.—The amendments made by sections 3 and 4 of this Act shall not apply with respect to any cause of action arising under the Age Discrimination in Employment Act of 1967 as in effect before January 1, 1987. 29 USC 621 note.

Approved October 31, 1986.

LEGISLATIVE HISTORY—H.R. 4154:

HOUSE REPORTS: No. 99-756 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 23, considered and passed House.
Oct. 16, considered and passed Senate, amended.
Oct. 17, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Nov. 1, Presidential statement.

O

Public Law 99-593
99th Congress

An Act

Oct. 31, 1986
[H.R. 4576]

To designate the United States Attorney's Building for the Southern District of New York as the "Silvio James Mollo Federal Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building known as the United States Attorney's Building for the Southern District of New York, located at One St. Andrew's Plaza, New York, New York, shall hereafter be known and designated as the "Silvio James Mollo Federal Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "Silvio James Mollo Federal Building".

Approved October 31, 1986.

LEGISLATIVE HISTORY—H.R. 4576:

HOUSE REPORTS: No. 99-885 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 6, considered and passed House.
Oct. 18, considered and passed Senate.

O

91-139 O - 87 (615)

Public Law 99-594
99th Congress

An Act

To authorize the construction by the Secretary of Agriculture of a salinity laboratory at Riverside, California.

Oct. 31, 1986
[H.R. 5215]

Appropriation authorization.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding section 1431(a) of Public Law 99-198 (99 Stat. 1556), there are authorized to be appropriated beginning in the fiscal year ending September 30, 1987, such sums as may be necessary for the planning, construction, and acquisition, by the Secretary of Agriculture acting through the Agricultural Research Service, of buildings and equipment to establish a salinity laboratory to be located at Riverside, California. Moneys appropriated under this Act shall remain available without fiscal year limitation.

Approved October 31, 1986.

LEGISLATIVE HISTORY—H.R. 5215:

HOUSE REPORTS: No. 99-966 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 6, 7, considered and passed House.
Oct. 18, considered and passed Senate.

O

91-139 O - 87 (616)

Public Law 99-595
99th Congress

An Act

Oct. 31, 1986
[H.R. 5679]

To extend the exclusion from Federal unemployment tax of wages paid to certain alien farmworkers.

26 USC 3306.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3306(c)(1)(B) of the Internal Revenue Code of 1954 is amended by striking out "before January 1, 1988," and inserting in lieu thereof "before January 1, 1993,".

Approved October 31, 1986.

LEGISLATIVE HISTORY—H.R. 5679:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 9, 10, considered and passed House.
Oct. 18, considered and passed Senate.

91-139 O - 87 (617)

Public Law 99-596
99th Congress

An Act

To authorize the Secretary of the Navy to make a certain conveyance of real property.

Nov. 3, 1986
[H.R. 5682]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Maryland.

SECTION 1. LAND CONVEYANCE, CECIL COUNTY, MARYLAND.

(a) AUTHORITY TO SELL.—Subject to subsections (b) through (f), the Secretary of the Navy may dispose of the real property (and improvements thereon) constituting the former Naval Training Center, Bainbridge, Cecil County, Maryland, by sale to private parties or transfer to other government agencies upon such terms and conditions as the Secretary determines to be in the public interest.

(b) COMPETITIVE BIDDING REQUIREMENT.—The sale described in subsection (a) shall be conducted in accordance with competitive bidding procedures prescribed in section 2304 of title 10, United States Code. In no event may the property described in subsection (a) be sold for less than the fair market value thereof.

(c) PROPERTY RESTORATION.—Before any sale, the Secretary shall, using any funds available for such purpose, restore such property to a condition that meets all applicable Federal and State of Maryland environmental protection regulations.

Environmental protection.

(d) USE OF FUNDS.—Upon the sale of the property, the proceeds from the sale shall be used to reimburse the source from which funds were provided for property restoration under subsection (c).

(e) LEGAL DESCRIPTION OF LAND.—The exact acreage and legal description of the property sold or exchanged under this section shall be in accordance with surveys that are satisfactory to the Secretary.

(f) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

Approved November 3, 1986.

LEGISLATIVE HISTORY—H.R. 5682:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 17, considered and passed House.
Oct. 18, considered and passed Senate.

O

91-139 O - 87 (619)

Public Law 99-597
99th Congress

An Act

Nov. 3, 1986
[S. 2948]

To authorize the President to promote posthumously the late Lieutenant Colonel Ellison S. Onizuka to the grade of Colonel.

Space program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized to promote posthumously to the grade of colonel the late Lieutenant Colonel Ellison S. Onizuka, United States Air Force, who died on January 28, 1986, while serving as a crew member on the space shuttle Challenger.

SEC. 2. No increase in compensation or benefits based on the military service of the late Lieutenant Colonel Ellison S. Onizuka shall result from a posthumous promotion authorized under the first section of this Act.

Approved November 3, 1986.

LEGISLATIVE HISTORY—S. 2948:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 17, considered and passed Senate.
Oct. 18, considered and passed House.

O

91-139 O - 87 (620)

Public Law 99-598
99th Congress

An Act

To amend title 28, United States Code, relating to quiet title actions against the United States, with respect to actions brought by States.

Nov. 4, 1986
[H.R. 2484]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2409a of title 28, United States Code, is amended—

Claims.

(1) by redesignating subsection (g) as subsection (n);

(2) by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively;

(3) by inserting after subsection (b) the following new subsection:

"(c) No preliminary injunction shall issue in any action brought under this section.";

(4) in subsection (g), as redesignated by paragraph (2), by inserting ", except for an action brought by a State," after "this section"; and

(5) by inserting after subsection (g), as so redesignated, the following:

Defense and national security.

"(h) No civil action may be maintained under this section by a State with respect to defense facilities (including land) of the United States so long as the lands at issue are being used or required by the United States for national defense purposes as determined by the head of the Federal agency with jurisdiction over the lands involved, if it is determined that the State action was brought more than twelve years after the State knew or should have known of the claims of the United States. Upon cessation of such use or requirement, the State may dispute title to such lands pursuant to the provisions of this section. The decision of the head of the Federal agency is not subject to judicial review.

"(i) Any civil action brought by a State under this section with respect to lands, other than tide or submerged lands, on which the United States or its lessee or right-of-way or easement grantee has made substantial improvements or substantial investments or on which the United States has conducted substantial activities pursuant to a management plan such as range improvement, timber harvest, tree planting, mineral activities, farming, wildlife habitat improvement, or other similar activities, shall be barred unless the action is commenced within twelve years after the date the State received notice of the Federal claims to the lands.

"(j) If a final determination in an action brought by a State under this section involving submerged or tide lands on which the United States or its lessee or right-of-way or easement grantee has made substantial improvements or substantial investments is adverse to the United States and it is determined that the State's action was brought more than twelve years after the State received notice of the Federal claim to the lands, the State shall take title to the lands subject to any existing lease, easement, or right-of-way. Any com-

91-139 O - 87 (621)

pensation due with respect to such lease, easement, or right-of-way shall be determined under existing law.

"(k) Notice for the purposes of the accrual of an action brought by a State under this section shall be—

"(1) by public communications with respect to the claimed lands which are sufficiently specific as to be reasonably calculated to put the claimant on notice of the Federal claim to the lands, or

"(2) by the use, occupancy, or improvement of the claimed lands which, in the circumstances, is open and notorious.

"(l) For purposes of this section, the term 'tide or submerged lands' means 'lands beneath navigable waters' as defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301).

"(m) Not less than one hundred and eighty days before bringing any action under this section, a State shall notify the head of the Federal agency with jurisdiction over the lands in question of the State's intention to file suit, the basis therefor, and a description of the lands included in the suit.".

Approved November 4, 1986.

LEGISLATIVE HISTORY—H.R. 2484:

HOUSE REPORTS: No. 99-924 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 30, considered and passed House.
Oct. 16, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Nov. 4, Presidential statement.

O

Public Law 99-599
99th Congress

An Act

To designate the building commonly known as the Old Post Office in Worcester, Massachusetts, as the "Harold D. Donohue Federal Building".

Nov. 5, 1986
[H.R. 4118]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the General Services Administration building commonly known as the Old Post Office, located at 595 Main Street, Worcester, Massachusetts, shall hereafter be known and designated as the "Harold D. Donohue Federal Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be reference to the "Harold D. Donohue Federal Building".

Approved November 5, 1986.

LEGISLATIVE HISTORY—H.R. 4118:

HOUSE REPORTS: No. 99-881 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 6, considered and passed House.
Oct. 18, considered and passed Senate.

91-139 O - 87 (622)

PUBLIC LAW 99-600—NOV. 5, 1986

PUEBLO OF ZIA, PUBLIC DOMAIN TRUST LANDS

91-139 O -- 87 - (623)

Public Law 99-600
99th Congress

An Act

Nov. 5, 1986
[H.R. 5167]

To declare that the United States holds certain public domain lands in trust for the Pueblo of Zia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

New Mexico.
Indians.

SECTION 1. LANDS HELD IN TRUST FOR PUEBLO OF ZIA.

Petroleum and petroleum products.
Natural gas.

(a) LANDS HELD IN TRUST.—All right, title, and interest of the United States in and to the surface and mineral estates (including oil and gas) of the following lands described in subsection (b) are hereby declared to be held by the United States in trust for the benefit and use of the Pueblo of Zia.

(b) LAND DESCRIPTION.—The lands referred to in subsection (a) are approximately 1,840 acres of land under the jurisdiction of the Bureau of Land Management of the Department of the Interior situated within Sandoval County, New Mexico, more particularly described as follows:

Southeast quarter of the northeast quarter and the southeast quarter of Section 24, Township 15 North, Range 1 East, New Mexico Principal Meridian;

All of Section 25, Township 15 North, Range 1 East, New Mexico Principal Meridian;

South half of the southwest quarter and the southeast quarter of Section 26, Township 15 North, Range 1 East, New Mexico Principal Meridian;

All of Section 35, Township 15 North, Range 1 East, New Mexico Principal Meridian; and

Lot 1, and the southeast quarter of the northeast quarter, and the northeast quarter of the southeast quarter of section 3, Township 14 North, Range 1 East, New Mexico Principal Meridian.

SEC. 2. ADMINISTRATION OF LANDS HELD IN TRUST FOR PUEBLO OF ZIA.

(a) IN GENERAL.—Upon enactment of this Act and subject to the other provisions of this Act, the lands described in section 1 shall be administered in accordance with the laws generally applicable to property held in trust by the United States for Indian tribes.

(b) GROSS RECEIPTS FROM LANDS HELD IN TRUST.—All gross receipts (including, but not limited to, bonuses, rents, and royalties) which—

(1) are derived by the United States from any contract, permit, or lease relating to the surface or mineral estate in the lands described in section 1, and

(2) are received by the United States after the date of enactment of this Act,

shall be administered in accordance with the laws generally applicable to receipts from property held in trust by the United States for Indian tribes.

SEC. 3. APPLICATIONS FOR MINERAL LEASES.

Petroleum and petroleum products.
Natural gas.

Notwithstanding any other provision of law, all applications for mineral leases involving the lands described in section 1, including oil and gas leases, pending on the date of enactment of this Act shall

be rejected and the advance rental payments returned to the applicants.

SEC. 4. CERTAIN RIGHTS WITH RESPECT TO LANDS HELD IN TRUST FOR PUEBLO OF ZIA.

(a) VALID EXISTING RIGHTS.—Nothing in this Act shall deprive any person (other than the United States) of any lease, right-of-way, mining claim, grazing permit, water right, or other right or interest which such person may have in the surface or mineral estate of any lands described in section 1 on the day before the date of enactment of this Act.

Mines and mining. Water.

(b) WATER RIGHTS.—The water rights appurtenant to the lands described in section 1 shall be those water rights that are appurtenant to such lands under State law on the day before the date of enactment of this Act. Nothing in this Act shall be construed to create or affect any water rights other than those that are appurtenant to such lands under State law on the day before the date of enactment of this Act.

State and local governments.

(c) RIGHT-OF-WAY FOR 115-KV TRANSMISSION LINE.—(1) Nothing in this Act shall affect the right-of-way over any lands described in section 1 for a 115-KV transmission line by Plains Electric Generation and Transmission Cooperative, Inc., granted by the Bureau of Land Management of the Department of the Interior on April 18, 1961, and bearing identification number NM0149992.

(2) Plains Electric Generation and Transmission Cooperative, Inc., and its successors and assigns, shall be permitted to renew the right-of-way described in paragraph (1) under rules and regulations of the Secretary to the same extent and in the same manner that such permit could have been renewed if this Act had not been enacted.

(3) No charge, fee, or tax may be imposed by the Pueblo of Zia on any lands, facilities, activities, or revenues in connection with the right-of-way described in paragraph (1), except for fees charged with respect to any renewed right-of-way described in paragraph (2).

Taxes.

(d) OIL AND GAS LEASES.—(1) Nothing in this Act shall affect—

(A) the oil and gas lease issued on May 1, 1983, by the United States to Yates Petroleum Corporation, bearing Serial No. NM 55801,

(B) the oil and gas lease issued December 1, 1977, by the United States to Merle C. Chambers, Denver, Colorado, bearing Serial No. NM 31557,

(C) any other oil or gas leases that were valid and existing on the day before the date of enactment of this Act,

(D) any right, term, condition, and covenant (both express and implied) granted under any oil or gas lease referred to in subparagraph (A), (B), or (C), and

(E) reasonable access (including, but not limited to, rights of ingress and egress) across lands described in section 1 or which are otherwise owned by or under the control of the Pueblo of Zia

insofar as it may be necessary to cross such lands in order to reach lands subject to any oil or gas lease referred to in subparagraph (A), (B), or (C).

(2) Subject to valid existing rights, the leases described in subsection 4(d)(1) shall be administerd under rules and regulations of the Secretary to the same extent and in the same manner that such leases would be administered if this Act had not been enacted.

Approved November 5, 1986.

LEGISLATIVE HISTORY—H.R. 5167:

HOUSE REPORTS: No. 99-819 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 16, considered and passed House.
Oct. 16, considered and passed Senate, amended; House concurred in Senate amendments.

O

Public Law 99-601
99th Congress

An Act

To amend the National Housing Act to provide for the eligibility of certain property for single family mortgage insurance.

Nov. 5, 1986
[H.R. 5564]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 203 of the National Housing Act is amended by adding at the end the following new subsection:

12 USC 1709.

"(q)(1) Notwithstanding any other provision of this section or any other section of this title, the Secretary may insure and commit to insure, under subsection (b) as modified by this subsection, any mortgage secured by property located on land that—

"(A) is within the Allegany Reservation of the Seneca Nation of New York Indians; and

Indians.
New York.

"(B) is subject to a lease entered into for a term of 99 years pursuant to the Act of February 19, 1875 (Chapter 90; 18 Stat. 330) and the Act of September 30, 1890 (Chapter 1132; 26 Stat. 558).

"(2) A mortgage shall be eligible for insurance under subsection (b) as modified by this subsection without regard to limitations in this title relating to marketability of title or any other statutory restriction that the Secretary determines is contrary to the purpose of this subsection.

"(3) The Secretary, in connection with any mortgage insured under subsection (b) as modified by this subsection, shall have all statutory powers, authority, and responsibilities that the Secretary has with respect to other mortgages insured under subsection (b), except that the Secretary may modify such powers, authority, or responsibilities if the Secretary determines such action to be necessary because of the special nature of the mortgage involved.

"(4) Notwithstanding section 202, the insurance of a mortgage under subsection (b) as modified by this subsection shall be the obligation of the Special Risk Insurance Fund created in section 238.".

12 USC 1708.

12 USC 1715z-3.

Approved November 5, 1986.

LEGISLATIVE HISTORY—H.R. 5564:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 29, considered and passed House.
Oct. 18, considered and passed Senate.

O

91-139 O - 87 (624)

Public Law 99-602
99th Congress

Joint Resolution

Nov. 5, 1986
[H.J. Res. 645]

To designate 1988 as the "National Year of Friendship with Finland".

Whereas the first Finnish settlers arrived in North America in 1638 and, with other Nordic settlers, established the colony of New Sweden in what is now the State of Delaware;

Whereas the settlers of New Sweden introduced European civilization to the Delaware River Valley;

Whereas many of the settlers of New Sweden were either natives of Finland or natives of Sweden who spoke Finnish;

Whereas, in the 17th century, Nordic communities existed in what are now the States of Delaware, Pennsylvania, New Jersey, Maryland, and New York;

Whereas Nordic culture was the 3d most represented culture in the original 13 colonies during the 17th century;

Whereas some of the ancestors of John Morton, a signatory of the Declaration of Independence from Pennsylvania, were born in Finland;

Whereas approximately 700,000 Americans of Finnish descent are now living in the United States;

Whereas the contributions of Americans of Finnish descent to American history, culture, and technology have been continuous and substantial;

Whereas, in 1938, festivities commemorating the 300th anniversary of the founding of New Sweden were attended by officials of the Governments of Finland, Sweden, and the United States;

Whereas the Governor of the State of Delaware has formally invited the people of Finland to participate in festivities in 1988 commemorating the 350th anniversary of New Sweden; and

Whereas the relationship between the people of Finland and the people of the United States should be commemorated: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1988 is designated the "National Year of Friendship with Finland", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such year with appropriate ceremonies and activities.

Approved November 5, 1986.

LEGISLATIVE HISTORY—H.J. Res. 645:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 17, considered and passed House.
Oct. 18, considered and passed Senate.

O

91-139 O - 87 (625)

Public Law 99-603
99th Congress

An Act

To amend the Immigration and Nationality Act to revise and reform the immigration laws, and for other purposes.

Nov. 6, 1986
[S. 1200]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Immigration Reform and Control Act of 1986.
8 USC 1101 note.

SECTION 1. SHORT TITLE; REFERENCES IN ACT.

(a) SHORT TITLE.—This Act may be cited as the "Immigration Reform and Control Act of 1986".

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to, or repeal of, a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

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Sec. 111. Authorization of appropriations for enforcement and service activities of the Immigration and Naturalization Service.
Sec. 112. Unlawful transportation of aliens to the United States.
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Sec. 114. Liability of owners and operators of international bridges and toll roads to prevent the unauthorized landing of aliens.
Sec. 115. Enforcement of the immigration laws of the United States.
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Sec. 117. Restrictions on adjustment of status.

PART C—VERIFICATION OF STATUS UNDER CERTAIN PROGRAMS

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TITLE II—LEGALIZATION

Sec. 201. Legalization of status.
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TITLE III—REFORM OF LEGAL IMMIGRATION

PART A—TEMPORARY AGRICULTURAL WORKERS

Sec. 301. H-2A agricultural workers.
Sec. 302. Permanent residence for certain special agricultural workers.
Sec. 303. Determinations of agricultural labor shortages and admission of additional special agricultural workers.
Sec. 304. Commission on Agricultural Workers.

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Sec. 305. Eligibility of H-2 agricultural workers for certain legal assistance.

PART B—OTHER CHANGES IN THE IMMIGRATION LAW

Sec. 311. Change in colonial quota.
Sec. 312. G-IV special immigrants.
Sec. 313. Visa waiver pilot program for certain visitors.
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TITLE IV—REPORTS TO CONGRESS

Sec. 401. Triennial comprehensive report on immigration.
Sec. 402. Reports on unauthorized alien employment.
Sec. 403. Reports on H-2A program.
Sec. 404. Reports on legalization program.
Sec. 405. Report on visa waiver pilot program.
Sec. 406. Report on Immigration and Naturalization Service.
Sec. 407. Sense of the Congress.

TITLE V—STATE ASSISTANCE FOR INCARCERATION COSTS OF ILLEGAL ALIENS AND CERTAIN CUBAN NATIONALS

Sec. 501. Reimbursement of States for costs of incarcerating illegal aliens and certain Cuban nationals.

TITLE VI—COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT

Sec. 601. Commission for the Study of International Migration and Cooperative Economic Development.

TITLE VII—FEDERAL RESPONSIBILITY FOR DEPORTABLE AND EXCLUDABLE ALIENS CONVICTED OF CRIMES

Sec. 701. Expeditious deportation of convicted aliens.
Sec. 702. Identification of facilities to incarcerate deportable or excludable aliens.

TITLE I—CONTROL OF ILLEGAL IMMIGRATION

PART A—EMPLOYMENT

SEC. 101. CONTROL OF UNLAWFUL EMPLOYMENT OF ALIENS.

(a) IN GENERAL.—

(1) NEW PROVISION.—Chapter 8 of title II is amended by inserting after section 274 (8 U.S.C. 1324) the following new section:

"UNLAWFUL EMPLOYMENT OF ALIENS

8 USC 1324a.

"SEC. 274A. (a) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

"(1) IN GENERAL.—It is unlawful for a person or other entity to hire, or to recruit or refer for a fee, for employment in the United States—

"(A) an alien knowing the alien is an unauthorized alien (as defined in subsection (h)(3)) with respect to such employment, or

"(B) an individual without complying with the requirements of subsection (b).

"(2) CONTINUING EMPLOYMENT.—It is unlawful for a person or other entity, after hiring an alien for employment in accordance with paragraph (1), to continue to employ the alien in the United States knowing the alien is (or has become) an unauthorized alien with respect to such employment.

"(3) DEFENSE.—A person or entity that establishes that it has complied in good faith with the requirements of subsection (b)

with respect to the hiring, recruiting, or referral for employment of an alien in the United States has established an affirmative defense that the person or entity has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

"(4) USE OF LABOR THROUGH CONTRACT.—For purposes of this section, a person or other entity who uses a contract, subcontract, or exchange, entered into, renegotiated, or extended after the date of the enactment of this section, to obtain the labor of an alien in the United States knowing that the alien is an unauthorized alien (as defined in subsection (h)(3)) with respect to performing such labor, shall be considered to have hired the alien for employment in the United States in violation of paragraph (1)(A).

"(5) USE OF STATE EMPLOYMENT AGENCY DOCUMENTATION.—For purposes of paragraphs (1)(B) and (3), a person or entity shall be deemed to have complied with the requirements of subsection (b) with respect to the hiring of an individual who was referred for such employment by a State employment agency (as defined by the Attorney General), if the person or entity has and retains (for the period and in the manner described in subsection (b)(3)) appropriate documentation of such referral by that agency, which documentation certifies that the agency has complied with the procedures specified in subsection (b) with respect to the individual's referral.

(b) EMPLOYMENT VERIFICATION SYSTEM.—The requirements referred to in paragraphs (1)(B) and (3) of subsection (a) are, in the case of a person or other entity hiring, recruiting, or referring an individual for employment in the United States, the requirements specified in the following three paragraphs:

"(1) ATTESTATION AFTER EXAMINATION OF DOCUMENTATION.—

"(A) IN GENERAL.—The person or entity must attest, under penalty of perjury and on a form designated or established by the Attorney General by regulation, that it has verified that the individual is not an unauthorized alien by examining—

"(i) a document described in subparagraph (B), or

"(ii) a document described in subparagraph (C) and a document described in subparagraph (D).

A person or entity has complied with the requirement of this paragraph with respect to examination of a document if the document reasonably appears on its face to be genuine. If an individual provides a document or combination of documents that reasonably appears on its face to be genuine and that is sufficient to meet the requirements of such sentence, nothing in this paragraph shall be construed as requiring the person or entity to solicit the production of any other document or as requiring the individual to produce such a document.

"(B) DOCUMENTS ESTABLISHING BOTH EMPLOYMENT AUTHORIZATION AND IDENTITY.—A document described in this subparagraph is an individual's—

"(i) United States passport;

"(ii) certificate of United States citizenship;

"(iii) certificate of naturalization;

"(iv) unexpired foreign passport, if the passport has an appropriate, unexpired endorsement of the Attorney

General authorizing the individual's employment in the United States; or

"(v) resident alien card or other alien registration card, if the card—

"(I) contains a photograph of the individual or such other personal identifying information relating to the individual as the Attorney General finds, by regulation, sufficient for purposes of this subsection, and

"(II) is evidence of authorization of employment in the United States.

"(C) DOCUMENTS EVIDENCING EMPLOYMENT AUTHORIZATION.—A document described in this subparagraph is an individual's—

"(i) social security account number card (other than such a card which specifies on the face that the issuance of the card does not authorize employment in the United States);

"(ii) certificate of birth in the United States or establishing United States nationality at birth, which certificate the Attorney General finds, by regulation, to be acceptable for purposes of this section; or

"(iii) other documentation evidencing authorization of employment in the United States which the Attorney General finds, by regulation, to be acceptable for purposes of this section.

"(D) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUAL.—A document described in this subparagraph is an individual's—

"(i) driver's license or similar document issued for the purpose of identification by a State, if it contains a photograph of the individual or such other personal identifying information relating to the individual as the Attorney General finds, by regulation, sufficient for purposes of this section; or

"(ii) in the case of individuals under 16 years of age or in a State which does not provide for issuance of an identification document (other than a driver's license) referred to in clause (ii), documentation of personal identity of such other type as the Attorney General finds, by regulation, provides a reliable means of identification.

"(2) INDIVIDUAL ATTESTATION OF EMPLOYMENT AUTHORIZATION.—The individual must attest, under penalty of perjury on the form designated or established for purposes of paragraph (1), that the individual is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Attorney General to be hired, recruited, or referred for such employment.

"(3) RETENTION OF VERIFICATION FORM.—After completion of such form in accordance with paragraphs (1) and (2), the person or entity must retain the form and make it available for inspection by officers of the Service or the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and ending—

"(A) in the case of the recruiting or referral for a fee (without hiring) of an individual, three years after the date of the recruiting or referral, and

"(B) in the case of the hiring of an individual—

"(i) three years after the date of such hiring, or

"(ii) one year after the date the individual's employment is terminated,

whichever is later.

"(4) COPYING OF DOCUMENTATION PERMITTED.—Notwithstanding any other provision of law, the person or entity may copy a document presented by an individual pursuant to this subsection and may retain the copy, but only (except as otherwise permitted under law) for the purpose of complying with the requirements of this subsection.

"(5) LIMITATION ON USE OF ATTESTATION FORM.—A form designated or established by the Attorney General under this subsection and any information contained in or appended to such form, may not be used for purposes other than for enforcement of this Act and sections 1001, 1028, 1546, and 1621 of title 18, United States Code.

"(c) NO AUTHORIZATION OF NATIONAL IDENTIFICATION CARDS.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

"(d) EVALUATION AND CHANGES IN EMPLOYMENT VERIFICATION SYSTEM.—

"(1) PRESIDENTIAL MONITORING AND IMPROVEMENTS IN SYSTEM.—

"(A) MONITORING.—The President shall provide for the monitoring and evaluation of the degree to which the employment verification system established under subsection (b) provides a secure system to determine employment eligibility in the United States and shall examine the suitability of existing Federal and State identification systems for use for this purpose.

"(B) IMPROVEMENTS TO ESTABLISH SECURE SYSTEM.—To the extent that the system established under subsection (b) is found not to be a secure system to determine employment eligibility in the United States, the President shall, subject to paragraph (3) and taking into account the results of any demonstration projects conducted under paragraph (4), implement such changes in (including additions to) the requirements of subsection (b) as may be necessary to establish a secure system to determine employment eligibility in the United States. Such changes in the system may be implemented only if the changes conform to the requirements of paragraph (2).

"(2) RESTRICTIONS ON CHANGES IN SYSTEM.—Any change the President proposes to implement under paragraph (1) in the verification system must be designed in a manner so the verification system, as so changed, meets the following requirements:

"(A) RELIABLE DETERMINATION OF IDENTITY.—The system must be capable of reliably determining whether—

"(i) a person with the identity claimed by an employee or prospective employee is eligible to work, and

"(ii) the employee or prospective employee is claiming the identity of another individual.

"(B) USING OF COUNTERFEIT-RESISTANT DOCUMENTS.—If the system requires that a document be presented to or examined by an employer, the document must be in a form which is resistant to counterfeiting and tampering.

Public information.

"(C) LIMITED USE OF SYSTEM.—Any personal information utilized by the system may not be made available to Government agencies, employers, and other persons except to the extent necessary to verify that an individual is not an unauthorized alien.

"(D) PRIVACY OF INFORMATION.—The system must protect the privacy and security of personal information and identifiers utilized in the system.

"(E) LIMITED DENIAL OF VERIFICATION.—A verification that an employee or prospective employee is eligible to be employed in the United States may not be withheld or revoked under the system for any reason other than that the employee or prospective employee is an unauthorized alien.

"(F) LIMITED USE FOR LAW ENFORCEMENT PURPOSES.—The system may not be used for law enforcement purposes, other than for enforcement of this Act or sections 1001, 1028, 1546, and 1621 of title 18, United States Code.

"(G) RESTRICTION ON USE OF NEW DOCUMENTS.—If the system requires individuals to present a new card or other document (designed specifically for use for this purpose) at the time of hiring, recruitment, or referral, then such document may not be required to be presented for any purpose other than under this Act (or enforcement of sections 1001, 1028, 1546, and 1621 of title 18, United States Code) nor to be carried on one's person.

"(3) NOTICE TO CONGRESS BEFORE IMPLEMENTING CHANGES.—

President of U.S. Reports.

"(A) IN GENERAL.—The President may not implement any change under paragraph (1) unless at least—

"(i) 60 days,

"(ii) one year, in the case of a major change described in subparagraph (D)(iii), or

"(iii) two years, in the case of a major change described in clause (i) or (ii) of subparagraph (D),

before the date of implementation of the change, the President has prepared and transmitted to the Committee on the Judiciary of the House of Representatives and to the Committee on the Judiciary of the Senate a written report setting forth the proposed change. If the President proposes to make any change regarding social security account number cards, the President shall transmit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a written report setting forth the proposed change. The President promptly shall cause to have printed in the Federal Register the substance of any major change (described in subparagraph (D)) proposed and reported to Congress.

Federal Register, publication.

Classified information.

"(B) CONTENTS OF REPORT.—In any report under subparagraph (A) the President shall include recommendations for the establishment of civil and criminal sanctions for un-

authorized use or disclosure of the information or identifiers contained in such system.

"(C) CONGRESSIONAL REVIEW OF MAJOR CHANGES.—

"(i) HEARINGS AND REVIEW.—The Committees on the Judiciary of the House of Representatives and of the Senate shall cause to have printed in the Congressional Record the substance of any major change described in subparagraph (D), shall hold hearings respecting the feasibility and desirability of implementing such a change, and, within the two year period before implementation, shall report to their respective Houses findings on whether or not such a change should be implemented.

"(ii) CONGRESSIONAL ACTION.—No major change may be implemented unless the Congress specifically provides, in an appropriations or other Act, for funds for implementation of the change.

"(D) MAJOR CHANGES REQUIRING TWO YEARS NOTICE AND CONGRESSIONAL REVIEW.—As used in this paragraph, the term 'major change' means a change which would—

"(i) require an individual to present a new card or other document (designed specifically for use for this purpose) at the time of hiring, recruitment, or referral,

"(ii) provide for a telephone verification system under which an employer, recruiter, or referrer must transmit to a Federal official information concerning the immigration status of prospective employees and the official transmits to the person, and the person must record, a verification code, or

"(iii) require any change in any card used for accounting purposes under the Social Security Act, including any change requiring that the only social security account number cards which may be presented in order to comply with subsection (b)(1)(C)(i) are such cards as are in a counterfeit-resistant form consistent with the second sentence of section 205(c)(2)(D) of the Social Security Act.

42 USC 301 note.

42 USC 405.

"(E) GENERAL REVENUE FUNDING OF SOCIAL SECURITY CARD CHANGES.—Any costs incurred in developing and implementing any change described in subparagraph (D)(iii) for purposes of this subsection shall not be paid for out of any trust fund established under the Social Security Act.

"(4) DEMONSTRATION PROJECTS.—

"(A) AUTHORITY.—The President may undertake demonstration projects (consistent with paragraph (2)) of different changes in the requirements of subsection (b). No such project may extend over a period of longer than three years.

President of U.S.

"(B) REPORTS ON PROJECTS.—The President shall report to the Congress on the results of demonstration projects conducted under this paragraph.

"(e) COMPLIANCE.—

"(1) COMPLAINTS AND INVESTIGATIONS.—The Attorney General shall establish procedures—

"(A) for individuals and entities to file written, signed complaints respecting potential violations of subsection (a),

"(B) for the investigation of those complaints which, on their face, have a substantial probability of validity,

"(C) for the investigation of such other violations of subsection (a) as the Attorney General determines to be appropriate, and

"(D) for the designation in the Service of a unit which has, as its primary duty, the prosecution of cases of violations of subsection (a) under this subsection.

"(2) AUTHORITY IN INVESTIGATIONS.—In conducting investigations and hearings under this subsection—

"(A) immigration officers and administrative law judges shall have reasonable access to examine evidence of any person or entity being investigated, and

"(B) administrative law judges may, if necessary, compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing.

In case of contumacy or refusal to obey a subpoena lawfully issued under this paragraph and upon application of the Attorney General, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt thereof.

"(3) HEARING.—

"(A) IN GENERAL.—Before imposing an order described in paragraph (4) or (5) against a person or entity under this subsection for a violation of subsection (a), the Attorney General shall provide the person or entity with notice and, upon request made within a reasonable time (of not less than 30 days, as established by the Attorney General) of the date of the notice, a hearing respecting the violation.

"(B) CONDUCT OF HEARING.—Any hearing so requested shall be conducted before an administrative law judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code. The hearing shall be held at the nearest practicable place to the place where the person or entity resides or of the place where the alleged violation occurred. If no hearing is so requested, the Attorney General's imposition of the order shall constitute a final and unappealable order.

"(C) ISSUANCE OF ORDERS.—If the administrative law judge determines, upon the preponderance of the evidence received, that a person or entity named in the complaint has violated subsection (a), the administrative law judge shall state his findings of fact and issue and cause to be served on such person or entity an order described in paragraph (4) or (5).

"(4) CEASE AND DESIST ORDER WITH CIVIL MONEY PENALTY FOR HIRING, RECRUITING, AND REFERRAL VIOLATIONS.—With respect to a violation of subsection (a)(1)(A) or (a)(2), the order under this subsection—

"(A) shall require the person or entity to cease and desist from such violations and to pay a civil penalty in an amount of—

"(i) not less than $250 and not more than $2,000 for each unauthorized alien with respect to whom a violation of either such subsection occurred,

"(ii) not less than $2,000 and not more than $5,000 for each such alien in the case of a person or entity previously subject to one order under this subparagraph, or

"(iii) not less than $3,000 and not more than $10,000 for each such alien in the case of a person or entity previously subject to more than one order under this subparagraph; and

"(B) may require the person or entity—

"(i) to comply with the requirements of subsection (b) (or subsection (d) if applicable) with respect to individuals hired (or recruited or referred for employment for a fee) during a period of up to three years, and

"(ii) to take such other remedial action as is appropriate.

In applying this subsection in the case of a person or entity composed of distinct, physically separate subdivisions each of which provides separately for the hiring, recruiting, or referring for employment, without reference to the practices of, and not under the control of or common control with, another subdivision, each such subdivision shall be considered a separate person or entity.

"(5) ORDER FOR CIVIL MONEY PENALTY FOR PAPERWORK VIOLATIONS.—With respect to a violation of subsection (a)(1)(B), the order under this subsection shall require the person or entity to pay a civil penalty in an amount of not less than $100 and not more than $1,000 for each individual with respect to whom such violation occurred. In determining the amount of the penalty, due consideration shall be given to the size of the business of the employer being charged, the good faith of the employer, the seriousness of the violation, whether or not the individual was an unauthorized alien, and the history of previous violations.

"(6) ADMINISTRATIVE APPELLATE REVIEW.—The decision and order of an administrative law judge shall become the final agency decision and order of the Attorney General unless, within 30 days, the Attorney General modifies or vacates the decision and order, in which case the decision and order of the Attorney General shall become a final order under this subsection. The Attorney General may not delegate the Attorney General's authority under this paragraph to any entity which has review authority over immigration-related matters.

"(7) JUDICIAL REVIEW.—A person or entity adversely affected by a final order respecting an assessment may, within 45 days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

"(8) ENFORCEMENT OF ORDERS.—If a person or entity fails to comply with a final order issued under this subsection against the person or entity, the Attorney General shall file a suit to seek compliance with the order in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final order shall not be subject to review. Courts, U.S.

"(f) CRIMINAL PENALTIES AND INJUNCTIONS FOR PATTERN OR PRACTICE VIOLATIONS.—

"(1) CRIMINAL PENALTY.—Any person or entity which engages in a pattern or practice of violations of subsection (a)(1)(A) or (a)(2) shall be fined not more than $3,000 for each unauthorized

alien with respect to whom such a violation occurs, imprisoned for not more than six months for the entire pattern or practice, or both, notwithstanding the provisions of any other Federal law relating to fine levels.

"(2) ENJOINING OF PATTERN OR PRACTICE VIOLATIONS.—Whenever the Attorney General has reasonable cause to believe that a person or entity is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the person or entity, as the Attorney General deems necessary.

"(g) PROHIBITION OF INDEMNITY BONDS.—

"(1) PROHIBITION.—It is unlawful for a person or other entity, in the hiring, recruiting, or referring for employment of any individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee or indemnity, against any potential liability arising under this section relating to such hiring, recruiting, or referring of the individual.

"(2) CIVIL PENALTY.—Any person or entity which is determined, after notice and opportunity for an administrative hearing, to have violated paragraph (1) shall be subject to a civil penalty of $1,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, to the general fund of the Treasury.

"(h) MISCELLANEOUS PROVISIONS.—

"(1) DOCUMENTATION.—In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) authorized to be employed in the United States, the Attorney General shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

State and local governments.

"(2) PREEMPTION.—The provisions of this section preempt any State or local law imposing civil or criminal sanctions (other than through licensing and similar laws) upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens.

"(3) DEFINITION OF UNAUTHORIZED ALIEN.—As used in this section, the term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either (A) an alien lawfully admitted for permanent residence, or (B) authorized to be so employed by this Act or by the Attorney General.

"(i) EFFECTIVE DATES.—

"(1) 6-MONTH PUBLIC INFORMATION PERIOD.—During the six-month period beginning on the first day of the first month after the date of the enactment of this section—

"(A) the Attorney General, in cooperation with the Secretaries of Agriculture, Commerce, Health and Human Services, Labor, and the Treasury and the Administrator of the Small Business Administration, shall disseminate forms and information to employers, employment agencies, and organizations representing employees and provide for

public education respecting the requirements of this section, and

"(B) the Attorney General shall not conduct any proceeding, nor issue any order, under this section on the basis of any violation alleged to have occurred during the period.

"(2) 12-MONTH FIRST CITATION PERIOD.—In the case of a person or entity, in the first instance in which the Attorney General has reason to believe that the person or entity may have violated subsection (a) during the subsequent 12-month period, the Attorney General shall provide a citation to the person or entity indicating that such a violation or violations may have occurred and shall not conduct any proceeding, nor issue any order, under this section on the basis of such alleged violation or violations.

"(3) DEFERRAL OF ENFORCEMENT WITH RESPECT TO SEASONAL AGRICULTURAL SERVICES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), before the end of the application period (as defined in subparagraph (C)(i)), the Attorney General shall not conduct any proceeding, nor impose any penalty, under this section on the basis of any violation alleged to have occurred with respect to employment of an individual in seasonal agricultural services.

"(B) PROHIBITION OF RECRUITMENT OUTSIDE THE UNITED STATES.—

"(i) IN GENERAL.—During the application period, it is unlawful for a person or entity (including a farm labor contractor) or an agent of such a person or entity, to recruit an unauthorized alien (other than an alien described in clause (ii)) who is outside the United States to enter the United States to perform seasonal agricultural services.

"(ii) EXCEPTION.—Clause (i) shall not apply to an alien who the person or entity reasonably believes meets the requirements of section 210(a)(2) of this Act (relating to performance of seasonal agricultural services). *Post*, p. 3417.

"(iii) PENALTY FOR VIOLATION.—A person, entity, or agent that violates clause (i) shall be deemed to be subject to a order under this section in the same manner as if it had violated paragraph (1)(A), without regard to paragraph (2) of this subsection.

"(C) DEFINITIONS.—In this paragraph:

"(i) APPLICATION PERIOD.—The term 'application period' means the period described in section 210(a)(1).

"(ii) SEASONAL AGRICULTURAL SERVICES.—The term 'seasonal agricultural services' has the meaning given such term in section 210(h).

"(j) GENERAL ACCOUNTING OFFICE REPORTS.—

"(1) IN GENERAL.—Beginning one year after the date of enactment of this Act, and at intervals of one year thereafter for a period of three years after such date, the Comptroller General of the United States shall prepare and transmit to the Congress and to the taskforce established under subsection (k) a report describing the results of a review of the implementation and enforcement of this section during the preceding twelve-month period, for the purpose of determining if—

"(A) such provisions have been carried out satisfactorily;

"(B) a pattern of discrimination has resulted against citizens or nationals of the United States or against eligible workers seeking employment; and

"(C) an unnecessary regulatory burden has been created for employers hiring such workers.

"(2) DETERMINATION ON DISCRIMINATION.—In each report, the Comptroller General shall make a specific determination as to whether the implementation of that section has resulted in a pattern of discrimination in employment (against other than unauthorized aliens) on the basis of national origin.

"(3) RECOMMENDATIONS.—If the Comptroller General has determined that such a pattern of discrimination has resulted, the report—

"(A) shall include a description of the scope of that discrimination, and

"(B) may include recommendations for such legislation as may be appropriate to deter or remedy such discrimination.

"(k) REVIEW BY TASKFORCE.—

"(1) ESTABLISHMENT OF JOINT TASKFORCE.—The Attorney General, jointly with the Chairman of the Commission on Civil Rights and the Chairman of the Equal Employment Opportunity Commission, shall establish a taskforce to review each report of the Comptroller General transmitted under subsection (j)(1).

Discrimination, prohibition.

"(2) RECOMMENDATIONS TO CONGRESS.—If the report transmitted includes a determination that the implementation of this section has resulted in a pattern of discrimination in employment (against other than unauthorized aliens) on the basis of national origin, the taskforce shall, taking into consideration any recommendations in the report, report to Congress recommendations for such legislation as may be appropriate to deter or remedy such discrimination.

"(3) CONGRESSIONAL HEARINGS.—The Committees on the Judiciary of the House of Representatives and of the Senate shall hold hearings respecting any report of the taskforce under paragraph (2) within 60 days after the date of receipt of the report.

"(l) TERMINATION DATE FOR EMPLOYER SANCTIONS.—

"(1) IF REPORT OF WIDESPREAD DISCRIMINATION AND CONGRESSIONAL APPROVAL.—The provisions of this section shall terminate 30 calendar days after receipt of the last report required to be transmitted under subsection (j), if—

"(A) the Comptroller General determines, and so reports in such report, that a widespread pattern of discrimination has resulted against citizens or nationals of the United States or against eligible workers seeking employment solely from the implementation of this section; and

"(B) there is enacted, within such period of 30 calendar days, a joint resolution stating in substance that the Congress approves the findings of the Comptroller General contained in such report.

"(2) SENATE PROCEDURES FOR CONSIDERATION.—Any joint resolution referred to in clause (B) of paragraph (1) shall be considered in the Senate in accordance with subsection (n).

"(m) EXPEDITED PROCEDURES IN THE HOUSE OF REPRESENTATIVES.—For the purpose of expediting the consideration and adoption of joint

resolutions under subsection (l), a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"(n) EXPEDITED PROCEDURES IN THE SENATE.—

"(1) CONTINUITY OF SESSION.—For purposes of subsection (l), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period indicated.

"(2) RULEMAKING POWER.—Paragraphs (3) and (4) of this subsection are enacted—

"(A) as an exercise of the rulemaking power of the Senate and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of joint resolutions referred to in subsection (l), and supersede other rules of the Senate only to the extent that such paragraphs are inconsistent therewith; and

"(B) with full recognition of the constitutional right of the Senate to change such rules at any time, in the same manner as in the case of any other rule of the Senate.

"(3) COMMITTEE CONSIDERATION.—

"(A) MOTION TO DISCHARGE.—If the committee of the Senate to which has been referred a joint resolution relating to the report described in subsection (l) has not reported such joint resolution at the end of ten calendar days after its introduction, not counting any day which is excluded under paragraph (1) of this subsection, it is in order to move either to discharge the committee from further consideration of the joint resolution or to discharge the committee from further consideration of any other joint resolution introduced with respect to the same report which has been referred to the committee, except that no motion to discharge shall be in order after the committee has reported a joint resolution with respect to the same report.

"(B) CONSIDERATION OF MOTION.—A motion to discharge under subparagraph (A) of this paragraph may be made only by a Senator favoring the joint resolution, is privileged, and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the joint resolution, the time to be divided equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(4) MOTION TO PROCEED TO CONSIDERATION.—

"(A) IN GENERAL.—A motion in the Senate to proceed to the consideration of a joint resolution shall be privileged. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) DEBATE ON RESOLUTION.—Debate in the Senate on a joint resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 10

hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(C) DEBATE ON MOTION.—Debate in the Senate on any debatable motion or appeal in connection with a joint resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the joint resolution, except that in the event the manager of the joint resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a joint resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) MOTIONS TO LIMIT DEBATE.—A motion in the Senate to further limit debate on a joint resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, a joint resolution is in order in the Senate.".

8 USC 1324a note.

(2) INTERIM REGULATIONS.—The Attorney General shall, not later than the first day of the seventh month beginning after the date of the enactment of this Act, first issue, on an interim or other basis, such regulations as may be necessary in order to implement this section.

8 USC 1324a note.
Ante, p. 3360.

(3) GRANDFATHER FOR CURRENT EMPLOYEES.—(A) Section 274A(a)(1) of the Immigration and Nationality Act shall not apply to the hiring, or recruiting or referring of an individual for employment which has occurred before the date of the enactment of this Act.

8 USC 1324a note.

(B) Section 274A(a)(2) of the Immigration and Nationality Act shall not apply to continuing employment of an alien who was hired before the date of the enactment of this Act.

(b) CONFORMING AMENDMENTS TO MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT.—(1) The Migrant and Seasonal Agricultural Worker Protection Act (Public Law 97-470) is amended—

29 USC 1801 note.

(A) by striking out "101(a)(15)(H)(ii)" in paragraphs (8)(B) and (10)(B) of section 3 (29 U.S.C. 1802) and inserting in lieu thereof "101(a)(15)(H)(ii)(a)";

Post, p. 3411.

(B) in section 103(a) (29 U.S.C. 1813(a))—

(i) by striking out "or" at the end of paragraph (4),

(ii) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or", and

(iii) by adding at the end the following new paragraph: "(6) has been found to have violated paragraph (1) or (2) of section 274A(a) of the Immigration and Nationality Act.";

Ante, p. 3360.

(C) by striking out section 106 (29 U.S.C. 1816) and the corresponding item in the table of contents; and

(D) by striking out "section 106" in section 501(b) (29 U.S.C. 1851(b)) and by inserting in lieu thereof "paragraph (1) or (2) of section 274A(a) of the Immigration and Nationality Act".

29 USC 1802 note.

(2) The amendments made by paragraph (1) shall apply to the employment, recruitment, referral, or utilization of the services of an individual occurring on or after the first day of the seventh month beginning after the date of the enactment of this Act.

(c) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The table of contents is amended by inserting after the item relating to section 274 the following new item:

"Sec. 274A. Unlawful employment of aliens.".

(d) STUDY ON THE USE OF A TELEPHONE VERIFICATION SYSTEM FOR DETERMINING EMPLOYMENT ELIGIBILITY OF ALIENS.—(1) The Attorney General, in consultation with the Secretary of Labor and the Secretary of Health and Human Services, shall conduct a study for use by the Department of Justice in determining employment eligibility of aliens in the United States. Such study shall concentrate on those data bases that are currently available to the Federal Government which through the use of a telephone and computation capability could be used to verify instantly the employment eligibility status of job applicants who are aliens. 8 USC 1324a note.

(2) Such study shall be conducted in conjunction with any existing Federal program which is designed for the purpose of providing information on the resident or employment status of aliens for employers. The study shall include an analysis of costs and benefits which shows the differences in costs and efficiency of having the Federal Government or a contractor perform this service. Such comparisons should include reference to such technical capabilities as processing techniques and time, verification techniques and time, backup safeguards, and audit trail performance.

(3) Such study shall also concentrate on methods of phone verification which demonstrate the best safety and service standards, the least burden for the employer, the best capability for effective enforcement, and procedures which are within the boundaries of the Privacy Act of 1974. 5 USC 552a notes.

(4) Such study shall be conducted within twelve months of the date of enactment of this Act.

(5) The Attorney General shall prepare and transmit to the Congress a report— Reports.

(A) not later than six months after the date of enactment of this Act, describing the status of such study; and

(B) not later than twelve months after such date, setting forth the findings of such study.

(e) FEASIBILITY STUDY OF SOCIAL SECURITY NUMBER VALIDATION SYSTEM.—The Secretary of Health and Human Services, acting through the Social Security Administration and in cooperation with the Attorney General and the Secretary of Labor, shall conduct a study of the feasibility and costs of establishing a social security number validation system to assist in carrying out the purposes of section 274A of the Immigration and Nationality Act, and of the privacy concerns that would be raised by the establishment of such a system. The Secretary shall submit to the Committees on Ways and Means and Judiciary of the House of Representatives and to the Committees on Finance and Judiciary of the Senate, within 2 years after the date of the enactment of this Act, a full and complete report on the results of the study together with such recommendations as may be appropriate. 8 USC 1324a note. *Ante*, p. 3360.

(f) COUNTERFEITING OF SOCIAL SECURITY ACCOUNT NUMBER CARDS.—(1) The Comptroller General of the United States, upon consultation with the Attorney General and the Secretary of Health and Human Services as well as private sector representatives (including representatives of the financial, banking, and manufacturing industries), shall inquire into technological alternatives for 42 USC 405 note. Science and technology.

2

producing and issuing social security account number cards that are more resistant to counterfeiting than social security account number cards being issued on the date of enactment of this Act by the Social Security Administration, including the use of encoded magnetic, optical, or active electronic media such as magnetic stripes, holograms, and integrated circuit chips. Such inquiry should focus on technologies that will help ensure the authenticity of the card, rather than the identity of the bearer.

(2) The Comptroller General of the United States shall explore additional actions that could be taken to reduce the potential for fraudulently obtaining and using social security account number cards.

Reports.

(3) Not later than one year after the date of enactment of this Act, the Comptroller General of the United States shall prepare and transmit to the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives and the Committee on the Judiciary and the Committee on Finance of the Senate a report setting forth his findings and recommendations under this subsection.

SEC. 102. UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Chapter 8 of title II is further amended by inserting after section 274A, as inserted by section 101(a), the following new section:

"UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES

8 USC 1324b.

"SEC. 274B. (a) PROHIBITION OF DISCRIMINATION BASED ON NATIONAL ORIGIN OR CITIZENSHIP STATUS.—

"(1) GENERAL RULE.—It is an unfair immigration-related employment practice for a person or other entity to discriminate against any individual (other than an unauthorized alien) with respect to the hiring, or recruitment or referral for a fee, of the individual for employment or the discharging of the individual from employment—

"(A) because of such individual's national origin, or

"(B) in the case of a citizen or intending citizen (as defined in paragraph (3)), because of such individual's citizenship status.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) a person or other entity that employs three or fewer employees,

"(B) a person's or entity's discrimination because of an individual's national origin if the discrimination with respect to that person or entity and that individual is covered under section 703 of the Civil Rights Act of 1964, or

42 USC 2000e-2.
State and local governments.

"(C) discrimination because of citizenship status which is otherwise required in order to comply with law, regulation, or executive order, or required by Federal, State, or local government contract, or which the Attorney General determines to be essential for an employer to do business with an agency or department of the Federal, State, or local government.

"(3) DEFINITION OF CITIZEN OR INTENDING CITIZEN.—As used in paragraph (1), the term 'citizen or intending citizen' means an individual who—

"(A) is a citizen or national of the United States, or

"(B) is an alien who—

"(i) is lawfully admitted for permanent residence, is granted the status of an alien lawfully admitted for temporary residence under section 245A(a)(1), is admitted as a refugee under section 207, or is granted asylum under section 208, and

8 USC 1255.
8 USC 1157.
8 USC 1158.

"(ii) evidences an intention to become a citizen of the United States through completing a declaration of intention to become a citizen;

but does not include (I) an alien who fails to apply for naturalization within six months of the date the alien first becomes eligible (by virtue of period of lawful permanent residence) to apply for naturalization or, if later, within six months after the date of the enactment of this section and (II) an alien who has applied on a timely basis, but has not been naturalized as a citizen within 2 years after the date of the application, unless the alien can establish that the alien is actively pursuing naturalization, except that time consumed in the Service's processing the application shall not be counted toward the 2-year period.

"(4) ADDITIONAL EXCEPTION PROVIDING RIGHT TO PREFER EQUALLY QUALIFIED CITIZENS.—Notwithstanding any other provision of this section, it is not an unfair immigration-related employment practice for a person or other entity to prefer to hire, recruit, or refer an individual who is a citizen or national of the United States over another individual who is an alien if the two individuals are equally qualified.

"(b) CHARGES OF VIOLATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any person alleging that the person is adversely affected directly by an unfair immigration-related employment practice (or a person on that person's behalf) or an officer of the Service alleging that an unfair immigration-related employment practice has occurred or is occurring may file a charge respecting such practice or violation with the Special Counsel (appointed under subsection (c)). Charges shall be in writing under oath or affirmation and shall contain such information as the Attorney General requires. The Special Counsel by certified mail shall serve a notice of the charge (including the date, place, and circumstances of the alleged unfair immigration-related employment practice) on the person or entity involved within 10 days.

"(2) NO OVERLAP WITH EEOC COMPLAINTS.—No charge may be filed respecting an unfair immigration-related employment practice described in subsection (a)(1)(A) if a charge with respect to that practice based on the same set of facts has been filed with the Equal Employment Opportunity Commission under title VII of the Civil Rights Act of 1964, unless the charge is dismissed as being outside the scope of such title. No charge respecting an employment practice may be filed with the Equal Employment Opportunity Commission under such title if a charge with respect to such practice based on the same set of facts has been filed under this subsection, unless the charge is dismissed under this section as being outside the scope of this section.

42 USC 2000e.

"(c) SPECIAL COUNSEL.—

"(1) APPOINTMENT.—The President shall appoint, by and with the advice and consent of the Senate, a Special Counsel for

President of U.S.

Immigration-Related Unfair Employment Practices (hereinafter in this section referred to as the 'Special Counsel') within the Department of Justice to serve for a term of four years. In the case of a vacancy in the office of the Special Counsel the President may designate the officer or employee who shall act as Special Counsel during such vacancy.

"(2) DUTIES.—The Special Counsel shall be responsible for investigation of charges and issuance of complaints under this section and in respect of the prosecution of all such complaints before administrative law judges and the exercise of certain functions under subsection (j)(1).

"(3) COMPENSATION.—The Special Counsel is entitled to receive compensation at a rate not to exceed the rate now or hereafter provided for grade GS-17 of the General Schedule, under section 5332 of title 5, United States Code.

"(4) REGIONAL OFFICES.—The Special Counsel, in accordance with regulations of the Attorney General, shall establish such regional offices as may be necessary to carry out his duties.

"(d) INVESTIGATION OF CHARGES.—

"(1) BY SPECIAL COUNSEL.—The Special Counsel shall investigate each charge received and, within 120 days of the date of the receipt of the charge, determine whether or not there is reasonable cause to believe that the charge is true and whether or not to bring a complaint with respect to the charge before an administrative law judge. The Special Counsel may, on his own initiative, conduct investigations respecting unfair immigration-related employment practices and, based on such an investigation and subject to paragraph (3), file a complaint before such a judge.

"(2) PRIVATE ACTIONS.—If the Special Counsel, after receiving such a charge respecting an unfair immigration-related employment practice which alleges knowing and intentional discriminatory activity or a pattern or practice of discriminatory activity, has not filed a complaint before an administrative law judge with respect to such charge within such 120-day period, the person making the charge may (subject to paragraph (3)) file a complaint directly before such a judge.

"(3) TIME LIMITATIONS ON COMPLAINTS.—No complaint may be filed respecting any unfair immigration-related employment practice occurring more than 180 days prior to the date of the filing of the charge with the Special Counsel. This subparagraph shall not prevent the subsequent amending of a charge or complaint under subsection (e)(1).

"(e) HEARINGS.—

"(1) NOTICE.—Whenever a complaint is made that a person or entity has engaged in or is engaging in any such unfair immigration-related employment practice, an administrative law judge shall have power to issue and cause to be served upon such person or entity a copy of the complaint and a notice of hearing before the judge at a place therein fixed, not less than five days after the serving of the complaint. Any such complaint may be amended by the judge conducting the hearing, upon the motion of the party filing the complaint, in the judge's discretion at any time prior to the issuance of an order based thereon. The person or entity so complained of shall have the right to file an answer to the original or amended complaint and to appear

in person or otherwise and give testimony at the place and time fixed in the complaint.

"(2) JUDGES HEARING CASES.—Hearings on complaints under this subsection shall be considered before administrative law judges who are specially designated by the Attorney General as having special training respecting employment discrimination and, to the extent practicable, before such judges who only consider cases under this section.

"(3) COMPLAINANT AS PARTY.—Any person filing a charge with the Special Counsel respecting an unfair immigration-related employment practice shall be considered a party to any complaint before an administrative law judge respecting such practice and any subsequent appeal respecting that complaint. In the discretion of the judge conducting the hearing, any other person may be allowed to intervene in the said proceeding and to present testimony.

"(f) TESTIMONY AND AUTHORITY OF HEARING OFFICERS.—

"(1) TESTIMONY.—The testimony taken by the administrative law judge shall be reduced to writing. Thereafter, the judge, in his discretion, upon notice may provide for the taking of further testimony or hear argument.

"(2) AUTHORITY OF ADMINISTRATIVE LAW JUDGES.—In conducting investigations and hearings under this subsection and in accordance with regulations of the Attorney General, the Special Counsel and administrative law judges shall have reasonable access to examine evidence of any person or entity being investigated. The administrative law judges by subpoena may compel the attendance of witnesses and the production of evidence at any designated place or hearing. In case of contumacy or refusal to obey a subpoena lawfully issued under this paragraph and upon application of the administrative law judge, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt thereof.

"(g) DETERMINATIONS.—

"(1) ORDER.—The administrative law judge shall issue and cause to be served on the parties to the proceeding an order, which shall be final unless appealed as provided under subsection (i).

"(2) ORDERS FINDING VIOLATIONS.—

"(A) IN GENERAL.—If, upon the preponderance of the evidence, an administrative law judge determines that that any person or entity named in the complaint has engaged in or is engaging in any such unfair immigration-related employment practice, then the judge shall state his findings of fact and shall issue and cause to be served on such person or entity an order which requires such person or entity to cease and desist from such unfair immigration-related employment practice.

"(B) CONTENTS OF ORDER.—Such an order also may require the person or entity—

"(i) to comply with the requirements of section 274A(b) with respect to individuals hired (or recruited or referred for employment for a fee) during a period of up to three years;

Ante, p. 3360.

8 USC 1324.

"(ii) to retain for the period referred to in clause (i) and only for purposes consistent with section 274(b)(5), the name and address of each individual who applies, in person or in writing, for hiring for an existing position, or for recruiting or referring for a fee, for employment in the United States;

"(iii) to hire individuals directly and adversely affected, with or without back pay; and

"(iv)(I) except as provided in subclause (II), to pay a civil penalty of not more than $1,000 for each individual discriminated against, and

"(II) in the case of a person or entity previously subject to such an order, to pay a civil penalty of not more than $2,000 for each individual discriminated against.

"(C) LIMITATION ON BACK PAY REMEDY.—In providing a remedy under subparagraph (B)(iii), back pay liability shall not accrue from a date more than two years prior to the date of the filing of a charge with an administrative law judge. Interim earnings or amounts earnable with reasonable diligence by the individual or individuals discriminated against shall operate to reduce the back pay otherwise allowable under such subparagraph. No order shall require the hiring of an individual as an employee or the payment to an individual of any back pay, if the individual was refused employment for any reason other than discrimination on account of national origin or citizenship status.

"(D) TREATMENT OF DISTINCT ENTITIES.—In applying this subsection in the case of a person or entity composed of distinct, physicially separate subdivisions each of which provides separately for the hiring, recruiting, or referring for employment, without reference to the practices of, and not under the control of or common control with, another subdivision, each such subdivision shall be considered a separate person or entity.

"(3) ORDERS NOT FINDING VIOLATIONS.—If upon the preponderance of the evidence an administrative law judge determines that the person or entity named in the complaint has not engaged or is not engaging in any such unfair immigration-related employment practice, then the judge shall state his findings of fact and shall issue an order dismissing the complaint.

"(h) AWARDING OF ATTORNEYS' FEES.—In any complaint respecting an unfair immigration-related employment practice, an administrative law judge, in the judge's discretion, may allow a prevailing party, other than the United States, a reasonable attorney's fee, if the losing party's argument is without reasonable foundation in law and fact.

"(i) REVIEW OF FINAL ORDERS.—

"(1) IN GENERAL.—Not later than 60 days after the entry of such final order, any person aggrieved by such final order may seek a review of such order in the United States court of appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business.

"(2) FURTHER REVIEW.—Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its

judgment shall be final, except that the same shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28, United States Code.

"(j) COURT ENFORCEMENT OF ADMINISTRATIVE ORDERS.—

"(1) IN GENERAL.—If an order of the agency is not appealed under subsection (i)(1), the Special Counsel (or, if the Special Counsel fails to act, the person filing the charge) may petition the United States district court for the district in which a violation of the order is alleged to have occurred, or in which the respondent resides or transacts business, for the enforcement of the order of the administrative law judge, by filing in such court a written petition praying that such order be enforced.

"(2) COURT ENFORCEMENT ORDER.—Upon the filing of such petition, the court shall have jurisdiction to make and enter a decree enforcing the order of the administrative law judge. In such a proceeding, the order of the administrative law judge shall not be subject to review.

"(3) ENFORCEMENT DECREE IN ORIGINAL REVIEW.—If, upon appeal of an order under subsection (i)(1), the United States court of appeals does not reverse such order, such court shall have the jurisdiction to make and enter a decree enforcing the order of the administrative law judge.

"(4) AWARDING OF ATTORNEY'S FEES.—In any judicial proceeding under subsection (i) or this subsection, the court, in its discretion, may allow a prevailing party, other than the United States, a reasonable attorney's fee as part of costs but only if the losing party's argument is without reasonable foundation in law and fact.

"(k) TERMINATION DATES.—

"(1) This section shall not apply to discrimination in hiring, recruiting, referring, or discharging of individuals occurring after the date of any termination of the provisions of section 274A, under subsection (l) of that section.

Ante, p. 3360.

"(2) The provisions of this section shall terminate 30 calendar days after receipt of the last report required to be transmitted under section 274A(j) if—

"(A) the Comptroller General determines, and so reports in such report that—

"(i) no significant discrimination has resulted, against citizens or nationals of the United States or against any eligible workers seeking employment, from the implementation of section 274A, or

"(ii) such section has created an unreasonable burden on employers hiring such workers; and

"(B) there has been enacted, within such period of 30 calendar days, a joint resolution stating in substance that the Congress approves the findings of the Comptroller General contained in such report.

The provisions of subsections (m) and (n) of section 274A shall apply to any joint resolution under subparagraph (B) in the same manner as they apply to a joint resolution under subsection (l) of such section.".

(b) NO EFFECT ON EEOC AUTHORITY.—Except as may be specifically provided in this section, nothing in this section shall be construed to restrict the authority of the Equal Employment Opportunity Commission to investigate allegations, in writing and under oath or affirmation, of unlawful employment practices, as provided in section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5), or any other authority provided therein.

8 USC 1324b note.

(c) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 274A (as added by section 101(c)) the following new item:

"Sec. 274B. Unfair immigration-related employment practices.".

SEC. 103. FRAUD AND MISUSE OF CERTAIN IMMIGRATION-RELATED DOCUMENTS.

(a) APPLICATION TO ADDITIONAL DOCUMENTS.—Section 1546 of title 18, United States Code, is amended—

(1) by amending the heading to read as follows:

"§ 1546. Fraud and misuse of visas, permits, and other documents";

(2) by striking out "or other document required for entry into the United States" in the first paragraph and inserting in lieu thereof "border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States";

(3) by striking out "or document" in the first paragraph and inserting in lieu thereof "border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States";

(4) by striking out "$2,000" and inserting in lieu thereof "in accordance with this title";

(5) by inserting "(a)" before "Whoever" the first place it appears; and

(6) by adding at the end the following new subsections:

"(b) Whoever uses—

"(1) an identification document, knowing (or having reason to know) that the document was not issued lawfully for the use of the possessor,

"(2) an identification document knowing (or having reason to know) that the document is false, or

"(3) a false attestation,

for the purpose of satisfying a requirement of section 274A(b) of the Immigration and Nationality Act, shall be fined in accordance with this title, or imprisoned not more than two years, or both.

Ante, p. 3360.

"(c) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481).".

(b) CLERICAL AMENDMENT.—The item relating to section 1546 in the table of sections of chapter 75 of such title is amended to read as follows:

"1546. Fraud and misuse of visas, permits, and other documents.".

PART B—IMPROVEMENT OF ENFORCEMENT AND SERVICES

SEC. 111. AUTHORIZATION OF APPROPRIATIONS FOR ENFORCEMENT AND SERVICE ACTIVITIES OF THE IMMIGRATION AND NATURALIZATION SERVICE. 8 USC 1101 note.

(a) TWO ESSENTIAL ELEMENTS.—It is the sense of Congress that two essential elements of the program of immigration control established by this Act are—

(1) an increase in the border patrol and other inspection and enforcement activities of the Immigration and Naturalization Service and of other appropriate Federal agencies in order to prevent and deter the illegal entry of aliens into the United States and the violation of the terms of their entry, and

(2) an increase in examinations and other service activities of the Immigration and Naturalization Service and other appropriate Federal agencies in order to ensure prompt and efficient adjudication of petitions and applications provided for under the Immigration and Nationality Act.

8 USC 1101 note.

(b) INCREASED AUTHORIZATION OF APPROPRIATIONS FOR INS AND EOIR.—In addition to any other amounts authorized to be appropriated, in order to carry out this Act there are authorized to be appropriated to the Department of Justice—

(1) for the Immigration and Naturalization Service, for fiscal year 1987, $422,000,000, and for fiscal year 1988, $419,000,000; and

(2) for the Executive Office of Immigration Review, for fiscal year 1987, $12,000,000, and for fiscal year 1988, $15,000,000.

Of the amounts authorized to be appropriated under paragraph (1) sufficient funds shall be available to provide for an increase in the border patrol personnel of the Immigration and Naturalization Service so that the average level of such personnel in each of fiscal years 1987 and 1988 is at least 50 percent higher than such level for fiscal year 1986.

Community development.

(c) USE OF FUNDS FOR IMPROVED SERVICES.—Of the funds appropriated to the Department of Justice for the Immigration and Naturalization Service, the Attorney General shall provide for improved immigration and naturalization services and for enhanced community outreach and in-service training of personnel of the Service. Such enhanced community outreach may include the establishment of appropriate local community taskforces to improve the working relationship between the Service and local community groups and organizations (including employers and organizations representing minorities).

(d) SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR WAGE AND HOUR ENFORCEMENT.—There are authorized to be appropriated, in addition to such sums as may be available for such purposes, such sums as may be necessary to the Department of Labor for enforcement activities of the Wage and Hour Division and the Office of Federal Contract Compliance Programs within the Employment Standards Administration of the Department in order to deter the employment of unauthorized aliens and remove the economic incentive for employers to exploit and use such aliens.

SEC. 112. UNLAWFUL TRANSPORTATION OF ALIENS TO THE UNITED STATES.

(a) CRIMINAL PENALTIES.—Subsection (a) of section 274 (8 U.S.C. 1324) is amended to read as follows:

"(a) CRIMINAL PENALTIES.—(1) Any person who—

"(A) knowing that a person is an alien, brings to or attempts to bring to the United States in any manner whatsoever such person at a place other than a designated port of entry or place other than as designated by the Commissioner, regardless of whether such alien has received prior official authorization to come to, enter, or reside in the United States and regardless of any future official action which may be taken with respect to such alien;

"(B) knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, transports, or moves or attempts to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law;

"(C) knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, such alien in any place, including any building or any means of transportation; or

"(D) encourages or induces an alien to come to, enter, or reside in the United States, knowing or in reckless disregard of the fact that such coming to, entry, or residence is or will be in violation of law,

shall be fined in accordance with title 18, United States Code, imprisoned not more than five years, or both, for each alien in respect to whom any violation of this subsection occurs.

"(2) Any person who, knowing or in reckless disregard of the fact that an alien has not received prior official authorization to come to, enter, or reside in the United States, brings to or attempts to bring to the United States in any manner whatsoever, such alien, regardless of any official action which may later be taken with respect to such alien shall, for each transaction constituting a violation of this paragraph, regardless of the number of aliens involved—

"(A) be fined in accordance with title 18, United States Code, or imprisoned not more than one year, or both; or

"(B) in the case of—

"(i) a second or subsequent offense,

"(ii) an offense done for the purpose of commercial advantage or private financial gain, or

"(iii) an offense in which the alien is not upon arrival immediately brought and presented to an appropriate immigration officer at a designated port of entry,

be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.".

(b) MISCELLANEOUS AMENDMENTS TO SEIZURE AND FORFEITURE PROCEDURES.—Subsection (b) of such section is amended—

(1) in paragraph (1) before subparagraph (A) by striking out "is used" and inserting in lieu thereof "has been or is being used",

(2) by striking out "subject to seizure and" in paragraph (1) and inserting in lieu thereof "seized and subject to",

(3) by inserting "or is being" after "has been" in paragraph (2),

(4) by striking out "conveyances" in paragraph (3) and inserting in lieu thereof "property",

(5) by inserting ", or the Federal Maritime Commission if appropriate under section 203(i) of the Federal Property and Administrative Services Act of 1949," in paragraph (4)(C) after "General Services Administration",

40 USC 484.

(6) in paragraph (4)—

(A) by striking out "or" at the end of subparagraph (B),

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or", and

(C) by inserting after such subparagraph the following new subparagraph:

"(D) dispose of the conveyance in accordance with the terms and conditions of any petition of remission or mitigation of forfeiture granted by the Attorney General.";

(7) by striking out ": *Provided,* That" in paragraph (5) and inserting in lieu thereof ", except that",

(8) by striking out "was not lawfully entitled to enter, or reside within, the United States" in paragraph (5) and inserting in lieu thereof "had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law" each place it appears, and

(9) by inserting "or of the Department of State" in paragraph (5)(B) after "Service".

SEC. 113. IMMIGRATION EMERGENCY FUND.

Section 404 (8 U.S.C. 1101 note) is amended by inserting "(a)" after "SEC. 404." and by adding at the end the following new subsection:

"(b) There are authorized to be appropriated to an immigration emergency fund, to be established in the Treasury, $35,000,000, to be used to provide for an increase in border patrol or other enforcement activities of the Service and for reimbursement of State and localities in providing assistance as requested by the Attorney General in meeting an immigration emergency, except that no amounts may be withdrawn from such fund with respect to an emergency unless the President has determined that the immigration emergency exists and has certified such fact to the Judiciary Committees of the House of Representatives and of the Senate.".

Appropriation authorization. State and local governments.

SEC. 114. LIABILITY OF OWNERS AND OPERATORS OF INTERNATIONAL BRIDGES AND TOLL ROADS TO PREVENT THE UNAUTHORIZED LANDING OF ALIENS.

Section 271 (8 U.S.C. 1321) is amended by inserting at the end the following new subsection:

"(c)(1) Any owner or operator of a railroad line, international bridge, or toll road who establishes to the satisfaction of the Attorney General that the person has acted diligently and reasonably to fulfill the duty imposed by subsection (a) shall not be liable for the penalty described in such subsection, notwithstanding the failure of the person to prevent the unauthorized landing of any alien.

"(2)(A) At the request of any person described in paragraph (1), the Attorney General shall inspect any facility established, or any method utilized, at a point of entry into the United States by such person for the purpose of complying with subsection (a). The Attorney General shall approve any such facility or method (for such period of time as the Attorney General may prescribe) which the Attorney General determines is satisfactory for such purpose.

"(B) Proof that any person described in paragraph (1) has diligently maintained any facility, or utilized any method, which has been approved by the Attorney General under subparagraph (A) (within the period for which the approval is effective) shall be prima facie evidence that such person acted diligently and reasonably to fulfill the duty imposed by subsection (a) (within the meaning of paragraph (1) of this subsection).".

SEC. 115. ENFORCEMENT OF THE IMMIGRATION LAWS OF THE UNITED STATES.

It is the sense of the Congress that—

(1) the immigration laws of the United States should be enforced vigorously and uniformly, and

(2) in the enforcement of such laws, the Attorney General shall take due and deliberate actions necessary to safeguard the constitutional rights, personal safety, and human dignity of United States citizens and aliens.

SEC. 116. RESTRICTING WARRANTLESS ENTRY IN THE CASE OF OUTDOOR AGRICULTURAL OPERATIONS.

Section 287 (8 U.S.C. 1357) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of this section other than paragraph (3) of subsection (a), an officer or employee of the Service may not enter without the consent of the owner (or agent thereof) or a properly executed warrant onto the premises of a farm or other outdoor agricultural operation for the purpose of interrogating a person believed to be an alien as to the person's right to be or to remain in the United States.".

SEC. 117. RESTRICTIONS ON ADJUSTMENT OF STATUS.

Section 245(c)(2) (8 U.S.C. 1255(c)(2) is amended by inserting after "hereafter continues in or accepts unauthorized employment prior to filing an application for adjustment of status" the following: "or who is not in legal immigration status on the date of filing the application for adjustment of status or who has failed (other than through no fault of his own for technical reasons) to maintain continuously a legal status since entry into the United States".

PART C—VERIFICATION OF STATUS UNDER CERTAIN PROGRAMS

SEC. 121. VERIFICATION OF IMMIGRATION STATUS OF ALIENS APPLYING FOR BENEFITS UNDER CERTAIN PROGRAMS.

(a) REQUIRING IMMIGRATION STATUS VERIFICATION.—

(1) UNDER AFDC, MEDICAID, UNEMPLOYMENT COMPENSATION, AND FOOD STAMP PROGRAMS.—Section 1137 of the Social Security Act (42 U.S.C. 1320b-7) is amended—

(A) in the matter in subsection (a) before paragraph (1), by inserting "which meets the requirements of subsection (d) and" after "income and eligibility verification system",

(B) in subsection (b), by striking out "income verification system" in the matter preceding paragraph (1) and inserting in lieu thereof "income and eligibility verification system", and

(C) by adding at the end the following new subsections:

State and local governments.

"(d) The requirements of this subsection, with respect to an income and eligibility verification system of a State, are as follows:

"(1)(A) The State shall require, as a condition of an individual's eligibility for benefits under any program listed in subsection (b), a declaration in writing by the individual (or, in the case of an individual who is a child, by another on the individual's behalf), under penalty of perjury, stating whether or not the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.

Children and youth.

"(B) In this subsection—

"(i) in the case of the program described in subsection (b)(1), any reference to an individual's eligibility for benefits under the program shall be considered a reference to the individual's being considered a dependent child or to the individual's being treated as a caretaker relative or other person whose needs are to be taken into account in making the determination under section 402(a)(7),

8 USC 1546.

"(ii) in the case of the program described in subsection (b)(4)—

"(I) any reference to the State shall be considered a reference to the State agency, and

"(II) any reference to an individual's eligibility for benefits under the program shall be considered a reference to the individual's eligibility to participate in the program as a member of a household, and

"(III) the term 'satisfactory immigration status' means an immigration status which does not make the individual ineligible for benefits under the applicable program.

"(2) If such an individual is not a citizen or national of the United States, there must be presented either—

"(A) alien registration documentation or other proof of immigration registration from the Immigration and Naturalization Service that contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number), or

"(B) such other documents as the State determines constitutes reasonable evidence indicating a satisfactory immigration status.

"(3) If the documentation described in paragraph (2)(A) is presented, the State shall utilize the individual's alien file or alien admission number to verify with the Immigration and Naturalization Service the individual's immigration status through an automated or other system (designated by the Service for use with States) that—

"(A) utilizes the individual's name, file number, admission number, or other means permitting efficient verification, and

"(B) protects the individual's privacy to the maximum degree possible.

"(4) In the case of such an individual who is not a citizen or national of the United States, if, at the time of application for benefits, the statement described in paragraph (1) is submitted but the documentation required under paragraph (2) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

"(A) the State—

"(i) shall provide a reasonable opportunity to submit to the State evidence indicating a satisfactory immigration status, and

"(ii) may not delay, deny, reduce, or terminate the individual's eligibility for benefits under the program on the basis of the individual's immigration status until such a reasonable opportunity has been provided; and

"(B) if there are submitted documents which the State determines constitutes reasonable evidence indicating such status—

"(i) the State shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents for official verification,

"(ii) pending such verification, the State may not delay, deny, reduce, or terminate the individual's eligibility for benefits under the program on the basis of the individual's immigration status, and

"(iii) the State shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

"(5) If the State determines, after complying with the requirements of paragraph (4), that such an individual is not in a satisfactory immigration status under the applicable program—

"(A) the State shall deny or terminate the individual's eligibility for benefits under the program, and

"(B) the applicable fair hearing process shall be made available with respect to the individual.

"(e) Each Federal agency responsible for administration of a program described in subsection (b) shall not take any compliance, disallowance, penalty, or other regulatory action against a State with respect to any error in the State's determination to make an individual eligible for benefits based on citizenship or immigration status—

"(1) if the State has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,

"(2) because the State, under subsection (d)(4)(A)(ii), was required to provide a reasonable opportunity to submit documentation,

"(3) because the State, under subsection (d)(4)(B)(ii), was required to wait for the response of the Immigration and Naturalization Service to the State's request for official verification of the immigration status of the individual, or

"(4) because of a fair hearing process described in subsection (d)(5)(B).".

(2) UNDER HOUSING ASSISTANCE PROGRAMS.—Section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a) is amended by adding at the end the following new subsections:

"(d) The following conditions apply with respect to financial assistance being provided for the benefit of an individual:

Children and youth.

"(1)(A) There must be a declaration in writing by the individual (or, in the case of an individual who is a child, by another on the individual's behalf), under penalty of perjury, stating whether or not the individual is a citizen or national of the

United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.

"(B) In this subsection, the term 'satisfactory immigration status' means an immigration status which does not make the individual ineligible for financial assistance.

"(2) If such an individual is not a citizen or national of the United States, there must be presented either—

"(A) alien registration documentation or other proof of immigration registration from the Immigration and Naturalization Service that contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number), or

"(B) such other documents as the Secretary determines constitutes reasonable evidence indicating a satisfactory immigration status.

"(3) If the documentation described in paragraph (2)(A) is presented, the Secretary shall utilize the individual's alien file or alien admission number to verify with the Immigration and Naturalization Service the individual's immigration status through an automated or other system (designated by the Service for use with States) that—

"(A) utilizes the individual's name, file number, admission number, or other means permitting efficient verification, and

"(B) protects the individual's privacy to the maximum degree possible.

"(4) In the case of such an individual who is not a citizen or national of the United States, if, at the time of application for financial assistance, the statement described in paragraph (1) is submitted but the documentation required under paragraph (2) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

"(A) the Secretary—

"(i) shall provide a reasonable opportunity to submit to the Secretary evidence indicating a satisfactory immigration status, and

"(ii) may not delay, deny, reduce, or terminate the individual's eligibility for financial assistance on the basis of the individual's immigration status until such a reasonable opportunity has been provided; and

"(B) if there are submitted documents which the Secretary determines constitutes reasonable evidence indicating such status—

"(i) the Secretary shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents for official verification,

"(ii) pending such verification, the Secretary may not delay, deny, reduce, or terminate the individual's eligibility for financial assistance on the basis of the individual's immigration status, and

"(iii) the Secretary shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

"(5) If the Secretary determines, after complying with the requirements of paragraph (4), that such an individual is not in a satisfactory immigration status—

"(A) the Secretary shall deny or terminate the individual's eligibility for financial assistance, and

"(B) the applicable fair hearing process shall be made available with respect to the individual.

In this subsection and subsection (e), the term 'Secretary' refers to the Secretary and to a public housing authority or other entity which makes financial assistance available.

"(e) The Secretary shall not take any compliance, disallowance, penalty, or other regulatory action against an entity with respect to any error in the entity's determination to make an individual eligible for financial assistance based on citizenship or immigration status—

"(1) if the entity has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,

"(2) because the entity, under subsection (d)(4)(A)(ii), was required to provide a reasonable opportunity to submit documentation,

"(3) because the entity, under subsection (d)(4)(B)(ii), was required to wait for the response to the Immigration and Naturalization Service to the entity's request for official verification of the immigration status of the individual, or

"(4) because of a fair hearing process described in subsection (d)(5)(B).".

(3) UNDER TITLE IV EDUCATIONAL ASSISTANCE.—Section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091) is amended by adding at the end the following new subsections:

Ante, p. 1480.

Grants.
Loans.

"(c) The following conditions apply with respect to an individual's receipt of any grant, loan, or work assistance under this title as a student at an institution of higher education:

"(1)(A) There must be a declaration in writing to the institution by the student, under penalty of perjury, stating whether or not the student is a citizen or national of the United States, and, if the student is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.

"(B) In this subsection, the term 'satisfactory immigration status' means an immigration status which does not make the student ineligible for a grant, loan, or work assistance under this title.

"(2) If the student is not a citizen or national of the United States, there must be presented to the institution either—

"(A) alien registration documentation or other proof of immigration registration from the Immigration and Naturalization Service that contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number), or

"(B) such other documents as the institution determines (in accordance with guidelines of the Secretary) constitutes reasonable evidence indicating a satisfactory immigration status.

"(3) If the documentation described in paragraph (2)(A) is presented, the institution shall utilize the individual's alien file or alien admission number to verify with the Immigration and

Naturalization Service the individual's immigration status through an automated or other system (designated by the Service for use with institutions) that—

"(A) utilizes the individual's name, file number, admission number, or other means permitting efficient verification, and

"(B) protects the individual's privacy to the maximum degree possible.

"(4) In the case of such an individual who is not a citizen or national of the United States, if the statement described in paragraph (1) is submitted but the documentation required under paragraph (2) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

"(A) the institution—

"(i) shall provide a reasonable opportunity to submit to the institution evidence indicating a satisfactory immigration status, and

"(ii) may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status until such a reasonable opportunity has been provided; and

"(B) if there are submitted documents which the institution determines constitutes reasonable evidence indicating such status—

"(i) the institution shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents for official verification,

"(ii) pending such verification, the institution may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status, and

"(iii) the institution shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

"(5) If the institution determines, after complying with the requirements of paragraph (4), that such an individual is not in a satisfactory immigration status—

"(A) the institution shall deny or terminate the individual's eligibility for such grant, loan, or work assistance, and

"(B) the fair hearing process (which includes, at a minimum, the requirements of paragraph (6)) shall be made available with respect to the individual.

"(6) The minimal requirements of this paragraph for a fair hearing process are as follows:

"(A) The institution provides the individual concerned with written notice of the determination described in paragraph (5) and of the opportunity for a hearing respecting the determination.

"(B) Upon timely request by the individual, the institution provides a hearing before an official of the institution at which the individual can produce evidence of a satisfactory immigration status.

"(C) Not later than 45 days after the date of an individual's request for a hearing, the official will notify the

individual in writing of the official's decision on the appeal of the determination.

"(d) The Secretary shall not take any compliance, disallowance, penalty, or other regulatory action against an institution of higher education with respect to any error in the institution's determination to make a student eligible for a grant, loan, or work assistance based on citizenship or immigration status—

"(1) if the institution has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,

"(2) because the institution, under subsection (c)(4)(A)(ii), was required to provide a reasonable opportunity to submit documentation,

"(3) because the institution, under subsection (c)(4)(B)(ii), was required to wait for the response of the Immigration and Naturalization Service to the institution's request for official verification of the immigration status of the student, or

"(4) because of a fair hearing process described in subsection (c)(5)(B).

"(e) Notwithstanding subsection (c), if—

"(1) a guaranty is made under this title for a loan made with respect to an individual,

"(2) at the time the guaranty is entered into, the provisions of subsection (c) had been complied with,

"(3) amounts are paid under the loan subject to such guaranty, and

"(4) there is a subsequent determination that, because of an unsatisfactory immigration status, the individual is not eligible for the loan,

the official of the institution making the determination shall notify and instruct the entity making the loan to cease further payments under the loan, but such guaranty shall not be voided or otherwise nullified with respect to such payments made before the date of the entity receives the notice.".

(b) PROVIDING 100 PERCENT REIMBURSEMENT FOR COSTS OF IMPLEMENTATION AND OPERATION.—

42 USC 603.

(1) UNDER AFDC PROGRAM.—Section 403(a)(3) of the Social Security Act is amended by inserting before subparagraph (B) the following new subparagraph:

"(A) 100 percent of so much of such expenditures as are for the costs of the implementation and operation of the immigration status verification system described in section 1137(d),".

42 USC 1396b.

(2) UNDER MEDICAID PROGRAM.—Section 1903(a) of such Act is amended by inserting after paragraph (3) the following new paragraph:

"(4) an amount equal to 100 percent of the sums expended during the quarter which are attributable to the costs of the implementation and operation of the immigration status verification system described in section 1137(d); plus".

42 USC 1320b-7.

42 USC 502.

(3) UNDER UNEMPLOYMENT COMPENSATION PROGRAM.—The first sentence of section 302(a) of such Act is amended by inserting before the period at the end the following: ", including 100 percent of so much of the reasonable expenditures of the State as are attributable to the costs of the implementation and operation of the immigration status verification system described in section 1137(d)".

(4) UNDER CERTAIN TERRITORIAL ASSISTANCE PROGRAMS.—Sections 3(a)(4), 1003(a)(3), 1403(a)(3), and 1603(a)(4) of the Social Security Act (as in effect without regard to section 301 of the Social Security Amendments of 1972) are each amended by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) the following new subparagraph: 42 USC 303, 1203, 1353, 1383 note. 42 USC 1381-1383c.

"(B) 100 percent of so much of such expenditures as are for the costs of the implementation and operation of the immigration status verification system described in section 1137(d); plus".

(5) UNDER THE FOOD STAMP PROGRAM.—Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by adding at the end the following new subsection:

"(h) The Secretary is authorized to pay to each State agency an amount equal to 100 per centum of the costs incurred by the State agency in implementing and operating the immigration status verification system described in section 1137(d) of the Social Security Act.". State and local governments. 42 USC 1320b-7.

(6) UNDER HOUSING ASSISTANCE PROGRAMS.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"PAYMENT FOR IMPLEMENTATION OF IMMIGRATION STATUS VERIFICATION SYSTEM

"SEC. 20. The Secretary is authorized to pay to each public housing authority an amount equal to 100 percent of the costs incurred by the authority in implementing and operating the immigration status verification system under section 214(c) of the Housing and Community Development Act of 1980 with respect to financial assistance made available pursuant to this Act.". 42 USC 1437r. 42 USC 1436a.

(7) UNDER TITLE IV EDUCATIONAL ASSISTANCE.—Section 489(a) of the Higher Education Act of 1965 (20 U.S.C. 1096) is amended by adding at the end the following: "In addition, the Secretary shall provide for payment to each institution of higher education an amount equal to 100 percent of the costs incurred by the institution in implementing and operating the immigration status verification system under section 484(c).". *Ante*, p. 1491. 20 USC 1091.

(c) EFFECTIVE DATES.—

(1) IMMIGRATION AND NATURALIZATION SERVICE ESTABLISHING VERIFICATION SYSTEM BY OCTOBER 1, 1987.—The Commissioner of Immigration and Naturalization shall implement a system for the verification of immigration status under paragraphs (3) and (4)(B)(i) of section 1137(d) of the Social Security Act (as amended by this section) so that the system is available to all the States by not later than October 1, 1987. Such system shall not be used by the Immigration and Naturalization Service for administrative (non-criminal) immigration enforcement purposes and shall be implemented in a manner that provides for verification of immigration status without regard to the sex, color, race, religion, or nationality of the individual involved. State and local governments. 42 USC 1320b-7 note. 42 USC 1320b-7. Discrimination, prohibition.

(2) HIGHER MATCHING EFFECTIVE IN FISCAL YEAR 1988.—The amendments made by subsection (b) take effect on October 1, 1987. 42 USC 502 note.

(3) USE OF VERIFICATION SYSTEM REQUIRED IN FISCAL YEAR 1989.—Except as provided in paragraph (4), the amendments made by subsection (a) take effect on October 1, 1988. States Effective date. 42 USC 1320b-7 note.

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have until that date to begin complying with the requirements imposed by those amendments.

42 USC 1320b-7 note.

(4) USE OF VERIFICATION SYSTEM NOT REQUIRED FOR A PROGRAM IN CERTAIN CASES.—

(A) REPORT TO RESPECTIVE CONGRESSIONAL COMMITTEES.—With respect to each covered program (as defined in subparagraph (D)(i)), each appropriate Secretary shall examine and report to the appropriate Committees of the House of Representatives and of the Senate, by not later than April 1, 1988, concerning whether (and the extent to which)—

(i) the application of the amendments made by subsection (a) to the program is cost-effective and otherwise appropriate, and

(ii) there should be a waiver of the application of such amendments under subparagraph (B).

Effective date.

The amendments made by subsection (a) shall not apply with respect to a covered program described in subclause (II), (V), (VI), or (VII) of subparagraph (D)(i) until after the date of receipt of such report with respect to the program.

(B) WAIVER IN CERTAIN CASES.—If, with respect to a covered program, the appropriate Secretary determines, on the Secretary's own initiative or upon an application by an administering entity and based on such information as the Secretary deems persuasive (which may include the results of the report required under subsection (d)(1) and information contained in such an application), that—

(i) the appropriate Secretary or the administering entity has in effect an alternative system of immigration status verification which—

(I) is as effective and timely as the system otherwise required under the amendments made by subsection (a) with respect to the program, and

(II) provides for at least the hearing and appeals rights for beneficiaries that would be provided under the amendments made by subsection (a), or

(ii) the costs of administration of the system otherwise required under such amendments exceed the estimated savings,

such Secretary may waive the application of such amendments to the covered program to the extent (by State or other geographic area or otherwise) that such determinations apply.

(C) BASIS FOR DETERMINATION.—A determination under subparagraph (B)(ii) shall be based upon the appropriate Secretary's estimate of—

(i) the number of aliens claiming benefits under the covered program in relation to the total number of claimants seeking benefits under the program,

(ii) any savings in benefit expenditures reasonably expected to result from implementation of the verification program, and

(iii) the labor and nonlabor costs of administration of the verification system,

the degree to which the Immigration and Naturalization Service is capable of providing timely and accurate information to the administering entity in order to permit a

reliable determination of immigration status, and such other factors as such Secretary deems relevant.

(D) DEFINITIONS.—In this paragraph:

(i) The term "covered program" means each of the following programs:

(I) The aid to families with dependent children program under part A of title IV of the Social Security Act.

Children and youth.
42 USC 601.

(II) The medicaid program under title XIX of the Social Security Act.

Medicaid.
42 USC 1396.

(III) Any State program under a plan approved under title I, X, XIV, or XVI of the Social Security Act.

42 USC 301, 1201, 1351, 1381.

(IV) The unemployment compensation program under section 3304 of the Internal Revenue Code of 1954.

26 USC 3304.

(V) The food stamp program under the Food Stamp Act of 1977.

7 USC 2026.

(VI) The programs of financial assistance for housing subject to section 214 of the Housing and Community Development Act of 1980.

42 USC 1436a.

(VII) The program of grants, loans, and work assistance under title IV of the Higher Education Act of 1965.

Ante, p. 1308.

(ii) The term "appropriate Secretary" means, with respect to the covered program described in—

(I) subclauses (I) through (III) of clause (i), the Secretary of Health and Human Services;

(II) clause (i)(IV), the Secretary of Labor;

(III) clause (i)(V), the Secretary of Agriculture;

(IV) clause (i)(VI), the Secretary of Housing and Urban Development; and

(V) clause (i)(VII), the Secretary of Education.

(iii) The term "administering entity" means, with respect to the covered program described in—

(I) subclause (I), (II), (III), (IV), or (V) of clause (i), the State agency responsible for the administration of the program in a State;

(II) clause (i)(VI), the Secretary of Housing and Urban Development, a public housing agency, or another entity that determines the eligibility of an individual for financial assistance; and

(III) clause (i)(VII), an institution of higher education involved.

(5) FUNDS AUTHORIZED.—Such sums as may be necessary are authorized for the Immigration and Naturalization Service to carry out the purposes of this section.

(d) GAO REPORTS.—

42 USC 1320b-7 note.

(1) REPORT ON CURRENT PILOT PROJECTS.—The Comptroller General shall—

(A) examine current pilot projects relating to the System for Alien Verification of Eligibility (SAVE) operated by, or through cooperative agreements with, the Immigration and Naturalization Service, and

Contracts.

(B) report, not later than October 1, 1987, to Congress and to the Commissioner of the Immigration and Naturalization Service concerning the effectiveness of such projects and

any problems with the implementation of such projects, particularly as they may apply to implementation of the system referred to in subsection (c)(1).

(2) REPORT ON IMPLEMENTATION OF VERIFICATION SYSTEM.—The Comptroller General shall—

(A) monitor and analyze the implementation of such system,

(B) report to Congress and to the appropriate Secretaries described in subsection (c)(4)(D)(ii), by not later than April 1, 1989, on such implementation, and

(C) include in such report such recommendations for changes in the system as may be appropriate.

TITLE II—LEGALIZATION

SEC. 201. LEGALIZATION OF STATUS.

(a) PROVIDING FOR LEGALIZATION PROGRAM.—(1) Chapter 5 of title II is amended by inserting after section 245 (8 U.S.C. 1255) the following new section:

"ADJUSTMENT OF STATUS OF CERTAIN ENTRANTS BEFORE JANUARY 1, 1982, TO THAT OF PERSON ADMITTED FOR LAWFUL RESIDENCE

8 USC 1255a.

"SEC. 245A. (a) TEMPORARY RESIDENT STATUS.—The Attorney General shall adjust the status of an alien to that of an alien lawfully admitted for temporary residence if the alien meets the following requirements:

"(1) TIMELY APPLICATION.—

"(A) DURING APPLICATION PERIOD.—Except as provided in subparagraph (B), the alien must apply for such adjustment during the 12-month period beginning on a date (not later than 180 days after the date of enactment of this section) designated by the Attorney General.

"(B) APPLICATION WITHIN 30 DAYS OF SHOW-CAUSE ORDER.—An alien who, at any time during the first 11 months of the 12-month period described in subparagraph (A), is the subject of an order to show cause issued under section 242, must make application under this section not later than the end of the 30-day period beginning either on the first day of such 18-month period or on the date of the issuance of such order, whichever day is later.

8 USC 1252.

"(C) INFORMATION INCLUDED IN APPLICATION.—Each application under this subsection shall contain such information as the Attorney General may require, including information on living relatives of the applicant with respect to whom a petition for preference or other status may be filed by the applicant at any later date under section 204(a).

8 USC 1154.

"(2) CONTINUOUS UNLAWFUL RESIDENCE SINCE 1982.—

"(A) IN GENERAL.—The alien must establish that he entered the United States before January 1, 1982, and that he has resided continuously in the United States in an unlawful status since such date and through the date the application is filed under this subsection.

"(B) NONIMMIGRANTS.—In the case of an alien who entered the United States as a nonimmigrant before January 1, 1982, the alien must establish that the alien's period of authorized stay as a nonimmigrant expired before such

date through the passage of time or the alien's unlawful status was known to the Government as of such date.

"(C) EXCHANGE VISITORS.—If the alien was at any time a nonimmigrant exchange alien (as defined in section 101(a)(15)(J)), the alien must establish that the alien was not subject to the two-year foreign residence requirement of section 212(e) or has fulfilled that requirement or received a waiver thereof.

8 USC 1101.

8 USC 1182.

"(3) CONTINUOUS PHYSICAL PRESENCE SINCE ENACTMENT.—

"(A) IN GENERAL.—The alien must establish that the alien has been continuously physically present in the United States since the date of the enactment of this section.

"(B) TREATMENT OF BRIEF, CASUAL, AND INNOCENT ABSENCES.—An alien shall not be considered to have failed to maintain continuous physical presence in the United States for purposes of subparagraph (A) by virtue of brief, casual, and innocent absences from the United States.

"(C) ADMISSIONS.—Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to apply for adjustment of status under this subsection.

"(4) ADMISSIBLE AS IMMIGRANT.—The alien must establish that he—

"(A) is admissible to the United States as an immigrant, except as otherwise provided under subsection (d)(2),

"(B) has not been convicted of any felony or of three or more misdemeanors committed in the United States,

"(C) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion, and

"(D) is registered or registering under the Military Selective Service Act, if the alien is required to be so registered under that Act.

50 USC app. 451.

For purposes of this subsection, an alien in the status of a Cuban and Haitian entrant described in paragraph (1) or (2)(A) of section 501(e) of Public Law 96-422 shall be considered to have entered the United States and to be in an unlawful status in the United States.

8 USC 1522 note.

"(b) SUBSEQUENT ADJUSTMENT TO PERMANENT RESIDENCE AND NATURE OF TEMPORARY RESIDENT STATUS.—

"(1) ADJUSTMENT TO PERMANENT RESIDENCE.—The Attorney General shall adjust the status of any alien provided lawful temporary resident status under subsection (a) to that of an alien lawfully admitted for permanent residence if the alien meets the following requirements:

"(A) TIMELY APPLICATION AFTER ONE YEAR'S RESIDENCE.—The alien must apply for such adjustment during the one-year period beginning with the nineteenth month that begins after the date the alien was granted such temporary resident status.

"(B) CONTINUOUS RESIDENCE.—

"(i) IN GENERAL.—The alien must establish that he has continuously resided in the United States since the date the alien was granted such temporary resident status.

"(ii) TREATMENT OF CERTAIN ABSENCES.—An alien shall not be considered to have lost the continuous residence referred to in clause (i) by reason of an absence from the United States permitted under paragraph (3)(A).

"(C) ADMISSIBLE AS IMMIGRANT.—The alien must establish that he—

"(i) is admissible to the United States as an immigrant, except as otherwise provided under subsection (d)(2), and

"(ii) has not been convicted of any felony or three or more misdemeanors committed in the United States.

"(D) BASIC CITIZENSHIP SKILLS.—

"(i) IN GENERAL.—The alien must demonstrate that he either—

8 USC 1423.

"(I) meets the requirements of section 312 (relating to minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States), or

"(II) is satisfactorily pursuing a course of study (recognized by the Attorney General) to achieve such an understanding of English and such a knowledge and understanding of the history and government of the United States.

"(ii) EXCEPTION FOR ELDERLY INDIVIDUALS.—The Attorney General may, in his discretion, waive all or part of the requirements of clause (i) in the case of an alien who is 65 years of age or older.

"(iii) RELATION TO NATURALIZATION EXAMINATION.—In accordance with regulations of the Attorney General, an alien who has demonstrated under clause (i)(I) that the alien meets the requirements of section 312 may be considered to have satisfied the requirements of that section for purposes of becoming naturalized as a citizen of the United States under title III.

8 USC 1401.

"(2) TERMINATION OF TEMPORARY RESIDENCE.—The Attorney General shall provide for termination of temporary resident status granted an alien under subsection (a)—

"(A) if it appears to the Attorney General that the alien was in fact not eligible for such status;

"(B) if the alien commits an act that (i) makes the alien inadmissible to the United States as an immigrant, except as otherwise provided under subsection (d)(2), or (ii) is convicted of any felony or three or more misdemeanors committed in the United States; or

"(C) at the end of the thirty-first month beginning after the date the alien is granted such status, unless the alien has filed an application for adjustment of such status pursuant to paragraph (1) and such application has not been denied.

"(3) AUTHORIZED TRAVEL AND EMPLOYMENT DURING TEMPORARY RESIDENCE.—During the period an alien is in lawful temporary resident status granted under subsection (a)—

"(A) AUTHORIZATION OF TRAVEL ABROAD.—The Attorney General shall, in accordance with regulations, permit the alien to return to the United States after such brief and casual trips abroad as reflect an intention on the part of the

alien to adjust to lawful permanent resident status under paragraph (1) and after brief temporary trips abroad occasioned by a family obligation involving an occurrence such as the illness or death of a close relative or other family need.

"(B) AUTHORIZATION OF EMPLOYMENT.—The Attorney General shall grant the alien authorization to engage in employment in the United States and provide to that alien an 'employment authorized' endorsement or other appropriate work permit.

(c) APPLICATIONS FOR ADJUSTMENT OF STATUS.—

"(1) TO WHOM MAY BE MADE.—The Attorney General shall provide that applications for adjustment of status under subsection (a) may be filed—

"(A) with the Attorney General, or

"(B) with a qualified designated entity, but only if the applicant consents to the forwarding of the application to the Attorney General.

As used in this section, the term "qualified designated entity" means an organization or person designated under paragraph (2).

"(2) DESIGNATION OF QUALIFIED ENTITIES TO RECEIVE APPLICATIONS.—For purposes of assisting in the program of legalization provided under this section, the Attorney General—

"(A) shall designate qualified voluntary organizations and other qualified State, local, and community organizations, and

"(B) may designate such other persons as the Attorney General determines are qualified and have substantial experience, demonstrated competence, and traditional long-term involvement in the preparation and submittal of applications for adjustment of status under section 209 or 245, Public Law 89-732, or Public Law 95-145.

8 USC 1159, 1255.
8 USC 1255 note.

"(3) TREATMENT OF APPLICATIONS BY DESIGNATED ENTITIES.—Each qualified designated entity must agree to forward to the Attorney General applications filed with it in accordance with paragraph (1)(B) but not to forward to the Attorney General applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Attorney General.

"(4) LIMITATION ON ACCESS TO INFORMATION.—Files and records of qualified designated entities relating to an alien's seeking assistance or information with respect to filing an application under this section are confidential and the Attorney General and the Service shall not have access to such files or records relating to an alien without the consent of the alien.

"(5) CONFIDENTIALITY OF INFORMATION.—Neither the Attorney General, nor any other official or employee of the Department of Justice, or bureau or agency thereof, may—

"(A) use the information furnished pursuant to an application filed under this section for any purpose other than to make a determination on the application or for enforcement of paragraph (6),

"(B) make any publication whereby the information furnished by any particular individual can be identified, or

"(C) permit anyone other than the sworn officers and employees of the Department or bureau or agency or, with

respect to applications filed with a designated entity, that designated entity, to examine individual applications.

Law enforcement and crime.

Anyone who uses, publishes, or permits information to be examined in violation of this paragraph shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.

"(6) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—Whoever files an application for adjustment of status under this section and knowingly and willfully falsifies, misrepresents, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.

"(7) APPLICATION FEES.—

"(A) FEE SCHEDULE.—The Attorney General shall provide for a schedule of fees to be charged for the filing of applications for adjustment under subsection (a) or (b)(1).

"(B) USE OF FEES.— The Attorney General shall deposit payments received under this paragraph in a separate account and amounts in such account shall be available, without fiscal year limitation, to cover administrative and other expenses incurred in connection with the review of applications filed under this section.

"(d) WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR EXCLUSION.—

8 USC 1151, 1152.

"(1) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

"(2) WAIVER OF GROUNDS FOR EXCLUSION.—In the determination of an alien's admissibility under subsections (a)(4)(A), (b)(1)(C)(i), and (b)(2)(B)—

8 USC 1182.

"(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (14), (20), (21), (25), and (32) of section 212(a) shall not apply.

"(B) WAIVER OF OTHER GROUNDS.—

"(i) IN GENERAL.—Except as provided in clause (ii), the Attorney General may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

"(ii) GROUNDS THAT MAY NOT BE WAIVED.—The following provisions of section 212(a) may not be waived by the Attorney General under clause (i):

"(I) Paragraphs (9) and (10) (relating to criminals).

"(II) Paragraph (15) (relating to aliens likely to become public charges) insofar as it relates to an application for adjustment to permanent residence by an alien other than an alien who is eligible for benefits under title XVI of the Social Security Act or section 212 of Public Law 93-66 for the month in which such alien is granted lawful temporary residence status under subsection (a).

42 USC 1381.
42 USC 1382 note.

"(III) Paragraph (23) (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marihuana.

"(IV) Paragraphs (27), (28), and (29) (relating to national security and members of certain organizations).

"(V) Paragraph (33) (relating to those who assisted in the Nazi persecutions).

"(iii) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for adjustment of status under this section due to being inadmissible under section 212(a)(15) if the alien demonstrates a history of employment in the United States evidencing self-support without receipt of public cash assistance. 8 USC 1182.

"(C) MEDICAL EXAMINATION.—The alien shall be required, at the alien's expense, to undergo such a medical examination (including a determination of immunization status) as is appropriate and conforms to generally accepted professional standards of medical practice.

"(e) TEMPORARY STAY OF DEPORTATION AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

"(1) BEFORE APPLICATION PERIOD.—The Attorney General shall provide that in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1)(A) and who can establish a prima facie case of eligibility to have his status adjusted under subsection (a) (but for the fact that he may not apply for such adjustment until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for adjustment, the alien—

"(A) may not be deported, and

"(B) shall be granted authorization to engage in employment in the United States and be provided an 'employment authorized' endorsement or other appropriate work permit.

"(2) DURING APPLICATION PERIOD.—The Attorney General shall provide that in the case of an alien who presents a prima facie application for adjustment of status under subsection (a) during the application period, and until a final determination on the application has been made in accordance with this section, the alien—

"(A) may not be deported, and

"(B) shall be granted authorization to engage in employment in the United States and be provided an 'employment authorized' endorsement or other appropriate work permit.

"(f) ADMINISTRATIVE AND JUDICIAL REVIEW.—

"(1) ADMINISTRATIVE AND JUDICIAL REVIEW.—There shall be no administrative or judicial review of a determination respecting an application for adjustment of status under this section except in accordance with this subsection.

"(2) NO REVIEW FOR LATE FILINGS.—No denial of adjustment of status under this section based on a late filing of an application for such adjustment may be reviewed by a court of the United States or of any State or reviewed in any administrative proceeding of the United States Government.

"(3) ADMINISTRATIVE REVIEW.—

"(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Attorney General shall establish an appellate authority to provide for a single level of administrative appellate review of a determination described in paragraph (1).

"(B) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

"(4) JUDICIAL REVIEW.—

"(A) LIMITATION TO REVIEW OF DEPORTATION.—There shall be judicial review of such a denial only in the judicial review of an order of deportation under section 106.

8 USC 1105a.

"(B) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

"(g) IMPLEMENTATION OF SECTION.—

"(1) REGULATIONS.—The Attorney General, after consultation with the Committees on the Judiciary of the House of Representatives and of the Senate, shall prescribe—

"(A) regulations establishing a definition of the term 'resided continuously', as used in this section, and the evidence needed to establish that an alien has resided continuously in the United States for purposes of this section, and

"(B) such other regulations as may be necessary to carry out this section.

"(2) CONSIDERATIONS.—In prescribing regulations described in paragraph (1)(A)—

"(A) PERIODS OF CONTINUOUS RESIDENCE.—The Attorney General shall specify individual periods, and aggregate periods, of absence from the United States which will be considered to break a period of continuous residence in the United States and shall take into account absences due merely to brief and casual trips abroad.

"(B) ABSENCES CAUSED BY DEPORTATION OR ADVANCED PAROLE.—The Attorney General shall provide that—

"(i) an alien shall not be considered to have resided continuously in the United States, if, during any period for which continuous residence is required, the alien was outside the United States as a result of a departure under an order of deportation, and

"(ii) any period of time during which an alien is outside the United States pursuant to the advance parole procedures of the Service shall not be considered as part of the period of time during which an alien is outside the United States for purposes of this section.

"(C) WAIVERS OF CERTAIN ABSENCES.—The Attorney General may provide for a waiver, in the discretion of the Attorney General, of the periods specified under subpara-

graph (A) in the case of an absence from the United States due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

"(D) USE OF CERTAIN DOCUMENTATION.—The Attorney General shall require that—

"(i) continuous residence and physical presence in the United States must be established through documents, together with independent corroboration of the information contained in such documents, and

"(ii) the documents provided under clause (i) be employment-related if employment-related documents with respect to the alien are available to the applicant.

"(3) INTERIM FINAL REGULATIONS.—Regulations prescribed under this section may be prescribed to take effect on an interim final basis if the Attorney General determines that this is necessary in order to implement this section in a timely manner.

"(h) TEMPORARY DISQUALIFICATION OF NEWLY LEGALIZED ALIENS FROM RECEIVING CERTAIN PUBLIC WELFARE ASSISTANCE.—

"(1) IN GENERAL.—During the five-year period beginning on the date an alien was granted lawful temporary resident status under subsection (a), and notwithstanding any other provision of law—

"(A) except as provided in paragraphs (2) and (3), the alien is not eligible for—

"(i) any program of financial assistance furnished under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of Government (but in any event including the program of aid to families with dependent children under part A of title IV of the Social Security Act), 42 USC 601.

"(ii) medical assistance under a State plan approved under title XIX of the Social Security Act, and 42 USC 1396.

"(iii) assistance under the Food Stamp Act of 1977; and 7 USC 2026.

"(B) a State or political subdivision therein may, to the extent consistent with subparagraph (A) and paragraphs (2) and (3), provide that the alien is not eligible for the programs of financial assistance or for medical assistance described in subparagraph (A)(ii) furnished under the law of that State or political subdivision.

Unless otherwise specifically provided by this section or other law, an alien in temporary lawful residence status granted under subsection (a) shall not be considered (for purposes of any law of a State or political subdivision providing for a program of financial assistance) to be permanently residing in the United States under color of law.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply—

"(A) to a Cuban and Haitian entrant (as defined in paragraph (1) or (2)(A) of section 501(e) of Public Law 96-422, as in effect on April 1, 1983), or 8 USC 1255 note.

"(B) in the case of assistance (other than aid to families with dependent children) which is furnished to an alien

Aged persons.
Blind persons.
Handicapped persons.

who is an aged, blind, or disabled individual (as defined in section 1614(a)(1) of the Social Security Act).

"(3) RESTRICTED MEDICAID BENEFITS.—

"(A) CLARIFICATION OF ENTITLEMENT.—Subject to the restrictions under subparagraph (B), for the purpose of providing aliens with eligibility to receive medical assistance—

"(i) paragraph (1) shall not apply,

"(ii) aliens who would be eligible for medical assistance but for the provisions of paragraph (1) shall be deemed, for purposes of title XIX of the Social Security Act, to be so eligible, and

42 USC 1396.

"(iii) aliens lawfully admitted for temporary residence under this section, such status not having changed, shall be considered to be permanently residing in the United States under color of law.

"(B) RESTRICTION OF BENEFITS.—

"(i) LIMITATION TO EMERGENCY SERVICES AND SERVICES FOR PREGNANT WOMEN.—Notwithstanding any provision of title XIX of the Social Security Act (including subparagraphs (B) and (C) of section 1902(a)(10) of such Act), aliens who, but for subparagraph (A), would be ineligible for medical assistance under paragraph (1), are only eligible for such assistance with respect to—

Ante, pp. 201, 208.

"(I) emergency services (as defined for purposes of section 1916(a)(2)(D) of the Social Security Act), and

Ante, p. 209.

"(II) services described in section 1916(a)(2)(B) of such Act (relating to service for pregnant women).

"(ii) NO RESTRICTION FOR EXEMPT ALIENS AND CHILDREN.—The restrictions of clause (i) shall not apply to aliens who are described in paragraph (2) or who are under 18 years of age.

"(C) DEFINITION OF MEDICAL ASSISTANCE.—In this paragraph, the term 'medical assistance' refers to medical assistance under a State plan approved under title XIX of the Social Security Act.

42 USC 1396.

"(4) TREATMENT OF CERTAIN PROGRAMS.—Assistance furnished under any of the following provisions of law shall not be construed to be financial assistance described in paragraph (1)(A)(i):

42 USC 1751 note.
42 USC 1771 note.
20 USC 2301 note.
20 USC 3801 *et seq.*
42 USC 2921.
29 USC 1501 note.
20 USC 1070.
42 USC 201 note.
42 USC 701, 1381, 1397, 620, 651, 670.
42 USC 301, 1201, 1351, 1381.
42 USC 1381-1383e.
8 USC 1522 note.

"(A) The National School Lunch Act.

"(B) The Child Nutrition Act of 1966.

"(C) The Vocational Education Act of 1963.

"(D) Chapter 1 of the Education Consolidation and Improvement Act of 1981.

"(E) The Headstart-Follow Through Act.

"(F) The Job Training Partnership Act.

"(G) Title IV of the Higher Education Act of 1965.

"(H) The Public Health Service Act.

"(I) Titles V, XVI, and XX, and parts B, D, and E of title IV, of the Social Security Act (and titles I, X, XIV, and XVI of such Act as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972).

"(5) ADJUSTMENT NOT AFFECTING FASCELL-STONE BENEFITS.—For the purpose of section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-122), assistance shall be contin-

ued under such section with respect to an alien without regard to the alien's adjustment of status under this section.

"(i) DISSEMINATION OF INFORMATION ON LEGALIZATION PROGRAM.—Beginning not later than the date designated by the Attorney General under subsection (a)(1)(A), the Attorney General, in cooperation with qualified designated entities, shall broadly disseminate information respecting the benefits which aliens may receive under this section and the requirements to obtain such benefits.".

(2) The table of contents for chapter 5 of title II is amended by inserting after the item relating to section 245 the following new item:

"Sec. 245A. Adjustment of status of certain entrants before January 1, 1982, to that of person admitted for lawful residence.".

(b) CONFORMING AMENDMENTS.—(1) Section 402 of the Social Security Act is amended by adding at the end thereof the following new subsection:

Children and youth.
42 USC 602.

"(f)(1) For temporary disqualification of certain newly legalized aliens from receiving aid to families with dependent children, see subsection (h) of section 245A of the Immigration and Nationality Act.

Ante, p. 3394.

"(2) In any case where an alien disqualified from receiving aid under such subsection (h) is the parent of a child who is not so disqualified and who (without any adjustment of status under such section 245A) is considered a dependent child under subsection (a)(33), or is the brother or sister of such a child, subsection (a)(38) shall not apply, and the needs of such alien shall not be taken into account in making the determination under subsection (a)(7) with respect to such child, but the income of such alien (if he or she is the parent of such child) shall be included in making such determination to the same extent that income of a stepparent is included under subsection (a)(31).".

(2)(A) Section 472(a) of such Act is amended by adding at the end thereof (after and below paragraph (4)) the following new sentence: "In any case where the child is an alien disqualified under section 245A(h) of the Immigration and Nationality Act from receiving aid under the State plan approved under section 402 in or for the month in which such agreement was entered into or court proceedings leading to the removal of the child from the home were instituted, such child shall be considered to satisfy the requirements of paragraph (4) (and the corresponding requirements of section 473(a)(1)(B)), with respect to that month, if he or she would have satisfied such requirements but for such disqualification.".

42 USC 672.

(B) Section 473(a)(1) of such Act is amended by adding at the end thereof (after and below subparagraph (C)) the following new sentence:

42 USC 673.

"The last sentence of section 472(a) shall apply, for purposes of subparagraph (B), in any case where the child is an alien described in that sentence.".

(c) MISCELLANEOUS PROVISIONS.—

8 USC 1255a note.

(1) PROCEDURES FOR PROPERTY ACQUISITION OR LEASING.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Attorney General is authorized to expend from the appropriation provided for the administration and enforcement of the Immigration and Nationality Act, such amounts as may be necessary for the leasing or acquisition of property in the fulfillment of this

8 USC 1101 note.

section. This authority shall end two years after the effective date of the legalization program.

(2) USE OF RETIRED FEDERAL EMPLOYEES.—Notwithstanding any other provision of law, the retired or retainer pay of a member or former member of the Armed Forces of the United States or the annuity of a retired employee of the Federal Government who retired on or before January 1, 1986, shall not be reduced while such individual is temporarily employed by the Immigration and Naturalization Service for a period of not to exceed 18 months to perform duties in connection with the adjustment of status of aliens under this section. The Service shall not temporarily employ more than 300 individuals under this paragraph. Notwithstanding any other provision of law, the annuity of a retired employee of the Federal Government shall not be increased or redetermined under chapter 83 or 84 of title 5, United States Code, as a result of a period of temporary employment under this paragraph.

5 USC 8301 *et seq.; ante,* p. 516.

8 USC 1255a note.

SEC. 202. CUBAN-HAITIAN ADJUSTMENT.

(a) ADJUSTMENT OF STATUS.—The status of any alien described in subsection (b) may be adjusted by the Attorney General, in the Attorney General's discretion and under such regulations as the Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence if—

(1) the alien applies for such adjustment within two years after the date of the enactment of this Act;

(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for exclusion specified in paragraphs (14), (15), (16), (17), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act shall not apply;

8 USC 1182.

(3) the alien is not an alien described in section 243(h)(2) of such Act;

8 USC 1253.

(4) the alien is physically present in the United States on the date the application for such adjustment is filed; and

(5) the alien has continuously resided in the United States since January 1, 1982.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided by subsection (a) shall apply to any alien—

(1) who has received an immigration designation as a Cuban/Haitian Entrant (Status Pending) as of the date of the enactment of this Act, or

(2) who is a national of Cuba or Haiti, who arrived in the United States before January 1, 1982, with respect to whom any record was established by the Immigration and Naturalization Service before January 1, 1982, and who (unless the alien filed an application for asylum with the Immigration and Naturalization Service before January 1, 1982) was not admitted to the United States as a nonimmigrant.

(c) NO AFFECT ON FASCELL-STONE BENEFITS.—An alien who, as of the date of the enactment of this Act, is a Cuban and Haitian entrant for the purpose of section 501 of Public Law 96-422 shall continue to be considered such an entrant for such purpose without regard to any adjustment of status effected under this section.

8 USC 1522 note.

(d) RECORD OF PERMANENT RESIDENCE AS OF JANUARY 1, 1982.—Upon approval of an alien's application for adjustment of status

under subsection (a), the Attorney General shall establish a record of the alien's admission for permanent residence as of January 1, 1982.

(e) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act and the Attorney General shall not be required to charge the alien any fee. 8 USC 1101 note.

(f) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing contained in this section shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

SEC. 203. UPDATING REGISTRY DATE TO JANUARY 1, 1972.

(a) IN GENERAL.—Section 249 (8 U.S.C. 1259) is amended—

(1) by striking out "JUNE 30, 1948" in the heading and inserting in lieu thereof "JANUARY 1, 1972", and

(2) by striking out "June 30, 1948" in paragraph (a) and inserting in lieu thereof "January 1, 1972".

(b) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The item in the table of contents relating to section 249 is amended by striking out "June 30, 1948" and inserting in lieu thereof "January 1, 1972".

(c) CLARIFICATION.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act shall not apply to aliens provided lawful permanent resident status under section 249 of that Act. 8 USC 1259 note. 8 USC 1151, 1152.

SEC. 204. STATE LEGALIZATION IMPACT ASSISTANCE GRANTS.

(a) APPROPRIATION OF FUNDS.— 8 USC 1255a note.

(1) IN GENERAL.—Out of any money in the Treasury not otherwise appropriated, there are appropriated to carry out this section (and including Federal, State, and local administrative costs) $1,000,000,000 (less the amount described in paragraph (2)) for fiscal year 1988 and for each of the three succeeding fiscal years.

(2) OFFSET.—

(A) IN GENERAL.—Subject to subparagraphs (B) through (D), the amount described in this paragraph for a fiscal year is equal to the amount estimated to be expended by the Federal Government in the fiscal year for the programs of financial assistance, medical assistance, and assistance under the Food Stamp Act of 1977 for aliens who would not be eligible for such assistance under paragraph (1)(A) of section 245A(h) of the Immigration and Nationality Act but for the provisions of paragraph (2) or paragraph (3) of such section. 7 USC 2026. *Ante*, p. 3394.

(B) NO OFFSET FOR CERTAIN SSI ELIGIBLE INDIVIDUALS.—The amount described in this paragraph shall not include any amounts attributable to supplemental security benefits paid under title XVI of the Social Security Act or medical assistance furnished under a State plan approved under title XIX of the Social Security Act, in the case of an alien who is determined by the Secretary of Health and Human Services, based on an application for benefits under title XVI of the Social Security Act or section 212 of Public Law 93-66 filed prior to the date designated by the Attorney General in accordance with section 245A(a)(1)(A) of the Immigration and Nationality Act, to be permanently residing in the United States under color of law as provided in section 1614(a)(1)(B)(ii) of the Social Security Act and to be eligible to receive such benefits for the month prior to the month in which such date occurs, for such time as such alien continues without interruption to be eligible to receive such benefits in accordance with the provisions of title XVI of the Social Security Act or section 212 of Public Law 93-66, as appropriate.

42 USC 1381.

42 USC 1396.

42 USC 1382 note.

Ante, p. 3394.

42 USC 1382c.

(C) ESTIMATED INITIAL OFFSET.—For purposes of subparagraph (A), with respect to fiscal year 1988, the amount estimated to be expended is equal to $70,000,000. For subsequent fiscal years, the amount estimated to be expended shall be such estimate as is contained in the annual fiscal budget submitted for that year to the Congress by the President.

(D) ADJUSTMENT FOR ESTIMATES.—If the actual amount of expenditures by the Federal Government described in subparagraph (A) for a fiscal year exceeds, or is less than, the amount estimated to be expended for that year under subparagraph (C) for that year (taking into account any adjustment under this subparagraph), then for the subsequent fiscal year the amount described in this paragraph shall be decreased, or increased, respectively, by the amount of such excess or deficit for that previous fiscal year.

(b) ENTITLEMENT OF STATES.—(1) From the sums appropriated under subsection (a) for a fiscal year (less the amount reserved for Federal administrative costs), the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall allot to each State with an application approved under subsection (d)(1) an amount determined in accordance with a formula, established by the Secretary by regulation, which takes into account—

(A) the number of eligible legalized aliens (as defined in subsection (j)(4)) residing in the State in that fiscal year;

(B) the ratio of the number of eligible legalized aliens in the State to the total number of residents of that State and to the total number of such aliens in all the States in that fiscal year;

(C) the amount of expenditures the State is likely to incur in that fiscal year in providing assistance for eligible legalized aliens for which reimbursement or payment may be made under this section;

(D) the ratio of the amount of such expenditures in the State to the total of all such expenditures in all the States;

(E) adjustments for the difference in previous years between the State's actual expenditures (described in subparagraph (C))

incurred and the allocation provided the State under this section for those years; and

(F) such other factors as the Secretary deems appropriate to provide for an equitable distribution of such amounts.

(2) To the extent that all the funds appropriated under this section for a fiscal year are not otherwise allotted to States either because all the States have not qualified for such allotments under this section for the fiscal year or because some States have indicated in their description of activities that they do not intend to use, in that fiscal year or the succeeding fiscal year, the full amount of such allotments, such excess shall be allotted among the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this paragraph.

(3) In determining the number of eligible legalized aliens for purposes of paragraph (1)(A), the Secretary may estimate such number on the basis of such data as he may deem appropriate.

(4) For each fiscal year the Secretary shall make payments, as provided by section 6503 of title 31, United States Code, to each State from its allotment under this subsection. Any amount paid to a State for any of the following fiscal years and remaining unobligated at the end of such year shall remain available to such State for the purposes for which it was made in subsequent fiscal years, but shall not remain available after September 30, 1994.

(c) PROVIDING ASSISTANCE.—(1) Of the amounts allotted to a State under this section, the State may only use such funds, in accordance with this section—

(A) for reimbursement of the costs of programs of public assistance provided with respect to eligible legalized aliens, for which such aliens were not disqualified under section 245A(h) of the Immigration and Nationality Act at the time of such assistance, *Ante*, p. 3394.

(B) for reimbursement of the costs of programs of public health assistance provided to any alien who is, or is applying on a timely basis under section 245A(a) of such Act to become, an eligible legalized alien, and

(C) to make payments to State educational agencies for the purpose of assisting local educational agencies of that State in providing educational services for eligible legalized aliens.

Subject to paragraph (2), the State may select the distribution of the use of such funds among such purposes.

(2)(A) Subject to subparagraphs (B) and (C), of the amounts allotted to a State under this section in any fiscal year, 10 percent shall be used by the State for reimbursement under paragraph (1)(A), 10 percent shall be used by the State for reimbursement under paragraph (1)(B), and 10 percent shall be used by the State for payments under paragraph (1)(C).

(B) If a State does not require the use of the full 10 percent provided under subparagraph (A) for a particular function described in a subparagraph of paragraph (1) for a fiscal year, the unused portion shall be equally distributed among the two other subparagraphs.

(C) In no case shall the funds provided under this section be used to provide reimbursement for more than 100 percent of the costs described in paragraph (1)(A) or (1)(B).

(3) To the extent that a State provides for the use of funds for the purpose described in paragraph (1)(C), the definitions and provisions of the Emergency Immigrant Education Act of 1984 (title VI of

Public Law 98-511; 20 U.S.C. 4101 et seq.) shall apply to payments under such paragraph in the same manner as they apply to payments under that Act, except that, in applying this paragraph—

(A) any reference in such Act to "immigrant children" shall be deemed to be a reference to "eligible legalized aliens" (including such aliens who are over 16 years of age) during the 60-month period beginning with the first month in which such an alien is granted temporary lawful residence under section 245A(a) of the Immigration and Nationality Act;

Ante, p. 3394.

(B) in determining the amount of payment with respect to eligible legalized aliens who are over 16 years of age, the phrase "described under paragraph (2)" shall be deemed to be stricken from section 606(b)(1)(A) of such Act (20 U.S.C. 4105(b)(1)(A));

(C) the State educational agency may provide such educational services to adult eligible legalized aliens through local educational agencies and other public and private nonprofit organizations, including community-based organizations of demonstrated effectiveness; and

(D) such services may include English language and other programs designed to enable such aliens to attain the citizenship skills described in section 245A(b)(1)(D)(i) of the Immigration and Nationality Act.

(d) STATEMENTS AND ASSURANCES.—(1) No State is eligible for payment under subsection (b) unless the State—

(A) has filed with, and had approved by, the Secretary an application containing such information, including the information described in paragraph (2) and criteria for and administrative methods of disbursing funds received under this section, as the Secretary determines to be necessary to carry out this section, and

(B) transmits to the Secretary a statement of assurances that certifies that (i) funds allotted to the State under this section will only be used to carry out the purposes described in subsection (c)(1), (ii) the State will provide a fair method (as determined by the State) for the allocation of funds among State and local agencies in accordance with paragraph (2) and subsection (c)(2), and (iii) fiscal control and fund accounting procedures will be established that are adequate to meet the requirements of paragraph (2) and subsections (e) and (f).

(2) The application of each State under this subsection for each fiscal year must include detailed information on—

(A) the number of eligible legalized aliens residing in the State, and

(B) the costs (excluding any such costs otherwise paid from Federal funds) which the State and each locality is likely to incur for the purposes described in subsection (c)(1).

(e) REPORTS AND AUDITS.—(1)(A) Each State shall prepare and submit to the Secretary annual reports on its activities under this section. In order to properly evaluate and to compare the performance of different States assisted under this section and to assure the proper expenditure of funds under this section, such reports shall be in such form and contain such information as the Secretary determines (after consultation with the States and the Comptroller General) to be necessary—

(i) to secure an accurate description of those activities,

(ii) to secure a complete record of the purposes for which funds were spent, and of the recipients of such funds, and

(iii) to determine the extent to which funds were expended consistent with this section.

Copies of the report shall be provided, upon request, to any interested public agency, and each such agency may provide its views on these reports to the Congress.

(B) The Secretary shall annually report to the Congress on activities funded under this section and shall provide for transmittal of a copy of such report to each State.

(2)(A) For requirements relating to audits of funds received by a State under this section, see chapter 75 of title 31, United States Code (relating to requirements for single audit).

31 USC 7501 *et seq.*

(B) Each State shall repay to the United States amounts ultimately found not to have been expended in accordance with this section, or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this section.

(C) The Secretary may, after notice and opportunity for a hearing, withhold payment of funds to any State which is not using its allotment under this section in accordance with this section. The Secretary may withhold such funds until the Secretary finds that the reason for the withholding has been removed and there is reasonable assurance that it will not recur.

(3) The State shall make copies of the reports and audits required by this subsection available for public inspection within the State.

(4)(A) For the purpose of evaluating and reviewing the assistance provided under this section, the Secretary and the Comptroller General shall have access to any books, accounts, records, correspondence, or other documents that are related to such assistance, and that are in the possession, custody, or control of States, political subdivisions thereof, or any of their grantees.

(B) In conjunction with an evaluation or review under subparagraph (A), no State or political subdivision thereof (or grantee of either) shall be required to create or prepare new records to comply with subparagraph (A).

(f) LIMITATION ON PAYMENTS.—(1) Payment under this section shall not be made for costs to the extent the costs are otherwise reimbursed or paid for under other Federal programs.

(2) Payment may only be made to a State with respect to costs for assistance of a program of public assistance or a program public health assistance to the extent such assistance is otherwise generally available under such programs to citizens residing in the State.

(g) CRIMINAL PENALTIES FOR FALSE STATEMENTS.—Whoever—

(1) knowingly and willfully makes or causes to be made any false statement or misrepresentation of a material fact in connection with the furnishing of assistance or services for which payment may be made by a State from funds allotted to the State under this section, or

(2) having knowledge of the occurrence of any event affecting his initial or continued right to any such payment conceals or fails to disclose such event with an intent fraudulently to secure such payment either in a greater amount than is due or when no such payment is authorized,

shall be fined in accordance with title 18, United States Code, imprisoned for not more than five years, or both.

(h) ANTI-DISCRIMINATION PROVISION.—(1)(A) For the purpose of applying the prohibitions against discrimination on the basis of age

42 USC 3001 note.
29 USC 794.
20 USC 1681.
42 USC 2000d.

under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under this section are considered to be programs and activities receiving Federal financial assistance.

(B) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this section.

(2) Whenever the Secretary finds that a State or locality which has been provided payment from an allotment under this section has failed to comply with a provision of law referred to in paragraph (1)(A), with paragraph (1)(B), or with an applicable regulation (including one prescribed to carry out paragraph (1)(B)), he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

(A) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted,

(B) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable, or

(C) take such other action as may be provided by law.

(3) When a matter is referred to the Attorney General pursuant to paragraph (2)(A), or whenever he has reason to believe that the entity is engaged in a pattern or practice in violation of a provision of law referred to in paragraph (1)(A) or in violation of paragraph (1)(B), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

Regulations.

(i) CONSULTATION WITH STATE AND LOCAL OFFICIALS.—In establishing regulations and guidelines to carry out this section, the Secretary shall consult with representatives of State and local governments.

(j) DEFINITIONS.—For purposes of this section:

8 USC 1101.

(1) The term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act.

(2) The term "programs of public assistance" means programs in a State or local jurisdiction which—

(A) provide for cash, medical, or other assistance (as defined by the Secretary) designed to meet the basic subsistence or health needs of individuals,

(B) are generally available to needy individuals residing in the State or locality, and

(C) receive funding from units of State or local government.

(3) The term "programs of public health assistance" means programs in a State or local jurisdiction which—

(A) provide public health services, including immunizations for immunizable diseases, testing and treatment for tuberculosis and sexually-transmitted diseases, and family planning services,

(B) are generally available to needy individuals residing in the State or locality, and

(C) receive funding from units of State or local government.

(4) The term "eligible legalized alien" means an alien who has been granted lawful temporary resident status under section 245A of the Immigration and Nationality Act, but only until the end of the five-year period beginning on the date the alien was granted such status.

Ante, p. 3394.

TITLE III—REFORM OF LEGAL IMMIGRATION

PART A—TEMPORARY AGRICULTURAL WORKERS

SEC. 301. H-2A AGRICULTURAL WORKERS.

(a) PROVIDING NEW "H-2A" NONIMMIGRANT CLASSIFICATION FOR TEMPORARY AGRICULTURAL LABOR.—Paragraph (15)(H) of section 101(a) (8 U.S.C. 1101(a)) is amended by striking out "to perform temporary services or labor," in clause (ii) and inserting in lieu thereof "(a) to perform agricultural labor or services, as defined by the Secretary of Labor in regulations and including agricultural labor defined in section 3121(g) of the Internal Revenue Code of 1954 and agriculture as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), of a temporary or seasonal nature, or (b) to perform other temporary service or labor".

26 USC 3121.

(b) INVOLVEMENT OF DEPARTMENTS OF LABOR AND AGRICULTURE IN H-2A PROGRAM.—Section 214(c) (8 U.S.C. 1184(c)) is amended by adding at the end the following: "For purposes of this subsection with respect to nonimmigrants described in section 101(a)(15)(H)(ii)(a), the term 'appropriate agencies of Government' means the Department of Labor and includes the Department of Agriculture. The provisions of section 216 shall apply to the question of importing any alien as a nonimmigrant under section 101(a)(15)(H)(ii)(a).".

Supra.

Infra.

(c) ADMISSION OF H-2A WORKERS.—Chapter 2 of title II is amended by adding after section 215 the following new section:

"ADMISSION OF TEMPORARY H-2A WORKERS

"SEC. 216. (a) CONDITIONS FOR APPROVAL OF H-2A PETITIONS.—(1) A petition to import an alien as an H-2A worker (as defined in subsection (i)(2)) may not be approved by the Attorney General unless the petitioner has applied to the Secretary of Labor for a certification that—

8 USC 1186.

"(A) there are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services involved in the petition, and

"(B) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

"(2) The Secretary of Labor may require by regulation, as a condition of issuing the certification, the payment of a fee to recover the reasonable costs of processing applications for certification.

"(b) CONDITIONS FOR DENIAL OF LABOR CERTIFICATION.—The Secretary of Labor may not issue a certification under subsection (a)

with respect to an employer if the conditions described in that subsection are not met or if any of the following conditions are met:

"(1) There is a strike or lockout in the course of a labor dispute which, under the regulations, precludes such certification.

"(2)(A) The employer during the previous two-year period employed H-2A workers and the Secretary of Labor has determined, after notice and opportunity for a hearing, that the employer at any time during that period substantially violated a material term or condition of the labor certification with respect to the employment of domestic or nonimmigrant workers.

"(B) No employer may be denied certification under subparagraph (A) for more than three years for any violation described in such subparagraph.

"(3) The employer has not provided the Secretary with satisfactory assurances that if the employment for which the certification is sought is not covered by State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

"(4) The Secretary determines that the employer has not made positive recruitment efforts within a multi-state region of traditional or expected labor supply where the Secretary finds that there are a significant number of qualified United States workers who, if recruited, would be willing to make themselves available for work at the time and place needed. Positive recruitment under this paragraph is in addition to, and shall be conducted within the same time period as, the circulation through the interstate employment service system of the employer's job offer. The obligation to engage in positive recruitment under this paragraph shall terminate on the date the H-2A workers depart for the employer's place of employment.

"(c) SPECIAL RULES FOR CONSIDERATION OF APPLICATIONS.—The following rules shall apply in the case of the filing and consideration of an application for a labor certification under this section:

"(1) DEADLINE FOR FILING APPLICATIONS.—The Secretary of Labor may not require that the application be filed more than 60 days before the first date the employer requires the labor or services of the H-2A worker.

"(2) NOTICE WITHIN SEVEN DAYS OF DEFICIENCIES.—(A) The employer shall be notified in writing within seven days of the date of filing if the application does not meet the standards (other than that described in subsection (a)(1)(A)) for approval.

"(B) If the application does not meet such standards, the notice shall include the reasons therefor and the Secretary shall provide an opportunity for the prompt resubmission of a modified application.

"(3) ISSUANCE OF CERTIFICATION.—(A) The Secretary of Labor shall make, not later than 20 days before the date such labor or services are first required to be performed, the certification described in subsection (a)(1) if—

"(i) the employer has complied with the criteria for certification (including criteria for the recruitment of eligible individuals as prescribed by the Secretary), and

"(ii) the employer does not actually have, or has not been provided with referrals of, qualified eligible individuals who have indicated their availability to perform such labor or services on the terms and conditions of a job offer which meets the requirements of the Secretary.

In considering the question of whether a specific qualification is appropriate in a job offer, the Secretary shall apply the normal and accepted qualifications required by non-H-2A-employers in the same or comparable occupations and crops.

"(B)(i) For a period of 3 years subsequent to the effective date of this section, labor certifications shall remain effective only if, from the time the foreign worker departs for the employer's place of employment, the employer will provide employment to any qualified United States worker who applies to the employer until 50 percent of the period of the work contract, under which the foreign worker who is in the job was hired, has elapsed. In addition, the employer will offer to provide benefits, wages and working conditions required pursuant to this section and regulations.

"(ii) The requirement of clause (i) shall not apply to any employer who—

"(I) did not, during any calendar quarter during the preceding calendar year, use more than 500 man-days of agricultural labor, as defined in section 3(u) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(u)),

"(II) is not a member of an association which has petitioned for certification under this section for its members, and

"(III) has not otherwise associated with other employers who are petitioning for temporary foreign workers under this section.

"(iii) Six months before the end of the 3-year period described in clause (i), the Secretary of Labor shall consider the findings of the report mandated by section 403(a)(4)(D) of the Immigration Reform and Control Act of 1986 as well as other relevant materials, including evidence of benefits to United States workers and costs to employers, addressing the advisability of continuing a policy which requires an employer, as a condition for certification under this section, to continue to accept qualified, eligible United States workers for employment after the date the H-2A workers depart for work with the employer. The Secretary's review of such findings and materials shall lead to the issuance of findings in furtherance of the Congressional policy that aliens not be admitted under this section unless there are not sufficient workers in the United States who are able, willing, and qualified to perform the labor or service needed and that the employment of the aliens in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed. In the absence of the enactment of Federal legislation prior to three months before the end of the 3-year period described in clause (i) which addresses the subject matter of this subparagraph, the Secretary shall immediately publish the findings required by this clause, and shall promulgate, on an interim or final basis,

regulations based on his findings which shall be effective no later than three years from the effective date of this section.

"(iv) In complying with clause (i) of this subparagraph, an association shall be allowed to refer or transfer workers among its members: *Provided,* That for purposes of this section an association acting as an agent for its members shall not be considered a joint employer merely because of such referral or transfer.

"(v) United States workers referred or transferred pursuant to clause (iv) of this subparagraph shall not be treated disparately.

"(vi) An employer shall not be liable for payments under section 655.202(b)(6) of title 20, Code of Federal Regulations (or any successor regulation) with respect to an H-2A worker who is displaced due to compliance with the requirement of this subparagraph, if the Secretary of Labor certifies that the H-2A worker was displaced because of the employer's compliance with clause (i) of this subparagraph.

"(vii)(I) No person or entity shall willfully and knowingly withhold domestic workers prior to the arrival of H-2A workers in order to force the hiring of domestic workers under clause (i).

"(II) Upon the receipt of a complaint by an employer that a violation of subclause (I) has occurred the Secretary shall immediately investigate. He shall within 36 hours of the receipt of the complaint issue findings concerning the alleged violation. Where the Secretary finds that a violation has occurred, he shall immediately suspend the application of clause (i) of this subparagraph with respect to that certification for that date of need.

"(4) HOUSING.—Employers shall furnish housing in accordance with regulations. The employer shall be permitted at the employer's option to provide housing meeting applicable Federal standards for temporary labor camps or to secure housing which meets the local standards for rental and/or public accomodations or other substantially similar class of habitation: *Provided,* That in the absence of applicable local standards, State standards for rental and/or public accomodations or other substantially similar class of habitation shall be met: *Provided further,* That in the absence of applicable local or State standards, Federal temporary labor camp standards shall apply: *Provided further,* That the Secretary of Labor shall issue regulations which address the specific requirements of housing for employees principally engaged in the range production of livestock: *Provided further,* That when it is the prevailing practice in the area and occupation of intended employment to provide family housing, family housing shall be provided to workers with families who request it: *And provided further,* That nothing in this paragraph shall require an employer to provide or secure housing for workers who are not entitled to it under the temporary labor certification regulations in effect on June 1, 1986.

Regulations.
Animals.

"(d) ROLES OF AGRICULTURAL ASSOCIATIONS.—

"(1) PERMITTING FILING BY AGRICULTURAL ASSOCIATIONS.—A petition to import an alien as a temporary agricultural worker, and an application for a labor certification with respect to such a worker, may be filed by an association of agricultural producers which use agricultural services.

"(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association is a joint or sole employer of temporary agricultural workers, the certifications granted under this section to the association may be used for the certified job opportunities of any of its producer members and such workers may be transferred among its producer members to perform agricultural services of a temporary or seasonal nature for which the certifications were granted.

"(3) TREATMENT OF VIOLATIONS.—

"(A) MEMBER'S VIOLATION DOES NOT NECESSARILY DISQUALIFY ASSOCIATION OR OTHER MEMBERS.—If an individual producer member of a joint employer association is determined to have committed an act that under subsection (b)(2) results in the denial of certification with respect to the member, the denial shall apply only to that member of the association unless the Secretary determines that the association or other member participated in, had knowledge of, or reason to know of, the violation.

"(B) ASSOCIATION'S VIOLATION DOES NOT NECESSARILY DISQUALIFY MEMBERS.—(i) If an association representing agricultural producers as a joint employer is determined to have committed an act that under subsection (b)(2) results in the denial of certification with respect to the association, the denial shall apply only to the association and does not apply to any individual producer member of the association unless the Secretary determines that the member participated in, had knowledge of, or reason to know of, the violation.

"(ii) If an association of agricultural producers certified as a sole employer is determined to have committed an act that under subsection (b)(2) results in the denial of certification with respect to the association, no individual producer member of such association may be the beneficiary of the services of temporary alien agricultural workers admitted under this section in the commodity and occupation in which such aliens were employed by the association which was denied certification during the period such denial is in force, unless such producer member employs such aliens in the commodity and occupation in question directly or through an association which is a joint employer of such workers with the producer member.

"(e) EXPEDITED ADMINISTRATIVE APPEALS OF CERTAIN DETERMINATIONS.—(1) Regulations shall provide for an expedited procedure for the review of a denial of certification under subsection (a)(1) or a revocation of such a certification or, at the applicant's request, for a de novo administrative hearing respecting the denial or revocation.

"(2) The Secretary of Labor shall expeditiously, but in no case later than 72 hours after the time a new determination is requested, make a new determination on the request for certification in the case of an H-2A worker if able, willing, and qualified eligible individuals are not actually available at the time such labor or services are required and a certification was denied in whole or in part because of the availability of qualified workers. If the employer asserts that any eligible individual who has been referred is not able, willing, or qualified, the burden of proof is on the employer to establish that the individual referred is not able, willing, or qualified because of employment-related reasons.

"(f) VIOLATORS DISQUALIFIED FOR 5 YEARS.—An alien may not be admitted to the United States as a temporary agricultural worker if the alien was admitted to the United States as such a worker within the previous five-year period and the alien during that period violated a term or condition of such previous admission.

"(g) AUTHORIZATIONS OF APPROPRIATIONS.—(1) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1987, $10,000,000 for the purposes—

"(A) of recruiting domestic workers for temporary labor and services which might otherwise be performed by nonimmigrants described in section 101(a)(15)(H)(ii)(a), and

Ante, p. 3411.

"(B) of monitoring terms and conditions under which such nonimmigrants (and domestic workers employed by the same employers) are employed in the United States.

"(2) The Secretary of Labor is authorized to take such actions, including imposing appropriate penalties and seeking appropriate injunctive relief and specific performance of contractual obligations, as may be necessary to assure employer compliance with terms and conditions of employment under this section.

"(3) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1987, such sums as may be necessary for the purpose of enabling the Secretary of Labor to make determinations and certifications under this section and under section 212(a)(14).

8 USC 1182.

"(4) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1987, such sums as may be necessary for the purposes of enabling the Secretary of Agriculture to carry out the Secretary's duties and responsibilities under this section.

"(h) MISCELLANEOUS PROVISIONS.—(1) The Attorney General shall provide for such endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii) as may be necessary to carry out this section and to provide notice for purposes of section 274A.

Ante, p. 3411.

Ante, p. 3360.

State and local governments.

"(2) The provisions of subsections (a) and (c) of section 214 and the provisions of this section preempt any State or local law regulating admissibility of nonimmigrant workers.

"(i) DEFINITIONS.—For purposes of this section:

"(1) The term 'eligible individual' means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A(h)) with respect to that employment.

"(2) The term 'H-2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).".

8 USC 1186 note.

(d) EFFECTIVE DATE.—The amendments made by this section apply to petitions and applications filed under sections 214(c) and 216 of the Immigration and Nationality Act on or after the first day of the seventh month beginning after the date of the enactment of this Act (hereinafter in this section referred to as the "effective date").

8 USC 1186 note.

(e) REGULATIONS.—The Attorney General, in consultation with the Secretary of Labor and the Secretary of Agriculture, shall approve all regulations to be issued implementing sections 101(a)(15)(H)(ii)(a) and 216 of the Immigration and Nationality Act. Notwithstanding any other provision of law, final regulations to implement such sections shall first be issued, on an interim or other basis, not later than the effective date.

Ante, p. 3411.

Ante, p. 3411.

President of U.S.

8 USC 1186 note.

(f) SENSE OF CONGRESS RESPECTING CONSULTATION WITH MEXICO.—It is the sense of Congress that the President should establish an advisory commission which shall consult with the Governments of

Mexico and of other appropriate countries and advise the Attorney General regarding the operation of the alien temporary worker program established under section 216 of the Immigration and Nationality Act.

Ante, p. 3411.

(g) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The table of contents is amended by inserting after the item relating to section 215 the following new item:

"Sec. 216. Admission of temporary H-2A workers.".

SEC. 302. LAWFUL RESIDENCE FOR CERTAIN SPECIAL AGRICULTURAL WORKERS.

(a) IN GENERAL.—(1) Chapter 1 of title II is amended by adding at the end the following new section:

"SPECIAL AGRICULTURAL WORKERS

"SEC. 210. (a) LAWFUL RESIDENCE.— 8 USC 1160.

"(1) IN GENERAL.—The Attorney General shall adjust the status of an alien to that of an alien lawfully admitted for temporary residence if the Attorney General determines that the alien meets the following requirements:

"(A) APPLICATION PERIOD.—The alien must apply for such adjustment during the 18-month period beginning on the first day of the seventh month that begins after the date of enactment of this section.

"(B) PERFORMANCE OF SEASONAL AGRICULTURAL SERVICES AND RESIDENCE IN THE UNITED STATES.—The alien must establish that he has—

"(i) resided in the United States, and

"(ii) performed seasonal agricultural services in the United States for at least 90 man-days,

during the 12-month period ending on May 1, 1986. For purposes of the previous sentence, performance of seasonal agricultural services in the United States for more than one employer on any one day shall be counted as performance of services for only 1 man-day.

"(C) ADMISSIBLE AS IMMIGRANT.—The alien must establish that he is admissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2).

"(2) ADJUSTMENT TO PERMANENT RESIDENCE.—The Attorney General shall adjust the status of any alien provided lawful temporary resident status under paragraph (1) to that of an alien lawfully admitted for permanent residence on the following date:

"(A) GROUP 1.—Subject to the numerical limitation established under subparagraph (C), in the case of an alien who has established, at the time of application for temporary residence under paragraph (1), that the alien performed seasonal agricultural services in the United States for at least 90 man-days during each of the 12-month periods ending on May 1, 1984, 1985, and 1986, the adjustment shall occur on the first day after the end of the one-year period that begins on the later of (I) the date the alien was granted such temporary resident status, or (II) the day after the last day of the application period described in paragraph (1)(A).

"(B) GROUP 2.—In the case of aliens to which subparagraph (A) does not apply, the adjustment shall occur on the

day after the last day of the two-year period that begins on the later of (I) the date the alien was granted such temporary resident status, or (II) the day after the last day of the application period described in paragraph (1)(A).

"(C) NUMERICAL LIMITATION.—Subparagraph (A) shall not apply to more than 350,000 aliens. If more than 350,000 aliens meet the requirements of such subparagraph, such subparagraph shall apply to the 350,000 aliens whose applications for adjustment were first filed under paragraph (1) and subparagraph (B) shall apply to the remaining aliens.

"(3) TERMINATION OF TEMPORARY RESIDENCE.—During the period of temporary resident status granted an alien under paragraph (1), the Attorney General may terminate such status only upon a determination under this Act that the alien is deportable.

"(4) AUTHORIZED TRAVEL AND EMPLOYMENT DURING TEMPORARY RESIDENCE.—During the period an alien is in lawful temporary resident status granted under this subsection, the alien has the right to travel abroad (including commutation from a residence abroad) and shall be granted authorization to engage in employment in the United States and shall be provided an 'employment authorized' endorsement or other appropriate work permit, in the same manner as for aliens lawfully admitted for permanent residence.

"(5) IN GENERAL.—Except as otherwise provided in this subsection, an alien who acquires the status of an alien lawfully admitted for temporary residence under paragraph (1), such status not having changed, is considered to be an alien lawfully admitted for permanent residence (as described in section 101(a)(20)), other than under any provision of the immigration laws.

"(b) APPLICATIONS FOR ADJUSTMENT OF STATUS.—

"(1) TO WHOM MAY BE MADE.—

"(A) WITHIN THE UNITED STATES.—The Attorney General shall provide that applications for adjustment of status under subsection (a) may be filed—

"(i) with the Attorney General, or

"(ii) with a designated entity (designated under paragraph (2)), but only if the applicant consents to the forwarding of the application to the Attorney General.

"(B) OUTSIDE THE UNITED STATES.—The Attorney General, in cooperation with the Secretary of State, shall provide a procedure whereby an alien may apply for adjustment of status under subsection (a)(1) at an appropriate consular office outside the United States. If the alien otherwise qualifies for such adjustment, the Attorney General shall provide such documentation of authorization to enter the United States and to have the alien's status adjusted upon entry as may be necessary to carry out the provisions of this section.

"(2) DESIGNATION OF ENTITIES TO RECEIVE APPLICATIONS.—For purposes of receiving applications under this section, the Attorney General—

"(A) shall designate qualified voluntary organizations and other qualified State, local, community, farm labor

organizations, and associations of agricultural employers, and

"(B) may designate such other persons as the Attorney General determines are qualified and have substantial experience, demonstrated competence, and traditional long-term involvement in the preparation and submittal of applications for adjustment of status under section 209 or 245, Public Law 89-732, or Public Law 95-145.

8 USC 1159, 1255.
8 USC 1255 note.

"(3) PROOF OF ELIGIBILITY.—

"(A) IN GENERAL.—An alien may establish that he meets the requirement of subsection (a)(1)(B)(ii) through government employment records, records supplied by employers or collective bargaining organizations, and such other reliable documentation as the alien may provide. The Attorney General shall establish special procedures to credit properly work in cases in which an alien was employed under an assumed name.

"(B) DOCUMENTATION OF WORK HISTORY.—(i) An alien applying for adjustment of status under subsection (a)(1) has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of man-days (as required under subsection (a)(1)(B)(ii)).

"(ii) If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under clause (i) may be met by securing timely production of those records under regulations to be promulgated by the Attorney General.

Regulations.

"(iii) An alien can meet such burden of proof if the alien establishes that the alien has in fact performed the work described in subsection (a)(1)(B)(ii) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference. In such a case, the burden then shifts to the Attorney General to disprove the alien's evidence with a showing which negates the reasonableness of the inference to be drawn from the evidence.

"(4) TREATMENT OF APPLICATIONS BY DESIGNATED ENTITIES.—Each designated entity must agree to forward to the Attorney General applications filed with it in accordance with paragraph (1)(A)(ii) but not to forward to the Attorney General applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Attorney General.

"(5) LIMITATION ON ACCESS TO INFORMATION.—Files and records prepared for purposes of this section by designated entities operating under this section are confidential and the Attorney General and the Service shall not have access to such files or records relating to an alien without the consent of the alien.

"(6) CONFIDENTIALITY OF INFORMATION.—Neither the Attorney General, nor any other official or employee of the Department of Justice, or bureau or agency thereof, may—

"(A) use the information furnished pursuant to an application filed under this section for any purpose other than to make a determination on the application or for enforcement of paragraph (7),

"(B) make any publication whereby the information furnished by any particular individual can be identified, or

"(C) permit anyone other than the sworn officers and employees of the Department or bureau or agency or, with respect to applications filed with a designated entity, that designated entity, to examine individual applications.

Law enforcement and crime.

Anyone who uses, publishes, or permits information to be examined in violation of this paragraph shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.

"(7) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

"(A) CRIMINAL PENALTY.—Whoever—

"(i) files an application for adjustment of status under this section and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, or

"(ii) creates or supplies a false writing or document for use in making such an application,

shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.

Law enforcement and crime.

"(B) EXCLUSION.—An alien who is convicted of a crime under subparagraph (A) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(19).

8 USC 1182.

"(c) WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR EXCLUSION.—

8 USC 1151, 1152.

"(1) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

"(2) WAIVER OF GROUNDS FOR EXCLUSION.—In the determination of an alien's admissibility under subsection (a)(1)(C)—

8 USC 1182.

"(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (14), (20), (21), (25), and (32) of section 212(a) shall not apply.

"(B) WAIVER OF OTHER GROUNDS.—

"(i) IN GENERAL.—Except as provided in clause (ii), the Attorney General may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

"(ii) GROUNDS THAT MAY NOT BE WAIVED.—The following provisions of section 212(a) may not be waived by the Attorney General under clause (i):

"(I) Paragraph (9) and (10) (relating to criminals).

"(II) Paragraph (15) (relating to aliens likely to become public charges).

"(III) Paragraph (23) (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marihuana.

"(IV) Paragraphs (27), (28), and (29) (relating to national security and members of certain organizations).

"(V) Paragraph (33) (relating to those who assisted in the Nazi persecutions).

"(C) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for adjustment of status under this section due to being inadmissible under section 212(a)(15) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

8 USC 1182.

"(d) TEMPORARY STAY OF EXCLUSION OR DEPORTATION AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

"(1) BEFORE APPLICATION PERIOD.—The Attorney General shall provide that in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1) and who can establish a nonfrivolous case of eligibility to have his status adjusted under subsection (a) (but for the fact that he may not apply for such adjustment until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for adjustment, the alien—

"(A) may not be excluded or deported, and

"(B) shall be granted authorization to engage in employment in the United States and be provided an 'employment authorized' endorsement or other appropriate work permit.

"(2) DURING APPLICATION PERIOD.—The Attorney General shall provide that in the case of an alien who presents a nonfrivolous application for adjustment of status under subsection (a) during the application period, and until a final determination on the application has been made in accordance with this section, the alien—

"(A) may not be excluded or deported, and

"(B) shall be granted authorization to engage in employment in the United States and be provided an 'employment authorized' endorsement or other appropriate work permit.

"(e) ADMINISTRATIVE AND JUDICIAL REVIEW.—

"(1) ADMINISTRATIVE AND JUDICIAL REVIEW.—There shall be no administrative or judicial review of a determination respecting an application for adjustment of status under this section except in accordance with this subsection.

"(2) ADMINISTRATIVE REVIEW.—

"(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Attorney General shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

"(B) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

"(3) JUDICIAL REVIEW.—

"(A) LIMITATION TO REVIEW OF EXCLUSION OR DEPORTATION.—There shall be judicial review of such a denial only in the judicial review of an order of exclusion or deportation under section 106.

8 USC 1105a.

"(B) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings

Records.

are directly contrary to clear and convincing facts contained in the record considered as a whole.

"(f) TEMPORARY DISQUALIFICATION OF NEWLY LEGALIZED ALIENS FROM RECEIVING AID TO FAMILIES WITH DEPENDENT CHILDREN.—During the five-year period beginning on the date an alien was granted lawful temporary resident status under subsection (a), and notwithstanding any other provision of law, the alien is not eligible for aid under a State plan approved under part A of title IV of the Social Security Act. Notwithstanding the previous sentence, in the case of an alien who would be eligible for aid under a State plan approved under part A of title IV of the Social Security Act but for the previous sentence, the provisions of paragraph (3) of section 245A(h) shall apply in the same manner as they apply with respect to paragraph (1) of such section and, for this purpose, any reference in section 245A(h)(3) to paragraph (1) is deemed a reference to the previous sentence.

42 USC 601.

Ante, p. 3294.

"(g) TREATMENT OF SPECIAL AGRICULTURAL WORKERS.—For all purposes (subject to subsections (b)(3) and (f)) an alien whose status is adjusted under this section to that of an alien lawfully admitted for permanent residence, such status not having changed, shall be considered to be an alien lawfully admitted for permanent residence (within the meaning of section 101(a)(20)).

8 USC 1101.

"(h) SEASONAL AGRICULTURAL SERVICES DEFINED.—In this section, the term 'seasonal agricultural services' means the performance of field work related to planting, cultural practices, cultivating, growing and harvesting of fruits and vegetables of every kind and other perishable commodities, as defined in regulations by the Secretary of Agriculture.".

(2) The table of contents is amended by inserting after the item relating to section 209 the following new item:

"Sec. 210. Special agricultural workers.".

42 USC 602.

(b) CONFORMING AMENDMENTS.—(1) Section 402(f) of the Social Security Act (as added by section 201(b)(1) of this Act) is amended—

(A) by inserting "and subsection (f) of section 210 of such Act" before the period at the end of paragraph (1);

(B) by inserting "or (f)" after "such subsection (h)" in paragraph (2); and

(C) by inserting "or 210" after "such section 245A" in paragraph (2).

42 USC 672.

(2) The last sentence of section 472(a) of such Act (as added by section 201(b)(2)(A) of this Act) is amended by inserting "or 210(f)" after "245A(h)".

SEC. 303. DETERMINATIONS OF AGRICULTURAL LABOR SHORTAGES AND ADMISSION OF ADDITIONAL SPECIAL AGRICULTURAL WORKERS.

42 USC 401.

(a) IN GENERAL.—Chapter 1 of title II is amended by adding after section 210 (added by section 302 of this title) the following new section:

"DETERMINATION OF AGRICULTURAL LABOR SHORTAGES AND ADMISSION OF ADDITIONAL SPECIAL AGRICULTURAL WORKERS

8 USC 1161.

"SEC. 210A. (a) DETERMINATION OF NEED TO ADMIT ADDITIONAL SPECIAL AGRICULTURAL WORKERS.—

"(1) IN GENERAL.—Before the beginning of each fiscal year (beginning with fiscal year 1990 and ending with fiscal year 1993), the Secretaries of Labor and Agriculture (in this section referred to as the 'Secretaries') shall jointly determine the number (if any) of additional aliens who should be admitted to

the United States or who should otherwise acquire the status of aliens lawfully admitted for temporary residence under this section during the fiscal year to meet a shortage of workers to perform seasonal agricultural services in the United States during the year. Such number is, in this section, referred to as the 'shortage number'.

"(2) OVERALL DETERMINATION.—The shortage number is—

"(A) the anticipated need for special agricultural workers (as determined under paragraph (4)) for the fiscal year, minus

"(B) the supply of such workers (as determined under paragraph (5)) for that year,

divided by the factor (determined under paragraph (6)) for man-days per worker.

"(3) NO REPLENISHMENT IF NO SHORTAGE.—In determining the shortage number, the Secretaries may not determine that there is a shortage unless, after considering all of the criteria set forth in paragraphs (4) and (5), the Secretaries determine that there will not be sufficient able, willing, and qualified workers available to perform seasonal agricultural services required in the fiscal year involved.

"(4) DETERMINATION OF NEED.—For purposes of paragraph (2)(A), the anticipated need for special agricultural workers for a fiscal year is determined as follows:

"(A) BASE.—The Secretaries shall jointly estimate, using statistically valid methods, the number of man-days of labor performed in seasonal agricultural services in the United States in the previous fiscal year.

"(B) ADJUSTMENT FOR CROP LOSSES AND CHANGES IN INDUSTRY.—The Secretaries shall jointly—

"(i) increase such number by the number of man-days of labor in seasonal agricultural services in the United States that would have been needed in the previous fiscal year to avoid any crop damage or other loss that resulted from the unavailability of labor, and

"(ii) adjust such number to take into account the projected growth or contraction in the requirements for seasonal agricultural services as a result of—

"(I) growth or contraction in the seasonal agriculture industry, and

"(II) the use of technologies and personnel practices that affect the need for, and retention of, workers to perform such services.

"(5) DETERMINATION OF SUPPLY.—For purposes of paragraph (2)(B), the anticipated supply of special agricultural workers for a fiscal year is determined as follows:

"(A) BASE.—The Secretaries shall use the number estimated under paragraph (4)(A).

"(B) ADJUSTMENT FOR RETIREMENTS AND INCREASED RECRUITMENT.—The Secretaries shall jointly—

"(i) decrease such number by the number of man-days of labor in seasonal agricultural services in the United States that will be lost due to retirement and movement of workers out of performance of seasonal agricultural services, and

"(ii) increase such number by the number of additional man-days of labor in seasonal agricultural services in the United States that can reasonably be ex-

pected to result from the availability of able, willing, qualified, and unemployed special agricultural workers, rural low skill, or manual, laborers, and domestic agricultural workers.

"(C) BASES FOR INCREASED NUMBER.—In making the adjustment under subparagraph (B)(ii), the Secretaries shall consider—

"(i) the effect, if any, that improvements in wages and working conditions offered by employers will have on the availability of workers to perform seasonal agricultural services, taking into account the adverse effect, if any, of such improvements in wages and working conditions on the economic competitiveness of the perishable agricultural industry,

"(ii) the effect, if any, of enhanced recruitment efforts by the employers of such workers and government employment services in the traditional and expected areas of supply of such workers, and

"(iii) the number of able, willing and qualified individuals who apply for employment opportunities in seasonal agricultural services listed with offices of government employment services.

Wages.

"(D) CONSTRUCTION.—Nothing in this subsection shall be deemed to require any individual employer to pay any specified level of wages, to provide any specified working conditions, or to provide for any specified recruitment of workers.

"(6) DETERMINATION OF MAN-DAY PER WORKER FACTOR.—

"(A) FISCAL YEAR 1990.—For fiscal year 1990—

"(i) IN GENERAL.—Subject to clause (ii), for purposes of paragraph (2) the factor under this paragraph is the average number, as estimated by the Director of the Bureau of the Census under subsection (b)(3)(A)(ii), of man-days of seasonal agricultural services performed in the United States in fiscal year 1989 by special agricultural workers whose status is adjusted under section 210 and who performed seasonal agricultural services in the United States at any time during the fiscal year.

"(ii) LACK OF ADEQUATE INFORMATION.—If the Director determines that—

"(I) the information reported under subsection (b)(2)(A) is not adequate to make a reasonable estimate of the average number described in clause (i), but

"(II) the inadequacy of the information is not due to the refusal or failure of employers to report the information required under subsection (b)(2)(A),

the factor under this paragraph is 90.

"(B) FISCAL YEAR 1991.—For purposes of paragraph (2) for fiscal year 1991, the factor under this paragraph is the average number, as estimated by the Director of the Bureau of the Census under subsection (b)(3)(A)(ii), of man-days of seasonal agricultural services performed in the United States in fiscal year 1990 by special agricultural workers who obtained lawful temporary resident status under this section.

"(C) FISCAL YEARS 1992 AND 1993.—For purposes of paragraph (2) for fiscal years 1992 and 1993, the factor under

this paragraph is the average number, as estimated by the Director of the Bureau of the Census under subsection (b)(3)(A)(ii), of man-days of seasonal agricultural services performed in the United States in each of the two previous fiscal years by special agricultural workers who obtained lawful temporary resident status under this section during either of such fiscal years.

"(7) EMERGENCY PROCEDURE FOR INCREASE IN SHORTAGE NUMBER.—

"(A) REQUESTS.—After the beginning of a fiscal year, a group or association representing employers (and potential employers) of individuals who perform seasonal agricultural services may request the Secretaries to increase the shortage number for the fiscal year based upon a showing that extraordinary, unusual, and unforeseen circumstances have resulted in a significant increase in the shortage number due to (i) a significant increase in the need for special agricultural workers in the year, (ii) a significant decrease in the availability of able, willing, and qualified workers to perform seasonal agricultural services, or (iii) a significant decrease (below the factor used for purposes of paragraph (6)) in the number of man-days of seasonal agricultural services performed by aliens who were recently admitted (or whose status was recently adjusted) under this section.

"(B) NOTICE OF EMERGENCY PROCEDURE.—Not later than 3 days after the date the Secretaries receive a request under subparagraph (A), the Secretaries shall provide for notice in the Federal Register of the substance of the request and shall provide an opportunity for interested parties to submit information to the Secretaries on a timely basis respecting the request.

Federal Register, publication.

"(C) PROMPT DETERMINATION ON REQUEST.—The Secretaries, not later than 21 days after the date of the receipt of such a request and after consideration of any information submitted on a timely basis with respect to the request, shall make and publish in the Federal Register their determination on the request. The request shall be granted, and the shortage number for the fiscal year shall be increased, to the extent that the Secretaries determine that such an increase is justified based upon the showing and circumstances described in subparagraph (A) and that such an increase takes into account reasonable recruitment efforts having been undertaken.

Federal Register, publication.

"(8) PROCEDURE FOR DECREASING MAN-DAYS OF SEASONAL AGRICULTURAL SERVICES REQUIRED IN THE CASE OF OVER-SUPPLY OF WORKERS.—

"(A) REQUESTS.—After the beginning of a fiscal year, a group of special agricultural workers may request the Secretaries to decrease the number of man-days required under subparagraphs (A) and (B) of subsection (d)(2) with respect to the fiscal year based upon a showing that extraordinary, unusual, and unforeseen circumstances have resulted in a significant decrease in the shortage number due to (i) a significant decrease in the need for special agricultural workers in the year, (ii) a significant increase in the availability of able, willing, and qualified workers to

perform seasonal agricultural services, or (iii) a significant increase (above the factor used for purposes of paragraph (6)) in the number of man-days of seasonal agricultural services performed by aliens who were recently admitted (or whose status was recently adjusted) under this section.

Federal Register, publication.

"(B) NOTICE OF REQUEST.—Not later than 3 days after the date the Secretaries receive a request under subparagraph (A), the Secretaries shall provide for notice in the Federal Register of the substance of the request and shall provide an opportunity for interested parties to submit information to the Secretaries on a timely basis respecting the request.

Federal Register, publication.

"(C) DETERMINATION ON REQUEST.—The Secretaries, before the end of the fiscal year involved and after consideration of any information submitted on a timely basis with respect to the request, shall make and publish in the Federal Register their determination on the request. The request shall be granted, and the number of man-days specified in subparagraphs (A) and (B) of subsection (d)(2) for the fiscal year shall be reduced by the same proportion as the Secretaries determine that a decrease in the shortage number is justified based upon the showing and circumstances described in subparagraph (A).

"(b) ANNUAL NUMERICAL LIMITATION ON ADMISSION OF ADDITIONAL SPECIAL AGRICULTURAL WORKERS.—

"(1) ANNUAL NUMERICAL LIMITATION.—

"(A) FISCAL YEAR 1990.—The numerical limitation on the number of aliens who may be admitted under subsection (c)(1) or who otherwise may acquire lawful temporary residence under such subsection for fiscal year 1990 is—

"(i) 95 percent of the number of individuals whose status was adjusted under section 210(a), minus

"(ii) the number estimated under paragraph (3)(A)(i) for fiscal year 1989 (as adjusted in accordance with subparagraph (C)).

"(B) FISCAL YEARS 1991, 1992, AND 1993.—The numerical limitation on the number of aliens who may be admitted under subsection (c)(1) or who otherwise may acquire lawful temporary residence under such subsection for fiscal year 1991, 1992, or 1993 is—

"(i) 90 percent of the number described in this clause for the previous fiscal year (or, for fiscal year 1991, the number described in subparagraph (A)(i)), minus

"(ii) the number estimated under paragraph (3)(A)(i) for the previous fiscal year (as adjusted in accordance with subparagraph (C)).

"(C) ADJUSTMENT TO TAKE INTO ACCOUNT CHANGE IN NUMBER OF H-2 AGRICULTURAL WORKERS.—The number used under subparagraph (A)(ii) or (B)(ii) (as the case may be) shall be increased or decreased to reflect any numerical increase or decrease, respectively, in the number of aliens admitted to perform temporary seasonal agricultural services (as defined in subsection (g)(2)) under section 101(a)(15)(H)(ii)(a) in the fiscal year compared to such number in the previous fiscal year.

Ante, p. 3411.

"(2) REPORTING OF INFORMATION ON EMPLOYMENT.—In the case of a person or entity who employs, during a fiscal year (begin-

ning with fiscal year 1989 and ending with fiscal year 1992) in seasonal agricultural services, a special agricultural worker—

"(A) whose status was adjusted under section 210, the person or entity shall furnish an official designated by the Secretaries with a certificate (at such time, in such form, and containing such information as the Secretaries establish, after consultation with the Attorney General and the Director of the Bureau of the Census) of the number of man-days of employment performed by the alien in seasonal agricultural services during the fiscal year, or

"(B) who was admitted or whose status was adjusted under this section, the person or entity shall furnish the alien and an official designated by the Secretaries with a certificate (at such time, in such form, and containing such information as the Secretaries establish, after consultation with the Attorney General and the Director of the Bureau of the Census) of the number of man-days of employment performed by the alien in seasonal agricultural services during the fiscal year.

"(3) ANNUAL ESTIMATE OF EMPLOYMENT OF SPECIAL AGRICULTURAL WORKERS.—

"(A) IN GENERAL.—The Director of the Bureau of the Census shall, before the end of each fiscal year (beginning with fiscal year 1989 and ending with fiscal year 1992), estimate—

"(i) the number of special agricultural workers who have performed seasonal agricultural services in the United States at any time during the fiscal year, and

"(ii) for purposes of subsection (a)(5), the average number of man-days of such services certain of such workers have performed in the United States during the fiscal year.

"(B) FURNISHING OF INFORMATION TO DIRECTOR.—The official designated by the Secretaries under paragraph (2) shall furnish to the Director, in such form and manner as the Director specifies, information contained in the certifications furnished to the official under paragraph (2).

"(C) BASIS FOR ESTIMATES.—The Director shall base the estimates under subparagraph (A) on the information furnished under subparagraph (B), but shall take into account (to the extent feasible) the underreporting or duplicate reporting of special agricultural workers who have performed seasonal agricultural services at any time during the fiscal year. The Director shall periodically conduct appropriate surveys, of agricultural employers and others, to ascertain the extent of such underreporting or duplicate reporting.

"(D) REPORT.—The Director shall annually prepare and report to the Congress information on the estimates made under this paragraph.

"(c) ADMISSION OF ADDITIONAL SPECIAL AGRICULTURAL WORKERS.—

"(1) IN GENERAL.—For each fiscal year (beginning with fiscal year 1990 and ending with fiscal year 1993), the Attorney General shall provide for the admission for lawful temporary resident status, or for the adjustment of status to lawful temporary resident status, of a number of aliens equal to the shortage number (if any, determined under subsection (a)) for

the fiscal year, or, if less, the numerical limitation established under subsection (b)(1) for the fiscal year. No such alien shall be admitted who is not admissible to the United States as an immigrant, except as otherwise provided under subsection (e).

"(2) ALLOCATION OF VISAS.—The Attorney General shall, in consultation with the Secretary of State, provide such process as may be appropriate for aliens to petition for immigrant visas or to adjust status to become aliens lawfully admitted for temporary residence under this subsection. No alien may be issued a visa as an alien to be admitted under this subsection or may have the alien's status adjusted under this subsection unless the alien has had a petition approved under this paragraph.

"(d) RIGHTS OF ALIENS ADMITTED OR ADJUSTED UNDER THIS SECTION.—

"(1) ADJUSTMENT TO PERMANENT RESIDENCE.—The Attorney General shall adjust the status of any alien provided lawful temporary resident status under subsection (c) to that of an alien lawfully admitted for permanent residence at the end of the 3-year period that begins on the date the alien was granted such temporary resident status.

"(2) TERMINATION OF TEMPORARY RESIDENCE.—During the period of temporary resident status granted an alien under subsection (c), the Attorney General may terminate such status only upon a determination under this Act that the alien is deportable.

"(3) AUTHORIZED TRAVEL AND EMPLOYMENT DURING TEMPORARY RESIDENCE.—During the period an alien is in lawful temporary resident status granted under this section, the alien has the right to travel abroad (including commutation from a residence abroad) and shall be granted authorization to engage in employment in the United States and shall be provided an 'employment authorized' endorsement or other appropriate work permit, in the same manner as for aliens lawfully admitted for permanent residence.

"(4) IN GENERAL.—Except as otherwise provided in this subsection, an alien who acquires the status of an alien lawfully admitted for temporary residence under subsection (c), such status not having changed, is considered to be an alien lawfully admitted for permanent residence (as described in section 101(a)(20)), other than under any provision of the immigration laws.

8 USC 1101.

"(5) EMPLOYMENT IN SEASONAL AGRICULTURAL SERVICES REQUIRED.—

"(A) FOR 3 YEARS TO AVOID DEPORTATION.—In order to meet the requirement of this paragraph (for purposes of this subsection and section 241(a)(20)), an alien, who has obtained the status of an alien lawfully admitted for temporary residence under this section, must establish to the Attorney General that the alien has performed 90 man-days of seasonal agricultural services—

8 USC 1251.

"(i) during the one-year period beginning on the date the alien obtained such status,

"(ii) during the one-year period beginning one year after the date the alien obtained such status, and

"(iii) during the one-year period beginning two years after the date the alien obtained such status.

"(B) FOR 5 YEARS FOR NATURALIZATION.—Notwithstanding any provision in title III, an alien admitted under this section may not be naturalized as a citizen of the United States under that title unless the alien has performed 90 man-days of seasonal agricultural services in each of 5 fiscal years (not including any fiscal year before the fiscal year in which the alien was admitted under this section). 8 USC 1401.

"(C) PROOF.—In meeting the requirements of subparagraphs (A) and (B), an alien may submit such documentation as may be submitted under section 210(b)(3). *Ante*, p. 3417.

"(D) ADJUSTMENT OF NUMBER OF MAN-DAYS REQUIRED.—The number of man-days specified in subparagraphs (A) and (B) are subject to adjustment under subsection (a)(8).

"(6) DISQUALIFICATION FROM CERTAIN PUBLIC ASSISTANCE.—The provisions of section 245A(h) (other than paragraph (1)(A)(iii)) shall apply to an alien who has obtained the status of an alien lawfully admitted for temporary residence under this section, during the five-year period beginning on the date the alien obtained such status, in the same manner as they apply to an alien granted lawful temporary residence under section 245A; except that, for purposes of this paragraph, assistance furnished under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) or under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) shall not be construed to be financial assistance described in section 245A(h)(1)(A)(i). *Ante*, p. 3394. *Ante*, p. 3394.

"(e) DETERMINATION OF ADMISSIBILITY OF ADDITIONAL WORKERS.—In the determination of an alien's admissibility under subsection (c)(1)—

"(1) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (14), (20), (21), (25), and (32) of section 212(a) shall not apply. 8 USC 1182.

"(2) WAIVER OF CERTAIN GROUNDS FOR EXCLUSION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Attorney General may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

"(B) GROUNDS THAT MAY NOT BE WAIVED.—The following provisions of section 212(a) may not be waived by the Attorney General under subparagraph (A):

"(i) Paragraphs (9) and (10) (relating to criminals).

"(ii) Paragraph (23) (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marihuana.

"(iii) Paragraphs (27), (28), and (29) (relating to national security and members of certain organizations).

"(iv) Paragraph (33) (relating to those who assisted in the Nazi persecutions).

"(C) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for adjustment of status under this section due to being inadmissible under section 212(a)(15) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

"(3) MEDICAL EXAMINATION.—The alien shall be required, at the alien's expense, to undergo such a medical examination

(including a determination of immunization status) as is appropriate and conforms to generally accepted professional standards of medical practice.

"(f) TERMS OF EMPLOYMENT RESPECTING ALIENS ADMITTED UNDER THIS SECTION.—

"(1) EQUAL TRANSPORTATION FOR DOMESTIC WORKERS.—If a person employs an alien, who was admitted or whose status is adjusted under subsection (c), in the performance of seasonal agricultural services and provides transportation arrangements or assistance for such workers, the employer must provide the same transportation arrangements or assistance (generally comparable in expense and scope) for other individuals employed in the performance of seasonal agricultural services.

"(2) PROHIBITION OF FALSE INFORMATION BY CERTAIN EMPLOYERS.—A farm labor contractor, agricultural employer, or agricultural association who is an exempt person (as defined in paragraph (5)) shall not knowingly provide false or misleading information to an alien who was admitted or whose status was adjusted under subsection (c) concerning the terms, conditions, or existence of agricultural employment (described in subsection (a), (b), or (c) of section 301 of MASAWPA).

29 USC 1831.

"(3) PROHIBITION OF DISCRIMINATION BY CERTAIN EMPLOYERS.—In the case of an exempt person and with respect to aliens who have been admitted or whose status has been adjusted under subsection (c), the provisions of section 505 of MASAWPA shall apply to any proceeding under or related to (and rights and protections afforded by) this section in the same manner as they apply to proceedings under or related to (and rights and protections afforded by) MASAWPA.

29 USC 1855.

"(4) ENFORCEMENT.—If a person or entity—

"(A) fails to furnish a certificate required under subsection (b)(2) or furnishes false statement of a material fact in such a certificate,

"(B) violates paragraph (1) or (2), or

"(C) violates the provisions of section 505(a) of MASAWPA (as they apply under paragraph (3)),

the person or entity is subject to a civil money penalty under section 503 of MASAWPA in the same manner as if the person or entity had committed a violation of MASAWPA.

29 USC 1853.

"(5) SPECIAL DEFINITIONS.—In this subsection:

"(A) MASAWPA.—The term 'MASAWPA' means the Migrant and Seasonal Agricultural Worker Protection Act (Public Law 97-470).

29 USC 1801 note.

"(B) The term 'exempt person' means a person or entity who would be subject to the provisions of MASAWPA but for paragraph (1) or (2), or both, of section 4(a) of MASAWPA.

"(g) GENERAL DEFINITIONS.—In this section:

"(1) The term 'special agricultural worker' means an individual, regardless of present status, whose status was at any time adjusted under section 210 or who at any time was admitted or had the individual's status adjusted under subsection (c).

"(2) The term 'seasonal agricultural services' has the meaning given such term in section 210(h).

"(3) The term 'Director' refers to the Director of the Bureau of the Census.

"(4) The term 'man-day' means, with respect to seasonal agricultural services, the performance during a calendar day of at least 4 hours of seasonal agricultural services.".

(b) DEPORTATION OF CERTAIN WORKERS WHO FAIL TO PERFORM SEASONAL AGRICULTURAL SERVICES.—Section 241(a) (8 U.S.C. 1251(a)) is amended—

(1) by striking out "or" at the end of paragraph (18),

(2) by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; or", and

(3) by adding at the end the following new paragraph:

"(20) obtains the status of an alien who becomes lawfully admitted for temporary residence under section 210A and fails to meet the requirement of section 210A(d)(5)(A) by the end of the applicable period.".

Ante, p. 3422.

(c) APPLICATION OF CERTAIN STATE ASSISTANCE PROVISIONS.—For purposes of section 204 of this Act (relating to State legalization assistance), the term "eligible legalized alien" includes an alien who becomes an alien lawfully admitted for permanent or temporary residence under section 210 or 210A of the Immigration and Nationality Act, but only until the end of the 5-year period beginning on the date the alien was first granted permanent or temporary resident status.

8 USC 1255a note.

Ante, pp. 3417, 3422.

(d) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 210 (as inserted by section 302) the following new item:

"Sec. 210A. Determination of agricultural labor shortages and admission of additional special agricultural workers.".

(e) CONFORMING AMENDMENTS.—(1) Section 402(f) of the Social Security Act (as added by section 201(b)(1) of this Act and amended by section 302(b)(1) of this Act) is further amended—

42 USC 602.

(A) by striking out "and subsection (f) of section 210 of such Act" in paragraph (1) and inserting in lieu thereof ", subsection (f) of section 210 of such Act, and subsection (d)(7) of section 210A of such Act";

(B) by striking out "such subsection (h) or (f)" in paragraph (2) and inserting in lieu thereof "such subsection (h), (f), or (d)(7)"; and

(C) by striking out "such section 245A or 210" in paragraph (2) and inserting in lieu thereof "such section 245A, 210, or 210A".

(2) The last sentence of section 472(a) of such Act (as added by section 201(b)(2)(A) of this Act and amended by section 302(b)(2) of this Act) is further amended by striking out "245A(h) or 210(f)" and inserting in lieu thereof "245A(h), 210(f), or 210A(d)(7)".

42 USC 672.

SEC. 304. COMMISSION ON AGRICULTURAL WORKERS.

(a) ESTABLISHMENT AND COMPOSITION OF COMMISSION.—(1) There is established a Commission on Agricultural Workers (hereinafter in this section referred to as the "Commission"), to be composed of 12 members—

8 USC 1160 note.

(A) six to be appointed by the President,

(B) three to be appointed by the Speaker of the House of Representatives, and

(C) three to be appointed by the President pro tempore of the Senate.

(2) In making appointments under paragraph (1)(A), the President shall consult—

(A) with the Attorney General in appointing two members,

(B) with the Secretary of Labor in appointing two members, and

(C) with the Secretary of Agriculture in appointing two members.

(3) A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(4) Members shall be appointed to serve for the life of the Commission.

(b) FUNCTIONS OF COMMISSION.—(1) The Commission shall review the following:

(A) The impact of the special agricultural worker provisions on the wages and working conditions of domestic farmworkers, on the adequacy of the supply of agricultural labor, and on the ability of agricultural workers to organize.

(B) The extent to which aliens who have obtained lawful permanent or temporary resident status under the special agricultural worker provisions continue to perform seasonal agricultural services and the requirement that aliens who become special agricultural workers under section 210A of the Immigration and Nationality Act perform 90 man-days of seasonal agricultural services for certain periods in order to avoid deportation or to become naturalized.

Ante, p. 3422.

(C) The impact of the legalization program and the employers' sanctions on the supply of agricultural labor.

(D) The extent to which the agricultural industry relies on the employment of a temporary workforce.

(E) The adequacy of the supply of agricultural labor in the United States and whether this supply needs to be further supplemented with foreign labor and the appropriateness of the numerical limitation on additional special agricultural workers imposed under section 210A(b) of the Immigration and Nationality Act.

(F) The extent of unemployment and underemployment of farmworkers who are United States citizens or aliens lawfully admitted for permanent residence.

(G) The extent to which the problems of agricultural employers in securing labor are related to the lack of modern labor-management techniques in agriculture.

(H) Whether certain geographic regions need special programs or provisions to meet their unique needs for agricultural labor.

(I) Impact of the special agricultural worker provisions on the ability of crops harvested in the United States to compete in international markets.

(2) The Commission shall conduct an overall evaluation of the special agricultural worker provisions, including the process for determining whether or not an agricultural labor shortage exists.

(c) REPORT TO CONGRESS.—The Commission shall report to the Congress not later than five years after the date of the enactment of this Act on its reviews under subsection (b). The Commission shall include in its report recommendations for appropriate changes that should be made in the special agricultural worker provisions.

(d) COMPENSATION OF MEMBERS.—(1) Each member of the Commission who is not an officer or employee of the Federal Government is entitled to receive, subject to such amounts as are provided in advance in appropriations Acts, the daily equivalent of the mini-

mum annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which the member is engaged in the actual performance of duties of the Commission. Each member of the Commission who is such an officer or employee shall serve without additional pay. 5 USC 5332.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence.

(e) MEETINGS OF COMMISSION.—(1) Five members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) The Chairman and the Vice Chairman of the Commission shall be elected by the members of the Commission for the life of the Commission.

(3) The Commission shall meet at the call of the Chairman or a majority of its members.

(f) STAFF.—(1) The Chairman, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other additional personnel as may be necessary to enable the Commission to carry out its functions, without regard to the laws, rules, and regulations governing appointment in the competitive service. Any Federal employee subject to those laws, rules, and regulations may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(2) The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the minimum annual rate of basic pay payable for GS-18 of the General Schedule.

(g) AUTHORITY OF COMMISSION.—(1) The Commission may for the purpose of carrying out this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate.

(2) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of such department or agency shall furnish such information to the Commission.

(3) The Commission may accept, use, and dispose of gifts or donations of services or property.

(4) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(5) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(h) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(2) Notwithstanding any other provision of this section, the authority to make payments, or to enter into contracts, under this section shall be effective only to such extent, or in such amounts, as are provided in advance in appropriations Acts.

(i) TERMINATION DATE.—The Commission shall cease to exist at the end of the 63-month period beginning with the month after the month in which this Act is enacted.

(j) DEFINITIONS.—In this section:

(1) The term "employer sanctions" means the provisions of section 274A of the Immigration and Nationality Act.

Ante, p. 3360.

(2) The term "legalization program" refers to the provisions of section 245A of the Immigration and Nationality Act.

Ante, p. 3394.

(3) The term "seasonal agricultural services" has the meaning given such term in section 210(h) of the Immigration and Nationality Act.

Ante, p. 3417.

(4) The term "special agricultural worker provisions" refers to sections 210 and 210A of the Immigration and Nationality Act.

Ante, p. 3422.

8 USC 1101 note.

SEC. 305. ELIGIBILITY OF H-2 AGRICULTURAL WORKERS FOR CERTAIN LEGAL ASSISTANCE.

A nonimmigrant worker admitted to or permitted to remain in the United States under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) for agricultural labor or service shall be considered to be an alien described in section 101(a)(20) of such Act (8 U.S.C. 1101(a)(20)) for purposes of establishing eligibility for legal assistance under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.), but only with respect to legal assistance on matters relating to wages, housing, transportation, and other employment rights as provided in the worker's specific contract under which the nonimmigrant was admitted.

Ante, p. 3411.

PART B—OTHER CHANGES IN THE IMMIGRATION LAW

SEC. 311. CHANGE IN COLONIAL QUOTA.

(a) INCREASE TO 5,000.—(1) Section 202(c) (8 U.S.C. 1152(c)) is amended by striking out "six hundred" and inserting in lieu thereof "5,000".

(2) Section 202(e) (8 U.S.C. 1152(e)) is amended by striking out "600" and inserting in lieu thereof "5,000".

8 USC 1152 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to fiscal years beginning after the date of the enactment of this Act.

SEC. 312. G-IV SPECIAL IMMIGRANTS.

(a) SPECIAL IMMIGRANT STATUS FOR CERTAIN OFFICERS AND EMPLOYEES OF INTERNATIONAL ORGANIZATIONS AND THEIR IMMEDIATE FAMILY MEMBERS.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended by striking out "or" at the end of subparagraph (G), by striking out the period at the end of subparagraph (H) and inserting in lieu thereof "; or", and by adding at the end of the following new subparagraph:

"(I)(i) an immigrant who is the unmarried son or daughter of an officer or employee, or of a former officer or employee, of an international organization described in paragraph (15)(G)(i), and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least seven years between the ages of five and 21 years, and (II)

applies for admission under this subparagraph no later than his twenty-fifth birthday or six months after the date this subparagraph is enacted, whichever is later;

"(ii) an immigrant who is the surviving spouse of a deceased officer or employee of such an international organization, and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least 15 years before the date of the death of such officer or employee, and (II) applies for admission under this subparagraph no later than six months after the date of such death or six months after the date this subparagraph is enacted, whichever is later;

"(iii) an immigrant who is a retired officer or employee of such an international organization, and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least 15 years before the date of the officer or employee's retirement from any such international organization, and (II) applies for admission under this subparagraph before January 1, 1993, and no later than six months after the date of such retirement or six months after the date this subparagraph is enacted, whichever is later; or Retirement.

"(iv) an immigrant who is the spouse of a retired officer or employee accorded the status of special immigrant under clause (iii), accompanying or following to join such retired officer or employee as a member of his immediate family.".

(b) NONIMMIGRANT STATUS FOR CERTAIN PARENTS AND CHILDREN OF ALIENS GIVEN SPECIAL IMMIGRANT STATUS.—Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended by striking out "or" at the end of subparagraph (L), by striking out the period at the end of subparagraph (M) and inserting in lieu thereof "; or", and by adding at the end the following new paragraph:

"(N)(i) the parent of an alien accorded the status of special immigrant under paragraph (27)(I)(i), but only if and while the alien is a child, or

"(ii) a child of such parent or of an alien accorded the status of a special immigrant under clause (ii), (iii), or (iv) of paragraph (27)(I).".

SEC. 313. VISA WAIVER PILOT PROGRAM FOR CERTAIN VISITORS.

(a) ESTABLISHING VISA WAIVER PILOT PROGRAM.—Chapter 2 of title II, as amended by section 301(c), is further amended by adding after section 216 the following new section:

"VISA WAIVER PILOT PROGRAM FOR CERTAIN VISITORS

"SEC. 217. (a) ESTABLISHMENT OF PILOT PROGRAM.—The Attorney General and the Secretary of State are authorized to establish a pilot program (hereafter in this section referred to as the 'pilot program') under which the requirement of paragraph (26)(B) of section 212(a) may be waived by the Attorney General and the 8 USC 1187. 8 USC 1182.

Secretary of State, acting jointly and in accordance with this section, in the case of an alien who meets the following requirements:

"(1) SEEKING ENTRY AS TOURIST FOR 90 DAYS OR LESS.—The alien is applying for admission during the pilot program period (as defined in subsection (e)) as a nonimmigrant visitor (described in section 101(a)(15)(B)) for a period not exceeding 90 days.

8 USC 1101.

"(2) NATIONAL OF PILOT PROGRAM COUNTRY.—The alien is a national of a country which—

"(A) extends (or agrees to extend) reciprocal privileges to citizens and nationals of the United States, and

"(B) is designated as a pilot program country under subsection (c).

"(3) EXECUTES ENTRY CONTROL AND WAIVER FORMS.—The alien before the time of such admission—

"(A) completes such immigration form as the Attorney General shall establish under subsection (b)(3), and

"(B) executes a waiver of review and appeal described in subsection (b)(4).

"(4) ROUND-TRIP TICKET.—The alien has a round-trip, nontransferable transportation ticket which—

"(A) is valid for a period of not less than one year,

"(B) is nonrefundable except in the country in which issued or in the country of the alien's nationality or residence,

Contracts.

"(C) is issued by a carrier which has entered into an agreement described in subsection (d), and

"(D) guarantees transport of the alien out of the United States at the end of the alien's visit.

Defense and national security. Safety.

"(5) NOT A SAFETY THREAT.—The alien has been determined not to represent a threat to the welfare, health, safety, or security of the United States.

"(6) NO PREVIOUS VIOLATION.—If the alien previously was admitted without a visa under this section, the alien must not have failed to comply with the conditions of any previous admission as such a nonimmigrant.

"(b) CONDITIONS BEFORE PILOT PROGRAM CAN BE PUT INTO OPERATION.—

"(1) PRIOR NOTICE TO CONGRESS.—The pilot program may not be put into operation until the end of the 30-day period beginning on the date that the Attorney General submits to the Congress a certification that the screening and monitoring system described in paragraph (2) is operational and effective and that the form described in paragraph (3) has been produced.

"(2) AUTOMATED DATA ARRIVAL AND DEPARTURE SYSTEM.—The Attorney General in cooperation with the Secretary of State shall develop and establish an automated data arrival and departure control system to screen and monitor the arrival into and departure from the United States of nonimmigrant visitors receiving a visa waiver under the pilot program.

"(3) VISA WAIVER INFORMATION FORM.—The Attorney General shall develop a form for use under the pilot program. Such form shall be consistent and compatible with the control system developed under paragraph (2). Such form shall provide for, among other items—

"(A) a summary description of the conditions for excluding nonimmigrant visitors from the United States under section 212(a) and under the pilot program, 8 USC 1182.

"(B) a description of the conditions of entry with a waiver under the pilot program, including the limitation of such entry to 90 days and the consequences of failure to abide by such conditions, and

"(C) questions for the alien to answer concerning any previous denial of the alien's application for a visa.

"(4) WAIVER OF RIGHTS.—An alien may not be provided a waiver under the pilot program unless the alien has waived any right—

"(A) to review or appeal under this Act of an immigration officer's determination as to the admissibility of the alien at the port of entry into the United States, or

"(B) to contest, other than on the basis of an application for asylum, any action for deportation against the alien.

"(c) DESIGNATION OF PILOT PROGRAM COUNTRIES.—

"(1) UP TO 8 COUNTRIES.—The Attorney General and the Secretary of State acting jointly may designate up to eight countries as pilot program countries for purposes of the pilot program.

"(2) INITIAL QUALIFICATIONS.—For the initial period described in paragraph (4), a country may not be designated as a pilot program country unless the following requirements are met:

"(A) LOW NONIMMIGRANT VISA REFUSAL RATE FOR PREVIOUS 2-YEAR PERIOD.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during the two previous full fiscal years was less than 2.0 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years.

"(B) LOW NONIMMIGRANT VISA REFUSAL RATE FOR EACH OF 2 PREVIOUS YEARS.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during either of such two previous full fiscal years was less than 2.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

"(3) CONTINUING AND SUBSEQUENT QUALIFICATIONS.—For each fiscal year (within the pilot program period) after the initial period—

"(A) CONTINUING QUALIFICATION.—In the case of a country which was a pilot program country in the previous fiscal year, a country may not be designated as a pilot program country unless the sum of—

"(i) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission during such previous fiscal year as a nonimmigrant visitor, and

"(ii) the total number of nationals of that country who were admitted as nonimmigrant visitors during such previous fiscal year and who violated the terms of such admission,

was less than 2 percent of the total number of nationals of that country who applied for admission as nonimmigrant visitors during such previous fiscal year.

"(B) NEW COUNTRIES.—In the case of another country, the country may not be designated as a pilot program country unless the following requirements are met:

"(i) LOW NONIMMIGRANT VISA REFUSAL RATE IN PREVIOUS 2-YEAR PERIOD.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during the two previous full fiscal years was less than 2 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years.

"(ii) LOW NONIMMIGRANT VISA REFUSAL RATE IN EACH OF THE 2 PREVIOUS YEARS.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during either of such two previous full fiscal years was less than 2.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

"(4) INITIAL PERIOD.—For purposes of paragraphs (2) and (3), the term 'initial period' means the period beginning at the end of the 30-day period described in subsection (b)(1) and ending on the last day of the first fiscal year which begins after such 30-day period.

"(d) CARRIER AGREEMENTS.—

"(1) IN GENERAL.—The agreement referred to in subsection (a)(4)(C) is an agreement between a carrier and the Attorney General under which the carrier agrees, in consideration of the waiver of the visa requirement with respect to a nonimmigrant visitor under the pilot program—

"(A) to indemnify the United States against any costs for the transportation of the alien from the United States if the visitor is refused admission to the United States or remains in the United States unlawfully after the 90-day period described in subsection (a)(1)(A), and

"(B) to submit daily to immigration officers any immigration forms received with respect to nonimmigrant visitors provided a waiver under the pilot program.

"(2) TERMINATION OF AGREEMENTS.—The Attorney General may terminate an agreement under paragraph (1) with five days' notice to the carrier for the carrier's failure to meet the terms of such agreement.

"(e) DEFINITION OF PILOT PROGRAM PERIOD.—For purposes of this section, the term 'pilot program period' means the period beginning at the end of the 30-day period referred to in subsection (b)(1) and ending on the last day of the third fiscal year which begins after such 30-day period.".

(b) LIMITATION ON STAY IN UNITED STATES.—Section 214(a) (8 U.S.C. 1184(a)) is amended by adding at the end the following new sentence: "No alien admitted to the United States without a visa pursuant to section 217 may be authorized to remain in the United States as a nonimmigrant visitor for a period exceeding 90 days from the date of admission.".

Ante, p. 3435.

(c) PROHIBITION OF ADJUSTMENT TO IMMIGRANT STATUS.—Section 245(c) (8 U.S.C. 1255(c)), as amended by section 312(b), is further amended by striking out "or" before "(4)" and by inserting before the period at the end the following: "; or (5) an alien (other than an immediate relative as defined in section 201(b)) who was admitted as

a nonimmigrant visitor without a visa under section 212(l) or section 217".

8 USC 1182; *ante*, p. 3435.

(d) PROHIBITION OF ADJUSTMENT OF NONIMMIGRANT STATUS.—Section 248 (8 U.S.C. 1258) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and" and by adding at the end thereof the following new paragraph:

"(4) an alien admitted as a nonimmigrant visitor without a visa under section 212(l) or section 217.".

(e) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The table of contents is amended by adding after the item relating to section 216 the following new item:

"Sec. 217. Visa waiver pilot program for certain visitors.".

SEC. 314. MAKING VISAS AVAILABLE TO NONPREFERENCE IMMIGRANTS.

8 USC 1153 note.

(a) AUTHORIZATION OF ADDITIONAL VISAS.—Notwithstanding the numerical limitations in section 201(a) of the Immigration and Nationality Act (8 U.S.C. 1151(a)), but subject to the numerical limitations in section 202 of such Act, there shall be made available to qualified immigrants described in section 203(a)(7) of such Act 5,000 visa numbers in each of fiscal years 1987 and 1988.

8 USC 1152.
8 USC 1153.

(b) DISTRIBUTION OF VISA NUMBERS.—The Secretary of State shall provide for making visa numbers provided under subsection (a) available in the same manner as visa numbers are otherwise made available to qualified immigrants under section 203(a)(7) of the Immigration and Nationality Act, except that—

(1) the Secretary shall first make such visa numbers available to qualified immigrants who are natives of foreign states the immigration of whose natives to the United States was adversely affected by the enactment of Public Law 89-236, and

8 USC 1151.

(2) within groups of qualified immigrants, such visa numbers shall be made available strictly in the chronological order in which they qualify after the date of the enactment of this Act.

(c) WAIVER OF LABOR CERTIFICATION.—Section 212(a)(14) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(14)) shall not apply in the determination of an immigrant's eligibility to receive any visa made available under this section or in the admission of such an immigrant issued such a visa under this section.

(d) APPLICATION OF DEFINITIONS OF IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing in this section shall be held to repeal, amend, alter, modify, affect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization.

8 USC 1101 note.

SEC. 315. MISCELLANEOUS PROVISIONS.

(a) EQUAL TREATMENT OF FATHERS.—Section 101(b)(1)(D) (8 U.S.C. 1101(b)(1)(D)) is amended by inserting "or to its natural father if the father has or had a bona fide parent-child relationship with the person" after "natural mother".

(b) SUSPENSION OF DEPORTATION FOR CERTAIN ALIENS.—Section 244(b) (8 U.S.C. 1254(b)), as amended by section 312(c), is further amended by adding at the end the following new paragraph:

"(3) An alien shall not be considered to have failed to maintain continuous physical presence in the United States under paragraphs (1) and (2) of subsection (a) if the absence from the United States was brief, casual, and innocent and did not meaningfully interrupt the continuous physical presence.".

8 USC 1253 note.

(c) SENSE OF CONGRESS RESPECTING TREATMENT OF CUBAN POLITICAL PRISONERS.—It is the sense of the Congress that the Secretary of State should provide for the issuance of visas to nationals of Cuba who are or were imprisoned in Cuba for political activities without regard to section 243(g) of the Immigration and Nationality Act (8 U.S.C. 1253(g)).

Vessels.
Aircraft and air carriers.
8 USC 1101 note.

(d) DENIAL OF CREW MEMBER NONIMMIGRANT VISA IN CASES OF STRIKES.—(1) Except as provided in paragraph (2), during the one-year period beginning on the date of the enactment of this Act, an alien may not be admitted to the United States as an alien crewman (under section 101(a)(15)(D) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(D)) for the purpose of performing service on board a vessel or aircraft at a time when there is a strike in the bargaining unit of the employer in which the alien intends to perform such service.

(2) Paragraph (1) shall not apply to an alien employee who was employed before the date of the strike concerned and who is seeking admission to enter the United States to continue to perform services as a crewman to the same extent and on the same routes as the alien performed such services before the date of the strike.

TITLE IV—REPORTS TO CONGRESS

8 USC 1364.

SEC. 401. TRIENNIAL COMPREHENSIVE REPORT ON IMMIGRATION.

President of U.S.

(a) TRIENNIAL REPORT.—The President shall transmit to the Congress, not later than January 1, 1989, and not later than January 1 of every third year thereafter, a comprehensive immigration-impact report.

(b) DETAILS IN EACH REPORT.—Each report shall include—

(1) the number and classification of aliens admitted (whether as immediate relatives, special immigrants, refugees, or under the preferences classifications, or as nonimmigrants), paroled, or granted asylum, during the relevant period;

(2) a reasonable estimate of the number of aliens who entered the United States during the period without visas or who became deportable during the period under section 241 of the Immigration and Nationality Act; and

8 USC 1251.

(3) a description of the impact of admissions and other entries of immigrants, refugees, asylees, and parolees into the United States during the period on the economy, labor and housing markets, the educational system, social services, foreign policy, environmental quality and resources, the rate, size, and distribution of population growth in the United States, and the impact on specific States and local units of government of high rates of immigration resettlement.

(c) HISTORY AND PROJECTIONS.—The information (referred to in subsection (b)) contained in each report shall be—

(1) described for the preceding three-year period, and

(2) projected for the succeeding five-year period, based on reasonable estimates substantiated by the best available evidence.

(d) RECOMMENDATIONS.—The President also may include in such report any appropriate recommendations on changes in numerical limitations or other policies under title II of the Immigration and Nationality Act bearing on the admission and entry of such aliens to the United States.

8 USC 1151.

SEC. 402. REPORTS ON UNAUTHORIZED ALIEN EMPLOYMENT.

President of U.S.
8 USC 1324a note.

The President shall transmit to Congress annual reports on the implementation of section 274A of the Immigration and Nationality Act (relating to unlawful employment of aliens) during the first three years after its implementation. Each report shall include—

Ante, p. 3360.

(1) an analysis of the adequacy of the employment verification system provided under subsection (b) of that section;

(2) a description of the status of the development and implementation of changes in that system under subsection (d) of that section, including the results of any demonstration projects conducted under paragraph (4) of such subsection; and

(3) an analysis of the impact of the enforcement of that section on—

(A) the employment, wages, and working conditions of United States workers and on the economy of the United States,

(B) the number of aliens entering the United States illegally or who fail to maintain legal status after entry, and

(C) the violation of terms and conditions of nonimmigrant visas by foreign visitors.

SEC. 403. REPORTS ON H-2A PROGRAM.

8 USC 1186 note.

(a) PRESIDENTIAL REPORTS.—The President shall transmit to the Committees on the Judiciary of the Senate and of the House of Representatives reports on the implementation of the temporary agricultural worker (H-2A) program, which shall include—

(1) the number of foreign workers permitted to be employed under the program in each year;

(2) the compliance of employers and foreign workers with the terms and conditions of the program;

(3) the impact of the program on the labor needs of the United States agricultural employers and on the wages and working conditions of United States agricultural workers; and

(4) recommendations for modifications of the program, including—

(A) improving the timeliness of decisions regarding admission of temporary foreign workers under the program,

(B) removing any economic disincentives to hiring United States citizens or permanent resident aliens for jobs for which temporary foreign workers have been requested,

(C) improving cooperation among government agencies, employers, employer associations, workers, unions, and other worker associations to end the dependence of any industry on a constant supply of temporary foreign workers, and

(D) the relative benefits to domestic workers and burdens upon employers of a policy which requires employers, as a condition for certification under the program, to continue

to accept qualified United States workers for employment after the date the H-2A workers depart for work with the employer.

The recommendations under subparagraph (D) shall be made in furtherance of the congressional policy that aliens not be admitted under the H-2A program unless there are not sufficient workers in the United States who are able, willing, and qualified to perform the labor or services needed and that the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

(b) DEADLINES.—A report on the H-2A temporary worker program under subsection (a) shall be submitted not later than two years after the date of the enactment of this Act, and every two years thereafter.

8 USC 1255a note.
President of U.S.
Ante, p. 3394.

SEC. 404. REPORTS ON LEGALIZATION PROGRAM.

(a) IN GENERAL.—The President shall transmit to Congress two reports on the legalization program established under section 245A of the Immigration and Nationality Act.

(b) INITIAL REPORT DESCRIBING LEGALIZED ALIENS.—The first report, which shall be transmitted not later than 18 months after the end of the application period for adjustment to lawful temporary residence status under the program, shall include a description of the population whose status is legalized under the program, including—

(1) geographical origins and manner of entry of these aliens into the United States,

(2) their demographic characteristics, and

(3) a general profile and characteristics.

(c) SECOND REPORT ON IMPACT OF LEGALIZATION PROGRAM.—The second report, which shall be transmitted not later than three years after the date of transmittal of the first report, shall include a description of—

(1) the impact of the program on State and local governments and on public health and medical needs of individuals in the different regions of the United States,

(2) the patterns of employment of the legalized population, and

(3) the participation of legalized aliens in social service programs.

8 USC 1187 note.

SEC. 405. REPORT ON VISA WAIVER PILOT PROGRAM.

(a) MONITORING AND REPORT ON THE PILOT PROGRAM.—The Attorney General and the Secretary of State shall jointly monitor the pilot program established under section 217 of the Immigration and Nationality Act and shall report to the Congress not later than two years after the beginning of the program.

Ante, p. 3435.

(b) DETAILS IN REPORT.—The report shall include—

(1) an evaluation of the program, including its impact—

(A) on the control of alien visitors to the United States,

(B) on consular operations in the countries designated under the program, as well as on consular operations in other countries in which additional consular personnel have been relocated as a result of the implementation of the program, and

(C) on the United States tourism industry; and

(2) recommendations—

(A) on extending the pilot program period, and

(B) on increasing the number of countries that may be designated under the program.

SEC. 406. REPORT ON IMMIGRATION AND NATURALIZATION SERVICE.

Not later than 90 days after the date of the enactment of this Act, the Attorney General shall prepare and transmit to the Congress a report describing the type of equipment, physical structures, and personnel resources required to improve the capabilities of the Immigration and Naturalization Service so that it can adequately carry out services and enforcement activities, including those required to carry out the amendments made by this Act.

SEC. 407. SENSE OF THE CONGRESS.

It is the sense of the Congress that the President of the United States should consult with the President of the Republic of Mexico within 90 days after enactment of this Act regarding the implementation of this Act and its possible effect on the United States or Mexico. After the consultation, it is the sense of the Congress that the President should report to the Congress any legislative or administrative changes that may be necessary as a result of the consultation and the enactment of this legislation.

Mexico.
President of U.S.
8 USC 1101 note.

TITLE V—STATE ASSISTANCE FOR INCARCERATION COSTS OF ILLEGAL ALIENS AND CERTAIN CUBAN NATIONALS

SEC. 501. REIMBURSEMENT OF STATES FOR COSTS OF INCARCERATING ILLEGAL ALIENS AND CERTAIN CUBAN NATIONALS.

8 USC 1365.

(a) REIMBURSEMENT OF STATES.—Subject to the amounts provided in advance in appropriation Acts, the Attorney General shall reimburse a State for the costs incurred by the State for the imprisonment of any illegal alien or Cuban national who is convicted of a felony by such State.

(b) ILLEGAL ALIENS CONVICTED OF A FELONY.—An illegal alien referred to in subsection (a) is any alien who is any alien convicted of a felony who is in the United States unlawfully and—

(1) whose most recent entry into the United States was without inspection, or

(2) whose most recent admission to the United States was as a nonimmigrant and—

(A) whose period of authorized stay as a nonimmigrant expired, or

(B) whose unlawful status was known to the Government, before the date of the commission of the crime for which the alien is convicted.

(c) MARIELITO CUBANS CONVICTED OF A FELONY.—A Marielito Cuban convicted of a felony referred to in subsection (a) is a national of Cuba who—

(1) was allowed by the Attorney General to come to the United States in 1980,

(2) after such arrival committed any violation of State or local law for which a term of imprisonment was imposed, and

(3) at the time of such arrival and at the time of such violation was not an alien lawfully admitted to the United States—

(A) for permanent or temporary residence, or

(B) under the terms of an immigrant visa or a nonimmigrant visa issued,

under the laws of the United States.

(d) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

(e) STATE DEFINED.—The term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

TITLE VI—COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT

8 USC 1101 note.

SEC. 601. COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT.

(a) ESTABLISHMENT AND COMPOSITION OF COMMISSION.—(1) There is established a Commission for the Study of International Migration and Cooperative Economic Development (in this section referred to as the "Commission"), to be composed of twelve members—

(A) three members to be appointed by the Speaker of the House of Representatives;

(B) three members to be appointed by the Minority Leader of the House of Representatives;

(C) three members to be appointed by the Majority Leader of the Senate; and

(D) three members to be appointed by the Minority Leader of the Senate.

(2) Members shall be appointed for the life of the Commission. Appointments to the Commission shall be made within 90 days after the date of the enactment of this Act. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(3) A majority of the members of the Commission shall elect a Chairman.

(b) DUTY OF COMMISSION.—The Commission, in consultation with the governments of Mexico and other sending countries in the Western Hemisphere, shall examine the conditions in Mexico and such other sending countries which contribute to unauthorized migration to the United States and mutually beneficial, reciprocal trade and investment programs to alleviate such conditions. For purposes of this section, the term "sending country" means a foreign country a substantial number of whose nationals migrate to, or remain in, the United States without authorization.

(c) REPORT TO THE PRESIDENT AND CONGRESS.—Not later than three years after the appointment of the members of the Commission, the Commission shall prepare and transmit to the President and to the Congress a report describing the results of the Commission's examination and recommending steps to provide mutually beneficial reciprocal trade and investment programs to alleviate conditions leading to unauthorized migration to the United States.

(d) COMPENSATION OF MEMBERS, MEETINGS, STAFF, AUTHORITY OF COMMISSION, AND AUTHORIZATION OF APPROPRIATIONS.—(1) The provisions of subsections (d), (e)(3), (f), (g), and (h) of section 304 shall apply to the Commission in the same manner as they apply to the Commission established under section 304.

Ante, p. 3431.

(2) Seven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(e) TERMINATION DATE.—The Commission shall terminate on the date on which a report is required to be transmitted by subsection (c), except that the Commission may continue to function for not more than thirty days thereafter for the purpose of concluding its activities.

TITLE VII—FEDERAL RESPONSIBILITY FOR DEPORTABLE AND EXCLUDABLE ALIENS CONVICTED OF CRIMES

SEC. 701. EXPEDITIOUS DEPORTATION OF CONVICTED ALIENS.

Section 242 (8 U.S.C. 1254) is amended by adding at the end the following new subsection: 8 USC 1252.

"(i) In the case of an alien who is convicted of an offense which makes the alien subject to deportation, the Attorney General shall begin any deportation proceeding as expeditiously as possible after the date of the conviction."

SEC. 702. IDENTIFICATION OF FACILITIES TO INCARCERATE DEPORTABLE OR EXCLUDABLE ALIENS.

The President shall require the Secretary of Defense, in cooperation with the Attorney General and by not later than 60 days after the date of the enactment of this Act, to provide to the Attorney General a list of facilities of the Department of Defense that could be made available to the Bureau of Prisons for use in incarcerating aliens who are subject to exclusion or deportation from the United States. President of U.S.

Approved November 6, 1986.

LEGISLATIVE HISTORY—S. 1200 (H.R. 3810):

HOUSE REPORTS: No. 99-682, Pt. 1 (Comm. on the Judiciary), Pt. 2 (Comm. on Education and Labor), Pt. 3 (Comm. on Ways and Means), Pt. 4 (Comm. on Energy and Commerce), and Pt. 5 (Comm. on Agriculture), all accompanying H.R. 3810.

SENATE REPORTS: No. 99-132 (Comm. on the Judiciary) and No. 99-1000 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 131 (1985): Sept. 11-13, 16-19, considered and passed Senate.

Vol. 132 (1986): Oct. 9, H.R. 3810 considered and passed House; proceedings vacated and S. 1200, amended, passed in lieu.

Oct. 15, House agreed to conference report.

Oct. 17, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):

Nov. 6, Presidential statement and remarks.

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PUBLIC LAW 99-604—NOV. 6, 1986

RECOGNITION OF THE ARMY AND NAVY UNION OF THE UNITED STATES OF AMERICA

91-139 O - 87 (627)

Public Law 99-604
99th Congress

An Act

Nov. 6, 1986
[H.R. 897]

To recognize the Army and Navy Union of the United States of America.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CHARTER

Ohio.
36 USC 3901.

SECTION 1. The Army and Navy Union of the United States of America, organized and incorporated under the laws of the State of Ohio, is hereby recognized as such and is granted a charter.

POWERS

State and local governments.
36 USC 3902.

SEC. 2. The Army and Navy Union of the United States of America (hereinafter referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

OBJECTS AND PURPOSES OF CORPORATION

36 USC 3903.

SEC. 3. The objects and purposes of the corporation are those provided in its articles of incorporation and shall also be—

(a) to hold true allegiance to the Government of the United States of America and fidelity to its Constitution, laws, and institutions;

(b) to serve our Nation under God in peace as well as in war by fostering the ideals of faith and patriotism, loyalty, justice, and liberty; by inculcating in the hearts of young and old, through precept and practice, the spirit of true Americanism; by participating in civic activities for the good of our country and our community;

(c) to unite in fraternal fellowship those who have served honorably and those who are now serving honorably in the Armed Forces of the United States of America; to protect and advance their civic, social, and economic welfare; to aid them in sickness and distress; to assist in the burial and commemoration of their dead; and to provide help for their widows and orphans; and

(d) to perpetuate the memory of patriotic deeds performed by the defenders of our country.

SERVICE OF PROCESS

State and local governments.
36 USC 3904.

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

MEMBERSHIP

SEC. 5. Eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the bylaws of the corporation. 36 USC 3905.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States in which it is incorporated. State and local governments. 36 USC 3906.

OFFICERS OF CORPORATION

SEC. 7. The officers of the corporation, and the election of such officers shall be as is provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States wherein it is incorporated. State and local governments. 36 USC 3907.

RESTRICTIONS

SEC. 8. (a) No part of the income or assets of the corporation shall insure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors. 36 USC 3908.

(b) The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

(f) The corporation shall retain and maintain its status as a corporation organized and incorporated under the laws of the State of Ohio. Ohio.

LIABILITY

SEC. 9. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority. 36 USC 3909.

BOOKS AND RECORDS; INSPECTION

SEC. 10. The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for 36 USC 3910.

State and local governments.

any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101) is amended by adding at the end thereof the following:

"(68) Army and Navy Union of the United States of America.".

ANNUAL REPORT

36 USC 3911.

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 11 of this Act. The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

36 USC 3912.

SEC. 13. The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF "STATE"

36 USC 3913.

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

TAX EXEMPT STATUS

36 USC 3914.

26 USC 1 *et seq.*

SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1954. If the corporation fails to maintain such status, the charter granted hereby shall expire.

TERMINATION

36 USC 3915.

SEC. 16. If the corporation shall fail to comply with any of the restrictions or provisions of this Act the charter granted hereby shall expire.

Approved November 6, 1986.

LEGISLATIVE HISTORY—H.R. 897:

CONGRESSIONAL RECORD:
Vol. 131 (1985): May 13, considered and passed House.
Vol. 132 (1986): Oct. 18, considered and passed Senate.

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Public Law 99-605
99th Congress

An Act

To amend the Immigration and Nationality Act to extend for two years the authorization of appropriations for refugee assistance, and for other purposes.

Nov. 6, 1986
[H.R. 1452]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Refugee Assistance Extension Act of 1986.
8 USC 1101 note.

SECTION 1. SHORT TITLE; REFERENCES IN ACT.

(a) SHORT TITLE.—This Act may be cited as the "Refugee Assistance Extension Act of 1986".

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Immigration and Nationality Act.

8 USC 1101 note.

SEC. 2. TWO-YEAR EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.

(a) TWO-YEAR EXTENSION.—Section 414(a) (8 U.S.C. 1524(a)) is amended by striking out "fiscal year 1983" and inserting in lieu thereof "each of fiscal years 1987 and 1988" in paragraph (1).

(b) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS.—Such section is further amended—

(1) by striking out "(2) and (3)" in paragraph (1) and inserting in lieu thereof "(2) through (5)";

(2) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) There are hereby authorized to be appropriated for fiscal year 1987 $74,783,000 and for fiscal year 1988 $77,924,000 for the purpose of providing services with respect to refugees under section 412(c)(1).

8 USC 1522.

"(3) There are hereby authorized to be appropriated for fiscal year 1987 $8,761,000 and for fiscal year 1988 $9,125,000 for the purpose of carrying out section 412(b)(5).."; and

(3) by adding at the end the following new paragraph:

"(4) There are authorized to be appropriated for fiscal year 1987 $5,215,000 and for fiscal year 1988 $5,434,000 for the purpose of carrying out the provisions of section 412(f).".

SEC. 3. PLACEMENT OF OFFICE OF REFUGEE RESETTLEMENT WITHIN THE OFFICE OF SECRETARY OF HEALTH AND HUMAN SERVICES AND CLARIFYING ROLE OF SECRETARY OF EDUCATION.

(a) PROVISION OF ASSISTANCE FOR REFUGEE CHILDREN BY SECRETARY OF EDUCATION.—Section 412(d)(1) (8 U.S.C. 1522(d)(1)) is amended by striking out "Director" and inserting in lieu thereof "Secretary of Education".

(b) AUTHORIZING SECRETARY OF EDUCATION AND ATTORNEY GENERAL TO ISSUE REGULATIONS.—Section 412(a)(9) (8 U.S.C. 1522(a)(9)) is amended by inserting ", the Secretary of Education, the Attorney General," after "The Secretary".

91-139 O -- 87 - (628)

SEC. 4. POLICIES FOR PLACEMENT OF REFUGEES AND REGULAR CONSULTATION WITH STATE AND LOCAL GOVERNMENTS IN PLACEMENT PROCESS.

Section 412(a)(2) (8 U.S.C. 1522(a)(2)) is amended—

(1) in subparagraph (A)—

(A) by inserting "and the Federal agency administering subsection (b)(1)" after "Director",

(B) by inserting "(not less often than quarterly)" after "regularly", and

(C) by inserting "before their placement in those States and localities" after "localities";

(2) in subparagraph (C)—

(A) by striking out "and" at the end of clause (i),

(B) by striking out the period at the end of clause (ii) and inserting in lieu thereof ", and", and

(C) by adding at the end the following new clause:

"(iii) take into account—

"(I) the proportion of refugees and comparable entrants in the population in the area,

"(II) the availability of employment opportunities, affordable housing, and public and private resources (including educational, health care, and mental health services) for refugees in the area,

"(III) the likelihood of refugees placed in the area becoming self-sufficient and free from long-term dependence on public assistance, and

"(IV) the secondary migration of refugees to and from the area that is likely to occur."; and

(3) by adding at the end the following new subparagraph:

"(D) With respect to the location of placement of refugees within a State, the Federal agency administering subsection (b)(1) shall, consistent with such policies and strategies and to the maximum extent possible, take into account recommendations of the State.".

SEC. 5. RECEPTION AND PLACEMENT GRANTS.

(a) DIRECT GAO AUDIT OF GRANTS.—Paragraph (6) of section 412(b) (8 U.S.C. 1522(b)) is amended to read as follows:

"(6) The Comptroller General shall directly conduct an annual financial audit of funds expended under each grant or contract made under paragraph (1) for fiscal year 1986 and for fiscal year 1987.".

(b) REQUIREMENTS UNDER GRANTS.—Such section is further amended—

(1) by adding at the end the following new paragraph:

Contracts.

"(7) Each grant or contract with an agency under paragraph (1) shall require the agency to do the following:

Reports.

"(A) To provide quarterly performance and financial status reports to the Federal agency administering paragraph (1).

"(B)(i) To provide, directly or through its local affiliate, notice to the appropriate county or other local welfare office at the time that the agency becomes aware that a refugee is offered employment and to provide notice to the refugee that such notice has been provided, and

"(ii) upon request of such a welfare office to which a refugee has applied for cash assistance, to furnish that office with documentation respecting any cash or other resources provided directly by the agency to the refugee under this subsection.

"(C) To assure that refugees, known to the agency as having been identified pursuant to paragraph (4)(B) as having medical conditions affecting the public health and requiring treatment, report to the appropriate county or other health agency upon their resettlement in an area.

Health and medical care.

"(D) To fulfill its responsibility to provide for the basic needs (including food, clothing, shelter, and transportation for job interviews and training) of each refugee resettled and to develop and implement a resettlement plan including the early employment of each refugee resettled and to monitor the implementation of such plan.

"(E) To transmit to the Federal agency administering paragraph (1) an annual report describing the following:

Reports.

"(i) The number of refugees placed (by county of placement) and the expenditures made in the year under the grant or contract, including the proportion of such expenditures used for administrative purposes and for provision of services.

"(ii) The proportion of refugees placed by the agency in the previous year who are receiving cash or medical assistance described in subsection (e).

"(iii) The efforts made by the agency to monitor placement of the refugees and the activities of local affiliates of the agency.

"(iv) The extent to which the agency has coordinated its activities with local social service providers in a manner which avoids duplication of activities and has provided notices to local welfare offices and the reporting of medical conditions of certain aliens to local health departments in accordance with subparagraphs (B)(i) and (C).

"(v) Such other information as the agency administering paragraph (1) deems to be appropriate in monitoring the effectiveness of agencies in carrying out their functions under such grants and contracts.

The agency administering paragraph (1) shall promptly forward a copy of each annual report transmitted under subparagraph (E) to the Committees on the Judiciary of the House of Representatives and of the Senate.", and

(2) by striking out the fifth and sixth sentences of paragraph (1)(A).

(c) PERFORMANCE CRITERIA FOR GRANTS.—Such section is further amended by adding after paragraph (7) (added by subsection (b)) the following new paragraph:

Contracts.
8 USC 1522.

"(8) The Federal agency administering paragraph (1) shall establish criteria for the performance of agencies under grants and contracts under that paragraph, and shall include criteria relating to an agency's—

"(A) efforts to reduce welfare dependency among refugees resettled by that agency,

"(B) collection of travel loans made to refugees resettled by that agency for travel to the United States,

"(C) arranging for effective local sponsorship and other nonpublic assistance for refugees resettled by that agency,

"(D) cooperation with refugee mutual assistance associations, local social service providers, health agencies, and welfare offices,

"(E) compliance with the guidelines established by the Director for the placement and resettlement of refugees within the United States, and

"(F) compliance with other requirements contained in the grant or contract, including the reporting and other requirements under subsection (b)(7).

The Federal administering agency shall use the criteria in the process of awarding or renewing grants and contracts under paragraph (1).".

Grants.
Contracts.
8 USC 1522 note.

(d) EFFECTIVE DATES OF AMENDMENTS.—(1) Section 412(b)(7) (other than subparagraphs (B)(i), (C), and (D)) of the Immigration and Nationality Act, as added by subsection (b)(1) of this section, shall apply to grants and contracts made or renewed after the end of the 30-day period beginning on the date of the enactment of this Act.

(2) Section 412(b)(7)(D) of the Immigration and Nationality Act, as added by subsection (b)(1) of this section, shall apply to grants and contracts made or renewed after the end of the six-month period beginning on the date of the enactment of this Act.

(3) The criteria required under the amendment made by subsection (c) shall be established not later than 60 days after the date of the enactment of this Act.

Contracts.

(e) REPORT ON RECEPTION AND PLACEMENT GRANTS.—(1) Within amounts provided in appropriation acts, the United States Coordinator for Refugee Affairs shall provide for a study on the advisability and feasibility of—

(A) using competitive proposals, cost reimbursement contracts, financial incentives based on performance standards, and other means for providing greater efficiency in awarding grants and contracts for initial reception and placement under section 412(b) of the Immigration and Nationality Act,

(B) modifying the eligibility requirements for agency participation under that section,

(C) permitting refugee mutual assistance associations to participate under that section and to apply for such grants and contracts, and

(D) using financial incentives linked to performance standards in awarding social service grants and contracts for services under section 412(c) of the Immigration and Nationality Act.

Reports.

(2) The Coordinator shall submit the results of the study to Congress not later than six months after the date of the enactment of this Act.

(f) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS FOR RECEPTION AND PLACEMENT SERVICES.—(1) In order to insure that sufficient funds are authorized to be appropriated to provide for reception and placement services in fulfillment of the responsibilities required under section 412(b)(7)(D) of the Immigration and Nationality Act (as added by subsection (b)(1) of this section), there are authorized to be appropriated (in addition to the amounts described in paragraph (2)) for fiscal years 1987 and 1988 any such additional sums as may be necessary to fulfill the responsibilities under that section.

(2) The amounts described in this paragraph are—

(A) the amounts authorized to be appropriated to the Department of State for "Migration and Refugee Assistance" for fiscal years 1986 and 1987, which may be used for enhanced reception and placement services under section 412(b) of the Immigration and Nationality Act; and

(B) any other amounts authorized to be appropriated for such services.

SEC. 6. ALLOCATION AND USE OF SOCIAL SERVICE FUNDS.

(a) BASED ON REFUGEE POPULATION.—Section 412(c) (8 U.S.C. 1522(c)) is amended—

(1) by redesignating paragraphs (1), (2), and (3) as clauses (i), (ii), and (iii), respectively,

(2) by inserting "(1)(A)" before "The Director", and

(3) by adding at the end the following new subparagraph: Grants. Contracts.

"(B) The funds available for a fiscal year for grants and contracts under subparagraph (A) shall be allocated among the States based on the total number of refugees (including children and adults) who arrived in the United States not more than 36 months before the beginning of such fiscal year and who are actually residing in each State (taking into account secondary migration) as of the beginning of the fiscal year.".

(b) CLARIFICATION OF USE OF SOCIAL SERVICE FUNDS.—Such section is further amended by adding at the end the following new subparagraph:

"(C) Any limitation which the Director establishes on the proportion of funds allocated to a State under this paragraph that the State may use for services other than those described in subsection (a)(1)(B)(ii) shall not apply if the Director receives a plan (established by or in consultation with local governments) and determines that the plan provides for the maximum appropriate provision of employment-related services for, and the maximum placement of, employable refugees consistent with performance standards established under section 106 of the Job Training Partnership Act.". 29 USC 1516.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to allocations of funds for fiscal years beginning with fiscal year 1987. 8 USC 1522 note.

(d) CONFORMING AMENDMENT.—Section 412(e)(2)(A)(i) (8 U.S.C. 1522(e)(2)(A)(i)) is amended by striking out "(c)(1)" and inserting in lieu thereof "(c)(1)(A)(i)".

SEC. 7. MAINTAINING FUNDING LEVEL OF MATCHING GRANT PROGRAM.

(a) MAINTAINING FUNDING LEVEL.—Subject to the availability of appropriations, the Director of the Office of Refugee Resettlement shall not reduce the maximum average Federal contribution level per refugee in the matching grant program and shall not increase the percentage grantee matching requirement under that program below the level, or above the percentage, in effect under the program for grants in fiscal year 1985. 8 USC 1522 note.

(b) MATCHING GRANT PROGRAM.—The "matching grant program" referred to in subsection (a) is the voluntary agency program which is known as the matching grant program and is funded under section 412(c) of the Immigration and Nationality Act.

SEC. 8. TARGETED ASSISTANCE PROJECT GRANTS.

(a) SPECIFIC AUTHORIZATION FOR TARGETED ASSISTANCE PROJECT GRANTS.—Section 412(c) (8 U.S.C. 1522(c)), as amended by section 6, is further amended by adding at the end the following new paragraph:

"(2)(A) The Director is authorized to make grants to States for assistance to counties and similar areas in the States where, because of factors such as unusually large refugee populations (including

secondary migration), high refugee concentrations, and high use of public assistance by refugees, there exists and can be demonstrated a specific need for supplementation of available resources for services to refugees.

"(B) Grants shall be made available under this paragraph—

"(i) primarily for the purpose of facilitating refugee employment and achievement of self-sufficiency,

"(ii) in a manner that does not supplant other refugee program funds and that assures that not less than 95 percent of the amount of the grant award is made available to the county or other local entity.".

(b) CONFORMING AMENDMENT.—Section 412(e)(2)(A)(ii) (8 U.S.C. 1522(e)(2)(A)(ii)) is amended by inserting "or targeted assistance" after "social service".

SEC. 9. CASH AND MEDICAL ASSISTANCE.

(a) CLARIFICATION OF DISQUALIFICATION FROM CASH ASSISTANCE FOR REFUGEES REFUSING OFFERS OF EMPLOYMENT OR TRAINING.—Paragraph (2) of section 412(e) (8 U.S.C. 1522(e)) is amended—

(1) by striking out the last sentence of subparagraph (A), and

(2) by adding at the end the following new subparagraph:

"(C) In the case of a refugee who—

"(i) refuses an offer of employment which has been determined to be appropriate either by the agency responsible for the initial resettlement of the refugee under subsection (b) or by the appropriate State or local employment service,

"(ii) refuses to go to a job interview which has been arranged through such agency or service, or

"(iii) refuses to participate in a social service or targeted assistance program referred to in subparagraph (A)(ii) which such agency or service determines to be available and appropriate,

cash assistance to the refugee shall be terminated (after opportunity for an administrative hearing) for a period of three months (for the first such refusal) or for a period of six months (for any subsequent refusal).".

(b) CONSIDERATION OF RECOMMENDATIONS AND ASSISTANCE OF VOLUNTARY AGENCIES.—Such section is further amended by adding at the end the following new paragraph:

"(8) In its provision of assistance to refugees, a State or political subdivision shall consider the recommendations of, and assistance provided by, agencies with grants or contracts under subsection (b)(1).".

8 USC 1522 note.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) of this section shall apply to aliens entering the United States as refugees on or after the first day of the first calendar quarter that begins more than 90 days after the date of the enactment of this Act.

SEC. 10. PERMITTING COVERAGE OF CERTAIN DEPENDENT REFUGEES UNDER ALTERNATIVE PROJECTS.

Section 412(e)(7)(A) (8 U.S.C. 1522(e)(7)(A)) is amended by adding at the end the following new sentence: "The Secretary may permit alternative projects to cover specific groups of refugees who have been in the United States 36 months or longer if the Secretary determines that refugees in the group have been significantly and disproportionately dependent on welfare and need the services pro-

vided under the project in order to become self-sufficient and that their coverage under the projects would be cost-effective.".

SEC. 11. REFUGEES COVERED BY ANNUAL REPORT.

Section 413(a)(2)(A) (8 U.S.C. 1523(a)(2)(A)) is amended by striking out "under this Act since May 1975" and inserting in lieu thereof "the United States within the five-fiscal-year period immediately preceding the fiscal year within which the report is to be made and for refugees who entered earlier and who have shown themselves to be significantly and disproportionately dependent on welfare".

SEC. 12. PROHIBITING USE OF BLOCK OR CONSOLIDATED GRANTS.

Section 412(a)(4) (8 U.S.C. 1522(a)(4)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively,

(2) by inserting "(A)" after "(4)", and

(3) by adding at the end the following new subparagraphs:

State and local governments. Contracts.

"(B) No funds may be made available under this chapter (other than under subsection (b)(1)) to States or political subdivisions in the form of block grants, per capita grants, or similar consolidated grants or contracts. Such funds shall be made available under separate grants or contracts—

"(i) for medical screening and initial medical treatment under subsection (b)(5),

"(ii) for services for refugees under subsection (c)(1),

"(iii) for targeted assistance project grants under subsection (c)(2), and

"(iv) for assistance for refugee children under subsection (d)(2).

"(C) The Director may not delegate to a State or political subdivision his authority to review or approve grants or contracts under this chapter or the terms under which such grants or contracts are made.".

SEC. 13. ASSISTANCE TO STATES AND COUNTIES FOR INCARCERATION OF CERTAIN CUBAN NATIONALS.

Prisoners.

Section 412 (8 U.S.C. 1522) is further amended by adding at the end the following new subsection:

"(f) ASSISTANCE TO STATES AND COUNTIES FOR INCARCERATION OF CERTAIN CUBAN NATIONALS.—(1) The Attorney General shall pay compensation to States and to counties for costs incurred by the States and counties to confine in prisons, during the fiscal year for which such payment is made, nationals of Cuba who—

"(A) were paroled into the United States in 1980 by the Attorney General,

"(B) after such parole committed any violation of State or county law for which a term of imprisonment was imposed, and

"(C) at the time of such parole and such violation were not aliens lawfully admitted to the United States—

"(i) for permanent residence, or

"(ii) under the terms of an immigrant or a nonimmigrant visa issued,

under this Act.

"(2) For a State or county to be eligible to receive compensation under this subsection, the chief executive officer of the State or county shall submit to the Attorney General, in accordance

with rules to be issued by the Attorney General, an application containing—

"(A) the number and names of the Cuban nationals with respect to whom the State or county is entitled to such compensation, and

"(B) such other information as the Attorney General may require.

"(3) For a fiscal year the Attorney General shall pay the costs described in paragraph (1) to each State and county determined by the Attorney General to be eligible under paragraph (2); except that if the amounts appropriated for the fiscal year to carry out this subsection are insufficient to cover all such payments, each of such payments shall be ratably reduced so that the total of such payments equals the amounts so appropriated.

"(4) The authority of the Attorney General to pay compensation under this subsection shall be effective for any fiscal year only to the extent and in such amounts as may be provided in advance in appropriation Acts.

President of U.S.

"(g) It shall be the policy of the United States Government that the President, in consultation with the Attorney General and all appropriate Federal, State, and county officials referred to in section 13 of this Act, shall place top priority on seeking the expeditious removal from this country and the return to Cuba of such persons defined in subsection (f)(1) by any reasonable and responsible means, and to this end the Attorney General may use the funds hereafter authorized by this section to conduct such policy.".

Approved November 6, 1986.

LEGISLATIVE HISTORY—H.R. 1452 (S. 1262):

HOUSE REPORTS: No. 99-132, Pt. 1 (Comm. on the Judiciary).
SENATE REPORTS: No. 99-154 accompanying S. 1262 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 131 (1985): June 13, considered and passed House.
Vol. 132 (1986): Oct. 18, considered and passed Senate, amended; House concurred in Senate amendment.

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Public Law 99-606
99th Congress

An Act

To withdraw certain public lands for military purposes, and for other purposes.

Nov. 6, 1986
[H.R. 1790]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WITHDRAWALS.

Defense and national security.
Mines and mining.

(a) BRAVO-20 BOMBING RANGE.—(1) Subject to valid existing rights and except as otherwise provided in this Act, the lands referred to in paragraph (2) of this subsection, and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) testing and training for aerial bombing, missile firing, and tactical maneuvering and air support; and

(B) subject to the requirements of section 3(f), other defense-related purposes consistent with the purposes specified in this paragraph.

Nevada.

(2) The lands referred to in paragraph (1) of this subsection are the public lands comprising approximately 21,576.40 acres in Churchill County, Nevada, as generally depicted on the map entitled "Bravo-20 Bombing Range Withdrawal—Proposed", dated April 1986, and filed in accordance with section 2.

Flood control.

(3) This section does not affect the withdrawals of July 2, 1902, August 26, 1902, and August 4, 1904, under which the Bureau of Reclamation utilizes for flooding, overflow, and seepage purposes approximately 14,750 acres of the lands withdrawn and reserved by this subsection.

(b) NELLIS AIR FORCE RANGE.—(1) Subject to valid existing rights and except as otherwise provided in this Act, the public lands described in paragraph (2) of this subsection are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws). Such lands are reserved for use by the Secretary of the Air Force—

(A) as an armament and high-hazard testing area;

(B) for training for aerial gunnery, rocketry, electronic warfare, and tactical maneuvering and air support; and

(C) subject to the requirements of section 3(f), for other defense-related purposes consistent with the purposes specified in this paragraph.

Nevada.

(2) The lands referred to in paragraph (1) of this subsection are the lands comprising approximately 2,945,000 acres of land in Clark, Nye, and Lincoln Counties, Nevada, as generally depicted on the map entitled "Nellis Air Force Range Withdrawal—Proposed", dated January 1985, and filed in accordance with section 2.

91-139 O - 87 (629)

(c) BARRY M. GOLDWATER AIR FORCE RANGE.—(1) Subject to valid existing rights and except as otherwise provided in this Act, the lands described in paragraph (2) of this subsection are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws). Such lands are reserved for use by the Secretary of the Air Force for—

(A) an armament and high-hazard testing area;

(B) training for aerial gunnery, rocketry, electronic warfare, and tactical maneuvering and air support; and

(C) subject to the requirements of section 3(f), other defense-related purposes consistent with the purposes specified in this paragraph.

Arizona.

(2) The lands referred to in paragraph (1) of this subsection are the lands comprising approximately 2,664,423 acres in Maricopa, Pima, and Yuma Counties, Arizona, as generally depicted on the map entitled "Luke Air Force Range Withdrawal—Proposed", dated January 1985, and filed in accordance with section 2.

(d) MCGREGOR RANGE.—(1) Subject to valid existing rights and except as otherwise provided in this Act, the public lands described in paragraph (2) of this subsection are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws). Such lands are reserved for use by the Secretary of the Army—

(A) for training and weapons testing; and

(B) subject to the requirements of section 3(f), for other defense-related purposes consistent with the purposes specified in this paragraph.

New Mexico.

(2) The lands referred to in paragraph (1) of this subsection are the lands comprising approximately 608,384.87 acres in Otero County, New Mexico, as generally depicted on the map entitled "McGregor Range Withdrawal—Proposed", dated January 1985, and filed in accordance with section 2.

(3) Any of the public lands withdrawn under paragraph (1) of this subsection which, as of the date of enactment of this Act, are managed pursuant to section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782) shall continue to be managed under that section until Congress determines otherwise.

Alaska.

(e) FORT GREELY MANEUVER AREA AND FORT GREELY AIR DROP ZONE.—(1) Subject to valid existing rights and except as otherwise provided in this Act, the lands described in paragraph (2) of this subsection are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws), under an Act entitled "An Act to provide for the admission of the State of Alaska into the Union", approved July 7, 1958 (48 U.S.C. note prec. 21), and under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.). Such lands are reserved for use by the Secretary of the Army for—

(A) military maneuvering, training, and equipment development and testing; and

(B) subject to the requirements of section 3(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) of this subsection are—

(A) the lands comprising approximately 571,995 acres in the Big Delta Area, Alaska, as generally depicted on the map entitled "Fort Greely Maneuver Area Withdrawal—Proposed", dated January 1985, and filed in accordance with section 2; and

(B) the lands comprising approximately 51,590 acres in the Granite Creek Area, Alaska, as generally depicted on the map entitled "Fort Greely, Air Drop Zone Withdrawal—Proposed", dated January 1985, and filed in accordance with section 2.

(f) FORT WAINWRIGHT MANEUVER AREA.—(1) Subject to valid existing rights and except as otherwise provided in this Act, the public lands described in paragraph (2) of this subsection are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws), under an Act entitled "An Act to provide for the admission of the State of Alaska into the Union", approved July 7, 1958 (48 U.S.C. note prec. 21), and under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.). Such lands are reserved for use by the Secretary of the Army for— Alaska.

(A) military maneuvering;

(B) training for artillery firing, aerial gunnery, and infantry tactics; and

(C) subject to the requirements of section 3(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) of this subsection are the lands comprising approximately 247,951.67 acres of land in the Fourth Judicial District, Alaska, as generally depicted on the map entitled "Fort Wainwright Maneuver Area Withdrawal—Proposed", dated January 1985, and filed in accordance with section 2.

SEC. 2. MAPS AND LEGAL DESCRIPTIONS.

(a) PUBLICATION AND FILING REQUIREMENT.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this Act; and Federal Register, publication.

(2) file maps and the legal description of the lands withdrawn and reserved by this Act with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives.

(b) TECHNICAL CORRECTIONS.—Such maps and legal descriptions shall have the same force and effect as if they were included in this Act except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) AVAILABILITY FOR PUBLIC INSPECTION.—Copies of such maps and legal descriptions shall be available for public inspection in the offices of the Director and appropriate State Directors of the Bureau of Land Management; the office of the commander, Bravo-20 Bombing Range; the offices of the Director and appropriate Regional Directors of the United States Fish and Wildlife Service; the office of the commander, Nellis Air Force Base; the office of the commander, Barry M. Goldwater Air Force Base; the office of the commander, McGregor Range; the office of the installation commander, Fort Richardson, Alaska; the office of the commander, Marine Corps Air Station, Yuma, Arizona; and the office of the Secretary of Defense. Alaska. Arizona.

(d) REIMBURSEMENT.—The Secretary of Defense shall reimburse the Secretary of the Interior for the cost of implementing this section.

SEC. 3. MANAGEMENT OF WITHDRAWN LANDS.

National Wildlife Refuge System.

(a) MANAGEMENT BY THE SECRETARY OF THE INTERIOR.—(1) During the period of the withdrawal, the Secretary of the Interior shall manage the lands withdrawn under section 1 (except those lands within a unit of the National Wildlife Refuge System) pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable law, including the Recreation Use of Wildlife Areas Act of 1962 (16 U.S.C. 460k et seq.), and this Act. Lands within the Desert National Wildlife Range and the Cabeza Prieta National Wildlife Refuge shall be managed pursuant to the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) and other applicable law. No provision of this Act, except sections 4, 11, and 12, shall apply to the management of the Desert National Wildlife Range or the Cabeza Prieta National Wildlife Refuge.

(2) To the extent consistent with applicable law and Executive orders, the lands withdrawn under section 1 may be managed in a manner permitting—

(A) the continuation of grazing pursuant to applicable law and Executive orders where permitted on the date of enactment of this Act;

(B) protection of wildlife and wildlife habitat;

(C) control of predatory and other animals;

(D) recreation; and

(E) the prevention and appropriate suppression of brush and range fires resulting from nonmilitary activities.

(3)(A) All nonmilitary use of such lands, other than the uses described in paragraph (2), shall be subject to such conditions and restrictions as may be necessary to permit the military use of such lands for the purposes specified in or authorized pursuant to this Act.

(B) The Secretary of the Interior may issue any lease, easement, right-of-way, or other authorization with respect to the nonmilitary use of such land only with the concurrence of the Secretary of the military department concerned.

Safety. Defense and national security.

(b) CLOSURE TO PUBLIC.—(1) If the Secretary of the military department concerned determines that military operations, public safety, or national security require the closure to public use of any road, trail, or other portion of the lands withdrawn by this Act, the Secretary may take such action as the Secretary determines necessary or desirable to effect and maintain such closure.

(2) Any such closure shall be limited to the minimum areas and periods which the Secretary of the military department concerned determines are required to carry out this subsection.

(3) Before and during any closure under this subsection, the Secretary of the military department concerned shall—

(A) keep appropriate warning notices posted; and

(B) take appropriate steps to notify the public concerning such closures.

(c) MANAGEMENT PLAN.—The Secretary of the Interior (after consultation with the Secretary of the military department concerned) shall develop a plan for the management of each area withdrawn

under section 1 during the period of such withdrawal. Each plan shall—

(1) be consistent with applicable law;

(2) be subject to conditions and restrictions specified in subsection (a)(3) of this section;

(3) include such provisions as may be necessary for proper management and protection of the resources and values of such areas; and

(4) be developed not later than three years after the date of enactment of this Act.

(d) BRUSH AND RANGE FIRES.—The Secretary of the military department concerned shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands withdrawn under section 1 as a result of military activities and may seek assistance from the Bureau of Land Management in the suppression of such fires. The memorandum of understanding required by subsection (e) shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Navy, Army, or Air Force, as appropriate, to the Bureau of Land Management as compensation for such assistance.

(e) MEMORANDUM OF UNDERSTANDING.—(1) The Secretary of the Interior and the Secretary of the military department concerned shall (with respect to each land withdrawal under section 1) enter into a memorandum of understanding to implement the management plan developed under subsection (c). Any such memorandum of understanding shall provide that the Director of the Bureau of Land Management shall provide assistance in the suppression of fires resulting from the military use of lands withdrawn under section 1 if requested by the Secretary of the military department concerned.

(2) The duration of any such memorandum shall be the same as the period of the withdrawal of the lands under section 1.

(f) ADDITIONAL MILITARY USES.—(1) Lands withdrawn by section 1 (except those within the Desert National Wildlife Range or within the Cabeza Prieta National Wildlife Refuge) may be used for defense-related uses other than those specified in such section. The Secretary of Defense shall promptly notify the Secretary of the Interior in the event that the lands withdrawn by this Act will be used for defense-related purposes other than those specified in section 1. Such notification shall indicate the additional use or uses involved, the proposed duration of such uses, and the extent to which such additional military uses of the withdrawn lands will require that additional or more stringent conditions or restrictions be imposed on otherwise-permitted nonmilitary uses of the withdrawn land or portions thereof.

SEC. 4. SPECIAL WILDLIFE RULES.

(a) NELLIS AIR FORCE RANGE.—(1) Neither the withdrawal under section 1(b) nor any other provision of this Act shall be construed to amend—

(A) the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) or any other law related to management of the National Wildlife Refuge System; or

(B) any Executive order or public land order in effect on the date of enactment of this Act with respect to the Desert National Wildlife Refuge.

(2) Neither the withdrawal under section 1(b) nor any other provision of this Act shall be construed to amend any memorandum of understanding between the Secretary of the Interior and the Secretary of the Air Force regarding the administration and joint use of a portion of the Desert National Wildlife Range. The provisions of the memorandum of understanding between the Secretary of the Interior and the Department of the Air Force regarding Air Force operations on the Desert National Wildlife Range in effect on March 15, 1986, shall not be amended sooner than 90 days after the Secretary of the Interior has notified the Committee on Interior and Insular Affairs of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, the Committees on Armed Services of the Senate and the House of Representatives, the Committee on Merchant Marine and Fisheries of the House of Representatives, and the Committee on Environment and Public Works of the Senate of any proposed amendments to such provisions.

(b) BARRY M. GOLDWATER AIR FORCE RANGE.—(1) Neither the withdrawal under section 1(c) nor any other provision of this Act shall be construed to amend—

(A) the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) or any other law related to management of the National Wildlife Refuge System; or

(B) any Executive order or public land order in effect on the date of enactment of this Act with respect to the Cabeza Prieta National Wildlife Refuge.

(2) Neither the withdrawal under section 1(c) nor any other provision of this Act shall be construed to amend any memorandum of understanding between the Secretary of the Interior and the Secretary of the Air Force regarding the administration and joint use of a portion of the Cabeza Prieta National Wildlife Refuge. The provisions of the memorandum of understanding between the Secretary of the Interior and the Department of the Air Force regarding Air Force operations on the Cabeza Prieta National Wildlife Refuge in effect on March 24, 1975, shall not be amended sooner than 90 days after the Secretary of the Interior has notified the Committee on Interior and Insular Affairs of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, the Committees on Armed Services of the Senate and the House of Representatives, the Committee on Merchant Marine and Fisheries of the House of Representatives, and the Committee on Environment and Public Works of the Senate of any proposed amendments to such provisions.

SEC. 5. DURATION OF WITHDRAWALS.

(a) DURATION.—The withdrawal and reservation established by this Act shall terminate 15 years after the date of enactment of this Act.

(b) DRAFT ENVIRONMENTAL IMPACT STATEMENT.—(1) No later than 12 years after the date of enactment of this Act, the Secretary of the military department concerned shall publish a draft environmental impact statement concerning continued or renewed withdrawal of any portion of the lands withdrawn by this Act for which that Secretary intends to seek such continued or renewed withdrawal. Such draft environmental impact statement shall be consistent with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable to such a draft environmental

impact statement. Prior to the termination date specified in subsection (a), the Secretary of the military department concerned shall hold a public hearing on any draft environmental impact statement published pursuant to this subsection. Such hearing shall be held in the affected State or States in order to receive public comments on the alternatives and other matters included in such draft environmental impact statement.

(2)(A) For purposes of such draft environmental impact statement published by the Secretary of the Navy, the term "lands withdrawn by this Act" shall be deemed to include lands withdrawn by public land orders 275, 788, 898, and 2635 and lands proposed for withdrawal as specified in the draft environmental impact statement for the proposed master land withdrawal, Naval Air Station, Fallon, Nevada. Nevada.

(B) For purposes of this subsection, lands withdrawn by section 1(b) shall be deemed to include lands withdrawn by Public Law 98-485. 98 Stat. 2261.

(c) EXTENSIONS OR RENEWALS.—The withdrawals established by this Act may not be extended or renewed except by an Act or joint resolution.

SEC. 6. NEVADA REPORT.

(a) SPECIAL NEVADA REPORT.—No later than five years after the date of enactment of this Act, the Secretary of the Air Force, the Secretary of the Navy, and the Secretary of the Interior shall submit to Congress a joint report. In addition to the other matters required by this section, the report shall include an analysis and an evaluation of the effects on public health and safety throughout Nevada of— Health and medical care. Safety.

(1) the operation of aircraft at subsonic and supersonic speeds;

(2) the use of aerial and other gunnery, rockets, and missiles; and

(3) the uses specified in section 1.

(b) EVALUATION OF CUMULATIVE EFFECTS OF CONTINUED OR RENEWED WITHDRAWAL.—Each of the military departments concerned and the Secretary of the Interior shall, in the report required by this section, evaluate the cumulative effects of continued or renewed withdrawal for military purposes of the military department concerned of some or all of the lands withdrawn by sections 1(a) and 1(b) on the environment and population of Nevada. In performing this evaluation, there shall be considered—

(1) the actual and proposed withdrawal for military and related purposes of other lands in Nevada, including (but not limited to)—

(A) lands withdrawn by sections 1(a) and 1(b) of this Act and by Public Law 98-485 (98 Stat. 2261);

(B) lands withdrawn by Public Land Orders 275, 788, 898, and 2635;

(C) lands proposed for withdrawal as specified in the draft environmental impact statement for the proposed master land withdrawal, Naval Air Station, Fallon, Nevada; and

(D) lands withdrawn or being considered for withdrawal for use by the Department of Energy; and

(2) the cumulative impacts on public and private property in Nevada and on the fish and wildlife, cultural, historic, scientific, recreational, wilderness, and other values of the public lands of Nevada resulting from military and defense related uses of the Real property. Defense and national security.

lands withdrawn by sections 1(a) and 1(b) and the other lands described in paragraph (1) of this subsection.

(c) MITIGATION MEASURES.—The report required by this subsection shall include an analysis and an evaluation of possible measures to mitigate the cumulative effect of the withdrawal of public lands in Nevada for military and defense-related purposes, and of use of the airspaces over public lands in Nevada for such purposes, on people and property in Nevada and the fish and wildlife, cultural, historic, scientific, wilderness, and other resources and values of the public lands in Nevada (including recreation, mineral development, and agriculture).

SEC. 7. ONGOING DECONTAMINATION.

(a) PROGRAM.—Throughout the duration of the withdrawals made by this Act, the Secretary of the military department concerned, to the extent funds are made available, shall maintain a program of decontamination of lands withdrawn by this Act at least at the level of cleanup achieved on such lands in fiscal year 1986.

President of U.S.

(b) REPORTS.—At the same time as the President transmits to the Congress the President's proposed budget for the first fiscal year beginning after the date of enactment of this Act and for each subsequent fiscal year, each such Secretary shall transmit to the Committees on Appropriations, Armed Services, and Energy and Natural Resources of the Senate and to the Committees on Appropriations, Armed Services, and Interior and Insular Affairs of the House of Representatives a description of the decontamination efforts undertaken during the previous fiscal year on such lands and the decontamination activities proposed for such lands during the next fiscal year including:

(1) amounts appropriated and obligated or expended for decontamination of such lands;

(2) the methods used to decontaminate such lands;

(3) amount and types of contaminants removed from such lands;

(4) estimated types and amounts of residual contamination on such lands; and

(5) an estimate of the costs for full decontamination of such lands and the estimate of the time to complete such decontamination.

SEC. 8. REQUIREMENTS FOR RENEWAL.

(a) NOTICE AND FILING.—(1) No later than three years prior to the termination of the withdrawal and reservation established by this Act, the Secretary of the military department concerned shall advise the Secretary of the Interior as to whether or not the Secretary of the military department concerned will have a continuing military need for any of the lands withdrawn under section 1 after the termination date of such withdrawal and reservation.

(2) If the Secretary of the military department concerned concludes that there will be a continuing military need for any of such lands after the termination date, that Secretary shall file an application for extension of the withdrawal and reservation of such needed lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals of lands for military uses.

(3) If, during the period of withdrawal and reservation, the Secretary of the military department concerned decides to relinquish

all or any of the lands withdrawn and reserved by this Act, such Secretary shall file a notice of intention to relinquish with the Secretary of the Interior.

(b) CONTAMINATION.—(1) Before transmitting a notice of intention to relinquish pursuant to subsection (a), the Secretary of Defense, acting through the military department concerned, shall prepare a written determination concerning whether and to what extent the lands that are to be relinquished are contaminated with explosive, toxic, or other hazardous materials.

Hazardous materials.

(2) A copy of such determination shall be transmitted with the notice of intention to relinquish.

(3) Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

Federal Register, publication.

(c) DECONTAMINATION.—If any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is contaminated, and the Secretary of the Interior, in consultation with the Secretary of the military department concerned, determines that decontamination is practicable and economically feasible (taking into consideration the potential future use and value of the land) and that upon decontamination, the land could be opened to operation of some or all of the public land laws, including the mining laws, the Secretary of the military department concerned shall decontaminate the land to the extent that funds are appropriated for such purpose.

(d) ALTERNATIVES.—If the Secretary of the Interior, after consultation with the Secretary of the military department concerned, concludes that decontamination of any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is not practicable or economically feasible, or that the land cannot be decontaminated sufficiently to be opened to operation of some or all of the public land laws, or if Congress does not appropriate a sufficient amount of funds for the decontamination of such land, the Secretary of the Interior shall not be required to accept the land proposed for relinquishment.

(e) STATUS OF CONTAMINATED LANDS.—If, because of their contaminated state, the Secretary of the Interior declines to accept jurisdiction over lands withdrawn by this Act which have been proposed for relinquishment, or if at the expiration of the withdrawal made by this Act the Secretary of the Interior determines that some of the lands withdrawn by this Act are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(1) the Secretary of the military department concerned shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

Public information.

(2) after the expiration of the withdrawal, the Secretary of the military department concerned shall undertake no activities on such lands except in connection with decontamination of such lands; and

(3) the Secretary of the military department concerned shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken in furtherance of this subsection.

Reports.

(f) REVOCATION AUTHORITY.—Notwithstanding any other provisions of law, the Secretary of the Interior, upon deciding that it is in

the public interest to accept jurisdiction over lands proposed for relinquishment pursuant to subsection (a), is authorized to revoke the withdrawal and reservation established by this Act as it applies to such lands. Should the decision be made to revoke the withdrawal and reservation, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

Federal Register, publication.

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and

Mines and mining.

(3) state the date upon which the lands will be opened to the operation of some or all of the public lands laws, including the mining laws.

SEC. 9. DELEGABILITY.

(a) DEFENSE.—The functions of the Secretary of Defense or of a military department under this title may be delegated.

(b) INTERIOR.—The functions of the Secretary of the Interior under this title may be delegated, except that an order described in section 7(f) may be approved and signed only by the Secretary of the Interior, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 10. WATER RIGHTS.

Nothing in this Act shall be construed to establish a reservation to the United States with respect to any water or water right on the lands described in section 1 of this Act. No provision of this Act shall be construed as authorizing the appropriation of water on lands described in section 1 of this Act by the United States after the date of enactment of this Act except in accordance with the law of the relevant State in which lands described in section 1 are located. This section shall not be construed to affect water rights acquired by the United States before the date of enactment of this Act.

National Wildlife Refuge System.

SEC. 11. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn by this Act shall be conducted in accordance with the provisions of section 2671 of title 10, United States Code, except that hunting, fishing, and trapping within the Desert National Wildlife Range and the Cabeza Prieta National Wildlife Refuge shall be conducted in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.), the Recreation Use of Wildlife Areas Act of 1962 (16 U.S.C. 460k et seq.), and other laws applicable to the National Wildlife Refuge System.

SEC. 12. MINING AND MINERAL LEASING.

Federal Register, publication.

(a) DETERMINATION OF LANDS SUITABLE FOR OPENING.—As soon as possible after the enactment of this Act and at least every five years thereafter, the Secretary of the Interior shall determine, with the concurrence of the Secretary of the military department concerned, which public and acquired lands (except as provided in this subsection) described in subsections (a), (b), (d), (e), and (f) of section 1 of this Act the Secretary of the Interior considers suitable for opening to the operation of the Mining Law of 1872, the Mineral Lands Leasing Act of 1920, as amended, the Mineral Leasing Act for Acquired Lands of 1947, the Geothermal Steam Act of 1970, or any one or more of such Acts. The Secretary of the Interior shall publish a notice in the Federal Register listing the lands determined suit-

17 Stat. 91.
30 USC 181.
30 USC 351 note, 1001 note.
Federal Register, publication.
National Wildlife Refuge System.

able pursuant to this section and specifying the opening date, except that lands contained within the Desert National Wildlife Range in Nevada or within the Cabeza Prieta National Wildlife Refuge in Arizona shall not be determined to be suitable for opening pursuant to this section.

(b) OPENING LANDS.—On the day specified by the Secretary of the Interior in a notice published in the Federal Register pursuant to subsection (a), the land identified under subsection (a) as suitable for opening to the operation of one or more of the laws specified in subsection (a) shall automatically be open to the operation of such laws without the necessity for further action by either the Secretary or the Congress.

Federal Register, publication.

(c) EXCEPTION FOR COMMON VARIETIES.—No deposit of minerals or materials of the types identified by section 3 of the Act of July 23, 1955 (69 Stat. 367), whether or not included in the term "common varieties" in that Act, shall be subject to location under the Mining Law of 1872 on lands described in section 1.

30 USC 611.

17 Stat. 91.

(d) REGULATIONS.—The Secretary of the Interior, with the advice and concurrence of the Secretary of the military department concerned shall promulgate such regulations to implement this section as may be necessary to assure safe, uninterrupted, and unimpeded use of the lands described in section 1 for military purposes. Such regulations shall also contain guidelines to assist mining claimants in determining how much, if any, of the surface of any lands opened pursuant to this section may be used for purposes incident to mining.

(e) CLOSURE OF MINING LANDS.—In the event of a national emergency or for purposes of national defense or security, the Secretary of the Interior, at the request of the Secretary of the military department concerned, shall close any lands that have been opened to mining or to mineral or geothermal leasing pursuant to this section.

Defense and national security.

(f) LAWS GOVERNING MINING ON LANDS WITHDRAWN UNDER THIS ACT.—(1) Except as otherwise provided in this Act, mining claims located pursuant to this Act shall be subject to the provisions of the mining laws. In the event of a conflict between those laws and this Act, this Act shall prevail.

(2) All mining claims located under the terms of this Act shall be subject to the provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(g) PATENTS.—(1) Patents issued pursuant to this Act for locatable minerals shall convey title to locatable minerals only, together with the right to use so much of the surface as may be necessary for purposes incident to mining under the guidelines for such use established by the Secretary of the Interior by regulation.

(2) All such patents shall contain a reservation to the United States of the surface of all lands patented and of all nonlocatable minerals on those lands.

(3) For the purposes of this section, all minerals subject to location under the Mining Law of 1872 are referred to as "locatable minerals".

(h) REVOCATION.—Notwithstanding any other provision of law, the Secretary of the Interior, if the Secretary determines it necessary and appropriate for the purpose of consummating an exchange of lands or interests therein under applicable law, is hereby authorized and directed to revoke the Small Tract Act Classification S.T.049794 in Clark County, Nevada.

Nevada.

SEC. 13. IMMUNITY OF UNITED STATES.

The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injuries or damages to persons or property suffered in the course of any mining or mineral or geothermal leasing activity conducted on lands described in section 1 of this Act.

Military Lands Withdrawal Act of 1986.

SEC. 14. SHORT TITLE.

Sections 1 through 15 of this Act may be cited as the "Military Lands Withdrawal Act of 1986".

SEC. 15. REDESIGNATION.

Arizona.

The Luke Air Force Range in Arizona is hereby redesignated as the "Barry M. Goldwater Air Force Range". Any reference in any law, regulation, document, record, map, or other paper of the United States to the Luke Air Force Range shall be deemed to be a reference to the "Barry M. Goldwater Air Force Range".

16 USC 460ff-1.

SEC. 16. BOUNDARY ADJUSTMENT TO CUYAHOGA VALLEY NATIONAL RECREATION AREA.

Section 2 of the Act entitled "An Act to provide for the establishment of the Cuyahoga Valley National Recreational Recreation Area", approved December 27, 1974 (16 U.S.C. 460ff et seq.), is amended as follows:

(1) In subsection (a), strike out "numbered 655-90,001-A and dated May 1978" and insert "numbered 644-80,054 and dated July 1986".

(2) At the end of subsection (a), insert the following:

"The recreation area shall also comprise any lands designated as 'City of Akron Lands' on the map referred to in the first sentence which are offered as donations to the Department of the Interior or which become privately owned. The Secretary shall revise such map to depict such lands as part of the recreation area.".

(3) In subsection (b), after the first sentence, insert the following:

State and local governments.

"The Secretary may not acquire fee title to any lands included within the recreation area in 1986 which are designated on the map referred to in subsection (a) as 'Scenic Easement Acquisition Areas'. The Secretary may acquire only scenic easements in such designated lands. Unless consented to by the owner from which the easement is acquired, any such scenic easement may not prohibit

any activity, the subdivision of any land, or the construction of any building or other facility if such activity, subdivision, or construction would have been permitted under laws and ordinances of the unit of local government in which such land was located on April 1, 1986, as such laws and ordinances were in effect on such date.".

Approved November 6, 1986.

LEGISLATIVE HISTORY—H.R. 1790:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 17, considered and passed House.
Oct. 18, considered and passed Senate.

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PUBLIC LAW 99-607—Nov. 6, 1986

PATENT AND TRADEMARK OFFICE APPROPRIATIONS

91-139 - O - 87 (630)

Public Law 99-607
99th Congress

An Act

Nov. 6, 1986
[H.R. 2434]

To authorize appropriations for the Patent and Trademark Office in the Department of Commerce, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

(a) PURPOSES AND AMOUNTS.—There are authorized to be appropriated to the Patent and Trademark Office—

(1) for salaries and necessary expenses, $101,631,000 for fiscal year 1986, $110,400,000 for fiscal year 1987, and $111,900,000 for fiscal year 1988; and

(2) such additional amounts as may be necessary for each such fiscal year for increases in salary, pay, retirement, and other employee benefits authorized by law.

(b) REDUCTION OF PATENT FEES.—(1) Amounts appropriated under subsection (a) shall be used to reduce by 50 per centum each fee paid on or after October 1, 1985, under section 41(a) or 41(b) of title 35, United States Code, by—

(A) an independent inventor or nonprofit organization as defined in regulations prescribed by the Commissioner of Patents and Trademarks, or

Small business.

(B) a small business concern as defined under section 3 of the Small Business Act (15 U.S.C. 632).

(2) Section 41 of title 35, United States Code, is amended by adding at the end the following new subsection:

Small business.

"(h)(1) Fees charged under subsection (a) or (b) shall be reduced by 50 percent with respect to their application to any small business concern as defined under section 3 of the Small Business Act, and to any independent inventor or nonprofit organization as defined in regulations issued by the Commissioner of Patents and Trademarks.

"(2) With respect to its application to any entity described in paragraph (1), any surcharge or fee charged under subsection (c) or (d) shall not be higher than the surcharge or fee required of any other entity under the same or substantially similar circumstances.".

35 USC 42 note.

SEC. 2. APPROPRIATIONS AUTHORIZED TO BE CARRIED OVER.

Amounts appropriated under this Act and such fees as may be collected under title 35, United States Code, and the Trademark Act of 1946 (15 U.S.C. 1051 and following) may remain available until expended.

15 USC 1113 note.

SEC. 3. OVERSIGHT OF AND LIMITATIONS ON TRADEMARK AND CERTAIN PATENT FEES.

(a) TRADEMARK FEES.—The Commissioner of Patents and Trademarks may not, during fiscal years 1986, 1987, and 1988, increase fees established under section 31 of the Trademark Act of 1946 (15 U.S.C. 1113) except for purposes of making adjustments which in the

aggregate do not exceed fluctuations during the previous three years in the Consumer Price Index, as determined by the Secretary of Labor. The Commissioner also may not establish additional fees under such section during such fiscal years.

(b) PATENT FEES.—The Commissioner of Patents and Trademarks may not, during fiscal years 1986, 1987, and 1988, increase fees established under section 41(d) of title 35, United States Code, except for purposes of making adjustments which in the aggregate do not exceed fluctuations during the previous 3 years in the Consumer Price Index, as determined by the Secretary of Labor. The Commissioner also may not establish additional fees under such section during such fiscal years. 35 USC 41 note.

(c) REPORT TO CONGRESS.—The Secretary of Commerce shall, on the day on which the President submits the annual budget to the Congress, provide to the Committees on the Judiciary of the Senate and the House of Representatives— 35 USC 14 note.

(1) a list of patent and trademark fee collections by the Patent and Trademark Office during the preceding fiscal year;

(2) a list of activities of the Patent and Trademark Office during the preceding fiscal year which were supported by patent fee expenditures, trademark fee expenditures, and appropriations;

(3) budget plans for significant programs, projects, and activities of the Office, including out-year funding estimates;

(4) any proposed disposition of surplus fees by the Office; and

(5) such other information as the committees consider necessary.

SEC. 4. FEES FOR USE OF SEARCH ROOMS AND LIBRARIES PROHIBITED. 35 USC 41 note.

The Commissioner of Patents and Trademarks may not impose a fee for use of public patent or trademark search rooms and libraries. The costs of such rooms and libraries shall come from amounts appropriated by Congress.

SEC. 5. CONGRESSIONAL OVERSIGHT AND LIMITATIONS ON THE USE OF FEE REVENUES FOR PROPOSED PURCHASE OF AUTOMATED DATA PROCESSING SYSTEMS.

(a) FUNDING OF AUTOMATED DATA PROCESSING RESOURCES.—

(1) ALLOCATIONS.—Of amounts available to the Patent and Trademark Office for automatic data processing resources for fiscal years 1987 and 1988, not more than 30 percent of such amounts in each such fiscal year may be from fees collected under section 31 of the Trademark Act of 1946 (15 U.S.C. 1113) and section 41 of title 35, United States Code. The Commissioner of Patents and Trademarks shall notify the Committees on the Judiciary of the Senate and the House of Representatives of any proposed reprogrammings which would increase or decrease the amount of appropriations expended for automatic data processing resources.

(2) USE OF REVENUES BY PATENT AND TRADEMARK OFFICE.—Except as otherwise specifically provided in this Act and section 42(c) of title 35, United States Code, the Patent and Trademark Office is authorized to use appropriated or apportioned fee revenues for any of its operations or activities.

(b) REPORT BY COMMISSIONER ON IMPLEMENTATION AUTOMATION PLAN.—At least 90 calendar days before the date of implementation of each key deployment decision provided for in the revised master

automation plan that was approved by the Secretary of Commerce and the Director of the Office of Management and Budget and that was submitted, in February 1986, to the Committees on the Judiciary of the Senate and the House of Representatives, the Commissioner of Patents and Trademarks shall report the proposed implementation to those committees. Each key deployment decision shall be approved by the designated Senior Official for Information Resources Management of the Department of Commerce before the report on the decision is made under the preceding sentence. Each such report on a key deployment decision shall include the cost and method of financing the deployment decision, including, where appropriate, a comparison with the cost benefit analysis contained in the revised automation master plan, as well as such other information as the committees consider necessary.

Contracts. Reports.

(c) PROHIBITION ON NEW OBLIGATIONS.—The Patent and Trademark Office may not enter into any new contract, or obligate any funds, to implement a key deployment decision described in subsection (b) until the expiration of 90 calendar days after the report with respect to such deployment decision is submitted under such subsection.

(d) EFFECTIVE DATE.—Subsections (b) and (c) take effect on January 1, 1987.

Contracts. International organizations. 35 USC 6 note.

SEC. 6. USE OF EXCHANGE AGREEMENTS RELATING TO AUTOMATIC DATA PROCESSING RESOURCES PROHIBITED.

The Commissioner of Patents and Trademarks may not enter into new agreements for the exchange of items or services (as authorized under section 6(a) of title 35, United States Code) relating to automatic data processing resources (including hardware, software and related services, and machine readable data) during fiscal years 1986, 1987, and 1988, nor continue existing agreements for the exchange of such items or services after April 1, 1987. This section shall not apply to any agreement relating to data for automation programs entered into with a foreign government or with an international intergovernmental organization.

Approved November 6, 1986.

LEGISLATIVE HISTORY—H.R. 2434:

HOUSE REPORTS: No. 99-104 (Comm. on the Judiciary).
SENATE REPORTS: No. 99-305 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 131 (1985): June 24, considered and passed House.
Vol. 132 (1986): June 6, considered and passed Senate, amended.
Oct. 2, House concurred in certain Senate amendments, in others with amendments.
Oct. 18, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Nov. 6, Presidential statement.

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Public Law 99-608
99th Congress

An Act

To authorize funds to preserve the official papers of Joseph W. Martin, Jr.

Nov. 6, 1986
[H.R. 4244]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ASSISTANCE AUTHORIZED.

In recognition of the public service of the former Speaker of the United States House of Representatives, Joseph W. Martin, Jr., and of the need for preserving the official papers of Speaker Martin, the Secretary of Education is authorized to provide funds in accordance with the provisions of this Act to assist in the construction of the Joseph W. Martin Institute for Law and Society at Stonehill College, North Easton, Massachusetts.

Joseph W. Martin Institute for Law and Society. Schools and colleges. Massachusetts.

SEC. 2. CONDITIONS FOR ASSISTANCE.

No payment may be made under this Act except upon an application at such time, in such manner, and containing or accompanied by such information as the Secretary of Education may require in order to certify the amount of eligible funds. All such payments may be used in furtherance of the mission of the Joseph W. Martin Institute for Law and Society to establish a regional and national academic center for scholarship and applied research on the development of domestic and foreign policy during the career of Joseph W. Martin, Jr.

Research and development.

SEC. 3. DURATION OF ASSISTANCE.

Funds appropriated pursuant to this Act shall be made available to Stonehill College on or after October 1, 1986, and prior to the close of the fiscal year ending September 30, 1990.

SEC. 4. AUTHORIZATION OF APPROPRIATION.

There are authorized to be appropriated such sums as may be necessary to carry out this Act for the fiscal year ending September 30, 1986, and for each of the three succeeding fiscal years, except that the aggregate amount so appropriated shall not exceed $6,000,000. Funds appropriated pursuant to this section shall remain available until expended.

SEC. 5. AUTHORIZATION OF KANSAS EDUCATIONAL SATELLITE VIDEO COMMUNICATIONS CENTER.

(a) The Secretary is authorized to provide financial assistance, in accordance with the provisions of this section, to pay the Federal share of the cost of construction, and related expenses, for the Kansas Educational Satellite Video Communications Center at the Kansas State University located in Manhattan, Kansas, to enable the Kansas State University to establish the Kansas Educational Satellite Video Communications Center in order to produce and disseminate television programming in subject areas of local, regional, national, and international importance.

Kansas.

91-139 O - 87 (631)

(b) No financial assistance may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

Appropriations authorization.

(c) There are authorized to be appropriated such sums, not to exceed $6,000,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

Approved November 6, 1986.

LEGISLATIVE HISTORY—H.R. 4244:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 16, considered and passed House.
Sept. 30, considered and passed Senate, amended.
Oct. 16, House concurred in Senate amendments.

O

Public Law 99-609
99th Congress

An Act

To transfer the Community Development Credit Union Revolving Loan Fund to the National Credit Union Administration and to authorize the National Credit Union Administration Board to administer the Fund.

Nov. 6, 1986
[H.R. 5554]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Community Development Credit Union Revolving Loan Fund Transfer Act. 42 USC 9822 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Community Development Credit Union Revolving Loan Fund Transfer Act".

SEC. 2. TRANSFER OF COMMUNITY DEVELOPMENT CREDIT UNION REVOLVING LOAN FUND.

42 USC 9822 note.

(a) ADMINISTRATION OF FUND BY NCUA.—

(1) IN GENERAL.—Beginning on the date of the enactment of this Act, the National Credit Union Administration Board shall administer the Community Development Credit Union Revolving Loan Fund.

(2) TRANSFER OF AUTHORITY.—All authority to carry out the purposes of the Fund and to prescribe regulations in connection with the administration of the Fund which, on the day before the date of the enactment of this Act, was vested in the Secretary of Health and Human Services shall vest on such date in the Board. Except as provided in subsection (c), the Secretary shall have no further responsibility with respect to the Fund.

(b) CONTINUED AVAILABILITY OF APPROPRIATED FUNDS.—All funds appropriated to the Fund and interest accumulated in the Fund which continue to be available under section 633 of the Omnibus Budget Reconciliation Act of 1981 shall continue to be available to the Board to carry out the purposes of the Fund. 42 USC 9822.

(c) TRANSFER OF ASSETS; ETC.—The Secretary shall transfer to the National Credit Union Administration all assets, liabilities, grants, contracts, property, records, and funds held, used, arising from, or available to the Secretary in connection with the administration of the Fund before the end of the 60-day period beginning on the date of the enactment of this Act.

(d) SAVINGS PROVISIONS.—

(1) REGULATIONS.—Any regulations prescribed by the Secretary in connection with the administration of the Fund shall continue in effect until superseded by regulations prescribed by the Board.

(2) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Subsection (a) shall not be construed as affecting the validity of any right, duty, or obligation of the United States or any other person arising under or pursuant to any contract, loan, or other instrument or agreement which was in effect on the day before the date of the enactment of this Act.

(3) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Secretary in connection with the

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administration of the Fund shall abate by reason of the enactment of this Act, except that the Board shall be substituted for the Secretary as a party to any such action or proceeding.

(e) DEFINITIONS.—For purposes of this section—

(1) BOARD.—The term "Board" means the National Credit Union Administration Board.

(2) FUND.—The term "Fund" means the Community Development Credit Union Revolving Loan Fund established under title VII of the Economic Opportunity Act of 1964 (as in effect before the date of the enactment of the Omnibus Budget Reconciliation Act of 1981).

42 USC 2981.

(3) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

Approved November 6, 1986.

LEGISLATIVE HISTORY—H.R. 5554:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 29, considered and passed House.
Oct. 18, considered and passed Senate.

O

Public Law 99-610
99th Congress

Joint Resolution

To authorize the establishment of a memorial on Federal land in the District of Columbia and its environs to honor women who have served in the Armed Forces of the United States.

Nov. 6, 1986
[H.J. Res. 36]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

AUTHORIZATION OF MEMORIAL

SECTION 1. The Women in Military Service for America Memorial Foundation is authorized to establish a memorial on Federal land in the District of Columbia and its environs to honor women who have served in the Armed Forces of the United States. Such memorial shall be established in accordance with the provisions of H.R. 4378, as approved by the House of Representatives on September 29, 1986.

40 USC 1003 note.

FUNDING

SEC. 2. The Women in Military Service for America Memorial Foundation shall establish the memorial with non-Federal funds.

Approved November 6, 1986.

LEGISLATIVE HISTORY—H.J. Res. 36:

HOUSE REPORTS: No. 99-342 (Comm. on House Administration).
SENATE REPORTS: No. 99-461 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Nov. 4, 6, considered and passed House.
Vol. 132 (1986): Oct. 16, considered and passed Senate, amended.
Oct. 17, House concurred in Senate amendments.

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91-139 O - 87 (633)

Public Law 99-611
99th Congress

Joint Resolution

Nov. 6, 1986
[H.J. Res. 594]

To designate the week beginning May 3, 1987 as "National Correctional Officers Week".

Whereas American correctional officers who work in our jails and prisons are currently responsible for the containment and control of over six hundred thousand prisoners;

Whereas correctional officers must protect inmates from violence while encouraging them to develop skills and attitudes that can help them become productive members of society following their release;

Whereas the morale of correctional officers is affected by many factors, and the public perception of the role of correctional officers is more often based upon dramatization rather than factual review;

Whereas good job performance requires correctional officers to absorb the adverse attitudes present in confinement while maintaining themselves as professionals in order to have their actions appreciated and accepted by the public at large;

Whereas correctional officers had been similarly honored by many States and localities in 1984 and 1985;

Whereas correctional officers had been similarly honored by a joint resolution of the Senate and House of Representatives of the United States in Congress assembled in 1984 and 1985; and

Whereas the attitude and morale of correctional officers is a matter worthy of serious congressional attention: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning May 3, 1987 hereby is designated "National Correctional Officers Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved November 6, 1986.

LEGISLATIVE HISTORY—H.J. Res. 594:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 10, considered and passed House.
Oct. 18, considered and passed Senate.

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91-139 O - 87 (634)

Public Law 99-612
99th Congress

Joint Resolution

Calling for recognition of United Way's one hundredth anniversary.

Nov. 6, 1986
[H.J. Res. 684]

Whereas voluntarism, the fundamental fiber which has made America the most giving nation in the world, is becoming even more vital, and is being strongly encouraged and endorsed by the administration and this Congress;

Whereas America's United Way, our country's premiere organized voluntarism entity is celebrating the end of its first century of service to America, and is looking forward to its second century;

Whereas there are more than two thousand two hundred United Way organizations across America helping communities meet critical health and human care needs through an ingenious system of local charitable groups;

Whereas these United Way organizations involve tens of thousands of caring and concerned volunteers from all walks of life in a catalytic process of solving community problems;

Whereas these organizations are responsible for garnering voluntary contributions to support more than thirty-seven thousand charities providing services and programs to aid tens of millions of people throughout our country; and

Whereas to help meet this Nation's urgent health and human care needs United Way will launch a Second Century Initiative, with the goal of doubling its volunteers and financial resources by 1991: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress of the United States hereby expresses its gratitude and that of the American people for the outstanding contribution made by the America's United Way over the last century; congratulates the America's United Way on the event of its one hundredth anniversary; applauds and encourages America's United Way to continue its fine work and achieve its goal of doubling its effective resources by 1991.

Approved November 6, 1986.

LEGISLATIVE HISTORY—H.J. Res. 684 (S.J. Res. 430):

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 18, considered and passed House.
Oct. 16, considered and passed Senate.

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91-139 O - 87 (635)

Public Law 99-613
99th Congress

Joint Resolution

Nov. 6, 1986
[H.J. Res. 755]

Providing for the convening of the first session of the One hundredth Congress.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first regular session of the One hundredth Congress shall begin at 12 o'clock meridian on Tuesday, January 6, 1987.

Approved November 6, 1986.

LEGISLATIVE HISTORY—H.J. Res. 755:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 17, considered and passed House.
Oct. 18, considered and passed Senate.

91-139 O - 87 (636)

Public Law 99-614
99th Congress

An Act

To confirm a conveyance of certain real property by the Southern Pacific Transportation Company to Ernest Pritchett and his wife, Dianna Pritchett, and for other purposes.

Nov. 6, 1986
[S. 386]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to section 3, the conveyance described in section 2(a) of this Act involving certain real property in Jackson County, Oregon, forming a part of the right-of-way granted by the United States to the California and Oregon Railroad Company under the Act entitled "An Act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific Railroad, in California, to Portland, in Oregon", approved July 25, 1866 (14 Stat. 239), is confirmed in Ernest Pritchett and his wife, Dianna Pritchett, the grantees in such conveyance, and their successors in interest, with respect to all interests of the United States in the rights to the real property described in section 2(b) of this Act.

Oregon.

SEC. 2. (a) The conveyance confirmed by this Act was made by a deed dated July 23, 1982, by the Southern Pacific Transportation Company to Ernest Pritchett and his wife, Dianna Pritchett, and recorded on October 20, 1982, in the official records of Jackson County, Document Numbered 82-15174.

(b) The real property referred to in the first section of this Act is a parcel of land in the northwest quarter of section 26, township 36 south, range 4 west, Willamette meridian, county of Jackson, State of Oregon, more particularly described as follows:

Commencing at the west quarter corner of such section 26;

thence south 89 degrees 46 minutes 45 seconds east along the southerly line of such northwest quarter of section 26 a distance of 1082.50 feet to a point in a line parallel with and distant 100 feet northeasterly, measured at right angles, from the original located center line of Southern Pacific Transportation Company's main track (Siskiyou branch), and also the true point of beginning of the parcel to be described;

thence north 65 degrees 2 minutes 35 seconds west along such parallel line 1191.92 feet to the westerly line of such section 26;

thence south zero degrees 12 minutes 52 seconds west along such westerly line 55.05 feet to a point in a line parallel with and distant 50 feet northeasterly, measured at right angles, from such center line;

thence south 65 degrees 2 minutes 35 seconds east along last such parallel line, as last such parallel line being also the northeasterly line of that certain parcel of land described in deed dated June 23, 1883, from Frederick G. Birdsey to Oregon and California Railroad Company, recorded July 28, 1883, in deed book 10, page 463, records of such county, a distance of 1060.35 feet to such southerly line;

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thence south 89 degrees 46 minutes 45 seconds east along such southerly line 119.49 feet to the true point of beginning, containing an area of 1.293 acres, more or less.

SEC. 3. (a) Nothing in this Act shall—

(1) diminish the right-of-way referred to in the first section of this Act to a width of less than 50 feet on each side of the center of the main track or tracks established and maintained by the Southern Pacific Transportation Company on the date of enactment of this Act; or

(2) validate or confirm any right or title to, or interest in, the land referred to in the first section of this Act arising out of adverse possession, prescription, or abandonment, and not confirmed by conveyance by the Southern Pacific Transportation Company before the date of enactment of this Act.

Minerals.

(b) There is reserved to the United States all oil, coal, or other minerals in the land referred to in the first section of this Act, together with the right to prospect for, mine, and remove such oil, coal, or other minerals under such rules and regulations as the Secretary of the Interior may prescribe.

FINDINGS

SEC. 4. The Congress finds that—

(1) the Southern Pacific Transportation Company is the successor grantee of the real property described in section 6;

(2) pursuant to a petition of the Southern Pacific Transportation Company, the Interstate Commerce Commission has exempted the abandonment of the real property described in section 6 from the provisions of 49 U.S.C. 10903 (relating to abandonment and discontinuance of railroad lines and rail transportation);

(3) the Southern Pacific Transportation Company has abandoned all right, title, and interest in and to the real property described in section 6.

DECLARATION OF ABANDONMENT

SEC. 5. For the purposes of the Act entitled "An Act to provide for the disposition of abandoned portions of rights of way granted to railroad companies", approved March 8, 1922 (43 U.S.C. 912), the Congress hereby declares that the Southern Pacific Transportation Company has abandoned the real property described in section 6.

LAND DESCRIPTION

California.

SEC. 6. The real property referred to in sections 4 and 5 is certain real property situated in the City of Coalinga, California, which forms part of the right-of-way granted by the United States to the Atlantic and Pacific Railroad Company by the Act entitled "An Act granting Lands to aid in the Construction of a Railroad and Telegraph Line from the States of Missouri and Arkansas to the Pacific Coast", approved July 27, 1866 (16 Stat. 292), and more particularly described as that portion of the right-of-way extending from the section line of sections 33 and 34 of township 20 south, range 15 east,

Mount Diablo Base & Meridian to the south city limits of the City of Coalinga.

Approved November 6, 1986.

LEGISLATIVE HISTORY—S. 386:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Feb. 4, considered and passed Senate.
Oct. 15, considered and passed House, amended.
Oct. 18, Senate concurred in House amendments.

O

Public Law 99-615
99th Congress

An Act

Nov. 6, 1986
[S. 511]

To change the name of the Loxahatchee National Wildlife Refuge, Florida, to the Arthur R. Marshall Loxahatchee National Wildlife Refuge.

16 USC 668dd note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Loxahatchee National Wildlife Refuge, in the State of Florida, shall hereafter be known and designated as the "Arthur R. Marshall Loxahatchee National Wildlife Refuge". Any reference in any law, regulation, map, document, record, or other paper of the United States to such wildlife refuge, shall be held and considered to be a reference to the "Arthur R. Marshall Loxahatchee National Wildlife Refuge".

Approved November 6, 1986.

LEGISLATIVE HISTORY—S. 511 (H.R. 1438):

HOUSE REPORTS: No. 99-535 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 29, H.R. 1438 considered and passed House.
Oct. 9, considered and passed Senate.
Oct. 16, considered and passed House.

O

91-139 O - 87 (638)

Public Law 99-616
99th Congress

An Act

To amend the patent laws implementing the Patent Cooperation Treaty.

Nov. 6, 1986
[S. 1230]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Act to authorize the United States to participate in chapter II of the Patent Cooperation Treaty".

35 USC 351 note.

28 UST 7645.

SEC. 2. (a) Section 351(a) of title 35, United States Code, is amended by striking out ", excluding chapter II thereof".

(b) Section 351(b) of title 35, United States Code, is amended by striking out "excluding part C thereof".

(c) Section 351(g) of title 35, United States Code, is amended by—

(1) striking out "term" and inserting in lieu thereof "terms";

(2) inserting "and 'International Preliminary Examining Authority' " after "Authority"; and

(3) striking out "means" and inserting in lieu thereof "mean".

(d) Section 361(d) of title 35, United States Code, is amended to read as follows:

"(d) The international fee, and the transmittal and search fees prescribed under section 376(a) of this part, shall either be paid on filing of an international application or within such later time as may be fixed by the Commissioner.".

SEC. 3. The item relating to section 362 in the analysis for chapter 36 of title 35, United States Code, is amended to read as follows:

"362. International Searching Authority and International Preliminary Examining Authority.".

SEC. 4. Section 362 of title 35, United States Code, is amended to read as follows:

"§ 362. International Searching Authority and International Preliminary Examining Authority

"(a) The Patent and Trademark Office may act as an International Searching Authority and International Preliminary Examining Authority with respect to international applications in accordance with the terms and conditions of an agreement which may be concluded with the International Bureau, and may discharge all duties required of such Authorities, including the collection of handling fees and their transmittal to the International Bureau.

"(b) The handling fee, preliminary examination fee, and any additional fees due for international preliminary examination shall be paid within such time as may be fixed by the Commissioner.".

SEC. 5. Section 364(a) of title 35, United States Code, is amended by—

(a) striking out "or", first occurrence and inserting in lieu thereof ",";

(b) inserting "International Preliminary Examining Authority" after "Authority, or"; and

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(c) striking out "both".

SEC. 6. Section 368(c) of title 35, United States Code, is amended by—

(a) striking out the second occurrence of "or" and inserting in lieu thereof ",", and

(b) striking out "both" and inserting in lieu thereof "International Preliminary Examining Authority".

SEC. 7. (a) Section 371(a) of title 35, United States Code, is amended to read as follows:

"(a) Receipt from the International Bureau of copies of international applications with any amendments to the claims, international search reports, and international preliminary examination reports including any annexes thereto may be required in the case of international applications designating or electing the United States."

(b) Section 371(b) of title 35, United States Code, is amended to read as follows:

"(b) Subject to subsection (f) of this section, the national stage shall commence with the expiration of the applicable time limit under article 22 (1) or (2), or under article 39(1)(a) of the treaty".

(c) Section 371(c)(4) of title 35, United States Code, is amended by striking the "." and inserting in lieu thereof ";".

(d) Section 371(c) of title 35, United States Code, is amended by adding at the end thereof the following new paragraph (5):

"(5) a translation into the English language of any annexes to the international preliminary examination report, if such annexes were made in another language.".

(e) Section 371(d) of title 35, United States Code, is amended by adding at the end thereof the following sentence: "The requirement of subsection (c)(5) shall be complied with at such time as may be fixed by the Commissioner and failure to do so shall be regarded as cancellation of the amendments made under article 34(2)(b) of the treaty"

(f) Section 371(e) of title 35, United States Code, is amended by inserting "or article 41" after "28"

SEC. 8. (a) Section 376(a) of title 35, United States Code, is amended by—

(1) inserting "and the handling fee" after the first occurrence of "fee";

(2) striking "amount is" and inserting in lieu thereof "amounts are",

(3) redesignating paragraph (5) as paragraph (6); and

(4) inserting the following new paragraph (5):

"(5) A preliminary examination fee and any additional fees (see section 362(b))."

(b) Section 376(b) of title 35, United States Code, is amended by—

(1) inserting "and the handling fee" after the first occurrence of "fee" in the first sentence; and

(2) inserting "the preliminary examination fee and any additional fees," after "fee," in the third sentence.

SEC. 9. Sections 2 through 8 of this Act shall come into force on the same day as the effective date of entry into force of chapter II of the Patent Cooperation Treaty with respect to the United States, by virtue of the withdrawal of the declaration under article 64(1)(a) of the Patent Cooperation Treaty. It shall apply to all international applications pending before or after its effective date.

Effective date.
35 USC 351 note.
28 UST 7645.

Approved November 6, 1986.

LEGISLATIVE HISTORY—S. 1230:

SENATE REPORTS: No. 99-275 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 16, considered and passed Senate.
Oct. 17, considered and passed House.

O

Public Law 99-617
99th Congress

An Act

Nov. 6, 1986
[S. 1311]

To authorize the Board of Regents of the Smithsonian Institution to construct the Charles McC. Mathias, Jr. Laboratory for Environmental Research in Edgewater, Maryland, and to designate the United States Courthouse and Customhouse in Louisville, Kentucky, as the "Gene Snyder United States Courthouse and Customhouse".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

20 USC 50 note.

SECTION 1. CONSTRUCTION OF CHARLES McC. MATHIAS, JR. LABORATORY FOR ENVIRONMENTAL RESEARCH.

(a) CONSTRUCTION AUTHORIZATION.—The Board of Regents of the Smithsonian Institution is authorized to construct the Charles McC. Mathias, Jr. Laboratory for Environmental Research.

(b) LOCATION.—The Charles McC. Mathias, Jr. Laboratory for Environmental Research shall be located at the Smithsonian Environmental Research Center, a bureau of the Smithsonian Institution, located at Edgewater, Maryland.

Effective date.

(c) AUTHORIZATION OF APPROPRIATIONS.—Effective October 1, 1986, there is authorized to be appropriated to the Board of Regents of the Smithsonian Institution $1,000,000 to carry out the purposes of this section.

(d) TRANSFER OF FUNDS.—Any portion of the sums appropriated to carry out the purposes of this section may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes.

SEC. 2. NAMING OF GENE SNYDER UNITED STATES COURTHOUSE AND CUSTOMHOUSE.

(a) DESIGNATION OF BUILDING.—The United States Courthouse and Customhouse at 601 West Broadway, Louisville, Kentucky, shall be known and designated as the "Gene Snyder United States Courthouse and Customhouse".

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(b) LEGAL REFERENCES.—Each reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "Gene Snyder United States Courthouse and Customhouse".

(c) EFFECTIVE DATE.—Subsections (a) and (b) of this section shall take effect on January 4, 1987.

Approved November 6, 1986.

LEGISLATIVE HISTORY—S. 1311:

SENATE REPORTS: No. 99-414 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 15, considered and passed Senate.
Oct. 16, considered and passed House, amended.
Oct. 18, Senate concurred in House amendments.

O

Public Law 99-618
99th Congress

An Act

Nov. 6, 1986
[S. 2852]

To authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the Peninsula Airport Commission, Virginia, for airport purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding section 16 of the Federal Airport Act (as in effect on May 14, 1947), the Secretary of Transportation is authorized, subject to section 4 of the Act of October 1, 1949 (50 U.S.C. App. 1622c) and subsection (b) of this section, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated May 14, 1947, under which the United States conveyed certain property in Newport News, and York County, Virginia, to the Peninsula Airport Commission for airport purposes.

49 USC 1115 app.

(b) Any release granted by the Secretary of Transportation under subsection (a) of this section shall be subject to the following conditions—

Regulations.

(1) The Peninsula Airport Commission shall agree that in leasing or conveying any interest in the property which the United States conveyed to such Commission by the deed described in subsection (a), the Commission will receive an amount for such interest which is equal to the fair lease value or the fair market value, as the case may be (as determined pursuant to regulations issued by the Secretary).

(2) Any amount so received by the Peninsula Airport Commission shall be used by the Commission for the development, improvement, operation, or maintenance of a public airport.

Real property.

(3) Any release granted by the Secretary of Transportation under subsection (a) of this section may not apply to more than 7.5 acres of real property.

(4) The Peninsula Airport Commission may not lease or convey any interest in any of the property which the United States conveyed to such Commission by the deed described in subsection (a), to any person or business concern other than the City of Newport News, Virginia.

Approved November 6, 1986.

LEGISLATIVE HISTORY—S. 2852 (H.R. 5379):

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 24, H.R. 5379 considered and passed House.
Oct. 9, S. 2852 considered and passed Senate, amended.
Oct. 17, considered and passed House.

O

91-139 O - 87 (641)

Public Law 99-619
99th Congress

An Act

To provide for a Deputy Secretary of Labor, an Assistant Secretary of Labor for Administration and Management, three additional Assistant Secretaries of Labor, and for other purposes.

Nov. 6, 1986
[S. 2864]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Department of Labor Executive Level Conforming Amendments of 1986.
29 USC 551 note.

SECTION 1. This Act may be cited as the "Department of Labor Executive Level Conforming Amendments of 1986".

SEC. 2. (a)(1) Section 1 of the Act of April 17, 1946 (60 Stat. 91; 29 U.S.C. 552), as amended, is amended by striking out "Under" wherever it appears in such section and inserting in lieu thereof "Deputy".

(2) Section 5313 of title 5, United States Code, is amended by inserting at the end thereof:

"Deputy Secretary of Labor.".

(3) Section 5314 of title 5, United States Code, is amended by striking:

"Under Secretary of Labor.".

29 USC 552 note.

(4) Any reference to the Under Secretary of Labor in any law, rule, regulation, certificate, directive, or other document in force on the date of enactment of this Act shall be deemed to refer and apply to the Deputy Secretary of Labor.

(b)(1) Section 2 of the Act of April 17, 1946 (60 Stat. 91; 29 U.S.C. 553), as amended, is amended by striking out "five" in the first sentence of such section and inserting in lieu thereof "nine".

(2) Section 5315 of title 5, United States Code, is amended by striking:

"Assistant Secretaries of Labor (5)."

and substituting therefor:

"Assistant Secretaries of Labor (10), one of whom shall be the Assistant Secretary of Labor for Veterans' Employment and Training.".

29 USC 553 note.

(3) Any reference in any law, regulation, certificate, directive, or other document to the Assistant Secretary of Labor for Veterans' Employment in force on the date of enactment of this Act shall be deemed to be a reference to the Assistant Secretary of Labor for Veterans' Employment and Training.

5 USC app.

(c)(1) Section 3 of Reorganization Plan No. 6 of 1950 is repealed.

(2) Section 5316 of title 5, United States Code, is amended by striking:

"Assistant Secretary of Labor for Administration.".

(d) Section 5316 of title 5, United States Code, is amended by striking:

"Assistant Secretary of Labor for Veterans' Employment.".

5 USC 5316 note.

(e) Subsection (c) of this section shall become effective on the day upon which the individual who is the incumbent of the position abolished by such subsection, as of the date of enactment, ceases to hold the position.

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President of U.S.
29 USC 552 note.

(f)(1) The incumbent in the position of Under Secretary of Labor on the date of enactment of this Act may serve as Deputy Secretary of Labor at the pleasure of the President after such date and the amendments made by subsection (a)(2) shall apply to such incumbent.

29 USC 553 note.

(2) The incumbent in the position of Assistant Secretary of Labor for Veterans' Employment on the date of enactment of this Act may serve as Assistant Secretary of Labor for Veterans' Employment and Training at the pleasure of the President after such date and the amendments made by subsection (b)(2) shall apply to such incumbent.

Approved November 6, 1986.

LEGISLATIVE HISTORY—S. 2864:

SENATE REPORTS: No. 99-484 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 10, considered and passed Senate.
Oct. 16, considered and passed House.

O

Public Law 99-620
99th Congress

Joint Resolution

Authorizing establishment of a memorial to honor the American Armored Force.

Nov. 6, 1986
[S.J. Res. 43]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF MEMORIAL.

40 USC 1003 note.
District of Columbia.

(a) IN GENERAL.—Subject to subsection (c), the organizations specified in subsection (b) are authorized jointly to establish a memorial on Federal land in the District of Columbia or its environs to honor members of the American Armored Force who have served in armored units. The memorial shall commemorate the exceptional professionalism of the members of the American Armored Force and their efforts to maintain peace worldwide.

(b) ORGANIZATIONS.—The organizations referred to in subsection (a) are: the Armored Force Monument Committee, the United States Armor Association, the United States Field Artillery Association, the World Wars Tank Corps Association, the Veterans of the Battle of the Bulge, the 11th Armored Cavalry Regiment Association, the Tank Destroyer Association, the 1st, 2d, 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th, 13th, 14th, and 16th Armored Division Associations, the Council of Armored Division Associations, and the National Association of Uniformed Services.

(c) STANDARDS.—The memorial shall be established in accordance with the standards set forth in H.R. 4378, as passed by the Senate with amendments on September 10, 1986, and further amended by the House of Representatives on September 29, 1986, except that section 6(b)(1) of H.R. 4378 shall not apply to the memorial.

Ante, p. 3650.

SEC. 2. PAYMENT OF EXPENSES.

The United States shall not pay any expense of establishment of the memorial.

Approved November 6, 1986.

LEGISLATIVE HISTORY—S.J. Res. 43:

SENATE REPORTS: No. 99-127 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Sept. 20, considered and passed Senate.
Vol. 132 (1986): Oct. 16, considered and passed House, amended.
Oct. 17, Senate concurred in House amendment.

91-139 O - 87 (643)

Public Law 99-621
99th Congress

Joint Resolution

Nov. 6, 1986
[S.J. Res. 268]

Providing for reappointment of Murray Gell-Mann as a citizen regent of the Board of Regents of the Smithsonian Institution.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of Murray Gell-Mann of California, is filled by reappointment of the incumbent for a term of six years, effective August 30, 1986.

Approved November 6, 1986.

LEGISLATIVE HISTORY—S.J. Res. 268:

SENATE REPORTS: No. 99-517 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 3, considered and passed Senate.
Oct. 14, considered and passed House, amended.
Oct. 18, Senate concurred in House amendment.

O

91-139 O - 87 (644)

Public Law 99-622
99th Congress

Joint Resolution

To express the sense of Congress on recognition of the contributions of the seven Challenger astronauts by supporting establishment of a Children's Challenge Center for Space Science.

Nov. 6, 1986
[S.J. Res. 336]

Whereas the crew of the space shuttle Challenger was dedicated to stimulating the interest of American children in space flight and science generally;

Whereas the members of that crew gave their lives trying to benefit the education of American children;

Whereas a fitting tribute to that effort and to the sacrifice of the Challenger crew and their families is needed; and

Whereas an appropriate form for such tribute would be to expand educational opportunities in science by the creation of a center that will offer children and teachers activities and information derived from American space research: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of Congress that—

(1) a Children's Challenge Center for Space Science should be established in conjunction with the Smithsonian Institution as a living memorial to the seven Challenger astronauts who died serving their country and to other individuals who gave their lives in exploration of the space frontier; and

(2) the Federal Government should, along with public and private organizations and persons, cooperate in the establishment of such a Center.

Approved November 6, 1986.

LEGISLATIVE HISTORY—S.J. Res. 336:

SENATE REPORTS: No. 99-502 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 1, considered and passed Senate.
Oct. 17, considered and passed House, amended.
Oct. 18, Senate concurred in House amendment.

O

91-139 O - 87 (645)

Public Law 99-623
99th Congress

Joint Resolution

Nov. 6, 1986
[S.J. Res. 427]

Reaffirming our friendship and sympathy with the people of El Salvador following the devastating earthquake of October 10, 1986.

Whereas on October 10, 1986, El Salvador suffered a devastating earthquake resulting in heavy loss of life and injuries to many of its citizens;

Whereas the prolonged and extreme hardship of the people of El Salvador as a result of civil conflict has been deepened by this natural disaster;

Whereas the assistance of many governments, as well as international and nongovernmental organizations, for the people of El Salvador has been prompt and generous;

Whereas Secretary of State George Shultz will visit El Salvador during this emergency in order to convey the solidarity and friendship which link the peoples of our two nations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Government of the United States, on behalf of the citizens of the United States, extends to the people and Government of El Salvador our most profound sympathies in this time of tragedy.

SEC. 2. The President should provide all appropriate relief and rehabilitation assistance to help prevent further loss of life, alleviate suffering, and safeguard the public health in El Salvador.

SEC. 3. The United States, in consultation with the Government of El Salvador, is prepared to cooperate with El Salvador in long-term efforts to recover from the effects of the earthquake.

Approved November 6, 1986.

LEGISLATIVE HISTORY—S.J. Res. 427:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 15, considered and passed Senate.
Oct. 16, considered and passed House.

O

91-139 O - 87 (646)

Public Law 99-624
99th Congress

An Act

To establish a commission for the purpose of encouraging and providing for the commemoration of the centennial of the birth of President Dwight David Eisenhower.

Nov. 7, 1986
[H.R. 4302]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that as the Nation approaches October 14, 1990, marking the 100th anniversary of the birth of Dwight David Eisenhower, it is appropriate to establish a national commission to contribute to the commemoration of that anniversary.

SEC. 2. ESTABLISHMENT.

There is established the Dwight David Eisenhower Centennial Commission (hereinafter in this Act referred to as the "Commission").

SEC. 3. DUTIES.

The Commission shall—

District of Columbia. Kansas.

(1) in cooperation with the Eisenhower World Affairs Institute in the District of Columbia, the Eisenhower Foundation in Abilene, Kansas, and such other public or private entities as the Commission considers appropriate, encourage, plan, develop, and coordinate observances and activities commemorating the centennial of the birth of Dwight David Eisenhower; and

(2) submit recommendations to Congress relating to a joint meeting of both Houses of Congress to commemorate that centennial.

SEC. 4. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of—

(1) the President pro tempore of the Senate;

(2) the Speaker of the House of Representatives;

(3) 6 members of the Senate appointed by the President pro tempore of the Senate (of whom 3 shall be upon recommendation of the majority leader of the Senate and 3 shall be upon recommendation of the minority leader of the Senate);

(4) 6 members of the House of Representatives appointed by the Speaker of the House of Representatives (of whom 3 shall be upon recommendation of the majority leader of the House of Representatives and 3 shall be upon recommendation of the minority leader of the House of Representatives);

(5) 6 members appointed by the President; and

(6) the Archivist of the United States or his delegate.

A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

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(b) TERMS.—(1) Except as provided in paragraph (2), members of the Commission shall be appointed for the life of the Commission.

(2) If any member of the Commission who was appointed as a Member of Congress or an officer in the executive branch ceases to be such a Member or officer, that individual may continue as a member of the Commission for not longer than the 30-day period beginning on the date such individual ceases to be such a Member or officer.

(c) PAY; EXPENSES.—(1) Members of the Commission shall serve without pay.

(2) Subject to the availability of appropriations, while away from their homes or regular places of business in the performance of services for the Commission, members shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons serving intermittently in Government service are allowed travel expenses under section 5703 of title 5, United States Code.

(d) QUORUM.—Eleven members of the Commission shall constitute a quorum.

(e) CHAIR AND VICE CHAIR.—Members of the Commission shall select a chair and a vice chair from among its members.

(f) MEETINGS.—(1) Except as provided in paragraph (2), the Commission shall meet at the call of the chair or a majority of its members.

(2) The first meeting of the Commission shall be called by the Speaker of the House of Representatives and the President pro tempore of the Senate within 6 months after the date of the enactment of this Act.

SEC. 5. POWERS.

(a) EXECUTIVE DIRECTOR AND STAFF.—(1) The Commission may accept the services of an executive director and staff personnel only as provided in subsection (b)(1).

(2) Any individual providing services under paragraph (1) may be afforded travel expenses (including a per diem allowance in lieu of subsistence) subject to the same terms and conditions as apply under section 4(c)(2).

(b) DONATIONS.—(1) The Commission may accept, use, and dispose of gifts or donations of money, property, or personal services.

(2)(A) Any books, manuscripts, miscellaneous printed matter, memorabilia, relics, or other materials donated to the Commission which relate to the life of Dwight David Eisenhower—

Kansas.

(i) may be deposited for preservation in the Dwight D. Eisenhower Library in Abilene, Kansas; or

(ii) subject to subparagraph (B), may otherwise be disposed of by the Commission in consultation with the Librarian of Congress and the Secretary of the Smithsonian Institution.

(B) Materials may not be disposed of under subparagraph (A)(ii) without the consent of the Dwight D. Eisenhower Library.

(c) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take under this Act.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 6. REPORTS.

(a) INTERIM REPORTS.—The Commission shall transmit interim reports to the President and each House of Congress no later than December 31 of each year. Each such report shall include a description of the activities of the Commission during the year covered by the report, an accounting of any funds received or expended by the Commission during such year, and recommendations for any legislation or administrative action which the Commission considers appropriate.

(b) FINAL REPORT.—The Commission shall transmit a final report to the President and each House of Congress no later than December 31, 1990. Such report shall include an accounting of any funds received or expended, and the disposition of any other properties, not previously reported.

SEC. 7. TERMINATION.

(a) DATE.—The Commission shall terminate on such date as the Commission may determine, but not later than December 31, 1990.

(b) DISPOSITION OF FUNDS AND PROPERTY.—(1) Any funds held by the Commission on the date the Commission terminates shall be deposited in the general fund of the Treasury.

(2) Any property, other than funds, held by the Commission on the date the Commission terminates shall be transferred to any department or agency of the United States authorized to accept donations of property, subject to the provisions of section 5(b)(2) (if and to the extent that such provisions apply to the property involved). Gifts and property.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $50,000 for fiscal year 1987 to carry out this Act. Any amount so appropriated shall remain available until expended.

Approved November 7, 1986.

LEGISLATIVE HISTORY—H.R. 4302:

HOUSE REPORTS: No. 99-842 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 23, considered and passed House.
Oct. 18, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22, (1986):
Nov. 7, Presidential statement.

O

FISH AND WILDLIFE PROGRAMS, IMPROVEMENTS

91-139 O -- 87 - (648)

Public Law 99-625
99th Congress

An Act

Nov. 7, 1986
[H.R. 4531]

To improve the operation of certain fish and wildlife programs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

16 USC 1536 note.

SECTION 1. TRANSLOCATION OF CALIFORNIA SEA OTTERS.

(a) DEFINITIONS.—For purposes of this section—

(1) The term "Act" means the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

16 USC 1536.

(2) The term "agency action" has the meaning given that term in section 7(a)(2) of the Act.

(3) The term "experimental population" means the population of sea otters provided for under a plan developed under subsection (b).

California.

(4) The phrase "parent population" means the population of sea otters existing in California on the date on which proposed regulations setting forth a proposed plan under subsection (b) are issued.

(5) The phrase "prospective action" refers to any prospective agency action that—

(A) may affect either the experimental population or the parent population; and

(B) has evolved to the point where meaningful consultation under section 7(a) (2) or (3) of the Act can take place.

(6) The term "Secretary" means the Secretary of the Interior.

(7) The term "Service" means the United States Fish and Wildlife Service.

(b) PLAN SPECIFICATIONS.—The Secretary may develop and implement, in accordance with this section, a plan for the relocation and management of a population of California sea otters from the existing range of the parent population to another location. The plan, which must be developed by regulation and administered by the Service in cooperation with the appropriate State agency, shall include the following:

(1) The number, age, and sex of sea otters proposed to be relocated.

(2) The manner in which the sea otters will be captured, translocated, released, monitored, and protected.

(3) The specification of a zone (hereinafter referred to as the "translocation zone") to which the experimental population will be relocated. The zone must have appropriate characteristics for furthering the conservation of the species.

(4) The specification of a zone (hereinafter referred to as the "management zone") that—

(A) surrounds the translocation zone; and

(B) does not include the existing range of the parent population or adjacent range where expansion is necessary for the recovery of the species.

The purpose of the management zone is to (i) facilitate the management of sea otters and the containment of the experimental population within the translocation zone, and (ii) to prevent, to the maximum extent feasible, conflict with other fishery resources within the management zone by the experimental population. Any sea otter found within the management zone shall be treated as a member of the experimental population. The Service shall use all feasible non-lethal means and measures to capture any sea otter found within the management zone and return it to either the translocation zone or to the range of the parent population.

(5) Measures, including an adequate funding mechanism, to isolate and contain the experimental population.

(6) A description of the relationship of the implementation of the plan to the status of the species under the Act and to determinations of the Secretary under section 7 of the Act. 16 USC 1536.

(c) STATUS OF MEMBERS OF THE EXPERIMENTAL POPULATION.—(1) Any member of the experimental population shall be treated while within the translocation zone as a threatened species for purposes of the Act, except that—

(A) section 7 of the Act shall only apply to agency actions that—

(i) are undertaken within the translocation zone,

(ii) are not defense-related agency actions, and

(iii) are initiated after the date of the enactment of this section; and

(B) with respect to defense-related actions within the translocation zone, members of the experimental population shall be treated as members of a species that is proposed to be listed under section 4 of the Act. 16 USC 1533.

For purposes of this paragraph, the term "defense-related agency action" means an agency action proposed to be carried out directly by a military department.

(2) For purposes of section 7 of the Act, any member of the experimental population shall be treated while within the management zone as a member of a species that is proposed to be listed under section 4 of the Act. Section 9 of the Act applies to members of the experimental population; except that any incidental taking of such a member during the course of an otherwise lawful activity within the management zone, may not be treated as a violation of the Act or the Marine Mammal Protection Act of 1972. 16 USC 1538. 16 USC 1361 note.

(d) IMPLEMENTATION OF PLAN.—The Secretary shall implement the plan developed under subsection (b)—

(1) after the Secretary provides an opinion under section 7(b) of the Act regarding each prospective action for which consultation was initiated by a Federal agency or requested by a prospective permit or license applicant before April 1, 1986; or

(2) if no consultation under section 7(a)(2) or (3) regarding any prospective action is initiated or requested by April 1, 1986, at any time after that date.

(e) CONSULTATION AND EFFECT OF OPINION.—A Federal agency shall promptly consult with the Secretary, under section 7(a)(3) of the Act, at the request of, and in cooperation with, any permit or license applicant regarding any prospective action. The time limitations applicable to consultations under section 7(a)(2) of the Act apply to consultations under the preceding sentence. In applying section 7(b)(3)(B) with respect to an opinion on a prospective action

that is provided after consultation under section 7(a)(3), that opinion shall be treated as the opinion issued after consultation under section 7(a)(2) unless the Secretary finds, after notice and opportunity for comment in accordance with section 553 of title 5, United States Code, that a significant change has been made with respect to the action or that a significant change has occurred regarding the information used during the initial consultation. The interested party may petition the Secretary to make a finding under the preceding sentence. The Secretary may implement any reasonable and prudent alternatives specified in any opinion referred to in this subsection through appropriate agreements with any such Federal agency, prospective permit or license applicant, or other interested party.

(f) CONSTRUCTION.—For purposes of implementing the plan, no act by the Service, an authorized State agency, or an authorized agent of the Service or such an agency with respect to a sea otter that is necessary to effect the relocation or management of any sea otter under the plan may be treated as a violation of any provision of the Act or the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

SEC. 2. ATCHAFALAYA NATIONAL WILDLIFE REFUGE.

98 Stat. 2776.

Section 303 of the Act entitled "An Act to extend the Wetlands Loan Act", approved October 26, 1984 (16 U.S.C. 668dd note), is amended—

(1) by striking out "minor" in subsection (a)(2); and

98 Stat. 1369.

(2) by striking out "Public Law 98-396" in subsection (b) and inserting "appropriations Acts".

SEC. 3. DUCK STAMP ACT.

The first sentence of section 2(b) of the Act of March 16, 1934 (16 U.S.C. 718b), commonly known as the Duck Stamp Act, is amended by inserting "available for obligation and" before "attributable to".

SEC. 4. CONVEYANCE OF FISH HATCHERY TO STATE OF NEW HAMPSHIRE.

Water.
Gifts and property.
Real property.

Notwithstanding any other law, the Secretary of the Interior and the Secretary of Agriculture shall convey, without reimbursement, to the State of New Hampshire no later than December 31, 1986, all of the right, title, and interest including the water rights, of the United States in and to the fish hatchery property located in the northwest corner of Berlin township in the White Mountain National Forest, New Hampshire, and known as the Berlin National

Fish Hatchery, consisting of 510 acres, more or less, of land together with any improvements and related personal property thereon. The property conveyed shall be used by the New Hampshire Fish and Game Department as a part of the New Hampshire fishery resources management program and if it is used for any other purpose, title to such property shall revert to the United States.

Approved November 7, 1986.

LEGISLATIVE HISTORY—H.R. 4531:

HOUSE REPORTS: No. 99-679 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 99-475 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 9, considered and passed House.
Oct. 3, considered and passed Senate, amended.
Oct. 14, House concurred in Senate amendment with amendments.
Oct. 18, Senate concurred in House amendments.

O

RECREATIONAL BOATING SAFETY ACT OF 1986

91-139 O -- 87 - (649)

Public Law 99-626
99th Congress

An Act

Nov. 7, 1986
[H.R. 4731]

To enhance boating safety by requiring a report relating to the display on gasoline pumps of the type of alcohol, the percentage of each type of alcohol, and the percentage of cosolvents, if any, contained in the gasoline; to amend chapter 131 of title 46, United States Code, relating to recreational boating safety; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Recreational Boating Safety Act of 1986.
46 USC 13101 note.

SECTION 1. SHORT TITLE.

This act may be cited as the "Recreational Boating Safety Act of 1986".

SEC. 2. REPORT.

Vessels.

(a) Prior to February 1, 1987, the Secretary shall submit a report to Congress relating to the use of alcohol-blended gasoline in recreational vessels including the following:

Uniformed services.

(1) the results of (1) testing performed and (2) a review of fire and explosion boating incidents, under the recreational boating safety program of the Coast Guard.

(2) a survey of published test data performed in the private sector.

(3) a listing of sales of alcohol-blended gasoline by State and type of alcohol.

State and local governments.

(4) a listing of State requirements for labeling of alcohol-blended gasoline including type of alcohol, percent of alcohol, label requirements, alcohol test standards, enforcement and compliance measures, and any other relevant data.

(5) an assessment of State labeling requirements in promoting recreational boating safety and in providing information to the consumer regarding alcohol-blended gasoline.

(6) a listing of Federally mandated requirements that require labeling of alcohol-blended gasoline or regulate or concern the use of alcohol in gasoline.

(7) a recommendation on how to promote recreational boating safety or advance consumer information regarding the use of alcohol-blended gasoline.

(8) any other relevant data or information.

(b) The Secretary shall consult with appropriate agencies and the National Boating Safety Advisory Council in preparing the report required under this section. If possible, the Secretary shall, under section 13110(b)(2) of title 46, United States Code, appoint members of the general public having knowledge, experience, or expertise with alcohol-blended fuels to a panel of the Council for the purpose of advising the Secretary regarding this report.

SEC. 3. NATIONAL BOATING SAFETY ADVISORY COUNCIL.

(a) TERMINATION DATE.—(1) Section 13110 of title 46, United States Code, is amended by inserting at the end the following new subsection:

"(e) The Council shall terminate on September 30, 1991.".

(b) CHANGE IN MEMBERSHIP.—(1) Section 13110(a) of title 46, United States Code, is amended—

(A) by striking "not more than"; and

(B) by inserting "recreational" after "experience in";

(2) Paragraph (1) of section 13110(b) of title 46, United States Code, is amended to read as follows:

"(1) The membership of the Council shall consist of—

"(A) 7 members from State officials responsible for State boating safety programs;

"(B) 7 members from recreational vessel manufacturers and associated equipment manufacturers; and

"(C) 7 members from national recreational boating organizations and from the general public, at least 5 of whom shall be members from national recreational boating organizations.".

(3) The Secretary of Transportation shall carry out the amendments made by paragraph (2) as vacancies in the membership of the National Boating Safety Advisory Council occur.

46 USC 13110 note.

SEC. 4. TECHNICAL AMENDMENTS.

(a) Section 13102(a) of title 46, United States Code, is amended by striking "Fund established under section 13107 of this title" and inserting "Boat Safety Account established by section 9504 of the Internal Revenue Code of 1954.".

26 USC 9504.

(b) Section 13102(a)(4) of title 46, United States Code, is amended by inserting "out" after "carrying".

Ante, p. 446.

(c) Section 13106(b) of title 46, United States Code, is amended by striking "may" the second place it appears and inserting "shall" and by striking "or" in paragraph (8) and inserting "and".

SEC. 5. CONVEYANCE AGREEMENT PROVISIONS.

(a) Under the agreement dated December 9, 1977 between the Commandant of the Coast Guard and Koniag, Incorporated, a regional native corporation, pursuant to Public Law 92-203 (a copy of which is recorded beginning at book 44, page 179 of the Kodiak Recording District, Kodiak, Alaska) and any conveyance made under that agreement, the rights or title conveyed to Koniag, Incorporated, shall be construed to include the following:

Uniformed services. Corporations. Alaska. 43 USC 1601 note.

(1) Under the agreement, welding or other equipment or machinery may be operated or maintained on lands conveyed to Koniag, Incorporated, if the equipment or machinery does not cause harmful electromagnetic interference with the Coast Guard Holiday Beach receiver site or is operated and maintained under terms and conditions mutually agreeable to the Coast Guard and Koniag, Incorporated. Harmful electromagnetic interference is defined as radio frequency signals which disrupt or degrade communications reception performance.

Communications and telecommunications.

(2) The conveyance of the "old shipyard" includes the wharf and all lands of any nature beneath the wharf.

(3) An access and utility easement is intended as part of the conveyance for parcel 2, known as Cliff Point, which consists of—

(A) a 100-foot wide access easement along the existing access road or a location that is mutually agreeable to the Coast Guard and Koniag, Incorporated, and includes the right to construct and operate an access road, bridges, guard rails, and other associated improvements; and

(B) a 40-foot wide utility easement adjacent to the access easement in paragraph (3)(A) of this subsection or a location that is mutually agreeable to the Coast Guard and Koniag, Incorporated.

(4) The construction, maintenance, and operation of a dock facility or location of any structure or thing on the premises described in section (c) of schedule 4 of the agreement is not inconsistent with the easement for the barge landing easement and access to and from the barge landing area reserved by the United States Government (hereinafter referred to in this paragraph as the "Government"), if the dock facility is constructed or the structure or thing is located as approved by the Government. Approval by the Government is deemed to be granted if a proposal for the construction and location of the dock facility, structure, or thing is submitted to the Government and—

(A) the Government does not respond within 60 days of receipt of the proposal; or

(B) if a response with recommendations for modification is submitted by the Government within 60 days of receipt of the proposal, the proposal is modified in a manner necessary to reasonably satisfy the requirements of the Government—

(i) to use the dock facility for a barge landing area as contemplated by the easement; and

Highways. Transportation.

(ii) to permit access to and from the barge loading area to public highways for the transportation of materials as specified in Agreement.

(b) All rights or conveyances confirmed by this section are subject to the sanctions in the Agreement referred to in subsection (a).

(c) The Commandant of the Coast Guard or other appropriate Federal officer shall issue the appropriate corrective conveyance and perform any other appropriate ministerial or official act necessary to carry out the purposes of this section within 60 days after the date of enactment of this section.

Contracts. State and local governments. 16 USC 1456a note.

SEC. 6. AUTHORITY TO MAKE LOANS.

The authority of the Secretary of Commerce to make loans under paragraph (1) of subsection (d) of section 308 of the Coastal Zone Management Act of 1972 (Public Law 92-583, 16 U.S.C. 1451, et seq.) as amended, shall extend to September 30, 1987, for loans made to eligible States or units pursuant to and in accord with agreements entered into between the Secretary and any State prior to September 30, 1986, that provided for a total sum of loans to be made to that State or its units, but such loan authority shall be limited to $7,000,000.

Grants. State and local governments.

SEC. 7. AMENDMENT TO THE COASTAL ZONE MANAGEMENT ACT OF 1972.

Section 318 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1464) is amended by adding at the end thereof the following:

"(d) The amount of any grant, or portion of a grant, made to a State under any section of this Act which is not obligated by such State during the fiscal year, or during the second fiscal year after

the fiscal year, for which it was first authorized to be obligated by such State shall revert to the Secretary. The Secretary shall add such reverted amount to those funds available for grants under the section for such reverted amount was originally made available.".

Approved November 7, 1986.

LEGISLATIVE HISTORY—H.R. 4731:

HOUSE REPORTS: No. 99-968 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 6, considered and passed House.
Oct. 18, considered and passed Senate, amended; House concurred in Senate amendments.

O

Public Law 99-627
99th Congress

An Act

Nov. 7, 1986
[H.R. 5420]

To amend section 3726 of title 31, United States Code, relating to payment for transportation, to permit prepayment audits for selected transportation bills, to permanently authorize payment of transportation audit contractors from carrier overpayments collected, to authorize net overpayments collected to be transferred to the Treasury, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3726 of title 31, United States Code, is amended—

Regulations.

(1) in subsection (a) by striking out the first sentence and insert in lieu thereof the following: "A carrier or freight forwarder presenting a bill for transporting an individual or property for the United States Government may be paid before the Administrator of General Services conducts an audit, in accordance with regulations that the Administrator shall prescribe.";

(2) by redesignating subsections (c) and (d) as subsections (f) and (g), respectively; and

(3) by inserting after subsection (b) the following new subsections:

Contracts.

"(c) Expenses of transportation audit contracts and contract administration shall be financed from overpayments collected from carriers on transportation bills paid by the Government and other similar type refunds at not to exceed 40 percent of such collections annually. Payment to any contractor shall not exceed 50 percent of the overpayments identified by any contract audit.

Contracts.

Reports.

"(d) At least annually, and as determined by the Administrator, after making adequate provision for expenses of refunds to carriers, transportation audit contracts, and contract administration authorized in subsection (c), the balance of the overpayments collected by the General Services Administration shall be transferred to miscellaneous receipt of the Treasury. A report of receipts, disbursements, and transfers (to miscellaneous receipts) pursuant to this section shall be made annually in connection with the budget estimates to the Director of the Office of Management and Budget and to the Congress.

"(e) The Administrator may delegate any authority conferred by this section to another agency or agencies if the Administrator determines that such a delegation would be cost-effective or otherwise in the public interest.".

31 USC 3726 note.

Sec. 2. (a) Within 60 days after the date of enactment of this Act, the Administrator of General Services shall establish a task force to study and investigate the feasibility, desirability, and economy of an integrated, automated system that Federal agencies may use in managing the transportation of property for the United States.

(b) The task force established under subsection (a) shall—

(1) be chaired by a representative of the Administrator;

(2) include representatives of the Department of Defense and other Federal agencies significantly involved in the transportation of property for the United States; and

91-139 O - 87 (650)

(3) solicit the views of private businesses with expertise in the matters being considered by the task force. Business and industry.

(c) In studying and investigating the integrated, automated system, the task force shall consider including in that system such elements as automated routing, rating, documentation, payment, and auditing.

(d) Each department, agency, and instrumentality of the Federal Government shall furnish to the task force, upon its request, such data, reports, and other information (not otherwise prohibited by law) as the task force deems necessary to carry out its functions under this section.

(e) The head of each such department, agency, and instrumentality may provide to the task force such services and personnel as the task force requests on such basis (reimbursable or otherwise) as may be agreed upon between such department, agency, or instrumentality and the task force.

(f) The task force shall submit a final report on the results of its study and investigation to the Congress not later than July 1, 1988. Reports.

SEC. 3. (a) Section 402(a)(1) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 512(a)(1)) is amended by striking out "; but in no event shall any property be sold without a condition forbidding its importation into the United States, unless the Secretary of Agriculture (in the case of any agricultural commodity, food, or cotton or woolen goods) or the Secretary of Commerce (in the case of any other property) determines that the importation of such property would relieve domestic shortages or otherwise be beneficial to the economy of this country". Imports.

(b) Applications pending before the Secretary of Commerce or the Secretary of Agriculture on, or received after, the date of enactment of this Act for authorization to import property under section 402(a)(1) of the Federal Property and Administrative Services Act of 1949 shall be returned without action, and applicants shall be informed in writing that authorization is no longer required after such date. 40 USC 512 note.

(c) The amendment made by subsection (a) shall not affect any civil or criminal proceeding instituted by the United States prior to the date of enactment of this Act. 40 USC 512 note.

Approved November 7, 1986.

LEGISLATIVE HISTORY—H.R. 5420 (S. 2630):

HOUSE REPORTS: No. 99-932 (Comm. on Government Operations).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 6, considered and passed House.
Oct. 18, considered and passed Senate.

O

PUBLIC LAW 99-628—NOV. 7, 1986

CHILD SEXUAL ABUSE AND PORNOGRAPHY ACT OF 1986

91-139 O -- 87 - (651)

Public Law 99-628
99th Congress

An Act

Nov. 7, 1986
[H.R. 5560]

To amend title 18 of the United States Code to ban the production and use of advertisements for child pornography or solicitations for child pornography, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Child Sexual Abuse and Pornography Act of 1986.
18 USC 2251 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Sexual Abuse and Pornography Act of 1986".

SEC. 2. ADVERTISING OFFENSES RELATED TO SEXUAL EXPLOITATION OF CHILDREN.

Section 2251 of title 18, United States Code, is amended—

(1) in subsection (a), by striking out "subsection (c)" and inserting in lieu thereof "subsection (d)";

(2) in subsection (b), by striking out "subsection (c)" and inserting in lieu thereof "subsection (d)";

(3) by inserting after subsection (b) the following:

"(c)(1) Any person who, in a circumstance described in paragraph (2), knowingly makes, prints, or publishes, or causes to be made, printed, or published, any notice or advertisement seeking or offering—

"(A) to receive, exchange, buy, produce, display, distribute, or reproduce, any visual depiction, if the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct and such visual depiction is of such conduct; or

"(B) participation in any act of sexually explicit conduct by or with any minor for the purpose of producing a visual depiction of such conduct;

shall be punished as provided under subsection (d).

Commerce and trade.
Mail.

"(2) The circumstance referred to in paragraph (1) is that—

"(A) such person knows or has reason to know that such notice or advertisement will be transported in interstate or foreign commerce or mailed; or

"(B) such notice or advertisement is transported in interstate or foreign commerce or mailed."; and

(4) by redesignating subsection (c) as subsection (d).

SEC. 3. TRANSPORTATION OF CHILDREN FOR PURPOSES OF SEXUAL EXPLOITATION.

Commerce and trade.

Section 2251(a) of title 18, United States Code, is amended by inserting ", or who transports any minor in interstate or foreign commerce, or in any Territory or Possession of the United States, with the intent that such minor engage in," after "assist any other person to engage in,".

SEC. 4. CLARIFICATION OF MEANING OF VISUAL DEPICTION.

Section 2255 of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting "; and" in lieu thereof; and

(3) by adding at the end the following:

"(5) 'visual depiction' includes undeveloped film and videotape.".

SEC. 5. MANN ACT AMENDMENTS.

(a) CHAPTER HEADING.—(1) The heading for chapter 117 of title 18, United States Code, is amended to read as follows:

"CHAPTER 117—TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES".

(2) The table of chapters for part I of title 18, United States Code, is amended so that the item relating to chapter 117 reads as follows:

"117. Transportation for illegal sexual activity and related crimes.".

(b) REVISION OF OFFENSE PROVISIONS.—(1) Chapter 117 of title 18, United States Code, is amended by striking out section 2421 and all that follows through section 2423 and inserting in lieu thereof the following:

"§ 2421. Transportation generally

Commerce and trade.
18 USC 2421.

"Whoever knowingly transports any individual in interstate or foreign commerce, or in any Territory or Possession of the United States, with intent that such individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, shall be fined under this title or imprisoned not more than five years, or both.

"§ 2422. Coercion and enticement

Commerce and trade.
18 USC 2422.

"Whoever knowingly persuades, induces, entices, or coerces any individual to travel in interstate of foreign commerce, or in any Territory or Possession of the United States, to engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, shall be fined under this title or imprisoned not more than five years, or both.

"§ 2423. Transportation of minors

Commerce and trade.
18 USC 2423.

"Whoever knowingly transports any individual under the age of 18 years in interstate or foreign commerce, or in any Territory or Possession of the United States, with intent that such individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, shall be fined under this title or imprisoned not more than ten years, or both.".

(2) The table of sections at the beginning of chapter 117 of title 18, United States Code, is amended so that the item relating to section 2422 reads as follows:

"2422. Coercion and enticement.".

(c) GENDER-NEUTRAL AMENDMENTS TO SECTION 2424.—(1) Section 2424 of title 18, United States Code, is amended—

"(1) by striking out "**female**" in the heading for such section and inserting "**individual**" in lieu thereof;

"(2) by striking out "woman or girl" each place it appears and inserting "individual" in lieu thereof;

"(3) by striking out "she" each place it appears and inserting "that individual" in lieu thereof;

"(4) by striking out "her" each place it appears and inserting "that individual's" in lieu thereof;

"(5) by striking out "him" each place it appears and inserting "that person"; and

"(6) by striking out "his" and inserting "that person's".

Approved November 7, 1986.

LEGISLATIVE HISTORY—H.R. 5560:

HOUSE REPORTS: No. 99-910 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 29, considered and passed House.
Oct. 18, considered and passed Senate.

Public Law 99-629
99th Congress

Joint Resolution

To designate the week beginning January 19, 1987, as "Shays' Rebellion Week" and Sunday, January 25, 1987, as "Shays' Rebellion Day".

Nov. 7, 1986
[H.J. Res. 10]

Whereas January 25, 1987, marks the bicentennial of the final uprising in western Massachusetts of Daniel Shays and his men, during a period of unrest in the years following the Revolutionary War;

Whereas the landowners of western Massachusetts felt they were unduly burdened because money was scarce, taxes were high, punishments for debts were severe, and the government was unresponsive;

Whereas Shays led the dissatisfied landowners in a series of attacks to stop debt procedures in local courts;

Whereas on January 25, 1787, a major confrontation occurred in Springfield when the militia wounded, killed, and caught several of Shays' rebels as they stormed the arsenal;

Whereas the uprisings of Shays' Rebellion exposed the problems in the existing form of government to the people of America and prompted a meeting of delegates in Philadelphia to correct the weaknesses of the Articles of Confederation; and

Whereas Shays' Rebellion was instrumental in bringing about the writing of the Constitution of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning January 19, 1987, is designated as "Shays' Rebellion Week" and Sunday, January 25, 1987, is designated as "Shays' Rebellion Day". The President is requested to issue a proclamation calling upon the people of the United States to observe such week and day with appropriate ceremonies and activities.

Approved November 7, 1986.

LEGISLATIVE HISTORY—H.J. Res. 10:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 10, considered and passed House.
Oct. 18, considered and passed Senate.

Public Law 99-630
99th Congress

Joint Resolution

Nov. 7, 1986
[H.J. Res. 67]

Calling for a wildlife sanctuary for humpback whales in the West Indies.

International agreements.
16 USC 916 note.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President shall, in concert with the International Whaling Commission, seek a treaty or other appropriate international agreement establishing a wildlife sanctuary for humpback whales in the West Indies, in the area encompassing the Turks Islands, Mouchoir Passage, Silver Bank Passage, Navidad Bank, and such additional areas in the West Indies as may be necessary to ensure the protection of the breeding grounds of the humpback whales.

Approved November 7, 1986.

LEGISLATIVE HISTORY—H.J. Res. 67:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 23, considered and passed House.
Oct. 16, considered and passed Senate.

Public Law 99-631
99th Congress

Joint Resolution

To make corrections in the Comprehensive Anti-Apartheid Act of 1986.

Nov. 7, 1986
[H.J. Res. 756]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Comprehensive Anti-Apartheid Act of 1986 is amended as follows:

South Africa.
Ante, p. 1086.

(1) In the table of contents—

(A) strike out the item relating to section 309 and insert in lieu thereof the following new item:

"Sec. 309. Prohibition on importation of uranium, coal, and textiles from South Africa.";

(B) strike out the items relating to sections 317 and 318 and insert in lieu thereof the following new items:

"Sec. 317. Prohibition on export of items on the United States Munitions List.
"Sec. 318. Notification of certain proposed United States Munitions List exports.";

and

(C) strike out the item relating to section 510 and insert in lieu thereof the following new item:

"Sec. 510. Prohibition on the importation of Soviet gold coins.".

(2) In section 3—

Ante, p. 1087.

(A) in paragraph (6)(B), strike out "Administration" and insert in lieu thereof "administration";

(B) at the end of paragraph (7), strike out "and";

(C) redesignate paragraph (8) as paragraph (9); and

(D) after paragraph (7), insert the following new paragraph:

"(8) the term 'South African national' means—

"(A) a citizen of South Africa; and

"(B) any partnership, corporation, or other business association which is organized under the laws of South Africa; and".

(3) In section 102—

Ante, p. 1090.

(A) in subsection (b), insert "and" at the end of paragraph (3); and

(B) in subsection (c)—

(i) strike out "subsection 101(a)" and insert in lieu thereof "section 101(a)"; and

(ii) strike out "ANC" and insert in lieu thereof "African National Congress".

(4) In section 103(b)—

Ante, p. 1090.

(A) in paragraph (1), insert a comma after "apartheid";

(B) in paragraph (4), strike out "to those whose nonviolent activities had" and insert in lieu thereof "(A) to those whose nonviolent activities have"; and

(C) in paragraph (7), strike out "such groups so as to achieve the objectives of this Act" and insert in lieu thereof "groups promoting terrorism".

(5) In section 104(b)—

Ante, p. 1091.

Human rights.

(A) in paragraph (5), strike out "that all countries of the region respect the human rights of their citizens and noncitizens residing in the country, and especially the release" and insert in lieu thereof "the respect by all countries of the region for the human rights of their citizens and noncitizens residing in their countries and, especially, the release by all such countries"; and

(B) in paragraph (6), strike out "demanding that all countries of the region take effective action" and insert in lieu thereof "demanding, effective action by all countries of the region".

Ante, p. 1091.

(6) In section 105—

(A) insert "(1)" after "states"; and

(B) strike out "of means" and insert in lieu thereof "(2) any means".

International agreements.
Ante, p. 1092.

(7) Section 106(c) is amended to read as follows:

"(c) The United States will work, through coordinated actions with the major Western allies and with the governments of the countries in the region, toward the achievement of an agreement to suspend violence and begin negotiations.".

Ante, p. 1093.

(8) In section 109, strike out "Senate" and insert in lieu thereof "Congress".

Ante, p. 1097.

(9) In section 207—

(A) in subsection (a), insert "with respect to the employment of those persons" after "implemented"; and

(B) in subsection (b), insert "with respect to the employment of those persons" after "Conduct".

Ante, p. 1097.

(10) In section 208—

(A) in subsection (b)(3), strike out "make" and insert in lieu thereof "making"; and

(B) in the second sentence of subsection (c), strike out "this section" each of the two places it appears and insert in lieu thereof "section 207".

Ante, p. 1098.

(11) In section 212, insert "are participated in by" after "as".

Ante, p. 1099.

(12) In section 303—

(A) in subsection (b)—

(i) strike out "corporation or partnership owned or controlled" and insert in lieu thereof "corporation, partnership, or entity owned, controlled,"; and

(ii) strike out "corporation or partnership" the second place it appears and insert in lieu thereof "corporation, partnership, or entity"; and

(B) at the end of the section, add the following new subsection:

Imports.

"(c) Nothing in this section prohibits the importation into the United States of any publication, including any book, newspaper, magazine, film, phonograph record, tape recording, photograph, microfilm, microfiche, poster, or any other similar material.".

Ante, p. 1100.

(13) In section 306(d), insert " 'air carrier'," after " 'aircraft',".

Ante, p. 1102.

(14) In section 309—

(A) in the section heading relating thereto, strike out "URANIUM AND COAL" and insert in lieu thereof "URANIUM, COAL, AND TEXTILES";

(B) in subsection (a), strike out "is" and insert in lieu thereof "are";

(C) redesignate subsection (b) as subsection (c); and

(D) insert after subsection (a) the following new subsection:

"(b) For purposes of this section, the term 'textiles' does not include any article provided for in item 812.10 or 813.10 of the Tariff Schedules of the United States.". 19 USC note prec. 1202.

(15) In section 312(b), strike out "civilians or" and insert in lieu thereof "civilians and". *Ante*, p. 1103.

(16) In section 313, strike out "the following convention and protocol". *Ante*, p. 1104.

(17) In section 314— *Ante*, p. 1104.

(A) strike out "agency" and insert in lieu thereof "agency,"; and

(B) strike out "diplomatic and" and insert in lieu thereof "diplomatic or".

(18) In section 317— *Ante*, p. 1104.

(A) in the section heading relating thereto, strike out "SALE OR EXPORT OF ITEMS ON" and insert in lieu thereof "EXPORT OF ITEMS ON THE UNITED STATES"; and

(B) in subsection (a), strike out "Munition" and insert in lieu thereof "Munitions".

(19) In section 318— *Ante*, p. 1105.

(A) amend the section heading relating thereto to read as follows: "NOTIFICATION OF CERTAIN PROPOSED UNITED STATES MUNITIONS LIST EXPORTS";

(B) in subsection (a) in the text above clause (i), strike out "shall:" and insert in lieu thereof "shall—";

(C) in subsection (a), redesignate paragraphs (i) and (ii) as paragraphs (1) and (2), respectively;

(D) in subsection (a)(1), as redesignated by clause (C)—

(i) insert "of" after "Africa"; and

(ii) strike out "Munition" and insert in lieu thereof "Munitions"; and

(E) amend subsection (b) to read as follows:

"(b)(1) No item described in subsection (a) may be exported if the Congress, within 30 days of continuous session after a certification is made under subsection (a)(2), enacts, in accordance with section 602 of this Act, a joint resolution disapproving such export. Exports. *Post*, p. 3519.

"(2) For purposes of paragraph (1), the term "continuous session" is used within the meaning of section 906(b) of title 5, United States Code."

(20) In section 319— *Ante*, p. 1105.

(A) in the text above paragraph (1), strike out "no:" and insert in lieu thereof "no—";

(B) in paragraph (1), strike out "commodity, product, byproduct of derivative thereof," and insert in lieu thereof "commodity or product or any byproduct or derivative thereof, or"; and

(C) strike out paragraph (2) and insert in lieu thereof the following: Imports.

"(2) article that is suitable for human consumption,

that is a product of South Africa may be imported into the United States after the date of enactment of this Act.".

(21) In section 320— *Ante*, p. 1105.

(A) strike out "Notwithstandig" and insert in lieu thereof "Notwithstanding";

(B) insert after "produced" a comma and the following: "or iron ore extracted,"; and

Imports.
Contracts.

(C) insert before the period at the end thereof a comma and the following: "except that any such commodity may be imported pursuant to a contract entered into before August 15, 1986, if no shipment of such commodity is imported by a national of the United States under such contract after December 31, 1986".

Petroleum and petroleum products.
Exports.
Ante, p. 1105.

(22) In section 321—

(A) in subsection (a)—

(i) strike out "or which is exported by a person subject to the jurisdiction of the United States"; and

(ii) insert after "South Africa" the following: ", and no crude oil or refined petroleum product may be exported to South Africa by a person subject to the jurisdiction of the United States"; and

Contracts.

(B) in subsection (b), before the period at the end thereof insert a comma and the following: "if no shipment of such export is made under such contract after December 31, 1986".

Ante, p. 1105.

(23) In section 322, insert "for" after "except".

Ante, p. 1106.

(24) In section 401—

(A) in the third sentence of subsection (a), insert "agreements" after "cooperative";

International agreements.

(B) in the first sentence of subsection (b)(1), strike out "arrangements with the other industrialized democracies and other trading partners of South Africa" and insert in lieu thereof "agreements with the other industrialized democracies";

(C) in subsection (c), strike out "sections 301 through 310" and insert in lieu thereof "title III"; and

(D) in subsection (d)(3), insert ", in accordance with section 602 of this Act," after "enacted".

Ante, p. 1107.

(25) In section 402, strike out "against any national of the United States".

Ante, p. 1108.

(26) In section 501—

(A) in subsection (c), strike out paragraph (1);

(B) in subsection (c)(3), strike out "food, agricultural products, diamonds, and textiles" and insert in lieu thereof "diamonds"; and

(C) in subsection (c), redesignate paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

Ante, p. 1109.

(27) In section 502—

(A) in subsection (a), strike out "material by" and insert in lieu thereof "material to"; and

President of U.S.
Reports.

(B) in subsection (b)(2), strike out "(1) and every thirty days thereafter, the President shall prepare and transmit" and insert in lieu thereof "(1), and every thirty days thereafter, the President shall prepare and transmit to the Congress a report containing".

Ante, p. 1109.

(28) In section 505(a), insert a comma after "done" the second place it appears.

Ante, p. 1111.

(29) In section 510—

(A) strike out subsection (b);

(B) redesignate subsection (c) as subsection (b); and

(C) in subsection (c), strike out "rubles" and insert in lieu thereof "gold coins".

(30) In section 512(a), strike out "Subsaharan" and insert in lieu thereof "subSaharan". *Ante*, p. 1112.

(31) In section 602— *Ante*, p. 1112.

(A) in subsection (a)(1), insert "318(b)," after "311(b),"; *Ante*, p. 1105.

(B) in subsection (b)(1), insert "318(b)," after "311(b),";

(C) in subsection (b)(3), insert "the" after "with";

(D) in subsection (c), redesignate paragraphs (A), (B), and (C) as paragraphs (1), (3), and (4), respectively; and

(E) in subsection (c), insert after paragraph (1), as redesignated by clause (D) of this paragraph, the following new paragraph:

"(2) in the case of section 318(b), a joint resolution which is introduced in a House of Congress within 3 legislative days after the Congress receives a certification of the President pursuant to section 318(b) and for which the matter after the resolving clause reads as follows: 'That the Congress, having received on a certification of the President under section 318(b)(2) of the Comprehensive Anti-Apartheid Act of 1986, approves the President's certification.', with the date of the receipt of the certification inserted in the blank;". President of U.S. Congress.

(b) The Foreign Assistance Act of 1961 is amended as follows: 22 USC 2151 note.

(1) In section 105(b)(2)(C)(i), strike out "inservice" and insert in lieu thereof "in-service". 22 USC 2151c.

(2) In section 116(f)(2)(B), strike out "paragraph" and insert in lieu thereof "subsection". 22 USC 2151n.

(3) In section 535(a)(1), insert "and" after "enterprise,". *Ante*, p. 1111.

(c) The amendments made by subsections (a) and (b) shall be deemed to have taken effect upon the enactment of the Comprehensive Anti-Apartheid Act of 1986. Effective date. *Ante*, p. 1086.

Approved November 7, 1986.

LEGISLATIVE HISTORY—H.J. Res. 756:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 17, considered and passed House.
Oct. 18, considered and passed Senate.

○

Public Law 99-632
99th Congress

An Act

Nov. 7, 1986
[S. 565]

To provide for the transfer of certain lands in the State of Arizona, and for other purposes.

Real property.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, the Secretary of Agriculture is authorized and directed to convey, without consideration except for administrative costs associated with the preparation of title and legal description, to the Town of Payson, Arizona, a parcel of land comprising approximately 30.96 acres, known as North Rumsey Park, in the Town of Payson, County of Gila, Arizona.

SEC. 2. Title to any real property acquired by the Town of Payson pursuant to this Act shall revert to the United States if the town attempts to convey or otherwise transfer ownership of any portion of such property to any other party or attempts to encumber such title, or if the town permits the use of any portion of such property for any purpose incompatible with the purposes specified in section 3 of this Act.

SEC. 3. Real property conveyed to the Town of Payson pursuant to this Act be used for public open space, park and recreational purposes.

SEC. 4. (a) Notwithstanding any other provision of law or regulation, the Secretary of the Interior, acting through the Bureau of Land Management, is authorized and directed to transfer title to certain land in Arizona in accordance with the terms of the Memorandum of Agreement Regarding the Disposal of Federal Lands at Lake Havasu City among the United States Department of the Interior, Bureau of Land Management, the Arizona State Land Department, the Arizona State Parks Board and Lake Havasu City, dated November 25, 1985. The transfer of title to land along the shoreline of Lake Havasu shall be to elevation 450 feet above sea level: *Provided,* That the United States shall reserve unto itself the right to maintain the shoreline and to flood up to elevation 455 feet above sea level.

43 USC 869 note.

(b) The Secretary of the Interior is hereby authorized and directed to process an application by the County of Santa Cruz, Arizona, pursuant to the Recreation and Public Purposes Act for the following described lands: *Provided,* That the processing shall be in accordance with the Memorandum of Understanding among the United States Forest Service, the Bureau of Land Management and Santa Cruz County, dated September 17, 1986: S½NW¼ Section 5, and Lots 10 and 11, Section 6, T. 24 S., R. 14 E., G&SM. Executive Order No. 1398, dated August 15, 1911, which temporarily withdrew the above described land for use by the United States Forest Service for administrative purposes, is hereby revoked in its entirety, effective on the date of patent of the above described lands pursuant to the Recreation and Public Purposes Act to the County of Santa Cruz, Arizona.

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SEC. 5. Section 205 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1715(c)) is amended—

(1) in the first sentence of subsection (c) by striking out "Lands and interests" and inserting in lieu thereof "Except as provided in subsection (e), lands and interests"; and

(2) by adding at the end thereof the following new subsection:

"(e) Lands acquired by the Secretary pursuant to this section or section 206 in exchange for lands which were revested in the United States pursuant to the provisions of the Act of June 9, 1916 (39 Stat. 218) or reconveyed to the United States pursuant to the provisions of the Act of February 26, 1919 (40 Stat. 1179), shall be considered for all purposes to have the same status as, and shall be administered in accordance with the same provisions of law applicable to, the revested or reconveyed lands exchanged for the lands acquired by the Secretary.". 43 USC 1716. 16 USC 342.

SEC. 6. Notwithstanding any other provision of law, the Secretary of the Interior, if he determines it necessary and appropriate for the purpose of consummating an exchange of lands or interests therein under applicable law, is hereby authorized and directed to revoke the withdrawal under the First Form by Order of the Secretary of the Interior dated December 14, 1904, and as interpreted by Order of Interpretation of the Secretary of the Interior dated May 19, 1964, insofar as said withdrawal applies to Section 31 (Lots 1, 2, 3, W½E½, E½NW¼, SE¼SE¼) T. 5 N., R. 7 E., Gila and Salt River Meridian, Arizona.

SEC. 7. Notwithstanding any provision of law or order based thereon, the Secretary of the Interior, at the request of the Secretary of Agriculture, is authorized to take such actions (including but not limited to the revocation of withdrawals and the issuance of patents) as may be necessary to facilitate and consummate a land exchange in Idaho known as the Mesa Falls Exchange, as described in a Land Exchange Notice by the Department of Agriculture published in the Post-Register newspaper published in Idaho Falls, Idaho on November 12, 1985 (p. B-5), if the Secretary of Agriculture decides to proceed with such exchange. Idaho.

Approved November 7, 1986.

LEGISLATIVE HISTORY—S. 565:

HOUSE REPORTS: No. 99-900 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 99-339 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 9, considered and passed Senate.
Sept. 30, considered and passed House, amended.
Oct. 9, Senate concurred in House amendment with an amendment.

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Public Law 99-633
99th Congress

An Act

Nov. 7, 1986
[S. 2245]

To authorize appropriations to carry out the Export Administration Act of 1979 and export promotion activities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXPORT ADMINISTRATION ACT.

Section 18(b) of the Export Administration Act of 1979 (50 U.S.C. App. 2417(b)) is amended to read as follows:

"(b) AUTHORIZATION.—There are authorized to be appropriated to the Department of Commerce to carry out the purposes of this Act—

"(1) $35,935,000 for each of the fiscal years 1987 and 1988, of which $12,746,000 shall be available for each such year only for enforcement, $2,000,000 shall be available for each such year only for foreign availability assessments under subsections (f) and (h)(6) of section 5, and $21,189,000 shall be available for each such year for all other activities under this Act; and

50 USC 2404.

Wages.

"(2) such additional amounts for each of the fiscal years 1987 and 1988 as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.".

Retirement.

SEC. 2. EXPORT PROMOTION.

Section 202 of the Export Administration Amendments Act of 1985 (15 U.S.C. 4052) is amended by striking "$113,273,000 for each of the fiscal years 1985 and 1986" and inserting "$123,922,000 for each of the fiscal years 1987 and 1988".

Approved November 7, 1986.

LEGISLATIVE HISTORY—S. 2245:

SENATE REPORTS: No. 99-271 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD, Vol. 132 (1986):
July 21, considered and passed Senate.
Oct. 14, considered and passed House, amended.
Oct. 18, Senate concurred in House amended with an amendment; House concurred in Senate amendment.

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91-139 O - 87 (657)

Public Law 99-634
99th Congress

An Act

To strengthen the prohibition of kickbacks relating to subcontracts under Federal Government contracts.

Nov. 7, 1986
[S. 2250]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Anti-Kickback Enforcement Act of 1986".

Anti-Kickback Enforcement Act of 1986.
41 USC 51 note.

SEC. 2. (a) The Act entitled "An Act to eliminate the practice by subcontractors, under cost-plus-a-fixed-fee or cost reimbursable contracts of the United States, of paying fees or kickbacks, or of granting gifts or gratuities to employees of a cost-plus-fixed-fee or cost reimbursable prime contractors or of higher tier subcontractors for the purpose of securing the award of subcontracts or orders", approved March 8, 1946 (41 U.S.C. 51-54), is amended to read as follows:

"SHORT TITLE

"SECTION 1. This Act may be cited as the 'Anti-Kickback Act of 1986'.

Anti-Kickback Act of 1986.
41 USC 51.

"DEFINITIONS

"SEC. 2. As used in this Act:

41 USC 52.

"(1) The term 'contracting agency', when used with respect to a prime contractor, means any department, agency, or establishment of the United States which enters into a prime contract with a prime contractor.

"(2) The term 'kickback' means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime contractor, prime contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

"(3) The term 'person' means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

"(4) The term 'prime contract' means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

"(5) The term 'prime contractor' means a person who has entered into a prime contract with the United States.

"(6) The term 'prime contractor employee' means any officer, partner, employee, or agent of a prime contractor.

"(7) The term 'subcontract' means a contract or contractual action entered into by a prime contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.

"(8) The term 'subcontractor'—

"(A) means any person, other than the prime contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract; and

"(B) includes any person who offers to furnish or furnishes general supplies to the prime contractor or a higher tier subcontractor.

"(9) The term 'subcontractor employee' means any officer, partner, employee, or agent of a subcontractor.

"PROHIBITED CONDUCT

41 USC 53.

"SEC. 3. It is prohibited for any person—

"(1) to provide, attempt to provide, or offer to provide any kickback;

"(2) to solicit, accept, or attempt to accept any kickback; or

"(3) to include, directly or indirectly, the amount of any kickback prohibited by clause (1) or (2) in the contract price charged by a subcontractor to a prime contractor or a higher tier subcontractor or in the contract price charged by a prime contractor to the United States.

"CRIMINAL PENALTIES

41 USC 54.

"SEC. 4. Any person who knowingly and willfully engages in conduct prohibited by section 3 shall be imprisoned for not more than 10 years or shall be subject to a fine in accordance with title 18, United States Code, or both.

"CIVIL ACTIONS

41 USC 55.

"SEC. 5. (a)(1) The United States may, in a civil action, recover a civil penalty from any person who knowingly engages in conduct prohibited by section 3. The amount of such civil penalty shall be—

"(A) twice the amount of each kickback involved in the violation; and

"(B) not more than $10,000 for each occurrence of prohibited conduct.

"(2) The United States may, in a civil action, recover a civil penalty from any person whose employee, subcontractor or subcontractor employee violates section 3 by providing, accepting, or charging a kickback. The amount of such civil penalty shall be the amount of that kickback.

"(b) A civil action under this section shall be barred unless the action is commenced within 6 years after the later of (1) the date on which the prohibited conduct establishing the cause of action occurred, and (2) the date on which the United States first knew or should reasonably have known that the prohibited conduct had occurred.

"ADMINISTRATIVE OFFSETS

41 USC 56.

"SEC. 6. (a) A contracting officer of a contracting agency may offset the amount of a kickback provided, accepted, or charged in violation of section 3 against any moneys owed by the United States to the prime contractor under the prime contract to which such kickback relates.

"(b)(1) Upon direction of a contracting officer of a contracting agency with respect to a prime contract, the prime contractor shall withhold from any sums owed to a subcontractor under a subcontract of the prime contract the amount of any kickback which was or may be offset against that prime contractor under subsection (a).

"(2) Such contracting officer may order that sums withheld under paragraph (1)—

"(A) be paid over to the contracting agency; or

"(B) if the United States has already offset the amount of such sums against that prime contractor, be retained by the prime contractor.

"(3) The prime contractor shall notify the contracting officer when an amount is withheld and retained under paragraph (2)(B).

"(c) An offset under subsection (a) or a direction or order of a contracting officer under subsection (b) is a claim by the Government for the purposes of the Contract Disputes Act of 1978. Claims. 41 USC 601 note.

"(d) As used in this section, the term 'contracting officer' has the meaning given that term for the purposes of the Contract Disputes Act of 1978.

"CONTRACTOR RESPONSIBILITIES

"SEC. 7. (a) Each contracting agency shall include in each prime contract awarded by such agency a requirement that the prime contractor shall have in place and follow reasonable procedures designed to prevent and detect violations of section 3 in its own operations and direct business relationships. 41 USC 57.

"(b) Each contracting agency shall include in each prime contract awarded by such agency a requirement that the prime contractor shall cooperate fully with any Federal Government agency investigating a violation of section 3.

"(c)(1)(A) Whenever a prime contractor or subcontractor has reasonable grounds to believe that a violation of section 3 may have occurred, the prime contractor or subcontractor shall promptly report the possible violation in writing. Reports.

"(B) A contractor shall make the reports required by subparagraph (A) to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Department of Justice. Reports.

"(2) In the case of an administrative or contractual action to suspend or debar any person who is eligible to enter into contracts with the Federal Government, evidence that such person has supplied information to the United States pursuant to paragraph (1) shall be favorable evidence of such person's responsibility for the purposes of Federal procurement laws and regulations.

"INSPECTION AUTHORITY

"SEC. 8. For the purpose of ascertaining whether there has been a violation of section 3 with respect to any prime contract, the General Accounting Office and the inspector general of the contracting agency, or a representative of such contracting agency designated by the head of such agency if the agency does not have an inspector general, shall have access to and may inspect the facilities and audit the books and records, including any electronic data or records, of any prime contractor or subcontractor under a prime contract awarded by such agency.". 41 USC 58.

(b) The title of such Act is amended to read as follows: "An Act to prohibit kickbacks relating to subcontracts under Federal Government contracts.".

Effective date.
41 USC 51 note.

SEC. 3. (a) Except as provided in subsection (b), the Anti-Kickback Act of 1986 (as set out in section 2(a)) shall take effect with respect to conduct described in section 3 of such Act which occurs on or after the date of the enactment of this Act.

(b) Subsections (a) and (b) of section 7 of the Anti-Kickback Act of 1986 (as set out in section 2(a)) shall take effect with respect to contract solicitations issued by an agency, department, or other establishment of the Federal Government on or after the date which is 90 days after the date of the enactment of this Act.

Approved November 7, 1986.

LEGISLATIVE HISTORY—S. 2250 (H.R. 4783):

HOUSE REPORTS: No. 99-964, Pt. 1 accompanying H.R. 4783 (Comm. on Government Operations).
SENATE REPORTS: No. 99-435 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 12, considered and passed Senate.
Oct. 7, H.R. 4783 considered and passed House; proceedings vacated and S. 2250, amended, passed in lieu.
Oct. 15, Senate concurred in House amendments.

O

Public Law 99-635
99th Congress

An Act

To revise the boundaries of Olympic National Park and Olympic National Forest in the State of Washington, and for other purposes.

Nov. 7, 1986
[S. 2351]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Forest System.
National parks, monuments, etc.
National Wilderness Preservation System.
16 USC 251n.

SECTION 1. (a) The boundary of Olympic National Park, Washington, is hereby revised to include within the park—

(1) all submerged lands and waters of Lake Ozette, Washington, and the Ozette River, Washington;

(2) all surveyed and unsurveyed islands lying off the coast of the State of Washington in the Pacific Ocean between latitudes 48 degrees 23 minutes north and 47 degrees 38 minutes north;

Indians.
Fish and fishing.

(3) those lands between mean high tide and the lowest low tide beginning in section 22, township 24 north, range 13 west Willamette meridian, at the common boundary between the Olympic National Park and the Quinault Indian Reservation, to section 18, township 32 north, range 15 west Willamette meridian, at the common boundary between the Olympic National Park and the Makah Indian Reservation, except those lands directly adjacent to and west of the Hoh, Ozette, and Quillayute Indian Reservations: *Provided,* That such lands as are identified in this paragraph shall continue to be open to fishing and to the taking of shellfish in conformity with the laws and regulations of the State of Washington; and

Public information.

(4) approximately nine thousand six hundred and thirty-eight acres, and to exclude from the park approximately three thousand three hundred and fifty-two acres, as generally depicted on the maps entitled "Boundary Modifications, Olympic National Forest and Olympic National Park", numbered 149/60,030A, sheets 1 through 9, and dated September 1986, which shall be on file and available for public inspection in the office of the National Park Service, United States Department of the Interior.

Public information.
16 USC 251n note.

(b) The boundary of Olympic National Forest, Washington, is hereby revised to include in the national forest approximately three thousand three hundred and fifty-two acres and to exclude from the national forest approximately nine thousand three hundred and twenty-four acres, as generally depicted on the maps entitled "Boundary Modifications, Olympic National Forest and Olympic National Park", numbered 149/60,030A, sheets 1 through 10, and dated September 1986, which shall be on file and available for public inspection in the office of the Forest Service, United States Department of Agriculture.

98 Stat. 299.

(c) Section 3 of the Washington State Wilderness Act of 1984 (Public Law 98-339, Act of July 3, 1984, 98 Stat. 301) is amended—

(1) by striking subsection (2) and inserting in lieu thereof the following new subsection:

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"(2) certain lands in the Olympic National Forest, Washington, which comprise approximately forty-four thousand four hundred and seventy-four acres, as generally depicted on a map entitled 'Buckhorn Wilderness—Revised', numbered 98-339-3(2), sheets 1 and 2, and dated September 1986, and which shall be known as the Buckhorn Wilderness;";

(2) by striking subsection (13) and inserting in lieu thereof the following new subsection:

"(13) certain lands in the Olympic National Forest, Washington, which comprise approximately thirteen thousand and fifteen acres, as generally depicted on a map entitled 'Mount Skokomish Wilderness—Revised', numbered 98-339-3(13) and dated September 1986, and which shall be known as the 'Mount Skokomish Wilderness—Revised', dated September 1986, and which shall be known as the Mount Skokomish Wilderness;"; and

(3) by striking subsection (19) and inserting in lieu thereof the following new subsection:

"(19) certain lands in the Olympic National Forest, Washington, which comprise approximately sixteen thousand six hundred and eighty-two acres, as generally depicted on a map entitled 'The Brothers Wilderness—Revised', numbered 98-339-3(19) and dated September 1986, and which shall be known as 'The Brothers Wilderness;'.".

Public lands. Water. 16 USC 251n note.

SEC. 2. (a) Federal lands, waters, and interests therein formerly within the boundary of Olympic National Forest which are included within the boundary of Olympic National Park pursuant to section 1 of this Act are, subject to valid existing rights, hereby transferred to the administrative jurisdiction of the Secretary of the Interior for administration as part of the park, and shall be subject to all the laws and regulations applicable to the park: *Provided further,* That within section 15, township 15 north, range 9 west Willamette meridian, and within an area extending not more than one mile north of such section, nothing herein shall be construed to limit or otherwise modify the authority of the Secretary of Agriculture to design and construct a forest logging road east of the park boundary: *Provided, however,* That the Secretary of Agriculture shall not construct the road as close as practically possible to the park boundary but not more than five hundred feet east of the divide. Following construction, the Secretary of the Interior is hereby authorized and directed to redescribe and relocate the boundary of the park along the eastern clearing limits of the road.

(b) Federal lands, waters, and interests therein formerly within the boundary of Olympic National Park which are excluded therefrom pursuant to section 1 of this Act are, subject to valid existing rights, hereby transferred to the administrative jurisdiction of the Secretary of Agriculture for administration as part of Olympic National Forest, and shall be subject to all the laws and regulations applicable to the National Forest System: *Provided,* That any lands deleted from the park and included within the Buckhorn Wilderness, Mount Skokomish Wilderness, or The Brothers Wilderness pursuant to this Act shall be managed in accordance with the provisions of the Washington State Wilderness Act of 1984 (Public Law 98-339, Act of July 3, 1984, 98 Stat. 301).

98 Stat. 299.

Gifts and property. Real property. Water. 16 USC 251n note.

SEC. 3. (a) The Secretary of the Interior is authorized to acquire by donation, purchase with donated or appropriated funds, exchange, bequest or otherwise any non-Federal lands, waters, and interests

therein included within the boundary of Olympic National Park pursuant to section 1 of this Act: *Provided:* That any lands, waters, or interests therein owned by the State of Washington or any political subdivision thereof may be acquired only by donation or exchange.

(b) For the purpose of section 7 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 903, as amended; 16 U.S.C. 460*l*-9), the boundary of the Olympic National Forest, as modified pursuant to section 1 of this Act, shall be treated as if it was the boundary of that national forest on January 1, 1965.

SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, except that the total amounts authorized to be appropriated for the purpose of acquisition of lands, waters, and interests therein pursuant to this Act shall not exceed $1,000,000.

Appropriation authorization. Real property. Water. 16 USC 251n note.

Approved November 7, 1986.

LEGISLATIVE HISTORY—S. 2351:

SENATE REPORTS: No. 99-510 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 10, considered and passed Senate.
Oct. 15, considered and passed House.

O

Public Law 99-636
99th Congress

An Act

Nov. 7, 1986
[S. 2452]

To provide for the naming or renaming of certain buildings of the United States Postal Service.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Public buildings and grounds.

SECTION 1. SOLOMON BLATT, SR., POST OFFICE BUILDING.

South Carolina.

The United States Post Office to be constructed on Main Street in Barnwell, South Carolina, shall be known and designated as the "Solomon Blatt, Sr., Post Office Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be deemed to be a reference to the Solomon Blatt, Sr., Post Office Building.

SEC. 2. FREDERICK N. WEATHERS STATION OF THE UNITED STATES POSTAL SERVICE.

Missouri.

The building located at 3415 North Kings Highway, St. Louis, Missouri, known as the Charles Nagel Station of the United States Postal Service, shall hereafter be known and designated as the "Frederick N. Weathers Station of the United States Postal Service". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the Frederick N. Weathers Station of the United States Postal Service.

SEC. 3. BENJAMIN S. ROSENTHAL POST OFFICE BUILDING.

New York.

(a) IN GENERAL.—The United States Post Office Building located at 41-65 Main Street, Flushing, New York, shall hereafter be known and designated as the "Benjamin S. Rosenthal Post Office Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the Benjamin S. Rosenthal Post Office Building.

(b) INSTALLATION OF A PLAQUE.—As soon as practicable after the date of the enactment of this Act, the Postmaster General shall install in such post office, in a place in open view to the public, an appropriate plaque indicating the designation of such post office as the "Benjamin S. Rosenthal Post Office Building".

SEC. 4 LESLIE NELSON SHAW, SR., GENERAL MAIL FACILITY OF THE UNITED STATES POSTAL SERVICE.

California.

The United States Post Office Building to be constructed on the property on the northwest corner of the intersection of Florence Avenue and Central Avenue in Los Angeles, California, shall be known and designated as the "Leslie Nelson Shaw, Sr., General Mail Facility of the United States Postal Service". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the Leslie Nelson Shaw, Sr., General Mail Facility of the United States Postal Service.

91-139 O - 87 (660)

SEC. 5. DEBRA SUE SCHATZ POST OFFICE BUILDING.

The United States Post Office Building located at 2909 Rogerdale, Houston, Texas, shall hereafter be known and designated as the "Debra Sue Schatz Post Office Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the Debra Sue Schatz Post Office Building. Texas.

SEC. 6. EDWIN B. FORSYTHE POST OFFICE BUILDING.

The United States Post Office Building at East Second Street and Chester Avenue in Moorestown, New Jersey, shall hereafter be known and designated as the "Edwin B. Forsythe Post Office Building". Any reference in any law, regulation, map, document, record, or other paper of the United States to such building shall be deemed to be a reference to the Edwin B. Forsythe Post Office Building. New Jersey.

SEC. 7. JUANITA CRAFT POST OFFICE OF SOUTH DALLAS.

The United States Post Office Building located at 2120 South Ervay, Dallas, Texas, shall hereafter be known and designated as the "Juanita Craft Post Office of South Dallas". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the Juanita Craft Post Office of South Dallas.

SEC. 8. GILLIS W. LONG POST OFFICE BUILDING.

The United States Post Office Building being constructed at 1300 Belle Terre Boulevard in La Place, Louisiana, shall be known and designated as the "Gillis W. Long Post Office Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the Gillis W. Long Post Office Building. Louisiana.

Approved November 7, 1986.

LEGISLATIVE HISTORY—S. 2452:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 29, considered and passed Senate.
Oct. 15, considered and passed House, amended.
Oct. 18, Senate concurred in House amendments.

O

PUBLIC LAW 99-637—NOV. 7, 1986

FORT SUMTER NATIONAL MONUMENT, SOUTH CAROLINA, ACQUISITION AND DEVELOPMENT OF A TOUR BOAT FACILITY

91-139 O - 87 (661)

Public Law 99-637
99th Congress

An Act

Nov. 7, 1986
[S. 2534]

To authorize the acquisition and development of a mainland tour boat facility for the Fort Sumter National Monument, South Carolina, and for other purposes.

Gifts and property.
Public information.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to provide for needed facilities for visitors to Fort Sumter National Monument, including a tour boat dock and associated facilities, and an interpretive and museum facility in cooperation with the State of South Carolina and the city of Charleston, the Secretary of the Interior (in this Act referred to as the "Secretary"), is authorized to acquire by purchase with donated or appropriated funds, donation, or exchange, not to exceed 8.91 acres of lands, including submerged lands, and interests in lands, within the area generally depicted on the map entitled "Dockside II, Proposed Site, Tourboat Facility," which map shall be on file and available for public inspection in the office of the National Park Service. When acquired, lands, including submerged lands and interests in lands, depicted on such map shall be administered by the Secretary as a part of Fort Sumter National Monument, subject to the laws and regulations applicable to such monument, and subject to the provisions of this Act.

SEC. 2. (a) With respect to the lands, including submerged lands, and interests in lands acquired pursuant to the first section of this Act, the Secretary is authorized—

16 USC 460*l*-22.

(1) to convey, notwithstanding the provisions of section 5 of Public Law 90-400 (82 Stat. 356) and subject to the provisions of subsection (b), a leasehold interest in not to exceed one and a half acres to the State of South Carolina or the city of Charleston or either of them for development by either of them or their agents or lessees of a marine museum and associated administrative facilities;

(2) to grant covenants or easements for ingress, and egress to the State of South Carolina, the city of Charleston, and to other parties as the Secretary may deem necessary to facilitate public use; and

Contracts.
Public buildings and grounds.

(3) to enter into cooperative agreements with the State of South Carolina, the city of Charleston, and other parties as the Secretary may deem necessary, pursuant to which construction, maintenance, and use of buildings, utilities, parking facilities, and other improvements may be shared among the parties to the agreement.

(b) Any conveyance made pursuant to subsection (a)(1) and any renewal thereof may be for a period of up to 50 years, and may include the option to purchase the property in fee by the lessee within the first 10 years, upon payment by the lessee of the cost of the property to the United States plus interest based on the average yield of United States Treasury notes with maturities of one year. The Secretary may convey title to the property in fee in the event such option to purchase is exercised, subject to the condition that

the property is used for a public marine museum and associated administrative facilities. Notwithstanding any other provision of law, any leasehold interest conveyed pursuant to subsection (a)(1) shall be conveyed without monetary consideration. The proceeds from any conveyance of property in fee pursuant to subsection (a)(1) shall be deposited in the Land and Water Conservation Fund in the Treasury of the United States.

SEC. 3. Section 117 of Public Law 96-199 (94 Stat. 71) is hereby repealed.

SEC. 4. (a) Notwithstanding any other provision of law, sums heretofore appropriated but not, on the date of enactment of this Act, obligated for construction of a tourboat facility at the Broad Street site, and for the acquisition and construction of the Fleet landing site for Fort Sumter National Monument, which was authorized by section 117 of Public Law 96-199 (94 Stat. 71) are hereby made available for obligation for the acquisition of the lands including submerged lands, and interests in lands identified in the first section of this Act and for construction of necessary facilities thereon, and to the extent that sums heretofore appropriated for land acquisition of the Fleet landing site are not sufficient to cover the cost of acquisition of the properties identified in the first section of this Act, sums heretofore appropriated for construction of facilities at the Broad Street site and the Fleet landing site may be obligated for the purposes of acquisition as authorized in the first section of this Act.

Appropriation authorization.

(b) In addition to the sums made available under subsection (a), there is authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Uniformed services.

SEC. 5. The Secretary of the Interior shall transfer administrative jurisdiction over the Federal property, consisting of approximately 1 acre, known as the Broad Street site, to the Secretary of the Department in which the Coast Guard is operating, who shall transfer to the Secretary of the Interior, subject to such reservations, terms, and conditions as may be necessary for Coast Guard purposes, administrative jurisdiction over the Federal property, consisting of approximately 1 acre located near Fort Moultrie on Sullivan's Island for purposes of maintenance workshop, storage, and seasonal housing in connection with the administration and protection of the Fort Sumter National Monument.

Patents and trademarks. Public lands. Claims. Taxes.

SEC. 6. (a) Not later than 45 days after the date of enactment of this Act, the Secretary of the Interior shall receive, consider, and act on the application of Mr. and Mrs. J. W. Wells of Waynesboro, Mississippi, for a patent for the land described in subsection (c) of this section under the Act entitled "An Act to authorize the Secretary of the Interior to issue patents for lands held under color of title" approved December 22, 1928 (43 U.S.C. 1068 et seq.), notwithstanding the requirement of that Act that a tract of public land be held in good faith and in peaceful, adverse, possession by a claimant, his ancestors or grantors, under claim or color of title for the period commencing not later than January 1, 1901, to the date of application during which time they have paid taxes levied on the land by State and local governmental units.

Mines and mining.

(b) Any patent issued pursuant to subsection (a) shall be without any mineral reservation to the United States, and all mineral interests of the United States in and to the land described in subsection (c) shall be transferred to Mr. and Mrs. J. W. Wells without consideration.

(c) The land referred to in this section, comprising approximately 160 acres, is the NW¼ of Section 21, T. 10 N., R. 8 W., St. Stephens Meridian.

Approved November 7, 1986.

LEGISLATIVE HISTORY—S. 2534:

SENATE REPORTS: No. 99-476 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 10, considered and passed Senate.
Oct. 15, considered and passed House, amended.
Oct. 17, Senate concurred in House amendment.

O

Public Law 99-638
99th Congress

An Act

To amend title 5, United States Code, to credit time spent in the Cadet Nurse Corps during World War II as creditable service for civil service retirement; and to provide civil service retirement credit for certain employees and former employees of nonappropriated fund instrumentalities under the jurisdiction of the Armed Forces.

Nov. 10, 1986
[H.R. 2663]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) service described in subsection (b) shall be considered creditable civilian service for purposes of subchapter III of chapter 83, or chapter 84, of title 5, United States Code, as applicable, in the case of any individual who meets the requirements of subsection (c).

5 USC 8332 note.

5 USC 833, 8431 *et seq.*

(b) This section relates to any period of training as a student or graduate nurse under a plan approved under section 2 of the Act of June 15, 1943 (57 Stat. 153), if the total period of training under such plan was at least 2 years.

(c)(1) An individual may not receive credit for service pursuant to this Act unless—

(A) within 14 months after the date of the enactment of this Act, and in accordance with regulations under subsection (d), the individual files appropriate written application with the Office of Personnel Management;

(B) at the time of filing the application under subparagraph (A), the individual is employed by the Government and subject to subchapter III of chapter 83 of title 5, United States Code (other than section 8344 of such title), or chapter 84 of such title (other than section 8468 of such title);

(C) before the date of the separation on which is based the individual's entitlement to an annuity under subchapter III of chapter 83 of title 5, United States Code, or chapter 84 of such title, as applicable, such individual deposits into the Civil Service Retirement and Disability Fund the amount required under paragraph (2) with respect to the period of training involved.

(2) The amount to be deposited shall be determined by the Office of Personnel Management in a manner consistent with applicable provisions of subchapter III of chapter 83 of title 5, United States Code, chapter 84 of such title or title III of the Federal Employees' Retirement System Act of 1986, as the case may be, relating to deposits for earlier periods of civilian service for which deductions from basic pay have not been made.

Ante, p. 599.

(d) The Office of Personnel Management shall, not later than 2 months after the date of the enactment of this Act, prescribe regulations to carry out this Act.

Regulations.

SEC. 2. RETIREMENT CREDIT FOR CERTAIN FORMER EMPLOYEES OF NONAPPROPRIATED FUND INSTRUMENTALITIES.

Nonappropriated Fund Instrumentalities Employees' Retirement Credit Act of 1986.
5 USC 8331 note.

(a) SHORT TITLE.—This section may be cited as the "Nonappropriated Fund Instrumentalities Employees' Retirement Credit Act of 1986".

91-139 O - 87 (662)

(b) IN GENERAL.—(1) Section 2105(c)(1) of title 5, United States Code, is amended by inserting "of this title, subchapter III of chapter 83 of this title to the extent provided in section 8332(b)(16) of this title," after "chapter 53".

5 USC 8331.

(2) Subchapter (b) of section 8332 of such title is amended—

(A) by striking out "and" at the end of paragraph (14);

(B) by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; and";

(C) by inserting after paragraph (15) the following new paragraph:

"(16) service performed by any individual as an employee described in section 2105(c) of this title after June 18, 1952, and before January 1, 1966, if (A) such service involved conducting an arts and crafts, drama, music, library, service club, youth activities, sports, or recreation program (including any outdoor recreation program) for personnel of the armed forces, and (B) such individual is an employee subject to this subchapter on the day before the date of the enactment of the Nonappropriated Fund Instrumentalities Employees' Retirement Credit Act of 1986."; and

(D) by adding at the end thereof the following: "The Office of Personnel Management shall accept, for the purposes of this subchapter, the certification of the head of a nonappropriated fund instrumentality of the United States concerning service of the type described in paragrpah (16) of this subsection which was performed for such appropriated fund instrumentality.".

5 USC 8332 note.

(c) EFFECTIVE DATE.—Notwithstanding any other provision of this Act which specifies an effective date for amendments made by this Act, the amendments made by this section shall take effect on the date of the enactment of this Act.

Approved November 10, 1986.

LEGISLATIVE HISTORY—H.R. 2663:

CONGRESSIONAL RECORD, Vol. 132 (1986):

Oct. 6, considered and passed House.

Oct. 18, considered and passed Senate, amended; House concurred in Senate amendments.

O

Public Law 99-639
99th Congress

An Act

To amend the Immigration and Nationality Act to deter immigration-related marriage fraud and other immigration fraud.

Nov. 10, 1986
[H.R. 3737]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Immigration Marriage Fraud Amendments of 1986.
8 USC 1101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Immigration Marriage Fraud Amendments of 1986".

SEC. 2. DETERRING IMMIGRATION-RELATED MARRIAGE FRAUD.

(a) CONDITIONAL BASIS FOR PERMANENT RESIDENT STATUS BASED ON RECENT MARRIAGE.—Chapter 2 of title II of the Immigration and Nationality Act is amended by adding at the end the following new section:

"CONDITIONAL PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN SPOUSES AND SONS AND DAUGHTERS

"SEC. 216. (a) IN GENERAL.— 8 USC 1186a.

"(1) CONDITIONAL BASIS FOR STATUS.—Notwithstanding any other provision of this Act, an alien spouse (as defined in subsection (g)(1)) and an alien son or daughter (as defined in subsection (g)(2)) shall be considered, at the time of obtaining the status of an alien lawfully admitted for permanent residence, to have obtained such status on a conditional basis subject to the provisions of this section.

"(2) NOTICE OF REQUIREMENTS.—

"(A) AT TIME OF OBTAINING PERMANENT RESIDENCE.—At the time an alien spouse or alien son or daughter obtains permanent resident status on a conditional basis under paragraph (1), the Attorney General shall provide for notice to such a spouse, son, or daughter respecting the provisions of this section and the requirements of subsection (c)(1) to have the conditional basis of such status removed.

"(B) AT TIME OF REQUIRED PETITION.—In addition, the Attorney General shall attempt to provide notice to such a spouse, son, or daughter, at or about the beginning of the 90-day period described in subsection (d)(2)(A), of the requirements of subsections (c)(1).

"(C) EFFECT OF FAILURE TO PROVIDE NOTICE.—The failure of the Attorney General to provide a notice under this paragraph shall not affect the enforcement of the provisions of this section with respect to such a spouse, son, or daughter.

"(b) TERMINATION OF STATUS IF FINDING THAT QUALIFYING MARRIAGE IMPROPER.—

"(1) IN GENERAL.—In the case of an alien with permanent resident status on a conditional basis under subsection (a), if the

Attorney General determines, before the second anniversary of the alien's obtaining the status of lawful admission for permanent residence, that—

"(A) the qualifying marriage—

"(i) was entered into for the purpose of procuring an alien's entry as an immigrant, or

"(ii) has been judicially annulled or terminated, other than through the death of a spouse; or

"(B) a fee or other consideration was given (other than a fee or other consideration to an attorney for assistance in preparation of a lawful petition) for the filing of a petition under section 204(a) or 214(d) with respect to the alien;

8 USC 1154; *post*, p. 3542.

the Attorney General shall so notify the parties involved and, subject to paragraph (2), shall terminate the permanent resident status of the alien (or aliens) involved as of the date of the determination.

"(2) HEARING IN DEPORTATION PROCEEDING.—Any alien whose permanent resident status is terminated under paragraph (1) may request a review of such determination in a proceeding to deport the alien. In such proceeding, the burden of proof shall be on the Attorney General to establish, by a preponderance of the evidence, that a condition described in paragraph (1) is met.

"(c) REQUIREMENTS OF TIMELY PETITION AND INTERVIEW FOR REMOVAL OF CONDITION.—

"(1) IN GENERAL.—In order for the conditional basis established under subsection (a) for an alien spouse or an alien son or daughter to be removed—

"(A) the alien spouse and the petitioning spouse (if not deceased) jointly must submit to the Attorney General, during the period described in subsection (d)(2), a petition which requests the removal of such conditional basis and which states, under penalty of perjury, the facts and information described in subsection (d)(1), and

"(B) in accordance with subsection (d)(3), the alien spouse and the petitioning spouse (if not deceased) must appear for a personal interview before an officer or employee of the Service respecting the facts and information described in subsection (d)(1).

"(2) TERMINATION OF PERMANENT RESIDENT STATUS FOR FAILURE TO FILE PETITION OR HAVE PERSONAL INTERVIEW.—

"(A) IN GENERAL.—In the case of an alien with permanent resident status on a conditional basis under subsection (a), if—

"(i) no petition is filed with respect to the alien in accordance with the provisions of paragraph (1)(A), or

"(ii) unless there is good cause shown, the alien spouse and petitioning spouse fail to appear at the interview described in paragraph (1)(B),

the Attorney General shall terminate the permanent resident status of the alien as of the second anniversary of the alien's lawful admission for permanent residence.

"(B) HEARING IN DEPORTATION PROCEEDING.—In any deportation proceeding with respect to an alien whose permanent resident status is terminated under subparagraph (A), the burden of proof shall be on the alien to establish compliance with the conditions of paragraphs (1)(A) and (1)(B).

"(3) DETERMINATION AFTER PETITION AND INTERVIEW.—

"(A) IN GENERAL.—If—

"(i) a petition is filed in accordance with the provisions of paragraph (1)(A), and

"(ii) the alien spouse and petitioning spouse appear at the interview described in paragraph (1)(B),

the Attorney General shall make a determination, within 90-days of the date of the interview, as to whether the facts and information described in subsection (d)(1) and alleged in the petition are true with respect to the qualifying marriage.

"(B) REMOVAL OF CONDITIONAL BASIS IF FAVORABLE DETERMINATION.—If the Attorney General determines that such facts and information are true, the Attorney General shall so notify the parties involved and shall remove the conditional basis of the parties effective as of the second anniversary of the alien's obtaining the status of lawful admission for permanent residence.

"(C) TERMINATION IF ADVERSE DETERMINATION.—If the Attorney General determines that such facts and information are not true, the Attorney General shall so notify the parties involved and, subject to subparagraph (D), shall terminate the permanent resident status of an alien spouse or an alien son or daughter as of the date of the determination.

"(D) HEARING IN DEPORTATION PROCEEDING.—Any alien whose permanent resident status is terminated under subparagraph (C) may request a review of such determination in a proceeding to deport the alien. In such proceeding, the burden of proof shall be on the Attorney General to establish, by a preponderance of the evidence, that the facts and information described in subsection (d)(1) and alleged in the petition are not true with respect to the qualifying marriage.

"(4) HARDSHIP WAIVER.—The Attorney General, in the Attorney General's discretion, may remove the conditional basis of the permanent resident status for an alien who fails to meet the requirements of paragraph (1) if the alien demonstrates that—

"(A) extreme hardship would result if such alien is deported, or

"(B) the qualifying marriage was entered into in good faith by the alien spouse, but the qualifying marriage has been terminated (other than through the death of the spouse) by the alien spouse for good cause and the alien was not at fault in failing to meet the requirements of paragraph (1).

In determining extreme hardship, the Attorney General shall consider circumstances occurring only during the period that the alien was admitted for permanent residence on a conditional basis.

"(d) DETAILS OF PETITION AND INTERVIEW.—

"(1) CONTENTS OF PETITION.—Each petition under subsection (c)(1)(A) shall contain the following facts and information:

"(A) STATEMENT OF PROPER MARRIAGE AND PETITIONING PROCESS.—The facts are that—

"(i) the qualifying marriage—

"(I) was entered into in accordance with the laws of the place where the marriage took place,

"(II) has not been judicially annulled or terminated, other than through the death of a spouse, and

"(III) was not entered into for the purpose of procuring an alien's entry as an immigrant; and

"(ii) no fee or other consideration was given (other than a fee or other consideration to an attorney for assistance in preparation of a lawful petition) for the filing of a petition under section 204(a) or 214(d) with respect to the alien spouse or alien son or daughter.

8 USC 1154; *post*, p. 3542.

"(B) STATEMENT OF ADDITIONAL INFORMATION.—The information is a statement of—

"(i) the actual residence of each party to the qualifying marriage since the date the alien spouse obtained permanent resident status on a conditional basis under subsection (a), and

"(ii) the place of employment (if any) of each such party since such date, and the name of the employer of such party.

"(2) PERIOD FOR FILING PETITION.—

"(A) 90-DAY PERIOD BEFORE SECOND ANNIVERSARY.—Except as provided in subparagraph (B), the petition under subsection (c)(1)(A) must be filed during the 90-day period before the second anniversary of the alien's obtaining the status of lawful admission for permanent residence.

"(B) DATE PETITIONS FOR GOOD CAUSE.—Such a petition may be considered if filed after such date, but only if the alien establishes to the satisfaction of the Attorney General good cause and extenuating circumstances for failure to file the petition during the period described in subparagraph (A).

"(C) FILING OF PETITIONS DURING DEPORTATION.—In the case of an alien who is the subject of deportation hearings as a result of failure to file a petition on a timely basis in accordance with subparagraph (A), the Attorney General may stay such deportation proceedings against an alien pending the filing of the petition under subparagraph (B).

"(3) PERSONAL INTERVIEW.—The interview under subsection (c)(1)(B) shall be conducted within 90 days after the date of submitting a petition under subsection (c)(1)(A) and at a local office of the Service, designated by the Attorney General, which is convenient to the parties involved. The Attorney General, in the Attorney General's discretion, may waive the deadline for such an interview or the requirement for such an interview in such cases as may be appropriate.

"(e) TREATMENT OF PERIOD FOR PURPOSES OF NATURALIZATION.—For purposes of title III, in the case of an alien who is in the United States as a lawful permanent resident on a conditional basis under this section, the alien shall be considered to have been admitted as an alien lawfully admitted for permanent residence and to be in the United States as an alien lawfully admitted to the United States for permanent residence.

8 USC 1401.

"(f) TREATMENT OF CERTAIN WAIVERS.—In the case of an alien who has permanent residence status on a conditional basis under this section, if, in order to obtain such status, the alien obtained a waiver

under subsection (h) or (i) of section 212 of certain grounds of exclusion, such waiver terminates upon the termination of such permanent residence status under this section. 8 USC 1182.

"(g) DEFINITIONS.—In this section:

"(1) The term 'alien spouse' means an alien who obtains the status of an alien lawfully admitted for permanent residence (whether on a conditional basis or otherwise)—

"(A) as an immediate relative (described in section 201(b)) as the spouse of a citizen of the United States, 8 USC 1151.

"(B) under section 214(d) as the fiancee or fiance of a citizen of the United States, or *Post*, p. 3542.

"(C) under section 203(a)(2) as the spouse of an alien lawfully admitted for permanent residence, 8 USC 1153.

by virtue of a marriage which was entered into less than 24 months before the date the alien obtains such status by virtue of such marriage, but does not include such an alien who only obtains such status as a result of section 203(a)(8).

"(2) The term 'alien son or daughter' means an alien who obtains the status of an alien lawfully admitted for permanent residence (whether on a conditional basis or otherwise) by virtue of being the son or daughter of an individual through a qualifying marriage.

"(3) The term 'qualifying marriage' means the marriage described to in paragraph (1).

"(4) The term 'petitioning spouse' means the spouse of a qualifying marriage, other than the alien.".

(b) ADDITIONAL GROUND FOR DEPORTATION.—Section 241 (8 U.S.C. 1251) is amended—

(1) in subsection (a)(9)—

(A) by inserting "(A)" after "(9)", and

(B) by inserting before the semicolon the following: ", (B) or is an alien with permanent resident status on a conditional basis under section 216 and has such status terminated under such section"; and

(2) by adding at the end the following new subsection:

"(g) The provisions of subsection (a)(9)(B) shall not apply in the cases described in section 216(c)(4).". *Ante*, p. 3537.

(c) CLASSIFICATION PETITIONS.—Section 204(a) of such Act (8 U.S.C. 1154(a)) is amended—

(1) by inserting "(1)" after "(a)", and

(2) by adding at the end the following new paragraph:

"(2)(A) The Attorney General may not approve a spousal second preference petition filed by an alien who, by virtue of a prior marriage, has been accorded the status of an alien lawfully admitted for permanent residence as the spouse of a citizen of the United States or as the spouse of an alien lawfully admitted for permanent residence, unless—

"(i) a period of 5 years has elapsed after the date the alien acquired the status of an alien lawfully admitted for permanent residence, or

"(ii) the alien establishes to the satisfaction of the Attorney General by clear and convincing evidence that the prior marriage (on the basis of which the alien obtained the status of an alien lawfully admitted for permanent residence) was not entered into for the purpose of evading any provision of the immigration laws.

In this subparagraph, the term 'spousal second preference petition' refers to a petition, seeking preference status under section 203(a)(2), for an alien as a spouse of an alien lawfully admitted for permanent residence.

8 USC 1153.

"(B) Subparagraph (A) shall not apply to a petition filed by an alien whose prior marriage was terminated by the death of his or her spouse.".

(d) CRIMINAL PENALTY FOR MARRIAGE FRAUD.—Section 275 of such Act (8 U.S.C. 1325) is amended—

(1) by inserting "(a)" after "275.", and

(2) by adding at the end the following new subsection:

"(b) Any individual who knowingly enters into a marriage for the purpose of evading any provision of the immigration laws shall be imprisoned for not more than 5 years, or fined not more than $250,000, or both.".

(e) LIMITATION ON ADJUSTMENT OF STATUS.—Section 245 of such Act (8 U.S.C. 1255) is amended by adding at the end the following new subsection:

"(d) The Attorney General may not adjust, under subsection (a), the status of an alien lawfully admitted to the United States for permanent residence on a conditional basis under section 216.".

Ante, p. 3537.

(f) CONFORMING AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 215 the following new item:

"Sec. 216. Conditional permanent resident status for certain alien spouses and sons and daughters.".

SEC. 3. PREVENTING MARRIAGE FRAUD WITH RESPECT TO "K" NONIMMIGRANTS.

(a) REQUIRING PREVIOUS MEETING TO OBTAIN "K" NONIMMIGRANT VISA.—The third sentence of section 214(d) of the Immigration and Nationality Act (8 U.S.C. 1184(d)) is amended—

(1) by striking "have a bona fide intention to marry" and inserting "have previously met in person within 2 years before the date of filing the petition, have a bona fide intention to marry,", and

(2) by inserting before the period at the end the following: ", except that the Attorney General in his discretion may waive the requirement that the parties have previously met in person".

(b) RESTRICTING SEPARATE ADJUSTMENT TO PERMANENT RESIDENT STATUS OF "K" NONIMMIGRANTS.—Section 245(d) of such Act (8 U.S.C. 1255(d)), as added by section 2(d) of this Act, is amended by inserting before the period at the end the following: "or of a nonimmigrant described in section 101(a)(15)(K)".

8 USC 1101.

(c) REQUIRING FILING OF ADJUSTMENT OF STATUS PETITION.—Section 214(d) of such Act (8 U.S.C. 1184(d)) is amended by striking the last sentence.

8 USC 1184 note.

(d) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall apply to petitions approved on or after the date of the enactment of this Act.

8 USC 1255 note.

(2) The amendment made by subsection (b) shall apply to adjustments occurring on or after the date of the enactment of this Act.

8 USC 1184 note.

(3) The amendment made by subsection (c) shall apply to aliens issued visas under section 101(a)(15)(K) of the Immigration and Nationality Act on or after the date of the enactment of this Act.

8 USC 1101.

SEC. 4. RESTRICTIONS ON FUTURE ENTRY OF ALIENS INVOLVED WITH MARRIAGE FRAUD.

(a) IN GENERAL.—Section 204(c) of the Immigration and Nationality Act (8 U.S.C. 1154(c)) is amended—

(1) by inserting "(1)" after "if",

(2) by inserting ", or has sought to be accorded," after "previously been accorded", and

(3) by inserting before the period at the end the following: ", or (2) the Attorney General has determined that the alien has attempted or conspired to enter into a marriage for the purpose of evading the immigration laws".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to petitions filed on or after the date of the enactment of this Act. 8 USC 1154 note.

SEC. 5. RESTRICTIONS ON ADJUSTMENT OF STATUS OR PETITIONS BASED ON MARRIAGES ENTERED WHILE IN EXCLUSION OR DEPORTATION PROCEEDINGS.

(a) RESTRICTION ON ADJUSTMENT.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255), as amended by sections 2(d) and 3(b), is further amended—

(1) in subsection (c), by striking "The provisions of this section" and inserting "Subsection (a)", and

(2) by adding at the end the following new subsection:

"(e)(1) An alien who is seeking to receive an immigrant visa on the basis of a marriage which was entered into during the period described in paragraph (2) may not have the alien's status adjusted under subsection (a).

"(2) The period described in this paragraph is the period during which administrative or judicial proceedings are pending regarding the alien's right to enter or remain in the United States.".

(b) RESTRICTION ON PETITIONS.—Section 204 of such Act (8 U.S.C. 1154) is amended by adding at the end the following new subsection:

"(h) Notwithstanding subsection (a), a petition may not be approved to grant an alien immediate relative status or preference status by reason of a marriage which was entered into during the period described in section 245(e)(2), until the alien has resided outside the United States for a 2-year period beginning after the date of the marriage.". *Supra.*

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to marriages entered into on or after the date of the enactment of this Act. 8 USC 1154 note.

(d) REPORT ON SECTION 241(c) SANCTIONS.—The Attorney General shall study and report to the Congress, not later than 6 months after the date of the enactment of this Act, concerning the application of the 2-year marriage fraud presumption under section 241(c) of the Immigration and Nationality Act (8 U.S.C. 1251(c)). Such report shall include—

(1) the number of cases of deportations effected under such section, and

(2) recommendations for changes in such section.

SEC. 6. EXCLUSION FOR MISREPRESENTATIONS.

(a) IN GENERAL.—Paragraph (19) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1152(a)) is amended to read as follows: 8 USC 1182.

"(19) Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure, or has sought to procure or has procured, a visa, other documentation, or entry into the United States or other benefit provided under this Act;".

8 USC 1182 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the receipt of visas by, and the admission of, aliens occurring after the date of the enactment of this Act based on fraud or misrepresentations occurring before, on, or after such date.

Approved November 10, 1986.

LEGISLATIVE HISTORY—H.R. 3737:

HOUSE REPORTS: No. 99-906 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 29, considered and passed House.
Oct. 18, considered and passed Senate.

O

Public Law 99-640
99th Congress

An Act

To authorize appropriations for the Coast Guard for fiscal year 1987, and for other purposes.

Nov. 10, 1986
[H.R. 4708]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Coast Guard Authorization Act of 1986".

Coast Guard Authorization Act of 1986.
Uniformed services.
Vessels.

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1987, as follows:

(1) For the operations and maintenance of the Coast Guard, $1,862,800,000, of which not more than $20,000,000 may be made available to the Commandant of the Coast Guard for discretionary use in meeting unanticipated demands and needs for Coast Guard operation and maintenance; and for increases in salary, pay, and other employee benefits authorized by law, such sums as may be necessary.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $267,000,000, to remain available until expended.

(3) For research, development, test, and evaluation, $20,000,000, to remain available until expended.

(4) For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and for payments for medical care of retired personnel and their dependents under the Dependents' Medical Care Act, $364,000,000.

10 USC 1071-1085, 3687 note.

(5) If funds are appropriated to any other officer of the United States for carrying out the purposes described in paragraphs (1) through (4) of this section, such officer may transfer to the Secretary of the department in which the Coast Guard is operating the full amount of such funds. Such funds shall be allocated by the Secretary to such purposes.

AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING

SEC. 3. (a) For fiscal year 1987, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,200. The authorized strength does not include members of the Ready Reserve called to active duty under the authority of section 712 of title 14, United States Code.

(b) For fiscal year 1987, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 3,200 student-years.

(2) For flight training, 110 student-years.

91-139 O - 87 (664)

(3) For professional training in military and civilian institutions, 441 student-years.

(4) For officer acquisition, 925 student-years.

TRANSFER OF FUNDS

SEC. 4. (a) Whenever the Secretary of the department in which the Coast Guard is operating determines it to be in the national interest, the Secretary may transfer not to exceed 5 percent of the funds appropriated for the purposes described in section 2(2) of this Act to the Commandant at the Coast Guard for discretionary use in meeting unanticipated demands and needs for Coast Guard operations and maintenance under section 2(1) of this Act.

(b) No transfer of funds may occur under subsection (a) of this section until 15 days after the Secretary has provided written notification to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Merchant Marine and Fisheries of the House of Representatives, and the Appropriations Committees of the Senate and House of Representatives stating the reasons for such determination and a description of the purposes for which the funds proposed to be transferred will be used.

LIMITATIONS ON CONTRACTING PERFORMED BY THE COAST GUARD

10 USC 2304 note.

SEC. 5. (a)(1) It is in the national interest for the Coast Guard to maintain a logistics capability (including personnel, equipment, and facilities) to provide a ready and controlled source of technical competence and resources necessary to ensure the effective and timely performance of Coast Guard missions in behalf of the security, safety, and economic and environmental well-being of the United States.

(2)(A) The Secretary of the department in which the Coast Guard is operating shall identify those Coast Guard activities that are necessary to maintain the logistics capability described in paragraph (1) of this subsection. The Secretary shall provide a list of such activities to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives not later than January 31, 1987. If the Secretary does not provide such list by that date, no activity performed by Coast Guard personnel may be contracted for performance by non-government personnel after such date until the list is provided to such committees.

(B) The list submitted by the Secretary under this paragraph shall not include—

(i) any activity that is being performed under contract by non-government personnel on the date of enactment of this Act; or

(ii) any activity for which Congress received, prior to April 1, 1986, a written notification pursuant to section 14(b)(2) of the Coast Guard Authorization Act of 1984 (Public Law 98-557; 98 Stat. 2864) of intent to contract.

(b)(1) Except as provided in paragraph (2) of this subsection, performance of an activity identified by the Secretary under subsection (a)(2) of this section may not be contracted for performance by non-government personnel.

(2) The Secretary may waive paragraph (1) of this subsection with respect to any Coast Guard activity (other than an activity described in subsection (d) of this section), if the Secretary determines that the

performance of such activity by Government personnel is no longer necessary to ensure the effective and timely performance of Coast Guard missions.

(3) A waiver under paragraph (2) of this subsection may not take effect until a period of 30 days in which either the Senate or House of Representatives is in session has expired after the Secretary has submitted in writing to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives a full and complete statement concerning the waiver and the reasons therefor.

(c) Before the beginning of fiscal year 1987, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives a list of Coast Guard activities that are to be considered for performance by contract by non-Government personnel under the procedures of Office of Management and Budget Circular A-76 during that fiscal year.

State and local governments. Employment and unemployment.

(d)(1) Notwithstanding any other provision of law, each contract awarded by the Coast Guard in fiscal year 1987 for construction or services to be performed in whole or in part in a State which has an unemployment rate in excess of the national average rate of unemployment (as determined by the Secretary of Labor) shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in that State, individuals who are local residents and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills. The Secretary of the department in which the Coast Guard is operating may waive the requirements of this subsection in the interest of national security or economic efficiency.

(2) As used in this subsection, the term "local resident" means an individual within daily commuting distance even if not a resident of the State which has an unemployment rate in excess of the national average rate of unemployment (as determined by the Secretary of Labor), in accordance with paragraph (1) of this subsection.

MARITIME DEFENSE ZONE

SEC. 6. Section 2 of title 14, United States Code, is amended by inserting immediately before the period at the end thereof the following: ", including the fulfillment of Maritime Defense Zone command responsibilities."

BOAT SAFETY PROGRAM

SEC. 7. (a) Section 9503(c)(4) of title 26, United States Code, is amended—

(1) in subparagraph (A), by striking "45,000,000" each place it appears and inserting in lieu thereof "60,000,000" for Fiscal Year 1987 only and $45,000,000 for each Fiscal Year thereafter;" and (2) by adding at the end thereof the following:

Taxes.

"(E) DETERMINATION.—The amount of payments made under this paragraph after October 1, 1986 shall be determined by the Secretary in accordance with the methodology described in the Treasury Department's Report to Congress of June 1986 entitled 'Gasoline Excise Tax Revenues Attributable to Fuel Used in Recreational Motorboats.' Further, a portion of the payments made by the Secretary from Fiscal

Year 1987 motorfuel excise tax receipts shall be used to increase the funding for boating safety programs during Fiscal Year 1987 only."

(b) Section 13106(c) of title 46, United States Code, is amended by striking "one-third" and inserting in lieu thereof "one-half for Fiscal Year 1987 and one-third for each Fiscal Year thereafter."

State and local governments.
46 USC 13103 note.

(c) Section 13106(a) of title 46, United States Code, is amended by striking "two-thirds" and inserting in lieu thereof "one-half for Fiscal Year 1987 and two-thirds for each Fiscal Year thereafter".

(d) Before making any allocation under this section for a fiscal year, the Secretary shall retain not less than one percent nor more than two percent of the amount appropriated for that year for State recreational boating safety programs for the payment of costs of administration of this chapter.

PAYMENT OF INTEREST TO COAST GUARD AUXILIARY

SEC. 8. Section 830 of title 14, United States Code, is amended—

(1) by inserting "(a)" before "Appropriations"; and

(2) by adding at the end thereof the following:

Claims.

"(b) The Secretary may pay interest on a claim under this section in any case in which a payment authorized under this section is not made within 60 days after the submission of the claim in a manner prescribed by the Secretary. The rate of interest for purposes of this section shall be the annual rate established under section 6621 of the Internal Revenue Code of 1954.".

26 USC 6621.

USE OF COAST GUARD AUXILIARY

14 USC 821 note.

SEC. 9. (a) It is the sense of the Congress that the Coast Guard Auxiliary performs a broad range of services in behalf of the safety and security of the American people, and that the continued strength and vitality of the Coast Guard Auxiliary is important to the United States.

Reports.

(b)(1) The Secretary of Transportation shall investigate and submit to the Congress a report within 1 year after the date of enactment of this Act regarding—

(A) the extent to which membership of the Coast Guard Auxiliary has declined in recent years and the causes of such decline;

(B) the effect, if any, on the maritime community of any such decline in the performance levels of the Coast Guard Auxiliary in the areas of life-saving, assistance to persons in distress, safety patrols and inspections, and support missions for the Coast Guard; and

(C) the effect, if any, of the Coast Guard's non-emergency assistance policy on the overall effectiveness of the Coast Guard Auxiliary.

Reports.

(2) The report submitted by the Secretary under this section shall include such recommendations for legislative and administrative action as the Secretary considers appropriate to achieve and maintain the Coast Guard Auxiliary at its optimum strength.

MISCELLANEOUS AMENDMENTS TO TITLE 14 AND TITLE 46

SEC. 10. (a)(1) The analysis of parts, before section 1 of title 14, United States Code, is amended by striking

"II. Coast Guard Reserve and Auxiliary ..... 751"

and inserting in lieu thereof

"II. Coast Guard Reserve and Auxiliary ..... 701".

(2) The analysis of chapters of part II of title 14, United States Code, is amended by striking

"21. Coast Guard Reserve ..... 751"

and inserting in lieu thereof

"21. Coast Guard Reserve ..... 701".

(3) Section 82 of title 14, United States Code, is amended by striking "Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 et seq.)" and inserting in lieu thereof "Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.)".

(4) Section 91 of title 14, United States Code, is amended to read as follows:

"§ 91. Safety of naval vessels

"(a) The Secretary may control the anchorage and movement of any vessel in the navigable waters of the United States to ensure the safety or security of any United States naval vessel in those waters.

"(b) If the Secretary does not exercise the authority in subsection (a) of this section and immediate action is required, the senior naval officer present in command may control the anchorage or movement of any vessel in the navigable waters of the United States to ensure the safety and security of any United States naval vessel under the officer's command.

"(c) If a person violates, or a vessel is operated in violation of, this section or a regulation or order issued under this section, the person or vessel is subject to the enforcement provisions in section 13 of the Ports and Waterways Safety Act (33 U.S.C. 1232).".

(5) Section 146 of title 14, United States Code, is amended by striking "Postmaster General" and inserting in lieu thereof "United States Postal Service".

(6)(A) Sections 431, 433, 434, and 438 of title 14, United States Code, are repealed, except that the repeal of such sections shall not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun under such sections before the date of enactment of this Act.

(B) The analysis of chapter 11 of title 14, United States Code, is amended by striking the items relating to sections 431, 433, 434, and 438.

(7) Section 432(g) of title 14, United States Code, is amended—

(A) by inserting "(1)" immediately after "(g)"; and

(B) by striking the last paragraph and inserting in lieu thereof the following:

"(2) The additional compensation authorized by this subsection shall be included in any computation of compensation under section 6 of the Act of June 20, 1918 (33 U.S.C. 763).".

(8) Section 829 of title 14, United States Code, is amended by striking "Section" and inserting in lieu thereof "section".

(9) The first section of the Act entitled "An Act to require authorization for certain appropriations for the Coast Guard, and for other purposes", approved June 21, 1963 (77 Stat. 68; 14 U.S.C. 92, note), is repealed.

(b)(1) Section 2101(11b) of title 46, United States Code, is amended by inserting "freezing," immediately after "icing,".

(2)(A) Chapter 75 of title 46, United States Code, is amended by adding at the end the following new section:

46 USC 7504.

"§ 7504. Travel and expense reimbursement

"When a requirement to qualify for the issuance of, or endorsement on, a certificate, license, or document under this part is administered at a place at the request of an applicant or an applicant's representative, the applicant or representative may reimburse the Secretary for the travel and subsistence expenses incurred by the personnel assigned to perform the administration of the requirement. Amounts received as reimbursement under this section shall be credited to the appropriation for operating expenses of the Coast Guard.".

(B) The analysis of chapter 75 of title 46, United States Code, is amended by adding at the end the following:

"7504. Travel and expense reimbursement.".

(3) Section 10101 (1) and (3) of title 46, United States Code, is amended by striking "owned by a citizen of the United States".

(4) Sections 10313 (e) and (h), 10314(e), 10504(a), and 10505(d) of title 46, United States Code, are amended by striking the last sentence.

(5) Section 10504(d)(3) of title 46, United States Code, is amended by striking "(except a vessel taking oysters)".

MANNING REQUIREMENTS OF MOBILE OFFSHORE DRILLING UNITS

SEC. 11. (a) Section 2101 of title 46, United States Code, is amended by inserting immediately after paragraph (15) the following:

"(15a) 'mobile offshore drilling unit' means a vessel capable of engaging in drilling operations for the exploration or exploitation of subsea resources.".

(b) Section 8101(a) of title 46, United States Code, is amended to read as follows:

42 USC 3101.

"(a) The certificate of inspection issued to a vessel under part B of this subtitle shall state the complement of licensed individuals and crew (including lifeboatmen) considered by the Secretary to be necessary for safe operation. A manning requirement imposed on—

"(1) a sailing school vessel shall consider the participation of sailing school instructors and sailing school students in the operation of that vessel; and

"(2) a mobile offshore drilling unit shall consider the specialized nature of the unit.".

(c) Section 8701(a) of title 46, United States Code, is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(8) a mobile offshore drilling unit with respect to individuals, other than crew members required by the certificate of inspection, engaged on board the unit for the sole purpose of carrying out the industrial business or function of the unit.".

(d) Section 8301(c) of title 46, United States Code, is amended by inserting ", a mobile offshore drilling unit when on location," immediately after "vessel".

TOWING LICENSE

SEC. 12. (a) Section 8904 of title 46, United States Code, is amended—

(1) by inserting "(a)" immediately before "A towing"; and
(2) adding at the end thereof the following:

"(b) A vessel that tows a disabled vessel for consideration shall be operated by an individual licensed by the Secretary to operate that type of vessel in the particular geographic area, under prescribed regulations.".

(b) The amendments made by subsection (a) of this section shall take effect on January 1, 1988.

Effective date.
46 USC 8904 note.

FORFEITED VESSELS

Gifts and property.
Schools and colleges.
40 USC 484d.

SEC. 13. (a) Whenever a vessel is forfeited to the United States, the vessel may be donated, in accordance with procedures under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), to an educational institution with a commercial fishing vessel safety program or other vessel safety, education and training program, if the institution has certified to the Federal officer referred to in subsection (b) of this section that the program includes at a minimum the following courses in vessel safety:

(1) vessel stability;
(2) firefighting;
(3) shipboard first aid;
(4) marine safety and survival; and
(5) seamanship rules of the road.

(b) The donation of a vessel under this section shall be made on terms and conditions considered appropriate by the Federal officer making such donation, including requirements that—

(1) the educational institution must accept the vessel as is, where it is, and without warranty of any kind and without any representation as to its condition or suitability for use.
(2) the educational institution shall be responsible for maintaining the vessel;
(3) the vessel shall be used only for instructing students in vessel safety education and training programs;
(4) if the vessel is eligible to be documented, it must be documented by the educational institution as a vessel of the United States under chapter 121 of title 46, United States Code, and the requirements of paragraph (5) of this subsection shall be noted on the permanent record of the vessel;

Records.

46 USC 12101 *et seq.*

(5) the educational institution must obtain the prior approval of the Administrator of General Services before disposing of the vessel, and any proceeds from the disposal of the vessel shall be payable to the United States Government; and
(6) the vessel shall be inspected or regulated in the same manner as a nautical school vessel under chapter 33 of title 46, United States Code.

46 USC 3301 *et seq.*

(c) The United States shall not be liable in an action arising out of the transfer or use of a vessel that has been transferred under this section.

(d) Section 2101(17) of title 46, United States Code, is amended by inserting immediately before the period the following: "or an educational institution under section 13 of the Coast Guard Authorization Act of 1986".

(e) Section 3305(c) of title 46, United States Code, is amended by inserting immediately after "school" the second place it appears the following: "or by an educational institution under section 13 of the Coast Guard Authorization Act of 1986".

LIMITATION ON TRAINING

South Africa.

SEC. 14. Notwithstanding any other provision of law, no training or course of instruction may be provided by the Coast Guard to employees of the government or to members of the armed services of the Republic of South Africa during fiscal year 1987.

STATUS REPORTS ON POLAR ICEBREAKING VESSELS

14 USC 663 note.

SEC. 15. The Secretary of the department in which the Coast Guard is operating shall provide detailed reports to Congress concerning the status of design and construction plans for the procurement of at least two new polar icebreaking vessels. Such reports shall be included in the Cutter Plan required annually by section 663 of title 14, United States Code, and shall be submitted each year until at least two new polar icebreaking vessels have been delivered to the Coast Guard.

VESSEL SAFETY

SEC. 16. Section 4102 of title 46, United States Code, is amended by adding at the end thereof the following:

Fish and fishing.

"(e) Each uninspected fishing, fish processing, or fish tender vessel operating on the high seas shall be equipped with the number and type of emergency position indicating radio beacons prescribed by regulation.".

PROSECUTIONS OF MARITIME DRUG TRAFFICKERS

SEC. 17. The Act entitled "An Act to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes", approved September 15, 1980 (Public Law 96-350; 94 Stat. 1159) is amended by striking everything immediately after the enacting clause and inserting in lieu thereof the following:

21 USC 955a-955d.

46 USC app. 1901.

"That this Act may be cited as the 'Maritime Drug Law Enforcement Act'.

Defense and national security.

46 USC app. 1902.

"SEC. 2. The Congress finds and declares that trafficking in controlled substances aboard vessels is a serious international problem and is universally condemned. Moreover, such trafficking presents a specific threat to the security and societal well-being of the United States.

46 USC app. 1903.

"SEC. 3. (a) It is unlawful for any person on board a vessel of the United States, or on board a vessel subject to the jurisdiction of the United States, to knowingly or intentionally manufacture or distribute, or to possess with intent to manufacture or distribute, a controlled substance.

"(b) For purposes of this section, a 'vessel of the United States' means—

46 USC 12101 *et seq.*

"(1) a vessel documented under chapter 121 of title 46, United States Code, or a vessel numbered as provided in chapter 123 of that title;

46 USC 12301 *et seq.*

"(2) a vessel owned in whole or part by—

"(A) the United States or a territory, commonwealth, or possession of the United States;

"(B) a State or political subdivision thereof;

"(C) a citizen or national of the United States; or

"(D) a corporation created under the laws of the United States or any State, the District of Columbia, or any territory, commonwealth, or possession of the United States;

unless the vessel has been granted the nationality of a foreign nation in accordance with article 5 of the 1958 Convention on the High Seas; and

13 UST 2312.

"(3) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was either sold to a person not a citizen of the United States or placed under foreign registry or a foreign flag, whether or not the vessel has been granted the nationality of a foreign nation.

"(c)(1) For purposes of this section, a 'vessel subject to the jurisdiction of the United States' includes—

"(A) a vessel without nationality;

"(B) a vessel assimilated to a vessel without nationality, in accordance with paragraph (2) of article 6 of the 1958 Convention on the High Seas;

"(C) a vessel registered in a foreign nation where the flag nation has consented or waived objection to the enforcement of United States law by the United States;

"(D) a vessel located within the customs waters of the United States; and

"(E) a vessel located in the territorial waters of another nation, where the nation consents to the enforcement of United States law by the United States.

Communications and telecommunications.

Consent or waiver of objection by a foreign nation to the enforcement of United States law by the United States under subparagraph (C) or (E) of this paragraph may be obtained by radio, telephone, or similar oral or electronic means, and may be proved by certification of the Secretary of State or the Secretary's designee.

Claims.

"(2) For purposes of this section, a 'vessel without nationality' includes—

"(A) a vessel aboard which the master or person in charge makes a claim of registry, which claim is denied by the flag nation whose registry is claimed; and

"(B) any vessel aboard which the master or person in charge fails, upon request of an officer of the United States empowered to enforce applicable provisions of United States law, to make a claim of nationality or registry for that vessel.

Communications and telecommunications.

A claim of registry under subparagraph (A) may be verified or denied by radio, telephone, or similar oral or electronic means. The denial of such claim of registry by the claimed flag nation may be proved by certification of the Secretary of State or the Secretary's designee.

Claims.

"(3) For purposes of this section, a claim of nationality or registry only includes:

"(A) possession on board the vessel and production of documents evidencing the vessel's nationality in accordance with article 5 of the 1958 Convention on the High Seas;

"(B) flying its flag nation's ensign or flag; or

"(C) a verbal claim of nationality or registry by the master or person in charge of the vessel.

Claims.

"(d) A claim of failure to comply with international law in the enforcement of this Act may be invoked solely by a foreign nation, and a failure to comply with international law shall not divest a court of jurisdiction or otherwise constitute a defense to any proceeding under this Act.

Imports.

"(e) This section does not apply to a common or contract carrier or an employee thereof, who possesses or distributes a controlled substance in the lawful and usual course of the carrier's business or to a public vessel of the United States, or any person on board such a vessel who possesses or distributes a controlled substance in the lawful course of such person's duties, if the controlled substance is a part of the cargo entered in the vessel's manifest and is intended to be lawfully imported into the country of destination for scientific, medical, or other legitimate purposes. It shall not be necessary for the United States to negative the exception set forth in this subsection in any complaint, information, indictment, or other pleading or in any trial or other proceeding. The burden of going forward with the evidence with respect to this exception is upon the person claiming its benefit.

"(f) Any person who violates this section shall be tried in the United States district court at the point of entry where that person enters the United States, or in the United States District Court of the District of Columbia.

"(g)(1) Any person who commits an offense defined in this section shall be punished in accordance with the penalties set forth in section 1010 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 960).

"(2) Notwithstanding paragraph (1) of this subsection, any person convicted of an offense under this Act shall be punished in accordance with the penalties set forth in section 1012 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 962) if such offense is a second or subsequent offense as defined in section 1012(b) of that Act.

"(h) This section is intended to reach acts of possession, manufacture, or distribution committed outside the territorial jurisdiction of the United States.

"(i) The definitions in the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) apply to terms used in this Act.

"(j) Any person who attempts or conspires to commit any offense defined in this Act is punishable by imprisonment or fine, or both, which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

46 USC app. 1904.

"SEC. 4. Any property described in section 511(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(a)) that is used or intended for use to commit, or to facilitate the commission of, an offense under this Act shall be subject to seizure and forfeiture in the same manner as similar property seized or forfeited under section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881).".

AUTHORITY TO ISSUE CERTAIN CERTIFICATES

SEC. 18. Notwithstanding sections 12105, 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of the enactment of this Act, the Secretary of the department in which

the Coast Guard is operating may issue a certificate of documentation for the following vessels: Dunes Spirit, United States official number 690176; Kodiak Queen, United States official number 507891; La Reina, United States official number 230115; Northwind, United States official number 230147; and Wanderbird, United States official number 229607.

Approved November 10, 1986.

LEGISLATIVE HISTORY—H.R. 4208:

HOUSE REPORTS: No. 99-547 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 99-530 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 132 (1986):
May 6, considered and passed House.
Oct. 16, considered and passed Senate, amended; House concurred in Senate amendment.

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PUBLIC LAW 99-641—NOV. 10, 1986

FUTURES TRADING ACT OF 1986

91-139 O - 87 (665)

Public Law 99-641
99th Congress

An Act

Nov. 10, 1986
[H.R. 4613]

To reauthorize appropriations to carry out the Commodity Exchange Act, and to make technical improvements to that Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Futures Trading Act of 1986.
Agriculture and agricultural commodities.
7 USC 1 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Futures Trading Act of 1986".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.

TITLE I—FUTURES TRADING

Sec. 101. Fraudulent practices.
Sec. 102. Options transactions.
Sec. 103. Extraterritorial service of subpenas.
Sec. 104. Ex parte appointment of temporary receivers.
Sec. 105. Certain prohibited transactions.
Sec. 106. Authorization for appropriations.
Sec. 107. Registered futures association disciplinary actions and membership restrictions.
Sec. 108. Rule review procedures.
Sec. 109. Leverage transactions.
Sec. 110. Technical corrections.
Sec. 111. GAO study of trading in cattle futures contracts.

TITLE II—MISCELLANEOUS PROVISIONS

Sec. 201. Cross compliance for producers of extra long staple cotton.
Sec. 202. Basis for computation of emergency compensation under the 1986 wheat program.
Sec. 203. Valencia peanuts.
Sec. 204. Local agricultural stabilization and conservation committees.
Sec. 205. Eligibility of certain land under the conservation reserve program.
Sec. 206. Marketing practices and training.

TITLE III—GRAIN QUALITY IMPROVEMENT

Sec. 301. Short title.
Sec. 302. Declaration of policy.
Sec. 303. Foreign material recombination.
Sec. 304. Insect infestation.
Sec. 305. Study of premiums for high-quality grain.
Sec. 306. Review of optimal grade proposal.
Sec. 307. Study of uniform end-use value tests.

TITLE IV—FEDERAL MEAT INSPECTION

Sec. 401. Short title.
Sec. 402. Purpose.
Sec. 403. Amendments to Federal Meat Inspection Act.
Sec. 404. Savings provision.
Sec. 405. Sense of Congress.
Sec. 406. Annual report.
Sec. 407. Congressional reevaluation.
Sec. 408. Effective date; application of amendments.

TITLE I—FUTURES TRADING

SEC. 101. FRAUDULENT PRACTICES.

Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended— Commerce and trade. Contracts.

(1) by striking out "on or subject to the rules of any contract market," the second place it appears in the first sentence; and

(2) by adding at the end thereof the following new paragraph:

"Nothing in this section shall apply to any activity that occurs on a board of trade, exchange, or market, or clearinghouse for such board of trade, exchange, or market, located outside the United States, or territories or possessions of the United States, involving any contract of sale of a commodity for future delivery that is made, or to be made, on or subject to the rules of such board of trade, exchange, or market.".

SEC. 102. OPTIONS TRANSACTIONS.

Subsection (c) of section 4c of the Commodity Exchange Act (7 U.S.C. 6c(c)) is amended to read as follows:

"(c) Not later than 90 days after the date of the enactment of the Futures Trading Act of 1986, the Commission shall issue regulations— Regulations.

"(1) to eliminate the pilot status of its program for commodity option transactions involving the trading of options on contract markets, including any numerical restrictions on the number of commodities or option contracts for which a contract market may be designated; and Contracts.

"(2) otherwise to continue to permit the trading of such commodity options under such terms and conditions that the Commission from time to time may prescribe.".

SEC. 103. EXTRATERRITORIAL SERVICE OF SUBPENAS.

Section 6(b) of the Commodity Exchange Act (7 U.S.C. 15) is amended—

(1) in the third sentence, by inserting "(except as provided in the fifth sentence of this subsection)" immediately before "may administer oaths and affirmations, subpena witnesses";

(2) in the fourth sentence, by striking out "or any State" and inserting in lieu thereof ", any State, or any foreign country or jurisdiction"; and

(3) by inserting after the fourth sentence the following new sentence: "A subpena issued under this section may be served upon any person who is not to be found within the territorial jurisdiction of any court of the United States in such manner as the Federal Rules of Civil Procedure prescribe for service of process in a foreign country, except that a subpena to be served on a person who is not to be found within the territorial jurisdiction of any court of the United States may be issued only on the prior approval of the Commission.". 28 USC app.

SEC. 104. EX PARTE APPOINTMENT OF TEMPORARY RECEIVERS.

The proviso of the first sentence of section 6c of the Commodity Exchange Act (7 U.S.C. 13a-1) is amended by inserting within the parenthetical phrase before the closing parenthesis the following: ", and other than an order appointing a temporary receiver to administer such restraining order and to perform such other duties as the court may consider appropriate".

SEC. 105. CERTAIN PROHIBITED TRANSACTIONS.

Securities.

Section 9(d) of the Commodity Exchange Act (7 U.S.C. 13(d)) is amended—

(1) by inserting immediately before the period at the end of the first sentence the following: "if nonpublic information is used in the investment transaction, if the investment transaction is prohibited by rule or regulation of the Commission, or if the investment transaction is effected by means of any instrument regulated by the Commission"; and

(2) by striking out the second and third sentences and inserting in lieu thereof the following new sentence: "The foregoing prohibitions shall not apply to any transaction or class of transactions that the Commission, by rule or regulation, has determined would not be contrary to the public interest or otherwise inconsistent with the purposes of this subsection.".

SEC. 106. AUTHORIZATION FOR APPROPRIATIONS.

Subsection (d) of section 12 of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended to read as follows:

"(d) There are authorized to be appropriated to carry out this Act such sums as may be necessary for each of the fiscal years during the period beginning October 1, 1986, and ending September 30, 1989.".

SEC. 107. REGISTERED FUTURES ASSOCIATION DISCIPLINARY ACTIONS AND MEMBERSHIP RESTRICTIONS.

Subsections (h) and (i) of section 17 of the Commodity Exchange Act (7 U.S.C. 21 (h) and (i)) are amended to read as follows:

"(h)(1) If any registered futures association takes any final disciplinary action against a member of the association or a person associated with a member, denies admission to any person seeking membership therein, or bars any person from being associated with a member, the association promptly shall give notice thereof to such member or person and file notice thereof with the Commission. The notice shall be in such form and contain such information as the Commission, by rule or regulation, may prescribe as necessary or appropriate to carry out the purposes of this Act.

"(2) Any action with respect to which a registered futures association is required by paragraph (1) to file notice shall be subject to review by the Commission on its motion, or on application by any person aggrieved by the action. Such application shall be filed within 30 days after the date such notice is filed with the Commission and received by the aggrieved person, or within such longer period as the Commission may determine.

"(3)(A) Application to the Commission for review, or the institution of review by the Commission on its own motion, shall not operate as a stay of such action unless the Commission otherwise orders, summarily or after notice and opportunity for hearing on the question of a stay (which hearing may consist solely of the submission of affidavits or presentation of oral arguments).

"(B) The Commission shall establish procedures for expedited consideration and determination of the question of a stay.

"(i)(1) In a proceeding to review a final disciplinary action taken by a registered futures association against a member thereof or a person associated with a member, after appropriate notice and opportunity for a hearing (which hearing may consist solely of consideration of the record before the association and opportunity

for the presentation of supporting reasons to affirm, modify, or set aside the sanction imposed by the association)—

"(A) if the Commission finds that—

"(i) the member or person associated with a member has engaged in the acts or practices, or has omitted the acts, that the association has found the member or person to have engaged in or omitted;

"(ii) the acts or practices, or omissions to act, are in violation of the rules of the association specified in the determination of the association; and

"(iii) such rules are, and were applied in a manner, consistent with the purposes of this Act,

the Commission, by order, shall so declare and, as appropriate, affirm the sanction imposed by the association, modify the sanction in accordance with paragraph (2), or remand the case to the association for further proceedings; or

"(B) if the Commission does not make any such finding, the Commission, by order, shall set aside the sanction imposed by the association and, if appropriate, remand the case to the association for further proceedings.

"(2) If, after a proceeding under paragraph (1), the Commission finds that any penalty imposed on a member or person associated with a member is excessive or oppressive, having due regard for the public interest, the Commission, by order, shall cancel, reduce, or require the remission of the penalty.

"(3) In a proceeding to review the denial of membership in a registered futures association or the barring of any person from being associated with a member, after appropriate notice and opportunity for a hearing (which hearing may consist solely of consideration of the record before the association and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the action of the association)—

"(A) if the Commission finds that—

"(i) the specific grounds on which the denial or bar is based exist in fact;

"(ii) the denial or bar is in accordance with the rules of the association; and

"(iii) such rules are, and were applied in a manner, consistent with the purposes of this Act,

the Commission, by order, shall so declare and, as appropriate, affirm or modify the action of the association, or remand the case to the association for further proceedings; or

"(B) if the Commission does not make any such finding, the Commission, by order, shall set aside the action of the association and require the association to admit the applicant to membership or permit the person to be associated with a member, or, as appropriate, remand the case to the association for further proceedings.

"(4) Any person (other than a registered futures association) aggrieved by a final order of the Commission entered under this subsection may file a petition for review with a United States court of appeals in the same manner as provided in section 6(b).". *Ante*, p. 3557.

SEC. 108. RULE REVIEW PROCEDURES.

Section 17(j) of the Commodity Exchange Act (7 U.S.C. 21(j)) is amended by striking out the third sentence.

SEC. 109. LEVERAGE TRANSACTIONS.

Section 19 of the Commodity Exchange Act (7 U.S.C. 23) is amended to read as follows:

Contracts.

"SEC. 19. (a) Except as authorized under subsection (b), no person shall offer to enter into, enter into, or confirm the execution of, any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract.

Metals.
Regulations.
Fraud.

"(b)(1) Subject to paragraph (2), no person shall offer to enter into, enter into, or confirm the execution of, any transaction for the delivery of silver bullion, gold bullion, bulk silver coins, bulk gold coins, or platinum under a standardized contract described in subsection (a), contrary to the terms of any rule, regulation, or order that the Commission shall prescribe, which may include terms designed to ensure the financial solvency of the transaction or prevent manipulation or fraud. Such rule, regulation, or order may be made only after notice and opportunity for hearing. The Commission may set different terms and conditions for transactions involving different commodities.

"(2) No person may engage in any activity described in paragraph (1) who is not permitted to engage in such activity, by the rules, regulations, and orders of the Commission in effect on the date of the enactment of the Futures Trading Act of 1986, until the Commission permits such person to engage in such activity in accordance with regulations issued in accordance with subsection (c)(2).

"(c)(1)(A) Not later than 2 years after the date of the enactment of the Futures Trading Act of 1986, the Commission shall—

"(i) with the assistance of a futures association registered under this Act, conduct a survey concerning the persons interested in engaging in the business of offering to enter into, entering into, or confirming the execution of, the transactions described in subsection (b)(1); and

Reports.

"(ii) transmit a report of the results of the survey to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Reports.

"(B) Notwithstanding any other provision of law, for purposes of completing such report the Commission may direct, by rule, regulation, or order, a futures association registered under this Act to render such assistance as the Commission shall specify.

Reports.

"(C) Such report shall include the findings and any recommendations of the Commission concerning—

"(i) whether such transactions serve an economic purpose;

"(ii) the most efficient manner, consistent with the public interest, to permit additional persons to engage in the business of offering to enter into, entering into, and confirming the execution of such transactions; and

"(iii) the appropriate regulatory scheme to govern such transactions to ensure the financial solvency of such transactions and to prevent manipulation or fraud.

"(2) The report shall also include Commission regulations governing such transactions. The regulations shall provide for permitting additional persons to engage in such transactions. The regulations shall become effective on the expiration of 90 calendar days on which either House of Congress is in session after the date of the transmittal of the report to Congress. The regulations— Reports. Regulations.

"(A) may authorize or require, notwithstanding any other provision of law, a futures association registered under this Act to perform such responsibilities in connection with such transactions as the Commission may specify; and

"(B) may require that permission for additional persons to engage in such business be given on a gradual basis, so as not to place an undue burden on the resources of the Commission.

"(d) This section shall not affect any rights or obligations arising out of any transaction subject to this section, as in effect before the date of the enactment of the Futures Trading Act of 1986, that was entered into, or the execution of which was confirmed, before the date of the enactment of such Act.".

SEC. 110. TECHNICAL CORRECTIONS.

The Commodity Exchange Act is amended—

(1) in the third sentence of section 2(a)(1)(B)(iv)(I) (7 U.S.C. 2a(iv)(I)), by striking out "Securities Exchange Commission" and inserting in lieu thereof "Securities and Exchange Commission";

(2) in the fourth full sentence of section 5a(12) (7 U.S.C. 7a(12)), by striking out "particpate" and inserting in lieu thereof "participate";

(3) in the first sentence of section 9(c) (7 U.S.C. 13(c)), by striking out "section 4k." and inserting in lieu thereof "section 4k,";

(4) in the first sentence of section 9(d) (7 U.S.C. 13(d)), by striking out "advance guarantee" and inserting in lieu thereof "advance guaranty";

(5) by repealing section 11 (7 U.S.C. 14 note); 7 USC 14.

(6) in the second full sentence of section 17(b)(2) (7 U.S.C. 21(b)(2)), by striking out "with in" and inserting in lieu thereof "within"; and

(7) in section 17(k)(1) (7 U.S.C. 21(k)(1)), by striking out "title" and inserting in lieu thereof "section".

SEC. 111. GAO STUDY OF TRADING IN CATTLE FUTURES CONTRACTS. 7 USC 20 note.

(a) STUDY.—The Comptroller General of the United States shall conduct and complete a comprehensive study of the effect of trading in contracts for the future delivery of live cattle on the cash market price of live cattle, with particular emphasis on—

(1) whether the reaction of the live cattle futures market to the results of the milk production termination program in March 1986, conducted under section 201(d)(3) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(3)), was based on and accurately reflected the then prevailing conditions of supply and demand;

(2) the effect of the trading in contracts for the future delivery of live cattle on—

(i) the price relationship between feeder cattle and fed cattle;

(ii) the price discovery process with respect to live cattle; and

(iii) price competition within the cattle industry;

(3) the effect of the use of packer contracts, as a means of obtaining slaughter cattle, on the increase in short hedging in contracts for the future delivery of live cattle and the effect of this increase in short hedging on prices in the futures and cash markets;

(4) the effect on the ability of the cash markets to accurately reflect prevailing conditions of supply and demand if packer contracts become the prevalent method of marketing fed cattle;

(5) whether the present delivery system for contracts for the future delivery of live cattle creates any bias (either upward or downward) in the cash price for cattle;

(6) whether the present delivery system for contracts for the future delivery of live cattle creates price volatility during the delivery month; and

(7) whether there are advantages or disadvantages to a cash settlement system in lieu of the present delivery system in the case of contracts for the future delivery of live cattle.

(b) REPORTS.—

(1) PRELIMINARY REPORT.—Not later than January 15, 1987, the Comptroller General shall submit a preliminary report on the results of the study required under subsection (a) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(2) FINAL REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to such committees a detailed final report of the results of the study required under subsection (a).

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. CROSS COMPLIANCE FOR PRODUCERS OF EXTRA LONG STAPLE COTTON.

Loans.

Paragraph (16) of section 103(h) of the Agricultural Act of 1949 (7 U.S.C. 1444(h)(16)) is amended to read as follows:

"(16)(A) Notwithstanding any other provision of law, except as provided in subparagraph (B), compliance on a farm with the terms and conditions of any other commodity program may not be required as a condition of eligibility for loans or payments under this subsection.

"(B) In the case of each of the 1989 and 1990 crops of extra long staple cotton, the Secretary may require that, as a condition of eligibility of producers for loans or payments under this subsection, the acreage planted for harvest on the farm to any other commodity for which an acreage limitation program is in effect shall not exceed the crop acreage base established for the farm for that commodity.

"(C) Notwithstanding any other provision of law, in the case of each of the 1987 and 1988 crops of extra long staple cotton, compliance with the terms and conditions of the program authorized by this subsection may not be required as a condition of eligibility for loans, purchases, or payments under any other commodity program.".

SEC. 202. BASIS FOR COMPUTATION OF EMERGENCY COMPENSATION UNDER THE 1986 WHEAT PROGRAM.

Section 107D(c)(1)(E)(ii) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1)(E)(ii)) is amended by striking out "marketing year for such crop" and inserting in lieu thereof "first 5 months of the marketing year for the 1986 crop and the marketing year for each of the 1987 through 1990 crops".

SEC. 203. VALENCIA PEANUTS.

New Mexico.

Section 108B(4)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445c-2(4)(A)) is amended by inserting after "additional peanuts" the following: "(other than net gains on additional peanuts in separate type pools established under paragraph (3)(B)(i) for Valencia peanuts produced in New Mexico)".

SEC. 204. LOCAL AGRICULTURAL STABILIZATION AND CONSERVATION COMMITTEES.

The fifth paragraph of section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) (as amended by section 3 of Public Law 99-253 (100 Stat. 36)) is amended—

(1) by inserting after the third sentence the following new sentence: "Notwithstanding the preceding sentence, there may be one local administrative area in any county for which there had been established less than three local administrative areas as of December 23, 1985."; and

(2) in the sixth sentence (as it existed before the amendment made by paragraph (1)), by striking out ": *Provided,*" and all that follows through the period and inserting in lieu thereof a period.

SEC. 205. ELIGIBILITY OF CERTAIN LAND UNDER THE CONSERVATION RESERVE PROGRAM.

Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended by adding at the end thereof the following new subsection:

"(f) For purposes of this subtitle, alfalfa and other multiyear grasses and legumes, in a rotation practice approved by the Secretary, shall be considered agricultural commodities.".

SEC. 206. MARKETING PRACTICES AND TRAINING.

7 USC 2271a note.

(a) MARKETING PRACTICES OF FMHA APPLICANTS AND BORROWERS.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study of marketing practices used by applicants for and borrowers of farm loans made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.). The study shall include an examination of the methods used by the applicants and borrowers in marketing agricultural commodities, livestock, and aquacultural products and the extent to which the applicants and borrowers use advanced marketing techniques for such sales.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the study conducted under paragraph (1), together with any appropriate recommendations.

7 USC 2271a.

(b) ADVANCED MARKETING TRAINING FOR FARMERS AND RANCHERS.—The Secretary of Agriculture may establish a program to train farmers and ranchers in advanced techniques for the marketing of agricultural commodities, livestock, and aquacultural products produced by such farmers and ranchers, including (where appropriate as determined by the Secretary) training in the use of futures and options markets.

TITLE III—GRAIN QUALITY IMPROVEMENT

Grain Quality Improvement Act of 1986.
7 USC 71 note.

SEC. 301. SHORT TITLE.

This title may be cited as the "Grain Quality Improvement Act of 1986".

SEC. 302. DECLARATION OF POLICY.

Section 2 of the United States Grain Standards Act (7 U.S.C. 74) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following new subsection:

"(b) It is also declared to be the policy of Congress—

"(1) to promote the marketing of grain of high quality to both domestic and foreign buyers;

"(2) that the primary objective of the official United States standards for grain is to certify the quality of grain as accurately as practicable; and

"(3) that official United States standards for grain shall—

"(A) define uniform and accepted descriptive terms to facilitate trade in grain;

"(B) provide information to aid in determining grain storability;

"(C) offer users of such standards the best possible information from which to determine end-product yield and quality of grain; and

"(D) provide the framework necessary for markets to establish grain quality improvement incentives.".

SEC. 303. FOREIGN MATERIAL RECOMBINATION.

(a) PROHIBITED ACT.—Section 13 of the United States Grain Standards Act (7 U.S.C. 87b) is amended by adding at the end thereof the following new subsection:

"(d)(1) Subject to paragraphs (2) and (3), to ensure the quality of grain marketed in or exported from the United States—

"(A) no dockage or foreign material, as defined by the Secretary, once removed from grain shall be recombined with any grain; and

"(B) no dockage or foreign material of any origin may be added to any grain.

"(2) Nothing in paragraph (1) shall be construed to prohibit—

"(A) the treatment of grain to suppress, destroy, or prevent insects and fungi injurious to stored grain;

"(B) the marketing, domestically or for export, of dockage or foreign material removed from grain if such dockage or foreign material is marketed—

"(i) separately and uncombined with any such whole grain;

"(ii) in pelletized form; or

"(iii) as a part of a processed ration for livestock, poultry, or fish;

"(C) the blending of grain with similar grain of a different quality to adjust the quality of the resulting mixture;

"(D) the recombination of broken corn or broken kernels, as defined by the Administrator, with grain of the type from which the broken corn or broken kernels were derived;

"(E) effective for the period ending December 31, 1987, the recombination of dockage or foreign material, except dust, removed at an export loading facility from grain destined for shipment as a cargo under one export official certificate of inspection if—

"(i) the recombination occurs during the loading of the cargo;

"(ii) the purpose is to ensure uniformity of dockage or foreign material throughout that specific cargo; and

"(iii) the separation and recombination are conducted in accordance with regulations issued by the Administrator; or

"(F) the addition to grain of a dust suppressant, or the addition of confetti or any other similar material that serves the same purpose in a quantity necessary to facilitate identification of ownership or origin of a particular lot of grain.

"(3)(A) The Secretary may, by regulation, exempt from paragraph (1) the last handling of grain in the final sale and shipment of such grain to a domestic user or processor if such exemption is determined by the Secretary to be in the best economic interest of producers, grain merchants, the industry involved, and the public.

Business and industry.

"(B) Grain sold under an exemption authorized by this paragraph shall be consumed or processed into one or more products by the purchaser, but may not be resold into commercial channels for such grain or blended with other grain for resale. Neither products nor byproducts derived therefrom (except vegetable oils as defined by the Secretary and used as a dust suppressant) shall be blended with or added to grain in commercial channels.".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective on May 1, 1987.

7 USC 87b note.

SEC. 304. INSECT INFESTATION.

Regulations.
7 USC 76 note.

Not later than 6 months after the date of enactment of this Act, the Administrator of the Federal Grain Inspection Service shall issue a final rule that revises grain inspection procedures and standards established under the United States Grain Standards Act (7 U.S.C. 71 et seq.) to more accurately reflect levels of insect infestation.

SEC. 305. STUDY OF PREMIUMS FOR HIGH-QUALITY GRAIN.

(a) STUDY.—After public comment from and in consultation with grain producers, grain merchants, grain processors, and grain exporters, the Secretary of Agriculture shall conduct a study of the feasibility and appropriateness of adjusting Commodity Credit Corporation grain premium and discount schedules—

(1) to encourage the delivery, storage, and export of high-quality, clean grain; and

(2) to offer incentives to minimize the quantity of moisture, foreign material, dockage, shrunken and broken kernels, and damaged kernels in lots of grain pledged as collateral for

Commodity Credit Corporation loans or in grain owned by the Commodity Credit Corporation.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit a report describing the results of the study required under subsection (a), together with recommendations, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 306. REVIEW OF OPTIMAL GRADE PROPOSAL.

(a) NOTICE AND COMMENT.—To evaluate the effects of moving to an optimal grain grading system, the Administrator of the Federal Grain Inspection Service shall—

Federal Register, publication.

(1) publish in the Federal Register a detailed description of the proposals contained in H.R. 5354, 99th Congress, the Optimal Grain Grading Act of 1986; and

(2) solicit public comment, during a period of not less than 60 days on—

(A) the optimal grain grading system as proposed in H.R. 5354; and

Business and industry.

(B) the general objective of improving grain quality by revising the official United States grain standards to provide greater economic incentives for production and sale of high-quality grain.

(b) REPORT.—The Administrator shall report to Congress, by May , 1987, on the comments received and on the recommendations of he Administrator with respect to the matters on which comments were solicited.

7 USC 76 note.

SEC. 307. STUDY OF UNIFORM END-USE VALUE TESTS.

(a) STUDY.—The Secretary of Agriculture shall direct the Federal Grain Inspection Service and the Agricultural Research Service to conduct a study of the need for and availability of uniform end-use value tests for grain. The study shall include the following:

(1) A survey of domestic and foreign buyers of grain to identify the information about grain characteristics that would be most useful to such buyers. The survey shall take into account those factors that buyers specify in contracts, test for, measure, or would measure if tests were available, including—

(A) the starch, oil, and protein content, breakage susceptibility, and individual kernel moisture of corn;

(B) the baking characteristics, protein content, gluten content and quality, and milling hardness of wheat; and

(C) the protein, oil, and free-fatty-acid content of soybeans.

(2) A review of the development and availability of tests for the characteristics identified in the survey conducted under paragraph (1), including an evaluation of the costs of providing such tests.

(b) END-USE TESTS.—

(1) ONGOING REVIEW.—The Secretary of Agriculture shall direct the Federal Grain Inspection Service and the Agricultural Research Service to maintain an ongoing review to determine the end-use tests that are of economic value to buyers, and the availability and costs of such tests.

(2) REVISION OF PROCEDURES.—The Administrator of the Federal Grain Inspection Service, to the extent practicable, shall

revise official grain inspection and certification procedures to include within official inspection (as defined in section 3(i) of the United States Grain Standards Act (7 U.S.C. 75(i))) those tests that are identified under the study conducted under subsection (a) as useful, available, and economically feasible.

(c) REPORTS.—

(1) STUDY AND REVISION OF PROCEDURES.—Not later than 1 year after the date of enactment of this Act, the Administrator of the Federal Grain Inspection Service shall submit a report to Congress setting forth the results of the study conducted under subsection (a) and actions taken under subsection (b)(2).

(2) ONGOING REVIEW.—The Administrator shall report yearly to Congress on the ongoing review conducted under subsection (b)(1).

TITLE IV—FEDERAL MEAT INSPECTION

SEC. 401. SHORT TITLE.

Processed Products Inspection Improvement Act of 1986. 21 USC 601 note.

This title may be cited as the "Processed Products Inspection Improvement Act of 1986".

SEC. 402. PURPOSE.

The amendments made by this title are in furtherance of the findings made by Congress in section 2 of the Federal Meat Inspection Act (21 U.S.C. 602).

SEC. 403. AMENDMENTS TO FEDERAL MEAT INSPECTION ACT.

(a) MANNER AND FREQUENCY OF INSPECTION.—Effective only during the 6-year period beginning on the date of enactment of this Act, section 6 of the Federal Meat Inspection Act (21 U.S.C. 606) is amended by striking out "That for the purposes" and all that follows through "*Provided,* That" and inserting in lieu thereof the following:

Commerce and trade.

"(a)(1) For the purposes set forth in the preceding provisions of this Act, the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of meat food products prepared for commerce in any slaughtering, meat-canning, salting, packing, rendering, or similar establishment.

"(2) Such examination and inspection shall be conducted with such frequency and in such manner as the Secretary considers necessary, as provided in rules and regulations issued by the Secretary, taking into account such factors as the Secretary considers to be appropriate, including—

"(A) the nature and frequency of the processing operations at such establishment;

"(B) the adequacy and reliability of the processing controls and sanitary procedures at such establishment; and

"(C) the history of compliance with inspection requirements in effect under this Act, by the operator of such establishment or anyone responsibly connected with the business (as described in section 401(g)) that operates such establishment.

Post, p. 3568.

Labeling.

"(b)(1) All such products found by any of such inspectors and by the operator of such establishment to be not adulterated shall be marked, stamped, tagged, or labeled as 'Inspected and passed'.

"(2) All such products found by any of such inspectors or by the operator of such establishment to be adulterated shall be marked, stamped, tagged, or labeled as 'Inspected and condemned'. Each

such condemned product shall be destroyed for human food purposes. The Secretary may suspend inspection at, and remove inspectors from, any establishment that fails to so condemn adulterated meat food products or fails to so destroy condemned meat food products.

"(c) For purposes of any examination and inspection, such inspectors shall have access to every part of an establishment at all times, by day or night, and without regard to whether such establishment is operated.

"(d) Notwithstanding the preceding provisions of this section,".

(b) ENFORCEMENT METHODS.—Effective only during the 6-year period beginning on the date of enactment of this Act, section 401 of the Federal Meat Inspection Act (21 U.S.C. 671) is amended—

(1) by inserting "(a)" after the section designation;

(2) in the first sentence—

(A) by striking out "applicant, for" and inserting in lieu thereof "applicant for";

(B) by striking out "any felony, or (2)"; and

(C) by inserting before the period at the end thereof "or (2) any felony";

(3) in the second sentence—

(A) by indenting the first word so as to create a new paragraph; and

(B) by inserting "(f)" before the first word;

(4) by inserting "(g)" before the first word of the third sentence;

(5) in the fourth sentence—

(A) by striking out "The" and inserting in lieu thereof "(h) Except as provided in subsection (e)(2), the"; and

(B) by striking out "this section" and inserting in lieu thereof "subsection (e)"; and

(6) by inserting after subsection (a), as so designated by paragraph (1) of this subsection, the following new subsections:

Law enforcement and crime.
Courts, U.S.
Health and medical care.
Safety.
21 USC 601.

"(b)(1) On the request of the Secretary at the time of the sentencing of an individual who is a person responsibly connected with any business requiring inspection under title I and who is convicted of a felony involving—

"(A) the intentional adulteration of food (except as defined in section 1(m)(8));

"(B) the adulteration of food, as defined in section 1(m)(8), with intent to defraud;

"(C) bribery; or

"(D) extortion;

21 USC 601.

the sentencing court shall issue a temporary order forbidding such individual to exercise operational control of, or to be physically present at, any establishment requiring inspection under title I if the court finds that the exercise of operational control by, or the presence of, such individual at any such establishment either poses a direct and substantial threat to the public health or safety or, if such individual is convicted of a felony described in subparagraph (B), poses a clear likelihood of significant economic harm to consumers.

Records.

"(2) Such order shall terminate—

"(A) whenever the Secretary determines by order, after a hearing on the record, whether such individual should exercise operational control of, or be physically present at, any establish-

ment requiring inspection under title I, and judicial review, if any, of such determination is completed; or 21 USC 601.

"(B) 90 days after the issuance of such temporary order by the court if the Secretary does not commence such hearing before the expiration of such 90 days;

whichever occurs earlier.

"(c) Any determination and order of the Secretary issued under subsection (a) or (b) shall be conclusive and enforceable unless the affected applicant for, or recipient of, inspection service or the affected individual files, not later than 30 days after the effective date of such order, a petition for review of such order in the United States Court of Appeals for the District of Columbia Circuit or the court of appeals for the circuit in which the relevant establishment is doing business. Judicial review of such order shall be on the record on which the determination and order are based. District of Columbia. Courts, U.S. Records.

"(d)(1) Subject to paragraph (3), the Secretary may commence a civil action in an appropriate court, as provided in section 404, to withdraw inspection service under title I with respect to any establishment or to prevent any individual responsibly connected with any business requiring inspection under title I from exercising operational control of, or being present at, any establishment requiring inspection under title I. Law enforcement and crime. Courts, U.S. 21 USC 674. 21 USC 601.

"(2) If the court finds, on the basis of clear and convincing evidence, that the recipient of inspection service or such individual has repeatedly failed to comply with the requirements of this Act, or the rules and regulations issued under this Act, in a manner that poses a direct and substantial threat to the public health or safety, the court shall issue an order— Health and medical care. Safety.

"(A) withdrawing inspection at such establishment; or

"(B) forbidding such individual to exercise operational control of, or to be physically present at, such establishment,

for such period as the court determines is necessary to carry out the purposes of this Act.

"(3) Not less than 90 days, and not more than 450 days, before commencing a civil action under paragraph (1), the Secretary shall provide to each recipient of inspection service, and each individual responsibly connected with the business, with respect to which such action is commenced, a written notice that includes—

"(A) a statement that the Secretary intends to commence such action;

"(B) a comprehensive description of the violations of this Act and the regulations issued under this Act alleged by the Secretary; and

"(C) a description of the actions the Secretary considers necessary to be taken by such recipient or such individual to comply with this Act and to eliminate the need to commence such civil action.

"(e)(1) The Secretary may temporarily withdraw inspection service under title I with respect to any establishment for such period as is necessary to ensure the safe and effective performance of official duties under this Act if the Secretary determines, after an opportunity for a hearing on the record, that an officer, employee, or agent of such establishment— Records. 21 USC 601.

"(A) threatened to forcibly assault;

"(B) forcibly assaulted;

"(C) forcibly intimidated; or

"(D) forcibly interfered with,

an employee of the United States engaged in, or on account of, the performance of any of such official duties.

Safety. Records.

21 USC 601.

"(2)(A) Notwithstanding paragraph (1), the Secretary may temporarily suspend inspection service under title I with respect to any establishment, pending an expedited administrative hearing on the record and judicial review of the order of the Secretary based on such record, if the Secretary determines that temporary suspension of such inspection service is necessary for the safety of any employee who performs official duties under this Act.

"(B) If the Secretary receives, before or after temporarily suspending such inspection service in accordance with subparagraph (A), adequate written assurances from the recipient of inspection service, or the individuals involved, that the conduct or circumstances that threatened the safety of such employee will not continue or recur, the Secretary may continue or restore such inspection service on condition that such assurances are fulfilled.".

(c) WARNING; REPORTING OF VIOLATIONS.—Effective only during the 6-year period beginning on the date of enactment of this Act, section 406 of the Federal Meat Inspection Act (21 U.S.C. 676) is amended—

(1) in subsection (b), by adding at the end thereof the following new sentence: "In determining whether the public interest could be adequately served by a written notice of warning, the Secretary shall take into account, among other factors—

"(1) the compliance history of such establishment;

"(2) the magnitude of the violation;

"(3) whether compliance with this Act would likely be obtained as a result of such notice; and

"(4) whether such violation is of a minor or technical nature."; and

(2) by adding at the end thereof the following new subsection:

"(c) Unless the Secretary by regulation provides otherwise, before any violation of this Act is reported by the Secretary for prosecution in a criminal proceeding, the Secretary shall give the person alleged to have committed such violation—

"(1) reasonable notice that the Secretary intends to report such violation for prosecution; and

"(2) an opportunity to present to the Secretary, orally or in writing, views with respect to such proceeding.".

(d) CONFORMING AMENDMENTS.—

(1) NIGHTTIME.—Effective only during the 6-year period beginning on the date of enactment of this Act, section 9 of the Federal Meat Inspection Act (21 U.S.C. 609) is amended by inserting ", except as provided in section 6," after "equines, and" the first place it appears.

(2) ADMINISTRATION.—Effective only during the 6-year period beginning on the date of enactment of this Act, section 21 of the Federal Meat Inspection Act (21 U.S.C. 621) is amended by striking out "and meat food products" and inserting in lieu thereof "thereof, and of meat food products".

21 USC 606 note.

(e) CONSTRUCTION OF AMENDMENTS.—The amendments made by this section shall not be construed to authorize the Secretary of Agriculture to refuse to provide inspection under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) at an establishment solely because such establishment does not participate in a total plant quality-control program.

SEC. 404. SAVINGS PROVISION. 21 USC 606 note.

The expiration date provisions of section 403 shall not have the effect of releasing or extinguishing any penalty, forfeiture, or liability incurred under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), as amended by section 403, or under the rules or regulations issued under such Act.

SEC. 405. SENSE OF CONGRESS. 21 USC 606 note.

It is the sense of Congress that the Secretary of Agriculture should—

(1) carry out a program to detect residues in livestock that are subject to inspection under title I of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.); and

(2) evaluate the feasibility of, and develop, a program that would enable the Secretary to trace any particular livestock that are subject to inspection under title I of the Federal Meat Inspection Act, in order to identify the producer of such livestock.

SEC. 406. ANNUAL REPORT. 21 USC 606 note.

Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing—

(1) any action proposed or taken by the Secretary to implement the amendments made by section 403;

(2) any action proposed or taken by the Secretary to carry out a program to detect residues in livestock that are subject to inspection under title I of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.);

(3) any action proposed or taken by the Secretary to evaluate the feasibility of, and develop, a program that would enable the Secretary to trace any particular livestock that are subject to inspection under such title, in order to identify the producer of such livestock; and

(4) any personnel action proposed or taken by the Secretary as a result of the amendments made by section 403 and any effort made by the Secretary to minimize any adverse economic effect of such amendments on employees of the Department of Agriculture.

SEC. 407. CONGRESSIONAL REEVALUATION. 21 USC 606 note.

It is the sense of Congress that, not later than 6 years after the date of the enactment of this Act, Congress shall—

(1) evaluate the operation and effects of the amendments made by section 403, for the purpose of determining whether to extend or modify the operation of such amendments; and

(2) enact such legislation as may be necessary to efficiently and effectively carry out the Federal Meat Inspection Act (21 U.S.C. 601 et seq.).

SEC. 408. EFFECTIVE DATE; APPLICATION OF AMENDMENTS. 21 USC 606 note.

(a) GENERAL EFFECTIVE DATE.—Except as provided in subsection (b) of this section, this title and the amendments made by this title shall become effective on the date of the enactment of this Act.

(b) TEMPORARY APPLICATION OF EXISTING LAW.—Sections 6, 9, and 21 of the Federal Meat Inspection Act (21 U.S.C. 606, 609, and 621), as in effect immediately before the date of the enactment of this Act, shall apply with respect to establishments until the Secretary of Agriculture first issues rules and regulations to implement the amendments made by section 403(a).

Approved November 10, 1986.

LEGISLATIVE HISTORY—H.R. 4613 (S. 2045):

HOUSE REPORTS: No. 99-624 (Comm. on Agriculture) and No. 99-995 (Comm. of Conference).

SENATE REPORTS: No. 99-291 accompanying S. 2045 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD, Vol. 132 (1986):

July 16, considered and passed House.

Sept. 24, Oct. 6, S. 2045 considered in Senate; proceedings vacated and H.R. 4613, amended, passed in lieu.

Oct. 15, House rejected conference report; concurred in Senate amendment with an amendment.

Oct. 17, Senate concurred in House amendment.

O

Public Law 99-642
99th Congress

An Act

To designate the Federal Building at 111 W. Huron Street, Buffalo, New York, as the "Thaddeus J. Dulski Federal Building".

Nov. 10, 1986
[H.R. 5180]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Public buildings and grounds.

SECTION 1. DESIGNATION OF BUILDING.

The Federal Building located at 111 W. Huron Street, Buffalo, New York, shall be known and designated as the "Thaddeus J. Dulski Federal Building".

SEC. 2. LEGAL REFERENCES.

Each reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "Thaddeus J. Dulski Federal Building".

Approved November 10, 1986.

LEGISLATIVE HISTORY—H.R. 5180:

HOUSE REPORTS: No. 99-876 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 6, considered and passed House.
Oct. 18, considered and passed Senate.

91-139 O - 87 (666)

PUBLIC LAW 99-643—NOV. 10, 1986

EMPLOYMENT OPPORTUNITIES FOR DISABLED AMERICANS ACT

91-139 O - 87 (667)

Public Law 99-643
99th Congress

An Act

Nov. 10, 1986
[H.R. 5595]

To make permanent and improve the provisions of section 1619 of the Social Security Act, and for other purposes.

Employment Opportunities for Disabled Americans Act. 42 USC 1305 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Employment Opportunities for Disabled Americans Act".

SEC. 2. PERMANENT AUTHORIZATION OF PROGRAM OF BENEFITS UNDER SECTION 1619.

Section 201(d) of the Social Security Disability Amendments of 1980 (42 U.S.C. 1382h note) is amended by striking out ", but shall remain in effect only through June 30, 1987".

SEC. 3. ELIGIBILITY OF CERTAIN DISABLED OR BLIND INDIVIDUALS FOR BENEFITS DURING INITIAL TWO MONTHS IN CERTAIN INSTITUTIONS.

(a) IN GENERAL.—Section 1611(e)(1) of the Social Security Act (42 U.S.C. 1382(e)(1)) is amended—

(1) in subparagraph (A) by striking out "and (D)" and inserting in lieu thereof "(D), and (E)";

(2) in subparagraph (B) by inserting "(subject to subparagraph (E))" after "shall be payable"; and

(3) by adding at the end thereof the following new subparagraphs:

"(E) Notwithstanding subparagraphs (A) and (B), any individual who—

"(i)(I) is an inmate of a public institution, the primary purpose of which is the provision of medical or psychiatric care, throughout any month as described in subparagraph (A), or

"(II) is in a hospital, extended care facility, nursing home, or intermediate care facility throughout any month as described in subparagraph (B),

Post, p. 3575.

"(ii) was eligible under section 1619 (a) or (b) for the month preceding such month, and

"(iii) under an agreement of the public institution or the hospital, extended care facility, nursing home, or intermediate care facility is permitted to retain any benefit payable by reason of this subparagraph,

may be an eligible individual or eligible spouse for purposes of this title (and entitled to a benefit determined on the basis of the rate applicable under subsection (b)) for the month referred to in subclause (I) or (II) of clause (i) and, if such subclause still applies, for the succeeding month.

"(F) An individual who is an eligible individual or an eligible spouse for a month by reason of subparagraph (E) shall not be

treated as being eligible under section 1619 (a) or (b) for such month for purposes of clause (ii) of such subparagraph.". 42 USC 1382h.

(b) MEDICAID STATE PLAN REQUIREMENT.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

"(l) Notwithstanding any provision of subsection (a) to the contrary, a State plan under this title shall provide that any supplemental security income benefits paid by reason of section 1611(e)(1)(E) to an individual who— *Ante*, p. 3574.

"(1) is eligible for medical assistance under the plan, and

"(2) is in a hospital, skilled nursing facility, or intermediate care facility at the time such benefits are paid,

will be disregarded for purposes of determining the amount of any post-eligibility contribution by the individual to the cost of the care and services provided by the hospital, skilled nursing facility, or intermediate care facility.".

SEC. 4. IMPROVEMENTS TO SECTION 1619 PROGRAM.

(a) CASH BENEFITS.—Section 1619(a) of the Social Security Act (42 U.S.C. 1382h(a)) is amended to read as follows:

"(a)(1) Any individual who was determined to be an eligible individual (or eligible spouse) by reason of being under a disability and was eligible to receive benefits under section 1611 (or a federally administered State supplementary payment) for a month and whose earnings in a subsequent month exceed the amount designated by the Secretary ordinarily to represent substantial gainful activity shall qualify for a monthly benefit under this subsection for such subsequent month (which shall be in lieu of any benefit under section 1611) equal to an amount determined under section 1611(b)(1) (or, in the case of an individual who has an eligible spouse, under section 1611(b)(2)), and for purposes of title XIX shall be considered to be receiving supplemental security income benefits under this title, for so long as— State and local governments. 42 USC 1396.

"(A) such individual continues to have the disabling physical or mental impairment on the basis of which such individual was found to be under a disability; and

"(B) the income of such individual, other than income excluded pursuant to section 1612(b), is not equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611 and such individual meets all other non-disability-related requirements for eligibility for benefits under this title. 42 USC 1382a.

"(2) The Secretary shall make a determination under paragraph (1)(A) with respect to an individual not later than 12 months after the first month for which the individual qualifies for a benefit under this subsection.".

(b) CONTINUING BENEFITS UNDER TITLE XIX.—Section 1619(b) of such Act is amended—

(1) in paragraph (1) by striking out "continues to meet" and inserting in lieu thereof "meets",

(2) in paragraph (4) by striking out "benefits under this title and title XIX" and inserting in lieu thereof "benefits under this title (including any federally administered State supplementary payments), benefits under title XIX, and publicly funded attendant care services (including personal care assistance),", State and local governments.

(3) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively,

(4) by striking out the matter preceding subparagraph (A) (as redesignated by paragraph (3)) and inserting in lieu thereof the following:

Blind persons. State and local governments. 42 USC 1396. *Post*, p. 3577.

"(b)(1) For purposes of title XIX, any individual under age 65 who was determined to be a blind or disabled individual eligible to receive a benefit under section 1611 or any federally administered State supplementary payment for a month and who in a subsequent month is ineligible for benefits under this title (and for any federally administered State supplementary payments) because of his or her income shall, nevertheless, be considered to be receiving supplemental security income benefits for such subsequent month provided that the Secretary determines under regulations that—", and

(5) by adding at the end thereof (after and below subparagraph (D), as so redesignated) the following new paragraphs:

"(2)(A) Determinations made under paragraph (1)(D) shall be based on information and data updated no less frequently than annually.

"(B) In determining an individual's earnings for purposes of paragraph (1)(D), there shall be excluded from such earnings an amount equal to the sum of any amounts which are or would be excluded under clauses (ii) and (iv) of section 1612(b)(4)(B) (or under clauses (ii) and (iii) of section 1612(b)(4)(A)) in determining his or her income.".

42 USC 1382a.

(c) REVIEW PROCESS FOR CERTAIN INDIVIDUALS.—

(1) Section 1631 of such Act (42 U.S.C. 1383) is amended—

(A) in subsection (e)(1)(A) by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraph (B) and subsection (j)", and

(B) by adding at the end thereof the following new subsection:

"Application and Review Requirements for Certain Individuals

42 USC 1382h.

"(j)(1) Notwithstanding any provision of section 1611 or 1619, any individual who—

"(A) was an eligible individual (or eligible spouse) under section 1611 or was eligible for benefits under or pursuant to section 1619, and

"(B) who, after such eligibility, is ineligible for benefits under or pursuant to both such sections for a period of 12 consecutive months,

may not thereafter become eligible for benefits under or pursuant to either such section until the individual has reapplied for benefits under section 1611 and been determined to be eligible for benefits under such section.

"(2)(A) Notwithstanding any provision of section 1611 or section 1619, any individual who was eligible for benefits pursuant to section 1619(b), and who—

"(i)(I) on the basis of the same impairment on which his or her eligibility under such section 1619(b) was based becomes eligible for benefits under section 1611 or 1619(a) for a month that follows a period during which the individual was ineligible for benefits under sections 1611 and 1619(a), and

"(II) has earned income (other than income excluded pursuant to section 1612(b)) for any month in the 12-month period preceding such month that is equal to or in excess of the amount that would cause him or her to be ineligible for payments under

section 1611(b) for that month (if he or she were otherwise eligible for such payments); or 42 USC 1382.

"(ii)(I) on the basis of the same impairment on which his or her eligibility under such section 1619(b) was based becomes eligible under section 1619(b) for a month that follows a period during which the individual was ineligible under section 1611 and section 1619, and 42 USC 1382h.

"(II) has earned income (other than income excluded pursuant to section 1612(b)) for such month or for any month in the 12-month period preceding such month that is equal to or in excess of the amount that would cause him or her to be ineligible for payments under section 1611(b) for that month (if he or she were otherwise eligible for such payments); 42 USC 1382a.

shall, upon becoming eligible (as described in clause (i)(I) or (ii)(I)), be subject to a prompt review of the type described in section 1614(a)(5). 42 USC 1382c.

"(B) If the Secretary determines pursuant to a review required by subparagraph (A) that the impairment upon which the eligibility of an individual is based has ceased, does not exist, or is not disabling, such individual may not thereafter become eligible for a benefit under or pursuant to section 1611 or section 1619 until the individual has reapplied for benefits under section 1611 and been determined to be eligible for benefits under such section.".

(2) Section 1619 of such Act (as amended by subsections (a) and (b) of this section) is further amended—

(A) in subsection (a) by striking out "Any individual" and inserting in lieu thereof "Except as provided in section 1631(j), any individual", and

(B) in subsection (b) by striking out "For purposes of" and inserting in lieu thereof "Except as provided in section 1631(j), for purposes of". *Ante*, p. 3576.

(3) Section 1611 of such Act (42 U.S.C. 1382) is amended by adding at the end thereof the following new subsection:

"Application and Review Requirements for Certain Individuals

"(i) For application and review requirements affecting the eligibility of certain individuals, see section 1631(j).".

(d) CONFORMING AMENDMENTS.—

(1) Section 1611(e) of such Act (42 U.S.C. 1382(e)) is amended by striking out paragraph (4).

(2) Section 1614(a)(3) of such Act (42 U.S.C. 1382c(a)(3)) is amended—

(A) in subparagraph (D) by striking out ", except for purposes of subparagraph (F) or paragraph (4),", and

(B) by striking out subparagraph (F), and by redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively.

(3)(A) Section 1614(a) of such Act (as amended by paragraph (2)) is further amended by striking out paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(B) Section 1631(j)(2)(A) of such Act (as added by subsection (c)) is amended by striking out "section 1614(a)(5)" and inserting in lieu thereof "section 1614(a)(4)".

SEC. 5. NOTIFICATIONS TO APPLICANTS AND RECIPIENTS.

Section 1631 of the Social Security Act (42 U.S.C. 1383) (as amended by section 4) is further amended by adding at the end thereof the following new subsection:

"Notifications to Applicants and Recipients

Blind persons.
Ante, p. 3577.
42 USC 1382h.

"(k) The Secretary shall notify an individual receiving benefits under section 1611 on the basis of disability or blindness of his or her potential eligibility for benefits under or pursuant to section 1619—

"(1) at the time of the initial award of benefits to the individual under section 1611 (if the individual has attained the age of 18 at the time of such initial award), and

"(2) at the earliest time after an initial award of benefits to an individual under section 1611 that the individual's earned income for a month (other than income excluded pursuant to section 1612(b)) is $200 or more, and periodically thereafter so long as such individual has earned income (other than income so excluded) of $200 or more per month.".

42 USC 1382a.

SEC. 6. LOSS OF SSI BENEFITS UPON ENTITLEMENT TO CHILD'S INSURANCE BENEFITS BASED ON DISABILITY.

(a) IN GENERAL.—Section 1634 of the Social Security Act (42 U.S.C. 1383c) is amended by adding at the end thereof the following new subsection:

Blind persons.

"(c) If any individual who has attained the age of 18 and is receiving benefits under this title on the basis of blindness or a disability which began before he or she attained the age of 22—

"(1) becomes entitled, on or after the effective date of this subsection, to child's insurance benefits which are payable under section 202(d) on the basis of such disability or to an increase in the amount of the child's insurance benefits which are so payable, and

42 USC 402.

"(2) ceases to be eligible for benefits under this title because of such child's insurance benefits or because of the increase in such child's insurance benefits,

42 USC 1396.

such individual shall be treated for purposes of title XIX as receiving benefits under this title so long as he or she would be eligible for benefits under this title in the absence of such child's insurance benefits or such increase.".

42 USC 1383e note.
42 USC 1383c.
42 USC 1381.

(b) STATE DETERMINATIONS.—Any determination required under section 1634(c) of the Social Security Act with respect to whether an individual would be eligible for benefits under title XVI of such Act in the absence of children's benefits (or an increase thereof) shall be made by the appropriate State agency.

(c) CONFORMING CHANGE.—Section 1920(a)(2) of such Act (42 U.S.C. 1396s(a)(2)) is amended—

(1) by inserting "(A)" before "Section", and

(2) by adding after and below subparagraph (A) the following new subparagraph:

"(B) Section 1634 of this Act (relating to individuals who lose eligibility for SSI benefits due to entitlement to child's insurance benefits under section 202(d) of this Act).".

SEC. 7. MEDICAID ELIGIBILITY FOR CERTAIN RECIPIENTS OF CASH BENEFITS UNDER SECTION 1619.

(a) IN GENERAL.—Section 1619(b) of the Social Security Act (42 U.S.C. 1382h(b)) (as amended by section 4) is further amended by adding at the end thereof the following new paragraph:

"(3) In the case of a State that exercises the option under section 1902(f), any individual who— State and local governments. 42 USC 1396a.

"(A)(i) qualifies for a benefit under subsection (a), or

"(ii) meets the requirements of paragraph (1); and

"(B) was eligible for medical assistance under the State plan approved under title XIX in the month immediately preceding the first month in which the individual qualified for a benefit under such subsection or met such requirements, 42 USC 1396.

shall remain eligible for medical assistance under such plan for so long as the individual qualifies for a benefit under such subsection or meets such requirements.".

(b) CONFORMING AMENDMENT.—Section 1902(f) of such Act (42 U.S.C. 1396a(f)) is amended by striking out "subsection (e)" and inserting in lieu thereof "subsection (e) and section 1619(b)(3)". 42 USC 1382h.

SEC. 8. PAYMENT OF BENEFITS DUE DECEASED RECIPIENTS.

(a) IN GENERAL.—Section 1631(b)(1) of the Social Security Act is amended— 42 USC 1383.

(1) by inserting "(A)" after "(1)";

(2) by striking out "by recovery from" where it first appears in the first sentence and all that follows down through "The Secretary (A) shall make" and inserting in lieu thereof the following:

"by recovery from such individual or his eligible spouse (or from the estate of either) or by payment to such individual or his eligible spouse, or, if such individual is deceased, by payment—

"(i) to any surviving spouse of such individual, whether or not the individual's eligible spouse, if (within the meaning of the first sentence of section 202(i)) such surviving husband or wife was living in the same household with the individual at the time of his death or within the 6 months immediately preceding the month of such death, or 42 USC 402.

"(ii) if such individual was a disabled or blind child who was living with his parent or parents at the time of his death or within the 6 months immediately preceding the month of such death, to such parent or parents. Children and youth.

"(B) The Secretary (i) shall make";

(3) by striking out "and (B) shall in any event" and inserting in lieu thereof "and (ii) shall in any event";

(4) by striking out "(i) the amount" and "(ii) an amount" and inserting in lieu thereof "(I) the amount" and "(II) an amount", respectively; and

(5) by striking out "clause (B)" and "clause (A)" in the last sentence and inserting in lieu thereof "clause (ii)" and "clause (i)", respectively.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to benefits payable for months after May 1986. 42 USC 1383 note.

SEC. 9. TREATMENT OF CERTAIN COUPLES IN MEDICAL INSTITUTIONS.

(a) IN GENERAL.—Section 1611(e) of the Social Security Act is amended by adding at the end thereof the following new subsection: 42 USC 1382.

State and local governments.

"(5) Notwithstanding anything to the contrary in the criteria being used by the Secretary in determining when a husband and wife are to be considered two eligible individuals for purposes of this title and when they are to be considered an eligible individual with an eligible spouse, the State agency administering or supervising the administration of a State plan under any other program under this Act may (in the administration of such plan) treat a husband and wife sharing a room or comparable accommodation in a hospital, home, or facility described in paragraph (1)(B) as though they were an eligible individual with his or her eligible spouse for purposes of this title (rather than two eligible individuals), after they have continuously shared such a room or accommodation for 6 months, if treating such husband and wife as two eligible individuals would prevent either of them from receiving benefits or assistance under such plan or reduce the amount thereof.".

42 USC 1382 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 10. EFFECTIVE DATES.

42 USC 1382h note.

(a) PERMANENT AUTHORIZATION.—The amendment made by section 2 shall become effective on the date of the enactment of this Act.

42 USC 1396a note.

(b) PROGRAM MODIFICATIONS.—

(1) Except as provided in paragraph (2), the amendments made by sections 3, 4, 5, 6, and 7 shall become effective on July 1, 1987.

State and local governments. 42 USC 1396.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the requirements imposed by the amendments made by section 3(b) and section 7 of this Act, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet such additional requirements until 60 days after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

Approved November 10, 1986.

LEGISLATIVE HISTORY—H.R. 5595 (S. 2209):

HOUSE REPORTS: No. 99-893 (Comm. on Ways and Means).
SENATE REPORTS: No. 99-466 accompanying S. 2209 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 32 (1986):
Sept. 30, considered and passed House.
Oct. 8, considered and passed Senate, amended, in lieu of S. 2209.
Oct. 15, House concurred in Senate amendments with an amendment.
Oct. 16, House agreed to certain Senate amendment, to another with amendments.
Oct. 18, Senate concurred in House amendments.

O

Public Law 99-644
99th Congress

An Act

To amend the Alaska National Interest Lands Conservation Act of 1980 to clarify the treatment of submerged lands and ownership by the Alaskan Native Corporation.

Nov. 10, 1986
[S. 485]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 901 of the Alaska National Interest Lands Conservation Act (Public Law 96-487), as amended, is hereby amended by striking out the word "six years after the date of execution" each time such words occur in such subsection, and by inserting in lieu thereof in each instance the words "eight years after the date of execution", and by striking the words "seven years after the date of enactment" each time such words occur in such subsection, and by inserting in lieu thereof in each instance the words "nine years after the date of enactment".

43 USC 1631.

Approved November 10, 1986.

LEGISLATIVE HISTORY—S. 485:

SENATE REPORTS: No. 99-507 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 16, considered and passed Senate and House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Nov. 10, Presidential statement.

O

91-139 O - 87 (668)

PUBLIC LAW 99-645—NOV. 10, 1986

EMERGENCY WETLANDS RESOURCES ACT OF 1986

91-139 O - 87 (669)

Public Law 99-645
99th Congress

An Act

Nov. 10, 1986
[S. 740]

To promote the conservation of migratory waterfowl and to offset or prevent the serious loss of wetlands by the acquisition of wetlands and other essential habitat, and for other purposes.

Emergency Wetlands Resources Act of 1986.
16 USC 3901 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Wetlands Resources Act of 1986".

16 USC 3901.

SEC. 2. FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) wetlands play an integral role in maintaining the quality of life through material contributions to our national economy, food supply, water supply and quality, flood control, and fish, wildlife, and plant resources, and thus to the health, safety, recreation, and economic well-being of all our citizens of the Nation;

(2) wetlands provide habitat essential for the breeding, spawning, nesting, migration, wintering and ultimate survival of a major portion of the migratory and resident fish and wildlife of the Nation; including migratory birds, endangered species, commercially and recreationally important finfish, shellfish and other aquatic organisms, and contain many unique species and communities of wild plants;

(3) the migratory bird treaty obligations of the Nation with Canada, Mexico, Japan, the Union of Soviet Socialist Republics, and with various countries in the Western Hemisphere require Federal protection of wetlands that are used by migratory birds for breeding, wintering or migration and needed to achieve and to maintain optimum population levels, distributions, and patterns of migration;

(4) wetlands, and the fish, wildlife, and plants dependent on wetlands, provide significant recreational and commercial benefits, including—

(A) contributions to a commercial marine harvest valued at over $10,000,000,000 annually;

(B) support for a major portion of the Nation's multimillion dollar annual fur and hide harvest; and

(C) fishing, hunting, birdwatching, nature observation and other wetland-related recreational activities that generate billions of dollars annually;

(5) wetlands enhance the water quality and water supply of the Nation by serving as groundwater recharge areas, nutrient traps, and chemical sinks;

(6) wetlands provide a natural means of flood and erosion control by retaining water during periods of high runoff, thereby protecting against loss of life and property;

(7) wetlands constitute only a small percentage of the land area of the United States, are estimated to have been reduced by half in the contiguous States since the founding of our Nation, and continue to disappear by hundreds of thousands of acres each year;

(8) certain activities of the Federal Government have inappropriately altered or assisted in the alteration of wetlands, thereby unnecessarily stimulating and accelerating the loss of these valuable resources and the environmental and economic benefits that they provide; and

(9) the existing Federal, State, and private cooperation in wetlands conservation should be strengthened in order to minimize further losses of these valuable areas and to assure their management in the public interest for this and future generations.

(b) PURPOSE.—It is the purpose of this Act to promote, in concert with other Federal and State statutes and programs, the conservation of the wetlands of the Nation in order to maintain the public benefits they provide and to help fulfill international obligations contained in various migratory bird treaties and conventions with Canada, Mexico, Japan, the Union of Soviet Socialist Republics, and with various countries in the Western Hemisphere by—

International agreements. Canada. Mexico. Japan. Union of Soviet Socialist Republics.

(1) intensifying cooperative efforts among private interests and local, State, and Federal governments for the management and conservation of wetlands; and

(2) intensifying efforts to protect the wetlands of the Nation through acquisition in fee, easements or other interests and methods by local, State, and Federal governments and the private sector.

SEC. 3. DEFINITIONS.

16 USC 3902.

For the purpose of this Act:

(1) The term "Committees" means the Committee on Merchant Marine and Fisheries and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Environment and Public Works and the Committee on Energy and Natural Resources of the Senate.

(2) The term "designated unit" means a unit of the National Wildlife Refuge System designated by the Secretary under section 201(a)(2).

(3) The term "hydric soil" means soil that, in its undrained condition, is saturated, flooded, or ponded long enough during a growing season to develop an anaerobic condition that supports the growth and regeneration of hydrophytic vegetation.

(4) The term "hydrophytic vegetation" means a plant growing in—

(A) water; or

(B) a substrate that is at least periodically deficient in oxygen during a growing season as a result of excessive water content.

(5) The term "wetland" means land that has a predominance of hydric soils and that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.

TITLE I—EXTENSION OF WETLANDS LOAN ACT

SEC. 101. EXTENSION OF WETLANDS LOAN ACT.

(a) AVAILABILITY OF APPROPRIATIONS.—The first section of the Act entitled "An Act to promote the conservation of migratory waterfowl by the acquisition of wetlands, and for other essential waterfowl habitat, and for other purposes", approved October 4, 1961 (16 U.S.C. 715k-3), is amended by striking out "September 30, 1986" and inserting in lieu thereof "September 30, 1988".

(b) REPAYMENT PROVISIONS.—Section 3 of such Act (16 U.S.C. 715k-5) is amended by striking out the first three sentences.

National Wildlife Refuge System.

TITLE II—REVENUES FOR REFUGE OPERATIONS AND THE MIGRATORY BIRD CONSERVATION FUND

16 USC 3911.

SEC. 201. SALE OF ADMISSION PERMIT AT CERTAIN REFUGE UNITS.

(a) SALE OF ADMISSION PERMITS.—(1) Notwithstanding the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 et seq.), in order to provide additional revenues for the conservation of wetland resources of the Nation and for the operation and maintenance of refuges—

(A) the Secretary of the Interior may, at units of the National Wildlife Refuge System designated by the Secretary under paragraph (2)—

(i) charge fees for admission permits;

(ii) sell Golden Eagle passports and Golden Age passports;

(iii) issue at no charge lifetime admission permits as authorized in section 4(a)(5) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4—4601-11);

(B) the amounts collected by the Secretary as a result of the activities described in subparagraph (A) shall be distributed as provided in subsection (c).

(2) The Secretary shall designate a unit of the National Wildlife Refuge System for purposes of this Act if the Secretary determines, with respect to such unit, that—

(A) The level of visitation for recreational purposes is high enough to justify the collection of fees for admission permits for economic reasons.

(B) There is a practical mechanism in existence for implementing and operating a system of collecting fees for admission permits.

(C) Imposition of a fee for admission permits is not likely to result in undue economic hardship for a significant number of visitors to the unit.

(b) EXCEPTIONS.—(1) The Secretary may not require an admission permit under subsection (a)(1) for entry by a person into a designated unit if such person is the holder of—

(A) a valid migratory bird hunting and conservation stamp issued under section 2 of the Act of March 16, 1934 (16 U.S.C. 718b) (commonly known as the Duck Stamp Act);

(B) a valid Golden Eagle Passport issued under section 4(a)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(a)(1));

(C) a valid Golden Age Passport issued under section 4(a)(4) of such Act; or

(D) a valid lifetime admission permit as authorized in section 4(a)(5) of such Act.

(2) Permits for a single visit to any designated unit shall be made available by the Secretary of the Interior for a reasonable fee, but not to exceed $3 for individuals or $7.50 per vehicle. For purposes of this subsection, the term "single visit" means a more or less continuous stay within a designated unit by a person or group described in subsection (d). Payment of a single visit fee and issuance of a single visit permit shall authorize exits from and re-entries to a single designated unit for a period of from one to fifteen days. Such period shall be defined for each designated unit by the Secretary based upon a determination of the period of time reasonably and ordinarily necessary for such a single visit.

(3) Special admission permits for uses such as group activities may be issued in accordance with procedures and at fees established by the Secretary.

(4) A person may not be required to purchase an admission permit under subsection (a)(1) in order to travel by private noncommercial vehicle over any road or highway—

(A)(i) established as part of the National Federal Aid System (as defined in section 101 of title 23, United States Code); and

(ii) commonly used by the public as a means of travel between two places which are outside the designated unit; or

(B) to any land in which such person has a property interest if such land is within any designated unit.

(5) A person may not be required to purchase an admission permit under subsection (a)(1) for entrance or admission to a unit of the National Wildlife Refuge System created, expanded, or modified by Public Law 96-487.

16 USC 3101 note.

(c) DISTRIBUTION OF AMOUNTS COLLECTED.—Amounts collected from the sale of admission permits under this section and from fees collected at any unit of the National Wildlife Refuge System under subsections (b) and (c) of section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a (b), (c)) shall be distributed as follows:

(A) Thirty per centum shall be available to the Secretary of the Interior until expended. The Secretary shall use such amount—

(i) first, to defray the cost of collection;

(ii) next, for operation and maintenance of the collecting unit; and

(iii) next, for operation and maintenance of all units within the National Wildlife Refuge System, except those units created, expanded, or modified by Public Law 96-487.

(B) Seventy percent shall be deposited into the migratory bird conservation fund established under section 4 of the Act of March 16, 1934 (16 U.S.C. 718d).

(d) PERSONS ACCOMPANYING PERMITTEES.—A person who holds a stamp, passport, or permit described in subsection (b) shall be entitled to general entrance into any designated unit, along with—

(1) any persons accompanying such person in a single, private, noncommercial vehicle; or

(2) where entry to the area is by any means other than single, private, noncommercial vehicle, the person and any accompanying spouse, children, or parents.

(e) RESTRICTIONS.—A permit issued under this section is nontransferable. Such a permit may not authorize any uses for

which fees are charged under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-4 et seq.).

(f) ESTABLISHMENT OF FEES; POSTING OF NOTICES.—(1) All fees established pursuant to this section shall be fair and equitable. In establishing such fees, the Secretary shall consider the following:

(A) The direct and indirect cost to the Government.

(B) The benefits to the permit holder.

(C) The public policy or interest served.

(D) The comparable fees charged by non-Federal public agencies.

(E) The economic and administrative feasibility of fee collection and other pertinent factors.

(2) The Secretary shall require that notice that a fee has been established under this section—

(A) be prominently posted at each designated unit and at appropriate locations in each such unit; and

(B) to the extent practicable, be included in publications distributed at such units.

(g) VOLUNTEERS.—The Director of the United States Fish and Wildlife Service may accept services of volunteers to sell admission permits under this section or to sell Golden Eagle and Golden Age Passports or Migratory Bird Hunting and Conservation Stamps. The Director may use funds appropriated or otherwise made available to the Service to cover the cost of any surety bond that may be required of a volunteer performing the services authorized under this subsection.

SEC. 202. PRICE OF MIGRATORY BIRD HUNTING AND CONSERVATION STAMP.

16 USC 718b.

Section 2(b) of the Act of March 16, 1934 (16 U.S.C. 718(b)), is amended in the first sentence—

(1) by striking out "$7.50" and inserting in lieu thereof "$10.00";

(2) by striking out "any hunting year" and inserting in lieu thereof "hunting years 1987 and 1988, $12.50 for hunting years 1989 and 1990, and $15.00 for each hunting year thereafter,"; and

(3) by inserting "available for obligation and" before "attributable".

16 USC 3912.

SEC. 203. TRANSFERS TO MIGRATORY BIRD CONSERVATION FUND.

Notwithstanding any other provision of law, an amount equal to the amount of all import duties collected on arms and ammunition, as specified in subpart A of part 5 of schedule 7 of the Tariff Schedules of the United States, shall, beginning with the next fiscal year quarter after the date of enactment of this Act, be paid quarterly into the migratory bird conservation fund established under section 4 of the Act of March 16, 1934 (16 U.S.C. 718d).

19 USC 1202.

TITLE III—STATE AND FEDERAL WETLAND ACQUISITION

16 USC 3921.
State and local governments.

SEC. 301. NATIONAL WETLANDS PRIORITY CONSERVATION PLAN.

(a) IN GENERAL.—The Secretary shall establish, and periodically review and revise, a national wetlands priority conservation plan which shall specify, on a region-by-region basis or other basis considered appropriate by the Secretary, the types of wetlands and in-

terests in wetlands which should be given priority with respect to Federal and State acquisition.

(b) CONSULTATION.—The Secretary shall establish the plan required by subsection (a) after consultation with—

(1) the Administrator of the Environmental Protection Agency;

(2) the Secretary of Commerce;

(3) the Secretary of Agriculture; and

(4) (the chief executive officer of) each State.

State and local governments.

(c) FACTORS TO BE CONSIDERED.—The Secretary, in establishing the plan required by subsection (a), shall consider—

(1) the estimated proportion remaining of the respective types of wetlands which existed at the time of European settlement;

(2) the estimated current rate of loss and the threat of future losses of the respective types of wetlands; and

(3) the contributions of the respective types of wetlands to—

(A) wildlife, including endangered and threatened species, migratory birds, and resident species;

(B) commercial and sport fisheries;

Fish and fishing.

(C) surface and ground water quality and quantity, and flood control;

Water.
Flood control.

(D) outdoor recreation; and

(E) other areas or concerns the Secretary considers appropriate.

SEC. 302. REMOVAL OF RESTRICTION ON ACQUISITION.

Section 7(a)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-9(a)(1)) is amended by striking out "national wildlife refuge areas under section 7(a)(5) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(5)) except migratory waterfowl areas which are authorized to be acquired by the Migratory Bird Conservation Act of 1929, as amended (16 U.S.C. 715-715s)" and inserting in lieu thereof "national wildlife refuge areas under section 7(a)(4) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742(f)(a)(4)) and wetlands acquired under section 304 of the Emergency Wetlands Resources Act of 1986".

SEC. 303. INCLUSION OF WETLANDS IN COMPREHENSIVE STATEWIDE OUTDOOR RECREATION PLANS.

Section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-8) is amended—

(1) in subsection (d), by adding at the end thereof the following new paragraph:

"For fiscal year 1988 and thereafter each comprehensive statewide outdoor recreation plan shall specifically address wetlands within that State as an important outdoor recreation resource as a prerequisite to approval, except that a revised comprehensive statewide outdoor recreation plan shall not be required by the Secretary, if a State submits, and the Secretary, acting through the Director of the National Park Service, approves, as a part of and as an addendum to the existing comprehensive statewide outdoor recreation plan, a wetlands priority plan developed in consultation with the State agency with responsibility for fish and wildlife resources and consistent with the national wetlands priority conservation plan developed under section 301 of the Emergency Wetlands Resources Act or, if such national plan has not been completed, consistent with the provisions of that section";

(2) in subsection (e)(1), by inserting, in the first sentence thereof, after "For the acquisition of land, waters, or interests in land or waters" the following: ", or wetland areas and interests therein as identified in the wetlands provisions of the comprehensive plan"; and

(3) in subsection (f)(3), by adding at the end thereof the following: ": *Provided*, That wetland areas and interests therein as identified in the wetlands provisions of the comprehensive plan and proposed to be acquired as suitable replacement property within that same State that is otherwise acceptable to the Secretary, acting through the Director of the National Park Service, shall be considered to be of reasonably equivalent usefulness with the property proposed for conversion.".

SEC. 304. FEDERAL ACQUISITION.

16 USC 3922.

The Secretary is authorized to purchase wetlands or interests in wetlands, which are not acquired under the authority of the Migratory Bird Conservation Act of 1929 (16 U.S.C. 715-715s), consistent with the wetlands priority conservation plan established under section 301.

16 USC 3923.
Farms and farming.

SEC. 305. RESTRICTION ON USE OF EMINENT DOMAIN IN ACQUISITIONS.

The powers of condemnation or eminent domain shall not be used in the acquisition of wetlands under any provision of this Act where such wetlands have been constructed for the purpose of farming or ranching, or result from conservation activities associated with farming or ranching.

TITLE IV—WETLANDS INVENTORY AND TREND ANALYSIS

SEC. 401. NATIONAL WETLANDS INVENTORY PROJECT.

16 USC 3931.

(a) IN GENERAL.—The Secretary, acting through the Director of the United States Fish and Wildlife Service, shall continue the National Wetlands Inventory Project and shall—

(1) produce, by September 30, 1988, National Wetlands Inventory maps for the areas that have been identified by the Service as top priorities for mapping, including—

(A) the entire coastal zone of the United States;

(B) floodplains of major rivers; and

(C) the Prairie Pothole region;

(2) produce, by September 30, 1998, National Wetlands Inventory maps for those portions of the contiguous United States for which final maps have not been produced earlier;

Alaska.

(3) produce, as soon as practicable, National Wetlands Inventory maps for Alaska and other noncontiguous portions of the United States; and

Reports.

(4) produce, by September 30, 1990, and at ten-year intervals thereafter, reports to update and improve the information contained in the report dated September 1982 and entitled "Status and Trends of Wetlands and Deepwater Habitat in the Coterminous United States, 1950's to 1970's".

State and local governments.

(b) NOTICE.—The Secretary shall notify the appropriate State and local units of government at such time as he proposes to begin map preparation under subsection (a) in an area. Such notice shall include, but is not limited to, the identification of the area to be mapped, the proposed schedule for completion, and the identification of a source for further information.

SEC. 402. REPORTS TO CONGRESS. 16 USC 3932.

(a) IN GENERAL.—The Secretary, in consultation and cooperation with the Secretary of Agriculture, shall prepare and submit to the committees—

(1) by March 30, 1987, a report regarding the status, condition, and trends of wetlands in the lower Mississippi alluvial plain and the prairie pothole regions of the United States; and

(2) by September 30, 1987, a report regarding trends of wetlands in all other areas of the United States.

(b) CONTENTS OF REPORTS.—The reports required under subsection (a) shall contain—

(1) an analysis of the factors responsible for wetlands destruction, degradation, protection and enhancement;

(2) a compilation and analysis of Federal statutory and regulatory mechanisms, including expenditures, financial assistance, and tax provisions which— Taxes.

(A) induce wetlands destruction or degradation; or

(B) protect or enhance wetlands;

(3) a compilation and analysis of Federal expenditures resulting from wetlands destruction, degradation, protection or enhancement;

(4) an analysis of public and private patterns of ownership of wetlands;

(5) an analysis of the environmental and economic impact of eliminating or restricting future Federal expenditures and financial assistance, whether direct or indirect, which have the effect of encouraging the destruction, degradation, protection or enhancement of wetlands, including—

(A) public works expenditures;

(B) assistance programs such as price support programs, commodity loans and purchase programs and disaster assistance programs; Loans.

(C) soil conservation programs; and

(D) certain income tax provisions; Taxes.

(6) an analysis of the environmental and economic impact of failure to restrict future Federal expenditures, financial assistance, and tax provisions which have the effect of encouraging the destruction, degradation, protection or enhancement of wetlands, including— Taxes.

(A) assistance for normal silviculture activity (such as plowing, seeding, planting, cultivating, minor drainage, or harvesting for the production of fiber or forest products); Agriculture and agricultural commodities.

(B) Federal expenditures required incident to studies, evaluations, design, construction, operation, maintenance, or rehabilitation of Federal water resource development activities, including channel improvements; Forests and forest products.

(C) the commodity loans and purchases program and cotton, feed grain, wheat, and rice production stabilization programs administered by the Department of Agriculture; and Loans. Agriculture and agricultural commodities.

(D) Federal expenditures for the construction of publicly owned or publicly operated highways, roads, structures, or facilities that are essential links in a larger network or system; and Highways.

(7) recommendations for the conservation of wetlands resources based on an evaluation and comparison of all manage- State and local governments.

ment alternatives, and combinations of management alternatives, such as State and local actions, Federal actions, and initiatives by private organizations and individuals.

TITLE V—MISCELLANEOUS PROVISIONS

16 USC 668dd note.

SEC. 501. MIGRATORY BIRD TREATY ACT.

Section 6(b) of the Act of July 3, 1918 (16 U.S.C. 707(b)) is amended by deleting "shall" the first place it appears therein and by inserting in lieu thereof "shall knowingly".

SEC. 502. BAYOU SAUVAGE URBAN NATIONAL WILDLIFE REFUGE.

(a) PURPOSES OF REFUGE.—The purposes of the Bayou Sauvage Urban National Wildlife Refuge are—

(1) to enhance the populations of migratory, shore, and wading birds within the refuge;

(2) to encourage natural diversity of fish and wildlife species within the refuge;

(3) to protect the endangered and threatened species and otherwise to provide for the conservation and management of fish and wildlife within the refuge;

(4) to fulfill the international treaty obligations of the United States respecting fish and wildlife;

(5) to protect the archeological resources of the refuge;

(6) to provide opportunities for scientific research and environmental education, with emphasis being given to the ecological and other values of wetlands; and

(7) to provide opportunities for fish and wildlife oriented public uses and recreation in an urban setting.

(b) ACQUISITION AND ESTABLISHMENT OF REFUGE.—

Louisiana.

(1) ACQUISITION.—Within four years after the effective date of this section the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall acquire the approximately nineteen thousand acres of lands and waters, and interests therein, located in Orleans Parish, Louisiana, that are depicted on the map entitled "Bayou Sauvage Urban National Wildlife Refuge", dated September 15, 1986, and on file at the United States Fish and Wildlife Service, Department of the Interior. The lands and waters, and interests therein, acquired under this paragraph comprise the Bayou Sauvage Urban National Wildlife Refuge. The acquisition shall be made through donation, purchase with donated or appropriated funds, or exchange, or through any combination of the foregoing.

Federal Register, publication.

(2) ESTABLISHMENT.—At such time as sufficient lands and waters, and interests therein, have been acquired under paragraph (1) to constitute an initial area that can be administered to carry out the purposes set forth in subsection (a), the Secretary shall establish the Bayou Sauvage Urban National Wildlife Refuge by publication of notice to that effect in the Federal Register.

(3) BOUNDARY ADJUSTMENTS.—The Secretary may make such adjustments with respect to the boundary of the Bayou Sauvage Urban National Wildlife Refuge as may be necessary to facilitate the acquisition of lands and waters, and interests therein, for the refuge and to facilitate the administration of the refuge.

(c) ADMINISTRATION OF REFUGE.—The Secretary shall administer all lands and waters, and interests therein, acquired under subsec-

tion (b) in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee) to carry out the purposes set forth in subsection (a). The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive environmental education as he considers appropriate to carry out such purposes. Within two years after the effective date of this section, the Secretary shall complete a master plan for the development of the Bayou Sauvage Urban National Wildlife Refuge.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of the Interior—

(1) from funds not otherwise appropriated from the Land and Water Conservation Fund, such sums as may be necessary for the acquisition of lands and waters, and interests therein, for the Bayou Sauvage Urban National Wildlife Refuge; and

(2) $5,000,000 for the development of the refuge.

The moneys appropriated under subparagraphs (1) and (2) shall remain available until expended.

(e) EFFECTIVE DATE.—This section takes effect on the later of the date of enactment of this Act or October 1, 1986.

Approved November 10, 1986.

LEGISLATIVE HISTORY—S. 740 (H.R. 1203):

HOUSE REPORTS: No. 99-86, Pt. 1 accompanying H.R. 1203 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 99-445 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 3, considered and passed Senate.
Oct. 14, considered and passed House.

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PUBLIC LAW 99-646—NOV. 10, 1986

CRIMINAL LAW AND PROCEDURE TECHNICAL AMENDMENTS ACT OF 1986

Public Law 99-646
99th Congress

An Act

Nov. 10, 1986
[S. 1236]

To amend title 18 of the United States Code and other laws to make minor or technical amendments to provisions enacted by the Comprehensive Crime Control Act of 1984, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Criminal Law and Procedure Technical Amendments Act of 1986.
18 USC 1 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Criminal Law and Procedure Technical Amendments Act of 1986".

SEC. 2. STYLISTIC CORRECTION.

(a) IN GENERAL.—Section 3673 of title 18, United States Code, is amended—

(1) by redesignating paragraphs (a) through (c) as paragraphs (1) through (3), respectively; and

(2) by inserting "the term" before each open quotation mark.

18 USC 3673 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the taking effect of section 3673 of title 18, United States Code.

SEC. 3. CONFORMING REPEAL.

(a) IN GENERAL.—Section 4216 of title 18, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 311 of title 18, United States Code, is amended by striking out the item related to section 4216.

SEC. 4. CROSS REFERENCE CORRECTION.

Section 992(c) of title 28, United States Code, is amended by striking out "section 225(a)(1)(B)(ii) of the Sentencing Reform Act of 1983" and inserting in lieu thereof "section 235(a)(1)(B)(ii) of the Sentencing Reform Act of 1984".

18 USC 3551 note.

SEC. 5. REPEAL OF OBSOLETE PROVISION.

Section 993(b)(2) of title 28, United States Code, is amended by striking out the sentence beginning "Before the appointment".

SEC. 6. SENTENCING COMMISSION.

(a) RESIDENCE REQUIREMENT WAIVED FOR MEMBERS.—Section 992 of title 28, United States Code, is amended by adding at the end the following:

"(d) Sections 44(c) and 134(b) of this title (relating to the residence of judges) do not apply to any judge holding a full-time position on the Commission under subsection (c) of this section.".

(b) DUTIES.—Section 994 of title 28, United States Code, is amended—

(1) in subsection (h), by striking out "by section 3581(b) of title 18, United States Code,";

(2) in each of subsections (h) and (i), by striking out "will"; and

(3) in subsection (t)—

(A) by inserting "in what circumstances and" after "specify"; and

(B) by striking out "that are outside the applicable guideline ranges".

SEC. 7. PRESENTENCE REPORTS.

(a) IN GENERAL.—Section 3552 of title 18, United States Code, is amended—

(1) in the third sentence of subsection (b), by striking out "take" and inserting "be" in lieu thereof;

(2) in the eighth sentence of subsection (b), by inserting ", if the defendant is in custody," after "the United States marshal shall"; and

(3) in subsection (c), by striking out "it may" and all that follows through "4247." and inserting in lieu thereof "the court may order the same psychiatric or psychological examination and report thereon as may be ordered under section 4244(b) of this title.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the taking effect of section 3552 of title 18, United States Code. 18 USC 3552 note.

SEC. 8. RESTITUTION ORDERS.

(a) IN GENERAL.—Section 3553(c) of title 18, United States Code, is amended by striking out "If the sentence does not include an order of restitution" and inserting in lieu thereof "If the court does not order restitution, or orders only partial restitution".

(b) CONFORMING AMENDMENT.—Section 3579(a) of title 18, United States Code, is amended—

(1) by striking out "(1)" where it appears after "(a)"; and

(2) by striking out paragraph (2).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the taking effect of section 3553 of title 18, United States Code. 18 USC 3553 note.

SEC. 9. SENTENCING IN ABSENCE OF APPLICABLE GUIDELINE.

(a) IN GENERAL.—Section 3553(b) of title 18, United States Code, is amended by adding at the end thereof "In the absence of an applicable sentencing guideline, the court shall impose an appropriate sentence, having due regard for the relationship of the sentence imposed to sentences prescribed by guidelines applicable to similar offenses and offenders, the applicable policy statements of the Sentencing Commission, and the purposes of sentencing set forth in subsection (a)(2).".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the taking effect of section 3553 of title 18, United States Code. 18 USC 3553 note.

SEC. 10. ELIMINATION OF DISCHARGE OF LIABILITY FOR UNEXECUTED FINE OR OTHER PUNISHMENT IMPOSED BY FULFILLMENT OF PROBATION TERMS AND CONDITIONS.

(a) IN GENERAL.—Section 3561(a) of title 18, United States Code, as added by section 212(a) of the Comprehensive Crime Control Act of 1984, is amended by striking out the second sentence.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the taking effect of such section 3561(a). 18 USC 3561 note.

SEC. 11. ELIMINATION OF SECTION CROSS REFERENCE RELATING TO AUTHORIZED IMPRISONMENT AS A CONDITION OF PROBATION.

(a) IN GENERAL.—Section 3563(b)(11) of title 18, United States Code, as added by section 212(a) of the Comprehensive Crime Control Act of 1984, is amended by striking out "in section 3581(b)".

18 USC 3563 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the taking effect of such section 3563(b)(11).

SEC. 12. MODIFICATION OF CONDITIONS OF PROBATION.

(a) TITLE 18 AMENDMENT.—Section 3563(c) of title 18, United States Code, is amended—

(1) by striking out ", after a hearing";

(2) by inserting "the provisions of the Federal Rules of Criminal Procedure relating to revocation or modification of probation" after "pursuant to".

18 USC app.

18 USC app.

(b) RULES AMENDMENT.—Rule 32.1(b) of the Federal Rules of Criminal Procedure is amended—

(1) by inserting "to be" after "relief";

(2) by striking out the period at the end and inserting in lieu thereof ", and the attorney for the government, after having been given notice of the proposed relief and a reasonable opportunity to object, has not objected. An extension of the term of probation is not favorable to the probationer for the purposes of this rule.".

18 USC 3563 note.

(c) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall take effect on the date of the taking effect of such section 3563(c).

18 USC app.

(2) The amendments made by subsection (b) shall take effect 30 days after the date of enactment of this Act.

SEC. 13. CONCURRENCE OF SENTENCE OF PROBATION.

State and local governments.

(a) IN GENERAL.—Section 3564(b) of title 18, United States Code, as added by section 212(a) of the Comprehensive Crime Control Act of 1984, is amended by striking out the second sentence and inserting in lieu thereof the following: "A term of probation runs concurrently with any Federal, State, or local term of probation, supervised release, or parole for another offense to which the defendant is subject or becomes subject during the term of probation. A term of probation does not run while the defendant is imprisoned in connection with a conviction for a Federal, State, or local crime unless the imprisonment is for a period of less than thirty consecutive days.".

18 USC 3564 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the taking effect of such section 3564.

SEC. 14. AMENDMENTS RELATING TO SUPERVISED RELEASE.

(a) IN GENERAL.—Section 3583(e) of title 18, United States Code, is amended—

(1) by striking out "**Modification of term or conditions.**" and inserting "**Modification of conditions or revocation.**" in lieu thereof; and

(2) in paragraph (1), by striking out "previously ordered".

18 USC 3583 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the taking effect of section 3583 of title 18, United States Code.

SEC. 15. DUTIES OF PROBATION OFFICER.

(a) IN GENERAL.—Section 3603 of title 18, United States Code, is amended—

(1) by redesignating paragraphs (a) through (h) as paragraphs (1) through (8), respectively;

(2) in paragraph (6) as so redesignated—

(A) by striking out "supervise" and inserting "assist in the supervision of" in lieu thereof; and

(B) by inserting a comma after "about".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the taking effect of section 3603 of title 18, United States Code.

18 USC 3603 note.

SEC. 16. CREDIT TOWARD SERVICE OF TERM OF IMPRISONMENT.

(a) IN GENERAL.—Subsection (b) of section 3624 of title 18, United States Code, as added by section 212(a) of the Comprehensive Crime Control Act of 1984, is amended by striking out "after" the first place it appears and inserting "at the end of" in lieu thereof.

98 Stat. 1987.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the taking effect of such section 3624.

18 USC 3624 note.

SEC. 17. CONCURRENCE OF RUNNING OF TERM OF SUPERVISED RELEASE.

(a) IN GENERAL.—Subsection (e) of section 3624 of title 18, United States Code, as added by section 212(a) of the Comprehensive Crime Control Act of 1984, is amended—

(1) by striking out ". The term" the second place it appears and inserting "and" in lieu thereof;

(2) by striking out ", except that it" and inserting ". A term of supervised release" in lieu thereof;

(3) by striking out ", other than during limited intervals as a condition of probation or supervised release,"; and

(4) by inserting before the period at the end of the third sentence the following: "unless the imprisonment is for a period of less than 30 consecutive days".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the taking effect of such section 3624.

18 USC 3624 note.

SEC. 18. PERMANENT AMENDMENT RELATING TO DUTIES OF DIRECTOR OF ADMINISTRATIVE OFFICE.

(a) IN GENERAL.—The section of title 18, United States Code, that is redesignated section 3672 by section 212(a) of the Comprehensive Crime Control Act of 1984 is amended by adding at the end thereof:

Post, p. 3600.

Alcohol and alcoholic beverages.
Drugs and drug abuse.
Contracts.

"He shall have the authority to contract with any appropriate public or private agency or person for the detection of and care in the community of an offender who is an alcohol-dependent person, or an addict or a drug-dependent person within the meaning of section 2 of the Public Health Service Act (42 U.S.C. 201). This authority shall include the authority to provide equipment and supplies; testing; medical, educational, social, psychological, and vocational services; corrective and preventive guidance and training; and other rehabilitative services designed to protect the public and benefit the alcohol-dependent person, addict, or drug-dependent person by eliminating his dependence on alcohol or addicting drugs, or by controlling his dependence and his susceptibility to addiction. He may negotiate and award such contracts without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

Prisoners.
Health and medical care.

18 USC 3552.

"He shall pay for presentence studies and reports by qualified consultants and presentence examinations and reports by psychiatric or psychological examiners ordered by the court under subsection (b) or (c) of section 3552, except for studies conducted by the Bureau of Prisons.".

18 USC 3672 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the taking effect of such redesignation.

SEC. 19. INTERIM AMENDMENT RELATING TO DUTIES OF DIRECTOR OF ADMINISTRATIVE OFFICE.

The second paragraph of section 4255 of title 18, United States Code, is amended to read as follows:

Alcohol and alcoholic beverages.
Drugs and drug abuse.
Contracts.

"The Director of the Administrative Office of the United States Courts shall have the authority to contract with any appropriate public or private agency or person for the detection of and care in the community of an offender who is an alcohol-dependent person, or an addict or a drug-dependent person within the meaning of section 2 of the Public Health Service Act (42 U.S.C. 201). Such authority includes the authority to provide equipment and supplies; testing; medical, educational, social, psychological, and vocational services; corrective and preventive guidance and training; and other rehabilitative services designed to protect the public and benefit the alcohol-dependent person, addict, or drug-dependent person by eliminating that person's or addict's dependence on alcohol or addicting drugs, or by controlling that person's or addict's dependence and susceptibility to addiction. Such Director may negotiate and award such contracts without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).".

SEC. 20. POWER TO ORDER RESTITUTION IN LIEU OF OTHER SENTENCES.

(a) SECTION 3579 AMENDMENT.—Section 3579(a)(1) of title 18, United States Code, is amended by inserting ", in the case of a misdemeanor," after "in addition to or".

18 USC 3551 note.

(b) SECTION 3556 AMENDMENT.—Section 3556 of title 18, United States Code, as amended by the Sentencing Reform Act of 1984, is amended by striking out "under this title" and all that follows through the end of such section and inserting in lieu thereof "may order restitution in accordance with sections 3663 and 3664.".

18 USC 3556 note.

98 Stat. 1987.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the taking effect of section 212(a)(2) of the Sentencing Reform Act of 1984.

SEC. 21. JUVENILE DISPOSITIONAL HEARING.

(a) IN GENERAL.—Section 5037 of title 18, United States Code, as amended by section 214 of the Comprehensive Crime Control Act of 1984, is amended—

(1) in subsection (a), by striking out "(e)" and inserting "(d)" in lieu thereof;

(2) in subsection (c)(1)(B), by striking out "by section 3581(b)";

(3) in subsection (c)(2)(B), by striking out "by section 3581(b)"; and

(4) in subsection (c), by adding the following at the end thereof:

"Section 3624 is applicable to an order placing a juvenile under detention.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date the amendments made by such section 214 take effect.

18 USC 5037 note.
98 Stat. 2013.

SEC. 22. ELIMINATION OF CROSS REFERENCE.

(a) IN GENERAL.—Section 341 of the Public Health Service Act (42 U.S.C. 257(a)) is amended by striking out "and who are not sentenced to treatment under the Narcotic Addict Rehabilitation Act of 1966".

42 USC 3401 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date the amendments made by section 232(a) of the Comprehensive Crime Control Act of 1984 take effect.

42 USC 257 note.
42 USC 257.

SEC. 23. REDESIGNATION OF SUBSECTIONS.

Section 1963 of title 18, United States Code, is amended—

(1) in subsection (c) by striking out "(m)" and inserting in lieu thereof "(l)";

(2) in subsection (j) by striking out "(m)" and inserting in lieu thereof "(l)"; and

(3) by redesignating subsections (e), (f), (g), (h), (i), (j), (k), (l), and (m), as subsections (d), (e), (f), (g), (h), (i), (j), (k), and (l), respectively.

SEC. 24. OFFENDERS WITH MENTAL DISEASE OR DEFECT.

Subdivision (c) of Rule 12.2 of the Federal Rules of Criminal Procedure is amended by inserting "4241 or" before "4242".

18 USC app.

SEC. 25. CORRECTION OF WRONG WORD USE.

(a) IN GENERAL.—Rule 32(c)(2)(B) of the Federal Rules of Criminal Procedure is amended by striking out "than" and inserting "from" in lieu thereof.

18 USC app.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the taking effect of the amendment made by section 215(a)(5) of the Comprehensive Crime Control Act of 1984.

18 USC app.

SEC. 26. SOLICITATION OFFENSE.

Section 373 of title 18, United States Code, is amended—

(1) by striking out "the person or property of another" and inserting in lieu thereof "property or against the person of another"; and

(2) by inserting "life imprisonment or" before "death".

SEC. 27. FORFEITURE FUND.

(a) Section 524(c)(1)(E) of title 28, United States Code, is amended—

(1) by inserting "the Federal Bureau of Investigation, the United States Marshals Service," after "for official use by"; and

(2) by inserting a comma before "or".

(b) Paragraph (4) of section 524(c) of title 28 of the United States Code is amended by striking out "remaining after the payment of expenses for forfeiture and sale authorized by law" and inserting in lieu thereof ", except all proceeds of forfeitures available for use by the Secretary of the Treasury or the Secretary of the Interior pursuant to section 11(d) of the Endangered Species Act (16 U.S.C. 1540(d)) or section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d))".

SEC. 28. INSERTION OF MISSING WORD.

Section 405A(b) of the Controlled Substances Act (21 U.S.C. 845a(b)) is amended by inserting "parole" after "(2) at least three times any special".

SEC. 29. RENUMBERING OF SECTION IN CHAPTER 65.

18 USC 1361 *et seq.*

(a) IN GENERAL.—Chapter 65 of title 18 of the United States Code is amended by redesignating the section 1365 relating to destruction of an energy facility as section 1366.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 65 of title 18, United States Code, is amended by striking out "1365" the second place it appears and inserting in lieu thereof "1366".

SEC. 30. REGISTRATION OF FOREIGN AGENTS.

Section 219 of title 18, United States Code, is amended—

(1) so that the first paragraph reads as follows:

"(a) Whoever, being a public official, is or acts as an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938, as amended, shall be fined under this title or imprisoned for not more than two years, or both.";

22 USC 611.

(2) by redesignating the second and third paragraphs as subsection (b) and (c), respectively; and

District of Columbia.

(3) in the last paragraph by striking out "the Delegate from the District of Columbia" and inserting in lieu thereof "Delegate", and by striking out ", or a juror".

SEC. 31. RENUMBERING OF SECTION IN CHAPTER 25.

(a) IN GENERAL.—Chapter 25 of title 18 of the United States Code is amended—

(1) by redesignating section 511 relating to securities of States and private entities as section 513; and

(2) transferring the section so redesignated so that such section appears after section 512 (relating to forfeiture of certain motor vehicles and motor vehicle parts).

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 25 of title 18 of the United States Code is amended—

(1) by striking out "510. Securities of the State private entities."; and

(2) by adding at the end the following:

"513. Securities of the States and private entities.".

SEC. 32. ELIMINATION OF SUPERFLUOUS CROSS-REFERENCE.

Section 3731 of title 18, United States Code, is amended by striking out the fifth paragraph.

SEC. 33. CORRECTION OF CLERICAL ERROR AND DESIGNATION OF SUBSECTIONS.

(a) CORRECTION OF CLERICAL ERROR.—The first paragraph of section 2232 of title 18, United States Code, is amended by inserting "not" after "imprisoned".

(b) DESIGNATION OF SUBSECTIONS.—Section 2232 of title 18, United States Code, is amended—

Ante, p. 1858.

(1) by designating the first paragraph as subsection (a); and

(2) by designating the second paragraph as subsection (b).

SEC. 34. RENUMBERING OF SECTION IN CHAPTER 1.

(a) IN GENERAL.—Section 20 of title 18, United States Code, is redesignated as section 17.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 18, United States Code, is amended by striking out "20" and inserting "17" in lieu thereof.

SEC. 35. COORDINATING EFFECTIVE DATES FOR INITIAL SET OF SENTENCING GUIDELINES AND THE NEW SENTENCING CHAPTERS OF TITLE 18.

Section 235(a)(1)(B) of the Comprehensive Crime Control Act of 1984 is amended— 18 USC 3551 note.

(1) in clause (i), by striking out "the chapter" and inserting "such chapter 58" in lieu thereof; and

(2) in clause (ii)—

(A) by striking out ", and the provisions of sections 3581, 3583, and 3624 of title 18, United States Code,";

(B) by striking out "the day after";

(C) in subclause (III), by inserting "the day after" before "the Congress"; and

(D) so that subclause (IV) reads as follows:

"(IV) section 212(a)(2) takes effect, in the case of the initial sentencing guidelines so promulgated.". 98 Stat. 1987.

SEC. 36. CLERICAL CORRECTIONS TO SECTION 1201 OF TITLE 18.

Section 1201(a) of title 18, United States Code, is amended—

(1) by striking out "when:" and inserting "when—" in lieu thereof;

(2) so that the margin of paragraph (5) is aligned with the margin of paragraphs (1) through (4);

(3) by striking out "The" in paragraph (5) and inserting "the" in lieu thereof; and

(4) by striking out "his official duties," and inserting "official duties;" in lieu thereof.

SEC. 37. CROSS REFERENCE DETAIL.

(a) PENALTY CROSS REFERENCE.—Paragraph (2) of section 115(b) of title 18, United States Code, is amended by inserting "for the kidnapping or attempted kidnapping of a person described in section 1201(a)(5) of this title" after "section 1201 of this title". Kidnapping.

(b) INCLUSION OF CERTAIN ATTEMPTS IN 1201 CROSS REFERENCE.—Section 1201(d) of title 18, United States Code, is amended by inserting "or (a)(5)" after "subsection (a)(4)".

SEC. 38. GENERAL DEFINITION OF ORGANIZATION.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding after the section redesignated by section 23 the following:

"§ 18. Organization defined 18 USC 18.

"As used in this title, the term 'organization' means a person other than an individual.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 18, United States Code, is amended by adding at the end the following:

"18. Organization defined.".

SEC. 39. CREDITING OF MARSHAL'S FEES.

(a) IN GENERAL.—Section 1921 of title 28, United States Code, is amended—

(1) by striking out "Only" and inserting in lieu thereof "(a) Except as otherwise provided by law, only";

(2) by striking out ", except as otherwise provided";

(3) by inserting "(1)" before "For" the first place it appears;

(4) by inserting "(2)" before "For" the second place it appears;

(5) by inserting "(3)" before "For" the third place it appears;

(6) by inserting "(4)" before "For" the fourth place it appears;

(7) by inserting "(5)" before "For" the fifth place it appears;

(8) by inserting "(6)" before "For" the sixth place it appears;

(9) by inserting "(7)" before "For" the seventh place it appears;

(10) by inserting "(8)" before "For" the eighth place it appears;

(11) by inserting "(9)" before "For" the ninth place it appears;

(12) by inserting "(b)(1)" before "No mileage fees";

(13) by inserting "(2)" before "The marshal may require a deposit to cover";

(14) by striking out each semicolon that appears at the end of a paragraph and inserting in lieu thereof a period; and

(15) by adding at the end the following:

"(c) Notwithstanding section 3302 of title 31, the United States Marshals Service is authorized, to the extent provided in advance in appropriations Acts—

"(1) to credit to such Service's appropriation all fees, commissions, and expenses collected by such Service for—

"(A) the service of civil process, including complaints, summonses, subpoenas, and similar process; and

"(B) seizures, levies, and sales associated with judicial orders of execution; and

"(2) to use such credited amounts for the purpose of carrying out such activities.".

28 USC 1921 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 30 days after the date of enactment of this Act.

SEC. 40. CROSS REFERENCE ELIMINATION.

Ante, p. 899.

Section 3671(a) in chapter 232 of title 18, United States Code, that relates to special forfeiture of collateral profits of crime is amended by striking out "chapter 227 or 231 of".

SEC. 41. REDESIGNATION OF DUPLICATE SECTIONS AND CHAPTER.

Ante, p. 3595.

(a) SECTION REDESIGNATION.—Sections 3671 and 3672 in chapter 232 of title 18, United States Code, that relates to special forfeiture of collateral profits of crime are redesignated as sections 3681 and 3682, respectively.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the chapter 232 of title 18, United States Code, that relates to special forfeiture of collateral profits of crime is amended by striking out "3671" and "3672" and inserting in lieu thereof "3681" and "3682", respectively.

(c) CHAPTER DESIGNATION.—Chapter 232 of title 18, United States Code, that relates to special forfeiture of collateral profits of crime is redesignated as chapter 232A.

(d) TABLE OF CHAPTERS.—The table of chapters at the beginning of part II of title 18, United States Code, is amended by striking out the

item relating to chapter 232 which relates to special forfeiture of collateral profits of crime and inserting in lieu thereof the following:

"232A. Special forfeiture of collateral profits of crime ..... 3681".

SEC. 42. REDESIGNATION OF SECTION.

(a) IN GENERAL.—Chapter 113 of title 18, United States Code, is amended by redesignating the section 2320 that was enacted by Public Law 98-547 as section 2321.

18 USC 2311 *et seq.*

98 Stat. 2770.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113 of title 18, United States Code, is amended by striking out "2320" the second place it appears and inserting in lieu thereof "2321".

SEC. 43. ACCESSORY AFTER THE FACT.

Section 3 of title 18, United States Code, is amended by inserting "life imprisonment or" after "or if the principal is punishable by".

SEC. 44. CORRECTION OF ERRONEOUS CROSS REFERENCES.

(a) SECTION 1028 AMENDMENT.—Section 1028(e) of title 18, United States Code, is amended by striking out "title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481)" and inserting in lieu thereof "chapter 224 of this title".

(b) SECTION 1029 AMENDMENT.—Section 1029(f) of title 18, United States Code, is amended by striking out "title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481)" and inserting in lieu thereof "chapter 224 of this title".

18 USC 3521 *et seq.*

SEC. 45. CROSS REFERENCE CORRECTION.

Section 3076 of title 18, United States Code, is amended by striking out "title V of the Organized Crime Control Act of 1970" and inserting in lieu thereof "chapter 224 of this title".

18 USC note prec. 3481.

SEC. 46. INCLUSION OF CERTAIN DELEGATES TO CONGRESS IN BRIBERY PROHIBITION.

(a) SUBSECTION (a) AMENDMENTS.—Section 201(a) of title 18, United States Code, is amended—

(1) by striking out "section:" and inserting "section—" in lieu thereof;

(2) in the first undesignated paragraph—

District of Columbia.

(A) by inserting "(1) the term" before " 'public official' ";

(B) by striking out "the Delegate from the District of Columbia," and inserting "Delegate," in lieu thereof;

(C) by striking out "after he has qualified," and inserting "after such official has qualified," in lieu thereof; and

(D) by striking out "juror; and" and inserting "juror;" in lieu thereof;

(3) in the second undesignated paragraph—

(A) by inserting "(2) the term" before " 'person'"; and

(B) by striking out "he will be" and inserting "such person will be" in lieu thereof; and

(4) in the third undesignated paragraph—

(A) by inserting "(3) the term" before " 'official act' "; and

(B) by striking out "in his official capacity, or in his" and inserting "in such official's official capacity, or in such official's" in lieu thereof;

(b) SUBSECTION (b) AMENDMENTS.—Section 201(b) of title 18, United States Code, is amended—

(1) by striking out

"(b) Whoever directly"

and inserting in lieu thereof the following:

"(b) Whoever—

"(1) directly";

(2) in paragraph (3), by striking out "his lawful duty; or" and inserting "the lawful duty of such official or person;" in lieu thereof; and

(3) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively, and adjusting the margins so that such subparagraphs are indented 6 ems.

(c) SUBSECTION (c) AMENDMENTS.—Section 201(c) of title 18, United States Code, is amended—

(1) by striking out "(c) Whoever, being" and inserting "(2) being" in lieu thereof;

(2) by striking out "corruptly asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself" and inserting in lieu thereof "corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally";

(3) in paragraph (1), by striking out "his performance of any official act; or" and inserting in lieu thereof "the performance of any official act;"

(4) in paragraph (3), by striking out "his official duty; or" and inserting in lieu thereof "the official duty of such official or person;"; and

(5) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively, and adjusting the margins so that such subparagraphs are indented 4 ems.

(d) SUBSECTION (d) AMENDMENTS.—Section 201(d) of title 18, United States Code, is amended—

(1) by striking out "(d) Whoever, directly" and inserting "(3) directly" in lieu thereof; and

(2) by striking out "therefrom; or" and inserting "therefrom;" in lieu thereof;

(e) SUBSECTION (e) AMENDMENTS.—Section 201(e) of title 18, United States Code, is amended—

(1) by striking out "(e) Whoever, directly" and inserting "(4) directly";

(2) by striking out "asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself" and inserting in lieu thereof "demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally";

(3) by striking out "in his testimony" and inserting "in testimony" in lieu thereof;

(4) by striking out "therefrom—" and inserting "therefrom;" in lieu thereof; and

(5) in the undesignated paragraph—

(A) by striking out "Shall" and inserting "shall" in lieu thereof;

(B) by striking out "$20,000 or";

(C) by striking out "whichever is greater,";

(f) SUBSECTION (f) AMENDMENTS.—Section 201(f) of title 18, United States Code, is amended—

(1) by striking out

"(f) Whoever, otherwise"

and inserting in lieu thereof the following:

"(c) Whoever—

"(1) otherwise";

(2) by striking out "official duty, directly" and inserting in lieu thereof the following:

"official duty—

"(A) directly";

(g) SUBSECTION (g) AMENDMENTS.—Section 201(g) of title 18, United States Code, is amended—

(1) by striking out

"(g) Whoever, being"

and inserting in lieu thereof

"(B) being";

(2) by striking out "indirectly asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself" and inserting in lieu thereof "indirectly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally"; and

(3) by striking out "by him; or" and inserting in lieu thereof "by such official or person;";

(h) SUBSECTION (h) AMENDMENTS.—Section 201(h) of title 18, United States Code, is amended—

(1) by striking out

"(h) Whoever, directly"

and inserting in lieu thereof the following:

"(2) directly"; and

(2) by striking out "because of his absence therefrom; or" and inserting in lieu thereof "because of such person's absence therefrom;";

(i) SUBSECTION (i) AMENDMENTS.—Section 201(i) of title 18, United States Code, is amended—

(1) by striking out

"(i) Whoever, directly"

and inserting in lieu thereof the following:

"(3) directly";

(2) by striking out "asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive" and inserting in lieu thereof "demands, seeks, receives, accepts, or agrees to receive or accept";

(3) by striking out "for himself" and inserting "personally" in lieu thereof;

(4) by striking out "given by him" and inserting "given by such person" in lieu thereof;

(5) by striking out "his absence therefrom—" and inserting "such person's absence therefrom;" in lieu thereof; and

(6) in the undesignated paragraph—

(A) by striking out "Shall" and inserting "shall"; and

(B) by striking out "not more than $10,000" and inserting "under this title" in lieu thereof.

(j) SUBSECTION (j) AMENDMENTS.—Section 201(j) of title 18, United States Code, is amended—

(1) by striking out

"(j) Subsections (d), (e), (h), and (i)"

and inserting in lieu thereof the following:

"(d) Paragraphs (3) and (4) of subsection (b) and paragraphs (2) and (3) of subsection (c)"; and

(2) by striking out "involving a technical or professional opinion,".

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(k) SUBSECTION (k) AMENDMENT.—Section 201(k) of title 18, United States Code, is amended by striking out

"(k) The"

and inserting in lieu thereof the following:

"(e) The".

(l) REALIGNMENT AMENDMENT.—Section 201 of title 18, United States Code, as amended by this section is further amended so that the margins of each subsection, and of the paragraphs and subparagraphs of each subsection, are flush, indented 2 ems, and indented 4 ems, respectively.

18 USC 201 note.

(m) EFFECTIVE DATE.—The amendments made by this section shall take effect 30 days after the date of enactment of this Act.

SEC. 47. INCLUSION OF CERTAIN DELEGATES TO CONGRESS IN PROHIBITION AGAINST RECEIVING COMPENSATION FOR SERVICES RENDERED IN CONNECTION WITH A PROCEEDING IN WHICH THE UNITED STATES IS A PARTY.

(a) IN GENERAL.—Section 203 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "indirectly receives or agrees to receive, or asks, demands, solicits, or seeks, any" and inserting in lieu thereof the following:

"indirectly—

"(1) demands, seeks, receives, accepts, or agrees to receive or accept any";

(B) by striking out "by himself or another—" and inserting in lieu thereof "personally or by another—";

(C) by striking out

"(1) at a time when he"

and inserting in lieu thereof the following:

"(A) at a time when such person";

District of Columbia.

(D) by striking out "Delegate from the District of Columbia, Delegate Elect from the District of Columbia," and inserting in lieu thereof "Delegate, Delegate Elect,";

(E) by striking out

"(2) at a time when he"

and inserting in lieu thereof the following:

"(B) at a time when such person"; and

(F) by striking out "commission, or" and inserting "commission; or" in lieu thereof;

(2) in subsection (b)—

(A) by striking out

"(b) Whoever, knowingly, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly gives,"

and inserting in lieu thereof the following:

"(2) knowingly gives,"; and

(B) by striking out "employee—" and inserting "employee;" in lieu thereof; and

(C) in the undesignated paragraph, by striking out "Shall be fined not more than $10,000" and inserting in lieu thereof "shall be fined under this title";

(3) in subsection (c)—

(A) by striking out "parties (1) in which he" and inserting in lieu thereof the following:

"parties—

"(1) in which such employee";

(B) by striking out "otherwise, or (2) which is pending" and inserting in lieu thereof the following:

"otherwise; or

"(2) which is pending";

(C) by striking out "in which he is serving: *Provided,* That clause (2)" and inserting "in which such employee is serving except that paragraph (2) of this subsection"; and

(D) section 203 of title 18, United States Code, as amended by this section is further amended so that the margins of each subsection, and of the paragraphs and subparagraphs of each subsection, are flush, indented 2 ems, and indented 4 ems, respectively; and

(4) by redesignating subsection (c) as subsection (b).

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 30 days after the date of enactment of this Act. 18 USC 203 note.

SEC. 48. CROSS REFERENCE AND INTERNAL SUBSECTION REDESIGNATION.

Section 1407 of the Victims of Crime Act of 1984 is amended— 42 USC 10604.

(1) in subsection (h) by striking out "1302" and inserting in lieu thereof "1402"; and

(2) by redesignating subsection (h) as subsection (g).

SEC. 49. REPEAL OF SECTION 1410 OF THE VICTIMS OF CRIME ACT OF 1984. 18 USC 3150a.

The Victims of Crime Act of 1984 is amended by striking out section 1410.

SEC. 50. VICTIM AND WITNESS RELATED AMENDMENTS.

(a) NEW PREDICATE OFFENSES.—Section 1961(a) of title 18, United States Code, is amended by inserting "section 1512 (relating to tampering with a witness, victim, or an informant), section 1513 (relating to retaliating against a witness, victim, or an informant)," after "section 1511 (relating to the obstruction of State or local law enforcement),". State and local governments.

(b) RULE OF CONSTRUCTION AS TO LEGAL REPRESENTATION.—Section 1515 of title 18, United States Code, is amended—

(1) in the heading of such section, by inserting "; general provision" after "provisions";

(2) by inserting "(a)" before "As"; and

(3) by adding at the end the following:

"(b) This chapter does not prohibit or punish the providing of lawful, bona fide, legal representation services in connection with or anticipation of an official proceeding.".

SEC. 51. RELEASE PENDING SENTENCE.

(a) IN GENERAL.—Section 3143 of title 18 of the United States Code is amended—

(1) in subsection (b)(2)—

(A) by striking out "reversal or" and inserting in lieu thereof, "reversal,"; and

(B) by inserting after "trial" the following: ", or a sentence that does not include a term of imprisonment"; and

(2) by adding at the end of subsection (c) the following: "Except as provided in subsection (b) of this section, the judicial officer, in a case in which an appeal has been taken by the United States under section 3742, shall—

"(1) if the person has been sentenced to a term of imprisonment, order that person detained; and

"(2) in any other circumstance, release or detain the person under section 3142.".

18 USC 3142.

18 USC 3143.

(b) CONFORMING REPEAL.—The amendment made by section 223(f)(2) of the Comprehensive Crime Control Act of 1984 shall not take effect.

18 USC 3143 note.

(c) EFFECTIVE DATE FOR SUBSECTION (a)(2).—The amendment made by subsection (a)(2) shall take effect on the date of the taking of effect of section 3742 of title 18, United States Code.

SEC. 52. REVISION OF PRISON CONTRABAND PROHIBITION.

(a) IN GENERAL.—Section 1791 of title 18 of the United States Code is amended to read as follows:

"§ 1791. Providing or possessing contraband in prison

"(a) OFFENSE.—Whoever—

"(1) in violation of a statute or a rule or order issued under a statute, provides to an inmate of a prison a prohibited object, or attempts to do so; or

"(2) being an inmate of a prison, makes, possesses, or obtains, or attempts to make or obtain, a prohibited object;

shall be punished as provided in subsection (b) of this section.

"(b) PUNISHMENT.—The punishment for an offense under this section is a fine under this title or—

"(1) imprisonment for not more than 10 years, or both, if the object is specified in subsection (c)(1)(A) of this section;

"(2) imprisonment for not more than 5 years, or both, if the object is specified in subsection (c)(1)(B) or (c)(1)(C) of this section;

"(3) imprisonment for not more than one year, or both, if the object is specified in subsection (c)(1)(D) or (c)(1)(E) of this section; and

"(4) imprisonment for not more than 6 months, or both, if the object is specified in subsection (c)(1)(F) of this section.

"(c) DEFINITIONS.—As used in this section—

"(1) the term 'prohibited object' means—

"(A) a firearm or destructive device;

"(B) ammunition, a weapon (other than a firearm or destructive device), or an object that is designed or intended to be used as a weapon or to facilitate escape from a prison;

"(C) a narcotic drug, lysergic acid diethylamide, or phencyclidine;

"(D) a controlled substance (other than a controlled substance referred to in subparagraph (C) of this subsection) or an alcoholic beverage;

"(E) any United States or foreign currency; and

"(F) any other object that threatens the order, discipline, or security of a prison, or the life, health, or safety of an individual;

"(2) the terms 'ammunition', 'firearm', and 'destructive device' have, respectively, the meanings given those terms in section 921 of this title;

"(3) the terms 'controlled substance' and 'narcotic drug' have, respectively, the meanings given those terms in section 102 of the Controlled Substances Act (21 U.S.C. 802); and

"(4) the term 'prison' means a Federal correctional, detention, or penal facility.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 30 days after the date of the enactment of this Act. 18 USC 1791 note.

SEC. 53. ADDITIONAL CLASS OF INSTITUTIONS ADDED TO MUTINY AND RIOT PROHIBITION.

(a) IN GENERAL.—Section 1792 of title 18 of the United States Code is amended by inserting ", detention," after "penal".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 30 days after the enactment of this Act. 18 USC 1792 note.

SEC. 54. AMENDMENTS TO THE FEDERAL RULES OF CRIMINAL PROCEDURE RELATING TO CONDITIONAL RULING ON MOTION FOR NEW TRIAL AND SENTENCING. 18 USC app.

(a) CONDITIONAL RULING.—Rule 29 of the Federal Rules of Criminal Procedure is amended by adding at the end the following:

"(d) SAME: CONDITIONAL RULING ON GRANT OF MOTION.—If a motion for judgment of acquittal after verdict of guilty under this Rule is granted, the court shall also determine whether any motion for a new trial should be granted if the judgment of acquittal is thereafter vacated or reversed, specifying the grounds for such determination. If the motion for a new trial is granted conditionally, the order thereon does not affect the finality of the judgment. If the motion for a new trial has been granted conditionally and the judgment is reversed on appeal, the new trial shall proceed unless the appellate court has otherwise ordered. If such motion has been denied conditionally, the appellee on appeal may assert error in that denial, and if the judgment is reversed on appeal, subsequent proceedings shall be in accordance with the order of the appellate court.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 30 days after the date of the enactment of this Act.

SEC. 55. STYLE CORRECTIONS TO CHAPTER 207 OF TITLE 18 AND ADDITION OF PSYCHOLOGICAL TREATMENT TO LIST OF TREATMENTS WHICH MAY BE REQUIRED AS CONDITION OF RELEASE UNDER THAT CHAPTER.

(a) CHAPTER AMENDMENT.—Chapter 207 of title 18, United States Code, is amended by striking out "pursuant to the provisions of" each place it appears and inserting "under" in lieu thereof. 18 USC 3141 *et seq.*

(b) SECTION 3141 AMENDMENTS.—Section 3141(a) of title 18, United States Code, is amended—

(1) by striking out "who is";

(2) by striking out "pursuant to section" and inserting "under section" in lieu thereof;

(3) by inserting "before whom an arrested person is brought" after "of this title";

(4) by striking out "an arrested" and inserting "such" in lieu thereof; and

(5) by striking out "who is brought before him".

(c) SECTION 3142 AMENDMENTS.—Section 3142 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking out "his"; and

(ii) by inserting "of this section" after "subsection (b)";

(B) in paragraph (2), by inserting "of this section" after "subsection (c)";

(C) in paragraph (3), by inserting "of this section" after "subsection (d)";

(D) in paragraph (4), by inserting "of this section" after "subsection (e)";

(2) in subsection (b), by striking out "his" each place it appears;

(3) in subsection (c)—

(A) by inserting "(1)" before "If the judicial officer";

(B) by inserting "of this section" after "subsection (b)";

(C) by striking out "he" each place it appears and inserting "such judicial officer" in lieu thereof;

(D) by striking out "his" each place it appears;

(E) in paragraph (2)(A), by striking out "supervise him" and insert in lieu thereof "assume supervision";

(F) in paragraph (2)(J), by inserting ", psychological," after "medical";

(G) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B) respectively;

(H) by redesignating subparagraphs (A) through (N) as clauses (i) through (xiv) respectively;

(I) by designating the next to last sentence as paragraph (2); and

(J) by designating the last sentence as paragraph (3);

(4) in subsection (d)—

(A) by striking out "he" the first place it appears and inserting "such judicial officer" in lieu thereof;

(B) by striking out "the person" and inserting "such person" in lieu thereof;

(C) by inserting "of this subsection" after "paragraph (1)(B)"; and

(D) by striking out "that he is" and all that follows through "lawfully admitted" and inserting "such person's United States citizenship or lawful admission";

(5) in subsection (e)—

(A) by inserting "of this section" after "subsection (f)";

(B) by striking out "described in (f)(1)" and inserting "described in subsection (f)(1) of this section" in lieu thereof;

(C) by inserting "of this section" after "subsection (f)(1)" each place it appears;

(D) by inserting "of this subsection" after "paragraph (1)" each place it appears;

(E) by striking out "prior to" and inserting "before" in lieu thereof;

(F) by striking out "he" and inserting "such judicial officer" in lieu thereof; and

(G) by striking out "the judge" and inserting "such judicial officer" in lieu thereof;

(6) in subsection (f)—

(A) by inserting "of this section" after "subsection (c)";

(B) by striking out "in a case";

(C) in paragraph (1), by inserting "in a case" after "Government,";

(D) in paragraph (1)(D), by inserting "of this paragraph" after "(C)" each place it appears;

(E) in paragraph (2)—

(i) by striking out "Upon" and inserting "upon" in lieu thereof; and

(ii) by inserting "in a case" after "own motion,";

(F) by striking out "on his own motion" and inserting "sua sponte" in lieu thereof;

(G) by striking out "whether he is an addict" and inserting "whether such person is an addict" in lieu thereof;

(H) by striking out "the person" and inserting "such person" in lieu thereof;

(I) by striking out "he is financially" and inserting "financially" in lieu thereof;

(J) by striking out "for him"; and

(K) by striking out "on his own behalf";

(7) in subsection (g)—

(A) in paragraph (3)—

(i) in subparagraph (A), by striking out "his" and inserting "the person's" in lieu thereof; and

(ii) in subparagraph (B), by striking out "he" and inserting "the person" in lieu thereof; and

(B) in paragraph (4), by inserting "of this section" after "(c)(2)(L)";

(8) in subsection (h)—

(A) by inserting "of this section" after "(c)"; and

(B) in paragraph (2)(C), by striking out "the provisions of"; and

(9) in subsection (i)—

(A) by inserting "of this section" after "(e)"; and

(B) by striking out "his".

(d) SECTION 3143 AMENDMENTS.—Section 3143 of title 18, United States Code, is amended—

(1) in subsections (a) and (b)(1), by striking out "pursuant to" each place it appears and inserting "under" in lieu thereof;

(2) in subsections (a), (b), and (c), by striking out "the provisions of" each place it appears;

(3) in subsection (b), by inserting "of this title" after "(c)" each place it appears;

(4) by striking out "he" each place it appears and inserting "such judicial officer" in lieu thereof; and

(5) in subsection (c), by inserting "of this title" after "3142".

(e) SECTION 3144 AMENDMENTS.—Section 3144 of title 18, United States Code, is amended—

(1) by striking out "subpena" and inserting "subpoena" in lieu thereof; and

(2) by inserting "of this title" after "3142".

(f) SECTION 3146 AMENDMENTS.—Section 3146 of title 18, United States Code, is amended—

(1) by striking out subsection (a) and all that follows through subsection (b) and inserting in lieu thereof the following:

"(a) OFFENSE.—Whoever, having been released under this chapter knowingly—

"(1) fails to appear before a court as required by the conditions of release; or

"(2) fails to surrender for service of sentence pursuant to a court order;

shall be punished as provided in subsection (b) of this section.

"(b) PUNISHMENT.—(1) The punishment for an offense under this section is—

"(A) if the person was released in connection with a charge of, or while awaiting sentence, surrender for service of sentence, or appeal or certiorari after conviction for—

"(i) an offense punishable by death, life imprisonment, or imprisonment for a term of 15 years or more, a fine under this title or imprisonment for not more than ten years, or both;

"(ii) an offense punishable by imprisonment for a term of five years or more, a fine under this title or imprisonment for not more than five years, or both;

"(iii) any other felony, a fine under this title or imprisonment for not more than two years, or both; or

"(iv) a misdemeanor, a fine under this chapter or imprisonment for not more than one year, or both; and

"(B) if the person was released for appearance as a material witness, a fine under this chapter or imprisonment for not more than one year, or both.

"(2) A term of imprisonment imposed under this section shall be consecutive to the sentence of imprisonment for any other offense.";

(2) in subsection (c)—

(A) by striking out "that he" the first place it appears and inserting in lieu thereof "to"; and

(B) by striking out "he appeared" and inserting in lieu thereof "the person appeared"; and

(3) in subsection (d)—

(A) by inserting "of this title" after "3142(b)";

(B) by striking out "section 3142 (c)(2)(K) or (c)(2)(L)" and inserting "clause (xi) or (xii) of section 3142(c)(1)(B) of this title" in lieu thereof.

(g) SECTION 3147 AMENDMENTS.—Section 3147 of title 18, United States Code, is amended—

(1) by striking out "pursuant to" each place it appears and inserting "under" in lieu thereof; and

(2) by inserting a comma after "for the offense".

(h) SECTION 3148 AMENDMENTS.—Section 3148 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "of this title" after "3142";

(2) in subsection (b)—

(A) by striking out "his" the first place it appears and inserting "such person's" in lieu thereof;

(B) by striking out "his" each other place it appears;

(C) by striking out "he" the first place it appears and inserting "such person" in lieu thereof;

(D) by inserting a comma after "period of release";

(E) by inserting "of this title" after "3142(g)";

(F) by striking out "he" the second place it appears and inserting "the judicial officer" in lieu thereof; and

(G) by inserting "of this title" after "3142"; and

(3) in subsection (c)—

(A) by striking out "judge" and inserting "judicial officer" in lieu thereof;

(B) by inserting "of this title" after "401"; and

(C) by striking out "his".

(i) SECTION 3156 AMENDMENTS.—Section 3156(a) of title 18, United States Code, is amended—

(1) by striking out "The term" each place it appears and inserting "the term" in lieu thereof; and

(2) by striking out "and" at the end of paragraph (2).

(j) EFFECTIVE DATE.—The amendments made by this section shall take effect 30 days after the date of enactment of this Act.

18 USC 3141 note.

SEC. 56. CORRECTION OF PRINTING ERROR IN SENTENCING GUIDELINES ACT OF 1986.

Section 994(b)(2) of title 28, United States Code, is amended by striking out "that, if the maximum" and inserting "that, if the minimum" in lieu thereof.

SEC. 57. DISCLOSURES WITH RESPECT TO CERTAIN CONVICTS AND AMENDMENT RELATING TO PAROLE REGIONS.

(a) DISCLOSURE BY ATTORNEY GENERAL.—Section 4082 of title 18, United States Code, is amended—

(1) by redesignating subsection (f) as subsection (g), and

(2) by inserting after subsection (e) the following new subsection:

"(f)(1) The Attorney General shall, upon the request of the head of any law enforcement agency of a State or of a unit of local government in a State, make available as expeditiously as possible to such agency, with respect to prisoners who have been convicted of felony offenses against the United States and who are confined at a facility which is a residential community treatment center located in the geographical area in which such agency has jurisdiction, the following information maintained by the Bureau of Prisons (to the extent that the Bureau of Prisons maintains such information)—

State and local governments.

"(A) the names of such prisoners;

"(B) the community treatment center addresses of such prisoners;

"(C) the dates of birth of such prisoners;

"(D) the Federal Bureau of Investigation numbers assigned to such prisoners;

"(E) photographs and fingerprints of such prisoners; and

"(F) the nature of the offenses against the United States of which each such prisoner has been convicted and the factual circumstances relating to such offenses.

"(2) Any law enforcement agency which receives information under this subsection shall not disseminate such information outside of such agency.".

Classified information.

(b) DISCLOSURE BY COMMISSION.—Section 4203 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

State and local governments.

"(e)(1) The Commission shall, upon the request of the head of any law enforcement agency of a State or of a unit of local government in a State, make available as expeditiously as possible to such agency, with respect to individuals who are under the jurisdiction of the Commission, who have been convicted of felony offenses against the United States, and who reside, are employed, or are supervised in the geographical area in which such agency has jurisdiction, the following information maintained by the Commission (to the extent that the Commission maintains such information)—

"(A) the names of such individuals;

"(B) the addresses of such individuals;

"(C) the dates of birth of such individuals;

"(D) the Federal Bureau of Investigation numbers assigned to such individuals;

"(E) photographs and fingerprints of such individuals; and

"(F) the nature of the offenses against the United States of which each such individual has been convicted and the factual circumstances relating to such offense.

Classified information.

"(2) Any law enforcement agency which receives information under this subsection shall not disseminate such information outside of such agency.".

(c) PAROLE REGIONS.—Section 4203(a)(2) of title 18, United States Code, is amended by striking out ", but in no event less than five".

SEC. 58. PAROLE-RELATED CORRECTIONS.

(a) NATIONAL APPEALS BOARD.—Section 4204(a)(5) of title 18, United States Code, is amended by striking out "three" and inserting in lieu thereof "not fewer than three".

(b) PERSONAL CONFERENCE WITH REPRESENTATIVE OF COMMISSION.—Section 4208(g) of title 18, United States Code, is amended by striking out "the Commissioners or examiners conducting the proceeding" and inserting "a representative of the Commission" in lieu thereof.

(c) CONDITIONS OF PAROLE.—Section 4209(d)(1) of title 18, United States Code, is amended by adding at the end thereof the following: "Notwithstanding any other provision of this paragraph, the Commission may modify conditions of parole, without regard to such ten-day period, on any such motion if the Commission determines that the immediate modification of conditions of parole is required to prevent harm to the parolee or to the public.".

(d) RUNNING OF TERMS.—Section 4210(b)(2) of title 18, United States Code, is amended—

(1) by striking out "a Federal, State, or local crime" and inserting "any criminal offense" in lieu thereof; and

(2) by striking out "crime" the second place it appears and inserting "offense" in lieu thereof.

(e) ELIMINATION OF OBSOLETE PROVISION.—Section 4210 of title 18, United States Code, is amended—

(1) by striking out subsection (e); and

(2) by redesignating subsection (f) as subsection (e).

(f) REVOCATION OF PAROLE.—Section 4214(b)(1) of title 18, United States Code, is amended—

(1) by striking out "a Federal, State, or local crime" and inserting in lieu thereof "any criminal offense"; and

(2) by striking out "a crime" and inserting "an offense" in lieu thereof.

(g) SECTION 3147 AMENDMENTS.—Section 3147 of title 18, United Code, is amended by striking out section 4217.

(2) The table of sections at the beginning of chapter 311 of title 18, United States Code, is amended by striking out the item relating to section 4217.

SEC. 59. PROGRAM THEFT AND BRIBERY.

(a) IN GENERAL.—Section 666 of title 18, United States Code, is amended to read as follows:

"§ 666. Theft or bribery concerning programs receiving Federal funds

"(a) Whoever, if the circumstance described in subsection (b) of this section exists—

"(1) being an agent of an organization, or of a State, local, or Indian tribal government, or any agency thereof—

State and local governments. Indians.

"(A) embezzles, steals, obtains by fraud, or otherwise without authority knowingly converts to the use of any person other than the rightful owner or intentionally misapplies, property that—

"(i) is valued at $5,000 or more, and

"(ii) is owned by, or is under the care, custody, or control of such organization, government, or agency; or

"(B) corruptly solicits or demands for the benefit of any person, or accepts or agrees to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business, transaction, or series of transactions of such organization, government, or agency involving any thing of value of $5,000 or more; or

"(2) corruptly gives, offers, or agrees to give anything of value to any person, with intent to influence or reward an agent of an organization or of a State, local or Indian tribal government, or any agency thereof, in connection with any business, transaction, or series of transactions of such organization, government, or agency involving anything of value of $5,000 or more;

shall be fined under this title, imprisoned not more than 10 years, or both.

"(b) The circumstance referred to in subsection (a) of this section is that the organization, government, or agency receives, in any one year period, benefits in excess of $10,000 under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance, or other form of Federal assistance.

Grants. Contracts. Loans. Insurance.

"(c) This section does not apply to bona fide salary, wages, fees, or other compensation paid, or expenses paid or reimbursed, in the usual course of business.

Wages.

"(d) As used in this section—

"(1) the term 'agent' means a person authorized to act on behalf of another person or a government and, in the case of an organization or government, includes a servant or employee, and a partner, director, officer, manager, and representative;

"(2) the term 'government agency' means a subdivision of the executive, legislative, judicial, or other branch of government, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established, and subject to control, by a government or governments for the execution of a governmental or intergovernmental program; and

"(3) the term 'local' means of or pertaining to a political subdivision within a State.".

SEC. 60. EXTENSION OF CERTAIN PROTECTIONS FOR FAMILY MEMBERS OF CERTAIN OFFICIALS TO THOSE OFFICIALS.

Section 115(a) of title 18, United States Code, is amended—

(1) by striking out "18 U.S.C. 1114, as amended," and inserting "section 1114 of this title, or threatens to assault, kidnap, or murder, a United States official, a United States judge, a Fed-

eral law enforcement officer, or an official whose killing would be a crime under such section" in lieu thereof;

(2) by striking out "he is"; and

(3) by striking out "his".

SEC. 61. KILLING WITNESSES.

Section 1512 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by inserting ", delay, or prevent" after "influence";

(2) by inserting after the catchline the following:

"(a)(1) Whoever kills or attempts to kill another person, with intent to—

"(A) prevent the attendance or testimony of any person in an official proceeding;

"(B) prevent the production of a record, document, or other object, in an official proceeding; or

"(C) prevent the communication by any person to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title; and

"(B) in the case of an attempt, imprisonment for not more than twenty years."; and

(3) by redesignating subsections (a) through (f) as subsections (b) through (g) respectively.

SEC. 62. PROTECTION FOR MAJOR PRESIDENTIAL AND VICE PRESIDENTIAL CANDIDATES.

Section 351 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "a major Presidential or Vice Presidential candidate (as defined in section 3056 of this title)" after "Central Intelligence,"; and

(2) in subsection (h), by striking out "official" and inserting "individual" in lieu thereof.

SEC. 63. ADDITION OF FOREIGN COMMERCE TO COMMUNICATION OF THREAT OFFENSES.

Section 875 of title 18, United States Code, is amended by inserting "or foreign" after "interstate" each place it appears.

SEC. 64. TRESPASS ON BUREAU OF PRISONS RESERVATIONS AND LAND.

(a) IN GENERAL.—Chapter 87 of title 18, United States Code, is amended by inserting after section 1792 the following new section:

18 USC 1793.

"§ 1793. Trespass on Bureau of Prisons reservations and land

"Whoever, without lawful authority or permission, goes upon a reservation, land, or a facility of the Bureau of Prisons shall be fined not more than $500 or imprisoned not more than six months, or both."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 87 of title 18, United States Code, is amended by adding at the end the following new item:

"1793. Trespass on Bureau of Prisons reservations and land.".

SEC. 65. ARREST AUTHORITY.

(a) IN GENERAL.—The first sentence of section 3050 of title 18, United States Code, is amended to read as follows:

"An officer or employee of the Bureau of Prisons may—

"(1) make arrests on or off of Bureau of Prisons property without warrant for violations of the following provisions regardless of where the violation may occur: sections 111 (assaulting officers), 751 (escape), and 752 (assisting escape) of title 18, United States Code, and section 1826(c) (escape) of title 28, United States Code;

"(2) make arrests on Bureau of Prisons premises or reservation land of a penal, detention, or correctional facility without warrant for violations occurring thereon of the following provisions: sections 661 (theft), 1361 (depredation of property), 1363 (destruction of property), 1791 (contraband), 1792 (mutiny and riot), and 1793 (trespass) of title 18, United States Code; and

"(3) arrest without warrant for any other offense described in title 18 or 21 of the United States Code, if committed on the premises or reservation of a penal or correctional facility of the Bureau of Prisons if necessary to safeguard security, good order, or government property;

if such officer or employee has reasonable grounds to believe that the arrested person is guilty of such offense, and if there is likelihood of such person's escaping before an arrest warrant can be obtained.".

(b) STYLE CORRECTION.—The second sentence of section 3050 of title 18, United States Code, is amended by striking out "he" and inserting "such prisoner".

SEC. 66. AUTHORITY TO EXCHANGE INMATES WITH STATES.

Subsection (a) of section 5003 of title 18, United States Code, is amended to read as follows: Contracts.

"(a)(1) The Director of the Bureau of Prisons when proper and adequate facilities and personnel are available may contract with proper officials of a State or territory, for the custody, care, subsistence, education, treatment, and training of persons convicted of criminal offenses in the courts of such State or territory.

"(2) Any such contract shall provide—

"(A) for reimbursing the United States in full for all costs or expenses involved;

"(B) for receiving in exchange persons convicted of criminal offenses in the courts of the United States, to serve their sentence in appropriate institutions or facilities of the State or territory by designation as provided in section 4082(b) of this title, this exchange to be made according to formulas or conditions which may be negotiated in the contract; or

"(C) for compensating the United States by means of a combination of monetary payment and of receipt of persons convicted of criminal offenses in the courts of the United States, according to formulas or conditions which may be negotiated in the contract.

"(3) No such contract shall provide for the receipt of more State or territory prisoners by the United States than are transferred to that State or territory by such contract.".

SEC. 67. AUTHORITY TO ACCEPT DONATIONS AND CONDUCT AUTOPSIES.

(a) IN GENERAL.—Chapter 303 of title 18, United States Code, is amended by adding at the end the following:

18 USC 4044.

"§ 4044. Donations on behalf of the Bureau of Prisons

"The Attorney General may, in accordance with rules prescribed by the Attorney General, accept in the name of the Department of Justice any form of devise, bequest, gift or donation of money or property for use by the Bureau of Prisons or Federal Prison Industries. The Attorney General may take all appropriate steps to secure possession of such property and may sell, assign, transfer, or convey such property other than money.

18 USC 4045.
State and local governments.
Health and medical care.
Safety.
Religion.

"§ 4045. Authority to conduct autopsies

"A chief executive officer of a Federal penal or correctional facility may, pursuant to rules prescribed by the Director, order an autopsy and related scientific or medical tests to be performed on the body of a deceased inmate of the facility in the event of homicide, suicide, fatal illness or accident, or unexplained death, when it is determined that such autopsy or test is necessary to detect a crime, maintain discipline, protect the health or safety of other inmates, remedy official misconduct, or defend the United States or its employees from civil liability arising from the administration of the facility. To the extent consistent with the needs of the autopsy or of specific scientific or medical tests, provisions of State and local law protecting religious beliefs with respect to such autopsies shall be observed. Such officer may also order an autopsy or post-mortem operation, including removal of tissue for transplanting, to be performed on the body of a deceased inmate of the facility, with the written consent of a person authorized to permit such an autopsy or post-mortem operation under the law of the State in which the facility is located.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 303 of title 18, United States Code, is amended by adding after the item relating to 4043 the following new items:

"4044. Donations on behalf of the Bureau of Prisons."
"4045. Authority to conduct autopsies.".

SEC. 68. ADDITION OF EXTORTION TO BANK ROBBERY OFFENSE.

Section 2113(a) of title 18, United States Code, is amended by inserting ", or obtains or attempts to obtain by extortion" after "from the person or presence of another".

SEC. 69. INTERIM APPOINTMENT OF UNITED STATES ATTORNEYS.

Section 546 of title 28, United States Code, is amended to read as follows:

"§ 546. Vacancies

"(a) Except as provided in subsection (b), the Attorney General may appoint a United States attorney for the district in which the office of United States attorney is vacant.

"(b) The Attorney General shall not appoint as United States attorney a person to whose appointment by the President to that office the Senate refused to give advice and consent.

"(c) A person appointed as United States attorney under this section may serve until the earlier of—

"(1) the qualification of a United States attorney for such district appointed by the President under section 541 of this title; or

"(2) the expiration of 120 days after appointment by the Attorney General under this section.

"(d) If an appointment expires under subsection (c)(2), the district court for such district may appoint a United States attorney to serve until the vacancy is filled. The order of appointment by the court shall be filed with the clerk of the court."

SEC. 70. RELOCATION EXPENSES FOR EXCHANGE PARTICIPANTS.

Section 209(e) of title 18, United States Code, is amended by striking out the period at the end and inserting in lieu thereof "or, in the case of participants in overseas assignments, in excess of three hundred and sixty-five days.".

SEC. 71. VICTIMS OF CRIME ACT.

Section 1404(c)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10603) is amended—

(1) in subparagraph (A), by striking out "not less than" and inserting in lieu thereof "not more than"; and

(2) in subparagraph (B), by striking out "not more than" and inserting in lieu thereof "not less than".

SEC. 72. BAIL.

(a) SUBPARAGRAPH (D) AMENDMENTS.—Subparagraph (D) of section 3142(f)(1) of title 18, United States Code, is amended—

(1) by striking out "any felony committed after the person had been convicted of two or more prior offenses" and inserting in lieu thereof "any felony if the person has been convicted of two or more offenses"; and

(2) by inserting before the semicolon ", or a combination of such offenses".

(b) SUBPARAGRAPH (A) AMENDMENTS.—Subparagraph (A) of section 3142(f)(2) of title 18, United States Code, is amended by inserting "or" after the semicolon.

(c) SUBSECTION (f) AMENDMENT.—Subsection (f) of section 3142 of title 18, United States Code, is amended by adding at the end thereof the following: "The hearing may be reopened, before or after a determination by the judicial officer, at any time before trial if the judicial officer finds that information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community.". Safety.

SEC. 73. APPELLATE REVIEW.

(a) IN GENERAL.—Section 3742(e) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking out "it shall" and all that follows through the end of such paragraph, and inserting in lieu thereof "the court shall remand the case for further sentencing proceedings with such instructions as the court considers appropriate;" and

(2) in each of subparagraphs (A) and (B) of paragraph (2), by striking out "and—" and all that follows through the end of the subparagraph and inserting in lieu thereof "the court shall

remand the case for further sentencing proceedings with such instructions as the court considers appropriate;".

SEC. 74. WARRANTS RELATING TO SEIZURE.

Subsection (b) of section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(b)) is amended—

(1) by striking out "or criminal" after "Any property subject to civil";

(2) in paragraph (4), by striking out "or criminal" after "is subject to civil"; and

(3) by adding the following at the end thereof:

"The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.".

18 USC app.

(b) Subsection (i) of section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(i)) is amended by inserting ", or a violation of State or local law that could have been charged under this title or title III," after "title III".

SEC. 75. PROBATIONERS AND PAROLEES.

Section 3522(a) of title 18, United States Code, is amended by striking out "parolees" in the second sentence and inserting in lieu thereof "probationers or parolees, as the case may be".

SEC. 76. STOLEN GOODS.

The first and second paragraphs of section 2315 of title 18 of the United States Code are each amended—

(1) by inserting "possesses," after "receives,"; and

(2) by striking out "moving as, or which are a part of, or which constitute interstate or foreign commerce," and inserting in lieu thereof "which have crossed a State or United States boundary after being stolen, unlawfully converted, or taken,".

SEC. 77. STANDARDS FOR IMPOSITION OF RESTITUTION.

(a) IN GENERAL.—Subsection (d) of section 3579 of title 18, United States Code, is amended to read as follows:

"(d) To the extent that the court determines that the complication and prolongation of the sentencing process resulting from the fashioning of an order of restitution under this section outweighs the need to provide restitution to any victims, the court may decline to make such an order.".

18 USC 3579 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the 30th day after the date of the enactment of this Act.

SEC. 78. ENFORCEMENT OF RESTITUTION ORDER.

(a) IN GENERAL.—Subsection (h) of section 3579 of title 18, United States Code, is amended by striking out "or" and inserting in lieu thereof "in the manner provided for the collection of fines and penalties by section 3565 or by".

18 USC 3579 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the 30th day after the date of the enactment of this Act.

SEC. 79. CLARIFYING AMENDMENT.

(a) IN GENERAL.—Section 3579(a)(1) of title 18, United States Code, is amended by striking out "the offense" and inserting in lieu thereof "such offense".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act. 18 USC 3579 note.

SEC. 80. PRESENTENCE PROCEDURE RELATING TO RESTITUTION.

(a) IN GENERAL.—Section 3553(d) of title 18, United States Code, is amended—

(1) by striking out "OR RESTITUTION" in the subsection heading; and

(2) by striking out "or an order of restitution pursuant to section 3556,".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the taking effect of section 212(a)(2) of the Sentencing Reform Act of 1984. 18 USC 3553 note. 98 Stat. 1987.

SEC. 81. NEED FOR RESTITUTION TO BE CONSIDERED AS FACTOR IN SENTENCING.

(a) IN GENERAL.—Section 3553(a) of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting "; and" in lieu thereof; and

(3) by adding at the end the following new paragraph:

"(7) the need to provide restitution to any victims of the offense.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the taking effect of section 212(a)(2) of the Sentencing Reform Act of 1984. 18 USC 3553 note.

SEC. 82. AVAILABILITY OF SECTION 1402 AMOUNTS.

Section 1402(e) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(e)) is amended—

(1) by inserting "(1)" after "(e)";

(2) by striking out "Any" and inserting "Except as provided in paragraph (2), any"; and

(3) by adding at the end the following:

"(2) For the purposes of the application of paragraph (1) to any grant under this chapter with respect to fiscal year 1985, there shall be substituted in such paragraph 'two succeeding fiscal years' for 'succeeding fiscal year' and 'which period' for 'which year'.". Grants.

SEC. 83. DEFINITION OF ISOMER.

Section 102(14) of the Controlled Substances Act (21 U.S.C. 802(14)) is amended in the second and third sentences by striking out "the optical" and inserting in lieu thereof "any optical".

SEC. 84. AMENDMENT TO SCHEDULE. Drugs and drug abuse.

Paragraph (4) of subsection (a) of schedule II of the Controlled Substances Act (21 U.S.C. 812) is amended to read as follows:

"(4) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine, its salts, optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any

compound, mixture, or preparation which contains any quantity of any of the substances referred to in this paragraph.".

SEC. 85. ENFORCEMENT COOPERATION.

Section 503(a) of the Controlled Substances Act (21 U.S.C. 873(a)) is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

Contracts. State and local governments.

"(7) notwithstanding any other provision of law, enter into contractual agreements with State and local law enforcement agencies to provide for cooperative enforcement and regulatory activities under this Act.".

SEC. 86. POWERS OF ENFORCEMENT PERSONNEL.

Section 508 of the Controlled Substances Act (21 U.S.C. 878) is amended—

(1) by inserting "(a)" before "Any officer or employee";

(2) by inserting after "Drug Enforcement Administration" the following: "or any State or local law enforcement officer"; and

(3) by adding at the end thereof the following new subsection:

State and local governments. Government organization and employees.

"(b) State and local law enforcement officers performing functions under this section shall not be deemed Federal employees and shall not be subject to provisions of law relating to Federal employees, except that such officers shall be subject to section 3374(c) of title 5, United States Code.".

Sexual Abuse Act of 1986. 18 USC 2241 note.

SEC. 87. AMENDMENTS RELATING TO SEXUAL ABUSE.

(a) SHORT TITLE.—This section may be cited as the "Sexual Abuse Act of 1986".

(b) DEFINITION OF SEXUAL ABUSE OFFENSES.—Title 18, United States Code, is amended by inserting after chapter 109 the following new chapter:

"CHAPTER 109A—SEXUAL ABUSE

"Sec.
"2241. Aggravated sexual abuse.
"2242. Sexual abuse.
"2243. Sexual abuse of a minor or ward.
"2244. Abusive sexual contact.
"2245. Definitions for chapter.

18 USC 2241.

"§ 2241. Aggravated sexual abuse

"(a) BY FORCE OR THREAT.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly causes another person to engage in a sexual act—

"(1) by using force against that other person; or

"(2) by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnaping;

or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.

"(b) BY OTHER MEANS.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly—

"(1) renders another person unconscious and thereby engages in a sexual act with that other person; or

"(2) administers to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby—

Drugs and drug abuse.
Alcohol and alcoholic beverages.

"(A) substantially impairs the ability of that other person to appraise or control conduct; and

"(B) engages in a sexual act with that other person; or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.

"(c) WITH CHILDREN.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who has not attained the age of 12 years, or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.

"(d) STATE OF MIND PROOF REQUIREMENT.—In a prosecution under subsection (c) of this section, the Government need not prove that the defendant knew that the other person engaging in the sexual act had not attained the age of 12 years.

"§ 2242. Sexual abuse

18 USC 2242.

"Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly—

"(1) causes another person to engage in a sexual act by threatening or placing that other person in fear (other than by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnaping); or

"(2) engages in a sexual act with another person if that other person is—

"(A) incapable of appraising the nature of the conduct; or

"(B) physically incapable of declining participation in, or communicating unwillingness to engage in, that sexual act;

or attempts to do so, shall be fined under this title, imprisoned not more than 20 years, or both.

"§ 2243. Sexual abuse of a minor or ward

18 USC 2243.

"(a) OF A MINOR.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who—

"(1) has attained the age of 12 years but has not attained the age of 16 years; and

"(2) is at least four years younger than the person so engaging;

or attempts to do so, shall be fined under this title, imprisoned not more than five years, or both.

"(b) OF A WARD.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who is—

"(1) in official detention; and

"(2) under the custodial, supervisory, or disciplinary authority of the person so engaging;

or attempts to do so, shall be fined under this title, imprisoned not more than one year, or both.

"(c) DEFENSES.—(1) In a prosecution under subsection (a) of this section, it is a defense, which the defendant must establish by a

preponderance of the evidence, that the defendant reasonably believed that the other person had attained the age of 16 years.

"(2) In a prosecution under this section, it is a defense, which the defendant must establish by a preponderance of the evidence, that the persons engaging in the sexual act were at that time married to each other.

"(d) STATE OF MIND PROOF REQUIREMENT.—In a prosecution under subsection (a) of this section, the Government need not prove that the defendant knew—

"(1) the age of the other person engaging in the sexual act; or

"(2) that the requisite age difference existed between the persons so engaging.

18 USC 2244.

"§ 2244. Abusive sexual contact

"(a) SEXUAL CONDUCT IN CIRCUMSTANCES WHERE SEXUAL ACTS ARE PUNISHED BY THIS CHAPTER.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in or causes sexual contact with or by another person, if so to do would violate—

"(1) section 2241 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than five years, or both;

"(2) section 2242 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than three years, or both;

"(3) subsection (a) of section 2243 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than one year, or both; or

"(4) subsection (b) of section 2243 of this title had the sexual contact been a sexual act, shall be fined not more than $5,000, imprisoned not more than six months, or both.

"(b) IN OTHER CIRCUMSTANCES.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in sexual contact with another person without that other person's permission shall be fined not more than $5,000, imprisoned not more than six months, or both.

18 USC 2245.

"§ 2245. Definitions for chapter

"As used in this chapter—

"(1) the term 'prison' means a correctional, detention, or penal facility;

"(2) the term 'sexual act' means—

"(A) contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight;

"(B) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; or

"(C) the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; and

"(3) the term 'sexual contact' means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;

"(4) the term 'serious bodily injury' means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty;

"(5) the term 'official detention' means—

"(A) detention by a Federal officer or employee, or under the direction of a Federal officer or employee, following arrest for an offense; following surrender in lieu of arrest for an offense; following a charge or conviction of an offense, or an allegation or finding of juvenile delinquency; following commitment as a material witness; following civil commitment in lieu of criminal proceedings or pending resumption of criminal proceedings that are being held in abeyance, or pending extradition, deportation, or exclusion; or

"(B) custody by a Federal officer or employee, or under the direction of a Federal officer or employee, for purposes incident to any detention described in subparagraph (A) of this paragraph, including transportation, medical diagnosis or treatment, court appearance, work, and recreation;

but does not include supervision or other control (other than custody during specified hours or days) after release on bail, probation, or parole, or after release following a finding of juvenile delinquency.".

(c) OTHER TITLE 18 AMENDMENTS.—Title 18, United States Code, is amended—

(1) by striking out chapter 99; 18 USC 2031, 2032.

(2) in subsection (a) of section 113 by striking out "or rape";

(3) in subsection (b) of section 113 by striking out "rape" and inserting in lieu thereof "a felony under chapter 109A";

(4) in subsection (a) of section 1111 by striking out ", rape" and inserting in lieu thereof "aggravated sexual abuse or sexual abuse";

(5) in section 1153—

(A) in the first paragraph, by striking out "rape, involuntary sodomy, carnal knowledge of any female, not his wife, who has not attained the age of sixteen years, assault with intent to commit rape," and inserting in lieu thereof "a felony under chapter 109A,"; and *Ante*, p. 3620.

(B) in each of the second and third paragraphs, by striking out ", involuntary sodomy,";

(6) in paragraph (12) of section 3185 by striking out "Rape;" and inserting in lieu thereof "A felony under chapter 109A of this title;"; and

(7) in the table of chapters at the beginning of part I—

(A) by striking out the item relating to chapter 99; and

(B) by inserting after the item relating to chapter 109 the following new item:

"109A. Sexual Abuse ..... 2241".

(d) NON-TITLE 18 PROVISIONS.—(1) The Public Health Service Act is amended—

(A) in section 1904(a)(1)(G) (42 U.S.C. 300w-3(a)(1)(G)) by striking out "rape victims and for rape prevention" and inserting in lieu thereof "victims of sex offenses and for prevention of sex offenses"; and

(B) in section 1905(c)(6) (42 U.S.C. 300w-4(c)(6)) by striking out "rape" and inserting "sex offense" in lieu thereof.

94 Stat. 1602.

(2) The heading of title VI of the Mental Health Systems Act is amended by striking out "RAPE" and inserting "SEX OFFENSE" in lieu thereof.

(3) The heading for section 601 of the Mental Health Systems Act (42 U.S.C. 9511) is amended by striking out "RAPE" and inserting "SEX OFFENSE" in lieu thereof.

(4) Section 601(a) of the Mental Health Systems Act (42 U.S.C. 9511(a)) is amended by striking out "Rape" and inserting "Sex Offenses" in lieu thereof.

(5) Section 601(a)(1) of the Mental Health Systems Act (42 U.S.C. 9511(a)(1)) is amended—

(A) in subparagraph (B), by striking out "the act of rape" and inserting "sex offenses" in lieu thereof;

(B) in subparagraph (E), by striking out "rape" and inserting "a sex offense" in lieu thereof; and

(C) by striking out "rape" each place it appears other than in subparagraphs (B) and (E) and inserting "sex offenses" in lieu thereof.

(6) Section 601(a)(3) of the Mental Health Systems Act (42 U.S.C. 9511(a)(3)) is amended by striking out "rape" each place it appears and inserting "sex offenses" in lieu thereof.

(7) Section 601(e) of the Mental Health Systems Act (42 U.S.C. 9511(e)) is amended by striking out "rape" the first place it appears and inserting "sex offense" in lieu thereof.

(8) Section 902(k)(1) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1472(k)(1)), is amended by striking out "2031, 2032" and inserting in lieu thereof "chapter 109A".

18 USC 2241 note.

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 30 days after the date of the enactment of this Act.

Approved November 10, 1986.

LEGISLATIVE HISTORY—S. 1236 (H.R. 2713) (H.R. 2998) (H.R. 5241):

HOUSE REPORTS: No. 99-334 accompanying H.R. 2713, No. 99-527 accompanying H.R. 2998, and No. 99-797 accompanying H.R. 5241 (all from Comm. on the Judiciary).

SENATE REPORTS: No. 99-278 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 132 (1986):

Apr. 17, considered and passed Senate.

Oct. 17, considered and passed House, amended.

Oct. 18, Senate concurred in House amendment.

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Public Law 99-647
99th Congress

An Act

To establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island.

Nov. 10, 1986
[S. 1374]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

ESTABLISHMENT OF NATIONAL HERITAGE CORRIDOR

SECTION 1. That for the purpose of preserving and interpreting for the educational and inspirational benefit of present and future generations the unique and significant contributions to our national heritage of certain historic and cultural lands, waterways and structures within the Blackstone River Valley in the States of Massachusetts and Rhode Island there is hereby established the Blackstone River Valley National Heritage Corridor (hereafter in this Act referred to as the "Corridor"). It is the purpose of this Act to provide a management framework to assist the States of Massachusetts and Rhode Island and their units of local government in the development and implementation of integrated cultural, historical and land resource management programs in order to retain, enhance and interpret the significant values of the lands, waters and structures of the Corridor.

Conservation.
Cultural programs.
Public lands.
Historic preservation.
16 USC 46 note.

BOUNDARIES AND ADMINISTRATION

SEC. 2. (a) BOUNDARIES.—The boundaries shall include those lands generally depicted on a map entitled Blackstone River Valley National Heritage Corridor, numbered BRV-80-80,000 and dated October 1986. The map shall be on file and available for public inspection in the office of the Department of the Interior in Washington, DC and the Massachusetts and Rhode Island Departments of Environmental Management. The Secretary of the Interior (hereafter referred to as the "Secretary") shall publish in the Federal Register, as soon as practical after the date of enactment of this Act a detailed description and map of the boundaries established under this subsection.

Public information.
District of Columbia.
Federal Register, publication.

(b) ADMINISTRATION.—The Corridor shall be administered in accordance with the provisions of this Act.

BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR COMMISSION

SEC. 3. (a) ESTABLISHMENT.—There is hereby established a commission to be known as the Blackstone River Valley National Heritage Corridor Commission (hereafter known as the "Commission") whose purpose shall be to assist Federal, State and local authorities in the development and implementation of an integrated resource management plan for those lands and waters as specified in section 2.

State and local governments.

(b) MEMBERSHIP.—The Commission shall be composed of nineteen members appointed by the Secretary as follows:

(1) the Director of the National Park Service, ex officio, or a delegate;

(2) six individuals nominated by the Governors of Rhode Island and Massachusetts and appointed by the Secretary, who shall be the Department of Environmental Management Directors from Rhode Island and Massachusetts, the State Historic Preservation Officers from Massachusetts and Rhode Island, and the Department of Economic Development Directors from Massachusetts and Rhode Island;

(3) four representatives of local government from Massachusetts and four from Rhode Island nominated by the Governor of their State and appointed by the Secretary, to represent the interests of local government; and

(4) two individuals, nominated by the Governor of Massachusetts and two individuals nominated by the Governor of Rhode Island appointed by the Secretary, to represent other interests each Governor deems appropriate.

A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(c) TERMS.—Members of the Commission shall be appointed for terms of three years.

(d) COMPENSATION.—Members of the Commission shall receive no pay on account of their service on the Commission, but while away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(e) CHAIRPERSON.—The chairperson of the Commission shall be elected by the members of the Commission.

(f) QUORUM.—(1) Ten members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) Any member of the Commission may vote by means of a signed proxy exercised by another member of the Commission, but any member so voting shall not be considered present for purposes of establishing a quorum.

(3) The affirmative vote of not less than ten members of the Commission shall be required to approve the budget of the Commission.

(g) MEETINGS.—The Commission shall meet at least quarterly at the call of the chairperson or ten of its members. Meetings of the Commission shall be subject to section 552b of title 5, United States Code (relating to open meetings).

STAFF OF THE COMMISSION

SEC. 4. (a) STAFF.—(1) The Commission shall have the power to appoint and fix the compensation of such staff as may be necessary to carry out its duties.

(2) Staff appointed by the Commission—

(A) shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(B) shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

5 USC 5101 *et seq.*, 5331.

(b) EXPERTS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

(c) STAFF OF OTHER AGENCIES.—(1) Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out the Commission's duties.

(2) The Commission may accept the services of personnel detailed from the States of Massachusetts and Rhode Island (and any political subdivision thereof) and may reimburse that State or political subdivision for those services.

POWERS OF COMMISSION

SEC. 5. (a) HEARINGS.—(1) The Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) The Commission may not issue subpoenas or exercise any subpoena authority.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission, if so authorized by the Commission, may take any action which the Commission is authorized to take by this Act.

(c) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) USE OF FUNDS TO OBTAIN MONEY.—The Commission may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(f) GIFTS.—(1) Except as provided in subsection (g)(2)(B), the Commission may, for purposes of carrying out its duties, seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services, received from any source.

(2) For purposes of section 170(c) of the Internal Revenue Code of 1954, any gift to the Commission shall be deemed to be a gift to the United States. 26 USC 170.

(g) ACQUISITION OF REAL PROPERTY.—(1) Except as provided in paragraph (2) and except with respect to any leasing of facilities under subsection (c), the Commission may not acquire any real property or interest in real property.

(2) Subject to paragraph (3), the Commission may acquire real property, or interests in real property, in the Corridor—

(A) by gift or devise; or

(B) by purchase from a willing seller with money which was given or bequeathed to the Commission on the condition that such money would be used to purchase real property, or interests in real property, in the Corridor.

(3) Any real property or interest in real property acquired by the Commission under paragraph (2) shall be conveyed by the Commission to an appropriate public or private land managing agency, as

determined by the Commission. Any such conveyance shall be made—

(A) as soon as practicable after such acquisition;

(B) without consideration; and

(C) on the condition that the real property or interest in real property so conveyed is used for public purposes.

(h) COOPERATIVE AGREEMENTS.—For purposes of carrying out the plan, the Commission may enter into cooperative agreements with the State of Massachusetts and the State of Rhode Island, with any political subdivision of each State, or with any person. Any such cooperative agreement shall, at a minimum, establish procedures for providing notice to the Commission of any action proposed by the State of Massachusetts and the State of Rhode Island, such political subdivision, or such person which may affect the implementation of the plan.

(i) ADVISORY GROUPS.—The Commission may establish such advisory groups as the Commission deems necessary to ensure open communication with, and assistance from, the State of Massachusetts and the State of Rhode Island, political subdivisions of the State of Massachusetts and the State of Rhode Island, and interested persons.

DUTIES OF THE COMMISSION

State and local governments.

SEC. 6. (a) PREPARATION OF PLAN.—Within one year after the Commission conducts its first meeting, it shall submit a Cultural Heritage and Land Management Plan to the Secretary and the Governors of Massachusetts and Rhode Island for review and approval for ninety days. The plan shall be based on existing State plans, but shall coordinate those plans and present a unified historic preservation and interpretation plan for the Corridor. The plan shall—

(1) provide an inventory which includes any property in the Corridor which should be preserved, restored, managed, developed, maintained, or acquired because of its national historic or cultural significance;

(2) establish standards and criteria applicable to the construction, preservation, restoration, alteration, and use of all properties within the Corridor;

(3) develop an historic interpretation plan to interpret the history of the valley;

(4) contain policies for land use management which consider and detail the application of appropriate land and water management techniques, including but not limited to local zoning, use of easements and development of intergovernmental cooperative agreements, so as to protect the Corridor's historical, cultural, scenic and natural resources and enhance water quality of the Blackstone River in a manner consistent with supporting economic revitalization efforts;

(5) contain a coordination and consistency component which details the ways in which local, State and Federal programs may best be coordinated to promote the purposes of this Act; and

(6) contain a program for State and local government implementation of the plan.

(b) APPROVAL OF THE PLAN.—(1) No plan submitted to the Secretary under this section shall be approved unless the Secretary finds that the plan, if implemented, would adequately protect the

significant historical and cultural resources of the Corridor and consistent with such protection provide adequate and appropriate outdoor recreational opportunities and economic activities within the Corridor.

(2) In determining whether or not to approve the Plan, the Secretary shall consider whether:

(A) the Commission has afforded adequate opportunity, including public hearings, for public and governmental involvement in the preparation of the plan;

(B) he has received adequate assurances from appropriate State officials that the recommended implementation program identified in the plan will be initiated within a reasonable time after the date of approval of the plan and such program will ensure effective implementation of the State and local aspects of the plan.

(3) If the Secretary disapproves the plan, he shall advise the Commission in writing of the reasons therefore and shall indicate any recommendations for revisions. Following completion of any necessary revisions to the plan, the Secretary shall have forty-five days to either approve or disapprove the plan.

(c) IMPLEMENTATION OF THE PLAN.—(1) After review and approval of the plan by the Secretary and the Governors of Massachusetts and Rhode Island as provided in subsections (a) and (b) the Commission shall give priority to actions which assist in—

(A) preserving and interpreting the historic resources of the valley;

(B) completing State and local parks in the Corridor; and

(C) supporting public and private efforts in economic revitalization consistent with the goals of the Cultural Heritage Plan.

(2) Priority actions to be carried out under paragraph (1) shall include—

State and local governments.

(A) assisting the States in appropriate preservation treatment of the Blackstone Canal;

(B) assisting the States in designing, establishing, and maintaining visitor centers and other interpretive exhibits in the Corridor;

(C) encouraging private landowners adjacent to the canal or river to retain or reestablish, where possible, vegetative, or other buffers as specified in the State park plans;

(D) assisting in the enhancement of public awareness of an appreciation for the historical and architectural and geological resources and sites in the Corridor;

(E) assisting the State or any local government or any nonprofit organization in the restoration of any historic building in the Corridor;

(F) encouraging, by appropriate means, enhanced economic and industrial development in the Corridor consistent with the goals of the plan;

(G) encouraging local governments to adopt land use policies consistent with the goals of the State park and the plan and to take actions to implement those policies; and

(H) ensuring that clear, consistent signs identifying access points and sites of interest is put in place.

TERMINATION OF COMMISSION

SEC. 7. (a) TERMINATION.—Except as provided in subsection (b), the Commission shall terminate on the day occurring five years after the date of the enactment of this Act.

(b) EXTENSION.—The Commission may be extended for a period of not more than five years beginning on the day referred to in subsection (a) if, not later than one hundred and eighty days before such day—

(1) the Commission determines such extension is necessary in order to carry out the purpose of this Act;

(2) the Commission submits such proposed extension to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate; and

(3) the Governor of Massachusetts, the Governor of Rhode Island, and the Secretary each approve such extension.

DUTIES OF THE SECRETARY

SEC. 8. (a) PURPOSE.—To carry out the purpose of this Act, the Secretary shall assist the Commission in preparing the Cultural Heritage and Land Management Plan. Following approval of the plan as provided under section 6 (a) and (b) the Secretary shall assist the Commission to design and fabricate interpretive materials based on the plan including—

(A) guide brochures for exploring the heritage story of the valley by automobile, train, bicycle, boat, or foot;

(B) visitor displays (including video presentations) at several locations well distributed along the Corridor, including both indoor and outdoor displays; and

(C) a mobile display depicting the heritage story to be used in the park, public buildings, libraries, and schools.

(b) TECHNICAL ASSISTANCE.—The Secretary shall, upon request of the Commission, provide technical assistance to the Commission in the preparation of the plan and for implementing the plan as set out in section 6(c).

DUTIES OF OTHER FEDERAL ENTITIES

SEC. 9. Any Federal entity conducting or supporting activities directly affecting the Corridor shall—

(1) consult with the Secretary and the Commission with respect to such activities;

(2) cooperate with the Secretary and the Commission in carrying out their duties under this Act and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner which the Commission determines will not have an adverse effect on the Corridor.

AUTHORIZATION OF APPROPRIATIONS

SEC. 10. There is authorized to be appropriated annually to the Commission $250,000 for the next five fiscal years to carry out the purposes of this Act; except that the Federal contribution to the

Commission shall not exceed 50 percent of the annual operating costs of the Commission.

Approved November 10, 1986.

LEGISLATIVE HISTORY—S. 1374:

SENATE REPORTS: No. 99-488 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 8, considered and passed Senate.
Oct. 15, considered and passed House, amended.
Oct. 17, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Nov. 10, Presidential statement.

O

91-139 O - 87 (671)

Public Law 99-648
99th Congress

An Act

Nov. 10, 1986
[S. 2000]

To clarify the exemptive authority of the Securities and Exchange Commission.

Utilities.
Natural gas.
Securities.

15 USC 79i.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding section 3(a) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79c(a)), a holding company which has only one subsidiary company that is solely a gas utility company, as defined in said Act, shall be exempt from all provisions, except section 9(a)(2), of said Act if neither the holding company nor any other subsidiary company is a public utility company, the operations of such subsidiary gas utility company do not exceed beyond the State in which it is organized, the subsidiary company was incorporated on June 16, 1986, for the express purpose of operating as a gas utility company, and all of whose voting securities are owned by the holding company, and neither the holding company, nor any of its subsidiary companies are engaged in residential or commercial plumbing, heating, refrigeration, air-conditioning, or in the sale, installation or servicing of such or related equipment.

Approved November 10, 1986.

LEGISLATIVE HISTORY—S. 2000:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 15, considered and passed Senate.
Sept. 29, considered and passed House, amended.
Oct. 16, Senate concurred in House amendment.

O

91-139 O - 87 (672)

Public Law 99-649
99th Congress

An Act

To improve the public health through the prevention of injuries.

Nov. 10, 1986
[S. 2648]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Injury Prevention Act of 1986".

Injury Prevention Act of 1986.
42 USC 201 note.

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds and declares that:

42 USC 280b note.

(1) Injury is one of the principal public health problems in America, and causes over 140,000 deaths per year.

(2) Injury rates are particularly high for children and the elderly.

(3) Injury causes 50 percent of all deaths for children over the age of one year and two-thirds of all deaths for children over the age of 15 years, and is the leading cause of death for individuals under the age of 44 years. Individuals over the age of 65 years have the highest fatality rates for many injuries.

(4) Injury control has not been given high priority in the United States, and the research being conducted on injury control and the number of personnel involved in injury control activities are not adequate.

(b) The purposes of this Act are—

(1) to promote research into the causes, diagnosis, treatment, prevention, and control of injuries and rehabilitation from injuries;

(2) to promote cooperation between specialists in fields involved in injury research; and

(3) to promote coordination between Federal, State, and local governments and public and private entities in order to achieve a reduction in deaths from injuries.

PUBLIC HEALTH RESEARCH AND ACTIVITIES RELATING TO INJURY CONTROL

SEC. 3. Title III of the Public Health Service Act is amended by adding at the end thereof the following new part:

42 USC 241.

"PART J—INJURY CONTROL

"RESEARCH

"SEC. 391. (a) The Secretary, through the Director of the Centers for Disease Control, shall—

42 USC 280b.

"(1) conduct, and give assistance to public and nonprofit private entities, scientific institutions, and individuals engaged in the conduct of, research relating to the causes, mechanisms, prevention, diagnosis, treatment of injuries, and rehabilitation from injuries; and

"(2) make grants to public and nonprofit private entities (including academic institutions, hospitals, and laboratories) and individuals for the conduct of such research.

Grants.
Schools and colleges.
Hospitals.

91-139 O - 87 (673)

"(b) The Secretary, through the Director of the Centers for Disease Control, shall collect and disseminate, through publications and other appropriate means, information concerning the practical applications of research conducted or assisted under subsection (a).

"CONTROL ACTIVITIES

42 USC 280b-1.

"SEC. 392. (a) The Secretary, through the Director of the Centers for Disease Control, shall—

State and local governments.

"(1) assist States and political subdivisions of States in activities for the prevention of injuries; and

"(2) encourage regional activities between States designed to reduce injury rates.

"(b) The Secretary, through the Director of the Centers for Disease Control, may—

Contracts. Health and medical care.

"(1) enter into agreements between the Service and public and private community health agencies which provide for cooperative planning of activities to deal with problems relating to injuries and injury control; and

State and local governments.

"(2) work in cooperation with Federal, State, and local agencies to promote injury control.

"STUDY

Reports. Children and youth. 42 USC 280b-2.

"SEC. 393. By January 1, 1989, the Secretary, through the Director of the Centers for Disease Control, shall prepare and transmit to the Congress a report analyzing the incidence and causes of childhood injuries in the United States and containing recommendations for such legislation with respect to injury control as the Secretary considers appropriate.

"AUTHORIZATIONS OF APPROPRIATIONS

42 USC 280b-3.

"SEC. 394. (a) To carry out sections 391 and 392, there are authorized to be appropriated $10,000,000 for each of the fiscal years 1988, 1989, and 1990. Of the amounts appropriated under this section for any fiscal year, not more than 20 percent may be used for Federal administrative expenses to carry out such section for such fiscal year.".

Approved November 10, 1986.

LEGISLATIVE HISTORY—S. 2648:

SENATE REPORTS: No. 99-434 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 3, considered and passed Senate.
Oct. 16, considered and passed House.

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Public Law 99-650
99th Congress

An Act

To establish an independent jury system for the Superior Court of the District of Columbia.

Nov. 14, 1986
[H.R. 2946]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

District of Columbia Jury System Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Jury System Act".

SEC. 2. ESTABLISHMENT OF DISTRICT OF COLUMBIA JURY SYSTEM.

Chapter 19 of title 11 of the District of Columbia Code is amended to read as follows:

"CHAPTER 19. JURIES AND JURORS

Sec.
"11-1901. Declaration of policy.
"11-1902. Definitions.
"11-1903. Prohibition of discrimination.
"11-1904. Jury system plan.
"11-1905. Master juror list.
"11-1906. Qualification of jurors.
"11-1907. Summoning of prospective jurors.
"11-1908. Exclusion from jury service.
"11-1909. Deferral from jury service.
"11-1910. Challenging compliance with selection procedures.
"11-1911. Length of service.
"11-1912. Juror fees.
"11-1913. Protection of employment of jurors.
"11-1914. Preservation of records.
"11-1915. Fraud in the selection process.
"11-1916. Grand jury; additional grand jury.
"11-1917. Coordination and cooperation of courts.
"11-1918. Effect of invalidity.

"CHAPTER 19. JURIES AND JURORS

"§ 11-1901. Declaration of policy.

"A jury selection system is hereby established for the Superior Court of the District of Columbia. All litigants entitled to trial by jury shall have the right to grand and petit juries selected at random from a fair cross section of the residents of the District of Columbia. In accordance with the provisions of this chapter, all qualified individuals shall have the opportunity to be considered for service on grand and petit juries in the District of Columbia and shall be obligated to serve as jurors when summoned for that purpose.

"§ 11-1902. Definitions.

"For purposes of this chapter, the following terms have the following meanings:

91-139 O - 87 (674)

"(1) The term 'Board of Judges' means the chief judge and the associate judges of the Superior Court of the District of Columbia.

"(2) The term 'chief judge' means the chief judge of the Superior Court of the District of Columbia.

"(3) The term 'clerk' means the clerk of the Superior Court of the District of Columbia or any deputy clerk.

"(4) The term 'Court' means the Superior Court of the District of Columbia and may include any judge of the Court acting in an official capacity.

"(5) The term 'juror' means (A) any individual summoned to Superior Court for the purpose of serving on a jury; (B) any individual who is on call and available to report to Court to serve on a jury upon request; and (C) any individual whose service on a jury is temporarily deferred.

"(6) The term 'jury' includes a grand or petit jury

"(7) The term 'jury system plan' means the plan adopted by the Board of Judges of the Court, consistent with the provisions of this chapter, to govern the administration of the jury system.

"(8) The term 'master juror list' means the consolidated list or lists compiled and maintained by the Board of Judges of the District of Columbia Courts which contains the names of prospective jurors for service in the Superior Court of the District of Columbia.

"(9) The term 'random selection' means the selection of names of prospective jurors in a manner immune from the purposeful or inadvertent introduction of subjective bias, so that no recognizable class of the individuals on the list or lists from which the names are being selected can be purposefully or inadvertently included or excluded.

"(10) The term 'resident of the District of Columbia' means an individual who has resided or has been domiciled in the District of Columbia for not less than six months.

"§ 11-1903. Prohibition of discrimination.

"A citizen of the District of Columbia may not be excluded or disqualified from jury service as a grand or petit juror in the District of Columbia on account of race, color, religion, sex, national origin, ancestry, economic status, marital status, age, or (except as provided in this chapter) physical handicap.

"§ 11-1904. Jury system plan.

"(a) The Board of Judges shall adopt, implement, and as necessary modify, a written jury system plan for the random selection and service of grand and petit jurors in the Superior Court consistent with the provisions of this chapter. The adopted plan and any modifications shall be subject to a 30-day period of review by Congress in the manner provided for an act of the Council under section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act. The plan shall include—

87 Stat. 813.

"(1) detailed procedures to be followed by the clerk of the Court in the random selection of names from the master juror list;

"(2) provisions for a master jury wheel (or other device of like purpose and function) which shall be emptied and refilled at specified intervals, not to exceed 24 months;

"(3) provisions for the disclosure to the parties and the public of the names of individuals selected for jury service, except in cases in which the chief judge determines that confidentiality is required in the interest of justice; and

"(4) procedures to be followed by the clerk of the Court in assigning individuals to grand and petit juries.

"(b) The jury system plan shall be administered by the clerk of the Court under the supervision of the Board of Judges.

"§ 11-1905. Master juror list.

"(a) The jury system plan shall provide for the compilation and maintenance by the Board of Judges of a master juror list from which names of prospective jurors shall be drawn. Such master juror list shall consist of the list of District of Columbia voters, and names from such other appropriate sources and lists as may be provided in the jury system plan.

"(b) Notwithstanding any other provision of law, upon request of the Board of Judges any person having custody, possession, or control of any list required under subsection (a) shall provide such list to the Court, at cost, at all reasonable times. Each list shall contain the names and addresses of individuals on the list. Any list obtained by the Court under the provisions of this chapter may be used by the Court only for the selection of jurors pursuant to this chapter.

"§ 11-1906. Qualification of jurors.

"(a) The jury system plan shall provide for procedures for the random selection and qualification of grand and petit jurors from the master juror list. Such plan may provide for separate or joint qualification and summoning processes.

"(b)(1) An individual shall be qualified to serve as a juror if that individual—

"(A) is a resident of the District of Columbia;

"(B) is a citizen of the United States;

"(C) has attained the age of 18 years; and

"(D) is able to read, speak, and understand the English language.

"(2) An individual shall not be qualified to serve as a juror—

"(A) if determined to be incapable by reason of physical or mental infirmity of rendering satisfactory jury service; or

"(B) if that individual has been convicted of a felony or has a pending felony or misdemeanor charge, except that an individual disqualified for jury service by reason of a felony conviction may qualify for jury service not less than one year after the completion of the term of incarceration, probation, or parole following appropriate certification under procedures set out in the jury system plan.

"(3) Any determination regarding qualification for jury service shall be made on the basis of information provided in the juror qualification form and any other competent evidence.

"(c)(1) The jury system plan shall provide that a juror qualification form be mailed to each prospective juror. The form and content of such juror qualification form shall be determined under the plan. Notarization of the juror qualification form shall not be required.

"(2) An individual who fails to return a completed juror qualification form as instructed may be ordered by the Court to appear before the clerk to fill out such form, to appear before the Court and

Law enforcement and crime.

show cause why he or she should not be held in contempt for failure to submit the qualification form, or both. An individual who fails to show good cause for such failure, or who without good cause fails to appear pursuant to a Court order, may be punished by a fine of not more than $300, by imprisonment for not more than seven days, or both.

Law enforcement and crime.

"(d) An individual who intentionally misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror may be punished by a fine of not more than $300, by imprisonment for not more than 90 days, or both.

"§ 11-1907. Summoning of prospective jurors.

"(a) At such times as are determined under the jury system plan, the Court shall summon or cause to be summoned from among qualified individuals under section 11-1906 sufficient prospective jurors to fulfill requirements for petit and grand jurors for the Court. A summons shall require a prospective juror to report for possible jury service at a specified time and place unless advised otherwise by the Court. Service of prospective jurors may be made personally or by first-class, registered, or certified mail as determined under the plan.

Law enforcement and crime.

"(b) A prospective juror who fails to appear for jury duty may be ordered by the Court to appear and show cause why he or she should not be held in contempt for such failure to appear. A prospective juror who fails to show good cause for such failure, or who without good cause fails to appear pursuant to a Court order, may be punished by a fine of not more than $300, by imprisonment for not more than seven days, or both.

"§ 11-1908. Exclusion from jury service.

"(a) Subject to the provisions of this section and of sections 11-1903, 11-1906, and 11-1909, no indivdual or class of individuals may be disqualified, excluded, excused, or exempt from service as a juror.

"(b) An individual summoned for jury service may be: (1) excluded by the Court on the ground that that individual may be unable to render impartial jury service or that his or her service as a juror would be likely to disrupt the proceedings; (2) excluded upon peremptory challenge as provided by law; (3) excluded pursuant to the procedure specified by law upon a challenge by any party for good cause shown; or (4) excluded upon determination by the Court that his or her service as a juror would be likely to threaten the secrecy of the proceedings, or otherwise adversely affect the integrity of jury deliberations. No person shall be excluded under clause (4) of this subsection unless the judge, in open Court, determines that such exclusion is warranted and that exclusion of that individual will not be inconsistent with sections 11-1901 and 11-1903 of this chapter.

"(c) An individual excluded from a jury shall be eligible to sit on another jury if the basis for the initial exclusion would not be relevant to his or her ability to serve on such other jury. The procedures for challenges to and review of exclusions from jury service shall be set forth in the jury system plan.

"§ 11-1909. Deferral from jury service.

"A qualified prospective juror may be deferred from jury service only upon a showing of undue hardship, extreme inconvenience, public necessity, or temporary physical or mental disability which

would affect service as a juror. The procedure for requesting a deferral from jury service and the procedure and basis for granting a deferral shall be set forth in the master jury plan.

"§ 11-1910. Challenging compliance with selection procedures.

"(a) A party may challenge the composition of a jury by a motion for appropriate relief. A challenge shall be brought and decided before any individual juror is examined, unless the Court orders otherwise. The motion shall be in writing, supported by affidavit, and shall specify the facts constituting the grounds for the challenge. If the Court so determines, the motion may be decided on the basis of the affidavits filed with the challenge. If the Court orders trial of the challenge, witnesses may be examined on oath by the Court and may be so examined by either party.

"(b) If the Court determines that in selecting a grand or petit jury there has been a substantial failure to comply with this chapter, the Court shall stay the proceedings pending the selection of a jury in conformity with this chapter, quash the indictment, or grant other appropriate relief.

"(c) The procedures prescribed by this section are the exclusive means by which a person accused of a crime, the District of Columbia, the United States, or a party in a civil case may challenge a jury on the ground that the jury was not selected in conformity with this chapter. Nothing in this section shall preclude any person from pursuing any other remedy, civil or criminal, which may be available for the vindication or enforcement of any law prohibiting discrimination on account of race, color, religion, sex, national origin, economic status, marital status, age, or physical handicap in the selection of individuals for service on grand or petit juries.

Discrimination, prohibition.

"§ 11-1911. Length of service.

"The length of service for grand and petit jurors shall be determined by the master jury plan. In any twenty-four month period an individual shall not be required to serve more than once as a grand or petit juror except as may be necessary by reason of the insufficiency of the master juror list or as ordered by the Court.

"§ 11-1912. Juror fees.

"(a) Notwithstanding section 602(a) of the District of Columbia Self-Government and Governmental Reorganization Act, grand and petit jurors serving in the Superior Court shall receive fees and expenses at rates established by the Council of the District of Columbia, except that such fees and expenses may not exceed the respective rates paid to such jurors in the federal system.

87 Stat. 813.

"(b) A petit or grand juror receiving benefits under the laws of employment security of the District of Columbia shall not lose such benefits on account of performance of juror service.

"(c) Employees of the United States or of any State or local government who serve as grand or petit jurors and who continue to receive regular compensation during the period of jury service shall not be compensated for jury service. Amounts representing reimbursement of expenses incurred in connection with jury service may be paid to such employees to the extent provided in the jury system plan.

State and local governments.

"§ 11-1913. Protection of employment of jurors.

"(a) An employer shall not deprive an employee of employment, threaten, or otherwise coerce an employee with respect to employment because the employee receives a summons, responds to a summons, serves as a juror, or attends Court for prospective jury service.

Law enforcement and crime.

"(b) An employer who violates subsection (a) is guilty of criminal contempt. Upon a finding of criminal contempt an employer may be fined not more than $300, imprisoned for not more than 30 days, or both, for a first offense, and may be fined not more than $5,000, imprisoned for not more than 180 days, or both, for any subsequent offense.

Claims. Wages.

"(c) If an employer discharges an employee in violation of subsection (a), the employee within 9 months of such discharge may bring a civil action for recovery of wages lost as a result of the violation, for an order of reinstatement of employment, and for damages. If an employee prevails in an action under this subsection, that employee shall be entitled to reasonable attorney fees fixed by the court.

"§ 11-1914. Preservation of records.

"(a) All records and lists compiled and maintained in connection with the selection and service of jurors shall be preserved for the length of time specified in the jury system plan.

"(b) The contents of any records or lists used in connection with the selection process shall not be disclosed, except in connection with the preparation or presentation of a motion under § 11-1910, or until all individuals selected to serve as grand or petit jurors from such lists have been discharged.

"§ 11-1915. Fraud in the selection process.

"An individual who commits fraud in the processing or selection of jurors or prospective jurors, either by causing any name to be inserted into any list maliciously or by causing any name to be deleted from any list maliciously (including malicious data entry or the altering of any data processing machine or any set of instructions or programs which control data processing equipment for such malicious purpose), is guilty of the crime of jury tampering, and, upon conviction, may be punished by a fine of not more than $10,000, imprisonment for not more than two years, or both. This section shall not limit any other provisions of law concerning the crime of jury tampering.

"§ 11-1916. Grand jury; additional grand jury.

"(a) A grand jury serving in the District of Columbia may take cognizance of all matters brought before it regardless of whether an indictment is returnable in the Federal or District of Columbia courts.

"(b) If the United States Attorney for the District of Columbia certifies in writing to the chief judge that an additional grand jury is required, the judge may in his or her discretion order an additional grand jury summoned which shall be drawn at such time as he or she designates. Unless discharged by order of the judge, the additional grand jury shall serve until the end of the term for which it is drawn.

"§ 11-1917. Coordination and cooperation of courts.

"To the extent feasible, the Superior Court and the United States District Court shall consider the respective needs of each court in the qualification, selection, and service of jurors. Nothing in this chapter shall be construed to prevent such courts from entering into any agreement for sharing resources and facilities (including automated data processing hardware and software, forms, postage, and other resources).

Contracts.

"§ 11-1918. Effect of invalidity.

"If any provision of this Act or the application of that provision is held invalid, such invalidity shall not affect any other provision or application of this Act which can be given effect without the invalid provision or application.".

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.

28 USC 1869.

Section 1869(f) of title 28, United States Code, is amended by striking out "except that for purposes of sections 1861, 1862, 1866(c), 1866(d), and 1867 of this chapter such terms shall include the Superior Court of the District of Columbia".

SEC. 4. EFFECTIVE DATE.

28 USC 1869 note.

(a) Except as provided in subsection (b), the provisions of this Act shall take effect 180 days after the date of enactment of this Act.

(b) Upon enactment of this Act, the Board of Judges shall have authority to promulgate and adopt a jury system plan in accordance with this Act and the Court and the clerk of the Court shall have authority to take all necessary actions preliminary to the assumption of the administration of an independent jury system under this Act.

Approved November 14, 1986.

LEGISLATIVE HISTORY—H.R. 2946:

HOUSE REPORTS: No. 99-324 (Comm. on the District of Columbia).
SENATE REPORTS: No. 99-473 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Oct. 28, considered and passed House.
Vol. 132 (1986): Oct. 18, considered and passed Senate, amended; House concurred in Senate amendments.

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CRIMINAL JUSTICE ACT REVISION OF 1986, ETC.

Public Law 99-651
99th Congress

An Act

Nov. 14, 1986
[H.R. 3004]

To amend section 3006A of title 18, United States Code, to improve the delivery of legal services in the criminal justice system to those persons financially unable to obtain adequate representation, and for other purposes.

Courts, U.S.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—CRIMINAL JUSTICE ACT REVISION

Criminal Justice Act Revision of 1986.
18 USC 3006A note.

SEC. 101. SHORT TITLE.

This title may be referred to as the "Criminal Justice Act Revision of 1986".

SEC. 102. AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) IN GENERAL.—Section 3006A of title 18, United States Code, is amended as follows:

(1) Subsection (a) is amended by striking out "(1) who is" and all that follows through "subsection (h)." and inserting in lieu thereof the following: "in accordance with this section. Representation under each plan shall include counsel and investigative, expert, and other services necessary for adequate representation. Each plan shall provide the following:

"(1) Representation shall be provided for any financially eligible person who—

"(A) is charged with a felony or a misdemeanor (other than a petty offense as defined in section 1 of this title);

"(B) is a juvenile alleged to have committed an act of juvenile delinquency as defined in section 5031 of this title;

18 USC 5031.

"(C) is charged with a violation of probation;

"(D) is under arrest, when such representation is required by law;

"(E) is entitled to appointment of counsel in parole proceedings under chapter 311 of this title;

18 USC 4201 *et seq.*

"(F) is subject to a mental condition hearing under chapter 313 of this title;

18 USC 4241 *et seq.*

"(G) is in custody as a material witness;

"(H) is entitled to appointment of counsel under the sixth amendment to the Constitution; or

"(I) faces loss of liberty in a case, and Federal law requires the appointment of counsel.

"(2) Whenever the United States magistrate or the court determines that the interests of justice so require, representation may be provided for any financially eligible person who—

"(A) is charged with a petty offense for which a sentence to confinement is authorized; or

"(B) is seeking relief under section 2241, 2254, or 2255 of title 28.

"(3) Private attorneys shall be appointed in a substantial proportion of the cases. Each plan may include, in addition to the provisions for private attorneys, either of the following or both:

"(A) Attorneys furnished by a bar association or a legal aid agency.

"(B) Attorneys furnished by a defender organization established in accordance with the provisions of subsection (g).".

(2) Subsection (b) is amended—

(A) in the second sentence—

(i) by striking out "In every criminal case" and all that follows through "violation of probation and" and inserting in lieu thereof "In every case in which a person entitled to representation under a plan approved under subsection (a)"; and

(ii) by striking out "defendant" and inserting in lieu thereof "person";

(B) in the third sentence by striking out "defendant" each place it appears and inserting in lieu thereof "person"; and

(C) in the fifth sentence by striking out "defendants" and inserting in lieu thereof "persons".

(3)(A) Subsection (d)(1) is amended by striking out "court. Such attorney" and inserting in lieu thereof "court, unless the Judicial Conference determines that a higher rate of not in excess of $75 per hour is justified for a circuit or for particular districts within a circuit, for time expended in court or before a United States magistrate and for time expended out of court. The Judicial Conference shall develop guidelines for determining the maximum hourly rates for each circuit in accordance with the preceding sentence, with variations by district, where appropriate, taking into account such factors as the minimum range of the prevailing hourly rates for qualified attorneys in the district in which the representation is provided and the recommendations of the judicial councils of the circuits. Not less than 3 years after the effective date of the Criminal Justice Act Revision of 1986, the Judicial Conference is authorized to raise the maximum hourly rates specified in this paragraph up to the aggregate of the overall average percentages of the adjustments in the rates of pay under the General Schedule made pursuant to section 5305 of title 5 on or after such effective date. After the rates are raised under the preceding sentence, such maximum hourly rates may be raised at intervals of not less than 1 year each, up to the aggregate of the overall average percentages of such adjustments made since the last raise was made under this paragraph. Attorneys". Regulations.

(B) Subsection (d)(2) is amended—

(i) in the first sentence—

(I) by striking out "$2,000" and inserting in lieu thereof "$3,500"; and

(II) by striking out "$800" and inserting in lieu thereof "$1,000";

(ii) in the second sentence by striking out "$2,000" and inserting in lieu thereof "$2,500"; and

(iii) by striking out the third sentence and inserting in lieu thereof the following: "For any other representation required or authorized by this section, the compensation

shall not exceed $750 for each attorney in each proceeding.".

(C) Subsection (d)(3) is amended by adding at the end thereof the following: "The chief judge of the circuit may delegate such approval authority to an active circuit judge.".

(D) Subsection (d)(4) is amended in the first sentence by striking out "represented the defendant" and inserting in lieu thereof "provided representation to the person involved".

(4)(A) Subsection (e)(1) is amended in the first sentence by striking out "an adequate defense" and inserting in lieu thereof "adequate representation".

(B) Subsection (e)(2) is amended to read as follows:

"(2) WITHOUT PRIOR REQUEST.—(A) Counsel appointed under this section may obtain, subject to later review, investigative, expert, and other services without prior authorization if necessary for adequate representation. Except as provided in subparagraph (B) of this paragraph, the total cost of services obtained without prior authorization may not exceed $300 and expenses reasonably incurred.

"(B) The court, or the United States magistrate (if the services were rendered in a case disposed of entirely before the United States magistrate), may, in the interest of justice, and upon the finding that timely procurement of necessary services could not await prior authorization, approve payment for such services after they have been obtained, even if the cost of such services exceeds $300.".

(C)(i) Subsection (e)(3) is amended by striking out "$300" and inserting in lieu thereof "$1,000".

(ii) Subsection (e)(3) is amended by adding at the end thereof the following: "The chief judge of the circuit may delegate such approval authority to an active circuit judge.".

(5)(A)(i) Subsection (h)(2)(A) is amended by striking out "similarly as under title 28, United States Code, section 605, and subject to the conditions of that section" and inserting in lieu thereof "in accordance with section 605 of title 28".

(ii) Subsection (h)(2)(A) is amended by inserting after the fourth sentence the following: "Upon the expiration of his term, a Federal Public Defender may, by a majority vote of the judges of the court of appeals, continue to perform the duties of his office until his successor is appointed, or until one year after the expiration of such Defender's term, whichever is earlier.".

(B) Subsection (h)(2)(B) is amended in the third sentence by striking out "coming" and inserting in lieu thereof "next fiscal".

(C) Subsection (h) is further amended by adding at the end thereof the following:

Insurance.

"(3) MALPRACTICE AND NEGLIGENCE SUITS.—The Director of the Administrative Office of the United States Courts shall, to the extent the Director considers appropriate, provide representation for and hold harmless, or provide liability insurance for, any person who is an officer or employee of a Federal Public Defender Organization established under this subsection, or a Community Defender Organization established under this subsection which is receiving periodic sustaining grants, for money damages for injury, loss of liberty, loss of property, or personal injury or death arising from malpractice or negligence of any such officer or employee in furnishing representational services under this section while acting within the scope of that person's office or employment.".

(6) Subsection (j) is amended by inserting immediately before the period at the end of the first sentence the following: ", including funds for the continuing education and training of persons providing representational services under this section".

(7) Subsection (l) is amended—

(A) by striking out ", other than subsection (h) of section 1,"; and

(B) by striking out "Act" each place it appears and inserting in lieu thereof "section".

(b) ADDITIONAL AMENDMENTS.—(1) Section 3006A of title 18, United States Code, is further amended by striking out subsection (g) and redesignating subsections (h) through (l) as subsections (g) through (k), respectively.

(2) Subsection (j), as redesignated by paragraph (1), is amended to read as follows:

"(j) DISTRICTS INCLUDED.—As used in this section, the term 'district court' means each district court of the United States created by chapter 5 of title 28, the District Court of the Virgin Islands, the District Court for the Northern Mariana Islands, and the District Court of Guam.".

Virgin Islands. Northern Mariana Islands. Guam. 28 USC 81 *et seq.*

SEC. 103. TECHNICAL AMENDMENTS.

18 USC 3006A.

Section 223(e) of the Comprehensive Crime Control Act of 1984 (Public Law 98-473; 98 Stat. 2028) is amended to read as follows:

"(e) Section 3006A(a) is amended—

"(1) in paragraph (1)(A) by striking out 'misdemeanor (other than a petty offense as defined in section 1 of this title)' and inserting in lieu thereof 'Class A misdemeanor';

"(2) in paragraph (1) by striking out subparagraph (E) and redesignating subparagraphs (F) through (I) as subparagraphs (E) through (H), respectively; and

"(3) in paragraph (2)(A) by striking out 'petty offense' and inserting in lieu thereof 'Class B or C misdemeanor, or an infraction'.".

SEC. 104. WITNESS FEES.

Section 1825 of title 28, United States Code, is amended to read as follows:

"§ 1825. Payment of fees

"(a) In any case in which the United States or an officer or agency of the United States is a party, the United States marshal for the district shall pay all fees of witnesses on the certificate of the United States attorney or assistant United States attorney, and in the proceedings before a United States magistrate, on the certificate of such magistrate, except that any fees of defense witnesses, other than experts, appearing pursuant to subpoenas issued upon approval of the court, shall be paid by the United States marshal for the district—

"(1) on the certificate of a Federal public defender or assistant Federal public defender, in a criminal case in which the defendant is represented by such Federal public defender or assistant Federal public defender, and

"(2) on the certificate of the clerk of the court upon the affidavit of such witnesses' attendance given by other counsel appointed pursuant to section 3006A of title 18, in a criminal case in which a defendant is represented by such other counsel.

28 USC 2255.

"(b) In proceedings in forma pauperis for a writ of habeas corpus, and in proceedings in forma pauperis under section 2255 of this title, the United States marshal for the district shall pay, on the certificate of the district judge, all fees of witnesses for the party authorized to proceed in forma pauperis, except that any fees of witnesses for such party, other than experts, appearing pursuant to subpoenas issued upon approval of the court, shall be paid by the United States marshal for the district—

"(1) on the certificate of a Federal public defender or assistant Federal public defender, in any such proceedings in which a party is represented by such Federal public defender or assistant Federal public defender, and

"(2) on the certificate of the clerk of the court upon the affidavit of such witnesses' attendance given by other counsel appointed pursuant to section 3006A of title 18, in any such proceedings in which a party is represented by such other counsel.

"(c) Fees and mileage need not be tendered to a witness upon service of a subpoena issued on behalf of the United States or an officer or agency of the United States, upon service of a subpoena issued on behalf of a defendant represented by a Federal public defender, assistant Federal public defender, or other attorney appointed pursuant to section 3006A of title 18, or upon service of a subpoena issued on behalf of a party authorized to proceed in forma pauperis, if the payment of such fees and mileage is to be made by the United States marshal under this section.".

18 USC 3006A note.

SEC. 105. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect one hundred and twenty days after the date of enactment of this Act. The maximum hourly rates provided in section 3006A(d)(1) of title 18, United States Code as amended by section 102(a)(3)(A) of this Act, shall apply only to services performed on or after the effective date of this title. The maximum allowed for compensation for a case, as provided in section 3006A(d)(2) of title 18, United States Code, as amended by section 102(a)(3)(B) of this Act, shall apply only to compensation claims in which some portion of the claim is for services performed on or after the effective date of this title. The maximum compensation allowed pursuant to section 3006A(e) of title 18, United States Code, as amended by subparagraphs (B) and (C) of section 102(a)(4) of this Act, shall apply only to services obtained on or after the effective date of this title.

Claims.

TITLE II—RECALL OF CERTAIN JUDICIAL OFFICERS

SEC. 201. RECALL OF CERTAIN RETIRED JUDICIAL OFFICERS.

(a) MAGISTRATES.—(1) Section 631(d) of title 28, United States Code, is amended—

(A) by striking out "No" and inserting in lieu thereof "Except as otherwise provided in sections 375 and 636(h) of this title, no";

(B) by striking out "the unanimous" and inserting in lieu thereof "a majority"; and

(C) by inserting after "courts," the following: "which is taken upon the magistrate's attaining age seventy and upon each subsequent anniversary thereof,".

(2) Section 636 of title 28, United States Code, is amended by adding at the end the following:

"(h) A United States magistrate who has retired may, upon the consent of the chief judge of the district involved, be recalled to serve as a magistrate in any judicial district by the judicial council of the circuit within which such district is located. Upon recall, a magistrate may receive a salary for such service in accordance with regulations promulgated by the Judicial Conference, subject to the restrictions on the payment of an annuity set forth in subchapter III of chapter 83, and chapter 84, of title 5. The requirements set forth in subsections (a), (b)(3), and (d) of section 631, and paragraph (1) of subsection (b) of such section to the extent such paragraph requires membership of the bar of the location in which an individual is to serve as a magistrate, shall not apply to the recall of a retired magistrate under this subsection or section 375 of this title. Any other requirement set forth in section 631(b) shall apply to the recall of a retired magistrate under this subsection or section 375 of this title unless such retired magistrate met such requirement upon appointment or reappointment as a magistrate under section 631.".

5 USC 8331; *ante*, p. 516.
Ante, p. 3646.

(b) ALTERNATIVE RECALL OF CERTAIN JUDGES AND MAGISTRATES.—(1) Chapter 17 of title 28, United States Code, is amended by inserting after section 374 the following new section:

"§ 375. Recall of certain judges and magistrates

"(a)(1) A bankruptcy judge, a judge of the Claims Court, or a United States magistrate appointed under chapter 43 of this title, who has retired under the applicable provisions of title 5 upon attaining the age and years of service requirements established in section 371(c) of this title, may agree to be recalled to serve under this section for a period of five years as a bankruptcy judge, judge of the Claims Court, or magistrate, as the case may be, upon certification that substantial service is expected to be performed by such retired judge or magistrate during such 5-year period. With the agreement of the judge or magistrate involved, a certification under this subsection may be renewed for successive 5-year periods.

28 USC 631 *et seq.*

"(2) For purposes of paragraph (1) of this subsection, a certification may be made—

"(A) in the case of a bankruptcy judge or a United States magistrate, by the judicial council of the circuit in which the official duty station of the judge or magistrate at the time of retirement was located; and

"(B) in the case of a judge of the Claims Court, by the chief judge of the United States Claims Court.

"(3) For purposes of this section—

"(A) the term 'bankruptcy judge' means a bankruptcy judge appointed under chapter 6 of this title or serving as a bankruptcy judge on March 31, 1984; and

28 USC 151 *et seq.*

"(B) the term 'judge of the Claims Court' means a judge of the United States Claims Court who is appointed under chapter 7 of this title or who has served under section 167 of the Federal Courts Improvement Act of 1982.

28 USC 171 *et seq.*

"(b) A judge or magistrate recalled under this section may exercise all of the powers and duties of the office of judge or magistrate held at the time of retirement, including the ability to serve in any other judicial district to the extent applicable, but may not engage in the practice of law or engage in any other business, occupation, or

28 USC 171 note.
28 USC 375.

employment inconsistent with the expeditious, proper, and impartial performance of duties as a judicial officer.

"(c) During the 5-year period in which a certification under subsection (a) is in effect, the judge or magistrate involved shall receive, in addition to the annuity provided under the applicable provisions of title 5, an amount equal to the difference between that annuity and the current salary of the office to which the judge or magistrate is recalled.

Termination date.
28 USC 372.

"(d) A certification under subsection (a) may be terminated in accordance with section 372(c) of this title, and such a certification shall be terminated upon the death of the recalled judge or magistrate involved.

5 USC 8301 *et seq.*; *ante*, p. 516.

"(e) Except as provided in subsection (b), nothing in this section shall affect the right of judges or magistrates who retire under the provisions of chapter 83 or chapter 84 of title 5 to serve as reemployed annuitants in accordance with the provisions of title 5. A judge or magistrate to whom this section applies may be recalled under section 155, 636(h), or 797 of this title, as the case may be, other than during a 5-year period in which a certification under subsection (a) is in effect with respect to that judge or magistrate.

"(f) For purposes of determining the years of service requirements in order to be eligible for recall under this section, any service as a bankruptcy judge, a judge of the Claims Court, or a United States magistrate, and any prior service as a referee in bankruptcy, a commissioner of the Court of Claims, or a United States commissioner, may be credited.

"(g) Except as provided in subsection (c), a judge or magistrate recalled under this section shall be considered to be a reemployed annuitant under chapter 83 or chapter 84, as the case may be, of title 5.

Regulations.

"(h) The Judicial Conference of the United States may promulgate regulations to implement this section.".

(2) The item relating to section 375 in the table of sections for chapter 17 of title 28, United States Code, is amended to read as follows:

"375. Recall of certain judges and magistrates.".

SEC. 202. TECHNICAL AMENDMENTS.

(a) RECALL OF BANKRUPTCY JUDGES.—Section 155(b) of title 28, United States Code, is amended by inserting ", and chapter 84," after "chapter 83".

(b) OFFICIAL DUTY STATION.—Section 374 of title 28, United States Code, is amended by adding at the end the following: "The place where a judge or magistrate recalled under section 155, 375, 636, or 797 of this title maintains the actual abode in which the judge or magistrate customarily lives shall be deemed to be the official station of such judge or magistrate for purposes of section 604(a)(7) of this title.".

(c) RECALL OF CLAIMS COURT JUDGES.—Section 797(a) of title 28, United States Code, is amended by inserting ", or chapter 84," after "chapter 83".

(d) CLERICAL AMENDMENT.—Section 633(b) of title 28, United States Code, is amended by striking out "643" and inserting in lieu thereof "634".

SEC. 203. EFFECTIVE DATE. 28 USC 155 note.

This title and the amendments made by this title take effect on January 1, 1987.

Approved November 14, 1986.

LEGISLATIVE HISTORY—H.R. 3004 (S. 1581):

HOUSE REPORTS: No. 99-417 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 9, considered and passed House.
Vol. 132 (1986): Oct. 6, considered and passed Senate, amended, in lieu of S. 1581.
Oct. 14, 15, House concurred in Senate amendment with an amendment; vacated proceedings and again concurred in Senate amendment with an amendment.
Oct. 16, Senate concurred in House amendment.

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COMMEMORATIVE WORKS ON CERTAIN FEDERAL LANDS IN THE DISTRICT OF COLUMBIA

91-139 O - 87 (676)

Public Law 99-652
99th Congress

An Act

Nov. 14, 1986
[H.R. 4378]

To provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PURPOSES

Public buildings and grounds.
40 USC 1001.

SECTION 1. The purposes of this Act are as follows:

(a) to preserve the integrity of the comprehensive design of the L'Enfant and McMillan plans for the Nation's Capital;

(b) to ensure the continued public use and enjoyment of open space in the District of Columbia;

(c) to preserve, protect and maintain the limited amount of open space available to residents of, and visitors to, the Nation's Capital; and

(d) to ensure that future commemorative works in areas administered by the National Park Service and the General Services Administration in the District of Columbia and its environs (1) are appropriately designed, constructed, and located and (2) reflect a consensus of the lasting national significance of the subjects involved.

DEFINITIONS

40 USC 1002.

SEC. 2. As used in this Act—

(a) the term "Secretary" means the Secretary of the Interior;

(b) the term "Administrator" means the Administrator of the General Services Administration;

(c) the term "commemorative work" means any statue, monument, sculpture, memorial, or other structure or landscape feature, including a garden or memorial grove, designed to perpetuate in a permanent manner the memory of a person, group, event or other significant element of history. The term does not include any such item which is located within the interior of a structure or a structure which is primarily used for other purposes;

(d) the term "person" means an individual, group or organization authorized by Congress to establish a commemorative work in the District of Columbia and its environs;

(e) notwithstanding any other provision of law, the term "the District of Columbia and its environs" means those lands and properties administered by the National Park Service and the General Services Administration located in Areas I and II as depicted on the map numbered 869/86501, and dated May 1, 1986.

CONGRESSIONAL AUTHORIZATION OF COMMEMORATIVE WORKS IN THE DISTRICT OF COLUMBIA AND ITS ENVIRONS

SEC. 3. (a) No commemorative work may be established in the District of Columbia and its environs unless specifically authorized by Act of Congress. All such authorized commemorative works shall be subject to applicable provisions of this Act. 40 USC 1003.

(b) In considering legislation authorizing commemorative works within the District of Columbia and its environs, the Committee on House Administration of the House of Representatives and the Energy and Natural Resources Committee of the Senate shall solicit the views of the National Capital Memorial Commission.

NATIONAL CAPITAL MEMORIAL COMMISSION

SEC. 4. (a) The National Capital Memorial Advisory Committee as established by the Secretary is redesignated as the National Capital Memorial Commission. The membership of the Commission shall be expanded to include: 40 USC 1004.

Director, National Park Service (Chairman)
Architect of the Capitol
Chairman, American Battle Monuments Commission
Chairman, Commission of Fine Arts
Chairman, National Capital Planning Commission
Mayor, District of Columbia
Commissioner, Public Building Service, General Services Administration
Secretary, Department of Defense

(b) The National Capital Memorial Commission shall advise the Secretary and the Administrator on policy and procedures for establishment of (and proposals to establish) commemorative works in the District of Columbia and its environs, as well as such other matters concerning commemorative works in the Nation's Capital as it may deem appropriate. The Commission shall meet at least twice annually.

AVAILABILITY OF MAP DEPICTING AREA I AND AREA II

SEC. 5. The Secretary and the Administrator shall make available, for public inspection at appropriate offices of the National Park Service and the General Services Administration, the map numbered 869/86501, and dated May 1, 1986. Public information. 40 USC 1005.

SPECIFIC CONDITIONS APPLICABLE TO AREA I AND AREA II

SEC. 6. (a) AREA I.—The conditions set forth in subsection (b) shall apply to the location of a commemorative work in Area I or in Area II. In addition, the Secretary or Administrator (as appropriate) may approve the location of a commemorative work in Area I only if he finds that the subject of the commemorative work is of preeminent historical and lasting significance to the Nation. The Secretary or Administrator (as appropriate) shall notify, after consultation with the National Capital Memorial Commission, the Congress of his determination that a commemorative work should be located in Area I. The location of a commemorative work in Area I shall be deemed disapproved, unless, not later than 150 days after such notification, the location is approved by law. 40 USC 1006.

(b) AREA II.—Commemorative works of subjects of lasting historical significance may be located in Area II, subject to the following conditions:

Armed Forces.

(1) A military commemorative work may be established in Area II only to commemorate a war or similar major military conflict or to commemorate any branch of the Armed Forces. No commemorative work commemorating a lesser conflict or a unit of an Armed Force shall be permitted in Area II.

(2) A commemorative work commemorating an individual or group of individuals, other than a military commemorative work as described in subsection (b)(1) of this section, shall not be permitted in Area II until at least twenty-five years after the death of the individual or the last surviving member of the group.

(3) A commemorative work other than a work referred to in paragraph (1) or (2) may be constructed in Area II only to commemorate a subject of lasting historical significance.

SITE AND DESIGN APPROVAL

40 USC 1007.

SEC. 7. (a) Any person authorized by law to establish a commemorative work in the District of Columbia and its environs shall comply with each of the following requirements before commencing construction of the commemorative work:

(1) Such person shall consult with the National Capital Memorial Commission regarding the commemorative work. Such consultation shall include consideration of potential sites in the District of Columbia and its environs.

(2) Following consultation in accordance with paragraph (1), the Secretary or Administrator (as appropriate) shall submit, on behalf of such person, site and design proposals to the Commission of Fine Arts and the National Capital Planning Commission and the Secretary or Administrator (as appropriate) for their approval.

(b) In considering site and design proposals, the Commission of Fine Arts, the National Capital Planning Commission and the Secretary and Administrator shall be guided by the following criteria:

(1) to the maximum extent possible, a commemorative work shall be located in surroundings that are relevant to the subject of the commemorative work;

(2) a commemorative work shall be so located as to prevent interference with, or encroachment upon, any existing commemorative work and to protect, to the maximum extent practicable, open space and existing public use; and

(3) a commemorative work shall be constructed of durable material suitable to the outdoor environment. Landscape features of commemorative works shall be compatible with the climate.

CRITERIA FOR ISSUANCE OF CONSTRUCTION PERMIT

40 USC 1008.

SEC. 8. (a) Prior to issuing a permit for the construction of a commemorative work in the District of Columbia and its environs, the Secretary or Administrator (as appropriate) shall determine that:

(1) the site and design have been approved by the Secretary or Administrator (as appropriate), the National Capital Planning Commission and the Commission of Fine Arts;

(2) knowledgeable persons qualified in the field of preservation and maintenance have been consulted to determine structural soundness and durability of the commemorative work, and to assure that the commemorative work meets high professional standards;

(3) the person authorized to construct the commemorative work has submitted contracts for construction and drawings of the commemorative work to the Secretary or Administrator (as appropriate); and

Contracts.

(4) the person authorized to construct the commemorative work has available sufficient funds to complete construction of the project.

(b) In addition to the foregoing criteria, no construction permit shall be issued unless the person authorized to construct the commemorative work has donated an amount equal to 10 per centum of the total estimated cost of construction to offset the costs of perpetual maintenance and preservation of the commemorative work: *Provided,* That the provisions of this subsection shall not apply in instances when the commemorative work is constructed by a Department or agency of the Federal Government and less than 50 per centum of the funding for such work is provided by private sources.

(1) Notwithstanding any other provision of law, all moneys provided by persons for maintenance pursuant to this subsection shall be credited to a separate account in the Treasury.

(2) Congress authorizes and directs that the Secretary of the Treasury shall make all or a portion of such moneys available to the Secretary or the Administrator at his request for maintenance of commemorative works. Under no circumstances may the Secretary or Administrator request funds from the separate account exceeding the total moneys deposited by persons establishing commemorative works in areas he administers. The Secretary and the Administrator shall maintain an inventory of funds available for such purposes: *Provided,* That such moneys shall not be subject to annual appropriations.

TEMPORARY SITE DESIGNATION

SEC. 9. (a) If the Secretary, in consultation with the National Capital Memorial Commission, determines that a site where commemorative works may be displayed on a temporary basis is necessary in order to aid in the preservation of the limited amount of open space available to residents of, and visitors to, the Nation's Capital, he may designate such a site on lands administered by him in the District of Columbia. A designation may not be made under the preceding sentence unless, at least one hundred and twenty days before the designation, the Secretary, in consultation with the National Capital Memorial Commission, prepares and submits to the Congress a plan for the site. The plan shall include specifications for the location, construction, and administration of the site, and criteria for displaying commemorative works at the site.

40 USC 1009.

(b) Any commemorative work displayed at the site shall be installed, maintained, and removed at the sole expense and risk of the person authorized to display the commemorative works. Such

person shall agree to indemnify the United States for any liability arising from the display of the commemorative work under this section.

MISCELLANEOUS PROVISIONS

40 USC 1010.

SEC. 10. (a) Complete documentation of design and construction of each commemorative work located in the District of Columbia and its environs shall be provided to the Secretary or the Administrator (as appropriate) and shall be permanently maintained in the manner provided by law.

(b) Any legislative authority for a commemorative work shall expire at the end of the five-year period beginning on the date of the enactment of such authority, unless the Secretary or Administrator (as appropriate) has issued a construction permit for the commemorative work during that period.

(c) Upon completion of any commemorative work within the District of Columbia and its environs, the Secretary or Administrator (as appropriate) shall assume responsibility for the maintenance of such work.

Regulations. Federal Register, publication.

(d) The Secretary and the Administrator shall promulgate appropriate regulations to carry out this Act. The regulations shall be published in the Federal Register within one hundred and twenty days after the enactment of this Act.

(e) This Act shall not apply to commemorative works authorized by a law enacted before the commencement of the Ninety-ninth Congress.

Approved November 14, 1986.

LEGISLATIVE HISTORY—H.R. 4378:

HOUSE REPORTS: No. 99-574 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 99-421 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
May 5, considered and passed House.
Sept. 10, considered and passed Senate, amended.
Sept. 29, House concurred in Senate amendments with amendments.
Oct. 16, Senate concurred in House amendments.

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Public Law 99-653
99th Congress

An Act

To amend the Immigration and Nationality Act, and for other purposes.

Nov. 14, 1986
[H.R. 4444]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Immigration and Nationality Act Amendments of 1986".

Immigration and Nationality Act Amendments of 1986.
8 USC 1101 note.

SEC. 2. Section 101(b)(1)(E) (8 U.S.C. 1101(b)(1)(E)) is amended to read:

"(E) a child adopted while under the age of sixteen years if the child has been in the legal custody of, and has resided with, the adopting parent or parents for at least two years: *Provided,* That no natural parent of any such adopted child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act; or".

Children and youth.

SEC. 3. Section 101 (8 U.S.C. 1101) is amended by striking out paragraph (1) of subsection (c).

SEC. 4. Section 202(b) (8 U.S.C. 1152(b)) is amended to read:

"(b) Each independent country, self-governing dominion, mandated territory, and territory under the international trusteeship system of the United Nations, other than the United States and its outlying possessions, shall be treated as a separate foreign state for the purposes of the numerical limitation set forth in the proviso to subsection (a) of this section when approved by the Secretary of State. All other inhabited lands shall be attributed to a foreign state specified by the Secretary of State. For the purposes of this Act the foreign state to which an immigrant is chargeable shall be determined by birth within such foreign state except that (1) an alien child, when accompanied by or following to join his alien parent or parents, may be charged to the foreign state of either parent if such parent has received or would be qualified for an immigrant visa, if necessary to prevent the separation of the child from the parent or parents, and if immigration charged to the foreign state to which such parent has been or would be chargeable has not reached the numerical limitation set forth in the proviso to subsection (a) of this section for that fiscal year; (2) if an alien is chargeable to a different foreign state from that of his spouse, the foreign state to which such alien is chargeable may, if necessary to prevent the separation of husband and wife, be determined by the foreign state of the spouse he is accompanying or following to join, if such spouse has received or would be qualified for an immigrant visa and if immigration charged to the foreign state to which such spouse has been or would be chargeable has not reached the numerical limitation set forth in the proviso to subsection (a) of this section for that fiscal year; (3) an alien born in the United States shall be considered as having been born in the country of which he is a citizen ~~or subject~~, or, if he is not a citizen or subject of any country, in the last foreign country in which he had his residence as determined by the consular officer; (4) an alien born within any foreign state in which neither of his

United Nations.
Foreign states.

Children and youth.

parents was born and in which neither of his parents had a residence at the time of such alien's birth may be charged to the foreign state of either parent.".

SEC. 5. (a) Section 221 (8 U.S.C. 1201) is amended in the following respects:

(a) Subsection (a) is amended by substituting the words "foreign state" for the word "quota" wherever the latter appears; by changing the word "immigration" to read "immigrant"; and by deleting the words "one copy of".

(b) Subsection (b) is amended to read:

"(b) Each alien who applies for a visa shall be registered in connection with his application, and shall furnish copies of his photograph signed by him for such use as may be by regulations required. The requirements of this subsection may be waived in the discretion of the Secretary of State in the case of any alien who is within that class of nonimmigrants enumerated in sections 101(a)(15)(A), and 101(a)(15)(G), or in the case of any alien who is granted a diplomatic visa on a diplomatic passport or on the equivalent thereof.".

8 USC 1101.

(c) Subsection (c) is amended to read:

Regulations. Children and youth.

"(c) An immigrant visa shall be valid for such period, not exceeding four months, as shall be by regulations prescribed, except that any visa issued to a child lawfully adopted by a United States citizen and spouse while such citizen is serving abroad in the United States Armed Forces, or is employed abroad by the United States Government, or is temporarily abroad on business, shall be valid until such time, for a period not to exceed three years, as the adoptive citizen parent returns to the United States in due course of his service, employment, or business. A nonimmigrant visa shall be valid for such periods as shall be by regulations prescribed. In prescribing the period of validity of a nonimmigrant visa in the case of nationals of any foreign country who are eligible for such visas, the Secretary of State shall, insofar as practicable, accord to such nationals the same treatment upon a reciprocal basis as such foreign country accords to nationals of the United States who are within a similar class. An immigrant visa may be replaced under the original number during the fiscal year in which the original visa was issued for an immigrant who establishes to the satisfaction of the consular officer that he was unable to use the original immigrant visa during the period of its validity because of reasons beyond his control and for which he was not responsible: *Provided,* That the immigrant is found by the consular officer to be eligible for an immigrant visa and the immigrant pays again the statutory fees for an application and an immigrant visa.".

(d) Section 8 of the Act of September 11, 1957 (71 Stat. 641; 8 U.S.C. 1201a) is repealed.

SEC. 6. Section 222 (8 U.S.C. 1202) is amended by—

(a) amending the second and third sentences of subsection (b) thereof to read:

Records.

"The immigrant shall furnish to the consular officer with his application a copy of a certification by the appropriate police authorities stating what their records show concerning the immigrant; a certified copy of any existing prison record, military record, and record of his birth; and a certified copy of all other records or documents concerning him or his case which may be required by the consular officer. The copy of each document so furnished shall be

permanently attached to the application and become a part thereof.".

(b) amending the first two sentences of subsection (e) thereof to read:

"(e) Except as may be otherwise prescribed by regulations, each application required by this section shall be signed by the applicant in the presence of the consular officer, and verified by the oath of the applicant administered by the consular officer. The application for an immigrant visa, when visaed by the consular officer, shall become the immigrant visa.".

SEC. 7. (a) Section 212(a) (8 U.S.C. 1182(a)) is amended by: repealing paragraph (24) thereof: *Provided,* That no paragraph following paragraph (24) shall be redesignated as a result of this amendment.

(b) Section 238 (8 U.S.C. 1228) is amended by repealing subsection (a) thereof and by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d) respectively.

(c) Section 241(a) (8 U.S.C. 1251(a)) is amended by repealing paragraph (10) thereof: *Provided,* That no paragraph following paragraph (10) shall be redesignated as a result of this amendment.

SEC. 8. Section 261 (8 U.S.C. 1301) is amended to read: "No visa shall be issued to any alien seeking to enter the United States until such alien has been registered in accordance with section 221(b).".

SEC. 9. Subsection (a) of section 262 (8 U.S.C. 1302) is amended by deleting the words "section 221(b) of this Act or".

SEC. 10. The first sentence of section 264(a) (8 U.S.C. 1304) is amended to read:

"(a) The Attorney General and the Secretary of State jointly are authorized and directed to prepare forms for the registration of aliens under section 261 of this title, and the Attorney General is authorized and directed to prepare forms for the registration and fingerprinting of aliens under section 262 of this title.".

SEC. 11. Sections (1) and (2) of the Act of October 24, 1962 (76 Stat. 1247, Public Law 87-885) and section 25(a) of the Act of September 26, 1961 (75 Stat. 650, Public Law 87-301) are repealed. 8 USC 1153 notes.

SEC. 12. Section 301(g) (8 U.S.C. 1401(g)) is amended by striking out "ten years, at least five" and inserting in lieu thereof "five years, at least two".

SEC. 13. Subsection (a) of section 309 (8 U.S.C. 1409) is amended—

(a) by striking out "paragraphs (3), (4), (5), and (7) of section 301(a)" and inserting in lieu thereof "paragraphs (c), (d), (e), and (g) of section 301"; and

(b) by striking out all after "wedlock", and inserting in lieu thereof "if a blood relationship between the child and the father is established by clear and convincing evidence, provided the father had the nationality of the United States at the time of the child's birth, the father unless deceased has agreed in writing to provide financial support for the child until such child reaches the age of eighteen years and if, while such child is under the age of eighteen years, (1) such child is legitimated under the law of the child's residence or domicile, or (2) the father acknowledges paternity of the child in writing under oath, or (3) paternity of the child is established by adjudication of a competent court.". Children and youth.

SEC. 14. Section 320(a) (8 U.S.C. 1431(a)) is amended by inserting "unmarried and" after "(1) such naturalization takes place while such child is".

SEC. 15. Section 321(a) (8 U.S.C. 1432(a)) is amended by inserting "unmarried and" after "(4) Such naturalization takes place while such child is".

SEC. 16. Section 322(a) (8 U.S.C. 1433(a)) is amended by inserting "unmarried and" after "may be naturalized if".

SEC. 17. Subsection (d) of section 340 (8 U.S.C. 1451) is amended by striking out "within five years after such naturalization" and inserting in lieu thereof "within one year after such naturalization".

SEC. 18. Subsection (a) of section 349 (8 U.S.C. 1481) is amended—

(a) by inserting "voluntarily performing any of the following acts with the intention of relinquishing United States nationality:" after "shall lose his nationality by";

(b) by striking out ", upon an application filed in his behalf by a parent, guardian or duly authorized agent, or through the naturalization of a parent having legal custody of such person" and all that follows through "section 101(a)(27)(E)" in paragraph (1) and inserting in lieu thereof "or upon an application filed by a duly authorized agent, after having attained the age of eighteen years";

8 USC 1101.

(c) by inserting ", after having attained the age of eighteen years" in paragraph (2) after "thereof";

(d) by striking out "unless, prior to such entry" and all that follows in paragraph (3) and inserting in lieu thereof "if (a) such armed forces are engaged in hostilities against the United States, or (b) such persons serve as a commissioned or noncommissioned officer; or"; and

(e) by inserting "after attaining the age of eighteen years" after "foreign state or political subdivision thereof," in subparagraph (4)(A);

(f) by inserting "after attaining the age of eighteen years" after "foreign state or political subdivision thereof," in subparagraph (4)(B).

SEC. 19. Section 349 (8 U.S.C. 1481) is further amended by striking subsection (b).

SEC. 20. Subsection (b) of section 351 (8 U.S.C. 1483) is amended by striking "paragraphs (2), (4)," and inserting in lieu thereof "paragraph (3)".

SEC. 21. Section 2 of chapter 24 of the Act of April 14, 1792, amended by the Act of July 12, 1940 (22 U.S.C. 4195), is amended by striking "article by article,".

ISSUANCE OF CERTIFICATES OF CITIZENSHIP FOR CHILDREN ADOPTED BY UNITED STATES CITIZENS

SEC. 22. Section 341 of the Immigration and Nationality Act (8 U.S.C. 1452) is amended—

(1) by inserting "(a)" after "341.", and

(2) by adding at the end the following new subsection:

"(b)(1) The adoptive citizen parent or parents of a child described in paragraph (2) may apply to the Attorney General for a certificate of citizenship for the child. Upon proof to the satisfaction of the Attorney General that the applicant and spouse, if married, are citizens of the United States, whether by birth or by naturalization, and that the child is described in paragraph (2), the child shall become a citizen of the United States and shall be furnished by the Attorney General with a certificate of citizenship, but only if the child is at the time within the United States.

"(2) A child described in this paragraph is a child born outside of the United States who—

"(A) is under the age of 18 years,

"(B) is adopted before the child reached the age of 16 years by a parent who is a citizen of the United States, either by birth or naturalization, and

"(C) is residing in the United States in the custody of the adopting citizen parent, pursuant to a lawful admission for permanent residence.".

Approved November 14, 1986.

LEGISLATIVE HISTORY—H.R. 4444:

HOUSE REPORTS: No. 99-916 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 29, considered and passed House.
Oct. 18, considered and passed Senate, amended; House concurred in Senate amendment.

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PUBLIC LAW 99-654—NOV. 14, 1986

SEXUAL ABUSE ACT OF 1986

91-139 O - 87 - (6787)

Public Law 99-654
99th Congress

An Act

Nov. 14, 1986
[H.R. 4745]

To amend title 18, United States Code, with respect to sexual abuse.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Sexual Abuse Act of 1986.

SECTION 1. SHORT TITLE.

18 USC 2241 note.

This Act may be cited as the "Sexual Abuse Act of 1986".

SEC. 2. DEFINITION OF SEXUAL ABUSE OFFENSES.

Title 18, United States Code, is amended by inserting after chapter 109 the following new chapter:

"CHAPTER 109A—SEXUAL ABUSE

"Sec.
"2241. Aggravated sexual abuse.
"2242. Sexual abuse.
"2243. Sexual abuse of a minor or ward.
"2244. Abusive sexual contact.
"2245. Definitions for chapter.

18 USC 2241.

"§ 2241. Aggravated sexual abuse

"(a) BY FORCE OR THREAT.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly causes another person to engage in a sexual act—

"(1) by using force against that other person; or

"(2) by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnaping;

or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.

"(b) BY OTHER MEANS.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly—

"(1) renders another person unconscious and thereby engages in a sexual act with that other person; or

Drugs and drug abuse. Alcohol and alcoholic beverages.

"(2) administers to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby—

"(A) substantially impairs the ability of that other person to appraise or control conduct; and

"(B) engages in a sexual act with that other person;

or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.

"(c) WITH CHILDREN.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who has not attained the age of 12 years, or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.

"(d) STATE OF MIND PROOF REQUIREMENT.—In a prosecution under subsection (c) of this section, the Government need not prove that the defendant knew that the other person engaging in the sexual act had not attained the age of 12 years.

"§ 2242. Sexual abuse 18 USC 2242.

"Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly—

"(1) causes another person to engage in a sexual act by threatening or placing that other person in fear (other than by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnaping); or

"(2) engages in a sexual act with another person if that other person is—

"(A) incapable of appraising the nature of the conduct; or

"(B) physically incapable of declining participation in, or communicating unwillingness to engage in, that sexual act;

or attempts to do so, shall be fined under this title, imprisoned not more than 20 years, or both.

"§ 2243. Sexual abuse of a minor or ward 18 USC 2243.

"(a) OF A MINOR.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who—

"(1) has attained the age of 12 years but has not attained the age of 16 years; and

"(2) is at least four years younger than the person so engaging;

or attempts to do so, shall be fined under this title, imprisoned not more than five years, or both.

"(b) OF A WARD.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who is—

"(1) in official detention; and

"(2) under the custodial, supervisory, or disciplinary authority of the person so engaging;

or attempts to do so, shall be fined under this title, imprisoned not more than one year, or both.

"(c) DEFENSES.—(1) In a prosecution under subsection (a) of this section, it is a defense, which the defendant must establish by a preponderance of the evidence, that the defendant reasonably believed that the other person had attained the age of 16 years.

"(2) In a prosecution under this section, it is a defense, which the defendant must establish by a preponderance of the evidence, that the persons engaging in the sexual act were at that time married to each other.

"(d) STATE OF MIND PROOF REQUIREMENT.—In a prosecution under subsection (a) of this section, the Government need not prove that the defendant knew—

"(1) the age of the other person engaging in the sexual act; or

"(2) that the requisite age difference existed between the persons so engaging.

"§ 2244. Abusive sexual contact 18 USC 2244.

"(a) SEXUAL CONDUCT IN CIRCUMSTANCES WHERE SEXUAL ACTS ARE PUNISHED BY THIS CHAPTER.—Whoever, in the special maritime and

territorial jurisdiction of the United States or in a Federal prison, knowingly engages in or causes sexual contact with or by another person, if so to do would violate—

"(1) section 2241 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than five years, or both;

"(2) section 2242 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than three years, or both;

"(3) subsection (a) of section 2243 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than one year, or both; or

"(4) subsection (b) of section 2243 of this title had the sexual contact been a sexual act, shall be fined not more than $5,000, imprisoned not more than six months, or both.

"(b) IN OTHER CIRCUMSTANCES.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in sexual contact with another person without that other person's permission shall be fined not more than $5,000, imprisoned not more than six months, or both.

18 USC 2245.

"§ 2245. Definitions for chapter

"As used in this chapter—

"(1) the term 'prison' means a correctional, detention, or penal facility;

"(2) the term 'sexual act' means—

"(A) contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight;

"(B) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; or

"(C) the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; and

"(3) the term 'sexual contact' means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;

"(4) the term 'serious bodily injury' means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

"(5) the term 'official detention' means—

"(A) detention by a Federal officer or employee, or under the direction of a Federal officer or employee, following arrest for an offense; following surrender in lieu of arrest for an offense; following a charge or conviction of an offense, or an allegation or finding of juvenile delinquency; following commitment as a material witness; following civil commitment in lieu of criminal proceedings or pending resumption of criminal proceedings that are being held in abeyance, or pending extradition, deportation, or exclusion; or

"(B) custody by a Federal officer or employee, or under the direction of a Federal officer or employee, for purposes incident to any detention described in subparagraph (A) of this paragraph, including transportation, medical diagnosis or treatment, court appearance, work, and recreation;

but does not include supervision or other control (other than custody during specified hours or days) after release on bail, probation, or parole, or after release following a finding of juvenile delinquency.".

SEC. 3. CONFORMING AND RELATED AMENDMENTS.

(a) OTHER TITLE 18 AMENDMENTS.—Title 18, United States Code, is amended—

(1) by striking out chapter 99;

18 USC 2031, 2032.

(2) in subsection (a) of section 113 by striking out "or rape";

(3) in subsection (b) of section 113 by striking out "rape" and inserting in lieu thereof "a felony under chapter 109A";

(4) in subsection (a) of section 1111 by striking out ", rape" and inserting in lieu thereof "aggravated sexual abuse or sexual abuse";

(5) in section 1153—

Ante, p. 438.

(A) in the first paragraph, by striking out "rape, involuntary sodomy, carnal knowledge of any female, not his wife, who has not attained the age of sixteen years, assault with intent to commit rape," and inserting in lieu thereof "a felony under chapter 109A,"; and

Ante, p. 3660.

(B) in each of the second and third paragraphs, by striking out ", involuntary sodomy,";

(6) in paragraph (12) of section 3185 by striking out "Rape;" and inserting in lieu thereof "A felony under chapter 109A of this title;"; and

(7) in the table of chapters at the beginning of part I—

(A) by striking out the item relating to chapter 99; and

(B) by inserting after the item relating to chapter 109 the following new item:

"109A. Sexual Abuse ..... 2241".

(b) NON-TITLE 18 PROVISIONS.—(1) The Public Health Service Act is amended—

(A) in section 1904(a)(1)(G) (42 U.S.C. 300w-3(a)(1)(G)) by striking out "rape victims and for rape prevention" and inserting in lieu thereof "victims of sex offenses and for prevention of sex offenses"; and

(B) in section 1905(c)(6) (42 U.S.C. 300w-4(c)(6)) by striking out "rape" and inserting "sex offense" in lieu thereof.

(2) The heading of title VI of the Mental Health Systems Act is amended by striking out "RAPE" and inserting "SEX OFFENSE" in lieu thereof.

94 Stat. 1602.

(3) The heading for section 601 of the Mental Health Systems Act (42 U.S.C. 9511) is amended by striking out "RAPE" and inserting "SEX OFFENSE" in lieu thereof.

(4) Section 601(a) of the Mental Health Systems Act (42 U.S.C. 9511(a)) is amended by striking out "Rape" and inserting "Sex Offenses" in lieu thereof.

(5) Section 601(a)(1) of the Mental Health Systems Act (42 U.S.C. 9511(a)(1)) is amended—

(A) in subparagraph (B), by striking out "the act of rape" and inserting "sex offenses" in lieu thereof;

(B) in subparagraph (E), by striking out "rape" and inserting "a sex offense" in lieu thereof; and

(C) by striking out "rape" each place it appears other than in subparagraphs (B) and (E) and inserting "sex offenses" in lieu thereof.

(6) Section 601(a)(3) of the Mental Health Systems Act (42 U.S.C. 9511(a)(3)) is amended by striking out "rape" each place it appears and inserting "sex offenses" in lieu thereof.

(7) Section 601(e) of the Mental Health Systems Act (42 U.S.C. 9511(e)) is amended by striking out "rape" the first place it appears and inserting "sex offense" in lieu thereof.

(8) Section 902(k)(1) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1472(k)(1)), is amended by striking out "2031, 2032" and inserting in lieu thereof "chapter 109A".

SEC. 4. EFFECTIVE DATE.

18 USC 2241 note.

This Act and the amendments made by this Act shall take effect 30 days after the date of the enactment of this Act.

Approved November 14, 1986.

LEGISLATIVE HISTORY—H.R. 4745:

HOUSE REPORTS: No. 99-594 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 132 (1986):
May 12, considered and passed House.
Oct. 18, considered and passed Senate.

O

Public Law 99-655
99th Congress

An Act

Entitled the "Lower Colorado Water Supply Act".

Nov. 14, 1986
[H.R. 5028]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Contracts.

SECTION 1. AUTHORIZATION.

Regulations.

(a) The Secretary of the Interior is authorized to construct, operate, and maintain the Lower Colorado Water Supply Project, California, in order to supply water for domestic, municipal, industrial, and recreational purposes only: *Provided,* That, the Secretary is hereby authorized, in his discretion, to contract with non-Federal interests for the care, operation, and maintenance of all or any part of the project works, subject to such rules and regulations as he may prescribe. Such project shall be constructed in stages as increases in demand warrant and substantially in accordance with the plans set forth in the document entitled "Lower Colorado Water Supply Study, California" (December 1985): *Provided,* That the Secretary is prohibited from constructing facilities with a total capacity in excess of ten thousand acre-feet per annum under authority of this Act.

(b)(1) The Secretary is further authorized to enter into exchange contracts and take such actions as the Secretary deems appropriate to facilitate a water exchange agreement between non-Federal interests and those interests designated in section 2(b) of this Act in which such non-Federal interests agree to exchange a portion of their rights to divert water from the Colorado River for an equivalent quantity and quality of groundwater to be withdrawn from a well field located in the Sand Hills area, Imperial County, California.

(2) The Secretary is prohibited from executing any contracts under the authority of subsection (b)(1) of this section until such contracts have been submitted to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate and ninety calendar days have elapsed.

SEC. 2. REPAYMENT OF COSTS.

(a) The Secretary is prohibited from obligating or expending any of the funds authorized to be appropriated by section 3 of this Act until—

(1) a study has been completed, and submitted to the appropriate committees of the Congress, allocating among the Federal and non-Federal beneficiaries the capital costs and the costs of operating, maintaining, and replacing the project authorized by section 1 of this Act;

(2) the Secretary has entered into a contract or contracts with non-Federal interests for repayment of the capital costs, plus interest, as determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which the contract is executed, on the basis of the average market yields on outstanding

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marketable obligations of the United States with remaining periods to maturity comparable to the applicable reimbursement period of the project, adjusted to the nearest one-eighth of 1 per centum, allocated to non-Federal interests for domestic, municipal, industrial, and recreational purposes as identified in the cost allocation study prepared under subsection (a)(1): *Provided,* That the terms and provisions of such contracts and repayment shall be governed by the provisions of the Water Supply Act of 1958 which were in effect on January 1, 1986;

43 USC 390b note.

(3) the Secretary has entered into a contract or contracts with non-Federal interests for payment of 100 per centum of the costs allocated to such non-Federal interests for the operation, maintenance, and replacement of the project on a current basis; and

(4) the Secretary has transmitted to Congress the final planning report/environmental assessment on the Lower Colorado Water Supply Project.

California.

(b) Any contracts executed by the Secretary to fulfill the requirements of subsections (a)(2) and (a)(3) of this section must be with persons, or Federal or non-Federal governmental entities whose lands or interests in lands are located adjacent to the Colorado River in the State of California who do not hold rights to Colorado River water or whose rights are insufficient to meet their present or anticipated future needs, as determined by the Secretary. Such persons, or Federal or non-Federal governmental entities shall include the city of Needles, the town of Winterhaven, and other domestic, municipal, industrial, and recreational water users along the Colorado River in the State of California.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the construction through September 30, 1993, of the Lower Colorado Water Supply Project the sum of $1,800,000 plus or minus such amounts, if any, as may be justified by reason of ordinary cost indices applicable to the types of construction involved therein and in addition thereto such sums as may be required for operation, maintenance and replacement of that portion of the project used to supply domestic, municipal, industrial, or recreational water supplies for lands managed by the Federal Government. No funds are authorized to be appropriated for payment of the operation, maintenance, or replacement costs allocated to non-Federal beneficiaries as determined by the study undertaken under authority of section 2(a)(1).

SEC. 4. CONTRIBUTION OF CONSTRUCTION COSTS.

The Secretary is authorized to accept monetary contributions from the city of Needles and other incorporated cities for the construction of project features of the Lower Colorado Water Supply Project allocated to the provision of water supplies to the city of Needles and other incorporated cities: *Provided,* That, such contributions shall be credited toward the reimbursable costs to be repaid by the city of Needles and other incorporated cities pursuant to the contracts entered into pursuant to section 2 of this Act. Such contributions by the city of Needles and other incorporated cities shall be contributed during the construction of the appropriate project features and shall constitute 20 percent of the costs of such project features allocated to the city of Needles and other incorporated cities for repayment.

SEC. 5. SAVINGS PROVISION.

Nothing contained in this Act shall be construed to alter, repeal, modify, interpret, or be in conflict with the provisions of the Colorado River Compact (45 Stat. 1057), the Water Treaty of 1944 with the United Mexican States (Treaty Series 994, 59 Stat. 1219), the decree entered by the Supreme Court of the United States in Arizona against California, and others (376 U.S. 340), the Boulder Canyon Project Act (45 Stat. 1057), the Boulder Canyon Project Adjustment Act (54 Stat. 774; 43 U.S.C. 618a), or the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501). Nor shall any provision of this Act—

(a) affect the rights or jurisdictions of the United States, the States, Indian tribes, or other entities over waters of any river or streams or over any groundwater resources, or

(b) otherwise be construed to alter or establish the respective rights of States, the United States, Indian tribes, or any person with respect to any water or water-related right.

Approved November 14, 1986.

LEGISLATIVE HISTORY—H.R. 5028:

HOUSE REPORTS: No. 99-650 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 99-496 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
June 24, considered and passed House.
Oct. 9, considered and passed Senate, amended.
Oct. 15, House disagreed to Senate amendment.
Oct. 18, Senate receded from its amendment.

O

Public Law 99-656
99th Congress

An Act

Nov. 14, 1986
[H.R. 5363]

To amend the interest provisions of the Declaration of Taking Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of February 26, 1931 (40 U.S.C. 258a through 258e), is amended—

(1) in the second paragraph of the first section by striking "interest at the rate of 6 per centum per annum", and inserting "interest in accordance with section 6 of this Act"; and

Infra.

(2) by adding at the end the following:

40 USC 258e-1.

"SEC. 6. Interest required to be paid under this Act shall be calculated by the district court as follows:

"(1) Where the period for which interest is owed does not exceed one year, interest shall be calculated for such period from the date of taking at an annual rate equal to the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of 52 week United States Treasury bills settled immediately before the date of taking.

"(2) Where the period for which interest is owed is more than one year, interest for the first year shall be calculated in accordance with paragraph (1) and interest for each additional year shall be calculated on the combined amount of the principal (the amount by which the award of compensation exceeds the deposit referred to in the first section of this Act) and accrued interest at an annual rate equal to the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of 52 week United States Treasury bills settled immediately before the beginning of each additional year.

The Director of the Administrative Office of the United States Courts shall distribute to all Federal courts notice of the rates described in paragraphs (1) and (2).".

Health and medical care.
11 USC 1106 note.
11 USC 1101.

SEC. 2. (a) Notwithstanding any other provision of chapter 11 of title 11, United States Code, the bankruptcy trustee in each case described in subsection (b) shall pay benefits until May 15, 1987, to retired former employees under a plan, fund, or program maintained or established by the debtor in such case prior to filing a petition (through the purchase of insurance or otherwise) for the purpose of providing medical, surgical, or hospital care benefits, or benefits in the event of sickness, accident, disability, or death.

(b) This section is effective with respect to—

(1) cases commenced under chapter 11 of title 11, United States Code, in which a plan for reorganization has not been confirmed by the court and in which any such benefit is still being paid on October 2, 1986;

(2) in cases under which an order for relief is entered under chapter 11 of title 11, United States Code, after October 2, 1986, while such case is a case under chapter 11; or

91-139 O - 87 (680)

(3) in cases under title 11, United States Code, involving a partnership which was in existence prior to July 17, 1986, and was the subject of a petition under chapter 11 of title 11, United States Code, upon which an order for relief was entered by a bankruptcy court on August 7, 1986, and where one of the partners received bankruptcy court authorization on August 6, 1986, approving rejection of a partnership agreement.

(c) If any provision of this section or the application thereof to any person or circumstance is held invalid, the provisions of every other part of this section and the first section shall not be affected thereby.

Approved November 14, 1986.

LEGISLATIVE HISTORY—H.R. 5363 (S. 2424):

HOUSE REPORTS: No. 99-914 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 29, considered and passed House.
Oct. 16, considered and passed Senate, amended.
Oct. 17, House concurred in certain Senate amendment with an amendment; Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 1986):
Nov. 14, Presidential statement.

O

Public Law 99-657
99th Congress

An Act

Nov. 14, 1986
[H.R. 5674]

To amend title 28, United States Code, with respect to the composition of, and places of holding court in, certain judicial districts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Judicial Housekeeping Act of 1986.
28 USC 1 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Judicial Housekeeping Act of 1986".

SEC. 2. DISTRICT OF SOUTH CAROLINA.

Section 121 of title 28, United States Code, is amended—

(1) by striking "ten divisions" and inserting "eleven divisions";

(2) in paragraph (1)—

(A) by striking "Beaufort,"; and

(B) by striking "Georgetown, and Jasper" and inserting "and Georgetown"; and

(3) by adding at the end the following:

"(11) The Beaufort Division comprises the counties of Beaufort and Jasper.

"Court for the Beaufort Division shall be held at Beaufort.".

SEC. 3. SOUTHERN DISTRICT OF GEORGIA.

Section 90(c) of title 28, United States Code, is amended—

(1) in paragraph (1) by striking "Lincoln" and inserting "Jefferson, Lincoln";

(2) in paragraph (3) by striking "Evans, Liberty, Screven, and Tattnall" and inserting "and Liberty"; and

(3) in paragraph (6) by striking "Jefferson, Jenkins", and inserting "Evans, Jenkins, Screven, Tattnall";

SEC. 4. EFFECTIVE DATE.

28 USC 121 note.

(a) EFFECTIVE DATE.—(1) The amendments made by sections 2 and 3 take effect 90 days after the date of the enactment of this Act.

(2) The amendment made by section 4 takes effect on the date of the enactment of this Act.

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(b) PENDING ACTIONS.—The amendments made by this Act shall not affect any action commenced before the effective date of such amendments and pending on such date.

(c) JURIES.—The amendments made by this Act shall not affect the composition, or preclude the service, of any grand or petit jury summoned, empaneled, or actually serving on the effective date of such amendments.

Approved November 14, 1986.

LEGISLATIVE HISTORY—H.R. 5674:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 14, considered and passed House.
Oct. 18, considered and passed Senate.

○

PUBLIC LAW 99-658—NOV. 14, 1986

COMPACT OF FREE ASSOCIATION, APPROVAL

Public Law 99-658
99th Congress

Joint Resolution

Nov. 14, 1986
[H.J. Res. 626]

To approve the "Compact of Free Association" between the United States and the Government of Palau, and for other purposes.

Trust Territory of the Pacific Islands. Micronesia. Marshall Islands. International agreements. 61 Stat. 3301. United Nations. 59 Stat. 1031.

Whereas the United States is the administering authority of the Trust Territory of the Pacific Islands under the terms of the Trusteeship Agreement for the former Japanese Mandated Islands entered into by the United States with the Security Council of the United Nations on April 2, 1947, and approved by the United States on July 18, 1947; and

Whereas the United States, in accordance with the Trusteeship Agreement, the Charter of the United Nations and the objectives of the international trusteeship system, has promoted the development of the peoples of the Trust Territory toward self-government or independence as appropriate to the particular cicumstances of the Trust Territory and its peoples and the freely expressed wishes of the peoples concerned; and

Whereas the United States, in response to the desires of the people of Palau expressed through their freely-elected representatives and by the official pronouncements and enactments of their lawfully constituted government, and in consideration of its own obligations under the Trusteeship Agreement to promote self-determination, entered into political status negotiations with representatives of the people of Palau; and

Post, p. 3678.

Whereas these negotiations resulted in the "Compact of Free Association" between the United States and Palau which, together with its related agreements, was signed by the United States and by Palau on January 10, 1986; and

Whereas the Compact of Free Association received a favorable vote of a majority of the people of Palau voting in a United Nations-observed plebiscite conducted on February 21, 1986; and

Whereas the Supreme Court of Palau has ruled that the constitutional process of Palau for approval of the Compact of Free Association in accordance with section 411 of the Compact has not yet been completed; and

Whereas the President of Palau has requested the United States to complete the process of United States approval of the Compact of Free Association in accordance with section 411 of the Compact through enactment of an appropriate joint resolution: Now, therefore, be it

48 USC 1681 note.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—APPROVAL OF COMPACT; INTERPRETATION OF, AND UNITED STATES POLICIES REGARDING, COMPACT; SUPPLEMENTAL PROVISIONS

APPROVAL OF COMPACT OF FREE ASSOCIATION

SEC. 101. (a) APPROVAL.—The Compact of Free Association set forth in title II of this joint resolution between the United States and the Government of Palau is hereby approved, and Congress hereby consents to the agreements as set forth on pages 154 through 405 of House Document 99-193 of April 9, 1986 (hereafter in this joint resolution referred to as subsidiary or related agreements), as they relate to such Government. Subject to the provisions of this joint resolution, the President is authorized to agree, in accordance with section 411 of the Compact, to an effective date for and thereafter to implement such Compact, having taken into account any procedures with respect to the United Nations for termination of the Trusteeship Agreement.

48 USC 1681 note.

President of U.S.

(b) REFERENCE TO THE COMPACT.—Any reference in this joint resolution to the "Compact" shall be treated as a reference to the Compact of Free Association set forth in title II of this joint resolution.

(c) AMENDMENT, CHANGE, OR TERMINATION OF THE COMPACT AND CERTAIN AGREEMENTS.—(1) Mutual agreement by the Government of the United States as provided in the Compact which results in amendment, change, or termination of all or any part thereof shall be affected only by Act of Congress and no unilateral action by the Government of the United States provided for in the Compact, and having such result, may be effected other than by Act of Congress.

(2) The provisions of paragraph (1) shall apply—

(A) to all actions of the Government of the United States under the Compact including, but not limited to, actions taken pursuant to sections 431, 432, 441, or 442;

(B) to any amendment, change, or termination in any agreement that may be concluded at any time between the Government of the United States and the Government of Palau regarding friendship, cooperation and mutual security concluded pursuant to sections 321 and 323 of the Compact referred to in section 462(h);

(C) to any amendment, change, or termination of the agreements concluded pursuant to Compact sections 175 and 221(a)(4), the terms of which are incorporated by reference into the Compact; and

(D) to the following subsidiary agreements, or portions thereof:

(i) Article II of the agreement referred to in section 462(a) of the Compact;

(ii) Article II of the agreement referred to in section 462(b) of the Compact;

(iii) Article II and Section 7 of Article X of the agreement referred to in section 462(f) of the Compact;

(iv) the agreement referred to in section 462(g) of the Compact;

(v) Articles II, III, IV, V, VI, and VII of the agreement referred to in section 462(h) of the Compact; and

(vi) Articles VI, XV, and XVII of the agreement referred to in section 462(i) of the Compact.

President of U.S.
Post, p. 3679.

(d) EFFECTIVE DATE.—(1) The authority of the President to agree to an effective date for the Compact of Free Association between the United States and Palau concurrently with termination of the Trusteeship shall be carried out in accordance with this section, and the Compact shall not take effect until after—

(A) The President has certified to the Congress that the Compact has been approved in accordance with Section 411 (a) and (b) of the Compact, and that there exists no legal impediment to the ability of the United States to carry out fully its responsibilities and to exercise its rights under Title Three of the Compact, as set forth in this Act, and

(B) enactment of a joint resolution which has been reported by the Committee on Energy and Natural Resources of the Senate and the Committees on Interior and Insular Affairs and Foreign Affairs and other appropriate Committees of the House of Representatives authorizing entry into force of the Compact, and

(C) agreements have been concluded with Palau which satisfy the requirements of Section 102 of Public Law 99-239. For the purpose of this subsection the word "Palau" shall be substituted for "Federated States of Micronesia" whenever it appears in Section 102 of Public Law 99-239.

99 Stat. 1775.

(2) Any agreement concluded with Palau pursuant to subparagraph 101(d)(1)(C) of this title and any agreement which would amend, change, or terminate any subsidiary agreement or related agreement, or portion thereof, as set forth in paragraph (4) of this subsection shall be submitted to the Congress. No such agreement shall take effect until after the expiration of 30 days after the date such agreement is so submitted (excluding days on which either House of Congress is not in session).

(3) No agreement described in paragraph (2) shall take effect if a joint resolution of disapproval is enacted during the period specified in paragraph (2). For the purpose of expediting the consideration of such a joint resolution, a motion to proceed to the consideration of any such joint resolution after it has been reported by an appropriate committee shall be treated as highly privileged in the House of Representatives. Any such joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of Public Law 94-329.

90 Stat. 765.

(4) The subsidiary agreement of portions thereof referred to in paragraph (2) are as follows:

(A) Articles III and IV of the agreement referred to in section 462(b) of the Compact.

(B) Articles III, IV, V, VI, VII, VIII, IX, and X (except for section 7 thereof) of the agreement referred to in section 462(f) of the Compact.

(C) Articles IV, V, X, XIV, XVI, and XVIII of the agreement referred to in section 462(i) of the Compact.

(D) Articles II, V, VI, VII, and VIII of the agreement referred to in section 462(h) of the Compact.

(E) The agreement referred to in section 462(j) of the Compact.

President of U.S.

(5) No agreement between the United States and the Government of Palau which would amend, change, or terminate any subsidiary or related agreement, or portion thereof, other than those set forth in subsection (d) of this section or paragraph (4) of this subsection, shall take effect until the President has transmitted such an agreement to the President of the Senate and the Speaker of the House of

Representatives, together with an explanation of the agreement and the reasons therefor.

EXTENSION OF COMPACT OF FREE ASSOCIATION TO PALAU

SEC. 102. (a) The interpretation of and United States Policy Regarding the Compact of Free Association set forth in section 104 of Public Law 99-239 shall apply to the Compact of Free Association with Palau. 48 USC 1681 note.

(b) The provisions of section 105, except for subsection (i), section 106, section 110, and section 111 (a) and (d) of Public Law 99-239, as amended, shall apply to Palau in the same manner and to the same extent as such sections apply to the Marshall Islands.

REPEAL OF TITLE V OF THE COMPACT OF FREE ASSOCIATION ACT (PUBLIC LAW 99-239)

SEC. 103. Title V of the Public Law 99-239 is repealed. 48 USC 1681 note.

SUPPLEMENTAL PROVISIONS

SEC. 104. (a) CIVIC ACTION TEAMS.—In recognition of the special development needs of Palau and the Marshall Islands, the United States shall make available United States military Civic Action Teams for use in Palau or the Marshall Islands under terms and conditions mutually agreed upon by the Government of the United States and the Governments of Palau or the Marshall Islands, as appropriate. The Government of Palau may use the amount of $250,000 annually from current account funds provided pursuant to section 211 of the Compact to defray expenditures attendant to the operation of the Civic Action Teams made available pursuant to this subsection. The Government of the Marshall Islands may use the amount of $250,000 annually from current account funds provided under section 211 of Title Two of the Compact of Free Association with the Marshall Islands to defray expenditures attendant to the operation of the Civic Action Teams made available pursuant to this subsection. 48 USC 1681 note. *Post*, p. 3687.

(b) INVENTORY AND STUDY OF NATURAL, HISTORIC, AND OTHER RESOURCES.—The Secretary of the Interior shall conduct, upon request of Palau, the Federated States of Micronesia or the Marshall Islands, and through the Director of the National Park Service, a comprehensive inventory and study of the most unique and significant natural, historical, cultural, and recreational resources of Palau, the Federated States of Micronesia or the Marshall Islands. Areas or sites exhibiting such qualities shall be described and evaluated with the objective of the preservation of their values and their careful use and appreciation by the public, along with a determination of their potential for attracting tourism. Alternative methodologies for such preservation and use shall be developed for each area or site (including continued assistance from the National Park Service); current or impending damage or threats to the resources of such areas or sites shall be identified and evaluated; and authorities needed to properly protect and allow for public use and appreciation shall be identified and discussed. Such inventory and study shall be conducted in full cooperation and consultation with affected governmental officials and the interested public. A full report on such inventory and study shall be transmitted to Palau or the Federated States of Micronesia or the Marshall Islands, the Historic preservation. Cultural programs. Reports.

Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate no later than two complete calendar years after the date of enactment of this joint resolution. The inventory and study shall also identify areas or sites which, if they were located in the United States, would qualify to be listed on the Registry of Natural Landmarks and the National Register of Historic Places.

48 USC 1681 note.

(c) AUTHORIZATION FOR TRANSITION PURPOSES.—Section 105(c)(2) of Public Law 99-239 is amended by deleting "infrastructure." and inserting in lieu thereof "infrastructure, except that, for purposes of an orderly reduction of United States programs and services in the Federated States of Micronesia, the Marshall Islands, and Palau, United States programs or services not specifically authorized by the Compact of Free Association or by other provisions of law may continue but, unless reimbursed by the respective freely associated state, not in excess of the following amounts:

"(1) For fiscal year 1987, an amount not to exceed 75 per centum of the total amount appropriated for such programs for fiscal year 1986;

"(2) For fiscal year 1988, an amount not to exceed 50 per centum of the total amount appropriated for such programs for fiscal year 1986;

"(3) For fiscal year 1989, an amount not to exceed 25 per centum of the total amount appropriated for such programs for fiscal year 1986.".

Reports.

(d) PELELIU AND ANGAUR.—Not later than one year after the date of enactment of this joint resolution, the Secretary of Agriculture, after appropriate studies conducted in consultation with the Government of Palau, shall report to the President and the Congress concerning the feasibility and cost of rehabilitating and restoring the fertility of the topsoil of the islands of Peleliu and Angaur. Upon the request of the Government of Palau, the President shall make the report of the Secretary of Agriculture available to the Government of Palau. Technical assistance to accomplish such rehabilitation and restoration, if feasible, may be provided to the Government of Palau on a nonreimbursable basis, subject to the availability of appropriated funds.

President of U.S.

(e) Neither the Secretary of the Treasury nor any other officer or agent of the United States shall pay or transfer any portion of the sums and amounts payable to the Government of Palau pursuant to this joint resolution to any party other than the Government of Palau. The provisions of section 174(a) of the Compact shall apply with respect to any action based on a contract or debt related to any electrical generating plant or related facilities entered into or incurred by Palau prior to the date of enactment of this joint resolution.

Contracts.
Energy.

(f) Amounts appropriated to be paid pursuant to section 177 of Article I of Title One or Articles I and III of Title Two of the Compact of Free Association with the Federated States of Micronesia and the Marshall Islands, as set forth in Title II of the Compact of Free Association Act of 1985, or pursuant to section 103(h), 103(k), or 105(m) of such Act (Public Law 99-239), or pursuant to Article I of Title Two of the Compact with Palau, as set forth in Title II of this joint resolution, or section 104(*l*) of this joint resolution shall not be reduced, notwithstanding Public Law 99-177, Public Law 99-366,

48 USC 1681 note.

99 Stat. 1037; *ante*, p. 773.

and other law enacted to implement Public Law 99-177, or any other provision of law.

(g) The Congress reaffirms all of the understandings, interpretations, and policy statements contained in Public Law 99-239 (99 Stat. 1770). Congressional Resolution 4-60 adopted by the 4th Congress of the Federated States of Micronesia on March 26, 1986 and Resolution No. 62 adopted by the Nitijela of the Marshall Islands on February 18, 1986 do not exclude, limit or modify any provision of the Compact of Free Association as approved by the United States. To the extent that any understandings, interpretations, and policy statements contained in such Resolutions are inconsistent with the provisions of Public Law 99-239, the United States does not concur therein. The President shall take such steps, including but not limited to, communicating with the Governments of the Federated States of Micronesia and the Republic of the Marshall Islands, as may be necessary to preserve all rights of the United States in connection with interpretation and implementation of such Public Law.

Congress.

48 USC 1681 note.

President of U.S.

(h) ADDITIONAL PROVISIONS RELATING TO TITLE THREE OF THE COMPACT.—

(1) The Government of the United States recognizes and respects the scarcity and special importance of land in Palau. In making any designation of land pursuant to section 322 of the Compact, the Government of the United States shall follow the policy of requesting the minimum area necessary to accomplish the required security and defense purpose, of requesting only the minimum interest in real property necessary to support such purpose, and of requesting first to satisfy the requirement through public real property, where available, rather than through private real property.

Defense and national security. Real property.

(2) The Armed Forces of other nations invited to use military areas and facilities in Palau pursuant to section 312 of the Compact shall be permitted only as it is incident to the authority and under the control of the United States. The activities of such third country forces shall be subject to the same limitations and restrictions applicable to the authority of the United States under the terms of the Compact.

(3) The Government of the United States considers "Exclusive use" areas established for the United States pursuant to Title Three of the Compact to be "within the jurisdiction of Palau," as that term is used in section 324 of the Compact.

(i) Notwithstanding any other provision of law, funds appropriated for the Compact of Free Association, Public Law 99-239, or this joint resolution, in the act of making supplemental appropriations for fiscal year 1986, shall remain available until expended.

(j)(1) Section 4(c) of the Act of December 27, 1974 (88 Stat. 1784; 16 U.S.C. 460ff-3(c)) is amended by inserting "(1)" after "(c)" and by adding the following at the end thereof:

"(2) The Secretary is authorized and directed, in cooperation with the Secretary of Agriculture, the State of Ohio, and affected local governments, to undertake a program of and treatment for the purpose of restoring suitable vegetative cover to substantially eliminate erosion from all lands, public and private, within the authorized boundaries of the recreation area. In the case of any private lands, within such authorized boundaries such treatment may be undertaken only with the consent of the owner thereof and shall be contingent upon assurances that such land treatment will

Ohio. State and local governments. Conservation.

be maintained by the owner for a period of not less than ten years. The Secretary shall, in conjunction with such program, take such actions as may be required to correct areas of ecological degradation which create hazards to health and safety.".

Environmental protection. Safety.

(2) Section 6 of such Act (16 U.S.C. 460ff-5) is amended by adding the following at the end thereof:

Appropriation authorization.

"(c) There are hereby authorized to be appropriated not more than $500,000 for fiscal year 1986, $1,000,000 for fiscal year 1987, $1,500,000 for fiscal year 1988, and $1,750,000 for fiscal year 1989, to carry out the provisions of section 4(c)(2) of this Act. Any amounts authorized to be appropriated for any fiscal year under this subsection which are not appropriated for that fiscal year shall remain available for appropriation in succeeding fiscal years.".

Contracts.

Effective date.

(3) No authority under this subsection to enter into contracts or to make payments shall be effective except to the extent and in such amounts as provided in advance in appropriations Acts. Any provision of this subsection which authorizes the enactment of new budget authority shall be effective only for fiscal years beginning after September 30, 1985.

Reports. Health and medical care. Agriculture and agricultural commodities.

48 USC 1681 note.

(k) The Departments of Energy and Interior are directed to provide the Committees on Appropriations of the House and Senate with a report by December 1 of each fiscal year detailing how funds were spent during the previous fiscal year for the special medical care and logistical support program for Rongelap and Utrik and for the agriculture and food programs for Eniwetok and Bikini as referenced in Section 103(h) of Public Law 99-239. The report shall also specify the anticipated needs during the current and following fiscal years in order to meet the radiological health care and logistical support program for Rongelap and Utrik and the planting, agricultural maintenance, and food programs for Eniwetok and Bikini. It is the sense of the Congress that the special medical care and logistical support program for Rongelap and Utrik and for the agriculture and food programs for Eniwetok and Bikini described in section 103(h) of Public Law 99-239 represent special and continuing moral commitments of the United States which will be annually funded to the extent of the need of the populations of such atolls for such assistance.

TITLE II—COMPACT OF FREE ASSOCIATION

COMPACT OF FREE ASSOCIATION

48 USC 1681 note.

SEC. 201. Compact of Free Association is as follows:

COMPACT OF FREE ASSOCIATION

PREAMBLE

THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF PALAU

Human rights.

Affirming that their Governments and the relationship between their Governments are founded upon respect for human rights and fundamental freedoms for all, and

Affirming the common interests of the United States of America and the people of Palau in creating close and mutually beneficial relationships through a free and voluntary association of their Governments; and

Affirming the interest of the Government of the United States in promoting the economic advancement and self-sufficiency of the people of Palau; and

Recognizing that their previous relationship has been based upon the International Trusteeship System of the United Nations Charter; and that pursuant to Article 76 of the Charter, the peoples of the Trust Territory have progressively developed their institutions of self-government, and that in the exercise of their sovereign right to self-determination they have, through their free-expressed wishes, adopted a Constitution appropriate to their particular circumstances; and

59 Stat. 1031.

Recognizing their common desire to terminate the Trusteeship and establish a new government-to-government relationship in accordance with a new political status based on the freely-expressed wishes of the people of Palau and appropriate to their particular circumstances; and

Recognizing that the people of Palau have and retain their sovereignty and their sovereign right to self-determination and the inherent right to adopt and amend their own Constitution and form of government and that the approval of the entry of their Government into this Compact of Free Association by the people of Palau constitutes an exercise of their sovereign right to self-determination;

NOW, THEREFORE, AGREE to enter into relationship of free association which provides a full measure of self-government for the people of Palau; and

FURTHER AGREE that the relationships of free association derives from and is as set forth in this Compact; and that, during such relationships of free association, the respective rights and responsibilities of the Government of the United States and the Government of the freely associated state of Palau in regard to this relationship of free association derives from and is as set forth in this Compact.

TITLE ONE

GOVERNMENT RELATIONS

Article I

Self-government

Section 111

The people of Palau, acting through their duly elected government established under their constitution, are self-governing.

Article II

Foreign Affairs

Section 121

(a) The Republic of Palau has the capacity to conduct foreign affairs in its own name and right, except as otherwise provided in this Compact and the Government of the United States recognizes that the Government of Palau, in the exercise of this capacity, may enter into, in its own name and right, treaties and other international agreements with governments and regional and international organizations.

International organizations.

(b) In the conduct of its foreign affairs the Government of Palau confirms that it shall act in accordance with principles of international law and shall settle its international disputes by peaceful means.

Section 122

International organizations.

The Government of the United States shall support application by the Government of Palau for membership or other participation in regional or international organizations as may be mutually agreed. The Government of the United States agrees to accept citizens of Palau for training and instruction at the United States Foreign Service Institute, established under 22 U.S.C. 4021, or similar training under terms and conditions to be mutually agreed.

Section 123

In recognition of the authority and responsibility of the Government of the United States under Title Three, the Government of Palau shall consult with the Government of the United States. The Government of the United States, in the conduct of its foreign affairs, shall consult with the Government of Palau on matters which the Government of the United States regards as relating to or affecting the Government of Palau, and shall provide, on a regular basis, information on regional foreign policy matters.

Section 124

Conservation. Research and development. Maritime activities.

(a) The Government of Palau has authority to conduct its foreign affairs relating to law of the sea and marine resources matters, including the harvesting, conservation, exploration or exploitation of living and nonliving resources from the sea, seabed or subsoil to the full extent recognized under international law.

(b) The Government of Palau has jurisdiction and sovereignty over its territory, including its land and internal waters, territorial seas, the airspace superjacent thereto only to the extent recognized under international law.

Section 125

Except as otherwise provided in this Compact or its related agreements, all obligations, responsibilities, rights and benefits of the Government of the United States as administering authority which have resulted from the application pursuant to the Trusteeship Agreement of any treaty or other international agreement to the Trust Territory of the Pacific Islands on the day preceding the effective date of this Compact are no longer assumed and enjoyed by the Government of the United States.

Section 126

The Government of the United States shall accept responsibility for those actions taken by the Government of Palau in the area of foreign affairs, only as may from time to time be expressly and mutually agreed.

Section 127

The Government of the United States may assist or act on behalf of the Government of Palau in the area of foreign affairs as may be requested and mutually agreed from time to time. The Government of the United States shall not be responsible to third parties for the actions of the Government of Palau undertaken with the assistance or through the agency of the Government of the United States pursuant to this Section unless expressly agreed.

Section 128

At the request of the Government of Palau and subject to the consent of the receiving state, the Government of the United States shall extend consular assistance on the same basis as for citizens of

the United States to citizens of Palau for travel outside of Palau, the Marshall Islands, the Federated States of Micronesia, the United States and its territories and possessions.

Article III

Communications

Section 131

(a) The Government of Palau has full authority and responsibility to regulate its domestic and foreign communications, and the Government of the United States shall provide communication assistance in accordance with the terms of a related agreement which shall come into effect simultaneously with this Compact, and such agreement shall remain in effect until such time as any election is made pursuant to Section 131(b) and which shall provide for the following:

(1) the Government of the United States remains the sole administration entitled to make notification to the International Frequency Registration Board of the International Telecommunications Union of frequency assignments to radio communications stations in Palau; and to submit to the International Frequency Registration Board seasonal schedules for the broadcasting stations in Palau in the bands allocated exclusively to the broadcasting service between 5,950 and 26,100 kHz and in any other additional frequency bands that may be allocated to use by high frequency broadcasting stations; and

(2) the United States Federal Communications Commission has jurisdiction, pursuant to the Communications Act of 1934, 47 U.S.C. 151 et seq., and the Communications Satellite Act of 1962, 47 U.S.C. 721 et seq., over all domestic and foreign communications services furnished by means of satellite earth terminal stations where such stations are owned or operated by United States common carriers and are located in Palau.

(b) The Government of Palau may elect at any time to undertake the functions enumerated in Section 131(a) and previously performed by the Government of the United States. Upon such election, the Government of the United States shall so notify the International Frequency Registration Board and shall take such other actions as may be necessary to transfer to the Government of Palau the notification authority referred to in Section 131(a) and all rights deriving from the previous exercise of any such notification authority by the Government of the United States.

Section 132

The Government of Palau shall permit the Government of the United States to operate telecommunications services in Palau to the extent necessary to fulfill the obligations of the Government of the United States under this Compact in accordance with the terms of related agreements which shall come into effect simultaneously with this Compact.

Article IV

Immigration

Section 141

(a) Any person in the following categories may enter into, lawfully engage in occupations, and establish residence as a nonimmigrant in the United States and its territories and possessions without regard to paragraphs (14), (20), and (26) of section 212(a) of the Immigration and Nationality Act, 8 U.S.C. 1182(a) (14), (20), and (26):

(1) a person who, on the day preceding the effective date of this Compact, is a citizen of Trust Territory of the Pacific Islands, as defined in Title 53 of the Trust Territory Code in force on January 1, 1979, and has become a citizen of Palau;

(2) a person who acquires the citizenship of Palau, at birth, on or after the effective date of the Constitution of Palau; or

(3) a naturalized citizen of Palau, who has been an actual resident there for not less than five years after attaining such naturalization and who holds a certificate of actual residence.

Such persons shall be considered to have the permission of the Attorney General of the United States to accept employment in the United States.

Discrimination, prohibition.

(b) The right of such persons to establish habitual residence in a territory or possession of the United States may, however, be subjected to nondiscriminatory limitations provided for:

(1) in statutes or regulations of the United States; or

(2) in those statutes or regulations of the territory or possession concerned which are authorized by the laws of the United States.

8 USC 1101 note.

(c) Section 141(a) does not confer on a citizen of Palau, the right to establish the residence necessary for naturalization under the Immigration and Nationality Act, or to petition for benefits for alien relatives under that Act. Section 141(a), however, shall not prevent a citizen of Palau from otherwise acquiring such rights or lawful permanent resident alien status in the United States.

Discrimination, prohibition.

Section 142

(a) Any citizen or national of the United States may enter into, lawfully engage in occupations, and reside in Palau, subject to the right of that Government to deny entry to or deport any such citizen or national as an undesirable alien. A citizen or national of the United States may establish habitual residence or domicile in Palau only in accordance with the laws of Palau. This subsection is without prejudice to the right of the Government of Palau to regulate occupations in Palau in a nondiscriminatory manner.

(b) With respect to the subject matter of this Section, the Government of Palau shall accord to citizens and nationals of the United States treatment no less favorable than that accorded to citizens of other countries; any denial of entry to or deportation of a citizen or national of the United States as an undesirable alien must be pursuant to reasonable statutory grounds.

Section 143

(a) The privileges set forth in Section 141 shall not apply to any person who takes an affirmative step to preserve or acquire a citizenship or nationality other than that of Palau.

(b) Every person having the privileges set forth in Sections 141 and 142 who possesses a citizenship or nationality other than that of Palau or the United States ceases to have these privileges two years

after the effective date of this Compact, or within six months after becoming 21 years of age, whichever comes later, unless such person executes an oath of renunciation of that other citizenship or nationality.

Section 144

Employment and unemployment.

(a) A citizen or national of the United States who, after notification to the Government of the United States of an intention to employ such person by the Government of Palau, commences employment with that Government shall not be deprived of his United States nationality pursuant to Section 349 (a)(2) and (a)(4) of the Immigration and Nationality Act, 8 U.S.C. 1481 (a)(2) and (a)(4).

(b) Upon such notification by the Government of Palau, the Government of the United States may consult with or provide information to the notifying Government concerning the prospective employee, subject to the provisions of the Privacy Act, 5 U.S.C. 552a.

(c) The requirement of prior notification shall not apply to those citizens or nationals of the United States who are employed by the Government of Palau on the effective date of this Compact with respect to the positions held by them at that time.

Article V

Representation

Section 151

The Government of the United States and the Government of Palau may establish and maintain representative offices in the capitals of the other.

Section 152

(a) The premises of such representatives offices, and their archives wherever located, shall be inviolable. The property and assets of such representative offices shall be immune from search, requisition, attachment and any form of seizure unless such immunity is expressly waived. Official communications in transit shall be inviolable and accorded the freedom and protections accorded by recognized principles of intentional law to official communications of a diplomatic mission.

(b) Persons designated by the sending Government may serve in the capacity of its resident representatives with the consent of the receiving Government. Such designated persons shall be immune from civil and criminal process relating to words spoken or written and all acts performed by them in their official capacity and falling within their functions as such representatives, except insofar as such immunity may be expressly waived by the sending Government. While serving in a resident representative capacity, such designated persons shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by a competent judicial authority, and such persons shall enjoy immunity from seizure of personal property, immigration restrictions, and laws relating to alien registration, fingerprinting, and the registration of foreign agents.

Taxes. Imports. Exports.

(c) The sending Governments and their respective assets, income and other property shall be exempt from all direct taxes, except those direct taxes representing payment for specific goods and services, and shall be exempt from all customs duties and restrictions on the import or export of articles required for the official

functions and personal use of their representatives and representative offices.

(d) Persons designated by the sending Government to serve in the capacity of its resident representatives shall enjoy the same taxation exemptions as are set forth in Article 34 of the Vienna Convention on Diplomatic Relations.

23 UST 3227.

(e) The privileges, exemptions and immunities accorded under this Section are not for the personal benefit of the individuals concerned but are to safeguard the independent exercise of their official functions. Without prejudice to those privileges, exemptions and immunities, it is the duty of all such persons to respect the laws and regulations of the Government to which they are assigned.

Article VI

Environmental Protection

Section 161

The Government of the United States and the Government of Palau declare that it is their policy to promote efforts to prevent or eliminate damage to the environment and biosphere and to enrich understanding of the natural resources of the Palau.

Section 162

(a) The Government of the United States and the Government of Palau agree that with respect to the activities of the Government of the United States in Palau, and with respect to substantively equivalent activities of the Government of Palau, each of the Governments shall be bound by such environmental protection standards as may be mutually agreed for the purpose of carrying out the policy set forth in this Compact.

Section 163

In order to carry out the policy set forth in this Article, the Government of the United States and the Government of Palau agree to the following undertakings.

(a) The Government of the United States:

(1) shall apply environmental standards substantively similar to those in effect on the day preceding the effective date of this Compact to any activity requiring the preparation of an Environmental Impact Statement under the provisions of the National Environmental Policy Act of 1969, 83 Stat. 852, 42 U.S.C. 4321 et seq.

Regulations.

(2) shall develop, prior to conducting any activity included within the category described in this Section, appropriate mechanisms, including regulations or other standards and procedures, to regulate such activity in Palau in a manner appropriate to the special governmental relationship set forth in this Compact. The Government of the United States shall provide the Government of Palau with the opportunity to comment formally during the development of such mechanisms.

(b) The Government of Palau shall develop standards and procedures to protect the environment of Palau. As a reciprocal obligation to the undertakings of the Government of the United States under this Article, the Government of Palau, taking into account the particular environment of Palau, shall develop standards for environmental protection substantively similar to those required of the Government of the United States by Section 163(a)(1) prior to conducting activities in Palau substantively equivalent to activities

conducted there by the Government of the United States and, as a further reciprocal obligation, shall enforce those standards.

(c) Section 163(a), including any standard or procedure applicable thereunder, and Section 163(b) may be modified or superseded in whole or in part by agreement of the Government of the United States and the Government of Palau.

(d) Disputes arising under this Article, except for Section 163(e), shall be resolved exclusively in accordance with Article II of Title Four.

(e) The President of the United States may exempt any of the activities of the Government of the United States under this Compact and its related agreements from any environmental standard or procedure which may be applicable under this Article if the President determines it to be in the paramount interest of the Government of the United States to do so, consistent with Title Three of this Compact and the obligations of the Government of the United States under international law. Prior to any decision pursuant to this subsection, the views of the Government of Palau shall be sought and considered to the extent practicable. If the President grants such an exemption, to the extent practicable, a report with his reasons for granting such exemption shall be given promptly to the Government of Palau. President of U.S. Reports.

Article VII

General Legal Provisions

Section 171

Except as provided in this Compact or its related agreements, the application of the laws of the United States to the Trust Territory of the Pacific Islands by virtue of the Trusteeship Agreement ceases with respect to Palau as of the effective date of this Compact.

Section 172

(a) Every citizen of Palau who is not a resident of the United States shall enjoy the rights and remedies under the laws of the United States enjoyed by any nonresident alien.

(b) The Government and every citizen of Palau shall be considered a "person" within the meaning of the Freedom of Information Act, 5 U.S.C. 552, and of the judicial review provisions of the Administrative Procedure Act, 5 U.S.C. 701-706.

Section 173

The Government of the United States and the Government of Palau, agree to adopt and enforce such measures, consistent with this Compact and its related agreements, as may be necessary to protect the personnel, property, installations, services, programs and official archives and documents maintained by the Government of the United States in Palau pursuant to this Compact and its related agreements and by that Government in the United States pursuant to this Compact and its related agreements.

Section 174

Except as otherwise provided in this Compact and its related agreements:

(a) The Government of Palau shall be immune from the jurisdiction of the courts of the United States, and the Government of the United States shall be immune from the jurisdiction of the courts of Palau.

(b) The Government of the United States accepts responsibility for and shall pay: Claims.

(1) any unpaid money judgment rendered by the High Court of the Trust Territory of the Pacific Islands against the Government of the Trust Territory of the Pacific Islands or the Government of the United States with regard to any cause of action arising as a result of acts or omissions of the Government of the Trust Territory of the Pacific Islands or the Government of the United States prior to the effective date of this Compact;

(2) any claim settled by the claimant and the Government of the Trust Territory of the Pacific Islands but not paid as of the effective date of this Compact; and

(3) settlement of any administrative claim or of any action before a court of the Trust Territory of the Pacific Islands, pending as of the effective date of this Compact, against the Government of the Trust Territory of the Pacific Islands or the Government of the United States, arising as a result of acts or omissions of the Government of the Trust Territory of the Pacific Islands or the Government of the United States.

Claims.

(c) Any claim not referred to in Section 174(b) and arising from an act or omission of the Government of the Trust Territory of the Pacific Islands or the Government of the United States prior to the effective date of this Compact shall be adjudicated in the same manner as a claim adjudicated according to Section 174(d). In any claim against the Government of the Trust Territory of the Pacific Islands, the Government of the United States shall stand in the place of the Government of the Trust Territory of the Pacific Islands. A judgment on any claim referred to in Section 174(b) or this subsection, not otherwise satisfied by the Government of the United States, may be presented for certification to the United States Court of Appeals for the Federal Circuit, or its successor court, which shall have jurisdiction therefor, notwithstanding the provisions of 28 U.S.C. 1502, and which court's decisions shall be reviewable as provided by the laws of the United States. The United States Court of Appeals for the Federal Circuit shall certify such judgment, and order payment thereof, unless it finds, after a hearing, that such judgment is manifestly erroneous as to law or fact, or manifestly excessive. In either of such cases the United States Court of Appeals for the Federal Circuit shall have jurisdiction to modify such judgment.

Commerce and trade.

(d) The Government of Palau, shall not be immune from the jurisdiction of the courts of the United States, and the Government of the United States shall not be immune from the jurisdiction of the courts of Palau in any case in which the action is based on a commercial activity of the defendant Government carried out where the action is brought, or in a case in which damages are sought for personal injury or death or damage to or loss of property occurring where the action is brought. This subsection shall apply only to actions based on commercial activities entered into or injuries or losses suffered on or after the effective date of this Compact.

Section 175

Law enforcement and crime.

A separate agreement, which shall come into effect simultaneously with this Compact, shall be concluded between the Government of the United States and the Government of Palau regarding mutual assistance and cooperation in law enforcement matters including the pursuit, capture, imprisonment and extradition of fugitives from justice and the transfer of prisoners. The separate agreement shall have the force of law. In the United States, the laws of the United States governing international extradition, including

18 U.S.C. 3184, 3186 and 3188-3195, shall be applicable to the extradition of fugitives under the separate agreement, and the laws of the United States governing the transfer of prisoners, including 18 U.S.C. 4100-4115, shall be applicable to the transfer of prisoners under the separate agreement.

Section 176

The Government of Palau confirms that final judgments in civil cases rendered by any court of the Trust Territory of the Pacific Islands shall continue in full force and effect, subject to the constitutional power of the courts of Palau to grant relief from judgments in appropriate cases.

Section 177

Claims.

(a) Federal agencies of the Government of the United States which provide services and related programs in Palau are authorized to settle and pay tort claims arising in Palau from the activities of such agencies or from the acts or omissions of the employees of such agencies. Except as provided in Section 177(b), the provisions of 28 U.S.C. 2672 and 31 U.S.C. 1304 shall apply exclusively to such administrative settlements and payments.

(b) Claims under Section 177(a) which cannot be settled under Section 177(a) shall be disposed of exclusively in accordance with Article II of Title Four. Arbitration awards rendered pursuant to this subsection shall be paid out of funds under 31 U.S.C. 1304.

(c) The Government of the United States and the Government of Palau shall provide for:

(1) the administrative settlement of claims referred to in Section 177(a), including designation of local agents in Palau, such agents to be empowered to accept, investigate and settle such claims, in a timely manner, as provided in such related agreements; and

(2) arbitration, referred to in Section 177(b), in a timely manner, at a site convenient to the claimant, in the event a claim is not otherwise settled pursuant to Section 177(a).

(d) The provisions of Section 174(d) shall not apply to claims covered by this Section.

TITLE TWO

ECONOMIC RELATIONS

Article I

Grant Assistance

Section 211

In order to assist the Government of Palau in its efforts to advance the well-being of the people of Palau and in recognition of the special relationship that exists between the United States and Palau, the Government of the United States shall provide to the Government of Palau on a grant basis the following amounts:

(a) $12 million annually for ten years commencing on the effective date of this Compact, and $11 million annually for five years commencing on the tenth anniversary of the effective date of this Compact, for current account operations and maintenance purposes, which amounts commencing on the fourth anniversary of the effective date of this Compact shall include a minimum annual distribution of $5 million from the fund specified in Section 211(f).

(b) $2 million annually for fourteen years commencing on the first anniversary of the effective date of this Compact as a contribution to efforts aimed at achieving increased self-sufficiency in energy production, of which annual amounts not less than $500,000 shall be devoted to the energy needs of those parts of Palau not served by its central power-generating facility.

(c) $150,000 annually for fifteen years commencing on the effective date of this Compact as a contribution to current account operations and maintenance of communications systems, and the sum of $1.5 million, to be made available concurrently with the grant assistance provided during the first year after the effective date of this Compact, for the purpose of acquiring such communications hardware as may be located within Palau or for such other current or capital account activity as the Government of Palau may select.

(d) $631,000 annually on a current account basis for fifteen years commencing on the effective date of this Compact for the purposes set forth below:

(1) for the surveillance and enforcement by Government of Palau of its maritime zone;

(2) for health and medical programs, including referrals to hospital and treatment centers; and

(3) for a scholarship fund to support the post-secondary education of citizens of Palau attending United States accredited, post-secondary institutions in Palau, the United States, its territories and possessions, and states in free association with the United States. The curricular criteria for the award of scholarships shall be designed to advance the purposes of the plan referred to in Section 231.

(e) The sum of $666,800 as a contribution to the commencement of activities pursuant to Section 211(d)(1).

(f) The sum of $66 million on the effective date of this Compact, and the sum of $4 million concurrently with the grant assistance to be made available during the third year after the effective date of this Compact, to create a fund to be invested by the Government of Palau in issues of bonds, notes or other redeemable instruments of the Government of the United States or other qualified instruments which may be identified by mutual agreement of the Government of the United States and the Government of Palau. Investment of the fund in qualified instruments of United States nationality, and the distribution of sums derived from such investment to the Government of Palau, shall not be subject to any form of taxation by the United States or its political subdivisions. The Government of the United States and the Government of Palau shall set forth in a separate agreement, which shall come into effect simultaneously with this Compact, provisions for the investment, management and review of the fund so as to allow for an agreed minimum annual distribution from its accrued principal and interest commencing upon the effective date of this Compact for fifty years. The objective of this sum is to produce an average annual distribution of $15 million commencing on the fifteenth anniversary of this Compact for thirty-five years. Any excess or variance from the agreed minimum annual distributions which may be produced from these sums shall accrue to or be absorbed by the Government of Palau unless otherwise mutually agreed in accordance with the provisions of the separate agreement referred to in this paragraph. The annual distributions produced from these sums are not subject to Sections 215 and 236.

Section 212

In order to assist the Government of Palau in its efforts to advance the economic development and self-sufficiency of the people of Palau and in recognition of the special relationship that exists between the United States and Palau, the Government of the United States shall provide:

(a) To the people of Palau, a road system in accordance with mutually agreed specifications, the construction of which shall be completed prior to the sixth anniversary of the effective date of this Compact; and

Highways.

(b) To the Government of Palau, the sum of $36 million, during the first year after the effective date of this Compact, for capital account purposes.

Section 213

The Government of the United States shall provide on a grant basis to the Government of Palau the sum of $5.5 million in conjunction with Article II of Title Three. This sum shall be made available concurrently with the grant assistance provided pursuant to this Article during the first year after the effective date of this Compact. The Government of Palau, in its use of such funds, shall take into account the impact of the activities of the Government of the United States in Palau.

Section 214

All funds previously appropriated to the Trust Territory of the Pacific Islands for the Government of Palau which are unobligated by the Government of the Trust Territory as of the effective date of this Compact shall accrue to the Government of Palau for the purposes for which such funds were originally appropriated as determined by the Government of the United States.

Section 215

Except as otherwise provided, the amounts stated in Sections 211(a), 211(b), 211(c) and 212(b) shall be adjusted for each fiscal year by the percent which equals two-thirds of the percentage change in the United States Gross National Product Implicit Price Deflator, or seven percent, whichever is less in any one year, using the beginning of Fiscal Year 1981 as the base.

Article II

Program Assistance

Section 221

(a) The Government of the United States shall make available to Palau, in accordance with and to the extent provided in the separate agreement referred to in Section 232, without compensation and at the levels equivalent to those available to the Trust Territory of the Pacific Islands during the year prior to the effective date of this Compact, the services and related programs:

(1) of the United States Weather Service;

(2) provided pursuant to the Postal Reorganization Act, 39 U.S.C. 101 et seq.;

(3) of the United States Federal Aviation Administration; and

(4) of the United States Civil Aeronautics Board or its successor agencies which has the authority to implement the provisions of paragraph 5 of Article IX of such separate agreements, the language of which is incorporated into this Compact.

Education. Health and medical care.

(b) The Government of the United States, recognizing the special needs of the Palau particularly in the fields of education and health care, shall make available, as provided by the laws of the United States,

(1) the annual amount of $2 million which shall be allocated in accordance with the provisions of the separate agreement referred to in Section 232; and

(2) the sums of $4.3 million, $2.9 million and $1.5 million, respectively, during the first, second and third years after the effective date of this Compact, which sums shall be used by the Government of Palau as current account funds to finance programs similar to those programs of the United States that applied to Palau prior to the effective date of this Compact and that provided financial assistance for education to any institution, agency, organization or permanent resident of Palau or to the College of Micronesia.

Energy. Research and development. Conservation.

(c) The Government of the United States shall make available to Palau such alternate energy development projects, studies and conservation measures as are applicable to the Trust Territory of the Pacific Islands on the day preceding the effective date of this Compact, for the purposes and duration provided in the laws of the United States.

(d) The Government of the United States shall have and exercise such authority as is necessary for the purposes of this Article and as is set forth in the related agreements referred to in Section 232, which shall also set forth the extent to which services and programs shall be provided to Palau.

Section 222

The Government of Palau may request, from time to time, technical assistance from the Federal agencies and institutions of the Government of the United States, which are authorized to grant such technical assistance in accordance with its law and which shall grant such technical assistance in a manner which gives priority consideration to Palau over other recipients not a part of the United States, its territories or possessions and equivalent consideration to Palau with respect to other states in Free Association with the United States.

Section 223

Education.

The citizens of Palau who are receiving post-secondary education assistance from the Government of the United States on the day preceding the effective date of this Compact shall continue to be eligible, if otherwise qualified, to receive such assistance to complete their academic programs for a maximum of four years after the effective date of this Compact.

Section 224

The Government of the United States and the Government of Palau may agree from time to time to the extension to Palau of additional United States grant assistance and of United States services and programs as provided by the laws of the United States.

Article III

Administrative Provisions

Section 231

(a) The annual expenditure by the Government of Palau of the grant amounts specified in Article I of this Title shall be in accord-

ance with an official national development plan promulgated by the Government of Palau and concurred in by the Government of the United States prior to the effective date of this Compact. This plan may be amended from time to time by the Government of Palau.

(b) The Government of the United States and the Government of Palau recognize that the achievement of the goals of the plan referred to in this Section depends upon the availability of adequate internal revenue as well as economic assistance from sources outside of Palau, including the Government of the United States, and may, in addition, be affected by the impact of exceptional, economically adverse circumstances. The Government of Palau shall therefore report annually to the President of the United States and to the Congress of the United States on the implementation of this plan and on its use of the funds specified in this Article. This report shall outline the achievements of the plan to date and the need, if any, for an additional authorization and appropriation of economic assistance for that year to account for any exceptional, economically adverse circumstances. The availability of such additional economic assistance from the Government of the United States shall be subject to the authorization and appropriation of funds by the Government of the United States.

Reports.

Section 232

The specific nature, extent and contractual arrangements of the services and programs provided for in Section 221 as well as the legal status of agencies of the Government of the United States, their civilian employees and contractors, and the dependents of such personnel while present in Palau, and other arrangements in connection with a service or program furnished by the Government of the United States, are set forth in related agreements which shall come into effect simultaneously with this Compact.

Effective date.

Section 233

The Government of the United States, in consultation with the Government of Palau, shall determine and implement procedures for the periodic audit of all grants and other assistance made under this Title. Such audits shall be conducted at no cost to the Government of Palau.

Grants.

Section 234

Title to the property of the Government of the United States situated in the Trust Territory of the Pacific Islands and in Palau or acquired for or used by the Government of the Trust Territory of the Pacific Islands on or before the day preceding the effective date of this Compact shall, without reimbursement or transfer of funds, vest in the Government of Palau as set forth in a separate agreement which shall come into effect simultaneously with this Compact. The provisions of this Section shall not apply to the personal property of the Government of the United States for which the Government of the United States determines a continuing requirement.

Real property.

Section 235

Trusts.

(a) Funds held in trust by the High Commissioner of the Trust Territory of the Pacific Islands, in his official capacity, as of the effective date of this Compact shall remain available as trust funds to their designated beneficiaries. The Government of the United States, in consultation with the Government of Palau, shall appoint a new trustee who shall exercise the functions formerly exercised by the High Commissioner of the Trust Territory of the Pacific Islands.

(b) To provide for the continuity of administration, and to assure the Governments of Palau that the purposes of the laws of the United States are carried out and that the funds of any other trust fund in which the High Commissioner of the Trust Territory of the Pacific Islands has authority of a statutory or customary nature shall remain available as trust funds to their designated beneficiaries, the Government of the United States agrees to assume the authority formerly vested in the High Commissioner of the Trust Territory of the Pacific Islands.

Section 236

Courts, U.S.

Except as otherwise provided, approval of this Compact by the Government of the United States shall constitute a pledge of the full faith and credit of the United States for the full payment of the sums and amounts specified in Article I of this Title. The obligation of the Government of the United States under Article I of this Title shall be enforceable in the United States Claims Court, or its successor court, which shall have jurisdiction in cases arising under this Section, notwithstanding the provisions of 28 U.S.C. 1502, and which court's decisions shall be reviewable as provided by the laws of the United States.

Article IV

Trade

Section 241

Palau is not included in the customs territory of the United States.

Imports.
Tariff Schedules of the U.S.
President of U.S.

Section 242

The President of the United States shall proclaim the following tariff treatment for articles imported from Palau which shall apply during the period of effectiveness of this Title:

Ante, pp. 2923, 2926.

(a) Unless otherwise excluded, articles imported from Palau, subject to the limitations imposed under sections 503(b) and 504(c) of title 5 of the Trade Act of 1974 (19 U.S.C. 2463(b): 2464(c)), shall be exempt from duty.

19 USC note prec. 1202-1202 note.

(b) Only canned tuna provided for in item 112.30 of the Tariff Schedules of the United States that is imported from the Federated States of Micronesia, the Marshall Islands and Palau during any calendar year not to exceed 10 percent of the United States consumption of canned tuna during the immediately preceding calendar year, as reported by the National Marine Fisheries Service, shall be exempt from duty; but the quantity of tuna given duty free treatment under this paragraph for any calendar year shall be counted against the aggregate quantity of canned tuna that is dutiable under rate column numbered 1 of such item 112.30 for that calendar year.

(c) The duty-free treatment provided under paragraph (1) shall not apply to:

(1) watches, clocks and timing apparatus provided for in subpart E of part 2 of schedule 7 of the Tariff Schedules of the United States;

(2) buttons (whether finished or not finished) provided for in item 745.32 of such Schedules;

(3) textile and apparel articles which are subject to textile agreements; and

(4) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for

purposes of title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.) on April 1, 1984.

(d) If the cost or value of materials produced in the customs territory of the United States is included with respect to an eligible article which is a product of Palau, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributable to such United States cost or value may be applied for duty assessment purposes toward determining the percentage referred to in section 503(b)(2) of title V of the Trade Act of 1974.

Ante, p. 2926.

Section 243

Imports.

Articles imported from Palau which are not exempt from any duty under paragraphs (a), (b), (c) and (d) of Section 242 shall be subject to the rates of duty set forth in column numbered 1 of the Tariff Schedules of the United States and all products of the United States imported into Palau shall receive treatment no less favorable than that accorded like products of any foreign country with respect to customs duties or charges of a similar nature and with respect to laws and regulations relating to importation, exportation, taxation, sale, distribution, storage, or use.

19 USC note prec. 1202-1202 note.

Article V

Finance and Taxation

Section 251

The currency of the United States is the official circulating legal tender of Palau. Should the Government of Palau act to institute another currency, the terms of an appropriate currency transitional period shall be as agreed with the Government of the United States.

Section 252

Gifts and property.

The Government of Palau may, with respect to United States persons, tax income derived from sources within its respective jurisdiction, property situated therein, including transfers of such property by gift or at death, and products consumed therein, in such manner as such Government deems appropriate. The determination of the source of any income, or the situs of any property, shall, for purposes of this Compact, be made according to the United States Internal Revenue Code.

26 USC 1 *et seq.*; *ante*, p. 2095.

Section 253

A citizen of Palau, domiciled therein and who is a nonresident and not a citizen of the United States, shall be exempt from estate, gift, and generation-skipping transfer taxes imposed by the Government of the United States.

Section 254

(a) In determining any income tax imposed by the Government of Palau, the Government of Palau shall have authority to impose tax upon income derived by a resident of Palau from sources without Palau in the same manner and to the same extent as the Government of Palau imposes tax upon income derived from within its jurisdiction. If the Government of Palau exercises such authority as provided in this subsection, any individual resident of Palau who is subject to tax by the Government of the United States on income which is also taxed by the Government of Palau shall be relieved of liability to the Government of the United States for the tax which, but for this subsection, would otherwise be imposed by the Government of the United States on such income. For purposes of this Section, the term "resident of Palau" shall be deemed to include any

person who was physically present in Palau for a period of 183 or more days during any taxable year. The relief from liability referred to in this subsection means only:

(1) relief in the form of the foreign tax credit (or deduction in lieu thereof) available with respect to the income taxes of a possession of the United States, and

(2) relief in the form of the exclusion under section 911 of the United States Internal Revenue Code of 1954.

26 USC 911; *ante*, p. 2095.

(b) If the Government of Palau subjects income to taxation substantially similar to that imposed by the Trust Territory Code in effect on January 1, 1980, such Government shall be deemed to have exercised the authority described in Section 254(a).

Section 255

(a) For purposes of section 936 of the Internal Revenue Code of 1954 Palau shall be treated as if it was a possession of the United States.

26 USC 936.

(b) Subsection (a) of this Section shall not apply to Palau for any period after December 31, 1986, during which there is not in effect between Palau and the United States an exchange of information agreement of the kind described in section 274(h)(6)(C) (other than clause (ii) thereof) of the Internal Revenue Code of 1954.

(c) If the tax incentives extended to Palau under subsection (a) of this Section are, at any time during which the Compact is in effect, reduced, the United States Secretary of the Treasury shall negotiate an agreement with the Government of Palau under which, when such agreement is approved by law, Palau will be provided with benefits substantially equivalent to such reduction in benefits. If within the 1-year period after the date of the enactment of the Act making the reduction in benefits, an agreement negotiated under the preceding sentence is not approved by law, the matter shall be submitted to the Arbitration Board established pursuant to Section 424. For purposes of Article V of this Title, the Secretary of the Treasury or his delegate shall be the member of such Board representing the Government of the United States. Any decision of such Board in the matter when approved by law shall be binding on the United States, except that such decision rendered is binding only as to whether the United States has provided the substantially equivalent benefits referred to in this subsection.

(d) For purposes of section 274(n)(3)(A) of the Internal Revenue Code of 1954, the term "North American area" shall include Palau.

Section 256

This Article shall apply to income earned, and transactions occurring, after September 30, 1985, in taxable years ending after such date.

TITLE THREE

SECURITY AND DEFENSE RELATIONS

Article I

Authority and Responsibility

Section 311

The territorial jurisdiction of the Republic of Palau shall be completely foreclosed to the military forces and personnel or for the military purposes of any nation except the United States of America, and as provided for in Section 312.

Section 312

The Government of the United States has full authority and responsibility for security and defense matters in or relating to Palau. Subject to the terms of any agreements negotiated pursuant to Article II of this Title, the Government of the United States may conduct within the lands, water and airspace of Palau the activities and operations necessary for the exercise of its authority and responsibility under this Title. The Government of the United States may invite the armed forces of other nations to use military areas and facilities in Palau in conjunction with and under the control of United States Armed Forces.

Armed Forces.

Section 313

The Government of Palau shall refrain from actions which the Government of the United States determines, after consultation with that Government, to be incompatible with its authority and responsibility for security and defense matters in or relating to Palau.

Article II

Defense Sites and Operating Rights

Section 321

The Government of the United States may establish and use defense sites in Palau, and may designate for this purpose land and water areas and improvements in accordance with the provisions of a separate agreement which shall come into force simultaneously with this Compact.

Section 322

(a) When the Government of the United States desires to establish or use such a defense site specifically identified in the separate agreement referred to in Section 321, it shall so inform the Government of Palau which shall make the designated site available to the Government of the United States for the duration and level of use specified.

(b) With respect to any site not specifically identified in the separate agreement referred to in Section 321, the Government of the United States shall inform the Government of Palau, which shall make the designated site available to the Government of the United States for the duration and level of use specified, or shall make available one alternative site acceptable to the Government of the United States. If such alternative site is unacceptable to the Government of the United States, the site first designated shall be made available after such determination.

(c) Compensation in full for designation, establishment or use of defense sites is provided in Title Two of this Compact.

Section 323

The military operating rights of the Government of the United States and the legal status and contractual arrangements of the United States Armed Forces, their members, and associated civilians, while present in Palau, are set forth in related agreements which shall come into effect simultaneously with this Compact.

Armed Forces.
Effective date.

Section 324

In the exercise in Palau of its authority and responsibility under this Title, the Government of the United States shall not use, test, store or dispose of nuclear, toxic chemical, gas or biological weapons intended for use in warfare and the Government of Palau assures the Government of the United States that in carrying out its

Weapons.
Aircraft and air carriers.
Vessels.

security and defense responsibilities under this Title, the Government of the United States has the right to operate nuclear capable or nuclear propelled vessels and aircraft within the jurisdiction of Palau without either confirming or denying the presence or absence of such weapons within the jurisdiction of Palau.

Article III

Defense Treaties and International Security Agreements

Section 331

Subject to the terms of this Compact and its related agreements, the Government of the United States, exclusively, shall assume and enjoy, as to Palau, all obligations, responsibilities, rights and benefits of:

(a) Any defense treaty or other international security agreement applied by the Government of the United States as administering authority of the Trust Territory of the Pacific Islands as of the day preceding the effective date of this Compact; and

(b) Any defense treaty or other international security agreement to which the Government of the United States is or may become a party which it determines to be applicable in Palau. Such a determination by the Government of the United States shall be preceded by appropriate consultation with the Government of Palau.

Article IV

Service in the Armed Forces of the United States

Voluntarism.

Section 341

Any citizen of Palau entitled to the privileges of Section 141 of this Compact shall be eligible to volunteer for service in the Armed Forces of the United States, but shall not be subject to involuntary induction into military service of the United States so long as such person does not establish habitual residence in the United States, its territories or possessions.

Section 342

The Government of the United States shall have enrolled, at any one time, at least one qualified student from Palau as may be nominated by the Government of Palau, in each of:

(a) The United States Coast Guard Academy pursuant to 14 U.S.C. 195; and

(b) The United States Merchant Marine Academy pursuant to 46 U.S.C. 1295b(b)(6), provided that the provisions of 46 U.S.C. 1295b(b)(6)(C) shall not apply to the enrollment of students pursuant to Section 342(b) of this Compact.

Article V

General Provisions

Section 351

Arbitration.

(a) The Government of the United States and the Government of Palau shall establish a joint committee empowered to consider disputes which may arise under the implementation of this Title and its related agreements.

(b) The membership of the joint committee shall comprise selected senior officials of each of the participating Governments. The senior United States military commander in the Pacific area shall be the senior United States member of the joint committee. For the meetings of the joint committee, each of the Governments may designate additional or alternate representatives as appropriate for the subject matter under consideration.

(c) Unless otherwise mutually agreed, the joint committee shall meet semi-annually at a time and place to be designated, after appropriate consultation, by the Government of the United States. The joint committee also shall meet promptly upon request of either of its members. Upon notification by the Government of the United States, the joint committee shall meet promptly in combined session with other such joint committees so notified. The joint committee shall follow such procedures, including the establishment of functional subcommittees, as the members may from time to time agree.

(d) Unresolved issues in the joint committee shall be referred to the Government of the United States and the Government of Palau for resolution, and the Government of Palau shall be afforded, on an expeditious basis, an opportunity to raise its concerns with the United States Secretary of Defense personally regarding any unresolved issue which threatens its continued association with the Government of the United States.

Section 352

Defense and national security.

In the exercise of its authority and responsibility under this Compact, the Government of the United States shall accord due respect to the authority and responsibility of the Government of Palau under this Compact and to the responsibility of the Government of Palau to assure the well-being of Palau and its people. The Government of the United States and the Government of Palau agree that the authority and responsibility of the United States set forth in this Title are exercised for the mutual security and benefit of Palau and the United States, and that any attack on Palau would constitute a threat to the peace and security of the entire region and a danger to the United States. In the event of such an attack, or threat thereof, the Government of the United States would take action to meet the danger to the United States and Palau in accordance with its constitutional processes.

Section 353

(a) The Government of the United States shall not include the Government of Palau as a named party to a formal declaration of war, without the consent of the Government of Palau.

Claims.

(b) Absent such consent, this Compact is without prejudice, on the ground of belligerence or the existence of a state of war, to any claims for damages which are advanced by the citizens, nationals or Government of Palau which arise out of armed conflict subsequent to the effective date of this Compact and which are:

(1) petitions to the Government of the United States for redress; or

(2) claims in any manner against the government, citizens, nationals or entities of any third country.

(c) Petitions under Section 353(b)(1) shall be treated as if they were made by citizens of the United States.

TITLE FOUR

GENERAL PROVISIONS

Article I

Approval and Effective Date

Section 411

This Compact shall come into effect upon mutual agreement between the Government of the United States, acting in fulfillment of its responsibilities as Administering Authority of the Trust Territory of the Pacific Islands, and the Government of Palau, subsequent to completion of the following:

(a) Approval by the Government of Palau in accordance with its constitutional processes;

(b) Approval by the people of Palau in a referendum called on this Compact; and

(c) Approval by the Government of the United States in accordance with its constitutional processes.

Article II

Conference and Dispute Resolution

Section 421

The Government of the United States and the Government of Palau shall confer promptly at the request of the other on matters relating to the provisions of this Compact or of its related agreements.

Section 422

In the event the Government of the United States or the Government of Palau, after conferring pursuant to Section 421, determines that there is a dispute and gives written notice thereof, the Governments shall make a good faith effort to resolve the dispute among themselves.

Section 423

If a dispute between the Government of the United States and the Government of Palau cannot be resolved within 90 days of written notification in the manner provided in Section 422, either party to the dispute may refer it to arbitration in accordance with Section 424.

Section 424

Should a dispute be referred to arbitration as provided for in Section 423, an arbitration board shall be established for the purpose of hearing the dispute and rendering a decision which shall be binding upon the two parties to the dispute unless the two parties mutually agree that the decision shall be advisory. Arbitration shall occur according to the following terms:

(a) An arbitration board shall consist of a chairman and two other members, each of whom shall be a citizen of a party to the dispute and each of the two parties to the dispute shall appoint one member to the arbitration board. If either party to the dispute does not fulfill the appointment requirements of this Section within 30 days of referral of the dispute to arbitration pursuant to Section 423, its member on the arbitration board shall be selected from its own standing list by the other party to the dispute. Each government

shall maintain a standing list of 10 candidates. The parties to the dispute shall jointly appoint a chairman within 15 days after selection of the other members of the arbitration board. Failing agreement on a chairman, the chairman shall be chosen by lot from the standing lists of the parties to the dispute within 5 days after such failure.

(b) The arbitration board shall have jurisdiction to hear and render its final determination on all disputes arising exclusively under Articles I, II, III, IV, and VI of Title One, Title Two, Title Four and their related agreements.

(c) Each member of the arbitration board shall have one vote. Each decision of the arbitration board shall be reached by majority vote.

(d) In determining any legal issue, the arbitration board may have reference to international law and, in such reference, shall apply as guidelines the provisions set forth in Article 38 of the Statute of the International Court of Justice.

(e) The arbitration board shall adopt such rules for its proceedings as it may deem appropriate and necessary, but such rules shall not contravene the provisions of this Compact. Unless the parties provide otherwise by mutual agreement, the arbitration board shall endeavor to render its decision within 30 days after the conclusion of arguments. The arbitration board shall make findings of fact and conclusions of law and its members may issue dissenting or individual opinions. Except as may be otherwise decided by the arbitration board, one-half of all costs of the arbitration shall be borne by the Government of the United States and the remainder shall be borne by the Government of Palau.

Article III

Amendment and Review

Section 431

The provisions of this Compact may be amended at any time by mutual agreement of the Government of the United States and the Government of Palau in accordance with their respective constitutional processes.

Section 432

Upon the fifteenth and thirtieth and fortieth anniversaries of the effective date of this Compact, the Government of the United States and the Government of Palau shall formally review the terms of this Compact and its related agreements and shall consider the overall nature and development of their relationship. In these formal reviews, the governments shall consider the operating requirements of the Government of Palau and its progress in meeting the development objectives set forth in the plan referred to in Section 231(a). The governments commit themselves to take specific measures in relation to the findings of conclusions resulting from the review. Any alteration to the terms of this Compact or its related agreements shall be made by mutual agreement and the terms of this Compact and its related agreements shall remain in force until otherwise amended or terminated pursuant to Title Four of this Compact.

Article IV

Termination

Section 441

This Compact may be terminated by mutual agreement and subject to Section 451.

Section 442

This Compact may be terminated by the Government of the United States subject to Section 452, such termination to be effective on the date specified in the notice of termination by the Government of the United States but not earlier than six months following delivery of such notice. The time specified in the notice of termination may be extended.

Section 443

This Compact shall be terminated, pursuant to its constitutional processes, by the Government of Palau subject to Section 452 if the people of Palau vote in a plebiscite to terminate. The Government of Palau shall notify the Government of the United States of its intention to call such a plebiscite which shall take place not earlier than three months after delivery of such notice. The plebiscite shall be administered by such government in accordance with its constitutional and legislative processes, but the Government of the United States may send its own observers and invite observers from a mutually agreed party. If a majority of the valid ballots cast in the plebiscite favors termination, such government shall, upon certification of the results of the plebiscite, give notice of termination to the Government of the United States, such termination to be effective on the date specified in such notice but not earlier than three months following the date of delivery of such notice. The time specified in the notice of termination may be extended.

Article V

Survivability

Section 451

Should termination occur pursuant to Section 441, economic assistance by the Government of the United States shall continue on mutually agreed terms.

Section 452

Should termination occur pursuant to Section 442 or 443, the following provisions of this Compact shall remain in full force and effect until the fiftieth anniversary of the effective date of this Compact and thereafter as mutually agreed:

(a) Article I and Section 233 of Title Two;

(b) Title Three; and

(c) Articles II, III, V and VI of Title Four.

Section 453

Notwithstanding any other provision of this Compact:

(a) The provisions of Section 311, even if Title Three should terminate, are binding and shall remain in effect for a period of 50 years and thereafter until terminated or otherwise amended by mutual consent;

(b) The related agreements referred to in Article II of Title Three shall remain in effect in accordance with their terms; and

(c) The Government of the United States reaffirms its continuing interest in promoting the long-term economic advancement and self-sufficiency of the people of Palau.

Section 454

Any provision of this Compact which remains in effect by operation of Section 452 shall be construed and implemented in the same manner as prior to any termination of this Compact pursuant to Section 442 or 443.

Article VI

Definition of Terms

Section 461

For the purpose of this Compact the following terms shall have the following meanings:

(a) "Trust Territory of the Pacific Islands" means the area established in the Trusteeship Agreement consisting of the administrative districts of Kosrae, Yap, Palau, Ponape, the Marshall Islands and Truk as described in Title One, Trust Territory Code, Section 1, in force on January 1, 1979. This term does not include the area of the Northern Mariana Islands.

(b) "Trusteeship Agreement" means the agreement setting forth the terms of trusteeship for the Trust Territory of the Pacific Islands, approved by the Security Council of the United Nations April 2, 1947, and by the United States July 18, 1947, entered into force July 18, 1947, 61 Stat. 3301, T.I.A.S. 1665, 8 U.N.T.S. 189.

(c) "Palau" is used in a geographic sense and includes the land and water areas to the outer limits of the territorial sea and the air space above such areas as now or hereafter recognized by the Government of the United States consistent with the Compact and its related agreements.

(d) "Government of Palau" means the Government established and organized by the Constitution of Palau including all the political subdivisions and entities comprising that Government.

(e) "Habitual Residence" means a place of general abode or a principal, actual dwelling place of a continuing or lasting nature; provided, however, that this term shall not apply to the residence of any person who entered the United States for the purpose of full time studies as long as such person maintains that status, or who has been physically present in the United States or Palau for less than one year, or who is a dependent of a resident representative, as described in Section 152.

(f) For the purposes of Article IV of Title One of this Compact:

(1) "Actual Residence" means physical presence in Palau during eighty-five percent of the period of residency required by Section 141(a)(3); and

(2) "Certificate of Actual Residence" means a certificate issued to a naturalized citizen by the Government which has naturalized him stating that the citizen has complied with the actual residence requirement of Section 141(a)(3).

(g) "Defense Sites" means those land and water areas and improvements thereon in Palau reserved or acquired by the Government of Palau for use by the Government of the United States, as set forth in the related agreements referred to in Section 321.

(h) "Capital Account" means, for each year of the Compact, those portions of the total grant assistance provided in Article I of Title Two, which are to be obligated for:

(1) the construction or major repair of capital infrastructure; or

(2) public and private sector projects identified in the official overall economic development plan.

(i) "Current Account" means, for each year of the Compact, those portions of the total grant assistance provided in Article I of Title Two, which are to be obligated for recurring operational activities including infrastructure maintenance as identified in the annual budget justifications submitted yearly to the Government of the United States.

(j) "Official National Development Plan" means the documented program of annual development which identifies the specific policy and project activities necessary to achieve a specified set of economic goals and objectives during the period of free association, consistent with the economic assistance authority in Title Two. Such a document should include an analysis of population trends, manpower requirements, social needs, gross national product estimates, resource utilization, infrastructure needs and expenditures, and the specific private sector projects required to develop the local economy of Palau. Project identification should include initial cost estimates, with project purposes related to specific development goals and objectives.

(k) "Tariff Schedules of the United States" means the Tariff Schedules of the United States as amended from time to time and as promulgated pursuant to United States law and includes the Tariff Schedules of the United States Annotated (TSUSA), as amended.

(l) "Vienna Convention on Diplomatic Relations" means the Vienna Convention on Diplomatic Relations, done April 18, 1961, 23 U.S.T. 3227, T.I.A.S. 7502, 500 U.N.T.S. 95.

Section 462

The Government of the United States and the Government of Palau shall conclude related agreements which shall come into effect and shall survive in accordance with their terms, and which shall be construed and implemented in a manner consistent with this Compact, as follows:

(a) Agreement Regarding the Provision of Telecommunication Services by the Government of the United States to Palau Concluded Pursuant to Section 131 of the Compact of Free Association;

(b) Agreement Regarding the Operation of Telecommunication Services of the Government of the United States in Palau, Concluded Pursuant to Section 132 of the Compact of Free Association;

(c) Agreement on Extradition, Mutual Assistance in Law Enforcement Matters and Penal Sanctions Concluded Pursuant to Section 175 of the Compact of Free Association;

(d) Agreement Regarding United States Economic Assistance to the Government of Palau Concluded Pursuant to Section 211(f) of the Compact of Free Association;

(e) Agreement Regarding Construction Projects in Palau Concluded Pursuant to Section 212(a) of the Compact of Free Association;

(f) Agreement Regarding Federal Programs and Services, and Concluded Pursuant to Article II of Title Two and Section 232 of the Compact of Free Association;

(g) Agreement Regarding Property Turnover, Concluded Pursuant to Section 234 of the Compact of Free Association;

(h) Agreement Regarding the Military Use and Operating Rights of the Government of the United States in Palau Concluded Pursuant to Sections 321 and 322 of the Compact of Free Association; and

(i) Status of Forces Agreement Concluded Pursuant to Section 323 of the Compact of Free Association.

(j) Agreement regarding the Jurisdication and Sovereignty of the Republic of Palau over its Territory and the Living and Non-living Resources of the Sea.

Article VII

Concluding Provisions

Section 471

(a) The Government of the United States and the Government of Palau agree that they have full authority under their respective constitutions to enter into this Compact and its related agreements and to fulfill all of their respective responsibilities in accordance with the terms of this Compact and its related agreements. The Governments pledge that they are so committed.

(b) The Government of the United States and the Government of Palau shall take all necessary steps, of a general or particular character, to ensure, not later than the effective date of this Compact, that their laws, regulations and administrative procedures are such as to effect the commitments referred to in Section 471(a).

(c) Without prejudice to the effects of this Compact under international law, this Compact has the force and effect of a statute under the laws of the United States.

Section 472

This Compact may be accepted, by signature or otherwise, by the Government of the United States and the Government of Palau. Each government shall possess an original English language version.

IN WITNESS THEREOF, the undersigned, duly authorized, have signed this Compact of Free Association which shall come into effect in accordance with its terms between the Government of the United States and the Government of Palau.

DONE AT _____, THIS _____ DAY

OF ____, ONE THOUSAND NINE HUNDRED EIGHTY-FIVE

FOR THE GOVERNMENT

OF

THE UNITED STATES OF AMERICA

DONE AT _____, THIS _____ DAY

OF ____, ONE THOUSAND NINE HUNDRED EIGHTY-FIVE

FOR THE GOVERNMENT

OF

THE REPUBLIC OF PALAU

JURISDICTION

48 USC 1681 note.
Aliens.

SEC. 202. (a) MARITIME AND TERRITORIAL JURISDICTION.—With respect to section 321 of the Compact of Free Association and its related agreements, the jurisdictional provisions set forth in subsection (b) of this section shall apply only to the citizens and nationals of the United States and aliens lawfully admitted to the United States for permanent residence who are in Palau.

(b) DEFENSE SITES.—The defense sites of the United States established in Palau in accordance with the Compact of Free Association and its related agreements are within the special maritime and territorial jurisdiction of the United States as set forth in section 7, title 18, United States Code.

Guam.

(c) OFFENSES.—(1) Any person referred to in subsection (a) of this section who within or upon such defense sites is guilty of any act or omission which, although not made punishable by any enactment of Congress, would be punishable if committed or omitted within the jurisdiction of the territory of Guam by the laws thereof, in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment.

Courts, U.S.

(2) The District Court of Guam shall have jurisdiction to try all criminal offenses against the United States, including the laws of Guam made applicable to the defense sites in Palau by virtue of subsection (c)(1) of this section, committed by any person referred to in subsection (a) of this section.

Courts, U.S.

28 USC 631 *et seq.*

(3) The District Court of Guam may appoint one or more magistrates for the defense sites in Palau. Such Magistrates shall have the power and the status of Magistrates appointed pursuant to chapter 43, title 28, United States Code: Provided however, That such Magistrates shall have the power to try persons accused of, and sentence persons convicted of, petty offenses, as defined in section

1(3), title 18, United States Code, including violations of regulations for the maintenance of peace, order, and health issued by the Commanding Officer on such defense sites, without being subject to the restrictions provided for in section 3401(b), title 18, United States Code.

Approved November 14, 1986.

LEGISLATIVE HISTORY—H.J. Res. 626 (S.J. Res. 325):

HOUSE REPORTS: No. 99-663, Pt. 1 (Comm. on Foreign Affairs), Pt. 2 (Comm. on Interior and Insular Affairs), Pt. 3 (Comm. on Ways and Means), and Pt. 4 (Comm. on Merchant Marine and Fisheries).

SENATE REPORTS: No. 99-403 accompanying S.J. Res. 325 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 132 (1986):

Sept. 29, considered and passed House.

Oct. 6, considered and passed Senate, amended.

Oct. 16, House concurred in Senate amendments.

O

91-139 O - 87 (682)

PUBLIC LAW 99-659—NOV. 14, 1986

U.S. FISHERIES LAWS, AMENDMENTS, ETC.

91-139 O - 87 (683)

Public Law 99-659
99th Congress

An Act

Nov. 14, 1986
[S. 991]

To amend certain provisions of the law regarding the fisheries of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—FISHERIES CONSERVATION AND MANAGEMENT

SEC. 101. UNITED STATES RIGHTS AND AUTHORITY REGARDING FISH AND FISHERY RESOURCES WITHIN THE EXCLUSIVE ECONOMIC ZONE.

(a) DEFINITION OF EXCLUSIVE ECONOMIC ZONE.—Section 3 of the Magnuson Fishery Conservation and Management Act (hereinafter in this title referred to as the "Act") (16 U.S.C. 1802) is amended—

(1) by striking out paragraph (8);

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(3) by inserting immediately after paragraph (5) the following new paragraph:

97 Stat. 1557.

"(6) The term 'exclusive economic zone' means the zone established by Proclamation Numbered 5030, dated March 10, 1983. For purposes of applying this Act, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States.".

(b) AUTHORITY REGARDING EXCLUSIVE ECONOMIC ZONE.—Title I of the Act (16 U.S.C. 1811-1813) is amended to read as follows:

"TITLE I—UNITED STATES RIGHTS AND AUTHORITY REGARDING FISH AND FISHERY RESOURCES

Claims.
16 USC 1811.

"SEC. 101. UNITED STATES SOVEREIGN RIGHTS TO FISH AND FISHERY MANAGEMENT AUTHORITY.

"(a) IN THE EXCLUSIVE ECONOMIC ZONE.—Except as provided in section 102, the United States claims, and will exercise in the manner provided for in this Act, sovereign rights and exclusive fishery management authority over all fish, and all Continental Shelf fishery resources, within the exclusive economic zone.

"(b) BEYOND THE EXCLUSIVE ECONOMIC ZONE.—The United States claims, and will exercise in the manner provided for in this Act, exclusive fishery management authority over the following:

"(1) All anadromous species throughout the migratory range of each such species beyond the exclusive economic zone; except that that management authority does not extend to any such species during the time they are found within any foreign nation's territorial sea or exclusive economic zone (or the

equivalent), to the extent that that sea or zone is recognized by the United States.

"(2) All Continental Shelf fishery resources beyond the exclusive economic zone.

"SEC. 102. EXCLUSION FOR HIGHLY MIGRATORY SPECIES. 16 USC 1812.

"The sovereign rights and exclusive fishery management authority asserted by the United States under section 101 over fish do not include, and may not be construed to extend to, highly migratory species of fish.".

(c) CONFORMING AMENDMENTS.—The Act is amended—

(1) by amending section 2—

(A) by amending paragraph (1) of subsection (b) to read as follows:

"(1) to take immediate action to conserve and manage the fishery resources found off the coasts of the United States, and the anadromous species and Continental Shelf fishery resources of the United States, by exercising (A) sovereign rights for the purposes of exploring, exploiting, conserving, and managing all fish except highly migratory species, within the exclusive economic zone established by Presidential Proclamation 5030, dated March 10, 1983, and (B) exclusive fishery management authority beyond the exclusive economic zone over such anadromous species and Continental Shelf fishery resources;"; and 16 USC 1801. 97 Stat. 1557.

(B) by amending paragraph (5) of subsection (c) to read as follows:

"(5) to support and encourage active United States efforts to obtain internationally acceptable agreements which provide for effective conservation and management of fishery resources.";

(2) by striking out "fishery conservation zone" each place it appears therein and inserting "exclusive economic zone"; and

(3) by amending the entry for title I in the table of contents of the Act to read as follows:

"TITLE I—UNITED STATES RIGHTS AND AUTHORITY REGARDING FISH AND FISHERY RESOURCES

"Sec. 101. United States sovereign rights to fish and fishery management authority.
"Sec. 102. Exclusion for highly migratory species."

SEC. 102. FOREIGN FISHING PERMITS.

Section 204(b) of the Act (16 U.S.C. 1824(b)) is amended—

(1) by adding at the end of paragraph (1) the following new sentence: "No permit issued under this section may be valid for longer than a year; and section 558(c) of title 5, United States Code, does not apply to the renewal of any such permit.";

(2) by striking out ", upon its request" in paragraph (4)(C);

(3) by amending paragraph (6) by inserting ", or he may disapprove all or any portion of the application" immediately before the period at the end of subparagraph (A); and

(4) by amending paragraph (12) to read as follows:

"(12) SANCTIONS.—(A) If any foreign fishing vessel has been used in the commission of any act prohibited by section 307, or if the owner or operator of the vessel has committed such an act, the Secretary may, or if any civil penalty imposed under section 308 or any criminal fine imposed under section 309 has not been paid and is overdue, the Secretary shall— Vessels. Law enforcement and crime.

"(i) revoke such permit, if any, issued for the vessel under this subsection, with or without prejudice to the right of the

foreign nation involved to obtain a permit for such vessel in any subsequent year;

"(ii) suspend such permit for the period of time deemed appropriate;

"(iii) deny a permit under this subsection to the vessel; or

"(iv) impose additional conditions and restrictions on the approved application of the foreign nation involved and on any permit issued under that application.

Any permit which is suspended under this subparagraph for nonpayment of a civil penalty shall be reinstated by the Secretary upon the payment of such civil penalty together with interest thereon at the prevailing rate.

"(B) The Secretary may temporarily deny or suspend the permit of any foreign fishing vessel pending the outcome of any administrative proceeding respecting a violation of section 307 of this Act if the Secretary determines that—

"(i) based upon information available to the Secretary, there are reasonable grounds to believe that the vessel has been used in the commission of such violation;

"(ii) immediate suspension of fishing privileges would serve the purposes of this Act; and

"(iii) either—

"(I) the violation presents a serious threat to the public interest,

"(II) the violation presents a serious threat to the achievement of any purpose or policy of this Act, or

"(III) the owner or operator of the vessel has been involved in a prior violation of this Act.

In applying this subparagraph—

"(I) the Secretary must notify the vessel owner of the proposed denial or suspension and give the owner a reasonable opportunity, not longer than 10 days from service of notice, to respond in writing or otherwise;

"(II) if a permit is denied or suspended under this subparagraph, any administrative proceeding respecting the violation at issue must be held as promptly as possible; and

"(III) if another permit application is pending for such vessel on or after the date of the violation, the Secretary need not act on that application before deciding whether or not to deny or suspend temporarily a permit under this subparagraph.".

SEC. 103. HEALTH AND SAFETY STANDARDS FOR FOREIGN FISHING VESSELS.

(a) STANDARDS FOR UNITED STATES OBSERVERS.—Subsection (i) of section 201 of the Act (19 U.S.C. 1821(i)) is amended—

16 USC 1821.

(1) by inserting "(A)" after "(1)" in paragraph (1);

(2) by inserting at the end of paragraph (1) the following new subparagraph:

"(B) The Secretary shall by regulation prescribe minimum health and safety standards that shall be maintained aboard each foreign fishing vessel with regard to the facilities provided for the quartering of, and the carrying out of observer functions by, United States observers."; and

(3) by amending subparagraph (B) of paragraph (2) to read as follows:

"(B) the time during which a foreign fishing vessel will engage in fishing within the exclusive economic zone will be of such short duration that the placing of a United States observer aboard the vessel would be impractical; or".

(b) COMPLIANCE WITH VESSEL SAFETY STANDARDS OF THE FLAG COUNTRY.—Paragraph (3) of section 204(b) of the Act (16 U.S.C. 1824(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by inserting "and" after the semicolon at the end of subparagraph (F); and

(3) by adding after subparagraph (F) the following new subparagraph:

"(G) all applicable vessel safety standards imposed by the foreign country, and shall include written certification that the vessel is in compliance with those standards;".

SEC. 104. REGIONAL FISHERY MANAGEMENT COUNCILS.

(a) VOTING MEMBERS.—(1) Subsection (b) of section 302 of the Act (16 U.S.C. 1852(b)) is amended as follows:

(A) Paragraph (2)(A) is amended to read as follows:

"(2)(A) The members of each Council required to be appointed by the Secretary must be individuals who are knowledgeable and experienced with regard to the conservation and management, or the recreational or commercial harvest, of the fishery resources of the geographical area concerned. The Secretary, in making appointments under this section, shall, to the extent practicable, ensure a fair apportionment, on a rotating or other basis, of the active participants (or their representatives) involved in the fisheries under Council jurisdiction.".

(B) Paragraph (2)(B) is amended—

(i) by adding after the first sentence thereof the following new sentence: "A Governor may not submit the names of individuals to the Secretary for appointment unless the Governor has, to the extent practicable, first consulted with representatives of the commercial and recreational fishing interests of the state regarding those individuals.";

(ii) by striking out "knowledge or experience" in the third sentence thereof and inserting "knowledge and experience"; and

(iii) by adding at the end thereof the following new sentence: "An individual is not eligible for appointment by the Secretary until that individual complies with the applicable financial disclosure requirements under subsection (k).".

(C) Paragraph (3) is amended to read as follows:

"(3) Each voting member appointed to a Council by the Secretary in accordance with subsection (b)(2) shall serve for a term of 3 years; except that the Secretary may designate a shorter term if necessary to provide for balanced expiration to terms of office.".

(2) The amendments made by paragraph (1) shall apply with respect to voting members of regional fishery management councils who are appointed, and to individuals who are nominated for appointment as voting members, on or after the date of the enactment of this Act. 16 USC 1852 note.

(b) COUNCIL COMMENT ON FEDERAL AND STATE ACTION AFFECTING HABITAT.—Section 302 of the Act is further amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by adding after subsection (h) the following new subsection:

"(i) FISHERY HABITAT CONCERNS.—Each Council may comment on, or make recommendations concerning, any activity undertaken, or proposed to be undertaken, by any State or Federal agency that, in the view of the Council, may affect the habitat of a fishery resource under its jurisdiction. Within 45 days after receiving such a comment or recommendation from a Council, a Federal agency must provide a detailed response, in writing, to the Council regarding the matter.".

State and local governments. Classified information. 16 USC 1852.

(c) CLOSURE OF MEETINGS.—Paragraph (4) of section 302(j) of the Act (as redesignated by subsection (b)) is amended by striking out "; except that" and all that follows thereafter and inserting "; except that such procedures, in the case of statistics submitted to the Council by a State or by the Secretary under section 303(d), must be consistent with the laws and regulations of that State, or with the procedures of the Secretary, as the case may be, concerning the confidentiality of the statistics.".

(d) COMMITTEES AND PANELS.—Subsection (j) (as redesignated by subsection (b)) of section 302 of the Act is further amended by adding at the end thereof the following new paragraph:

"(5) Each Council shall specify those procedures that are necessary or appropriate to ensure that the committees and advisory panels established under subsection (g) are involved, on a continuing basis, in the development and amendment of fishery management plans.".

(e) DISCLOSURE OF FINANCIAL INTEREST.—(1) Section 302 of the Act is further amended by adding at the end thereof the following new subsection:

"(k) DISCLOSURE OF FINANCIAL INTEREST.—(1) For purposes of this subsection, the term "affected individual" means an individual who—

"(A) is nominated by the Governor of a State for appointment as a voting member of a Council in accordance with subsection (b)(2);

"(B) is a voting member of a Council appointed under subsection (b)(2); or

"(C) is the executive director of a Council.

"(2) Each affected individual must disclose any financial interest held by—

"(A) that individual;

"(B) the spouse, minor child, or partner of that individual; and

"(C) any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee;

in any harvesting, processing, or marketing activity that is being, or will be, undertaken within any fishery over which the Council concerned has jurisdiction.

"(3) The disclosure required under paragraph (2) shall be made—

"(A) in the case of an affected individual referred to in paragraph (1)(A), before appointment by the Secretary; and

"(B) in the case of an affected individual referred to in paragraph (1) (B) or (C), within 45 days of taking office.

"(4) An affected individual referred to in paragraph (1) (B) or (C) must update his or her disclosure form at any time any such financial interest is acquired, or substantially changed, by any person referred to in paragraph (2) (A), (B), or (C).

"(5) The financial interest disclosures required by this subsection shall— Regulations.

"(A) be made on such forms, in accordance with such procedures, and at such times, as the Secretary shall by regulation prescribe; and

"(B) be kept on file, and made available for public inspection at reasonable hours, at the Council offices. Records. Public information.

"(6) The participation by an affected individual referred to in paragraph (1) (B) or (C) in an action by a Council during any time in which that individual is not in compliance with the regulations prescribed under paragraph (5) may not be treated as cause for the invalidation of that action.

"(7) Section 208 of title 18, United States Code, does not apply to an affected individual referred to in paragraph (1) (B) or (C) during any time in which that individual is in compliance with the regulations prescribed under paragraph (5).".

(2) For purposes of applying subsection (k) of section 302 of the Act (as added by paragraph (1)) to voting members and executive directors of regional fishery management councils who are serving in those capacities on the date on which the regulations prescribed to carry out that subsection first take effect, each such member or director must file a disclosure form under that subsection within 45 days after that date. 16 USC 1852 note.

SEC. 105. FISHERY MANAGEMENT PLANS; DISCLOSURE OF CONFIDENTIAL STATISTICS.

(a) REQUIRED PROVISIONS.—(1) Section 303(a) of the Act (16 U.S.C. 1853(a)) is amended—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting a comma; and

(C) by adding after paragraph (5) the following new paragraphs:

"(6) consider, and may provide for, temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safety of the vessels; and Vessels.

"(7) include readily available information regarding the significance of habitat to the fishery and assessment as to the effects which changes to that habitat may have upon the fishery.".

(2) The amendments made by paragraph (1) apply to each fishery management plan that— 16 USC 1853 note.

(A) is submitted to the Secretary of Commerce for review under section 304(a) of the Act, or that is prepared by the Secretary, after January 1, 1987; or *Post*, p. 3712.

(B) is in effect on that date, but compliance with those amendments is not required except in conjunction with the amendment to the plan next occurring after that date.

(b) DISCLOSURE OF CONFIDENTIAL STATISTICS.—The first sentence of section 303(d) of the Act (16 U.S.C. 1853(d)) is amended to read as follows: "Any statistic submitted to the Secretary by any person in compliance with any requirement under subsection (a)(5) shall be confidential and shall not be disclosed; except—

"(1) to Federal employees and Council employees who are responsible for management plan development and monitoring; or

"(2) when required by court order.".

SEC. 106. ACTION BY SECRETARY REGARDING FISHERY MANAGEMENT PLANS.

Section 304 of the Act (16 U.S.C. 1854) is amended as follows:

(1) Subsection (a) is amended—

(A) by striking out "(the date of receipt of which is hereafter in this section referred to as the 'receipt date')" in paragraph (1);

(B) by redesignating subparagraphs (A), (B), and (C) of paragraph (1) as subparagraphs (B), (C), and (D), respectively;

(C) by inserting immediately before subparagraph (B), as so redesignated, of paragraph (1) the following new subparagraph:

"(A) immediately make a preliminary evaluation of the management plan or amendment for purposes of deciding if it is consistent with the national standards and sufficient in scope and substance to warrant review under this subsection and—

"(i) if that decision is affirmative, implement subparagraphs (B), (C), and (D) with respect to the plan or amendment, or

"(ii) if that decision is negative—

"(I) disapprove the plan or amendment, and

"(II) notify the Council, in writing, of the disapproval and of those matters specified in subsection (b)(2)(A), (B) and (C) as they relate to the plan or amendment;";

(D) by amending subparagraph (C) (as so redesignated) of paragraph (1) by striking out "75-day" and inserting "60-day";

(E) by amending subparagraph (D) (as so redesignated) of paragraph (1) by striking out "30th day" and inserting "15th day";

(F) by amending paragraph (2)—

(i) by striking out "(1)(A)" and inserting "(1)(B)"; and

(ii) by striking out the period at the end of subparagraph (C) and inserting "and to fishery access adjustments referred to in section 303(a)(6)."; and

(G) by adding at the end thereof the following new paragraph:

"(3)(A) The Secretary shall take action under this section on any fishery management plan or amendment to a plan which the Council characterizes as being a final plan or amendment.

"(B) For purposes of this section, the term 'receipt date' means the 5th day after the day on which a Council transmits to the Secretary a fishery management plan, or an amendment to a plan, that it characterizes as a final plan or amendment."

(2) Subsection (b) is amended—

(A) by amending paragraph (1)(A) to read as follows:

"(A) the Secretary does not notify the Council in writing of—

"(i) his disapproval under subsection (a)(1)(A)(ii), or

"(ii) his disapproval, or partial disapproval, under paragraph (2), of the plan or amendment before the close of the 95th day after the receipt date; or";

(B) by striking out "75th day" in paragraph (1)(B) and inserting "60th day";

(C) by amending paragraph (2) by striking out "paragraph (1)(A)" and inserting "paragraph (1)(B)"; and

(D) by amending paragraph (3)—

(i) by striking out "If the Secretary" in subparagraph (A) and inserting "If the Secretary disapproves a proposed plan or amendment under subsection (a)(1)(A)(ii), or", and

(ii) by striking out "(a)(1)(A)" in each of subparagraphs (B)(i) and (C)(i) and inserting "(a)(1)(B)".

(3) Subsection (c) is amended—

(A) by striking out "75-day" in paragraph (2)(A)(ii) and inserting "60-day";

(B) by striking out "30th day" in paragraph (2)(A)(iii) and inserting "15th day"; and

(C) by striking out "75-day" wherever it appears in paragraph (2)(B) and inserting "60-day".

(4) Subsection (e) is amended—

(A) by inserting ", in cooperation with the Councils," immediately after "maintain";

(B) by striking out "management," and inserting "management and on the economics of the fisheries,"; and

(C) by adding at the end thereof the following: "The Secretary shall annually review and update the comprehensive program and make the results of the review and update available to the Councils.".

SEC. 107. SUBMISSION OF CERTAIN FALSE STATEMENTS A PROHIBITED ACT.

(a) KNOWING AND WILLFUL SUBMISSION.—Paragraph (1) of section 307 of the Act (16 U.S.C. 1857(1)) is amended—

(1) by striking out "or" at the end of subparagraph (G);

(2) by inserting "or" after the semicolon at the end of subparagraph (H); and

(3) by adding at the end thereof the following new subparagraph:

"(I) to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United States fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.".

(b) CONFORMING AMENDMENT.—Section 309(a)(1) of the Act (16 U.S.C. 1859(a)(1)) is amended by striking out "or (H)" and inserting "(H), or (J)".

SEC. 108. CIVIL PENALTIES.

Courts, U.S. Mail.

Section 308 of the Act (16 U.S.C. 1858) is amended—

(1) by amending the first sentence of subsection (b) to read as follows: "Any person against whom a civil penalty is assessed under subsection (a) may obtain review thereof in the United

States district court for the appropriate district by filing a complaint in such court within 30 days from the date of such order and by simultaneously serving a copy of such complaint by certified mail on the Secretary, the Attorney General and the appropriate United States Attorney.";

(2) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(3) by inserting immediately after subsection (c) a new subsection (d) to read as follows:

Vessels.
Claims.

"(d) IN REM JURISDICTION.—A fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 307 shall be liable in rem for any civil penalty assessed for such violation under section 308 and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel which may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.".

SEC. 109. ADMINISTRATIVE FORFEITURES.

(a) PROCEDURES.—Section 310 of the Act (16 U.S.C. 1860) is amended—

(1) by amending the second sentence of subsection (c) to read as follows: "The provisions of the customs laws relating to—

"(1) the seizure, forfeiture, and condemnation of property for violation of the customs law;

"(2) the disposition of such property or the proceeds from the sale thereof; and

"(3) the remission or mitigation of any such forfeiture; shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, unless such provisions are inconsistent with the purposes, policy, and provisions of this Act."; and

(2) by adding at the end of subsection (d)(1) the following new sentence: "Nothing in this paragraph may be construed to require the Secretary, except in the Secretary's discretion or pursuant to the order of a court under section 311(d), to release on bond any seized fish or other property or the proceeds from the sale thereof.".

16 USC 1861.

(b) JURISDICTION OF COURTS.—Section 311 of the Act (16 U.S.C. 1861) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.—Notwithstanding any other provision of law, after September 30, 1986, the Secretary or the Secretary of the Treasury may pay from sums received as fines, penalties, or forfeitures of property for violations of any provision of this Act—

"(1) the reasonable and necessary costs incurred in providing temporary storage, care, and maintenance of seized fish or other property pending disposition of any civil or criminal proceeding alleging a violation of any provision of this Act with respect to that fish or other property; and

"(2) a reward to any person who furnishes information which leads to an arrest, conviction, civil penalty assessment, or forfeiture of property for any violation of any provision of this Act.

Any person assessed a civil penalty for, or convicted of, any violation of any provision of this Act shall be liable for the cost incurred in storage, care, and maintenance of any fish or other property seized in connection with the violation concerned.".

SEC. 110. REPEAL.

Section 401 of the Act (16 U.S.C. 1881; relating to the Law of Sea Treaty), and the entry referring to that section in the table of contents of the Act, are repealed.

SEC. 111. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Section 406 of the Act (16 U.S.C. 1882) is amended by adding at the end thereof the following new paragraphs:

"(12) $69,000,000 for fiscal year 1986.
"(13) $70,800,000 for fiscal year 1987.
"(14) $72,900,000 for fiscal year 1988.
"(15) $75,000,000 for fiscal year 1989.".

(b) LIMITATIONS REGARDING CERTAIN NOAA FISHERY RESEARCH VESSELS.—During fiscal years 1986 and 1987, the Secretary of Commerce may not replace with chartered fishery survey vessels the fishery research vessels of the National Oceanic and Atmospheric Administration operated by the Atlantic Marine Center, unless a period of 90 days has expired after the Secretary has submitted to Congress a full and complete statement (including relevant supporting studies) concerning the proposed chartering and the reasons therefor.

SEC. 112. CLERICAL AMENDMENTS.

Section 3(4) of the Act (16 U.S.C. 1802(4)) is amended—

(1) by striking out "Artica islandica" in the listing of mollusks and inserting in lieu thereof "Arctica islandica"; and

(2) by striking out "Hippiospongia canaliculata" in the listing of sponges and inserting in lieu thereof "Spongia cheiris".

SEC. 113. DIRECTIONS REGARDING FISHERY MANAGEMENT COUNCIL MEMBERSHIP.

Notwithstanding section 302 of the Act (16 U.S.C. 1852) and effective on and after the date of the enactment of this Act, the Secretary shall take action to ensure, to the extent practicable, that those persons dependent for their livelihood upon the fisheries within the respective jurisdictions of the Regional Fishery Management Councils are fairly represented as voting members of the Councils.

16 USC 1852 note.

TITLE II—FISH AND SEAFOOD PROMOTION

Fish and Seafood Promotion Act of 1986.

SEC. 201. SHORT TITLE.

16 USC 4001 note.

This title may be cited as the "Fish and Seafood Promotion Act of 1986".

SEC. 202. FINDINGS.

16 USC 4001.

The Congress finds that—

(1) the commercial fishing industry of the United States significantly contributes to the national economy, and could

make a greater contribution if fish resources within the United States Exclusive Economic Zone were more fully utilized;

(2) the commercial fisheries of the United States provide significant employment in coastal areas and in processing and distribution centers;

(3) fish contribute an important nutritional component to the American diet;

(4) increased consumption of seafood in the United States could significantly lower the risk of many cardiovascular diseases;

(5) Federally supported development programs for commercial fisheries are unable to meet present and future marketing needs;

(6) many fish species are underutilized by the United States fishing industry because of underdeveloped markets; and

(7) the United States fishing industry has the potential to expand greatly its contribution to interstate and foreign commerce, favorably affecting the balance of trade.

Business and industry.
16 USC 4002.

SEC. 203. PURPOSE.

The purpose of this title is to—

(1) strengthen the competitive position of the United States commercial fishing industry in the domestic and international marketplace;

(2) encourage the development and utilization of all species of fish available for harvest by the United States fishing industry;

(3) encourage the utilization of domestically-produced fish through enhancement of markets, promotion, and public relations;

(4) help the United States fishing industry develop methods to improve quality and efficiency in the marketplace;

(5) educate and inform consumers on the use of fish;

Research and development.

(6) develop better coordination of fisheries marketing and promotion activities with commercial fisheries research and development programs; and

(7) educate and inform the public about the nutritional value of fish in the diet.

16 USC 4003.

SEC. 204. DEFINITIONS.

As used in this title, the term—

(1) "consumer education" means actions undertaken to inform consumers on matters related to the consumption of fish and fish products;

(2) "council" means a seafood promotional council established under section 210 of this title;

(3) "fish" means finfish, mollusks, crustaceans, and all other forms of aquatic animal life used for human consumption; the term does not include marine mammals and seabirds;

(4) "Fund" means the Fisheries Promotional Fund established in section 209 of this title;

(5) "harvester" means any individual who is in the business of catching or growing fish for purposes of sale;

(6) "importer" means any person in the business of importing fish or fish products into the United States from another country for commercial purposes or who acts as an agent, broker, or consignee for any person or nation that produces, processes or

markets fish or fish products outside of the United States for sale or other commercial purpose in the United States;

(7) "marketer" means any person who is in the business of selling fish or fish products in the wholesale, retail, or restaurant trade, but whose primary business function is not the processing or packaging of fish or fish products in preparation for sale;

(8) "marketing and promotion" means an activity aimed at encouraging the consumption of fish or fish products or expanding or maintaining commercial markets for fish or fish products;

(9) "member" means any person serving on the National Council or on any council;

(10) "National Council" means the National Fish and Seafood Promotional Council established in section 205 of this title;

(11) "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any private entity organized or existing under the laws of the United States or any State, commonwealth, territory or possession of the United States;

(12) "processor" means any person who is in the business of preparing or packaging fish or fish products (including fish of the processor's own harvesting) for sale;

(13) "receiver" means any person who owns fish processing vessels and any person in the business of acquiring fish directly from harvesters;

(14) "research" means any type of research designed to advance the image, desirability, usage, marketability, production or quality of fish and fish products;

(15) "sector" means—

(A) the sector consisting of harvesters;

(B) the sector consisting of importers;

(C) the sector consisting of marketers;

(D) the sector consisting of processors;

(E) the sector consisting of receivers; or

(F) the consumer sector consisting of persons professionally engaged in the dissemination of information pertaining to the nutritional benefits and preparation of fish and fish products;

(16) "Secretary" means the Secretary of Commerce, or the Secretary's designee; and

(17) "United States" means the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands and any other territory, possession, or commonwealth of the United States.

SEC. 205. ESTABLISHMENT OF THE NATIONAL COUNCIL. 16 USC 4004.

(a) ESTABLISHMENT.—There is established the National Fish and Seafood Promotional Council.

(b) COMPOSITION OF THE NATIONAL COUNCIL.—(1) The National Council shall be composed of the Secretary, who shall be a nonvoting member, and fifteen voting members appointed by the Secretary.

(2) Nominations for appointees shall be submitted in a manner prescribed by the Secretary.

(c) REGIONAL REPRESENTATION.—The National Council shall be comprised of regional representation from the Northeast, Southeast,

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Pacific, and Alaska regions. The Northeast region shall consist of the States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Pennsylvania, Maryland and Virginia. The Southeast region shall consist of the States of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana and Texas, the Commonwealth of Puerto Rico, and the territory of the Virgin Islands. The Pacific region shall consist of the States of Idaho, Washington, Oregon, California, and Hawaii, the territories of Guam and American Samoa, and the Commonwealth of the Northern Mariana Islands. The Alaska region shall consist of the State of Alaska.

(d) VOTING MEMBERS.—(1) The voting members of the National Council shall be—

(A) three members who reside in or do substantial fishing industry business in the Northeast region;

(B) three members who reside in or do substantial fishing industry business in the Southeast region;

(C) three members who reside in or do substantial fishing industry business in the Pacific region;

(D) three members who reside in or do substantial fishing industry business in the Alaska region;

(E) two members-at-large with demonstrated expertise in fresh-water and inland commercial fisheries and who are not residents of the states of the Alaska, Pacific, Southeast, or Northeast regions; and

(F) one member-at-large who is either a person professionally engaged in the dissemination of information pertaining to the nutritional benefits and preparation of fish and fish products or a person who is a member of an organized labor union and has expertise in the United States fisheries.

(2) Of the members appointed pursuant to each of paragraphs (1)(A) through (D) of this subsection, one shall be a harvester, one shall be a processor or a receiver, and one shall be a marketer.

(e) TERM OF OFFICE.—Members of the National Council shall be appointed for a term of 4 years. A vacancy in the National Council shall not affect its ability to function. The Secretary shall appoint a new member within sixty days to fill a vacancy in an unexpired term. Any member may remain on the National Council beyond that member's term until a successor is appointed.

(f) CHAIRMAN.—The National Council shall annually elect a Chairman by a majority of those voting, if a quorum is present. Ten members of the National Council shall constitute a quorum, but a lesser number may hold hearings.

(g) FIRST MEETING.—The National Council shall first meet within one hundred and eighty days after the date of enactment of this Act.

(h) COMPENSATION OF MEMBERS.—Members of the National Council shall serve without compensation, but shall be reimbursed in accordance with section 5703 of title 5, United States Code, for reasonable travel costs and expenses incurred in performing their duties as members of the National Council.

16 USC 4005.

SEC. 206. FUNCTIONS AND DUTIES OF THE NATIONAL COUNCIL.

(a) FUNCTIONS AND DUTIES.—The National Council shall—

(1) prepare and submit to the Secretary, for the Secretary's review and approval, an annual marketing and promotion plan which contains descriptions of consumer education, research, and other marketing and promotion activities of the National

Council for the following year, including plans to coordinate the activities of councils established under section 210 of this title;

(2) prepare and submit to the Secretary, for the Secretary's review and approval, an annual budget of the anticipated expenses and disbursements of the National Council, including probable costs of consumer education, research, and other marketing and promotion plans or projects, and referenda under section 210 of this title;

(3) maintain accounting records of the receipt and disbursement of all funds entrusted to the National Council, subject to the Secretary's right to review or inspect such records;

(4) maintain such books and records as the Secretary determines appropriate; and

(5) prepare and submit to the Secretary from time to time such reports or proposals as the Secretary or the National Council determines appropriate for furthering the purposes and policies of this title.

(b) ANNUAL PLAN.—Each annual marketing and promotion plan shall be directed to—

(1) increasing the general demand for fish and fish products;

(2) encouraging, expanding, or improving the marketing and promotion and utilization of fish and fish products; and

(3) improving the dissemination of data collected by consumer education, research, and other marketing promotion activities.

(c) PROHIBITION ON CERTAIN REFERENCES.—Consumer education and other marketing and promotion activities of the National Council shall contain no reference to a private brand or trade name and shall avoid use of deceptive acts or practices in behalf of fish or fish products or with respect to the quality, value, or use of any competing product or group of products. In addition, the National Council may not promote the consumption or purchase of a single or group of similar fish species (such as members of the same genera); except that the Council may use illustrations of a single or group of similar fish species in the course of promoting the generic consumption of fish and fish products.

Patents and trademarks. Labeling. Fraud.

(d) EXECUTIVE DIRECTOR.—The National Council may employ and determine the salary of an executive director, but such salary shall not exceed Senior Executive Service Level 6. The executive director shall have demonstrated expertise in the marketing and promotion of food products and may, without regard to the provisions of title 5, United States Code, with the approval of the National Council, select and employ additional staff as necessary.

5 USC 5332.

(e) FUNDING OF REFERENDUM.—The National Council may enter into agreements with applicants proposing to establish a council under section 210 of this title for the purposes of funding a referendum establishing the council. The National Council may enter into agreements with the councils established under section 210 of this title for the purpose of funding a referendum to establish quality standards, or a referendum to terminate any such council.

(f) AGREEMENTS.—The National Council may enter into agreements to develop and carry out activities authorized under this title.

(g) TERMINATION OF NATIONAL COUNCIL.—The National Council shall cease to exist on October 1, 1990.

SEC. 207. DUTIES OF THE SECRETARY WITH REGARD TO THE NATIONAL COUNCIL.

16 USC 4006.

(a) DUTIES OF THE SECRETARY.—The Secretary shall—

(1) within sixty days after its submission by the National Council, review the annual marketing and promotion plan and budget and, if the Secretary determines that such plan and budget are in accordance with the purposes and policies of this title, approve such plan and budget;

(2) administer the Fund and, in accordance with subsection (b) of this section, withdraw from the Fund such sums as are necessary to carry out the National Council's approved marketing and promotion plan and budget;

Regulations.

(3) promulgate regulations necessary to carry out the purposes and policies of this title;

(4) provide such administrative assistance as the National Council may require for purposes of its initial organization and operation; and

(5) make all appointments to the National Council within ninety days after the date of enactment of this Act.

(b) WITHDRAWAL OF FUNDS.—The Secretary shall make withdrawals of sums from the Fund under this section at the request of the National Council, unless the Secretary determines that the purposes for which such sums are requested are not reasonably likely to further the purposes and policies of this title.

16 USC 4007.

SEC. 208. VOLUNTARY PAYMENTS.

Any person may make voluntary payments to assist the National Council to carry out its annual marketing and promotion plan and annual budget. The Secretary shall deposit such payments into the Fund.

16 USC 4008.

SEC. 209. ESTABLISHMENT OF FISHERIES PROMOTIONAL FUND.

(a) ESTABLISHMENT OF THE FUND.—There is established in the Treasury of the United States a Fisheries Promotional Fund. The Fund shall be available, to the extent provided for in appropriation Acts, for the purpose of making payments to carry out the annual marketing and promotion plan and annual budget of the National Council under this title.

(b) DEPOSITS.—There shall be deposited in the Fund—

(1) the moneys transferred to the Fund under section 2(b)(2) of the Act of August 11, 1939 (commonly known as the Saltonstall-Kennedy Act; 15 U.S.C. 713c-3(b));

(2) payments made voluntarily pursuant to section 208 of this title; and

(3) receipts from investments made under subsection (c) of this section.

(c) DEPOSITS AND INVESTMENTS.—Sums in the Fund that are not currently needed for the purposes of the Fund shall be kept on deposit in appropriate interest-bearing accounts that shall be established by the Secretary of the Treasury, or invested in obligations of, or guaranteed by, the United States. Any revenue accruing from such deposits and investments shall be deposited in the Fund.

(d) AUTHORIZATION.—There are authorized to be appropriated from the Fund, for the purposes of carrying out the annual marketing and promotion plan and annual budget of the National Council under this title, such sums as are deposited in the Fund under subsection (b) of this section in each fiscal year beginning in fiscal year 1987 through fiscal year 1990.

(e) AMENDMENTS TO THE SALTONSTALL-KENNEDY ACT.—Subsection (b) of section 2 of the Act of August 11, 1939 (15 U.S.C. 713c-3(b)), is amended—

(1) by inserting "(1)" before "The Secretary of Agriculture";

(2) by striking out "separate fund" and all that follows thereafter and inserting in lieu thereof the following: "separate fund only for—

"(A) use by the Secretary—

"(i) to provide financial assistance for the purpose of carrying out fisheries research and development projects approved under subsection (c), and

"(ii) to implement the national fisheries research and development program provided for under subsection (d); and

"(B) the provision of moneys, subject to paragraph (2), to carry out the purposes of the Fisheries Promotion Fund established under section 208(a) of the Fish and Seafood Promotion Act of 1986."; and

Research and development.

Ante, p. 3720.

(3) by adding at the end thereof the following new paragraph:

"(2) There are transferred from the fund established under paragraph (1) to the Fisheries Promotion Fund referred to in paragraph (1)(B) $750,000 in fiscal year 1987, $3,000,000 in each of fiscal years 1988 and 1989, and $2,000,000 in fiscal year 1990.".

SEC. 210. ESTABLISHMENT OF A COUNCIL.

16 USC 4009.

(a) APPLICATION.—An application for a charter for a seafood marketing council for one or more species of fish and fish products of that species may be filed by persons who meet the requirements specified in accordance with subsection (b)(6) of this section.

(b) FORM OF APPLICATION.—An application for a charter for a council shall be made by filing with the Secretary the text of a proposed charter in such form as shall be prescribed by regulation by the Secretary. The text of a proposed charter must contain such information as the Secretary considers necessary or appropriate for carrying out the provisions of this title, including—

Regulations.

(1) the name of the council and a provision proclaiming its establishment;

(2) a declaration of the purposes and objectives of the council;

(3) a description of the species of fish and fish products for which the council will implement marketing and promotion plans under section 211 of this title;

(4) the identification of each sector and the number and terms of representatives of each sector that will be represented as voting members of the council;

(5) the identification of those sectors (including the sector consisting of harvesters, the sector consisting of receivers, and, if subject to assessment, the sector consisting of importers) subject to a referendum to establish a council under subsection (e) of this section;

(6) a specification for each sector described under paragraph (5) of this subsection of the minimum requirements, as measured by income, volume, or other relevant factors, that a person engaging in business in the sector must meet in order to participate in a referendum;

(7)(A) a description of the procedures for determining assessment rates under section 213 of this title;

(B) the proposed rate or rates that will be imposed by the council on receivers and, if subject to assessment, importers during its first year of operation;

(C) the maximum amount an assessment rate for any period may be raised above the rate applicable for the immediately preceding period; and

(D) the maximum rate or rates that can be imposed by a council on receivers or importers during the operation of the council;

(8) a provision setting forth the definition of a quorum for making decisions on council business and the procedures for selecting a chairman of the council;

(9) a provision setting forth the voting procedures by which votes may be cast by proxy; and

(10) such other provisions relating to administration of the council as the Secretary considers necessary.

The text of a proposed charter shall be accompanied by a document identifying, to the extent practicable by address of place of business, the persons (hereinafter referred to as "sector participants") that are considered by the applicants to meet the requirements specified in paragraph (6) of this subsection. The text of a proposed charter shall include provisions setting forth procedures for providing refunds to those sector participants subject to assessment under section 213 of this title, and may also include provisions which establish a maximum limit on the amount that any one sector participant may be required to pay under an assessment for any period.

(c) CONTENTS OF CHARTER.—The Secretary may not approve a proposed charter filed under subsection (a) of this section unless such charter provides that—

(1) the council will have voting members representing the harvesting, receiving and, if subject to assessment, importing sectors; and

(2) the members of the council shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the council.

(d) REVIEW OF CHARTER.—(1) Within 180 days of the receipt of an application to establish a council, the Secretary shall—

(A) identify, to the extent practicable, those sector participants that meet the requirements for eligibility to participate in the referendum under subsection (e) of this section;

(B) determine, to the extent practicable, if the charter is accompanied by a petition comprised of the signatures or corporate certifications, as the case may be, of no less than three sector participants in each sector identified in accordance with subsection (b)(5) of this section who collectively accounted for, in the twelve-month period immediately preceding the month in which the application was filed, not less than 10 percent of the value of the fish or fish products described in accordance with subsection (b)(3) of this section that were handled by each such sector during that period; and

(C) determine if the proposed charter is consistent with the provisions of this title and any other applicable law.

(2) If any negative determination is made under paragraph (1) of this subsection regarding a proposed charter, the Secretary shall advise in writing the sector participants who made the application of the reasons for such determination. A corrected application may be submitted thereafter to the Secretary for approval.

(e) CONDUCT OF REFERENDUM.—(1) Upon making affirmative determinations under subsection (d)(1) of this section regarding a proposed charter, the Secretary, within 90 days after the date of the last of such determinations, shall conduct a referendum on the adoption of the proposed charter among all sector participants identified in accordance with subsection (d)(1)(A) of this section. The Secretary shall by order establish the council and approve the proposed charter, if the referendum votes which are cast in favor of the proposed charter constitute a majority of the sector participants voting in each sector and the majority collectively accounts for, in the twelve-month period immediately preceding the month in which the proposed charter was filed under subsection (a) of this section, at least sixty-six percent of the value of the fish and fish products described in accordance with subsection (b)(3) of this section that were handled by that sector during such period.

(2) Not less than thirty days prior to holding a referendum under this subsection, the Secretary shall—

(A) publish (by such means as will result in wide publicity in regions affected by the proposed charter) the text of the proposed charter and a list of those sector participants eligible to vote in the referendum; and

(B) provide for public comment, including the opportunity for a public meeting.

(3)(A) The Secretary shall pay all costs of a referendum which establishes a council under this subsection. Within two years after a council is established the council shall reimburse the Secretary for any expenses incurred for the conduct of the referendum from assessments collected by the council. Prior to the holding of a referendum under this subsection, the Secretary shall require the applicants to post a bond or other security acceptable to the Secretary, in an amount which the Secretary determines to be sufficient to pay any expenses incurred for the conduct of the referendum, and shall immediately recover such amount if a referendum fails to result in the establishment of a council.

(B) As used in this paragraph, the term "expenses incurred for the conduct of the referendum" does not include salaries of Government employees or other administrative overhead, but is limited to those additional direct costs incurred in connection with conduct of the referendum.

(f) NOMINATIONS.—(1) Within thirty days after a council is established under subsection (e) of this section, the Secretary shall solicit from the sectors represented on the council nominations for members of the council. If the harvesters and receivers represented on the council are engaged in business in two or more regions of the United States, the nominations made under this paragraph, and the appointments to the council made under paragraph (3) of this subsection, must, to the extent practicable, result in equitable representation for the constituent regions.

(2) No person is eligible for nomination or appointment as a member of a council unless such person is knowledgeable and experienced with regard to the activities of, and is or has been actively engaged in the business of, the sector which such person will represent on the council.

(3) The Secretary shall, within sixty days after the end of the thirty-day period referred to in paragraph (1) of this subsection, appoint the members of the council from among the nominees.

(4) A vacancy on a council shall be filled, within sixty days after the vacancy occurs, in the same manner in which the original

appointment was made. A member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term.

(5) The Secretary shall remove any member of a council if the council concerned first recommends, by not less than two-thirds of its members, removal for cause. Such a recommendation of a council must be in writing and accompanied by a statement of the reasons upon which the recommendation is based.

(g) NATURE OF A COUNCIL.—A council is not an instrumentality of the United States Government.

16 USC 4010.

SEC. 211. FUNCTIONS AND POWERS OF COUNCILS.

(a) ACTIVITIES OF A COUNCIL.—(1) Each council shall—

(A) Adopt a seal which shall be judicially noticed;

(B) implement all terms of its charter;

(C) prepare and submit to the Secretary, for review and approval under section 212(a)(1) of this title, a marketing and promotion plan and amendments to such plan which contain descriptions of the projected consumer education, research, and other marketing and promotion activities of the council;

(D) implement and administer an approved marketing and promotion plan and amendments to such plan;

(E) determine the assessments to be made under section 213 of this title and administer the collection of such assessments to finance council expenses described in paragraph (2) of this subsection;

Reports.

(F) receive, investigate and report to the Secretary accounts of violations of rules or orders relating to assessments collected under section 213 of this title, or quality standard requirements established under subsection (c) of this section;

(G) prepare and submit to the Secretary, for review and approval under section 212(a)(1) of this title, a budget (on a fiscal year basis) of the anticipated expenses and disbursements of the council, including—

(i) all administrative and contractual expenses;

(ii) the probable costs of consumer education, research, and other marketing and promotion plans or projects;

(iii) the costs of the collection of assessments; and

(iv) the expense of repayment of the costs of each referendum conducted in regard to the council;

Records.
Reports.

(H) maintain books and records, prepare and submit to the Secretary such reports from time to time as may be necessary for appropriate accounting with respect to the receipt and disbursement of funds entrusted to it, and cause a complete audit report to be submitted to the Secretary at the end of each fiscal year;

(I) reimburse the Secretary for the expenses incurred for the conduct of the referendum to establish the council or any subsequent referendum to terminate the council that fails; and

Reports.

(J) prepare and submit to the Secretary from time to time such reports or proposals as the council determines appropriate to further the purposes of this title.

(2) Funds collected by a council under section 213 of this title shall be used by the council for—

(A) research, consumer education, and other marketing and promotion activities regarding the quality and marketing of fish and fish products;

(B) other expenses, as described in subsection (a)(1)(G) of this section;

(C) such other expenses for the administration, maintenance, and functioning of the council as may be authorized by the Secretary;

(D) any reserve fund established under subsection (b)(5) of this section and any administrative expenses incurred by the Secretary specified as reimbursable under this title.

(3) Marketing and promotion plans and amendments to such plans prepared by a council under subsection (a)(1)(C) of this section shall be designed to increase the general demand for fish and fish products described in accordance with section 210(b)(3) of this title by encouraging, expanding, and improving the marketing, promotion and utilization of such fish and fish products, in domestic or foreign markets, or both, through consumer education, research, and other marketing and promotion activities.

Patents and trademarks. Labeling. Fraud.

(4) Consumer education and other marketing and promotion activities carried out by a council under a marketing and promotion plan and amendments to such plan may not contain references to any private brand or trade name and shall avoid the use of deceptive acts or practices in promoting fish or fish products or with respect to the quality, value, or use of any competing product or group of products.

(b) AUTHORITY OF A COUNCIL.—A council may—

(1) sue and be sued;

(2) enter into contracts;

(3) employ and determine the salary of an executive director who may, with the approval of the council, employ and determine the salary of such additional staff as may be necessary;

(4) collaborate with other councils and with the National Council in establishing and implementing a national marketing and promotion plan for one or more species of fish or fish products; and

(5) establish a reserve fund from monies collected and received under section 213 of this title to permit an effective and sustained program of research, consumer education, and other marketing and promotion activities regarding the quality and marketing of fish and fish products in years when production and assessment income may be reduced, but the total reserve fund may not exceed the amount budgeted for the current fiscal year of operation.

(c) QUALITY STANDARDS.—(1) A council may develop and submit to the Secretary for approval, or upon the request of a council the Secretary shall develop, quality standards for a fish or fish product described in accordance with section 210(b)(3) of this title. Any quality standard developed under this paragraph shall be consistent with the purposes of this title.

(2) A quality standard developed under paragraph (1) of this subsection may be adopted by a council by a majority of the members of the council if first approved, in a referendum conducted by the council, by a majority of the sector participants of the sector concerned voting and the majority collectively accounted for, in the twelve-month period immediately preceding the month in which the referendum is held, not less than sixty-six percent of the value of the

fish or fish products described in accordance with section 210(b)(3) of this title that were handled by that sector during such period.

(3) With respect to a quality standard adopted under paragraph (2) of this subsection, the council shall develop and file with the Secretary an official identification in the form of a symbol, stamp, label, or seal that will be used to indicate that a fish or fish product meets the quality standard at the time the official identification is affixed to the fish or fish product, or is affixed to or printed on the packaging material of the fish or fish product.

Regulations.

(4) The Secretary shall establish by regulation procedures for the use of an official identification filed with the Secretary under paragraph (3) of this subsection. Misuse of an official identification established under this section shall constitute a violation of this title.

(5) Prior to issuing final regulations under paragraph (4) of this subsection, the Secretary shall—

(A) publish the proposed regulations by such means as will result in wide publicity in affected regions; and

(B) provide for public comment and the opportunity for a public hearing.

(6) A council may receive, investigate and report to the Secretary accounts of violations of regulations issued under paragraph (4) of this subsection.

(7) Any regulation issued under paragraph (4) of this subsection shall be repealed immediately by the Secretary upon the termination under section 216 of this title of the council that developed the official identification to which the regulations apply.

(8) The procedures applicable to the adoption and the taking effect of a quality standard developed under this subsection also apply to a subsequent amendment or the termination of such standard.

(d) AMENDMENT OF A CHARTER.—A council may submit to the Secretary amendments to the text of the council's charter. Any proposed amendments to a charter shall be approved or disapproved in the same manner as the original charter was approved under section 210 (d) and (e) of this title, with the exception of section 210(d)(1)(B).

16 USC 4011.

SEC. 212. FUNCTIONS AND POWERS OF THE SECRETARY.

(a) DUTIES OF THE SECRETARY.—In addition to the duties prescribed under section 210 of this title, the Secretary shall—

(1) review, for consistency with the provisions of this title and other applicable law, and approve or disapprove, marketing and promotion plans and budgets within sixty days after their submission by a council;

(2) immediately notify a council in writing of the disapproval of a marketing and promotion plan or budget, together with reasons for such disapproval;

(3) issue orders and amendments to such orders that are necessary to implement quality standards under section 211(c) of this title;

Regulations.

(4) promulgate regulations necessary to carry out the purposes of this title;

(5) enforce the provisions of this title, as provided under section 217 of this title; and

(6) make all appointments to councils in accordance with section 210(f) of this title.

(b) ASSISTANCE.—The Secretary may provide, on a reimbursable or other basis, such administrative or technical assistance as a council may request for purposes of the initial organization and subsequent operation of the council.

SEC. 213. ASSESSMENTS. 16 USC 4012.

(a) AUTHORITY.—A council shall impose and administer the collection of the assessments that are necessary to pay for all expenses incurred by the council in carrying out its functions under this title.

(b) METHOD OF IMPOSITION.—(1) Assessments shall be imposed on sector participants in the receiving sector or the importing sector, or both, as specified in an approved council charter.

(2) An assessment on sector participants in the receiving sector shall be— Vessels.

(A) except for an owner of a fish processing vessel, in the form of a percentage of the value of the fish described in accordance with section 210(b)(3) of this title when purchased by such participants from fish harvesters; and

(B) for an owner of a fish processing vessel, in the form of a percentage of the value of the fish described in accordance with section 210(b)(3) of this title and harvested by such a vessel that is no less than the value of such fish, if such fish had been purchased by a receiver other than an owner of such a vessel.

(3) An assessment on sector participants in the importing sector shall be in the form of a percentage of the value, as determined for the purposes of the customs laws, of the fish or fish products described in accordance with section 210(b)(3) of this title when entered, or withdrawn from warehouse for consumption, in the customs territory of the United States by such sector participants.

(c) PROHIBITION ON ASSESSMENT.—A council may not impose an assessment on any person that was not eligible to vote in the referendum establishing the council under section 210(e) of this title by reason of failure to meet the requirements specified under section 210(b)(6) of this title, unless such person, after the date on which such referendum is held, meets the requirements of section 210(b)(6) of this title.

(d) VOLUNTARY PAYMENTS.—Any person may make voluntary payments or in-kind contributions to a council for purposes of assisting the council in carrying out its functions.

(e) DEPOSIT OF FUNDS.—All funds collected or received by a council under this section shall be deposited by the council in an appropriate account in the name of the council specified in its charter. Funds eligible to be collected or received by a council shall be limited to those authorized under this section.

(f) INFORMATION.—(1) Sector participants shall make available to the Secretary such information and data as is necessary for the effectuation, administration or enforcement of this title or any order or regulation issued pursuant to this title. Except as provided in paragraphs (2) and (3) of this subsection, any information obtained in carrying out this subsection shall be kept confidential by all officers and employees of the Department of Commerce, independent accountants and other persons who have access to such information.

(2) If the Secretary or an employee of the United States Government is a party to a suit or administrative action involving an assessment, order, or regulation issued under this title, the Secretary may disclose information obtained under paragraph (1) of this

subsection to the extent allowed by the judicial or administrative officer presiding over such suit or action.

(3) This subsection shall not prohibit—

(A) the issuance of general or statistical statements based upon reports of a number of persons subject to the provisions of this title which do not identify the information furnished by any person; or

(B) the publication by direction of the Secretary of the name of any person violating a requirement relating to an assessment imposed under subsection (a) of this section or to quality standards implemented by the Secretary under section 211(c) of this title, and a statement of the particular provisions of the requirement violated by such person.

Law enforcement and crime.

(4) Any individual who is required to keep information confidential under this subsection and who knowingly violates this subsection shall, upon conviction, be—

(A) subject to a fine of not more than $1,000 or to imprisonment for not more than one year, or both; and

(B) removed from office if an officer or employee of a council or the Department of Commerce.

16 USC 4013.

SEC. 214. PETITIONS.

(a) FILING OF PETITION.—Any person subject to assessment under section 213 of this title may file a written petition with the Secretary alleging that—

(1) the assessment,

(2) the plan approved under section 212(a)(1) of this title on which the assessment is based, or

(3) any obligation imposed under the plan,

is not in accordance with law and requesting the Secretary to modify or take other appropriate action regarding the assessment or plan.

(b) FORM OF PETITION.—Any such petition shall be in writing and filed within the period prescribed by the Secretary. A person who files a petition under this section shall be given an opportunity for a hearing regarding the petition in accordance with regulations issued by the Secretary. After such a hearing, or if no hearing is requested, after consideration of all documentation and other evidence, the Secretary shall make a ruling upon such petition.

16 USC 4014.

SEC. 215. REFUNDS.

Notwithstanding any other provision of this title, any person who pays an assessment under this title may demand and shall promptly receive from the council a refund of such assessment. A demand for refund must be made in accordance with the procedures, and within such time, as shall be prescribed by the council and approved by the Secretary. Procedures to provide such a refund shall be established before any such assessment may be collected. Such procedures shall allow any person to request a refund for not less than ninety days from such collection, and provide that any such refund shall be made within sixty days after demand for such refund is made.

16 USC 4015.

SEC. 216. TERMINATION OF A COUNCIL.

(a) PETITION FOR TERMINATION.—(1) A petition to terminate a council may be filed with the Secretary by no less than three sector participants in any one sector. Any petition filed under this subsec-

tion shall be accompanied by a written document explaining the reasons for such petition.

(2) If the Secretary determines that a petition filed under paragraph (1) of this subsection is accompanied by the signatures, or corporate certifications, as the case may be, of no less than three sector participants in a sector referred to in paragraph (1) of this subsection who collectively accounted for, in the twelve-month period immediately preceding the month in which such petition was filed, not less than 20 percent of the value of the fish or fish products described in accordance with section 210(b)(3) of this title that were handled by that sector during such period, the Secretary, within 90 days after such determination, shall conduct a referendum for termination of the council among all sector participants in that sector.

(3) Not less than 30 days prior to holding a referendum under this subsection, the Secretary shall publish a notice of such referendum, including the document explaining the reasons for the petition filed under paragraph (1) of this subsection and any other relevant information the Secretary considers appropriate.

(4) If the referendum votes which are cast in favor of terminating the council constitute a majority of the sector participants voting and the majority, in the period referred to in paragraph (2) of this subsection, collectively accounted for not less than sixty-six percent of the value of such fish and fish products that were handled during such period by a sector referred to in paragraph (1) of this subsection, the Secretary shall by order terminate the council effective as of a date by which the affairs of the council may be concluded on an orderly basis.

(5) The Secretary initially shall pay all costs of a referendum conducted under this subsection. Prior to conducting such a referendum, the Secretary shall require petitioners to post a bond or other security acceptable to the Secretary in an amount which the Secretary determines to be sufficient to pay any expenses incurred for the conduct of such referendum. Securities.

(6)(A) If a referendum conducted under this subsection fails to result in the termination of the council, the Secretary shall immediately recover the amount of the bond posted by petitioners under paragraph (5) of this subsection.

(B) If a referendum conducted under this subsection results in the termination of the council, the Secretary shall recover the expenses incurred for the conduct of the referendum from the account established by the council under section 213(e) of this title. If the amount remaining in such account is insufficient for the Secretary to recover all expenses incurred for the conduct of the referendum, the Secretary shall recover the balance of such expenses from the petitioners that posted a bond under paragraph (5) of this subsection.

(b) PAYMENT OF REMAINING FUNDS.—If a council is terminated under subsection (a) of this section, the Secretary, after recovering all expenses incurred for the conduct of the referendum under subsection (a) of this section, shall take such action as is necessary and practicable to ensure that moneys remaining in the account established by the council under section 213(e) of this title are paid on a prorated basis to the sector participants from whom those moneys were collected under section 213 of this title.

Courts, U.S.
16 USC 4016.

SEC. 217. ENFORCEMENT.

(a) AUTHORITY.—(1) The district courts of the United States shall have jurisdiction specifically to enforce and to prevent and restrain any person from violating any assessment, order or regulation made or issued under this title.

(2)(A) If a council has reason to believe that a person subject to an assessment, order or regulation made or issued under this title is violating such assessment, order or regulation, it may refer the matter to the Secretary.

(B) Except as provided in subparagraphs (C) or (D) of this paragraph, any civil action authorized to be brought under this subsection, when referred by a council under subparagraph (A) of this paragraph, shall be referred to the Attorney General for appropriate action.

(C) If the Secretary believes that the administration and enforcement of the provisions of this title would be adequately served by taking administrative action under subsection (b) of this section or by providing written notice or warning to any person committing a violation of this title, the Secretary is not required to refer such violation to the Attorney General.

(D) Whenever a matter has been referred by a council under subparagraph (A) of this paragraph and the Secretary or the Attorney General fails within 60 days of such referral to take appropriate action, the council may, upon filing notice with the Secretary or Attorney General, as appropriate, and other interested parties, bring an action in its own name.

(b) RECOVERY OF COSTS.—(1)(A) When a council brings an action under subsection (a)(2) of this section, the council may recover costs of litigation and, where the action is brought to collect an unpaid assessment, interest from the date the amount became due and payable.

(B) Any person who violates any provision of an order (including a cease and desist order previously issued under this paragraph) or regulation issued by the Secretary under this title, or who fails or refuses to pay, collect, or remit any assessment required under this title, may be assessed a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each such violation. Each violation shall be a separate offense. In addition to, or in lieu of, a civil penalty under this subparagraph, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

(C) No penalty shall be assessed, or cease and desist order issued, under this paragraph unless the affected person is given notice and opportunity for a hearing before the Secretary with respect to such violation.

(D) Any order of the Secretary under this paragraph assessing a penalty or imposing a cease and desist order shall be final and conclusive, unless the affected person files an appeal from the Secretary's order with the appropriate United States court of appeals.

District of Columbia.

(2)(A) Any person against whom a violation is found under paragraph (1) of this subsection may obtain review of such action in the United States court of appeals for the circuit in which such person resides or has his place of business, or in the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within thirty days after the date of such order

and by simultaneously sending a copy of such notice by certified mail to the Secretary.

(B) The Secretary shall promptly file in the court a certified copy of the record upon which such violation was found.

(C) The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence or not in accordance with law.

(3)(A) If any person fails to pay a civil penalty under this subsection after it has become final, the Secretary shall refer the matter to the Attorney General.

(B) The Attorney General shall institute appropriate action to recover the amount assessed under this subsection in a district court of the United States.

(C) If, within sixty days after such referral, the Attorney General fails to institute such appropriate action, the council to whose programs the assessment, order or regulation relates may institute an action in its own name.

SEC. 218. INVESTIGATIONS. 16 USC 4017.

(a) AUTHORITY TO MAKE INVESTIGATIONS.—The Secretary may make such investigations as the Secretary determines necessary to—

(1) carry out the Secretary's responsibilities under this title; and

(2) determine whether any person has engaged in any act or practice which constitutes a violation of the provisions of this title.

(b) OATHS AND AFFIRMATIONS.—For the purpose of investigations under subsection (a) of this section, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. The attendance of such witnesses and the production of any such records may be required from any place in the United States.

(c) COURT ORDERS.—In case of contumacy or refusal to obey a subpoena issued under this section by any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or has his business, to require the attendance and testimony of witnesses and the production of books, papers, and documents. Such court may issue an order requiring such person to appear before the Secretary to produce records or to give testimony relating to the matter under investigation.

SEC. 219. REPORT. 16 USC 4001 note.

The Secretary shall, not later than March 1, 1989, submit to the Congress a report on the effectiveness of the implementation of this title in achieving the purposes of this title.

TITLE III—INTERJURISDICTIONAL FISHERIES

Interjurisdictional Fisheries Act of 1986.

SEC. 301. SHORT TITLE. 16 USC 4101 note.

This title may be cited as the "Interjurisdictional Fisheries Act of 1986".

16 USC 4101.

SEC. 302. PURPOSES.

The purposes of this title are—

(1) to promote and encourage State activities in support of the management of interjurisdictional fishery resources; and

(2) to promote and encourage management of interjurisdictional fishery resources throughout their range.

16 USC 4102.

SEC. 303. DEFINITIONS.

For the purposes of this title:

(1) The term "Federal fishery management plan" means a plan developed under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(2) The term "fishery resource" means finfish, mollusks, crustaceans, and any other form of marine animal or plant life, other than marine mammals and birds.

(3) The term "interjurisdictional fishery resource" means—

(A) a fishery resource for which a fishery occurs in waters under the jurisdiction of one or more States and the exclusive economic zone established by Proclamation Numbered 5030, dated March 10, 1983;

97 Stat. 1557.

(B) a fishery resource for which there exists an interstate fishery management plan; or

(C) a fishery resource which migrates between the waters under the jurisdiction of two or more States bordering on the Great Lakes.

For purposes of applying section 305(a)(3) during fiscal year 1987, a Federal fishery management plan or an interstate fishery management plan for the fishery resource need not be in existence, but a plan of either kind for that resource must be in the development process during that year.

(4) The term "interstate fishery management plan" means a plan for managing fisheries developed and adopted by an interstate commission.

(5) The term "interstate commission" means a commission or other administrative body established by an interstate compact.

(6) The term "interstate compact" means a compact that has been entered into by two or more States, established for the purposes of conserving and managing interjurisdictional fishery resources throughout their range, and consented to and approved by Congress.

(7) The term "project" means a program for research in support of the management of an interjurisdictional fishery resource or an interstate cooperative fishery management agreement.

(8) The term "Secretary" means the Secretary of Commerce.

(9) The term "State" means any of the several States of the United States, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, or the Northern Mariana Islands.

(10) The term "State agency" means any department, agency, commission, or official of a State authorized under the laws of the State to regulate commercial fisheries or enforce laws relating to commercial fisheries.

SEC. 304. APPORTIONMENT. 16 USC 4103.

(a) TIME WHEN APPORTIONMENTS MADE.—Funds appropriated under section 308(a) shall be apportioned by the Secretary among the States on October 1 of each fiscal year, or as soon thereafter as practicable.

(b) APPORTIONMENT FORMULA.—The amount of funds apportioned to each State shall be determined by the Secretary as the ratio which the equally weighted average of the volume and value of fishery resources harvested by domestic commercial fishermen and received within such State during the 3 most recent calendar years for which data satisfactory to the Secretary are available bears to the total equally weighted average of the volume and value of all fishery resources harvested by domestic commercial fishermen received within all of the States during those calendar years.

(c) LIMITATIONS.—(1) No State may receive an apportionment under subsection (b) for either fiscal year 1987 or fiscal year 1988 which is less than one-half of one percent of the total amount of funds available for that fiscal year.

(2) For any fiscal year after fiscal year 1988, no State that, under the apportionment formula in subsection (b), has a ratio of one-third of one percent or higher may receive an apportionment for any fiscal year which is less than one percent of the total amount of funds available for that fiscal year.

(3) For any fiscal year after fiscal year 1988, no State may receive an apportionment under this section for any fiscal year if that State's ratio under the apportionment formula in subsection (b) is less than one-third of one percent, unless the State—

(A) is signatory to an interstate fishery compact;

(B) has entered into an agreement with the Secretary or the Secretary of the Interior under which the personnel, services, and equipment of the State and the Federal agency concerned will be made mutually available for the enforcement of Federal and State laws pertaining to the protection of fishery resources;

(C) borders one or more of the Great Lakes; or

(D) has entered into an interstate cooperative fishery management agreement and has in effect an interstate fisheries management or interstate fisheries research program.

(4) No State that, under the apportionment formula in subsection (b), has a ratio of less than one-third of one percent and meets any of the requirements set forth in paragraph (1) (A), (B), (C), or (D) may receive an apportionment for any fiscal year which is less than one-half of one percent of the total amount of funds available for apportionment for such fiscal year.

(5) No State may receive an apportionment for any fiscal year under this section which is more than 6 percent of the total amount of funds available for apportionment for such fiscal year.

(d) UNUSED APPORTIONMENTS.—Any part of an apportionment for any fiscal year to any State—

(1) that is not obligated during that year;

(2) with respect to which the State notifies the Secretary that it does not wish to receive that part; or

(3) that is returned to the Secretary by the State,

may not be considered to be apportioned to that State and shall be added to such funds as are appropriated pursuant to section 308(a) for the next fiscal year (and shall be treated as having been appro-

priated for such next year) for apportionment under subsection (a). Any notification or return of funds referred to in paragraph (2) or (3) by a State is irrevocable.

16 USC 4104.

SEC. 305. STATE PROJECTS.

(a) IN GENERAL.—(1) Any State may, through its State agency or an interstate commission, submit to the Secretary a proposal for a project which includes full plans, specifications, and cost estimates for such project. The total cost of all items included for engineering, planning, inspection, and unforeseen contingencies in connection with any works to be constructed as part of such a proposed project shall not exceed 10 percent of the total cost of such works, and shall be paid by the State as a part of its contribution to the total cost of the works.

(2) No part of any funds appropriated under any authorization contained in section 308 may be obligated with respect to any project until the proposal for such project has been submitted under paragraph (1) and approved by the Secretary. The Secretary, before approving any proposal for a project, must evaluate the proposal as to—

(A) the soundness of design;

(B) the possibilities of securing productive results;

(C) the minimization of duplication with other research projects in support of the management of interjurisdictional fishery resources and carried out under this title or under any other law or regulation;

(D) the organization and management of the project;

(E) the methods proposed for monitoring and evaluating the success or failure of the project;

(F) the consistency of the project with the purposes of this title specified in section 302; and

(G) such other criteria as the Secretary may prescribe.

(3) The Federal share of the cost of any project conducted under this title shall not exceed 75 percent of the total estimated cost of the project, unless—

(A) the State has adopted an interstate fishery management plan for the resource to which the project applies; or

(B) the State has adopted fishery regulations which the Secretary has determined are consistent with any Federal fishery management plan for the species to which the project applies;

in which case the Federal share shall not exceed 90 percent of the total estimated cost of the project.

(4)(A) If the Secretary approves or disapproves a proposal for a project, the Secretary shall promptly give written notification, including, if disapproved, a detailed explanation of the reasons for the disapproval, to the State agency submitting the proposal or, if the proposal is submitted through an interstate commission, such commission and the State.

(B) For the purposes of this title, funds apportioned under this section to any State shall be treated as having been obligated with respect to a project during the fiscal year in which the written notification of approval required under subparagraph (A) for the project proposal is made.

(b) RESTRICTION.—The expenditure of funds under this title shall be applied only to projects for which a proposal has been approved under subsection (a), except that up to $25,000 each fiscal year may be obligated for a State to carry out an agreement with the Sec-

retary or the Secretary of the Interior under which the personnel, services and equipment of the State and the Federal agency concerned will be made mutually available for the enforcement of Federal and State laws pertaining to the protection of fishery resources. If otherwise applied, such funds shall be replaced by the State before the State may receive any additional funds under this title.

(c) PAYMENT.—When the Secretary determines that a project carried out under a proposal approved by the Secretary has been completed, or where the Secretary otherwise deems it appropriate, the Secretary shall cause to be paid to the proper authority of the State, or to the official or depository designated by the interstate commission if the State agency specifies that payment is to be made to the interstate commission, the Federal share of the project. Any payment made to an interstate commission shall be charged against the apportionment of the State concerned.

SEC. 306. PROPERTY.

State and local governments. 16 USC 4105.

(a) APPLICATION OF FEDERAL AND STATE LAWS.—All work, including the furnishing of labor and materials, needed to complete any project approved by the Secretary shall be performed in accordance with applicable Federal and State laws under the direct supervision of the State agency, and in accordance with regulations as the Secretary may prescribe.

(b) TITLE.—Title to all property, real and personal, acquired for the purposes of completing any project approved by the Secretary vests in the State.

(c) DISPOSAL.—If a State disposes of any real or personal property acquired under this title, the State shall pay into the Treasury of the United States the amount of any proceeds resulting from the property disposed to the extent of and in the same ratio that funds provided under this title were used in the acquisition of the property. In no case shall the amount paid into the Treasury of the United States under this section exceed the amount of funds provided by this chapter for the acquisition of the property involved.

SEC. 307. REPORTS.

16 USC 4106.

After consultation with the States receiving funds under this title and with any interstate commission involved in carrying out a project under this title, the Secretary shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 90 days after the end of the fiscal year 1988, and each second fiscal year occurring after that fiscal year, a report which contains—

(1) a description of each project and law enforcement effort receiving funds under this title during the last 2 fiscal years ending before such report is submitted;

(2) a specification of the total amount of funds from the Federal Government and the total amount of funds from each State spent on each project and a law enforcement effort receiving funds under this title during the last 2 fiscal years ending before such report is submitted;

(3) an assessment of each project and law enforcement effort receiving funds under this title during the last 2 fiscal years ending before such report is submitted to determine whether such project is furthering the purposes of this title; and

(4) a statement specifying all funds which have been apportioned pursuant to section 305(a) and are available for obligation by a State or the Secretary but which have not been obligated.

16 USC 4107.

SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL APPROPRIATIONS.—There are authorized to be appropriated to the Department of Commerce for apportionment to carry out the purposes of this title $5,000,000 for each of fiscal years 1987, 1988, and 1989.

(b) ADDITIONAL APPROPRIATIONS.—In addition to the amounts authorized in subsection (a), there are authorized to be appropriated to the Department of Commerce $2,500,000 for each of fiscal years 1988 and 1989, which shall be available in such amounts as the Secretary may determine appropriate for the purposes of this title; except that—

(1) in providing funds to States under this subsection, the Secretary shall give a preference to those States regarding which the Secretary determines there is a commercial fishery failure or serious disruption affecting future production due to a fishery resource disaster arising from natural or undetermined causes, and any sums made available under this subsection may be used either by the States or directly by the Secretary in cooperation with the States for any purpose that the Secretary determines is appropriate to restore the fishery affected by such a failure or to prevent a similar failure in the future; and

(2) the funds authorized to be appropriated under this subsection shall not be available to the Secretary for use as grants for chartering fishing vessels.

Amounts appropriated under this subsection shall remain available until expended.

(c) DEVELOPMENT OF MANAGEMENT PLANS.—In addition to the amounts authorized under subsections (a) and (b), there are authorized to be appropriated to the Department of Commerce $350,000 for each of fiscal years 1988 and 1989 to support the efforts of the following interstate commissions to develop interstate fishery management plans for interjurisdictional fishery resources:

(1) The commission established by the Atlantic States Marine Fisheries Compact, as consented to and approved by Public Law 77-539 (56 Stat. 267), approved May 4, 1942.

(2) The commission established by the Pacific Marine Fisheries Compact, as consented to and approved by Public Law 80-232 (61 Stat. 419), approved July 24, 1947.

(3) The commission established by the Gulf States Marine Fisheries Compact, as consented to and approved by Public Law 81-66 (63 Stat. 70), approved May 19, 1949.

SEC. 309. REPEAL.

The Commercial Fisheries Research and Development Act of 1964 (16 U.S.C. 779 et seq.) is repealed.

16 USC 4101 note.

SEC. 310. EFFECTIVE DATE.

This title takes effect October 1, 1987.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. NOAA MARINE FISHERIES PROGRAM AUTHORIZATIONS.

The National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409) is amended—

(1) in section 2(a), by striking out "and" after "1984,", and by inserting ", $27,382,000 for fiscal year 1986, $28,121,314 for fiscal year 1987, $28,915,392 for fiscal year 1988, and $29,764,234 for fiscal year 1989" immediately after "1985";

(2) in section 3(a), by striking out "and" after "1984,", and by inserting ", $25,933,000 for fiscal year 1986, $26,633,191 for fiscal year 1987, $27,385,248 for fiscal year 1988, and $28,189,171 for fiscal year 1989" immediately after "1985"; and

(3) in section 4(a), by striking out "and" after "1984,", and by inserting ", $11,395,000 for fiscal year 1986, $11,702,665 for fiscal year 1987, $12,033,120 for fiscal year 1988, and $12,386,365 for fiscal year 1989" immediately after "1985".

SEC. 402. ANADROMOUS FISH CONSERVATION ACT AUTHORIZATIONS.

Section 4(a) of the Anadromous Fish Conservation Act (16 U.S.C. 757d(a)) is amended—

(1) by striking out "and 1985." in paragraph (4) and inserting "1985, and 1986."; and

(2) by adding after paragraph (4) the following:

"(5) $7,702,500 for fiscal year 1987.

"(6) $7,920,000 for fiscal year 1988.

"(7) $8,152,500 for fiscal year 1989.".

SEC. 403. CENTRAL, WESTERN, AND SOUTH PACIFIC FISHERIES DEVELOPMENT ACT AUTHORIZATIONS.

Section 8 of the Central, Western, and South Pacific Fisheries Development Act (16 U.S.C. 758e-5) is amended—

(1) by striking "and" after "1984,"; and

(2) by inserting immediately after "1985" the following: ", 1986, 1987, and 1988".

SEC. 404. ATLANTIC TUNAS CONVENTION ACT OF 1975 AUTHORIZATIONS.

Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended by striking out "year 1976, the period beginning July 1, 1976, and ending September 30, 1976, and fiscal years 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, and 1986" and inserting "years 1986, 1987, 1988, and 1989".

SEC. 405. GREAT LAKES FISHERY COMMISSION.

(a) INCREASE IN NUMBER OF COMMISSIONERS.—Section 3 of the Great Lakes Fishery Act of 1956 (16 U.S.C. 932) is amended to read as follows:

"SEC. 3. (a)(1) The United States shall be represented on the Commission by 4 Commissioners who shall be appointed by the President and who may not receive compensation for service as Commissioners. Of the Commissioners—

"(A) 1 shall be an official of the United States Government; and

"(B) 3 shall be individuals who reside in different Great Lakes States and who are knowledgeable regarding the fisheries of the

Great Lakes, except that 1 of them must also be an official of Great Lakes State.

"(2) The President shall appoint an alternate Commissioner who shall perform the duties of a Commissioner—

"(A) until a vacancy referred to in subsection (b)(3) is filled; and

"(B) in the event of the absence of a Commissioner from any meeting of the United States Section or the Commission.

"(b)(1) Except as provided in paragraph (2), the term of office of Commissioners appointed under subsection (a)(1)(B) is 6 years.

"(2) Of the Commissioners first appointed under subsection (a)(1)(B) after the date of the enactment of this subsection, 1 shall be appointed for a term of 2 years, 1 shall be appointed for a term of 4 years, and 1 shall be appointed for a term of 6 years.

"(3) Whenever a vacancy occurs among Commissioners appointed under subsection (a)(1)(B), the President shall appoint an individual to fill that vacancy for the remainder of the applicable term.".

16 USC 932 note.

(b) TRANSITION.—The term of office of each United States Commissioner on the Great Lakes Fishery Commission who is serving on the date of enactment of this Act is terminated (except the United States Government official appointed under section 3(a) of the Great Lakes Fishery Act of 1956 (16 U.S.C. 932(a), as in effect before the date of enactment). However, the individuals appointed to those terms shall continue to serve as Commissioners until the President makes appointments under section 3(b)(2) of the Act of 1956 (as added by subsection (a)), which appointments shall be made within 60 days after the date of enactment.

(c) CONFORMING AMENDMENT.—Section 201 of the Act entitled "An Act to amend the North Pacific Fisheries Act of 1954, and for other purposes", approved October 9, 1972 (22 U.S.C. 2672a) is amended by striking out "the Great Lakes Fishery Commission,".

15 USC 1511c.

SEC. 406. NOAA ESTUARINE PROGRAMS OFFICE.

(a) ESTABLISHMENT.—The Administrator of the National Oceanic and Atmospheric Administration (hereinafter in this section referred to as the "Administrator") shall establish within the Administration an Estuarine Programs Office.

(b) FUNCTIONS.—The Estuarine Programs Office shall—

(1) develop and implement a national estuarine strategy for the Administration that integrates the research, regulatory, and trusteeship responsibilities of the Administration;

(2) coordinate the estuarine activities of the various organizations within the Administration, including activities in estuarine research and assessment, fisheries research, coastal management, and habitat conservation;

(3) coordinate the estuarine activities of the Administration with the activities of other Federal and State agencies; and

(4) provide technical assistance to the Administrator, to other Federal agencies, and to State and local government agencies in—

(A) assessing the condition of estuaries;

(B) identifying estuaries of critical national or regional importance;

(C) identifying technical and management alternatives for the restoration and protection of estuarine resources; and

(D) monitoring the implementation and effectiveness of estuarine management plans.

(c) AUTHORIZATION.—There are authorized to be appropriated to the Administration not to exceed $500,000 for fiscal year 1987, $530,000 for fiscal year 1988, $560,000 for fiscal year 1989, and $600,000 for fiscal year 1990 to carry out the provisions of this section.

SEC. 407. NOAA OFFICERS. 15 USC 1503b.

(a) UNDER SECRETARY.—There shall be in the Department of Commerce an Under Secretary of Commerce for Oceans and Atmosphere who shall serve as the Administrator of the National Oceanic and Atmospheric Administration established by Reorganization Plan No. 4 of 1970 (5 U.S.C. App. 1) and perform such duties as the Secretary of Commerce shall prescribe. The Under Secretary shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate now or hereafter provided for Level III of the Executive Schedule Pay Rates (5 U.S.C. 5314). *Post*, p. 3740.

(b) ASSISTANT SECRETARY.—There shall be in the Department of Commerce, in addition to the Assistant Secretaries of Commerce provided by law before the date of enactment of this Act, one additional Assistant Secretary of Commerce who shall have the title Assistant Secretary of Commerce for Oceans and Atmosphere and shall serve as the Deputy Administrator of the National Oceanic and Atmospheric Administration established by Reorganization Plan No. 4 of 1970 (5 U.S.C. App. 1) and perform such duties and functions as the Under Secretary of Commerce for Oceans and Atmosphere shall prescribe. The Assistant Secretary for Oceans and Atmosphere shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate now or hereafter provided for Level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315). 15 USC 1507c. *Post*, p. 3740.

(c) APPLICABILITY.—The individual serving on the date of enactment of this Act— 15 USC 1503b note.

(A) as the Administrator of the National Oceanic and Atmospheric Administration shall also serve as the Under Secretary of Commerce for Oceans and Atmosphere until such time as a successor is appointed under subsection (a) of this section; and

(B) as the Deputy Administrator of the National Oceanic and Atmospheric Administration shall also serve as the Assistant Secretary of Commerce for Oceans and Atmosphere until such time as a successor is appointed under subsection (b) of this section.

(d) CHIEF SCIENTIST OF NOAA.—Section 2(d) of Reorganization Plan No. 4 of 1970 (5 U.S.C. App. 1) is amended to read as follows: 15 USC 1511 note.

"(d) There shall be in the Administration a Chief Scientist of the National Oceanic and Atmospheric Administration who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level V of the Executive Schedule Pay Rates (5 U.S.C. 5316). The Chief Scientist shall be the principal scientific adviser to the Administrator, and shall perform such other duties as the Administrator may direct. The Chief Scientist shall be an individual who is, by reason of scientific education and experience, knowledge- President of U.S. *Post*, p. 3740.

able in the principles of oceanic, atmospheric, or other scientific disciplines important to the work of the Administration.".

Ante, pp. 591, 708.

(e) CONFORMING AMENDMENTS.—(1) Section 5314 of title 5, United States Code, is amended by striking "Administrator, National Oceanic and Atmospheric Administration." and inserting in lieu thereof "Under Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Administrator of the National Oceanic and Atmospheric Administration.".

Ante, pp. 856, 867, 868.

(2) Section 5315 of title 5, United States Code, is amended—

(A) by striking "Deputy Administrator, National Oceanic and Atmospheric Administration." and inserting in lieu thereof "Assistant Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Deputy Administrator of the National Oceanic and Atmospheric Administration."; and

(B) by striking "Associate Administrator, National Oceanic and Atmospheric Administration.".

Ante, p. 814.

(3) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following: "Chief Scientist, National Oceanic and Atmospheric Administration.".

SEC. 408. TRANSFER OF AUTHORITY FOR REIMBURSEMENT UNDER THE FISHERMEN'S PROTECTIVE ACT OF 1967.

Effective October 1, 1986, paragraph (1) of section 7(f) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(f)(1)) is amended to read as follows:

"(1) the term 'Secretary' means the Secretary of State.".

16 USC 742c.

SEC. 409. FISHERIES LOAN FUND.

The third sentence of section 4(c) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742(c)) is amended to read as follows: "Any funds received in the fisheries loan fund after September 30, 1986, shall be covered into the Treasury as miscellaneous receipts.".

SEC. 410. CONVEYANCE AGREEMENT PROVISIONS.

Uniformed services. Corporations. Alaska. 43 USC 1601 note.

(a) IN GENERAL.—Under the Agreement dated December 9, 1977, between the Commandant of the Coast Guard and Koniag, Incorporated, a regional native corporation, pursuant to Public Law 92-203 (a copy of which is recorded beginning at Book 44, Page 179 of the Kodiak Recording District, Kodiak, Alaska) and any conveyance made under that Agreement, the rights or title conveyed to Koniag, Incorporated, shall be construed to include the following:

Communications and telecommunications.

(1) Under the Agreement, welding or other equipment or machinery may be operated or maintained on lands conveyed to Koniag, Incorporated, if the equipment or machinery does not cause harmful electromagnetic interference with the Coast Guard Holiday Beach receiver site or is operated or maintained under terms and conditions mutually agreeable to the Coast Guard and Koniag, Incorporated. Harmful electromagnetic interference is defined as radio frequency signals which disrupt or degrade communications reception performance.

(2) The conveyance of the "old shipyard" includes the wharf and all lands of any nature beneath the wharf.

(3) An access and utility easement is intended as part of the conveyance for Parcel 2, known as Cliff Point, which consists of—

Highways. Bridges.

(A) a 100-foot wide access easement along the existing access road or a location that is mutually agreeable to the

Coast Guard and Koniag, Incorporated, and includes the right to construct and operate an access road, bridges, guard rails, and other associated improvements; and

(B) a 40-foot wide utility easement adjacent to the access easement in paragraph (3)(A) of this subsection or a location that is mutually agreeable to the Coast Guard and Koniag, Incorporated.

(4) The construction, maintenance, and operation of a dock facility or location of any structure or thing on the premises described in section (c) of Schedule 4 of the Agreement is not inconsistent with the easement for the barge landing easement and access to and from the barge landing area reserved by the United States Government (hereinafter referred to in this paragraph as the "Government"), if the dock facility is constructed or the structure or thing is located as approved by the Government. Approval by the Government is deemed to be granted if a proposal for the construction and location of the dock facility, structure, or thing is submitted to the Government and—

(A) the Government does not respond within 60 days of receipt of the proposal; or

(B) if a response with recommendations for modification is submitted by the Government within 60 days of receipt of the proposal, the proposal is modified in a manner necessary to reasonably satisfy the requirements of the Government—

(i) to use the dock facility for a barge landing area as contemplated by the easement; and

(ii) to permit access to and from the barge loading area to public highways for the transportation of materials as specified in Agreement.

(b) APPLICATION.—All rights or conveyances confirmed by this section are subject to the sanctions in the Agreement referred to in subsection (a).

(c) IMPLEMENTATION.—The Commandant of the Coast Guard or other appropriate Federal officer shall issue the appropriate corrective conveyance and perform any other appropriate ministerial or official act necessary to carry out the purposes of this section within 60 days after the date of the enactment of this title.

Uniformed services.

SEC. 411. INCIDENTAL TAKING OF DEPLETED MARINE MAMMALS.

(a) AMENDMENT OF THE MARINE MAMMAL PROTECTION ACT.—Paragraph (5)(A) of section 101(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(5)(A)) is amended—

(1) by striking "that is not depleted";

(2) in clause (i)—

(A) by striking "its habitat, and" and inserting in lieu thereof "will not have an unmitigable adverse impact"; and

(B) by inserting "or, in the case of a cooperative agreement under both this Act and the Whaling Convention Act of 1949 (16 U.S.C. 916 et seq.), pursuant to section 112(c)" immediately after "or section 109(f)"; and

(3) in clause (ii)(I), by inserting ", and on the availability of such species or stock for subsistence uses" immediately after "significance".

(b) STATEMENT BY THE SECRETARY.—Paragraph 4 of section 7(b) of the Endangered Species Act of 1973 (16 U.S.C. 1536(b)(4)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by inserting "and" after the semicolon at the end of subparagraph (B); and

(3) by inserting after subparagraph (B) the following subparagraph:

"(C) if an endangered species or threatened species of a marine mammal is involved, the taking is authorized pursuant to section 101(a)(5) of the Marine Mammal Protection Act of 1972;";

Ante, p. 3741.

(4) by striking "and" at the end of clause (ii);

(5) by redesignating clause (iii) as clause (iv) and by striking "clause (ii)" in that clause and inserting in lieu thereof "clauses (ii) and (iii)"; and

(6) by inserting after clause (ii) the following new clause:

"(iii) in the case of marine mammals, specifies those measures that are necessary to comply with section 101(a)(5) of the Marine Mammal Protection Act of 1972 with regard to such taking, and".

(c) EXEMPTIONS.—Subsection (o) of section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536(o)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by inserting ", sections 101 and 102 of the Marine Mammal Protection Act of 1972," immediately before "or any regulation"; and

16 USC 1371, 1372.

(B) by striking "either" and inserting in lieu thereof "any"; and

(2) in paragraph (2)—

(A) by striking "(b)(4)(iii)" and inserting in lieu thereof "(b)(4)(iv)"; and

(B) by inserting "prohibited" immediately before "taking of the species".

Approved November 14, 1986.

LEGISLATIVE HISTORY—S. 991:

SENATE REPORTS: No. 99-67 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Oct. 2, considered and passed Senate.
Vol. 132 (1986): Aug. 12, considered and passed House, amended.
Oct. 15, Senate concurred in House amendments with amendments.
Oct. 16, House concurred in Senate amendments with amendments.
Oct. 18, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Nov. 14, Presidential statement.

O

Public Law 99-660
99th Congress

An Act

To require States to develop, establish, and implement State comprehensive mental health plans.

Nov. 14, 1986
[S. 1744]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—DRUG EXPORTS

Drug Export Amendments Act of 1986.
21 USC 301 note.

SEC. 101. SHORT TITLE, REFERENCE.

(a) SHORT TITLE.—This title may be cited as the "Drug Export Amendments Act of 1986".

(b) REFERENCE.—Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be a reference to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

21 USC 301.

SEC. 102. EXPORT AUTHORITY.

Chapter VIII is amended—

21 USC 381 *et seq.*

(1) by inserting after the chapter heading the following:

"IMPORTS AND EXPORTS", and

(2) by inserting after section 801 the following:

"EXPORTS OF CERTAIN UNAPPROVED PRODUCTS

"SEC. 802. (a) A drug (including a biological product) intended for human or animal use—

Animals.
21 USC 382.

(1) which—

"(A) requires approval by the Secretary under section 505 or section 512, or

21 USC 355.
21 USC 360b.

"(B) requires licensing by the Secretary under section 351 of the Public Health Service Act or by the Secretary of Agriculture under the Act of March 4, 1913 (known as the Virus Serum Toxin Act),

Commerce and trade.
42 USC 262.
21 USC 151 note.

before it may be introduced or delivered for introduction into interstate commerce to a country, and

"(2) which does not have such approval or license, which is not exempt from such sections or Act, and which is introduced or delivered for introduction into interstate commerce to a country,

is adulterated, misbranded, and in violation of such sections or Act unless the export of the drug is authorized under subsection (b).

"(b)(1) A drug (including a biological product) may, upon approval of an application submitted under paragraph (3), be exported if—

"(A) the drug contains the same active ingredient as a—

"(i) new drug—

21 USC 355.

"(I) which has an exemption under section 505(i), and

"(II) for which approval is actively being pursued by the person who has the exemption,

"(ii) biological product for human use—

"(I) which has an exemption under section 505(i), and

"(II) for which licensing of the biological product under section 351 of the Public Health Service Act is actively being pursued by the person who has the exemption,

42 USC 262.

"(iii) biological product for animal use—

"(I) for which authority has been granted under the Virus-Serum Toxin Act for the preparation of an experimental drug product, and

21 USC 151 note.

"(II) for which the licensing of the biological product under such Act is actively being pursued by the person who has the authority, or

"(iv) new animal drug—

21 USC 360b.

"(I) which has an exemption under section 512(j), and

"(II) for which approval is actively being pursued by the person who has the exemption,

"(B) except as provided in paragraph (2), the drug is exported to a country which is listed under paragraph (4) and in which the drug is approved and has not been withdrawn from sale,

"(C) an application for the drug under section 505 or 512, section 351 of the Public Health Service Act, or the Virus-Serum Toxin Act has not been disapproved by an order of the Secretary under section 505(d) or 512(d) or 351 of the Public Health Service Act or by the Secretary of Agriculture in the case of an application under the Virus-Serum Toxin Act,

"(D) the drug is manufactured, processed, packaged, and held in conformity with current good manufacturing practice and is not adulterated under paragraph (a)(1), (a)(2)(A), (a)(3), (c), or (d) of section 501,

21 USC 351.

Labeling.

"(E) the outside of the shipping package is labeled with the following statement: 'This drug may be sold or offered for sale only in the following countries: ', the blank space being filled with a list of the countries to which export of the drug is authorized under this subsection,

Safety.

"(F) the drug is not the subject of a notice by the Secretary or the Secretary of Agriculture of a determination that the manufacture of the drug in the United States for export to a country is contrary to the public health and safety of the United States,

"(G) the requirements of subparagraphs (A) through (D) of section 801(d)(1) have been met.

21 USC 381.

The Secretary shall determine that an applicant is actively pursuing the approval or licensing of a drug if the applicant has demonstrated that degree of attention and continuous directed effort as may reasonably be expected from, and are ordinarily exercised by, a person before approval or licensing of a drug, such as the preparation for and the conduct of preclinical or clinical investigations, the analysis of the results of such investigations, conferences on such investigations with government officials, and the preparation of an application of approval or licensing for the drug.

"(2) The Secretary may permit the export of a drug under paragraph (1) to a country which is listed under paragraph (4) and in which the drug is not approved if the drug is exported to such

country solely for the purpose of further export to a country listed in paragraph (4) in which the drug is approved.

"(3)(A) Any person may apply to have a drug exported under paragraph (1). Such an application shall be filed at least 90 days before the date the applicant proposes to export the drug for which the application is submitted. Before the expiration of 10 days from the date of the submission of such an application, the Secretary shall publish a notice in the Federal Register which identifies the applicant under such application, the drug proposed to be exported under such application, and the country to which the drug is proposed to be exported.

Federal Register, publication.

"(B) An application for the export of a drug shall—

"(i) identify the drug to be exported,

"(ii) list each country to which the drug is to be exported and list the persons in each such country to which the drug is to be exported,

"(iii) contain a certification by the applicant that—

"(I) the applicant will export the drug only to a country which is listed in paragraph (4) and in which the drug is approved unless the drug is authorized to be exported under paragraph (2) and will export only those quantities of the drug which may reasonably be sold in each country to which it is to be exported,

"(II) the drug is approved by each country to which it is to be exported unless the drug is authorized to be exported under paragraph (2) and the drug has not been withdrawn from sale in such country,

"(III) the drug meets the requirements of paragraph (1)(D),

"(IV) the drug will be labeled in accordance with paragraph (1)(E), and

"(V) the drug meets the requirements of paragraphs (1)(C) and (1)(G),

"(iv) contain a certification by the holder of the exemption or authority for such drug described in paragraph (1)(A) that the holder will actively pursue the approval or licensing of the drug,

"(v) identify the exemption or authority for an experimental drug product in effect for such drug under the laws referred to in paragraph (1)(A),

"(vi) identify the establishments in which the drug is manufactured, and

"(vii) include a written agreement from each importer to whom the drug is to be exported from the United States that such importer will not export the drug to a country which is not listed under paragraph (4) and will provide notice to the applicant of any knowledge of an export of the drug to such a country by any person and will maintain records of the drug wholesale distributors to which the drug is sold.

Contracts. Records.

"(C)(i) Before the expiration of 30 days after the date an application is submitted to the Secretary, the Secretary shall review the application to determine if the application meets the requirements of clauses (i), (ii), (iv), (v), (vi), and (vii) of subparagraph (B) and contains the certifications described in clauses (iii) (other than the certification required by clause (iii)(II)) and (iv). If the Secretary determines that the application meets such requirements and contains such certifications the Secretary shall conditionally approve the application. An application which is so conditionally approved

shall be finally approved within 5 days of the submission of the certification required by clause (iii)(II).

"(ii) If the Secretary proposes to disapprove an application, the Secretary shall provide the applicant with a written statement specifying—

"(I) the deficiencies which the applicant must correct in order to enable the Secretary to approve the application, and

"(II) that the applicant has 60 days after receiving the statement to correct such deficiencies.

"(D) If the holder of an application approved under subparagraph (C) for the export of a drug intends to export such drug to a country listed in paragraph (4) which is not listed in such application, such holder shall submit an amendment to such application to the Secretary not later than 30 days before the date of the proposed export to such country identifying the country to which the holder intends to export such drug and containing information sufficient to show that the drug is approved by such country and has not been withdrawn from sale in such country. The Secretary shall approve or disapprove the export of such drug to such country within 15 days of the receipt of the notice required by this subparagraph.

Recipient countries.

"(4)(A) The countries to which a drug may be exported under paragraph (1) are—

"(i) Australia,
"(ii) Austria,
"(iii) Belgium,
"(iv) Canada,
"(v) Denmark,
"(vi) Federal Republic of Germany,
"(vii) Finland,
"(viii) France,
"(ix) Iceland,
"(x) Ireland,
"(xi) Italy,
"(xii) Japan,
"(xiii) Luxembourg,
"(xiv) The Netherlands,
"(xv) New Zealand,
"(xvi) Norway,
"(xvii) Portugal,
"(xviii) Spain,
"(xix) Sweden,
"(xx) Switzerland, and
"(xxi) The United Kingdom,

"(B) Changes in the list contained in subparagraph (A) shall be based on the following criteria:

Safety.

"(i) Statutory or regulatory requirements which require the review of drugs for safety and effectiveness by an entity of the government of such country and which authorize the approval of only those drugs which have been determined to be safe and effective by experts employed by or acting on behalf of such entity and qualified by scientific training and experience to evaluate the safety and effectiveness of drugs on the basis of adequate and well-controlled investigations, including clinical investigations, conducted by experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs.

"(ii) Statutory or regulatory requirements that the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of drugs in the country are adequate to preserve their identity, quality, purity, and strength.

"(iii) Statutory or regulatory requirements for the reporting of adverse reactions to drugs and procedures to withdraw approval and remove drugs found not to be safe or effective. Safety.

"(iv) Statutory or regulatory requirements that the labeling and promotion of drugs must be in accordance with the approval of the drug. Labeling. Marketing.

"(c)(1) The holder of an approved application under subsection (b) authorizing the export of a drug shall report to the Secretary— Reports.

"(A) any withdrawal of an approval of the drug by any country to which it has been exported,

"(B) any withdrawal of the drug from sale in any such country,

"(C) the withdrawal of an application by the holder under section 505 or 512, section 351 of the Public Health Service Act, or the Virus-Serum Toxin Act, and 21 USC 355, 3606; 42 USC 262.

"(D) the receipt of any credible information indicating that the drug is being or may have been exported from a country listed under subsection (b)(4) to a country which is not listed under such subsection. 21 USC 151 note.

The reporting of an event described in subparagraph (A), (B), or (C) shall be made within 15 days of the occurrence of the event and the reporting of the receipt of information under subparagraph (D) shall be made within 15 days of the receipt of such information. Reports.

"(2) The holder of an approved application under subsection (b) authorizing the export of a drug shall report annually to the Secretary after the date of the approval of the application of the actions taken by the holder in pursuit of the approval of such drug during the year reported on. Not later than 90 days from the date of the receipt of a report under this paragraph the Secretary shall determine if the holder is actively pursuing the approval of such drug. Reports.

"(d) A drug authorized to be exported to a country under an application approved under subsection (b) may not be exported to such country if—

"(1) an approval of such drug is withdrawn by such country,

"(2) the drug is withdrawn from sale in such country,

"(3) the Secretary issues an order refusing to approve an application of the holder of such application under section 505 or 512, section 351 of the Public Health Service Act, or the Virus-Serum Toxin Act, or

"(4) an application for such drug under such section or Act is withdrawn or if an exemption for such drug under section 505(i) or 512(j) or the authority granted for such drug to prepare an experimental drug product under the Virus-Serum Toxin Act is withdrawn and no application for approval of such drug has been submitted under section 505 or 512, section 351 of the Public Health Service Act, or the Virus-Serum Toxin Act.

"(e)(1) If the Secretary determines that—

"(A) a drug for which an application was approved under subsection (b) no longer complies with subparagraphs (A), (D), (E), and (G) of paragraph (1) of such subsection or with paragraph (2) of such subsection or the holder of such application has not made the reports required by subsection (c), or

Safety.

"(B) the manufacture of a drug in the United States for export is contrary to the public health and safety of the United States and an application for the export of such drug has been approved under subsection (b),

then before taking action against the holder of an application for which a determination was made under subparagraph (A) or (B), the Secretary shall notify the holder in writing of the determination and provide the holder 30 days to take such action as may be required so that the Secretary would be unable to make such determination. When the Secretary takes action against such holder because of such a determination, the Secretary shall provide the holder a written statement specifying the reasons for such determination and provide the person, on request, an opportunity for an informal hearing with respect to such determination.

"(2) If the Secretary determines that the approval of a drug is not being actively pursued as required by subsection (b)(1)(A), the Secretary shall give the holder of the application authorizing the export of such drug 60 days to assure that actions are taken to actively pursue such approval. During the 60-day period the Secretary shall give the holder an opportunity for an informal hearing on the determination of the Secretary. If upon the expiration of such 60-day period the Secretary determines that approval of such drug is not being actively pursued, the Secretary shall prohibit the export of such drug.

"(3)(A) If at any time the Secretary, or in the absence of the Secretary the individual acting as the Secretary, determines that—

"(i) the holder of an approved application under subsection (b) is exporting a drug from the United States to an importer,

"(ii) such importer is exporting the drug to a country which is not listed under subsection (b)(4), and

"(iii) such export presents an imminent hazard to the public health in such country,

the Secretary shall immediately prohibit the export of the drug to such importer, give the person exporting the drug from the United States prompt notice of the determination, and afford such person an opportunity for an expedited hearing.

"(B) The authority conferred by subparagraph (A) shall not be delegated by the Secretary. A determination by the Secretary under subparagraph (A) may not be stayed pending final action by a reviewing court.

"(4)(A) If the Secretary, or in the absence of the Secretary the individual acting as the Secretary, determines that the holder of an approved application under subsection (b) is exporting a drug to a country which is not listed under subsection (b)(4) and that the export of the drug presents an imminent hazard, the Secretary shall immediately prohibit the export of the drug to such country, give the holder prompt notice of the determination, and afford the holder an opportunity for an expedited hearing.

"(B) The authority conferred by subparagraph (A) shall not be delegated by the Secretary. A determination by the Secretary under subparagraph (A) may not be stayed pending final action by a reviewing court.

"(5) If the Secretary receives credible evidence that the holder of an application approved under subsection (b) is exporting a drug to a country which is not listed under subsection (b)(4), the Secretary shall give the holder 60 days to provide information to the Secretary respecting such evidence and shall provide the holder an oppor-

tunity for an informal hearing on such evidence. Upon the expiration of such 60 days the Secretary shall prohibit the export of such drug to such country if the Secretary determines that the holder of the application is exporting the drug to a country which is not listed under subsection (b)(4).

"(6) If the Secretary receives credible evidence that an importer is exporting a drug to a country which is not listed under subsection (b)(4), the Secretary shall notify the holder of the application authorizing the export of such drug of such evidence and shall require the holder to investigate the export by such importer and to report to the Secretary within 14 days of the receipt of such notice the findings of the holder. If the Secretary determines that the importer has exported a drug to such a country, the Secretary shall prohibit such holder from exporting such drug to the importer unless the Secretary determines that the export by the importer was unintentional. Reports.

"(f)(1) A drug (including a biological product) which is to be used in the prevention or treatment of a tropical disease may, upon approval of an application submitted under paragraph (2), be exported if—

"(A) the Secretary finds, based on credible scientific evidence, including clinical investigations, that the drug is safe and effective in the country to which it is to be exported in the prevention or treatment of a tropical disease in such country, Safety.

"(B) the drug is manufactured, processed, packaged, and held in conformity with current good manufacturing practice and is not adulterated under paragraph (a)(1), (a)(2)(A), (a)(3), (c), or (d) of section 501, 21 USC 351.

"(C) the outside of the shipping package is labeled with the following statement: 'This drug may be sold or offered for sale only in the following countries: ', the blank space being filled with a list of the countries to which export of the drug is authorized under this subsection, Labeling.

"(D) the drug is not the subject of a notice by the Secretary or the Secretary of Agriculture of a determination that the manufacture of the drug in the United States for export to a country is contrary to the public health and safety of the United States, and Safety.

"(E) the requirements of subparagraphs (A) through (D) of section 801(d)(1) have been met. 21 USC 381.

"(2) Any person may apply to have a drug exported under paragraph (1). The application shall—

"(A) describe the drug to be exported,

"(B) list each country to which the drug is to be exported,

"(C) contain a certification by the applicant that the drug will not be exported to a country for which the Secretary cannot make a finding described in paragraph (1)(A),

"(D) identify the establishments in which the drug is manufactured, and

"(E) demonstrate to the Secretary that the drug meets the requirements of paragraph (1).

"(3) The holder of an approved application for the export of a drug under this subsection shall report to the Secretary— Reports.

"(A) the receipt of any information indicating that the drug is being or may have been exported from a country for which the Secretary made a finding under paragraph (1)(A) to a country for which the Secretary cannot make such a finding, and

"(B) the receipt of any information indicating any adverse reactions to such drug.

"(4)(A) If the Secretary determines that—

"(i) a drug for which an application is approved under paragraph (2) does not continue to meet the requirements of paragraph (1),

"(ii) the holder of such application has not made the report required by paragraph (3), or

"(iii) the manufacture of such drug in the United States for export is contrary to the public health and safety of the United States and an application for the export of such drug has been approved under paragraph (2),

then before taking action against the holder of an application for which a determination was made under clause (i), (ii), or (iii), the Secretary shall notify the holder in writing of the determination and provide the holder 30 days to take such action as may be required so that the Secretary would be unable to make such determination. When the Secretary takes action against such holder because of such a determination, the Secretary shall provide the holder a written statement specifying the reasons for such determination and provide the person, on request, an opportunity for an informal hearing with respect to such determination.

"(B) If at any time the Secretary, or in the absence of the Secretary the individual acting as the Secretary, determines that—

"(i) the holder of an approved application under paragraph (2) is exporting a drug from the United States to an importer,

"(ii) such importer is exporting the drug to a country for which the Secretary cannot make a finding under paragraph (1)(A), and

"(iii) such export presents an imminent hazard to the public health in such country,

the Secretary shall immediately prohibit the export of the drug to such importer, give the person exporting the drug from the United States prompt notice of the determination, and afford such person an opportunity for an expedited hearing. A determination by the Secretary under this subparagraph may not be stayed pending final action by a reviewing court. The authority conferred by this subparagraph shall not be delegated by the Secretary.

"(C) If the Secretary, or in the absence of the Secretary the individual acting as the Secretary, determines that the holder of an approved application under paragraph (2) is exporting a drug to a country for which the Secretary cannot make a finding under paragraph (1)(A), and that the export of the drug presents an imminent hazard, the Secretary shall immediately prohibit the export of the drug to such country, give the holder prompt notice of the determination, and afford the holder an opportunity for an expedited hearing. A determination by the Secretary under this subparagraph may not be stayed pending final action by a reviewing court. The authority conferred by this subparagraph shall not be delegated by the Secretary.

"(D) If the Secretary receives credible evidence that the holder of an application approved under paragraph (2) is exporting a drug to a country for which the Secretary cannot make a finding under paragraph (1)(A), the Secretary shall give the holder 60 days to provide information to the Secretary respecting such evidence and shall provide the holder an opportunity for an informal hearing on such evidence. Upon the expiration of such 60 days the Secretary

shall prohibit the export of such drug to such country if the Secretary determines the holder is exporting the drug to a country for which the Secretary cannot make a finding under paragraph (1)(A).

"(E) If the Secretary receives credible evidence that an importer is exporting a drug to a country for which the Secretary cannot make a finding under paragraph (1)(A), the Secretary shall notify the holder of the application authorizing the export of such drug of such evidence and shall require the holder to investigate the export by such importer and to report to the Secretary within 14 days of the receipt of such notice the findings of the holder. If the Secretary determines that the importer has exported a drug to such a country, the Secretary shall prohibit such holder from exporting such drug to the importer unless the Secretary determines that the export by the importer was unintentional. Reports.

"(g) For purposes of this section—

"(1) a reference to the Secretary shall in the case of a biological product which is required to be licensed under the Virus-Serum Toxin Act be considered to be a reference to the Secretary of Agriculture, and

"(2) a reference in paragraph (3), (4), (5), or (6) of subsection (e) and in subparagraph (B), (C), (D), or (E) of subsection (f)(4) to the holder of an application shall be considered a reference to any person which is under common control with holder, is controlled by the holder, controls the holder, is owned by the holder, or owns the holder.".

SEC. 103. ENFORCEMENT. 21 USC 333 note.

For the fines authorized to be imposed under section 303 of the Federal Food, Drug, and Cosmetic Act, see section 3623 of title 18, United States Code, for the period ending October 31, 1986, and sections 3559 and 3571 of such title for the period beginning November 1, 1986. 21 USC 333.

SEC. 104. TROPICAL DISEASES.

Section 301 of the Public Health Service Act (42 U.S.C. 241) is amended by adding at the end the following:

"(c) The Secretary may conduct biomedical research, directly or through grants or contracts, for the identification, control, treatment, and prevention of diseases (including tropical diseases) which do not occur to a significant extent in the United States.". Research and development. Grants. Contracts.

SEC. 105. PARTIALLY PROCESSED BIOLOGICAL PRODUCTS.

(a) AMENDMENT.—Section 351 of the Public Health Service Act (42 U.S.C 262) is amended by adding at the end the following: *Post*, p. 3783.

"(h)(1)(A) A partially processed biological product which is not in a form applicable to the prevention, treatment, or cure of diseases or injuries of man, which is not intended for sale in the United States, and which is intended for further manufacture into final dosage form outside the United States in a country listed under section 802(b)(A) of the Federal Food, Drug, and Cosmetic Act may, upon approval of an application meeting the requirements of subparagraph (B), be exported to a country listed under section 802(b)(4) of the Federal Food, Drug, and Cosmetic Act. The Secretary may not approve an application to export such a product unless the Secretary determines that the product is manufactured, processed, packaged, and held in conformity with current good manufacturing practice and the outside of the shipping package is labeled with the Labeling. *Ante*, p. 3743.

following statement: 'This product may be sold or offered for sale only in the following countries: ', the blank space being filled with a list of the countries to which export of the drug is authorized.

"(B) An application for the export of a partially processed biological product shall—

"(i) describe the partially processed biological product to be exported,

"(ii) list each country to which the product is to be exported,

"(iii) contain a certification by the applicant that the product will not be exported to a country not listed under clause (ii),

"(iv) identify the establishments in which the product is manufactured, and

"(v) contain a certification by the applicant that the final product to be developed from the partially processed product is approved in the country to which it is to be exported or approval of the final product is being sought in such country.

"(2) A product described in paragraph (1) is not subject to licensure under this section.

"(3) If the Secretary determines that prohibiting the export of a product described in paragraph (1) is necessary for protection of the public health in the United States or the country to which it is to be exported, the Secretary may not approve an application under paragraph (1) for the export of such product.".

42 USC 262 note.

(b) EFFECTIVE DATE.—Paragraph (1) of section 351(h) of the Public Health Service Act as added by subsection (a) shall take effect upon the expiration of 90 days after the date of the enactment of this Act.

TITLE II—NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

National Commission to Prevent Infant Mortality Act of 1986.

42 USC 289g note.

SEC. 201. SHORT TITLE.

This title may be cited as the "National Commission to Prevent Infant Mortality Act of 1986".

42 USC 289g note.

SEC. 202. DEFINITION.

For the purposes of this title, the term "infant mortality" refers to the number of infants born alive but who die before their first birthday.

42 USC 289g note.

SEC. 203. ESTABLISHMENT OF A NATIONAL COMMISSION.

(a) ESTABLISHMENT.—There is established the National Commission to Prevent Infant Mortality (hereinafter referred to as the "Commission").

(b) COMPOSITION.—The Commission shall be composed of fifteen members, as follows:

(1) Two members of the Senate, one to be selected by the majority leader of the Senate, the other to be selected by the minority leader of the Senate.

(2) Two members of the House, one to be selected by the Speaker of the House, the other to be selected by the minority leader of the House.

(3) Three representatives of State government shall be jointly selected by the majority leader of the Senate and the Speaker of the House. One shall be a Governor; one shall be a chief State official responsible for administering the State medicaid pro-

gram; and one shall be the chief State official responsible for administering the State maternal and child health programs.

(4) The Secretary of Health and Human Services shall be a member.

(5) The Comptroller General of the United States shall be a member.

(6) Six at large members, with demonstrated expertise in maternal and child health, including representatives of health care consumer and provider organizations, shall be jointly selected by the majority leader of the Senate and the Speaker of the House.

(c) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairperson and Vice Chairperson from among its members.

(d) QUORUM.—Eight members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(e) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(f) VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

SEC. 204. DUTIES OF THE COMMISSION.

42 USC 285g note.

(a) DUTIES.—The Commission shall:

(1) Identify and examine comprehensively Federal, State, local, and private resources which impact infant mortality, including but not limited to—

(A) the effectiveness and adequacy of programs such as the Supplemental Feeding Program for Women, Infants, and Children; the Maternal and Child Health Block Grant; Community Health Centers; prepregnancy services and other programs that increase access to prenatal and post-natal education, care, and nutrition;

(B) the effectiveness of current Federal and State policies under the Medicaid Program to ensure adequate access to prenatal and post-natal care for low-income pregnant women, mothers, and infants up to age one;

(C) the role of income maintenance and other programs that impact infant mortality such as Aid to Families with Dependent Children and Federal housing subsidies;

(D) the adequacy of current Federal and State efforts to enable an appropriate distribution of properly trained health care professionals to provide comprehensive maternal and child health services;

(E) the adequacy of private health care financing systems and mechanisms to enable pregnant women and infants to receive comprehensive health care; and

(F) the adequacy of the national biostatistics registration system with respect to the collection and reporting of infant health statistics.

(2) Identify current financial, intergovernmental, and within the Federal Government, interagency barriers to the health care needed to prevent high infant mortality.

(3) Review recommendations made in recent regional and national reports that promote the health status of childbearing women and their infants and carry forward such recommendations as deemed appropriate.

(4) Hold hearings, in accordance with section 205(a), in areas of the United States with high infant mortality rates.

(b) RECOMMENDATIONS.—The Commission shall—

(1) recommend a national policy designed to reduce and prevent infant mortality, including recommendations concerning populations at risk of high infant death rates and recommendations concerning appropriate roles for the Federal Government, States, local governments, and private sector;

(2) recommend to the Congress and the President the specific changes needed within Federal laws and Federal programs to achieve an effective Federal role in preventing infant mortality, including the programs specified in subparagraphs (A) and (B) of subsection (a)(1);

(3) recommend to the Congress and the President the specific changes needed to improve the national vital statistics registration system with respect to infant death statistics; and

(4) present such recommendations to the President, the Committee on Energy and Commerce of the House of Representatives, and the Committees on Finance and Governmental Affairs of the Senate no later than one year after enactment of this Act.

42 USC 285g note.

SEC. 205. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission, or at its direction, any subcommittee or member thereof, may for the purpose of carrying out the provisions of this title, hold such hearings, sit and act at such times and places, take such testimony, receive such evidence and administer such oaths, as the Commission or such subcommittee or member may deem advisable. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission, subcommittee, or member thereof.

(b) INFORMATION.—The Commission may secure directly from any Federal department or agency such information as may be necessary to enable the Commission to carry out this title. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) CONTRACTS.—To carry out this title, the Commission may enter into such contracts and other arrangements to such extent or in such amounts as are provided in appropriation Acts, and without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5). Contracts and other arrangements may be entered into under this subsection with or without consideration or bond.

(d) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act shall not apply to the Commission.

5 USC app.

42 USC 285g note.

SEC. 206. COMMISSION STAFF.

(a) EXECUTIVE DIRECTOR.—The Chairperson and Vice Chairperson of the Commission shall appoint an executive director. The employment of such executive director shall be subject to confirmation by the Commission.

(b) OTHER PERSONNEL.—The Commission may appoint and terminate the executive director selected under subsection (a) and such other personnel as it considers appropriate to assist in the performance of its duties under this title, without regard to the provisions of title 5, United States Code, governing appointments in the competi-

tive service, and may pay such executive director and other personnel without regard to the provisions of chapter 51 and subchapter 111 of chapter 53 of such title relating to classification and General Schedule pay rates, except that the rate of pay for such executive director and other personnel may not exceed the rate payable for GS-18 of the General Schedule under section 5332 of such title.

5 USC 5101 *et seq.*
5 USC 5331.

(c) APPLICABILITY OF OTHER FEDERAL LAWS.—Service of an individual as a member of the Commission or employment of an individual by the Commission on a part-time or full-time basis and with or without compensation shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Commission or as an employee of the Commission, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

(d) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Chairman of the Commission may procure temporary and intermittent services under section 3109 of title 5, United States Code, at rates for individuals not to exceed the daily rate payable for GS-18 of the General Schedule under section 5332 of such title.

SEC. 207. SUNSHINE PROVISION.

42 USC 285g note.

The Commission shall establish procedures to ensure its proceedings are open to the public to the maximum extent practicable.

SEC. 208. TERMINATION OF THE COMMISSION.

42 USC 285g note.

Ninety days after the Commission submits its recommendations as required by section 204(b)(4) the Commission shall terminate.

SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

42 USC 285g note.

There are authorized to be appropriated to the Commission such sums as may be necessary. Amounts appropriated under this section shall remain available until the day on which the Commission terminates under section 208.

TITLE III—VACCINE COMPENSATION

National Childhood Vaccine Injury Act of 1986.

SEC. 301. SHORT TITLE.

42 USC 201.

This title may be cited as the "National Childhood Vaccine Injury Act of 1986".

PART A—VACCINES

SEC. 311. AMENDMENT TO PUBLIC HEALTH SERVICE ACT.

42 USC 300aa *et seq.*, 300cc *et seq.*

(a) NEW TITLE.—The Public Health Service Act is amended by redesignating title XXI as title XXIII, by redesignating sections 2101 through 2116 as sections 2301 through 2316, respectively, and by inserting after title XX the following new title:

"TITLE XXI—VACCINES

"Subtitle 1—National Vaccine Program

"ESTABLISHMENT

42 USC 300aa-1.

"SEC. 2101. The Secretary shall establish in the Department of Health and Human Services a National Vaccine Program to achieve optimal prevention of human infectious diseases through immunization and to achieve optimal prevention against adverse reactions to vaccines. The Program shall be administered by a Director selected by the Secretary.

"PROGRAM RESPONSIBILITIES

42 USC 300aa-2.

"SEC. 2102. (a) The Director of the Program shall have the following responsibilities:

"(1) VACCINE RESEARCH.—The Director of the Program shall, through the plan issued under section 2103, coordinate and provide direction for research carried out in or through the National Institutes of Health, the Centers for Disease Control, the Office of Biologics Research and Review of the Food and Drug Administration, the Department of Defense, and the Agency for International Development on means to induce human immunity against naturally occurring infectious diseases and to prevent adverse reactions to vaccines.

"(2) VACCINE DEVELOPMENT.—The Director of the Program shall, through the plan issued under section 2103, coordinate and provide direction for activities carried out in or through the National Institutes of Health, the Office of Biologics Research and Review of the Food and Drug Administration, the Department of Defense, and the Agency for International Development to develop the techniques needed to produce safe and effective vaccines.

"(3) SAFETY AND EFFICACY TESTING OF VACCINES.—The Director of the Program shall, through the plan issued under section 2103, coordinate and provide direction for safety and efficacy testing of vaccines carried out in or through the National Institutes of Health, the Centers for Disease Control, the Office of Biologics Research and Review of the Food and Drug Administration, the Department of Defense, and the Agency for International Development.

"(4) LICENSING OF VACCINE MANUFACTURERS AND VACCINES.—The Director of the Program shall, through the plan issued under section 2103, coordinate and provide direction for the allocation of resources in the implementation of the licensing program under section 353.

42 USC 263a.

"(5) PRODUCTION AND PROCUREMENT OF VACCINES.—The Director of the Program shall, through the plan issued under section 2103, ensure that the governmental and non-governmental production and procurement of safe and effective vaccines by the Public Health Service, the Department of Defense, and the Agency for International Development meet the needs of the United States population and fulfill commitments of the United States to prevent human infectious diseases in other countries.

"(6) DISTRIBUTION AND USE OF VACCINES.—The Director of the Program shall, through the plan issued under section 2103, coordinate and provide direction to the Centers for Disease

Control and assistance to States, localities, and health practitioners in the distribution and use of vaccines, including efforts to encourage public acceptance of immunizations and to make health practitioners and the public aware of potential adverse reactions and contraindications to vaccines.

"(7) EVALUATING THE NEED FOR AND THE EFFECTIVENESS AND ADVERSE EFFECTS OF VACCINES AND IMMUNIZATION ACTIVITIES.—The Director of the Program shall, through the plan issued under section 2103, coordinate and provide direction to the National Institutes of Health, the Centers for Disease Control, the Office of Biologics Research and Review of the Food and Drug Administration, the National Center for Health Statistics, the National Center for Health Services Research and Health Care Technology Assessment, and the Health Care Financing Administration in monitoring the need for and the effectiveness and adverse effects of vaccines and immunization activities.

"(8) COORDINATING GOVERNMENTAL AND NON-GOVERNMENTAL ACTIVITIES.—The Director of the Program shall, through the plan issued under section 2103, provide for the exchange of information between Federal agencies involved in the implementation of the Program and non-governmental entities engaged in the development and production of vaccines and in vaccine research and encourage the investment of non-governmental resources complementary to the governmental activities under the Program.

"(9) FUNDING OF FEDERAL AGENCIES.—The Director of the Program shall make available to Federal agencies involved in the implementation of the plan issued under section 2103 funds appropriated under section 2106 to supplement the funds otherwise available to such agencies for activities under the plan.

"(b) In carrying out subsection (a) and in preparing the plan under section 2103, the Director shall consult with all Federal agencies involved in research on and development, testing, licensing, production, procurement, distribution, and use of vaccines.

"PLAN

"SEC. 2103. The Director of the Program shall prepare and issue a plan for the implementation of the responsibilities of the Director under section 2102. The plan shall establish priorities in research and the development, testing, licensing, production, procurement, distribution, and effective use of vaccines, describe an optimal use of resources to carry out such priorities, and describe how each of the various departments and agencies will carry out their vaccine functions in consultation and coordination with the Program and in conformity with such priorities. The first plan under this section shall be prepared not later than January 1, 1987, and shall be revised not later than January 1 of each succeeding year. 42 USC 300aa-3.

"REPORT

"SEC. 2104. The Director shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate not later than January 1, 1988, and annually thereafter on the implementation of the Program and the plan prepared under section 2103. 42 USC 300aa-4.

"NATIONAL VACCINE ADVISORY COMMITTEE

42 USC 300aa-5.

"SEC. 2105. (a) There is established the National Vaccine Advisory Committee. The members of the Committee shall be appointed by the Director of the Program, in consultation with the National Academy of Sciences, from among individuals who are engaged in vaccine research or the manufacture of vaccines or who are physicians, members of parent organizations concerned with immunizations, or representatives of State or local health agencies or public health organizations.

"(b) The Committee shall—

"(1) study and recommend ways to encourage the availability of an adequate supply of safe and effective vaccination products in the States,

"(2) recommend research priorities and other measures the Director of the Program should take to enhance the safety and efficacy of vaccines,

"(3) advise the Director of the Program in the implementation of sections 2102, 2103, and 2104, and

"(4) identify annually for the Director of the Program the most important areas of government and non-government cooperation that should be considered in implementing sections 2102, 2103, and 2104.

"AUTHORIZATIONS

42 USC 300aa-6.

"SEC. 2106. (a) To carry out this subtitle other than section 2102(9) there are authorized to be appropriated $2,000,000 for fiscal year 1987, $2,500,000 for fiscal year 1988, $3,000,000 for fiscal year 1989, $3,500,000 for fiscal year 1990, $4,000,000 for fiscal year 1991.

"(b) To carry out section 2102(9) there are authorized to be appropriated $20,000,000 for fiscal year 1987, $22,500,000 for fiscal year 1988, $25,000,000 for fiscal year 1989, $27,500,000 for fiscal year 1990, $30,000,000 for fiscal year 1991.

"Subtitle 2—National Vaccine Injury Compensation Program

"PART A—PROGRAM REQUIREMENTS

"ESTABLISHMENT OF PROGRAM

42 USC 300aa-10.

"SEC. 2110. (a) PROGRAM ESTABLISHED.—There is established the National Vaccine Injury Compensation Program to be administered by the Secretary under which compensation may be paid for a vaccine-related injury or death.

"(b) ATTORNEY'S OBLIGATION.—It shall be the ethical obligation of any attorney who is consulted by an individual with respect to a vaccine-related injury or death to advise such individual that compensation may be available under the program for such injury or death.

"PETITIONS FOR COMPENSATION

42 USC 300aa-11.

"SEC. 2111. (a) GENERAL RULE.—

"(1) A proceeding for compensation under the Program for a vaccine-related injury or death shall be initiated by service upon the Secretary and the filing of a petition with the United States district court for the district in which the petitioner resides or in which the injury or death occurred.

"(2)(A) No person may bring a civil action for damages in an amount greater than $1,000 or in an unspecified amount against a vaccine manufacturer in a State or Federal court for damages arising from a vaccine-related injury or death associated with the administration of a vaccine after the effective date of this subtitle, and no such court may award damages in an amount greater than $1,000 in a civil action for damages for such a vaccine-related injury or death, unless—

"(i) a petition has been filed, in accordance with section 2116, under subsection (b) for compensation under the Program for such injury or death,

"(ii) a district court of the United States has issued a judgment under section 2112 on such petition, and Courts, U.S.

"(iii) such person elects under section 2121(a) to file such an action.

"(B) If a civil action which is barred under subparagraph (A) is filed in a State or Federal court, the court shall dismiss the action. If a petition is filed under this section with respect to the injury or death for which such civil action was brought, the date such dismissed action was filed shall, for purposes of the limitations of actions prescribed by section 2116, be considered the date the petition was filed if the petition was filed within one year of the date of the dismissal of the civil action. Courts, U.S.

"(3) No vaccine manufacturer may be made a party to a civil action (other than a civil action which may be brought under paragraph (2)) for damages for a vaccine-related injury or death associated with the administration of a vaccine after the effective date of this subtitle.

"(4) If in a civil action brought against a vaccine manufacturer before the effective date of this subtitle damages were denied for a vaccine-related injury or death or if such civil action was dismissed with prejudice, the person who brought such action may file a petition under subsection (b) for such injury or death.

"(5)(A) A plaintiff who on the effective date of this subtitle has pending a civil action for damages for a vaccine-related injury or death may, at any time within 2 years after the effective date of this title or before judgment, whichever occurs first, elect to withdraw such action without prejudice and file a petition under subsection (b) for such injury or death.

"(B) If a plaintiff who on the effective date of this subtitle had pending a civil action for damages for a vaccine-related injury or death does not withdraw the action under subparagraph (A), such person may not file a petition under subsection (b) for such injury or death.

"(6) If a person brings a civil action after the effective date of this subtitle for damages for a vaccine-related injury or death associated with the administration of a vaccine before the effective date of this subtitle, such person may not file a petition under subsection (b) for such injury or death.

"(7) If in a civil action brought against a vaccine manufacturer for a vaccine-related injury or death damages are awarded under a judgment of a court or a settlement of such action, the person who brought such action may not file a petition under subsection (b) for such injury or death.

"(b) PETITIONERS.—

"(1)(A) Except as provided in subparagraph (B), any person who has sustained a vaccine-related injury, the legal representative of such person if such person is a minor or is disabled, or the legal representative of any person who died as the result of the administration of a vaccine set forth in the Vaccine Injury Table may file a petition for compensation under the Program.

"(B) No person may file a petition for a vaccine-related injury or death associated with a vaccine administered before the effective date of this subtitle if compensation has been paid under this subtitle for 3500 petitions for such injuries or deaths.

"(2) Only one petition may be filed with respect to each administration of a vaccine.

"(c) PETITION CONTENT.—A petition for compensation under the Program for a vaccine-related injury or death shall contain—

"(1) an affidavit, and supporting documentation, demonstrating that the person who suffered such injury or who died—

"(A) received a vaccine set forth in the Vaccine Injury Table or, if such person did not receive such a vaccine, contracted polio, directly or indirectly, from another person who received an oral polio vaccine,

"(B)(i) if such person received a vaccine set forth in the Vaccine Injury Table—

"(I) received the vaccine in the United States or in its trust territories,

"(II) received the vaccine outside the United States or a trust territory and at the time of the vaccination such person was a citizen of the United States serving abroad as a member of the Armed Forces or otherwise as an employee of the United States or a dependent of such a citizen, or

"(III) received the vaccine outside the United States or a trust territory and the vaccine was manufactured by a vaccine manufacturer located in the United States and such person returned to the United States not later than 6 months after the date of the vaccination,

"(ii) if such person did not receive such a vaccine but contracted polio from another person who received an oral polio vaccine, was a citizen of the United States or a dependent of such a citizen,

"(C)(i) sustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table in association with the vaccine referred to in subparagraph (A) or died from the administration of such vaccine, and the first symptom or manifestation of the onset or of the significant aggravation of any such illness, disability, injury, or condition or the death occurred within the time period after vaccine administration set forth in the Vaccine Injury Table, or

"(ii)(I) sustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table but which was caused by a vaccine referred to in subparagraph (A), or

"(II) sustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur

within the time period set forth in the Table but which was caused by a vaccine referred to in subparagraph (A),

"(D)(i) suffered the residual effects or complications of such illness, disability, injury, or condition for more than 1 year after the administration of the vaccine, (ii) incurred unreimbursable expenses due in whole or in part to such illness, disability, injury, or condition in an amount greater than $1,000, or (iii) died from the administration of the vaccine, and

"(E) has not previously collected an award or settlement of a civil action for damages for such vaccine-related injury or death,

"(2) all available relevant medical records (including autopsy reports, if any) relating to the person who suffered such injury or who died from the administration of the vaccine and an identification of any unavailable records known to the petitioner and the reasons for their unavailability, and

"(3) appropriate assessments, evaluations, and prognoses and such other records and documents as are reasonably necessary for the determination of the amount of compensation to be paid to, or on behalf of, the person who suffered such injury or who died from the administration of the vaccine.

"COURT JURISDICTION

"SEC. 2112. (a) GENERAL RULE.—The district courts of the United States shall have jurisdiction (1) over proceedings to determine if a petitioner under section 2111 is entitled to compensation under the Program and the amount of such compensation, and (2) to issue and enforce such orders as the courts deem necessary to assure the prompt payment of any compensation awarded. 42 USC 300aa-12.

"(b) PARTIES.—

"(1) The Secretary shall be named as the respondent in all proceedings brought by the filing of a petition under section 2111(b). Except as provided in paragraph (2), no other person may intervene in any such proceeding.

"(2) Within 30 days after the Secretary receives service of any petition filed under section 2111 the Secretary shall publish notice of such petition in the Federal Register. The special master designated with respect to such petition under subsection (c) shall afford all interested persons an opportunity to submit relevant, written information— Federal Register, publication.

"(A) relating to the existence of the evidence described in section 2113(a)(1)(B), or

"(B) relating to any allegation in a petition with respect to the matters described in section 2111(c)(1)(C)(ii).

"(c) SPECIAL MASTERS.—

"(1) Following receipt of a petition under subsection (a), the district court of the United States in which the petition is filed shall designate a special master to carry out the functions authorized by paragraph (2).

"(2) A special master shall serve as an adjunct to the court and may—

"(A) require such evidence as may be appropriate for the preparation of proposed findings of fact and conclusions of law with respect to whether compensation is to be provided

under the Program and the amount of any such compensation,

"(B) require the submission of such information as may be reasonable and necessary to determine if the petitioner is entitled to compensation,

"(C) require the testimony of any person and the production of any document as may be reasonable and necessary to determine if the petitioner is entitled to compensation,

"(D) conduct such hearings as may be appropriate, and

"(E) prepare and submit to the court proposed findings of fact and conclusions of law.

Information submitted to a special master in a proceeding on a petition may not be disclosed to a person who is not a party to the proceeding without the express, written consent of the person who submitted the information. There may be no discovery in a proceeding on a petition other than the discovery required under this paragraph.

"(d) ACTION BY THE COURT.—

Records.

"(1) Upon objection by the petitioner or respondent to the proposed findings of fact or conclusions of law prepared by the special master or upon the court's own motion, the court shall undertake a review of the record of the proceedings and may thereafter make a de novo determination of any matter and issue its judgment accordingly, including findings of fact and conclusions of law, or remand for further proceedings.

"(2) If no objection is filed under paragraph (1) or if the court does not choose to review the proceeding, the court shall adopt the proposed findings of fact and conclusions of law of the special master as its own and render judgment thereon.

"(3) The court shall render its judgment on any petition filed under the Program as expeditiously as practicable but not later than 365 days after the date on which the petition was filed.

"(e) ADMINISTRATION OF AWARD.—The Program shall administer the payments of such compensation. The Program shall audit the payments of compensation under a judgment. A petitioner awarded compensation shall notify the Program of any changes which significantly affect the compensation to be paid.

"(f) REVISION OF AWARD.—

"(1) If the court issues a judgment awarding to a petitioner compensation described in section 2115(a)(1)(A) for unreimbursable expenses and the compensation is insufficient to meet such expenses, such petitioner may petition the court to (A) review such award, and (B) increase the award to make it sufficient to meet such expenses or amend the periodic payment schedule established under section 2115, or both.

"(2) If an audit conducted under subsection (e) discloses the improper use of compensation awarded under a judgment or the termination of a need for an item of compensation, the Program shall petition the court which awarded the compensation to make an appropriate revision in the compensation.

"(g) APPEALS.—The findings of fact and conclusions of law of a district court of the United States on a petition shall be final determinations of the matters involved, except that the Secretary or any petitioner aggrieved by the findings or conclusions of the court may obtain review of the judgment of the court in the United States court of appeals for the circuit in which the court is located upon petition filed with such court of appeals.

"DETERMINATION OF ELIGIBILITY AND COMPENSATION

"SEC. 2113. (a) GENERAL RULE.—

Courts, U.S. Records. 42 USC 300aa-13.

"(1) Compensation shall be awarded under the Program to a petitioner if the court finds on the record as a whole—

"(A) that the petitioner has demonstrated by a preponderance of the evidence the matters required in the petition by section 2111(c)(1), and

"(B) that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition.

The court may not make such a finding based on the claims of a petitioner alone, unsubstantiated by medical records or by medical opinion.

"(2) For purposes of paragraph (1), the term 'factors unrelated to the administration of the vaccine'—

"(A) does not include any idiopathic, unexplained, unknown, hypothetical, or undocumentable cause, factor, injury, illness, or condition, and

"(B) may, as documented by the petitioner's evidence or other material in the record, include infection, toxins, trauma (including birth trauma and related anoxia), or metabolic disturbances which have no known relation to the vaccine involved, but which in the particular case are shown to have been the agent or agents principally responsible for causing the petitioner's illness, disability, injury, condition, or death.

"(b) MATTERS TO BE CONSIDERED.—

Courts, U.S. Records.

"(1) In determining whether to award compensation to a petitioner under the Program, the court shall consider, in addition to all other relevant medical and scientific evidence contained in the record—

"(A) any diagnosis, conclusion, medical judgment, or autopsy or coroner's report which is contained in the record regarding the nature, causation, and aggravation of the petitioner's illness, disability, injury, condition, or death, and

"(B) the results of any diagnostic or evaluative test which are contained in the record and the summaries and conclusions.

Any such diagnosis, conclusion, judgment, test result, report, or summary shall not be binding on the court. In evaluating the weight to be afforded to any such diagnosis, conclusion, judgment, test result, report, or summary, the court shall consider the entire record and the course of the injury, disability, illness, or condition until the date of the judgment of the court.

"(2) The court may find the first symptom or manifestation of onset or significant aggravation of an injury, disability, illness, condition, or death described in a petition occurred within the time period described in the Vaccine Injury Table even though the occurrence of such symptom or manifestation was not recorded or was incorrectly recorded as having occurred outside such period. Such a finding may be made only upon demonstration by a preponderance of the evidence that the onset or significant aggravation of the injury, disability, illness, condi-

tion, or death described in the petition did in fact occur within the time period described in the Vaccine Injury Table.

"(c) RECORD DEFINED.—For purposes of this section, the term 'record' means the record established by a distict court of the United States in a proceeding on a petition filed under section 2111.

"VACCINE INJURY TABLE

42 USC 300aa-14.

"SEC. 2114. (a) INITIAL TABLE.—The following is a table of vaccines, the injuries, disabilities, illnesses, conditions, and deaths resulting from the administration of such vaccines, and the time period in which the first symptom or manifestation of onset or of the significant aggravation of such injuries, disabilities, illnesses, conditions, and deaths is to occur after vaccine administration for purposes of receiving compensation under the Program:

"VACCINE INJURY TABLE

I.	DTP; P; DTP/Polio Combination; or Any Other Vaccine Containing Whole Cell Pertussis Bacteria, Extracted or Partial Cell Bacteria, or Specific Pertussis Antigen(s).	
	Illness, disability, injury, or condition covered:	Time period for first symptom or manifestation of onset or of significant aggravation after vaccine administration:
	A. Anaphylaxis or anaphylactic shock	24 hours
	B. Encephalopathy (or encephalitis)	3 days
	C. Shock-collapse or hypotonic-hyporesponsive collapse	3 days
	D. Residual seizure disorder in accordance with subsection (c)(2)	3 days
	E. Any acute complication or sequela (including death) of an illness, disability, injury, or condition referred to above which illness, disability, injury, or condition arose within the time period prescribed	Not applicable
II.	Measles, mumps, rubella, or any vaccine containing any of the foregoing as a component; DT; Td; or Tetanus Toxoid.	
	A. Anaphylaxis or anaphylactic shock	24 hours
	B. Encephalopathy (or encephalitis)	15 days (for mumps, rubella, measles, or any vaccine containing any of the foregoing as a component). 3 days (for DT, Td, or tetanus toxoid).
	C. Residual seizure disorder in accordance with subsection (c)(2)	15 days (for mumps, rubella, measles, or any vaccine containing any of the foregoing as a component). 3 days (for DT, Td, or tetanus toxoid).
	D. Any acute complication or sequela (including death) of an illness, disability, injury, or condition referred to above which illness, disability, injury, or condition arose within the time period prescribed	Not applicable
III.	Polio Vaccines (other than Inactivated Polio Vaccine).	
	A. Paralytic polio	

	—in a non-immunodeficient recipient	30 days
	—in an immunodeficient recipient	6 months
	—in a vaccine-associated community case	Not applicable
	B. Any acute complication or sequela (including death) of an illness, disability, injury, or condition referred to above which illness, disability, injury, or condition arose within the time period prescribed	Not applicable
IV.	Inactivated Polio Vaccine.	
	A. Anaphylaxis or anaphylactic shock	24 hours
	B. Any acute complication or sequela (including death) of an illness, disability, injury, or condition referred to above which illness, disability, injury, or condition arose within the time period prescribed	Not applicable

"(b) QUALIFICATIONS AND AIDS TO INTERPRETATION.—The following qualifications and aids to interpretation shall apply to the Vaccine Injury Table in subsection (a):

"(1) A shock-collapse or a hypotonic-hyporesponsive collapse may be evidenced by indicia or symptoms such as decrease or loss of muscle tone, paralysis (partial or complete), hemiplegia or hemiparesis, loss of color or turning pale white or blue, unresponsiveness to environmental stimuli, depression of consciousness, loss of consciousness, prolonged sleeping with difficulty arousing, or cardiovascular or respiratory arrest.

"(2) A petitioner may be considered to have suffered a residual seizure disorder if the petitioner did not suffer a seizure or convulsion unaccompanied by fever or accompanied by a fever of less than 102 degrees Fahrenheit before the first seizure or convulsion after the administration of the vaccine involved and if—

"(A) in the case of a measles, mumps, or rubella vaccine or any combination of such vaccines, the first seizure or convulsion occurred within 15 days after administration of the vaccine and 2 or more seizures or convulsions occurred within 1 year after the administration of the vaccine which were unaccompanied by fever or accompanied by a fever of less than 102 degrees Fahrenheit, and

"(B) in the case of any other vaccine, the first seizure or convulsion occurred within 3 days after administration of the vaccine and 2 or more seizures or convulsions occurred within 1 year after the administration of the vaccine which were unaccompanied by fever or accompanied by a fever of less than 102 degrees Fahrenheit.

"(3)(A) The term 'encephalopathy' means any significant acquired abnormality of, or injury to, or impairment of function of the brain. Among the frequent manifestations of encephalopathy are focal and diffuse neurologic signs, increased intracranial pressure, or changes lasting at least 6 hours in level of consciousness, with or without convulsions. The neurological signs and symptoms of encephalopathy may be temporary with complete recovery, or may result in various degrees of permanent impairment. Signs and symptoms such as high

pitched and unusual screaming, persistent unconsolable crying, and bulging fontanel are compatible with an encephalopathy, but in and of themselves are not conclusive evidence of encephalopathy. Encephalopathy usually can be documented by slow wave activity on an electroencephalogram.

"(B) If in a proceeding on a petition it is shown by a preponderance of the evidence that an encephalopathy was caused by infection, toxins, trauma, or metabolic disturbances the encephalopathy shall not be considered to be a condition set forth in the table. If at the time a judgment is entered on a petition filed under section 2111(b) for a vaccine-related injury or death it is not possible to determine the cause, by a preponderance of the evidence, of an encephalopathy, the encephalopathy shall be considered to be a condition set forth in the table. In determining whether or not an encephalopathy is a condition set forth in the table, the court shall consider the entire medical record.

"(4) For purposes of paragraphs (2) and (3), the terms 'seizure' and 'convulsion' include grand mal, petit mal, absence, myoclonic, tonic-clonic, and focal motor seizures and signs. If a provision of the table to which paragraph (1), (2), (3), or (4) applies is revised under subsection (c) or (d), such paragraph shall not apply to such provision after the effective date of the revision unless the revision specifies that such paragraph is to continue to apply.

"(c) ADMINISTRATIVE REVISION OF THE TABLE.—

Regulations.

"(1) The Secretary may promulgate regulations to modify in accordance with paragraph (3) the Vaccine Injury Table. In promulgating such regulations, the Secretary shall provide for notice and opportunity for a public hearing and at least 180 days of public comment.

"(2) Any person (including the Advisory Commission on Childhood Vaccines) may petition the Secretary to propose regulations to amend the Vaccine Injury Table. Unless clearly frivolous, or initiated by the Commission, any such petition shall be referred to the Commission for its recommendations. Following—

"(A) receipt of any recommendation of the Commission, or

"(B) 180 days after the date of the referral to the Commission,

Federal Register, publication.

whichever occurs first, the Secretary shall conduct a rulemaking proceeding on the matters proposed in the petition or publish in the Federal Register a statement of reasons for not conducting such proceeding.

"(3) A modification of the Vaccine Injury Table under paragraph (1) may add to, or delete from, the list of injuries, disabilities, illnesses, conditions, and deaths for which compensation may be provided or may change the time periods for the first symptom or manifestation of the onset or the significant aggravation of any such injury, disability, illness, condition, or death.

"(4) Any modification under paragraph (1) of the Vaccine Injury Table shall apply only with respect to petitions for compensation under the Program which are filed after the effective date of such regulation.

"(d) ROLE OF COMMISSION.—Except with respect to a regulation recommended by the Advisory Commission on Childhood Vaccines, the Secretary may not propose a regulation under subsection (c) or any revision thereof, unless the Secretary has first provided to the Commission a copy of the proposed regulation or revision, requested recommendations and comments by the Commission, and afforded the Commission at least 90 days to make such recommendations. Regulations.

"(e) RECOMMENDATION.—The Secretary may recommend to Congress revisions of the table to change the vaccines covered by the table.

"COMPENSATION

"SEC. 2115. (a) GENERAL RULE.—Compensation awarded under the Program to a petitioner under section 2111 for a vaccine-related injury or death associated with the administration of a vaccine after the effective date of this subtitle shall include the following: 42 USC 300aa-15.

"(1)(A) Actual unreimbursable expenses incurred from the date of the judgment awarding such expenses and reasonable projected unreimbursable expenses which—

"(i) result from the vaccine-related injury for which the petitioner seeks compensation,

"(ii) have been or will be incurred by or on behalf of the person who suffered such injury, and

"(iii)(I) have been or will be for diagnosis and medical or other remedial care determined to be reasonably necessary, or

"(II) have been or will be for rehabilitation, developmental evaluation, special education, vocational training and placement, case management services, counseling, emotional or behavioral therapy, residential and custodial care and service expenses, special equipment, related travel expenses, and facilities determined to be reasonably necessary.

The amount of unreimbursable expenses which may be recovered under this subparagraph shall be limited to the amount in excess of the amount set forth in section 2111(c)(1)(D)(ii).

"(B) Subject to section 2116(a)(2), actual unreimbursable expenses incurred before the date of the judgment awarding such expenses which—

"(i) resulted from the vaccine-related injury for which the petitioner seeks compensation,

"(ii) were incurred by or on behalf of the person who suffered such injury, and

"(iii) were for diagnosis, medical or other remedial care, rehabilitation, developmental evaluation, special education, vocational training and placement, case management services, counseling, emotional or behavioral therapy, residential and custodial care and service expenses, special equipment, related travel expenses, and facilities determined to be reasonably necessary.

The amount of unreimbursable expenses which may be recovered under this subparagraph shall be limited to the amount in excess of the amount set forth in section 2111(c)(1)(D)(ii).

"(2) In the event of a vaccine-related death, an award of $250,000 for the estate of the deceased.

"(3)(A) In the case of any person who has sustained a vaccine-related injury after attaining the age of 18 and whose earning

capacity is or has been impaired by reason of such person's vaccine-related injury for which compensation is to be awarded, compensation for actual and anticipated loss of earnings determined in accordance with generally recognized actuarial principles and projections.

"(B) In the case of any person who has sustained a vaccine-related injury before attaining the age of 18 and whose earning capacity is or has been impaired by reason of such person's vaccine-related injury for which compensation is to be awarded and whose vaccine-related injury is of sufficient severity to permit reasonable anticipation that such person is likely to suffer impaired earning capacity at age 18 and beyond, compensation after attaining the age of 18 for loss of earnings determined on the basis of the average gross weekly earnings of workers in the private, non-farm sector, less appropriate taxes and the average cost of a health insurance policy, as determined by the Secretary.

"(4) For actual and projected pain and suffering and emotional distress from the vaccine-related injury, an award not to exceed $250,000.

Payments for projected expenses shall be paid on a periodic basis (but no payment may be made for a period in excess of 1 year). Payments for pain and suffering and emotional distress and incurred expenses may be paid in a lump sum.

"(b) VACCINES ADMINISTERED BEFORE THE EFFECTIVE DATE.—Compensation awarded under the Program to a petitioner under section 2111 for a vaccine-related injury or death associated with the administration of a vaccine before the effective date of this subtitle shall only include the compensation described in paragraphs (1)(A) and (2) of subsection (a).

"(c) RESIDENTIAL AND CUSTODIAL CARE AND SERVICE.—The amount of any compensation for residential and custodial care and service expenses under subsection (a)(1) shall be sufficient to enable the compensated person to remain living at home.

"(d) TYPES OF COMPENSATION PROHIBITED.—Compensation awarded under the Program may not include the following:

"(1) Punitive or exemplary damages.

"(2) Except with respect to compensation payments under paragraphs (2) and (3) of subsection (a), compensation for other than the health, education, or welfare of the person who suffered the vaccine-related injury with respect to which the compensation is paid.

"(e) ATTORNEYS' FEES.—

Courts, U.S.

"(1) The judgment of a court on a petition filed under section 2111 awarding compensation shall include an amount to cover—

"(A) reasonable attorneys' fees, and

"(B) other costs,

incurred in any proceeding on such petition. If the judgment of a court on such a petition does not award compensation, the court may include in the judgment an amount to cover petitioner's reasonable attorneys' fees and other costs incurred in any proceeding on such petition if the court determines that the civil action was brought in good faith and there was a reasonable basis for the claim for which the civil action was brought.

"(2) If the petitioner, before the effective date of this title, filed a civil action for damages for any vaccine-related injury or death for which compensation may be awarded under the Pro-

gram, and elected under section 2111(a)(4) to withdraw such action and to file a petition for compensation under the Program, the judgment of the court on such petition may include an amount limited to the costs and expenses incurred by the petitioner and the attorney of the petitioner before the effective date of this subtitle in preparing, filing, and prosecuting such civil action (including the reasonable value of the attorney's time if the civil action was filed under contingent fee arrangements).

"(3) No attorney may charge any fee for services in connection with a petition filed under section 2111 which is in addition to any amount included under paragraph (1) in a judgment on such petition.

"(f) PAYMENT OF COMPENSATION.—

"(1) Except as provided in paragraph (2), no compensation may be paid until an election has been made, or has been deemed to have been made, under section 2121(a) to receive compensation.

"(2) Compensation described in subsection (a)(1)(A)(iii) shall be paid from the date of the judgment of the district court of the United States under section 2112 awarding the compensation. Such compensation may not be paid after an election under section 2121(b) to file a civil action for damages for the vaccine-related injury or death for which such compensation was awarded.

"(3) Payments of compensation shall be exempt from reduction under any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985. 2 USC 901 *et seq.*

"(f) PROGRAM NOT PRIMARILY LIABLE.—Payment of compensation under the Program shall not be made for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such item or service (1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program, or (2) by an entity which provides health services on a prepaid basis.

"(g) LIABILITY OF HEALTH INSURANCE CARRIERS, PREPAID HEALTH PLANS, AND BENEFIT PROVIDERS.—No policy of health insurance may make payment of benefits under the policy secondary to the payment of compensation under the Program and—

"(1) no State, and

"(2) no entity which provides health services on a prepaid basis or provides health benefits,

may make the provision of health services or health benefits secondary to the payment of compensation under the Program.

"LIMITATIONS OF ACTIONS

"SEC. 2116. (a) GENERAL RULE.—In the case of— 42 USC 300aa-16.

"(1) a vaccine set forth in the Vaccine Injury Table which is administered before the effective date of this title, if a vaccine-related injury or death occurred as a result of the administration of such vaccine, no petition may be filed for compensation under the Program for such injury or death after the expiration of 24 months after the effective date of this title,

"(2) a vaccine set forth in the Vaccine Injury Table which is administered after the effective date of this title, if a vaccine-related injury occurred as a result of the administration of such

vaccine, no petition may be filed for compensation under the Program for such injury after the expiration of 36 months after the date of the occurrence of the first symptom or manifestation of onset or of the significant aggravation of such injury, and

"(3) a vaccine set forth in the Vaccine Injury Table which is administered after the effective date of this title, if a death occurred as a result of the administration of such vaccine, no petition may be filed for compensation under the Program for such death after the expiration of 24 months from the date of the death and no such petition may be filed more than 48 months after the date of the occurrence of the first symptom or manifestation of onset or of the significant aggravation of the injury from which the death resulted.

"(b) EFFECT OF REVISED TABLE.—If at any time the Vaccine Injury Table is revised and the effect of such revision is to permit an individual who was not, before such revision, eligible to seek compensation under the Program, such person may file a petition for such compensation not later than 2 years after the effective date of the revision, except that no compensation may be provided under the Program with respect to a vaccine-related injury or death covered under the revision of the table if—

"(1) the vaccine-related death occurred more than 8 years before the date of the revision of the table, or

"(2) the vaccine-related injury occurred more than 8 years before the date of the revision of the table.

"(c) STATE LIMITATIONS OF ACTIONS.—If a petition is filed under section 2111(b) for a vaccine-related injury or death, limitations of actions under State law shall be stayed with respect to a civil action brought for such injury or death for the period beginning on the date the petition is filed and ending on the date a final judgment is entered on the petition.

"SUBROGRATION

42 USC 300aa-17.

"SEC. 2117. (a) GENERAL RULE.—

"(1) Upon payment of compensation to any petitioner under the Program, the trust fund which has been established to provide such compensation shall be subrogated to all rights of the petitioner with respect to the vaccine-related injury or death for which compensation was paid, except that the trust fund may not recover under such rights an amount greater than the amount of compensation paid to the petitioner.

Courts, U.S. Records. Claims.

"(2) In any case in which it deems such action appropriate, a district court of the United States may, after entry of a final judgment providing for compensation to be paid under section 2115 for a vaccine-related injury or death, refer the record of such proceeding to the Secretary and the Attorney General with such recommendation as the court deems appropriate with respect to the investigation or commencement of a civil action by the Secretary under paragraph (1).

"(b) DISPOSITION OF AMOUNTS RECOVERED.—Amounts recovered under subsection (a) shall be collected on behalf of, and deposited in, the trust fund which has been established to provide compensation under the Program.

"INCREASE FOR INFLATION

"SEC. 2118. The compensation under subsections (a)(2) and (a)(4) of section 2115 and the civil penalty under section 2127(b) shall, effective December 1 of each year beginning 1 year after the effective date of this title, be increased by the percent change in the Consumer Price Index for the base quarter of such year over the Consumer Price Index for the base quarter of the preceding year, adjusted to the nearest 1/10 of 1 percent. For purposes of this section, the term 'base quarter', as used with respect to a year, means the calendar quarter ending on September 30 of such year and the price index for a base quarter is the arithmetical mean of such index for the 3 months comprising such quarter.

Effective date.
42 USC 300aa-18.

"ADVISORY COMMISSION ON CHILDHOOD VACCINES

"SEC. 2119. (a) ESTABLISHMENT.—There is established the Advisory Commission on Childhood Vaccines. The Commission shall be composed of:

42 USC 300aa-19.

"(1) Nine members appointed by the Secretary as follows:

"(A) Three members who are health professionals, who are not employees of the United States, and who have expertise in the health care of children, the epidemiology, etiology, and prevention of childhood diseases, and the adverse reactions associated with vaccines, of whom at least two shall be pediatricians.

"(B) Three members from the general public, of whom at least two shall be legal representatives of children who have suffered a vaccine-related injury or death.

"(C) Three members who are attorneys, of whom at least one shall be an attorney whose specialty includes representation of persons who have suffered a vaccine-related injury or death and of whom one shall be an attorney whose specialty includes representation of vaccine manufacturers.

"(2) The Director of the National Institutes of Health, the Assistant Secretary for Health, the Director of the Centers for Disease Control, and the Commissioner of Food and Drugs (or the designees of such officials), each of whom shall be a nonvoting ex officio member.

The Secretary shall select members of the Commission within 90 days of the effective date of this subtitle. The members of the Commission shall select a Chair from among the members.

"(b) TERM OF OFFICE.—Appointed members of the Commission shall be appointed for a term of office of 3 years, except that of the members first appointed, 3 shall be appointed for a term of 1 year, 3 shall be appointed for a term of 2 years, and 3 shall be appointed for a term of 3 years, as determined by the Secretary.

"(c) MEETINGS.—The Commission shall first meet within 60 days after all members of the Commission are appointed, and thereafter shall meet not less often than four times per year and at the call of the chair. A quorum for purposes of a meeting is 5. A decision at a meeting is to be made by a ballot of a majority of the voting members of the Commission.

"(d) COMPENSATION.—Members of the Commission who are officers or employees of the Federal Government shall serve as members of the Commission without compensation in addition to that received in their regular public employment. Members of the

Commission who are not officers or employees of the Federal Government shall be compensated at a rate not to exceed the daily equivalent of the rate in effect for grade GS-18 of the General Schedule for each day (including traveltime) they are engaged in the performance of their duties as members of the Commission. All members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703, title 5, United States Code, for employees serving intermittently.

5 USC 5332.

"(e) STAFF.—The Secretary shall provide the Commission with such professional and clerical staff, such information, and the services of such consultants as may be necessary to assist the Commission in carrying out effectively its functions under this section.

"(f) FUNCTIONS.—The Commission shall—

"(1) advise the Secretary on the implementation of the Program,

"(2) on its own initiative or as the result of the filing of a petition, recommend changes in the Vaccine Injury Table,

"(3) advise the Secretary in implementing the Secretary's responsibilities under section 2127 regarding the need for childhood vaccination products that result in fewer or no significant adverse reactions,

"(4) survey Federal, State, and local programs and activities relating to the gathering of information on injuries associated with the administration of childhood vaccines, including the adverse reaction reporting requirements of section 2125(b), and advise the Secretary on means to obtain, compile, publish, and use credible data related to the frequency and severity of adverse reactions associated with childhood vaccines, and

"(5) recommend to the Director of the National Vaccine Program research related to vaccine injuries which should be conducted to carry out this subtitle.

"PART B—ADDITIONAL REMEDIES

"AUTHORITY TO BRING ACTIONS

42 USC 300aa-21.

"SEC. 2121. (a) ELECTION.—After the judgment of a district court of the United States under section 2111 on a petition filed for compensation under the Program for a vaccine-related injury or death has become final, the person who filed the petition shall file with the court—

"(1) if the judgment awarded compensation, an election in writing to receive the compensation or to file a civil action for damages for such injury or death, or

"(2) if the judgment did not award compensation, an election in writing to accept the judgment or to file a civil action for damages for such injury or death.

An election shall be filed under this subsection not later than 90 days after the date of the entry of the court's judgment with respect to which the election is to be made. If a person required to file an election with a court under this subsection does not file the election within the time prescribed for filing the election, such person shall be deemed to have filed an election to accept the judgment of the court. If a person elects to receive compensation under a judgment of a court or is deemed to have accepted the judgment of a court,

such person may not bring or maintain a civil action for damages against a vaccine manufacturer for the vaccine-related injury or death for which the judgment was entered.

"(b) LIMITATIONS OF ACTIONS.—A civil action for damages arising from a vaccine-related injury or death for which a petition was filed under section 2111 shall, except as provided in section 2116(c), be brought within the period prescribed by limitations of actions under State law applicable to such civil action.

State and local governments.

"STANDARDS OF RESPONSIBILITY

"SEC. 2122. (a) GENERAL RULE.—Except as provided in subsections (b), (c), and (e) State law shall apply to a civil action brought for damages for a vaccine-related injury or death.

State and local governments. Claims. 42 USC 300aa-22.

"(b) UNAVOIDABLE ADVERSE SIDE EFFECTS; WARNINGS.—

"(1) No vaccine manufacturer shall be liable in a civil action for damages arising from a vaccine-related injury or death associated with the administration of a vaccine after the effective date of this subtitle if the injury or death resulted from side effects that were unavoidable even though the vaccine was properly prepared and was accompanied by proper directions and warnings.

"(2) For purposes of paragraph (1), a vaccine shall be presumed to be accompanied by proper directions and warnings if the vaccine manufacturer shows that it complied in all material respects with all requirements under the Federal Food, Drug, and Cosmetic Act and section 351 of the Public Health Service Act (including regulations issued under such provisions) applicable to the vaccine and related to vaccine-related injury or death for which the civil action was brought unless the plaintiff shows—

21 USC 301 note. 42 USC 262.

"(A) that the manufacturer engaged in the conduct set forth in subparagraph (A) or (B) of section 2123(d)(2), or

"(B) by clear and convincing evidence that the manufacturer failed to exercise due care notwithstanding its compliance with such Act and section (and regulations issued under such provisions).

"(c) DIRECT WARNINGS.—No vaccine manufacturer shall be liable in a civil action for damages arising from a vaccine-related injury or death associated with the administration of a vaccine after the effective date of this subtitle solely due to the manufacturer's failure to provide direct warnings to the injured party (or the injured party's legal representative) of the potential dangers resulting from the administration of the vaccine manufactured by the manufacturer.

"(d) CONSTRUCTION.—The standards of responsibility prescribed by this section are not to be construed as authorizing a person who brought a civil action for damages against a vaccine manufacturer for a vaccine-related injury or death in which damages were denied or which was dismissed with prejudice to bring a new civil action against such manufacturer for such injury or death.

"(e) PREEMPTION.—No State may establish or enforce a law which prohibits an individual from bringing a civil action against a vaccine manufacturer for damages for a vaccine-related injury or death if such civil action is not barred by this subtitle.

State and local governments.

"TRIAL

42 USC 300aa-23.

"SEC. 2123. (a) GENERAL RULE.—A civil action against a vaccine manufacturer for damages for a vaccine-related injury or death associated with the administration of a vaccine after the effective date of this subtitle which is not barred by section 2111(a)(2) shall be tried in three stages.

"(b) LIABILITY.—The first stage of such a civil action shall be held to determine if a vaccine manufacturer is liable under section 2122.

"(c) GENERAL DAMAGES.—The second stage of such a civil action shall be held to determine the amount of damages (other than punitive damages) a vaccine manufacturer found to be liable under section 2122 shall be required to pay.

"(d) PUNITIVE DAMAGES.—

"(1) If sought by the plaintiff, the third stage of such an action shall be held to determine the amount of punitive damages a vaccine manufacturer found to be liable under section 2122 shall be required to pay.

Fraud.

21 USC 301 note.
42 USC 201 note.

"(2) If in such an action the manufacturer shows that it complied, in all material respects, with all requirements under the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act applicable to the vaccine and related to the vaccine injury or death with respect to which the action was brought, the manufacturer shall not be held liable for punitive damages unless the manufacturer engaged in—

"(A) fraud or intentional and wrongful withholding of information from the Secretary during any phase of a proceeding for approval of the vaccine under section 351,

42 USC 262.
Safety.

"(B) intentional and wrongful withholding of information relating to the safety or efficacy of the vaccine after its approval, or

Safety.

"(C) other criminal or illegal activity relating to the safety and effectiveness of vaccines,

which activity related to the vaccine-related injury or death for which the civil action was brought.

"(e) EVIDENCE.—In any stage of a civil action, the Vaccine Injury Table, any finding of a district court of the United States or a master appointed by such court in a proceeding on a petition filed under section 2111 and the final judgment of a district court of the United States on such a petition shall not be admissible.

"PART C—ASSURING A SAFER CHILDHOOD VACCINATION PROGRAM IN THE UNITED STATES

"RECORDING AND REPORTING OF INFORMATION

42 USC 300aa-25.

"SEC. 2125. (a) GENERAL RULE.—Each health care provider who administers a vaccine set forth in the Vaccine Injury Table to any person shall record, or ensure that there is recorded, in such person's permanent medical record (or in a permanent office log or file to which a legal representative shall have access upon request) with respect to each such vaccine—

"(1) the date of administration of the vaccine,

"(2) the vaccine manufacturer and lot number of the vaccine,

"(3) the name and address and, if appropriate, the title of the health care provider administering the vaccine, and

"(4) any other identifying information on the vaccine required pursuant to regulations promulgated by the Secretary.

"(b) REPORTING.—

"(1) Each health care provider and vaccine manufacturer shall report to the Secretary—

"(A) the occurrence of any event set forth in the Vaccine Injury Table, including the events set forth in section 2114(b) which occur within 7 days of the administration of any vaccine set forth in the Table or within such longer period as is specified in the Table or section,

"(B) the occurrence of any contraindicating reaction to a vaccine which is specified in the manufacturer's package insert, and

"(C) such other matters as the Secretary may by regulation require.

Reports of the matters referred to in subparagraphs (A) and (B) shall be made beginning 90 days after the effective date of this subtitle. The Secretary shall publish in the Federal Register as soon as practicable after such date a notice of the reporting requirement.

Federal Register, publication.

"(2) A report under paragraph (1) respecting a vaccine shall include the time periods after the administration of such vaccine within which vaccine-related illnesses, disabilities, injuries, or conditions, the symptoms and manifestations of such illnesses, disabilities, injuries, or conditions, or deaths occur, and the manufacturer and lot number of the vaccine.

"(3) The Secretary shall issue the regulations referred to in paragraph (1)(C) within 180 days of the effective date of this subtitle.

Regulations.

"(c) RELEASE OF INFORMATION.—

"(1) Information which is in the possession of the Federal Government and State and local governments under this section and which may identify an individual shall not be made available under section 552 of title 5, United States Code, or otherwise, to any person except—

State and local governments.

"(A) the person who received the vaccine, or

"(B) the legal representative of such person.

"(2) For purposes of paragraph (1), the term 'information which may identify an individual' shall be limited to the name, street address, and telephone number of the person who received the vaccine and of that person's legal representative and the medical records of such person relating to the administration of the vaccine, and shall not include the locality and State of vaccine administration, the name of the health care provider who administered the vaccine, the date of the vaccination, or information concerning any reported illness, disability, injury, or condition resulting from the administration of the vaccine, any symptom or manifestation of such illness, disability, injury, or condition, or death resulting from the administration of the vaccine.

"(3) Except as provided in paragraph (1), all information reported under this section shall be available to the public.

Public information.

"VACCINE INFORMATION

"SEC. 2126. (a) GENERAL RULE.—Not later than 1 year after the effective date of this subtitle, the Secretary shall develop and

42 USC 300aa-26.

disseminate vaccine information materials for distribution by health care providers to the legal representatives of any child receiving a vaccine set forth in the Vaccine Injury Table. Such materials shall be published in the Federal Register and may be revised.

Federal Register, publication.

"(b) DEVELOPMENT AND REVISION OF MATERIALS.—Such materials shall be developed or revised by rule—

"(1) after notice to the public, opportunity for a public hearing, and 90 days of comment thereon, and

"(2) in consultation with the Advisory Commission on Childhood Vaccines, appropriate health care providers and parent organizations, the Centers for Disease Control, and the Food and Drug Administration.

"(c) INFORMATION REQUIREMENTS.—The information in such materials shall be presented in understandable terms and shall include—

"(1) the frequency, severity, and potential long-term effects of the disease to be prevented by the vaccine,

"(2) the symptoms or reactions to the vaccine which, if they occur, should be brought to the immediate attention of the health care provider,

"(3) precautionary measures legal representatives should take to reduce the risk of any major adverse reactions to the vaccine that may occur,

"(4) early warning signs or symptoms to which legal representatives should be alert as possible precursors to such major adverse reactions,

"(5) a description of the manner in which legal representatives should monitor such major adverse reactions, including a form on which reactions can be recorded to assist legal representatives in reporting information to appropriate authorities,

"(6) a specification of when, how, and to whom legal representatives should report any major adverse reaction,

"(7) the contraindications to (and bases for delay of) the administration of the vaccine,

"(8) an identification of the groups, categories, or characteristics of potential recipients of the vaccine who may be at significantly higher risk of major adverse reaction to the vaccine than the general population,

"(9) a summary of relevant State and Federal laws concerning the vaccine, including information on—

"(A) the number of vaccinations required for school attendance and the schedule recommended for such vaccinations, and

"(B) the availability of the Program, and

"(10) such other relevant information as may be determined by the Secretary.

"(d) HEALTH CARE PROVIDER DUTIES.—On and after a date determined by the Secretary which is—

"(1) after the Secretary develops the information materials required by subsection (a), and

"(2) not later than 6 months after the date such materials are published in the Federal Register,

each health care provider who administers a vaccine set forth in the Vaccine Injury Table shall provide to the legal representatives of any child to whom such provider intends to administer such vaccine a copy of the information materials developed pursuant to subsection (a), or other written information which meets the requirements

of this section. Such materials or other information shall be provided prior to the administration of such vaccine.

"MANDATE FOR SAFER CHILDHOOD VACCINES

"SEC. 2127. (a) GENERAL RULE.—In the administration of this subtitle and other pertinent laws under the jurisdiction of the Secretary, the Secretary shall— 42 USC 300aa-27.

"(1) promote the development of childhood vaccines that result in fewer and less serious adverse reactions than those vaccines on the market on the effective date of this subtitle and promote the refinement of such vaccines, and

"(2) make or assure improvements in, and otherwise use the authorities of the Secretary with respect to, the licensing, manufacturing, processing, testing, labeling, warning, use instructions, distribution, storage, administration, field surveillance, adverse reaction reporting, and recall of reactogenic lots or batches, of vaccines, and research on vaccines, in order to reduce the risks of adverse reactions to vaccines.

"(b) REPORT.—Within 2 years after the effective date of this subtitle, and periodically thereafter, the Secretary shall prepare and transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report describing the actions taken pursuant to subsection (a) during the preceding 2-year period.

"MANUFACTURER RECORDKEEPING AND REPORTING

"SEC. 2128. (a) GENERAL RULE.—Each vaccine manufacturer of a vaccine set forth in the Vaccine Injury Table or any other vaccine the administration of which is mandated by the law or regulations of any State, shall, with respect to each batch, lot, or other quantity manufactured or licensed after the effective date of this subtitle— State and local governments. 42 USC 300aa-28.

"(1) prepare and maintain records documenting the history of the manufacturing, processing, testing, repooling, and reworking of each batch, lot, or other quantity of such vaccine, including the identification of any significant problems encountered in the production, testing, or handling of such batch, lot, or other quantity,

"(2) if a safety test on such batch, lot, or other quantity indicates a potential imminent or substantial public health hazard is presented, report to the Secretary within 24 hours of such safety test which the manufacturer (or manufacturer's representative) conducted, including the date of the test, the type of vaccine tested, the identity of the batch, lot, or other quantity tested, whether the batch, lot, or other quantity tested is the product of repooling or reworking of previous batches, lots, or other quantities (and, if so, the identity of the previous batches, lots, or other quantities which were repooled or reworked), the complete test results, and the name and address of the person responsible for conducting the test, Safety.

"(3) include with each such report a certification signed by a responsible corporate official that such report is true and complete, and

"(4) prepare, maintain, and upon request submit to the Secretary product distribution records for each such vaccine by batch, lot, or other quantity number.

Fraud.

"(b) SANCTION.—Any vaccine manufacturer who intentionally destroys, alters, falsifies, or conceals any record or report required under paragraph (1) or (2) of subsection (a) shall—

"(1) be subject to a civil penalty of up to $100,000 per occurrence, or

"(2) be fined $50,000 or imprisoned for not more than 1 year, or both.

Such penalty shall apply to the person who intentionally destroyed, altered, falsified, or concealed such record or report, to the person who directed that such record or report be destroyed, altered, falsified, or concealed, and to the vaccine manufacturer for which such person is an agent, employee, or representative. Each act of destruction, alteration, falsification, or concealment shall be treated as a separate occurrence.

"PART D—GENERAL PROVISIONS

"CITIZEN'S ACTIONS

42 USC 300aa-31.

"SEC. 2131. (a) GENERAL RULE.—Except as provided in subsection (b), any person may commence in a district court of the United States a civil action on such person's own behalf against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under this subtitle.

"(b) NOTICE.—No action may be commenced under subsection (a) before the date which is 60 days after the person bringing the action has given written notice of intent to commence such action to the Secretary.

Courts, U.S.

"(c) COSTS OF LITIGATION.—The court, in issuing any final order in any action under this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

"JUDICIAL REVIEW

Regulations. 42 USC 300aa-32.

"SEC. 2132. A petition for review of a regulation under this subtitle may be filed in a court of appeals of the United States within 60 days from the date of the promulgation of the regulation or after such date if such petition is based solely on grounds arising after such 60th day.

"DEFINITIONS

42 USC 300aa-33.

"SEC. 2133. For purposes of this subtitle:

"(1) The term 'health care provider' means any licensed health care professional, organization, or institution, whether public or private (including Federal, State, and local departments, agencies, and instrumentalities) under whose authority a vaccine set forth in the Vaccine Injury Table is administered.

"(2) The term 'legal representative' means a parent or an individual who qualifies as a legal guardian under State law.

"(3) The term 'manufacturer' means any corporation, organization, or institution, whether public or private (including Federal, State, and local departments, agencies, and instrumentalities), which manufactures, imports, processes, or distributes under its label any vaccine set forth in the Vaccine Injury Table, except that, for purposes of section 2128, such term shall include the manufacturer of any other vaccine cov-

ered by that section. The term 'manufacture' means to manufacture, import, process, or distribute a vaccine.

"(4) The term 'significant aggravation' means any change for the worse in a preexisting condition which results in markedly greater disability, pain, or illness accompanied by substantial deterioration of health.

"(5) The term 'vaccine-related injury or death' means an illness, injury, condition, or death associated with one or more of the vaccines set forth in the Vaccine Injury Table, except that the term does not include an illness, injury, condition, or death associated with an adulterant or contaminant intentionally added to such a vaccine.

"(6)(A) The term 'Advisory Commission on Childhood Vaccines' means the Commission established under section 2119.

"(B) The term 'Vaccine Injury Table' means the table set out in section 2114.". *Ante*, p. 3764.

(b) CONFORMING AMENDMENTS.—

(1) Sections 217(c), 465(f), and 497 of the Public Health Service Act (42 U.S.C. 218(c), 286(f), 289(f)) are each amended by striking out "2101" and inserting in lieu thereof "2301". 42 USC 218, 286, 289f.

(2) Section 305(h) of such Act (42 U.S.C. 242c(h)) is amended by striking out "2113" each place it occurs and inserting in lieu thereof "2313".

SEC. 312. RELATED STUDIES.

(a) REVIEW OF PERTUSSIS VACCINES AND RELATED ILLNESSES AND CONDITIONS.—Not later than 3 years after the effective date of this title, the Secretary of Health and Human Services shall complete a review of all relevant medical and scientific information (including information obtained from the studies required under subsection (e)) on the nature, circumstances, and extent of the relationship, if any, between vaccines containing pertussis (including whole cell, extracts, and specific antigens) and the following illnesses and conditions: 42 USC 300aa-1 note.

(1) Hemolytic anemia.
(2) Hypsarrhythmia.
(3) Infantile spasms.
(4) Reye's syndrome.
(5) Peripheral mononeuropathy.
(6) Deaths classified as sudden infant death syndrome.
(7) Aseptic meningitis.
(8) Juvenile diabetes.
(9) Autism.
(10) Learning disabilities.
(11) Hyperactivity.
(12) Such other illnesses and conditions as the Secretary may choose to review or as the Advisory Commission on Childhood Vaccines established under section 2119 of the Public Health Service Act recommends for inclusion in such review. *Ante*, p. 3771.

The review under this subsection shall include notice and opportunity for a public hearing, consideration of written information submitted by the public, and consultation with such Advisory Commission.

(b) FINDINGS WITH RESPECT TO PERTUSSIS.—Not later than 3 years after the effective date of this title, the Secretary shall make, and publish in the Federal Register, the following specific findings: Federal Register, publication.

(1) Whether each of the illnesses or conditions set forth in subsection (a) can reasonably be determined in some circumstances to be caused or significantly aggravated, by pertussis-containing vaccines.

(2) For each illness or condition for which a finding of causation or aggravation related to vaccines containing pertussis is made under paragraph (1), the circumstances under which such causation or aggravation can reasonably be determined to occur.

(3) For each illness or condition for which a finding of causation or aggravation related to vaccines containing pertussis is made under paragraph (1), and for each illness or condition set forth in the Vaccine Injury Table under section 2114 of the Public Health Service Act, the time periods within which the first symptom or manifestation of onset or aggravation of each such illness or condition can reasonably be determined to occur after pertussis vaccination.

Ante, p. 3764.

Regulations.

(c) REVISION OF TABLE WITH RESPECT TO PERTUSSIS VACCINES.—At the same time the Secretary publishes in the Federal Register findings under subsection (b), the Secretary shall propose regulations to amend the Vaccine Injury Table under section 2114 of the Public Health Service Act as a result of such findings. Not later than 42 months after the effective date of this title, the Secretary shall promulgate such proposed regulations with such modifications as may be necessary after opportunity for public hearing.

(d) REVIEW OF MMR VACCINES AND RELATED ILLNESSES AND CONDITIONS.—Not later than 3 years after the effective date of this title, the Secretary of Health and Human Services shall complete a review similar to the review conducted under subsection (a) with respect to the potential relationship between vaccines containing rubella (including MMR) and radiculoneuritis. The review under this subsection shall include notice and opportunity for a public hearing, consultation with the Advisory Commission on Childhood Vaccines and consideration of written information submitted by the public. Not later than 3 years after the effective date of this title, the Secretary shall make and publish in the Federal Register findings similar to those required by subsection (b) and shall, if appropriate, propose similar regulations (and thereafter promulgate such regulations) to those required by subsection (c), with respect to compensation under the National Vaccine Injury Compensation Program established under section 2110 of the Public Health Service Act for radiculoneuritis caused, contributed to, or significantly aggravated by vaccines containing rubella.

Federal Register, publication.

Ante, p. 3758.

(e) PERTUSSIS AND MMR STUDIES.—

(1) In order to assist the Secretary in making the findings required under subsections (b) and (d), the Secretary shall, in accordance with subparagraph (B), arrange for the conduct of studies of—

(A) the relationship between vaccines containing pertussis (including whole cell, extracts, and specific antigens) and the illnesses or conditions set forth in paragraphs (1) through (11) of subsection (a),

(B) the relationship between vaccines containing pertussis and any other illnesses and conditions, as selected by the Secretary or the Advisory Commission on Childhood Vaccines established under section 2119 of the Public Health Service Act, and

Ante, p. 3771.

(C) the relationship between vaccines containing rubella (including MMR) and radiculoneuritis.

(2)(A) The Secretary shall request the Institute of Medicine of the National Academy of Sciences to conduct the studies required by paragraph (1) under an arrangement by which the actual expenses incurred by such Academy in conducting such study will be paid by the Secretary.

(B) If the Institute of Medicine is unwilling to conduct such study under such an arrangement, the Secretary shall enter into a similar arrangement with other appropriate nonprofit private groups or associations under which such groups or associations will conduct such study and prepare and submit the reports thereon as provided in paragraph (3). Reports.

(C) The Institute of Medicine or other group or association conducting the studies required by paragraph (1) shall conduct such studies in consultation with the Advisory Commission on Childhood Vaccines established under section 2119 of the Public Health Service Act. *Ante*, p. 3771.

(3) Reports on the results of the studies required by paragraph (1) shall be completed and submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate and to the Secretary not later than 32 months after the effective date of this title. Upon submission to the Secretary, the reports shall be made available to the public. Reports. Public information.

(4) There are authorized to be appropriated such sums as are necessary for the purpose of making payments for the conduct of the studies required under this subsection. Appropriation authorization.

(f) DEFINITIONS.—For purposes of this section:

(1) The term "medical and scientific information" includes epidemiologic, clinical, biostatistical, pathological, toxicologic, and other laboratory data and case study information, observations, studies, and reports in peer-reviewed literature or official Government publications, as well as relevant unpublished information, data, studies, and observations.

(2) The term "MMR" means a vaccine containing material intended to prevent or confer immunity against measles, mumps, and rubella disease.

SEC. 313. STUDY OF OTHER VACCINE RISKS.

(a) STUDY.— 42 USC 300aa-1 note.

(1) Not later than 3 years after the effective date of this title, the Secretary shall, after consultation with the Advisory Commission on Childhood Vaccines established under section 2119 of the Public Health Service Act—

(A) arrange for a broad study of the risks (other than the risks considered under section 102) to children associated with each vaccine set forth in the Vaccine Injury Table under section 2114 of such Act, and *Ante*, p. 3764.

(B) establish guidelines, after notice and opportunity for public hearing and consideration of all relevant medical and scientific information, respecting the administration of such vaccines which shall include—

(i) the circumstances under which any such vaccine should not be administered,

(ii) the circumstances under which administration of any such vaccine should be delayed beyond its usual time of administration, and

(iii) the groups, categories, or characteristics of potential recipients of such vaccine who may be at significantly higher risk of major adverse reactions to such vaccine than the general population of potential recipients.

(2)(A) The Secretary shall request the Institute of Medicine of the National Academy of Sciences to conduct the study required by paragraph (1) under an arrangement by which the actual expenses incurred by such Academy in conducting such study will be paid by the Secretary.

(B) If the Institute of Medicine is unwilling to conduct such study under such an arrangement, the Secretary shall enter into a similar arrangement with other appropriate nonprofit private groups or associations under which such groups or associations will conduct such study.

(C) The Institute of Medicine or other group or association conducting the study required by paragraph (1) shall conduct such studies in consultation with the Advisory Commission on Childhood Vaccines established under section 2119 of the Public Health Service Act.

Ante, p. 3771.

Federal Register, publication.

(b) REVISION OF GUIDELINES.—The Secretary shall periodically, but at least every 3 years after establishing guidelines under subsection (a), review and revise such guidelines after notice and opportunity for public hearing and consideration of all relevant medical and scientific information, unless the Secretary finds that on the basis of all relevant information no revision of such guidelines is warranted and publishes such finding in the Federal Register.

(c) FACTORS AFFECTING GUIDELINES.—Guidelines under subsection (a) shall take into account—

(1) the risk to potential recipients of the vaccines with respect to which the guidelines are established,

(2) the medical and other characteristics of such potential recipients, and

(3) the risks to the public of not having such vaccines administered.

Physicians. Hospitals. Nurses. State and local governments.

(d) DISSEMINATION.—The Secretary shall widely disseminate the guidelines established under subsection (a) to—

(1) physicians and other health care providers,

(2) professional health associations,

(3) State and local governments and agencies, and

(4) other relevant entities.

42 USC 300aa-1 note.

SEC. 314. REVIEW OF WARNINGS, USE INSTRUCTIONS, AND PRECAUTIONARY INFORMATION.

Not later than 1 year after the effective date of this title and after consultation with the Advisory Commission on Childhood Vaccines established under section 2119 of the Public Health Service Act and with other appropriate entities, the Secretary of Health and Human Services shall review the warnings, use instructions, and precautionary information presently issued by manufacturers of vaccines set forth in the Vaccine Injury Table set out in section 2114 of the Public Health Service Act and shall by rule determine whether such warnings, instructions, and information adequately warn health care providers of the nature and extent of dangers posed by such

Ante, p. 3764.

vaccines. If the Secretary determines that any such warning, instruction, or information is inadequate for such purpose in any respect, the Secretary shall at the same time require the manufacturers to revise and reissue such warning, instruction, or information as expeditiously as practical, but not later than 18 months after the effective date of this title.

SEC. 315. RECALL AUTHORITY.

Subsection (d) of section 351 of the Public Health Service Act (42 U.S.C. 262) is amended— *Ante*, p. 3751.

(1) by inserting "(1)" after "(d)", and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) Upon a determination that a batch, lot, or other quantity of a product licensed under this section presents an imminent or substantial hazard to the public health, the Secretary shall issue an order immediately ordering the recall of such batch, lot, or other quantity of such product. An order under this paragraph shall be issued in accordance with section 554 of title 5, United States Code.

"(B) Any violation of subparagraph (A) shall subject the violator to a civil penalty of up to $100,000 per day of violation. The amount of a civil penalty under this subparagraph shall, effective December 1 of each year beginning 1 year after the effective date of this subparagraph, be increased by the percent change in the Consumer Price Index for the base quarter of such year over the Consumer Price Index for the base quarter of the preceding year, adjusted to the nearest 1/10 of 1 percent. For purposes of this subparagraph, the term 'base quarter', as used with respect to a year, means the calendar quarter ending on September 30 of such year and the price index for a base quarter is the arithmetical mean of such index for the 3 months comprising such quarter.". Law enforcement and crime.

SEC. 316. STUDY OF IMPACT ON SUPPLY OF VACCINES. 42 USC 300aa-4 note.

On June 30, 1987, and on June 30 of each second year thereafter, the Secretary of Health and Human Services shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate—

(1) an assessment of the impact of the amendments made by this title on the supply of vaccines listed in the Vaccine Injury Table under section 2114 of the Public Health Service Act, and *Ante*, p. 3764.

(2) an assessment of the ability of the administrators of vaccines (including public clinics and private administrators) to provide such vaccines to children.

PART B—MISCELLANEOUS

SEC. 321. WAIVER OF PAPERWORK REDUCTION. 44 USC 3501 *et seq.*

Chapter 35 of title 44, United States Code, shall not apply to information required for purposes of carrying out this title and implementing the amendments made by this title. 42 USC 300aa-1 note.

SEC. 322. NONSEVERABILITY. 42 USC 300aa-1 note.

If any provision of this title or the application of any provision of this title to any person or circumstance is held invalid by reason of a violation of the Constitution, the entire title shall be considered invalid.

42 USC 300aa-1 note.

SEC. 323. EFFECTIVE DATE.

Ante, p. 3756.
Ante, p. 3758.

(a) GENERAL RULE.—Subtitle 1 of title XXI of the Public Health Service Act shall take effect on the date of the enactment of this Act and Subtitle 2 of such title and this title shall take effect on the effective date of a tax enacted after the date of the enactment of this Act to provide funds for compensation paid under such subtitle 2.

Claims.

(b) INSUFFICIENCY OF FUNDS.—If at any time there are insufficient funds to pay all of the claims payable under subtitle 2 of title XXI of the Public Health Service Act for 180 days, such subtitle shall cease to be in effect until sufficient funds to pay all of the claims under such subtitle become available.

Health Care Quality Improvement Act of 1986.

TITLE IV—ENCOURAGING GOOD FAITH PROFESSIONAL REVIEW ACTIVITIES

42 USC 11101 note

SEC. 401. SHORT TITLE.

This title may be cited as the "Health Care Quality Improvement Act of 1986".

42 USC 11101.

SEC. 402. FINDINGS.

The Congress finds the following:

(1) The increasing occurrence of medical malpractice and the need to improve the quality of medical care have become nationwide problems that warrant greater efforts than those that can be undertaken by any individual State.

(2) There is a national need to restrict the ability of incompetent physicians to move from State to State without disclosure or discovery of the physician's previous damaging or incompetent performance.

(3) This nationwide problem can be remedied through effective professional peer review.

(4) The threat of private money damage liability under Federal laws, including treble damage liability under Federal antitrust law, unreasonably discourages physicians from participating in effective professional peer review.

(5) There is an overriding national need to provide incentive and protection for physicians engaging in effective professional peer review.

PART A—PROMOTION OF PROFESSIONAL REVIEW ACTIVITIES

42 USC 11111.

SEC. 411. PROFESSIONAL REVIEW.

State and local governments.

(a) IN GENERAL.—

(1) LIMITATION ON DAMAGES FOR PROFESSIONAL REVIEW ACTIONS.—If a professional review action (as defined in section 431(9)) of a professional review body meets all the standards specified in section 412(a), except as provided in subsection (b)—

(A) the professional review body,

(B) any person acting as a member or staff to the body,

(C) any person under a contract or other formal agreement with the body, and

(D) any person who participates with or assists the body with respect to the action,

shall not be liable in damages under any law of the United States or of any State (or political subdivision thereof) with respect to the action. The preceding sentence shall not apply to damages under any law of the United States or any State relating to the civil rights of any person or persons, including the Civil Rights Act of 1964, 42 U.S.C. 2000e, et seq. and the Civil Rights Acts, 42 U.S.C. 1981, et seq. Nothing in this paragraph shall prevent the United States or any Attorney General of a State from bringing an action, including an action under section 4C of the Clayton Act, 15 U.S.C. 15C, where such an action is otherwise authorized.

Physicians.

(2) PROTECTION FOR THOSE PROVIDING INFORMATION TO PROFESSIONAL REVIEW BODIES.—Notwithstanding any other provision of law, no person (whether as a witness or otherwise) providing information to a professional review body regarding the competence or professional conduct of a physician shall be held, by reason of having provided such information, to be liable in damages under any law of the United States or of any State (or political subdivision thereof) unless such information is false and the person providing it knew that such information was false.

(b) EXCEPTION.—If the Secretary has reason to believe that a health care entity has failed to report information in accordance with section 423(a), the Secretary shall conduct an investigation. If, after providing notice of noncompliance, an opportunity to correct the noncompliance, and an opportunity for a hearing, the Secretary determines that a health care entity has failed substantially to report information in accordance with section 423(a), the Secretary shall publish the name of the entity in the Federal Register. The protections of subsection (a)(1) shall not apply to an entity the name of which is published in the Federal Register under the previous sentence with respect to professional review actions of the entity commenced during the 3-year period beginning 30 days after the date of publication of the name.

Federal Register, publication.

(c) TREATMENT UNDER STATE LAWS.—

(1) PROFESSIONAL REVIEW ACTIONS TAKEN ON OR AFTER OCTOBER 14, 1989.—Except as provided in paragraph (2), subsection (a) shall apply to State laws in a State only for professional review actions commenced on or after October 14, 1989.

(2) EXCEPTIONS.—

(A) STATE EARLY OPT-IN.—Subsection (a) shall apply to State laws in a State for actions commenced before October 14, 1989, if the State by legislation elects such treatment.

(B) STATE OPT-OUT.—Subsection (a) shall not apply to State laws in a State for actions commenced on or after October 14, 1989, if the State by legislation elects such treatment.

(C) EFFECTIVE DATE OF ELECTION.—An election under State law is not effective, for purposes of subparagraphs (A) and (B), for actions commenced before the effective date of the State law, which may not be earlier than the date of the enactment of that law.

SEC. 412. STANDARDS FOR PROFESSIONAL REVIEW ACTIONS.

42 USC 11112.

(a) IN GENERAL.—For purposes of the protection set forth in section 411(a), a professional review action must be taken—

(1) in the reasonable belief that the action was in the furtherance of quality health care,

(2) after a reasonable effort to obtain the facts of the matter,

Physicians.

(3) after adequate notice and hearing procedures are afforded to the physician involved or after such other procedures as are fair to the physician under the circumstances, and

(4) in the reasonable belief that the action was warranted by the facts known after such reasonable effort to obtain facts and after meeting the requirement of paragraph (3).

A professional review action shall be presumed to have met the preceding standards necessary for the protection set out in section 411(a) unless the presumption is rebutted by a preponderance of the evidence.

Physicians.

(b) ADEQUATE NOTICE AND HEARING.—A health care entity is deemed to have met the adequate notice and hearing requirement of subsection (a)(3) with respect to a physician if the following conditions are met (or are waived voluntarily by the physician):

(1) NOTICE OF PROPOSED ACTION.—The physician has been given notice stating—

(A)(i) that a professional review action has been proposed to be taken against the physician,

(ii) reasons for the proposed action,

(B)(i) that the physician has the right to request a hearing on the proposed action,

(ii) any time limit (of not less than 30 days) within which to request such a hearing, and

(C) a summary of the rights in the hearing under paragraph (3).

(2) NOTICE OF HEARING.—If a hearing is requested on a timely basis under paragraph (1)(B), the physician involved must be given notice stating—

(A) the place, time, and date, of the hearing, which date shall not be less than 30 days after the date of the notice, and

(B) a list of the witnesses (if any) expected to testify at the hearing on behalf of the professional review body.

(3) CONDUCT OF HEARING AND NOTICE.—If a hearing is requested on a timely basis under paragraph (1)(B)—

(A) subject to subparagraph (B), the hearing shall be held (as determined by the health care entity)—

(i) before an arbitrator mutually acceptable to the physician and the health care entity,

(ii) before a hearing officer who is appointed by the entity and who is not in direct economic competition with the physician involved, or

(iii) before a panel of individuals who are appointed by the entity and are not in direct economic competition with the physician involved;

(B) the right to the hearing may be forfeited if the physician fails, without good cause, to appear;

(C) in the hearing the physician involved has the right—

(i) to representation by an attorney or other person of the physician's choice,

Records.

(ii) to have a record made of the proceedings, copies of which may be obtained by the physician upon payment of any reasonable charges associated with the preparation thereof,

(iii) to call, examine, and cross-examine witnesses,

(iv) to present evidence determined to be relevant by the hearing officer, regardless of its admissibility in a court of law, and

(v) to submit a written statement at the close of the hearing; and

(D) upon completion of the hearing, the physician involved has the right—

(i) to receive the written recommendation of the arbitrator, officer, or panel, including a statement of the basis for the recommendations, and

(ii) to receive a written decision of the health care entity, including a statement of the basis for the decision.

A professional review body's failure to meet the conditions described in this subsection shall not, in itself, constitute failure to meet the standards of subsection (a)(3).

(c) ADEQUATE PROCEDURES IN INVESTIGATIONS OR HEALTH EMERGENCIES.—For purposes of section 411(a), nothing in this section shall be construed as—

(1) requiring the procedures referred to in subsection (a)(3)—

(A) where there is no adverse professional review action taken, or

(B) in the case of a suspension or restriction of clinical privileges, for a period of not longer than 14 days, during which an investigation is being conducted to determine the need for a professional review action; or

(2) precluding an immediate suspension or restriction of clinical privileges, subject to subsequent notice and hearing or other adequate procedures, where the failure to take such an action may result in an imminent danger to the health of any individual.

SEC. 413. PAYMENT OF REASONABLE ATTORNEYS' FEES AND COSTS IN DEFENSE OF SUIT. 42 USC 11113.

In any suit brought against a defendant, to the extent that a defendant has met the standards set forth under section 412(a) and the defendant substantially prevails, the court shall, at the conclusion of the action, award to a substantially prevailing party defending against any such claim the cost of the suit attributable to such claim, including a reasonable attorney's fee, if the claim, or the claimant's conduct during the litigation of the claim, was frivolous, unreasonable, without foundation, or in bad faith. For the purposes of this section, a defendant shall not be considered to have substantially prevailed when the plaintiff obtains an award for damages or permanent injunctive or declaratory relief. Courts, U.S.

SEC. 414. GUIDELINES OF THE SECRETARY. 42 USC 11114.

The Secretary may establish, after notice and opportunity for comment, such voluntary guidelines as may assist the professional review bodies in meeting the standards described in section 412(a).

SEC. 415. CONSTRUCTION. 42 USC 11115.

(a) IN GENERAL.—Except as specifically provided in this part, nothing in this part shall be construed as changing the liabilities or immunities under law.

Physicians.
Nurses.

(b) SCOPE OF CLINICAL PRIVILEGES.—Nothing in this part shall be construed as requiring health care entities to provide clinical privileges to any or all classes or types of physicians or other licensed health care practitioners.

State and local governments.

(c) TREATMENT OF NURSES AND OTHER PRACTITIONERS.—Nothing in this part shall be construed as affecting, or modifying any provision of Federal or State law, with respect to activities of professional review bodies regarding nurses, other licensed health care practitioners, or other health professionals who are not physicians.

State and local governments.
Physicians.
Hospitals.

(d) TREATMENT OF PATIENT MALPRACTICE CLAIMS.—Nothing in this title shall be construed as affecting in any manner the rights and remedies afforded patients under any provision of Federal or State law to seek redress for any harm or injury suffered as a result of negligent treatment or care by any physician, health care practitioner, or health care entity, or as limiting any defenses or immunities available to any physician, health care practitioner, or health care entity.

42 USC 11111 note.

SEC. 416. EFFECTIVE DATE.

This part shall apply to professional review actions commenced on or after the date of the enactment of this Act.

PART B—REPORTING OF INFORMATION

Claims.
Physicians.
Nurses.
Hospitals.
42 USC 11131.
Insurance.
Reports.

SEC. 421. REQUIRING REPORTS ON MEDICAL MALPRACTICE PAYMENTS.

(a) IN GENERAL.—Each entity (including an insurance company) which makes payment under a policy of insurance, self-insurance, or otherwise in settlement (or partial settlement) of, or in satisfaction of a judgment in, a medical malpractice action or claim shall report, in accordance with section 424, information respecting the payment and circumstances thereof.

(b) INFORMATION TO BE REPORTED.—The information to be reported under subsection (a) includes—

(1) the name of any physician or licensed health care practitioner for whose benefit the payment is made,

(2) the amount of the payment,

(3) the name (if known) of any hospital with which the physician or practitioner is affiliated or associated,

(4) a description of the acts or omissions and injuries or illnesses upon which the action or claim was based, and

(5) such other information as the Secretary determines is required for appropriate interpretation of information reported under this section.

(c) SANCTIONS FOR FAILURE TO REPORT.—Any entity that fails to report information on a payment required to be reported under this section shall be subject to a civil money penalty of not more than $10,000 for each such payment involved. Such penalty shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1128A of the Social Security Act are imposed and collected under that section.

Ante, p. 2003.

(d) REPORT ON TREATMENT OF SMALL PAYMENTS.—The Secretary shall study and report to Congress, not later than two years after the date of the enactment of this Act, on whether information respecting small payments should continue to be required to be reported under subsection (a) and whether information respecting all claims made concerning a medical malpractice action should be required to be reported under such subsection.

SEC. 422. REPORTING OF SANCTIONS TAKEN BY BOARDS OF MEDICAL EXAMINERS. 42 USC 11132.

(a) IN GENERAL.—

(1) ACTIONS SUBJECT TO REPORTING.—Each Board of Medical Examiners—

(A) which revokes or suspends (or otherwise restricts) a physician's license or censures, reprimands, or places on probation a physician, for reasons relating to the physician's professional competence or professional conduct, or

(B) to which a physician's license is surrendered,

shall report, in accordance with section 424, the information described in paragraph (2).

(2) INFORMATION TO BE REPORTED.—The information to be reported under paragraph (1) is—

(A) the name of the physician involved,

(B) a description of the acts or omissions or other reasons (if known) for the revocation, suspension, or surrender of license, and

(C) such other information respecting the circumstances of the action or surrender as the Secretary deems appropriate.

(b) FAILURE TO REPORT.—If, after notice of noncompliance and providing opportunity to correct noncompliance, the Secretary determines that a Board of Medical Examiners has failed to report information in accordance with subsection (a), the Secretary shall designate another qualified entity for the reporting of information under section 423.

SEC. 423. REPORTING OF CERTAIN PROFESSIONAL REVIEW ACTIONS TAKEN BY HEALTH CARE ENTITIES. 42 USC 11133.

(a) REPORTING BY HEALTH CARE ENTITIES.—

(1) ON PHYSICIANS.—Each health care entity which—

(A) takes a professional review action that adversely affects the clinical privileges of a physician for a period longer than 30 days;

(B) accepts the surrender of clinical privileges of a physician—

(i) while the physician is under an investigation by the entity relating to possible incompetence or improper professional conduct, or

(ii) in return for not conducting such an investigation or proceeding; or

(C) in the case of such an entity which is a professional society, takes a professional review action which adversely affects the membership of a physician in the society,

shall report to the Board of Medical Examiners, in accordance with section 424(a), the information described in paragraph (3).

(2) PERMISSIVE REPORTING ON OTHER LICENSED HEALTH CARE PRACTITIONERS.—A health care entity may report to the Board of Medical Examiners, in accordance with section 424(a), the information described in paragraph (3) in the case of a licensed health care practitioner who is not a physician, if the entity would be required to report such information under paragraph (1) with respect to the practitioner if the practitioner were a physician.

(3) INFORMATION TO BE REPORTED.—The information to be reported under this subsection is—

(A) the name of the physician or practitioner involved,

(B) a description of the acts or omissions or other reasons for the action or, if known, for the surrender, and

(C) such other information respecting the circumstances of the action or surrender as the Secretary deems appropriate.

(b) REPORTING BY BOARD OF MEDICAL EXAMINERS.—Each Board of Medical Examiners shall report, in accordance with section 424, the information reported to it under subsection (a) and known instances of a health care entity's failure to report information under subsection (a)(1).

(c) SANCTIONS.—

(1) HEALTH CARE ENTITIES.—A health care entity that fails substantially to meet the requirement of subsection (a)(1) shall lose the protections of section 411(a)(1) if the Secretary publishes the name of the entity under section 411(b).

(2) BOARD OF MEDICAL EXAMINERS.—If, after notice of noncompliance and providing an opportunity to correct noncompliance, the Secretary determines that a Board of Medical Examiners has failed to report information in accordance with subsection (b), the Secretary shall designate another qualified entity for the reporting of information under subsection (b).

State and local governments.

(d) REFERENCES TO BOARD OF MEDICAL EXAMINERS.—Any reference in this part to a Board of Medical Examiners includes, in the case of a Board in a State that fails to meet the reporting requirements of section 422(a) or subsection (b), a reference to such other qualified entity as the Secretary designates.

42 USC 11134.

SEC. 424. FORM OF REPORTING.

(a) TIMING AND FORM.—The information required to be reported under sections 421, 422(a), and 423 shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date (not later than one year after the date of the enactment of this Act) specified by the Secretary.

Classified information.

(b) TO WHOM REPORTED.—The information required to be reported under sections 421, 422(a), and 423(b) shall be reported to the Secretary, or, in the Secretary's discretion, to an appropriate private or public agency which has made suitable arrangements with the Secretary with respect to receipt, storage, protection of confidentiality, and dissemination of the information under this part.

(c) REPORTING TO STATE LICENSING BOARDS.—

(1) MALPRACTICE PAYMENTS.—Information required to be reported under section 421 shall also be reported to the appropriate State licensing board (or boards) in the State in which the medical malpractice claim arose.

(2) REPORTING TO OTHER LICENSING BOARDS.—Information required to be reported under section 423(b) shall also be reported to the appropriate State licensing board in the State in which the health care entity is located if it is not otherwise reported to such board under subsection (b).

42 USC 11135.

SEC. 425. DUTY OF HOSPITALS TO OBTAIN INFORMATION.

(a) IN GENERAL.—It is the duty of each hospital to request from the Secretary (or the agency designated under section 424(b)), on and after the date information is first required to be reported under section 424(a))—

(1) at the time a physician or licensed health care practitioner applies to be on the medical staff (courtesy or otherwise) of, or for clinical privileges at, the hospital, information reported under this part concerning the physician or practitioner, and

(2) once every 2 years information reported under this part concerning any physician or such practitioner who is on the medical staff (courtesy or otherwise) of, or has been granted clinical privileges at, the hospital.

A hospital may request such information at other times.

(b) FAILURE TO OBTAIN INFORMATION.—With respect to a medical malpractice action, a hospital which does not request information respecting a physician or practitioner as required under subsection (a) is presumed to have knowledge of any information reported under this part to the Secretary with respect to the physician or practitioner.

(c) RELIANCE ON INFORMATION PROVIDED.—Each hospital may rely upon information provided to the hospital under this title and shall not be held liable for such reliance in the absence of the hospital's knowledge that the information provided was false.

SEC. 426. DISCLOSURE AND CORRECTION OF INFORMATION.

Regulations.
42 USC 11136.

With respect to the information reported to the Secretary (or the agency designated under section 424(b)) under this part respecting a physician or other licensed health care practitioner, the Secretary shall, by regulation, provide for—

(1) disclosure of the information, upon request, to the physician or practitioner, and

(2) procedures in the case of disputed accuracy of the information.

SEC. 427. MISCELLANEOUS PROVISIONS.

State and local governments.
42 USC 11137.
Health maintenance organizations.

(a) PROVIDING LICENSING BOARDS AND OTHER HEALTH CARE ENTITIES WITH ACCESS TO INFORMATION.—The Secretary (or the agency designated under section 424(b)) shall, upon request, provide information reported under this part with respect to a physician or other licensed health care practitioner to State licensing boards, to hospitals, and to other health care entities (including health maintenance organizations) that have entered (or may be entering) into an employment or affiliation relationship with the physician or practitioner or to which the physician or practitioner has applied for clinical privileges or appointment to the medical staff.

(b) CONFIDENTIALITY OF INFORMATION.—

(1) IN GENERAL.—Information reported under this part is considered confidential and shall not be disclosed (other than to the physician or practitioner involved) except with respect to professional review activity, with respect to medical malpractice actions, or in accordance with regulations of the Secretary promulgated pursuant to subsection (a). Nothing in this subsection shall prevent the disclosure of such information by a party which is otherwise authorized, under applicable State law, to make such disclosure.

(2) PENALTY FOR VIOLATIONS.—Any person who violates paragraph (1) shall be subject to a civil money penalty of not more than $10,000 for each such violation involved. Such penalty shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1128A of the

42 USC 1320a-7a.

Social Security Act are imposed and collected under that section.

(3) USE OF INFORMATION.—Subject to paragraph (1), information provided under section 425 and subsection (a) is intended to be used solely with respect to activities in the furtherance of the quality of health care.

(c) RELIEF FROM LIABILITY FOR REPORTING.—No person or entity shall be held liable in any civil action with respect to any report made under this part without knowledge of the falsity of the information contained in the report.

(d) INTERPRETATION OF INFORMATION.—In interpreting information reported under this part, a payment in settlement of a medical malpractice action or claim shall not be construed as creating a presumption that medical malpractice has occurred.

PART C—DEFINITIONS AND REPORTS

42 USC 11151.

SEC. 431. DEFINITIONS.

In this title:

(1) The term "adversely affecting" includes reducing, restricting, suspending, revoking, denying, or failing to renew clinical privileges or membership in a health care entity.

(2) The term "Board of Medical Examiners" includes a body comparable to such a Board (as determined by the State) with responsibility for the licensing of physicians and also includes a subdivision of such a Board or body.

(3) The term "clinical privileges" includes privileges, membership on the medical staff, and the other circumstances pertaining to the furnishing of medical care under which a physician or other licensed health care practitioner is permitted to furnish such care by a health care entity.

(4)(A) The term "health care entity" means—

(i) a hospital that is licensed to provide health care services by the State in which it is located,

(ii) an entity (including a health maintenance organization or group medical practice) that provides health care services and that follows a formal peer review process for the purpose of furthering quality health care (as determined under regulations of the Secretary), and

(iii) subject to subparagraph (B), a professional society (or committee thereof) of physicians or other licensed health care practitioners that follows a formal peer review process for the purpose of furthering quality health care (as determined under regulations of the Secretary).

(B) The term "health care entity" does not include a professional society (or committee thereof) if, within the previous 5 years, the society has been found by the Federal Trade Commission or any court to have engaged in any anti-competitive practice which had the effect of restricting the practice of licensed health care practitioners.

(5) The term "hospital" means an entity described in paragraphs (1) and (7) of section 1861(e) of the Social Security Act.

42 USC 1395x.

(6) The terms "licensed health care practitioner" and "practitioner" mean, with respect to a State, an individual (other than a physician) who is licensed or otherwise authorized by the State to provide health care services.

(7) The term "medical malpractice action or claim" means a written claim or demand for payment based on a health care provider's furnishing (or failure to furnish) health care services, and includes the filing of a cause of action, based on the law of tort, brought in any court of any State or the United States seeking monetary damages.

(8) The term "physician" means a doctor of medicine or osteopathy or a doctor of dental surgery or medical dentistry legally authorized to practice medicine and surgery or dentistry by a State (or any individual who, without authority holds himself or herself out to be so authorized).

(9) The term "professional review action" means an action or recommendation of a professional review body which is taken or made in the conduct of professional review activity, which is based on the competence or professional conduct of an individual physician (which conduct affects or could affect adversely the health or welfare of a patient or patients), and which affects (or may affect) adversely the clinical privileges, or membership in a professional society, of the physician. Such term includes a formal decision of a professional review body not to take an action or make a recommendation described in the previous sentence and also includes professional review activities relating to a professional review action. In this title, an action is not considered to be based on the competence or professional conduct of a physician if the action is primarily based on—

(A) the physician's association, or lack of association, with a professional society or association,

(B) the physician's fees or the physician's advertising or engaging in other competitive acts intended to solicit or retain business,

(C) the physician's participation in prepaid group health plans, salaried employment, or any other manner of delivering health services whether on a fee-for-service or other basis,

(D) a physician's association with, supervision of, delegation of authority to, support for, training of, or participation in a private group practice with, a member or members of a particular class of health care practitioner or professional, or

(E) any other matter that does not relate to the competence or professional conduct of a physician.

(10) The term "professional review activity" means an activity of a health care entity with respect to an individual physician—

(A) to determine whether the physician may have clinical privileges with respect to, or membership in, the entity,

(B) to determine the scope or conditions of such privileges or membership, or

(C) to change or modify such privileges or membership.

(11) The term "professional review body" means a health care entity and the governing body or any committee of a health care entity which conducts professional review activity, and includes any committee of the medical staff of such an entity when assisting the governing body in a professional review activity.

(12) The term "Secretary" means the Secretary of Health and Human Services.

(13) The term "State" means the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

(14) The term "State licensing board" means, with respect to a physician or health care provider in a State, the agency of the State which is primarily responsible for the licensing of the physician or provider to furnish health care services.

42 USC 11152.

SEC. 432. REPORTS AND MEMORANDA OF UNDERSTANDING.

(a) ANNUAL REPORTS TO CONGRESS.—The Secretary shall report to Congress, annually during the three years after the date of the enactment of this Act, on the implementation of this title.

(b) MEMORANDA OF UNDERSTANDING.—The Secretary of Health and Human Services shall seek to enter into memoranda of understanding with the Secretary of Defense and the Administrator of Veterans' Affairs to apply the provisions of part B of this title to hospitals and other facilities and health care providers under the jurisdiction of the Secretary or Administrator, respectively. The Secretary shall report to Congress, not later than two years after the date of the enactment of this Act, on any such memoranda and on the cooperation among such officials in establishing such memoranda.

Ante, p. 3788.

Drugs and drug abuse.

(c) MEMORANDUM OF UNDERSTANDING WITH DRUG ENFORCEMENT ADMINISTRATION.—The Secretary of Health and Human Services shall seek to enter into a memorandum of understanding with the Administrator of Drug Enforcement relating to providing for the reporting by the Administrator to the Secretary of information respecting physicians and other practitioners whose registration to dispense controlled substances has been suspended or revoked under section 304 of the Controlled Substances Act. The Secretary shall report to Congress, not later than two years after the date of the enactment of this Act, on any such memorandum and on the cooperation between the Secretary and the Administrator in establishing such a memorandum.

21 USC 824.

TITLE V—STATE COMPREHENSIVE MENTAL HEALTH SERVICES PLANS

State Comprehensive Mental Health Services Plan Act of 1986.
42 USC 201 note.

SEC. 501. SHORT TITLE.

This title may be cited as the "State Comprehensive Mental Health Services Plan Act of 1986".

SEC. 502. STATE COMPREHENSIVE MENTAL HEALTH SERVICES PLAN.

42 USC 300x.

Part B of title XIX of the Public Health Service Act is amended—

(1) by inserting before the heading for section 1911 the following:

"SUBPART 1—BLOCK GRANT"; and

(2) by adding at the end thereof the following:

"SUBPART 2—STATE COMPREHENSIVE MENTAL HEALTH SERVICES PLAN

"DEVELOPMENT GRANTS

"SEC. 1920B. (a) The Secretary shall make grants to States for the development of State comprehensive mental health services plans which comply with section 1920C. In order to receive a grant under this section, a State shall submit an application to the Secretary. Such application shall be in such form, and shall contain such information, as the Secretary may by regulation prescribe. Regulations. 42 USC 300x-10.

"(b)(1) Except as provided in paragraph (2), the amount of a grant to a State under this section for a fiscal year shall be the amount which bears the same ratio to the amount appropriated to carry out this section for such fiscal year as the population of the State bears to the total of the population of all States which submit applications under this section.

"(2) Notwithstanding paragraph (1), the amount of a grant to any State under this section shall not be less than $150,000.

"(c) To carry out this section, there are authorized to be appropriated $10,000,000 for each of the fiscal years 1988 and 1989. Appropriation authorization.

"STATE COMPREHENSIVE MENTAL HEALTH SERVICES PLANS

"SEC. 1920C. (a) For each fiscal year, beginning with fiscal year 1988, each State shall submit a State comprehensive mental health services plan (hereafter referred to in this subpart as the 'State plan') to the Secretary. 42 USC 300x-11.

"(b) A State plan shall, for the fiscal year for which the plan is submitted and each of the 2 succeeding fiscal years, meet the following requirements:

"(1) The State plan shall provide for the establishment and of implementation of an organized community-based system of care for chronically mentally ill individuals.

"(2) The State plan shall contain quantitative targets to be achieved in the implementation of such system, including numbers of chronically mentally ill individuals residing in the areas to be served under such system.

"(3) The State plan shall describe services to be provided to chronically mentally ill individuals to enable such individuals to gain access to mental health services, including access to treatment, prevention, and rehabilitation services.

"(4) The State plan shall describe rehabilitation services, employment services, housing services, medical and dental care, and other support services to be provided to chronically mentally ill individuals in order to enable such individuals to function outside of inpatient institutions to the maximum extent of their capabilities.

"(5) The State plan shall provide for activities to reduce the rate of hospitalization of chronically mentally ill individuals.

"(6) Except as provided in paragraph (7), the State plan shall require the provision of case management services to each chronically mentally ill individual in the State who receives substantial amounts of public funds or services. For purposes of this paragraph, the term 'chronically mentally ill individual' means a chronically mentally ill individual as defined under State laws and regulations.

"(7) The State plan may provide for the implementation of the requirements of paragraph (6) in a manner which—

"(A) phases in, beginning in fiscal year 1989, the provision to all chronically mentally ill individuals to which such paragraph applies the case management services required to be provided under such paragraph; and

"(B) provides for the substantial completion of the phasing in of the provision of such services by the end of fiscal year 1992.

Homeless persons.

"(8) The State plan shall provide for the establishment and implementation of a program of outreach to, and services for, chronically mentally ill individuals who are homeless.

"(c) In developing each State plan required under this section, the State shall consult with representatives of employees of State institutions and public and private nursing homes who care for chronically mentally ill individuals.

"(d) The Secretary shall provide technical assistance to States in the development and implementation of State plans which comply with this section. Such technical assistance shall include the development and publication by the Secretary of model elements for State plans and model data systems for the collection of data concerning the implementation of State plans.

"ENFORCEMENT

42 USC 300x-12.

"SEC. 1920D. (a) If the Secretary determines that a State has not, by the end of fiscal year 1989, developed the State plan required by section 1920C, the Secretary shall reduce the amount of the State's allotment under subpart 1 for fiscal year 1990 by the amount specified in subsection (d).

"(b) If the Secretary determines that a State has not, by the end of fiscal year 1990, developed and substantially implemented the State plan required by section 1920C, the Secretary shall reduce the amount of the State's allotment under subpart 1 for fiscal year 1991 by the amount specified in subsection (d).

Ante, p. 3794.

"(c) If the Secretary determines that a State has not, by the end of fiscal year 1991, developed and completely implemented the State plan required by section 1920C, the Secretary shall reduce the amount of the State's allotment under subpart 1 for fiscal year 1992 and each succeeding fiscal year by the amount specified in subsection (d). The Secretary shall discontinue the reduction under this subsection of a State's allotment under subpart 1 for a fiscal year if the Secretary determines that the State has, in the preceding fiscal year, developed and completely implemented the State plan required by section 1920C.

"(d) The amount referred to in subsections (a), (b), and (c) with respect to a State is the total amount expended by the State for administrative expenses for fiscal year 1986 from amounts paid to the State under subpart 1 for such fiscal year.

"(e) Notwithstanding any other provision of this subpart, the Secretary shall not require a State government, in carrying out a State plan submitted under this subpart, to expend an amount for mental health services for any fiscal year which exceeds the total amount that would have been expended for such services by such government for such fiscal year if such plan had not been implemented.

"MODEL STANDARDS FOR THE PROVISION OF CARE TO THE CHRONICALLY MENTALLY ILL

"SEC. 1920E. (a) Within one year after the date of enactment of this subpart, the Secretary shall develop and make available a model plan for a community-based system of care for chronically mentally ill individuals. Such plan shall be developed in consultation with State mental health directors, providers of mental health services, chronically mentally ill individuals, advocates for such individuals, and other interested parties.". 42 USC 300x-13.

SEC. 503. STATE MENTAL HEALTH SERVICES PLANNING COUNCILS.

Section 1916(f) of the Public Health Service Act is amended— 42 USC 300x-4.

(1) by striking out "With amounts available under section 1915(a), the chief executive officer of the State may" and inserting in lieu thereof "The chief executive officer of the State shall"; and 42 USC 300x-3.

(2) by adding at the end thereof the following new sentence: "The State may use amounts available under section 1915(a) to establish and operate such a council.".

SEC. 504. DEMONSTRATION PROJECTS FOR SERVICES FOR HOMELESS CHRONICALLY MENTALLY ILL INDIVIDUALS.

(a) DEMONSTRATION PROJECTS.—Section 504(f)(1) of the Public Health Service Act is amended by striking out "and elderly individuals" and inserting in lieu thereof "elderly individuals, and homeless chronically mentally ill individuals". Aged persons. 42 USC 290aa-3.

(b) AUTHORIZATION.—Section 504(f)(3) of such Act is amended by striking out "1985, 1986, and 1987" and inserting in lieu thereof "1985 and 1986, and $24,000,000 for fiscal year 1988".

(c) ADMINISTRATIVE EXPENSES.—Section 504(f) of such Act is further amended by adding at the end thereof the following new paragraph:

"(4)(A) Not more than 25 percent of the total amount of a grant for fiscal year 1988 made to a State under this subsection for a project for services for chronically mentally ill adults (other than a project for services for elderly individuals or a project for services for homeless chronically mentally ill individuals) may be used by the State for administrative expenses in carrying out such grant in such fiscal year. Grants.

"(B) Not more than 25 percent of the total amount of any grant made to a State under this subsection for services to chronically mentally ill adults for any fiscal year (beginning with fiscal year 1989) may be used by the State for administrative expenses in carrying out such grant in such fiscal year.".

TITLE VI—GERIATRIC TRAINING

SEC. 601. ESTABLISHMENT OF TRAINING PROGRAM.

(a) Section 788 of the Public Health Service Act is amended— 42 USC 295g-8.

(1) by redesignating subsections (e), (f), and (g) as subsections (f), (g), and (h), respectively; and

(2) by inserting after subsection (d) the following new subsection:

"(e)(1) The Secretary may make grants to, and enter into contracts with, schools of medicine, schools of osteopathy, teaching hospitals, Grants. Contracts. Schools and colleges. Education. Physicians. Dentists.

and graduate medical education programs, for the purpose of providing support for geriatric medicine training projects to train physicians and dentists who plan to teach geriatric medicine or geriatric dentistry.

"(2) Each project for which a grant or contract is made under this subsection shall—

"(A) be staffed by full-time teaching physicians who have experience or training in geriatric medicine;

"(B) be staffed by full-time or part-time teaching dentists who have experience or training in geriatric dentistry;

"(C) be based in a graduate medical education program in internal medicine or family medicine;

"(D) provide participants in the project with exposure to a diversified population of elderly individuals;

"(E) provide training in geriatrics and exposure to the physical and mental disabilities of elderly individuals through a variety of service rotations, such as geriatric consultation services, acute care services, dental services, geriatric psychiatry units, day and home care programs, rehabilitation services, extended care facilities, geriatric ambulatory care and comprehensive evaluation units, and community care programs for elderly mentally retarded individuals; and

"(F) provide training in geriatrics through one or both of the training options described in subparagraphs (A) and (B) of paragraph (3).

"(3) The training options referred to in subparagraph (F) of paragraph (2) are as follows:

"(A) A one-year retraining program in geriatrics for—

"(i) physicians who are faculty members in departments of internal medicine, family medicine, gynecology, and psychiatry at schools of medicine and osteopathy; and

"(ii) dentists who are faculty members at schools of dentistry or at hospital departments of dentistry.

Fellowships.

"(B) A one-year or two-year internal medicine or family medicine fellowship program providing emphasis in geriatrics, which shall be designed to provide training in clinical geriatrics and geriatrics research for—

"(i) physicians who have completed graduate medical education programs in internal medicine, family medicine, psychiatry, neurology, gynecology, or rehabilitation medicine; and

"(ii) dentists who have completed post-doctoral dental education programs.

"(4) For purposes of this subsection—

"(A) the term 'graduate medical education program' means a program sponsored by a school of medicine, a school of osteopathy, a hospital, or a public or private institution, which—

"(i) offers postgraduate medical training in the specialties and subspecialties of medicine; and

"(ii) has been accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association through its Committee on Postdoctoral Training; and

"(B) the term 'post-doctoral dental education program', means a program sponsored by a school of dentistry, a hospital, or a public or private institution, which—

"(i) offers post-doctoral training in the specialties of dentistry, advanced education in general dentistry, or a dental general practice residency; and

"(ii) has been accredited by the Commission on Dental Accreditation.".

(b) Section 788(d)(1)(D) of such Act is amended by inserting "(other than training and retraining of faculty for schools of medicine and osteopathy) before the semicolon. 42 USC 295g-8.

(c) Section 788(h) of such Act (as redesignated by subsection (a)(1) of this section) is amended—

(1) by striking out "$8,000,000" the third place it appears in the first sentence and inserting in lieu thereof "$12,000,000";

(2) by striking out "each of the fiscal years" in paragraph (2) and inserting in lieu thereof "the fiscal year";

(3) by inserting "25 percent of such amount for the fiscal year ending" before "September 30, 1988" in paragraph (2); and

(4) by adding at the end thereof the following: "One-third of the amounts appropriated to carry out this section for fiscal year 1988 shall be available to carry out subsection (e) for such fiscal year.".

TITLE VII—HEALTH PLANNING

SEC. 701. REPEAL OF TITLE XV.

(a) REPEAL.—Title XV of the Public Health Service Act is repealed effective January 1, 1987. Effective date. 42 USC 300k-1 *et seq.*

(b) FUNDS.—The repeal made by subsection (a) shall not affect any funds obligated for the purposes of title XV of the Public Health Service Act before January 1, 1987. 42 USC 300k-1 note.

TITLE VIII—HEALTH MAINTENANCE ORGANIZATIONS

Health Maintenance Organization Amendments of 1986.

SEC. 801. SHORT TITLE.

This title may be cited as the "Health Maintenance Organization Amendments of 1986". 42 USC 201 note.

SEC. 802. REFERENCE.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act. 42 USC 201 note.

SEC. 803. ELIMINATION OF AUTHORIZATION OF SUPPORT FOR FEASIBILITY SURVEYS, PLANNING, AND INITIAL DEVELOPMENT COSTS.

(a) Sections 1303, 1304, and 1307(c) (42 U.S.C. 300e-2, 300e-3, and 300e-6(c)) are repealed.

(b)(1) Section 1306 (42 U.S.C. 300e-5) is amended— Loans.

(A) by striking out "grant, contract, loan," each place it appears (except in subsection (b)(6)) and inserting in lieu thereof "loan",

(B) by striking out "in the case of an application for assistance under section 1303 or 1304, such application meets the applica-

tion requirements of such section and in the case of an application for a loan or loan guarantee," in subsection (b)(1),

(C) by striking out "1304," in subsection (b)(2), and

(D) by striking out "grants, contracts, loans," in subsection (c) and inserting in lieu thereof "loans".

Loans.

(2) Section 1307 (42 U.S.C. 300e-6) is amended—

(A) by striking out "grant, contract, loan," each place it appears and inserting in lieu thereof "loan",

(B) by striking out "grant, contract, or" in subsection (a)(1), and

(C) by striking out "such assistance" in subsection (a)(1) and inserting in lieu thereof "the loan".

(3) Section 1309(a) (42 U.S.C. 300e-8(a)) is amended—

(A) by striking out paragraph (1), and

(B) by striking out "(2)".

(4) The first sentence of section 1317(b) (42 U.S.C. 300e-16(b)) is amended—

(A) by striking out clause (1), and

(B) by redesignating clauses (2) and (3) as clauses (1) and (2), respectively.

Grants.
Contracts.
42 USC 300e-5 note.
42 USC 300e *et seq.*

(c) The amendments made by this section do not apply to any grant made or contract entered into under title XIII of the Public Health Service Act before October 1, 1985.

SEC. 804. LIMITATION ON LOANS AND LOAN GUARANTEES FOR INITIAL COSTS OF OPERATION.

Grants.
Contracts.

(a) The last sentence of section 1305(a) (42 U.S.C. 300e-4(a)) is amended by inserting before the period ", and unless the Secretary has made a grant or loan to, entered into a contract with, or guaranteed a loan for, the organization in fiscal year 1981, 1982, 1983, 1984, or 1985 under this section or section 1304(b) (as in effect before October 1, 1985)".

Ante, p. 3799.

42 USC 300e-4 note.

(b) The amendment made by subsection (a) does not apply to any loan or loan guarantee for the initial costs of operation of a health maintenance organization made under title XIII of the Public Health Service Act before October 1, 1985.

SEC. 805. ELIMINATION OF LOANS AND LOAN GUARANTEES FOR ACQUISITION AND CONSTRUCTION OF AMBULATORY CARE FACILITIES.

(a) Section 1305A (42 U.S.C. 300e-4a) is repealed.

(b) Section 1306(b)(2) (42 U.S.C. 300e-5(b)(2)) is amended by striking out "or 1305A,".

42 USC 300e-5 note.

(c) The amendments made by this section do not apply to any loan or loan guarantee made under section 1305A of the Public Health Service Act before October 1, 1985.

SEC. 806. REPEAL OF REQUIREMENT FOR HEALTH SYSTEMS AGENCY REVIEW.

Section 1306(b) (42 U.S.C. 300e-5(b)) is amended by striking out paragraph (5) and by redesignating paragraphs (6), (7), and (8) as paragraphs (5), (6), and (7), respectively.

SEC. 807. LIMITATION ON BORROWING BY LOAN GUARANTEE FUND.

The first sentence of section 1308(d)(2) (42 U.S.C. 300e-7(d)(2)) is amended by inserting "before October 1, 1986," after "guarantees issued by him".

SEC. 808. REPEAL OF REQUIREMENT FOR PERIODIC DEMONSTRATION OF COMPLIANCE.

Section 1310(d) (42 U.S.C. 300e-9(d)) is amended by striking out the last sentence.

SEC. 809. ANNUAL UPDATE OF STATE LAW DIGEST.

The first sentence of section 1311(c) (42 U.S.C. 300e-10(c)) is amended by striking out "quarterly" and inserting in lieu thereof "annually".

SEC. 810. ELIMINATION OF UNNECESSARY REPORT.

Section 1318(e) (42 U.S.C. 300e-17(e)) is repealed.

SEC. 811. AUTHORIZATION OF APPROPRIATIONS.

Section 1309(b) (42 U.S.C. 300e-8(b)) is amended to read as follows: "(b) To meet the obligations of the loan fund established under section 1308(e) resulting from defaults on loans made from the fund and to meet the other obligations of the fund, there is authorized to be appropriated to the loan fund for fiscal years 1987, 1988, and 1989, such sums as may be necessary.". Loans.

SEC. 812. ORGAN TRANSPLANTS AS PART OF BASIC COVERAGE.

(a) Section 1302(1) (42 U.S.C. 300e-1(1)) is amended by inserting before the last sentence the following new sentence: "Such term includes a health service directly associated with an organ transplant only if such organ transplant was required to be included in basic health services on April 15, 1985.".

(b)(1) The amendment made by subsection (a) shall take effect on October 1, 1985, and shall cease to be in effect on April 1, 1988. Effective date. Termination date.

(2) After April 1, 1988, for purposes of title XIII of the Public Health Service Act, no health service directly associated with an organ transplant shall be considered to be a basic health service if such service would otherwise have been added as a basic health service between April 15, 1985, and April 1, 1988. 42 USC 300e-1 note. 42 USC 300e *et seq.*

SEC. 813. STUDY ON THE HEALTH MAINTENANCE ORGANIZATION PROGRAM.

(a) The Secretary of Health and Human Services shall provide for the conduct of a study to assess the operation and impact of the provisions of title XIII of the Public Health Service Act. The study shall— 42 USC 300e note.

(1) assess the attitudes of employers and employees toward prepaid health benefits plans, particularly health maintenance organization plans;

(2) examine the operation of the community rating approach and the impact of such approach on the membership composition and competitiveness of health maintenance organizations qualified under such title;

(3) analyze the effects of the dual choice option provided in section 1310 of such Act on health maintenance organizations and on other health benefits plans; 42 USC 300e-9.

(4) assess the approach used to add services no longer considered to be experimental to basic health services for health maintenance organizations qualified under such title, particularly with respect to the addition of organ transplants to such basic health services and the impact of such addition on the competitiveness of such health maintenance organizations; and

(5) examine the effect of minimum benefit requirements, underwriting restrictions, restrictions on cost sharing, and the requirement that services be provided without limitation as to time or cost on the competitiveness of health maintenance organizations qualified under such title.

Reports.

(b) Within 18 months after the date of enactment of this Act, the Secretary shall prepare and transmit to the Congress a report which describes the findings and conclusions of the study conducted under subsection (a) and contains such recommendations for legislative and regulatory action as the Secretary considers appropriate.

Contracts.

(c) Any contract entered into under this section shall be to such extent or in such amounts as are provided in appropriation Acts.

42 USC 300e-1.

SEC. 814. SERVICES OF PSYCHOLOGISTS.

(a) Paragraphs (1) and (2) of section 1302 of the Public Health Service Act are amended by inserting "psychologist," after "podiatrist," each place it appears.

(b) Paragraph (4) of such section is amended by striking out "and podiatrists" and inserting in lieu thereof "podiatrists, and psychologists".

(c) Paragraph (5) of such section is amended by inserting "psychology," after "optometry,".

42 USC 300e-1 note.

SEC. 815. EFFECTIVE DATE.

(a) Except as provided in subsection (b) and section 812(b), this title and the amendments made by this title shall take effect on October 1, 1985.

(b) Section 813 shall take effect on the date of enactment of this Act.

42 USC 300e-1 note.

SEC. 816. CONSTRUCTION.

The provisions of this title and of the amendments made by this title do not authorize the appropriation of any funds for fiscal year 1986.

Alzheimer's Disease and Related Dementias Services Research Act of 1986.

TITLE IX—ALZHEIMER'S DISEASE AND RELATED DEMENTIAS SERVICES RESEARCH

PART A—GENERAL PROVISIONS

SHORT TITLE

42 USC 11201 note.

SEC. 901. This title may be cited as the "Alzheimer's Disease and Related Dementias Services Research Act of 1986".

FINDINGS

42 USC 11201.

SEC. 902. The Congress finds that—

(1) best estimates indicate that between 2,000,000 and 3,000,000 Americans presently have Alzheimer's disease or related dementias;

(2) estimates of the number of individuals afflicted with Alzheimer's disease and related dementias are unreliable because current diagnostic procedures lack accuracy and sensitivity and because there is a need for epidemiological data on incidence and prevalence of such disease and dementias;

(3) studies estimate that between one-half and two-thirds of patients in nursing homes meet the clinical and mental status criteria for dementia;

(4) the care for individuals with Alzheimer's disease and related dementias falls primarily on their families, and such care is very often financially and emotionally devastating;

(5) the cost of caring for individuals with Alzheimer's disease and related dementias is great, and conservative estimates range between $38,000,000,000 and $42,000,000,000 per year solely for direct costs;

(6) although substantial progress has been made in recent years in identifying possible leads to the causes of Alzheimer's disease and related dementias and more progress can be expected in the near future, there is little likelihood of a breakthrough in the foreseeable future which would eliminate or substantially reduce the number of individuals with such disease and dementias or the difficulties of caring for such individuals;

(7) attempts to reduce the emotional and financial burden of caring for dementia patients is impeded by a lack of knowledge about such patients, how to care for such patients, the costs associated with such care, the effectiveness of various modes of care, the quality and type of care necessary at various stages of the disease, and other appropriate services that are needed to provide quality care;

(8) the results of the little research that has been undertaken concerning dementia has been inadequate or the results have not been widely disseminated;

(9) more knowledge is needed concerning—

(A) the epidemiology of, and the identification of risk factors for, Alzheimer's disease and related dementias;

(B) the development of methods for early diagnosis, functional assessment, and psychological evaluation of individuals with Alzheimer's disease for the purpose of monitoring the course of the disease and developing strategies for improving the quality of life for such individuals;

(C) the understanding of the optimal range and cost-effectiveness of community and institutional services for individuals with Alzheimer's disease and related dementias and their families, particularly with respect to the design, delivery, staffing, and mix of such services and the coordination of such services with other services, and with respect to the relationship of formal to informal support services;

(D) the understanding of optimal methods to combine formal support services provided by health care professionals with informal support services provided by family, friends, and neighbors of individuals with Alzheimer's disease, and the identification of ways family caregivers can be sustained through interventions to reduce psychological and social problems and physical problems induced by stress;

(E) existing data that are relevant to Alzheimer's disease and related dementias; and

(F) the costs incurred in caring for individuals with Alzheimer's disease and related dementias;

(10) it is imperative to provide appropriate coordination of the efforts of the Federal Government in the provision of services for individuals with Alzheimer's disease and related dementias;

(11) it is important to increase the understanding of Alzheimer's disease and related dementias by the diverse range of personnel involved in the care of individuals with such disease and dementias; and

(12) it is imperative that the Social Security Administration be provided information pertaining to Alzheimer's disease and related dementias, particularly for personnel in such Administration involved in the establishment and updating of criteria for determining whether an individual is under a disability for purposes of titles II and XVI of the Social Security Act.

42 USC 401 *et seq.*, 1381 *et seq.*

PART B—COUNCIL ON ALZHEIMER'S DISEASE

ESTABLISHMENT

42 USC 11211.

SEC. 911. (a) There is established in the Department of Health and Human Services (hereinafter referred to as the "Department") the Council on Alzheimer's Disease (hereinafter referred to as the "Council"). The Council shall be composed of—

(1) the Assistant Secretary for Health;

(2) the Surgeon General of the United States;

(3) the Assistant Secretary for Planning and Evaluation;

(4) the Director of the National Institute of Allergy and Infectious Diseases;

(5) the Director of the National Institute of Mental Health;

(6) the Director of the National Institute of Neurological and Communicative Diseases and Stroke;

(7) the Director of the National Institute on Aging;

(8) the Commissioner on Aging;

(9) the Administrator of the Health Care Financing Administration (or the designee of such Administrator);

(10) the Director of the National Center for Health Services Research and Health Care Technology Assessment;

(11) the Administrator of Veterans' Affairs (or the designee of such Administrator); and

(12) such additional members as the Secretary of Health and Human Services (hereinafter referred to as the "Secretary") considers appropriate.

(b) The Secretary shall select a Chairman for the Council from among its members.

(c) A majority of the members of the Council shall constitute a quorum, but a lesser number may hold hearings.

(d) The Council shall meet periodically at the call of the Chairman, but not less than twice each year.

(e) The Secretary shall appoint an Executive Secretary for the Council and shall provide the Council with such additional administrative staff and support as may be necessary to enable the Council to carry out its functions.

FUNCTIONS

42 USC 11212.

SEC. 912. (a) The Council shall—

(1) coordinate continuing research conducted by or through the Department on Alzheimer's disease and related dementias;

(2) establish a mechanism for the sharing of information among all officers and employees of the Department involved in carrying out programs serving elderly individuals; Aged persons.

(3) identify the most promising areas of research concerning Alzheimer's disease and related dementias;

(4) establish mechanisms to use the results of research concerning Alzheimer's disease and related dementias in the development of policies, programs, and means to improve the quality of life for older Americans; and Aged persons.

(5) assist the National Institute on Aging, the National Institute of Mental Health, and the National Center for Health Services Research and Health Care Technology Assessment in developing and coordinating the plans for research required under part E, and in making revisions in such plans. *Post*, p. 3808.

(b)(1) Not later than 9 months after the date of enactment of this Act, the Council shall transmit to the Congress and make available to the public a report detailing the plans for research prepared by the National Institute on Aging, the National Institute of Mental Health, and the National Center for Health Services Research and Health Care Technology Assessment under part E. Such report shall— Reports.

(A) describe, insofar as feasible, the activities to be carried out under such part during each of the fiscal years 1987, 1988, 1989, 1990, and 1991; and

(B) ensure that activities carried out under such part are coordinated with, and use, to the maximum extent feasible, the resources of, other Federal programs relating to Alzheimer's disease and related dementias, including centers supported under section 445 of the Public Health Service Act, centers supported by the National Institute of Mental Health on the psychopathology of the elderly, relevant activities of the Administration on Aging, other centers supported by Federal funds involved in research on Alzheimer's disease and related dementias, and other programs relating to Alzheimer's disease and related dementias which are planned or conducted by Federal agencies other than the Department, State or local agencies, community organizations, or private foundations. Aged persons. 42 USC 289h.

(2) Within 1 year after the date on which the report required by paragraph (1) is transmitted to the Congress, and annually thereafter, the Council shall transmit to the Congress, and make available to the public, a report on— Reports. Public information.

(A) the revisions made by the National Institute on Aging, the National Institute of Mental Health, and the National Center for Health Services Research and Health Care Technology Assessment in the plans for research required by part E;

(B) progress made by research sponsored by the Federal Government on Alzheimer's disease and related dementias; and

(C) new directions in research on Alzheimer's disease and related dementias which the Council considers potentially important.

PART C—ADVISORY PANEL ON ALZHEIMER'S DISEASE

ESTABLISHMENT OF PANEL

42 USC 11221.

SEC. 921. (a) There is established in the Department the Advisory Panel on Alzheimer's Disease (hereinafter referred to as the 'Panel'). The Panel shall be composed of—

(1) 15 voting members appointed by the Director of the Office of Technology Assessment, of which—

(A) 3 shall be individuals who are biomedical research scientists with demonstrated achievements in biomedical research relating to Alzheimer's disease, including at least one individual who is a researcher at a center supported under section 445 of the Public Health Service Act;

42 USC 289h.

(B) 3 shall be individuals with demonstrated achievements in research relevant to services for the care of individuals with Alzheimer's disease and related dementias;

(C) 3 shall be individuals who are providers of services, or administrators of organizations which provide services, for individuals with Alzheimer's disease and related dementias and their families;

(D) 3 shall be individuals who are experts in the financing of health care services and long-term care services, including one individual who is a representative of private health care services insurers; and

(E) 3 shall be representatives of national voluntary organizations which are concerned with the problems of individuals with Alzheimer's disease and related dementias and their families; and

(2) the Chairman of the Council, the Director of the National Institute on Aging, the Director of the National Institute of Mental Health, the Director of the National Center for Health Services Research and Health Care Technology Assessment, and the Commissioner on Aging, who shall be nonvoting ex officio members.

(b) The Director of the Office of Technology Assessment shall appoint members to the Panel under subsection (a)(1) within 90 days after the date of enactment of this Act.

(c) The Secretary shall appoint a Chairman of the Panel from among the members appointed under subsection (a)(1).

(d) Members of the Panel shall serve for the life of the Panel. A vacancy on the Panel shall be filled in the same manner as the original appointment was made. A vacancy on the Panel shall not affect its powers.

(e) A majority of the members of the Panel appointed under subsection (a)(1) shall constitute a quorum, but a lesser number may hold hearings. The Panel may establish such subcommittees as the Panel considers appropriate.

(f) The Panel shall meet at the call of the Chairman, but not less than twice per year.

(g) The Executive Secretary of the Council shall serve as Executive Secretary of the Panel. The Secretary shall provide the Panel with such additional administrative staff and support as may be necessary to enable the Panel to carry out its functions.

(h) Each member of the Panel appointed under subsection (a)(1) shall receive compensation at a rate of $100 per day for each day, including travel time, that such member is engaged in duties as a

member of the Panel. While away from their homes or regular places of business in the performance of duties as a member of the Panel, members of the Panel appointed under subsection (a)(1) shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under section 5702 of title 5, United States Code.

FUNCTIONS OF THE PANEL

SEC. 922. (a) The Panel shall assist the Secretary and the Council in the identification of priorities and emerging issues with respect to Alzheimer's disease and related dementias and the care of individuals with such disease and dementias. The Panel shall advise the Secretary and the Council with respect to the identification of— 42 USC 11222.

(1) emerging issues in, and promising areas of, biomedical research relating to Alzheimer's disease and related dementias;

(2) emerging issues in, and promising areas of, research relating to services for individuals with Alzheimer's disease and related dementias and their families;

(3) emerging issues and promising initiatives in home and community based services, and systems of such services, for individuals with Alzheimer's disease and related dementias and their families; and

(4) emerging issues in, and innovative financing mechanisms for, payment for health care services and social services for individuals with Alzheimer's disease and related dementias and their families, particularly financing mechanisms in the private sector.

(b) The Panel shall prepare and transmit to the Congress, the Secretary, and the Council, and make available to the public, an annual report. Such report shall contain such recommendations as the Panel considers appropriate for administrative and legislative actions to improve services for individuals with Alzheimer's disease and related dementias and their families and to provide for promising biomedical research relating to Alzheimer's disease and related dementias. Reports. Public information.

AUTHORIZATION OF APPROPRIATIONS

SEC. 923. To carry out this part, there are authorized to be appropriated $100,000 for each of the fiscal years 1988 through 1991. 42 USC 11223.

PART D—AWARDS FOR LEADERSHIP AND EXCELLENCE IN ALZHEIMER'S DISEASE AND RELATED DEMENTIAS

AWARDS AUTHORIZED

SEC. 931. (a) The Director of the National Institute on Aging shall make awards to senior researchers who have made distinguished achievements in biomedical research in areas relating to Alzheimer's disease and related dementias. Awards under this section shall be used by the recipients to support research in areas relating to such disease and dementias, and may be used by the recipients to train junior researchers who demonstrate exceptional promise to conduct research in such areas. Research and development. 42 USC 11231.

(b) The Director of the National Institute on Aging may make awards under this section to researchers at centers supported under

42 USC 289h.

section 445 of the Public Health Service Act and to researchers at other public and nonprofit private entities.

(c) The Director of the National Institute on Aging shall make awards under this section only to researchers who have been recommended for such awards by the National Advisory Council on Aging.

(d) The Director of the National Institute on Aging shall establish procedures for the selection of the recipients of awards under this section.

(e) Awards under this section shall be made for a one-year period, and may be renewed for not more than six additional consecutive one-year periods.

AUTHORIZATION OF APPROPRIATIONS

Research and development.
42 USC 11232.

SEC. 932. To carry out this part, there are authorized to be appropriated $5,000,000 for each of the fiscal years 1988 through 1991. Amounts authorized to be appropriated under this section are in addition to amounts authorized to be appropriated for biomedical research relating to Alzheimer's disease and related dementias under part E of this title and under other provisions of law.

PART E—RESEARCH RELATING TO SERVICES FOR INDIVIDUALS WITH ALZHEIMER'S DISEASE AND RELATED DEMENTIAS AND THEIR FAMILIES

SUBPART 1—RESPONSIBILITIES OF THE NATIONAL INSTITUTE ON AGING

RESEARCH PROGRAM AND PLAN

Grants.
42 USC 11241.

SEC. 941. (a) The Director of the National Institute on Aging shall conduct, or make grants for the conduct of, research relevant to appropriate services for individuals with Alzheimer's disease and related dementias and their families.

(b)(1) Within 6 months after the date of enactment of this Act, the Director of the National Institute on Aging shall prepare and transmit to the Chairman of the Council a plan for the research to be conducted under subsection (a). The plan shall—

(A) provide for research concerning—

(i) the epidemiology of, and the identification of risk factors for, Alzheimer's disease and related dementias; and

(ii) the development and evaluation of reliable and valid multidimensional diagnostic and assessment procedures and instruments; and

(B) ensure that research carried out under the plan is coordinated with, and uses, to the maximum extent feasible, resources of, other Federal programs relating to Alzheimer's disease and related dementias, including centers supported under section 445 of the Public Health Service Act, centers supported by the National Institute of Mental Health on the psychopathology of the elderly, relevant activities of the Administration on Aging, other programs and centers involved in research on Alzheimer's disease and related dementias supported by the Department, and other programs relating to Alzheimer's disease and related dementias which are planned or conducted by Federal agencies other than the Department, State or local agencies, community organizations, or private foundations.

(2) Within one year after transmitting the plan required under paragraph (1), and annually thereafter, the Director of the National Institute on Aging shall prepare and transmit to the Chairman of the Council such revisions of such plan as the Director considers appropriate.

(c) In preparing and revising the plan required by subsection (b), the Director of the National Institute on Aging shall consult with the Chairman of the Council and the heads of agencies within the Department.

DISSEMINATION

SEC. 942. The Director of the National Institute on Aging shall disseminate the results of research conducted under this subpart to appropriate professional entities and to the public.

Research and development. 42 USC 11242.

AUTHORIZATION OF APPROPRIATIONS

SEC. 943. To carry out this subpart, there are authorized to be appropriated $2,000,000 for each of fiscal years 1988 through 1991.

42 USC 11243.

Subpart 2—Responsibilities of the National Institute of Mental Health

RESEARCH PROGRAM AND PLAN

SEC. 944. (a) The Director of the National Institute of Mental Health shall conduct, or make grants for the conduct of, research relevant to appropriate services for individuals with Alzheimer's disease and related dementias and their families.

Grants. 42 USC 11251.

(b)(1) Within 6 months after the date of enactment of this Act, the Director of the National Institute of Mental Health shall prepare and transmit to the Chairman of the Council a plan for the research to be conducted under subsection (a). The plan shall—

(A) provide for research concerning—

(i) mental health services and treatment modalities relevant to the mental, behavioral, and psychological problems associated with Alzheimer's disease and related dementias;

(ii) the most effective methods for providing comprehensive multidimensional assessments to obtain information about the current functioning of, and needs for the care of, individuals with Alzheimer's disease and related dementias;

(iii) the optimal range and cost-effectiveness of community and institutional services for individuals with Alzheimer's disease and related dementias and their families, particularly with respect to the design of such services, appropriate staffing for the provision of such services, the timing of such services during the progression of such disease or dementias, and the appropriate mix and coordination of such services;

(iv) the efficacy of various special care units in the United States for individuals with Alzheimer's disease, including an assessment of the costs incurred in operating such units, appropriate standards to be used by such units, and the measurement of patient outcomes in such units;

(v) methods to combine formal support services provided by health care professionals for individuals with Alz-

heimer's disease and related dementias with informal support services provided for such individuals by their families, friends, and neighbors, including services such as day care services, respite care services, home care services, and nursing home services, and an evaluation of the services actually used for such individuals and the sources of payment for such services;

(vi) methods to sustain family members who provide care for individuals with Alzheimer's disease and related dementias through interventions to reduce psychological and social problems and physical problems induced by stress; and

(vii) improved methods to deliver services for individuals with Alzheimer's disease and related dementias and their families, including services such as outreach services, comprehensive assessment and care management services, outpatient treatment services, home care services, respite care services, adult day care services, partial hospitalization services, and nursing home services; and

(B) ensure that research carried out under the plan is coordinated with, and uses, to the maximum extent feasible, resources of, other Federal programs relating to Alzheimer's disease and dementia, including centers supported under section 445 of the Public Health Service Act, centers supported by the National Institute of Mental Health on the psychopathology of the elderly, relevant activities of the Administration on Aging, other programs and centers involved in research on Alzheimer's disease and related dementias supported by the Department, and other programs relating to Alzheimer's disease and related dementias which are planned or conducted by Federal agencies other than the Department, State or local agencies, community organizations, or private foundations.

42 USC 289h.

(2) Within one year after transmitting the plan required under paragraph (1), and annually thereafter, the Director of the National Institute of Mental Health shall prepare and transmit to the Chairman of the Council such revisions of such plan as the Director considers appropriate.

(c) In preparing and revising the plan required by subsection (b), the Director of the National Institute of Mental Health shall consult with the Chairman of the Council and the heads of agencies within the Department.

DISSEMINATION

Research and development. 42 USC 11252.

SEC. 945. The Director of the National Institute of Mental Health shall disseminate the results of research conducted under this subpart to appropriate professional entities and to the public.

AUTHORIZATION OF APPROPRIATIONS

42 USC 11253.

SEC. 946. To carry out this subpart, there are authorized to be appropriated $2,000,000 for each of fiscal years 1988 through 1991.

Subpart 3—Responsibilities of the National Center for Health Services Research and Health Care Technology Assessment

RESEARCH PROGRAM AND PLAN

SEC. 947. (a) The Director of the National Center for Health Services Research and Health Care Technology Assessment shall conduct, or make grants for the conduct of, research relevant to appropriate services for individuals with Alzheimer's disease and related dementias and their families.

Grants.
42 USC 11261.

(b)(1) Within 6 months after the date of enactment of this Act, the Director of the National Center for Health Services Research and Health Care Technology Assessment shall prepare and transmit to the Chairman of the Council a plan for the research to be conducted under subsection (a). The plan shall—

(A) provide for the inventory and analysis of existing data and studies relevant to Alzheimer's disease and related dementias, including data and studies available through the Health Care Financing Administration, the Administration on Aging, the National Center for Health Statistics, the Office of Human Development Services, the Office of the Assistant Secretary for Planning and Evaluation, and the Veterans' Administration;

(B) provide for research concerning the costs incurred by individuals with Alzheimer's disease and related dementias in obtaining services, particularly services which are essential to such individuals and which are not needed by other patients under long-term care;

(C) provide for research on the costs of various interventions to provide services for individuals with Alzheimer's disease and related dementias and their families;

(D) provide for research on the cost-effectiveness of various service interventions for individuals with Alzheimer's disease and related dementias and their families; and

(E) ensure that research carried out under the plan is coordinated with, and uses, to the maximum extent feasible, resources of, other Federal programs relating to Alzheimer's disease and dementia, including centers supported under section 445 of the Public Health Service Act, centers supported by the National Institute of Mental Health on psychopathology of the elderly, relevant activities of the Administration on Aging, other programs and centers involved in research on Alzheimer's disease and related dementias supported by the Department, and other programs relating to Alzheimer's disease and related dementias which are planned or conducted by Federal agencies other than the Department, State or local agencies, community organizations, or private foundations.

42 USC 289h.

(2) Within one year after transmitting the plan required under paragraph (1), and annually thereafter, the Director of the National Center for Health Services Research and Health Care Technology Assessment shall prepare and transmit to the Chairman of the Council such revisions of such plan as the Director considers appropriate.

(c) In preparing and revising the plan required by subsection (b), the Director of the National Center for Health Services Research and Health Care Technology Assessment shall consult with the Chairman of the Council and the heads of agencies within the Department.

DISSEMINATION

Research and development.
42 USC 11262.

SEC. 948. The Director of the National Center for Health Services Research and Health Care Technology Assessment shall disseminate the results of research conducted under this subpart to appropriate professional entities and to the public.

AUTHORIZATION OF APPROPRIATIONS

42 USC 11263.

SEC. 949. To carry out this subpart, there are authorized to be appropriated $2,000,000 for each of fiscal years 1988 through 1991.

Subpart 4—Responsibilities of the Health Care Financing Administration

RESEARCH PROGRAM AND PLAN

Grants.
42 USC 11271.

SEC. 949A. (a) The Administrator of the National Health Care Financing Administration shall conduct, or make grants for the conduct of, research relevant to appropriate services for individuals with Alzheimer's disease and related dementias and their families.

(b)(1) Within 6 months after the date of enactment of this Act, the Administrator of the Health Care Financing Administration shall prepare and transmit to the Chairman of the Council a plan for research to be conducted under (a). The plan shall—

(A) provide for a determination of the types of services required by individuals with Alzheimer's disease and related dementias and their families to allow such individuals to remain living at home or in a community-based setting;

(B) provide for a determination of the costs of providing needed services to individuals with Alzheimer's disease and related dementias and their families, including the expenditures for institutional, home, and community-based services and the source of payment for such expenditures;

(C) provide for an assessment of the adequacy of benefits provided through the Medicare and Medicaid programs and through private health insurance for needed services for individuals with Alzheimer's disease and related dementias and their families; and

(D) provide for a determination of the costs to the Medicare and Medicaid programs and to private health insurers (if available) of providing covered benefits to individuals with Alzheimer's disease and related dementias and their families.

(2) Within one year after transmitting the plan required under paragraph (1), and annually thereafter, the Administrator of the Health Care Financing Administration shall prepare and transmit to the Chairman of the Council such revisions of such plan as the Administrator considers appropriate.

(c) In preparing and revising the plan required by subsection (b), the Administrator of the Health Care Financing Administration shall consult with the Chairman of the Council and the heads of agencies within the Department.

DISSEMINATION

42 USC 11272.

SEC. 949B. The Administrator of the Health Care Financing Administration shall disseminate the results of research conducted

under this subpart to appropriate professional entities and to the public.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 949C. To carry out this subpart, there are authorized to be appropriated $2,000,000 for each of fiscal years 1988 through 1991. 42 USC 11273.

PART F—DISSEMINATION

CLEARINGHOUSE ON ALZHEIMER'S DISEASE

SEC. 951. (a) The Director of the National Institute on Aging shall establish the Clearinghouse on Alzheimer's Disease (hereinafter referred to as the "Clearinghouse"). The purpose of the Clearinghouse is the dissemination of information concerning services available for individuals with Alzheimer's disease and related dementias and their families. The Clearinghouse shall— 42 USC 11281.

(1) compile, archive, and disseminate information concerning research, demonstration, evaluation, and training programs and projects concerning Alzheimer's disease and related dementias; and Research and development.

(2) annually publish a summary of the information compiled under paragraph (1) during the preceding 12-month period, and make such information available upon request to appropriate individuals and entities, including educational institutions, research entities, and Federal and public agencies. Research and development. Education.

(b) The Clearinghouse may charge an appropriate fee for information provided through the toll-free telephone line established under subsection (a)(3). Communications and telecommunications.

(c) The Director of the National Institute on Aging, the Director of the National Institute of Mental Health, and the Director of the National Center for Health Services Research and Health Care Technology Assessment shall provide to the Clearinghouse summaries of the findings of research conducted under part E. *Ante*, p. 3808.

DISSEMINATION PROJECT

SEC. 952. (a) The Director of the National Institute on Aging shall make a grant to, or enter into a contract with, a national organization representing individuals with Alzheimer's disease and related dementias for the conduct of the activities described in subsection (b). Grants. Contracts. 42 USC 11282.

(b) The organization receiving a grant or contract under this section shall—

(1) establish a central computerized information system to— Science and technology. State and local governments.

(A) compile and disseminate information concerning initiatives by State and local governments and private entities to provide programs and services for individuals with Alzheimer's disease and related dementias; and

(B) translate scientific and technical information concerning such initiatives into information readily understandable by the general public, and make such information available upon request; and

(2) establish a national toll-free telephone line to make available the information described in paragraph (1), and information concerning Federal programs, services, and benefits for Communications and telecommunications.

individuals with Alzheimer's disease and related dementias and their families.

(c) The organization receiving a grant or contract under this section may charge appropriate fees for information provided through the toll-free telephone line established under subsection (b)(2), and may make exceptions to such fees for individuals and organizations who are not financially able to pay such fees.

(d) In order to receive a grant or contract under this section, an organization shall submit an application to the Director of the National Institute on Aging. Such application shall contain—

(1) information demonstrating that such organization has a network of contacts which will enable such organization to receive information necessary to the operation of the central computerized information system described in subsection (b)(1);

(2) information demonstrating that, by the end of fiscal year 1991, such organization will be financially able to, and will, carry out the activities described in subsection (b) without a grant or contract from the Federal Government; and

(3) such other information as the Director may prescribe.

AUTHORIZATION OF APPROPRIATIONS

42 USC 11283.

SEC. 953. To carry out this part, there are authorized to be appropriated $300,000 for each of the fiscal years 1988 through 1991.

PART G—EDUCATIONAL ACTIVITIES

PROVIDING INFORMATION FOR PERSONNEL OF THE SOCIAL SECURITY ADMINISTRATION

42 USC 11291.

SEC. 961. (a) The Secretary shall develop a mechanism to ensure the prompt provision of the most current information concerning Alzheimer's disease and related dementias to the Commissioner of Social Security, particularly information which will increase the understanding of personnel of the Social Security Administration concerning such disease and dementias.

(b) The Commissioner of Social Security shall ensure that information received under subsection (a) is provided to personnel of the Social Security Administration, particularly personnel involved in the process of determining, for purposes of titles II and XVI of the Social Security Act, whether an individual is under a disability.

42 USC 401 *et seq*, 1381 *et seq*.

EDUCATION PROGRAMS FOR PROVIDERS OF CARE FOR INDIVIDUALS WITH ALZHEIMER'S DISEASE

Physicians.
Nurses.
Psychologists.
Social workers.
Therapists.
42 USC 11292.
42 USC 289h.

SEC. 962. The Director of the National Institute on Aging, through centers supported under section 445 of the Public Health Service Act, professional associations, and continuing education programs, shall conduct education and information dissemination activities concerning the special problems of individuals with Alzheimer's disease and their families. Such activities shall be designed to enhance the understanding of such problems by individuals who provide care for individuals with Alzheimer's disease and related dementias, including physicians, nurses, psychologists, social workers, occupational therapists, nursing home administrators, nurses, and health care aides.

EDUCATION PROGRAMS FOR SAFETY AND TRANSPORTATION PERSONNEL

SEC. 963. The Director of the National Institute on Aging, through centers supported under section 445 of the Public Health Service Act, training academies, and continuing education programs, shall conduct education and information dissemination activities concerning Alzheimer's disease and related dementias for personnel involved in ensuring the public safety and providing public transportation. Such activities shall be designed to enhance the ability of such personnel to respond appropriately to individuals with Alzheimer's disease and related dementias whom such personnel may encounter in the course of their employment. 42 USC 11293. 42 USC 289h.

AUTHORIZATION OF APPROPRIATIONS

SEC. 964. To carry out this part, there are authorized to be appropriated $1,000,000 for each of the fiscal years 1988 through 1991. 42 USC 11294.

Approved November 14, 1986.

LEGISLATIVE HISTORY—S. 1744:

SENATE REPORTS: No. 99-380 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 12, considered and passed Senate.
Oct. 17, considered and passed House, amended.
Oct. 18, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Nov. 14, Presidential statement.

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NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1987

Public Law 99-661
99th Congress

An Act

Nov. 14, 1986
[S. 2638]

To authorize appropriations for fiscal year 1987 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, to improve the defense acquisition process, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Defense Authorization Act for Fiscal Year 1987.

SECTION 1. SHORT TITLE

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1987".

SEC. 2. ORGANIZATION

This Act is divided into four divisions as follows:

(1) Division A—Department of Defense Authorizations.
(2) Division B—Military Construction Authorizations.
(3) Division C—Other National Defense Authorizations.
(4) Division D—Child Nutrition Programs.

Department of Defense Authorization Act, 1987.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

SEC. 100. SHORT TITLE; TABLE OF CONTENTS

(a) SHORT TITLE.—This division may be cited as the "Department of Defense Authorization Act, 1987".

(b) TABLE OF CONTENTS OF DIVISION.—The table of contents of this division is as follows:

Sec. 100. Short title; table of contents.

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense Agencies.
Sec. 105. Reserve components.
Sec. 106. Extension of authority provided the Secretary of Defense in connection with the NATO Airborne Warning and Control System (AWACS) program.
Sec. 107. Multiyear contracts for fiscal year 1987.
Sec. 108. Air Force fighter competition.

PART B—ARMY PROGRAM LIMITATIONS

Sec. 121. Testing of Bradley Fighting Vehicle.
Sec. 122. Other limitations on Army procurement.

PART C—NAVY PROGRAM LIMITATIONS

Sec. 131. DDG-51 destroyer program.
Sec. 132. Basic Point Defense Missile System on amphibious vessels.
Sec. 133. Rolling Airframe Missile Program.

PART D—AIR FORCE PROGRAM LIMITATIONS

Sec. 141. Advanced Technology Bomber.
Sec. 142. Prohibition on using funds authorized for the Advanced Technology Bomber and the Advanced Cruise Missile programs for any other purpose and limitation on the B-1B bomber fleet to 100 aircraft.
Sec. 143. C-17 Aircraft Program.
Sec. 144. Advanced Medium-Range Air-to-Air Missile Program.
Sec. 145. T-46 Aircraft Program.

PART E—CHEMICAL WEAPONS

Sec. 151. Authorization of appropriations for chemical demilitarization program.
Sec. 152. Limitation on the expenditure of funds for the BIGEYE binary chemical bomb.
Sec. 153. Chemical weapons, agents, or components at Lexington-Bluegrass Depot.
Sec. 154. Report on chemical weapons demilitarization program.
Sec. 155. Technical amendment to Public Law 99-145 relating to binary chemical munitions.

TITLE II—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

PART A—AUTHORIZATIONS OF APPROPRIATIONS AND PROGRAM LIMITATIONS

Sec. 201. Authorization of appropriations.
Sec. 202. Limitation on Copperhead Guided Projectile.
Sec. 203. Limitations on funds for the Navy.
Sec. 204. Limitations on funds for the Air Force.
Sec. 205. Limitation on funds for Defense Agencies.
Sec. 206. Other limitations.
Sec. 207. Advanced Anti-Armor Weapon System.
Sec. 208. Electronic Warfare Master Plan.
Sec. 209. Limitation on testing electromagnetic pulse.

PART B—STRATEGIC DEFENSE INITIATIVE

Sec. 211. Fiscal year 1987 funding level for Strategic Defense Initiative.
Sec. 212. Tactical ballistic missile defense.
Sec. 213. Limitation on establishment of a federally funded research and development center for the Strategic Defense Initiative Program.
Sec. 214. Report on projected costs of SDI program.
Sec. 215. Report on Strategic Defense Initiative deployment schedule.
Sec. 216. Effect of Strategic Defense Initiative on compliance with the Anti-Ballistic Missile Treaty.
Sec. 217. Report on the Anti-Ballistic Missile Treaty.

PART C—BALANCED TECHNOLOGY INITIATIVE

Sec. 221. Conventional Defense Initiative.
Sec. 222. Balanced Technology Initiative.

PART D—MISCELLANEOUS

Sec. 231. Limitation on testing of anti-satellite weapons.
Sec. 232. ICBM modernization.
Sec. 233. Restriction on use of research and development funds for grants to educational institutions.
Sec. 234. Coordination of research activities of Department of Defense.
Sec. 235. Cooperative medical research with the Veterans' Administration.

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TITLE III—OPERATION AND MAINTENANCE

PART A—AUTHORIZATIONS OF APPROPRIATIONS

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Authorization of appropriations for assistance to Pan American Games.
Sec. 304. Transportation of livestock feed.
Sec. 305. Authority for payments to NASA for space shuttle services.

PART B—PROGRAM CHANGES AND PERMANENT LAW CHANGES

Sec. 311. Contract personnel to be included in budget justification.
Sec. 312. Procurement of certain bakery and dairy products outside the United States.
Sec. 313. Functions of military commissaries; purchase of alcoholic beverages by nonappropriated fund instrumentalities.
Sec. 314. Authority for Secretary of Defense to accept gifts for the defense dependents' education system.
Sec. 315. Renovation of facilities.
Sec 316. Prohibition of purchase of petroleum products from companies producing oil in Angola.
Sec. 317. Prohibition of contracts for the performance of certain Army ammunition activities.
Sec. 318. National Board for the Promotion of Rifle Practice.
Sec. 319. Prohibition on joint use of Gray Army Airfield with civil aviation.
Sec. 320. Report on proposed regulations relating to movement of household goods and cargo.

PART C—HUMANITARIAN AND OTHER ASSISTANCE

Sec. 331. Extension of authorization for humanitarian assistance.
Sec. 332. Extension of authority of Secretary of Defense to transport humanitarian relief supplies to certain countries.
Sec. 333. Humanitarian and civic assistance provided in conjunction with military operations.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS AND RELATED MATTERS

PART A—ACTIVE FORCES

Sec. 401. End strengths for active forces.
Sec. 402. Extension of quality control on enlistments into the Army.
Sec. 403. Strength of active duty officer corps.

PART B—RESERVE FORCES

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for Reserves on active duty in support of the Reserve components.
Sec. 413. Accounting for certain authorized reserve component members.

PART C—MILITARY TRAINING

Sec. 421. Military training student loads.

TITLE V—DEFENSE PERSONNEL POLICY

PART A—ACTIVE FORCES

Sec. 501. Assignment of active-duty members outside the United States.
Sec. 502. Service of members on State and local juries.
Sec. 503. Extension of expiring authority for spot promotions of Navy lieutenants.
Sec. 504. Repeal of requirement regarding enlistment of women in the Air Force during fiscal year 1987.
Sec. 505. Authority to exempt physicians at Uniformed Services University of the Health Sciences from reductions in retired pay.

Sec. 506. Treatment of excess leave upon reenlistment.
Sec. 507. Termination of gender-based distinctions in promotions of officers of the Naval Reserve and Marine Corps Reserve.
Sec. 508. Senate confirmation of certain general and flag officer positions.
Sec. 509. Position of Staff Judge Advocate to the Commandant of the Marine Corps.
Sec. 510. Technical correction relating to personnel administration at Air Force Institute of Technology.
Sec. 511. Temporary increase in the number of general and flag officers authorized to be on active duty in three- and four-star grades.
Sec. 512. Study on staffing of critical wartime medical specialities.
Sec. 513. Study of representation of religious faiths in the Armed Forces.

PART B—RESERVE FORCES

Sec. 521. Increased Presidential authority to augment active forces with the Selected Reserve.
Sec. 522. Active duty of National Guard.
Sec. 523. Treatment of single parents enlisting in Reserve components of the Armed Forces.
Sec. 524. Active-duty status of reserve component members in a captive status.

PART C—CIVILIAN PERSONNEL

Sec. 531. Waiver of civilian personnel ceilings for fiscal year 1987.
Sec. 532. Prohibition on managing civilian personnel by end-strengths during fiscal year 1987.
Sec. 533. Prohibition on controlling personnel not funded by Government.
Sec. 534. Reduction in number of years person must be off active duty before appointment as Service Secretary.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

PART A—PAY AND ALLOWANCES

Sec. 601. Military pay raise for fiscal year 1987.
Sec. 602. Authority to pay ROTC members in advance for field training.
Sec. 603. Reimbursement for accommodations in place of quarters.
Sec. 604. Pay, allowances, and benefits for members of the reserve components.

PART B—TRAVEL AND TRANSPORTATION

Sec. 611. Transportation of motor vehicles for members making permanent changes of station.
Sec. 612. Coordination of permanent change of station moves with school year.
Sec. 613. Authorization limit on funds for PCS travel.
Sec. 614. Reimbursement for actual lodging expenses plus per diem for members entitled to travel allowances.
Sec. 615. Transportation and travel allowances for escorts for certain dependents.
Sec. 616. Travel expenses for overseas dependents requiring medical care in certain circumstances.
Sec. 617. Per diem for dependents receiving transportation allowance.
Sec. 618. Modification of family separation allowance.
Sec. 619. Improved dislocation allowance.
Sec. 620. Transportation and storage of household goods.

PART C—BONUSES AND SPECIAL AND INCENTIVE PAYS

Sec. 631. Enhanced aviation officer continuation pay.
Sec. 632. Inclusion of aviation cadets under aviation career incentive pay.
Sec. 633. Special authority relating to the payment of Selected Reserve enlistment bonus.
Sec. 634. Special pay for members proficient in foreign languages.

PART D—BENEFITS FOR SURVIVORS AND FORMER SPOUSES

Sec. 641. Court-ordered survivor annuities for former spouses.
Sec. 642. Annuity for a dependent child.
Sec. 643. Age at which remarriage terminates spouse survivor benefit.
Sec. 644. Revision of definition of disposable retired pay for purposes of court orders.
Sec. 645. Revision of open period to elect former spouse and child coverage.
Sec. 646. Extension of medical benefits for certain former spouses.

PART E—MISCELLANEOUS BENEFITS

Sec. 651. Tuition assistance for Army reserve component officers.
Sec. 652. Benefits for dependents of certain sentenced, discharged, or dismissed members.
Sec. 653. Improved employment opportunities for military spouses.
Sec. 654. Retirement credit for certain former National Guard technicians.
Sec. 655. Meal reimbursement for nonprofit youth groups residing at military installations.
Sec. 656. Limited use of commissary stores by members of the Selected Reserve.

PART F—ADMINISTRATION OF PERSONNEL BENEFITS

Sec. 661. Enhanced method for determining true costs of military retirement.
Sec. 662. Authority to pay bank charges in the event of Government error in mandatory direct deposit of members' pay.
Sec. 663. Cost reductions for fiscal year 1987.

TITLE VII—HEALTH-CARE MANAGEMENT REFORM

Sec. 701. Improvement of military health-care delivery system.
Sec. 702. CHAMPUS reform initiative.
Sec. 703. CHAMPUS catchment areas.
Sec. 704. Medical information systems acquisition.
Sec. 705. Confidentiality of medical quality assurance records.
Sec. 706. Use of Public Health Service hospitals as facilities of the uniformed services.
Sec. 707. Limitation on dental insurance program.

TITLE VIII—UNIFORM CODE OF MILITARY JUSTICE

Sec. 801. Short title; references to Uniform Code of Military Justice.
Sec. 802. Defense of lack of mental responsibility.
Sec. 803. Application for enlisted members to serve on court-martial.
Sec. 804. Court-martial jurisdiction over Reserve members.
Sec. 805. Statute of limitations.
Sec. 806. Time for defense post-trial submissions.
Sec. 807. Detail of judge advocates.
Sec. 808. Effective date.

TITLE IX—PROCUREMENT POLICY REFORM

Sec. 900. Short title.

PART A—MANAGEMENT OF THE ACQUISITION PROCESS

Sec. 901. Duties and precedence of Under Secretary of Defense for Acquisition.
Sec. 902. Establishment of position of Deputy Under Secretary of Defense for Acquisition.
Sec. 903. Other senior civilian acquisition officials.
Sec. 904. Enhanced program stability for major defense acquisition programs.
Sec. 905. Defense enterprise programs.
Sec. 906. Milestone authorization of defense enterprise programs.
Sec. 907. Preference for nondevelopmental items.
Sec. 908. Requirements relating to undefinitized contractual actions.

Sec. 909. Competitive prototype strategy requirement for major defense acquisition programs.
Sec. 910. Testing of certain weapon systems and munitions.
Sec. 911. Goals for increased use of multiyear contracting authority in fiscal year 1988.
Sec. 912. Federally funded research and development centers.

PART B—REQUIREMENTS RELATING TO THE ACQUISITION PROCESS

Sec. 921. Small business set-asides.
Sec. 922. Thresholds for certain requirements relating to small purchases.
Sec. 923. Requirements relating to procedures other than competitive procedures.
Sec. 924. Evaluation factors in award of contracts.
Sec. 925. Computation of contract bid prices.
Sec. 926. Prices for spare or repair parts sold commercially.
Sec. 927. Allocation of overhead to parts to which contractor has added little value.
Sec. 928. Clarification of requirements to mark supplies to identify suppliers and sources.

PART C—PROCUREMENT PERSONNEL POLICY

Sec. 931. Conflict-of-interest in defense procurement.
Sec. 932. Plan for enhancement of professionalism of acquisition personnel.
Sec. 933. Educational requirements for acquisition personnel.
Sec. 934. Plan for coordination of defense acquisition educational programs.

PART D—REQUIREMENTS RELATING TO DEFENSE CONTRACTORS

Sec. 941. Codification and extension of prohibition on persons convicted of defense-contract related felonies and related criminal penalty on defense contractors.
Sec. 942. Protection of contractor employees from reprisal for disclosure of certain information.
Sec. 943. Revision of work measurement provisions.

PART E—MISCELLANEOUS

Sec. 951. Contracting with firms owned or controlled by governments that support terrorism.
Sec. 952. Truth-in-Negotiations Act Amendments.
Sec. 953. Rights in technical data.
Sec. 954. Recovery of costs to provide technical data.
Sec. 955. Comparable budgeting for similar systems.
Sec. 956. Funding of procurement technical assistance programs serving distressed areas.
Sec. 957. Subcontractor information to be provided to procurement outreach centers.

PART F—MISCELLANEOUS REPORTS

Sec. 961. Selected Acquisition Reports.
Sec. 962. Report on efforts to increase defense contract awards to Indian-owned businesses.
Sec. 963. Report on increased geographic distribution on defense contractors.

TITLE X—MATTERS RELATING TO ARMS CONTROL

Sec. 1001. Sense of the Congress relating to SALT II compliance.
Sec. 1002. Sense of the Congress on nuclear testing.
Sec. 1003. Report by the Chairman of the Joint Chiefs of Staff on United States non-compliance with existing strategic offensive arms agreements.
Sec. 1004. Sense of Congress expressing support for a central role for nuclear risk reduction centers.

TITLE XI—MATTERS RELATING TO NATO

Sec. 1101. Modernization of defense capabilities of countries of NATO's southern flank.
Sec. 1102. NATO cooperative logistic support agreements.
Sec. 1103. Cooperative projects.
Sec. 1104. Acquisition and cross-servicing agreements.
Sec. 1105. Cooperative research and development with non-NATO allies and other friendly countries.

TITLE XII—DEPARTMENT OF DEFENSE MANAGEMENT

PART A—MANAGEMENT OF CERTAIN PROCUREMENT MATTERS

Sec. 1201. Contracts for overhaul, repair, and maintenance of naval vessels.
Sec. 1202. Handling of hazardous waste generated during repair or maintenance of naval vessels.
Sec. 1203. Limitation on transfer of certain technical data packages.
Sec. 1204. Requirements concerning transportation of members of the Armed Forces by chartered aircraft.
Sec. 1205. Fuel sources for heating systems on military installations.
Sec. 1206. Review of the security administration in defense industry of Department of Defense special access programs.
Sec. 1207. Contract goal for minorities.
Sec. 1208. Manpower estimates for major defense acquisition programs.

PART B—ECONOMY AND EFFICIENCY

Sec. 1221. Increase in threshold applicable to statutory contracting-out procedures.
Sec. 1222. Prohibition on contracts for performance of firefighting and security functions.
Sec. 1223. Contracting out the performance of Department of Defense supply and service functions.
Sec. 1224. Reports on savings or costs from increased use of civilian personnel.

TITLE XIII—GENERAL PROVISIONS

PART A—FINANCIAL MATTERS

Sec. 1301. Transfer authority.
Sec. 1302. Authorization of appropriations for civilian pay and contingencies.
Sec. 1303. Authorization of appropriations for foreign currency purchases.
Sec. 1304. Special Defense Acquisition Fund.
Sec. 1305. Limitation on obligation of fiscal year 1985 and fiscal year 1986 funds.
Sec. 1306. Applicability of limitations on fiscal year 1987 obligations.
Sec. 1307. Reports on unobligated balances.
Sec. 1308. Report on defense budgeting and contract procedures for inflation.
Sec. 1309. Debt collection.
Sec. 1310. Contingent reduction of authorization of appropriations.

PART B—SPECIAL OPERATIONS MATTERS

Sec. 1311. Special operations forces.
Sec. 1312. Special operations airlift.

PART C—AUTHORIZATION OF PAYMENT OF CERTAIN EXPENSES WITH RESPECT TO DEVELOPING COUNTRIES

Sec. 1321. Authority to pay expenses of developing countries for participation in combined military exercises.
Sec. 1322. Authority to pay certain expenses of defense personnel of foreign countries.

PART D—MISCELLANEOUS REPORTS

Sec. 1331. Army National Guard reporting.
Sec. 1332. Submarine overhaul study.

Sec. 1333. Report on landing area for AV-8B Harrier aircraft on Iowa-class battleship.
Sec. 1334. Report on cleanup of National Presto Industries.

PART E—TECHNICAL AND CLERICAL AMENDMENTS

Sec. 1341. Technical correction to Department of Defense Authorization Act, 1985.
Sec. 1342. Technical corrections to provisions enacted by Department of Defense Authorization Act, 1986.
Sec. 1343. Clerical amendments.

PART F—MISCELLANEOUS

Sec. 1351. Limitation on source of funds for Nicaraguan democratic resistance.
Sec. 1352. Budget accounting for new space shuttle.
Sec. 1353. Prompt reporting of intelligence on terrorist threats.
Sec. 1354. Use of marine mammals for national defense purposes.
Sec. 1355. Reimbursement for incidental expenses incurred while providing voluntary services.
Sec. 1356. Defense of legal malpractice suits.
Sec. 1357. Off-post rental housing lease indemnity pilot program.
Sec. 1358. Wage rate for certain Corps of Engineers employees.
Sec. 1359. Reimbursement for transferred defense industrial reserve equipment.
Sec. 1360. Extension of exemption for DOD polygraph test.
Sec. 1361. Identification of facilities for the detention of certain aliens.
Sec. 1362. Correctional facilities at Fort Riley, Kansas.
Sec. 1363. Minuteman Education Program.
Sec. 1364. Foreign espionage activities in the United States.
Sec. 1365. Civil Air Patrol.
Sec. 1366. Amendment of Military Selective Service Act to provide eligibility for benefits to certain persons who fail to register.
Sec. 1367. Correction of effects of contamination at Rocky Mountain Arsenal.
Sec. 1368. Sense of Congress regarding the death of Lieutenant Colonel Arthur D. Nicholson, Junior.
Sec. 1369. Deadline for appointment of members of Commission on Merchant Marine and Defense.
Sec. 1370. Availability of nuclear non-proliferation information to Department of Defense.
Sec. 1371. Nuclear winter study and report.
Sec. 1372. Sale of two naval vessels.
Sec. 1373. Drug interdiction.
Sec. 1374. Grants to the Henry M. Jackson Foundation.
Sec. 1375. Budget accounting for new space shuttle.

TITLE XIV—BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION PROGRAM

Sec. 1401. Short title.
Sec. 1402. Findings.
Sec. 1403. Definitions.
Sec. 1404. Establishment of the Barry Goldwater Scholarship and Excellence in Education Foundation.
Sec. 1405. Barry Goldwater Scholarship and Excellence in Education Awards.
Sec. 1406. Stipends.
Sec. 1407. Scholarship conditions.
Sec. 1408. Barry Goldwater Scholarship and Excellence in Education Fund.
Sec. 1409. Expenditures from the Fund.
Sec. 1410. Executive secretary.
Sec. 1411. Administrative provisions.
Sec. 1412. Authorization of appropriations.

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

SEC. 101. ARMY

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 1987 for procurement for the Army as follows:

(1) For aircraft, $2,725,500,000.

(2) For missiles, $2,150,900,000.

(3) For weapons and tracked combat vehicles, $3,888,100,000.

(4) For ammunition, $2,126,100,000.

(5) For other procurement, $5,112,753,000, of which—

(A) $787,200,000 is for tactical and support vehicles;

(B) $3,083,953,000 is for communications and electronics equipment; and

(C) $1,355,500,000 is for other support equipment.

(b) LIMITATION ON OBLIGATIONS.—The maximum amount that may be obligated from a procurement account of the Army for fiscal year 1987 is the amount authorized to be appropriated for such account under subsection (a).

SEC. 102. NAVY AND MARINE CORPS

(a) AIRCRAFT.—(1) Funds are hereby authorized to be appropriated for procurement of aircraft for the Navy for fiscal year 1987 in the amount of $9,828,069,000.

(2) The maximum amount that may be obligated for procurement of aircraft for the Navy for fiscal year 1987 is the amount authorized to be appropriated under paragraph (1).

(b) WEAPONS.—(1) Funds are hereby authorized to be appropriated for fiscal year 1987 in the total amount of $5,449,968,000 for procurement of weapons (including missiles and torpedoes) for the Navy.

(2) Funds appropriated or otherwise made available for procurement of weapons (including missiles and torpedoes) for the Navy for fiscal year 1987 may not be obligated in excess of the following amounts:

(A) For missile programs, $4,587,563,000.

(B) For torpedo programs:

For the MK-48 torpedo program, $254,770,000.

For the MK-46 torpedo program, $97,861,000.

For the MK-60 CAPTOR mine program, $30,000,000.

For the MK-50 torpedo program, $94,937,000.

For the antisubmarine rocket (ASROC) program, $13,597,000.

For the vertical Launched ASROC program, $74,289,000.

For the modification of torpedoes and related equipment, $97,705,000.

For the torpedo support equipment program, $32,496,000.

For the antisubmarine warfare range support program, $20,114,000.

(C) For other weapons:

For the MK-15 close-in weapon system program, $105,606,000.

For the MK-75 76-millimeter gun mount program, $14,875,000.

For other weapons programs, $72,721,000.

(D) For spares and repair parts, $150,734,000.

(c) SHIPBUILDING AND CONVERSION.—(1) Funds are hereby authorized to be appropriated for fiscal year 1987 for shipbuilding and conversion for the Navy in the total amount of $10,607,100,000.

(2) Funds appropriated or otherwise made available for shipbuilding and conversion for fiscal year 1987 may not be obligated in excess of the following amounts:

For the Trident submarine program, $1,446,400,000.

For the SSN-688 nuclear attack submarine program, $2,250,800,000.

For the SSN-21 nuclear attack submarine program, $454,300,000.

For the aircraft carrier service life extension program (SLEP), $83,500,000.

For the CG-47 Aegis cruiser program, $2,725,600,000.

For the DDG-51 guided missile destroyer program, $2,470,100,000.

For the LHD-1 amphibious assault ship program, $35,000,000.

For the TAO-187 fleet oiler program, $259,000,000.

For the TAGOS ocean surveillance ship program, $148,100,000.

For the AOE fast combat support ship program, $499,000,000.

For the AO (Jumbo) conversion program, $32,000,000.

For the oceanographic research ship program, $33,000,000.

For the strategic sealift and sealift enhancement ready reserve program, $48,500,000.

For the TACS auxiliary crane ship program, $61,100,000.

For service craft and landing craft, $58,900,000.

For ship contract design, $69,400,000.

For outfitting and post delivery, $393,900,000.

(d) OTHER PROCUREMENT, NAVY.—(1) Funds are hereby authorized to be appropriated for fiscal year 1987 for other procurement for the Navy in the amount of $5,826,942,000.

(2) Funds appropriated or otherwise made available for other procurement for the Navy for fiscal year 1987 may not be obligated in excess of the following amounts:

(A) For the ship support equipment program, $1,002,366,000.

(B) For the communications and electronics equipment program, $1,944,630,000.

(C) For aviation support equipment, $820,692,000.

(D) For the ordnance support equipment program, $1,169,120,000.

(E) For civil engineering support equipment, supply support equipment, and command support equipment, $708,442,000.

(F) For spares and repair parts, $302,392,000.

(e) MARINE CORPS.—(1) Funds are hereby authorized to be appropriated for fiscal year 1987 for procurement for the Marine Corps in the amount of $1,477,408,000.

(2) Funds appropriated or otherwise made available for procurement for the Marine Corps for fiscal year 1987 may not be obligated in excess of the amount authorized to be appropriated in paragraph (1).

(f) P-3 AIRCRAFT.—(1) Of the amount appropriated to the Navy for fiscal year 1987 for procurement of P-3C aircraft, not more than $120,000,000 is available for modification of existing P-3 aircraft.

(2) From funds appropriated or otherwise made available to the Navy for procurement of aircraft for fiscal year 1987, the Secretary of the Navy may not obligate more than a total of $359,400,000 for—

(A) procurement of P-3C aircraft; and

(B) modifications to existing P-3 aircraft.

(3) Of the P-3 aircraft procured by the Navy with funds appropriated to the Navy for procurement of aircraft for fiscal year 1986 or 1987, the Secretary of the Navy may use two such aircraft to carry out obligations of the United States under the classified Maritime Surveillance Agreement of 1986.

SEC. 103. AIR FORCE

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 1987 for procurement of aircraft and missiles and for other procurement for the Air Force as follows:

(1) For aircraft, $17,018,632,000.

(2) For missiles, $7,570,472,000.

(3) For other procurement, $9,180,923,000, of which—

(A) $1,101,029,000 is for munitions and associated support equipment;

(B) $300,196,000 is for vehicular equipment;

(C) $2,461,159,000 is for electronics and telecommunications equipment; and

(D) $5,588,539,000 is for other base maintenance and support equipment.

(b) LIMITATION ON OBLIGATIONS.—The maximum amount that may be obligated from a procurement account of the Air Force for fiscal year 1987 is the amount authorized to be appropriated for such account under subsection (a) plus, in the case of the appropriation account "Other Procurement, Air Force", the amount of $77,900,000.

SEC. 104. DEFENSE AGENCIES

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 1987 for the Defense Agencies in the amount of $1,418,660,000.

(b) LIMITATION OF OBLIGATION.—Funds appropriated or otherwise made available for procurement for fiscal year 1987 for the Defense Agencies may not be obligated in excess of the amount authorized to be appropriated in subsection (a).

SEC. 105. RESERVE COMPONENTS

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 1987 for procurement of aircraft, vehicles, communications equipment, and other miscellaneous equipment for the reserve components of the Armed Forces as follows:

For the Army National Guard, $147,500,000.

For the Air National Guard, $50,000,000.

For the Army Reserve, $90,000,000.

For the Naval Reserve, $61,000,000.

For the Air Force Reserve, $150,000,000.

For the Marine Corps Reserve, $65,000,000.

(b) AUTHORIZATIONS IN ADDITION TO OTHER AMOUNTS.—The authorizations of appropriations contained in subsection (a) are in addition to any other amounts authorized to be appropriated by this or any other Act.

(c) FY87 LIMITATION ON OBLIGATIONS FOR UNBUDGETED ITEMS.—Of the amount appropriated or otherwise made available to the Department of Defense for fiscal year 1987 for procurement, not more than

$563,500,000 may be obligated or expended for procurement of equipment for the reserve components of the Armed Forces (including the National Guard) for items not included in the President's budget for fiscal year 1987, as set forth in the budget justification documents submitted to Congress in support of the budget request for the Department of Defense.

(d) FUTURE BUDGET REQUESTS FOR GUARD AND RESERVE EQUIPMENT.—Section 114 of title 10, United States Code (as redesignated by section 101(a) and amended by section 110(b) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended by adding at the end the following new subsection:

Ante, p. 1001.

"(f) In each budget submitted by the President to Congress under section 1105 of title 31, amounts requested for procurement of equipment for the reserve components of the armed forces (including the National Guard) shall be set forth separately from other amounts requested for procurement for the armed forces.".

SEC. 106. EXTENSION OF CERTAIN AUTHORITY PROVIDED THE SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

Effective on October 1, 1986, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97-86; 95 Stat. 1100), is amended by striking out "fiscal year 1986" both places it appears and inserting in lieu thereof "fiscal year 1987".

SEC. 107. MULTIYEAR CONTRACTS FOR FISCAL YEAR 1987

(a) ARMY.—Subject to subsections (d) and (e), the Secretary of the Army may enter into a multiyear contract under section 2306(h) of title 10, United States Code, for the following programs:

(1) UH-60A Blackhawk airframe.

(2) EH-60A Quick Fix airframe.

(3) Patriot missile system.

(4) Stinger air defense missile system.

(b) NAVY.—(1) Subject to subsection (d), the Secretary of the Navy may enter into a multiyear contract under section 2306(h) of title 10, United States Code, for the following programs:

(A) HARM missile system.

(B) MK-45 gun mounts.

(C) MK-6 ammunition hoists.

(2) The Secretary of the Navy may not enter into a multiyear contract for the procurement of the F/A-18 aircraft.

(c) AIR FORCE.—Subject to subsection (d), the Secretary of the Air Force may enter into a multiyear contract under section 2306(h) of title 10, United States Code, for the Defense Support Program.

(d) LIMITATIONS ON AUTHORIZED MULTIYEAR PROCUREMENTS.—The Secretary concerned may not enter into a multiyear contract authorized by this section for a program unless the total anticipated cost for the program over the period of the contract is no more than 88 percent of the total anticipated cost of carrying out such program through annual contracts. In the case of the Defense Support Program, the preceding sentence shall be applied by substituting "80 percent" for "88 percent".

(e) STINGER MISSILE.—(1) The Secretary of the Army may not enter into a contract for the multiyear procurement of the Stinger air defense missile until—

(A) the Secretary—

(i) obtains and evaluates bids for a competitive second source for such missile; and

(ii) certifies to the Committees on Armed Services of the Senate and the House of Representatives that acquisition of such missile from more than one source would be more costly than a multiyear procurement program from a single source; and

(B) the Comptroller General of the United States evaluates the competitive proposals on the basis of which the Secretary made the decision referred to in subparagraph (A)(ii) and submits his evaluation of the estimates to such committees.

(2) The Comptroller General shall submit his evaluation under paragraph (1)(B) not later than 60 days after the date on which the certification of the Secretary under paragraph (1)(A) is received by such committees.

SEC. 108. AIR FORCE FIGHTER COMPETITION

(a) MULTIYEAR CONTRACTS.—Subject to provisions of appropriations Acts, the Secretary of the Air Force may award a multiyear contract, that employs economic order quantity procurement, for the purchase of Air Defense Aircraft in accordance with section 2306(h) of title 10, United States Code, without prior notice to Congress if the results of the competitive source selection demonstrate that—

(1) a multiyear contract will yield significant savings over the amount that would have resulted under an annual contract with the selected offeror; and

(2) those savings have a positive present value.

(b) CANCELLATION CEILING.—Subject to provisions of appropriations Acts, the cancellation ceiling associated with the first year of a multiyear contract under subsection (a) may be carried as an unfunded contingent liability subject to section 2306(h)(5) of title 10, United States Code.

PART B—ARMY PROGRAM LIMITATIONS

SEC. 121. TESTING OF BRADLEY FIGHTING VEHICLE

(a) REQUIRED TESTING.—The Secretary of Defense shall require that testing of the Bradley Fighting Vehicle (including live-fire testing and testing of the operational combat performance) and evaluation of that testing are carried out in accordance with this section.

(b) TEST PLAN FOR SURVIVABILITY ENHANCEMENTS AND OPERATIONAL COMBAT PERFORMANCE.—(1) The Secretary of Defense shall develop a plan for the testing and evaluation of the Bradley Fighting Vehicle required by subsection (a). The plan shall include testing of—

(A) a version of the vehicle configured to include the survivability enhancements for the vehicle proposed by the Army (hereinafter in this section referred to as the "Army vehicle"); and

(B) a version of the vehicle configured to include the concept of the so-called "minimum casualty vehicle" (hereinafter in this section referred to as the "minimum casualty vehicle").

(2) The plan developed under paragraph (1) shall include the following:

(A) A plan for—

(i) live-fire testing of the survivability of the Army vehicle and testing of the operational combat performance of such vehicle; and

(ii) evaluation of such testing.

(B) A plan for—

(i) live-fire testing of the survivability of the minimum casualty vehicle and testing of the operational combat performance of such vehicle; and

(ii) evaluation of such testing.

(C) A plan for comparing the testing and evaluation under subparagraph (A) with the testing and evaluation under subparagraph (B).

(3) The plan under paragraph (1) shall be developed to ensure that the testing of the Bradley Fighting Vehicle is the most realistic and suitable testing, at a reasonable cost, for evaluation of both vehicles.

(4) The aspects of the plan developed under paragraph (1) relating to operational combat performance shall be developed in consultation with the Director of Operational Test and Evaluation of the Department of Defense. The aspects of the plan relating to survivability enhancements shall be developed in consultation the Director of Defense Research and Engineering and the National Academy of Sciences.

(c) CERTIFICATION OF PLAN.—(1) After developing the plan required by subsection (b), the Secretary shall certify to Congress that the plan for the testing of both versions of the Bradley Fighting Vehicle (including the conditions for the testing) is the most realistic and suitable plan, at a reasonable cost, for evaluation of the survivability and the likely operational combat performance of the Army vehicle and the minimum casualty vehicle.

(2) The Comptroller General shall—

(A) review all materials of the Department of Defense used to develop the plan with respect to which the certification under paragraph (1) is made; and

(B) submit to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a report giving the assessment of the Comptroller General as to the realism and suitability of the plan (including the conditions for the testing set forth in the plan) for evaluation of the survivability and the likely operational combat performance of the Army vehicle and the minimum casualty vehicle. Report.

(d) CONDUCT OF TESTING.—The Secretary of the Army shall test both versions of the Bradley Fighting Vehicle in accordance with the plan (including the conditions for the testing set forth in the plan) with respect to which the certification was made.

(e) REVIEW AND OVERSIGHT.—(1) The Director of Operational Test and Evaluation of the Department of Defense shall review the results of the operational testing of the vehicle. The Director of Defense Research and Engineering shall review the results of the survivability testing of the vehicle.

(2) The Director of Operational Test and Evaluation, the Director of Defense Research and Engineering, and the Comptroller General (or members of their respective staffs) shall each observe the conduct of the testing.

(f) REPORTS.—(1) The Secretary of Defense shall submit to Congress a report on the results of the testing of the Bradley Fighting Vehicle under this section. The report shall include such findings and recommendations as the Secretary considers appropriate.

Report.

(2) The Comptroller General shall submit to Congress a report on the testing of the Bradley Fighting Vehicle. The report shall include—

(A) the opinion of the Comptroller General on the adequacy of the testing and on the test results; and

(B) the opinion of the Comptroller General (to the extent appropriate) on the conclusions and recommendations of the Secretary set forth in the report under paragraph (1).

SEC. 122. OTHER LIMITATIONS ON ARMY PROCUREMENT

(a) 120-MILLIMETER MORTAR PROGRAM.—(1) Except as provided in paragraph (3), funds appropriated or otherwise available for procurement for the Army may not be obligated for procurement of 120-millimeter mortars manufactured or assembled outside the United States or for procurement of ammunition manufactured outside the United States for 120-millimeter mortars.

(2) Funds appropriated or otherwise made available for fiscal year 1987 for procurement for the Army may not be obligated for procurement of 120-millimeter mortars until the Secretary of the Army conducts a cost-effectiveness analysis of potential domestic sources for the manufacture of such mortars.

(3) Paragraph (1) does not apply to procurement of mortars required—

(A) for testing, evaluation, or type classification; or

(B) for equipping the Ninth Infantry Division.

(b) MOTORCYCLES.—Funds appropriated or otherwise made available for fiscal year 1987 for procurement for the Army may not be obligated for procurement of motorcycles until the Secretary of the Army certifies to Congress that the acquisition strategy of the Army for procurement of motorcycles includes consideration of—

(1) life-cycle costs;

(2) safety;

(3) maintenance; and

(4) durability.

(c) AIR-TO-AIR STINGER MISSILE.—Funds appropriated or otherwise made available for fiscal year 1987 for procurement of aircraft for the Army may not be obligated for the modification program for the air-to-air Stinger missile until the Secretary of the Army—

(1) establishes a comprehensive acquisition plan for procurement of air-to-air Stinger missiles for Army aircraft; and

Report.

(2) submits a report on such plan to the Committees on Armed Services of the Senate and House of Representatives.

(d) AQUILA REMOTELY PILOTED VEHICLE.—None of the funds appropriated to the Army pursuant to this title may be obligated or expended for the procurement of the Aquila Remotely Piloted Vehicle until—

(1) the Director of Operational Test and Evaluation of the Department of Defense completes a comprehensive assessment of the Aquila system; and

(2) the Secretary of the Army certifies to the Committees on Armed Services of the Senate and House of Representatives that—

(A) the Aquila system has satisfactorily demonstrated that it meets or exceeds all performance criteria established for the system by the Army; and

Contracts.

(B) the Secretary has negotiated a contract that—

(i) provides for procurement of the entire system, and

(ii) limits the overall liability of the United States under the contract.

(e) MOBILE SUBSCRIBER EQUIPMENT PROGRAM.—The total program acquisition cost for the communications and electronics equipment program of the Army known as the Mobile Subscriber Equipment Program (as such program exists on the date of the enactment of this Act) may not exceed $4,300,000,000. If the total program acquisition cost for such program (as it exists on the date of the enactment of this Act) is determined at any time to exceed such amount, the Secretary of the Army shall cancel the program.

PART C—NAVY PROGRAM LIMITATIONS

SEC. 131. REPEAL OF LIMITATION ON DDG-51 DESTROYER PROGRAM

Section 102(h) of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2501), is repealed.

SEC. 132. BASIC POINT DEFENSE MISSILE SYSTEM ON AMPHIBIOUS VESSELS

The Secretary of the Navy shall maintain in an operational status the Basic Point Defense Missile System on any amphibious vessel equipped on the date of the enactment of this Act with such system until a follow-on system, of comparable capability, is available for immediate replacement of the system on such vessel. This section does not apply to a vessel that is retired.

SEC. 133. ROLLING AIRFRAME MISSILE PROGRAM

(a) REQUIRED CERTIFICATION.—(1) None of the funds appropriated or otherwise made available to the Navy for fiscal year 1987 for procurement may be obligated or expended in connection with procurement of the Rolling Airframe Missile program until the Secretary of Defense certifies in writing to the Committees on Armed Services of the Senate and House of Representatives that—

(A) the total amount expended by the Navy for research, development, test, and evaluation for such program will not exceed $219,700,000; Research and development.

(B) the Secretary will terminate the program if at any time he determines that the total Navy research and development cost for the program will exceed the amount specified in subparagraph (A);

(C) the development contractor for the program has offered the Department of Defense a firm fixed-price contract option with no expiration date for an initial quantity of 500 missiles (integrated with the required Government-furnished components and tested to the complete missile level) which will result in a recurring missile unit flyaway cost that does not exceed $145,000 (based on fiscal year 1986 dollars); Contracts.

(D) the recurring missile unit flyaway cost for a minimum of 4,900 missiles will not exceed $100,000 (based on fiscal year 1986 dollars);

(E) the design of the Rolling Airframe Missile and its unique support equipment are complete and the system performance has not been degraded from the original development specifications (as contained in Navy Decision Coordinating Paper No. SO-167-AA);

(F) the Director of Operational Test and Evaluation of the Department of Defense has approved a test and evaluation master plan for the Rolling Airframe Missile program; and

Federal Republic of Germany.

(G) the contractor for the production contract for the program has agreed to provide to the United States, at no additional cost to the United States or to the Federal Republic of Germany, a complete data package containing no manufacturing or proprietary data rights of the contractor in conjunction with a license to the United States under which rights are granted to enable a second source contractor designated by the United States to manufacture and sell to the United States or the Federal Republic of Germany on a royalty-free basis, and to enable the United States and the Federal Republic of Germany to use, on a royalty-free basis, the Ex-44 Guided Missile Round Pack consisting of guidance and control section, tail assembly, and canister.

Effective date.

(2) If the Secretary of Defense fails to make the certification described in paragraph (1) before April 1, 1987, the Secretary shall terminate the program effective on that date.

(b) REPEAL.—Subsection (d) of section 205 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 608), is repealed.

PART D—AIR FORCE PROGRAM LIMITATIONS

SEC. 141. ADVANCED TECHNOLOGY BOMBER

Report.

(a) ACQUISITION STRATEGY.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report describing the acquisition strategy of the Secretary for the Advanced Technology Bomber program.

(2) Except as provided in subsection (b), the acquisition strategy described in the report shall include an analysis of alternatives for limiting program costs during production, including the following:

(A) Alternative sources for major systems of the Advanced Technology Bomber.

(B) Alternative sources for major subsystems of the bomber.

(C) Competition during the integration and assembly of the bomber.

(D) A limitation on the total program cost for 132 Advanced Technology Bomber aircraft.

(3) The report under paragraph (1) shall include the recommendations of the Secretary with respect to the choice and timing of such alternatives.

(4) The report under paragraph (1) shall be submitted not later than the date on which the President submits the budget to Congress for fiscal year 1988.

(b) EXCEPTION FOR COMPETITIVE ALTERNATIVE SOURCE REQUIREMENT.—(1) The Secretary of Defense need not recommend the implementation of any of the alternatives if the Secretary determines that the application of those alternatives to control program costs would—

(A) increase the total cost of the program;

(B) result in unacceptable delays in fulfilling the needs of the Department of Defense; or

(C) be adverse to the national security interests of the United States.

(2) If the Secretary makes a determination under paragraph (1), the report of the Secretary under subsection (a) shall include—

(A) a notice of such determination; and

(B) documentation in support of such determination, including comparative cost and schedule estimates and other background material.

(c) LIMITATION ON AMOUNT AVAILABLE FOR FY87.—The Secretary of Defense may not obligate funds appropriated for fiscal year 1987 for the Advanced Technology Bomber in an amount greater than the amount appropriated for such program for fiscal year 1986 until the Secretary submits the report described in subsection (a).

(d) REVISIONS TO ACQUISITION STRATEGY.—After the report required by subsection (a) is submitted, the Secretary of Defense may not implement a revision to the acquisition strategy described in the report until—

(1) the Secretary submits to the committees named in that subsection a report describing the proposed revision; and Report.

(2) a period of 60 days passes after the date on which the report on the revision is received by the committees.

(e) FINANCIAL ANALYSIS.—(1) In determining for purposes of subsection (a) the appropriate amount for a limitation on the total program cost for the development and production of 132 Advanced Technology Bomber aircraft, the Secretary of Defense shall conduct a detailed financial analysis on the projected cost of such development and production.

(2) Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report setting forth the results of the analysis required under paragraph (1), including the current estimate of the projected total cost for the development and production of 132 Advanced Technology Bomber aircraft. Report.

(3) The Secretary shall submit a copy of the report under paragraph (2) to the Comptroller General of the United States for review. The Secretary shall make available to the Comptroller General such additional data and information as the Comptroller General requires for the purposes of such review. A report by the Comptroller General concerning data and information provided under this paragraph may, consistent with the classification of such report, be provided to Congress. Any such report shall be prepared with due regard to the sensitivity of the information received from the Secretary in such manner as will avoid disclosure of data or information which could adversely affect ongoing contract negotiations or the national security. Contracts.

SEC. 142. PROHIBITION ON USING FUNDS AUTHORIZED FOR THE ADVANCED TECHNOLOGY BOMBER AND THE ADVANCED CRUISE MISSILE PROGRAMS FOR ANY OTHER PURPOSE AND LIMITATION ON THE B-1B BOMBER FLEET TO 100 AIRCRAFT

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the capabilities inherent in the technologies associated with the Advanced Technology Bomber and the Advanced Cruise Missile Program are a critical national security asset for maintaining an adequate and credible deterrent posture;

(2) such technologies and programs should be developed as rapidly as feasible in order to produce and deploy advanced systems which will complicate the military planning of the Soviet Union and as a consequence enhance the deterrent posture of the United States; Union of Soviet Socialist Republics.

(3) such technologies and programs should be funded at the levels authorized in this Act; and

(4) all the funds appropriated for such programs should be fully used for such programs.

(b) ATB AND ACM PROGRAMS.—Funds appropriated to the Department of Defense for fiscal year 1987 to carry out the Advanced Technology Bomber Program may not be used for any other purpose. Funds appropriated to the Department of Defense for fiscal year 1987 to carry out the Advanced Cruise Missile Program may not be used for any other purpose.

(c) B-1B AIRCRAFT.—Funds appropriated to the Department of Defense may not be used for procurement (including procurement of long-lead items, materials, systems, or subsystems) of the B-1B bomber aircraft beyond the 100 such bombers authorized by law before the date of the enactment of this Act.

SEC. 143. C-17 AIRCRAFT PROGRAM

Of the funds appropriated to the Air Force for procurement of the C-17 aircraft for fiscal year 1987, not more than $64,000,000 may be obligated before April 15, 1987.

SEC. 144. ADVANCED MEDIUM-RANGE AIR-TO-AIR MISSILE PROGRAM

(a) CONDITIONS FOR LOW-RATE PRODUCTION.—Funds appropriated or otherwise made available for fiscal year 1987 for procurement of missiles for the Air Force may not (except as provided under subsection (c)) be obligated for low-rate production procurement of the Advanced Medium-Range Air-to-Air Missile (AMRAAM) until—

(1) the Secretary of the Air Force evaluates the results of the flight tests of the performance of the missile in comparison with the Milestone IIIA Low Rate Initial Production Go-Ahead decision criteria contained in the November 27, 1985, Appendix 1 to Annex B of the AMRAAM Decision Coordinating Paper; and

Report.

(2) the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report describing such test results and the Secretary's evaluation of such test results under paragraph (1).

(b) TESTING OF PRODUCIBILITY ENHANCEMENTS.—The Secretary of the Air Force shall test producibility enhancements for such missile before such enhancements are incorporated into production missiles.

(c) LIMITATION ON LONG-LEAD PROCUREMENT.—Of the amount described in subsection (a), not more than $170,000,000 may be obligated for long-lead procurement of such missiles without regard to the limitation in such subsection.

(d) TOTAL PROCUREMENT COST.—The cost of procurement of such missile may not exceed $7,000,000,000 (in fiscal year 1984 dollars), based upon procurement of 24,000 missiles. The amount of the limitation in the preceding sentence may be adjusted to reflect the effects of congressional funding actions on the established program. Notice of any such adjustment shall be provided to Congress in the next report submitted with respect to such missile program under section 2432 of title 10, United States Code, relating to Selected Acquisition Reports.

Report.

SEC. 145. T-46 AIRCRAFT PROGRAM

(a) COMPETITION FOR TRAINER AIRCRAFT.—(1) No funds may be obligated or expended for the procurement of the T-46 trainer

aircraft until the Secretary of the Air Force conducts a competition evaluating the cost and performance of the following:

(A) The proposed T-46A trainer aircraft.

(B) The existing T-37 trainer aircraft.

(C) An upgraded T-37 trainer aircraft.

(D) Any other aircraft capable of meeting Air Force training requirements.

(2) The competition described in paragraph (1) shall include a fly-off between the T-37, T-46, and any other candidate aircraft for such competition.

(3) Any funds appropriated to the Air Force for fiscal year 1986 for the T-46 aircraft program and which remain available for obligation may be used for the purpose of conducting the competition referred to in paragraph (1).

(b) LIMITATION ON FISCAL YEAR 1987 FUNDS.—Funds appropriated to the Air Force for fiscal year 1987 may not be used for procurement of the T-46 aircraft.

PART E—CHEMICAL WEAPONS

SEC. 151. AUTHORIZATION OF APPROPRIATIONS FOR CHEMICAL DEMILITARIZATION PROGRAM

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated to the Secretary of Defense for fiscal year 1987 for the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 747), in the amount of $120,100,000. 50 USC 1521.

(b) LIMITATION OF OBLIGATION.—Funds appropriated or otherwise made available for procurement for fiscal year 1987 for the program described in subsection (a) may not be obligated in excess of the amount authorized to be appropriated in that subsection.

SEC. 152. LIMITATION ON THE EXPENDITURE OF FUNDS FOR THE BIGEYE BINARY CHEMICAL BOMB

(a) LIMITATION ON FISCAL YEAR 1987 FUNDS.—Before October 1, 1987, funds appropriated for fiscal year 1987 for procurement of the BIGEYE binary chemical bomb may not be obligated—

(1) for procurement (including procurement of components) of such bomb; or

(2) for assembly of such bomb.

(b) LIMITATION ON FINAL ASSEMBLY.—Before October 1, 1988, funds appropriated or otherwise made available to the Department of Defense may not be obligated or expended for the final assembly of complete BIGEYE binary chemical bombs.

(c) LIMITATION ON FISCAL YEAR 1986 FUNDS FOR PRODUCTION FACILITIES.—(1) Of the funds appropriated for fiscal year 1986 for production facilities for the BIGEYE binary chemical bomb, not more than $90,000,000 may be obligated or expended. None of such amount may be obligated or expended until the President certifies to Congress that— President of U.S. Defense and national security.

(1) production of the BIGEYE binary chemical bomb is in the national security interests of the United States; and

(2) the design, planning, and environmental requirements for such facilities have been satisfied.

(d) GAO MONITORING AND REPORT.—(1) The Secretary of Defense shall provide for the involvement of the Comptroller General in monitoring the operational testing of the BIGEYE bomb.

(2) After any such testing is completed, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on such testing. The report shall include an assessment of such testing and any comments the Comptroller General considers appropriate.

(e) REPORT ON LONG-RANGE STANDOFF CHEMICAL MUNITIONS.—(1) The Secretary of Defense shall submit to Congress a report on the military requirements for long-range standoff chemical weap ns. The report shall address the military advantages and disadvantages of such weapons and the potential of such weapons to complement the currently planned binary chemical weapon systems.

(2) Such report shall be submitted not later than March 15, 1987.

SEC. 153. CHEMICAL WEAPONS, AGENTS, OR COMPONENTS AT LEXINGTON-BLUEGRASS DEPOT

Kentucky.

(a) PROHIBITION ON SHIPMENTS TO DEPOT.—No chemical weapons, agents, or components used in chemical weapons may be shipped into the Lexington-Bluegrass Depot in Richmond, Kentucky, for any purpose, including disposal.

(b) PROHIBITION ON FUTURE USE OF DEPOT.—After disposal of the chemical weapons stockpile stored at the Lexington-Bluegrass Depot, as required by section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99-145), the depot may not be used for assembly, construction, testing, storage, or disposal of any chemical or biological weapon.

50 USC 1521.

Defense and national security.

(c) WAIVER AUTHORITY.—The Secretary of Defense may waive the provisions of subsection (a) or (b) if the Secretary determines that such a waiver is in the national security interest of the United States.

SEC. 154. REPORT ON CHEMICAL WEAPONS DEMILITARIZATION PROGRAM

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the chemical weapons demilitarization program required by section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 747). The report shall describe—

50 USC 1521.

(1) methods for carrying out such program that would optimize safety considerations; and

(2) methods for carrying out such program that would optimize cost-effectiveness considerations.

(b) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than February 1, 1987

SEC. 155. TECHNICAL AMENDMENT TO PUBLIC LAW 99-145 RELATING TO BINARY CHEMICAL MUNITIONS

Section 1411(b)(1) of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 745), is amended by striking out "North Atlantic Council" and inserting in lieu thereof "Defense Planning Committee of the North Atlantic Treaty Organization meeting in permanent session".

TITLE II—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

PART A—AUTHORIZATION OF APPROPRIATIONS AND PROGRAM LIMITATIONS

SEC. 201. AUTHORIZATION OF APPROPRIATIONS

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal year 1987 for the use of the Armed Forces for research, development, test, and evaluation in amounts as follows:

(1) For the Army, $4,712,729,000.

(2) For the Navy (including the Marine Corps), $9,294,106,000.

(3) For the Air Force, $15,019,084,000.

(4) For the Defense Agencies, $7,189,633,000, of which—

(A) $133,800,000 is authorized for the activities of the Deputy Under Secretary of Defense, Test and Evaluation; and

(B) $11,300,000 is authorized for the Director of Operational Test and Evaluation.

(b) LIMITATION ON OBLIGATIONS.—The maximum amount that may be obligated from an account for which funds are authorized to be appropriated in subsection (a) is the amount authorized to be appropriated for such account under that subsection plus any amount authorized for such account under subsection (b) plus the following:

(1) For the Army, $5,830,000.

(2) For the Navy, $72,000.

(3) For the Air Force, $2,400,000.

SEC. 202. LIMITATION ON COPPERHEAD GUIDED PROJECTILE

(a) REQUIREMENT FOR SECOND SOURCE.—The Secretary of the Army may not enter into a contract for any product improvement or modification to the Copperhead Guided Projectile until the Secretary of Defense submits to Congress a written certification that— Contract.

(1) a competition for a second source for production of such projectile has been conducted; and

(2) a second source for production of such projectile has been selected.

(b) PRODUCT IMPROVEMENT OR MODIFICATION.—For purposes of subsection (a), a product improvement or modification is any change to the production configuration of the Copperhead Guided Projectile in effect on the date of the enactment of this Act.

(c) EXPIRATION OF LIMITATION.—The limitation in subsection (a) expires upon the enactment of a law making appropriations for the Department of Defense for fiscal year 1988.

SEC. 203. LIMITATIONS ON FUNDS FOR THE NAVY

(a) V-22 OSPREY AIRCRAFT.—Of the funds authorized in section 201 for the Navy, not more than $386,871,000 is available for the V-22 Osprey aircraft. Not more than one-half of such amount may be obligated or expended until the Secretary of the Navy certifies to the Committees on Armed Services of the Senate and the House of Representatives in writing that—

(1) such aircraft is capable of performing the antisubmarine warfare mission currently performed by the S-3A aircraft; and

(2) such aircraft is the most cost effective aircraft to perform that mission.

(b) MARINE CORPS PEGASUS ENGINE.—Of the funds appropriated pursuant to authorizations in this title, not less than $8,000,000 shall be used for safety and reliability improvements for the Marine Corps AV-8B aircraft Pegasus engine program.

Report.

(c) AVIONICS RACK FOR S-3 AIRCRAFT.—The Secretary of the Navy shall submit to the Committees on Armed Services of the Senate and the House of Representatives not later than 30 days after the date of the enactment of this Act a report on the manner in which the Navy proposes to correct whatever deficiencies exist in the avionics rack for the S-3 aircraft.

(d) RANKINE CYCLE ENERGY RECOVERY (RACER) SYSTEM.—Of the funds appropriated to the Navy for research, development, test, and evaluation for fiscal year 1987, the sum of $20,000,000 shall be available to the Secretary of Defense for evaluation of the Rankine Cycle Energy Recovery (RACER) system and such testing as the Secretary determines necessary.

(e) LOW-COST SEEKER MISSILE.—Of the funds authorized in section 201 for the Navy, $39,704,000 is available only for the Low-Cost Seeker Missile program.

(f) TRIDENT II PROGRAM.—None of the funds appropriated to the Department of Defense for fiscal year 1987 for the Trident II missile development program or for the procurement of Trident II missiles and related support equipment may be used for any other purpose. In achieving any undistributed reduction required to be made in programs, projects, or activities for which funds have been appropriated to the Department of Defense for fiscal year 1987, the Secretary of the Navy may not reduce the amount of funds available for the program and equipment described in the preceding sentence.

Report.

(g) FUNDS FOR LIBYAN LESSONS-LEARNED EQUIPMENT MODIFICATION.—Of the amount appropriated for research, development, test, and evaluation for the Navy for fiscal year 1987, $50,000,000 may be obligated or expended for programs directly related to the Libyan lessons-learned study, subject to the condition that none of the funds may be obligated or expended for such programs until 30 days after the date on which the Secretary of the Navy submits to the Committees on Armed Services of the Senate and House of Representatives a report explaining the purposes for which the funds are proposed to be used.

SEC. 204. LIMITATIONS ON FUNDS FOR THE AIR FORCE

Report.

(a) SHORT-RANGE ATTACK MISSILE.—None of the funds appropriated to the Department of Defense for fiscal year 1987 for research, development, test, and evaluation may be obligated or expended for the purpose of full-scale development of a new or modified short-range attack missile (SRAM) until the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives a report concerning the short-range attack missile that includes the following:

(1) Data and other information sufficient to compare—

(A) the total program cost, and the effectiveness, of the minimum modification of the existing motors for such missile; with

(B) the total program cost, and the effectiveness, of the development of a new short-range attack missile;

(2) Data and other information sufficient to compare—

(A) the total program cost, and the effectiveness, of the modification of an existing warhead for the short-range attack missile; with

(B) the total program cost, and the effectiveness, of the development of an all new warhead for the short-range attack missile.

(3) The recommendation of the Secretary with respect to the most cost-effective missile and warhead configuration for the short-range attack missile.

(b) LOW-COST SEEKER MISSILE.—Of the funds authorized in section 201 for the Air Force, $17,375,000 is available only for the Low-Cost Seeker Missile program.

(c) SPACE DEFENSE SYSTEM.—Of the amount authorized in section 201 for the Air Force, not more than $200,000,000 is available for the Space Defense System. None of such amount may be used for the production verification of the Miniature Homing Vehicle.

(d) PAVE TIGER/SEEK SPINNER SYSTEM.—Of the funds authorized in section 201 for the Air Force, $80,000,000 is available only for facilitization for production of the Pave Tiger/Seek Spinner System.

SEC. 205. LIMITATION ON FUNDS FOR DEFENSE AGENCIES

(a) MEDICAL APPLICATION OF FREE ELECTRON LASER.—Of the amount authorized in section 201 for the Defense Agencies (including the Strategic Defense Initiative Organization), $15,000,000 may be used only for the application of Free-Electron Lasers for medical research and material.

(b) LASER PANTOGRAPHY.—Of the amount authorized to be appropriated in section 201 for the Defense Agencies for Microwave/Millimeter Wave Monolithic Integrated Circuit Technology efforts, $4,000,000 is available only for the Laser Pantography project.

(c) STRATEGIC TECHNOLOGY.—Of the funds authorized in section 201 for the Defense Agencies, $240,620,000 is available only for the Strategic Technology program. Of such amount, $10,000,000 is available only for independent research in the field of ocean science and related fields to provide an assessment of the possibilities of nonacoustic detection of submarines.

SEC. 206. OTHER LIMITATIONS

(a) ADVANCED FIELD ARTILLERY TACTICAL DATA SYSTEM/MARINE INTEGRATED FIRE AND AIR SUPPORT SYSTEMS, ARMY/NAVY.—(1) Except as provided in paragraph (2), none of the funds appropriated or otherwise made available to the Department of Defense for fiscal year 1987 for research, development, test, and evaluation may be obligated or expended for the development of the Army Advanced Artillery Tactical Data System or the Marine Integrated Fire and Support System (MIFASS) until—

(A) a single program is selected for both the Army and the Marine Corps; or

(B) the Secretary of Defense certifies to Congress, before December 16, 1986, that continuation of both programs is operationally sound and less costly to the United States than the development of a common system for use by both the Army and Marine Corps.

(2) Of the funds referred to in paragraph (1), not more than $3,000,000 may be obligated without regard to the limitation in such paragraph for operational testing of the Marine Integrated Fire and Support System.

(b) ADVANCED TACTICAL AIRCRAFT AND ADVANCED TECHNOLOGY FIGHTER.—(1) The Secretary of the Navy may not obligate funds for the full-scale development of the Navy Advanced Tactical Aircraft program until the Secretary of Defense certifies to Congress that the design selected for the aircraft will accommodate essential Air Force-peculiar requirements for such aircraft.

(2) The Secretary of the Air Force may not obligate funds for the full-scale development of the Air Force Advanced Technology Fighter program until the Secretary of Defense certifies to Congress that the design selected for the aircraft will accommodate essential Navy-peculiar requirements for such aircraft.

(3) After September 30, 1987, funds appropriated to the Department of Defense may not be obligated for the Advanced Tactical Aircraft program of the Navy or the Advanced Technology Fighter program of the Air Force unless the Secretary of Defense certifies to Congress that—

(A) the requirements for both such programs have been finalized; and

(B) such requirements, as finalized, have been agreed to by the Secretary of the Navy, the Secretary of the Air Force, and the Office of the Secretary of Defense.

SEC. 207. ADVANCED ANTI-ARMOR WEAPON SYSTEM

(a) FEASIBILITY DEMONSTRATION OF CANDIDATE SYSTEMS.—Of the funds authorized in section 201 for the Army, $48,735,000 is authorized to be appropriated for the Advanced Anti-Armor Weapon System Medium (AAWS-M) program, but funds may be obligated for such program only if—

(1) the Secretary of the Army begins a prototype feasibility demonstration of not more than three candidate systems for such program, including a true fire-and-forget candidate;

(2) the feasibility demonstration for such a system is capable of being completed within 27 months after the date of the enactment of this Act;

(3) the official responsible for test planning and evaluation for the feasibility demonstration is the Director of Test and Evaluation of the Department of Defense; and

(4) the actual conduct of the feasibility demonstration is carried out jointly by the Army and the Marine Corps.

(b) REQUIREMENT FOR SATISFACTION OF SERVICE ANTI-ARMOR REQUIREMENTS.—The Secretary of Defense may not authorize the initiation of full-scale engineering development of the winning AAWS-M candidate until—

(1) the Secretary of the Army certifies to the Committees on Armed Services and Appropriations of the Senate and House of Representatives that the winning system meets the anti-armor requirement of the Army; and

(2) the Secretary of the Navy, upon recommendation of the Commandant of the Marine Corps, certifies to such Committees that the winning system meets the anti-armor requirement of the Marine Corps.

SEC. 208. ELECTRONIC WARFARE MASTER PLAN

(a) ELECTRONIC WARFARE CONSOLIDATION.—The Under Secretary of Defense for Acquisition shall prepare an Electronic Warfare Master Plan providing policy guidance in electronic warfare to the Secretaries of the military departments. The master plan shall be

coordinated with the policy and fiscal guidance of the Secretary of Defense. The Under Secretary shall submit the master plan to the Committees on Armed Services of the Senate and House of Representatives.

(b) OBLIGATION LIMITATION.—Not more than 80 percent of the amount appropriated to each of the military departments for fiscal year 1987 for research, development, test, and evaluation of electronic warfare systems may be obligated until the Under Secretary of Defense for Acquisition transmits to the committees the Electronic Warfare Master Plan prepared under subsection (a). Research and development.

(c) AMOUNTS AUTHORIZED.—Of the amounts appropriated to the Department of Defense for research, development, test, and evaluation for fiscal year 1987, not less than $100,000,000 shall be available to the Under Secretary of Defense for Acquisition for research, development, test, and evaluation of electronic warfare systems.

SEC. 209. LIMITATION ON TESTING ELECTROMAGNETIC PULSE

During fiscal year 1987, the Secretary of the Navy may not carry out a demonstration test of an electromagnetic pulse in the Chesapeake Bay, Maryland and Virginia, in connection with the Electromagnetic Pulse Radiation Environment Simulator Program for Ships.

PART B—STRATEGIC DEFENSE INITIATIVE

SEC. 211. FISCAL YEAR 1987 FUNDING LEVEL FOR STRATEGIC DEFENSE INITIATIVE

Of the amount authorized in section 201 for research, development, test, and evaluation for the Defense Agencies, not more than $3,213,000,000 is available for the Strategic Defense Initiative (SDI) Program.

SEC. 212. JOINT DEVELOPMENT OF ANTITACTICAL BALLISTIC MISSILE SYSTEM

Of the funds available for the Strategic Defense Initiative under section 211, not more than $50,000,000 shall be available for the joint development, on a matching fund basis, of an anti-tactical ballistic missile system for deployment with NATO allies and other countries that the United States has invited to participate in the Strategic Defense Initiative Program.

SEC. 213. LIMITATION ON ESTABLISHMENT OF A FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER FOR THE STRATEGIC DEFENSE INITIATIVE PROGRAM 10 USC 2431 note.

(a) LIMITATION.—The Secretary of Defense may not obligate or expend any funds for the purpose of operating a Federally funded research and development center that is established for the support of the Strategic Defense Initiative Program after the date of the enactment of this Act unless—

(1) the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report with respect to such proposed center that provides the information described in subsection (b); and Report.

(2) funds are specifically authorized to be appropriated for such purpose after the date of the enactment of this Act in an Act other than—

(A) an appropriations Act; or

(B) a continuing resolution.

(b) CONTENT OF REPORT.—A report submitted under subsection (a)(1) with respect to a proposed center shall include a discussion of—

(1) the ability of existing Federally funded research and development centers, Federal research laboratories, and private contractors to perform the objectives of technological integration and evaluation required by the Strategic Defense Initiative Organization;

(2) the comparative cost of having the proposed work performed by—

(A) the Strategic Defense Initiative Organization;

(B) Federally funded research and development centers in existence on the date of the enactment of this Act;

(C) by Federal research laboratories;

(D) by private contractors; or

(E) by such center;

(3) whether such center is intended to be—

(A) primarily a study and analysis center; or

(B) primarily a system engineering/system integration center;

Contracts.

(4) whether such center will be required or authorized to enter into contracts under which research projects would be performed by other Federally funded research and development centers, Federal research laboratories, or private contractors;

(5) whether the contract to operate such center will be awarded on a competitive basis;

(6) whether proposals with respect to the operation of such center—

(A) will be considered by the appropriate Defense Agency; and

(B) will be subjected to review by persons to be elected by the National Academy of Sciences;

(7) whether such center will be designed to prevent even the possibility of an appearance of a conflict of interest—

(A) by prohibiting any officer, employee, or member of the governing body of such center from holding any position with—

(i) the Strategic Defense Initiative Organization; or

(ii) a private contractor that has a substantial interest in the development of the Strategic Defense Initiative; and

(B) by prohibiting more than one-half of the members of the governing body of the proposed Federally Funded Research Center from simultaneously holding any position with the Strategic Defense Initiative Advisory Committee or any similar body which provides technological, scientific, or strategic advice to the Department of Defense about the Strategic Defense Initiative;

(8) whether other actions will be taken to avoid possible conflict of interest situations within such center;

(9) the role of the Department of Defense in—

(A) the selection of the staff of such center; and

(B) the internal organization of such center; and

(10) whether a prescribed minimum percentage of the annual budget of such center will be set aside for research to be conducted independently of the Department of Defense.

(c) COMPTROLLER GENERAL REPORT.—The Comptroller General of the United States shall also submit a report to Congress providing an analysis of the items in subsection (b) as appropriate.

SEC. 214. REPORT ON PROJECTED COSTS OF SDI PROGRAM

Section 223(b) of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 613), is amended by adding at the end the following: "The Secretary shall include in such report the following information:

"(1) The cost goals or cost objectives for the production and deployment of a Strategic Defense Initiative System determined on the basis of capabilities expected to be developed in the future and the cost goals or cost objectives for the individual components of such system (determined on the basis of capabilities expected to be developed in the future).

"(2) The estimated cost for the production and deployment of the Strategic Defense Initiative System referred to in paragraph (1) and determined on the basis of prices in effect and capabilities in existence at the time of the preparation of the report and the estimated cost for the production and deployment of the individual components of such system (determined on the basis of prices in effect and capabilities in existence at the time of the preparation of the report).".

SEC. 215. REPORT ON STRATEGIC DEFENSE INITIATIVE DEPLOYMENT SCHEDULE

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to Congress a report detailing what Strategic Defense Initiative technologies can be developed or deployed within the next 5 to 10 years to defend against significant military threats and help accomplish critical military missions. The missions to be considered include—

(1) defending United States Armed Forces abroad and United States allies against tactical ballistic missiles, particularly new and highly accurate Soviet shorter range ballistic missiles armed with conventional, chemical, or nuclear warheads;

(2) defending against a limited but militarily effective Soviet attack aimed at disrupting the National Command Authority and other valuable military assets;

(3) providing sufficient warning and tracking information to defend or effectively evade possible Soviet attacks against military satellites including those in high orbits; and

(4) providing early warning and attack assessment information and the necessary survivable command, control, and communication to defend against possible Soviet conventional or strategic attacks.

(b) ADDITIONAL MATERIAL TO BE INCLUDED.—The report shall—

(1) identify any other significant near-term military mission that the application of Strategic Defense Initiative technologies might help accomplish;

(2) list what specific program elements of the Strategic Defense Initiative are pertinent to these applications;

(3) estimate initial operating capability dates for the systems needed to accomplish these missions;

(4) estimate the level of funding necessary for each program to reach these operating capability dates; and

(5) estimate the survivability and cost effectiveness at the margin of these systems against current and projected Soviet threats.

(c) DEADLINE FOR REPORT.—The report under subsection (a) shall be submitted not later than March 15, 1987.

SEC. 216. EFFECT OF STRATEGIC DEFENSE INITIATIVE ON COMPLIANCE WITH THE ANTI-BALLISTIC MISSILE TREATY

(a) FINDINGS.—The Congress makes the following findings:

(1) The President's Commission on Strategic Forces declared in its report to the President, dated March 21, 1984, that "One of the most successful arms control agreements is the Anti-Ballistic Missile Treaty of 1972".

23 UST 3435.

(2) The Secretary of State has stated that the "ABM Treaty requires consultations, and the President has explicitly recognized that any ABM-related deployments arising from research into ballistic missile defenses would be a matter for consultations and negotiations between the Parties".

(3) The Secretary of State declared on October 14, 1985, that "our research program has been structured and, as the President has reaffirmed, will continue to be conducted in accordance with a restrictive interpretation of the treaty's obligations".

(4) The President has determined that the Krasnoyarsk radar is a violation of the ABM Treaty.

(5) The Krasnoyarsk radar therefore erodes the integrity of the ABM Treaty and is a matter of serious concern.

(b) CONGRESSIONAL DECLARATIONS.—The Congress therefore declares—

Union of Soviet Socialist Republics.

(1) that it fully supports the declared policy of the President that a principal objective of the United States in negotiations with the Soviet Union on nuclear and space arms is to reverse the erosion of the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed on May 26, 1972 (commonly referred to as the "ABM Treaty"); and

(2) that action by the Congress in approving funds in this Act for research on the Strategic Defense Initiative—

(A) does not express or imply an intention on the part of Congress that the United States should abrogate, violate, or otherwise erode such treaty; and

(B) does not express or imply any determination or commitment on the part of Congress that the United States develop, test, or deploy ballistic missile strategic defense weaponry that would contravene such treaty.

SEC. 217. REPORT ON THE ANTI-BALLISTIC MISSILE TREATY

(a) REPORT ON LESS RESTRICTIVE INTERPRETATION.—The Secretary of Defense shall submit to Congress a report concerning the effect of the less restrictive interpretation of the Anti-Ballistic Missile Treaty on the Strategic Defense Initiative program.

(b) MATTERS TO BE INCLUDED.—The report shall include the following:

(1) An analysis of the ramifications of the less restrictive interpretation on the development under the Strategic Defense Initiative Program, of strategic defenses, including comprehensive strategic defense systems, and more limited defenses

designed to protect vital United States military and command and control assets, based on "other physical principles". This analysis should compare research and development programs pursued under both the restrictive and less restrictive interpretations of such treaty, including a comparative analysis of—

(A) the overall cost of the research and development programs,

(B) the schedule of the research and development programs, and

(C) the level of confidence attained in the research and development programs with respect to supporting a full-scale engineering development decision in the early 1990's.

(2) A list of options under the less restrictive interpretation of such treaty that meet one or more of the following objectives:

(A) Reduction of the overall development cost.

(B) Advancement of the schedule for a full-scale engineering development decision.

(C) Increase in the level of confidence in the results of the research by the original full-scale development date.

(c) DEADLINE FOR REPORT.—The report under subsection (a) shall be submitted not later than February 1, 1987.

PART C—BALANCED TECHNOLOGY INITIATIVE

SEC. 221. CONVENTIONAL DEFENSE INITIATIVE

(a) IN GENERAL.—In this Act, Congress commences a program of Conventional Defense Initiatives to provide an emphasis on improving the conventional weapons of the Armed Forces (and the testing of such weapons) and to enhance cooperation with the other member nations of the North Atlantic Treaty Organization. The initiative is intended to improve the fighting power and survivability of the combat forces of the United States and to raise the threshold for nuclear war.

(b) AMOUNT AUTHORIZED.—Of the amount authorized in section 201 for the Army, Navy, and Air Force, $162,323,000 is available only for the Conventional Defense Initiatives program.

SEC. 222. BALANCED TECHNOLOGY INITIATIVE

(a) EARMARKING FOR CERTAIN CONVENTIONAL PROGRAMS.—(1) Of the amount authorized in section 201 for Defense Agencies, not less than $300,000,000 shall be used to expand research on innovative concepts and methods of enhancing conventional defense capabilities. Such research and development efforts shall emphasize the following:

(A) Armor/anti-armor initiatives.

(B) Defenses against armed helicopters.

(C) Hypervelocity missiles for ground combat use.

(D) Defense against anti-ship missiles, including those with "stealth" characteristics.

(E) "Smart" mines for both land and ocean warfare.

(F) Lightweight, air transportable vehicles with anti-armor capabilities for rapid transport to remote areas.

(G) Improved conventional anti-submarine warfare munitions.

(H) "Smart" standoff munitions and submunitions for aircraft delivery outside of lethal air defense ranges.

(2) The amount specified in paragraph (1) is in addition to the amount specified for the Strategic Defense Initiative in section 211 and for the Conventional Defense Initiative Program under section 221 and is made available subject to the following conditions:

(A) That the Director of Defense Research and Engineering apportion the funds among the research, development, test, and evaluation accounts of the Army, the Navy, the Air Force, and the Defense Agencies on a merit basis, taking into consideration ongoing technology research and exploitation opportunities.

(B) That no portion of any undistributed reduction be applied against the funds appropriated for purposes of paragraph (1) and that no portion of any undistributed reduction be applied against any program, project, or activity for which additional funds are provided under subparagraph (A).

(C) That no portion of the funds provided for in paragraph (1) be applied to any program, project, or activity in support of the Strategic Defense Initiative.

(b) FUNDS FOR CONVENTIONAL DEFENSE TECHNOLOGY BASE.—Of the amount authorized in section 201 for Defense Agencies, not less than $153,000,000 shall be applied to restoration of the conventional defense technology base. Such amount is in addition to the amounts specified in subsection (a) and in sections 211 and 221 and is made available subject to the following conditions:

Research and development.

(1) That the Director of Defense Research and Engineering apportion the funds among the research, development, test, and evaluation accounts of the Army, the Navy, the Air Force, and Defense Agencies on a merit basis, either to augment ongoing but underfunded basic and exploratory research or to establish new basic or exploratory research programs.

(2) That no portion of such funds be applied to any program, project, or activity in support of the Strategic Defense Initiative.

(3) That no portion of any undistributed reduction made in any research, development, test, and evaluation account be applied against the technology base activities of any military department or Defense Agency in a greater proportion than the share of that department's or Agency's technology base as a proportion of the total research, development, test, and evaluation funds made available to that department or Agency for fiscal year 1987.

(4) That no portion of any undistributed reduction be applied against any program, project, or activity which has received additional funds under this subsection.

(c) REPORT.—Within 90 days after the date of the enactment of this Act, the Director of Defense Research and Engineering shall submit to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a report on the implementation of this section. Such report shall include—

(1) the allocation by project of the amounts specified in subsections (a)(1) and (b);

(2) the identification of other ongoing research and development projects that should be included in a balanced defense technology effort to improve conventional defenses;

(3) the identification of specific research projects which were funded in fiscal years before fiscal year 1987 by the Strategic Defense Initiative Organization which could significantly enhance the conventional defense capabilities of the United States (or command, control, communications, and intelligence

capabilities associated with conventional defense capabilities) and which will no longer be funded by such office;

(4) for each program, project, or activity for which funds have been allocated under subsection (a)(1), or which is identified under clause (2) or (3) of this subsection, a five-year funding description sufficient to maintain significant progress in such program, project, or activity, including the major milestones and projected dates of accomplishment for such program, project, or activity; and

(5) the funding that would be required for each of the next five fiscal years to restore by the end of fiscal year 1992 the defense technology base to the proportion of total research, development, test, and evaluation that such base was, on average, during the period from 1971 through 1980, and the effect of implementing that funding on the research, development, test, and evaluation defense programs of the United States.

(d) RESTRICTION ON OBLIGATION OF FUNDS.—None of the funds provided under subsections (a)(1) and (b) may be obligated until—

(1) the report required by subsection (c) is submitted; and

(2) a period of 30 days has elapsed following the date on which the report is received by the committees.

PART D—MISCELLANEOUS

SEC. 231. LIMITATION ON TESTING OF ANTI-SATELLITE WEAPONS

Union of Soviet Socialist Republics. 10 USC 2431 note.

(a) ASAT TESTING MORATORIUM.—The Secretary of Defense may not carry out a test of the Space Defense System (anti-satellite weapon) against an object in space until the President certifies to Congress that the Soviet Union has conducted, after the date of the enactment of this Act, a test against an object in space of a dedicated anti-satellite weapon.

(b) EXPIRATION.—The prohibition in subsection (a) expires on October 1, 1987.

SEC. 232. ICBM MODERNIZATION

(a) REPORT BY THE SECRETARY OF DEFENSE ON ICBM MODERNIZATION.—At the same time the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives the report on the intercontinental ballistic missile (ICBM) modernization program required by section 1231(c) of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 614), the Secretary shall submit to such Committees a statement containing the basis of the Secretary's recommendation to the President, and any decisions of the President, regarding the following matters:

97 Stat. 693.

(1) The configuration of a small intercontinental ballistic missile in terms of weight, number of warheads, and production schedule.

(2) The selected options for more survivable follow-on basing modes and basing locations for MX (Peacekeeper) missiles.

(3) The advisability of going forward with one or more selected basing modes to a full scale engineering development decision.

(b) LIMITATION ON DEPLOYMENT OF PEACEKEEPER (MX) MISSILE; DEVELOPMENT OF SMALL ICBM.—The limitations contained in sections 206 and 1231 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 614), on the deployment of the MX

97 Stat. 624, 693.

missile and the development of a small intercontinental ballistic missile shall cease to apply when full-scale engineering development of a small mobile intercontinental ballistic missile begins.

(c) LIMITATIONS ON FUNDING.—Of the amounts appropriated for fiscal year 1987 for the ICBM Modernization Program—

(1) $120,000,000 shall be available for research and development on follow-on basing options;

(2) $290,000,000 shall be available for research and development of the Peacekeeper (MX) missile; and

(3) $1,200,000,000 shall be available for research and development of a small mobile intercontinental ballistic missile and basing for such missile.

SEC. 233. RESTRICTION ON USE OF RESEARCH AND DEVELOPMENT FUNDS FOR GRANTS TO EDUCATIONAL INSTITUTIONS

The Secretary of Defense may not make a grant or contribution to any educational institution from funds appropriated to the Department of Defense for fiscal year 1987 for research, development, test, and evaluation unless the Secretary determines—

(1) that the purpose of the grant or contribution has a potential relationship to a military function or operation; and

(2) that the grant or contribution is based on the technical merit of the proposed research that best satisfies the requirements of the Department of Defense.

10 USC 2364 note.

SEC. 234. COORDINATION OF RESEARCH ACTIVITIES OF DEPARTMENT OF DEFENSE

(a) PURPOSE.—The purpose of this section is to strengthen coordination among Department of Defense research facilities and other organizations in the Department of Defense.

(b) FINDINGS.—The Congress finds that centralized coordination of the collection and dissemination of technological data among research facilities and other organizations within the Department of Defense is necessary—

(1) to ensure that personnel of the Department are currently informed about emerging technology for defense systems; and

(2) to avoid unnecessary and costly duplication of research staffs and projects.

(c) IMPROVED COORDINATION AND COMMUNICATION OF DEFENSE RESEARCH ACTIVITIES.—(1) Chapter 139 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 2364.

"§ 2364. Coordination and communication of Defense research activities

"(a) COORDINATION OF DEPARTMENT OF DEFENSE TECHNOLOGICAL DATA.—The Secretary of Defense shall promote, monitor, and evaluate programs for the communication and exchange of technological data—

"(1) among the Defense research facilities, combatant commands, and other organizations that are involved in developing for the Department of Defense the technological requirements for new items for use by combat forces; and

"(2) among Defense research facilities and other offices, agencies, and bureaus in the Department that are engaged in related technological matters.

"(b) FUNCTIONS OF DEFENSE RESEARCH FACILITIES.—The Secretary of Defense shall ensure, to the maximum extent practicable—

"(1) that Defense research facilities are assigned broad mission requirements rather than specific hardware needs;

"(2) that appropriate personnel of such facilities are assigned to serve as consultants on component and support system standardization;

"(3) that the managers of such facilities have broad latitude to choose research and development projects;

"(4) that technology position papers prepared by Defense research facilities are readily available to all combatant commands and to contractors who submit bids or proposals for Department of Defense contracts; and

Contracts.

"(5) that, in order to promote increased consideration of technological issues early in the development process, any position paper prepared by a Defense research facility on a technological issue relating to a major weapon system, and any technological assessment made by such facility in the case of such component, is made a part of the records considered for the purpose of making milestone O, I, and II decisions.

"(c) DEFINITIONS.—In this section:

"(1) The term 'Defense research facility' means a Department of Defense facility which performs or contracts for the performance of—

"(A) basic research; or

"(B) applied research known as exploratory development.

"(2) The term 'milestone O decision' means a decision made within the Department of Defense that there is a mission need for a new major weapon system and that research and development is to begin to meet such need.

"(3) The term 'milestone I decision' means [a]/[the] selection by an appropriate official of the Department of Defense of a new major weapon system concept and a program for demonstration and validation of such concept.

"(4) The term 'milestone II decision' means approval by an appropriate official of the Department of Defense for the full-scale development of a new major weapon system.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2364. Coordination and communication of Defense research activities.".

SEC. 235. COOPERATIVE MEDICAL RESEARCH WITH VETERANS' ADMINISTRATION

(a) FUNDING.—Of the amount authorized in section 201 for the Defense Agencies, $20,000,000 is available only for cooperative medical research to be administered by the Secretary of Defense and the Administrator of Veterans' Affairs.

(b) DEADLINE.—Not later than 30 days after the enactment of a law making appropriations for the Department of Defense for fiscal year 1987, the Secretary of Defense shall make available to the Administrator of Veterans' Affairs the amount referred to in subsection (a).

91-139 O - 87 - 2 (685)

TITLE III—OPERATION AND MAINTENANCE

PART A—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 301. OPERATION AND MAINTENANCE FUNDING

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 1987 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

For the Army, $20,025,891,000.
For the Navy, $23,164,784,000.
For the Marine Corps, $1,794,200,000.
For the Air Force, $18,894,186,000.
For the Defense Agencies, $7,979,380,000.
For the Army Reserve, $770,300,000.
For the Naval Reserve, $887,400,000.
For the Marine Corps Reserve, $64,200,000.
For the Air Force Reserve, $922,100,000.
For the Army National Guard, $1,734,603,000.
For the Air National Guard, $1,790,400,000.
For the National Board for the Promotion of Rifle Practice, $4,316,000.
For Defense Claims, $144,400,000.
For the Court of Military Appeals, $3,200,000.
For Environmental Restoration, Defense, $385,900,000.

(b) ADDITIONAL AUTHORIZATION FOR ARMY NATIONAL GUARD.—In addition to the amounts authorized in subsection (a), there are authorized to be appropriated such sums as may be necessary for the Army National Guard for—

(1) armory operating costs;

(2) modification or repair of work space for fulltime National Guard personnel; and

(3) partial Federal funding for major repair and renovation of National Guard facilities.

(c) AUTHORIZATION UPON APPROPRIATION FOR HIGH PRIORITY PROGRAMS.—Any amounts appropriated in excess of the amounts authorized in subsection (a) for high priority readiness programs are hereby authorized.

SEC. 302. WORKING CAPITAL FUNDS

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 1987 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working-capital funds in amounts as follows:

For the Army Stock Fund, $230,138,000.
For the Navy Stock Fund, $379,570,000.
For the Marine Corps Stock Fund, $31,233,000.
For the Air Force Stock Fund, $200,410,000.
For the Defense Stock Fund, $66,949,000.

(b) AUTHORIZATION UPON APPROPRIATION FOR HIGH PRIORITY PROGRAMS.—Any amounts appropriated in excess of the amounts authorized in subsection (a) for high priority readiness programs are hereby authorized.

SEC. 303. AUTHORIZATION OF APPROPRIATIONS FOR ASSISTANCE TO PAN AMERICAN GAMES

Funds are hereby authorized to be appropriated for fiscal year 1987 for assistance to the Tenth International Pan American Games in accordance with section 304 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 583), in the amount of $15,000,000. 99 Stat. 616.

SEC. 304. TRANSPORTATION OF LIVESTOCK FEED

The Secretary of Defense may authorize the use during 1986 of National Guard equipment and personnel for transportation (including airlift) of livestock feed to drought-stricken areas of the United States.

SEC. 305. AUTHORITY FOR PAYMENTS TO NASA FOR SPACE SHUTTLE SERVICES

(a) AUTHORITY.—The Secretary of Defense may make payments during fiscal year 1987 to the National Aeronautics and Space Administration for space shuttle services in advance of the receipt of such services. Any such payments—

(1) may be made only from funds appropriated to the Air Force for operation and maintenance for fiscal year 1987 and only to the extent provided in appropriations Acts;

(2) may not be made until 30 days after the date on which the report required in subsection (b) is received by the Congress; and

(3) may not exceed $268,800,000.

(b) REPORT.—Not later than December 31, 1986, the Secretary of Defense shall submit to the appropriate committees of the Congress a report containing a ten-year plan setting forth the schedule for planned payments by the Department of Defense to the National Aeronautics and Space Administration for space shuttle services and the schedule for the provision of such services.

PART B—PROGRAM CHANGES AND PERMANENT LAW CHANGES

SEC. 311. CONTRACT PERSONNEL TO BE INCLUDED IN BUDGET JUSTIFICATION

Section 2203 of title 10, United States Code, is amended by adding at the end the following new sentences: "The Secretary of Defense shall provide that the budget justification documents for such budget include information on the number of employees of contractors estimated to be working on contracts of the Department of Defense during the fiscal year for which the budget is submitted. Such information shall be set forth in terms of employee-years or such other measure as will be uniform and readily comparable with civilian personnel of the Department of Defense.".

SEC. 312. PROCUREMENT OF CERTAIN BAKERY AND DAIRY PRODUCTS OUTSIDE THE UNITED STATES

(a) PROCUREMENT OF BAKERY AND DAIRY PRODUCTS.—Chapter 143 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 2422.

"§ 2422. Bakery and dairy products: procurement outside the United States

"(a) The Secretary of Defense may authorize any element of the Department of Defense that procures bakery and dairy products for use by the armed forces outside the United States to procure any products described in subsection (b) through the use of procedures other than competitive procedures.

"(b) The products referred to in subsection (a) are bakery or dairy products produced by the Army and Air Force Exchange Service in a facility outside the United States that began operating before July 1, 1986.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2422. Bakery and dairy products: procurement outside the United States.".

SEC. 313. FUNCTIONS OF MILITARY COMMISSARIES; PURCHASE OF ALCOHOLIC BEVERAGES BY NONAPPROPRIATED FUND INSTRUMENTALITIES

(a) IN GENERAL.—Chapter 147 of title 10, United States Code, is amended by adding at the end the following new sections:

10 USC 2486.

"§ 2486. Commissary stores: merchandise that may be sold; uniform surcharges

"(a) Commissary stores are similar to commercial grocery stores and may sell merchandise similar to that sold in commercial grocery stores.

"(b) Merchandise sold in commissary stores may include items in the following categories:

"(1) Health and beauty aids.
"(2) Meat and poultry.
"(3) Fish and seafood.
"(4) Produce.
"(5) Food and non-food grocery items.
"(6) Bakery goods.
"(7) Dairy products.
"(8) Tobacco products.
"(9) Delicatessen items.
"(10) Frozen foods.
"(11) Other categories designated in regulations prescribed by the Secretary of a military department and approved by the Secretary of Defense.

"(c) An adjustment of or surcharge on sales prices in commissary stores under section 2484(b) or 2685(a) of this title or for any other purpose shall be applied as a uniform percentage of the sales price of all merchandise sold in commissary stores.

10 USC 2487.

"§ 2487. Commissary stores: limitations on release of sales information

"(a) In order to protect commercially valuable information, the Secretary of a military department, except as provided in subsection (b), may not release to the public those portions of computer data generated by electronic scanners used in military commissaries, and those portions of reports generated by such scanners, that contain the following information:

"(1) The unit prices of items sold.

"(2) The number of units of items sold.

"(b) Information subject to subsection (a) may be released under a written agreement. Any such agreement shall require payment for such information and shall specify the amount of such payment.

"(c) Amounts received by the United States under an agreement described in subsection (b) with respect to a commissary shall be deposited in the Commissary Trust Revolving Fund of the military department under which the commissary is operated.

"§ 2488. Nonappropriated fund instrumentalities: purchase of alcoholic beverages 10 USC 2488.

"(a) The Secretary of Defense shall provide that—

"(1) covered alcoholic beverage purchases made for resale on a military installation located in the United States shall be made from the most competitive source, price and other factors considered, except that

"(2) in the case of malt beverages and wine purchased for resale on a military installation located in the contiguous States, such purchases shall be made from, and delivery shall be accepted from, a source within the State in which the military installation concerned is located. State and local governments.

"(b) If a military installation located in the contiguous States is located in more than one State, a source of supply in any State in which the installation is located shall be considered for the purposes of subsection (a)(2) to be a source within the State in which the installation is located.

"(c) In this section:

"(1) The term 'covered alcoholic beverage purchases' means purchases of alcoholic beverages by a nonappropriated fund instrumentality of the Department of Defense with nonappropriated funds.

"(2) The term 'State' includes the District of Columbia.".

(b) EXEMPTION FROM WRITTEN NOTICE REQUIREMENTS.—Section 2305(b) of title 10, United States Code, is amended by adding at the end of paragraph (4) the following new subparagraph:

"(E) Subparagraph (D) does not apply with respect to the award of a contract for the acquisition of perishable subsistence items.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"2486. Commissary stores: merchandise that may be sold; uniform surcharges.
"2487. Commissary stores: limitation on release of sales information.
"2488. Nonappropriated fund instrumentalities: purchase of alcoholic beverages.".

SEC. 314. AUTHORITY FOR SECRETARY OF DEFENSE TO ACCEPT GIFTS FOR THE DEFENSE DEPENDENTS' EDUCATION SYSTEM

(a) IN GENERAL.—Chapter 155 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2605. Acceptance of gifts for defense dependents' education system 10 USC 2605.

"(a) The Secretary of Defense may accept, hold, administer, and spend any gift (including any gift of an interest in real property) made on the condition that it be used in connection with the operation or administration of the defense dependents' education system provided for under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.). The Secretary may pay all necessary

expenses in connection with the acceptance of a gift under this subsection.

"(b) There is established in the Treasury a fund to be known as the 'Department of Defense Dependents' Education Gift Fund'. Gifts of money, and the proceeds of the sale of property, received under subsection (a) shall be deposited in the fund. The Secretary may disburse funds deposited under this subsection for the benefit or use of the defense dependent's education system, subject to the terms of the gift.

"(c) Subsection (c) of section 2601 of this title applies to property that is accepted under subsection (a) in the same manner that such subsection applies to property that is accepted under subsection (a) of that section.

"(d)(1) Upon request of the Secretary of Defense, the Secretary of the Treasury may—

Securities.

"(A) retain money, securities, and the proceeds of the sale of securities, in the Department of Defense Dependents' Education Gift Fund; and

"(B) invest money and reinvest the proceeds of the sale of securities in that fund in securities of the United States or in securities guaranteed as to principal and interest by the United States.

"(2) The interest and profits accruing from those securities shall be deposited to the credit of the fund and may be disbursed as provided in subsection (b).

"(e) In this section, the term 'gift' includes a devise of real property or a bequest of personal property.

Regulations.

"(f) The Secretary of Defense shall prescribe regulations to carry out this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2605. Acceptance of gifts for defense dependents' education system.".

SEC. 315. RENOVATION OF FACILITIES

(a) IN GENERAL.—Chapter 169 of title 10, United States Code, is amended by adding at the end of subchapter I the following new section:

10 USC 2810.

"§ 2810. Renovation of facilities

"(a) The Secretary concerned may carry out renovation projects that combine maintenance, repair, and minor construction projects for an entire single-purpose facility, or one or more functional areas of a multipurpose facility, using funds available for operations and maintenance.

"(b) The amount obligated on such a renovation project may not exceed the maximum amount specified by law for a minor construction project under section 2805 of this title.

"(c) Construction of new facilities or additions to existing facilities may not be carried out under the authority of this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2810. Renovation of facilities.".

SEC. 316. PROHIBITION OF PURCHASE OF ANGOLAN PETROLEUM PRODUCTS FROM COMPANIES PRODUCING OIL IN ANGOLA

10 USC 2304 note.

Contracts.

(a) GENERAL RULE.—The Secretary of Defense may not enter into a contract with a company for the purchase of petroleum products which originated in Angola if the company (or a subsidiary or partnership of the company) is engaged in the production of petroleum products in Angola.

(b) WAIVER AUTHORITY.—The Secretary of Defense may waive the limitation in subsection (a) if the Secretary determines that such action is in the best interest of the United States.

(c) PETROLEUM PRODUCT DEFINED.—For purposes of this section, the term "petroleum product" means—

"(1) natural or synthetic crude;

"(2) blends of natural or synthetic crude; and

"(3) products refined or derived from natural or synthetic crude or from such blends.

(d) EFFECTIVE DATE.—This section shall take effect six months after the date of the enactment of this Act.

SEC. 317. PROHIBITION OF CONTRACTS FOR THE PERFORMANCE OF CERTAIN ARMY AMMUNITION ACTIVITIES

Indiana.
Oklahoma.

(a) PROHIBITION OF CONTRACTING.—The Secretary of Defense and the Secretary of the Army may not enter into a contract for the performance by contractor personnel of functions performed by employees of the Department of Defense at the Crane Army Ammunition Activity, Crane, Indiana, or the McAlester Army Ammunition Plant, McAlester, Oklahoma.

(b) EXCEPTION.—The prohibition in subsection (a) does not apply to a contract (or the renewal of a contract) for the performance of a function that on the date of the enactment of this Act is under contract for performance by contractor personnel.

SEC. 318. NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE

(a) PERSONNEL SERVICES.—Section 4308 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) The Secretary may provide personnel services (in addition to pay and non-travel related allowances for members of the armed forces) in carrying out the authority of the Secretary under this section and sections 4310 through 4312 of this title.".

(b) ALLOWANCES FOR COMPETITORS AT NATIONAL MATCHES.—Section 4313 of such title is amended—

(1) by striking out "draw not more than" in subsection (a) and all that follows through the end of the subsection and inserting in lieu thereof "be paid a subsistence allowance in such amount as the Secretary of the Army shall prescribe."; and

(2) by striking out "of five cents a mile" in subsection (b) and inserting in lieu thereof "in such amount as the Secretary of the Army shall prescribe".

SEC. 319. PROHIBITION ON JOINT USE OF GRAY ARMY AIRFIELD WITH CIVIL AVIATION

Texas.

The Secretary of the Army may not enter into an agreement to allow joint use of the Robert Gray Army Airfield at Fort Hood, Texas, with civil aviation.

SEC. 320. REPORT ON PROPOSED REGULATIONS RELATING TO MOVEMENT OF HOUSEHOLD GOODS AND CARGO

(a) REPORT REQUIREMENT.—The regulations of the Military Traffic Management Command described in subsection (b) may not become effective until—

(1) the Secretary of the Army submits to Congress a report with respect to such regulations that includes a discussion of—

(A) the cost savings expected as a result of implementation of such regulations; and

(B) the increased quality of services expected as a result of such implementation; and

(2) 90 days of continuous session of Congress elapse after the report is received.

(b) DESCRIPTION OF REGULATIONS.—The regulations referred to in subsection (a) are the regulations contained in the International Through Government Bill of Lading Rate Solicitation, volume 54, that concern—

(1) elimination of the so-called "me-too" rate filing cycle;

(2) elimination of the rate cancellation cycles;

(3) mandatory use of Government-owned containers; and

(4) changes in storage-in-transit charges.

(c) COMPUTATION OF TIME PERIOD.—For purposes of subsection (a)(2)—

(1) the continuity of a session of Congress is broken only by an adjournment of the Congress sine die; and

(2) days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of such 90-day period.

PART C—HUMANITARIAN AND OTHER ASSISTANCE

SEC. 331. EXTENSION OF AUTHORIZATION FOR HUMANITARIAN ASSISTANCE

(a) TRANSPORTATION, ADMINISTRATION, AND DISTRIBUTION OF HUMANITARIAN RELIEF SUPPLIES TO AFGHAN REFUGEES.—Section 305 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 617), is amended—

(1) by inserting "(1)" before "There" in subsection (a);

(2) by inserting "and for fiscal year 1987 the sum of $10,000,000" after "sum of $10,000,000" in subsection (a);

(3) by adding at the end of subsection (a) the following new paragraph:

"(2) Of the funds appropriated by the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190; 99 Stat. 1189), for operation and maintenance for the Air Force, $7,000,000 shall remain available for obligation until September 30, 1987, for the purpose described in paragraph (1) (including providing transportation of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code). Such funds shall be in addition to funds appropriated pursuant to the authorization in paragraph (1)."; and

(4) by adding at the end the following new subsections:

"(d) AUTHORITY TO TRANSFER FUNDS.—The Secretary of Defense is authorized to transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to the authorization

in this section for fiscal year 1987 to provide for (1) paying administrative costs of providing the transportation described in subsection (a), and (2) providing for the acquisition of transportation assets for the distribution of supplies outside the United States to accomplish the purposes of this section.

"(e) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization in subsection (a) shall remain available until expended, to the extent provided in appropriation Acts.".

(b) REPORTS.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives two reports, one of which shall be submitted not later than 60 days after the date of the enactment of this Act and the other not later than June 1, 1987. Each such report shall contain (as of the date on which the report is submitted) the following information:

(1) The total amount of funds obligated for humanitarian relief under section 305 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 617) (as amended by subsection (a)).

(2) The number of scheduled and completed flights for purposes of providing humanitarian relief under section 305 of such Act.

(3) A description of any transfer (including to whom the transfer is made) of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code.

SEC. 332. EXTENSION OF AUTHORITY OF SECRETARY OF DEFENSE TO TRANSPORT HUMANITARIAN RELIEF SUPPLIES TO CERTAIN COUNTRIES

Section 1540(a) of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2637), is amended by striking out "fiscal years 1985 and 1986" and inserting in lieu thereof "fiscal year 1987".

SEC. 333. HUMANITARIAN AND CIVIC ASSISTANCE PROVIDED IN CONJUNCTION WITH A MILITARY OPERATION

(a) IN GENERAL.—(1) Part I of subtitle A of title 10, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 20—HUMANITARIAN AND CIVIC ASSISTANCE PROVIDED IN CONJUNCTION WITH MILITARY OPERATIONS

"Sec.
"401. Armed forces participation in humanitarian and civic assistance activities.
"402. Approval of the Secretary of State.
"403. Payment of expenses.
"404. Annual report to Congress.
"405. Definition of humanitarian and civic assistance.
"406. Expenditure limitation.

"§ 401. Armed forces participation in humanitarian and civic assistance activities

10 USC 401.

"(a) Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may carry out humanitarian and civic assistance activities in conjunction with authorized mili-

tary operations of the armed forces in a country if the Secretary concerned determines that the activities will promote—

Defense and national security.

"(1) the security interests of both the United States and the country in which the activities are to be carried out; and

"(2) the specific operational readiness skills of the members of the armed forces who participate in the activities.

"(b) Humanitarian and civic assistance activities carried out under this chapter shall complement, and may not duplicate, any other form of social or economic assistance which may be provided to the country concerned by any other department or agency of the United States. Such activities shall serve the basic economic and social needs of the people of the country concerned.

"(c) Humanitarian and civic assistance may not be provided under this chapter (directly or indirectly) to any individual, group, or organization engaged in military or paramilitary activity.

10 USC 402.

"§ 402. Approval of the Secretary of State

"Humanitarian and civic assistance may not be provided under this chapter to any foreign country unless the Secretary of State specifically approves the provision of such assistance.

10 USC 403.

"§ 403. Payment of expenses

"(a) Expenses incurred as a direct result of providing humanitarian and civic assistance under this chapter to a foreign country shall be paid for out of funds specifically appropriated for such purpose.

"(b) Nothing in this chapter may be interpreted to preclude the incurring of minimal expenditures by the Department of Defense for purposes of humanitarian and civic assistance out of funds other than funds appropriated pursuant to subsection (a).

10 USC 404.

"§ 404. Annual report to Congress

"The Secretary of Defense shall submit to the Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services and Foreign Affairs of the House of Representatives a report, not later than March 1 of each year, on activities carried out under this chapter during the preceding fiscal year. The Secretary shall include in each such report—

"(1) a list of the countries in which humanitarian and civic assistance activities were carried out during the preceding fiscal year;

"(2) the type and description of such activities carried out in each country during the preceding fiscal year; and

"(3) the amount expended in carrying out each such activity in each such country during the preceding fiscal year.

10 USC 405.

"§ 405. Definition of humanitarian and civic assistance

"In this chapter, the term 'humanitarian and civic assistance' means—

"(1) medical, dental, and veterinary care provided in rural areas of a country;

"(2) construction of rudimentary surface transportation systems;

"(3) well drilling and construction of basic sanitation facilities; and

"(4) rudimentary construction and repair of public facilities.

"§ 406. Expenditure limitation 10 USC 406.

"Not more than $16,400,000 may be obligated or expended for the purposes of this chapter during fiscal years 1987 through 1991.".

(2) The tables of chapters at the beginning of subtitle A of such title and at the beginning of part I of such subtitle are each amended by adding at the end the following new item:

"20. Humanitarian and Civic Assistance Provided in Conjunction With Military Operations ..... 401".

(b) EXPENDITURE LIMITATION FOR FISCAL YEAR 1987.—Not more than $3,000,000 may be obligated or expended for the purposes of chapter 20 of title 10, United States Code (as added by subsection (a)), during fiscal year 1987.

TITLE IV—PERSONNEL AUTHORIZATIONS AND RELATED MATTERS

PART A—ACTIVE FORCES

SEC. 401. END STRENGTHS FOR ACTIVE FORCES

The Armed Forces are authorized strengths for active-duty personnel as of September 30, 1987, as follows:

(1) The Army, 780,800.
(2) The Navy, 587,000.
(3) The Marine Corps, 199,600.
(4) The Air Force, 606,850.

SEC. 402. QUALITY CONTROL ON ENLISTMENTS INTO THE ARMY

(a) PERMANENT REQUIREMENT FOR MINIMUM PERCENTAGE OF HIGH-SCHOOL GRADUATES.—Chapter 333 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 3262. Army: percentage of high-school graduates 10 USC 3262.

"Of the males with no prior military service who are enlisted or inducted into the Army during any fiscal year, the number who are not high-school graduates may not exceed, as of the end of the fiscal year, 35 percent of all such persons.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3262. Army: percentage of high-school graduates.".

SEC. 403. STRENGTH OF ACTIVE DUTY OFFICER CORPS 10 USC 521 note.

(a) REDUCTION IN SIZE OF OFFICER CORPS.—On and after each of the dates set forth in column 1 of the following table, the total number of commissioned officers serving on active duty in the Army, Navy, Air Force, and Marine Corps (excluding officers in categories specified in subsection (b)) may not exceed the percentage, set forth in column 2 opposite such date, of the total number of commissioned officers serving on active duty as of September 30, 1986 (excluding officers in categories specified in subsection (b)):

Column 1	Column 2
On and after:	Percentage of total commissioned officers serving on active duty as of September 30, 1986:
September 30, 1987	99
September 30, 1988	97
September 30, 1989	94

(b) EXCLUSIONS.—In c ..g the authorized strength of commissioned officers under subsection (a), officers in the following categories shall be excluded:

(1) Reserve officers—

(A) on active duty for training;

(B) on active duty under section 265, 270(b), 672a, 3033, 3496, 5251, 5252, 8033, or 8496 of title 10, United States Code, or under section 708 of title 32, United States Code;

(C) on active duty under section 672(d) of title 10, United States Code, in connection with organizing, administering, recruiting, instructing, or training the reserve components or the National Guard;

(D) on active duty to pursue special work;

(E) ordered to active duty under section 673b of title 10, United States Code; or

(F) on full-time National Guard duty.

(2) Retired officers on active duty under a call or order to active duty for 180 days or less.

(3) Reserve or retired officers on active duty under section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2)) for the administration of the Selective Service System.

(c) APPORTIONMENT OF REDUCTIONS BY SECRETARY OF DEFENSE.—The Secretary of Defense shall apportion the reductions in the number of commissioned officers serving on active duty required by subsection (a) among the Army, Navy, Air Force, and Marine Corps. Not later than February 1 of each fiscal year in which reductions are required under subsection (a), the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the manner in which the reductions have been or are to be apportioned for that fiscal year and for the next fiscal year for which such reductions are required.

PART B—RESERVE FORCES

10 USC 261 note.

SEC. 411. END STRENGTHS FOR SELECTED RESERVE

(a) IN GENERAL.—The Armed Forces are authorized strengths for selected reserve personnel of the reserve components as of September 30, 1987, as follows:

(1) The Army National Guard of the United States, 452,681.

(2) The Army Reserve, 318,011.

(3) The Naval Reserve, 149,486.

(4) The Marine Corps Reserve, 43,470.

(5) The Air National Guard of the United States, 113,767.

(6) The Air Force Reserve, 79,562.

(7) The Coast Guard Reserve, 12,850.

(b) WAIVER AUTHORITY.—The Secretary of Defense may vary an end strength prescribed by subsection (a) by not more than 2 percent.

(c) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

(c) AMENDMENT TO SECTION 115 OF TITLE 10.—Paragraph (1) of section 115(a) of title 10, United States Code (as designated by section 110 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended to read as follows: *Ante*, p. 1001.

"(1) Congress shall authorize the end strength as of the end of each fiscal year for the Selected Reserve of each reserve component of the armed forces. No funds may be appropriated for any fiscal year to or for the use of the Selected Reserve of any reserve component of the armed forces unless the end strength for the Selected Reserve of that component for that fiscal year has been authorized by law.".

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVE COMPONENTS

(a) IN GENERAL.—Within the end strengths prescribed in section 411, the reserve components of the Armed Forces are authorized, as of September 30, 1987, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, on full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components or the National Guard:

(1) The Army National Guard of the United States, 24,731.
(2) The Army Reserve, 12,407.
(3) The Naval Reserve, 21,476.
(4) The Marine Corps Reserve, 1,745.
(5) The Air National Guard of the United States, 8,169.
(6) The Air Force Reserve, 665.

(b) COUNTING OF PERSONNEL IN CERTAIN RESERVE CALL-UP SITUATIONS.—(1) Chapter 39 of title 10, United States Code, is amended by inserting after section 685 the following new section:

"§ 686. Reserves on active duty: duties; funding 10 USC 686.

"(a) During a period that members of a reserve component are serving on active duty pursuant to an order under section 673 or 673b of this title, members of reserve components serving on active duty may perform duties in connection with either such section.

"(b) Funds available for the pay and allowances of Reserves referred to section 678 of this title shall be available for the pay and allowances of such Reserves who perform duties in connection with section 673 or 673b of this title under the authority of subsection (a).".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"686. Reserves on active duty: duties; funding.".

SEC. 413. ACCOUNTING FOR CERTAIN AUTHORIZED RESERVE COMPONENT MEMBERS

Section 115(b) of title 10, United States Code (as designated by section 110(b) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended—

Ante, p. 1001.

(1) by striking out the text of paragraph (1)(A) and inserting in lieu thereof the following: "Congress shall authorize the end strength as of the end of each fiscal year for each component of the armed forces for (i) active-duty personnel who are to be paid from funds appropriated for active-duty personnel, and (ii) active-duty personnel and full-time National Guard duty personnel who are to be paid from funds appropriated for reserve personnel. Upon determination by the Secretary of Defense that such action is in the national interest, the end strength authorized pursuant to clause (i) of the preceding sentence for a fiscal year may be increased by a number equal to not more than 0.5 percent of the end strength authorized for such component for that fiscal year and the end strength authorized pursuant to clause (ii) of that sentence for a fiscal year may be increased by a number equal to not more than 2 percent of such end strength authorized for such component for that fiscal year. No funds may be appropriated to or for the use of active-duty personnel or full-time National Guard duty personnel of any component of the armed forces unless the end strength for such personnel of that component for that fiscal year has been authorized by law.";

(2) in paragraph (1)(B)—

(A) by striking out "for 180 days or less" in clause (v); and

(B) by adding at the end the following new clause:

"(vii) members on full-time National Guard duty for 180 days or less."; and

(3) in paragraph (3)(D)—

(A) by striking out "and" at the end of clause (iii);

(B) by striking out the period at the end of clause (iv) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new clause:

"(v) an analysis of the number of officers and enlisted members serving on active duty for training as of the last day of the preceding fiscal year under orders specifying an aggregate period in excess of 180 days and an estimate for the current fiscal year of the number that will be ordered to such duty, tabulated by the following categories:

"(I) Recruit and specialized training.

"(II) Flight training.

"(III) Professional training in military and civilian institutions.

"(IV) Officer acquisition training.".

PART C—MILITARY TRAINING

SEC. 421. MILITARY TRAINING STUDENT LOADS

(a) IN GENERAL.—For fiscal year 1987, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 76,758.
(2) The Navy, 72,483.
(3) The Marine Corps, 19,433.
(4) The Air Force, 43,911.
(5) The Army National Guard of the United States, 18,262.
(6) The Army Reserve, 15,858.
(7) The Naval Reserve, 3,493.
(8) The Marine Corps Reserve, 3,944.
(9) The Air National Guard of the United States, 3,566.
(10) The Air Force Reserve, 2,127.

(b) ADJUSTMENTS.—The average military student loads for the Army, the Navy, the Marine Corps, and the Air Force and the reserve components authorized in subsection (a) for fiscal year 1987 shall be adjusted consistent with the personnel strengths authorized in parts A and B. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the reserve components in such manner as the Secretary of Defense shall prescribe.

TITLE V—DEFENSE PERSONNEL POLICY

PART A—ACTIVE FORCES

SEC. 501. ASSIGNMENT OF ACTIVE-DUTY MEMBERS OUTSIDE THE UNITED STATES

The text of section 671 of title 10, United States Code, is amended to read as follows:

"(a) A member of the armed forces may not be assigned to active duty on land outside the United States and its territories and possessions until the member has completed the basic training requirements of the armed force of which he is a member.

"(b) In time of war or a national emergency declared by Congress or the President, the period of required basic training (or its equivalent) may not be less than 12 weeks.".

SEC. 502. SERVICE OF MEMBERS ON STATE AND LOCAL JURIES

(a) IN GENERAL.—Chapter 49 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 982. Members: service on State and local juries 10 USC 982.

"(a) A member of the armed forces on active duty may not be required to serve on a State or local jury if the Secretary concerned determines that such service—

"(1) would unreasonably interfere with the performance of the member's military duties; or

"(2) would adversely affect the readiness of the unit, command, or activity to which the member is assigned.

"(b) A determination by the Secretary concerned under this section is conclusive.

Regulations.

"(c) The Secretary concerned shall prescribe regulations for the administration of this section.

"(d) In this section, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and each territory of the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"982. Members: service on State and local juries.".

SEC. 503. EXTENSION OF EXPIRING AUTHORITY FOR SPOT PROMOTIONS OF NAVY LIEUTENANTS

Section 5721(f) of title 10, United States Code, is amended by striking out "September 30, 1986" and inserting in lieu thereof "September 30, 1987".

10 USC 8251 note.

SEC. 504. REPEAL OF REQUIREMENT REGARDING ENLISTMENT OF WOMEN IN THE AIR FORCE DURING FISCAL YEAR 1987

Section 551(a) of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2530), is amended by striking out "the period beginning on October 1, 1986" and all that follows through the end of the subsection and inserting in lieu thereof "fiscal year 1988, not less than 22 percent shall be women.".

SEC. 505. AUTHORITY TO EXEMPT PHYSICIANS AT UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FROM REDUCTIONS IN RETIRED PAY

Section 2113(f) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(f)"; and

(2) by adding at the end the following:

"(2) The Board may exempt, at any time, a physician who is a member of the faculty from the restrictions in subsections (a), (b), and (c) of section 5532 of title 5, if the Board determines that such exemption is necessary to recruit or retain well-qualified physicians for the faculty of the University. An exemption granted under this paragraph shall terminate upon any break in employment with the University by a physician of three days or more. An exemption granted under this paragraph to a person shall apply to the retired pay of such person beginning with the first month after the month in which the exemption is granted. Not more than two exemptions may be in effect under this paragraph at any time.".

SEC. 506. TREATMENT OF EXCESS LEAVE UPON REENLISTMENT

(a) AUTHORITY TO CARRY OVER EXCESS LEAVE.—Section 701 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(h) A member who has taken leave in excess of that authorized by this section and who is being discharged or released from active duty for the purpose of accepting an appointment or a warrant in an armed force, or of entering into an enlistment or an extension of an enlistment in an armed force, may elect to have excess leave of up to 30 days or the maximum number of days of leave that could be earned in the new term of service, whichever is less, carried over to that new term of service to count against leave that will accrue on the new term of service. A member shall be required, at the time of his discharge or release from active duty, to pay for excess leave not carried over under this subsection.".

(b) AUTHORIZATION FOR PAY AND ALLOWANCES FOR CARRIED OVER EXCESS LEAVE.—Section 502(b) of title 37, United States Code, is amended by inserting "and section 701(h) of title 10" after "subsection (a) of this section".

SEC. 507. TERMINATION OF GENDER-BASED DISTINCTIONS IN PROMOTIONS OF OFFICERS OF THE NAVAL RESERVE AND MARINE CORPS RESERVE

(a) IN GENERAL.—Chapter 549 of title 10, United States Code, is amended by striking out sections 5896 through 5899 and inserting in lieu thereof the following:

"§ 5896. Recommendations for promotion by selection boards 10 USC 5896.

"(a) A selection board convened under this chapter shall recommend for promotion to the next higher grade those officers considered by the board whom the board, giving due consideration to the needs of the Navy or Marine Corps for officers with particular skills, considers best qualified for promotion within each competitive category considered by the board.

"(b) A selection board convened under this chapter may not recommend an officer for promotion unless—

"(1) the officer receives the recommendation of a majority of the members of the board; and

"(2) a majority of the members of the board finds that the officer is fully qualified for promotion.

"(c) Except as otherwise provided by law, an officer of the Naval Reserve or the Marine Corps Reserve may not be promoted to a higher grade under this chapter unless the officer is considered and recommended for promotion to that grade by a selection board convened under this chapter.

"§ 5897. Reports of selection boards 10 USC 5897.

"Each selection board convened under this chapter shall submit to the Secretary of the Navy a written report, signed by each member of the board, containing a list of the names of the officers recommended for promotion and certifying (1) that the board has carefully considered the record of each officer whose name was furnished to the board under section 5895 of this title, and (2) that, in the opinion of a majority of the members of the board, the officers recommended for promotion by the board are best qualified for promotion to meet the needs of the Navy or the Marine Corps from among those officers whose names were furnished to the selection board.

"§ 5898. Action on reports of selection boards 10 USC 5898.

"(a) If, after reviewing the report of a selection board submitted under section 5897 of this title, the Secretary of the Navy determines that the board has acted contrary to law or regulation, the Secretary shall return the report to the board for further proceedings. Upon receipt of a report returned by the Secretary under this subsection, the selection board (or a subsequent selection board convened under this chapter for the same grade and competitive category) shall conduct such proceedings as may be necessary in order to revise the report and shall resubmit the report, as revised, to the Secretary in accordance with section 5897 of this title.

"(b) The Secretary of the Navy shall, after final review of the report, submit it, together with the Secretary's recommendations, to

the Secretary of Defense for transmittal to the President for approval, modification, or disapproval.

President of U.S.

"(c) The name of an officer recommended for promotion by a selection board may be removed from the report of the selection board only by the President. Such action may be taken at any time before the promotion of the officer.

"(d) Upon approval by the President of the report of a selection board, the names of the officers recommended for promotion by the selection board (other than any name removed by the President) may be disseminated to the armed force concerned. If those names have not been sooner disseminated, those names (other than the name of any officer whose promotion the Senate failed to confirm) shall be promptly disseminated to the armed force concerned upon confirmation by the Senate.

"(e) Except as authorized or required by this section, proceedings of a selection board convened under this chapter may not be disclosed to any person not a member of the board.

10 USC 5899.

"§ 5899. Eligibility for consideration for promotion: running mates

"An officer is in the promotion zone and is eligible for consideration for promotion to the next higher grade by a selection board convened under this chapter when that officer's running mate is in or above the promotion zone established for that officer's present grade under chapter 36 of this title.".

10 USC 611 *et seq.*

(b) CLERICAL AND CONFORMING AMENDMENTS.—(1) The table of sections at the beginning of chapter 549 of title 10, United States Code, is amended by striking out the items relating to sections 5896 through 5899 and inserting in lieu thereof the following:

"5896. Recommendations for promotion by selection boards.
"5897. Reports of selection boards.
"5898. Actions on reports of selection boards.
"5899. Eligibility for consideration for promotion: running mates.".

(2) Section 5903 of such title is amended—

(A) by striking out "(a)" at the beginning of such section; and

(B) by striking out subsection (b).

(3) Subsection (a) of section 5905 of such title is amended to read as follows:

"(a) The name of an officer recommended for promotion by a selection board may be removed from the report of the selection board only by the President. Such action may be taken at any time before the promotion of the officer.".

10 USC 5896 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to selection boards convened on or after the date of the enactment of this Act.

SEC. 508. SENATE CONFIRMATION OF CERTAIN GENERAL AND FLAG OFFICER POSITIONS

(a) DEAN OF ACADEMIC BOARD OF UNITED STATES MILITARY ACADEMY.—Section 4335 of title 10, United States Code, is amended—

(1) by striking out the last sentence of subsection (b); and

(2) by adding at the end the following new subsection:

"(c) The Dean of the Academic Board has the grade of brigadier general while serving in such position, with the benefits authorized for regular brigadier generals of the Army, if appointed to that grade by the President, by and with the advice and consent of the

Senate. However, the retirement age of an officer so appointed is that of a permanent professor of the Academy.".

(b) DEPUTY JUDGE ADVOCATE GENERAL AND ASSISTANT JUDGE ADVOCATES GENERAL OF THE NAVY.—Section 5149 of such title is amended—

(1) in subsection (a)—

(A) by striking out the first sentence and inserting in lieu thereof the following: "There is a Deputy Judge Advocate General of the Navy who is appointed by the President, by and with the advice and consent of the Senate, from among judge advocates of the Navy and Marine Corps who have the qualifications prescribed for the Judge Advocate General."; and

(B) by striking out in the second sentence "rank and" and "rank or";

(2) by striking out the second sentence of subsection (b) and inserting in lieu thereof the following: "While so serving, a judge advocate who holds a grade lower than rear admiral (lower half) shall hold the grade of rear admiral (lower half), if he is appointed to that grade by the President, by and with the advice and consent of the Senate."; and

(3) by striking out the second sentence of subsection (c) and inserting in lieu thereof the following: "While so serving, a judge advocate who holds a grade lower than brigadier general shall hold the grade of brigadier general, if he is appointed to that grade by the President, by and with the advice and consent of the Senate.".

(c) DEAN OF THE FACULTY OF THE UNITED STATES AIR FORCE ACADEMY.—Section 9335(b) of such title is amended to read as follows:

"(b) The Dean has the grade of brigadier general while serving in such position, with the benefits authorized for regular brigadier generals of the Air Force, if appointed to that grade by the President, by and with the advice and consent of the Senate. However, the retirement age of an officer so appointed is that of a permanent professor of the Academy.".

(d) ATTENDING PHYSICIAN TO THE CONGRESS.—(1)(A) Chapter 34 of such title is amended by adding at the end the following new section:

"§ 600a. Attending Physician to the Congress 10 USC 600a.

"While serving as Attending Physician to the Congress, a Reserve who holds a reserve grade lower than major general or rear admiral shall hold the reserve grade of major general or rear admiral, as appropriate, if appointed to that grade by the President, by and with the advice and consent of the Senate.".

(B) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"600a. Attending Physician to the Congress.".

(2) Section 1374 of such title is amended—

(A) by redesignating subsection (e) as subsection (f); and

(B) by inserting after subsection (d) the following new subsection (e):

"(e) Unless entitled to a higher grade under another provision of law, a reserve commissioned officer who is transferred to the Retired

Reserve after having served in the position of Attending Physician to the Congress is entitled to be placed on the retired list established by section 1376(a) of this title in the grade held by such officer while serving in such position.".

(e) CONFORMING AMENDMENT.—The second undesignated paragraph relating to the Office of the Attending Physician under the heading "JOINT ITEMS" in chapter V of the Supplemental Appropriations Act, 1973 (Public Law 92-607; 86 Stat. 1509), is repealed.

10 USC 600a note.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply only with respect to appointments or details made on or after the date of the enactment of this Act.

SEC. 509. POSITION OF STAFF JUDGE ADVOCATE TO THE COMMANDANT OF THE MARINE CORPS

(a) IN GENERAL.—(1) Chapter 506 of title 10, United States Code (as enacted by section 513 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended by adding at the end the following new section:

Ante, p. 1051.

10 USC 5046.

"§ 5046. Staff Judge Advocate to the Commandant of the Marine Corps

"(a) An officer of the Marine Corps who is a judge advocate and a member of the bar of a Federal court or the highest court of a State or territory and who has had at least eight years of experience in legal duties as a commissioned officer may be detailed as Staff Judge Advocate to the Commandant of the Marine Corps. While so serving, a judge advocate who holds a grade lower than brigadier general shall hold the grade of brigadier general if appointed to that grade by the President, by and with the advice and consent of the Senate.

"(b) An officer retiring from the position of Staff Judge Advocate to the Commandant of the Marine Corps, after serving at least three years in that position, shall be retired in the highest grade in which that officer served on active duty satisfactorily, as determined by the Secretary of the Navy.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"5046. Staff Judge Advocate to the Commandant of the Marine Corps.".

10 USC 5046 note.

(b) EFFECTIVE DATE.—Section 5046 of title 10, United States Code, as added by subsection (a), shall apply only with respect to appointments as Staff Judge Advocate to the Commandant of the Marine Corps made on or after the date of the enactment of this Act.

Retirement. 10 USC 5046 note.

(d) TRANSITION PROVISION.—Notwithstanding section 1370(a)(2) of title 10, United States Code, an officer serving in the position of Staff Judge Advocate to the Commandant of the Marine Corps, or an equivalent position, on the day before the date of the enactment of this Act, if retired after having served in such position (or equivalent position) at least three years, including any service in such position (or its equivalent) before such date, shall be retired in the highest grade in which the officer served on active duty satisfactorily, as determined by the Secretary of the Navy.

SEC. 510. TECHNICAL CORRECTION RELATING TO PERSONNEL ADMINISTRATION AT AIR FORCE INSTITUTE OF TECHNOLOGY

Section 9314(b)(2)(B) of title 10, United States Code, is amended by striking out "rates of basic".

SEC. 511. TEMPORARY INCREASE IN THE NUMBER OF GENERAL AND FLAG OFFICERS AUTHORIZED TO BE ON ACTIVE DUTY IN THREE- AND FOUR-STAR GRADES 10 USC 525 note.

During fiscal year 1987, the numbers of officers authorized under section 525(b) of title 10, United States Code, to be on active duty in grades above major general and rear admiral are increased as follows:

(1) AIR FORCE GENERALS.—The number of officers of the Air Force authorized to be serving on active duty in the grade of general is increased by one.

(2) NAVY VICE ADMIRALS.—The number of officers of the Navy authorized to be serving on active duty in a grade above rear admiral is increased by three. None of the additional officers in grades above rear admiral by reason of this paragraph may be in the grade of admiral.

(3) MARINE CORPS GENERAL OFFICERS.—The number of officers of the Marine Corps authorized to be serving on active duty in grades above major general is increased by two. Only one additional officer in a grade above major general by reason of this paragraph may be in the grade of general.

SEC. 512. STUDY ON STAFFING OF CRITICAL WARTIME MEDICAL SPECIALITIES

(a) STUDY.—The Secretary of Defense shall conduct a study of possible actions which could be taken by the Department of Defense or by law to improve staffing of critical wartime medical specialities (including physician, nurse, and enlisted specialities) in both the active and reserve components. The study shall address the desirability of at least the following actions:

(1) Extending the mandatory retirement age of medical personnel in the active and reserve components.

(2) Extending the age limitations on enlistments and on officer accessions for medical personnel into the active and reserve components.

(3) Improving Department of Defense marketing techniques for attracting medical personnel in critical wartime medical specialities in the active and reserve components.

(4) Establishing alternative participation requirements for medical personnel in the reserve components.

(b) REPORT.—Not later than March 1, 1987, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the findings of the study conducted under subsection (a). The report shall include specific recommendations for legislative and administrative action with respect to the best methods for improving the staffing of critical wartime medical specialities in both the active and reserve components.

SEC. 513. STUDY OF REPRESENTATION OF RELIGIOUS FAITHS IN THE ARMED FORCES

(a) STUDY.—The Secretary of Defense shall carry out a study of the faith composition of the chaplains of the Armed Forces. Such study shall include the following:

(1) A statistical listing of the faith composition of the Armed Forces and of the Corps of Chaplains, to include an analysis of how the number of adherents to faith groups is determined.

(2) An analysis of the benefits and detriments to the Armed Forces of using the demographic distribution of faiths among members of the Armed Forces as a guide to the faith distribution within the Corps of Chaplains.

(3) An analysis of the time devoted by chaplains to such responsibilities as administrative tasks, conduct of religious services, and counseling, with particular emphasis on the time devoted to faith-specific tasks and to non-faith-specific tasks.

(4) An analysis of the personnel policies for managing the Corps of Chaplains (including the separation of chaplains for failure to achieve promotion), and the effect of these policies upon the faith composition of the Corps of Chaplains, to include a statistical analysis of the effect on the current faith distribution within the Armed Forces today if all those chaplains involuntarily released from duty during fiscal years 1980 through 1985 had been retained on active duty until fiscal year 1986.

(5) An analysis of the benefits and detriments of using grade retentions, continuation boards, and standby tours of duty for reserve chaplains for the purpose of altering the faith composition of the Corps of Chaplains.

(6) An explanation of the manner by which chaplains are recruited and the role of organized faith groups in assisting or retarding the recruitment or retention of chaplains.

(b) VIEWS OF FAITH GROUP OFFICES.—To the maximum extent possible, the Secretary shall seek the views of faith group offices that deal with chaplains. Any written comment received from any such office shall be appended to the report under subsection (c).

(c) REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the study under subsection (a). The report shall include each of the matters described in paragraphs (1) through (6) of such subsection and shall be submitted no later than January 9, 1987.

PART B—RESERVE FORCES

SEC. 521. INCREASED PRESIDENTIAL AUTHORITY TO AUGMENT ACTIVE FORCES WITH THE SELECTED RESERVE

(a) NUMBER OF MEMBERS THAT MAY BE ORDERED TO ACTIVE DUTY INVOLUNTARILY.—Subsection (c) of section 673b of title 10, United States Code, is amended by striking out "100,000" and inserting in lieu thereof "200,000".

(b) AUTHORITY TO EXTEND PERIOD OF CALL-UP.—Such section is further amended by adding at the end the following new subsection:

"(i) When a unit of the Selected Reserve, or a member of the Selected Reserve not assigned to a unit organized to serve as a unit of the Selected Reserve, is ordered to active duty under this section and the President determines that an extension of the service of such unit or member on active duty is necessary in the interests of national security, he may authorize the Secretary of Defense and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy to extend the period of such order to active duty for a period of not more than 90 additional days. Whenever the President exercises his authority under this subsection, he shall immediately notify Congress of such action and shall include in the notification a statement of reasons

for the action. Nothing in this subsection shall be construed as limiting the authorities to terminate the service of units or members ordered to active duty under this section under subsection (g).".

(c) TECHNICAL AMENDMENTS.—Such section is further amended—

(1) by striking out "Reserve component" in subsection (b) and inserting in lieu thereof "reserve component";

(2) by striking out "Armed Forces" in subsection (e) and inserting in lieu thereof "armed forces";

(3) by striking out "the Speaker" in subsection (f) and all that follows through "Senate" and inserting in lieu thereof "Congress"; and

(4) by striking out "a concurrent resolution of the Congress" in subsection (g)(2) and inserting in lieu thereof "law".

SEC. 522. CONSENT OF GOVERNOR FOR CERTAIN ACTIVE DUTY OF NATIONAL GUARD

Section 672 of title 10, United States Code, is amended by adding at the end the following new subsection: *Infra.*

"(f) The consent of a Governor described in subsections (b) and (d) may not be withheld (in whole or in part) with regard to active duty outside the United States, its territories, and its possessions, because of any objection to the location, purpose, type, or schedule of such active duty.".

SEC. 523. TREATMENT OF SINGLE PARENTS ENLISTING IN RESERVE COMPONENTS OF THE ARMED FORCES 10 USC 510 note.

(a) IN GENERAL.—In determining under section 510 of title 10, United States Code, whether a person who is applying to enlist in a reserve component of the Armed Forces upon discharge or release from active duty is qualified for enlistment as a Reserve of an Armed Force, the Secretary concerned may not disqualify the person because the person is a single parent if—

(1) the person is otherwise qualified for enlistment;

(2) the person became a single parent while serving on active duty; and

(3) the person's status as a single parent was not a factor in the person's discharge or release from active duty.

(b) REQUIREMENTS NOT TO BE MORE STRINGENT.—The Secretary concerned shall provide that requirements imposed on a person described in subsection (a) with respect to parenthood shall not be more stringent than those imposed on a member who becomes a single parent during the term of the member's enlistment. The Secretary concerned may include a requirement for an acceptable written agreement with respect to child care as a prerequisite to enlistment.

(c) SINGLE PARENT DEFINED.—In this section, the term "single parent" means a person who is not married and who has custody of a child under the age of 18 pursuant to a court order.

(d) EXPIRATION.—This section shall expire on September 30, 1988.

SEC. 524. ACTIVE-DUTY STATUS OF RESERVE COMPONENT MEMBERS IN A CAPTIVE STATUS

(a) AUTHORITY FOR INVOLUNTARY CALL TO ACTIVE DUTY.—Section 672 of title 10, United States Code (as amended by section 522), is amended by adding at the end the following new subsection:

"(g)(1) A member of a reserve component may be ordered to active duty without his consent if the Secretary concerned determines that

the member is in a captive status. A member ordered to active duty under this section may not be retained on active duty, without his consent, for more than 30 days after his captive status is terminated.

Regulations.

"(2) The Secretary of Defense shall prescribe regulations to carry out this section. Such regulations shall apply uniformly among the armed forces under the jurisdiction of the Secretary. A determination for the purposes of this subsection that a member is in a captive status shall be made pursuant to such regulations.

"(3) In this section, the term 'captive status' means the status of a member of the armed forces who is in a missing status (as defined in section 551(2) of title 37) which occurs as the result of a hostile action and is related to the member's military status.".

10 USC 672 note.

(b) EFFECTIVE DATE.—Section 672(g) of title 10, United States Code, as added by subsection (a), does not authorize a member of a reserve component to be ordered to active duty for a period before the date of the enactment of this Act.

PART C—CIVILIAN PERSONNEL

SEC. 531. WAIVER OF CIVILIAN PERSONNEL CEILINGS FOR FISCAL YEAR 1987

10 USC 115 note.

The provisions of section 115(b)(2) of title 10, United States Code (as designated and amended by section 110(b) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), shall not apply with respect to fiscal year 1987 or with respect to the appropriation of funds for that year.

Ante, p. 1001.

SEC. 532. PROHIBITION ON MANAGING CIVILIAN PERSONNEL BY END-STRENGTHS DURING FISCAL YEAR 1987

(a) PROHIBITION.—During fiscal year 1987, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an "end-strength") on the number of such personnel who may be employed on the last day of such fiscal year.

(b) FY87 REPORTS.—Not later than February 1, 1987, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the experience of the Department of Defense during fiscal years 1986 and 1987 (to the date of the report) concerning the management of civilian personnel of the Department without a congressionally imposed civilian end strength and with a statutory prohibition on the management during those fiscal years of such civilian personnel by end strength. Each such report shall include the views of the Secretary with respect to the desirability of managing such personnel in such a manner.

(c) REPORTS.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives quarterly reports on the obligation of funds appropriated for civilian personnel of the Department of Defense for fiscal year 1987. Each report shall include—

(A) for each appropriation account, the amounts authorized and appropriated for such personnel for fiscal year 1987;

(B) for each appropriation account and for the entire Department—

(i) the actual number of such personnel employed, and the amount of funds obligated for such personnel, as of the

end of each month of the fiscal year quarter described in the report; and

(ii) the projected number of such personnel to be employed, and the amount of funds that will be obligated for such personnel, as of the end of fiscal year 1987.

SEC. 533. PROHIBITION ON CONTROLLING PERSONNEL NOT FUNDED BY GOVERNMENT

Section 129 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended— *Ante*, p. 994.

(1) by inserting "(a)" at the beginning of the text of such section; and

(2) by adding at the end the following:

"(b) The number of, and the amount of funds available to be paid to, indirectly funded Government employees of the Department of Defense may not be—

"(1) subject to any constraint or limitation on the number of such personnel who may be employed on the last day of a fiscal year;

"(2) managed on the basis of any end-strength; or

"(3) controlled under any policy of the Secretary of a military department for control of civilian manpower resources.

"(c) In this section, the term 'indirectly funded Government employees' means civilian employees of the Department of Defense—

"(1) who are employed by industrial-type activities or commercial-type activities described in section 2208 of this title; and

"(2) whose salaries and benefits are funded from sources other than appropriated funds.".

SEC. 534. REDUCTION IN NUMBER OF YEARS PERSON MUST BE OFF ACTIVE DUTY BEFORE APPOINTMENT AS SERVICE SECRETARY

Sections 3013(a)(2), 5013(a)(2), and 8013(a)(2) of title 10, United States Code (as added by sections 501, 511, and 521, respectively of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), are amended by striking out "10 years" and inserting in lieu thereof "five years". *Ante*, pp. 1034, 1042, 1055.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

PART A—PAY AND ALLOWANCES

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1987

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1987 shall not be made. 37 USC 1009 note.

(b) THREE PERCENT INCREASE IN BASIC PAY, BASIC ALLOWANCE FOR QUARTERS, AND BASIC ALLOWANCE FOR SUBSISTENCE.—The rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 3 percent effective on January 1, 1987.

Effective date.

(c) THREE PERCENT INCREASE IN CADET AND MIDSHIPMAN PAY.—Effective January 1, 1987, section 203(c)(1) of title 37, United States Code, is amended by striking out "$461.40" and inserting in lieu thereof "$494.40".

SEC. 602. AUTHORITY TO PAY ROTC MEMBERS IN ADVANCE FOR FIELD TRAINING

(a) AUTHORITY.—Section 1006 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(j) Under regulations prescribed by the Secretary concerned, not more than one month's pay may be paid in advance to a member of the Senior Reserve Officers' Training Corps who is ordered to field training or a practice required under section 2109 of title 10.".

37 USC 1006 note.

(b) EFFECTIVE DATE.—Subsection (j) of title 37, United States Code, as added by subsection (a), shall apply with respect to pay payable for months beginning after the date of the enactment of this Act.

SEC. 603. REIMBURSEMENT FOR ACCOMMODATIONS IN PLACE OF QUARTERS

Effective date.

(a) LIMITATION ON AMOUNT AVAILABLE FOR REIMBURSEMENTS DURING FISCAL YEARS 1987 THROUGH 1991.—Effective as of October 1, 1986, section 7572(b)(3) of title 10, United States Code, is amended to read as follows:

"(3) The total amount of reimbursement under this subsection may not exceed $1,421,000 for fiscal year 1986 and $1,657,000 for each of the fiscal years 1987 through 1991.".

Effective date.

(b) EXTENSION OF AUTHORITY.—Effective as of October 1, 1986, section 3 of Public Law 96-357 (10 U.S.C. 7572 note) is amended by striking out "September 30, 1986" and inserting in lieu thereof "September 30, 1991".

SEC. 604. PAY, ALLOWANCES, AND BENEFITS FOR MEMBERS OF THE RESERVE COMPONENTS

(a) MEDICAL AND DENTAL CARE.—(1) Section 1074a of title 10, United States Code, is amended to read as follows:

10 USC 1074a.

"§ 1074a. Medical and dental care: members on duty other than active duty for a period of more than 30 days

"(a) Under joint regulations prescribed by the administering Secretaries, the following persons are entitled to the benefits described in subsection (b):

"(1) Each member of a uniformed service who incurs or aggravates an injury, illness, or disease in the line of duty while performing—

"(A) active duty for a period of 30 days or less; or

"(B) inactive-duty training.

"(2) Each member of a uniformed service who incurs or aggravates an injury, illness, or disease while traveling directly to or from the place at which that member is to perform or has performed—

"(A) active duty for a period of 30 days or less; or

"(B) inactive-duty training.

"(b) A person described in subsection (a) is entitled to—

"(1) the medical and dental care appropriate for the treatment of the injury, illness, or disease of that person until the resulting disability cannot be materially improved by further hospitalization or treatment; and

"(2) subsistence during hospitalization.

"(c) A member is not entitled to benefits under this section if the injury, illness, or disease, or aggravation of an injury, illness, or disease described in subsection (a)(2), is the result of the gross negligence or misconduct of the member.".

(2) The item relating to section 1074a in the table of sections at the beginning of chapter 55 of such title is amended to read as follows:

"1074a. Medical and dental care: members on duty other than active duty for a period of more than 30 days.".

(b) PAY AND ALLOWANCES FOR DISABLED MEMBERS.—Section 204 of title 37, United States Code, is amended as follows:

(1) Subsections (g) and (h) are amended to read as follows:

"(g) A member of a reserve component of a uniformed service is entitled to the pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service whenever such member—

"(1) is called or ordered to active duty for a period of more than 30 days; and

"(2) is physically disabled in line of duty from injury, illness, or disease.

"(h)(1) A member of a reserve component of a uniformed service is entitled, upon request, to a portion of the monthly pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service for each month for which the member demonstrates a loss of income from non-military compensation as a result of an injury, illness, or disease incurred or aggravated—

"(A) in line of duty while performing active duty for a period of 30 days or less;

"(B) in line of duty while performing inactive-duty training (other than work or study in connection with a correspondence course of an armed force or attendance in an inactive status at an educational institution under the sponsorship of an armed force or the Public Health Service); or

"(C) while traveling directly to or from that duty or training.

"(2)(A) Subject to subparagraphs (B) and (C), pay and allowances paid under paragraph (1) shall be in an amount which offsets the loss of income from non-military compensation.

"(B) Pay and allowances may not be paid under paragraph (1) to a member who is enrolled in any other income protection insurance plan to the extent that such payment would result in total benefits to the member of more than the demonstrated loss of income from non-military compensation.

"(C) The total amount of pay and allowances paid under paragraph (1) and compensation paid under section 206(a) of this title for any period may not exceed the amount of pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service for that period.

"(3) Pay and allowances may be paid under paragraph (1)—

"(A) for a period of not more than six months; or

"(B) for a longer period, if the Secretary concerned determines that it is in the interests of fairness and equity to do so.

"(4) A member is not entitled to benefits under this subsection if the injury, illness, disease, or aggravation of an injury, illness, or

disease described in paragraph (1)(C) is the result of the gross misconduct of the member.

"(5) Regulations with respect to procedures for paying pay and allowances under paragraph (1) shall be prescribed—

"(A) by the Secretary of Defense for the armed forces under the jurisdiction of the Secretary; and

"(B) by the Secretary of Transportation for the Coast Guard when the Coast Guard is not operating as a service in the Navy.".

(2) Subsection (i) is repealed.

(3) Subsection (j) is redesignated as subsection (i).

(c) INACTIVE-DUTY TRAINING PAY FOR DISABLED MEMBERS.—Section 206(a) of title 37, United States Code, is amended by striking out "entitled to basic pay" the second place it appears and all that follows and inserting in lieu thereof the following: "entitled to basic pay—

"(1) for each regular period of instruction, or period of appropriate duty, at which the member is engaged for at least two hours, including that performed on a Sunday or holiday;

"(2) for the performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary may prescribe; or

"(3) for a regular period of instruction that the member is scheduled to perform but is unable to perform because of physical disability resulting from an injury, illness, or disease incurred or aggravated—

"(A) in line of duty while performing—

"(i) active duty for a period of 30 days or less; or

"(ii) inactive-duty training; or

"(B) while traveling directly to or from that duty or training (unless such injury, illness, disease, or aggravation of an injury, illness, or disease is the result of the gross negligence or misconduct of the member).".

(d) RETIREMENT FOR DISABILITY.—(1) Sections 1204 and 1206 of title 10, United States Code, are amended by striking out "resulting from an injury".

(2)(A) The heading of section 1204 of such title is amended to read as follows:

"§ 1204. Members on active duty for 30 days or less: retirement".

(2) The heading of section 1205 of such title is amended to read as follows:

"§ 1205. Members on active duty for 30 days or less: temporary disability retired list".

(3) The heading of section 1206 of such title is amended to read as follows:

"§ 1206. Members on active duty for 30 days or less: separation".

(4) The items relating to sections 1204, 1205, and 1206 in the table of sections at the beginning of chapter 61 of such title are amended to read as follows:

"1204. Members on active duty for 30 days or less: retirement.
"1205. Members on active duty for 30 days or less: temporary disability retired list.
"1206. Members on active duty for 30 days or less: separation.".

(e) DEATH BENEFITS.—(1) Section 1475(a) of title 10, United States Code, is amended by striking out "from an injury incurred by him after December 31, 1956," in paragraph (3).

(2) Section 1476 of such title is amended—

(A) by striking out subsection (a) and inserting in lieu thereof the following:

"(a)(1) Except as provided in section 1480 of this title, the Secretary concerned shall pay a death gratuity to or for the survivors prescribed in section 1477 of this title of each person who dies within 120 days after discharge or release from—

"(A) active duty; or

"(B) inactive-duty training (other than work or study in connection with a correspondence course of an armed force or attendance, in an inactive status, at an educational institution under the sponsorship of an armed force or the Public Health Service).

"(2) A death gratuity may be paid under paragraph (1) only if the Administrator of Veterans' Affairs determines that the death resulted from an injury or disease incurred or aggravated during—

"(A) the active duty or inactive-duty training described in paragraph (1); or

"(B) travel directly to or from such duty.";

(B) by striking out subsection (b); and

(C) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(3) Section 1481(a) of such title is amended—

(A) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) a member of a reserve component of an armed force who dies while—

"(A) on active duty;

"(B) performing inactive-duty training;

"(C) performing authorized travel directly to or from active duty or inactive-duty training; or

"(D) hospitalized or undergoing treatment for an injury, illness, or disease incurred or aggravated while on active duty or performing inactive-duty training;"; and

(B) by striking out paragraph (3).

(f) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Title 10, United States Code, is amended as follows:

(A) Sections 3687, 3721, 3722, 6148, 8687, 8721, and 8722 are repealed.

(B)(i) The table of sections at the beginning of chapter 353 is amended by striking out the item relating to section 3687.

(ii) The table of sections at the beginning of chapter 355 is amended by striking out the items relating to sections 3721 and 3722.

(iii) The table of sections at the beginning of chapter 561 is amended by striking out the item relating to section 6148.

(iv) The table of sections at the beginning of chapter 853 is amended by striking out the item relating to section 8687.

(v) The table of sections at the beginning of chapter 855 is amended by striking out the items relating to sections 8721 and 8722.

(C) Sections 1076(a)(2)(B) and 1086(c)(2)(B) are amended by striking out "injury or illness" and inserting in lieu thereof "injury, illness, or disease".

10 USC 3723, 8723.

(D) Sections 3723 and 8723 are amended by striking out "was injured, or contracted a disease," and inserting in lieu thereof "incurred an injury, illness, or disease,".

(2)(A) Sections 318, 319, 320, and 321 of title 32, United States Code, are repealed.

(B) The table of sections at the beginning of chapter 3 of such title is amended by striking out the items relating to sections 318, 319, 320, and 321.

10 USC 1074a note.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to persons who, after the date of enactment of this Act, incur or aggravate an injury, illness, or disease or die.

PART B—TRAVEL AND TRANSPORTATION

SEC. 611. TRANSPORTATION OF MOTOR VEHICLES FOR MEMBERS MAKING PERMANENT CHANGES OF STATION

(a) IN GENERAL.—Subsection (a) of section 2634 of title 10, United States Code, is amended—

(1) by striking out "in the case of" and all that follows through "debarkation" in paragraph (4) and inserting in lieu thereof "by other surface transportation"; and

(2) by striking out ", or his designee," in the second sentence.

(b) REVISION TO DEFINITION OF CHANGE OF PERMANENT STATION.—Subsection (b) of such section is amended to read as follows:

"(b) In this section:

Armed Forces.

"(1) The term 'change of permanent station' means the transfer or assignment of a member of the armed forces from a permanent station inside the continental United States to a permanent station outside the continental United States or from a permanent station outside the continental United States to another permanent station. It also includes an authorized change in home port of a vessel, or a transfer or assignment between two permanent stations in the continental United States when the member cannot, because of injury or the conditions of the order, drive the motor vehicle between the permanent duty stations.

"(2) The term 'continental United States' does not include Alaska.".

10 USC 113 note.

SEC. 612. COORDINATION OF PERMANENT CHANGE OF STATION MOVES WITH SCHOOL YEAR

The Secretary of each military department shall establish procedures to ensure that, to the maximum extent practicable within operational and other military requirements, permanent change of station moves for members of the Armed Forces under the jurisdiction of the Secretary who have dependents in elementary or secondary school occur at times that avoid disruption of the school schedules of such dependents.

SEC. 613. LIMITATION ON AMOUNT FOR PCS MOVES DURING FISCAL YEAR 1987

The total amount authorized to be appropriated to the Department of Defense for fiscal year 1987 for permanent change of station moves may not exceed $2,533,760,000.

SEC. 614. REIMBURSEMENT FOR ACTUAL LODGING EXPENSES PLUS PER DIEM FOR MEMBERS ENTITLED TO TRAVEL ALLOWANCES

(a) IN GENERAL.—Section 404(d) of title 37, United States Code, is amended—

(1) by striking out "per diem in place of subsistence in an amount not more than $50 determined by the Secretaries concerned to be sufficient" in paragraph (1)(B) and inserting in lieu thereof "payment in lieu of subsistence as provided in paragraph (2) of this subsection in an amount sufficient";

(2) by striking out "to be" in paragraph (1)(B) after "travel is"; and

(3) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Under regulations prescribed by the Secretaries concerned, a member of a uniformed service entitled to travel and transportation allowances under subsection (a) of this section is entitled to any of the following:

"(A) A per diem allowance at a rate not to exceed that established by the Secretaries concerned.

"(B) Reimbursement for the actual and necessary expenses of official travel not to exceed an amount established by the Secretaries concerned.

"(C) A combination of payments described in subparagraphs (A) and (B) of this paragraph.

"(3) A per diem allowance or maximum amount of reimbursement established for purposes of paragraph (2) of this subsection shall be established, to the extent feasible, by locality.

"(4) For travel consuming less than a full day, the payment prescribed by regulation under paragraph (2) of this subsection shall be allocated in such manner as the Secretaries concerned prescribe.".

(b) EFFECTIVE DATE.—(1) The amendments made by subsection (a) shall become effective on such date as the President makes a certification that payment of lodging expenses and per diem provided under such amendments would result in overall savings to the United States. If such amendments become effective, they shall apply with respect to travel performed on and after the date of the certification by the President. 37 USC 404 note.

(2) The President shall cause to be published in the Federal Register a certification made by him under paragraph (1).

SEC. 615. TRANSPORTATION AND TRAVEL ALLOWANCES FOR ESCORTS FOR CERTAIN DEPENDENTS

(a) IN GENERAL.—(1) Chapter 7 of title 37, United States Code, is amended by adding at the end the following new section:

"§ 431. Travel and transportation: members escorting certain dependents 37 USC 431.

"(a) Under regulations prescribed by the Secretary concerned, a member of a uniformed service may be provided round trip transportation and travel allowances for travel performed or to be performed under competent orders as an escort for the member's dependent when travel by the dependent is authorized by competent authority and the dependent is incapable of traveling alone because of age, mental or physical incapacity, or other extraordinary circumstances.

"(b) Whenever possible, the Military Airlift Command or Military Sealift Command shall be used, on a space-required basis, for the travel authorized by this section.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"431. Travel and transportation: members escorting certain dependents.".

37 USC 431 note.

(b) EFFECTIVE DATE.—Section 431 of title 37, United States Code, as added by subsection (a), shall apply with respect to travel performed after September 30, 1986.

SEC. 616. TRAVEL EXPENSES FOR OVERSEAS DEPENDENTS REQUIRING MEDICAL CARE IN CERTAIN CIRCUMSTANCES

(a) IN GENERAL.—Section 1040(a) of title 10, United States Code, is amended by striking out the comma after "attendants" and all that follows in the third sentence and inserting in lieu thereof a period and the following: "In addition to transportation of a dependent at the expense of the United States authorized under this subsection, reasonable travel expenses incurred in connection with the transportation of the dependent may be paid at the expense of the United States. Travel expenses authorized by this section may include reimbursement for necessary local travel in the vicinity of the medical facility involved. The transportation and travel expenses authorized by this section may be paid in advance.".

10 USC 1040 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only to travel performed on or after the date of the enactment of this Act.

SEC. 617. PER DIEM FOR DEPENDENTS RECEIVING TRANSPORTATION ALLOWANCE

(a) IN GENERAL.—Section 406 of title 37, United States Code, is amended as follows:

(1) The first sentence of subsection (e) is amended by striking out ", as the case may be," and inserting in lieu thereof the following: "(as the case may be), plus a per diem,".

(2) Subsection (f) is amended by inserting after "member" the following: ", plus a per diem for the member's dependents,".

(3) Subsection (g)(1) is amended by inserting after "404(c) of this title" the following: ", and to a per diem for his dependents".

(4) Subsection (j) is amended by inserting after "household effects," the following: "plus a per diem for the member's dependents,".

37 USC 406 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to travel performed after the date of the enactment of this Act.

SEC. 618. MODIFICATION OF FAMILY SEPARATION ALLOWANCE

(a) DENIAL OF ALLOWANCE TO CERTAIN MEMBERS.—(1) Section 427(b) of title 37, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(3) by designating the second sentence as paragraph (2) and striking out "clause (2) or (3)" in that sentence and inserting in lieu thereof "subparagraph (B) or (C) of paragraph (1)"; and

(4) by adding at the end the following:

"(3) A member who elects to serve a tour of duty unaccompanied by his dependents at a permanent station to which the movement of his dependents is authorized at the expense of the United States under section 406 of this title is not entitled to an allowance under this subsection. The Secretary concerned may waive the preceding sentence in situations in which it would be inequitable to deny the allowance to the member because of unusual family or operational circumstances."

Ante, p. 3880; *post*, p. 3882.

(b) SAVINGS PROVISION.—Notwithstanding the amendments made by subsection (a), a member who on September 30, 1986, was assigned to a permanent station to which the movement of his dependents was authorized at the expense of the United States under section 406 of title 37, United States Code, and who elected to serve a tour of duty at that station unaccompanied by his dependents, shall, until he departs that station as a result of a change of permanent station, be entitled to receive the allowance authorized by section 427(b) of such title without regard to paragraph (3) of such section, as added by subsection (a).

37 USC 427 note.

SEC. 619. IMPROVED DISLOCATION ALLOWANCE

(a) IN GENERAL.—Section 407 of title 37, United States Code, is amended to read as follows:

"§ 407. Travel and transportation allowances: dislocation allowance

"(a) Except as provided in subsections (b), (c), and (d) of this section and under regulations prescribed by the Secretary concerned, a member of a uniformed service is entitled to a dislocation allowance equal to the basic allowance for quarters for two months as provided for the member's pay grade and dependency status in section 403 of this title if—

"(1) the member's dependents actually make an authorized move in connection with the member's change of permanent station, including—

"(A) a move to join the member at the member's duty station after an unaccompanied tour of duty when the member's next tour of duty is an accompanied tour at the same station; and

"(B) a move to a location designated by the member after an accompanied tour of duty when the member's next tour of duty is an unaccompanied tour at the same duty station;

"(2) the member's dependents actually move pursuant to section 405a(a), 406(e), 406(h), or 554 of this title;

Ante, p. 3880.

"(3) the member's dependents actually move from their place of residence under circumstances described in section 406a of this title; or

"(4) the member is without dependents and—

"(A) actually moves to a new permanent station where not assigned to quarters of the United States; or

"(B) actually moves from a place of residence under circumstances described in section 406a of this title.

If a dislocation allowance is paid under clause (3) or (4)(B), the member is not entitled to a dislocation allowance under clause (1).

"(b) Under regulations prescribed by the Secretary concerned, whenever a member is entitled to a dislocation allowance under subsection (a)(3) or (a)(4)(B) of this section, the member is also entitled to a second dislocation allowance equal to the basic allow-

37 USC 403.

ance for quarters for two months as provided for a member's pay grade and dependency status in section 403 of this title if, subsequent to the member or member's dependents actually moving from their place of residence under circumstances described in section 406a of this title, the member or member's dependents complete that move to a new location and then actually move from that new location to another location also under circumstances described in section 406a of this title. If a second dislocation allowance is paid under this subsection, the member is not entitled to a dislocation allowance under subsection (a)(1) of this section in connection with those moves.

"(c) A member is not entitled to more than one dislocation allowance during a fiscal year unless—

"(1) the Secretary concerned finds that the exigencies of the service require the member to make more than one change of permanent station during the fiscal year;

"(2) the member is ordered to a service school as a change of permanent station;

"(3) the member's dependents are covered by section 405a(a), 406(e), 406(h), or 554 of this title; or

Ante, p. 3880.

"(4) the member or the member's dependents are covered by subsection (a)(3), (a)(4)(B), or (b) of this section.

This subsection does not apply in time of national emergency declared after April 1, 1975, or in time of war.

"(d) A member is not entitled to payment of a dislocation allowance when ordered from his home to the first duty station or from the last duty station to his home.

"(e) For purposes of this section, a member whose dependents may not make an authorized move in connection with a change of permanent station is considered a member without dependents."

37 USC 407 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply only to moves which commence on or after that date.

SEC. 620. TRANSPORTATION AND STORAGE OF HOUSEHOLD GOODS

(a) ADMINISTRATION OF STORAGE OF EXCESS HOUSEHOLD GOODS.—Section 406(d) of title 37, United States Code, is amended by inserting after the second sentence the following new sentence: "In the event a member's baggage and household effects exceed such maximum weight limitation, the Secretary concerned, if requested to do so by the member, may pay the costs for the nontemporary storage of that excess weight and collect the amount paid from the member's pay and allowances, or collect the amount in such other manner as the Secretary concerned determines appropriate.".

(b) EARLY RETURN SHIPMENT OF HOUSEHOLD GOODS AND PRIVATELY OWNED MOTOR VEHICLES FROM OVERSEAS.—(1) Section 406 of such title is amended—

(1) by redesignating subsection (l) as subsection (m); and

(2) by inserting after subsection (k) the following new subsection (l):

"(l) Under uniform regulations prescribed by the Secretaries concerned, a member with dependents who is ordered to make an overseas permanent change of station and who, in anticipation of his dependents accompanying him overseas, ships baggage and household effects to that overseas station, may be authorized a return shipment of the baggage and household effects if, after the shipment, the member's dependents are unable to accompany him over-

seas and the Secretary concerned determines that such inability was unexpected and uncontrollable.".

(2) Section 2634 of title 10, United States Code, as amended by section 611, is further amended by adding at the end the following new subsection:

"(f) When the Secretary concerned makes a determination under section 406(l) of title 37 that the dependents of a member on a permanent change of station are unable to accompany the member to an overseas duty station because of unexpected and uncontrollable circumstances, and the member shipped a motor vehicle pursuant to this section in anticipation of a dependent accompanying the member to the new duty station, the member may reship or transship such motor vehicle in accordance with this section.". *Ante*, p. 3882.

(c) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall apply to members whose baggage and household goods enter nontemporary storage on or after the date of the enactment of this Act. 37 USC 406 note.

(2) The amendments made by subsection (b) shall apply only with respect to members whose dependents are unable to accompany them to an overseas permanent duty station because of circumstances arising on or after the date of the enactment of this Act.

PART C—BONUSES AND SPECIAL AND INCENTIVE PAYS

SEC. 631. ENHANCED AVIATION OFFICER CONTINUATION PAY

(a) SERVICE FOR QUALIFYING.—Section 301b(e) of title 37, United States Code, is amended—

(1) by striking out "less than seven years" in the third sentence of paragraph (3), and inserting in lieu thereof "less than eight years"; and

(2) by striking out paragraph (4).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments made for periods beginning after the date of the enactment of this Act under agreements entered into under section 301b of title 37, United States Code. 37 USC 301b note.

SEC. 632. INCLUSION OF AVIATION CADETS UNDER AVIATION CAREER INCENTIVE PAY

(a) IN GENERAL.—(1) Section 301a(a)(6) of title 37, United States Code, is amended—

(A) by striking out "and" at the end of clause (A);

(B) by striking out the period at the end of clause (B) and inserting in lieu thereof a semicolon and "and"; and

(C) by inserting after clause (B) the following new clause: "(C) 'officer' includes an individual enlisted, and designated, as an aviation cadet under section 6911 of title 10.".

(2) Section 301a(b)(1) of such title is amended by striking out "an officer in pay grades O-1 through O-10" and inserting in lieu thereof "a member".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply only with respect to those members of the Armed Forces who are aviation cadets on or after the date of the enactment of this Act. Service as an aviation cadet before that date shall not be counted for any purpose under section 301a of title 37, United States Code. 37 USC 301a note.

SEC. 633. SPECIAL AUTHORITY RELATING TO THE PAYMENT OF SELECTED RESERVE ENLISTMENT BONUS

(a) IN GENERAL.—The Secretary concerned may pay an enlistment bonus under section 308c of title 37, United States Code, to any person who enlisted in the Selected Reserve of the Ready Reserve of an Armed Force during the period beginning on October 1, 1985, and ending on November 8, 1985, if such person—

(1) has not been paid an enlistment or reenlistment bonus under section 308c or 308b of title 37, United States Code, since that period; and

(2) enlisted in the good faith belief (as determined by the Secretary concerned) that he would be paid an enlistment bonus under section 308c of title 37, United States Code.

(b) DEFINITION.—As used in subsection (a), the term "Secretary concerned" has the meaning provided in section 101(5) of title 37, United States Code.

SEC. 634. SPECIAL PAY FOR MEMBERS PROFICIENT IN FOREIGN LANGUAGES

(a) AUTHORITY FOR SPECIAL PAY.—(1) Chapter 5 of title 37, United States Code, is amended by adding at the end the following new section:

37 USC 316.

"§ 316. Special pay: foreign language proficiency pay

"(a) A member of the armed forces—

Ante, p. 3875.

"(1) who is entitled to basic pay under section 204 of this title;

"(2) who has been certified by the Secretary concerned within the past 12 months to be proficient in a foreign language identified by the Secretary of Defense as being a language in which it is necessary to have personnel proficient because of national defense considerations; and

"(3) who—

"(A) is qualified in a military specialty requiring such proficiency;

"(B) received training, under regulations prescribed by the Secretary concerned, designed to develop such proficiency;

"(C) is assigned to military duties requiring such a proficiency; or

"(D) is proficient in a foreign language for which the Department of Defense may have a critical need (as determined by the Secretary of Defense),

may be paid special pay under this section in addition to any other pay or allowance to which the member is entitled.

"(b) The monthly rate for special pay under subsection (a) shall be determined by the Secretary concerned and may not exceed $100.

"(c)(1) Under regulations prescribed by the Secretary concerned, when a member of a reserve component who is entitled to compensation under section 206 of this title meets the requirements for special pay authorized in subsection (a), except the requirement prescribed in subsection (a)(1), the member may be paid an increase in compensation equal to one-thirtieth of the monthly special pay authorized under subsection (b) for a member who is entitled to basic pay under section 204 of this title.

Ante, p. 3876.

"(2) A member eligible for increased compensation under paragraph (1) shall be paid such increase—

"(A) for each regular period of instruction, or period of appropriate duty, in which he is engaged for at least two hours, including instruction received or duty performed on a Sunday or holiday; and

"(B) for each period of performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary concerned may prescribe.

"(3) This subsection does not apply to a member who is entitled to basic pay under section 204 of this title.

Ante, p. 3875.

"(d) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Transportation for the Coast Guard when the Coast Guard is not operating as a service in the Navy.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"316. Special pay: foreign language proficiency pay.".

(b) EFFECTIVE DATE.—Section 316 of title 37, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act, and shall apply with respect to pay periods beginning on or after that date.

37 USC 316 note.

(c) LIMITATIONS ON OBLIGATIONS.—Not more than $7,300,000 may be obligated or expended for the payment of the special pay authorized by section 316 of title 37, United States Code (as added by this section), during fiscal year 1987, and not more than $9,000,000 may be obligated or expended for such purpose during fiscal year 1988.

PART D—BENEFITS FOR SURVIVORS AND FORMER SPOUSES

SEC. 641. COURT-ORDERED SURVIVOR ANNUITIES FOR FORMER SPOUSES

(a) GENERAL RULE.—Paragraph (4) of section 1450(f) of title 10, United States Code, is amended to read as follows:

"(4) A court order may require a person to elect (or to enter into an agreement to elect) under section 1448(b) of this title to provide an annuity to a former spouse (or to both a former spouse and child).".

(b) CONFORMING AMENDMENTS.—

(1) Section 1448(b)(5) of such title is amended by inserting "(A) whether the election is being made pursuant to the requirements of a court order, or (B)" after "setting forth".

(2) Paragraph (2) of section 1450(f) of such title is amended—

(A) by striking out "enters into" and all that follows through "pursuant to such agreement" and inserting in lieu thereof "is required by a court order to elect under section 1448(b) of this title to provide an annuity to a former spouse (or to both a former spouse and child), or who enters into a written agreement (whether voluntary or required by a court order) to make such an election, and who makes an election pursuant to such order or agreement,";

(B) by striking out "in a case in which such agreement" at the beginning of subparagraph (A) and inserting in lieu thereof "in a case in which the election is required by a

court order, or in which an agreement to make the election";

(C) by striking out "relating to the agreement to make such election" and inserting in lieu thereof "relating to such election, or the agreement to make such election,"; and

(D) by striking out "in which such agreement" at the beginning of subparagraph (B) and inserting in lieu thereof "of a written agreement that".

(3) Paragraph (3)(A) of such section is amended—

(A) by striking out "voluntary" both places it appears;

(B) by inserting "or if such person is required by a court order to make such an election," after "applicable State law" the first place it appears; and

(C) by inserting "requires such election or" after "on its face, which".

10 USC 1450 note.

(c) EFFECTIVE DATE.—The amendments made by this section apply to court orders issued on or after the date of the enactment of this Act.

SEC. 642. ANNUITY FOR A DEPENDENT CHILD

(a) REPEAL OF COMMON-ACCIDENT LIMITATION.—(1) Subsection (d)(2) of section 1448 of title 10, United States Code, is amended by striking out "if the member and the member's spouse die as a result of a common accident" and inserting in lieu thereof "if there is no surviving spouse or if the member's surviving spouse subsequently dies".

(2) Subsection (f)(2) of such section is amended by striking out "if the person and the person's spouse die as a result of a common accident" and inserting in lieu thereof "if there is no surviving spouse or if the person's surviving spouse subsequently dies".

(b) AMOUNT OF ANNUITY FOR DISABLED CHILD OVER AGE 62.—(1) Subsection (a) of section 1451 of such title is amended—

(A) by inserting "or is a dependent child" in paragraphs (1)(A) and (2)(A) after "under 62 years of age"; and

(B) by inserting "(other than a dependent child)" in paragraphs (1)(B) and (2)(B) after "beneficiary".

(2) Subsection (c)(1) of such section is amended—

(A) by inserting "or is a dependent child" in subparagraph (A) after "under 62 years of age"; and

(B) by inserting "(other than a dependent child)" in subparagraph (B) after "receiving the annuity".

10 USC 1448 note.

(c) EFFECTIVE DATES.—The amendments made by subsection (a) shall apply only to claims arising on or after March 1, 1986. The amendments made by subsection (b) shall apply to payments for periods after February 28, 1986.

SEC. 643. AGE AT WHICH REMARRIAGE TERMINATES SPOUSE SURVIVOR BENEFIT

10 USC 1450.

(a) REDUCTION FROM AGE 60 TO AGE 55.—Section 1450(b) of such title is amended by striking out "age 60" both places it appears and inserting in lieu thereof "age 55".

10 USC 1450 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to remarriages that occur on or after the date of the enactment of this Act, but only with respect to payments for periods after the date of the enactment of this Act.

SEC. 644. REVISION OF DEFINITION OF DISPOSABLE RETIRED PAY FOR PURPOSES OF COURT ORDERS

(a) IN GENERAL.—Section 1408(a)(4) of such title is amended— 10 USC 1408.

(1) by striking out "(other than" and all that follows through "title)" in the matter preceding subparagraph (A); and

(2) by striking out subparagraph (E) and inserting in lieu thereof the following:

"(E) in the case of a member entitled to retired pay under chapter 61 of this title, are equal to the amount of retired pay of the member under that chapter computed using the percentage of the member's disability on the date when the member was retired (or the date on which the member's name was placed on the temporary disability retired list); or". 10 USC 1201 *et seq.*

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to court orders issued after the date of the enactment of this Act. 10 USC 1408 note.

SEC. 645. REVISION OF OPEN PERIOD TO ELECT FORMER SPOUSE AND CHILD COVERAGE 10 USC 1448 note.

Section 716(b) of the Survivor Benefit Plan Amendments of 1985 (title VII of Public Law 99-145; 99 Stat. 674) is amended—

(1) by striking out "the date of the enactment of this Act" and inserting in lieu thereof "March 1, 1986,";

(2) by striking out ", within the one-year period beginning on that date of enactment,"; and

(3) by adding at the end the following new sentence: "Such an election must be made—

"(1) not later than March 1, 1987, in the case of a person who made the election to provide an annuity for a former spouse before November 8, 1985; and

"(2) not later than the end of the one-year period beginning on the date of the enactment of the Department of Defense Authorization Act, 1987, in the case of a person who made the election to provide an annuity for a former spouse during the period beginning on November 8, 1985, and ending on February 28, 1986.".

SEC. 646. EXTENSION OF MEDICAL BENEFITS FOR CERTAIN FORMER SPOUSES 10 USC 1072 note.

Section 645(c) of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2549), is amended by striking out "during the two-year period" and inserting in lieu thereof "until the later of (1) April 1, 1988, and (2) the last day of the two-year period".

PART E—MISCELLANEOUS BENEFITS

SEC. 651. TUITION ASSISTANCE FOR ARMY RESERVE COMPONENT OFFICERS

(a) IN GENERAL.—Section 2007 of title 10, United States Code, is amended—

(1) by inserting "on active duty" in subsection (a)(3) after "a commissioned officer"; and

(2) by adding at the end of the following new subsection:

"(c)(1) Subject to paragraphs (2) and (3), the Secretary of the Army may pay not more than 75 percent of the charges of an educational institution for the tuition or expenses of an officer in the Selected Reserve of the Army National Guard or the Army Reserve for

education or training of such officer in a program leading to a baccalaureate degree.

"(2) The Secretary may not pay charges under paragraph (1) for tuition or expenses of an officer unless the officer agrees to remain a member of the Selected Reserve for at least four years after completion of the education or training for which the charges are paid.

"(3) The Secretary may not pay charges under paragraph (1)—

"(A) for a warrant officer; or

"(B) for an officer on active duty or full-time National Guard duty.".

(b) LIMITATION ON AMOUNT FOR FISCAL YEAR 1987.—The total amount obligated by the Secretary of the Army under subsection (c) of section 2007 of title 10, United States Code, as added by subsection (a), during fiscal year 1987 may not exceed $3,000,000.

10 USC 2007 note.

(c) EFFECTIVE DATE.—Subsection (c) of section 2007 of title 10, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act.

SEC. 652. BENEFITS FOR DEPENDENTS OF CERTAIN SENTENCED, DISCHARGED, OR DISMISSED MEMBERS

(a) TRAVEL AND TRANSPORTATION OF DEPENDENTS.—Paragraph (2)(A) of section 406(a) of title 37, United States Code, is amended to read as follows:

"(2)(A) Except as provided in subparagraph (B) of this paragraph, a member who—

"(i) is separated from the service or released from active duty; and

"(ii) on the date of his separation from the service or release from active duty, has not served on active duty for a period of time equal to at least 90 percent of the period of time for which he initially enlisted or otherwise initially agreed to serve,

may be provided transportation under this subsection for his dependents only by transportation in kind by the least expensive mode of transportation available or by a monetary allowance that does not exceed the cost to the Government of such transportation in kind.".

(b) TRANSPORTATION OF HOUSEHOLD EFFECTS.—Section 406(h) of such title is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following:

"(1) If the Secretary concerned determines that it is in the best interests of a member described in paragraph (2) or the member's dependents and the United States, the Secretary may, when orders directing a change of permanent station for the member concerned have not been issued, or when they have been issued but cannot be used as authority for the transportation of the member's dependents, baggage, and household effects—

"(A) authorize the movement of the member's dependents, baggage, and household effects at the station to an appropriate location in the United States or its possessions or, if the dependents are foreign nationals, to the country of the dependents' origin and prescribe transportation in kind, reimbursement therefor, or a monetary allowance in place thereof, as the case may be, plus a per diem, as authorized under subsection (a) or (b); and

"(B) in the case of a member described in paragraph (2)(A), authorize the transportation of one motor vehicle that is owned

by the member (or a dependent of the member) and is for his dependents' personal use to that location by means of transportation authorized under section 2634 of title 10."; and

(2) by adding at the end the following new paragraph:

"(2) A member referred to in paragraph (1) is a member who—

"(A) is serving at a station outside the United States or in Hawaii or Alaska;

Hawaii.
Alaska.

"(B) receives an administrative discharge under other than honorable conditions; or

"(C) is sentenced by a court-martial—

"(i) to be confined for a period of more than 30 days,

"(ii) to receive a dishonorable or bad-conduct discharge, or

"(iii) to be dismissed from a uniformed service,

if the sentence is approved under section 860(c)(2) of title 10.".

(c) MEDICAL CARE AT DOD FACILITIES.—Section 1076 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) Subject to paragraph (3), if—

"(A) a member of a uniformed service receives a dishonorable or bad-conduct discharge or is dismissed from a uniformed service as a result of a court-martial conviction for an offense involving abuse of a dependent of the member, as determined in accordance with regulations prescribed by the administering Secretary for such uniformed service; and

"(B) the abused dependent needs medical or dental care for an injury or illness resulting from the abuse,

the administering Secretary may, upon request of the abused dependent, furnish medical or dental care to the dependent for the treatment of such injury or illness in facilities of the uniformed services.

"(2) Subject to paragraph (3), upon request of any dependent of a member of a uniformed service punished for an abuse described in paragraph (1)(A), the administering Secretary for such uniformed service may furnish medical care in facilities of the uniformed services to the dependent for the treatment of any adverse health condition resulting from such dependent's knowledge of (A) the abuse, or (B) any injury or illness suffered by the abused person as a result of such abuse.

"(3) Medical and dental care furnished to a dependent of a member of the uniformed services in facilities of the uniformed services under paragraph (1) or (2)—

"(A) shall be limited to the health care prescribed by section 1077 of this title;

"(B) shall be subject to the availability of space and facilities and the capabilities of the medical and dental staff; and

"(C) shall terminate 1 year after the date on which the member is discharged or dismissed from a uniformed service as described in paragraph (1)(A).".

(d) CHAMPUS.—Section 1079 of such title is amended by adding at the end the following new subsection:

"(l)(1) Contracts entered into under subsection (a) shall also provide for medical care for dependents of former members of the uniformed services who are authorized to receive medical and dental care under section 1076(e) of this title in facilities of the uniformed services.

Contracts.

"(2) Except as provided in paragraph (3), medical care in the case of a dependent described in section 1076(e) shall be furnished under the same conditions and subject to the same limitations as medical care furnished under this section to spouses and children of members of the uniformed services described in the first sentence of subsection (a).

Ante, p. 3889.

"(3) Medical care may be furnished to a dependent pursuant to paragraph (1) only for an injury, illness, or other condition described in section 1076(e) of this title.".

37 USC 406 note.

(e) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall apply only with respect to members discharged or released from active duty on or after the date of the enactment of this Act.

(2)(A) The amendments made by subsection (b) shall apply with respect to dependents about whom a determination by the Secretary concerned is made on or after the date of the enactment of this Act.

(B) In the case of a member described in section 406(h)(2)(c) of such title 37 (as added by subsection (b)), the benefits provided for the dependents of the member shall accrue on the date that the sentence is approved under section 860 of title 10, United States Code.

10 USC 1076 note.

(3) The amendment made by subsection (c) shall apply only with respect to dependents who request medical or dental care on or after the date of the enactment of this Act.

10 USC 1079 note.

(4) The amendment made by subsection (d) shall apply only with respect to care furnished under section 1079 of title 10, United States Code, on or after the date of the enactment of this Act.

SEC. 653. IMPROVED EMPLOYMENT OPPORTUNITIES FOR MILITARY SPOUSES

10 USC 113 note.

Section 806(b)(2) of the Military Family Act of 1985 (title VIII of Public Law 99-145; 99 Stat. 680) is amended by striking out "GS-7" and inserting in lieu thereof "GS-4".

SEC. 654. RETIREMENT CREDIT FOR CERTAIN FORMER NATIONAL GUARD TECHNICIANS

32 USC 709 note.

(a) CIVIL SERVICE RETIREMENT CREDIT.—A period of service performed under section 709 of title 32, United States Code (or under a prior corresponding provision of law), before January 1, 1969, which would not otherwise be creditable under subchapter III of chapter 83 of title 5, United States Code, because of the antepenultimate sentence of section 8332(b) of such title, shall be considered creditable service under such subchapter, notwithstanding such sentence, in the case of an individual described in subsection (b).

5 USC 8331 *et seq.*

(b) COVERED INDIVIDUALS.—Subsection (a) applies in the case of an individual who—

(1) before the end of the 14-month period beginning on the date of the enactment of this Act, files appropriate written application with the Office of Personnel Management in accordance with regulations under subsection (c);

(2) at the time of filing application under paragraph (1), is employed by the United States and is subject to subchapter III of chapter 83 of title 5, United States Code (other than under section 8344 of such title); and

(3) before the date of the separation on which entitlement to an annuity under subchapter III of chapter 83 of title 5, United States Code, is based, makes an appropriate deposit under section 8334(c) of such title with respect to the period of service involved, based on the percentage of basic pay for such service

which would be required under such section if such service had been performed as an employee under such subchapter.

(c) REGULATIONS.—The Office of Personnel Management shall prescribe regulations to carry out subsection (a). Such regulations shall be prescribed not later than 60 days after the date of the enactment of this Act.

SEC. 655. MEAL REIMBURSEMENT FOR NONPROFIT YOUTH GROUPS RESIDING AT MILITARY INSTALLATIONS

Section 1011(b) of title 37, United States Code, is amended by inserting after "military installation" in the second sentence the following: "or when residing at a military installation pursuant to an agreement in effect on June 30, 1986,".

SEC. 656. PERIOD FOR USE OF COMMISSARIES BY MEMBERS OF SELECTED RESERVE

(a) IN GENERAL.—(1) Chapter 53 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1052. Period for use of commissary stores: eligibility attributable to active duty for training 10 USC 1052.

"(a) PERIOD FOR USE OF ELIGIBILITY.—If, under regulations establishing eligibility for use of commissary stores, a member of the armed forces accrues eligibility to use commissary stores of the Department of Defense by reason of the performance of active duty for training, the Secretary concerned shall authorize the member to have one year from the date on which the member performs active duty for training to use a day of eligibility for using commissary stores attributable to the performance of that duty.

"(b) LIMITATION.—A member may not use commissary stores by reason of this section for more than 14 days in any period of 365 days.

"(c) REGULATIONS.—The Secretary concerned shall prescribe regulations, subject to the approval of the Secretary of Defense, to carry out this section.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1052. Period for use of commissary stores: eligibility attributable to active duty for training.".

(b) REPEAL OF TEST PROGRAM.—Section 1013 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 665), is repealed.

(c) EFFECTIVE DATE.—Section 1052 of title 10, United States Code, as added by the amendments made by subsection (a), and the repeal made by subsection (b), shall apply only with respect to active duty for training performed on or after the date of the enactment of this Act. 10 USC 1052 note.

PART F—ADMINISTRATION OF PERSONNEL BENEFITS

SEC. 661. ENHANCED METHOD FOR DETERMINING TRUE COSTS OF MILITARY RETIREMENT

(a) USE OF DUAL PERCENTAGE DETERMINATIONS.—Section 1465(b)(1) of title 10, United States Code, is amended by striking out the second sentence and inserting in lieu thereof the following: "That amount shall be the sum of the following:

"(A) The product of—

"(i) the current estimate of the value of the single level percentage of basic pay to be determined under subsection (c)(1)(A) at the time of the next actuarial valuation under subsection (c); and

"(ii) the total amount of basic pay expected to be paid during that fiscal year to members of the armed forces (other than the Coast Guard) on active duty (other than active duty for training) or full-time National Guard duty (other than full-time National Guard duty for training only).

"(B) The product of—

"(i) the current estimate of the value of the single level percentage of basic pay and of compensation (paid pursuant to section 206 of title 37) to be determined under subsection (c)(1)(B) at the time of the next actuarial valuation under subsection (c); and

Ante, p. 3876.

"(ii) the total amount of basic pay and of compensation (paid pursuant to section 206 of title 37) expected to be paid during that fiscal year to members of the Ready Reserve of the armed forces (other than the Coast Guard and other than members on full-time National Guard duty other than for training) who are not otherwise described in subparagraph (A)(ii).".

10 USC 1465.

(2) Section 1465(c)(1) of such title is amended by striking out the second sentence and inserting in lieu thereof the following: "Each actuarial valuation of such programs shall include—

"(A) a determination (using the aggregate entry-age normal cost method) of a single level percentage of basic pay for members of the armed forces (other than the Coast Guard) on active duty (other than active duty for training) or full-time National Guard duty (other than full-time National Guard duty for training only); and

"(B) a determination (using the aggregate entry-age normal cost method) of a single level percentage of basic pay and of compensation (paid pursuant to section 206 of title 37) for members of the Ready Reserve of the armed forces (other than the Coast Guard and other than members on full-time National Guard duty other than for training) who are not otherwise described by subparagraph (A).

Such single level percentages shall be used for the purposes of subsection (b) and section 1466(a) of this title.".

(b) PAYMENTS INTO MILITARY RETIREMENT FUND BASED ON DUAL DETERMINATIONS.—The first sentence of section 1466(a) of such title is amended by striking out "the amount that is" and all that follows in such sentence and inserting in lieu thereof "the amount that is the sum of the following:

"(1) The product of—

"(A) the level percentage of basic pay determined using all the methods and assumptions approved for the most recent (as of the first day of the current fiscal year) actuarial valuation under section 1465(c)(1)(A) of this title (except that any statutory change in the military retirement and survivor benefit systems that is effective after the date of that valuation and on or before the first day of the current fiscal year shall be used in such determination); and

"(B) the total amount of basic pay paid that month to members of the armed forces (other than the Coast Guard)

on active duty (other than active duty for training) or full-time National Guard duty (other than full-time National Guard duty for training only).

"(2) The product of—

"(A) the level percentage of basic pay and of compensation (paid pursuant to section 206 of title 37) determined using all the methods and assumptions approved for the most recent (as of the first day of the current fiscal year) actuarial valuation under section 1465(c)(1)(B) of this title (except that any statutory change in the military retirement and survivor benefit systems that is effective after the date of that valuation and on or before the first day of the current fiscal year shall be used in such determination); and

Ante, p. 3876.

"(B) the total amount of basic pay and of compensation (paid pursuant to section 206 of title 37) paid that month to members of the Ready Reserve of the armed forces (other than the Coast Guard and other than members on full-time National Guard duty other than for training) who are not otherwise described in paragraph (1)(B).".

(c) DEVELOPMENT AND SUBMISSION OF DATA ON RESERVE COMPONENTS.—Not later than September 30, 1987, the Secretary of each military department shall develop the data required pursuant to Department of Defense Instruction Number 7730.54 (dated May 7, 1986) and submit such data to the Secretary of Defense. In accordance with such instruction, such data shall include the following with respect to each member of a reserve component:

(1) Date of initial entry into military service.

(2) Total days of active Federal military service.

(3) Years creditable for Reserve retirement under chapter 67 of title 10, United States Code.

10 USC 1331 *et seq.*

(4) Reserve component accumulated total creditable retirement points earned during the member's most recently completed retirement year.

(5) Reserve component accumulated paid points earned during the member's most recently completed retirement year.

(6) Reserve component total accumulated creditable points toward retirement earned during the member's career.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to payments required to be made under section 1466(a) of title 10, United States Code, as amended by subsection (b), for months beginning on or after the date of the enactment of this Act.

10 USC 1465 note.

SEC. 662. AUTHORITY TO PAY BANK CHARGES IN THE EVENT OF GOVERNMENT ERROR IN MANDATORY DIRECT DEPOSIT OF MEMBERS' PAY

(a) IN GENERAL.—(1) Chapter 53 of title 10, United States Code (as amended by section 656), is amended by adding at the end the following new section:

"§ 1053. Relief for expenses because of error in mandatory direct deposit of pay

10 USC 1053.

"(a) A member of the armed forces who, by law or regulation, is required to participate in a program for the automatic deposit of pay to a financial institution may be reimbursed for overdraft charges levied by the financial institution when such charges result from an

administrative or mechanical error on the part of the Government that causes such member's pay to be deposited late or in an incorrect amount or manner.

"(b) Reimbursements under this section shall be made from appropriations available for the pay and allowances of members of the armed force concerned.

"(c) The Secretaries concerned shall prescribe regulations to carry out this section, including regulations for the manner in which reimbursement under this section is to be made.

"(d) In this section, the term 'financial institution' has the meaning given that term in section 3332 of title 31.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1053. Relief for expenses because of error in mandatory direct deposit of pay.".

10 USC 1053 note.

(c) EFFECTIVE DATE.—Section 1053 of title 10, United States Code, as added by subsection (a), shall apply only with respect to charges levied as a result of errors occurring on or after the date of the enactment of this Act.

37 USC 308 note.

SEC. 663. COST REDUCTIONS FOR FISCAL YEAR 1987

(a) SELECTIVE REENLISTMENT BONUS.—During fiscal year 1987, the Secretary concerned may not pay more than 50 percent of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

(b) RESERVE UNIT AND INDIVIDUAL TRAINING.—During fiscal year 1987, the amount spent for reserve unit and individual training may not exceed $5,084,500,000.

TITLE VII—HEALTH-CARE MANAGEMENT REFORM

SEC. 701. IMPROVEMENT OF MILITARY HEALTH-CARE DELIVERY SYSTEM

(a) IN GENERAL.—(1) Chapter 55 of title 10, United States Code, is amended by adding at the end the following new sections:

10 USC 1096.

"§ 1096. Military-civilian health services partnership program

"(a) RESOURCES SHARING AGREEMENTS.—The Secretary of Defense may enter into an agreement providing for the sharing of resources between facilities of the uniformed services and facilities of a civilian health care provider or providers that the Secretary contracts with under section 1079, 1086, or 1097 of this title if the Secretary determines that such an agreement would result in the delivery of health care to which covered beneficiaries are entitled under this chapter in a more effective, efficient, or economical manner.

10 USC 1079, 1086, 1097.

"(b) ELIGIBLE RESOURCES.—An agreement entered into under subsection (a) may provide for the sharing of—

"(1) personnel (including support personnel);

"(2) equipment;

"(3) supplies; and

"(4) any other items or facilities necessary for the provision of health care services.

"(c) COMPUTATION OF CHARGES.—A covered beneficiary, with respect to care provided to such beneficiary in facilities of the uniformed services under a sharing agreement entered into under subsection (a), shall pay—

"(1) in the case of a dependent, the charges prescribed by section 1078 of this title; and 10 USC 1078.

"(2) in the case of a member or former member entitled to retired or retainer pay, the charges prescribed by section 1075 of this title. 10 USC 1075.

"§ 1097. Contracts for medical care for retirees, dependents, and survivors: alternative delivery of health care 10 USC 1097.

"(a) IN GENERAL.—The Secretary of Defense, after consulting with the other administering Secretaries, may contract for the delivery of health care to which covered beneficiaries are entitled under this chapter. The Secretary may enter into a contract under this section with any of the following:

"(1) Health maintenance organizations.

"(2) Preferred provider organizations.

"(3) Individual providers, individual medical facilities, or insurers.

"(4) Consortiums of such providers, facilities, or insurers.

"(b) SCOPE OF COVERAGE UNDER HEALTH CARE PLANS.—A contract entered into under this section may provide for the delivery of—

"(1) selected health care services;

"(2) total health care services for selected covered beneficiaries; or

"(3) total health care services for all covered beneficiaries who reside in a geographical area designated by the Secretary.

"(c) CHARGES FOR HEALTH CARE.—The Secretary of Defense may prescribe by regulation a premium, deductible, copayment, or other charge for health care provided under this section.

"§ 1098. Incentives for participation in cost-effective health care plans 10 USC 1098.

"(a) WAIVER OF LIMITATIONS AND COPAYMENTS.—Subject to subsections (b) and (c), the Secretary of Defense, with respect to any plan contracted for under the authority of section 1079 or 1086 of this title, may waive, in whole or in part— Contracts. 10 USC 1079, 1086.

"(1) any limitation set out in the second sentence of section 1079(a) of this title; or

"(2) any requirement for payment by the patient under section 1079(b) or 1086(b) of this title.

"(b) DETERMINATION AND REPORT.—(1) Subject to paragraph (3), the Secretary may waive a limitation or requirement as authorized by subsection (a) if the Secretary determines that during the period of the waiver such a plan will—

"(A) be less costly to the Government than a plan subject to such limitations or payment requirements; or

"(B) provide better services than those provided by a plan subject to such limitations or payment requirements at no additional cost to the Government.

"(2) The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report with respect to a waiver under paragraph (1), including a comparison of costs of and benefits available under— Report.

"(A) a plan with respect to which the limitations and payment requirements are waived; and

"(B) a plan with respect to which there is no such waiver

"(3) A waiver under paragraph (1) may not take effect until the end of the 180-day period beginning on the date on which the

Secretary submits the report required by paragraph (2) with respect to such waiver.

10 USC 1099.

"§ 1099. Health care enrollment system

"(a) ESTABLISHMENT OF SYSTEM.—The Secretary of Defense, after consultation with the other administering Secretaries, shall establish a system of health care enrollment for covered beneficiaries who reside in the United States.

"(b) DESCRIPTION OF SYSTEM.—Such system shall—

"(1) allow covered beneficiaries to elect a health care plan from eligible health care plans designated by the Secretary of Defense; or

"(2) if necessary in order to ensure full use of facilities of the uniformed services in a geographical area, assign covered beneficiaries who reside in such area to such facilities.

"(c) HEALTH CARE PLANS AVAILABLE UNDER SYSTEM.—A health care plan designated by the Secretary of Defense under the system described in subsection (a) shall provide all health care to which a covered beneficiary is entitled under this chapter. Such a plan may consist of any of the following:

"(1) Use of facilities of the uniformed services.

"(2) The Civilian Health and Medical Program of the Uniformed Services.

Contracts.

"(3) Any other health care plan contracted for by the Secretary of Defense.

"(4) Any combination of the plans described in paragraphs (1), (2), and (3).

"(d) REGULATIONS.—The Secretary of Defense, after consultation with the other administering Secretaries, shall prescribe regulations to carry out this section.

10 USC 1100.

"§ 1100. Military Health Care Account

"(a) ESTABLISHMENT OF ACCOUNT.—(1) There is hereby established in the Department of Defense an account to be known as the 'Military Health Care Account'. All sums appropriated to carry out the functions of the Secretary of Defense with respect to the Civilian Health and Medical Program of the Uniformed Services shall be appropriated to the account.

"(2) Amounts appropriated to the account shall remain available until obligated or expended under subsection (b) or (c).

Contracts.

"(b) OBLIGATION OF AMOUNTS FROM ACCOUNT BY SECRETARY OF DEFENSE.—The Secretary of Defense may obligate or expend funds from the account for purposes of entering into a contract under section 1079, 1086, 1092, or 1097 of this title to the extent amounts are available in the account.

10 USC 1079, 1086, 1092; *ante*, p. 3895.

"(c) ALLOCATION OF AMOUNTS IN ACCOUNT FOR PROVISION OF MEDICAL CARE BY SERVICE SECRETARIES.—(1) The Secretary of a military department shall, before the beginning of a fiscal year quarter, provide to the Secretary of Defense an estimate of the amounts necessary to pay for charges for benefits under the program for covered beneficiaries under the jurisdiction of the Secretary for that quarter.

"(2) The Secretary of Defense shall, subject to amounts provided in advance in appropriation Acts, make available to each Secretary of a military department the amount from the account that the Secretary of Defense determines is necessary to pay for charges for

benefits under the program for covered beneficiaries under the jurisdiction of such Secretary for that quarter.

"(d) EXPENDITURE OF AMOUNTS FROM ACCOUNT BY SERVICE SECRETARIES.—The Secretary of a military department shall provide medical and dental care to covered beneficiaries under the jurisdiction of the Secretary for a fiscal year quarter from amounts appropriated to the Secretary and from amounts from the account made available for that quarter to the Secretary by the Secretary of Defense. If the Secretary of a military department exhausts the amounts from the account made available to the Secretary for a fiscal year quarter, the Secretary shall transfer to the account from amounts appropriated to the Secretary an amount sufficient to provide medical and dental care to covered beneficiaries under the jurisdiction of the Secretary for the remainder of the fiscal year quarter.

"(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

"(f) DEFINITIONS.—In this section:

"(1) The term 'account' means the Military Health Care Account established in subsection (a).

"(2) The term 'program' means the Civilian Health and Medical Program of the Uniformed Services.

"§ 1101. Diagnosis-related groups 10 USC 1101.

"(a) ESTABLISHMENT OF DRGs.—The Secretary of Defense, after consultation with the other administering Secretaries, shall establish by regulation the use of diagnosis-related groups as the primary criteria for allocation of resources to facilities of the uniformed services.

"(b) EXCEPTION FOR MOBILIZATION MISSIONS.—Diagnosis-related groups shall not be used to allocate resources to the facilities of the uniformed services to the extent that such resources are required by such facilities for mobilization missions.

"(c) CONTENT OF REGULATIONS.—(1) Such regulations shall establish a system of diagnosis-related groups similar to the system established under section 1886(d)(4) of the Social Security Act (42 U.S.C. 1395ww(d)(4)). Such regulations shall include the following:

"(1) A classification of inpatient treatments by diagnosis-related groups and a similar classification of outpatient treatment.

"(2) A methodology for classifying specific treatments within such groups.

"(3) An appropriate weighting factor for each such diagnosis-related group which reflects the relative resources used by a facility of a uniformed service with respect to treatments classified within that group compared to treatments classified within other groups.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"1096. Military-civilian health services partnership program.
"1097. Contracts for medical care for retirees, dependents, and survivors: alternative delivery of health care.
"1098. Incentives for participation in cost-effective health care plans.
"1099. Health care enrollment system.
"1100. Military Health Care Account.
"1101. Diagnosis-related groups.".

(b) DEFINITIONS.—Section 1072 of title 10, United States Code, is amended—

(1) by striking out " 'Uniformed services' means" in paragraph (1) and inserting in lieu thereof "The term 'uniformed services' means";

(2) by striking out " 'Dependent', with respect to" in paragraph (2) and inserting in lieu thereof "The term 'dependent', with respect to";

(3) by striking out " 'Administering Secretaries' means" in paragraph (3) and inserting in lieu thereof "The term 'administering Secretaries' means"; and

(4) by adding at the end the following new paragraphs:

"(4) The term 'Civilian Health and Medical Program of the Uniformed Services' means the program authorized under sections 1079 and 1086 of this title and includes contracts entered into under section 1091 or 1097 of this title and demonstration projects under section 1092 of this title.

10 USC 1079, 1086.
10 USC 1091, 1097.
10 USC 1092.

"(5) The term 'covered beneficiary' means a beneficiary under this chapter other than a beneficiary under section 1074(a) of this title.".

10 USC 1074.

10 USC 1099 note.

(c) REPORTS TO CONGRESS.—(1) Not later than July 1, 1987, the Secretary of Defense shall submit to Congress a report detailing—

(A) any plans to establish or implement a system of health care enrollment (other than as required under section 702(a)(2)(C)) under section 1099(a) of title 10, United States Code (as added by subsection (a)(1)); and

(B) the plan of the Secretary for completing the implementation of such system.

10 USC 1100 note.

(2) The Secretary shall submit to Congress—

(1) not later than May 1, 1987, a report on plans of the Secretary for establishing diagnosis-related groups for inpatient services under section 1100(a) of title 10, United States Code (as added by subsection (a)(1)); and

(2) not later than May 1, 1988, a report on plans of the Secretary for establishing diagnosis-related groups for outpatient services under such section.

10 USC 1099 note.

(d) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the Secretary of Defense shall prescribe regulations as required by section 1099(d) of title 10, United States Code (as added by subsection (a)(1)) to implement the system of health care enrollment for covered beneficiaries—

(A) on October 1, 1987, with respect to—

(i) covered beneficiaries included in the demonstration project required under section 702; and

(ii) facilities of the uniformed services located in the geographical area covered by the demonstration project; and

(B) not later than September 30, 1990, for all other covered beneficiaries and facilities of the uniformed services.

(2) The Secretary may not assign covered beneficiaries to facilities of the uniformed services, as authorized by section 1099(b)(2) of such title (as added by subsection (a)(1)), before October 1, 1990.

Effective date.
10 USC 1100 note.

(3) Section 1100 of such title (as added by subsection (a)(1)) shall take effect on October 1, 1987.

10 USC 1101 note.

(4) The Secretary of Defense shall prescribe regulations as required by section 1101(a) of such title (as added by subsection (a)(1)) to take effect—

(A) in the case of inpatient treatments, after September 30, 1987; and

(B) in the case of outpatient treatments, after September 30, 1988.

SEC. 702. CHAMPUS REFORM INITIATIVE

10 USC 1073 note. Contracts.

(a) DEMONSTRATION PROJECT.—(1) The Secretary of Defense shall conduct a project designed to demonstrate the feasibility of improving the effectiveness of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) through the competitive selection of contractors to financially underwrite the delivery of health care services under the program.

(2) The demonstration project required by paragraph (1)—

(A) shall begin not later than September 30, 1988, and continue for not less than one year;

(B) shall include not more than one-third of covered beneficiaries; and

(C) shall include a health care enrollment system that meets the requirements specified in section 1099 of title 10, United States Code (as added by section 701(a)(1)).

Report.

(3)(A) The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the development of the demonstration project required by paragraph (1). Such report shall include—

(i) a description of the scope and structure of the project;

(ii) an estimate of the costs of the care to be provided under the project; and

(iii) a description of the health care enrollment system included in the project.

(B) The report required by subparagraph (A) shall be submitted—

(i) not later than 60 days before the initiation of the project, if the project is to be restricted to a contiguous area of the United States; or

(ii) not later than 60 days before a solicitation for bids or proposals with respect to such project is issued, if the project will not be restricted to a contiguous area of the United States.

(b) STUDY OF HEALTH CARE ALTERNATIVES.—(1) The demonstration project required by subsection (a)(1) shall include a study of—

(A) methods to guarantee the maintenance of competition among providers of health care to persons under the jurisdiction of the Secretary;

(B) the merits of the use of a voucher system or a fee schedule for provision of health care to such persons; and

Hospitals. Contracts.

(C) methods to guarantee that community hospitals are given equal consideration with other health care providers for provision of health care services under contracts with the Department of Defense.

Report.

(2) The Secretary shall submit to Congress a report discussing the matters evaluated in the study required by paragraph (1) before the end of the 90-day period beginning on the date of the enactment of this Act.

(c) PHASED IMPLEMENTATION OF CHAMPUS REFORM INITIATIVE.—(1) The Secretary of Defense may proceed with implementation of the CHAMPUS reform initiative, to be carried out in two phases during a period of not less than two years, if—

(A) the Secretary determines, based on the results of the demonstration project required by subsection (a)(1), that such initiative should be implemented;

(B) not less than one year elapses after the date on which the demonstration project required by subsection (a)(1) is initiated; and

Report.

(C) 90 days elapse after the date on which the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report that includes—

(i) a description of the results of the demonstration project;

(ii) a description of any changes the Secretary intends to make in the initiative during the proposed implementation; and

(iii) a comparison of the costs of providing health care under CHAMPUS with the costs of providing health care under the demonstration project and the estimated costs of providing health care under the CHAMPUS reform initiative if fully implemented.

(d) DEFINITIONS.—In this section:

(1) The term "CHAMPUS reform initiative" means the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

(2) The term "Civilian Health and Medical Program of the Uniformed Services" has the meaning given such term in section 1072(4) of title 10, United States Code (as added by section 701(b)).

(3) The term "covered beneficiary" has the meaning given such term in section 1072(5) of title 10, United States Code (as added by section 701(b)).

SEC. 703. CHAMPUS CATCHMENT AREAS

Section 1079(a)(7) of title 10, United States Code, is amended by striking out "pays for at least 75 percent of the services" and inserting in lieu thereof "provides primary coverage for the services".

SEC. 704. MEDICAL INFORMATION SYSTEMS ACQUISITION

(a) LIMITATION ON ACQUISITION OF MEDICAL INFORMATION SYSTEM.—(1) The Secretary of Defense may not acquire a medical information system for use in all military medical treatment facilities until—

(A) the testing required by subsection (b) is completed;

(B) the report required by subsection (d)(2) is submitted; and

(C) 30 days elapse after the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives the report described in paragraph (2).

(2) The report required by paragraph (1)(B) shall be submitted after the completion of the testing required by subsection (b) and shall include—

(A) an evaluation of the competing medical information systems, based on the extended benchmark test, operational test, and incremental price and delivery schedules described in subsection (b);

(B) an evaluation of the hospital management computer system of the Veterans' Administration known as the Veterans'

Administration Decentralized Hospital Computer Program based on the demonstration project described in subsection (c); and

(C) the decision of the Secretary with respect to acquiring a medical information system for use in all military medical treatment facilities.

(b) TESTING OF MEDICAL INFORMATION SYSTEMS.—(1) The Secretary shall carry out an extended benchmark test of competing medical information systems using the testing specifications described in Solicitation No. DAHC 26-85-R-0009 (relating to acquisition of the Composite Health Care System).

(2) The Secretary shall carry out an operational test of competing medical information systems. Such test shall—

(A) be conducted in medium-to-large military medical treatment facilities; and

(B) shall be not less than nine months and not more than one year in duration.

(3) Each vendor that submits a medical information system for testing under paragraphs (1) and (2) shall provide to the Secretary incremental price and delivery schedules for each function described in I, II, IID, and III of Solicitation No. DAHC26-85-R-0009. Such schedules shall be provided before the end of the one-year period beginning on the date on which the operational test described in paragraph (2) is initiated.

(c) VETERANS' ADMINISTRATION DECENTRALIZED HOSPITAL COMPUTER PROGRAM.—(1) The Secretary shall continue to carry out the demonstration project required by section 1203 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 718), with respect to the Veterans' Administration Decentralized Hospital Computer Program. Such project shall be completed not later than October 1, 1987.

(2) Section 1203(c) of the Department of Defense Authorization Act, 1986, is amended—

(A) by striking out "available"; and

(B) by inserting "that are available at least three months before the date on which the demonstration project is expected to be completed" after "software)".

(d) EVALUATION AND REPORT BY COMPTROLLER GENERAL.—The Comptroller General shall—

(1) monitor the testing required by subsection (b); and

(2) submit to the Committees on Armed Services of the Senate and House of Representatives a report evaluating such testing before the end of the 30-day period beginning on the date that such testing is completed.

(e) DEFINITIONS.—In this section:

(1) The term "medical information system" means a computer-based information system that—

(A) receives data normally recorded concerning patients;

(B) creates and maintains from such data a computerized medical record for each patient; and

(C) provides access to data for patient care, hospital administration, research, and medical care resource planning.

(2) The term "military medical treatment facility" means a hospital, medical center, or clinic under the jurisdiction of the Secretary of a military department or the Secretary of Defense.

(3) The term "medium-to-large military medical treatment facility" means a military medical treatment facility with 150 or more beds.

(4) The term "Secretary" means the Secretary of Defense.

SEC. 705. CONFIDENTIALITY OF MEDICAL QUALITY ASSURANCE RECORDS

(a) IN GENERAL.—Chapter 55 of title 10, United States Code (as amended by section 701), is further amended by adding at the end the following new section:

10 USC 1102.

"§ 1102. Confidentiality of medical quality assurance records: qualified immunity for participants

"(a) CONFIDENTIALITY OF RECORDS.—Medical quality assurance records created by or for the Department of Defense as part of a medical quality assurance program are confidential and privileged. Such records may not be disclosed to any person or entity, except as provided in subsection (c).

"(b) PROHIBITION ON DISCLOSURE AND TESTIMONY.—(1) No part of any medical quality assurance record described in subsection (a) may be subject to discovery or admitted into evidence in any judicial or administrative proceeding, except as provided in subsection (c).

"(2) A person who reviews or creates medical quality assurance records for the Department of Defense or who participates in any proceeding that reviews or creates such records may not be permitted or required to testify in any judicial or administrative proceeding with respect to such records or with respect to any finding, recommendation, evaluation, opinion, or action taken by such person or body in connection with such records except as provided in this section.

"(c) AUTHORIZED DISCLOSURE AND TESTIMONY.—(1) Subject to paragraph (2), a medical quality assurance record described in subsection (a) may be disclosed, and a person referred to in subsection (b) may give testimony in connection with such a record, only as follows:

"(A) To a Federal executive agency or private organization, if such medical quality assurance record or testimony is needed by such agency or organization to perform licensing or accreditation functions related to Department of Defense health care facilities or to perform monitoring, required by law, of Department of Defense health care facilities.

"(B) To an administrative or judicial proceeding commenced by a present or former Department of Defense health care provider concerning the termination, suspension, or limitation of clinical privileges of such health care provider.

"(C) To a governmental board or agency or to a professional health care society or organization, if such medical quality assurance record or testimony is needed by such board, agency, society, or organization to perform licensing, credentialing, or the monitoring of professional standards with respect to any health care provider who is or was a member or an employee of the Department of Defense.

"(D) To a hospital, medical center, or other institution that provides health care services, if such medical quality assurance record or testimony is needed by such institution to assess the professional qualifications of any health care provider who is or was a member or employee of the Department of Defense and who has applied for or been granted authority or employment to provide health care services in or on behalf of such institution.

"(E) To an officer, employee, or contractor of the Department of Defense who has a need for such record or testimony to perform official duties.

"(F) To a criminal or civil law enforcement agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of such agency or instrumentality makes a written request that such record or testimony be provided for a purpose authorized by law.

"(G) In an administrative or judicial proceeding commenced by a criminal or civil law enforcement agency or instrumentality referred to in subparagraph (F), but only with respect to the subject of such proceeding.

"(2) With the exception of the subject of a quality assurance action, the identity of any person receiving health care services from the Department of Defense or the identity of any other person associated with such department for purposes of a medical quality assurance program that is disclosed in a medical quality assurance record described in subsection (a) shall be deleted from that record or document before any disclosure of such record is made outside the Department of Defense. Such requirement does not apply to the release of information pursuant to section 552a of title 5, United States Code.

"(d) DISCLOSURE FOR CERTAIN PURPOSES.—(1) Nothing in this section shall be construed as authorizing or requiring the withholding from any person or entity aggregate statistical information regarding the results of Department of Defense medical quality assurance programs.

"(2) Nothing in this section shall be construed as authority to withhold any medical quality assurance record from a committee of either House of Congress, any joint committee of Congress, or the General Accounting Office if such record pertains to any matter within their respective jurisdictions.

"(e) PROHIBITION ON DISCLOSURE OF RECORD OR TESTIMONY.—A person or entity having possession of or access to a record or testimony described by this section may not disclose the contents of such record or testimony in any manner or for any purpose except as provided in this section.

"(f) EXEMPTION FROM FREEDOM OF INFORMATION ACT.—Medical quality assurance records described in subsection (a) may not be made available to any person under section 552 of title 5.

"(g) LIMITATION ON CIVIL LIABILITY.—A person who participates in or provides information to a person or body that reviews or creates medical quality assurance records described in subsection (a) shall not be civilly liable for such participation or for providing such information if the participation or provision of information was in good faith based on prevailing professional standards at the time the medical quality assurance program activity took place.

"(h) APPLICATION TO INFORMATION IN CERTAIN OTHER RECORDS.—Nothing in this section shall be construed as limiting access to the information in a record created and maintained outside a medical quality assurance program, including a patient's medical records, on the grounds that the information was presented during meetings of a review body that are part of a medical quality assurance program.

"(i) REGULATIONS.—The Secretary of Defense shall prescribe regulations to implement this section.

"(j) DEFINITIONS.—In this section:

"(1) The term 'medical quality assurance program' means any activity carried out before, on, or after the date of the enactment of this section by or for the Department of Defense to assess the quality of medical care, including activities conducted by individuals, military medical or dental treatment facility committees, or other review bodies responsible for quality assurance, credentials, infection control, patient care assessment (including treatment procedures, blood, drugs, and therapeutics), medical records, health resources management review and identification and prevention of medical or dental incidents and risks.

"(2) The term 'medical quality assurance record' means the proceedings, records, minutes, and reports that emanate from quality assurance program activities described in paragraph (1) and are produced or compiled by the Department of Defense as part of a medical quality assurance program.

"(3) The term 'health care provider' means any military or civilian health care professional who, under regulations of a military department, is granted clinical practice privileges to provide health care services in a military medical or dental treatment facility or who is licensed or certified to perform health care services by a governmental board or agency or professional health care society or organization.

"(k) PENALTY.—Any person who willfully discloses a medical quality assurance record other than as provided in this section, knowing that such record is a medical quality assurance record, shall be fined not more than $3,000 in the case of a first offense and not more than $20,000 in the case of a subsequent offense.".

(2) The table of sections at the beginning of such chapter (as amended by sections 701 and 702) is amended by adding at the end the following new item:

"1102. Confidentiality of medical quality assurance records: qualified immunity for participants.".

10 USC 1102 note.

(b) EFFECTIVE DATE.—Section 1102 of title 10, United States Code, as added by subsection (a), shall apply to all records created before, on, or after the date of the enactment of this Act by or for the Department of Defense as part of a medical quality assurance program.

10 USC 1074 note.

(c) RESTRICTION ON USE OF INFORMATION OBTAINED DURING CERTAIN EPIDEMIOLOGIC-ASSESSMENT INTERVIEWS.—(1) Information obtained by the Department of Defense during or as a result of an epidemiologic-assessment interview with a serum-positive member of the Armed Forces may not be used to support any adverse personnel action against the member.

(2) For purposes of paragraph (1):

(A) The term "epidemiologic-assessment interview" means questioning of a serum-positive member of the Armed Forces for purposes of medical treatment or counseling or for epidemiologic or statistical purposes.

(B) The term "serum-positive member of the Armed Forces" means a member of the Armed Forces who has been identified as having been exposed to a virus associated with the acquired immune deficiency syndrome.

(C) The term "adverse personnel action" includes—

(i) a court-martial;

(ii) non-judicial punishment;

(iii) involuntary separation (other than for medical reasons);

(iv) administrative or punitive reduction in grade;

(v) denial of promotion;

(vi) an unfavorable entry in a personnel record;

(vii) a bar to reenlistment; and

(viii) any other action considered by the Secretary concerned to be an adverse personnel action.

SEC. 706. USE OF PUBLIC HEALTH SERVICE HOSPITALS AS FACILITIES OF THE UNIFORMED SERVICES

Section 1252(e) of the Department of Defense Authorization Act, 1984 (42 U.S.C. 248d(e)), is amended by striking out "December 31, 1987" in the first sentence and inserting in lieu thereof "December 31, 1988".

SEC. 707. LIMITATION ON DENTAL INSURANCE PROGRAM

(a) AMOUNT OF PREMIUM.—Subsection (b)(2) of section 1076a of title 10, United States Code, is amended to read as follows:

"(2) A member enrolled in a plan under this section shall pay a premium of not more than $10 per month for the member and the family of the member.".

(b) ANNUAL COST OF PROGRAM.—Such section is further amended by adding at the end the following new subsection:

"(h) The Secretary of Defense may not spend more than $105,000,000 (in fiscal year 1986 dollars) for a plan under this section during any fiscal year.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Of amounts authorized to be appropriated for fiscal year 1987 for Operations and Maintenance, Defense Agencies, not more than $18,000,000 may be used for the purpose of providing a dental insurance program under section 1076a of title 10, United States Code (as amended by this section).

TITLE VIII—UNIFORM CODE OF MILITARY JUSTICE

Military Justice Amendments of 1986.
10 USC 801 note.

SEC. 801. SHORT TITLE; REFERENCES TO UNIFORM CODE OF MILITARY JUSTICE

(a) SHORT TITLE.—This title may be cited as the "Military Justice Amendments of 1986".

(b) REFERENCES TO UCMJ.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice).

10 USC 801 *et seq.*

SEC. 802. DEFENSE OF LACK OF MENTAL RESPONSIBILITY

10 USC 850a.

(a) IN GENERAL.—(1) Subchapter VII is amended by inserting after section 850 (article 50) the following new section (article):

"§ 850a. Art. 50a. Defense of lack of mental responsibility

"(a) It is an affirmative defense in a trial by court-martial that, at the time of the commission of the acts constituting the offense, the accused, as a result of a severe mental disease or defect, was unable to appreciate the nature and quality or the wrongfulness of the acts. Mental disease or defect does not otherwise constitute a defense.

"(b) The accused has the burden of proving the defense of lack of mental responsibility by clear and convincing evidence.

"(c) Whenever lack of mental responsibility of the accused with respect to an offense is properly at issue, the military judge, or the president of a court-martial without a military judge, shall instruct the members of the court as to the defense of lack of mental responsibility under this section and charge them to find the accused—

"(1) guilty;

"(2) not guilty; or

"(3) not guilty only by reason of lack of mental responsibility.

"(d) Subsection (c) does not apply to a court-martial composed of a military judge only. In the case of a court-martial composed of a military judge only, whenever lack of mental responsibility of the accused with respect to an offense is properly at issue, the military judge shall find the accused—

"(1) guilty;

"(2) not guilty; or

"(3) not guilty only by reason of lack of mental responsibility.

10 USC 852.

"(e) Notwithstanding the provisions of section 852 of this title (article 52), the accused shall be found not guilty only by reason of lack of mental responsibility if—

"(1) a majority of the members of the court-martial present at the time the vote is taken determines that the defense of lack of mental responsibility has been established; or

"(2) in the case of a court-martial composed of a military judge only, the military judge determines that the defense of lack of mental responsibility has been established.".

(2) The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 850 (article 50) the following new item:

"850a. 50a. Defense of lack of mental responsibility.".

10 USC 850a note.

(b) EFFECTIVE DATE.—Section 850a of title 10, United States Code, as added by subsection (a)(1), shall apply only to offenses committed on or after the date of the enactment of this Act.

SEC. 803. APPLICATION FOR ENLISTED MEMBERS TO SERVE ON COURT-MARTIAL

(a) IN GENERAL.—Section 825(c)(1) (article 25(c)(1)) is amended by striking out "has requested in writing" and inserting in lieu thereof "has requested orally on the record or in writing".

10 USC 825 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only to a case in which arraignment is completed on or after the effective date of this title.

SEC. 804. COURT-MARTIAL JURISDICTION OVER RESERVE MEMBERS

(a) JURISDICTION OVER RESERVE MEMBERS UNDER CERTAIN CIRCUMSTANCES.—(1) Paragraph (3) of section 802(a) (article 2(a)) is amended to read as follows:

"(3) Members of a reserve component while on inactive-duty training, but in the case of members of the Army National Guard of the United States or the Air National Guard of the United States only when in Federal service.".

(2) Section 802 (article 2) is further amended by adding at the end the following new subsection:

"(d)(1) A member of a reserve component who is not on active duty and who is made the subject of proceedings under section 815 (article 15) or section 830 (article 30) with respect to an offense against this chapter may be ordered to active duty involuntarily for the purpose of—

"(A) investigation under section 832 of this title (article 32);

"(B) trial by court-martial; or

"(C) nonjudicial punishment under section 815 of this title (article 15).

"(2) A member of a reserve component may not be ordered to active duty under paragraph (1) except with respect to an offense committed while the member was—

"(A) on active duty; or

"(B) on inactive-duty training, but in the case of members of the Army National Guard of the United States or the Air National Guard of the United States only when in Federal service.

"(3) Authority to order a member to active duty under paragraph (1) shall be exercised under regulations prescribed by the President.

"(4) A member may be ordered to active duty under paragraph (1) only by a person empowered to convene general courts-martial in a regular component of the armed forces.

"(5) A member ordered to active duty under paragraph (1), unless the order to active duty was approved by the Secretary concerned, may not—

"(A) be sentenced to confinement; or

"(B) be required to serve a punishment consisting of any restriction on liberty during a period other than a period of inactive-duty training or active duty (other than active duty ordered under paragraph (1)).".

(b) CONTINUED AMENABILITY TO JURISDICTION.—Section 803 (article 3) is amended by adding at the end the following new subsection:

"(d) A member of a reserve component who is subject to this chapter is not, by virtue of the termination of a period of active duty or inactive-duty training, relieved from amenability to the jurisdiction of this chapter for an offense against this chapter committed during such period of active duty or inactive-duty training.".

(c) AUTHORITY TO ADMINISTER OATHS.—Section 936 (article 136) is amended by inserting "or performing inactive-duty training" in subsections (a) and (b) after "active duty".

(d) ARTICLES TO BE EXPLAINED.—The text of section 937 (article 137) is amended to read as follows:

"(a)(1) The sections of this title (articles of the Uniform Code of Military Justice) specified in paragraph (3) shall be carefully explained to each enlisted member at the time of (or within six days after)—

"(A) the member's initial entrance on active duty; or

"(B) the member's initial entrance into a duty status with a reserve component.

"(2) Such sections (articles) shall be explained again—

"(A) after the member has completed six months of active duty or, in the case of a member of a reserve component, after the member has completed basic or recruit training; and

"(B) at the time when the member reenlists.

"(3) This subsection applies with respect to sections 802, 803, 807-815, 825, 827, 831, 837, 838, 855, 877-934, and 937-939 of this title (articles 2, 3, 7-15, 25, 27, 31, 37, 38, 55, 77-134, and 137-139).

"(b) The text of the Uniform Code of Military Justice and of the regulations prescribed by the President under such Code shall be made available to a member on active duty or to a member of a reserve component, upon request by the member, for the member's personal examination.".

10 USC 802 note.

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply only to an offense committed on or after the effective date of this title.

SEC. 805. STATUTE OF LIMITATIONS

(a) REVISION OF STATUTES OF LIMITATION.—Subsections (a), (b), and (c) of section 843 (article 43) are amended to read as follows:

"(a) A person charged with absence without leave or missing movement in time of war, or with any offense punishable by death, may be tried and punished at any time without limitation.

"(b)(1) Except as otherwise provided in this section (article), a person charged with an offense is not liable to be tried by court-martial if the offense was committed more than five years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command.

"(2) A person charged with an offense is not liable to be punished under section 815 of this title (article 15) if the offense was committed more than two years before the imposition of punishment.

"(c) Periods in which the accused is absent without authority or fleeing from justice shall be excluded in computing the period of limitation prescribed in this section (article).".

(b) TIME FOR REINSTATEMENT OF CHARGES.—Such section is further amended by adding at the end the following new subsection:

"(g)(1) If charges or specifications are dismissed as defective or insufficient for any cause and the period prescribed by the applicable statute of limitations—

"(A) has expired; or

"(B) will expire within 180 days after the date of dismissal of the charges and specifications,

trial and punishment under new charges and specifications are not barred by the statute of limitations if the conditions specified in paragraph (2) are met.

"(2) The conditions referred to in paragraph (1) are that the new charges and specifications must—

"(A) be received by an officer exercising summary court-martial jurisdiction over the command within 180 days after the dismissal of the charges or specifications; and

"(B) allege the same acts or omissions that were alleged in the dismissed charges or specifications (or allege acts or omissions that were included in the dismissed charges or specifications)."

10 USC 843 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to an offense committed on or after the date of the enactment of this Act.

SEC. 806. TIME FOR DEFENSE POST-TRIAL SUBMISSIONS

(a) SIMPLIFICATION OF TIME FOR SUBMISSION.—Subsection (b) of section 860 (article 60) is amended—

(1) by striking out paragraph (3);

(2) by redesignating paragraph (2) as paragraph (3) and inserting a comma in that paragraph after "case"; and

(3) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) The accused may submit to the convening authority matters for consideration by the convening authority with respect to the findings and the sentence. Except in a summary court-martial case, such a submission shall be made within 10 days after the accused has been given an authenticated record of trial and, if applicable, the recommendation of the staff judge advocate or legal officer under subsection (d). In a summary court-martial case, such a submission shall be made within seven days after the sentence is announced.

"(2) If the accused shows that additional time is required for the accused to submit such matters, the convening authority or other person taking action under this section, for good cause, may extend the applicable period under paragraph (1) for not more than an additional 20 days.".

(b) RECOMMENDATIONS OF STAFF JUDGE ADVOCATE.—Subsection (c)(2) of such section is amended by striking out "and, if applicable, under subsection (d),".

(c) CONFORMING AMENDMENTS.—Subsection (d) of such section is amended—

(1) in the third sentence, by striking out "who shall have five days from the date of receipt in which to submit any matter in response" and inserting in lieu thereof "who may submit any matter in response under subsection (b)"; and

(2) by striking out the fourth sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in cases in which the sentence is adjudged on or after the effective date of this title. 10 USC 860 note.

SEC. 807. DETAIL OF JUDGE ADVOCATES

(a) REPRESENTATION OF UNITED STATES INTERESTS.—Section 806 (article 6) is amended by adding at the end the following new subsection:

"(d)(1) A judge advocate who is assigned or detailed to perform the functions of a civil office in the Government of the United States under section 973(b)(2)(B) of this title may perform such duties as may be requested by the agency concerned, including representation of the United States in civil and criminal cases. 10 USC 973.

"(2) The Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations providing that reimbursement may be a condition of assistance by judge advocates assigned or detailed under section 973(b)(2)(B) of this title.". Regulations.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)— 10 USC 806 note.

(1) shall take effect on the date of the enactment of this Act; and

(2) may not be construed to invalidate an action taken by a judge advocate, pursuant to an assignment or detail under section 973(b)(2)(B) of title 10, United States Code, before the date of the enactment of this Act.

SEC. 808. EFFECTIVE DATE 10 USC 802 note.

Except as provided in sections 802(b), 805(c), and 807(b), this title and the amendments made by this title shall take effect on the earlier of— 10 USC 802, 805, 807.

(1) the last day of the 120-day period beginning on the date of the enactment of this Act; or

(2) the date specified in an Executive order for such amendments to take effect.

TITLE IV—PROCUREMENT POLICY REFORM

Defense Acquisition Improvement Act of 1986. 10 USC 101 note.

SEC. 900. SHORT TITLE

This title may be cited as the "Defense Acquisition Improvement Act of 1986".

PART A—MANAGEMENT OF THE ACQUISITION PROCESS

SEC. 901. DUTIES AND PRECEDENCE OF UNDER SECRETARY OF DEFENSE FOR ACQUISITION

Section 133 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended to read as follows:

"§ 133. Under Secretary of Defense for Acquisition

"(a) There is an Under Secretary of Defense for Acquisition, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Under Secretary shall be appointed from among persons who have an extensive management background in the private sector.

"(b) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition shall perform such duties and exercise such powers relating to acquisition as the Secretary of Defense may prescribe, including—

"(1) supervising Department of Defense acquisition;

"(2) establishing policies for acquisition (including procurement, research and development, logistics, developmental testing, and contract administration) for all elements of the Department of Defense;

"(3) establishing policies of the Department of Defense for maintenance of the defense industrial base of the United States; and

"(4) the authority to direct the Secretaries of the military departments and the heads of all other elements of the Department of Defense with regard to matters for which the Under Secretary has responsibility.

"(c) The Under Secretary—

"(1) is the senior procurement executive for the Department of Defense for the purposes of section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3));

"(2) is the Defense Acquisition Executive for purposes of regulations and procedures of the Department providing for a Defense Acquisition Executive; and

"(3) to the extent directed by the Secretary, exercises overall supervision of all personnel (civilian and military) in the Office of the Secretary of Defense with regard to matters for which the Under Secretary has responsibility, unless otherwise provided by law.

Contracts.

"(d)(1) The Under Secretary shall prescribe policies to ensure that audit and oversight of contractor activities are coordinated and carried out in a manner to prevent duplication by different elements of the Department.

"(2) In carrying out this subsection, the Under Secretary shall consult with the Inspector General of the Department of Defense.

"(3) Nothing in this subsection shall affect the authority of the Inspector General of the Department of Defense to establish audit policy for the Department of Defense under the Inspector General Act of 1978 and otherwise to carry out the functions of the Inspector General under that Act. 5 USC app.

"(e)(1) With regard to all matters for which he has responsibility by law or by direction of the Secretary of Defense, the Under Secretary of Defense for Acquisition takes precedence in the Department of Defense after the Secretary of Defense and the Deputy Secretary of Defense.

"(2) With regard to all matters other than matters for which he has responsibility by law or by direction of the Secretary of Defense, the Under Secretary takes precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, and the Secretaries of the military departments.".

SEC. 902. ESTABLISHMENT OF POSITION OF DEPUTY UNDER SECRETARY OF DEFENSE FOR ACQUISITION

(a) ESTABLISHMENT OF POSITION.—(1) Chapter 4 of title 10, United States Code (as amended by title I of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended by inserting after section 133 the following new section:

"§ 133a. Deputy Under Secretary of Defense for Acquisition 10 USC 133a.

"(a) There is a Deputy Under Secretary of Defense for Acquisition, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Deputy Under Secretary of Defense for Acquisition shall assist the Under Secretary of Defense for Acquisition in the performance of his duties. The Deputy Under Secretary shall act for, and exercise the powers of, the Under Secretary when the Under Secretary is absent or disabled.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 133 the following new item:

"133a. Deputy Under Secretary of Defense for Acquisition."

(b) PAY GRADE.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Deputy Under Secretary of Defense for Acquisition.".

SEC. 903. OTHER SENIOR CIVILIAN ACQUISITION OFFICIALS

(a) PRECEDENCE OF UNDER SECRETARY FOR POLICY.—Section 134 of title 10, United State Code (as designated by section 105 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended by inserting "the Under Secretary of Defense for Acquisition," in subsection (c) after "Deputy Secretary of Defense,". *Ante*, p. 997.

(b) FUNCTIONS AND GRADE OF DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING.—(1) Section 135 of title 10, United States Code (as amended by section 105 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended— *Ante*, p. 997.

(A) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) Except as otherwise prescribed by the Secretary of Defense, the Director of Defense Research and Engineering shall perform

such duties relating to research and engineering as the Under Secretary of Defense for Acquisition may prescribe."; and

(B) by striking out subsection (c).

(2)(A) Section 5314 of title 5, United States Code, is amended by striking out "Director of Defense Research and Engineering.".

(B) Section 5315 of such title is amended by adding at the end the following:

"Director of Defense Research and Engineering.".

(c) INDEPENDENCE AND STAFF OF DIRECTOR OF OPERATIONAL TEST AND EVALUATION.—Section 138 of title 10, United States Code (as redesignated by section 101(a), of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)) is amended—

Ante, p. 994.

(1) by inserting "and the Under Secretary of Defense for Acquisition" after "Secretary of Defense" in the first sentence of subsection (b);

(2) by inserting "and the Under Secretary of Defense for Acquisition" after "Secretary of Defense" in subsection (b)(2);

(3) by inserting ", to the Under Secretary of Defense for Acquisition," in subsection (b)(5) after "Secretary of Defense";

(4) by inserting ", to the Under Secretary of Defense for Acquisition," in subsection (c) after "Secretary of Defense" the first place such term appears;

(5) by inserting "personally" in the first sentence of subsection (d) after "Secretary of Defense";

(6) by inserting ", the Under Secretary of Defense for Acquisition," in the second sentence of subsection (g)(1) after "Secretary of Defense"; and

(7) by adding at the end the following new subsection:

"(i) The Director shall have sufficient professional staff of military and civilian personnel to enable the Director to carry out the duties and responsibilities of the Director prescribed by law.".

(d) DIRECTOR OF OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION.—Section 15(k)(3) of the Small Business Act (15 U.S.C. 644(k)(3)) is amended by inserting ", except that in the case of the Department of Defense the Director of the Office of Small and Disadvantaged Business Utilization shall be responsible to, and report directly to, the Under Secretary of Defense for Acquisition".

(e) CONFORMING AMENDMENT FOR ARMED FORCES POLICY COUNCIL MEMBERSHIP.—Section 171(a) of title 10, United States Code is amended—

(1) by redesignating paragraphs (3) through (11) as paragraphs (4), (5), (6), (7), (9), (10), (11), (12), and (13), respectively;

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) the Under Secretary of Defense for Acquisition;"; and

(3) by striking out paragraph (7) (as so redesignated) and inserting in lieu thereof the following:

"(7) the Under Secretary of Defense for Policy;

"(8) the Deputy Under Secretary of Defense for Acquisition;".

SEC. 904. ENHANCED PROGRAM STABILITY FOR MAJOR DEFENSE ACQUISITION PROGRAMS

(a) PROGRAM STABILITY.—(1) Chapter 144 of title 10, United States Code, is amended by adding after section 2434 (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense

Reorganization Act of 1986 (Public Law 99-433)) the following new section:

"§ 2435. Enhanced program stability 10 USC 2435.

"(a) BASELINE DESCRIPTION REQUIREMENT.—(1) The Secretary of a military department shall establish a baseline description for a major defense acquisition program under the jurisdiction of such Secretary—

"(A) before such program enters full-scale engineering development; and

"(B) before such program enters full-rate production.

"(2) A baseline description required under paragraph (1) shall include the following:

"(A) In the case of the full-scale development stage—

"(i) a description of the performance goals for the weapons system to be acquired under the program;

"(ii) a description of the technical characteristics and configuration of such system;

"(iii) total development costs for such stage by fiscal year; and

"(iv) the schedule of development milestones.

"(B) In the case of the production stage—

"(i) a description of the performance of the weapons system to be acquired under the program;

"(ii) a description of the technical characteristics and configuration of such system;

"(iii) number of end items by fiscal year;

"(iv) the schedule of development milestones;

"(v) testing;

"(vi) initial training;

"(vii) initial provisioning; and

"(viii) total procurement costs for such stage (including the cost of all elements included in the baseline description) by fiscal year, which may not exceed the amount of the independent cost estimate for that program submitted to the Secretary of Defense under section 2434 of this title. 10 USC 2434.

"(b) PROGRAM DEVIATION REPORTS.—(1) The program manager of a major defense acquisition program shall immediately submit a program deviation report for such program to the Secretary of the military department concerned and to the senior procurement executive of such military department (designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3))) if such manager determines at any time during the full-scale engineering development stage or the production stage that there is reasonable cause to believe that—

"(A) the total cost of completion of the program will be more than the amount specified in the baseline description established under subsection (a) for such stage;

"(B) any milestone specified in such baseline description will not be completed as scheduled; or

"(C) the system to be acquired under the program will not fulfill the description of performance, technical characteristics, or configuration specified in such baseline description.

"(2) The Secretary of the military department concerned shall, with respect to any major defense acquisition program for which a program deviation report is received under paragraph (1)—

"(A) establish a review panel to review such program; and

"(B) submit a report containing the program deviation report and the results of such review to the Under Secretary of Defense for Acquisition before the end of the 45-day period beginning on the date that the program deviation report is submitted under paragraph (1).

"(c) DEFINITION.—In this section, the term 'major defense acquisition program' has the meaning given that term in section 2432(a)(1) of this title.".

10 USC 2432.

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2434 the following new item:

"2435. Enhanced program stability.".

10 USC 2435 note.

(b) EFFECTIVE DATE.—Section 2435 of title 10, United States Code (as added by subsection (a)(1)), shall apply to major defense acquisition programs that enter full-scale engineering development or full-rate production after the date of the enactment of this Act.

SEC. 905. DEFENSE ENTERPRISE PROGRAMS

(a) IN GENERAL.—(1) Chapter 144 of title 10, United States Code, is amended by adding after section 2435 (as added by section 904) the following new section:

10 USC 2436.

"§ 2436. Defense enterprise programs

"(a) IN GENERAL.—The Secretary of Defense shall conduct, through the Secretaries of the military departments, a program with respect to increasing the efficiency of the management structure of defense acquisition programs by reducing the number of officials through whom a program manager reports to the senior procurement executive of the military department concerned.

"(b) DESIGNATION OF PARTICIPATING PROGRAMS.—The Secretary of a military department may designate any defense acquisition program under the jurisdiction of the Secretary to participate in the program described in subsection (a). A program designated under this subsection shall be known as a 'defense enterprise program'.

"(c) GUIDELINES.—The Secretary of Defense shall issue guidelines governing the management of defense enterprise programs. Such guidelines shall include the following requirements:

"(1) The Secretary concerned shall designate a program executive officer for each program.

Report.

"(2) The program manager for each program shall report with respect to such program directly, without intervening review or approval, to the program executive officer for the program.

"(3) The program executive officer for a program shall report with respect to such program directly, without intervening review or approval, to the senior procurement executive of the military department concerned designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)).

"(4) The program executive officer to whom a defense enterprise program manager reports shall evaluate the job performance of such manager on an annual basis. In conducting an evaluation under this paragraph, a program executive officer shall consider the extent to which the manager has achieved the objectives of the program for which the manager is responsible, including quality, timeliness, and cost objectives.

"(5) The manager of a defense enterprise program shall be authorized staff positions for a technical staff, including experts in business management, contracting, auditing, engineering, testing, and logistics.

"(d) APPLICABLE RULES AND REGULATIONS.—(1) Except as specified by the senior procurement executive of the military department concerned, a defense enterprise program shall not be subject to any regulation, policy, directive, or administrative rule or guideline relating to the acquisition activities of the Department of Defense other than the Federal Acquisition Regulation and the Department of Defense supplement to the Federal Acquisition Regulation.

"(2) Paragraph (1) shall not be construed to limit or modify the application of Federal legislation relating to the acquisition activities of the Department of Defense.

"(3) In this subsection the term 'Federal Acquisition Regulation' has the meaning given such term in section 2320(a)(4) of this title.". 10 USC 2320.

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2435 (as added by section 904) the following new item:

"2436. Defense enterprise programs.".

(b) The Secretary of each military department shall designate for fiscal year 1988 not less than three defense acquisition programs under the jurisdiction of the Secretary to participate in the program described in section 2436(a) of title 10, United States Code (as added by subsection (a)(1)). 10 USC 2436 note.

SEC. 906. MILESTONE AUTHORIZATION OF DEFENSE ENTERPRISE PROGRAMS

(a) IN GENERAL.—(1) Chapter 144 of title 10, United States Code, is amended by adding after section 2436 (as inserted by section 905) the following new section:

"§ 2437. Defense enterprise programs: milestone authorization 10 USC 2437.

"(a) DESIGNATION OF PARTICIPATING PROGRAMS.—(1) The Secretary of Defense may designate defense enterprise programs in each military department (as designated by the Secretary of the military department under section 2436 of this title) to be considered for milestone authorization under subsection (b).

"(2) The Secretary may designate a defense enterprise program under paragraph (1) only if the program—

"(A) is ready to proceed into the full-scale engineering development stage or the full-rate production stage; or

"(B) is in either of such stages.

"(b) SUBMISSION OF BASELINE DESCRIPTIONS.—Not later than the end of the 90-day period beginning on the date that a defense enterprise program is designated under subsection (a), the Secretary of Defense shall—

"(1) in the case of a program that is subject to section 2435(a) of this title, submit to the Committees on Armed Services of the Senate and House of Representatives the baseline description for the program required to be submitted under such section; *Ante*, p. 3913.

"(2) in the case of a program that is not subject to such section—

"(A) establish a baseline description that meets the requirements of such section; and

"(B) submit the baseline description to such committees; and

"(3) request from Congress the authority to obligate funds in a single amount sufficient to carry out the stage for which the baseline description is submitted.

"(c) MILESTONE AUTHORIZATION.—Congress shall authorize funds for the full-scale engineering development stage or the full-rate production stage of a program designated by the Secretary of Defense under subsection (a) in a single amount sufficient to carry out that stage, but not for a period in excess of five years, if such program is approved by Congress to—

"(1) proceed into or complete the full-scale engineering development stage; or

"(2) proceed into or complete the full-rate production stage.

"(d) PROGRAM DEVIATIONS.—(1) If the Secretary of Defense receives a program deviation report under section 2435(b) of this title with respect to a defense enterprise program for which funds are authorized under subsection (b)—

Ante, p. 3913.

"(A) the Secretary of Defense shall notify the Committees on Armed Services of the Senate and House of Representatives of the receipt of such report before the end of the 15-day period beginning on the date on which the Secretary receives such report; and

"(B) except as provided in paragraph (2), after the end of the 45-day period beginning on the date on which the Secretary of Defense receives such report, the Secretary concerned may not obligate amounts appropriated or otherwise made available to the Department of Defense for purposes of carrying out the program.

"(2) Paragraph (1)(B) does not apply if the Secretary of Defense notifies Congress that the Secretary intends to—

"(A) convene a board to formally review the program; and

"(B) submit to Congress a revised baseline description for the program and the recommendations of the board convened under subparagraph (A) concurrent with the submission by the President of the budget for the next fiscal year under section 1105(a) of title 31.

"(3) The Secretary concerned may not obligate, for the purpose of carrying out a program described in paragraph (1) for which a program deviation report is received, amounts appropriated or otherwise made available to the Department of Defense for the fiscal year following the fiscal year during which the program deviation report was received unless such amounts are authorized to be appropriated after the date on which such report was received.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2436 (as inserted by section 905) the following new item:

"2437. Defense enterprise programs: milestone authorization.".

10 USC 2437 note.

(b) INITIAL DESIGNATION OF PARTICIPATING PROGRAMS.—The Secretary of Defense shall designate for fiscal year 1988 not less than three defense enterprise programs to be considered for milestone authorization under subsection (b). The Secretary shall make such designations as part of the budget submission of the Department of Defense for such fiscal year.

SEC. 907. PREFERENCE FOR NONDEVELOPMENTAL ITEMS

(a) IN GENERAL.—(1) Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2325. Preference for nondevelopmental items 10 USC 2325.

"(a) PREFERENCE.—The Secretary of Defense shall ensure that, to the maximum extent practicable—

"(1) requirements of the Department of Defense with respect to a procurement of supplies are stated in terms of—

"(A) functions to be performed;

"(B) performance required; or

"(C) essential physical characteristics;

"(2) such requirements are defined so that nondevelopmental items may be procured to fulfill such requirements; and

"(3) such requirements are fulfilled through the procurement of nondevelopmental items.

"(b) IMPLEMENTATION.—The Secretary of Defense shall carry out this section through the Under Secretary of Defense for Acquisition, who shall have responsibility for its effective implementation.

"(c) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

"(d) DEFINITION.—In this section, the term 'nondevelopmental item' means—

"(1) any item of supply that is available in the commercial marketplace;

"(2) any previously-developed item of supply that is in use by a department or agency of the United States, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

"(3) any item of supply described in paragraph (1) or (2) that requires only minor modification in order to meet the requirements of the procuring agency; or

"(4) any item of supply that is currently being produced that does not meet the requirements of paragraph (1), (2), or (3) solely because the item—

"(A) is not yet in use; or

"(B) is not yet available in the commercial marketplace.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2325. Preference for nondevelopmental items.".

(3) The Secretary of Defense shall prescribe regulations as required by section 2325(c) of title 10, United States Code (as added by subsection (a)(1)), before the end of the 180-day period beginning on the date of the enactment of this Act. 10 USC 2325 note.

(b) REMOVAL OF IMPEDIMENTS TO ACQUISITION OF NONDEVELOPMENTAL ITEMS.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report— Report. 10 USC 2325 note.

(A) identifying actions taken, including training of personnel and changes in regulations and procurement procedures, to implement the requirements of section 2325 of title 10, United States Code (as added by subsection (a)(1));

(B) identifying all statutes and regulations that are determined by the Secretary to impede the acquisition of nondevelopmental items by the Department of Defense; and

(C) recommending any legislation that the Secretary considers necessary or appropriate to promote maximum procurement of nondevelopmental items to fulfill the supply requirements of the Department of Defense.

(2) The Secretary shall take appropriate steps to remove any impediments identified by the Secretary under paragraph (1)(A) that are under the jurisdiction of the Secretary.

(3) The report required by paragraph (1) shall be submitted before the end of the one-year period beginning on the date of the enactment of this Act.

(c) EVALUATION BY COMPTROLLER GENERAL.—(1) The Comptroller General shall conduct an independent evaluation of the actions taken by the Secretary of Defense to carry out the requirements of section 2325 of title 10, United States Code (as added by subsection (a)(1)).

Report.

(2) The Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the evaluation required by paragraph (1). Such report shall include—

(A) an analysis of the effectiveness of the actions taken by the Secretary to carry out the requirements of section 2325 of title 10, United States Code (as added by subsection (a)(1));

(B) a description of any programs conducted to notify acquisition personnel of the Department of Defense of the requirements of such section and to train such personnel in the appropriate procedures for carrying out such section;

(C) a description of each law, regulation, and procedure which prevents or restricts maximum practicable use of nondevelopmental items to fulfill the supply requirements of the Department of Defense; and

(D) such recommendations for additional legislation as the Comptroller General considers necessary or appropriate to promote maximum procurement of nondevelopmental items to fulfill the supply requirements of the Department of Defense.

(3) The report required by paragraph (2) shall be submitted before the end of the two-year period beginning on the date of the enactment of this Act.

(d) DEFINITION.—For the purposes of subsections (b) and (c), the term "nondevelopmental items" has the meaning given such term in section 2325(d) of title 10, United States Code (as added by subsection (a)(1)).

SEC. 908. REQUIREMENTS RELATING TO UNDEFINITIZED CONTRACTUAL ACTIONS

10 USC 2326 note.

(a) LIMITATION ON USE OF FUNDS FOR UNDEFINITIZED CONTRACTUAL ACTIONS.—(1) On the last day of each six-month period described in paragraph (4), the Secretary of Defense (with respect to the Defense Logistics Agency) and the Secretary of each military department shall determine—

(A) the total amount of funds obligated for contractual actions during the six-month period;

(B) the total amount of funds obligated during the six-month period for undefinitized contractual actions; and

(C) the total amount of funds obligated during the six-month period for undefinitized contractual actions that are not definitized on or before the last day of such period.

(2) On the last day of each six-month period described in paragraph (4), the amount of funds obligated for undefinitized contractual actions entered into by the Secretary of Defense (with respect to the Defense Logistics Agency) or the Secretary of a military department during the six-month period that are not definitized on or before such day may not exceed 10 percent of the amount of funds obligated for all contractual actions entered into by the Secretary during the six-month period.

(3) If on the last day of a six-month period described in paragraph (4) the total amount of funds obligated for undefinitized contractual actions under the jurisdiction of a Secretary that were entered into during the six-month period exceeds the limit established in paragraph (2), the Secretary—

(A) shall, not later than the end of the 45-day period beginning on the first day following the six-month period, submit to the defense committees an unclassified report concerning— Report.

(i) the amount of funds obligated for contractual actions under the jurisdiction of the Secretary that were entered into during the six-month period with respect to which the report is submitted; and

(ii) the amount of such funds obligated for undefinitized contractual actions; and

(B) except with respect to the six-month period described in paragraph (4)(A), may not enter into any additional undefinitized contractual actions until the date on which the Secretary certifies to Congress that such limit is not exceeded by the cumulative amount of funds obligated for undefinitized contractual actions under the jurisdiction of the Secretary that are not definitized on or before such date and were entered into—

(i) during the six-month period for which such limit was exceeded; or

(ii) after the end of such six-month period.

(4) This subsection applies to the following six-month periods:

(A) The period beginning on October 1, 1986, and ending on March 31, 1987.

(B) The period beginning on April 1, 1987, and ending on September 30, 1987.

(C) The period beginning on October 1, 1987, and ending on March 31, 1988.

(D) The period beginning on April 1, 1988, and ending on September 30, 1988.

(E) The period beginning on October 1, 1988, and ending on March 31, 1989.

(b) OVERSIGHT BY INSPECTOR GENERAL.—The Inspector General of the Department of Defense shall— 10 USC 2326 note.

(1) periodically conduct an audit of contractual actions under the jurisdiction of the Secretary of Defense (with respect to the Defense Logistics Agency) and the Secretaries of the military departments; and

(2) after each audit, submit to Congress a report on the management of undefinitized contractual actions by each Secretary, including the amount of contractual actions under the jurisdiction of each Secretary that is represented by undefinitized contractual actions. Report.

(c) WAIVER AUTHORITY.—The Secretary of Defense may waive the application of this section for urgent and compelling considerations Defense and national security. 10 USC 2326 note.

relating to national security or public safety if the Secretary notifies the Committees on Armed Services of the Senate and House of Representatives of such waiver before the end of the 30-day period beginning on the date that the waiver is made.

(d) ESTABLISHMENT OF REQUIREMENTS WITH RESPECT TO UNDEFINITIZED CONTRACTUAL ACTIONS.—(1)(A) Chapter 137 of title 10, United States Code, is amended by adding after section 2325 (as added by section 907) the following new section:

10 USC 2326.

"§ 2326. Undefinitized contractual actions: restrictions

"(a) IN GENERAL.—The head of an agency may not enter into an undefinitized contractual action unless the request to the head of the agency for authorization of the contractual action includes a description of the anticipated effect on requirements of the military department concerned if a delay is incurred for purposes of determining contractual terms, specifications, and price before performance is begun under the contractual action.

"(b) LIMITATIONS ON OBLIGATION AND EXPENDITURE OF FUNDS.—(1) A contracting officer of the Department of Defense may not enter into an undefinitized contractual action unless the contractual action provides for agreement upon contractual terms, specifications, and price by the earlier of—

"(A) the end of the 180-day period beginning on the date on which the contractor submits a qualifying proposal to definitize the contractual terms, specifications, and price; or

"(B) the date on which the amount of funds obligated or expended under the contractual action is equal to more than 50 percent of the negotiated overall ceiling price for the contractual action.

"(2) Except as provided in paragraph (3), the contracting officer for an undefinitized contractual action may not expend with respect to such contractual action an amount that is equal to more than 50 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

"(3) If a contractor submits a qualifying proposal (as defined in subsection (g)) to definitize an undefinitized contractual action before an amount equal to more than 50 percent of the negotiated overall ceiling price is expended on such action, the contracting officer for such action may not expend with respect to such contractual action an amount that is equal to more than 75 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

"(4) This subsection does not apply to an undefinitized contractual action for the purchase of initial spares.

"(c) INCLUSION OF NON-URGENT REQUIREMENTS.—Requirements for spare parts and support equipment that are not needed on an urgent basis may not be included in an undefinitized contractual action for spare parts and support equipment that are needed on an urgent basis unless the head of the agency approves such inclusion as being—

"(1) good business practice; and

"(2) in the best interests of the United States.

"(d) MODIFICATION OF SCOPE.—The scope of an undefinitized contractual action under which performance has begun may not be modified unless the head of the agency approves such modification as being—

"(1) good business practice; and

"(2) in the best interests of the United States.

"(e) ALLOWABLE PROFIT.—The head of an agency shall ensure that the profit allowed on an undefinitized contractual action for which the final price is negotiated after a substantial portion of the performance required is completed reflects—

"(1) the possible reduced cost risk of the contractor with respect to costs incurred during performance of the contract before the final price is negotiated; and

"(2) the reduced cost risk of the contractor with respect to costs incurred during performance of the remaining portion of the contract.

"(f) APPLICABILITY.—This section does not apply to the Coast Guard or the National Aeronautics and Space Administration.

"(g) DEFINITIONS.—In this section:

"(1) The term 'undefinitized contractual action' means a new procurement action entered into by the head of an agency for which the contractual terms, specifications, or price are not agreed upon before performance is begun under the action. Such term does not include contractual actions with respect to the following:

"(A) Foreign military sales.

"(B) Purchases of less than $25,000.

"(C) Special access programs.

"(D) Congressionally-mandated long-lead procurement contracts.

"(2) The term 'qualifying proposal' means a proposal that contains sufficient information to enable the Department of Defense to conduct complete and meaningful audits of the information contained in the proposal and of any other information that the Department is entitled to review in connection with the contract, as determined by the contracting officer.".

(B) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2325 (as added by section 907) the following new item:

"2326. Undefinitized contractual actions: restrictions.".

(2) Section 2326 of title 10, United States Code (as added by subsection (d)(1)), applies to undefinitized contractual actions that are entered into after the end of the 180-day period beginning on the date of the enactment of this Act. 10 USC 2326 note.

(e) DEFINITION.—For purposes of this section, the term "undefinitized contractual action" has the meaning given such term in section 2325(g) of title 10, United States Code (as added by subsection (d)(1)). 10 USC 2326 note.

SEC. 909. COMPETITIVE PROTOTYPE STRATEGY REQUIREMENT FOR MAJOR DEFENSE ACQUISITION PROGRAMS

(a) ESTABLISHMENT OF REQUIREMENT.—(1) Chapter 139 of title 10, United States Code, is amended by adding after section 2364 (as added by section 234) the following new section:

"§ 2365. Competitive prototype strategy requirement: major defense acquisition programs 10 USC 2365.

"(a) COMPETITIVE PROTOTYPE STRATEGY REQUIREMENT.—Except as provided in subsection (c), the Secretary of Defense shall require the

use of a competitive prototype program strategy in the development of a major weapons system (or a subsystem of such system).

Contracts.

"(b) QUALIFYING STRATEGIES.—An acquisition strategy qualifies as a competitive prototype strategy if it—

"(1) requires that contracts be entered into with not less than two contractors, using the same combat performance requirements, for the competitive design and manufacture of a prototype system or subsystem for developmental test and evaluation;

"(2) requires that all systems or subsystems developed under contracts described in paragraph (1) be tested in a comparative side-by-side test that is designed to—

"(A) reproduce combat conditions to the extent practicable; and

"(B) determine which system or subsystem is most effective under such conditions; and

"(3) requires that each contractor that develops a prototype system or subsystem, before the testing described in subparagraph (B) is begun, submit—

"(A) cost estimates for full-scale engineering development and the basis for such estimates; and

"(B) production estimates, whenever practicable.

"(c) EXCEPTION.—Subsection (a) shall not apply to the development of a major weapons system (or subsystem of such system) after—

"(1) the Secretary submits to Congress—

"(A) written notification that use of a competitive prototype program strategy is not practicable with respect to such system or subsystem; and

Report.

"(B) a report that fully explains why use of such a strategy is not practicable, including cost estimates (and the bases for such estimates) comparing the total program cost of the competitive prototype strategy with the total program cost of the alternative acquisition strategy; and

"(2) 30 days elapse after the Secretary submits the notification and report required by paragraph (1).

"(d) DEFINITIONS.—In this section:

"(1) The term 'major weapons system' means a major weapons system that is acquired under a program that is a major defense acquisition program.

"(2) The term 'major defense acquisition program' means a Department of Defense acquisition program that—

"(A) is not a highly sensitive classified program (as determined by the Secretary of Defense); and

"(B) that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than $200,000,000 (based on fiscal year 1980 constant dollars).

"(3) The term 'subsystem of such system' means a collection of components (such as the propulsion system, avionics, or weapon controls) for which the prime contractors, major subcontractors, or government entities have responsibility for system integration.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2364 (as added by section 234) the following new item:

"2365. Competitive prototype strategy requirement: major defense acquisition programs.".

(b) EFFECTIVE DATE.—Section 2365 of title 10, United States Code (as added by subsection (a)(1)), shall apply to major weapons systems (as defined in subsection (c)(1) of such section) that enter the advanced development stage after September 30, 1986. 10 USC 2365 note.

SEC. 910. TESTING OF CERTAIN WEAPON SYSTEMS AND MUNITIONS

(a) SURVIVABILITY AND LETHALITY TESTING AND OPERATIONAL TESTING.—(1) Chapter 139 of title 10, United States Code, is amended by adding after section 2365 (as added by section 909) the following new section:

"§ 2366. Major systems and munitions programs: survivability and lethality testing; operational testing 10 USC 2366.

"(a) REQUIREMENTS.—The Secretary of Defense shall provide that—

"(1) a covered system may not proceed beyond low-rate initial production until realistic survivability testing of the system is completed in accordance with this section;

"(2) a major munition program or a missile program may not proceed beyond low-rate initial production until realistic lethality testing of the program is completed in accordance with this section; and

"(3) a major defense acquisition program may not proceed beyond low-rate initial production until initial operational test and evaluation of the program is completed in accordance with this section.

"(b) TEST GUIDELINES.—(1) Survivability and lethality tests required under subsection (a) shall be carried out sufficiently early in the development phase of the system or program to allow any design deficiency demonstrated by the testing to be corrected in the design of the system, munition, or missile before proceeding beyond low-rate initial production.

"(2) In the case of a major defense acquisition program, no person employed by the contractor for the system being tested may be involved in the conduct of the operational test and evaluation required under subsection (a).

"(3) The costs of all tests required under that subsection shall be paid from funds available for the system being tested.

"(c) WAIVER AUTHORITY.—The Secretary of Defense may waive the application of the survivability and lethality tests of this section to a covered system, munitions program, or missile program if the Secretary, before the system or program enters full-scale engineering development, certifies to Congress that live-fire testing of such system or program would be unreasonably expensive and impractical.

"(d) WAIVER IN TIME OF WAR OR MOBILIZATION.—In time of war or mobilization, the President may suspend the operation of any provision of this section. President of U.S.

"(e) DEFINITIONS.—In this section:

"(1) The term 'covered system' means a vehicle, weapon platform, or conventional weapon system—

"(A) that includes features designed to provide some degree of protection to users in combat; and

"(B) that is a major system within the meaning of that term in section 2303(5) of this title.

"(2) The term 'major munitions program' means—

"(A) a munition program for which more than 1,000,000 rounds are planned to be acquired; or

"(B) a conventional munitions program that is a major system within the meaning of that term in section 2302(5) of this title.

"(3) The term 'major defense acquisition program' means—

"(A) a conventional weapons system that is a major system within the meaning of that term in section 2302(5) of this title; and

"(B) is designed for use in combat.

"(4) The term 'realistic survivability testing' means, in the case of a covered system, testing for vulnerability and survivability of the system in combat by firing munitions likely to be encountered in combat (or munitions with a capability similar to such munitions) at the system configured for combat, with the primary emphasis on testing vulnerability with respect to potential user casualties and taking into equal consideration the operational requirements and combat performance of the system.

"(5) The term 'realistic lethality testing' means, in the case of a major munitions program or a missile program, testing for lethality by firing the munition or missile concerned at appropriate targets configured for combat.

"(6) The term 'configured for combat', with respect to a weapon system, platform, or vehicle, means loaded or equipped with all dangerous materials (including all flammables and explosives) that would normally be on board in combat.

"(7) The term 'operational test and evaluation' has the meaning given that term in section 138(a)(2)(A) of this title.".

10 USC 138.

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2365 (as added by section 909) the following new item:

"2366. Major systems and munitions programs: survivability and lethality testing; operational testing.".

10 USC 2366 note.

(b) EFFECTIVE DATE.—Section 2366 of title 10, United States Code (as added by subsection (a)), shall apply with respect to any decision to proceed with a program beyond low-rate initial production that is made—

(1) after May 31, 1987, in the case of a decision referred to in subsection (a)(1) or (a)(2) of such section; or

(2) after the date of the enactment of this Act, in the case of a decision referred to in subsection (a)(3) of such section.

(c) TIME FOR SUBMISSION OF ANNUAL REPORT OF DIRECTOR (OT&E).—Subsection (g)(1) of section 138 of such title (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)) is amended by striking out "January 15" in the second sentence and all that follows through 'is prepared' and inserting in lieu thereof "10 days after the transmission of the budget for the next fiscal year under section 1105 of title 31".

Ante, p. 994.

SEC. 911. GOALS FOR INCREASED USE OF MULTIYEAR CONTRACTING AUTHORITY IN FISCAL YEAR 1988

(a) IN GENERAL.—The Secretary of Defense shall take appropriate actions to ensure that the Department of Defense increases the use of multiyear contracting authority in fiscal year 1988.

(b) MULTIYEAR PROCUREMENT GOAL.—The total amount obligated under multiyear contracts (authorized by section 2306(h) of title 10, United States Code) for Department of Defense procurement program eligible for multiyear contracting during fiscal year 1988 should be an amount that is not less than 10 percent of the total obligational authority used by the Department of Defense for procurement programs of the Department during such fiscal year.

(c) APPORTIONMENT OF GOAL.—The Secretary of Defense shall specify the percentage of obligational authority of each military department and Defense Agency that is to be used for multiyear contracts to achieve the goal prescribed in subsection (b).

(d) BASELINE REPORT.—Not later than January 1, 1987, the Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a written report which contains—

(1) a list of all procurement programs which the Secretary determines to be procurement programs eligible for multiyear contracting that are subject to the requirements of section 2432 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)); *Ante*, p. 994.

(2) the Secretary's assessment of the feasibility and desirability of the multiyear procurement goal prescribed in subsection (b); and

(3) whether the Secretary expects to achieve the goal prescribed in subsection (b) for fiscal year 1988 and, if the Secretary does not expect to achieve such goal, the reasons why such goal will not be achieved.

(e) DEFINITIONS.—As used in this section the term "procurement program eligible for multiyear contracting" means a procurement program of the Department of Defense—

(1) which satisfies the conditions of clauses (A) through (F) of section 2306(h)(1) of title 10, United States Code; and

(2) under which production of fully configured end items is planned for a period exceeding three fiscal years.

SEC. 912. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS

(a) IN GENERAL.—(1) Chapter 139 of title 10, United States Code, is amended by adding after section 2366 (as added by section 910) the following new section:

"§ 2367. Use of federally funded research and development centers 10 USC 2367.

"(a) LIMITATION ON USE OF CENTERS.—Except as provided in subsection (b), the Secretary of Defense may not place work with a federally funded research and development center unless such work is within the purpose, mission, and general scope of effort of such center as established in the sponsoring agreement of the Department of Defense with such center.

"(b) EXCEPTION FOR APPLIED SCIENTIFIC RESEARCH.—This section does not apply to a federally funded research and development center that performs applied scientific research under laboratory conditions.

"(c) LIMITATION ON CREATION OF NEW CENTERS.—(1) The head of an agency may not obligate or expend amounts appropriated to the Department of Defense for purposes of operating a federally funded research center that was not in existence before June 2, 1986, until—

Report.

"(A) the head of the agency submits to Congress a report with respect to such center that describes the purpose, mission, and general scope of effort of the center; and

"(B) a period of 60 days beginning on the date such report is received by Congress has elapsed.

"(2) In this subsection, the term 'head of an agency' has the meaning given such term in section 2302(1) of this title.".

10 USC 2302.

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2366 (as added by section 910) the following new item:

"2367. Use of Federally funded research and development centers.".

10 USC 2367 note.

(b) GAO STUDY.—The Comptroller General shall conduct a study of the national defense role of federally funded research and development centers. Such study shall consider the following:

(1) The effectiveness of procedures in effect on the date of the enactment of this Act in ensuring that such centers are established on the basis of the criteria set forth in Office of Federal Procurement Policy Circular 84-1.

(2) The effectiveness of such procedures in ensuring that work placed with such centers is within the purpose, mission, and general scope of effort of such center as established in the sponsoring agreement with such center.

(3) The growth in the size of such centers during fiscal years 1982 through 1986, measured—

(A) in dollar value of work placed with such centers; and

(B) in man-years of effort required to complete work placed with such centers.

Contracts.

(4) The effect of the exemption of contracts with such centers from the competitive procedures required by section 2304 of title 10, United States Code.

(5) The relationship of such centers to their sponsors.

(c) GAO REPORT.—(1) The Comptroller General shall submit to Congress a report on the study required by subsection (b). Such report shall include a discussion of each of the matters listed in subsection (b).

(2) The report required by paragraph (1) shall be submitted not later than one year after the date of the enactment of this Act.

PART B—REQUIREMENTS RELATING TO THE ACQUISITION PROCESS

SEC. 921. SMALL BUSINESS SET-ASIDES

(a) PROPORTION OF CONTRACTS SET ASIDE DETERMINED ON INDUSTRY CATEGORY BASIS.—Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended—

(1) by inserting "in each industry category" in paragraph (3) after "Government", and

(2) by adding at the end the following new sentences: "For purposes of clause (3) of the first sentence of this subsection, an industry category is a discrete group of similar goods and services. Such groups shall be determined by the Admini-

stration in accordance with the four-digit standard industrial classification codes contained in the Standard Industrial Classification Manual published by the Office of Management and Budget, except that the Administration shall limit such an industry category to a greater extent than provided under such classification codes if the Administration receives evidence indicating that further segmentation for purposes of this paragraph is warranted due to special capital equipment needs or special labor or geographic requirements or to recognize a new industry. A market for goods or services may not be segmented under the preceding sentence due to geographic requirements unless the Government typically designates the area where work for contracts for such goods or services is to be performed and Government purchases comprise the major portion of the entire domestic market for such goods or services and, due to the fixed location of facilities, high mobilization costs, or similar economic factors, it is unreasonable to expect competition from business concerns located outside of the general areas where such concerns are located.".

(b) AWARDING OF CONTRACTS AT FAIR MARKET PRICES.—(1) Section 15(a) of such Act (15 U.S.C. 644(a)) is further amended by adding at the end the following new sentence: "A contract may not be awarded under this subsection if the award of the contract would result in a cost to the awarding agency which exceeds a fair market price.".

(2) Section 8(a)(1)(A) of such Act (15 U.S.C. 637(a)(1)(A)) is amended by striking out the semicolon at the end and adding in lieu thereof the following: ". A contract may not be awarded under this subsection if the award of the contract would result in a cost to the awarding agency which exceeds a fair market price;".

(c) ASSURANCE AS TO COMPOSITION OF LABOR FORCE.—(1) Section 8(a) of such Act (15 U.S.C. 637(a)) is amended by adding at the end the following new paragraph:

"(14)(A) A concern may not be awarded a contract under this subsection as a small business concern unless the concern agrees that—

"(i) in the case of a contract for services (except construction), at least 50 percent of the cost of contract performance incurred for personnel shall be expended for employees of the concern; and

"(ii) in the case of a contract for procurement of supplies (other than procurement from a regular dealer in such supplies), the concern will perform work for at least 50 percent of the cost of manufacturing the supplies (not including the cost of materials).

"(B) The Administrator may change the percentage under clause (i) or (ii) of subparagraph (A) if the Administrator determines that such change is necessary to reflect conventional industry practices among business concerns that are below the numerical size standard for businesses in that industry category. A percentage established under the preceding sentence may not differ from a percentage established under section 15(n).

"(C) The Administration shall establish, through public rulemaking, requirements similar to those specified in subparagraph (A) to be applicable to contracts for general and specialty construction and to contracts for any other industry category not otherwise subject to the requirements of such subparagraph. The percentage

applicable to any such requirement shall be determined in accordance with subparagraph (B), except that such a percentage may not differ from a percentage established under section 15(n) for the same industry category.".

Contracts.

(2) Section 15 of such Act (15 U.S.C 644) is amended by adding at the end the following new subsection:

"(o)(1) A concern may not be awarded a contract under this subsection as a small business concern unless the concern agrees that—

"(A) in the case of a contract for services (except construction), the concern will perform at least 50 percent of the cost of the contract with its own employees; and

"(B) in the case of a contract for procurement of supplies (other than procurement from a regular dealer in such supplies), the concern will perform work for at least 50 percent of the cost of manufacturing the supplies (not including the cost of materials).

"(2) The Administrator may change the percentage under subparagraph (A) or (B) of paragraph (1) if the Administrator determines that such change is necessary to reflect conventional industry practices among business concerns that are below the numerical size standard for businesses in that industry category.

"(3) The Administration shall establish, through public rulemaking, requirements similar to those specified in paragraph (1) to be applicable to contracts for general and specialty construction and to contracts for any other industry category not otherwise subject to the requirements of such subparagraph.".

(d) EXPANSION OF ANNUAL PARTICIPATION GOALS.—Section 15(g) of such Act is amended—

(1) by striking out "having values of $10,000 or more" in the first sentence; and

Disadvantaged persons.

(2) by adding at the end the following: "For the purpose of establishing goals under this subsection, the head of each Federal agency shall make consistent efforts to annually expand participation by small business concerns from each industry category in procurement contracts of the agency, including participation by small business concerns owned and controlled by socially and economically disadvantaged individuals. The head of each Federal agency, in attempting to attain such participation, shall consider—

"(1) contracts awarded as the result of unrestricted competition; and

"(2) contracts awarded after competition restricted to eligible small business concerns under this section and under the program established under section 8(a).".

(e) DISCLOSURE OF INFORMATION CONCERNING APPLICANTS FOR PROCUREMENT SET-ASIDES.—Section 15 of such Act is further amended by adding at the end the following new subsection:

"(p)(1) Except as provided in paragraphs (2) and (3), the head of any Federal agency shall, within five days of the agency's decision to set aside a procurement for small business concerns under this section, provide the names and addresses of the small business concerns expected to respond to the procurement to any person who requests such information.

Defense and national security.

"(2) The Secretary of Defense may decline to provide information under paragraph (1) in order to protect national security interests.

"(3) The head of a Federal agency is not required to release any information under paragraph (1) that is not required to be released under section 552 of title 5, United States Code.".

(f) REVIEW OF SIZE STANDARDS.—Section 3 of the Small Business Act is amended— 15 USC 632.

(1) by inserting "(1)" after "SEC. 3. (a)"; and

(2) by adding at the end of subsection (a) the following:

"(2)(A) The Small Business Administration shall establish a program for the review of the size standards for eligibility of business concerns in the industry categories described in subparagraph (B) for a procurement restricted to small business concerns under section 8(a) or 15(a). 15 USC 637, 644.

"(B) Subparagraph (A) shall apply only to business concerns in the following industry categories:

"(i) Construction.

"(ii) Architectural and engineering services (including surveying and mapping services).

"(iii) Ship building and ship repair.

"(iv) Refuse systems and related services.

"(3) If the Administrator determines, on the basis of any such review, that contracts awarded under the set-aside programs under such sections exceed 30 percent of the dollar value of the total contract awards for that industry category, as determined under the last sentence of section 15(a)(3), the Administrator shall adjust the size standards for such industry category establishing eligibility for a set-aside program to a size that will likely reduce the number of contracts which may be set aside to approximately 30 percent of the value of contracts to be awarded under such sections. Contracts.

"(4)(A) An interested person may petition the Administrator at any time to review an adjustment to a size standard made under paragraph (3) or any designation of an industry category made under section 15(a)(3) if the petitioner presents credible evidence that any such adjustment or designation—

"(i) is not likely to further the purposes of paragraph (3)(A) or section 15(a); and

"(ii) has caused the petitioner to suffer severe financial loss.

"(B) The Administrator shall render a final determination on any petition filed under subparagraph (A) before the end of the 30-day period beginning on the date that such petition is received by the Administration. Such determination shall be reviewable in the manner prescribed in chapter 7 of title 5, United States Code. 5 USC 701 *et seq.*

"(C) The Administrator shall prescribe regulations to carry out the provisions of this subsection. Regulations.

"(5) The Administrator shall conduct a review under the program established under paragraph (2) at least once during every three years. Such review shall be completed and appropriate size standard adjustments made with the expiration of 180 days after each three-year review period.".

(g) EFFECTIVE DATES.—Except as otherwise provided in subsection (h), the amendments made by this section shall take effect on October 1, 1987. 15 USC 632 note.

(h) INITIAL REVIEW OF SIZE STANDARDS.—(1) Paragraph (2) of section 3(a) of the Small Business Act (as added by subsection (f)) shall take effect on the date of the enactment of this Act. 15 USC 632 note.

(2) The first review conducted by the Administrator under such paragraph shall review the periods beginning on October 1, 1983,

and ending on September 30, 1986, and shall be completed not later than 180 days after the date of the enactment of this Act.

Contracts.

(3) If the Administrator of the Small Business Administration determines, on the basis of the review referred to in paragraph (2), that contracts awarded under the set-aside programs under sections 8(a) and 15(a) of the Small Business Act in any industry category subject to that review exceed 30 percent of the dollar value of the total contract awards for that industry category, as determined in accordance with the last sentence of section 15(a)(3) of such Act, the Administrator shall propose adjustments to the size standards for such industry category establishing eligibility for a set-aside program to a size that will likely reduce the number of contracts which may be set aside to approximately 30 percent of the value of contracts to be awarded under such sections. The Administrator shall publish such proposed adjustments in the Federal Register for public comment. The Administrator may not issue final regulations implementing revised size standards for an industry category under section 3(a)(3) of such Act (as added by subsection (f)) until October 1, 1987.

15 USC 637, 644.

Federal Register, publication.

15 USC 632 note.

(i) REPORT ON EFFECT OF AMENDMENTS MADE BY THIS SECTION.—(1) The Administrator of the Small Business Administration shall submit to the Committees on Armed Services and the Committees on Small Business of the Senate and House of Representatives a report on the amendments made by this section. The report shall include the Administrator's views on the advisability and feasibility of implementing such amendments.

(2) The report shall also include—

(A) the Administrator's findings and determinations under the review of size standards for businesses that qualify as small businesses carried out pursuant to section 3(a)(2)(B) of the Small Business Act (as amended by subsection (f));

(B) a determination of whether or not the amendments made by subsection (f) will further the interests of the set-aside program; and

(C) recommendations for furthering the interests described in subparagraphs (A) and (B) in a more efficient or more effective manner than provided in such amendments.

(3) In preparing the report required by paragraph (1), the Administrator of the Small Business Administration shall seek the views of all affected agencies of the Government and the views of the public, including the views of business concerns of all sizes and of trade, business, and professional organizations. The views of such agencies, and a summary of the views of the public, shall be included in the report.

(4) The report shall be submitted not later than July 15, 1987.

Contracts. Illinois.

(j) LIMITATION RESPECTING GREAT LAKES NAVAL TRAINING CENTER.—Of the total dollar amount of the contracts awarded for fiscal year 1987 for construction and refuse systems and related services at Great Lakes Naval Training Center, Illinois, not more than 30 percent of such dollar amount may be under contracts awarded through the so-called small business set-aside programs under sections 8 and 15 of the Small Business Act.

15 USC 637, 644.

SEC. 922. THRESHOLDS FOR CERTAIN REQUIREMENTS RELATING TO SMALL PURCHASES

(a) SMALL BUSINESS ACT NOTICE THRESHOLDS.—Section 8(e)(1) of the Small Business Act (15 U.S.C. 637(e)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking out "$10,000" both places such term appears and inserting in lieu thereof "$25,000";

(B) by striking out "or" at the end of clause (i);

(C) by striking out the comma at the end of clause (ii) and inserting in lieu thereof "; or";

(D) by inserting after clause (ii) the following new clause:

"(iii) solicit bids or proposals for a contract for property or services for a price expected to exceed $10,000, if there is not a reasonable expectation that at least two offers will be received from responsive and responsible offerors,"; and

Contracts.

(E) by striking out "subsection (b); and" and inserting in lieu thereof "subsection (f);";

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) an executive agency intending to solicit bids or proposals for a contract for property or services shall post, for a period of not less than ten days, in a public place at the contracting office issuing the solicitation a notice of solicitation described in subsection (f)—

"(i) in the case of an executive agency other than the Department of Defense, if the contract is for a price expected to exceed $10,000, but not to exceed $25,000; and

"(ii) in the case of the Department of Defense, if the contract is for a price expected to exceed $5,000, but not to exceed $25,000; and".

(b) OFFICE OF FEDERAL PROCUREMENT POLICY ACT NOTICE THRESHOLDS.—Section 18(a)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)(1)(A)) is amended—

(1) in subparagraph (A)—

(A) by striking out "$10,000" both places such term appears in and inserting in lieu thereof "$25,000";

(B) by striking out "or" at the end of clause (i);

(C) by striking out the comma at the end of clause (ii) and inserting in lieu thereof "; or";

(D) by inserting after clause (ii) the following new clause:

Contracts.

"(iii) solicit bids or proposals for a contract for property or services for a price expected to exceed $10,000, if there is not a reasonable expectation that at least two offers will be received from responsive and responsible offerors,"; and

(E) by striking out "and" at the end;

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) an executive agency intending to solicit bids or proposals for a contract for property or services shall post, for a period of not less than ten days, in a public place at the contracting office issuing the solicitation a notice of solicitation described in subsection (f)—

"(i) in the case of an executive agency other than the Department of Defense, if the contract is for a price expected to exceed $10,000, but not to exceed $25,000; and

"(ii) in the case of the Department of Defense, if the contract is for a price expected to exceed $5,000, but not to exceed $25,000; and".

(c) SMALL BUSINESS SET-ASIDES.—The first sentence of section 15(j) of the Small Business Act (15 U.S.C. 644(j)) is amended by striking out "$10,000" and inserting in lieu thereof "$25,000".

(d) CONFORMING AMENDMENTS.—(1) Section 8(f) of the Small Business Act is amended by striking out "subsection (e)(1)(A)" and inserting in lieu thereof "subparagraph (A) or (B) of subsection (e)(1)".

15 USC 637.

(2) Section 18(b) of the Office of Federal Procurement Policy Act is amended by striking out "subsection (a)(1)(A)" and inserting in lieu thereof "subparagraph (A) or (B) of subsection (a)(1)".

41 USC 416.

SEC. 923. REQUIREMENTS RELATING TO PROCEDURES OTHER THAN COMPETITIVE PROCEDURES

(a) LIMITED SOURCES.—Section 2304(c)(1) of title 10, United States Code, is amended by inserting "or only from a limited number of responsible sources" after "only one responsible source".

(b) UNSOLICITED PROPOSALS FOR SERVICE.—Subparagraph (A) of section 2304(d)(1) of such title is amended by striking out "a unique and innovative concept" and all that follows and inserting in lieu thereof "a concept—

"(i) that is unique and innovative or, in the case of a service, for which the source demonstrates a unique capability of the source to provide the service; and

"(ii) the substance of which is not otherwise available to the United States, and does not resemble the substance of a pending competitive procurement; and".

(c) FOLLOW-ON CONTRACTS.—Subparagraph (B) of such section is amended—

(1) by inserting ", or the continued provision of highly specialized services, such property or services may be deemed to be available only from the original source and may be procured through procedures other than competitive procedures" after "highly specialized equipment";

(2) by inserting a one-em dash after "would result in";

(3) by paragraphing clauses (i) and (ii) and aligning their margins so as to be cut in four ems;

(4) by striking out the comma after "competition" at the end of clause (i) and inserting in lieu thereof a semicolon; and

(5) by striking out ", such property" and all that follows and inserting in lieu thereof a period.

Contracts.
10 USC 2304 note.

(d) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall apply with respect to contracts for which solicitations are issued after the end of the 180-day period beginning on the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply with respect to contracts awarded on the basis of unsolicited research proposals after the end of the 180-day period beginning on the date of the enactment of this Act.

(3) The amendments made by subsection (c) shall apply with respect to follow-on contracts awarded after the end of the 180-day period beginning on the date of the enactment of this Act.

SEC. 924. EVALUATION FACTORS IN AWARD OF CONTRACTS

(a) EVALUATION FACTORS.—Subsection (a) of section 2305 of title 10, United States Code, is amended—

(1) in paragraph (2)(A)(i)—

(A) by striking out "(including price)";

(B) by inserting "(including price)" after "sealed bids"; and

(C) by inserting "(including cost or price)" after "competitive proposals"; and

(2) by adding at the end the following new paragraph:

"(3) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, the head of an agency shall clearly establish the relative importance assigned to the quality of the services to be provided (including technical capability, management capability, and prior experience of the offeror).".

(b) CONFORMING AMENDMENT.—Subsection (b) of such section is amended by inserting "cost or" in paragraph (4)(B) before "price".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to solicitations for sealed bids or competitive proposals issued after the end of the 180-day period beginning on the date of the enactment of this Act. 10 USC 2305 note.

SEC. 925. COMPUTATION OF CONTRACT BID PRICES

(a) IN GENERAL.—Section 2301(a) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(7) the head of an agency, in issuing a solicitation for a contract to be awarded using sealed-bid procedures, not include in such solicitation a clause providing for the evaluation of prices under the contract for options to purchase additional supplies or services under the contract unless the head of the agency has determined that there is a reasonable likelihood that the options will be exercised.".

(b) EFFECTIVE DATE.—Section 2301(a)(7) of title 10, United States Code (as added by subsection (a)), shall not apply to solicitations for sealed bids issued before the end of the 180-day period beginning on the date of the enactment of this Act. 10 USC 2301 note.

SEC. 926. PRICES FOR SPARE OR REPAIR PARTS SOLD COMMERCIALLY

(a) ESTABLISHMENT OF COMMERCIAL PRICING REQUIREMENT.—(1) Section 2323 of title 10, United States Code, is amended to read as follows:

"§ 2323. Commercial pricing for spare or repair parts

"(a) LIMITATION ON PRICE OF COMMERCIALLY AVAILABLE PARTS.—Except in the case of an offer submitted with a written statement under subsection (b)(2) and except as provided in subsection (c), if the head of an agency, using procedures other than competitive procedures, enters into a contract with a contractor for the purchase of spare or repair parts which the contractor also offers for sale to the general public, the price charged the United States for such parts under the contract may not exceed the lowest commercial price charged by the contractor in sales of such parts during a period described in subsection (b)(1). Contracts.

"(b) REQUIREMENTS FOR INCLUSION IN OFFER.—The head of an agency, with respect to an offeror who submits an offer to the head of an agency to enter into a contract for the supply of spare or repair parts under a contract awarded using procedures other than

competitive procedures, and who also offers such parts for sale to the general public, shall require that the offeror—

"(1) certify in such offer that, to the best of the knowledge and belief of the offeror, the price proposed in the offer does not exceed the lowest commercial price at which such offeror sold such parts during the most recent regular monthly, quarterly, or other period for which sales data are reasonably available; or

"(2) submit with such offer a written statement—

"(A) specifying the amount of the difference between the price proposed in the offer and the lowest commercial price at which such offeror sold such parts during a period described in paragraph (1); and

"(B) providing a justification for that difference.

"(c) EXCEPTION TO LIMITATION.—Subsections (a) and (b) do not apply in the case of a contract with respect to which the contracting officer includes in the file on the contract a written determination by such officer that the use of the lowest commercial price with respect to such contract is not appropriate because of—

"(1) national security considerations; or

"(2) significant differences between the terms of the commercial sales of the parts to be acquired under such contract and the terms of such contract, including differences in—

"(A) quantity;

"(B) quality;

"(C) delivery requirements; or

"(D) other terms and conditions.

"(d) AUDITING.—(1) In order to verify any certification or statement made under subsection (b) with respect to a contract, the contracting officer who awards such contract (or any representative of the contracting officer who is an employee of the United States or a member of the armed forces), during the time period specified in paragraph (2), may examine and audit all records of sales (including contract terms and conditions) maintained by or for the contractor that are directly pertinent to sales by the contractor of spare or repair parts identical to those covered by the contract during the period covered by such certification or statement.

"(2) The head of an agency shall require an offeror who submits a certification or written statement under subsection (b) to make available the records, books, data, and documents described in paragraph (1) for examination, audit, or reproduction for the purposes of such paragraph during the three-year period beginning on the date that the offeror submits such certification or statement to such head of an agency.

"(3) The authority provided by this subsection is in addition to the authority of the head of an agency under section 2306a of this title.

Post, p. 3946.

"(e) REGULATIONS.—The Secretary of Defense, after consultation with the Secretary of Transportation and the Administrator of the National Aeronautics and Space Administration, shall prescribe regulations to carry out this section. Such regulations may not require the disclosure or submission of any data related to any element underlying the price of a commercial product not otherwise required by law.

"(f) DEFINITIONS.—In this section:

"(1) The term 'spare or repair part' means any individual piece, part, subassembly, or component which is furnished for the logistic support or repair of an end item and not as an end item itself.

"(2) The term 'lowest commercial price' means the lowest price at which a sale was made to the general public of a particular part. Such term does not include the price at which a sale was made—

"(A) to any agency of the United States;

"(B) to any person for resale by such person after such person performs a service or function in connection with such part that increases the cost of the part, unless the agency procuring the part can demonstrate that the agency is procuring the part before such service or function has been performed by any such person;

"(C) to a subsidiary, affiliate, or parent business organization of the contractor, or any other branch of the same business entity;

"(D) to any person at a price that, for the purpose of making a donation, has been substantially discounted below the fair market value or regular price of such part; or

"(E) to a customer located outside the United States.

"(g) APPLICABILITY.—This section does not apply to a contract entered into using simplified small purchase procedures established under section 2304(g) of this title.".

(2) The item relating to section 2323 at the beginning of chapter 137 is amended to read as follows:

"2323. Commercial pricing for spare or repair parts.".

(b) EFFECTIVE DATE.—Regulations prescribed under section 2323(e) of title 10, United States Code (as amended by subsection (a)(1)), shall take effect on the date of the enactment of this Act. 10 USC 2323 note.

SEC. 927. ALLOCATION OF OVERHEAD TO PARTS TO WHICH CONTRACTOR HAS ADDED LITTLE VALUE

(a) IN GENERAL.—Section 2304 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) The Secretary of Defense shall prescribe by regulation the manner in which the Department of Defense negotiates prices for supplies to be obtained through the use of procedures other than competitive procedures, as defined in section 2302(2) of this title. Regulation.

"(2) The regulations required by paragraph (1) shall—

"(A) specify the incurred overhead a contractor may appropriately allocate to supplies referred to in that paragraph; and

"(B) require the contractor to identify those supplies which it did not manufacture or to which it did not contribute significant value.

"(3) Such regulations shall not apply to an item of supply included in a contract or subcontract for which the price is based on established catalog or market prices of commercial items sold in substantial quantities to the general public.".

(b) DEADLINE.—The Secretary of Defense shall prescribe the regulations required by section 2304(i) of such title (as added by subsection (a)) not later than 180 days after the date of the enactment of this Act. 10 USC 2304 note.

(c) REPEAL.—Section 1245 of the Department of Defense Authorization Act, 1985 (Public Law 98-525, 98 Stat. 2609), is repealed.

SEC. 928. CLARIFICATION OF REQUIREMENTS TO MARK SUPPLIES TO IDENTIFY SUPPLIERS AND SOURCES

(a) EXCEPTION FOR CERTAIN COMMERCIAL ITEMS.—Section 2384(b) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by inserting "(1)" after "(b)";

(3) by inserting "(other than a contract described in paragraph (2))" after "delivery of supplies"; and

(4) by adding at the end the following new paragraph:

Contracts.

"(2) Paragraph (1) does not apply to a contract that requires the delivery of supplies that are commercial items sold in substantial quantities to the general public if the contract—

"(A) provides for the acquisition of such supplies by the Department of Defense at established catalog or market prices; or

"(B) is awarded through the use of competitive procedures.".

10 USC 2384 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to contracts entered into after the end of the 180-day period beginning on the date of the enactment of this Act.

PART C—PROCUREMENT PERSONNEL POLICY

SEC. 931. CONFLICT-OF-INTEREST IN DEFENSE PROCUREMENT

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2397a the following new sections:

10 USC 2397b.

"§ 2397b. Certain former Department of Defense procurement officials: limitations on employment by contractors

Contracts.

"(a)(1) Subject to subsections (c) and (d), a person who is a former officer or employee of the Department of Defense or a former or retired member of the armed forces may not accept compensation from a contractor during the two-year period beginning on the date of such person's separation from service in the Department of Defense if—

"(A) on a majority of the person's working days during the two-year period ending on the date of such person's separation from service in the Department of Defense, the person performed a procurement function (relating to a contract of the Department of Defense) at a site or plant that is owned or operated by the contractor and that was the principal location of such person's performance of that procurement function;

"(B) the person performed, on a majority of the person's working days during such two-year period, procurement functions relating to a major defense system and, in the performance of such functions, participated personally and substantially, and in a manner involving decisionmaking responsibilities, with respect to a contract for that system through contact with the contractor; or

"(C) during such two-year period the person acted as a primary representative of the United States—

"(i) in the negotiation of a Department of Defense contract in an amount in excess of $10,000,000 with the contractor; or

"(ii) in the negotiation of a settlement of an unresolved claim of the contractor in an amount in excess of $10,000,000 under a Department of Defense contract.

"(2) In the application of paragraph (1) to a former officer or employee of the Department of Defense or a former or retired member of the armed forces, a person's status as a contractor shall be determined as of the date of the separation from service in the Department of Defense of the officer or employee or member or former member involved.

"(b)(1) Any person who knowingly violates subsection (a)(1) shall be subject to a civil fine, in an amount not to exceed $250,000, in a civil action brought by the United States in the appropriate district court of the United States.

"(2) Any person who knowingly offers or provides any compensation to another person, and who knew or should have known that the acceptance of such compensation is or would be in violation of subsection (a)(1), shall be subject to a civil fine, in an amount not to exceed $500,000, in a civil action brought by the United States in the appropriate district court of the United States.

"(c) This section does not apply to any person with respect to—

"(1) duties described in clause (A) or (B) of subsection (a)(1) which were performed while such person was serving—

"(A) in a civilian position for which the rate of pay is less than the minimum rate of pay payable for grade GS-13 of the General Schedule; or

5 USC 5332.

"(B) as a member of the armed forces in a pay grade below pay grade O-4; or

"(2) duties described in clause (C) of subsection (a)(1) which were performed while such person was serving—

"(A) in a civilian position for which the rate of pay is less than the minimum rate of pay payable for a Senior Executive Service position; or

"(B) as a member of the armed forces in a pay grade below pay grade O-7.

"(d) This section does not prohibit any person from accepting compensation from any contractor that, during the fiscal year preceding the fiscal year in which such compensation is accepted, was not a Department of Defense contractor or was a contractor under Department of Defense contracts in a total amount less than $10,000,000.

"(e)(1) Any person may, before accepting any compensation, request the appropriate designated agency ethics official to advise such person on the applicability of this section to the acceptance of such compensation. For purposes of the preceding sentence, the appropriate designated agency ethics official is the designated agency ethics official of the agency in which such person was serving at the time such person separated from service in the Department of Defense.

"(2) A request for advice under paragraph (1) shall contain all information that is relevant to a determination by the designated agency ethics official on such request.

"(3) Not later than 30 days after the date on which a designated agency ethics official receives a request for advice under paragraph (1), such official shall issue a written opinion on the applicability of this section to the acceptance of compenstion covered by the request.

"(4) If a designated agency ethics official, on the basis of a complete disclosure as required by paragraph (2), states in a written

opinion furnished to any person under this subsection that this section is inapplicable to the acceptance of compensation by such person from a contractor in a particular case, there shall be a conclusive presumption in favor of such person, for the purposes of this section, that the person's acceptance of such compensation in such case is not a violation of subsection (a)(1).

"(f) In this section:

"(1) The term 'compensation' includes any payment, gift, benefit, reward, favor, or gratuity—

"(A) which is provided, directly or indirectly, for services rendered by the person accepting such payment, gift, benefit, reward, favor, or gratuity; and

"(B) which is valued in excess of $250 at the prevailing market price.

"(2)(A) The term 'contractor' means a person—

"(i) that contracts to supply the Department of Defense with goods or services;

"(ii) that controls or is controlled by a person described in clause (i); or

"(iii) that is under common control with a person described in clause (i).

"(B) Such term does not include—

"(i) an affiliate or subsidiary of a person described in subparagraph (A) that is clearly not engaged in the performance of a Department of Defense contract; or

"(ii) a State or local government.

"(3) The term 'procurement function' includes, with respect to a contract, any function relating to—

"(A) the negotiation, award, administration, or approval of the contract;

"(B) the selection of a contractor;

"(C) the approval of changes in the contract;

"(D) quality assurance, operational and developmental testing, the approval of payment, or auditing under the contract; or

"(E) the management of the procurement program.

"(4) The term 'armed forces' does not include the Coast Guard.

"(5) The term 'major defense system' has the meaning given the term 'major system' in section 2302(5) of this title.

"(g) For the purposes of this section, a person who is a retired member or a former member of the armed forces shall be considered to have been separated from service in the Department of Defense upon the date of the person's discharge or release from active duty.

10 USC 2397c.

"§ 2397c. Defense contractors: requirements concerning former Department of Defense officials

"(a)(1) Each contract for the procurement of goods or services in excess of $100,000 entered into by the Department of Defense shall include a provision under which the contractor agrees not to provide compensation to a person if the acceptance of such compensation by such person would violate section 2397b(a)(1) of this title.

Ante, p. 3936.

"(2) Such a contract shall also provide that if the contractor knowingly violates a contract provision required by paragraph (1) the contractor shall pay to the United States, as liquidated damages under the contract, an amount equal to the greater of—

"(A) $100,000; or

"(B) three times the amount of the compensation paid by the contractor to the person in violation of such contract provision.

"(b)(1)(A) Any contractor that was awarded one or more contracts by the Department of Defense during the preceding fiscal year in an aggregate amount of at least $10,000,000 that is subject during a calendar year to a contract provision described in subsection (a) shall submit to the Secretary of Defense, not later than April 1 of the next year, a written report covering the preceding calendar year. Each such report shall list the name of each person (together with other information adequate for the Government to identify the person) who— Report.

"(i) is a former officer or employee of the Department of Defense or a former or retired member of the armed forces; and

"(ii) during the preceding calendar year was provided compensation by that contractor, if such compensation was provided within two years after such officer, employee, or member left service in the Department of Defense.

"(B) In the case of each person named in a report submitted under subparagraph (A), the report shall—

"(i) identify the agency in which the person was employed or served on active duty during the last two years of the person's service with the Department of Defense;

"(ii) state the person's job title and identify each major defense system, if any, on which the person performed any work with the Department of Defense during the last two years of the person's service with the Department;

"(iii) contain a complete description of any work that the person is performing on behalf of the contractor; and

"(iv) identify each major defense system on which the person has performed any work on behalf of the contractor.

"(2) A person who knowingly fails to file a report required by paragraph (1) shall be subject to an administrative penalty, not to exceed $10,000, imposed by the Secretary of Defense after an opportunity for an agency hearing on the record pursuant to regulations prescribed by the Secretary of Defense. The determinations of the Secretary shall be included in such record. The determinations of the Secretary shall be subject to judicial review under chapter 7 of title 5. 5 USC 701 *et seq.*

"(3) The Secretary of Defense shall review each report under paragraph (1) for the purposes of (A) assessing the accuracy and completeness of the report, and (B) identifying possible violations of section 2397b(a)(1) of this title or of a contract provision required by subsection (a). The Secretary shall report any such possible violation to the Attorney General. *Ante*, p. 3936.

"(4) The Secretary shall make reports submitted under this subsection available to any Member of Congress upon request.

"(d) Subsection (g) of section 2397b of this title, and the definitions prescribed in subsection (f) of such section, apply to this section.".

(2) The table of sections at the beginning of chapter 141 of title 10, United States Code, is amended by inserting after the item relating to section 2397a the following new items:

"2397b. Certain former Department of Defense procurement officials: limitations on employment by contractors.

"2397c. Defense contractors: requirements concerning former Department of Defense officials.".

(b) REPEAL.—Section 921 of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99-145; 10 U.S.C. 2397a note) is repealed.

10 USC 2397b note.

(c) EFFECTIVE DATES.—(1) Subject to paragraph (2), this section and the amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

(2)(A) The amendments made by this section—

(i) do not preclude the continuation of employment that began before the effective date of this section or the acceptance of compensation for such employment; and

(ii) do not, except as provided in subparagraph (B), apply to a person whose service in the Department of Defense terminates before the effective date of this section.

(B) Subparagraph (A)(ii) does not preclude the application of the amendments made by this section to a person with respect to service in the Department of Defense by such person on or after the effective date of this section.

10 USC 1621 note.

SEC. 932. PLAN FOR ENHANCEMENT OF PROFESSIONALISM OF ACQUISITION PERSONNEL

(a) DEVELOPMENT OF PLAN.—The Secretary of Defense shall develop a plan for a personnel initiative designed to enhance the professionalism of, and career opportunities available to, acquisition personnel of the Department of Defense.

(b) REQUIREMENTS FOR PLAN.—The plan required to be developed under subsection (a) shall—

(1) include standards for the examination, appointment, classification, training, and assignment of acquisition personnel; and

(2) assess the feasibility and desirability of—

(A) the designation of certain acquisition positions of the Department of Defense as professional positions; and

(B) the establishment of an alternative personnel system that would—

(i) include acquisition positions that are designated as professional positions; and

(ii) include quality of performance as a factor in promotions for persons in such positions.

(c) REPORT.—(1) The Secretary shall submit to Congress a report—

(A) describing the plan developed under subsection (a); and

(B) recommending any changes in existing law that would facilitate the enhancement of the professionalism of, and career opportunities available to, acquisition personnel of the Department of Defense.

(2) The report required by subparagraph (A) shall be submitted not later than April 15, 1987.

(d) EFFECTIVE DATE.—The report required by subsection (c) shall be submitted not later than the end of the one-year period beginning on the date of the enactment of this Act.

SEC. 933. EDUCATIONAL REQUIREMENTS FOR ACQUISITION PERSONNEL

Section 1622(b)(1) of title 10, United States Code, is amended by striking out "attended" and inserting in lieu thereof "completed".

SEC. 934. PLAN FOR COORDINATION OF DEFENSE ACQUISITION EDUCATIONAL PROGRAMS

10 USC 1621 note.

(a) COORDINATION PLAN.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing a plan for the coordination of educational programs managed by the Department of Defense for acquisition personnel of the Department.

Report.

(b) REQUIREMENTS FOR PLAN.—The plan required by subsection (a) shall provide for—

(1) the education of acquisition personnel of the Department of Defense through programs offered by the Department or through educational courses offered by organizations other than the Department;

(2) the education of acquisition personnel of the Department in various acquisition specialties, including contracting, logistics, quality, program management, systems engineering, production, and manufacturing; and

(3) the elimination of duplication of functions and courses by schools of the Department that provide educational courses for acquisition personnel of the Department.

(c) EFFECTIVE DATE.—The report required by subsection (a) shall be submitted not later than the end of the one-year period beginning on the date of the enactment of this Act.

PART D—REQUIREMENTS RELATING TO DEFENSE CONTRACTORS

SEC. 941. CODIFICATION AND EXTENSION OF PROHIBITION ON PERSONS CONVICTED OF DEFENSE-CONTRACT RELATED FELONIES AND RELATED CRIMINAL PENALTY ON DEFENSE CONTRACTORS

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2408. Prohibition on persons convicted of defense-contract related felonies and related criminal penalty on defense contractors

10 USC 2408.

"(a) PROHIBITION.—A person who is convicted of fraud or any other felony arising out of a contract with the Department of Defense shall be prohibited from working in a management or supervisory capacity on any defense contract, or serving on the board of directors of any defense contractor, for a period, as determined by the Secretary of Defense, of not less than one year from the date of the conviction.

"(b) CRIMINAL PENALTY.—A defense contractor shall be subject to a criminal penalty of not more than $500,000 if such contractor is convicted of knowingly—

"(1) employing a person under a prohibition under subsection (a); or

"(2) allowing such a person to serve on the board of directors of such contractor.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2408. Prohibition on persons convicted of defense-contract related felonies and related criminal penalty on defense contractors.".

10 USC 2304 note.

(b) CONFORMING AMENDMENT.—Section 932 of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99-145; 99 Stat. 699) is repealed.

10 USC 2408 note.

(c) EFFECTIVE DATE.—Section 2408 of title 10, United States Code (as added by subsection (a)(1)), shall apply with respect to employment or service on a board of directors after the date of the enactment of this Act.

SEC. 942. PROTECTION OF CONTRACTOR EMPLOYEES FROM REPRISAL FOR DISCLOSURE OF CERTAIN INFORMATION

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by adding after section 2408 (as added by section 941) the following new section:

10 USC 2409.

"§ 2409. Contractor employees: protection from reprisal for disclosure of certain information

"(a) PROHIBITION OF REPRISALS.—An employee of a defense contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a Member of Congress or an authorized official of the Department of Defense or the Department of Justice information relating to a substantial violation of law related to a defense contract (including the competition for or negotiation of a defense contract).

Report.

"(b) INVESTIGATION OF COMPLAINTS.—A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint to the Inspector General of the Department of Defense. Unless the Inspector General determines that the complaint is frivolous, the Inspector General shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the contractor concerned, and the Secretary of Defense.

Discrimination, prohibition.

"(c) CONSTRUCTION.—Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2408 (as added by section 941) the following new item:

"2409. Contractor employees: protection from reprisal for disclosure of certain information.".

10 USC 2409 note.

(b) EFFECTIVE DATE.—Section 2409 of title 10, United States Code (as added by subsection (a)(1)), shall apply with respect to any reprisal action taken on or after the date of the enactment of this Act.

SEC. 943. REVISION OF WORK MEASUREMENT PROVISIONS

(a) IN GENERAL.—(1) Section 2406 of title 10, United States Code, is amended to read as follows:

"§ 2406. Availability of cost and pricing records

Contracts.

"(a) REQUIREMENT.—(1) The head of an agency shall require a contractor under a covered contract with that agency to make available in a timely manner to any authorized representative of the head of the agency records of the contractor's cost and pricing data

described in subsection (b) with respect to work under the covered contract.

"(2) The head of the agency (or the representative of the head of the agency) shall be entitled to have access to records in the form and manner maintained by the contractor.

"(b) COVERED RECORDS.—Records covered by subsection (a) include (for a covered contract and end items under such a contract) the following:

"(1) Work measurement system data (and any revision to such data), including records of labor content expressed in standard hours of work content for—

(A) the contractor's proposal for the contract; and

(B) the contract as negotiated.

"(2) The costs described in subsection (c)—

"(A) as proposed by the contractor;

"(B) as negotiated by the contractor with the head of the agency; and

"(C) as incurred by the contractor.

"(3) Bills of material.

"(c) COVERED COSTS.—Costs referred to in subsection (b)(2) are—

"(1) labor costs;

"(2) material costs;

"(3) subcontract costs;

"(4) overhead costs;

"(5) general and administrative costs; and

"(6) fee or profit.

"(d) NATURE OF RECORDS TO BE MAINTAINED.—Nothing in this section shall require a contractor under a covered contract to—

"(1) collect or maintain additional data not otherwise collected or maintained by the contractor, or

"(2) maintain data in a form or manner different from that in which the contractor maintains such data.

"(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section. Such regulations shall specify the period for which records shall be covered by this section, which shall not be less than three years after final payment under the contract to which the records pertain.

"(f) DEFINITIONS.—In this section:

"(1) The term 'head of an agency' means the Secretary of Defense or the Secretary of a military department.

"(2) The term 'covered contract' means a manufacturing contract—

"(A) that is awarded under a major defense acquisition program (as such term is defined in 2432(a) of this title); and

10 USC 2432.

"(B) that is subject to the provisions of section 2306a of this title.

Post, p. 3946.

"(3) The term 'work measurement system data' means—

"(A) data generated from time standard setting, time monitoring, and variance analysis; and

"(B) such data described in subparagraph (A) as included in planning, cost estimating, and productivity improvement.

"(4) The term 'authorized representative' means a representative of the head of an agency who is an employee of the United States or a member of the armed forces.".

(2) The item relating to such section in the table of sections at the beginning of chapter 141 of such title is amended to read as follows:

"2406. Availability of cost and pricing records.".

10 USC 2406 note.

(b) APPLICABILITY OF SECTION.—Section 2406 of title 10, United States Code, as amended by subsection (a), shall apply with respect to—

(1) contracts entered into on or after the date of the enactment of this Act; and

(2) contracts entered into before such date that are not completed before such date.

10 USC 2406 note.

(c) DEADLINE FOR REGULATIONS.—The Secretary of Defense shall prescribe regulations as required by section 2406(e) of title 10, United States Code (as amended by subsection (a)(1)), not later than the end of the 180-day period beginning on the date of the enactment of this Act.

PART E—MISCELLANEOUS

SEC. 951. CONTRACTING WITH FIRMS OWNED OR CONTROLLED BY GOVERNMENTS THAT SUPPORT TERRORISM

(a) CONSIDERATION OF NATIONAL INTERESTS WITH RESPECT TO DEFENSE CONTRACTS.—(1) Chapter 137 of title 10, United States Code, is amended by adding after the item relating to section 2326 (as added by section 908) the following new section:

10 USC 2327.

"§ 2327. Contracts: consideration of national security objectives

"(a) DISCLOSURE OF OWNERSHIP OR CONTROL BY A FOREIGN GOVERNMENT.—The head of an agency shall require a firm or a subsidiary of a firm that submits a bid or proposal in response to a solicitation issued by the Department of Defense to disclose in that bid or proposal any significant interest in such firm or subsidiary (or, in the case of a subsidiary, in the firm that owns the subsidiary) that is owned or controlled (whether directly or indirectly) by a foreign government or an agent or instrumentality of a foreign government, if such foreign government is the government of a country that the Secretary of State determines under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. 2405(j)(1)(A)) has repeatedly provided support for acts of international terrorism.

"(b) PROHIBITION ON ENTERING INTO CONTRACTS AGAINST THE INTERESTS OF THE UNITED STATES.—Except as provided in subsection (c), the head of an agency may not enter into a contract with a firm or a subsidiary of a firm if—

"(1) a foreign government owns or controls (whether directly or indirectly) a significant interest in such firm or subsidiary (or, in the case of a subsidiary, in the firm that owns the subsidiary); and

"(2) such foreign government is the government of a country that the Secretary of State determines under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. 2405(j)(1)(A)) has repeatedly provided support for acts of international terrorism.

"(c) WAIVER.—(1)(A) If the Secretary of Defense determines under paragraph (2) that entering into a contract with a firm or a subsidiary of a firm described in subsection (b) is not inconsistent with the national security objectives of the United States, the head of an agency may enter into a contract with such firm or subsidiary after the date on which such head of an agency submits to Congress a report on the contract.

"(B) A report under subparagraph (A) shall include the following:

"(i) The identity of the foreign government concerned.

"(ii) The nature of the contract.

"(iii) The extent of ownership or control of the firm or subsidiary concerned (or, if appropriate in the case of a subsidiary, of the firm that owns the subsidiary) by the foreign government concerned or the agency or instrumentality of such foreign government.

"(iv) The reasons for entering into the contract.

"(C) After the head of an agency submits a report to Congress under subparagraph (A) with respect to a firm or a subsidiary, such head of an agency is not required to submit a report before entering into any subsequent contract with such firm or subsidiary unless the information required to be included in such report under subparagraph (B) has materially changed since the submission of the previous report.

"(2) Upon the request of the head of an agency, the Secretary of Defense shall determine whether entering into a contract with a firm or subsidiary described in subsection (b) is inconsistent with the national security objectives of the United States. In making such a determination, the Secretary of Defense shall consider the following:

Defense and national security.

"(A) The relationship of the United States with the foreign government concerned.

"(B) The obligations of the United States under international agreements.

International agreements.

"(C) The extent of the ownership or control of the firm or subsidiary (or, if appropriate in the case of a subsidiary, of the firm that owns the subsidiary) by the foreign government or an agent or instrumentality of the foreign government.

"(D) Whether payments made, or information made available, to the firm or subsidiary under the contract could be used for purposes hostile to the interests of the United States.

"(d) APPLICABILITY.—This section does not apply to a contract for an amount less than $100,000.

"(2) This section does not apply to the Coast Guard or the National Aeronautics and Space Administration.

"(e) REGULATIONS.—The Secretary of Defense, after consultation with the Secretary of State, shall prescribe regulations to carry out this section. Such regulations shall include a definition of the term 'significant interest'.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2326 (as added by section 908) the following new item:

"2327. Contracts: consideration of national security objectives.".

(b) CONFORMING AMENDMENT.—Section 503 of the Military Retirement Reform Act of 1986 (Public Law 99-348; 100 Stat. 708) is repealed.

(c) EFFECTIVE DATE.—Section 2327 of title 10, United States Code (as added by subsection (a)(1)), shall apply to contracts entered into by the Secretary of Defense after the end of the 90-day period beginning on the date of the enactment of this Act.

10 USC 2327 note.

SEC. 952. TRUTH-IN-NEGOTIATIONS ACT AMENDMENTS

(a) STRENGTHENING OF PREVENTION OF UNEARNED AND EXCESSIVE CONTRACTOR PROFITS.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2306 the following new section:

91-139 O - 87 - 5 (685)

Contracts.
10 USC 2306a.

"§ 2306a. Cost or pricing data: truth in negotiations

"(a) REQUIRED COST OR PRICING DATA AND CERTIFICATION.—(1) The head of an agency shall require offerors, contractors, and subcontractors to make cost or pricing data available as follows:

"(A) An offeror for a prime contract under this chapter to be entered into using procedures other than sealed-bid procedures shall be required to submit cost or pricing data before the award of the contract if the price of the contract to the United States is expected to exceed $100,000.

"(B) The contractor for a contract under this chapter shall be required to submit cost or pricing data before the pricing of a change or modification to the contract if the price adjustment is expected to exceed $100,000 (or such lesser amount as may be prescribed by the head of the agency).

"(C) An offeror for a subcontract (at any tier) of a contract under this chapter shall be required to submit cost or pricing data before the award of the subcontract if—

"(i) the price of the subcontract is expected to exceed $100,000; and

"(ii) the prime contractor and each higher-tier subcontractor have been required to make available cost or pricing data under this section.

"(D) The subcontractor for a subcontract covered by subparagraph (C) shall be required to submit cost or pricing data before the pricing of a change or modification to the subcontract if the price adjustment is expected to exceed $100,000 (or such lesser amount as may be prescribed by the head of the agency).

"(2) A person required, as an offeror, contractor, or subcontractor, to submit cost or pricing data under paragraph (1) (or required by the head of the agency concerned to submit such data under subsection (c)) shall be required to certify that, to the best of the person's knowledge and belief, the cost or pricing data submitted are accurate, complete, and current.

"(3) Cost or pricing data required to be submitted under paragraph (1) (or under subsection (c)), and a certification required to be submitted under paragraph (2), shall be submitted—

"(A) in the case of a submission by a prime contractor (or an offeror for a prime contract), to the contracting officer for the contract (or to a designated representative of the contracting officer); or

"(B) in the case of a submission by a subcontractor (or an offeror for a subcontract), to the prime contractor.

"(4) Except as provided under subsection (b), this section applies to contracts entered into by the head of an agency on behalf of a foreign government.

"(5) The head of the agency may waive the requirement under this subsection for a contractor, subcontractor, or offeror to submit cost or pricing data. For purposes of paragraph (1)(C)(ii), a contractor or subcontractor granted such a waiver shall be considered as having been required to make available cost or pricing data under this section.

"(b) EXCEPTIONS.—This section need not be applied to a contract or subcontract—

"(1) for which the price agreed upon is based on—

"(A) adequate price competition;

"(B) established catalog or market prices of commercial items sold in substantial quantities to the general public; or

"(C) prices set by law or regulation; or

"(2) in an exceptional case when the head of the agency determines that the requirements of this section may be waived and states in writing his reasons for such determination.

"(c) AUTHORITY TO REQUIRE COST OR PRICING DATA.—When cost or pricing data are not required to be submitted by subsection (a), such data may nevertheless be required to be submitted by the head of the agency if the head of the agency determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract.

"(d) PRICE REDUCTIONS FOR DEFECTIVE COST OR PRICING DATA.—(1)(A) A prime contract (or change or modification to a prime contract) under which a certificate under subsection (a)(2) is required shall contain a provision that the price of the contract to the United States, including profit or fee, shall be adjusted to exclude any significant amount by which it may be determined by the head of the agency that such price was increased because the contractor (or any subcontractor required to make available such a certificate) submitted defective cost or pricing data.

"(B) For the purposes of this section, defective cost or pricing data are cost or pricing data which, as of the date of agreement on the price of the contract (or another date agreed upon between the parties), were inaccurate, incomplete, or noncurrent. If for purposes of the preceding sentence the parties agree upon a date other than the date of agreement on the price of the contract, the date agreed upon by the parties shall be as close to the date of agreement on the price of the contract as is practicable.

"(2) In determining for purposes of a contract price adjustment under a contract provision required by paragraph (1) whether, and to what extent, a contract price was increased because the contractor (or a subcontractor) submitted defective cost or pricing data, it shall be a defense that the United States did not rely on the defective data submitted by the contractor or subcontractor.

"(3) It is not a defense to an adjustment of the price of a contract under a contract provision required by paragraph (1) that—

"(A) the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted by the contractor or subcontractor because the contractor or subcontractor—

"(i) was the sole source of the property or services procured; or

"(ii) otherwise was in a superior bargaining position with respect to the property or services procured;

"(B) the contracting officer should have known that the cost and pricing data in issue were defective even though the contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the contracting officer;

"(C) the contract was based on an agreement between the contractor and the United States about the total cost of the contract and there was no agreement about the cost of each item procured under such contract; or

"(D) the prime contractor or subcontractor did not submit a certification of cost and pricing data relating to the contract as required under subsection (a)(2).

"(4)(A) A contractor shall be allowed to offset an amount against the amount of a contract price adjustment under a contract provision required by paragraph (1) if—

"(i) the contractor certifies to the contracting officer (or to a designated representative of the contracting officer) that, to the best of the contractor's knowledge and belief, the contractor is entitled to the offset; and

"(ii) the contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification) and that the data were not submitted as specified in subsection (a)(3) before such date.

"(B) A contractor shall not be allowed to offset an amount otherwise authorized to be offset under subparagraph (A) if—

"(i) certification under subsection (a)(2) with respect to the cost or pricing data involved was known to be false when signed; or

"(ii) the United States proves that, had the cost or pricing data referred to in subparagraph (A)(ii) been submitted to the United States before the date of agreement on the price of the contract (or price of the modification), the submission of such cost or pricing data would not have resulted in an increase in that price in the amount to be offset.

"(e) INTEREST AND PENALTIES FOR CERTAIN OVERPAYMENTS.—(1) If the United States makes an overpayment to a contractor under a contract with the Department of Defense subject to this section and the overpayment was due to the submission by the contractor of defective cost or pricing data, the contractor shall be liable to the United States—

"(A) for interest on the amount of such overpayment, to be computed—

"(i) for the period beginning on the date the overpayment was made to the contractor and ending on the date the contractor repays the amount of such overpayment to the United States; and

"(ii) at the current rate prescribed by the Secretary of the Treasury under section 6621 of the Internal Revenue Code of 1954; and

Ante, p. 2095.
26 USC 6621.

"(B) if the submission of such defective data was a knowing submission, for an additional amount equal to the amount of the overpayment.

"(2) Except as provided under subsection (d), the liability of a contractor under this subsection shall not be affected by the contractor's refusal to submit a certification under subsection (a)(2) with respect to the cost or pricing data involved.

"(f) RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.—(1) For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this section with respect to a contract or subcontract, the head of the agency, acting through any authorized representative of the head of the agency who is an employee of the United States or a member of the armed forces, shall have the right to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;

"(B) the discussions conducted on the proposal;

"(C) pricing of the contract or subcontract; or

"(D) performance of the contract or subcontract.

"(2) The right of the head of an agency under paragraph (1) shall expire three years after final payment under the contract or subcontract.

"(3) In this subsection, the term 'records' includes books, documents, and other data.

"(g) COST OR PRICING DATA DEFINED.—In this section, the term 'cost or pricing data' means all information that is verifiable and that, as of the date of agreement on the price of a contract (or the price of a contract modification), a prudent buyer or seller would reasonably expect to affect price negotiations significantly. Such term does not include information that is judgmental, but does include the factual information from which a judgment was derived.".

(b) CONFORMING AMENDMENTS.—(1) Subsection (f) of section 2306 of such title is amended to read as follows: 10 USC 2306.

"(f) So-called 'truth-in-negotiations' provisions relating to cost or pricing data to be submitted by certain contractors and subcontractors are provided in section 2306a of this title.". *Ante*, p. 3946.

(2) Section 934(a) of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99-145; 99 Stat. 700) is repealed. 10 USC 2304 note.

(c) CLERICAL AMENDMENTS.—(1) The heading of section 2306 of title 10, United States Code, is amended to read as follows:

"§ 2306. Kinds of contracts".

(2) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2306 and inserting in lieu thereof the following:

"2306. Kinds of contracts.
"2306a. Cost or pricing data: truth in negotiations.".

(d) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), section 2306a of title 10, United States Code (as added by subsection (a)), and the amendment and repeal made by subsection (b), shall apply with respect to contracts or modifications on contracts entered into after the end of the 120-day period beginning on the date of the enactment of this Act. 10 USC 2306a note.

(2) Subsection (e) of such section shall apply with respect to contracts or modifications on contracts entered into after November 7, 1985.

SEC. 953. RIGHTS IN TECHNICAL DATA

(a) RIGHTS IN TECHNICAL DATA.—Subsection (a) of section 2320 of title 10, United States Code, is amended to read as follows:

"(a)(1) The Secretary of Defense shall prescribe regulations to define the legitimate interest of the United States and of a contractor or subcontractor in technical data pertaining to an item or process. Such regulations shall be included in regulations of the Department of Defense prescribed as part of the Federal Acquisition Regulation. Such regulations may not impair any right of the United States or of any contractor or subcontractor with respect to patents or copyrights or any other right in technical data otherwise established by law. Regulations.

"(2) Such regulations shall include the following provisions:

"(A) In the case of an item or process that is developed by a contractor or subcontractor exclusively with Federal funds, the United States shall have the unlimited right to—

"(i) use technical data pertaining to the item or process; or

"(ii) release or disclose the technical data to persons outside the government or permit the use of the technical data by such persons.

"(B) Except as provided in subparagraphs (C) and (D), in the case of an item or process that is developed by a contractor or subcontractor exclusively at private expense, the contractor or subcontractor may restrict the right of the United States to release or disclose technical data pertaining to the item or process to persons outside the government or permit the use of the technical data by such persons.

"(C) Subparagraph (B) does not apply to technical data that—

"(i) constitutes a correction or change to data furnished by the United States;

"(ii) relates to form, fit, or function;

"(iii) is necessary for operation, maintenance, installation, or training (other than detailed manufacturing or process data); or

"(iv) is otherwise publicly available or has been released or disclosed by the contractor or subcontractor without restriction on further release or disclosure.

"(D) Notwithstanding subparagraph (B), the United States may release or disclose technical data to persons outside the Government, or permit the use of technical data by such persons, if—

"(i) such release, disclosure, or use—

"(I) is necessary for emergency repair and overhaul; or

"(II) is a release or disclosure of technical data (other than detailed manufacturing or process data) to, or use of such data by, a foreign government that is in the interest of the United States and is required for evaluational or informational purposes;

(ii) such release, disclosure, or use is made subject to a prohibition that the person to whom the data is released or disclosed may not further release, disclose, or use such data; and

"(iii) the contractor or subcontractor asserting the restriction is notified of such release, disclosure, or use.

"(E) In the case of an item or process that is developed in part with Federal funds and in part at private expense, the respective rights of the United States and of the contractor or subcontractor in technical data pertaining to such item or process shall be agreed upon as early in the acquisition process as practicable (preferably during contract negotiations), based upon consideration of all of the following factors:

"(i) The statement of congressional policy and objectives in section 200 of title 35, the statement of purposes in section 2(b) of the Small Business Innovation Development Act of 1982 (15 U.S.C. 638 note), and the declaration of policy in section 2 of the Small Business Act (15 U.S.C. 631).

"(ii) The interest of the United States in increasing competition and lowering costs by developing and locating alternative sources of supply and manufacture.

"(iii) The interest of the United States in encouraging contractors to develop at private expense items for use by the Government.

"(F) A contractor or subcontractor (or a prospective contractor or subcontractor) may not be required, as a condition of being responsive to a solicitation or as a condition for the award of a contract, to sell or otherwise relinquish to the United States any rights in technical data except—

"(i) rights in technical data described in subparagraph (C); or

"(ii) under the conditions described in subparagraph (D).

"(G) The Secretary of Defense may—

"(i) negotiate and enter into a contract with a contractor or subcontractor for the acquisition of rights in technical data pertaining to an item or process developed by such contractor or subcontractor exclusively at private expense if necessary to develop alternative sources of supply and manufacture; or

"(ii) agree to restrict rights of the United States in technical data pertaining to an item or process developed entirely or in part with Federal funds if the United States receives a royalty-free license to use, release, or disclose the data for purposes of the United States (including purposes of competitive procurement).

"(3) The Secretary of Defense shall define the terms 'developed' and 'private expense' in regulations prescribed under paragraph (1).

"(4) For purposes of this subsection, the term 'Federal Acquisition Regulation' means the single system of Government-wide procurement regulations as defined in section 4(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4)).".

(b) VALIDATION OF PROPRIETARY DATA RESTRICTIONS.—Subsections (a) and (b) of section 2321 of title 10, United States Code, are amended to read as follows:

"(a) A contract for supplies or services entered into by the Department of Defense which provides for the delivery of technical data shall provide that a contractor or subcontractor at any tier shall be prepared to furnish to the contracting officer a written justification for any restriction asserted by the contractor or subcontractor on the right of the United States to use such technical data.

"(b)(1) The Secretary of Defense shall ensure that there is a thorough review of the appropriateness of any restriction on the right of the United States to release or disclose technical data delivered under a contract to persons outside the Government, or to permit the use of such technical data by such persons. Such review shall be conducted before the end of the three-year period beginning on the date on which final payment is made on a contract under which technical data is required to be delivered, or the date on which the technical data is delivered under such contract, whichever is later.

"(2)(A) If the Secretary determines, at any time before the end of the three-year period beginning on the date on which final payment is made on a contract under which technical data is required to be delivered, or the date on which the technical data is delivered under such contract, whichever is later, that a challenge to a restriction is warranted, the Secretary shall provide written notice to the contractor or subcontractor asserting the restriction. Such a determination shall be based on a finding by the Secretary that reasonable grounds

exist to question the current validity of the asserted restriction and that the continued adherence to the asserted restriction by the United States would make it impracticable to procure the item competitively at a later time. Such notice shall—

"(i) state the specific grounds for challenging the asserted restriction;

"(ii) require a response within 60 days justifying the current validity of the asserted restriction; and

"(iii) state that evidence of a validation by the Department of Defense of a restriction identical to the asserted restriction within the three-year period preceding the challenge shall serve as justification for the asserted restriction if—

"(I) the validation occurred after a review of the validated restriction under this subsection; and

"(II) the validated restriction was asserted by the same contractor or subcontractor (or any licensee of such contractor or subcontractor) to which such notice is being provided.

"(B) Notwithstanding subparagraph (A), the United States may challenge a restriction on the release, disclosure, or use of technical data delivered under a contract at any time if such technical data—

"(i) is publicly available;

"(ii) has been furnished to the United States without restriction; or

"(iii) has been otherwise made available without restriction.".

(c) CONFORMING AMENDMENTS.—Section 1202 of the Department of Defense Authorization Act, 1985 (10 U.S.C. 2301 note), is amended—

(1) by inserting "and" at the end of paragraph (4);

(2) by striking out "; and" at the end of paragraph (5) and inserting in lieu thereof a period; and

(3) by striking out paragraph (6).

10 USC 2320 note.

Federal Register, publication.

(d) DEADLINE FOR REVISION OF REGULATIONS.—(1) Proposed regulations under section 2320(a)(1) of title 10, United States Code (as amended by subsection (a)), shall be published in the Federal Register for comment not later than 90 days after the date of the enactment of this Act.

Federal Register, publication.

(2) Proposed final regulations under such section shall be published in the Federal Register not later than 180 days after the date of the enactment of this Act.

10 USC 2320 note.

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to contracts for which solicitations are issued after the end of the 210-day period beginning on the date of the enactment of this Act.

SEC. 954. RECOVERY OF COSTS TO PROVIDE TECHNICAL DATA

(a) IN GENERAL.—(1) Chapter 137 of title 10, United States Code, is amended by adding after section 2327 (as added by section 951) the following new section:

10 USC 2328.

"§ 2328. Release of technical data

"(a) IN GENERAL.—(1) The Secretary of Defense shall, if required to release technical data under section 552 of title 5 (relating to the Freedom of Information Act), release technical data to a person requesting such a release if the person pays all reasonable costs attributable to search and duplication.

"(2) The Secretary of Defense shall prescribe regulations, pursuant to notice and receipt of public comment, specifying a uniform schedule of fees under this section. Regulations.

"(b) DISPOSITION OF COSTS.—An amount received under this section—

"(1) shall be retained by the Department of Defense or the element of the Department of Defense receiving the amount; and

"(2) shall be merged with and available for the same purpose and the same time period as the appropriation from which the costs incurred in complying with requests for technical data were paid.

"(c) WAIVER.—The Secretary of Defense shall waive the payment of costs required by subsection (a) which are in an amount greater than the costs that would be required for such a release of information under section 552 of title 5 if—

"(1) the request is made by a citizen of the United States or a United States corporation, and such citizen or corporation certifies that the technical data requested is required to enable such citizen or corporation to submit an offer or determine whether it is capable of submitting an offer to provide the product to which the technical data relates to the United States or a contractor with the United States (except that the Secretary may require the citizen or corporation to pay a deposit in an amount equal to not more than the cost of complying with the request, to be refunded upon submission of an offer by the citizen or corporation); Contracts.

"(2) the release of technical data is requested in order to comply with the terms of an international agreement; or

"(3) the Secretary determines, in accordance with section 552(a)(4)(A) of title 5, that such a waiver is in the interests of the United States.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2327 (as added by section 971) the following new item:

"2328. Release of technical data.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act. 10 USC 2328 note.

SEC. 955. COMPARABLE BUDGETING FOR SIMILAR SYSTEMS 10 USC 113 note.

(a) MATTERS TO BE INCLUDED IN ANNUAL DEFENSE BUDGETS.—In preparing the defense budget for any fiscal year, the Secretary of Defense shall—

(1) specifically identify each common procurement weapon system included in the budget;

(2) take all feasible steps to minimize variations in procurement unit costs for any such system as shown in the budget requests of the different armed forces requesting procurement funds for the system; and

(3) identify and justify in the budget all such variations in procurement unit costs for common procurement weapon systems.

(b) ASSISTANT SECRETARY (COMPTROLLER).—The Secretary of Defense shall carry out this section through the Assistant Secretary of Defense (Comptroller).

(c) DEFINITIONS.—In this section:

(1) The term "defense budget" means the budget of the Department of Defense included in the President's budget submitted to Congress under section 1105 of title 31 United States Code, for a fiscal year.

(2) The term "common procurement weapon system" means a weapon system for which two or more of the Army, Navy, Air Force, and Marine Corps request procurement funds in a defense budget.

SEC. 956. FUNDING OF PROCUREMENT TECHNICAL ASSISTANCE PROGRAMS SERVING DISTRESSED AREAS

(a) DEFINITIONS.—Section 2411 of title 10, United States Code, is amended to read as follows:

"§ 2411. Definitions

"In this chapter:

"(1) The term 'eligible entity' means any of the following:

"(A) A State.

"(B) A local government.

"(C) A private, nonprofit organization.

"(2) The term 'distressed area' means the area of a unit of local government (or such area excluding the area of any defined political jurisdiction within the area of such unit of local government) that—

"(A) has a per capita income of 80 percent or less of the State average; or

"(B) has an unemployment rate that is one percent greater than the national average for the most recent 24-month period for which statistics are available.

"(3) The term 'Secretary' means the Secretary of Defense acting through the Director of the Defense Logistics Agency.

"(4) The terms 'State' and 'local government' have the meaning given those terms in section 6302 of title 31.".

(b) SERVICE AREAS.—Section 2413(b) of such title is amended—

(1) by inserting "sponsor programs to" after "agree to";

(2) by inserting "under such programs" after "cost of furnishing such assistance";

(3) by striking out "an eligible entity that is a distressed entity" and inserting in lieu thereof "a program sponsored by such an entity that provides services solely in a distressed area"; and

(4) by inserting "with respect to such program" before the period.

SEC. 957. SUBCONTRACTOR INFORMATION TO BE PROVIDED TO PROCUREMENT OUTREACH CENTERS

(a) CONTRACTORS TO FURNISH INFORMATION.—(1) Chapter 142 of title 10, United States Code, is amended—

10 USC 2411 *et seq.*

(A) by redesignating section 2416 as section 2417; and

(B) by inserting after section 2415 the following new section:

10 USC 2416.

"§ 2416. Subcontractor information

"(a) The Secretary of Defense shall require that any defense contractor in any year shall provide to an eligible entity with which the Secretary has entered into a cooperative agreement under this

chapter, on the request of such entity, the information specified in subsection (b).

"(b) Information to be provided under subsection (a) is a listing of the name of each appropriate employee of the contractor who has responsibilities with respect to entering into contracts on behalf of such contractor that constitute subcontracts of contracts being performed by such contractor, together with the business address and telephone number and area of responsibility of each such employee.

"(c) A defense contractor need not provide information under this section to a particular eligible entity more frequently than once a year.

"(d) In this section, the term 'defense contractor', for any year, means a person awarded a contract with the Department of Defense in that year for an amount in excess of $500,000.".

(2) The table of sections at the beginning of such chapter is amended by striking out the item relating to section 2416 and inserting in lieu thereof the following new items:

"2416. Subcontractor information.
"2417. Regulations.".

(b) EFFECTIVE DATE.—Section 2416 of title 10, United States Code, as added by subsection (a), shall take effect on January 1, 1987. 10 USC 2416 note.

PART F—MISCELLANEOUS REPORTS

SEC. 961. SELECTED ACQUISITION REPORTS

(a) REVISION OF REPORTING REQUIREMENTS.—Section 2432 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended— *Ante*, p. 994.

(1) by adding at the end of subsection (a)(3) the following new sentence: "If for any fiscal year the funds appropriated, or the number of fully-configured end items to be purchased, differ from those programmed, the procurement unit cost shall be revised to reflect the appropriated amounts and quantities.";

(2) by striking out "$2,000,000" in subsection (a)(4) and inserting in lieu thereof "$40,000,000";

(3) by striking out "three-month" in subsection (b)(2)(B) and inserting in lieu thereof "six-month";

(4) by striking out paragraph (2) of subsection (c) and inserting in lieu thereof the following:

"(2) Each Selected Acquisition Report for the first quarter of a fiscal year shall be designed to provide to the Committees on Armed Services of the Senate and House of Representatives the information such Committees need to perform their oversight functions. A change in the content of the Selected Acquisition Report for the first quarter of a fiscal year from the content as reported for the first quarter of the previous fiscal year may not be made until appropriate officials of the Department of Defense consult with such Committees regarding the proposed changes.";

(5) by inserting "that is produced at a rate of six units or more per year" in subsection (c)(3)(C) after "report" in the matter preceding clause (i); and

(6) by adding at the end the following new subsection:

"(h)(1) Total program reporting under this section shall apply to a major defense acquisition program when funds have been appro-

priated for such and the Secretary of Defense has decided to proceed to full-scale engineering development of such program. Reporting may be limited to the development program as provided in paragraph (2) before a decision is made by the Secretary of Defense to proceed to full-scale engineering development if the Secretary notifies the Committees on Armed Services of the Senate and House of Representatives of the intention to submit a limited report under this subsection not less than 15 days before a report is due under this section.

"(2) A limited report under this subsection shall include the following:

"(A) The same information, in detail and summarized form, as is provided in reports submitted under subsections (c)(1) and (c)(3) of section 2431 of this title.

10 USC 2431.

"(B) Reasons for any change in the development cost and schedule.

"(C) The major contracts under the development program and the reasons for any cost or schedule variances under those contracts since the last Selected Acquisition Report.

"(D) The completion status of the development program expressed—

"(i) as the percentage that the number of years for which funds have been appropriated for the development program is of the number of years for which it is planned that funds will be appropriated for the program; and

"(ii) as the percentage that the amount of funds that have been appropriated for the development program is of the total amount of funds which it is planned will be appropriated for the program.

"(E) Program highlights since the last Selected Acquisition Report.

"(F) Other information as the Secretary of Defense considers appropriate.

"(3) The submission requirements for a limited report under this subsection shall be the same as for quarterly Selected Acquisition Reports for total program reporting.".

(b) UNIT COST REPORTS.—Section 2433 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended—

Ante, p. 994.

(1) in subsection (b), by inserting "(excluding Saturdays, Sundays, and legal public holidays)" after "days" both places such term appears in the second sentence; and

(2) by adding at the end the following new subsection:

"(h) Reporting under this section shall not apply if a program has received a limited reporting waiver under section 2432(h) of this title.".

Ante, p. 3955.

10 USC 2432 note.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on January 1, 1987.

SEC. 962. REPORT ON EFFORTS TO INCREASE DEFENSE CONTRACT AWARDS TO INDIAN-OWNED BUSINESSES

(a) REPORT.—The Secretary of Defense shall submit to Congress a report on the efforts by the Department of Defense during fiscal years 1986 and 1987 to increase awards of defense contracts to Indian-owned businesses in accordance with the memorandum of understanding between the Department of Defense and the Small

Business Administration of September 29, 1983. Such report shall include, to the maximum extent practicable, any data regarding the number and value of prime contracts awarded by the Department of Defense during such fiscal years to such businesses.

(b) DEADLINE.—The report required by subsection (a) shall be submitted no later than March 31, 1988.

(c) INDIAN-OWNED BUSINESS DEFINED.—For purposes of this section, the term "Indian-owned business" means a firm owned and controlled by American Indians, including a tribally owned for-profit entity.

SEC. 963. REPORT ON INCREASED GEOGRAPHIC DISTRIBUTION OF DEFENSE CONTRACTORS

(a) IN GENERAL.—(1) The Secretary of Defense shall submit to Congress a report on the actions taken by the Department of Defense during fiscal years 1985 and 1986 to increase contract competition and the national defense industrial base by increasing the participation in defense contracts of contractors in all geographic areas of the United States.

(2) Such report shall be submitted not later than March 31, 1987.

(b) CONTENTS OF REPORTS.—The report required by subsection (a)(1)—

(1) shall include a description of the use of procurement technical assistance centers, procurement conferences sponsored or supported by the Department of Defense, and any other Department of Defense programs conducted for the purpose of expanding the base of defense contractors; and

(2) shall categorize, by State and other appropriate geographic region, the actions described in the report.

TITLE X—ARMS CONTROL MATTERS

SEC. 1001. SENSE OF THE CONGRESS RELATING TO SALT II COMPLIANCE

(a) CONTINUED ADHERENCE TO SALT II NUMERICAL SUBLIMITS.—It is the sense of the Congress that it is in the national security interests of the United States to continue voluntary compliance with the central numerical sublimits of the SALT II Treaty as long as the Soviet Union complies with such sublimits.

Defense and national security. Union of Soviet Socialist Republics.

(b) DEFINITION.—For purposes of this section, the central numerical sublimits of the SALT II Treaty include prohibitions on the deployment of the following:

(1) Launchers for more than 820 intercontinental ballistic missiles carrying multiple independently-targetable reentry vehicles.

(2) Launchers for an aggregate of more than 1,200 intercontinental ballistic missiles carrying multiple independently-targetable reentry vehicles and submarine-launched ballistic missiles carrying multiple independently-targetable reentry vehicles.

(3) An aggregate of more than 1,320 launchers described in paragraph (2) and heavy bombers equipped for air-launched cruise missiles capable of a range in excess of 600 kilometers.

SEC. 1002. SENSE OF THE CONGRESS ON NUCLEAR TESTING

(a) FINDINGS.—The Congress makes the following findings:

(1) The United States is committed in the Limited Test Ban Treaty of 1963 and in the Non-Proliferation Treaty of 1968 to

14 UST 1313.
21 UST 483.

seek to achieve the discontinuance of all test explosions of nuclear weapons for all time.

(2) A comprehensive test ban treaty would promote the security of the United States by constraining the United States-Soviet nuclear arms competition and by strengthening efforts to prevent the proliferation of nuclear weapons.

(3) The Threshold Test Ban Treaty was signed in 1974 and the Peaceful Nuclear Explosions Treaty was signed in 1976, and both have yet to be considered by the full Senate for its advice and consent to ratification.

(4) The entry into force of the Peaceful Nuclear Explosions Treaty and the Threshold Test Ban Treaty will ensure full implementation of significant new verification procedures and so make completion of a comprehensive test ban treaty more probable.

(5) A comprehensive test ban treaty must be adequately verifiable, and significant progress has been made in methods for detection of underground nuclear explosions by seismological and other means.

(6) At present, negotiations are not being pursued by the United States and the Soviet Union toward completion of a comprehensive test ban treaty.

(7) The past five administrations have supported the achievement of a comprehensive test ban treaty.

President of U.S.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, at the earliest possible date, the President should—

(1) request the advice and consent of the Senate to ratification (with a report containing any plans the President may have to negotiate supplemental verification procedures, or if the President believes it necessary, any understanding or reservation on the subject of verification which should be attached to the treaty) of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties, signed in 1974 and 1976, respectively; and

(2) propose to the Soviet Union the immediate resumption of negotiations toward conclusion of a verifiable comprehensive test ban treaty.

In accordance with international law, the United States shall have no obligation to comply with any bilateral arms control agreement with the Soviet Union that the Soviet Union is violating.

SEC. 1003. REPORT BY THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF ON UNITED STATES NON-COMPLIANCE WITH EXISTING STRATEGIC OFFENSIVE ARMS AGREEMENTS

(a) IN GENERAL.—The Chairman of the Joint Chiefs of Staff shall submit to Congress a report containing a detailed assessment of—

(1) the military consequences to the United States of a policy decision by the United States to discontinue compliance with the major provisions of existing strategic offensive arms limitations agreements (including central numerical sublimits on strategic nuclear delivery vehicles in the SALT II accord) would have on the security of the United States; and

(2) the likely military responses of the Soviet Union to such a policy decision.

(b) MATTERS TO BE CONSIDERED.—The assessment required by subsection (a) shall focus on what the likely Soviet military responses would be during the period between 1987 and 1996. In

making such assessment, the Chairman shall specifically consider the following:

(1) The effect on the ability of United States strategic forces to accomplish their nuclear deterrent mission (including the effect on the survivability of United States strategic forces and on the ability of United States strategic forces to achieve required damage expectancies against Soviet targets) of any expansion of Soviet military capabilities undertaken in response to a United States decision to abandon compliance with existing strategic offensive arms agreements.

(2) The additional cost to the United States, above currently projected military expenditures for those periods for which such budget projections are available, of research, development, production, deployment, and annual operations and support for any additional strategic forces required to counter any expansion in Soviet military capabilities undertaken in response to a United States decision to abandon compliance with existing strategic offensive arms agreements.

(3) Under average annual real growth projections in defense spending of 0 percent, 1 percent, 2 percent, and 3 percent, the percent of the annual defense budget in each year between fiscal year 1987 and fiscal year 1996 which would be consumed by increased United States strategic forces needed to counter the Soviet force expansions.

(4) The military effect on United States national security of the diversion the funds identified under paragraph (2) away from nonstrategic defense programs and to strategic programs to counter expanded Soviet strategic capabilities, including the military effect of such a diversion on the ability of United States conventional forces to meet the specific non-nuclear defense commitments of the United States as a member of the North Atlantic Treaty Organization and under the 1960 Treaty of Mutual Cooperation and Security with Japan. 11 UST 1632.

(5) The military implications for the United States of Soviet violations of offensive arms control agreements that have been determined.

(c) REPORT REQUIREMENTS.—(1) The Chairman shall—

(A) include in the report required under subsection (a) the individual views of the other members of the Joint Chiefs of Staff; and

(B) submit such report in both classified and unclassified form.

(2) The report required by subsection (a) shall be submitted not later than December 19, 1986.

(e) RESTRICTION ON OBLIGATION OF FUNDS.—If the Chairman of the Joint Chiefs of Staff fails to submit the report required by subsection (a) before December 20, 1986, no funds may be obligated or expended, directly or indirectly, on or after such date by the Organization of the Joint Chiefs of Staff for any study or analysis to be conducted by a civilian contractor until such report is received by Congress.

SEC. 1004. SENSE OF CONGRESS EXPRESSING SUPPORT FOR A CENTRAL ROLE FOR NUCLEAR RISK REDUCTION CENTERS

(a) CONGRESSIONAL STATEMENTS.—The Congress—

(1) has expressed its prior support for the establishment of nuclear risk reduction centers; and

(2) supports the President's willingness to negotiate an agreement with the Soviet Union to establish such centers in each nation.

(b) SENSE OF CONGRESS.—It is the sense of Congress that if an agreement on nuclear risk reduction centers is signed, the United States center should—

(1) be assigned the responsibility to serve as the center of activity for United States risk reduction activities under the agreement; and

(2) make recommendations to the Assistant to the President for National Security Affairs regarding additional risk reduction arrangements that might be proposed to the Soviet Union.

TITLE XI—MATTERS RELATING TO NATO AND OTHER ALLIES

SEC. 1101. MODERNIZATION OF DEFENSE CAPABILITIES OF COUNTRIES OF NATO'S SOUTHERN FLANK

Chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.) is amended by adding at the end the following new section:

22 USC 2321j.

"SEC. 516. MODERNIZATION OF DEFENSE CAPABILITIES OF COUNTRIES OF NATO'S SOUTHERN FLANK.

"(a) AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.—Notwithstanding any other provision of law and subject to subsection (b), during the fiscal years 1987 and 1988 the President may transfer to those member countries of the North Atlantic Treaty Organization (NATO) on the southern flank of NATO which are eligible for United States security assistance and which are integrated into NATO's military structure such defense articles as the President determines necessary to help modernize the defense capabilities of such countries. Such articles may be transferred without cost to the recipient countries.

President of U.S.

"(b) LIMITATIONS ON TRANSFERS.—The President may transfer defense articles under this section only if—

"(1) the equipment is drawn from existing stocks of the Department of Defense;

"(2) no funds available to the Department of Defense for the procurement of defense equipment are expended in connection with the transfer; and

"(3) the President determines that the transfer of the excess defense articles will not have an adverse impact on the military readiness of the United States.

"(c) NOTIFICATION TO COMMITTEES OF CONGRESS.—The President may not transfer defense articles under this section until 30 days after he has notified the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives of the proposed transfer. This notification shall include a certification of the need for the transfer and an assessment of the impact of the transfer on the military readiness of the United States.

22 USC 2392.

"(d) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DOD EXPENSES.—Section 632(d) shall not apply with respect to transfers of defense articles under this section.

"(e) DEFINITION.—As used in subsection (a), the term 'member countries of the North Atlantic Treaty Organization (NATO) on the

southern flank of NATO' means Greece, Italy, Portugal, Spain, and Turkey.".

SEC. 1102. NATO COOPERATIVE LOGISTIC SUPPORT AGREEMENTS

10 USC 2407 note.

(a) GENERAL AUTHORITY.—The Secretary of Defense may enter into bilateral or multilateral Weapon System Partnership Agreements (as defined in subsection (g)) with one or more governments of other member countries of the North Atlantic Treaty Organization (NATO) for the purpose of providing cooperative logistics support for the armed forces of the countries which are parties to the agreements. Such agreements may include provision for the transfer of logistics support, supplies, and services by the United States to the NATO Maintenance and Supply Organization and for the acquisition of logistics support, supplies, and services by the United States from such Organization.

(b) AUTHORITY OF SECRETARY OF DEFENSE.—Under the terms of a Weapon System Partnership Agreement entered into under subsection (a), the Secretary of Defense may—

Contracts.

(1) agree that the NATO Maintenance and Supply Organization may make contracts for supply and acquisition of logistics support in Europe for requirements of the United States, to the extent the Secretary determines that the procedures of such Organization governing such supply and acquisition are appropriate; and

(2) share the costs of set-up charges of facilities for use by the NATO Maintenance and Supply Organization to provide cooperative logistics support and share in the costs of establishing a revolving fund for initial acquisition and replenishment of supply stocks to be used by the NATO Maintenance and Supply Organization to provide cooperative logistics support.

(c) SHARING OF ADMINISTRATIVE EXPENSES.—Each Weapon System Partnership Agreement shall provide for joint management by the participating countries and for the equitable sharing of the administrative costs incident to such agreement.

Contracts.

(d) APPLICATION OF CHAPTER 137.—Except as provided in this section, the provisions of chapter 137 of title 10, United States Code, shall apply to contracts entered into by the Secretary of Defense for the acquisition of logistics support under a Weapon System Partnership Agreement.

Ante, p. 3952.

(e) APPLICATION OF ARMS EXPORT CONTROL ACT.—The transfer of defense articles or defense services to member countries of the North Atlantic Treaty Organization and the NATO Maintenance and Supply Organization for the purposes of a Weapon System Partnership Agreement shall be carried out in accordance with the provisions of the Arms Export Control Act (22 U.S.C. 2751 et seq.).

(f) SUPPLEMENTAL AUTHORITY.—The authority of the Secretary of Defense under this section is in addition to the authority of the Secretary under chapter 138 of title 10, United States Code, and any other provision of law.

10 USC 2321 *et seq.*

(g) DEFINITION.—For the purpose of this section, the term "Weapon System Partnership Agreement" means an agreement between the United States and one or more other NATO countries participating in the operation of the NATO Maintenance and Supply Organization that—

(1) is entered into pursuant to the terms of the charter of the NATO Maintenance and Supply Organization; and

(2) is for the common logistic support of a specific weapon system common to the participating countries.

SEC. 1103. COOPERATIVE PROJECTS

(a) ARMS EXPORT CONTROL ACT.—(1) Section 27 of the Arms Export Control Act (22 U.S.C. 2767) is amended—

(A) in subsection (b)—

(i) by inserting ", in the case of an agreement with the North Atlantic Treaty Organization or with one or more member countries of that Organization," after "project' " in paragraph (1);

(ii) by striking out "and" at the end of paragraph (1);

(iii) by redesignating paragraph (2) as paragraph (3); and

(iv) by inserting after paragraph (1) the following new paragraph:

"(2) the term 'cooperative project', in the case of an agreement entered into under subsection (j), means a jointly managed arrangement, described in a written agreement among the parties, which is undertaken in order to enhance the ongoing multinational effort of the participants to improve the conventional defense capabilities of the participants and which provides—

"(A) for one or more of the other participants to share with the United States the costs of research on and development, testing, evaluation, or joint production (including follow-on support) of certain defense articles;

"(B) for concurrent production in the United States and in the country of another participant of a defense article jointly developed in accordance with subparagraph (A); or

"(C) for procurement by the United States of a defense article or defense service from another participant to the agreement; and";

(B) in subsection (f)(3), by inserting after "Government" the following: ", including an estimate of the costs as a result of waivers of section 21(e)(1)(A) and 43(b) of this Act,";

22 USC 2761, 2792.

(C) in subsection (g), by striking out "Section" and inserting in lieu thereof the following: "In the case of a cooperative project with a North Atlantic Treaty Organization country, section,"; and

(D) by adding at the end the following new subsection:

"(j)(1) The President may enter into a cooperative project agreement with any friendly foreign country not a member of the North Atlantic Treaty Organization under the same general terms and conditions as the President is authorized to enter into such an agreement with one or more member countries of the North Atlantic Treaty Organization if the President determines that the cooperative project agreement with such country would be in the foreign policy or national security interests of the United States.

President of U.S. Report.

"(2) Not later than January 1 of each year, the President shall submit to the Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services and Foreign Affairs of the House of Representatives a report specifying (A) the countries eligible for participation in such a cooperative project agreement under this subsection, and (B) the criteria used to determine the eligibility of such countries.".

(2) The heading for such section is amended to read as follows: "AUTHORITY OF PRESIDENT TO ENTER INTO COOPERATIVE PROJECTS WITH FRIENDLY FOREIGN COUNTRIES.—".

(b) TITLE 10, UNITED STATES CODE.—(1) Section 2407 of title 10, United States Code, is amended—

(A) by striking out "North Atlantic Treaty Organization (NATO)" in subsection (a)(1);

(B) by striking out "NATO" in subsection (c)(2); and

(C) by striking out "NATO" each place it appears in paragraphs (1) and (2) of subsection (e).

(2)(A) The heading of such section is amended to read as follows:

"§ 2407. Acquisition of defense equipment under cooperative projects".

(B) The item relating to such section in the table of sections at the beginning of chapter 141 of such title is amended to read as follows:

"2407. Acquisition of defense equipment under cooperative projects.".

SEC. 1104. ACQUISITION AND CROSS-SERVICING AGREEMENTS

(a) AUTHORITY TO ENTER INTO AGREEMENTS WITH COUNTRIES OUTSIDE EUROPE.—Sections 2341 and 2342 of title 10, United States Code, are amended to read as follows:

"§ 2341. Authority to acquire logistic support, supplies, and services for elements of the armed forces deployed outside the United States

"Subject to section 2343 of this title and subject to the availability of appropriations, the Secretary of Defense may—

"(1) acquire from the Governments of North Atlantic Treaty Organization countries and from North Atlantic Treaty Organization subsidiary bodies logistic support, supplies, and services for elements of the armed forces deployed in Europe and adjacent waters; and

"(2) acquire from any government not a member of the North Atlantic Treaty Organization in which elements of the armed forces are deployed (or are to be deployed) logistic support, supplies, and services for elements of the armed forces deployed (or to be deployed) in such country or in the military region in which such country is located if that country—

"(A) has a defense alliance with the United States;

"(B) permits the stationing of members of the armed forces in such country or the homeporting of naval vessels of the United States in such country; Vessels.

"(C) has agreed to preposition materiel of the United States in such country; or

"(D) serves as the host country to military exercises which include elements of the armed forces or permits other military operations by the armed forces in such country.

"§ 2342. Cross servicing agreements

"(a) Subject to section 2343 of this title and to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into any of the following agreements:

"(1) An agreement with the government of a North Atlantic Treaty Organization country (or with a North Atlantic Treaty Organization subsidiary body) under which—

"(A) the United States agrees to provide logistic support, supplies, and services to military forces of such country (or subsidiary body) deployed in Europe and adjacent waters, in return for

"(B) the reciprocal provision of logistic support, supplies, and services by such country (or subsidiary body) to elements of the armed forces deployed in Europe and adjacent waters.

"(2) An agreement with the government of a country designated by the Secretary of Defense which is not a member of the North Atlantic Treaty Organization under which—

"(A) the United States agrees to provide logistic support, supplies, and services to the military forces of such country, in return for

"(B) the reciprocal provision of logistic support, supplies, and services by such country to elements of the armed forces deployed in such country or in the military region in which such country is located.

"(3) An agreement with the government of a country referred to in paragraph (1) or (2) under which—

"(A) the United States agrees to provide logistic support, supplies, and services to the military forces of such country, in return for

"(B) the reciprocal provision of support, supplies, and services for the armed forces from such country while the military forces of such country are stationed in North America or are performing military exercises or training in North America.

"(b) The Secretary of Defense may not designate a country for an agreement under this section—

Defense and national security.

"(1) unless the Secretary, after consultation with the Secretary of State, determines that the designation of such country for such purpose is in the interest of the national security of the United States; and

"(2) in the case of a country which is not a member of the North Atlantic Treaty Organization, notifies the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives at least 30 days before the date on which such country is designated by the Secretary under subsection (a).

"(c) The Secretary of Defense may not use the authority of this chapter to procure from any foreign government as a routine or normal source any goods or services reasonably available from United States commercial sources.

Regulations. Contracts.

"(d) The Secretary shall prescribe regulations to ensure that contracts entered into under this chapter are free from self-dealing, bribery, and conflict of interests.".

10 USC 2344.

(b) METHODS OF PAYMENT.—Section 2344(b) of such title is amended—

(1) by inserting "or other foreign country" after "country" in the material preceding subparagraph (A) of paragraph (1); and

(2) by inserting "or other foreign country" in paragraph (3) after "country".

(c) LIQUIDATION OF ACCRUED CREDITS AND LIABILITIES.—Section 2345 of such title is amended— 10 USC 2345.

(1) by inserting "(a)" before "Credits" at the beginning of such section; and

(2) by adding at the end the following new subsection:

"(b) Payment-in-kind or exchange entitlements accrued as a result of acquisitions and transfers of logistic support, supplies, and services under authority of this chapter shall be satisfied within 12 months after the date of the delivery of the logistic support, supplies, or services.".

(d) LIMITATIONS ON AMOUNTS THAT MAY BE OBLIGATED OR ACCRUED BY THE UNITED STATES.—(1) Subsection (a) of section 2347 of such title is amended—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end the following new paragraph:

"(2) Except during a period of active hostilities in the military region affecting a country which is not a member of the North Atlantic Treaty Organization, but with which the United States has one or more acquisition or cross-servicing agreements, the total amount of reimbursable liabilities that the United States may accrue under this chapter (before the computation of offsetting balances) with such country may not exceed $10,000,000 in any fiscal year, and of such amount not more than $2,500,000 in liabilities may be accrued for the acquisition of supplies (other than petroleum, oils, and lubricants). The $10,000,000 limitation specified in this paragraph is in addition to the limitation specified in paragraph (1).".

(2) Subsection (b) of such section is amended—

(A) by inserting "(1)" after "(b)"; and

(B) by adding at the end the following new paragraph:

"(2) Except during a period of active hostilities in the military region affecting a country referred to in paragraph (1), the total amount of reimbursable credits that the United States may accrue under this chapter from such country (before computation of offsetting balances) may not exceed $10,000,000 in any fiscal year. Such limitation specified in this paragraph is in addition to the limitation specified in paragraph (1).".

(e) INVENTORIES OF SUPPLIES NOT TO BE INCREASED.—Section 2348 of such title is amended by striking out "to military forces of any North Atlantic Treaty Organization country or any North Atlantic Treaty Organization subsidiary body".

(f) DEFINITION.—Section 2350 of such title is amended by adding at the end the following new paragraph:

"(3) 'Military region' means the geographical area of responsibility assigned to the commander of a unified combatant command (excluding Europe and adjacent waters).".

(g) CLERICAL AMENDMENT.—The item relating to section 2341 in the table of sections at the beginning of chapter 138 of such title is amended to read as follows:

"2341. Authority to acquire logistic support, supplies, and services for elements of the armed forces deployed outside the United States.".

SEC. 1105. COOPERATIVE RESEARCH AND DEVELOPMENT WITH MAJOR NON-NATO ALLIES 22 USC 2767a.

(a) FINDINGS.—The Congress finds—

(1) that the North Atlantic Treaty Organization Cooperative Research and Development program instituted during fiscal

year 1986 has served to increase cooperation in research and development among member countries of the North Atlantic Treaty Organization; and

(2) that additional benefits of cooperation in research and development might ensue from an extension of the program to include major non-NATO allies of the United States.

(b) CONGRESSIONAL REQUEST FOR COOPERATION ON RESEARCH AND DEVELOPMENT.—The Congress urges and requests the President and the Secretary of Defense to pursue diligently opportunities for the United States and major non-NATO allies of the United States to cooperate—

(1) in research and development on defense equipment and munitions; and

(2) in the production of defense equipment.

(c) FUNDS FOR COOPERATIVE PROJECTS.—Of the funds appropriated pursuant to the authorizations of appropriations in section 201, up to $40,000,000 shall be available for cooperative research and development projects with major non-NATO allies.

(d) RESTRICTIONS.—(1) A memorandum of understanding (or other formal agreement) to conduct a cooperative research and development project under this section may not be entered into unless the Secretary of Defense determines that the proposed project enhances the ongoing multinational effort to improve conventional defense capabilities through the application of emerging technology.

(2) Each such cooperative project shall require sharing of the costs of research between the participants on an equitable basis.

(3) The Secretary may not delegate the authority to make a determination under paragraph (1) except to the Deputy Secretary of Defense or the Under Secretary of Defense for Acquisition.

(e) RESTRICTIONS ON PROCUREMENT OF EQUIPMENT AND SERVICES.—(1) In order to assure substantial participation on the part of major non-NATO allies in cooperative research and development projects, funds made available under subsection (c) for such projects may not be used to procure equipment or services from any foreign government, foreign research organization, or other foreign entity.

(2) A major non-NATO ally may not use any United States military or economic assistance grants, loans, or other funds for the purpose of making its contribution to a cooperative research and development program entered into with the United States under this section.

Report.

(f) NOTICE TO CONGRESS.—Not later than January 1 of each year, the Secretary of Defense and the Secretary of State shall jointly submit to the Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services and Foreign Affairs of the House of Representatives a report—

(1) enumerating those countries eligible for participation with the United States in a cooperative research and development program authorized by this section; and

(2) specifying the criteria used in determining eligibility for the participation of such countries.

(g) DEFINITIONS.—As used in this section:

(1) The term "major non-NATO ally" means a country des ignated as a major non-NATO ally for the purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

(2) The term "cooperative research and development project" means a project involving joint participation by the United

States and one or more major non-NATO allies under a memorandum of understanding (or other formal agreement) to carry out a joint research and development program—

(A) to develop new conventional equipment and munitions; or

(B) to modify existing military equipment to meet United States military requirements.

TITLE XII—DEPARTMENT OF DEFENSE MANAGEMENT

PART A—MANAGEMENT OF CERTAIN PROCUREMENT MATTERS

SEC. 1201. CONTRACTS FOR OVERHAUL, REPAIR, AND MAINTENANCE OF NAVAL VESSELS

(a) IN GENERAL.—Section 7299a of title 10, United States Code (relating to construction of combatant and escort vessels and assignment of naval vessel projects), is amended by adding at the end the following new subsections:

"(c) In evaluating bids or proposals for a contract for the overhaul, repair, or maintenance of a naval vessel, the Secretary of the Navy shall, in determining the cost or price of work to be performed in an area outside the area of the homeport of the vessel, consider foreseeable costs of moving the vessel and its crew from the homeport to the outside area and from the outside area back to the homeport at the completion of the contract.

"(d)(1) Notwithstanding subsections (b) and (c), the Secretary may award a contract for short-term work for the overhaul, repair, or maintenance of a naval vessel only to a contractor that is able to perform the work at the homeport of the vessel, if the Secretary determines that adequate competition is available among firms able to perform the work at the homeport of the vessel.

"(2) In this subsection, the term 'short-term work' means work that will be for a period of six months or less.".

(b) REPEAL OF LIMITATION ON FY86 FUNDS.—Section 8104 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190 (99 Stat. 1221)), is repealed.

SEC. 1202. HANDLING OF HAZARDOUS WASTE GENERATED DURING REPAIR OR MAINTENANCE OF NAVAL VESSELS

(a) REQUIRED CONTRACT PROVISIONS.—Chapter 633 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 7311. Repair or maintenance of naval vessels: handling of hazardous waste 10 USC 7311.

"(a) CONTRACTUAL PROVISIONS.—The Secretary of the Navy shall ensure that a contract entered into for repair or maintenance of a naval vessel includes the following provisions:

"(1) IDENTIFICATION OF HAZARDOUS WASTES.—Provisions identifying the type and amounts of hazardous wastes that are expected to be generated during the performance of the repair or maintenance.

"(2) COMPENSATION.—Provisions specifying that the contractor shall be compensated under the contract for work performed by the contractor for duties of the contractor specified under paragraph (3).

"(3) STATEMENT OF WORK.—Provisions mutually acceptable to the Navy and the contractor specifying the responsibilities of the Navy and of the contractor, respectively, for the removal, handling, storage, transportation, and disposal of hazardous wastes generated during the performance of the repair or maintenance.

"(b) RENEGOTIATION OF CONTRACT.—The Secretary of the Navy shall renegotiate a contract described in subsection (a) if—

"(1) the contractor, during the performance of repair or maintenance under the contract, discovers hazardous wastes different in type or amount from those identified in the contract; and

"(2) such hazardous wastes originated on the naval vessel on which the repair or maintenance is being performed.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7311. Repair or maintenance of naval vessels: handling of hazardous waste.".

SEC. 1203. LIMITATION ON TRANSFER OF CERTAIN TECHNICAL DATA PACKAGES

(a) TECHNICAL DATA PACKAGES FOR PRODUCTION OF LARGE-CALIBER CANNON.—(1) Chapter 433 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 4542.

"§ 4542. Technical data packages for large-caliber cannon: prohibition on transfers to foreign countries; exception

"(a) GENERAL RULE.—Funds appropriated to the Department of Defense may not be used—

"(1) to transfer to a foreign country a technical data package for a defense item being manufactured or developed in an arsenal; or

"(2) to assist a foreign country in producing such a defense item.

"(b) EXCEPTION.—The Secretary of the Army may use funds appropriated to the Department of Defense to transfer a technical data package, or to provide assistance, described in subsection (a) if—

"(1) the transfer or provision of assistance is to a friendly foreign country (as determined by the Secretary of Defense in consultation with the Secretary of State);

"(2) the Secretary of the Army determines that such action—

"(A) would have a clear benefit to the preservation of the production base for the production of cannon at the arsenal concerned; and

"(B) would not transfer technology (including production techniques) considered unique to the arsenal concerned; and

"(3) the Secretary of Defense enters into an agreement with the country concerned described in subsection (c).

"(c) COPRODUCTION AGREEMENTS.—An agreement under this subsection shall be in the form of a Government-to-Government Memorandum of Understanding and shall include provisions that—

"(1) prescribe the content of the technical data package or assistance to be transferred to the foreign country participating in the agreement;

"(2) require that production by the participating foreign country of the defense item to which the technical data package or assistance relates be shared with the arsenal concerned;

"(3) subject to such exceptions as may be approved under subsection (d), prohibit transfer by the participating foreign country to a third party or country of—

"(A) any defense article, technical data package, technology, or assistance provided by the United States under the agreement; and

"(B) any defense article produced by the participating foreign country under the agreement; and

"(4) require the Secretary of Defense to monitor compliance with the agreement and the participating foreign country to report periodically to the Secretary of Defense concerning the agreement.

"(d) TRANSFERS TO THIRD PARTIES.—A transfer described in subsection (b)(3) may be made if—

"(1) the defense article, technical data package, or technology to be transferred is a product of a cooperative research and development program in which the United States and the participating foreign country were partners; or

"(2) the President— President of U.S.

"(A) complies with all requirements of section 3(d) of the Arms Export Control Act (22 U.S.C. 2753(d)) with respect to such transfer; and

"(B) certifies to Congress, before the transfer, that the transfer would provide a clear benefit to the production base of the United States for large-caliber cannon.

"(e) NOTICE AND REPORTS TO CONGRESS.—(1) The Secretary of the Army shall submit to Congress a notice of each agreement entered into under this section.

"(2) The Secretary shall submit to Congress a semi-annual report on the operation of this section and of agreements entered into under this section. Report.

"(f) ARSENAL DEFINED.—In this section, the term 'arsenal' means a Government-owned, Government-operated defense plant that manufactures large-caliber cannon.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4542. Technical data packages for large-caliber cannon: prohibition on transfers to foreign countries; exception.".

(b) EFFECTIVE DATE.—Section 4542 of title 10, United States Code, as added by subsection (a), shall apply with respect to funds appropriated for fiscal years after fiscal year 1986. 10 USC 4542 note.

SEC. 1204. REQUIREMENTS CONCERNING TRANSPORTATION OF MEMBERS OF THE ARMED FORCES BY CHARTERED AIRCRAFT

(a) IN GENERAL.—(1) Chapter 157 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2640. Charter air transportation of members of the armed forces Contract. 10 USC 2640.

"(a) REQUIREMENTS.—(1) The Secretary of Defense may not enter into a contract with an air carrier for the charter air transportation of members of the armed forces unless the air carrier—

"(A) meets, at a minimum, the safety standards established by the Secretary of Transportation under title VI of the Federal Aviation Act of 1958 (49 U.S.C. App. 1421 et seq.);

"(B) has at least 12 months of experience operating services in air transportation that are substantially equivalent to the service sought by the Department of Defense; and

"(C) undergoes a technical safety evaluation.

"(2) For purposes of paragraph (1)(C), a technical safety evaluation—

"(A) shall include inspection of a representative number of aircraft; and

"(B) shall be conducted in accordance with regulations prescribed by the Secretary, after consultation with the Secretary of Transportation.

"(b) INSPECTIONS.—The Secretary shall provide for inspections of each air carrier that contracts with the Department of Defense for the charter air transportation of members of the armed forces. The inspections shall be conducted in accordance with standards established by the Secretary, after consultation with the Secretary of Transportation, and shall include, at a minimum, the following:

"(1) An on-site capability survey of the air carrier conducted at least once every two years.

"(2) A performance evaluation of the air carrier conducted at least once every six months.

"(3) A preflight safety inspection of each aircraft conducted at any time during the operation of, but not more than 72 hours before, each internationally scheduled charter mission departing the United States.

"(4) A preflight safety inspection of each aircraft used for domestic charter missions conducted to the greatest extent practical.

"(5) Operational check-rides on aircraft conducted periodically.

"(c) COMMERCIAL AIRLIFT REVIEW BOARD.—The Secretary shall establish a Commercial Airlift Review Board within the Department of Defense. The Board shall consist of personnel from the Department of Defense and other Government personnel as may be appropriate. The duties of the Board shall be—

"(1) to make recommendations to the Secretary on suspension and reinstatement of air carriers under subsection (d);

"(2) to make recommendations to the Secretary on waivers under subsection (g); and

"(3) to carry out such other duties and make recommendations on such other matters as the Secretary considers appropriate.

"(d) SUSPENSION AND REINSTATEMENT.—(1) The Secretary shall establish guidelines for the suspension of air carriers under contract with the Department of Defense for the charter air transportation of members of the armed forces and for the reinstatement of air carriers that have been so suspended. The guidelines—

"(A) shall require the immediate determination of whether to suspend an air carrier if an aircraft of the air carrier is involved in a fatal accident; and

"(B) may require the suspension of an air carrier—

"(i) if the carrier is in violation of any order, rule, regulation, or standard prescribed under title VI of the Federal Aviation Act of 1958 (49 U.S.C. App. 1421 et seq.); or

"(ii) if an aircraft of the air carrier is involved in a serious accident.

"(2) The Commercial Airlift Review Board shall make recommendations to the Secretary on suspension and reinstatement under this subsection.

"(3) The Secretary shall include in each contract subject to this section the provisions on suspension and reinstatement established under this subsection.

"(e) AUTHORITY TO LEAVE UNSAFE AIRCRAFT.—A representative of the Military Airlift Command, the Military Traffic Management Command, or such other agency as may be designated by the Secretary of Defense (or if there is no such representative reasonably available, the senior officer on board a chartered aircraft) may order members of the armed forces to leave a chartered aircraft if the representative (or officer) determines that a condition exists on the aircraft which may endanger the safety of the members.

"(f) FAA INFORMATION.—The Secretary shall request the Secretary of Transportation to provide to the Secretary a report on each inspection performed by Federal Aviation Administration personnel, and the status of corrective actions taken, on each aircraft of an air carrier under contract with the Department of Defense for the charter air transportation of members of the armed forces. Report.

"(g) WAIVER.—After considering recommendations by the Commercial Airlift Review Board, the Secretary may waive any provision of this section in an emergency.

"(h) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section, including requirements and identification of inspecting personnel with respect to preflight safety inspections required by subsection (b)(3).

"(i) DEFINITIONS.—In this section:

"(1) The terms 'air carrier', 'aircraft', 'air transportation', and 'charter air transportation' have the meanings given such terms by sections 101(3), 101(5), 101(10), and 101(15), respectively, of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(3), 1301(5), 1301(10), and 1301(15)).

"(2) The term 'members of the armed forces' means members of the Army, Navy, Air Force, and Marine Corps.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2640. Charter air transportation of members of the armed forces.".

(b) DEADLINE FOR REGULATIONS.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe the regulations required by section 2640 of title 10, United States Code, as added by subsection (a). 10 USC 2640 note.

(c) EFFECTIVE DATE.—Section 2640 of title 10, United States Code, as added by subsection (a), shall apply only to contracts which are entered into on or after the date on which the regulations required by subsection (b) are prescribed. 10 USC 2640 note.

SEC. 1205. FUEL SOURCES FOR HEATING SYSTEMS ON MILITARY INSTALLATIONS; PROHIBITION ON CONVERTING CERTAIN HEATING FACILITIES

(a) REQUIREMENT AND RESTRICTION.—(1) Section 2690 of title 10, United States Code, is amended to read as follows:

"§ 2690. Fuel sources for heating systems; prohibition on converting certain heating facilities

"(a)(1) The Secretary of the military department concerned shall provide that the primary fuel source to be used in any new heating system constructed on lands under the jurisdiction of the military department is the most cost effective fuel for that heating system over the life cycle of the system.

Regulation.

"(2) The Secretary of Defense shall prescribe regulations for the determination of the life-cycle cost effectiveness of a fuel for the purposes of paragraph (1).

"(b) The Secretary of a military department may not convert a heating facility at a United States military installation in Europe from a coal-fired facility to an oil-fired facility, or to any other energy source facility, unless the Secretary—

"(1) determines that the conversion (A) is required by the government of the country in which the facility is located, or (B) is cost effective over the life cycle of the facility; and

"(2) submits to Congress notification of the proposed conversion and a period of 30 days has elapsed following the date on which Congress receives the notice.".

10 USC 2661 *et seq.*

(2) The item relating to such section in the table of sections at the beginning of chapter 159 of such title is amended to read as follows:

"2690. Fuel sources for heating systems.".

(b) REPEAL OF CERTAIN REQUIREMENTS AND RESTRICTIONS.—Sections 8022, 8070, and 8110 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190; 99 Stat. 1207, 1214, and 1222), are repealed.

SEC. 1206. REVIEW OF THE SECURITY ADMINISTRATION IN DEFENSE INDUSTRY OF DEPARTMENT OF DEFENSE SPECIAL ACCESS PROGRAMS

(a) REVIEW.—The Secretary of Defense shall direct the Director of the Defense Investigative Service to conduct a review of the security administration of Department of Defense special access programs at all Department of Defense contractors involved in such programs. The review shall include a review of the frequency and adequacy of security inspections of such contractors conducted by the Department of Defense.

(b) REPORT.—(1) The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report setting forth the results of the review under subsection (a).

(2) The report shall—

(A) identify any shortcoming found to exist in security administration of Department of Defense special access programs at Department of Defense contractors involved in such programs and the actions being taken to correct each such shortcoming;

(B) include recommendations for improvement of Department of Defense oversight of special access programs, if the Secretary considers such improvement necessary; and

(C) include recommendations for such legislation as the Secretary determines is required to correct such deficiencies.

(3) The report shall be submitted in an unclassified form. It shall be submitted not later than May 1, 1987.

(c) DIS SECURITY INVESTIGATIONS.—After consulting with the Secretary of Defense, the Director of the Defense Investigative Service may conduct such security inspections of special access programs as the Director considers appropriate, unless otherwise directed by the Secretary of Defense.

SEC. 1207. CONTRACT GOAL FOR MINORITIES

10 USC 2301 note.

(a) GOAL.—Except as provided in subsection (d), a goal of 5 percent of the amount described in subsection (b) shall be the objective of the Department of Defense in each of fiscal years 1987, 1988, and 1989 for the total combined amount obligated for contracts and subcontracts entered into with—

(1) small business concerns, including mass media, owned and controlled by socially and economically disadvantaged individuals (as defined by section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and regulations issued under such section), the majority of the earnings of which directly accrue to such individuals;

Disadvantaged persons.

(2) historically Black colleges and universities; or

Schools and colleges.

(3) minority institutions (as defined by the Secretary of Education pursuant to the General Education Provisions Act (20 U.S.C. 1221 et seq.)).

(b) AMOUNT.—The requirements of subsection (a) for any fiscal year apply to the combined total of the following amounts:

(1) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for procurement.

(2) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for research, development, test, and evaluation.

Research and development.

(3) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for military construction.

(4) Funds obligated for contracts entered into with the Department of Defense for operation and maintenance.

(c) TECHNICAL ASSISTANCE.—To attain the goal of subsection (a), the Secretary of Defense shall provide technical assistance services to potential contractors described in subsection (a). Such technical assistance shall include information about the program, advice about Department of Defense procurement procedures, instruction in preparation of proposals, and other such assistance as the Secretary considers appropriate. If Department of Defense resources are inadequate to provide such assistance, the Secretary of Defense may enter into contracts with minority private sector entities with experience and expertise in the design, development, and delivery of technical assistance services to eligible individuals, business firms and institutions, defense acquisition agencies, and defense prime contractors. Department of Defense contracts with such entities shall be awarded annually, based upon, among other things, the number of minority small business concerns, historically Black colleges and universities, and minority institutions that each such entity brings into the program.

(d) APPLICABILITY.—Subsection (a) does not apply—

(1) to the extent to which the Secretary of Defense determines that compelling national security considerations require otherwise; and

(2) if the Secretary making such a determination notifies Congress of such determination and the reasons for such determination.

(e) COMPETITIVE PROCEDURES AND ADVANCE PAYMENTS.—To attain the goal of subsection (a)—

(1) The Secretary of Defense shall exercise his utmost authority, resourcefulness, and diligence.

(2) To the extent practicable and when necessary to facilitate achievement of the 5 percent goal described in subsection (a), the Secretary of Defense shall make advance payments under section 2307 of title 10, United States Code, to contractors described in subsection (a).

(3) To the extent practicable and when necessary to facilitate achievement of the 5 percent goal described in subsection (a), the Secretary of Defense may enter into contracts using less than full and open competitive procedures (including awards under section 8(a) of the Small Business Act), but shall pay a price not exceeding fair market cost by more than 10 percent in payment per contract to contractors or subcontractors described in subsection (a).

15 USC 637.

Schools and colleges.

(4) To the extent practicable, the Secretary of Defense shall maximize the number of minority small business concerns, historically Black colleges and universities, and minority institutions participating in the program.

(f) PENALTIES FOR MISREPRESENTATION.—Whoever for the purpose of securing a contract or subcontract under subsection (a) misrepresents the status of any concern or person as a small business concern owned and controlled by a minority (as described in subsection (a)), shall be punished by a fine of not less than $10,000, or by imprisonment for not more than one year, or both.

(g) ANNUAL REPORTS.—(1) Between May 1 and May 30 of each year, the Secretary of Defense shall submit to Congress a report on the progress toward meeting the goal of subsection (a) during the current fiscal year.

(2) Between October 1 and October 10 of each year, the Secretary of Defense shall submit to Congress a final report on the progress of the Secretary with the goal of subsection (a) during the preceding fiscal year.

(3) The reports described in paragraphs (1) and (2) shall each include the following:

(A) A full explanation of any progress toward attaining the goal of subsection (a).

(B) A plan to achieve the goal, if necessary.

(C) A description of the percentage of contracts (actions), the total dollar amount (size of action), and the number of different entities relative to the attainment of the goal of subsection (a), separately for Black Americans, Native Americans, Hispanic Americans, Asian Pacific Americans, and other minorities.

(4) The reports required under paragraph (2) shall also include the following:

(A) The aggregate differential between the fair market price of all contracts awarded pursuant to subsection (e)(3) and the estimated fair market price of all such contracts had such contracts been entered into using full and open competitive procedures.

(B) Detailed information on failure to perform in accordance with contract cost and technical requirements by entities awarded contracts pursuant to subsection (a).

(C) An analysis of the impact that subsection (a) shall have on the ability of small business concerns not owned and controlled

by socially and economically disadvantaged individuals to compete for contracts with the Department of Defense.

(5) The first report required by this subsection shall be submitted between May 1 and May 30, 1987.

(h) EFFECTIVE DATE.—This section applies to each of fiscal years 1987, 1988, and 1989.

SEC. 1208. MANPOWER ESTIMATES FOR MAJOR DEFENSE ACQUISITION PROGRAMS

(a) REQUIREMENT OF MANPOWER ESTIMATES.—Subsection (a) of section 2434 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986), is amended to read as follows:

"(a) REQUIREMENT FOR APPROVAL.—The Secretary of Defense may not approve the full-scale engineering development, or the production and deployment, of a major defense acquisition program unless—

"(1) an independent estimate of the cost of the program is first submitted to (and considered by) the Secretary; and

"(2) the Secretary submits a manpower estimate of the program to the Committees on Armed Services of the Senate and the House of Representatives at least 90 days in advance of such approval.".

(b) DEFINITIONS.—Subsection (b) of such section is amended—

(1) by inserting "DEFINITIONS.—" before "In this section";

(2) by striking out "(1) 'Major" and inserting in lieu thereof "(1) The term 'major";

(3) by striking out "(2) 'Independent" and inserting in lieu thereof "(2) The term 'independent";

(4) by striking out "(3) 'Cost" and inserting in lieu thereof "(3) The term 'cost"; and

(5) by adding at the end the following new paragraph:

"(4) The term 'manpower estimate' means, with respect to a major defense acquisition program, an estimate of—

"(A) the total number of personnel (including military, civilian, and contractor personnel), expressed both in total personnel and man-years, that will be required to operate, maintain, and support the program upon full operational deployment and to train personnel to operate, maintain, and support the program upon full operational deployment;

"(B) the increases in military and civilian personnel end strengths that will be required for full operational deployment of the program above the end strengths authorized in the fiscal year in which such an estimate is submitted and the fiscal year or years in which such increases will be required; and

"(C) the manner in which such a program would be operationally deployed if no increases in military and civilian end strengths were authorized above the strengths authorized for the fiscal year in which such estimate is submitted.".

(c) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 2434. Independent cost estimates; operational manpower requirements".

(2) The item relating to such section in the table of sections at the beginning of chapter 144 of such title (as enacted by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986) is amended to read as follows:

"2434. Independent cost estimates; operational manpower requirements.".

10 USC 2434 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to approvals of full-scale engineering development and to approvals of production and deployment of major defense acquisition programs made after December 31, 1986.

PART B—ECONOMY AND EFFICIENCY

SEC. 1221. INCREASE IN THRESHOLD APPLICABLE TO STATUTORY CONTRACTING-OUT PROCEDURES

Section 502(d) of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2304 note) is amended by striking out "40 or fewer" and inserting in lieu thereof "45 or fewer".

SEC. 1222. PROHIBITION ON CONTRACTS FOR PERFORMANCE OF FIREFIGHTING AND SECURITY FUNCTIONS

(a) FIREFIGHTING PROHIBITION.—(1) Chapter 159 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 2693.

"§ 2693. Prohibition on contracts for performance of firefighting functions

"(a) Except as provided in subsection (b), funds appropriated to the Department of Defense may not be obligated or expended for the purpose of entering into a contract for the performance of firefighting functions at any military installation or facility.

"(b) The prohibition in subsection (a) does not apply—

"(1) to a contract to be carried out at a location outside the United States (including its commonwealths, territories, and possessions) at which members of the armed forces would have to be used for the performance of the function described in subsection (a) at the expense of unit readiness;

"(2) to a contract to be carried out on a Government-owned but privately operated installation; or

"(3) to a contract (or the renewal of a contract) for the performance of a function under contract or September 24, 1983.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2693. Prohibition on contracts for performance of firefighting functions.".

10 USC 2304 note.

(b) ONE-YEAR SECURITY-GUARD PROHIBITION.—(1) Except as provided in paragraph (2), funds appropriated to the Department of Defense may not be obligated or expended before October 1, 1987, for the purpose of entering into a contract for the performance of security-guard functions at any military installation or facility.

(2) The prohibition in paragraph (1) does not apply—

(A) to a contract to be carried out at a location outside the United States (including its commonwealths, territories, and possessions) at which military personnel would have to be used for the performance of the function described in paragraph (1) at the expense of unit readiness;

(B) to a contract to be carried out on a Government-owned but privately operated installation;

(C) to a contract (or the renewal of a contract) for the performance of a function under contract on September 24, 1983; or

(D) to a contract for the performance of security-guard functions if (i) the requirement for the functions arises after the date of the enactment of this Act, and (ii) the Secretary of Defense determines the functions can be performed by contractor personnel without adversely affecting installation security, safety, or readiness.

(c) REPEAL.—Section 1233 of the Department of Defense Authorization Act, 1986 (Public Law 99-145, 99 Stat. 734), is hereby repealed. 10 USC 2304 note.

SEC. 1223. CONTRACTING OUT THE PERFORMANCE OF DEPARTMENT OF DEFENSE SUPPLY AND SERVICE FUNCTIONS 10 USC 2304 note.

(a) IN GENERAL.—Except as otherwise provided by law, the Secretary of Defense shall procure each supply or service necessary for or beneficial to the accomplishment of the authorized functions of the Department of Defense (other than functions which the Secretary of Defense determines must be performed by military or government personnel) from a source in the private sector if such a source can provide such supply or service to the Department at a cost that is lower (after including any cost differential required by law, executive order, or regulation) than the cost at which the Department can provide the same supply or service.

(b) COST COMPARISIONS.—For the purpose of determining whether to contract with a source in the private sector for the performance of any Department of Defense function on the basis of a comparison of the costs of procuring supplies or services from such a source with the costs of providing the same supplies or services by the Department of Defense, the Secretary of Defense shall ensure that all costs considered, including the costs of quality assurance, technical monitoring of the performance of such function, liability insurance, employee retirement and disability benefits, and all other overhead costs, are realistic and fair.

SEC. 1224. REPORTS ON SAVINGS OR COSTS FROM INCREASED USE OF CIVILIAN PERSONNEL 10 USC 2304 note.

(a) IN GENERAL.—Whenever during a fiscal year to which this section applies the performance of any commercial or industrial type activity of the Department of Defense that is being performed by 50 or more employees of a private contractor is changed to performance by civilian employees of the Department of Defense, the Secretary of Defense shall maintain data in which a comparison is made of the estimated costs of (1) continued performance of such activity by private contractor employees, and (2) performance of such activity by civilian employees of the Department of Defense.

(b) SEMI-ANNUAL REPORT ON COSTS AND SAVINGS.—As soon as practicable after the end of the first six months, and after the end of the second six months, of a fiscal year to which this section applies, the Secretary of Defense shall submit to the Committees on Armed

Services of the Senate and House of Representatives a report showing the estimated savings or loss to the United States, during the preceding six month period, that is reflected in the data maintained under subsection (a).

(c) APPLICABILITY OF SECTION.—This section shall apply only with respect to a fiscal year during which there is no statutory limit (commonly known as an "end strength") on the number of civilian employees that may be employed by the Department of Defense as of the last day of that fiscal year.

TITLE XIII—GENERAL PROVISIONS

PART A—FINANCIAL MATTERS

SEC. 1301. TRANSFER AUTHORITY

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division between any such authorizations (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed $2,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON OBLIGATION LIMITATIONS.—A transfer made under the authority of this section—

(1) increases by the amount of the transfer the obligation limitation provided in this division on the account (or other amount) to which the transfer is made; and

(2) decreases by the amount of the transfer the obligation limitation provided in this division on the account (or other amount) from which the transfer is made.

(d) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

SEC. 1302. AUTHORIZATION OF APPROPRIATIONS FOR CIVILIAN PAY AND CONTINGENCIES

There are authorized to be appropriated to the Department of Defense for fiscal year 1987, in addition to other amounts authorized to be appropriated in this Act, such sums as may be necessary—

(1) for unbudgeted increases in fuel costs;

(2) for unbudgeted increases as a result of inflation in the cost of activities authorized in this Act; and

(3) for unbudgeted amounts for salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in this Act.

SEC. 1303. AUTHORIZATION OF APPROPRIATIONS FOR FOREIGN CURRENCY PURCHASES

There is hereby authorized to be appropriated for fiscal year 1987 the amount of $3,500,000 for the purchase of foreign currencies from the Treasury Department to pay expenses incurred in carrying out programs of the Department of Defense.

SEC. 1304. SPECIAL DEFENSE ACQUISITION FUND

(a) INCREASE IN SIZE OF FUND.—Section 114(c) of title 10, United States Code (as redesignated by section 110(b) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended by striking out "$1,000,000,000" and inserting in lieu thereof "$1,070,000,000". *Ante*, p. 1001.

(b) BUDGET ACT LIMITATION.—New spending authority (as defined in section 401(c)(2) of the Congressional Budget Act of 1974) provided by the amendment made by subsection (a) shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts. 10 USC 114 note. 2 USC 651.

SEC. 1305. LIMITATION ON OBLIGATION OF FISCAL YEAR 1985 AND FISCAL YEAR 1986 FUNDS

(a) LIMITATIONS.—Subject to subsection (b), funds appropriated for fiscal years 1985 and 1986 and remaining available for obligation may not be obligated as follows:

Account	Fiscal year 1985 amount	Fiscal year 1986 amount
Aircraft Procurement, Army	$21,000,000	$110,800,000
Missile Procurement, Army	$21,400,000	$91,900,000
Procurement of Weapons and Tracked Combat Vehicles, Army	$43,900,000	$211,400,000
Procurement of Ammunition, Army	$3,900,000	$30,300,000
Other Procurement, Army	$15,600,000	$123,600,000
Aircraft Procurement, Navy	$86,300,000	$446,100,000
Weapons Procurement, Navy	$48,800,000	$215,600,000
Shipbuilding and Conversion, Navy	$168,700,000	$367,500,000
Other Procurement, Navy	$16,100,000	$117,100,000
Procurement, Marine Corps	$18,200,000	$52,000,000
Aircraft Procurement, Air Force	$212,500,000	$714,500,000
Missile Procurement, Air Force	$53,400,000	$326,400,000
Other Procurement, Air Force	$19,100,000	$181,100,000
National Guard and Reserve Equipment	$900,000	$17,900,000
Procurement, Defense Agencies	$4,000,000	$31,000,000
Research, Development, Test and Evaluation, Army	$1,900,000	$71,200,000
Research, Development, Test and Evaluation, Navy	$2,800,000	$71,900,000
Research, Development, Test and Evaluation, Air Force	$6,000,000	$176,400,000
Research, Development, Test and Evaluation, Defense Agencies	$1,400,000	$84,700,000
Director of Test and Evaluation, Defense	$0	$700,000
Military Construction, Army	$6,800,000	$64,400,000
Military Construction, Navy	$6,800,000	$45,200,000
Military Construction, Air Force	$6,300,000	$43,200,000
Military Construction, Defense Agencies	$1,900,000	$5,300,000
Military Construction, Army National Guard	$0	$2,500,000
Military Construction, Air National Guard	$200,000	$3,300,000
Military Construction, Army Reserve	$0	$1,800,000
Military Construction, Naval Reserve	$0	$1,200,000
Military Construction, Air Force Reserve	$200,000	$1,800,000
North Atlantic Treaty Organization Infrastructure	$0	$8,000,000
Family Housing, Army	$900,000	$19,400,000
Family Housing, Navy and Marine Corps	$400,000	$8,800,000
Family Housing, Air Force	$2,400,000	$12,300,000

(b) COORDINATION WITH RESCISSIONS.—A limitation contained in subsection (a) shall apply only to the extent, and in the amount by which, the amount of the limitation is greater than amounts rescinded (on an account-year basis) in laws appropriating funds for the Department of Defense for fiscal year 1987 that are enacted before December 31, 1986.

SEC. 1306. APPLICABILITY OF LIMITATIONS ON FISCAL YEAR 1987 OBLIGATIONS

The limitations in sections 101(b), 102(a)(2), 102(b)(2), 102(c)(1), 102(c)(2), 102(d)(2), 102(e)(2), 103(b), 104(b), 106(b), and 201(c)—

(1) apply only to funds directly appropriated and funds transferred by provisions in appropriations Acts that specifically identify the funds transferred; and

(2) do not apply to obligations from an account that would be reimbursed from another account or from a source outside the Government.

SEC. 1307. REPORTS ON UNOBLIGATED BALANCES AND ON INFLATION BUDGETING

(a) PERIODIC REPORTS.—(1) Chapter 131 of title 10, United States Code, is amended by adding at the end the following new sections:

10 USC 2215.

"§ 2215. Reports on unobligated balances

"(a) REQUIRED REPORTS.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives reports (at the times specified under subsection (d)) containing an estimate of the amount of funds in each appropriation account of the Department of Defense that at the time of the report—

"(1) is available for obligation; and

"(2) is in excess of the amount needed to carry out the programs for which the funds were appropriated.

"(b) MATTERS TO BE INCLUDED.—Each report under subsection (a) shall include, set forth separately for each account, estimates of amounts attributable to—

"(1) inflation savings;

"(2) foreign currency savings;

"(3) excess working capital fund cash; and

"(4) all other savings.

"(c) UNANTICIPATED COST INCREASES.—Each such report shall also identify unanticipated cost increases resulting from adverse economic trends.

"(d) SUBMISSION OF REPORTS.—A report shall be submitted to Congress under this section not later than February 1, not later than April 25, and not later than August 15 of each year.

10 USC 2216.

"§ 2216. Annual report on budgeting for inflation

"(a) REPORT ON VARIANCES.—(1) As part of the report required under section 2215 of this title to be submitted not later than February 1 of each year, the Secretary of Defense shall, in the case of each budget account, include a comparison of—

"(A) the amounts appropriated to the Department of Defense to offset anticipated inflation, and

"(B) the amounts estimated, as of the date the report is submitted, to be necessary to offset anticipated inflation.

"(2) In making such estimate, the Secretary shall take into account actual inflation as of the date of such report.

"(b) REQUIREMENT FOR EXPLANATION OF VARIANCES.—The Secretary shall include in the report, in the case of each budget account, the following:

"(1) A discussion of the reasons for any variance between the amounts appropriated to offset anticipated inflation and the amounts estimated, as of the date of such report, to be necessary to carry out the programs for which the appropriations were made.

"(2) An identification of the sources of funds used or proposed to be used to offset any deficiency in the amount appropriated to offset anticipated inflation.

"(3) A description of the disposition or proposed disposition of any amount by which the amount appropriated to offset anticipated inflation exceeds the amount needed for such purpose.

"(c) FISCAL YEARS COVERED BY REPORT.—The comparison and discussion required by this section shall apply to funds available to or for the use of the Department of Defense in the fiscal year during which the report is submitted and in each of the two fiscal years preceding that fiscal year.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"2215. Reports on unobligated balances.
"2216. Annual report on budgeting for inflation.".

(b) REPEAL.—Section 1407 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 745), is repealed. 10 USC 113 note.

(c) EFFECTIVE DATE.—(1) The first comparison and discussion under section 2216 of title 10, United States Code (as added by subsection (a)), shall be included in the first report under section 2215 of such title submitted in 1988 and shall include information relating only to fiscal year 1987. 10 USC 2215 note.

(2) The comparison and discussion included in the first report under section 2215 of such title submitted in 1989 shall include information relating only to fiscal years 1987 and 1988. *Ante*, p. 3980.

SEC. 1308. REPORT ON DEFENSE BUDGETING AND CONTRACT PROCEDURES FOR INFLATION

(a) REPORT ON ECONOMIC PRICE ADJUSTMENT CLAUSES.—The Secretary of Defense shall submit to Congress a report on the current practice of the Department of Defense of including in contracts entered into by the Department of Defense to carry out all or a portion of a program for which a Selected Acquisition Report is required an economic price adjustment clause to provide for adjustments in contract prices to compensate for inflation.

(b) INFORMATION TO BE INCLUDED IN REPORT.—The Secretary shall include in the report required by subsection (a) the following information:

(1) The number of contracts that were entered into by the Department of Defense during fiscal year 1986 to carry out all or a portion of a program for which a Selected Acquisition Report was required for any quarter during such fiscal year and that included an economic price adjustment clause referred to in subsection (a).

(2) A description of the different types of such contracts that were entered into during such fiscal year that included an economic price adjustment clause referred to in subsection (a).

(3) A description of the different types of economic price adjustment clauses used by the Department of Defense in such contracts and the reasons for using a particular type of such clause for a particular type of contract.

(c) OTHER MATTERS TO BE REPORTED.—The Secretary shall also include in the report required by subsection (a) the following:

(1) An explanation of the methodology used by the Department of Defense for determining the inflation index to be used in calculating the inflation rate for various budget accounts of the Department of Defense and items within those accounts.

(2) The feasibility of providing to Congress an annual report on actual rates of inflation experienced under contracts of the Department of Defense that are entered into to carry out all or a portion of a program for which a Selected Acquisition Report is required at any time and that include an economic price adjustment clause to provide adjustments in contract prices to compensate for inflation.

(3) A discussion of the relationship between the rate of actual inflation experienced under contracts referred to in clause (2) and the rate of inflation determined under the methodology referred to in clause (1) for determining the inflation index to be used in calculating the inflation rate for major weapon system accounts.

(d) DEADLINE FOR REPORT.—The report required under this section shall be submitted not later than February 1, 1987.

(e) DEFINITION.—For purposes of this section, the term "Selected Acquisition Report" means a report referred to in section 2432 of title 10, United States Code (as redesignated by section 101 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)).

Ante, p. 994.

SEC. 1309. DEBT COLLECTION

(a) IN GENERAL.—Chapter 165 of title 10, United States Code, is amended by adding at the end the following new section:

Contracts.
10 USC 2780.

"§ 2780. Debt collection

"(a)(1) Subject to paragraph (2), the Secretary of Defense shall enter into one or more contracts with a person for collection services to recover indebtedness owed to the United States (arising out of activities related to Department of Defense) that is delinquent by more than three months.

"(2) The authority of the Secretary to enter into a contract under this section for any fiscal year is subject to the availability of appropriations.

Report.

"(3) Any such contract shall provide that the person submit to the Secretary a status report on the person's success in collecting such debts at least once each six months. Section 3718 of title 31 shall apply to any such contract, to the extent not inconsistent with this subsection.

"(b) The Secretary shall disclose to consumer reporting agencies, in accordance with paragraph (1) of section 3711(f) of title 31, information concerning any debt described in subsection (a) of more than $100 that is delinquent by more than 31 days.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2780. Debt collection.".

SEC. 1310. CONTINGENT REDUCTION OF AUTHORIZATION OF APPROPRIATIONS

(a) CONTINGENCY.—Notwithstanding any other provision of this Act, the amounts authorized to be appropriated by this Act are reduced by the amounts specified in subsection (b) unless a law appropriating funds to or for the military functions of the Department of Defense for fiscal year 1987 provides—

(1) that basic pay, basic allowance for quarters, and basic allowance for subsistence of members of the uniformed services are to be paid on the first day of the month following the month for which the pay and allowances are accrued; or

(2) a reduction in progress payments paid to Department of Defense contractors. Contracts.

(b) AUTHORIZATIONS TO BE REDUCED.—The amounts authorized to be appropriated in the title of this Act specified in the following table in the left-hand column are reduced by the amount specified opposite such title in the right-hand column:

Authorizations in Which Reductions Are To Be Made	Amount of Reduction
Division A	
Title I (Procurement)	$3,008,000,000
Title II (Research, Development, Test, and Evaluation)	$1,174,000,000
Title III (Operations and Maintenance)	$1,602,000,000
Division B	
Title VI	$166,000,000
Division C	
Title I (Department of Energy National Security Programs)	$167,000,000

(c) CONTINGENT REDUCTION IN PAY INCREASE.—Subject to the condition specified in subsection (a), the percentage of the increase in basic pay, basic allowance for quarters, and basic allowance for subsistence for members of the uniformed services, and the increase in pay for cadets and midshipmen, specified in sections 601(b) and 601(c), respectively, of this Act is hereby reduced from 3 percent to 2 percent. 37 USC 1009 note.

PART B—SPECIAL OPERATIONS MATTERS

SEC. 1311. SPECIAL OPERATIONS FORCES

(a) ASSISTANT SECRETARY OF DEFENSE.—Section 136(b) of title 10, United States Code (as amended by section 106 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986), is amended by adding at the end the following new paragraph: *Ante*, p. 997.

"(4) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict. He shall have as his principal duty the overall supervision (including oversight of policy and resources) of special operations activities (as defined in section 167(j) of this title) and low intensity conflict activities of the Department of Defense.".

(b) UNIFIED COMBATANT COMMAND.—(1) Chapter 6 of such title (as added by section 211 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)) is amended by adding at the end the following new section: *Ante*, p. 1011.

10 USC 167.

"§ 167. Unified combatant command for special operations forces

"(a) ESTABLISHMENT.—With the advice and assistance of the Chairman of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall establish under section 161 of this title a unified combatant command for special operations forces (hereinafter in this section referred to as the 'special operations command'). The principal function of the command is to prepare special operations forces to carry out assigned missions.

Ante, p. 1012.

"(b) ASSIGNMENT OF FORCES.—Unless otherwise directed by the Secretary of Defense, all active and reserve special operations forces of the armed forces stationed in the United States shall be assigned to the special operations command.

"(c) GRADE OF COMMANDER.—The commander of the special operations command shall hold the grade of general or, in the case of an officer of the Navy, admiral while serving in that position, without vacating his permanent grade. The commander of such command shall be appointed to that grade by the President, by and with the advice and consent of the Senate, for service in that position.

"(d) COMMAND OF ACTIVITY OR MISSION.—(1) Unless otherwise directed by the President or the Secretary of Defense, a special operations activity or mission shall be conducted under the command of the commander of the unified combatant command in whose geographic area the activity or mission is to be conducted.

"(2) The commander of the special operations command shall exercise command of a selected special operations mission if directed to do so by the President or the Secretary of Defense.

"(e) AUTHORITY OF COMBATANT COMMANDER.—(1) In addition to the authority prescribed in section 164(c) of this title, the commander of the special operations command shall be responsible for, and shall have the authority to conduct, all affairs of such command relating to special operations activities, including the following functions:

Ante, p. 1013.

"(A) Developing strategy, doctrine, and tactics.

"(B) Training assigned forces.

"(C) Conducting specialized courses of instruction for commissioned and noncommissioned officers.

"(D) Validating requirements.

"(E) Establishing priorities for requirements.

"(F) Ensuring combat readiness.

"(G) Developing and acquiring special operations-peculiar equipment and acquiring special operations-peculiar material, supplies, and services.

"(H) Ensuring the interoperability of equipment and forces.

"(I) Formulating and submitting requirements for intelligence support.

"(J) Monitoring the promotions, assignments, retention, training, and professional military education of special operations forces officers.

"(2) The commander of such command shall be responsible for monitoring the preparedness of special operations forces assigned to other unified combatant commands to carry out assigned missions.

"(f) BUDGET.—In addition to the activities of a combatant command for which funding may be requested under section 166(b) of this title, the budget proposal of the special operations command shall include requests for funding for—

Ante, p. 1016.

"(1) development and acquisition of special operations-peculiar equipment; and

"(2) acquisition of other material, supplies, or services that are peculiar to special operations activities.

"(g) INTELLIGENCE AND SPECIAL ACTIVITIES.—This section does not constitute authority to conduct any activity which, if carried out as an intelligence activity by the Department of Defense, would require—

"(1) a finding under section 662 of the Foreign Assistance Act of 1961 (22 U.S.C. 2422); or

"(2) a notice to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives under section 501(a)(1) of the National Security Act of 1947 (50 U.S.C. 413).

"(h) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the activities of the special operations command. Such regulations shall include authorization for the commander of such command to provide for operational security of special operations forces and activities.

"(i) IDENTIFICATION OF SPECIAL OPERATIONS FORCES.—(1) Subject to paragraph (2), for the purposes of this section special operations forces are those forces of the armed forces that—

"(A) are identified as core forces or as augmenting forces in the Joint Chiefs of Staff Joint Strategic Capabilities Plan, Annex E, dated December 17, 1985;

"(B) are described in the Terms of Reference and Conceptual Operations Plan for the Joint Special Operations Command, as in effect on April 1, 1986; or

"(C) are designated as special operations forces by the Secretary of Defense.

"(2) The Secretary of Defense, after consulting with the Chairman of the Joint Chiefs of Staff and the commander of the special operations command, may direct that any force included within the description in paragraph (1)(A) or (1)(B) shall not be considered as a special operations force for the purposes of this section.

"(j) SPECIAL OPERATIONS ACTIVITIES.—For purposes of this section, special operations activities include each of the following insofar as it relates to special operations:

"(1) Direct action.

"(2) Strategic reconnaissance.

"(3) Unconventional warfare.

"(4) Foreign internal defense.

"(5) Civil affairs.

"(6) Psychological operations.

"(7) Counterterrorism.

"(8) Humanitarian assistance.

"(9) Theater search and rescue.

"(10) Such other activities as may be specified by the President or the Secretary of Defense.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"167. Unified combatant command for special operations forces.".

(c) MAJOR FORCE PROGRAM CATEGORY.—The Secretary of Defense shall create for the special operations forces a major force program category for the Five-Year Defense Plan of the Department of

10 USC 167 note.

Defense. The Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, with the advice and assistance of the commander of the special operations command, shall provide overall supervision of the preparation and justification of program recommendations and budget proposals to be included in such major force program category.

(d) PROGRAM AND BUDGET EXECUTION.—To the extent that there is authority to revise programs and budgets approved by Congress for special operations forces, such authority may be exercised only by the Secretary of Defense, after consulting with the commander of the special operations command.

(e) GRADE FOR COMMANDERS OF CERTAIN AREA SPECIAL OPERATIONS COMMANDS.—The commander of the special operations command of the United States European Command, the United States Pacific Command, and any other unified combatant command that the Secretary of Defense may designate for the purposes of this section shall be of general or flag officer grade.

(f) BOARD FOR LOW INTENSITY CONFLICT.—Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended by adding at the end the following new subsection:

President of U.S.

"(f) The President shall establish within the National Security Council a board to be known as the 'Board for Low Intensity Conflict'. The principal function of the board shall be to coordinate the policies of the United States for low intensity conflict.".

(g) DEPUTY ASSISTANT TO THE PRESIDENT FOR NATIONAL SECURITY AFFAIRS FOR LOW INTENSITY CONFLICT.—It is the sense of Congress that the President should designate within the Executive Office of the President a Deputy Assistant to the President for National Security Affairs to be the Deputy Assistant for Low Intensity Conflict.

(h) REPORTS.—(1) Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the plans of the Secretary for implementation of this section, including a description of the progress made on such implementation.

10 USC 167 note.

(2) Not later than one year after the date of the enactment of this Act, the President shall transmit to Congress a report on the capabilities of the United States to conduct special operations and engage in low intensity conflicts. The report shall include a description of the following:

(A) Deficiencies in such capabilities.

(B) Actions being taken throughout the executive branch to correct such deficiencies.

(C) The principal low intensity conflict threats to the interests of the United States.

(D) The actions taken and to be taken to implement this section.

10 USC 167 note.

(i) EFFECTIVE DATE.—Section 167 of title 10, United States Code (as added by subsection (b)), shall be implemented not later than 180 days after the date of the enactment of this Act.

(j) FUNDING FOR FISCAL YEAR 1987.—The Secretary of Defense may spend unobligated funds appropriated to the Department of Defense for fiscal years before fiscal year 1987 in such sums as necessary in order to carry out this section and section 167 of title 10, United States Code (as added by subsection (b)), during fiscal year 1987.

SEC. 1312. SPECIAL OPERATIONS AIRLIFT

(a) MODIFICATION OF EXISTING AIRCRAFT.—Of the funds appropriated for fiscal year 1987 for modification of Air Force aircraft, $106,500,000 shall be available only for the modification of CH/HH-53 airframes to the "PAVE LOW" enhanced configuration.

(b) DEVELOPMENT OF HELICOPTER VARIANTS.—(1) The Secretary of the Army shall proceed, through full and open competition, with development of an MH-47 variant of the CH-47 helicopter. The Secretary shall be designated as the executive agent for a joint services development program for a special operations/combat rescue variant of the HH/MH-60 helicopter.

(2) In conducting such development under paragraph (1), the Secretary shall ensure—

(A) that there is developed one baseline H-60 aircraft capable of operations from both land and shipboard;

(B) that there is maximum practicable logistics commonality among those aircraft to be procured by either the Army, Navy, or Air Force and that the contract for acquisition of the joint services aircraft assures maximum economic-order quantity benefits to the United States; and Contract.

(C) that there is maximum practicable commonality between the avionics architecture selected for the HH/MH-60 variant aircraft and the MH-47 variant aircraft.

(3) Upon successful development and test of the MH-47 aircraft, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on such development and testing. Such report shall include the Secretary's recommendation as to whether the replacement for the HH-53 aircraft as the long-range, strategic rotary-wing aircraft for the Armed Forces should be the MH-47 aircraft or a special operations/combat rescue variant of the CV-22A aircraft (or another advanced-technology aircraft). If the recommendation of the Secretary is in favor of the CV-22A aircraft (or another advanced-technology aircraft), the Secretary of the Army may justify in the budget planning process procurement of the MH-47 aircraft as necessary to fill immediately the heavy-lift mission requirements of the Special Operations Aviation Brigade of the Army. Report.

(4) Upon successful development and test of the HH/MH-60 helicopter under paragraph (1), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing a detailed acquisition strategy for such helicopter. Such acquisition strategy shall— Report.

(A) provide for timely and adequate procurement of the HH/MH-60 aircraft for the Special Operations Aviation Brigade of the Army and for aviation detachments assigned to individual Special Forces groups;

(B) provide for timely and adequate procurement of the HH/MH-60 aircraft for support of naval special warfare units and for fleet combat search and rescue missions; and

(C) provide for timely and adequate replacement for theater special operations/combat search and rescue HH-3 helicopters of the Air Force with the HH/MH-60 helicopter.

(c) REQUIREMENTS OF SPECIAL OPERATIONS COMMANDER.—(1) The commander of the unified combatant command established pursuant to section 167 of title 10, United States Code (as added by section

1311), shall develop a plan to meet the immediate strategic special operations airlift requirements.

Report.

(2) The Secretary of Defense, after consultation with the commander of such command, shall submit to Congress a report, no later than June 1, 1987, setting forth the funding requirements necessary to implement during fiscal year 1988 the plan developed under paragraph (1).

PART C—AUTHORIZATION OF PAYMENT OF CERTAIN EXPENSES WITH RESPECT TO DEVELOPING COUNTRIES

SEC. 1321. AUTHORITY TO PAY EXPENSES OF DEVELOPING COUNTRIES FOR PARTICIPATION IN COMBINED MILITARY EXERCISES

(a) AUTHORITY TO PAY EXPENSES.—(1) Chapter 101 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 2010.

"§ 2010. Participation of developing countries in combined exercises: payment of incremental expenses

"(a) The Secretary of Defense, after consultation with the Secretary of State, may pay the incremental expenses of a developing country that are incurred by that country as the direct result of participation in a bilateral or multilateral military exercise if—

"(1) the exercise is undertaken primarily to enhance the security interests of the United States; and

"(2) the Secretary of Defense determines that the participation by such country is necessary to the achievement of the fundamental objectives of the exercise and that those objectives cannot be achieved unless the United States provides the incremental expenses incurred by such country.

Report.

"(b) The Secretary of Defense shall submit to Congress a report each year, not later than March 1, containing—

"(1) a list of the developing countries for which expenses have been paid by the United States under this section during the preceding year; and

"(2) the amounts expended on behalf of each government.

Regulation.

"(c) The Secretary of Defense shall establish by regulation such accounting procedures as may be necessary to ensure that funds expended under this section are properly expended.

"(d) In this section, the term 'incremental expenses' means the reasonable and proper cost of the goods and services that are consumed by a developing country as a direct result of that country's participation in a bilateral or multilateral military exercise with the United States, including rations, fuel, training ammunition, and transportation. Such term does not include pay, allowances, and other normal costs of such country's personnel.

"(e) Not more than $13,400,000 may be obligated or expended for the purposes of this section during fiscal years 1987 through 1991.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2010. Participation of developing countries in combined exercises: payment of incremental expenses.".

(b) EXPENDITURE LIMITATION FOR FISCAL YEAR 1987.—Not more than $1,600,000 may be obligated or expended for the purposes of

section 2010 of title 10, United States Code (as added by subsection (a)), during fiscal year 1987.

SEC. 1322. AUTHORITY TO PAY CERTAIN EXPENSES OF DEFENSE PERSONNEL OF DEVELOPING COUNTRIES

(a) IN GENERAL.—Chapter 53 of title 10, United States Code, is amended by inserting after section 1050 the following new section:

"§ 1051. Bilateral or regional cooperation programs: payment of personnel expenses 10 USC 1051.

"(a) The Secretary of Defense may pay the travel, subsistence, and similar personal expenses of defense personnel of developing countries in connection with the attendance of such personnel at a bilateral or regional conference, seminar, or similar meeting if the Secretary determines that the attendance of such personnel at such conference, seminar, or similar meeting is in the national security interests of the United States. Defense and national security.

"(b)(1) Except as provided in paragraph (2), expenses authorized to be paid under subsection (a) may be paid on behalf of personnel from a developing country only in connection with travel within the area of responsibility of the unified combatant command (as such term is defined in section 161(c) of this title) in which the developing country is located. *Ante*, p. 1012.

"(2) In a case in which the headquarters of a unified combatant command is located within the United States, expenses authorized to be paid under subsection (a) may be paid in connection with travel of personnel to the United States to attend a bilateral or regional conference, seminar, or similar meeting.

"(3) Expenses authorized to be paid under subsection (a) may not, in the case of any individual, exceed the amount that would be paid under chapter 7 of title 37 to a member of the armed forces of the United States (of a comparable grade) for authorized travel of a similar nature. 37 USC 401 *et seq.*

"(c) In addition to the expenses authorized to be paid under subsection (a), the Secretary of Defense may pay such other expenses in connection with any such conference, seminar, or similar meeting as the Secretary considers in the national security interests of the United States.

"(d) The authority to pay expenses under this section is in addition to the authority to pay certain expenses and compensation of officers and students of Latin American countries under section 1050 of this title. 10 USC 1050.

"(e) Not later than March 1 each year, the Secretary of Defense shall submit to Congress a report containing— Report.

"(1) a list of the developing countries for which expenses have been paid under this section during the preceding fiscal year and

"(2) the amount paid by the United States in the case of each such country.

"(f) During each of fiscal years 1987, 1988, and 1989, not more than $800,000 may be obligated or expended under this section.

"(g) The authority of the Secretary of Defense under this section shall expire on September 30, 1989.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1050 the following new item:

"1051. Bilateral or regional cooperation programs: payment of personnel expenses.".

PART D—MISCELLANEOUS REPORTS

SEC. 1331. ARMY NATIONAL GUARD REPORTING

The Secretary of Defense shall require the Chief of the National Guard Bureau to develop and implement procedures to monitor the backlog of maintenance and repair projects of Army National Guard armories.

SEC. 1332. SUBMARINE OVERHAUL STUDY

(a) STUDY.—The Secretary of the Navy shall conduct a detailed study and investigation on the desirability and feasibility of applying production line techniques for the overhaul of Los Angeles-class submarines.

(b) REPORT.—Not later than May 1, 1987, the Secretary shall submit to Congress a report on the results of such study and investigation, together with such comments and recommendations as the Secretary considers appropriate.

SEC. 1333. REPORT ON LANDING AREA FOR AV-8B HARRIER AIRCRAFT ON IOWA-CLASS BATTLESHIP

Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the feasibility and possible benefits of removing the rear turret from an Iowa-class battleship to create a landing area for AV-8B Harrier aircraft.

SEC. 1334. REPORT ON CLEANUP OF NATIONAL PRESTO INDUSTRIES

Wisconsin.

The Secretary of Defense shall investigate and report to the Committees on Armed Services of the Senate and the House of Representatives by January 1, 1987, on the sources, dates of origin, and responsibility for hazardous waste contamination at the National Presto Industries Plant near Eau Claire, Wisconsin.

PART E—TECHNICAL AND CLERICAL AMENDMENTS

SEC. 1341. TECHNICAL CORRECTION TO DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1985

37 USC 403 note.

(a) CORRECTION OF BAQ SAVE-PAY.—Section 602(a)(2) of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2534), is amended—

(1) by striking out "During the period" and all that follows through "paragraph (1)" and inserting in lieu thereof "(A) During the period described in subparagraph (B)";

(2) by striking out "on or after January 1, 1985, and before the date of any such change" and inserting in lieu thereof "during such period"; and

(3) by adding at the end the following:

"(B) The period referred to in subparagraph (A) is the period beginning on January 1, 1985, and ending on the effective date of a change made by law in the rates of basic allowance for quarters that increases the rates for such allowance to a level not less than 7 percent greater than the rates in effect on January 1, 1985.".

37 USC 403 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1986, or the date of the enactment of this Act, whichever is later.

SEC. 1342. TECHNICAL CORRECTIONS TO PROVISIONS ENACTED BY DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1986

(a) AVIATION PAY.—Paragraph (1) of section 301(a) of title 37, United States Code (as amended by section 635(a)(1)(A) of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 647)), is amended to read as follows:

"(1) involving frequent and regular participation in aerial flight as a crew member, as determined by the Secretary concerned, except for a member who is entitled to incentive pay under section 301a of this title;".

(b) CLARIFICATION OF VHA SAVE PAY.—Section 602(f)(2) of the Department of Defense Authorization Act, 1985 (Public Law 98-525) (as amended by section 603(b) of the Department of Defense Authorization Act, 1986 (99 Stat. 637)), is amended— 37 USC 403a note.

(1) by striking out "departs that station as a result of" in subparagraph (B)(i) and inserting in lieu thereof "changes residence in conjunction with"; and

(2) in subparagraph (C)—

(A) by striking out "Any member" and inserting in lieu thereof "A member"; and

(B) by striking out "under paragraph" and all that follows and inserting in lieu thereof ", except that such a member serving an unaccompanied tour of duty in Alaska or Hawaii may be paid a variable housing allowance based on the residence of the member's dependents in another State.". Alaska. Hawaii.

(c) DENTAL OFFICERS' SAVE PAY.—Section 639(d) of the Department of Defense Authorization Act, 1986 (99 Stat. 651), is amended— 37 USC 302b note.

(1) by striking out "shall be entitled to such pay in an annual amount that is not less than" and inserting in lieu thereof "may (notwithstanding the provisions of such section and in the discretion of the Secretary concerned) be paid such pay, in order to prevent inequities, in an annual amount equal to"; and

(2) by striking out "was entitled on September 30, 1985." and inserting in lieu thereof "would have been entitled on September 30, 1985, in accordance with the status of the officer (as determined by the Secretary concerned) during the period for which the pay is paid. Notwithstanding the preceding sentence, an officer may not be paid special pay by reason of this paragraph in an amount greater than the amount of special pay to which the officer was entitled under such sections on September 30, 1985.".

(d) RESERVE MEDICAL OFFICERS' SPECIAL PAY.—Subparagraph (B) of section 302(h)(1) of title 37, United States Code (as amended by section 640 of the Department of Defense Authorization Act, 1986 (99 Stat. 652)), is amended to read as follows:

"(B) who is on active duty under a call or order to active duty for a period of less than one year;".

(e) REPEAL OF DUPLICATIVE AMENDMENTS.—Subsection (a) of section 1102 of the Department of Defense Authorization Act, 1986 (99 Stat. 708), and the amendments made by that subsection are repealed, and the Arms Export Control Act shall apply as if that subsection had not been enacted. 22 USC 2752, 2752 note, 2753, 2767, 2791. 22 USC 2751 note.

(f) CORRECTION OF SECTION REFERENCE.—Section 719(h)(1) of the Defense Production Act of 1950 (50 U.S.C. App. 2169(h)(1)), as 50 USC app. 2168.

amended by section 934(b) of the Department of Defense Authorization Act, 1986, is amended by striking out "Public Law 92-41" in the third sentence and inserting in lieu thereof "section 105(b)(2) of the Renegotiation Act of 1951".

99 Stat. 700.

50 USC app. 1215.

(g) CORRECTION OF SECTION AMENDED.—Section 522(a)(2) of Department of Defense Authorization Act, 1986 (99 Stat. 631), is amended by striking out "Section 3851(c)" and inserting in lieu thereof "Section 3851(d)", and the subsection inserted by the amendment made by that section is redesignated as subsection (d).

10 USC 3851.

(h) EFFECTIVENESS OF AMENDMENTS.—

37 USC 301 note.

(1) The amendments made by subsections (a) through (d) shall take effect on October 1, 1986, or the date of the enactment of this Act, whichever is later.

50 USC app. 2168 note.

(2) The amendments made by subsections (f) and (g) shall apply as if included in the enactment of the Department of Defense Authorization Act, 1986 (Public Law 99-145).

99 Stat. 583.

SEC. 1343. CLERICAL AMENDMENTS

(a) AMENDMENTS TO TITLE 10.—Title 10, United States Code, is amended as follows:

(1) The text of section 775 (as redesignated by section [502]) is amended to read as follows:

"This chapter applies in—

"(1) the United States;

"(2) the territories, commonwealths, and possessions of the United States; and

"(3) all other places under the jurisdiction of the United States.".

(2) Section 976(a)(1) is amended by striking out the second comma before "(B)".

(3) Section 1035 is amended by striking out "armed force" in subsection (a) and inserting in lieu thereof "armed forces".

(4) Section 1087(b)(2) is amended by striking out "title XVIII" and all that follows and inserting in lieu thereof "title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.)).".

(5) Section 1094(d) is amended by realigning paragraph (2) so as to be indented two ems (rather than four ems).

(6) Section 1208(a)(2)(A) is amended by striking out "after February 2, 1901".

(7) Section 1216(d) is amended by striking out "who is in pay grade" and all that follows through "Air Force" and inserting in lieu thereof "who is a general officer or flag officer or is a medical officer".

(8)(A) Section 1447(2)(A) is amended by striking out "or retainer" both places it appears.

(B) Section 1448(a)(5) is amended by striking out "an annuity by virtue of eligibility under paragraph (1)(B)" in the fourth sentence and inserting in lieu thereof "a reserve-component annuity".

(C) Section 1450(c) is amended by inserting "dependency and indemnity" before "compensation" the first place it appears in the first sentence.

(D) Section 1451(a)(1)(A) is amended by striking out "subsection" and inserting in lieu thereof "section".

(E) Section 1452(h) is amended by striking out "and retainer"

(9) Section 1603 is amended—

(A) by striking out "this" after "Nothing in"; and

(B) by striking out "this sections 1601 and 1602 of this title" and inserting in lieu thereof "those sections".

(10) The heading of section 1623 is amended to read as follows:

"§ 1623. Education, training, and experience requirements: flag and general officers".

(11) Section 2236(b) is amended by striking out ", territory, the Commonwealth of Puerto Rico, or the District of Columbia, as the case may be,".

(12) The item relating to section 2319 in the table of sections at the beginning of chapter 137 is amended to read as follows:

"2319. Encouragement of new competitors.".

(13) Section 2302(2)(A) is amended by striking out "(41 U.S.C." and inserting in lieu thereof "(40 U.S.C.".

(14) Section 2304(b)(2) is amended by striking out "15 U.S.C. 639;" and inserting in lieu thereof "15 U.S.C. 638,".

(15) Section 2407(g)(2) is amended by striking out "the Military Cargo Preference Act of 1904 (10 U.S.C. 2631) and the Cargo Preference Act of 1954 (46 U.S.C. 1241(b))" and inserting in lieu thereof "section 2631 of this title and section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b))".

(16) Section 2672 is amended—

(A) by inserting "(1)" in subsection (a) after "(a)";

(B) by striking out "he or his designee" in clause (A) of subsection (a) and inserting in lieu thereof "the Secretary";

(C) by designating the second sentence of subsection (a) as paragraph (2);

(D) by transferring the third sentence of subsection (a) to the end of the section and designating that sentence as subsection (c); and

(E) by striking out "**interest**" in the section heading and inserting in lieu thereof "**interests**".

(17)(A) Section 2676(c)(2)(B) is amended by striking out "the agreed" and all that follows through "exceeds the" and inserting in lieu thereof "the agreed price for the land or, in the case of land to be acquired by condemnation, the amount to be deposited with the court as just compensation for the land, exceeds the".

(B) The amendment made by subparagraph (A) shall take effect as if included in the enactment of section 802(2) of the Military Construction Authorization Act, 1985 (Public Law 98-407; 98 Stat. 1519). 10 USC 2676 note.

(18) Section 2683(b) is amended by striking out "this" before "subsection (a)".

(19) Section 2775 is amended—

(A) in subsection (a)(1), by striking out "it is" and all that follows through "that the" and inserting in lieu thereof "(as determined under regulations prescribed by the Secretary of Defense or the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy) the";

(B) in subsection (b)—

(i) by inserting a comma after "Secretary of Defense";

(ii) by striking out "when the Coast Guard" and inserting in lieu thereof "with respect to the Coast Guard when it"; and

(iii) by inserting a comma after "Navy"; and

(C) in subsection (e), by striking out "when the Coast Guard" and inserting in lieu thereof "with respect to the Coast Guard when it".

10 USC 2809.

(20) Section 2809 is amended—

(A) in subsection (a)(1)—

(i) by striking out "contracts" and inserting in lieu thereof "a contract";

(ii) by striking out "facilities" the first place it appears and inserting in lieu thereof "a facility";

(iii) by striking out "military installations" and inserting in lieu thereof "a military installation";

(iv) by inserting a comma after "waste water treatment";

(v) by striking out "cases" and inserting in lieu thereof "a case";

(vi) by striking out "facilities" the second place it appears and inserting in lieu thereof "facility"; and

(vii) by striking out "long-term contracts" and inserting in lieu thereof "a long-term contract";

(B) in subsection (a)(2), by striking out "subsection (a)" and inserting in lieu thereof "this section";

(C) in subsection (a)(3), by striking out "twenty" and inserting in lieu thereof "20";

(D) in subsection (a)(4), by striking out "the" before "Congress"; and

(E) in subsection (b), by striking out "the authority of subsection (a) of".

(21)(A) Section 2860 is amended—

(i) by striking out "defense agency" and inserting in lieu thereof "to the Secretary of Defense";

(ii) by inserting "for obligation" after "remain available"; and

(iii) by striking out "the" before "appropriation Acts".

(B) The item relating to that section in the table of sections at the beginning of subchapter III of chapter 169 is amended by striking out the last three words.

(22) The items relating to chapter 138 in the table of chapters at the beginning of subtitle A, and in the table of chapters at the beginning of part IV of subtitle A, are amended by striking out "2321" and inserting in lieu thereof "2341".

(23) Section 5155(c) is amended by striking out "commodore" and inserting in lieu thereof "rear admiral (lower half)".

(24) The heading of section 5442 is amended by striking out the second colon and inserting in lieu thereof a semicolon.

(25) Section 1051(d) is amended—

(A) by striking out "that title" in paragraph (1) and inserting in lieu thereof "title 37"; and

(B) by striking out "and 'uniformed services' have the meanings given those terms" in paragraph (2) and inserting in lieu thereof "has the meaning given that term".

(b) AMENDMENTS TO TITLE 37.—

(1) Section 302(i) of title 37, United States Code, is amended by striking out "paragraph (1) of this subsection" and inserting in lieu thereof "subsection (c)(2) or (f) of this section".

(2) Section 404(d)(1)(C) of such title is amended by striking out "clause (1) of this subsection" and inserting in lieu thereof "subparagraph (A) of this paragraph".

(3) The heading of section 405a of such title is amended to read as follows:

"§ 405a. Travel and transportation allowances: departure allowances".

(c) AMENDMENTS TO TITLE 14.—Sections 256(b) and 288(a) of title 14, United States Code, are amended by striking out "commodore" and inserting in lieu thereof "rear admiral (lower half)".

PART F—MISCELLANEOUS

SEC. 1351. LIMITATION ON SOURCE OF FUNDS FOR NICARAGUAN DEMOCRATIC RESISTANCE

10 USC 114 note.

(a) LIMITATION.—Notwithstanding title II of the Military Construction Appropriations Act, 1987, or any other provision of law, funds appropriated or otherwise made available to the Department of Defense for any fiscal year for operation and maintenance may not be used to provide assistance for the democratic resistance forces in Nicaragua. If funds appropriated or otherwise made available to the Department of Defense for any fiscal year are authorized by law to be used for such assistance, funds for such purpose may only be derived from amounts appropriated or otherwise made available to the Department for procurement (other than ammunition).

(b) REPORT.—Before funds appropriated or otherwise made available to the Department of Defense are released to be used for the purpose described in subsection (a), the Secretary of Defense shall submit to Congress a report describing the specific source of such funds.

SEC. 1352. BUDGET ACCOUNTING FOR NEW SPACE SHUTTLE

Funds appropriated for the procurement of a shuttle orbiter by the National Aeronautics and Space Administration to replace the Challenger space shuttle orbiter may not be charged by any official of the executive or legislative branch against major budget function category 050 (National Defense).

SEC. 1353. PROMPT REPORTING OF INTELLIGENCE ON TERRORIST THREATS

(a) IN GENERAL.—(1) Subject to subsection (b), the Secretary of Defense shall instruct all appropriate officials of the Department of Defense to take such action as may be necessary to ensure that all credible, time-sensitive intelligence received by or otherwise available to United States officials concerning potential terrorist threats to—

(A) United States citizens or facilities (including citizens and facilities overseas); or

(B) any other potential target for terrorist activities designated by the Secretary,

is reported promptly to the headquarters or office of the Department of Defense concerned.

(2) The Secretary shall instruct such officials that such intelligence is to be reported through the most appropriate and expeditious communications facilities available to the Department of Defense.

(b) WAIVER.—The Secretary of Defense shall not be required to issue the instructions referred to in subsection (a) if—

(1) the Secretary determines that such instructions would be inappropriate or unwise; and

(2) before March 1, 1987, notifies Congress of that determination and includes with the notification an explanation of the basis for such determination.

SEC. 1354. USE OF MARINE MAMMALS FOR NATIONAL DEFENSE PURPOSES

(a) IN GENERAL.—Chapter 645 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 7524.

"§ 7524. Marine mammals: use for national defense purposes

"(a) AUTHORITY.—Subject to subsection (c), the Secretary of Defense may authorize the taking of not more than 25 marine mammals each year for national defense purposes. Any such authorization may be made only with the concurrence of the Secretary of Commerce and after consultation with the Marine Mammal Commission established by section 201 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1401).

"(b) HUMANE TREATMENT REQUIRED.—A mammal taken under this section shall be captured, supervised, cared for, transported, and deployed in a humane manner consistent with conditions established by the Secretary of Commerce.

"(c) PROTECTION FOR ENDANGERED SPECIES.—A mammal may not be taken under this section if the mammal is determined to be a member of an endangered or threatened species under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533).

"(d) APPLICATION OF OTHER ACT.—This section applies without regard to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new subsection:

"7524. Marine mammals: use for national defense purposes.".

SEC. 1355. REIMBURSEMENT FOR INCIDENTAL EXPENSES INCURRED WHILE PROVIDING VOLUNTARY SERVICES

Section 1588 of title 10, United States Code, is amended by adding at the end the following new subsections:

"(c) The Secretary concerned may provide for reimbursement of incidental expenses which are incurred by a person providing voluntary services under subsection (a) as an ombudsman or for a family service center program. The Secretary shall determine which expenses are eligible for reimbursement under this subsection. Any such reimbursement may only be made from nonappropriated funds.".

SEC. 1356. DEFENSE OF LEGAL MALPRACTICE SUITS

(a)(1) IN GENERAL.—Chapter 53 of title 10, United States Code (as amended by section 662), is amended by adding at the end the following new section:

"§ 1054. Defense of certain suits arising out of legal malpractice 10 USC 1054.

"(a) The remedy against the United States provided by sections 1346(b) and 2672 of title 28 for damages for injury or loss of property caused by the negligent or wrongful act or omission of any person who is an attorney, paralegal, or other member of a legal staff within the Department of Defense (including the National Guard while engaged in training or duty under section 316, 502, 503, 504, or 505 of title 32), in connection with providing legal services while acting within the scope of the person's duties or employment, is exclusive of any other civil action or proceeding by reason of the same subject matter against the person (or the estate of the person) whose act or omission gave rise to such action or proceeding.

"(b) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) (or the estate of such person) for any such injury. Any person against whom such a civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person (or an attested true copy thereof) to such person's immediate superior or to whomever was designated by the head of the agency concerned to receive such papers. Such person shall promptly furnish copies of the pleading and process therein—

"(1) to the United States attorney for the district embracing the place wherein the action or proceeding is brought;

"(2) to the Attorney General; and

"(3) to the head of the agency concerned.

"(c) Upon a certification by the Attorney General that a person described in subsection (a) was acting in the scope of such person's duties or employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court—

"(1) shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending; and

"(2) shall be deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (a) is not available against the United States, the case shall be remanded to the State court.

"(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, and with the same effect. Claims.

"(e) For purposes of this section, the provisions of section 2680(h) of title 28 shall not apply to a cause of action arising out of a negligent or wrongful act or omission in the provision of legal assistance.

"(f) The head of the agency concerned may hold harmless or provide liability insurance for any person described in subsection (a) for damages for injury or loss of property caused by such person's negligent or wrongful act or omission in the provision of authorized legal assistance while acting within the scope of such person's duties if such person is assigned to a foreign country or detailed for service with an entity other than a Federal department, agency, or Insurance.

instrumentality or if the circumstances are such as are likely to preclude the remedies of third persons against the United States described in section 1346(b) of title 28, for such damage or injury.

"(g) In this section, the term 'head of the agency concerned' means the Secretary of Defense or the Secretary of a military department.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1054. Defense of certain suits arising out of legal malpractice.".

10 USC 1054 note.

(b) EFFECTIVE DATE.—Section 1054 of title 10, United States Code, as added by subsection (a), shall apply only to claims accruing on or after the date of the enactment of this Act, regardless of when the alleged negligent or wrongful act or omission occurred.

SEC. 1357. OFF-POST RENTAL HOUSING LEASE INDEMNITY PILOT PROGRAM

(a) ESTABLISHMENT OF PROGRAM.—(1) The Secretary of Defense shall establish a pilot program to test the feasibility of implementing a program under which the Secretary of a military department may guarantee compensation of any person who leases a rental unit to any member of the Armed Forces under the jurisdiction of the Secretary for any breach of any lease or any damage to the rental unit by the member.

(2) The program referred to in paragraph (1) shall be established not later than the end of the 90-day period beginning on the date of the enactment of this Act.

(b) CONTENT OF PROGRAM.—(1) In accordance with action taken by the Secretary of Defense under subsection (a), the Secretary of each military department shall designate one military installation in the United States that is under the jurisdiction of such Secretary to participate in the program established under subsection (a).

(2) For purposes of carrying out this section, the Secretary of a military department, to the extent funds are provided in advance in appropriation Acts, may enter into an agreement with any person who leases a rental unit to any member of the Armed Forces under the jurisdiction of the Secretary. Any agreement under this paragraph shall provide that—

(A) the term of the agreement shall not be for more than one year;

(B) the member shall not pay a security deposit;

(C) the Secretary (except as provided in subparagraphs (D) and (E)) shall compensate the lessor for any breach of the lease by the member and for any damage to the rental unit caused by the member or by any guest or dependent of the member;

(D) the total liability of the Secretary for any breach of the lease or for any damage described in subparagraph (C) shall not exceed an amount equal to the amount that the Secretary determines would have been required by the lessor as a security deposit absent the agreement authorized in this paragraph;

(E) the Secretary shall not compensate the lessor for any breach of the lease or for any damage described in subparagraph (C) until the lessor exhausts any remedies available to the lessor against the member for the breach or damage; and

(F) the Secretary shall be subrogated to the rights of the lessor in any case in which the Secretary compensates the lessor

for any breach of the lease or for any damage described in subparagraph (C).

(3) Any authority of the Secretary of a military department under this section shall be exercised under regulations prescribed by the Secretary of Defense.

(c) RECOVERY FROM MEMBER.—Any Secretary who compensates any lessor under subsection (b) for any damage to a rental unit or any breach of a lease by a member of the Armed Forces may issue a special order under section 1007 of title 37, United States Code, to authorize the withholding from the pay of the member of an amount equal to the amount paid by the Secretary to the lessor as compensation for the breach or damage.

(d) REPORT REQUIREMENT.—(1) The Secretary of Defense shall submit to Congress a report concerning the pilot program established under subsection (a), including—

(A) findings and conclusions of the Secretary with respect to the pilot program; and

(B) recommendations as to the feasibility of implementing a program similar to the pilot program on all military installations.

(2) The report under paragraph (1) shall be submitted not later than the end of the 18-month period following the date of the establishment of the pilot program under subsection (a).

(e) TERMINATION OF AUTHORITY.—The authority of the Secretary of a military department to enter into a contract under subsection (b) shall terminate at the end of the 18-month period following the date of the establishment of the pilot program under subsection (a).

SEC. 1358. WAGE RATE FOR CERTAIN CORPS OF ENGINEERS EMPLOYEES 5 USC 5343 note.

(a) WAGE DETERMINATIONS.—Notwithstanding any other provision of law, in the administration of the last undesignated paragraph preceding chapter 6 of title I of Public Law 97-257 (96 Stat. 832), the individuals described in subsection (b) shall be paid wages determined in the same manner as that established in such undesignated paragraph with respect to United States Army Corps of Engineers employees paid from Corps of Engineers Special Power Rate Schedules.

(b) COVERED INDIVIDUALS.—The individuals described in subsection (a) are electric powerplant controllers and powerplant shift operators (as defined under regulations prescribed by the Secretary of Defense) assigned to the Soo Locks Power Plant in the Detroit District in the North Central Region of the United States Army Corps of Engineers. Michigan.

(c) EFFECTIVE DATE.—Subsection (a) applies with respect to pay periods commencing on or after the date of the enactment of this Act.

SEC. 1359. REIMBURSEMENT FOR TRANSFERRED DEFENSE INDUSTRIAL RESERVE EQUIPMENT

(a) IN GENERAL.—Section 4 of the Defense Industrial Reserve Act (50 U.S.C. 453) is amended—

(1) by inserting "(a)" before "To execute"; and

(2) by adding at the end the following:

"(b)(1) The Secretary of a military department to which equipment or other property is transferred from the Defense Industrial Reserve shall reimburse appropriations available for the purposes of

the Defense Industrial Reserve for the full cost (including direct and indirect costs) of—

"(A) storage of such property;

"(B) repair and maintenance of such property; and

"(C) overhead allocated to such property.

Regulations.

"(2) The Secretary of Defense shall prescribe regulations establishing general policies and fee schedules for reimbursements under paragraph (1).".

50 USC 453 note.

(b) EFFECTIVE DATE.—(1) The regulations required to be prescribed by subsection (b) of section 4 of the Defense Industrial Reserve Act, as added by subsection (a), shall be prescribed not later than 60 days after the date of the enactment of this Act.

(2) The requirement for reimbursement under such subsection shall apply with respect to property transferred from the Defense Industrial Reserve to a military department after the date on which such regulations are prescribed.

SEC. 1360. EXTENSION OF EXEMPTION FOR DOD POLYGRAPH TEST PROGRAM

Section 1221(e) of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 727), is amended—

(1) by striking out "or" at the end of clause (2);

(2) in clause (3)—

(A) by striking out "cryptologic" and inserting in lieu thereof "cryptographic"; and

(B) by striking out the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new clause:

"(4) to any polygraph examination conducted under the authorization granted by the Secretary of Defense on August 31, 1982, on a person who is participating in a national program—

"(A) which has as its purpose the collection of specialized intelligence through reconnaissance;

"(B) which is under the purview of the Director of Central Intelligence; and

"(C) for which a requirement for a polygraph examination was established on or before October 1, 1985, as a condition for participation in such program.

The number of examinations conducted pursuant to such authorization during fiscal year 1987 may not exceed the number conducted pursuant to such authorization during fiscal year 1986.".

SEC. 1361. IDENTIFICATION OF FACILITIES FOR THE DETENTION OF CERTAIN ALIENS

Report.

Not later than January 15, 1987, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing—

(1) a list of facilities under the jurisdiction of the Department of Defense that are suitable for use for the detention of Marielito criminal aliens and that are not otherwise needed by the Department of Defense; and

(2) a statement of the estimated costs of using such facilities for the detention of such aliens.

SEC. 1362. CORRECTIONAL FACILITIES AT FORT RILEY, KANSAS

The correctional facilities at Fort Riley, Kansas, may not be closed, transferred, or relocated unless—

(1) the Secretary of Defense transmits to Congress a written notice of the intent to close, transfer, or relocate such facilities, as the case may be; and

(2) the 180-day period beginning on the date on which Congress receives such notice has expired.

SEC. 1363. MINUTEMAN EDUCATION PROGRAM

(a) RESTRICTION ON CHANGE IN SOURCE.—The Secretary of the Air Force may not change the source providing graduate educational services for the Minuteman Education Program from the source providing such services on May 1, 1986, until 60 days after the date on which the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report setting forth the Secretary's decision to change the source of such services and the reasons for such decision. Report.

(b) SUNSET PROVISION.—The provisions of subsection (b) expire one year after the date of the enactment of this Act.

SEC. 1364. FOREIGN ESPIONAGE ACTIVITIES IN THE UNITED STATES

(a) CONGRESSIONAL FINDINGS AND POLICIES.—The Congress makes the following findings: Union of Soviet Socialist Republics.

(1) The conduct of espionage activities (including the collection of classified and unclassified technological information) by the diplomatic and consular missions of the Soviet Union and certain other foreign diplomatic and consular missions within the United States (as well as by certain employees of international organizations acting on behalf of the Soviet Union or certain other foreign countries) represents a grave threat to the security of the United States.

(2) The conduct of such activities constitutes a gross abuse of the rights, privileges, and immunities accorded to persons assigned to such missions, including the right to enter and reside within the United States (or any particular area thereof).

(3) The Soviet Union and certain other countries take advantage of the free and open society of the United States to carry out espionage against the United States.

(4) The United States should take immediate and effective action to counteract espionage by the Soviet Union and certain other countries.

(5) It is fully consistent with international law and the international obligations of the United States to take reasonable measures to prevent such activities, including measures which would (A) impose restrictions on the travel of such foreign officials within the United States, and (B) close to such officials certain areas of the United States. International agreements.

(b) CONGRESSIONAL POLICY.—The Congress declares that it is the policy of the United States to impose appropriate restrictions (including travel restrictions) on the official representatives of any foreign country, as well as upon the nationals of such country who are employed by international organizations, when the President determines that a pattern of abuses by that nation exists. International organizations.

(c) REPORT ON FOREIGN ESPIONAGE.—(1) The President shall submit to the Committee on Foreign Relations and the Select President of U.S.

Committee on Intelligence of the Senate and to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives a report on foreign espionage in the United States. Such report shall include the following:

(A) An assessment of the effect of espionage activities in the United States conducted by the Soviet Union and certain other countries whose intelligence activities pose a threat to the national security of the United States.

(B) An assessment of how such countries use the freedom to travel within the United States, accorded to the officials of such countries, to engage in espionage activities against the United States.

Defense and national security.

(C) An assessment of the advantages and disadvantages of the principle of diplomatic reciprocity and the consequences of such reciprocity on the national security of the United States.

(D) Recommendations for measures to curtail espionage against the United States, including the following:

(i) Prohibiting the personnel of certain foreign governments and certain international organizations from traveling in designated areas of the United States.

(ii) Identifying the governments to whose nationals such restrictions are to apply.

(iii) Identifying those foreign governments which have closed certain areas of their countries to United States diplomatic and consular personnel and, in the case of each such country, the number of such closed areas and the size of such areas in relation to the total area of the country.

(2) The report shall be prepared under the direction of the Secretary of State and in close cooperation with the Secretary of Defense, the Director of Central Intelligence, and the Director of the Federal Bureau of Investigation.

(3) The report required by paragraph (1) shall be submitted in both a classified and unclassified version.

(4) Such report shall be submitted not later than March 1, 1987.

SEC. 1365. CIVIL AIR PATROL

(a) PAYMENT OF EXPENSES OF PLACING EQUIPMENT INTO SERVICEABLE CONDITION.—Section 9441(b)(9) of title 10, United States Code, is amended by striking out "a major item of equipment furnished to the Civil Air Patrol under clause (1)" and inserting in lieu thereof "major items of equipment (including aircraft, motor vehicles, and communications equipment) owned by the Civil Air Patrol".

10 USC 9441 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to funds appropriated for fiscal years after fiscal year 1986.

SEC. 1366. AMENDMENT OF MILITARY SELECTIVE SERVICE ACT TO PROVIDE ELIGIBILITY FOR BENEFITS TO CERTAIN PERSONS WHO FAIL TO REGISTER

Section 12 of the Military Selective Service Act (50 U.S.C. App. 462) (relating to penalties) is amended—

(1) by striking out "Any person" in subsection (f)(1) and inserting in lieu thereof "Except as provided in subsection (g), any person"; and

(2) by adding at the end the following new subsection:

"(g) A person may not be denied a right, privilege, or benefit under Federal law by reason of failure to present himself for and submit to registration under section 3 if—

50 USC app. 2216.

"(1) the requirement for the person to so register has terminated or become inapplicable to the person; and

"(2) the person shows by a preponderance of the evidence that the failure of the person to register was not a knowing and willful failure to register.".

SEC. 1367. CORRECTION OF EFFECTS OF CONTAMINATION AT ROCKY MOUNTAIN ARSENAL

(a) USE OF AMOUNTS RECEIVED FROM LITIGATION.—(1) Any amount received as the result of the litigation described in paragraph (2) (whether from a judgment rendered in such litigation or from a settlement of such litigation) shall be available, without fiscal year limitation, to the Secretary of the Army only for purposes of correcting the effects of contamination at the Rocky Mountain Arsenal.

(2) The litigation referred to in paragraph (1) is any litigation between the United States and any person concerning the liability of such person for correcting the effects of contamination at the Rocky Mountain Arsenal or for cost recovery relating to correcting the effects of such contamination.

(b) ACCEPTANCE OF SERVICES.—In partial settlement of the litigation described in subsection (a), the United States may accept services that correct the effects of contamination at the Rocky Mountain Arsenal.

SEC. 1368. SENSE OF CONGRESS REGARDING THE DEATH OF LIEUTENANT COLONEL ARTHUR D. NICHOLSON, JUNIOR

(a) FINDINGS.—The Congress finds the following:

(1) On March 24, 1985, Lieutenant Colonel Arthur D. Nicholson, Junior, of the United States Army (then holding the grade of major) was carrying out his official duties as a liaison officer of the United States Military Liaison Mission.

(2) On that date, Lieutenant Colonel Nicholson was performing his duties in uniform and in an open and direct manner, according to orders, and was conducting himself in a way which was neither provocative nor beyond the limits of proper conduct for members of the United States Military Liaison Mission, and which was well understood and accepted by the Soviet Union.

(3) On that date, a member or members of the armed forces of the Soviet Union shot and fatally wounded Lieutenant Colonel Nicholson without warning and without provocation.

Union of Soviet Socialist Republics.

(4) After having shot Lieutenant Colonel Nicholson, members of the armed forces of the Soviet Union forcibly restrained Lieutenant Colonel Nicholson's aide and prevented him from providing medical assistance to Lieutenant Colonel Nicholson, so that Lieutenant Colonel Nicholson died slowly and with great suffering, which death and suffering might have been prevented had Lieutenant Colonel Nicholson been permitted to receive assistance.

(5) The death of Lieutenant Colonel Nicholson was an untimely, unnecessary, cold-blooded murder committed against a United States military officer in pursuit of his official duties by a member or members of the armed forces of the Soviet Union, in a painful and degrading manner.

Union of Soviet Socialist Republics.

(b) SENSE OF CONGRESS.—The Congress deplores and condemns the cold-blooded murder of Lieutenant Colonel Arthur D. Nicholson, Junior. It is the sense of Congress that the Government of the Soviet Union should—

(1) apologize for and renounce the murder of Lieutenant Colonel Nicholson; and

(2) indemnify the family of Lieutenant Colonel Nicholson financially.

SEC. 1369. DEADLINE FOR APPOINTMENT OF MEMBERS OF COMMISSION ON MERCHANT MARINE AND DEFENSE

President of U.S.

The President shall appoint members of the Commission on Merchant Marine and Defense as required by section 1536(c)(1)(C) of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2633), not later than the end of the 30-day period beginning on the date of the enactment of this Act.

SEC. 1370. AVAILABILITY OF NUCLEAR NON-PROLIFERATION INFORMATION TO DEPARTMENT OF DEFENSE

Section 602 of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3282) is amended—

(1) by inserting "the Department of Defense," in subsection (c) after "Department of State,"; and

(2) by adding at the end the following new subsection:

"(f)(1) The Secretary of Defense shall have access, on a timely basis, to all information regarding nuclear proliferation matters which the Secretary of State or the Secretary of Energy has or is entitled to have. Such access shall include access to all communications, materials, documents, and records relating to nuclear proliferation matters.

"(2) This subsection does not apply to any intradepartmental document of the Department of State or the Department of Energy, or any portion of such document, that is solely concerned with internal, confidential advice on policy concerning the conduct of interagency deliberations on nuclear proliferation matters.".

SEC. 1371. NUCLEAR WINTER STUDY AND REPORT

(a) STUDY.—The Secretary of Defense shall conduct a comprehensive study on the atmospheric, climatic, biological, health, and environmental consequences of nuclear explosions and nuclear exchanges and the implications that such consequences have for the nuclear weapons, arms control, and civil defense policies of the United States.

(b) REPORT.—Not later than November 1, 1987, the Secretary shall submit to the President and the Congress an unclassified report suitable for release to the public, with classified addenda if necessary, on the study conducted under subsection (a). The report shall contain the following:

(1) A detailed review and assessment of the findings in the current body of domestic and international scientific literature on the atmospheric, climatic, biological, health, and environmental consequences of nuclear explosions and nuclear exchanges.

(2) A thorough evaluation of the implications that such findings have on—

(A) the nuclear weapons policy of the United States, especially with regard to strategy, targeting, planning, command, control, procurement, and deployment;

(B) the nuclear arms control policy of the United States; and

(C) the civil defense policy of the United States.

(3) A discussion of the manner in which the results of such evaluation of policy implications will be incorporated into the nuclear weapons, arms control, and civil defense policies of the United States.

(4) An analysis of the extent to which current scientific findings on the consequences of nuclear explosions are being studied, disseminated, and used in the Soviet Union.

(5) A plan for a five-year research program to advance understanding of nuclear winter and an estimate of the funding necessary to carry out such a research program.

(c) EVALUATION OF REPORT.—Upon submission of the report under subsection (b), the Secretary shall contract with the National Academy of Sciences to—

(1) make an independent evaluation of the material contained in the report; and

(2) not later than April 1, 1988, submit a report to the Secretary of Defense and to the Committees on Armed Services of the Senate and of the House of Representatives, setting forth the results of the evaluation and any recommendations pertaining to the contents of the report, including the plan for the five-year research program.

Report.

SEC. 1372. SALE OF TWO NAVAL VESSELS

(a) AUTHORIZATION OF SALE TO TAIWAN.—The Secretary of the Navy is hereby authorized to sell two patrol gunboats of the Tacoma class to the Coordination Council for North American Affairs, representing the people on Taiwan, in accordance with section 7307(b)(1) of title 10, United States Code, and the Taiwan Relations Act (Public Law 96-8; 22 U.S.C. 3301 et seq.).

(b) CONDITIONS.—A sale of a vessel under subsection (a)—

(1) shall be subject to such terms and conditions as the President may require; and

(2) shall be for a price not less than the value in United States dollars of the vessel involved.

(c) RECOVERY OF UNITED STATES EXPENSES.—Any expense of the United States in connection with the transfer of a vessel sold under subsection (a) shall be charged to the purchaser.

(d) EXPIRATION OF AUTHORITY.—The authority of the Secretary of the Navy under subsection (a) expires at the end of the two-year period beginning on the date of the enactment of this Act.

SEC. 1373. DRUG INTERDICTION

(a) COMPREHENSIVE PROGRAM.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a comprehensive program designed to interdict aircraft, vessels, and vehicles carrying illegal drugs into the United States. The program shall include the following:

President of U.S.
Aircraft and air carriers.
Vessels.
Motor vehicles.

(1) A clear division of authority in drug interdiction and drug enforcement efforts among all Federal law enforcement agencies involved in those efforts and a mechanism which will

insure maximum coordination and cooperation among those agencies.

Law enforcement and crime.

(2) Designation of a lead agency principally responsible for each of the following areas: marine and air drug interdiction beyond the borders of the United States; domestic and border drug interdiction efforts; and domestic and foreign drug law enforcement efforts.

(3) A requirement that such lead agency shall be advised where possible in advance of activities by any other agency in its area of responsibility and that, upon objection by the lead agency, the matter shall be referred to the National Drug Enforcement Policy Board for resolution.

Coast Guard.

(4) A comprehensive plan to enhance the capabilities, manpower and equipment of the United States Coast Guard by the end of fiscal year 1989 in order to substantially increase the role of the Coast Guard in drug interdiction and enforcement efforts. Such plan shall specify requirements for command and control between the Coast Guard and the Department of Defense and civilian drug law enforcement and interdiction agencies.

10 USC 371 *et seq.*

(5) A comprehensive plan to maximize, to the extent it does not adversely affect military preparedness and consistent with the provisions of chapter 18 of title 10, United States Code, assistance by the Department of Defense to other agencies in the drug enforcement and interdiction effort.

(6) A requirement that maximum use be made of existing Department of Defense and Coast Guard command and control networks as well as other available military resources, including equipment, intelligence, and training capabilities.

President of U.S.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report discussing the following:

(1) Recommendations for amendments to chapter 18 of title 10, United States Code, to allow more efficient use of the Armed Forces in combatting illegal drug trafficking.

(2) The legal consequences of amending chapter 18 of title 10, United States Code, to permit the direct participation of members of the Armed Forces in the interdiction of vessels or aircraft, search and seizure, arrest, or other similar activity in the assistance of civilian law enforcement officials.

(3) The amount of training, the cost of training, and the number of military personnel required to effectuate the changes referred to in paragraph (2).

Armed Forces.
Aircraft and air carriers.
Vessels.

(4) The effect on military preparedness of a drug interdiction program that would require the Armed Forces to halt the unlawful penetration of the United States borders by aircraft and vessels carrying narcotics and that would use military personnel to locate, pursue, and seize such vessels and aircraft and to arrest their crews.

(5) The costs in the areas of procurement, operation and maintenance, and personnel which would be necessary to restore military preparedness to the level existing before commencement of the program described in paragraph (4).

Alaska.
Hawaii.

(6) The cost and number of aircraft, vessels, and personnel needed to seal the borders of the United States, including Alaska and Hawaii, to interdict the unlawful penetration of aircraft, vessels, and ground traffic carrying narcotics.

(7) The cost and number of aircraft and personnel needed to provide continuous aerial radar coverage of the United States in order to interdict the unlawful penetration of aircraft carrying narcotics.

(8) The cost and number of rotor wing and fixed wing aircraft needed to pursue and seize intruding aircraft detected by the radar coverage referred to in paragraph (7) including a plan for the deployment of such rotor wing and fixed wing aircraft.

(9) The effect of carrying out the program referred to in paragraph (4) of the United States' ability to meet its defense responsibilities, particularly to members of the North Atlantic Treaty Organization, Japan, Korea, and Australia.

Japan.
Korea.
Australia.

(c) ASSISTANCE TO AGENCIES.—Section 374 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) In the case of a request from a head of an agency specified in subsection (a), the Secretary shall provide to that agency such assistance as the Secretary considers appropriate to carry out that agency's drug interdiction and enforcement responsibilities.".

(d) RELATIONSHIP TO CHAPTER 18.—Nothing in this section shall be construed to abrogate the restrictions contained in chapter 18 of title 10, United States Code.

10 USC 371 *et seq.*

SEC. 1374. GRANTS TO THE HENRY M. JACKSON FOUNDATION

(a) IN GENERAL.—The Secretary of Defense shall make grants to the Henry M. Jackson Foundation (a nonprofit corporation operating under the laws of the District of Columbia) to support the ongoing educational program of the Foundation. Purposes for which funds provided under this section may be used to include scholarships, fellowships, professorships, lectures and symposia, exchanges and other educational initiatives at national institutions of higher education.

(b) TERMS AND CONDITIONS OF GRANTS.—The purposes, terms, and conditions of grants made under this section shall be prescribed in an agreement to be entered into between the Secretary and the Foundation.

(c) AUTHORITY TO USE INTEREST INCOME.—If funds made available to the Foundation under this section are invested by the Foundation (or any of its subgrantees) pending the disbursement of those funds, any interest realized from such investment shall not be required to be deposited in the Treasury if it is used for the purposes for which the funds were made available.

(d) SOURCE OF FUNDS.—Grants under this section shall be made from any funds available to the Department of Defense for obligation.

(e) AMOUNT AND DEADLINE FOR MAKING GRANTS.—The Secretary shall make grants under this section in the amount of $10,000,000 not later than January 1, 1987.

SEC. 1375. BUDGET ACCOUNTING FOR NEW SPACE SHUTTLE

Funds appropriated for the procurement of a shuttle orbiter by the National Aeronautics and Space Administration to replace the Challenger space shuttle orbiter may not be charged by any official of the executive or legislative branch against major budget function category 050 (National Defense).

TITLE XIV—BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION PROGRAM

Barry Goldwater Scholarship and Excellence in Education Act.
20 USC 4701 note.

SEC. 1401. SHORT TITLE

This title may be cited as the "Barry Goldwater Scholarship and Excellence in Education Act".

20 USC 4701.

SEC. 1402. FINDINGS

The Congress makes the following findings:

Arizona.

(1) Senator Barry Goldwater of the State of Arizona has served his country for 56 years as a soldier and statesman, including service in the United States Senate for a period of 30 years.

(2) Senator Goldwater has a distinguished record as a Senator, including service as Chairman of the Select Committee on Intelligence of the Senate and as Chairman of the Committee on Armed Services of the Senate.

(3) Senator Goldwater has long maintained a special interest in the education of America's youth, particularly in the fields of science and mathematics.

(4) It would, therefore, be a fitting tribute to the leadership, courage, and vision of Senator Goldwater to establish in his name a scholarship program to foster and encourage excellence in science and mathematics.

20 USC 4702.

SEC. 1403. DEFINITIONS

In this title:

(1) The term "Foundation" means the Barry Goldwater Scholarship and Excellence in Education Foundation established under section 1404(a).

(2) The term "Board" means the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation established under section 1404(b).

(3) The term "fund" means the Barry Goldwater Scholarship and Excellence in Education Fund provided for under section 1408.

(4) The term "institution of higher education" means any such institution as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

(5) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and, considered as a single entity, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific Islands, and the Commonwealth of the Northern Marianas.

(6) The term "eligible person" means a citizen or national of the United States or a permanent resident alien of the United States.

20 USC 4703.

SEC. 1404. ESTABLISHMENT OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

(a) ESTABLISHMENT.—There is established, as an independent establishment of the executive branch of the United States Government, the Barry Goldwater Scholarship and Excellence in Education Foundation.

(b) BOARD OF TRUSTEES.—The Foundation shall be subject to the supervision and direction of the Board of Trustees. The Board shall be composed of 13 members, as follows:

(1) Two members from the Senate, one appointed by the majority leader and one appointed by the minority leader of the Senate.

(2) Two members from the House of Representatives, one appointed by the majority leader and one appointed by the minority leader of the House of Representatives.

(3) Eight members, not more than four of whom shall be of the same political party, to be appointed by the President, by and with the advice and consent of the Senate, at least one of whom

shall be a representative of the aerospace industry and at least one of whom shall be a representative of a private foundation concerned with aerospace education.

(4) The Secretary of Education, or his designee, who shall serve ex officio as a member of the Board but shall not be eligible to serve as Chairman.

(c) TERM OF OFFICE.—(1) The term of office of each member of the Board shall be six years, except that—

(A) the members first taking office shall serve as designated by the President, four for terms of two years, five for terms of four years, and four for terms of six years, and

(B) a member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed and shall be appointed in the same manner as the original appointment for that vacancy was made.

(2) A Member of Congress appointed to the Board under clause (2) or (3) of subsection (b) may not serve as a member of the Board for more than a total of six years.

(d) TRAVEL AND SUBSISTENCE PAY.—Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

SEC. 1405. BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION AWARDS 20 USC 4704.

(a) AWARD OF SCHOLARSHIPS AND FELLOWSHIPS.—(1) The Foundation may award scholarships and fellowships to eligible persons for study in the fields of science and mathematics. Such scholarships and fellowships shall be awarded to persons as provided in this title who meet the minimum criteria established by the Foundation.

(2) Scholarships shall be awarded to outstanding undergraduate students who intend to pursue careers in mathematics and the natural sciences.

(3) Fellowships shall be awarded to outstanding graduate students who intend to pursue advanced degrees in mathematics and the natural sciences.

(4) The Foundation may provide, directly or by contract, for the conduct of nationwide competition for the purpose of selecting recipients of scholarships and fellowships awarded under this title. Contract.

(b) Recipients of scholarships and fellowships under this title shall be known as "Barry Goldwater Scholars".

(c)(1) The Foundation may award honoraria to outstanding educators, teachers, and persons who have volunteered to assist in secondary schools who have made significant contributions to improve the quality of instruction in mathematics and sciences in the secondary school. To the extent the Board determines such action practicable, honoraria awarded under this subsection shall be awarded annually to persons described in the preceding sentence as follows: Voluntarism.

(A) To two persons selected at large from each State.

(B) To one person selected from each county in each State.

(C) To persons affiliated with secondary schools on military reservations.

(D) To persons affiliated with the dependent overseas school system.

(2) The Board shall establish a schedule of honoraria to be awarded under paragraph (1).

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20 USC 4705.

SEC. 1406. STIPENDS

Each person awarded a scholarship or fellowship under this title shall receive a stipend which shall not exceed the cost to such person for tuition, fees, books, room and board, or such lesser amount as may be prescribed by the Board.

20 USC 4706.

SEC. 1407. SCHOLARSHIP CONDITIONS

(a) IN GENERAL.—A person awarded a scholarship under this title may receive payments authorized under this title only during such periods as the Foundation finds that the person is maintaining satisfactory proficiency and devoting full time to study or research and is not engaging in gainful employment other than employment approved by the Foundation pursuant to regulations of the Board.

(b) REPORTS.—The Foundation may require reports containing such information in such form and to be filed at such times as the Foundation determines to be necessary from any person awarded a scholarship under this title. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such person is making satisfactory progress in, and is devoting essentially full time to study or research, except as otherwise provided in subsection (a).

20 USC 4707.

SEC. 1408. BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FUND

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the Barry Goldwater Scholarship and Excellence in Education Fund. The fund shall consist of amounts appropriated to it pursuant to section 1412 and amounts credited to it under subsection (d).

(b) INVESTMENT OF FUND ASSETS.—It shall be the duty of the Secretary of the Treasury to invest in full the amounts appropriated to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market place. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt, except that where such average rate is not a multiple of ⅛ of 1 percent, the rate of interest of such special obligations shall be the multiple of ⅛ of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchases of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

31 USC 3121.

(c) AUTHORITY TO SELL OBLIGATIONS.—Any obligation acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) PROCEEDS FROM CERTAIN TRANSACTIONS CREDITED TO FUND.—The interest on, and the proceeds from the sale or redemption of,

any obligations held in the fund shall be credited to and form a part of the fund.

SEC. 1409. EXPENDITURES FROM THE FUND 20 USC 4708.

(a) IN GENERAL.—The Secretary of the Treasury may pay to the Foundation from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the purposes of this title.

(b) AUDITS BY GAO.—The activities of the Foundation under this title may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. Representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Foundation pertaining to such activities and necessary to facilitate the audit.

SEC. 1410. EXECUTIVE SECRETARY 20 USC 4709.

(a) APPOINTMENT BY BOARD.—There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Secretary shall carry out such other functions consistent with the provisions of this title as the Board shall prescribe.

(b) COMPENSATION.—The Executive Secretary of the Foundation shall be compensated at the rate specified for employees in grade GS-18 of the General Schedule under section 5332 of title 5, United States Code.

SEC. 1411. ADMINISTRATIVE PROVISIONS 20 USC 4710.

(a) IN GENERAL.—In order to carry out this title, the Foundation may—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this title, except that in no case may an employee other than the Executive Secretary be compensated at a rate to exceed the maximum rate provided for employees in grade GS-15 of the General Schedule under section 5332 of title 5, United States Code;

(2) procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for grade GS-18 under section 5332 of such title;

(3) prescribe such regulations as it considers necessary governing the manner in which its functions shall be carried out; Regulations.

(4) receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation, and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) accept and use the services of voluntary and noncompensated personnel and for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

Contracts.
Grants.

(6) enter into contracts or other arrangements, or make grants, to carry out the provisions of this title, and enter into such contracts or other arrangements, or make such grants, with the concurrence of two-thirds of the members of the Board, without performance or other bonds and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);

District of Columbia.

(7) rent office space in the District of Columbia; and

(8) make other necessary expenditures.

(b) ANNUAL REPORT.—The Foundation shall submit to the President and to Congress an annual report of its operations under this title.

20 USC 4711.

SEC. 1412. AUTHORIZATION OF APPROPRIATIONS

There is hereby authorized to be appropriated to the fund $40,000,000 to carry out this title.

Military Construction Authorization Act, 1987.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE; TABLE OF CONTENTS

(a) SHORT TITLE.—This division may be cited as the "Military Construction Authorization Act, 1987".

(b) TABLE OF CONTENTS OF DIVISION.—The table of contents of this division is as follows:

Sec. 2001. Short title; table of contents.

TITLE I—ARMY

Sec. 2101. Authorized Army construction and land acquisition projects.
Sec. 2102. Family housing.
Sec. 2103. Improvements to military family housing units.
Sec. 2104. Fort Drum, New York.
Sec. 2105. Community planning assistance.
Sec. 2106. Authorization of appropriations, Army.
Sec. 2107. Extension of certain prior year authorizations.

TITLE II—NAVY

Sec. 2201. Authorized Navy construction and land acquisition projects.
Sec. 2202. Family housing.
Sec. 2203. Improvements to military family housing units.
Sec. 2204. Acquisition of existing housing units on Guam.
Sec. 2205. Increase in title total amount for military construction project at Kings Bay, Georgia.
Sec. 2206. Certain enlisted quarters, Guam.
Sec. 2207. Limitation on use of funds for certain homeporting.
Sec. 2208. Authorization of appropriations, Navy.
Sec. 2209. Extension of certain prior year authorizations.

TITLE III—AIR FORCE

Sec. 2301. Authorized Air Force construction and land acquisition projects.
Sec. 2302. Family housing.
Sec. 2303. Improvements to military family housing units.
Sec. 2304. Restriction on certain military construction funding.
Sec. 2305. Authorization of appropriations, Air Force.
Sec. 2306. Extension of certain prior year authorizations.

TITLE IV—DEFENSE AGENCIES

Sec. 2401. Authorized construction projects and land acquisition for the defense agencies.
Sec. 2402. Family housing.
Sec. 2403. Brooke Army Medical Center.

Sec. 2404. Hazardous waste storage.
Sec. 2405. Authorization of appropriations, defense agencies.
Sec. 2406. Extension of prior year authorizations.

TITLE V—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

Sec. 2501. Authority of the Secretary of Defense to make contributions.
Sec. 2502. Authorization of appropriations, NATO.
Sec. 2503. Amendment to NATO infrastructure program.
Sec. 2504. Restriction on certain funding.

TITLE VI—GUARD AND RESERVE FORCES FACILITIES

Sec. 2601. Authorization for Guard and Reserve facilities.

TITLE VII—GENERAL PROVISIONS

PART A—EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

Sec. 2701. Expiration of authorizations and amounts required to be specified by law.
Sec. 2702. Codification of certain amounts required to be specified by law.

PART B—MILITARY CONSTRUCTION PROGRAM PROVISIONS

Sec. 2711. Test of long-term facilities contracts.
Sec. 2712. Planning and design.
Sec. 2713. Build-to-lease and rental guarantee pilot programs.
Sec. 2714. Foreign leases for personnel holding special positions.

PART C—MISCELLANEOUS PROVISIONS

Sec. 2721. Postal facilities.
Sec. 2722. Community planning assistance.
Sec. 2723. Release of certain use rights held by the United States.
Sec. 2724. Prohibition of funding for certain military construction contracts on Guam.
Sec. 2725. Prohibition on design of Pentagon annex.
Sec. 2726. Study of needs of dependents' educational facilities on military installations.
Sec. 2727. Study of use of property at Los Alamitos Armed Forces Reserve Center, California, for military family housing.
Sec. 2728. Real estate acquisition report.

PART D—REAL PROPERTY TRANSACTIONS

Sec. 2731. Land conveyance, Fort Huachuca, Arizona.
Sec. 2732. Lease and development of certain real property, San Diego, California.
Sec. 2733. Selection of site for military family housing at San Pedro, California.
Sec. 2734. Granting of easements and replacement of family housing units and other facilities at Marine Corps Air Station, El Toro, California.
Sec. 2735. Land conveyance, March Air Force Base, California.
Sec. 2736. Land exchange, Long Beach Naval Station, California.
Sec. 2737. Land conveyance, Whittier Narrows Dam, Los Angeles County, California.
Sec. 2738. Authorization of land conveyance to city of Arcadia, California.
Sec. 2739. Land exchange, Orlando, Florida.
Sec. 2740. Sale of land and replacement of certain warehousing facilities, Kapalama Military Reservation, Hawaii.
Sec. 2741. Land exchange, Aiea, Hawaii.
Sec. 2742. Land exchange, Santa Fe, New Mexico.
Sec. 2743. Lease of property at the Naval Weapons Station, Charleston, South Carolina.
Sec. 2744. Property management.

TITLE I—ARMY

Real property.

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

UNITED STATES ARMY FORCES COMMAND

Camp Dawson, West Virginia, $8,700,000.
Fort Bragg, North Carolina, $22,250,000.
Fort Campbell, Kentucky, $4,740,000.
Fort Carson, Colorado, $11,300,000.
Fort Devens, Massachusetts, $20,800,000.
Fort Drum, New York, $615,000,000.
Fort Hood, Texas, $13,350,000.
Fort Irwin, California, $820,000.
Fort Lewis, Washington, $21,580,000.
Fort McPherson, Georgia, $2,900,000.
Fort Ord, California, $6,550,000.
Fort Polk, Louisiana, $26,000,000.
Fort Riley, Kansas, $8,250,000.
Fort Sam Houston, Texas, $800,000.
Fort Sheridan, Illinois, $2,050,000.
Fort Stewart, Georgia, $1,550,000.
Fort Wainwright, Alaska, $72,300,000.

UNITED STATES ARMY WESTERN COMMAND

Wheeler Army Air Field, Hawaii, $2,900,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Carlisle Barracks, Pennsylvania, $800,000.
Fort Benning, Georgia, $12,180,000.
Fort Eustis, Virginia, $2,050,000.
Fort Jackson, South Carolina, $10,400,000.
Fort Leavenworth, Kansas, $1,100,000.
Fort Lee, Virginia, $17,600,000.
Fort Leonard Wood, Missouri, $42,200,000.
Fort McClellan, Alabama, $540,000.
Fort Rucker, Alabama, $44,500,000.
Fort Story, Virginia, $2,700,000.

UNITED STATES ARMY MATERIEL COMMAND

Aberdeen Proving Ground, Maryland, $40,750,000.
Badger Army Ammunition Plant, Wisconsin, $980,000.
Corpus Christi Army Depot, Texas, $10,650,000.
Detroit Arsenal, Michigan, $1,350,000.
Dugway Proving Ground, Utah, $9,700,000.
Fort Monmouth, New Jersey, $4,900,000.
Harry Diamond Laboratory, Maryland, $680,000.
Savanna Army Depot, Illinois, $320,000.
Yuma Proving Ground, Arizona, $820,000.

UNITED STATES ARMY INFORMATION SYSTEMS COMMAND

Fort Huachuca, Arizona, $17,200,000.

UNITED STATES MILITARY ACADEMY

U.S. Military Academy, New York, $24,500,000.

MILITARY TRAFFIC MANAGEMENT COMMAND

Sunny Point Military Ocean Terminal, North Carolina, $650,000.

ASSISTANT CHIEF OF ENGINEERS

Classified, United States, $7,100,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

UNITED STATES ARMY, JAPAN

Kawakami, Japan, $1,200,000.

EIGHTH UNITED STATES ARMY

Camp Carroll, Korea, $1,740,000.
Camp Casey, Korea, $24,940,000.
Camp Castle, Korea, $4,800,000.
Camp Essayons, Korea, $3,000,000.
Camp Greaves, Korea, $3,650,000.
Camp Hovey, Korea, $9,000,000.
Camp Howze, Korea, $5,850,000.
Camp Humphreys, Korea, $16,100,000.
Camp Jackson, Korea, $1,800,000.
Camp Laguardia, Korea, $2,970,000.
Camp Libby, Korea, $1,100,000.
Camp Liberty Bell, Korea, $780,000.
Camp Long, Korea, $5,600,000.
Camp Market, Korea, $540,000.
Camp Nimble, Korea, $1,950,000.
Camp Page, Korea, $1,400,000.
Camp Pelham, Korea, $2,280,000.
Camp Red Cloud, Korea, $4,550,000.
Camp Stanley, Korea, $4,700,000.
H220, Korea, $2,750,000.
K-16 Army Airfield, Korea, $2,520,000.
Pusan, Korea, $12,940,000.
Second Infantry, Korea, $5,150,000.
Taegu, Korea, $4,900,000.
Yongsan, Korea, $8,760,000.

UNITED STATES ARMY STRATEGIC DEFENSE COMMAND

Kwajalein, $20,600,000.

UNITED STATES ARMY FORCES COMMAND, OVERSEAS

Classified, $4,000,000.
Palmerola Air Base, Honduras, $4,300,000.

UNITED STATES ARMY EUROPE AND SEVENTH ARMY

Ansbach, Germany, $1,790,000.
Aschaffenburg, Germany, $7,000,000.
Bad Kreuznach, Germany, $900,000.
Baumholder, Germany, $18,450,000.
Bitburg, Germany, $19,920,000.
Fulda, Germany, $1,000,000.
Giessen, Germany, $6,570,000.
Goeppingen, Germany, $1,850,000.
Hanau, Germany, $26,150,000.
Heidelberg, Germany, $1,600,000.
Heilbronn, Germany, $2,100,000.
Hohenfels, Germany, $8,800,000.
Kaiserslautern, Germany, $1,400,000.
Karlsruhe, Germany, $10,000,000.
Mannheim, Germany, $2,450,000.
Neu Ulm, Germany, $26,050,000.
Nuernberg, Germany, $5,500,000.
Rheinberg, Germany, $17,150,000.
Schweinfurt, Germany, $23,000,000.
Stuttgart, Germany, $820,000.
Various, Germany, $6,350,000.
Vilseck, Germany, $49,570,000.
Wuerzburg, Germany, $1,000,000.
Katsimidhi Site, Greece, $560,000.
Zelo, Italy, $610,000.

UNITED STATES ARMY INTELLIGENCE AND SECURITY COMMAND, OVERSEAS

Location 177, $1,950,000.
Location 276, $3,700,000.
Location 280, $2,100,000.

SEC. 2102. FAMILY HOUSING

The Secretary of the Army may construct or acquire family housing units (including land acquisition) at the following installations in the number of units shown, and in the amount shown, for each installation:

Fort Irwin, California, thirty-eight manufactured home spaces, $730,000.

Fort Ord, California, three hundred and eighty-five units, $34,000,000.

Crailsheim, Germany, forty units, $4,100,000.

Darmstadt, Germany, forty units, $3,150,000.

Erlangen, Germany, one hundred and six units, $9,400,000.

Herzo Base, Germany, thirty-four units, $3,300,000.

Schweinfurt, Germany, ninety units, $8,400,000.

Vilseck, Germany, two hundred and twenty-four units, $21,000,000.

Wildflecken, Germany, twenty-four units, $2,050,000.

Various Locations, Germany, one hundred and twenty units, funded in the manner authorized in section 2103(a).

Fort Polk, Louisiana, five hundred and eighty-three units, $37,000,000.

Kwajalein, Marshall Islands, one hundred and thirty-six units, $23,000,000.

Aberdeen Proving Ground, Maryland, one hundred and forty units and seventy manufactured home spaces, $10,800,000.

Fort Drum, New York, one thousand and two hundred units, $91,000,000.

Seneca Army Depot, New York, thirty units, $2,900,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) AMOUNT AUTHORIZED.—Subject to section 2825 of title 10, United States Code, the Secretary of the Army may make expenditures, using amounts appropriated pursuant to section 2106(a)(7)(A), to improve existing military family housing units in an amount not to exceed $79,500,000, of which not more than $11,900,000 may be used to convert portions of existing facilities at various locations in Germany to military family housing units, and may make additional expenditures not to exceed $15,671,000 for energy conservation projects using amounts appropriated pursuant to section 2106(b).

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Army may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Aschaffenburg, Germany, one hundred and forty-four units, $5,120,000.

Aschaffenburg, Germany, forty-eight units, $2,800,000.

Bremerhaven, Germany, twenty-four units, $1,400,000.

Karlsruhe, Germany, twenty-four units, $1,400,000.

Kitzingen, Germany, one hundred and two units, $5,950,000.

Mainz, Germany, one unit, $69,000.

Worms, Germany, six units, $350,000.

Fort Benjamin Harrison, Indiana, one hundred and sixty-six units, $6,000,000.

Pusan, Korea, forty-eight units, $2,237,000.

Yongsan, Korea, one unit, $70,000.

Fort Indiantown Gap, Pennsylvania, six units, $166,000.

Fort Sam Houston, Texas, twenty-three units, $930,000.

Fort Myer, Virginia, three units, $140,000.

(c) WAIVER OF SPACE LIMITATION FOR GENERAL OFFICER'S QUARTERS AT YONGSAN, KOREA.—(1) Notwithstanding the maximum space limitations under section 2826(a) of title 10, United States Code, the Secretary of the Army may carry out an improvement project to increase the net floor area of the housing unit for one general officer at the United States Army Garrison, Yongsan, Korea, to not more than 3,574 square feet.

(2) For purposes of this subsection, the term "net floor area" has the same meaning given that term by section 2826(f) of title 10, United States Code.

SEC. 2104. FORT DRUM, NEW YORK

(a) AUTHORIZATION.—The Secretary of the Army may, in advance of the availability of appropriations authorized to be appropriated by section 2106(c), enter into one or more contracts for the military construction projects authorized by section 2101 at Fort Drum, New York, if each such contract limits the amount of payments that the

Contracts.

Federal government is obligated to make under such contract to the amount of appropriations available, at the time the contract is entered into, for obligation under such a contract. Such construction may be accomplished by using one-step turn-key selection procedures or other competitive contracting methods.

(b) FAMILY HOUSING.—(1) Of the family housing units authorized by section 102 of the Military Construction Authorization Act, 1986, to be constructed at Fort Drum, New York—

99 Stat. 965.

(A) three of those units shall be constructed for assignment to general officers, and notwithstanding section 2826 of title 10, United States Code, each such unit may be constructed with a maximum net floor area of 3,000 square feet; and

(B) seven of those units shall be constructed for assignment to colonels who hold positions as commanders, and notwithstanding section 2826 of title 10, United States Code, each such unit may be constructed with a maximum net floor area of 2,100 square feet.

(2) For purposes of this subsection, the term "net floor area" has the meaning given that term by section 2826(f) of title 10, United States Code.

SEC. 2105. COMMUNITY PLANNING ASSISTANCE

The Secretary of the Army may use not more than $400,000 from funds appropriated to the Department of the Army for fiscal year 1987 for planning and design purposes to provide planning assistance to local communities located near the newly established light infantry divisions at Fort Drum, New York, and Fort Wainwright, Alaska, if the Secretary determines that the financial resources available to the communities (by grant or otherwise) are inadequate.

SEC. 2106. AUTHORIZATION OF APPROPRIATIONS, ARMY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1986, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,870,396,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $660,510,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $402,210,000.

(3) For the construction of the Eastern Distribution Center, New Cumberland Army Depot, Pennsylvania, as authorized by section 101 of the Military Construction Authorization Act, 1986, $43,000,000.

99 Stat. 961.

(4) For Pershing II security upgrade at various locations, Germany, as authorized by section 101 of the Military Construction Authorization Act, 1986, $7,000,000.

(5) For unspecified minor construction projects under section 2805 of title 10, United States Code, $20,000,000.

(6) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $130,580,000.

(7) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $354,330,000;

(B) for support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,247,266,000 of which—

(i) not more than $31,246,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam; and

(ii) not more than $142,639,000 may be obligated or expended for the leasing of military family housing units in foreign countries; and

(C) for the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $5,500,000.

(b) AUTHORIZATION OF UNOBLIGATED FUNDS.—Funds appropriated to the Department of Defense for fiscal years before fiscal year 1987 which could be used for energy conservation projects for existing military family housing units of the Department of the Army that remain available for obligation are hereby authorized to be made available, to the extent provided in appropriation Acts, for energy conservation projects for military family housing of the Army in an amount not to exceed $15,671,000.

(c) ADVANCE AUTHORIZATION OF APPROPRIATIONS FOR FORT DRUM, NEW YORK.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1986, for the military construction projects and land acquisition authorized at Fort Drum, New York, by sections 2101(a) and 2104 as follows:

(1) $221,000,000 in fiscal year 1988.

(2) $214,000,000 in fiscal year 1989.

(d) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN THIS TITLE.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2101 may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a) and under subsection (c).

SEC. 2107. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1984 PROJECTS.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1984 (Public Law 98-115, 97 Stat. 780), authorizations for the following projects authorized in section 101 of that Act, as extended by section 606(b) of the Military Construction Authorization Act, 1986 (Public Law 99-167, 99 Stat. 983) shall remain in effect until October 1, 1987, or the date of enactment of the Military Construction Authorization Act for fiscal year 1988, whichever is later:

(1) Unaccompanied personnel housing in the amount of $1,400,000 at Argyroupolis, Greece.

(2) Operations building in the amount of $370,000 at Argyroupolis, Greece.

(3) Multipurpose recreation facility in the amount of $480,000 at Argyroupolis, Greece.

(4) Unaccompanied officer housing in the amount of $600,000 at Perivolaki, Greece.

(5) Operations building in the amount of $410,000 at Perivolaki, Greece.

(6) Multipurpose recreation facility in the amount of $620,000 at Perivolaki, Greece.

(7) Physical fitness training center in the amount of $1,000,000 at Elefsis, Greece.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1985 PROJECTS.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407, 98 Stat. 1515), authorizations for the following projects authorized in section 101 of that Act shall remain in effect until October 1, 1987, or the date of enactment of the Military Construction Authorization Act for fiscal year 1988, whichever is later:

98 Stat. 1495.

(1) Barracks with dining facility in the amount of $11,400,000 at Presidio of San Francisco, California.

(2) Child care center in the amount of $1,980,000 at Presidio of San Francisco, California.

(3) Barracks in the amount of $6,600,000 at Presidio of San Francisco, California.

(4) Multipurpose recreation facility in the amount of $1,150,000 at Koropi, Greece.

(5) Multipurpose recreation facility in the amount of $960,000 at Katsimidi, Greece.

(6) Barracks modernization in the amount of $660,000 at Argyroupolis, Greece.

(7) Barracks modernization in the amount of $660,000 at Perivolaki, Greece.

(8) Barracks with dining facility in the amount of $2,350,000 at Elefsis, Greece.

(9) Dining facility modernization in the amount of $860,000, adjusted to $1,340,000 by cost variation approval, at Fort Jackson, South Carolina.

TITLE II—NAVY

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

UNITED STATES MARINE CORPS

Headquarters Marine Corps, Arlington, Virginia, $3,020,000.

Marine Corps Air Station, Beaufort, South Carolina, $4,990,000.

Camp H. M. Smith, Oahu, Hawaii, $2,070,000.

Marine Corps Base, Camp Lejeune, North Carolina, $31,310,000

Marine Corps Air Station, Camp Pendleton, California, $10,410,000.

Marine Corps Base, Camp Pendleton, California, $28,990,000.

Marine Corps Air Station, Cherry Point, North Carolina, $13,450,000.

Marine Corps Air Station, El Toro, California, $27,850,000.

Marine Corps Air Station, Kaneohe Bay, Hawaii, $30,700,000.

Marine Corps Air Station, New River, North Carolina, $21,710,000.

Marine Corps Recruit Depot, Parris Island, South Carolina, $7,250,000.

Marine Corps Air Station, Tustin, California, $14,910,000.
Marine Corps Air-Ground Combat Center, Twentynine Palms, California, $32,630,000.
Marine Corps Air Station, Yuma, Arizona, $8,860,000.

SPACE AND NAVAL WARFARE SYSTEMS COMMAND

Naval Electronic Systems Engineering Center, Portsmouth, Virginia, $1,870,000.

CHIEF OF NAVAL OPERATIONS

Naval Academy, Annapolis, Maryland, $2,660,000.
Navy Tactical Interoperability Support Activity, Long Beach, California, $510,000.
Naval Legal Service Office, Norfolk, Virginia, $1,080,000.
Naval Legal Service Office Detachment, Oceana, Virginia, $540,000.
Commandant Naval District, Washington, District of Columbia, $2,000,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Air Station, Brunswick, Maine, $1,160,000.
Naval Air Station, Cecil Field, Florida, $8,640,000.
Naval Station, Charleston, South Carolina, $1,400,000.
Naval Ocean Processing Facility, Dam Neck, Virginia, $540,000.
Naval Air Station, Jacksonville, Florida, $4,810,000.
Naval Air Station, Key West, Florida, $1,650,000.
Naval Amphibious Base, Little Creek, Virginia, $6,970,000.
Naval Station, Mayport, Florida, $880,000.
Naval Supply Center Detachment, Mayport, Florida, $3,730,000.
Naval Submarine Base, New London, Connecticut, $4,630,000.
Naval Station, New York, New York, $52,950,000.
Fleet Intelligence Center Europe and Atlantic, Norfolk, Virginia, $1,880,000.
Naval Air Station, Norfolk, Virginia, $1,570,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Air Station, Adak, Alaska, $24,900,000.
Naval Facility, Adak, Alaska, $5,700,000.
Naval Air Station, Alameda, California, $18,625,000.
Naval Submarine Base, Bangor, Washington, $7,180,000.
Trident Refit Facility, Bangor, Washington, $1,570,000.
Naval Facility, Centerville Beach, California, $1,370,000.
Naval Amphibious Base, Coronado, California, $17,450,000.
Naval Station, Everett, Washington, $43,580,000.
Naval Air Station, Fallon, Nevada, $31,200,000.
Naval Air Station, Lemoore, California, $980,000.
Naval Station, Long Beach, California, $7,260,000.
Naval Magazine, Lualualei, Hawaii, $4,350,000.
Naval Air Station, Miramar, California, $40,400,000.
Naval Station, Pearl Harbor, Hawaii, $3,240,000.
Naval Submarine Base, Pearl Harbor, Hawaii, $690,000.
Naval Station, San Diego, California, $19,460,000.
Naval Submarine Base, San Diego, California, $9,400,000.
Naval Station, Seattle, Washington, $2,950,000.
Naval Air Station, Whidbey Island, Washington, $5,180,000.

CHIEF OF NAVAL EDUCATION AND TRAINING

Naval Air Station, Corpus Christi, Texas, $690,000.
Naval Guided Missile School, Dam Neck, Virginia, $3,140,000.
Naval Training Center, Great Lakes, Illinois, $5,300,000.
Naval Construction Training Center, Gulfport, Mississippi, $1,180,000.
Naval Air Station, Kingsville, Texas, $3,780,000.
Combat Systems Technical Schools Command, Mare Island, California, $5,200,000.
Naval Air Station, Memphis, Tennessee, $15,810,000.
Naval Air Station, Meridian, Mississippi, $4,410,000.
Naval Submarine School, New London, Connecticut, $9,540,000
Naval Education and Training Center, Newport, Rhode Island, $11,700,000.
Surface Warfare Officers School Command, Newport, Rhode Island, $8,840,000.
Fleet Training Center, Norfolk, Virginia, $5,400,000.
Naval Training Center, Orlando, Florida, $9,670,000.
Naval Diving and Salvage Training Center, Panama City, Florida, $2,850,000.
Naval Technical Training Center, Pensacola, Florida, $7,360,000.
Fleet Intelligence Training Center, Pacific, San Diego, California, $4,220,000.
Fleet Training Center, San Diego, California, $3,930,000.
Naval Training Center, San Diego, California, $18,170,000.

NAVAL MEDICAL COMMAND

Naval Hospital, Camp Lejeune, North Carolina, $1,670,000.
Naval Hospital, Pensacola, Florida, $690,000.

NAVAL OCEANOGRAPHY COMMAND

Naval Observatory, Washington, District of Columbia, $980,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Adak, Alaska, $14,600,000.

NAVAL SUPPLY SYSTEMS COMMAND

Naval Supply Center, Bremerton, Washington, $500,000.
Naval Supply Center, Jacksonville, Florida, $830,000.
Navy Ships Parts Control Center, Mechanicsburg, Pennsylvania, $1,670,000.
Naval Supply Center, Norfolk, Virginia, $3,140,000.
Naval Supply Center, Oakland, California, $3,490,000.
Naval Supply Center, San Diego, California, $1,370,000.

NAVAL AIR SYSTEMS COMMAND

Pacific Missile Range Facility, Barking Sands, Kauai, Hawaii, $8,260,000.
Naval Air Rework Facility, Cherry Point, North Carolina, $37,200,000.
Naval Air Test Center, Patuxent River, Maryland, $21,140,000
Naval Air Rework Facility, Pensacola, Florida, $8,050,000.
Pacific Missile Test Center, Point Mugu, California, $590,000.

NAVAL FACILITIES ENGINEERING COMMAND

Naval Construction Battalion Center, Gulfport, Mississippi, $17,650,000.
Navy Public Works Center, Norfolk, Virginia, $8,740,000.
Navy Public Works Center, Pearl Harbor, Hawaii, $7,490,000.
Navy Public Works Center, Pensacola, Florida, $2,120,000.
Naval Construction Battalion Center, Port Hueneme, California, $3,980,000.
Navy Public Works Center, San Francisco, California, $450,000.

NAVAL SEA SYSTEMS COMMAND

Charleston Naval Shipyard, Charleston, South Carolina, $10,810,000.
Naval Weapons Station, Charleston, South Carolina, $22,630,000.
Naval Weapons Station, Concord, California, $790,000.
Naval Weapons Support Center, Crane, Indiana, $6,880,000.
Naval Weapons Station, Earle, New Jersey, $34,760,000.
Naval Ordnance Station, Indian Head, Maryland, $500,000.
Long Beach Naval Shipyard, Long Beach, California, $3,630,000.
Norfolk Naval Shipyard, Portsmouth, Virginia, $5,900,000.
Naval Sea Combat Systems Engineering Station, Norfolk, Virginia, $980,000.
Supervisor of Shipbuilding, Pascagoula, Mississippi, $4,120,000.
Naval Ship System Engineering Station, Philadelphia, Pennsylvania, $400,000.
Portsmouth Naval Shipyard, Kittery, Maine, $23,170,000.
Naval Weapons Station, Yorktown, Virginia, $4,220,000.

OFFICE OF THE CHIEF OF NAVAL RESEARCH

Naval Weapons Center, China Lake, California, $1,370,000.
Naval Surface Weapons Center, Dahlgren, Virginia, $15,960,000.
Naval Coastal Systems Center, Panama City, Florida, $880,000.
Naval Research Laboratory Annex, Quantico, Virginia, $1,500,000.

STRATEGIC SYSTEMS PROJECT OFFICE

Naval Submarine Base, Kings Bay, Georgia, $122,390,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

MARINE CORPS

Marine Corps Air Station, Futenma, Okinawa, Japan, $4,270,000.
Marine Corps Base, Camp Smedley D. Butler, Okinawa, Japan, $8,950,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Station, Guantanamo Bay, Cuba, $2,600,000.
Naval Air Station, Keflavik, Iceland, $13,840,000.
Naval Facility, Keflavik, Iceland, $1,570,000.
Atlantic Fleet Weapons Training Facility, Roosevelt Roads, Puerto Rico, $4,220,000.
Naval Station, Roosevelt Roads, Puerto Rico, $7,080,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Administrative Support Unit, Bahrain Island, $2,550,000.

Mobile Construction Battalion, Camp Covington, Guam, $15,500,000.

Naval Facility, Guam, $820,000.

Naval Supply Depot, Guam, $400,000.

Naval Station, Subic Bay, Republic of the Philippines, $1,710,000.

Naval Supply Depot, Subic Bay, Republic of the Philippines, $290,000.

Naval Ship Repair Facility, Subic Bay, Republic of the Philippines, $1,770,000.

COMMANDER IN CHIEF, UNITED STATES NAVAL FORCES EUROPE

Naval Activities, London, United Kingdom, $1,180,000.

Naval Support Activity, Naples, Italy, $1,570,000.

Naval Station, Rota, Spain, $4,600,000.

Classified Locations, $15,700,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communications Area Master Station, Western Pacific, Guam, $480,000.

Naval Communications Station, Harold E. Holt, Exmouth, Australia, $2,180,000.

Naval Communications Area Master Station, Mediterranean, Naples, Italy, $8,250,000.

Naval Communication Station, San Miguel, Republic of the Philippines, $470,000.

Naval Communication Station, Thurso, United Kingdom, $350,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Edzell, Scotland, $2,250,000.

Naval Security Group Detachment, Guam, $2,150,000.

Naval Security Group Activity, Sabana Seca, Puerto Rico, $790,000.

NAVAL FACILITIES ENGINEERING COMMAND

Navy Public Works Center, Guam, $1,570,000.

OFFICE OF THE CHIEF OF NAVAL RESEARCH

Naval Underwater Systems Center, Andros Island, Bahamas, $3,730,000.

SEC. 2202. FAMILY HOUSING

The Secretary of the Navy may construct or acquire family housing units (including land acquisition) at the following installations in the number of units shown, and in the amount shown, for each installation:

Naval Station, Long Beach, California, three hundred units, $22,900,000.

Naval Air Station, Moffett Field, California, one hundred and twenty-six units, $11,600,000.

Navy Public Works Center, San Francisco, California, three hundred units, $26,450,000.

Marine Corps Air Station, El Toro, California, $2,300,000, as authorized in section 2734.

Marine Corps Air-Ground Combat Center, Twentynine Palms, California, three hundred and ninety-two units and seventy-five mobile home spaces, $35,300,000.

Marine Corps Base, Camp Pendleton, California, one hundred mobile home spaces, $1,800,000.

Marine Corps Base, Camp Lejeune, North Carolina, seventy-five mobile home spaces, $930,000.

Marine Corps Development and Education Command, Quantico, Virginia, fifty mobile home spaces, $790,000.

Naval Station, Keflavik, Iceland, two hundred and fifty units, $48,642,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) AMOUNT AUTHORIZED.—Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may make expenditures, using amounts appropriated pursuant to section 2208(a)(7)(A), to improve existing military family housing units in an amount not to exceed $26,580,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Navy may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Naval Station, Mare Island, Vallejo, California, one hundred units, $5,200,000.

Marine Corps Logistics Base, Albany, Georgia, one unit, $33,300.

Navy Public Works Center, Great Lakes, Illinois, two hundred and ten units, $9,400,000.

Naval Air Station, Brunswick, Maine, forty-four units, $1,274,600.

Naval Construction Battalion Center, Gulfport, Mississippi, one unit, $28,700.

Naval Air Station, Fallon, Nevada, forty-four units, $1,868,500.

Naval Station, New York, New York, one hundred and twenty units, $9,600,000.

Naval Air Development Center, Warminster, Pennsylvania, six units, $256,800.

Naval Education and Training Center, Newport, Rhode Island, one hundred and eighty-six units, $10,200,000.

Navy Public Works Center, Guam, one unit, $64,700.

Navy Public Works Center, Guam, one hundred and nine units, $10,360,000.

Naval Air Station, Agana, Guam, one hundred units, $9,517,000.

Naval Air Station, Agana, Guam, one unit, $58,600.

SEC. 2204. ACQUISITION OF EXISTING HOUSING UNITS ON GUAM

The Secretary of the Navy may acquire, without reimbursement, 89 existing family housing units constructed and used by the Federal Aviation Administration on land in Finegayan, Guam, held by

the Secretary of the Navy under the provisions of section 1158 of title 49, United States Code.

SEC. 2205. INCREASE IN TITLE TOTAL AMOUNT FOR MILITARY CONSTRUCTION PROJECT AT KINGS BAY, GEORGIA

Section 602(c) of the Military Construction Authorization Act, 1986 (Public Law 99-167; 99 Stat. 981), is amended by striking "may not exceed the total amount authorized" and all that follows and inserting the following:

"may not exceed—

"(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

"(2) the amount specified in subsection (b); and

"(3) $85,600,000 (the balance of the amount authorized under section 201(a) for military construction projects at Kings Bay, Georgia).".

SEC. 2206. CERTAIN ENLISTED QUARTERS, GUAM

Section 201(b) of the Military Construction Authorization Act, 1986 (Public Law 99-167; 99 Stat. 970), is amended—

(1) by striking out "Naval Magazine, Guam, $11,270,000." and inserting in lieu thereof "Naval Magazine, Guam, $6,570,000."; and

(2) by striking out "Naval Station, Guam, $10,200,000." and inserting in lieu thereof "Naval Station, Guam, $14,900,000.".

SEC. 2207. LIMITATION ON USE OF FUNDS FOR CERTAIN HOMEPORTING

(a) IN GENERAL.—Funds appropriated pursuant to an authorization in section 2208 for Naval Station, Everett, Washington, may not be obligated or expended for such purpose until—

(1) all Federal, State, and local permits required for the dredging activities to be carried out with respect to homeporting at Everett, Washington, have been issued; and

(2) the State of Washington has appropriated, in fiscal year 1987, its share of funds for fiscal years 1988 and 1989 for all projects agreed with by the Department of the Navy for homeporting at Everett, Washington.

(b) LIMITATION ON AMOUNT OF FUNDS THAT MAY BE EXPENDED THROUGH FISCAL YEAR 1991.—Not more than a total of $272,000,000, including $16,000,000 for defense access roads, may be obligated or expended by the Department of Defense and the Department of the Navy during fiscal years 1986 through 1991 for construction associated with strategic homeporting at Everett, Washington.

SEC. 2208. AUTHORIZATION OF APPROPRIATIONS, NAVY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1986, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,147,438,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $1,109,795,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $110,840,000.

(3) For military construction projects at Kings Bay, Georgia, authorized by section 201(a) of the Military Construction Authorization Act, 1986, $45,450,000.

99 Stat. 966.

(4) For unspecified minor construction projects under section 2805 of title 10, United States Code, $15,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $143,770,000.

(6) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $5,400,000.

(7) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $159,292,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $557,891,000, of which—

(i) not more than $5,214,100 may be obligated or expended for the leasing of military family housing in the United States, the Commonwealth of Puerto Rico, and Guam; and

(ii) not more than $17,244,900 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN THIS TITLE.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a) and $20,000,000 (the balance of the amount authorized under section 2202(a) for the construction of an ammunition pier and trestle at the Naval Weapons Station, Earle, New Jersey).

SEC. 2209. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1984 PROJECTS.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1984 (Public Law 98-115, 97 Stat. 780), authorizations for the following projects authorized in section 201 of that Act, as extended by section 606(b) of the Military Construction Authorization Act, 1986 (Public Law 99-167, 99 Stat. 983) shall remain in effect until October 1, 1987, or the date of enactment of the Military Construction Authorization Act for fiscal year 1988, whichever is later:

(1) Land acquisition in the amount of $830,000 at the Naval Weapons Station, Concord, California.

(2) Unaccompanied enlisted personnel housing in the amount of $10,000,000 at the Naval Air Station, Jacksonville, Florida.

(3) Electrical distribution lines in the amount of $7,200,000 at the Mare Island Naval Shipyard, Vallejo, California.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1985 PROJECTS.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407, 98 Stat. 1515), authorizations for the following projects authorized in sections 201 of that Act shall remain in effect until October 1, 1987, or the date of enactment of the Military Construction Authorization Act for fiscal year 1988, whichever is later: 98 Stat. 1499.

(1) Unaccompanied enlisted personnel housing in the amount of $10,740,000 at the Marine Corps Air Station, Yuma, Arizona.

(2) Antenna support facility in the amount of $320,000 at the Naval Security Group Activity, Adak, Alaska.

(3) Data processing center in the amount of $6,160,000 at the Naval Supply Center, Bremerton, Washington.

(4) Unaccompanied enlisted personnel housing in the amount of $12,130,000 at the Naval Air Station, Whidbey Island, Washington.

(5) Unaccompanied enlisted personnel housing in the amount of $6,600,000 at the Naval Station, Mare Island, Vallejo, California.

(6) Engine test cell in the amount of $9,700,000 for the Naval Air Rework Facility, Cherry Point, North Carolina.

(7) Security building in the amount of $850,000 for the Naval Station, Norfolk, Virginia.

(8) Unaccompanied enlisted personnel housing in the amount of $1,580,000 for the Naval Station, Panama Canal, Panama.

(9) Heating, ventilation and air conditioning in the amount of $4,540,000 for the Naval Air Station, Alameda, California.

(10) Land acquisition in the amount of $4,750,000 for the Marine Corps Air Station, El Toro, California.

(11) Maintenance hangar in the amount of $5,000,000 for the Naval Air Station, Fallon, Nevada.

(12) Construction battalion unit complex in the amount of $1,090,000 for the Naval Station, Mare Island, Vallejo, California.

(13) Airframes shop in the amount of $1,680,000 for the Pacific Missile Test Center, Point Mugu, California.

(14) Unaccompanied enlisted personnel housing in the amount of $6,650,000 for the Pacific Missile Test Center, Point Mugu, California.

(15) Maintenance hangar in the amount of $13,200,000 for the Marine Corps Air Station, Tustin, California.

(16) Oil spill prevention facility in the amount of $710,000 for the Marine Corps Air Station, Tustin, California.

(17) Energy monitoring and control system in the amount of $1,100,000 for the Naval Air Station, Chase Field, Texas.

(18) Host nation infrastructure support in the amount of $2,970,000 for various locations.

TITLE III—AIR FORCE

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amount shown for each of the following installations and locations inside the United States:

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, $20,550,000.
McClellan Air Force Base, California, $28,900,000.
Newark Air Force Station, Ohio, $3,000,000.
Robins Air Force Base, Georgia, $16,055,000.
Tinker Air Force Base, Oklahoma, $32,900,000.
Wright-Patterson Air Force Base. Ohio, $16,200,000.

AIR FORCE SYSTEMS COMMAND

Arnold Air Force Station, Tennessee, $3,530,000.
Edwards Air Force Base, California, $10,900,000
Eglin Air Force Base, Florida, $720,000.
Hanscom Air Force Base, Massachusetts, $4,000,000
Patrick Air Force Base, Florida, $2,600,000
Sunnyvale Air Force Station, California, $2,600,000.

AIR TRAINING COMMAND

Chanute Air Force Base, Illinois, $11,300,000
Keesler Air Force Base, Mississippi, $1,970,000.
Lackland Air Force Base, Texas, $16,000,000.
Laughlin Air Force Base, Texas, $3,700,000.
Mather Air Force Base, California, $740,000.
Williams Air Force Base, Arizona, $4,900,000

AIR UNIVERSITY

Gunter Air Force Station, Alabama, $2,900,000.
Maxwell Air Force Base, Alabama, $5,310,000.

ALASKAN AIR COMMAND

Eielson Air Force Base, Alaska, $12,590,000.
Elmendorf Air Force Base, Alaska, $3,170,000.
Galena Airport, Alaska, $11,600,000.
King Salmon Airport, Alaska, $4,050,000.
Shemya Air Force Base, Alaska, $22,300,000.

MILITARY AIRLIFT COMMAND

Altus Air Force Base, Oklahoma, $310,000.
Andrews Air Force Base, Maryland, $25,430,000.
Charleston Air Force Base, South Carolina, $7,490,000
Kirtland Air Force Base, New Mexico, $11,800,000.
Little Rock Air Force Base, Arkansas, $2,750,000.
McChord Air Force Base, Washington, $6,400,000.
McGuire Air Force Base, New Jersey, $7,895,000.
Norton Air Force Base, California, $1,450,000.
Pope Air Force Base, North Carolina, $3,400,000.
Scott Air Force Base, Illinois, $1,100,000.
Travis Air Force Base, California, $8,200,000.

PACIFIC AIR FORCES

Hickam Air Force Base, Hawaii, $4,700,000.

SPACE COMMAND

Cape Cod Air Force Station, Massachusetts, $4,300,000.
Cavalier Air Force Station, North Dakota, $2,820,000.
Falcon Air Force Station, Colorado, $6,400,000.
Peterson Air Force Base, Colorado, $3,640,000.

SPECIAL PROJECT

Various Locations, $37,056,000.

STRATEGIC AIR COMMAND

Beale Air Force Base, California, $9,516,000.
Blytheville Air Force Base, Arkansas, $3,870,000.
Carswell Air Force Base, Texas, $490,000.
Castle Air Force Base, California, $2,630,000.
Dyess Air Force Base, Texas, $4,130,000.
Ellsworth Air Force Base, South Dakota, $10,910,000.
Fairchild Air Force Base, Washington, $7,520,000.
F.E. Warren Air Force Base, Wyoming, $3,550,000.
Grand Forks Air Force Base, North Dakota, $20,730,000.
Griffiss Air Force Base, New York, $1,590,000.
Grissom Air Force Base, Indiana, $3,850,000.
Holbrook Radar Bomb Score Site, Arizona, $630,000.
K.I. Sawyer Air Force Base, Michigan, $1,730,000.
La Junta Radar Bomb Scoring Site, Colorado, $5,460,000.
Loring Air Force Base, Maine, $1,300,000.
Malmstrom Air Force Base, Montana, $30,770,000.
March Air Force Base, California, $14,440,000.
McConnell Air Force Base, Kansas, $33,740,000.
Minot Air Force Base, North Dakota, $30,100,000.
Offutt Air Force Base, Nebraska, $24,970,000.
Pease Air Force Base, New Hampshire, $2,200,000.
Plattsburgh Air Force Base, New York, $3,410,000.
Vandenberg Air Force Base, California, $2,700,000.
Whiteman Air Force Base, Missouri, $10,700,000.
Wurtsmith Air Force Base, Michigan, $10,740,000.

TACTICAL AIR COMMAND

Avon Park Auxiliary Air Field, Florida, $4,100,000.
Base 39, Classified Location, $2,300,000.
Bergstrom Air Force Base, Texas, $1,860,000.
Cannon Air Force Base, New Mexico, $7,250,000.
Davis-Monthan Air Force Base, Arizona, $13,230,000.
George Air Force Base, California, $9,550,000.
Holloman Air Force Base, New Mexico, $14,760,000.
Homestead Air Force Base, Florida, $6,550,000.
Indian Springs Auxiliary Air Field, Nevada, $1,700,000.
Langley Air Force Base, Virginia, $9,640,000.
Luke Air Force Base, Arizona, $24,140,000.
MacDill Air Force Base, Florida, $2,380,000.
Moody Air Force Base, Georgia, $900,000.
Mountain Home Air Force Base, Idaho, $14,760,000.
Myrtle Beach Air Force Base, South Carolina, $3,000,000.
Nellis Air Force Base, Nevada, $16,100,000.
Seymour-Johnson Air Force Base, North Carolina, $660,000.
Shaw Air Force Base, South Carolina, $3,700,000.
Tyndall Air Force Base, Florida, $15,310,000.
WESTCONUS, Various Locations, $10,300,000.

UNITED STATES AIR FORCE ACADEMY

Air Force Academy, Colorado, $12,620,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

MILITARY AIRLIFT COMMAND

Lajes Field, Portugal, $7,450,000.
Rhein-Main Air Base, Germany, $1,300,000.

PACIFIC AIR FORCES

Kadena Air Base, Japan, $7,365,000.
Misawa Air Base, Japan, $10,300,000.
Totsuka Air Base, Japan, $700,000.
Yokosuka Air Base, Japan, $600,000.
Camp Red Cloud, Korea, $1,450,000.
Kimhae Air Base, Korea, $3,620,000.
Kunsan Air Base, Korea, $8,170,000.
Kwang-Ju Air Base, Korea, $600,000.
Osan Air Base, Korea, $11,350,000.
Suwon Air Base, Korea, $3,850,000.
Taegu Air Base, Korea, $5,170,000.
Clark Air Base, Republic of the Philippines, $41,100,000.
Saipan, $5,200,000.

SPACE COMMAND

Sondrestrom Air Base, Greenland, $5,860,000.
Thule Air Base, Greenland, $9,790,000.
Woomera Air Station, Australia, $2,300,000.

STRATEGIC AIR COMMAND

Andersen Air Force Base, Guam, $7,600,000.

TACTICAL AIR COMMAND

Keflavik Naval Air Station, Iceland, $1,600,000.
Masirah, Oman, $3,500,000.
Thumrait, Oman, $3,400,000.

UNITED STATES AIR FORCES IN EUROPE

Florennes Air Base, Belgium, $1,200,000.
Bitburg Air Base, Germany, $5,350,000.
Hahn Air Base, Germany, $10,740,000.
Lindsey Air Station, Germany, $1,200,000.
Ramstein Air Base, Germany, $23,070,000.
Sembach Air Base, Germany, $11,870,000.
Spangdahlem Air Base, Germany, $8,310,000.
Wueschheim Air Station, Germany, $310,000.
Zweibrucken Air Base, Germany, $6,740,000.
Iraklion Air Station, Greece, $320,000.
Camp Darby, Italy, $270,000.
Comiso Air Station, Italy, $3,000,000.
San Vito Air Station, Italy, $3,790,000.
Morocco, $25,400,000.
Camp New Amsterdam, The Netherlands, $1,500,000.
Woensdrecht Air Base, The Netherlands, $30,780,000.
Ankara Air Station, Turkey, $5,230,000.
Incirlik Air Base, Turkey, $12,250,000.
Pirinclik Air Station, Turkey, $3,000,000.
Martlesham Heath, United Kingdom, $1,650,000.

RAF Alconbury, United Kingdom, $13,770,000.
RAF Bentwaters, United Kingdom, $3,850,000.
RAF Chicksands, United Kingdom, $950,000.
RAF Croughton, United Kingdom, $630,000.
RAF Fairford, United Kingdom, $4,450,000.
RAF Lakenheath, United Kingdom, $500,000.
RAF Mildenhall, United Kingdom, $4,700,000.
RAF Molesworth, United Kingdom, $2,430,000.
RAF Upper Heyford, United Kingdom, $5,700,000.
RAF Welford, United Kingdom, $1,590,000.
RAF Wethersfield, United Kingdom, $650,000.
Base 30, Classified Location, $2,950,000.
Overseas Classified Location, $11,500,000.
Various Locations, Europe, $3,953,000.

SEC. 2302. FAMILY HOUSING

The Secretary of the Air Force may construct or acquire family housing units (including land acquisition) at the following installations, in the number of units shown, and in the amount shown, for each installation:

Bitburg Air Base, Germany, three hundred and thirty-two units, $26,415,000.

Hahn Air Base, Germany, one hundred and fifty units, $11,300,000.

La Junta Air Force Station, Colorado, forty units, $4,000,000.

Beale Air Force Base, California, family housing maintenance shop, $180,000.

Davis-Monthan Air Force Base, Arizona, family housing management office, $300,000.

McGuire Air Force Base, New Jersey, family housing management office, $325,000.

Pope Air Force Base, North Carolina, family housing management office, $300,000.

Edwards Air Force Base, California, twenty-four mobile home spaces, $376,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) AMOUNT AUTHORIZED.—Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may make expenditures, using amounts appropriated pursuant to section 2305(a)(6)(A), to improve existing military family housing units, including energy conservation projects, in an amount not to exceed $58,644,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Air Force may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Eielson Air Force Base, Alaska, eighty-eight units, $6,186,000.

Elmendorf Air Force Base, Alaska, twelve units, $760,000.

Air Force Academy, Colorado, one unit, $120,000.

Peterson Air Force Base, Colorado, four units, $149,000.

MacDill Air Force Base, Florida, one hundred and fifty-eight units, $4,430,000; seven units, $553,000; seventy-one units, $2,103,000.

Scott Air Force Base, Illinois, one hundred and twelve units, $4,690,000.

Barksdale Air Force Base, Louisiana, one hundred and fourteen units, $5,342,000.

Bangor Air Force Station, Maine, one unit, $30,000.

Andrews Air Force Base, Maryland, seven units, $518,000.

Pease Air Force Base, New Hampshire, two-hundred units, $7,177,000.

Plattsburgh Air Force Base, New York, twenty-nine units, $2,272,000.

Shaw Air Force Base, South Carolina, one hundred and twenty-five units, $4,385,000; seventy-four units, $2,598,000.

Carswell Air Force Base, Texas, two hundred and three units, $7,478,000.

Lackland Air Force Base, Texas, sixty-four units, $1,920,000.

Randolph Air Force Base, Texas, five units, $402,000.

Reese Air Force Base, Texas, one hundred units, $2,895,000.

Langley Air Force Base, Virginia, five units, $441,000.

Andersen Air Force Base, Guam, two hundred units, $14,517,000.

Kadena Air Base, Japan, one hundred units, $5,054,000; three units, $240,000.

SEC. 2304. RESTRICTION ON CERTAIN MILITARY CONSTRUCTION FUNDING

Funds appropriated for military construction may not be used during fiscal year 1987 in connection with the basing at any military installation or facility other than Little Rock Air Force Base, Jacksonville, Arkansas, the eight KC-135 tanker aircraft that, as of June 1, 1986, were based at such Air Force base and assigned to the 189th Air Refueling Group of the Air National Guard.

SEC. 2305. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1986, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,143,729,000 as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $784,642,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $351,878,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $117,260,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $32,700,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $108,840,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $732,409,000, of which—

(i) not more than $5,600,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam; and

(ii) not more than $67,145,000 may be obligated or expended for the leasing of military family housing units in the foreign countries.

(b) AUTHORIZATION OF UNOBLIGATED FUNDS FOR ENERGY CONSERVATION PROJECTS.—Funds appropriated to the Department of Defense for fiscal years before fiscal year 1987 which could be used for energy conservation projects of the Department of the Air Force and which remain available for obligation are hereby authorized to be made available, to the extent provided in appropriation Acts, for energy conservation projects authorized in section 2301(a) in an amount not to exceed $9,470,000.

(c) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN THIS TITLE.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a) and the amount specified in subsection (b).

(d) USE OF CERTAIN FUNDS.—The Secretary of the Air Force may use not more than $350,000 of the amount appropriated pursuant to subsection (a)(3) to acquire approximately 20 acres of real property, and improvements thereon, located adjacent to Lake Wateree near Shaw Air Force Base, South Carolina.

SEC. 2306. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407, 98 Stat. 1515), authorizations for the following projects authorized in section 302 of that Act shall remain in effect until October 1, 1987, or the date of enactment of the Military Construction Authorization Act for fiscal year 1988, whichever is later:

98 Stat. 1508.

(1) Fort MacArthur, California, 140 units, $15,100,000.

(2) RAF Greenham Common, United Kingdom, 250 units, $22,441,000.

(3) RAF Bentwaters, United Kingdom, 200 units, $20,163,000.

TITLE IV—DEFENSE AGENCIES

SEC. 2401. AUTHORIZED CONSTRUCTION PROJECTS AND LAND ACQUISITION FOR THE DEFENSE AGENCIES

(a) INSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

DEFENSE COMMUNICATIONS AGENCY

Scott Air Force Base, Illinois, $7,600,000.

DEFENSE LANGUAGE INSTITUTE

Defense Language Institute, Monterey, California, $5,400,000.

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Estero Bay, California, $680,000.
Defense Construction Supply Center, Columbus, Ohio, $860,000.
Defense Fuel Support Point, Charleston, South Carolina, $460,000
Defense Fuel Support Point, Naval Supply Center, Charleston, South Carolina, $5,130,000.
Defense Depot, Memphis, Tennessee, $1,160,000.

DEFENSE MAPPING AGENCY

Aerospace Center, St. Louis, Missouri, $16,700,000.

DEFENSE MEDICAL FACILITIES OFFICE

Edwards Air Force Base, California, $3,950,000.
Fort Ord, California, $530,000.
Pearl Harbor, Hawaii, $9,700,000.
Mountain Home Air Force Base, Idaho, $30,500,000.
Fort Polk, Louisiana, $2,650,000.
Keesler Air Force Base, Mississippi, $3,100,000.
McGuire Air Force Base, New Jersey, $3,800,000.
Kirtland Air Force Base, New Mexico, $16,000,000.
Camp Lejeune, North Carolina, $3,900,000.
Fort Hood, Texas, $3,450,000.
Brooks Air Force Base, Texas, $1,850,000.
Randolph Air Force Base, Texas, $13,700,000.
Fort Sam Houston, Texas, $135,000,000.

DEFENSE NUCLEAR AGENCY

Armed Forces Radiobiology Research Institute, Bethesda, Maryland, $790,000.
Field Command, Kirtland Air Force Base, New Mexico, $900,000.

JOINT TACTICAL COMMAND, CONTROL, AND COMMUNICATIONS AGENCY

Fort Huachucha, Arizona, $9,890,000.

NATIONAL SECURITY AGENCY

Fort Meade, Maryland, $9,570,000.
Classified Location, $4,000,000.
Classified Location, $1,000,000.

DEFENSE-LEVEL ACTIVITIES

Classified Location, $3,000,000.

STRATEGIC DEFENSE INITIATIVE

Edwards Air Force Base, $4,140,000.
Pacific Missile Range, Kauai, Hawaii, $2,890,000.
White Sands Missile Range, New Mexico, $1,930,000.

UNIFORMED SERVICES UNIVERSITY OF HEALTH SCIENCES

Bethesda, Maryland, $900,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction

projects in the amounts shown for each of the following installations and locations outside the United States:

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Chimu Wan, Japan, $6,640,000.
Defense Fuel Support Point, Tsurumi, Japan, $3,520,000.
Defense Reutilization and Marketing Office, Bupyong, Korea, $1,290,000.
Defense Fuel Support Point, Toegeywon, Korea, $1,010,000.

DEFENSE MEDICAL FACILITIES OFFICE

Boeblingen, Germany, $3,650,000.
Grafenwoehr, Germany, $3,950,000.
Karlsruhe, Germany, $6,800,000.
Vilseck, Germany, $5,600,000.
Camp Edwards, Korea, $1,800,000.
Camp Long, Korea, $1,850,000.
Camp Pelham, Korea, $720,000.
Camp New Amsterdam, The Netherlands, $6,000,000.

DEPARTMENT OF DEFENSE DEPENDENT SCHOOLS

Florennes, Belgium, $1,260,000.
Naval Air Station, Bermuda, $4,280,000.
Aschaffenburg, Germany, $6,600,000.
Bad Kissingen, Germany, $1,330,000.
Baumholder, Germany, $1,600,000.
Dexheim, Germany, $2,430,000.
Erlangen, Germany, $3,220,000.
Gelnhausen, Germany, $1,130,000.
Grafenwoehr, Germany, $2,500,000.
Hahn, Germany, $3,470,000.
Heidelberg, Germany, $3,190,000.
Hessisch-Oldendorf, Germany, $2,310,000.
Hohenfels, Germany, $1,190,000.
Kaiserslautern, Germany, $7,880,000.
Nuernberg, Germany, $8,580,000.
Schwaebish Gmuend, Germany, $1,640,000.
Stuttgart, Germany, $4,530,000.
Wuerzburg, Germany, $7,760,000.
Seoul, Korea, $510,000.
Woensdrecht, The Netherlands, $7,420,000.

STRATEGIC DEFENSE INITIATIVE

Pacific Missile Range, Kwajalein, $1,340,000.

SEC. 2402. FAMILY HOUSING

The Secretary of Defense may construct or acquire three family housing units (including land acquisition) at classified locations in the total amount of $270,000.

SEC. 2403. BROOKE ARMY MEDICAL CENTER

(a) AUTHORIZATION TO CONTRACT IN ADVANCE OF APPROPRIATIONS.—(1) Subject to paragraph (2), the Secretary of Defense may enter into one or more contracts, in advance of appropriations therefor, for the design and construction of the military construction

project authorized by section 2401 to be accomplished at Brooke Army Medical Center, San Antonio, Texas, if each such contract limits the amount of payments that the Federal Government is obligated to make under such contract to the amount of appropriations available, at the time such contract is entered into, for obligation under such contract. Such design and construction may be accomplished by using one-step turn-key selection procedures, or other competitive contracting methods.

(2) The design of the project referred to in paragraph (1) shall provide for a medical facility with space for 450 beds, but the initial construction shall provide for a medical facility with space for only 200 beds.

(b) REPEAL PROVISION.—Section 104 of the Military Construction Authorization Act, 1985 (Public Law 98-407; 98 Stat. 1498), is repealed.

SEC. 2404. HAZARDOUS WASTE STORAGE

(a) AUTHORITY TO CONSTRUCT.—The Secretary of Defense may, using not more than $10,000,000 appropriated for fiscal year 1987 pursuant to the authorization in section 2405(a), carry out military construction projects not otherwise authorized by law for the construction of hazardous waste storage facilities which are described in a report submitted by the Comptroller, Defense Logistics Agency, on September 22, 1986, to the Committees on Armed Services of the Senate and the House of Representatives.

(b) NOTIFICATION TO CONGRESS.—When a decision is made to carry out a project under this section, the Secretary of Defense shall notify in writing the appropriate committees of Congress of that decision, the justification for the project, the estimated cost of the project, and the permit process for the project. The project may not be initiated until a period of 21 days has elapsed after the date on which the notification is received by the committees.

(c) INCREASE IN COST OF PROJECT.—The cost of a hazardous waste storage facility project carried out under this section may be increased by not more than 25 percent of the estimated cost of the project as contained in the notification provided to the committees pursuant to subsection (b) if the Secretary of Defense determines—

(A) that such an increase is required for the sole purpose of meeting unusual variations in cost; and

(B) that such variations in cost could not have been reasonably anticipated at the time the project justification was originally submitted to the committees.

(d) DEFINITION.—As used in this section, the term "hazardous waste" includes both excess hazardous materials and hazardous wastes as defined by applicable laws and regulations.

SEC. 2405. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1986, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $532,030,000 as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $180,130,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $117,000,000.

(3) For the construction of a research and engineering facility at Fort Meade, Maryland, authorized by section 401(a) of the Military Construction Authorization Act, 1986, $38,000,000.

99 Stat. 618.

(4) For the construction of the Madigan Army Medical Center, Fort Lewis, Washington, authorized by section 101(a) of the Military Construction Authorization Act, 1985, $72,100,000.

98 Stat. 1495.

(5) For unspecified minor construction projects under section 2805 of title 10, United States Code, $4,000,000.

(6) For construction projects under the contingency construction authority of the Secretary of Defense under section 2804 of title 10, United States Code, $5,000,000.

(7) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $88,200,000.

(8) For conforming storage facilities, $10,000,000.

(9) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $270,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $17,330,000, of which not more than $14,027,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN THIS TITLE.—Notwithstanding the cost variations authorized by section 2858 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a) and $125,000,000 (the balance of the amount authorized for the construction of the Brooke Army Medical Center, Fort Sam Houston, Texas).

SEC. 2406. EXTENSION OF PRIOR YEAR AUTHORIZATIONS

Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407, 98 Stat. 1515), the authorizations for the following projects authorized in sections 401 and 402 of such Act shall remain in effect until October 1, 1987, or the date of the Military Construction Authorization Act for fiscal year 1988, whichever is later:

98 Stat. 1509, 1511.

(1) Defense property disposal office in the amount of $1,950,000 at Pearl Harbor Naval Shipyard, Hawaii.

(2) Six family housing units at classified locations in the amount of $693,000.

TITLE V—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 2501. AUTHORITY OF THE SECRETARY OF DEFENSE TO MAKE CONTRIBUTIONS

(a) IN GENERAL.—The Secretary of Defense may make contributions for the North Atlantic Treaty Organization infrastructure program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

(b) LIMITATION.—The Secretary may obligate funds under this section only to the extent funds are appropriated for use under section 2806 of title 10, United States Code.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1986, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program as authorized by section 2501, in the amount of $247,000,000.

SEC. 2503. AMENDMENT TO NATO INFRASTRUCTURE PROGRAM

(a) IN GENERAL.—Section 2806(a) of title 10, United States Code, is amended by inserting "and for related expenses" after "headquarters)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only with respect to contributions made with funds appropriated for fiscal years after fiscal year 1986. 10 USC 2806 note.

SEC. 2504. RESTRICTION ON CERTAIN FUNDING 10 USC 2806 note.

The Secretary of Defense may not obligate or expend any funds after fiscal year 1987 with respect to the North Atlantic Treaty Organization infrastructure program as provided in section 2806 of title 10, United States Code, until the Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives—

(1) a comprehensive master plan for establishing adequate active defenses for—

(A) air bases in Europe at which operations of United States aircraft are planned; and

(B) sites in Europe used by the United States for logistic support of the North Atlantic Treaty Organization or for prepositioned overseas materiel configured to unit sets; and

(2) a report containing a certification by the Secretary that sufficient funds have been budgeted by the Department of Defense in the fiscal year 1988 five-year defense plan to meet the objectives of such comprehensive master plan.

TITLE VI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2601. AUTHORIZATION FOR GUARD AND RESERVE FACILITIES

There are authorized to be appropriated for fiscal years beginning after September 30, 1986, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts: 10 USC 2231 *et seq.*

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $133,271,000, and

(B) for the Army Reserve, $86,700,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, $44,500,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $145,325,000, and

(B) for the Air Force Reserve, $58,900,000.

TITLE VII—GENERAL PROVISIONS

PART A—EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

(a) EXPIRATION OF AUTHORIZATIONS AFTER TWO YEARS.—Except as provided in subsection (b), all authorizations contained in titles I, II, III, IV, and V for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor) shall expire on October 1, 1988, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1989, whichever is later.

(b) EXCEPTION.—The provisions of subsection (a) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1988, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1989, whichever is later, for construction contracts, land acquisition, family housing projects and facilities, or contributions to the NATO Infrastructure Program.

SEC. 2702. CODIFICATION OF CERTAIN AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

(a) MAXIMUM AMOUNT FOR UNSPECIFIED MINOR MILITARY CONSTRUCTION PROJECTS.—Section 2805 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "the amount specified by law as the maximum amount for a minor military construction project" in clause (2) and inserting in lieu thereof "$1,000,000";

(2) in subsection (b)(1), by striking out "50 percent" and all that follows through "project" and inserting in lieu thereof "$500,000"; and

(3) in subsection (c), by striking out "20 percent" and all that follows through "project" and inserting in lieu thereof "$200,000".

10 USC 2807.

(b) MAXIMUM AMOUNT FOR ARCHITECTURAL AND ENGINEERING SERVICES.—Section 2807(b) of such title is amended by striking out "the maximum amount specified by law for the purposes of this section" and inserting in lieu thereof "$300,000".

(c) MAXIMUM AMOUNT PER UNIT FOR AN IMPROVEMENT PROJECT FOR FAMILY HOUSING UNITS.—Section 2825(b)(1) of such title is amended by striking out "an amount specified by law for such purpose" and inserting in lieu thereof "$30,000".

(d) MAXIMUM ANNUAL RENTAL FOR A FAMILY HOUSING UNIT IN THE UNITED STATES.—Section 2828(b) of such title is amended—

(1) in paragraph (2), by striking out "the amount specified by law as the maximum annual domestic family housing unit lease amount" and inserting in lieu thereof "$10,000"; and

(2) in paragraph (3)(A), by striking out "the maximum annual domestic" and all that follows through the period and inserting in lieu thereof "$10,000 but does not exceed $12,000.".

(e) MAXIMUM ANNUAL RENTAL FOR A FAMILY HOUSING UNIT OUTSIDE THE UNITED STATES.—Section 2828(e)(1) of such title is amended by striking out "the amount specified by law as the maximum annual foreign family housing unit lease amount" and inserting in lieu thereof "$16,800". 10 USC 2828.

(f) MAXIMUM NUMBER OF FAMILY HOUSING UNITS LEASED IN FOREIGN COUNTRIES.—Section 2828(e)(2) of such title is amended by striking out "shall be specified by law" and inserting in lieu thereof "is 32,000".

(g) MAXIMUM ANNUAL RENTAL FOR FAMILY HOUSING FACILITIES, OR FOR REAL PROPERTY RELATED TO FAMILY HOUSING FACILITIES, LEASED IN A FOREIGN COUNTRY.—Section 2828(f) of such title is amended by striking out "the amount specified by law for such purpose" and inserting in lieu thereof "$250,000".

PART B—MILITARY CONSTRUCTION PROGRAM PROVISIONS

SEC. 2711. TEST OF LONG-TERM FACILITIES CONTRACTS

Section 2809(a)(1) of title 10, United States Code, is amended to read as follows:

"(1)(A) The Secretary concerned may enter into contracts for the construction, management, and operation of a facility on or near a military installation for the provision of an activity or service named in subparagraph (B) if the Secretary concerned has identified the proposed project in the budget proposal submitted to Congress and has determined that the facility can be more economically provided under a long-term contract than by conventional means.

"(B) The activities and services referred to in subparagraph (A) are as follows:

"(i) Child care services.

"(ii) Potable and waste water treatment services.

"(iii) Depot supply activities.

"(iv) Troop housing.

"(v) Transient quarters.

"(vi) Other logistic and administrative services, other than depot maintenance.".

SEC. 2712. PLANNING AND DESIGN

(a) IN GENERAL.—Section 2807 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) For study, planning, design, architectural, and engineering services related to military construction and family housing projects, the Secretaries of the military departments may incur obligations for contracts or portions of contracts using military construction and family housing appropriations from different fiscal years to the extent that those appropriations are available for obligation.". Contract.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only to funds appropriated for fiscal years after fiscal year 1985. 10 USC 2807 note.

SEC. 2713. BUILD-TO-LEASE AND RENTAL GUARANTEE PILOT PROGRAMS

(a) RENTAL GUARANTEE PROGRAM.—(1) Subsection (b) of section 802 of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note), is amended—

(A) in paragraph (2), by striking out "for operation and maintenance costs which shall (if included) be effective for the term of agreement";

(B) in paragraph (4), by adding "or, at the discretion of the Secretary of the military department concerned, in compliance with the local building codes" after "specifications";

(C) in paragraph (5), by striking out "15 years" and inserting in lieu thereof "25 years";

(D) by striking out "and" at the end of paragraph (10);

(E) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and"; and

(F) by adding at the end the following new paragraph:

"(12) may provide in the agreement for the rental of a child care center, civic center building, and similar type buildings constructed for the support of family housing.".

(2) Subsection (g)(2) of such section is amended by striking out "600" and inserting in lieu thereof "1,200";

(3) Subsection (h) of such section is amended by striking out "September 30, 1986" and inserting in lieu thereof "September 30, 1990".

(b) BUILD-TO-LEASE PROGRAM.—Section 2828(g) of title 10, United States Code, is amended—

(1) in paragraph (8)(B), by striking out "600" and inserting in lieu thereof "1,600";

(2) in paragraph (9), by striking out "September 30, 1986" and inserting in lieu thereof "September 30, 1988"; and

(3) by adding at the end the following new paragraph:

Contract.

"(10) A contract for the lease of family housing under this subsection may include provision for the lease of a child care center, civic center building, and similar type buildings constructed for the support of family housing.".

SEC. 2714. FOREIGN LEASES FOR PERSONNEL HOLDING SPECIAL POSITIONS

Section 2828(e)(1) of title 10, United States Code, is amended by striking out "200" and inserting in lieu thereof "220".

PART C—MISCELLANEOUS PROVISIONS

SEC. 2721. POSTAL FACILITIES

Sections 4779 and 9779 of title 10, United States Code, are each amended—

(1) by striking out subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

SEC. 2722. COMMUNITY PLANNING ASSISTANCE

The Secretary of Defense may use not more than $200,000 from funds appropriated to the Department of Defense for fiscal year 1987 to provide planning assistance to local communities located near homeports proposed under the Naval Strategic Dispersal Program at Ingleside, Texas, and other Gulf Coast sites, if the Secretary determines that the financial resources available to the community (by grant or otherwise) are inadequate.

SEC. 2723. RELEASE OF CERTAIN USE RIGHTS HELD BY THE UNITED STATES

(a) IN GENERAL.—The Administrator of General Services shall release to the Virginia Port Authority, an instrumentality of the Commonwealth of Virginia, all residuary rights of use held by the United States in three warehouses located in the city of Norfolk, Virginia, within the area operated as a public port facility and known as the Norfolk International Terminals. Virginia.

(b) TIME LIMITATION; COMPENSATION.—The Administrator of General Services shall execute such documents and take such other actions as may be necessary to release, within 180 days after the date of the enactment of this Act, the rights referred to in subsection (a). The release shall be made without any compensation in addition to compensation paid to the United States for such warehouses and other facilities by the city of Norfolk, Virginia, in 1968.

SEC. 2724. PROHIBITION OF FUNDING FOR CERTAIN MILITARY CONSTRUCTION CONTRACTS ON GUAM

(a) IN GENERAL.—Except as provided in subsection (b), funds appropriated pursuant to any authorization made by this Act may not be expended with respect to any contract for a military construction project on Guam if any work is carried out on such project by any person who is a nonimmigrant described in section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)).

(b) EXCEPTION.—In any case in which there is no acceptable bid made in response to a solicitation by the Secretary of a military department for bids on a contract for a military construction project on Guam and the Secretary concerned makes a determination that the prohibition contained in subsection (a) is a significant deterrent to obtaining bids on such contract, the Secretary concerned may make another solicitation for bids on such contract and the prohibition contained in subsection (a) shall not apply to such contract after the end of the 21-day period beginning on the date on which the Secretary concerned transmits a report concerning such contract to the Committees on Armed Services of the Senate and the House of Representatives. Report.

(c) EFFECTIVE DATE.—This section shall apply only to contracts entered into, amended, or otherwise modified on or after the date of the enactment of this Act.

SEC. 2725. PROHIBITION ON DESIGN OF PENTAGON ANNEX

None of the funds appropriated pursuant to an authorization in this or any other Act may be used for the design of an administrative complex to be constructed on the property known as the Pentagon Reservation, Arlington, Virginia, for the purpose of supporting the headquarters of the Department of Defense or the military departments or the support functions of such headquarters.

SEC. 2726. STUDY OF NEEDS OF DEPENDENTS' EDUCATIONAL FACILITIES ON MILITARY INSTALLATIONS

(a) IN GENERAL.—The Secretary of Defense and the Secretary of Education shall conduct a joint study for the purpose of determining the needs for construction, extension, remodeling, and rehabilitation of dependents' educational facilities on military installations in the United States and shall develop a joint policy to meet those needs.

(b) REPORT.—The Secretaries of Defense and Education shall, not later than April 1, 1987, transmit to the Congress a report containing—

(1) a description of the needs determined under subsection (a);

(2) the joint policy developed to meet such needs; and

(3) any recommendations for legislation the Secretaries consider necessary or appropriate to meet such needs.

SEC. 2727. STUDY OF USE OF PROPERTY AT LOS ALAMITOS ARMED FORCES RESERVE CENTER, CALIFORNIA, FOR MILITARY FAMILY HOUSING

(a) IN GENERAL.—The Secretary of the Army and the Secretary of the Navy shall conduct a study concerning the potential use of the property currently being utilized as the Los Alamitos Armed Forces Reserve Center, California, for military family housing for the Navy.

(b) MATTERS TO CONSIDER.—In conducting the study described in subsection (a), each of the Secretaries shall take into consideration—

(1) the extensive number of complaints from residents concerning aircraft noise;

(2) the need for such military family housing;

(3) the public safety concerns involved with respect to military aircraft flying over a highly populated, urban area;

(4) the importance of maintaining facilities for the stationing of National Guard and other Reserve component units;

(5) the importance of maintaining facilities for the training of military aviation personnel;

(6) the importance of maintaining facilities for the maintenance of Army facilities and Army aircraft assigned to the California Army National Guard and the United States Army Reserve;

(7) the importance of the Los Alamitos Armed Forces Reserve Center, California, as a designated relief site in the event of a national disaster or emergency; and

(8) the costs associated with establishing and maintaining military family housing for the Navy at such Center.

(c) RECOMMENDED ACTION.—If the Secretaries find that the Center described in subsection (a) would not be suitable for military family housing or that it should not be so used, they shall recommend, in the report transmitted to the Committees pursuant to subsection (d), an alternate course of action for reducing the noise caused by aircraft traffic between the Center and the training area in the Santa Ana Mountains.

(d) DATE OF TRANSMITTAL.—The Secretaries described in subsection (a) shall transmit a copy of the findings and conclusions of the study carried out under this section to the Committees on Armed Services of the House of Representatives and the Senate. The transmissions shall be made no later than 90 days after the date of enactment of this Act.

SEC. 2728. REAL ESTATE ACQUISITION REPORT

New Mexico.

The Secretary of the Army shall, within 45 days of the date of the enactment of this Act, transmit to the Committees on Armed Services of the Senate and the House of Representatives a real estate acquisition report for the lease of temporary facilities located in Rio Rancho, New Mexico, for the Hawk Missile Battalion of the New

Mexico Army National Guard that is to be permanently located near Rio Rancho, New Mexico.

PART D—REAL PROPERTY TRANSACTIONS

SEC. 2731. LAND CONVEYANCE, FORT HUACHUCA, ARIZONA

(a) AUTHORITY TO CONVEY.—The Secretary of the Army may convey to the State of Arizona all right, title, and interest of the United States in and to approximately 26 acres of real property (and improvements thereon) which comprise a portion of Fort Huachuca, Arizona, which border on State Highway 90 at Fort Huachuca, and which are located in the east half of Township 21 South, Range 20 East, Gila and Salt River Meridian.

(b) CONSIDERATION.—(1) In consideration for the conveyance authorized by subsection (a), the State of Arizona shall convey to the United States all right, title, and interest of the State in and to 1,536.47 acres of real property (and improvements thereon) owned by the State within the East Range at Fort Huachuca and to all mineral rights owned by the State in 12,943 acres of real property located within the East Range at Fort Huachuca. Title to such real property and mineral rights shall be conveyed free and clear of encumbrances and third party interests except to the extent waived by the Secretary.

(2) If the fair market value of the real property and improvements conveyed by the Secretary under subsection (a) exceeds the fair market value of the real property and improvements and mineral interests conveyed to the United States under subsection (b), as determined by the Secretary, the State shall pay the difference to the United States. Any funds received under this section shall be covered into the general fund of the Treasury.

(c) AUTHORITY TO SELL ADDITIONAL ACREAGE.—(1) In addition to the acreage authorized to be conveyed under subsection (a), the Secretary may sell, subject to paragraphs (2) and (3), all right, title, and interest of the United States in and to approximately 203 acres of real property and improvements thereon (designated by the Secretary) comprising a portion of Fort Huachuca, Arizona.

(2) The sale of the real property and improvements referred to in paragraph (1) shall be conducted in accordance with competitive bidding procedures prescribed in section 2304 of title 10, United States Code. In no event may the real property and improvements be sold for less than the fair market value thereof. The fair market value of the property shall be established by an appraisal approved by the Secretary.

(3) If the fair market value of the real property and improvements and mineral rights conveyed to the United States pursuant to subsection (b) exceeds the fair market value of the real property and improvements conveyed by the United States pursuant to subsection (a), the Secretary may use the proceeds of the sale under paragraph (1) to pay the difference in value to the State of Arizona. Any proceeds of the sale not used for such purpose shall be covered into the general fund of the Treasury.

(d) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal descriptions of any property conveyed or acquired under this section shall be based upon surveys which are satisfactory to the Secretary.

(e) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with the transactions authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2732. LEASE AND DEVELOPMENT OF CERTAIN REAL PROPERTY, SAN DIEGO, CALIFORNIA

(a) IN GENERAL.—Subject to subsections (b) through (g), the Secretary of the Navy may—

(1) enter into long-term leases of real property located within the Broadway Complex of the Department of the Navy, San Diego, California; and

(2) assist any lessee of such real property in financing the construction of any facility on such real property.

(b) CONSIDERATION.—(1)(A) In consideration for leasing the real property described in subsection (a), the Secretary shall obtain, without compensation or at substantially below market value, facilities or the use of facilities, or both, constructed on such real property by the lessees.

(B) The Secretary shall provide that the value of the facilities or the use of facilities, or both, obtained under subparagraph (A) (minus the amount of any compensation paid by the Secretary for the facilities or use of them) shall be at least equal to the value of the use of the real property leased under subsection (a), as determined by the Secretary.

(2) In consideration for assisting a lessee in financing the construction of any facility on such real property, the Secretary shall obtain an ownership interest in such facility that is at least equal in value to the amount of the financing provided by the Secretary.

(c) CONDITIONS.—(1) The Secretary shall provide that any real property leased under this section shall be developed in accordance with detailed plans and terms of development which have been duly formulated by the Secretary and the San Diego community through the San Diego Association of Governments' Broadway Complex Coordinating Group.

(2) A lease may not be entered into under this section until 21 days after the Secretary submits a plan for the development of the real property described in subsection (a) to the Committees of the Armed Services of the Senate and the House of Representatives, including a justification of how this plan is more advantageous to the United States than developing the real property with Federal funds.

(d) COMPETITIVE PROCEDURES.—Each lease entered into under subsection (a) shall be awarded through the use of competitive procedures.

(e) RIGHT TO ACQUIRE.—The Secretary may provide that the United States shall have the right of first refusal to acquire all right, title, and interest in and to any facility constructed on the real property subject to such lease.

(f) ADDITIONAL TERMS.—(1) A lease entered into by the Secretary under this section under which a facility is constructed by a private developer and leased to the Department of the Navy may provide for the operation and maintenance of such facility by the private developer.

(2) The Secretary may require such additional terms and conditions in connection with the leases authorized by this section as the

Secretary considers appropriate to protect the interests of the United States.

(g) LIMITATION.—The Secretary may obligate or expend amounts for—

(1) assisting in financing under subsection (a)(2);

(2) obtaining facilities or the use of facilities under (b)(1)(A); or

(3) acquiring interest in a facility under subsection (e),

only to the extent funds have been appropriated for such purpose.

SEC. 2733. SELECTION OF SITE FOR MILITARY FAMILY HOUSING AT SAN PEDRO, CALIFORNIA

(a) IN GENERAL.—(1) The Secretary of the Air Force shall consider appropriate sites in San Pedro, California, for the location and construction of 170 military family housing units for members of the Air Force assigned to duty in the area of San Pedro.

(2) The Secretary shall consider as an appropriate site for such housing only real property in the San Pedro area in which the United States has a reversionary interest for national defense purposes or real property which would be conveyed to the United States without charge.

Real property. Defense and national security.

(3) After the Secretary has selected one or more sites for such housing, he shall file a final environmental impact statement as required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) on each site determined by the Secretary to be appropriate for the purpose stated in paragraph (1). Within 10 days after the expiration of the 30-day period referred to in section 1506.10(b)(2) of title 40 of the Code of Federal Regulations, the Secretary shall select as a site for the location of the housing units referred to in subsection (a) one of the sites considered appropriate for such purpose.

(b) EXERCISE OF REVERSIONARY RIGHT.—(1) If the real property selected as the site for the housing units is subject to a reversionary right on behalf of the United States, the Secretary shall notify the Attorney General of the United States or other appropriate official that the site selected is needed for national defense purposes.

(2) The Attorney General or other appropriate official shall, within 15 days after receiving the notification referred to in paragraph (1), take such action as may be necessary to exercise the reversionary right held by the United States in the real property selected as the site for the housing.

(3) Within 15 days after the United States resumes ownership over the real property, the Attorney General or other appropriate official shall transfer jurisdiction of such real property to the Secretary.

(c) CONSTRUCTION OF MILITARY FAMILY HOUSING.—The Secretary shall use any real property made available pursuant to this section as the site for the construction of the 170 military family housing units referred to in subsection (a).

SEC. 2734. GRANTING OF EASEMENTS AND REPLACEMENT OF FAMILY HOUSING UNITS AND OTHER FACILITIES AT MARINE CORPS AIR STATION, EL TORO, CALIFORNIA

(a) AUTHORITY TO GRANT EASEMENTS.—Subject to subsection (b), the Secretary of the Navy may grant to the County of Orange, California, one or more easements through the Marine Corps Air Station, El Toro, California.

(b) MANDATE TO REPLACE FAMILY HOUSING AND OTHER FACILITIES.—(1) Subject to subsection (c), the Secretary shall provide for

the replacement of all family housing units and other facilities that are to be demolished as a result of any easement granted under subsection (a).

(2) An easement granted under subsection (a) ~~shall not~~ become effective until the Secretary determines that—

(A) family housing units have been constructed to replace all the family housing units to be demolished as a result of such easement; and

(B) such replacement units meet the applicable requirements specified in the agreements referred to in subsection (a).

(3) Until the determination referred to in paragraph (2) is made, the Secretary shall continue to use, as military family housing, the housing units that are to be demolished as a result of an easement becoming effective.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with any easement granted under this section as the Secretary considers appropriate to protect the interests of the United States.

(d) FUNDING.—(1) The Secretary may use not more than $2,300,000 of the amount appropriated pursuant to section 2208(a)(7)(A) for payment in connection with the construction of replacement family housing units required by subsection (b).

(2) The Secretary may make available amounts for the construction of such replacement family housing units at the times specified in the agreements referred to in subsection (a).

(3) The Secretary may not use any of the funds available for the purposes of this section for the replacement of facilities other than family housing facilities.

SEC. 2735. LAND CONVEYANCE, MARCH AIR FORCE BASE, CALIFORNIA

(a) AUTHORITY TO SELL.—Subject to subsections (b) through (g), the Secretary of the Air Force may sell all or any portion of a tract of real property (together with improvements thereon), comprising a portion of March Air Force Base, California, known as West March and consisting of 845 acres, more or less.

(b) CONDITIONS OF SALE.—The Secretary shall require as a condition of the sale of the property referred to in subsection (a) that the purchaser—

(1) agree to construct on Government-owned real property at March Air Force Base, at the expense of the purchaser, in accordance with standards and specifications prescribed by the Secretary, a noncommissioned officers professional education center, a band center, and an addition to, or an alteration of, a combat operations center; and

(2) submit to the Secretary a master plan for the development of the real property referred to in subsection (a) that—

(A) is consistent (as determined by the Secretary) with the Air Installations Compatible Use Zone recommendations of the Air Force;

(B) is consistent (as determined by the Secretary) with the future plans of the Air Force for March Air Force Base and the plan for development of Air Force Village West; and

(C) is acceptable to the appropriate local government officials of the city and county of Riverside, California.

(c) COMPETITIVE BID REQUIREMENT; MINIMUM SALE PRICE.—(1) The sale of any of the real property and improvements referred to in

subsection (a) shall be carried out under competitive contracting procedures.

(2) In no event may property referred to in subsection (a) be sold for less than fair market value of such property. The value of the property to be conveyed and the consideration to be received shall be determined by appraisals approved by the Secretary. The Secretary may pay for such appraisals from any deposit made by the prospective purchaser, or the Secretary may be reimbursed for the cost of such appraisals from any such deposit. Any portion of the deposit used for such purpose shall be nonrefundable.

(d) REPORT REQUIREMENTS.—(1) The Secretary may not enter into any contract for the sale of any or all of the property referred to in subsection (a) unless— Contracts.

(A) the Secretary has submitted a report to the appropriate committees of Congress containing the information required in section 2667a(b) of title 10, United States Code; and Report.

(B) a period of 21 days has expired following the date on which the report referred to in such section is received by those committees.

(2) Any report submitted under paragraph (1) shall include—

(A) the price and a description of terms agreed to with the successful bidder; and

(B) a description of the procedures used in selecting a buyer for the real property.

(e) USE OF EXCESS FUNDS.—If the fair market value of the property to be conveyed to a purchaser is greater than the fair market value of the facilities to be constructed by the purchaser for the United States, the difference in cash shall be deposited into the general fund of the Treasury.

(f) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property to be conveyed under this section shall be determined by surveys approved by the Secretary. Such surveys shall be provided by the purchaser or paid for by the Secretary from a deposit made by the prospective purchaser at the time of award. Any portion of the deposit used for surveys shall be nonrefundable.

(g) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with any transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2736. LAND EXCHANGE, LONG BEACH NAVAL STATION, CALIFORNIA

(a) AUTHORITY TO EXCHANGE.—Subject to subsections (b) through (d), the Secretary of the Navy may exchange approximately 16 acres of real property (and improvements thereon) adjacent to Admiral Kidd Park at the Long Beach Naval Station, California, to the City of Long Beach, California, for real property (and improvements thereon) located on Hill Street, between Webster Avenue and the Terminal Island Freeway, in Long Beach, California.

(b) CONDITION.—If the fair market value of the real property and improvements conveyed to the City under subsection (a) exceeds the fair market value of the real property and improvements conveyed to the United States, the City shall pay to the United States an amount equal to the difference. The Secretary shall deposit any funds received under this subsection as miscellaneous receipts in the Treasury.

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(c) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property exchanged under this section shall be in accordance with surveys that are satisfactory to the Secretary. The costs of such surveys shall be borne by the City of Long Beach.

(d) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2737. LAND CONVEYANCE, WHITTIER NARROWS DAM, LOS ANGELES COUNTY, CALIFORNIA

(a) AUTHORITY TO CONVEY.—Subject to subsections (b) through (f), the Secretary of the Army may convey to Southern California Edison Company approximately 7.44 acres of real property, together with improvements thereon, located within the Whittier Narrows Flood Control Basin, north of Rush Street and east of Walnut Grove Avenue, in Los Angeles County, California.

(b) CONSIDERATION.—In consideration for the conveyance authorized by subsection (a), the Secretary may accept real property in the Los Angeles area or cash, or both. The value of the consideration for the conveyance may not be less than the fair market value of the property conveyed by the United States, as determined by the Secretary.

(c) CONDITIONS.—(1) The Secretary may convey the real property described in subsection (a) only if—

Flood control.

(A) the Company grants the United States a perpetual easement that enables the Federal Government to carry out necessary flood control activities with respect to such real property; and

(B) the Company agrees to permit the County of Los Angeles to use a portion of such real property for parking in connection with recreation activities at Whittier Narrows Golf Course, as the Secretary considers appropriate.

(d) USE OF FUNDS.—Any funds received by the Secretary under this section shall be deposited into the general fund of the Treasury.

(e) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of such survey shall be borne by the company.

(f) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2738. AUTHORIZATION OF LAND CONVEYANCE TO CITY OF ARCADIA, CALIFORNIA

(a) IN GENERAL.—Subject to subsection (b), the County of Los Angeles, California, may convey the land described in the Act entitled "An Act to convey certain land in the county of Los Angeles, State of California", approved March 24, 1933, to the City of Arcadia, California.

National parks, monuments, etc.

(b) REVERTER.—Any land conveyed pursuant to subsection (a) shall be conveyed subject to the condition that the land be used only for public park, playground, or recreation purposes and that if the land is used for any other purpose, all right, title, and interest in and to such land shall revert to the United States and the United States shall have the immediate right of entry thereon.

SEC. 2739. LAND EXCHANGE, ORLANDO, FLORIDA

(a) IN GENERAL.—Subject to subsections (b) through (e), the Secretary of the Army may convey to the City of Orlando, Florida, all right, title, and interest of the United States in and to a tract of real property located in Orlando, Florida, consisting of approximately 36 acres, together with improvements thereon, comprising the United States Army Reserve training facility located at the former McCoy Air Force Base, Orlando, Florida.

(b) CONSIDERATION.—In consideration for the conveyance by the Secretary under subsection (a), the City shall—

(1) convey to the United States a tract of real property consisting of approximately 36 acres located at Orlando Jetport, Orlando, Florida; and

(2) design, and construct on such real property, suitable replacement facilities, in accordance with the requirements of the Secretary, for the training activities of the United States Army Reserve.

(c) PAYMENT BY THE CITY.—If the fair market value (as determined by the Secretary) of the real property and improvements conveyed by the United States to the City under subsection (a) exceeds the sum of the fair market value (as determined by the Secretary) of the property conveyed by the City to the United States and the fair market value of the facilities constructed by the City on the real property conveyed to the United States under subsection (b), the City shall pay to the United States an amount equal to the difference.

(d) LEGAL DESCRIPTION OF THE REAL PROPERTY.—The exact acreages and legal description of properties to be conveyed under subsections (a) and (b) shall be determined by surveys that are satisfactory to the Secretary. The cost of such surveys shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate and to protect the interests of the United States.

SEC. 2740. SALE OF LAND AND REPLACEMENT OF CERTAIN WAREHOUSING FACILITIES, KAPALAMA MILITARY RESERVATION, HAWAII

(a) IN GENERAL.—Subject to subsections (b) through (g), the Secretary of the Army may convey approximately 14.41 acres of real property, together with improvements thereon, at Kapalama Military Reservation, Hawaii, and may replace and relocate warehousing facilities located on such property.

(b) CONSIDERATION.—In consideration for the real property and improvements described in subsection (a), the purchasers of such property and improvements shall pay the United States--

(1) in a manner determined by the Secretary, for the cost of the design and construction of suitable replacement warehousing facilities to be constructed at Schofield Barracks, Hawaii;

(2) for any cost incurred by the Department of the Army under this section with respect to the relocation of warehousing facilities; and

(3) the amount of any difference referred to in subsection (d).

(c) SALE AND REPLACEMENT ACTIVITIES.—The Secretary may use any amount received from the purchaser under paragraphs (1) and (2) of subsection (b) for the purpose of carrying out this section.

(d) PAYMENT OF EXCESS INTO TREASURY.—If the fair market value of the real property and improvements described in subsection (a) exceeds the costs described in paragraphs (1) and (2) of subsection (b), as determined by the Secretary, the purchaser shall pay the amount of such difference to the Secretary, and the Secretary shall deposit such amount into the Treasury as miscellaneous receipts.

(e) COMPETITIVE BID PROCEDURES.—The conveyance described in subsection (a) shall be carried out under competitive bid procedures.

(f) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of the survey shall be borne by the purchaser.

(g) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2741. LAND EXCHANGE, AIEA, HAWAII

(a) IN GENERAL.—The Secretary of the Navy may transfer to the United States Postal Service jurisdiction over approximately 3.2 acres of real property, together with improvements thereon, located in Aiea, Hawaii, if the Postal Service pays to the Secretary, out of funds available to the Postal Service for obligation, an amount equal to the greater of the following:

(1) The approved fair market value of the property over which jurisdiction is to be transferred (as determined by the Secretary).

(2) The cost of providing fleet laundry and dry cleaning facilities to the Navy to replace facilities located on the real property over which jurisdiction is to be transferred pursuant to this section.

(b) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property over which jurisdiction is to be transferred under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of the surveys shall be borne by the Postal Service.

(c) ADDITIONAL TERMS.—(1) The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interest of the United States.

(2) If the fair market value of the property over which jurisdiction is to be transferred to the Postal Service under subsection (a) exceeds the cost of the replacement fleet laundry and dry cleaning facilities, the Secretary shall deposit the excess into the general fund of the Treasury.

SEC. 2742. LAND EXCHANGE, SANTA FE, NEW MEXICO

(a) AUTHORITY TO CONVEY.—(1) Subject to paragraph (4) of this subsection and to subsections (b) through (f), the Secretary of the Army may make the conveyances described in paragraphs (2) and (3).

(2) The Secretary may convey to the City of Santa Fe, New Mexico (hereinafter in this section referred to as the "City"), all right, title, and interest of the United States in and to the southernmost 27.88 acres, more or less, of the parcel of land conveyed to the State of New Mexico in accordance with the Act of June 19, 1956 (70 Stat. 296) and currently being leased to the City as a public park.

(3) The Secretary may convey to the New Mexico State Armory Board (hereinafter in this section referred to as the "Board"), all

right, title, and interest of the United States in and to the northernmost 21.61 acres, more or less, of the parcel of land conveyed to the State of New Mexico in accordance with the Act of June 19, 1956 (70 Stat. 296), and currently serving as the location of the State headquarters of the New Mexico National Guard.

(4) Except as provided in subsection (f)(2), the conveyances authorized in paragraphs (2) and (3) shall be made without reimbursement to the United States.

(b) CONDITIONS.—The lands conveyed by the Secretary under subsection (a) shall be subject to the following conditions:

(1) The City shall, in accordance with the agreement entered into under subsection (d), provide to the Board a site of not less than 250 acres determined by the Board to be acceptable for the construction of—

(A) an armory for all New Mexico National Guard units located in Santa Fe, New Mexico;

(B) an organizational maintenance shop;

(C) a United States property and fiscal office building and warehouse;

(D) a headquarters complex for the New Mexico National Guard;

(E) a local training area for the New Mexico National Guard units;

(F) a complex for the New Mexico Army National Guard officer candidate school and noncommissioned officer academy; and

(G) additional facilities specified by the National Guard Bureau or the New Mexico State Armory Board.

(2) The Board shall use the land provided to it by the City pursuant to paragraph (1) for the training and support of the National Guard of New Mexico, and for other military purposes and if the site ever ceases to be used for such purposes, all right, title, and interest in and to such property shall revert to and become the property of the United States which shall have the immediate right of entry thereon.

(c) MINERAL RIGHTS.—The conveyances made by the Secretary under subsection (a) shall reserve all mineral rights, including oil and gas, to the United States in accordance with the Act of June 19, 1956 (70 Stat. 296).

(d) GENERAL AUTHORITY.—To implement the land exchange authorized by this section, the Secretary may enter into agreements with the City, the Board, and such other parties the Secretary determines are necessary to effectuate the purpose of this section.

(e) LEGAL DESCRIPTION OF LANDS.—The exact acreage and legal description of the lands provided by the City to the Board in accordance with subsection (b) shall be determined by surveys that are satisfactory to the Secretary. The cost of such surveys shall be borne by the City or the Board.

(f) ADDITIONAL TERMS AND CONDITIONS.—(1) The Secretary may require such other terms and conditions with respect to the transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

(2) The terms and conditions described in paragraph (1) may include a requirement for payment to the United States by the City or the Board, or both, to the extent (if any) that the value of the property conveyed by the United States pursuant to subsection (a)

exceeds the value of the property conveyed to the Board pursuant to subsection (b).

SEC. 2743. LEASE OF PROPERTY AT THE NAVAL WEAPONS STATION, CHARLESTON, SOUTH CAROLINA

(a) IN GENERAL.—The Secretary of the Navy may lease to the South Carolina Ports Authority approximately 118 acres of real property, together with improvements thereon, at the Naval Weapons Station, Charleston, South Carolina.

(b) TERM OF LEASE.—The lease entered into under subsection (a) may be for such term as the Secretary determines appropriate, but in no event to exceed 25 years.

(c) CONSIDERATION.—In addition to the fair rental value to be paid by the South Carolina Ports Authority for the premises leased pursuant to this section, such Authority shall pay for the cost of replacing certain facilities on the leased premises. The replacement facilities shall be constructed in a manner and at a site determined by the Secretary.

(d) AUTHORITY TO DEMOLISH AND CONSTRUCT FACILITIES.—The Secretary may, under the terms of the lease, authorize the South Carolina Ports Authority to demolish existing facilities on the leased land and to construct new facilities on such land for the use of such Authority.

SEC. 2744. PROPERTY MANAGEMENT

Maryland.

In accordance with the provisions of section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) governing transfers of excess property, the Administrator of General Services shall transfer, without reimbursement, to the Secretary of the Army approximately 235 acres of real property (and improvements thereon) near Beltsville, Maryland, for such use as the Secretary of the Army considers appropriate.

DIVISION C—OTHER NATIONAL DEFENSE AUTHORIZATIONS

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TITLE I—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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SEC. 3101. SHORT TITLE

This title may be cited as the "Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1987".

PART A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS

SEC. 3111. OPERATING EXPENSES

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1987 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) as follows:

(1) For weapons activities, $3,300,879,000 to be allocated as follows:

(A) For research and development, $866,000,000, of which $13,000,000 shall be used to continue operation or to close out plasma separation process activities.

(B) For weapons testing, $517,800,000.

(C) For production and surveillance, $1,859,700,000.

(D) For program direction, $57,379,000.

(2) For the defense inertial confinement fusion program $145,000,000.

(3) For verification and control technology, $95,390,000.

(4) For defense nuclear materials production, $1,516,348,000, to be allocated as follows:

(A) For uranium enrichment for naval reactors, $170,000,000.

(B) For other uranium enrichment, $14,500,000.

(C) For production reactor operations, $586,320,000.

(D) For processing of defense nuclear materials, including naval reactors fuel, $489,000,000, of which $70,900,000 shall be used for special isotope separation.

(E) For supporting services, $234,200,000.

(F) For program direction, $22,328,000.

(5) For defense nuclear waste and byproduct management, $431,990,000, to be allocated as follows:

(A) For interim waste management, $309,945,000.

(B) For long-term waste management technology, $80,605,000.

(C) For terminal waste storage, $39,100,000.

(D) For program direction, $2,340,000.

(6) For nuclear materials safeguards and security technology development program, $60,408,000.

(7) For security investigations, $33,300,000.

(8) For naval reactors development, $516,505,000.

SEC. 3112. PLANT AND CAPITAL EQUIPMENT

(a) AUTHORIZATIONS.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1987 for plant and capital equipment (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs as follows:

(1) For weapons activities:

Project 87-D-101, general plant projects, various locations, $29,000,000.

Project 87-D-104, safeguards and security enhancements, phase II, Lawrence Livermore National Laboratory, Livermore, California, $2,000,000.

Project 87-D-121, general plant projects, various locations, $30,000,000.

Project 87-D-123, protective clothing decontamination facility, Rocky Flats Plant, Golden, Colorado, $500,000.

Project 87-D-127, environmental, safety and health upgrade, Mound Plant, Miamisburg, Ohio, $2,400,000.

Project 87-D-130, receiving and shipping facility, Pinellas Plant, St. Petersburg, Florida, $300,000.

Project 86-D-103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California, $5,300,000, for a total project authorization of $9,000,000.

Project 86-D-104, strategic defenses facility, Sandia National Laboratories, Albuquerque, New Mexico, $13,000,000, for a total project authorization of $17,000,000.

Project 86-D-105, instrumentation systems laboratory, Sandia National Laboratories, Albuquerque, New Mexico, $5,800,000, for a total project authorization of $12,000,000.

Project 86-D-106, laboratory data communications center, Los Alamos National Laboratory, Los Alamos, New

Mexico, $12,000,000, for a total project authorization of $15,000,000.

Project 86-D-122, structural upgrade of existing plutonium facilities, Rocky Flats Plant, Golden, Colorado, $2,420,000, for a total project authorization of $5,420,000.

Project 86-D-123, environmental hazards elimination, various locations, $15,000,000, for a total project authorization of $23,700,000.

Project 86-D-124, safeguards and site security upgrading, Phase II, Mound Plant, Miamisburg, Ohio, $1,880,000, for a total project authorization of $4,880,000.

Project 86-D-125, safeguards and site security upgrade, Phase II, Pantex Plant, Amarillo, Texas, $8,410,000, for a total project authorization of $9,910,000.

Project 86-D-130, tritium loading facility replacement, Savannah River Plant, Aiken, South Carolina, $29,700,000, for a total project authorization of $34,700,000.

Project 85-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase I, various locations, $14,085,000, for a total project authorization of $114,885,000.

Project 85-D-103, safeguards and security enhancements, Lawrence Livermore National Laboratory and Sandia National Laboratories, Livermore, California, $6,500,000, for a total project authorization of $27,600,000.

Project 85-D-105, combined device assembly facility, Nevada Test Site, Las Vegas, Nevada, $7,400,000, for a total project authorization of $22,000,000.

Project 85-D-106, hardened engineering test building, Lawrence Livermore National Laboratory, Livermore, California, $330,000, for a total project authorization of $3,030,000.

Project 85-D-112, enriched uranium recovery improvements, Y-12 Plant, Oak Ridge, Tennessee, $19,000,000, for a total project authorization of $38,800,000.

Project 85-D-113, power plant and steam distribution system, Pantex Plant, Amarillo, Texas, $1,790,000, for a total project authorization of $24,790,000.

Project 85-D-115, renovate plutonium building utility systems, Rocky Flats Plant, Golden, Colorado, $13,440,000, for a total project authorization of $34,040,000.

Project 85-D-121, air and water pollution control facilities, Y-12 Plant, Oak Ridge, Tennessee, $9,160,000, for a total project authorization of $28,160,000.

Project 85-D-125, tactical bomb production facilities, various locations, $12,800,000, for a total project authorization of $28,800,000.

Project 84-D-102, radiation-hardened integrated circuit laboratory, Sandia National Laboratories, Albuquerque, New Mexico, $3,000,000, for a total project authorization of $40,500,000.

Project 84-D-107, nuclear testing facilities revitalization, various locations, $13,300,000, for a total project authorization of $79,240,000.

Project 84-D-112, Trident II warhead production facilities, various locations, $14,500,000, for a total project authorization of $155,200,000.

Project 84-D-124, environmental improvements, Y-12 Plant, Oak Ridge, Tennessee, $9,280,000, for a total authorization of $38,280,000.

Project 84-D-211, safeguards and site security upgrading, Y-12 Plant, Oak Ridge, Tennessee, $27,220,000, for a total project authorization of $40,220,000.

Project 82-D-107, utilities and equipment restoration, replacement, and upgrade, Phase III, various locations, $97,904,000, for a total project authorization of $838,304,000.

Project 82-D-144, simulation technology laboratory, Sandia National Laboratories, Albuquerque, New Mexico, $6,000,000, for a total project authorization of $40,000,000.

(2) For materials production:

Project 87-D-146, general plant projects, various locations, $31,980,000.

Project 87-D-149, reduced chemical discharges to process sewers, Richland, Washington, $3,150,000.

Project 87-D-150, radioactive liquid effluent treatment facility, partial design only, Richland, Washington, $4,000,000.

Project 87-D-152, environmental protection plantwide, Savannah River, South Carolina, $1,500,000.

Project 87-D-159, environmental, health, and safety improvements, Phase I, Feed Materials Production Center, Fernald, Ohio, $10,000,000.

Project 86-D-149, productivity retention program, Phases I and II, various locations, $42,625,000, for a total project authorization of $66,825,000.

Project 86-D-150, in-core neutron monitoring system, N reactor, Richland, Washington, $2,760,000, for a total project authorization of $7,220,000.

Project 86-D-151, PUREX electrical system upgrade, Richland, Washington, $2,480,000, for a total project authorization of $4,980,000.

Project 86-D-152, reactor electrical distribution system, Savannah River, South Carolina, $5,410,000, for a total project authorization of $7,410,000.

Project 86-D-153, additional line III furnace, Savannah River, South Carolina, $7,605,000, for a total project authorization of $9,105,000.

Project 86-D-154, effluent treatment facility, Savannah River, South Carolina, $15,650,000, for a total project authorization of $18,150,000.

Project 86-D-156, plantwide safeguards systems, Savannah River, South Carolina, $8,550,000, for a total project authorization of $11,550,000.

Project 85-D-139, fuel processing restoration, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $32,430,000, for a total project authorization of $54,430,000.

Project 85-D-140, productivity and radiological improvements, Feed Materials Production Center, Fernald, Ohio, $21,000,000, for a total project authorization of $39,000,000.

Project 85-D-145, fuel production facility, Savannah River, South Carolina, $27,500,000, for a total project authorization of $53,300,000.

Project 84-D-134, safeguards and security improvements, plantwide, Savannah River, South Carolina, $7,515,000, for a total project authorization of $34,415,000.

Project 84-D-135, process facility modifications, Richland, Washington, $24,475,000, for a total project authorization of $56,975,000.

Project 84-D-136, enriched uranium conversion facility modifications, Y-12 Plant, Oak Ridge, Tennessee, $1,000,000, for a total project authorization of $20,600,000.

Project 82-D-124, restoration of production capabilities, Phases II, III, IV, and V, various locations, $3,511,000, for a total project authorization of $352,045,000.

(3) For defense waste and byproducts management:

Project 87-D-171, general plant projects, interim waste operations and long-term waste management technology, various locations, $24,535,000.

Project 87-D-172, WESF K-3 filter upgrade, Richland, Washington, $500,000.

Project 87-D-173, 242-A evaporator crystallizer upgrade, Richland, Washington, $2,800,000.

Project 87-D-174, 241-AQ tank farm, Richland, Washington, $2,100,000.

Project 87-D-175, steam system rehabilitation, Phase I, Richland, Washington, $900,000.

Project 87-D-177, test reactor area liquid radioactive waste cleanup system, Phase III, Idaho National Engineering Laboratory, Idaho, $700,000.

Project 87-D-180, burial ground expansion, Savannah River, South Carolina, $2,000,000.

Project 87-D-181, diversion box and pump pit containment buildings, Savannah River, South Carolina, $960,000.

Project 86-D-172, B-plant F-filter, Richland, Washington, $2,949,000, for a total project authorization of $3,949,000.

Project 86-D-174, low-level waste processing and shipping system, Feed Materials Production Center, Fernald, Ohio, $8,072,000, for a total authorization of $10,572,000.

Project 86-D-175, Idaho National Engineering Laboratory security upgrade, Idaho National Engineering Laboratory, Idaho, $5,258,000, for a total project authorization of $7,258,000.

Project 85-D-158, central warehouse upgrade, Richland, Washington, $1,044,000, for a total project authorization of $6,744,000.

Project 85-D-159, new waste transfer facilities, Savannah River, South Carolina, $4,118,000, for a total project authorization of $24,118,000.

Project 85-D-160, test reactor area security system upgrade, Idaho National Engineering Laboratory, Idaho, $2,703,000, for a total project authorization of $6,953,000.

Project 81-T-105, defense waste processing facility, Savannah River, South Carolina, $123,967,000, for a total project authorization of $721,467,000.

(4) For naval reactors development:

Project 87-N-101, general plant projects, various locations, $4,800,000.

Project 87-N-102, Kesselring site facilities upgrade, Knolls Atomic Power Laboratory, West Milton, New York, $5,000,000.

Project 87-N-103, computation laboratory addition, Bettis Atomic Power Laboratory, West Mifflin, Pennsylvania, $2,300,000.

(5) For verification and control technology:

Project 85-D-171, Space Science Laboratory, Los Alamos, New Mexico, $2,000,000, for a total project authorization of $7,500,000.

(6) For capital equipment not related to construction:

(A) For weapons activities, $278,000,000.

(B) For the defense inertial confinement fusion program, $9,000,000.

(C) For materials production, $107,200,000.

(D) For defense waste and byproducts management, $35,505,000.

(E) For verification and control technology, $4,200,000.

(F) For nuclear safeguards and security, $4,800,000.

(G) For naval reactors development, $49,200,000.

(b) REDUCTION IN AMOUNT FOR PRIOR PROJECT.—The amount previously authorized for Project 84-D-113, Antisubmarine Warfare/Standoff Weapon Warhead production facilities, various locations, is hereby reduced by $5,000,000, for a total project authorization of $5,000,000. Not more than $5,000,000 of the funds authorized for such project in fiscal year 1986 may be obligated or expended for such project.

SEC. 3113. AUTHORIZATION FOR STRATEGIC DEFENSE INITIATIVE ACTIVITIES

Of the amounts authorized to be appropriated in sections 3111 and 3112, $317,000,000 is authorized for programs, projects, and activities of the Department of Energy relating to the Strategic Defense Initiative.

PART B—RECURRING GENERAL PROVISIONS

SEC. 3121. REPROGRAMMING

(a) NOTICE TO CONGRESS.—(1) Except as otherwise provided in this title—

(1) no amount appropriated pursuant to this title may be used for any program in excess of 105 percent of the amount authorized for that program by this title or $10,000,000 more than the amount authorized for that program by this title, whichever is the lesser, and

(2) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress,

unless a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy (hereinafter in this part referred to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or unless each such committee

before the expiration of such period has transmitted to the Secretary written notice to the effect that such committee has no objection to the proposed action.

(b) LIMITATION ON AMOUNT OBLIGATED.—In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS

(a) IN GENERAL.—The Secretary may carry out any construction project under the general plant projects provisions authorized by this title if the total estimated cost of the project does not exceed $1,200,000.

(b) REPORT TO CONGRESS.—If, at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $1,200,000, the Secretary shall immediately furnish to the appropriate committees of Congress a complete report explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS

(a) IN GENERAL.—Whenever the current estimated cost of a construction project which is authorized by section 3112 of this title, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(1) the amount authorized for the project; or

(2) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress,

construction may not be started or additional obligations incurred in connection with the project above the total estimated cost, as the case may be, unless a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or unless each such committee before the expiration of such period has transmitted to the Secretary written notice to the effect that such committee has no objection to the proposed action.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. FUND TRANSFER AUTHORITY

To the extent specified in appropriation Acts, funds appropriated pursuant to this title may be transferred to other agencies of the Government for the performance of the work for which the funds were appropriated. Funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

SEC. 3125. AUTHORITY FOR CONSTRUCTION DESIGN

(a) IN GENERAL.—(1) Within the amounts authorized by this title for plant engineering and design, the Secretary may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construc-

tion project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds $300,000, the Secretary shall notify the Committees on Armed Services and Appropriations of the Senate and House of Representatives in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) SPECIFIC AUTHORITY REQUIRED.—In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such design must be specifically authorized by law.

SEC. 3126. AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

Defense and national security.

In addition to the advance planning and construction design authorized by section 3112, the Secretary may perform planning and design utilizing available funds for any Department of Energy defense activity construction project whenever the Secretary determines that the design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

Subject to the provisions of appropriation Acts, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. ADJUSTMENTS FOR PAY INCREASES

Appropriations authorized by this title for salary, pay, retirement, or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

SEC. 3129. AVAILABILITY OF FUNDS

When so specified in an appropriation Act, amounts appropriated for "Operating Expenses" or for "Plant and Capital Equipment" may remain available until expended.

PART C—MISCELLANEOUS PROVISIONS

42 USC 7261a.

SEC. 3131. PROTECTION OF SENSITIVE TECHNICAL INFORMATION

Contracts.

(a) PROPERTY RIGHTS IN INVENTIONS AND DISCOVERIES.—Whenever any contractor makes an invention or discovery to which the title vests in the Department of Energy pursuant to exercise of section 202(a) (ii) or (iv) of title 35, United States Code, or pursuant to section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182) or section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908) in the course of or under any Government contract or subcontract of the Naval Nuclear Propulsion Program or the nuclear weapons programs or other atomic energy defense activities of the Department of Energy and the contractor requests waiver of any or all of the Government's property rights, the Secretary of Energy may decide to waive the Government's rights and assign the rights in such invention or discovery. Such decision shall be made within a reasonable time (which shall

usually be six months from the date of the request by the contractor for assignment of such rights).

(b) MATTERS TO BE CONSIDERED.—In making a decision under this section, the Secretary shall consider, in addition to the applicable policies of section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182) or subsections (c) and (d) of section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908)— Defense and national security.

(1) whether national security will be compromised;

(2) whether sensitive technical information (whether classified or unclassified) under the Naval Nuclear Propulsion Program or the nuclear weapons programs or other atomic energy defense activities of the Department of Energy for which dissemination is controlled under Federal statutes and regulations will be released to unauthorized persons;

(3) whether an organizational conflict of interest contemplated by Federal statutes and regulations will result; and

(4) whether failure to assert such a claim will adversely affect the operation of the Naval Nuclear Propulsion Program or the nuclear weapons programs or other atomic energy defense activities of the Department of Energy.

SEC. 3132. RESTRICTION ON USE OF FUNDS TO PAY PENALTIES UNDER ENVIRONMENTAL LAWS 42 USC 7273a.

(a) RESTRICTION.—Funds appropriated to the Department of Energy for the Naval Nuclear Propulsion Program or the nuclear weapons programs or other atomic energy defense activities of the Department of Energy may not be used to pay a penalty, fine, or forfeiture in regard to a defense activity or facility of the Department of Energy due to a failure to comply with any environmental requirement.

(b) EXCEPTION.—Subsection (a) shall not apply with respect to an environmental requirement if—

(1) the President fails to request funds for compliance with the environmental requirement; or

(2) the Congress has appropriated funds for such purpose (and such funds have not been sequestered, deferred, or rescinded) and the Secretary of Energy fails to use the funds for such purpose.

SEC. 3133. COMMUNITY ASSISTANCE PAYMENTS 42 USC 2391 note.

Section 1532 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1986 (title XV of Public Law 99-145; 99 Stat. 773) is amended by adding at the end the following new subsection:

"(d) RULE OF CONSTRUCTION.—The authority of the Secretary of Energy under subsection (a) to provide a final financial settlement with Anderson County and Roane County, Tennessee, and with the City of Oak Ridge, Tennessee, and terminate all annual assistance payments made to those entities pursuant to section 91 of the Atomic Energy Community Act of 1955 (42 U.S.C. 2391) does not affect any other right, function, or duty of the Secretary with respect to such Act (42 U.S.C. 2301), and the Secretary shall consider the purposes of such Act a continuing atomic energy defense function of the Department of Energy.". Tennessee.

SEC. 3134. AUTHORITY FOR DEPARTMENT OF ENERGY CONTRACTOR EMPLOYEES TO CARRY FIREARMS BEYOND BOUNDARIES OF A DOE FACILITY

42 USC 2201.

Section 161 k. of the Atomic Energy Act of 1954 is amended—

(1) by inserting "and subcontractors (at any tier)" in the second sentence after "employees of its contractors";

(2) by striking out "owned by the United States and" in the second sentence and inserting in lieu thereof "under the jurisdiction of the United States";

(3) by inserting "or being transported to or from such facilities" in the second sentence after "contracted to the United States";

(4) by inserting after the third sentence the following new sentence: "An employee of a contractor or subcontractor authorized to carry firearms under this subsection may make such arrests only when the individual to be arrested is within, or in direct flight from, the area of such offense."; and

(5) by striking out the semicolon at the end and inserting in lieu thereof the following: ". The Secretary, with the approval of the Attorney General, shall issue guidelines to implement this subsection;".

SEC. 3135. REPORT ON CONTAINMENT FACILITIES

Safety.

The Secretary of Energy shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the costs and effects on safety that would result from constructing containment facilities for nuclear reactors of the Department of Energy compared with the costs and effects on safety involved in constructing a new production reactor. Such report shall be submitted not later than March 15, 1987.

SEC. 3136. STUDY OF PRODUCTION REACTOR SAFETY

Washington.
Union of Soviet Socialist Republics.

(a) REQUIREMENT FOR INDEPENDENT STUDY.—(1) The Secretary of Energy shall request the National Academy of Sciences and the National Academy of Engineering—

(A) to make an independent assessment of the safety of continuing operations of the "N" Production Reactor, located near Richland, Washington, including any technical and safety issues raised by the nuclear reactor accident at Chernobyl in the Soviet Union; and

Report.

(B) to provide a report on such assessment, together with findings and recommendations, concurrently to Congress and the Secretary not later than March 1, 1987.

(2) The assessment should—

(A) be made by distinguished scientists and engineers drawn from the councils of the National Academy of Sciences, the National Academy of Engineering, and the National Institute of Medicine chosen with regard for their special competence and expertise; and

(B) be conducted in a manner that would allow for appropriate public participation in the review process consistent with statutory requirements to prevent the unauthorized disclosure of classified information.

Report.

(b) REVIEW AND COMMENT BY SECRETARY.—The Secretary shall review the findings and recommendations contained in the report under subsection (a) and shall separately provide to Congress a report containing—

(1) the Secretary's comments on such findings and recommendations; and

(2) a description (including cost assessments) of plans of the Secretary to correct any technical problems described in the report or to carry out recommendations set forth in the report.

SEC. 3137. IMPLEMENTATION OF THE RECOMMENDATIONS OF THE PRESIDENT'S BLUE RIBBON TASK GROUP ON NUCLEAR WEAPONS PROGRAM MANAGEMENT

(a) ESTABLISHMENT OF COUNCIL.—(1) Chapter 7 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 179. Nuclear Weapons Council 10 USC 179.

"(a) There is a Joint Nuclear Weapons Council (hereinafter in this section referred to as the 'Council') composed of three members as follows:

"(1) The Director of Defense Research and Engineering.

"(2) The Vice Chairman of the Joint Chiefs of Staff.

"(3) One senior representative of the Department of Energy appointed by the Secretary of Energy.

"(b)(1) Except as provided in paragraph (2), the Chairman of the Council shall be the member appointed under subsection (a)(1).

"(2) A meeting of the Council shall be chaired by the representative appointed under subsection (a)(3) whenever the matter under consideration is within the primary responsibility or concern of the Department of Energy, as determined by majority vote of the Council.

"(c)(1) The Secretary of Defense and the Secretary of Energy shall enter into an agreement with the Council to furnish necessary staff and administrative services to the Council.

"(2) The Assistant to the Secretary of Defense for Atomic Energy shall be the Staff Director of the Council.

"(d) The Council shall be responsible for the following matters:

"(1) Preparing the annual Nuclear Weapons Stockpile Memorandum.

"(2) Developing nuclear weapons stockpiles options and the costs of such options.

"(3) Coordinating programming and budget matters pertaining to nuclear weapons programs between the Department of Defense and the Department of Energy.

"(4) Identifying various options for cost-effective schedules for nuclear weapons production.

"(5) Considering safety, security, and control issues for existing weapons and for proposed new weapon program starts.

"(6) Ensuring that adequate consideration is given to design, performance, and cost tradeoffs for all proposed new nuclear weapons programs.

"(7) Providing broad guidance regarding priorities for research on nuclear weapons.

"(8) Preparing comments on annual proposals for budget levels for research on nuclear weapons and transmitting those comments to the Secretary of Defense and the Secretary of Energy before the preparation of the annual budget requests by the Secretaries of those departments.

"(9) Providing—

"(A) broad guidance regarding priorities for research on improved conventional weapons, and

"(B) comments on annual proposals for budget levels for research on improved conventional weapons,

and transmitting such guidance and comments to the Secretary of Defense before the preparation of the annual budget request of the Department of Defense.

Report.

"(e) The Council shall submit to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a report on the actions that have been taken by the Department of Defense and the Department of Energy to implement the recommendations of the President's Blue Ribbon Task Group on Nuclear Weapons Program Management. The Council shall include in such report its recommendation on the role and composition of the staff on the Council. The Council shall submit such report to the Committees not later than March 1, 1987.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"179. Nuclear Weapons Council."

10 USC 179 note.

(b) CHAIRMAN OF JCS TO SERVE ON COUNCIL IF THERE IS NO VICE CHAIRMAN OF JCS.—If on the date of the enactment of this section the position of Vice Chairman of the Joint Chiefs of Staff, or comparable position, has not been established by law, the Chairman of the Joint Chiefs of Staff shall be a member of the Nuclear Weapons Council established by section 179 of title 10, United States Code, as added by subsection (a). If the position of Vice Chairman of the Joint Chiefs of Staff (or comparable position) is established by law after the date of the enactment of this section, the Chairman of the Joint Chiefs of Staff shall remain a member of such Council only until an individual has been appointed Vice Chairman of the Joint Chiefs of Staff.

(c) REPEAL.—Section 27 of the Atomic Energy Act of 1954 (42 U.S.C. 2037) is repealed.

SEC. 3138. EXTENSION OF DATE FOR CERTAIN CONTRACT AUTHORITY

(a) EXTENSION.—Section 94 of the Atomic Energy Community Act of 1955 (42 U.S.C. 2394) is amended by striking out "June 30, 1986" and "June 30, 1987" and inserting in lieu thereof "June 30, 1996" in both places.

New Mexico.

(b) BUDGET ACT CONTRACT LIMITATION.—(1) Such section is further amended by adding at the end the following new sentence: "The authority to enter into a contract under the preceding sentence with the Los Alamos School Board and with the county of Los Alamos, New Mexico, shall be effective with respect to a period before July 1, 1996, only to the extent or in such amounts as are provided in appropriation Acts.".

42 USC 2394 note.

(2) The amendment made by paragraph (1) shall not apply with respect to a contract with the county of Los Alamos, New Mexico, to the extent that it covers the period before July 1, 1987.

TITLE II—NATIONAL DEFENSE STOCKPILE

SEC. 3201. EXTENSION OF PROHIBITION ON REDUCTIONS IN STOCKPILE GOALS

50 USC 98d note.

Section 1612(a)(1) of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 776), is amended by striking out "October 1, 1986" and inserting in lieu thereof "October 1, 1987".

SEC. 3202. DESIGNATION OF NATIONAL DEFENSE STOCKPILE MANAGER

(a) DESIGNATION OF SINGLE STOCKPILE MANAGER.—The Strategic and Critical Materials Stockpiling Act is amended by inserting after section 6 the following new section:

"NATIONAL DEFENSE STOCKPILE MANAGER

"SEC. 6A. (a) The President shall designate a single Federal official to perform the functions of the President under this Act. The official designated shall be an officer who holds a civilian position to which the person was appointed by the President, by and with the advice and consent of the Senate.

President of U.S.
50 USC 98e-1.

"(b) The officer designated by the President under this section shall be known for purposes of his functions under this Act as the 'National Defense Stockpile Manager'.".

(b) DEADLINE FOR DESIGNATION.—The President shall designate an official as the National Defense Stockpile Manager, as required by section 6A of the Strategic and Critical Materials Stock Piling Act (as added by subsection (a)), not later than February 15, 1987.

50 USC 98e-1 note.

SEC. 3203. EXTENSION OF USES OF STOCKPILE TRANSACTION FUND AND CODIFICATION OF REVOLVING FUND PROVISIONS

(a) IN GENERAL.—Section 9(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C 98h(b)) is amended—

(1) by striking out the second sentence of paragraph (1); and

(2) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) Subject to section 5(a)(1), moneys covered into the fund under paragraph (1) are hereby made available (subject to such limitations as may be provided in appropriation Acts) for the following purposes:

50 USC 98d.

"(A) The acquisition of strategic and critical materials under section 6(a)(1).

50 USC 98e.

"(B) Transportation, storage, and other incidental expenses related to such acquisition.

"(C) Development of current specifications of stockpile materials and the upgrading of existing stockpile materials to meet current specifications (including transportation, when economical, related to such upgrading).

"(D) Testing and quality studies of stockpile materials.

"(E) Studying future material and mobilization requirements for the stockpile.

"(F) Other reasonable requirements for management of the stockpile.

"(3) Moneys in the fund shall remain available until expended.".

(b) CONFORMING AMENDMENT.—Section 110 of Public Law 97-377 (96 Stat. 1911) is amended by striking out "Notwithstanding" and all

that follows through "That during" and inserting in lieu thereof "During".

(c) APPLICABILITY OF AMENDMENTS.—The amendments made by subsection (a) apply with respect to funds covered into the National Defense Stockpile Fund before, on, or after the date of the enactment of this Act.

SEC. 3204. AUTHORIZED DISPOSALS FROM NATIONAL DEFENSE STOCKPILE

President of U.S.
50 USC 98d note.

(a) IN GENERAL.—(1) The President is authorized to dispose of the following quantities of materials that are currently held in the National Defense Stockpile (established by section 3 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b)) and that are hereby determined to be excess to the current requirements of the stockpile:

Antimony	1,500 short tons
Diamonds, Industrial Stone	1,125,000 carats
Iodine	800,000 pounds
Mercury	3,700 flasks
Mica, Muscovite Film	3,000 pounds
Mica, Muscovite Splittings	262,000 pounds
Silicon Carbide	7,600 short tons
Silver (Coinage Program Only)	3,000,000 troy ounces
Tannin, Chestnut	1,000 long tons
Tannin, Quebracho	4,000 long tons
Thorium Nitrate	10,000 pounds
Tin	4,000 metric tons
Tungsten	1,900,000 pounds of tungsten metal equivalent

(2) Authority provided by paragraph (1) is in addition to any other authority provided by law to dispose of materials from the National Defense Stockpile.

Contracts.

(b) SPECIAL DISPOSAL AUTHORITY.—During fiscal year 1987, the President may contract to carry out authorized disposals of materials from the National Defense Stockpile without regard to the limitation in section 5(b)(2) of the Strategic and Critical Materials Stock Piling Act, but only to the extent that the total amount received (or to be received) from such disposals does not exceed the amount obligated from the National Defense Stockpile Transaction Fund during such fiscal year for purposes authorized under section 9(b)(2) of such Act (as amended by section 3203).

50 USC 98d.

SEC. 3205. CONVERSION OF CHROMIUM AND MANGANESE ORE TO HIGH CARBON FERROCHROMIUM AND HIGH CARBON FERROMANGANESE

President of U.S.
Contracts.
50 USC 98d note.

(a) REQUIRED UPGRADING.—During each of fiscal years 1987 through 1993, the President shall—

(1) obtain bids from domestic producers of high carbon ferrochromium and of high carbon ferromanganese; and

(2) award contracts for the conversion of chromium and manganese ores held in the National Defense Stockpile into high carbon ferrochromium and high carbon ferromanganese, respectively.

(b) QUANTITIES TO BE UPGRADED.—(1) Contracts awarded under subsection (a) shall provide for the addition of not less than 53,500 short tons of high carbon ferrochromium and not less than 67,500 short tons of high carbon ferromanganese to the National Defense Stockpile during each of the fiscal years covered by subsection (a).

(2) If, during any fiscal year referred to in subsection (a), the minimum quantity of high carbon ferrochromium or high carbon ferromanganese to be added to the National Defense Stockpile, as required by paragraph (1), is not met, the quantity of such material to be added to the stockpile in the next fiscal year shall be increased by the quantity of the deficiency.

(c) SEVEN-YEAR MINIMUM QUANTITIES.—The total quantities of high carbon ferrochromium and high carbon ferromanganese to be added to the National Defense Stockpile over the seven fiscal years referred to in subsection (a) shall be as follows:

(1) High carbon ferrochromium, 374,000 short tons.

(2) High carbon ferromanganese, 472,000 short tons.

(d) DEFINITION.—In this section, the term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

SEC. 3206. REPORT ON WAR EMERGENCY SITUATIONS AND MOBILIZATION REQUIREMENTS

(a) REQUIREMENT.—The Secretary of Defense shall submit to Congress a report describing war emergency situations that would necessitate total mobilization of the economy of the United States for a conventional global war of a duration of at least three years. With respect to each such war emergency situation, the Secretary shall include estimates of—

(1) the length and intensity of the assumed emergency;

(2) the military force structure to be mobilized; and

(3) the defense expenditures required during each such war emergency situation.

(b) STOCKPILE PLANNING.—The Secretary shall indicate in the report which of the war emergency situations described in the report should serve as the basis for planning for and management of the National Defense Stockpile.

(c) DEADLINE FOR REPORT.—The report under subsection (a) shall be submitted not later than January 31, 1987.

SEC. 3207. MISCELLANEOUS TECHNICAL AMENDMENTS

(a) TECHNICAL AMENDMENTS.—(1) Section 4(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c(a)) is amended—

(A) by striking out "on the day before the date of the date of the enactment of the Strategic and Critical Materials Stock Piling Revision Act of 1979" in paragraphs (1) and (3) and inserting in lieu thereof "on July 29, 1979", and

(B) by striking out "on or after the date of the enactment of the Strategic and Critical Materials Stock Piling Revision Act of 1979" in paragraph (2) and inserting in lieu thereof "after July 29, 1979".

(2) Section 5(b) of such Act (50 U.S.C. 98d(b)) is amended by striking out "(4)" and inserting in lieu thereof "(3), (4),".

(3) Section 11(b) of such Act (50 U.S.C. 98h-2) is amended by striking out "each year" and all that follows through "the next fiscal year" and inserting in lieu thereof "each year, at the time that the Budget is submitted to Congress pursuant to section 1105 of title 31, United States Code, for the next fiscal year,".

(b) CLARIFYING AMENDMENT.—Section 6(a)(3) of such Act (50 U.S.C. 98e(a)(3)) is amended by striking out "the form most" and inserting in lieu thereof "a form more".

TITLE III—CIVIL DEFENSE

SEC. 3301. AUTHORIZATION OF APPROPRIATIONS FOR CIVIL DEFENSE FUNCTIONS

There is hereby authorized to be appropriated for fiscal year 1987 the sum of $120,565,000 to carry out the provisions of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 et seq.).

Child Nutrition Amendments of 1986.

DIVISION D—CHILD NUTRITION PROGRAMS

42 USC 1751 note.

SEC. 4001. SHORT TITLE; TABLE OF CONTENTS

(a) SHORT TITLE.—This division may be cited as the "Child Nutrition Amendments of 1986".

(b) TABLE OF CONTENTS FOR DIVISION.—The table of contents for this division is as follows:

Sec. 4001. Short title; table of contents.

TITLE I—REAUTHORIZATION OF CHILD NUTRITION PROGRAMS

Sec. 4101. Summer Food Service Program for children.
Sec. 4102. Commodity Distribution Program.
Sec. 4103. State administrative expenses.
Sec. 4104. Special supplemental food program for women, infants, and children.
Sec. 4105. Nutrition Education and Training Program.

TITLE II—SCHOOL LUNCH AND BREAKFAST PROGRAMS

Sec. 4201. Basis of commodity assistance.
Sec. 4202. Inclusion of whole milk as a school lunch beverage.
Sec. 4203. Automatic eligibility for certain programs.
Sec. 4204. Limitation on meal contracting.
Sec. 4205. Change in tuition limitation for private schools.
Sec. 4206. Use of school lunch facilities for elderly programs.
Sec. 4207. Pilot projects for administration of child nutrition programs by contract or direct disbursement.
Sec. 4208. Department of Defense Overseas Dependents' Schools.
Sec. 4209. Restoration of certain kindergartens to the special milk program.
Sec. 4210. Improvement of breakfast program meal pattern.
Sec. 4211. Extension of offer versus serve provision to the school breakfast program.
Sec. 4212. Staffing standards.

TITLE III—SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

Sec. 4301. Costs for Nutrition Services and Administration.
Sec. 4302. State eligibility for WIC funds.
Sec. 4303. Participation report.
Sec. 4304. Plan of operation and administration.
Sec. 4305. Public comment.
Sec. 4306. Availability of program benefits.
Sec. 4307. Repayment of certain benefits by recipients.
Sec. 4308. Priority funds for WIC migrant programs.
Sec. 4309. Improving State agency administrative systems.
Sec. 4310. Paperwork reduction.
Sec. 4311. Allocation standards.
Sec. 4312. Advance payments.
Sec. 4313. Availability of funds.

TITLE IV—OTHER NUTRITION PROGRAMS

Sec. 4401. Hearings on Federal audit actions under the Child Care Food Program.
Sec. 4402. Basis for nutrition education grants.
Sec. 4403. Extension of alternative means of assistance.
Sec. 4404. National Donated Commodity Processing Programs.

TITLE V—TECHNICAL CORRECTIONS

Sec. 4501. Obsolete provisions.
Sec. 4502. Obsolete references to Health, Education, and Welfare.
Sec. 4503. Conforming amendments.

TITLE I—REAUTHORIZATION OF CHILD NUTRITION PROGRAMS

SEC. 4101. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

Section 13(p) of the National School Lunch Act (42 U.S.C. 1761(p)) is amended by striking out "1984" and inserting in lieu thereof "1989".

SEC. 4102. COMMODITY DISTRIBUTION PROGRAM

Section 14(a) of the National School Lunch Act (42 U.S.C. 1762a(a)) is amended by striking out "1984" and inserting in lieu thereof "1989".

SEC. 4103. STATE ADMINISTRATIVE EXPENSES

Section 7(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(i)) is amended by striking out "1984" and inserting in lieu thereof "1989".

SEC. 4104. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended—

(1) in subsection (c)(2), by striking out "Subject to" and all that follows through "1984" and inserting in lieu thereof "Subject to amounts appropriated to carry out this section under subsection (g)";

(2) in subsection (g)—

(A) by designating the first and second sentences as paragraphs (1) and (3), respectively; and

(B) by amending paragraph (1) (as so designated) to read as follows:

"(1) There are authorized to be appropriated to carry out this section $1,570,000,000 for the fiscal year ending September 30, 1986, such sums as may be necessary for each of the fiscal years ending September 30, 1987, and September 30, 1988, and $1,782,000,000 for the fiscal year ending September 30, 1989."; and

(3) in subsection (h)(2), by striking out "1984" and inserting in lieu thereof "1989".

SEC. 4105. NUTRITION EDUCATION AND TRAINING PROGRAM

The first sentence of section 19(j)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(j)(2)) is amended by striking out "1984" and inserting in lieu thereof "1989".

TITLE II—SCHOOL LUNCH AND BREAKFAST PROGRAMS

SEC. 4201. BASIS OF COMMODITY ASSISTANCE

Section 6(b) of the National School Lunch Act (42 U.S.C. 1755(b)) is amended—

(1) in the first sentence, by striking out "May 15" and inserting in lieu thereof "June 1"; and

(2) in the second sentence, by striking out "June 15" and inserting in lieu thereof "July 1".

SEC. 4202. INCLUSION OF WHOLE MILK AS A SCHOOL LUNCH BEVERAGE

Effective July 1, 1986, section 9(a) of the National School Lunch Act (42 U.S.C. 1758(a)) is amended—

(1) by designating the first, second, and third sentences as paragraphs (1), (3), and (4), respectively; and

(2) by inserting after paragraph (1) (as so designated) the following new paragraph:

"(2) In addition to such other forms of milk as the Secretary may determine, the lunches shall offer whole milk as a beverage.".

SEC. 4203. AUTOMATIC ELIGIBILITY FOR CERTAIN PROGRAMS

Effective July 1, 1986, section 9(b) of the National School Lunch Act (42 U.S.C. 1758(b)) is amended by adding at the end thereof the following new paragraph:

"(6)(A) A child shall be considered automatically eligible for a free lunch and breakfast under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), respectively, without further application or eligibility determination, if the child is a member of—

"(i) a household receiving assistance under the food stamp program authorized under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

"(ii) an AFDC assistance unit (under the aid to families with dependent children program authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)), in a State where the standard of eligibility for the assistance does not exceed 130 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))).

"(B) Proof of receipt of food stamps or aid to families with dependent children shall be sufficient to satisfy any verification requirement imposed under paragraph (2)(C).".

SEC. 4204. LIMITATION ON MEAL CONTRACTING

Effective July 1, 1986, section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended by adding at the end thereof the following new subsection:

"(e) A school or school food authority participating in a program under this Act may not contract with a food service company to provide a la carte food service unless the company agrees to offer free, reduced-price, and full-price reimbursable meals to all eligible children.".

SEC. 4205. CHANGE IN TUITION LIMITATION FOR PRIVATE SCHOOLS

(a) SCHOOL LUNCH PROGRAMS.—Section 12(d)(5) of the National School Lunch Act (42 U.S.C. 1760(d)(5)) is amended—

(1) in clause (A) of the first sentence, by striking out "$1,500" and inserting in lieu thereof "$2,000"; and

(2) by adding at the end thereof the following new sentence: "On July 1, 1988, and each July 1 thereafter, the Secretary shall adjust the tuition limitation amount prescribed in clause (A) of the first sentence of this paragraph to reflect changes in the Consumer Price Index for All Urban Consumers during the most recent 12-month period for which the data is available.".

(b) SCHOOL BREAKFAST PROGRAMS.—Section 15(c) of the Child Nutrition Act of 1966 (42 U.S.C. 1784(c)) is amended—

(1) in clause (A) of the first sentence, by striking out "$1,500" and inserting in lieu thereof "$2,000"; and

(2) by adding at the end thereof the following new sentence: "On July 1, 1988, and each July 1 thereafter, the Secretary shall adjust the tuition limitation amount prescribed in clause (A) of the first sentence of this paragraph to reflect changes in the Consumer Price Index for All Urban Consumers during the most recent 12-month period for which the data is available.".

(c) APPLICATION.—(1) The amendments made by subsections (a)(1) and (b)(1) shall apply for the fiscal year beginning on October 1, 1986, and each school year thereafter. 42 USC 1760 note.

(2) The amendments made by subsections (a)(2) and (b)(2) shall apply for the school year beginning on July 1, 1988, and each school year thereafter.

SEC. 4206. USE OF SCHOOL LUNCH FACILITIES FOR ELDERLY PROGRAMS

Section 12 of the National School Lunch Act (42 U.S.C. 1760) is amended by adding at the end thereof the following new subsection:

"(i) Facilities, equipment, and personnel provided to a school food authority for a program authorized under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) may be used, as determined by a local educational agency, to support a nonprofit nutrition program for the elderly, including a program funded under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).".

SEC. 4207. PILOT PROJECTS FOR ADMINISTRATION OF CHILD NUTRITION PROGRAMS BY CONTRACT OR DIRECT DISBURSEMENT

(a) PILOT PROJECTS.—Section 20 of the National School Lunch Act (42 U.S.C. 1769) is amended by striking out subsection (d) and inserting in lieu thereof the following new subsection:

"(d) The Secretary may conduct pilot projects in not more than three States in which the Secretary is currently administering programs to evaluate the effects of the Secretary contracting with private profit and nonprofit organizations to act as a State agency under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) for schools, institutions, or service institutions referred to in section 10 of this Act and section 5 of the Child Nutrition Act of 1966 (42 U.S.C. 1774).".

(b) CONFORMING AMENDMENT.—The first sentence of section 20(c) of the National School Lunch Act is amended by striking out "except for the pilot projects conducted under subsection (d) of this section,".

SEC. 4208. DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS' SCHOOLS

(a) SCHOOL LUNCHES.—Section 22(d) of the National School Lunch Act (42 U.S.C. 1769b(d)) (as added by section 1408(a) of the Education Amendments of 1978 (92 Stat. 2368)) is amended by striking out "and for" and all that follows through "reduced-price lunch".

(b) SCHOOL BREAKFASTS.—Section 20(d) of the Child Nutrition Act of 1966 (42 U.S.C. 1789) is amended by striking out "and for" and all that follows through "reduced-price breakfast".

SEC. 4209. RESTORATION OF CERTAIN KINDERGARTENS TO THE SPECIAL MILK PROGRAM

Effective October 1, 1986, section 3(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)) is amended—

(1) in the first sentence—

(A) by inserting "(1)" after the subsection designation;

(B) by redesignating clauses (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) in subparagraph (A) (as so redesignated), by inserting "except as provided in paragraph (2)," after "and under,";

(2) by designating the second through eighth sentences as paragraphs (3) through (9), respectively; and

(3) by inserting after paragraph (1) (as so designated) the following new paragraph:

"(2) The limitation imposed under paragraph (1)(A) for participation of nonprofit schools in the special milk program shall not apply to split-session kindergarten programs conducted in schools in which children do not have access to the meal service program operating in schools the children attend as authorized under this Act or the National School Lunch Act (42 U.S.C. 1751 et seq.).".

SEC. 4210. IMPROVEMENT OF BREAKFAST PROGRAM MEAL PATTERN

(a) ADDITIONAL ASSISTANCE.—Effective October 1, 1986, section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)) is amended by adding at the end thereof the following new paragraphs:

"(3) The Secretary shall increase by 3 cents the annually adjusted payment for each breakfast served under this Act and section 17 of the National School Lunch Act (42 U.S.C. 1766). These funds shall be used to assist States, to the extent feasible, in improving the nutritional quality of the breakfasts.

Securities. Agriculture and agricultural commodities.

"(4) Notwithstanding any other provision of law, whenever stocks of agricultural commodities are acquired by the Secretary or the Commodity Credit Corporation and are not likely to be sold by the Secretary or the Commodity Credit Corporation or otherwise used in programs of commodity sale or distribution, the Secretary shall make such commodities available to school food authorities and eligible institutions serving breakfasts under this Act in a quantity equal in value to not less than 3 cents for each breakfast served under this Act and section 17 of the National School Lunch Act.

State and local governments.

"(5) Expenditures of funds from State and local sources for the maintenance of the breakfast program shall not be diminished as a result of funds or commodities received under paragraph (3) or (4).".

42 USC 1766 note.

(b) NUTRITION REQUIREMENTS.—(1) The Secretary of Agriculture shall review and revise the nutrition requirements for meals served under the breakfast program authorized under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) and section 17 of the National School Lunch Act (42 U.S.C. 1766) to improve the nutritional quality of the meals, taking into consideration both the findings of the National Evaluation of School Nutrition Programs and the need to provide increased flexibility in meal planning to local food authorities.

Regulations.

(2) Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall promulgate regulations to implement the revisions.

SEC. 4211. EXTENSION OF OFFER VERSUS SERVE PROVISION TO THE SCHOOL BREAKFAST PROGRAM

Section 4(e) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) At the option of a local school food authority, a student in a school under the authority that participates in the school breakfast

program under this Act may be allowed to refuse not more than one item of a breakfast that the student does not intend to consume. A refusal of an offered food item shall not affect the full charge to the student for a breakfast meeting the requirements of this section or the amount of payments made under this Act to a school for the breakfast.".

SEC. 4212. STAFFING STANDARDS

Section 7 of the Child Nutrition Act of 1966 (42 U.S.C. 1776) (as amended by section 103) is further amended— *Ante*, p. 4071.

(1) by striking out subsection (b); and

(2) by redesignating subsections (c) through (i) as subsections (b) through (h), respectively.

TITLE III—SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

SEC. 4301. COSTS FOR NUTRITION SERVICES AND ADMINISTRATION

(a) DEFINITIONS.—Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) is amended—

(1) by striking out paragraph (1);

(2) by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively; and

(3) by inserting after paragraph (3) (as so redesignated) the following new paragraph:

"(4) 'Costs for nutrition services and administration' means costs that shall include, but not be limited to, costs for certification of eligibility of persons for participation in the program (including centrifuges, measuring boards, spectrophotometers, and scales used for the certification), food delivery, monitoring, nutrition education, outreach, startup costs, and general administration applicable to implementation of the program under this section, such as the cost of staff, transportation, insurance, developing and printing food instruments, and administration of State and local agency offices.".

(b) CONFORMING AMENDMENTS.—Section 17 of such Act is amended—

(1) by striking out "administrative funds" each place it appears in subsections (f)(11), (h)(2), (h)(3), and (h)(4) and inserting in lieu thereof "funds for nutrition services and administration"; and

(2) by striking out "administrative costs" each place it appears in subsection (h) and inserting in lieu thereof "costs for nutrition services and administration".

SEC. 4302. STATE ELIGIBILITY FOR WIC FUNDS

(a) ELIGIBILITY.—Section 17(c) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(c)) is amended by adding at the end thereof the following new paragraph:

"(4) A State shall be ineligible to participate in programs authorized under this section if the Secretary determines that State or local sales taxes are collected within the State on purchases of food made to carry out this section.". Taxes.

(b) APPLICATION.—The amendment made by subsection (a) shall apply to a State beginning with the fiscal year that commences after the end of the first regular session of the State legislature following the date of the enactment of this Act. 42 USC 1786 note.

SEC. 4303. PARTICIPATION REPORT

(a) BIENNIAL REPORT.—Section 17(d) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)) is amended by adding at the end thereof the following new paragraph:

"(4) The Secretary shall report biennially to Congress on—

"(A) the income and nutritional risk characteristics of participants in the program;

"(B) participation in the program by members of families of migrant farmworkers; and

"(C) such other matters relating to participation in the program as the Secretary considers appropriate.".

(b) USE OF EVALUATION FUNDS FOR REPORT.—Section 17(g)(3) of such Act (as amended by section 104(2)(A)) is further amended by inserting "preparing the report required under subsection (d)(4)," after "health benefits,".

Ante, p. 4071.

SEC. 4304. PLAN OF OPERATION AND ADMINISTRATION

(a) PLAN.—Paragraph (1) of section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(1)) is amended to read as follows:

State and local governments.

"(1)(A) Each State agency shall submit annually to the Secretary, by a date specified by the Secretary, a plan of operation and administration for a fiscal year.

"(B) To be eligible to receive funds under this section for a fiscal year, a State agency must receive the approval of the Secretary for the plan submitted for the fiscal year.

"(C) The plan shall include—

"(i) a description of the food delivery system of the State agency and the method of enabling participants to receive supplemental foods under the program, to be administered in accordance with standards developed by the Secretary;

"(ii) a description of the financial management system of the State agency;

"(iii) a plan to coordinate operations under the program with special counseling services, such as the expanded food and nutrition education program, immunization programs, prenatal care, well-child care, family planning, alcohol and drug abuse counseling, child abuse counseling, and with the aid to families with dependent children, food stamp, and maternal and child health care programs;

Indians.

"(iv) a plan to provide program benefits under this section to, and to meet the special nutrition education needs of, eligible migrants and Indians;

"(v) a plan to expend funds to carry out the program during the relevant fiscal year;

"(vi) a plan to provide program benefits under this section to unserved and underserved areas in the State, if sufficient funds are available to carry out this clause;

"(vii) a plan to provide program benefits under this section to eligible persons most in need of the benefits and to enroll eligible women in the early months of pregnancy, to the maximum extent practicable; and

"(viii) such other information as the Secretary may require.

"(D) The Secretary may permit a State agency to submit only those parts of a plan that differ from plans submitted for previous fiscal years.

"(E) The Secretary may not approve any plan that permits a person to participate simultaneously in both the program

authorized under this section and the commodity supplemental food program authorized under sections 4 and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note).".

(b) APPLICATION.—The amendment made by subsection (a) shall apply to a plan submitted by a State agency under section 17(f)(1) of the Child Nutrition Act of 1966 for the fiscal year ending September 30, 1987, and each fiscal year thereafter.

42 USC 1786 note.

SEC. 4305. PUBLIC COMMENT

Paragraph (2) of section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(2)) is amended to read as follows:

"(2) A State agency shall establish a procedure under which members of the general public are provided an opportunity to comment on the development of the State agency plan.".

SEC. 4306. AVAILABILITY OF PROGRAM BENEFITS

Paragraph (8) of section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(8)) is amended to read as follows:

"(8)(A) The State agency shall, in cooperation with participating local agencies, publicly announce and distribute information on the availability of program benefits (including the eligibility criteria for participation and the location of local agencies operating the program) to offices and organizations that deal with significant numbers of potentially eligible persons (including health and medical organizations, hospitals and clinics, welfare and unemployment offices, social service agencies, farmworker organizations, Indian tribal organizations, and religious and community organizations in low income areas).

State and local governments.

"(B) The information shall be publicly announced by the State agency and by local agencies at least annually.

"(C) The State agency and local agencies shall distribute the information in a manner designed to provide the information to potentially eligible persons who are most in need of the benefits, including pregnant women in the early months of pregnancy.".

SEC. 4307. REPAYMENT OF CERTAIN BENEFITS BY RECIPIENTS

Effective October 1, 1986, section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end thereof the following new paragraph:

"(15) If a State agency determines that a member of a family has received an overissuance of food benefits under the program authorized by this section as the result of such member intentionally making a false or misleading statement or intentionally misrepresenting, concealing, or withholding facts, the State agency shall recover, in cash, from such member an amount that the State agency determines is equal to the value of the overissued food benefits, unless the State agency determines that the recovery of the benefits would not be cost effective.".

SEC. 4308. PRIORITY FUNDS FOR WIC MIGRANT PROGRAMS

(a) PRIORITY FUNDING.—Effective October 1, 1986, section 17(g) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)) (as amended by section 104(2)(A)) is further amended by inserting after paragraph (1) the following new paragraph:

Effective date.

Ante, p. 4071.

"(2) Of the sums appropriated for any fiscal year for programs authorized under this section, not less than nine-tenths of 1 percent shall be available first for services to eligible members of migrant

populations. The migrant services shall be provided in a manner consistent with the priority system of a State for program participation.".

42 USC 1786 note.

(b) ACCOUNTABILITY.—To the extent possible, accountability for migrant services under section 17(g)(2) of the Child Nutrition Act of 1966 (as added by subsection (a)) shall be conducted under regulations in effect on the date of the enactment of this Act.

SEC. 4309. IMPROVING STATE AGENCY ADMINISTRATIVE SYSTEMS

Ante, p. 4071.

Section 17(g)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)(3)) (as amended by sections 104(2)(A) and 303(b)) is further amended by inserting "providing technical assistance to improve State agency administrative systems," after "subsection (d)(4),".

SEC. 4310. PAPERWORK REDUCTION

Section 17(h)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(1)) is amended by adding at the end thereof the following new sentence: "The Secretary shall limit to a minimal level any documentation required under the preceding sentence.".

SEC. 4311. ALLOCATION STANDARDS

Section 17(h)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(3)) is amended—

(1) in the second sentence, by striking out ", which satisfy allocation guidelines established by the Secretary"; and

(2) by striking out the last sentence.

SEC. 4312. ADVANCE PAYMENTS

Effective October 1, 1986, section 17(h)(4) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(4)) is amended by striking out "shall" and inserting in lieu thereof "may".

SEC. 4313. AVAILABILITY OF FUNDS

(a) AVAILABILITY.—Section 17(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(i)) is amended—

(1) by designating the first, second, third, fourth, and fifth sentences as paragraphs (1), (2), (4), (5), and (6), respectively; and

(2) by inserting after paragraph (2) (as so designated) the following new paragraph:

"(3)(A) Notwithstanding paragraph (2)—

State and local governments.

"(i) not more than 1 percent of the amount of funds allocated to a State agency under this section for supplemental foods for a fiscal year may be expended by the State agency for expenses incurred under this section for supplemental foods during the preceding fiscal year; or

"(ii) not more than 1 percent of the amount of funds allocated to a State agency for a fiscal year under this section may be expended by the State agency during the subsequent fiscal year.

"(B) Any funds made available to a State agency in accordance with subparagraph (A)(ii) for a fiscal year shall not affect the amount of funds allocated to the State agency for such year.".

42 USC 1786 note.

(b) APPLICATION.—Section 17(i)(3)(A)(i) of the Child Nutrition Act of 1966 (as amended by subsection (a)) shall not apply to appropriations made before the date of enactment of this Act.

TITLE IV—OTHER NUTRITION PROGRAMS

SEC. 4401. HEARINGS ON FEDERAL AUDIT ACTIONS UNDER THE CHILD CARE FOOD PROGRAM

Section 17(e) of the National School Lunch Act (42 U.S.C. 1766(e)) is amended—

(1) by striking out "The" and inserting in lieu thereof "(1) Except as provided in paragraph (2), the"; and

(2) by adding at the end thereof the following new paragraphs:

"(2) A State is not required to provide a hearing to an institution concerning a State action taken on the basis of a Federal audit determination.

State and local governments.

"(3) If a State does not provide a hearing to an institution concerning a State action taken on the basis of a Federal audit determination, the Secretary, on request, shall afford a hearing to the institution concerning the action.".

SEC. 4402. BASIS FOR NUTRITION EDUCATION GRANTS

Section 19(j)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(j)(2)) is amended by striking out "$75,000" each place it appears and inserting in lieu thereof "$50,000".

SEC. 4403. EXTENSION OF ALTERNATIVE MEANS OF ASSISTANCE

Section 14 of the National School Lunch Act (42 U.S.C. 1762a) is amended by adding at the end thereof the following new subsection:

"(g)(1) As used in this subsection, the term 'eligible school district' has the same meaning given such term in section 1581(a) of the Food Security Act of 1985.

99 Stat. 1594.

"(2) In accordance with the terms and conditions of section 1581 of such Act, the Secretary shall permit an eligible school district to continue to receive assistance in the form of cash or commodity letters of credit assistance, in lieu of commodities, to carry out the school lunch program operated in the district.

"(3)(A) On request of a participating school district (and after consultation with the Comptroller General of the United States with respect to accounting procedures used to determine any losses) and subject to the availability of funds, the Secretary shall provide cash compensation to an eligible school district for losses sustained by the district as a result of the alteration of the methodology used to conduct the study referred to in section 1581(a) of such Act during the school year ending June 30, 1983.

"(B) There are authorized to be appropriated $50,000 to carry out this paragraph, to be available without fiscal year limitation.".

SEC. 4404. NATIONAL DONATED COMMODITY PROCESSING PROGRAMS

7 USC 1431e note.

In accordance with the terms and conditions of section 1114(a)(2) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(a)(2)), whenever a commodity is made available without charge or credit under any nutrition program administered by the Secretary of Agriculture, the Secretary shall encourage consumption of the commodity through agreements with private companies under which the commodity is reprocessed into end-food products for use by eligible recipient agencies.

TITLE V—TECHNICAL CORRECTIONS

SEC. 4501. OBSOLETE PROVISIONS

(a) NUTRITION PROGRAM STAFF STUDY; TRUST TERRITORY APPROPRIATIONS.—(1) Sections 18 and 19 of the National School Lunch Act (42 U.S.C. 1767 and 1768) are repealed.

(2) The first sentence of section 3 of such Act (42 U.S.C. 1752) is amended by striking out "sections 13, 17, and 19" and inserting in lieu thereof "sections 13 and 17".

(b) STUDY OF MENU CHOICE.—Section 22 of such Act (42 U.S.C. 1769c) (as added by section 9 of the Child Nutrition Amendments of 1978 (92 Stat. 3623)) is repealed.

(c) CONFORMING AMENDMENTS.—(1) The National School Lunch Act (as amended by sections 207 and 208(a) and subsection (b)) is further amended by redesignating sections 20, 21, and 22 (42 U.S.C. 1769, 1769a, and 1769b) as sections 18, 19, and 20, respectively.

(2) Clause (3) of the first sentence of section 6(a) of such Act (42 U.S.C. 1755(a)) is amended by striking out "section 20" and inserting in lieu thereof "section 18".

SEC. 4502. OBSOLETE REFERENCES TO HEALTH, EDUCATION, AND WELFARE

(a) REFERENCES IN NATIONAL SCHOOL LUNCH ACT.—Clause (1) of the sixth sentence of section 17(a) of the National School Lunch Act (42 U.S.C. 1766(a)) is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

42 USC 1771 note.

(b) REFERENCES IN CHILD NUTRITION ACT OF 1966.—(1) The Child Nutrition Act of 1966 is amended by striking out "Health, Education, and Welfare" each place it appears in section 4(a) (42 U.S.C. 1773(a)), subsections (b)(6), (b)(13), (e)(2), (k)(1), and (k)(2) of section 17 (42 U.S.C. 1786), and subsections (d)(2) and (d)(3) of section 19 (42 U.S.C. 1788) and inserting in lieu thereof "Health and Human Services".

(2) Section 19(j)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(j)(3)) is amended by striking out "Office of Education of the Department of Health, Education, and Welfare" and inserting in lieu thereof "Department of Education".

SEC. 4503. CONFORMING AMENDMENTS

(a) DEFINITION OF SECRETARY.—Section 12(d) of the National School Lunch Act (42 U.S.C. 1760(d)) is amended by adding at the end thereof the following new paragraph:

"(8) 'Secretary' means the Secretary of Agriculture.".

(b) REDESIGNATION OF SUBSECTION.—Section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) (as amended by sections 105, 402, and 502(b)(2)) is further amended by redesignating subsection (j) as subsection (i).

Ante, pp. 4071, 4079, 4080.

Approved November 14, 1986.

LEGISLATIVE HISTORY—S. 2638 (H.R. 4428):

HOUSE REPORTS: No. 99-1001 (Comm. of Conference) and No. 99-718 accompanying H.R. 4428 (Comm. on Armed Services).
SENATE REPORTS: No. 99-331 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 1, 4-9, considered and passed Senate.
Aug. 4, 5, 7, 8, 11-15, H.R. 4428 considered and passed House.
Sept. 18, proceedings vacated and S. 2638 considered and passed House, amended, in lieu of H.R. 4428.
Oct. 15, House and Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Nov. 14, Presidential statement.

O

WATER RESOURCES DEVELOPMENT ACT OF 1986

Public Law 99-662
99th Congress

An Act

Nov. 17, 1986
[H.R. 6]

To provide for the conservation and development of water and related resources and the improvement and rehabilitation of the Nation's water resources infrastructure.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Water Resources Development Act of 1986.
33 USC 2201 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Water Resources Development Act of 1986".

(b) TABLE OF CONTENTS.—

Title I—Cost Sharing
Title II—Harbor Development
Title III—Inland Waterway Transportation System
Title IV—Flood Control
Title V—Shoreline Protection
Title VI—Water Resources Conservation and Development
Title VII—Water Resources Studies
Title VIII—Project Modifications
Title IX—General Provisions
Title X—Project Deauthorizations
Title XI—Miscellaneous Programs and Projects
Title XII—Dam Safety
Title XIII—Namings
Title XIV—Revenue Provisions

33 USC 2201.

SEC. 2. DEFINITION OF SECRETARY.

For purposes of this Act, the term "Secretary" means the Secretary of the Army.

TITLE I—COST SHARING

33 USC 2211.

SEC. 101. HARBORS.

(a) CONSTRUCTION.—

Contracts.

(1) PAYMENTS DURING CONSTRUCTION.—The non-Federal interests for a navigation project for a harbor or inland harbor, or any separable element thereof, on which a contract for physical construction has not been awarded before the date of enactment of this Act shall pay, during the period of construction of the project, the following costs associated with general navigation features:

(A) 10 percent of the cost of construction of the portion of the project which has a depth not in excess of 20 feet; plus

(B) 25 percent of the cost of construction of the portion of the project which has a depth in excess of 20 feet but not in excess of 45 feet; plus

(C) 50 percent of the cost of construction of the portion of the project which has a depth in excess of 45 feet.

(2) ADDITIONAL 10 PERCENT PAYMENT OVER 30 YEARS.—The non-Federal interests for a project to which paragraph (1) applies shall pay an additional 10 percent of the cost of the general navigation features of the project in cash over a period

not to exceed 30 years, at an interest rate determined pursuant to section 106. The value of lands, easements, rights-of-way, relocations, and dredged material disposal areas provided under paragraph (3) shall be credited toward the payment required under this paragraph.

(3) LANDS, EASEMENTS, AND RIGHTS-OF-WAY.—The non-Federal interests for a project to which paragraph (1) applies shall provide the lands, easements, rights-of-way, relocations (other than utility relocations under paragraph (4)), and dredged material disposal areas necessary for the project.

(4) UTILITY RELOCATIONS.—The non-Federal interests for a project to which paragraph (1) applies shall perform or assure the performance of all relocations of utilities necessary to carry out the project, except that in the case of a project for a deep-draft harbor and in the case of a project constructed by non-Federal interests under section 204, one-half of the cost of each such relocation shall be borne by the owner of the facility being relocated and one-half of the cost of each such relocation shall be borne by the non-Federal interests.

(b) OPERATION AND MAINTENANCE.—The Federal share of the cost of operation and maintenance of each navigation project for a harbor or inland harbor constructed pursuant to this Act shall be 100 percent, except that in the case of a deep-draft harbor, the non-Federal interests shall be responsible for an amount equal to 50 percent of the excess of the cost of the operation and maintenance of such project over the cost which the Secretary determines would be incurred for operation and maintenance of such project if such project had a depth of 45 feet.

(c) EROSION OR SHOALING ATTRIBUTABLE TO FEDERAL NAVIGATION WORKS.—Costs of constructing projects or measures for the prevention or mitigation of erosion or shoaling damages attributable to Federal navigation works shall be shared in the same proportion as the cost sharing provisions applicable to the project causing such erosion or shoaling. The non-Federal interests for the project causing the erosion or shoaling shall agree to operate and maintain such measures.

(d) NON-FEDERAL PAYMENTS DURING CONSTRUCTION.—The amount of any non-Federal share of the cost of any navigation project for a harbor or inland harbor shall be paid to the Secretary. Amounts required to be paid during construction shall be paid on an annual basis during the period of construction, beginning not later than one year after construction is initiated.

(e) AGREEMENT.—Before initiation of construction of a project to which this section applies, the Secretary and the non-Federal interests shall enter into a cooperative agreement according to the provisions of section 221 of the Flood Control Act of 1970. The non-Federal interests shall agree to— Contracts. 42 USC 1962d-5b.

(1) provide to the Federal Government lands, easements, and rights-of-way, and to provide dredged material disposal areas and perform the necessary relocations required for construction, operation, and maintenance of such project;

(2) hold and save the United States free from damages due to the construction or operation and maintenance of the project, except for damages due to the fault or negligence of the United States or its contractors;

(3) provide to the Federal Government the non-Federal share of all other costs of construction of such project; and

(4) in the case of a deep-draft harbor, be responsible for the non-Federal share of operation and maintenance required by subsection (b) of this section.

33 USC 2212.

SEC. 102. INLAND WATERWAY TRANSPORTATION.

(a) CONSTRUCTION.—One-half of the costs of construction—

(1) of each project authorized by title III of this Act,

(2) of the project authorized by section 1103(j) of this Act, and

(3) allocated to inland navigation for the project authorized by section 844 of this Act,

shall be paid only from amounts appropriated from the general fund of the Treasury. One-half of such costs shall be paid only from amounts appropriated from the Inland Waterways Trust Fund. For purposes of this subsection, the term "construction" shall include planning, designing, engineering, surveying, the acquisition of all lands, easements, and rights-of-way necessary for the project, including lands for disposal of dredged material, and relocations necessary for the project.

(b) OPERATION AND MAINTENANCE.—The Federal share of the cost of operation and maintenance of any project for navigation on the inland waterways is 100 percent.

(c) AUTHORIZATIONS FROM GENERAL FUND.—Any Federal responsibility—

(1) with respect to a project authorized by title III or section 1103(j), or

(2) with respect to the portion of the project authorized by section 844 allocated to inland navigation,

which responsibility is not provided for in subsection (a) of this section shall be paid only from amounts appropriated from the general fund of the Treasury.

33 USC 2213.

SEC. 103. FLOOD CONTROL AND OTHER PURPOSES.

(a) FLOOD CONTROL.—

(1) GENERAL RULE.—The non-Federal interests for a project with costs assigned to flood control (other than a nonstructural project) shall—

(A) pay 5 percent of the cost of the project assigned to flood control during construction of the project;

(B) provide all lands, easements, rights-of-way, and dredged material disposal areas required only for flood control and perform all related necessary relocations; and

(C) provide that portion of the joint costs of lands, easements, rights-of-way, dredged material disposal areas, and relocations which is assigned to flood control.

(2) 25 PERCENT MINIMUM CONTRIBUTION.—If the value of the contributions required under paragraph (1) of this subsection is less than 25 percent of the cost of the project assigned to flood control, the non-Federal interest shall pay during construction of the project such additional amounts as are necessary so that the total contribution of the non-Federal interests under this subsection is equal to 25 percent of the cost of the project assigned to flood control.

(3) 50 PERCENT MAXIMUM.—The non-Federal share under paragraph (1) shall not exceed 50 percent of the cost of the project assigned to flood control. The preceding sentence does not modify the requirement of paragraph (1)(A) of this subsection.

(4) DEFERRED PAYMENT OF AMOUNT EXCEEDING 30 PERCENT.—If the total amount of the contribution required under paragraph (1) of this subsection exceeds 30 percent of the cost of the project assigned to flood control, the non-Federal interests may pay the amount of the excess to the Secretary over a 15-year period (or such shorter period as may be agreed to by the Secretary and the non-Federal interests) beginning on the date construction of the project or separable element is completed, at an interest rate determined pursuant to section 106. The preceding sentence does not modify the requirement of paragraph (1)(A) of this subsection.

(b) NONSTRUCTURAL FLOOD CONTROL PROJECTS.—The non-Federal share of the cost of nonstructural flood control measures shall be 25 percent of the cost of such measures. The non-Federal interests for any such measures shall be required to provide all lands, easements, rights-of-way, dredged material disposal areas, and relocations necessary for the project, but shall not be required to contribute any amount in cash during construction of the project.

(c) OTHER PURPOSES.—The non-Federal share of the cost assigned to other project purposes shall be as follows:

(1) hydroelectric power: 100 percent, except that the marketing of such power and the recovery of costs of constructing, operating, maintaining, and rehabilitating such projects shall be in accordance with existing law: *Provided,* That after the date of enactment of this Act, the Secretary shall not submit to Congress any proposal for the authorization of any water resources project that has a hydroelectric power component unless such proposal contains the comments of the appropriate Power Marketing Administrator designated pursuant to section 302 of the Department of Energy Organization Act (Public Law 95-91) concerning the appropriate Power Marketing Administration's ability to market the hydroelectric power expected to be generated and not required in the operation of the project under the applicable Federal power marketing law, so that, 100 percent of operation, maintenance and replacement costs, 100 percent of the capital investment allocated to the purpose of hydroelectric power (with interest at rates established pursuant to or prescribed by applicable law), and any other costs assigned in accordance with law for return from power revenues can be returned within the period set for the return of such costs by or pursuant to such applicable Federal power marketing law;

Energy.

42 USC 7152.

(2) municipal and industrial water supply: 100 percent;

(3) agricultural water supply: 35 percent;

Agriculture and agricultural commodities.

(4) recreation, including recreational navigation: 50 percent of separable costs and, in the case of any harbor or inland harbor or channel project, 50 percent of joint and separable costs allocated to recreational navigation;

(5) hurricane and storm damage reduction: 35 percent; and

(6) aquatic plant control: 50 percent of control operations.

(d) CERTAIN OTHER COSTS ASSIGNED TO PROJECT PURPOSES.—Costs of constructing projects or measures for beach erosion control and water quality enhancement shall be assigned to appropriate project purposes listed in subsections (a), (b), and (c) and shall be shared in the same percentage as the purposes to which the costs are assigned, except that all costs assigned to benefits to privately owned shores (where use of such shores is limited to private interests) or to prevention of losses of private lands shall be borne by non-Federal

interests and all costs assigned to the protection of federally owned shores shall be borne by the United States.

(e) APPLICABILITY.—

(1) IN GENERAL.—This section applies to any project (including any small project which is not specifically authorized by Congress and for which the Secretary has not approved funding before the date of enactment of this Act), or separable element thereof, on which physical construction is initiated after April 30, 1986, as determined by the Secretary, except as provided in paragraph (2).

Mississippi. Kentucky. 23 USC 104 note. 94 Stat. 1339.

(2) EXCEPTIONS.—This section shall not apply to the Yazoo Basin, Mississippi, Demonstration Erosion Control Program, authorized by Public Law 98-8, or to the Harlan, Kentucky, or Barbourville, Kentucky, elements of the project authorized by section 202 of Public Law 96-367.

(f) DEFINITION OF SEPARABLE ELEMENT.—For purposes of this Act, the term "separable element" means a portion of a project—

(1) which is physically separable from other portions of the project; and

(2) which—

(A) achieves hydrologic effects, or

(B) produces physical or economic benefits,

which are separately identifiable from those produced by other portions of the project.

(g) DEFERRAL OF PAYMENT.—(1) With respect to the projects listed in paragraph (2), no amount of the non-Federal share required under this section shall be required to be paid during the three-year period beginning on the date of enactment of this Act.

Louisiana. Arkansas.

(2) The projects referred to in paragraph (1) are the following:

33 USC 701b-8, 721o.

(A) Boeuf and Tensas Rivers, Tensas Basin, Louisiana and Arkansas, authorized by the Flood Control Act of 1946;

99 Stat. 293.

(B) Eight Mile Creek, Arkansas, authorized by Public Law 99-88; and

33 USC 702a-702m.

(C) Rocky Bayou Area, Yazoo Backwater Area, Yazoo Basin, Mississippi, authorized by the Flood Control Act approved August 18, 1941.

(h) ASSIGNED JOINT AND SEPARABLE COSTS.—The share of the costs specified under this section for each project purpose shall apply to the joint and separable costs of construction of each project assigned to that purpose, except as otherwise specified in this Act.

(i) LANDS, EASEMENTS, RIGHTS-OF-WAY, DREDGED MATERIAL DISPOSAL AREAS, AND RELOCATIONS.—The non-Federal interests for a project to which this section applies shall provide all lands, easements, rights-of-way, and dredged material disposal areas required for the project and perform all necessary relocations, except to the extent limited by any provision of this section. The value of any contribution under the preceding sentence shall be included in the non-Federal share of the project specified in this section.

(j) AGREEMENT.—

Contracts.

(1) REQUIREMENT FOR AGREEMENT.—Any project to which this section applies (other than a project for hydroelectric power) shall be initiated only after non-Federal interests have entered into binding agreements with the Secretary to pay 100 percent of the operation, maintenance, and replacement and rehabilitation costs of the project, to pay the non-Federal share of the costs of construction required by this section, and to hold and save the United States free from damages due to the construc-

tion or operation and maintenance of the project, except for damages due to the fault or negligence of the United States or its contractors.

(2) ELEMENTS OF AGREEMENT.—The agreement required pursuant to paragraph (1) shall be in accordance with the requirements of section 221 of the Flood Control Act of 1970 (84 Stat. 1818) and shall provide for the rights and duties of the United States and the non-Federal interest with respect to the construction, operation, and maintenance of the project, including, but not limited to, provisions specifying that, in the event the non-Federal interest fails to provide the required non-Federal share of costs for such work, the Secretary— Contracts. 42 USC 1962d-5b.

(A) shall terminate or suspend work on the project unless the Secretary determines that continuation of the work is in the interest of the United States or is necessary in order to satisfy agreements with other non-Federal interests in connection with the project; and

(B) may terminate or adjust the rights and privileges of the non-Federal interest to project outputs under the terms of the agreement.

(k) PAYMENT OPTIONS.—Except as otherwise provided in this section, the Secretary may permit the full non-Federal contribution to be made without interest during construction of the project or separable element, or with interest at a rate determined pursuant to section 106 over a period of not more than thirty years from the date of completion of the project or separable element. Repayment contracts shall provide for recalculation of the interest rate at five-year intervals. Contracts.

(l) DELAY OF INITIAL PAYMENT.—At the request of any non-Federal interest the Secretary may permit such non-Federal interest to delay the initial payment of any non-Federal contribution under this section or section 101 for up to one year after the date when construction is begun on the project for which such contribution is to be made. Any such delay in initial payment shall be subject to interest charges for up to six months at a rate determined pursuant to section 106.

(m) ABILITY TO PAY.—Any cost-sharing agreement under this section for flood control or agricultural water supply shall be subject to the ability of a non-Federal interest to pay. The ability of any non-Federal interest to pay shall be determined by the Secretary in accordance with procedures established by the Secretary. Agriculture and agricultural commodities.

SEC. 104. GENERAL CREDIT FOR FLOOD CONTROL. 33 USC 2214.

(a) GUIDELINES.—Within one year after the date of enactment of this Act, the Secretary shall issue guidelines to carry out this section, consistent with the principles and guidelines on project formulation. The guidelines shall include criteria for determining whether work carried out by non-Federal interests is compatible with a project for flood control and procedures for making such determinations. The guidelines under this section shall be promulgated after notice in the Federal Register and opportunity for comment. Federal Register, publication.

(b) ANALYSIS OF COSTS AND BENEFITS.—The guidelines established under subsection (a) shall provide for the Secretary to consider, in analyzing the costs and benefits of a proposed project for flood control, the costs and benefits produced by any flood control work carried out by non-Federal interests that the Secretary determines

to be compatible with the project. For purposes of the preceding sentence the Secretary may consider only work carried out after the date which is 5 years before the first obligation of funds for the reconnaissance study for such project. In no case may work which was carried out more than 5 years before the date of the enactment of this Act be considered under this subsection, unless otherwise provided in this Act.

(c) CREDITING OF NON-FEDERAL SHARE.—The guidelines established under subsection (a) shall provide for crediting the cost of work carried out by the non-Federal interests against the non-Federal share of the cost of an authorized project for flood control as follows:

Reports.

(1) Work which is carried out after the end of the reconnaissance study and before the submission to Congress of the final report of the Chief of Engineers on the project and which is determined by the Secretary to be compatible with the project shall be included as part of the project and shall be recommended by the Secretary in the final report for credit against the non-Federal share of the cost of the project.

Reports.

(2) Work which is carried out after submission of the final report of the Chief of Engineers to Congress and which is determined by the Secretary to be compatible with the project shall be considered as part of the project and shall be credited by the Secretary against the non-Federal share of the cost of the project in accordance with the guidelines promulgated pursuant to subsection (a).

In no event may work which was carried out more than 5 years before the date of enactment of this Act be considered under this subsection, unless otherwise provided in this Act.

(d) PROCEDURE FOR WORK DONE BEFORE DATE OF ENACTMENT.—The Secretary shall consider, under subsections (b) and (c), work carried out before the date of enactment of this Act by non-Federal interests on a project for flood control, if the non-Federal interests apply to the Secretary for consideration of such work not later than March 31, 1987. The Secretary shall make determinations under subsections (b) and (c) with respect to such work not later than 6 months after guidelines are issued under subsection (a).

(e) PROCEDURE FOR WORK DONE AFTER DATE OF ENACTMENT.—The Secretary shall consider work carried out after the date of enactment of this Act by non-Federal interests on a project for flood control under subsections (b) and (c) in accordance with the guidelines issued under subsection (a). The guidelines shall require prior approval by the Secretary of any flood control work carried out after the date of enactment of this Act in order to be considered under this section, taking into account the economic and environmental feasibility of the project.

(f) LIMITATION NOT APPLICABLE.—Any flood control work included as part of the non-Federal share of the cost of a project under this section shall not be subject to the limitation contained in the last sentence of section 215(a) of the Flood Control Act of 1968.

42 USC 1962d-5a.

(g) CASH CONTRIBUTION NOT AFFECTED.—Nothing in this section affects the requirement of section 103(a)(1)(A).

33 USC 2215.

SEC. 105. FEASIBILITY STUDIES; PLANNING, ENGINEERING, AND DESIGN.

Contracts.

(a) FEASIBILITY STUDIES.—(1) The Secretary shall not initiate any feasibility study for a water resources project after the date of enactment of this Act until appropriate non-Federal interests agree,

by contract, to contribute 50 percent of the cost for such study during the period of such study. Not more than one-half of such non-Federal contribution may be made by the provision of services, materials, supplies, or other in-kind services necessary to prepare the feasibility report.

(2) This subsection shall not apply to any water resources study primarily designed for the purposes of navigational improvements in the nature of dams, locks, and channels on the Nation's system of inland waterways.

(b) PLANNING AND ENGINEERING.—The Secretary shall not initiate any planning or engineering authorized by this Act for a water resources project until appropriate non-Federal interests agree, by contract, to contribute 50 percent of the cost of the planning and engineering during the period of the planning and engineering. Contracts.

(c) DESIGN.—Costs of design of a water resources project shall be shared in the same percentage as the purposes of such project.

SEC. 106. RATE OF INTEREST. 33 USC 2216.

Whenever a non-Federal interest is required or elects to repay an amount under this Act over a period of time, the amount to be repaid shall include interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period, during the month preceding the fiscal year in which costs for the construction of the project are first incurred (or in the case of recalculation the fiscal year in which the recalculation is made), plus a premium of one-eighth of one percentage point for transaction costs; except that such rates for hydroelectric power shall be in accordance with existing law.

SEC. 107. LIMITATION ON APPLICABILITY OF CERTAIN PROVISIONS IN REPORTS. 33 USC 2217.

If any provision in any report designated by this Act recommends that a State contribute in cash 5 percent of the construction costs allocated to non-vendible project purposes and 10 percent of the construction costs allocated to vendible project purposes, such provision shall not apply to the project recommended in such report.

SEC. 108. GENERAL APPLICABILITY OF COST SHARING. 33 USC 2218.

Unless otherwise specified, the cost sharing provisions of this title shall apply to all projects in this Act. The Federal share of any cost of a project authorized by this Act for which cost a Federal share is not established in this title, shall be the share of such cost otherwise provided by law.

SEC. 109. DEFINITIONS. 33 USC 2219.

For purposes of this title, terms shall have the meanings given by section 214 of this Act.

TITLE II—HARBOR DEVELOPMENT

Harbor Development and Navigation Improvement Act of 1986.

SEC. 201. DEEP-DRAFT HARBOR PROJECTS.

(a) AUTHORIZATION OF CONSTRUCTION.—The following projects for harbors are authorized to be prosecuted by the Secretary substantially in accordance with the plans and subject to the conditions

recommended in the respective reports designated in this subsection, except as otherwise provided in this subsection:

MOBILE HARBOR, ALABAMA

The project for navigation, Mobile Harbor, Alabama: Report of the Chief of Engineers, dated November 18, 1981, at a total cost of $451,000,000, with an estimated first Federal cost of $255,000,000 and an estimated first non-Federal cost of $196,000,000; except that if non-Federal interests construct a bulk material transshipment facility in lower Mobile Bay, the Secretary, upon request of such non-Federal interests, may limit construction of such project from the Gulf of Mexico to such facility and except that, for reasons of environmental quality, dredged material from such project shall be disposed of in open water in the Gulf of Mexico in accordance with all provisions of Federal law. Notwithstanding any other provision of law, no dredged or fill material shall be disposed of in the Brookley disposal area, referred to in such report of the Chief of Engineers.

MISSISSIPPI RIVER SHIP CHANNEL, GULF TO BATON ROUGE, LOUISIANA

The project for navigation, Mississippi River Ship Channel, Gulf to Baton Rouge, Louisiana: Report of the Chief of Engineers, dated April 9, 1983, at a total cost of $471,000,000, with an estimated first Federal cost of $178,000,000 and an estimated first non-Federal cost of $293,000,000. Nothing in this paragraph and such report shall be construed to affect the requirements of Public Law 89-669, as amended.

16 USC 668aa.

TEXAS CITY CHANNEL, TEXAS

The project for navigation, Galveston Bay Area, Texas City Channel, Texas: Report of the Chief of Engineers, dated March 11, 1986, at a total cost of $200,000,000, with an estimated first Federal cost of $130,000,000 and an estimated first non-Federal cost of $70,000,000.

NORFOLK HARBOR AND CHANNELS, VIRGINIA

Fish and fishing.
Wildlife.

The project for navigation, Norfolk Harbor and Channels, Virginia: Report of the Chief of Engineers, dated November 20, 1981, at a total cost of $551,000,000, with an estimated first Federal cost of $256,000,000 and an estimated first non-Federal cost of $295,000,000, including such modifications as the Secretary determines to be necessary and appropriate for mitigation of any damage to fish and wildlife resources resulting from construction, operation, and maintenance of each segment of the proposed project. The Secretary, in consultation with appropriate Federal, State, and local agencies, shall study the effects that construction, operation, and maintenance of each segment of the proposed project will have on fish and wildlife resources and the need for mitigation of any damage to such resources resulting from such construction, operation, and maintenance.

(b) AUTHORIZATION OF CONSTRUCTION SUBJECT TO FAVORABLE REPORT.—The following projects are authorized to be prosecuted by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports cited, with such modifications as are recommended by the Chief of Enginee and approved by the Secretary, and with such other modifications s

are recommended by the Secretary. If no report is cited for a project, the project is authorized to be prosecuted by the Secretary in accordance with a final report of the Chief of Engineers, and with such modifications as are recommended by the Secretary, and no construction on such project may be initiated until such a report is issued and approved by the Secretary.

LOS ANGELES AND LONG BEACH HARBORS, SAN PEDRO BAY, CALIFORNIA

The project for deepening of the entry channel to the harbor of Los Angeles, California, to a depth of 70 feet and for deepening of the entry channel to the harbor of Long Beach, California, to a depth of 76 feet, including the creation of 800 acres of land with the dredged material from the project, as Phase I of the San Pedro Bay development, at a total cost of $620,000,000, with an estimated first Federal cost of $310,000,000 and an estimated first non-Federal cost of $310,000,000.

NEW YORK HARBOR AND ADJACENT CHANNELS, NEW YORK AND NEW JERSEY

The project for deepening of the Ambrose Channel feature of the navigation project, New York Harbor and Adjacent Channels, to a depth of 55 feet and widening such channel to 770 feet, and for deepening of the Anchorage channel feature of such navigation project to a depth of 55 feet and widening such channel to 660 feet, at a total cost of $326,000,000, with an estimated first Federal cost of $156,000,000 and an estimated first non-Federal cost of $170,000,000. Disposal of beach quality sand from construction, operation, and maintenance of such features of such project shall take place at the ocean front on Staten Island, New York, and Sea Bright and Monmouth Beach, New Jersey, at full Federal expense. No disposal of dredged material from construction, operation, and maintenance of such features of such project shall take place at Bowery Bay, Flushing Bay, Powell's Cove, Little Bay, or Little Neck Bay, Queens, New York.

SEC. 202. GENERAL CARGO AND SHALLOW HARBOR PROJECTS.

Studies. Reports.

(a) AUTHORIZATION FOR CONSTRUCTION.—The following projects for harbors are authorized to be prosecuted by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports designated in this subsection, except as otherwise provided in this subsection:

KODIAK HARBOR, ALASKA

The project for navigation, Kodiak Harbor, Alaska: Report of the Chief of Engineers, dated September 7, 1976, at a total cost of $15,000,000, with an estimated first Federal cost of $13,400,000 and an estimated first non-Federal cost of $1,600,000.

ST. PAUL ISLAND, ALASKA

The project for navigation, St. Paul Island Harbor, Alaska: Report of the Chief of Engineers, dated August 10, 1983, at a total cost of $24,800,000, with an estimated first Federal cost of $11,800,000 and an estimated first non-Federal cost of $13,000,000.

OAKLAND OUTER HARBOR, CALIFORNIA

Fish and fishing.
Wildlife.

The project for navigation, Oakland Outer Harbor, California: Reports of the Chief of Engineers, dated January 7, 1980, and July 1, 1983, at a total cost of $45,900,000, with an estimated first Federal cost of $30,100,000 and an estimated first non-Federal cost of $15,800,000. The Secretary, in consultation with appropriate Federal, State, and local agencies, shall study alternative dredged material disposal plans, including but not limited to plans which include marsh formation. The Secretary is authorized to undertake and monitor the effects of such dredged material disposal measures, including but not limited to such measures as will result in fish and wildlife habitat enhancement, as the Secretary determines are necessary and appropriate. The cost of any measures required for construction of the project to protect the Bay Area Rapid Transit facilities shall be undertaken by non-Federal interests and shall be credited toward the 10 percent payment required for such project under section 101(a)(2).

OAKLAND INNER HARBOR, CALIFORNIA

The project for navigation, Oakland Inner Harbor, California, Report of the Chief of Engineers, dated January 21, 1986, at a total cost of $28,100,000, with an estimated first Federal cost of $17,100,000 and an estimated first non-Federal cost of $11,000,000. The Secretary, in consultation with appropriate Federal, State, and local agencies, shall study the existence of, and possible adverse effects of project dredging on, any underground freshwater aquifer in the project area.

RICHMOND HARBOR, CALIFORNIA

The project for navigation, Richmond Harbor, California: Report of the Chief of Engineers, dated August 8, 1982, at a total cost of $43,800,000, with an estimated first Federal cost of $26,500,000 and an estimated first non-Federal cost of $17,300,000.

SACRAMENTO DEEP WATER SHIP CHANNEL, CALIFORNIA

The project for navigation, Sacramento Deep Water Ship Channel, California: Report of the Chief of Engineers, dated November 20, 1981, at a total cost of $125,000,000, with an estimated first Federal cost of $76,000,000 and an estimated first non-Federal cost of $49,000,000.

NEW HAVEN HARBOR, CONNECTICUT

Fish and fishing.

The project for navigation, New Haven Harbor, Connecticut: Report of the Chief of Engineers, dated July 26, 1982, with such modifications as the Secretary determines to be necessary and appropriate to mitigate adverse effects of construction, operation, and maintenance of the proposed project on oyster beds and the production of oysters in New Haven Harbor, at a total cost of $26,500,000, with an estimated first Federal cost of $19,000,000 and an estimated first non-Federal cost of $7,500,000. The Secretary, in consultation with appropriate Federal, State, and local agencies, shall study the effects that construction, operation, and maintenance of the proposed project will have on oyster beds and the production of oysters in New Haven Harbor. Not later than one year

after the date of enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of such study.

PALM BEACH HARBOR, FLORIDA

The project for navigation, Palm Beach Harbor, Florida: Report of the Chief of Engineers, dated December 10, 1985, to assume maintenance, at an annual cost of $86,000.

MANATEE HARBOR, FLORIDA

The project for navigation, Manatee Harbor, Florida: Report of the Chief of Engineers, dated May 12, 1980, at a total cost of $16,400,000, with an estimated first Federal cost of $9,500,000 and an estimated first non-Federal cost of $6,900,000, including such modifications as the Secretary determines to be necessary and appropriate to mitigate the adverse effects of construction, operation, and maintenance of the project on the benthic environment of the area to be dredged. The Secretary, in consultation with appropriate Federal, State, and local agencies, shall study the effects that construction, operation, and maintenance of the proposed project will have on the benthic environment of the area to be dredged. Not later than one year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of such study. The Secretary shall monitor the effects of construction, operation, and maintenance of the project on the benthic environment of the dredged area.

TAMPA HARBOR, EAST BAY CHANNEL, FLORIDA

The project for navigation, Tampa Harbor, East Bay Channel, Florida: Report of the Chief of Engineers, dated January 25, 1979, at an average annual cost of $471,000. The Secretary shall monitor the effects of construction, operation, and maintenance of the project on water quality and the environment.

SAVANNAH HARBOR, GEORGIA

The project for navigation, Savannah Harbor Widening, Georgia: Report of the Chief of Engineers, dated December 19, 1978, at a total cost of $14,700,000, with an estimated first Federal cost of $7,100,000 and an estimated first non-Federal cost of $7,600,000.

HILO HARBOR, HAWAII

The project for navigation, Hilo Harbor, Hawaii: Report of the Chief of Engineers, dated December 4, 1984, at a total cost of $4,880,000, with an estimated first Federal cost of $3,380,000 and an estimated first non-Federal cost of $1,500,000.

GRAND HAVEN HARBOR, MICHIGAN

The project for navigation, modifications to Grand Haven Harbor, Michigan: Report of the Chief of Engineers, dated October 9, 1979, at

a total cost of $17,600,000, with an estimated first Federal cost of $10,300,000 and an estimated first non-Federal cost of $7,300,000.

MONROE HARBOR, MICHIGAN

The project for navigation, Monroe Harbor, Michigan: Report of the Chief of Engineers, dated November 25, 1981, at a total cost of $142,000,000, with an estimated first Federal cost of $55,500,000 and an estimated first non-Federal cost of $86,500,000, including, for reasons of environmental quality, the formation of a 700 acre marsh in Plum Creek Bay, as described in the report of the District Engineer, Detroit District, dated February 1980, as revised December 15, 1980.

DULUTH-SUPERIOR, MINNESOTA AND WISCONSIN

Fish and fishing.
Wildlife.

(1) The project for navigation, Duluth-Superior, Minnesota and Wisconsin: Report of the Chief of Engineers, dated August 16, 1984, at a total cost of $12,500,000, with an estimated first Federal cost of $6,710,000 and an estimated first non-Federal cost of $5,790,000, including such modifications as the Secretary determines to be necessary and appropriate to mitigate losses of fish and wildlife habitat and productivity. The Secretary shall study, in consultation with appropriate Federal, State, and local agencies, the need for measures to mitigate losses of fish and wildlife habitat and productivity. Not later than one year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of such study.

(2) The Secretary shall also study, in consultation with appropriate Federal, State, and local agencies and taking into consideration existing plans, studies, and reports, whether it would be more cost-effective and environmentally sound to control future sedimentation than to conduct periodic maintenance dredging of such project. Not later than one year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of such study, along with recommendations for implementing measures to control sedimentation if such measures prove to be more cost-effective and environmentally sound.

PASCAGOULA HARBOR, MISSISSIPPI

The project for navigation, Pascagoula Harbor, Mississippi: Report of the Chief of Engineers, dated February 14, 1986, at a total cost of $59,100,000, with an estimated first Federal cost of $35,500,000 and an estimated first non-Federal cost of $23,600,000.

GULFPORT HARBOR, MISSISSIPPI

The project for navigation, Gulfport Harbor, Mississippi: Report of the Chief of Engineers, House Document Numbered 96-18, at a total cost of $81,700,000, with an estimated first Federal cost of $61,100,000 and an estimated first non-Federal cost of $20,600,000; except that, for reasons of environmental quality, dredged material from such project shall be disposed of in open water in the Gulf of

Mexico in accordance with all provisions of Federal law. For the purpose of economic evaluation of this project the benefits from such open water disposal shall be deemed to be at least equal to the costs of such disposal.

PORTSMOUTH HARBOR AND PISCATAQUA RIVER, NEW HAMPSHIRE

The project for navigation, Portsmouth Harbor and Piscataqua River, New Hampshire: Report of the Chief of Engineers, dated February 25, 1985, at a total cost of $22,200,000, with an estimated first Federal cost of $16,700,000 and an estimated first non-Federal cost of $5,500,000, including such modifications as the Secretary determines to be necessary and appropriate to assure that adequate disposal sites are available for construction, operation, and maintenance of such project. The Secretary, in consultation with Federal, State, and local agencies, shall study the adequacy of potential disposal sites necessary for construction, operation, and maintenance of the project. Not later than one year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of such study.

GOWANUS CREEK CHANNEL, NEW YORK

The project for navigation, Gowanus Creek Channel, New York: Report of the Chief of Engineers, dated September 14, 1982, at a total cost of $3,310,000, with an estimated first Federal cost of $1,540,000 and an estimated first non-Federal cost of $1,770,000. Notwithstanding section 101 of this Act, the non-Federal share of the cost of such project shall be determined in accordance with the report of the Chief of Engineers.

KILL VAN KULL, NEW YORK AND NEW JERSEY

The project for navigation, Kill Van Kull and Newark Bay Channels, New York and New Jersey: Report of the Chief of Engineers, dated December 14, 1981, at a total cost of $325,000,000, with an estimated first Federal cost of $167,000,000 and an estimated first non-Federal cost of $158,000,000.

WILMINGTON HARBOR-NORTHEAST CAPE FEAR RIVER, NORTH CAROLINA

The project for navigation, Wilmington Harbor-Northeast Cape Fear River, North Carolina: Report of the Chief of Engineers, dated September 16, 1980, at a total cost of $10,000,000, with an estimated first Federal cost of $8,300,000 and an estimated first non-Federal cost of $1,700,000.

CLEVELAND HARBOR, OHIO

The project for harbor modification, Cleveland Harbor, Ohio, including bulkheading and other necessary repairs at pier 34 and approach channels and necessary protective structures for mooring basins for transient vessels in the area south of pier 34. The existing dredged material containment site known as site 14 may be used for the containment of excavated material from construction of the project, at a total cost of not to exceed $36,000,000, with an esti-

mated first Federal cost of $27,000,000 and an estimated first non-Federal cost of $9,000,000.

LORAIN HARBOR, OHIO

The project for navigation, Lorain Harbor, Ohio: Report of the Chief of Engineers, dated February 5, 1985, at a total cost of $5,690,000, with an estimated first Federal cost of $3,740,000 and an estimated first non-Federal cost of $1,950,000.

CHARLESTON HARBOR, SOUTH CAROLINA

The project for navigation, Charleston Harbor, South Carolina: Report of the Chief of Engineers, dated August 27, 1981, including construction of an extension of the harbor navigation channel in the Wando River to the State port authority's Wando River terminal, Report of the Chief of Engineers, at a total cost of $88,500,000, with an estimated first Federal cost of $58,200,000 and an estimated first non-Federal cost of $30,300,000.

BRAZOS ISLAND HARBOR, TEXAS—BROWNSVILLE CHANNEL

The project for navigation, Brazos Island Harbor, Texas—Brownsville Channel: Report of the Chief of Engineers, dated December 20, 1979, at a total cost of $31,900,000, with an estimated first Federal cost of $22,700,000 and an estimated first non-Federal cost of $9,200,000. The Secretary shall study, in consultation with appropriate Federal, State, and local agencies, the need for additional measures to mitigate losses of estuarine habitat and productivity associated with the project. The Secretary is authorized to undertake measures which the Secretary determines to be necessary and appropriate to mitigate such losses.

BLAIR AND SITCUM WATERWAYS, TACOMA HARBOR, WASHINGTON

The project for navigation, Blair and Sitcum Waterways, Tacoma Harbor, Washington: Report of the Chief of Engineers, dated February 8, 1977, House Document Numbered 96-26, at a total cost of $38,200,000, with an estimated first Federal cost of $26,200,000 and an estimated first non-Federal cost of $12,000,000; except that a permanent bypass road for the Blair Waterway may be constructed in lieu of construction of the East 11th Street bridge replacement recommended in such report if (1) the Secretary determines that construction of the bypass road is economically and environmentally feasible, (2) construction of the bypass road is approved by the Governor of the State of Washington, and (3) the bypass road is approved through adoption of resolutions by both the Tacoma City Council and the Tacoma Port Commission. If the bypass road is constructed in lieu of the bridge replacement project, the Federal share of the cost of construction of the bypass road shall not exceed an amount equal to the amount which would have been the Federal share of the cost of the bridge replacement project if the bridge replacement project had been carried out in accordance with such report.

GRAYS HARBOR, WASHINGTON

The project for navigation, Grays Harbor, Washington: Report of the Chief of Engineers, dated May 4, 1985, at a total cost of

$95,700,000, with an estimated first Federal cost of $63,100,000 and an estimated first non-Federal cost of $32,600,000.

EAST, WEST, AND DUWAMISH WATERWAYS, WASHINGTON

The project for navigation, East, West, and Duwamish Waterways, Navigation Improvement Study, Seattle Harbor, Washington: Report of the Chief of Engineers, dated May 31, 1985, at a total cost of $60,200,000, with an estimated first Federal cost of $30,300,000 and an estimated first non-Federal cost of $29,900,000.

SAIPAN HARBOR, COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

The project for navigation and harbor modification, Saipan Harbor, Commonwealth of the Northern Mariana Islands: Report of the Secretary of the Interior, pursuant to Public Law 96-597, prepared by the Army Corps of Engineers dated July 22, 1981, at a total cost of $14,000,000.

48 USC 1662 note.

SAN JUAN HARBOR, PUERTO RICO

The project for navigation, San Juan Harbor, Puerto Rico: Report of the Chief of Engineers, dated December 23, 1982, at a total cost of $72,300,000, with an estimated first Federal cost of $52,700,000 and an estimated first non-Federal cost of $19,600,000, including the acquisition of 22 acres of land for mitigation of the loss of algal beds associated with the project, as recommended in the report of the District Engineer, Jacksonville, Florida, entitled "Phase I: General Design Memorandum on San Juan Harbor, Puerto Rico".

CROWN BAY CHANNEL—ST. THOMAS HARBOR, VIRGIN ISLANDS

The project for navigation, Crown Bay Channel—St. Thomas Harbor, Virgin Islands: Report of the Chief of Engineers, dated April 9, 1982, at a total cost of $8,290,000, with an estimated first Federal cost of $2,920,000 and an estimated first non-Federal cost of $5,370,000. The Secretary shall monitor the turbidity associated with construction, operation, and maintenance of the project and establish a program to maintain, to the extent feasible, such turbidity at a level which will not damage adjacent ecosystems. In selecting a configuration for the disposal area for dredged material from the project, the Secretary shall consider configurations which will minimize, to the extent feasible, the loss of shallow water habitat.

(b) AUTHORIZATION OF CONSTRUCTION SUBJECT TO FAVORABLE REPORT.—The following projects are authorized to be prosecuted by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports cited, with such modifications as are recommended by the Chief of Engineers and approved by the Secretary, and with such other modifications as are recommended by the Secretary. If no report is cited for a project, the project is authorized to be prosecuted by the Secretary in accordance with a final report of the Chief of Engineers, and with such modifications as are recommended by the Secretary, and no construction on such project may be initiated until such a report is issued and approved by the Secretary.

FRESH KILLS IN CARTERET, NEW JERSEY

The project for navigation, Fresh Kills in Carteret, New Jersey, which project consists of extending the Arthur Kill Channel at a depth of 40 feet to the Fresh Kills in Carteret, New Jersey, and easing of such bends as the Secretary determines are necessary to enhance navigation, at a total cost of $26,000,000, with an estimated first Federal cost of $19,500,000 and an estimated first non-Federal cost of $6,500,000.

ARTHUR KILL, NEW YORK AND NEW JERSEY

The project for navigation, Arthur Kill, New York and New Jersey, Report of the Board of Engineers for Rivers and Harbors, dated March 31, 1986, at a total cost of $42,600,000, with an estimated first Federal cost of $27,500,000 and an estimated first non-Federal cost of $15,100,000. At such time as construction may be initiated in accordance with the terms of this subsection, the project shall be included in and joined with the Kill van Kull and Newark Bay Channel, New York and New Jersey project under subsection (a) of this section.

NEW YORK HARBOR AND ADJACENT CHANNELS, NEW YORK AND NEW JERSEY

The project for (1) an access channel 45 feet deep below mean low water and generally 450 feet wide with suitable bends and turning areas to extend from deep water in the Anchorage Channel, New York Harbor, westward approximately 12,000 feet along the southern boundary of the Port Jersey peninsula to the head of navigation in Jersey City, New Jersey, at a total cost of $29,700,000, with an estimated first Federal cost of $21,000,000 and an estimated first non-Federal cost of $8,700,000; and (2) for a channel 42 feet deep below mean low water and generally 300 feet wide with suitable bends and turning areas to extend from deep water in the Anchorage Channel westward approximately 11,000 feet to the head of navigation in Claremont Terminal Channel, at a total cost of $16,000,000, with an estimated first Federal cost of $11,300,000 and an estimated first non-Federal cost of $4,700,000. No disposal of dredged material from construction, operation, and maintenance of such project shall take place at Bowery Bay, Flushing Bay, Powell's Cove, Little Bay, or Little Neck Bay, Queens, New York.

(c) PRE-CONSTRUCTION AUTHORIZATION.—The Secretary is authorized to carry out planning, engineering, and design for the following project for a harbor:

LAKE CHARLES, LOUISIANA

The project for deepening of the project for navigation, Lake Charles, Louisiana, to a depth of 45 feet, at a total cost of $1,070,000.

33 USC 2231.

SEC. 203. STUDIES OF PROJECTS BY NON-FEDERAL INTERESTS.

(a) SUBMISSION TO SECRETARY.—A non-Federal interest may on its own undertake a feasibility study of a proposed harbor or inland harbor project and submit it to the Secretary. To assist non-Federal interests, the Secretary shall, as soon as practicable, promulgate guidelines for studies of harbors or inland harbors to provide sufficient information for the formulation of studies.

(b) REVIEW BY SECRETARY.—The Secretary shall review each study submitted under subsection (a) for the purpose of determining whether or not such study and the process under which such study was developed comply with Federal laws and regulations applicable to feasibility studies of navigation projects for harbors or inland harbors.

(c) SUBMISSION TO CONGRESS.—Not later than 180 days after receiving any study submitted under subsection (a), the Secretary shall transmit to the Congress, in writing, the results of such review and any recommendations the Secretary may have concerning the project described in such plan and design.

(d) CREDIT AND REIMBURSEMENT.—If a project for which a study has been submitted under subsection (a) is authorized by any provision of Federal law enacted after the date of such submission, the Secretary shall credit toward the non-Federal share of the cost of construction of such project an amount equal to the portion of the cost of developing such study that would be the responsibility of the United States if such study were developed by the Secretary.

SEC. 204. CONSTRUCTION OF PROJECTS BY NON-FEDERAL INTERESTS. 33 USC 2232.

(a) AUTHORITY.—In addition to projects undertaken pursuant to sections 201 and 202 of this title, any non-Federal interest is authorized to undertake navigational improvements in harbors or inland harbors of the United States, subject to obtaining any permits required pursuant to Federal and State laws in advance of the actual construction of such improvements.

(b) STUDIES AND ENGINEERING.—When requested by an appropriate non-Federal interest the Secretary is authorized to undertake all necessary studies and engineering for any construction to be undertaken under the terms of subsection (a) of this section, and provide technical assistance in obtaining all necessary permits, if the non-Federal interest contracts with the Secretary to furnish the United States funds for such studies and engineering during the period that they are conducted.

(c) COMPLETION OF STUDIES.—The Secretary is authorized to complete and transmit to the appropriate non-Federal interest any study for improvements to harbors or inland harbors of the United States which were initiated prior to the date of enactment of this Act, or, upon the request of such non-Federal interest, to terminate such study and transmit such partially completed study to the non-Federal interest. Studies under this subsection shall be completed without regard to the requirements of subsection (b) of this section.

(d) AUTHORITY TO CARRY OUT IMPROVEMENT.—Any non-Federal interest which has requested and received from the Secretary pursuant to subsection (b) or (c) of this section, the completed study and engineering for an improvement to a harbor or an inland harbor, or separable element thereof, for the purpose of constructing such improvement and for which improvement a final environmental impact statement has been filed, shall be authorized to carry out the terms of the plan for such improvement. Any plan of improvement proposed to be implemented in accordance with this subsection shall be deemed to satisfy the requirements for obtaining the appropriate permits required under the Secretary's authority and such permits shall be granted subject to the non-Federal interest's acceptance of the terms and conditions of such permits: Provided, That the Secretary determines that the applicable regulatory criteria and procedures have been satisfied. The Secretary shall monitor any project

for which permits are granted under this subsection in order to ensure that such project is constructed (and, in those cases where such activities will not be the responsibility of the Secretary, operated and maintained) in accordance with the terms and conditions of such permits.

(e) REIMBURSEMENT.—

(1) GENERAL RULE.—Subject to the enactment of appropriation Acts, the Secretary is authorized to reimburse any non-Federal interest an amount equal to the estimate of Federal share, without interest, of the cost of any authorized harbor or inland harbor improvement, or separable element thereof, constructed under the terms of this section if—

(A) after authorization of the project and before initiation of construction of the project or separable element—

(i) the Secretary approves the plans of construction of such project by such non-Federal interest, and

Contracts.

(ii) such non-Federal interest enters into an agreement to pay the non-Federal share, if any, of the cost of operation and maintenance of such project; and

(B) the Secretary finds before approval of the plans of construction of the project that the project, or separable element, is economically justified and environmentally acceptable.

(2) MATTERS TO BE CONSIDERED IN REVIEWING PLANS.—In reviewing such plans, the Secretary shall consider budgetary and programmatic priorities, potential impacts on the cost of dredging projects nationwide, and other factors that the Secretary deems appropriate.

(3) MONITORING.—The Secretary shall regularly monitor and audit any project for a harbor or inland harbor constructed under this subsection by a non-Federal interest in order to ensure that such construction is in compliance with the plans approved by the Secretary, and that costs are reasonable. No reimbursement shall be made unless and until the Secretary has certified that the work for which reimbursement is requested has been performed in accordance with applicable permits and the approved plans.

(e) OPERATION AND MAINTENANCE.—Whenever a non-Federal interest constructs improvements to any harbor or inland harbor, the Secretary shall be responsible for maintenance in accordance with section 101(b) if—

(1) the Secretary determines, before construction, that the improvements, or separable elements thereof, are economically justified, environmentally acceptable, and consistent with the purposes of this title;

(2) the Secretary certifies that the project is constructed in accordance with applicable permits and the appropriate engineering and design standards; and

(3) the Secretary does not find that the project, or separable element thereof, is no longer economically justified or environmentally acceptable.

(f) DEMONSTRATION OF NON-FEDERAL INTERESTS ACTING AS AGENT OF SECRETARY.—For the purpose of demonstrating the potential advantages and efficiencies of non-Federal management of projects, the Secretary may approve as many as two proposals pursuant to which the non-Federal interests will undertake part or all of a harbor project authorized by Congress as the agent of the Secretary

by utilizing its own personnel or by procuring outside services, so long as the cost of doing so will not exceed the cost of the Secretary undertaking the project.

SEC. 205. COORDINATION AND SCHEDULING OF FEDERAL, STATE, AND LOCAL ACTIONS. 33 USC 2233.

(a) NOTICE OF INTENT.—The Secretary, on request from an appropriate non-Federal interest in the form of a written notice of intent to construct a navigation project for a harbor or inland harbor under section 204 or this section, shall initiate procedures to establish a schedule for consolidating Federal, State, and local agency environmental assessments, project reviews, and issuance of all permits for the construction of the project, including associated access channels, berthing areas, and onshore port-related facilities, before the initiation of construction. The non-Federal interest shall submit, with the notice of intent, studies and documentation, including environmental reviews, that may be required by Federal law for decisionmaking on the proposed project. A State shall not be required to participate in carrying out this section.

(b) PROCEDURAL REQUIREMENTS.—Within 15 days after receipt of notice under subsection (a), the Secretary shall publish such notice in the Federal Register. The Secretary also shall provide written notification of the receipt of a notice under subsection (a) to all State and local agencies that may be required to issue permits for the construction of the project or related activities. The Secretary shall solicit the cooperation of those agencies and request their entry into a memorandum of agreement described in subsection (c). Within 30 days after publication of the notice in the Federal Register, State and local agencies that intend to enter into the memorandum of agreement shall notify the Secretary of their intent in writing. Federal Register, publication.

(c) SCHEDULING AGREEMENT.—Within 90 days after receipt of notice under subsection (a), the Secretary of the Interior, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, and any State or local agencies that have notified the Secretary under subsection (b) shall enter into an agreement with the Secretary establishing a schedule of decisionmaking for approval of the project and permits associated with it and with related activities. Such schedule may not exceed two and one-half years from the date of the agreement.

(d) CONTENTS OF AGREEMENT.—The agreement entered into under subsection (c), to the extent practicable, shall consolidate hearing and comment periods, procedures for data collection and report preparation, and the environmental review and permitting processes associated with the project and related activities. The agreement shall detail, to the extent possible, the non-Federal interest's responsibilities for data development and information that may be necessary to process each permit, including a schedule when the information and data will be provided to the appropriate Federal, State, or local agency.

(e) PRELIMINARY DECISION.—The agreement shall include a date by which the Secretary, taking into consideration the views of all affected Federal agencies, shall provide to the non-Federal interest in writing a preliminary determination whether the project and Federal permits associated with it are reasonably likely to receive approval.

(f) REVISION OF AGREEMENT.—The Secretary may revise the agreement once to extend the schedule to allow the non-Federal interest

the minimum amount of additional time necessary to revise its original application to meet the objections of a Federal, State, or local agency which is a party to the agreement.

(g) PROGRESS REPORTS.—Six months before the final date of the schedule, the Secretary shall provide to Congress a written progress report for each navigation project for a harbor or inland harbor subject to this section. The Secretary shall transmit the report to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate. The report shall summarize all work completed under the agreement and shall include a detailed work program that will assure completion of all remaining work under the agreement.

(h) FINAL DECISION.—Not later than the final day of the schedule, the Secretary shall notify the non-Federal interest of the final decision on the project and whether the permit or permits have been issued.

(i) REPORT ON TIMESAVINGS METHODS.—Not later than one year after the date of enactment of this Act, the Secretary shall prepare and transmit to Congress a report estimating the time required for the issuance of all Federal, State, and local permits for the construction of navigation projects for harbors or inland harbors and associated activities. The Secretary shall include in that report recommendations for further reducing the amount of time required for the issuance of those permits, including any proposed changes in existing law.

33 USC 2234.

SEC. 206. NONAPPLICABILITY TO SAINT LAWRENCE SEAWAY.

Sections 203, 204, and 205 do not apply to any harbor or inland harbor project for that portion of the Saint Lawrence Seaway administered by the Saint Lawrence Seaway Development Corporation.

33 USC 2235.

SEC. 207. CONSTRUCTION IN USABLE INCREMENTS.

Any navigation project for a harbor or inland harbor authorized by this title or any other provision of law enacted before, on, or after the date of enactment of this title may be constructed in usable increments.

33 USC 2236.

SEC. 208. PORT OR HARBOR DUES.

Vessels.
Commerce and trade.

(a) CONSENT OF CONGRESS.—Subject to the following conditions, a non-Federal interest may levy port or harbor dues (in the form of tonnage duties or fees) on a vessel engaged in trade entering or departing from a harbor and on cargo loaded on or unloaded from that vessel under clauses 2 and 3 of section 10, and under clause 3 of section 8, of Article 1 of the Constitution:

(1) PURPOSES.—Port or harbor dues may be levied only in conjunction with a harbor navigation project whose construction is complete (including a usable increment of the project) and for the following purposes and in amounts not to exceed those necessary to carry out those purposes:

(A)(i) to finance the non-Federal share of construction and operation and maintenance costs of a navigation project for a harbor under the requirements of section 101 of this Act; or

(ii) to finance the cost of construction and operation and maintenance of a navigation project for a harbor under section 204 or 205 of this Act; and

(B) provide emergency response services in the harbor, including contingency planning, necessary personnel training, and the procurement of equipment and facilities.

(2) LIMITATION ON PORT OR HARBOR DUES FOR EMERGENCY SERVICE.—Port or harbor dues may not be levied for the purposes described in paragraph (1)(B) of this subsection after the dues cease to be levied for the purposes described in paragraph (1)(A) of this subsection.

(3) GENERAL LIMITATIONS.—(A) Port or harbor dues may not be levied under this section in conjunction with a deepening feature of a navigation improvement project on any vessel if that vessel, based on its design draft, could have utilized the project at mean low water before construction. In the case of project features which solely—

(i) widen channels or harbors,

(ii) create or enlarge bend easings, turning basins or anchorage areas, or provide protected areas, or

(iii) remove obstructions to navigation,

only vessels at least comparable in size to those used to justify these features may be charged under this section.

(B) In developing port or harbor dues that may be charged under this section on vessels for project features constructed under this title, the non-Federal interest may consider such criteria as: elapsed time of passage, safety of passage, vessel economy of scale, under keel clearance, vessel draft, vessel squat, vessel speed, sinkage, and trim.

(C) Port or harbor dues authorized by this section shall not be imposed on—

(i) vessels owned and operated by the United States Government, a foreign country, a State, or a political subdivision of a country or State, unless engaged in commercial services;

(ii) towing vessels, vessels engaged in dredging activities, or vessels engaged in intraport movements; or

(iii) vessels with design drafts of 20 feet or less when utilizing general cargo and deep-draft navigation projects.

(4) FORMULATION OF PORT OR HARBOR DUES.—Port or harbor dues may be levied only on a vessel entering or departing from a harbor and its cargo on a fair and equitable basis. In formulating port and harbor dues, the non-Federal interest shall consider—

(A) the direct and indirect cost of construction, operations, and maintenance, and providing the facilities and services under paragraph (1) of this subsection;

(B) the value of those facilities and services to the vessel and cargo;

(C) the public policy or interest served; and

(D) any other pertinent factors.

(5) NOTICE AND HEARING.—(A) Before the initial levy of or subsequent modification to port or harbor dues under this section, a non-Federal interest shall transmit to the Secretary—

(i) the text of the proposed law, regulation, or ordinance that would establish the port or harbor dues, including

provisions for their administration, collection, and enforcement;

(ii) the name, address, and telephone number of an official to whom comments on and requests for further information on the proposal are to be directed;

(iii) the date by which comments on the proposal are due and a date for a public hearing on the proposal at which any interested party may present a statement; however, the non-Federal interest may not set a hearing date earlier than 45 days after the date of publication of the notice in the Federal Register required by subparagraph (B) of this paragraph or set a deadline for receipt of comments earlier than 60 days after the date of publication; and

(iv) a written statement signed by an appropriate official that the non-Federal interest agrees to be governed by the provisions of this section.

Federal Register, publication.

(B) On receiving from a non-Federal interest the information required by subparagraph (A) of this paragraph, the Secretary shall transmit the material required by clauses (i) through (iii) of subparagraph (A) of this paragraph to the Federal Register for publication.

(C) Port or harbor dues may be imposed by a non-Federal interest only after meeting the conditions of this paragraph.

(6) REQUIREMENTS ON NON-FEDERAL INTEREST.—A non-Federal interest shall—

Public information.

(A) file a schedule of any port or harbor dues levied under this subsection with the Secretary and the Federal Maritime Commission, which the Commission shall make available for public inspection;

Records.

(B) provide to the Comptroller General of the United States on request of the Comptroller General any records or other evidence that the Comptroller General considers to be necessary and appropriate to enable the Comptroller General to carry out the audit required under subsection (b) of this section;

(C) designate an officer or authorized representative, including the Secretary of the Treasury acting on a cost-reimbursable basis, to receive tonnage certificates and cargo manifests from vessels which may be subject to the levy of port or harbor dues, export declarations from shippers, consignors, and terminal operators, and such other documents as the non-Federal interest may by law, regulation, or ordinance require for the imposition, computation, and collection of port or harbor dues; and

(D) consent expressly to the exclusive exercise of Federal jurisdiction under subsection (c) of this section.

(b) AUDITS.—The Comptroller General of the United States shall—

(1) carry out periodic audits of the operations of non-Federal interests that elect to levy port or harbor dues under this section to determine if the conditions of subsection (a) of this section are being complied with;

Reports.

(2) submit to each House of the Congress a written report containing the findings resulting from each audit; and

(3) make any recommendations that the Comptroller General considers appropriate regarding the compliance of those non-Federal interests with the requirements of this section.

Courts, U.S.

(c) JURISDICTION.—(1) The district court of the United States for the district in which is located a non-Federal interest that levies port or harbor dues under this section has original and exclusive jurisdiction over any matter arising out of or concerning, the imposition, computation, collection, and enforcement of port or harbor dues by a non-Federal interest under this section.

(2) Any person who suffers legal wrong or is adversely affected or aggrieved by the imposition by a non-Federal interest of a proposed scheme or schedule of port or harbor dues under this section may, not later than 180 days after the date of hearing under subsection (a)(5)(A)(iii) of this section, commence an action to seek judicial review of that proposed scheme or schedule in the appropriate district court under paragraph (1).

(3) On petition of the Attorney General or any other party, that district court may—

(A) grant appropriate injunctive relief to restrain an action by that non-Federal interest violating the conditions of consent in subsection (a) of this section;

(B) order the refund of any port or harbor dues not lawfully collected; and

(C) grant other appropriate relief or remedy.

(d) COLLECTION OF DUTIES.—

(1) DELIVERY OF CERTIFICATE AND MANIFEST —

(A) UPON ARRIVAL OF VESSEL.—Upon the arrival of a vessel in a harbor in which the vessel may be subject to the levy of port or harbor dues under this section, the master of that vessel shall, within forty-eight hours after arrival and before any cargo is unloaded from that vessel, deliver to the appropriate authorized representative appointed under subsection (a)(6)(C) of this section a tonnage certificate for the vessel and a manifest of the cargo aboard that vessel or, if the vessel is in ballast, a declaration to that effect.

(B) BEFORE DEPARTURE OF VESSEL.—The shipper, consignor, or terminal operator having custody of any cargo to be loaded on board a vessel while the vessel is in a harbor in which the vessel may be subject to the levy of port or harbor dues under this section shall, within forty-eight hours before departure of that vessel, deliver to the appropriate authorized representative appointed under subsection (a)(6)(C) of this section an export declaration specifying the cargo to be loaded on board that vessel.

(e) ENFORCEMENT.—At the request of an authorized representative referred to in subsection (a)(6)(C) of this section, the Secretary of the Treasury may:

(1) withhold the clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91) for a vessel if the master, owner, or operator of a vessel subject to port or harbor dues under this section fails to comply with the provisions of this section including any non-Federal law, regulation or ordinance issued hereunder; and

(2) assess a penalty or initiate a forfeiture of the cargo in the same manner and under the same procedures as are applicable for failure to pay customs duties under the Tariff Act of 1930 (19 App. U.S.C. 1202 et seq.) if the shipper, consignor, consignee, or terminal operator having title to or custody of cargo subject to port or harbor dues under this section fails to comply with the

provisions of this section including any non-Federal law, regulation, or ordinance issued hereunder.

(f) MARITIME LIEN.—Port or harbor dues levied under this section against a vessel constitute a maritime lien against the vessel and port or harbor dues levied against cargo constitute a lien against the cargo that may be recovered in an action in the district court of the United States for the district in which the vessel or cargo is found.

33 USC 2237.

SEC. 209. INFORMATION FOR NATIONAL SECURITY.

Any non-Federal interest shall provide the United States the information necessary for military readiness planning and harbor, inland harbor, and national security, including information necessary to obtain national security clearances for individuals employed in critical harbor and inland harbor positions.

33 USC 2238.

SEC. 210. AUTHORIZATION OF APPROPRIATIONS.

(a) TRUST FUND.—There are authorized to be appropriated out of the Harbor Maintenance Trust Fund, established by section 9505 of the Internal Revenue Code of 1954, for each fiscal year such sums as may be necessary to pay—

26 USC 9505.

(1) 100 percent of the eligible operations and maintenance costs of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation for such fiscal year; and

(2) not more than 40 percent of the eligible operations and maintenance costs assigned to commercial navigation of all harbors and inland harbors within the United States.

(b) GENERAL FUND.—There are authorized to be appropriated out of the general fund of the Treasury of the United States for each fiscal year such sums as may be necessary to pay the balance of all eligible operations and maintenance costs not provided by payments from the Harbor Maintenance Trust Fund under this section.

New Jersey.
33 USC 2239.

SEC. 211. ALTERNATIVES TO MUD DUMP FOR DISPOSAL OF DREDGED MATERIAL.

(a) DESIGNATION OF ALTERNATIVE SITES.—Not later than three years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall designate one or more sites in accordance with the Marine Protection, Research, and Sanctuaries Act of 1972 for the disposal of dredged material which, without such designation, would be disposed of at the Mud Dump (as defined in subsection (g)). The designated site or sites shall be located not less than 20 miles from the shoreline. The Administrator, in determining sites for possible designation under this subsection, shall consult with the Secretary and appropriate Federal, State, interstate, and local agencies.

33 USC 1401 note.

Effective date.

(b) USE OF NEWLY DESIGNATED SITE.—Beginning on the 30th day following the date on which the Administrator of the Environmental Protection Agency makes the designation required by subsection (a), any ocean disposal of dredged material (other than acceptable dredged material) by any person or governmental entity authorized pursuant to the Marine Protection, Research, and Sanctuaries Act of 1972 to dispose of dredged material at the Mud Dump on or before the date of such designation shall take place at the newly designated ocean disposal site or sites under subsection (a) in lieu of the Mud Dump.

(c) INTERIM AVAILABILITY OF LAWFUL SITES.—Until the 30th day following the date on which the Administrator of the Environmental Protection Agency makes the designation required by subsection (a), there shall be available a lawful site for the ocean disposal of dredged material by any person or governmental entity authorized pursuant to the Marine Protection, Research, and Sanctuaries Act of 1972 to dispose of dredged material at the Mud Dump on or before the date of such designation.

33 USC 1401 note.

(d) STATUS REPORTS.—Not later than one year after the date of enactment of this Act and annually thereafter until the designation of one or more sites under subsection (a), the Administrator of the Environmental Protection Agency shall submit a report to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate describing the status of such designation.

(e) FUTURE USE OF MUD DUMP RESTRICTED TO ACCEPTABLE DREDGED MATERIAL.—Notwithstanding any other provision of law, including any regulation, the Secretary shall ensure that, not later than the 30th day following the date on which the Administrator of the Environmental Protection Agency makes the designation required by subsection (a), all existing and future Department of the Army permits and authorizations for disposal of dredged material at the Mud Dump shall be modified, revoked, and issued (as appropriate) to ensure that only acceptable dredged material will be disposed of at such site and that all other dredged material determined to be suitable for ocean disposal will be disposed of at the site or sites designated pursuant to subsection (a) of this section.

(f) DEFINITION OF ACCEPTABLE DREDGED MATERIAL.—For purposes of this section, the term "acceptable dredged material" means rock, beach quality sand, material excluded from testing under the ocean dumping regulations promulgated by the Administrator of the Environmental Protection Agency pursuant to the Marine Protection, Research, and Sanctuaries Act of 1972, and any other dredged material (including that from new work) determined by the Secretary, in consultation with the Administrator, to be substantially free of pollutants.

(g) DEFINITION OF MUD DUMP.—For purposes of this section, the term "Mud Dump" means the area located approximately 5¾ miles east of Sandy Hook, New Jersey, with boundary coordinates of 40 degrees 23 minutes 48 seconds N, 73 degrees 51 minutes 28 seconds W; 40 degrees 21 minutes 48 seconds N, 73 degrees 50 minutes 00 seconds W; 40 degrees 21 minutes 48 seconds N, 73 degrees 51 minutes 28 seconds W; and 40 degrees 23 minutes 48 seconds N, 73 degrees 50 minutes 00 seconds W.

SEC. 212. EMERGENCY RESPONSE SERVICES.

33 USC 2240.

State and local governments.

(a) GRANTS.—The Secretary is authorized to make grants to any non-Federal interest operating a project for a harbor for provision of emergency response services in such harbor (including contingency planning, necessary personnel training, and the procurement of equipment and facilities either by the non-Federal interest, by a local agency or municipality, or by a combination of local agencies or municipalities on a cost-reimbursable basis, either by a cooperative agreement, mutual aid plan, or mutual assistance plan entered into between one or more non-Federal interests, public agencies, or local municipalities).

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years beginning after September 30, 1986, and ending before October 1, 1992, $5,000,000.

SEC. 213. HARBOR OFFICE AT MORRO BAY, CALIFORNIA.

For reasons of navigation safety, subject to section 903(a) of this Act, the Secretary is authorized to make a grant to the non-Federal interest operating Morro Bay Harbor, California, for construction of a new harbor office at such harbor, at a total cost of $500,000, with an estimated first Federal cost of $375,000 and an estimated first non-Federal cost of $125,000.

33 USC 2241.

SEC. 214. DEFINITIONS.

For purposes of this title—

(1) DEEP-DRAFT HARBOR.—The term "deep-draft harbor" means a harbor which is authorized to be constructed to a depth of more than 45 feet (other than a project which is authorized by section 202 of this title).

(2) ELIGIBLE OPERATIONS AND MAINTENANCE.—(A) Except as provided in subparagraph (B), the term "eligible operations and maintenance" means all operations, maintenance, repair, and rehabilitation, including maintenance dredging reasonably necessary to maintain the width and nominal depth of any harbor or inland harbor.

(B) As applied to the Saint Lawrence Seaway, the term "eligible operations and maintenance" means all operations, maintenance, repair, and rehabilitation, including maintenance dredging reasonably necessary to keep such Seaway or navigation improvements operated or maintained by the Saint Lawrence Seaway Development Corporation in operation and reasonable state of repair.

(C) The term "eligible operations and maintenance" does not include providing any lands, easements, rights-of-way, or dredged material disposal areas, or performing relocations required for project operations and maintenance.

(3) GENERAL CARGO HARBOR.—The term "general cargo harbor" means a harbor for which a project is authorized by section 202 of this title and any other harbor which is authorized to be constructed to a depth of more than 20 feet but not more than 45 feet;

(4) HARBOR.—The term "harbor" means any channel or harbor, or element thereof, in the United States, capable of being utilized in the transportation of commercial cargo in domestic or foreign waterborne commerce by commercial vessels. The term does not include—

(A) an inland harbor;

(B) the Saint Lawrence Seaway;

(C) local access or berthing channels;

(D) channels or harbors constructed or maintained by nonpublic interests; and

(E) any portion of the Columbia River other than the channels on the downstream side of Bonneville lock and dam.

(5) INLAND HARBOR.—The term "inland harbor" means a navigation project which is used principally for the accommodation of commercial vessels and the receipt and shipment of

waterborne cargoes on inland waters. The term does not include—

(A) projects on the Great Lakes;

(B) projects that are subject to tidal influence;

(C) projects with authorized depths of greater than 20 feet;

(D) local access or berthing channels; and

(E) projects constructed or maintained by nonpublic interests.

(6) NOMINAL DEPTH.—The term "nominal depth" means, in relation to the stated depth for any navigation improvement project, such depth, including any greater depths which must be maintained for any harbor or inland harbor or element thereof included within such project in order to ensure the safe passage at mean low tide of any vessel requiring the stated depth.

(7) NON-FEDERAL INTEREST.—The term "non-Federal interest" has the meaning such term has under section 221 of the Flood Control Act of 1970 and includes any interstate agency and port authority established under a compact entered into between two or more States with the consent of Congress under section 10 of Article I of the Constitution. 42 USC 1962d-5b.

(8) UNITED STATES.—The term "United States" means all areas included within the territorial boundaries of the United States, including the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and any other territory or possession over which the United States exercises jurisdiction.

SEC. 215. SHORT TITLE. 33 USC 2201 note.

This title may be cited as the "Harbor Development and Navigation Improvement Act of 1986".

TITLE III—INLAND WATERWAY TRANSPORTATION SYSTEM

SEC. 301. AUTHORIZATION OF PROJECTS.

(a) AUTHORIZATION OF CONSTRUCTION.—The following works of improvement for the benefit of navigation are authorized to be prosecuted by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports designated in this subsection, except as otherwise provided in this subsection:

OLIVER LOCK AND DAM, BLACK WARRIOR-TOMBIGBEE RIVER, ALABAMA

Construction of a lock and dam to replace the William Bacon Oliver Lock and Dam, Black Warrior-Tombigbee River, Alabama: Report of the Chief of Engineers, dated September 26, 1984, at a total cost of $150,000,000, with a first Federal cost of $150,000,000.

LOCKS AND DAMS 5 THROUGH 14, KENTUCKY RIVER, KENTUCKY

Disposition of Kentucky River, Kentucky, Locks and Dams 5 through 14, Report of the Chief of Engineers, dated July 2, 1984, for disposition purposes without any construction cost.

GALLIPOLIS LOCKS AND DAM REPLACEMENT, OHIO RIVER, OHIO AND WEST VIRGINIA

The project for navigation, Gallipolis Locks and Dam Replacement, Ohio River, Ohio and West Virginia: Report of the Chief of Engineers, dated April 8, 1982, and Supplemental Report of the Chief of Engineers, dated August 13, 1983, at a total cost of $285,000,000, with a first Federal cost of $285,000,000.

BONNEVILLE LOCK AND DAM, OREGON AND WASHINGTON—COLUMBIA RIVER AND TRIBUTARIES, WASHINGTON

Birds.

The project for navigation, Bonneville Lock and Dam, Oregon and Washington—Columbia River and Tributaries, Interim Report: Report of the Chief of Engineers, dated March 14, 1980, and the Supplement thereto, dated February 10, 1981, at a total cost of $191,000,000, with a first Federal cost of $191,000,000. Dredged material from the project shall be disposed of at such sites considered by the Secretary to be appropriate to the extent necessary to prevent damage to the Blue Heron rookery on Pierce and Ives Islands. No construction shall take place on Pierce and Ives Islands during the heron nesting period.

LOCK AND DAM 7 REPLACEMENT, MONONGAHELA RIVER, PENNSYLVANIA

Fish and fishing. Wildlife.

The project for navigation, Lock and Dam 7 Replacement, Monongahela River, Pennsylvania: Report of the Chief of Engineers, dated September 24, 1984, with such modifications (including acquisition of lands for fish and wildlife mitigation) as the Secretary determines are advisable, at a total cost of $123,000,000, with a first Federal cost of $123,000,000.

LOCK AND DAM 8 REPLACEMENT, MONONGAHELA RIVER, PENNSYLVANIA

Fish and fishing. Wildlife.

The project for navigation, Lock and Dam 8 Replacement, Monongahela River, Pennsylvania: Report of the Chief of Engineers, dated September 24, 1984, with such modifications (including acquisition of lands for fish and wildlife mitigation) as the Secretary determines are advisable, at a total cost of $82,900,000, with a first Federal cost of $82,900,000.

(b) AUTHORIZATION OF CONSTRUCTION SUBJECT TO FAVORABLE REPORT.—The following project is authorized to be prosecuted by the Secretary in accordance with a final report of the Chief of Engineers, and with such modifications as are recommended by the Secretary, and no construction on such project may be initiated until such a report is issued and approved by the Secretary.

WINFIELD LOCKS AND DAM, KANAWHA RIVER, WEST VIRGINIA

Fish and fishing. Wildlife.

Construction of improvements to, and an additional lock in the vicinity of, the Winfield Locks and Dam, Kanawha River, West Virginia, and acquisition of lands for fish and wildlife mitigation in such vicinity, at a total cost of $153,000,000, with a first Federal cost of $153,000,000.

SEC. 302. INLAND WATERWAYS USERS BOARD. 33 USC 2251.

(a) ESTABLISHMENT OF USERS BOARD.—There is hereby established an Inland Waterway Users Board (hereinafter in this section referred to as the "Users Board") composed of the eleven members selected by the Secretary, one of whom shall be designated by the Secretary as Chairman. The members shall be selected so as to represent various regions of the country and a spectrum of the primary users and shippers utilizing the inland and intracoastal waterways for commercial purposes. Due consideration shall be given to assure a balance among the members based on the ton-mile shipments of the various categories of commodities shipped on inland waterways. The Secretary of the Army shall designate, and the Secretaries of Agriculture, Transportation, and Commerce may each designate, a representative to act as an observer of the Users Board.

(b) DUTIES.—The Users Board shall meet at least semi-annually to develop and make recommendations to the Secretary regarding construction and rehabilitation priorities and spending levels on the commercial navigational features and components of the inland waterways and inland harbors of the United States for the following fiscal years. Any advice or recommendation made by the Users Board to the Secretary shall reflect the independent judgment of the Users Board. The Users Board shall, by December 31, 1987, and annually thereafter file such recommendations with the Secretary and with the Congress.

(c) ADMINISTRATION.—The Users Board shall be subject to the Federal Advisory Committee Act (83 Stat. 770; 5 U.S.C. App.), other than section 14, and, with the consent of the appropriate agency head, the Users Board may use the facilities and services of any Federal agency. Non-Federal members of the Users Board while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

TITLE IV—FLOOD CONTROL

SEC. 401. AUTHORIZATION OF PROJECTS. Studies. Reports.

(a) AUTHORIZATION OF CONSTRUCTION.—The following works of improvement for the control of destructive floodwaters are adopted and authorized to be prosecuted by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports designated in this subsection, except as otherwise provided in this subsection:

VILLAGE CREEK, ALABAMA

The project for flood control, Village Creek, Jefferson County, Alabama: Report of the Chief of Engineers, dated December 23, 1982, at a total cost of $31,600,000, with an estimated first Federal cost of $23,600,000 and an estimated first non-Federal cost of $8,000,000.

THREEMILE CREEK, ALABAMA

The project for flood control, Threemile Creek, Mobile, Alabama: Report of the Chief of Engineers, dated April 20, 1984, at a total cost

of $19,100,000, with an estimated first Federal cost of $13,400,000 and an estimated first non-Federal cost of $5,700,000.

LITTLE COLORADO RIVER, ARIZONA

The project for flood control, Little Colorado River at Holbrook, Arizona: Report of the Chief of Engineers, dated December 23, 1981, at a total cost of $11,900,000, with an estimated first Federal cost of $8,940,000 and an estimated first non-Federal cost of $2,960,000.

EIGHT MILE CREEK, PARAGOULD, ARKANSAS

The project for flood control, Eight Mile Creek, Paragould, Arkansas: Report of the Chief of Engineers, dated August 10, 1979, at a total cost of $16,100,000, with an estimated first Federal cost of $11,200,000 and an estimated first non-Federal cost of $4,900,000.

FOURCHE BAYOU BASIN, ARKANSAS

The project for flood control, Fourche Bayou Basin, Little Rock, Arkansas: Report of the Chief of Engineers, dated September 4, 1981, at a total cost of $33,400,000, with an estimated first Federal cost of $25,100,000 and an estimated first non-Federal cost of $8,300,000.

HELENA AND VICINITY, ARKANSAS

The project for flood control, Helena and Vicinity, Arkansas: Report of the Chief of Engineers, dated June 22, 1983, at a total cost of $15,000,000, with an estimated first Federal cost of $11,200,000 and an estimated first non-Federal cost of $3,800,000.

WEST MEMPHIS AND VICINITY, ARKANSAS

The project for flood control, West Memphis and Vicinity, Arkansas: Report of the Chief of Engineers, dated September 7, 1984, at a total cost of $21,900,000, with an estimated first Federal cost of $15,400,000 and an estimated first non-Federal cost of $6,500,000.

CACHE CREEK BASIN, CALIFORNIA

The project for flood control, Cache Creek Basin, California: Report of the Chief of Engineers, dated April 27, 1981, at a total cost of $28,500,000, with an estimated first Federal cost of $19,000,000 and an estimated first non-Federal cost of $9,500,000, except that, in lieu of constructing the recommended bypass channel, the Secretary shall accomplish the purposes of the project by removing the rock formation at the outlet channel and widening and deepening the channel in accordance with alternative 8 as described in the Feasibility Study of the District Engineer dated August 1979. The Secretary shall act in coordination with the State of California to assure that such project poses no danger to any component of its State park system.

REDBANK AND FANCHER CREEKS, CALIFORNIA

The project for flood control, Redbank and Fancher Creeks, California: Report of the Chief of Engineers, dated May 7, 1981, at a total cost of $84,600,000, with an estimated first Federal cost of $64,900,000 and an estimated first non-Federal cost of $19,700,000.

The project shall include measures determined appropriate by the Secretary to minimize adverse effects on groundwater and to maximize benefits to groundwater, including ground water recharge.

SANTA ANA RIVER MAINSTEM, CALIFORNIA

Dams.

The project for flood control, Santa Ana River Mainstem, including Santiago Creek, California: Report of the Chief of Engineers, dated January 15, 1982, at a total cost of $1,090,000,000, with an estimated first Federal cost of $809,000,000 and an estimated first non-Federal cost of $281,000,000, except that in lieu of the Mentone Dam feature of the project and subject to the provisions of section 903(b) of this Act, the Secretary is authorized to plan, design, and construct a flood control storage dam on the upper Santa Ana River. Any relocation of the Talbert Valley Channel undertaken in connection with the project shall be constructed with a channel capacity sufficient to accommodate a 100-year flood. If a non-Federal sponsor agrees to pay at least 50 percent of the cost of such investigation, the Secretary is authorized to investigate the feasibility of including water supply and conservation storage at Prado Dam. The Secretary of the Interior, in consultation with the Secretary, shall carry out such studies and analyses as he deems necessary to determine (1) the effects of water supply and conservation at Prado Dam on existing oil and gas leasehold interests owned by Prado Petroleum Company, and (2) the feasibility of exchanging the leasehold interests owned by Prado Petroleum Company for property of substantially equivalent value under the jurisdiction of the Secretary of the Interior. Such studies and analyses shall be completed within one year of the date of enactment of this Act. Pursuant to the Water Supply Act of 1958, any additional water supply and conservation storage at Prado Dam as may be recommended by the Secretary based on the investigation under this paragraph is authorized upon the exchange of leasehold interests in accordance with the recommendations of the Secretary of the Interior's studies. Nothing in this paragraph affects the Secretary's and the Secretary of the Interior's existing authority to operate Prado Dam for water supply and conservation.

43 USC 390b.

FOUNTAIN CREEK, COLORADO

The project for flood control, Fountain Creek, Pueblo, Colorado phase I GDM: Report of the Chief of Engineers, dated December 23, 1981, at a total cost of $8,600,000, with an estimated first Federal cost of $6,320,000 and an estimated first non-Federal cost of $2,280,000.

METROPOLITAN DENVER, COLORADO

The project for flood control, Metropolitan Denver and South Platte River and Tributaries, Colorado, Wyoming, and Nebraska: Reports of the Chief of Engineers, dated December 23, 1981, and July 14, 1983, House Document Numbered 98-265, at a total cost of $10,800,000, with an estimated first Federal cost of $8,100,000 and an estimated first non-Federal cost of $2,700,000. In applying section 104 to such project, the Secretary shall consider work carried out by non-Federal interests after January 1, 1978, and before the date of the enactment of this Act that otherwise meets the requirements of such section.

OATES CREEK, GEORGIA

Wildlife.

The project for flood control, Oates Creek, Georgia: Report of the Chief of Engineers, dated December 23, 1981, at a total cost of $13,700,000, with an estimated first Federal cost of $9,600,000 and an estimated first non-Federal cost of $4,100,000. Such project shall include (1) measures determined by the Secretary to be necessary and appropriate to minimize pollution of shallow ground and surface waters which may result from construction of the project, and (2) planting of vegetation along the channel for purposes of enhancing wildlife habitat.

ALENAIO STREAM, HAWAII

The project for flood control, Alenaio Stream, Hawaii: Report of the Chief of Engineers, dated August 15, 1983, at a total cost of $7,860,000, with an estimated first Federal cost of $5,500,000 and an estimated first non-Federal cost of $2,360,000.

LITTLE WOOD RIVER, IDAHO

Fish and fishing.

The project for flood control, Little Wood River, vicinity of Gooding and Shoshone, Idaho: Report of the Chief of Engineers, dated November 2, 1977, Senate Document Numbered 96-9, at a total cost of $4,530,000, with an estimated first Federal cost of $3,400,000 and an estimated first non-Federal cost of $1,130,000. After completion of the project, the Secretary shall evaluate and monitor the extent of any fish losses that are attributable to the project and undertake such additional mitigation measures as he determines appropriate.

ROCK RIVER, ILLINOIS

The project for flood control, Rock River, Rockford and Vicinity, Illinois (Loves Park Interim): Report of the Chief of Engineers, dated September 15, 1980, at a total cost of $31,300,000, with an estimated first Federal cost of $23,500,000 and an estimated first non-Federal cost of $7,800,000. The project shall include flood protection measures along Small Unnamed Creek, as described in the Interim Report of the District Engineer, Rock Island, dated February 1979. Before the acquisition of land for, or the actual construction of, the project the Secretary shall study the probable effects of the project on existing recreational resources in the project area and, as part of the project, shall undertake such measures as he determines necessary and appropriate to mitigate any adverse effects on such recreation resources.

SOUTH QUINCY DRAINAGE AND LEVEE DISTRICT, ILLINOIS

Wildlife.

The project for flood control, South Quincy Drainage and Levee District, Illinois: Report of the Chief of Engineers, dated January 24, 1984, at a total cost of $11,900,000, with an estimated first Federal cost of $8,900,000 and an estimated first non-Federal cost of $3,000,000. The Secretary shall, to the extent feasible, obtain borrow material from sites in the main channel of the Mississippi River and place fill material on the landward side of the existing levee in order to protect wildlife habitat.

NORTH BRANCH OF CHICAGO RIVER, ILLINOIS

The project for flood protection for the North Branch of the Chicago River, Illinois: Report of the Chief of Engineers, dated October 29, 1984, at a total cost of $22,700,000, with an estimated first Federal cost of $15,000,000 and an estimated first non-Federal cost of $7,700,000. In recognition of the flood damage prevention benefits provided in the North Branch of the Chicago River, Illinois Basin, by the Techny Reservoirs constructed by non-Federal interests on the West Fork of the North Branch of the Chicago River and by the Mid Fork Reservoir and the Mid Fork Pumping Station constructed by non-Federal interests on the Middle Fork of the North Branch of the Chicago River, the Secretary shall, subject to such amounts as are provided in appropriation Acts, reimburse non-Federal interests for an amount equal to 50 percent of the costs of planning and construction of such reservoirs and pumping station.

O'HARE SYSTEM OF THE CHICAGOLAND UNDERFLOW PLAN, ILLINOIS

The project for flood control, O'Hare System of the Chicagoland Underflow Plan, Illinois: Report of the Chief of Engineers, dated June 3, 1985, at a total cost of $18,400,000, with an estimated first Federal cost of $14,800,000 and an estimated first non-Federal cost of $3,600,000, except that the capacity of the flood control reservoir shall be at least 1,050 acre-feet in order to provide optimum storage capacity for flood control purposes.

LITTLE CALUMET RIVER, INDIANA

The project for flood control, Little Calumet River, Indiana: In accordance with plan 3A contained in the Report of the Chief of Engineers, dated July 2, 1984, provided that all of the features of the plan 3A as recommended by and described in the report of the District Engineer are included, at a total cost of $87,100,000, with an estimated first Federal cost of $65,300,000 and an estimated first non-Federal cost of $21,800,000.

LITTLE CALUMET RIVER BASIN (CADY MARSH DITCH), INDIANA

The project for flood control, Little Calumet River Basin (Cady Marsh Ditch), Indiana, designated as Plan D as described in the Final Feasibility Report of the District Engineer, dated April 1984, at a total cost of $11,200,000, with an estimated first Federal cost of $6,600,000 and an estimated first non-Federal cost of $4,600,000.

GREEN BAY LEVEE AND DRAINAGE DISTRICT NUMBER 2, IOWA

The project for flood control, Mississippi River, Coon Rapids Dam to Ohio River, Green Bay Levee and Drainage District Number 2, Iowa: Report of the Chief of Engineers, dated October 21, 1981, except that borrow material for the project shall be obtained from the island source as recommended by the District Engineer, Rock Island District, in his report dated November 1978, and revised November 1979, at a total cost of $6,850,000, with an estimated first Federal cost of $5,140,000 and an estimated first non-Federal cost of $1,710,000.

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PERRY CREEK, IOWA

The project for flood control, Perry Creek, Iowa: Report of the Chief of Engineers, dated February 4, 1982, House Document Numbered 98-179, at a total cost of $44,600,000, with an estimated first Federal cost of $31,200,000 and an estimated first non-Federal cost of $13,400,000.

DES MOINES RIVER BASIN, IOWA AND MINNESOTA

The project for flood control, Des Moines River Basin, Iowa and Minnesota: Report of the Chief of Engineers, dated July 22, 1977, at a total cost of $15,200,000, with an estimated first Federal cost of $10,900,000 and an estimated first non-Federal cost of $4,300,000. The Secretary shall, in consultation with appropriate Federal, State, and local agencies, study the feasibility of minimizing increased flood stages along Jordon Creek in the vicinity of the Chicago, Rock Island and Pacific Railroad Bridge and the implementation of nonstructural and structural flood plain management techniques along the reach of Walnut Creek, including the improvement of channel capacity in the vicinity of Grand Avenue. In addition, the Secretary shall, in consultation with appropriate Federal, State, and local agencies, review the location of river access points and boat ramps.

HALSTEAD, KANSAS

Fish and fishing.
Wildlife.

The project for flood control, Halstead, Kansas: Report of the Chief of Engineers, dated May 8, 1979, at a total cost of $7,200,000, with an estimated first Federal cost of $5,400,000 and an estimated first non-Federal cost of $1,800,000, including the acquisition of such additional lands and access points as the Secretary determines to be necessary and appropriate to mitigate the adverse effects of the project on fish and wildlife habitat. The Secretary, in consultation with appropriate Federal, State, and local agencies, shall study the need for additional lands for mitigation of fish and wildlife losses caused by the project and the need for additional access points to the Little Arkansas River. Not later than one year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report of such study.

UPPER LITTLE ARKANSAS RIVER, KANSAS

The project for flood control, Upper Little Arkansas River Watershed, Kansas: Report of the Chief of Engineers, dated December 18, 1983, at a total cost of $12,400,000, with an estimated first Federal cost of $9,300,000 and an estimated first non-Federal cost of $3,100,000.

ARKANSAS CITY, KANSAS

The project for flood control, Arkansas City, Kansas: Report of the Chief of Engineers dated September 9, 1985, at a total cost of $14,500,000, with an estimated first Federal cost of $10,880,000 and an estimated first non-Federal cost of $3,620,000.

BUSHLEY BAYOU, LOUISIANA

The project for flood control, Bushley Bayou, Louisiana: Reports of the Chief of Engineers, dated April 30, 1980, and August 12, 1982, at a total cost of $45,700,000, with an estimated first Federal cost of $32,800,000 and an estimated first non-Federal cost of $12,900,000.

LOUISIANA STATE PENITENTIARY LEVEE

Fish and fishing.
Wildlife.

The project for flood control, Louisiana State Penitentiary Levee, Mississippi River, Louisiana: Report of the Chief of Engineers, dated December 10, 1982, at a total cost of $23,400,000, with an estimated first Federal cost of $17,600,000 and an estimated first non-Federal cost of $5,800,000. No acquisition of land for or actual construction of the project may be commenced until appropriate non-Federal interests shall agree to undertake measures to minimize the loss of fish and wildlife habitat lands in the project area.

QUINCY COASTAL STREAMS, MASSACHUSETTS

The project for flood control, Quincy Coastal Streams, Massachusetts (Town Brook Interim): Reports of the Chief of Engineers, dated December 14, 1981 and December 13, 1984, at a total cost of $27,400,000, with an estimated first Federal cost of $20,600,000 and an estimated first non-Federal cost of $6,800,000. In applying section 104 to such project, the Secretary shall consider work carried out by non-Federal interests after January 1, 1978, and before the date of the enactment of this Act that otherwise meets the requirements of such section.

ROUGHANS POINT, MASSACHUSETTS

The project for flood control, Roughans Point, Revere, Massachusetts: Report of the Chief of Engineers, dated May 4, 1985, at a total cost of $9,200,000, with an estimated first Federal cost of $6,400,000 and an estimated first non-Federal cost of $2,800,000.

REDWOOD RIVER, MINNESOTA

The project for flood control, Redwood River at Marshall, Minnesota: Report of the Chief of Engineers, dated November 16, 1981, at a total cost of $4,370,000, with an estimated first Federal cost of $3,100,000 and an estimated first non-Federal cost of $1,270,000.

ROOT RIVER BASIN, MINNESOTA

The project for flood control, Root River Basin, Minnesota: Report of the Chief of Engineers, dated May 13, 1977, House Document Numbered 96-17, at a total cost of $8,360,000, with an estimated first Federal cost of $6,270,000 and an estimated first non-Federal cost of $2,090,000.

SOUTH FORK ZUMBRO RIVER, MINNESOTA

The project for flood control, South Fork Zumbro River Watershed at Rochester, Minnesota: Report of the Chief of Engineers, dated February 23, 1979, at a total cost of $61,500,000, with an estimated first Federal cost of $46,000,000 and an estimated first non-Federal cost of $15,500,000.

MISSISSIPPI RIVER AT ST. PAUL, MINNESOTA

The project for flood control, Mississippi River at St. Paul, Minnesota: Report of the Chief of Engineers, dated June 16, 1983, at a total cost of $8,610,000, with an estimated first Federal cost of $6,460,000 and an estimated first non-Federal cost of $2,150,000.

SOWASHEE CREEK, MERIDIAN, MISSISSIPPI

The project for flood control, Sowashee Creek, Meridian, Mississippi: Report of the Chief of Engineers, dated February 25, 1985, at a total cost of $17,500,000, with an estimated first Federal cost of $12,300,000 and an estimated first non-Federal cost of $5,200,000.

MALINE CREEK, MISSOURI

The project for flood control, Maline Creek, Missouri: Report of the Chief of Engineers, dated November 2, 1982, at a total cost of $62,900,000, with an estimated first Federal cost of $43,700,000 and an estimated first non-Federal cost of $19,200,000.

ST. JOHNS BAYOU AND NEW MADRID FLOODWAY, MISSOURI

Fish and fishing. Wildlife.

The project for flood control, St. Johns Bayou and New Madrid Floodway, Missouri: Report of the Chief of Engineers, dated January 4, 1983, at a total cost of $112,000,000, with an estimated first Federal cost of $78,500,000 and an estimated first non-Federal cost of $33,500,000, except that the land for mitigation of damages to fish and wildlife shall be acquired as soon as possible from available funds, including the Environmental Protection and Mitigation Fund established by section 908 of this Act, and except that lands acquired by the State of Missouri after January 1, 1982, for mitigation of damage to fish and wildlife within the Ten Mile Pond mitigation area shall be counted as part of the total quantity of mitigation lands required for the project and shall be maintained by such State for such purpose.

STE. GENEVIEVE, MISSOURI

The project for flood control, Ste. Genevieve, Missouri: Report of the Board of Engineers for Rivers and Harbors, dated April 16, 1985, at a total cost of $34,400,000, with an estimated first Federal cost of $25,800,000 and an estimated first non-Federal cost of $8,600,000. Congress finds that, in view of the historic preservation benefits resulting from the project, the overall benefits of the project exceed the costs of the project.

BRUSH CREEK AND TRIBUTARIES, MISSOURI AND KANSAS

The project for flood control, Brush Creek and Tributaries, Missouri and Kansas: Report of the Chief of Engineers, dated January 3, 1983, at a total cost of $16,100,000, with an estimated first Federal cost of $12,100,000 and an estimated first non-Federal cost of $4,000,000.

CAPE GIRARDEAU, MISSOURI

The project for flood control, Cape Girardeau, Jackson Metropolitan Area, Missouri: Report of the Chief of Engineers, dated December 8, 1984, at a total cost of $25,100,000, with an estimated first

Federal cost of $18,700,000 and an estimated first non-Federal cost of $6,400,000, except that the project shall include the nonstructural measures recommended in the Report of the Division Engineer, dated January 3, 1983.

PAPPILLION CREEK AND TRIBUTARIES LAKES, NEBRASKA

The project for flood control, Pappillion Creek and Tributaries Lakes, Nebraska: Report of the Chief of Engineers, dated June 12, 1986, at a total cost of $6,400,000, with an estimated first Federal cost of $4,800,000 and an estimated first non-Federal cost of $1,600,000.

RAHWAY RIVER AND VAN WINKLES BROOK, NEW JERSEY

The project for flood control, Rahway River and Van Winkles Brook at Springfield, New Jersey: Report of the Chief of Engineers, dated October 24, 1975, House Document Numbered 96-20, at a total cost of $17,500,000, with an estimated first Federal cost of $12,500,000 and an estimated first non-Federal cost of $5,000,000.

ROBINSON'S BRANCH—RAHWAY RIVER, NEW JERSEY

The project for flood control, Robinson's Branch of the Rahway River at Clark, Scotch Plains, and Rahway, New Jersey: Report of the Chief of Engineers, dated October 10, 1975, House Document Numbered 96-21, at a total cost of $26,600,000, with an estimated first Federal cost of $20,000,000 and an estimated first non-Federal cost of $6,600,000.

GREEN BROOK SUB-BASIN, RARITAN RIVER BASIN, NEW JERSEY

The project for flood control, Green Brook Sub-basin, Raritan River Basin, New Jersey: Report of the Chief of Engineers, dated September 4, 1981, at a total cost of $203,000,000, with an estimated first Federal cost of $151,000,000 and an estimated first non-Federal cost of $52,000,000. Such project shall include flood protection for the upper Green Brook Sub-basin and the Stony Brook tributary, as described in plan A in the report of the District Engineer, New York District, dated August 1980.

MOLLY ANN'S BROOK, NEW JERSEY

The project for flood control, Molly Ann's Brook, New Jersey: Report of the Chief of Engineers dated December 31, 1985, at a total cost of $21,600,000, with an estimated first Federal cost of $16,200,000 and an estimated first non-Federal cost of $5,400,000.

LOWER SADDLE RIVER, NEW JERSEY

The project for flood control, Lower Saddle River, New Jersey: Report of the Chief of Engineers dated January 28, 1986, at a total cost of $36,500,000, with an estimated first Federal cost of $25,800,000 and an estimated first non-Federal cost of $10,700,000, including such modifications as the Secretary determines to be necessary and appropriate to improve aquatic habitat, including but not limited to the following instream habitat structures: pool-riffle areas, submerged scour holes, wing dam deflectors, and low-flow pilot channels. The instream habitat structures shall be carried out

Fish and fishing.

on the Saddle River beginning at Grove Street in Ridgewood, New Jersey, and continuing downstream to the Passaic River, on Sprout Brook from the Garden State Parkway to the Saddle River, and on Hohokus Brook from Grove Street downstream to the Saddle River.

RAMAPO RIVER AT OAKLAND, NEW JERSEY

The project for flood control, Ramapo River at Oakland, New Jersey: Report of the Chief of Engineers dated January 28, 1986, at a total cost of $6,450,000, with an estimated first Federal cost of $4,840,000 and an estimated first non-Federal cost of $1,610,000.

RAMAPO AND MAHWAH RIVERS, NEW JERSEY AND NEW YORK

The project for flood control, Ramapo and Mahwah Rivers, New Jersey and New York: Report of the Chief of Engineers dated November 27, 1984, at a total cost of $6,260,000, with an estimated first Federal cost of $4,630,000 and an estimated first non-Federal cost of $1,630,000.

MIDDLE RIO GRANDE, NEW MEXICO

Fish and fishing.
Wildlife.

The project for flood control, Middle Rio Grande Flood Protection, Bernalillo to Belen, New Mexico: Report of the Chief of Engineers, dated June 23, 1981, at a total cost of $44,900,000, with an estimated first Federal cost of $33,700,000 and an estimated first non-Federal cost of $11,200,000. The Secretary is authorized also to increase flood protection through the dredging of the bed of the Rio Grande in the vicinity of Albuquerque, New Mexico, to an elevation lower than existed on the date of enactment of this Act. The project shall include the establishment of 75 acres of wetlands for fish and wildlife habitat and the acquisition of 200 acres of land for mitigation of fish and wildlife losses, as recommended by the District Engineer, Albuquerque District, in his report dated June 13, 1979.

PUERCO RIVER AND TRIBUTARIES, NEW MEXICO

The project for flood control, Puerco River and Tributaries, Gallup, New Mexico: Report of the Chief of Engineers, dated September 4, 1981, at a total cost of $4,190,000, with an estimated first Federal cost of $3,140,000 and an estimated first non-Federal cost of $1,050,000.

CAZENOVIA CREEK, NEW YORK

The project for flood control, Cazenovia Creek Watershed, New York: Report of the Chief of Engineers, dated September 8, 1977, House Document Numbered 96-126, at a total cost of $2,050,000, with an estimated first Federal cost of $1,540,000 and an estimated first non-Federal cost of $510,000. Such project shall include features necessary to enable the project to serve as a part of a streamside trail system if the Secretary determines such features are compatible with the project purposes. Nothing in this paragraph affects the authority of the Secretary to carry out a project under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

MAMARONECK, SHELDRAKE, AND BYRAM RIVERS, NEW YORK AND CONNECTICUT

The project for flood control, Mamaroneck and Sheldrake River Basins, New York and Connecticut, and Byram River Basin, New York and Connecticut: Report of the Chief of Engineers, dated April 4, 1979, at a total cost of $68,500,000, with an estimated first Federal cost of $51,400,000 and an estimated first non-Federal cost of $17,100,000. Such project shall include flood protection for the town of Mamaroneck as recommended in the report of the Division Engineer, North Atlantic Division, dated March 28, 1978.

SUGAR CREEK BASIN, NORTH CAROLINA AND SOUTH CAROLINA

The project for flood control, Sugar Creek Basin, North Carolina and South Carolina: Report of the Chief of Engineers dated February 1, 1985, at a total cost of $29,700,000, with an estimated first Federal cost of $19,500,000 and an estimated first non-Federal cost of $10,200,000.

SHEYENNE RIVER, NORTH DAKOTA

The project for flood control, Sheyenne River, North Dakota: Report of the Chief of Engineers dated August 22, 1984, at a total cost of $56,300,000, with an estimated first Federal cost of $39,500,000 and an estimated first non-Federal cost of $16,800,000. Such project shall include a dam and reservoir of approximately 35,000 acre-feet of storage for the purpose of flood protection on the Maple River. Modification of the Baldhill Dam for dam safety considerations shall not preclude the implementation of those project features not dependent on such safety modifications. Dams.

PARK RIVER, GRAFTON, NORTH DAKOTA

The project for flood control, Park River, Grafton, North Dakota: Report of the Chief of Engineers, dated April 17, 1984, at a total cost of $19,100,000, with an estimated first Federal cost of $14,300,000 and an estimated first non-Federal cost of $4,800,000.

MUSKINGUM RIVER, KILLBUCK, OHIO

The project for flood control, Muskingum River, Killbuck, Ohio: Report of the Chief of Engineers, dated February 3, 1978, House Document Numbered 96-117, at a total cost of $6,420,000, with an estimated first Federal cost of $4,820,000 and an estimated first non-Federal cost of $1,600,000. The Congress finds that the overall benefits of the project exceed the costs of the project.

MUSKINGUM RIVER, MANSFIELD, OHIO

The project for flood control, Muskingum River, Mansfield, Ohio: Report of the Chief of Engineers, dated February 3, 1978, House Document Numbered 96-117, at a total cost of $4,260,000, with an estimated first Federal cost of $2,960,000 and an estimated first non-Federal cost of $1,300,000. Nothing in this paragraph affects the authority of the Secretary to carry out a project under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

HOCKING RIVER, LOGAN, OHIO

Fish and fishing.
Wildlife.

The project for flood control, Hocking River at Logan, Ohio: Report of the Chief of Engineers, dated June 23, 1978, at a total cost of $7,760,000, with an estimated first Federal cost of $5,870,000 and an estimated first non-Federal cost of $1,890,000. The Secretary shall review potential sites for disposal of dredged material from the project and shall select such sites as he determines necessary and appropriate with a view toward minimizing adverse effects on fish and wildlife habitat areas.

HOCKING RIVER, NELSONVILLE, OHIO

Fish and fishing.
Wildlife.

The project for flood control, Hocking River at Nelsonville, Ohio: Report of the Chief of Engineers, dated June 23, 1978, at a total cost of $8,020,000, with an estimated first Federal cost of $6,090,000 and an estimated first non-Federal cost of $1,930,000. The Secretary shall review potential sites for disposal of dredged material from the project and shall select such sites as he determines necessary and appropriate with a view toward minimizing adverse effects on fish and wildlife habitat areas.

SCIOTO RIVER, OHIO

The project for flood control, Scioto River at North Chillicothe, Ohio: Reports of the Chief of Engineers, dated September 4, 1981 and February 1, 1985, at a total cost of $10,700,000, with an estimated first Federal cost of $8,080,000 and an estimated first non-Federal cost of $2,620,000.

LITTLE MIAMI RIVER, OHIO

The project for flood control, Miami River, Little Miami River, Interim Report Number 2, West Carrollton-Holes Creek, Ohio: Report of the Chief of Engineers, dated December 23, 1981, at a total cost of $8,910,000, with an estimated first Federal cost of $6,230,000 and an estimated first non-Federal cost of $2,680,000.

MIAMI RIVER, FAIRFIELD, OHIO

Fish and fishing.
Wildlife.

The project for flood control, Miami River, Fairfield, Ohio: Report of the Chief of Engineers, dated June 22, 1983, at a total cost of $14,400,000, with an estimated first Federal cost of $9,400,000 and an estimated first non-Federal cost of $5,000,000. To the extent the Secretary, in consultation with appropriate Federal, State, and local agencies, determines necessary and appropriate, the project shall include additional measures for mitigation of losses of fish and wildlife habitat, including seeding and planting in disturbed areas, limiting removal of riparian vegetation to the minimum amount necessary for project objectives, performing work along the north streambank where construction is planned on only one side of the channel, limiting construction activities to the right streambank in the reach of Pleasant Run extending from mile 2.75 to mile 3.1' the use of gabions and riprap for bank protection in lieu of concrete and the inclusion of pool-riffle complexes at bridges. In applying section 104 to such project, the Secretary shall consider work carried out by non-Federal interests after July 1, 1979, and before the date of the

enactment of this Act that otherwise meets the requirements of such section.

MINGO CREEK, OKLAHOMA

The project for flood control, Mingo Creek, Tulsa, Oklahoma: Report of the Chief of Engineers, dated November 16, 1981, at a total cost of $134,000,000, with an estimated first Federal cost of $94,000,000 and an estimated first non-Federal cost of $40,000,000. The project shall include measures determined appropriate by the Secretary, after consultation with the city of Tulsa, to minimize adverse effects associated with the use of flood water detention sites for the project.

FRY CREEKS, OKLAHOMA

The project for flood control, Fry Creeks, Oklahoma: Report of the Chief of Engineers, dated September 7, 1983, at a total cost of $13,200,000, with an estimated first Federal cost of $9,400,000 and an estimated first non-Federal cost of $3,800,000, except that the Secretary shall acquire a total of 20 acres of land for mitigation of fish and wildlife losses and such lands, to the extent feasible, shall be contiguous and shall be in a corridor not less than 50 feet wide.

Fish and fishing. Wildlife.

HARRISBURG, PENNSYLVANIA

The project for flood control, Harrisburg, Pennsylvania: Report of the Chief of Engineers, dated May 16, 1979, at a total cost of $133,000,000, with an estimated first Federal cost of $99,800,000 and an estimated first non-Federal cost of $33,200,000, including such (1) modifications as the Secretary determines to be feasible and appropriate to construct a floodway along Paxton Creek between Wildwood Lake and Maclay Street as an alternative to the recommended plan, and (2) additional measures as the Secretary determines to be necessary and appropriate to reduce fish and wildlife habitat losses in the project area. The Secretary shall study the feasibility of providing a floodway along Paxton Creek between Wildwood Lake and Maclay Street as an alternative to the recommended plan and shall reexamine fish and wildlife habitat mitigation measures recommended in the report of the Chief of Engineers. Not later than one year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report of such study and reexamination.

Fish and fishing. Wildlife.

LOCK HAVEN, PENNSYLVANIA

The project for flood control, Lock Haven, Pennsylvania: Report of the Chief of Engineers, dated December 14, 1981, at a total cost of $82,200,000, with an estimated first Federal cost of $61,700,000 and an estimated first non-Federal cost of $20,500,000. The project shall be constructed to provide protection at least sufficient to prevent any future flood losses to the city of Lock Haven, Pennsylvania, from flooding equivalent to a level of flooding 50 percent greater than the level of flooding which occurred as a result of tropical storm Agnes in 1972. Notwithstanding section 104 of this Act, work carried out by non-Federal interests on such project after January 1, 1973, and before the date of the enactment of this Act shall be taken into account in analyzing the costs and benefits of the project and

shall be credited against the non-Federal share of the cost of the project.

SCHUYLKILL RIVER BASIN, POTTSTOWN, PENNSYLVANIA

The project for flood control and other purposes for Pottstown and vicinity, Schuylkill River Basin, Pennsylvania: Report of the Chief of Engineers, dated March 7, 1974, House Document Numbered 93-321, at a total cost of $5,540,000, with an estimated first Federal cost of $4,180,000 and an estimated first non-Federal cost of $1,360,000. The Congress hereby finds that the application of the provisions of section 209 of the Flood Control Act of 1970 result in the benefits from flood control measures authorized by this paragraph exceeding their economic costs.

42 USC 1962-2.

SAW MILL RUN, PENNSYLVANIA

The project for flood control, Saw Mill Run, Pittsburgh, Pennsylvania: Report of the Chief of Engineers, dated January 30, 1978, House Document Numbered 96-25, at a total cost of $7,850,000, with an estimated first Federal cost of $5,890,000 and an estimated first non-Federal cost of $1,960,000.

WYOMING VALLEY, PENNSYLVANIA

The project for flood control, Wyoming Valley, Pennsylvania: Report of the Chief of Engineers, dated October 19, 1983, at a total cost of $241,000,000, with an estimated first Federal cost of $181,000,000 and an estimated first non-Federal cost of $60,000,000.

NONCONNAH CREEK AND JOHNS CREEK, TENNESSEE AND MISSISSIPPI

Fish and fishing.
Wildlife.

The project for flood control, Nonconnah Creek, Tennessee and Mississippi: Report of the Chief of Engineers, dated December 23, 1982, at a total cost of $28,000,000, with an estimated first Federal cost of $19,500,000 and an estimated first non-Federal cost of $8,500,000. The improvements for Johns Creek and tributaries shall be included as a separate part of the project and shall be constructed by the United States Department of Agriculture Soil Conservation Service, at a total cost of $34,700,000, with an estimated first Federal cost of $26,000,000 and an estimated first non-Federal cost of $8,700,000, in accordance with the recommendations of the State Conservationist as contained in the report, Nonconnah Creek and Tributaries, Tennessee and Mississippi, dated September 1981. The project shall include an evaluation of fish and wildlife losses which may result from construction of the project and such additional measures as the Secretary deems necessary and appropriate to mitigate such losses. The Secretary shall adopt and implement guidelines in connection with clearing and snagging as the Secretary determines necessary and appropriate to minimize adverse effects on fish and wildlife habitat.

HORN LAKE CREEK AND TRIBUTARIES, TENNESSEE AND MISSISSIPPI

Fish and fishing.
Wildlife.

The project for flood control, Horn Lake Creek and Tributaries, including Cow Pen Creek, Tennessee and Mississippi: Report of the Chief of Engineers, dated January 4, 1983, at a total cost of $3,890,000, with an estimated first Federal cost of $2,700,000 and an estimated first non-Federal cost of $1,190,000, including such addi-

tional measures as the Secretary determines to be necessary and appropriate to mitigate the adverse effects of the project on fish and wildlife habitat. The Secretary shall (1) reexamine the adequacy and feasibility of the recommended measures for fish and wildlife habitat, and (2) reexamine upland dredged disposal alternatives. Not later than one year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report of such reexamination. The Secretary shall also adopt and implement such guidelines in connection with channel clearing and drift removal for the project as the Secretary, in consultation with the Fish and Wildlife Service, determines are necessary and appropriate to minimize adverse effects on fish and wildlife habitat.

BOGGY CREEK, TEXAS

The project for flood control, Boggy Creek, Austin, Texas: Report of the Chief of Engineers, dated January 19, 1981, and the Supplemental Report of the Chief of Engineers, dated June 13, 1986, at a total cost of $24,000,000, with an estimated first Federal cost of $16,500,000 and an estimated first non-Federal cost of $7,500,000. In applying section 104 to such project, the Secretary shall consider work carried out by non-Federal interests after September 30, 1979, and before the date of the enactment of this Act that otherwise meets the requirements of such section.

BUFFALO BAYOU AND TRIBUTARIES, TEXAS

The project for flood control, Buffalo Bayou and Tributaries (Upper White Oak Bayou), Texas: Report of the Chief of Engineers, dated June 13, 1978, House Document Numbered 96-182, at a total cost of $92,100,000, with an estimated first Federal cost of $69,100,000 and an estimated first non-Federal cost of $23,000,000.

LAKE WICHITA, HOLLIDAY CREEK, TEXAS

The project for flood control, Lake Wichita, Holliday Creek, Texas: Report of the Chief of Engineers, dated July 9, 1979, at a total cost of $39,000,000, with an estimated first Federal cost of $27,300,000 and an estimated first non-Federal cost of $11,700,000.

LOWER RIO GRANDE, TEXAS

The project for flood control, Lower Rio Grande Basin, Texas: Report of the Chief of Engineers, dated February 13, 1986, at a total cost of $196,000,000, with an estimated first Federal cost of $137,000,000 and an estimated first non-Federal cost of $59,000,000.

SIMS BAYOU, TEXAS

The project for flood control, Sims Bayou, Texas: Report of the Chief of Engineers, dated April 17, 1984, at a total cost of $126,000,000, with an estimated first Federal cost of $94,700,000 and an estimated first non-Federal cost of $31,300,000.

JAMES RIVER BASIN, VIRGINIA

The project for flood control, James River Basin, Richmond, Virginia: Report of the Chief of Engineers, dated November 16, 1981, at a total cost of $91,800,000, with an estimated first Federal cost of $68,900,000 and an estimated first non-Federal cost of $22,900,000. Such project shall include flood protection for the Richmond municipal wastewater treatment facility, as recommended in the report of the District Engineer, Norfolk District, dated September 1980.

ROANOKE RIVER UPPER BASIN, VIRGINIA

The project for flood control, Roanoke River Upper Basin, Virginia: Report of the Chief of Engineers dated August 5, 1985, at a total cost of $21,000,000, with an estimated first Federal cost of $12,600,000 and an estimated first non-Federal cost of $8,400,000.

YAKIMA-UNION GAP, WASHINGTON

Fish and fishing. Wildlife.

The project for flood control, Yakima-Union Gap, Washington: Report of the Chief of Engineers, dated May 7, 1980, at a total cost of $8,760,000, with an estimated first Federal cost of $6,570,000 and an estimated first non-Federal cost of $2,190,000, including such additional measures as the Secretary determines to be necessary and appropriate to mitigate the adverse effects of the project on fish and wildlife habitat. The Secretary, in consultation with appropriate Federal, State, and local agencies, shall review the probable effects of the project on fish and wildlife resources and the feasibility of including recreation as a project purpose. Not later than one year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report of such review.

CHEHALIS RIVER, WASHINGTON

The project for flood control, Chehalis River at South Aberdeen and Cosmopolis, Washington: Report of the Chief of Engineers, dated February 8, 1977, House Document Numbered 96-27, at a total cost of $22,400,000, with an estimated first Federal cost of $16,800,000 and an estimated first non-Federal cost of $5,600,000. Before beginning the actual construction of the project, the Secretary shall perform additional studies relating to foundation materials in the project area and with regard to dredged spoil disposal sites and make such modifications as the Secretary determines appropriate.

CENTRALIA, WASHINGTON

The project for flood control, Centralia-Chehalis Flood Damage Reduction Study, Chehalis River and Tributaries, Washington: Report of the Chief of Engineers, dated June 20, 1984, at a total cost of $19,900,000, with an estimated first Federal cost of $15,000,000 and an estimated first non-Federal cost of $4,900,000.

ISLAND CREEK BASIN, WEST VIRGINIA

The project for flood control, Island Creek Basin, in and round Logan, West Virginia: Report of the Chief of Engineers dated

April 25, 1986, at a total cost of $86,000,000, with an estimated first Federal cost of $62,200,000 and an estimated first non-Federal cost of $23,800,000.

PORTAGE, WISCONSIN

The project for flood control, Wisconsin River at Portage, Wisconsin: Report of the Chief of Engineers, dated May 20, 1985, at a total cost of $7,590,000, with an estimated first Federal cost of $5,660,000 and an estimated first non-Federal cost of $1,930,000.

AGANA RIVER, GUAM

The project for flood control, Agana River, Guam: Report of the Chief of Engineers, dated March 14, 1977, House Document Numbered 96-16, at a total cost of $4,880,000, with an estimated first Federal cost of $3,860,000 and an estimated first non-Federal cost of $1,020,000.

RIO PUERTO NUEVO, PUERTO RICO

The project for flood control, Rio Puerto Nuevo, Puerto Rico: Report of the Chief of Engineers, dated April 25, 1986, at a total cost of $234,000,000, with an estimated first Federal cost of $151,000,000 and an estimated first non-Federal cost of $83,000,000.

(b) AUTHORIZATION OF CONSTRUCTION SUBJECT TO FAVORABLE REPORT.—The following projects are authorized to be prosecuted by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports cited, with such modifications as are recommended by the Chief of Engineers and approved by the Secretary, and with such other modifications as are recommended by the Secretary. If no report is cited for a project, the project is authorized to be prosecuted by the Secretary in accordance with a final report of the Chief of Engineers, and with such other modifications as are recommended by the Secretary, and no construction on such project may be initiated until such a report is issued and approved by the Secretary.

GUADALUPE RIVER, SAN JOSE, CALIFORNIA

Local flood control protection measures along the Guadalupe River in the vicinity of San Jose, California: Report of the Board of Engineers for Rivers and Harbors, dated June 29, 1986, at a total cost of $32,600,000, with an estimated first Federal cost of $22,800,000 and an estimated first non-Federal cost of $9,800,000.

MEREDOSIA, ILLINOIS

Flood control works for the protection of Meredosia, Illinois, at a total cost of $80,000, with a Federal cost of $60,000 and a non-Federal cost of $20,000. Such project shall be carried out under section 205 of the Flood Control Act of 1948. Such project shall include, but not be limited to, a levee which is approximately one-fifth of a mile long. For purposes of analyzing the costs and benefits of any project recommended by the Secretary as a result of any study on the Illinois River, authorized by resolution of the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives, the Secretary shall take into account the costs and benefits of any measures undertaken by the Secretary pursuant to

33 USC 701s.

this paragraph in the interest of preventing flood damages along the Illinois River in the vicinity of Meredosia, Illinois.

MUSCATINE ISLAND, IOWA

Fish and fishing.
Wildlife.

The project for flood control, Muscatine Island Levee District and Muscatine-Louisa County Drainage District No. 13, Iowa: Report of the Chief of Engineers, dated July 22, 1977, at a total cost of $14,400,000, with an estimated first Federal cost of $10,500,000 and an estimated first non-Federal cost of $3,900,000, including such modifications as the Secretary determines to be necessary and appropriate to minimize adverse effects of the project on Spring Lake and on fish and wildlife habitat. The Secretary shall reexamine the drainage system recommended in the report of the Chief of Engineers and the feasibility of obtaining material for the levee from upland rather than aquatic sources in order to minimize adverse effects on fish and wildlife habitat. Not later than one year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report of such reexamination.

PEARL RIVER BASIN, ST. TAMMANY PARISH, LOUISIANA

Structural and nonstructural measures to prevent flood damage to communities in the Pearl River Basin, St. Tammany Parish, Louisiana, at a total cost of $33,300,000, with an estimated first Federal cost of $25,000,000 and an estimated first non-Federal cost of $8,300,000. For purposes of analyzing the costs and benefits of any project recommended by the Secretary as a result of the study entitled Pearl River Basin, Mississippi and Louisiana, the Secretary shall take into account the costs and benefits of measures undertaken pursuant to this paragraph.

WEST BANK HURRICANE PROTECTION LEVEE, JEFFERSON PARISH, LOUISIANA

Structural and nonstructural measures to prevent flood damage to those areas identified in the February 1984 draft environmental impact statement for the West Bank Hurricane Protection Levee, Jefferson Parish, Louisiana, at a total cost of $61,500,000, with an estimated first Federal cost of $40,000,000 and an estimated first non-Federal cost of $21,500,000. Funds provided by non-Federal interests for interim hurricane protection may be considered beneficial expenditures and may be credited as part of the non-Federal contribution of the project pursuant to section 104 of this Act.

JAMES RIVER, SOUTH DAKOTA

A project consisting of channel restoration and improvements on the James River in South Dakota, which may include consideration of offstream storage, small impoundments on tributaries, and other features identified by the Secretary to alleviate flood damage and to regulate flows on such river, at a total cost of $20,000,000, with an estimated first Federal cost of $15,000,000 and an estimated first non-Federal cost of $5,000,000. The Secretary is authorized to participate with appropriate non-Federal sponsors in the project to demonstrate, on an expedited basis, the feasibility of non-Federal

cost sharing for rural flood protection under the provisions of section 916 and title I of this Act and section 134 of the Water Resources Development Act of 1976. The Secretary shall report to Congress no later than September 30, 1989, on the extent to which additional features may be required to alleviate flood damage and regulate flows on such river.

90 Stat. 2928.

(c) PRE-CONSTRUCTION AUTHORIZATION.—The Secretary is authorized to carry out planning, engineering, and design for the following projects:

GOLD GULCH, SANTA CRUZ COUNTY, CALIFORNIA

Flood damage prevention in the community of Gold Gulch, near Felton, Santa Cruz County, California, at a total cost of $800,000.

CALLEGUAS CREEK, CALIFORNIA

Flood control works along the lower portion of Calleguas Creek, Conejo Creek to the Pacific Ocean, California, at a total cost of $2,000,000.

COYOTE CREEK, CALIFORNIA

A project for local flood control protection measures along the lower portion of Coyote Creek adjacent to and in the vicinity of Alviso, California, at a total cost of $750,000.

LOUISVILLE, KENTUCKY

Measures to correct flooding problems in the south end of Louisville, Kentucky, within an area bounded by New Cut Road west to the city limits and Palatka Road south to the city limits, at a total cost of $300,000. The Secretary is authorized to provide technical assistance to the city of Louisville, Kentucky, to assist such city in the correction of flooding caused by drainage problems in such city.

LOUISIANA

A project to provide a level of protection sufficient to prevent recurring flood damages along the following rivers, at a total cost of $10,000,000:

(1) Amite River, Louisiana;
(2) Comite River, Louisiana;
(3) Tangipahoa River, Louisiana;
(4) Tchefuncte River, Louisiana;
(5) Tickfaw River, Louisiana;
(6) Bogue Chitto River, Louisiana; and
(7) Natalbany River, Louisiana;

BAYOU RIGOLETTE, LOUISIANA

A project to construct six additional floodgates at Bayou Rigolette, Louisiana, adjacent to the existing drainage structure, at a total cost of $2,300,000.

BROCKTON, MASSACHUSETTS

Flood control works for the protection of Brockton, Massachusetts, at a total cost of $1,500,000. The plans for such project shall include, but not be limited to, improvements to ponds in the D. W. Field Park area and the existing Brockton-Avon Reservoir to provide additional

storage, improvements to the drainage system under E. B. Keith Field, new culverts, improvements to miscellaneous bridges and utilities, and such other downstream improvements as the Secretary deems necessary.

LAS VEGAS VALLEY AND TRIBUTARIES AREA, NEVADA

A comprehensive project for flood control in the Las Vegas Valley and tributaries area, Nevada, at a total cost of $2,000,000.

MANALAPAN TOWNSHIP, NEW JERSEY

Local flood protection measures, including such channel widening and deepening and environmental measures as the Secretary and the Governor of the State of New Jersey may agree, to prevent flood damage to the residents of the Pine Brook section of Manalapan Township, New Jersey, substantially in accordance with the report of the Division Engineer, North Atlantic Division, entitled "Expanded Reconnaissance Report for Flood Control on Pine Brook, New Jersey, Manalapan, New Jersey", dated September 8, 1977, at a total cost of $400,000.

PASSAIC RIVER BASIN, NEW JERSEY

A project for flood damage protection and allied purposes in the Passaic River Basin, New Jersey and New York, at a total cost of $3,750,000, consisting of the following:

(1) Upper Rockaway River Basin, New Jersey, at a total cost of $2,750,000.

(2) Nakoma Brook Sloatsburg, New York, at a total cost of $500,000.

(3) The project for flood protection in the Third River, Passaic Basin, New Jersey, at a total cost of $500,000.

MALHAUER AND HARNEY LAKES, OREGON

Structural and nonstructural measures to prevent flood damage resulting from rising lake levels at Malhauer and Harney Lakes, Oregon, at a total cost of $3,370,000.

MILTON, PENNSYLVANIA

A flood control project at Milton, Pennsylvania, at a total cost of $2,500,000.

(d) SECTION 205 PROJECTS.—The Secretary is authorized and directed to carry out the following projects under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s):

SAN FRANCISCO RIVER AT CLIFTON, ARIZONA

A project for flood control on the San Francisco River at Clifton, Arizona, for the purpose of protecting residential and commercial properties on the east side of the river downstream of the State Highway 666 Bridge, at a total cost of $8,000,000, with an estimated first Federal cost of $4,500,000 and an estimated first non-Federal cost of $3,500,000. Such work shall be considered to complete all studies and proposals of the Secretary for such area.

MISSION ZANJA CREEK, REDLANDS, CALIFORNIA

Subject to section 903(a) of this Act, a project for flood control works along Mission Zanja Creek within the city of Redlands, California, in accordance with the plan developed by the District Engineer based on studies pursuant to section 205 of the Flood Control Act of 1948, at a total cost of $10,400,000, with an estimated first Federal cost of $4,500,000 and an estimated first non-Federal cost of $5,900,000. 33 USC 701s.

SALT AND EEL RIVERS, CALIFORNIA

Subject to section 903(a) of this Act, such measures, including silt removal and channel modification, in the vicinity of the confluence of the Salt and Eel Rivers, California, as the Secretary determines necessary to prevent recurring floods along the Eel River and its tributaries, at a total cost of $800,000, with an estimated first Federal cost of $600,000 and an estimated first non-Federal cost of $200,000.

MONROE AND WEST MONROE, LOUISIANA, AND OUACHITA PARISH, LOUISIANA

Subject to section 903(a) of this Act, such structural and non-structural measures as he deems feasible to prevent flood damage to the cities of Monroe and West Monroe, Louisiana, and Ouachita Parish, Louisiana. For purposes of analyzing the costs and benefits of any project recommended by the Secretary as a result of the study entitled Monroe-West Monroe Interim Study of the Ouachita Basin Study, Ouachita River Basin, Arkansas and Louisiana, the Secretary shall take into account the costs and benefits of measures undertaken pursuant to this subsection.

NOYES, MINNESOTA

Subject to section 903(a) of this Act, the purchase of such land along Highway 75 in Minnesota as may be required for the construction of the International Levee segment of the Emerson, Manitoba flood control project and the upgrading of existing flood control levees in the vicinity of Noyes, Minnesota, at a total cost of $250,000. The Secretary is authorized to accept funds from a project cosponsor in connection with construction of such project and to include as part of the Federal share of project costs those costs which the Secretary determines are attributable to protection of Federal property.

(e) ADDITIONAL AUTHORIZED PROJECTS.—

(1) SALYERSVILLE, KENTUCKY.—Subject to section 903(a) of this Act, the Secretary is authorized and directed to design and construct such flood control measures at or in the vicinity of Salyersville, Kentucky, on Licking River as the Secretary determines necessary and appropriate to afford the city of Salyersville, Kentucky, and its immediate environs a level of protection against flooding at least sufficient to prevent any future losses to such city from the likelihood of flooding such as occurred in December 1978, at a total cost of $7,000,000, with an estimated first Federal cost of $5,250,000 and an estimated non-Federal cost of $1,750,000. With respect to such project, Congress finds that the benefits determined in accordance with

42 USC 1962-2.

section 209 of the Flood Control Act of 1970 and attributable to the flood measures authorized for such project exceed the cost of such measures.

(2) POPLAR BROOK, NEW JERSEY.—Subject to section 903(a) of this Act, the Secretary is authorized to construct a project for flood control for Poplar Brook, New Jersey, including reconstruction of the brook through the Borough of Deal, New Jersey, to accommodate the runoff from a storm having an average frequency of occurrence of once every 15 years, replacement of the culvert through the Conrail railroad embankment with a new culvert designed to pass a maximum flow equivalent to the peak flow from a storm having an average frequency of occurrence of once every 15 years, use of the area upstream of the embankment as an on-stream detention basin, and gabion or other lining as determined appropriate by the Secretary, at a total cost of $2,300,000, with an estimated first Federal cost of $1,725,000 and an estimated first non-Federal cost of $575,000.

(3) PEARL RIVER BASIN, INCLUDING SHOCCOE, MISSISSIPPI.—The Secretary is authorized to construct a project for the purpose of providing flood control for the Pearl River Basin in Mississippi, including, but not limited to, Carthage, Jackson, Monticello, and Columbia, Mississippi, consisting of—

(A) the project for flood control, Pearl River Basin, Mississippi: Report of the Chief of Engineers, dated March 17, 1986, at a total cost of $80,100,000, with an estimated first Federal cost of $56,070,000 and an estimated first non-Federal cost of $24,030,000; and

(B) for the purpose of providing flood control for the upstream areas of the Pearl River Basin in Mississippi—

(i) a combination roadway crossing of the Pearl River and floodwater detention and storage facility in east central Leake County, Mississippi;

(ii) a levee system in the south part of Carthage, Mississippi, which will upgrade, extend, and improve the protective levee system on the south side of Highway 16 in Leake County and the city of Carthage;

(iii) appropriate drainage structure and bridge modifications to expand and improve the stormwater conduits under Mississippi Highway 35, south of Carthage, Mississippi, for the purposes of reducing backwater influence for areas upstream of such highway;

(iv) upstream reservoirs on the Pearl River;

(v) such other structures as may be necessary to alleviate unforeseen flooding in the Leake County area as a result of the construction of the Shoccoe Dry Dam; and

(vi) channel improvements on the upstream Pearl River.

For purposes of analyzing the costs and benefits of those portions of the project described in subparagraph (B), the Secretary shall take into account the costs and benefits of that portion of the project described in subparagraph (A).

(4) GREAT SALT LAKE, UTAH.—Subject to section 903(a) of this Act, the Secretary is authorized to construct the Newfoundland and Bonneville Dikes located along the west side of the Great Salt Lake, Utah, at a total cost of $7,500,000, with an estimated first Federal cost of $5,250,000 and an estimated first non-

Federal cost of $1,750,000. The non-Federal share of the cost of the project authorized by this section shall be 25 percent.

(5) TARRANT COUNTY, TEXAS.—The Secretary is authorized and directed to develop detailed plans and specifications and to construct measures in Tarrant County, Texas, to eliminate flood damage in the historical stockyards along Tony's Creek and Marine Creek, at a total cost of $20,000,000, with an estimated first Federal cost of $15,000,000 and an estimated first non-Federal cost of $5,000,000. The non-Federal share of the cost of the project authorized by this section shall be 25 percent.

SEC. 402. COMPLIANCE WITH FLOOD PLAIN MANAGEMENT AND INSURANCE PROGRAMS.

33 USC 701b-12.

Before construction of any project for local flood protection, the non-Federal interests shall agree to participate in and comply with applicable Federal flood plain management and flood insurance programs.

SEC. 403. GROUNDWATER INDUCED DAMAGES.

Section 2 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (58 Stat. 889; 33 U.S.C. 701a-1), is amended by inserting after "drainage improvements" the following: "and flood prevention improvements for protection from groundwater-induced damages".

TITLE V—SHORELINE PROTECTION

SEC. 501. AUTHORIZATION OF PROJECTS.

Reports. Studies.

(a) AUTHORIZATION OF CONSTRUCTION.—The following works of improvement for the benefit of shoreline protection are adopted and authorized to be prosecuted by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports designated in this subsection, except as otherwise provided in this subsection. Construction of the projects authorized in this title shall be subject to determinations of the Secretary, after consultation with the Secretary of the Interior, that the construction will be in compliance with the Coastal Barrier Resources Act (Public Law 97-348).

16 USC 3501 note.

PANAMA CITY BEACHES, FLORIDA

The project for shoreline protection, Panama City Beaches, Florida: Report of the Chief of Engineers, dated July 8, 1977, House Document Numbered 96-65, at a total cost of $48,500,000, with an estimated first Federal cost of $22,800,000 and an estimated first non-Federal cost of $25,700,000.

ST. JOHNS COUNTY, FLORIDA

Wildlife.

The project for shoreline protection, St. Johns County, Florida: Report of the Chief of Engineers, dated February 26, 1980, at a total cost of $18,200,000, with an estimated first Federal cost of $11,100,000 and an estimated first non-Federal cost of $7,100,000. To the maximum extent feasible, the Secretary shall construct such project so as to avoid adverse effects on sea turtle nesting.

CHARLOTTE COUNTY, FLORIDA

The project for shoreline protection, Charlotte County, Florida: Report of the Chief of Engineers, dated April 2, 1982, at a total cost of $3,950,000, with an estimated first Federal cost of $2,220,000 and an estimated first non-Federal cost of $1,730,000. To the maximum extent feasible, the Secretary shall construct such project so as to minimize the harm to marine borrow areas and reefs.

INDIAN RIVER COUNTY, FLORIDA

Wildlife.

The project for shoreline protection, Indian River County, Florida: Report of the Chief of Engineers, dated December 21, 1981, House Document Numbered 98-154, at a total cost of $11,100,000, with an estimated first Federal cost of $6,800,000 and an estimated first non-Federal cost of $4,300,000. To the maximum extent feasible, the Secretary shall construct such project so as to avoid adverse effects on sea turtle nesting.

DADE COUNTY, FLORIDA

The project for shoreline protection, Dade County, north of Haulover Beach Park, Florida: Report of the Chief of Engineers, dated December 27, 1983, at a total cost of $21,600,000, with an estimated first Federal cost of $12,000,000 and an estimated first non-Federal cost of $9,600,000. To the maximum extent feasible, the Secretary shall construct the project so as to minimize adverse effects on coral reefs.

MONROE COUNTY, FLORIDA

The project for shoreline protection, Monroe County, Florida: Report of the Chief of Engineers, dated April 22, 1984, at a total cost of $7,420,000, with an estimated first Federal cost of $4,150,000 and an estimated first non-Federal cost of $3,270,000, including such modifications as the Secretary determines to be necessary and appropriate to minimize the adverse effects of construction, operation, and maintenance of the project (other than the portion of the project consisting of Smathers Beach) on the seagrass community in the project area. The Secretary, in consultation with appropriate Federal, State, and local agencies, shall study the effects that construction, operation, and maintenance of the proposed project (other than the portion of the project consisting of Smathers Beach) may have on the seagrass community in the project area. Not later than one year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of such study.

SARASOTA COUNTY, FLORIDA

The project for shoreline protection, Sarasota County Florida: Report of the Chief of Engineers, dated February 28, 1986, at a total cost of $30,100,000, with an estimated first Federal cost of $17,400,000 and an estimated first non-Federal cost of $12,700,000.

CASINO BEACH, CHICAGO, ILLINOIS

The project for shoreline protection, Interim II, Casino Beach, Chicago, Illinois: Report of the Chief of Engineers, dated September 26, 1984, at a total cost of $5,480,000, with an estimated first Federal cost of $2,880,000 and an estimated first non-Federal cost of $2,600,000.

INDIANA SHORELINE, INDIANA

The project for shoreline protection, Indiana Shoreline Erosion, Indiana: Report of the Chief of Engineers, dated November 18, 1983, at a total cost of $20,000,000, with an estimated first Federal cost of $15,000,000 and an estimated first non-Federal cost of $5,000,000.

ATLANTIC COAST OF MARYLAND (OCEAN CITY)

Virginia.

The project for shoreline protection, Atlantic Coast of Maryland and Assateague Island, Virginia: Report of the Chief of Engineers, dated September 29, 1981, at a total cost of $58,200,000, with an estimated first Federal cost of $26,700,000 and an estimated first non-Federal cost of $31,500,000.

ROCKAWAY INLET TO NORTON POINT, NEW YORK

The project for shoreline protection, Atlantic Coast of New York City from Rockaway Inlet to Norton Point: Report of the Chief of Engineers, dated August 18, 1976, House Document Numbered 96-23, including beach fill up to 250 feet beyond the historical shoreline as described in the report of the District Engineer, New York District, dated August 1973, at a total cost of $22,500,000, with an estimated first Federal cost of $11,900,000 and an estimated first non-Federal cost of $10,600,000. The non-Federal share of the cost of construction and nourishment of the additional beach fill shall be 50 percent.

HEREFORD INLET TO CAPE MAY CANAL, DELAWARE BAY, NEW JERSEY

The projects for beach erosion control, navigation, and storm protection, Hereford Inlet to Cape May Canal, Delaware Bay, New Jersey: Report of the Chief of Engineers, dated September 30, 1975, House Document Numbered 94-641, at a total cost of $177,000,000, with an estimated first Federal cost of $104,000,000 and an estimated first non-Federal cost of $73,000,000. The beach erosion, navigation, and storm protection features of the project may be constructed separately or in combination with any other features of the project.

WRIGHTSVILLE BEACH, NORTH CAROLINA

The project for shore and hurricane wave protection, Wrightsville Beach, North Carolina: Report of the Chief of Engineers, dated December 19, 1983, at a total cost of $9,120,000, with a Federal cost of $5,470,000 and a non-Federal cost of $3,650,000, including periodic beach nourishment of Figure Eight Island.

MAUMEE BAY, LAKE ERIE, OHIO

The project for shoreline protection for the southeast shore of Maumee Bay State Park, Ohio: Report of the Chief of Engineers, dated July 9, 1984, at a total cost of $15,900,000, with an estimated

first Federal cost of $7,950,000 and an estimated first non-Federal cost of $7,950,000.

PRESQUE ISLE PENINSULA, ERIE, PENNSYLVANIA

The project for shoreline protection, Presque Isle Peninsula, Erie, Pennsylvania: Report of the Chief of Engineers, dated October 2, 1981, at a total cost of $34,800,000, with an estimated first Federal cost of $18,900,000 and an estimated first non-Federal cost of $15,900,000.

FOLLY BEACH, SOUTH CAROLINA

The project for shoreline protection, Folly Beach, South Carolina: Report of the Chief of Engineers, dated March 17, 1981, at a total cost of $7,040,000, with an estimated first Federal cost of $3,870,000 and an estimated first non-Federal cost of $3,170,000.

WILLOUGHBY SPIT, VIRGINIA

The project for shoreline protection, Willoughby Spit and Vicinity, Norfolk, Virginia: Report of the Chief of Engineers, dated April 17, 1984, at a total cost of $5,690,000, with an estimated first Federal cost of $4,250,000 and an estimated first non-Federal cost of $1,440,000.

VIRGINIA BEACH, VIRGINIA

The project for beach erosion control and hurricane protection, Virginia Beach, Virginia: Report of the Chief of Engineers, dated May 22, 1985, at a total cost of $42,400,000, with an estimated first Federal cost of $27,600,000 and an estimated first non-Federal cost of $14,800,000.

(b) AUTHORIZATION OF CONSTRUCTION SUBJECT TO FAVORABLE REPORT.—The following projects are authorized to be prosecuted by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports cited, with such modifications as are recommended by the Chief of Engineers and approved by the Secretary, and with such other modifications as are recommended by the Secretary. If no report is cited for a project, the project is authorized to be prosecuted by the Secretary in accordance with a final report of the Chief of Engineers, and with such modifications as are recommended by the Secretary, and no construction on such project may be initiated until such a report is issued and approved by the Secretary.

PINELLAS COUNTY, FLORIDA

The project for beach erosion control for Pinellas County, Florida: Report of the Board of Engineers for Rivers and Harbors, dated April 23, 1985, at a total cost of $52,600,000, with an estimated first Federal cost of $32,700,000 and an estimated first non-Federal cost of $19,900,000.

ILLINOIS BEACH STATE PARK, ILLINOIS

The project for shoreline protection, Illinois Beach State Park, Illinois described as alternative 3A in Interim Report 1, Illinois-Wisconsin Stateline to Waukegan of the District Engineer, Chicago District, dated June 1982, at a total cost of $13,400,000, with an

estimated first Federal cost of $9,390,000 and an estimated first non-Federal cost of $4,010,000.

COCONUT POINT, TUTUILA ISLAND, AMERICAN SAMOA

The project for shore protection at Coconut Point, Tutuila Island, American Samoa, including a 3,600-foot long rock revetment to protect communal lands and public facilities, at a total cost of $2,810,000, with an estimated first Federal cost of $2,030,000 and an estimated first non-Federal cost of $780,000.

(c) PRECONSTRUCTION AUTHORIZATION.—The Secretary is authorized to carry out planning, engineering, and design for projects for shoreline erosion control at the following communities in New Jersey: Fort Elsinboro, Sea Breeze, Gandys Beach, Reeds Beach, Pierces Point, and Fortescue, at a total cost of $1,000,000.

(d) SECTION 103 PROJECTS.—The Secretary is authorized to carry out the following project under section 103 of the River and Harbor Act of 1962. 76 Stat. 1178.

ORCHARD BEACH, NEW YORK

Subject to section 903(a) of this Act, the project for beach erosion control, Orchard Beach, New York: Draft Report of the District Engineer, New York District, dated July 1985, at a total cost of $2,480,000, with an estimated first Federal cost of $1,000,000 and an estimated first non-Federal cost of $1,480,000.

(e) TANGIER ISLAND, VIRGINIA.—Subject to section 903(a) of this Act, the Secretary is authorized and directed to design and construct an erosion control structure approximately 8,200 feet in length on the western shore of Tangier Island, Virginia, adequate to protect such island from further erosion, at a total cost of $3,200,000, with an estimated first Federal cost of $2,080,000 and an estimated first non-Federal cost of $1,120,000. Such project shall be carried out on an emergency basis, in view of the national, historic, and cultural value of the island and in order to protect the Federal investment in public facilities. Cost sharing applicable to hurricane and storm damage reduction shall apply to the project under this subsection.

SEC. 502. WESTHAMPTON BEACH, NEW YORK.

The Secretary shall apply the cost sharing provisions of section 31(1) of the Water Resources Development Act of 1974 (Public Law 93-251) to periodic nourishment of the continuing construction project at Westhampton Beach, New York, for a period of 20 years after the date of enactment of this Act. 88 Stat. 21.

TITLE VI—WATER RESOURCES CONSERVATION AND DEVELOPMENT

SEC. 601. AUTHORIZATION OF PROJECTS. Reports. Studies.

(a) AUTHORIZATION OF CONSTRUCTION.—The following works of improvement for water resources development and conservation and for other purposes are adopted and authorized to be prosecuted by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports designated in this subsection, except as otherwise provided in this subsection:

TENNESSEE-TOMBIGBEE WATERWAY, ALABAMA AND MISSISSIPPI

Wildlife.

Tennessee-Tombigbee Waterway Wildlife Mitigation, Alabama and Mississippi: Report of the Chief of Engineers, dated August 31, 1985, at a total cost of $60,200,000. The Secretary is authorized to acquire from willing sellers in a timely manner at fair market value 88,000 acres of land for mitigation of wildlife losses resulting from construction and operation of the project for the Tennessee-Tombigbee Waterway, Alabama and Mississippi. Such lands shall be in addition to, and not in lieu of, lands currently owned by the United States in the project area which are designated as wildlife mitigation lands for such project. Of the lands acquired under this section, not less than 20,000 acres shall be acquired in the area of the Mobile-Tensaw River delta, Alabama, and not less than 25,000 acres shall be acquired in the areas of the Pascagoula River, the Pearl River, and the Mississippi River delta, Mississippi. Other lands acquired under this section may be acquired anywhere in the States of Alabama and Mississippi. The Secretary shall select lands to be acquired under this section in consultation with appropriate State and Federal officials. Emphasis shall be placed on acquisition of lands which are predominantly flood plain forest, except that the 34,000 acres of bottomland hardwood lost as a result of the construction of the navigation project shall be replaced in-kind. The States of Alabama and Mississippi shall provide for the management for wildlife purposes of lands acquired under this section and lands currently owned by the United States in the project area which are designated as wildlife mitigation lands for such project. Subject to such amounts as are provided in appropriation Acts, the Secretary shall reimburse such States for such management and initial development costs as specified in a plan for management of mitigation lands to be developed by the Secretary, the United States Fish and Wildlife Service, and the States of Alabama and Mississippi.

BETHEL BANK STABILIZATION, ALASKA

The project for bank stabilization, Bethel, Alaska: Report of the Chief of the Engineers, dated July 30, 1983, at a total cost of $19,400,000, with an estimated first Federal cost of $14,600,000 and an estimated first non-Federal cost of $4,800,000, including such modifications as may be necessary to accommodate related work undertaken and carried out by non-Federal interests.

SCAMMON BAY, ALASKA

Scammon Bay, Alaska (hydropower): Report of the Chief of Engineers, dated August 9, 1983, at a total cost of $1,700,000, with a first Federal cost of $1,700,000.

SOUTH CENTRAL RAILBELT AREA, ALASKA

South Central Railbelt Area, Alaska, hydroelectric power, Valdez and Copper River Basin: Report of the Chief of Engineers, dated October 29, 1982, at a total cost of $45,000,000, with a first Federal cost of $45,000,000.

HELENA HARBOR, PHILLIPS COUNTY, ARKANSAS

The project for navigation, Helena Harbor, Phillips County, Arkansas: Report of the Chief of Engineers, dated October 17, 1980, including such modifications as the Secretary determines to be necessary and appropriate to mitigate the adverse effects of the project on fish and wildlife habitat, at a total cost of $59,000,000, with an estimated first Federal cost of $35,800,000 and an estimated first non-Federal cost of $23,200,000. The Secretary, in consultation with the Fish and Wildlife Service, shall evaluate the adequacy of the recommended measures for mitigation of losses of wildlife habitat. Not later than one year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report of such evaluation.

Fish and fishing.
Wildlife.

WHITE RIVER NAVIGATION TO BATESVILLE, ARKANSAS

(1) The project for navigation, White River Navigation to Batesville, Arkansas: Report of the Chief of Engineers, dated December 23, 1981, at a total cost of $29,300,000, with an estimated first Federal cost of $20,500,000 and an estimated first non-Federal cost of $8,800,000, except that the project shall include 1,865 acres of habitat mitigation lands. The project shall include modifications (A) for additional measures which the Secretary determines to be necessary and appropriate to mitigate the adverse effects of the project on the Fat Pocketbook Pearly Mussel, and (B) for weirs in tributary areas which the Secretary determines to be necessary and appropriate to benefit aquatic habitat. The Secretary shall deposit no spoil from such project onto lands of the White River National Wildlife Refuge without the approval of the Secretary of the Interior and without mitigating fully the adverse impacts of such spoil. The Secretary, in consultation with the Fish and Wildlife Service, shall evaluate the effect of the project on the Fat Pocketbook Pearly Mussel. The Secretary, in consultation with the Fish and Wildlife Service, shall also evaluate the feasibility of including weirs in tributary areas to benefit aquatic habitat and is authorized to include them as he determines appropriate. Not later than one year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report of such evaluations. Nothing in this paragraph or such report shall be construed to affect the requirements of Public Law 89-669, as amended.

Fish and fishing.

80 Stat. 1073.

SACRAMENTO RIVER BANK PROTECTION, CALIFORNIA

The project for mitigation of fish and wildlife losses, Sacramento River Bank Protection Project, California: Reports of the Chief of Engineers, dated September 1, 1981, at a total cost of $1,410,000, with an estimated first Federal cost of $890,000 and an estimated first non-Federal cost of $520,000.

JACKSONVILLE HARBOR (MILL COVE), FLORIDA

The project for navigation, Jacksonville Harbor, Mill Cove, Florida: Report of the Chief of Engineers, dated February 12, 1982, at a

total cost of $4,000,000, with a first Federal cost of $4,000,000, including such modifications as the Secretary considers necessary and appropriate to assure that adequate dredged material disposal areas are available for construction, operation, and maintenance of the project. The Secretary, in consultation with the State of Florida, shall study the adequacy of available dredged material disposal areas for construction, operation, and maintenance of the project and the potential of such disposal areas for recreational development. Not later than one year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of such study.

PORT CANAVERAL HARBOR, FLORIDA

The project for mitigation of fish and wildlife losses at the Port Canaveral West Turning Basin Project, Florida: Report of the Chief of Engineers, dated October 1985 at a total cost of $276,000, with estimated first Federal cost of $126,000 and an estimated first non-Federal cost of $150,000.

RICHARD B. RUSSELL DAM AND LAKE, GEORGIA AND SOUTH CAROLINA

Fish and fishing.
Wildlife.

The project for mitigation of fish and wildlife losses at Richard B. Russell Dam and Lake Project, Savannah River, Georgia and South Carolina: Report of the Chief of Engineers, dated May 11, 1982, House Document Numbered 97-2[illegible]4, at a total cost of $20,200,000, with an estimated first Federal cost of $20,150,000 and an estimated first non-Federal cost of $50,000, including utilization for purposes of fish and wildlife habitat mitigation of such Federal lands as may be identified by the Secretary. The Secretary and the State of South Carolina, in consultation with the United States Fish and Wildlife Service, shall identify those Federal lands at Clarks Hill Lake to be utilized for purposes of fish and wildlife habitat mitigation.

METROPOLITAN ATLANTA AREA, GEORGIA

Dams.
Fish and fishing.

The project for construction of a reregulating dam for water supply purposes on the Chattahoochee River downstream of Buford Dam, Georgia: Report of the Chief of Engineers, dated June 1982, at a total cost of $28,000,000, with an estimated first Federal cost of $7,000,000 and an estimated first non-Federal cost of $21,000,000, including such additional measures as may be recommended or warranted by the General Design Memorandum and supplemental environmental impact statement approved under this paragraph. Before construction of the reregulation dam is initiated, the results of the Corps of Engineers' General Design Memorandum and supplemental environmental impact statement resulting from the continued planning and engineering studies must show that—

(1) the quality and quantity of water delivery to the State trout hatchery is maintained or improved and the hatchery can continue to operate satisfactorily;

62 Stat. 1155.

(2) all water quality standards under the Federal Water Pollution Control Act and corresponding State law for the Chattahoochee River will be met, or, if such standards are not currently being met, neither the degree nor the frequency of violation will be increased;

(3) the design, construction, and operation of the reregulation project will facilitate and be compatible with downstream recreation, fisheries, and fisheries management and will include such measures as may be necessary to mitigate adverse effects of the project on turbidity, water temperature, and other water quality parameters, and water flow regimes;

(4) the project analysis evaluated the impact of the reregulation dam on—

(A) instream flows below the proposed dam for the current situation and proposed dam operation plans, under various hydrologic conditions and several demand rates;

(B) recreational use within the Chattahoochee River National Recreation Area, within the river corridor, and on the river itself; and

(C) economic issues.

Before construction of the reregulation dam is initiated, a general design memorandum and a supplemental environmental impact statement based on the continued planning and engineering studies shall be prepared and jointly approved by the Secretary and the Governor of Georgia. The authorization, design, construction, and operation of the reregulation dam by the Secretary or any other Federal or State body or agency must be in compliance with all applicable existing laws and with this paragraph without waiver of any conditions, requirements, or provisions contained therein. The reregulation dam may be constructed by the State of Georgia or its subdivisions at local cost.

DAVENPORT, IOWA (NAHANT MARSH)

The Davenport, Iowa Local Protection Project—Fish and Wildlife Mitigation Plan: Report of the Chief of Engineers, dated July 9, 1979, House Document Numbered 97-218, at a total cost of $517,000, with an estimated first Federal cost of $388,000 and an estimated first non-Federal cost of $129,000.

OBION CREEK, KENTUCKY

Fish and fishing.
Wildlife.

The project for mitigation of fish and wildlife losses, West Kentucky Tributaries Project, Obion Creek, Kentucky: Report of the Chief of Engineers, dated September 16, 1980, at a total cost of $4,900,000, with an estimated first Federal cost of $4,000,000 and an estimated first non-Federal cost of $900,000, except that (1) the Secretary, in consultation with the United States Fish and Wildlife Service, shall acquire and preserve not less than 6,000 nor more than 9,000 acres of woodland for mitigation of project-induced woodland and wetland habitat losses, and (2) the land for mitigation of damages to fish and wildlife shall be acquired as soon as possible from available funds, including the Environmental Protection and Mitigation Fund established by section 908 of this Act. Nothing in this paragraph affects the authority of the Secretary to carry out a project under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), in lieu of the West Kentucky Tributaries Project, Obion Creek. If such a project is carried out under section 205, the Secretary need only implement measures to mitigate fish and wildlife damages which are attributable to the project undertaken under section 205.

LAKE PONTCHARTRAIN NORTH SHORE, LOUISIANA

The project for navigation, Lake Pontchartrain North Shore, Louisiana: Report of the Chief of Engineers, dated February 14, 1979, at a total cost of $1,310,000, with an estimated first Federal cost of $655,000 and an estimated first non-Federal cost of $655,000.

ATCHAFALAYA BASIN, LOUISIANA

Fish and fishing.
Wildlife.

The project for flood control, Atchafalaya Basin Floodway System, Louisiana: Report of the Chief of Engineers, dated February 28, 1983, at a total cost of $250,000,000, with an estimated first Federal cost of $223,000,000 and an estimated first non-Federal cost of $27,000,000: *Provided*, That fish and wildlife enhancement benefits provided by this project shall be considered to be national for the purposes of section 906 of this Act.

RED RIVER WATERWAY, LOUISIANA

The project for mitigation of fish and wildlife losses, Red River Waterway, Louisiana: Report of the Chief of Engineers, dated December 28, 1984, at a total cost of $9,420,000, with an estimated first Federal cost of $8,860,000 and an estimated first non-Federal cost of $560,000, except that the land the Secretary may purchase for such project may include all or such portion of any land referred to in the report or all or such portion of any land adjacent to the Loggy Bayou Wildlife Management Area in Bossier Parish, Louisiana, which the Secretary determines is appropriate.

YAZOO BACKWATER AREA, MISSISSIPPI

Fish and fishing.
Wildlife.

The project for mitigation of fish and wildlife losses at the Yazoo Backwater Project, Mississippi: Report of the Chief of Engineers, dated July 12, 1984, at a total cost of $17,700,000 with a first Federal cost of $17,700,000. The project shall include acquisition of 40,000 acres for mitigation of project-induced fish and wildlife losses as recommended in the report of the District Engineer, Vicksburg District, dated July 1982. The Secretary may acquire a portion of such 40,000 acres from willing sellers in the State of Arkansas, after consultation with the United States Fish and Wildlife Service and the Governors of the States of Mississippi and Arkansas.

Arkansas.

GREENVILLE HARBOR, MISSISSIPPI

The project for navigation, Greenville Harbor, Mississippi: Reports of the Chief of Engineers, dated November 15, 1977, and February 22, 1982, at a total cost of $43,700,000, with an estimated first Federal cost of $28,000,000 and an estimated first non-Federal cost of $15,700,000.

VICKSBURG HARBOR, MISSISSIPPI

The project for navigation, Vicksburg Harbor, Mississippi: Report of the Chief of Engineers, dated August 13, 1979, at a total cost of $79,200,000, with an estimated first Federal cost of $55,900,000 and an estimated first non-Federal cost of $23,300,000.

HARRY S TRUMAN DAM AND RESERVOIR, MISSOURI

The project for modification of the Harry S Truman Dam and Reservoir Project, Missouri: Report of the Chief of Engineers, dated December 21, 1981, at a total cost of $2,100,000, with a first Federal cost of $2,100,000. The Secretary, in consultation with the State of Missouri and the United States Fish and Wildlife Service, shall acquire lands, or designate project joint-use lands, for mitigation of fish and wildlife losses in addition to those lands recommended for such purposes by such report; except that the total acreage of all mitigation lands shall not exceed 1,000 acres.

Fish and fishing. Wildlife.

TRIMBLE WILDLIFE AREA, SMITHVILLE LAKE, LITTLE PLATTE RIVER, MISSOURI

The project for replacement of the Trimble Wildlife Area, Smithville Lake, Little Platte River, Missouri: Report of the Chief of Engineers, dated September 22, 1977, at a total cost of $1,570,000, with a first Federal cost of $1,570,000, except that the Secretary shall participate with the State of Missouri in the development of wildlife management measures and facilities on State lands rather than the acquisition of lands and the development of Jackass Bend.

Wildlife.

ST. LOUIS HARBOR, MISSOURI AND ILLINOIS

The project for navigation, St. Louis Harbor, Missouri and Illinois: Report of the Chief of Engineers, dated April 30, 1984, at a total cost of $31,000,000, with an estimated first Federal cost of $10,400,000 and an estimated first non-Federal cost of $20,600,000.

MISSOURI RIVER MITIGATION, MISSOURI, KANSAS, IOWA, AND NEBRASKA

The project for mitigation of fish and wildlife losses, Missouri River Bank Stabilization and Navigation Project, Missouri, Kansas, Iowa, and Nebraska: Report of the Chief of Engineers, dated April 24, 1984, at a total cost of $51,900,000, with a first Federal cost of $51,900,000. The Secretary shall study the need for additional measures for mitigation of losses of aquatic and terrestrial habitat caused by such project and shall report to Congress, within three years after the date of enactment of this Act, on the results of such study and any recommendations for additional measures needed for mitigation of such losses.

Fish and fishing. Wildlife.

OLCOTT HARBOR, NEW YORK

The project for navigation, Olcott Harbor, New York: Report of the Chief of Engineers, dated June 11, 1980, at a total cost of $12,600,000, with an estimated first Federal cost of $6,300,000 and an estimated first non-Federal cost of $6,300,000. The Secretary, in consultation with appropriate Federal, State, and local agencies, shall conduct additional studies of the effects of the project on fish and wildlife resources. The Secretary is authorized to undertake any additional measures which he determines necessary and appropriate to minimize any adverse effects of the project on fish and wildlife production and habitat.

Fish and fishing. Wildlife.

ATLANTIC INTRACOASTAL WATERWAY BRIDGES, NORTH CAROLINA

The project for replacement of Atlantic Intracoastal Waterway Bridges, North Carolina: Report of the Chief of Engineers, dated October 1, 1975, House Document Numbered 94-597, at a total cost of $9,100,000, with a first Federal cost of $9,100,000, which shall be in addition to, and not in lieu of, any amounts authorized to be appropriated for such project under section 101 of the River and Harbor Act of 1970.

84 Stat. 1818.

MUDDY BOGGY CREEK, PARKER LAKE, OKLAHOMA

The project for flood control and water supply, Parker Lake, Muddy Boggy Creek, Oklahoma: Report of the Chief of Engineers, dated May 30, 1980, at a total cost of $46,000,000, with an estimated first Federal cost of $3,410,000 and an estimated first non-Federal cost of $42,590,000.

FORT GIBSON LAKE, OKLAHOMA

The project for Fort Gibson Lake, Oklahoma: Report of the Chief of Engineers, dated August 16, 1984, at a total cost of $24,600,000, with a first Federal cost of $24,600,000.

BLUE RIVER LAKE, OREGON

Energy.

Blue River Lake, hydroelectric power, Willamette River Basin, Oregon: Report of the Chief of Engineers, dated August 9, 1983, at a total cost of $30,700,000, with a first Federal cost of $30,700,000. The authorization under this paragraph shall not preclude development of hydroelectric power by a non-Federal interest if, within three years of the date of enactment of this Act, such non-Federal interest obtains a license from the Federal Energy Regulatory Commission for non-Federal development of hydroelectric power at the Blue River Lake project.

BIG RIVER RESERVOIR, RHODE ISLAND

Fish and fishing.
Wildlife.

The project for flood control, Big River Reservoir, Rhode Island: Report of the Chief of Engineers, dated March 9, 1983, at a total cost of $86,700,000, with an estimated first Federal cost of $8,360,000 and an estimated first non-Federal cost of $78,340,000, including the acquisition of such additional lands as determined by the Secretary to be necessary and appropriate for mitigation of fish and wildlife losses. The Secretary, in consultation with appropriate Federal, State, and local agencies, shall reevaluate the acquisition of mitigation lands recommended in the report of the Chief of Engineers for purposes of determining the need for additional lands for mitigation of fish and wildlife losses. Not later than one year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of such reevaluation.

GREGORY COUNTY, SOUTH DAKOTA

Gregory County hydroelectric pumped storage facility, stages I and II, South Dakota: Report of the Chief of Engineers, dated April 26, 1983, together with such additional associated multipur-

pose water supply and irrigation features as are generally described in the final feasibility report of the District Engineer, at a total cost of $1,390,000,000, with a first Federal cost of $1,390,000,000, not to exceed $100,000,000 of which may be used to construct such associated water supply and irrigation features: *Provided*, That the additional associated multipurpose water supply and irrigation features shall be undertaken concurrently by the Secretary of the Interior in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof and supplemental thereto), as a unit of the Pick-Sloan Missouri River Basin Program: *Provided further*, That the Secretary of the Interior is authorized to undertake a feasibility study of the additional associated multipurpose water supply and irrigation features of the Gregory County hydroelectric pumped storage facility and that construction of the Gregory County hydroelectric pumped storage facility and such additional associated multipurpose water supply and irrigation features shall not be undertaken until the Secretary of the Interior has completed the feasibility report on such additional features and submitted such report to the Congress along with his certification that, in his judgment, the benefits of such features will exceed the costs and that such additional features are physically and financially feasible, and the Congress has authorized the appropriation of funds for the construction thereof.

MEMPHIS HARBOR, MEMPHIS, TENNESSEE

The project for navigation, Memphis Harbor, Memphis, Tennessee: Report of the Chief of Engineers, dated February 25, 1981, at a total cost of $110,000,000, with an estimated first Federal cost of $38,400,000 and an estimated first non-Federal cost of $71,600,000, including acquisition of such additional lands for mitigation of losses of bottomland hardwood habitat as may be recommended by the Secretary and including such additional measures which the Secretary determines necessary and appropriate to prevent adverse effects on water quality. The Secretary shall reevaluate, in consultation with the Fish and Wildlife Service, the need for mitigation of project-induced losses of bottomland hardwood habitat. The Secretary, in consultation with the Environmental Protection Agency, shall conduct further studies of the quality of the water in the project area and the need for measures to prevent adverse effects on the quality of the water. Not later than one year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report of such reevaluation and study.

COOPER LAKE AND CHANNELS, TEXAS

The project for the mitigation of fish and wildlife resource losses, Cooper Lake and Channels, Texas: Report of the Chief of Engineers, dated May 21, 1982, at a total cost of $14,800,000, with an estimated first Federal cost of $8,160,000 and an estimated first non-Federal cost of $6,640,000.

HAMPTON ROADS DEBRIS REMOVAL, VIRGINIA

The project for the removal of debris from Hampton Roads and Vicinity, Virginia: Report of the Chief of Engineers, dated October

19, 1983, at a total cost of $7,030,000, with an estimated first Federal cost of $2,330,000 and an estimated first non-Federal cost of $4,700,000.

MC NARY LOCK AND DAM, WASHINGTON AND OREGON

The project for McNary Lock and Dam, Second Powerhouse, Columbia River, Washington and Oregon, Phase I, General Design Memorandum: Report of the Chief of Engineers, dated June 24, 1981, at a total cost of $667,000,000, with a first Federal cost of $667,000,000.

CABIN CREEK, WEST VIRGINIA

That portion of the Cabin Creek, West Virginia, demonstration reclamation project providing for flood damage prevention measures: Report of the Chief of Engineers, dated March 1, 1979, at a total cost of $6,800,000, with an estimated first Federal cost of $3,400,000 and an estimated first non-Federal cost of $3,400,000, including channel improvement for 10.5 miles on Cabin Creek, establishment of flood plain management guidelines, and supplemental flood proofing. The construction of such features shall be coordinated with any construction by other Federal agencies of other features described in such report under applicable Federal laws.

(b) AUTHORIZATION OF CONSTRUCTION SUBJECT TO FAVORABLE REPORT.—The following projects are authorized to be prosecuted by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports cited, with such modifications as are recommended by the Chief of Engineers and approved by the Secretary, and with such other modifications as are recommended by the Secretary. If no report is cited for a project, the project is authorized to be prosecuted by the Secretary in accordance with a final report of the Chief of Engineers, and with such modifications as are recommended by the Secretary, and no construction on such project may be initiated until such a report is issued and approved by the Secretary.

RILLITO RIVER, TUCSON, ARIZONA

The project for bank erosion control, Rillito River in the vicinity of Tucson, Arizona: Report of the Division Engineer, dated July 14, 1986, for the purpose of providing protection against the level of flooding that occurred in October 1983, at a total cost of $26,000,000, with an estimated first Federal cost of $19,550,000 and an estimated first non-Federal cost of $6,450,000. Section 104 of this Act shall apply to the project authorized by this paragraph.

WAILUA FALLS, WAILUA RIVER, KAUAI, HAWAII

The project for hydroelectric power generation at Wailua Falls, Wailua River, Kauai, Hawaii, at a total cost of $13,500,000, with a first Federal cost of $13,500,000.

YAZOO RIVER, MISSISSIPPI

A project to perform intermittent dredging and such other work as may be required on the Yazoo River in Mississippi, from Greenwood south, to remove natural shoals as they occur, at an annual

average cost of $200,000, so as to allow commerce to continue. Responsible local interests shall agree to (1) provide without cost to the United States all lands, easements, and rights-of-way required for dredging and disposal of dredged materials; (2) accomplish without cost to the United States such alterations, relocations, and rearrangement of facilities as required for dredging and disposal of dredged materials; and (3) hold and save the United States free from damages due to the dredging and disposal of dredged materials.

TRINITY RIVER, TEXAS

The project for the mitigation of fish and wildlife losses, Trinity River, Texas: Report of the Board of Engineers for Rivers and Harbors, dated October 4, 1982, at a total cost of $10,400,000, with an estimated first Federal cost of $10,000,000 and an estimated first non-Federal cost of $400,000.

Fish and fishing. Wildlife.

(c) PRE-CONSTRUCTION AUTHORIZATION.—The Secretary is authorized to carry out planning, engineering, and design for the following projects:

NEPONSET RIVER, MILTON TOWN LANDING TO PORT NORFOLK, MASSACHUSETTS

The project for dredging, Neponset River, Milton Town Landing to Port Norfolk, Massachusetts, including the disposal of the dredged material at sea, at a total cost of $450,000.

MERRIMACK RIVER, MASSACHUSETTS

The project for navigation, Merrimack River, Massachusetts, consisting of (1) improvements along the Merrimack River from Lowell, Massachusetts, to Lawrence, Massachusetts (including a concrete weir running eastward from the confluence of the Concord River and the Merrimack River parallel to the southern bank of the Merrimack River), (2) a lock at the end of the channel created by the weir, and (3) such other measures as the Secretary deems necessary in the interest of navigation, at a total cost of $800,000. In addition, the Secretary is authorized and directed to conduct necessary reconnaissance studies and feasibility studies on extending such project from Lawrence, Massachusetts, to Haverhill, Massachusetts, and from Haverhill, Massachusetts, to the mouth of the Merrimack River.

BUFFALO HARBOR, NEW YORK

The project to replace the dike at the Small Boat Harbor, Buffalo Harbor, New York, at a total cost of $900,000.

WHEELING CREEK WATERSHED, OHIO

The project to prevent or reduce flooding problems in the Wheeling Creek Watershed, Ohio, including control of erosion of coal mine areas to reduce deposition of sediments in Wheeling Creek, removal of sediment deposits in Wheeling Creek, and other measures deemed appropriate by the Secretary, in consultation with the Soil Conservation Service of the Department of Agriculture, the United States Geological Survey, the Office of Surface Mining of the Department of the Interior, the State of Ohio, and other appropriate Federal and non-Federal agencies.

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FIVE MILE CREEK, DALLAS, TEXAS

The project for flood protection along Five Mile Creek, Dallas, Texas, including dredging of a channel at the lower end of such creek and developing a retention structure at the upper end of such creek, at a total cost of $1,460,000.

FOX RIVER CHANNEL, GREEN BAY, WISCONSIN.

The project to deepen the Fox River Channel, Green Bay, Wisconsin, to a depth of twenty-seven feet, at a total cost of $3,460,000.

(d) SECTION 107 PROJECTS.—The Secretary is authorized and directed to carry out the following projects under section 107 of the River and Harbor Act of 1960:

33 USC 577.

LARKSPUR FERRY CHANNEL, LARKSPUR, CALIFORNIA

Subject to section 903(a) of this Act, the project to maintain the Larkspur Ferry Channel, Larkspur, California, at a depth sufficient for ferry boat service between Marin County and San Francisco, California, at a total cost of $3,340,000.

SHELBURNE BAY, VERMONT

The project for navigation at LaPlatte River, Shelburne Bay, Vermont, at a total cost of $250,000.

RUDEE INLET, VIRGINIA

The project for navigation and shoreline protection, Rudee Inlet, Virginia Beach, Virginia: Report of the Division Engineer, dated February 4, 1983, at a total cost of $1,270,000.

AGAT SMALL BOAT HARBOR, GUAM

Subject to section 903(a) of this Act, the project to construct the Agat small boat harbor in Guam, at a total cost of $4,040,000, with an estimated first Federal cost of $2,816,000 and an estimated first non-Federal cost of $1,224,000.

SEC. 602. LAKES PROGRAM.

(a) Subject to section 903(a) of this Act, the Secretary shall carry out programs for the removal of silt, aquatic growth, and other material in the following lakes:

Minnesota.

(1) Albert Lea Lake, Freeborn County, Minnesota, removal of silt and aquatic growth;

Indiana.

(2) Lake George, Hobart, Indiana, and in that part of Deep River upstream of such lake through Lake Station, Indiana, removal of silt, aquatic growth, and other material and construction of silt traps or other devices to prevent and abate the deposit of sediment in Lake George and such part of Deep River;

New Jersey.

(3) Greenwood Lake and Belcher Creek, New Jersey, removal of silt and stumps;

Minnesota.

(4) Sauk Lake and its tributary streams in the vicinity of Sauk Centre, Stearns County, Minnesota, removal of silt and aquatic growth;

New Jersey.

(5) Deal Lake, Monmouth County, New Jersey, removal of silt and stumps and the control of pollution from nonpoint sources;

(6) Lake Worth, Tarrant County, Texas, removal of silt and aquatic growth, including construction of silt traps and providing other devices or equipment to prevent and abate the further deposit of sediment in Lake Worth; such project shall also provide for the use of dredged material from Lake Worth for the reclamation of despoiled land; Texas.

(7) Hamlet City Lake, Hamlet, North Carolina, removal of accumulated silt and debris including construction of silt traps and providing other devices or equipment to prevent and abate the further deposit of sediment in Hamlet City Lake; North Carolina.

(8) Lake Herman, Lake County, South Dakota, removal of excess silt; and South Dakota.

(9) Gorton's Pond, Warwick, Rhode Island, mitigation activities recommended in the 1982 Environmental Protection Agency diagnostic feasibility study, including the installation of retention basins, the dredging of inlets and outlets in recommended areas and the disposal of dredge material, and weed harvesting and nutrient inactivation. Rhode Island.

(b) The non-Federal share of the cost of each project carried out under this section shall be 25 percent.

(c) The Secretary shall report to the Administrator of the Environmental Protection Agency the plans for and results of the program under subsection (a), together with such recommendations as the Secretary determines necessary to carry out the program for freshwater lakes under section 314 of the Federal Water Pollution Control Act. 33 USC 1324.

(d) There is authorized to be appropriated $40,000,000 for fiscal years beginning after September 30, 1986, to carry out this section. Not more than $8,000,000 may be obligated for any project under subsection (a).

SEC. 603. STREAMBANK EROSION CONTROL PROGRAM.

(a) Subject to section 903(a) of this Act, the Secretary is authorized to carry out a program to plan, design, and construct streambank erosion control projects listed in subsection (f) when, in the opinion of the Secretary, such work is economically justified and environmentally acceptable. Prior to construction of any projects for this purpose, non-Federal interests shall agree to provide, without cost to the United States, all lands, easements, and rights-of-way necessary for construction and subsequent operation of the project; hold and save the United States free from damages due to construction, operation, and maintenance of the project, except damages due to the fault or negligence of the United States or its contractors; and operate and maintain the project upon completion. The non-Federal share of the cost of each project carried out under this section shall be 25 percent. Lands, easements, and rights-of-way provided by non-Federal interests shall be credited to the non-Federal share.

(b) For the purposes of this section, $30,000,000 is authorized to be appropriated to the Secretary for each of the fiscal years 1987, 1988, 1989, 1990, and 1991. Not more than $5,000,000 shall be allotted for the construction of a project under this section at any single locality and such amount shall be sufficient to complete Federal participation in the project.

(c) The program of projects under this section shall—

(1) identify streambank erosion measures likely to provide the highest degree of protection technically and economically feasible for both high and low flow conditions;

Research and development.

(2) conduct necessary research on the interaction of erodible boundaries with flowing water in order to more accurately predict the behavior and optimum design of protective works;

(3) define and test optimum designs of bed slopes and grade control structures for a wide range of soil and flow conditions;

(4) develop, field test, and evaluate new erosion protection products or methods, including but not limited to earth or rock-filled grids, reinforced earth bulkheads, stabilized mattings for vegetation seeding, and patterned schemes using manufactured blocks in loose, matted, or interconnected configurations;

(5) develop and evaluate engineering techniques to control overbank drainage; and

(6) identify and quantify economic losses occurring along rivers due to streambank erosion.

(d) The Secretary shall report to Congress each year of the demonstration program under this section on work undertaken pursuant to such program.

(e) For each project carried out under this section, the Secretary shall evaluate the environmental impacts of such project with respect to both riverine and adjacent land-use values, with the view of minimizing environmental losses.

(f) The program authorized by this section shall be undertaken at the following locations:

(1) LITTLE RIVER, ARKANSAS.—Little River in the vicinity of the Highway 41 bridge, Horatio, Arkansas, protection against streambank erosion.

Flood control. Fish and fishing. Wildlife.

(2) SACRAMENTO RIVER, CALIFORNIA.—Sacramento River and its tributaries from Red Bluff to Shasta Dam, and from Chico Landing downstream along each bank to the head of the Sacramento River flood control project levees, construction of bank protection works, including mitigation of fish and wildlife losses induced by the project.

(3) WABASH RIVER, ILLINOIS.—Wabash River at Grayville, Illinois, construction of a low-level weir across the cutoff channel to restore the river flow to its original channel and prevent streambank erosion and damage to public and private facilities.

Highways. Bridges.

(4) RED LAKE RIVER, MINNESOTA.—Red Lake River, Minnesota, approximately one and one-half miles west of Gentilly, Minnesota, correction of erosion problems adequate to protect the nearby highway and bridge.

(5) CANEY CREEK, MISSISSIPPI.—(A) Caney Creek in the vicinity of Jackson, Mississippi, between McDowell Road and Raymond Road, construction of such bank stabilization measures as the Secretary determines necessary for flood damage prevention and erosion control along approximately 3,000 feet of the creek.

(B) The Secretary shall complete his study of flood and soil erosion problems along Caney Creek and its tributaries in the vicinity of Jackson, Mississippi. For purposes of analyzing cost and benefits of any project recommended by the Secretary as a result of such study, the Secretary shall take into account the cost and benefits of measures undertaken pursuant to subparagraph (A).

Flood control.

(6) PLATTE RIVER, NEBRASKA.—(A) Sites on the Platte River and its tributaries in Nebraska, projects for flood control and streambank erosion prevention. The program shall have as its objectives the protection of property, environmental enhancement, and social well-being.

(B) Flood control projects carried out under this paragraph shall include projects for the construction, operation, and maintenance of flood damage reduction measures, including but not limited to bank protection and stabilization works, embankments, clearing, snagging, dredging, and all other appropriate flood control measures, and shall also include recreational facilities deemed appropriate by the Secretary. Such projects shall be carried out substantially in accordance with the plan of action of the Chief of Engineers, dated February 6, 1984, and with the Platte River and Tributaries, Nebraska, study of 1978 and the Platte River Basin, Nebraska, Level B Study of 1976.

(C) For each project under this paragraph, the Secretary shall evaluate the environmental impacts of such project with respect to both riverine and adjacent land-use values, with the view of enhancing wildlife and wildlife habitat as a major purpose coequal with all other purposes and objectives, and with the view of minimizing environmental losses. Wildlife.

(D) Projects authorized by this paragraph shall be undertaken to reflect a variety of geographical and environmental conditions, including naturally occurring erosion problems and erosion caused or incurred by man-made structures or activities. At a minimum, projects shall be conducted at sites on—

(i) that reach of the Platte River between Hershey, Nebraska, and the boundary between Lincoln and Dawson Counties, Nebraska; and

(ii) that reach of the Platte River from the boundary between Colfax and Dodge Counties, Nebraska, to its confluence with the Missouri River and that portion of the Elkhorn River from the boundary between Antelope and Madison Counties, Nebraska, to its confluence with the Platte River.

(E) The Secretary shall condition the construction, operation, and maintenance of any project under this paragraph upon the availability to the United States of such land and interests in land as he deems necessary to carry out such project and to protect and enhance the river in accordance with the purposes of this paragraph. Lands and interests in land for any project under this paragraph shall not be acquired without the consent of the owner, except that not to exceed five percent of the lands acquired for such a project may be acquired in less than fee title without the consent of the owner if determined necessary by the Secretary because of flooding or streambank erosion problems causing or threatening to cause serious damage in the Platte River Basin.

(F) The Secretary shall establish a Platte River Advisory Group consisting of representatives of the State of Nebraska and political subdivisions thereof, affected Federal agencies, and such private organizations as the Secretary deems desirable. Projects under this paragraph shall be carried out in coordination and consultation with such Advisory Group.

(7) ELM CREEK, DECATUR, NEBRASKA.—Elm Creek in the vicinity of Decatur, Nebraska, such emergency bank stabilization measures as are necessary to protect bridges.

(8) PASSAIC RIVER, NEW JERSEY.—(A) East bank of the Passaic River, New Jersey, from Dundee Dam to Kearney Point, bank stabilization and development, operation, and maintenance of a recreation and greenbelt area on public properties on, and along

the bank. The project shall be carried out after consultation with the Passiac River Restoration Steering Committee, and shall include, but not be limited to—

(i) the construction, operation, and maintenance of recreational facilities (including, but not limited to, a multipurpose pathway described in the Passaic River Restoration Master Plan) and streambank stabilization structures;

(ii) terraforming; and

Wildlife.

(iii) such tree plantings, vegetation and wildlife protection and development, and other activities as will enhance the natural environment for recreational purposes.

(B) The construction and maintenance of structures and plant and husbandry activities referred to in subparagraph (A) shall be conditioned upon the ownership by the public of the land or interest therein necessary for such purposes. The operation and maintenance of such structures and activities shall be undertaken by the counties or cities owning the lands on which such structures are to be located or on which such activities are to be carried out.

State and local governments.

(C) In carrying out the project described in subparagraph (A), the Secretary may acquire by purchase, donation, exchange, or otherwise, lands and interests therein as the Secretary and the Passaic River Restoration Steering Committee determine are necessary to carry out such project. No lands or interests therein may be acquired by the United States or any State or local government to carry out such project without the consent of the owner, and nothing herein shall constitute an additional restriction on the use of any lands or interests therein which is not owned by the United States or a State or local government.

(9) OHIO RIVER AND TRIBUTARIES.—Ohio River and Tributaries, streambank erosion protection measures in the following locations:

(A) that reach of the Ohio River between the Captain Anthony Meldahl Locks and Dam and the McAlpine Locks and Dam;

(B) the Licking River;

(C) the Kanawha River in the vicinity of St. Albans, West Virginia;

(D) from the mouth of the Ohio River to Uniontown Dam, Illinois; and

(E) along the Wabash River, from the mouth of the Wabash River to its confluence with the Little Wabash River.

(10) UPPER MISSOURI RIVER, SOUTH DAKOTA.—Locations on the Missouri River upstream of the Fort Randall Dam and downstream of the Oahe Dam; upstream of the Oahe Dam and downstream of the Garrison Dam; upstream of the Garrison Dam and downstream of the Fort Peck Dam; and upstream of the Fort Peck Dam to the confluence of the Missouri and Musselshell Rivers.

(11) MEMPHIS, TENNESSEE.—Sites on the Mississippi River in the vicinity of Memphis, Tennessee, construction of bank protection works.

(12) LA CONNER, WASHINGTON.—La Conner, Washington, such bank erosion control measures along the Swinomish Channel as the Secretary determines necessary to prevent damage to structures in the La Conner Historical District.

(13) KANAWHA RIVER, WEST VIRGINIA.—Kanawha River from approximately 55th Street to a point approximately 100 feet upstream of 57th Street in Charleston, West Virginia, construction of such streambank protection works as the Secretary deems necessary to prevent further bank failure and erosion of a 1,200-foot reach of the left descending bank.

SEC. 604. DES MOINES RIVER GREENBELT.

The project for the Des Moines Recreational River and Greenbelt, Iowa, authorized by Public Law 99-88, shall include the area described in the Des Moines Recreational River and Greenbelt Map, which description is printed in Committee Print 99-53 of the Committee on Public Works and Transportation of the House of Representatives (dated September 1986). 99 Stat. 293.

SEC. 605. BARNEGAT INLET TO LONGPORT, NEW JERSEY.

The Secretary is authorized to carry out the project for beach erosion control, navigation, and storm protection from Barnegat Inlet to Longport, New Jersey, substantially in accordance with the report of the Chief of Engineers, dated October 24, 1975, except that such project may also include construction of a fisherman walkway on top of a jetty as described in the report of the Chief of Engineers, dated January 20, 1983, at a total cost of $106,290,000, with an estimated first Federal cost of $59,505,000 and an estimated first non-Federal cost of $46,785,000. The Secretary may construct the beach erosion control, navigation, or storm protection feature of the project separately or in combination with the other such features. The non-Federal share for any such feature which is separately constructed shall be the appropriate non-Federal share for that feature.

SEC. 606. CHESAPEAKE BAY.

(a) The Secretary is authorized to construct projects for low-cost projects along the shore of the Chesapeake Bay and its tributaries for the control of streambank and shoreline erosion. The Secretary shall select an equal number of projects under this section in each of the States of Maryland, Pennsylvania, and Virginia. In selecting projects in Virginia under this section, the Secretary shall give priority consideration to the shoal at the mouth of the Coan River. Maryland. Pennsylvania. Virginia.

(b) The Federal share of the cost of the projects under this section shall be 50 percent.

(c) Information gathered in the study conducted under section 54 of the Water Resources Development Act of 1976 shall be used to the extent possible in selecting appropriate projects. 42 USC 1962d-5 note.

(d) There is authorized to be appropriated for fiscal years beginning after September 30, 1986, $5,000,000 to carry out this section. Appropriation authorization.

SEC. 607. PASSAIC RIVER BASIN CHANNEL CLEARING.

Subject to section 903(a) of this Act, the Secretary is authorized and directed to implement snagging and clearing and channel rectification measures along the Passaic, Pompton, Pequannock, and Ramapo Rivers, New Jersey, from Beatties Dam in Little Falls on the Passaic River upstream to the confluence of the Pompton River at Two Bridges, upstream along the Pompton River to and including the Pompton Feeder on the Pequannock and Ramapo Rivers, and upstream along the Ramapo River to the Pompton Lakes Dam, and along tributaries of such rivers (including Singac Brook and Weasel New Jersey.

Brook), including the modification of such structures, flood proofing, and flood warning measures as determined necessary by the Chief of Engineers, at a total cost of $33,300,000, with an estimated first Federal cost of $25,000,000 and an estimated first non-Federal cost of $8,300,000. In addition, subject to section 903(a) of this Act, the Secretary is authorized to undertake a project for flood control for the Passaic River in the vicinity of Beatties Dam in Little Falls, New Jersey, at a total cost of $20,000,000, with an estimated first Federal cost of $15,000,000 and an estimated first non-Federal cost of $5,000,000. The non-Federal share of the cost of the projects under this section is 25 percent.

SEC. 608. MOUND STATE PARK AND FORT TOULOUSE NATIONAL HISTORIC LANDMARK, ALABAMA.

(a) Subject to section 903(a) of this Act, the Secretary is authorized and directed to take such action as may be necessary to correct erosion problems along the banks of the Warrior River in order to protect Mound State Park, near Moundville, Alabama, substantially in accordance with the study directed by the Mobile district engineer and dated July 20, 1981, at a total cost of $4,400,000, with an estimated first Federal cost of $3,300,000 and an estimated first non-Federal cost of $1,100,000.

(b) Subject to section 903(a) of this Act, the Secretary is authorized to preserve and protect the Fort Toulouse National Historic Landmark and Taskigi Indian Mound in the county of Elmore, Alabama, by instituting bank stabilization measures, in accordance with alternative B contained in the Mobile district engineer's design supplement report entitled "Jones Bluff Reservoir, Alabama River, Alabama, Fort Toulouse, Design Report, National Historic Landmark", dated July 1975, at a total cost of $16,000,000, with an estimated first Federal cost of $12,000,000 and an estimated first non-Federal cost of $4,000,000.

SEC. 609. MUCK LEVEE, SALT CREEK, ILLINOIS.

Subject to section 903(a) of this Act, the Secretary shall repair and rehabilitate the Muck Levee, Salt Creek, Logan County, Illinois, at a total cost of $12,000, with an estimated first Federal cost of $9,000 and an estimated first non-Federal cost of $3,000.

SEC. 610. SWAN CREEK HARBOR OF REFUGE.

Michigan.

Subject to section 903(a) of this Act, the Secretary is authorized to take such measures as may be necessary to maintain a harbor of refuge in Swan Creek, Newport, Michigan. Non-Federal interests shall provide a public wharf and such other facilities as may be necessary for a harbor of refuge which shall be open to all on equal terms and such other requirements as the Secretary deems necessary.

SEC. 611. TRANSFER OF DREDGING VESSEL.

North Carolina.

Notwithstanding any other provision of law, the Secretary shall transfer to New Hanover County, North Carolina, its successors or assigns, without consideration, all right, title, and interest of the United States to a surplus dredging vessel (known as the "Hyde hopper dredge") in Wilmington, North Carolina, if such county agrees in writing to utilize such vessel only for the purpose of establishing an artificial fish habitat at no cost to the United States.

SEC. 612. INTERIM MEASURES FOR WHEELING CREEK, OHIO.

Subject to section 903(a) of this Act, the Secretary is authorized to undertake interim emergency flood control measures, including the removal of sediment deposits from Wheeling Creek and other measures deemed appropriate by the Secretary, to reduce flood damage in the vicinity of Goosetown, Wolfhurst, Barton, Crescent, Maynard, Blainsville, Fairpointe, Crabapple, and Lafferty, Ohio, at a total cost of $4,000,000, with an estimated first Federal cost of $2,962,000 and an estimated first non-Federal cost of $1,038,000. For purposes of analyzing the costs and benefits of any project recommended by the Secretary as a result of the planning, engineering, and design for the Wheeling Creek Watershed authorized by section 601(c), the Secretary shall take into account the costs and benefits of measures undertaken pursuant to this section. Flood control.

SEC. 613. TOLAY LAKE, CALIFORNIA.

The Secretary, the Secretary of the Interior, and the Administrator of the Environmental Protection Agency shall jointly develop a feasibility study for the construction in the vicinity of the former site of Tolay Lake in Sonoma County, California, of a water resources development project consisting of one or more of the reclamation project alternatives (other than the ocean outfall alternative) included in the Final Environmental Impact Report, Sonoma County Wastewater Reclamation Project, adopted by the Sonoma County Board of Supervisors, April 21, 1981, at a total cost of $3,000,000. Not later than one year after the date of the enactment of this Act, the Secretary, the Secretary of the Interior, and the Administrator of the Environmental Protection Agency shall submit a report to Congress with recommendations on a program and methods of financing the program.

SEC. 614. PROJECTS FOR SOIL EROSION PREVENTION.

(a) The Secretary of Agriculture, acting through the Administrator of the Soil Conservation Service, is authorized to complete construction of the following projects for run-off and waterflow retardation and soil erosion prevention: Virginia. New Mexico.

(1) Bush River Watershed, Virginia;

(2) Great Creek Watershed, Virginia; and

(3) Cottonwood-Walnut Creek Watershed, New Mexico.

(b) Construction of such projects shall be completed in accordance with the resolutions adopted by the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives which authorized such construction; except that—

(1) construction of the project for Cottonwood-Walnut Creek Watershed, New Mexico, shall be completed in accordance with such resolutions as modified by Committee Print 99-11 of the Committee on Public Works and Transportation of the House of Representatives; and

(2) the amount authorized to be appropriated for construction of such projects shall be as follows: Appropriation authorization.

(A) for Bush River Watershed, Virginia, $13,700,000;

(B) for Great Creek Watershed, Virginia, $3,900,000; and

(C) for Cottonwood-Walnut Creek Watershed, New Mexico, $28,063,000.

SEC. 615. PORT ONTARIO, SANDY CREEK, NEW YORK.

The Secretary is authorized to take such measures as may be necessary to maintain a harbor of refuge in Port Ontario, Sandy Creek, New York. Non-Federal interests shall provide a public wharf and such other facilities as may be necessary for a harbor of refuge which shall be open to all on equal terms and such other requirements as the Secretary deems necessary.

SEC. 616. DULUTH, MINNESOTA, SHORELINE PROTECTION.

The Secretary is authorized to construct shoreline protection measures for the shoreline adjacent to the runway at the Sky Harbor Municipal Airport, Duluth, Minnesota, including riprap shore protection, fueling area repairs and protection, and topsoil and turf establishment, at a total cost of $333,000, with an estimated first Federal cost of $250,000 and an estimated first non-Federal cost of $83,000.

Reports.

TITLE VII—WATER RESOURCES STUDIES

SEC. 701. FEASIBILITY REPORTS FOR ILLINOIS AND KINNICKINNIC RIVERS.

Illinois.
Wisconsin.
Flood control.

The Secretary is authorized and directed to prepare and submit to Congress feasibility reports on the following water resources projects at the following locations:

Illinois River in the vicinity of Hardin, Illinois, to recommend remedial measures for bank stabilization.

Kinnickinnic River, Milwaukee County, Wisconsin, for flood control and allied purposes.

33 USC 2261.

SEC. 702. TERRITORIES DEVELOPMENT STUDY.

Virgin Islands.
Guam.
American Somoa.
Trust Territory of the Pacific Islands.
Northern Mariana Islands.
Conservation.
Flood control.
Energy.
Waste disposal.
Fish and fishing.
Wildlife.
Environmental protection.

The Secretary is hereby authorized and directed to make studies in cooperation with the Secretary of the Interior and the governments of the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands for the purposes of providing plans for the development, utilization, and conservation of water and related land resources of such jurisdiction, at a total cost of $2,000,000 for each of the five studies. Such studies shall include appropriate consideration of the needs for flood protection, wise use of flood plain lands, navigation facilities, hydroelectric power generation, regional water supply and waste water management facilities systems, general recreation facilities, enhancement and control of water quality, enhancement and conservation of fish and wildlife, and other measures for environmental enhancement, economic and human resources development. Such studies shall be compatible with comprehensive development plans formulated by local planning agencies and other interested Federal agencies. Any funds made available under this section for a study for any such jurisdiction which is not needed for such study shall be available to the Secretary to construct authorized water resources projects in such jurisdiction and to implement the findings of such study with appropriate cost sharing as provided in this Act.

33 USC 2262.

SEC. 703. SURVEY OF POTENTIAL FOR USE OF CERTAIN FACILITIES AS HYDROELECTRIC FACILITIES.

(a) The Secretary shall, upon the request of local public officials, survey the potential and methods for rehabilitating former indus-

trial sites, millraces, and similar types of facilities already constructed for use as hydroelectric facilities. The Secretary shall, upon request, provide technical assistance to local public agencies, including electric cooperatives, in designing projects to rehabilitate sites that have been surveyed, or are qualified for such survey, under this section. The non-Federal share of the cost of carrying out this section shall be 50 percent.

(b) There is authorized to be appropriated to the Secretary, to implement this section, the sum of $5,000,000 for each of the fiscal years ending September 30, 1988, through September 30, 1992, such sums to remain available until expended. Appropriation authorization.

SEC. 704. STUDY OF CORPS CAPABILITY TO CONSERVE FISH AND WILDLIFE. 33 USC 2263.

(a) The Secretary shall investigate and study the feasibility of utilizing the capabilities of the United States Army Corps of Engineers to conserve fish and wildlife (including their habitats) where such fish and wildlife are indigenous to the United States, its possessions, or its territories. The scope of such study shall include the use of engineering or construction capabilities to create alternative habitats, or to improve, enlarge, develop, or otherwise beneficially modify existing habitats of such fish and wildlife. The study shall be conducted in consultation with the Director of the Fish and Wildlife Service of the Department of the Interior, the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration, and the Administrator of the Environmental Protection Agency, and shall be transmitted within the 30-month period beginning on the date of enactment of this Act by the Secretary to Congress, together with the findings, conclusions, and recommendations of the Chief of Engineers. The Secretary, in consultation with the Federal officers referred to in the preceding sentence, shall undertake a continuing review of the matters covered in the study and shall transmit to Congress, on a biennial basis, any revisions to the study that may be required as a result of the review, together with the findings, conclusions, and recommendations of the Chief of Engineers.

(b) The Secretary is further authorized to conduct projects of alternative or beneficially modified habitats for fish and wildlife, including but not limited to man-made reefs for fish. There is authorized to be appropriated not to exceed $5,000,000 to carry out such projects. Such projects shall be developed, and their effectiveness evaluated, in consultation with the Director of the Fish and Wildlife Service and the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration. Such projects shall include— Appropriation authorization.

(1) the construction of a reef for fish habitat in Lake Erie in the vicinity of Buffalo, New York; New York.

(2) the construction of a reef for fish habitat in the Atlantic Ocean in the vicinity of Fort Lauderdale, Florida; Florida.

(3) the construction of a reef for fish habitat in Lake Ontario in the vicinity of the town of Newfane, New York; and New York.

(4) the construction of a reef for fish habitat in the Chesapeake Bay in Maryland. Maryland.

The non-Federal share of the cost of any project under this section shall be 25 percent.

SEC. 705. SAN FRANCISCO BAY AREA FLOOD CONTROL STUDY.

90 Stat. 2930.

Section 142 of the Water Resources Development Act of 1976 (Public Law 94-587) is amended by inserting immediately after "Napa," the following: "San Francisco, Marin,".

33 USC 426 note.

SEC. 706. GREAT LAKES LEVELS STUDY.

(a) The Secretary, in cooperation with the National Oceanic and Atmospheric Administration, the Federal Emergency Management Agency, the International Joint Commission, and other appropriate Federal, State, and local agencies and the private sector, is authorized to conduct a study of shoreline protection and beach erosion control policy and related projects of the Secretary, in view of the current situation and long-term expected increases in the levels of the Great Lakes. Such study shall include, but is not limited to—

(1) a study to determine the magnitude and extent of current and expected future shoreline erosion on the Great Lakes and connecting channels occurring as a result of high water levels. The study shall examine the impacts of the long-term cold weather cycle on lake levels and shoreline damage. The study shall also examine the relationship of shoreline damage to the regulation of outflows from Lake Superior and Lake Erie in accordance with approved regulation plans of the International Joint Commission;

(2) an economic and hydrologic analysis to determine whether changes in the inflows and outflows of the existing structures may be desirable to reduce shoreline damages, and whether further regulation of the outflow of Lake Erie may be warranted to achieve better regulation of the water levels of the Great Lakes;

(3) a summary of the legal and institutional impacts of rising lake levels on riparian lands; and

(4) recommendations for new or additional criteria for Federal participation in shoreline protection projects along the Great Lakes and connecting channels.

(b) Within three years after the date of enactment of this Act, the Secretary shall transmit the studies prepared pursuant to subsection (a) of this section, together with supporting documentation and the recommendations of the Secretary, to the Committee on Environment and Public Works of the Senate and Committee on Public Works and Transportation of the House of Representatives.

Appropriation authorization.

(c) For the purposes of this section, there is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1987, or thereafter, the sum of $3,000,000, such sum to remain available until expended.

SEC. 707. CAPITAL INVESTMENT NEEDS FOR WATER RESOURCES.

Transportation.
Flood control.
Energy.
Fish and fishing.
Wildlife.
Conservation.

(a) Not later than two years after the date of enactment of this Act, the Secretary shall prepare and submit to Congress an estimate of the long-range capital investment needs for water resources programs under the jurisdiction of the Secretary, including, but not limited to, deep-draft ports, inland waterway transportation, flood control, municipal and industrial water supply, and hydroelectric power and recreation and fish and wildlife conservation and enhancement associated with such programs.

(b) The estimate prepared under this section shall include, but not be limited to—

(1) an estimate of the current service levels of public capital investments and alternative high and low levels of such investments over a period of ten years in current dollars and over a period of five years in constant dollars;

(2) capital investment needs in each major program area over a period of ten years;

(3) an identification and analysis of the principal policy issues that affect estimated capital investment needs;

(4) an identification and analysis of factors that affect estimated capital investment needs including, but not limited to, the following factors:

(A) economic assumptions;

(B) engineering standards;

(C) estimates of spending for operation and maintenance;

(D) estimates of expenditures for similar investments by State and local governments;

(E) estimates of demand and need for public services derived from such capital investments and estimates of the service capacity of such investments; and

(F) the effects of delays in planning and implementation of water resources projects on the capital investment costs of water resources programs, including increased costs associated with interest rates and inflation;

(5) a description of the economic, social, and environmental benefits realized from past investments and expected to be realized from future investments, including the protection of life and property; and

(6) an analysis of the effect of different levels of cost sharing and user fee recovery on the demand for water resources projects.

SEC. 708. NEW YORK HARBOR AND ADJACENT CHANNEL STUDY.

The Secretary is directed to expedite completion of the study of New York Harbor and Adjacent Channels, New York and New Jersey, authorized by a resolution of the Committee on Environment and Public Works of the Senate, dated December 15, 1980, and to submit a report to Congress on the results of such study not later than December 31, 1987. New York. New Jersey.

SEC. 709. DIOXIN CONTAMINATION IN PASSAIC RIVER-NEWARK BAY.

(a) The Administrator of the Environmental Protection Agency shall study and monitor the extent and adverse environmental effects of dioxin contamination in the Passaic River-Newark Bay navigation system. The study and report under this section are not intended to encumber civil works projects under development or scheduled to be maintained. Work on these projects shall proceed along the present schedule. New Jersey.

(b) Not later than one year after the date of enactment of this Act, the Administrator shall transmit a report on the results of such study and monitoring along with any recommendations of the Administrator concerning methods of reducing the effects of such contamination to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

33 USC 2264.

SEC. 710. DEAUTHORIZATION OF STUDIES.

(a) Not later than one year after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a list of incomplete water resources studies which have been authorized, but for which no funds have been appropriated during the 5 full fiscal years preceding the submission of such list. For each such study the Secretary shall include the following information:

(1) the date of authorization and the manner in which the study was authorized;

(2) a description of the purposes of the study;

(3) a description of funding that has been made available for the study;

(4) a description of any work that has been performed in carrying out the study and the results and conclusions, if any, of such work; and

(5) a description of any work that remains to be done in carrying out the study and the time necessary for and estimated cost of completing such work.

(b) Each study included in a list under subsection (a) is not authorized on and after the 90th day following the submission to Congress of such list if no funds have been appropriated for such study after the list is submitted and before such 90th day.

SEC. 711. SAGINAW BAY, MICHIGAN.

The Secretary is authorized and directed to undertake a study of the feasibility of navigation improvements at Saginaw Bay and Saginaw River, Michigan, including channel widening and deepening. The Secretary shall submit the feasibility report on such study to the Congress not later than December 31, 1989.

SEC. 712. RANCHO PALOS VERDES, CALIFORNIA.

The Secretary is authorized to study the feasibility of constructing shoreline erosion mitigation measures along the Rancho Palos Verdes coastline and in the city of Rolling Hills, California, for the purpose of providing additional stabilization for the Portuguese Bend landslide area and adjacent landslide areas. The Secretary shall submit the feasibility report on such study to the Congress not later than two years after the date of enactment of this Act.

SEC. 713. LOUISIANA SHORELINE EROSION STUDY.

In order to determine the feasibility of specific measures to diminish shoreline erosion, marsh deterioration, salt water intrusion, hurricane vulnerability, and barrier island destruction and to carry out reasonable planning efforts that require suitable sediment for nourishment, the Secretary is authorized to conduct a nearshore sediment inventory to determine availability of suitable sediment in the offshore waters of Louisiana between Southwest Pass and Sabine Pass and in Lake Pontchartrain and in Lake Borgne, at a cost not to exceed $2,000,000.

SEC. 714. LAND ACQUISITION POLICY STUDY.

Minerals.
Texas.

The Secretary shall study land acquisition policies applicable to water resources projects carried out by the Secretary, including, among other things, an analysis of the acquisition policies of mineral rights in connection with such projects. Such study shall also include a complete detailed report on (1) the acquisition policies and procedures utilized by the Secretary in the acquisition of mineral

rights at the water resources project for Lake Sommerville, Texas, authorized by the Flood Control Act of June 28, 1938, and (2) the acquisition policies and procedures followed in permitting reservoir lands to be used for mineral exploration and development subsequent to construction of such project. Not later than one year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of such study along with such recommendations as the Secretary may have for modifications of such land acquisition policies.

33 USC 701b.

SEC. 715. COLUMBIA RIVER/ARKANSAS RIVER BASIN TRANSFERS.

33 USC 2265.

(a) No Federal agency shall study or participate in the study of any regional or river basin plan or any plan for any Federal water and related land resource project which has as its objective the transfer of water from the Columbia River Basin to any other region or any other major river basin of the United States, unless such study is approved by the Governors of all affected States.

(b) For a period of 5 years after the date of enactment of this Act, no Federal agency shall study or participate in the study of any regional or river basin plan or any plan for any Federal water and related land resource project which has as its objective the transfer of water from the Arkansas River Basin to any other region or any other major river basin of the United States, unless such study is approved by the Governors of all affected States.

SEC. 716. BLACK WARRIOR-TOMBIGBEE RIVER.

The Secretary shall immediately conduct a feasibility study of protection from erosion problems on the southern bank of the Black Warrior-Tombigbee River from river mile 253 to river mile 255. Not later than six months after the date of enactment of this Act, the Secretary shall report to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate on the results of such investigation along with recommendations for measures to alleviate such erosion problems, if feasible.

SEC. 717. STORMWATER RUNOFF CONTROL STUDY.

The Secretary is authorized to conduct a study of the feasibility of developing measures to control storm water runoff on a watershed basis. Such study shall include, among other things, a review of existing drainage codes, State statutes, and Federal programs relating to prevention of drainage soil erosion and flooding. Not later than two years after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate on the results of such investigation along with recommendations concerning development of such measures.

SEC. 718. BOUNDARY DELINEATION AND FENCING PRACTICES.

The Secretary is authorized and directed to conduct a study (1) to analyze the differences among Corps districts and Corps divisions regarding boundary delineation and fencing practices, (2) to analyze the cost of fencing activities and the relationship of such cost to the benefits derived from such activities, and (3) to analyze the need for

providing, to the greatest extent practicable and consistent with authorized project purposes, access of the project area to the general public for recreational purposes. The Secretary shall submit a report on the results of such study to Congress not later than one year after the date of the enactment of this Act.

SEC. 719. PROJECT EVALUATION AND SELECTION CRITERIA.

Flood control. Rural areas. Disadvantaged persons.

The Secretary is authorized and directed to conduct a study of the Army Corps of Engineers project evaluation and selection criteria identifying all factors which affect the selection of flood control or other projects under the Secretary's authority in rural areas and in areas with greater percentages of low-income individuals. Not later than one year after the date of the enactment of this Act the Secretary shall transmit a report to Congress on the results of such study together with specific recommendations for changes in the selection criteria that would effectively eliminate any bias against projects in such areas.

SEC. 720. POTOMAC RIVER HYDRILLA.

The Secretary is authorized and directed to conduct a feasibility study of the eradication and control of hydrilla in the Potomac River and to develop an effective plan of action for such eradication and control. Not later than September 30, 1987, the Secretary shall submit to Congress a report on the results of such study together with the plan of action which the Secretary recommends and an estimate of the cost of implementing such plan.

SEC. 721. CHESAPEAKE BAY DROUGHT MANAGEMENT.

Conservation.

(a) The Secretary shall study and develop a plan for drought management and low fresh-water inflow maintenance on the major tributaries entering the Chesapeake Bay, including, but not limited to, water conservation, water storage, emergency restrictions, and ground water recharge.

(b) Not later than two years after the date of the enactment of this Act, the Secretary shall submit a report on the study required by this section, together with recommendations, to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives. The Secretary shall include in the report recommendations for appropriate Federal and non-Federal responsibilities in carrying out the plan.

(c) The Secretary is authorized to undertake feasibility reports with respect to those responsibilities identified in the report under subsection (b) as Federal responsibilities.

SEC. 722. GUAYANILLA RIVER BASIN, PUERTO RICO.

(a) The Secretary shall conduct a feasibility study on providing flood protection in the Guayanilla River Basin, Puerto Rico.

(b) Not later than two years after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the results of such study together with such recommendations as the Secretary determines to be appropriate.

SEC. 723. STUDY OF HYDROPOWER STATUS.

Illinois. Indiana. Michigan. Ohio. Wisconsin. Iowa. Minnesota. Pennsylvania. West Virginia.

The Secretary shall prepare and submit to Congress not later than October 1, 1987, a report on the status of feasibility and reconnaissance studies (including studies completed and studies currently being conducted) relating to the hydroelectric power potential at existing Corps of Engineers projects in the States of Illinois, Indiana,

Michigan, Ohio, Wisconsin, Iowa, Minnesota, Pennsylvania, and West Virginia.

SEC. 724. CANADIAN TIDAL POWER STUDY.

33 USC 2266.

(a) The Secretary, after consultation with the National Oceanic and Atmospheric Administration, the National Marine Fisheries Service, the United States Fish and Wildlife Service, and other appropriate governmental agencies, and the National Research Council of the National Academy of Sciences, is authorized and directed to undertake studies to identify the impacts on the United States of potential Canadian tidal power development in the Bay of Fundy, and submit such studies to the appropriate committees of the Congress.

(b) The Secretary shall conduct the studies authorized in subsection (a) of this section in two phases:

(1) Studies to be completed not later than October 1, 1988, to (A) identify effects of any such projects on tidal ranges and resulting impacts to beaches and estuarine areas, and (B) identify further studies which would be needed to meet the requirements of paragraph (2) of this subsection; and

(2) Studies to be completed not later than October 1, 1990, to (A) determine further environmental, social, economic, and institutional impacts of such tidal power development, and (B) determine what measures could be taken in Canada and the United States to offset or minimize any adverse impacts of such development on the United States.

(c) In the fiscal year ending September 30, 1987, or in any fiscal year thereafter, there is authorized to be appropriated to the Secretary the sum of $1,100,000 for the purposes of subsection (b)(1) of this section, and the sum of $8,900,000 for the purposes of subsection (b)(2) of this section, such sums to remain available until expended.

Appropriation authorization.

SEC. 725. RED RIVER BASIN HYDROELECTRIC POWER STUDIES.

The Secretary is directed to expedite the hydroelectric power studies of the Red River Basin Comprehensive Study, Arkansas, Texas, Louisiana, and Oklahoma (authorized by Public Law 98-63), with a particular view of investigating the feasibility of adding hydroelectric power generating facilities at the Tuskahoma Lake, Oklahoma, project.

Arkansas.
Texas.
Louisiana.
Oklahoma.
97 Stat. 311.

SEC. 726. RAINY RIVER BASIN.

The Secretary shall conduct feasibility studies, in cooperation with Canada, for the purposes of providing plans for the development, utilization, and conservation of water and related land resources in the Rainy River Basin, Minnesota, and Ontario. Such studies shall include appropriate consideration of the needs for flood reduction, wise use of flood plain lands, navigation facilities, hydroelectric power generation, water supply, water quality, general recreation facilities, enhancement and conservation of fish and wildlife, and wild rice production. Such study shall be compatible with comprehensive development plans formulated by other agencies.

Canada.
Minnesota.
Flood control.
Energy.
Fish and fishing.
Wildlife.
Conservation.
Agriculture and agricultural commodities.

SEC. 727. UTAH RECONNAISSANCE STUDIES.

(a) The Secretary is authorized to undertake the following reconnaissance studies in the State of Utah in order to determine if improvements for the purposes of flood control and related purposes

Flood control.

are economically and environmentally justified, and to report on such studies to Congress:

(1) the Provo River, from the mouth of Provo Canyon to Utah Lake;

(2) the existing levees along Utah Lake from the Provo River south along Interstate Highway 15;

(3) Interstate Highway 15, adjacent to Utah Lake;

(4) Rock, Little Rock, and Slate Canyons in the city of Provo;

(5) the Bear River, its tributaries and outlets;

(6) the Weber River, its tributaries and outlets; and

(7) the Sevier River, its tributaries and outlets.

Appropriation authorization.

(b) For the purposes of this section, the sum of $1,600,000 is authorized to be appropriated to the Secretary for fiscal years beginning after September 30, 1986, such sums to remain available until expended.

33 USC 2267.

SEC. 728. NEW YORK BIGHT STUDY.

Environmental protection.

(a) The Secretary shall study a hydro-environmental monitoring and information system in the New York Bight in the form of a system using computerized buoys and radio telemetry that allows for the continual monitoring (at strategically located sites throughout the New York Bight) of the following: wind, wave, current, salinity and thermal gradients and sea chemistry, in order to measure the effect of changes due to air and water pollution, including changes due to continued dumping in the Bight.

New Jersey.

(b) In addition, the Secretary shall study a proper physical hydraulic model of the New York Bight and for such an offshore model to be tied into the existing inshore physical hydraulic model of the Port of New York and New Jersey operated by the United States Army Corps of Engineers.

(c) The Secretary shall coordinate fully with the Administrator of the Environmental Protection Agency in carrying out the study described in this section and shall report any findings and recommendations to Congress. The Secretary and the Administrator shall also consider the views of other appropriate Federal, State, and local agencies, academic institutions, and members of the public who are concerned about water quality in the New York Bight.

Appropriation authorization.

(d) There is authorized to be appropriated not more than $1,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991.

SEC. 729. STUDY OF WATER RESOURCES NEEDS OF RIVER BASINS AND REGIONS.

(a) The Secretary, in coordination with the Secretary of the Interior and in consultation with appropriate Federal, State, and local agencies, is authorized to study the water resources needs of river basins and regions of the United States. The Secretaries shall report the results of such study to Congress not later than October 1, 1988.

(b) In carrying out the studies authorized under subsection (a) of this section, the Secretaries shall consult with State, interstate, and local governmental entities.

Appropriation authorization.

(c) There is authorized to be appropriated $5,000,000 for fiscal years beginning after September 30, 1986, to carry out this section.

SEC. 730. STUDY OF RECAPTURE OF BENEFITS OF INCREASED LAND VALUES.

The Secretary shall study current practices on the sharing of costs related to the benefits of increased land values resulting from water resources projects carried out by the Secretary, together with potential methods by which any increase in land values should be shared between the Federal Government and the non-Federal interests. The Secretary shall report to Congress on the results of such study, along with recommendations, not later than 2 years after the date of enactment of this Act.

SEC. 731. STUDY OF RISING OCEANS.

33 USC 426 note.

(a) The Congress finds that increasing scientific evidence indicates the level of the oceans will rise significantly over the next seventy-five years.

(b) The Secretary, in cooperation with the National Oceanic and Atmospheric Administration, the Federal Emergency Management Agency, and other appropriate Federal, State, and local agencies and the private sector, is authorized to conduct a study of shoreline protection and beach erosion control policy and related projects of the Secretary, in view of the prospect for long-term increases in the levels of the ocean. Such study shall include, but is not limited to—

(1) an assessment of the probability and the extent of coastal flooding and erosion;

(2) an appraisal of various strategies for managing relocation, disinvestment, and reinvestment in coastal communities exposed to coastal flooding and erosion;

(3) a summary of the legal and institutional impact of rising sea level on riparian lands; and

(4) recommendations for new or additional criteria for Federal participation in shoreline protection projects.

(c) Within three years after the date of enactment of this Act, the Secretary shall transmit the study prepared pursuant to subsection (b) of this section, together with supporting documentation and the recommendations of the Secretary, to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(d) There is authorized to be appropriated $3,000,000 for fiscal years beginning after September 30, 1986, to carry out this section, such sum to remain available until expended.

Appropriation authorization.

SEC. 732. SHORELINE EROSION DAMAGE ON LAKE SUPERIOR.

The Secretary, in consultation with appropriate Federal, State, and local agencies, shall determine the extent of shoreline erosion damage in the United States causally related to the regulation of the waters of Lake Superior by the International Joint Commission—United States and Canada, subsequent to an emergency application by the United States made on January 26, 1973. The Secretary shall report to Congress, not later than the end of the fiscal year following the fiscal year for which the initial appropriation is made to carry out this section, the results of such survey and, if justified, recommendations of a methodology for and a determination of the costs of indemnifying individual property owners and a recommended schedule for indemnification. There is authorized to be appropriated to carry out this section not to exceed $2,130,000.

Appropriation authorization.

Florida.

SEC. 733. LAKE OKEECHOBEE STUDY.

(a) The Secretary, in consultation with the Administrator of the Environmental Protection Agency, is authorized to undertake a study of the water supply potential of Lake Okeechobee in Florida, with particular emphasis on determining the causes of water quality deterioration in the lake and the impact, if any, that the Central and Southern Florida Irrigation Project may have on water quality in the lake. In undertaking the study authorized pursuant to this section, the Secretary shall coordinate with the State of Florida and shall assess the impact of short- and long-term solutions proposed by Federal, State, and local entities to alleviate the water quality and water supply problems of Lake Okeechobee.

(b) Within two years after the first appropriation of funds for the study, the Secretary shall report to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate on the results of the study authorized pursuant to this section and any recommendations of the Secretary concerning measures which may be implemented at the Federal, State, or local level to improve the water quality and the water supply potential of Lake Okeechobee.

Appropriation authorization.

(c) There are authorized to be appropriated $1,000,000 for fiscal years beginning after September 30, 1986, to carry out this section.

TITLE VIII—PROJECT MODIFICATIONS

SEC. 801. LYNNHAVEN INLET, VIRGINIA.

The navigation project for Lynnhaven Inlet, Bay, and connecting waters, Virginia, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1173, 1174) is modified to provide that the United States shall pay for the remedial work to Long Creek Canal which the city of Virginia Beach, Virginia, was required to carry out as a result of such navigation project, at a total cost of $2,600,000, with a first Federal cost of $2,600,000.

SEC. 802. ELIZABETH RIVER, VIRGINIA.

The project for navigation on the Southern Branch of Elizabeth River, Virginia, authorized by resolutions of the Senate and House Public Works Committees, dated October 1, 1976, and September 23, 1976, respectively, under the provisions of section 201 of Public Law 89-298, is modified to delete the requirement that local interests contribute in cash for land enhancement benefits 2.4 percent of the construction cost, including engineering and design and supervision and administration thereof, of all work to be provided by the Corps of Engineers, at a total cost of $151,000, with a first Federal cost of $151,000.

42 USC 1962d-5.

SEC. 803. MASSILLON, OHIO BRIDGE.

Flood control. Bridges.

33 USC 701b.

The general comprehensive plan for flood control and other purposes in the Ohio River Basin authorized by the Flood Control Act approved June 28, 1938, is modified to authorize the Secretary to reconstruct and repair the Cherry Street bridge and the Walnut Street bridge, Massillon, Ohio, at a total cost of $2,200,000, with an estimated first Federal cost of $1,100,000 and an estimated first non-Federal cost of $1,100,000. The non-Federal share of the cost of the work authorized by this section shall be 50 percent. Non-Federal interests shall own, operate, and, upon completion of the work

authorized by this section, maintain such bridges in accordance with the requirements of the Flood Control Act approved June 28, 1938. 33 USC 701b.

SEC. 804. MAMARONECK HARBOR, NEW YORK.

The navigation project at Mamaroneck Harbor, New York, authorized by the first section of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved September 22, 1922 (42 Stat. 1038), the first section of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved August 30, 1935 (49 Stat. 1029), and section 101 of the Rivers and Harbors Act of 1960 (74 Stat. 480) is modified to provide that the Federal share of the additional cost of disposing in ocean waters dredged material resulting from dredging necessary to maintain the project, above the cost of disposing of such dredged material on land, shall be 50 percent.

SEC. 805. LAKE PONTCHARTRAIN, LOUISIANA.

Subject to section 903(b) of this Act, the hurricane-flood protection project for Lake Pontchartrain, Louisiana, authorized by section 204 of the Flood Control Act of 1965 (Public Law 89-298) is modified to provide that the Secretary is authorized to construct features, such as a flood wall with sluice gates or other means, at a total cost of $3,500,000, with an estimated first Federal cost of $2,275,000 and an estimated first non-Federal cost of $1,225,000, to ensure that, by the most economical means, the level of protection within Jefferson Parish provided by the hurricane-flood protection project will be unimpaired as the result of any pumping station constructed by local interests. Requirements for non-Federal cooperation for the additional work authorized by this section shall be on the same basis as levee improvements for hurricane-flood protection on this project. Flood control. 79 Stat. 1074.

SEC. 806. REELFOOT LAKE, KENTUCKY.

The project for Reelfoot Lake, Lake numbered 9, Kentucky, authorized by resolution of the Committee on Public Works of the Senate adopted December 17, 1970, and resolution of the Committee on Public Works of the House of Representatives adopted December 15, 1970, under section 201 of the Flood Control Act of 1965 (Public Law 89-298), is modified to provide that the Federal share of the cost of operating the pumping plant feature of such project shall be 50 percent. 42 USC 1962d-5.

SEC. 807. YAQUINA BAY AND HARBOR, OREGON.

Subject to section 903(a) of this Act, the Yaquina Bay and Harbor project, Oregon, authorized by the River and Harbor Act approved March 2, 1919, is modified to authorize the Secretary to raise the south jetty to protect vehicular access which was provided at non-Federal cost and to protect public use areas on accreted land adjacent to the south jetty, from damaging effects of overtopping of the jetty, on condition that local interests provide the necessary lands, easements, and rights-of-way for such modification, at a total cost of $4,700,000, with an estimated first Federal cost of $2,350,000 and an estimated first non-Federal cost of $2,350,000. The non-Federal share of the cost of the work authorized by this section shall be 50 percent. 33 USC 551.

SEC. 808. SOUTH PLATTE RIVER BASIN, COLORADO.

Flood control. Conservation. Agriculture and agricultural commodities. Fish and fishing.

The project for flood control and other purposes on the South Platte River Basin in Colorado, authorized by the Flood Control Act of 1950 (64 Stat. 175) is modified to authorize the Secretary, upon request of and in coordination with the Colorado Department of Natural Resources and upon the Chief of Engineers' finding of feasibility and economic justification, to reassign a portion of the storage space in the Chatfield Lake project to joint flood control-conservation purposes, including storage for municipal and industrial water supply, agriculture, and recreation and fishery habitat protection and enhancement. Appropriate non-Federal interests shall agree to repay the cost allocated to such storage in accordance with the provisions of the Water Supply Act of 1958, the Federal Water Project Recreation Act, and such other Federal laws as the Secretary determines appropriate.

43 USC 390b.
16 USC 460*l*-12 note.

SEC. 809. KING HARBOR, REDONDO BEACH, CALIFORNIA.

The project for King Harbor, Redondo Beach, California, authorized in the River and Harbor Act of 1950, is modified to provide that—

64 Stat. 163.

(1) the Secretary is authorized to carry out maintenance dredging;

Reports.

(2) if recommended in a report of the Chief of Engineers, the Secretary is authorized to construct the breakwaters to a height of 22 feet and maintain the breakwaters at such height, in accordance with such report; and

(3) the Secretary is authorized to carry out planning, engineering, and design for a project to raise the breakwater to a height greater than 22 feet.

The non-Federal share of the cost of the work authorized by this section shall be 50 percent.

SEC. 810. HONOLULU HARBOR, HAWAII.

The plan for the harbor improvement at Honolulu Harbor, Oahu, Hawaii, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1092) is modified to delete the requirement that local interests contribute in cash, prior to initiation of construction, a lump sum amounting to 2.6 percent of the estimated first cost of the general navigation facilities for the project, ascribed to land enhancement through disposition of dredged material.

SEC. 811. SANTA CRUZ HARBOR, SANTA CRUZ, CALIFORNIA.

(a) Subject to section 903(a) of this Act, the navigation project for Santa Cruz Harbor, Santa Cruz, California, authorized in section 101 of the River and Harbor Act of 1958 (Public Law 85-500) is modified to authorize the Secretary to seal the east jetty of such harbor to prevent sand from passing through, at a total cost of $4,000,000, with an estimated first Federal cost of $3,000,000 and an estimated first non-Federal cost of $1,000,000.

72 Stat. 297.

Study. Reports.

(b) The Secretary shall conduct a feasibility study of the long-term solutions to the shoaling problems in Santa Cruz Harbor and shall report the results of such study, along with recommendations, to the Congress upon completion of such study. There is authorized to be appropriated $600,000 for fiscal years beginning after September 30, 1986, to carry out such study.

Appropriation authorization.

SEC. 812. MOUTH OF THE COLORADO RIVER, TEXAS.

The project for the mouth of the Colorado River, Texas, authorized pursuant to section 101 of the River and Harbor Act of 1968 (82 Stat. 732), is modified to provide that the diversion features of the authorized project, to divert Colorado River flows into Matagorda Bay, shall be constructed in accordance with the cost sharing described in section 906(e) for activities providing enhancement benefits to species identified as having national economic importance by the National Marine Fisheries Service. The non-Federal share of the cost of operation and maintenance of the modification shall be 25 percent in accordance with section 906(e). The Secretary is directed to construct the remaining navigation features and diversion features concurrently.

SEC. 813. ALABAMA-COOSA RIVER AND TRIBUTARIES, ALABAMA.

The comprehensive plan for the development of the water resources of the Alabama-Coosa River and tributaries, authorized by section 2 of the River and Harbor Act approved March 2, 1945 (59 Stat. 10), as modified by Public Law 83-436, approved June 29, 1954 (68 Stat. 302), is further modified as follows: the plan for the Coosa River segment of the waterway between Montgomery and Gadsden, Alabama, is modified to authorize the Secretary to carry out planning, engineering, and design for a project generally in accordance with the plans contained in the report of the District Engineer, Mobile District, entitled "Montgomery to Gadsden, Coosa River Channel, Alabama, Design Memorandum No. 1, General Design", dated May 1982.

SEC. 814. LAFARGE DAM, KICKAPOO RIVER, WISCONSIN.

(a) The LaFarge Dam project for flood control and allied purposes for the Kickapoo River, Wisconsin, authorized by the Flood Control Act of 1962, is modified to authorize and direct the Secretary to construct as soon as possible under section 205 of the Flood Control Act of 1948, the flood control levee, channel improvement, and interior drainage facilities for Gays Mills, Wisconsin, substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 450, Eighty-seventh Congress, at a total cost of $5,000,000, with an estimated first Federal cost of $3,750,000 and an estimated first non-Federal cost of $1,250,000. Benefits and costs resulting from construction of such project features shall continue to be included for purposes of determining the economic feasibility of completing the partially constructed LaFarge Dam.

Flood control.

76 Stat. 1180.

33 USC 701s.

(b) The Secretary is authorized and directed to complete as soon as possible a reconnaissance study under section 205 of the Flood Control Act of 1948 with respect to such structural and nonstructural measures as the Secretary determines are necessary and appropriate to prevent flood damage in the vicinity of Viola, Wisconsin.

SEC. 815. WINONA, MINNESOTA.

The project for flood protection at Winona, Minnesota, authorized under the provisions of section 201 of the Flood Control Act of 1965, is modified to provide that the non-Federal share of the cost of changes to two bridges within the limits of the city of Winona, Minnesota, made necessary by the project and its present plan of protection shall be 50 percent, at a total cost of $630,000, with an

Bridges.

42 USC 1962d-5.

estimated first Federal cost of $315,000 and an estimated first non-Federal cost of $315,000.

SEC. 816. LITTLE CALUMET RIVER.

87 Stat. 30.

(a) Subsection (a) of section 66 of the Water Resources Development Act of 1974 (Public Law 93-251) is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and thereafter to maintain such channel free of such trees, roots, silt, debris, and objects, at a total cost of $10,000,000, with an estimated first Federal cost of $5,000,000 and an estimated first non-Federal cost of $5,000,000.".

87 Stat. 31.

(b) Subsection (b) of section 66 of the Water Resources Development Act of 1974 (Public Law 93-251) is amended by adding at end thereof the following new sentence: "Non-Federal interests shall pay 50 percent of the cost of maintaining the channel free of such trees, roots, silt, debris, and objects.".

SEC. 817. NORTH BRANCH CHICAGO RIVER.

Contracts.

The second sentence of subsection (b) of section 116 of the River and Harbor Act of 1970 (84 Stat. 1822) is amended to read as follows: "The Secretary of the Army shall, before beginning any operation to maintain the channel authorized by this section, enter into a separate agreement with the appropriate non-Federal interests which is applicable only to that operation and which requires such non-Federal interests to pay 50 percent of the cost of such maintenance operation.".

SEC. 818. BRAZOS RIVER BASIN, TEXAS.

The second paragraph under the center heading "BRAZOS RIVER BASIN" in section 10 of the Flood Control Act of 1946 (60 Stat. 649), is amended by inserting "or water supply" after "irrigation".

SEC. 819. HOUSTON SHIP CHANNEL, TEXAS.

33 USC 577.

The project for navigation at the Houston Ship Channel (Greens Bayou), Texas, authorized pursuant to section 301 of the River and Harbor Act of 1965 (79 Stat. 1091), the project for navigation at the Houston Ship Channel (Barbour Terminal Channel), Texas, authorized pursuant to section 107 of the River and Harbor Act of 1960 (74 Stat. 486), and the project for navigation at the Houston Ship Channel (Bayport Ship Channel), Texas, authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 298), are modified to authorize and direct the Secretary to assume responsibility for maintenance to forty-foot project depths, as constructed by non-Federal interests prior to enactment of this Act.

SEC. 820. RIO GRANDE BANK PROTECTION, TEXAS.

(a) Bank protection activities conducted under the Rio Grande bank protection project pursuant to the First Deficiency Appropriation Act, 1945, approved April 25, 1945 (59 Stat. 89), may be undertaken in Starr County, Texas, notwithstanding any provision of such Act establishing the counties in which such bank protection activities may be undertaken.

(b) Any bank protection activity undertaken in Starr County, Texas, pursuant to subsection (a) of this section shall be—

Mexico.

(1) in accordance with such specifications as may be prepared for such purpose by the International Boundary and Water Commission, United States and Mexico; and

(2) except as provided in subsection (a), subject to the terms and conditions generally applicable to activities conducted under the Rio Grande bank protection project.

SEC. 821. ANACOSTIA RIVER, DISTRICT OF COLUMBIA AND MARYLAND.

The project for the Anacostia River and tributaries, District of Columbia and Maryland, approved under authority of section 205 of the Flood Control Act of 1948, is modified to authorize the Secretary to carry out planning, engineering, and design to prevent damage to the project caused by the one hundred-year flood, including, but not limited to, replacing riprap, removing sediment deposits, shaping and sodding slopes, and seeding, at a total cost of $250,000.

33 USC 701s.

SEC. 822. YAZOO RIVER, MISSISSIPPI.

The navigation project for Yazoo River, Mississippi, authorized by the River and Harbor Act of 1968, is modified to provide that the Federal share of the cost of the alteration of the Shepardstown Bridge (mile 147.8) shall be 50 percent, at a total cost of $3,800,000, with an estimated first Federal cost of $1,900,000 and an estimated first non-Federal cost of $1,900,000.

Bridges.
82 Stat. 731.

SEC. 823. CORTE MADERA CREEK, MARIN COUNTY, CALIFORNIA.

The project for flood control on Corte Madera Creek, Marin County, California, authorized by section 201 of the Flood Control Act of 1962 is modified to authorize and direct the Secretary to construct the project for unit 4, from the vicinity of Lagunitas Road Bridge to Sir Francis Drake Boulevard, substantially in accordance with the plan, dated February 1977, on file in the office of the San Francisco district engineer. The plan is further modified to authorize and direct the Secretary to construct such flood-proofing measures as may be necessary to individual properties and other necessary structural measures in the vicinity of Lagunitas Road Bridge to insure the proper functioning of the completed portions of the authorized project. The project is further modified to eliminate any channel modifications upstream of Sir Francis Drake Boulevard.

Flood control.
76 Stat. 1180.

SEC. 824. TECHE-VERMILION BASINS, LOUISIANA.

The project for improvement of the Mississippi River below Cape Girardeau with respect to the Teche-Vermilion Basins, Louisiana, authorized in the Flood Control Act of 1966, is modified to require the Secretary to relocate the Highway 71 bridge required to be relocated by this project or, at his discretion, to reimburse local interests for the Federal share of the cost of such relocation carried out by them, at a total cost of $1,200,000, with an estimated first Federal cost of $600,000 and an estimated first non-Federal cost of $600,000. The non-Federal share of the cost of the work authorized by this section shall be 50 percent.

Bridges.
33 USC 701c note.

SEC. 825. LEWISVILLE LAKE, TEXAS.

Subject to section 903(a) of this Act, the project for Lewisville Lake, Texas, authorized by the River and Harbor Act approved March 2, 1945, is modified to authorize and direct the Secretary to take such actions as may be necessary to insure that approximately four thousand feet, including bridges and approaches, of the road crossing Cottonwood Branch of Lewisville Lake, Texas, formerly designated State Highway 24T, will be above elevation five hundred and thirty-two feet above mean sea level, at a total cost of

33 USC 603a.

$3,000,000, with an estimated first Federal cost of $1,500,000 and an estimated first non-Federal cost of $1,500,000. Prior to the undertaking of the work authorized by this section, appropriate non-Federal interests shall agree to furnish, without cost to the United States, lands, easements, and rights-of-way necessary for the work, to hold and save the United States free from damages due to the work and to accept all such work thereafter for operation and maintenance. The non-Federal share of the cost of the work authorized by this section shall be 50 percent

SEC. 826. DARDANELLE LOCK AND DAM, ARKANSAS.

Bridges.

60 Stat. 634.

Subject to section 903(a) of this Act, the project for Dardanelle Lock and Dam, Arkansas, authorized by the River and Harbor Act approved July 24, 1946, is modified to authorize and direct the Secretary to take such action as may be necessary to replace the existing bridge across Cane Creek, Logan County, Arkansas, with a new bridge, at a total cost of $2,000,000, with an estimated first Federal cost of $1,000,000 and an estimated first non-Federal cost of $1,000,000. Prior to the undertaking of the work authorized by this section, appropriate non-Federal interests shall agree to furnish without cost to the United States lands, easements, and rights-of-way necessary for the work, to hold and save the United States free from damages due to the work, and to accept all such work thereafter for operation and maintenance. The non-Federal share of the cost of the work authorized by this section shall be 50 percent.

SEC. 827. SUSQUEHANNA RIVER AT SUNBURY, PENNSYLVANIA.

33 USC 701a.
33 USC 701b.

The project for flood protection on the Susquehanna River at Sunbury, Pennsylvania, authorized by the Flood Control Act of 1936, as modified by the Flood Control Act of 1941, is modified to authorize and direct the Secretary to permanently seal the closure structure at the abandoned Reading Railroad site, at a total cost of $75,000, with an estimated first Federal cost of $56,000 and an estimated first non-Federal cost of $19,000. Cost sharing applicable to flood control projects shall apply to the project under this section.

SEC. 828. HUDSON RIVER, NEW YORK CITY TO WATERFORD.

61 Stat. 866.

The project for the Hudson River, New York; New York City to Waterford, authorized by the Act of June 25, 1910 (Public Law 318, Sixty-first Congress), is modified to authorize the Secretary, if recommended in a report of the Chief of Engineers, to remove shoals between the mouth of Roeliff Jansen Kill, Columbia County, New York, and the present navigation channel and to place such removed material at an appropriate site designated by the State of New York, in accordance with such report, at a total cost of $150,000, with an estimated first Federal cost of $113,000 and an estimated first non-Federal cost of $37,000.

SEC. 829. SAN LORENZO RIVER, SANTA CRUZ COUNTY, CALIFORNIA.

Flood control.
33 USC 701c note.

The flood control project for the San Lorenzo River, Santa Cruz County, California, authorized by the Flood Control Act of 1954, is modified to authorize and direct the Secretary to carry out planning, engineering, and design for a project to dredge the San Lorenzo River to provide flood protection to Santa Cruz, California, and surrounding areas, at a total cost of $1,350,000.

SEC. 830. COLUSA TROUGH DRAINAGE CANAL, SACRAMENTO RIVER AND TRIBUTARIES, CALIFORNIA.

Subject to section 903(a) of this Act, the project for flood protection along the Sacramento River and its tributaries, California, authorized by the Flood Control Act of 1917, is modified to authorize and direct the Secretary to accomplish remedial construction necessary to restore the project flood control levees along the Colusa Trough Drainage Canal and the Knights Landing Ridge Cut, in accordance with such report, at a total cost of $11,000,000, with an estimated first Federal cost of $8,250,000 and an estimated first non-Federal cost of $2,750,000.

33 USC 702.

SEC. 831. GREAT EGG HARBOR, CORSON, AND TOWNSEND INLETS, NEW JERSEY.

The following water resources development projects are modified to authorize the Secretary, if recommended in a report of the Chief of Engineers, to construct the beach erosion control, storm protection, or navigation feature of the project separately or in combination with the other such features, in accordance with such report:

(1) Great Egg Harbor Inlet and Peck Beach, New Jersey, authorized in accordance with section 201 of the Flood Control Act of 1965 (79 Stat. 1073, 1074).

42 USC 1962d-5.

(2) Corson Inlet and Ludlam Beach, New Jersey, authorized in accordance with section 201 of the Flood Control Act of 1965.

(3) Townsend Inlet and Seven Mile Beach, New Jersey, authorized in accordance with section 201 of the Flood Control Act of 1965.

The non-Federal share for any such feature which is separately constructed shall be the appropriate non-Federal share for that feature.

SEC. 832. APALACHICOLA-CHATTAHOOCHEE-FLINT RIVERS, GEORGIA AND FLORIDA.

Subject to section 903(b) of this Act, the project for the Apalachicola-Chattahoochee-Flint Rivers, Georgia and Florida, authorized in section 2 of the River and Harbor Act of 1945 (Public Law 79-14; 59 Stat. 10) is modified to authorize the Secretary—

(1) in the course of routine maintenance dredging, to restore and maintain access (in the interest of navigation and ecological restoration) to bendways and interconnecting waterways, including the upper and lower inlets to Poloway cutoff, isolated during construction and maintenance activities by the Federal Government; and

(2) to acquire lands for and to construct, operate, and maintain water-related public use and access facilities along and adjacent to the Apalachicola River downstream of Jim Woodruff lock and dam to Apalachicola, Florida, except that the Secretary shall proceed with the acquisition of lands for the construction of water-related public use and access facilities and the operation and maintenance of such facilities at not more than one area within each county bordering the Apalachicola River;

at a total cost of $4,400,000, with an estimated first Federal cost of $2,950,000 and an estimated first non-Federal cost of $1,450,000.

SEC. 833. MILK RIVER, HAVRE, MONTANA.

Subject to section 903(b) of this Act, the project on Milk River for local flood protection at Havre, Montana, authorized by section 10 of the Flood Control Act approved December 22, 1944 (58 Stat. 897), is modified to authorize the Secretary to reconstruct or replace, whichever the Chief of Engineers determines necessary and appropriate, the water supply intake weir of the city of Havre, Montana, at a total cost of $1,400,000.

SEC. 834. CURWENSVILLE LAKE, PENNSYLVANIA.

33 USC 701c note.

The project for Curwensville Lake, Pennsylvania, authorized by the Flood Control Act of 1954 is hereby modified to authorize the Secretary to construct a water line with pumps from the Pike Township Water Authority to the Bloomington holding tank in order to provide water for municipal use to the town of Bloomington, Pennsylvania, at a total cost of $300,000, with an estimated first Federal cost of $225,000 and an estimated first non-Federal cost of $75,000. The non-Federal share of the cost of such project shall be 25 percent.

SEC. 835. WATERLOO, IOWA.

Flood control. Bridges. 79 Stat. 1074.

The project for flood protection, Waterloo, Iowa, authorized by section 204 of the Flood Control Act of 1965 is modified to provide for the reconstruction of the bridge on United States Highway 20 and the Lafayette Street bridge which are required as a result of the Blowers Creek phase of the project a total cost of $2,250,000, with an estimated first Federal cost of $1,125,000 and an estimated first non-Federal cost of $1,125,000. The non-Federal share of the cost of the work authorized by this section shall be 50 percent.

SEC. 836. MUD LAKE, WESTERN TENNESSEE TRIBUTARIES.

Kentucky.

42 USC 1962d-5.

The Mud Lake feature of the project for the western Tennessee tributaries, Tennessee and Kentucky, authorized by resolution of the Committee on Public Works of the Senate adopted December 17, 1970, and resolution of the Committee on Public Works of the House of Representatives adopted December 15, 1970, under section 201 of the Flood Control Act of 1965 (Public Law 89-298), is modified to provide that the requirements of local cooperation shall be (1) 50 percent of the value of the lands, easements, and rights-of-way, (2) to hold and save the United States free from damages due to the construction works, and (3) to maintain and operate all the works after completion in accordance with regulations prescribed by the Secretary.

SEC. 837. KAWKAWLIN RIVER, MICHIGAN.

Flood control.

33 USC 701s.

The project for flood control on the Kawkawlin River, Michigan, authorized under the authority of section 205 of the Flood Control Act of 1948, is modified to provide that the Federal share of the cost of operation and maintenance of the project shall be 50 percent.

SEC. 838. DENISON DAM (LAKE TEXOMA), RED RIVER, TEXAS AND OKLAHOMA.

Energy.

(a) The project for Denison Dam (Lake Texoma), Red River, Texas and Oklahoma, authorized by the Flood Control Act approved June 28, 1938 (52 Stat. 1219), is modified to provide that the Secretary is authorized to reallocate from hydropower storage to water supply storage, in increments as needed, up to an additional 150,000

acre-feet for municipal, industrial, and agricultural water users in the State of Texas and up to 150,000 acre-feet for municipal, industrial, and agricultural water users in the State of Oklahoma.

(b) For that portion of the water storage reserved for users in the State of Oklahoma, the Secretary may contract, in increments as needed, with qualified individuals, entities, or water utility systems for use within the Red River Basin; except that for any portion of that water to be utilized outside the Red River Basin, the Secretary shall contract with the RedArk Development Authority. Contracts.

(c) For that portion of the water storage reserved for users in the State of Texas, the Secretary shall contract, in increments as needed, for 50,000 acre-feet with the Greater Texoma Utility Authority and 100,000 acre-feet with other qualified individuals, entities, or water utility systems. Nothing in the preceding sentence shall supersede any requirement of State law with respect to the use of any water subject to a contract. Contracts.

(d)(1) All contracts entered into by the Secretary under this section shall be under terms in accordance with section 301(b) of the Water Supply Act of 1958 (Public Law 85-500), as amended by section 932 of this Act. Contracts. 43 USC 390b note.

(2) No payment shall be required from and no interest shall be charged to users in the States of Oklahoma or Texas for the reallocation authorized by this section until such time as the water supply storage reserved under such reallocation is actually first used. Any contract entered into for the use of the water received under this section shall require the contracting entity to begin principal and interest payments on that portion of the water allocated under the contract at the time the entity begins the use of such water. Until such time, storage for which reallocation is authorized in this section may be used for hydropower production.

(3) With respect to any water supply contract entered into by the Secretary under this section after June 1, 1985, the Secretary shall determine (A) the amount of hydropower lost, if any, as a result of the implementation of such contract, and (B) the replacement cost of the hydropower lost (where replacement cost is defined as the cost to purchase power from existing alternative sources). If hydropower is lost as a result of the implementation of such contract, the Secretary shall provide credits to the Southwestern Power Administration of amounts equal to such replacement costs. Such credits shall be against sums required to be paid by the Southwestern Power Administration for costs of the project allocated to hydropower. In each such case the Southwestern Power Administration shall reimburse each preference customer for an amount equal to the customer's actual replacement cost for hydropower lost as a result of the implementation of such contract, less the cost such customer would have had to pay to the Southwestern Power Administration for such hydropower.

(4) The Secretary may not increase payments of water users under a water supply contract under this section on account of the credits and reimbursement required to be provided under this section. Arkansas. Louisiana.

(e) Nothing in this section shall be construed as amending or altering in any way the Red River Compact. In consideration of benefits in connection with such reallocation and usage of municipal, industrial, and agricultural water, all benefits that can be assigned to the Red River chloride control project, Texas and Oklahoma, or the Red River and tributaries multipurpose study, Oklahoma, Texas, Arkansas, and Louisiana, and any individual projects

arising from such study, shall be reserved for such projects. Nothing in this section shall affect water rights under the laws of the States of Texas and Oklahoma.

(f) Such project is further modified to include recreation as a project purpose.

SEC. 839. BUFFALO SHIP CANAL, BUFFALO, NEW YORK.

33 USC 544b, 603a.

Subject to section 903(a) of this Act, the navigation project for Buffalo Ship Canal, Buffalo, New York, authorized by the River and Harbor Act of March 2, 1945, is modified to authorize and direct the Secretary to take such actions as may be necessary to construct a high-lift span bridge in the vicinity of the Coast Guard station, approximately 3,600 feet north of South Michigan Avenue, over the ship channel, at a total cost of $18,000,000, with an estimated first Federal cost of $9,000,000 and an estimated first non-Federal cost of $9,000,000. The non-Federal share of the cost of the work authorized by this section shall be 50 percent.

SEC. 840. JACKSON HOLE SNAKE RIVER, WYOMING.

33 USC 534, 574 note.

The project for Jackson Hole Snake River local protection and levees, Wyoming, authorized by the River and Harbors Act of 1950 (Public Law 81-516), is modified to provide that the operation and maintenance of the project, and additions and modifications thereto constructed by non-Federal sponsors, shall be the responsibility of the Secretary: *Provided,* That non-Federal sponsors shall pay the initial $35,000 in cash or materials of any such cost expended in any one year, plus inflation as of the date of enactment of this Act.

SEC. 841. NEWPORT BAY HARBOR, CALIFORNIA.

Subject to section 903(b) of this Act, the project for navigation for Newport Bay Harbor, Orange County, California, authorized by the River and Harbor Act approved August 26, 1937 (50 Stat. 849), and section 2 of the River and Harbor Act approved March 2, 1945 (59 Stat. 21), is modified to authorize the Secretary to dredge and maintain a 250-foot wide channel in the Upper Newport Bay to the boundary of the Upper Newport Bay State Ecological Preserve to a depth of 15 feet mean lower low water, and to deepen the channel in the existing project below the Pacific Coast Highway bridge to a depth of 15 feet mean lower low water, at a total cost of $3,500,000, with an estimated first Federal cost of $3,150,000 and an estimated first non-Federal cost of $350,000.

SEC. 842. SOUTH PLATTE RIVER BASIN, COLORADO.

Flood control.

The project for flood control and other purposes in the South Platte River Basin in Colorado, authorized by the Flood Control Act of 1950 (64 Stat. 175), is modified to provide that the Chatfield Dam and any other authorized Federal improvements in the South Platte River Basin shall be operated in a manner that achieves the authorized level of flood protection, as determined by the Secretary, for the area beginning at the Chatfield Dam and ending at a point 82 miles downstream.

SEC. 843. BEAVER LAKE, ARKANSAS.

68 Stat. 1256.

Subject to section 903(a) of this Act, the multipurpose project at Beaver Lake, Arkansas, authorized by the Flood Control Act of 1954, is modified to authorize and direct the Secretary, in cooperation with the Administrator of the Environmental Protection Agency and in consultation with appropriate State and local agencies, to

conduct a one-year comprehensive study of the Beaver Lake reservoir to identify measures which will optimize achievement of the project's purposes while preserving and enhancing the quality of the reservoir's water. Upon completion of the study the Secretary shall undertake a project at Beaver Lake to determine the effectiveness of measures identified in such study for preserving and enhancing the quality of the reservoir's water for current and future users, at a total cost of $5,100,000, with an estimated first Federal cost of $3,825,000 and an estimated first non-Federal cost of $1,275,000. The non-Federal share of the cost of the modification authorized by this section shall be 25 percent.

SEC. 844. MISSISSIPPI RIVER-GULF OUTLET.

(a) Subject to section 903(a) of this Act, the Mississippi River-Gulf outlet feature of the project for Mississippi River, Baton Rouge to Gulf of Mexico, authorized by the Act of March 29, 1956 (Public Law 455 of the Eighty-fourth Congress, 70 Stat. 65), is modified to provide that the replacement and expansion of the existing industrial canal lock and connecting channels or the construction of an additional lock and connecting channels shall be in the area of the existing lock or at the Violet site, at a total cost of $714,300,000. Before selecting the site under the preceding sentence, the Secretary shall consult with affected local communities. The costs of such modification shall be allocated between general cargo navigation and inland navigation, based on use patterns determined by the Secretary. Of the costs allocated to inland navigation, one-half of the Federal costs shall be paid from the Inland Waterways Trust Fund and one-half of the Federal costs shall be paid from the General Fund of the Treasury. With respect to the costs allocated to general cargo navigation, cost sharing provided in section 101 shall apply.

(b) The Secretary is directed to make a maximum effort to assure the full participation of members of minority groups, living in the affected areas, in the construction of the replacement or additional lock and connecting channels authorized by subsection (a) of this section, including actions to encourage the use, wherever possible, of minority-owned firms. The Secretary is directed to report on July 1 of each year to the Congress on the implementation of this section, together with recommendations for any legislation that may be needed to assure the fuller and more equitable participation of members of minority groups in this project or others under the direction of the Secretary.

Minorities.

Reports.

SEC. 845. SAGINAW RIVER, MICHIGAN.

The project for flood protection on the Saginaw River, Michigan, authorized by the Flood Control Act of 1958 (Public Law 85-500), is modified (1) to provide that the Secretary shall first construct the Flint and Shiawassee Rivers portion of the Shiawassee Flats unit of such project and that such construction shall begin, with available funds, during fiscal year 1987 and (2) to authorize the Secretary to reconstruct or relocate, whichever the Secretary determines is necessary, the Curtis Road Bridge, at a total cost of $626,000, with an estimated first Federal cost of $313,000 and an estimated first non-Federal cost of $313,000. The non-Federal share of the cost of the work authorized by the preceding sentence shall be 50 percent. The Secretary is also authorized to carry out planning, engineering, and design of measures to alleviate project-induced flood damages to areas outside the project area and such channelization measures in

33 USC 701b-8a.

the Shiawassee Flats unit as the Secretary determines necessary for flood control purposes.

SEC. 846. BRUNSWICK HARBOR, GEORGIA.

33 USC 534, 574 note.

The navigation project for Brunswick Harbor, Georgia, authorized by the River and Harbor Act of 1950, is modified to incorporate the Georgia Ports Authority's 30-foot-deep by 300-foot-wide by 8,000-foot-long channel in the South Brunswick River serving Colonel's Island terminal facilities.

SEC. 847. HANSEN DAM, LOS ANGELES AND SAN GABRIEL RIVERS, CALIFORNIA.

Flood control. Contracts.

(a) The Hansen Dam project authorized as part of the flood control project for the Los Angeles and San Gabriel Rivers, California, by section 5 of the Flood Control Act approved June 22, 1936 (49 Stat. 1589), is modified to authorize the Secretary to contract for the removal and sale of dredged material from the flood control basin for Hansen Dam, Los Angeles County, California, for the purposes of facilitating flood control, recreation, and water conservation. All funds received by the Secretary from the removal and sale of such dredged material shall be deposited in the General Fund of the Treasury.

Appropriation authorization.

(b) There is authorized to be appropriated for fiscal years beginning after September 30, 1986, an amount not to exceed the amount of funds received by the Secretary from the removal and sale of dredged material under subsection (a). Amounts appropriated under this subsection shall be available to the Secretary—

(1) to construct, operate, and maintain recreational facilities at the Hansen Dam project; and

(2) to the extent consistent with other authorized project purposes, to facilitate water conservation and ground water recharge measures at the Hansen Dam project in coordination with the city of Los Angeles, California, and the Los Angeles County Flood Control District;

at full Federal expense.

SEC. 848. DUNKIRK HARBOR, NEW YORK.

42 USC 1962d-5.

Subject to section 903(a) of this Act, the project for navigation, Dunkirk Harbor, New York, authorized by section 201 of the Flood Control Act of 1965 and approved by resolution of the Committee on Public Works of the House of Representatives, dated December 15, 1970, and resolution of the Committee on Public Works of the Senate, dated June 22, 1971, is modified to authorize the Secretary to include dredging and maintenance of the eastern inner harbor of such project in accordance with such plans as the Secretary, in consultation with appropriate non-Federal interests, may develop, at a total cost of $4,600,000, with an estimated first Federal cost of $2,300,000 and an estimated first non-Federal cost of $2,300,000.

SEC. 849. KALIHI CHANNEL, HONOLULU HARBOR, HAWAII.

68 Stat. 1248.

(a) The project for navigation for Honolulu Harbor, Hawaii, authorized by section 101 of the River and Harbor Act of 1954, is modified to authorize and direct the Secretary to maintain a 23-foot project depth in the Kalihi Channel portion of such project.

(b) The consent of Congress is given to the State of Hawaii to construct, operate, and maintain a fixed-span bridge in and over the water of the Kalihi Channel, Honolulu Harbor, Hawaii.

SEC. 850. BAYOU LAFOURCHE, LOUISIANA.

The project for navigation, Bayou Lafourche and Lafourche-Jump Waterway, Louisiana, authorized by the River and Harbor Act of August 30, 1935, is modified to authorize the Secretary to carry out planning, engineering, and design for a project for the maintenance by the Secretary of a channel 30 feet deep from mile minus 2 to mile 0 in Belle Pass and of a channel 24 feet deep from mile 0 to mile 4 in Bayou Lafourche. The Secretary is authorized and directed to study the feasibility of deepening the channel from mile 0 to mile 4 in Bayou Lafourche to 30 feet. The Secretary shall report the results of such study with recommendations to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

33 USC 540.

Reports.

SEC. 851. NOYO, MENDOCINO COUNTY, CALIFORNIA.

(a) The project for harbor improvement at Noyo, Mendocino County, California, authorized by the River and Harbor Act of 1962 (76 Stat. 1173), is modified to provide that the non-Federal interests shall contribute 50 percent of the cost of areas required for initial and subsequent disposal of dredged material, and of necessary retaining dikes, bulkheads, embankments, and movement of materials therefor.

(b) If, in lieu of diked disposal, the Secretary determines ocean disposal is necessary to carry out the project, the Federal share of the cost of such ocean disposal shall be 100 percent.

SEC. 852. ENDICOTT, JOHNSON CITY, AND VESTAL, NEW YORK.

Subject to section 903(a), the project for flood control, Endicott, Johnson City, and Vestal, New York, authorized by the Flood Control Act of 1954, is modified to authorize the Secretary to undertake such measures as may be necessary to correct erosion problems affecting the levee at Vestal, New York, and to perform necessary work to protect the levee and restore it to its design condition, at a total cost of $700,000, with an estimated first Federal cost of $525,000 and an estimated first non-Federal cost of $175,000. The non-Federal share of the cost of such measures and work shall be determined under section 103 of this Act.

Flood control.

68 Stat. 1256.

SEC. 853. CAMBRIDGE CREEK, MARYLAND.

The project for navigation, Cambridge Creek, Maryland, is modified to authorize and direct the Secretary to narrow the channel in the existing project, as determined necessary by the Secretary for the purpose of enhancing economic development in the area of such creek.

SEC. 854. SANDY HOOK TO BARNEGAT INLET, NEW JERSEY.

(a) Subject to section 903(a) of this Act, the project for beach erosion control, Sandy Hook to Barnegat Inlet, New Jersey, authorized by the River and Harbor Act of 1958, is modified to provide that the first Federal construction increment of the Ocean Township to Sandy Hook reach of such project shall consist of a berm of approximately 50 feet at Sea Bright and Monmouth Beach extending to and including a feeder beach in the vicinity of Long Branch, at a total cost of $40,000,000, with an estimated first Federal cost of $21,200,000 and an estimated first non-Federal cost of $18,800,000.

72 Stat. 297.

(b) The non-Federal share of the cost of construction and maintenance of the Ocean Township to Sandy Hook reach of the project for

beach erosion control, Sandy Hook to Barnegat Inlet, New Jersey, shall consist of amounts expended by non-Federal interests for reconstruction of the seawall at Sea Bright and Monmouth Beach, New Jersey.

(c) Before initiation of construction of any increment of the project for beach erosion control, Sandy Hook to Barnegat Inlet, New Jersey, non-Federal interests shall agree to provide public access to the beach for which such increment of the project is authorized in accordance with all requirements of State law and regulations.

SEC. 855. TAYLORSVILLE LAKE, KENTUCKY.

The project for flood control, Taylorsville Lake, Kentucky, authorized by the Flood Control Act of 1956, is modified to authorize and direct the Secretary to replace the Floyd's Fork Bridge on Routt Road, Jefferson County, Kentucky, in order to provide improved access to the project, at a total cost of $750,000, with an estimated first Federal cost of $375,000 and an estimated first non-Federal cost of $375,000. The non-Federal share of the cost of the work authorized by this section shall be 50 percent.

SEC. 856. LOWER SNAKE RIVER.

The project for the Lower Snake River Fish and Wildlife Compensation Plan, authorized by the Water Resources Development Act of 1976, is modified in accordance with the recommendations contained in the report of the Chief of Engineers, dated March 6, 1985, at a total cost of $177,000,000, with a first Federal cost of $177,000,000.

90 Stat. 2917.

SEC. 857. ILLINOIS RIVER AT PEORIA, ILLINOIS.

The project for navigation, Illinois River at Peoria, Illinois, authorized by the River and Harbor Act of 1946, is modified to provide for the inclusion within the project an adjacent downstream water area of approximately 400 feet long by 200 feet wide developed by local interests for an enlarged small boat harbor, including Federal construction and maintenance of such area and an access channel to a depth of 7 feet, at a total cost of $50,000. The project features authorized by this section shall be carried out under section 107 of the River and Harbor Act of 1960.

60 Stat. 634.

33 USC 577.

SEC. 858. TAMPA HARBOR, FLORIDA.

The project for navigation for Tampa Harbor, Florida, authorized by the River and Harbor Act of 1970 is modified to authorize planning, engineering, and design for a project under section 107 of the River and Harbor Act of 1960 to widen the authorized Port Sutton Turning Basin an additional 105 feet to the fender line along Pendola Point, at a total cost of $900,000, with an estimated first Federal cost of $675,000 and an estimated first non-Federal cost of $225,000.

84 Stat. 1818.

SEC. 859. SALEM RIVER, NEW JERSEY.

Subject to section 903(b) of this Act, the project for navigation, Salem River, New Jersey, is modified to provide that the depth of such project shall be 20 feet.

SEC. 860. COLD SPRING INLET, NEW JERSEY.

The navigation project, Cold Spring Inlet, New Jersey, is modified to authorize the Secretary to carry out planning, engineering, and design for a project to increase the depth of the 2,000 foot reach of

the New Jersey Intracoastal Waterway in Cape May County to 15 feet.

SEC. 861. FORT PECK, MONTANA.

The project for navigation and power generation, Fort Peck, Montana, authorized by the Act entitled "An Act to authorize the completion, maintenance, and operation of the Fort Peck project for navigation, and for other purposes", approved May 18, 1938 (16 U.S.C. 833), shall include recreation as a purpose of such project.

SEC. 862. FISHTRAP LAKE, KENTUCKY.

The project for Fishtrap Lake, Pike County, Kentucky, authorized as part of the flood control project for the Ohio River Basin by section 4 of the Flood Control Act approved June 28, 1938 (52 Stat. 1217), is modified to authorize the Secretary, notwithstanding the completion of such project in 1968, to carry out planning, engineering, and design for a project (1) to acquire by purchase any property in the drainage area for Fishtrap Lake, Kentucky, which is being used as a residence and any property in such drainage area which is being used as a cemetery, and (2) to relocate the owners of any property so acquired and any cemetery so acquired.

SEC. 863. SABINE RIVER CHANNEL, TEXAS.

The Sabine River channel of the Sabine-Neches Waterway, Texas, authorized by the River and Harbor Act of 1954, is modified to authorize the Secretary to carry out planning, engineering, and design for a project to extend such channel at a depth of 30 feet and a width of 200 feet, from its present upstream terminus opposite Green Avenue in Orange, Texas, generally following the present river alignment a distance of approximately one and one-quarter miles to a point opposite Little Cypress Bayou. 68 Stat. 1248.

SEC. 864. CLARKS HILL RESERVOIR, SAVANNAH RIVER BASIN, GEORGIA.

The project for flood control, Clarks Hill Reservoir, Savannah River Basin, Georgia and South Carolina, authorized by the Flood Control Act approved December 22, 1944, is modified to include recreation and fish and wildlife management as project purposes. Project lands which are managed or reserved as of the date of the enactment of this section for the conservation, enhancement, or preservation of fish and wildlife and for recreation shall be considered as lands necessary for such purposes. Fish and fishing. Wildlife. 58 Stat. 887.

SEC. 865. CAPE CHARLES CITY HARBOR, VIRGINIA.

The project for navigation, Cape Charles City Harbor, Virginia, authorized by the River and Harbor Act approved March 2, 1945 (59 Stat. 15), is modified to provide that the local interests shall not be required—

(1) to provide bulkheads, or

(2) to reserve berthing space for general public use,

along a greater distance of the shoreline than such bulkheads are provided or such berthing space is reserved on the date of the enactment of this Act.

SEC. 866. EAST CHESTER CREEK, NEW YORK.

The project for navigation, East Chester Creek, New York, authorized by the River and Harbor Act of 1950, is modified to provide that the Secretary, out of any amounts made available to the Secretary for operation and maintenance of water resources 64 Stat. 163.

projects, shall dredge within two years after the date of the enactment of this Act, and maintain thereafter, the Y-shaped portion of such project, at a total cost of $500,000, with an estimated first Federal cost of $450,000 and an estimated first non-Federal cost of $50,000.

SEC. 867. SAVANNAH HARBOR, GEORGIA.

79 Stat. 1089.

The project for navigation, Savannah Harbor, Georgia, authorized by the River and Harbor Act of 1965, is modified to authorize the Secretary to carry out planning, engineering, and design for a project to remove drift and debris from the harbor as part of operation and maintenance.

SEC. 868. TACOMA HARBOR, WASHINGTON.

The city waterway navigation channel project, Tacoma Harbor, Washington, authorized by the first section of the River and Harbor Act of June 13, 1902 (32 Stat. 347), is modified to direct the Secretary to redefine the boundaries of such project in accordance with the recommendations contained in the report of the Chief of Engineers, dated May 3, 1983.

SEC. 869. DELAWARE COAST, CAPE HENLOPEN TO FENWICK ISLAND.

Flood control.

82 Stat. 739.

33 USC 426i.

Subject to section 903(a) of this Act, the project for hurricane-flood protection and beach erosion control along the Delaware Coast from Cape Henlopen to Fenwick Island at the Delaware-Maryland State Line, authorized by section 203 of the Flood Control Act of 1968 (Public Law 90-483), is modified to authorize the construction of sand bypass facilities and stone revetment erosion control measures at Indian River Inlet, Delaware, as described in the General Design Memorandum and Environmental Assessment, dated November 1984, and approved by the Chief of Engineers in January 1986, at a total cost of $4,000,000, with an estimated first Federal cost of $2,500,000 and an estimated first non-Federal cost of $1,500,000. Project costs shall be allocated under the terms of section 111 of the Flood Control Act of 1968 if that is determined by the Secretary to be appropriate.

SEC. 870. WINOOSKI RIVER, WATERBURY, VERMONT.

Flood control.

The Waterbury, Vermont, project in the Winooski River Basin, authorized for modification in section 10 of the Act of December 22, 1944 (58 Stat. 892), is further modified to provide that restoration to the concrete work on the dam shall be undertaken by the Secretary. Nothing in this section shall be construed as altering the conditions established in the Federal Power Commission license numbered 2090, issued on September 16, 1954. Cost sharing applicable to flood control projects shall apply to the work authorized by this section.

SEC. 871. RIO GRANDE FLOODWAY, NEW MEXICO.

62 Stat. 1175.
64 Stat. 163.

Subject to section 903(b) of this Act, the project for flood protection for the Rio Grande Floodway, Truth or Consequences Unit, New Mexico, authorized by the Flood Control Acts of 1948 and 1950, is modified to provide that the Secretary is authorized to construct a flood control dam on Cuchillo Negro Creek, a tributary of the Rio Grande, in lieu of the authorized floodway.

SEC. 872. CONNECTICUT RIVER BASIN.

Flood control.
Vermont.
New Hampshire.
Massachusetts.
Fish and fishing.

(a) Subject to section 903(a) of this Act, the comprehensive plan for the control of floodwaters in the Connecticut River Basin, Vermont,

New Hampshire, Massachusetts, and Connecticut, authorized by section 5 of the Act of June 22, 1936 (49 Stat. 1572), is modified to authorize and direct the Secretary to design, construct, operate, and maintain facilities at Townshend Dam, West River, Vermont, to enable upstream migrant adult Atlantic salmon to bypass that dam and Ball Mountain Dam, Vermont, and to provide at both Townshend and Ball Mountain Dams facilities as necessary for the downstream passage of juvenile Atlantic salmon, at a total cost of $1,000,000, with a first Federal cost of $1,000,000.

(b) Prior to construction of the work authorized by this section, non-Federal interests shall agree to hold and save the United States harmless for any damages incurred in the construction and operation of such fish-passage facilities, and provide all lands, easements, rights-of-way, and relocations as may be reasonably necessary for the construction and operation of the fish-passage facilities.

TITLE IX—GENERAL PROVISIONS

SEC. 901. ANNUAL OBLIGATION CEILINGS.

Notwithstanding any other provision of law, the Secretary shall, from funds appropriated, obligate no sums in excess of the sums specified in this title for the combined purpose of the "Construction, General" account and the construction component of the "Flood Control, Mississippi River and Tributaries" account:

(1) For the fiscal year ending September 30, 1987, the sum of $1,400,000,000.

(2) For the fiscal year ending September 30, 1988, the sum of $1,500,000,000.

(3) For the fiscal year ending September 30, 1989, the sum of $1,600,000,000.

(4) For the fiscal year ending September 30, 1990, the sum of $1,700,000,000.

(5) For the fiscal year ending September 30, 1991, the sum of $1,800,000,000.

Nothing contained herein limits or otherwise amends authority conferred under section 10 of the River and Harbor Act of September 22, 1922 (42 Stat. 1043; 33 U.S.C. 621). Any amounts obligated against funds furnished or reimbursed during each such fiscal year by other Federal agencies or non-Federal interests shall not be counted against the limitation on obligations provided for in this Act.

SEC. 902. MAXIMUM COST OF PROJECTS.

In order to insure against cost overruns, each total cost set forth in this Act, or an amendment made by this Act, for a project shall be the maximum cost of that project, except that such maximum amount—

(1) may be increased by the Secretary for modifications which do not materially alter the scope or functions of the project as authorized, but not by more than 20 percent of the total cost stated for the project in this Act or in an amendment made by this Act; and

(2) shall be automatically increased for—

(A) changes in construction costs applied to unconstructed features (including real property acquisitions, preconstruction studies, planning, engineering, and design)

from the date of enactment of this Act (unless otherwise specified) as indicated by engineering and other appropriate cost indexes; and

(B) additional studies, modifications, and actions (including mitigation and other environmental actions) authorized by this Act or required by changes in Federal law.

SEC. 903. GENERAL REQUIREMENTS.

(a) PROCEDURE FOR CERTAIN PROJECTS AUTHORIZED FOR CONSTRUCTION.—(1) In the case of any project authorized for construction by this Act which is specifically made subject to this subsection, no construction may be commenced until the Secretary has reviewed and commented on such project and reported thereon to the Congress, or until 90 days have passed following the receipt of the proposed plan of the project from the Chief of Engineers, whichever first occurs.

(2) The Secretary shall review and comment on—

(A) at least one-third of the projects to which this subsection applies during the one-year period beginning on the date of enactment of this Act,

(B) at least two-thirds of such projects during the two-year period beginning on the date of enactment of this Act, and

(C) all of such projects during the three-year period beginning on the date of enactment of this Act.

(3) Any project to which this subsection applies on which the Secretary has not commented before the end of the 3-year period beginning on the date of enactment of this Act shall be deemed to have been approved by the Secretary for purposes of this subsection.

(b) PROCEDURE FOR PROJECTS AUTHORIZED FOR CONSTRUCTION SUBJECT TO A FAVORABLE REPORT.—Any project specifically made subject to this subsection is authorized to be prosecuted by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the report cited for such project, with such modifications as are recommended by the Chief of Engineers and approved by the Secretary, and with such other modifications as are recommended by the Secretary. If no report is cited for a project, the project is authorized to be prosecuted by the Secretary in accordance with a final report of the Chief of Engineers, and with such modifications as are recommended by the Secretary, and no construction on such project may be initiated until such a report is issued and approved by the Secretary.

Flood control.

(c) BENEFIT-COST RATIO WAIVER.—(1) In his recommendations for authorization of any project, or separable element, for flood control, the Secretary may include features that would not produce national economic development benefits greater than cost, if the non-Federal interests enter into a binding agreement requiring the non-Federal interests to pay during construction of the project or separable element an amount sufficient to make the remaining costs of that project or separable element equal to the estimated value of the national economic development benefits of that project or separable element.

(2) Non-Federal payments pursuant to paragraph (1) shall be in addition to payments required under section 103 of this Act which are applicable to the remaining costs of the project.

82 Stat. 739.

(d) OTHER REQUIREMENTS.—Sections 201 and 202 and the fourth sentence of section 203 of the Flood Control Act of 1968 shall apply to all projects authorized by this Act.

SEC. 904. MATTERS TO BE ADDRESSED IN PLANNING.

33 USC 2281.

Historic preservation.

Enhancing national economic development (including benefits to particular regions of the Nation not involving the transfer of economic activity to such regions from other regions), the quality of the total environment, the well-being of the people of the United States, the prevention of loss of life, and the preservation of cultural and historical values shall be addressed in the formulation and evaluation of water resources projects to be carried out by the Secretary, and the associated benefits and costs, both quantifiable and unquantifiable, shall be displayed in the benefits and costs of such projects.

SEC. 905. FEASIBILITY REPORTS.

33 USC 2282.

(a) In the case of any water resources project-related study authorized to be undertaken by the Secretary, the Secretary shall prepare a feasibility report, subject to section 105 of this Act. Such feasibility report shall describe, with reasonable certainty, the economic, environmental, and social benefits and detriments of the recommended plan and alternative plans considered by the Secretary and the engineering features (including hydrologic and geologic information), the public acceptability, and the purposes, scope, and scale of the recommended plan. The feasibility report shall also include the views of other Federal agencies and non-Federal agencies with regard to the recommended plan, a description of a nonstructural alternative to the recommended plan when such plan does not have significant nonstructural features, and a description of the Federal and non-Federal participation in such plan, and shall demonstrate that States, other non-Federal interests, and Federal agencies have been consulted in the development of the recommended plan. This subsection shall not apply to (1) any study with respect to which a report has been submitted to Congress before the date of enactment of this Act, (2) any study for a project, which project is authorized for construction by this Act and is not subject to section 903(b), (3) any study for a project which is authorized under any of the following sections: section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), section 2 of the Flood Control Act of August 28, 1946 (33 U.S.C. 701r), section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), section 3 of the Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946 (33 U.S.C. 426g), and section 111 of the River and Harbor Act of 1968 (33 U.S.C. 426i), and (4) general studies not intended to lead to recommendation of a specific water resources project.

(b) Before initiating any feasibility study under subsection (a) of this section after the date of enactment of this Act, the Secretary shall first perform, at Federal expense, a reconnaissance study of the water resources problem in order to identify potential solutions to such problem in sufficient detail to enable the Secretary to determine whether or not planning to develop a project should proceed to the preparation of a feasibility report. Such reconnaissance study shall include a preliminary analysis of the Federal interest, costs, benefits, and environmental impacts of such project, and an estimate of the costs of preparing the feasibility report. The duration of a reconnaissance study shall normally be no more than twelve months, but in all cases is to be limited to eighteen months.

(c) For purposes of studies undertaken pursuant to this section, the Secretary is authorized to consider benefits which may accrue to Indian tribes as a result of a project resulting from such a study.

Armed Forces.

(d) The Secretary shall undertake such measures as are necessary to ensure that standard and uniform procedures and practices are followed by each district office (and each division office for any area in which there is no district office) of the United States Army Corps of Engineers in the preparation of feasibility reports on water resources projects.

33 USC 2283.

SEC. 906. FISH AND WILDLIFE MITIGATION.

(a)(1) In the case of any water resources project which is authorized to be constructed by the Secretary before, on, or after the date of enactment of this Act, construction of which has not commenced as of the date of enactment of this Act, and which necessitates the mitigation of fish and wildlife losses, including the acquisition of lands or interests in lands to mitigate losses to fish and wildlife, as a result of such project, such mitigation, including acquisition of the lands or interests—

(A) shall be undertaken or acquired before any construction of the project (other than such acquisition) commences, or

(B) shall be undertaken or acquired concurrently with lands and interests in lands for project purposes (other than mitigation of fish and wildlife losses),

whichever the Secretary determines is appropriate, except that any physical construction required for the purposes of mitigation may be undertaken concurrently with the physical construction of such project.

(2) For the purposes of this subsection, any project authorized before the date of enactment of this Act on which more than 50 percent of the land needed for the project, exclusive of mitigation lands, has been acquired shall be deemed to have commenced construction under this subsection.

(b)(1) After consultation with appropriate Federal and non-Federal agencies, the Secretary is authorized to mitigate damages to fish and wildlife resulting from any water resources project under his jurisdiction, whether completed, under construction, or to be constructed. Such mitigation may include the acquisition of lands, or interests therein, except that—

(A) acquisition under this paragraph shall not be by condemnation in the case of projects completed as of the date of enactment of this Act or on which at least 10 percent of the physical construction on the project has been completed as of the date of enactment of this Act; and

(B) acquisition of water, or interests therein, under this paragraph, shall not be by condemnation.

The Secretary, shall, under the terms of this paragraph, obligate no more than $30,000,000 in any fiscal year. With respect to any water resources project, the authority under this subsection shall not apply to measures that cost more than $7,500,000 or 10 percent of the cost of the project, whichever is greater.

Reports.

(2) Whenever, after his review, the Secretary determines that such mitigation features under this subsection are likely to require condemnation under subparagraph (A) or (B) of paragraph (1) of this subsection, the Secretary shall transmit to Congress a report on such proposed modification, together with his recommendations.

(c) Costs incurred after the date of enactment of this Act for implementation and operation, maintenance, and rehabilitation to mitigate damages to fish and wildlife shall be allocated among authorized project purposes in accordance with applicable cost allocation procedures, and shall be subject to cost sharing or reimbursement to the same extent as such other project costs are shared or reimbursed, except that when such costs are covered by contracts entered into prior to the date of enactment of this Act, such costs shall not be recovered without the consent of the non-Federal interests or until such contracts are complied with or renegotiated. Contracts.

(d) After the date of enactment of this Act, the Secretary shall not submit any proposal for the authorization of any water resources project to the Congress unless such report contains (1) a recommendation with a specific plan to mitigate fish and wildlife losses created by such project, or (2) a determination by the Secretary that such project will have negligible adverse impact on fish and wildlife. Specific mitigation plans shall ensure that impacts to bottomland hardwood forests are mitigated in-kind, to the extent possible. In carrying out this subsection, the Secretary shall consult with appropriate Federal and non-Federal agencies.

(e) In those cases when the Secretary, as part of any report to Congress, recommends activities to enhance fish and wildlife resources, the first costs of such enhancement shall be a Federal cost when—

(1) such enhancement provides benefits that are determined to be national, including benefits to species that are identified by the National Marine Fisheries Service as of national economic importance, species that are subject to treaties or international convention to which the United States is a party, and anadromous fish;

(2) such enhancement is designed to benefit species that have been listed as threatened or endangered by the Secretary of the Interior under the terms of the Endangered Species Act, as amended (16 U.S.C. 1531, et seq.), or

(3) such activities are located on lands managed as a national wildlife refuge. National Wildlife Refuge System.

When benefits of enhancement do not qualify under the preceding sentence, 25 percent of such first costs of enhancement shall be provided by non-Federal interests under a schedule of reimbursement determined by the Secretary. The non-Federal share of operation, maintenance, and rehabilitation of activities to enhance fish and wildlife resources shall be 25 percent.

(f) Fish and wildlife enhancement measures carried out as part of the project for Atchafalaya Floodway System, Louisiana, authorized by Public Law 99-88, and the project for Mississippi Delta Region, Louisiana, authorized by the Flood Control Act of 1965, shall be considered to provide benefits that are national for purposes of this section. Louisiana. Mississippi. 99 Stat. 293. 79 Stat. 1073.

(g) The provisions of subsections (a), (b), and (d) shall be deemed to supplement the responsibility and authority of the Secretary pursuant to the Fish and Wildlife Coordination Act, and nothing in this section is intended to affect that Act. 16 USC 661 note.

33 USC 2284.

SEC. 907. BENEFITS AND COSTS ATTRIBUTABLE TO ENVIRONMENTAL MEASURES.

Fish and fishing. Wildlife.

In the evaluation by the Secretary of benefits and costs of a water resources project, the benefits attributable to measures included in a project for the purpose of environmental quality, including improvement of the environment and fish and wildlife enhancement, shall be deemed to be at least equal to the costs of such measures.

33 USC 2285.

SEC. 908. MITIGATION FUND.

There is established an Environmental Protection and Mitigation Fund. There is authorized to be appropriated to such fund $35,000,000 for fiscal years beginning after September 30, 1986. Amounts in the fund shall be available for undertaking, in advance of construction of any water resources project authorized to be constructed by the Secretary, such measures authorized as part of such project, including the acquisition of lands and interests therein, as may be necessary to ensure that project-induced losses to fish and wildlife production and habitat will be mitigated. The Secretary shall reimburse the Fund for any amounts expended under this section for a water resources project from the first appropriations made for construction, including planning and designing, of such project.

SEC. 909. RIVER BASIN AUTHORIZATIONS.

(a) In addition to previous authorizations, there is authorized to be appropriated for the prosecution of the comprehensive plan of development of each river basin or project that is referred to below by name and date of basic authorization, such sums as are necessary for the Secretary to complete the comprehensive plan of development.

Basin	Act of Congress
Alabama-Coosa River Basin	March 2, 1945
Arkansas River Basin	June 28, 1938
Arkansas-Red River Basin	November 7, 1966
Baltimore Harbor	December 31, 1970
Blue River Basin	December 31, 1970
Brazos River Basin	September 3, 1954
Central and Southern Florida	June 30, 1948
Columbia River Basin	May 17, 1950
Connecticut River Basin	June 22, 1936
Cottonwood Creek, California	December 31, 1970
Gulf Intracoastal Waterway, St. Marks, Tampa	August 13, 1968
Mississippi River and Tributaries	May 15, 1928
Missouri River Basin	June 28, 1938
North Branch Susquehanna River Basin	July 3, 1958
Ohio River Basin	June 22, 1936
Ouachita River Basin	May 17, 1950
Red Run Drain and Lower Clinton River	December 31, 1970
Red River Waterway	August 13, 1968
Sabine River Basin	December 31, 1970
Sacramento River Basin	December 22, 1944
San Joaquin River Basin	December 22, 1944
Santa Ana River Basin	June 22, 1936
South Platte River Basin	May 17, 1950
Tampa Harbor	December 31, 1970
Trinity River Basin	October 27, 1965
Upper Mississippi River Basin	June 28, 1938
Wabash River Basin	August 13, 1968
White River Basin	June 28, 1938

(b) The sums authorized by this section include those necessary for the Secretary to complete local flood protection in the Columbia River Basin, as authorized by section 204 of the Flood Control Act of 1950 (64 Stat. 178).

SEC. 910. CONTINUED PLANNING AND INVESTIGATIONS. 33 USC 2287.

(a) After the Chief of Engineers transmits his recommendations for a water resources development project to the Secretary for transmittal to the Congress, as authorized in the first section of the Act of December 22, 1944, and before authorization for construction of such project, the Chief of Engineers is authorized to undertake continued planning and engineering (other than preparation of plans and specifications) for such project if the Chief of Engineers finds that the project is without substantial controversy and justifies further engineering, economic, and environmental investigations and the Chief of Engineers transmits to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a statement of such findings. In the one-year period after authorization for construction of such project, the Chief of Engineers is authorized to undertake planning, engineering, and design for such project.

(b) Not later than January 15, 1987, and each January 15 thereafter, the Secretary shall prepare and transmit a report on the activities undertaken under this section in the preceding fiscal year to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate. Reports.

(c) The authorization made by this section shall be in addition to any other authorizations for planning, engineering, and design of water resources development projects and shall not be construed as a limitation on any other such authorization.

SEC. 911. REVIEW OF COST EFFECTIVENESS OF DESIGN. 33 USC 2288.

During the design of each water resources project which has a total cost in excess of $10,000,000, which is authorized before, on, or after the date of enactment of this Act and undertaken by the Secretary, and on which construction has not been initiated as of the date of enactment of this Act, the Secretary shall require a review of the cost effectiveness of such design. The review shall employ cost control techniques which will ensure that such project is designed in the most cost-effective way for the life of the project.

SEC. 912. SECTION 221 AGREEMENTS.

(a) Section 221(a) of the Flood Control Act of 1970 is amended— 42 USC 1962d-5b.

(1) by inserting ", or an acceptable separable element thereof," after "water resources project", and by inserting "or the appropriate element of the project, as the case may be" after "for the project"; and

(2) by adding at the end the following: "In any such agreement entered into by a State, or a body politic of the State which derives its powers from the State constitution, or a governmental entity created by the State legislature, the agreement may reflect that it does not obligate future State legislative appropriations for such performance and payment when obligating future appropriations would be inconsistent with State constitutional or statutory limitations.". State and local governments.

42 USC 1962d-5b note.

(b)(1) The Secretary may require compliance with any requirements pertaining to cooperation by non-Federal interests in carrying out any water resources project authorized before, on, or after the date of enactment of this Act.

(2) Whenever on the basis of any information available to the Secretary, the Secretary finds that any non-Federal interest is not providing cooperation required under subsection (a), the Secretary shall issue an order requiring such non-Federal interest to provide such cooperation. After notice and opportunity for a hearing, if the Secretary finds that any person is violating an order issued under this section, such person shall be subject to a civil penalty not to exceed $10,000 per day of such violation, except that the total amount of civil penalties for any violation shall not exceed $50,000.

42 USC 1962d-5b.

(3) Non-Federal interests shall be liable for interest on any payments required pursuant to section 221 of the Flood Control Act of 1970 that may fall delinquent. The interest rate to be charged on any such delinquent payment shall be at a rate, to be determined by the Secretary of the Treasury, equal to 150 percent of the average bond equivalent rate of the thirteen-week Treasury bills auctioned immediately prior to the date on which such payment became delinquent, or auctioned immediately prior to the beginning of each additional three-month period if the period of delinquency exceeds three months.

Claims.

(4) The Secretary may request the Attorney General to bring a civil action for appropriate relief, including permanent or temporary injunction, for any violation of an order issued under this section, to collect a civil penalty imposed under this section, to recover any cost incurred by the Secretary in undertaking performance of any item of cooperation under section 221(d) of the Flood Control Act of 1970, or to collect interest for which a non-Federal interest is liable under paragraph (3). Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides, or is doing business, and such court shall have jurisdiction to restrain such violation, to require compliance, to require payment of any civil penalty imposed under this section, and to require payment of any costs incurred by the Secretary in undertaking performance of any such item.

Flood control.

(5) The Secretary is authorized to determine that no funds appropriated for operation and maintenance, including operation and maintenance of the project for flood control, Mississippi River and Tributaries, are to be used for the particular benefit of projects within the jurisdiction of any non-Federal interest when such non-Federal interest is in arrears for more than twenty-four months in the payment of charges due under an agreement entered into with the United States pursuant to section 221 of the Flood Control Act of 1970 (Public Law 91-611).

SEC. 913. SECTION 215 AGREEMENTS.

42 USC 1962d-5a.

Section 215(a) of the Flood Control Act of 1968 is amended by striking out "$1,000,000" and inserting in lieu thereof "$3,000,000".

33 USC 2289.

SEC. 914. URBAN AND RURAL FLOOD CONTROL FREQUENCY.

In the preparation of feasibility reports for projects for flood damage prevention in urban and rural areas, the Secretary may consider and evaluate measures to reduce or eliminate damages from flooding without regard to frequency of flooding, drainage

area, and amount of runoff. This section shall apply with respect to any project, or separable element thereof, the Federal share of the cost of which is less than $3,000,000.

SEC. 915. SMALL PROJECT AUTHORIZATIONS.

(a) Section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) is amended by striking out "$30,000,000" in the first sentence and inserting in lieu thereof "$40,000,000" and by striking out "$4,000,000" in the third sentence and inserting in lieu thereof "$5,000,000".

(b) Section 2 of the Flood Control Act of August 28, 1937 (33 U.S.C. 701g) is amended by striking out "$5,000,000" and inserting in lieu thereof "$7,500,000" and by striking out "$250,000" and inserting in lieu thereof "$500,000".

(c) Section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r) is amended by striking out "$10,000,000" and inserting in lieu thereof "$12,500,000" and by striking out "$250,000" and inserting in lieu thereof "$500,000".

(d) Subsection (a) of section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) is amended by striking out "$25,000,000" and inserting in lieu thereof "$35,000,000". Subsection (b) of such section is amended by striking out "$2,000,000" and inserting in lieu thereof "$4,000,000".

(e) Section 3 of the Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946 (33 U.S.C. 426g), is amended (1) by striking out "$25,000,000" and inserting in lieu thereof "$30,000,000", and (2) by striking out "$1,000,000" and inserting in lieu thereof "$2,000,000".

(f) Section 111 of the River and Harbor Act of 1968 (33 U.S.C. 426i) is amended by striking out "$1,000,000" and inserting in lieu thereof "$2,000,000".

(g) Section 3 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works or rivers and harbors, and for other purposes", approved March 2, 1945 (33 U.S.C. 603a), is amended by striking out "$300,000" and inserting in lieu thereof "$1,000,000".

(h) The Secretary is authorized to use the authority contained in section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), section 2 of the Flood Control Act of August 28, 1937 (33 U.S.C. 701g), section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r), section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), section 3 of the Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946 (33 U.S.C. 426g), and section 111 of the River and Harbor Act of 1968 (33 U.S.C. 426i) in the Trust Territory of the Pacific Islands.

Trust Territory of the Pacific Islands.
33 USC 2290.

(i) The amendments made by this section shall not apply to any project under contract for construction on the date of enactment of this Act.

Contracts.
33 USC 426g note.

SEC. 916. FEDERAL REPAYMENT DISTRICT.

33 USC 2291.

(a) The Secretary may enter into a contract providing for the payment or recovery of an appropriate share of the costs of a project under his responsibility with a Federal Project Repayment District or other political subdivision of a State prior to the construction, operation, improvement, or financing of such project. The Federal

Contracts.
State and local governments.

Project Repayment District shall include lands and improvements which receive identifiable benefits from the construction or operation of such project. Such districts shall be established in accordance with State law, shall have specific boundaries which may be changed from time to time based upon further evaluations of benefits, and shall include the power to collect a portion of the transfer price from any transaction involving the sale, transfer, or change in beneficial ownership of lands and improvements within the district boundaries.

(b) Prior to execution of an agreement pursuant to subsection (a) of this section, the Secretary shall require and approve a study from the State or political subdivision demonstrating that the revenues to be derived from a contract under this section, or an agreement with a Federal Project Repayment District, will be sufficient to equal or exceed the cost recovery requirements over the term of repayment required by Federal law.

SEC. 917. EMERGENCY AND DISASTER AUTHORITY.

State and local governments.

Section 5(a) of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved August 18, 1941 (33 U.S.C. 701n), is amended by striking out "drinking" each place it appears in the second sentence and by inserting after the first sentence the following new sentence: "In any case in which the Chief of Engineers is otherwise performing work under this section in an area for which the Governor of the affected State has requested a determination that an emergency exists or a declaration that a major disaster exists under the Disaster Relief Act of 1974, the Chief of Engineers is further authorized to perform on public and private lands and waters for a period of ten days following the Governor's request any emergency work made necessary by such emergency or disaster which is essential for the preservation of life and property, including, but not limited to, channel clearance, emergency shore protection, clearance and removal of debris and wreckage endangering public health and safety, and temporary restoration of essential public facilities and services.".

42 USC 5121 note.

33 USC 2292.

SEC. 918. SURVEYING AND MAPPING.

Any surveying or mapping services to be performed in connection with a water resources project which is or has been authorized to be undertaken by the Secretary shall be procured in accordance with title IX of the Federal Property and Administrative Services Act of 1949.

40 USC 541.

33 USC 555a.

SEC. 919. PETROLEUM PRODUCT INFORMATION.

State and local governments. Taxes.

(a) The Secretary shall disclose petroleum product information to any State taxing agency making a request under subsection (b). Such information shall be disclosed for the purpose of, and only to the extent necessary in, the administration of State tax laws.

(b) Disclosure of information under this section shall be permitted only upon written request by the head of the State taxing agency and only to the representatives of such agency designated in such written request as the individuals who are to inspect or to receive the information on behalf of such agency. Any such representative shall be an employee or legal representative of such agency.

(c)(1) Requests for the disclosure of information under this section, and such disclosure, shall be made in such manner and at such time and place as shall be prescribed by the Secretary.

(2) Information disclosed to any person under this section may be provided in the form of written documents or reproductions of such documents, or by any other mode or means which the Secretary determines necessary or appropriate. A reasonable fee may be prescribed for furnishing such information.

(3) Any reproduction of any document or other matter made in accordance with this subsection shall have the same legal status as the original, and any such reproduction shall, if properly authenticated, be admissible in evidence in any judicial or administrative proceeding as if it were the original, whether or not the original is in existence.

(d) The Secretary shall not disclose information to a State taxing agency of a State under this section unless such State has in effect provisions of law which—

(1) exempt such information from disclosure under a State law requiring agencies of the State to make information available to the public, or

(2) otherwise protect the confidentiality of the information. Nothing in the preceding sentence shall be construed to prohibit the disclosure by an officer or employee of a State of information to another officer or employer of such State (or political subdivision of such State) to the extent necessary in the administration of State tax laws.

Classified information.

(e) For purposes of this section, the term—

(1) "petroleum product information" means information relating to petroleum products transported by vessel which is received by the Secretary (A) under section 11 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved September 22, 1922 (42 Stat. 1043; 33 U.S.C. 555), or (B) under any other legal authority; and

(2) "State taxing agency" means any State agency, body, or commission, or its legal representative, which is charged under the laws of such State with responsibility for the administration of State tax laws.

(f) Section 11 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved September 22, 1922 (42 Stat. 1043; 33 U.S.C. 555) is amended—

(1) by striking out "$100" and inserting in lieu thereof "not more than $5,000"; and

(2) by inserting a new sentence at the end thereof as follows: "In addition, the Secretary may assess a civil penalty of up to $2,500, per violation, against any person or entity that fails to provide timely, accurate statements required to be submitted pursuant to this section by the Secretary.".

SEC. 920. LAW ENFORCEMENT CONTRACTS.

Subsection (b) of section 120 of the Water Resources Development Act of 1976 (42 U.S.C. 1962d-5d) is amended to read as follows:

"(b) There is authorized to be appropriated $10,000,000 per fiscal year for each fiscal year beginning after September 30, 1986, to carry out this section.".

Appropriation authorization.

SEC. 921. PLANNING ASSISTANCE TO STATES.

42 USC 1962d-16.

Section 22(b) of the Water Resources Development Act of 1974 is amended—

(1) by striking out "$4,000,000" and inserting in lieu thereof "$6,000,000"; and

(2) by striking out "$200,000" and inserting in lieu thereof "$300,000".

SEC. 922. SERVICES TO STATE AND LOCAL GOVERNMENTS.

Section 3036(d) of title 10, United States Code, is amended by striking out "and may provide" and inserting in lieu thereof the following: "and, on a reimbursable basis, to a State or political subdivision thereof. Services provided to a State or political subdivision thereof shall be undertaken only on condition that—

"(1) the work to be undertaken on behalf of non-Federal interests involves Federal assistance; and

"(2) the department or agency providing Federal assistance for the work does not object to the provision of services by the Chief of Engineers.".

33 USC 2293.

Armed Forces. Defense and national security.

SEC. 923. REPROGRAMMING DURING NATIONAL EMERGENCIES.

(a) In the event of a declaration of war or a declaration by the President of a national emergency in accordance with the National Emergencies Act (90 Stat. 1255; 50 U.S.C. 1601) that requires or may require use of the Armed Forces, the Secretary, without regard to any other provision of law, may (1) terminate or defer the construction, operation, maintenance, or repair of any Department of the Army civil works project that he deems not essential to the national defense, and (2) apply the resources of the Department of the Army's civil works program, including funds, personnel, and equipment, to construct or assist in the construction, operation, maintenance, and repair of authorized civil works, military construction, and civil defense projects that are essential to the national defense.

(b) The Secretary shall immediately notify the appropriate committees of Congress of any actions taken pursuant to the authorities provided by this section, and cease to exercise such authorities not later than 180 calendar days after the termination of the state of war or national emergency, whichever occurs later.

33 USC 2294.

State and local governments.

SEC. 924. OFFICE OF ENVIRONMENTAL POLICY.

The Secretary shall establish in the Directorate of Civil Works of the Office of the Chief of Engineers an Office of Environmental Policy. Such Office shall be responsible for the formulation, coordination, and implementation of all matters concerning environmental quality and policy as they relate to the water resources program of the United States Army Corps of Engineers. Such Office shall, among other things, develop, and monitor compliance with, guidelines for the consideration of environmental quality in formulation and planning of water resources projects carried out by the Secretary, the preparation and coordination of environmental impact statements for such projects, and the coordination with Federal, State, and local agencies of environmental aspects of such projects and regulatory responsibilities of the Secretary.

33 USC 2295.

Flood control.

SEC. 925. COMPILATION OF LAWS; ANNUAL REPORTS.

(a) Within one year after the date of enactment of this Act, the laws of the United States relating to the improvement of rivers and

harbors, flood control, beach erosion, and other water resources development enacted after November 8, 1966, and before January 1, 1987, shall be compiled under the direction of the Secretary and the Chief of Engineers and printed for the use of the Department of the Army, the Congress, and the general public. The Secretary shall reprint the volumes containing such laws enacted before November 8, 1966. In addition, the Secretary shall include an index in each volume so compiled or reprinted. The Secretary shall transmit copies of each such volume to Congress.

(b) The Secretary shall prepare and submit the annual report required by section 8 of the Act of August 11, 1888, in two volumes. Volume I shall consist of a summary and highlights of Corps of Engineers' activities, authorities, and accomplishments. Volume II shall consist of detailed information and field reports on Corps of Engineers' activities. The Secretary shall publish an index with each annual report. 33 USC 556.

(c) The Secretary shall prepare biennially for public information a report for each State containing a description of each water resources project under the jurisdiction of the Secretary in such State and the status of each such project. Each report shall include an index. The report for each State shall be prepared in a separate volume. The reports under this subsection shall be published at the same time and the first such reports shall be published not later than one year after the date of the enactment of this Act. Public information.

SEC. 926. ACQUISITION OF RECREATION LANDS. 33 USC 2296.

(a) In the case of any water resources project which is authorized to be constructed by the Secretary before, on, or after the date of enactment of this Act, construction of which has not commenced before such date of enactment, and which involves the acquisition of lands or interests in lands for recreation purposes, such lands or interests shall be acquired along with the acquisition of lands and interests in lands for other project purposes.

(b) The Secretary is authorized to acquire real property by condemnation, purchase, donation, exchange, or otherwise, as a part of any water resources development project for use for public park and recreation purposes, including but not limited to, real property not contiguous to the principal part of the project.

SEC. 927. OPERATION AND MAINTENANCE ON RECREATION LANDS. 33 USC 2297.

The Secretary shall not require, under section 4 of the Flood Control Act of December 22, 1944 (58 Stat. 889), and the Federal Water Project Recreation Act, non-Federal interests to assume operation and maintenance of any recreational facility operated by the Secretary at any water resources project as a condition to the construction of new recreational facilities at such project or any other water resources project. 16 USC 460d. 16 USC 460*l*-12note.

SEC. 928. IMPACT OF PROPOSED PROJECTS ON EXISTING RECREATION FACILITIES. 33 USC 2298.

Any report describing a project having recreation benefits that is submitted after the date of enactment of this Act to the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives by the Secretary, or by the Secretary of Agriculture under authority of the Watershed Protection and Flood Protection Act (68 Stat. 666; 16 U.S.C. 1001 et seq.), shall describe the usage of other, Reports.

similar public recreational facilities within the general area of the project, and the anticipated impact of the proposed project on the usage of such existing recreational facilities.

SEC. 929. AGRICULTURAL BENEFITS.

Section 2 of the Watershed Protection and Flood Protection Act (68 Stat. 666; 16 U.S.C. 1002) is amended by inserting after the proviso in the paragraph relating to the definition of "works of improvement" the following: "Each such project submitted to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives after July 1, 1987, must contain benefits directly related to agriculture that account for at least 20 percent of the total benefits of the project.".

16 USC 1004 note.
Reports.

SEC. 930. PUBLIC ACCESS TO WATER IMPOUNDMENTS.

The Secretary of Agriculture, acting through the Administrator of the Soil Conservation Service, shall study and report to the appropriate committees of the Senate and the House of Representatives by April 1, 1988, on the feasibility, the desirability, and the public interest involved in requiring that public access be provided to any or all water impoundments that have recreation-related potential and that were authorized pursuant to the Watershed Protection and Flood Protection Act (68 Stat. 666; 16 U.S.C. 1001 et seq.).

SEC. 931. INTERIM USE OF WATER SUPPLY FOR IRRIGATION.

Contracts.

Section 8 of the Act of December 22, 1944 (58 Stat. 891; 43 U.S.C. 390), is amended by adding at the end the following: "In the case of any reservoir project constructed and operated by the Corps of Engineers, the Secretary of the Army is authorized to allocate water which was allocated in the project purpose for municipal and industrial water supply and which is not under contract for delivery, for such periods as he may deem reasonable, for the interim use for irrigation purposes of such storage until such storage is required for municipal and industrial water supply. No contracts for the interim use of such storage shall be entered into which would significantly affect then-existing uses of such storage.".

SEC. 932. WATER SUPPLY ACT AMENDMENTS.

(a) Section 301(b) of the Water Supply Act of 1958 (72 Stat. 319; 43 U.S.C. 390b(b)), is amended as follows:

(1) in the third proviso, after "That" insert the following: "(1) for Corps of Engineers projects, not to exceed 30 percent of the total estimated cost of any project may be allocated to anticipated future demands, and, (2) for Bureau of Reclamation projects,",

Contracts.

(2) in the fourth proviso, after "That" insert the following: "for Corps of Engineers projects, the Secretary of the Army may permit the full non-Federal contribution to be made, without interest, during construction of the project, or, with interest, over a period of not more than thirty years from the date of completion, with repayment contracts providing for recalculation of the interest rate at, five-year intervals, and for Bureau of Reclamation projects,",

State and local governments.

(3) after the first sentence insert the following: "For Corps of Engineers projects, all annual operation, maintenance, and replacement costs for municipal and industrial water supply

storage under the provisions of this section shall be reimbursed from State or local interests on an annual basis. For Corps of Engineers projects, any repayment by a State or local interest shall be made with interest at a rate to be determined by the Secretary of the Treasury, taking into consideration the average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period, during the month preceding the fiscal year in which costs for the construction of the project are first incurred (or, when a recalculation is made), plus a premium of one-eighth of one percentage point for transaction costs.", and

(4) strike out "The interest rate used" and insert in lieu thereof: "For Bureau of Reclamation projects, the interest rate used".

(b) Nothing in this section shall be deemed to amend or require amendment of any valid contract entered into pursuant to the Water Supply Act of 1958, or Federal reclamation law and approved by the Secretary of the Army or the Secretary of the Interior prior to the date of enactment of this Act.

Contracts. 43 USC 390b note.

SEC. 933. COST SHARING FOR DISPOSAL OF MATERIAL ON BEACHES.

Section 145 of the Water Resources Development Act of 1976 (33 U.S.C. 426j) is amended by inserting "by such State of 50 percent" after "upon payment".

SEC. 934. BEACH NOURISHMENT.

Section 156 of the Water Resources Development Act of 1976 (42 U.S.C. 1962d-5f) is amended by striking out "fifteenth" and inserting in lieu thereof "fiftieth".

SEC. 935. ACQUISITION OF BEACH FILL.

33 USC 2299.

Notwithstanding any other provision of law, in any case in which the use of fill material for beach erosion and beach nourishment is authorized as a purpose of an authorized water resources project, the Secretary is authorized to acquire by purchase, exchange, or otherwise from nondomestic sources and utilize such material for such purposes if such materials are not available from domestic sources for environmental or economic reasons.

SEC. 936. STUDY OF CORPS CAPABILITIES.

33 USC 2300.

State and local governments.

The Secretary shall study and evaluate the measures necessary to increase the capabilities of the United States Army Corps of Engineers to undertake the planning and construction of water resources projects on an expedited basis and to adequately comply with all requirements of law applicable to the water resources program of the Corps of Engineers. As part of such study the Secretary shall consider appropriate measures to increase reliance on the private sector in the conduct of the water resources program of the Corps of Engineers. The Secretary shall implement such measures as may be necessary to improve the capabilities referred to in the first sentence of this section, including the establishment of increased levels of personnel, changes in project planning and construction procedures designed to lessen the time required for such planning and construction, and procedures for expediting the coordination of water resources projects with Federal, State, and local agencies.

33 USC 2301.

SEC. 937. REPORTS ON HYDROPOWER STATISTICS.

Not later than January 15, 1988, and each January 15 thereafter, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report which—

(1) specifies the amount of electricity generated by each water resource project constructed by the Secretary which generated electricity in the preceding fiscal year;

(2) specifies the revenues received by the United States from the sale of electricity generated by such project; and

(3) specifies the costs of construction, operation, and maintenance of such project allocated to the generation of electricity.

In carrying out the study under this section, the Secretary shall compare the actual amount of capital costs repaid to that amount that would be required to repay capital costs. The first report submitted under this section shall specify the amounts of electricity generated, the revenues received, and the costs allocated for each such project before October 1, 1985, on a fiscal year basis in constant dollars. Each report thereafter shall specify the amounts of electricity generated, the revenues received, and the costs allocated for each such project for the preceding fiscal year.

33 USC 2302.

SEC. 938. REPORTS ON SMALL BUSINESS CONTRACTS.

(a)(1) The Secretary shall, on an annual basis, transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate, a report describing the number and dollar amount of contracts awarded in each industry category or subcategory broken down by Engineer District of the Army Corps of Engineers. Such report shall include the number and dollar amount of contracts (A) set aside for small business concerns; (B) awarded to small business or small disadvantaged business concerns; (C) available for competition by qualified firms of all sizes; and (D) awarded to other than small business or small disadvantaged business concerns.

(2) For purposes of this section, the term—

(A) "contract" means any contract, or any subcontract in connection with a subcontracting plan entered into pursuant to section 8(d) of the Small Business Act, as amended (15 U.S.C. 637(d)), which is funded through appropriations made available to the Corps of Engineers-Civil; and

(B) "industry category or subcategory" means the four digit SIC category or subcategory defined by the Small Business Administration.

(b) In the interest of efficient and cost effective operations by the Secretary, the Comptroller General of the United States shall conduct a study of the Secretary's contracting procedures for civil works projects. Such study shall examine whether potential bidders or offerors, regardless of their size, are allowed to compete fairly in the interest of lowering cost on contracts for construction. Within two years of the date of enactment of this Act, the Comptroller General shall report his findings to Congress together with an assessment of whether contract procedures are applied uniformly among the various field offices under the Secretary's jurisdiction. The report shall also provide recommendations on improving contracting procedures, including (1) how the Secretary can prepare proposals for construction that assure, to the greatest extent reason-

able, that no potential bidder or offeror is precluded from competing fairly for contracts, (2) whether recordkeeping requirements imposed by the Secretary on contractors are appropriate in the interest of competition, and (3) the extent to which the private sector can be used more efficiently by the Secretary in contracting for construction, architecture, engineering, surveying, and mapping.

SEC. 939. WRECK REMOVAL.

(a) Section 15 of the Act of March 3, 1899 (30 Stat. 1152; 33 U.S.C. 409) is amended—

(1) by striking out "voluntarily or carelessly";

(2) by striking out "accidentially or otherwise,"; and

(3) by inserting ", lessee, or operator" after "owner" each place it appears.

(b) Sections 19 and 20 of the Act of March 3, 1899 (30 Stat. 1154; 33 U.S.C. 414 and 415) are amended by inserting "(a)" before the first word of each section and by adding the following new subsection at the end of each section:

Vessels.

"(b) The owner, lessee, or operator of such vessel, boat, watercraft, raft, or other obstruction as described in this section shall be liable to the United States for the cost of removal or destruction and disposal as described which exceeds the costs recovered under subsection (a). Any amount recovered from the owner, lessee, or operator of such vessel pursuant to this subsection to recover costs in excess of the proceeds from the sale or disposition of such vessel shall be deposited in the general fund of the Treasury of the United States.".

SEC. 940. SHORE DAMAGE MITIGATION.

Section 111 of the River and Harbor Act of 1968 (82 Stat. 735, 33 U.S.C. 426i) is amended to read as follows:

Real property.

"SEC. 111. The Secretary of the Army is authorized to investigate, study, plan, and implement structural and nonstructural measures for the prevention or mitigation of shore damages attributable to Federal navigation works, if a non-Federal public body agrees to operate and maintain such measures, and, in the case of interests in real property acquired in conjunction with nonstructural measures, to operate and maintain the property for public purposes in accordance with regulations prescribed by the Secretary. The costs of implementing measures under this section shall be cost-shared in the same proportion as the cost-sharing provisions applicable to the project causing the shore damage. No such project shall be initiated without specific authorization by Congress if the Federal first cost exceeds $2,000,000.".

SEC. 941. AQUATIC PLANT CONTROL.

Section 104(b) of the River and Harbor Act of 1958 (33 U.S.C. 610(b)) is amended by striking out "$10,000,000" and inserting in lieu thereof "$12,000,000".

SEC. 942. TECHNICAL ASSISTANCE.

33 USC 426m.

State and local governments.

(a) Upon request of the Governor of a State, or the appropriate official of local government, the Secretary is authorized to provide designs, plans, and specifications, and such other technical assistance as he deems advisable to such State or local government for its use in carrying out—

(1) projects for removing accumulated snags and other debris, and clearing and straightening channels in navigable streams and tributaries thereof; and

(2) projects for renovating navigable streams and tributaries thereof by means of predominantly nonstructural methods judged by the Secretary to be cost effective, for the purpose of improved drainage, water quality, and habitat diversity.

(b) The non-Federal share of the cost of any designs, plans, specifications or technical assistance provided under subsection (a) shall be 50 percent.

33 USC 2303.

SEC. 943. HISTORICAL PROPERTIES.

The Secretary is authorized to preserve, restore, and maintain those historic properties located on water resource development project lands under the jurisdiction of the Department of the Army if such properties have been entered into the National Register of Historic Places.

33 USC 709b.

SEC. 944. FLOOD HAZARD INFORMATION.

Public information.

The Secretary, the Director of the Federal Emergency Management Agency, and the Administrator of the Soil Conservation Service shall take necessary actions, including the posting and distribution of information and the preparation and distribution of educational materials and programs, to ensure that information relating to flood hazard areas is generally available to the public.

40 USC 483d.

SEC. 945. DREDGE VESSEL DISPOSAL.

Vessels. Armed Forces.

40 USC 483, 484.

Notwithstanding any other provision of law, the Administrator of the General Services Administration, pursuant to the provisions of sections 202 and 203(j) of the Federal Property and Administrative Services Act of 1949, may dispose of any Corps of Engineers vessel used for dredging that is declared to be in excess of Federal needs by the Secretary, together with related equipment owned by the United States and under the control of the Chief of Engineers, through sale or lease to a foreign government as part of a Corps of Engineers technical assistance program, or to a Federal or State maritime academy for training purposes, or to a non-Federal public body for scientific, educational, or cultural purposes, or through sale solely for scrap to foreign or domestic interests. Any such vessel shall not be disposed of under this section or any other provision of law for use within the United States for the purpose of engaging in dredging activities. Amounts collected from the sale or lease of any such vessel or equipment shall be deposited into the revolving fund authorized by section 101 of the Civil Functions Appropriations Act, 1954 (67 Stat. 199; 33 U.S.C. 576), to be available, as provided in appropriations Acts, for the operation and maintenance of vessels under the control of the Corps of Engineers.

33 USC 403b.

SEC. 946. LIGHTING AT DOCKS AND BOAT LAUNCHING FACILITIES.

Whenever the Secretary considers a permit application for a dock or a boat launching facility under section 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 403), the Secretary shall consider the needs of such facility for lighting from sunset to sunrise to make such facility's presence known within a reasonable distance.

SEC. 947. PRIORITY OF COAL LOADING VESSELS.

Section 5 of Public Law 96-387 (46 U.S.C. App. 1121-1) is amended by striking "until June 30, 1987,".

SEC. 948. BUDGET ACT REQUIREMENTS. 33 USC 2201 note.

Any spending authority under this Act shall be effective only to such extent and in such amounts as are provided in appropriation Acts. For purposes of this Act, the term "spending authority" has the meaning provided in section 401(c)(2) of the Congressional Budget Act of 1974, except that such term does not include spending authority for which an exception is made under section 401(d) of such Act. 2 USC 651.

SEC. 949. SEPARABILITY. 33 USC 2304.

If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

SEC. 950. USE OF FMHA FUNDS. 33 USC 2305.

Notwithstanding any other provision of law, Federal assistance made available by the Farmers Home Administration may be used to pay the non-Federal share of any other Federal grant-in-aid program for any project for water resources, including water pollution control.

SEC. 951. REPORTS. 33 USC 2306.

If any report required to be transmitted under this Act to the Committee on Public Works and Transportation of the House of Representatives or the Committee on Environment and Public Works of the Senate pertains in whole or in part to fish and wildlife mitigation, benthic environmental repercussions, or ecosystem mitigation, the Federal officer required to prepare or transmit that report also shall transmit a copy of the report to the Committee on Merchant Marine and Fisheries of the House of Representatives. Fish and fishing. Wildlife.

TITLE X—PROJECT DEAUTHORIZATIONS

SEC. 1001. (a) Any project authorized for construction by this Act shall not be authorized after the last day of the 5-year period beginning on the date of enactment of this Act unless during such period funds have been obligated for construction, including planning and designing, of such project. 33 USC 579a.

(b)(1) Not later than one year after the date of enactment of this Act, the Secretary shall transmit to Congress a list of unconstructed projects, or unconstructed separable elements of projects, which have been authorized, but have received no obligations during the 10 full fiscal years preceding the transmittal of such list. A project or separable element included in such list is not authorized after December 31, 1989, if funds have not been obligated for construction of such project or element after the date of enactment of this Act and before December 31, 1989.

(2) Every two years after the transmittal of the list under paragraph (1), the Secretary shall transmit to Congress a list of projects or separable elements of projects which have been authorized, but have received no obligations during the 10 full fiscal years preceding the transmittal of such list. A project or separable element included in such list is not authorized after the date which is 30 months after the date the list is so transmitted if funds have not been obligated for construction of such project or element during such 30-month period.

Federal Register, publication.

(c) The Secretary shall publish in the Federal Register a list of any projects or separable elements that are deauthorized under this section.

SEC. 1002. The following projects, with a total estimated authorized cost of $11.1 billion, are not authorized after the date of enactment of this Act, except with respect to any portion of such a project which portion has been completed before such date or is under construction on such date:

ALABAMA

72 Stat. 297.

The project for flood control, Alabama River, Montgomery, Alabama, authorized by the Flood Control Act of 1958.

59 Stat. 10.

The project for hydroelectric power, Alabama-Coosa River Basin, Big Wills Creek Lake, Alabama, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress.

The project for hydroelectric power, Alabama-Coosa River Basin, Crooked Creek Lake, Alabama, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress.

The project for hydroelectric power, Alabama-Coosa River Basin, Hatchet Creek Lake, Alabama, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress.

The project for hydroelectric power, Alabama-Coosa River Basin, Little River Lake, Alabama, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress.

The project for hydroelectric power, Alabama-Coosa River Basin, Mill Creek Lake, Alabama, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress.

The project for hydroelectric power, Alabama-Coosa River Basin, Terrapin Creek Lake, Alabama, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress.

The project for hydroelectric power, Alabama-Coosa River Basin, Waxahatchee Creek Lake, Alabama, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress.

The project for hydroelectric power, Alabama-Coosa River Basin, Weogufka Creek Lake, Alabama, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress.

The project for hydroelectric power, Alabama-Coosa River Basin, Yellowleaf Creek, Alabama, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress.

The project for hydroelectric power, Alabama-Coosa River Basin, Big Canoe Creek Lake, Alabama, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress.

ALASKA

The project for navigation, Myers Chuck Harbor, Alaska, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress. 59 Stat. 10.

The jetty extension feature of the project for navigation, Nome Harbor, Alaska, authorized by the River and Harbor Act of August 30, 1935, Public Law 409, Seventy-fourth Congress. 49 Stat. 1028.

The project for navigation, Skagway River, Alaska, authorized by the River and Harbor Act of June 20, 1938, Public Law 685, Seventy-fifth Congress, and section 10 of the Flood Control Act of 1946, except the 6,700-foot training dike and the 1,800-foot breakwater. 60 Stat. 641.

ARKANSAS

The project for flood control, Crooked Creek Lake Levee, Arkansas, authorized by the Flood Control Act of 1968. 82 Stat. 739.

The Gillette New Levee feature of the project for flood control, Lower Arkansas River, North Bank, Arkansas, authorized by the Flood Control Act of May 15, 1928, Public Law 391, Seventieth Congress; the Flood Control Act of June 22, 1936, Public Law 738, Seventy-fourth Congress; and the Flood Control Act of 1946. 33 USC 702a. 49 Stat. 1570. 60 Stat. 641.

The project for flood control, Murfreesboro Reservoir, Pike County, Arkansas, authorized by the Flood Control Act of 1950. 64 Stat. 163.

CALIFORNIA

The project for flood control, Alhambra Creek, California, authorized by the Flood Control Act of 1968.

The Aliso Creek Dam feature of the project for the Santa Ana River Basin, Orange County, California, authorized by the Flood Control Act of June 22, 1936, Public Law 738, Seventy-fourth Congress.

The project for flood control, Bear River, California, authorized by section 201 of the Flood Control Act of 1965 and approved by resolution of the Committee on Public Works and Transportation of the House of Representatives, dated September 23, 1976, and resolution of the Committee on Environment and Public Works of the Senate, dated October 1, 1976. 42 USC 1962d-5.

The project for flood control, Butler Valley Dam, Mad River, California, authorized by the Flood Control Act of 1968.

The project for flood control, Eel River, California, authorized by the Flood Control Act of 1965, except for the completed levees on the right bank of the Eel River in the Sandy Prairie area. 79 Stat. 1073.

The Sierra Madre Wash feature of the project for flood control, Los Angeles County Drain Area, California, authorized by the Flood Control Act of August 18, 1941, Public Law 228, Seventy-seventh Congress. 55 Stat. 638.

The barrier groin and sandtrap feature of the project for navigation, Monterey Harbor, California, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress.

The features of the project for navigation, Napa River, California, authorized by the River and Harbor Act of July 24,

60 Stat. 634.

1946, Public Law 525, Seventy-ninth Congress, which features consist of construction of dikes and revetments.

That portion of the project for navigation, Old River, San Joaquin County, California, authorized by the River and Harbor Act of August 26, 1937, Public Law 392, Seventy-fifth Congress, consisting of a side channel at Orwood and completion of the project channels from the mouth of Old River to Lammers Ferry road and from Crocker Cut to the Holly Sugar Factory.

The San Juan Dam feature of the project for the Santa Ana River Basin, Orange County, California, authorized by the Flood Control Act of June 22, 1936, Public Law 738, Seventy-fourth Congress.

The Trabuco Dam feature of the project for the Santa Ana River Basin, Orange County, California, authorized by the Flood Control Act of June 22, 1936, Public Law 738, Seventy-fourth Congress.

49 Stat. 1570.

The project for flood control, University Wash and Spring Brook, California, authorized by section 201 of the Flood Control Act of 1965 and approved by resolution of the Committee on Public Works of the House of Representatives, dated December 15, 1970, and resolution of the Committee on Public Works of the Senate, dated June 22, 1971.

42 USC 1962d-5.

The shallow-draft channel, Colusa to Red Bluff, feature of the project for navigation, Sacramento River, California, authorized by the River and Harbor Act of August 30, 1935, Public Law 409, Seventy-fourth Congress.

49 Stat. 1028.

Those features of the project for navigation, San Joaquin River, Stockton Deepwater Ship Channel, California, authorized by the River and Harbor Act of 1950, which features consist of construction of a new turning basin near Rough and Ready Island; enlargement of Upper Stockton Channel; construction of a 30-foot depth Burns Cut-off Channel around Rough and Ready Island, including construction of a combination rail and highway bridge; and construction of a new settling basin on San Joaquin River upstream from its confluence with Stockton Channel.

64 Stat. 163.

COLORADO

The project for flood control, Boulder, Colorado, authorized by the Flood Control Act of 1950.

64 Stat. 163.

The project for flood control, Castlewood Lake, Douglas County, Colorado, authorized by the Flood Control Act of August 18, 1941, Public Law 228, Seventy-seventh Congress.

55 Stat. 638.

CONNECTICUT

The features of the project for navigation, Bridgeport Harbor-Black Rock Harbor, Connecticut, authorized by the River and Harbor Act of 1958, which features provide for construction of two rubble-mound breakwaters at the entrance to Black Rock Harbor and dredging a 28-acre anchorage 6 feet deep in Burr and Cedar Creeks at the head of Black Rock Harbor.

72 Stat. 297.

The project for navigation, Connecticut River below Hartford, Connecticut, authorized by the River and Harbor Act of 1950.

The feature of the project for navigation, Mystic River, New London County Channel, Connecticut, authorized by the River and Harbor Act of March 4, 1913, Public Law 429, Sixty-second

Congress, which provides for the widening of the channel extending 4,700 feet from the United States Route 1 drawbridge to the Mystic Seaport site from its constructed width of 80 to 90 feet to a width of 100 feet.

The Walnut Beach and impermeable groins features of the project for beach erosion control, Silver Beach to Cedar Beach, Connecticut, authorized by the River and Harbor Act of 1954. 68 Stat. 1248.

The six-foot anchorage at northeast end of Stonington Harbor feature of the project for navigation, Stonington Harbor, New London County, Connecticut, authorized by the River and Harbor Act of 1950. 64 Stat. 163.

The feature of the project for navigation, Thames River, New London County, Connecticut, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress, which provides for an increased channel width in the bend at Long Reach Upper Light (river mile 6.8). 59 Stat. 10.

The uncompleted portions of the project for navigation, New Haven Harbor, Connecticut, authorized by the River and Harbor Act of 1946, which portions consist of deepening the lower end of the Quinnipiac River Channel to 22 feet up to a point 1,000 feet above Ferry Street. 60 Stat. 634.

The project for navigation, New Haven Harbor, Connecticut, authorized by the River and Harbor Act of June 25, 1910, Public Law 264, Sixty-first Congress.

The uncompleted portions of the project for navigation, Milford Harbor, Connecticut, authorized by the River and Harbor Act of June 13, 1902, and the River and Harbor Act of August 26, 1937, Public Law 392, Seventy-fifth Congress, which portions consist of a 5-acre anchorage, 10 feet deep, behind the east jetty at the east side of such jetty. 32 Stat. 331.

FLORIDA

The Cross Bank to Key West portion of the project for navigation, Atlantic Intracoastal Waterway, Miami to Key West, Florida, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress.

The project for flood control, Biscayne Bay, Dade County, Florida, (Hurricane Barrier) authorized by the Act of June 15, 1955, Public Law 71, Eighty-fourth Congress. 69 Stat. 132.

That portion of the project for navigation, Cedar Keys Harbor, Levy County, Florida, authorized by the River and Harbor Act of July 5, 1884, consisting of the excavation of 1,500 cubic yards from an area known as the "middle ground" within the alignment of the main ship channel.

The Sebastian Channel feature of the project for navigation, Intracoastal Waterway, Jacksonville to Miami, Florida, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress.

Those portions of the project for navigation, Jacksonville Harbor Mooring Basin, Naval, Florida, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress, which portions consisting of a channel 28 feet deep by 590 feet wide extending from Laura Street to Saint Elmo W., Acosta Bridge; a channel and floodway along the south side of Commodore Point; and an approach and mooring basin at the Naval Reserve Armory near the Main Street bridge.

That portion of the project for navigation, Key West Harbor, Monroe County, Florida, authorized by the River and Harbor Act of September 19, 1890, consisting of two uncompleted jetties at the entrance to the northwest channel.

The uncompleted portions of the project for navigation, Miami Harbor, Miami River, Florida, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress, which portions consist of widening the mouth of the Miami River; providing a channel 8 feet by 20 feet from the mouth of the river to the Intracoastal Waterway, thence 100 feet wide to Government Cut; and providing a channel 12 feet by 100 feet from Miami to a harbor of refuge in Palmer Lake.

59 Stat. 10.

The Stuart turning basin feature of the project for navigation, Okeechobee Waterway, Martin County, Florida, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress.

That portion of the project for navigation, Oklawaha River, Florida, authorized by the River and Harbor Act of March 2, 1907, consisting of a channel 6 feet deep from the mouth of the river to the head of Silver Springs Run.

That portion of the project for navigation, Palm Beach Harbor, Florida, authorized by the River and Harbor Act of June 20, 1938, Public Law 685, Seventy-fifth Congress, consisting of a channel 16 feet deep and 150 feet wide from the Palm Beach Harbor Channel to an anchorage basin 16 feet deep, 750 feet wide, and 2,000 feet long in Lake Worth opposite Tangier Avenue.

49 Stat. 1028.

The Carrabelle to St. Marks portion of the Gulf Intracoastal Waterway, Apalachicola Bay to Saint Marks River, Florida, authorized by the River and Harbor Act of August 26, 1937, Public Law 392, Seventy-fifth Congress; the Act of July 23, 1942 (Public Law 675, Seventy-seventh Congress); and the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress.

The modification of the project for navigation, Pensacola Harbor, Florida, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress.

That portion of the project for navigation, Saint Augustine Harbor, Florida, authorized by the River and Harbor Act of 1950, which portion consists of the uncompleted future landward extension of the groin and jetty on the northside of the inlet.

64 Stat. 163.

That portion of the project for navigation, Tampa Harbor, Florida, authorized by the Flood Control Act of 1970, which portion consists of the last incremental one-foot depth for underkeel clearance.

84 Stat. 1818.

That portion of the project for navigation, Tampa Harbor and Hillsborough Bay, Florida, authorized by the Act of August 8, 1917, which portion consists of the turning basin at the junction of Garrison Channel, Seddon Channel, and Hillsborough River.

GEORGIA

The project for hydroelectric power, Alabama-Coosa River Basin, Canton Lake, Georgia, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress.

The project for hydroelectric power, Alabama-Coosa River Basin, Cartecay Lake, Georgia, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress. 59 Stat. 10.

The project for hydroelectric power, Alabama-Coosa River Basin, Gilmer Lake, Georgia, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress.

The project for hydroelectric power, Alabama-Coosa River Basin, Kingston Lake, Georgia, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress.

The project for hydroelectric power, Lazer Creek Lake, Georgia, authorized by the Flood Control Act of 1965. 79 Stat. 1073.

The project for hydroelectric power, Lower Auchumpkee Creek Lake, Georgia, authorized by the Act of December 30, 1963, Public Law 88-253. 77 Stat. 840.

The project for hydroelectric power, Spewrell Bluff Lake, Georgia, authorized by the Act of December 30, 1963, Public Law 88-253.

HAWAII

The project for navigation, Ala Wai Harbor, Oahu, Hawaii, authorized by the River and Harbor Act of 1968. 82 Stat. 731.

The project for beach erosion control, Hanapepe Bay Seawall, Kauai, Hawaii, authorized by the River and Harbor Act of 1958. 72 Stat. 297.

The project for beach erosion control, Waimea Beach Seawall, Kauai, Hawaii, authorized by the River and Harbor Act of 1958.

IDAHO

The project for flood control, South Fork, Clearwater River, Idaho, authorized by Flood Control Act of 1950. 64 Stat. 163.

The project for flood control, Teton River, Idaho, authorized by Flood Control Act of 1950.

The project for flood control, Blackfoot Reservoir, Idaho, authorized by Flood Control Act of 1962. 76 Stat. 1180.

The project for flood control, Boise Valley, Idaho, authorized by Flood Control Act of 1950.

The project for flood control, Cottonwood Creek Dam, Idaho, authorized by Flood Control Act of 1966. 80 Stat. 1418.

The project for flood control, Heise-Roberts Levee Extension, Idaho, authorized by Flood Control Act of 1950, except for constructed levees along the left bank of the Snake River downstream from the mouth of Henry's Fork.

The project for flood control, Whitebird Creek, Idaho, authorized by Flood Control Act of 1950.

ILLINOIS

The improvements to the beartraps feature of the project for navigation, Dam 43, Ohio River, Illinois, authorized by the River and Harbor Act of March 3, 1909, Public Law 317, Sixtieth Congress.

The project for flood control, Farmers Drainage and Levee District, Illinois, authorized by Flood Control Act of 1962.

The project for flood control, Freeport, Illinois, authorized by the Flood Control Act of June 22, 1936, Public Law 738, Seventy-fourth Congress.

49 Stat. 1570.

The feature of the Illinois Waterway Navigation project, Illinois, authorized by the River and Harbor Act of August 30, 1935, Public Law 409, Seventy-fourth Congress, which feature consists of straightening a curve in the channel in the vicinity of Pekin, Illinois.

49 Stat. 1028.

That portion of the project for shore protection, Kenilworth, Illinois, Shore of Lake Michigan, Illinois, authorized by the River and Harbor Act of 1954, which portion consists of protection of the Mahoney Park 200-foot long beach frontage located at the extreme south end of the village limits by constructing a steel sheet piling impermeable groin, about 200 feet long near the south lines of Mahoney Park.

68 Stat. 1248.

The project for flood control, Levee Unit 1, Wabash River, Gallatin County, Illinois, authorized by the Flood Control Act of June 22, 1936, Public Law 738, Seventy-fourth Congress.

The project for flood control, Levees District Numbered 21, Vandalia, Illinois, authorized by the Flood Control Act of 1958.

72 Stat. 297.

The project for flood control, Little Calumet River, Illinois, authorized by the Flood Control Act of 1954.

68 Stat. 1248.

The project for flood control, Metropolis, Illinois, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress.

52 Stat. 1215.

That portion of the project for navigation, Mississippi River between Missouri River and Minneapolis, Minnesota, authorized by the River and Harbor Act of July 3, 1930, Public Law 520, Seventy-first Congress, which portion consists of construction of about 600 feet of guidewall extensions each at locks numbered 4, 5, 5A, 7, 8, 9, and 10.

46 Stat. 918.

The project for navigation, Ohio River Open Channel, Louis District, Illinois, authorized by the River and Harbor Act of March 2, 1827.

The project for navigation, Ohio River Open Channel, Ice Pier, Illinois, authorized by the River and Harbor Act of January 21, 1927.

The project for navigation, Ohio River Open Channel, Illinois, authorized by the River and Harbor Act of July 3, 1930.

The project for flood control, Shawneetown, Gallatin County Levee Enlargement, Illinois, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress.

The project for flood control, Scott County Drainage and Levee District, Illinois, authorized by the Flood Control Act of 1962.

76 Stat. 1180.

The project for flood control, South Beloit, Illinois, authorized by the Flood Control Act of 1948.

62 Stat. 1175.

The project for flood control, William L. Springer Lake, Illinois, authorized by the Flood Control Act of 1962.

The project for navigation, Alton Commercial Harbor, Illinois, authorized by the River and Harbor Act of 1958.

72 Stat. 297.

The project for flood control, Keach Drainage and Levee District, Green County, Illinois, authorized by the Flood Control Act of 1962.

The project for flood control, Big Swan Drainage and Levee District, Illinois, authorized by the Flood Control Act of 1962.

The project for flood control, Fort Chartres and Ivy Landing Drainage District Numbered 5, Illinois, authorized by section 201 of the Flood Control Act of 1965 and approved by resolution of the Committee on Public Works of the House of Representatives, dated December 15, 1970, and resolution of the Committee on Public Works of the Senate, dated December 17, 1970. 42 USC 1962d-5.

INDIANA

The project for flood control, Anderson, Madison County, Indiana, Earth Levee, authorized by the Flood Control Act of June 22, 1936, Public Law 738, Seventy-fourth Congress. 49 Stat. 1570.

The project for navigation, Illinois Waterway, Cal-Sag Channel, Part 2, Indiana, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress, and the River and Harbor Act of July 24, 1946, Public Law 525, Seventy-ninth Congress. 68 Stat. 1248. 60 Stat. 634.

The project for flood control, Levees between Shelby Bridge and Baums Bridge, Indiana, authorized by the Flood Control Act of June 22, 1936, Public Law 738, Seventy-fourth Congress.

The project for flood control, Marion, Indiana, authorized by the Flood Control Act of 1968. 82 Stat. 731.

That portion of the project for flood control, Vincennes, Indiana, authorized by the Flood Contrcl Act of 1946, which portion consists of the uncompleted downstream levee to connect with high ground southeast of the city. 60 Stat. 641.

IOWA

The project for flood control, Davids Creek Lake, Iowa, authorized by the Flood Control Act of 1968.

The project for navigation, Fort Madison Harbor, Iowa, authorized by the River and Harbor Act of 1968.

The project for navigation, Keokuk Small Boat Harbor, Iowa, authorized by the River and Harbor Act of 1962. 76 Stat. 1173.

The project for flood control, Missouri Levee System (units L-753, L-747, L-739, L-733, L-729, L-728, L-715, L-700, L-691, L-670, L-651, L-650, L-643, L-637, L-528), Iowa, authorized by the Flood Control Act of August 18, 1941, Public Law 228 Seventy-seventh Congress. 55 Stat. 638.

KANSAS

The project for flood control, El Dorado, West Branch, Walnut River, Butler County, Kansas, authorized by the Flood Control Act of 1965. 79 Stat. 1073.

The project for flood control, Garnett Lake, Pottawatomi Creek, Kansas, authorized by the Flood Control Act of 1954. 68 Stat. 1248.

The project for flood control, Grove Lake, Kansas, authorized by the Flood Control Act of 1962. 76 Stat. 1180.

The project for flood control, Indian Lake, Kansas, authorized by the Flood Control Act of 1970. 84 Stat. 1818.

The project for navigation, Kansas River Navigation, Kansas authorized by the River and Harbor Act of 1965. 79 Stat. 1089.

The project for flood control, Missouri River Levee System, Kansas, (units R402 and R395-393) authorized by the Flood Control Act of August 18, 1941, Public Law 228, Seventy-seventh Congress.

The project for flood control, Neodesha Lake, Wilson County, Verdigris River, Kansas, authorized by the Flood Control Act of August 18, 1941, Public Law 228, Seventy-seventh Congress.

55 Stat. 638.

The project for flood control, Tomahawk Lake, Blue River, Johnson County, Kansas, authorized by the Flood Control Act of 1970.

84 Stat. 1818.

The project for flood control, Towanda Lake, Kansas, authorized by the Flood Control Act of 1965.

79 Stat. 1073.

The modification to the project for flood control, Tuttle Creek Lake, Kansas, authorized by section 18 of the Water Resources Development Act of 1974, which modification consists of relocation of a portion of FAS 1208.

88 Stat. 19.

The project for flood control, Wolf-Coffee Lake, Kansas, authorized by the Flood Control Act of 1970.

The project for flood control, Cedar Point Lake, Kansas, authorized by the Flood Control Act of 1950.

64 Stat. 163.

The project for flood control, Cow Creek-Hutchison, Kansas, authorized by the Flood Control Act of 1962.

76 Stat. 1180.

The project for flood control, Missouri River Levee System Levee R414, Kansas, authorized by the Flood Control Act of August 18, 1941, Public Law 228, Seventy-seventh Congress.

KENTUCKY

The project for flood control, Caseyville, Union County, Kentucky, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress.

52 Stat. 1215.

The project for flood control, Cloverport, Kentucky, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress.

The project for flood control, Concordia, Meade County, Kentucky, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress.

The section A-A portion of the floodwall of the project for flood control, Louisville, Kentucky, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress.

The project for flood control, Middlesboro, Yellow Creek, Bell County, Kentucky, authorized by the Flood Control Act of December 22, 1944, Public Law 534, Seventy-eighth Congress.

58 Stat. 887.

The project for flood control, Tolu, Crittenden County, Kentucky, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress.

LOUISIANA

The project for flood control, Black Bayou, Reservoir, Caddo Parish, Louisiana, authorized by the Flood Control Act of June 22, 1936, Public Law 738, Seventy-fourth Congress.

49 Stat. 1570.

The project for navigation, Overton-Red River Waterway above Mile 31, Louisiana, authorized by the River and Harbor Act of July 24, 1946, Public Law 526, Seventy-ninth Congress.

60 Stat. 634.

A portion of the project for navigation, Bayou La Fourche, Louisiana, authorized by the River and Harbor Act of August 30, 1935, Public Law 409, Seventy-fourth Congress, which portion consists of a 6-foot deep by 60-foot wide channel, 22 miles in length from Thibodaux to Lockport, Louisiana.

49 Stat. 1028.

MAINE

That portion of the project for navigation, Bar Harbor, Maine, authorized by the River and Harbor Act of August 11, 1888, and the River and Harbor Act of September 19, 1890, which portion consists of completing the breakwater to its fully authorized cross section.

The Dickey-Lincoln School project, Saint John River, Maine, authorized by section 204 of the Flood Control Act of 1965. 79 Stat. 1074.

That portion of the project for navigation, Kennebec River, Maine, authorized by the River and Harbor Act of June 13, 1902, which portion consists of the 27-foot channel above the bridge at Bath, Maine. 32 Stat. 331.

That portion of the project for navigation, Rockland Harbor, Maine, authorized by the Act of June 29, 1956, Public Law 630, Eighty-fourth Congress, which portion consists of an 18-foot access channel, 100 feet wide and 900 feet long to the shipyard along southern waterfront, and uncompleted portions of the outer limits of three branch channels along the central waterfront. 70 Stat. 407.

MARYLAND

The feature of the project for navigation, Baltimore Harbor and channels, Maryland, authorized by the River and Harbor Acts of August 8, 1917, January 21, 1927, July 3, 1930, October 17, 1940, March 2, 1945, July 3, 1958, and December 31, 1970, which feature consists of a navigation channel 150 feet wide to Ferry Bar and thence 27 feet deep and 150 feet wide to the Hanover Street Bridge. 46 Stat. 918. 59 Stat. 10. 72 Stat. 297. 84 Stat. 818.

MASSACHUSETTS

The project for navigation, Edgartown Harbor, Massachusetts, authorized by section 201 of the Flood Control Act of 1965 and approved by resolution adopted by the Committee on Public Works of the House of Representatives on December 15, 1970, and by the Committee on Public Works of the Senate on December 19, 1970. 42 USC 1962d-5.

The feature of the project for navigation, Fall River Harbor Channel, Massachusetts, authorized by the Act of July 3, 1930, Public Law 520, Seventy-first Congress, which feature consists of rock removal to a depth of 30 feet at the lower end of Hog Island Shoal at the north side of the entrance to Mount Hope Bay.

The project for navigation, Ipswich River, Massachusetts, authorized by the Flood Control Act of 1968. 82 Stat. 739.

The feature of the project for navigation, Nantucket Harbor of Refuge Anchorage, Massachusetts, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress, which feature consists of 15-foot deep anchorage, 2,800 feet long by 300 to 1,100 feet wide near the west side of the inner harbor, and a 15-foot deep fairway 200 feet wide between the anchorage and the main waterfront.

The project for navigation, New Bedford and Fairhaven Harbor, Bristol County, Massachusetts, authorized by the River and Harbor Act of July 25, 1912, Public Law 241, Sixty-second Congress.

The feature of the project for navigation, Newburyport Harbor, Essex County, Massachusetts, authorized by the Act of March 2, 1945, Public Law 14, Seventy-ninth Congress, which feature consists of deepening the entrance channel from 12 to 15 feet and deepening the turning basin along the Newburyport waterfront from 9 to 12 feet.

59 Stat. 10.

The Nookagee Lake feature of the project for flood control, North Nashua River, Massachusetts, authorized by the Flood Control Act of 1968, which feature consists of a multiple-purpose earthfill dam and reservoir on the North Nashua River in Westminster, Massachusetts.

82 Stat. 731.

The project for navigation, Pleasant Bay, Massachusetts, authorized by the Flood Control Act of 1970.

84 Stat. 1818.

The feature of the project for navigation, Salem Harbor, Essex County, Massachusetts, authorized by the Act of March 2, 1945, Public Law 14, Seventy-ninth Congress, which feature consists of deepening to 10 feet a channel from deep water in the central part of Salem Harbor to Pickering Wharf near the South River.

The uncompleted groin feature of the project for beach erosion control, Winthrop Beach, Massachusetts, authorized by the River and Harbor Act of 1950.

64 Stat. 163.

The feature of the project for navigation, Lynn Harbor, Massachusetts, authorized by the River and Harbor Act of 1954, which feature consists of enlarging the turning basin to include the easterly 300 feet of the municipal channel.

68 Stat. 1248.

The feature of the project for navigation, Lynn Harbor, Massachusetts, authorized by the River and Harbor Act of August 30, 1935, Public Law 409, Seventy-fourth Congress, which feature consists of deepening from 22 to 25 feet a 2.7-mile channel from Bass Point to and including a turning basin at the head of Lynn Harbor.

49 Stat. 1028.

The project for flood control, Monoosnoc Brook, Massachusetts, authorized by the River and Harbor Act of 1966.

80 Stat. 1405.

The project for flood control, Monoosnoc Lake, Worcester County, Massachusetts, authorized by the River and Harbor Act of November 7, 1966.

The feature of the project for beach erosion control, Cape Cod Canal to Provincetown, Massachusetts (Town Neck Beach), authorized by the River and Harbor Act of 1960 which feature consists of widening approximately 6,500 feet of beach east of the eastern entrance to Cape Cod Canal to 125 feet and raising the inshore end of the existing east jetty at the east entrance to such Canal.

74 Stat. 480.

MICHIGAN

The project for navigation, Forestville Harbor, Michigan, authorized by the River and Harbor Act of 1968.

82 Stat. 731.

The project for navigation, Middle Channel, Saint Clair River, Michigan, authorized by the River and Harbor Act of July 24, 1946, Public Law 525, Seventy-ninth Congress.

60 Stat. 634.

The project for flood control, Red Run Drain, Lower Clinton River, Michigan, authorized by the Flood Control Act of 1970.

The uncompleted portion of the project for navigation, Grand Marais Harbor, Michigan, authorized by the River and Harbor Act of June 14, 1880, which portion consists of widening the inner portion of the channel from 250 to 300 feet.

21 Stat. 180.

The uncompleted portion of the project for navigation, Keweenaw Waterway, Houghton County, Michigan, authorized by the River and Harbor Act of August 30, 1935, Public Law 409, Seventy-third Congress, which portion consists of extending the lower entrance breakwater by 2,000 feet, including the necessary alteration or replacement of structures due to channel deepening. 49 Stat. 1028.

The turning basin feature of the project for navigation, Ontonagon Harbor, Ontonagon County, Michigan, authorized by the River and Harbor Act of 1962. 76 Stat. 1173.

The Sanilac Flats feature of the project for flood control, Saginaw River, Michigan, authorized by the Flood Control Act of 1958, which feature provides for major drainage improvements on Middle Branch and South Branch, Cross River, and a short reach of East Branch. 72 Stat. 297.

The Corunna feature of the project for flood control, Saginaw River, Michigan, authorized by the Flood Control Act of 1958, which feature provides for flood protection by channel improvement, levee construction, and related work including construction of a 1,500 foot levee on the right bank; widening of two constrictive reaches of the Saginaw River at, and downstream of, the mill dam; enlargement of the spillway capacity of the mill dam; and removal of the remains of an abandoned railway bridge at the tile plant.

The Owosso feature of the project for flood control, Saginaw River, Michigan, authorized by the Flood Control Act of 1958, which feature provides flood protection by enlarging the river channel from the Ann Arbor Railroad Bridge to the city sewage treatment plant, removal of a portion of a building which encroaches on the river channel, removal of four dams and underpinning of the Main Street Bridge, and the provision of scour protection of four bridges.

The project for beach erosion control, Berrien County, Michigan (Saint Joseph Shore), authorized by the Flood Control Act of 1958.

The feature of the project for navigation, Alpena Harbor, Michigan, authorized by the River and Harbor Act of 1965, which feature consists of the proposed turning basin and breakwater reconfiguration. 79 Stat. 1089.

MINNESOTA

The project for flood control, Warroad River and Bull Dog Creek, Minnesota, authorized by the Flood Control Act of 1962. 76 Stat. 1180.

The feature of the navigation project for the Mississippi River between the Missouri River and Minneapolis, Minnesota, authorized by the River and Harbor Act of July 3, 1930, which feature consists of extension of the upper guidewall about 600 feet in length at lock numbered 3. 46 Stat. 918.

MISSISSIPPI

The project for navigation, Biloxi Harbor, Old Fort Bayou, Mississippi, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress. 59 Stat. 10.

The project for flood control, Buffalo River, Mississippi, authorized by the Flood Control Act of June 22, 1936, Public Law 738, Seventy-fourth Congress.

49 Stat. 1570.

The project for navigation, Pascagoula Harbor, Main Channel, Mississippi, authorized by the River and Harbor Act of March 2, 1827.

MISSOURI

The project for recreation, Angler Use Sites, Missouri, authorized by the Flood Control Act of 1966.

80 Stat. 1418.

The project for flood control, Mississippi River Agricultural Area 12, Missouri, authorized by the Flood Control Act of 1966.

The project for hydroelectric power, Pomme de Terre Lake (Power Project), Missouri, authorized by the Flood Control Act of 1954.

68 Stat. 1248.

The project for navigation, Sandy Slough Remedial Measures, Missouri, authorized by the River and Harbor Act of 1962.

The project for flood control, Mill Creek Lake, Missouri, authorized by the Flood Control Act of 1970.

84 Stat. 1818.

NEBRASKA

The project for flood control, Little Nemaha River, Nemaha County, Nebraska, authorized by the Flood Control Act of 1965.

79 Stat. 1073.

NEVADA

The project for flood control, Gleason Creek Dam, Nevada, authorized by the Flood Control Act of 1960.

74 Stat. 488.

The project for flood control, Humboldt River and Tributaries, Nevada, authorized by the Flood Control Act of 1950.

64 Stat. 163.

NEW JERSEY

The feature of the project for navigation, Newark Bay, Hackensack and Passaic Rivers, New Jersey, authorized by the River and Harbor Act of 1954 and by the River and Harbor Act of 1966 which feature consists of deepening of portions of the Hackensack River to 32 and 15 feet.

68 Stat. 1248.
80 Stat. 1405.

NEW YORK

The project for flood control, Allegany, New York, Unit 2, Five Mile Creek, authorized by the Flood Control Act of July 24, 1946, Public Law 526, Seventy-ninth Congress.

60 Stat. 641.

The project for flood control, Allegany, New York, Unit 1, Allegheny River, authorized by the Flood Control Act of July 24, 1946, Public Law 526, Seventy-ninth Congress.

The project for navigation, Hudson River, New York City to Albany (12-foot harbors), New York, authorized by the River and Harbor Act of June 25, 1910, Public Law 264, Sixty-first Congress.

The project for navigation, Hudson River, New York City to Albany (27-foot channel), New York, authorized by the Act of March 3, 1925, Public Law 585, Sixty-eighth Congress.

The project for navigation, Ogdensburg Harbor, New York, authorized by the River and Harbor Act of August 30, 1935, Public Law 409, Seventy-third Congress.

49 Stat. 1028.

The project for flood control, Red Creek, New York, authorized by the Flood Control Act of 1966. 80 Stat. 1418.

The uncompleted portion of the project for navigation, Ticonderoga River, Essex County, New York, authorized by the River and Harbor Act of March 3, 1881.

The project for navigation, Cape Vincent Harbor, New York, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress. 59 Stat. 10.

The project for hurricane protection, East Rockaway Inlet to Rockaway Inlet, Part 2, New York, authorized by the Flood Control Act of 1965. 79 Stat. 1073.

The project for flood protection, Hammondsport, Glen Brook (Glen Brook Flume), New York, authorized by the Flood Control Act of August 18, 1941, Public Law 228, Seventy-seventh Congress. 55 Stat. 638.

NORTH CAROLINA

The feature of the project for navigation, Atlantic Intracoastal Waterway—Peltier Creek, Carteret County, North Carolina, authorized by the River and Harbor Act of 1954, which feature includes a 12-foot channel. Maintenance of the existing 6-foot deep by 50-foot wide channel shall remain authorized. 68 Stat. 1248.

The project for navigation, Atlantic Intracoastal Waterway Tidal Lock in Snows Cut, North Carolina, authorized by the River and Harbor Act of January 21, 1927, Public Law 560, Seventieth Congress.

The feature of the project for beach erosion control, Fort Macon State Park, North Carolina, authorized by the River and Harbor Act of 1962 and the Flood Control Act of 1962, which feature includes placing of capstone and remaining portions of beach fill and replenishment thereof. 76 Stat. 1173, 1180.

The feature of the project for navigation, Morehead City Harbor, North Carolina, authorized by the River and Harbor Act of August 26, 1937, Public Law 392, Seventy-fifth Congress.

The project for beach stabilization and hurricane protection, Ocracoke Island, North Carolina, authorized by the Flood Control Act of 1965.

The project for beach stabilization and hurricane protection, Ocracoke Island-Village Shore, North Carolina, authorized by the Flood Control Act of 1965.

The feature of the project for navigation, Ocracoke Inlet Jetty, Hyde County, North Carolina, authorized by the River and Harbor Act of 1960, which feature consists of a single jetty extending from Ocracoke Island to the 20-foot depth in the Atlantic Ocean. 74 Stat. 480.

The portion of the project for navigation, Roanoke River, Halifax County, North Carolina, authorized by the River and Harbor Act of June 20, 1938, Public Law 685, Seventy-fifth Congress, which portion consists of constructing a 50-mile-long channel above Palmyra Landing to Weldon, North Carolina, 5 feet deep and 50 feet wide by dredging, snagging, and regulating.

OHIO

The additional beartraps, guardwalls, and extension of guidewalls features of the project for navigation, Ohio River, Ohio, authorized by the Flood Control Act of 1937. 50 Stat. 877.

The project for flood control, Burlington, Ohio, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress.

52 Stat. 1215.

The project for flood control, Chesapeake, Ohio, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress.

The project for flood control, Empire-Stratton, Ohio, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress.

The project for flood control, Martins Ferry, Belmont County, Ohio, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress.

The project for flood control, Powhatan Point, Belmont County, Ohio, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress.

The project for flood control, Proctorville, Ohio, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress.

The project for flood control, South Point, Ohio, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress.

The project for flood control, Salt Creek Lake, Ohio, authorized by the Flood Control Act of 1962.

76 Stat. 1180.

OREGON

The project for flood control, Columbia Drainage District No. 1, Oregon, authorized by the Flood Control Act of 1950.

64 Stat. 170.

The project for flood control, Deer Island Drainage District, Oregon, authorized by the Flood Control Act of 1950.

The project for flood control, Shelton Ditch, Marion County, Oregon, authorized by the Flood Control Act of 1950.

The project for flood control, Umpqua River-Scholfield River, Oregon, authorized by the Flood Control Act of September 22, 1922, Public Law 362, Sixty-seventh Congress, and the Flood Control Act of 1954.

68 Stat. 1248.

The project for flood control, Cascadia Lake, Oregon, authorized by the Flood Control Act of 1962.

The project for flood control, Gate Creek Lake, Oregon, authorized by the Flood Control Act of 1962.

The project for flood control, Grande Ronde Lake, Oregon, authorized by the Flood Control Act of 1965.

79 Stat. 1073.

The project for flood control, Grande Ronde Valley, Oregon, authorized by the Flood Control Act of 1950.

The project for flood control, Holley Lake, Oregon, authorized by the Flood Control Act of 1950.

The project for flood control, Pendleton Levees, Riverside Area, Oregon, authorized by the Flood Control Act of 1950.

The uncompleted portions of the project for navigation, Willamette River above Portland and Yamill River, Oregon, authorized by the River and Harbor Act of June 3, 1896, as modified by the River and Harbor Act of June 28, 1938, Public Law 761, Seventy-fifth Congress.

54 Stat. 202.

The project for navigation, Willamette River at Willamette Falls, Oregon, authorized by the River and Harbor Act of June 25, 1910, Public Law 264, Sixty-first Congress, and the River and

Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress. 59 Stat. 10.

PENNSYLVANIA

The project for flood control, Brackenridge, Tarentum, and Natrona, Pennsylvania, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress. 52 Stat. 1215.

The project for navigation, Chester River, Delaware County (8-ft. channel), Pennsylvania, authorized by the River and Harbor Act of March 2, 1919, Public Law 323, Sixty-fifth Congress.

The project for flood control, Leetsdale, Allegheny County, Levee and Drainage Facility, Pennsylvania, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress.

The project for flood control, Muddy Creek Lake, Pennsylvania, authorized by the Flood Control Act of 1962. 76 Stat. 1180.

The project for flood control, Neville Island, Pennsylvania, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress.

The project for flood control, New Kensington and Parnassus, Pennsylvania, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress.

The project for flood control, Rochester, Beaver County, Pennsylvania, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress.

The project for flood control, Trexler Dam and Lake, Lehigh County, Pennsylvania, authorized as part of the Delaware River Basin project pursuant to section 203 of the Flood Control Act of 1962.

The project for navigation, Youghiogheny River Canalization, Pennsylvania, authorized by the River and Harbor Act of 1930, Public Law 395, Seventy-first Congress. 46 Stat. 918.

The project for flood control, Aquashicola Lake, Pennsylvania, authorized by the Flood Control Act of 1962.

The project for flood control, Maiden Creek Lake Earth Dam, Pennsylvania, authorized by the Flood Control Act of 1962.

PUERTO RICO

The project for navigation, Fajardo Harbor (28 foot Channel and Tidal Basin), Puerto Rico, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress.

The project for navigation, Guayanes Harbor (23 foot channel and anchorage), Puerto Rico, authorized by the River and Harbor Act of August 26, 1937, Public Law 392, Seventy-fifth Congress.

RHODE ISLAND

The features of the project for navigation, Great Salt Pond, Newport County, Rhode Island, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress, which features include a 1,200-foot long north jetty at the entrance to Great Salt Pond and a 12-foot access channel and basin in the inner harbor (Trim Pond).

The features of the project for navigation, Harbor of Refuge, Block Island, Rhode Island, authorized by the River and Harbor Act of July 25, 1912, Public Law 241, Sixty-second Congress, which features include two 15-foot anchorages in the outer harbor.

The portions of the project for navigation, Pawcatuck River, Washington County, Rhode Island, authorized by the River and Harbor Act of June 3, 1896, which portions include widening the middle section of the Little Narraganset Bay channel by an additional 100 feet to 200 feet, widening a 5,000 foot section of the river channel at Avondale by an additional 100 feet to 200 feet, and by deepening a 2,000 foot section of the upper river channel by an additional 3 feet to 10 feet.

54 Stat. 202.

The portion of the project for navigation, Providence River and Harbor, Rhode Island, authorized by the River and Harbor Act of 1965, which portion consists of the branch channel along the India Point waterfront, 30 feet deep, 150 feet wide, and about 1,000 feet long.

79 Stat. 1089.

The project for flood control, Westerly Hurricane Protection, Rhode Island, authorized by the Flood Control Act of 1965.

79 Stat. 1073.

SOUTH CAROLINA

The project for navigation, Charleston Harbor, Ft. Moultrie Anchorage Area, South Carolina, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress.

59 Stat. 10.

The project for navigation, Myrtle Beach, Anchorage Basin, South Carolina, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress.

The project for flood control, Reedy River, Greenville, South Carolina, authorized by section 201 of the Flood Control Act of 1965 and approved by resolution of the Committee on Public Works of the House of Representatives, dated December 1970, and resolution of the Committee on Public Works of the Senate, dated December 1970.

42 USC 1962d-5.

TENNESSEE

The project for navigation, Cumberland River above Nashville, Tennessee, authorized by the River and Harbor Act of August 5, 1886.

The project for navigation, Hiwassee River, Polk and Bradley Counties, Tennessee, authorized by the River and Harbor Act of August 14, 1876.

The project for flood control, Rossview Lake, Tennessee and Kentucky, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress.

52 Stat. 1215.

The project for hydroelectric power, Alabama-Coosa River Basin, Jacks River Lake, Tennessee, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress.

TEXAS

The project for flood control, Alpine, Texas, authorized by section 201 of the Flood Control Act of 1965 and approved by resolution of the Committee on Public Works of the House of

Representatives, dated April 11, 1974, and resolution of the Committee on Public Works of the Senate, dated May 31, 1974.

The portion of the project for navigation, Brazos Island Harbor, Texas, authorized by the River and Harbor Act of 1960, which portion consists of the north jetty extension. 74 Stat. 480.

The project for navigation, Brazos River, Velasco to Old Washington, Texas, authorized by the River and Harbor Act of June 13, 1902. 32 Stat. 331.

The project for navigation, Cedar Bayou (mile 3.0 to mile 11.0), Harris, Texas, authorized by the River and Harbor Act of September 19, 1890, as amended by the River and Harbor Act of July 3, 1930, Public Law 520, Seventy-first Congress. 46 Stat. 918.

The feature of the navigation project for the Channel to Port Bolivar, Texas, authorized by the River and Harbor Act of March 2, 1907, Public Law 168, Fifty-ninth Congress, as amended by the River and Harbor Act of June 25, 1910, Public Law 264, Sixty-first Congress, and the River and Harbor Act of March 2, 1919, which feature consists of a turning basin of 750 feet wide by 1,600 feet long and 30 feet deep.

The project for flood control, Duck Creek Channel Improvement, Texas, authorized by the Flood Control Act of 1965. 79 Stat. 1073.

The portion of the project for navigation, Gulf Intracoastal Waterway Channel to Harlingen, Texas, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress, which portion consists of a channel from mile 25.8 to mile 31.0 on the Arroyo Colorado, upstream of the turning basin between Rio Hondo and Harlingen, Texas. 59 Stat. 10.

The feature of the project for navigation, Gulf Intracoastal Waterway-Chocolate Bayou, Texas, authorized by the River and Harbor Act of 1965, which feature consists of channel enlargement to 9 by 100 feet from channel mile 8.2 to channel mile 13.2 and construction of a turning basin 600 feet wide and 9 feet deep at channel mile 13.2 on Chocolate Bayou. 79 Stat. 1089.

The portion of the project for navigation, Houston Ship Channel, Greens Bayou, Texas, authorized by the River and Harbor Act of 1965, which portion consists of the upper 1.1 mile increment of the project channel on Greens Bayou.

The portion of the project for navigation, Gulf Intracoastal Waterway, Texas, Channel Relocation in Matagorda Bay, authorized by the River and Harbor Act of June 25, 1910, Public Law 264, Sixty-first Congress, as amended by the River and Harbor Act of 1925, Public Law 585, Sixty-eighth Congress, the River and Harbor Act of January 21, 1927, Public Law 560, Sixty-ninth Congress, the River and Harbor Act of July 23, 1942, Public Law 675, Seventy-seventh Congress, and the River and Harbor Act of 1962, which portion consists of the relocation of a segment of the Gulf Intracoastal Waterway in Matagorda Bay between miles 454.3 and 471.3. 61 Stat. 630. 68 Stat. 1186. 76 Stat. 1173.

The project for flood control, Lake Brownwood, Texas, authorized by the Flood Control Act of 1968. 82 Stat. 731.

The project for flood control, Lake Fork Lake-Lake Fork Creek, Texas, authorized by the Flood Control Act of 1970. 84 Stat. 1818.

The project for flood control, Navasota Lake, Texas, authorized by the Flood Control Act of 1968.

The project for flood control, Peyton Creek, Matagorda County, Texas, authorized by section 201 of the Flood Control Act of 1965 and approved by resolutions of the Committee on 42 USC 1962d-5.

Public Works of the House of Representatives and the Committee on Public Works of the Senate, dated October 12, 1972.

42 USC 1962d-5.

The project for flood control, Plainview, Texas, authorized by section 201 of the Flood Control Act of 1965 and approved by resolution of the Committee on Public Works of the House of Representatives, dated December 15, 1970, and the Committee on Public Works of the Senate, dated December 17, 1970.

79 Stat. 1089.

The project for flood control, Roanoke Lake, Texas, authorized by the River and Harbor Act of 1965.

76 Stat. 1173.

The portion of the project for navigation, Sabine Neches Waterway Channel to Echo, Texas, authorized by the River and Harbor Act of 1962, which portion consists of the unconstructed channel in the Sabine River between Orange and Echo, Texas.

84 Stat. 1818.

The project for navigation, Sabine River, Echo to Morgan Bluff, Texas, authorized by the Flood Control Act of 1970.

79 Stat. 1073.

The Liberty Local Protection feature of the project for flood control, Trinity River and tributaries, Texas, authorized by the Flood Control Act of 1965.

73 Stat. 478.

The portion of the project for Gulf Intracoastal Waterway-Channel to Port Mansfield, Texas, authorized by section 4 of Public Law 86-248, which consists of a small craft basin at Port Mansfield, Texas.

UTAH

82 Stat. 745.

The project for flood control, Weber River and Tributaries, Morgan County, Utah, authorized by section 206 of the River and Harbor Act of 1968.

VERMONT

49 Stat. 1570.

The project for flood control, Bennington, Vermont, authorized by the Flood Control Act of June 22, 1936, Public Law 738, Seventy-fourth Congress.

The project for navigation, Otter Creek, Addison County, Vermont, authorized by the River and Harbor Act of June 10, 1872.

The project for flood control, Rutland Otter Creek, Vermont, authorized by the Flood Control Act of June 22, 1936, Public Law 738, Seventy-fourth Congress, as amended by the Flood Control Act of July 31, 1947, Public Law 296, Eightieth Congress.

VIRGINIA

68 Stat. 1248.

The project for navigation, Thimble Shoal Channel, Virginia, authorized by the River and Harbor Act of 1954 consisting of side channels 32 feet deep and 450 feet wide on both sides of the 1,000-foot channel.

52 Stat. 1215.

The project for flood control, water quality control, recreation, fish and wildlife enhancement, and hydroelectric power generation, Moore's Ferry Lake, Virginia and North Carolina, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress.

59 Stat. 10.

The feature of the project for navigation, Pamunkey River, Hanover and King Counties, Virginia, authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress, which feature consists of a channel 5 feet deep and 50 feet wide between Bassett Ferry and Manquin Bridge.

VIRGIN ISLANDS

The uncompleted portion of the project for navigation, Christiansted Harbor-St. Croix, Virgin Islands, authorized by the River and Harbor Act of 1950, which portion consists of an approach channel 25 feet and 300 feet wide from the Caribbean Sea to and including a turning basin 25 feet deep, approximately 600 feet wide, and 900 feet long. 64 Stat. 163.

The portion of the project for navigation, St. Thomas Harbor, Virgin Islands, authorized by the River and Harbor Act of August 26, 1937, Public Law 392, Seventy-fifth Congress, which portion consists of construction of an entrance channel 36 feet deep and 600 feet wide, an anchorage area 33 feet deep, a breakwater 700 feet long between Rupert Rock and the mainland, and removal of Scorpion Rock to a depth of 36 feet.

WAKE ISLAND

The project for navigation, Wake Island Harbor, Wake Island, authorized by the River and Harbor Act of August 26, 1937, Public Law 392, Seventy-fifth Congress.

WASHINGTON

The project for flood control, Entiat River, Chelan County, Washington, authorized by the Flood Control Act of 1950. 64 Stat. 170.

The project for flood control, Lower Walla Walla River, Washington, authorized by the Flood Control Act of 1950.

The project for flood control, Methow River, Okanogan County, Washington, authorized by the Flood Control Act of 1950.

The uncompleted portion of the project for flood control, Okanogan River, Okanogan, Washington, authorized by the Flood Control Act of 1950.

The unconstructed groin feature of the project for navigation, Quillayute River, Clallam County, Washington, authorized by the Act of July 3, 1930, Public Law 520, Seventy-first Congress.

The feature of the project for navigation, Seattle Harbor, King County, Washington, authorized by the Act of July 3, 1930, Public Law 520, Seventy-first Congress, which feature consists of a settling basin located at the upper end of the existing Duwamish waterway navigation project about 1.4 miles above the 14th Avenue South Bridge.

The project for flood control, Spokane River, Spokane, Washington, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress. 52 Stat. 1215.

The project for flood control, Yakima River at Ellensburg, Washington, authorized by the Flood Control Act of 1950.

The project for flood control, Palouse River, Whitman County, Washington, authorized by the Flood Control Act of 1950.

The project for flood control, Pullman Palouse River, Washington, authorized by the Flood Control Act of 1944. 58 Stat. 887.

The project for navigation, Stillaquamish River, Washington, authorized by the Act of March 2, 1945, Public Law 14, Seventy-ninth Congress. 59 Stat. 10.

WEST VIRGINIA

The project for flood control, Moundsville, Marshall County, Levees, West Virginia, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress.

52 Stat. 1215.

The project for flood control, Panther Creek Lake, West Virginia, authorized by the Flood Control Act of 1965.

79 Stat. 1073.

The project for flood control, Proctor, Wetzel County, West Virginia, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress.

The project for flood control, Ravenswood, West Virginia, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress.

The project for flood control, Warwood, Ohio County, Wall and Drainage, West Virginia, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress.

The project for flood control, North Wheeling, Ohio County, West Virginia, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress.

The project for flood control, Wheeling, Ohio County, Levees, Walls and Pumping Plant, West Virginia, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress.

The project for flood control, Wheeling Island, Ohio County, West Virginia, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress.

The project for flood control, Birch Lake, West Virginia, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress.

The project for flood control, Woodlands, Marshall County, West Virginia, authorized by the Flood Control Act of June 28, 1938, Public Law 761, Seventy-fifth Congress.

WISCONSIN

The project for navigation, Hudson Small Boat Harbor, Wisconsin, authorized by the Flood Control Act of 1950.

64 Stat. 170.

WYOMING

The project for flood control, Buffalo, Johnson County, Diversion Channel, Wyoming, authorized by the Flood Control Act of 1950.

SEC. 1003. (a) The project for flood control, Lakeport Lake, California, authorized by the Flood Control Act of 1965, is not authorized after the date of enactment of this Act.

(b) Notwithstanding section 203 of the Federal Property and Administrative Services Act of 1949 and any other provision of law, the Secretary shall, during the five-year period beginning on the date of enactment of this Act, make all lands acquired by the United States for the Lakeport Lake project available for purchase by the Lake County Flood and Water Conservation District at the price at which such lands were acquired by the United States. Such District may waive the right to purchase any lands under the preceding sentence at any time during such period.

40 USC 484.

(c) Any conveyance of land under subsection (b) shall be made on the condition that the Lake County Flood and Water Conservation District retain title to and administer such land for flood control and

related purposes. If, at any time after such conveyance, title to such land is not retained or such land is not so administered, all right, title, and interest in such land shall revert to the United States which shall have immediate right of reentry thereon.

SEC. 1004. (a) The Onaga Lake project, Vermillion Creek, Kansas, authorized by the Flood Control Act of 1962 (Public Law 87-874), is not authorized after the date of enactment of this Act. Kansas. 76 Stat. 1180.

(b) The Secretary shall expedite the current study under section 216 of the Flood Control Act of 1970 with respect to the addition of water supply storage at Tuttle Creek Lake, Kansas. 84 Stat. 1830.

SEC. 1005. (a) The portion of the flood control project for the Illinois River and tributaries, Illinois, Wisconsin, and Indiana, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1189) which is to be located on the Sangamon River, Illinois, about 1 mile upstream from Decatur, Illinois, and which is known as the William L. Springer Lake project is not authorized after the date of enactment of this Act. Illinois. Wisconsin. Indiana.

(b) Notwithstanding section 203 of the Federal Property and Administrative Services Act of 1949 and any other provision of law, before any lands acquired by the United States for the William L. Springer Lake project referred to in subsection (a) of this section are sold or otherwise disposed of or used for any purpose other than to carry out such project, such lands shall first be made available for purchase by the city of Decatur, Illinois, at the price at which such lands were acquired by the United States. Such lands shall remain in public ownership for use for public purposes, and if any of such lands are not so owned or used, then such lands shall revest in the United States. 40 USC 484.

SEC. 1006. (a) The portion described in subsection (b) of the project for navigation, Mianus River, Connecticut, authorized by the River and Harbor Act approved March 2, 1945, is not authorized after the date of the enactment of this Act. Connecticut. 59 Stat. 10.

(b) The portion referred to in subsection (a) is the portion located at the northwest corner of the project and described as follows:

Beginning at a point forming the northwesterly corner of the project and designated with the coordinate of North 14297.99; East 13035.00; thence along the following four courses and distances:

(1) South 86 degrees, 22 minutes, 56 seconds East 25.00 feet (coordinate: N14297.99 E13025.00)

(2) South 3 degrees, 37 minutes, 18 seconds West 326.25 feet (coordinates N14296.251 E13049.95)

(3) South 23 degrees, 23 minutes, 64 seconds West 73.89 feet (coordinate: N13970.8 E13029.34)

(4) North 3 degrees, 37 minutes, 18 seconds East 395.78 feet (coordinate: N13903.00 E13000.00)

the point and place of beginning.

TITLE XI—MISCELLANEOUS PROGRAMS AND PROJECTS

SEC. 1101. CONTROL OF ICE.

33 USC 2307.

(a) The Secretary shall undertake a program of research for the control of ice, and to assist communities in breaking up ice, which otherwise is likely to cause or aggravate flood damage or severe streambank erosion. Research and development.

State and local governments.

(b) The Secretary is further authorized to provide technical assistance to units of local government to implement local plans to control or break up such ice. As part of such authority, the Secretary shall acquire necessary ice-control or ice-breaking equipment, which shall be loaned to units of local government together with operating assistance, where appropriate.

Appropriation authorization.

(c) There is authorized to be appropriated $5,000,000 per fiscal year for each of the fiscal years 1988, 1989, 1990, 1991, and 1992 for purposes of carrying out subsections (a) and (b) of this section, such sums to remain available until expended.

Vermont.

(d) To implement further the purposes of this section, the Secretary, in consultation and cooperation with local officials, is authorized and directed to undertake a demonstration program for the control of ice at Hardwick, Vermont. The work authorized by this subsection shall be designed to minimize the danger of flooding due to ice problems in the vicinity of such community. In the design, construction, and location of ice-control structures for this project, full consideration will be given to the recreational, scenic, and environmental values of the reach of river affected by the project, in order to minimize project impacts on these values. Full opportunity shall be given to interested environmental and recreational organizations to participate in such planning. There is authorized to be appropriated $900,000 for fiscal years beginning after September 30, 1986, for the purposes of carrying out this subsection, such sum to remain available until expended.

Appropriation authorization.

Idaho.
Report.

(e)(1) The Secretary is directed to complete an experimental program placing screens in the Salmon River in the vicinity of Salmon, Idaho, to trap frazil ice, and thus to eliminate flooding caused by ice dams in the river. Within one year of the enactment of this Act, the Secretary shall report to the Congress on the feasibility of such experiment, including consideration of any adverse environmental or social effects that could result from such experiment. If, in the Secretary's judgment, such experiment is not feasible or acceptable, the Secretary is authorized to consult with local public interests to develop a plan that is workable and practical, and then to submit such plan to Congress.

Appropriation authorization.

(2) There is authorized to be appropriated $1,000,000 for fiscal years beginning after September 30, 1986, for purposes of carrying out this subsection, such sum to remain available until expended.

Illinois.
Report.

(f)(1) To implement further the purposes of this section, the Secretary shall carry out a project for the control of ice on the Kankakee River in the vicinity of Wilmington, Illinois. The Secretary shall report to Congress not later than one year after the date of enactment of this Act and annually thereafter on the effectiveness of the program under this section with respect to the Kankakee River in the vicinity of Wilmington, Illinois.

Appropriation authorization.

(2) There is authorized to be appropriated $3,000,000 for fiscal years beginning after September 30, 1986, for purposes of carrying out this subsection, such sum to remain available until expended.

(g) Cost sharing applicable to flood control projects under section 103 shall apply to projects under this section.

Reports.

(h) Not later than March 1, 1989, the Secretary shall report to the Congress on activities under this section.

SEC. 1102. GAULEY RIVER WHITEWATER RECREATION.

(a) Whitewater recreation on the Gauley River downstream of the Summersville Lake Project in West Virginia is a project purpose of that project. West Virginia.

(b) During the fall flood control drawdown period for the Summersville Lake Project, the Secretary shall provide releases from the Summersville Dam for whitewater recreation in the 26 mile tailwater segment of the Gauley River commencing at the base of such dam. Such releases shall be at levels (minimum 2,500 cubic feet per second) and at times suitable for whitewater recreation. The releases shall commence on the first weekend after Labor Day of each year. In each year there shall be releases on at least 20 days during the 6-week period beginning on Labor Day. Additional releases may be provided at other times during the fall drawdown at the discretion of the Secretary.

(c) The Secretary may temporarily suspend (for such period as may be necessary) or modify any release required under subsection (b) when necessary for purposes of flood control or any other project purpose, or for reasons of public health and safety. Except in cases of emergency, no suspension or modification of such releases may be made solely for reasons associated with the generation of hydroelectric power at the Summersville Dam. Flood control.

(d) Nothing in subsection (b) of this section shall be construed to affect the authority of the Secretary regarding releases of water from the Summersville Dam for any project purpose (including the purpose set forth in subsection (a)) at any time other than during the period specified in subsection (b).

SEC. 1103. UPPER MISSISSIPPI RIVER PLAN.

(a)(1) This section may be cited as the "Upper Mississippi River Management Act of 1986". Upper Mississippi River Management Act of 1986. 33 USC 652.

(2) To ensure the coordinated development and enhancement of the Upper Mississippi River system, it is hereby declared to be the intent of Congress to recognize that system as a nationally significant ecosystem and a nationally significant commercial navigation system. Congress further recognizes that the system provides a diversity of opportunities and experiences. The system shall be administered and regulated in recognition of its several purposes.

(b) For purposes of this section—

(1) the terms "Upper Mississippi River system" and "system" mean those river reaches having commercial navigation channels on the Mississippi River main stem north of Cairo, Illinois; the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; Illinois River and Waterway, Illinois; and Kaskaskia River, Illinois;

(2) the term "Master Plan" means the comprehensive master plan for the management of the Upper Mississippi River system, dated January 1, 1982, prepared by the Upper Mississippi River Basin Commission and submitted to Congress pursuant to Public Law 95-502;

(3) the term "GREAT I, GREAT II, and GRRM studies" means the studies entitled "GREAT Environmental Action Team—GREAT I—A Study of the Upper Mississippi River", dated September 1980, "GREAT River Environmental Action Team—GREAT II—A Study of the Upper Mississippi River", dated December 1980, and "GREAT River Resource Management Study", dated September 1982; and

(4) the term "Upper Mississippi River Basin Association" means an association of the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, formed for the purposes of cooperative effort and united assistance in the comprehensive planning for the use, protection, growth, and development of the Upper Mississippi River System.

(c)(1) Congress hereby approves the Master Plan as a guide for future water policy on the Upper Mississippi River system. Such approval shall not constitute authorization of any recommendation contained in the Master Plan.

42 USC 1962b-3 note.

(2) Section 101 of Public Law 95-502 is amended by striking out the last two sentences of subsection (b), striking out subsection (i), striking out the final sentence of subsection (j), and redesignating subsection "(j)" as subsection "(i)".

Illinois. Iowa. Minnesota. Missouri. Wisconsin.

(d)(1) The consent of the Congress is hereby given to the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, or any two or more of such States, to enter into negotiations for agreements, not in conflict with any law of the United States, for cooperative effort and mutual assistance in the comprehensive planning for the use, protection, growth, and development of the Upper Mississippi River system, and to establish such agencies, joint or otherwise, or designate an existing multi-State entity, as they may deem desirable for making effective such agreements. To the extent required by Article I, section 10 of the Constitution, such agreements shall become final only after ratification by an Act of Congress.

USC prec. title 1.

State and local governments.

(2) The Secretary is authorized to enter into cooperative agreements with the Upper Mississippi River Basin Association or any other agency established under paragraph (1) of this subsection to promote and facilitate active State government participation in the river system management, development, and protection.

(3) For the purpose of ensuring the coordinated planning and implementation of programs authorized in subsections (e) and (h)(2) of this section, the Secretary shall enter into an interagency agreement with the Secretary of the Interior to provide for the direct participation of, and transfer of funds to, the Fish and Wildlife Service and any other agency or bureau of the Department of the Interior for the planning, design, implementation, and evaluation of such programs.

(4) The Upper Mississippi River Basin Association or any other agency established under paragraph (1) of this subsection is hereby designated by Congress as the caretaker of the master plan. Any changes to the master plan recommended by the Secretary shall be submitted to such association or agency for review. Such association or agency may make such comments with respect to such recommendations and offer other recommended changes to the master plan as such association or agency deems appropriate and shall transmit such comments and other recommended changes to the Secretary. The Secretary shall transmit such recommendations along with the comments and other recommended changes of such association or agency to the Congress for approval within 90 days of the receipt of such comments or recommended changes.

Illinois. Iowa. Minnesota. Missouri. Wisconsin.

(e)(1) The Secretary, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, is authorized to undertake, as identified in the master plan—

(A) a program for the planning, construction, and evaluation of measures for fish and wildlife habitat rehabilitation and enhancement;

Fish and fishing.
Wildlife.

(B) implementation of a long-term resource monitoring program; and

(C) implementation of a computerized inventory and analysis system.

(2) Each program referred to in paragraph (1) shall be carried out for ten years. Before the last day of such ten-year period, the Secretary, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, shall conduct an evaluation of such programs and submit a report on the results of such evaluation to Congress. Such evaluation shall determine each such program's effectiveness, strengths, and weaknesses and contain recommendations for the modification and continuance or termination of such program.

Illinois.
Iowa.
Minnesota.
Missouri.
Wisconsin.
Report.

(3) For purposes of carrying out paragraph (1)(A) of this subsection, there is authorized to be appropriated to the Secretary not to exceed $8,200,000 for the first fiscal year beginning after the date of enactment of this Act, not to exceed $12,400,000 for the second fiscal year beginning after the date of enactment of this Act, and not to exceed $13,000,000 per fiscal year for each of the succeeding eight fiscal years.

Appropriation authorization.

(4) For purposes of carrying out paragraph (1)(B) of this subsection, there is authorized to be appropriated to the Secretary not to exceed $7,680,000 for the first fiscal year beginning after the date of enactment of this Act and not to exceed $5,080,000 per fiscal year for each of the succeeding nine fiscal years.

Appropriation authorization.

(5) For purposes of carrying out paragraph (1)(C) of this subsection, there is authorized to be appropriated to the Secretary not to exceed $40,000 for the first fiscal year beginning after the date of enactment of this Act, not to exceed $280,000 for the second fiscal year beginning after the date of enactment of this Act, not to exceed $1,220,000 for the third fiscal year beginning after the date of enactment of this Act, and not to exceed $875,000 per fiscal year for each of the succeeding seven fiscal years.

Appropriation authorization.

(6)(A) Notwithstanding the provisions of subsection (a)(2) of this section, the costs of each project carried out pursuant to paragraph (1)(A) of this subsection shall be allocated between the Secretary and the appropriate non-Federal sponsor in accordance with the provisions of section 906 of this Act.

(B) Notwithstanding the provisions of subsection (a)(2) of this section, the cost of implementing the activities authorized by paragraphs (1)(B) and (1)(C) of this subsection shall be allocated in accordance with the provisions of section 906 of this Act, as if such activity was required to mitigate losses to fish and wildlife.

Fish and fishing.
Wildlife.

(7) None of the funds appropriated pursuant to any authorization contained in this subsection shall be considered to be chargeable to navigation.

(f)(1) The Secretary, in consultation with any agency established under subsection (d)(1) of this section, is authorized to implement a program of recreational projects for the system substantially in accordance with the recommendations of the GREAT I, GREAT II, and GRRM studies and the master plan reports. In addition, the Secretary, in consultation with any such agency, shall, at Federal expense, conduct an assessment of the economic benefits generated by recreational activities in the system. The cost of each such project

shall be allocated between the Secretary and the appropriate non-Federal sponsor in accordance with title I of this Act.

Appropriation authorization.

(2)(A) For purposes of carrying out the program of recreational projects authorized in paragraph (1) of this subsection, there is authorized to be appropriated to the Secretary not to exceed $500,000 per fiscal year for each of the first ten fiscal years beginning after the effective date of this section.

Appropriation authorization.

(B) For purposes of carrying out the assessment of the economic benefits of recreational activities as authorized in paragraph (1) of this subsection, there is authorized to be appropriated to the Secretary not to exceed $300,000 per fiscal year for the first and second fiscal years beginning after the computerized inventory and analysis system implemented pursuant to subsection (e)(1)(C) of this section is fully functional and $150,000 for the third such fiscal year.

(g) The Secretary shall, in his budget request, identify those measures developed by the Secretary, in consultation with the Secretary of Transportation and any agency established under subsection (d)(1) of this section, to be undertaken to increase the capacity of specific locks throughout the system by employing non-structural measures and making minor structural improvements.

(h)(1) The Secretary, in consultation with any agency established under subsection (d)(1) of this section, shall monitor traffic movements on the system for the purpose of verifying lock capacity, updating traffic projections, and refining the economic evaluation so as to verify the need for future capacity expansion of the system.

Illinois. Iowa. Minnesota. Missouri. Wisconsin. Environmental protection.

(2) The Secretary, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, shall determine the need for river rehabilitation and environmental enhancement and protection based on the condition of the environment, project developments, and projected environmental impacts from implementing any proposals resulting from recommendations made under subsection (g) and paragraph (1) of this subsection.

Appropriation authorization.

(3) There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out this subsection.

(i)(1) The Secretary shall, as he determines feasible, dispose of dredged material from the system pursuant to the recommendations of the GREAT I, GREAT II, and GRRM studies.

(2) The Secretary shall establish and request appropriate Federal funding for a program to facilitate productive uses of dredged material. The Secretary shall work with the States which have, within their boundaries, any part of the system to identify potential users of dredged material.

Illinois. Missouri.

(j) The Secretary is authorized to provide for the engineering, design, and construction of a second lock at locks and dam 26, Mississippi River, Alton, Illinois and Missouri, at a total cost of $220,000,000, with a first Federal cost of $220,000,000. Such second lock shall be one hundred and ten feet by six hundred feet and shall be constructed at or in the vicinity of the location of the replacement lock authorized by section 102 of Public Law 95-502. Section 102 of this Act shall apply to the project authorized by this subsection.

92 Stat. 1695.

SEC. 1104. ILLINOIS AND MISSISSIPPI CANAL.

Section 110(f) of the River and Harbor Act of 1958 (72 Stat. 303) is amended by striking out "$6,528,000" and inserting in lieu thereof "$15,000,000".

SEC. 1105. NEW YORK STATE BARGE CANAL.

(a) The Secretary is authorized to reimburse the State of New York for 50 percent of the cost of operating, maintaining, and rehabilitating the New York State Barge Canal. Control and operation of such canal shall continue to reside with the State of New York. The Federal contribution to the costs of rehabilitating the New York State Barge Canal shall be limited in any fiscal year to $5,000,000, or 50 percent of the expenditures in that fiscal year, whichever is the lesser.

(b) For the purposes of this section, the New York State Barge Canal is defined to be—

(1) the Erie Canal, which connects the Hudson River at Waterford with the Niagara River at Tonawanda;

(2) the Oswego Canal, which connects the Erie Canal at Three Rivers with Lake Ontario at Oswego;

(3) the Champlain Canal, which connects the easterly end of the Erie Canal at Waterford with Lake Champlain at Whitehall; and

(4) the Cayuga and Seneca Canals, which connect the Erie Canal at a point near Montezuma with Cayuga and Seneca Lakes and through Cayuga Lake and Ithaca and through Seneca Lake with Montour Falls.

SEC. 1106. CALIFORNIA DEBRIS COMMISSION. 33 USC 661 note.

(a) The California Debris Commission established by the first section of the Act of March 1, 1893 (33 U.S.C. 661) is hereby abolished.

(b) All authorities, powers, functions, and duties of the California Debris Commission are hereby transferred to the Secretary.

(c) The assets, liabilities, contracts, property, records, and the unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used arising from, available to, or to be made available in connection with the authorities, powers, functions, and duties transferred by this section, subject to section 202 of the Budget and Accounting Procedure Act of 1950, are hereby transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated. 31 USC 1531 note.

(d) All acquired lands, and other interests therein presently under the jurisdiction of the California Debris Commission are hereby authorized to be retained, and shall be administered under the direction of the Secretary, who is hereby authorized to take such actions as are necessary to consolidate and perfect title; to exchange for other lands or interests therein which may be required for recreation or for existing or proposed projects of the United States; to transfer to other Federal agencies or dispose of as surplus property; and to release to the coextensive fee owners any easements no longer required by the United States, under such conditions or for such consideration as the Secretary shall determine to be fair and reasonable. Except as specifically provided herein all transactions will be in accordance with existing laws and procedures.

SEC. 1107. RED RIVER CHLORIDE CONTROL.

(a) The first sentence of the paragraph under the center heading "ARKANSAS AND RED RIVERS" in section 203 of the Flood Control Act

80 Stat. 1419.

of 1966 is amended by striking out "$46,400,000" and inserting in lieu thereof "$177,600,000".

42 USC 1962d-5.

(b) Section 201 of the Flood Control Act of 1970, as amended by section 153 of the Water Resources Development Act of 1976, is amended by striking out the last sentence under the heading "ARKANSAS-RED RIVER BASIN" and inserting in lieu thereof the following: "Construction shall not be initiated on any element of such project involving the Arkansas River Basin until such element has been approved by the Secretary of the Army. The chloride control projects for the Red River Basin and the Arkansas River Basin shall be considered to be authorized as separate projects with separate authority under section 203 of the Flood Control Act of 1966.

90 Stat. 2932.

80 Stat. 1419.

Report.
Texas.
Oklahoma.

(c) Construction of remaining elements of the project involving the Red River Basin shall be initiated in accordance with the recommendations regarding general design memorandum numbered 25 by the director of civil works on behalf of the Chief of Engineers, dated August 8, 1977. Such construction shall commence upon transmittal of a report to the Secretary and to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives of a favorable finding of the effectiveness of the operation of area VIII, to be made by a panel consisting of representatives of the United States Geological Survey and the Texas Water Commission, a person selected by the National Academy of Sciences, and two other qualified persons to be appointed by the Secretary with the concurrence of the governors of Texas and Oklahoma. The panel shall assess the improvement in water quality downstream of area VIII to determine its consistency with the water quality assumed in the development of project benefits in the economic reanalysis of the project completed in November 1980. Such report shall be submitted to the Secretary and to such committees no later than three years after the date area VIII commences operation. Cost sharing for construction on the Red River Basin project initiated under this section shall be the same as the cost sharing for area VIII of the project.

SEC. 1108. ST. JOHN'S RIVER BASIN, MAINE.

Research and development.

(a) The Secretary is authorized to implement a program of research in order to demonstrate the cropland irrigation and conservation techniques described in the report issued by the New England division engineer, dated May 1980, for the Saint John River Basin, Maine. The non-Federal share of the cost of such program shall be 35 percent.

Appropriation authorization.

(b) For the purposes of this section, there is authorized to be appropriated $1,825,000 for fiscal year 1988, $820,000 for fiscal year 1989, and $785,000 for fiscal year 1990, such sums to remain available until expended.

42 USC 1962d-20.

SEC. 1109. PROHIBITION ON GREAT LAKES DIVERSIONS.

(a) The Congress finds and declares that—

(1) the Great Lakes are a most important natural resource to the eight Great Lakes States and two Canadian provinces, providing water supply for domestic and industrial use, clean energy through hydropower production, an efficient transportation mode for moving products into and out of the Great Lakes region, and recreational uses for millions of United States and Canadian citizens;

(2) the Great Lakes need to be carefully managed and protected to meet current and future needs within the Great Lakes basin and Canadian provinces;

(3) any new diversions of Great Lakes water for use outside of the Great Lakes basin will have significant economic and environmental impacts, adversely affecting the use of this resource by the Great Lakes States and Canadian provinces; and

(4) four of the Great Lakes are international waters and are defined as boundary waters in the Boundary Waters Treaty of 1909 between the United States and Canada, and as such any new diversion of Great Lakes water in the United States would affect the relations of the Government of the United States with the Government of Canada.

36 Stat. 2448.

(b) It is therefore declared to be the purpose and policy of the Congress in this section—

(1) to take immediate action to protect the limited quantity of water available from the Great Lakes system for use by the Great Lakes States and in accordance with the Boundary Waters Treaty of 1909;

(2) to prohibit any diversion of Great Lakes water by any State, Federal agency, or private entity for use outside the Great Lakes basin unless such diversion is approved by the Governor of each of the Great Lakes States; and

(3) to prohibit any Federal agency from undertaking any studies that would involve the transfer of Great Lakes water for any purpose for use outside the Great Lakes basin.

(c) As used in this section, the term "Great Lakes State" means each of the States of Illinois, Indiana, Michigan, Minnesota, Ohio, Pennsylvania, New York, and Wisconsin.

(d) No water shall be diverted from any portion of the Great Lakes within the United States, or from any tributary within the United States of any of the Great Lakes, for use outside the Great Lakes basin unless such diversion is approved by the Governor of each of the Great Lake States.

(e) No Federal agency may undertake any study, or expend any Federal funds to contract for any study, of the feasibility of diverting water from any portion of the Great Lakes within the United States, or from any tributary within the United States of any of the Great Lakes, for use outside the Great Lakes basin, unless such study or expenditure is approved by the Governor of each of the Great Lakes States. The prohibition of the preceding sentence shall not apply to any study or data collection effort performed by the Corps of Engineers or other Federal agency under the direction of the International Joint Commission in accordance with the Boundary Waters Treaty of 1909.

Contracts.

(f) This section shall not apply to any diversion of water from any of the Great Lakes which is authorized on the date of the enactment of this Act.

SEC. 1110. BIG SOUTH FORK NATIONAL RIVER AND RECREATION AREA.

Section 108(k) of the Water Resources Development Act of 1974 is amended by striking out "$103,522,000" and inserting in lieu thereof "$156,122,000".

16 USC 460ee.

SEC. 1111. DALECARLIA RESERVOIR.

42 USC 1962d-11b. District of Columbia. State and local governments.

(a) The Secretary, on the recommendation of the Chief of Engineers, is authorized to permit the delivery of water from the Distri

of Columbia water system at the Dalecarlia filtration plant, or at other points on the system, to any competent State or local authority in the Washington, District of Columbia, metropolitan area in Maryland. All of the expense of installing the connection or connections and appurtenances between the water supply systems and any subsequent changes therein shall be paid by the requesting entity, which shall also pay such charges for the use of the water as the Secretary may, from time to time in advance of delivery, determine to be reasonable. Payments shall be made at such time, and pursuant to such regulations, as the Secretary prescribes. The Secretary may revoke any permit for the use of water at any time.

Maryland. Virginia.

(b) The Secretary is authorized to purchase water from any State or local authority in Maryland or Virginia that has, at the time of purchase, completed a connection with the District of Columbia water system. The Secretary is authorized to pay such charges for the use of the water as the Secretary has agreed upon in advance of delivery

SEC. 1112. ABIQUIU DAM.

New Mexico. Flood control.

Subject to section 903(a) of this Act, the Secretary is authorized to construct a set of emergency gates in the conduit of the Abiquiu Dam, New Mexico, to increase safety and enhance flood and sediment control, at a total cost of $2,700,000. The non-Federal share of the project shall be 25 percent of those costs of the project attributable to an increase in flood protection as a result of the installation of such gates.

SEC. 1113. ACEQUIAS IRRIGATION SYSTEM.

New Mexico.

(a)(1) The Congress finds that the irrigation ditch systems in New Mexico, known as the Acequia systems, date from the eighteenth century, and that these early engineering works have significance in the settlement and development of the western portion of the United States.

(2) The Congress, therefore, declares that the restoration and preservation of the Acequia systems has cultural and historic values to the region.

(b) Subject to section 903(a) of this Act, the Secretary is authorized and directed to undertake, without regard to economic analysis, such measures as are necessary to protect and restore the river diversion structures and associated canals attendant to the operations of the community ditch and Acequia systems in New Mexico that are declared to be a political subdivision of the State of New Mexico, at a total cost of $53,300,000, with an estimated first Federal cost of $40,000,000 and an estimated first non-Federal cost of $13,300,000. The non-Federal share of any work undertaken under this section shall be 25 percent.

(c) The Secretary is further authorized and directed to consider the historic Acequia systems (community ditches) of the southwestern United States as public entities, if these systems are chartered by the respective State laws as political subdivisions of that State. This public entity status will allow the officials of these Acequia systems to enter into agreements and serve as local sponsors of water-related projects of the Secretary.

16 USC 460tt.

SEC. 1114. CROSS FLORIDA BARGE CANAL.

Fish and fishing. Wildlife.

(a)(1) For the multiple purposes of preserving, enhancing, interpreting, and managing the water and related land resources of an

area containing unique cultural, fish and wildlife, scenic, and recreational values and for the benefit and enjoyment of present and future generations and the development of outdoor recreation, there is hereby established the Cross Florida National Conservation Area (hereinafter in this section referred to as the "Conservation Area").

(2) The Conservation Area shall consist of all lands and interests in lands held by the Secretary for the high-level barge canal project from the Saint Johns River across the State of Florida to the Gulf of Mexico, authorized by the Act of July 23, 1942 (56 Stat. 703) (hereinafter in this section referred to as the "barge canal project"), all lands and interests in lands held by the State of Florida or the Canal Authority of such State for such project, and all lands and interests in lands held by such State or such Canal Authority and acquired pursuant to section 104 of the River and Harbor Act of 1960. 74 Stat. 484.

(3) Within the Conservation Area there is hereby designated the Conservation Management Area which shall consist of all lands and interests in lands held by the Secretary within that portion of the barge canal project that is located between the Eureka Lock and Dam and the Inglis Lock and Dam (exclusive of such structures), plus all lands and interests in lands held by the Canal Authority of the State of Florida between such structures and all lands and interests in lands held by such State or Canal Authority and acquired pursuant to section 104 of the River and Harbor Act of 1960.

(b) Those portions of the barge canal project located between the Gulf of Mexico and the Inglis project structures and located between the Atlantic Ocean and the Eureka Lock and Dam, inclusive, shall be operated and maintained by the Secretary for the purposes of navigation, recreation, and fish and wildlife enhancement and for the benefit of the economy of the region. Fish and fishing. Wildlife.

(c) In order to further the purposes set forth in paragraph (a)(1) of this section, that portion of the barge canal project located between the Eureka Lock and Dam and the Inglis Lock and Dam (exclusive of such structures) is not authorized for the purposes described in the Act of July 23, 1942 (56 Stat. 703) after the date this subsection becomes effective.

(d) The State of Florida shall retain jurisdiction and responsibility over water resources planning, development, and control of the surface and ground waters pertaining to lands cited in subsections (b) and (c) of this section, except to the extent that any uses of such water resources would be inconsistent with the purposes of this section.

(e)(1) Not later than one year after the date of the enactment of this Act, the Secretary, in consultation with the United States Forest Service, the United States Fish and Wildlife Service, and the State of Florida, shall develop and transmit to Congress a comprehensive management plan for lands (including water areas) located within the Conservation Management Area.

(2) Such plan shall, at a minimum, provide for—

(A) enhancement of the environnment;

(B) conservation and development of natural resources;

(C) conservation and preservation of fish and wildlife;

(D) preservation of scenic and enhancing recreational values;

(E) a procedure for the prompt consideration of applications for easements across Conservation Management Area lands, when such easements are requested by local or State governmental jurisdictions or by a regulated public utility for a public purpose; and

(F) preservation and enhancement of water resources and water quality, including groundwater.

(3) Such plan shall establish, among the Secretary, the Forest Service, the Fish and Wildlife Service, and the State of Florida, the responsibilities for implementation of such plan.

(4) Until transmittal of such plan to Congress, the Secretary shall operate, maintain, and manage the lands and facilities held by the Secretary under the terms of subsection (c).

(5) Upon submission of such plan to Congress, the Secretary and other agencies, pursuant to the agreement under paragaraph (3) of this subsection, are authorized to implement such plan.

(6) The Secretary shall transmit recommendations for protecting and enhancing the values of the Conservation Area to Congress together with such plan.

(7) The Secretary shall consult and cooperate with other departments and agencies of the United States and the State of Florida in the development of measures and programs to protect and enhance water resources and water quality with the Conservation Area.

(f) The Secretary shall operate the Rodman Dam, authorized by the Act of July 23, 1942 (56 Stat. 703), in a manner which will assure the continuation of the reservoir known as Lake Ocklawaha. The Secretary shall not operate the Eureka Lock and Dam in a manner which would create a reservoir on lands not flooded on January 1, 1984.

(g)(1) As soon as possible, the Secretary shall acquire, for the sum of $32,000,000, all lands and interests in lands held on the date of the enactment of this Act by the Canal Authority of the State of Florida for the purposes of the barge canal project. In the event the sums available to the Secretary in any fiscal year are insufficient to purchase all such lands and interests, the State of Florida shall transfer to the Secretary that percentage of the total number of acres to be transferred that is proportionate to the sums received by the State compared with $32,000,000.

(2) From amounts received under paragraph (1) of this subsection, the Canal Authority shall forthwith make payments to the Florida counties of Duval, Clay, Putnam, Marion, Levy, and Citrus. Such payments shall, in the aggregate, be equal to $32,000,000. The amount of payment under this paragraph to each such county shall be determined by multiplying such aggregate amount by the amount of ad valorem taxes paid to the Cross Florida Canal Navigation District by such county and dividing such product by the amount of such taxes paid by all such counties.

(3) As soon as possible, the State of Florida shall transfer to the Secretary all lands and interests in lands held by the State of Florida or the Canal Authority of such State and acquired pursuant to section 104 of the River and Harbor Act of 1960.

74 Stat. 484.

(h) Subsection (c) shall become effective—

(1) 90 days after the Governor of Florida has certified to the Secretary that the State has met the conditions set out in subsection (i) of this section, unless the Secretary determines within such period that the State has failed to comply with such conditions; or

(2) on the date of the final order in a declaratory judgment action, brought by the State of Florida in a Federal District Court within Florida, finding that the State has met the conditions.

(i) Subsection (c) shall not become effective until the State of Florida enacts a law or laws which assure that—

(1) on and after the date on which construction of the portion of the barge canal project referred to in subsection (c) is no longer authorized, all lands and interests in lands held for the project by the State of Florida or the Canal Authority of such State will continue to be held by such State or canal authority pending transfer to the Secretary, as provided in this section; and

(2) on and after such date, all lands and interests in lands held by the State of Florida or the Canal Authority of such State and acquired pursuant to section 104 of the River and Harbor Act of 1960 will continue to be held by such State or Canal Authority, pending transfer to the Secretary as provided in this section; 74 Stat. 484.

(3) on and after such date, the State of Florida will never transfer to any person (except the Federal Government) any lands owned by such State or the Canal Authority of such State (except existing State roads, highways, and bridges and related rights-of-way, which may be transferred to a county or other local government) and contained within the expanded boundary of the Ocala National Forest as proposed and shown on the map dated July 1978, on file with the Chief of the Forest Service, Department of Agriculture, Washington, District of Columbia; and

(4) the State of Florida enacts a law which assures that, on and after such date, the interests in the lands described in paragraph (1) held by the State of Florida are sufficient to carry out the purposes of this section.

SEC. 1115. ABANDONED AND WRECKED VESSELS.

The Secretary shall—

(1) remove from the Miami River and Seybold Canal in Miami, Florida, between the mouth of the Miami River and the salinity control structure of 36th Street, any abandoned vessels and any vessels under the control of the United States by reason of their seizure or forfeiture; Florida.

(2) remove derelict vessels from the western shore of Hempstead Harbor, New York; and New York.

(3) remove from waters off Mona Island, Puerto Rico, the abandoned vessel "A. Regina". Puerto Rico.

The Secretary shall enter into an interagency agreement to facilitate the removal of any such vessel under the control of the United States with the head of any Federal department, agency, or instrumentality which has control of such vessel. The non-Federal share of work authorized by this section shall be one-third, except that work authorized by paragraph (3) shall be at full Federal expense.

SEC. 1116. CHATFIELD LAKE.

Section 88(c) of the Water Resources Development Act of 1974 is amended by— 88 Stat. 38.

(1) inserting after "encroachments" the following: "(other than the Mineral Avenue/Ken Caryl Road extension and associated transmission lines)"; and

(2) inserting "significantly" after "areas which would".

SEC. 1117. W.D. MAYO LOCK AND DAM.

Indians.
Oklahoma.

(a) Notwithstanding any other provision of law, the Cherokee Nation of Oklahoma is authorized to design and construct hydroelectric generating facilities at the W.D. Mayo Lock and Dam on the Arkansas River in Oklahoma, as described in the report of the Chief of Engineers dated December 23, 1981: *Provided*, That, the agreement described in subsection (d) of this section is executed by all parties described in subsection (b) of this section.

(b)(1) Conditioned upon the parties agreeing to mutually acceptable terms and conditions, the Secretary and the Secretary of Energy, acting through the Southwestern Power Administration, may enter into a binding agreement with the Cherokee Nation of Oklahoma under which the Cherokee Nation of Oklahoma agrees—

(A) to design and initiate construction of the generating facilities referred to in subsection (a) of this section within three years after the date of such agreement,

(B) to reimburse the Secretary for his costs in—

(i) approving such design and inspecting such construction, and

(ii) providing any assistance authorized under subsection (c)(2) of this section, and

(C) to release and indemnify the United States from any claims, causes of action, or liabilities which may arise from such design or construction.

(2) Such agreement shall also specify—

(A) the procedures and requirements for approval and acceptance of such design and construction are set forth,

(B) the rights, responsibilities, and liabilities of each party to the agreement are set forth, and

(3) the amount of the payments under subsection (f) of this section, and the procedures under which such payments are to be made, are set forth.

(c)(1) No Federal funds may be expended for the design or construction of the generating facilities referred to in subsection (a) of this section prior to the date on which such facilities are accepted by the Secretary under subsection (d) of this section.

(2) Notwithstanding any other provision of law, the Secretary is authorized to provide, on a reimbursable basis, any assistance requested by the Cherokee Nation of Oklahoma in connection with the design or construction of the generating facilities referred to in subsection (a) of this section.

(d)(1) Notwithstanding any other provision of law, upon completion of the construction of the generating facilities referred to in subsection (a) of this section, and final approval of such facilities by the Secretary—

(A) the Cherokee Nation of Oklahoma shall transfer title to such facilities to the United States, and

(B) the Secretary shall—

(i) accept the transfer of title to such generating facilities on behalf of the United States, and

(ii) operate and maintain such facilities.

(2) The Secretary is authorized to accept title to such facilities only after certifying that the quality of the construction meets all standards established for similar facilities constructed by the Secretary.

(e) Pursuant to any agreement under subsection (b) of this section, the Southwestern Power Administration shall market the excess power produced by the generating facilities referred to in subsection (a) of this section in accordance with section 5 of the Act of December 22, 1944 (58 Stat. 890; 16 U.S.C. 825s).

(f) Notwithstanding any other provision of law, the Secretary of Energy, acting through the Southwestern Power Administration, is authorized to pay to the Cherokee Nation of Oklahoma, in accordance with the terms of the agreement entered into under subsection (b) of this section, out of the revenues from the sale of power produced by the generating facilities of the interconnected systems of reservoirs operated by the Secretary and marketed by the Southwestern Power Administration—

(1) all reasonable costs incurred by the Cherokee Nation of Oklahoma in the design and construction of the generating facilities referred to in subsection (a) of this section, including the capital investment in such facilities and a reasonable rate of return on such capital investment, and

(2) for a period not to exceed fifty years, a reasonable annual royalty for the design and construction of the generating facilities referred to in subsection (a) of this section.

(g) Notwithstanding any other provision of law, the Secretary of Energy, acting through the Southwestern Power Administration, is authorized—

(1) to construct such transmission facilities as necessary to market the power produced at the generating facilities referred to in subsection (a) of this section with funds contributed by non-Federal sources, and

(2) to repay those funds, including interest and any administrative expenses, directly from the revenues from the sale of power produced by the generating facilities of the interconnected systems of reservoirs operated by the Secretary and marketed by the Southwestern Power Administration.

(h) There are authorized to be appropriated to the Secretary for the fiscal year in which title to the generating facilities is transferred and accepted under subsection (d) of this section, and for each succeeding fiscal year, such sums as may be necessary to operate and maintain such facilities.

Appropriation authorization.

SEC. 1118. CAVEN POINT, NEW JERSEY.

33 USC 59n-1.

That portion of the Hudson River in the New York Bay consisting of—

(1) all that piece or parcel of land, containing 120.54 acres, situate, lying and being in the city of Jersey City, Hudson County, State of New Jersey, upon or around that certain lot or piece of land known as the Caven Point Area; and

(2) all that piece or parcel of land, containing 18 acres more or less, situate on the northwesterly side of New Jersey State Highway Route 185,

more particularly described in the Congressional Record dated March 11, 1986, pages S2446-2447, is hereby declared to be not a navigable water of the United States within the meaning of the Constitution and the laws of the United States, except for the purposes of the Federal Water Pollution Control Act.

33 USC 1251 note.

SEC. 1119. SUNSET HARBOR, CALIFORNIA.

Report.

(a) The Secretary is directed to expedite completion of the feasibility study of the navigation project for Sunset Harbor, California, at a total cost of $900,000, and to submit a report to Congress on the results of such study not later than October 1, 1987.

Flood control.

(b) Upon execution of agreements by the State of California or local sponsors, or both, for preservation and mitigation of wetlands areas and appropriate financial participation, the Secretary is authorized to participate with appropriate non-Federal sponsors in a project to demonstrate the feasibility of non-Federal cost sharing under the provisions of section 916 of this Act. Such project shall consist of the project for navigation, flood control, and protection of the Seal Beach Naval Weapons Station at Sunset Beach Harbor, Bolsa Chica Bay, California, at a total cost of $89,600,000, with an estimated first Federal cost of $44,800,000 and an estimated first non-Federal cost of $44,800,000, including such modifications as the Secretary may determine are advisable. The Secretary shall not undertake construction without the concurrence of the Secretary of the Navy on measures to protect the Naval Weapons Station. The Secretary shall, not later than two years after the date of enactment of this Act, make a determination of financial feasibility of the project and, to the extent possible, transmit a copy of a final feasibility study and copy of any final environmental impact statement required by section 102(2)(C) of the National Environmental Policy Act of 1969, and any recommendations of the Secretary, with respect to such project to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate. Agreements for local financial participation shall include the agreements set forth in section 916 so as to meet non-Federal contributions during the period of construction as required by Federal law as administered by the Secretary, together with full amortization of the remaining Federal investment, including costs of project feasiblility studies.

42 USC 4332.

SEC. 1120. HILLTOP AND GRAY GOOSE IRRIGATION DISTRICTS.

South Dakota.

(a) The existing irrigation projects known as the Hilltop Irrigation District, Brule County, South Dakota, and the Gray Goose Irrigation District, Hughes County, South Dakota, are authorized as units of the Pick-Sloan Missouri Basin Program. As so authorized, the Hilltop Unit and the Gray Goose Unit shall be integrated physically and financially with the other Federal works constructed under the comprehensive plan approved by section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 887, 891), as amended and supplemented, and subject to Federal reclamation law (Act of June 17, 1902, 32 Stat. 388 and Acts amendatory thereof and supplemental thereto).

(b) Pick-Sloan Missouri Basin Program power shall be made available as soon as practicable for the Hilltop Unit and the Gray Goose Unit on the same basis as for other units of the Pick-Sloan Missouri Basin Program. The suballocated costs of the Pick-Sloan Missouri Basin Program assigned to the Hilltop Unit and the Gray Goose Unit shall be reimbursed by the water users as determined by the Secretary of the Interior in accordance with Federal reclamation law (Act of June 17, 1902, 32 Stat. 388 and Acts amendatory thereof and supplemental thereto).

SEC. 1121. OGALLALA AQUIFER. 42 USC 10301 note.

(a) The Congress finds that—

(1) the Ogallala aquifer lies beneath, and provides needed water supplies to, the 8 States of the High Plains Region: Colorado, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, and Wyoming;

(2) the High Plains region has become an important source of agricultural commodities and livestock for domestic and international markets, providing 15 percent of the Nation's supply of wheat, corn, feed grains, sorghum, and cotton, plus 38 percent of the value of livestock raised in the United States; and

(3) annual precipitation in the High Plains region ranges from 15 to 22 inches, providing inadequate supplies of surface water and recharging of the Ogallala aquifer needed to sustain the agricultural productivity and economic vitality of the High Plains region.

(b) It is, therefore, the purpose of this section to establish a comprehensive research and development program to assist those portions of the High Plains region dependent on water from the Ogallala aquifer to—

(1) plan for the development of an adequate supply of water in the region;

(2) develop and provide information and technical assistance concerning water-conservation management practices to agricultural producers in the region;

(3) examine alternatives for the development of an adequate supply of water for the region; and

(4) develop water-conservation management practices which are efficient for agricultural producers in the region.

(c) The Water Resources Research Act (Public Law 98-242) is amended by adding at the end thereof the following new title:

"TITLE III—OGALLALA AQUIFER RESEARCH AND DEVELOPMENT

"SEC. 301. (a) There is hereby established the High Plains Study Council composed of— 42 USC 10301 note.

"(1) the Governor of each State of the High Plains region (defined for the purposes of this title as the States of Colorado, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, and Wyoming and referred to hereinafter in this title as the 'High Plains region'), or a designee of the Governor;

"(2) a representative of the Department of Agriculture; and

"(3) a representative of the Secretary.

"(b) The Council established pursuant to this section shall—

"(1) review research work being performed by each State committee established under section 302 of this Act; and

"(2) coordinate such research efforts to avoid duplication of research and to assist in the development of research plans within each State of the High Plains region that will benefit the research needs of the entire region.

"SEC. 302. (a) The Secretary shall establish within each State of the High Plains region an Ogallala aquifer technical advisory committee (hereinafter in this title referred to as the 'State committee'). Each State committee shall be composed of no more than seven members, including— 42 USC 10301 note.

"(1) a representative of the United States Department of Agriculture;

"(2) a representative of the Secretary; and

"(3) at the appointment of the Governor of the State, five representatives from agencies of that State having jurisdiction over water resources, the agricultural community, the State Water Research Institute (as designated under this Act), and others with a special interest or expertise in water resources.

"(b) The State committee established pursuant to subsection (a) of this section shall—

State and local governments.

"(1) review existing State laws and institutions concerning water management and, where appropriate, recommend changes to improve State or local management capabilities and more efficiently use the waters of such State, if such a review is not already being undertaken by the State;

Research and development.

"(2) establish, in coordination with other State committees, State priorities for research and demonstration projects involving water resources; and

Public information. Education. Conservation.

"(3) provide public information, education, extension, and technical assistance on the need for water conservation and information on proven and cost-effective water management.

"(c) Each State committee established pursuant to this section shall elect a chairman, and shall meet at least once every three months at the call of the chairman, unless the chairman determines, after consultation with a majority of the members of the committee, that such a meeting is not necessary to achieve the purposes of this section.

Research and development. 42 USC 10301 note.

"SEC. 303. The Secretary shall annually allocate among the States of the High Plains region funds authorized to be appropriated for this section for research in—

"(1) water-use efficiency;

"(2) cultural methods;

"(3) irrigation technologies;

"(4) water-efficient crops; and

"(5) water and soil conservation.

Schools and colleges.

Funds distributed under this section shall be allocated to each State committee for use by institutions of higher education within each State. To qualify for funds under this section an institution of higher education shall submit a proposal to the State committee describing the costs, methods, and goals of the proposed research. Proposals shall be selected by the State committee on the basis of merit.

42 USC 10301 note.

"SEC. 304. The Secretary shall annually divide funds authorized to be appropriated under this section among the States of the High Plains region for research into—

"(1) precipitation management;

"(2) weather modification;

"(3) aquifer recharge opportunities;

"(4) saline water uses;

"(5) desalinization technologies;

"(6) salt tolerant crops; and

"(7) ground water recovery.

Schools and colleges. Grants.

Funds distributed under this section shall be allocated by the Secretary to the State committee for distribution to institutions of higher education within such State. To qualify for a grant under this section, an institution of higher education shall submit a research proposal to the State committee describing the costs, methods, and

goals of the proposed research. Proposals shall be selected by the State committee on the basis of merit.

"SEC. 305. The Secretary shall annually allocate among the States of the High Plains region funds authorized to be appropriated under this section for grants to farmers for demonstration projects for—

"(1) water-efficient irrigation technologies and practices;

"(2) soil and water conservation management systems; and

"(3) the growing and marketing of more water-efficient crops.

Grants. Farms and farming. 42 USC 10301 note.

Grants under this section shall be made by each State committee in amounts not to exceed 85 percent of the cost of each demonstration project. To qualify for a grant under this section, a farmer shall submit a proposal to the State committee describing the costs, methods, and goals of the proposed project. Proposals shall be selected by the State committee on the basis of merit. Each State committee shall monitor each demonstration project to assure proper implementation and make the results of the project available to other State committees.

"SEC. 306. The Secretary, acting through the United States Geological Survey and in cooperation with the States of the High Plains region, is authorized and directed to monitor the levels of the Ogallala aquifer, and report annually to Congress.

Reports. 42 USC 10301 note.

"SEC. 307. The amount of any allocation of funds to a State under this title shall not exceed 75 percent of the cost of carrying out the purposes for which the grant is made.

Grants. 42 USC 10301 note.

"SEC. 308. Not later than one year after the date of enactment of this title, and at intervals of one year thereafter, the Secretary shall prepare and transmit to the Congress a report on activities undertaken under this title.

Reports. 42 USC 10301 note.

"SEC. 309. (a) For each of the fiscal years ending September 30, 1987, through September 30, 1991, the following sums are authorized to be appropriated to the Secretary to implement the following sections of this title, and such sums shall remain available until expended:

Appropriation authorization. 42 USC 10301 note.

"(1) $600,000 for the purposes of section 302;

"(2) $4,300,000 for the purposes of section 303;

"(3) $2,200,000 for the purposes of section 304;

"(4) $5,300,000 for the purposes of section 305; and

"(5) $600,000 for the purposes of section 306.

"(b) Funds made available under this title for distribution to the States of the High Plains region shall be distributed equally among the States.".

SEC. 1122. PICK-SLOAN PROGRAM.

The Pick-Sloan Missouri Basin Program shall be prosecuted, as authorized and in accordance with applicable laws including the requirements for economic feasibility, to its ultimate development on an equitable basis as rapidly as may be practicable, within the limits of available funds and the cost recovery and repayment principles established by Senate Report Numbered 470 and House of Representatives Report Numbered 282, Eighty-ninth Congress, first session. Nothing in this section shall be deemed to amend or alter the cost recovery or repayment provisions for the Garrison Diversion Unit, North Dakota, as set forth in Public Law 99-294.

North Dakota.

Ante, p. 418.

SEC. 1123. FEDERAL TOWNSITES.

The section entitled "Transfer of Federal Townsites" in the Supplemental Appropriation Act, 1985, title I, chapter IV (Public Law 99-88; 99 Stat. 317) is amended as follows:

(1) Subsection (a)(1) is amended by striking out "without warranty of any kind" and inserting in lieu thereof "by warranty deed, said deed to include a covenant to defend title to the property".

(2) Subsection (a)(1)(A) is amended by—

(A) inserting "(i)" after "(A)", and

(B) adding at the end the following:

North Dakota.

"(ii) The land utilized as a sanitary landfill by Riverdale, North Dakota, consisting of approximately ninety-six acres.

"(iii) The peripheral utility improvements at Riverdale, North Dakota, developed for, or being utilized as, sewage lagoons; the sewer pipeline extending from the townsite boundary to said lagoons; any outfall facilities or control structures in conjunction therewith; the water pipeline extending from the exterior boundaries of the powerplant to the townsite; and appropriate easements of right-of-way for the access to, and operation and maintenance of said improvements.".

(3) Subsection (a)(1)(B) is amended by—

(A) inserting "(i)" after "(B)", and

(B) adding at the end the following:

South Dakota.

"(ii) The land utilized as a sanitary landfill by Pickstown, South Dakota, consisting of approximately twenty-three acres.

South Dakota.

"(iii) The peripheral utility improvements at Pickstown, South Dakota, developed for, or being utilized as, sewage lagoons; water treatment plant; water intake structure; the sewer pipeline extending from the townsite boundary to the sewer lagoons; any outfall facilities or control structures in conjunction therewith; the water pipeline extending from the water intake to the water treatment plant and to the townsite boundary; and appropriate easements of right-of-way for access to, and operation and maintenance of, said improvements.".

(4) Subsection (a)(1)(C) is amended by—

(A) inserting "(i)" after "(C)", and

(B) adding at the end the following:

Montana.

"(ii) The peripheral utility improvements at Fort Peck, Montana, developed and being utilized as a water storage reservoir; the sewer pipeline extending from the townsite boundary to the sewer lift station; the sewer lift station; the sewer pipeline extending from the sewer lift station to the sewage lagoon; the emergency outfall line extending from the sewer lift station to the Missouri River; the water pipelines extending from the exterior boundaries of the powerplant to the townsite boundary; the water pipeline extending from the townsite boundary to the water reservoir; and appropriate easements of right-of-way to the municipal corporation for access to, and operation and maintenance of, said improvements.".

(5) Subsection (b) is amended by inserting "or surplus" after "excess" and by striking out "subsection 3(e)" and inserting in lieu thereof "section 3".

Montana.

(6) Subsection (c) is amended by adding at the end thereof: "Nothing in this provision prohibits the Secretary from placing reasonable covenants in those deeds transferring improvements

having significant historical, cultural, or social value in Fort Peck, Montana.".

(7) The Administrator of the Western Area Power Administration is authorized to allocate power from the Pick-Sloan Missouri Basin Program (P-SMBP) to the municipal corporations of Riverdale, North Dakota, Pickstown, South Dakota, and Fort Peck, Montana, or to such other preference entity as the Administrator may designate to provide electrical service to said municipal corporations. Such allocations shall be in the amount required to meet the annual loads established prior to the date of enactment of this Act, and under terms and conditions for marketing firm power from the P-SMBP: Except, That upon request of a municipal corporation specified in this subsection, the Secretary shall continue to operate municipal or community owned facilities for a period not to exceed three years from the date of incorporation of such municipal corporation.

North Dakota.
South Dakota.
Montana.

SEC. 1124. SOURIS RIVER BASIN.

(a)(1) On behalf of the United States, the Secretary, in consultation with the Secretary of State, is authorized to cooperate with governments in Canada to study and to construct reservoir projects for storage in the Souris River Basin in Canada to provide flood control benefits in the United States.

Canada.
Flood control.

(2) The Secretary is authorized further to participate in financing the storage referred to in paragraph (1) of this subsection to a maximum contribution of $26,700,000, in the event that only one reservoir, known as the Rafferty project, is constructed in Canada, or to a maximum of $41,100,000, in the event two reservoirs, known as the Rafferty and Alameda projects, are constructed in Canada. The amount of any such contribution shall be determined by an allocation of costs, based on the proportionate use of these projects for flood control in the United States and water supply in Canada.

(b) Upon completion of the structure or structures in Canada, as agreed upon between the United States and governments in Canada, the construction of Burlington Dam, North Dakota, as authorized by Public Law 91-611, and modifications at Lake Darling, North Dakota, to raise the level of the dam structure, as authorized by section 111 of the Energy and Water Development Appropriation Act, 1982 (Public Law 97-88; 95 Stat. 1138), shall no longer be authorized. Should the Secretary determine that an agreement between the United States and governments in Canada cannot be consummated, he shall proceed with the work authorized by section 111 of such Act, including raising the dam structure and including storage capacity for flood control purposes, with such work to be considered a nonseparable element of the flood control project for Minot, North Dakota, authorized under section 201 of the Flood Control Act of 1965.

North Dakota.
84 Stat. 1818.
42 USC 1962d-5.

(c) The Secretary is authorized further to make such modifications as necessary to the existing Lake Darling, exclusive of the modifications authorized by section 111 of the Energy and Water Development Appropriation Act, 1982, for the purpose of effective operation of the project for flood control, with such work considered to be a nonseparable element of the flood control project for Minot, North Dakota, authorized under section 201 of the Flood Control Act of 1965, and to operate and maintain the project with such modifica-

North Dakota.

tions in a manner compatible with the migratory waterfowl refuge purpose of the project.

(d) The non-Federal share of the cost of contributions to governments in Canada, as authorized by this section, shall be in accordance with title I of this Act for the amount over $23,600,000. The total Federal cost of work authorized by this section and by section 111 of the Energy and Water Development Appropriation Act, 1982, as modified herein, and including related dam safety measures, is $69,100,000.

95 Stat. 1138.

SEC. 1125. GARRISON LAND TRANSFER.

(a) Except as otherwise provided in this section, all rights, title, and interests of the United States in the lands described in subsection (b), including all improvements thereon, are hereby declared to be held in trust by the United States for the benefit and use of the Three Affiliated Tribes of the Fort Berthold Reservation and to be part of the Fort Berthold Reservation.

(b) The lands held in trust under subsection (a) are—

North Dakota.

(1) approximately 136.44 acres lying above elevation 1850 feet (mean sea level) and the probable ultimate erosion line (other than those portions which lie north of North Dakota State Highway 23) in the following sections of township 152 north, range 93 west of the Fifth Principal Meridian, McKenzie County, North Dakota:

Section 15: south half of the southwest quarter,

Section 21: northeast quarter and northwest quarter of the southeast quarter, and

Section 22: north of the half northwest quarter; and

(2) approximately 16.40 acres lying above elevation 1850 feet (mean sea level) situated in the west half southwest quarter, section 15, township 152 north, range 93 west of the Fifth Principal Meridian, McKenzie County, North Dakota, and more particularly described as follows:

Commencing at the quarter corner common to sections 15 and 16; thence east along the quarter line a distance of 1,320.0 feet to the true point of beginning; thence north 45 degrees 0 minutes east a distance of 891.0 feet; thence south 0 degrees 3 minutes east a distance of 1,518.0 feet; thence to a point on a line which bears south 0 degrees 3 minutes east from the point of beginning; thence north 0 degrees 3 minutes west to the point of beginning.

(c) In consideration for the transfer in trust described above, the Secretary of the Interior shall transfer to the United States lands of equal value held in trust for the Three Affiliated Tribes of the Fort Berthold Reservation which are required for the maintenance and operation of the Garrison Dam and Reservoir Project: *Provided,* That the Tribes shall retain the right to use such lands for grazing purposes when such lands are not subject to flooding. The United States shall not be responsible for damages to property or injuries to persons which may arise from, or be incident to, the use of said lands.

Flood control.

(d) The United States hereby retains a flowage and sloughing easement for the purpose of flood control and related Garrison Dam and Reservoir project purposes over that portion of the lands described in subsection (b) that lie below the greater elevation of—

(1) 1860 feet (mean sea level), or

(2) any alignment the Secretary determines to be necessary for such project operations.

SEC. 1126. CONTRACT SETTLEMENT.

The Secretary is authorized to pay the Federal share of the settlement amount, and any associated interest, resulting from the decision of the Engineer Board of Contract Appeals in ENC BCA Docket Numbered 4650 (June 28, 1985), notwithstanding the Federal cost limitation set out in section 84(c) of the Water Resources Development Act of 1974 (Public Law 93-251). 87 Stat. 36.

SEC. 1127. CAMPGROUNDS FOR SENIOR CITIZENS. 33 USC 2308.

(a) The Secretary may establish and develop separate campgrounds for individuals sixty-two years of age or older at any lake or reservoir under the jurisdiction of the Secretary where camping is permitted.

(b) The Secretary may prescribe regulations to control the use of and the access to any separate campground established and developed under subsection (a) of this section.

(c) There are authorized to be appropriated such sums as may be necessary for fiscal years beginning after September 30, 1986, to carry out subsection (a) of this section. Appropriation authorization.

(d) The Secretary shall establish and develop the parcel of land (located in the State of Texas at the Sam Rayburn Dam and Reservoir) described in subsection (g) of this section as a separate campground for individuals sixty-two years of age or older. Texas.

(e) The Secretary shall prescribe regulations to control the use of and the access to the separate campground established and developed pursuant to subsection (d) of this section. Regulations.

(f) There are authorized to be appropriated for fiscal years beginning after September 30, 1986, $600,000 to carry out subsection (d) of this section. Appropriation authorization.

(g) The parcel of land to be established and developed as a separate campground pursuant to subsection (d) of this section is a tract of land of approximately 50 acres which is located in the county of Angelina in the State of Texas and which is part of the Thomas Hanks survey. The boundary of the parcel begins at a point at the corner furthest west of tract numbered 3420 of the Sam Rayburn Dam and Reservoir: Texas.

thence north 81 degrees 30 minutes east, approximately 2,800 feet to a point at the edge of the water;

thence south along the edge of the water approximately 2,600 feet;

thence north 80 degrees 30 minutes west, approximately 1,960 feet to a point at the reentrant corner of tract numbered 3419 of the Sam Rayburn Dam and Reservoir;

thence along the boundary line of tract numbered 3419 north 46 degrees 15 minutes west, 220 feet to a point at the center line of a road at the corner common to tract numbered 3419 and tract numbered 3420;

thence along the southwestern boundary line of tract numbered 3420 north 46 degrees 15 minutes west, 230 feet to a point at the corner furthest east of tract numbered 3424 of the Sam Rayburn Dam and Reservoir;

thence along the boundary line of tract numbered 3424 south 32 degrees 4 minutes west, 420 feet to a point;

thence along the boundary line of tract numbered 3424 north 28 degrees 34 minutes west, 170 feet to a point;

thence along the boundary line of tract numbered 3424 north 38 degrees 15 minutes east, 248 feet to a point;

thence along the boundary line of tract numbered 3424 north 32 degrees 44 minutes east, 120 feet to a point at the corner furthest north of tract numbered 3424;

thence along the southwestern boundary line of tract numbered 3420 north 46 degrees 15 minutes west, 460 feet to the beginning point.

SEC. 1128. MERAMEC RIVER, MISSOURI.

Section 2(h) of the Act entitled "An Act to deauthorize several projects within the jurisdiction of the Army Corps of Engineers" (Public Law 97-128) is amended by striking out "Saint Louis and Jefferson Counties, Missouri." and inserting in lieu thereof "Saint Louis, Jefferson, and Franklin Counties (including the community of Pacific, Missouri), Missouri.".

95 Stat. 1681.

SEC. 1129. BUFFALO HARBOR DRIFT REMOVAL.

(a) Section 202(f) of the Water Resources Development Act of 1976 is amended to read as follows:

33 USC 426m.

Appropriation authorization.

"(f) There is authorized to be appropriated to carry out this section such sums as may be necessary for fiscal years beginning after September 30, 1986.".

New York.

(b) Subject to section 903(a) of this Act, the Secretary is authorized to develop, implement, and maintain a project under section 202 of the Water Resources Development Act of 1976 for removal of drift and debris from Buffalo Harbor, New York, and removal of dilapidated structures from the adjacent shoreline, in accordance with such report, at a total cost of $2,130,000, with an estimated first Federal cost of $1,065,000 and an estimated first non-Federal cost of $1,065,000.

SEC. 1130. NORFOLK DAM AND LAKE BRIDGE.

Section 16(b) of the Water Resources Development Act of 1974 (88 Stat. 18) is amended by striking out "$1,342,000" and all that follows through the period at the end of such section and inserting in lieu thereof "$2,482,000.".

SEC. 1131. DELAWARE RIVER.

With respect to the navigation project for the Delaware River, Philadelphia to the sea, the Secretary—

New Jersey.

(1) shall conduct continuous monitoring of the materials being disposed of at the area known as the Penns Grove Disposal Area in Carneys Point, New Jersey;

(2) shall conduct continuous monitoring to ensure that there is no leakage into or contamination of any underground aquifer from such area;

(3) shall not fill such area, or allow such area to be filled, to an elevation in excess of ten feet; and

(4) shall not use, or allow to be used, for disposal of dredged material from such project any area immediately adjacent to the Penns Grove Disposal Area.

33 USC 2309.

SEC. 1132. GREAT LAKES MARKETING BOARD.

(a) To ensure the coordinated economic revitalization and environmental enhancement of the Great Lakes and their connecting chan-

nels and the Saint Lawrence Seaway (hereinafter in this section referred to as the "Great Lakes"), known as the "Fourth Seacoast" of the United States, it is hereby declared to be the intent of Congress to recognize the importance of the economic vitality of the Great Lakes region, the importance of exports from the region in the United States balance of trade, and the need to assure an environmentally and socially responsible navigation system for the Great Lakes. Congress finds that the Great Lakes provide a diversity of agricultural, commercial, environmental, recreational, and related opportunities based on their extensive water resources and water transportation systems.

(b)(1) There is hereby established a Board to be known as the Great Lakes Commodities Marketing Board (hereinafter in this subsection referred to as the "Board").

(2)(A) The Board shall develop a strategy to improve the capacity of the Great Lakes region to produce, market, and transport commodities in a timely manner and to maximize the efficiency and benefits of marketing products produced in the Great Lakes region and products shipped through the Great Lakes.

(B) The strategy shall address, among other things, environmental issues relating to transportation on the Great Lakes and marketing difficulties experienced due to late harvest seasons in the Great Lakes region. The strategy shall include, as appropriate alternative storage, sales, marketing, multimodal transportation systems, and other systems, to assure optimal economic benefits to the region from agricultural and other commercial activities. The strategy shall develop—

(i) methods to improve and promote both bulk and general cargo trade through Great Lakes ports;

(ii) methods to accelerate the movement of grains and other agricultural commodities through the Great Lakes;

(iii) methods to provide needed flexibility to farmers in the Great Lakes region to market grains and other agricultural commodities; and

(iv) methods and materials to promote trade from the Great Lakes region and through Great Lakes ports, particularly with European, Mediterranean, African, Caribbean, Central American, and South American nations.

(C) In developing the strategy, the Board shall conduct and consider the results of—

(i) an analysis of the feasibility and costs of using iron ore vessels, which are not being utilized, to move grain and other agricultural commodities on the Great Lakes;

(ii) an economic analysis of transshipping such commodities through Montreal, Canada, and other ports;

(iii) an analysis of the economic feasibility of storing such commodities during the non-navigation season of the Great Lakes and the feasibility of and need for construction of new storage facilities for such commodities;

(iv) an analysis of the constraints on the flexibility of farmers in the Great Lakes region to market grains and other agricultural commodities, including harvest dates for such commodities and the availability of transport and storage facilities for such commodities; and

(v) an analysis of the amount of grain and other agricultural commodities produced in the United States which are being diverted to Canada by rail but which could be shipped on the

Great Lakes if vessels were available for shipping such products during the navigation season.

(D) In developing the strategy, the Board shall consider weather problems and related costs and marketing problems resulting from the late harvest of agricultural commodities (including wheat and sunflower seeds) in the Great Lakes region.

(E) In developing the strategy, the Board shall consult United States ports on the Great Lakes and their users, including farm organizations (such as wheat growers and soybean growers), port authorities, water carrier organizations, and other interested persons.

(3) The Board shall be composed of seven members as follows:

(A) the chairman of the Great Lakes Commission or his or her delegate,

(B) the Secretary or his or her delegate,

(C) the Secretary of Transportation or his or her delegate,

(D) the Secretary of Commerce or his or her delegate,

(E) the Administrator of the Saint Lawrence Seaway Development Corporation or his or her delegate,

(F) the Secretary of Agriculture or his or her delegate, and

(G) the Administrator of the Environmental Protection Agency or his or her delegate.

(4)(A) Members of the Board shall serve for the life of the Board.

(B) Members of the Board shall serve without pay and those members who are full time officers or employees of the United States shall receive no additional pay by reason of their service on the Board, except that members of the Board shall be allowed travel or transportation expenses under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business and engaged in the actual performance of duties vested in the Board.

5 USC 5701 *et seq.*

(C) Four members of the Board shall constitute a quorum but a lesser number may hold hearings.

(D) The co-chairmen of the Board shall be the Secretary or his or her delegate and the Administrator of the Saint Lawrence Seaway Development Corporation or his or her delegate.

(E) The Board shall meet at the call of the co-chairmen or a majority of its members.

(5)(A) The Board shall, without regard to section 5311(b) of title 5, United States Code, have a Director, who shall be appointed by the Board and shall be paid at a rate which the Board considers appropriate.

(B) Subject to such rules as may be prescribed by the Board, without regard to 5311(b) of title 5, United States Code, the Board may appoint and fix the pay of such additional personnel as the Board considers appropriate.

(C) Upon request of the Board, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Board to assist the Board in carrying out its duties under this subsection.

(6)(A) The Board may, for purposes of carrying out this subsection, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Board considers appropriate.

(B) Any member or agent of the Board may, if so authorized by the Board, take any action which the Board is authorized to take by this paragraph.

(C) The Board may secure directly from any department or agency of the United States any information necessary to enable it to carry out this subsection. Upon request of the co-chairmen of the Board, the head of such department or agency shall furnish such information to the Board.

(D) The Board may use the United States mail in the same manner and under the same conditions as other departments and agencies of the United States.

(E) The Administrator of General Services shall provide to the Board on a reimbursable basis such administrative support services as the Board may request.

(7) Not later than September 30, 1989, the Board shall transmit to the President and to each House of the Congress a report stating the strategy developed under this subsection and the results of each analysis conducted under this subsection. Such report shall contain a detailed statement of the findings and conclusions of the Board together with its recommendations for such legislative and administrative actions as it considers appropriate to carry out such strategy and to assure maximum economic benefits to the users of the Great Lakes and to the Great Lakes region. Reports.

(8) The Board shall cease to exist 180 days after submitting its report pursuant to this subsection. Termination date.

(9) The non-Federal share of the cost of carrying out this subsection shall be 25 percent. There is authorized to be appropriated such sums as may be necessary to carry out the Federal share of this subsection for fiscal years beginning after September 30, 1986, and ending before October 1, 1990. Appropriation authorization.

(c)(1) The President shall invite the Government of Canada to join in the formation of an international advisory group whose duty it shall be (A) to develop a bilateral program for improving navigation, through a coordinated strategy, on the Great Lakes, and (B) to conduct investigations on a continuing basis and make recommendations for a system-wide navigation improvement program to facilitate optimum use of the Great Lakes. The advisory group shall be composed of five members representing the United States, five members representing Canada, and two members from the International Joint Commission established by the treaty between the United States and Great Britain relating to boundary waters between the United States and Canada, signed at Washington, January 11, 1909 (36 Stat. 2448). The five members representing the United States shall include the Secretary of State, one member of the Great Lakes Commodities Marketing Board (as designated by the Board), and three individuals appointed by the President representing commercial, shipping, and environmental interests, respectively. President of U.S. Canada.

(2) The United States representatives to the international advisory group shall serve without pay and the United States representatives to the advisory group who are full time officers or employees of the United States shall receive no additional pay by reason of their service on the advisory group, except that the United States representatives shall be allowed travel or transportation expenses under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular place of business and engaged in the actual performance of duties vested in the advisory group. 5 USC 5701 *et seq.*

(3) The international advisory group established by this subsection shall report to Congress and to the Canadian Parliament on its Reports.

progress in carrying out the duties set forth in this subsection not later than one year after the formation of such group and biennially thereafter.

Research and development. Fish and fishing. Wildlife.

(d) The Secretary and the Administrator of the Environmental Protection Agency, in cooperation with the Secretary of the Interior, the Administrator of the National Oceanic and Atmospheric Administration, and other appropriate Federal and non-Federal entities, shall carry out a review of the environmental, economic, and social impacts of navigation in the United States portion of the Great Lakes. In carrying out such review, the Secretary and the Administrator shall use existing research, studies, and investigations relating to such impacts to the maximum extent possible. Special emphasis shall be made in such review of the impacts of navigation on the shoreline and on fish and wildlife habitat, including, but not limited to, impacts associated with resuspension of bottom sediment. The Secretary and the Administrator shall submit to Congress an interim report of such review not later than September 30, 1988, and a final report of such review along with recommendations not later than September 30, 1990.

Report.

SEC. 1133. GREAT MIAMI RIVER BASIN.

The prohibitions and provisions for review and approval of activities in waters of the United States as set forth in sections 9, 10, and 13 of the Act of March 3, 1899 (30 Stat. 1151) and the first section of the Act of June 13, 1902 (32 Stat. 371) shall not apply to any works or improvements constructed or maintained now or in the future in the Great Miami River Basin, the Great Miami River, and the tributaries of the Great Miami River above river mile 7.5, by any political subdivision established pursuant to chapter 6101, Ohio Revised Code, as in effect on July 1, 1983.

16 USC 460d note.

SEC. 1134. CABIN SITE LEASES.

(a) On and after December 31, 1989, the Secretary shall continue in effect any lease or assignment thereof to which this section applies, until such time as such lease is terminated by the leaseholder, any successors or assigns of the leaseholder, or by the Secretary under subsection (b) of this section. Any such continuation beyond the date of expiration of such lease as in effect on December 31, 1989, shall be at fair market rentals and on such other reasonable terms and conditions not inconsistent with this section as the Secretary deems necessary. No continuation shall be made beyond such date unless the leaseholder agrees (1) to hold the United States harmless from any claim for damages or injury to persons or property arising from occupancy of or through the use of the property subject to such lease, and (2) to not unreasonably expand existing improvements.

(b)(1) On and after December 31, 1989, the Secretary and any other officer or employee of the United States shall not terminate a lease to which this section applies, except as provided in paragraph (2) o. this subsection.

(2) On and after December 31, 1989, the Secretary may terminate a lease to which this section applies only if—

(A) the property covered by the lease is needed for immediate use for public park purposes or other higher public use or for a navigation or flood control project; or

(B) the leaseholder substantially violates a provision of such lease.

(c) Subsections (a) and (b) of this section apply to (1) any cottage site lease of property, which lease was entered into by the Secretary of the Army pursuant to section 4 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (58 Stat. 889; 16 U.S.C. 460d), and is in effect on December 31, 1989, and (2) any assignment of such a lease.

(d) On and after December 31, 1989, no houseboat, boathouse, floating cabin, sleeping facilities at marinas, or lawfully installed dock or appurtenant structures shall be required to be removed from any Federal water resources reservoir or lake project administered by the Secretary on which it was located on the date of enactment of this Act, if (1) such property is maintained in usable and safe condition, (2) such property does not occasion a threat to life or property, and (3) the holder of the lease, permit, or license is in substantial compliance with the existing lease or license, except where necessary for immediate use for public purposes or other higher public use or for a navigation or flood control project.

Georgia.
Real property.

(e) In any case in which a person holds a lease of property at Clarks Hill Reservoir, Georgia, which is terminated under this section on or after December 31, 1989, the Secretary shall offer for sale to such person real property at Clarks Hill Reservoir which is owned by the United States and is not needed for the project (if there is any such property). The property offered for sale shall be approximately equal in size to the property that was subject to such lease. The Secretary shall offer any such property for sale at the fair market value of the property, as determined by the Secretary. Each offer under this subsection shall be made on or before the date on which the lease is terminated and shall be open to such person for 18 months from the time the offer is made. As a condition to a sale under this subsection, the leaseholder shall restore the property subject to the terminated lease to a condition acceptable to the Secretary.

SEC. 1135. PROJECT MODIFICATIONS FOR IMPROVEMENT OF ENVIRONMENT.

33 USC 2294 note.

(a) The Secretary is authorized to review the operation of water resources projects constructed by the Secretary before the date of enactment of this Act to determine the need for modifications in the structures and operations of such projects for the purpose of improving the quality of the environment in the public interest.

(b) The Secretary is authorized to carry out a demonstration program in the two-year period beginning on the date of enactment of this Act for the purpose of making such modifications in the structures and operations of water resources projects constructed by the Secretary before the date of enactment of this Act which the Secretary determines (1) are feasible and consistent with the authorized project purposes, and (2) will improve the quality of the environment in the public interest. The non-Federal share of the cost of any modifications carried out under this section shall be 25 percent.

(c) The Secretary shall coordinate any actions taken pursuant to this section with appropriate Federal, State, and local agencies.

Reports.

(d) Not later than two years after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the review conducted under subsection (a) and on the demonstration program conducted under subsection (b). Such report shall

contain any recommendations of the Secretary concerning modification and extension of such program.

Appropriation authorization.

(e) There is authorized to be appropriated not to exceed $25,000,000 to carry out this section.

SEC. 1136. WHITEWATER RIVER, CALIFORNIA.

(a) The Secretary is hereby authorized to develop and implement a flood warning system for the Whitewater River, San Bernadino and Riverside Counties, California, at a total cost of $300,000.

(b) Prior to installation, local interests shall agree to operate and maintain the system authorized by subsection (a), and develop, maintain, and implement emergency evacuation plans satisfactory to the Secretary.

SEC. 1137. REND LAKE.

Contracts. Illinois.

The Secretary shall amend the contract between the State of Illinois and the United States for use of storage space for water supply in Rend Lake on the Big Muddy River in Illinois to relieve the State of Illinois of the requirement to make annual payments for that portion of the maintenance and operation costs applicable to future water supply storage as is consistent with the Water Supply Act of 1958 (Public Law 85-500). The relief provided by the preceding sentence shall apply for 5 years after the date of enactment of this Act or until the storage space is used, whichever first occurs, and shall apply in such proportion as the storage is used for water supply purposes.

72 Stat. 297.

SEC. 1138. POE LOCK STUDY.

Report.

The Secretary shall expedite completion of the study of a new lock parallel to the existing Poe Lock being undertaken as part of the study of additional locks on the Saint Lawrence Seaway and shall submit to the Congress a report on such additional lock not later than March 31, 1987.

SEC. 1139. PORT OF BUFFALO.

Grants.

The Secretary of Commerce, acting through the Economic Development Administration, shall make a grant to the Niagara Frontier Transportation Authority, Port of Buffalo, for the construction and improvement of facilities, including the construction of covered bulk storage facilities, additional paved wharf area, bulkheading up to a total length of 1,000 feet sufficient to facilitate a 1,000-foot class X vessel or a 730-foot class VII vessel, and other projects consistent with implementation of the master plan for the Port of Buffalo. The non-Federal share of the cost of the project authorized by this section shall be 50 percent. There is authorized to be appropriated $3,500,000 to carry out this section.

Appropriation authorization.

SEC. 1140. BEAVER RIVER, PENNSYLVANIA.

The Secretary is authorized to carry out planning, engineering, and design for a project to construct and maintain a navigation channel 9 feet deep and 100 feet wide from the mouth of the Beaver River at Bridgewater, Pennsylvania, a distance of approximately three miles upriver, to the dam at New Brighton, at a total cost of $175,000.

SEC. 1141. GROUNDWATER RECHARGE.

State and local governments. Arizona.

The Secretary, in consultation with appropriate Federal, State, and local agencies, is authorized to carry out planning, engineering,

and design for a project for the recharge of groundwater in the drainage basins of the Tucson, Arizona, and Scottsdale, Arizona, metropolitan areas, at a total cost of $250,000.

SEC. 1142. MEASUREMENTS OF LAKE MICHIGAN DIVERSIONS.

42 USC 1962d-20 note.

(a) Beginning October 1, 1987, the Secretary, in cooperation with the State of Illinois, shall carry out measurements and make necessary computations required by the decree of the United States Supreme Court (388 U.S. 426) relating to the diversion of water from Lake Michigan and shall coordinate the results with downstate interests. The measurements and computations shall consist of all flow measurements, gauge records, hydraulic and hydrologic computations, including periodic field investigations and measuring device calibrations, necessary to compute the amount of water diverted from Lake Michigan by the State of Illinois and its municipalities, political subdivisions, agencies, and instrumentalities, not including water diverted or used by Federal installations.

Appropriation authorization.

(b) There are authorized to be appropriated $250,000 per fiscal year for each fiscal year beginning after September 30, 1986, to carry out this section, including those funds necessary to maintain the measurements and computations, as well as necessary capital construction costs associated with the installation of new flow measurement devices or structures declared necessary and appropriate by the Secretary.

SEC. 1143. BERKELEY PIER, CALIFORNIA.

The Secretary is authorized to carry out planning, engineering, and design for a project to remove the Berkeley Pier, which extends into San Francisco Bay, California, approximately 12,000 feet, at a total cost of $200,000.

SEC. 1144. CONSTRUCTION OF SEAWALL, AMERICAN SAMOA.

The Secretary is authorized to carry out planning, engineering, and design for a project to construct a seawall from the canneries in the village of Atu'u, Ma'oputasi County, to Breakers Point near the village of Tafananai, Sua County, Western Tutuila Island, American Samoa, at a total cost of $310,000.

SEC. 1145. REHABILITATION OF DOCK, AMERICAN SAMOA.

Subject to section 903(a) of this Act, the Secretary is authorized to rehabilitate the fuel dock adjacent to the Rainmaker Hotel between the villages of Utulei and Fagatogo in Ma'oputasi County, Eastern Tutuila Island, American Samoa, at a total cost of $3,000,000, with an estimated first Federal cost of $3,000,000.

SEC. 1146. ACCEPTANCE OF CERTAIN FUNDS FOR MITIGATION.

33 USC 2286.

Fish and fishing. Wildlife.

The Secretary is authorized to accept funds from any entity, public or private, in accordance with the Pacific Northwest Electric Power Planning and Conservation Act to be used to protect, mitigate, and enhance fish and wildlife in connection with projects constructed or operated by the Secretary. The Secretary may accept and use funds for such purposes without regard to any limitation established under any other provision of law or rule of law.

SEC. 1147. GREAT LAKES CONSUMPTIVE USES STUDY.

42 USC 1962d-20 note.

(a) STUDY OF CONSUMPTIVE USES.—In recognition of the serious impacts on the Great Lakes environment that may occur as a result of increased consumption of Great Lakes water, including loss of

wetlands and reduction of fish spawning and habitat areas, as well as serious economic losses to vital Great Lakes industries, and in recognition of the national goal to provide environmental protection and preservation of our natural resources while allowing for continued economic growth, the Secretary in cooperation with the Administrator of the Environmental Protection Agency, other interested departments, agencies, and instrumentalities of the United States, and the eight Great Lakes States, is authorized to conduct a study of the effects of Great Lakes water consumption on economic growth and environmental quality in the Great Lakes region and of control measures that can be implemented to reduce the quantity of water consumed.

(b) MATTERS INCLUDED.—The study authorized by this section shall at a minimum include the following:

(1) a review of the methodologies used to forecast Great Lakes consumptive uses, including an analysis of the sensitivity of key variables affecting such uses;

33 USC 1251 note.

(2) an analysis of the effect that enforcement of provisions of the Federal Water Pollution Control Act relating to thermal discharges has had on consumption of Great Lakes water;

(3) an analysis of the effect of laws, regulations, and national policy objectives on consumptive uses of Great Lakes water used in manufacturing;

(4) an analysis of the associated environmental impacts and of the economic effects on industry and other interests in the Great Lakes region associated with individual consumptive use control strategies; and

(5) a summary discussion containing recommendations for methods of controlling consumptive uses which methods maximize benefits to the Great Lakes ecosystem and also provide for continued full economic growth for consuming industries as well as other industries which depend on the use of Great Lakes water.

(c) GREAT LAKES STATES DEFINED.—For purposes of this section, the term "Great Lakes States" means Minnesota, Wisconsin, Illinois, Ohio, Michigan, Indiana, Pennsylvania, and New York.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $750,000 for fiscal years beginning after September 30, 1986, to carry out this section. Sums appropriated under this section shall remain available until expended.

SEC. 1148. PASSAIC RIVER BASIN.

Subject to section 903(a) of this Act, the Secretary is authorized to acquire from willing sellers lands on which residential structures are located, which lands are subject to frequent and recurring flood damage, within the area being studied pursuant to the Passaic River Basin flood control study authorized by section 101 of the Water Resources Development Act of 1976. Lands acquired by the Secretary under this section shall be retained by the Secretary for future use in conjunction with flood protection and flood management in the Passaic River Basin. There is authorized to be appropriated $50,000,000 to carry out this section. The non-Federal share of the cost of carrying out this section shall be 25 percent.

90 Stat. 2917.

Appropriation authorization.

SEC. 1149. SAULT SAINTE MARIE, MICHIGAN.

Subject to section 903(b) of this Act, the Secretary is authorized and directed to construct a second lock 1,294 feet in length, 115 feet

in width, and 32 feet in depth, adjacent to the existing lock at Sault Sainte Marie, Michigan, in accordance with the report of the Board of Engineers for Rivers and Harbors, dated May 19, 1986, at a total cost of $227,428,000. The Federal and non-Federal shares of such project shall be determined in accordance with section 101, with the method of payment to be determined in accordance with the report of the Chief of Engineers.

SEC. 1150. WILLIAM G. STONE LOCK.

(a) Notwithstanding any other provision of law, the State of California or any political subdivision thereof, or any non-Federal public body organized under the laws of the State of California, which is operating the William G. Stone Lock in Yolo County, California, under lease agreement with the Secretary may levy and collect tolls or other user fees from vessels using such lock. Such tolls or fees shall be in amounts not exceeding amounts necessary to recover the costs of operating and maintaining the William G. Stone Lock by such State, political subdivision, or public body under such lease agreement.

California. Vessels.

(b) Any lease for the operation of the William G. Stone Lock entered into by the Secretary after the date of enactment of this Act shall require the lessee to develop a plan of operation for such lock acceptable to Yolo County, California.

SEC. 1151. SATILLA RIVER BASIN, GEORGIA.

Subject to section 903(a) of this Act, the Secretary shall—

(1) undertake a demonstration project consisting of the placement of earthen plugs at Noyes and Bull Whirl Cuts on the Umbrella Creek-Dover Creek system in the Satilla River Basin in Camden County, Georgia, for the purpose of reducing shoaling; and

(2) monitor the effect of such plugs on the estuarine tidal system for a ten-year period;

at a total cost of $500,000, with an estimated first Federal cost of $500,000. The Secretary shall use the results of such monitoring to verify a hydrodynamic model which will allow the Secretary to reasonably predict the effects of cuts and closures in tidally-influenced estuarine systems.

SEC. 1152. THURMAN TO HAMBURG, IOWA.

The Secretary is authorized to study measures to prevent flooding in the Thurman to Hamburg area of the Missouri River in western Fremont County, Iowa. Not later than two years after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the results of such study along with recommendations for measures to prevent such flooding. Pending completion of the study the Secretary shall install pumping facilities in such area, at a total cost of $1,100,000, with an estimated first Federal cost of $825,000 and an estimated first non-Federal cost of $275,000. Cost sharing applicable to flood control projects shall apply to work authorized by the preceding sentence.

Report.

SEC. 1153. UPPER ST. JOHN'S RIVER BASIN, FLORIDA.

(a) For any survey, planning, or design of any water resources project for the Upper St. John's River Basin, Florida, the Secretary shall give equal consideration to structural, nonstructural, and primarily nonstructural alternatives including, but not limited to,

Fish and fishing. Wildlife. Vessels.

floodproofing of structures; flood plain regulation; acquisition of flood plain lands for recreation, fish and wildlife, and other public purposes; relocation; reductions in water demand; water-borne traffic scheduling; and vessel modification with a view toward formulating the most economically, socially, and environmentally acceptable means of solving the water resources problem.

(b) Cost sharing applicable to nonstructural local flood protection projects shall apply to any water resources project on the Upper Saint John's River Basin, consistent with section 903(c).

33 USC 426o.

SEC. 1154. GREAT LAKES MATERIAL DISPOSAL.

In planning and implementing any navigation project (including maintenance thereof) on the Great Lakes and adjacent waters, the Secretary shall consult and cooperate with concerned States in selecting disposal areas for dredged material which is suitable for beach nourishment.

SEC. 1155. LOWER MISSISSIPPI WETLANDS.

Flood control.

The Secretary, in consultation with the Secretary of the Interior and the Secretary of Commerce and appropriate State agencies, may develop and implement projects for the creation, protection, restoration, and enhancement of wetlands in conjunction with authorized projects for navigation and flood control in the lower Mississippi Valley. There is authorized to be appropriated $2,000,000 for each of fiscal years 1987, 1988, and 1989 to carry out this section.

Appropriation authorization.

33 USC 2310.

SEC. 1156. COST SHARING PROVISIONS FOR THE TERRITORIES.

American Samoa. Guam. Northern Mariana Islands. Virgin Islands. Trust Territory of the Pacific Islands.

The Secretary shall waive local cost-sharing requirements up to $200,000 for all studies and projects in American Samoa, Guam, the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands.

SEC. 1157. MIAMI RIVER WATER QUALITY COMMISSION.

Grants. Florida.

(a) The Secretary shall make a grant of $50,000, subject to an appropriation for that purpose, to the Governor of the State of Florida for the establishment of a Miami River Management Commission to develop a comprehensive plan for improving the water quality of the Miami River, Florida, and its tributaries and managing all activities which affect the water quality and use of such river and tributaries. The commission shall be composed of seven members appointed by the Governor. A grant may be made under this section only after the State of Florida agrees to provide an amount equal to the amount of the grant to carry out this section.

Appropriation authorization.

(b) There is authorized to be appropriated to carry out this section $50,000 for fiscal years beginning after September 30, 1986.

SEC. 1158. BREWERTON EXTENSION.

Delaware. Maryland.

Any funds appropriated after the date of the enactment of this Act to complete the Brewerton Extension of the Baltimore Harbor and Channels (connecting channels to the Chesapeake and Delaware Canal), authorized by the River and Harbor Act of 1958, which are not needed to complete such project because of savings resulting from the redesign of the project shall be available for maintenance dredging of the Inland Waterway from the Delaware River to the Chesapeake Bay, Delaware and Maryland (Chesapeake and Delaware Canal), authorized by the River and Harbor Act of 1954.

72 Stat. 297.

68 Stat. 1248.

SEC. 1159. MARSH CREEK BRIDGE, SAYERS LAKE, PENNSYLVANIA.

The Secretary is authorized to construct necessary repairs on the Marsh Creek Bridge near Foster Joseph Sayers Lake, Centre County, Pennsylvania, at a total cost of $50,000, with a Federal cost of $25,000 and a non-Federal cost of $25,000. The non-Federal share of the cost of the work authorized by this section shall be 50 percent.

SEC. 1160. MIDDLE RIVER, MARYLAND. 33 USC 59.

(a) That portion of the waterway in which is located Dark Head Creek in the community of Middle River, Baltimore County, Maryland, lying northwest of a line extending south 68 degrees 37 minutes 56 seconds west from a point (227.50 feet from the northeast corner of the existing bulkhead and pier line) whose coordinates in the Maryland State Coordinate System are north 544967.24 and east 962701.05 (latitude north 39 degrees 19 minutes 42 seconds and longitude west 76 degrees 25 minutes 29.5 seconds) and thence south 44 degrees 48 minutes 20 seconds west, 350.12 feet to a point (at the southwest corner of the existing bulkhead and pier line) whose coordinates in the Maryland State Coordinate System are north 544635.94 and east 962242.46 (latitude north 39 degrees 19 minutes 39 seconds and longitude west 76 degrees 25 minutes 35.4 seconds), is declared to be a nonnavigable water of the United States for purposes of the navigation servitude.

(b) The line described in subsection (a) shall be established as a combined pierhead and bulkhead line of Dark Head Creek.

(c) Any project heretofore authorized by any Act of Congress, insofar as such project is within the boundaries of Dark Head Creek as described in subsection (a), is not authorized after the date of enactment of this Act.

(d) The right to alter, amend, or repeal this section is hereby expressly reserved.

SEC. 1161. DEVIL'S KITCHEN LAKE.

The Secretary of the Interior, acting through the Fish and Wildlife Service, is authorized and directed to sell surplus water which may be available at the Devil's Kitchen Lake project, Illinois, for municipal use to the city of Marion, Illinois, on such terms and at such rates as such Secretary determines to be reasonable based upon comparable rates in the area of southern Illinois. To implement the purpose of this section, the city of Marion is authorized to construct a catch basin or similar facility downstream of Devil's Kitchen Lake for purposes of collecting and withdrawing water. Prior to initiation of construction of any facilities adversely affecting the Crab Orchard National Wildlife Refuge, the Secretary of the Interior, in consultation with the Secretary must review and approve the plans of such work, along with the associated water withdrawal plans. The Secretaries are authorized to provide technical assistance to the city in developing acceptable plans. Illinois.

SEC. 1162. MIAMI RIVER SEDIMENTS.

Subject to section 903(a) of this Act, the Secretary is authorized and directed to remove polluted bottom sediments from the Miami River and Seybold Canal in Miami, Florida, between the mouth of the Miami River and the salinity control structure at 36th Street. Local interests shall furnish all lands (including dredge disposal areas), easements, rights-of-way, relocations, and alterations necessary for initial dredging and subsequent maintenance before the

Secretary removes any such sediments. The non-Federal share of the cost of carrying out this section (including the contribution under the preceding sentence) shall be 25 percent.

SEC. 1163. EISENHOWER AND SNELL LOCKS.

New York.

Subject to section 903(b) of this Act, the Secretary is authorized to rehabilitate the Eisenhower and Snell Locks, Saint Lawrence River, Massena, New York, in accordance with the report of the District Engineer, dated November 1984, at a total cost of $39,200,000. The Federal share of such project shall be 100 percent, from the general fund of the Treasury, except that up to 25 percent of the cost of such project may be paid from tolls collected on the Saint Lawrence Seaway to the extent that the rehabilitation is not attributable to decisions and recommendations of the Corps of Engineers.

SEC. 1164. WATER SUPPLY FOR THE TERRITORIES.

Section 401(d) of the Act entitled "An Act to enhance the economic development of Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and for other purposes" (98 Stat. 1735), is amended by striking "in fiscal" and inserting in lieu thereof "effective fiscal".

SEC. 1165. SAN LUIS REY RIVER, CALIFORNIA.

The interest rate used for purposes of analyzing the costs and benefits of the San Luis Rey River flood control program in San Diego County, California, shall be the applicable interest rate at the time an agreement under section 215 of the Flood Control Act of 1968 was entered into.

42 USC 1962d-5a.

SEC. 1166. BRIDGES OVER NAVIGABLE WATERS.

(a)(1) The Secretary shall reimburse, from sums appropriated under this section—

Texas.

(A) the owner of the Port of Houston Authority bridge over Greens Bayou, Texas, appropriately two and eight-tenths miles upstream of the confluence of Greens Bayou and the Houston Ship Channel, and

Texas.

(B) the owner of the pipeline bridge over Greens Bayou, Texas, immediately adjacent to the Port of Houston Authority bridge over Greens Bayou,

for work done before the date of enactment of this Act for alterations to each such bridge which were reasonably necessary for the purposes of navigation.

Appropriation authorization.

(2) There is authorized to be appropriated not to exceed $450,000 to carry out subparagraph (A) of paragraph (1) and not to exceed $250,000 to carry out subparagraph (B) of paragraph (1).

(b) The Secretary of Transportation, in consultation with the Secretary, is authorized and directed to transmit to Congress a list of those bridges over navigable waters of the United States which have Federal permits and which were constructed, reconstructed, or removed during the period January 1, 1948, to January 1, 1985.

Rhode Island.

(c) In order to alleviate a navigational hazard in the Seekonk River in Providence, Rhode Island, the Secretary is authorized to demolish and remove the center span of the India Point Railroad Bridge, at a total cost of $500,000, with an estimated first Federal cost of $250,000 and an estimated first non-Federal cost of $250,000. The non-Federal share of the cost of the project authorized by this subsection shall be 50 percent. The Secretary shall not demolish

such span until title to such bridge has been transferred to the United States. Revenue derived from the sale of scrap from this structure shall be credited toward the non-Federal share of the project.

SEC. 1167. PEARSON-SKUBITZ BIG HILL LAKE.

Subject to section 903(a) of the Act, the Secretary is authorized and directed to improve public access to, and lessen a health and safety hazard, at Pearson-Skubitz Big Hill Lake, Kansas, by upgrading existing roads to the extent feasible acquiring additional rights-of-way, and constructing new roads as required, at a cost of $4,000,000, with an estimated first Federal cost of $2,000,000 and an estimated first non-Federal cost of $2,000,000. The non-Federal share of the cost of the project authorized by this section shall be 50 percent. Kansas.

SEC. 1168. NORTON BASIN AND JAMAICA BAY, NEW YORK. 33 USC 59w.

The two portions of Norton Basin and Jamaica Bay, New York, that are particularly described in Committee Print 99-58 of the Committee on Public Works and Transportation of the House of Representatives are hereby declared to be nonnavigable waters of the United States for purposes of the navigation servitude.

SEC. 1169. AVALON BAY, CALIFORNIA.

Subject to section 903(a) of this Act, and following completion of all necessary environmental documents, the Secretary is authorized to perform dredging in Avalon Bay, Santa Catalina Island, California, to a depth of 10 feet mean lower low water, and remove approximately 12,800 cubic yards of material, at a total cost of $300,000, with an estimated first Federal cost of $150,000 and an estimated first non-Federal cost of $150,000. The non-Federal share of the cost of the project authorized by this section shall be 50 percent.

SEC. 1170. ELLICOTT CREEK, NEW YORK.

Notwithstanding section 103 of this Act, cost sharing for the project for flood protection and other purposes, Ellicott Creek, New York, authorized by section 201 of the Flood Control Act of 1970, shall be in accordance with the agreement entered into with respect to such project under section 221 of the Flood Control Act of 1970, dated January 20, 1984. 84 Stat. 1824. 42 USC 1962d-5b.

SEC. 1171. TOUTLE AND GREEN RIVERS, WASHINGTON.

For purposes of section 103 of this Act, physical construction shall be deemed to have been initiated before April 30, 1986, on the project for construction, operation, and maintenance of a sediment retention structure near the confluence of the Toutle and Green Rivers, Washington, authorized by Public Law 99-88. 99 Stat. 293.

SEC. 1172. SPECIAL PROVISIONS REGARDING CERTAIN DUMPING SITES. 33 USC 1414a note.

(a) The Congress finds that the New York Bight Apex is no longer a suitable location for the ocean dumping of municipal sludge.

(b) Title I of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.) is amended by inserting after section 104 the following new section:

"SPECIAL PROVISIONS REGARDING CERTAIN DUMPING SITES

33 USC 1414a.

"SEC. 104A. (a) NEW YORK BIGHT APEX.—(1) For purposes of this subsection—

"(A) The term 'Apex' means the New York Bight Apex consisting of the ocean waters of the Atlantic Ocean westward of 73 degrees 30 minutes west longitude and northward of 40 degrees 10 minutes north latitude.

"(B) The term 'Apex site' means that site within the Apex at which the dumping of municipal sludge occurred before October 1, 1983.

"(C) The term 'eligible authority' means any sewerage authority or other unit of State or local government that on November 2, 1983, was authorized under court order to dump municipal sludge at the Apex site.

"(2) No person may apply for a permit under this title in relation to the dumping of, or the transportation for purposes of dumping, municipal sludge within the Apex unless that person is an eligible authority.

"(3) The Administrator may not issue, or renew, any permit under this title that authorizes the dumping of, or the transportation for purposes of dumping, municipal sludge within the Apex after the earlier of—

"(A) December 15, 1987; or

"(B) the day determined by the Administrator to be the first day on which municipal sludge generated by eligible authorities can reasonably be dumped at a site designated under section 102 other than a site within the Apex.

33 USC 1412.

"(b) RESTRICTION ON USE OF THE 106-MILE SITE.—The Administrator may not issue or renew any permit under this title which authorizes any person, other than a person that is an eligible authority within the meaning of subsection (a)(1)(C), to dump, or to transport for the purposes of dumping, municipal sludge within the site designated under section 102(c) by the Administrator and known as the '106-Mile Ocean Waste Dump Site' (as described in 49 F.R. 19005).".

SEC. 1173. CHICAGO TUNNEL AND RESERVOIR PROJECT.

33 USC 1282.

Notwithstanding any other provision of law (including section 202 of the Federal Water Pollution Control Act), the Federal share of the cost of construction of the Chicago Tunnel and Reservoir Project, Illinois, shall be 75 percent.

Dam Safety Act of 1986.

TITLE XII—DAM SAFETY

SEC. 1201. (a) Section 1 of Public Law 92-367 (33 U.S.C. 467; 86 Stat. 506) is amended by striking out the final period and inserting in lieu thereof the following: ", unless such barrier, due to its location or other physical characteristics, is likely to pose a significant threat to human life or property in the event of its failure.".

(b) Public Law 92-367 is further amended by inserting after section 6 the following sections:

Appropriation authorization. State and local governments. 33 USC 467f.

"SEC. 7. (a) There is authorized to be appropriated to the Secretary of the Army (hereafter in this Act referred to as the 'Secretary'), $13,000,000 for each of the fiscal years ending September 30, 1988, through September 30, 1992. Sums appropriated under this section shall be distributed annually among States on the following basis:

One-third equally among those States that have established dam safety programs approved under the terms of section 8 of this Act, and two-thirds in proportion to the number of dams located in each State that has an established dam safety program under the terms of section 8 of this Act to the number of dams in all States with such approved programs. In no event shall funds distributed to any State under this section exceed 50 percent of the reasonable cost of implementing an approved dam safety program in such State.

Infra.

"(b) No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for programs to assure dam safety for the protection of human life and property at or above the average level of such expenditures in its two fiscal years preceding the date of enactment of this section.

Grants.

"SEC. 8. (a) In order to encourage the establishment and maintenance of effective programs intended to assure dam safety to protect human life and property and to improve such existing programs, the Secretary shall provide assistance under the terms of section 7 of this Act to any State that establishes and maintains a dam safety program which is approved under this section. In evaluating a State's dam safety program, under the terms of subsections (b) and (c) of this section, the Secretary shall determine that such program includes the following:

State and local governments. 33 USC 467g.

Ante, p. 4260.

"(1) a procedure, whereby, prior to any construction the plans for any dam will be reviewed to provide reasonable assurance of the safety and integrity of such dam over its intended life;

"(2) a procedure to determine, during and following construction and prior to operation of each dam built in the State, that such dam has been constructed and will be operated in a safe and reasonable manner;

"(3) a procedure to inspect every dam within such State at least once every five years, except that such inspections shall be required at least every three years for any dam the failure of which is likely to result in the loss of human life;

"(4) a procedure for more detailed and frequent safety inspections, when warranted;

"(5) the State has or can be expected to have authority to require those changes or modifications in a dam, or its operation, necessary to assure the dam's safety;

"(6) the State has or can be expected to develop a system of emergency procedures that would be utilized in the event a dam fails or in the event a dam's failure is imminent together with an identification of those dams where failure could be reasonably expected to endanger human life, and of the maximum area that could be inundated in the event of the failure of such dam, as well as identification of those necessary public facilities that would be affected by such inundation;

"(7) the State has or can be expected to have the authority to assure that any repairs or other changes needed to maintain the integrity of any dam will be undertaken by the dam's owner, or other responsible party; and

"(8) the State has or can be expected to have authority and necessary emergency funds to assure immediate repairs or other changes to, or removal of, a dam in order to protect human life and property, and if the owner does not take action, to take appropriate action as expeditiously as possible.

"(b) Any program which is submitted to the Secretary under the authority of this section shall be deemed approved 120 days following its receipt by the Secretary unless the Secretary determines within such 120-day period that such program fails to reasonably meet the requirements of subsection (a) of this section. If the Secretary determines such a program cannot be approved, he shall immediately notify such State in writing, together with his reasons and those changes needed to enable such plan to be approved.

"(c) Utilizing the expertise of the Board established under section 9 of this Act, the Secretary shall review periodically the implementation and effectiveness of approved State dam safety programs. In the event the Board finds that a State program under this Act has proven inadequate to reasonably protect human life and property, and the Secretary agrees, the Secretary shall revoke approval of such State program and withhold assistance under the terms of section 7 of this Act until such State program has been reapproved.

Infra.

Ante, p. 4260.

Contracts.
33 USC 467h.

"SEC. 9. (a) There is authorized to be established a National Dam Safety Review Board (hereinafter in this Act referred to as the 'Board'), which shall be responsible for reviewing and monitoring State implementation of this Act. The Board is authorized to utilize the expertise of other agencies of the United States and to enter into contracts for necessary studies to carry out the requirements of this section.

State and local governments.

"(b) The Board shall consist of seven members selected for their expertise in dam safety, to represent the Department of the Army, the Department of the Interior, the Tennessee Valley Authority, the Federal Emergency Management Agency, and the Department of Agriculture, plus two members, selected by the President, from employees or officials of States having an approved program under section 8 of this Act.

33 USC 467i.

"SEC. 10. The head of any agency of the United States that owns or operates a dam, or proposes to construct a dam in any State, shall, when requested by such State, consult fully with such State on the design and safety of such dam and allow officials of such State to participate with officials of such agency in all safety inspections of such dam.

"SEC. 11. The Secretary shall, at the request of any State that has or intends to develop a dam safety program under section 8 of this Act, provide training for State dam safety inspectors. There is authorized to be appropriated to carry out this section $500,000 for each of the fiscal years ending September 30, 1988, through September 30, 1992.

Ante, p. 4261.
Appropriation authorization.
33 USC 467j.

Research and development.
33 USC 467k.

"SEC. 12. The Secretary, in cooperation with the National Bureau of Standards, shall undertake a program of research in order to develop improved techniques and equipment for rapid and effective dam inspection, together with devices for the continued monitoring of dams for safety purposes. The Secretary shall provide for State participation in such research and periodically advise all States and the Congress of the results of such research. There is authorized to be appropriated to carry out this section $2,000,000 for each of the fiscal years ending September 30, 1988, through September 30, 1992.

Appropriation authorization.

"SEC. 13. The Secretary is authorized to maintain and periodically publish updated information on the inventory of dams authorized in section 5 of this Act. For the purpose of carrying out this section, there is authorized to be appropriated to the Secretary $500,000 for

33 USC 467d.
Appropriation authorization.
33 USC 467*l*.

each of the fiscal years ending September 30, 1988, through September 30, 1992.

"SEC. 14. No funds authorized in this Act shall be used to construct or repair any Federal or non-Federal dam.". 33 USC 467m.

SEC. 1202. Any report that is submitted to the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives by the Secretary, or the Secretary of Agriculture acting under Public Law 83-566, as amended, which proposes construction of a water impoundment facility, shall include information on the consequences of failure and geologic or design factors which could contribute to the possible failure of such facility. Reports. 33 USC 2311.

SEC. 1203. (a) After the date of enactment of this Act, costs incurred in the modification by the Secretary of dams and related facilities constructed or operated by the Secretary, the cause of which results from new hydrologic or seismic data or changes in state-of-the-art design or construction criteria deemed necessary for safety purposes, shall be recovered in accordance with the provisions in this subsection: 33 USC 467n.

(1) Fifteen percent of the modification costs shall be assigned to project purposes in accordance with the cost allocation in effect for the project at the time the work is initiated. Non-Federal interests shall share the costs assigned to each purpose in accord with the cost sharing in effect at the time of initial project construction: *Provided*, That the Secretary of the Interior shall recover costs assigned to irrigation in accordance with repayment provisions of Public Law 98-404. 43 USC 506 note.

(2) Repayment under this subsection, with the exception of costs assigned to irrigation, may be made, with interest, over a period of not more than thirty years from the date of completion of the work. The interest rate used shall be determined by the Secretary of the Treasury, taking into consideration average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the applicable reimbursable period during the month preceding the fiscal year in which the costs are incurred, plus a premium of one-eighth of one percentage point for transaction costs. To the extent that more than one interest rate is determined pursuant to the preceding sentence, the Secretary of the Treasury shall establish an interest rate at the weighted average of the rates so determined.

(b) Nothing in this section affects the authority of the Secretary to perform work pursuant to Public Law 84-99, as amended (33 U.S.C. 701n) or cost sharing for such work.

SEC. 1204. Section 3 of Public Law 92-367 (33 U.S.C. 467b) is amended by adding after the first sentence thereof the following new sentence: "In any case in which any hazardous conditions are found during an inspection, upon request by the owner, the Secretary, acting through the Chief of Engineers, may perform detailed engineering studies to determine the structural integrity of the dam, subject to reimbursement of such expense by the owner of such dam.".

SEC. 1205. (a) The Secretary is authorized to provide technical assistance related to the repair of the spillway and technical assistance related to other measures to restore the safety of the dam used to supply water to Schuyler County Public Water Supply District Number 1, Missouri. Such technical assistance may be provided on a Missouri.

nonreimbursable basis at a cost not exceeding $50,000, and may be provided as needed in additional amounts on a fully reimbursable basis.

Ohio.

(b) The Secretary is authorized to provide technical assistance for necessary repairs to the Milton Dam in Mahoning County, Ohio, in accordance with the remedial measures described in the report of the District Engineer, Pittsburgh District, entitled "Milton Dam, Mahoning County, Ohio, Investigation to Determine the Adequacy of Structural and Hydraulic Components", dated February 1980. Such technical assistance may be provided on a nonreimbursable basis at a cost not exceeding $50,000, and may be provided as needed in additional amounts on a fully reimbursable basis.

33 USC 467 note.

SEC. 1206. This title may be cited as the "Dam Safety Act of 1986".

TITLE XIII—NAMINGS

SEC. 1301. JENNINGS RANDOLPH LAKE.

Maryland.
West Virginia.

Bloomington Lake located on the North Branch of the Potomac River near Bloomington, Maryland, and Keyser, West Virginia, is named and designated as the "Jennings Randolph Lake". Any reference in a law, map, regulation, document, record, or other paper of the United States to such lake shall be held to be a reference to the "Jennings Randolph Lake".

SEC. 1302. JAMES W. TRIMBLE LOCK AND DAM.

Arkansas.

Lock and dam numbered 13 on the Arkansas River, Arkansas, constructed as part of the project for navigation on the Arkansas River and tributaries, shall hereafter be known and designated as the "James W. Trimble Lock and Dam". Any law, regulation, document, or record of the United States in which such lock and dam are referred to shall be held to refer to such lock and dam as the "James W. Trimble Lock and Dam".

SEC. 1303. ARTHUR V. ORMOND LOCK AND DAM.

Arkansas.

Lock and dam numbered 9 on the Arkansas River, Arkansas, constructed as part of the project for navigation on the Arkansas River and tributaries, shall hereafter be known and designated as the "Arthur V. Ormond Lock and Dam". Any law, regulation, document, or record of the United States in which such lock and dam are referred to shall be held to refer to such lock and dam as the "Arthur V. Ormond Lock and Dam".

SEC. 1304. GREILICKVILLE HARBOR.

Michigan.

The harbor located in Elmwood Township, Leelanau County, Michigan, and authorized as the Grand Traverse Bay by section 101 of the River and Harbor Act of 1948 (62 Stat. 1173) shall hereafter be known and designated as the "Greilickville Harbor". Any reference in a law, map, regulation, document, record, or other paper of the United States to that harbor shall be deemed to be a reference to the "Greilickville Harbor".

SEC. 1305. WILBUR D. MILLS DAM.

Arkansas.

Dam numbered 2 on the Arkansas River, Arkansas, constructed as part of the project for navigation on the Arkansas River and tributaries, shall hereafter be known and designated as the "Wilbur D. Mills Dam". Any law, regulation, document, or record of the

United States in which such dam is referred to shall be held to refer to such dam as the "Wilbur D. Mills Dam".

SEC. 1306. S. W. TAYLOR MEMORIAL PARK.

The China Bluff access area which is being constructed by the Army Corps of Engineers as part of the Gainesville lock and dam portion of the Tennessee-Tombigbee Waterway project and which is located near Warsaw in Sumter County, Alabama, shall hereafter be known as the "S. W. Taylor Memorial Park". Any reference in any law, map, regulation, document, or other record of the United States to the China Bluff access area shall be held to be a reference to the "S. W. Taylor Memorial Park".

SEC. 1307. H. K. THATCHER LOCK AND DAM.

Calion Lock and Dam located on the Ouachita River near Calion, Arkansas, shall hereafter be known and designated as the "H. K. Thatcher Lock and Dam". Any reference in a law, map, regulation, document, record, or other paper of the United States to such lock and dam shall be held to be a reference to the "H. K. Thatcher Lock and Dam". Arkansas.

SEC. 1308. DEWAYNE HAYES RECREATION AREA.

The Stinson Creek Recreation Area which is to be constructed by the Army Corps of Engineers as part of the Columbus Lake portion of the Tennessee-Tombigbee Waterway project and which is located in Lowndes County, Mississippi, shall hereafter be known and designated as the "DeWayne Hayes Recreation Area". Any law, regulation, document, or record of the United States in which such recreation area is referred to shall be held to refer to such recreation area as the "DeWayne Hayes Recreation Area".

SEC. 1309. WINTHROP ROCKEFELLER LAKE.

The reservoir created by dam numbered 9 on the Arkansas River, Arkansas, constructed as part of the project for navigation on the Arkansas River and tributaries, shall hereafter be known and designated as the "Winthrop Rockefeller Lake". Any law, regulation, document, or record of the United States in which such reservoir is referred to shall be held to refer to such reservoir as the "Winthrop Rockefeller Lake". Arkansas.

SEC. 1310. WEHRSPANN LAKE.

Papillion Creek and Tributaries Lakes, Nebraska, site 20 on the West Papillion Creek shall hereafter be known and designated as the "Wehrspann Lake". Any reference in a law, map, regulation, document, record, or other paper of the United States to such site shall be held to be a reference to the "Wehrspann Lake". Nebraska.

SEC. 1311. JACK D. MALTESTER CHANNEL.

The main channel of the project for San Leandro Marina, California, authorized by section 201 of the Flood Control Act of 1965 and approved by resolution adopted by the Committee on Public Works of the House of Representatives on June 22, 1971, and by the Committee on Public Works of the Senate on December 15, 1970, shall be known and designated as the "Jack D. Maltester Channel". Each reference to such channel in a law, map, regulation, document, record, or other paper of the United States shall be deemed to be a reference to the "Jack D. Maltester Channel". 42 USC 1962d-5.

Harbor Maintenance Revenue Act of 1986.
26 USC 1 note.

TITLE XIV—REVENUE PROVISIONS

SEC. 1401. SHORT TITLE.

This title may be cited as the "Harbor Maintenance Revenue Act of 1986".

SEC. 1402. IMPOSITION OF HARBOR MAINTENANCE TAX.

26 USC 4451 *et seq.*
Ante, p. 2095.

(a) GENERAL RULE.—Chapter 36 of the Internal Revenue Code of 1954 (relating to certain other excise taxes) is amended by inserting after the chapter heading the following new subchapter:

"Subchapter A—Harbor Maintenance Tax

"Sec. 4461. Imposition of tax.
"Sec. 4462. Definitions and special rules.

26 USC 4461.

"SEC. 4461. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax on any port use.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) on any port use shall be an amount equal to 0.04 percent of the value of the commercial cargo involved.

"(c) LIABILITY AND TIME OF IMPOSITION OF TAX.—

"(1) LIABILITY.—The tax imposed by subsection (a) shall be paid by—

Imports.

"(A) in the case of cargo entering the United States, the importer,

Exports.

"(B) in the case of cargo to be exported from the United States, the exporter, or

"(C) in any other case, the shipper.

"(2) TIME OF IMPOSITION.—Except as provided by regulations, the tax imposed by subsection (a) shall be imposed—

Exports.

"(A) in the case of cargo to be exported from the United States, at the time of loading, and

"(B) in any other case, at the time of unloading.

26 USC 4462.

"SEC. 4462. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) PORT USE.—The term 'port use' means—

"(A) the loading of commercial cargo on, or

"(B) the unloading of commercial cargo from,

a commercial vessel at a port.

"(2) PORT.—

"(A) IN GENERAL.—The term 'port' means any channel or harbor (or component thereof) in the United States, which—

"(i) is not an inland waterway, and

"(ii) is open to public navigation.

"(B) EXCEPTION FOR CERTAIN FACILITIES.—The term 'port' does not include any channel or harbor with respect to which no Federal funds have been used since 1977 for construction, maintenance, or operation, or which was deauthorized by Federal law before 1985.

"(C) SPECIAL RULE FOR COLUMBIA RIVER.—The term 'port' shall include the channels of the Columbia River in the States of Oregon and Washington only up to the downstream side of Bonneville lock and dam.

"(3) COMMERCIAL CARGO.—

"(A) IN GENERAL.—The term 'commercial cargo' means any cargo transported on a commercial vessel, including passengers transported for compensation or hire.

"(B) CERTAIN ITEMS NOT INCLUDED.—The term 'commercial cargo' does not include—

"(i) bunker fuel, ship's stores, sea stores, or the legitimate equipment necessary to the operation of a vessel, or

"(ii) fish or other aquatic animal life caught and not previously landed on shore.

"(4) COMMERCIAL VESSEL.—

"(A) IN GENERAL.—The term 'commercial vessel' means any vessel used—

"(i) in transporting cargo by water for compensation or hire, or

"(ii) in transporting cargo by water in the business of the owner, lessee, or operator of the vessel.

"(B) EXCLUSION OF FERRIES.—

"(i) IN GENERAL.—The term 'commercial vessel' does not include any ferry engaged primarily in the ferrying of passengers (including their vehicles) between points within the United States, or between the United States and contiguous countries.

"(ii) FERRY.—The term 'ferry' means any vessel which arrives in the United States on a regular schedule during its operating season at intervals of at least once each business day.

"(5) VALUE.—

"(A) IN GENERAL.—The term 'value' means, except as provided in regulations, the value of any commercial cargo as determined by standard commercial documentation.

"(B) TRANSPORTATION OF PASSENGERS.—In the case of the transportation of passengers for hire, the term 'value' means the actual charge paid for such service or the prevailing charge for comparable service if no actual charge is paid.

"(b) SPECIAL RULE FOR ALASKA, HAWAII, AND POSSESSIONS.—

"(1) IN GENERAL.—No tax shall be imposed under section 4461(a) with respect to—

"(A) cargo loaded on a vessel in a port in the United States mainland for transportation to Alaska, Hawaii, or any possession of the United States for ultimate use or consumption in Alaska, Hawaii, or any possession of the United States, Vessels.

"(B) cargo loaded on a vessel in Alaska, Hawaii, or any possession of the United States for transportation to the United States mainland for ultimate use or consumption in the United States mainland,

"(C) the unloading of cargo described in subparagraph (A) or (B) in Alaska, Hawaii, or any possession of the United States, or in the United States mainland, respectively, or

"(D) cargo loaded on a vessel in Alaska, Hawaii, or a possession of the United States and unloaded in the State or possession in which loaded.

"(2) CARGO DOES NOT INCLUDE CRUDE OIL WITH RESPECT TO ALASKA.—For purposes of this subsection, the term 'cargo' does not include crude oil with respect to Alaska.

"(3) UNITED STATES MAINLAND.—For purposes of this subsection, the term 'United States mainland' means the continental United States (not including Alaska).

Vessels.

"(c) COORDINATION OF TAX WHERE TRANSPORTATION SUBJECT TO TAX IMPOSED BY SECTION 4042.—No tax shall be imposed under this subchapter with respect to the loading or unloading of any cargo on or from a vessel if any fuel of such vessel has been (or will be) subject to the tax imposed by section 4042 (relating to tax on fuel used in commercial transportation on inland waterways).

26 USC 4042.

"(d) NONAPPLICABILITY OF TAX TO CERTAIN CARGO.—

"(1) IN GENERAL.—Subject to paragraph (2), the tax imposed by section 4461(a) shall not apply to bonded commercial cargo entering the United States for transportation and direct exportation to a foreign country.

Exports.
Canada.
Mexico.

"(2) IMPOSITION OF CHARGES.—Paragraph (1) shall not apply to any cargo exported to Canada or Mexico—

Vessels.

"(A) during the period—

"(i) after the date on which the Secretary determines that the Government of Canada or Mexico (as the case may be) has imposed a substantially equivalent tax, fee, or charge on commercial vessels or commercial cargo utilizing ports of such country, and

"(ii) subject to subparagraph (B), before the date on which the Secretary determines that such tax, fee, charge has been discontinued by such country, and

"(B) with respect to a particular United States port (or to any transaction or class of transactions at any such port) to the extent that the study made pursuant to section 1407(a) of the Water Resources Development Act of 1986 (or a review thereof pursuant to section 1407(b) of such Act) finds that—

"(i) the imposition of the tax imposed by this subchapter at such port (or to any transaction or class of transactions at such port) is not likely to divert a significant amount of cargo from such port to a port in a country contiguous to the United States, or that any such diversion is not likely to result in significant economic loss to such port, or

"(ii) the nonapplicability of such tax at such port (or to any transaction or class of transactions at such port) is likely to result in significant economic loss to any other United States port.

"(e) EXEMPTION FOR UNITED STATES.—No tax shall be imposed under this subchapter on the United States or any agency or instrumentality thereof.

"(f) EXTENSION OF PROVISIONS OF LAW APPLICABLE TO CUSTOMS DUTY.—

"(1) IN GENERAL.—Except to the extent otherwise provided in regulations, all administrative and enforcement provisions of customs laws and regulations shall apply in respect of the tax imposed by this subchapter (and in respect of persons liable therefor) as if such tax were a customs duty. For purposes of the preceding sentence, any penalty expressed in terms of a relationship to the amount of the duty shall be treated as not less

than the amount which bears a similar relationship to the value of the cargo.

"(2) JURISDICTION OF COURTS AND AGENCIES.—For purposes of determining the jurisdiction of any court of the United States or any agency of the United States, the tax imposed by this subchapter shall be treated as if such tax were a customs duty.

"(3) ADMINISTRATIVE PROVISIONS APPLICABLE TO TAX LAW NOT TO APPLY.—The tax imposed by this subchapter shall not be treated as a tax for purposes of subtitle F or any other provision of law relating to the administration and enforcement of internal revenue taxes.

"(g) SPECIAL RULES.—Except as provided by regulations—

"(1) TAX IMPOSED ONLY ONCE.—Only 1 tax shall be imposed under section 4461(a) with respect to the loading on and unloading from, or the unloading from and the loading on, the same vessel of the same cargo.

"(2) EXCEPTION FOR INTRAPORT MOVEMENTS.—Under regulations, no tax shall be imposed under section 4461(a) on the mere movement of cargo within a port.

"(h) REGULATIONS.—The Secretary may prescribe such additional regulations as may be necessary to carry out the purposes of this subchapter including, but not limited to, regulations—

"(1) providing for the manner and method of payment and collection of the tax imposed by this subchapter,

"(2) providing for the posting of bonds to secure payment of such tax,

"(3) exempting any transaction or class of transactions from such tax where the collection of such tax is not administratively practical, and

"(4) providing for the remittance or mitigation of penalties and the settlement or compromise of claims."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 36 of the Internal Revenue Code of 1954 is amended by inserting the following before the item relating to subchapter D:

"SUBCHAPTER A. Harbor maintenance tax."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1987. 26 USC 4461 note.

SEC. 1403. CREATION OF HARBOR MAINTENANCE TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to establishment of trust funds) is amended by adding after section 9504 the following new section: 26 USC 9501 *et seq.*

"SEC. 9505. HARBOR MAINTENANCE TRUST FUND. *Ante*, p. 2095. 26 USC 9505.

"(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Harbor Maintenance Trust Fund', consisting of such amounts as may be—

"(1) appropriated to the Harbor Maintenance Trust Fund as provided in this section,

"(2) transferred to the Harbor Maintenance Trust Fund by the Saint Lawrence Seaway Development Corporation pursuant to section 13(a) of the Act of May 13, 1954, or

"(3) credited to the Harbor Maintenance Trust Fund as provided in section 9602(b).

"(b) TRANSFER TO HARBOR MAINTENANCE TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—There are hereby appropriated to the Harbor Maintenance Trust Fund amounts equivalent to the taxes received in the Treasury under section 4461 (relating to harbor maintenance tax).

Ante, p. 4266.

"(c) EXPENDITURES FROM HARBOR MAINTENANCE TRUST FUND.—Amounts in the Harbor Maintenance Trust Fund shall be available, as provided by appropriation Acts, for making expenditures—

"(1) to carry out section 210(a) of the Water Resources Development Act of 1986 (as in effect on the date of enactment of this section),

"(2) for payments of rebates of tolls or charges pursuant to section 13(b) of the Act of May 13, 1954 (as in effect on April 1, 1987), and

"(3) for the payment of all expenses of administration incurred—

"(A) by the Department of the Treasury in administering subchapter A of chapter 36 (relating to harbor maintenance tax), but not in excess of $5,000,000 for any fiscal year, and

Ante, p. 4266.

"(B) for periods during which no fee applies under paragraph (9) or (10) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985."

Ante, p. 82.

26 USC 4461 note.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of the Treasury (from the fees collected under paragraphs (9) and (10) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985) such sums as may be necessary to pay all expenses of administration incurred by such Department in administering subchapter A of chapter 36 of the Internal Revenue Code of 1954 for periods to which such fees apply.

(c) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1954 is amended by adding after the item relating to section 9504 the following new item:

"Sec. 9505. Harbor Maintenance Trust Fund."

26 USC 9505 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1987.

SEC. 1404. INLAND WATERWAYS TAX.

(a) IN GENERAL.—Subsection (b) of section 4042 of the Internal Revenue Code of 1954 (relating to tax on fuel used in commercial transportation on inland waterways) is amended to read as follows:

26 USC 4042.
Ante, p. 2095.

"(b) AMOUNT OF TAX.—The tax imposed by subsection (a) shall be determined from the following table:

If the use occurs:	The tax per gallon is:
Before 1990	10 cents
During 1990	11 cents
During 1991	13 cents
During 1992	15 cents
During 1993	17 cents
During 1994	19 cents
After 1994	20 cents."

(b) FUEL USE ON TENNESSEE-TOMBIGBEE WATERWAY SUBJECT TO INLAND WATERWAY TAX.—Section 206 of the Inland Waterways Revenue Act of 1978 is amended by adding at the end thereof the following:

33 USC 1804.

"(27) Tennessee-Tombigbee Waterway: From its confluence with the Tennessee River to the Warrior River at Demopolis, Alabama."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1987. 26 USC 4042 note.

SEC. 1405. INLAND WATERWAYS TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to establishment of trust funds) is amended by adding after section 9505 the following new section: *Ante*, p. 4269.

"SEC. 9506. INLAND WATERWAYS TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Inland Waterways Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b). 26 USC 9602.

"(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—There are hereby appropriated to the Inland Waterways Trust Fund amounts equivalent to the taxes received in the Treasury under section 4042 (relating to tax on fuel used in commercial transportation on inland waterways). 26 USC 9506.

"(c) EXPENDITURES FROM TRUST FUND.—

"(1) IN GENERAL.—Except as provided in paragraph (2), amounts in the Inland Waterways Trust Fund shall be available, as provided by appropriation Acts, for making construction and rehabilitation expenditures for navigation on the inland and coastal waterways of the United States described in section 206 of the Inland Waterways Revenue Act of 1978, as in effect on the date of the enactment of this section. 33 USC 1804.

"(2) EXCEPTION FOR CERTAIN PROJECTS.—Not more than ½ of the cost of any construction to which section 102(a) of the Water Resources Development Act of 1986 applies (as in effect on the date of the enactment of this section) may be paid from the Inland Waterways Trust Fund."

(b) CONFORMING AMENDMENTS.—Sections 203 and 204 of the Inland Waterways Revenue Act of 1978 (relating to Inland Waterways Trust Fund) are hereby repealed. 33 USC 1801, 1802.

(c) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new item:

"Sec. 9506. Inland Waterways Trust Fund."

(d) EFFECTIVE DATE.— 26 USC 9506 note.

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1987.

(2) INLAND WATERWAYS TRUST FUND TREATED AS CONTINUATION OF OLD TRUST FUND.—The Inland Waterways Trust Fund established by the amendments made by this section shall be treated for all purposes of law as a continuation of the Inland Waterways Trust Fund established by section 203 of the Inland Waterways Revenue Act of 1978. Any reference in any law to the Inland Waterways Trust Fund established by such section 203 shall be deemed to include (wherever appropriate) a reference to the Inland Waterways Trust Fund established by this section.

33 USC 984.

SEC. 805. SAINT LAWRENCE SEAWAY EXPENDITURES AND REBATES OF TOLLS.

(a) IN GENERAL.—The Act of May 13, 1954 is amended—

(1) by striking out "and" at the end of paragraph (11) of section 4(a),

(2) by striking out the period at the end of paragraph (12) of section 4(a) and inserting in lieu thereof "; and",

(3) by adding at the end of section 4(a) the following new paragraph:

"(13) shall accept such amounts as may be transferred to the Corporation under section 9505(c)(1) of the Internal Revenue Code of 1954, except that such amounts shall be available only for the purpose of operating and maintaining those works which the Corporation is obligated to operate and maintain under subsection (a) of section 3 of this Act.", and

26 USC 9505.

(4) by adding at the end thereof the following new section:

"REBATE OF CHARGES OR TOLLS

33 USC 988a.

"SEC. 13. (a) The Corporation shall transfer to the Harbor Maintenance Trust Fund, at such times and under such terms and conditions as the Secretary of the Treasury may prescribe, all revenues derived from the collection of charges or tolls established under section 12 of this Act.

33 USC 988.

"(b)(1) The Corporation shall certify to the Secretary of the Treasury, in such form and at such times as the Secretary of the Treasury shall prescribe—

Vessels.

"(A) the identity of any person who pays a charge or toll to the Corporation pursuant to section 12 of this Act with respect to a commercial vessel (as defined in section 4462(a)(4) of the Internal Revenue Code of 1954),

26 USC 4462.

"(B) the amount of the toll or charge paid by such person with respect to such vessel.

"(2) Within 30 days of the receipt of a certification described in paragraph (1), the Secretary of the Treasury shall rebate, out of the Harbor Maintenance Trust Fund, to the person described in paragraph (1) the amount of the charge or toll paid pursuant to section 12 of this Act."

33 USC 984 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1987.

33 USC 988 note.

SEC. 1406. REPORT ON REDUCTION OR ELIMINATION OF TOLLS ON THE GREAT LAKES AND THE SAINT LAWRENCE SEAWAY.

Canada.

Not later than 2 years after the date of enactment of this Act, the Secretary of State, in consultation with the Secretary of Transportation, shall initiate discussions with the Government of Canada with the objective of reducing or eliminating all tolls on the international Great Lakes and the Saint Lawrence Seaway, and the Secretary of Transportation shall report to the Congress on the progress of such discussions and on the economic effects upon waterborne commerce in the United States of any proposed reduction or elimination in tolls.

26 USC 4461 note.
Taxes.

SEC. 1407. STUDY OF CARGO DIVERSION.

(a) INITIAL STUDY.—The Secretary of the Treasury, in consultation with United States ports, the Secretary of the Army, the Secretary of Transportation, the United States Trade Representative and

other appropriate Federal agencies, shall conduct a study to determine the impact of the port use tax imposed under section 4461(a) of the Internal Revenue Code of 1954 on potential diversions of cargo from particular United States ports to any port in a country contiguous to the United States. The report of the study shall be submitted to the Ways and Means Committee of the House of Representatives and the Committee on Finance of the United States Senate not later than 1 year from the date of the enactment of this Act.

Ante, p. 4266.

Reports.

(b) REVIEW.—The Secretary of the Treasury may, at any time, review and revise the findings of the study conducted pursuant to subsection (a) with respect to any United States port (or to any transaction or class of transactions at such port).

(c) IMPLEMENTATION OF FINDINGS.—For purposes of section 4462(d)(2)(B) of the Internal Revenue Code of 1954, the findings of the study or review conducted pursuant to subsections (a) and (b) of this section shall be effective 60 days after notification to the ports concerned.

Effective date.

Ante, p. 4266.

Approved November 17, 1986.

LEGISLATIVE HISTORY—H.R. 6 (H.R. 2494) (S. 1567):

HOUSE REPORTS: No. 99-111 (Comm. on Public Works and Transportation), No. 99-251, Pt. I (Comm. on Public Works and Transportation), Pt. II (Comm. on Interior and Insular Affairs), Pt. III (Comm. on Ways and Means), Pt. IV (Comm. on Merchant Marine and Fisheries).

SENATE REPORTS: No. 99-126 accompanying S. 1567 (Comm. on Environment and Public Works), No. 99-228 accompanying S. 1567 (Comm. on Finance).

CONGRESSIONAL RECORD:

Vol. 131 (1985): Nov. 5, 6, 13, considered and passed House.

Vol. 132 (1986): Mar. 26, considered and passed Senate, amended, in lieu of S. 1567.

Oct. 17, House and Senate agreed to conference report.

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PUBLIC LAW 99-663—NOV. 17, 1986

COLUMBIA RIVER GORGE NATIONAL SCENIC AREA ACT

91-139 O - 87 - 1 (687)

Public Law 99-663
99th Congress

An Act

Nov. 17, 1986
[H.R. 5705]

To protect and provide for the enhancement of the resources of the Columbia River Gorge, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Columbia River Gorge National Scenic Area Act.
Oregon.
Washington.
16 USC 544 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be referred to as the "Columbia River Gorge National Scenic Area Act".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Definitions.
Sec. 3. Purposes.
Sec. 4. Establishment of the scenic area.
Sec. 5. The Columbia River Gorge Commission.
Sec. 6. The scenic area management plan.
Sec. 7. Administration of the scenic area.
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Sec. 13. Tributary rivers and streams.
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Sec. 15. Enforcement.
Sec. 16. Authorization of appropriations.
Sec. 17. Savings provisions.
Sec. 18. Severability.

SEC. 2. DEFINITIONS.

16 USC 544.

As used in this Act, the term—

(a) "adversely affect" or "adversely affecting" means, except as used in section 15, a reasonable likelihood of more than moderate adverse consequences for the scenic, cultural, recreation or natural resources of the scenic area, the determination of which is based on—

(1) the context of a proposed action;

(2) the intensity of a proposed action, including the magnitude and duration of an impact and the likelihood of its occurrence;

(3) the relationship between a proposed action and other similar actions which are individually insignificant but which may have cumulatively significant impacts; and

(4) proven mitigation measures which the proponent of an action will implement as part of the proposal to reduce otherwise significant affects to an insignificant level;

(b) "agricultural lands" means lands designated as agricultural lands pursuant to section 6 of this Act;

(c) "Commission" means the Columbia River Gorge Commission established pursuant to section 5 of this Act;

(d) "counties" means Hood River, Multnomah, and Wasco Counties, Oregon; and Clark, Klickitat, and Skamania Counties, Washington;

(e) "Dodson/Warrendale Special Purchase Unit" means the Dodson/Warrendale Special Purchase Unit established pursuant to section 4 of this Act;

(f) "forest lands" means lands designated as forest lands pursuant to section 6 of this Act;

(g) "Indian tribes" means the Nez Perce Tribe, the Confederated Tribes and Bands of the Yakima Indian Nation, the Confederated Tribes of the Warm Springs of Oregon, and the Confederated Tribes of the Umatilla Indian Reservation;

(h) "interim guidelines" means any interim guidelines developed by the Secretary pursuant to section 10 of this Act, and any amendment, revision, or variance;

(i) "land use ordinance" or "ordinance" means any ordinance adopted by a county or by the Commission pursuant to this Act, and includes any amendment to, revision of, or variance from such ordinance;

(j) "major development actions" means any of the following:

(1) subdivisions, partitions and short plat proposals;

(2) any permit for siting or construction outside urban areas of multifamily residential, industrial or commercial facilities, except such facilities as are included in the recreation assessment;

(3) the exploration, development and production of mineral resources unless such exploration, development or production can be conducted without disturbing the surface of any land within the boundaries of a special management area or is for sand, gravel and crushed rock used for the construction, maintenance or reconstruction of roads within the special management areas used for the production of forest products; and

(4) permits for siting or construction within a special management area of any residence or other related major structure on any parcel of land less than forty acres in size;

(k) "management plan" means the scenic area management plan adopted pursuant to section 6 of this Act;

(l) "open spaces" means unimproved lands not designated as agricultural lands or forest lands pursuant to section 6 of this Act and designated as open space pursuant to section 6 of this Act. Open spaces include—

(1) scenic, cultural, and historic areas;

(2) fish and wildlife habitat;

(3) lands which support plant species that are endemic to the scenic area or which are listed as rare, threatened or endangered species pursuant to State or Federal Endangered Species Acts;

(4) ecologically and scientifically significant natural areas;

(5) outstanding scenic views and sites;

(6) water areas and wetlands;

(7) archaeological sites, Indian burial grounds and village sites, historic trails and roads and other areas which are culturally or historically significant;

(8) potential and existing recreation resources; and

(9) Federal and State wild, scenic, and recreation waterways;

(m) "recreation assessment" means the recreation assessment adopted pursuant to section 6 of this Act;

(n) "residential development" means the permitting for siting or construction of any residence or other related major structure;

(o) "scenic area" means the Columbia River Gorge National Scenic Area established pursuant to section 4 of this Act;

(p) "Secretary" means the Secretary of Agriculture;

(q) "special management areas" means areas within the scenic area established pursuant to section 4 of this Act;

(r) "States" means the States of Oregon and Washington; and

(s) "urban areas" means those areas within the scenic area identified as urban areas on the map referred to in section 4(e) of this Act or within the boundaries of an urban area as revised pursuant to section 4(f).

16 USC 544a.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to establish a national scenic area to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge; and

(2) to protect and support the economy of the Columbia River Gorge area by encouraging growth to occur in existing urban areas and by allowing future economic development in a manner that is consistent with paragraph (1).

16 USC 544b.

SEC. 4. ESTABLISHMENT OF THE SCENIC AREA.

(a) NATIONAL SCENIC AREA.—(1) There is hereby established the Columbia River Gorge National Scenic Area.

Public information.

(2) The boundaries of the scenic area shall be generally depicted on the map entitled "Boundary Map, Columbia River Gorge National Scenic Area," numbered NSA-001 sheets 1 and 2, and dated September 1986, which shall be on file and available for public inspection in the offices of the Commission and of the Chief, Forest Service.

(b) SPECIAL MANAGEMENT AREAS.—(1) The following areas within the boundaries of the scenic area are hereby designated "Special Management Areas": Gates of the Columbia River Gorge; Wind Mountain; Burdoin Mountain; and Rowena.

(2) The boundaries of the special management areas designated in this section—

Public information.

(A) shall be generally depicted on the map entitled "Special Management Areas, Columbia River Gorge National Scenic Area", numbered SMA-002 sheets 1 through 17, and dated September 1986, which shall be on file and available for public inspection in the offices of the Commission and of the Chief, Forest Service; and

(B) shall include all islands within the boundaries of the scenic area.

Federal Register, publication.

(c) REVISION OF SPECIAL MANAGEMENT AREA BOUNDARIES.—The Secretary, in consultation with the Commission, may make minor revisions in the boundaries of special management areas after publication of notice to that effect in the Federal Register and submission of notice thereof to the Committee on Energy and Natural Resources of the United States Senate and the Committees on

Agriculture and Interior and Insular Affairs of the United States House of Representatives. Such notice shall be published and submitted at least sixty days before the revision is made. Notice of final action regarding such revision shall also be published in the Federal Register.

Federal Register, publication.

(d) DODSON/WARRENDALE SPECIAL PURCHASE UNIT.—(1) There is hereby established the Dodson/Warrendale Special Purchase Unit.

(2) The boundaries of the Dodson/Warrendale Special Purchase Unit shall be generally depicted on the map entitled "Dodson/Warrendale Special Purchase Unit, Columbia River Gorge National Scenic Area", numbered SPU-003 sheet 1, and dated September 1986, which shall be on file and available for public inspection in the offices of the Commission and of the Chief, Forest Service.

Public information.

(e) URBAN AREAS.—(1) The following cities and towns are hereby designated as "Urban Areas": Cascade Locks, Hood River, Mosier, and The Dalles, Oregon; and Bingen, Carson, Dallesport, Home Valley, Lyle, North Bonneville, Stevenson, White Salmon, and Wishram, Washington.

(2) The boundaries of urban areas shall be generally depicted on the map entitled, "Urban Areas, Columbia River Gorge National Scenic Area", numbered UA-004 sheets 1 through 11, and dated September 1986, which shall be on file and available for public inspection in the offices of the Commission and of the Chief, Forest Service. The boundaries of urban areas designated in this subsection may be revised pursuant to the provisions of this section.

Public information.

(f) REVISION OF URBAN AREA BOUNDARIES.—(1) Upon application of a county and in consultation with the Secretary, the Commission may make minor revisions to the boundaries of any urban area identified in subsection 4(e) of this section. A majority vote of two-thirds of the members of the Commission, including a majority of the members appointed from each State, shall be required to approve any revision of urban area boundaries.

(2) The Commission may revise the boundaries of an urban area only if it finds that—

(A) a demonstrable need exists to accommodate long-range urban population growth requirements or economic needs consistent with the management plan;

(B) revision of urban area boundaries would be consistent with the standards established in section 6 and the purposes of this Act;

(C) revision of urban area boundaries would result in maximum efficiency of land uses within and on the fringe of existing urban areas; and

(D) revision of urban area boundaries would not result in the significant reduction of agricultural lands, forest lands, or open spaces.

Agriculture and agricultural commodities. Forests and forest products. 16 USC 544c.

SEC. 5. THE COLUMBIA RIVER GORGE COMMISSION.

(a) ESTABLISHMENT AND MEMBERSHIP OF THE COMMISSION.—(1) To achieve the purposes of this Act and to facilitate cooperation among the States of Oregon and Washington, and with the United States of America, the consent of Congress is given for an agreement described in this Act pursuant to which, within one year after the date of enactment of this Act—

(A) the States of Oregon and Washington shall establish by way of an interstate agreement a regional agency known as the Columbia River Gorge Commission, and shall incorporate this

Compacts between States.

Act by specific reference in such agreement. The Commission shall carry out its functions and responsibilities in accordance with the provisions of the interstate agreement and of this Act and shall not be considered an agency or instrumentality of the United States for the purpose of any Federal law;

(B) the States of Oregon and Washington shall provide to the Commission, State agencies, and the counties under State law the authority to carry out their respective functions and responsibilities in accordance with the provisions of paragraph (1)(A) of this subsection; and

(C) the States of Oregon and Washington shall appoint members of the Commission as provided in clauses (i) through (iii), subject to applicable State law: *Provided,* That the Governor of either State may extend the time for appointment of Commission members ninety days to provide more time for the States and counties to make such appointments. Membership of the Commission shall be as follows:

(i) six members, comprised of one resident from each of the following counties: Hood River, Multnomah, and Wasco Counties, Oregon, and Clark, Klickitat, and Skamania Counties, Washington, to be appointed by the governing body of each of the respective counties: *Provided,* That in the event the governing body of a county fails to make such appointment, the Governor of the State in which the county is located shall appoint such member;

(ii) three members who reside in the State of Oregon, at least one of whom shall be a resident of the scenic area, to be appointed by the Governor of Oregon;

(iii) three members who reside in the State of Washington, at least one of whom shall be a resident of the scenic area, to be appointed by the Governor of Washington; and

(iv) one ex officio, nonvoting member who shall be an employee of the Forest Service, to be appointed by the Secretary.

Effective date.

(2) The agreement shall take effect and the Commission may exercise its authorities pursuant to the agreement upon the appointment of four initial members from each State, subject to applicable State law, and the date of such an agreement shall be the date of establishment of the Commission. Such agreement is hereby consented to by the Congress.

(3) Either State or any county may fill any vacancy occurring prior to the expiration of the term of any member originally appointed by that State or county. Each member appointed to the Commission shall serve a term of four years, except that, with respect to members initially appointed pursuant to paragraph (1)(C)(i), each Governor shall designate one member to serve for a term of five years and one to serve for a term of six years, and one member from each State initially appointed pursuant to paragraph (1)(C) (ii) and (iii) shall be designated by the Governor to serve a term of five years, and one to serve a term of six years. Neither the Governors nor the governing bodies of any of the counties may appoint Federal, State, or local elected or appointed officials to the Commission.

(4) A majority of the members of the Commission shall constitute a quorum. The members of the Commission shall select from among themselves a Chairman by majority vote of the members appointed from each State.

(5) Except for the ex-officio member appointed pursuant to paragraph (1)(C)(iv), the members and officers and employees of the Commission shall not be officers or employees of the United States for any purpose. The Commission shall appoint, fix compensation for, and assign and delegate duties to such officers and employees as the Commission deems necessary to fulfill its functions under this Act. The compensation of Commission members shall be fixed by State law. The compensation of Commission members, officers, and employees and the expenses of the Commission shall be paid from funds provided to the Commission by the States.

(b) APPLICABLE LAW.—For the purposes of providing a uniform system of laws, which, in addition to this Act, are applicable to the Commission, the Commission shall adopt regulations relating to administrative procedure, the making of contracts, conflicts-of-interest, financial disclosure, open meetings of the Commission, advisory committees, and disclosure of information consistent with the more restrictive statutory provisions of either State. Regulations applicable to financial disclosure under this subsection shall be applied to members of the Commission without regard to the duration of their service on the Commission or the amount of compensation received for such service. No contract, obligation, or other action of the Commission shall be an obligation of the United States or an obligation secured by the full faith and credit of the United States. Regulations.

(c) ASSISTANCE TO THE COMMISSION.—Upon the request of the Commission, the Secretary and other Federal agencies are authorized to provide information, personnel, property, and services on a reimbursable basis, and the Secretary is authorized to provide technical assistance on a nonreimbursable basis, to the Commission to assist it in carrying out its functions and responsibilities pursuant to this Act.

(d) ADVISORY COMMITTEES.—The Commission shall establish voluntary technical and citizen advisory committees to assist the Commission in carrying out its functions and responsibilities pursuant to this Act. Voluntarism.

SEC. 6. THE SCENIC AREA MANAGEMENT PLAN. 16 USC 544d.

(a) STUDIES.—Within one year after the date the Commission is established, it shall, in cooperation with the Secretary, complete the following studies for use in preparing the management plan:

(1) RESOURCE INVENTORY.—The Commission shall complete a resource inventory. The resource inventory shall—

(A) document all existing land uses, natural features and limitations, scenic, natural, cultural, archaeological and recreation and economic resources and activities: *Provided*, That the location of any Indian burial grounds, village sites, and other areas of archaeological or religious significance shall not be made public information and such information shall be used for administrative purposes only; and Indians.

(B) incorporate without change the resource inventory developed by the Secretary pursuant to section 8 of this Act for the special management areas.

(2) ECONOMIC OPPORTUNITY STUDY.—The Commission shall complete a study to identify opportunities to enhance the economies of communities in the scenic area in a manner consistent with the purposes of this Act.

(3) RECREATION ASSESSMENT.—The Commission shall complete an assessment of recreation resources and opportunities for enhancement of these resources. The recreation assessment shall—

(A) designate the location and specify the construction of an interpretive center or other appropriate facility, to be located in the State of Oregon, and of a conference center or other appropriate facility, to be located in the State of Washington;

(B) identify areas within the scenic area that are suitable for other public use facilities, including but not limited to educational and interpretive facilities, campsites, picnic areas, boat launch facilities and river access areas; and

Indians.

(C) subject to the treaty and other rights of Indian tribes, designate areas to provide increased access for recreation purposes to the Columbia River and its tributaries; and

(D) incorporate without change the recreation assessment developed by the Secretary pursuant to section 8 of this Act for the special management areas.

(b) LAND USE DESIGNATIONS.—Within two years after the Commission is established, it shall develop land use designations for the use of non-Federal lands within the scenic area. The land use designations shall—

(1) be based on the results of the resource inventory developed pursuant to subsection (a)(1) of this section, and consistent with the standards established in subsection (d) of this section;

Agriculture and agricultural commodities.

(2) designate those lands used or suitable for the production of crops, fruits or other agricultural products or the sustenance of livestock as agricultural lands;

Forests and forest products.

(3) designate lands used or suitable for the production of forest products as forest lands;

(4) designate lands suitable for the protection and enhancement of open spaces;

Urban areas.

(5) designate areas in the scenic area outside special management areas used or suitable for commercial development: *Provided,* That such designation shall encourage, but not require, commercial development to take place in urban areas and shall take into account the physical characteristics of the areas in question and their geographic proximity to transportation, commercial, and industrial facilities and other amenities;

(6) designate areas used or suitable for residential development, taking into account the physical characteristics of the areas in question and their geographic proximity to transportation and commercial facilities and other amenities; and

Urban areas.

(7) incorporate without change the designation of urban areas established in section 4(e) of this Act.

(c) ADOPTION OF THE MANAGEMENT PLAN.—Within three years after the date the Commission is established, it shall adopt a management plan for the scenic area. The Commission shall adopt the management plan by a majority vote of the members appointed, including at least three members from each State. The management plan shall—

(1) be based on the results of the resource inventory developed pursuant to subsection (a)(1) of this section;

(2) include land use designations developed pursuant to subsection (b) of this section;

(3) be consistent with the standards established in subsection (d) of this section;

(4) incorporate without change the management direction for the use of Federal lands within and the land use designations for the special management areas adopted by the Secretary pursuant to section 8 of this Act; and

(5) include guidelines for the adoption of land use ordinances for lands within the scenic area. The guidelines—

(A) shall incorporate without change the guidelines for the development of special management area land use ordinances developed by the Secretary pursuant to section 8 of this Act; and

(B) shall not apply to urban areas designated in section 4(e) of this Act.

Urban areas.

(d) STANDARDS FOR THE MANAGEMENT PLAN.—The management plan and all land use ordinances and interim guidelines adopted pursuant to this Act shall include provisions to—

(1) protect and enhance agricultural lands for agricultural uses and to allow, but not require, conversion of agricultural lands to open space, recreation development or forest lands;

Agriculture and agricultural commodities.

(2) protect and enhance forest lands for forest uses and to allow, but not require, conversion of forest lands to agricultural lands, recreation development or open spaces;

Forests and forest products.

(3) protect and enhance open spaces;

(4) protect and enhance public and private recreation resources and educational and interpretive facilities and opportunities, in accordance with the recreation assessment adopted pursuant to subsection (a) of this section;

(5) prohibit major development actions in special management areas, except for partitions or short plats which the Secretary determines are desirable to facilitate land acquisitions pursuant to this Act;

(6) prohibit industrial development in the scenic area outside urban areas;

(7) require that commercial development outside urban areas take place without adversely affecting the scenic, cultural, recreation, or natural resources of the scenic area;

(8) require that residential development outside urban areas take place without adversely affecting the scenic, cultural, recreation, and natural resources of the scenic area; and

(9) require that the exploration, development and production of mineral resources, and the reclamation of lands thereafter, take place without adversely affecting the scenic, cultural, recreation and natural resources of the scenic area.

Minerals.
Reclamation projects.

(e) AGENCY CONSULTATION AND PUBLIC INVOLVEMENT.—The Secretary and the Commission shall exercise their responsibilities pursuant to this Act in consultation with Federal, State, and local governments having jurisdiction within the scenic area or expertise pertaining to its administration and with Indian tribes. The Secretary and the Commission shall conduct public hearings and solicit public comment prior to final adoption of the management plan and the Commission shall conduct public hearings and solicit public comment prior to final adoption of land use ordinances. The Commission and the appropriate county shall promptly notify the Secretary, the States, local governments and Indian tribes of all proposed major development actions and residential development in the scenic area.

State and local governments.
Indians.

(f) CONCURRENCE OF THE MANAGEMENT PLAN.—

(1) REVIEW BY THE SECRETARY.—Upon adoption of the management plan, the Commission shall promptly submit the plan to the Secretary for review. If the Secretary agrees with the Commission that the management plan is consistent with the standards established in this section and the purposes of this Act, the Secretary shall concur to that effect. Should the Secretary fail to act on the proposed plan within ninety days, the Secretary shall be deemed to have concurred on the management plan.

(2) DENIAL OF CONCURRENCE.—If concurrence is denied, the Secretary shall state the reasons for finding the plan is inconsistent with the standards established in this section or the purposes of this Act, and shall submit to the Commission suggested modifications to the management plan to make it consistent with such standards and the purposes of this Act.

(3) COMMISSION RECONSIDERATION.—Within one hundred and twenty days after receipt of notification of non-concurrence, the Commission shall—

(A) revise and resubmit the plan to the Secretary; or

(B) by a vote of two-thirds of its membership, including a majority of the members appointed from each State, reject the suggested modifications of the Secretary and adopt a management plan consistent with the provisions of this section and the purposes of this Act.

(g) REVISION OF THE PLAN.—No sooner than five years after adoption of the management plan, but at least every ten years, the Commission shall review the management plan to determine whether it should be revised. The Commission shall submit any revised management plan to the Secretary for review and concurrence, in accordance with the provisions of this section for adoption of the management plan.

(h) AMENDMENT OF THE PLAN.—If the Commission determines at any time that conditions within the scenic area have significantly changed, it may amend the management plan. The Commission shall submit amendments to the management plan to the Secretary for review, in accordance with the provisions of this section for adoption of the management plan.

16 USC 544e.

SEC. 7. ADMINISTRATION OF THE SCENIC AREA.

(a) MANAGEMENT OF THE SCENIC AREA.—The non-Federal lands within the scenic area shall be administered by the Commission in accordance with the management plan and this Act.

(b) ADOPTION OF SCENIC AREA LAND USE ORDINANCES.—

(1) Within sixty days of initial receipt of the management plan, each county shall submit to the Commission a letter stating that it proposes to adopt a land use ordinance consistent with the management plan. If any county fails to submit such letter or fails to adopt a land use ordinance as provided in this section, the Commission shall carry out the requirements of subsection (c) of this section.

(2) Within two hundred and seventy days of receipt of the management plan, each county shall adopt a land use ordinance consistent with the management plan, and thereafter may adopt an amendment, revision or variance to a land use ordinance at any time. Each county upon adoption of a land use

ordinance shall promptly submit the ordinance to the Commission.

(3) APPROVAL BY COMMISSION.—(A) Within ninety days after receipt of a land use ordinance, the Commission, by majority vote including at least three members from each State, shall approve the ordinance unless it determines the ordinance is inconsistent with the management plan. Should the Commission fail to act within ninety days, the ordinance shall be deemed to be approved.

(B) If approval is denied, the Commission shall state the reasons for finding the ordinance is inconsistent with the management plan, and shall submit to the county suggested modifications to the ordinance to make it consistent with the management plan.

(C) Each county shall have ninety days after it receives recommendations from the Commission to make modifications designed to eliminate the inconsistencies and to resubmit the ordinance to the Commission for approval. The Commission shall have sixty days to approve or disapprove the resubmitted ordinance. Any resubmitted ordinance shall become effective upon approval. Should the Commission disapprove the resubmitted ordinance, it shall promptly resubmit the ordinance for reconsideration. Should the Commission fail to act within sixty days, the ordinance shall be deemed to be approved.

(c) COMMISSION LAND USE ORDINANCES.—(1) Within ninety days after making a determination that a county has failed to comply with the provisions of this section, the Commission shall make and publish a land use ordinance setting standard for the use of non-Federal lands in such county within the boundaries of the national scenic area, excluding urban areas identified in section 4(e) of this Act. The ordinance shall have the object of assuring that the use of such non-Federal lands is consistent with the management plan. The ordinance may differ amongst the several parcels of land within the boundaries of the scenic area. The ordinance may from time to time be amended by the Commission.

(2) SUBSEQUENT COMPLIANCE.—In the event the Commission has promulgated regulations pursuant to this section, a county may thereafter upon written notice to the Commission elect to adopt a land use ordinance, in which event it shall comply with the provisions of this section for adoption of a land use ordinance. Upon approval of a land use ordinance by the Commission it shall supersede any regulations for the county developed by the Commission, subject to valid existing rights.

(d) CONSTRUCTION OF FACILITIES.—The Secretary is hereby authorized to design, construct, operate and maintain such facilities as are included in the recreation assessment.

SEC. 8. ADMINISTRATION OF THE SPECIAL MANAGEMENT AREAS.

16 USC 544f.

National Forest System.
Forests and forest products.

(a) ADMINISTRATION OF FEDERAL LANDS.—(1) The Secretary shall administer Federal lands within the special management areas in accordance with this Act and other laws, rules and regulations applicable to the national forest system. In addition, the construction of roads and the management, utilization and harvest of timber on Federal lands within the special management areas also shall be subject to Forest Service visual resource management guidelines. The Secretary shall utilize lands acquired through exchange in

calculating the allowable sales quantity on the Gifford Pinchot and Mount Hood National Forests.

(b) WITHDRAWAL OF FEDERAL LANDS.—Subject to valid existing rights, all Federal lands located in the special management areas are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, and patent under the mining laws of the United States, and from disposition under all laws pertaining to mineral and geothermal leasing: *Provided,* That the Secretary may allow the exploration, development, or production of sand, gravel, and crushed rock as necessary to construct, maintain, or reconstruct roads in the special management areas.

(c) RESOURCE INVENTORY.—The Secretary shall complete a resource inventory for the special management areas consistent with the process and substance of the inventory prescribed by section 6(a)(1) of this Act.

(d) RECREATION ASSESSMENT.—Within two years after the date of enactment of this Act, the Secretary shall complete an assessment of recreation resources in the special management areas and opportunities for enhancement of these resources. The recreation assessment shall—

(1) identify areas within the special management areas suitable for designation by the Commission pursuant to section 6 of this Act for the construction of an interpretive center or other appropriate facility, to be located in the State of Oregon, and of a conference center or other appropriate facility, to be located in the State of Washington;

(2) identify areas within the special management areas suitable for other public use facilities, including but not limited to educational and interpretive facilities, campsites, picnic areas, boat launch facilities, and river access areas; and

Indians.

(3) subject to the treaty or other rights of Indian tribes, identify areas with the special management areas suitable for use to increase access for recreation purposes to the Columbia River and its tributaries.

(e) LAND USE DESIGNATIONS.—Within three years after the date of enactment of this Act, the Secretary shall develop land use designations for the special management areas. The land use designations shall be—

(1) based on the resource inventory prepared by the Secretary pursuant to this section; and

(2) consistent with the standards established in section 6 of this Act.

Forests and forest products.

(f) GUIDELINES FOR LAND USE ORDINANCES.—(1) Within three years after the date of enactment of this Act, the Secretary shall, in consultation with the Commission, develop guidelines to assure that non-Federal lands within the special management areas are managed consistent with the standards in section 6 and the purposes of this Act. The Secretary shall promptly transmit the guidelines to the Commission for inclusion in the management plan. The guidelines shall require that management, utilization, and disposal of timber, and exploration, development, and production of sand, gravel, and crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest forest products on non-Federal lands within the special management areas take place without adversely affecting the scenic, cultural, recreation, and natural resources of the scenic area.

(h) ADOPTION OF SPECIAL MANAGEMENT AREA LAND USE ORDINANCES.—(1) Within sixty days of receipt of the management plan, each county shall submit to the Commission a letter stating that it proposes to adopt a land use ordinance consistent with the management plan. If any county fails to submit a letter as provided in this subsection, or fails to adopt a land use ordinance as provided in this section, the Commission shall carry out the requirements of subsection (l) of this section.

(2) Within two hundred and seventy days of receipt of the management plan, each county shall adopt a special management area land use ordinance consistent with the management plan, and thereafter may adopt an amendment, revision or variance to a land use ordinance at any time. Each county upon adoption of a special management area land use ordinance shall promptly submit the adopted ordinance to the Commission.

(i) REVIEW BY THE COMMISSION.—(1) The Commission shall review the special management area land use ordinance received from each county, and within ninety days after receipt shall make a tentative determination as to whether the ordinance is consistent with the management plan. If the Commission makes a tentative determination that the land use ordinance is consistent with the management plan, the Commission shall send the ordinance to the Secretary for concurrence.

(2) If the Commission makes a tentative determination that the land use ordinance is inconsistent with the management plan, the Commission shall state the reasons for the determination and shall return the ordinance to the appropriate county with suggested modifications required for consistency with the management plan.

(3) Each county shall have ninety days after it is notified by the Commission to make modifications designed to eliminate the inconsistencies and to resubmit the ordinance to the Commission for tentative determination of consistency. The Commission shall have sixty days to make a tentative consistency determination on the resubmitted ordinance. If found consistent, the land use ordinance shall be transmitted by the Commission to the Secretary for concurrence that the ordinance is consistent with the management plan. If the Commission finds the resubmitted ordinance inconsistent, the Commission shall adopt an ordinance pursuant to subsection (l) of this section.

(j) CONCURRENCE BY THE SECRETARY.—(1) Upon receipt of a special management area land use ordinance from the Commission, the Secretary shall notify the public of such receipt and shall, within ninety days thereafter, concur with the Commission's tentative determination of consistency with the management plan unless the Secretary determines the ordinance is inconsistent. Any ordinance submitted to the Secretary shall become effective upon notification of concurrence. Should the Secretary fail to act within ninety days, the Secretary shall be deemed to have concurred with the Commission's tentative consistency determination.

Public information.

Effective date.

(2) DENIAL OF CONCURRENCE.—If concurrence is denied, the Secretary shall state the reasons therefor and shall submit to the Commission suggested modifications to the land use ordinances to make them consistent with the management plan and the purposes of this Act.

(k) COMMISSION RECONSIDERATION.—Upon receipt of notification of nonconcurrence by the Secretary, the Commission shall resubmit the land use ordinance to the appropriate county. Such county shall

within ninety days, reconsider and revise the ordinance and resubmit the ordinance to the Commission for reconsideration in accordance with the provisions of this section. Should the Secretary again deny concurrence, the Commission shall either prepare a land use ordinance for such county pursuant to subsection (l) of this section or, by a two-thirds vote of the membership of the Commission including a majority of the members appointed from each State, determine that the ordinance is consistent with the management plan.

(l) COMMISSION ORDINANCES.—(1) Within ninety days after making a determination that a county has failed to comply with the provisions of subsection (h) of this section, the Commission shall make and publish an ordinance setting standards for the use of non-Federal lands of such county within the boundaries of the special management areas. The ordinances shall have the object of assuring that the use of such lands is consistent with the management plan. The ordinances may differ amongst the several parcels of land within the boundaries of the special management areas. The ordinances may from time to time be amended by the Commission.

(2) The Commission shall promptly submit the ordinance to the Secretary. The Secretary shall, within ninety days after receipt of the ordinance from the Commission, concur with the tentative determination that the land use ordinance is consistent with the management plan unless a determination of inconsistency is made. Any ordinance submitted to the Secretary shall become effective upon concurrence. Should the Secretary fail to concur within ninety days, the land use ordinance shall be effective.

Effective date.

(3) If concurrence is denied, the Secretary shall state the reasons for finding the ordinance is inconsistent with the management plan, and shall submit to the Commission suggested modifications to the ordinance to make it consistent with the plan.

(4) The Commission shall have ninety days after it receives recommendations from the Secretary to make modifications designed to eliminate the inconsistencies and to resubmit the ordinance to the Secretary for concurrence. The Secretary shall have sixty days to concur with the resubmitted ordinance. Any resubmitted ordinance shall become effective upon concurrence by the Secretary. Should the Secretary deny concurrence for the resubmitted ordinance, the Secretary shall state the reasons therefor and shall promptly resubmit the ordinance for reconsideration. Should the Secretary fail to concur within sixty days, the ordinance shall be deemed effective.

Effective date.

(5) Within one hundred and twenty days after receipt of notification of non-concurrence, the Commission shall—

(A) revise and resubmit the land use ordinance to the Secretary; or

(B) by a vote of two-thirds of its membership, including a majority of the members appointed from each State, reject the suggested modifications of the Secretary and adopt a land use ordinance consistent with the provisions of this section and the purposes of this Act.

(m) SUBSEQUENT COMPLIANCE.—In the event the Commission has adopted an ordinance pursuant to this section, the affected county may thereafter, upon written notice to the Commission and to the Secretary, elect to adopt a special management area land use ordinance, in which event it shall comply with the provisions of this section for adoption of special management area land use ordi-

nances. Upon concurrence of such land use ordinances by the Secretary they shall supersede any special management area land use ordinances for the county development by the Commission, subject to valid existing rights.

(n) EFFECT OF SECRETARY'S NON-CONCURRENCE.—If the Secretary does not concur in any land use ordinance approved or adopted by the Commission pursuant to this section, the availability of certain funds to the relevant county shall be governed by section 16(c) of this Act.

(o) SPECIAL RULES.—Any ordinance adopted pursuant to this section shall not apply to any parcel or parcels of land within a special management area if, after the date such ordinance has been adopted, three years have elapsed after a landowner has made a bona fide offer to sell at fair market value or otherwise convey such parcel or parcels to the Secretary, unless the affected landowner agrees to an extension of the three year period: *Provided,* That an offer shall not be considered bona fide if the landowner refuses consideration equal to the fair market value as appraised in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions (Interagency Land Acquisition Conference, 1973). Lands for which an ordinance is suspended pursuant to this subsection shall be subject to the relevant scenic area land use ordinance adopted pursuant to section 7 of this Act.

SEC. 9. LAND ACQUISITION.

16 USC 544g.

(a) ACQUISITION AUTHORIZED.—(1) The Secretary is authorized to acquire any lands or interests therein within the special management areas and the Dodson/Warrendale Special Purchase Unit which the Secretary determines are needed to achieve the purposes of this Act: *Provided,* That any lands, waters, or interests therein owned by either State or any political subdivision thereof may be acquired only by donation or exchange.

State and local governments. Gifts and property.

(2) Lands within the State of Oregon acquired by the Secretary pursuant to this Act shall become part of the Mount Hood National Forest. Lands within the State of Washington acquired by the Secretary pursuant to this section shall become part of the Gifford Pinchot National Forest. All lands acquired by the Secretary pursuant to this Act shall be subject to the laws and regulations pertaining to the National Forest System and this Act.

National Forest System.

(b) LIMITATIONS ON EMINENT DOMAIN.—

(1) Where authorized in subsection (a) of this section to acquire land or interests therein without the consent of the owner, the Secretary shall—

(A) acquire only such land or interests therein as is reasonably necessary to accomplish the purposes of this Act; and

(B) do so only in cases where all reasonable efforts to acquire with the consent of the owner such lands, or interests therein, have failed.

(2) Notwithstanding the provisions of subsection (a) of this section, the Secretary may not acquire without the consent of the owner lands or interests therein which—

(A) on the date of enactment of this Act, were used primarily for educational, religious, or charitable purposes, single-family residential purposes, farming, or grazing so long as the existing character of that use is not substantially changed or permitted for change;

(B) are located in counties with land use ordinances in which the Secretary has concurred pursuant to section 8 of this Act, unless such lands are being used, or are in imminent danger of being used, in a manner incompatible with such ordinances;

(C) are within the boundaries of the Dodson/Warrendale Special Purchase Unit; or

Indians.

(D) are owned by an Indian tribe, held in trust by the United States for an Indian tribe or member of an Indian tribe, or otherwise administered by the United States for the benefit of an Indian tribe or member of an Indian tribe.

(c) HARDSHIP CASES.—In exercising authority to acquire lands pursuant to this section the Secretary shall give prompt and careful consideration to any offer made by any person or entity owning any land, or interest in land, within the boundaries of a special management area. In considering such offer, the Secretary shall take into consideration any hardship to the owner which might result from any undue delay in acquiring the property.

(d) LAND EXCHANGES.—(1) The Secretary is authorized and directed, in conformance with the provisions of this subsection, to acquire by exchange any parcel of unimproved forest land at least forty acres in size within the boundaries of the special management areas which is owned by any private forest land owner if, after enactment of this Act but within one hundred and eighty days after final adoption of the management plan, such private forest land owner offers to the United States such parcel of forest land.

Forests and forest products.

(2) In exercising this authority to acquire forest lands pursuant to this subsection, the Secretary may accept title to such lands and convey to the owner federally owned lands deemed appropriate by the Secretary within the States of Oregon and Washington, regardless of the State in which the transferred lands are located. Forest lands exchanged pursuant to this subsection shall be of approximately equal value: *Provided,* That the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize minor differences in the values of the properties exchanged: *Provided further,* That the Secretary may reserve in any conveyance pursuant to this subsection such easements, subsurface rights, and any other interests in land deemed necessary or desirable: *Provided further,* That the valuation of lands exchanged shall be determined in terms of forest uses for timber.

Report.

(3) It is the intention of Congress that land exchanges pursuant to this subsection shall be completed no later than five years after the date of enactment of this Act. No later than sixty days after the enactment of this Act, and every one hundred and eighty days thereafter, the Secretary shall report in writing to the Committee on Energy and Natural Resources of the United States Senate and the Committees on Agriculture and Interior and Insular Affairs of the United States House of Representatives, on the status of negotiations with owners of non-Federal lands to effect the exchanges authorized by this subsection.

Forests and forest products.

(4) In the event that exchanges authorized by this section leave any private forest land owner with ownership of an uneconomic remnant of forest land contiguous to a special management area, the Secretary is authorized to acquire such forest lands as if they were within the boundaries of a special management area.

Public lands.

(5) The following-described Federal lands and interests therein are hereby identified as candidate lands for exchanges conducted pursu-

ant to this section: *Provided,* That the determination of which candidate lands will be exchanged, and in what sequence, shall be at the discretion of the Secretary. Subject to valid existing rights, such lands are hereby withdrawn from all forms of entry or appropriation or disposal under the public land laws, and from location, entry, and patent under the United States mining law, and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto until the Secretary determines such lands are no longer needed to complete exchanges authorized by this section: *Provided,* That such period shall not extend beyond five years:

GIFFORD PINCHOT NATIONAL FOREST

Wind River-Panther Creek Area

Section	Township	Range
35	4N	7E
36	4N	7E
Approx. 430 acres.		

South Swift Area

Section	Township	Range
13	6N	5E
23	6N	5E
17	6N	6E
18	6N	6E
Approx. 1,920 acres.		

National Area

Section	Township	Range
6	14N	7E
7	14N	7E
18	14N	7E
30	14N	7E
Approx. 2,560 acres.		

Buck Creek-Willard Area

Section	Township	Range
16	3N	9E
1	4N	9E
2	4N	9E
3	4N	9E
10	4N	9E
11	4N	9E
12	4N	9E
15	4N	9E
21	4N	9E

Section	Township	Range
22	4N	9E
26	4N	9E
27	4N	9E
28	4N	9E
29	4N	9E
30	4N	9E
31	4N	9E
32	4N	9E
33	4N	9E
34	4N	9E
35	4N	9E
6	4N	10E
7	4N	10E
5	5N	10E
6	5N	10E
7	5N	10E
8	5N	10E
9	5N	10E
30	5N	10E
31	5N	10E
32	5N	10E

Approx. 14,460 acres.

SIUSLAW NATIONAL FOREST

East Beaver Area

Section	Township	Range
33	2S	9W
34	2S	9W
2	3S	9W
3	3S	9W
4	3S	9W
8	3S	9W
9	3S	9W
17	3S	9W

Approx. 3,053 acres.

WILLAMETTE NATIONAL FOREST

Ida-McCoy Area

Section	Township	Range
21	10S	6E
28	10S	6E

Approx. 680 acres.

MOUNT HOOD NATIONAL FOREST

Estacada Area

Section	Township	Range
15	4S	5E

Approx. 560 acres.

Hood River Area

Section	Township	Range
4	1N	9E
36	1N	10E
31	1N	11E
2	1S	9E
3	1S	9E
4	1S	9E
5	1S	9E
6	1S	9E

Approx. 5,800 acres.

Zig-Zag Area

Section	Township	Range
22	2S	7E
29	2S	7E

Approx. 280 acres.
Total acreage: 29,743.

(e) BOUNDARIES.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-9), the boundaries of the scenic area, including special management areas and the Dodson/Warrendale Special Purchase Unit shall be treated as if they were within the boundaries of the Mount Hood or Gifford Pinchot National Forests as of January 1, 1965.

Effective date.

SEC. 10. INTERIM MANAGEMENT.

16 USC 544h.

(a) INTERIM GUIDANCES.—(1) Within one hundred and eighty days after the date of enactment of this Act, the Secretary shall develop interim guidelines for the scenic area outside urban areas to identify land use activities which are inconsistent with this Act and to govern the authority to acquire land without the consent of the owner provided by subsection (b) of this section. The Secretary shall promptly notify the public of adoption of the interim guidelines and transmit the guidelines to each county. Guidelines adopted by the Secretary pursuant to this subsection shall remain in effect for each county until the Secretary has developed guidelines for the special management areas pursuant to section 8 of this Act and the land use ordinances prescribed by section 7 are in effect.

(b) INTERIM ACQUISITION AUTHORITY AND INJUNCTIVE RELIEF.—Prior to the concurrence by the Secretary of land use ordinances prescribed by section 8 of this Act and the approval by the Commission of land use ordinances prescribed by section 7 of this Act, the following authorities are granted:

(1) The Secretary may acquire by condemnation any land or interest which is being used or threatened to be used in a manner inconsistent with the purposes for which the scenic area was established and which will cause or is likely to cause impacts adversely affecting the scenic, cultural, recreation, and natural resources of the scenic area: *Provided,* That no lands or interests therein can be acquired by condemnation pursuant to

this s[illegible] if [illegible] in the same manner and for the same purpose [illegible] the effective date of this Act, unless such land i[illegible] for [illegible] rest is in the development of sand, gravel, or c[illegible] rock [illegible] disposal of refuse: *Provided further,* That [illegible] filing b[illegible] the Secretary of a complaint for con[illegible] interest in the scenic area, outside [illegible] the s[illegible] areas and urban areas, the Commission, by [illegible] thirds of its membership [illegible] including a majority of th[illegible] appointed from each State, or if the Commission is [illegible] ence the Governor of the State in which [illegible] la[illegible] is located, may disapprove such pro[illegible]

(2) Upon o[illegible] the commencem[illegible] any action for condemnation [illegible] to th[illegible] subsection, the Secretary, acting thro[illegible] A[illegible] General of the United States, may apply to th[illegible] appropr[illegible] ited States District Court for a temporary restraining ord[illegible] injunction to prohibit the use of any property within th[illegible] area, but outside of urban areas, which will cause or is [illegible] ely to cause impacts adversely affecting the scenic, cultur[illegible] reation and natural resources of the scenic area or is otherwise inconsistent with the purposes for which the s[illegible] was established. During the period of such order or [illegible] on, the Secretary shall diligently and in good faith negotia[illegible] the owner of the property to assure that, following termination of the order or injunction, the inconsistent use is abated or the [illegible] effect is mitigated.

(c) REVIE[illegible] ACTION.—Prior to the effective date [illegible] land use [illegible] ce for [illegible] county pursuant to section 7 of this [illegible], and conc[illegible] ce of the Secretary on a land use ordinance for each county pu[illegible]ant to section 8 of this Act, the Commission shall review all proposals for major development actions and new residential development in such county in the scenic area, except urban areas. The Commission shall allow major development actions and new residential development only if it determines that such development is consistent with the standards contained in section 6 and the purposes of this Act.

SEC. 11. ECONOMIC DEVELOPMENT.

State and local governments. Grants. 16 USC 544i.

(a) ECONOMIC DEVELOPMENT PLAN.—Based on the Economic Opportunity Study and other appropriate information, each State, in consultation with the counties and the Commission, shall develop a plan for economic development projects for which grants under this section may be used in a manner consistent with this Act.

Loans.

(b) FUNDS PROVIDED TO STATES FOR GRANTS.—Upon certification of the management plan, and receipt of a plan referred to in subsection (a) of this section, the Secretary shall provide $5,000,000 to each State which each State shall use to make grants and loans for economic development projects that further the purposes of this Act.

Loans.

(c) CONDITIONS OF GRANTS.—Each State making grants under this section shall require as a condition of a grant that—

(1) all activities undertaken under the grant are certified by the Commission as being consistent with the purposes of the Act, the management plan, and land use ordinances adopted pursuant to this Act;

(2) grants and loans are not used to relocate a business from one community to another;

(3) grants and loans are not used for program administration; and

(4) grants and loans are used only in counties which have in effect land use ordinances found consistent by the Commission and concurred on by the Secretary pursuant to section 8 of this Act.

(d) REPORT.—Each State shall— Loans. Grants.

(1) prepare and provide the Secretary with an annual report to the Secretary on the use of the funds made available under this section;

(2) make available to the Secretary and to the Commission, upon request, all accounts, financial records, and other information related to grants and loans made available pursuant to this section; and Records.

(3) as loans are repaid, make additional grants and loans with the money made available for obligation by such repayments.

SEC. 12. OLD COLUMBIA RIVER HIGHWAY. 16 USC 544j.

The Oregon Department of Transportation shall, in consultation with the Secretary and the Commission, the State of Oregon and the counties and cities in which the Old Columbia River Highway is located, prepare a program and undertake efforts to preserve and restore the continuity and historic integrity of the remaining segments of the Old Columbia River Highway for public use as a Historic Road, including recreation trails to connect intact and usable segments. Historic preservation.

SEC. 13. TRIBUTARY RIVERS AND STREAMS. 16 USC 544k.

(a) WATER RESOURCES PROJECTS.—The following rivers and streams shall be subject to the same restrictions on the licensing, permitting, and exempting from licensing and the construction of water resource projects as provided for components of the National Wild and Scenic Rivers System pursuant to section 7(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1278(a)):

(1) any tributary river or stream to the Columbia River not designated in subsections (c) or (d) of this section or otherwise specified in this subsection which flows in whole or in part through a special management area, unless the construction of a water resources project would not have a direct and adverse effect on the scenic, cultural, recreation, and natural resources of the scenic area;

(2) any river or river segment which flows in whole or in part through the scenic area and which is established pursuant to State law as a wild, scenic, or recreation river or which is under study pursuant to State law for the potential inclusion in any such State protected river system, unless such project or projects meet terms and conditions set by State agencies exercising administration over such river or river segment; State and local governments.

(3) the Wind River, Washington, for a period not less than three years following the later of—

(A) final approval of the Gifford Pinchot National Forest Plan, adopted pursuant to the National Forest Management Act of 1976 (Act of October 22, 1976, Public Law 94-588, as amended) (16 U.S.C. 1600 et seq.); or

(B) submittal by the Secretary of a report to the President on the suitability or nonsuitability for addition to the national wild and scenic rivers system and a report by the Reports. President of U.S.

President to the Congress of recommendations and proposals with respect to the designation of such river under the Wild and Scenic Rivers Act;

(4) the Hood River, Oregon, for a period not to exceed twenty years from the date of enactment of this Act, if such facility impounds or diverts water other than by means of a dam or diversion existing as of date of enactment of this Act; and

(5) the segment of the Little White Salmon, Washington, from the Willard National Fish Hatchery to its confluence with the Columbia River if such facility impounds or diverts water other than by means of a dam or diversion existing as of date of enactment of this Act.

Indians.
16 USC 544k.

(b) The provisions of subsection (a) shall not apply to those portions of tributary rivers or streams to the Columbia River which flow through or border on Indian reservations. Nothing in this section shall apply to or affect any segment of any river designated as a wild and scenic river under section 3 of the Wild and Scenic Rivers Act (16 U.S.C. 1274) or any river designated for study under section 5 of such Act (16 U.S.C. 1276).

16 USC 1274.

(c) WILD AND SCENIC RIVER DESIGNATIONS.—Section 3(a) of the Wild and Scenic Rivers Act (Public Law 90-542, Act of October 2, 1968, 82 Stat. 910, as amended) is further amended by adding the following new subsections:

"( ) Klickitat, Washington: The segment from its confluence with Wheeler Creek, Washington, near the town of Pitt, Washington, to its confluence with the Columbia River; to be classified as a recreation river and to be administered by the Secretary of Agriculture.

"( ) White Salmon, Washington: The segment from its confluence with Gilmer Creek, Washington, near the town of B Z Corner, Washington, to its confluence with Buck Creek, Washington; to be classified as a scenic river and to be administered by the Secretary of Agriculture.".

16 USC 1276.

(d) WILD AND SCENIC RIVER STUDIES.—Section 5(a) of the Wild and Scenic Rivers Act (Public Law 90-542, Act of October 2, 1968, 82 Stat. 910, as amended) is further amended by adding the following new subsections:

Indians.

"( ) Klickitat, Washington: The segment from the southern boundary of the Yakima Indian Reservation, Washington, as described in the Treaty with the Yakimas of 1855 (12 Stat. 951), and as acknowledged by the Indian Claims Commission in Yakima Tribe of Indians v. U.S., 16 Ind. Cl. Comm. 536 (1966), to its confluence with the Little Klickitat River, Washington: *Provided,* That said study shall be carried on in consultation with the Yakima Indian Nation and shall include a determination of the degree to which the Yakima Indian Nation should participate in the preservation and administration of the river segment should it be proposed for inclusion in the Wild and Scenic Rivers system.

"( ) White Salmon, Washington: The segment from its confluence with Trout Lake Creek, Washington, to its confluence with Gilmer Creek, Washington, near the town of B Z Corner, Washington.".

SEC. 14. IMPLEMENTATION MEASURES.

16 USC 544*l*.

(a) ASSISTANCE TO COUNTIES.—The Secretary shall provide technical assistance on a nonreimbursable basis to counties for the development of land use ordinances prescribed by sections 7 and 8 of this Act: *Provided,* That in the event a county fails to obtain approval by the Commission for a land use ordinance within three

years after the date technical assistance is first provided under this subsection for the development of a land use ordinance, the Secretary shall terminate all technical assistance for any participation in the development of such ordinance.

(b) PAYMENT OF TIMBER RECEIPTS.—(1) Notwithstanding the provisions of the last paragraph under the heading "Forest Service" of the Act of May 23, 1908 (c. 192, 35 Stat. 251, as amended; 16 U.S.C. 500), and of section 13 of the Act of March 1, 1911 (c. 186, 36 Stat. 961, as amended; 16 U.S.C. 500), that portion of which is paid under such provisions to the State of Oregon with respect to the special management areas within the Mount Hood National Forest, the Gates of the Columbia Gorge Special Management Area, Mount Hood National Forest, and to the State of Washington with respect to the special management areas within the Gifford Pinchot National Forest—

(A) not less than 50 per centum shall be expended for the benefit of the public schools of the county which has adopted implementation measures pursuant to this Act; and

Schools and colleges.

(B) the remainder shall be expended for the benefit of public roads or any public purposes of any county which has adopted implementation measures pursuant to this Act.

(2) Paragraph (1) of this subsection shall not apply—

(A) to any amount paid by the Secretary of the Treasury under the provisions of law referred to in subsection (b)(1) at the end of any fiscal year ending before the date of enactment of this Act; or

(B) for a particular county, if the county does not have in effect a land use ordinance which has been found consistent by the Commission and concurred on by the Secretary pursuant to section 8 of this Act.

(c) PAYMENTS TO LOCAL GOVERNMENTS.—(1) Subject to section 16(b) of this Act, in the case of any land or interest therein acquired by the Secretary pursuant to section 9, which was subject to local real property taxes within the five years preceding such acquisition and which is located in a county which has in effect a land use ordinance which has been found consistent by the Commission and concurred on by the Secretary pursuant to section 8, the Secretary is authorized and directed to make annual payments to the county in which such lands are located in an amount equal to 1 per centum of the fair market value of such land or interest therein on the date of acquisition by the Secretary.

Real property. Taxes.

(2) Notwithstanding paragraph (1) of this subsection, any payment made for any fiscal year to a county pursuant to this subsection shall not exceed the amount of real property taxes assessed and levied on such property during the last full fiscal year before the fiscal year in which such land or interest therein was acquired by the Secretary.

(3) No payment shall be made under this subsection with respect to any land or interest therein after the fifth full fiscal year beginning after the first fiscal year in which such a payment was made with respect to such land or interest therein.

(d) FEDERAL CONSISTENCY.—Except as otherwise provided in subsection (e) or in section 17 of this Act, Federal agencies having responsibilities within the scenic area shall exercise such responsibilities consistent with the provisions of this Act as determined by the Secretary.

(e) LIMITATIONS ON FEDERAL EXPENDITURES AFFECTING THE SCENIC AREA.—(1) Except as provided in paragraph (3), if the Commission has not been established pursuant to section 5 within fifteen months after the date of enactment of this Act, or is otherwise disestablished for any reason, no new expenditures or new financial assistance may be made available, and no new license or new permit, or exemption from a license or permit requirement, shall be issued, under authority of any Federal law for any activity within the scenic area, excluding urban areas, which the Secretary, determines is inconsistent with any implementation measure pursuant to, the standards established in section 6(b) of, or the purposes of this Act.

(2)(A)(i) An expenditure or financial assistance made available under authority of Federal law shall be treated, for purposes of this subsection, as a new expenditure or new financial assistance if—

(I) in any case with respect to which specific appropriations are required, no money for construction or purchase was appropriated before October 1, 1986; or

(II) no legally binding commitment for the expenditure or financial assistance was made before October 1, 1986.

Taxes.

(ii) Payments made to the State pursuant to the following Acts shall not be treated as an expenditure or financial assistance for purposes of this subsection: the Act of May 23, 1908, (c. 192, 35 Stat. 251; 16 U.S.C. 500); section 13 of the Act of March 1, 1911 (c. 186, 36 Stat. 961; 16 U.S.C. 500); the Mineral Lands Leasing Act of 1920; chapter 69 of title 31 (relating to payments in lieu of taxes for entitlement land); the Act of June 9, 1916 (39 Stat. 218), and the Act of Feb. 26, 1919 (40 Stat. 1179).

30 USC 181 note.
31 USC 6901 *et seq.*

(B) A license or permit, or exemption from a license or permit requirement, shall be treated, for purposes of this subsection, as a new license or new permit, or exemption from a license or permit requirement, if such license or permit, or exemption from a license or permit requirement, was issued on or after October 1, 1986. A renewal under similar terms and conditions of a license or permit, or exemption from a license or permit requirement, issued before October 1, 1986, shall not be treated as a new license or new permit, or exemption from a license or permit requirement.

(3) Notwithstanding paragraph (1), the appropriate Federal officer, after consultation with the Secretary, may make Federal expenditures or financial assistance available within the area for any of the following:

Rivers and harbors.

(A) The maintenance of existing channel improvements and related structures, and including the disposal of dredge materials related to such improvements.

Public buildings and grounds.

(B) The maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities that are essential links in a larger network or system.

Defense and national security.

(C) Military activities essential to national security.

(D) Any of the following actions or projects, but only if the making available of expenditures or assistance therefor is consistent with the standards in section 6(b) and the purposes of this Act:

Fish and fishing. Wildlife.

(i) Projects for the study, management, protection and enhancement of fish and wildlife resources and habitats, including, but not limited to, acquisition of fish and wildlife habitats and related lands, stabilization projects for fish and wildlife habitats, and recreational projects.

(ii) The establishment, operation, and maintenance of air and water navigation aids and devices, and for access thereto.

(iii) Projects under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 through 11) and the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

(iv) Scientific research, including but not limited to aeronautical, atmospheric, space, geologic, marine, fish and wildlife, and other research, development, and applications.

Research and development.

(v) Assistance for emergency actions essential to the saving of lives and the protection of property and the public health and safety, if such actions are performed pursuant to sections 305 and 306 of the Disaster Relief Act of 1974 (42 U.S.C. 5145 and 5146) and section 1362 of the National Flood Insurance Act of 1968 (42 U.S.C. 4103) and are limited to actions that are necessary to alleviate the emergency.

Safety.

(vi) The maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities. This clause shall not apply to roads, structures, or facilities referred to in paragraph (3)(B).

Public buildings and grounds.

(vii) Nonstructural projects for shoreline stabilization that are designed to mimic, enhance, or restore natural stabilization systems.

(4) The Director of the Office of Management and Budget shall, on behalf of each Federal agency concerned, make written certification that each such agency has complied with the provisions of this subsection during each fiscal year beginning after September 30, 1987. Such certification shall be submitted on an annual basis to the House of Representatives and the Senate pursuant to the schedule required under the Congressional Budget and Impoundment Control Act of 1974.

2 USC 621 note.

(5) Nothing contained in this subsection shall be construed as indicating an intent on the part of the Congress to change the existing relationship of other Federal laws to the law of a State, or a political subdivision of a State, or to relieve any person or any obligation imposed by any law of any State, or political subdivision of a State. No provision of this subsection shall be construed to invalidate any provision of State or local law unless there is a direct conflict between such provision and the law of the State, or political subdivision of the State, so that the two cannot be reconciled or consistently stand together. This subsection shall in no way be interpreted to interfere with a State's right to protect, rehabilitate, preserve, and restore lands within its established boundary.

State and local governments.

(f) TRANSFER OF PUBLIC LANDS.—Subject to valid existing rights, all public lands within the scenic area administered by the Secretary of the Interior through the Bureau of Land Management are hereby transferred without consideration to the jurisdiction of the Secretary to be managed as National Forest lands in accordance with the provisions of this Act.

SEC. 15. ENFORCEMENT.

16 USC 544m.

(a) ADMINISTRATIVE REMEDIES.—

(1) COMMISSION ORDERS.—The Commission shall monitor activities of counties pursuant to this Act and shall take such actions as it determines are necessary to ensure compliance.

(2) APPEAL TO THE COMMISSION.—Any person or entity adversely affected by any final action or order of a county relating to the implementation of this Act may appeal such action or order to the Commission by filing with the Commission within thirty days of such action or order, a written petition requesting that such action or order be modified, terminated, or set aside.

(3) CIVIL PENALTIES.—Any person or entity who willfully violates the management plan or any land use ordinance or any implementation measure or any order issued by the Commission pursuant to this Act may be assessed a civil penalty by the Commission not to exceed $10,000 for each violation. No penalty may be assessed under this subsection unless such person or entity is given notice and opportunity for a public hearing with respect to such violation. The Commission may compromise, modify, or remit, with or without conditions, any penalty imposed under this subsection, taking into consideration the nature and seriousness of the violation and the efforts of the violator to remedy the violation in a timely manner.

(b) JUDICIAL REMEDIES.—

(1) CIVIL ACTIONS TO ENFORCE ACT.—(A) Except as otherwise limited by this Act, the Attorney General of the United States may, at the request of the Secretary, institute a civil action for an injunction or other appropriate order to prevent any person or entity from utilizing lands within the special management areas in violation of the provisions of this Act, interim guideline adopted or other action taken by the Secretary pursuant to this Act.

(B) The Commission, or, at the request of the Commission, or the attorney general of Oregon or Washington, may institute a civil action for an injunction or other appropriate order to prevent any person or entity from utilizing lands within the scenic area outside urban areas in violation of the provisions of this Act, the management plan, or any land use ordinance or interim guideline adopted or other action taken by the Commission or any county pursuant to this Act.

(2) CITIZENS SUITS.—Any person or entity adversely affected may commence a civil action to compel compliance with this Act—

(A) against the Secretary, the Commission or any county where there is alleged a violation of the provisions of this Act, the management plan or any land use ordinance or interim guideline adopted or other action taken by the Secretary, the Commission, or any county pursuant to or Commission under this Act; or

(B) against the Secretary, the Commission, or any county where there is alleged a failure of the Secretary, the Commission or any county to perform any act or duty under this Act which is not discretionary with the Secretary, the Commission or any county.

(3) LIMITATION ON BRINGING OF CITIZENS SUITS.—No action may be commenced—

(A) under paragraph (2)(A) of this subsection—

(i) prior to sixty days after the plaintiff has given notice in writing of the alleged violation to the Secretary, to the Commission, and to the county in which the violation is alleged to have occurred; or

(ii) if the Attorney General of the United States, or the attorney general of Oregon or Washington, has commenced and is diligently prosecuting a civil action on the same matter pursuant to paragraph (1) of this subsection to require compliance with the management plan or any regulations, guidelines, or standards issued or other actions taken by the Secretary, the Commission, or any county pursuant to this Act: *Provided,* That in any such action any person or entity otherwise entitled to bring an action pursuant to paragraph (2) of this subsection may intervene as a matter of right; or

(iii) which challenges the consistency of the draft management plan with the purposes and standards of this Act or with other applicable law prior to the certification or adoption of the Management Plan pursuant to section 6 of this Act; or

(B) under paragraph (2)(B) of this subsection prior to sixty days after the plaintiff has given notice in writing of such action to the Secretary, the Commission, and to the county in which the failure to perform any act or duty pursuant to this Act is alleged: *Provided,* That such action may be brought immediately after such notification where the violation or order complained of constitutes an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff.

(4) JUDICIAL REVIEW.—Any person or entity adversely affected by—

(A) any final action or order of a county, the Commission, or the Secretary relating to the implementation of this Act;

(B) any land use ordinance or interim guideline adopted pursuant to this Act;

(C) any appeal to the Commission pursuant to this section;

(D) any civil penalty assessed by the Commission pursuant to paragraph (a)(3) of this subsection may appeal such action or order by filing in any of the courts specified in paragraph (5) of this subsection, within sixty days after the date of service of such order or within sixty days after such action is taken, a written petition requesting such action, order, land use ordinance, interim guideline, or appeal taken to the Commission be modified, terminated, or set aside.

(5) FEDERAL COURT JURISDICTION.—The United States district courts located in the States of Oregon and Washington shall have jurisdiction over—

(A) any criminal penalty imposed pursuant to 16 U.S.C. 551, or any other applicable law for violation of any order, regulation or other action taken by the Secretary pursuant to this Act;

(B) any civil action brought against the Secretary pursuant to this section; or

(C) any appeal of any order, regulation, or other action of the Secretary taken pursuant to paragraph (4) of this subsection.

(6) STATE COURT JURISDICTION.—The State courts of the States of Oregon and Washington shall have jurisdiction—

(A) to review any appeals taken to the Commission pursuant to subsection (a)(2) of this section;

(B) over any civil action brought by the Commission pursuant to subsection (b)(1) of this section or against the Commission, a State, or a county pursuant to subsection (b)(2) of this section;

(C) over any appeal of any order, regulation, or other action of the Commission or a county taken pursuant to paragraph 4 of this subsection; or

(D) any civil penalties assessed by the Commission pursuant to subsection (a)(3) of this section.

16 USC 544n.

SEC. 16. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATIONS.—There are authorized to be appropriated for fiscal years after the fiscal year 1986 such sums as are described below;

(1) For the purpose of acquisition of lands, water and interests therein pursuant to this Act: $40,000,000: *Provided,* That of this amount no more than $10,000,000 shall be available to acquire lands, water, and interests therein pursuant to section 10. Such amounts are authorized to be appropriated from amounts covered into the Land and Water Conservation Fund notwithstanding any allocation, apportionment, or limitation contained in the Land and Water Conservation Fund (16 U.S.C. 4601-4 and following).

(2) For the purpose of providing payments to local governments pursuant to section 14(c): $2,000,000.

(b) There are authorized to be appropriated for fiscal years after the fiscal year 1986, effective upon concurrence on the management plan pursuant to section 6 of this Act:

(1) For the purpose of construction of an interpretive center to be located in the State of Oregon, and a conference center to be located in the State of Washington: $10,000,000.

(2) For the purpose of construction of recreation facilities pursuant to section 7(d): $10,000,000.

(3) For the purpose of preparing a program and restoring and reconstructing the Old Columbia River Scenic Highway, Oregon pursuant to section 12 of this Act: $2,800,000.

(4) For the purpose of providing economic development grants pursuant to section 11: $5,000,000 for each State: *Provided,* That funds authorized to be appropriated pursuant to this paragraph shall be available for the acquisition of lands and interests therein pursuant to section 10 if, at the expiration of three years, the States have failed to carry out their respective function pursuant to section 5 of this Act.

(c) AVAILABILITY OF FUNDS.—Funds appropriated under subsections (a)(2) and (b) shall not be made available for any county which does not have in effect a land use ordinance which has been found to be consistent by the Commission, and concurred on by the Secretary as consistent with the management plan pursuant to section 8 of this Act.

SEC. 17. SAVINGS PROVISIONS.

Indians.
16 USC 544o.

(a) Nothing in this Act shall—

(1) affect or modify any treaty or other rights of any Indian tribe;

(2) except as provided in section 13(c), authorize the appropriation or use of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual; State and local governments.

(3) except as provided in section 13(c), affect the rights or jurisdictions of the United States, the States, Indian tribes or other entities over waters of any river or stream or over any ground water resource or affect or interfere with transportation activities on any such river or stream;

(4) except as provided in section 13(c), alter, establish, or affect the respective rights of the United States, the States, Indian tribes, or any person with respect to any water or water-related right;

(5) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States before the enactment of this Act; Compacts between States.

(6) affect or modify the ability of the Bonneville Power Administration to operate, maintain, and modify existing transmission facilities;

(7) affect lands held in trust by the Secretary of the Interior for Indian tribes or individual members of Indian tribes or other lands acquired by the Army Corps of Engineers and administered by the Secretary of the Interior for the benefit of Indian tribes and individual members of Indian tribes;

(8) affect the laws, rules and regulations pertaining to hunting and fishing under existing State and Federal laws and Indian treaties; Fish and fishing.

(9) require any revision or amendment of any forest plan adopted pursuant to the National Forest Management Act of 1976 (Act of October 22, 1976, Public Law 94-588, as amended (16 U.S.C. 1600 et seq.)); or

(10) establish protective perimeters or buffer zones around the scenic area or each special management area. The fact that activities or uses inconsistent with the management directives for the scenic area or special management areas can be seen or heard from these areas shall not, of itself, preclude such activities or uses up to the boundaries of the scenic area or special management areas.

(b) Except for the offsite disposal of excavation material, nothing in this Act shall be construed to affect or modify the responsibility of the United States Army Corps of Engineers to improve navigation facilities at Bonneville Dam pursuant to Federal law. Armed Forces.

(c) Except for the management, utilization, or disposal of timber resources of non-Federal lands within the special management areas, nothing in this Act shall affect the rights and responsibilities of non-Federal timber land owners under the Oregon and Washington Forest Practices Acts or any county regulations which under applicable State law supersede such Acts. Forests and forest products.

(d) Mandatory language in this Act respecting the powers and responsibilities of the Commission shall be interpreted as conditions precedent to congressional consent to the interstate compact described in section 5 of this Act.

(e) In the event that the States of Washington and Oregon fail to comply with the provisions of section 5 of this Act, the Secretary shall not be obligated to take actions which are predicated upon the establishment of the Commission.

(f)(1) Actions by the Secretary pursuant to subsections (f), (g), and (h) of section 6; subsections (f), (j), (k), and (l) of section 8; section 9;

and subsections (a) and (b)(2) of section 10 shall neither be considered major Federal actions significantly affecting the quality of the environment under section 102 of the National Environmental Policy Act (42 U.S.C. 4332) nor require the preparation of an environmental assessment in accordance with that Act.

(2) Except as provided in paragraph (1) of this subsection, nothing in this Act shall expand, restrict, or otherwise alter the duties of the Secretary under the National Environmental Policy Act.

SEC. 18. SEVERABILITY.

16 USC 544p.

(a) If any provision of this Act or the application thereof to any person, State, Indian tribe, entity, or circumstance is held invalid, neither the remainder of this Act, nor the application of any provisions herein to other persons, States, Indian tribes, entities, or circumstances, shall be affected thereby.

Approved November 17, 1986.

LEGISLATIVE HISTORY—H.R. 5705 (S. 2055):

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 16, considered and passed House.
Oct. 17, considered and passed Senate.

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Public Law 99-664
99th Congress

An Act

To provide for a land exchange in the State of Alaska.

Nov. 17, 1986
[H.R. 5730]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Haida Land Exchange Act of 1986.
Public lands.

SECTION 1. SHORT TITLE AND PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "Haida Land Exchange Act of 1986".

(b) PURPOSE.—The purpose of this Act is to provide an offer for the owners thereof to relinquish and convey voluntarily to the United States certain lands and interests therein as described below and receive in lieu thereof certain Federal lands and money. Congress finds and declares that it is in the public interest to implement the land exchanges and acquisitions set forth herein, in order to carry out the purposes of the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act.

43 USC 1601 note.
16 USC 3101 note.

SEC. 2. DEFINITIONS AND MAPS.

(a) GENERAL DEFINITIONS.—As used in this Act:

(1) The "Alaska Native Claims Settlement Act" means Public Law 92-203, 85 Stat. 688 (December 18, 1971), as amended.

(2) The "Alaska National Interest Lands Conservation Act" means Public Law 96-487, 94 Stat. 2371 (December 2, 1980), as amended.

(3) The term "Secretary" means the Secretary of Agriculture, unless otherwise specified.

(4) The term "Haida Corporation" means the Alaska Native Village Corporation of Hydaburg, Alaska, which was organized pursuant to section 8 of the Alaska Native Claims Settlement Act.

43 USC 1607.

(5) The term "Sealaska" means Sealaska Corporation, a Regional Corporation (as such term is defined in section 3(g) of the Alaska Native Claims Settlement Act) existing under the laws of the State of Alaska.

43 USC 1602.

(6) The term "Haida Exchange Lands" means those lands and interests therein generally depicted on a map entitled "Haida Exchange Lands" dated August 1986, the surface estate of which was conveyed, subject to valid existing rights and the provisions of the Alaska Native Claims Settlement Act, to Haida Corporation in partial fulfillment of its entitlement under section 16(b) of the Alaska Native Claims Settlement Act.

43 USC 1615.

(7) The term "Haida Traditional Use Sites" means those lands and interests therein generally depicted on a map entitled "Haida Traditional Use Sites" dated August 1986, which are presently owned by the United States.

(8) The terms "Goat Island" and "South Pass Islands" mean those lands and interests therein generally depicted on a map entitled "Goat Island and South Pass Islands Acquisitions" dated September 1986, the surface estate of which was conveyed, subject to valid existing rights and the provisions of the Alaska Native Claims Settlement Act, to Haida Corporation in partial fulfillment of its

43 USC 1615.
43 USC 1601 note.

entitlement under section 16(b) of the Alaska Native Claims Settlement Act, and the subsurface estate to which was conveyed to Sealaska pursuant to the Alaska Native Claims Settlement Act.

(9) The term "selection rights" means the combination of Haida Corporation's selection rights under section 16 of the Alaska Native Claims Settlement Act which have not been exercised as of January 1, 1995, plus such acreage of the Haida Exchange Lands owned by Haida Corporation on January 1, 1995.

(10) The term "subsurface estate" has the same meaning as such term has when used in the Alaska Native Claims Settlement Act.

(11) The term "conservation system unit" has the same meaning as such term has when used in the Alaska National Interest Lands Conservation Act.

16 USC 3101 note.

(12) The term "cooperative information and education branch site" means a tract of land of not to exceed 10 acres as shall be identified, through mutual agreement of the Secretary and Haida Corporation, for location of an affiliated branch of the center described in section 11 of this Act.

District of Columbia.

(b) MAPS.—The maps referred to in this Act shall be on file in the Office of the Chief, United States Forest Service and in the Office of the Secretary of the Interior, Washington, District of Columbia. The acreage cited in this Act is approximate, and in the event of discrepancies between cited acreage and the lands depicted on the referenced maps, the maps shall control, but such maps shall not be construed as an attempt by the United States to convey State or private lands, or as an attempt by Haida Corporation or Sealaska to convey to the United States lands not owned by Haida Corporation or Sealaska.

SEC. 3. OFFERS TO HAIDA.

(a) OFFER.—For and in consideration of the relinquishment and conveyance to the United States of all of Haida Corporation's right, title, and interest in 4,222 acres of the Haida Exchange Lands as specified by the Secretary, there are hereby offered to Haida Corporation the following lands and interests in lands: All right, title, and interest of the United States in the surface estate of the Haida Traditional Use Sites. This conveyance shall be subject to valid existing rights and such perpetual easements as identified by the Secretary no later than 120 days after the date of enactment of this Act.

(b) OFFER.—For and in consideration of the relinquishment and conveyance to the United States of all Haida Corporation's right, title, and interest in Goat Island, South Pass Islands, and the cooperative information and education branch site, there is offered the sum of $9,000,000 subject to appropriation as authorized by section 9.

(c) OFFER.—For and in consideration of the relinquishment and conveyance to the United States of all Haida Corporation's right, title, and interest in up to 667 acres of the Haida Exchange Lands, with the amount of acres to be specified by Haida Corporation at the time of its acceptance, if any, of this offer, there is offered $3,000 per acre subject to appropriation as authorized by section 9. The Secretary shall specify which of the Haida Exchange Lands shall be conveyed to the United States pursuant to this subsection after Haida specifies the number of acres, if any, to be conveyed pursuant to this subsection.

(d) HAIDA DEADLINE.—Haida Corporation shall have two years from the date of enactment of this Act within which to accept the offers provided in this section by providing to the Secretary a properly executed and certified corporate resolution binding upon the corporation with respect to the relinquishment and conveyance of all of the corporation's right, title, and interest in the lands specified in subsection (a) and/or subsection (b) and/or subsection (c) of this section. At the Secretary's discretion, the Secretary may require that any such resolution be accompanied by an opinion of counsel to Haida Corporation stating that the resolution comports with all requirements of Federal and State law and the rules and bylaws of the Haida Corporation.

SEC. 4. OFFERS TO SEALASKA.

(a) ISLAND AREA.—For and in consideration of the relinquishment to the United States of all of Sealaska's right, title, and interest in Goat Island and South Pass Islands, the cooperative information and education branch site and such other lands of the Haida Exchange Lands as Haida Corporation may relinquish and convey pursuant to subsection 3(c), there is hereby offered to Sealaska, an exchange of lands or interests therein on an equal value basis.

(b) OTHER AREAS.—If not later than two years after the date of enactment of this Act, Sealaska notifies the Secretary and the Secretary of the Interior of Sealaska's desire to make an exchange, the Secretary of the Interior shall convey to Sealaska the subsurface estate in lands conveyed to Haida Corporation pursuant to this Act in exchange for the subsurface estate in the Haida Exchange Lands conveyed to the United States by Haida Corporation pursuant to section 3(a).

(c) DEADLINE.—Sealaska shall have two years from the date of enactment of this Act within which to accept the offer made by subsection (a) by providing to the Secretary a properly executed and certified corporate resolution binding upon Sealaska with respect to the relinquishment and conveyance of all Sealaska's interest in Goat Island and South Pass Islands, in the cooperative information and education branch site, and in such other lands of the Haida Exchange Lands as Haida Corporation relinquishes and conveys pursuant to section 3(c). At the Secretary's discretion, the Secretary may require that any such resolution be accompanied by an opinion of counsel to Haida Corporation and Sealaska stating that the resolutions comport with all requirements of Federal and State law and the rules and bylaws of the corporations.

SEC. 5. CONTINGENCY AND MANAGEMENT.

(a) CONTINGENCY.—In the event that Haida Corporation does not make a timely acceptance of the offers made by section 3, any acceptance by Sealaska shall be ineffective and the United States shall not be bound to acquire any of Sealaska's interests in Goat Island, or South Pass Islands or Haida Exchange Lands.

(b) MANAGEMENT.—If they are acquired by the United States pursuant to this Act, Goat Island and South Pass Islands shall be included within the Tongass National Forest, and shall be managed in accordance with laws applicable to the National Forest System and other applicable law. Subject to valid existing rights, Goat Island and South Pass Islands are hereby withdrawn from State selection under the Alaska Statehood Act and from native selection under the Alaska Native Claims Settlement Act. The provisions of

National Forest System.

48 USC note prec. 21.
43 USC 1601 note.

16 USC 3197.

section 1307(b) of the Alaska National Interest Lands Conservation Act shall apply to Goat Island and South Pass Islands notwithstanding the fact that such areas are not conservation system units.

SEC. 6. STATUS OF OFFERS AND CONDITIONS OF CONVEYANCE.

(a) SEVERABILITY.—The offers made in separate sections of this Act to Haida Corporation and to Sealaska respectively are separate, and acceptance of an offer made in one such section does not bind a corporation to accept any offer made in any other section.

Claims.

43 USC 1601 note.

(b) TERMS AND CONDITIONS.—Subject to valid existing rights and any other interests in land protected under Federal law as of the date of interim conveyance of the relevant lands to Haida Corporation pursuant to the Alaska Native Claims Settlement Act where such conveyance accrued prior to the date of enactment of this Act, the conveyance of all lands and interests therein conveyed to the United States from Haida Corporation pursuant to this Act shall be free and clear of the claims of all creditors. No encumbrances on such lands and interests therein created after such interim conveyance which are not subject to the jurisdiction of a United States court as of the date of Haida Corporation's relinquishment and conveyance of lands to the United States pursuant to this Act shall be effective unless such encumbrances are acceptable to the Secretary. The Secretary shall require Sealaska to provide such title as is acceptable to the Secretary with regard to all lands conveyed to the United States by Sealaska.

SEC. 7. STATUS OF LANDS CONVEYED.

(a) TO CORPORATIONS.—All lands conveyed to Haida Corporation or Sealaska pursuant to this Act shall be considered as lands conveyed pursuant to the Alaska Native Claims Settlement Act. For purposes of section 21(c) of such Act, receipt by Haida Corporation or Sealaska of lands or other things of value pursuant to this Act shall constitute receipt of an interest in land.

43 USC 1620.

National Forest System.

(b) TO UNITED STATES.—All lands conveyed to the United States pursuant to this Act shall be included in the Tongass National Forest and shall be subject to the laws, rules and regulations applicable thereto. Lands and interests therein conveyed to the United States pursuant to this Act shall not be subject to any levy, foreclosure, or any other action which would encumber or divest the United States of any right, title, or interest in such lands. No action may be brought by any party in any United States district court pursuant to title 28, United States Code, section 2409a, to quiet title to such lands.

Claims.

SEC. 8. WITHDRAWALS AND INTERIM MANAGEMENT.

Mines and mining. Energy.

(a) WITHDRAWALS.—Subject to valid existing rights, all lands identified in this Act as available for conveyance to Haida Corporation or Sealaska are withdrawn from all forms of location, entry, and selection under the mining and public land laws of the United States, from leasing under the mineral and geothermal leasing laws, and against issuance of preliminary permits and licenses pursuant to the Federal Power Act. This withdrawal shall expire eighteen months after the date of enactment of this Act.

16 USC 792.

(b) INTERIM MANAGEMENT.—Subject to valid existing rights, during acceptance periods provided in this Act, the Secretary and the Secretary of the Interior shall manage the lands available for conveyance under sections 3 and 4 of this Act so as to maintain their

existing character and resources until conveyed. In the event that Haida Corporation or Sealaska does not maintain the character of the lands proposed for conveyance to the United States pursuant to section 3 or section 4, respectively, pending conveyance of such lands, the United States shall not be obliged to acquire any such lands from a corporation which has not so maintained the character of such lands.

(c) SAVINGS PROVISIONS.—Nothing in this Act shall be deemed as a cloud of title of lands or interests therein owned on the date of enactment of this Act by Haida Corporation or Sealaska. Nothing in this Act shall be construed in any way as affecting the existing ownership or as limiting the use of lands owned by the respective Corporations on the date of enactment of this Act. Nothing in this Act shall be construed to limit the authority of the Secretary to enter into land exchanges pursuant to existing exchange authorities. No action of the Secretary or the Secretary of the Interior in effecting any conveyance of lands or interests therein authorized under this Act shall be deemed a major Federal action for purposes of the National Environmental Policy Act of 1969, nor shall any determination pursuant to section 810 of the Alaska National Interest Lands Conservation Act be required prior to implementation of any provision of this Act.

42 USC 4321 note.

16 USC 3120.

SEC. 9. FUNDING.

There are authorized to be appropriated from the Land and Water Conservation Fund up to $11,000,000 to fund payments to Haida Corporation under section 3.

Appropriation authorization.

SEC. 10. FUTURE SELECTIONS.

(a) WITHDRAWALS.—(1) On and after the effective date of this section, the Secretary of the Interior, after consultation with the Secretary, the Governor of Alaska, the Haida Corporation, and Sealaska is authorized and directed to withdraw from all forms of entry and appropriation under the public land laws, including the mining, mineral leasing, and geothermal leasing laws, Federal lands in Alaska outside any conservation system unit for selection by Haida Corporation pursuant to this section. The Secretary shall not concur in any withdrawal which would impair the Secretary's ability to manage the Tongass National Forest in accordance with applicable requirements of law.

Mines and mining. Energy. National Forest System.

(2) Withdrawals pursuant to this subsection shall be in an aggregate amount equal to twice the acreage of Haida Corporation's selection rights.

(3) Lands withdrawn pursuant to this subsection shall be, to the maximum extent possible, lands accessible from the coast which are of like kind and character to those traditionally used and occupied by the shareholders of Haida Corporation and shall be, to the maximum extent possible, capable of utilization for economic return to Haida Corporation. No lands within the National Forest System shall be withdrawn under this subsection without the concurrence of the Secretary.

(b) SELECTIONS.—For one year after the completion of withdrawals pursuant to subsection (a) of this section, Haida Corporation shall be entitled but not required to select for conveyance to such corporation from lands withdrawn pursuant to subsection (a) lands not to exceed an amount equal in acreage to Haida Corporation selection rights which as of the date of selection had not been relinquished or

disposed of by Haida Corporation. Haida Corporation shall notify the Secretary of the Interior which, if any, of the lands so withdrawn Haida Corporation wishes to select and which such selection rights Haida Corporation intends to relinquish in return for its selections. After their selection, the surface estate in lands selected by Haida Corporation pursuant to this subsection shall be conveyed to Haida Corporation and the subsurface estate in such lands shall be conveyed to Sealaska in partial fulfillment of such corporations' entitlements under the Alaska Native Claims Settlement Act and pursuant to the provisions of that Act.

43 USC 1601 note.

Termination date.

(c) DURATION.—All withdrawals made pursuant to subsection (a) and all withdrawals in aid of Haida Corporation selections made pursuant to the Alaska Native Claims Settlement Act prior to the date of enactment of this Act of land not selected by Haida Corporation shall terminate two years after the last withdrawal is made pursuant to subsection (a).

(d) EFFECTIVE DATE.—This section shall take effect on January 1, 1995.

SEC. 11. COOPERATIVE INFORMATION AND EDUCATION CENTER.

16 USC 3195 note.

(a) AUTHORIZATION.—There is hereby authorized to be appropriated $250,000 to be used by the Secretary of Agriculture to conduct surveys, develop designs, and carry out other preliminary work related to the establishment of an Information and Education Center provided for in section 1305 of Public Law 96-487.

16 USC 3195.

Cultural programs.

National Forest System.

(b) PURPOSES.—The purposes of the Center authorized by subsection (a) shall be—

(1) to collect and disseminate to visitors to and residents of Alaska information about the natural, recreational, cultural, historical, archeological, multiple use, and other resources and values of Alaska, with special emphasis on the Tongass National Forest and Southeast Alaska and its people;

(2) to publicly display temporary and permanent exhibits illustrating and interpreting these resources and values;

(3) to foster educational programs relating to the heritage resources of Alaska including those pertaining to Alaska Native peoples with particular emphasis on the Haida, Tshimshian, and Tglingit peoples of Southeast Alaska.

(c) DESIGN.—Design of the center in subsection (a) shall be developed in consultation with other appropriate Federal agencies, the Alaska Division of Tourism and other appropriate agencies of the State of Alaska, the local government of the city in which such center is to be located, and southeast Alaska Native organizations.

(d) CONSULTATION.—In establishing, operating, and maintaining the center (and any affiliated branches), the Secretary of Agriculture shall consult with, in addition to those listed in subsection (c), Alaska colleges and universities, the National Historic Association of Alaska, the Alaska Federation of Natives, and appropriate individuals and other organizations concerned with the diverse heritage resources of Alaska.

(e) COOPERATIVE AGREEMENTS.—The Secretary of Agriculture is authorized to enter into cooperative agreements with those individuals and organizations listed in subsections (c) and (d) to facilitate carrying out the purposes of the Center.

(f) DEVELOPMENT PLAN.—Within one year after the date of enactment of this Act, and after consultation with the individuals and organizations listed in subsections (c) and (d), the Secretary of Agriculture shall submit to Congress a development plan for the Center along with an estimate of the cost.

Approved November 17, 1986.

LEGISLATIVE HISTORY—H.R. 5730:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 17, considered and passed House and Senate.

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